THE CONGRESSIONAL GLOBE:

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THE DEBATES AND PROCEEDINGS

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OF

THE FIRST SESSION

OF

THE THIRTY-NINTH CONGRESS.

BY F. & J. RIVES.

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to be regarded by him. He sent provisional governors to several of the southern States, at whose instance a portion of the people set up local governments. He also sent Major Hay to Florida upon an expedition of government-making which ingloriously failed in consequence of the defeat of the military force which accompanied him. I understood it to be the idea of the late President and of those who entirely supported his policy, that those governments set up under his authority and protection should be recognized as lawful and valid governments for those States in all respects, and that the people who adhered to them should, as a matter of course and of right, be represented in both Houses of Congress and participate in presidential elections.

A doctrine so unreasonable, so monstrous, could not pass unchallenged. It was resisted in Congress and resisted with success. On the 29th of June, 1864, Fishback and Baxter, claiming seats in this Senate as Senators from Arkansas, were rejected by a vote of 27 to 6. On the 8th day of February, 1865, Congress by joint resolution determined that the electoral votes of Louisiana, Arkansas, Tennessee, and Virginia, (as well as of other southern States,) should not be counted for President and Vice President in the joint convention of the two Houses then about to be held. And at the last session, claimants to seats in this Senate from Louisiana, Arkansas, and Virginia were not admitted.

In all this I concurred most heartily. I thought it unjust and scandalous that a small part of the population of a southern State should wield the whole political power of the State in Congress and in the election of President. Besides, the governments set up in those States were military rather than popular; they were, notoriously, not only set up but conducted under military surveillance. In short, they were military and provisional, both in origin and character, and were wholly unfit to wield the former political power of those States in this Government.

But, as local governments for the preservation of order and in aid of our military power, they were, in my opinion, most proper and useful. Local government which would otherwise have been managed exclusively by our military officers, under the President, was, through them, managed and administered (as far as could be done with safety) by the people themselves. Those who were friendly to our cause in the hostile section, who adhered to us in the struggle in which we were engaged, acted in aid of us and in subservience to our military commanders, conducted their own affairs. When our Army was in Mexico under General Scott, the municipal authorities of cities and towns who were friendly or abstained from hostilities against us were permitted to carry on their own local governments in subordination to our authority. I could never see the slightest difficulty in holding that Mr. Lincon's provisional governors and local governments were quite regular and lawful. But it was quite absurd to hold, as some held, that they were State governors and State governments in the ordinary sense of those terms, and that the minorities who submitted to them were to be considered the whole people for purposes of representation in Congress and for participation in presidential elections.

But now, the war being concluded, the southern armies having surrendered, the whole southern people having submitted to the authority of the United States, the question of the recognition of these Lincoln governments recurs upon us. They are still in existence, and ask recognition from the President and from Congress as real and complete State governments for all purposes whatsoever. It clearly follows, from what I have said, that the argument in their favor must be placed upon grounds which did not exist during the war. Actual independence of military control, and the acquiescence of the people of the States interested, must clearly appear to justify the full admission of their claims. However imperfect they may have been as State governments originally, however local and provisional in character and subservient to military domination formerly, they may become complete and acceptable State governments by the act or acquiescence of the people concerned, the military power formerly exercised over them being withdrawn. In this view, neither irregularity of origin nor an imperfect constitution in their earlier stages need prevent their present recognition. I am content to take up each case and judge it upon the particular facts which pertain to it.

But most of the reorganized State governments present themselves before us in a different attitude; they form a distinct class from those just mentioned. They have been formed at the instance of the President of the United States since the termination of the war, and in a manner which I consider to be perfectly regular and lawful. The people have, through selected delegates, formed constitutions of State government, and have, subsequently, under regulation of law, elected Legislatures and Representatives in Congress. And their Legislatures have selected Senators for seats in this body. The proceeding of reorganization has been popular, although initiated by the President, and has been free from any actual interference of military force; and the governments set up have been recognized by the President as valid and complete. Why should not Congress also recognize them? Why should not Senators and Representatives chosen under their authority be admitted to seats in the two Houses? Is the welfare of the country to be promoted by delay in their admission, or by the total rejection of their claims? These questions, in my opinion, are easily answered, and by replies which shall favor immediate representation.

One thing is manifest: by the admission of southern members into Congress the Union will be completely restored. No severance of the parts, however slight, will continue.

It is also to be considered that the power to admit members by each House of Congress is beyond dispute; for it rests upon a clear, distinct provision of the Constitution. By a simple, direct act, then, fully authorized, Congress can at once make restoration complete.

I have not been at all troubled by the argument, sometimes urged, that these State governments were irregular in origin; that no specific law authorized the appointment of provisional governors, or authorized the provisional governors to call conventions for forming new constitutions. What is material in the making of a constitution is, that the people concerned shall in fact make or adopt it; and the means by which their power is called into action for the purpose is immaterial, if there be no constraint.

The convention which formed the Pennsylvania constitution of 1776, was called by the Philadelphia committee of correspondence, and not by the Legislature. No law whatever authorized the convention, and yet it made a constitution which stood for fourteen years as the constitution of Pennsylvania, and the State came into the Federal Union with it as her fundamental law. In that constitution the council of censors established by it was authorized to call conventions to amend the constitution, and there was no other provision for amendment. Yet under a simple resolution of the Legislature a convention was chosen which formed the constitution of 1790, which is yet in existence.

I may also mention, what is well known, that several new States whose constitutions were irregular in origin have been admitted into the Union by Congress. It was held to be sufficient that they were in fact made by the people who were to be bound by them.

AMENDING THE CONSTITUTION.

Having spoken to the other points proposed to myself for discussion at this time, I come to the last and principal one. I mean the question of amending the Constitution on the subject of representation.

The pending proposition of amendment was, in its original form, introduced into the House of Representatives on the 8th of January, by one of the members from Maine. For purposes of convenience, I shall call it the Blaine amendment, naming it after the gentleman who proposed it.

It was, in a modified form, referred to the committee of fifteen, reported back to the House, and after some consideration again referred to the committee on the 30th of January. The committee again reported it to the House on the following day, when it was passed under the operation of the previous question, without general debate. The member reporting it was permitted to support it in a speech of much bitterness and power, but the mouth of opposition was closed. It is now before us for consideration in the form in which it passed the House, and reads as follows:

ARTICLE —. Representatives shall be apportioned among the several States which may be included within this Union according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed: *Provided*, That whenever the elective franchise shall be denied or abridged in any State on account of race or color, all persons therein of such race or color shall be excluded from the basis of representation.

By referring to one of the clauses of the Constitution, read by me in the outset of my remarks, we are enabled to understand the nature and extent of the change proposed by the resolution. By the existing Constitution representation is based upon the whole number of inhabitants in the States, exclusive of Indians not taxed. Females, children, and foreigners are counted, and all negroes and mulattoes are also counted, inasmuch as slavery no longer exists. The computation of "three fifths of all other persons" besides freemen, as contemplated in the Constitution, will no longer be made; for there is no class of inhabitants which falls within the description of those words. They are henceforth inoperative and useless. It follows that all inhabitants in a State, except untaxed Indians, are to be counted for purposes of representation under the Constitution. And it will be observed that the rule for apportioning Representatives according to population will be also the rule for imposing direct taxes. Each State is to pay direct taxes according to the whole number of its inhabitants, excluding Indians untaxed. The abrogation of the three-fifths rule by emancipation applies equally to the apportionment of Representatives and the imposition of direct taxes. Whatever change has been caused by emancipation applies equally to both these subjects.

Now, the Blaine amendment, leaving the Constitution to stand upon this subject in all other respects precisely as I have described it, provides that whenever in any State there shall be any exclusion from the elective franchise on account of race or color, all persons of such race or color shall be excluded from enumeration for purposes of representation in the lower House of Congress. That is the very remarkable proposition which comes from the committee of fifteen, and which has been approved by the House of Representatives by a two-thirds vote.

The amendment presents an alternative to each State in which persons of an inferior race or color may be found, whether Asiatics or Africans. In the Pacific States it may relate to the former, while in the southern and central States it will apply to the latter; and the alternative is that suffrage shall be extended to such race generally upon the same conditions and to the same extent that it is extended to the white race, otherwise the whole of such inferior race shall be deducted from the population of the State in assigning it Representatives in Congress. Every State in which Africans or Asiatics are found is to be subjected to a constitutional pressure in favor of indiscriminating suffrage to all races and colors of mankind found within its borders. If it refuse or neglect to establish such indiscriminating suffrage, it is to pay the penalty in a loss of power in the Federal Government. And it is to be observed that even where the disfranchisement is but partial, the whole race, and not merely the part disfranchised, is to be deducted from the pop-

ulation of the State in assigning it Representatives.

Now, one of two things must happen in a State in case this amendment be adopted. Negro or Asiatic suffrage must be accepted, or the State will be stripped of a portion of the power which she now holds under the Constitution. This is, therefore, a penal amendment. While it assumes to leave the State free to regulate suffrage for itself, it imposes a penalty upon it if it decide in a particular way. No matter how strong, or even imperative, may be the reasons against lowering the standard of suffrage in a State to the capacity of the negro or Chinaman, the State must do it or be stripped of the constitutional right to full representation which she now holds. It is virtually a decision by Congress that to withhold negro suffrage to any extent or for any cause is criminal and justly obnoxious to punishment, and that that punishment shall be imposed by three fourths of the States upon the remainder by means of a constitutional amendment.

Again, the amendment makes no change in the apportionment of direct taxes among the States. They are to be apportioned according to the whole population. There is to be no abatement, in proportion to the disfranchisement of the State in her representation, although under the Constitution as it stands and always has stood, taxation and representation are put upon the same basis. While the rule for the latter is changed, the rule for the former is to remain unaltered.

But it must be manifest that if either is to be changed, it should be the rule of taxation. The growth of the country, aggregating wealth in particular districts and States, to a greater extent than in others, has made the constitutional rule of taxation unequal and objectionable. An old State, and especially a manufacturing State, is much more able to pay taxes than a new State, or an agricultural one; and the distribution of taxation according to numbers will press much more heavily upon the latter than upon the former. An amendment of the rule, therefore, which would impose taxes among the States according to the taxable property in each, instead of according to the number of inhabitants, might stand abundantly justified upon grounds of justice and convenience. But no such change is proposed by this amendment. Whatever inconvenience or hardship arises from the present rule, is disregarded, and it is left wholly untouched; while the rule of representative apportionment, which involves neither inconvenience nor hardship, but proceeds upon a just principle of equality, is to be amended in a manner most odious and objectionable.

This amendment is supported in part upon the ground that by emancipation two fifths of the slave population are, under the operation of the existing Constitution, added to the representative basis in the southern States; that therefore an amendment is necessary to prevent a positive increase of southern power.

This argument may be repelled upon several grounds, which I proceed to state:

1. The rule for counting the whole population was originally intended to be restrained only so long as slavery should exist. It was intended by the fathers that whenever emancipation took place in a State, the emancipated population should pass into the representative basis. Therefore, in amending the Constitution as proposed, we defeat their intention and overrule their judgment upon this subject. Have we not been told a thousand times that the fathers expected slavery to cease in the country, and took that expectation into account in framing the fundamental law? They did not even admit the term "slaves" or "slavery" into the Constitution, but described slaves, in the clause we are considering, as "other persons," after naming free men, and in the fugitive slave clause as "persons held to service and labor." They gave Congress authority to prohibit the slave trade after 1808, under the words "prohibiting migration or immigration of persons," and it was well known to them that the States had then already begun to emancipate their slaves. The Pennsylvania statute of emancipation had been passed a few years before, and other States had taken, or were about to take, steps in the same direction. Unquestionably, therefore, they contemplated that the three-fifths clause would expend itself in the course of time, and that the whole population of the States would fall within the rule of representation which they established. I say, then, with confidence, that we have now realized a state of things which they foresaw, and for which they made provision; that emancipation, caused by the war, is not an unexpected or unforeseen event, requiring a change of the constitutional rule which they established, if we are to be guided by the views and opinions which they held upon the subject of representation. Nor, in this point of view, can it make any difference that emancipation is produced by our act instead of the voluntary action of the States themselves. In decreeing emancipation and enforcing it upon the States, we accepted all its appropriate consequences, including some enlargement of the representative basis. That it was our act instead of the act of the States we propose to disfranchise, can be no reason for imposing upon them the present amendment.

2. The argument is plainly insufficient, because it covers but a part of the subject-matter of the amendment. The argument applies only to two fifths of the slave population emancipated by the war. But the amendment applies to the whole negro population, whether slave or free before the war, wherever suffrage is withheld from them. It strikes heavily at the representation of Maryland, Kentucky, and other States which did not join the rebellion, and everywhere excludes colored non-voters, whether slave or free before the war, from computation. The free negroes of Pennsylvania and of Maryland are to be excluded from enumeration upon an argument which has no relation to them.

3. The argument does not take into account the rate of mortality in the slave population since the outbreak of the war. That mortality has been very great, and has been estimated to amount to a fifth part of the whole. I do not think it impossible that the census of 1870 will show a decrease of the negro population within the late slave States, as compared with the census of 1860, of much more than one million. At all events, the rate of mortality during the last four years and now is fearfully great, and though it cannot be exactly stated, it is a fact which must not be overlooked. But to the whole extent of decreased numbers among this people the argument I am answering fails, and it may be still further weakened hereafter.

4. But if the argument were perfectly sound and satisfactory, it would not justify this amendment, but one of a very different character. If the addition of two fifths of the late slave population to the representative basis of some of the States is an unjust or pernicious change requiring a constitutional amendment to correct it, that amendment would properly be one which simply removed the cause of complaint; and an amendment which would provide that two fifths of the negro population, late slaves, and their descendants, should not be counted, although free, would meet the whole requirement of the argument now under notice. And if it should be said that such an amendment could not be conveniently applied, I answer that one nearly equivalent to it, and more convenient of application, might be substituted. At all events, the argument does not support the amendment now pending, which departs from it to the whole extent of the free colored population before the war, to the whole extent of three fifths of the slave population, and also of all Asiatic inhabitants in the Pacific States. Of course I state this point according to the existing facts, suffrage being withheld from the negro and other inferior races in all the States where their numbers are considerable, my own included.

Having answered this particular argument brought forward in support of the amendment, it only remains to consider whether the rule of representation according to population, or the whole number of persons in a State, is not the proper one for general adoption. The exceptional case of a population part slave is now removed from our problem, and we may consider it without reference to that disturbing cause. Certainly our fathers thought population to be the proper basis, for they established it for themselves and for us, limited only by a temporary provision, which met the exceptional case of the slave. Certainly even the committee of fifteen thought population a better basis than any other, for they do not suggest property, electoral qualification, territory, or any other general basis as a substitute. And if we pass from authority to reason, what can be more clear than the convenience and equality of the rule of population? Our question concerns the representation of States as such, and a rule which shall be perfectly uniform as to all, and operate equally upon all, is the rule alike of justice and of wisdom. Your amendment strikes at the States with unequal hand; a part of them will be wholly unaffected by it, while upon others it will be, and was intended to be, an instrument to coerce their internal policy, or to punish them for the free and independent exercise of their own judgment. On the contrary, the rule of population presses nowhere and offends nowhere. It offers no bribe on the one hand, and inflicts no punishment on the other. It tends to harmony, because it produces no discontent. Besides, what better rule for the security of local interests than that of population can be conceived? That of voters is open to most weighty objections, some of which have been well stated, both in this Senate and in the House. That of property is odious and anti-republican. One based on territorial divisions is out of the question. The only possible one is that which already obtains for the Senate, and is inapplicable to the more popular branch of Congress. I conclude, therefore, that population is the simplest, most convenient, the most equal, and the safest of all rules which can be proposed for popular representation, and that it is necessary alike to particular interests in a State and to the common interests and welfare of all the States. I would leave the existing rule unchanged, with the expression of an earnest hope that it may remain unchanged forever, or at least so long as our Republic continues to be one of the Powers of the earth. I would not exchange it for any other rule whatever, if opportunity offered, but would maintain it and pass it on to those who come after us. I might agree to modify it in its particular application to some community or class of persons in the spirit which prompted our fathers in the adoption of the three-fifths clause; but this would be a concession to particular circumstances, constituting an exception to the rule and not an abandonment of the rule itself.

For the present, in passing upon the Blaine amendment, we can have no difficulty in determining that the exception which it proposes to the rule of population is most offensive, unreasonable, and unjust. I shall very willingly contribute one of the votes by which it shall be condemned.

But there are general objections which stand opposed to any propositions of amendments at this time by Congress—I mean the submission by Congress of amendments to the States for their adoption.

1. First in order is the objection, and it is a great if not fatal one, that eleven States are unrepresented in the Senate and House. They are not heard in debates which may affect their interests and welfare in all future time. Nor can those who represent them vote here upon any question. I know it may be said that these States withdrew from our companionship in 1861, and that by their own fault they stand unrepresented here. This was the answer to the argument that they were absent when the amendment abolishing slavery was under consideration in Congress. But I insist that the case has wholly changed since that time. They were then voluntarily absent. They were des-

titute of State organizations which were in accord with us and submissive to our Constitution and laws, and majorities of their populations were hostile to us and overbore the loyal parts. There was then total State incapacity, self-produced, for any action whatever within this Government. They discharged here no duties and they could exercise no powers. But how stands the case now? What a change from that day of conflict to this of peace; from rebellion to submission; from hostile State organizations to loyal ones! Those States are not now absent of choice, but by our own act, or our failure to act. Their representatives stand at our doors, competent and willing to take part in our proceedings, and to assist in the common work of government. The reason which existed on a former occasion, or which was urged upon a former occasion, for our separate action in proposing an amendment to the Constitution wholly fails in the present case. There is no necessity now that we act alone; and if we do act alone it will be an act of choice and not of compulsion. Let the whole country be represented here before we enter upon the very grave work of changing the fundamental law which is to extend to all and to bind all.

2. Another objection to immediate amendment is the probability that any amendment made at this time will be a partisan amendment. The party in the majority for the time being will, naturally enough, seek to perpetuate its power, to secure itself against future changes of public sentiment, in any amendment which it may propose. It is not obliged to consult or conciliate any opposing interest in proposing or passing a resolution through the two Houses of Congress. Possessing a two-thirds vote in each House, it can do and perform its will in defiance of any opposition or remonstrance. The temptation to frame amendments in the interest of a party will be too strong for self-resistance by the majority. Possessing uncontrolled, unchecked power for the immediate purpose in hand, it is idle to expect impartial action from it. But God forbid that the Constitution should be made the subject of mere party amendment! The fact will be both bad in itself and of evil example in future times. The excesses and injustice of party, as exhibited in ordinary legislation, can be speedily corrected. Laws can be modified or repealed with great facility whenever their imperfections become manifest; but the Constitution is a permanent instrument, and bad provisions once placed in it cannot be easily removed.

3. The members of this Congress were not chosen with any reference to the subject of constitutional amendment. Their action will be voluntary upon this subject, and quite unprompted by any public sentiment manifested in their election. It is but reasonable that some popular consideration should be given to questions of amendment before they are sanctioned or proposed by Congress. But no such consideration has been given by the people to any one of the various amendments which are now proposed here. Besides, this is a war Congress, chosen when passions were warm and violence abroad in the land. It must necessarily partake of the passions of the time when its members were chosen, and be less suited to the calm duties of statesmanship involved in proposing amendments.

4. Whatever amendments are now proposed by Congress are to be submitted to Legislatures, and not to popular conventions in the States; and most of those Legislatures are to be the ones now in session. The people are not to act upon the amendments directly, nor to consider them in any way whatever; they are not even to be allowed the privilege of electing members of their Legislatures with reference to the question of ratification. So that, in point of fact, the people are not to consider amendments in electing the members of Congress who propose them, nor in selecting the Legislatures which are to ratify or adopt them. They are to be excluded from any direct connection with the whole proceeding, from beginning to end. Now, sir, I am opposed to party amendments, proposed suddenly here, in the absence of members from nearly one third of the States, without any instigation or prior knowledge of the people, and to be adopted by Legislatures chosen without any reference to the questions we thrust upon them.

5. Finally, in submitting amendments at this time, we invite a dispute upon the question of the degree of legislative assent necessary to their adoption. If ratified by the Legislatures of less than three fourths of all the States, their validity will be denied, and their enforcement resisted. That denial must be made, not only by the unrepresented States, but by all men in the country who hold the views of the last and of the present executive Administrations. And the fact of the attempt to force an amendment upon the country against so large a mass of opinion will only produce "bad blood" and increase the difficulties of our situation. You will not, probably, get your amendments assented to by the number of States which, in the opinion of the President and Secretary of State, are necessary to their adoption. And then the question comes up, is it wise to raise this subject of difference to disturb our future counsels? Besides, it is to be considered that the very manner, the spirit in which these amendments are proposed is well calculated to defeat their cordial acceptance by the whole country. The whole proceeding looks like a piece of sharp management by a congressional majority to consolidate their own power, and to force amendments upon the people of the country, or at least upon a large part of them, without full consideration and their free assent.

But if amendments are to be proposed at this time, I insist that the whole subject of amendment shall be opened, and that we shall not be confined to those which have already emanated from the committee of fifteen, or been presented in the two Houses. There are others much more deserving of favor and adoption, and much more likely to receive, ultimately, that degree and extent of favor which should always support constitutional changes.

The first is a change in senatorial representation to remove or mitigate existing inequality, which might assume the form suggested by me in a former part of my present remarks. I mean the division of the States into three classes, according to numbers of population, and assigning a different representation to each class. To meet any large increase of population hereafter, with a consequent inconvenient increase in the number of Senators, it will be well also to provide that the numbers upon which the classification is based shall be raised hereafter, some rule of proportion between them being still retained.

If it should be said that the concluding clause of the fifth article of the existing Constitution stands opposed to any improvement in the rule of senatorial representation, I answer that that clause itself may be rescinded. If it be alleged that such amendment would be revolutionary in character, or at least a violation of the faith pledged by the States to each other in forming the Constitution, I answer, it would no more bear such imputation than would an amendment regulating suffrage in the States, or any other which would concern the internal policy of any State, which may be independent of, or remotely connected with, those general objects for which the Constitution was made; and such objection will apply with equal force to the amendment already adopted for the abolition of slavery in the States. In fact, the abolition amendment, and amendments regulating State suffrage, or other question of exclusive State policy, would be much more obnoxious to the objection than one regulating representation in the Senate of the United States. For the latter would relate to a Federal question wholly beyond separate State action, and capable of regulation only in a new form, by the amendment power of the Constitution.

If, then, amendments of the Constitution are now to be proposed, this one must be considered, and its consideration will be pressed. If the hand of reform is to be laid upon our fundamental law, it must not be permitted to strike inferior points where change is desired, and omit to strike this point of senatorial inequality. That inequality must be corrected, and it will be corrected. Six States out of thirty-six, or out of the greater number which we will have hereafter, cannot successfully resist a proposition to deprive them of an unjust or inordinate power in the Government, in derogation of the interests and against the opinions and will of the other States. I say, then, that if representation in this Government is to be changed at all by constitutional amendment, the representation of the East must and will be reduced to an equality with that of other sections of the Union; and to this work the Representatives of the great States will devote themselves with a zeal and perseverance which will know no abatement until justice shall be secured.

But there is another improvement in representation, infinitely more important than any yet mentioned, to which the attention of Congress and of the American people should be earnestly directed. No other possible change relating to representation can compete with it in importance, or produce results equally beneficial.

In elections of members of Congress, we apply or use a majority, or rather a plurality rule. The candidate receiving the greatest number of votes in any case is elected; and all votes given to other candidates are dropped or lost. Our Government, therefore, instead of being a Government of the people, is in fact a Government of but a part of the people; and our fundamental principle, accepted in theory by all, is imperfectly applied. I conceive that the political evils which afflict us, that most of the imperfections in the practical working of our system of government, flow from this cause. The people are to govern themselves; all authority is to rest upon the consent of the governed. This is what we proclaim as our fundamental doctrine, and yet we do not apply it, except partially, in our electoral arrangements. M. Guizot, in his History of the Origin of Representative Government, well points out the inconsistency of the claim of a majority to absolute power, with the other principle, which affirms a right in every individual to be governed only by those laws to which he has given his assent. The two things are utterly incompatible, and can never be made to harmonize. Many persons talk loosely and foolishly about the sacred principle that the majority shall rule, and Mr. Jefferson's emphatic observation, in his first inaugural address, inculcating absolute acquiescence in the decisions of the majority, is frequently quoted, and as frequently misapplied. Now, that the majority shall govern, is not our fundamental principle, but a rule, and is used by us, along with other rules, to accomplish our purpose of government by the people. We use the majority rule, the plurality rule, the two-thirds rule, and the three-fourths rule, according to circumstances, and upon considerations of convenience and expediency.

A majority rule for popular elections, when found to be inconvenient in practice, gives place to a plurality rule, as our experience shows. The science of government is progressive, and the discussion and illustration which republican principles have undergone during the last century have enlarged the minds of men, and enabled them to obtain conceptions which were before impossible. We now understand that the majority rule for elections is a rude and imperfect contrivance; that it inevitably creates and inflames to the highest extent the passions of party; that it ostracizes from the public service many of the best and the ablest men of the country; and that it injects into popular elections very much of the corruption and violence by which they are degraded and disgraced. Unquestionably if but a part of the people are to bear rule and to act their pleasure in affairs of government, it is better that the majority should bear such rule than that the minority should. But why should a part of the people

monopolize all power; and is a rule which produces such result wise, salutary, and just? It is in conflict with our principle of government by the people, while it is practically mischievous and evil.

Impelled by these considerations, founded upon experience in the practical workings of free government, men of great ability and wisdom have sought for devices of various kinds by which the mischiefs of the majority rule should be checked and reduced to their minimum. From their reflections a doctrine of concurrent majorities has been deduced and vigorously and elaborately expounded by the elder Adams and by Mr. Calhoun. The views of the latter, as applied to our own Government, led to the proposition of a dual Executive, which, just before the rebellion, was presented and defended in the Senate by Mr. Hunter, of Virginia, in an elaborate argument. That proposition was impracticable, for several reasons, and did not command any considerable amount of public favor. It was wholly inadmissible, as a practical arrangement in this country, and may be dismissed to its place among things obsolete on earth. But minority representation, which it illustrated and applied, is an idea which must be entertained in all governments pretending to be free. It was not ignored by the men who made the Constitution of the United States, nor has it been ignored in State constitutions. All checks and balances, as they are called, in our American constitutions, tend to the protection of minorities, and were intended for that purpose; and various constitutional provisions might be pointed out by which power and influence are secured to them in government. I am of opinion, an opinion founded upon much independent and earnest reflection, that we require additional provisions in our constitutions, State and Federal, for the protection of minorities in their interests and rights; and if time permitted, I should be glad to present the arguments by which this opinion would be vindicated and established. One form in which minority representation might be made to appear in the Constitution of the United States, would be as a provision that, in all elections for President of the United States, the candidate second highest in electoral votes should become President of the Senate, with the power of objecting to bills, liable, however, to have his objections overruled by a two-thirds vote. Thus the minority of the people, who would, nevertheless, be a part of the people, and entitled to be heard in some way in the Government, would be represented here by their chosen chief or leader, who would be armed with a real power for defending them against new measures of hostility or aggression.

But I must here content myself with a bare suggestion, without producing the arguments in its support or referring to those most pertinent facts, scattered throughout our history, by which those arguments might be illustrated and confirmed. Nor shall I refer to objections to it which, however plausible or striking at first view, would, upon examination, wholly disappear. I must pass on to consider what is more appropriate to my present argument, an improvement in the present mode of securing representation in the lower House of Congress.

Lord John Russell, in his reform bill of 1854, proposed that in cities and boroughs returning three members to Parliament, no elector should vote for more than two, which would have the effect of permitting a minority of two fifths of the constituency to return one member. And in our country by constituting plural districts, that is, districts electing more than one member, an arrangement securing minority along with majority representation might be made. But the course of recent thought and inquiry upon this subject in Great Britain, and to some extent also in this country, has been toward what is called personal representation—the most just, equal, complete, and perfect plan of representation ever proposed for a free State. The elaborate and admirable work of Mr. Hare, of England, upon this subject deserves the careful study of every American statesman, and will produce perfect conviction, both as to the merit and necessity of the change proposed by him in electoral systems. And it has the hearty and emphatic indorsement of John Stuart Mill, the greatest living authority upon questions of political economy and constitutional law. He describes it as—

"A scheme which has the almost unparalleled merit of carrying out a great principle of government in a manner approaching to ideal perfection, as regards the object in view, while it attains incidentally several other ends of scarcely inferior importance."

Assigning to Pennsylvania, New York, Ohio, or any other State where more than one Representative is to be chosen, a number of members proportioned to population under the constitutional rule of distribution, the manner of their selection may be regulated to secure, in fact as well as in theory, the representation of the voters of such State. Taking into account the number of voters in the State, an electoral ratio or number may be fixed as necessary to the election of any candidate. Any citizen of the State obtaining that number of votes shall be considered elected, and his votes may be derived from any of the qualified citizens of the State wherever they may reside within its limits. The regulation of details, the time, place, and manner of voting, the formal returns of voting and verification of results, and the provisions by which surplus votes to a candidate will be avoided, and by which the filling of every seat in Congress which belongs to a State shall be secured, must, of course, follow, and must be made clear and convenient of execution. Thus any number of voters in a State equal to the number required for the election of a member to Congress can unite their suffrages upon the candidate of their choice and elect him, not as the antagonist of another candidate, but simply as the recipient of their votes. And the practical result will be that votes will be cast only for candidates who will be elected, and who will represent truly and fully the people of the State. Each interest in the State, whether political, local, economical, or social, if it be of any considerable magnitude, can have its appropriate representation by having its votes counted effectually for the purpose for which they were given. Modes for concentrating the necessary number of votes upon a candidate can be established by State laws, and by the voluntary action of the people themselves. I do not at this time propose to go through the inquiry of the application of the plan in the States, but simply to indicate its general character and its immense superiority over the existing plan, by which partial representation only is secured.

The advantages of personal representation are too obvious for denial or question when they come to be understood. Among them I shall select but two or three for present notice.

1. Personal representation would continue men of ability and distinction for long periods of time in Congress. Such men would not hold their seats subject to the changes of party majorities in their own neighborhood, or to the uncertainties and intrigues of nominating conventions, as at present. So long as a number of men in a State requisite to the election of a member desired a member's continuance in public service he would be continued, and no intrigue or combination of hostile interests could defeat him. The consequence would be, instead of two-year and four-year men in the House of Representatives—always just beginning to learn and never fully instructed in public business—we would have ten, twenty, and thirty-year men, trained and disciplined to public service, who would confer character upon the House, and give stability, consistency, and wisdom to the laws. At the same time, the expiration of membership at the end of every two years would retain fully the power of popular control over the House.

2. Personal representation would give to each important interest in the country a weight or power in the House, exactly proportioned to its number of electors. In short, the opinions of the country would be thoroughly and truly represented by the House, resulting in wise legislation and more general contentment and acquiescence in the proceedings of Government than we now have.

3. A still more notable advantage would be the abatement of party violence, and consequently of corruption in congressional elections. This will become evident to any one familiar with our present electoral system who will carefully consider the proposed plan and trace out its inevitable results. A fierce struggle for a small majority of votes for one candidate over another, now so familiar a case, would rarely, if ever, be known. You would get real, just, entire, and complete representation of the people, without turbulence and with little of contest, and the evils which now flow from partisan contests would be greatly checked and reduced.

For the introduction of personal representation into our system of government no amendment of the Constitution of the United States would be necessary. So far as I can perceive it can be established, or authorized, by an act of Congress, the existing statute relating to State representation in the House being repealed.

Mr. ANTHONY. I wish to make a single remark upon one point of the speech to which we have just listened. If I had the presumption to reply to such a speech, I certainly should not attempt it at this hour. I always listen with pain to any remarks of a sectional character or calculated to array the presumed interests of one section of the country against those of another, and the more so when they appear in a speech which evinces such careful study and so much ability as that to which we have just listened. But the single point to which I wish to call the attention of the Senate is the reference which the Senator from Pennsylvania has made to organization of the committees of this body. Those remarks we have almost every year, and always in the newspapers, after the announcement of their organization. Promotion upon the committees in this body is very much as it is in the Army and Navy. Whether that be a good rule or not, I do not pretend to say; but the rule is, and the practice of the Senate is, that whenever a Senator enters this body he is assigned to some committee, and no other Senator of the same party, as a general rule, is assigned over his head upon that committee, but every other Senator of the same party comes in after him, and whenever, by vacancies in the places above him, he is the senior Senator of the dominant party upon that committee, he is made chairman of it. It is according to that rule that the chairmen of all the committees have with very few exceptions been appointed. When I first entered this body New England had not a single chairmanship.

Mr. BUCKALEW. The Senator will permit me to interrupt him. In former times I understand it was complained that the South monopolized these positions. The only thing that is now to be complained of is that the East has inherited her position.

Mr. ANTHONY. The South monopolized the committees by precisely the same rule that the Senator complains of now. When I entered this body, I say, there was not a single chairman from New England. There was not one from New York, although New York was then represented with very great ability, as she is now. The present Secretary of State was then a Senator upon this floor from the State of New York. He was not made chairman of any committee, but both he and the present Chief Justice of the Supreme Court, representing the great State of Ohio in this body, were excluded from all committees on the ground that they did not belong to "healthy" organizations. That was the rule that prevailed when the friends of the Senator from Pennsylvania were in power. And how was the State of Pennsylvania treated then? The same banner of the Patent Office was borne aloft then by the predecessor of the Senator who bears it now. The same chairmanship was assigned to the State of Pennsylvania then as is assigned to it now. The State of Illinois had no chairmanship, though she was represented certainly by

two of the ablest men upon the respective sides of this Chamber.

Mr. FESSENDEN. Mr. Douglas was chairman of the Committee on Territories.

Mr. ANTHONY. Not when I came here; he had been left off then. And yet the small State of Florida, smaller than Rhode Island in point of population, had the important posts of chairman of the Committees on Naval Affairs and on Post Offices and Post Roads.

Mr. BUCKALEW. I am very happy to hear the explanation made by the Senator from Rhode Island. I have not had the slightest disposition to speak harshly or unkindly of anything that has been done by the Senate, or to speak unhandsomely or critically of its practices and habits of action. I have no griefs of my own. But, sir, the Senator misconceives the point of my observation. I did not refer to this subject for the mere purpose of making complaint, of making myself the organ of the grief of other men, or to express my own. I referred to it in illustration of the existing inequality of power by which necessarily so much of patronage and of influence and of authority in connection with the Government is given to one section of the country.

Now, sir, the Senator's explanation, which is very well as far as it goes, does not cover the point of my argument, which was this: that because one section was over-represented it had all this power here. Accepting that representation as a fact, these consequences flow from it. Now, the Senator, in reply, proceeds to tell me that these consequences are legitimate and proper under the circumstances. Does he not perceive that if some six of these very good men of the East, who are chairmen of committees, were distributed in other sections of the country all these facts would have had no existence. It is that distribution of these individuals in the outset, under the existing rule of the Constitution, which is justly obnoxious to criticism, and not so much the practice of the Senate after they are here. I would not subject any of the gentlemen that represent the East to indignity, much less to insult; I would not criticise them; I would not for anything in this world injure their feelings or wound their sensibilities; but, sir, in discussing a question of the basis of power in this Government, gentlemen must permit me to refer to notorious facts and to show how that power is organized and show how it does act in this Government; and I do not feel myself open to the charge that I am an enemy of any person within the class covered by the argument which I submit. What I say is, that if we are about to redress inequalities under the Constitution of 1789, if we are about to repair the errors of our fathers, to improve upon their work, if we are to attain to an ideal perfection in our system, we are to strike at all the inequalities, we are not to bare our hand against the southern section, omitting a blow equally necessary and equally required by the facts upon an eastern interest.

Mr. FESSENDEN. I wish to make an explanation of one fact to show how the power of New England over the formation of the committees is exemplified. I have been for some years chairman of the Committee on Finance, and I succeeded to that dignity from the fact that I was the oldest member who was left upon it of the party that came into power a few years since. It so happened in the process of time that the honorable Senator from New Hampshire, who sits before me, [Mr. CLARK,] was selected upon the same committee: and a most valuable member he was.

Mr. BUCKALEW. No doubt of it.

Mr. FESSENDEN. Everybody who knew him knew he would be. It was considered that it was too much altogether for New England to hold such a power in the Committee on Finance; it would not do to have two from New England; and therefore my friend (instead of myself, who ought to have been turned off instead of him,) was turned off that committee and sent somewhere else. So far did the jealousy go with reference to that matter, that in the formation of that committee at that particular time there was but one man left on the committee east of the mountains; I was the only man; and the other six came from other sections of the country. The body would not allow any man except myself to go on the committee from New England, and I suppose the reason was in order to preserve the balance of power.

Now, the Senator from Pennsylvania sees, looking at that, that New England does not control the formation of the committees. It may be unfortunate for the country that several of us have been here so long that we succeed by a sort of natural order to these places; but it is very easy for the Senate to correct that injustice and impropriety, if it be such, at any time, and certainly nobody will submit to it with better grace than I will.

Mr. BUCKALEW. The Senator will observe, from what I said, that I am rather in favor of gentlemen continuing here for long periods of time. I only think that equality and justice would be consulted by a distribution which would bring some of these veteran members from other sections.

Mr. FESSENDEN. The Senator cannot have it otherwise, for he is aware that the Constitution has provided for that particular matter of Senators, and so provided for it that it cannot be changed; it is unchangeable without the consent of the States themselves. He is also aware that when equality of representation was secured to the States in the Senate, it was with a perfect knowledge that it was and must be unequal in its very nature. It was so arranged so that the Senate should represent the States and not the people, and to prevent the great States like Pennsylvania and New York from overpowering the little ones like Maine and others.

Mr. BUCKALEW. Yes, Mr. President, but the Senator introduces an amendment here to change the Constitution, and hence arose this very inquiry.

Mr. FESSENDEN. Not in relation to Senators.

Mr. BUCKALEW. No, sir; but in relation to Representatives, where the change will be advantageous to his own section, and I am putting the argument home to him in turn.

Mr. WILSON. The Senator from Pennsylvania [Mr. BUCKALEW] commenced his carefully prepared speech by assuring the Senate that he had remained silent during the past three years of excitement because reason was powerless when addressed to passion. The Senator gave us to understand that he had not wasted reason, thought, culture, upon the stormy passions engendered by the war, but now when reason had resumed her empire he had come forth to instruct his country. I listened to the Senator's speech, thus rather vauntingly introduced, and regretted to hear a studied effort to excite passions and arouse sectional prejudices. The Senator has aimed his shafts at New England and at her representatives in the Senate. There is nothing original in what the Senator says. This is not the first time New England has been assailed for her representation in the Senate, and for her influence in the councils of the nation. Rebels and rebel sympathizers have hurled their shafts at New England even in these later days of stormy passions in which the Senator has refused to mingle.

When the Constitution was formed, New England had eight of the twenty-six Senators—nearly one third of the body; now she has twelve of the seventy-two Senators—one sixth of the body. Her power is diminishing in this body and will continue to diminish. When the Constitution was adopted, quite as great inequalities existed among the States as now. The illustrious statesmen who framed the Constitution knew and recognized that fact; they based the Senate upon the States, and upon the equality of States. They were so determined in that policy of equal State representation in the Senate that they provided that the Constitution should never be amended in that respect without the consent of every State. The framers of the Constitution placed this provision beyond the power of the people ever to change it while one State should object, and every State entered the Union upon the distinct assurance that State equality in this body should remain forever unchangeable. The Senator from Pennsylvania now tells us that a change will be proposed and will yet come. Does not the Senator remember that five years ago it was proposed to add six amendments to the Constitution in favor of slavery and make them irrepealable without the consent of all the States, and to make the provision allowing slavery to be represented, and the provision requiring the surrender of escaped fugitives from labor to be made irrepealable, as is this equal State representation in the Senate? No one then suggested that this provision, that in express language can never be repealed without the consent of all the States, could be changed by the action of three fourths of the States.

The Senator suggests that the Senators from New England are actuated by local interests and love of power in their action regarding the admission of the representatives of the rebel States. Nothing can be more unjust to those Senators. It is without the shadow of fairness or justice, or the semblance of truth. Does the Senator from Pennsylvania believe that the eastern Senators are actuated by such motives of interest and by the love of power? I do not believe that Senator, on reflection, will say that he thinks the Senators from New England are governed by such motives. I can say before God that I am actuated by no local interests, no love of power in opposing the immediate and unconditional admission of the rebel States into these Chambers; and I know my associates from New England too well to believe for a moment that they are actuated by interest or the love of power. Thousands of millions of money of have been expended, and hundreds of thousands of brave men have bled for the unity and liberty of the Republic. I desire—my associates from New England desire—to see these vacant chairs filled at an early day by the representatives of the States that rebelled and rushed into civil war. We will welcome them here; but before they come it is of vital importance to the country, to the people of all sections, to the interests of all, that all disturbing questions should be forever adjusted, and so adjusted as never again to disturb the unity and peace of the country. It is now the time to settle forever all matters that can cause estrangement and sectional agitations and divisions in the future. Nothing should be left to bring dissensions, and, it may be, civil war again upon our country. The blood poured out to suppress the rebellion must not be shed in vain. I hope, and I know the Senators from New England ardently hope, for the speedy adjustment of all matters between the different sections of the country.

The Senators from New England, unlike the Senator from Pennsylvania, remained not silent during the great civil war through which the nation has passed. They have spoken; they have spoken for the unity of their country and the freedom of all men. They have spoken for their country, their whole country, and for the rights of all its people of every race. Their past is secure, and the imputations of the Senator from Pennsylvania will pass harmless by them. I have listened to the Senator with attention, and deeply regret that he has imputed such motives to Senators from the eastern States, and I trust that Senator will regret it on further reflection.

Mr. NYE. Mr. President——

Mr. SUMNER. The Senator from Nevada having the floor, will he give way to me to move an executive session?

Mr. NYE. Yes, sir.

EXECUTIVE SESSION.

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

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *February* 21, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The reading of the Journal of yesterday was commenced, but was interrupted by

Mr. UPSON, who moved that the further reading of the Journal be dispensed with.

Mr. BANKS. I object.

The SPEAKER. It requires unanimous consent to dispense with the reading, as a rule of the House requires that the Journal shall be read.

Mr. BANKS. I think the reading of the Journal ought never to be omitted.

Mr. WASHBURNE, of Illinois. I think the Journal ought to be read.

The SPEAKER. Objection being made to dispensing with it, the reading of the Journal will be concluded.

The Clerk resumed and concluded the reading.

RECONSTRUCTION.

The SPEAKER. The pending question is on the motion made just previous to the adjournment yesterday by the gentleman from Pennsylvania [Mr. STEVENS] to reconsider the vote by which the House agreed to the concurrent resolution reported from the joint committee of fifteen. On that question the gentleman from Pennsylvania is entitled to the floor.

The resolution is as follows:

Concurrent resolution concerning the insurrectionary States.

Be it resolved by the House of Representatives, (the Senate concurring,) That in order to close agitation upon a question which seems likely to disturb the action of the Government, as well as to quiet the uncertainty which is agitating the minds of the people of the eleven States which have been declared to be in insurrection, no Senator or Representative shall be admitted into either branch of Congress from any of said States until Congress shall have declared such State entitled to such representation.

Mr. GARFIELD. I ask the gentleman from Pennsylvania to give way to me for a moment, that I may have a paper read at the Clerk's desk.

The SPEAKER. Does the gentleman from Pennsylvania yield for that purpose?

Mr. STEVENS. Yes, sir; but for no other.

The Clerk read the following telegraphic message:

COLUMBUS, OHIO, *February* 20, 1866, 10 p. m.

To Hon. JAMES A. GARFIELD:

The Union caucus of the Ohio Legislature has just adopted unanimously, without debate, the following resolution:

Resolved, That in the action of the Union Representatives in Congress we recognize an exposition of our principles that made us a party and saved our country through the late rebellion; and we now tender such Representatives our hearty support.

J. M. COMBY.

Mr. STEVENS. When was that adopted?

Mr. GARFIELD. Last night.

Mr. STEVENS. After our action here?

Mr. GARFIELD. Yes, sir.

Mr. STEVENS. Mr. Speaker, has the previous question exhausted itself on the resolution now before the House?

The SPEAKER. It has.

Mr. STEVENS. Then I call the previous question.

Mr. SHELLABARGER. I ask the consent of the gentleman to allow me to introduce and have referred joint resolutions of the Legislature of Ohio.

Mr. STEVENS. My friend had better wait till this vote shall be taken.

The previous question was seconded, and the main question ordered; which was upon the motion to reconsider the vote by which the House had agreed to the concurrent resolution.

Mr. STEVENS. I move that the motion to reconsider be laid on the table.

Mr. FINCK. I demand the yeas and nays.

Mr. STEVENS. I suppose the yeas and nays on this question will be the same as on the adoption of the resolution.

Mr. CONKLING. Yes, sir; but we had better take the yeas and nays, because there are some gentlemen here who want to put themselves on the record.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 108, nays 38, not voting 37; as follows:

YEAS—Messrs. Allison, Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Boutwell, Brandegee, Bromwell, Broomall, Buckland, Reader W. Clarke, Cobb, Conkling, Cook, Cullom, Dawes, Defrees, Deming, Donnelly, Driggs, Dumont, Eckley, Eggleston, Eliot, Farquhar, Ferry, Garfield, Grinnell, Griswold, Abner C. Harding, Hart, Hayes, Henderson, Higby, Holmes, Hooper, Asahel W. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbell, Hulburd, Ingersoll, Jenckes, Julian, Kelley, Ketcham, Laflin, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, Marvin, McClurg, McIndoe, McRuer, Mercur, Moorhead, Morrill, Morris, Moulton, O'Neill, Orth, Paine, Perham, Pike, Plants, Pomeroy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Spalding, Starr, Stevens, Thayer, Francis Thomas, John L. Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Ward, Warner, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, and Windom—108.

NAYS—Messrs. Ancona, Bergen, Boyer, Brooks, Coffroth, Dawson, Delano, Denison, Eldridge, Finck, Glossbrenner, Goodyear, Grider, Hale, Hogan, Edwin N. Hubbell, James M. Humphrey, Kerr, Latham, Marshall, McCullough, Newell, Niblack, Nicholson, Noell, Phelps, Radford, Ritter, Rogers, Ross, Rousseau, Shanklin, Sitgreaves, Strouse, Taber, Taylor, Trimble, and Whaley—38.

NOT VOTING—Messrs. Alley, Ames, Blow, Bundy, Chanler, Sidney Clarke, Culver, Darling, Davis, Dixon, Farnsworth, Aaron Harding, Harris, Hill, Hotchkiss, Chester D. Hubbard, James Humphrey, Johnson, Jones, Kasson, Kelso, Kuykendall, Le Blond, McKee, Miller, Myers, Patterson, Samuel J. Randall, Raymond, Smith, Stilwell, Thornton, Robert T. Van Horn, Voorhees, Winfield, Woodbridge, and Wright—37.

So the motion to reconsider was laid on the table.

During the call of the roll,

Mr. BRANDEGEE stated that Mr. BLOW was detained at home yesterday and to-day by sickness.

Mr. O'NEILL stated that Mr. MYERS was detained from his seat by indisposition.

The result was announced as above stated.

ADJOURNMENT TILL FRIDAY.

Mr. STEVENS. I move that when the House adjourns to-day, it adjourn to meet on Friday next.

Mr. WASHBURNE, of Illinois. Will the gentleman permit me to make a suggestion?

Mr. STEVENS. Certainly.

Mr. WASHBURNE, of Illinois. The House has been in the habit of assigning Saturday of each week to general debate on the President's message. Now, sir, I understand that there are some seventy members who want to speak on that subject. I therefore suggest that both Friday and Saturday of this week be devoted to general debate.

Mr. MORRILL. I hope not, Mr. Speaker. There is a great deal of important business that demands immediate attention. I hope that we shall not devote so much time to general debate.

Mr. STEVENS. I have no objection to the suggestion of the gentleman from Illinois, if the House is disposed to agree to it.

Mr. WASHBURNE, of Illinois. It requires unanimous consent; and if there is any objection I will not press the matter.

Mr. MORRILL. I object.

The SPEAKER. The question is upon the motion of the gentleman from Pennsylvania [Mr. STEVENS] that when the House adjourns, it adjourn to meet on Friday next.

The motion was agreed to.

ORDER OF BUSINESS.

Mr. STEVENS. I rise now to move that the House proceed to the consideration of an appropriation bill——

Mr. DAWES. Will the gentleman yield to me for a suggestion?

Mr. STEVENS. Yes, sir.

Mr. DAWES. When the report of the Committee of Elections in the case of Washburn *vs.* Voorhees was presented the other day, it was stated that the case would be called up to-day. It was originally arranged by the Committee of Elections that the case should be called up to-morrow, the fact being overlooked that there would be no meeting of the House to-morrow. It is necessary for the committee to have this case disposed of this week; and as it will take no more time to-day than on any other day, I hope the gentleman from Pennsylvania will consent to yield to me, that this case may be disposed of. I will assure the House that, so far as I am concerned, I will consume but very little time.

Mr. STEVENS. I feel that these appropriation bills ought to be passed; but I cannot refuse a request of this kind.

Mr. WASHBURNE, of Illinois. I ask the gentleman to yield to me so that I may have some communications read; and I desire also to make a statement in regard to a resolution passed on Monday last under a suspension of the rules.

Mr. DAWES. As the gentleman from Pennsylvania does not propose to go on with the appropriation bills, I will call up the Indiana contested-election case.

Mr. STEVENS. I yield to the gentleman from Massachusetts. As there are eleven States absent who cannot legislate on this subject of the appropriation bills, and as it seriously affects them, I propose to postpone them to a future day. [Laughter.]

WAR DEBTS OF LOYAL STATES.

Mr. BLAINE. I ask unanimous consent to submit the following resolution for reference to the Committee on Printing:

Resolved, That there be printed for the use of the House five thousand extra copies of the report of the committee on the war debts of the loyal States, with the bill accompanying the same.

Mr. HARDING, of Illinois. I object.

Subsequently,

Mr. HARDING, of Illinois, said: Mr. Speaker, I am inclined to oppose the reimbursement of these war debts, but I see no objection to this proposition to print. I therefore withdraw my objection to the introduction of the resolution.

The SPEAKER. There being no objection to the introduction of the resolution, it will be referred, under the law, to the Committee on Printing.

DISTILLED SPIRITS.

Mr. HOOPER, of Massachusetts. I am instructed unanimously by the Committee of Ways and Means to ask leave to report the following resolution:

Resolved, That it is the sense of this House that it is inexpedient to make any change in the excise duty on distilled spirits.

Mr. ELDRIDGE. I object.

DEPARTMENTAL PRINTING.

Mr. LAFLIN, by unanimous consent, submitted the following resolution:

Resolved, That the Secretaries of the different Departments be directed to inform this House the cost of paper, printing, and advertisements for said Departments for the year 1865.

Mr. WASHBURNE, of Illinois. I hope that will pass in some shape; but I suggest to the chairman of the Committee on Printing whether it ought not to go to the Superintendent of Public Printing, who has more specific information than the committee, as he has of course kept an account with each Department.

Mr. LAFLIN. We have in the report of the Superintendent an account of all printing done at the Public Printing Office.

Mr. WASHBURNE, of Illinois. This, then, is in reference to outside printing.

Mr. LAFLIN. Then, sir, I hope the resolution will pass.

Mr. STEVENS. We ought to know what it has cost to print pardons of rebels. [Laughter.]

The SPEAKER suggested the resolution ought to be modified so as to say "directed", instead of "requested."

Mr. LAFLIN modified his resolution accordingly.

The resolution, as modified, was then adopted.

EXCISE ON CIGARS.

Mr. SHELLABARGER presented the following:

STATE OF OHIO, EXECUTIVE DEPARTMENT,
COLUMBUS, *February* 19, 1866.

SIR: I have the honor to forward, in accordance with the terms thereof, the annexed resolutions adopted by the General Assembly, respecting the excise duty on cigars, as duly certified by the secretary of state.

Very respectfully,
W. T. COGGESHALL, *Secretary.*

Hon. SAMUEL SHELLABARGER.

Joint resolutions relative to the excise on cigars.

Whereas by enactment of the Congress of the last session, the excise upon cigars is levied at the uniform rate of ten dollars per thousand: and whereas this rule compels Ohio seed leaf, worth in the market ten cents per pound, to pay a tax of four hundred and fifty per cent. *ad valorem*, while Connecticut tobacco, the market price of which is twenty cents per pound, pays only two hundred and twenty-five per cent., and imported Havana tobacco, rated at one dollar and fifty cents per pound, pays only thirty-three per cent.; and whereas this discrimination against the product of Ohio and other western States has cut off the demand for and if continued is likely to put a stop to the growing of tobacco in these States; and whereas this rule levies the heaviest per cent. of taxation on that kind of tobacco mainly used by the class least able to pay, and touches but lightly the high-priced luxury of the richer class: Therefore,

Be it resolved by the General Assembly of the State of Ohio, That the present rule of assessing the internal revenue on cigars is unequal, unjust, and oppressive to the agricultural interests of this State; and that our Senators and Representatives in Congress be, and are hereby, earnestly requested to use their influence to secure such a change in the law as shall levy the tax *ad valorem*, or such other modification as in their judgment will remove the objection herein urged against the present law.

Resolved, That the Governor be requested to forward a copy of the foregoing preamble and resolution to each of our Representatives in Congress.

ED. A. PARROTT,
Speaker of the House of Representatives.
ANDREW G. McBURNEY,
President of the Senate.

February 13, 1866.

OFFICE SECRETARY OF STATE,
COLUMBUS, OHIO, *February* 14, 1866.

I hereby certify the foregoing to be a true copy of House joint resolution No. 44, as taken from the original roll on file in this office.

WILLIAM HENRY SMITH,
Secretary of State.

The papers were referred to the Committee of Ways and Means, and ordered to be printed.

INDIANA CONTESTED-ELECTION CASE.

Mr. DAWES. I ask that the resolutions be read.

The Clerk read, as follows:

Resolved, That Hon. Daniel W. Voorhees is not entitled to a seat in this House as a Representative from the seventh district of Indiana in the Thirty-Ninth Congress.

Resolved, That Henry D. Washburn is entitled to a seat in this House as a Representative from the seventh congressional district of Indiana in the Thirty-Ninth Congress.

Mr. MARSHALL. Mr. Speaker, I wish to say to the chairman of the Committee of Elections, and through him to the House, that the views of the minority were only submitted yesterday, and I did not know they were printed until I was informed just now by the chairman himself. I did not expect this case would be called up to-day; but on the contrary my understanding was it would not be called up until Friday. I would much prefer the case should stand over until then, so that members may have an opportunity to carefully examine the reports and vote understandingly. It is a case of considerable importance; and I am satisfied, at least such ought to be the fact, the members of the House desire to do justice. The sitting member is not now in his seat; and I do not believe he understood it was to be called up this morning.

Mr. DAWES. I am desirous to accommodate my friend and colleague on the committee. I am aware it has been a short time since the report was submitted. The reasons why I have called it up now are known to the gentleman from Illinois. We shall have only one day more this week. I do not feel like pressing the gentleman, provided there is an understanding we can call it up immediately after the reading of the Journal on Friday next. I am under the necessity, as my friend and colleague knows, of leaving the city on Friday evening. I should be glad to surrender this case to the committee. I have no doubt if some other member had made the report there would be no objection to it; but I must go on with it, as I have undertaken charge of it.

Mr. MARSHALL. In answer to that I will merely state that I do not know what number of gentlemen desire to speak on the case, and I have no authority to make any arrangement in regard to the closing of debate. Of course that will be within the power of the chairman and his friends. I think this is a case of considerable importance, and it ought to be fully understood by the House before we are called upon to vote upon it.

Mr. WASHBURNE, of Illinois. I am compelled to object to the vote being taken on Friday, because I may be absent on that day, and I desire to be here when the vote is taken.

Mr. DAWES. It seems that there is no arrangement suggested by the gentleman from Illinois, [Mr. MARSHALL,] and therefore I shall be under the necessity of going on to-day.

Mr. Speaker, I take it for granted that every member of the House has read the report of the committee. Before proceeding to its discussion I beg leave to correct one or two typographical errors in the report.

On the second page the printer has made this error:

"At the commencement of the hearing before the committee the sitting member made a motion to *upset* the entire testimony."

It is due to the sitting member that I should say that the motion was not exactly in that form, nor did I write it exactly in that form. He moved in very proper form to "reject" the testimony on the part of the contestant, but the printer has put it in "upset." I have no doubt that if the motion had prevailed it would have had that effect.

In the second line, page 2, there is also an immaterial error. The word "some" should be printed "four."

Assuming that the House has read this report, which from my experience here I feel at liberty to assume, I deem it that very little need is upon me of further explaining this case. The official majority of the sitting member is 534. The district is composed of five counties. The allegations of the contestant are very numerous and cover a large ground, but they relate only to four precincts in the whole congressional district. In regard to these four precincts it is alleged that there was such evidence of fraud connected with the election—fraud in respect to the conduct of the election officers and of other persons at the polls, some of them unknown persons, in reference to the ballot-boxes—that the return made of the result at those four precincts was so tainted that the truth could not be deduced from it, and therefore the return must be rejected. This was the allegation made on the part of the contestant in reference to the four precincts of Hamilton, Jefferson, Cloverdale, and Riley; two of them in Sullivan county, and the others in the counties of Vigo and Putnam.

The committee were of opinion that the contestant made out his allegations in reference to two of these precincts, but failed to make them out in their full extent in reference to the other two.

I will briefly state the testimony upon which is founded this conclusion of the committee, and then I will leave the case entirely to such considerations as may be offered on the other side.

I first desire gentlemen of the House to cast their eye over what is said in the report in reference to the law of the State of Indiana upon this subject—to the manner in which the law has guarded, or, as the committee think, has failed to guard, the poll and the ballot-box at an election. A man is chosen at the spring election who is called town trustee. He is made *ex officio* inspector of elections. He has the authority under the law of fixing the place of election and of appointing, with the consent of so many voters present at the poll at the opening of it in the morning, two other persons who shall act with him as judges of election. A ballot-box in the ordinary form is prepared, but there is no provision of law, in the opinion of the committee, for its safe keeping from the time the poll is open until the result is declared. There is on the other hand, it seemed to the committee, a total want of safeguard thrown by the law around the ballot-box.

These three persons, one chosen by the town in the spring, and the others appointed by the town trustee, have the entire custody of the ballot-box. They are permitted by law to adjourn for dinner in the middle of the day, in the excitement of the election, and to do what they please with the ballot-box. They may leave it where they were receiving the votes, or they may carry it to any other place, and there leave it in any custody or in no custody, whenever they please, and be gone as long as they please. They may take it, in any condition it may happen to be in, when they return from their dinner, and resume the voting. At the close of the polls they may then and there, if they choose, count the ballots and make their return, or they may proceed to count, and then, after commencing their count, may adjourn till the next day. If they do adjourn the only safeguard thrown around the ballot-box by law is simply that it shall be locked and the slide for putting in the votes sealed up. The key is then given by this inspector to one of the judges, and he takes the box and goes with it where he pleases. He may leave it in the very room where the election was held; he may carry it to some secret place known to him and to no one else, or carry it into town meeting and leave it there; he may carry it off out of town and keep it in some unknown place during the night and bring it back in the morning; and then he and his associates may complete their count and certify what they may then find to be the result.

These remarks are necessary in order that the House may understand fully the testimony touching some of these ballot-boxes, that are alleged to have been so tainted with fraud that the truth cannot be deduced from the returns made.

There is no dispute between the contestant and the sitting member about what law and rule should govern the committee. It is admitted by the sitting member, as contended by the contestant, that wherever, in point of fact, there did exist such evidence of fraud or malfeasance in office or tampering with the ballot-box that the committee were satisfied that the return itself did not state the truth and there was no means of correcting that return, and of making it tell the truth, that return itself must be set aside and the parties thrown back upon such other evidence as they could produce of the actual poll at that precinct so that every legal voter's vote might, if possible, be still preserved and frauds laid aside. It was only on the application of the evidence in this case to this rule of law that there was any difference between the parties in this contest, or between the members of the committee, in the conclusion at which they arrived; and a moment's reflection will show that the rule itself cannot be controverted when stated as an abstract proposition. I submit that, upon a moment's reflection, any man in the House will yield to it his assent. When a return is so tainted with fraud that the truth cannot be deduced from it, to say that it shall be taken as truth is an absurdity. To say that that shall be taken as true, which by the premises is admitted to be false, is that which no honest man's mind will ever consent to. To this rule of law the sitting member very properly yielded his assent. He called the attention of the committee, with great propriety, also to that which they themselves felt to be proper, that while it was a just and sound rule, it was a rule capable of abuse; that under color of it, prejudice, blind political prejudice, passion, and dishonesty itself might cloak up fraud and avail itself of that rule to work injustice. Taking this heed from the sitting member, which had always been the accepted rule in all cases heretofore, the committee have sought to

apply the rule cautiously and with becoming responsibility to the evidence in this case.

Touching the first of these townships especially, I submit that the evidence is of such a character that no man can hesitate for a moment to say that even upon the very confession of the officers of the election themselves there is incontrovertible testimony that the ballot-box had been interfered with, and interfered with to such an extent that it was impossible to ascertain the truth, and that, therefore, there was no other conclusion but that the return made of the final condition of the ballot-box had not in it the slightest element of the real state of the poll at that precinct. I allude to Hamilton.

The contestant, in the first place, attacked this precinct with the allegation that while the return for him was 140 votes, he produced at least one hundred and seventy men who testified that they had voted for him, a discrepancy in that small number of votes of 23 in the count. This of itself might not certainly show any fraud, but is consistent with an honest mistake in the count; and if that were all there were to it, it would have been perfectly easy to correct such a mistake and add 23 to his poll. If that had been all the evidence in relation to that township, the committee would have conceived it to be their duty to have simply added 23 votes to the vote of the contestant; but whether they should take the 23 votes from the sitting member or not was altogether left in doubt.

Mr. VOORHEES. Mr. Speaker, I have just come into the House, and I rise simply to ask what the order of debate is to be, and who expects to discuss the question over there, and to what extent the privilege of debate is to be allowed by the gentleman from Massachusetts before he calls the previous question.

Mr. DAWES. I do not know exactly what my friend means by "over there." I take it he means on this side of the House.

Mr. VOORHEES. I know what I mean by "over there."

Mr. DAWES. I do not doubt but what the gentleman himself knew what he meant. I only suggested that I did not know.

It is of course my intention not to abridge debate upon such a question as this, so long as the debate is kept within reasonable limits, and I trust that no man will find me attempting to abridge debate upon the right of a gentleman to his seat here in this House so long as he or anybody in his behalf meets and discusses the real question at issue.

Mr. VOORHEES. I suppose the gentleman from Massachusetts [Mr. DAWES] can just as well answer my question at once. He has the power to let us know what he proposes to do. "If" and "if," and "so" and "so," &c., do not answer my question. I simply want to know when he desires to close the debate upon this case.

Mr. DAWES. If the Speaker will request the gentleman from Indiana [Mr. VOORHEES] to repeat the question, I will endeavor to answer it.

Mr. VOORHEES. All I want to know is when the gentleman from Massachusetts expects to close this debate.

Mr. DAWES. I have not fixed upon any time at all in my mind in reference to closing this debate.

Mr. BRANDEGEE. To-day.

Mr. DAWES. I hope to have it closed to-day, of course.

Mr. VOORHEES. The reason I ask the question I will state. I never trifle with the House or with anybody else. I never saw the report of the committee in this case until last night, as the gentleman from Massachusetts well knows. I simply desire to know whether I am to speak this afternoon or whether I am to be allowed until to-morrow. If it is determined that I must speak this afternoon, I am ready. I simply want to know what the programme is; that is all.

Mr. DAWES. If the gentleman is ready to speak this afternoon, it is hardly necessary for him to catechise me in this way. The gentleman gives notice to the House that he is ready at any time. Then why does he catechise me in this way? I shall endeavor to treat him and all the members of the House with the utmost liberality in this matter. If the gentleman has any particular object in this interrogatory to me now, if he will suggest what it is, I may be able to satisfy him.

Mr. VOORHEES. I am as ready now, as a man can be, with no more ability than I have, who has only had since last night to look over this report. I am in the power of the majority of this House. The gentleman from Massachusetts, [Mr. DAWES,] as the chairman of the Committee of Elections, has the control of this procedure. It is not a question whether I desire longer time or not, but whether I shall meet what is inevitable, and that is something which I never shrank from and never expect to. That is what I meant when I said I was ready to speak this afternoon, if the gentleman expects to press this matter to a vote this afternoon.

Mr. DAWES. I am very anxious to close this debate, as I stated this morning, probably before the gentleman entered the Hall. I have stated two or three times to-day, as I stated when the report of the committee was submitted, the reason why it was very desirable, if possible, to close the debate at an early time. I suggested, at the commencement of the debate this morning, that I was willing to have this case postponed until Friday, provided I could have that day allowed for its consideration. But objections were made all around the House to postponing the consideration of this case beyond to-day.

Of course this matter is entirely in the control of the House, and I suppose that according to usage the House will permit me to call the previous question. Any other member can call it, and the House can order it when they please; but if the matter is left to me, so long as this case is properly debated I do not intend to cut off anybody from speaking so far as that can be done and close this case to-day. I intend to confine the debate, so far as I may be able, to the case, so as to make the discussion as brief as possible, in view of the urgency of the public business.

Now, Mr. Speaker, I was commenting first upon that portion of the evidence submitted by the contestant touching Hamilton township, spoken of on page 6 of the report. The first piece of evidence, as I stated, is a discrepancy between 140 votes returned for him and 170 proved by the voters themselves to have been cast for him. It is true, as I have remarked, that that may result from one of two causes: it may have been either an honest mistake or a fraudulent miscount. If there was a fraudulent miscount it would so taint the return itself that it could not be used at all as evidence. If there was an honest mistake, and if that was the entire extent of the mistake, it would be the duty of the committee to take 23 votes and give them to the contestant. It would then, as I was remarking, be altogether uncertain whether the mistake arose simply from omitting to count 23 votes, or from counting those 23 votes for the sitting member. It would make a difference of 46 whether the mistake arose from one cause or the other. But, notwithstanding that uncertainty and possible injustice to the parties, the committee did not feel at liberty to say, as a matter of course, that they had a right to take those 23 votes from the sitting member.

But this is only a part of the testimony touching this township. The contestant goes further. He produces the evidence of witnesses who testify to an important circumstance in connection with the fact to which I have already referred, that the law of Indiana fails to guard the ballot-box at a particular time when it is highly important that it should be guarded. If there is any danger of fraudulent interference with the ballot-box at any time, it is after the closing of the poll and before the final count and return of the officers. Then there is every temptation; then there is every reason for guarding the ballot-box with special vigilance.

In Hamilton township, according to the testimony in the report, the judges of the election proceeded, after the closing of the polls, in the room where the election had been held, to count the votes. They had counted only about 15 or 20 votes, placing them upon a string as they counted them, as the law of Indiana requires, when they concluded they would adjourn till after supper, and take their leisure in the evening to finish the count. Leaving some 300 or 400 votes in the ballot-box uncounted, they, as the law requires in such a case, put this string of 15 or 20 votes on top of the uncounted votes in the ballot-box and then put the tally-papers and poll-books on top of them. The inspector locked the box, gave a key to one of the judges of the election, and took the box himself. The other two judges of the election departed to get their supper; he left the box in the room where the election had been held and went to his supper. When they came back, the key which the inspector had given to the judge who went off for his supper would not unlock the box. He tried another, and that would not unlock the box. Then this inspector, although the law requires that if he keeps the box he should give the key of it to one of the judges, took a key out of his pocket and unlocked the box. When the box had been opened, this string of tickets which had been placed on top of the uncounted tickets was not found. A search was made, and this string of tickets was at last found at the bottom of the box, under the uncounted tickets which had been originally left there with this string of tickets on the top.

When it came to appear that at least 170 persons had voted for the contestant, while only 140 votes had been counted for him, there was excitement in the town, and some accusations were made against the judges of the election. When the transaction which I have recited came to be discussed, the judges of the election and the inspector were forced, precisely eight days after the election, to come out in a public card, in which, in order to relieve themselves of the accusation of having tampered with the ballot-box, they confessed a conviction on their part that the ballot-box had been tampered with, but alleged that it had been done in their absence. The three officers of election, as well as the clerk, signed this statement, in which they say the box was without doubt tampered with, although they say it was in their absence and without their knowledge. Therefore, we have a discrepancy in the vote.

We also have the evidence, that cannot be and is not controverted touching this township, that there was an actual invasion of this ballot-box at the close of the polls; but to what extent, Mr. Speaker, of course nobody knows. Therefore, nobody knows how to correct this poll. It is certain the actual return itself is false. It is also certain there is no testimony by which we can make it certain. The conclusion is inevitable, then, we must lay it aside.

Then what is the duty of the committee? What is the duty of all parties? It is to produce such testimony as is in their power of how many votes were actually cast at that poll, and to give to either party such votes as are proved to have been cast for him. That mode has been followed by the Committee of Elections, and the result is stated in the report.

I beg gentlemen to read the card upon pages 6 and 7, as it contains the kernel of the whole case.

The next is that of Cloverdale. The official returns from this township gave Mr. Voorhees 27 votes, and Mr. Washburn 58 votes. It was proved by the contestant, in precisely the same manner as in the other case, there were actually cast for him, instead of 58, the number of 91 votes, making the difference between 58 and 91 in the count of so small a number as that return. While the committee could hardly make themselves believe this was an honest mistake in so small an account as that, yet, for the reason stated in the report, although there was other evidence to which I beg to call the attention of the House touching this poll, they did not set aside the whole poll. There was other evidence besides the fact that 91

persons came forward and testified that in this small township they had cast their votes for the contestant, although only 58 were returned for him. In this precinct the count was not made until next day. The judges and clerk of the election became weary and were unable to complete the canvass that night. They therefore locked up the ballot-box, according to the law I have cited, and gave it to the inspector. In the mean time the inspector took the box and carried it away out of town, from half to three fourths of a mile from Cloverdale, to the house of a friend, a warm supporter of the sitting member, where he spent the night with it.

It became evident at the close of the poll, and before the return, that the vote for the county was exceedingly close. There is no direct testimony that anything was done with the box during the night. But it is in evidence that the vote in the whole county was very close, there being, as returned, only 26 majority for the sitting member, less than the discrepancy (33) found at this poll. The county ticket was therefore in danger. A strong supporter of the sitting member, by the name of Scott, (page 69,) came from the county seat that night, a distance of ten miles, to the house where the ballot-box was kept, about three fourths of a mile from the town, after the owner of the house had gone to bed and had fallen asleep, and spent the night there. The owner of the house testified that he did not know at what time he came, what he came for, and what he did. And his purpose and business, as well as the success which attended it, only appear from the testimony of a witness who overheard him afterward relate it. But this was hearsay evidence, which the committee rejected, otherwise there would have been no doubt on this question. The case against this ballot-box, therefore, rests upon the great discrepancy between the return (58) and the number (91) proved to have voted for Mr. Washburn, the temptation in the close vote in the county, the opportunity for tampering with the ballot-box during the night, and the suspicious visitation of Scott from the county seat during the night, together with such inferences as it is fair to draw from the fact that no witness is contradicted, no testimony is controverted, no suspicious circumstance explained, so easy of explanation by the calling of Scott or the inspector, if the truth permitted it. But as the result to which the committee arrived upon the whole case, as hereafter stated, would not in any aspect be changed, whether this return be rejected or corrected, they did not determine to reject it entirely, however much confidence in it must be shaken in every fair mind by the evidence here adduced. They, instead, gave the contestant the benefit of the discrepancy proved, namely, 33 votes.

The next is the township of Jefferson. There was only testimony of the discrepancy of 12 votes. They therefore did not reject, but corrected, this return, giving to the contestant the benefit of the 12 votes here proved and not counted.

The next is Riley township. The official return from this township was, (page 7,) for Mr. Voorhees, 173 votes; for Mr. Washburn, 88 votes. The testimony is similar in character to that already commented upon in connection with other townships.

This testimony shows that there were 108 persons, at least, who voted at this precinct for the contestant, while 88 votes only were returned for him. There was testimony, also, of six or eight others in reference to five of these, as to their political opinions, strong and openly avowed, and their associations, and the fact that they voted. How they voted the contestant was unable to show.

That was the first item of testimony in relation to that township. There the rule would have been the same, in the opinion of the committee, as applied to the last two townships.

But the testimony of the contestant went further and showed this: at noon they adjourned for dinner, which is kindly provided for by the judges of election under the law of Indiana. They were all invited to the house of the inspector to dine. He took the ballot-box with him and put it in his bedroom adjoining the dining-room while they dined—whether locked or not there is no testimony; I presume it was. After dinner the judges of election interested themselves in examining some outline maps that were hung up in the dining-room, while the inspector took himself to the bedroom, where the ballot-box was, shut to the door, and was absent fifteen minutes. Nobody saw what he did, so far as we are informed. He returned after a quarter of an hour from the bedroom, and they took the ballot-box to the polls.

Upon counting the ballots at the close of the polls and comparing the whole number of ballots in the box with the poll-list, they found a discrepancy of five or six. They had not ballots enough by five or six. How were they to make up the number, was the question. So they concluded to take from their table five or six ballots, put them in, and count them. Where the ballots came from the witness did not know. He only knew that they did not come from the ballot-box.

Then there are these items of testimony: first, the transaction that I have related touching the ballot-box at the dining-room. The next morning, in connection with that matter, it appears that as the servant girl undertook to go into the bedroom, she could not get the door clear open, and on looking to ascertain what the difficulty was, she found that somebody, in that bedroom where the ballot-box was deposited the day before, had taken up a tack out of the carpet, and had tucked under the carpet a quantity of Republican votes. [Laughter.]

So then we have in reference to this ballot-box this phenomenon, as I might call it, if it were not so frequent an occurrence in the experience of the committee. We have first the fact that there was some trouble about the count—some difficulty in counting up the votes so as to make eighty-eight and come within twenty of right. And we have next the fact that when they found that they had not ballots enough in the ballot-box to conform with the tally, which showed how many had voted, they took up votes wherever they could find them, put them in, and counted them. And thirdly, we have the suspicious circumstance of the proximity of this inspector to the ballot-box alone in his bedroom while his associates were busy at the dining-room table, and the finding of these ballots afterward under the carpet.

Now, this is not positive evidence that anything was done in the bedroom with this ballot-box. I do not mean to assert that it is. The question may be put, and with some force, what of all that? Does that prove that the inspector did open the ballot-box? Certainly it does not; but I submit that it is a suspicious circumstance. And that suspicion, in my mind, is considerably strengthened by the fact that if the inspector did not do anything to the ballot-box it would have been the easiest thing in the world for the sitting member to summon him and have him sworn. But he did not do so. The sitting member produced no testimony on that matter at all. He left the testimony that we had with the full weight that it was entitled to as presented by the contestant, without the slightest impugning of it from any quarter, when it was the easiest thing in the world for him to have called the inspector.

I know the answer to it might have been that of course the inspector would swear that he did not tamper with the ballot-box. Of course he would, but, Mr. Speaker, there is something in the appearance of the thing, and rather than have left it just so, I would, if I had been in his place, at least have tried my hand at swearing the inspector.

The committee felt as if it was a fair and proper inference from this testimony, from the fact that all three of these judges knew, if it were not true that they took these votes from the table, and from the fact that this inspector knew, if it were true that he did not touch the ballot-box in that bedroom, that all of them could have given some explanation of this discrepancy of twenty votes in a count of eighty-eight, that they could have presented some theory of some sort, rational or plausible, and met this testimony in that way. But not meeting it at all the committee felt as if strength was added to it fairly and properly, and they therefore came to the conclusion that this ballot-box, like that of Hamilton, confessed by the judges of election to have been tampered with, was also tampered with, but to what extent, of course, it was impossible for the committee to show. To what extent, therefore, they were called upon to correct this return it was impossible for them to say, and therefore it was that they were compelled to say that this return on its face was false. If false, it cannot be taken as true; if not true, then it must be set aside, and whoever it shall be shown has voted for the sitting member and the contestant on this poll should be counted in the general result.

With this evidence touching these townships, we have the conclusion of the whole matter as stated upon the 4th page of this report; and laying aside the returns of these two townships and adding to the vote of the sitting member and of the contestant such votes as were proved by the one and by the other, and correcting the vote of the other two townships in the manner I have stated, that makes the majority of the contestant 225. If any gentleman shall have doubts touching the propriety of setting aside the whole return of this last township that I have been commenting on, and shall admit the confession touching the Hamilton precinct, the conclusion must be the same, and the result is stated on the last page of the report to be a majority for the contestant of 52.

Mr. THAYER. I desire to ask the chairman of the committee for some explanation in regard to the computation of votes which I find on page 10 of the majority report. I perceive by the table which is there printed, that it proceeds upon a calculation founded, in the first instance, on the rejection of the entire vote from the townships of Hamilton and Riley, but that there are subsequently added to the computation the votes which were proven to have been cast for one of the candidates.

Mr. ASHLEY, of Ohio. For both candidates.

Mr. THAYER. For both of the candidates. I desire to ask the chairman of the committee upon what principle the committee proceed, when they find that a return was so fraudulent that no reliance whatever can be placed upon it, to make a new return out of votes which are proven to have been cast, or, in other words, to enter into a new election, discarding entirely the official returns?

I do not know what may have been the rule in regard to contested elections in this House, but my understanding as a lawyer upon this subject is, that when you discredit an official return to such an extent that you show that no reliance whatever can be placed upon it, you must discard entirely the township or precinct from which a return of that character proceeds, and that you cannot, after discarding the return, attempt to make up a new election by proving how many votes were cast for either of the candidates. I may be mistaken in my view, but I would like to hear the chairman of the committee on that point.

Mr. DAWES. I tried to make myself understood upon that point as I proceeded, but I see I failed. It is true that when you find a return in such a condition, so tainted with fraud, it must be set aside, but the return only purports to be evidence of the number of votes cast; it is that evidence which the statute for convenience sake has provided; that evidence is shown to be false, but it does not follow that it is all the evidence that exists in the world; it is only that the machinery of the statute which, for convenience sake was provided to produce this evidence, has failed; but then it is always the rule to find out by some other evidence—secondary if you cannot get primary—every voter you can, to the end that the voters may not be disfranchised because of the fraud of the judges of the election.

Mr. THAYER. That is the precise point upon which I desire the gentleman, if he can, to

give us an authority, because I will state frankly that my clear impression as a matter of law upon that point is, that where you throw out the official return of a township for fraud, you cannot show *aliunde* what the real state of the vote was, but you must discard that township entirely in arriving at the result, and if that kind of fraud pervades the district to such an extent as to render the result totally uncertain, you must order a new election.

Mr. DAWES. Let me discuss this question with the gentleman from Pennsylvania. You discard the official return. What is the official return made for? What is the object of it? It is only a method adopted by the statute of ascertaining something for convenience sake, namely, of ascertaining how many men voted at that poll. But if, on account of fraud, you have to set it aside, I never heard before that you could not resort to some other evidence to show what was the actual *bona fide* vote at that poll. The books of contested elections are just as full of authorities as they are of cases of this kind.

Mr. THAYER. Can the gentleman cite any case?

Mr. DAWES. I refer the gentleman to a case in which I had his aid—the case of Knox *vs.* Blair. In that case return after return was set aside, and the parties spent days and weeks, on the one side and on the other, in proving how many votes were actually polled, because the statute evidence had been done away with. They went at it themselves, the one side and the other; and so did we here. The parties acted upon what they supposed was the law—and in that the committee agreed with them—that if you can set aside the return, each party is thrown back upon such other evidence as he can get.

Take the case of Blair *vs.* Barrett, where the sitting member was the contestant in the other case I have mentioned. The party went upon that principle in carrying on the case, and the whole committee agreed that that was the correct rule of law. The sitting member accepted that as the law, and both parties acted upon it. I have yet to learn of an election case in which that was not the law, and my friend from Pennsylvania [Mr. THAYER] will permit me to say that it is in accordance with what I think is just and right. I think it is the rule which the committee follows, and which should be the rule for this House, to follow every honest vote as long as you can follow it until you find it and find for whom it was cast, and thus give the right man the full benefit of it. In that way no mere formality, no mere nonconformity to the requirements of the law on the part of the officers of the poll in excluding a ballot shall work the forfeiture of the right of the voter. I refer the gentleman from Pennsylvania to the Digest of Elections *passim* for illustrations to that rule.

Mr. THAYER. That is a very convenient kind of reference, of course, but not a very satisfactory one. A reference *passim* is no reference at all.

Mr. DAWES. Allow me to explain that word *passim*. When a gentleman interrogates me upon the floor, he certainly does not expect me to run to the Library and get the book and give him the page.

Mr. THAYER. No, sir. But the gentleman will allow me to say that I have such great confidence in his experience upon this subject that I supposed he must have consulted some authorities upon such a point as this.

Mr. DAWES. Certainly I did.

Mr. KELLEY. If my colleague [Mr. THAYER] will allow me to interrupt him before he proceeds with his remarks, I will say that I think the rule enforced here is the rule adopted in our Pennsylvania courts in such cases. I suggest to my colleague whether this rule was not acted upon in the somewhat celebrated district-attorney case in Philadelphia?

Mr. DAWES. The case of Mann *vs.* Cassidy?

Mr. KELLEY. No, sir; the case before that, of Reed *vs.* Kneass. The returns from the fourth ward in that case having been utterly condemned, the court sat for weeks taking testimony upon the single point of how many votes were cast, and how each citizen cast his vote, so that the election should not be set aside because a fraud had been perpetrated in one or more election precincts.

Mr. DAWES. The cases of Reed *vs.* Kneass and Mann *vs.* Cassidy are cases in courts of law that take the same position I have suggested.

Mr. THAYER. I do not think that point was decided in the case of Mann *vs.* Cassidy, or in any other Pennsylvania case. I am perfectly aware that when you are investigating an election case, you may correct and amend an election return to the precise extent of your ability to do so. If you prove that fraudulent votes were cast, you may insist upon the deduction of those votes from the election return. If you prove that incompetent votes were cast, you may deduct them from the return. You may deduct every vote that was unlawfully or improperly cast, and you may add to the return such votes as were fraudulently or improperly omitted. But you must still adopt the return as your standard; you must adopt that as the starting point in your computation. If, however, you rule out the return entirely, and say that it is of no force or validity whatever, that there is in point of fact and law no official return from a particular township or precinct, then I have yet to learn that any such principle of law has been established as that which is contended for—that you may make a return by calling voters to prove that they voted for A or B. As long as you have any portion of a return to start from and to correct, you may call witnesses, in order to correct, to add to, or subtract from that official return. But when you throw out the return entirely and say that there is no official return whatever from a particular township or district, I deny that you can make a new return by calling witnesses to prove the number of persons who voted for A or the number of persons who voted for B. I have yet to see any authority that sustains such a position.

Mr. DAWES. Mr. Speaker, I have the highest respect for the legal acumen and learning of my distinguished friend from Pennsylvania, and if I supposed him to be now stating this doctrine after an examination of the books I should have great doubt of the soundness of the position which I have taken, but I feel so well assured that my friend is speaking from his impressions rather than from the books that he will excuse me if I express some surprise that he speaks with so much confidence on the point. If I have any knowledge of the rule adopted in contested-election cases in this House or in courts of law, so far as my experience and reading have gone, I must say that my friend is mistaken.

Now, Mr. Speaker, if any gentleman desires to debate the case I yield the floor, otherwise I will call the previous question.

Mr. MARSHALL. Mr. Speaker, I am taken at great disadvantage in being compelled to discuss this question to-day. Since these papers were ordered to be printed, members of this House who wish to vote understandingly upon a question of such grave importance have had no opportunity to inform themselves in reference to the facts or issues involved. I know that I have had no opportunity to acquaint myself properly with the point to be discussed here to-day. I do hope that no vote will be pressed upon this case until members shall have had an opportunity to read the views of the minority as presented in their report. I am told by several members that they are unable this morning to obtain that report, and that but very few copies have been sent to the House for distribution. Now, I do insist at the outset that upon an important question like this, involving the right of a member to his seat upon this floor, and the right of the people of a congressional district to be properly represented, it would be—I do not desire to use any offensive language—an outrage to call upon members to vote when they have had no opportunity to understand properly the evidence and its bearings.

I know, Mr. Speaker, that in a case of this kind it is very easy, by a kind of arithmetical jugglery, to confuse or conceal the real merits of the question; but I affirm with all confidence that no fair, unbiased man who will scrutinize this evidence can say that he believes that Mr. Washburn, the contestant in this case, received a majority of the votes of the legal voters of the district which he claims to be entitled to represent in this House.

Mr. DAWES. Will the gentleman allow me to say a word?

Mr. MARSHALL. Certainly.

Mr. DAWES. I am entirely willing to let this case go over till Friday, provided the House is willing to let us conclude it on that day. I am perfectly content to acquiesce in the wish of the House in reference to this matter. I appreciate the force of what my friend from Illinois [Mr. MARSHALL] says, and I do not want to occupy the attitude of pressing either a sitting member or a contestant beyond anything that the House may deem reasonable. I have already stated this fairly. If the House is disposed to say that the consideration of this matter shall be postponed until Friday next, immediately after the reading of the Journal, so that the question may be disposed of before the adjournment on that day, I will not interpose a word of objection.

Mr. MARSHALL. I fear, Mr. Speaker, that I shall not be able to-day to do justice to my view of the case.

Mr. VOORHEES. Mr. Speaker, I simply desire to state that any arrangement made by the gentleman from Illinois will be acceptable to me. I am not listening to the propositions of the gentleman from Massachusetts, but anything the gentleman from Illinois agrees to will be acceptable to me.

Mr. MARSHALL. I already asked the House this morning indulgence in this case, and they refused it.

The SPEAKER. No vote was taken on the question.

Mr. DAWES. I will take the sense of the House on the question. I will move the postponement of the further consideration of this matter until Friday next, after the reading of the Journal.

Mr. ROGERS. I move Tuesday.

Mr. STEVENS. I hope Tuesday will be accepted; I want to pass some appropriation bills.

Mr. DAWES. The only objection I have to postponement until Tuesday next is this: it is impossible for me to be here for ten days after Friday next.

Mr. STEVENS. Say Tuesday week, then.

Mr. DAWES. Will the parties consent to that? If the House propose to send it over ten days or consider it without me, I have no objection.

The SPEAKER. The gentleman from Illinois has the floor, and can make any motion he pleases.

Mr. DAWES. Under the present appeal of my friend from Illinois, as well as in answer to what I can understand to be the wish of the sitting member, I move that the subject be postponed until Friday, immediately after the morning hour.

The motion was agreed to.

Mr. DAWES. I shall expect the vote to be taken on that day.

THOMAS MARTIN.

Mr. LATHAM moved that the Committee of Claims be discharged from the further consideration and leave be granted for the withdrawal from the files of the House of the papers of Thomas Martin.

The motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, their Secretary, notified the House that the Senate had passed a joint resolution (H. R. No.

75) to encourage and facilitate telegraphic communication between the western and eastern continents, with an amendment, in which the concurrence of the House was requested.

PAUL COLBY.

Mr. NEWELL moved that leave be granted for the withdrawal from the files of the House of the papers in the case of Paul Colby.

The motion was agreed to.

PERSONAL EXPLANATION.

Mr. SMITH. I rise to a personal explanation.

Mr. MORRILL. How long do you want?

Mr. SMITH. I cannot tell.

Mr. MORRILL. I must object.

LOAN BILL.

Mr. MORRILL. I move the morning hour be dispensed with, and the House proceed to the consideration of the special order, being House bill No. 207, to amend an act entitled "An act to provide ways and means to support the Government," approved March 3, 1865.

The motion was agreed to.

The bill is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act entitled "An act to provide ways and means to support the Government," approved March 3, 1865, shall be extended and construed to authorize the Secretary of the Treasury, at his discretion, to receive any Treasury notes or other obligations, issued under any act of Congress, whether bearing interest or not, in exchange for any description of bonds authorized by the act to which this is an amendment; and also to dispose of any description of bonds authorized by said act, either in the United States or elsewhere, to such an amount, in such manner, and at such rates as he may think advisable, for lawful money of the United States, or for any Treasury notes, certificates of indebtedness, or certificates of deposit, or other representatives of value, which have been or which may be issued under any act of Congress, the proceeds thereof to be used only for retiring Treasury notes or other obligations issued under any act of Congress; but nothing herein contained shall be construed to authorize any increase of the public debt: *Provided*, That the bonds which may be disposed of elsewhere than in the United States may be made payable, both principal and interest, in the coin or currency of the country in which they are made payable, but shall not bear a rate of interest exceeding five per cent. per annum: *And provided further*, That the act to which this is an amendment shall continue in full force in all its provisions, except as modified by this act.

Mr. MORRILL. Mr. Speaker, the financial questions of loans, taxes, and currency are so intimately associated that any discussion of one may more or less involve the others. It is not my purpose, however, at this time to make an elaborate speech on any of these questions, but to submit a few remarks mainly explanatory of the bill before us, with some of the reasons why it should be adopted. It is not in order to allude to what occurred in the other end of the Capitol on Monday last, and I shall proceed as though nothing had happened, and, happen what may, Union men will not subject themselves to the reproach that they forgot they had a country to save.

This bill touches what must be guarded as the very apple of the eye—the public credit of the country. In the past four years the magnitude of our financial operations has kept pace as well with the grand movements in the field as with the grander march of human liberty. While the war lasted only loyal States paid any taxes, and we have hitherto taxed only a part of the nation's annual productions and daily earnings, leaving unimpaired nearly the entire capital of the country, and now, having satisfied our own people, the world, and even those unbelieving rebels who risked their lives in contesting the fact, of the permanence of our Government, its probity, and its ability, we propose to pledge, not only all of our past accumulations, all of our present untouched resources, but, as it is just that we should do, all our right to the prospective wealth of thirty-six million people, (earning, too, more wealth annually than any other fifty millions on the globe,) to build up our credit, the untarnished credit of the Republic, in such a way as to obtain the loans we require on favorable terms and at the lowest rate of interest.

The present bill is but a patch on an old garment. The act of March 3, 1865, authorizes the funding of interest-bearing obligations, and the present bill expands that authority so as to include non-interest-bearing obligations. That is the whole of it in a nut-shell. I know it is said the bill confers large powers, and that is true; but they are all confined to exchanging a short debt for a long one, or to the conversion of an old debt into a new one when it can be done to our advantage. No new loan is authorized, and our whole debt cannot be increased under the new bill a single dollar.

But it is also said that Congress should define and mark out a plan with exact limitations for the Secretary to pursue, and then business men would know exactly what to do. This would look reasonable if Congress could foresee the future condition of the country, but not having such "foreknowledge absolute" it has not been done for five years past, and few real business men have suffered. Such men are iron-clad, and do not now complain. They are not in debt, and they are ready to discount the difference between fictitious and actual values. Dunn & Co. report, in fact, a far less number of insolvents and a less amount of insolvent debts for any one of the last four years than for almost any year before. In spite of the ravages of the Alabama and Susquehanna, even marine insurance has been unusually profitable. The country has been prosperous, although Secretaries of the Treasury have not been put in strait jackets nor compelled to disclose in the forefront of a statute their policy for a year in advance. Business men and bankers know that it is the policy of the present Secretary to return to specie payments at as early a day as can be done with safety, and this does not exclude all flexibility, whatever may be the circumstances of the country, in the application of the policy. That policy has received their hearty approval, as well as that of the country. It is a true and manly policy. If there are any holders of shoddy or other unrealized adventures who desire more time to "unload" or to make profitable shifts, the people do not sympathize with them.

Gold has ceased to be and paper has become the measure of all values not interfered with by foreign exchange, and being both fickle from day to day, and without uniformity from place to place, it is an evil of no ordinary magnitude. Little of the products of agriculture and none of manufactures will be long found among our exports—only gold and bonds.

The gold product of the world for the past ten years has been so great as in itself to depreciate its own value. Everywhere a day's labor commands a higher price; and a bushel of wheat will never more be sold at the lowest rates of former days. The value of paper depends not only upon the solvency of the promisor, but upon its abundance, as well as upon the caprice of the markets where it circulates, and the confidence of its holder in its exchangeable value with gold. Our paper has depreciated in value, or has lost a large share of its purchasing power, and we must make it better, or it may grow worse. But this restoration need not and cannot be at a headlong rate. The promise, however, of a return to health, to the specie standard, if it could be effected within the coming year, as it cannot be, should not alarm the world very much. When gold fell from 285, in July, 1864, to 130, in May, 1865, it caused no panic, and but few failures. In the month of March, 1865, gold fell fifty per cent., and yet produced no commercial revolution. After such jumps as these without harm, the much smaller step that remains may in due time be overcome without any signal strain or catastrophe. Business men will do themselves no harm. Mercantile men are governed by the laws of trade, and they know that these laws must govern even the Secretary of the Treasury.

We have been fortunate in our Secretaries of the Treasury for the past five eventful years. The storm burst upon the head of Secretary Chase; and its force, never ceasing, had not abated when he was so appropriately called by the voice of the country to the place he now so worthily fills. It was a relief to the hearts of a loyal people when a successor commanding so much of public confidence as Secretary Fessenden was found. These men asked and received. Congress did not stint their powers, and they did not abuse their trusts. It was a time of war, and they had all its sinews to furnish.

Now we have a Secretary—Mr. McCulloch—summoned to his post at a time when its responsibilities presented no paradise to political ambition, whose financial conduct, thus far, has won golden opinions at home and abroad, and whose annual report has been approved not only by a vote in itself unexampled, but a vote of unexampled unanimity, all but six, on the part of this House. His highest ambition, I think, is, certainly it ought to be, that of a financier. Fame won in that direction will be permanent. Political power and patronage are ephemeral. Can we not trust him? Here is a bill giving to him the same powers we often gave to his immediate predecessors, while his task is actually greater. More than a million men have been disbanded, and it remains to dismiss and retire the six hundred and fifty millions of legal tenders which served so creditably through the war. Our present debt is $2,716,892,152, and during four years less than one half of it has been permanently funded. There yet remains of this heavy work $1,657,241,758 90 to be funded. Let no one be deceived. All financial danger is not yet passed, and the perils of high rates of interest and even of commercial revulsions, before all our floating and short-time debts shall be anchored in safe harbors, are so apparent that nothing less than consummate skill, with authority possibly as comprehensive in its proportions as that heretofore conferred, can be relied upon to grapple with the work now in our immediate front.

The simple question is, will you perpetuate this war-made expansion of the currency and all its illimitable brood of evils, or will you authorize a financier, who shows himself competent for the task, to retire the excess as fast as sound economy will permit? There is no danger that this can or will be done too rapidly. The "legal tenders" will not be retired until after other obligations have been gathered up, as they must be retained to facilitate all such operations. The ten days' temporary loan (deposits) of $114,755,840 is one of the dearest loans we have, though nominally drawing less than six per cent. interest, as all bankers know very well that it is never safe to use more than about two thirds of the amount of such loans because they may be called for, and practically, whenever money is scarce and really needed by the borrower then it is sure to be wanted and called for by the lender. When money is plenty and not wanted, then the Government has no lack of these ten-day loans. When it is scarce, then these supplies are suddenly withdrawn. In my judgment, this temporary loan should be paid and never renewed. Perhaps the certificates of indebtedness should be extinguished next. In time of war such obligations may be accepted, but certainly in time of peace they should not be sought. The compound-interest notes will be falling due at no very distant periods, and these having a two-fold character, one for investment and one for circulation, might well be chosen for early redemption. After this there should be given such latitude as would admit of funding the seven-thirty notes even before they are due.

Those who fear rash attempts at an early resumption of specie payments should be quieted; it is simply impossible to take at once any very long strides in that direction. This is a process only to be successfully accomplished by gradual and persistent effort. Haste would mar and retard it. Only while currency is plentiful and cheap is it any object to exchange it for bonds; make it scarce and dear and it will not be done. The most desirable security—and to be so maintained at all times—must be United States

bonds. The merest tyro in finance understands these facts, and the Secretary, not being ignorant of them, cannot disregard them.

It is true that some hostility to a return to specie payments is manifested in certain quarters. It is to be expected. Any system proposed by the Secretary of the Treasury, or any bill proposed by Congress not exhibiting facilities by which the money-changers may continue their rapid gains, will meet with noisy clamor on the pretense of injury to the general interests of trade and commerce, and will be dexterously thwarted, unless we place the Secretary where, to use those terms which military operations have made familiar, he will be "master of the situation." But how master? Only as a minister to do good, not evil; to do what all desire to have done; that is to say, to fund all of our matured indebtedness and debts soon to mature at lower rates of interest than what we are now paying, and with longer periods of time for payment. I am not, I confess, one of those always disposed

"Out of good still to find means of evil."

If we give the Secretary the law, and with it our confidence, it may be of more worth to us than to him. Of course, I speak in the financial sense.

If Congress shall practice due economy in its appropriations, as I am persuaded it must and will, and it should be found possible to reduce the military service within anything like our ancient limits, we may hope that the public debt has reached its maximum, and that hereafter we shall *pay as we go*. It is a gratifying fact to know that on February 1, 1866, deducting moneys in the Treasury, the debt was $23,957,628 less than it was October 31, 1865. By the report of the Secretary of the Treasury, at the commencement of the session, it appears that a deficiency to be provided for by loans was anticipated of $112,194,497, as well as a further sum of $32,536,901 of Treasury notes, which became due and were paid in December last. In other words, it was expected that, in addition to all other resources, $144,731,848 would have to be supplied by a new loan. But at the present time the Secretary of the Treasury is hoping to be able to get along without any new loan for the present year; and if it should appear otherwise hereafter—as I think it may to the extent of fifty to seventy-five millions—there will be time before the close of the present session to act on the subject. The Secretary estimated the receipts of the Treasury from all sources for the three quarters of the year, from and after September 30, 1865, at $305,500,000; but in four months they have reached nearly two thirds of that amount, or $182,526,186 76, as will appear by the statement of the Treasurer, General Spinner, which I will publish with my remarks:

Approximated receipts into the Treasury of the United States from October 1, 1865, to February 1, 1866, excluding loans.

Internal revenue	$106,420,266 98
Semi-annual duty, bank tax, act June 3, 1863	2,009,499 71
Customs and custom-house fees	53,690,964 41
War and Navy, sales and repayments	7,096,443 60
Patent fees	71,485 33
Land sales	91,281 89
Miscellaneous, repayments, &c.	1,020,867 02
Premium on coin and cotton sales	22,125,377 82
	$182,526,186 76

F. E. SPINNER,
Treasurer United States.

TREASURER'S OFFICE, WASHINGTON, *February* 5, 1866.

In the first six days of the present month $10,000,000 have been paid to the Army, and the balance in the Treasury at that time was $2,000,000 more than at the close of last month. The increase of internal revenue above previous estimates it is now expected will be about $28,000,000; and the increase from customs will be largely in excess of anything in our history. The customs received in gold at New York alone since July 1, 1865, under that so-called "prohibitory" tariff which was to "isolate the commerce of the United States, to make the country a second Japan," and which our revenue necessities have so often compelled us to increase, are as follows, namely:

July	$9,908,190
August	13,190,400
September	13,037,052
October	11,061,409
November	10,138,601
December	8,378,335
January	12,469,865
Total	$78,186,862

This will be not far from two thirds of the amount collected in the whole country. These statements, I think, will be satisfactory evidence that our public debt can be carried with ease, and that if any emergency of sufficient gravity should arise, foreign or domestic, it could even be largely increased without peril. In other words, we are a nation getting out of the gristle and into the bone of manhood. But a permanent national debt is not an American institution, as our history has already twice proven, and though it may take a number of years to wholly extinguish the present debt, the policy of gradual extinction can be and should be steadily pursued.

Owing to the management and treachery of those in power—plotting to deprive the Government of all force or vitality in the imminent hour of treason and rebellion—the entire receipts of the United States Treasury for the year ending June 30, 1861, were only $41,476,299. Union men and Union measures, however, though facing all sorts of embarrassments, changed these sorry figures so that our receipts for 1863 were $112,687,290, and more than twice that sum in 1864, or $264,626,771, and in 1865 the receipts were $333,714,605, while the actual and estimated receipts for the present year exceed $450,000,000, and over $500,000,000 if the receipts in gold were to be estimated at their value in paper currency. A considerable trade with the British Provinces, for more than ten years entirely untaxed, may soon, in consequence of the termination of the reciprocity treaty, be expected also to yield a moderate addition to our revenue, and it is difficult to see why the United States, long after the imperial Government of Great Britain has abolished laws giving any preference to colonial produce, should be urged to admit such produce on any more favorable terms than those conceded to other nations. If our entire receipts were to be no more upon an average than they were for 1863, 1864, and 1865, and could be wholly devoted to the payment of our national debt, that could all be paid, as large as it is, in less than twelve years; and if the receipts should be equal to the revenues of the present year, and the whole could be so applied, the entire debt could be paid in less than six years. We are now dealing with large sums successfully under many adverse circumstances, and each coming year will remove some of these disadvantages, and thus lighten our burdens until our complete emancipation from debt takes place.

It is always pleasant to talk of removing taxes and to vote against their imposition, especially obnoxious taxes, and there are none that are not obnoxious to somebody. The war being closed, there are some taxes now, many petty supports, which our necessities no longer compel us to adhere to, and they will, therefore, be likely to be abandoned with very great alacrity, and in their place we may have some compensation by a tax on raw cotton. On these points I most cordially concur with the, in the main, admirable report of Mr. Wells. Yet I may venture an opinion that Congress will not by any modification of the revenue laws reduce the receipts of the Treasury to any large extent until our debt is permanently funded, and never below the point which will cover our ordinary expenses, the interest on the public debt, and a respectable and genuine sinking fund of not far from fifty million dollars to be applied to the principal. Small sacrifices now will largely diminish the magnitude of our future incumbrances, and what we pay this year will be paid at seventy-five cents on the dollar. Next year it may cost the round hundred.

There is nothing in this bill in relation to a sinking fund, because there can be nothing in the *hocus pocus* performance of setting apart one per cent. of sums borrowed, through such a compound of trick and science, as to make it run a race with the ninety-nine per cent., and in a few years to come out ahead; yet it is to be hoped that the law on this subject, which seems to have been respected by few and obeyed by nobody, will be superseded, and that certain specific revenues—possibly that derived from whisky—will be set apart in some proper revenue bill and applied annually to the reduction of the principal of our public debt. This would be a sinking fund that all could understand, and about which there can be no fallacy.

On some future occasion, but not now, I may undertake to show with what comparative ease the United States can carry its present load of debt, for I feel assured it can be shown that its securities are the safest and best in the world. I earnestly desire that our own people shall hold them. I hope the time will never come when foreigners will prize our bonds higher than we do ourselves. If, in consequence of our paper being below the par of gold, there is a profit to be made of thirty per cent. or any other sum, with interest upon it for years, in investments made in our bonds, I desire the whole of that profit—not less than five hundred millions—to be secured by our own people. There is in the bill, to be sure, authority given to make a foreign loan, and such authority has repeatedly been given, though never used, and even power to send an agent abroad has been granted heretofore. That was done in the act of July 17, 1861. The Secretary of the Treasury was authorized by the act of June 30, 1864, to dispose of $400,000,000, or part thereof, in Europe, and, to quote the words of the law, "on such terms as he may deem most advisable." Again, no longer ago than March 3, 1865, the Secretary of the Treasury was empowered to dispose of any of the bonds or obligations authorized, "either in the United States or elsewhere, and at such rates and under such conditions as he may think advisable."

I am persuaded the power to negotiate abroad, if lodged with the Secretary, will give the United States the advantage of an option in the disposal of a very large amount of obligations, and that will create competition where it might otherwise be strangled. The power is wanted, not for the purpose of cornering anybody, but to prevent being cornered ourselves. The testimony of both the predecessors of Mr. McCulloch has been that this privilege on our part should be retained, although neither ever used it, and there is not much probability that it will now be actually required. If I thought it likely to be used to any extent, I do not deny that I should be one of the last to give it any countenance. Our debt abroad is already quite large enough. A loan to our own people, payable principal and interest at home, is very different from one which annually drains the whole country of gold and silver to be paid out abroad to aliens and absentees. Interest paid abroad returns no more forever, but paid out at home it breeds in and fertilizes every locality where it is distributed. Besides this, New York is getting to be, especially with the large transactions of the Government included, a money center not much inferior to London itself. To-day, in New York, money, with United States bonds as collateral security, can be had at an interest of four to five per cent. In London the bank rate is eight per cent., with a prospect of going higher. Our better paid labor has added something to the wages of labor throughout the civilized world, and our usually larger rate of interest has drawn and will draw much of the unemployed capital of the older nations until something like an equilibrium shall be established. I do not suppose there could be a loan obtained abroad with the interest at more than one per cent. less than at home, and certainly the value of our bonds at New York

will regulate their price abroad. If London affects New York, so does New York affect London. If the fog prevails in one city, they light up the gas in the other. The loss of time in the transmission and receipt of funds, and the expense, exchange, and insurance, would leave very little to be gained in the terms of a foreign loan.

Beyond all this, however, unusual facilities ought not, in my opinion, to be furnished for the introduction of foreign luxuries, or, in other words, for the introduction of merchandise not indispensable to our daily use, and for which, beyond the ordinary mercantile profit, the United States are to pay an additional profit of twenty-five to forty per cent. in gold in five to twenty years hence. This expansion of the credit system is attended with danger. At New York alone the gold value of the imports from July 1 to December 1, 1865, was $77,935,922 more than for the same time last year, while the currency value of the exports was less by $18,846,403. It cannot be doubted that we are liquidating these heavy balances with United States gold-bearing bonds and the proceeds of recent heavy shipments of cotton. I have confidence that the Secretary of the Treasury, if our bonds must go abroad, will let those who want them purchase them in American markets. No aid was proffered to us by foreign nations when such aid might have been valuable, and having escaped the mortification of seeking assistance outside of our own boundaries during the war, our self-respect will be best maintained by continued self-reliance, and without attempting to make an American eagle more attractive by dressing it in foreign, borrowed feathers.

Should a large amount of our bonds be placed abroad at the present low prices, whenever they advance to the par value of gold, as they inevitably must advance, then foreigners, like other speculators, may desire to realize their profits, and the bonds will be sent home to be resold. Certainly we should be exposed to the vicissitudes of foreign money markets as well as our own; and a panic at home or abroad would equally betide disaster. Thus doubly exposed as we should be, the resumption of specie payments would be procrastinated and made more hazardous.

Let us look at our present condition, stripped of all disguise. A debt of unwieldy proportions falls due at an early day. There will soon be a pressure for time. If fifty millions should be funded every month from this time forward for two years, the process would not even then be completed. Does any one desire it to be done with less rapidity? Shall we make no provision for these known exigencies until we are on the very brink of the precipice? And when the compound-interest notes and seven-thirties fall due, what do those who object to this bill propose? Have they any other resource than the hydrostatic printing presses of the Treasury and a modest billion of fresh legal tenders? "Take any other shape but that!" The aggravation of prices in consequence of the large excess of paper currency is even now oppressive; as keenly felt by all classes, perhaps, as are even our taxes. In addition to all the evils of inflation, we all know that on an exclusively paper currency financial winds blow with resistless fury, and commercial men have more to fear from these tempests coming with every changing moon than from any stringency which the Secretary of the Treasury might incidentally create on the golden road to specie payments.

The people are not unprepared to subscribe for large amounts of the yet unfunded debt of their Government. They have not set sail upon new enterprises, and the amount in the banks to the credit of depositors is unprecedentedly large. Formerly the accumulation of a few millions of gold in the sub-Treasury at New York produced a crisis; but now, though over $50,000,000 are thus hoarded, almost enough to pay the interest due in gold a year in advance, it creates no alarm. These facts show that the people, now holding all of the temporary securities of the United States, are in such a condition that they can convert them with very little inconvenience into a permanent loan. That is all we require. The time is opportune for the work of the Treasury Department. Let us not compel it to remain idle. "Masterly inactivity" will be found to be, as it ever has been, a poor method by which to pay debts.

The present bill, like the first bill introduced, represents the ideas of the Secretary of the Treasury, though modified by lapse of time, and, after mature consideration, has received the sanction of the Committee of Ways and Means. In presenting it we have performed a simple duty, and it now remains for the House to take such action as, under all the circumstances, may appear to be wise. Whether we have sunshine or storm, can it be amiss to place our debts in a position that will relieve us from present as well as future embarrassment?

Mr. HOOPER, of Massachusetts, obtained the floor.

Mr. STEVENS. If I understand the act which this bill proposes to amend it allows the Secretary of the Treasury to issue any amount of six per cent. bonds to exchange for a like amount of interest-bearing obligations of the Government. This bill allows him to issue six per cent. bonds to absorb those obligations of the Government which bear no interest. Am I right? The gentleman says I am right. Then I would like to know how much of this kind of obligations it puts at the absolute control of the Secretary of the Treasury.

Mr. MORRILL. The gentleman has only to look at the report; it will be easily computed.

Mr. STEVENS. I have looked at it but I do not know the amount.

Mr. MORRILL. It amounts to the entire sum of the legal tender now out and of the fractional currency.

Mr. STEVENS. And of the seven-thirties?

Mr. MORRILL. Those are interest-bearing.

Mr. STEVENS. We have here $1,644,000,000 placed at the absolute uncontrolled discretion of the Secretary of the Treasury.

Mr. MORRILL. I stated in my speech that notwithstanding all of our efforts for the past four years we had not succeeded in funding one half of our debt, but that more than $1,600,000,000 remained for us to fund at the present time.

Mr. STEVENS. So I supposed, and yet the whole debt seems to be put down at $2,800,000,000.

Mr. MORRILL. Does not the gentleman understand that $1,200,000,000 is less than one half of $2,800,000,000? If so, then $1,600,000,000 makes up the $2,800,000,000.

Mr. STEVENS. Do I understand that that much bears no interest?

Mr. MORRILL. The gentleman understands that less than $1,200,000,000 has been funded.

Mr. STEVENS. That is what I wanted to know. If my friend from Massachusetts [Mr. HOOPER] will allow me, before he proceeds, to move one or two amendments I will be obliged to him. I thought perhaps he would like to notice them.

Mr. HOOPER. I will yield for that purpose.

Mr. STEVENS. I move to strike out, from the word "Treasury" in line six, to the word "to" in line ten.

Also, to strike out from lines eleven and twelve the words "either in the United States or elsewhere."

Also, to insert after the word "Congress" in line seventeen the word "and," and to strike out the word "to" and insert "shall."

Also, to add after the word "obligations" in line eighteen the words "bearing interest."

And lastly, to strike out the two provisos at the end.

Mr. MORRILL. I object to the gentleman making more than one or two amendments as he proposed.

The SPEAKER. He can offer his amendment as a substitute.

Mr. STEVENS. I will offer an amendment as a substitute for the whole bill, to strike out all after the enacting clause and insert the following:

That the act entitled "An act to provide ways and means to support the Government," approved March 3, 1865, shall be extended and construed to authorize the Secretary of the Treasury to dispose of any description of bonds authorized by said act to such an amount, in such manner, and at such rates, not less than par, as he may think advisable, for lawful money of the United States, or for any Treasury notes, certificates of indebtedness, or certificates of deposit, or other representatives of value, which have been or which may be issued under any act of Congress, and the proceeds thereof shall be used only for retiring Treasury notes or other obligations bearing interest issued under any act of Congress; but nothing herein contained shall be construed to authorize any increase of the public debt.

I wish to have this printed, in order that if the matter shall go over we may have it before us in a proper form.

Mr. WENTWORTH. I ask unanimous consent that the substitute be ordered to be printed.

No objection being made, it was so ordered.

INTER-CONTINENTAL TELEGRAPH.

Mr. BANKS. I ask the unanimous consent of the House to take from the Speaker's table the joint resolution of the House No. 75, to encourage and facilitate telegraphic communication between the western and eastern continents, which has been returned from the Senate with amendments. I ask that the amendments be concurred in.

No objection was made; and the joint resolution was accordingly taken up, and the amendments of the Senate were concurred in, as follows:

First amendment:

Page 1, line seventeen, strike out the word "Variay" and insert "Variag" in lieu thereof.

Second amendment:

Page 2, lines fifteen and sixteen, strike out the words "in transporting materials connected therewith."

Third amendment:

At the end of the resolution add as follows: "so far as the same can be afforded without dismantling her, or destroying or injuring her efficiency as a vessel-of-war."

Mr. BANKS moved to reconsider the vote by which the amendments of the Senate were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LOAN BILL—AGAIN.

Mr. HOOPER, of Massachusetts. Mr. Speaker, the great importance of the bill now before the House, and the interest excited in regard to it, arises from the fact that it is the first measure in reference to the finances and money of the nation which has been presented to Congress since the change of circumstances following relief from the war under which the country has labored for the last four years. The action of Congress upon this bill will probably be considered as an indication of their opinion in regard to the policy to be pursued. The subject is of vital consequence to the interests of every one. I propose, in the remarks I shall make on this bill, to review the action of the Government during the past four years in reference to this subject, and to make some suggestions in regard to the action which seems to me to be required in the present condition of our finances.

Success in the great conflict in which our country was suddenly involved by the rebellion—the preservation of the Union, the maintenance of the Government and the authority of the laws being the issue at stake—required an expenditure far exceeding in magnitude any which has been known in the history of our own or of any other nation in an equal length of time. It was unexpectedly necessary to provide for the raising, equipment, pay, and sustenance of a gigantic army and of a powerful navy. The formation of such an army and navy, in view of the scanty organization then existing, was little less than their creation. Their materials of war and of subsistence were required to be on a scale wholly unexampled. Other nations may have done as much, perhaps, through a long and varied experience and in

view of enemies more remote. Our armament was required on the instant, as our enemy was on and even within our threshold.

This unprecedented exigency required that the nation should look for other and deeper sources of revenue than those to which it had been accustomed in times of peace; and it became the duty of Congress and of the Treasury Department to devise and sanction measures by which the necessary revenue could be obtained to meet this vast expenditure with the least hardship to the people and the least strain upon the credit of the Government. In considering these measures it was fully recognized that the end aimed at could not be attained without sacrifices on the part of the people which would entail inconvenience and give rise to great diversity of opinion. It was the part of wisdom and patriotism and the duty of every one to submit cheerfully to such sacrifices as the proposed measures required, instead of attempting to excite popular clamor so as to weaken public confidence in the Government, on which all rely for the safety of their persons and the security of their property. It was the manifest duty of all loyal persons to support those measures, unless they could show that the object of them could be effected with less hardship and inconvenience by other methods than those proposed.

There was no difficulty in finding men for an army which numbered a million soldiers in the field. The country abounded with everything necessary for their equipment and subsistence. Never in authentic history has such an aggregation of men, of supplies, and of transportation been required and provided. The problem forced upon the consideration of Congress was how to pay this armed force, with their equipment and maintenance and transportation.

There were but two methods by which this could be equitably and efficiently accomplished. One was by taxation; that is, by calling on every member of the community to furnish at once his just proportion of the amount required for such expenditures. This every one will now admit would have been so onerous as to be impracticable. The other method was to provide the money by loans; that is, by using the obligations of the Government to pay at some future time, with such rate of interest as may be agreed upon; thereby casting upon those who come after us a portion of the burden of a debt incurred in securing results of which they, even more than we, will receive the benefit.

The loyal people throughout the country were everywhere ready to be taxed to an extent sufficient to secure the prompt payment of the interest on the loans and to provide for the payment of the principal within a reasonable term of years. It was a readiness founded on intelligence. Unaccustomed as the country then was to raise such large amounts of money by taxation, it was impossible to devise means by which the enormous expenditures required could be met in that method; and if possible it would not have been expedient. Congress accordingly adopted the other and the only measure which was possible. The necessary laws were enacted, as required from time to time, to provide by loans for the equipment, subsistence, transportation, and pay of the Army and Navy; and taxes were provided that secured the prompt payment of interest, and for the principal of the loans within a reasonable terms of years.

According to the estimates of the Treasury Department, and the actual results of the first half of the present fiscal year, the revenue of the Government from the existing system of taxation, and from other sources, will not be less than $500,000,000; while the annual expenditures for the fiscal year ending the 30th June, 1867, including the interest on the public debt, is $284,317,181 88. It is apparent, therefore, that the present rates of taxation will, under any circumstances, yield an amount of revenue much in excess of what is necessary to secure the amount required for the ordinary expenses of the Government, the interest on the public debt, and a reasonable appropriation for its extinguishment within the lifetime of many of those who now bear the burdens of this taxation.

Congress having determined that the means to carry on the war should be raised by loans, authorized the issue of bonds for the amounts required, bearing interest at an annual rate not exceeding six per cent., payable half yearly.

There would have been no difficulty in relying upon these bonds alone for adequate means to carry on the war until the rebellion was subdued, if the creditors of the Government, including those who contracted to furnish the necessary supplies, had been the parties who could hold the bonds they received in payment from the Government. But unfortunately these parties had generally incurred large debts to enable them to fulfill their engagements to the Government, which they were obliged to pay. They were often put to great inconvenience, and the credit of the Government was often greatly impaired by the frequent, though unavoidable, delay of the Treasury Department in making payment.

To obviate this difficulty the Secretary of the Treasury was authorized by Congress to issue and pay to the creditors of the Government "United States notes" not bearing interest, but which were made a legal tender for all debts, public or private, except for interest on the public debt and for duties at the custom-house on foreign importations. It was believed that in the usual course of trade these notes, thus paid to the creditors of the Government, would be by them transferred to their creditors, and pass from one to another in payments, until they came into possession of banks and capitalists; and that any excess of them which could not be used with profit in the usual channels of trade would be returned into the Treasury in payment of the interest-bearing bonds.

After the suspension of specie payments by the banks throughout the country near the close of the year 1861, the question presented itself whether the Government should use the irredeemable notes of the suspended State banks, thereby, in violation of law, sanctioning their use as money, and encouraging their issue to an unlimited extent, or should avail itself of its own credit to furnish a currency, secured by a pledge of the public faith, to meet the wants of the community and facilitate the payments for the enormous demands which the war imposed. By the suspension of specie payments the irredeemable notes of the banks became the only medium in circulation as money for the payment of debts. While those notes were redeemable in coin they possessed a standard of value, but they had no standard of value after the suspension of specie payments. If the Government had received those notes in payment for taxes and for loans, they could not have discriminated between the different banks by arbitrarily rejecting the notes of one as bad and accepting the notes of others as good, but would have been obliged to receive and pay the notes of any and every banking association in the country. No one now, who considers the amount of money that was required, and the condition the country would be in at this time, if this large amount of money had been furnished in the notes of the State banks depending for their security solely on the solvency of those banks—a solvency impossible to be tested so long as the suspension of specie payments continued—can doubt that Congress rightly decided in authorizing the issue of the legal-tender notes, secured by the pledge of the national faith.

The emergencies of the war rendered it necessary for the national Government to avail itself of all its resources to meet the demands of the public service. The friends of the Government claimed for it the right to furnish the paper money for the currency of the country as a fruitful source from which the pressing needs of the Treasury could be supplied. It was just and right to demand it for the common benefit and the common welfare; and no one who considered the claims of the public service to be superior to the claims of private interest could urge any sound argument or reason against complying with this demand. Most of those who opposed this measure talked about a currency of coin, which they knew was impracticable; and they presented, as objections to the issue of the Government notes, quotations from the different writers on finance in favor of a currency of coin, as if the problem to be solved was what constituted the soundest and best money for a commercial country, when the real question was in regard to the best mode of meeting a great and pressing emergency which suddenly arose and endangered the very existence of the nation. The legal-tender money was authorized as a temporary measure, forced upon the Government by the exigencies of the war.

The losses and the inconvenience caused by the depreciation of the money of the country, in consequence of the addition of the legal-tender notes to the circulation, were certainly greater than was expected by those who initiated and advocated the measure; partly because the war assumed a greater magnitude and a longer duration than was then expected. Great as the depreciation was at one period, if the price of gold may be considered an indication of its extent, there is every reason to suppose it would have been far greater if the irredeemable notes of the State banks had been used by the Government instead of the legal-tender notes. Many believe that it was only the pledge of the national credit and the faith of the loyal people in the power and stability of the Government which prevented so large an amount of paper money being repudiated and becoming worthless. Nothing short of an absolute necessity, such as the war of the rebellion created, would warrant any Government in subjecting the people to the evils and dangers inherent in an irredeemable paper currency.

In consequence of the depreciation of the currency, as indicated by the rise in the price of gold and silver, the coin of the smaller as well as of the larger denominations ceased to circulate as money; and to meet that evil it became necessary to authorize the issue of the "fractional currency," so called, to represent the fractions of the paper legal-tender dollars.

As the war progressed and demands against the Government accumulated, it was deemed requisite to provide other forms of obligations, in addition to those before mentioned, to obtain money and facilitate the payment of those demands. The issue of Treasury notes was therefore authorized, payable in three years, with interest semi-annually, in current money, at the rate of seven and three tenths per cent. per annum, convertible at the option of the holder, when due, into six per cent. bonds of the class known as "five-twenties," the principal and interest of which are payable in coin.

Another form of Treasury notes was also authorized, bearing interest at the rate of six per cent., to be compounded and paid with the principal in three years from their date. These notes, for their face value, (not including the accrued interest,) were made a legal tender in payment of all debts, except interest on Government bonds, import duties, and redemption of notes issued by banks for circulation; and they were paid as money from the Treasury to the creditors of the Government. Authority was also given for "certificates of indebtedness" to be issued to creditors of the Government, payable in one year, with interest at the rate of six per cent.; being in effect similar to what are known in England as "Exchequer bills." Another form of certificates was also authorized for "deposits of temporary loans," payable with interest, either on demand, or in ten days from demand, after thirty days from the date of deposit.

Upon these different forms of obligations all the money, beyond what the revenues furnished, has been provided for the payment of

the vast expenditures of the Government during the war.

The extraordinary demands upon the Treasury growing out of the war have now been so far paid that the ordinary revenues, from taxation and otherwise, will probably be sufficient hereafter to meet all the just demands against the Government; and therefore it is unnecessary to provide for any more loans.

It may be well to recapitulate the statement of the different forms of obligations which now represent the debt of the country; and also to state the amount of debt existing in each of those forms on the 1st January, 1866:

Bonds, the principal and interest payable in gold	$1,120,786,700 00
Legal-tender Government notes, including the fractional currency, not bearing interest	452,231,810 37
Seven and three tenths Treasury notes payable in three years, and convertible at maturity into six per cent. bonds	830,000,000 00
Legal-tender compound-interest Treasury notes, bearing interest payable with the principal three years from date	188,549,041 00
Certificates of indebtedness, payable one year from date, with interest	50,667,000 00
Certificates for deposit of temporary loans, payable with interest on demand or in ten days from demand, after thirty days	97,257,194 50
Amount of the war debt	2,749,491,745 87
Adding other Government debts	50,530,472 12
Total debt January 1, 1866	$2,800,022,217 99
At the same time there was in the Treasury in coin	$45,735,550 69
Less gold certificates of deposit	7,288,140 00
	38,447,410 69
Add, in currency	44,993,271 11
Total amount to the credit of the United States in the Treasury	$83,440,681 80

During the four years of war $2,749,491,745 87 has been provided by loans, and a system of taxation was established increasing the annual revenue of the country, which never amounted to $75,000,000 before the war, to at least $500,000,000. All this has been done without any serious derangement thus far of the trade of the country or any serious inconvenience to the people.

I venture to assert that nothing can be found in history to compare with this. Never before, within the same space of time, has so large an amount of money been raised by loans, or so efficient and productive a system of taxation been established. During the administration of Mr. Chase, as Secretary of the Treasury, and by the agency of Messrs. Jay Cooke & Co., the first popular loan was effected, consisting of $500,000,000 of the five-twenty bonds. This was followed with even greater success afterward, through the same agency, under the administrations of Mr. Fessenden and Mr. McCulloch, by disposing of $830,000,000 of the seven-thirty Treasury notes. The measures by which this has been accomplished were instituted while Mr. Chase was Secretary of the Treasury, and no essential change of those measures was made by either of the distinguished gentlemen who succeeded him in the Treasury Department. There were other agents, however, than those before referred to who rendered powerful aid in negotiating these loans. Our generals, with the brave armies under their command, did more to inspire public confidence and establish the credit of the Government than all the other agents who were employed to dispose of the loans.

Whatever differences of opinion may exist in regard to what has been done, no one can doubt now, the war being ended and the Government having ceased to be a borrower of money, that the important question to be considered is, how to restore the currency to a sound and stable condition at the earliest practicable time with the least possible disturbance of the value of property and of the substantial interests of the industry of the country. A sound and stable currency is equally important to the whole community, and the interests of labor demand it. It is essential that every one should know what value is represented by the money they receive, and that its value will not fluctuate nor be regulated according to the action of speculators in gold or merchandise. The people have a right to claim that the money they are obliged to use should have an intrinsic and, as far as possible, a permanent value. Gold and silver are the standard representatives of value throughout the civilized world. Do what we may, and issue what we please as money, its value will be regulated by the standard of gold and silver. When we say that gold is at forty per cent. premium, it is only another form for stating that the paper dollar is but little more than seventy-one and one third cents in gold or silver.

If the "United States notes" are to constitute the only money of the country, and their amount be increased to $1,000,000,000, as has been proposed, the value of that dollar would mainly be regulated by the standard of coined money in the commerce of the world; and at the same time the value of such a currency would be constantly fluctuating. Recklessspeculations have of late been more often based upon the ability to produce those fluctuations, than upon the usual but unavoidable incidents which influence the rise and fall of the prices of property under any system of money. When, in consequence of the suspension of specie payments, the irredeemable notes of the banks became the only medium of circulation for the payment of debts, the standard of value was given up. Since then the money of the country has been constantly fluctuating, and in all the great cities, and more particularly in the city of New York, great numbers of people have made it their only business to operate on the hopes and fears of the public to produce a rise or fall in the price of the paper money as compared with coin.

Another proposition has been put forth, which I am told originated among certain Jews in the city of New York, to debase the coinage of the country—a practice often resorted to in former ages by European monarchs to defraud the community. The proposition would have attracted little attention had it not been that the opponents of the Government indorse it, and through the agency and with the sanction of a minority report from a board of commissioners created by the last Congress, have presented to the public a specious argument in its favor.

The only honest and practical way in which the paper money of the country can be restored to a sound condition, and made equal in value to the money of other countries with which we are connected by commerce, is by a gradual reduction of its amount until what remains shall circulate as the equivalent of coin and can be converted into coin at the option of any holder. As soon as the contraction of the amount of "legal-tender notes" is commenced in earnest, *and no other paper money allowed to be substituted for it*, the premium on gold will decline and foreign exchanges will be in our favor. If the public understand and believe that the contraction is to be continued until the paper money remaining in circulation, whether issued by the Government or by the banks, is at par with coin, the export of specie will cease, the product of our gold and silver mines will be retained in the country, and gold will be imported from Europe.

Whenever the paper money is at par with coin, both will then circulate together again and constitute the money of the country. The banks can then resume specie payments. The gold which has accumulated in the Treasury may then aid in the resumption; the coin paid for the interest on the public debt will no longer be hoarded by those who receive it, but be deposited in the banks, as in former times; and the excess of gold which has accumulated, beyond what is required for payment of interest, may be paid to the banks for the certificates of temporary deposits in the Treasury, which the banks of the large cities now hold and use to make their daily settlements at the clearing-house. With coin substituted for those certificates, and so long as the banks continue to hold the same amount in coin as they now hold in those certificates, there seems to be no good reason why it may not be as easy to settle their balances in coin as it is now to settle them with the certificates.

In former years, before the suspension of specie payments, the banks in the city of New York rarely held $20,000,000 in coin. The average amount of specie in all the banks of the United States for five years prior to the suspension of specie payments in 1861 was about eighty million dollars; and previous to that period it was usually less than sixty millions. Now there are nearly seventy millions of coin in the sub-Treasury and in the national banks; and whenever it is determined to resume specie payments this amount of coin will be largely increased from the hoards now held by individuals all over the country.

I do not wish to be understood as advocating an immediate resumption of specie payments. Even if I thought it practicable I should not deem it at once advisable. Time must be taken to prepare for it; but the preparatory steps can and should be commenced now. The people should understand that in the opinion of Congress the policy should be adopted of reducing gradually the amount of paper money until its value is restored and made equal to that of coin. The length of time which may be required to accomplish this is dependent on circumstances that Congress can neither foresee or determine. But it seems to me the duty of this Congress to adopt some policy which will indicate their intention, and bring about resumption at the earliest period in which it can be accomplished without affecting injuriously the great interests of the labor and capital of the country.

The first step in that direction, in my opinion, should be to exchange the interest-bearing legal-tender notes for long bonds, and at the same time to reduce the rate of interest on temporary loans to at least four or five per cent. This reduction of the rate of interest on temporary loans would enhance the value of certificates of indebtedness, which bear six per cent. interest; and, being payable at a period fixed by the Treasury Department, they are a more convenient form of loan, while at the same time they provide a mode of anticipating the revenue at times when it may be needed.

When the interest-bearing legal-tender notes are withdrawn, and their amount funded, there would remain of paper money in circulation, beside the national bank notes, only the United States notes and the fractional currency, which bear no interest. Before reducing the amount of those Government notes by converting them into interest-bearing bonds, it should be considered how far the circulation of bank notes, which are equally paper money and equally effective in causing its depreciation, ought to be restricted; and whether the banks, also, may not assist and contribute in the work of restoring the money of the country to a sound condition.

When the only unfunded obligations of the Government are the legal-tender notes and fractional currency, costing nothing for interest, we can more easily determine to what extent and when they shall be withdrawn from circulation. They now constitute a fund or loan amounting to over four hundred and fifty millions, without any cost to the Government for interest. They constitute a loan from the people; and before I consent to their conversion into bonds that will require the addition of $27,000,000 to the annual payments for interest, I wish to know how much benefit is to be derived by assuming so large an increase to the amount of interest we now have to pay, and also for whose benefit it will be. I have always believed that the action of the banks has had, and will continue to have, as much effect in depreciating the value of the paper money as any action of the Government; though it may be said that, at first, the necessities of the Government provided the occasion for the banks. If paper money is convenient and desirable, while the privilege of furnishing it is of such great value, it may be questioned whether the Government can afford to resign the privilege

to others, and particularly at this time, when it is so desirable to diminish rather than to increase the amount of taxation.

To withdraw only the interest-bearing legal-tender notes may appear to be insufficient for the purpose of contracting the currency; but, knowing, as I do, the use made by the banks of this class of notes, my belief is that it will prove more restrictive than is generally supposed; and particularly so if the amendment of the banking law, which has been referred to the Committee on Banking and Currency by a resolution of the House, should be adopted to prevent those notes being included as lawful money in the reserves which the national banks are obliged to hold for the redemption of their liabilities. The law which authorized their issue provides that any Treasury note bearing interest shall not be a legal tender in payment or redemption of any notes issued by any banks. They are a sort of hybrid, part loan and part money, and are not now used as money to any extent, except by banks that count them in either of their anomalous characters, and use them as a basis for extending their own issues.

The foreign exchanges are now in favor of this country, as shown by the fact that while the actual par of exchange on London is about nine per cent., the price-currents quote it as selling in New York at seven per cent. for bankers' bills, and as low as four per cent. for other bills. If the present premium on gold could be relied upon, or if the dollar of currency represented a dollar of gold, it would be profitable to send exchange to England to import coin. Having myself twice seen the experiment made in this country of resuming specie payments, and in both instances without producing any disturbance of business, I have not the apprehension expressed by some in regard to the effect it would now have on the business of the country, if effected at the proper time and judiciously conducted. I believe that specie payments could be sustained now with a much larger amount of notes convertible into coin than formerly under the system of State banks as it existed in many parts of the country.

It has been said that the "United States notes" and the "fractional currency" took the place of the coin which had previously circulated. It is very certain they did not displace the bank notes, for they have increased in amount instead of being diminished since the issue of the United States notes. While the supply of money was regulated by the State banks there never was, in my opinion, a suitable amount of money for the proper conduct of the business of the country. It seems to me that the Treasury could resume specie payments without regard to the banks; and that the United States notes could be continued in circulation as the equivalent of coin, after specie payments were resumed, and until there was a sufficient amount of coin in the country to supply their place. The "United States notes" would be more convenient for use within the United States; and, so long as the foreign exchanges were in favor of this country, there would be no legitimate demand upon the Treasury to redeem the notes in coin.

During the past four years the great object in all the financial bills before Congress has been to provide means to carry on the war. That necessity having passed, no more loan bills are required. It is our duty to be cautious in determining upon the changes to be made in the regulation of the money of the country, involving, as it does, the value of all property, and affecting the interest of every one in the community. My chief objections to withdrawing the United States notes from circulation by converting them into bonds are, besides the expense that would be incurred for interest on the bonds, my belief that a larger amount of money than formerly is now required for the business of the country, and my fear that some other paper money, not so good, may be allowed to take their place, by which the country would be further than ever from a currency convertible into coin.

The loan bill passed by the last Congress, approved March 3, 1865, empowered the Secretary of the Treasury to issue bonds of any description authorized by that act for the purpose of converting into such bonds "any Treasury notes or other obligations bearing interest issued under any act of Congress." This is the power which the Secretary of the Treasury has now. He is authorized to issue bonds for any period not less than five nor more than forty years from their date, the rate of interest not to exceed six per cent.; but only for the purpose of converting or funding other interest-bearing obligations. The bill under consideration proposes to amend that act so as to enlarge the power so far as to permit the Secretary of the Treasury, when he deems it expedient, to convert obligations not bearing interest; and also to dispose of any of the bonds, either in this country or in Europe, for the purpose only of retiring other obligations; but not for any increase of the public debt. This amendment authorizes any of the bonds disposed of in any foreign country to be expressed, and the principal and interest paid, in the currency of that country, but provides that the rate of interest on them shall not exceed five per cent. I understand that the Secretary does not expect to use this power, but deems it important that it should be given to him to be exercised only in case circumstances may arise that, in his opinion, would render it advantageous and expedient.

The power to borrow money under the act of last year is exhausted; and the amendment of that act proposed by this bill does not authorize any new loan, its only object being to facilitate the funding of existing obligations.

Mr. HULBURD obtained the floor.

Mr. STEVENS. Will the gentleman yield to me to move that the further consideration of this bill be postponed until this day week?

Mr. HULBURD. I have no particular desire to speak this afternoon.

Mr. STEVENS. Then I will make that motion, unless some other gentleman desires to speak this afternoon.

Mr. KELLEY. I am ready to say what I have to say upon this bill now.

Mr. STEVENS. Then I would inquire whether there is any opposition to postponing this bill until this day week after my colleague [Mr. KELLEY] has concluded his remarks.

Mr. MORRILL. I have no personal objection. I am willing to leave the matter to the House.

Mr. BROOKS. This is a bill on which I think there should be prompt action. It should be decided as early as possible. I receive a number of letters and telegraphs daily inquiring what is likely to be done, and there is a great deal of speculation in regard to the action of the House upon this matter.

Mr. WENTWORTH. And I see a great many bankers and brokers and speculators in this Hall, too.

Mr. EGGLESTON. Is it understood that the bill is postponed for a week?

The SPEAKER. Not at present. The bill will not be reached again after to-day, in the regular order, till Monday after the morning hour.

Mr. MORRILL. I will move that after the speech of the gentleman from Pennsylvania [Mr. KELLEY] the further consideration of the bill be postponed until Tuesday next.

Mr. STEVENS. I suggest to the gentleman from Vermont that he say Wednesday next. I hope we may get through with one or two appropriation bills before that time.

Mr. MORRILL. I accept that as a modification of my motion.

The motion, as modified, was agreed to.

DISTRIBUTION OF DOCUMENTS.

Mr. LAFLIN. With the permission of the gentleman from Pennsylvania, [Mr. KELLEY,] I ask unanimous consent of the House to offer the following resolution:

Resolved, That the Superintendent of the Public Printing be directed to deliver to the superintendent of the folding department for the use of the members of the House such number of House bill No. 207, with its substitute or substitutes, as is now given by law to the Interior Department, unless, in the judgment of the Secretary of the Interior, inconsistent with the public interests.

Mr. RADFORD. I object.

Mr. LAFLIN. Let me state that by law one hundred of these copies are to be placed under the control of the Secretary of the Interior to be distributed to the public libraries.

Mr. RADFORD. I insist on my objection.

MINERAL LANDS.

Mr. JULIAN. With the permission of the gentleman from Pennsylvania, I ask leave to report back from the Committee on Public Lands a bill to provide for the survey and sale of the lands of the United States containing gold, silver, and other valuable minerals, for the assaying and coining of such minerals, and for other purposes, with a view of having it printed and recommitted to the committee.

Mr. ELDRIDGE. I call for the reading of the bill.

Mr. BIDWELL. I would ask the gentleman from Indiana if he has any objection to having this bill referred to the Committee on Mines and Mining. I understand that it provides for the distribution of the mineral lands of the United States.

Mr. JULIAN. It is for the sale of the mineral lands. I only ask to have it recommitted and printed.

The SPEAKER. The gentleman from Wisconsin [Mr. ELDRIDGE] calls for the reading of the bill. Does the gentleman from Pennsylvania [Mr. KELLEY] yield for that purpose?

Mr. KELLEY. I cannot yield to have the bill read.

LOAN BILL—AGAIN.

The SPEAKER. Then the gentleman from Pennsylvania is entitled to the floor on the loan bill.

Mr. KELLEY. Mr. Speaker, I have not heretofore been inclined to take part in the discussion of financial measures reported to and considered by the House; not because I have not had decided views upon those measures, but because I have found but little to which to object in the propositions made, and saw what the exigencies of the country were while war was flagrant.

We are now, however, entering upon a new financial era. We have tested the power of our country to sustain an expansion of the currency; we are, if the theories of the gentlemen who sustain this bill prevail, now entering upon a more dangerous trial, that of contraction. I have listened with great pleasure to the remarks made by the distinguished members of the Committee of Ways and Means [Mr. MORRILL and Mr. HOOPER] this morning. But I make one general exception to them. They give us no propositions that are not drawn from the past, and their suggestions are, therefore, quite too contracted for our existing condition and the emergencies of the present time.

We must, Mr. Speaker, look at the financial questions of the day in the broad view in which we and foreign nations have learned to contemplate the resources and the power of our country. Gentlemen may say that it will not do to leave the ruts of routine if we wish to sustain credit. Sir, it has done when it was necessary for us to maintain war, and to create and sustain the credit by which we were able to maintain that war, the largest in its dimensions that history yet records. Financiers at home and abroad will now believe many of our statements that would have been considered most extravagant a few years ago.

A friend of mine, a brilliant conversationalist, a few evenings ago, while chatting with a foreign gentleman, said to him, "Sir, you know nothing of our possibilities, and never believe them until we demonstrate them. Had we told you five years ago that there was an obscure tanner in one of the interior towns of a western State, who within four years would command, under his immediate personal supervision, more guns than Bonaparte ever saw, you would not have believed it. And yet the four years had not passed away before it was so. Bonaparte

never saw so many heavy guns as General Grant put into position in his campaigns. And having seen, as you say you did, our grand reviews, on the return of our armies, you will admit that we might have sent, from the foot of Pennsylvania avenue, cavalry, artillery, and infantry sufficient to have met and conquered the combined forces of Wellington and Bonaparte at Waterloo, could they have been resuscitated and provided with the arms and munitions they handled on that field, and scarcely have interrupted the parade."

In entering upon this new era, we should do it not only with reference to our present financial condition, but with reference to our expanding trade and resources, and the possibilities of the development of our resources, and the increase of our population. Return to specie payments is most desirable. The extinguishment of our national debt is no less desirable. Nobody wishes the speedy return of the one and the extinguishment of the other more than I do. But caution is speed when danger is in the way. And let us pause before we act upon a bill so pregnant with possible consequences as this.

What does this bill propose to do? It empowers the Secretary of the Treasury to withdraw the only non-interest-paying debt we owe, by making an interest-bearing loan with which to redeem it, and so involve us in the additional annual expenditure of $27,000,000 in interest. I agree that it is said he may not exercise that power; but it proposes to invest him with the power, and he or some less worthy successor may exercise it. And if that were all, it would be a trivial matter. But in the exercise of that power rests the solvency or the bankruptcy of the business men and corporations of this country.

Mr. Speaker, you are not presiding over a meeting of the stockholders or the board of directors of a third-class railroad company which has fallen into embarrassment. This is the Congress of the United States. And yet this bill proposes that after having sustained our war without any such degradation, we shall ask foreigners to loan us the money at five per cent. to redeem a non-interest-bearing loan; and among its inducements proposes that we shall make the bonds payable in France, Germany, England, or elsewhere, in francs, florins, livres, pounds, shillings, and pence—a proposition that would call a blush to the cheeks of the directors of an embarrassed railroad company whose work had been begun prematurely, and where there were neither people nor business to sustain it or give it credit. I do hope that clause, at least, will be stricken from the bill, as is proposed by my distinguished colleague, [Mr. STEVENS.]

The able gentleman from Massachusetts [Mr. HOOPER] said, in the course of his remarks, that there is only one way in which to approach a return to specie payments, and that is by contracting the currency. That is a mistake, but it brings me to consider the vastly greater and more dangerous powers contained in the authority proposed to be given to the Secretary of the Treasury to redeem the greenback and fractional currency, our only non-interest-bearing loans. The gentleman from Massachusetts is, I repeat, mistaken; there is another way. His way leads to bankruptcy; the other way leads to wealth and power.

What is the condition of the banks to-day? There is not one of them that does not hold Government bonds beyond the total amount of its capital; and some of them own bonds to twice the amount of their capital. The vice of our system is, that we permit them to discount *ad libitum* on their deposits. This dangerous power should be controlled gradually, but surely. The result is that prosperity always leads to undue expansion, while speculation and sudden contraction involve wide-spread ruin. The necessities of the Government compelled the expansion of the currency, and deposits have increased, and all the banks have invested in national bonds; and if the Secretary of the Treasury call in $50,000,000 or $10,000,000 of greenbacks, he will so contract the currency that every bank in the Union will begin under compulsion to sell the Government securities in which it has invested its deposits. There is not a bank in the country that can bear a large contraction of the currency without either refusing to pay the checks of its depositors or sacrificing the loan of the country and depreciating it in the markets of the world. We must avoid panic, as an advanced guard would a masked battery of heavy guns.

Gentlemen have the monthly and quarterly returns of the banks before them; I have them not at hand, and am not prepared with the precise figures as gentlemen are who knew that this bill was coming up to-day. But I challenge an examination of those returns. Look at the amount of their deposits, discounts, and the loans they hold; look whether every bank has not the amount of its whole capital invested in the national loans, and then see what will be the practical effect of producing a contraction which will make every depositor want his money. The bank has no other fund from which to supply currency than legal-tender notes and national securities.

No, sir; contraction is not the way to a resumption of specie payments. It is the way, after a brief struggle, by a double-quick march, to bankruptcy. The deposits held by national banks exceed the volume of their own notes and legal tenders combined. Let a contraction begin and depositors check heavily upon their balances and it will affect every bank, and the next act of the Secretary of the Treasury will be to notify the banks that, owing to a depreciation in the market value of Government securities, they must increase their deposits to secure the redemption of their notes. I warn gentlemen to withhold from any man the power, at this time, when we are just coming out of such a war, to contract our currency or even to threaten its contraction.

There is another and better method of resumption. We mine more gold and silver than any other nation on earth. And under the good influences of the Committeee on Mines and Mining of this House, of the construction of the Pacific railroad, and the return of peace, we will mine gold and silver enough in one year to pay our debt. But what is the use of mining it? It all goes to foreign lands.

We raise grain; but it rots in our fields, or we consume it for fuel. We raise cotton; but we send it to Europe to be manufactured; and we send the manufacturers as much grain as they need to feed their workmen, and then we send them our gold with which to pay them for making our iron and spinning and weaving our cotton and wool. Let us modify that.

The people of the Northwest are the great importers of grain into this country. While their wheat is rotting in their fields, and their corn blazing in their stoves and heaters, they are importing grain. Yes, sir; grain condensed into railroad iron, condensed into cloth, condensed into every article they wear and use, and which they import, but might manufacture. I say that the question of specie payment connects itself with the question I am now touching upon—the fostering of the skill and industry of the country.

The gentleman from Massachusetts, [Mr. HOOPER,] toward the close of his ingenious argument suggested that there was no incompatibility between a return to specie payments and the maintenance in circulation of our non-redeemable national currency. What, sir, was his argument upon that point? It was this: that we require a larger amount of circulating medium now than we did before the war, and hence there would be found use for the ordinary amount of gold and silver and for the $452,000,000 of national currency, greenback and fractional.

In that argument, sir, he conceded the principle for which I am contending. I would not permit an expansion of the currency. I will not consent to an increase of our debt, but I would not peril the business of the country to hasten a return to specie payments or to extinguish our debt.

Mr. Speaker, we fought this war for posterity, and I am willing posterity, as the price of the blessings we transmit, shall pay the pecuniary debt we have contracted. "Posterity," as Boyle Roche said, "has never done anything for us," and I am willing it shall pay the debt with which we have mortgaged the magnificent estate we are to leave it.

I am not willing to tax the widows and orphans of our soldiers to hasten the payment of our debt. One half of our country is devastated by war, its system of labor demoralized, and it has its widows and orphans; and I am not willing to tax them and their wasted estates in order that we may hasten to pay this debt.

Let us so legislate that there shall be no expansion of the currency. Let us so legislate that there shall be no increase of the debt. And let us so legislate as to relieve our labor of taxation to the amount of the difference between our income and our expenditures, as stated by the gentleman from Massachusetts. He says our income from various sources this year will be $500,000,000, and that our expenses will be a little over $200,000,000. Let us, then, relieve our poor mantua-makers from the tax we collect from them for the privilege of stitch, stitch, stitching by day and night to support themselves and little ones. Let us relieve all those branches of industry which are now impaired or destroyed by our internal taxation. Promote the development of our resources and stimulate our industry by repealing taxes to the amount of one hundred and fifty or two hundred million dollars per annum. Let us promote the recuperation of the South and give employment to the discharged soldiers of the North, and in five years the principle laid down by the gentleman from Massachusetts, [Mr. HOOPER,] that the extensive development of the resources of the country and the increase of population creates uses for money will be demonstrated, and we will have a population which will carry the amount of currency which now indicates undue expansion.

What is more, sir, if the men of the Northwest will weave and spin their own wool and make their own iron and other products which they now import, and eat their own wheat, we shall find we will keep our gold in the country instead of sending it to England to buy wheat from the banks of the Baltic and the Nile for the use of the grain-growers of Iowa and Minnesota and Kansas. And at the end of five years you will find the specie-owning citizens of the country will have bought from the banks their bonds, and the bullion-owning citizens of the country will have deposited in the banks specie; at any rate, at the end of ten years the process of fostering our industry, developing our resources, and retaining in the country some of our vast mineral wealth, will bring us to the resumption of specie payments naturally, and without disturbing any branch of business. Then, sir, what will be the case? Why, ten years hence the employment of American labor, steadily and at liberal wages, will, by inviting emigration, have doubled our population, and will not only have quadrupled, but twice quadrupled our material resources. You cannot calculate the ratio of the increase of our taxable wealth. For, sir, what was known until within a few years as the great desert which was forever to divide the Atlantic and Pacific States is found to be one vast mass of gold and silver and precious stones. So that into the desert so marked men are swarming in busy hives and are drawing from the earth treasures in comparison with which the storied wealth of "Ormus and of Ind" are not to be named. At the end of ten years our population may be doubled and our taxable property will have doubly quadrupled, and your share of our debt, Mr. Speaker, will be lessened just in proportion as we shall have increased the number of consuming and taxable citizens, and that of your estate will be diminished by the vast aggregate

of wealth developed by enterprise or accumulated by industry. For myself, sir, I hope the power to contract the currency by redeeming our non-interest bearing debt, the legal tenders, will not be granted. I do not lack confidence in the qualities of the Secretary of the Treasury as a banker. I believe him to be one of the ablest in the country; but I believe that bankers' wisdom is a delusion in these days. What we want is, the sagacity, grasp, and courage of statesmanship, and his propositions, as disclosed in this bill, do not, I think, display these qualities. And I pray and implore the House to refuse to make the admission to the bankers of Frankfort-on-the-Main, of Paris, and of Lombard street, that with the crushing of the rebellion and the murder of Abraham Lincoln the pride and manhood of the Republic died out.

For four years—I close as I began—we sustained a war and maintained the credit to sustain it, and I implore gentlemen not to say to the bankers of Europe that if they will come to our relief we will agree by the terms of the bond to pay them in their own francs and florins and shillings and pence, but let them expect to see the coin of America, with its eagle on it at least, when their bonds shall be ultimately redeemed.

In pursuance of the previous order of the House, the further consideration of the bill was postponed till Wednesday next, after the morning hour.

MILITARY AND NAVAL ASYLUM.

Mr. SCHENCK. At the request of the Committee on Military Affairs, I ask to have Senate bill No. 54 printed with a substitute proposed by the committee, and then recommitted. It is an act to amend an act entitled "An act to incorporate a national military and naval asylum for the relief of disabled officers and men of the volunteer forces of the United States."

No objection being made, it was so ordered.

ENROLLED BILL SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a joint resolution (H. R. No. 75) to encourage and facilitate telegraphic communication between the western and eastern continents; when the Speaker signed the same.

EXECUTIVE COMMUNICATION.

The SPEAKER. The Chair asks consent to lay before the House the reply of the Commissioner of Agriculture to a resolution of the House of Representatives, January 25, 1866, and to have the same laid on the table, and printed.

No objection being made, it was so ordered.

MINERAL LANDS.

Mr. JULIAN, from the Committee on Public Lands, by unanimous consent, reported a bill to provide for the survey and sale of the lands of the United States containing gold, silver, and other valuable minerals, for the assaying and coining of such minerals, and for other purposes; which was ordered to be printed, and recommitted.

INTERNAL REVENUE.

Mr. BIDWELL, by unanimous consent, introduced a bill to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes;" which was read a first and second time, and referred to the Committee of Ways and Means.

JOHN M. AVERY.

Mr. BIDWELL, by unanimous consent, also introduced a bill for the relief of John M. Avery; which was read a first and second time, and referred to the Committee of Ways and Means.

UNION PACIFIC RAILROAD AND TELEGRAPH.

Mr. CLARKE, of Kansas, from the Committee on the Post Office and Post Roads, by unanimous consent, reported a bill to aid in the construction of a southern branch of the Union Pacific railroad and telegraph, and to secure to the Government the use of the same for postal, military, and other purposes; which was read a first and second time, and ordered to be printed, and recommitted.

STATION FOR NAVAL SUPPLIES.

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

Resolved, That the Secretary of the Navy be, and he is hereby, authorized and requested to inform this House at what cost to the Government a suitable location for coal and naval stores can be obtained at or near Canton, in the city of Baltimore.

Mr. WASHBURNE, of Illinois. I move that the House do now adjourn.

The motion was agreed to; and thereupon (at four o'clock and ten minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. ASHLEY, of Ohio: The petition of Peter Frazer, H. A. Ensign, and 74 others, citizens of Defiance county, Ohio, praying Congress not to restore any State that has rebelled, &c., to its place and power as a governing partner in the Union till adequate security has been obtained against its renewing the attempt to secede, &c.

By Mr. ASHLEY, of Nevada: The memorial of the Legislature of Nevada, concerning the San Francisco and Washoe Railroad Company.

By Mr. BERGEN: The petition of assistant assessors of Brooklyn, New York, for increase of pay.

By Mr. CLARKE, of Kansas: The petition of Susan E. Wattles, and 44 others, women of Linn county, Kansas, praying for universal suffrage.

By Mr. CLARKE, of Ohio: The remonstrance of Jefferson Hildebrant, of Wilmington, Ohio, against the passage of a law authorizing the Post Office Department to sell stamped envelopes at the price of the stamps.

By Mr. COOK: The memorial of 200 citizens of Grundy county, Illinois, praying for aid in the construction of a canal around the falls of Niagara and enlarging the Illinois and Michigan canal.

By Mr. DAWES: The petition of Phineas Allen, and others, against the manufacture and sale of envelopes at the price of the stamps.

By Mr. DUMONT: The petition of Bowen, Stewart & Co., W. & J. Braden, Worden & Sumwalt, Merrill & Co., Todd, Carmichael & Williams, Ann Thompson, all stationers of Indianapolis, Indiana, on the subject of stamped envelopes, and setting forth the loss the Government will sustain by furnishing stamped envelopes at the same price as stamps, and praying that no such legislation may be adopted.

By Mr. ECKLEY: The petition of Jefferson county, Ohio, asking for an additional duty on wool.

Also, the petition of citizens of Steubenville, in the State of Ohio, asking for a protection of American labor so as to protect it against the low prices of Europe.

By Mr. EGGLESTON: The petition of John F. Torrence, and 100 others, citizens of Ohio, praying for a modification of the tenth section of the revenue act of 1860 under which street railroad companies have increased their rates for carrying passengers twenty per cent.

By Mr. ELDRIDGE: The petition of citizens of Sheboygan Falls, for an appropriation by Congress for the improvement of Sheboygan harbor, in Wisconsin.

By Mr. ELIOT: The petition of the Association of Friends of Philadelphia for relief of freedmen, praying for increased efficiency of the Freedmen's Bureau.

By Mr. J. M. HUMPHREY: A petition of women of the town of Collins, Erie county, New York, asking for an amendment of the Constitution extending the right of suffrage to negroes and women.

Also, a remonstrance of newsdealers and stationers at Buffalo, New York, against the passage of a law authorizing postmasters to sell stamped envelopes, &c.

By Mr. JULIAN: The petition of 87 women of Frémont, Indiana, praying an amendment of the Constitution that shall prohibit the several States from disfranchising any of their citizens on the ground of sex.

By Mr. MERCUR: The petition of citizens of Espy, Columbia county, Pennsylvania, asking that the revenue laws be so adjusted as to secure the amplest protection to the labor and industry of the country in all their branches.

Also, a petition of mechanics and laborers of Manayunk, Philadelphia, asking that the tariff may be so amended as to protect their labor.

Also, a petition of citizens of East Springhill and Tuscarora township, Pennsylvania, asking for an amendment to the Constitution which will prevent any State making any distinction between citizens on account of race, color, or descent.

By Mr. ORTH: The remonstrance of Alexander Wilson, and others, of Lafayette, Indiana, against the passage of Senate bill authorizing the Postmaster General to sell stamped envelopes at the value of such stamps.

By Mr. RICE, of Massachusetts: The petition of F. A. Sawyer, late first lieutenant forty-seventh New York volunteers, for reimbursement for loss of clothing, &c., by sinking of United States transport Fanning.

By Mr. SCHENCK: Resolutions of the General Assembly of Ohio, respecting the excise duty on cigars.

By Mr. TAYLOR: The memorial of assistant assessors of the fifth district of New York, asking for increase of pay.

By Mr. WENTWORTH: The petition of Chaplain Murphy, of Illinois volunteers, asking for arrearages of pay.

NOTICE OF A BILL.

The following notice for leave to introduce a bill was given under the rule:

By Mr. ELIOT: A bill to continue in force and to amend an act entitled "An act to establish a Bureau for the Relief of Freedmen and Refugees, and for other purposes."

IN SENATE.

FRIDAY, *February* 23, 1866.

Prayer by Rev. HOWARD MALCOLM, D. D., of Philadelphia.

The Journal of Wednesday last was read and approved.

PETITIONS AND MEMORIALS.

Mr. MORGAN presented resolutions of the Legislature of New York, in favor of a grant of lands for the construction of a ship-canal from Portage Lake to Lake Superior, across the base of Keweenaw Point; which were referred to the Committee on Commerce.

Mr. RAMSEY. I present the memorial of Governor John Evans, of Colorado, calling attention to the importance and feasibility of preventing the threatened invasion of this country by the Asiatic cholera by the enforcement of a general system of quarantine regulations, a portion of which I will read:

"The great importance of a measure that promises to accomplish the object indicated, by which the lives of the people and the prosperity of the country shall be guarded from this terrible scourge, needs no elucidation.

"To show the feasibility of arresting the progress of the disease by quarantine, I would respectfully call attention to two facts:

"1. When carefully observed, it is found uniformly to spread along the lines of intercommunication and travel, but never faster than their regular course.

"2. It has been kept at bay by the intervention of quarantine regulations.

"In support of these propositions, I respectfully refer to the facts set forth in the accompanying copy of a history of the spread of cholera, especially as it invaded this country in the year 1849, which was published in the Northwestern Medical and Surgical Journal for September of that year. Also to the report of the proceedings of a recent meeting of the commissioners of health for the city of New York.

"It will be observed that the disease appeared at the quarantine station on Staten Island, New York, on the 2d day of December, 1848, and after prevailing extensively on the island for a month it completely subsided without affecting the great city in its immediate vicinity, and without spreading beyond that island."

There are some interesting papers accompanying this memorial, which I move be referred with it to the Committee on Commerce and be printed, as I think their importance justifies it.

The motion was agreed to.

Mr. HOWE presented a memorial of the Legislature of Wisconsin, in favor of the improvement of the navigation of the rapids on the Mississippi river; which was referred to the Committee on Commerce, and ordered to be printed.

Mr. WILSON. I present the memorial of John Welsh, president, and A. J. Perkins, secretary, in behalf of the Philadelphia Board of Trade, setting forth that millions of dollars due from the rebel States cannot be collected in the United States courts because the sums are less than five hundred dollars, and they pray Congress that the jurisdiction of the courts of the United States be extended so that they may take cognizance of all actions founded on contract, express or implied, where the parties are residents of different States. I move the reference of this memorial to the Committee on the Judiciary.

The motion was agreed to.

Mr. WILSON presented a petition of citizens of Lehigh county, Pennsylvania, praying for an equalization of bounties; which was referred to the Committee on Military Affairs and the Militia.

Mr. POMEROY presented the petition of Elisha P. Moulton, praying that his claim as an original inventor of iron-clad gunboats may be recognized and rewarded; which was referred to the Committee on Patents and the Patent Office.

Mr. NESMITH presented the memorial of Nesmith & Sons, of New York city, praying that an American register may be issued to the ship Roamer, formerly the Screamer; which was referred to the Committee on Commerce.

Mr. NYE. I desire to present a memorial of the Legislature of the State of Nevada, protesting against the sale of the mineral lands, which I will read:

"Your memorialist has heard with surprise and regret that propositions looking to the sale of the mineral lands of this State and the Pacific coast are being urged upon your honorable bodies, and believing, as your memorialist does, that such a course, if adopted, will have the effect to retard and prevent the development of the mineral resources of this coast; and believing that the local rules and regulations established and observed by the miners themselves are fully adequate and best calculated to secure speedy and thorough exploration of the mineral sections of our State, which are always attended with much hardship, peril, and expense, with but a small guarantee of realizing adequate remuneration for the risks undertaken; and being fully confirmed in the conviction that the proposition to sell the mineral lands of this coast is fraught with danger and evil to the best interests of the State and nation, your memorialist would respectfully and most earnestly ask of your honorable bodies, that no action be taken by you having for its object the enactment of any law of the character named."

I move that this memorial be referred to the Committee on Mines and Mining.

The motion was agreed to.

Mr. NYE. I present also the memorial of numerous citizens temporarily absent from Colorado, asking for the admission of Colorado as a State. They set forth several very important reasons why it should be admitted. They say that they paid last year in Colorado taxes to the amount of $36,400, and they desire to have Colorado admitted as a State, believing that it will be materially aided by a State government, thereby increasing the revenue of the whole country. They further represent that Colorado responded to all the calls of the Government during the recent rebellion, furnishing her full quota of troops called for without a draft; and lastly, that she has complied with all the essential conditions imposed by Congress in the late act providing for her admission into the Union. As the subject of the admission of Colorado is now before the Senate, I move that this memorial lie upon the table.

The motion was agreed to.

Mr. SUMNER presented a petition of citizens of Philadelphia, Pennsylvania, praying for such an amendment to the Constitution of the United States as will forever prevent any State from making any distinction in civil rights and privileges among the naturalized citizens of the United States, or among persons born on its soil, on account of race, color, or descent; which was referred to the joint committee on reconstruction.

Mr. SUMNER. I also present a petition from Ephraim Hinds, of Long Island, New York, in which he calls the attention of Congress to the provisions of what he supposes to be the thirteenth article of the amendments to the Constitution, as follows: "That if any citizen shall accept any office or emolument from any emperor or foreign Power, he shall cease to be a citizen of the United States, and shall be incapable of holding any office of trust or profit under them or either of them." In his prayer the petitioner asks Congress to carry out this constitutional provision and enforce it against persons who have held office under the rebel government, taking care that by act of Congress in pursuance of the Constitution they shall hereafter be disfranchised. I ask the reference of this petition to the committee on reconstruction.

It was so referred.

Mr. GRIMES presented a petition of citizens of Iowa praying for an amendment to the Constitution of the United States, providing that no State shall make any distinction in civil rights and privileges among the naturalized citizens of the United States, or among persons born on its soil, on account of race, color, or descent; which was referred to the joint committee on reconstruction.

Mr. SAULSBURY. I present the petition of Budd & Sharp, and of Bucke & Leatherberry, in which they state that they are engaged in the manufacture of agricultural implements at Middletown, in the county of New Castle, State of Delaware, and they pray to be relieved from the excessive duplication of taxes which now bears so heavily upon that branch of industry. As the law now stands, in the manufacture of harvesters, they pay taxes upon castings, large and small, and upon knives and other parts of the cutting apparatus, first on the parts separately, and then again upon the finished machine, without any deduction for taxes previously paid on such parts. The same is true, to a large extent, with other implements. This, they think, is manifestly unjust, and contrary to the principles which prevail in the taxation of most other manufactures. They also pray that a declaratory act or amendment of the law may be passed which will allow them, in making returns, to deduct the value of any and all parts of the machinery which have already paid a tax, particularly where such parts have been specially made for and adapted to the same. I move that this petition be referred to the Committee on Finance.

The motion was agreed to.

Mr. DOOLITTLE presented a memorial of the Legislature of Wisconsin, in favor of the improvement of the navigation of the rapids of the Mississippi river; which was referred to the Committee on Commerce.

Mr. FESSENDEN presented a petition of manufacturers of agricultural implements, praying for a reduction of the tax on sales of their manufactures; which was referred to the Committee on Finance.

Mr. COWAN presented the petition of Rev. J. H. Merchant, and others, citizens of Butler county, Pennsylvania, praying for such an amendment of the Constitution of the United States as will forever prohibit any State from making any distinction in civil rights and privileges among citizens of the United States on account of race, color, or descent; which was referred to the Committee on the Judiciary.

Mr. ANTHONY, from the Committee on Claims, to whom was referred the petition of Alonzo Morse, praying for payment for certain United States notes alleged to have been lost by the burning of his dwelling on or about the 6th day of July last, submitted an adverse report; which was ordered to be printed.

BILLS INTRODUCED.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 160) to continue in force the Bureau for the Relief of Freedmen and Refugees; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 161) to indemnify the State of Kansas for expenses incurred in enrolling, equipping, subsisting, and transporting the militia forces of the State in repelling rebel invasion and Indian incursion in the year 1864; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 162) to secure the speedy construction of the Northern Pacific railroad and telegraph; which was read twice by its title, and referred to the Committee on the Pacific Railroad.

Mr. HOWE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 163) to authorize the Milwaukee and Prairie Du Chien Railway Company to construct a bridge across the Mississippi river and establish a post route; which was read twice by its title, and referred to the Committee on Post Offices and Post Roads.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 164) for the relief of Alois Klaus; which was read twice by its title, and with the accompanying papers presented by him was referred to the Committee on Claims.

GOVERNMENT TELEGRAPH LINES.

Mr. DIXON. The Committee on Post Offices and Post Roads, who were directed by a resolution of the Senate to inquire into the feasibility and usefulness of establishing in connection with the Post Office Department telegraph lines along such of the principal mail routes as may be deemed advisable, have directed me to report a resolution; and as the Senator from Missouri [Mr. BROWN] desires, I believe, to address the Senate upon the subject, I ask that it may be considered at this time.

The PRESIDENT *pro tempore*. The present consideration of the resolution is asked for. Is there any objection?

Mr. CONNESS. Let it be read for information.

The Secretary read the resolution, as follows:

Resolved, That the Postmaster General be, and he is hereby, requested to lay before the Senate such information as he may have in his possession or may be able to collect in regard to the feasibility and usefulness of establishing in connection with the Post Office Department telegraph lines along such of the principal mail routes as may be deemed advisable for use by the Government, and to be open for public use at minimum rates of charge, accompanied by such suggestions and considerations as would contribute to the efficiency of such an extension of the post office system to telegraphic purposes, and such statistics and exhibits predicated on cost of construction and capacity of transmission as will best illustrate its practicability.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BROWN. Mr. President, the resolution offered by myself, some days since, upon this subject, was as follows:

Resolved, That the Committee on Post Offices and Post Roads be instructed to inquire into the expediency of authorizing the Post Office Department to construct and operate telegraph lines along the principal mail routes, or such of them as it may deem necessary, or to contract with such lines as may be already established, if that shall be deemed more advisable, for the use and control of such lines; and, in connection with the postal business, to establish offices at such points as may be determined upon, open at all hours to the public and the press, for safe and speedy transmission of dispatches, under proper regulations and at fixed minimum rates; the committee to report by bill or otherwise.

The committee having acted upon this matter, have concluded to report back a resolution calling upon the Postmaster General for such data and statistical information and such views concerning the expediency of an extension of postal business in the direction of furnishing telegraphic facilities as he may desire to submit in connection therewith.

I think, sir, that in this the committee have acted wisely. What is needed before such an enterprise shall be entered upon is information, and that, I am sure, the Post Office Department, with reasonable effort, can supply to the Senate. Indeed, I may add, that from a conversation had with the Postmaster General on this subject, I believe he will take great interest in developing the whole subject.

Mr. President, while I shall not enter fully into an examination of this whole subject on a preliminary motion, yet I desire to present in brief some of the principal reasons that occur to me in advocating this proposition of establishing telegraph lines along the main routes in connection with the post office system and open to the public at the cheapest rates. They are—

1. They could be predicated on the post office principle, and have a uniform rate throughout the country and a single price for all distances; the short thus equalizing the long, and the surplus of highly profitable lines enabling an extension of lines on poorer routes, until all parts of the country could be brought into the telegraphic circuit.

2. Cheapening the price would vastly enlarge the business of telegraphing, and such increase would insure method and facilities and courtesies commensurate with the public demand. Besides, one established route, controlled by

Government and thrown open to the public at minimum rates, would go far to insure reduction in telegraph extortion everywhere. It would both establish a fair scale of charges and hold up a threat that would give public opinion some control over consolidated lines that now have it all their own way.

3. The monopolies that now control the dissemination of news to the public press by controlling the lines would be broken up and newspaper enterprise would be thrown open to the whole country instead of being concentrated in the hands of a few journals in the city of New York. Moreover, it would then be possible, which now it is not, to supply the country at its great commercial centers with a correct abstract of the proceedings of Congress at a trifling cost and with infinite advantage to the nation.

4. Government would not only save all the present annual cost of telegraphing connected with all its Departments, which amounts to a vast sum in the aggregate, but the great modern method of transmitting intelligence would be brought into harmony with the public interest, for now the policy of the companies, confederated as they are, lies in high rates for a limited business, whereas then it would be the reverse, or cheap rates with the greatest possible extension of intercourse.

5. The certainty, fullness, and variety of special dispatches would rival the written correspondence of the press, for that correspondence could go as cheaply by telegraph as by post, and the country would no longer be daily demoralized by the simultaneous issue all over the land of an associated dispatch that is a travesty of the truth, and that is liable to be used for interested and sinister purposes to rig the markets or corrode the conscience of the nation.

Mr. President, against all the obvious policy why this extension of telegraph facility to the public by cheap postal lines should be adopted, there are urged only these two reasons: that the amounts invested by individuals in such enterprise would be thereby much impaired if not destroyed; and that it is always best to leave such matters to spontaneous or individual competition, affirming that the post office itself would be more cheaply managed in private hands.

To the first, I will only say that whenever the Government shall begin the construction of telegraph lines it will be time enough to ascertain truthfully the losses that individuals may thereby sustain, or it may avoid all contingent damage by buying out present lines from time to time at reasonable rates.

To the second I respond that there is no competition now in the telegraph system, and cannot be any unless the Government interposes. It is perhaps known to many that almost the whole of the telegraph lines are consolidated into ostensibly two giant concerns, the "Western Union" covering the western lines, the "American Telegraph Company" covering the eastern. It is said, however, that the large stockholders own into each to such an extent as to make them virtually one, and one that rules despotically, precludes all lateral connections, fixes its own tariff, and, according to the authority of Mr. Prescott, will let no one but the Associated Press, another giant monopoly, send any special dispatch or news to any paper except from Washington and Albany. As these two companies do not traverse each other's ground, as the Associated Press monopolizes both, there is no benefit of competition here, which is the only ground on which the claim for leaving the telegraph to private enterprise is reposed. It is sealed against it as much as Brigham Young's heaven against a rebellious wife. Now, mark the result. It was estimated in 1861 that there were fifty thousand miles of telegraph in the United States, of which perhaps thirty thousand miles were in the loyal States. These thirty thousand miles, at $62 80 per mile, would have cost $1,884,000. There has, perhaps, been no very extensive addition made since then, except the line to the Pacific, say two thousand miles, which even at an enhanced price of say $150 per mile would have cost $300,000. This gives a total of little more than $2,000,000, yet, if report be true, this is expanded into what is represented as a fifty million capital stock, on which the most enormous dividends are paid, or may be paid, as I shall presently show.

Mr. President, I do not profess to be an expert in telegraphic matters, and therefore for illustration I must refer to an authority that will not be questioned. I hold in my hand the latest and fullest publication on the subject, being a work by George B. Prescott, Superintendent of the Electric Telegraph lines, published in Boston in 1860. Its statements are very exact and may be relied on. I wish to show therefore what the cost of construction of these lines is. On page 270 he gives the following as the price of materials used and expense of erection per mile:

No. 9 iron wire, 7¾ cents per pound, 320 pounds per mile	$24 80
30 posts at 80 cents	24 00
30 insulators at 20 cents	6 00
Setting posts per mile	5 00
Putting up the wire	2 00
Total cost per mile	$61 80

This is about the cost of construction of a majority of our lines. If additional wires are added each wire put up would be per mile $32 80.

The cost of instruments, batteries, &c., is as follows:

Morse register	$30 00
Morse relay magnet	15 00
Key	4 00
Local battery	3 00
	$52 00

Now, let us see what the cost of a line of telegraph, with say six wires, from Washington city to New York, that is, 240 miles, would amount to at those prices:

240 miles of line at $61 80 per mile	$14,832 00
5 additional wires at $32 80 per mile each for 240 miles	39,360 00
100 cells Grove battery at $1 50	150 00
50 stations at $52 each for apparatus	2,600 00
	$56,942 00

Telegraphs properly constructed, the timber well prepared and wire protected, will last for twenty years. It may be fairly set down, then, that a net profit of ten per cent. would more than cover repairs and reimburse outlay to the Government.

Ten per cent. profit on cost of construction,	$5,694 20
Salaries of operators at Washington city	9,000 00
" " New York	9,000 00
Incidental expense, stationery, &c.	2,000 00
Total expense per annum	$25,694 20

Government already having offices, furniture, help, &c., and it being believed that way stations will support themselves by their local business, this estimate is confined to the operation of a through line.

Of the capacity of such a line to transmit messages it may be said that much depends on the instrument used—more, however, on the skill of the operator. Thus the work of Mr. Prescott states that the "Bain" instrument will transmit over five thousand words an hour, the "House" three thousand words, the "Combination" system two thousand words, and the "Morse" about the same. The "Combination" is the system now in general use, and, to use his own language—

"An ordinarily expert operator can easily transmit two thousand words an hour by it, and those well skilled much more. Mr. Barret, one of the Boston operators, has sent news for the press at the rate of twenty-eight hundred words an hour partly abbreviated, and at the rate of twenty-five hundred when printed in full."

The capacity of a line such as that from Washington city to New York, with six wires and working only half the time, or twelve hours, at an average speed of two thousand words, may be thus set forth:

$6 \times 12 \times 2{,}000 \times 365 = 52{,}560{,}000$ words per annum.

It becomes evident, therefore, that this number of words, fifty-two million five hundred and sixty thousand, divided into the minimum cost of operating the line, $25,694 20, will give the charge per word at which the Government could do the public telegraphing without loss. This division results in about one twentieth of a cent a word, or twenty words for a cent, or sixty words for three cents, the cost of a postage stamp. The average of business letters, however, will not exceed sixty words, so that from this simple calculation it will appear that the telegraphic charges on ordinary commercial correspondence may be made as inexpensive as the present postal rates. In other words, the post office on wire will be cheaper than the post office on rail.

Take another view of this subject in connection with the same data. Compare what might be the low price and vast diffusion of telegraph facilities with the high rates and close monopoly that now obtains. Recall the figures illustrating the cost of construction and operating a line from New York to Washington:

Cost of construction, $56,842; operating expense per annum $25,694 20; capacity of transmission yearly, 52,560,000 words.

Those fifty-odd million words, at the advertised rates put up in the offices, that is, from Washington city to New York city, seventy-five cents for the first ten words and six cents a word for every subsequent one, would give $52{,}560{,}000 \times 6 = \$3{,}153{,}600\ 00$, or more than three million dollars net income on an investment of less than eighty thousand dollars cash. I submit whether the public have not a right to be protected by the Government against so enormous a taxation on its rightful postal facilities, for telegraphs are nothing else. It is believed that the enormous increase of business that would result from reducing the price by post office telegraph lines to a minimum would keep all such lines worked to their full capacity. On the other hand, it is admitted that the present lines are not worked to their full capacity, and do not get returns so disproportionate as those just shown because theirs is a policy of limited business and high charges.

In conclusion I have only to remark that as the expiration of the patents which cover the principal instruments used will soon occur, 1868 I believe, and as the modes of transmission now meet the requirements of the postal service—printed dispatches by the "House" system, facsimile of handwriting executed by the Bakewell copying telegraph, and combination cipher writing, so that even the operator cannot read it—by those processes so much developed during the war there is no execuse for reluctance in the Post Office Department to avail itself of the present opportunities and keep up with the spirit of the age.

Mr. President, I do not anticipate that there will be any objection to this resolution. It is simply a resolution of inquiry asking for information from the Department, and I therefore trust that it will be put on its passage.

The resolution was agreed to.

POST OFFICE APPROPRIATIONS.

Mr. SHERMAN. The Committee on Finance, to whom was referred a joint resolution for the transfer of funds appropriated for the payment of salaries in the Post Office Department to the general salary account of that Department, have instructed me to report it back and recommend its passage. It is a matter that will excite no debate, I imagine, and to which there will be no objection. I think it might as well be passed now.

There being no objection, the joint resolution (S. R. No. 29) for the transfer of funds appropriated for the payment of salaries in the Post Office Department to the general salary account of that Department, was considered as in Committee of the Whole.

The amendment previously reported by the Committee on Post Offices and Post Roads was to strike out the words "Congress as per," in line five; so as to make the resolution read:

Resolved, &c., That the unexpended balances on the books of the Treasury Department, from the respective sums of money appropriated by different acts of Congress, for the salaries of Postmaster Gen-

eral, Assistants Postmaster General, clerks, temporary clerks, additional clerks, messengers, watchmen, laborers, and superintendent and clerks of the money-order system, including the amounts appropriated for the payment of twenty per cent. increase of certain salaries, (all of the same being appropriations made by Congress for the Post Office Department,) may be transferred on the books of the Treasury Department from the respective headings under which they are now placed, to the credit of the Post Office Department, to the general salary account of funds placed to the credit of the Post Office Department.

The amendment was agreed to.

Mr. SHERMAN. There is a letter from the Secretary of the Treasury explaining the necessity of the joint resolution, which may be read if any Senator desires it.

Several SENATORS. There is no objection to the resolution.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in. The joint resolution was ordered to be engrossed for a third reading, and was read the third time, and passed.

ADJOURNMENT TO MONDAY.

On motion of Mr. GRIMES, it was

Ordered, That when the Senate adjourns to-day, it be to meet on Monday next.

PACIFIC COAST RAILROAD.

Mr. CONNESS. I move to postpone all prior orders and take up for consideration Senate bill No. 133.

The motion was agreed to; and the bill (S. No. 133) granting lands to aid in the construction of a railroad and telegraph line from the waters of the bay of San Francisco to Humboldt bay, in the State of California, was considered as in Committee of the Whole.

The Committee on Public Lands reported the bill with amendments. The first amendment of the committee was in section one, line three, after the word "that" to insert the following names of persons as commissioners under the bill:

S. G. Whipple, George Noble, James W. Henderson, Charles Minteron, Daniel Lobdel, George Yost, W. D. Miller, Benjamin Schenk, Joseph Woods, E. L. Goold, Samuel F. Butterworth, L. L. Robinson, J. P. Robinson, George A. Youle, John M. Carter, George Field, C. H. Kenney, Frederick Graffe, Lewis Cooper, Robert Grantz, J. B. Watson, S. G. Whipple.

Mr. CONNESS. I move to amend the amendment by striking out the last name. It appears in two places.

The PRESIDENT *pro tempore*. If the name appears twice, it is a clerical error and the last name will be stricken out. The question is on the amendment of the committee.

The amendment was agreed to.

The next amendment was in section one, line twenty-seven, to strike out the word "parties" and insert "corporation."

The amendment was agreed to.

The next amendment was in section three, line four, to insert the words "railroad and" before the word "telegraph," so as to read:

That there be, and is hereby, granted to the Pacific Coast Railroad Company, its successors and assigns, for the purpose of aiding in the construction of the said railroad and telegraph line, &c.

The amendment was agreed to.

The next amendment was in section three, line nine, to strike out the word "twenty" and insert ten;" so as to read:

To the amount of ten alternate sections per mile on each side of said railroad lines, &c.

The amendment was agreed to.

The next amendment was in section three, line twenty-one, to strike out the word "forty" and insert "twenty;" so as to read:

Other lands shall be selected by said company in lieu thereof on the line of said road or its branches within twenty miles of the same, &c.

The amendment was agreed to.

The next amendment was in section three, line twenty-four, to strike out the word "forty" and insert "twenty."

The amendment was agreed to.

The next amendment was in section three, line twenty-five, after the word "provided," to strike out the following words:

That all lands containing gold and silver be, and the same are hereby, excluded from the operations of this act, and in lieu thereof a like quantity of unoccupied and unappropriated agricultural lands in odd-numbered sections, nearest to the lines of said road, may be selected as above provided: *And provided further*.

So that the proviso will read:

Provided, That the word "mineral," when it occurs in this act, shall not be held to include iron or coal.

Mr. CONNESS. That is simply a repetition, and occurs in another place in the bill.

The amendment was agreed to.

The next amendment was in section four, line six, to strike out the word "twenty" and insert "ten;" so that it will read:

And if it shall appear that ten miles of said road and telegraph line have been completed in a good and substantial manner, and in all respects as required by this act, the commissioners shall so report to the Secretary of the Interior, and patents of lands, as aforesaid, shall be issued to said company.

The amendment was agreed to.

The next amendment was in section four, line seventeen, after the word "completed" to insert the words "and within the limits prescribed in section three of this act;" so that the clause will read:

Then said company shall have a right to select such lands on the lines of said road so constructed nearest to the section of said road so completed, and within the limits prescribed in section three of this act.

The amendment was agreed to.

The next amendment was in section four, lines eighteen and twenty-three, to strike out the word "twenty" and insert "ten."

Mr. CONNESS. That is to make the bill conform to previous amendments.

The amendment was agreed to.

The next amendment was in section five, line thirteen, after the word "rates," to insert "to the Government of the United States or their authorized officers or agents," so that the proviso will read:

Provided, That said company shall not charge higher rates to the Government of the United States or their authorized officers or agents than they do individuals for like transportation and telegraphic service.

The amendment was agreed to.

Mr. POMEROY. In the next section, section the sixth, a slight amendment should be made in order to make it conform to and be in harmony with the rest of the bill. The word "forty" in the third line should be stricken out and "twenty" inserted. I move that amendment.

The PRESIDENT *pro tempore*. That change will be made if there is no objection, to make the bill consistent with itself.

Mr. FESSENDEN. I desire to inquire whether the resolution proposing a constitutional amendment, which has been under discussion for some time, is not now in order, at the expiration of the morning hour.

The PRESIDENT *pro tempore*. The morning hour has expired, and it becomes the duty of the Chair to call up the unfinished business of the last session.

Mr. POMEROY. We can dispose of this in a minute.

Mr. CONNESS. I suggest to the Senator from Maine that it will occupy but a moment to go through with the amendments of the committee, and I hope that will be permitted to be done. I shall not ask to consume any more time than will be sufficient for that purpose.

The PRESIDENT *pro tempore*. The Chair will proceed with the amendments reported by the Committee on Public Lands to this bill; and the joint resolution to amend the Constitution will be laid aside temporarily for that purpose.

Mr. FESSENDEN. Let it go over informally.

The next amendment reported by the committee was in section seven, line seven, to strike out the word "twenty" and insert "ten."

The amendment was agreed to.

The next amendment was to strike out the tenth section of the bill, in the following words:

SEC. 10. *And be it further enacted*, That said Pacific Coast Railroad Company, or any part thereof, shall be a post route and military railroad, subject to the use of the United States for postal, military, naval, and all other Government service, and also subject to such regulations as Congress may impose, restricting the charges for such Government transportation.

The amendment was agreed to.

The PRESIDENT *pro tempore*. That completes the amendments proposed by the Committee on Public Lands.

Mr. POMEROY. We have stricken out one section, and perhaps it may be necessary to move that the sections be renumbered.

The PRESIDENT *pro tempore*. That is a clerical correction which will be made without amendment.

Mr. POMEROY. Very well.

REPRESENTATION OF SOUTHERN STATES.

The PRESIDENT *pro tempore*. The joint resolution (H. R. No. 51) proposing to amend the Constitution of the United States being the unfinished business of the last day's session, is now before the Senate as in Committee of the Whole, and the Senator from Nevada [Mr. NYE] is entitled to the floor upon it.

Mr. FESSENDEN. I ask the Senator from Nevada whether he will not give way for a motion which I propose to make, and of which I gave notice on Wednesday. I desire to move to take up the concurrent resolution from the House of Representatives. I understand the Senator to give way for that purpose, and I move, therefore, that the further consideration of this joint resolution be postponed, and that we proceed to the consideration of the concurrent resolution of the House "to prohibit the admission of Senators and Representatives into either House of Congress from the States lately in rebellion until Congress shall have declared such States entitled to representation."

Mr. SHERMAN. Mr. President, I rarely desire to differ with any one, especially among my political friends, in regard to a question as to the order of business; but I do think that this is a question that ought not to be taken up at the present moment. The resolution, although very brief, has just been laid upon our table. It was introduced on the day preceding the day before yesterday in the House of Representatives, the day the veto message was under consideration here, and was passed under great excitement. It is sent here and is about to be discussed under a condition of like excitement. No man can deny that this is our condition. Every man feels in the atmosphere around him and in the circumstances and events that are transpiring every day that the public mind, even the mind of the Senate, is not in that sober, deliberate tone which is necessary for the discussion of grave questions like this. Now, the proposition is made by the honorable Senator from Maine to postpone all the business of this great nation, including a constitutional amendment reported by himself, and which he at the outset declared to be among the most important acts of legislation, a constitutional amendment regulating the basis of representation—it is proposed to postpone that amendment and all pending measures for the purpose of considering this resolution.

Mr. President, what is the character of this resolution? It is simply a declaration of political opinion. It will have neither the form nor the sanction of law. It is not in the shape of or intended to operate as a law. It is not to be submitted to the President for his constitutional approval. It is a concurrent declaration of political opinion, introduced and passed in the other House in the midst of excitement, and we are called upon to pass on it while the public mind and while we ourselves are more or less affected by the surrounding circumstances. Now, I appeal to Senators whether it is not better and wiser to allow this matter to lie over for a few days. Is the mind of any one here likely to be changed by a little delay? Is it not a proper occasion for us at least to postpone this for a little reflection and for a little consideration?

The honorable Senator from Maine, the day before yesterday, on introducing this resolution, said it was the most important question that could be presented to Congress, and I believe he said the most important question that

had ever been presented to Congress. It is the assertion on the part of Congress of the power to pass upon the condition of the reconstructed States. I do not doubt or deny that power. But is it not wiser for us to exercise that power, and not to pass resolutions that we have it? Why do we not exercise that power? By the passage of the constitutional amendment, we were about to exercise that power in the highest and most important way. By the passage of that resolution, reported from the same committee—a resolution that met my concurrence—we were about to exercise that power in the most important way, by submitting to the Legislatures now in session a constitutional amendment to change the basis of representation, so as to remove the anomaly of allowing rebel States an increased political power in Congress. When the Senator introduced that proposition he told us that twenty Legislatures were in session; that there was occasion for immediate action. We might pass that constitutional amendment, or at least get the sense of the Senate upon it, in two or three days.

Now, is it not wiser to go on and conclude what has been so long discussed rather than to take up this new political issue? In my judgment it is, and I think that we ought not to postpone all the important business now pending in Congress for the purpose of getting into a political controversy and a political wrangle between the President and Congress. That upon this question there is a broad and deep and marked difference between Congress and the President we all know. Why, therefore, hurry the discussion of it? Why not wait for reflection and for consideration? Does the Senate lose by this course? Not at all; and although I have no doubt that my voice will not be sufficient in this matter to prevent the immediate consideration of this resolution, at the same time I must, as one of the Senators from the State of Ohio, express my deliberate opinion that it would be wiser and better for us to postpone the consideration of it for a few days at least, and go on with the regular order of business, and act upon the constitutional amendment now pending after it has been so long debated in this body. I therefore shall vote against taking up this resolution now.

The Senator from Maine can under the rules (his committee having the power to report at any time) move to take up the resolution at any moment. Why take it up now and deliberate upon it now? Suppose you pass it, what difference will it make? It will be simply the assertion of a power that has been asserted by the Senate over and over again. I am told that the Judiciary Committee at the very last session reported substantially the same resolution almost unanimously. The power has been asserted and a proposition similar in character has passed the Senate. What do you gain, therefore, by entering into a long political discussion upon this subject now, when the opinion of the Senate has been already expressed on the same proposition?

There is no good that can arise from the immediate discussion of this question; and, Mr. President, suppose we now assert that no man shall be admitted as a member of the House of Representatives from the State of Tennessee until the Senate consents to it. What then? Suppose a change should occur in the House of Representatives, and a majority of that House should decide, according to their constitutional right to decide, that a given person was entitled to come in and sit as a member of the House of Representatives, would they regard the decision of the Senate upon a question of that kind? We know they would not. Each House is the judge of the election, returns, and qualifications of its own members, and this declaration, however it may be true as a question of law, will practically amount to nothing at all. It will not prevent either House, whenever it chooses, from acting on this question, and it will only create a political issue, a political division between the President of the United States and Congress that is in my judgment broad and wide enough without irritating it by useless and needless controversy.

As I said before, I do not expect that my voice will be heeded in this matter; yet I cannot withhold the expression of my opinion given already to several Senators privately, that we had better allow this question to lie upon the table for a few days and go on with the ordinary business of legislation as if nothing had occurred. Let us proceed with self-reliance, and at the proper time and in the proper mode, after we have disposed of other pressing questions now resting upon us, we may vote upon this assertion of our right to pass upon questions of reconstruction.

Mr. FESSENDEN. Mr. President, so far as I am individually concerned, I should be very willing, and perhaps I might be very glad, to have this matter go by for the present and be taken up at some future day. But, in the first place, I gave notice on Wednesday that to-day, after the expiration of the morning hour, I should consider it my duty to call up this resolution. I have done so in accordance with the suggestion I then made. I should not have done so had I not believed that it was of the first importance that we should proceed at the very earliest moment to consider it.

Sir, the honorable Senator from Ohio designates this as getting up a political wrangle with the President of the United States.

Mr. SHERMAN. I think I did not use the word "wrangle."

Mr. FESSENDEN. I beg the Senator's pardon; he did.

Mr. CONNESS. That was the word.

Mr. FESSENDEN. Yes, that was the word. He says we are getting up a political wrangle with the President of the United States. When the President of the United States tells Congress that it is transcending its proper limits of authority, that it has nothing to do in the way of judgment upon the great question of reconstructing the rebel States, and Congress assumes to express its own sense upon that question, I think it is hardly a proper term to apply to such a state of things. I am not aware that there has been any effort anywhere to get up a political wrangle or engage in a political wrangle with the President. Certainly I have not. No man has ever heard me speak of him except in terms of respect, in my place here and elsewhere. He is the Chief Magistrate of this nation, properly elected and qualified, and I treat him on all occasions as such. I am not sensible myself of any excitement that would prevent my speaking upon this question precisely in the style which I deem it deserves. I am not carried away by passion. I have reflected, and I am ready to express my opinion upon the great question at issue; and the Senator will allow me to say that, in my judgment, the sooner the judgment of Congress is expressed the better.

He talks about important business to be done by this Congress. Sir, is there anything more important than to settle the question whether the Senate and the House of Representatives of the United States have or have not something to say in relation to the condition of the late confederate States, and whether it is proper to admit Senators and Representatives from them? If the President is right in his assumption—for the assumption is a very clear one—that we have nothing to say, we ought to admit these men at once, if they come here with proper credentials, and not keep them waiting outside the door. If we are assuming power that we do not possess, if we are placing ourselves in the way of the reconstruction of the Union by assuming an unconstitutional authority, it is very unbecoming in us to extend the time and keep men from their proper seats in this body and in the other branch of Congress week after week and month after month when they should be here to-day. On the contrary, if we have something to say about it, it is proper, in my judgment, that we should assert our power before the country, and that we should assert it before we proceed to act upon the constitutional amendment which is before this House, and which is intimately involved with the very question now under consideration.

Sir, this is all that I have to say on the subject. I do not know how gentlemen around me may feel. They may be in a state of excitement and wrath which prevents their speaking and acting calmly. For me, I am too old a man not to be able to get over excitement of that sort, at any rate with one night's sleep, and we have all of us had that. My friend from Ohio is a much younger man than I am, but I think that if I put the question to him, to judge from the speech he has made, he would not admit that he was laboring under such intense excitement as not to be able to speak in becoming terms on this question, if he speaks at all; and if that is the case with him, one of the youngest members of the body, I take it those of us who are gray-headed and bald-headed can very readily keep ourselves calm and conduct ourselves with equal propriety. This matter is for the Senate to decide. I feel no personal interest in the decision. Whether the resolution is taken up to-day or to-morrow or the next day or any day, makes no difference to me. I only express my opinion; and I close as I began, by saying that so far as I am individually concerned I would willingly be spared from the necessity which I shall be under of making more extended remarks on this question if it comes up. The Senate will do as it pleases with it. I have done my duty.

Mr. SHERMAN. I have but a word to say in reply to the honorable Senator from Maine. I do not remember to have used the word "wrangle." He says I did, and probably I did, for no doubt he is more correct on that point than myself. I would not purposely apply that word to any deliberation of the Senate, and I hope never to have occasion to apply that word to any deliberation of the Senate. In my judgment, the events that transpired yesterday are too fresh in the mind of every Senator not to have had some influence upon him, and I think it as well to allow the influence of those events to pass away. I do not wish now myself, nor do I wish any Senator here, to reply to what was said yesterday by the President of the United States. I would prefer that the Senate of the United States, the only legislative body which can deliberate fully and freely without any limitation on the right of debate, should deliberate, reflect, and act calmly after the excitement of the events of the last two or three days has passed off. The Senator says that he is not under excitement. Probably he is not; but the public mind is excited, and the words that are uttered in the Senate in debate this day may not be uttered with that deliberate care with which the subject ought to be discussed when it is taken up for final action. A little delay can do no harm, it may do good.

The Senator says that no question can be so important as this. Sir, in my judgment, no question can be very important which can lead to no practical results. The true test of the importance of every measure is what good will result from it. No good will result from this discussion, and the passage of this resolution will attain no practical end that has not been already attained by previous discussions and previous resolutions. The only objection I have to the repetition of the judgment of the Senate on this question is that the proposition is brought before us under peculiar circumstances so as to deny us that moderate deliberation that ought to be given to every question brought before the Senate of the United States. It is a part of the history of the country that this resolution, reported in the House of Representatives, I believe, on the very day that the veto message was read at this desk, was passed there without debate under the feelings created by that veto message. It was passed there after scenes of great excitement.

Mr. FESSENDEN. The day after the message.

Mr. SHERMAN. But it was passed under the previous question and without debate, under the excitement produced by the veto message, and at the very time we were here dis-

cussing that message, and about the time we were taking the vote upon it; and it is sent to us, and we are asked to consider it at once, and for that purpose to put aside all the business of this body, all the pending questions, including among others a constitutional amendment which the Senator told us it was necessary should be acted upon promptly, in order that it might be sent to the State Legislatures now in session. It seems to me that it would be showing excitement and hasty irritation on the part of the Senate to postpone all its legislation and take up this political declaration and act upon it. The very fact that we do so under this unusual pressure, setting aside everything else and engaging in a political question, a question of political power, shows that the Senate is under a state of excitement. It is unusual—not unprecedented probably, because political excitements have existed heretofore; but it is unusual for the Senate to act in this manner.

I say then, sir, that I can see no good, but much harm that may result from precipitating us immediately into the debate upon this resolution. I would prefer, therefore, that the question should go over for two or three days. I do not know that that delay will change the vote of any one here. I presume that it will not, for upon this question most of us have, no doubt, formed or expressed our opinions, because this is not the first time it has been presented; but the very fact that we are now urged to repeat this declaration of our power to act on the question of reconstruction under the circumstances by which we are surrounded, shows that those circumstances of excitement have induced this resolution; and we are called upon to act on it, debate it, and vote upon it under a state of excitement which, if the Senator does not feel, this whole country now feels. The Senator will have the power at any moment to call up the resolution, and I hope it will be allowed to lie on the table for the present.

Mr. HOWE. Upon the question whether this is a more important measure than the one the Senate has previously considered, I have nothing to say. I have no opinion about that. I believe both of these measures come from the same committee; and I supposed as an individual we might safely trust the chairman of that committee as to which was the measure most important to be considered first.

But upon the question raised by the honorable Senator from Ohio, that we ought not to proceed to the consideration of this measure now because the Senate is incapacitated from considering it properly and calmly, I have a very decided opinion. If there be passion and excitement in the country at this present time, I do not hold myself as an individual responsible for any share of it; and I am here to say that if I know myself—and if I do not know myself nobody about me knows me—I am as competent to consider this particular question to-day as I was the day before yesterday or last week, and, so far as my judgment informs me, quite as competent to consider it as I expect to be next week or the week after.

Let it be borne in mind, sir, that the proposition to proceed to the consideration of this particular measure does not emanate either from the honorable Senator from Maine or from any one else in consequence of anything that was said in this city or elsewhere yesterday. Before any of the events of yesterday transpired, the Senate had been distinctly notified that it would be asked to-day at this very hour to proceed to the consideration of this very question. I do not know what happened yesterday, or at any other time since that notice was given, which should authorize the Senator from Maine, the chairman of the joint committee, to say that he could not proceed with the business as he had marked it out in his own mind and as he had notified the Senate he should wish to proceed with it. I do not think the Senator from Maine was authorized to throw the imputation upon the Senate that he could not ask them to-day to proceed with the consideration of a measure which on the day before yesterday he said he should wish them to proceed to the consideration of to-day.

I know there were some peculiar events which transpired yesterday. I know that the President of the United States, to whom the Senator from Ohio has alluded, did use language which sounded to me as if he were inclined to deny to the Senate of the United States certain prerogatives which I think they have. The President may be right, and by his word may have succeeded in convincing the Senate or the country that the Senate does not possess the character which it thought it possessed. I am as sure as I am that I live that nothing was found in the remarks of the President yesterday or at any other time, which has taken from me the character of an individual Senator. If I ever was fit to deliberate in this body, I am to-day. I know that. And when the Senator from Ohio asks me to vote against proceeding to the consideration of any measure, either because I distrust my own fitness to consider it, or distrust the fitness of my associates about me, I must respectfully decline, not because I care particularly whether we take up this measure to-day or another day, but because I ask the Senate to vindicate their own course as individual men and to say that they are not to be swept from the seat of judgment by what is said, or can be said, by the first magistrate of the nation, or by the lowest and the last magistrate of the nation. That is all I have to say.

Mr. DOOLITTLE. Mr. President, there was one remark which fell from my honorable friend from Maine, and was substantially repeated by my colleague, which I am not willing to let go without any remark by way of reply. I understood the honorable Senator from Maine in substance to say that the President of the United States seems to deny to Congress the right to judge not only upon the qualifications and elections of members, but upon the right of representation on the part of States or of districts in the Senate or House of Representatives.

Mr. FESSENDEN. The Senator misunderstood me.

Mr. DOOLITTLE. I do not by any means infer any such thing or understand any such thing from any language which has ever fallen under my observation coming from the President of the United States; and I now refer particularly to his veto message and to what has been reported as having been said by the President yesterday. Sir, I understand the present President to state precisely what the former President, his predecessor, stated in his proclamation upon this subject; that is to say, that Congress is to judge, each House for itself, upon the elections, returns, and qualifications of its members. But there are gentlemen who say that this, which is the language of the Constitution itself, is confining Congress simply to judge upon the regularity of an election or the qualifications of individuals who may be elected. Not so, sir. In the House of Representatives the people are represented by districts, districts comprising about one hundred and twenty thousand population in each district; in the Senate of the United States the States, as such, are represented, and each State has an equal representation in this body. Now I undertake to say that under this power, which the Constitution gives to each House, the Senate can judge for itself not only of the regularity of the election of a Senator or the qualifications of a Senator, but that the Senate has power to judge of the condition of the State, whether it is in a condition to choose a Senator or not——

Mr. TRUMBULL. I rise to a question of order. I call to order the Senator who objects to taking up a resolution and is proceeding to discuss its merits. The Senator who objects to considering a resolution is not permitted to discuss its merits, and I call him to order.

Mr. DOOLITTLE. Mr. President, I am simply replying to the remark of the Senator from Maine, as I understood it, and of my colleague, who assumed to say that the Chief Magistrate had denied to this body the right to judge whether the States are entitled to representation——

Mr. TRUMBULL. I insist on the question of order.

The PRESIDENT *pro tempore*. The Chair intended to decide the question of order as soon as the Senator from Wisconsin had finished his sentence.

Mr. TRUMBULL. I called him to order, and according to the rules he must stop his remarks until the question of order is decided.

The PRESIDENT *pro tempore*. The Senator from Illinois makes the point of order that on a motion to postpone a measure before the Senate and take up another, it is not in order to debate the merits of the subject proposed to be postponed, or the merits of the subject proposed to be taken up. Such is the rule. It is sometimes, however, very difficult for the Chair to distinguish between what is allowable to Senators in debate, and what is not. It being allowable to give reasons for or against the postponement or the taking up, it is sometimes difficult to do so without, to some extent, running into the merits of the question; and, therefore, the Chair is always disposed to allow a little more liberty, perhaps, than a strict application of the rule would warrant. The Chair thinks that the discussion is going beyond the rule, and he thinks that, if called upon, he must decide that the questions about which Senators are debating are not legitimate on the motion now before the Senate.

Mr. JOHNSON. I rise, Mr. President, merely for the purpose of asking if there is any difference in the application of the privilege which the rule gives to a member who proposes to take up a question and the privilege which is allowed to him who objects to its being taken up. If there is no difference, I submit that my friend from Illinois ought perhaps to have raised his point of order when the honorable member from Maine was discussing in part the merits of the measure proposed to be taken up.

Mr. FESSENDEN. Will the Senator allow me a word?

Mr. JOHNSON. Certainly.

Mr. FESSENDEN. The Senator from Wisconsin undertook to say that I had imputed certain things to the President. I spoke of the President only in this manner: that in what I had to say in reply to the Senator from Ohio, I was not in a condition to prevent my speaking of him now, and on all occasions, with respect. I said nothing of what he had stated in one place or another. I stated simply that the question, in my judgment, was so and so, whether we had this right or whether we had not this right. I did not impute it to anybody that he had expressed a different opinion, but the honorable Senator from Wisconsin rises in his place and undertakes to reply to what he says the Senator from Maine imputed as a remark to the President when I imputed no remark of any kind to the President. Therefore I was not called to order.

Mr. DOOLITTLE. The Senator from Maine certainly has forgotten, I think, a portion of what he did say. I understood him most distinctly to state that he understood the President to assume that Congress had no power of judgment on this question of reconstruction and the right to representation by the States, and I understood my colleague substantially to state the same idea. Sir, I do not wish to go beyond the rules of discussion proper on taking up questions of this kind; but when it was stated thus as I understood—certainly I inferred that to be the substance of what was stated—that the President had assumed by what he had said or done to deny the right of judgment to Congress on these questions, I desired simply to state my opinion that they were mistaken; that nothing had fallen within my observation coming from the President which denies to Congress the right of judgment not merely upon the regularity of an election, not merely upon the qualifications of the person elected, but upon the other question whether the district

which sends a Representative to the other House or the State which sends a Senator to this body is or is not in a proper condition to elect one.

Mr. President, I do not wish to go into the discussion of the question any further than to state my opinion.

Mr. TRUMBULL. I desire to reply to the remark of the Senator from Maryland. He wished to know whether there was any difference between the latitude allowed to a person in discussing a question on a motion to take up a measure, whether he was in favor of taking it up or opposed to taking it up. I do not know that in point of law there would be any difference, but there would seem to be a little difference in the propriety of the thing at least. A person who wished to take up a measure might be supposed to be ready to discuss it; a person who was opposed to taking it up, as a matter of propriety and taste, it would be supposed, was not prepared to discuss it. I suppose in point of law there would be no difference in the rule; it would be out of order in either; but it seemed to me peculiarly inappropriate for a person opposed to considering a subject at all, to go on to make a speech about it.

Mr. JOHNSON. Owing, perhaps, to my want of acquaintance with the proprieties of legislative life, I cannot imagine how there can be any impropriety in enforcing a rule of the Senate; and as the honorable member admits that so far as the rule is concerned it applies as well to a member who proposes to take up as to a member who objects to taking up, and assuming that the merits of a proposition were in some way alluded to by my friend from Maine, [Mr. FESSENDEN,] and by my friend from Wisconsin, [Mr. HOWE,] it would have been, perhaps—and, no doubt, if it had suggested itself to the honorable member from Illinois he would have acted upon that impression—it would have been as well to have made the objection when they were alluding to the merits of the resolution. But the whole matter is now before the Senate; the member from Wisconsin [Mr. DOOLITTLE] has ceased to say what he had to say, and the Senate, I suppose, are in a situation to act. If the vote is to be taken, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. HOWE. I simply rise to correct a mistake into which my colleague fell. In rising to reply to some remarks which he says he understood the Senator from Maine made, he took occasion to say that he had understood me also to affirm the same thing. Whether the Senator from Maine said what my colleague attributed to him or not I am not prepared to decide. I can only say that my colleague was entirely mistaken if he understood me to assert anything of the kind. I said nothing about any assumption of the President of the United States; and being up for the purpose of correcting my colleague upon a similar point for the second time, I wish to say to him very kindly that I wish hereafter, when he sees fit to criticise anything which I say myself, he will direct himself to my language. I thought he undertook to destroy what little character I had some time ago by associating the Senator from Massachusetts [Mr. SUMNER] with me. [Laughter.] That seemed to me pretty rough, [renewed laughter;] but that he should follow up that attack by attempting to associate me with the Senator from Maine [Mr. FESSENDEN] is quite intolerable. [Continued laughter.] I hope I shall not have occasion to correct this habit again.

Mr. DOOLITTLE. Allow me to say to my colleague that nothing is more natural in the world than to associate him with my friend from Maine, because he was born in Maine and used to sit in the Legislature of that State with my friend from Maine. But I did really understand my colleague to say that he understood from what occurred yesterday and what had occurred previously that the President did in some way or other deny to the Senate the right to judge on this question. As my colleague disclaims anything of that sort, of course I must have been mistaken; but I inferred that from the remarks both of my colleague and of the Senator from Maine. I hope my colleague will take it as no offense that I associated him with the Senator from Maine.

The question being taken by yeas and nays, resulted—yeas 26, nays 19; as follows:

YEAS—Messrs. Anthony, Brown, Chandler, Clark, Conness, Cragin, Creswell, Fessenden, Foster, Grimes, Harris, Howard, Howe, Kirkwood, Lane of Indiana, Morrill, Nye, Poland, Pomeroy, Ramsey, Sumner, Trumbull, Wade, Willey, Williams, and Wilson—26.

NAYS—Messrs. Buckalew, Cowan, Davis, Dixon, Doolittle, Guthrie, Hendricks, Johnson, Lane of Kansas, McDougall, Morgan, Nesmith, Norton, Riddle, Saulsbury, Sherman, Stewart, Stockton, and Van Winkle—19.

ABSENT—Messrs. Foot, Henderson, Sprague, Wright, and Yates—5.

So the motion was agreed to; and the Senate proceeded to consider the House resolution.

Mr. FESSENDEN. Mr. President, I have already, in what I stated on Wednesday and this morning in the preliminary discussion, sufficiently indicated to the Senate my opinion of the importance of the resolution before the body; but as it has just been laid upon our tables in printed form I ask that it be read before I proceed.

The Secretary read the resolution, as follows:

Resolved by the House of Representatives, (the Senate concurring,) That in order to close agitation upon a question which seems likely to disturb the action of the Government, as well as to quiet the uncertainty which is agitating the minds of the people of the eleven States which have been declared to be in insurrection, no Senator or Representative shall be admitted into either branch of Congress from any of said States until Congress shall have declared such State entitled to such representation.

Mr. FESSENDEN. It was averred by the Senator from Ohio that we had previously acted upon resolutions similar in their character. I am not aware that we have. The resolution, it will be perceived, is nothing more nor less than a legislative assertion by both Houses of Congress that they will not proceed to act upon the credentials of members from any of the States which lately constituted the so-called confederate States until they have previously passed a law applicable to the condition of the States themselves. This, if you will allow me to say so, is in exact accordance with what Congress has indicated as its intention heretofore. It was indicated in the last Congress, and it was indicated in a resolution which came directly from the Committee on the Judiciary, of which the honorable Senator from Maryland [Mr. JOHNSON] was a member, and, as I am informed, with his concurrence, not as applicable to all the States, but as applicable to one of the States. It is before me in a few words, and I will read it. At the close of the report that was made to the Senate on the 18th of February to accompany joint resolution S. No. 117, on the subject of the credentials of members claiming seats from Louisiana, the last paragraph, which I will read, is:

"The persons in possession of the local authorities of Louisiana having rebelled against the authority of the United States, and her inhabitants having been declared to be in a state of insurrection in pursuance of a law passed by the two Houses of Congress, your committee deem it improper for this body to admit to seats Senators from Louisiana, till by some joint action of both Houses there shall be some recognition of an existing State government, acting in harmony with the Government of the United States and recognizing its authority."

Mr. JOHNSON. Is that the report of the 18th of February, 1865?

Mr. FESSENDEN. Yes, sir. Now, there is the principle laid down in so many words, and agreed to, as I understand, specifically by the honorable Senator from Maryland, whose authority we all acknowledge, that inasmuch as the State of Louisiana had been declared to be in a state of rebellion, and intercourse with it had been suspended by a law of Congress, therefore Congress could not properly admit members from that State, except in pursuance of a law of Congress providing for her peculiar condition—I do not pretend to repeat the exact language. When that resolution was introduced into Congress, did it occasion any discussion upon that principle or the propriety of its application? Was there any objection made to it here? Was there any objection made anywhere? Did not everybody recognize the propriety of that exact expression of opinion as applied to the proposition to admit Senators and Representatives from such a State? I was not here at the time, but I am informed that there was no discussion upon that particular subject, and no fault was found with the particular course that was thus indicated, so far, at least, as this principle was concerned.

How does it happen, then, that when a similar resolution is proposed, one applicable to other States that have been precisely in the like condition, there seems to be so much sensitiveness in the minds of gentlemen? How can it be accounted for that what was thought to be so proper as applicable to the State of Louisiana should be so improper as applicable to these other States? It is for gentlemen to answer.

Let us look a little further, and see what has occurred since that time, because I feel somewhat sensitive on this subject. Charges have been made with reference to the committee of which I have the honor to be a member that have somewhat affected my view of my own condition, and I feel compelled not only to vindicate that committee, but to vindicate the action of Congress with reference to it. Before proceeding further, although exceedingly averse to appealing to newspapers, yet as I learn from all quarters that what I send to the Chair is a correct statement of what was said on a recent occasion, I will ask the Secretary to read an extract which I have marked from a report in the Morning Chronicle of a speech made by the President of the United States to his fellow-citizens.

The Secretary read as follows:

"But, my countrymen, after having passed through the rebellion, and given such evidence as I have—though men croak a great deal about it now [laughter]—when I look back through the battle-fields and see many of these brave men, in whose company I was, in parts of the rebellion where it was most difficult and doubtful to be found, before the smoke of battle has scarcely passed away, before the blood shed has scarcely congealed, what do we find? The rebellion is put down by the strong arm of the Government in the field; but is that the only way in which we can have rebellion? They struggled for the breaking up of your Government; but before they are scarcely out of the battle-field, and before our brave men have scarcely returned to their homes, to renew the ties of affection and love, we find ourselves almost in the midst of another rebellion. [Applause.] The war to suppress one rebellion was to prevent the separation of the States, to prevent them from flying off, and thereby changing the character of the Government and weakening its power. Now what is the struggle? There is an attempt to concentrate the power of the Government in the hands of the few, and thereby bring about a consolidation which is equally dangerous and objectionable with separation. [Enthusiastic applause.] We find that powers are assumed and attempted to be exercised of a most extraordinary character. What are they?

"We find that Governments can be revolutionized, can be changed, without going into the battle-field. Sometimes revolutions, the most disastrous to the people, are effected without the shedding of blood. The substance of government may be taken away, while the form and shadow is still adhered to. Now, what are the attempts? What is being proposed? We find that, in fact, by an irresponsible, central directory, nearly all the powers of Government are assumed, without even consulting the legislative or executive departments of Government. Yes! and by resolution reported by a committee, upon whom all the legislative power of the Government has been conferred, that great principle in the Constitution, which authorizes and empowers each branch of the legislative department, the Senate and House of Representatives, to be the judges of the election and qualification of its own members, has been virtually taken away from those departments of Government and conferred upon a committee, who must report before they can act under the Constitution and allow members duly elected to take their seats. By this rule they assume that there must be laws passed, that there must be recognition in respect to a State in the Union, with all its practical relations restored, before the respective Houses of Congress, under the Constitution, shall judge of the election and qualification of its own members. What position is that? You have been struggling for four years to put down the rebellion. You denied in the beginning of the struggle that any State had the right to go out; you said that they had neither right nor power. The issue has been made, and it has been settled that a State has neither the right nor the power to go out of the Union; and when you have settled that by the executive and military power of the Government and by the public judgment, you turn round and assume that they are out, and shall not come in. [Laughter and cheers.]

"I am free to say to you, as your Executive, that I am not prepared to take any such position. I said in the Senate, in the very inception of the rebellion, that States had no right to go out, and that they had no power to go out. That question has been settled, and I cannot turn round now and give the lie direct to all I profess to have done in the last five years. [Laughter and applause.] I can do no such thing. I say that when they comply with the Constitution, when they have given sufficient evidence of their loyalty, and that they can be trusted, when they yield obedience to the law, I say extend to them the right hand of fellowship, and let peace and Union be restored. [Loud cheers.]"

Mr. FESSENDEN. It will be noticed, Mr. President, that in the extract which has been read there are very serious charges made. One is that there is an effort being made to concentrate all power in a few, and that that power is lodged in the hands of a sort of central committee, and the words which immediately follow furnish a sufficient indication of what the President meant. I think the President of the United States could hardly have considered with care the nature of the resolution under which we have been acting as a committee of this body; he could hardly have looked at its history, and hardly have understood its meaning. Let me read that resolution and state its history, for it is very singular that he should charge that all the authority of deciding upon the credentials of members of the House of Representatives and of the Senate has been taken from the House and the Senate and referred to this committee. The resolution, as it came from the House of Representatives originally, was in these words:

"That a joint committee of fifteen members shall be appointed, nine of whom shall be members of the House and six members of the Senate, who shall inquire into the condition of the States which formed the so-called confederate States of America, and report whether they, or any of them, are entitled to be represented in either House of Congress."

And then followed the words which I will now read:

"With leave to report at any time, by bill or otherwise; and until such report shall have been made, and finally acted on by Congress, no member shall be received into either House from any of the said so-called confederate States; and all papers relating to the representation of said States shall be referred to the said committee without debate."

That was the original resolution. When it came to be considered in the Senate it was not deemed very desirable at that time to interfere with those questions which might be said to belong to either House, and the last part of the resolution was stricken out, so that the resolution as it finally passed stood in this way:

"That a joint committee of fifteen members shall be appointed, nine of whom shall be members of the House and six members of the Senate, who shall inquire into the condition of the States which formed the so-called confederate States of America, and report whether they, or any of them, are entitled to be represented in either House of Congress."

What was that? Simply the appointment of a joint committee in this unexampled condition of the country, with a war of four years (in which eleven States had been engaged against the United States) just closed, after all the expenditure of blood and treasure that had been made in the country, at the first meeting of Congress which occurred after actual hostilities in the field had ceased—for what purpose? To inquire into the condition of those States and report whether they were entitled to representation. That simple provision for acquiring information in order to enable the House and the Senate to judge understandingly upon this important question affecting themselves has been represented by gentlemen and by newspapers as assuming authority which did not belong to Congress. I have nothing to say in this connection with reference to the President. I am speaking now of the complaints that were made of that resolution, a simple resolution to inquire into the condition of those States and report whether Representatives and Senators could be admitted from them. Sir, in this were we doing anything more than our duty? Was it not advisable? It was not a single question relating, as we understood it, to the credentials of members. It was believed that at the very foundation of the whole question of the admission of members lay this great point, whether the condition of those States was such as to render the admission of those members safe. I have had this extract from the President's speech read simply to show what everybody must admit with regard to it. The last paragraph of the extract that I sent to the Chair and had read, is this:

"I am free to say to you, as your Executive, that I am not prepared to take any such position. I said in the Senate in the very inception of the rebellion that States had no right to go out and that they had no power to go out. That question has been settled, and I cannot turn around now and give the lie direct to all I profess to have done in the last five years. I can do no such thing. I say that when they comply with the Constitution, when they have given sufficient evidence of their loyalty and that they can be trusted, when they yield obedience to the law, I say extend to them the right hand of fellowship, and let peace and union be restored."

So say I, and so say all. When they do that let these consequences follow. There is no difference on that point. The President himself, instead of saying anything different from us, says when they have complied with these conditions then they ought to be admitted. He himself in his speech makes that a preliminary to examining the question of credentials to see whether men come here properly accredited. Lest gentlemen on the other side should have failed to notice this sentence, let me read it again. It is peculiarly expressive:

"I say that when they comply with the Constitution, when they have given sufficient evidence of their loyalty and that they can be trusted, when they yield obedience to the law, I say extend to them the right hand of fellowship, and let peace and union be restored."

That, it seems, is a matter into which somebody has a right to inquire. I should like to know if the Congress of the United States have not a right to ask these very questions and be satisfied upon them before they admit men as Senators and Representatives in the several bodies which constitute Congress. If Congress have a right to inquire, (and I agree with the President entirely on the subject,) what have we done more than to inquire? When Congress appointed this committee with power to examine into the condition (for that is all there was of it) of these so-called confederate States and report whether they were in a fit condition to be represented by Senators and Representatives, what did we do more than simply to endeavor to carry out precisely what the President has laid down in his speech as preliminary to the admission of Senators and Representatives? I state this in order that the country may understand what all this noise has been about in reference to the appointment of this committee.

But the President undertakes to say that legislative power has been granted to this committee; that the power of legislation which Congress possesses—he calls it "the power of legislation"—over the question of the admission of Senators and Representatives has been passed out of the hands of Congress and given to a central power.

Mr. RAMSEY. "Central directory."

Mr. FESSENDEN. A central directory, which chooses to exercise this power. Sir, is this committee of fifteen anything more than the servant of Congress? Is any committee, either joint or special, which is appointed, anything more than the mere servant of Congress? Can any member of it, or the whole of it, set up its will for a single day or a single hour or a single moment against the will of the body which constituted it? We were appointed for a special purpose, to make inquiries, and report to Congress the result of our inquiries; and for what reason? What was the great reason? Simply that neither branch, acting without sufficient information, might take a course from which the other branch would differ, and thus bring about a collision between the two bodies which constitute the Congress. Under those circumstances, is it quite fair to designate the committee of fifteen as a central directory, as a power assuming to judge and to decide questions which belong to the bodies which the committee represents? Is it quite fair to designate it as a central power sitting here with a view to get up the government of a few against the government of the many? I can understand the allusion in no other way; and if any gentleman can place a different construction upon it, I should like to have him do so. I am unwilling myself, individually, to rest under such an imputation. I have the honor to be one of that committee. I never understood myself as anything but the servant of Congress, or of the body which sent me there, to endeavor to obtain information and to come to a conclusion upon which the body might act understandingly; and that we have not come to a conclusion yet, is only a proof that the question is a much larger one than gentlemen might have supposed, and involves more consideration and more examination than might possibly have been apparent to those who looked only upon the surface and judged only from what they could gather from common report.

If the Executive—and I mean to speak of the President with respect, because I entertain for him respect—has an idea that the several points which he has suggested are preliminaries to the admission of Senators and Representatives from these States, the question arises, who is to exercise that power of judgment? Does it belong to us, if a Senator presents himself here, to ascertain in the first place if those conditions have been complied with on the part of these States, or does it belong to him? The honorable Senator from Wisconsin [Mr. DOOLITTLE] undertakes to find fault with something that I think he will find I did not say. Probably he anticipated that I should say it.

Mr. DOOLITTLE. I thought you did say it.

Mr. FESSENDEN. It may be; but if so, I am very much mistaken. If I made a remark of that kind I have misconstrued the President; and that brings me to a short consideration of the veto message. I will say in regard to that message, that I had no very particular attachment to the bill which was thus vetoed. In some particulars it did not meet my approval. I think some of the reasons which the President gives for not approving it are such as would commend themselves to public consideration. It is a bill upon the provisions of which there might well be a very considerable difference of opinion. I yielded, however, the objections I had, and one of them was very much like that stated by my honorable friend from West Virginia [Mr. WILLEY] to the sixth section of the bill, because I thought on consideration that the power did exist, and it was especially necessary to exercise it, and the bill therefore received my vote. If the President had confined himself in the objections which he stated to a criticism of the bill itself, it is very possible that I might have been quite willing to waive my own feelings and opinions in regard to the bill as it passed, and to sustain his veto. But on looking at the veto message, and the reasons given in it, it struck me, that after passing from the consideration of the provisions of the bill which was sent to him, he gave other reasons which rendered it impossible, in my judgment, for any member of this Senate with a due respect to himself and to the rights of the Senate and of Congress, to vote otherwise than to sustain the bill they had sent to him; because a vote in the negative on the question of its passage seems to indorse all his opinions whatever they may be, as expressed in the veto message. I considered it so. At any rate, I did not mean to put myself in the position of indorsing, or being supposed for a single instant to give my assent to the closing parts of the veto message. What do I understand by the closing parts of that message? Simply that, in the judgment of the President, Congress, as at present organized, has no right to pass any bill affecting the interests of the late confederate States while they are not represented in Congress. Does the Senator from Wisconsin say that that opinion is not definitely expressed?

Mr. DOOLITTLE. Read the messege. I do not understand that to be the effect of what is said by the President.

Mr. FESSENDEN. I understand that to be the effect of it. I cannot understand it

otherwise. I wish I was mistaken. I do not say that he asserts we have no legal right to do it, but that we have no moral right. If the Senate will excuse me, I will read that portion of the message:

"I cannot but add another very grave objection to this bill. The Constitution imperatively declares, in connection with taxation, that each State shall have at least one Representative, and fixes the rule for the number to which, in future times, each State shall be entitled. It also provides that the Senate of the United States shall be composed of two Senators from each State; and adds, with peculiar force, 'that no State, without its consent, shall be deprived of its equal suffrage in the Senate.' The original act was necessarily passed in the absence of the States chiefly to be affected, because their people were then contumaciously engaged in the rebellion. Now the case is changed, and some, at least, of those States are attending Congress by loyal representatives, soliciting the allowance of the constitutional right of representation. At the time, however, of the consideration and the passing of this bill, there was no Senator or Representative in Congress from the eleven States which are to be mainly affected by its provisions. The very fact that reports were and are made against the good disposition of the people of that portion of the country is an additional reason why they need, and should have, representatives of their own in Congress to explain their condition, reply to accusations, and assist, by their local knowledge, in the perfecting of measures immediately affecting themselves. While the liberty of deliberation would then be free, and Congress would have full power to decide according to its judgment, there could be no objection urged that the States most interested had not been permitted to be heard. The principle is firmly fixed in the minds of the American people, that there should be no taxation without representation. Great burdens have now to be borne by all the country, and we may best demand that they shall be borne without murmur when they are voted by a majority of the representatives of all the people."

I do not contend that he says in so many words that we have no legal right to pass a bill; but the objection that he makes goes to the foundation, that no bill affecting the rights or the interests of the so-called confederate States shall be passed by Congress until Representatives and Senators from those States are permitted to take part in our deliberations. It follows necessarily, if that be a correct position, that in relation to those States which have been recently in rebellion, which have fought for four years against the Government and endeavored to overturn it, we can pass no law affecting them, or restraining them, or providing anything, no matter what, with reference to a change of the Constitution or anything else, until we admit their Representatives and their Senators upon the floor of Congress. I understand that to be the necessary inference. The President argues it; he states it argumentatively, to be sure, but then that is the inevitable result, that our moral right to legislate upon anything which affects their interests is gone; and particularly, that we have no power to pass any law or any rule or make any condition with regard to them, but that we are bound to take them just as they are upon their say so; and when they are here, acting with us, we may proceed to legislate. I decline to give my assent to any such proposition.

Mr. DOOLITTLE. I certainly do not wish to interrupt the honorable Senator in the course of his argument, but——

Mr. FESSENDEN. It is no interruption at all. I am perfectly willing to hear anything the Senator desires to say.

Mr. DOOLITTLE. I only rise now to state that I understand the force of that portion of the message to be a discussion of the propriety, not the power, of legislation. It is a question of propriety whether it would not be better, if loyal representatives are here, and the States are fit to be represented, that we should have them here and consult with them when legislating for their States.

Mr. FESSENDEN. But he makes that a ground for his veto; and if he can veto one bill upon that ground, he will and must, for the sake of consistency, veto every other bill we pass on that subject. Why is this in the message? What necessity was there for it in this message? The gentleman talks about the propriety of the thing. When the propriety of the thing is made a specific ground for refusing to sign a bill, that sense of propriety applies to every other bill that may affect the interests of those States; does it not?

Mr. DOOLITTLE. I do not understand that to be stated as a ground of the veto at all. You ask why it is there. He states it as an impropriety, in his judgment.

Mr. FESSENDEN. "I cannot but add another very grave objection to this bill." Is not that a ground of objection to the bill? That is the way the paragraph commences. If the President had given us a little friendly advice in relation to that matter, disconnected entirely with a statement of it as an objection to the measure under consideration, nobody would have received it with better nature and better grace than myself. I might not have acceded to his reasons, but I would have received them with all respect, and perhaps on some matters we should agree very much better than we would appear to do when he stands in the position of President vetoing the bill, and I in the position of a Senator commenting upon it. But my objection to it was just there; he makes the fact that Senators and Representatives have not been admitted from those States an objection to this bill; and while it stands so it is an objection to any bill, no matter what, that we may choose to pass, or anything that we may choose to do which by any possibility may affect the interests of those States. The gentleman cannot get rid of it or crawl out of it.

Striking me with the force that this position of the veto message did, whatever I might think of the President's other objections to the bill, and however I might treat them, that is one ground which rendered it impossible for me to yield my assent, by agreeing to waive my own opinions in reference to the measure itself, and to support his with a view to get something; because you see that goes to the very foundation. No bill, the Senate will perceive, touching a Freedmen's Bureau, no bill touching any other interest connected with the colored people, no bill touching anything that may affect the southern States, can in any way pass upon ground like that.

Let us go a little further, sir. I received the impression that the President really undertook to limit what I understood to be the powers of Congress in relation to this matter, and to show that I will read a little more of the message. After speaking on the subject of introducing legislation before admitting Senators and Representatives from these States into Congress, he says:

"I would not interfere with the unquestionable right of Congress to judge, each House for itself, 'of the elections, returns, and qualifications of its own members.' But that authority cannot be construed as including the right to shut out, in time of peace, any State from the representation to which it is entitled by the Constitution."

In his speech yesterday, he said:

"I say that when they comply with the Constitution, when they have given sufficient evidence of their loyalty and that they can be trusted, when they yield obedience to the law, I say extend to them the right hand of fellowship, and let peace and union be restored."

He is talking there about representation. Is it not a plain, distinct, indisputable inference from what I have read from the veto message, that we cannot judge upon any question except the simple question of the elections, returns, and qualifications of our own members? Let us hear what he goes on to say in that message:

"At present all the people of eleven States are excluded—those who were most faithful during the war not less than others. The State of Tennessee, for instance, whose authorities engaged in rebellion, was restored to all her constitutional relations to the Union by the patriotism and energy of her injured and betrayed people."

Does he mean us to judge upon the position of the State of Tennessee?

"Before the war was brought to a termination they had placed themselves in relations with the General Government, had established a State government of their own, and, as they were not included in the emancipation proclamation, they, by their own act, had amended their constitution so as to abolish slavery within the limits of their State. I know no reason why the State of Tennessee, for example, should not fully enjoy 'all her constitutional relations to the United States.'"

I shall not read any more from the message, though it contains other language which goes to confirm the same idea. If I have mistaken the view of the President, I shall be very glad to be corrected by him or by anybody that is authorized to speak for him; and one would think there are plenty of those gentlemen about; but what he says is, substantially, in my judgment, this: "I have come to the conclusion that these States are in the Union to be represented in the councils of the nation, and particularly is the State of Tennessee. I admit that certain things must be done; they must show their loyalty, but I am the person to decide upon whether those things have been done; whether that loyalty has been shown; whether that condition has been complied with, and all other conditions that I may judge necessary, and when I have decided that question with reference to these States, Congress may take up the question of the elections, qualifications, and returns of the members who present themselves to them, inquire into that, and have nothing to do but to settle the question whether they come within the description of the Constitution or not."

If the President does not mean that, then the question is for Congress to decide. If he does mean that, the issue of which I spoke is directly presented to Congress. For myself, I could not rest, as a Senator of the United States, content with my position; I could not believe that I was faithful to the great interests committed to my care, connected with others as I am, by the State which sent me here, if I yielded for a moment to the idea, come from what source it may, that anybody but Congress had the right with reference to Senators and Representatives to settle preliminarily the question whether the States that sent them here were entitled to have Senators and Representatives or not.

Sir, we should be yielding everything, we should have no power left, we should be less than children, we should hardly be entitled to call ourselves slaves, if a question upon which the very existence of these bodies, the Senate and House of Representatives may depend, the question of whether a State, or a body of men, or an organization anywhere is entitled to representation here, is not for us to settle and us alone, so far as those proposed members are concerned, without any dictation from anybody, ay, without any advice from anybody. The President is by the Constitution authorized and required to give information to Congress from time to time on the state of public affairs; but upon a question affecting the representation in the Senate or in the House of Representatives, he is not competent even to advise us, from his position and from the necessity that exists that all these different branches of the Government should be entirely independent of each other. I am free to say I should consider myself as sitting in a body bound hand and foot, having no power, no rights, no independence, no character, if I thought I was compelled to ask the opinion of any one with regard to the right of a Senator to sit upon this floor and the right of the State which sent him here to be represented upon this floor. It is a question for us, and only for us.

Looking, therefore, upon these two arguments in this part of the veto message as I did, one distinctly indicating that no legislation affecting the States which have recently been in rebellion would meet with the approval of the President while those States were not represented here, the other that all the consideration that we as members of the Senate had a right to give to this subject was to look at the papers presented and say whether men coming here had the proper credentials from somebody, leaving the question to be settled at the other end of the avenue whether or not the States themselves had a right to be represented on this floor—while I considered those two things as not only shadowed forth, but distinctly stated in the veto message, I could not hesitate for a single instant to say that where such reasons were given for the veto of a bill, I could not, without sacrificing all my self-respect, and what is of more consequence as far as I am concerned, sacrificing all the rights and honors of the body of which I am a member, vote to

sustain that message, whatever good reasons might be given in other parts of it. Under those circumstances, and, I will confess, influenced by that particular message, influenced by those views and statements of the President, the committee of fifteen, which is so denounced, saw fit to propose distinctly the proposition to both Houses of Congress which is now upon your table; and it is this:

That in order to close agitation—

To have no more dispute about it among ourselves as to our own action—

upon a question which seems likely to disturb the action of the Government, as well as to quiet the uncertainty which is agitating the minds of the people of the eleven States which have been declared to be in insurrection, no Senator or Representative shall be admitted into either branch of Congress from any of said States until Congress shall have declared such State entitled to such representation.

That, sir, is resuming the original proposition, substantially. Having been instructed to inquire into the condition of these States, and to report whether they, or any of them, were entitled to representation, and not being prepared to report on that question, we propose to the House and the Senate this resolution, providing that—

No Senator or Representative shall be admitted into either branch of Congress from any of said States until Congress shall have declared such State entitled to such representation.

Originally, I did not think that resolution was necessary; but now I do. Why? In order that Congress may assert distinctly its own rights and its own powers; in order that there may be no mistake anywhere, in the mind of the Executive or in the minds of the people of this country; that Congress, under the circumstances of this case, with this attempted limitation of its powers with regard to its own organization, is prepared to say to the Executive and to the country, respectfully but firmly, over this subject they have, and they mean to exercise, the most full and plenary jurisdiction; they will be limited with regard to it by no considerations arising from the views of others than themselves, except so far as those considerations may affect the minds of individuals; we will judge for ourselves, not only upon credentials and the character of men and the position of men, but upon the position of the States which sent those men here. In other words, to use the language of the President again, when the question is to be decided whether they obey the Constitution, whether they have a fitting constitution of their own, whether they are loyal, whether they are prepared to obey the laws as a preliminary, as the President says it is, to their admission, we will say whether those preliminary requirements have been complied with, and not he, and nobody but ourselves.

It was my very strong opinion and impression with reference to this matter that induced me to ask the Senate to take up this question now. I deem it as transcending in importance the question of the amendment of the Constitution which has been under discussion for several days. I deem that in the present condition of the country, situated as we are, it transcends in importance every question. Where are we, sir? Let us allow ourselves to consider for a moment. If we are not to inquire into and be satisfied of the condition of these States, if we are not to inquire and ascertain whether they are or are not in such a situation that they may safely come here and govern, (because when they come here they come as rulers,) but if somebody else is to settle that question for us, all that Congress has to do is this: when a State chooses to go out of the Union and make war upon it, it is to provide the means to legislate; when the State has been conquered and is ready to come back again, it is to inquire of somebody else whether the State is in a condition to come back, and is to take the men who are sent here, and who may come here with credentials from a military governor appointed by the President, without a word except to inquire as to their qualifications.

Mr. President, this subject is one upon which much might be said. I have been proud of the fact—and perhaps I am, therefore, to be humbled—that I am a member of the Senate of the United States. I have deemed that the position was a great one, one of which any man, no matter what his powers might be, might be proud, and with which his utmost ambition might be well contented. Why? I supposed that Senators were somewhat in the nature of representatives of the people, although selected by the Legislatures of the States; that Senators, like Representatives, were sent here for the purpose of guarding the interests of the people, and although other officers were chosen for specific terms and exercised for the time greater power, that after all the protection of this Government must be found in its Congress; that public opinion was represented here, the public wishes were represented here, the rights of the whole people were guarded here, the money of the people was taken care of here—I mean in Congress, taking both Houses together—and that, in fact, all the essential powers of the Government, all that was to be done lies at the very foundation, everything that was necessary in order to protect our form of government republican, and to save the liberties of the country, rested in the faithfulness of the Senators and Representatives of the United States, and in their power to judge of what was necessary in order to constitute and regulate their own bodies. But, sir, if this is not so, if they are confined simply to a mere question of papers, to a mere question of credentials, to simply taking the opinions of others as to who are entitled to seats in this body, so far as States having the right to send them here are concerned, then I consider that we are reduced to be mere creatures of circumstance, nothings, nobodies; at any time we may be overwhelmed; at any time we may lose our power; at any time we may cease to be that check, which the Constitution intends we should be, upon the Executive of the United States, and upon the other branches of the Government; at any time we may lose all of which we have been so justly proud with reference to our own condition as assigned us by the Constitution of the United States. Senators will pardon me, I hope, for speaking at such length upon that subject.

I believe that the President is a friend of his country. I believe that he is a patriotic, devoted citizen; that he would do nothing to injure any of its institutions under any circumstance if he was aware, while doing it, of what he was doing. I believe, however, in reference to this matter that he has spoken unguardedly. His feelings in relation to the admission of Tennessee particularly, and these other States, have carried him beyond what I believe in calmer moments and on due consideration he would be willing to go; far beyond what he himself on a calm review would find it in his power to stand by. This part of his message is not well considered. That is all I choose to say of it. But it is a message from the President of the United States. It is a part of the record. We must consider it as a part of the record, and while it so stands as a reason given for vetoing a bill of Congress, we must treat it precisely in the same manner as if we believed that every word of it was intended. I would not insinuate for a moment that the President would advance a sentence that was calculated to wound the Constitution in any degree. On the contrary, I believe he would not. No man has shown a greater attachment to it than he has; and I wish to speak of him respectfully and kindly. But whether he means it or not, when he advances opinions and lays down principles which, in my judgment, strike at the very existence of this body as a power in the Government, I cannot but enter my solemn dissent from it, and call upon Congress to assert its own rights and its own position with reference to all these questions.

Mr. President, I have spoken at greater length with reference to this matter than I intended. I had desired, as I did on a former occasion, to say something upon the main question which renders our consideration of this matter necessary. I exhausted myself before upon another branch of the subject, and I have done pretty much the same now with regard to this. But if the Senate will forgive me I wish to state my own views in as few words as possible upon the great question of reconstruction. It comes in here naturally, and perhaps I may as well state my opinions upon that subject before I leave the question under consideration.

For four years we were in a state of war, and during those four years, according to my recollection, almost from the beginning, we discussed the question of reconstructing the States. A great many gentlemen in this Chamber and in the other House made elaborate speeches upon the question of reconstruction. I made none. I did not express an opinion upon it, for the simple and single reason that we had nothing at that time to reconstruct, and I thought it better to attend to the proper business we had in view, to quell the rebellion, to overcome the rebellious States, and to put them in a condition to be reconstructed, before we undertook to reconstruct them. The proper time has now come. We are now entitled to consider the question of reconstruction. The President began to consider it before we did; I mean since the overthrow of the rebellion. He took his own course. I have had occasion once or twice to speak of the course that he took as not entirely meeting my own views, while I did not undertake to find the slightest fault with him for the course he chose to follow.

But, sir, with reference to that matter allow me to say that I think the better way would have been for him to have kept all those States under his own power as Commander-in-Chief of the Army of the United States, and waited until Congress came together, to consult with Congress as to what was the best mode of getting them back again into the Union. He did not choose to do that, and I had no disposition to complain, for I believe he acted with good motives and good intentions. He chose, by virtue of his power as Commander-in-Chief of the Army, to appoint provisional governors in some of these States, and I do not know but in all of them, and to say to the States that he would aid them in the process of reconstruction by appointing men who should call conventions, and under which they might make constitutions, &c. They proceeded to do it, and it is within my recollection, and I think it must be in the recollection of a great many others, that while that was being done, and up to a very recent period, the President's declaration was that it was only an experiment, that if it turned out, from the conduct of these States, that they were loyal and could put themselves in a fit position to be admitted into the Union, then they could be admitted; but if not, nothing was lost, because they were in our hands, referring to Congress and to the President. I was content with that, so far as it went, and I believed that when we came together as a Congress the great question in reference to these matters would be in our hands. We met. We passed a resolution that the two Houses of Congress would consider it, and it seems that that resolution gave very great offense in many quarters. But, sir, we have been proceeding to consider it, and, according to my view, as I have expressed it here to-day, we had a perfect right, and not only a perfect right but it was our duty to do so. The question of reconstruction, then, on our own plan, according to our own ideas, is before us, and with reference to that I wish to lay down a few very simple propositions.

With regard to what is transpiring before the committee of fifteen it will not become me to say much; nothing in fact as to what they intend to do. That must be shown by their actions. But I can state some views as they occur to me with regard to our powers and what is expedient.

Mr. President, I think it will not be disputed by anybody, not even by the Senator from Maryland—and I call his attention to it—that this country has been in a state of war, decidedly in a state of war, war according to the books, war in its worst acceptation, war in the

very strongest meaning of the term, without any limitation or qualification. If we have been in a state of war, the question arises—and it is a very simple one, and I think this whole thing lies in a narrow compass—is there any dispute as to what are the consequences of war? What are the consequences of successful war? Where one nation conquers another, overcomes it without qualifications, without terms, without limits, and after a bitter contest succeeds in crushing its enemy, occupying its enemy's territory, destroying its posts, what are the consequences? The Senator is pefectly familiar with the writers on international law. Let him read the chapter in the book under my hand upon "Acquisitions by War." Is there anything more certain than that the conqueror has a right, if he chooses, to change the form of government, that he has a right to punish, that he has a right to take entire control of the nation and the people, that he has a right to exact security for the future, and such security for his own safety as he may demand; that all these rights are his, with only the limitation that he shall not abuse them and conduct them in a manner contrary to humanity, in the ordinary acceptation of the term?

Mr. JOHNSON. What is the book?

Mr. FESSENDEN. Vattel, which is perfectly familiar to the Senator as it is to everybody else who is master of the subject. I can take up the book and read passages to show precisely what I have stated, in the strongest possible terms. I did not think it necessary to hunt up a dozen authors, because the law is the same in all. There is no dispute about it. That principle, then, is settled. Those are the consequences of successful war. We are told that we did not wage a war of conquest. Certainly we did not. Congress said precisely what it meant at the time it stated that this war was not waged for any purpose of subjugation. It was not commenced with any such idea, but if it follows that subjugation must come in order to accomplish what we desire to accomplish and what we must accomplish, it is not our fault. If subjugation becomes necessary, although that was not the idea with which the war was commenced, who can complain? Let me ask the honorable Senator from Maryland a question. He has cited in the course of some speech or speeches he has made here, that resolution passed by Congress——

Mr. JOHNSON. I never cited it.

Mr. FESSENDEN. Then it has been cited by others. Suppose we made it, and suppose it is binding upon us. Binding with whom? Was that a compact with the confederate States? It was a compact with our own people. We told them and they told us that the war was not waged for any such purpose. It was not a promise made for the benefit of the confederate States, it was not a promise made for the benefit of others, but for our own benefit, and the honorable Senator is perfectly familiar with the legal principle that unless the consideration comes from A, he cannot avail himself of a promise made by B to C. That, then, is simply the case here; that is the law. Nobody will dispute it. Those are the consequences of war generally.

Now, is there any more dispute as to the next proposition, that the consequences of civil war are precisely the same? Is there any writer who does not lay it down distinctly that where a civil war, in the proper sense of the term, has existed, the consequences of that civil war, so far as the rights of the parties are concerned, are precisely the same that they are in other cases? If compelled to carry on the contest upon the same principles—as we are by the law of nations—and to treat it in all respects as a war between two independent nations until the war is closed, is there a dispute that precisely the same consequences follow, precisely the same rights are obtained as would be the case in an international war? If not, let the Senator show me where he finds a distinction drawn between the consequences in the two cases. I take it these two propositions are beyond dispute; there can be no difficulty about them.

Then the question arises, and it is only a natural one, does our form of government change in any way the nature and inevitable legal consequences of a civil war? Is a civil war waged among us, living as we do under a written Constitution, different in any way so far as the consequences are concerned, on account of that written Constitution, from a civil war in any other nation in the world? That is a question upon which men may pause. It is very manifest to me that there can be no difference at all. And here I come to consider for a moment the argument of the honorable Senator from Maryland, because that is what I wanted to address myself to. He says that Congress can do no more than quell an insurrection; our Constitution speaks only of insurrections; and when an insurrection has existed in a State, the moment that insurrection is over the State returns to its former position; and he reads, I believe, from that clause of the Constitution which says that Congress may provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasion. Now, does the Senator undertake to say in any way that that is all our Constitution gives power to do? If I understand the argument of the honorable Senator, it is this: here are State governments, and as there are State governments, and as we are living under a written Constitution, and Congress by the particular terms of that Constitution has power to provide for calling out the militia to suppress insurrections and repel invasions, therefore everything that takes place in the way of a fight in this country, no matter what its extent, is to be considered an insurrection within the meaning of that clause. Do I understand the Senator to take that ground?

Mr. JOHNSON. I said that Congress had no authority to carry on war against a State.

Mr. FESSENDEN. My answer to that is simply this: the Constitution has not specifically provided for the case of civil war; it never contemplated civil war; it would not contemplate civil war; but it provided the means to quell it by giving power to Congress to raise and support armies without stating for what objects those armies might be used; and it gave power to do everything in fact that is necessary to be done in order to preserve and support the Government. But it speaks of insurrection. What is an insurrection? Is it civil war? The Senator will hardly contend that they are synonymous terms. An insurrection, such as is mentioned and referred to in the Constitution, is not civil war; it is something far less. The Senator will remember that Vattel—for I go no further so far as this argument is concerned—speaks of a tumult as one thing that may take place, that is, when there is a tumultuous assemblage and the laws are violated; and when that tumult assumes form and becomes a resistance to the law and to the governing authority, it is an insurrection; and when it assumes a greater form, and the laws are successfully resisted, and the sovereign power is defied by armed force, then it becomes a civil war. Is that condition of things what was meant, and all that was meant, by the clause of the Constitution giving power to call forth the militia to suppress insurrection?

If the Senator is right in his construction, there is no such thing as civil war under this Government, and can be no such thing; the Constitution does not provide for it; it speaks simply of "insurrection;" and there can be none of the consequences of civil war, there can be none of the rules applicable to civil war, because the Constitution has not provided for it. Sir, this clause is of the narrowest possible limitation, and refers only to ordinary tumults carried to such an extent as to make insurrections that are perfectly familiar to us all, and the very provision of the Constitution which the Senator has quoted shows that was the understanding. The truth is, it has reference simply to the militia. It is a power—

"To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions."

Not that Congress shall have authority to suppress insurrections, as the Senator would have read it, and repel invasions; but it may use the militia force for the purpose of suppressing insurrections and repelling invasions, meaning simply that on a sudden emergency, when there is an insurrection or invasion, Congress may call upon the militia temporarily for the purpose of effecting the object. That is all. Now, then, sir, understanding that war has existed, and that its consequences are such as I have stated, and that civil war is attended by all the consequences of other wars, even among us under the Constitution, I say that, in my judgment, a State may be utterly extinguished and swept out of existence by civil war. It is a necessary consequence if the law of nations exists among us and we are bound by its provisions. A State may forfeit its *status*. The Government may say that it has forfeited its *status*, if it pleases to say so. It may impose upon such a State punishment; it may protect itself against the future; and if, in order to protect itself against the future, the Government finds it absolutely necessary to prevent it from resuming its original position, it has the perfect power to do so. It is a necessary consequence of the principle.

It has been said, men have been fond of saying, "Once a State, always a State." That is not true of States in general. It is not true as a matter of fact. States may live and States may die. I do not hold that these States are dead, but I hold that States may die and have died heretofore. But not being true of States in general, it is not true of these States. Once a State, it does not follow that they are always necessarily States, in the sense that we use the term. They may continue to be States, they may continue to be organizations, but it is a very different question whether, as such organizations, they are States of the Union and in the Union. That depends upon other considerations. I ask the Senator if something is not necessary besides geographical extent and political organization as a State in order to be a State of the Union? Must there not be a constitution of the State? Must there not be a government so constituted that it has relations, and fitting relations, to the Government of the United States? Must it not be in a position to perform its duties? Has it not obligations to be performed toward the United States, as well as to insist on the performance of duties to be received from the Government of the United States? Can there be a State of this Union without a constitution which makes and shows its form of government and places it in relations with the Government of the United States? Can it be a State of this Union without any provision through which and by which it can perform the obligations which it is under to the United States, to the Government of the whole? Certainly not. Therefore it is not true that although a State may exist in some particulars, it exists in all relations to the Government of the United States, and is a State in the Union, because it has an organization. The result does not necessarily follow.

In order to constitute a State of the Union there should be a republican government; that government must be acknowledged by Congress, and that government must have the requisite provisions to connect it with the Union. When that government is destroyed, when the ligature is broken, when there are no provisions whatever that connect it with the United States, it ceases to be a State of the Union from necessity. I do not say that its people pass out from under the jurisdiction of the Government; it belongs to the Union and its people are under the authority of the Union; but as a State having rights in the Union—rights, for instance, in this Congress—when it has ceased to connect itself with the Government by its own act or in any way, it is at an end for the time being, because something more is necessary than a bare organized existence. That is the position that I assume, and I have not been able to see but that it is correct.

Now, will the Senator deny, will any one

deny, that there has been a period and a long period during which there was no connection between these confederate States and the Government of the United States? Have not years elapsed during which no such connection existed? Was not the form of government which bound them to the Union entirely destroyed? Was not the connection obliterated? Were not all their people in rebellion? Was there anything by which any of those States could connect itself with the Government with which it had been formerly connected, and if not, what is necessary in order to bring it back? Is it not necessary that it should be recognized by this Government? Is it not necessary that it should have a constitution which does connect it with this Government? Is it not necessary that it should place itself in a position to discharge its duties toward this Government? And when it has done that, must it not apply to the Government for admission, for reinstatement in the Union?

This question has been argued, and argued by authority, as if we had nothing to say about it; as if these people were back again simply because they had made State constitutions. How do we know it? What proof have we? I want an answer.

Mr. COWAN. That question arises when the representatives of those people come here.

Mr. FESSENDEN. But they do not bring their constitutions with them.

Mr. COWAN. We have a right to inquire, if it becomes necessary to determine whether they were properly elected.

Mr. FESSENDEN. Undoubtedly; but the argument is that we have no right to inquire into anything except that they have been elected.

Mr. COWAN. Oh, no; it raises the whole question about the legitimacy of the body which elected them.

Mr. FESSENDEN. What body?

Mr. COWAN. The Legislature that elects Senators.

Mr. FESSENDEN. But have we not a right to see the constitution? Should not that constitution be presented to us? It has been once overthrown, obliterated, gone.

Mr. COWAN. You inquire into their constitution when you inquire into the election, and see whether the person claiming to be elected was chosen by the proper body.

Mr. FESSENDEN. What, then, becomes of the argument that they can be admitted on their credentials? Are we not to inquire into the condition of the States?

Mr. DOOLITTLE. Will the Senator allow me to state that no one has ever pretended, that I ever heard, that we were confined to inquiring into the credentials merely. We have a right to inquire whether there was a Legislature to elect them, whether the people were in a condition to choose a Legislature to elect them; but what we say is that the Senate is to judge for itself whether members have been elected to this body, and should not allow the House to judge for it. That is the position.

Mr. FESSENDEN. And who or ever has pretended that the House ever would judge for the Senate, or the Senate for the House?

Mr. COWAN. If the honorable Senator pleases, I understand this resolution is that before we shall get at that question we must have a law passed by Congress.

Mr. FESSENDEN. A law passed with reference to the single question whether the States are in a condition to elect.

Mr. DOOLITTLE. We inquire into that for ourselves.

Mr. FESSENDEN. I do not intend, Mr. President, to be called off from the ground that I was assuming. It was simply this, that when they come here, after having been disconnected with the Union, they must satisfy us that they have done all that is necessary in order to restore them to the Union; that they have a republican form of government; that they have those provisions which are necessary to enable them to perform their duties. Must not that be required?

Mr. DIXON. Satisfy whom?

Mr. FESSENDEN. Satisfy Congress. That is the very question which I have been discussing; but I am speaking now of the question of the right to return, of whether a State is out and how it is to get in. If gentlemen concede that these States have been so disconnected with the General Government that they had no right to representation here, that they were not States of the Union and in the Union for this purpose, that in order to acquire that right they must come to Congress and apply to Congress and furnish the necessary proofs that they are in a condition to claim the rights of States in the Union, it is sufficient for my purpose. If they admit that, it is all I desire. But an entirely different doctrine has been laid down here; and it has been said that when gentlemen come here claiming to represent these States we must hurry to admit them because they present credentials from States! What have gentlemen said here? "I present the credentials of A or B or C; they are in due form." We may inquire as to the form. May we not inquire where is the State constitution? Has it been presented to us? Have we seen it? Has there been any application from any of these States to be readmitted, if you please to call it so, under its constitution or to have its new constitution recognized and its acts under it? Not one. We do not know to this day officially in proper shape that any one of these States has formed a constitution.

M. COWAN. You will not allow us to raise the question. If you take up the question of the admission of some of the gentlemen sent here, we will show you a constitution and a duly constituted Legislature qualified to elect, and that they were elected.

Mr. FESSENDEN. And what does that prove? That when the question is asked whether there is a constitution formed, the Senator from Pennsylvania pulls one out of his pocket, and says, "Here is a constitution." That is not the way to deal with Congress upon these questions. What I say is, that if their relations to the Union have been dissolved in the way they have been, what they have to do is to come here by their organizations, their Legislature, or convention, and present their constitution to Congress for examination, and ask that their representatives be admitted under it, which no one of them has yet done. That we have a right to demand. Suppose their credentials are in due form, have we not a right to go further and inquire what the condition of those States is and has been since their former governments were overthrown? I suppose Senators now will admit that.

I had no idea when I rose that I should speak so long on this matter, but as I have got into it I may as well finish what I have to say. I wish to notice some things that have been said more than once by the honorable Senator from Pennsylvania, [Mr. COWAN.] He has talked to us about the question of taxation and representation, and appealed to us to admit these people, to admit these States, to admit their Representatives and Senators, because, as he says, it is gross injustice that they should be taxed and not represented. How is that? Had we no right to tax them during the rebellion if we could collect the tax? Were we bound, because they chose to go into a contest against this Government, to let them off and not levy taxes upon them? The Senator will hardly contend for that. While they were in rebellion does the Senator say that we had no right to tax them? I am very glad to bring him to that point. He holds, then, that we had no right to consider them as subject to the Constitution.

Mr. COWAN. The honorable Senator will allow me to state my position fairly. I will give it to him. I hold that it is the duty of every Government to protect its subjects; and that while it is unable to protect them, and while it is not strong enough to suppress a rebellion originating among them, and when it does not protect them, when it leaves them under the dominion of usurped authority, while this condition of things lasts, it has no right to tax them.

Mr. FESSENDEN. In other words, Mr. President, if the people of a particular portion of the country choose to set themselves up against the General Government, and to levy an army against it and fight against it, we lose all our rights of government over them. We cannot control them, we cannot tax them, we cannot call upon them for the performance of any duty. We have a perfect right to kill them, but not to treat them as subjects of the Government. That is the Senator's position. He assumes that these people were people that we did not protect, that when the power of a State had passed into the hands of those inimical to the Government, and when the whole people *en masse* had risen against the Government, we had ceased to protect them, and therefore we had no power of government over them, no matter how strong they are; that until we put down the rebellion all our power was to destroy. A very fraternal and benevolent idea! I was puzzled, very much so from time to time, at the arguments of the honorable Senator. I was puzzled somewhat when he talked about the course of other nations over their conquered people and told us that they at once took them into partnership. I think he referred to the example of Rome, and said that Rome never made the people she conquered slaves. I have some idea that they did tax them, that they sent proconsuls to govern them.

Mr. COWAN. What I said of Rome was that she always adopted one of two ways after conquering a people. She either gave them their original rights back again and very often treated them as Roman citizens, or she exterminated them or scattered and drove them away.

Mr. FESSENDEN. I did not hear that she ever admitted their delegates into the Senate. I never heard it claimed that they had a right of representation in the Roman Senate. She did have a sort of governor that she called a proconsul who ruled the conquered provinces.

However, this conversation with the Senator is, perhaps, out of place, and I shall proceed with my argument, if it may be called an argument. The Senator has now contended (and it is a necessary consequence of the position he assumed the other day) that we necessarily lost all of our power of exercising government over these people as the United States of America, by the simple fact that they were enabled to rebel and to raise an army to fight us. He has saved me the trouble, therefore, of asking my other question. I was about to ask him if we had that power while they were in rebellion, whether the power of taxation did not continue for a little while after the rebellion was quelled, or whether we must necessarily wait until the Government was restored in all its perfection and in all its parts over these conquered people, these subjugated people, until they came back into the Government as rulers with us.

Now, sir, let us look at this question. Gentlemen have been talking here from time to time and in the other House about the great abuse that these States were not admitted to representation while the Government was going on to tax them. Sir, the arms that were raised against us were never laid down until last April. From that time to December Congress was not in session. They were under the control of the military power. We came together on the first Monday of December. There had been an exhausting war, four years of deadly struggle; hundreds of thousands slain, hundreds of millions spent; a war more savage, in my judgment, on the part of the enemy we had to encounter than has been known in modern times; in which the most savage hate was exhibited against everything that was not of the confederates, which was distinguished, remarkable, for its character, so distinct from all those wars that have marked modern periods. We came together in December, and certain men presented themselves claiming to be admitted as Senators and as Representatives upon these floors. We had not been together thirty days before gen-

tlemen contended here that they were entitled to admission upon an equality with ourselves and as parts of the governing power. It is not now ninety days since this Congress met; and before the expiration of ninety days, after this war of four years of the character that existed and with denunciations of the most bitter kind from all that people, we are told that we are perpetrating the most gross injustice because they are not already here in these seats as Senators and Representatives in Congress, and that our legislation is substantially good for nothing because they are not here.

It is a most remarkable fact in this connection that not only have we not been together ninety days when we are called upon to admit these Senators and these Representatives, but we are called on to decide that the condition of that people is such as to render it safe, when the President himself, who calls upon us to do it, has not withdrawn his suspension of the writ of *habeas corpus* throughout that territory, but keeps his Army in that territory, and when all the generals and himself at the head of all the generals tell us that it is unsafe to withdraw it, that they cannot be left to themselves, and that the Army must remain and they be kept under military law.

Mr. President, this strikes me as somewhat singular; and I say this because I want the country to understand it. Is no time to be allowed? Here, it is said, are eight million people; here is a territory embracing I do not know how many million square miles; here have been eleven States in rebellion; here has been a war of four years. Congress meets; the question is to be submitted to that Congress; and gentlemen talk here and denounce it, and the President himself denounces it, and the newspapers denounce it, and the Democracy denounce it; all raise their cry against us because within ninety days, when the President himself, as Commander-in-Chief of the Army, does not choose to withdraw the Army from that territory, we have not put its Representatives and Senators in these seats to govern for themselves and to govern us. I allude to this fact simply for the purpose of showing how utterly false are the accusations made against Congress, come from what quarter they may, how utterly unreasonable it is to suppose that a question of this kind is to be settled in such a hurry; how utterly unreasonable it is when the Senator from Pennsylvania undertakes to tell us that there is but one course to pursue, and that is to admit these people *instanter*, to assume that they are in a condition to be admitted, to assume that all the questions have been settled by other authorities in point of fact.

Mr. COWAN. I beg that the gentleman will allow me to correct him. I do not want it to go to the country in his speech that I said they should be admitted *instanter*. I never said any such thing. I have contended that their credentials should be received and their cases examined by each House for itself, and that that ought to be done immediately; and think now that the sooner it is done the better.

Mr. FESSENDEN. The Senator's language has been the language of denunciation of Congress, at least of complaint.

Mr. COWAN. Oh, no!

Mr. FESSENDEN. Very well. Does the Senator admit that Congress has the right to examine into the condition of these States as part of the question of admission?

Mr. COWAN. No, sir.

Mr. FESSENDEN. I thought so. Who then is to settle the condition of these States?

Mr. COWAN. Each House for itself.

Mr. FESSENDEN. Do not the Houses constitute Congress? Does the Senator admit that the Senate has a right to examine into and satisfy itself of the condition of these States?

Mr. COWAN. Unquestionably. I have held it always.

Mr. DOOLITTLE, (to Mr. FESSENDEN.) That is all the point of difference between you and us.

Mr. FESSENDEN. I think the Senator will find that we differ on a great many other points.

Mr. DOOLITTLE. I am speaking of this question now.

Mr. FESSENDEN. Then the Senate has a right to examine into the condition of the States. Is not that a preliminary inquiry? The Senator may answer or not, just as he chooses. I say that if the condition of the States is to be inquired into by the Senate, it is a preliminary inquiry. The Senate has decided that that inquiry shall be made by a joint committee, a committee of the Senate and of the House of Representatives. It is not a question referring to the credentials of members, or whether a man has or has not proper credentials. The condition of the States is a question which may well be inquired into and better inquired into by both Houses.

Then we come to this point, that the only ground of complaint is, that instead of the Senate raising its own particular committee to make an examination it has raised a joint committee, in connection with the House of Representatives, to examine into the condition of the confederate States. How small a matter is that upon which to raise the great question of taxation without representation! Are we to omit to tax these people while this inquiry is going on? Have we no right to govern the people of these States and make them contribute their share of the public burdens while this inquiry is being pursued? Are we bound to let them go scot-free, and say we have no authority over them, because we have not yet settled the question whether the Senators and Representatives they have chosen to send here shall be admitted to seats or not? In all such cases there must necessarily be a time when people are taxed without being represented. It is their own fault; they have brought it upon themselves. We cannot relax the reins of government because they have tried to shake off our authority. And yet it is a favorite cry of the honorable Senator from Pennsylvania, and it has been repeated here over and over again, "What gross injustice you are committing by taxing these people while you are inquiring into their condition and seeing whether they are entitled to representation on the floor of Congress; because that is all that has been done."

Suppose it were a year after a war of four years; suppose it were even a longer time; would they have any reason to complain of injustice? Would they have a right to turn around upon us and say, "What right have you to govern us a day, an hour, while we are not represented on the floor of Congress?" The answer is, "You have been in rebellion; you have made war against the United States; you are now crushed and overcome; and we have now to ascertain whether you are fit to come back and have placed yourself in a position to return;" and that, says the Senator from Pennsylvania, is a gross outrage on the rights of the people, because it is taxation without representation.

Now, sir, I have been speaking simply of the power of Congress; but it is a very different question when you come to consider what it is best to do. I assert the power in its fullest extent; I assert that by the civil war they lost all the rights which I have enumerated, and we acquired those which I have specified. I assert that they placed themselves in a position in which they were not connected with this Union as States. I assert that they have many things to do in order to regain that position. I assert that in the mean time we have a right to govern them, govern them as Christian men and as statesmen, but to govern them because they placed themselves in a position to render it absolutely necessary that we should do so; and I assert, moreover, that they cannot come back here to occupy these seats or seats in the other House until we—no matter whether it is done by joint or several authority, so that it is conferred by Congress—be satisfied ourselves and decide that they are entitled to occupy these seats again; and that we have a right to take all the time necessary in order to give ourselves entire satisfaction on that subject, and they have no right to complain that in the meanwhile they are taxed without being represented, because they brought it upon their own heads. I say, moreover, that the interests and safety of this country require that we should be entirely convinced of what is due to ourselves and our constituents, and to the safety of all, before we proceed to the examination of the question of credentials and qualifications.

But having said that, it is another question about what we should do; I have been talking about the right. Now, I hold that the good of this country requires that these States should be admitted; that we should have from them Senators here in these seats; that we should have Representatives in the seats in the other House just as soon as it can be done consistently with the safety of the people of this country, and of the States now in existence, and of their own; not that I hold that we should be doing them any great injustice if we kept them out; but it is my doctrine that the exercise of power is always dangerous. It is for our own good as well as theirs, and our own good in preference to theirs, that I would hasten that day and admit them in the shortest possible time; and why? Simply because if we continue to exercise this power; if we continue to hold them in subjection, we perhaps create, and certainly intensify, the feeling of bitterness that already exists; and not only that, but we intensify our own feeling. We are teaching ourselves to exercise a power which the Constitution did not contemplate; which the good of this country ought not to permit and cannot permit. I should be sorry, I should deem it a blow, I should consider the country in danger, if for any considerable length of time the present state of things should exist. No wise or good statesman would wish it to exist for a single moment longer than it was absolutely necessary, because the inevitable result is that we shall become demoralized ourselves.

I hold, then, sir, that it is best for all that as soon as possible, as soon as it can be done with any reasonable show of safety to ourselves and to the Government of this country, these States should be established in their original positions, that Senators should sit here in this branch and Representatives in the other, and that we should proceed as best we may to govern the whole country, a Government with the assent of all, all being represented. But what I wish to enter my dissent to is the doctrine that we cannot and ought not to deliberate on the subject, in our own way, in our own time, and that while we are doing it we should be denounced and the committee of which I am a member be denounced as an irresponsible tribunal, a central power; some power created to take legislation out of its proper channels, and that the majority of the Congress should be held up to the country as it has been by gentlemen on the other side of the House, to say the least of it, and I think also impliedly by my honorable friend from Wisconsin himself, as perpetrating injustice day by day every day that passed without seeing men back in these vacant seats, or the simple question of their credentials under consideration; that this was an outrage upon States, States lately at war, States which up to this day have never sent us their constitutions or made any request whatever in proper form to be admitted or readmitted to their original condition.

When such complaints be made of the Congress, they are utterly without foundation. Time enough has not elapsed yet to give reasonable ground for dissatisfaction anywhere. Time enough has not elapsed yet to say, as was said by a gentleman on the other side of the House the other day, that we were keeping these States out of their places for party purposes, with no evidence whatever to substantiate the charge, except that we had not yet closed our investigation of their condition. Do Senators know what we have been doing? Do Senators know what evidence we have been taking? Do Senators know what evidence we have received? Do Senators know anything

except that the President has expressed the opinion that these States are in fit condition to be received here, and their Senators and Representatives admitted to seats upon this floor and the floor of the other House?

Before doing so, before placing ourselves in a position where we can exercise all the powers necessary under the existing state of things, in my judgment we must provide for the safety of this people. If we think that constitutional amendments are necessary arising from the condition in which we have been, it is our duty to propose them. If we think that additional laws are necessary, it is our duty to pass those laws. If we think that it is proper to impose conditions—not conditions that would degrade or disgrace any State, for when they come back they must come on terms of equality—but if we think it is necessary to impose some conditions even upon these States on their return, it is our duty to do that before we admit their members to seats on this floor or the floor of the other House.

That was the President's opinion. He undertook to tell them that he would have nothing to do with their governments unless they made specific provisions in their new constitutions. The President undertook to say, I will not leave you to your own action, I will not recognize your governments until you abolish slavery, until you provide against the payment of the rebel debt, and some other things of like description. If he had the right to do it, have we not? If he could impose conditions with reference to what he would do, have we not the power to impose conditions with reference to what we are called upon to do? But, sir, while I say this, I say I would not consent that a condition should be imposed on one of these States that would in any way degrade it, or of which there could be just ground of complaint that it was not left on an equality with all the other States, because that would be a matter of complaint forever and always.

Mr. President, I have thus stated the notions that I entertain on the subject of reconstruction, as it is called. As I said before, it was my intention to say something on that subject long ago, but I found no fitting opportunity hitherto. Perhaps I had better not have undertaken to express these views to-day in connection with the resolution which I rose to discuss; but with the question, whether or not the Senate has power over this subject, and whether or not the House of Representatives has power over this subject, the question of the condition of these States and the relations which they now hold to the Union is intimately connected. My judgment is, that we hold the power over that whole subject in our own hands, that it is our duty to hold it in our own hands, and to regard it as a matter of the most intense interest to the whole people, involving the good of the whole people, calling for our most careful consideration, and to be adjudged without passion, without temper, without any of that feeling which may be supposed to have arisen out of the unexampled state of things through which we have passed.

Mr. SHERMAN. Mr. President——

Mr. HENDRICKS. If the Senator from Ohio will yield the floor, I move that the Senate do now adjourn.

Mr. SHERMAN. I give way, but I do not desire an adjournment for my accommodation. I am willing to go on now or on the next day's session as the Senate pleases.

Mr. WILSON. Let us have an executive session. ["Yes."]

Mr. SHERMAN. I give way, then, to a motion to go into executive session.

Mr. HENDRICKS. I do not care which motion is made. I merely desire to accommodate the Senator from Ohio.

EXECUTIVE SESSION.

Mr. WILSON. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *February* 23, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of Wednesday was read and approved.

The SPEAKER announced as the first business of to-day, immediately after reading the Journal, the consideration of the contested-election case in the seventh district of Indiana, on which Mr. MARSHALL was entitled to the floor.

Mr. ELIOT. Will the gentleman from Illinois [Mr. MARSHALL] yield?

Mr. JOHNSON. I object.

Mr. COBB. Will the gentleman from Illinois [Mr. MARSHALL] allow me to offer a memorial of the State of Wisconsin?

The SPEAKER. The gentleman from Pennsylvania objects.

Mr. JOHNSON. I object only to the gentleman from Massachusetts, [Mr. ELIOT.]

MEMORIAL OF WISCONSIN LEGISLATURE.

Mr. COBB. I submit a memorial of the Legislature of the State of Wisconsin, in relation to the improvement of the navigation of rapids on the Mississippi river.

The memorial was ordered to be printed, and referred to the Committee on Commerce.

WAR DEBTS OF LOYAL STATES.

Mr. LATHAM, by unanimous consent, from the Committee on Printing, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That there be printed for the use of the House, five thousand extra copies of the report of the commission on the war debts of the loyal States, with a bill accompanying the same.

Mr. BLAINE. I move to reconsider the vote agreeing to the resolution, and to lay that motion on the table.

The latter motion was agreed to.

Mr. BLAINE. I ask the gentleman from Illinois to yield a moment to allow me to present a bill.

Mr. WASHBURNE, of Illinois. I object. I call for the regular order.

LEAVE OF ABSENCE.

Mr. BAKER, by unanimous consent, asked leave of absence for his colleague, Mr. COOK, to-day.

No objection being made, leave was granted.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed a joint resolution (S. R. No. 29) for the transfer of funds appropriated for the payment of salaries in the Post Office Department to the general salary account of that Department, in which he was directed to ask the concurrence of the House.

CONTESTED-ELECTION CASE.

The House then resumed the consideration of the contested-election case of Henry D. Washburn *vs.* Daniel W. Voorhees, in the seventh congressional district of Indiana, Mr. MARSHALL being entitled to the floor.

Mr. MARSHALL. I am aware of the character which the chairman of the Committee of Elections has deservedly acquired for ability, and for the thoroughness with which he usually examines the cases submitted to him for investigation, and for the boldness and courage with which he defends his opinions, whether they concur with those of the majority or not.

Mr. VOORHEES. I wish to state, and to state by way of correcting a statement made by the gentleman from Massachusetts [Mr. DAWES] the other day, as it appears in the Globe, that with whatever accuracy he may have examined this case he misstates the number of counties which compose my district. He states that it is composed of five counties, whereas it is composed of eight. It is possible that he has overlooked some other things in this case.

Mr. MARSHALL. I must say, in justice to myself, that whatever respect I may have usually for the opinion of the distinguished gentleman from Massachusetts, [Mr. DAWES,] I am constrained on this occasion to come to the conclusion that he has not examined the evidence in this case with that care which he usually gives to questions of this kind. I think he is mistaken both in regard to the law and the facts bearing upon the case.

In regard to the legal questions involved, I shall devote to them but a moment of time, taking it for granted that most of the members of this House are lawyers, or those familiar at least with the proper application of legal principles.

It is contended on the part of the sitting member, in the first place, that there is no evidence before the House except the official returns, which show that Mr. Voorhees was elected by 534 votes.

Mr. DAWES. I want, if the gentleman will allow me, to ask the sitting member about the number of counties in his district. He says that there are eight counties in his district. The report says that the district is composed of the counties of Parke, Vermillion, Vigo, Clay, Putnam, Greene, Owen, and Sullivan. I did not count them as I read them, but the gentleman can say whether there are five or eight reported.

Mr. VOORHEES. Does the gentleman from Massachusetts pretend that he was correct in saying that the seventh congressional district of Indiana is composed of but five counties?

Mr. DAWES. I have not said any such thing. I read from the report the names of the counties; I did not count them.

Mr. VOORHEES. Then you are misreported in the Globe, for there you are made to say that the district is composed of five counties. It is composed of eight counties.

Mr. DAWES. I read from the report. I suppose the sitting member has read the report. I may be mistaken, however, about that.

Mr. VOORHEES. The gentleman stated that there were only five counties in the district when there are eight. That is the inaccuracy his report is based upon.

Mr. DAWES. Well, let us settle this thing. I know my friend has read the report, and if he says that I stated that there are only five counties in the district, he stands here charged with a willful misrepresentation of the report, for the report does not state that.

Mr. VOORHEES. I did not say that the statement was in the report. I referred to the speech made by the gentleman in the House on Wednesday, and which I find in the Globe, in which he states that the district is composed of five counties. It is composed of eight counties, and you [addressing Mr. DAWES] stand convicted here of an offense that it is unnecessary to mention.

Mr. MARSHALL. I must really decline to yield further. This is entirely outside of what I was saying myself.

Mr. DAWES. It is not outside of what the gentleman yielded the floor to the gentleman from Indiana [Mr. VOORHEES] to say, and I only wish to say that I hold a position of responsibility before this House and I will not permit any man to say that I have intentionally misled this House in any manner.

I am liable to mistakes as well as anybody; quite as frequently as anybody do I make them upon this floor. I stand corrected whenever I am mistaken. I called the attention of the gentleman from Indiana in good temper to this report, and asked him if I had made a mistake. He said that he had read the report, and having said that, took up a pamphlet—not the Globe; I do not know what it was—and reiterated the charge that I had said the district was composed of only five counties. I called his attention in good temper to the fact that the report enumerated the eight counties. I leave the matter there.

Mr. MARSHALL. I decline to yield further for the discussion of this matter. There will be ample time, I imagine, for the chairman of the committee, the sitting member, and all others, to discuss these side-bar matters

before the vote is taken. I will now proceed to discuss as briefly as I can the question now demanding the examination of the House.

It is contended on the part of the sitting member that there is no evidence properly before the House except that which is furnished by the legal returns. The depositions which have been submitted to this House were taken before the mayor of the city of Terre Haute, outside of the city and county in which he resided, and it is contended that he has no authority to administer oaths anywhere except within the limits of the city over which he presided as mayor. I insist that in this respect the law is with the sitting member, and if such is the case there is not a particle of evidence before the committee or before the House that will sustain for a moment the report of the majority of the committee.

Now, what is the law upon this subject? It is admitted that, by the law of Indiana, the mayor of Terre Haute had no authority to administer an oath outside of the city in which he resided. The section of the statute of Indiana upon this subject is embodied in the report of the minority. But the chairman of the committee, admitting this, insists that, by virtue of the law of Congress, the mayor of the city of Terre Haute had authority to administer oaths and to take depositions anywhere in that congressional district. Sir, I deny that. I do not propose to go into a discussion of the various decisions of courts bearing upon a question of this kind, or even to dwell upon the important case, United States *vs.* Bailey, in 9 Peters, which, as I claim, settles the question in favor of the view of the sitting member. But the remarks which I will submit will be simply upon the necessary construction of the section of the Federal statute embodied in the report of the majority.

Now, sir, I admit that Congress has the power to delegate this authority to the mayor of Terre Haute to go anywhere in the State of Indiana to swear and examine witnesses and take depositions. There is no doubt about the power of Congress in this respect; but I deny that Congress has ever exercised this power. The Federal statute imposes just as complete a limitation upon the power of the mayor of Terre Haute as does the statute of Indiana. In providing for taking depositions in contested elections, the Federal statute declares that "any judge of any court of the United States, or any chancellor, judge, or justice of a court of record of the United States" may take evidence in these cases. The act also contemplates that there may be cases in cities in which evidence may be taken before the mayor of a city. But it was manifestly never the purpose of the framers of that statute to authorize the mayor of a city to go outside of and beyond his jurisdiction to exercise authority not delegated to him by the statute of the State—placing him in power.

Now, sir, I admit that under the Federal statute a judge of any court of the United States, or any chancellor, judge, or justice of any court of record of the State may go into any county of the State, if he resides in the congressional district, and take the deposition of any witness therein in regard to the matter in dispute. But, sir, this very statute—and I call the attention of the chairman of the committee to the remark which I shall now make—fixes a limitation upon the power of the mayor as to the place in which he may take the depositions of witnesses. There is one portion of this statute to which I think the honorable chairman has not given his attention. The statute, after declaring that any contestant or returned member may call upon "any judge of any court of the United States, or any chancellor, judge, or justice of a court of record of any State," adds these words:

"Or upon any mayor, recorder, or intendant of any town or city in which said officer shall reside, to take depositions," &c.

Now, what is the meaning and purpose of the words, "in which said officer shall reside?" They apply only to the mayor, recorder, or intendant of a town or city, and do not apply to any other officer. In construing statutes it is our duty to construe them in such a manner as to give force and effect to every word of the statute; we have no right to disregard any word, and say that it was used by the framers of the statute without a purpose. Now, I maintain that this statute, embodied in the report of the majority, does fix a limitation upon the place wherein the mayor of the city may act; and I call upon legal gentlemen on this floor to look into this clause and construe it for themselves before casting their votes upon the case. Admitting, what is not the fact, that the statute of Indiana authorized the mayor to extend his jurisdiction beyond his city, the Federal statute authorizing him to take depositions in cases of contested elections confines his authority to the city in which he resides.

This is all I have to say in regard to this legal question. I submit it with all deference to the superior judgment of the gentlemen who shall be called upon to decide this case.

Now, sir, I wish to call the attention of the House to a further fact, which will not be disputed by the chairman or any member of the committee. Mr. Voorhees had, as shown by the official returns, a majority of 534 votes. It is charged in the specifications of the contestant that a large number of those votes were cast for Mr. Voorhees by illegal voters, by persons who had no authority to vote within the town and precinct in which they voted. Now, I assert here that there is not a particle of evidence that of all the votes cast for Mr. Voorhees in his entire district there was one single vote cast by a person not entitled to vote within the township and precinct in which his vote was cast. If I misstate this matter, I call upon the chairman or any member of the committee to correct me.

Again, it is charged that a large number of ballots with the name of the sitting member upon them were by some persons, with fraudulent intent, put into the ballot-box, those ballots not having been cast by voters; and that these ballots were counted and returned for him. Now, I assert here, in the presence of the House and before the country, that there is not a shadow of testimony that any single ballot which had not been properly cast was put into the ballot-box and counted and returned by a single judge or by any person in any precinct in that congressional district. There is not a shadow of evidence sustaining the charges and specifications of the contestant in this matter. I am ready to give way for the purpose of being corrected in regard to any statement which I may make.

Upon what ground, then, is this House to turn out of his seat a member returned here by all the forms of law, with so large a majority, and give the seat to a gentleman who there is no pretense for saying received a majority of the legal votes of the district. I do not think that he himself will rise on this floor and say that he thinks he received a majority of the legal votes of the district. If he does say so, he is not governed by the evidence submitted to the House. I do not believe that the chairman or any member of the committee will declare before this House his belief that the result set forth in the majority report, giving the contestant a majority of over two hundred votes, shows the true result of the election in that district. The evidence will not warrant any such conclusion.

I know, Mr. Speaker, we are living in extraordinary and revolutionary times; but we ought to be careful how we yield in a matter of this great importance to the mere clamor that may be raised against the sitting member, who happens for the time to be in the minority, turn him out, and give his seat to a gentleman who cannot with any plausible pretext assert that he was returned here by a majority of the legal voters of his district.

Upon what evidence, then, is Mr. Voorhees to be turned out of his seat here at this time? Colonel Washburn has introduced evidence in regard to four townships in his district, Riley township, in Vigo county, Hamilton and Jefferson townships, in Sullivan county, and Cloverdale township, in Putnam county; and I will detain the House for a short time for the purpose of drawing its attention to the character of the evidence in regard to those four townships. There is no evidence in regard to any other. In Hamilton township, in Sullivan county, Mr. Voorhees had 498 votes and Colonel Washburn had 143 votes, as shown by the returns from that township. Now, what is to be done in considering these 498 votes, legally cast by legal voters in that township? We are told that they are to be thrown out; that those 498 voters are to be disfranchised; that they are to have no hearing upon this floor; that they are not to be counted at all. Have they committed any wrong? No. Were they illegal voters? Is it charged? Yes, sir, it is charged; but is there any shadow of proof to show that one of them was an illegal voter? Not at all. These 498 voters are to be disfranchised, turned out of the House without a hearing.

Colonel Washburn presents proof that instead of 143 votes for him in that district, there were 160; the majority of the committee say 170; but I will refer in a moment to that disparity between the calculation of the honorable chairman and myself. That gives him 17 more than was returned by the return officers of the district. And what is the character of the evidence by which these 17 additional votes are shown? For the purpose of arriving at this result we have to count twenty men who state that they voted for Washburn, but who cannot write their names, and who must depend upon hearsay to know for whom they voted. One or two on being examined testified they could read, although they could not write. The great body of them must have arrived at the conclusion to which they testified from others who gave them their ballots and explained to them their character and bearing. There were 20 of these; and set aside these 20 and you do not have as many for Colonel Washburn as were returned by the returning officers of the district.

Not only these 20 votes have to be taken, thus sworn to as given by men who cannot write their names, but we have to take two others who were not produced or sworn but whose votes have been testified to by others. This is in effect hearsay evidence, for unless a man votes with an open ballot you cannot tell how he votes, except from the confidence reposed in him as a man. You may hand a man a ballot three feet from the polls, and if so disposed he can deposit unobserved another ballot. Observation has taught me that such things are often done by those who wish to make both sides believe that they are their friends. It is not very creditable to mankind that men will disgrace their manhood in this way, but such is the fact, and known to be the fact. On evidence of this kind you are asked to overturn this election and turn out the man who has been elected and returned by so large a majority.

The honorable chairman and myself disagree in regard to the count. He says Colonel Washburn polled 170 votes, and I say 160. I have the record of the evidence in the case; I have marked and numbered every voter; I have allowed and disallowed; and I am willing for any gentleman upon this floor to look at it. Where they will show I am wrong on the evidence I will make the correction. I will show the character of this evidence and then leave it to the House to determine. I read from page 13.

D. W. Stratton, after testifying that he voted for Washburn, is interrogated and answers in regard to another voter as follows:

"*Question.* Do you know where Robert Stratton voted, and how?

"*Answer.* He voted at the same poll, in Hamilton township, and told me that he voted the Union ticket for Washburn for Representative. (Objected to by counsel for Voorhees.) He is now at Nashville; I know that in his politics he is a Republican."

Now, I did not think that this was evidence at all—what a voter said to a witness as to how he voted—and I did not allow it, and I do not suppose there is a gentleman on this floor who would hesitate a moment in determining that I acted correctly in regard to that matter. It has not a particle of the character of legal evidence.

Again, the next one that I disallowed was Hamilton G. Boles. Pleasant Boles, (page 24,) a witness, testified that he voted for Colonel Washburn. He signs his name with a cross, but I do not object to that. I count his vote. He is asked further, as follows:

"*Question.* State whether or not Hamilton G. Boles, your son, voted at said election; and if so, at what precinct, and for whom did he vote for Representative in Congress for the seventh congressional district of the State of Indiana, and where is he at this time?

"(Objected to by counsel for D. W. Voorhees.)

"*Answer.* He voted at said election in Hamilton township, Sullivan county, Indiana, for Colonel Washburn for Representative in Congress—at least he said so. He was a Union Democrat, and proposed to support Washburn. He belongs to the forty-third Indiana volunteers, and is at present at Indianapolis."

Now, I will not go further with this; but this is the character of the testimony of some eight or ten voters in regard to whom an attempt was made to prove that they voted for Colonel Washburn. This testimony has none of the character of evidence at all, and I did not count their votes in the calculation I made. If you take testimony of this kind, there is not a member that can hold his seat here for three months.

Now, I have in this document, as I have said, numbered and marked every voter whose vote I allowed, and every one that I disallowed, and any gentleman who wishes to verify the computation can look at it for himself; and if he can find a single one that ought to be allowed, I will admit that I am very much mistaken in regard to the principles of evidence.

That is one township. Now as to Cloverdale township. There were cast for Mr. Voorhees 226 votes, and for Mr. Washburne 58. The contestant has endeavored to show that he received at that poll 89 votes. The testimony is of the same character that I have alluded to. The chairman says 91. There is a difference of 2 in making up the count, but the difference is the result of the mode of making the estimate and is of the same character that I have referred to. I will not go over it. The voters are all numbered, and any gentleman can examine the computation for himself. There is an excess of 31 votes more than were returned for the contestant, assuming that he received 89 votes. But to arrive at this result we must count the vote of ten persons who swear that they voted for Colonel Washburn, but who cannot write their names.

I have already commented on the character of this testimony. However honest these men may be, they may be easily deceived in regard to the character of the ballot which they delivered to the judges to be deposited in the ballot-box. And they are often deceived; they are very often imposed upon by others. That, of course, is a wrong and an outrage, but I only refer to it for the purpose of showing that when their testimony is analyzed it amounts to nothing but hearsay testimony at best.

We have also, to arrive at this result, to count the votes of twelve others who are not themselves produced, or sworn, as to how they voted; but their votes are attempted to be proved by others standing around the poll. We all know how easy it is for men to be mistaken as to how others vote, unless the voting is by open ballot. It is not easy while standing even directly by the side of a voter to know the character of the ballot he deposits.

In Jefferson township Mr. Voorhees had 231 votes and Mr. Washburn 24. Colonel Washburn endeavors to show by the same class of testimony to which I have referred that he ought to have had 32. The chairman says 36. I have examined the testimony in the same way as in Hamilton township. I have the votes all marked in the record, and I am willing that any gentleman shall examine it for himself. I insist that I have counted, to get these 32 votes, every one of which there is a shadow of evidence of legality. This gives him an excess of 8 votes more than were returned. To arrive at this result we have to take the votes of 8 men who swear that they voted for Mr. Washburn who cannot write, and of 3 others who are not produced or sworn, but whose votes are proved by others.

Now, can any member of this House be satisfied with this evidence? Perhaps it may be thought that there is some evidence showing that a few votes might have been cast for Colonel Washburn that were not counted and properly returned, as often happens, without any fraud or improper intention existing on the part of the return officers. But I say you cannot feel certain that Colonel Washburn at that poll received a single vote that was not counted and returned for him by the return judges.

In Riley township Voorhees had 173 votes, and Washburn 88 votes, as returned by the return judges. By the character of evidence already referred to it is shown that Washburn received 107 votes, being 19 more than were returned for him. But to get this result we have to take the votes of 16 men who cannot write their names, and of 12 others who are not examined, but whose votes are proved by other witnesses. I insist that the evidence of men of this character, men who cannot write their names, although they may be as sensible as educated men in regard to these matters, is not entitled to any weight at all in overturning the decision of the return officers. And I say that the testimony of no man in regard to the vote of another is worthy of credit, however honest he may be, unless he followed the voter to the polls and saw him put in his ballot; otherwise his evidence is not entitled to weight, and would not be so considered in any court of justice on earth. I am asked if these persons who could not write could read. Some three or perhaps a half a dozen out of those who were sworn in all the townships testify they could read although they could not write. Taking these four townships, then, with evidence such as I have commented upon, the contestant received 75 votes more than were counted for him by the return judges. But to arrive at that result, to make up this excess, we have to count 82 votes of persons who either cannot write their names or whose votes are proved by others.

Can any man, from this character of testimony, feel certain that there was in fact a single vote cast for Washburn more than were returned for him? And even if there were certainly some that should vitiate and destroy the entire election at those precincts? Indeed, mistakes are liable to occur at any poll, however honest or intelligent the board of judges may be, and these have never been held to taint the poll with fraud and disfranchise the voters of the precinct.

Now, I have said all I desire to say in regard to this class of testimony, and I leave it to the consideration and decision of the House. But there is another class of testimony. The contestant contends that there was fraud practiced by the officers of election in each one of these townships sufficient to destroy the election and make it null and void, and consequently to throw out the entire vote of the precincts. I will examine very briefly the evidence in regard to these charges; and first, as to Hamilton township. The only evidence in regard to fraud is this, that at supper time the board of election adjourned as they were authorized to do by the statute of Indiana for one hour; the ballot-box was locked and left in the room where the votes were received; whether that room was locked or not, I do not know. If it was not, if the ballot-box was exposed, the burden of proof is with the contestant. However, before they went to supper, they strung tickets about fifteen in number—one witness says about seventeen. These tickets that had been counted and strung were laid in the box, on the top of the uncounted ballots, and the poll-books were put on top of them, and the ballot-box was then closed up. When they returned from supper, the officers found some difficulty in finding this bunch of tickets which had been counted and strung. They looked around awhile, and finally found them at the bottom of the ballot-box, or under a portion of the uncounted tickets, and not in the precise condition in which the officers supposed they had left them.

I am stating this evidence correctly I know, and the condition in which this bunch of strung tickets was found is the only evidence relied upon to show that there was fraud on the part of the officers of elections in this township; and upon that evidence this House is asked to throw out these 498 votes cast for Mr. Voorhees, and not count one of them except some four votes which happened to be proven by the evidence of the witnesses called by the contestant himself.

Is there a case in the whole history of contested elections where a poll was thrown out and the election declared void upon such flimsy and trifling evidence as this? And when the honorable chairman of the Committee of Elections [Mr. DAWES] the other day was dwelling upon this evidence with such seriousness and earnestness and exciting the mirth of many of his friends, it reminded me very much of the able and solemn manner in which the eminent counsel, Sergeant Buzfuz, handled the evidence in the celebrated case of Bardwell *vs.* Pickwick, reported by that veracious historian, Charles Dickens.

It was argued there with great force and successfully that a note written by the unlucky defendant to his landlady, the prosecutrix, ordering mutton chops for dinner, was a declaration of love, and consequently that he should be held guilty of a breach of marriage promise. And he was convicted on that testimony. And that evidence was about of a character with the evidence brought forward in this case, and I am inclined to think will prove equally successful.

A little bunch of fifteen tickets was not found in the ballot-box in the precise place where the officers supposed they had left it when they went to supper. Now, it was the easiest thing in the world, when the string of tickets was placed in the box, to have pushed it down below some of the uncounted tickets, and that thing not have been noticed, or not have been recollected when they returned from supper. Or, if that was not done, some person might have had the ballot-box in his hands, during the absence of these officers of election at supper, and without opening it all, to have shaken it so as to have got this bunch of strung tickets in a position different from that in which it was supposed to have been left. The fact might excite a little suspicion of tampering with the ballot-box, but is far from furnishing any evidence sufficient to be relied upon by any man who is anxious only to reach the truth in this case.

But were any of those officers guilty of fraud? The contestant has examined each and every one of them. It is held by the chairman of the committee [Mr. DAWES] that the judges of election themselves admit that there was fraud in this precinct, and that the ballot-box was tampered with. The honorable gentleman is mistaken in regard to that; they said no such thing. They did say, in a card which they published, and which is given in evidence, that they think the charges that there had been tampering with the ballot-box were not without foundation; and they give their reasons why they think there might be some possibility of truth in the charge; and to show that, they state that the bunch of strung tickets referred to was not found in the exact position in which they thought they had left it when they went to supper.

It is suggested by a friend near me that it is very possible that some of these gentlemen might have been a little boozy at the time, and may have pushed this string of tickets down further than they may have thought at the time or have remembered afterward. Sir, this is the weakest and flimsiest evidence ever relied upon in any legislative body for the purpose of establishing fraud, and thereby disfranchising a whole township of some six or seven hundred voters.

Mr. ROGERS. I would ask how the vote stands upon the return?

Mr. MARSHALL. It stood 498 for Mr. Voorhees, and 143 for Mr. Washburn. And it is proposed to throw out the votes returned for Mr. Voorhees, and count those returned for Mr. Washburn. And I suppose that by proceeding in this way it would not be diffi-

cult to get any man elected to a seat in this House.

Now, sir, this is the whole evidence in regard to fraud in the Hamilton township. I am not misstating the evidence; or if I am doing so in any way, I am ready for any gentleman on the Committee of Elections to correct me. And yet upon this evidence you are asked to throw out this entire township and disfranchise all these voters.

The next township is Cloverdale. The report of the majority of the committee does not propose to throw out the return from that township; but it is argued by some, and the whole question is before the House, that it ought to be thrown out. There is just as much evidence to warrant the throwing out of Cloverdale and all the others as Hamilton; and I think you might as well throw out the vote of every precinct in that district, if we are to receive such evidence as this to disfranchise the voters of the country.

As to Cloverdale township it is testified that Arabiam Davis, the sworn inspector, staid all night at the house of one Solomon Akers, about three quarters of a mile from the place of voting, taking the ballot-box with him. The board had adjourned the count until the next morning, as they were authorized to do by the laws of the State. Mr. Davis was the proper custodian of the ballot-box. It is further testified that that night one James A. Scott came to the house of Mr. Akers and staid there all night. It is testified by one A. B. Baird that this man Scott was at Greencastle some time after, and these stated that he and another member had "arranged" the ballot-box.

This is the evidence in regard to Cloverdale precinct. These mere hearsay statements of Mr. Scott, repeated by Mr. Baird, who says that Mr. Scott is "a Democrat or butternut," is to be taken here as evidence for the purpose of disfranchising the people of that entire township. The committee, I admit, do not propose to throw out the vote of that precint, but the evidence is of the same character as with reference to the precints which they do throw out.

I of course charge no unfairness upon the committee, but I am afraid that it is too much the nature of all of us to arrive easily at results which we happen to desire. I will not say that if it had been necessary the vote of Cloverdale would also have been thrown out, but I do say that I think the evidence is just as strong in that case as it is with reference to the township of Hamilton, and in fact that there is no sufficient evidence of fraud in either case.

It is also asserted that in Jefferson township there was fraud in the election. What is the evidence with reference to this township? It is proved by one witness that the board of election, by general reputation, were Democrats, and that is all the evidence of fraud in regard to Jefferson township. It may be that that is sufficient evidence to warrant this House in throwing out the vote of a township and disfranchising that township. If we have come to that, let us take a general sweeping vote here and vote out everybody that does not happen to agree in his views with the majority upon this floor. But, sir, there is no law for disregarding a return from this precinct on this account, and I will do the committee the justice to say that they do not pretend to say that there is any evidence upon which the vote of Jefferson township should be excluded.

The next township is Riley; and the committee report that the vote of that township should be excluded. In that township Dr. Hickson was the inspector of elections. It appears that at dinner time he invited the other members of the board to his house to take dinner with him. As required by the law of the State, he took charge of the ballot-box, taking it to his house during the adjournment. He placed it in a private room—his bedroom. During the time these gentlemen were at his house he absented himself from their presence for some ten or fifteen minutes, and during that time was in his bedroom—whether to change his clothing, to read or write a letter, or do anything else, we do not know, for there is not a particle of evidence on the point. Now, sir, I affirm that he was the legal custodian of that ballot-box; it was his duty to take the ballot-box with him as he did. What ground of suspicion arises from the fact that he was for fifteen minutes in the room where the box was? He was the sworn officer of the law, the legal custodian of the ballot-box, and if these other officers had not gone home with him to dinner he would have had the box in his sole possession during the entire hour, as the law required. Now, if Dr. Hickson had not invited these men home to dinner he would have had it there himself, and would this have even been a ground for suspicion of fraud? Then what force is there in this charge of fraud? None at all. If he had intended fraud would he have invited these men home with him? Is there, in fact, the slightest impropriety even proved against him?

This is the whole testimony, except that of Mary Low, who was living at the house of Dr. Hickson. She signs her name with a cross; she cannot read or write. Mary Low testifies that next morning she found behind the door in Dr. Hickson's room some Republican tickets under the carpet, some tacks having been loosened. How many tickets there were the immaculate Mary does not tell us. Could she read? She does not inform us. Were they Republican tickets for that election or some former election? She does not tell us in that examination. Were they for that or some other precinct or congressional district, or some other State? We are not informed.

Were there two tickets there? We do not know. Were they for that election? Were they for Colonel Washburn or for some other person? There is no information in regard to that. So much for that. I say when we are asked to set aside and reverse a return of legal officers the burden of proof is upon the contestant, and he is bound to prove these facts before we can rightfully adopt his conclusions.

This is all the evidence, every particle in this whole record, tending to show fraud against any single member of the board of elections in any and every one of these townships. If I have misstated any part of the testimony, I ask some member of the committee or of the House to correct me at this time. There is no evidence to exclude a single vote, much less to throw out these 534 votes and give this seat to a man who has never been chosen by the people to a seat in this House. No man upon this floor can say from the evidence he obtained a majority of votes.

There was a little more evidence in regard to Riley township which I was about to overlook. One witness says in counting there were 4 or 5 votes less than were upon the tally-list; that the judges looked and found them upon the table and counted them. He says they were not taken out of the ballot-box at that time. When you look at this evidence, I insist he evidently does not intend to say that they did not come out of the ballot-box at any time. He said they might have come from the string of votes. He only says in substance that they were not taken from the ballot-box at that time. The return of the officers is to be taken in good faith until the contrary is proved by satisfactory evidence. It is a principle of law which cannot be safely departed from at any time. For whom were these 4 or 5 votes cast? Were they for Mr. Voorhees? The witness does not pretend anything of the kind. Were they for Colonel Washburn? I do not know. There is no evidence of fraud on the part of these men. The judges acted on the presumption that the votes had come from the ballot-box. Even if they were mistaken, why should we disfranchise the people of a congressional district, and give the seat to a man who was defeated by the popular vote?

Mr. Speaker, I have already occupied more time than I intended.

The SPEAKER. The gentleman's hour has expired.

Mr. MARSHALL. I was nearly through, any way, and having discharged feebly what I have felt to be my duty, I will leave the case with the House. I move as a substitute for the pending resolutions the resolution reported by the minority of the committee.

The Clerk read, as follows:

Resolved, That Hon. Daniel W. Voorhees was duly elected a Representative in the Thirty-Ninth Congress, and is entitled to hold and retain his seat in this House.

Mr. DAWES. I desire to ask of the House the privilege for the contestant that he may address the House on the merits.

No objection was made.

Mr. ROGERS. I suppose of course the sitting member will be allowed to do the same.

The SPEAKER. Certainly. The Chair would recognize him before any other member if he claimed the floor.

Mr. WASHBURN, of Indiana, (contestant,) rose to address the House.

Mr. VOORHEES. Might I be allowed to ask of Colonel Washburn whether the speech that he is now going to make is to be the last one on that side of the argument. Of course I except the close by the chairman of the committee.

Mr. WASHBURN, of Indiana, (contestant.) The case will be controlled by the chairman of the committee and the House. I do not know who will speak.

Mr. VOORHEES. Well, go on.

The SPEAKER. The Chair is not aware of any member desiring to speak.

Mr. VOORHEES. I supposed there was some arrangement.

Mr. WASHBURN, of Indiana, (contestant.) Mr. Speaker, suffering, as you will soon perceive, from the effects of four winter campaigns in the field, I would gladly have submitted my case upon the evidence and the able report of the committee, were it not that my silence might be interpreted as a want of faith on my part in the strength and justice of my cause. Knowing well, from long acquaintance, the talent and ability of the sitting member, even when thrown in favor of a bad cause, I well might warn any body less talented and sagacious than this House to beware of his sophistry. His great talent only makes him the more dangerous when employed in such a way.

On one point we are agreed, and that is, that whether my vote be large or small I received the whole loyal vote of the seventh congressional district, and to prove this conclusively, allow me to quote from his answer to my notice of contest, where, with a boldness characteristic of the man, he says:

"In conclusion, I charge that you received 137 votes in this congressional district more than Mr. Lincoln did, showing that instead of being defrauded out of your votes you received more than your party strength, taking Mr. Lincoln as the standard, whom you will doubtless admit received the entire support of all loyal men."—*Page 6, Mis. Doc.* No. 11.

I need not stop to discuss the legal point so ably presented by the report, as no question is raised by the minority except upon applying the law to the facts. Fraud, when proven, must vitiate the return, for that procured by fraud is no return, and whenever in any return a sufficient fraud has been shown as to make that return uncertain, then the return or the election should be set aside. No honest voter should be disfranchised by any act not his own, nor should the return of any officer be valid when it does not show the true condition as to how the honest voters did vote, and I care not whether the act making the return uncertain results from the negligence, willfulness, or fraud of the judges of election, or whether the same has been produced by the interference or fraud of third parties and entirely unknown to the judges. The question to be decided is, does the return express the will of the voters casting their votes at that precinct as shown by the ballots deposited by them? The legal presumption is always in favor of the return, but when you have established the fact that it does not express the will of the voters, as shown by the ballots, it must be set aside, and you must go behind the return and give effect to that. It will not be disfranchising any one, but giving to each the true expression of his will. Fraud in elections has shown itself in various ways: the Oxford

precinct of Kansas, the Gravais coal mine of Missouri, the Abbe precinct of St. Louis, the Mann and Cassidy contest of Philadelphia, are striking but not dangerous instances of open and direct frauds—not dangerous because the evil carried with it its own cure. The failure to take the oath, the driving away from the polls of legal voters, the smashing of ballot-boxes, and similar facts are not dangerous frauds, because the openness of the attempts to rob the voter gives an easy remedy.

The highwayman of the Turpin school, in our land at least, has almost become a myth, while the midnight burglar and the adroit pickpocket alone bear aloft the palm of crime. So, too, have election frauds kept pace with the times, no longer in broad daylight robbing the voter of his right, but silently and more surely creeping upon its unconscious victim and taking by stealth what it dare not attempt by force, dangerous because of the difficulty of its detection. The bungling forger harms no one; it is the skillful operator that gets his check cashed.

I am sorry to say that in my own State the sacred right of a free ballot has been left with so few safeguards. Nowhere should the ballot-box be placed in the hands of one man, and that man a partisan. The trustee of the township is by virtue of his office inspector of the election; and he, elected by the vote of the township, and partaking of the political complexion of the majority, selects his associates on the election board, and that board with the right to adjourn from five o'clock on the day of election until the next, the inspector in the mean time taking the box where he pleases, no sufficient sealing to prevent the opening of the box, leaving all to the honesty of the inspector, and he perhaps keenly alive to the great interest at stake, inducing him to act for the salvation of a party or a party favorite. Supposing that under such circumstances and such inducements the inspector forgets the sanctity of his oath and his duty to country and, laying all upon the altar of party ambition, takes the ballot-box during adjournment and in the dead hour of night, when no eye is upon him save the all-seeing Eye above, opens the box with a key provided for the occasion—no hard matter in this day of burglarious improvements—takes out fifty or a hundred tickets and replacing them with the same amount of a different kind, closes the box. He can then rest easy. No witness is there to tell the deed. The box shows no signs of violence. The counted vote agrees with the poll-lists, and I would ask you how this fraud, this crime, is to be detected. Would you swear the inspector by the deed itself? He is forsworn a perjurer. And where else will you find a witness? Only one remedy in such a case is left. Prove how many votes went into the box of a particular kind, and how many of that kind the return show, and if you can prove satisfactorily that but one vote is missing, it shows that the return is uncertain and does not express the true condition of the vote.

The principle, if established at all, is established by one missing vote clearly shown, as though it were a hundred. A large discrepancy only proves the fact, and may remove doubt that may be raised against the proof and not against the conclusion drawn from that proof. When the fact that a large discrepancy does exist is proven, I believe that it is sufficient proof of fraud as to at least demand from the party standing upon the return to explain it, and if he stands mute, if he fails to produce his partisan inspectors and judges to sustain their own return and explain the discrepancy, then the return, impeached by this strong evidence of fraud, should be set aside as unreliable. Very fortunately for me, the present case does not rest or even turn upon this point alone. While this ear mark is plainly visible in every precinct attacked, others more glaring, but not, to my mind, more conclusive evidences of fraud exist. But let it be understood that this House has decided that the return shall override the proven vote, and in another case they will profit by experience. The operation will be more skillfully performed; no such awkward blunders as were made this time will be seen. You may see the severed flesh, the trickling blood, but no wound has been made, because no eye save the assassin's saw the blow or the blade.

Let us, for a few moments, look at the blunders committed by—I will not say whom—at the precinct of Hamilton, in Sullivan county. First, was attempting to give an excuse for excluding my friends from the board. Another time, having the power, they will not be so foolish as to show the fell hatred that rankled in their hearts against myself and friends. No "black abolitionist" could be trusted even to sit on a board where the balance, four in number, were true and trusty Democrats. Little did they think that, upon the final trial, the jury might be composed of persons who by this test were made ineligible to the position of judge of elections in Sullivan county.

The next time the inspector will be more careful with his key. He will take the box home with him instead of leaving it in the voting-room during adjournment; and I believe this would be preferable, especially if he would burn the tickets taken from the box instead of hiding them under the carpet. And, again, when exposure is about to be made, in the place of seeking shelter behind a published card they will remain quiet, for according to the statement of the sitting member this card is the cause of all the trouble. The way of the transgressor is hard. Criminals often, in endeavoring to avoid suspicion, furnish the means for their own detection; but the sitting member would have you believe that because a man makes his mark he cannot read, and if he cannot read, he therefore cannot swear as to how he voted. The attorney for the sitting member was present and cross-examined quite a number of these individuals, and as the result, found that the party could either read or else had shown his ticket to some one who could read. Union men in Sullivan county are not so plenty that they are careless as to how they vote.

For instance, the first person mentioned in the minority report as unable to read, because he signed his name with a mark, testified on cross-examination as follows, (see page 10 Mis. Doc. No. 11:)

"Cross-examined.

"*Question.* Can you read and write?

"*Answer.* I can read print; I cannot write.

"*Question.* Did you read the ticket?

"*Answer.* Yes, I read it through.

"John Gilkeson, next on the list, on cross-examination in regard to another point, answered as follows:

"*Question.* Did you give him the ticket?

"*Answer.* I don't recollect whether or not I gave it to him, but I read it.

"Peter Moore, taken from the same list in minority report, on cross-examination says, in answer to question, can you read, and did you read the ticket?

"*Answer.* I did not read it; but I got Mr. Belser, an honest man, to read it to me.

"Mr. Belser says, I am not quite positive that I read the ticket which Peter Moore voted, but I think I did. I am certain I gave him the ticket; it was a Union ticket of the same description with those that had Colonel Washburn's name on."—*Mis. Doc.* No. 11, page 21.

And yet after this testimony, brought out by themselves, they ask you to believe these men could not swear as to how they voted.

But the minority report says I have not shown that one of these voters, swearing they voted for me, was a legal voter. This House has always decided that a voter having voted, that it is *prima facie* evidence that he had a legal right to vote. (See Botts *vs.* Jones, Bartlett, page 74,) where the rule is clearly stated, as follows:

"The committee are of opinion that the true principle is that every voter admitted by the regular officers authorized to decide the question at the polls ought to be considered legally qualified, unless the contrary be shown."

But it may be insisted that the poll-books and tally-papers must be produced on this point. Let me read from the celebrated case of Vallandigham *vs.* Campbell, (Bartlett, page 229:)

"It was objected that the poll-books of the several wards and townships, or certified copies thereof, were not produced in evidence, and that until their absence was accounted for no proof could be received to establish the fact that the voter whose right is disputed did vote at the election. So much of the statutes of Ohio as relate to this subject will be found in appendix No. 2. It will be observed that as to the poll-books required to be sent to the clerk of the county court, no provision is made anywhere for furnishing copies for any purpose; and these poll-lists are not within the acts of Congress touching the authentication of records. It nowhere appears that any part of the object of the law in requiring them to be kept is that they may furnish evidence in criminal prosecutions or upon contested elections, especially as they are not anywhere declared to be records. The chief purpose, no doubt, is to enable the judges of elections and others afterward to compare the number of ballots in the box with the number of names on the poll-list, and thus to stand as a check upon frauds. The undersigned are of opinion that the poll-lists are not only not the sole and best evidence to prove that a particular person voted, but that they are not themselves sufficient.

"The undersigned are sustained in this view of the case by analogous decisions in courts of law, where it has been repeatedly adjudged that where even the law requires for purposes of evidence a register or list of the births, marriages, deaths, and the like, the fact in criminal cases may yet be proved by parol."—1 *Greenleaf on Evidence*, p. 86, and cases there cited.

The statutes of Indiana are identical in language with those of Ohio.

Fraud may not be proven by an isolated fact, and yet by combining several facts they may carry conviction to every mind. Two and one and three make six, but two by itself does not. The exclusion of any friend of mine from the board, the finding of the key in the wrong man's pocket, the large number of votes not counted that were proven to have been cast for me, the evident alarm and endeavor of the judges to excuse themselves and throw the blame elsewhere, and the excellent opportunity given for the perpetration of the fraud, I think, when taken together, will satisfy you this box is at least "tainted with fraud."

But let us proceed to the investigation of the poll of Riley township. Here the job was more bunglingly performed than at Hamilton. At Hamilton the poll-lists and tally-papers agreed. A cool head and steady hand were all that were necessary to produce this result. To the manipulator in Riley it was new business. Perhaps he was pushed for time in his hurry and haste to get rid of the ballots that were burning his fingers. He failed to see that in hiding them he had given the means for his own detection. He was too anxious to have the door closed upon the evidence of his villainy to try and see if these self-same tickets would interfere with its again opening. Prudence, judgment, all failed him in that trying hour. The ballots under the carpet are only the missing segment of the sum total wanting in the box.

I feel from the evidence that it was a first attempt, and I trust the detection this time will prevent a second. For the man who has thus placed his name upon the records of his country's legislation for all time to come I have no feeling but pity.

In a small poll of 100 one fifth are missing. The poll-list has six more names than there are tickets in the box. Tickets are picked up from the table that never had been voted and counted to make up the deficiency. Republican tickets are found under the carpet in the Democratic inspector's house, in close proximity to the place where the box, if robbed at all, was opened, and yet a return made under such circumstances you are asked to consider sacred, and as showing the expressed will of the voters of Riley township.

Cloverdale township will next engage our attention. More than one third of the votes cast for me are missing from the box—91 are proven, and 58 are returned. Nor can the real state of the ballot be proven. A large number of soldiers, legal voters, furloughed for the election from the various hospitals and posts, returned after the election, and at the time of this investigation were absent. The missing votes unexplained should, in my opinion, impeach the credit of this return. Upon what other hypothesis can you account for this discrepancy, only that the box was robbed? Here 33 persons are proved to have voted for me more than I have counted. Of course, as the tickets and poll-lists agree, 33 different tickets must take the place of mine, making a difference of 66 votes in a small precinct; and yet the return

thus shown to be false is to stand. And here allow me to differ with my friends of the committee, to whom I am under so many obligations.

This return is allowed to stand, and they have merely counted the surplus proven for me. Now, if the votes were placed in the box for me, at least that number were taken out in order that poll-lists and ballots should agree. Therefore, instead of only adding to my vote 33, the same number should be deducted from the sitting member's count; and if, instead of throwing aside the return, you simply count it, I submit, with due deference, if I should not have added to my majority double the amount of my tickets taken from the box and replaced by others; but in my humble judgment this whole return is tainted with fraud. The board, with only a poll of less than four hundred, adjourn at five o'clock on election day until nine o'clock of the next; the inspector takes the box out of town, refusing to seal the keyhole, and at the dead hour of night is visited by a resident of the county seat, a violent partisan, the attorney in this case for the sitting member; no explanation given, either by Mr. Scott or the inspector, as to what his business was, I think sufficiently connects Mr. Scott with this transaction as to make his declaration a part of it, the admission of a *particeps criminis*, the voluntary confession of the criminal, and if Mr. Scott were to-day on trial would be good, not only against himself but against the inspector, when connected as these individuals are by this testimony. The box, if robbed at all, was robbed that night the inspector had the box with him. Mr. Scott visited that inspector after ten o'clock at night; they were alone with the box. Now, I submit, with all due deference to the opinion of the committee, if the admission by Mr. Scott that he had there and then fixed the box is not competent evidence to prove that fact, especially when left entirely unexplained. Mr. Scott, as attorney for the sitting member, was present at the taking of this testimony and not even cross-examined the witness. The witness says this declaration was made in presence of Hon. Austin Puett, who was afterward ousted from his seat in the Legislature of Indiana on the identical fraud we are now investigating.

But gentlemen are pleased to call this hearsay, and that no lawyer would insist upon its reception. Who or what is on trial here to-day? Not the sitting member nor myself. The result of to-day's trial may be a change in our positions, but we are not the criminals. The thing to be investigated is the box, the person on trial, the man who robbed the box. Now, the question to decide is, has the box been robbed, and have we so connected the inspector and Scott with the transaction as to allow the introduction of their confession? I believe we have, and that the admission of Scott as to what was done during the time of his visit to this inspector is competent. And if this House takes this view, and rejects the return made by Scott and the inspector, this case is placed beyond a doubt. Cloverdale and Hamilton, taking the law to be as stated by the learned gentleman from Pennsylvania on my left, and I am elected without the aid of Riley or Jefferson, the sitting member's majority in Hamilton and Cloverdale being 571. If Mr. Scott did not make this admission, why did not the sitting member bring up Mr. Scott or Mr. Puett to contradict the witness? Uncontradicted, it proves conclusively to my mind that the box was stuffed, and points out unmistakably who was so low and base as to do it.

But I now approach what I consider the most dangerous of these frauds, not from its magnitude, but for its skillfulness. No political friend of mine was allowed on that board; no noise and confusion were made in bringing about this result; no unnecessary charges of abolitionism were made there; to all appearance everything was fair, and yet the result is that one third of my whole vote fails to be counted. The return shows me 24 votes, while the proof beyond a doubt gives 36. Hereafter Jefferson will be taken as the model. Secure the board, do it quietly, and then make no blunders, the game is in their own hands and no danger of a contest, for there is no proof of the commission of the crime. The breath has left the victim's body, the black marks are around the neck, but none saw the murderer or the hand that did the deed.

But the sitting member says I received more votes than Mr. Lincoln in the district, and therefore I could not have been robbed of any votes. There might be some force in this argument if he had said I had received more votes than Mr. Lincoln in the precincts in controversy, but he has not made that charge, and he knows as well as I do the reason. But he states the case differently from what I do. I do not claim to have been more popular than Mr. Lincoln, but I do claim that he was less popular than General McClellan, and I will now endeavor to give you my reasons for believing so. General McClellan was for the Union at all hazards; the sitting member believed that the war was a failure. But that I may do no injustice, allow me to quote first from a McClellan campaign document, and then from the campaign speech of the sitting member:

"Yes, my friends, if anybody is disposed to cavil with you about your platform, tell him that General McClellan has made his own platform. General McClellan, I repeat, has made his own platform, which ought to be satisfactory to everybody. The Union, the Union at all hazards, is as distinctly the whole import of George B. McClellan's letter, as the Union in any event was the Farewell Address of George Washington.

"'The Union, it must be preserved,' is as clearly the maxim of McClellan in 1864 as it was of Andrew Jackson in 1832. 'Let us go for the flag and nothing but the flag. Let us furnish all the men and all the money which are required for the aid of our gallant defenders in the field, and bear the welfare of our soldiers and sailors ever uppermost in our hearts.'"

Such was the language of the McClellan platform as circulated in the speech of Hon. R. C. Winthrop and printed in the Democratic organ of our State.

The sitting member had a record and a platform of his own. Pardon me while I read from a speech delivered in this House March 5, 1864, and circulated by him as a campaign document:

"Sir, in my hours of seclusion and study I have, to the best of my humble capacity, held up the lamp of the past to the face of the future, and I call God to witness that I should be recreant and faithless to my own conscience if I did not proclaim, as far as my voice will reach, that a danger is this hour upon the American people more deadly than the juices of the hemlock or the bite of the asp. This Government is dying; dying, sir, dying. We are standing around its bed of death, and will soon be wretched mourners at its tomb unless the sovereign and heroic remedy is speedily applied." * * * * * * *

"Secure the blessings of liberty—O, bitter mockery; justice has been dethroned and the blessings of liberty annihilated. There is not one square mile of free soil in the American Republic. It is slave territory from Aroostook to the Columbia." * * * *

"And all under the sanction of the principles and practices daily exemplified by the Administration which now hurls us on to ruin.

"The records of the last session of the Thirty-Sixth Congress are immortal. The baleful broods of political destructionists who now unhappily possess the high seats of national authority, did not then want public tranquillity. They invoked the storm, they courted the whirlwind, they danced with a hellish glee around the bubbling caldron of civil war, and welcomed with ferocious joy every hurtful mischief which flickered in its lurid and infernal flames."

Alluding to our then living but now martyred President, he said:

"Genghis Khan and Tamerlane, preserved by the pen of the historian for universal execration, found no pursuit so pleasant as calling for more men, more men, more men, for the harvest of death, and like our present Executive snuffing with jests and ribaldry the warm taint of blood on every gale."

In contrast with this notice the following:

"Will some poor, crawling, despised sycophant and tool of executive despotism dare to say that I shall not pronounce the name of Vallandigham? The scandal and stigma of his condemnation and banishment have filled the civilized world. Some members on the other side of this Chamber have attacked with fierce clamor the great American statesman and the Christian gentleman who suffers his exile in the cause of liberty on a foreign soil."

And thus he alludes to the vice president of the southern confederacy, the second in command of the rebellious hordes:

"Why came that wasted figure, that gifted child of genius, the pure and elevated Stephens, of Georgia?"

But waxing more eloquent, he summons his most vivid powers of imagination. Hear him:

"I take leave of the question of the general welfare. The bitter hour of a people's bloody sweat and agonizing tears will soon be heard. The mournful shadows of its funeral pall are already penetrating the once bright and abundant homes of virtuous labor. The spirit of oppression is omnipotent in our land, and like death and famine none will escape the pangs which it inflicts. Let each eye which now beholds the sun take its last look at scenes of plenty and prosperity. Our fall from abounding wealth and unlimited resources to pinched and shrunken and cowering bankruptcy is as certain and as fatal under our present policy as the fall of Lucifer, the morning star, from heaven; and the exclamation of the laborer as he toils in a hopeless bondage to the public debt may well be as despairing as the anguish of the lost angel:

"'Farewell, happy fields
Where joy forever dwells. Hail! horrors; hail!
Infernal world; and thou, profoundest hell,
Receive thy new possessor.'"

And yet with such a platform he thinks I am very presumptuous when I hint that probably he was not quite as popular as General McClellan on a war platform of his own.

Mr. ROGERS. Mr. Speaker, I rise to a point of order. Has this anything whatever to do with the question?

Mr. VOORHEES. I hope the gentleman from New Jersey will withdraw his objections.

Mr. WASHBURN, of Indiana, (contestant.) One of the strong arguments made in the committee-room was that the gentleman was the McClellan candidate. Now, I want to show that the gentleman was upon the peace platform and not upon the McClellan war platform, and that I got more McClellan votes than he did. [Laughter.]

But another thing tended to make this result more certain. A conspiracy to overthrow our State government was discovered; large quantities of arms and ammunition were found and seized, and our people became suddenly alive to the fact that civil war was in their midst. The war that they had gazed upon at a distance was now about to be brought to their own homes and firesides. Indiana was about to become the battle-field. When thus excited the following letters of the sitting member were discovered:

LONG BRANCH, *August* 22, 1863.

MY DEAR SIR: I inclose you two letters from a man by the name of Carr, in reference to arms. A letter directed to him simply Philadelphia will reach him. I can vouch for the excellent quality and great efficiency of the rifles.

Yours in haste, JAMES W. WALL.

Envelope indorsed:

[Free.]

JAMES W. WALL, U. S. S.

Hon. DANIEL VOORHEES,
Terre Haute, Indiana.

Post mark:
Long Branch, N. J., August 22.

[E. W. Carr to Hon. James W. Wall.]

PHILADELPHIA, *August* 14, 1863.

DEAR SIR: Your letter, with one inclosed about rifles, has been received. If the parties wish to buy them the best way would be for them to have some one in New York appointed to purchase them and confer with you and me.

I am satisfied that it is the very article they want, and as you know all about them you can "speak by the card." You have seen the article tried, and no doubt are well satisfied that it will speak loudly in a good cause.

We will sell them in bond for fourteen dollars; and I have no doubt that, if the proper course is pursued, the duty can be remitted. The rifles are better and cheaper than anything ever offered in this country or made here, and as good as any ever imported. We challenge a comparison with any rifle execution whatever.

There are about twenty thousand rifles, and we desire to sell them all at once. They are a great bargain, and are worth to-day more in Europe than we offer to sell them for here.

The price of fire-arms will advance within a year at least thirty-three per cent., as arms are in demand all over Europe. As you know, there is no more effective arm in the world than this.

I am, with great respect, yours truly,

E. W. CARR.

Hon. JAMES W. WALL.

Mr. FARNSWORTH. I desire to ask the gentleman a question. I suppose these arms were procured for the troops in Indiana engaged in the war?

Mr. WASHBURN, of Indiana, (contestant.) I really cannot tell.

Mr. VOORHEES. Will the gentleman yield to me a moment?

Mr. WASHBURN, of Indiana, (contestant.) Certainly.

Mr. VOORHEES. I have once answered

this whole question. I answered it to General Carrington in Indiana, and I answered it before the people. Whoever states that I have ever engaged in furnishing arms to anybody for any purpose, whether lawful or unlawful; whoever states that I ever belonged to a secret political organization of any kind or description, states what I know to be false, and what nobody knows to be true. This is one of those poor, old, puerile, stale, downtrodden calumnies that has been stinking in the sewer where low lies lie, rotting for a year or more beneath the contempt of anybody in the world except the gentleman who brings it up on this floor.

Mr. WASHBURN, of Indiana, (contestant.) I did not introduce this as indorsing it, but I am showing what the motives were that induced the people to act as they did. I introduced it to show that it had its effect in exciting the people. And I would now ask him the question, why did Senator Wall in New Jersey think that the gentleman in Indiana would be a good purchaser for twenty thousand stand of arms?

Mr. VOORHEES. There is a very ready answer to all this, but it is a matter that must excite the contempt so thoroughly of the House that I am not going to discuss it. If that has a bearing upon the question whether I am the legal Representative of the seventh district of Indiana or not, it may come within the scope of vision of other gentlemen; it does not in mine.

I am not here to enter into the question of my political record. I care not whether it be acceptable to the majority of the House or not, except in so far as I would like to agree with men everywhere. My right to a seat here is clear, independent of any political opinions or views. This arm should wither in its socket before I would abate one jot or tittle of my opinions or stoop to explain anything of my political opinions to maintain my seat here. I have a right to it here by the law and the evidence.

Mr. DAWES. The sitting member and the contestant have had their say in reference to this matter. The sitting member has made his reply, and therefore I shall be obliged to confine them both to the issue before the House. After what was said by the contestant, I would not have done it unless the sitting member had made his reply; but both having been heard I must object to any further discussion on this point.

Mr. WASHBURN, of Indiana, (contestant.) I thank the gentleman; and now I will proceed to give my reason for introducing it. My reason is the statement he himself made in regard to me, as follows:

"In conclusion, I charge that you received 137 votes in this congressional district more than Mr. Lincoln did, showing that, instead of being defrauded out of your votes, you received more than your party strength, taking Mr. Lincoln as the standard, whom you will doubtless admit received the entire support of all loyal men. You will hardly claim that you were in higher popular favor than Mr. Lincoln. Such pretension would not certainly be consistent with a proper support of the Administration."

I have thus endeavored to give the reasons why the sitting member was not as popular as General McClellan.

Thanking the House for their courtesy toward me, I am done.

Mr. VOORHEES. I would be glad to know who else besides the chairman of the committee desires or expects to speak. I make this proposition to the chairman of the committee, or at least I will put a question to him. I agree with him in not wishing to exchange any words here; this is not the proper theater for it, whatever may be our feelings. I want to know whether anybody is expected to address the House in behalf of the majority report except the chairman of the committee, and whether I can go on with that understanding.

Mr. DAWES. I do not know who desires to speak on this case. I am not informed that anybody desires to speak. The gentleman will take such course as he sees fit. If I knew of anybody who desired to speak, I would communicate it to the gentleman. There may be those who desire to speak, or there may not.

Mr. VOORHEES. Mr. Speaker, I never before arose to address this House with the same feeling of personal indifference in regard to its action on the subject under discussion as I entertain at this time. If my title as a member of this body is not clear and above suspicion, the charms of public life would not tempt me to linger here a moment. My heart is not wedded to this Hall, and to retire from it is only to go to pleasanter scenes and more congenial duties. And if, on the other hand, by every rule of law and justice I am a legal Representative of the people, and still the majority here think proper to deprive me of my seat and my constituents of representation, even then I will retire with cheerful unconcern, well knowing how fully the future compensates for such injustice.

Sir, I am aware of the power of committees in this House. Indeed, I am ready to admit that it is highly proper, as a general rule, for a deliberative body to indorse the action of its committees. But it is equally true that there are cases in which they are not entitled to this respect. I will suppose one. I will suppose that the seat of a member of this House is contested in the usual way; that the case is reached and taken up by the Committee of Elections; that full and elaborate argument is heard by both parties to the contest, extending through three days; that all the evidence is in, and so far as the contestant and the sitting member are concerned, the case is closed and submitted to the committee. I will suppose that the sitting member is politically very obnoxious to seven out of the nine members of the committee, and has no charitable constructions to expect at their hands; that he informed them in the argument of the case that all he expected or asked was simply what the law and the facts would compel them to give; that bare, naked justice, after all doubtful points had been ruled against him, was all he sought to confirm his title to his seat. I will suppose that after the close of the argument, the committee, of its own motion and against the wishes of both parties, took the whole matter under advisement during nearly the space of a week, at the end of which time its members announced themselves ready to vote. I will suppose that thereupon the roll of the committee was called for the ayes and noes, and that every member of the committee, with but one exception, answered that the sitting member was entitled to his seat; that the one dissenting vote was given by the chairman; that then, for some reason of which we are all profoundly ignorant, this action of the committee in favor of the sitting member was withheld from this House, and that after the lapse of nearly another week, during which time no more evidence was taken, no more argument heard, and no further notice given, at least to the sitting member, a different conclusion was reached, and the contestant declared to be elected by the very same men who a few days before had solemnly declared that he was not! I need not stop to characterize such a proceeding with epithets. It will find its proper estimation in the minds of all honest men here and elsewhere. Nor need I pause to inquire into the motives which governed such conduct. There is no eye so blind as not to discern them, and no heart so calloused by partisan prejudice not to be pained at their exhibition. Yet such has been the action of the committee on the case now under consideration. They ask your indorsement and approval. Rather should they seek your charity and the forbearance of a just-minded public. I can conceive no honorable explanation within their reach. Were they so liberal as to give me the seat upon the first vote without full consideration when they had taken a week for that very purpose? Did they negligently conclude that I was duly elected? Did they take so little notice of the matter that they never found out they were wrong until the chairman made the discovery for them? Was there an overwhelming case against me which calls for my expulsion and yet no one but the chairman could find it after lengthy debate and consideration? And then was it so easily found a few days after without any further evidence or discussion? Sir, I know not whether these are the days of magic, but certainly such proceedings have very much the air of witchcraft, and the chairman appears in the character of an irresistible sorcerer. I might, I think, without impropriety ask that this case be again referred to that committee to ascertain whether the same result can be reached twice. Let us at least play a rubber and see who will get the two best in three games of chance. We are only even now, and it is hardly fair to the House to ask it to play the odd game, and thus decide the case without any aid from the committee.

Mr. DAWES. Would my friend like to have an answer to that in his speech or would he prefer to have it afterward?

Mr. VOORHEES. I am ready to take your answer now.

Mr. DAWES. I say to the gentleman that somebody has misled him wonderfully. He is not a member of the Committee of Elections himself, of course, and therefore he cannot speak of his own knowledge. Whoever filled his head with this idea, if they undertook to tell what transpired in the committee, they of course committed a breach of the rules of the House, and that ought to have raised a suspicion in his mind whether the statements were true or not.

Now, the gentleman from Indiana does the rest of the committee as much injustice as he does me when he imputes to me the slightest ability to influence their votes in any respect. I think the evidence the House had in the very last case that was heard here should have taught the gentleman that there must be some mistake in this story.

Mr. VOORHEES. Allow me to ask you a question.

Mr. DAWES. After I get through.

Mr. VOORHEES. Very well.

Mr. DAWES. I will state to the gentleman what I can state without violating the rules, because it is not a matter of action before the committee, that before the vote was taken in this case, never a word passed between me and any member of the committee touching the case, nor did I know what were the views of a single member of the committee but my own and those of the gentleman from New York, [Mr. RADFORD,] who had to leave town and left his vote with me.

I state further, that when the case was decided before the committee I did not happen to be present at all, and I do not know to-day anything about what transpired in the committee when it was decided. Now I am ready to hear the question of the gentleman.

Mr. VOORHEES. The gentleman has taken some time to assure the House that he was not so powerful in the magic arts of persuasion as I have given him the credit of being. Now let him answer a direct question. Did not this committee, with the exception of the gentleman himself, once vote, February 1, upon the roll-call of its members by yeas and nays, that I was entitled to the seat I now claim, and this, too, after full discussion and lengthy advisement? I demand an answer, and dare him to make it.

Mr. DAWES. Does the gentleman suppose that I am going to violate the rules of this House and state what transpired in the committee-room. [Laughter on Democratic side.]

Mr. INGERSOLL. I ask unanimous consent to move that the rules of the House be suspended so as to allow the chairman of the Committee of Elections to answer the question of the gentleman from Indiana [Mr. VOORHEES.]

Mr. DAWES. Each member of the committee can answer for himself. I will state all that transpired between me and any member of the committee. In justice to other members of the committee, I will state that at no time, from the commencement of the hearing of this case until this very hour, has a word passed between me and the committee upon this subject, with this exception: the gentleman from

New York, [Mr. RADFORD,] not now in his seat, who was obliged to be absent, came to me and gave me his views and requested me to hand them to the committee, which I did.

Mr. VOORHEES. I will relieve the gentleman from the imputation of persuading the committee, if he wishes it. I am perfectly willing that it should go in that way. But my question as to what the action of the committee was, what it did do, is still unanswered. In order to relieve any member of the committee from the suspicion of improper conduct, I will ask the Clerk to read an article published in the Cincinnati Commercial, one of the leading Republican papers in the West. Its Washington correspondent, writing under date of February 7, writes what I now ask the Clerk to read, and what I know to be true.

The Clerk read, as follows:

"On Thursday last week the House Committee of Elections, with but one dissenting vote, agreed to report in favor of Dan. Voorhees, as against Colonel Washburn, who contests his seat. This was after a full and fair investigation of the testimony on both sides, and the hearing of elaborate arguments from both claimants. Mr. Dawes, chairman of the committee, was the dissenter. The case was all ready for reporting to the House, but from some unaccountable cause it was kept back, and yesterday, strange to say, the committee reversed their decision and unanimously agreed to report against Voorhees and in favor of Washburn. Exactly what influence was brought to bear to secure this result is not apparent, but the facts as I state them, and I have them from an authentic source, certainly leave room for suspicion that there has been unfair play somewhere.

"As to the real state of the case, everybody knows that the Terre Haute district is hopelessly Democratic. There may have been fraudulent voting done there at the election, but it is not likely that the Democrats had a monopoly of that business. As the matter now stands the probability is that Voorhees will be ousted. If so, another election ought to be ordered immediately."

Mr. VOORHEES. That is all upon that point. That shows how well this matter was known.

Mr. DAWES. Let me put in a word here.

Mr. VOORHEES. Certainly.

Mr. DAWES. I will state that the gentleman will find that same thing, in so many words, sent to every part of the country by some industrious young gentleman in this city who supplies "telegraphic news." It attracted the attention of the committee as well as of the gentleman; it is nothing new now. Some gentleman in somebody's interest, I do not know whose, telegraphed that statement all over the country, East as well as West. It is only a part of that system of machinery sometimes resorted to, and which is sometimes called "manufacturing public sentiment."

Mr. VOORHEES. I am not going to prolong the debate on this point, as long as every one sees that the gentleman does not deny the statement I have made. That is all; let it go. He dare not deny its truth.

Mr. DAWES. The gentleman knew I should not deny the statement. He knew he would not get me to state what transpired in the committee-room when he put the question. Otherwise he would not have put it.

Mr. INGERSOLL. I believe this matter demands explanation. I have asked unanimous consent to make a motion that the rule of this House be suspended which requires that the proceedings of a committee shall remain with the members of the committee, in order that the chairman of the Committee of Elections may state the facts here. If seven or eight members of that committee voted in favor of the sitting member, after full argument, and then reversed that vote without any further argument, as one of the members of this House I wish to fully understand it before I vote upon this question. I therefore ask unanimous consent that the rules be suspended, and that the chairman of the committee be allowed to explain whether the statement of the gentleman from Indiana [Mr. VOORHEES] is true or not. Let us know it if the committee have reversed their action, because that is not set out in their report.

Mr. BANKS. I object to the suspension of the rule, not that I have any interest in this question at all. But if the rule is to be suspended for this purpose, the report should be recommitted with instructions to report on certain questions. There is no member of the committee who can stand up in his place in this House and state what has transpired in the committee-room upon subjects not reported upon, with any chance of receiving the consent and the approval of the other members of the committee.

I do not make this objection with any reference to the merits of this question, but simply with a view to the proprieties of parliamentary proceedings. It is competent for the gentleman from Illinois to reach his purpose in a different way, that is by moving to recommit this subject with certain instructions; but it would not be proper for the House to approve and sustain such a motion as that which he proposes.

Mr. INGERSOLL. I wish to know whether it is not competent, as I suppose it is, for the House to send for the records of this committee. I suppose that their records will show this vote. If so, I would like to have the record produced. If it is in order now, I will make the motion that the chairman of the committee produce the record.

Mr. FARNSWORTH. I rise to a point of order, which is that the whole subject now under discussion is out of order.

The SPEAKER. The subject can be entertained only by unanimous consent. The gentleman from Indiana is entitled to the floor.

Mr. VOORHEES. Mr. Speaker, in one sense I do not blame the chairman of the committee for wanting to keep this matter to himself, and inside the four walls of the committee-room; nor do I complain of his distinguished colleague, [Mr. BANKS,] who comes to his assistance in accomplishing that object. If I had been a willing party to such conduct, I would, no doubt, be capable of acting precisely in the same way, and would desire the affair to remain secret and undisclosed. That is all I have to say on that point.

But, leaving this branch of the committee's claims to indorsement and honorable mention in the history of these strange times, I approach the discussion of the case itself. I shall proceed to show that versatility and rapidly shifting views of duty are not the only accomplishments possessed by this elastic committee. India rubber has not only the principle of pliability but it likewise possesses very powerful erasive properties. The committee, too, has that useful quality, and has found no difficulty in erasing from their proceedings the plainest and most familiar principles of the laws of the land.

First. According to law—plain law as decided by the highest tribunals in the Government—there is no evidence at all in this case, and none was ever taken. Can any one testify who is not under oath, and can any one administer an oath except he is especially empowered by law to do so? I here state that not one witness who appears in these proceedings, contesting my seat, was ever sworn by an officer authorized to administer oaths. By the act of Congress regulating the mode of contesting an election to this House it is provided, after enumerating other officers, that depositions may be taken before any mayor of a town or city who resides in the congressional district wherein the contest originates. Here, then, is an official personage designated to act. A mayor is to take the depositions. Who and what is a mayor? Is he anything except what the law makes him? Is he not simply an artificial person created by statute with no existence whatever except such as has been specifically conferred upon him? He is merely the creature of State law, and by that law, and by it alone, he possesses all his powers.

Congress might have created a new officer and given him authority to take these depositions, but it did not. The Federal Government to accomplish a Federal object adopts a State officer as an agent because he has authority under the laws of the State to do what the Federal Government wishes done in the premises. This is no new doctrine. On the contrary, it is a very old one. It is embraced in the decision of the celebrated case of Prigg *vs.* The Commonwealth of Pennsylvania, rendered by the Supreme Court of the United States a quarter of a century ago. It was there held that the Federal Government, in order to execute a Federal law, might call upon State officers for their aid, and that such State officers might render the required aid by virtue of the power vested in them by State laws; but that at the same time they might refuse to act in the premises at all, being entirely independent of Federal authority. In other words, that to prevent the multiplicity of Federal officers the Government may adopt as agents for certain purposes persons who have authority by State law to do the required duties of the Federal Government. And when Congress said that a mayor might take depositions in proceedings like this, did it by so doing make some other kind of an officer out of the mayor, who saw fit to act? Did it enlarge his powers? If so, it would not have used the term mayor, for a mayor can only be the creature of the State enactment. He is an officer utterly unknown to Federal legislation. In support of this view of the question, allow me to cite the case of the United States *vs.* Baily, in 9 Peters, page 251. The facts in that case were as follows: a law of Congress conferred upon the Secretary of the Treasury the power to make rules and regulations in accordance with which claims against the Treasury Department should be presented and proven. By virtue of that law the Secretary, among other things, established a rule that affidavits in support of claims might be made before any justice of the peace. In the prosecution of a claim, Baily made an affidavit before one Josiah Reed, a justice of the peace in the county of Bath, and State of Kentucky. His affidavit was alleged to be false, and he was indicted for perjury in the Federal court. From there it was carried to the Supreme Court of the United States, and the question there fully discussed and decided as to the power of the said Reed to administer the oath in question, and if he had the power, whence it was derived.

Pause a moment and consider how exactly the question now before us was there presented for decision. There the Federal Government desired a certain duty performed. Here the same. There an officer created by the laws of the State of Kentucky was designated by the authority of the Federal Government as one capable of acting for it in the premises. Here an officer created by the laws of Indiana is designated by Congress as one who may take these depositions. Then we are immediately upon the point. What was the language of Justice Story in delivering the opinion of the court? It is as follows:

"It will be accordingly certified to the circuit court that the said Josiah Reed, named in the certificate of division of the judges of the circuit court, being a justice of the peace of the Commonwealth of Kentucky, authorized by the laws of that State to administer oaths, had authority and jurisdiction to administer the oath, and take the affidavit in the said certificate of division mentioned; and that if the facts stated therein were falsely sworn to, the case is within the act of Congress of the 1st of March, 1823, referred to in the same certificate."—*United States* vs. *Bailey*, vol. 9, p. 256, *Peters's Supreme Court Reports.*

This decision plainly establishes the principle for which I am contending, that where the Federal Government fixes upon a State officer to assist in carrying out its purposes, that officer does not thereby become a Federal officer, but acts by virtue of the powers wherewith he has been clothed by the State which has given him his official character. In the case just cited the oath administered by the justice of the peace in Kentucky was valid, because the laws of that State gave him authority to administer it.

Now, let us apply this plain principle of law to the case under discussion. The facts here are as follows: Albert Lange is the mayor of the city of Terre Haute, and before him every deposition on file was taken. Two of the depositions were taken in the county of Sullivan, one in the county of Putnam, and one in Riley Township, Vigo county, and all outside of the

corporation of the city of Terre Haute. But by what authority can a mayor of a town or city in Indiana administer an oath at all? Here is the law and the only law on the subject:

"SEC. 1. *Be it enacted by the General Assembly of the State of Indiana*, That justices of the peace in their respective counties, notaries public, judges of courts in their respective jurisdictions, mayors of towns and cities in their respective towns and cities, and clerks of circuit and common pleas courts, and master commissioners in their respective counties, be hereby authorized to administer oaths generally, pertaining to all matters where an oath is required; and county auditors in their respective counties shall be authorized to administer to road-reviewers and township trustees and to justices of the peace making returns of fines."—*Gavin and Hord's Statutes of Indiana*, vol. 2, p. 576.

Mr. DAWES. What is the date of that statute?

Mr. VOORHEES. Eighteen hundred and sixty-one.

Mr. DAWES. That is the way I stated it here.

Mr. VOORHEES. Yes, sir; but the error which crept into the gentleman's report was in assuming that there was no law prior to that giving to mayors authority to administer oaths. But permit to say that it makes no difference as to the point under discussion whether such is the fact or not, because certainly the gentleman is too good a lawyer to contend that a man can lawfully administer an oath before he has authority to do so conferred upon him. Within the limits of the power conferred, the officer administers the oath. If it be true that up to 1861 no mayor in Indiana could administer oaths, yet when that power has been given, even if it be for the first time, it must be exercised in accordance with the terms of the act conferring it.

Answer me, then, with this law in your presence, where Albert Lange obtained his authority to administer oaths outside of the city of Terre Haute. Does the act of Congress give it? By not one word contained therein. It says that a mayor may take their depositions. Is Albert Lange a mayor in the county of Sullivan, likewise in the county of Putnam? Has he any official existence outside of the city of which he is the presiding magistrate, with defined and limited powers and duties? What lawyer with ability sufficient to file the general issue in an action of debt will hazard his reputation by answering these questions in the affirmative? Lord Coke says:

"Nor can any oath be administered by any that have not allowance by common law time out of mind or by an act of Parliament."

Can Albert Lange administer it anywhere save where an act of the Legislature of Indiana has given him the allowance? No more than I can administer it to the first man I meet on the highway after I leave this House. The act of Congress might have constituted him a commissioner, and by special enactment empowered him to administer oaths, but it has not done so. It calls upon the official character of a mayor, a character which has no existence whatever outside of the limits given to it by law. Yet we find Mr. Lange in the various counties of the seventh congressional district certifying that as mayor of the city of Terre Haute he took the depositions in this case, and signing himself "Albert Lange, mayor of the city of Terre Haute." Sir, I have heard of roving diplomats and roving commissioners. Here is a roving mayoralty—a mayor at large—a mayor everywhere.

"No pent-up Utica contracts his powers."

He starts out upon his journeyings with his office upon his back and the corporate seal of the city in his hand, and wherever he stops long enough to screw it on a document, there he is mayor of Terre Haute for the time being. It is true he may sojourn and take depositions in a town where there is already one mayor, but he will make room for two. Is he not a universal mayor, and has not the Committee of Elections so decided? It is true that I have submitted this point to a number of the ablest lawyers in the United States, who differ, too, from me in political sentiment, and I have never yet found one who did not pronounce it so plainly in my favor that it would not bear an argument; but then they had not learned the secret of wisdom which resides in a committee-room.

Sir, I will dwell no more on this feature of the case. I would not give my assent to so monstrous a violation of law and of common sense as it involves for all the offices the people have to bestow, and certainly not to remain for life in this seat. If the House can be brought to render its sanction, be it so.

I proceed now to consider the other branch of the case. If these depositions are evidence, which they are not, what do they prove? In the notice of contest served upon me by Mr. Washburn he alleges that "eight hundred and ninety-nine persons not legally entitled to vote were improperly and illegally allowed to vote at said election and did cast their votes for" me. I presume but for a matter of conscience the odd one would have been added, and we would have been called to figure upon even nine hundred. We must be thankful, however, for small favors in this wonderful era. Now, sir, in regard to this particular and seemingly well-calculated statement of illegal votes given for me, I have this to say in the hearing of this House and in the hearing of the country: If any member of the committee or any body else will point out even the attempt to prove that I received one illegal vote I will close my mouth and abandon my place as a member. Not one vote, not one, is shown to have gone into the ballot-box for me which was not legal and valid. My majority, on which I received my commission, was 534. Failing to impeach a single vote of that majority, although the sweeping allegation just mentioned was made at the outset, resort was had to another method. With no hope or pretense of showing that I had not received a majority of the legal votes of the district, an effort was next made to disfranchise various voting precincts. At Hamilton township, in the county of Sullivan, I received 498 votes, and Mr. Washburn received 143. This was an excellent point at which to commence the disfranchisement. There was a good amount of material to operate on. To throw out and get clear of 498 votes at one blow, not one of which by a word of the evidence is shown to have been fraudulent, was an object worthy the ambition of a man who could not receive sufficient votes in any other way, and who never expected to be as near an election to Congress again. It is likewise worthy the skill of the committee, and justifies, perhaps, two or three attempts on their part to reach the desired result. In fact, their tenacity of purpose in this regard is almost equal in sublimity to that of Robert Bruce, who learned his lesson of success from the repeated efforts and untiring constancy of the spider. They failed at first to find the key to success in driving me from my place on this floor, but then how nobly they proceeded to the second trial, and how well their honest zeal was rewarded! Let us follow them in their pathway of light, always bearing in mind that my political sentiments cannot possibly have the slightest effect on the committee, and especially on the loud-professing fairness of the chairman, [Mr. DAWES.]

In addition to the 143 votes returned for Mr. Washburn at Hamilton township, he calls up according to my count 17 men who swear they voted for him. This is all. It is true that at this precinct an attempt was made to show that some one had disturbed the ballot-box in the absence of the judges at supper. They had adjourned and left the box, as they had a right by law to do, in what they conceived to be a safe place. When they returned it occurred to them that the tickets in the box had been disturbed in their position. It is said the judges were all my political friends. That is true, as it is equally true that at more than twenty other precincts in the district the judges were all the political friends of the contestant. Law has been cited that if the judges act corruptly the entire poll shall be rejected. What is the evidence here on that point? The moment that even the appearance of an interference was discovered these judges, whom you are asked to believe were corrupt partisans of mine, made the fact public, and even published at once a statement in the press, although afterward the inspector testified, as Mr. Washburn's own witness, that he himself most likely made all the disturbance in the position of the tickets which gave rise to the suspicion when he first opened the box after supper. But what could the fraud be, if any was committed? The number of votes counted out was exactly equal to the number of names on the poll-book. It is said, however, that votes belonging to Mr. Washburn were taken out of the box, and an equal number for me put in. Of this grave charge there is not even the slightest attempt at proof. There is not a word upon the subject from the lips of a single witness. But, says the contestant, and upon the second trial also so says the committee, we must infer that such is the case because a small number more men were brought before the mayor of Terre Haute, in the town and county of Sullivan, than the number of votes counted for Washburn who stated that they voted for him. Therefore the committee, having found daylight at last, resolutely, and in the discharge of a high and conscientious duty, which at first they did not see, threw out the 498 votes which were cast for me, every one of them legal, and retain for him not only the 143 to which he is entitled, but also generously add thereto the additional number claimed to be proven, 27, as stated by the committee. This kind of an arithmetic makes an election to Congress easy to one who is blessed with a committee which takes some interest in such matters. It is true that of the witnesses who disfranchise nearly 500 honest and unquestionable electors, 24 of them sign their name with a mark. Here is the proof on every page that they cannot write, and it is reasonable to conclude that they may be somewhat deficient in the art of reading. But few of them could know with the least certainty who they voted for, yet they set aside solemnly sworn returns and a Governor's commission as if the elective franchise, at least so far as white men are concerned, was a matter of not the slightest moment.

I presume it is not necessary for me to say that there never was a law-book in the world in whose pages such tremendous folly, and worse than folly, found a legal sanction. As to the action of Congress heretofore, we search in vain for anything in its history which resembles a precedent. This Government is nearly a hundred years old, yet such a principle as the committee asserts in this instance is wholly unknown to its records. But this in an era, I suppose, in which old things are to pass away and all things are to become new. Old laws and constitutions, full of the wisdom of ages, and made sacred by the glory and honor which they have conferred in times past upon the people, are pushed aside to give place to the distempered fancies of the present, which seem to pervade the very atmosphere, like the chaotic visions of a sick man's dream. I may be pushed aside with them, and if so I will at least have the consolation of a pure and hallowed companionship.

In regard to the vote in the three other townships, whose validity is called in question, I will content myself by quoting from the able and conclusive minority report:

"In Cloverdale township, Putnam county, there were cast for Mr. Voorhees 226 votes, and for Mr. Washburn 58 votes. The contestant has produced evidence tending to prove that at said poll he received 89 votes, being 31 more than were returned for him by the inspector and judges. But to make up this number we have to count the votes of ten persons, to wit, George W. Dicks, Francis Mullinix, Job Allee, William Leonard, Abraham H. Snodgrass, Andrew Finley, Elisha I. Baldwin, William Minet, William Day, and C. W. Dicks, who testify that they voted for Mr. Washburn, but who cannot themselves write their names; and of twelve others, to wit, Elza Thompson, David Thompson, Payton Albin, Harrison Young, John A. Cross, James H. McCoy, John G. Dyer, Hugh Thompson, William B. Ferguson, David W. Dunkin, Israel Jenkins, and John Dicks, jr., who were not produced or sworn, but whose votes were testified to by other persons; this being clearly secondary evidence of a very weak and unsatisfactory character.

"In Jefferson township, Sullivan county, Mr. Voorhees received 231 votes, and Mr. Washburn 24 votes,

as returned by the inspector and judges of election. Evidence is offered tending to show that Mr. Washburn, in fact, received at said poll 32 votes, being 8 more than were returned for him. But to make up this number we have to count the votes of 8 persons, (to wit, Lewis R. Mathes, James H. Beck, Lacy Wood, Pleasant Posey, Abraham Briant, Andrew Geariner, Jacob W. Beck, and James Jowett,) who testify that they voted for Mr. Washburn, but who cannot themselves write their names; and of 3 others, (to wit, Lewis Solomon, Philip Solomon, and Frederick Hinkle,) who were not produced or sworn, but whose votes were testified to by others.

"In Riley township, Vigo county, Mr. Voorhees received 173 votes, and Mr. Washburn 88 votes, as returned by the inspector and judges. The contestant has evidence tending to show that he in fact received 107 votes at said poll, being 19 votes more than were returned for him. But to make up this additional 19 votes we have to count the votes of 16 persons, (to wit, Levi Creach, Solomon Brown, William Fair, James H. Gilcrease, John Haney, John Taylor, Ezra M. Lowe, George Brown, Alexander Green, William Salamon, William Henry, John B. Creech, Hase Lynn, J. W. Smith, Isaac Lowe, and Abraham Latta,) who swear that they voted for Mr. Washburn, but who cannot themselves write their names; and of 12 others, (to wit, Hugh Maynard, David Joslin, James Franklin, George Bobo, Robert Leak, Timothy Higgins, Alonzo Ash, John Bowers, David Ward, Henry Lee, James M. Pearce, and Amos Hickson,) who were not sworn or examined, but whose votes were testified to by others.

"It appears, then, from this analysis of the evidence that in the four townships named there were returned for Mr. Washburn 313 votes, and that taking everything that has the semblance of legal evidence on the part of the contestant, it tends to prove that in those four townships he received 388 votes, being 75 more than what were returned for him. But that to make up this additional 75 votes we have to count the votes of 51 men who, while they swear that they voted for the contestant, show, by making their marks to their signatures, that they cannot write their names; and 28 others who are not produced or sworn, but whose votes are testified to by others."

But it is urged that a fraud was committed at Riley township, which rests upon the evidence of one Mary Lowe, a servant girl, as she is termed in the report of the committee. She, too, however, is one of that large number of witnesses called in this case who cannot write her name, but affixes to her deposition that sign of the cross in which I suppose the victory is to be won. I again quote the minority report:

"But we have also the testimony of Mary Lowe, a servant girl, who cannot write her name, and who testifies that on the next morning after the election she found some 'Republican tickets' under the carpet behind the door in Dr. Hickson's room. How many tickets were there? We don't know. How did she know that they were Republican tickets? Could she read them? We are not informed. Whose names were on them? Was Mr. Washburn's? Were they tickets prepared for that or for some former election? for that or some other State or district? Had they ever been in a ballot-box anywhere, or in the hands of a voter of the district, or of any elector anywhere? We are not informed. No witness undertakes or attempts to give us such information. If a clamor had not been raised could we conscientiously say that this evidence raises even a shadow of suspicion against any one? And upon such evidence we are asked by the mere force of numbers to vote Mr. Voorhees out and Mr. Washburn into Congress, contrary, as we confidently assert, to the clearly and legally expressed will of the electors of the district."

Something has been said about the fact that I took no testimony. I have an answer to that. At one time I intended to have done so, but circumstances over which I had no control, and of a private nature, prevented me. If, however, there is no case made out against me, I presume my commission, signed by the Governor, will be all the evidence I want.

Sir, I have thus discussed the action of the committee in detail. I have shown how trifling is the evidence on which it is based. But for the sake of argument suppose we admit all that Mr. Washburn claims. Suppose we admit he has proven that he ought to have received a hundred more votes than he did. Does it follow that therefore the votes which were cast for me, and concerning which there is no question of illegality raised, shall be totally rejected? Will you disfranchise a thousand legal voters on such grounds? What is the object in contesting an election? Is it not to ascertain who has the most legal votes by a recount upon all the evidence that can be furnished? Who doubts in this case as to where the legal majority rests? The contestant himself makes no pretense that he received more votes than I did, nor as many, according to his own estimate, by near four hundred; but you are asked to enforce an arbitrary and technical rule, founded neither in law or justice, in order to reduce my majority by taking away votes as pure and legal as any which ever upheld an election. The true rule of law is as it is found in the statutes of Indiana, and I am defending my rights here according to her laws as well as the laws of the States and Federal Government generally. I quote from 1 Gavin & Hord, Statutes of Indiana, page 318:

"No irregularity or malconduct of any member or officer of a board of judges or canvassers shall set aside the election of any person unless such irregularity or malconduct was such as to cause the contestee to be declared elected when he had not received the highest number of legal votes; nor shall any election be set aside for illegal votes, unless the number thereof given to the contestee, if taken from him, would reduce the number of his legal votes below the number of legal votes given to some other person for the same office."

Sir, where is the evidence of irregularity or malconduct on the part of any officer connected with this election which caused me to be declared elected when I had not in fact received the highest number of legal votes? There is not a syllable of such proof. Where is the evidence that I received illegal votes which, if taken from me, would reduce my majority of 534 to a minority? Nowhere. Allow me the votes whose legality no one questions, and allow the contestant all he claims to have received, and I am content. But if it is determined, upon the doubtful evidence of sixty-eight persons, fifty-nine of whom can neither read or write, to disfranchise legal voters by the thousand, do not, I pray, pretend that you are sustained by law or reason. Place it, then, on the ground which the country at large will assign for the basis of your action, that I am to be expelled simply because you have the power to do it. Either indorse the first action of the committee or avow the reasons which impelled them to make the second. But as you advance to the accomplishment of your object reconcile one thing more. Mr. Washburn contends, and so does the committee now, though not so at first, that he was extensively robbed of his votes, yet this much-injured gentleman received 137 more votes than did Abraham Lincoln three weeks afterward. He outran Abraham Lincoln 137 votes, and yet a vast number of votes were stolen from him. Marvelous man! What he could have done if he had only had a fair chance is beyond the scope of the boldest imagination to conceive. He beat Abraham Lincoln on the first trial very decidedly. What he could do in an open field fight with George Washington remains somewhat in doubt. When this point was suggested by me before the committee, the gentleman, with that rare modesty which so well becomes young and rising greatness, asserted, with great sprightliness of manner, and, I have no doubt, with the utmost sincerity of belief, that it was true that he was stronger before the people of that district than the late President of the United States, over whose slow-moving hearse the tears of millions so recently fell like rain from the sky.

Sir, there are things occasionally which startle even the philosophy of stoicism. I have for years endeavored to cultivate that faculty which is surprised at nothing, which looks with indifferent coolness on every phase of human life and character, content to do right within the range of my vision, and firmly believing that a wise and a merciful Providence is over all; but I do protest, with no unkindness toward the gentleman that makes this gigantic assumption in his own behalf, that he gave me a keen sensation of genuine astonishment. I knew Mr. Lincoln well. I knew him intimately and kindly many years before he was called to that perilous eminence from which he fell so sadly on the 14th of last April. In the exercise of my convictions of duty I differed, and differed widely, from him after he became President. Pardon me for saying at this time that honors and profits, as the world esteems such things, might have been mine in gratifying abundance, if I had been able in the light of my conscience to choose that broad highway and that open gate wherein so many patriots have entered on the wealthy walks of official life during the last five years. I followed my line of conviction, however, and all is well with myself. But he who denies to Mr. Lincoln a power over the hearts and minds of at least that portion of his countrymen to which the contestant in this case belongs, superior to the puny pigmies of the hour, will jostle him from that pedestal of fame on which he stands with a just and legitimate claim. Mr. Washburn, however, contests with him this supremacy. He has stronger ties with the people of the seventh congressional district than the chieftain of his party who sleeps his last sleep at Springfield. Well, perhaps he has. Perhaps he can sustain a heavy robbery and fraud, and still, by the immense weight of his character, receive a much greater number of votes than could Abraham Lincoln. I will leave this point to my Republican colleagues from Indiana, who particularly know the overshadowing influence which the contestant exercises in the political affairs of that great and powerful State. I will especially submit it to my colleague from the La Fayette district, [Mr. ORTH.] I am sure he can easily explain how my friends stole a vast number of votes from Mr. Washburn, and yet that in three weeks afterward in the same district Mr. Lincoln fell behind him in a very marked degree, and that there was at the same time only seventeen votes of a difference between General McClellan and me. All things are easy to the elect.

Mr. Speaker, I have but little more to say, and but one favor to ask. You know, and I know, and this House and the country know, that I have the legal majority of votes; but if the report of the committee is to be sustained, let it be done on its true ground. I have been your fair foe. I have met you in open, honorable warfare, and I am entitled at least to candid hostility at your hands. I have neither skulked nor dodged on this floor, and if a sacrifice is required to appease the political Moloch which has so long presided here, you have selected the proper victim. He will not shrink from the blow. God being my helper, this political gibbet shall not be matter of reproach to me or mine. If you wish to "purge Parliament" and reduce this already fractional Congress to a still greater uniformity of opinion, you hold the ax, and I defy its edge as well as the malice of the executioners. Strike; but you cannot kill. Banish me, sir; my heart is not here. It is in my beautiful western home. I am thinking of that people who have so often covered me with their affection as with a shield in the hour of storm and danger. To them I will gladly go. I owe them more for their confidence than I can ever pay; but at least one merit they will always concede to me—I have never shrank from the vindication of their rights; and may the light of heaven be denied to my eyes when, for the sake of position or place, I prove recreant to their principles.

Sir, now let the House proceed. The gentleman from Pennsylvania, [Mr. STEVENS,] two days ago, in connection with the election contest then under consideration, said:

"This question may seem to some gentlemen to be a small matter, but in view of thick-coming events one vote may prove to be of great value here."

This is the most brazen and audacious announcement ever heard in a deliberative assembly in the history of the world, and it sprung from the same fanatical and proscriptive spirit which filled the breast of Colonel Pride when he drove the obnoxious members of the Rump Parliament of England from their seats. The "thick-coming events" are the vetoes which the Executive has commenced placing on your unconstitutional and extravagant legislation. It may soon be difficult to obtain even here a majority of two thirds to pass laws over his objections; hence, "one vote may prove of great value here." It may, indeed; and while that "one vote" is wielded by me it will be given to Andrew Johnson and the great and wise measures of his policy. I am for him, politically and personally. Let there be no doubt about this. The first speech made for him in either branch of this Congress I made, and if this is my last I cannot better close it than by a prayer for the success and glory of his administration.

Mr. DAWES. I now move the previous question.

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

Mr. DAWES. Mr. Speaker, two positions which have been taken as well by the sitting member as by the minority of the committee deserve, if no other position taken by them deserves, special notice. The first is that the committee who made this report knew, and its chairman dare not state to the contrary, that the sitting member had a majority of the legal votes cast in this district, and that therefore the reports which they have brought in here are false. If the sitting member and the gentlemen of the minority had contented themselves with arguing that such was the fact, or asserting their own conviction that according to their construction of the evidence it was the fact, or affirming that according to the weight which in their opinion fair-minded men ought to give to the testimony such was the fact, nothing would be left for me at this time but to argue the question fairly with them and the House, submitting it to the judgment of the House and taking its verdict upon it. The question would simply be whether the weight of the proof in the case was what the majority of the committee believe, or whether it was what the sitting member and the minority of the committee maintain it to be. That would be a fair question to be met; a fair difference of opinion, open to fair and unprejudiced remark, and which it would become me to argue fairly, candidly, and truthfully. But the form in which they have chosen to put this matter is quite another thing. I observe they both use precisely the same language. So I understand it to be the result of conference; and it means nothing more nor less than this.

The Committee of Elections, charged with the highest duties that can be imposed upon a committee of this House, whatever little interest this House may take in questions continually brought before it by this committee, have never felt otherwise, sir, than that every question touching the right of a member to a seat upon this floor—a high prerogative guarantied to the House itself, excluding all other branches of the Government from participation or influence therein, to pass upon the qualification and election return of its own members; the highest that exists in this body, the most solemn and sacred of them all—it was becoming that every member exercising his functions thereto should approach it as well as the lot of human nature would permit him, with candor and without prejudice.

But, sir, I am to answer the assertion I cannot state to this House that I have not come in here with a report that I knew was false. Sir, in behalf of the other members of this committee who have joined with me in this report, as well as my own, I say if I had come here with a report of the character charged by my colleague on the committee and the sitting member, neither of us would be worthy longer of a seat in this House, much less of further respect in the committee in reference to the qualification of members. It is because we do believe, after a patient and candid hearing of both parties on all the testimony they cared to submit to us, and after a faithful and careful examination and reëxamination of that whole testimony, it is because all of us are of the conviction, it was our duty to say that the contestant, and not the sitting member, had a majority of the legal votes cast in this district for him.

Sir, along with it comes a matter which the sitting member, thinking of more importance than any other connected with the case, put in the fore front of his speech and set out in the beginning as the chief element of his argument, namely, a charge on the committee which he knew the chairman could not refute or admit unless he had the consent of the House and saw fit to refute it; a charge which I have some reason to think, Mr. Speaker, has been calculated on for some time, for I noticed from his friends it was to be precisely as it was. I have some reason also to know that the gentleman knew exactly what transpired in committee touching this case, and which no member of the committee had the slightest reason or objection then, any more than they have now, to withhold from this House or the country. Nothing transpired in the committee when I was present, and I have the assurance of every member of the committee that nothing transpired in my absence different from what transpired in the committee touching every case examined there, and what has transpired in committee over and over again twenty times when the distinguished sitting member in this case served on this committee, whether he was cognizant of it or not. I here submit to the House, in justification of my colleagues on this committee, I am prepared to show every thing which transpired in that committee touching our decision, when we arrived at it, and how we arrived at it. It was understood by the the sitting member when he made the charge against the committee, that it was easy for him to call attention to a fact which he knew could not be answered.

Mr. VOORHEES. I did not so understand, and I do not so understand now. There has been an effort from all sides of the House to get at the facts. It will not be objected to here. If this charge is not true let him deny it. If it is true it is well enough to talk around and cover it up. I do not suppose the House has any disposition to cover a matter of this kind up. I stated affirmatively what the action of the committee once was. If it is not true, if that is susceptible of proof——

Mr. DAWES. Does this come out of my time?

Mr. VOORHEES. It will no more. This is the last of it.

The SPEAKER. It does come out of the gentleman's time.

Mr. DAWES. I will yield to proper interruption. I state to the House I have no desire to withhold what transpired in that committee. I am willing truthfully to disclose everything which transpired there.

And I state to the House that whatever did transpire in my presence—and I have the written statement of my colleague as to what occurred in my absence—was what transpired over and over again in the committee when the gentleman from Indiana [Mr. MARSHALL] was present, and what transpires in every election case so far as my experience goes. And there I leave it with the House. I am not going to take home to myself or to the committee one particle of the insinuation or inference the gentleman desires to make or to have drawn touching the charge which he made upon the committee when he knew it could not be questioned.

Mr. VOORHEES. I did not make this charge. That is not true. I did not make it, for it is a fact which I state now on my personal responsibility, and I am prepared to prove it. Now, this thing has been tendered to the gentleman over and over, and this is the last so far as I am concerned.

Mr. DAWES. Mr. Speaker, the records of the committee are in the control of the House, and anything that transpired there is of course in the control of this body. Those records are where they can be read to the House at any moment; and, as I have repeated many times, nothing in the records of the committee, or that transpired without record, does any member of the committee desire to withhold one single instant. Can I say anything more?

Mr. INGERSOLL. Mr. Speaker, I have once proposed that the rules be suspended in order that the committee might state the facts connected with the case; that they might produce the records and let the House understand this matter. I now renew the motion that the rules be suspended, and that the chairman of the committee be directed to produce the records of the committee, and be allowed to state the facts.

The SPEAKER. Is there objection?

Mr. WASHBURNE, of Illinois. What is the fact?

Mr. INGERSOLL. That at one time, after the whole argument had been heard in the case, all voted in favor of the sitting member except the chairman, and that three days subsequently, without any further argument or evidence in the case being submitted, the action of the committee was reversed by a vote of 7 to 2. These are the facts I want explained.

Mr. WASHBURNE, of Illinois. I do not know anything about the merits of this case, but it is a violation of parliamentary law to state what took place in committee.

Several MEMBERS. Not by unanimous consent.

Mr. WASHBURNE, of Illinois. It is a dangerous precedent. I do not make any objection, but I protest against any violation of the rules.

Mr. SLOAN. I object.

Mr. SHELLABARGER. Will the gentleman from Massachusetts [Mr. DAWES] yield?

Mr. DAWES. If it does not come out of my time.

Mr. VOORHEES. I do not object, but as long as there is objection made to a full investigation of this matter I think objection ought to be made to a partial one. But I will not object.

Mr. JOHNSON. I object to the gentleman occupying the time until gentlemen are willing to answer questions that are put directly to them.

Mr. SLOAN. I withdraw my objection.

The SPEAKER. The Chair will again state so that gentlemen will understand it fully, that the gentleman from Illinois [Mr. INGERSOLL] asks unanimous consent that the chairman of the committee may state what occurred in the committee, and produce the record. Is there objection? The Chair hears none.

Mr. DAWES. I have sent for the record. I will state, so far as I recollect, all that transpired in the committee, and the House will then see upon what foundation the gentleman from Indiana [Mr. VOORHEES] has made his accusation.

After the hearing of the parties, allowing them all the time that they desired, and they had closed their argument, the committee, as is their custom, left the case without determining it, for the purpose of letting each member examine the testimony and the authorities and be ready to make up his mind. We then took up another case. After we had proceeded several days in the examination of the other case, and after the parties had gone out, I said, as chairman of the committee, that it was about time for us to dispose of this case. Some member of the committee said that they were not ready to take a final vote on the case, that they were willing to express an opinion, but not to take a final vote, and they would like to hear other members of the committee. I stated to them that I held the vote of the gentleman from New York [Mr. RADFORD] who was obliged to be absent, and I gave them the reason of that gentleman's vote as he had furnished it to me. Then one of the members of the committee (I do not wish to call the name) said, "We will take a vote and see how we stand on the question," upon which one member said he had no objection to expressing his opinion, but he did not wish it to be considered as a final vote upon the question, as he had not examined it.

But he said this, that he had examined it so far as this, that there could not be any question but what one township, namely Hamilton, must be thrown out; as to the others, he said that he had not examined them, and was not prepared to proceed, and if that was the only one thrown out it would not unseat the sitting member, and that if called upon to vote without having examined the case further, he would vote for the sitting member upon the ground that the rejection of the vote of one township and the correction of others would not alter the result. Then each one was called on for his views, and two or three members of the committee said that that member of the committee had expressed their views and they were in his condition, without having examined the other three precincts; and then came the chairman, who

said that he had looked into the case and come to the other conclusion. Then it was said by the committee then and there that they did not consider that as a final vote or as a vote upon the merits of the case; that they would make no record of it, but would examine the evidence and be prepared to take a final vote on the case at another meeting. Nothing further passed upon the subject between any member of the committee as far as I know—certainly not between me and any member of the committee. It so happened that it became necessary for me to be absent, and I was absent at the final disposition of the case. No man on the committee, as I supposed, considered the first action of the committee as any more than an expression of opinion on such part of the case as they had examined. I have sent for the record of the committee.

Mr. VOORHEES. Let me interrupt the gentleman once more, and I will not interrupt him again; perhaps I shall never do it again in this Hall.

Mr. DAWES. I will have the record of the committee here in a moment.

Mr. VOORHEES. I served a long time on the Committee of Elections, and of course whatever the clerk of the committee, Mr. Bartlett, says, will be correct. But after all the talk the gentleman has made, the only thing that I stand upon is, that after three days of argument and after a week's advisement, the roll was called by the clerk of the committee, and I received every vote in favor of retaining my seat except that of the gentleman himself. That is the point I make.

Mr. DAWES. Let the record speak for itself. I have it before me. On the 20th of January, 1866, the committee met; present certain members of the committee named; the committee agreed to take up the case of Washburn and Voorhees, of the seventh congressional district of Indiana, on Tuesday next at ten o'clock a. m.

On January 23, 1866, the committee met; all present but one member. The case of Washburn and Voorhees, from the seventh district of Indiana, was taken up on the preliminary motion of Mr. Voorhees to reject all the depositions on file on the ground that they were not taken by persons authorized by law to take the same.

After argument by the parties the motion was denied.

On January 24 the committee met, present all the members but certain members named, and agreed to take up the case of Washburn and Voorhees on Friday morning.

On February 6, 1866, the committee met, one member absent, and the case of Washburn against Voorhees of the seventh congressional district of Indiana was voted upon, and the committee decided that the contestant, Mr. Washburn, was entitled to the seat by the subjoined vote—yeas, Messrs. Dawes, Scofield, Baxter, Upson, Paine, Shellabarger, and McClurg; nays, Messrs. Marshall and Radford.

That is the whole record there is of the committee.

And now, Mr. Speaker, suppose that the committee had done precisely what the gentleman from Indiana [Mr. VOORHEES] says they did——

Mr. SHELLABARGER. Will the gentleman yield to me for a moment?

Mr. DAWES. I will yield to my colleague on the committee.

Mr. SHELLABARGER. I have no desire personally to say a single word on this matter. But my associates on the committee think that perhaps, all things considered, it is better that I should state precisely what my recollection of this matter is, which I now do.

We were called upon to express our views, but not to give a final vote upon the subject in the committee. So called upon, I then made this statement: that my duties in connection with the committee and in the House had so occupied me that I had had no opportunity, after the conclusion of the argument, to investigate the case for myself upon the evidence; therefore I was not prepared to cast a final vote upon the subject, but would reserve the right to change my expression of views at any time in the future after I had had the benefit of hearing the opinions of the entire committee and of investigating the case for myself.

I also said that I had no doubt that the returns of Hamilton township must be rejected as fraudulent, but that, as then advised, I did not deem there was that clear and satisfactory proof which the law required to establish fraud in the other townships, and that, without having made any figuring for myself, I understood that the rejection of the returns for the township of Hamilton did not change the result so as to unseat the sitting member. Therefore, if called upon then to cast my vote, I would cast it for the sitting member, reserving my right to modify that vote upon a careful investigation. After such careful investigation I ascertained that the rejection of the return of Hamilton township does change the result if Mr. Washburn is to have the benefit of the votes that he proved to have been cast for himself. Ascertaining that fact, and upon the only actual vote taken upon the merits of the case, the Union members of the committee voted unanimously in favor of the contestant.

Mr. VOORHEES. I must express my profound acknowledgment to the gentleman from Ohio [Mr. SHELLABARGER] for the favor and consideration, entirely unexpected, with which he at one time, at least, regarded my claim to a seat in this House.

I repeat here, and state now, that this matter that has been so covered up with words by the gentleman from Massachusetts [Mr. DAWES] and the gentleman from Ohio [Mr. SHELLABARGER] is simply this: on the 1st day of February, of which it seems no journal was kept, the roll was called by the clerk of this committee by yeas and nays, calling the members by name; and I received every vote except one, that of the chairman, in favor of my right to a seat in this House, and that, too, after the case had been argued for three days, and held under advisement for a week besides.

Now, how little or how much importance should be attached to this does not matter at all. I have withdrawn, long since, any imputation upon the chairman that he controlled the balance of the committee. I think there are other members of the committee as capable of controlling him as he is of controlling them. I do not put it in that light at all. But I merely want the country to know that this case of mine was not so irresistibly malignant and wicked against me but what I received all the suffrages of the Committee of Elections except one, after a full argument and a thorough investigation of its merits.

Mr. DAWES. Now, Mr. Speaker,——

Mr. FINCK. Will the gentleman allow me——

Mr. DAWES. Wait a little; I have not got quite through with the sitting member yet. I suppose the sitting member will have no objection to telling which member of the Committee of Elections disclosed its secrets to him.

Mr. VOORHEES. I long since furnished to the House and to the country the evidence on which I made the charge, and had it read from the Clerk's desk. If it is not true, the gentleman can deny it.

Mr. DAWES. Will the gentleman from Indiana [Mr. VOORHEES] state to the House that no member of the committee did disclose anything that transpired in the committee-room?

Mr. VOORHEES. Oh, that does not affect the truth or falsity of the statement at all.

Mr. DAWES. I put the question.

Mr. VOORHEES. I will say that the gentleman himself never told me.

Mr. DAWES. I put the question; the gentleman understands me as putting the interrogatory directly to him.

Mr. VOORHEES. I put the interrogatory to the gentleman forty times this afternoon whether the statement I referred to was true or false, and he would not answer.

Mr. DAWES. I gave the reason; that I was not at liberty to answer the question, but was perfectly willing to do so.

Mr. FINCK. The gentleman is at liberty now.

Mr. DAWES. I put the question again to the sitting member. Did any member of the committee disclose its secrets to him?

Mr. VOORHEES. My answer to that question is, that it is none of the gentleman's business; not the slightest. It is a fact that he has no more right to inquire into than I have to inquire into the most private relations of his life.

Mr. DAWES. I leave this matter here.

Mr. FINCK. Will the gentleman——

Mr. DAWES. I do not think I will yield any more now. I have but few words more to say on this matter, supposing it to be of that importance which the sitting member has considered it to be, inasmuch as he has put it as the basis of his argument for his right to retain his seat—has put it in the very forefront of his argument. Now, suppose it to be true that very able members of this committee, in the time they had to examine this case before they expressed an opinion, not having an opportunity to put the figures together, fell into the error in the computation of supposing that the rejection of certain votes would not change the result; and then, after examining the votes again, they found they had been mistaken, and that it would change the result.

Is it anything in the view of fair-minded members of this House that these members of the committee fairly and frankly corrected the mistake into which they had fallen. Has the sitting member nothing firmer upon which to rest his claim to a seat in this House than the fact that two or three members of this committee, in adding up the figures on the first examination did not find that it would change the result, when in point of fact it would. He seems to think that if he can make out that fact, he has substantiated his right to the seat. The gentleman seems to be somewhat in the same position as his own inspector of elections. This inspector found his powers of arithmetic so poor that he could not count within twenty of the number of votes that had been cast for the contestant, and by reason of the consequent excitement in the town he was compelled to make some explanation; and he came out in a written statement under his own hand that the ballot-box had been tampered with—in his absence, as he says; yet when the contest came off, and his deposition was taken by the contestant, this inspector said that the fact that the ballot-box had been tampered with did not make any impression upon his mind. So the fact that the ballot-boxes in four of these precints were, if there is any truth in the testimony, opened in the absence of the judges of the election and tampered with to an extent that no man can tell, seems to make no impression upon the mind of the sitting member; he regards it as altogether unimportant, provided he can satisfy the House and the country that certain members of the Committee of Elections, when they first closed the argument in this case, failed to notice the fact that throwing out the vote of one of these precints, confessed to have been so tampered with, would change the result.

The sitting member, in his argument, has not given his attention for one moment to the fact that, if you reject the return of Hamilton township and give the contestant the benefit of the corrections proved by him in the other townships, the contestant, and not the sitting member, is elected. This stands out as plainly as arithmetic can show it. The only difference between myself and the other members of the committee at the time referred to by the sitting member was, that I happened to have added up the figures while they had not. When I explained the matter to the other members of the committee, stating the reasons for my vote, the whole committee understood the matter at once.

Mr. MARSHALL. With this personal matter I have nothing to do. I wish to draw the attention of the honorable chairman to one

point which I omitted to notice in the remarks which I submitted this morning.

It is not true that the rejection of the vote of Hamilton township would elect the contestant, unless after rejecting it you count all the additional votes that were claimed in the other townships, and also count those votes in Hamilton township which it is claimed the contestant has proved. Now, I insist, and I believe the position cannot be controverted that after declaring the election in Hamilton township null and void, to go on and make a new election from the proof in the case, and to allow to the contestant the votes he may thus prove, is a departure from every principle and precedent of the law.

I maintain, also, that it is a departure from the pleadings in the case. The specifications of the contestant allege that on account of frauds the election in Hamilton township was null and void. If it was null and void, then the case stands in the same way as if no election had been held there; and it is contrary to every principle of law to count the votes of any voters, legal or otherwise, unless an election was held.

Now, if the gentleman will allow me, I will make one other remark. I have been absent from the House during the last hour. I understand that the obligation of secresy as regards the proceedings of the committee has been removed by the House, and that the gentlemen of the committee have been called on to state what occurred there. I have been asked by friends around me to state my understanding of the facts; and if it is no departure from the ——

Mr. DAWES. Before I yield further to the gentleman on that point I will put an interrogatory to him. I would like to inquire of him, inasmuch as the sitting member has very politely told me that it is none of my business, whether he is the member of the committee who disclosed the action of the committee to the sitting member or anybody else?

Mr. MARSHALL. I will state frankly everything which occurred. I have no concealment to make of my conduct here or elsewhere. Soon after the action of the committee I heard it rumored all over the House what that action was. I was approached by different members, and among others by the sitting member. I understood there was a rule of the committee or a rule of the House which prevented me from making any disclosure. I heard one of the members of the Committee having a conference with Colonel Washburn in regard to this matter. He asked him if he had heard of the action of the committee, and Colonel Washburn said that he had. He then asked him if he was alarmed about it, and he said that he was not. I passed on and did not hear any more. Everybody was talking of the action of the committee; it was in all the newspapers; and I did not feel that I was precluded from speaking about what already seemed so very well known. If I have violated any rule of the House, I regret it, but I am certain it is a common practice to disregard this rule, and it has been done by others in this case, and that before I did.

Mr. DAWES. No one treats the committee with more regard than the gentleman, and I wish he would disturb them a little more than he has done. He treats them with a great deal of regard; but I would say to him in all kindness that he does not come near us as often as I would wish.

Mr. MARSHALL. It is true I may not have attended the meetings of the committee as regularly as I ought to have done. My health has been such that I have been unable promptly to discharge all of the duties which have been imposed upon me. If the gentleman has no objection I will say another word.

Mr. DAWES. I have none.

Mr. MARSHALL. I wish to state right here I have a high regard for the gentleman from Massachusetts, the chairman, and for all the members of the committee. They have treated me with great personal kindness, and I have no charges to make against them. I have no disposition to insinuate they are governed more by partisan feelings than all men are unconsciously in matters of this kind. It is human nature notwithstanding all the efforts you may make as honest men. I have the highest regard for the committee; but as the facts of the case have been called for, I must say that on the first calling of the case every gentleman on the committee voted for Mr. Voorhees except the chairman himself. These things are before the committee, and if they are thrown open they will be found as I have stated them. As I have already said, I made no statement in regard to the action of the committee until after I heard it made the subject of conversation everywhere throughout the House.

Mr. ELDRIDGE. Was it a vote reserving the final action for another occasion?

Mr. MARSHALL. No, sir; it was a vote directly on the matter called up for the purpose of determining it. This is the simple fact, and in stating it I do not propose to make any charge against any member of the committee. I know in matters of this kind men are liable to have their minds influenced without being aware of it. The fact is before the country; and I have made the statement only because I have been called upon by friends around me to do so.

Mr. DAWES. I was about to ask the attention of the House to the evidence in the case, omitting a charge, to which I beg to call the attention of gentlemen, that the majority of the committee, in making this report to unseat the sitting member, were actuated by a desire to secure a vote for their side, that they were actuated by political considerations, and in support of that charge an expression of the gentleman from Pennsylvania [Mr. STEVENS] has been quoted—an expression which was made during the discussion of the last contested-election case upon which the House voted. It was said he remarked that, in view of the peculiar circumstances which he thought had lately transpired, he urged upon the House, as a reason why they should vote in a certain way, we needed every vote we could obtain. That was urged as evidence why the House was about to unseat the sitting member and put in the contestant, forgetting or omitting to state that the House had voted with the majority of the Committee of Elections against the gentleman from Pennsylvania by a very large vote; that the House had voted against him, notwithstanding the construction which he had advanced, and that the committee had reported in favor of a political opponent. On that occasion, notwithstanding the House had heard from the gentleman from Pennsylvania what the sitting member has construed into an exhortation to this House to give the seat to a particular man, the House refused, after a fair consideration of the remarks of the gentleman from Pennsylvania, to respond to them by a majority of thirty.

Mr. STEVENS. I was not in when the gentleman from Indiana [Mr. VOORHEES] alluded to me, but from what I learned I desire to state that I voted in accordance with what in my judgment clearly gave to Mr. Koontz the right to a seat. I then said that I had been more earnest than usual perhaps in the matter, inasmuch as at this moment every vote which was fairly ours should be considered. I gave it as no reason why we should vote in that way at all, but as a reason why I had ventured to intermingle the debate with some warmth.

Mr. DAWES. Now, sir, I made no use of the gentleman's remarks in the way in which they have been used by the gentleman from Indiana, [Mr. VOORHEES,] but I was vindicating the majority of this House as well as the committee from any such insinuation. It was most unkind on the part of the gentleman from Indiana to make it against the chairman of this committee with whom he has served four years on the committee, and whom he has seen time and again, in his efforts to maintain the rights of a political opponent in this House, voted down by his own party friends. It was unkind to make the insinuation against the old members of the committee, and certainly it was equally untrue as to the new ones. But least of all has he a right to make it, who knows the facts here, who knows that, time and again, whether right or wrong, the chairman of this committee has struggled in this House against political friends and in support of what he thought was the right of political opponents. I may have been wrong, and the majority of the House has often thought I was wrong, and has so voted; but he at least who is responsible for this report should not be charged by a colleague who has helped to make them, with having brought in a report here actuated by the motive of giving a seat to a political friend that properly belongs to a political opponent.

But I was remarking, before this digression, upon the fact that there was one township confessed by the judges themselves to have had its ballot-boxes invaded and broken up in their absence. They were compelled to confess it, and yet the sitting member takes no notice of the fact in his argument, being as indifferent as his own inspector tried to be when he was put upon the stand and under oath about it. Let me read what the inspector was compelled to sign eight days after the election by the public sentiment in the town in which he lived. Here is a card, dated October 19, 1864:

"We the undersigned, judges and clerks of the election held at the court-house in Sullivan on the 11th day of October, 1864, in view of the frauds alleged to have been perpetrated, and in justice to ourselves, avail ourselves of this the first opportunity offered to make the following statement:

"Of the frauds charged we know nothing. We saw no act of impropriety by any member of the board while in session; but that we are satisfied in our own minds that such charges are not without foundation."

Whether these men really knew they were signing a paper charging themselves with fraud at some other time when they were in session I will not say; but they do.

"And we have such opinion upon the following circumstance, to which we are willing at any and all times to be qualified: at the adjournment of the board for supper, which was about dusk, we had counted out between fifteen and twenty tickets, which were strung on a string prepared for that purpose. The string of tickets was placed in the ballot-box on top of the uncounted tickets. The poll-books and tally-papers were then placed on top of the tickets, the box locked and set on a table in one corner of the room."

There were three or four hundred uncounted tickets at the bottom. Then they went out and left things in that condition.

"When the board met, after supper, the ballot-box was unlocked in our presence by the inspector, the tally-papers and poll-books taken out, but the string of counted tickets could not be seen."

It further appears that nobody else could unlock the ballot-box, although the inspector gave the key to somebody else.

"The inspector turned to the table in the corner of the room to search for it, and while thus engaged we found the string of tickets in the ballot-box completely covered by uncounted tickets. We are satisfied that the string of tickets could not have got to the bottom of the ballot-box without the same being opened in our absence and the tickets handled.

"Respectfully submitted.

PORTER BURKS,
JAMES A. BEARD,
Judges.
DANIEL LANGDON,
BENJAMIN HAVENS,
Clerks."

Now, the inspector adds to this, as follows:

October 19, 1864.

I hereby certify that I believe the above statement to be correct. When the box was opened after supper, I took out the poll-books and tally-papers, but could not find the string of tickets. Supposing they had been left out, I turned to look for them; meantime they were found in the box. It is evident that they were moved while the board was adjourned for supper.

Respectfully, W. C. GRIFFITH,
Inspector.

Now, it is true that they called him on to the stand sometime afterwards, when the seat was contested, and then he tapered off; it did not make any impression on him then any more than upon the sitting member.

Now, upon this hangs the whole question of the right of the sitting member to a seat. It did not occur to some of the members of the committee upon first considering the matter,

but upon this ballot-box and correcting the other returns hangs the whole question of the sitting member's right to the seat.

He swears that he

"Saw nothing to create any suspicion that the ballot-box was tampered with, as the ballots and names of voters balanced. Some few days after the election, the judges and clerks of said election called my attention"—

What to? Not to the fact which they knew on the day of election, that the ballot-box had been opened by somebody; they did not call his attention to that, which they knew on the day of election; but they called his attention "to the fears entertained by them of frauds being practiced."

He had no alarm about anything but that. He carried the key of the ballot-box in his pocket, and had given the judge another key, although the law says that he shall give the judge the key of the box. The judge, however, went off with another key and left him with the key of the ballot-box and the box too. He goes on to say:

"Their grounds of alarm were, as stated by them, that Mr. Baird found the strung tickets under the unstrung tickets."

And then he goes on to relate it as he did before. It did not seem to alarm him any more than it has the sitting member.

Now, I submit that with all the solemn effort of the sitting member to impress upon the House, not only that he is a martyr to his political principle, but as resigned as any of the martyrs in Fox's Book of Martyrs——

Mr. MARSHALL. Will the gentleman allow me a word here, and then I think I will not interrupt him again? He knows that I have a very high personal regard for him.

Instead of these gentlemen admitting that they were guilty of fraud, they each and every one upon oath deny it. The honorable chairman of the committee says that in their certificate they did not seem to be conscious that they were admitting that they had been guilty of fraud. Sir, on their oaths, when introduced as witnesses by the contestant, each and every one of the members constituting the board denied that they knew anything in regard to frauds perpetrated in that precinct or township. They state that they did not interfere with the ballot-box, and know of no person who interfered with it.

Mr. DAWES. They say it was interfered with.

Mr. MARSHALL. No; I deny that. They do not say that. They say in that certificate that the charge that it was interfered with was not entirely destitute of foundation, and they then go on and state the premises on which they base that conclusion; and it was simply this, that they had already counted the strung tickets, fifteen or seventeen, and did not find them in the precise condition they expected to find them in, but they deny that they knew anything of fraud having been perpetrated in that township.

Mr. DAWES. I cannot complain of my friend's interruptions, for he prefaces whatever he says with his "high regard" for me and wheedles me out of a good deal of my time. [Laughter.]

Mr. MARSHALL. I will not repeat it any more.

Mr. DAWES. I am very much obliged to the gentleman.

[Here the hammer fell.]

Mr. DAWES. Let me have a few moments more. [Cries of "Go on!"]

The SPEAKER. The gentleman will proceed if there be no objection.

No objection was made.

Mr. DAWES. I do not say that these judges of election committed fraud. I have not been so understood, I think. I did not intend to be so understood. I mean to say that they express in their card the unequivocal opinion and assert the fact that there was fraud.

I cannot do away with the suspicion which keeps coming up in my mind that that inspector kept the wrong key on purpose. But I admit it has nothing to do with the merits of this case, whether the fraud was committed by the inspector or by some one else. If the box was opened and the tickets taken out, and the sacredness of the ballot-box invaded, it makes no difference to us here by whom it was done. My friend from Illinois [Mr. MARSHALL] says they only expressed an opinion. I challenge any member of the House to read the paper in evidence, and then say that the committee did not come to a correct conclusion in the matter.

And let me submit to the gentleman who claims a martyr's robes this day, and calls the attention of mankind to the resignation with which he wraps them around him here in this House and then walks out of it, that he claims the right to a seat here upon the ground that his political friends invaded the sacredness of the ballot-box, and fitted it to the necessities and exigencies of his case. Let him put that on his martyr's robes and go out of this House with it if he desires, unless he will come back here and condescend to submit his views upon that point.

He has sought to try the Committee of Elections before this House, and not to try his case. He has offered not one single word of explanation or argument in reply to this testimony touching this ballot-box. It is a question of fact for this House to pass upon, upon which men have the right to differ; and I have no doubt they will exercise it. Let me sum it up in a few words. There have been testified to by living witnesses 170 votes cast at one township, while there have been only 143 of them counted. At another township there have been 36 votes testified to by those who cast them, and only 24 counted. At another 108 votes were testified to and only 88 votes counted.

Now, all the answer to this is, that of this number of voters there are a certain number that cannot write their names; and it is to be assumed that a man who does not write his name does not know for whom he votes. It is asking this House to say that because a witness cannot write his name, therefore he cannot testify truly when he testifies that he knows for whom he voted. I am not one of those members of this House who have declared by their votes that the inability of a man to write his name is no disqualification from voting. I think that a voter ought at least to be able to write his name and to read it, but there is no evidence here that these men cannot read, and the fact is patent all over the world that men can read who cannot write. But whether they can read or not, they know what they did.

It is the last charge to come from men who have voted on this floor that the inability to write one's name is no disqualification of a voter. And yet they ask this House to put alongside of that vote another vote, that the man who could not write does not know for whom he voted. Now, unless it is a fair conclusion in the minds of members of this House that a man who cannot write his name does not know how he voted, then there is no question but what the real vote was cast as I have stated, and shows a majority for the contestant.

I do not believe that any member of the committee would be guilty of asking this House to vote to unseat the sitting member unless he solemnly believed that the majority of the votes were for the contestant. I do not understand how my colleague upon the committee [Mr. MARSHALL] can consent to coöperate with a committee which he believes guilty of any such monstrous attempt as he seems to have charged.

The committee have heard the contestant and the sitting member. They have considered all the testimony that either of them expressed any desire to present. They have excluded nothing, not one particle of testimony touching either of these precincts that either the sitting member or the contestant desired to submit. They have heard the explanation of that evidence. They have examined and reëxamined this case. And now all that can be said against it from any quarter whatever is summed up in this, that a man who cannot write his name does not know for whom he votes.

I submit that question to the House in the form of the resolutions reported by the majority of the committee.

Mr. JOHNSON. Mr. Speaker——

The SPEAKER. Debate is exhausted, the previous question having been seconded.

Mr. DAWES. I will retain the floor for one moment.

Mr. JOHNSON. I desire to ask the gentleman from Massachusetts a single question with reference to this case. I am not clear in my mind, from all the debate which has been had on this subject, whether the whole vote of Hamilton township was thrown out in the count, or whether only the votes cast for Mr. Voorhees were thrown out, while those cast for the contestant were counted.

Mr. DAWES. The committee state the conclusion to which they come in two ways. First, throwing out the vote of Hamilton township, and also the vote of Riley township, where votes were found under the carpet, and taking all the votes proved by either party, and adding them to their respective votes, the contestant is elected by some 220 majority. In the second place, by rejecting only the vote of Hamilton township, because it is a confessed fraud, and correcting the returns of the other three townships by adding the votes proved, the contestant is elected.

There is still another method by which the contestant is shown to have been elected by a majority of more than 50 votes, and that is in conformity with the rule suggested by the gentleman from Pennsylvania [Mr. THAYER] on Wednesday last, although I do not think the rule is a sound and a safe one to follow. I do not think it right to disfranchise a single voter in one of these precincts, because the election officers have been guilty of fraud. I believe it to be the duty of the committee to find by evidence every honest vote and count it. Yet the gentleman from Pennsylvania held that there is a rule of law, so fortified by practice and the decisions of the courts as to be binding upon us, that if you find the return of any precinct so tainted with fraud that it must be thrown aside, you are not at liberty to ascertain by evidence the number of votes cast. Accepting that rule, and rejecting the returns from Hamilton, Riley, and Cloverdale townships, on the ground that those returns are so vitiated by fraud as to be worthless, and not counting a single vote from those townships proved *aliunde*, but correcting the vote in the other township, the result stands as follows: for Mr. Voorhees 11,883 votes; for Mr. Washburn, 11,999; making a majority for the contestant of 116. So that, taking either of the two methods suggested by the committee, or adopting the rule proposed by the gentleman from Pennsylvania, the same result is attained. The sitting member can be kept in only by sanctioning a fraud upon the ballot-box which, by the confession of his own political friends, the judges of the election, was fraudulently opened and tampered with.

Mr. JOHNSON. If I understand the gentleman rightly, the committee have thrown out the returns from one township altogether; then they allow the contestant to produce the evidence of certain persons who swear that they voted for the contestant, and also the evidence of persons who swear that others told them they voted for the contestant. That, as I understand, is the way in which the committee have reached their conclusion.

Mr. DAWES. I am sorry that the gentleman does not understand the matter better after two days' debate.

Mr. JOHNSON. Then let me ask the gentleman a single question: have not the committee thrown out the vote for Mr. Voorhees in one township, while they have counted that for the contestant?

Mr. DAWES. I did not understand the gentleman's last question.

Mr. JOHNSON. Well, I cannot help it if the gentleman is so obtuse.

Mr. DAWES. Then we will let the matter stand just where it is.

I yield to the gentleman from Illinois, [Mr. FARNSWORTH.]

Mr. FARNSWORTH. Mr. Speaker, although not a member of this committee I have examined very carefully the reports of the majority and minority with an honest view, if I know myself, of coming to a correct vote on this question; not voting because the majority of the committee have adopted this or that, but voting on this I would decide it sitting as a judge on the testimony adduced before the House. I do not agree with the conclusions of the majority of the committee, for I think these four precincts should all be thrown out. I think where it is impossible to ascertain from the evidence of the truth of the poll, it is the duty of the committee and of the House to disregard that vote and throw it out entirely. It is proved in this case that in each of the four precincts in question, Hamilton, Cloverdale, Riley, and Jefferson, the contestant received more votes than were counted for him by the judges of election. Now, if every voter in these precincts had been sworn, or if in any other way it had been proved how each individual voter voted, you would have the truth of the poll. That has not been done in this case. The contestant has proved by introducing a good many witnesses that he received a certain number of votes. None said that he did not receive others. You could only prove that by swearing every man who voted or by swearing some one who knew how every man voted.

What is the condition of the polls in those precincts? I defy any man to tell me what the condition of the polls was. You cannot do it. It is probable, and it is only problematical, that had the sitting member been diligent in producing witnesses and taking testimony he might have proved there were votes enough to elect him. We must decide for ourselves——

Mr. JOHNSON. I desire to inquire of the Chair by what rule the gentleman occupies the floor?

Mr. FARNSWORTH. By consent of the gentleman from Massachusetts.

The SPEAKER. The gentleman from Massachusetts had his time extended, but the Chair doubts whether he can transfer that to another. The Chair therefore sustains the point of order raised by the gentleman from Pennsylvania.

Mr. FARNSWORTH. All I wish to say is, the throwing out of those four precincts elects the contestant, giving him 11,999 votes, and to the sitting member 11,883. Now that is all there is in the case.

The question then recurred on the following resolution:

Resolved, That Hon. Daniel W. Voorhees was duly elected a Representative in the Thirty-Ninth Congress, and is entitled to hold and retain his seat in this House.

Mr. KERR demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 30, nays 96, not voting 57; as follows:

YEAS — Messrs. Ancona, Delos R. Ashley, Boyer, Brooks, Dawson, Denison, Eldridge, Finck, Glossbrenner, Goodyear, Grider, Aaron Harding, Hogan, Edwin N. Hubbell, Ingersoll, Johnson, Kerr, Kuykendall, Marshall, Niblack, Nicholson, Ritter, Rogers, Rousseau, Shanklin, Strouse, Taylor, Thornton, Trimble, and Wright—30.

NAYS — Messrs. Allison, James M. Ashley, Baker, Baldwin, Banks, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Blow, Brandegee, Bromwell, Broomall, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cullom, Darling, Dawes, Defrees, Donnelly, Driggs, Dumont, Eckley, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Hale, Abner C. Harding, Hart, Hayes, Higby, Holmes, Hooper, Hotchkiss, Demas Hubbard, Hulburd, James Humphrey, Julian, Kelley, Kelso, George V. Lawrence, William Lawrence, Loan, Lynch, Marston, Marvin, McClurg, McIndoe, McKee, McRuer, Mercur, Moorhead, Morrill, Morris, Moulton, Myers, Orth, Paine, Perham, Pike, Plants, Price, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Smith, Starr, Trowbridge, Upson, Van Aernam, Burt Van Horn, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—96.

NOT VOTING — Messrs. Alley, Ames, Anderson, Bergen, Boutwell, Chanler, Coffroth, Cook, Culver, Davis, Delano, Deming, Dixon, Griswold, Harris, Henderson, Hill, Asahel W. Hubbard, Chester D. Hubbard, John H. Hubbard, James R. Hubbell, James M. Humphrey, Jenckes, Jones, Kasson, Ketcham, Laflin, Latham, LeBlond, Longyear, McCullough, Miller, Newell, Noell, O'Neill, Patterson, Phelps, Pomeroy, Radford, Samuel J. Randall, William H. Randall, Raymond, Ross, Sitgreaves, Spalding, Stevens, Stilwell, Taber, Thayer, Francis Thomas, John L. Thomas, Robert T. Van Horn, Voorhees, Ward, Warner, Whaley, and Winfield—57.

So the amendment was disagreed to.

During the vote,

Mr. PHELPS stated that he was paired with his colleague, Mr. McCULLOUGH.

Mr. BROOMALL stated that Mr. HUBBARD, of Connecticut, was unavoidably absent, and that if present he would have voted in the negative.

Mr. DARLING stated that, believing there was no election in the district, he would vote "No."

Mr. DRIGGS stated that his colleague, Mr. LONGYEAR, was unavoidably absent.

Mr. O'NEILL stated that he was paired with his colleague, Mr. RANDALL.

Mr. NIBLACK stated that Mr. HILL was paired with Mr. BERGEN, and Mr. STILWELL with Mr. TABER.

Mr. VAN HORN, of New York, stated that Mr. WARD was paired with Mr. J. M. HUMPHREY.

The vote was then announced as above recorded.

The question then recurred on agreeing to the resolutions reported by the majority of the committee.

Mr. MARSHALL. If these resolutions are voted down, would the effect be to refer the case back to the district?

The SPEAKER. The Chair supposes it would not.

Mr. MARSHALL. I do not believe anybody can say that the contestant had a legal majority, and I hope the House will vote it down. [Cries of "Order!"]

The SPEAKER. The Chair, after examining the phrascology of the resolutions, is of opinion that if they are voted down it would leave the sitting member in his seat.

Mr. MARSHALL. It would then be within the power of the House to refer it back to the people.

The SPEAKER. That would be in order after the resolutions are rejected.

Mr. HALE. I ask for a division of the question on the two resolutions.

The SPEAKER. The question will be first taken on the first resolution.

The resolution was read, as follows:

Resolved, That Hon. Daniel W. Voorhees is not entitled to a seat in this House as a Representative from the seventh district of Indiana in the Thirty-Ninth Congress.

The resolution was adopted.

The question then recurred on agreeing to the second resolution, as follows:

Resolved, That Henry D. Washburn is entitled to a seat in this House as a Representative from the seventh congressional district of Indiana in the Thirty-Ninth Congress.

Mr. MARSHALL demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 87, nays 36, not voting 60; as follows:

YEAS — Messrs. Allison, Baker, Banks, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blow, Brandegee, Bromwell, Broomall, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Dawes, Defrees, Donnelly, Driggs, Dumont, Eckley, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Abner C. Harding, Hart, Higby, Holmes, Hooper, Hotchkiss, Demas Hubbard, Hulburd, James Humphrey, Julian, Kelley, Kelso, Kuykendall, Laflin, George V. Lawrence, William Lawrence, Loan, Lynch, Marston, Marvin, McClurg, McIndoe, McKee, McRuer, Mercur, Moorhead, Morrill, Morris, Moulton, Orth, Paine, Perham, Plants, Price, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Starr, Stevens, Trowbridge, Upson, Van Aernam, Burt Van Horn, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—87.

NAYS — Messrs. Ancona, Delos R. Ashley, Blaine, Boyer, Brooks, Buckland, Darling, Denison, Eldridge, Finck, Glossbrenner, Goodyear, Grider, Hale, Aaron Harding, Hayes, Hogan, Edwin N. Hubbell, Ingersoll, Johnson, Kerr, Marshall, Myers, Niblack, Nicholson, Ritter, Rogers, Rousseau, Shanklin, Smith, Strouse, Taylor, Francis Thomas, Thornton, Trimble, and Wright—36.

NOT VOTING — Messrs. Alley, Ames, Anderson, James M. Ashley, Baldwin, Bergen, Boutwell, Chanler, Coffroth, Conkling, Cook, Cullom, Culver, Davis, Dawson, Delano, Deming, Dixon, Griswold, Harris, Henderson, Hill, Asahel W. Hubbard, Chester D. Hubbard, John H. Hubbard, James R. Hubbell, James M. Humphrey, Jenckes, Jones, Kasson, Ketcham, Latham, Le Blond, Longyear, McCullough, Miller, Newell, Noell, O'Neill, Patterson, Phelps, Pike, Pomeroy, Radford, Samuel J. Randall, William H. Randall, Raymond, Ross, Sitgreaves, Spalding, Stilwell, Taber, Thayer, John L. Thomas, Robert T. Van Horn, Voorhees, Ward, Warner, Whaley, and Winfield—60.

So the resolution was adopted.

During the roll-call,

Mr. COFFROTH stated that he had paired with Mr. ASHLEY, of Ohio.

Mr. PATTERSON stated that he had paired with Mr. CHANLER.

The result of the vote having been announced as above recorded,

Mr. DAWES moved to reconsider the vote by which the House agreed to the resolution; and also moved to lay that vote on the table.

The latter motion was agreed to.

Mr. ORTH. I move that the oath of office be administered to Mr. WASHBURN.

The motion was agreed to.

Mr. HENRY D. WASHBURN accordingly appeared at the Speaker's desk and was duly qualified.

ORDER OF PROCEEDING TO-MORROW.

Mr. STEVENS. I ask unanimous consent that when the House meet to-morrow they meet for debate as in Committee of the Whole on the President's message, and for no other business.

No objection being made, it was so ordered.

SENATOR CRESWELL'S ORATION.

Mr. STEVENS. I ask unanimous consent to offer the following resolution:

Resolved, That there be printed for the use of the House twenty thousand copies of the address of the Speaker and the eulogy of Hon. J. A. J. CRESWELL, delivered on the 22d instant, and that the same be printed in the Congressional Globe.

Mr. JOHNSON. I object.

The SPEAKER. Objection being made it cannot be received.

Mr. STEVENS. Let it go to the Committee on Printing.

Mr. JOHNSON. I object.

NORTHERN PACIFIC RAILROAD AND TELEGRAPH.

Mr. STEVENS, by unanimous consent, introduced a bill to secure the speedy construction of the Northern Pacific railroad and telegraph; which was read a first and second time, and referred to the Committee on the Pacific Railroad.

TENURE OF CIVIL OFFICE.

Mr. STEVENS, by unanimous consent, introduced a bill to define more particularly the tenure of civil office; which was read a first and second time, and referred to the Committee on the Judiciary.

WILLIAM BLISS.

Mr. STEVENS, by unanimous consent, obtained leave to withdraw from the files of the House certain papers in the case of William Bliss and others, copies of the same being left on file.

LEAVE OF ABSENCE.

Mr. ANCONA asked and obtained leave of absence for Mr. BOYER for ten days.

Mr. TAYLOR asked and obtained leave of absence for Mr. J. M. HUMPHREY for ten days.

Mr. CONKLING asked and obtained leave of absence for Mr. WARD for ten days.

Mr. DRIGGS asked and obtained leave of absence for Mr. LONGYEAR for five days.

GETTYSBURG MONUMENT.

Mr. MORRILL, by unanimous consent, reported from the Committee of Ways and Means a bill (H. R. No. 283) to exempt the Gettysburg national monument from duties and excises, with an amendment in the form of a substitute.

The substitute was read. It provides that all materials or manufactures subject to internal duties, or imported from abroad subject to imposts or other charges, to be used in the con-

struction of the national monument at Gettysburg shall be exempt from all duties and imposts.

Mr. MORRILL. I understand the comtee have made arrangement already for the monument to be purchased and manufactured abroad.

Mr. HARDING, of Illinois. While I am in favor of the monument, I dissent from the policy of going abroad for the materials if they could have been got in America.

Mr. MORRILL. I would have been opposed to it if I had been on the committee of arrangement.

Mr. FERRY. The monument is to be made in America; the statues are to be made abroad. It is impossible to procure the statues in this country, or it is so deemed by the executive committee, and they have requested that the monument thus to be made be exempted from tariff and excise. Proposals have been made, all by American artists, the material to come from abroad. That seems to be a necessity in regard to the material for the four statues surrounding the monument. I trust the House will not object to the passage of this bill. The amount to be exempted will be about three thousand dollars, and certainly there can be no objection to relieving the Monument Association and the States at large that are interested in this object of this small pittance.

Mr. MORRILL. I will state that the amount of subscriptions is already sufficient to carry out the object if this bill should pass. If it should not it will be necessary to call upon the States for further contribution, which is thought to be rather inconvenient at the present time.

I call the previous question.

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

The bill as amended was then ordered to be engrossed for a third reading; and being engrossed it was accordingly read the third time, and passed.

Mr. MORRILL. I move that the title be amended by striking out the last word "excises" and inserting in lieu thereof the words "imposts and charges."

The amendment was agreed to.

Mr. MORRILL. I move to reconsider the vote by which the bill was passed; and to lay that motion on the table.

The latter motion was agreed to.

LIFE AND ACCIDENT INSURANCE COMPANY.

Mr. HALE, by unanimous consent, introduced a bill to incorporate the National Life and Accident Insurance Company; which was read a first and second time, and referred to the Committee for the District of Columbia.

PUBLIC LANDS IN MICHIGAN.

Mr. DRIGGS, by unanimous consent, introduced a bill to amend an act entitled "An act granting lands to the State of Michigan;" which was read a first and second time, and referred to the Committee on Public Lands.

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

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

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of Captain D. McDougal, Commanders Parker and Shirley, and other naval officers at Mare Island navy-yard, California, and serving in the Pacific squadron, for increase of pay.

By Mr. ALLISON: The petition of A. B. F. Hildreth, and 34 others, citizens of Floyd county, Iowa, praying Government aid for 1. A ship-canal connecting Lakes Erie and Ontario with the Hudson river; 2. Improvement of Fox and Wisconsin rivers; 3. The enlargement of Illinois and Michigan canal and the improvement of Illinois river; and 4. The improvement of the rapids and the removal of obstructions in the Mississippi and other rivers.

By Mr. ASHLEY, of Nevada: A memorial from the Legislature of the State of Nevada, against the sale of mineral lands.

By Mr. BANKS: The memorial of Pardon Worsely, for compensation for services rendered the Government.

By Mr. BEAMAN: The remonstrance of W. & C. H. Humphrey, and others, citizens of Adrian, Michigan, protesting against the passage of the bill relative to the sale of postage stamps and stamped envelopes on credit.

By Mr. BIDWELL: A petition from John M. Avery, California.

Also, petitions from the officers of the Navy attached to the navy-yard at Mare Island, California, and serving in the Pacific squadron.

Also, the petition of the Teamsters' Association in California.

By Mr. DUMONT: The remonstrance of George Fleece, Logan Russell, M. T. Russell, James M. Proctor, and 100 others, citizens of Hendrick county, Indiana, praying that the rebel States may not be admitted back until they secure equal rights to all men, so that all men, white and black, may stand equal before the law; also, praying that the leading traitors may be tried and punished.

By Mr. ECKLEY: The petition of C. Aultman & Co., praying to be relieved from duplicate taxes on manufactured agricultural implements.

Also, the petition of wool-growers of Smithfield, Jefferson county, Ohio, asking for a further duty on wool.

By Mr. FINCK: The memorial of George H. Friehardt, and others, manufacturers and dealers in paper and envelopes, of Circleville, Ohio, against the passage of the bill authorizing the Postmaster General to sell stamped envelopes at the value of the stamps impressed thereon.

By Mr. GARFIELD: The petition of citizens of Mahoning county, Ohio, against the restoration of any State that has rebelled and warred against the United States till adequate security has been obtained against its renewing the attempt to secede; and the adoption of amendments of the constitutions of the rebellious States repudiating all debts incurred in rebellion; and also adopting amendments of the Constitution of the United States giving equal suffrage to all persons without regard to race or color.

By Mr. JULIAN: The petition of John Smith, asking the bounty due in the case of two years' service, he having been honorably discharged by reason of sickness four days before the expiration of said service of two years.

By Mr. MARVIN: the remonstrance of R. Durkee, and others, of Saratoga Springs, New York, against the sale of stamped envelopes at the cost of stamp.

Also, the petition of George W. Heaton, J. Woodbridge, and 215 others, of Gloversville, New York, praying for an amendment of the Constitution to provide security and equality before the law to loyal men of the South, without distinction of color.

Also, the petition of George W. Heaton, and 247 others, of Gloversville, New York, for an amendment of the Constitution so as to provide for the election of President and Vice President by a direct vote of the people.

By Mr. MOORHEAD: A petition from citizens of the United States, against the adoption of the free trade policy by Congress.

By Mr. MORRILL: The petition of George B. Greece, of Windsor, Vermont, and 112 others, praying Congress to impose such conditions upon the rebel States as shall punish treason with loss of power and ineligibility to office, and which shall demand the abolilition of all distinctions on account of color or race; also, to immediately amend the Constitution so as to make these conditions imperative and perpetual.

Also, the petition of W. F. Konison, of Burke, Vermont, and 41 others, praying that the rebel States may not be restored until ample security shall have been given against a renewal of the attempt at secession.

Also, petitions proposing several amendments to the Constitution of the United States, whereby the rights of the whole people may be better protected.

Also, the petition of Leonard Pearson, of Windsor, Vermont, and 49 others, praying that the Constitution may be so amended that the President and Vice President may be chosen by the qualified voters of the United States directly without the intervention of Electoral Colleges; limiting the privileges of voting for those officers to citizens who can read; and requiring that no one shall be abridged or affected in his enjoyment of the elective franchise by reason of race, color, descent, or social condition.

By Mr. PAINE: The petition of Julia A. Francis, for a pension.

By Mr. PERHAM: The petition of John B. Morrison, and 65 others, for establishment of a post route from Milton, via Bean's Corner, to North Chesterville, in the State of Maine.

By Mr. RICE, of Massachusetts: The petition of Horace Partridge, and others, against the bill authorizing their sale of stamped envelopes by the Postmaster General.

By Mr. ROUSSEAU: The petition of Mrs. U. S. Grant, Mrs. J. S. Smith, Mrs. Robert Farnham, and Mrs. J. L. Carlisle, a committee on behalf of the lady directors of the "National Home for Soldiers' and Sailors' Orphans," asking that the Surgeon General may be authorized to transfer to that institution certain Government stores.

By Mr. WARD: Joint resolutions of the Legislature of the State of New York, urging legislation for such measures as will be calculated to improve and facilitate the navigation of the great lakes, and recommending a grant of public land to aid the construction of the Portage Lake and Lake Superior ship-canal.

Also, the petition of numerous officers and soldiers of the twenty-seventh congressional district of New York, asking for an equalization of bounties.

By Mr. WASHBURNE, of Illinois: The petition of Seth V. Shockley, and 100 others, citizens of the third congressional district of Illinois, praying Congress not to admit the rebel States into the Union until adequate security be obtained against their renewing the attempt to secede.

NOTICE OF A BILL.

The following notice for leave to introduce a bill was referred to the appropriate committee:

By Mr. BEAMAN: To continue in force and to amend an act entitled "An act to establish a Bureau for the Relief of Freedmen and Refugees," and for other purposes.

HOUSE OF REPRESENTATIVES.

SATURDAY, *February* 24, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

PRESIDENT'S MESSAGE.

The SPEAKER. By the order of the House on yesterday, business to-day is to be confined to debate, as in Committee of the Whole on the state of the Union, upon the President's annual message. Upon that subject the gentleman from Ohio [Mr. PLANTS] is entitled to the floor.

Mr. PLANTS. I will yield to my colleague [Mr. CLARKE] for the present, with the hope that I may obtain the floor after he shall have concluded his remarks.

RECONSTRUCTION.

Mr. CLARKE, of Ohio. Mr. Speaker, notwithstanding the bitterness of feeling in which the rebellion was projected, and the more than savage ferocity with which it was prosecuted, still the hearts of the loyal people of the nation are full of tenderness, and ready to respond with kindness to the appeals of our erring brethren whenever those appeals are made in the spirit that ought to touch our sympathies and challenge our forgiveness.

If we appear to move cautiously in the work of reconstruction, and to consider the measures necessary to that end with more than ordinary deliberation; if we appear tardy in the eyes of those lately in rebellion in our advances toward their restoration to their former condition in the Union, it should be a full answer to them, and an ample justification to us, in the judgment of all impartial minds, that we have not only good cause to be deliberate, but that haste in such an undertaking, with such great responsibilities depending upon what we do in that behalf, would not only bring reproach upon us as a deliberative body, but expose the country to results more calamitous, if possible, than those from which we have but just emerged after a four years' war.

The times in which we live, and the people with whom we have to deal in this work, are worthy of careful consideration, for without a just appreciation of them we have no assurance that our labors will be either wise or well-timed. Old things are passing away, and new ones are taking their places; old ideas, old errors, are fading out in the sunlight of truth, and old customs and practices, based on exploded dogmas, are everywhere crumbling into ruins, and a higher and holier order of things succeeds, keeping pace with the moralizing and Christianizing influences which mark with especial significance the ruling spirit of the times.

Slavery, that but a short time since was received as a God-given institution to man, has fallen under the ban of a purer morality and gone down with the curses of the Christian world resting upon its memory. Four brief years have done the work for that monstrous institution of outrage and wrong and crime against humanity.

With the fall of slavery must also fall the things pertaining thereto; the thing that was yesterday a chattel is to-day a man, and the master who yesterday had his heel upon the neck of his slave to-day meets that slave upon the level of a common equality in all that pertains to the natural and civil rights of man.

These changes are suddenly thrust upon us, and upon those with whom we are dealing in

the work of reconstruction, and necessarily require to be kept constantly in view in whatever is proposed as a solution of the great question.

The negro is in our hands—his well-being, his liberty, his life, are all at our mercy, and whether we like or dislike the labor of providing for his future destiny, it falls upon us as a charge of the most solemn and obliging character. Through the providence of God he has become a freeman, and we must see to it that the great purposes his deliverance is intended to effect are not lost through our neglect.

These things cluster around the question of reconstruction, and require to be carefully considered; we are our brother's keeper, and must see that even-handed justice shall be meted out to the black man if possible; at least he must be protected from outrage until time and the refining influences of the new order of things shall bring our erring brethren to a right appreciation of the dignity of man and the duties and obligations that manhood imposes upon all.

And while we should not judge too harshly, we cannot forget that the rebellion was projected deliberately, projected by men of great capacity and of the highest respectability, occupying the most important and commanding positions in the South, many of them holding seats in these Halls, solemnly sworn to support the Constitution, and who, regardless of their oaths, left their places here with the openly-declared purpose of going to their respective constituencies to kindle in the hearts of their loyal and unsuspecting people the fires of rebellion, to instruct them in the lessons of treason, and to make war upon the nation. Other prominent leaders, wearing the uniform of the Army and Navy of our Government, who had long years been the recipients of its beneficence and honors, abandoned their duty and their allegiance and, laying perjury upon their souls, became the willing and active leaders in the war of the rebellion, eagerly seeking to destroy the Government which their duty and their oaths bound them alike to defend. These are the schoolmasters of the rebellion; these are the men who have taught treason as a science to the people of the South; these are the men who have kept up this bloody crusade upon our country for four years, and who only yielded when their last man was conscripted, their last dollar expended, and their last ration consumed—then, indeed, they hauled down their insulting flag and acknowledged their cause lost.

Rarely in the history of civilized man have we a parallel of the savage spirit with which they carried on the war. With a hatred fiendish beyond comparison, they disregarded the laws of war and the common sentiments of humanity by refusing to accept the surrender of prisoners, choosing rather to butcher them after they had thrown down their arms and begged for quarter. They bayoneted the wounded who fell into their hands; they put prisoners in death-pens by thousands, to destroy their lives by the process of exposure and starvation; they sported with the suffering of their prisoners, and taxed their ingenuity to invent new methods of torture; they invaded the sanctity of the grave by digging up the buried dead who had fallen in battle bravely fighting for their country, and dishonoring their bones by appropriating them to base and degrading purposes, in savage derision of those brave men who loved their country better than life, and who died to redeem it from the bloody grasp of a wicked, relentless, godless rebellion.

These are the men, these plotters and teachers of treason and leaders of the rebellion, who are clamorous for an immediate unconditional return to their original *status* in the Union. I do not array these charges against them to increase the indignation they naturally inspire in the breasts of all Christian people, but I desire that the world shall know, now and hereafter, the men with whom we have to deal in the work of reconstruction, that the world may comprehend the force of circumstances with which we are surrounded.

I do not doubt there are loyal men in all those States. I do not doubt they are all tired of the wicked war they have been waging against the Union. I do not doubt they are convinced it was not only a great folly, but a great crime, to begin that war, and that it has proved an ever-memorable curse to them, and to the entire South, in the terrible desolation of life and property it has wrought. And further, I do not doubt that it leaves stings and wounds and scars, as well as heart-burnings and hates and curses, unuttered they may be, but deep-seated and bitter, that in many need but a word to move their souls to mutiny.

Now, sir, while I am ready to forgive the offender who manifests sincere repentance, however great the crime, and while I am anxious for an early restoration of these people to their lost estate, I cannot forget the care I am sworn to take of the Constitution of my country, and with it the great structure of free government, which require that I should first look to the household of faith, and to be very sure that in all that is done or proposed no unnecessary danger is to be risked to the country. Much as I sympathize with these misled people, and much as I desire that they be healed, I am more bound in duty and affection to those who have stood firm in their integrity and preserved the nation from the wrath of its assailants.

Much has been said as to the relation which the rebel States have sustained and do now sustain to the Union. It is a question about which great differences of opinion exist, but in the light I view the whole subject, I do not conceive it important how the conclusion may settle down on that question; our duty is the same, the evil is the same, and the remedy the same. There was a time when these States were all in harmony with the Union, enjoying its protection, and sharing its prosperity; their Senators and Representatives were occupying honorable seats in this Capitol, making laws for the nation; their men of mark—and they had many of them—were commanders in our Army and Navy, in diplomatic service abroad, judges of Federal courts, Cabinet ministers, were everywhere where distinguished ability was required. Suddenly these Halls were abandoned by them; judges and marshals and postmasters and commanders of fleets and armies, of forts and arsenals, custodians of the public property and treasure everywhere in the South renounced the national authority and their allegiance to it, and took part with the rebellion. State Legislatures and State conventions assembled and adopted, in all possible solemnity, ordinances of secession, and the entire machinery of a new hostile government was installed and assumed life and motion, and all the visible ligaments by which those States were connected with the Union, to appearance, totally severed. These are the facts, call them by what name you will. Unconstitutional, as we contend, and therefore void in legal contemplation, but, nevertheless, aimed to be effectual in dissolving the Union, and practically for four years as completely successful as though warranted by express constitutional provisions. For four years these insurgent States were without representation in Congress, without the recognized right to such representation; for four years the civil authority of the national Government was suspended in those States; our custom-houses were abandoned or in the control of rebels; our postal system broken up; our Federal courts closed; all the machinery of civil government under the national authority completely paralyzed, was unknown, and all that time a new government was set up and acknowledged by them, hostile to the Union, making war upon us with all the energy and power it could employ, lacking only success to impart to it the dignity and permanency of a nation.

At the end of the struggle, when this rebel organization was overpowered by the irresistible weight of the military arm of the Union; when battles ceased because the foe was vanquished, then came peace, and statesmanship is summoned to take the place of arms, and conduct victory to its logical conclusions, the establishment of a permanent peace, with all proper guarantees against repeated violence from the same source, and for the same causes especially, and all other proper measures of future security which the lessons and experience of the past shall suggest.

Whether in the Union or out of it does not change, in any manner, our high duty to make a wise and wholesome use of the victory, and see that nothing is left undone that is necessary for the future national peace. The interest of the nation is first to be consulted—what it needs must be secured; when that is done, then whatever of tenderness and lenity may be safely and prudently extended to the insurgent States, no just and liberal mind will seek to withhold. Like the prodigal son, they have abandoned the parental mansion, have taken their portion and spent it in riotous living; become poor, naked, famished, feeding upon husks. But unlike the prodigal son, they have none of his penitent spirit. He would arise and go to his father, and say, "Father I have sinned against heaven and before thee, and am no more worthy to be called thy son." Not so with our rebel brethren. No penitence, no acknowledgment of error, no manifestation of the return of filial or fraternal regard, but a sullen, reluctant submission to the force of circumstances they cannot control.

They rebelled and made war upon us; we met them with the force of the nation and subdued them; and just where the war left them, legislation takes charge of them. The war was waged against them to prevent them from overthrowing the Government. Our armies accomplished their great duty; they did it well; they prevented the destruction of the Union by subduing and disarming its enemies; and now it is our duty, as statesmen, by wise and well-considered measures, to secure to the country the fruits of victory achieved by our arms, to certainly prevent any further efforts, by war or otherwise, on the part of the insurgents, to break down our Government; and we are not required to involve ourselves in a needless wrangle as to their *status*, whether they are in or out of the Union, whether they remain States or mere masses of disorganized people. They were once States in the Union, and are destined to be so again, I trust, and to enjoy as such all the rights and privileges of the most favored. But when that blessing shall descend upon them it must be accompanied by such just and needful regulations, applicable to all, as shall give unmistakable guarantee against all possible contingency whereby the peace, the prosperity, the life of the nation may again be put in peril.

The efforts of the President in restoring the civil government in those States have been eminently successful, and no doubt contributed largely to the reëstablishment of law and order among the people thereof. The more complete that work the better for those people and for the Union, and the sooner will they be prepared to resume their relations with the loyal States in the Union. But in all that is said and done in view of complete restoration, it must not be overlooked, that in no event can any of the delinquent States be permitted to participate in the national councils until they will present such men as their Representatives who will take the oath all loyal Representatives are required to take, and who represent a loyal constituency.

It has been repeatedly asserted upon this floor that these rebel States have a right to immediate, unconditional representation in Congress, and that nothing but the physical force of superior numbers keeps them out. If that be so, when did they not have the right to be here? Had South Carolina and Georgia a right to have their Representatives here during the war? Had they the right to levy war upon us, and also help complete our speedy ruin, by taking part in our legislation? If they had no right to legislate here during the war, when, and by what act of theirs, did they acquire that right?

By repealing the ordinances of secession? No; those acts were without constitutional sanction, mere nullities, and needed no repeal

to render them void. Was it by ceasing to make war? That brought peace, not reconciliation. Reconstruction is not so trifling or so cheap a thing that it was to be had by a vanquished enemy upon his own terms.

The leading rebels say they fought for principle. If they had a right to make war, we were wrong in opposing them; and the right to make war on principle is as good in their behalf to-day as it was when they first fired upon Sumter.

It is exactly for the reason that they claim to have been right in rebelling that we are in duty bound so to arrange matters in the new order of things that neither the rebel States nor others shall ever hereafter have the pretense of authority to institute a rebellion, make war upon the Union, and institute a hostile government within it.

And we, the Representatives of the loyal people of the Union, propose to become the sole judges ourselves of the terms and time of that restoration.

We can no more submit that question to the judgment and decision of those lately in rebellion than could our Union generals have dared to submit their councils of war to be controlled by rebel leaders when great battles with treason were pending. If we had submitted to a war, such as they would have directed on our part, we should have had a brief and bloodless conflict, the confederacy would have triumphed, and our Union dissevered forever.

As in war, so now in peace, we shall take care to guard the citadel of freedom; and while we proffer the right hand of fellowship to those who have so long and so persistently struggled to destroy us, let them know that solemn duty requires that we exercise the same watchful vigilance in legislation that our soldiers did in war to prevent the success of the enemies of the Union, that it may not be said of us hereafter, to our shame, that the achievement of our armies came up to the summit of public expectation and did its work well in breaking down the rebellion, but that Congress was wanting in wisdom or fidelity to make secure the fruits of victory.

Who does not know that an unconditional restoration of those States would result in fresh revolts, and that all our bloody battles will have to be fought over again before our grandchildren shall have attained to manhood?

Why did we fight at all, if the cause of the conflict is to remain as seed of future carnage? Nay, sir, peace is too sweet, and blood too precious, to be exposed to the perils of such reconstruction. The hour has come, and the men are here, to do the work that loyal people are praying for. Let us do it as men instructed by four years of terrible conflict, and inspired by the prayers of millions of loyal hearts, who feel deeply the magnitude of the work upon our hands, and who daily and hourly ask God to help us to wise and safe conclusions.

We ask no concessions of these people that would be degrading or unmanly in them to concede; we ask nothing that should offend the pride of brave men; we must demand of them that they renounce the right to take the life of the nation. May we not do this? Nay, will we be held guiltless if we accept anything less?

Slavery is gone; it expired before they laid down their arms; that much we have without asking; it fell by the sword, the arbiter to which its friends appealed. One of the great elements of discord it certainly was, and possibly without it our late troubles would never have overtaken us. But there is now a time to remove the remaining roots of bitterness that if left untouched may give us future grief. Let us pull them out, and as we start afresh with a reconstructed Union, let it be under the most favorable circumstances, that the hearts and hopes of our people may be fully inspired with the promises of a glorious future.

The great purpose, the only purpose of the war on our part, was the suppression of armed rebellion. By war we broke down the military power of the insurgent States; in no other way was it possible to make head against treason, and save the nation. We did break it down, and a *quasi* peace, the peace we now have, succeeded the noble achievements of our armies. But who will dare to assert, in the face of facts known to exist, that treason has been exterminated, or that the peace we have is such a peace as gives that ample confiding security to persons and property we have a right to demand upon any foot of land over which the rebel flag ever floated as the emblem of confederate rule?

Why, sir, the most hopeful portion of all the South, whence the word of promise is brought to our ears with a persuasive soothing that flatters us with the hope of settled peace and loyalty, and that treason and rebellion are only spoken of as things of the past—even there, we have almost daily reports of utterances and acts of treason of the most startling character. Such is the unsettled condition of things even there that buskwhackers, highwaymen, and bandits carry on their trade of crime and outrage within the very limits of the State capital, and all the civil, military, and moral power of the State is utterly inadequate to the preservation of order or the protection of the loyal people; and nothing but the national forces in the vicinity prevents the outlaws from driving the loyal citizens out of the State, and treason—bold, unblushing treason—again spread out its bloody banner over that devoted land.

The war did not squelch out rebellion; it simply disarmed it. It did not burn out treason; it lowered its front and taught it to be silent, and that silence is the peace we have—nothing more.

It is not merely an empty, nominal peace that we are seeking, that we are struggling to establish for the people of the South, but a healthful, vigorous peace, that carries upon its front the ægis of security to the people everywhere; a repose founded upon universal loyalty, the honest resolves of penitent men to cease to do evil and to learn to do well; men who, whatever may have been their former guilt in the great crime against their country, are willing to abandon all their wicked purposes and in good faith to return to their allegiance, and by word and deed help to restore to our common country all that it has lost in the rebellion, as far as it may be attainable by human effort.

The experience of every day, in this Hall, satisfies me that the great work before us, if done right, must be done by the friends of the Union; done in the face of a watchful and persistent Opposition that permits no occasion to pass unimproved to embarrass every effort we make in the direction of reconstruction.

The same spirit that was manifested during the entire war—that hung like a perpetual nightmare upon the nation, sugar-coated croaking, wearing upon the surface a gloss of patriotism, but at the core full of sympathy for the cause of the enemy—is visible at every step we take in this work, and, while it necessarily embarrasses our movements, inspires the rebels with hopes of terms they know they do not deserve and would not ask but for the encouragement of such ill-timed service; it emboldens them to demand terms of return in the defiant tone of victors and not in the submissive spirit of a vanquished people.

When first these men were subdued, and their armies surrendered, they were ready to accept peace upon any terms; death to the leaders, confiscation to the rich, and disfranchisement to the rank and file would have been accepted as reasonable by men who knew and felt they had forfeited everything, even life itself, by the crimes they had committed.

But a sympathizing party—the same that gave them aid and comfort in war—still faithful to its instincts, followed them in their misfortunes, and inspired their hopes by assuring them they had done no wrong; they had merely asserted a political principle; that was their undisputed right; they failed to maintain it, not because they were wrong, but because they were overborne by brute force.

The whisperings of such friends gave them encouragement; they revived in spirit, and instead of being suppliants at our feet, a crushed people, fallen in a bad cause, they became emboldened, and assume to dictate to us the terms upon which they will accept the peace we tender them. The same fell spirit follows their cause into this Capitol, and every succeeding day introduces us to new apologists, who seem best pleased with themselves when they have done the most to justify the insurgents and criminate their country.

Instead of helping us to carve out some safe system that shall restore the quiet of the country and the harmony of the Union, and soften down the asperities that naturally exist on both sides, we are met at every step with a stubborn, I may say a malignant, antagonism, and denounced as tyrants, oppressors, and violators of the Constitution, while the guilty, blood-stained rebels, are held up as the lambs of innocence, and the only persons deserving especial regard in all that may be done in the work of reconstruction.

If we propose to sponge out the rebel debt, we are told it would violate the Constitution. If we propose to disfranchise leading rebels who have been conspicuous in treason, we are told it would be unconstitutional. If we propose equalizing the representation in Congress so that a South Carolina rebel shall, at most, not possess more political power than a loyal Ohioan, we are told it would be unconstitutional. If we propose to amend the Constitution, without first inviting the whole rebel delegation to seats in this body, it is denounced as unconstitutional.

The oath we take, as members of this House, though good enough for those whose loyalty has not been questioned, is too strong for the reconstructed rebel, and his friends here denounce it as unconstitutional, and demand its modification or repeal. If we propose the establishment of a Freedmen's Bureau by which peace shall be secured in localities where public virtue has gone down so low that it cannot maintain social order, we are told it is unconstitutional. If we give a morsel of food to the starving poor of the rebel States, to spare to the Lazaruses of the South, black or white, the crumbs from the rich man's table, we are rebuked for our ill-timed charity, and admonished in a Christian spirit that it were better those crumbs be cast to rebels' dogs than thus to violate the Constitution.

In short, we can make no move in the direction of reconstruction without arousing the fury of the constitutional lions of this House, whose peculiar province seems to be to take care that that sacred instrument receives no damage at the hands of loyal men. Rebels may tear it down and trample it under foot, make war upon the Union, destroy the property and lives of our people, set up a hostile government, and move heaven and earth for our destruction, and yet it is all entirely satisfactory to these vigilant, Argus-eyed guardians of the Constitution, and clearly within the letter and spirit of that instrument as construed by them and their rebel friends. In their opinion, the Constitution gives weapons to its adversaries, and invites its own destruction, but has no rights of self-protection or motives to use them.

Shame upon such statesmanship! It smacks of the patriotism of Arnold. In the hands of such men, the nation could not stand a twelvemonth. A majority in Congress thus disposed, our Union would be quietly dissolved and a multitude of separate nations would arise from its ashes, full of the elements of eternal warfare.

But why such haste to get back into the Union? Is it our good, or the good of those lately in rebellion, that is to be consulted by a precipitate restoration?

And when did they discover that the Union they so causelessly abandoned without our consent five years ago, is now so very precious in their esteem? Do they return to revive in Congress the quarrel they lost by war, as asserted by a conspicuous leader of the South claiming a seat in this Hall?

Do they expect to have the vice president of

the confederacy, Alexander H. Stephens, and his colleague, Herschel V. Johnson, a man of equal rank and fame in the annals of the rebellion, to enter the Senate and mouth out treason after the model of Toombs and Iverson, whose seats they would fill for loyal Georgia?

Do they expect the country to be especially blessed in the delegates from districts where loyal men dare not offer themselves as candidates, and where only those rendered famous by their services or their wounds in the work of rebellion are chosen to Congress? Is this the feast to which we are invited in the name of the Union? Are these the associates with whom we are to mingle, and with whose help just and patriotic laws are to be made for the loyal people of the land? God forbid that ever that day shall come to this fair land of ours, when its precious interest shall be committed to such legislation! Liberty is too valuable to be hazarded by such an unnatural commingling of treason and loyalty. If the South can send here none other than her rebel leaders as representatives in the national councils, then we shall act wisely to do without their presence, as we have done for five years past.

Has she no loyal men worthy of her confidence? Then let her wait until time and a new generation shall furnish her with a fresh growth of available men. The children of Israel were forty years passing through their probation preparatory to entering upon the promised land. Let us not hasten to destruction; a little patience in this matter can do the country no harm. The South have ample national protection, and no good thing will be withheld from them; but they must not minister in sacred things until they are freed from the savor of treason, and the blood of the rebellion has been washed from their hands.

And now, sir, having undisguisedly expressed my detestation of treason, and denounced it and its authors as I feel they deserve, I am, notwithstanding all I have said and believe on the subject, and notwithstanding the recent demonstrations at the other end of the avenue, as unexpected as they are unfortunate, and deeply to be regretted by every friend of the Government—demonstrations but too well calculated, if not so intended, to open an impassable gulf between the legislative and executive departments that cannot fail, under the exercise of the utmost forbearance and wisdom of Congress, in embarrassments of a most injurious, if not of a lasting character to the country—I say, I am ready at any hour the committee shall report upon the claims of the delegates from Tennessee and Arkansas, to vote for the admission of such of them as are prepared to take the oath required, unless some unexpected developments be made in such report as to render it impossible for me to do so, consistent with my duty and my oath.

I should not do so because I am at all satisfied there is that abounding loyalty of the masses of those States that I would desire to see—for certainly they come far short of it—but because I believe there is a germ of honest patriotism there, which, by kindly cultivation, will grow into reliable loyalty; and because I feel so well assured of the healthy tone of public sentiment that abounds elsewhere among the steadfast friends of the Union, that it would involve no serious risk by a reunion with a small portion of our estranged brethren, who, if not so fully endowed with all the visible graces of returning loyalty, are aspiring to a state of reconciliation that ought not to be despised.

They reach out to us the right hand of fraternal friendship, if I may not say love; they hold up the olive branch and say peace; they send as messengers their gifted and honored sons, all of whom have been faithful in their allegiance to the Government throughout our struggle—some of them are scarred with honorable wounds received while fighting our battles against treason. Shall we spurn them from us under such circumstances? Shall we discredit their sincerity, and turn them back to their States to tell their people how coldly, how mercilessly a Union Congress had repulsed them?

I trust I do not yield too much to sympathy in considering this case, and in the ardor of my desire to reclaim those who, in an evil hour wandered from the flock, advance too far to gather them back into the fold.

We are not in the mood to give in too easily to such impulses. The past is too full of bitter recollections to render it probable that we should be overcome with such weakness, but while I hope to preserve that safe medium between softness and severity, if I must err, in God's name, let my weakness turn on mercy's side.

We must begin somewhere and some time with these people; they cannot always remain out in the cold; and it cannot be just to such as deserve our consideration to turn them away until the more obdurate are qualified for admittance. Each State, each district, must stand upon its own merits; we must act upon individual cases; it is best so to do; we shall thereby have the benefit of a partial trial of the operations of the process of reconstruction, and can avail ourselves of its teachings without involving any great national interests in peril.

And I would be glad if the partial regard thus manifested toward those States would exert a favorable influence upon the other States to follow the example thus set them, and in future elections have some regard to qualification of members of Congress that will make them acceptable in this Capitol. But if they heed not this counsel, and still press upon us such men as spurn to take the oath of office administered to all others here, then we say, "Get thee behind me, Satan." This citadel of constitutional freedom must not be desecrated by a return of treason. Around the altar where liberty offers its incense let none but patriots kneel.

We are told with great emphasis by gentlemen who assume to be especially gifted with the spirit of prophecy that if all those States are not immediately recognized and their delegates admitted to seats on this floor that the Union may as well be declared dissolved. Vain declaration this to veteran Union men, who have grown familiar with these thundering threats for five years past, for they have been uttered from every stump in the country where a copperhead orator could command a dozen hearers.

We were solemnly warned that if we made war upon the rebellion it would destroy the Union, and that we must compromise a peace if we would save the nation. We listened to the siren song of compromise, and thought there might be something in the caution it suggested; we tried compromise, but the imperious spirit of the South scorned to listen to our offers, and closed the door in our faces with the arrogant assumption by Jefferson Davis that "the time for compromises was gone."

The rebels appealed to arms; we accepted the challenge as the only remaining alternative except submission, which we dare not for a moment entertain; the nation triumphed, the rebels went down, treason struck its flag, and the Union still survives.

I have said, Mr. Speaker, that the hostile spirit of the Opposition in this House indicates very clearly that if anything is done in the way of reconstruction, with a view to the safety of the country, it must be done by the Union party here, unaided by the Opposition; nay, sir, not content with a mere silent negative upon every move we make, but an open, fierce assault at every point, with all the power they can command.

It is not strange or new that they thus array themselves against their country; they have done so from the beginning of our troubles, increasing in the intensity of their opposition on each fresh occasion. In the midst of the war, when we were passing a crisis, when the Government needed the help of every citizen—his money, his vote, his good will at least, if he had nothing better to yield—where were these vain boasters of Democracy? Denouncing the war, denouncing Lincoln, denouncing Congress, denouncing our generals, denouncing our soldiers, casting epithets and odium upon everything connected with the war against treason.

They opposed all the measures devised for raising means to carry on the war, to feed and clothe and pay the soldiers, to procure them the arms and munitions of war. They opposed taxes, opposed tariffs, opposed loans, opposed greenbacks, opposed volunteering, opposed conscriptions, opposed filling the ranks with white men or black men, opposed everything in every shape and form presented that tended to advance the great work of breaking down the rebellion. They did this in Congress, they did it in their primary meetings, in State conventions, in their national convention at Chicago, held but a few months before the downfall of the rebellion, and when they knew it was reduced to the last extremity, and only lived upon the food that the hopes of that convention afforded it; then and there, they solemnly but wickedly, falsely, and treasonably resolved the war of the Union to suppress the rebellion had proved a failure!

The war a failure! Was it so? Where was it a failure? At Fort Donelson, at Shiloh, at Vicksburg, at Gettysburg, at a hundred other battles that I need not name? All were before that convention assembled; and the whole country, South as well as North, felt and knew that the rebels were in utter despair, and that it only required a ripening of the plans of our great generals to wind up the conflict beyond all possible contingency favorable to the Union.

And yet they resolved the war a failure! Yes, sir, and that resolve gave the traitors a spasmodic pulsation of vigor, and in the hope that success would attend its nominations at the pending presidential election, whereby they expected to secure a new and formidable support at the right time and in the right place and the right men; they did revive and seemed to manifest a conscious inspiration of success. But the hope thus kindled in rebel hearts was short-lived; the fire soon went out, and with it the spirit of the deluded traitors, who had a brief luxury in feeding upon anticipations of the promised reality. The election came, and those who resolved the war a failure lived to see that they themselves were the failure; the friends of the country and the war gloriously triumphed; Lincoln and Grant and Sherman and the Army and the Navy triumphed at the ballot-box as well as in the collision of arms. The Democracy were sad and desponding, and so were their rebel friends; the Democracy were whipped, horse, foot, and dragoons, and soon were their rebel allies to share a like fate. Time moved apace, and so did our armies; the rebels saw the shadow of coming events with a sharpness of vision that proved their tenacity of life, and such as could do so fled from the wrath to come; those that were besieged resigned themselves to the fate of choosing the alternatives of death by the bayonet or starvation, but finally resolving that after so long a conflict they were not so ready to die as when they first began the war upon the Union, and so they wisely decided to save their lives by a timely surrender. They did surrender; the war was not a failure, but a success, a glorious success, a triumph, not only over treason in the land of traitors, but an equal triumph over the sympathizers of treason everywhere; and those sympathizers, with as much bitterness of feeling and perhaps more deadly and malignant hate of us than the rebels themselves, seem never to forget or forgive the Union party for saving the nation and spoiling their meditated plans and prospects of future advancement to place and power.

I have said the rebel cause was revived by the encouragement derived from the Chicago convention. It was so; and the vigor thus infused into the souls of the desponding rebels led them to renewed contests upon the field that cost them and us thousands of valuable lives—lives of noble and brave men mercilessly sacrificed by the treasonable resolves and assurances of an unfaithful party, led by men who, to attain power, were willing to ruin their country.

Almost daily, during the most critical periods

of the war, the rebels were stimulated by speeches and votes of the Democracy of this House. They saw in the proceedings here that Congress was as much divided in its counsels concerning the suppression of the rebellion as the great contending parties were in the field; and the rebels had good reason to believe, as did many Union men fear, that so many members so ardently struggling in their behalf in Congress would not be without a corresponding influence in the Army, with like sympathies, holding positions potent for mischief, and that an unlucky day would come when at a given signal the Union Army might be delivered into the hands of the enemy.

Day after day leading members thus inclined declared, with insolent bravado, that they had not voted a man or a dollar to carry on the war; and the treasonable sentiments were received by their party with marked approbation. A member solemnly declared, in a deliberate speech in his place, that there were but two ways to obtain peace: one was by a war of extermination, the other by conceding to the confederates their demand of separation and independence; and that he preferred to concede. His party stood up to him almost to a man, adopting his offensive, traitorous declaration, and thereby became as guilty as himself.

Another member rises in his place and shocks the moral sense of all loyal persons present by "praying God Almighty that we may never subjugate the South." He is called to account for his treasonable utterance; the Union members vote his condemnation, but his party rally to his support, justify his horrid imprecation, adopt it as proper, and save him from expulsion, voting to retain him as a worthy and loyal member of this House.

With such scenes transpiring in Congress, with such repeated and continued manifestations of divided counsels, and in which divisions so large a number of members constantly, earnestly, and persistently adhered by speech and vote and sympathy to the cause of the rebellion, is it not a marvel that we did escape miscarriage either in the council or the field?

Sir, any other people, except such as formed and controlled the sentiments and actions of the great Union party of the country, would have been excited to acts of violence. That it was not so is attributable to the clemency and forbearance of the loyal people. But it might not be safe for such men to presume too much upon the precedent; the men who stand by their country in such conflicts may not always be thus indulgent toward such flagrant offenders.

With these scenes transpiring daily in Congress, and telegraphed to the rebel leaders by the unbounded facilities this city afforded, and by these disseminated through the rebel camps, it is easy to conceive how powerfully it would stimulate them to action. How long it enabled them to hold out, the vigor it infused into their souls, the thousands of brave men it brought to the sacrifice, no human mind can tell; but all men must see, and the calm, deliberate judgment of the world must say, that the just responsiblities of this terrible conflict with the rebellion must be divided, and that while the active fighting rebels are very guilty, their sympathizers of the North have charged to them a debt of blood and suffering and death of the best and bravest of our loyal sons, that is not canceled or forgotten, and faithful, impartial history will so record it in enduring letters, to stand in the annals of time as a perpetual memorial of unmitigated treason.

And now that the war is ended, and the duty of restoring order to the country is transferred from the camp to the council, from the soldier to the civilian, no people assume to know so much and so well how to reconstruct our Government as these same sympathizers who have hung around the necks of the loyal men like nether millstones from the beginning of the rebellion to the firing of the last rebel gun.

Mr. Speaker, we expect to do this work, and we expect to do it well; but we do not expect to be wrought up into indecent haste, either by the importunities of the insurgents, or the clamor and abuse of the Opposition in this Hall. We will strive to pursue the even tenor of our way, with hatred toward none and an honest purpose to observe and regard the interests of all, but at the same time fully resolved, above all other considerations, to stand by the country and preserve the Union.

I know our Democratic friends manifest great affection for the Union and are exceedingly anxious to take it into their especial keeping, but we have seen too much of their *animus* to trust them. Judas murmured that he did not have the care of the precious ointment that Mary bestowed upon our Saviour, not that he expected to use it to better purpose, but that he might sell it in the market and steal the money.

Our Constitution, the great work of our fathers, we revere; it came from the hands of wise and good men; and with none but good men to control, it would need no improvement; but, unfortunately, there were those among us who sought out many inventions and have assumed to use that sacred instrument as authority for its own destruction, and thereby break down the Government for which it was made. As a guard against this in the future, now that we are advised of the needed improvements, we propose to amend that Constitution, not to destroy it, not to mar its symmetry or beauty, but to make strong its weak places, so that others who may cherish so tender a regard for its sacredness or the memory of its revered authors shall not have the semblance of authority when they shall hereafter meditate its destruction.

There are many things that might be suggested as improvements, but he is a sanguine man who expects to accomplish all the good he desires; and we should subject ourselves to censure if we unnecessarily delayed the progress of the work before us by contending for too much even of a good thing. Legislation, to be safe or profitable, should follow, not lead public sentiment.

We want—

1. An outspoken denial of the right of nullification and secession, putting an end to the dogma of supreme State sovereignty which, as claimed by its advocates, overrides the national Constitution, and the practical developments of which gave us the rebellion with all its appalling consequences. It is contended by some that the war has settled that question, and that further guarantees are unnecessary; but I do not so understand it. Many of the leaders of the rebellion adhere to this favorite assumption with as much tenacity as ever, and proclaim without reserve that they only await the favorable occasion to try their cherished principles in another forum where success will more likely attend the effort.

2. An equalization of congressional representation, whereby every voter in the land shall have an equal voice in Congress.

3. A pledge of fidelity and unsullied national faith in the payment of the public debt, thus to give quiet and confidence to the creditors of the Government and preserve the credit of the nation. Nothing so important as this, for the currency of the country depends entirely upon the confidence of the people in the ability and will of the Government to pay its just obligations. All our money now in circulation, and which must continue for years, depends for its stability and uniform value upon the public bonds; these preserved at par and our country can never be discredited. Discredit the bonds and down goes our currency, greenbacks and national banks alike, for all stand upon the sole credit of the Government debt.

4. A repudiation of the rebel debt, so that a mere majority at an unfortunate hour for the country shall not have power to saddle the nation with the rebel debts, and thus break down the country under a load no nation can carry.

5. The power to be given to Congress to levy export duties, whereby the great staple of the South, cotton, may be subjected to the burden of paying a liberal share of our great public debt, incurred in a struggle in which cotton was indirectly and remotely, but surely, the inciting cause.

These things secured, by constitutional guarantees whereby their permanency could not be easily disturbed by the mischievous legislation of accidental majorities that are not always faithful to public interests or national honor, we should have but little difficulty in molding all other needful laws, by ordinary legislation, so as to secure the rights of all and advance, without material embarrassment, the general interests of the Government, maintain unbroken the integrity of the Union, cultivate amicable relations among the people of all the States, and thus establish bonds of friendship and fraternity that will grow with our growth and strengthen with our strength, giving quiet and security to the people and prosperity and greatness to the nation.

Mr. PLANTS. Mr. Speaker, this day having been set apart for general discussion upon the state of the Union, I shall not confine my remarks to any single proposition before Congress, no one of which alone, but the whole series together, is expected to work out the desired "reconstruction," or, as I think it better expressed, "the readjustment of the rebel States to their normal relations to the other States in the Union." I have not the presumption to suppose I can greatly enlighten the House after the many able speeches already delivered. I shall, nevertheless, beg its indulgence, while I briefly express some general views upon the subject. But, in doing this, I shall at least avoid a repetition of what has already been said so much better than I could hope to express it. And if my remarks shall not depend for their force, if they shall have any, upon the technicalities of the lawyer or the *dicta* of the judge, it will be because in my opinion these are not wholly sufficient to account for our present condition or to give us the assurances of a happy deliverance.

Nor will I repeat again the story that we have passed through the most gigantic rebellion that ever raised a traitorous arm against a just and beneficent Government. All that has been said; and the rebellion, with all its horrors, depicted in every shade of coloring which rhetoric knows so well how to employ. But, while listening with equal pleasure and profit to the very able arguments of those who have preceded me, I have been struck with the almost uniformly repeated declaration that "this was a perfectly causeless rebellion, that there was absolutely no cause at all for the war through which we have just passed." I do not know whether gentlemen mean anything more by this form of expression than that the North gave no provocation to the South to justify her in the desperate attempt she made to destroy the Government. In this sense the expression may be true, but it throws no light upon the subject nor does it give us any principle as a guide to the future. If anything, much more an event of the magnitude of the rebellion, could happen without a cause, then, indeed, would we be afloat upon a sea of chaos, where chart and compass would be but useless toys, and statesmanship a term without meaning.

But, Mr. Speaker, this is not so. Everywhere cause and effect are married together. No event ever did or ever can happen without a cause. And this is as true in the rise and fall of nations as in the simplest occurrence with which we are familiar. It is true of the scene through which we have passed. The rebellion had a cause—a sufficient, natural, necessary cause—from which it was evolved as naturally as the rose unfolds from the bud. And if this be so, then are those mistaken indeed who suppose that it originated in the disappointed ambition of a few aspiring demagogues on the election of Mr. Lincoln in 1860, as well as that other class of complacent philosophers who gravely tell us that if half a dozen on each side, including the gentleman from Pennsylvania of course, had been hung, all would have been peace and harmony.

No, sir, Jeff. Davis and his compeers were no more the cause of the war than the scum

upon the surf is the cause of the surf itself. And I propose, if I can, to raise the curtain, and turn the gaze for awhile from the puppets on the stage to the machinery by which they were moved. If we can come to the rational perception that the rebellion was the legitimate and natural result of operating causes, and can clearly comprehend the causes themselves, we will be better prepared—adopting the axiom that "like causes will produce like results"—to bring to the solution of the grave problems before us the enlightened resources of statesmanship, instead of the blind prejudices of the partisan or the blinder passions of faction.

Let us see, then, if we can trace the rebellion and its consequences back to the germs from which they grew. For I maintain that all things with which we are surrounded, our institutions and ourselves as well, are subject to the universal law of growth. The very planet we inhabit has it written upon every stratum of its rocks. In the infinite varieties of vegetation which beautify and adorn its surface, we have "first the blade, then the ear, and then the full corn in the ear." The animal grows; man, physically, mentally, morally, and socially grows; and the character which each one of us forms for himself is the result of the same law. The child inherits, by the very constitution of its being, the germs of all human possibilities; and its life's work is to develop from them by the joint action of impulses from within and circumstances from without, a fixed and permanent character. It has the merely animal instincts, selfish propensities, that center all their activities in their own gratification, and also the higher sentiments which, fully developed, form the noblest work and image of God. And it is the contest for the mastery between these contending forces that makes the life of every one a grand battle-field and virtue and vice significant terms. The purely selfish impulses would grasp all within their reach, regardless of the rights of others, and degrade the other faculties to acquiesce in the demand, and when successful, present as perfect a specimen of an incarnate devil as it is possible for man to become. Should the higher faculties on the other hand obtain the mastery, the result may be the development of all that is possible of human perfectibility.

To one or the other of these states every one is moving, for there is no standing still in this race of destiny, and a man cannot be permanently divided against himself. He cannot deliberately continue to do what he acknowledges to himself and others to be wrong. He must either give up the wrong in obedience to the demands of his reason or he must suborn his reason to the sanction of the wrong. He must bring his head and heart into agreement—make his understanding approve that course of action which he has deliberately proposed to pursue. If he will practice wrong, he must bring himself to believe a corresponding lie, behind which he can hide himself and imagine himself hid from others. But this is a progressive work, a growth, no one coming to the full stature of a villain or the perfect measure of the noblest manhood but through this process. While he is in the poise and equilibrium of these contending impulses he is the subject of perpetual conflicts with himself. There is a war in his own members, a rebellion in his own organization, as fierce as that through which we have passed. He can only find peace when this conflict ceases by one or the other of these forces obtaining the mastery. Man never purposes to do a deed until he has first persuaded himself that, under the circumstances, he is somehow justified in doing it. He may, indeed, repent of it after it is done, but if so he must make restitution and do so no more or he must weave for himself a mantle of falsehood as a justification. There is not an irredeemable villain in your prisons, nor an outcast on your streets, that has not brought himself by some kind of sophistry to believe that he is justified in his deeds.

Thus, sir, and thus only is character formed. And what is true of the man is equally true of a community, which is but a man in a larger form, as our every-day language assumes when we speak of the whole people as the body-corporate. But this body-corporate is composed of all the individuals which make up the aggregate of its population. These individual men stand in the same relations to the "grand man" as the separate faculties of the brain do to the individual. And as the individual man has in himself, by virtue of these faculties, the germs of all possibilities of human character, so this grand man, the body-corporate, being composed of men of all characters, has within it the germs of all possible institutions. And because it has thus within it the extremely selfish, who regard no man's rights, whose motto is, "Let him get who has the power, and let him keep who can," and also the highly developed and Christianized, whose motto is "Whatsoever ye would that men should do unto you, do ye so to them," and all grades between them, it follows that there will be a conflict in the community between these opposite principles and those who are actuated by them, just as in the man there is a conflict between his higher and baser impulses. The selfish and ambitious will strive to ultimate their purposes in the forms of the constitution, laws, and institutions of the community. Their constant effort will be by monopoly and class legislation to usurp the rights of the masses; and being unscrupulous as to means, they will resort to force or fraud to accomplish their purposes. And so far as this class succeed, the Government will grow up into an oligarchy, a monarchy, or a despotism.

On the other hand, those who do regard the rights of others will naturally strive to embody their sentiments into the constitution, laws, and institutions; and, as far and fast as they are able to control, the Government will take the form of a republic, where all are equally protected. And until the Government settles into one or the other of these forms there will be no permanent peace. The community, like the man, cannot be permanently divided against itself. The conflict may be long and the internal strife intense, but by the growth of one idea and the decay of the other, or by the suppression of one or the other by force, the State, like the man, will finally reach a fixed and permanent character. Till then internal harmony is impossible.

Hence it is seen that the constitutions, laws, and institutions of a country are as much a growth as the people themselves. You cannot from the study of the philosopher produce a constitution that would be found applicable to the actual life of a people. Our Constitution could not be made to work smoothly if applied externally to any other nation, for the simple reason that, not being an outgrowth from that people, it would not meet their wants. It has worked well with us in the main, because it was an outgrowth from the people. The great and good men who put it into form did not make it. They simply embodied the average outgrowth of the social and political life of the people into the forms adapted to their then existing wants. But it was necessarily impossible for them to frame an instrument that would be adequate in all future time to the wants of an advancing people. This is demonstrated in the whole of our past history, which shows that a progressive people cannot be long confined within the rigid terms of a written constitution.

No man reveres the memory of the fathers more than I do, and it is doing them no dishonor to say that they could not accomplish impossibilities. But it was simply impossible for them to frame an instrument suited to the condition of a people in one age and under one set of circumstances that would be equally applicable to them at another age and under different circumstances. And so our fathers thought, and hence in the Constitution which they gave us they wisely provided for its amendment as the development and growth of the people should demand.

I do not, therefore, share at all in the seeming dread of certain gentlemen at the suggestion of any changes in that instrument. I believe, indeed, that change should be made with great deliberation, if made at all; and I think some two or three of the amendments proposed should pass. I will cordially support them, believing, as I do, that they will prove very useful and help the nation's progress. But I do not think that all progress will stop even if none of these changes are effected by way of amendment.

Sir, without any formal amendments the Constitution has changed, and will continue to change, with the ever-changing wants and will of the people. Gentlemen need not start at this proposition. I will demonstrate it by the declaration of all men of all parties, as well as by our current history. Why, it must be so. The shell of an oyster changes with the expanding growth of the life within. England has a constitution quite as much talked about in her Parliament as ours is here, and quite as well defined. Yet who ever read the constitution of England? It was never written, and never adopted by convention or otherwise. It is simply the outgrowth of a thousand years of the wants and need of that progressive people.

And after all, Mr. Speaker, what is our Constitution? Sir, it is like the unwritten constitution of England or the written Bible—precisely what the prevailing sentiment makes it by interpretation. I need not go out of this Hall for proof of this proposition. Many times every day since the meeting of Congress I have listened to gentlemen gravely quoting the Constitution to sustain some favorite idea, while the gentleman who has succeeded him in debate has as gravely quoted the same Constitution to sustain an exactly opposite idea. No scheme so absurd and no proposition so atrocious but has found a guarantee in the Constitution according to those who have proposed them. Were these gentlemen necessarily insincere? I do not think so. But the question pertinently returns, what to them respectively is the Constitution? Manifestly it is not the written words of the fathers alone, but those words as interpreted and construed by each gentleman for himself; and that construction necessarily, but perhaps unconsciously to him, affected by his strong conviction of the importance to the country or himself of some favorite theory or measure which he wishes to see ingrafted into the policy of the country. No one will deny this.

But in further confirmation of my position, I am sure I could have the unanimous indorsement of every member of this House of whatever party. Certainly, every Union man will agree with me, that while the Democrats were in power they perverted many of the most important features of the Constitution in their infatuated devotion to the institution of slavery. Indeed, the great Union party charged the Democracy with the unpardonable offense of subsidizing the court of last resort to give it an interpretation directly the reverse of that intended by its framers, and to deliberately falsify all history to give that construction even a show of plausibility. But, sir, the interpretation given by the Supreme Court to the Constitution is, while it stands, to all practical intents the Constitution itself. So that it only requires acquiescence in such construction to change the instrument at the will of the judges. And nothing but the hurling of that party from power by an indignant people, and the change of the majority of the court by the treason and death of its members, prevents the Constitution to-day from being the loathsome thing which that party proclaimed it to be.

And I am quite as sure that every Democrat present will repeat at my call, what they have every day repeated, that the Union party have perverted and still pervert that sacred instrument from its true intent and meaning. In the authoritative convention of that party they solemnly declared that President Lincoln and those who supported his Administration, had violated the Constitution in every particular. But how did they violate it? By their interpretation if at all, for they conformed their policy to its requirements as they construed it. And if the Union party remains in power, they will

very likely continue to hold pretty much the same general principles, progressing of course with the increasing advancement of the age; and if the Supreme Court as it will hereafter be constituted, shall substantially agree with them, how will the gentlemen help themselves? In that case, we will have the same Constitution that Taney construed, but no "Dred Scott decisions" will be deduced from it forevermore. And this, the gentleman from New Jersey and all his followers will testify will be a total change of the instrument.

My purpose, Mr. Speaker, in these illustrations, is to demonstrate that the constitutions, laws, and institutions of a people are but the outgrowth of the wants, development, and the culture of that people, and are unfolded from them by this same natural process of growth. I said, Mr. Speaker, that the community has within it the germs of all possible forms of government by reason of the various characters of the individuals who compose it, just as the child has in it the germs of all possibilities of character by virtue of its various faculties. Our country was and could be no exception to this rule. In its organization the good and the bad, the educated and the ignorant, the simple and the crafty, the benevolent and the selfish, the inborn democrat and the natural tyrant, were the innate faculties, so to speak, of this grand man, the body-corporate. And out of these jarring and discordant elements were to be evolved in the progress of the community, the constitution, the laws, and the institutions that were eventually to form its permanent character. Selfish men would gladly have made everything subservient to their own aggrandizement, and to accomplish this would have formed an oligarchy, a monarchy, or a despotism. Good men would gladly have laid the foundations of the structure upon the broad principles of right and justice, and would have embodied them into the forms of a pure republic. Neither party was then strong enough absolutely to control the other, and the result was a compromise.

I do not, Mr. Speaker, complain of the fathers for this compromise; it really satisfied nobody at the time, yet all accepted it as the best they could get, and trusted to the future to secure such changes as they severally desired. It was, no doubt, under the then existing circumstances all that ought to have been expected. But it is hardly worth while for us at this day to worship blindly, as perfection, that which by the common consent of those who framed it was not perfect, and which has been, by the charges of all parties disregarded, and most profanely broken and trampled upon ever since. I yield, sir, to no man living in my devotion to the Constitution; while I am not conscious of a very profound reverence for anybody's construction of it which does not happen to coincide with my own. And in this, sir, my singularity probably consists in the simplicity that permits the utterance of it. We all now see the error of admitting into it, even by compromise, the seeds of civil strife. And if "history is philosophy teaching by example," it is surely the part of statesmen so instructed not to sow again the seeds of a like harvest for our children.

This, Mr. Speaker, brings me to the subject of slavery. And I do not mean by this term merely its vulgar and brutal side as seen in the "harem, the slave-pen, the auction-block, the shambles, the coffle-gang, and the bloody lash of the chivalric Democrat as he extorted unpaid labor from whipped and fettered women!" I mean, sir, that selfishness which disregards the rights of others. And this, sir, which is the essential spirit of slavery, can never be located within geographical lines, or limited to any particular color of the skin. It may be just as active and remorseless in the home of the domestic tyrant in Massachusetts as upon the cane-fields of Louisiana.

I have, therefore, no indiscriminate eulogies for all the inhabitants of one section and denunciations of those of another. It wanted but the favoring circumstances to have made many a northern man a slaveholder in fact, and many a slaveholder in the South has been a true friend of freedom and mankind. Our whole history shows that many of the meanest and most unscrupulous supporters of the system were northern men who never owned a slave, while many of the truest friends of their country stood in the relation of master; and it requires but little argument to scatter the miserable sophistry that in this Hall so persistently attempts to justify the whole infernal system by the atrocious falsehood that Washington was its champion!

At the formation of the Constitution slavery unfortunately existed in nearly all the States. But it was the common expectation and belief that it would soon be abolished in them all, as it was the common sentiment that it was an outrage upon the rights of humanity, and the source of infinite danger if perpetuated. It was this common expectation and belief which led to the still more unfortunate recognition of it in the Constitution. For in this accursed institution, the selfish and tyrannical found a central rallying point, which naturally drew together and to concert of action all the elements of reckless disregard of human rights, corresponding in the body-corporate to the animal propensities in the man; while around the glorious doctrine of human brotherhood clustered the pure and good of all sections, corresponding to the higher faculties of the individual. And now commenced the "irrepressible conflict." For until then no one thought of permanently maintaining the system which all admitted to be wrong. But then, too, came into force the pressure of the law before referred to, and which operates upon men and communities alike, that neither can continue to practice what is at the same time admitted to be wrong. The thing is impossible in human action. Those, therefore, who maintained the iniquity of the system were compelled by this law of necessity to look and labor for its extirpation. Among these were Washington, Jefferson, Madison, and their compeers, who, while holding the relation of masters to slaves, were never imbued with its spirit, never justified it, never by one word in all their writings gave it their sanction; but through all their lives looked and prayed and labored for its abolition; and most of them, at their deaths, if not before, emancipated those they held.

It requires, Mr. Speaker, an audacity that rises to the sublime for gentlemen upon this floor to represent these friends of freedom whose names grace the brightest pages of our history as the champions of slavery, and to hold up their temporary and unwilling connection with it as its perfect sanctification. No, sir; they never were slaveholders in spirit and purpose; never made themselves such by justifying to themselves and the world the system which they always deplored and hoped to see exterminated.

But there was another and different class of men, who, finding that the institution ministered to their pecuniary gain and political importance and the gratification of their lusts, determined that the system should be perpetuated. And then it became necessary that such should justify themselves, for it was not possible that they could stand up in the face of the world self-acknowledged criminals, and proclaim their purpose to remain such. For slavery is absolutely right or it is, indeed, "the sum of all villanies." It is true, the arguments they used never imposed upon honest men, and were not at first expected to do so. The object was to silence their own consciences while any conscience remained. And it must be remembered that when a man has become depraved enough deliberately to say, "Evil, be thou my good," he has crucified conscience and is "given over to believe a lie" corresponding to his state. It matters not, then, how utterly absurd the sophistry is; and in fact the more preposterous the easier he can impose it upon his own willing but perverted intellect, and the stronger will become his delusion that he can hide behind it from the burning gaze of others.

Why, sir, this is perfectly manifest from the rehash we are having here from day to day of the old stale arguments which were used by the slaveholders and their tools when they had the logic of the mob and the eloquence of the bludgeon to enforce them. And what are these arguments?

First, "the negroes are an inferior race." Suppose that to be true. Is it anything more or less than the naked doctrine that might makes right? On this theory the strong have a right to trample upon the weak everywhere. Is it any wonder that the land is full of violence? No man is safe where such a sentiment prevails, and freedom is impossible where such men can seize upon power. If the negroes are an inferior race it is a very good reason why they should be treated kindly and aided in their efforts at elevation, but none at all why to their natural misfortune should be added the intolerable load of oppression. But is it not barely possible that it is not so much the belief of the inferiority of the negro as the fear of his rivalry that occasions a good share of the "negrophobia" with which so many are afflicted? But the argument shows how utterly men can pervert their reason. It is right, nay, chivalric, to enslave the negro because he is inferior! It must be chivalric, then, for a strong man to assault a cripple without provocation, simply because he is too weak to defend himself! Why not? We have had the argument repeated here *ad nauseam*.

But another argument is that they were born slaves, and therefore it was right to hold them as such. Born slaves? How did that happen? Could there have been any slaves in the Union at the date of Lincoln's proclamation if somebody had not reduced them to that condition, first kidnapping them? I do not mean the stealing of their ancestors from Africa, but the children from the negro huts of the South. Could one of them possibly have been a slave unless some one had taken him at some time of his life and by force held and used him as such? "Ah! but they were born slaves!" Sir, they were born just as other people were, and were no more slaves than others until somebody committed just that crime, by whatever name you chose to call it, that he would have committed if he had gone to the cradle and trundle-bed in your home, Mr. Speaker, and taken your children and held them as slaves.

"But their mothers were slaves, and of course that made the children slaves likewise." Then you have a perfect right to go into your neighbor's house and assault and beat his children, provided you take the precaution first to assault and insult their mother! First kick a woman and that will give you a clear right to cuff her children. "But the law made slaves of all the children of slave women." Did it indeed? And who made the law, pray? And what was it? Why the slaveholders and their abettors, of course, made the law, and it was just this, no more and no less: they bound themselves together by the most solemn pledges to stand by and aid each other in compelling these people to work for nothing all their lives under the lash, while the conspirators lived in idleness and lust; and to torture even to death any of them that refused or tried to escape. And when they put that pledge into the form of a law they held it up, in the innocence of their souls, as a perfect justification.

What would you think, Mr. Speaker, if a dozen ordinary thieves and burglars should meet and resolve—and put it in the exact form of a section of the slave code—that at midnight to-night they would break into your house and rob you, and murder you if you resisted; and to-morrow, with the plunder in their hands, should publicly hold out their "law" as a full and complete warrant for the deed? But, sir, such an act would be innocence itself compared with the crime of slavery, for it would leave you and your posterity still untouched, while the slaveholder strikes humanity itself from the brow of the slave, and classes him with and treats him as a brute.

"But God and the Bible sanctioned and sanctified it!" Did He? Would you, Mr. Speaker, sanction one of your children in seizing another

of the common family and making him his slave, and treating him as such? If not, why not? Are you better than God? And if to claim your sanction for such a deed in your family would be a slander upon you, what perdition is deep enough to engulf the blasphemer who impiously claims the sanction of the universal Father for the act? Yet all this we are doomed to hear from day to day upon this floor, notwithstanding slavery has been forever abolished by the amendment to the Constitution. But the gentleman from New Jersey [Mr. ROGERS] does not acquiesce in that amendment. So sacred a thing is slavery in his eyes that he deliberately declared, in his place, that in his opinion the people of the United States could not by their unanimous vote, and that ratified by every State but Kentucky, abolish slavery in that State without her consent. And he announced to us that until Kentucky ratified the amendment, as she does not intend to do, it will be perfectly inoperative, and that consequently slavery is not abolished. I did not suppose that the Democratic party, as such, would take that position. But, as the gentleman referred to is the acknowledged leader in this House, I shall wait to see how the party falls into rank. The gentleman fortified his constitutional argument by the theological one affirming that neither Christ nor His apostles ever condemned slavery, although they lived all their lives in a land of slaves.

Let us look where this would lead. I do not propose to answer the gentleman, but to say that he has got off the negro there, unconsciously, of course. It is true that Rome, in the days of Christ and His apostles, from her seven-hilled city ruled the world and filled it with slaves. But they were not negroes. Our ancestors from England were then bought and sold like sheep and oxen in her shambles. If Christ and His apostles sanctioned slavery then, it was the enslavement of white men, and our ancestors among them. And Athens, that other miscalled republic, was also referred to as holding slaves. She did so, but they were not negroes. Her twenty-five thousand citizens held five hundred thousand slaves. But, sir, they were as white as their masters. Sir, every such argument is an argument for the enslavement of white men. Are gentlemen ready to go before the country upon that issue?

But here the gentleman turns round and, leaving his Bible argument, lights again upon the negro, and declares, in justification of the system, that he has always been a slave. I deny the fact. The enslavement of the negro is of modern invention. But it would be very dangerous as well as illogical to make it a justification of slavery. Has not the white man been enslaved, too? I have just shown that the slaves of Greece and Rome were white. And has freedom been the happy lot of all white men in modern times? Go to the slave marts of Constantinople, to-day, and you will see the whitest people of Europe upon the auction-block—the beautiful virgins of Circassia and Georgia. Go to Russia, and among all her twenty-five millions of late slaves, just emancipated, thank God! there was not a negro. And even in our own sunny South the negro was fast disappearing, and the blood of the chivalry blushed in the bleached cheeks of her slaves as they sold their own sons and daughters. And why not? Is it any more wrong to enslave a white man than a black one? And would he who justifies the enslavement of the negro on any of these grounds hesitate a moment to enslave you, Mr. Speaker, and your children, if he had the power? Why, one would think, from the speeches of gentlemen, that a white skin was everywhere a perfect protection against all wrong, and that nobody had ever been oppressed but the negro.

But is this so? Where are the toiling millions of all the white nations to-day? Look at England! Look at Austria! Look at France! Look at all the petty despotisms of Europe that are grinding the toiling millions of the white race into the earth! What do tyrants care for the color of those they oppress? Did the perjured traitor who clambered over the hecatombs of his murdered countrymen to place the throne of his bastard empire upon the ruins of the republic he had sworn to support stop to look at the color of his victims? If I am rightly informed, the French people are not negroes! Sir, the inborn tyrant cares nothing for the color of those he tramples upon. He would place his foot upon the naked, quivering, palpitating heart of humanity as a stepping-stone to power; and this eternal harping upon the negro is continued here only because it is thought he can be used to arouse the prejudices of the selfish and brutal to the political advantage of those who have no other capital.

I must be permitted, Mr. Speaker, to refer for a moment to one other gentleman, the gentleman from Kentucky, [Mr. HARDING.] He declared in his place that the constitutional amendment had robbed the slaveholders of Kentucky of $100,000,000! Yes! robbery was the word, and often repeated. You heard his bitter denunciations of this robbery and his demand for compensation. But how were they robbed? Strip the gentleman's speech of its superfluities and venom and it was just this: "We, the thirty thousand slaveholders of Kentucky, were living comfortably, and even luxuriantly, upon the negroes. When the negro earned a dollar we took it away from him and spent it. If he raised a chicken we went to the roost and carried it away and ate it. If we became 'hard up' to pay a debt of honor or otherwise, we went into his cabin and took one of his children and sold it, and if the frantic mother made an outcry we silenced her with the lash! This is the way we lived, and we lived well; and but for your tyrannical and unconstitutional interference we could have extorted and tortured $100,000,000 out of the negroes of that State. You have prevented us from doing this, and have thereby taken the bread from our mouths and left our wives and children to starve, and we therefore demanded compensation!" Sir, I have not misstated the gentleman's argument. I need not answer it.

We have had all this intermingled with interminable harangues about a white man's Government. I believe every gentleman on the other side has harped upon that string, assuring us that the essence of democracy is a white man's Government. Why, sir, every despotism in Europe to-day is a white man's Government. The struggling Pole, the patient Austrian, the versatile Frenchman, the impulsive Irishman, are each enjoying the beatitudes of this democratic elysium—white men's Governments. Sir, with the teachings of history before me, I prefer some other guarantee than a mere white man's Government. We had that under the Democratic party, in the bosom of which the rebellion was hatched, and could have it again, under the same party, by admitting these same conspirators back to their vacant seats to join with those occupying like seats not vacated. For myself, Mr. Speaker, I prefer a republican Government, founded upon the rights of man and administered in equity, to a despotism, however white the despot may be.

Mr. Speaker, I would like to reply to several gentlemen on the other side, but as my time is growing short, and ammunition nearly exhausted, I shall not aim at any one in particular, but fire into the flock, and if any one should happen to be hit we will know by the fluttering. Sir, some of my friends on this side of the House cannot believe that gentlemen on the other side are in earnest in all this. I do not agree with them. I believe they are most thoroughly in earnest. I recently spent an hour in a madhouse. I there saw men in every stage of mania, and all in the most absolute earnest. Among them was a man of evident culture, who for six weary years had perambulated the halls of the institution with a paper fool's-cap on his head for a crown and a straw in his hand for a scepter, proclaiming himself the Emperor of all the Indies. Touch his crown or his scepter and he went into spasms until it was returned. Now, does any one suppose that he could make such an exhibition of himself if he did not most thoroughly believe in the truth of his hallucination? No, the misfortune in his case was that he did believe it. And I am convinced that this is just what ails the gentlemen on the other side of the House. I have long believed the doctrine I am advancing as a most rational theory, but wanted such practical examples as would place it among the philosophical axioms. Hence, while the gentlemen were giving utterance to their astounding vagaries I watched them with intense interest, believing that the curious phenomena thus exhibiting would either confirm my theory or forever upset it. I am happy to say that it is a theory no longer, but a truth demonstrated. For I declare here, that through all the amusing but sad performance I detected no blush upon any cheek, nor a single face of all the performers suffused with shame. Could this have been the case if gentlemen had not believed what they said? Sir, if they had not believed their phantasies as undoubtingly as my friend the Emperor of the Indies did his their cheeks must have flushed crimson though cased in triple plates of copper. Yes, they did believe it, and if gentlemen upon this floor, who have not a single negro to bless themselves with, can play such tricks upon their intellects, what might not the slaveholders themselves believe?

Sir, the slaveholders did bring themselves to believe that they had a right to hold slaves, that God and nature and the Constitution sanctified and sanctioned and guarantied it to them. And, so believing, they believed they had a right to all the means requisite to their full enjoyment of that guarantee. But they could not be secure in this right if the slaves were acknowledged to be men; and they therefore had the right to class and treat them as brutes and punish with death the crime of teaching a slave to read. Again, the system would not be secure if men in the slave States were permitted to discuss the matter in any form, and hence the freedom of speech and the press must be suppressed as the highest of crimes; and no man could utter the simplest truths but at the risk of his life. For more than a quarter of a century the world knew no despotism so absolute and relentless as that which ruled the South.

Again, they could not fully enjoy their guarantees if shut up in their original boundaries, and therefore they had a right to take them into all the common Territories. Need I repeat the story of Kansas which shook the nation to its center, and culminated in the immortal infamy of the Dred Scott decision? The *dictum* is there laid down that "Slaves are property, just as horses, and mules, and agricultural implements are property," and which has been so extravagantly eulogized upon this floor. From that *dictum* naturally unfolded the laws of Kansas, which, if in force to-day, would hie you, Mr. Speaker, to the dungeon or the gibbet, if found with a copy of the Chronicle or the Globe in your trunk, though used only as wrapping paper. And all that was right if slavery was right. But, by logical necessity, that same decision carried slavery with all its consequences into all the States. Under the Constitution the citizen of one State has a right to take his horses, his mules, and his agricultural implements into any other State, and use and work and sell them there. But if slaves were property under the Constitution, just as these were, then they might be taken into any other State and used and worked and sold there. No ingenuity can escape the conclusion if the premises are admitted. But if they had a right to take and hold their slaves in the free States, they had a right to do it in safety, and as they could not hold them safely where dissent was permitted, all dissent must be suppressed by the strong hand of power. Will any one dare to say that this would not have been the next step if the Democratic party had continued in power? No honest man doubts it. And can any one fail to see that this conflict had progressed until the contending forces were brought face to face, and that only one of two things remained possible—either the utter destruction of slavery or the total extinguishment of freedom.

Between these two there was no place for a third, no possibility even for further compromise. The friends of freedom and mankind could not, nay, they dared not, consent to their own enslavement, and with that the destruction of our republican Government and the hopes of the world. And the slave power, if it intended to maintain the system as it did, could not and dared not consent to anything less than the absolute and perpetual destruction of liberty. Why, sir, here was the whole argument in a sentence: "By the laws of God and nature, by the guarantees of the Constitution, and the decision of the Supreme Court, we have a right to hold slaves just as and where other property can be held. This right and guarantee carry with them all the incidents necessary to their safe enjoyment. But if free speech and a free press and popular education are permitted, the very existence of slavery will be endangered, and they must therefore be suppressed." And who could answer the argument? The only answer possible was to take away the premises, to deny the right to hold slaves at all. That right was denied, and its denial made further diplomacy impossible. The next step, the only possible next step, was the clash of arms. The bud had unfolded, the rose bloomed, the rebellion was inaugurated, and war shook the continent. In this contest the absolute triumph of one of these contending principles and the death of the other became necessary. Sir, men work better than they know. In the depth of the dark, deep sea, the coral insect works from age to age, blindly, but to a grand purpose nevertheless. And so man works often as blindly as the insect, but to the accomplishment of divine purposes still. For,

"Troubles spring not from the ground,
Nor pain from chance.
Eternal order circles round,
And storm and wave find meet and bound
In Providence."

And hence, regardless of what our leading men thought or wished or purposed, the contest could not stop until either slavery or freedom found its eternal tomb! And, thank God, it was slavery that died, and in its death has made the progress of freedom possible, and the glory of our country and the redemption of a race a certainty in the future.

Sir, I am not easily moved, but I confess to a little impatience, sitting here from day to day and hearing the members of the great Union party to which I am proud to belong denounced as radicals, fanatics, revolutionists, disunionists, and enemies of the country, by gentlemen whose position, if not their purpose, makes them the accomplices of traitors. I say accomplices, for effects follow causes regardless of men's motives. Arsenic kills without respect to the mode in which it finds access to the human organism. If taken to commit suicide it does its work. If placed in your food by the assassin it performs its work as well. And if taken from the hand of your physician and friend its work is still the same—death; not from the motive of the actors, but from the relation established between the drug and the organization. And so results follow from the position men occupy without regard to their motives.

It is the position of the Opposition, then, with which I am dealing, and I shall leave their motives to be accounted for by themselves. And I say here in my place, without following our brave boys through rebel prison-pens and bloody battle-fields to unmarked graves, that every one of them owes his murder more to northern Democratic ballots than to southern Democratic bullets. Not so much, sir, to the armed rebel at the South as to his Democrat fellow-partisan at the North is the mother indebted for the massacre of her son, the wife of her husband, and the orphaned children of their father. For every life so sacrificed and dollar expended and debt incurred do I hold those and their partisans responsible, who with brazen cheeks hurl these epithets at us. I came here, sir, expecting, for a time at least, to be a silent member doing my duty in a quiet way, as I have been doing so far. But I will not sit still any longer and hear this language repeated without retorting as I think it deserves. I said I held the northern Democrats responsible for all the horrors of the rebellion, and I repeat it. I do not say nor care whether they cherished conscious treason in their hearts or only the reckless passions of partisan hate. Their position in relation to the contest was the same in either case, as I will proceed to demonstrate.

Sir, men are moved to action by motives; and no motive is strong enough to move them at all that does not hold out some hope of success. Strike hope from the heart and you paralyze the arm. No enterprise can be commenced without there is some hope of carrying it through, nor can it be continued when all hope is taken away. Jeff. Davis and his coconspirators in the South would not, nay, they could not, have struck the first blow but for the hope they indulged of accomplishing their fell purpose. But if the whole North had been united in sustaining the Government, he could not have had any hope of its overthrow. It was simply from expectation of aid from the northern wing of the party that made the first blow a possibility. And were they not justified in their expectations?

Who had been the leaders of the party for years? Just the leaders of the rebellion, whom gentlemen are clamoring to admit again to the vacant seats by their sides, that legislation may be expedited by the bowie-knife and the bludgeon, as of old. Davis, Breckinridge, Stephens, Mason, Slidell, Benjamin, Hunter, Wise, and their like, ruled the party as they ruled their slaves; and never slaves obeyed masters more servilley, only these surpassed their masters in the audacity of their abuse of Union men. Why, every dirty paper and dirtier demagogue poured out their tirades upon the friends of the Union in terms in which falsehood and vulgarity struggled for the preëminence. Abolitionists, Black Republicans, fanatics, disunionists, amalgamationists, woolly heads, nigger worshipers were the gentlest terms employed, and these were howled out as incessantly as dogs bay at the full moon. Not one of them, from their President down, that did not threaten treason if the people should elect Lincoln. I need not repeat these threats. They are burned into the memories of all loyal men. And if they believed one hundredth part of what they said it was nothing but the sheerest cowardice that prevented them from taking up arms with their nobler brethren.

The rebels did look for the aid of northern Democrats. They had a right to look for it, and they received it in every form in which it could safely be given. And what was the position of the party after the war began? Did they give aid to the Government in the hour of its mortal peril? Sir, instead, they pronounced every measure of the Government unconstitutional, every act of the Administration a usurpation, every movement of our troops an outrage upon the rights of the people. The soldiers were denounced as Lincoln's hirelings, abolition cut-throats, fanatical murderers, fighting to enslave the white man and elevate the negro. Every falsehood that ingenuity could invent, and every vulgar prejudice that malignity could inflame were brought to bear against the Administration to embarrass it in its efforts to save the Union. Instead of flying to the insulted standard of their country, they slunk into the dark lodges of Knights of the Golden Circle, and binding themselves together by blasphemous oaths that linked them in fellowship with their like in the South, plotted sedition and planned conspiracies which gave courage and hope and strength to the rebels. Who dares to deny this? Sir, the South did rely upon the Democratic party of the North, and drew all the inspiration it ever had from that source.

So went on the first years of the war of arms in the South and of plottings in the North, until another presidential election approached. They were assured and believed that by the party and the means I have been describing, Lincoln's reëlection could be defeated; and, if failing in that, his murder had been decreed. For that Booth planned the assassination no sane man believes. That it was the crime of those whose madness had already murdered a quarter of a million of his countrymen every sane man knows. And it was only when the hope of his defeat at the election and of anarchy on his assassination failed, that the arm of the rebellion was unnerved and the confederacy died.

I repeat, then, that I hold those responsible who gave this hope and courage to the rebels. Nay, I hold them responsible to-day for all the scenes of outrage transpiring in the South, and the difficulties in the way of reconstruction. When the rebel armies were crushed and all hope was dead they would willingly have accepted conditions based upon justice and right, and in time would have been content. But here stood this same party still denouncing, not the President now, but the Representatives of the loyal people, and, with the ingenuity of fiends, induced the rebels to believe a most monstrous and preposterous lie. At least I hope it is, for I am not willing to believe that it can possibly be true!

They tell these unrepentant rebels, whose hands are yet red with blood of the assassinated Lincoln, that the man whom that assassination made Lincoln's successor is false to the loyal and confiding people who elected him, and has, in heart, and intends, in act, to betray them! I repeat, sir, I cannot believe there is any truth in this representation. A treachery so base, a betrayal so damning transcends my powers of conception. They probably rely upon the simple fact that the President once belonged to their party. But I am not prepared to admit that no man can be trusted that ever did so. I am sure we have many loyal Democrats in the great Union party who did not enter it merely to betray, and I am not prepared to exclude the President from the honored number. But, unfortunately for the country, the southern rebels do believe it.

And now, instead of accepting those terms that would insure the peace and freedom of the country and make their own States the garden of the world, they arrogantly demand their own terms, as if they were conquerors—terms that sow the present thick with the seeds of another rebellion. And I charge whatever of trouble this new phase of affairs may bring upon the country to the Opposition on this floor and the partisans they lead. Sir, I consider this attempt to damn the President to eternal infamy by their championship a more cruel act than the murder of his predecessor. That gave Lincoln's name to immortality embalmed in a nation's benedictions; this, if believed, gives the name of his successor to immortality, too, but with a nation's curses. And what made the outrage more inexcusable was that it was supposed the high position of the President would prevent him from noticing the slander, and his constrained silence would be illogically construed into assent.

And now, sir, having paid my most respectful compliments to the Opposition, I am brought more directly to the policy of "reconstruction." And if I am correct in my theory, then the future as well as the past will be controlled by the same necessary law of growth. We may amend the Constitution and enact whole volumes of laws, but they will not make us at once a homogeneous people. That, sir, must be the work of time and causes lying back of these laws and resolutions, and it is upon these causes which operate as certain as the decrees of God that I rely, and rely without doubting, for the solution of our troubles. The interminable controversy as to whether the rebel States are in the Union or out of it, is, in my opinion, as perfectly immaterial as the arguments on the opposite sides, however able, have been inconsequential and unsatisfactory. And I shall not, Mr. Speaker, add to the "list of the unfortunates" by another attempt to settle a question which, however settled, would still leave us just where we are.

Leaving that question to those who may still

choose it as the theme of their disquisitions, I have simply to say that I have full faith that the wisdom and patriotism of Congress, with or without the aid of the President, will prove adequate to carry through such amendments and measures as will remove any fatal obstructions, and justify the early admission of Senators and Representatives from all the States that will send such as are qualified to take their seats, and that time and natural causes will work out the desired result. Of that result I have no fears at all. A time to try men's souls may be, probably is, just before us. Darkness and doubt may pervade the land for a time, but it will only make the true truer, and bind in closer bonds the friends of justice and right. Treachery and disaffection may thin the ranks of the friends of freedom, but cannot break the solidity of the phalanx. We may be called to more earnest work, but working with the movements of Providence, the workers become omnipotent. Revolutions in that direction never go backward. The revolution in public sentiment in the last twenty-five years has been so rapid and so pronounced that to doubt the future would be to ignore the past.

Sir, we are in the morning light of an age of progress such as the world never enjoyed before, and in a nation whose future glory and grandeur it has never entered into the imagination of man to conceive. We took our place in the family of nations but a single age ago. We then numbered thirteen feeble States, impoverished by the long struggle for independence, with only three million people, and clogged with the incubus of slavery. The country was then chiefly a wilderness. We had neither manufactures nor commerce. Telegraph and railroads were unknown and undreamed of. Steam had not then come to the aid of muscle in the production and transportation of wealth. The arts and sciences were in their infancy compared with what they are now, and we were pressed down with an almost unbearable burden of debt.

From that point we started in the race of national development and progress. That progress is in my opinion but a faint prophecy of the future. But the census shows that we have doubled our population and far more than doubled our wealth every twenty-five years. We are to-day a mighty nation, with thirty-six great States and territory enough for forty more, and a population of thirty-five millions. The arts and sciences have advanced more in their practical application to the uses of life than in all the centuries before. Popular education and enlightenment has increased in a like ratio. Our manufactories, weaving and forging to the music of the water-wheel and the engine, rival those of the oldest nations. Our merchant princes compete successfully in all the marts of the world, and make all nations tributary to us by their commerce. Our machinery and improved implements have multiplied our powers of production more than a hundred-fold, so that Massachusetts alone has to-day the wealth-producing power of more than a hundred million laborers. Our broad land is checkered with railroads, and our rivers and lakes are covered with steamers. Our mountains are pillared up with inexhaustible mineral wealth waiting development. Our illimitable prairies invite the toiling millions of the earth to build their homes in their bosoms. Every variety of soil and climate and our natural position combine to make our country the Eden of the world. And O, thank God! the shackles have been stricken from the limbs of the slave, and we have become the land of the free forevermore!

And now, sir, at this commencement of our regenerated life, and standing on this out-look, the panorama unrolls a scene of glory and grandeur, more sublime and inspiring than ever prophet saw in the moment of his most enraptured vision. From the happy homes of millions of emigrants letters are wafted from day to day to the less happy homes of the millions of their friends in their fatherlands. As these letters are read, the wondrous story of the success of the writers thrills every heart. As they thus learn that here is a land where aristocracy is unknown and worth alone ennobles; where all men are free; where labor is adequately rewarded and the laborer respected; where the child of the emigrant is welcomed to the school and his father to the ballot; where the son of the humblest toiler may look forward to the attainment of any position, the attraction will become irresistible, and where one has come to us in the past a hundred will come in the future. From the mines and factories and forges of England they will come to mine and weave and forge here. From the oppressed but ever-green island they will come to build our future railroads and our expanding cities. From the sunny plains and vine-covered hills of Italy and France and Germany they will come to cover our hills with vines and our plains with culture. And with this stream of glorious workers will mingle the universal Yankee, and the two millions of our more glorious soldiers, made nobler and better by the toils they have endured and the patriotism that inspired the endurance, and this mighty tide, resistless and ever-increasing in volume, will roll to the South now as well as to the West, RECONSTRUCTING AS THEY GO.

Sir, to-day a child will be born into this nation of thirty-five million people. When he casts his first ballot he will have stepped into his young manhood in the same nation numbering seventy millions. At forty-five he will be carving his fortune in the midst of the same nation, numbering one hundred and forty millions. At sixty-five, with the well-preserved powers of many of our members, he will take the place of one of us in this Hall, one of the honored Representatives of two hundred and eighty million people! Yes, sir, one of our pages of to-day may live to be a Representative in this House when our people shall equal one quarter of the present population of the world! And where will these swarming, busy-working millions build their homes? Ah, sir, the sacred soil of even old Virginia, as well as the other States, will be invaded, not, indeed, with hate and sectional animosity, but carrying with them the blessings and institutions of civilization—not to destroy, but to rebuild. The waste places will be restored. In all the South the land that slavery has cursed will be reclaimed and made to bloom as a garden. Forests everywhere will disappear; swamps will be drained; the banks of rivers will be walled in; hill-sides and mountain precipices will be terraced to their summits; the Atlantic and Pacific will be tied together with bands of iron, and Europe and Asia will be our daily guests as they pass each other on our great railroads which are to be the highways of all nations. All laws founded upon caste will be repealed. All races and all sexes will be enfranchised. Man in his strength, and woman in her purity, stepping side by side to the ballot-box, will redeem politics from the stigma of coarseness. Statesmen will take the place of demagogues in the canvass, and the people will demand that their reason shall be addressed instead of their prejudices. Education will keep pace with our material development, and religion, purified from superstition, will give its benediction. The prejudices of to-day will die out, and truth and justice resume the seats so long usurped by error and wrong.

Our neighbors on the north, by an irresistible attraction, will ask to join their destiny with ours, and with the consent of England, which will not be withheld, we will bid them welcome. And our other neighbors on the south, wearied with an age of internal strife, will silence their factions and come to us to find peace under our flag, and we will bid them welcome. And that banner of beauty and glory that floats over your seat, with its galaxy increased to a hundred stars—the emblem of resistless power, and carrying in its folds freedom, justice, and protection to all—will wave over a reconstructed country without a traitor, embracing the continent without a slave.

Mr. BEAMAN. Mr. Speaker, in the adoption of ordinances of secession, and in the formation of a pretended confederacy with pretensions to sovereignty—steps preliminary to the war—the seceding States contemplated a final separation; and during the consequent hostilities the rebels rejected all terms of arrangement and composition and all suggestions for peace not based upon an acknowledgment of their independence. They ridiculed the proposition to conquer and reduce them to obedience to the Constitution and laws, and in this they were countenanced by the Democratic party. Many of the members of that party declared the Union already destroyed. Though hostile armies had been raised, and the forts and other property of the United States were about to be seized, James Buchanan, then occupying the executive chair, in his annual message to Congress, in December, denied the right "to coerce a State into submission which is attempting to withdraw or has actually withdrawn from the Confederacy;" and on a later day another distinguished Democrat, who afterward, pending the struggle of arms, became the candidate of his party for the second office in the gift of the people, "would signalize their (the rebels) departure by tokens of love," and "would bid them farewell so tenderly that they would forever be touched by the recollection of it." Prominent leaders of that party shamelessly proclaimed the inability of the Government to repress the rebellion, and not a few admitted that the wish was father to the thought. During the entire war Democratic members of this House voted against laws for arming the country and against appropriations necessary for carrying on the Government. These gentlemen, notwithstanding the fact that the rebels had commenced hostilities, denounced the prosecution of the war on our part as unnecessary, cruel, and unchristian. They anathematized our late martyred President as a despot and usurper. They applied the most opprobrious epithets to our present Chief Magistrate; and they neglected no opportunity to attempt to make the great Union party, which was struggling to preserve the nation, odious in their own country and infamous abroad. Yet, during all that terrible struggle the Union party, composed of Republicans and loyal Democrats, sought only the salvation of the country; and they exhibited a degree of firmness, constancy, courage, and energy that astonished the world. Their unchangeable purpose was the preservation of the Government and the enforcement of the laws. Their constant motto was, "The Union, it must, it shall be preserved." They struggled against southern traitors and northern sympathizers, and they risked all in the defense of their country. Finally, victory crowned their efforts. That monstrous and unnatural rebellion has been repressed, the rebels have been disarmed, and the prophecies, not to say wishes, of their sympathizers have proved to be futile.

I have referred to these facts, familiar to us all, in order that we may take a correct survey of the present field of action. What now is the proposition? Why, it is to admit without delay these traitors direct from the field of battle, with fresh blood upon their hands; with the odor of Florence and Andersonville prisons upon their garments; with the anathemas of dying Union men, women, and children upon their heads; with unrepented treason in their hearts, and words of disloyalty on their lips; with perjury on their souls, and with immortal hate and bitterness toward the Government, to representation in these Halls, where they may attempt to accomplish by political skill and dark intrigue what they failed to do by the sword.

Sir, when we look back upon upon those five long years of horror, of carnage, and of death; and when, casting our eyes over the country, we see half a million fresh graves, the legitimate fruit of treason and rebellion, watered by the tears of a proportionate number of widows and orphans; and when we remember that, true to their proclaimed determination, the rebels literally resisted until they reached the last ditch, some of us are startled at the boldness, if not recklessness, of this proposition,

and desire time for reflection and investigation before taking a step that may be followed by consequences of the most painful and disastrous character. We would also obtain, by constitutional amendment or otherwise, some guarantee for future good conduct before consenting to place such men in power. I believe these views are, certainly they have been, in accordance with the sentiments of the country. Those were noble words uttered by Andrew Johnson, in the Senate of the United States, January 31, 1862:

"The leaders of rebellion have decreed eternal separation between you and them. Those leaders must be conquered, and a new set of men brought forward who are to vitalize and develop the Union feeling of the South."

And the heart of the nation was electrified and strengthened when, on the 3d day of April, 1865, that same Andrew Johnson declared—

"That treason must be made odious and traitors must be impoverished, their social power broken, though they must be made to feel the penalty of their crime."

The same speaker continues:

"We have put down these traitors in arms; let us put them down in law, in public judgment, and in the morals of the world."

And when the nation itself was prostrate and paralyzed by the death of its assassinated Chief Magistrate, who had acquired the love and confidence of all patriots, it was suddenly revivified, reassured, and lifted up by the utterances of your President, made April 18, 1865, in an "indication of" his "future policy," wherein he declared—

"That the American people must be taught, if they do not already feel, that treason is a crime and must be punished." * * * * "That what may be mercy to the individual is cruelty to the State."

These utterances met the cordial approbation of the loyal North. But now, for entertaining such prudential sentiments and convictions, we are called to an account and denounced as fanatics, disunionists, and opponents of the Administration. Indeed, it is charged that we are opposed to a restoration of the Government, the resumption of the arts of peace and the cultivation of friendly relations among the various sections and people of the country. Sir, who are the men that have suddenly sprung up to be our accusers? Who are they now foremost in demanding representation for traitors and proclaiming that the Union is completely restored? Where did they stand when bills were pending for raising an army for the defense of our firesides? Where were they when appropriations were made for feeding and clothing the soldiers in the field? What did they say and do when a Vallandigham was arrested and banished the country for advising soldiers to desert their national colors? What was their language when the writ of *habeas corpus* was suspended in order to restrain the treasonable acts of secret enemies? What did they do but denounce as vile slanders the charges against rebels of starving our noble soldiers in southern prison-pens?

Sir, these are the same men who, in 1862 and 1863, cried for peace at the expense of nationality; who declared the war a failure; who said the Union was already destroyed; who denounced the Adminstration and palliated the monstrous crimes of traitors and murderers; while we, undismayed by traitors on either side and undaunted by the mischances of war, devoted our energies to the prosecution of the war and the restoration of the Government in all its parts, protesting at all times that not a foot of American soil should ever be taken from us. Sir, it does not become the Democratic party and their allies in the rebel States to charge us with the design of preventing an early restoration of law and order and a complete union of the States. There is nothing else on this side of the grave that I so ardently desire to see as a complete Union of all the parts and people of our land, thoroughly cemented and working harmoniously on the basis of justice and universal liberty. But in view of the universal grief that has settled upon the people, equal to the sorrow that fell upon Egypt when death seized upon the first-born of every household; in view of the devastation visible in many portions of the country, and mindful of the indescribable sufferings that the people have endured during the last five years, I am not willing that the people of the seceded districts shall participate in shaping the affairs of the Government until they shall have given us some evidence and guarantee of good faith and earnest fidelity.

These Democrats, who a little time since would let their aggrieved southern brethren depart in peace, and who declared the Union dissolved, have suddenly discovered that the country is intact, and that the States are all now moving harmoniously in their respective orbits. They have, as in the twinkling of an eye, become the assumed champions of that Administration which they were so lately vilifying, and they even condescend to give us lessons of instruction in regard to our duty toward that Administration that we in spite of their opposition placed in power. And they threaten us with the indignation of the people, who they say are clamorous to have these seats lately vacated by traitors once more filled by occupants of the same stock. Do gentlemen who make these statements flatter themselves that the people are impatient to hear once more the voice of Jefferson Davis or of John C. Breckinridge in the other end of the Capitol? Think you, sir, that the widowed wife or the bereaved father, who nightly dreams of seeing the famished husband or son lying in the filth of Andersonville prison, and who is ever and anon startled into wakefulness by the fancied cry for food or pure water, is sighing for the speedy return to this Hall of the demon who connived at his death by the slow but sure and torturing process of starvation? Though such crimes may have been forgiven they have not been forgotten. Have the people any evidence of repentance for such flagitious crimes? If so, what is it? Does it appear in the daily conversation, in the public speeches, in the halls of legislation, or in the press of the South, the burden of all which is "a just but lost cause?" Does it appear in the elections, where wounds and scars received in an attempt to overthrow the Government are alone sufficient passports to office? Does it consist in the daily murders of Union men in the districts lately in rebellion? Is it shown in the undisguised bitterness and hate toward the Government in those regions everywhere prevalent? Is it manifest in the disposition to extinguish the very existence of every man who during the war was found faithful among the faithless, and who was content to wander in the mountains and to find shelter in caves rather than be compelled to raise his arm against his Government? Is this repentance conspicuous in their fiendish treatment of that unfortunate race who kissed the rod that smote them, and despite the oppression and fiendish cruelties of two hundred years became the sheet anchor of the Government amid the terrible storm in which it was enveloped, though by that Government, during all that dark night of sighs and groans and tears, their supplications had remained unheard and unanswered?

Sir, the people of the North are a wise and Christian people. They mourn the victims of assassination, and they feel the pressure of taxation. But they are merciful and forgiving, and delight not in the flowing of blood. With you and with me they pray for peace and a restored Government, but they do not desire to see their political interests again in the hands of disloyal men. They know that now is the accepted time, that now is the day of salvation. They know that there is now an opportunity to establish our political system on a permanent basis of liberty and justice, and that if we fail to embrace it the golden moment will have escaped for years, if not forever. They see that we have reached a crisis in our affairs. To-day the wayward States are subject to our control, and we may enforce order and require justice. Recognize their *status* as States, and admit them to representation in Congress with their present disloyal temper and disposition, and the outlays in life and treasure of the last five years will have been incurred in vain.

Mr. Speaker, it is said that Tennessee is an exceptional case, and that she should stand on her own merits unprejudiced by the condition of other States. Let us, then, look to the condition of Tennessee and endeavor to ascertain whether she is entitled to recognition as a State of this Union and to representation on this floor.

Prima facie, Tennessee is disloyal. She adopted an ordinance of secession and went into the rebel confederacy. Since the 4th of March, 1863, she has been without representation in either House of Congress. At the time of the surrender of the last of the rebel armies the greater portion of her population were actively hostile to the Federal Government. It is true that her people have been disarmed; but is there any evidence of their change of heart? It is said that the new government of Tennessee is composed of loyal men. This I do not deny. But I do not concede that because the noble-hearted Governor Brownlow and his associates are loyal that it follows as a natural corollary that Tennessee is fit to be recognized and represented as a State. That, I think, would be assuming for truth what ought to be proved. It is what is sometimes called "a begging of the question." But as Governor Brownlow and his associates constitute the government for which gentlemen urge an early admission, we may for the present waive an examination of flying tourists and the manufacturers of common fame and listen to what these gentlemen have to say; premising, however, that as they, above all others, have a direct personal interest in the earliest practicable and safe restoration of the State to its complete standing in the Union, we cannot reasonably suppose that they will attempt to make the condition of affairs in Tennessee appear worse than it really is.

On the 9th of January last certain gentlemen claiming to constitute "a large majority of the State central committee of the Union party of Tennessee," addressed a memorial "to the honorable congressional committee on reconstruction," in which they say:

"That in the spring of 1861 about forty thousand of the voters of Tennessee made up their minds to adhere to the flag of their country in spite of the tornado of treason that swept the State and carried it into the vortex of rebellion. They constituted less than one third of the voting population of the State, and far less of its wealth and political influence." * * * * "More than twenty-five thousand of our numbers, leaving their homes and families to be pillaged and abused, traveling through mountains or swamps by night, and hiding in thickets by day to evade a pursuing and murderous enemy, escaped to the Federal lines, and without bounty or other inducements enrolled themselves as Union soldiers. They have returned to their homes from a gallant and bloody service to find, in many instances, their homes in ruins, their property gone, and their families abused, insulted, or outraged. And it must be added that in many instances these victorious heroes of the national cause are not permitted to remain at their homes in peace, or if permitted they are crippled in business and politically and socially outlawed. The designs of the great secession majority of Tennessee may have been changed by the events of the war, and so may have been their opinions of their own strength and of the strength of the Government, but unless your memorialists greatly misunderstand them their sentiments, sympathies, and passions remain unchanged. They welcome peace because they are disabled from making war; they submit because they can no longer resist; they accept results they cannot reject; and profess loyalty because they have a halter around their necks."

These memorialists further say:

"Whether we regard it as our former State government restored, or as a new government given to us by the power of the nation, is immaterial, as it has been compelled at every step to lean upon the strong arm of the national authority for support. The action of the convention was submitted to the votes of the loyal people, and by means of the strong will of the military governor and a rigid test oath, and because the election was not recognized by the disloyal, it was nearly unanimously adopted, securing over twenty thousand votes, many of the Union men being in the rebel lines at the time."

It further appears from this memorial that "the convention of February," in order to keep the power of the State in loyal hands, attempted to provide—

"For a formal disfranchisement of [by] conferring upon the first Legislature the power to limit the elective franchise. So far the legislation on this subject

has been unsatisfactory and ineffectual. Indeed, many of the members are utterly unequal to the task, and yielding to the influence and dreading the power of numbers, shrink from its performance. A suffrage law was passed at the spring session, the result of compromise and doubtful in its terms, easily evaded and practically defective. By means of repeated proclamations by the Governor, telegraphic orders from the President, and the aid of the military, a partial execution only of the law was obtained. So defective was the execution of the law by the officers to whom it was intrusted, that the Governor was constrained to declare the August election totally void in twenty-nine counties in the State. An attempt will be made at the present session to pass an amended suffrage law, but it is doubtful whether any effectual disfranchisement can pass, and still more doubtful whether, if passed, it can be executed, even with the presence of the military; certainly, such a law cannot be executed if the supervising power of the General Government should be discontinued. In short, your memorialists anticipate that at the first general election the entire civil and judicial power of the State must pass into the hands of those who have so long oppressed them and made actual war upon them."

These memorialists further allege that they are citizens of the State, and "not driven to consult tourists nor correspondents for information;" that they "speak not from hearsay or report, but as witnesses admissible in court;" that "the predominant feeling of those lately in rebellion is that of deep-seated hatred, amounting in many cases to a spirit of revenge toward the white Unionists of the State;" that the rebel party in the State "is every day becoming more and more compact and powerful;" that "it has five well-sustained and ably edited daily newspapers in Memphis, four in Nashville, one in Knoxville, and a weekly in each of the important villages;" that this party consists "of over two thirds of the white men of the State;" and that "free from restrictions upon suffrage, they will probably cast ninety thousand votes in the State." After making many other statements in reference to the condition of Tennessee, quite as pregnant and striking as any that I have quoted, they utter an appeal for protection, and—

"They pray that the Government will not forsake them by withdrawing its direct agency in our [their] affairs, thereby delivering them to their tormentors."

This earnest invocation from our persecuted brethren and loyal fellow-citizens is suggestive of the groans of the Britons, and reminds us of the misfortunes of that unhappy people when they made that touching appeal to Rome for protection against those barbarians, the fierce Picts and Scots, who were pressing them into the sea; and in fact there is some analogy between the cases. The rebels pursue the loyal Tennesseeans with wrongs and instruments of assassination, while we refuse to take them under the protection of the Federal Government, but turn them back and hand them over to the tender mercies of the rebels. It is true that the memorialists do say "that they desire to be represented in Congress," but they are careful to add that—

"If our form of government is such that to admit our Representatives to seats in Congress will compel the withdrawal of the supervising control of the national Government over our internal affairs, thereby insuring the ascendency of the rebel majority, your memorialists prefer, and they are sure the loyal people of the State prefer, to live in a territorial condition, and even under military government."

I regret that I have not time to read the entire memorial. It is clear in its statements, replete with facts, and throws a flood of light upon the condition of affairs in Tennessee, and ought to be read by every man in the country. But it has been attempted in some quarters to throw discredit upon the testimony of these memorialists, and I will therefore produce the action of the Senate of Tennessee in support of their statements.

I ask the Clerk to read the following proceedings of that body, which I find reported in Brownlow's Knoxville Whig of the date of February 7.

The Clerk read, as follows:

IMPORTANT VOTE IN THE SENATE.

On Thursday, 18th instant, the following proceedings and vote were had in the Tennessee Senate:

Senate Joint Resolution.

Senate joint resolution by Mr. Carrigan:

Whereas a certain memorial has recently been presented to the reconstruction committee of the Congress of the United States, styling itself the "Union central committee of Tennessee," and assured by its authors to be a true and faithful representation of the political condition of our State, and designed by its authors to be a "stumbling-block" to the speedy resumption of our relations to the Federal Union, and a "sheet anchor" to those in Congress who oppose President Johnson and his policy of reconstruction; and whereas the memorialists are men unknown to the people of Tennessee, (with one exception,) as well as to "honor or fame," and that they neither represent the Union sentiments of East, Middle, nor West Tennessee; and whereas they say in their dark-lantern memorial concerning the people of Tennessee, that "their protestations of loyalty are sheer hypocrisy—a mask assumed for an object to be thrown off when that object is accomplished," we feel called upon by a sacred sense of duty to our country to vindicate the pledged honor and fidelity of our people, and pronounce all such charges and allegations false and infamous: Therefore,

Be it resolved by the General Assembly of the State of Tennessee, That the said memorial is not the embodiment of the sentiments of the Union people of our State, and that we can assure the reconstruction committee in Congress, and our friends throughout the Union, that our people are now entering upon a high state of peace and prosperity, and that their industry and economy are daily being brought into great activity, and they seem entirely willing and anxious to support in good faith the constitutions of the United States and of the State of Tennessee, and are obeying all laws and requirements, both State and Federal, with remarkable unanimity, candor, and sincerity.

Under a suspension of the rule, laid on the table, on motion of Mr. Hall, by the following vote, on a calling of the ayes and noes:

AYES—Aldridge, Bosson, Cate, Cypert, Hall, Keith, McKinney, Nelson, Senter, and Trimble—10.

NOES—Bowen, Carrigan, Frazer of Wilson, Frazier of Knox, Johnson, Powell, Smith, and Speaker Frierson—8.

Several Senators, voting in the negative, announced that they did so out of courtesy to the Senator introducing the resolution, though opposed to the resolution itself.

Mr. BEAMAN. This action of the Senate of Tennessee is an ample indorsement of the statement made by the central union committee; and the editor of the Whig, in a note appended to the report of the proceedings, adds characteristically that—

"This voting for a rebel document, and against the Union party and sentiment, 'out of courtesy,' is what we don't understand!"

The gentleman from Illinois [Mr. BAKER] has rendered valuable service to the country by giving publicity to two letters; one from Governor Brownlow, dated January 1, 1866, and the other of the 29th December last, from Hon. A. J. Fletcher, secretary of state of Tennessee, from which I present some extracts. Governor Brownlow says:

"I give it as my candid opinion, that if the military forces were all withdrawn from Tennessee, the Legislature would at once be dispersed by a rebel mob. Out of six daily papers in Nashville, four of them are rebel, while the people are more than two thirds on the rebel side. Rebel grand juries are indicting Federal soldiers and officers in Middle Tennessee, and either binding them over to court in heavy bonds or casting them into prison for executing orders given them by our generals as far back as the days of Rosecranz and Stone river. And many of the rebels now speak out openly and say 'Union men and Yankees shall not live in the country.'" * * * * "Assuming the restraints of the General Government are all to be removed from Tennessee, you ask me if northern school teachers would be allowed to educate negroes? I answer, no; not in Middle and West Tennessee. In two cases out of every three, the school houses would be burned and the teachers rode upon a rail."

In the same letter, he says:

"I believe the whole South is full of rebellion, and that the rebels are seeking to accomplish by legislation and through Congress what they failed to do upon the field of carnage—destroy the Government. And should this Legislature of ours adjourn without giving us the right sort of franchise law, the next General Assembly will be rebel, and will repeal all laws this one has enacted. The next congressional delegation will be rebel, and our Senators will be instructed to resign. And some such man as General Forrest will be elected Governor."

Mr. Fletcher says:

"There are about forty thousand Union voters in the State against one hundred thousand whose sympathies are with 'a just but lost cause.' These latter will form a compact party in the State, held together by hatred for those whom they have branded as Tories for deserting the South in her extremity, by a determination to keep the negro in a condition as near to slavery as possible, and probably by a desire to keep the South united with a view to ulterior designs." * * * * "The attempt to disfranchise the majority has failed. Another attempt will be made and will fail, and this, too, with the military present and a loyal State government. Withdraw the pressure of the General Government and a hundred thousand rebels, talented and wealthy, will laugh at any restraint imposed by less than half their number of citizens." * * * * "The next Legislature will be two thirds rebel in each House. They will oppress the Union men in every way they dare. And East Tennessee will make an effort for a separate organization. Two Union men and six rebels will be elected to the next Congress. The present loyal delegation owes its success to the presence of the military and the partial execution of the suffrage law and to policy."

A letter has been published of the date of January 15, 1866, addressed by Governor Brownlow to Hon. SCHUYLER COLFAX, for the purpose, as I suppose, of establishing the claim of Tennessee to representation in the two Houses of Congress. Two or three extracts from that letter, however, will show how far it tends to accomplish the object for which its publication was designed. Says the writer—

"I am decidedly in favor of admitting the Tennessee delegation, and have so expressed myself in all my private and published letters, as well as in my messages to the Legislature." * * * * "The Tennessee delegates, as a whole, are loyal, can take the required oath, and would, if in their seats, add to the strength of the Union party." * * * * "Finally they ought to be admitted as a means of preventing a rupture between Congress and the President, which, for the sake of the country, ought to be avoided. The President ought to be satisfied with the admission of the Tennessee delegates to their seats, and I have no doubt would be."

But in the same letter Governor Brownlow does not omit to say that—

"If the removal of the Federal troops from Tennessee must necessarily follow upon the admission of our congressional delegation to their seats, why, then, and in that case, the loyal men of Tennessee beg to be without Representatives in Congress." * * * * "I tell you, and through you all whom it may concern, that without a law to disfranchise rebels, and a force to carry out the provisions of that law, this State will pass into the hands of the rebels, and a terrible state of affairs is bound to follow. Union men will be driven from the State, forced to sacrifice what they have, and seek homes elsewhere." * * * * "Those who suppose the South is 'reconstructed,' and that her people cheerfully accept the results of the war are fearfully deceived. The whole South is full of the spirit of rebellion and the people are growing more bitter and insolent every day."

Mr. Speaker, the condition of Tennessee as shown by the documents from which I have quoted, is startling and appalling; but the picture is not overwrought. From every part of the rebel territory comes the same story of wrong, outrage, and oppression. The shooting of the negro, the depriving him of all civil rights, the murder of Union men, the banishment of northern emigrants, the utterance of disloyal sentiments, and the commission of every conceivable crime, have become the order of the day. And now, what does the testimony of these loyal men of Tennessee establish? Why, it shows that out of one hundred and forty thousand voters, one hundred thousand are rebels in deed and rebels at heart; that treason is as rampant in that region as it was in 1861; that the so-called State government has thus far been compelled, at every step, to lean upon the strong arm of national authority for support; that notwithstanding the presence of the military, outrage and crime everywhere prevail; that the rebels will have a two-thirds vote in the next General Assembly; that the party opposed to the Government is every day growing stronger, more bitter, more compact; that in spite of laws for disfranchisement, at the next election for Representatives in Congress at least six out of the eight will be rebels and plotters against the Government; that to-day, were the United States troops withdrawn, the Legislature would be dispersed by "a rebel mob;" and that to recognize the existence of a State government, and to turn over the people to its care and protection, is to decree to every loyal man in that region, black or white, banishment or death.

Sir, such a proposition is base; it is ungrateful; it is heathenish; it is monstrous; it is madness! And is this the return to be made to loyal southern men for their sacrifices, services, and patriotism, who have braved prisons and loss of property, and the scorn and threats of bloody-handed traitors, and even death itself, rather than betray their country? Shall we punish men because of their loyalty? Better, far better, would they have fared had they steeped their hands in the very dregs of treason. And is this the way to make treason odious? And if the loyal southern man is to be ignored or

ostracized, when shall we see that "new set of men brought forward who are to vitalize and develop the Union feeling in the South?" And when and in what manner shall we put down the rebels "in law, in public judgment, and in the morals of the world?"

But it is alleged that the loyal men of Tennessee solicit recognition as a State and representation in Congress. If that be true, their views are entitled to consideration, but not necessarily to adoption. It is the duty of Congress to protect the loyal men of Tennessee, but it has a higher and more comprehensive duty to discharge. It must regard the welfare of the nation. "We must not forget that what may be mercy to the individual is cruelty to the State."

But I do not think it is fairly to be inferred from the letters and memorial to which I have referred, or from any other evidence that has been produced, that Governor Brownlow and his associates are anxious for the admission of their Representatives into this House, having due regard to all the surrounding circumstances. While they all say that they desire to be represented in Congress, they also all declare, in substance, with equal emphasis, that, in case the admission of their delegation "will compel the withdrawal of the supervising control of the national Government over their internal affairs, thereby insuring the ascendency of the rebel majority," they "prefer, and they are sure the loyal people of the State prefer, to live in a territorial condition, and even under a military government." Now, they must understand, as everybody knows, that the national Government cannot properly exercise a supervising control over the internal affairs of a State. It is not to be supposed that the Government at Washington is to run the State government of Tennessee when restored to the Union; to stand at the polls to receive or reject votes; to amend or repeal or control the franchise laws of the State Legislature; to preside on the benches in the courts, and administer justice when loyal men, black or white, are prosecuted for acts committed during the rebellion; nor to prevent the election of General Forrest as the next Governor of Tennessee. I need hardly add that when we let these rebel districts escape from our hands, and allow them to assume the dignity and power of States, our supervising control over their internal affairs will have passed away, never to return until the torch of rebellion shall again throw its lurid light over the country. The safety of the people of the United States, including the Union men of Tennessee, lies in making sure and substantial work; in imposing conditions, and requiring guarantees, and establishing order and justice while we have the legal power.

But, as further evidence of the true sentiments of the loyal men of Tennessee, I beg leave to read the following editorial, which I clip from the Knoxville Whig, a paper already referred to, of the date of February 14:

"THE PRESIDENT AND THE RADICALS.—Under this sort of heading the rebel sheets of the South keep up a constant clamor, predicting and hoping for an issue between the President and Congress, and predicting the certain triumph of the people, on the ground that the people are with him. They are extolling the President for his courage and firmness, and doing all they can to bring on a conflict. Meetings are being held all over the country, saying, 'Let the struggle come, for, however fierce, the President will triumph, as the people are with him.' All this is to be regretted for the sake of the country first, and next for the sake of the President and his future usefulness. If the people are with the President in his policy, it is the southern people who fought four years to destroy the Government, and who clamored for the capture of the President that they might have the pleasure of hanging him. And we are deceived in the President if he allows this party of traitors to create a quarrel between him and the great Union party that nominated him in the Baltimore convention, and subsequently elected him to his present high postion.

"The party denounced in Congress as radicals, abolitionists, and as a 'faction,' composes *two thirds* of both Houses, and they are the representatives of large majorities in all the loyal States, who will stand by them, even in a conflict with the President and the new-born friends, galvanized loyalists, and amnestied patriots who now crowd out from the White House all the tried loyalists of the country. Those who labor to bring on a conflict between the President and Congress are not the friends of either, as the future will show. For if the 'people' ever did plant themselves firmly on any platform, it is on the platform now occupied by the so-called radicals, or 'faction,' constituting the majority in the present Congress. We go with that 'faction' of radicals; we approve their principles and policy; and live or die, sink or swim, survive or perish, we risk our life, our fortune, and our sacred honor on board of that ship. It is a bark sailing under the banner of beauty and glory, the stars and stripes of our country—a banner that the conflicts of the last eighty years have never seen conquered. Always victorious, because always in the right, it is not to be disgraced by the combined assaults of home traitors or malignant foreign foes."

The admission of the Tennessee delegation has also been urged on the ground of the personal character of the gentlemen claiming seats in this Hoase; and it has even been said that so much is due to them as a recognition of their faithful and valuable services. I know some of these gentlemen, and they challenge my admiration, as well as my regard and esteem. But I submit that such considerations do not rise to the dignity of statesmanship. The question is not whether Hon. Horace Maynard and his associates shall be admitted to seats in this Hall, nor whether they have deserved well of their country. The principle of admission respects the right of representation, and not the person selected for that purpose. What is a Representative in Congress? The title is not an arbitrary one. It was adopted with reference to its fitness to the object to which it is applied. It is descriptive of the nature of the office. It implies a constituency with views in consonance with those of the delegate. Now, if these gentlemen are disloyal, they ought not to be here. If they are loyal, as we know some of them, and, as I suppose, all of them, are, then they can hardly have any just claim as Representatives in this Congress. They have a very small, if any, loyal constituency. A hundred thousand of their one hundred and forty thousand voters are rebels. The documents to which I have referred show the circumstances and means under and by which they were elected. Neither the military arm of the Federal Government, repeated proclamations of the Governor, nor telegraphic orders from the President, were adequate to produce the object in view. The result was not obtained without declaring the election void in twenty-nine counties in the State. This result certainly is not satisfactory as a manifestation of the free will of the people. Yet all these irregularities and unusual, not to say violent, proceedings might be overlooked if we had nothing to consider but the character and fitness of the gentlemen themselves.

Indeed, we might well conclude that strong and rare measures are justifiable when the object is to defeat traitors and preserve liberty. But the legitimate effect of their admission is to give representation or misrepresentation, as the case may be, to one hundred thousand rebels; and a later and inevitable result will be to put into the next Congress at least six disloyal men, representing one hundred thousand disloyal constituents; and, by the recognition of the State, to lose all control and supervision over its domestic affairs. But this is not the only, nor the greater evil that is likely to flow from the project proposed. The admission of Tennessee would be followed, in rapid succession, by the complete restoration to power of all the other seceded States; and without much delay we should have on this floor fifty-eight Representatives, representing rebel constituencies. Those who remember the struggles between the friends and the enemies of the Union that have been seen in this Chamber during the last five years need not be told what effect such an addition to secession power would have upon the legislation of the country. I know that some gentlemen have conceived the illogical idea that Tennessee may be admitted to the exclusion of her coadjutors in crime. But let us not deceive ourselves. On every principle of reason and justice South Carolina should come in with or closely in the wake of Tennessee. Each has made war upon the Government, each has a disloyal population, and each followed the fortunes of the confederacy until reduced by force. And if, as it is conceded on all hands, the loyal people of Tennessee are not able to manage their own concerns and protect themselves, by reason of the treasonable character of her population, in what respect are her claims to the right of self-government superior to those of any other rebel State?

Governor Brownlow suggests that the Tennessee Representatives should be admitted as a means of preventing a rupture between Congress and the President, and remarks that "the President ought to be satisfied with the admission of the Tennessee delegates to their seats."

Mr. Speaker, it is the duty of the President of the United States to see that the laws are faithfully executed; but "all legislative powers" granted by the Constitution are vested in Congress. Congress is authorized to admit new States into this Union, and each House is to judge "of the election, returns, and qualifications of its own members." It is difficult, therefore, to perceive why the admission or rejection of the Tennessee delegation, should make or prevent "a rupture between the President and Congress." We are to perform our duties here under the sanction of an oath, which each of us has taken; and under the Constitution of the United States, ever guarding the rights and interests as well of our respective constituencies, as of the people of the whole country. Could I believe it safe so to do, I would embrace the first opportunity to vote for the admission of the claimants to seats from Tennessee. Though I am satisfied that their claim is based on no strict right, I would do everything for harmony and conciliation consistent with national security. But believing, as I do, that the recognition of Tennessee as an organized State at the present time, and the reception into this House of her Representatives, followed as it will be by the immediate recognition of all the seceded States, and a representation on this floor of seven million rebels, would have the inevitable effect of placing this Government in the power of its deadly enemies, I will not consent to the adoption of a measure so fraught with danger to liberty, not only in this country, but throughout the world. This question rises above all personal and party considerations, above all considerations of mere temporary policy. It touches the preservation of our national existence; and it requires a prompt and fearless decision. I am no alarmist; but we are threatened with immediate danger; with irretrievable ruin.

If the eleven seceded States are immediately invested with their proportionate power in the administration of the Government, that glorious fabric of nationality created by the hands of our fathers, and so gallantly defended by the best blood of this generation, will be speedily demolished and utterly destroyed. And this, too, is to transpire after the most gigantic struggle of ancient or modern times; after the loss of half a million men; after an expense of four billions of money; after the enemy has been put down by the sword; and when we have it in our power, without further war, without bloodshed, to obtain security, to establish peace and justice, and in one generation to advance our country and people in the race of civilization to a stage which, under other circumstances, would not be reached by the labors of statesmen and philanthropists in a thousand years! Can it be that we shall prove so reckless, so improvident, so blind to our duties and interests, as to neglect an opportunity so propitious? Will we take no lessons from the past? Will we receive no inspiration for the future?

Sir, I desire to indulge in no idle declamation, in no language of defiance; but the present is a time for the utterance of truth and the use of plain, sober speech. It is no time for sophistry. It is idle to talk of the constitutional rights of the rebel States. It is preposterous to pretend, in this way, to give the loyal people the exercise of the right of self-government. By this mode you but turn them over to the domination of their most inveterate enemies. It is not the loyal people, but the rebels who are clamorous for self-government. The Union men see their inability for their own

defense and appeal to us for protection. They ask to be delivered from the rebel yoke, and beseech us not to turn them over to their tormentors. I will listen to their prayers. I will not be accessory to their ruin. I will not aid the rebels to complete their extermination. And I here deliberately declare, that with my present information of the condition and sentiments of the people of the seceded districts, and without more light and without further security, no earthly power shall induce me to consent to the terrible wrong of turning over to those traitors the Government of the country and the lives and fortunes of those patriotic men who so piteously implore our protection. If so great a crime is to be consummated its sin shall not rest upon my conscience. If, after all the sufferings of the last five years, when the physical power of the enemy is broken, when the prize for which we contended is within our reach, if it is now to be cast away heedlessly, ruthlessly, then God's will be done. But the scarred and mutilated heroes of this generation shall not charge upon me the cowardly surrender of the fruits of their dearly bought victories; their sons shall not avoid my children on account of the sins of their father; my descendants shall not look upon the record of my votes, on this question at least, with sorrow and shame. But why should the President be satisfied by the admission of the Tennessee delegation to the exclusion of those from the other rebel States? There is no difference between them in principle, and such seems to be the opinion of the Executive. In his veto message of February 19, he says:

"It is hardly necessary for me to inform Congress that in my own judment most of those States, so far at least as depends upon their own action, have already been fully restored, and are to be deemed as entitled to enjoy their constitutional rights as members of the Union."

Let no man, then, deceive himself with the impression that the question is limited to the admission of the Representatives from Tennessee. It embraces the recognition of all the rebel States, and a vote for the admission of Tennessee is a vote also for representation in this Congress of the traitors of South Carolina.

Mr. Speaker, the doubts, the fears, the horror, and the gloom that marked the rise and progress of the late rebellion are still fresh in my recollection. I remember the latter days of February and the early days of March in the year 1861. During that period of feverish excitement, whether or not the President-elect, the nation's choice, could be inaugurated in accordance with the time-honored custom of the country was a question that filled the minds of many good men with painful doubt and serious alarm. I seem still to hear the lingering echoes of the first gun discharged upon Sumter. I was in Washington when our defeated and routed army came straggling into the city from the field of Bull Run, without order and without discipline, inducing in some minds despair, and consternation everywhere. I remember with what crushing effect the news of our disasters before Richmond in the "seven days' fights" fell upon the loyal heart of the country. I remember that discouragement succeeded hope and confident expectation when the issue of the struggle at Fredericksburg was known. I do not forget the thick gloom that settled down upon the country in 1862, and which was hardly lifted in 1863. I never can forget the forty-five thousand brave but mutilated men who were gathered into hospitals in this city in 1864, martyrs to the cause of liberty in the masterly campaign of General Grant. Those were sad, dark days, whose tinge was deepened by the frowns and hostile intrigues of foreign nations. But sadder still, and darker and more gloomy, will be that day on which the rebel States shall assume the control of our national Government; when, without guards or security for future good conduct, without protection to the blacks and loyal whites who have freely shed their blood in our defense, the seceded districts shall be declared reconstructed and restored States, and again launched upon their career of oppression, tyranny, and crime. But I pray God—I trust, hope, and believe that such a day of woe may never come! I believe that same mysterious Providence which has hitherto guided our tottering steps through the intricate passages of disaster and war into paths of safety, at the very moment when all seemed lost, will still extend over us a protecting hand, will still thwart the machinations of the evil-minded; will continue to instruct the consciences and strengthen the hearts of our people, and will prepare them to stand firm and do battle for the right against all combinations for injustice and wrong, despite the plausibility of pretext, despite the position of the parties.

Mr. BROMWELL. Mr. Speaker, as there seems to be an opportunity at this time, I beg leave to submit a few remarks upon some of the matters which at present are pressing upon the attention of this Congress. And although I might give some reasons why I desire to be heard at this time concerning these questions, I will omit them; because unless in that which I shall say there be found some reason for its utterance, I had better hold my peace.

Since all loyal men seem to agree that some security should be demanded of the States lately in rebellion, there would seem to be but little danger of dissension among them touching the course to be pursued to secure the restoration of constitutional government in those districts lately overcome by the Union arms. But because I deem it proper that the course we are most likely to pursue should be shown to be within the landmarks of constitutional law, as well as within the laws of war, I will offer my opinion concerning the present condition of those districts of our country, the measures deemed proper for their restoration, and the principles which should guide us in the reconstruction of this great Republic.

And first, we are told from day to day that it is immaterial what is the present condition of the rebel States so that we agree among ourselves as to the proper remedy to be applied. But we should take notice that this is the same as saying that Congress in itself is absolute and can do what it pleases, provided its members can agree; for if Congress be not absolute, then it is surely one thing to legislate for communities which are, and have a right to be, lawful States of this Union—and possessed of the reserved rights of such—a part of its life, body, and soul, as described by the gentleman from Kentucky, [Mr. SMITH;] and it is another and quite a different thing to legislate for communities which are within the territorial area and subject to the national jurisdiction of the United States, but without the right or power to sit in its national councils and affect the welfare of each other and the remainder of the States by their action.

He who ignores this question ignores the very limits of the authority by which he proposes to act, if he proposes to remedy the existing disorders of this Republic by congressional action. He may, indeed, be so fortunate as to act within the limits of constitutional authority, but he cannot say that he does so by design. The best results of his action can be esteemed nothing better than fortunate blunders; since with his own hand he turns down the light upon his own powers of legal discernment.

Nor can one who says this escape from a similar reflection upon his legal sagacity, if, while he says that this question is immaterial, he seeks to relieve Congress of the burden of this matter, by attributing to the executive arm the whole power to determine the remedy for the disorders of the Republic.

For if it were true that the President of the United States, as Commander-in-Chief or otherwise, could lawfully determine this matter; if he could step between the people of the United States and that question which affects every interest and every right throughout our complicated system of government, and every principle of our institutions from primary to ultimate; if he could indeed grasp that supreme and sublime power which is the source of all action creative of laws in this country; if in short he can hold the legislative will of the people in the hollow of his hand, which is all that despotism in its utmost grasp includes; even then, this question of the legal *status* of these States would force its presence at the outset, and must be met and grappled with by him, unless we say that in his hands constitutions fix no limits, and laws, however organic, must spend their force in reaching the footstool of executive power.

Such an assumption represents the body-politic no longer as a being of possible conformation and functions; but as a monster whose disposing power or soul is rifled and dislodged from the vital organs, and lodged in the arms, hands, and fingers, which were ordained but to serve and to defend. The announcement of such a doctrine as this puts to shame and covers with confusion the labors of every statesman of the past and of the present day, and mocks at the simplicity which has heretofore supposed three departments essential to orderly and rational government.

With these remarks I dismiss this point, only saying further that I apprehend but little danger in any one who entertains this doctrine nursing the same either in or out of Congress; for, unless the capacity of our people for self-government has been immensely overrated, and every estimate based upon it wholly groundless; no considerable body of men can be found to encourage or entertain for a moment this most pernicious of all heresies, the mere promulgation of which is the abnegation of free government in this country, and an invitation to all future Presidents to make themselves autocrats for the time of their service. It could only remain to render the presidential office by law hereditary, to complete the subversion of our institutions; and rival the imperial dynasties of the ancient Babylon in the splendid despotism of the new.

But, sir, are we to be told to-day by any considerable body of the American people that all that for which a Constitution was ordered and organized, for which its wonderful parts and machinery were adjusted, everything that constitutes a free Government in this country is to be surrendered, and that the legislative will, the power creative of laws, the disposing power and consent of the people of the United States is to be taken from their Congress, where they are all by representation present as individuals and as States, and transferred to an officer of the law, a minister of the organization which that legislative power in its original expression set up to execute its own determined will?

Now, sir, since so many gentlemen have spoken on this matter, and have assumed that the States lately in rebellion are this day part of the life, body, and soul of this country; it seems strange to me that so few of them have deemed it worth while to describe and define to us what it was that constituted any one of them a State, before it applied the torpedo of secession to its own organization; and what there is that now remains and can be exhumed from the rubbish of that explosion, by which it may be identified and recognized, and by which it is anchored to each of the others and to the whole.

What, sir, is that king-bolt in each to which the chain of legality fastens, by which all in this great system are held in order, and so held that there may be a Union complete in its parts, so that *E pluribus unum* may be written upon the whole?

What is that primal force from which springs every power which issues and acts in our complex and complicated system of free government—that from which all constitutions and ordinances, statutes, and charters, and every species of legislative enactment, every judicial determination and every executive act derive their force and power—which may be described in this our system of free government as the omnific force from which all exists, extends, and acts?

It is this: consent makes the law. This is a truth of constitutions, as of statutes, charters, and contracts. According to our legal principles we recognize no other foundation

for any law whatever. There is no law of any country claiming to be free, whether it be a monarchy or a republic, which can claim, or does claim, a foundation on any other principle. We have this principle as the foundation of our Government. To deny it is to deny that free government is possible; it is such a denial that it cannot be named without the total abnegation of free, orderly, and rational constitutional government, according to our institutions.

Now, sir, when you apply this principle to the compact of Union as you apply it to a contract between partners or in any other case known at law or equity, you find that the whole compact of this Union is based upon and lodged in the common consent and disposing power of this people.

If these views are correct, you find that each of the original thirteen States of this Union derives its being from the consent of the whole, as witnessed by the Constitution of the United States; and its existence from its own particular organization, created and thenceforth in action and operation, by means of powers lodged in official hands, which thus preserve and carry on its functions.

These are subordinate to the General Government in all things in which the latter is supreme; concurrent in all things, if any, which are common; independent in all things not involved in the people's grant of power to this General Government, and in agreement with it in all things whatsoever. The same principles apply to the States admitted into the Union since the establishment of the Federal Constitution. They have their being in the original consent, according to the manner contemplated and provided for in the original Constitution, which consent is witnessed in each particular case by the enabling and admitting acts of Congress. They have their existence from their own State organization continually acting by means of like official powers placed in official hands, and with like subordination, equality, independence, and agreement with the whole and with each other, as in the case of the original thirteen.

The rights of a State thus created in the Union as a State of this Union are rights accruing to itself from the Union and from its parts. It can forfeit these because they are founded in compact, and because all rights which are founded in compact are necessarily forfeited by the violation of the terms of the consent in which they rise. It is of the nature of a compact that violation of its terms is inseparable from forfeiture of the benefits accruing out of it, to either or any of the parties.

The States in the Federal Union being formed by virtue of a compact wherein was necessary the consent of the whole people and States, are continually operating according to that consent under the powers of the Constitution which carry forward their legal life and make it perpetual. But when they operate according to the terms of that consent, with the rights which that consent affords, they find themselves bound by this principle, which is part and parcel of every right in existence on the earth, that a violation of the consent in which the right springs is the forfeiture of the right, and this is the security that the right carries with it, and is the only one which any right carries with it by its own force. Take whatever penalty there may be attached by statute or by common law to the violation of any law or of any right whatsoever; there is not one which the right carries with itself except this, that mutuality being the essence of the compact and necessary to make it exist at all; violation of the terms creates forfeiture according to the case, against whichever party may violate it.

Now, sir, a State in and of the Union has no other *status* than that of a party in a compact —to that compact all its powers are to be referred. It drew its origin from the common consent, when that power, creative of law, arranged and ordered the machinery of the Federal Government. How can it be claimed that this compact which confers existence upon these States differs in its principles from any other compact known among men? Is consent a different thing, when it sanctions a bargain and sale, or a covenant to do or not to do a particular thing, from consent when it sanctions a compact creating a State, or admitting a State to a Union of such, or admitting new members thereafter? What is there in consent which is not one and the same? It operates forever in the same essential mode: and though the contract may be different, the consent which forms it, and which binds the rights which flow from it and the obligations which follow, is in each and all the same in its very essence.

Gentlemen tell us that the State of Alabama could forfeit the right to the lands which it received from the Federal Government, to aid in the construction of a railroad from Mobile to the Ohio river, by violating the terms of the consent by which she acquired them. But her right to be the State of Alabama, and thereby impose her will upon the other States by assisting in the formation of additional State governments, by joining in amendments to the Constitution, by joining in the enactments of statutes, by joining in the election of President, and by all acts the power to do which vests in a State—her right to do these she can exercise and enjoy in spite of violation, secession, confederation, and war. Upon what principle are we to be told to-day that this compact by which these States were formed is the only compact known among men at law or in equity, under any system or code, American, English, or continental, ancient or modern, that does not of itself carry with it a forfeiture of the rights accruing from it in case of a violation of its terms?

I would like to know—and as I once propounded the question to the gentleman from Kentucky, [Mr. SMITH,] I would here propound it again to the gentlemen who are maintaining, as one of the fundamental principles of their action, that these States are in the Union in full power and competency—I would like to suggest to them again, what if their own State should be greatly interested in a matter about which there was a pending amendment to the Constitution of the United States——

Mr. SMITH. I suppose the gentleman wants to call me out, else he would not have alluded to me. I understand the gentleman to say that it requires two parties to make a contract, and that in the great compact of Government there are two parties, namely, the national Government and the State government. Now, I assert as a principle of law, that when a contract is made either party has a right to compel the other to comply with that contract. That will not be denied. Now, then, after the accession of Alabama to the Government of the United States as part and parcel of the Union, that State could not go out of the Union without the consent of the Government; and the Government has the right to force Alabama to comply with all the stipulations of the original contract. There never was at any time, under any circumstances, a consent, directly or indirectly, upon the part of the Government of the United States to the secession of the State of Alabama. The act of secession was an insurrectionary movement on her part, not by the consent of the whole people within the State. Therefore I assert, as I have heretofore, that Alabama remains in the Union, and that she is a part and parcel of the Confederation which gave us the Constitution of the Union under which we now live; that as soon as the General Government by force, with law and equity on its side, suppressed the insurrection that existed in Alabama, that very moment the State resumed its position in the Union as it existed before, and that so far as a part of the people were concerned the contract was not violated.

Mr. BROMWELL. Mr. Speaker, I have this objection to the idea entertained by the gentleman from Kentucky, that it puts violation in the place of dissolution, and dissent in the place of consent.

Mr. SMITH. If the gentleman will allow me, I would like to ask him if he admits at this time, and in his place as a member of Congress, that these States, by the act of secession, have committed dissolution. That is to say, has the Union been dissolved by their act?

Mr. BROMWELL. I will try to make it as plain as I can. I think the gentleman misunderstood me.

Mr. SMITH. I do not misunderstand dissolution.

Mr. BROMWELL. I did not allude to the dissolution of a State.

Mr. SMITH. Of course a State cannot dissolve.

Mr. BROMWELL. This is my idea, that a compact once formed, exists by legal vitality, and that that vitality is of such a nature that it derives its essence from the consent of the contracting parties; that to violate that compact is the province of one, but to dissolve it requires the whole. Therefore, the Federal Union once launched under the compact of its organization could not be dissolved except by the unanimous consent of every State by a majority of its people, or else by the consent of a part in a manner first provided for and directed in the Constitution at its original formation. But he that talks about one State dissolving this Union is putting dissolution in the place of violation, and dissent in place of consent; for secession is an assertion that dissent makes and unmakes the law, which under our institutions is not possible. I do not contend for that. I contend that one State may violate the Constitution, but it takes all of them to dissolve it.

If the gentleman from Kentucky, myself, and others were in partnership for the purpose of carrying on a mercantile business, every man can see that the gentleman from Kentucky [Mr. SMITH] could not dissolve that compact and make it no longer binding on himself. But he can violate it, and I cannot go into court against him unless I aver that he has violated it. That is the ground of the judgment of a court, that a violation has taken place. And what says the court? The court says, a violation being proven, the party violating has no longer a right to ask for a single thing under and by virtue of the compact which he has trodden under foot.

Now, sir, when I say that a partner is in that condition, I mean the same as when I say that the State of Alabama, for instance, has violated the political compact; and, therefore, she cannot come in court and demand as a right that she shall sit here and help give laws to the States of Kentucky and Illinois; yet the remainder of the partners can bring her to the bar to render satisfaction according to the principles of justice and good conscience, and the interests of the Republic; for a willful violation whereby she brought upon this country the untold horrors of this dreadful war.

Mr. SMITH. Now, Mr. Speaker, if the gentleman will allow me, I would ask him if a portion only of the partnership should be guilty of this wrong of which he complains, would he hold the others who are not guilty to the same responsibility?

Mr. BROMWELL. That is a question not entirely pertinent to the question, whether the one who has been guilty has forfeited his rights or not.

Mr. SMITH. If he proves his innocence in court, I should like to know if the gentleman would punish him?

Mr. BROMWELL. Whenever a party stands innocent before the law he is entitled to all the rights which flow out of the contract under consideration.

Mr. SMITH. Then I should like to know if the thirty thousand men in Tennessee who have adhered to the Union and fought for it are not entitled to representation on the floor of Congress?

Mr. BROMWELL. If the thirty thousand men in Tennessee constitute a State in the Union, then the Constitution says that such State, being just before the law and not in violation of it, shall have at least one Representative. But, sir, do the thirty thousand men scattered here and there amid a multitude constitute a State? Is not a State a corporation?

Has it not an organic body? Has it not hands and arms, executive, judicial, and legislative? Is it not constituted, not by its own consent only, but by the consent of the universal Republic of States in whose ranks it stands?

Mr. SMITH. My impression is, from my reading of law and understanding of terms, that a corporation has neither a soul nor a body; and as a State is a corporation, I would like to know how my friend proposes to punish that which has neither soul nor body.

Mr. BROMWELL. Well, sir, the idea that a corporation has no soul nor body may be true or may be false. But the question here is, can any body of men walk into court and ask in the name of a corporation, whether with or without a soul, for the rights accruing to that corporation, which they, in the name of the corporation, have trodden on and spit upon and repudiated in every possible manner? That is the question before us, and not whether a corporation has a soul or body or parts.

Mr. SMITH. I dislike to interrupt the gentleman so much, but I am driving him right to the point I want him in, and in a little while I will get him just where I want to place him. I say, and I have always said, on the floor of Congress and elsewhere, that the individual persons who have done this wrong are the ones to be dealt with, and I will go heart and hand with my friend to deal with them. But States which are corporations have done no wrong, and you cannot punish them. Hang the men, and I will go with you, but do not hang the States.

Mr. BROMWELL. I cannot see why the gentleman from Kentucky insists on making that declaration while I am speaking, since he has had ample opportunity of doing it, and did make that declaration in a lengthy speech upon this floor. We all know that is his opinion.

What I rose to speak of was the question, where is the naked right of this Government? Not that I mean to say that we, as Representatives of the people, ought to cling to the naked right, and demand the pound of flesh nominated in the bond from South Carolina or North Carolina or any other State. We are to act as men, as statesmen, if we may claim to be such, looking to the grand destinies involved, and to the great future developing, wherein all these States are expected to act a part in this Republic. But for the purpose of determining the powers of this Congress, it is necessary to know whether these States are to-day living, active members of this Federal Union, or whether they are communities disorganized, and having lost the benefit of the original compact, and now lying within our territorial area, and subject to the disposing will of the people of the United States.

Mr. SMITH. If the gentleman would allow me to ask him one question, then I think I will stop. In a living, moving, active body, if you put a lancet to the arm blood flows, but in a dead body there is no blood to come; it is congealed; it is gone with all else that belongs to the system. Now, to each one of these eleven States we have applied the lancet of the internal revenue bill, and we are drawing from their people from day to day that which supports life and helps us. I would like to know how we can tax those people if they are dead?

Mr. BROMWELL. I have known a man go into court, when he had repudiated and violated a partnership contract; and although it was proven in court that such was the case and he took no rights under the contract, he had to go out of court with the sheriff drawing this very kind of vitality out of him to pay the costs. It is a common occurrence for the court to issue a writ against just such a defendant as the violator of a compact, to bring out of his property the necessary expenses of putting him out of court.

Why is it that men insist from day to day that this compact of the Union cannot be violated? Was it not made by the consent of our people? Was it not ratified by the people? Was it not ratified as all compacts are ratified? And does not every State which comes into the Union assume upon the moment all liabilities and all obligations which follow every right, to each other and to the whole?

Let us consider this question for a moment. As I understand from the discourse and questions of the gentleman, he would insist that this State of Alabama, which I happened to name, is to-day a State of this Union, endowed with the right and the power of affecting by her legislative action in this Hall and in the Senate, the welfare of all the States of this Union. It cannot be questioned for a moment that this could not be said in relation to the parties to any other contract. No partner in any other contract could come into court and say that he had repudiated the contract and had acted upon that repudiation; had utterly despised every obligation under it; had defied the other members of the partnership until he had been brought into court by the sheriff; and then say that he should be the first man to walk in and sit down to determine matters for the benefit of the firm. What principles of law these gentlemen have discovered, with what legal spectacles they have looked into this matter so as to discover a difference between the consent of these consenting States and the consent of any other contracting parties, I am not able to tell.

Mr. LATHAM. Will the gentleman allow me to interrupt him a moment?

Mr. BROMWELL. Certainly.

Mr. LATHAM. I do not know that I understand exactly the position of the gentleman. I would like him to explain, just at this point, whether he occupies the position that the Government of the United States is a compact between the States, or is it a Government of the people and of the whole nation?

Mr. BROMWELL. That has nothing to do with the question whether if the compact be violated the violator still retains his rights. That is the question I am discussing; not the question as to how the compact was made, but whether, being made, the violation of it does not bring with it certain consequences.

Mr. LATHAM. The difference, as I understand it, lies just here. If the Government of the United States is a compact between the States, and the States have violated that compact, those States can no longer claim rights under it. There we agree. But if the Government of the United States is a Government of and by the people of the United States, and a portion of those people as citizens have violated their obligations of allegiance to the Government they have forfeited their rights under it. But if a portion of the people residing in the same part of the territory have maintained their loyalty and allegiance to the United States Government, why should they not retain their rights under that Government?

Mr. BROMWELL. I will come to that, as soon as I can, in what little more I have to say. I was approaching that point. I wish to show to gentlemen that the compact of Government has been so violated by these States that they, as States, have lost their rights. That is what I have been speaking of.

Under our institutions every State is supposed to have the right to call a convention by its Legislature. It is a right which every State holds to be unquestionable. Now, take the State of Alabama, for instance. Its Legislature is a lawful body, and has the consenting and disposing power of the State of Alabama, subject only to the limitations in this compact of Union, which binds the State of Alabama to the other States severally and to the whole.

The Legislature, then, had the power, which has been exercised in at least three fourths of our States; to call a convention to correct, to alter, amend, or otherwise deal with its own constitution.

Now, sir, from what I first said concerning the manner in which States have their origin, it is evident that the Constitution of the United States is a part of the constitution of Alabama, and such a part that without it the constitution of Alabama cannot exist even for a moment. The constitution of Alabama derives its life out of that which is generated by the Constitution of the Union, for Alabama is not a State otherwise than as she is a State of this Union and under this Constitution. Therefore the Constitution of the United States was a part and parcel and a fundamental part of the constitution of the State of Alabama.

But then her delegates were lawfully elected; that is to say, they were elected in the lawful form. The *animus* which prompted them might have been devilish, illegal, and treasonable; but the forms of the law were filled while electing those delegates.

It is a principle of our Government upon which the representative system is based, that the people are chargeable for the acts of their representatives; and on this principle you hold every State responsible for the acts of the representatives of the people. Nay, more; you hold the people themselves responsible. For the Legislature is the people, reduced for convenience to a limited selected number, the selection made by all, and all being in contemplation of law present and consenting to that which is done.

This convention met; and what did it do? It passed an ordinance of secession. This act was but one of a series——

Mr. LATHAM. Will the gentleman yield to me a moment?

Mr. BROMWELL. I trust the gentleman will not interrupt me at every point. However, I will yield.

Mr. LATHAM. There is one idea to which I would like to call the gentleman's attention. He says that the Constitution of the United States is a part of the fundamental law of the State of Alabama.

Mr. BROMWELL. Yes, sir.

Mr. LATHAM. Upon that point I will not take issue with him. He says further that the people of each State, separately, have the right to call a convention for the purpose of amending or modifying their fundamental law. He says that the convention of Alabama met under the forms of law and adopted an ordinance repealing the Constitution of the United States within the limits of the State of Alabama. Now, am I to understand from him that he occupies the position that the power of the people of Alabama lawfully extends to the repeal of the Constitution of the United States so far as it constitutes part of the fundamental law of the State within the limits of that State? That is the only conclusion that I can draw from his remarks, as I understand them.

Mr. BROMWELL. If the gentleman had waited one minute he would have heard what I have to say on that point.

The Constitution of the United States was part of the constitution of Alabama, and such a part that from it the constitution of Alabama derived its life and soul. Now, sir, when the members of this convention proceeded to vote, they were clothed with the disposing power of the people of Alabama to do all things that may lawfully be done under the Constitution of the United States, but without the power to affect in the slightest degree the supreme and paramount force and effect of the Federal Constitution. But they could act upon their own constitution, during its life derived from the Federal Constitution. It was a convention so constituted as to bind the people as to its lawful acts, and to make them chargeable for its unlawful acts. They passed an ordinance of secession severing the connection between the two. What was the result? Their own constitution was in their own hands; the Federal Constitution was supreme. They cut the connection; and they did this by the voice of their people; they did it by the voice of their Legislature; they did it by the voice of their convention; and from that moment they annihilated their own.

Their constitution lived by a vitality from which all legal powers derive their existence—the vitality of law. Now, the vitality of law or legal vitality is such that to impair it is to annihilate it; for the subject admits of no degrees.

Mr. LATHAM. Was secession binding in law?

Mr. BROMWELL. I am coming to that. The case is complicated, and I must treat each point in its order.

I say that legal vitality is such that it admits of no degrees. It either is or is not anything; you cannot impair it without annihilation; for it is essential that it shall exist as an entirety, as a simple, and not otherwise. Now, the rights of the State of Alabama in and of this Union exist by a legal vitality, and not by any other. To impair that vitality is to annihilate it. Therefore, whenever it is admitted on this floor that that vitality is impaired, that is the end of such vitality. Think, sir, for a moment of a vitality not quite vital, of a legal existence not quite existing. Conceive, if you can, a will which could almost convey real estate, but not quite—of a man that could be almost, but not quite, a legatee. Imagine a court taking cognizance of such a condition of things and adjudicating upon it. Conceive, if you can, a writ that could almost arrest a man for murder, but not quite. Think of any power endeavoring to improve or better it but the power which created it. Sir, the power by which Alabama lived and breathed sprang from the heart of the whole people—from the universal consent in which, as I said in the beginning, all laws, constitutions, statutes, charters, and contracts, from the greatest to the least, are founded in this country, and from which they issue and act.

Now, sir, I wish to go further. I say that the day they passed the ordinance of secession they struck a fatal blow at that constitution which made Alabama an individual State, and from which her existence flowed. And, mark me, the existence of Alabama does not flow from the Constitution of the United States. Her being is from that, but her existence, which is continual being, flows out of her own organization, flows through the official power lodged in her official hands, which thus preserve and carry out her functions.

Sir, they cannot come and say that this act was an act transcending the authority of that convention; and is therefore void, and to be treated as the acts of an agent when he transcends his authority: for the convention, the agent of the people, was chosen to do the very act, and consequently it is not to be treated as an act of an agent who has transcended his authority in a *lawful* matter, but as the act of an agent who has been employed expressly to do an illegal act, which, when done in pursuance of employment, not only binds the agent to the pains and penalties of his offense, but makes the one who sent him, *particeps criminis*, an accomplice, and in case of treason makes him a *principal* also. That is the law on the subject of agency.

It cannot be said that the convention has done that which is totally without effect for the reason that it was a treasonable convention: because if the people of Alabama attempt to shelter themselves behind the fact that the convention did an unlawful act, they must bear in mind that they elected them to do the act. They elected them merely for the convenience of doing the act in that form; and lest anything should be said by which they could skulk from the responsibility, when that act had been consummated, as far as the convention could, they referred it back to the people, and the people ratified the act at the polls in full view of the intention and of the effect designed, namely, to carry the State over to another nationality sought to be created.

Those who tell us that these States were never out of the Union involve in their idea several distinct fallacies. First, they tell us that to say that a State was ever out of the Union is to justify secession or to acknowledge its validity. That is what I understand the gentleman from Kentucky [Mr. SMITH] now to say. I have never said that a State was out of the Union, and I am not going to say it, for the reason that to admit that a State has been out of the Union is to admit that a State can be a State in the American sense out of the Union. That itself is a fallacy, for the State of Alabama never had any *status* except as a State of this Union, and if she has lost that she has lost all. She can be a State in no complete American sense—and by that term I mean the sense we entertain when we speak of the State of New York, for instance—she cannot be such a State out of the Union. And to say that she can is simply to set at defiance all meaning of terms.

Beyond that this idea which men advance when they say that to admit that a State is out of the Union is to admit the validity of secession, contains within it another fallacy, and that is, that a State in order to be out of the Union must get without the territorial area and beyond the jurisdiction and the power of the United States, so that the Federal Government can no longer maintain or exercise control over its property or administer its laws within the territory. This is, I repeat, another of the fallacies involved in the idea that a State cannot cease to be in the Union without acknowledging secession.

A third fallacy is that if a State be not a State *out* of the Union, it of necessity be a State *in* and of this Union, which last supposition does not follow—the point to be shown is that the rebellious States are not States in any complete sense in the Union or out of it.

But, besides this, that idea involves another fallacy, which is that of supposing that a State *de facto* merely is a State *de jure*, or a State by authority and warrant of law.

Now, sir, all civilized nations agree in the law of nations, that a State is to be retained so far as the laws of war will permit, and out of this consideration grows the fact that you treat every State when conquered as still a State *de facto*. That is, for all such purposes as the laws of war will allow, it exists, as a State, subject to the rights of the conqueror.

Now, these States may be States *de facto*, and may lie within the territory of the Union, and may be subject to its jurisdiction as to their inhabitants and as to their property. But it does not follow from that that they are States clothed in lawful authority as members of the Union, as controlling powers, as having the right to impose their will upon the counsels of the nation and give laws to other States of the Union.

Let me ask gentlemen who say that Alabama is now a State in and of this Union, in full power and competency, by virtue of what is she so? Her State organization? What State organization has she? Is it the one which was organized years ago by the consent of Congress and the act of her own people? No, sir, it is not that; it is some other. And what other? Has the disposing power of the State been called into exercise by the will and action of the people of that State and consent of the United States? No, sir. The State organization that exists there is a thing gotten up under the direction of the President, prepared by his subordinates, and adopted under the pressure of telegrams from Washington, against the will of the people; and representing solely the will of the executive power. Everybody knows that. I am not finding fault with it. I am not complaining of the Executive on that ground, for it was perhaps his duty, which I will not deny, to take any and every step experimentally which he thought proper toward preparing provisional governments of any kind, to be presented to the people, and to ask of Congress that they might be ratified and confirmed in the most ample manner.

But can the State which exists there to-day, constituted in that manner, demand to stand in this Hall against the disposing power and will of the nation? If such States can come here and demand that, let me ask, under what claim can they do it? Is it because their territory lies within the area of the United States? Then the Comanche Indians can make the same claim on the same ground. Can they do it because they once entered into the Federal compact? Every violator of a compact can claim all the benefits of the compact on the same ground. Can they do it because their agents in their conventions acted illegally? Every violator of a compact can do the same, by acting through an agent, and then coming forward and ratifying or repudiating the act of that agent, as might best subserve his fraud. But what court of law or equity would permit that?

Can they come in here and claim a right to be represented here equally with the others, because they have State governments? Then, I would ask what State government is it which is the foundation of their claim? Gentlemen on the other side claim that a State government lives forever. Then what government is that in the hands of the President and his appointees, and the newly elected members of the Legislature, the Governor, and other officers of the so-called State of Alabama?

[Here the hammer fell.]

Mr. McKEE obtained the floor, but yielded to—

Mr. BAKER, who moved that the time of his colleague [Mr. BROMWELL] be extended, so as to enable him to conclude his remarks.

No objection was made.

Mr. BROMWELL. I am truly thankful to the House for this courtesy, and I will try and not trespass upon their patience long.

As I was saying, I would like to know what State government this is which is knocking here on behalf of Alabama. If that State government still lives which Congress and the people of Alabama made, why is it not in court? Why is it standing back among the ghosts of departed things while another and an anomalous and unprecedented organization steps into its shoes and stalks in strange deformity before us? If that old government still lives, may it not some day come forth from its hiding place, and astonish the Secretary of State by presenting to his bewildered gaze a thirty-seventh State ready to vote on constitutional amendments? I know the Secretary of State has lately published an advertisement announcing to the world that there are no less than thirty-six States in this Union, including these *quasi* governments of the South; but if that is so, then I would ask, by virtue of what State governments are there so many States for that purpose? Is it by virtue of those governments which were there in 1860 or by virtue of those which are watching over their tombs in 1866? And if those old State governments do not still live, if it be true that they are superseded by those presidentially appointed governments, then what becomes of the outcry made against those men who have spoken of dead States, as the gentleman from Pennsylvania [Mr. STEVENS] is said to have done? If the ancient government of Alabama is defunct, and this new and anomalous State government has stepped into its shoes, is not there something dead? Or are there two governments on that territorial expanse? And if not, then what is there so horrible in any man speaking of dead States?

Mr. MARSHALL. I would like to know if I understand the gentleman correctly as saying that when the people of a State changed their constitution, the State which existed before that change is dead. Illinois changed the form of constitution under which she existed before and down to 1848. Does my colleague [Mr. BROMWELL] hold that the State of Illinois which existed before 1848 died and was buried after the constitution of that State was changed in 1848?

That I understand to be the logical result of the argument which he is presenting. I deny that there is any truth or soundness in any such position.

Mr. BROMWELL. I think that the case is not altogether too hard to be understood. The people of Illinois, under the Constitution of the United States, met and adopted a new constitution by the consent of the people, the Constitution of the United States being a part of it, and the rest of the Union stood and looked on and were satisfied. Did the people of Illinois make a constitution expressly to deny allegiance to this Government, and to turn over Illinois to another and different Government—a foreign Government, bearing a foreign flag?

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

Mr. BROMWELL. Yes, sir.

Mr. HIGBY. If the State of Illinois has changed the government it had before 1848, which State is the existing one, the one before that time or since, or are both existing?

Mr. BROMWELL. I never said the State of Illinois had changed its government. I said that it made a new constitution precisely to fill the place held by the old one.

Mr. MARSHALL. If my colleague will allow me I will merely say that that was not the point he was arguing when I interrupted him. He was arguing that because new constitutions were adopted in the southern States, and they had changed their form of government or altered their constitutions, the States which existed at or before the alteration, were necessarily dead.

Mr. BROMWELL. Well, I will answer my colleague.

Mr. MARSHALL. I deny that there is any soundness in any such position or logic.

Mr. BROMWELL. I never argued that because they changed their constitutions they were dead. I said they passed ordinances of secession which cut the connection between their own constitutions and the Federal Constitution their source of life, and because they could not affect the Federal Constitution, it affected their own.

Mr. MARSHALL. That was in the former part of his argument. That is not the point on which I interrupted him. I insist that he was taking the precise position I imputed to him.

Mr. BROMWELL. At the time I was interrupted I was speaking of this: I was inquiring what government it was that still existed in these States. It is for them when they come here and make a proffer to come into the Union to say what government it is that they bring here. Is it the government of 1860 or is it a government made by a stroke of the executive pen, without the disposing power and consent of the American people? I want them to show—and when they have the time and opportunity I shall listen with pleasure—that it was ever heard of in American law that the President of the United States could grasp the disposing power, the consenting will of the nation; that he could step in between the people and appoint a constitution which would be satisfactory to the thirty-six States of this Union or to the twenty-five States which had not rebelled.

Mr. LATHAM. If the gentleman will allow me, with the indulgence of the House, I would like to refer to a little matter of history in connection with this point.

Mr. BROMWELL. I will yield to the gentleman.

Mr. LATHAM. A convention of the State of Virginia, called as was the convention of the State of Alabama, of which the gentleman speaks, adopted on the 17th day of April, 1861, an ordinance of secession, so-called. The form of the ordinance was a repeal of the ordinance of the Virginia convention by which the Constitution of the United States was ratified in the beginning of the Government. On the 25th day of April, of the same year, this convention, by an ordinance, annexed the State of Virginia to the so-called confederate States of America, and about the same time they repealed the law of the State of Virginia requiring an election to be held for members of Congress on the fourth Thursday in May of the same year.

Immediately upon the occurrence of these startling events, the loyal people of the northwestern, northern, and northeastern portions of the State called a convention, which met in the city of Wheeling on the 11th day of June, 1861, the State having been, according to my understanding of the gentleman's doctrine, out of the Union from the 17th day of April until the 11th day of June, at least.

Mr. BROMWELL. I would like to inquire whether this has anything to do with the question I am discussing.

Mr. LATHAM. I will show that it has.

Mr. BROMWELL. Very well, then.

Mr. LATHAM. That convention, styling itself a convention of the people of Virginia, adopted on the 14th day of June, a declaration, the closing paragraph of which I will read:

"We, therefore, the delegates here assembled in convention to devise such measures and take such action as the safety and welfare of the loyal citizens of Virginia may demand, having maturely considered the premises, and viewing with great concern the deplorable condition to which this once happy Commonwealth must be reduced unless some regular adequate remedy is speedily adopted, and appealing to the supreme Ruler of the universe for the rectitude of our intentions, do hereby, in the name and on the behalf of the good people of Virginia, solemnly declare that the preservation of their dearest rights and liberties and their security in person and property imperatively demand the reorganization of the government of the Commonwealth; and that all acts of the said [Richmond] convention and Executive tending to separate this Commonwealth from the United States, or to levy and carry on war against them, are without authority, and void; and that the offices of all who adhere to the said convention and executive, whether legislative, executive, or judicial, are vacated."

Mr. BROMWELL. I must ask the gentleman again what this has to do with the subject of which I have been speaking.

Mr. LATHAM. If the gentleman will indulge me a few moments longer, I think I can show him its pertinency.

Mr. BROMWELL. If the gentleman will only come to the point, very well.

Mr. LATHAM. This ordinance declaring the offices of those who had gone into the rebellion vacated was adopted, I believe, on the 14th day of June; and in furtherance of the object of that declaration, that convention on the 20th day of June appointed a provisional governor in the place of Governor Letcher, who had vacated his office by going into the rebellion, and a provisional lieutenant governor and attorney general, who were to hold their places until an election could be held, which was further provided for. On the fourth Thursday in May, the day of the election to which I just referred, an election was held for members of Congress, in violation of the repeal of the act by the Virginia convention. Members of Congress were returned here, and were received. I find by the records that there were five members elected——

Mr. BROMWELL. I cannot see what the elections in Virginia have to do with the question I am discussing.

The SPEAKER. The gentleman can resume the floor whenever he chooses.

Mr. BROMWELL. I think I have allowed the gentleman time enough to state the point which he seeks to make.

The SPEAKER. Does the gentleman yield further, or resume the floor?

Mr. BROMWELL. I think I prefer to resume the floor.

The SPEAKER. The gentleman, of course, has the right to do so.

Mr. BROMWELL. I think it is irrelevant to the present question to investigate the history of transactions in Virginia since the commencement of this war. The question which I was attempting to discuss was, whether the States that rebelled are entitled to demand, under the Constitution, the right to sit here and assist in making laws. That is a simple question, and cannot be affected by any act of Virginia. The gentleman may perhaps find a case in which such a right has been granted. But I am speaking now of States that have manifestly violated the fundamental principles on which they held existence, that have repudiated the common bond and obligation of this Government, that have acted on the repudiation as long as their abilities and means would enable them to do so, and that now stand demanding equal rights in the Federal Government by virtue of the Constitution. I was asking whether they could make this demand on the ground that the acts of the conventions that passed the ordinances of secession were illegal. I have answered that by saying that you may as well permit a man to come into court and repudiate or accept the acts of his agent, as may best suit his purposes.

But, sir, the people ratified the acts of this convention. They did more: they hastened to turn over every State power and function to another and a foreign power, sought to be created, and that for the purpose of waging war on our Government and people. They did more: they arrayed themselves under a foreign flag, as foreign to this soil as the flag of Great Britain. They did more: the Legislature, which was the legislative arm of the State, no longer sat as a State of this Union. The Governor, who was the executive arm of the State, no longer held his office as Governor of a State of this Union. The judiciary, which were the judicial arm of the State, no longer sat to determine causes arising in a State of the Union. But one and all, civil and military, Legislature, convention, executive, judiciary, and people went hand in hand, by every existing power in the State capable of acting, and united themselves to a foreign confederacy for the express purpose of denying allegiance to this Constitution and waging war against this Government and people.

Now, sir, can the gentleman point out an act of repudiation which they did not do? Can he point out an existing power or function in that State which was not called into exercise to commit treason against the Constitution of the United States? Not one. So they stand to-day covered with violence, from the Executive at the capital of the State down to the voters at the country precinct who by their ballots voted that their State should be no longer part or parcel of the Federal Union, and should have no share in its benefits and blessings.

What answer shall that State present to-day when we demand by what right it seeks to come in and help govern us. It appealed to the sword and the sword has decided. It cast all upon the wager of battle; and though that mode of settling difficulties has long been disused in the courts of law, yet in the forum of nations that terrible arbitrament survives. It carries with it every consequence it has borne since it has been recognized as the last argument of kings. They appealed to the sword—the sword has decided; from its determination there is and can be no appeal. It is invoked only when all other means fail. The thunder of its decision silences all disputation in other and powerless tribunals. Therefore the people of those States, like Alabama and others, when they ranged themselves in front of the arms of this nation and went down beneath its power, come back to-day clad with no more rights as States than the laws of war and the disposing will of the people accord to them.

They have tried the wager of battle. It has failed. The victor comes in and is clothed *eo instanti* with all the disposing power, limited alone by that principle of public law which requires the victor to provide necessary and proper regulations for the vanquished country: subject further to that principle in the law of nations, growing out of public justice and public policy, that such existing laws as are not inimical to the conqueror and do not stand in his way shall be left for the common benefit. All their organizations, statutes, constitutions, charters, contracts which stand in the way of this go down. They are held to be shattered and crushed by the stroke of the conquest, and lie mingled with the dust of their defending ramparts. This was the stern law which they invoked, and not the will of the peaceable, law-abiding people of this Union. They come with their broken constitution and their violated vows, with the flag of their country beneath their feet and the flag of secession flaunting its folds before heaven. Here they come, Legislature, judiciary, army, navy, pirates, guerrillas, every species of force which they can collect from the four quarters of this land, and present themselves in battle array; they stand until the force and power which they have invoked, whose vengeance and whose strength they have challenged, has hurled them to the dust. And now, while writhing beneath the stroke of the victor, a voice comes forth saying that they have the same rights at law that they would have had had they been marshaled under the glorious stars and stripes, and fought for the Union and for liberty—fought in the same cause for which

our heroes bled and fell. They come here to demand the right to legislate for the people of this country who have not yet all returned from the mournful task of burying the mangled dead of the nation, over whose tombs these men must walk to take their places here. They seek to mingle with the loyal defenders of the country, and scarcely deign to take their shoulder-straps from off their clothes when they ask to sit down here to legislate for the men of Fort Donelson, Chickamauga, and Gettysburg. They come here to legislate. Who? Think of it! Governors who are just from turning over to their successors galleries appropriated to old secession flags which they have gathered to place before the people, to remind them that the men whom they led beneath these flags have fought and gained their glory in a war against their country; thus to keep alive secession and all the diabolical principles which nourish and sustain it.

Think of it! Governors coming here, and men in high positions, fresh from laying the corner-stones of monuments in the public squares of the southern cities, to commemorate the deeds of the men they commanded during the rebellion, and who died smiting at the throat of the Government; and claiming here to give law to the brothers and fathers and mothers of the men through whose breasts they struck. Yes, sir, in these new-constructed governments which the President's wand has brought into being, we have Governors issuing their circular letters to their people that the sacred depositaries of their banners shall be handed over to their successors, to stand through all time *in memoriam*, to remind the people of Alabama and of Mississippi that their fathers and brothers won their glory in the war of treason! This is the way in which they present themselves here.

You say the loyal people ought to be allowed to come here. Why did they not come? Was it the loyal people who elected this kind of men? True, some of the States have sent some loyal men here, but, as has been stated upon this floor to-day, they owe their existence as Representatives of these people, simply to the fact that Federal bayonets kept back the men who would otherwise have sent the commanders of their confederate armies here, and who will send as their successors that class of men beyond peradventure. They are to come here with their fellow-laborers in the cause of the rebellion to give law to the people they could not conquer in arms, reversing the character of all conquests and making the victorious Republic of America the subjugated victim of the successful traitor's power, carried over her head under the forms of law; and all in obedience to the merest notion of law—for it can hardly be called an opinion—that these States never violated and therefore never lost their rights.

When they shall succeed, it will be when some unsearchable judgment of Heaven shall have stricken blind the defenders of the freedom and welfare of this nation. [Applause in the galleries.] It may be that our judgments are not all upon us. It may be that the punishment for the sins of the North and of the South are not yet visited on the devoted people of this country. There are three shafts in the quiver of divine retribution with which nations have been smitten. One has already pierced us and one is trembling on the string. War, pestilence, and famine are the lessons with which the Almighty has taught the nations from the beginning until now. Let us beware lest in going forward in the course which these men advise, and committing the interests of four million human beings, whose welfare is in our hands, back to the merciless hands from which we wrested them—let us beware lest in giving over the temple of freedom and humanity to these hands red with blood, these souls black with treason, these hearts foul with cruelty, we provoke another visitation of the divine wrath; and the cry shall be raised, "One woe is past and behold a second cometh quickly!"

I say, Mr. Speaker, that the trust committed to our hands is too important to betray; it is more than Representatives dare to do at this day, in this age, and in this country. It is no time now to look for popularity; it is no time to stand here and chaffer and bargain with human interests and vulgar passions and base prejudices. That which is required of us is the stern, unbending front which looks to God as the vindicator of the truth; and which looks to humanity as that to which our duty must be discharged.

We have not had the greatest share in bringing this work upon our hands. But it is here; we cannot avoid it; we cannot fall back from it. How can we stand here and announce to the world that this Union is restored, that these States are in full competency and force, and that we consign to the tender mercies of these States the miserable creatures whom they dragged across the seas, with our help, too; that we consign to them the fugitives, white and black, who come to us for help; that we hand over to the taskmaster the victim who is looking to us for the freedom which God will yet accord to him, and that, too, unless we do justice, through the blood and punishment of the oppressor? No, sir, we cannot take that responsibility. Should we do so, every nation that sits under the shadow of the power of the Mufti and the Sultan would cry out against us. Fez, Morocco, and Algiers would rise in judgment against us. It cannot be done in free America, in the country of constitutions, the country of orderly government, the land in which so many noble men have lived and died. It cannot be done in the land of Washington and Lincoln. It cannot be done beneath the stars and stripes. It cannot be done here where the empire of freedom is to be founded by our people, who are commissioned, empowered, and intrusted with its high destiny.

Sir, as I said in the beginning of my remarks, the question of the loyal *status* of those States stands first in the questions before us for consideration. If they are States in this Union in full force and competency, then are we doomed. The fate of humanity on this continent is sealed: because to their treacherous and cruel hands are to be committed its care and keeping.

But if, on the other hand, they have violated their obligations and thereby lost their rights by forfeiture, then we are at liberty to come in, not as the conqueror would come, to punish and outrage his victim; but to come in in the name of humanity and truth and the Constitution, and say to the vanquished, "You shall accord to humanity its rights; you shall now assist in laying the foundations of this Government firmly upon the granite base of justice." And when that is done, when we shall have founded our liberty upon justice, we shall have taken full and proper care of it.

It is because liberty lives in its securities and not in its promulgation, that we must do this. It is because there is but one security for liberty, and that is justice, that we must do this. When justice is done, liberty will take care of herself.

Sir, I wish it to be distinctly understood that I do not argue this for the purpose of asking that we shall demand every penalty which this violation so fully deserves. On the contrary, I only ask that we shall do our duty as statesmen in deciding these great questions. For one I cannot vote for a State to come in or go out because it has done this or that, because this or that man was born in it. I cannot vote for Tennessee to come in because President Johnson came from there, or for South Carolina to stay out because John C. Calhoun came from there. But I stand here to hold up the hands of humanity, and to say that these great ends must now be secured. I want nothing more, I shall be content with nothing less. God knows I speak here to-day, as I believe, for the benefit of the entire people, "for the greatest good to the greatest number," from the forests of Maine to the waters of the Rio Grande. I do not desire to keep alive the bitterness and hate of war, to quicken the sharp pangs which gnaw the hearts of the loyal people; but we cannot, to please men in power or to please the multitude, violate the solemn trust committed to this Congress and to the people at this hour, to stand to the truth as it is and maintain our Union, not in any spirit of pride, or arrogance, or cruelty, but in the spirit of patriotism, of philanthropy, of truth, and justice. Justice, without which a nation is naught but an incumbrance upon the earth, must be vindicated and secured throughout this land. When this shall have been done I shall expect to see our people mingle again, forgetful of the past with all its faults and follies and cruelties, and join together as a band of brothers to carry on the glorious work of humanity and freedom throughout this continent entire.

Mr. McKEE obtained the floor.

Mr. ASHLEY, of Ohio. Will the gentleman from Kentucky yield for a motion to adjourn?

Mr. McKEE. Yes, sir.

Mr. ASHLEY, of Ohio. I move, then, that the House adjourn.

The motion was agreed to; and the House, (at three o'clock and fifty-five minutes,) adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. BUCKLAND: The petition of E. N. Bartlett and 35 others, citizens of Huron and Erie counties, Ohio:

I. Not to restore any State that has rebelled and warred against the United States until adequate security has been obtained against future attempts to secede.

II. Not to allow any distinction on account of color or descent in the laws or municipal regulations of the District of Columbia.

III. Proposing several amendments to the Constitution of the United States: 1. The Union of the United States of America shall be perpetual. 2. Excluding all of any class or color from representation in any State where such class or color are excluded from suffrage. 3. The national faith shall be forever sacred. 4. Rebel States to be prohibited from making distinction in their constitution or laws on account of color or descent, and no payment to be made by State or United States for emancipated slaves. 5. Congress shall have power to enforce these articles by appropriate legislation.

By Mr. CULLOM: A petition of more than a hundred citizens of Logan county, in the State of Illinois, calling upon Congress to provide for the completion of the ship-canal connecting Lake Erie with Lake Ontario and the Hudson river; for the enlargement of the Illinois and Michigan canal, and the improvement of the Illinois river, and for other improvements of national benefit.

By Mr. GARFIELD: The petion of R. A. Gillette, and 138 others, citizens of Ravenna, Portage county, Ohio, praying Congress to pass general laws equalizing bounties to all who served during the late war, and who were honorably discharged; and, in case of death while in service, to the heirs.

By Mr. LAWRENCE, of Pennsylvania: The petition of sundry soldiers of Beaver county, Pennsylvania, asking an increase of pension.

By Mr. WILSON, of Pennsylvania: Resolutions of the citizens of the city of Williamsport, Pennsylvania, remonstrating against the renewal of the reciprocity treaty between the United States and Canada.

Also, a petition of the citizens of Center county, Pennsylvania, against the renewal of the reciprocity treaty between Canada and the United States.

Also, a petition of non-commissioned officers as hospital stewards in the regular Army of the United States and detailed as clerks in the Surgeon General's Bureau of the War Department, praying for the restoration of their just rights and dues, by the payment of their lawful bounties.

Also, the petition of Rose A. Cameron, heir-at-law of James Bell, deceased, a revolutionary soldier, praying for relief.

IN SENATE.

MONDAY, *February* 26, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY.

The Journal of Friday last was read and approved.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Governor of the State of Virginia, accompanied by a copy of resolutions of the General Assembly of that State, in relation to the direct taxes levied in 1861 by the Congress of the United States, and now being collected in that State; which was ordered to lie on the table, and be printed.

The PRESIDENT *pro tempore* presented the petition of H. Trowbridge's Sons, merchants of New Haven, Connecticut, praying that an American register may be granted to the bark Golden Fleece; which was referred to the Committee on Commerce.

Mr. CONNESS. I present, sir, the memorial of the officers of the Navy attached to the navy-yard at Mare Island, California, asking for an increase of compensation to naval officers. They set forth at length in their memorial the reasons upon which they base the application, which I will not now read. I have another memorial of the officers of the United States receiving ship Independence, belonging to the Pacific squadron, to the same effect, and another from the officers of the United States iron-clad Comanche, to the same effect, and still another from the officers of the United States steamer Suwanee, belonging to the Pacific squadron. I move their reference to the Committee on Naval Affairs.

The motion was agreed to.

Mr. HOWARD. I present the petition of John J. Bagley and sundry others, merchants of the city of Detroit, Michigan, in which they remark that the enormous importations of foreign manufactures are entailing a large foreign debt, which in its results must tend to impoverish and bankrupt the nation, and they therefore petition for a prohibitory tariff on manufactured goods; and they say further that they humbly petition Congress "to levy a tariff sufficient to give adequate protection to American labor, as this is what the farmers and the manufacturers of this country require to insure the highest prosperity to ourselves and our country." I move that the petition be referred to the Committee on Finance.

The motion was agreed to.

Mr. HOWARD. I also present the memorial of sundry hospital stewards of the regular Army, asking that they may be paid the bounty which has been awarded to them by the statutes of the United States, and making complaint that that bounty has been improperly withheld from them by some order of the War Department, of which I say nothing further than to move that the petition be referred to the Committee on Military Affairs and the Militia.

The motion was agreed to.

Mr. WILSON presented the petition of officers of the Boston Five Cent Savings Bank, of Boston, Massachusetts, praying that savings banks or institutions for savings having no capital, and whose business is confined to receiving deposits and loaning the same on interest, for the benefit of the depositors only, and which do no other business of banking, may be exempted from the payment of the internal revenue tax; which was referred to the Committee on Finance.

He also presented the petition of Mrs. Catharine Ferguson, praying for relief for her son in consequence of injuries received on a United States military railroad in 1863; which was referred to the Committee on Claims.

Mr. HOWE presented a memorial of the citizens of Iron Ridge, Wisconsin, mechanics and laborers in American manufacturing establishments, praying for an increase of the present tariff on imports; which was referred to the Committee on Finance.

Mr. MORGAN presented the memorial of John L. Suess, late captain first New York volunteer engineers, asking that the act of Congress of 1865, granting three months' extra pay to certain officers of volunteers, may be extended to him; which was referred to the Committee on Military Affairs and the Militia.

Mr. FESSENDEN presented the petition of Duncan J. McRae, praying for compensation for services rendered in carrying the mails in North Carolina; which was referred to the Committee on Post Offices and Post Roads.

Mr. HENDRICKS presented the petition of Jonathan Montgomery and other loyal citizens of New Orleans, Louisiana, praying for relief in the matter of certain assessments made upon them by order of Major General B. F. Butler; which was referred to the Committee on the Judiciary.

Mr. RAMSEY presented a memorial of the Legislature of Minnesota, in favor of the establishment of an emigrant and post route from Red Wood Falls, on the western border of Minnesota, to the gold region of the Territory of Montana; which was referred to the Committee on Post Offices and Post Roads.

Mr. WILLIAMS. I desire to present a memorial of the Legislative Assembly of the State of Oregon, representing that a large number of the citizens of Walla Walla county, in the Territory of Washington, have expressed their earnest desire that such county be annexed to and included within the jurisdiction of that State, and they pray Congress to incorporate the county of Walla Walla in the State of Oregon, so that the boundaries of the State may conform to those embraced in the constitution thereof as adopted by the people. I move that this memorial be referred to the Committee on Territories.

The motion was agreed to.

Mr. HARRIS presented a memorial of citizens of Clinton county, New York, remonstrating against any extension of the so-called reciprocity treaty; which was referred to the Committee on Foreign Relations.

Mr. YATES presented a memorial of citizens of Illinois, remonstrating against the restoration of any State lately in rebellion until adequate security is obtained against any renewed attempt to secede, &c.; which was referred to the joint committee on reconstruction.

Mr. NORTON presented a memorial of the Legislature of Minnesota, in favor of the establishment of a mail route from Wilton to Blue Earth City, in that State; which was referred to the Committee on Post Offices and Post Roads.

Mr. GRIMES. I present the petition of a large number of citizens of Iowa who pray that the Constitution of the United States may be amended so as to read in substance as follows:

We, the people of the United States, humbly acknowledging Almighty God as the source of all authority and power in civil government, the Lord Jesus Christ as the ruler among the nations, and His revealed will as supreme authority, in order to constitute a Christian Government, and in order to form a more perfect Union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the inalienable rights and blessings of life, liberty, and the pursuit of happiness to ourselves, our posterity, and all the inhabitants of the land, do ordain and establish this Constitution for the United States of America.

Mr. President, without committing myself to that particular amendment, I desire to say that I am extremely happy to see that the people of the State which I have the honor in part to represent are thoroughly aroused to the necessity of making proper amendments to the Constitution of the United States; for I am not one of those who believe in the theory enunciated in a certain quarter last Thursday, that those who are seeking to amend the Constitution are in fact seeking to subvert and overturn the Government of the United States. I am most happy to be able to express the belief that the people of that State are, with a most remarkable degree of unanimity, in favor of the adoption by Congress of the amendment which is now under consideration in the Senate.

In this connection, Mr. President, permit me to say that a dispatch which is published in the Intelligencer of this morning, designed to foreshadow the sentiment of the people of the gallant State of Iowa, is not, in my opinion, a true index of that sentiment. I find in that newspaper a dispatch directed to the President of the United States from Keokuk, Iowa, in the following words:

KEOKUK, IOWA, *February* 24, 1866.

TO ANDREW JOHNSON, *President of the United States:*

Immense mass meeting held here to-day! Great enthusiasm! One hundred guns! Your veto message and administration unanimously indorsed!

Mr. President, I have reason to know that that dispatch was forwarded to the President of the United States by a man by the name of Thomas W. Claggett, who, during the war, has been intensely opposed to every war measure of the last Administration; and if, during the last three years, he has given utterance to a loyal sentiment, it has certainly escaped my knowledge and my hearing. So intense has been his hatred to those men who embarked in the war and periled their lives in the defense of the country, that the indignation of the people could not be restrained, and some two years ago they went to his printing office and hurled his press into the river; and yet he undertakes to be the medium of communication to the President of the United States of the sentiment of a portion of the people of the State of Iowa. Sir, I desire to say that, as one of her representatives, I utterly repudiate and deny the capacity of any such man to properly speak for the people whom I have the honor in part to represent.

Mr. SUMNER. I offer the memorial of the Pennsylvania State Equal Rights League, signed on behalf of the league by their officers, in which they set forth the grievances that colored people are now laboring under in different parts of the Union, and they call upon Congress to carry out by legislation the guarantee to every State in this Union of a republican form of government. They remind Congress of the obligatory character of this guarantee, that the word "shall" is used, not "will" or "may," and that Congress cannot, even if so disposed, as honest men faithful to the great charter of American right, avoid carrying the provision out to the letter, and they insist that communities which disfranchise large numbers of the citizens have no title to be regarded as republican in form. They also ask for a further amendment of the Constitution by way of enforcement of this idea. I move the reference of this memorial to the joint committee of fifteen on reconstruction.

The motion was agreed to.

Mr. SUMNER. I offer a petition also from citizens of Wisconsin, in which they ask Congress not to allow any State which has warred against the United States to be admitted back as a governing partner in the Union without establishing permanent guarantees for future security, both with regard to freedmen and with regard to national creditors. I move the same reference.

The motion was agreed to.

Mr. SUMNER. I also offer a petition from the Summer street chapel church of Worcester, Massachusetts, signed by the officers, in which they ask Congress to protect the freedmen, and in any legislation for the benefit of the freedmen to couple therewith a guarantee of the right of suffrage on common terms with other citizens, that so the solemnly plighted faith of the nation may be kept with its freedmen, and the withering curse of the Almighty ruler of nations may be averted. I move the reference of this petition to the joint committee of fifteen.

The motion was agreed to.

SENATORS FROM ARKANSAS.

Mr. LANE, of Kansas. I move to take from the files of the Senate the credentials and other papers of Mr. Baxter and Mr. Snow, Senators-elect from the State of Arkansas, for the purpose of reference.

The PRESIDENT *pro tempore.* It is moved that the papers referred to by the Senator from Kansas be taken from the files of the Senate and referred; does the Senator designate the committee?

Mr. LANE, of Kansas. The Committee on the Judiciary.

The PRESIDENT *pro tempore.* It is moved that these documents be taken from the files and referred to the Committee on the Judiciary.

Mr. LANE, of Kansas. I desire to make a brief statement to the Senate as to the condition of the State of Arkansas and as to the two applicants for seats upon this floor. The State of Arkansas is one of the States that never had a provisional governor. The loyal men of that State during the darkest hour of the war instituted proceedings for calling a convention, without even the knowledge, as I understand, of the President of the United States. Only loyal men participated in the election of delegates to the convention. That convention met, took up the old constitution of the State, and I desire to call the attention of the Senator from Illinois [Mr. TRUMBULL] to one particular point in this connection. I understood him in his discus-

sion with the Senator from Pennsylvania [Mr. COWAN] to say the other day that these confederate States did not proceed under the old organization, the organization that was in force previous to the war. The State of Arkansas did. They took up the old constitution and proceeded just as if all the old officers had died with disease. I have before me the action of that convention. They proceeded to amend the old constitution. The first amendment declares the ordinance of secession and all laws and proceedings under it to be null and void. The second amendment repudiates the confederate debt and prohibits the assumption or payment of any part of it. The third amendment prohibits slavery. The fourth amendment secures to all men civil rights, making no distinction of color. Under the old constitution these rights were secured to "freemen." They struck out the word "free," making all men in the State of Arkansas equal before the law. They prohibited slavery. They prohibited apprenticeship beyond the age of twenty-one as to males, and beyond the age of eighteen as to females.

The convention elected a Governor to serve until the next annual election, and elected as Governor the man who at the first secession convention opposed, and with others defeated, the ordinance of secession, and who in the second convention, when threatened with death by an Arkansas pro-slavery convention, had the courage to vote alone against the ordinance of secession. The constitution so amended was submitted to the loyal people of that State and carried by a majority of twelve thousand loyal votes. A Legislature was called, and that Legislature elected Judge Baxter as one of the Senators whose credentials I now propose to refer—a man who fled the State at the earliest moment of secession, returned with the Army of the United States, was taken prisoner and confined in the penitentiary of the State of Arkansas for four long months for his loyalty to his Government, and was released by the intervention of a loyal lady, and thus saved from a cruel death. Judge Baxter, after his escape from the penitentiary, raised a loyal regiment, and commanded it until he was elected by the loyal men of Arkansas a judge of the supreme court of the State.

Another Legislature was selected, and still another, by whom Mr. Snow, the other Senator whose credentials I propose to refer, was chosen. He published fourteen years ago at the city of Rochester, perhaps the Senator from New York will remember, the Rochester Tribune, a Republican paper. He published it for two years. He has been an anti-slavery man of fourteen years' standing. He is the colleague of Mr. Baxter. I now send to the Clerk's desk the test that the Arkansas Legislature submitted to Mr. Snow previous to his election, and his answers, and the oath which he subscribed, and I ask that the Clerk read the document.

The PRESIDENT *pro tempore*. The paper will be read, if there be no objection.

The Secretary read, as follows:

Resolved, That whereas it devolves upon the General Assembly of this State to fill the vacancies now existing in the Federal Congress, by the election of two United States Senators, and that this House, feeling the deep importance of the duty so devolving upon them, desire that the most fit persons be selected to fill such vacancies, and believing that patriotism, honesty, and capacity are the only measures by which such fitness can be truly judged: Therefore,

Be it resolved, That any person who may or shall offer himself as a candidate for the suffrages of this House for the position of United States Senator, must, prior to going into the election of United States Senators, file with the clerk of this House a plain and unequivocal answer to the following questions, and also take and subscribe the test oath prescribed for United States Senators, and that such oath and such questions shall be subscribed and sworn to before the clerk of this House:

1. Have you ever taken an oath to support the constitution of the confederate States; if you have, under what circumstances?

No.

2. Have you ever signed any petition or paper, requesting any convention, body, legislature, or assemblage of citizens, to authorize or request them, to authorize them to transfer the State of Arkansas from the Federal Union, or to acknowledge the right of secession from said Federal Union by said Arkansas, or to request said body, assemblage, convention, or legislature, to pass any act or resolution of secession; or if when passed, did you indorse such procedure; if so, under what circumstances?

No.

3. Have you ever held any elective or military office in this State since the supposed act of secession of the State of Arkansas; if so, what was such office?

No.

4. Have you ever aided or abetted, directly or indirectly, the secession of the State of Arkansas from the Federal Union?

No.

TEST OATH.

I do solemnly swear (or affirm) that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought nor accepted, nor attempted to exercise the functions of any office whatever under any authority, or pretended authority, in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States hostile or inimical thereto.

And I do further swear (or affirm) that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will faithfully discharge the duties of the office on which I am about to enter. So help me God.

WILLIAM D. SNOW.

Sworn and subscribed before me, this 1st day of May, 1864. JOHN W. MOORE,

Clerk of the House of Representatives.

Mr. LANE, of Kansas. While the Senator from Maine was speaking the other day, some Senator remarked that the credentials of the Senators seeking admission here from the seceded States were signed by provisional governors appointed by the President. That objection does not lie to these gentlemen. The Governor of the State of Arkansas, who signs these credentials, was elected by the loyal men of Arkansas, as I have before remarked. They have maintained their State government for over two years. From the information which I receive from others, I feel authorized to declare that the situation of the State of Arkansas today is as peaceable and quiet as any other State in the Union. They have repudiated the rebel debt; they have abolished slavery; they have restricted apprenticeship; they have placed all men on a footing of equality before the law, with a single exception. The black man stands on precisely the same platform with the white in all respects, except that he is not entitled to the right of suffrage.

Mr. President, there are dark clouds in the horizon of the great Union party of this country and of the country itself. It has been my pride and pleasure steadily and sternly to vote with the representatives of that party upon this floor since I have had a seat here. It will still be my pride and pleasure to do so; but I desire to state here to those Senators that in my judgment unless they without delay admit the loyal representatives of the seceded States they make the greatest mistake that has ever been made by men. Hereafter, every resolution, every bill, every measure of any nature that in my judgment looks to a postponement of the admission of those Senators upon this floor will meet with my unflinching opposition. I want the clouds which now hang over us to be dissipated and to disappear. They will be dissipated and they will disappear if you admit upon this floor without delay the loyal representatives from these States, and I am for admitting none other.

Mr. CLARK. The motion is to take from the files and refer, I think.

The PRESIDENT *pro tempore*. That is the motion.

Mr. CLARK. I call for a division of the question, so that we can take the motion separately.

The PRESIDENT *pro tempore*. The motion is susceptible of division in the opinion of the Chair. The first question will be, Shall these credentials be taken from the files of the Senate?

Mr. TRUMBULL. I understand that the credentials were presented at a former session, and are now not in the custody of the Senate. I presume there can be no objection to the Senator from Kansas withdrawing those credentials from the files and presenting them to the Senate. I do not suppose there will be any objection to that.

Mr. CONNESS. That is not what the Senator from Kansas wants.

Mr. TRUMBULL. To that portion of his motion I apprehend there is no objection.

The PRESIDENT *pro tempore*. The motion is that the Senator from Kansas be authorized to take these credentials from the files of the Senate.

The motion was agreed to.

Mr. CLARK. I now move, in order to place these credentials in the same place where others from the disloyal States are placed, that they be laid on the table.

Mr. TRUMBULL. If my friend will allow me, I desire to read what was done with these credentials at the last session, before that motion is put.

Mr. CLARK. Certainly I will, if I do not lose precedence by it.

Mr. TRUMBULL. I will renew the motion.

The PRESIDENT *pro tempore*. The motion to lay on the table is withdrawn.

Mr. TRUMBULL. I will renew the motion as soon as I have read the action taken at the last session of the Senate in regard to these credentials. The Arkansas case was before Congress at a former session, and a report was made in reference to the very constitution of which the Senator now speaks by the Judiciary Committee, concluding with the following resolution:

"*Resolved*, That William M. Fishback and Elisha Baxter are not entitled to seats as Senators from the State of Arkansas."

That resolution was adopted by the Senate at the session before the last. Subsequently the credentials of Mr. Snow were presented at the special session after the 4th of March last; and the Committee on the Judiciary made the following report:

"The Committee on the Judiciary, to whom were referred the credentials of William D. Snow, claiming to have been elected a Senator from the State of Arkansas for six years from the 4th of March instant, report:

"That in the year 1861 the constituted authorities of the State of Arkansas undertook to withdraw that State from the Union, and so far succeeded in the attempt as by force of arms to expel from the State for a time the authority of the United States, and set up a government in hostility thereto, and, in pursuance of an act of Congress, the inhabitants of said State have since been declared to be in a state of insurrection against the United States. The committee therefore recommend that the question of the admission of Mr. Snow to a seat be postponed to the next session of Congress, and until Congress shall take action in regard to the recognition of the alleged existing State government in Arkansas."

Congress having taken no definite action, but having referred to a joint committee of both Houses the question of the recognition of the existing State government in Arkansas, it would manifestly be improper to take any action, according to the opinion of the Judiciary Committee, which investigated this subject at the special session, until we shall have a report from that committee and action in regard to recognizing the State government which has been set up in Arkansas. Hence it can do no good, I would inform the Senator from Kansas, to refer these credentials to the Committee on the Judiciary, because the Committee on the Judiciary unanimously reported a resolution, and the Senate adopted that resolution, that no action ought to be taken in regard to admitting Mr. Snow until Congress determined upon the organization which had been set up in the State of Arkansas, which Congress is now proceeding to do through a joint committee. I therefore renew the motion that these credentials lie upon the table to await the action of that committee, which we shall speedily have, I have no doubt.

Mr. LANE, of Kansas. Mr. President——

The PRESIDENT *pro tempore*. The Senator from Illinois moves that these credentials be laid upon the table, and that motion is not debatable.

Mr. LANE, of Kansas. I rise to a point of order.

The PRESIDENT *pro tempore*. The Senator will state his point of order.

Mr. LANE, of Kansas. I moved to take

these credentials from the files and refer them to the Committee on the Judiciary. My honorable friend from New Hampshire asked for a division of the question. The first part of the motion has been put and decided favorably. Now, the point of order I make is this: has a motion to lay upon the table preference over a motion to refer to the Committee on the Judiciary? I desire to remark to the Senator from Illinois that the Committee on the Judiciary is not now composed of the same members as at the last session, and if it was, there is a possibility that there might be such a thing as a change of opinion; there is such a thing as opening of eyes. I do not know how great the change is, but I know there are several new members upon the Committee on the Judiciary at this session. The question I submit for the decision of the Chair is, has the motion to lay upon the table (which is not a favored motion) preference over a motion to refer?

The PRESIDENT *pro tempore*. In the opinion of the Chair, the motion to lay upon the table does take precedence of a motion to commit, under the 11th rule of the Senate.

Mr. LANE, of Kansas. Then I have no other recourse but to ask for the yeas and nays on that motion, and I hope it will be defeated. I desire these credentials to go to the Committee on the Judiciary for reëxamination and reinvestigation. I do not propose, so far as I am concerned, that the concurrent resolution now pending shall be a barrier against the reception of these men on this floor.

Mr. WADE. I call the gentleman to order. This motion is not debatable, as I understand.

The PRESIDENT *pro tempore*. The motion to lay upon the table is not debatable; but the Senator rises to a point of order, stating the question of order to be as to the precedence of a motion to refer over a motion to lay upon the table.

Mr. WADE. That has been decided.

The PRESIDENT *pro tempore*. The Chair decides that the motion to lay on the table takes precedence, and on that motion the Senator from Kansas calls for the yeas and nays.

The yeas and nays were ordered.

Mr. DAVIS. I suggest as a question of order whether that motion be in order, and I will make a single remark upon that point. I hold that this is a question of privilege.

Mr. CLARK. I feel disposed, though with reluctance, to call the Senator from Kentucky to order. A point of order is not debatable.

Mr. DAVIS. I want to state my point of order.

Mr. CLARK. I have no objection to that; but I object to a debate upon it.

Mr. DAVIS. My point of order is this: that a question relating to the organization of the Senate is a question of privilege; that a question involving the rights of a member-elect of the Senate is a question of privilege and is always in order, and when the question is made, as I read the rule, it is the duty of the Chair to put that question, if it be a question of privilege, in preference to all others. I will read an extract from the last edition of Barclay's Digest on this subject:

"A matter of privilege arising out of any question, or from a quarrel between members, or any other cause, supersedes the consideration of the question, and must be first disposed of."—*Manual*, p. 101.

"[According to the practice, not finally disposed of; but the House shall proceed to such immediate measures as it may think proper.]

"Whenever the Speaker is of the opinion that a question of privilege is involved in a proposition, he must entertain it in preference to any other business."

Mr. CLARK. I must insist on my point of order that a point of order cannot be debated by citing authorities. It is a question to be decided without debate by the Chair.

Mr. DAVIS. I think the gentleman's point of order is not made competently. I think it is always in order to read the authorities.

Mr. CLARK. I again call the Senator to order. It is not in order for a Senator to debate my point of order. It must be decided by the Chair.

Mr. DAVIS. I call the gentleman to order. [Laughter.] He has no right to be making these captious points of order on me.

The PRESIDENT *pro tempore*. The Senator from Kentucky makes a point of order that it is not competent for the Senate, as the Chair understands, to lay these credentials upon the table, it being a question of privilege or a privileged question.

Mr. DAVIS. This is my point of order: that where a motion is made to have a member of this body qualified, the President of the body is bound by parliamentary law to entertain that motion in preference to all other motions, and any motion strictly incidental to that would of course also have preference.

The PRESIDENT *pro tempore*. There is no question but that there is a difference between a question of privilege and a privileged question and other questions, but, in the opinion of the Chair, no such question arises here. This question, whether it be a question of privilege, or a privileged question, or whatever may be its character, is properly before the body, and being before the body, it is competent for a majority of the body to make such disposition of it as they choose. They are not bound, because it is a question of privilege, to proceed to its immediate consideration. They may lay it on the table, refer it, or debate it. The motion now is to lay these credentials on the table, which it is clearly in the power of the Senate to do, if they think proper. If they think proper not to do it, it is clearly competent for them to do otherwise. The question, however, now is upon laying these credentials on the table, and upon that question the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 29, nays 17; as follows:

YEAS—Messrs. Anthony, Brown, Chandler, Clark, Conness, Cragin, Creswell, Fessenden, Foster, Grimes, Harris, Henderson, Howard, Howe, Kirkwood, Lane of Indiana, Morrill, Nye, Poland, Pomeroy, Ramsey, Sherman, Sumner, Trumbull, Wade, Willey, Williams, Wilson, and Yates—29.

NAYS—Messrs. Buckalew, Cowan, Davis, Dixon, Doolittle, Guthrie, Hendricks, Johnson, Lane of Kansas, Morgan, Nesmith, Norton, Riddle, Saulsbury, Stewart, Stockton, and Van Winkle—17.

ABSENT—Messrs. Foot, McDougall, Sprague, and Wright—4.

So the credentials were laid upon the table.

Mr. LANE, of Kansas. I now move that the Senators-elect from the State of Arkansas be permitted to take seats within this Chamber; and, in making the motion, I desire to state that I am informed there are bills now pending before Congress affecting the material interests of the State of Arkansas to a tremendous extent, disposing of the railroad grants of that State, and it is of the highest importance that they should be in communication with members of Congress. I therefore move that Mr. Baxter and Mr. Snow be admitted to seats on the floor of the Senate.

The PRESIDENT *pro tempore*. It is moved and seconded that the Senators-elect from the State of Arkansas be admitted to seats on the floor of the Senate.

Mr. WADE. I move that that motion be laid on the table.

Mr. LANE, of Kansas. On that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. LANE, of Kansas. We admitted the Senators-elect from the State of Colorado only last week. ["Order!" "Order!"]

The PRESIDENT *pro tempore*. Debate is not in order. The motion to lay on the table is not debatable.

Mr. LANE, of Kansas. I desired to make a statement.

The question being taken by yeas and nays, resulted—yeas 27, nays 18; as follows:

YEAS—Messrs. Anthony, Brown, Chandler, Clark, Conness, Cragin, Creswell, Fessenden, Foster, Grimes, Harris, Henderson, Howard, Howe, Kirkwood, Lane of Indiana, Morrill, Nye, Poland, Ramsey, Sherman, Sumner, Trumbull, Wade, Williams, Wilson, and Yates—27.

NAYS—Messrs. Buckalew, Cowan, Davis, Dixon, Doolittle, Guthrie, Hendricks, Johnson, Lane of Kansas, Morgan, Nesmith, Norton, Riddle, Saulsbury, Stewart, Stockton, Van Winkle, and Willey—18.

ABSENT—Messrs. Foot, McDougall, Pomeroy, Sprague, and Wright—5.

PAPERS WITHDRAWN.

On motion of Mr. POLAND, it was

Ordered, That Reuben Clough have leave to withdraw his petition and papers.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House of Representatives had passed the following bill and joint resolution, in which it requested the concurrence of the Senate:

A bill (H. R. No. 283) to exempt the Gettysburg national monument from imposts and charges; and

A joint resolution (H. R. No. 76) authorizing the Secretary of War to transfer to the National Home for Soldiers' and Sailors' Orphans, of Washington city, certain stores not needed for the Government.

REPRESENTATION OF SOUTHERN STATES.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of Friday, which is the concurrent resolution of the House of Representatives relative to the representation of certain States, upon which the Senator from Ohio is entitled to the floor.

Mr. SHERMAN proceeded to address the Senate. [His speech will be published in the Appendix.]

The PRESIDENT *pro tempore*. The question before the Senate is on the adoption of the resolution. Is the Senate ready for the question?

Mr. DIXON. I desire to speak upon this resolution, but I supposed the Senator from Nevada [Mr. NYE] intended to address the Senate this afternoon. Unless the Senator from Nevada desires to speak upon it to-day, I shall ask the Senate to postpone the further consideration of the resolution until to-morrow.

Several SENATORS. Oh, no; let us have a vote.

The PRESIDENT *pro tempore*. Does the Senator from Connecticut make a motion to postpone?

Mr. DIXON. Yes, sir. I move that the further consideration of the resolution be postponed until to-morrow.

Mr. TRUMBULL. I think there are other Senators who desire to say something on this resolution, and probably some of them are prepared to go on to-day.

Mr. DIXON. If so, I will withdraw my motion.

Mr. TRUMBULL. If the Senator from Connecticut is not ready to go on, perhaps my friend from Nevada is ready to proceed.

Mr. DIXON. I understand the Senator from Nevada has the floor on another subject, and perhaps he will go on this afternoon on that subject.

Mr. FESSENDEN. I should like very much to know if there are any other Senators who desire to speak on the subject before the vote is taken. If there are, we may as well proceed with it.

Mr. JOHNSON. I rise, in answer to the question propounded by the honorable member from Maine, to say that I do desire to address the Senate on some of the questions which have been discussed on this resolution. I am not prepared to do so to-day, but will be prepared after the Senator from Connecticut shall have addressed the Senate, as he proposes to do to-morrow. I need not say to the Senate that in whatever I shall say it will not be my aim to delay the decision on the resolution. I am as anxious that it should be disposed of as any Senator can be. I only wish to state the reasons why I shall be unable to vote for it, and that I shall endeavor to do without unnecessarily trespassing upon the patience of the Senate.

Mr. FESSENDEN. I do not wish to be pertinacious, and it would not perhaps become me to be so, after making so long a speech upon this question as I did on Friday, but I wish to say that if this question is to drizzle along in the way that the argument upon the proposed amendment to the Constitution has done, we

shall have as much as we can posssibly do to get through with both those questions by midsummer. If we are to meet and have one speech a day, and then have an adjournment at three o'clock, or an executive session, and our friends are determined that this course shall be followed up on this question and the other from day to day, and no speed made, we may as well abandon the idea of doing any other business. As this is but the second day on which this resolution has been considered, I shall not object to its going over another day; but I give notice that to-morrow I shall call upon my friends to insist that we at any rate get on with the argument until a reasonable hour, and that the vote may be taken as soon as possible. This question stands in the way of all other matters; and I hope gentlemen will not accuse me of being unreasonable if after to-day I ask that more speed be manifested with reference to the subject.

Mr. JOHNSON. I have no idea that the honorable member from Maine will be unreasonable in asking that this resolution shall be considered until a later hour of the day. I will only state that the moment the Senator from Connecticut has finished what he has to say to-morrow, I shall be prepared to go on.

Mr. DOOLITTLE. I desire to say that I had intended to submit some remarks on this resolution, and should have been prepared to go on to-day after the conclusion of the speech of the honorable Senator from Ohio, had I not been informed by the honorable Senator from Nevada [Mr. NYE] that he intended then to take the floor. I therefore gave up all expectation of addressing the Senate to-day, and I have not my notes with me and am not prepared to go on; but I will state to my friend from Maine that before the resolution is disposed of I desire to submit some remarks upon it.

Mr. FESSENDEN. I shall ask the Senate to take the vote upon it to-morrow if possible.

Mr. TRUMBULL. Of course I shall not object to the resolution going over until to-morrow, as the Senator from Maine, who has charge of this subject, assents to it. I do not know that I shall submit any remarks upon the resolution that is before the Senate, but it seems to me it should not be suffered to lie along in this body for the very reasons that are urged here by the very persons who oppose the adoption of this resolution. It is said, and made an objection to this resolution, that there is somebody who is in favor of the indefinite postponement of the recognition of eleven States. I have never seen that individual. I have never met with any one who was not anxious to have these States restored at the earliest moment practicable with the safety of the whole Union, whenever they come as loyal State organizations, represented by loyal men. I have never met with a person in Congress or out of Congress who maintained any such position.

I suppose that this resolution is intended for no such purpose; but it is simply a resolution to favor the admission of these States. No, I do not mean to say the admission of the States, for I do not hold that any admission of the States is necessary, but to favor the recognition of the governments which have been set up in these eleven States, so soon as we can ascertain that they are loyal and fit to be represented here. It is to carry out what has always been the opinion of Congress, whenever that opinion has been expressed, that the two Houses ought to act in concert in the recognition of the new State governments that have been inaugurated in order to prevent the confusion and the evils which would follow from having a State organization recognized by one House of Congress and not by the other, by admitting members into one House and not into the other. We have all voted here, time and again, that it was improper to admit representation from these rebel States into one House until we, by some joint action, had the coöperation of both Houses.

Here is a resolution declaring that principle; and as soon as that is out of the way, I understand, that, as speedily as possible to ascertain the facts, there will be presented for our consideration the condition of these various States, and we shall be able to pass upon them, declaring, whenever we are justified in doing so, that the organizations are loyal and entitled to representation, and then as a matter of course their members will be admitted into both Houses. Now, if there is any single member of Congress that ever entertained any different opinion I know not who it is. When persons rise here and read letters or make speeches about the indefinite rejection from Congress of members from eleven States I do not know upon what authority they base such statements. I am sure Congress is making no such issue with any one. The desire is common, we all feel it, to bring these States into harmonious relations with the Government as soon as it can be safely done.

Mr. WADE. I do not rise with any intention to debate this subject at this time, and probably I shall not do so at any time, but I rise to put a matter right that was alluded to in the speech of my colleague. I understood him to say that Mr. Davis and myself were censured by the people for a protest that we made against a certain proclamation of President Lincoln on this subject.

Mr. SHERMAN. I did not say that my colleague was censured, but my declaration was, and my opinion still is, that the course of my colleague and Mr. Davis in that matter was not approved by the people, so far as I could gather from newspaper expressions.

Mr. WADE. All that has happened from the time that bill was vetoed has only deepened my conviction that something of the kind was exceedingly necessary to be done. I was very anxious that Congress should adopt some measure by which the States in rebellion might know and be apprised at a very early period what conditions would be required of them as necessary to be adopted before they could be again admitted into Congress. Mr. Davis was exceedingly impressed with that idea, for everybody could see at that period that the rebellion must soon be put down and that this most embarrassing question would be upon Congress. Mr. Davis framed a bill in the House and he had influence enough to get it through that body. I believed that it was a good measure. It naturally went to the committee of the Senate of which I was chairman. I approved of the bill at that time. I believed it was called for by the circumstances of the country. I believed that it was the best thing Congress could then do to prevent the dissension and great embarrassment that would probably arise afterwards. Congress believed so also. The bill was discussed in all its bearings, and it received the assent of both branches of Congress by very large majorities, ultimately. There were some features about that bill that I did not approve then, and which I do not approve now. The House of Representatives passed it through with the word "white" in it, excluding the colored people. I had a strong desire in the Senate to strike that out. The committee, of which I was chairman, reported it to this body with the word "white" stricken out, for the very purpose of saving the rights of the colored population there. I became satisfied at that period that it could not receive the assent of Congress in that form. That was most apparent when we came to try it, and rather than that a bill upon this great question should be lost, I waived my objections to the bill in the form in which it came from the House, caused it to be recommitted, and the committee changed it, if I recollect aright, and put it back in the same way that it came from the House of Representatives, thereby sacrificing the ideas and principles which I held most essential in order that this great question might be settled.

That bill went to the President toward the latter part of the session, and the President exercised the power that he undoubtedly has under the Constitution of refusing to approve the bill. I regretted exceedingly that his judgment brought him to the conclusion that that was his duty; but neither myself nor Mr. Davis said one word against it. We knew that the President only exercised a power which he undoubtedly possessed under the Constitution, and he had just the same right to object to the bill that we had to go for it. We judged differently on the subject. There the thing ended, so far as we were concerned; but the President would not leave it there. Instead of sending the bill here with his objections to it, he put out what he called a proclamation, appealing from the Congress of the United States to the people of the United States in support of his reasons for objecting to the bill. When the President of the United States appealed from Congress, stepped out of his constitutional rights, and was willing to go at large to the people with his argument, I did not feel that we who had taken an active part in getting that bill through should forbear to meet it with the arguments we entertained on the subject. If a President of the United States puts forth arguments to the people against any position I take here, I have never been able to see why I should not go to the people and answer him there. It was for these reasons, believing that the President in his proclamation to the people had not treated our view of the subject quite as we understood it, and had not quite done us justice, that we concluded it would be perfectly legitimate for us to submit our arguments to the people also, and we did so by what we called a protest against his proclamation.

Now, if it is said that that protest did not meet the approbation of the people, I can only say that I have never learned that to be the fact. It may be that they did not like the time when it was put out against the President's idea of what was his duty on the subject. I did hear a great deal said on that point; that as politicians we ought to have pocketed his view of it and let ours go. A great many said that when Mr. Lincoln was nominated by his party for the Presidency, although he had gone to the people with explanations of our course of proceeding that we did not hold to, and had made use of arguments that we thought were exceedingly weak on that subject, we should have let the thing pass; but we thought it best to meet him there. Politicians said to us, "It is a bad time to put forth your views. Your candidate is in the field and your argument against him will detract somewhat from the chances of his election so far as it has any effect at all." I knew that. We knew that if he proved to be in the wrong such must be its tendency. As I have already said, I do not know that that protest was disapproved except as to the time when it was put forth. I have never heard mortal man attempt to gainsay the facts, the arguments, and the constitutional law that were brought forth in that protest in opposition to the arguments that were put forth in what he called his proclamation. No man, to my knowledge, ever took it up and attempted to controvert it, and I believe it is entirely incontrovertible. I did not believe then, nor do I believe now, that there was an argument put forth in that protest that was disrespectful to the President. I do not believe there was a single argument made use of that could be answered by the President. I accused him of nothing. He judged differently from us. But as he saw fit to go to the people with his views, I thought, in justification to ourselves, we had a perfect right to follow him there, and I would follow him or anybody else there, politics or no politics. If a man challenges me before the people of the United States for anything I do here, be he candidate or not, I will endeavor to answer him and make my side of the question good if I can. And that was the course that Mr. Davis and myself took. If those who objected to it could show that there was anything invalid in our arguments or that the course we took was not for the best interest of the country, I was perfectly willing to hear them then and I am willing to hear them now. It is a document that has never been answered, and I do not believe it can be.

I say this more in justification of the course taken by Mr. Davis, who was one of the most patriotic and best men I ever knew, than for

anything that affects myself, for I care nothing about it. I never did care anything about it; but I know that Mr. Davis, in that protest that was drawn up, acted upon the most high and patriotic motives that ever moved a statesman to act. The very purest motives prompted him to lend himself to that protest. I think it will be an honor to him, so far as it shall go down to posterity. He is to be credited with drawing it up principally, although I was with him making suggestions with regard to it, and am certainly responsible for anything that is contained in it. So far from shrinking from it, I am proud of it and of my agency in it. I was exceedingly glad to hear, for it was candid in Mr. Lincoln himself, and it was in accordance with the habits of that good man, that he did on reflection say that he regretted the course he had taken with regard to it. I was gratified to hear that Mr. Lincoln himself came to that conclusion.

Sir, I think the history of the country has shown that we were right in that, and that Mr. Lincoln was wrong. If he had approved that measure, I think it would have saved that terrible controversy that has come upon us now. That bill did not contain all that I would require now. I am a little disposed, the longer this thing is put off and the longer the South stand out in opposition and defiance of us here, to enhance my demands upon them, although I never will ask anything that I do not believe to be entirely just and right. I do not know that I had any right to sacrifice the views I entertained upon that bill by permitting the House bill to go without my opposition, for the reason, not that it would not settle the controversy so far as we were concerned, but it might have done infinite injustice perhaps to four million people there whose rights God knows I never will disregard.

This is about all that I wish to say on this subject. As to the present condition of things between Congress and the President I certainly have nothing to say. I am willing that that should go to the people of the United States and let them judge. I hope the Senate of the United States will take no notice of what has been done. I hope they will not. As an individual, I do not care. Let every man act on his own feelings; but I certainly shall not allude to it now and probably never. I have deemed it proper to say this much in justification of Mr. Davis's course and my own in regard to that protest, and now I am willing to drop that subject forever.

The PRESIDENT *pro tempore*. The question is, Shall the resolution be postponed until to-morrow?

Mr. NYE. Mr. President——

Mr. HOWARD. I understand that the Senator from Nevada is anxious to address the Senate upon this subject in the morning. It is now half past three o'clock, and I move that this resolution be postponed until to-morrow morning.

The PRESIDENT *pro tempore*. The motion now before the Senate is, that this subject be postponed until to-morrow morning.

Mr. FESSENDEN. Let it be made a special order.

Mr. HOWARD. I move that it be made the special order for to-morrow at one o'clock.

Mr. JOHNSON. I have no objection to that, but I rise to ask the Senator from Nevada whether he proposes to address the Senate upon this resolution.

Mr. NYE. Yes, sir.

The PRESIDENT *pro tempore*. It is moved that the further consideration of this resolution be postponed to and made the special order for to-morrow at one o'clock.

The motion was agreed to.

Mr. DIXON subsequently said: I desire to ask the Chair whether the postponement of the resolution reported from the joint committee of fifteen was on my motion. I supposed it to be so. I made that motion, and never intended to withdraw it. I wish to ask the Secretary whether it was postponed on my motion or not.

The PRESIDENT *pro tempore*. That was the motion that was put. It was amended subsequently by a Senator, who moved that the resolution be made the special order for to-morrow at one o'clock.

Mr. DIXON. I will inquire of the Chair whether it is understood that I have the floor on that resolution.

The PRESIDENT *pro tempore*. The floor has not been assigned to any gentleman by the Chair.

Mr. DIXON. Is it not the ordinary understanding that the Senator who makes a motion to postpone a subject is entitled to the floor upon it when it comes up again? I merely ask for information.

The PRESIDENT *pro tempore*. That is the ordinary understanding of the Senate. When a gentleman makes a motion to postpone a question until the next day, and it is postponed, the understanding ordinarily has been that he is entitled to the floor.

Mr. NYE. I supposed that after such a motion had been made and not acted upon, and another Senator took the floor to speak on the same question, that that person had the floor when the subject-matter was postponed.

The PRESIDENT *pro tempore*. The Senator from Michigan [Mr. HOWARD] moved the amendment to the motion, and had the floor in that sense. He moved the amendment, that it be made the special order for to-morrow at one o'clock. That was added by common consent, and the Chair put the question as one motion, to postpone the resolution until to-morrow and make it the special order for one o'clock.

Mr. HOWARD. I made the motion under the idea that my friend from Nevada would have the floor to-morrow at one o'clock.

Mr. DIXON. I desire to say that when the motion was made by the Senator from Michigan to amend the motion that I had made, I by my silence assented to it; but I had no idea that by so doing I should lose the right to the floor; but still I do not wish to contend about it.

Mr. TRUMBULL. I am sure the Senate will be exceedingly glad to hear both of these gentlemen. I hope there will be no dispute as to which shall speak first.

Mr. DIXON. The Senator from Illinois will understand me. I am not contending for the opportunity to address the Senate first. I merely wish to know what is the understanding.

Mr. HOWARD. So far as I am concerned, I understood the arrangement to be that my friend from Nevada was entitled to the floor.

HOUSE BILLS REFERRED.

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

A bill (H. R. No. 283) to exempt the Gettysburg national monument from imposts and charges—to the Committee on Finance.

A joint resolution (H. R. No. 76) authorizing the Secretary of War to transfer to the National Home for Soldiers' and Sailors' Orphans, of Washington city, certain stores not needed for the use of the Government—to the Committee on Military Affairs and the Militia.

INTERNATIONAL OCEAN TELEGRAPH.

Mr. CHANDLER. I move that the Senate now take up Senate bill No. 26.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 26) granting to the International Ocean Telegraph Company the right and privilege to establish telegraphic communication between the city of New York and the West India islands.

The PRESIDENT *pro tempore*. The question is on the amendment reported by the Committee on Commerce as a substitute for the original bill.

Mr. GRIMES. I call for the reading of that amendment.

The Secretary read the amendment, which was to strike out all of the original bill and to insert the following:

Whereas James A. Scrymser, Alfred Pell, jr., Alexander Hamilton, jr., Oliver K. King, Maturin L. Delafield, William F. Smith, and James M. Digges, their associates, successors, and assigns, persons composing the International Ocean Telegraph Company, an incorporated company chartered by the State of New York, are desirous of establishing a submarine telegraphic communication between the United States of America and the West India islands and the Bahamas: Now, therefore, in order to facilitate the said enterprise,

Be it enacted, &c., That the said International Ocean Telegraph Company, incorporated under the laws of the State of New York, their successors and assigns, shall have the sole privilege, for a period of twenty-five years, to lay, construct, land, maintain, and operate telegraphic or magnetic lines or cables in and over the waters, reefs, islands, shores, and lands over which the United States have jurisdiction, from the said United States to the islands of Cuba and the Bahamas, either or both, and other West India islands.

SEC. 2. *And be it further enacted*, That the said International Ocean Telegraph Company, their successors and assigns, be authorized and empowered to import, free of duty, all material manufactured or unmanufactured, necessary only for the construction, laying, and erection of said submarine cable or cables: *Provided always*, That the said International Ocean Telegraph Company, shall, at all times during a state of war, give the United States the free use of said cable or cables, to a telegraphic operator of its own selection, to transmit any messages to and from its military, naval, and diplomatic agents: *And provided further*, That the said International Ocean Telegraph Company shall, within the period of five years from the passage of this act, cause the said submarine telegraphic cable or cables to be laid down, and that the said cable or cables shall be in successful operation for the transmission of messages within the said period of five years; otherwise, this grant to be null and void.

SEC. 3. *And be it further enacted*, That Congress shall have power at any time to alter or repeal the foregoing act.

Mr. SHERMAN. This bill went over the other day on my expressing a desire to read it. The original bill has several objectionable features. The amendment reported by the committee is a great improvement on the original bill. The only objection to the amendment which suggests itself to my mind is, that this exclusive privilege is given to this company for twenty-five years. I do not object that the company have the right to land wherever they choose, which I think is reasonable; but I doubt whether we ought to give this exclusive privilege for a longer period than three or five years. That is the only objection that occurs to my mind.

Mr. CHANDLER. I will state that the Spanish Government have already granted an exclusive charter to a company of Cubans which is perpetual. It is impossible for Americans even to negotiate with them without having some similar privilege on their part. This company asks no bonus from the Government, nothing but this exclusive privilege for twenty-five years. The committee carefully guarded that by the third section, which provides:

That Congress shall have power at any time to alter or repeal the foregoing act.

The committee were unanimous in recommending the bill. They considered it very carefully, and I am satisfied it is for the interest of the people of the United States that the bill should become a law at the earliest practicable moment.

Mr. GRIMES. Has Congress the authority to grant to this company the exclusive right? Where do we derive our jurisdiction? I understand that this is a corporation existing under the laws of the State of New York.

Mr. CHANDLER. Yes, sir.

Mr. GRIMES. New York certainly has jurisdiction as far as our jurisdiction extends. New York may have the power to say that the corporation created by her shall have the exclusive and sole privilege of telegraphing between the points named; but where does this Congress get any authority to do that?

Mr. CHANDLER. I am not prepared to go into a constitutional argument.

Mr. GRIMES. I do not profess to be a constitutional lawyer myself; but it seems to me quite apparent that we have not jurisdiction of this matter; that we have no authority to say that a corporation existing in New York shall

have the exclusive privilege to build a line of telegraph from that State to some other section of the world, and we ought not to say it if we had the authority to do it.

Then there is another provision in this bill that is objectionable to me, and that is the provision which gives this company the privilege of importing, "free of duty, all material, manufactured or unmanufactured, necessary only for the construction, laying, and erection of said submarine cable or cables." I do not know why the gentlemen composing this corporation, if they choose to embark their money in a speculation of this kind, should have such peculiar advantages over other citizens of the country who prefer to embark their money in some other adventure that may be just as advantageous to the country as it would be if their money was invested in this company.

Mr. CHANDLER. Every foot of this cable, except that which is laid in the marine league from our shores, is laid outside the jurisdiction of the United States. We simply exempt them from paying duties upon a cable to be laid in the Atlantic ocean. In no event can there be more than three miles of it, or a marine league, used in our jurisdiction. Now, with regard to granting this exclusive privilege, this company propose to lay this telegraphic cable across from the Florida capes, which is the shortest point between the United States and the island of Cuba. The Senator asks what right we have to do this. I take it that we have full jurisdiction on the subject under that clause of the Constitution which gives the regulation of commerce between the different States and foreign Governments to Congress.

Mr. GRIMES. Is it the opinion of the Committee on Commerce that under that clause Congress has power to say that only one corporation or one individual shall be permitted to carry on commerce between New York and some foreign port?

Mr. CHANDLER. I think it is in the power of Congress to charter one company, or more, as it sees fit.

Mr. GRIMES. And that nobody else can carry on commerce between the port of New York and the port of Havana, for example? I do not understand that that is regulating commerce.

Mr. CHANDLER. It is well known to most Senators that the Government during the rebellion contemplated laying for its own use a telegraphic cable to the Florida Keys. Here is a company which offers to do precisely what this Government proposed to do at its own cost and charge, and in time of war to donate to the Government the free use of this cable. As I said before, this company cannot even negotiate with these Spanish parties without some similar grant or some similar power from this Government. Of course the Spanish grant is utterly worthless to these Spaniards unless it has the assent of this Government. Now, it is necessary, in order to put these parties in a condition even to negotiate, to give them some exclusive privilege. I see no objection to it. The committee examined the subject very carefully, and for fear that some objector might arise against this exclusive privilege, they inserted the third section reserving to Congress the right at any time to alter or repeal this bill. I can see no dangerous monopoly or dangerous privilege or dangerous thing in it. I hope the Senate will pass the bill as the committee have reported it.

Mr. GUTHRIE. I think this bill requires a good deal of consideration. Every State along the Gulf has as good a right to grant a charter of this kind as New York has. They are nearer to the West India islands, and it will cost less to build a line from those States unless this company intends to select some company down there. To a certain extent we have not given up all hopes of State rights down there, and New York would have no right to go there, even with the authority of this Government, and occupy any portion of those States without the consent of these States. Then it is granting also a monopoly of all this telegraphic intercourse for twenty-five years, and I have no doubt before twenty-five years have elapsed two or three lines will be needed to Cuba, if it is found practicable to construct such lines. I shall vote against this measure, not only on the ground of a want of power in Congress to pass it, but because I doubt the expediency and propriety of granting such a monopoly.

Mr. FESSENDEN. I concur entirely in both the points taken by the Senator from Iowa with regard to this bill, and also with the suggestion made by the Senator from Kentucky. The bill is remarkable in its provisions. It gives to this company—

> The sole privilege, for a period of twenty-five years, to lay, construct, land, maintain, and operate telegraphic or magnetic lines or cables in and over the waters, reefs, islands, shores, and lands over which the United States have jurisdiction, from the said United States to the islands of Cuba and the Bahamas, either or both, and other West India islands.

It gives, therefore, to a corporation established by New York the entire control of all operations by magnetic telegraph from this country to all the islands of the West Indies for twenty-five years.

Mr. SHERMAN. And to South America, because you will have to land at some of these islands in order to establish telegraphic communication with South America.

Mr. FESSENDEN. Very well; that makes it still more improper. It is useless to say that we retain the power to alter or amend this bill at any time, because when a contract of this kind is made everybody knows that if we attempt to interfere with it it will be thrown in our face at once that they have gone on, on the faith of this legislation, and established a telegraphic line at a great expense, and we never could repeal it; it would be out of the question. Now I take it, in the course of twenty-five years, from the advance of enterprise of this kind, that we might have a dozen or perhaps more of these lines, and would need them in different positions; and here we are tying up the hands of Congress for no reason in the world. The next provision is that we will not exact any duties or charges upon any material necessary for the construction of this cable provided we have the right during a state of war to transmit messages over the telegraph free. In how many years do we calculate to be at war with any foreign nation or anybody else?

Mr. JOHNSON. Is it proposed to give them the exclusive privilege for twenty-five years?

Mr. FESSENDEN. Yes, sir; and then that we allow them to import, free of duty, all material, manufactured or unmanufactured, necessary for the construction of the cable, provided that they shall transmit the messages of the Government of the United States during the time of war free of charge. Everybody knows that that is merely a nominal consideration. We are introducing an idea into this bill that Congress has always been very careful about. We refused during the last Congress, even in the case of people who were importing clothing and other things for the special use of the troops, &c., to remit the duties upon them. We would not break in upon our revenue system. It will be exceedingly dangerous if we attempt to do it in this case. If this company wants to erect a telegraph line, it is very proper, if the leave of Congress is necessary, to give them leave to use such parts of the shore as they can get entitled to; but the idea of conferring privileges of this description in the first place, tying up the hands of this great country with regard to telegraphic communication with the West India islands and South America, for twenty-five years, confining it to this company in New York, when, as the Senator from Kentucky says, there may be other companies established in other States, and then also to remit the duties, giving them this start, on the nominal consideration of transmitting messages in time of war, strikes me as very astounding. I certainly should be opposed to both sections most decidedly and thoroughly. I hope the Senate will not think of passing a bill of this kind.

Mr. CHANDLER. I suppose it is well known to the Senator from Maine that but about one in five cables proves effective; that about four out of five of all the marine cables that have been laid have proved failures. Millions upon millions of dollars have been sunk in this way. It has been the policy of every commercial Government to aid, in every possible way, telegraphic communication, steamboat lines, mails, conveyances, and commerce. It has been the custom of the British Government, from the time that the telegraphic system was invented, to encourage its citizens in laying telegraphic cables everywhere.

The British Government has appropriated millions of dollars as subsidies to such companies. Here a company proposes to construct a cable without a subsidy, without any eleemosynary aid, simply asking the exclusive privilege of operating this line for the period of twenty years, because they think it will take them five years to lay their cable. I think that in a commercial point of view it will be of immense benefit to the people of the United States. The city of New York is more interested in this than perhaps any other city; but the cities of Baltimore, New Orleans, Philadelphia, Boston, and wherever they have commercial intercourse with the West India islands, with one united voice ask Congress to grant this privilege to this company, provided they will lay the cable. I care nothing about permitting this wire to come in free. If the Senator from Maine makes a point on that provision, let it be stricken out; but it seems to me unjust to require of this company to pay a duty upon cable to be laid outside the limits of the United States, to wit, between the shores of Florida and the shores of Cuba; but I care nothing about that.

Mr. FESSENDEN. Unless they bring it inside of the country we do not impose the duty.

Mr. CHANDLER. They must land it here or in Cuba; they must land it somewhere; and the committee thought it no more than right, proper, and just to remit that duty, because the cable was not used in the United States. I am not disposed to make a point on that. If the Senator thinks they ought to pay a duty on a cable laid across the Gulf of Mexico, so be it; strike out that clause. I think it would be unjust to compel this company to do it. I am in favor of offering every facility to this and every other company, either steamship or telegraphic, or any other that will facilitate and benefit the commercial interest of the United States. I am astonished to hear opposition coming from a State which has more commerce than perhaps any other State in the Union save one. The State of Maine has a thousand-fold more interest in this matter than all the northwestern States put together.

Mr. CLARK. I think the Senator from Michigan could hardly have contemplated the extreme extent to which this bill goes. As I understand its provisions, it gives this company the right to land and erect a telegraph line on any land along the shore over which the United States have jurisdiction. It may go into a navy-yard anywhere, and run right through it for twenty-five years and hold the exclusive jurisdiction. It may go into any fort; it may go anywhere where the United States have jurisdiction over an inch of land from the extreme coast of Maine to the extreme coast of Florida, and all around the Gulf. Does the Senator from Michigan mean to tie up the jurisdiction of the Government of the United States for twenty-five years in every place along the whole coast? Such is the extent of the bill, and its fair construction.

There is not a navy-yard, nor a fort, nor a place anywhere upon the coast in which this company have not a right to land and erect their telegraph. I certainly would not grant that privilege for one year, much less tie it up exclusively for twenty-five years. I would know where these people propose to go before granting them this privilege. It is perfectly astonishing to me that we propose to grant such facilities at once by one bill. I should be loath to say that nobody else should have a right to

land another line of telegraph in the State of New York or in the harbor of New York; but when you propose to tie up every other harbor and every river and every spot where we have jurisdiction for twenty-five years, I am not prepared to vote for it. It is very true when they have located their line at any spot, everybody must go by that line, and they may make their own charges, and have complete control of it; but that, in my judgment, is nothing scarcely to be weighed against the extreme power we propose to give them to go into any harbor along this whole coast. It seems to me the bill cannot have been considered as it ought to have been. I hope it will not pass, certainly not without the most mature consideration.

Mr. CHANDLER. Will the Senator suggest an amendment? You may confine the bill to the Florida Keys, if you see fit, or you may confine it to the Gulf of Mexico, if you see fit. The idea that you are going to tie up every navy-yard along the Atlantic coast is absurd. It is perfectly well known that it is about a hundred miles across from the lower part of Florida to the island of Cuba, and that from the city of New York to Cuba it is perhaps eighteen hundred or two thousand miles. It is absurd to talk about laying a cable from any of the navy-yards along the Atlantic coast.

Mr. CLARK. I will move one amendment if the Senator will allow me.

Mr. CHANDLER. Certainly; it is open to amendment.

Mr. CLARK. I move to strike out the word "sole" in the fifth line of the first section.

Mr. CHANDLER. That kills the bill. If you want to kill the bill, that is all right. If the Senate do not want a telegraphic cable laid, of course they will strike out the word "sole." If that amendment should be adopted I shall certainly abandon the bill.

The PRESIDENT *pro tempore*. Does the Senator from New Hampshire move that amendment to the amendment reported by the committee?

Mr. CLARK. Yes, sir.

Mr. CONNESS. If, as the honorable chairman of the Committee on Commerce has said, striking out this word "sole" strikes the soul out of this bill, then it is not much of a bill. I think it would be rather a scandalous proceeding for the Congress of the United States to grant an exclusive privilege in telegraphing for twenty-five years at this point of time. There are no men in the United States to whom I would vote to make such a grant. Telegraphing has reached too advanced a point, I think, that we should make so dear a bid for its extension as that would be. The period of exclusive privileges ought to be considered also as having passed, and we should not repeat them here.

There are no such difficulties in the way of the construction of this proposed line of telegraph as should demand of the United States a grant of the sole and exclusive privilege for a quarter of a century. We have a proposition now before us, presented by the honorable Senator from Missouri, [Mr. BROWN,] which has been somewhat considered by one of the committees of this body, and which now by a resolution of the Senate has been sent to the Postmaster General of the United States that he may enlighten us by the presentation of data as to our course upon the proposition submitted. What is it? It is to inquire into the propriety and necessity of making the whole telegraphic system of the United States a Government agency, a lightning post office; and pending that proposition, which is a step in advance in the line of progress, supported by very good reasoning indeed, this proposition comes in here, I am sorry to say, recommended by the enlightened and always liberal chairman of the Committee on Commerce of this body, and who is so generally safe in his legislation, to grant a sole and exclusive privilege to a company for a quarter of a century. I will not consume the time of the Senate by arguing the matter further. I shall vote for striking out the word "sole," and if that destroys the body of the bill I do not think it is our fault, but one of the unfortunate——

Mr. BROWN. Concatenations.

Mr. CONNESS. My friend suggests concatenations. I accept the word; one of the unfortunate concatenations of the bill.

Mr. CHANDLER. It is perfectly well known to all commercial men that the United States has lost the trade of this continent from lack of enterprise. The British Government has subsidized a mail line to, I believe, every country on this continent, and every one of those mail lines are weekly or monthly, as the case may be, but they go with regularity. From South America orders are sent, not to the United States, which are much nearer than England, but to England. Why? Because they are filled instantly and returned at once, whereas communication with the United States is unfrequent and irregular. Now, a proposition comes before this body to establish telegraphic communication with the West India islands. In case that line were built, and it extended to every one of those West India islands, it would be all the better, for it would absolutely control the commerce of every island connected by telegraph with the United States, and would control the commerce here.

If we could have telegraphic communication with every one of the South American States, we should control the commerce of the South American States, because they could send their orders quicker by telegraph, and receive their responses quicker than in any other way.

Now the proposition is to strike out the word "sole," and then what have you left? You must offer some inducements to this company, and you offer this inducement that they shall have the sole privilege of erecting such a line. You may call it a monopoly, and it will be so if Congress sees fit to leave it so, but Congress can resume these powers to-morrow or the next day or at any time. Congress has the absolute control of this measure during the twenty-five years and in perpetuity. That is the only inducement you offer to these parties to invest their money for the benefit of the commerce of the United States. If the Senate choose to kill this bill, very well; but let us kill it at once. Let us say we do not want any telegraphic communication with the West Indies. Vote directly to reject the bill if you wish to defeat it, but do not strike out the only thing in it that will lay the wire. The Committee on Commerce deemed it for the commercial interest of the people of the United States that these wires should be laid, and they recommended it also for the interest of the Navy Department and of the War Department and of every department of the Government. I hope the bill will pass just as it is before the body; but if the amendment of the Senator from New Hampshire prevails, then I hope it will be killed.

Mr. MORRILL. I hope the Senator from New Hampshire will not insist upon striking out the word "sole." I consider that motion mischievous, and quite fatal to the enterprise. I will see if we cannot accommodate the Senator by a proposed amendment in some other direction which will obviate the necessity of so much mischief as will ensue by that amendment. I gave my consent to this bill in the committee on the express understanding that it should have limitation such as is suggested here. It will be seen by a reference to the original bill as referred to the committee that it had this scope, it granted to this company "the sole and exclusive right and privilege to connect Florida and the northern sea-coast of the Gulf of Mexico within the United States with the island of Cuba and adjacent islands, &c." I thought that sweep was a little too comprehensive; but I believe upon consultation generally with the committee it was agreed, as I understood it—and I think it is an omission entirely that it comes in as it does—that it should be limited to the connection of the coast of Florida with the West India islands. It was not to be a charter with a right to make innumerable lines between the coast of the United States, without limitation, and the West India islands.

I think the chairman of the committee will agree with me that we intended to limit it to some one point on the coast of Florida, and I supposed the bill was reported in that way. I have never given it any consideration since. I will suggest an amendment which will perhaps obviate all the difficulty which Senators have in their minds. Assuming that it would be the sense of the Senate to authorize this company to construct a submarine cable between this country, from the coast of Florida, and the West India islands, I will suggest by way of amendment, provided my honorable friend from New Hampshire should think it worth while to withdraw his amendment, in the ninth line of the first section after the words "from the" to insert "shores of the State of Florida in the;" so that the clause would then read:

Shall have the sole privilege for a period of twenty-five years to lay, construct, land, maintain, and operate telegraphic or magnetic lines or cables in and over the waters, reefs, islands, shores, and lands over which the United States have jurisdiction, from the shores of the State of Florida, in the said United States, to the islands of Cuba and the Bahamas, either or both, and other West India islands.

That would limit it entirely to the shores of the coast of Florida.

Mr. CLARK. It is very evident that some members of the Committee on Commerce did not understand the bill as it was reported, and I am entirely willing to withdraw my amendment in order to have it perfected, and I will either move to refer it back to the Committee on Commerce, or let it be postponed until it can be fully considered.

Mr. CHANDLER. I will accept the amendment suggested by the Senator from Maine.

Mr. CLARK. Though the Senator may be willing to accept it, it may not be entirely acceptable to the Senate, and I desire to have the bill framed so as to be acceptable to the Senate. It seems to me we cannot deal with so important an interest as this in this hasty way. I will therefore withdraw my amendment, and move to recommit the bill to the Committee on Commerce.

The motion to recommit was agreed to.

Mr. GRIMES. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *February* 26, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of Saturday last was read and approved.

REPORTS OF COMMITTEES.

The SPEAKER proceeded, as the first business in order, to call the committees for reports to go upon the Calendar, and not to be brought back by a motion to reconsider.

No reports were presented.

The SPEAKER announced, as the next business in order, the call of States for the introduction of resolutions and of bills on leave, commencing with the State of Michigan, where the call was arrested on last Monday, and proceeding in inverse order.

FREEDMEN'S BUREAU.

Mr. BEAMAN introduced a bill to continue in force and to amend an act entitled "An act to establish a Bureau for the Relief of Freedmen and Refugees, and for other purposes;" which was read a first and second time, referred to the select committee on freedmen, and ordered to be printed.

ARTIFICIAL LIMBS.

Mr. TROWBRIDGE submitted the following resolution; which was read, considered, and agreed to:

Whereas it is reported that many of the artificial limbs which have been furnished to our soldiers and sailors who have been crippled in their country's service are of an inferior make and quality, and are so defective that little if any benefit is derived therefrom by said soldiers and sailors, and in consequence

thereof many of them are compelled to resort to the use of crutches in place of said artificial limbs: Therefore,

Resolved, That the Committee on Military Affairs be instructed to inquire into the truth of said reports, and if found to be true, that they report what further legislation or action, if any, is necessary in the premises.

CONTRIBUTIONS BY DISLOYAL CITIZENS.

Mr. McCLURG submitted the following resolution; on which he demanded the previous question:

Whereas it is the opinion of this House that the continued contumacy in the seceding States renders it necessary to exercise congressional legislation in order to give the loyal citizens of those States protection in their natural and personal rights enumerated in the Constitution of the United States, and, in addition thereto, makes it necessary to keep on foot a large standing army to secure the present enjoyment of those rights, to maintain the authority of the national Government, and to keep the peace; and whereas the country is already heavily burdened by a war debt incurred to defend the nationality against an infamous rebellion, and it is neither just nor politic to inflict this vast additional expense on the peaceful industry of the nation: Therefore,

Resolved, That it be referred to the joint committee of fifteen of the Senate and House to ascertain whether such contumacy be clearly manifest, and if so to inquire into the expediency of levying contributions on the disloyal inhabitants of such seceding States, to defray the extraordinary expenses that will otherwise be imposed on the General Government; and that said committee be instructed to report by bill or otherwise.

Mr. FINCK. I move that the resolution be laid on the table.

Mr. GRIDER. On that motion I demand the yeas and nays.

Mr. FINCK called for tellers on ordering the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

The House divided; and there were—ayes 22, noes 49; no quorum voting.

The SPEAKER ordered tellers; and appointed Messrs. FINCK and McCLURG.

Mr. SCHENCK. If the House refuse to lay the resolution upon the table, will it not be in order to refer it without further action?

The SPEAKER. It will if the previous question be not seconded.

The House again divided; and the tellers reported—ayes 22, noes 71.

So the resolution was not laid upon the table.

Mr. ELDRIDGE. I demand the yeas and nays notwithstanding they were refused, because there was no quorum in the House when they were demanded.

The SPEAKER. The Chair overrules the point of order on the ground that the yeas and nays can be called without a quorum being present. The Constitution says that one fifth of the members present may order the yeas and nays; a quorum, therefore, is not necessary.

The previous question was not seconded.

Mr. SCHENCK moved that the resolution be referred to the committee on reconstruction without instructions.

Mr. FINCK demanded the yeas and nays.

The yeas and nays were ordered.

Mr. ROLLINS demanded the previous question on the motion to refer.

Mr. LATHAM. I was under the impression that the resolution went to the committee under the rules.

The SPEAKER. The Chair thinks clearly it does not, as it relates to taxation.

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

Mr. SPALDING. If I understand the effect of the motion of my colleague, it is to refer the resolution without it being adopted by the House. I am in favor of that.

The question was taken; and it was decided in the affirmative—yeas 102, nays 27, not voting 54; as follows:

YEAS—Messrs. Allison, Anderson, James M. Ashley, Baker, Baldwin, Banks, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blow, Brandegee, Bromwell, Broomall, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cullom, Darling, Davis, Defrees, Delano, Deming, Donnelly, Driggs, Dumont, Eckley, Eggleston, Eliot, Farquhar, Ferry, Garfield, Grinnell, Griswold, Hale, Abner C. Harding, Hart, Hayes, Henderson, Higby, Holmes, Hooper, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, James R. Hubbell, Hulburd, Ingersoll, Julian, Kelley, Kelso, Ketcham, Kuykendall, Laflin, Latham, William Lawrence, Lynch, McClurg, McKee, McRuer, Mercur, Moorhead, Morrill, Morris, Moulton, Myers, Newell, O'Neill, Orth, Paine, Patterson, Perham, Pike, Plants, Price, William H. Randall, Alexander H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Spalding, Stevens, Francis Thomas, John L. Thomas, Trowbridge, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—102.

NAYS—Messrs. Ancona, Delos R. Ashley, Dawson, Denison, Eldridge, Finck, Glossbrenner, Goodyear, Grider, Aaron Harding, Hogan, Edwin N. Hubbell, Kerr, McCullough, Niblack, Phelps, Samuel J. Randall, Ritter, Rogers, Ross, Rousseau, Shanklin, Smith, Strouse, Taylor, Trimble, and Winfield—27.

NOT VOTING—Messrs. Alley, Ames, Barker, Bergen, Blaine, Boutwell, Boyer, Brooks, Chanler, Coffroth, Conkling, Culver, Dawes, Dixon, Farnsworth, Harris, Hill, Hotchkiss, John H. Hubbard, James Humphrey, James M. Humphrey, Jenckes, Johnson, Jones, Kasson, George V. Lawrence, Le Blond, Loan, Longyear, Marshall, Marston, Marvin, McIndoe, Miller, Nicholson, Noell, Pomeroy, Radford, Raymond, John H. Rice, Sitgreaves, Starr, Stilwell, Taber, Thayer, Thornton, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Warner, Whaley, and Wright—54.

So the resolution was referred to the committee on reconstruction.

During the vote,

Mr. COFFROTH stated he was paired with Mr. UPSON.

The vote was then announced as above recorded.

ADDITIONAL CLERK FOR SERGEANT-AT-ARMS.

Mr. ANDERSON submitted the following resolution; which was read, considered, and referred to the Committee of Accounts:

Resolved, That the Sergeant-at-Arms be authorized to employ an additional clerk in his office.

ASSOCIATED PRESS.

Mr. WASHBURNE, of Illinois. Mr. Speaker, I submit a resolution that the Speaker shall assign a desk upon this floor to Mr. Hayes, the reporter for the Associated Press. It is for the benefit of us all the reporter shall be where he can see and hear all that is going on, so that he may make his abstract correctly.

The Clerk read, as follows:

Resolved, That the Speaker assign a desk upon the floor of the House to Henry G. Hayes, reporter for the Associated Press.

There was no objection.

The resolution was adopted.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

SUGAR MACHINERY.

Mr. WENTWORTH introduced a bill to provide for admission duty free of certain machinery into the United States for the period of two years; which was read a first and second time, and referred to the Committee of Ways and Means.

NAVY-YARD AT MOUND CITY.

Mr. KUYKENDALL introduced a bill to establish a navy-yard and depot at Mound City, in the State of Illinois; which was read a first and second time, and referred to the Committee on Naval Affairs.

BOUNTIES AND WAGES WITHHELD.

Mr. HARDING, of Illinois, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be instructed to inquire, and, if expedient in their opinion, report at an early day a bill to pay to officers and soldiers who have served in the Army of the United States, and to their heirs, if deceased, all wages and bounties withheld from them by reason of the judgment of any court-martial, or of any military order, which, by proper authority, has been set aside; and also in all cases where bounty and wages exceeding one month's pay are withheld in pursuance of said judgments or orders upon conviction for minor offenses.

CLERKS OF COMMITTEES.

Mr. ROSS submitted the following preamble and resolution:

Whereas there is a deep and profound anxiety on the part of the tax-payers that the expenses of the General Government should be reduced as much as possible, compatible with the public interest: Therefore,

Be it resolved, That the standing and select committees of the House having clerks for said committees be, and they are hereby, instructed to report to the House at an early day whether a clerk is, in the judgment of said committee, necessary for the transaction of its business; what portion of the time of the clerk is occupied in the necessary and legitimate business of the committee, and what portion in attending to the private business of the members.

Mr. ROSS. I demand the previous question on the adoption of the resolution.

Mr. ASHLEY, of Ohio. I move to lay the resolution on the table.

Mr. RANDALL, of Pennsylvania. On that I call the yeas and nays.

The yeas and nays were ordered.

The question was taken on the motion to lay the resolution on the table; and it was decided in the negative—yeas 45, nays 83, not voting 55; as follows:

YEAS—Messrs. Allison, James M. Ashley, Baxter, Benjamin, Bingham, Broomall, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Dawson, Delano, Donnelly, Eliot, Garfield, Grinnell, Hart, Hayes, Henderson, Holmes, Asahel W. Hubbard, Demas Hubbard, James R. Hubbell, James Humphrey, Julian, Kelley, Kelso, Laflin, William Lawrence, Marvin, Myers, O'Neill, Perham, Rollins, Sawyer, Schenck, Smith, Spalding, Stevens, Welker, Williams, Stephen F. Wilson, Winfield, and Woodbridge—45.

NAYS—Messrs. Ancona, Anderson, Delos R. Ashley, Baker, Baldwin, Banks, Beaman, Blow, Brandegee, Bromwell, Chanler, Coffroth, Conkling, Cook, Cullom, Darling, Davis, Defrees, Deming, Denison, Dumont, Eckley, Eldridge, Farquhar, Ferry, Finck, Glossbrenner, Goodyear, Grider, Hale, Aaron Harding, Abner C. Harding Higby, Hogan, Edwin N. Hubbell, Hulburd, Ingersoll, Kerr, Ketcham, Kuykendall, George V. Lawrence, Marshall, McClurg, McCullough, McKee, McRuer, Mercur, Moorhead, Morris, Moulton, Newell, Niblack, Nicholson, Orth, Paine, Patterson, Phelps, Pike, Samuel J. Randall, William H. Randall, Alexander H. Rice, John H. Rice, Ritter, Rogers, Ross, Shanklin, Shellabarger, Sloan, Strouse, Taylor, Francis Thomas, John L. Thomas, Thornton, Trimble, Trowbridge, Van Aernam, Burt Van Horn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Wentworth, James F. Wilson, and Windom—83.

NOT VOTING—Messrs. Alley, Ames, Barker, Bergen, Bidwell, Blaine, Boutwell, Boyer, Brooks, Culver, Dawes, Dixon, Driggs, Eggleston, Farnsworth, Griswold, Harris, Hill, Hooper, Hotchkiss, Chester D. Hubbard, John H. Hubbard, James M. Humphrey, Jenckes, Johnson, Jones, Kasson, Latham, Le Blond, Loan, Longyear, Lynch, Marston, McIndoe, Miller, Morrill, Noell, Plants, Pomeroy, Price, Radford, Raymond, Rousseau, Scofield, Sitgreaves, Starr, Stilwell, Taber, Thayer, Upson, Robert T. Van Horn, Ward, Warner, Whaley, and Wright—55.

So the motion to lay the resolution on the table was disagreed to.

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

Mr. WASHBURNE, of Illinois. This is a matter that ought to be examined by the Committee of Accounts.

The SPEAKER. Debate is not in order.

Mr. WASHBURNE, of Illinois. I hope they will have an opportunity to examine it.

The question being taken on seconding the demand for the previous question, no quorum voted.

The SPEAKER ordered tellers; and appointed Mr. ROSS, and Mr. ASHLEY of Ohio.

The House divided; and the tellers reported—ayes sixty-eight, noes not counted.

So the previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to.

Mr. WENTWORTH. I move to reconsider the vote by which the House agreed to the resolution; and to lay that motion on the table.

The latter motion was agreed to.

TAX ON SALES.

Mr. THORNTON. I offer the following resolution, upon which I demand the previous question:

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of so amending section ninety-eight of the act of June 30, 1864, entitled "An act to increase the duties on imports, and for other purposes," that judicial or executive officers making sales by virtue of a judgment or decree of any court, and also guardians, executors, or administrators making sales by virtue of their office, may employ auctioneers to make such sales without any liability upon such auctioneers to pay the tax on sales provided for in said section.

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

A. ZIEGLER.

Mr. HARDING, of Illinois, submitted the

following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Invalid Pensions be instructed to inquire into the expediency of making to A. Ziegler, of Port Byron, Illinois, a donation for sending seven sons into the Army of the United States to quell the late rebellion.

EQUALIZATION OF BOUNTIES.

Mr. ORTH submitted the following preamble and resolution; which were read, considered, and agreed to:

Whereas a discrimination in the distribution of bounties among the soldiers, seamen, and marines in the service of the Government during the recent rebellion now exists by virtue of the several acts on this subject—a discrimination distasteful to the American people and unjust to those gallant men who by their valor have crushed armed treason: Therefore,

Be it resolved, That it is the sense of this House that such injustice be speedily remedied, and that the Committee on Military Affairs are hereby instructed to report at an early day a bill providing for the equalization of such bounties.

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

The latter motion was agreed to.

HARLAND RICHARDSON.

Mr. DUMONT introduced a bill for the relief of Harland Richardson, late a second lieutenant of company F, nineteenth regiment of Indiana volunteers; which was read a first and second time, and referred to the Committee on Military Affairs.

QUALIFICATIONS OF ELECTORS.

Mr. DEFREES offered the following resolution, upon which he demanded the previous question:

Resolved, That it is the opinion of this House that Congress has no constitutional right to fix the qualifications of electors in the several States.

The question was taken on seconding the previous question, and there were—ayes 40, noes 58.

So the previous question was not seconded.

Mr. WILSON, of Iowa, rising to debate the resolution, it went over under the rule.

TAX ON LEGAL DOCUMENTS.

Mr. KERR. I offer the following resolution, upon which I demand the previous question:

Whereas the provisions of the internal revenue law of June 30, 1864, in section one hundred and seventy, under head of "legal documents," which require certain kinds of process and legal documents used in the courts of the States to be stamped, have been held by the highest courts of several States to be unconstitutional and void; and whereas they are at least of doubtful validity, and in effect impose a tax on redress which ought always to be as free as possible: Therefore,

Resolved, That the Committee of Ways and Means be instructed to consider the propriety of repealing said provisions, and that they report by bill or otherwise.

The SPEAKER. The morning hour has now expired, and the resolution will go over until next Monday.

EXECUTIVE PRINTING.

The SPEAKER, by unanimous consent, laid before the House a communication from the Attorney General under date of February 21, 1866, in response to a resolution of the House of Representatives, stating that his Department had incurred no expense for paper except for stationery, neither had it advertised, or had any printing done outside of the Government Printing Office. The communication was referred to the Committee on Printing.

REPRESENTATIVE FROM NORTH CAROLINA.

The SPEAKER also, by unanimous consent, laid before the House the credentials of Alexander H. Jones, a Representative-elect from the seventh congressional district of North Carolina; which were referred, under the rule, to the joint committee on reconstruction.

RESOLUTIONS OF VIRGINIA.

The SPEAKER also, by unanimous consent, laid before the House a communication from Governor Peirpoint, of Virginia, transmitting resolutions of the General Assembly of Virginia, in relation to direct tax levied in 1861 by the Congress of the United States, and now being collected in Virginia; which were referred to the Committee of Ways and Means.

VACANCY ON A COMMITTEE.

The SPEAKER. The Chair would state that a vacancy has occurred in the Committee on Appropriations in consequence of the action of the House on the Indiana contested-election case, and that the Chair has appointed Mr. NIBLACK to fill the vacancy.

Mr. NIBLACK. It will be out of my power to discharge my duties on the Committee on Appropriations, and also on the Committee of Claims, of which I am a member. I therefore ask to be excused from further service upon the Committee of Claims.

Leave was accordingly granted.

The SPEAKER appointed Mr. WASHBURN, of Indiana, to fill the vacancy upon the Committee of Claims, caused by excusing Mr. NIBLACK from further service upon that committee.

POSTAGE ON SOLDIERS' MEMORIALS.

Mr. CONKLING. I desire to present a petition signed by Lieutenant General Grant, Major General Howard, and others. As it is a short one I ask that it may be read.

The Clerk read the petition, as follows:

To the honorable the Senate and House of Representatives in Congress assembled:

Your petitioners respectfully represent that section twenty-four of the act to amend the laws pertaining to the Post Office Department, approved March 3, 1863, provided that all matter wholly or partly in writing, unless otherwise specially provided for, shall be subject to letter postage; and they further represent that certain ornamental records of the personal services of Federal soldiers and officers are now extensively published, such records being composed partly of printed and partly of written matter, and known as the "Soldier's Individual Memorial," of which the accompanying sheets are specimens; that under this act and section as aforesaid, the soldiers and their friends are compelled to pay letter postage on all such memorials sent through the mails, although they contain no private communications, but simply a record to perpetuate the memory of those who have periled, if not yielded, their lives for a common country. Therefore your petitioners pray that so much of said act may be repealed or such a special act be passed as to permit such memorials to pass through the mails upon the payment of usual postage on printed matter.

WASHINGTON, *February* 5, 1865.

Mr. CONKLING. I hold in my hand a specimen of what they send to our soldiers. Members can see what it is.

I move that the petition which has been read be referred to the Committee on the Post Office and Post Roads, with leave to report upon it at any time by bill or otherwise.

Mr. SPALDING. I have no objection to the reference; but I object to giving the committee authority to report at any time.

Mr. CONKLING. My object is to get action at once, to the end that these sheets, containing the likenesses of deceased soldiers, may be transmitted presently through the mails by paying the postage charged on printed matter, the writing consisting merely of the name of the soldier and the time of his death.

Mr. SPALDING. I have no objection to the reference.

Mr. CONKLING. I move to suspend the rules for the purpose I have indicated.

Mr. FARNSWORTH. I would ask when the Committee on the Post Office and Post Roads will probably be called again.

The SPEAKER. That committee may not be again called for two months, as it has just been passed, and the other committees are proceeding with their reports slowly.

The question was then taken on suspending the rules, and two thirds voting in the affirmative, they were suspended; and the petition was accordingly referred.

Mr. CONKLING moved to reconsider the vote by which the House referred the petition to the Committee on the Post Office and Post Roads; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

SOLDIERS' AND SAILORS' ORPHANS' HOME.

Mr. SCHENCK. I wish to ask the House to consider a subject which appeals at once to the gallantry and the humanity of the House. The Committee on Military Affairs have had before them a petition from Mrs. Grant, Mrs. Sherman, and other ladies, directors of the National Home for Soldiers' and Sailors' Orphans, of Washington city. I am instructed by that committee to report back that petition with a joint resolution, upon which I am directed to ask the immediate action of this House.

The joint resolution was read at length. It authorizes the Secretary of War to deliver to the lady directors of the National Home for Soldiers' and Sailors' Orphans, of Washington city, for the use and aid of that society in its benevolent objects, such blankets, bedding, and other furniture and articles as may be proper for their purpose, and as are now on hand in the stores of the Surgeon General's department and no longer needed on Government account; the Secretary to determine, at his discretion, the specific amount and character of stores thus to be provided, and of which due account shall be taken.

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

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

The latter motion was agreed to.

HON. MR. CRESWELL'S ORATION.

Mr. STEVENS, by unanimous consent, submitted the following resolution; which was referred, under the law, to the Committee on Printing:

Resolved, That thirty thousand copies of the address of the Speaker, and the eulogy on H. W. Davis, delivered by Hon. J. A. J. CRESWELL, on the 22d instant, be printed for the use of members, and that the same be printed in the Globe.

MANITOWOC HARBOR, WISCONSIN.

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

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of Congress making an appropriation for the improvement of Manitowoc harbor, on Lake Michigan, State of Wisconsin, and report by bill or otherwise.

E. W. EDDY.

Mr. ANCONA. I ask unanimous consent to report from the Committee on Military Affairs a bill relative to the estate of E. W. Eddy.

The bill was read for information. It proposes to authorize and require the accounting officers of the Treasury to allow to the estate of E. W. Eddy, late paymaster in the United States Army, a credit of $200,000, the amount of public funds in his hands as paymaster on board the steamer Brother Jonathan, lost by the wreck of said steamer on the 30th day of July, 1865, off the coast of California.

Mr. WASHBURNE, of Illinois. I object. I do not desire that these private claims shall be brought in in this way.

Mr. CHANLER. I ask unanimous consent to introduce a resolution.

Mr. BRANDEGEE. I object. I suppose the gentleman from New York knows the reason.

Mr. CHANLER. I do not.

Mr. BRANDEGEE. Because the gentleman refused to extend the same courtesy to me the other day.

Mr. CHANLER. The gentleman's discourtesy has no precedent in anything that I have done.

RIGHTS OF CITIZENS.

Mr. BINGHAM, from the select joint committee on reconstruction, reported back a joint resolution (H. R. No. 63) proposing an amendment to the Constitution of the United States.

The joint resolution was read, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two thirds of both Houses concurring,) That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three

fourths of the said Legislatures, shall be valid as part of said Constitution, namely:

ARTICLE —. The Congress shall have power to make all laws which shall be necessary and proper to secure to the citizens of each State all privileges and immunities of citizens in the several States, and to all persons in the several States equal protection in the rights of life, liberty, and property.

Mr. BINGHAM. Mr. Speaker, this resolution, as the House is aware, has received its first and second readings. It comes back from the committee in the precise form in which it was originally reported. I do not propose at present to detain the House with any very extended remarks in support of it. I ask, however, the attention of the House to the fact that the amendment proposed stands in the very words of the Constitution of the United States as it came to us from the hands of its illustrious framers. Every word of the proposed amendment is to-day in the Constitution of our country, save the words conferring the express grant of power upon the Congress of the United States. The residue of the resolution, as the House will see by a reference to the Constitution, is the language of the second section of the fourth article, and of a portion of the fifth amendment adopted by the First Congress in 1789, and made part of the Constitution of the country. The language of the second section of the fourth article is—

"The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States."

The fifth article of the amendment provides that—

"No person shall be deprived of life, liberty, or property, without due process of law."

Sir, it has been the want of the Republic that there was not an express grant of power in the Constitution to enable the whole people of every State, by congressional enactment, to enforce obedience to these requirements of the Constitution. Nothing can be plainer to thoughtful men than that if the grant of power had been originally conferred upon the Congress of the nation, and legislation had been upon your statute-books to enforce these requirements of the Constitution in every State, that rebellion, which has scarred and blasted the land, would have been an impossibility.

I ask the attention of the House to the further consideration that the proposed amendment does not impose upon any State of the Union, or any citizen of any State of the Union, any obligation which is not now enjoined upon them by the very letter of the Constitution. I need not remind gentlemen here that the Constitution, as originally framed, and as adopted by the whole people of this country, provides that—

"This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding."

Could words be stronger, could words be more forceful, to enjoin upon every officer of every State the obligation to obey these great provisions of the Constitution, in their letter and their spirit? I submit to the judgment of the House, that it is impossible for mortal man to frame a formula of words more obligatory than those already in that instrument, enjoining this great duty upon the several States and the several officers of every State in the Union.

And, sir, it is equally clear by every construction of the Constitution, its contemporaneous construction, its continued construction, legislative, executive, and judicial, that these great provisions of the Constitution, this immortal bill of rights embodied in the Constitution, rested for its execution and enforcement hitherto upon the fidelity of the States. The House knows, sir, the country knows, the civilized world knows, that the legislative, executive, and judicial officers of eleven States within this Union within the last five years, in utter disregard of these injunctions of your Constitution, in utter disregard of that official oath which the Constitution required they should severally take and faithfully keep when they entered upon the discharge of their respective duties, have violated in every sense of the word these provisions of the Constitution of the United States, the enforcement of which are absolutely essential to American nationality.

By order, then, of the committee, sir, and for the purpose of giving to the whole people the care in future of the unity of the Government which constitutes us one people, and without which American nationality would cease to be, I propose the adoption of this amendment to the House, and through the House I press it upon the consideration of the loyal people of the whole country.

I do not propose, Mr. Speaker, longer to detain the House with the consideration of this amendment, but submit it to the careful and dispassionate judgment of every gentleman in the House.

The SPEAKER. Does the gentleman surrender the floor absolutely?

Mr. BINGHAM. I yield to my colleague on the committee, the gentleman from New Jersey, [Mr. ROGERS,] and I yield the floor absolutely for the present.

Mr. CHANLER. I hope the gentleman from New Jersey will yield to me before he resumes his seat.

Mr. ROGERS then addressed the House. [His remarks will be published in the Appendix.]

Mr. HIGBY, who, on obtaining the floor, had yielded to Mr. ROGERS, whose time was extended, resumed the floor.

Mr. ROGERS. I thought that my time had been again extended.

The SPEAKER. A proposition was made to extend the gentleman's time, but objection was made.

Mr. KELLEY. I hope the House will extend the gentleman's time.

Mr. BANKS. With the consent of the gentleman from California, [Mr. HIGBY,] I will say a word.

It is manifest that this debate cannot be finished this evening. It is very important that the joint resolution relating to the Industrial Exposition at Paris should be disposed of. If this amendment be permitted to go over until to-morrow, the House can then determine whether the gentleman from New Jersey shall be permitted to proceed or not.

Mr. RANDALL, of Pennsylvania. I object. I wish it understood that the gentleman from New Jersey does not speak for me. [Laughter.]

Mr. ROGERS. I speak for myself.

Mr. HALE. Will the gentleman from California [Mr. HIGBY] yield to me for a moment?

Mr. HIGBY. Yes, sir.

Mr. HALE. I rise simply to suggest that the consideration of this amendment reported from the joint committee has taken me, at least, by surprise, and I presume that the case is the same with a majority of the members of the House. We have had no notice that the subject was to come up this morning.

Mr. BINGHAM. I gave notice ten days ago, when this joint resolution was recommitted, that I would ask for its consideration when it should be reported back.

Mr. HALE. I am not speaking by way of complaint. I only called attention to the fact. It seems to me that this is an amendment of vast importance, and one that requires the most careful and thoughtful consideration on the part of this House. I do not propose to discuss it, but simply to say it has struck me as liable to many grave and serious objections. This being so, I suggest whether it is not better that this should now be made a special order and set down for a day certain, as early as the committee may desire, so we may have an opportunity to prepare ourselves for its consideration. I make this proposition with no feeling of hostility to the amendment any further than may may be justified by careful and proper consideration, and certainly without any disposition to interfere with the consideration of the subject by the House at the earliest practicable moment.

I submit the suggestion to the gentleman from Ohio, [Mr. BINGHAM,] who reported the resolution from the select committee, whether it is not better we should now make it the special order for a certain day so that we may be able to examine it as it deserves.

Mr. KELLEY. I hope that the gentleman from New Jersey [Mr. ROGERS] will be allowed to finish his speech.

Mr. BINGHAM. If it can be made the special order for an early day, and the discussion confined within a reasonable time and the vote be then taken, I have no objection to it. I desire a full discussion of this measure. I believe the interest of the country requires the House should act on it, and act on it at an early day.

A MEMBER. Say Thursday next.

Mr. BINGHAM. I have no objection to make it the special order for Thursday next.

The SPEAKER. The Chair will state if made the special order for Thursday next, it may be reached within a week or ten days, as there are two special orders before it, the loan bill and the bankrupt bill.

Mr. BINGHAM. Let it be understood, then, it will come up as unfinished business after the morning hour to-morrow.

Mr. HALE. Do I understand there are now special orders which have been reached and passed?

The SPEAKER. Yes, sir; the bankrupt bill and the loan bill.

Mr. ELDRIDGE. I do not see the necessity for all this hurry. It must be known to the House that all these measures linger in the Senate. They do not press them to a vote at once but give time for a full debate of the very questions we have rushed through under the previous question. The result is that the Senate do not have to send for bills to the House after they have passed them. There is no need, therefore, of pressing these measures through so rapidly.

Mr. BINGHAM. I do not propose to press this through without debate, but I do object to it being thrown out of its order. If it be desired to interrupt the debate here, I make the suggestion it go over until to-morrow, to come up after the morning hour as unfinished business.

Mr. SMITH. What has become of the proposition granting an extension of time to the gentleman from New Jersey to enable him to finish his speech?

The SPEAKER. Objection was made, but the Chair will again put it to the House.

Mr. SMITH. Is all that has since taken place to be put into his speech? [Laughter.]

The SPEAKER. No, sir.

Mr. KELLEY. I am not willing that the gentleman from New Jersey shall go on to-morrow, but I am willing to give him the rest of the day to finish the ingenious address which he has been making to the House.

Mr. WINFIELD. It is hardly just to the rest of the House to accede to the motion of the gentleman from Pennsylvania granting further extension of time to the gentleman from New Jersey, because the time allowed to the gentleman from New Jersey is more than half monopolized by the constant interruptions of the gentleman from Pennsylvania. [Laughter.]

Mr. KELLEY. I desire to give him such time as I have abstracted from him.

Mr. ELDRIDGE. It is remarkable that the gentleman from Pennsylvania [Mr. KELLEY] is anxious to have the time extended because he is permitted to interject his speeches into that of the gentleman from New Jersey.

The SPEAKER. Is there objection?

Mr. RANDALL, of Pennsylvania. As an act of duty, I object.

The SPEAKER. Is there objection to the proposition of the gentleman from Ohio, [Mr. BINGHAM?]

Mr. WILSON, of Iowa. I object.

Mr. KELLEY. I ask that the gentleman from New Jersey have leave to print the balance of his speech.

Mr. ELDRIDGE. I object, if it is to go out with the interpolations of the gentleman from Pennsylvania.

Mr. ROGERS. I do not ask for leave to print. I have never written a speech.

Mr. KELLEY. Then this House will be punished by its own action. [Laughter.]

Mr. BANKS. I move to take up the joint resolution in reference to the Paris Industrial Exposition, and I ask that a communication from the Secretary of State be read showing the necessity of early action, if any favorable action is to be had.

Mr. BINGHAM. In order that the gentleman from Massachusetts may bring his matter up, I move to postpone the further consideration of the pending resolution till four o'clock this afternoon.

Mr. WASHBURNE, of Illinois. I object to any postponement for the purpose of taking up the matter proposed by the gentleman from Massachusetts.

The SPEAKER. The postponement can be had by a majority vote.

Mr. WILSON, of Iowa. What will be the effect upon this amendment if the subject proposed by the gentleman from Massachusetts [Mr. BANKS] should not be concluded by four o'clock?

The SPEAKER. The Chair will decide that question when it comes up.

Mr. WILSON, of Iowa, I presume it will lose its place.

The SPEAKER. A postponement can be made by a majority vote.

Mr. BINGHAM. If it loses its place I do not want it to be done.

The SPEAKER. The Chair cannot say whether that would have precedence at the adjournment. It might lose its place.

Mr. BANKS. Is there any objection to the proposition I made?

Mr. WASHBURNE, of Illinois. I object to it most decidedly, and I will state why. Last Monday the gentleman got in a measure under a suspension which I understand will cost the Government $500,000. It is a measure for the benefit of the Russian-American Telegraph Company, whose stock is now selling at two hundred per cent. premium.

Mr. BANKS. The measure I introduced last Monday passed by an almost unanimous vote.

Mr. WASHBURNE, of Illinois. I know it did.

Mr. BANKS. And I am confident that no such expenditure will be incurred—in fact that no expenditure will be required by this Government. But even if it should cost us $500,000, I maintain that it will be money well spent, for it will open a communication with six hundred million people of the Old World. But I say it will not cost $500,000, nor any other sum.

Mr. WASHBURNE, of Illinois. That was the estimate of the Navy Department before the bill was reported, and if the House is willing to——

Mr. BANKS. I say to the gentleman——

Mr. BRANDEGEE. Mr. Speaker. Is this debate in order?

The SPEAKER. It is not.

Mr. BANKS. I move to suspend the rules.

Mr. WASHBURNE, of Illinois. How does the gentleman from Massachusetts get the floor?

The SPEAKER. The gentleman from California [Mr. HIGBY] yielded.

Mr. WASHBURNE, of Illinois. Then the business goes over.

The SPEAKER. It does not; it is the pending business.

Mr. WASHBURNE, of Illinois. I do not see how it is.

The SPEAKER. The gentleman from Massachusetts was explaining why he voted for a proposition not now before the House, the same as the gentleman from Illinois.

Mr. WASHBURNE, of Illinois. I suppose——

Mr. BANKS. I object to any debate until the House suspends the rules. I ask that a communication from the Secretary of State be——

Mr. WASHBURNE, of Illinois. It cannot be done unless the rules are suspended.

Mr. BANKS. I ask that they be suspended.

The SPEAKER. The gentleman from California yields the floor. The pending question is still the constitutional amendment unless it is postponed.

Mr. BANKS. I move, then, that it be postponed till to-morrow immediately after the reading of the Journal.

The question being taken on the motion to postpone, no quorum voted.

Mr. WASHBURNE, of Illinois. I demand the yeas and nays.

Mr. CONKLING. I demand tellers on ordering the yeas and nays.

Tellers were ordered; and Messrs. BANKS, and WASHBURNE of Illinois, were appointed.

The House divided; and the tellers reported —ayes twenty-four.

So the yeas and nays were ordered.

The question being taken on the motion to postpone, it was decided in the affirmative—yeas 62, nays 43, not voting 78; as follows:

YEAS—Messrs. Ancona, Anderson, Delos R. Ashley, Banks, Bidwell, Blow, Brooks, Buckland, Cobb, Coffroth, Conkling, Cullom, Darling, Davis, Denison, Eldridge, Farquhar, Finck, Glossbrenner, Goodyear, Grider, Hale, Henderson, Higby, Hogan, Hooper, Hotchkiss, Chester D. Hubbard, James R. Hubbell, Hulburd, Ingersoll, Kelley, Kerr, Kuykendall, William Lawrence, Marshall, Marston, Marvin, McClurg, McRuer, Mercur, Moorhead, Myers, Newell, Niblack, Nicholson, O'Neill, Orth, Phelps, Samuel J. Randall, William H. Randall, Alexander H. Rice, Rogers, Stevens, Strouse, Francis Thomas, Trimble, Robert T. Van Horn, Wentworth, Windom, Winfield, and Woodbridge—62.

NAYS—Messrs. Allison, Baker, Baxter, Beaman, Benjamin, Bingham, Brandegee, Bromwell, Broomall, Sidney Clarke, Cook, Deming, Donnelly, Dumont, Eckley, Eliot, Ferry, Aaron Harding, Abner C. Harding, Hayes, Julian, Loan, Longyear, McKee, Morris, Paine, Perham, Pike, Pomeroy, Price, Ritter, Sawyer, Shanklin, Shellabarger, Sloan, Spalding, Trowbridge, Van Aernam, Burt Van Horn, Elihu B. Washburne, Henry D. Washburn, and Stephen F. Wilson—43.

NOT VOTING—Messrs. Alley, Ames, James M. Ashley, Baldwin, Barker, Bergen, Blaine, Boutwell, Boyer, Bundy, Chanler, Reader W. Clarke, Culver, Dawes, Dawson, Defrees, Delano, Dixon, Driggs, Eggleston, Farnsworth, Garfield, Grinnell, Griswold, Harris, Hart, Hill, Holmes, Asahel W. Hubbard, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell, James Humphrey, James M. Humphrey, Jenckes, Johnson, Jones, Kasson, Kelso, Ketcham, Laflin, Latham, George V. Lawrence, Le Bond, Lynch, McCullough, McIndoe, Miller, Morrill, Moulton, Noell, Patterson, Plants, Radford, Raymond, John H. Rice, Rollins, Ross, Rousseau, Schenck, Scofield, Sitgreaves, Smith, Starr, Stilwell, Taber, Taylor, Thayer, John L. Thomas, Thornton, Upson, Ward, Warner, William B. Washburn, Welker, Whaley, Williams, James F. Wilson, and Wright—78.

So the motion to postpone was agreed to.

FRENCH EXPOSITION.

Mr. BANKS. I move to suspend the rules to discharge the Committee of the Whole on the state of the Union from the further consideration of joint resolution of the House No. 52, to provide for the expenses attending the exhibition of the products of the industry of the United States at the exposition at Paris in 1867.

Mr. WASHBURNE, of Illinois. I demand the yeas and nays on that motion. It is throwing away $2,000,000.

Mr. WENTWORTH. Is it in order to have the joint resolution read before we vote?

The SPEAKER. Under the uniform rule of the House, it is not in order to demand the reading of a bill or joint resolution on a motion to suspend the rules. It can be read if there is no objection.

There being no objection, the joint resolution was read.

Mr. BANKS. I ask to have a communication from the Secretary of State read.

Mr. WASHBURNE, of Illinois. I think we had better take the vote.

The question was taken on Mr. BANKS's motion; and there were—yeas 70, nays 47, not voting 66; as follows:

YEAS—Messrs. Anderson, Banks, Baxter, Beaman, Bidwell, Blow, Buckland, Chanler, Reader W. Clarke, Cullom, Darling, Davis, Delano, Eldridge, Eliot, Farquhar, Ferry, Goodyear, Grinnell, Hale, Hart, Hayes, Higby, Hogan Hooper, Chester D. Hubbard, Edwin N. Hubbell, James R. Hubbell, Hulburd, Ingersoll, Julian, Kelley, Kerr, Ketcham, Kuykendall, George V. Lawrence, Longyear, Marshall, Marston, Marvin, McClurg, McRuer, Moorhead, Myers, Newell, Niblack, Nicholson, O'Neill, Orth, Patterson, Phelps, William H. Randall, Alexander H. Rice, John H. Rice, Rogers, Sawyer, Shellabarger, Smith, Stevens, Strouse, Taylor, Francis Thomas, Van Aernam, Burt Van Horn, Robert T. Van Horn, William B. Washburn, Wentworth, Windom, Winfield, and Woodbridge—70.

NAYS—Messrs. Allison, Ancona, James M. Ashley, Baker, Baldwin, Benjamin, Bingham, Brandegee, Bromwell, Broomall, Cobb, Coffroth, Cook, Defrees, Deming, Denison, Donnelly, Dumont, Finck, Glossbrenner, Grider, Aaron Harding, Abner C. Harding, Henderson, Demas Hubbard, William Lawrence, Loan, McKee, Mercur, Morris, Paine, Perham, Price, Samuel J. Randall, Ritter, Rollins, Ross, Shanklin, Spalding, Thornton, Trimble, Trowbridge, Elihu B. Washburne, Henry D. Washburn, Williams, James F. Wilson, and Stephen F. Wilson—47.

NOT VOTING—Messrs. Alley, Ames, Delos R. Ashley, Barker, Bergen, Blaine, Boutwell, Boyer, Brooks, Bundy, Sidney Clarke, Conkling, Culver, Dawes, Dawson, Dixon, Driggs, Eckley, Eggleston, Farnsworth, Garfield, Griswold, Harris, Hill, Holmes, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, James Humphrey, James M. Humphrey, Jenckes, Johnson, Jones, Kasson, Kelso, Laflin, Latham, Le Blond, Lynch, McCullough, McIndoe, Miller, Morrill, Moulton, Noell, Pike, Plants, Pomeroy, Radford, Raymond, Rousseau, Schenck, Scofield, Sitgreaves, Sloan, Starr, Stilwell, Taber, Thayer, John L. Thomas, Upson, Ward, Warner, Welker, Whaley, and Wright—66.

So (two thirds not voting in favor thereof) the rules were not suspended.

LEAVE OF ABSENCE.

Mr. SLOAN. I ask leave of absence for an indefinite time for my colleague, Mr. MCINDOE, who has been called home.

No objection was made, and the leave of absence was granted.

RECONSTRUCTION.

Mr. ASHLEY, of Ohio, by unanimous consent, introduced concurrent resolutions in reference to reconstruction; which were referred to the joint committee on reconstruction.

Mr. WASHBURNE, of Illinois. I move that the House do now adjourn.

Mr. BINGHAM. I wish to know whether the joint resolution reported from the joint committee on reconstruction is the unfinished business before the House.

The SPEAKER. It has been postponed until to-morrow immediately after the reading of the Journal.

Mr. BINGHAM. That makes it the first business in order?

The SPEAKER. Unless some question of privilege should intervene. The other special orders are after the morning hour.

Mr. BINGHAM. I move to reconsider the vote by which the joint resolution was postponed.

Mr. WASHBURNE, of Illinois. I have moved that the House adjourn. I have not waived the motion at all. The gentleman can enter his motion to reconsider if he pleases.

The SPEAKER. It makes no difference. The joint resolution will come up immediately after the reading of the Journal, unless some contested-election case or other question of privilege should come up.

Mr. BINGHAM. I wish to know whether we could not make it the first thing in order to the exclusion of everything?

The SPEAKER. Questions of privilege must take precedence.

Mr. BINGHAM. Can a majority postpone the special order to-morrow?

The SPEAKER. The majority can postpone the special order at any time.

Mr. WILSON, of Iowa. Will the gentleman from Illinois [Mr. WASHBURNE] yield to me to offer a bill merely for reference?

Mr. WASHBURNE, of Illinois. I will yield, but only for this time.

SUPREME COURT OF THE UNITED STATES.

Mr. WILSON, of Iowa, by unanimous consent, introduced a bill to fix the number of the judges of the Supreme Court of the United States, and to change certain judicial circuits; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. WASHBURNE, of Illinois. I now renew my motion to adjourn.

The question was taken; and upon a division there were—ayes fifty-three, noes not counted.

So the motion was agreed to; and accordingly (at three o'clock and fifty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rules and referred to the appropriate committees:

By Mr. BEAMAN: The memorial of the Board of Trade of the city of Detroit, praying that increased duties may be imposed on copper, copper ores, and manufactures of copper.

Also, the petition of William Cornfield, and 509 others, discharged soldiers of the United States, residents in or near Detroit, Michigan, praying for such change in the existing laws as shall make the bounty uniform to all who have served faithfully and have been honorably discharged.

By Mr. BIDWELL: The petition of John Fowler, of Lake county, California, asking for a pension, in consideration of former services and age—95 years.

Also, the petition of L. C. Smith, G. W. Tompkins, John A. Whaley, and 357 others, citizens of Humboldt county, California, asking for the enactment of a law applicable to oil lands.

By Mr. BRADFORD: The petition of citizens of the United States, residents in Utah, asking for the creation of a land district in that Territory, and establishment of a land office.

Also, the petition of Joseph Shuster, and 24 others, citizens of Colorado Territory, in relation to the mineral land of the United States.

By Mr. BUNDY: The petition of James N. Russell, and others, soldiers of Gallia county, Ohio, who enlisted in 1861 and 1862, that bounties may be fairly equalized.

Also, the memorial of Ingham & Brother, J. R. Whettemore, Samuel C. Swift, and E. B. Pierce, protesting against the passage of an act to authorize the Postmaster General to sell stamps and envelopes at the value of the stamps.

Also, the petition of John Ellison & Co., and others, proprietors of rolling-mills, founderies, &c., praying for an increase in the tariff to protect their interests in the manufacture of iron.

Also, the petition of John Hayes, and 49 others, citizens of Ironton, Lawrence county, Ohio, manufacturers of iron, asking protection against the effects of competition with foreign capital and the pauper labor of Europe.

Also, the petition of George H. Fisher, Arthur T. Downing, and 44 others, proprietors and laborers engaged in the manufacture of iron at Ironton, Lawrence county, Ohio, praying for protection against the antagonism of the pauper labor of Europe.

Also, the petition of George N. Gray, and 71 others, proprietors and laborers of and at Hecla Furnace, Lawrence county, Ohio, for protection against the effects of competition of pauper labor of Europe.

Also, the petition of Hugh Walbright, and 53 others, of Buckhorn Furnace, Lawrence county, Ohio, praying for an increase of the tariff, to protect their interest in the manufacture of iron.

By Mr. DARLING: The petition of printers, bookbinders, and publishers of New York city, praying that the tax on finished books may be abolished, and a duty of twenty-five cents per pound be laid on imported books in addition to the *ad valorem* duty now existing.

Also, the petition of soldiers enlisted in the twentieth regiment New York volunteers, to be honorably discharged, &c.

By Mr. DEMING: The petition of printers, bookbinders, and publishers of Hartford, Connecticut, praying that the tax on finished books may be abolished, and a specific duty of twenty-five cents per pound be laid on imported books in addition to the *ad valorem* duty now existing.

By Mr. DUMONT: The petition of M. S. Rosebury, Arthur Webb, G. W. Jenkins, and 100 others, citizens of Shelby and Hancock counties, Indiana, praying the establishment of a mail route from Fairland, by way of Cyrus Bishop's, William H. Rosebury's, Fountaintown, and Emanuel Smith's, to Greenfield, Hancock county, Indiana.

By Mr. ELIOT: The petition of the Institution for Savings in the town of Barnstable, Massachusetts, praying that savings institutions not having capital stock may not be subjected to the tax now imposed on them.

By Mr. EGGLESTON: The petition of Charles Johnson, and 433 others, citizens of Ohio, praying for a reduction of the revenue tax on fine cigars.

By Mr. ECKLEY: The petition of 300 wool-growers of the State of Ohio, asking an additional duty on wool, and of placing the wool-growers on an equal footing with the manufacturers.

By Mr. HOTCHKISS: The petition of citizens of the State of New York, asking for the exemption of certain agricultural implements from excessive duplication of taxes.

By Mr. HOLBROOK: A memorial of the Legislature of Idaho Territory, praying for the establishment of a land office in said Territory and for a surveyor general.

Also, a memorial from the Legislature of Idaho, praying for a branch mint and assay office at Boise City.

By Mr. HOOPER, of Massachusetts: The petition of printers, bookbinders, and publishers, of Boston, Cambridge, Springfield, and Worcester, Massachusetts, praying that the tax on finished books may be abolished, and a specific duty of twenty-five cents per pound be laid on imported books in addition to the *ad valorem* duty now existing.

By Mr. HART: The remonstrance of paper and envelope manufacturers and dealers against the bill authorizing the Postmaster General to sell stamped envelopes at the value of the stamp impressed thereon.

Also, the petition of manufacturers and consumers of barrels in Rochester, New York, asking for a reduction of internal revenue tax on barrels.

Also, the petition of 19 women, residents of Rochester, New York, asking for an amendment to the Constitution that shall prohibit the several States from disfranchising any of their citizens on account of sex.

Also, the petition of citizens asking for the passage of a law granting pensions to surviving soldiers of the war of 1812.

Also, the petition of manufacturers and consumers of barrels, asking for a reduction of internal revenue tax on barrels.

By Mr. HUBBARD, of New York: The petition of Hon. H. G. Prindle, and 169 others, citizens of Norwich, Chenango county, New York, praying Congress to promptly pass such a tariff as will protect the national industry, replenish the national Treasury, and develop our best national resources.

By Mr. HOLMES: The petition of Patrick Ryan and Andrew O. Dwyer, for American register for schooner Elizabeth.

By Mr. JULIAN: The remonstrance of sundry manufacturers and dealers and stationers, of Richmond, Indiana, protesting against the sale of stamps and envelopes by the Postmaster General.

By Mr. KELLEY: The petition of 58 inhabitants of Philadelphia, Pennsylvania, "respectfully but earnestly entreating your honorable body to adopt such a proposed amendment of the United States Constitution, to be presented to the several States for ratification, as will forever prevent every State from making any distinction in civil rights and privileges among the naturalized citizens of the United States residing within its limits, or among persons born on its soil, on account of race, color, or descent."

By Mr. KERR: The remonstrance of John R. Asher, Charles E. Brigham, E. J. Metzger & Co., Parsons, Macauley & Co., and Merrill & Co., of Indianapolis, Indiana, against the enactment of any law by Congress which shall authorize the Postmaster General or other officers of the Government to manufacture and sell stamped envelopes at the value of the stamps impressed thereon.

By Mr. LYNCH: The petitions of Woodman & Burnham, asking an amendment of the internal revenue law.

By Mr. LAFLIN: The petition of N. Wadsworth, of New York, in favor of an amendment to the Constitution so as to guaranty to all citizens of the United States equal rights.

By Mr. MORRIS: The petition of Johnson & Co., of Genesee, New York, asking that machinists and those engaged in manufacturing agricultural implements may not be compelled to pay inordinate taxes.

Also, concurrent resolutions of the Legislature of the State of New York, relating to a ship-canal from Portage Lake to Lake Superior.

Also, the petition of Dow & Fowler, of Fowlerville, New York, asking for relief from the tax upon the manufacture of agricultural implements.

By Mr. McKEE: The memorial of citizens of Carter and Lewis counties, Kentucky, asking protection to American industry, and remonstrating against a reduction of duties on foreign imports.

By Mr. O'NEILL: The petition of printers, bookbinders, and publishers of Philadelphia, praying that the tax on finished books may be abolished, and a specific duty of twenty-five cents per pound be laid on imported books in addition to the *ad valorem* duty now existing.

By Mr. PAINE: The memorial of the Legislature of Wisconsin, in relation to improvement of navigation of rapids of the Mississippi.

By Mr. ROUSSEAU: The petition of John Kayo, for relief.

By the SPEAKER: The petition of Dr. N. F. Garwood, of West Liberty, Ohio, offering for $25,000 in Government bonds to furnish a sure cure for cholera.

By Mr. SCHENCK: The petition of Edward Kunkel, late second lieutenant forty-fifth New York volunteers, for lieutenant's pay while prisoner of war.

Also, the petition of citizens of the third congressional district of Ohio, for a modification of the tax on cigars.

Also, the petition of Captain D. H. Buell, Ordnance corps, for the passage of an act giving him a credit of $100 in his accounts with the Treasury.

By Mr. SPALDING: The memorial of Messrs. Ingham & Bragg, and others, stationers of northern Ohio, protesting against the passage of the postage stamp and envelope bill.

By Mr. STEVENS: Affidavits relative to the claim of J. M. Whitehill.

Also, a memorial of Loyal Leagues, relative to amendment of the Constitution.

Also, documents relative to the claim of John M. Whitehill.

By Mr. TAYLOR: A petition, signed by Smith & Jerrell, Heeker Brothers, A. T. Briggs, and 104 others, manufacturers, dealers, and consumers of barrels and casks, residents and doing business in the cities of New York and Brooklyn, asking to be relieved from the present onerous and oppressive internal revenue tax.

Also, a petition signed by 437 journeymen coopers, citizens of the cities of New York and Brooklyn, asking for the same.

Also, the petition of 82 manufacturers, dealers, and consumers of barrels and casks, citizens of the cities of Albany and Troy, New York, asking for the same relief.

Also, a petition signed by 200 journeymen coopers, citizens of the cities of Poughkeepsie and Williamsburg, New York, on the same subject.

By Mr. VAN HORN, of New York: The petition of assistant assessors of thirtieth district of New York, asking an increase of pay.

By Mr. WINDOM: A memorial to Congress by the Legislature for the establishment of an emigrant and post route from Red Wood Falls, on the Minnesota river, on the western border of Minnesota, via Big Stone Lake, Forts Wadsworth, Buthold, and Union, to the gold regions of the Territory of Montana.

Also, a memorial by the Legislature of the State of Minnesota, for the establishment of a mail route from Hilton, in Wasica county, via Swan Lake, to Blue Earth City, in Faribault county.

Also, a petition by Theodore Eckstorm, and 74 others, citizens of Minnesota, asking the adoption of certain amendments therein mentioned to the Constitution of the United States.

By Mr. WASHBURN, of Massachusetts: The petition of the assistant assessors of the ninth congressional district of Massachusetts, asking for an increase of pay and allowances.

Also, the remonstrance of certain paper and envelope manufacturers, and dealers and stationers of the ninth congressional district of Massachusetts, against the passage of the act to allow the Postmaster General to sell stamps and envelopes at the cost of the stamps.

IN SENATE.

TUESDAY, *February* 27, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. GRIMES presented the petition of G. Morris Harding, praying that the provisions of the present law granting compensation to petty officers, seamen, and marines on board of United States vessels that may be lost, may be extended to the same description of persons on board vessels that have been or may be captured belonging to the United States service; which was referred to the Committee on Naval Affairs.

Mr. SUMNER. I offer a petition signed by the president and the secretary of the Pennsylvania State Equal Rights League, on behalf of the league, in which they set forth that there are many States of the Union which have not at this time a republican form of government, and they ask Congress to provide an amendment to the Constitution securing a republican form of government to every State in the Union. I offer a similar petition of the members of the Trenton Equal Rights League; also a similar one from citizens of Lancaster, Pennsylvania; a similar one from the Philadelphia Equal Rights League; and a similar one from citizens of Harrisburg, Pennsylvania. I ask their reference to the joint committee of fifteen on reconstruction.

The motion was agreed to.

Mr. KIRKWOOD presented the memorial of William Lee, and others, of Iowa, protesting against the passage of a law authorizing the Postmaster General to sell stamped envelopes at the price of the stamps impressed thereon; which was referred to the Committee on Post Offices and Post Roads.

Mr. POLAND presented the petition of Reuben Clough, praying to be allowed arrears of pension; which was referred to the Committee on Pensions.

Mr. LANE, of Kansas, presented resolutions of the Legislature of Kansas, in favor of a grant of lands to aid in the construction of a railroad from Elwood, in that State, to the one hundredth meridian of west longitude; which were ordered to lie on the table and be printed.

Mr. GUTHRIE presented the petition of Messrs. Miller & Moore, of Louisville, Kentucky, manufacturers of agricultural implements, praying for a reduction of the tax on the sales of their manufactures; which was referred to the Committee on Finance.

He also presented a petition of assessors of the first district of Kentucky, praying for an increase of compensation; which was referred to the Committee on Finance.

REPORTS OF COMMITTEES.

Mr. WILLIAMS, from the Committee on Claims, to whom was referred the petition of Brevet Lieutenant Colonel S. M. Reynolds, a paymaster in the United States Army, praying to be relieved from all responsibility on account of money stolen from him on the 22d of December, 1865, submitted an adverse report; which was ordered to be printed.

Mr. ANTHONY, from the Committee on Claims, to whom was referred the petition of Sweeny, Rittenhouse & Co., praying that their claim, reported upon adversely by the Court of Claims, may be referred back to that court for a rehearing, submitted an adverse report; which was ordered to be printed.

Mr. NORTON, from the Committee on Claims, to whom was referred the petition of Francis Miller, of Washington, District of Columbia, praying for the payment of money which he alleges to be due him for supplies furnished by him to the navy-yards at Charlestown, Massachusetts, Brooklyn, New York, and Gosport, Virginia, submitted an adverse report; which was ordered to be printed.

Mr. POLAND, from the Committee on the Judiciary, to whom were referred communications from the Secretary of War and the Postmaster General, calling attention to certain alleged defects in the statutes of the United States, providing for the punishment of certain offenses, reported a bill (S. No. 165) more effectually to provide for the punishment of certain crimes against the United States; which was read and passed to a second reading.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred a bill (S. No. 111) to provide for the national defense by establishing a uniform militia and organizing an active volunteer militia force throughout the United States, reported it with amendments.

THANKS TO SOLDIERS AND SEAMEN.

Mr. WILSON. The Committee on Military Affairs and the Militia, to whom was referred a joint resolution (S. R. No. 34) expressive of the gratitude of the nation to the officers, soldiers, and seamen of the United States, have instructed me to report it back without amendment. I ask for the present consideration of the joint resolution.

There being no objection, the joint resolution (S. R. No. 34) expressive of the gratitude of the nation to the officers, soldiers, and seamen of the United States was considered as in Committee of the Whole.

It declares it to be the duty and the privilege of Congress to express the gratitude of the nation to the officers, soldiers, and seamen of the United States, by whose valor and endurance, on the land and on the sea, the rebellion has been crushed and its pride and its power have been humbled, by whose fidelity to the cause of freedom the Government of the people has been preserved and maintained, and by whose orderly return from the fire and blood of civil war to the peaceful pursuits of private life, the exalting and ennobling influence of free institutions upon a nation has been so signally manifested to the world.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 166) to encourage education in agriculture and the mechanic arts by exempting college lands from taxation; which was read twice by its title.

Mr. MORGAN. I suppose the proper reference is to the Committee on Public Lands.

Mr. CONNESS. It seems to me the bill should go to the Committee on Finance, as it proposes to exempt from taxation.

Mr. MORGAN. I leave it to the Chair to make the proper reference. I supposed it was the Committee on Public Lands.

Mr. CONNESS. It seems to me that it involves more a question of finance, as it proposes to exempt from taxation, than one of public lands. It does not involve the disposition of the public lands; but I do not care where the bill goes.

Mr. GRIMES. I call for the reading of the bill. I should like to hear what it is.

The PRESIDENT *pro tempore*. The bill will be read, if there be no objection.

The Secretary read the bill; which proposes to declare that all lands located by the several States and Territories under an act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts, approved July 2, 1862, and all lands located by colleges, educational institutions, or individuals, for their benefit, with scrip donated by that act and sold to them for the benefit of such institutions by the States or Territories, shall be exempt from taxation by or under State or municipal authority while the lands are held for the purpose of education.

Mr. GRIMES. I suppose it is quite immaterial where such a bill as that is sent. I apprehend the Senator from New York does not expect that it will be adopted.

Mr. CONNESS. I think it a question of finance.

Mr. WILSON. I move the reference of the bill to the Committee on Finance.

The motion was agreed to.

Mr. HARRIS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 167) to incorporate the Women's Hospital Association of the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. HOWE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 168) to provide for the disposal of certain lands therein named; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. HOWE also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 169) granting lands to make up deficiencies of former grants in aid of the completion of the Tomah and Lake St. Croix, and the St. Croix and Lake Superior railroads in the State of Wisconsin; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. POLAND asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 170) to amend an act passed March 3, 1865, entitled "An act in addition to certain acts granting bounty lands to officers and soldiers who have been engaged in the military service of the United States;" which was read twice by its title, and referred to the Committee on Public Lands.

Mr. POLAND also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 171) for the relief of Reuben Clough; which was read twice by its title, and referred to the Committee on Pensions.

Mr. GUTHRIE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 172) authorizing certain public documents to be distributed to the district and territorial judges of the United States; which was read twice by its title, and referred to the Committee on Printing.

COMPENSATION FOR INDIAN DEPREDATIONS.

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

Resolved, That the Committee on Indian Affairs be directed to inquire and report whether any, and if any what, legislation is necessary to make compensation to citizens of the State of Iowa for losses sustained by them from the depredations of the Ink-pa-du-tah band of Sioux Indians in the year 1857, and that said committee have leave to report by bill or otherwise.

POST ROUTE IN MINNESOTA.

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

Resolved, That the Committee on Post Offices and Post Roads be directed to inquire into the expediency of establishing a mail route northwardly from Du Luth to the Falls of Vermillion river in Minnesota.

PROVISIONAL GOVERNORS.

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

Whereas the Senate, January 5, 1866, adopted a resolution in the following terms:

"*Resolved*, That the President of the United States, if in his opinion not incompatible with the public interest, be requested to furnish to the Senate copies of all papers or proclamations designating certain persons as provisional governors of States, and an account of the salary, if any, they may have been allowed; the oaths, if any, they may have taken before entering upon their duties; and if they did not take the oath of office prescribed by Congress for officers of the United States, then why they did not take the same; also, all instructions with regard to their duties, and communications between them and the President, telegraphic or otherwise; also, copies of any communications in his possession from such persons to any convention or legislative assembly in their respective States; also, copies of any constitution, articles, or laws purporting to have been adopted in such States, so far as the same affect the present condition of such States and the rights of persons therein."

And whereas no answer has yet been received by the Senate, and the information called for is deemed important: Therefore,

Resolved, That the President of the United States, if in his opinion not incompatible with the public interest, be requested to furnish to the Senate the information called for in the foregoing resolution.

FREEDMEN'S BUREAU REPORTS.

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

Resolved, That the President of the United States be requested to communicate to the Senate, if not, in his judgment, inconsistent with the public interests, the reports of the assistant commissioners of the Freedmen's Bureau, made since December 1, 1865.

HARBORS IN WISCONSIN.

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

Resolved, That the Secretary of War be requested to furnish for the information of the Senate a statement of what sums of money may in his judgment be necessary for the improvement of the harbors on Lake Michigan, in the State of Wisconsin, namely, the harbors of Kenosha, Racine, Milwaukee, Sheboygan, Manitowoc, and also at Superior, on Lake Superior, in the State of Wisconsin.

INVESTIGATION OF COTTON FRAUDS.

Mr. DAVIS. I move to call up the resolution that I offered some time since in relation to an investigation of the frauds in cotton; and preparatory to making that motion I ask that the communication which I now send to the Secretary's desk may be read.

The PRESIDENT *pro tempore*. The Senator from Kentucky moves that the Senate now proceed to the consideration of a resolution submitted by him on the 9th of February for the appointment of a committee for the investigation of frauds alleged to have been committed by the agents of the Cotton Bureau; and he sends to the Chair a communication, the reading of which is asked for. It will be read, if there be no objection.

Mr. CONNESS. How long is it?

Mr. POMEROY. That communication seems to be a very long one, and I think perhaps it had better be printed.

Mr. DAVIS. It is a document of great interest.

Mr. POMEROY. I do not like to object to the reading of it; but it seems to be very long, and will occupy a good deal of the time of the Senate.

Mr. DAVIS. I will simply state that when this resolution was under consideration before, I was asked by some gentlemen to specify cases before they would vote for an investigation. This communication is from one of the Treasury agents, who was stationed at Natchez, and it makes many disclosures of particular cases of most revolting fraud. I merely ask that it be read for the information of the Senate.

The PRESIDENT *pro tempore*. Does the Senator from Kansas object to the reading of the paper?

Mr. FESSENDEN. Let it be printed, and laid upon the table.

Mr. CONNESS. As the reading of that paper would probably occupy the remainder of the morning hour, I hope the Senator will ask for its printing.

Mr. DAVIS. That would satisfy me, if it is acceptable to the Senate.

Mr. CONNESS. And then we can come to the consideration of the resolution on another morning with the whole question before us.

Mr. DAVIS. I move that it be printed for the information of the Senate, if that is the wish of gentlemen.

The PRESIDENT *pro tempore*. The Senator from Kentucky now moves that the communication presented by him be printed for the use of the Senate.

Mr. GRIMES. It seems to me we should be establishing a much more dangerous precedent

if we ordered that paper to be printed, whatever may be in it, than we should be by allowing the resolution which the Senator from Kentucky proposes to call up to be taken up. I am prepared to vote to take up his proposition; and then if the Senator has a paper from a person whom he is willing to indorse, and which he believes to be true, I am willing to hear it read; and if after hearing it the Senate are satisfied that it ought to be printed, we can vote to print it; but I am not going to vote blindly to print whatever may happen to be in that paper, not knowing who is the man that wrote it or what it contains. I hope the Senator from Kentucky will insist on his motion to take up the resolution, and then if he chooses to have his paper read, let it be read; and if after we know what is in it we think it ought to be printed, let us print it.

Mr. DAVIS. I have no objection to the course suggested by the Senator from Iowa.

The PRESIDENT *pro tempore*. Then the question will be, Shall the resolution moved by the Senator from Kentucky be now taken up?

The motion was agreed to; and the Senate resumed the consideration of the following resolution, submitted by Mr. DAVIS on the 9th of February:

Whereas charges of fraud, peculation, and extortion have been made against agents of the Cotton Bureau by citizens, and especially cotton planters and cotton factors; and whereas said charges have also been made through the public press, and the serious attention of the Senate called thereto; and whereas it has been made to appear to the Senate that agents, in some instances, have been indicted by the State courts for swindling, and the jurisdiction of said courts in the premises having been denied, and the accused agents taken out of the hands of the civil authorities by military force:

Resolved, That a committee to consist of —— Senators be, and the same is hereby, appointed to investigate the said charges, with authority to have brought before them persons and papers; and said committee will report the result of its investigation to the Senate for its action.

Mr. DAVIS. Now I ask to have the paper read, and I will make a statement in relation to it. It is a communication made to me by Mr. Burnet of the city of Cincinnati. He was for some considerable time Treasury agent in the city of Natchez. He gives a disclosure in detail of many flagrant transactions and frauds. I am informed that he is a son of Judge Burnet, late of Cincinnati, one of the most elevated men in America; indeed, I understand that he himself is a man of good character; at any rate he was in the service of the Government in that capacity. I have seen also in this city another gentleman whom I know to be a man of credit and character, and who believes a good deal of what Mr. Burnet writes, and who says he knows a great deal more of his own knowledge. I therefore ask that it be read.

The PRESIDENT *pro tempore*. The reading of this paper is asked for, and it will be read if there be no objection.

The Secretary proceeded to read, as follows:

"CINCINNATI, *February* 12, 1866.

"HON. GARRETT DAVIS, *United States Senator:*

"SIR: As the son of Judge Jacob Burnet, of Cincinnati, whom you know at least by reputation, and as late assistant special agent of the Treasury Department, in the district of Natchez, though personally unknown to you, permit me to express my sincere thanks for your resolution of the 9th instant, asking an investigation into the operations of Treasury agents in the southern military departments, and the hope that you may secure the appointment of a thorough and impartial committee, that the honest may be vindicated and the dishonest exposed. Will you excuse me if I say that the object you have in view will not be half accomplished without the amendment proposed by the honorable Senator from California?

"That the dishonest agents of the Treasury Department abused the confidence of the honorable Secretary, and were guilty of frauds against the Government and the citizens is, unfortunately, too true, but I think I am within the limits of truth in saying that the aggregate amount of all the stealing by Treasury agents is insignificant compared to the wholesale robbery, in some cases, of a single military commander."

Mr. CONNESS. I object to the further reading of this document, because in its terms it involves censure (which has a *quasi* indorsement by being made a part of our proceedings here) upon agents and officers of the United States by a person not authorized to make any statement, but volunteering it to us for the purpose of information. I object to its further reading.

The PRESIDENT *pro tempore*. The rule of the Senate is, that when a paper is offered to the Senate and the reading of it is asked for, it may be read if there be no objection; and if there be objection, the question shall be submitted to the Senate and decided without debate. The Chair submitted the question to the Senate when the paper was offered and no objection was made. Objection is now made. The Chair will therefore take the sense of the Senate whether the reading shall be proceeded with or not.

The question being put, the Senate decided —ayes twenty-one, noes not counted—that the reading of the paper should be proceeded with; and it was continued, as follows:

"The Treasury agent might ask or exact an extra fee for a purchasing 'permit,' or might retain a private interest in a 'trade authority,' but this was rarely done in an offensive way and was generally paid by those who were making large profits out of the facilities granted, but military commanders under that ready and elastic pretext, 'military necessity,' and assisted by the desperate pirates and harpies who swarmed at every post under the name of 'detectives,' whose business it was to invent 'charges,' thrust his helpless victims into a filthy jail, among felons and prostitutes, until by fear of death, or hope of release, they submitted to the confiscation of their goods, and when females were the victims, as they often were, there is too much reason to believe they did not always escape without the sacrifice of virtue as well as property.

"When Brigadier General M. Brayman (lately promoted for 'distinguished' services) assumed command at Natchez, in July, 1864, he announced in a speech that 'military power was despotism, and the military commander a despot.' In his hands and those of General Dana, his ranking officer at Vicksburg, it proved too true. If a complete, unvarnished, impartial narrative of the oppression and fraud, the insulting outrages against personal rights, perpetrated during the reign of terror, inaugurated and maintained by those two commanders, with a full statement of the amounts stolen from the Government and 'black-mailed' from citizens and divided among 'the ring' associated with them, could be written, I doubt if history could afford its parallel.

"The question was not who was entitled to favors, but who would pay for them; not who was loyal or disloyal, but who had anything worth stealing. That like crimes, under like pretexts, were committed in other departments there is no reason to doubt. For instance, the amount of property destroyed or carried off by that amphibious organization called the Marine brigade has been estimated at $30,000,000. But I propose only to speak of what I saw, or heard from good authority, and to the same extent of what I suffered.

"I entered on the duties of my office in the district of Natchez in January, 1864. Having some regard for the honor of the Government and of the Department I represented, and some feelings of sympathy for the oppressed, I soon became involved in a controversy with Brigadier General Tuttle, then commanding. Had he not been relieved soon after, his threat to imprison and subject me to a military trial, which meant, of course, condemnation and death, would no doubt have been carried out. To him succeeded Colonel (now Brigadier General) B. G. Farrar, of St. Louis, whose too brief command, honorable to himself and the Government, was terminated in six weeks by the advent of Brigadier General Brayman, above referred to, and soon after General Slocum, who as a commander and gentleman is, I believe, above suspicion or reproach, was relieved by General Dana at Vicksburg.

"To describe to you the condition of affairs under these commanders is impossible; as I said to General Smith, of the investigating commission in New Orleans, 'To comprehend it you must live under it.'

"Since the events to which I am about to refer transpired, Brigadier General Brayman has said repeatedly that, before he went to Natchez, he was told there was a Treasury agent there he could not get along with, and that when he discovered it was so, and that one or the other 'must go up,' he determined to take the power of the bayonet and 'hoist me first.'

"He had not been in headquarters half a day before he sent me an 'order' to 'hold for military investigation' a lot of cotton I was about to forward to the general agent of the Treasury Department. The purpose of that order was twofold. First, it was a proposition after the usual form to steal the cotton and divide; in other words, to join 'the ring.' Secondly, if the temptation failed, to force on me the responsibility of violating a military order.

"The fear of major and brigadier generals not being well developed in me, nor being much inclined to submit to 'despotism,' civil or military, I disregarded the order, which was itself a violation of the act of Congress, and forwarded the cotton. From that time scarcely a day passed without an attempt in some shape to force me into an attitude of hostility to military authority. I must not occupy your time with details. When Brayman at length discovered that I had reported him for levying 'black mail' from a Government lessee, and that I was preparing charges against him, he concluded the time had come to take the 'power of the bayonet and hoist me.'

"For that purpose 'charges' were gotten up and sent to Vicksburg. What those charges were I have never known, nor do I believe they were ever intended to see the light, and if Colonel Farrar had not pledged his word to furnish me sworn evidence of the fact I would hardly dare ask you to believe that they were concocted in a common brothel under the supervision of the adjutant of the post, attested by the oaths of a bawdy house pimp and two prostitutes, one of whom (*ex officio* member of the 'military family,' afterward married to the adjutant) carried them to the presence of General Dana and returned with the order for my arrest, under the escort of one Hutchinson, who beginning, as I was informed, as a livery-keeper and passing through the degrees of forger, confederate counterfeiter, deserter, smuggler, and Federal spy, graduated with 'all the honors' as assistant special agent of Major General Dana."

Mr. NYE. I wish the Clerk to read that last sentence again.

Mr. JOHNSON. I think it has been read once too often.

Mr. NYE. So do I; but the Senate seemed to think differently.

Mr. JOHNSON. I object to its being read a second time.

The PRESIDENT *pro tempore*. The reading will proceed unless the Senate take further order on the subject.

Mr. TRUMBULL. I think it is manifest that the Senate ought not to have its time taken up in the reading of a long communication of this character.

Mr. NYE. A tirade of slander.

Mr. TRUMBULL. It seems to me that the Senator from Kentucky himself will see that if this paper is read, any other Senator may call for the reading of any of the communications which are sent to us. It will occupy probably the whole of the morning hour to read this paper. I did not count the pages, but it will take a good deal of time, and I cannot see what object there can be in reading it. We shall evidently take no action upon the paper simply from the reading. I suggest to the Senator that he himself have the further reading suspended.

Mr. DAVIS. The material part of the paper has not been reached yet. It gives the examples of a great many instances of cotton frauds by name, by time, place, and circumstance. When I proposed to have a committee raised some days ago to investigate these matters, two Senators stated that such charges were made in too general a way, and suggested that if specific cases should be adduced and should be made out creditably, so as to demand the investigation of the Senate, they would be willing to assent to it. I think that this paper, and what I have heard in confirmation of parts of it from a gentleman of high character now in this city, make out a clear and indisputable case that requires the investigation of the Senate, not only in relation to one, but many of the most egregious frauds.

Mr. TRUMBULL. The Senator from Kentucky has doubtless examined the paper and knows what parts are material. Can he not call attention to those parts and mark them so that the Clerk may read only them? My only object is to avoid taking up the time of the Senate in reading matters which evidently we cannot take any action upon now.

Mr. DAVIS. I think the immaterial part, that which does not relate directly to the cases and the facts, has been pretty well got through with. I think that what is to follow now will be a narration of cases and facts.

Mr. CONNESS. I should like to inquire of the Secretary, and let him state what proportion of the document has been already read, and what remains unread.

The SECRETARY. About one fourth has been read.

Mr. CONNESS. The Secretary, I understand, states that about one fourth of it has been read. Mr. President, my objection (and the Senator from Kentucky, I know, will appreciate what I say) does not go, of course, to the fact that the honorable Senator presents this paper here, nor to the merits of his resolution; nor is it comprehended by the objection of my honorable friend from Illinois, that the paper is long; but it has seemed to me to be a most extraordinary thing that before the Senate of the United States an unauthorized and uninvited party is allowed to come to make a stump speech, charging crimes upon officers of the United States, the most hor-

rid in their character. My objection goes to that point; and in order that it may be disposed of in another way than by being read to the Senate, I now move that both the paper and the resolution be referred to the Committee on Military Affairs of the Senate.

Mr. DAVIS. Am I entitled to the floor?

The PRESIDENT *pro tempore*. The Senator from Kentucky is recognized.

Mr. CONNESS. I desire to inquire whether my motion is in order.

The PRESIDENT *pro tempore*. The motion is in order, but the Senator from Kentucky is entitled to the floor on it.

Mr. DAVIS. The Senate has twice passed upon the question of reading this communication, and has twice sustained it. I suppose the communication could have been pretty well gotten through with by this time. If the Senator wishes to put his question that the further reading of the paper be dispensed with, I have no objection, of course, to that question being put to the Senate; but I claim the floor and I claim my right to read the paper as a part of my remarks, and I address it to the motion to have a committee to investigate the matter of frauds generally.

The PRESIDENT *pro tempore*. It is moved that the further reading of this paper be dispensed with, and that the paper with the resolution be referred to the Committee on Military Affairs.

Mr. DAVIS. I do not give way to that motion so as to forfeit my right to the floor. If that is to be the effect, I do not yield the floor.

The PRESIDENT *pro tempore*. The motion was made before the Senator from Kentucky was recognized as having the floor.

Mr. DAVIS. I was recognized at the commencement by the Chair.

The PRESIDENT *pro tempore*. That is true; but the Senator from Illinois obtained the floor, and then the Senator from California.

Mr. DAVIS. Mr. President, I called up my resolution, the Chair put the question to the Senate whether that resolution should be taken up, and the Senate decided to take it up. I then took the floor upon my resolution and moved while on the floor that this communication to me should be read. It was objected to, and the Chair put the question to the Senate whether it should be read. The Senate said it should be. The Senator from Illinois—I believe it was the Senator from Illinois—then moved that the further reading of the paper be dispensed with.

Mr. TRUMBULL. I made no motion. I merely appealed to the Senator from Kentucky to know if he could not himself dispense with the reading and point out the particular portions of it that were material and not take up the time of the Senate.

The PRESIDENT *pro tempore*. The Chair will state it was the Senator from California who made the motion to suspend the reading.

Mr. DAVIS. Well, that motion was put while the paper was being read. The fact of the partial reading of the paper and the motion of the Senator from California cannot deprive me of the floor.

Mr. CONNESS. Will the Senator permit me one instant?

Mr. DAVIS. Certainly.

Mr. CONNESS. I wish to state that my object was not to take the floor from the honorable Senator.

Mr. DAVIS. I have no such suspicion.

Mr. CONNESS. If the Senator is willing that the reading shall be dispensed with, I will withdraw the motion I have made. My objection seriously goes to the reading of that paper before the Senate of the United States, and I feel it my duty sincerely to oppose its being read. If the Senator is willing to withdraw his request for the reading of the paper, then I shall withdraw the motion I have made.

Mr. DAVIS. Well, sir, I am a candid man. I have no objection to the Clerk suspending the reading, but I intend to press my motion for this committee; and to reënforce that motion, I intend to read that paper.

Mr. CONNESS. Will the Senator permit me again? If the Senator from Kentucky as a Senator here sees fit to make anything a part of his speech, it is my privilege to go out of the Senate and not listen to the honorable Senator, if the matter should be objectionable. But this is a paper against officers of the United States, and it is in that view that I have objected to its being read by the officer of the Senate.

Mr. DAVIS. I have no objection to the affair taking that course, that the reading of the paper shall now be suspended, and I resume my remarks, and I will take that paper in my hand and I will read it.

Mr. NYE. I hope the Senator will have the honor of doing it himself.

Mr. DAVIS. What is the suggestion?

Mr. NYE. I suggest that to be a better way to get it before the Senate so that the Senate will not be responsible for it by having its officer read it.

Mr. DAVIS. Very good, sir. I am willing to meet the responsibility.

The PRESIDENT *pro tempore*. Does the Chair understand the motion to suspend the reading of this paper and to refer the matter to the Committee on Military Affairs to be withdrawn?

Mr. CONNESS. If the Senator intends to make it a part of his speech I can have no objection to that being done, as I said before, but to the present reading and in the present manner, I object. With that understanding I withdraw the motion. My purpose is not to impede the Senator from Kentucky.

The PRESIDENT *pro tempore*. The motion, then, to suspend the reading of the paper and to refer this resolution to the Committee on Military Affairs is withdrawn. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday, upon which the Senator from Connecticut [Mr. DIXON] is entitled to the floor.

Mr. DAVIS. I suppose I shall be entitled to the floor to-morrow when the morning business is out.

The PRESIDENT *pro tempore*. When this question comes up again the Senator from Kentucky will be entitled to the floor.

REPRESENTATION OF SOUTHERN STATES.

The Senate resumed the consideration of the following resolution from the House of Representatives:

Resolved by the House of Representatives, (the Senate concurring,) That in order to close agitation upon a question which seems likely to disturb the action of the Government, as well as to quiet the uncertainty which is agitating the minds of the people of the eleven States which have been declared to be in insurrection, no Senator or Representative shall be admitted into either branch of Congress from any of said States until Congress shall have declared such State entitled to such representation.

Mr. DIXON. Mr. President, the Senate has been addressed since the reception of the veto message by the Senator from Illinois, [Mr. TRUMBULL,] the Senator from Maine, [Mr. FESSENDEN,] and the Senator from Ohio, [Mr. SHERMAN,] in speeches which, as specimens of parliamentary debating, are seldom surpassed in this Chamber. With many of the opinions expressed by the Senator from Ohio I entirely agree; and while I shall differ somewhat from the other two Senators, I admired in common with the entire Senate the spirit and tone, not less than the ability, which they brought to the discussion. It was interesting to notice how the emotions which excited the minds of both these Senators suppressed and subdued, yet not entirely concealed, added new vigor to their language, a fresher coloring to their ideas, and the energy and ardor of controlled and subjected passion to their manner, reminding us of the volcanic fires pent up and smothered in the breast of the mountain, which stimulate and invigorate the luxuriant growth on the surface. Both these Senators were deeply excited by the position taken by the President. They are not men quietly to brook opposition, yet they both spoke of him in measured terms of respect. The Senator from Maine, in particular, used language which I gladly quote:

"I believe that the President is a friend of his country. I believe that he is a patriotic, devoted citizen; that he would do nothing to injure any of its institutions under any circumstance if he was aware, while doing it, of what he was doing."

Yet, when I heard these words from the lips of the Senator, I confess that I felt that they were not much for him to say. I thought it was not much for that Senator to say of him who, when the rebellion broke out—then a member of this body—stood alone of all his southern colleagues faithful among the faithless; who, without any possible hope of other reward than the approval of his own conscience, turned away from all the temptations which beset and overpowered almost every other Union man in the South, who, when the war raged in Tennessee, left these seats where we reclined at ease, and, in the midst of rebels and murderers, suffered for his country in mind and in body, by himself and in his family, all that man could suffer and yet live; I say I thought it was not much for the Senator to say that such a man was a friend of his country, that he was "a patriotic, devoted citizen" "who would do nothing to injure any of its institutions while aware of what he was doing." No, sir, it did not, when I heard it, seem much for the Senator to say. Yet, when I consider when and where it was said, the time, the circumstances, I acknowledged it was much. When I reflect that it was said, when a leader, made such by his party, in another place, was declaring that the veto, the constitutional return of the freedmen's bill with the President's objections thereto was an act of usurpation; when I remember that leading journalists were denouncing the President as a deliberate and dishonored traitor; when I recall the fact that a distinguished Senator had, in consequence of the veto, thought it his duty to introduce a resolution proposing an amendment to the Constitution of the United States rendering the President ineligible to a second term of office, I felt that it was very much for the Senator to say, contrasting, as I did, his calmness and candor with the unbridled passion elsewhere exhibited.

In view of this expression of confidence by the Senator from Maine in the President, in which I most fully share, I desire to say a few words on the subject of the resolution now before us; but before I do so I wish to imitate the example of the Senator from Maine in expressing my sentiments on another subject. He took occasion, while discussing this resolution, to allude to the veto message itself. I shall say a few words upon that question; but before I do so, permit me to remark that I felt very much in regard to the Freedmen's Bureau bill as the Senator from Maine said he felt. I voted for that measure, but I voted for it with some degree of reluctance. I thought it liable to objections; but I yielded my objections as I have often been in the habit of doing, and probably again shall be in the habit of doing, to those in whose judgment I have more confidence than I have in my own. But, sir, I never looked upon that measure as a principle. I looked upon it merely as a measure of detail, a mode of doing a certain thing desirable to be done. When I voted for it I did not suppose myself voting for any principle; I thought I was saying that as a measure it was proper to be adopted. But when I found that the President of the United States, who was to execute that law, had himself such objections to it that he could not sign it, I was willing to yield my judgment to what I thought might be his better judgment.

I had, sir, another reason which I will frankly state. It is my belief—right or wrong—that what is known as the policy of the President for the restoration of the late seceded States in this Government is the correct policy, I believe it is the only safe policy.

Mr. WADE. I hope the Senator will tell us exactly what that policy is.

Mr. DIXON. Before I conclude I shall state what I understand to be that policy. If the Sen-

ator will permit me I will state it in that part of my remarks to which I have in my own mind assigned it.

Now, sir, I may be wrong; I think I may say that over-confidence in my own judgment is not among my faults; but I believe, as religiously and sincerely as I ever believed in any doctrine, that the only mode of saving this country from the perils that now surround it is that mode which the President of the United States is inclined to follow. Believing that, I am willing, for the sake of supporting that policy, to drop all questions of detail. I will not differ with him upon questions of detail, if I think that by so doing I shall impair his influence in the great work in which I believe he is engaged.

The Senator from Ohio has asked me what is the President's policy. I have not yet come to that point; but I desire to say that with regard to myself upon this subject I occupy no new ground. It is said by some that there are those who are following the President, who desire to court executive favor. It is hard to believe that there is any Senator here who would give up his own convictions of duty for the sake of executive smiles. I trust I should not do it. But, sir, I had the honor more than three years ago, of taking in the Senate of the United States the same position which I now occupy; for some reason, I know not what, I anticipated this discussion. I supposed when our Army was before Richmond in 1862 that in a very short time Richmond would fall, and the confederacy would fall with it. It was only a question of time. What I thought would take three weeks took three years; but, sir, the fall of Richmond and the fall of the confederacy came, and with it has come the question which I thought then would come in a very short time. I took the liberty to offer in the Senate a resolution which I will read. Of course I do not quote it, nor anything I said on that occasion, as having the slightest authority, but I quote it to justify and defend myself before my constituents and before this body, and to show that the position which I now take was not taken for this occasion and because the President of the United States happened to take it, but because I believed it to be right, and for that reason I now sustain it. I offered the following resolution a few days previous to the 25th of June, 1862:

"*Resolved*, That all acts or ordinances of secession alleged to have been adopted by any Legislature or convention of the people of any State are, as to the Federal Union, absolutely null and void; and that while such acts may and do subject the individual actors therein to forfeitures and penalties, they do not in any degree affect the relations of the States, wherein they purport to have been adopted, to the Government of the United States, but are, as to such Government, acts of rebellion, insurrection, and hostility on the part of the individuals engaged therein or giving assent thereto; and that such States are, notwithstanding such acts and ordinances, members of the Federal Union, and as such are subject to all the obligations and duties imposed upon them by the Constitution of the United States; and the loyal citizens of such States are entitled to all the rights and privileges thereby guaranteed or confirmed."

That resolution was offered by me, and while it was under consideration I took occasion on the 25th of June, 1862, to make some remarks upon it. I will read very briefly from those remarks; and I desire to apologize to the Senate for reading what I then said. Of course, I do not read it as authority, but as a defense of my own action now. I said:

"And here I wish to say that, although the importance of the subject would have justified me in so doing, I have not initiated this discussion. The resolution which I offered in the Senate, declaring, as I believe it does, truths of immense importance to the nation at this crisis, was not offered by me until the Senator from Massachusetts [Mr. SUMNER] had proposed a series of resolutions declaring an opposite doctrine, which I consider fatal to our form of Government, destructive of our Federal system, and utterly incompatible with a restoration of harmonious relations between the States in which the rebellion now prevails and the United States."

I attempted by such reasoning as I could command and such illustrations as I could offer to show that my resolution was correct in principle; and, among other things, I made this remark:

"Let us see whether, even in point of fact, this is true. Take the case of Tennessee. She has attempted to pass an ordinance of secession, which has been followed by open rebellion and armed resistance to the General Government. For a long period no loyal citizen could live in peace in that State. Those who held to their allegiance to the General Government were banished. The family of one distinguished patriot, a citizen of Tennessee and a member of this body, were driven from their home, and he was himself exiled."

He is now President of the United States.

"All that was required for the complete dismemberment of Tennessee from the Union had taken place in that State; and if it were possible for any State, by her own act, or the acts of her people, to cease to be a State in the Union, Tennessee ceased to be such. Yet, how did the Senate treat the fact? No matter what may be the law, the fact, it is said, is the test of the true condition of the State; and what was the fact in the opinion of the Senate? Every day the name of Andrew Johnson was called by our Secretary, and as a member of the Senate of the United States he answered to his name as a Senator from Tennessee. Was he a Senator? Was he as such entitled to his seat? Was Tennessee entitled to be represented in the Senate? If so, was she not a State in the Union notwithstanding the prevalent rebellion by which she was overrun and devastated?"

It may be said in reply to that, that Mr. Johnson, then a Senator here, being once a Senator was always a Senator. That is not so. If Tennessee had become a portion of a foreign country, a portion of Great Britain, for instance, and was engaged in war with us, would she be represented in this body? Should we not have excluded him? Have we not the power of self-defense? I beg Senators to tell me if that is so, whether every State among the seceding States could not have held its representation in this body, because a man once a Senator is always a Senator? Would the Senate have admitted the right? Not for a moment. They would have said self-defense requires us to exclude a Senator in such a case.

I made the same supposition with regard to Virginia. I made the supposition of a more extreme case: that Messrs. Hammond and Chesnut, then Senators here from South Carolina, had thought it their duty to remain here in spite of the act of secession passed by that State; and I asked the Senate if they could not have remained here; and furthermore, I asked the Senate if it was not their duty to remain, and if every loyal citizen of South Carolina had not a right to demand of them to remain in this body as Senators from South Carolina, although nine tenths of their people were engaged in rebellion; and there was no Senator here at that time prepared to say that my position was not correct. I of course do not say that that was conclusive. The subject then was not fully considered. But, sir, on that very day a debate sprang up, and the subject was thoroughly discussed. The Senator from Michigan [Mr. HOWARD] and the Senator from Ohio [Mr. WADE] both spoke on the subject; and the position which I took, although it excited some doubt in their minds, excited no horror. I was not looked upon as a heretic because I took this position. It was considered that there was some doubt with regard to it. The Senator from Michigan said he thought there was a difficulty, and rather intimated that he differed from me; but he did not take the ground that my position was either heretical or unpatriotic. Throughout the country at that time, wherever this position was noticed, the loyal press of the country, especially in my own State, defended that resolution. Every newspaper in the State declared it to be the true doctrine; and the Legislature of the State, then in session, adopted, I think, resolutions of a similar character.

I trust I shall be pardoned for having thus alluded to remarks of my own. I went on further in that speech and attempted to show what I believed to be the true policy and the true theory on the subject. Of course I shall not weary the Senate with reading what even then when it was freshly said was not perhaps worthy of attracting much attention. That was the position that I then took; and am I now, when the President of the United States takes the same position, to turn upon him? Am I to say that he is wrong? Am I to be denounced because I hold to the same position now which I then held, notwithstanding the President of the United States occupies it? I believed then that the doctrine was correct. It has been fully argued since; able speeches have been made upon it; immense talent in this body and in the other House has been exhausted upon this subject; and yet I have never been able to see that my position then taken has been controverted. I believe it to be correct. I thought it right then; I think it right now. If I am wrong now, I was wrong then, and have been utterly and entirely wrong ever since.

Under this state of things, a bill was before us establishing a Freedmen's Bureau. As I said, I voted for it, not without doubt, not without hesitation; and I had occasion for reasons I have given to change my vote; and when the President's veto came in I voted to sustain the veto and against the bill. I thought the bill most decidedly objectionable. I desire to refer to a few remarks made by the Senator from Illinois [Mr. TRUMBULL] in his defense of the bill against the veto, and for a reason which I shall soon state, I shall not have occasion to dwell long on that portion of the subject, nor upon the remarks of the Senator from Illinois. I will refer to only one or two of the points made by him.

He said that the President's objection that the bill established the Freedmen's Bureau as a part of the permanent legislation of the Government was not correct, that it was not a permanent act; and what reason did the Senator give for saying that it was not a permanent act? He said it could be repealed; that the act provided that it should continue in operation until by law it was provided otherwise. Is not that the case with every law? Can you make a permanent act in this Government? Is it possible to pass an act that cannot be repealed? Suppose you had said in that bill that it should continue in force for fifty years, would it have been permanent in consequence of that? Would not the next Congress have the power to repeal it? It was as permanent as any law enacted by the United States can possibly be made. There should have been a limitation of time in it, and in the first Freedmen's Bureau bill there was such a limitation. It was limited to one year after the commencement of peace. In this bill there was no limitation; it was to continue in force until repealed, and therefore was as permanent as it was possible for the Congress of the United States, by any legislation, to make any act whatever.

The Senator then said that the President's objection to military jurisdiction was not a good objection, because the President had been up to this time exercising the same jurisdiction. Does it follow that because the President of the United States has exercised military jurisdiction up to this time, therefore in a permanent act of legislation you should authorize him to do that for an indefinite period? That was the point that the President made: this is a permanent act; you authorize permanent military jurisdiction in civil cases; and because I exercised it last week, shall I be empowered to exercise it next year? I think there was a vast difference between the two cases.

Then the Senator alluded to the statement of the President that this was a bill for the advantage of black men, rather than of white men. I desire to say that if that were the case it is not the slightest objection to my mind. I think it was made for black men in point of fact, and because it was made for black men was no objection to me. I am not one of those who could ever understand why because a man is called conservative he should hate the colored population, or why because he supported the principles of this Government he should have an aversion or prejudice toward that population. If there are those who have that feeling, I am thankful that I am free from it. It was no objection to my mind that the bill was intended for the benefit of black men. The fact cannot be denied that it was so intended. Was it not called a Freedmen's Bureau? Are white men freedmen? Was it not to feed and support the wards of the nation? Are white men wards of

the nation? I voted for it with that understanding that it was for the benefit of black men; and I am ready now, by my vote here and elsewhere, and so are my constituents, to do anything, as much as any other people will do, to pay their money as freely and exert themselves as earnestly for the benefit of black men as for the benefit of white men. I place them on the same ground. I know no distinction in my feelings, in my sympathies, in my charities, between black men and white men. I have no preferences in that respect. There may be subjects on which I have preferences, but in the matter of kindness, of doing them a favor, of saving them from suffering, I should never ask whether the suffering man was a black man or a white man. It is enough for me to know that he is a man.

But, sir, I will not follow the Senator from Illinois further, and for a reason which I shall now proceed to give. His speech was one of great ability, and we had the points that he made given at full length in the papers the next day. He gave sixteen reasons for opposing the President's veto and supporting his bill. But, sir, I am not called upon to answer those reasons; the Senator from Maine [Mr. FESSENDEN] has relieved me of that labor; answered them for me. What did the honorable Senator say here in his place? I will quote his exact language. He said:

"I will say in regard to that message that I had no very particular attachment to the bill which was thus vetoed."

Neither had I. I felt very much as he did. The Senator continued, as follows:

"In some particulars it did not meet my approval. I think some of the reasons which the President gives for not approving it are such as would commend themselves to public consideration. It is a bill upon the provisions of which there might be a very considerable difference of opinion. I yielded, however, the objections I had, and one of them was very much like that stated by my honorable friend from West Virginia [Mr. WILLEY] to the sixth section of the bill, because I thought, on consideration, that the power did exist, and it was especially necessary to exercise it, and the bill therefore received my vote. If the President had confined himself in the objections which he stated to a criticism of the bill itself, it is very possible that I might have been quite willing to waive my own feelings and opinions in regard to the bill as it passed, and to sustain his veto."

I think it was perhaps a misfortune to the public that the President, in view of that declaration, did not stop at the point where the Senator from Maine was satisfied with the veto. I could almost wish that the President had not given that last reason after having given fifteen good reasons which the Senator from Illinois attempted to answer and with which the Senator from Maine was satisfied. What moral power would have been added to the President's position and the position of those of us who voted to sustain the President, if the distinguished Senator from Maine had voted with us. I could wish that the President had ceased when he had given fifteen good reasons for rejecting this bill and had not given that additional reason which does not satisfy the mind of the Senator from Maine. It is not for me to comment on the action of any Senator in this body, but I may say that it struck me as somewhat remarkable that the Senator, finding a bad bill here and a veto sustained by good reasons, should refuse to sustain the veto and impress his condemnation upon the bill because one bad reason was given for its disapproval by the Executive.

Sir, if we all acted on that principle, I do not know what would be the result. I have voted for many measures for which good speeches have been made and for which some bad ones have been made, for which some good reasons and for which some unsatisfactory reasons have been offered. I never felt that I was justified in voting against a bill because some of the reasons given for it were unsatisfactory.

But the Senator says, and I wish to do him no injustice, that he voted for the bill and against the veto because the principle involved in the bad reason was such that his vote would seem to sustain the principle; and he went on to say that in his judgment no Senator could vote otherwise than he did with self-respect. Perhaps if we had thought as he did, we would have done so. Fortunately, we did not think so. We did not consider a principle involved in it, and therefore I for one did not violate my self-respect by voting for a measure which the Senator himself declared very objectionable, and which might have received his negative vote if one reason had not been given which was unsatisfactory to his mind.

But the Senator says that reason involved a principle. I confess I have not yet been able to see that the principle which he said was involved in that reason was really involved in it. The Senator says in the first place that the President gave this as a reason for the veto, and when that was denied by the Senator from Wisconsin, [Mr. DOOLITTLE,] the Senator from Maine with some degree, as I thought, of severity insisted upon his assertion. True it was a reason. It was stated as a grave objection to the bill; but does not the Senator's own experience show him that a Senator may have grave objections to a bill and still vote for it? It is possible that the President of the United States, notwithstanding this grave objection to the bill, might have sent it back with his signature but for the other reasons which he gives us, and which the Senator himself is not prepared to say are not good and sufficient.

I think, therefore, that it does not follow that the President would have vetoed this bill in consequence of the last reason given by him. But suppose he had; suppose that had been sufficient in his mind. The Senator goes on to say that the President takes the ground that not only that bill must be vetoed, but every other bill relating to the States formerly in rebellion, if that doctrine is correct. I think this inference follows still less than the other. It does not follow in my mind at all. In point of fact what has the President done? He has already signed one bill at least—and I do not know but on inquiry at the Secretary's table I should find more, relating wholly to the southern States, notwithstanding they are not represented—and that was the bill for paying the expenses of this very joint committee.

The Senator says that the President takes the ground that taxation and representation must go together, and therefore he infers that the President believes you cannot tax those States unless they are represented. Sir, the President takes no such ground. He knows full well that taxation must exist. The Constitution of the United States provides that duties upon imports shall be the same in all parts of the country. We must therefore have taxation. The President of the United States in one of his proclamations extended the internal revenue system over the whole South. Taxation exists there, therefore, by his own act; and yet the Senator says that the President claims that taxation cannot exist unless representation also exists. What the President said was, not that taxation should cease, but that representation should begin. He is not arguing against taxation, but for representation; and he says that inasmuch as we must tax these States, they ought, in a manner which I shall soon indicate, to be represented. I think, therefore, that those Senators who voted to sustain the President's veto and against the bill, may feel that they have not violated their self-respect, as the Senator intimated. They did not think that it involved the principle which he saw in it.

Now, sir, we have the objections which the Senator from Illinois made to this veto, fifteen in number, fourteen of which relate to the mere criticism of the bill made by the President, and those objections the Senator from Maine, and by his declaration that possibly he might have voted to sustain the veto if this last had been omitted, adjudges not sufficient to influence the action of the Senate. I therefore need not answer them further. He has answered them for me.

But the Senator from Maine says that the President in the last reason given by him for the veto of the bill denies the right of Congress to judge as to the entire question of representation. He said that this was an assumption on the part of the President. When the Senator from Wisconsin intimated that there was no such assumption, the Senator from Maine, not being so deeply impressed by his own language as those who hear him, denied that he had used the word. He will find on reference to his reported speech that he took the ground stated by the Senator from Wisconsin and used the language cited by him.

Mr. FESSENDEN. I will state to the Senator that upon looking over the debate as reported in the Globe I saw that there was that expression in my first remarks, so that it might justify what was said by the Senator from Wisconsin, [Mr. DOOLITTLE,] but it escaped me at the time.

Mr. DIXON. Other Senators remember what the distinguished Senator says better than he does himself. His words are not forgotten. It is not *vox fugit* with him. What is said by him is remembered.

Mr. FESSENDEN. You will notice that in what I afterward said I took the ground I have uniformly contended.

Mr. DIXON. Of course I wish to represent the Senator fairly. He took the ground that the President of the United States claimed that Congress had not this right. I do not understand that the President takes any such ground. I take no such ground. But how shall Congress do that? I will state the position which I occupy on that point. Whether it is the President's position or not, I cannot say. I think it is, because he told us in his message that he had now brought these men to the doors of Congress, and it was for Congress, each House for itself, to say whether they should be admitted as representatives. I acknowledge the necessity of examination, I acknowledge the duty of examination on this entire subject by Congress. In what way? As the Constitution points out, each House for itself. Is not that sufficient? All through his speech the Senator intimates that if we come to this position it is merely a question of credentials, that we can only examine the credentials of election. Over and over again he says that we are merely to examine the credentials of members because we desire each House to examine for itself into the question. In my judgment, it is not a question of credentials. I think the language of the Constitution is full. The elections, qualifications, and returns of the members shall be considered by each House.

But, sir, if I am mistaken on that point it so happens that I have here an authority which the Senator from Maine perhaps will be apt to question, as he probably would not desire to say that he himself was an authority, but which the Senate will not be apt to question. It is the Senator himself. In the discussion of the Stark case this very question arose. It was claimed that Mr. Stark was disloyal, and therefore the Senate could exclude him, that the Senate could meet the question *in limine*, that we were not bound to wait until he was admitted as a Senator and then expel him by a two-thirds vote. I took that ground myself. The Senate overruled it. I thought that the vote of the Senate on that question was disastrous, and I said so; and the Senator who then occupied the seat that I now occupy [Mr. COLLAMER] told me afterward that my remark was a very objectionable one. The honorable Senator from Massachusetts [Mr. SUMNER] also thought that the vote was disastrous, and he rose and said that he concurred with me.

The Senate refused to reject Mr. Stark, many Senators placing it on the ground that we had no right to do it. But the Senator from Maine said the fact was not proved, and then he went on to say what the result would be if the fact was proved; and that was on the question of credentials. It was on the question of the qualifications, elections, and returns of a member. Mr. Stark came here, and *in limine* we objected to him. What did the Senator from Maine say? He said what I think was entirely correct.

I quote his language:

"Suppose, for instance, that one of the leaders of

this rebellion should present himself here; suppose the State of Tennessee should come back to the Union being freed of those who now control it, and that a Legislature properly elected should send General Pillow here as a Senator from that State; I would vote that he should not be allowed to take the oath, because though not a convicted traitor, he is an admitted traitor. I would not allow him to come here by my vote; and if Senators ask me upon what principle I act, I tell them I act upon my own individual responsibility as a Senator of the United States. It is for me to judge both with regard to expulsion and with regard to admission; and it is between me and my conscience, myself and my God, who will judge me for the manner in which I discharge my duties to my country."—*Congressional Globe, Part I, Second Session Thirty-Seventh Congress*, p. 870.

The Senator from Maine there laid down the correct principle. Upon the question of credentials this whole question is before the Senate, and it is for us to consider on that question whether the member presenting himself here for admission is a traitor, or whether he is true to his country.

Mr. FESSENDEN. Will the Senator allow me to ask him a question? I do not wish to interrupt him.

Mr. DIXON. I am perfectly willing to be interrupted.

Mr. FESSENDEN. Does the Senator understand me now as contending that on the question of credentials the whole question is not before the Senate?

Mr. DIXON. No, sir.

Mr. FESSENDEN. Then there is no contradiction.

Mr. DIXON. I am not claiming that there is a contradiction. I will state what I understand the Senator to mean.

Mr. FESSENDEN. I say now that unquestionably the whole thing is before the Senate; but I say with reference to the preliminary question, as to the condition of the States, that question may properly be left to both Houses to act in concert upon it, because it does not involve the elections, qualifications, and returns of members.

Mr. DIXON. The Senator now says that that question may properly be left to both Houses. The Senator told us before that it must not be left there.

Mr. FESSENDEN. Under existing circumstances I think it should and must be left to them. I do not think it absolutely essential in all cases, but under existing circumstances I suppose it must properly be left there.

Mr. DIXON. It is impossible for any man to read the speech of the Senator without perceiving that he stated in at least a dozen instances that this is the ground on which we place it, a mere question of credentials, upon which we can go no further, and therefore he says Congress ought to decide, because if the Senate decides for itself it is a mere question of credentials.

Mr. FESSENDEN. Not at all.

Mr. DIXON. If the Senator admits that that is as good a way as the other, and as proper as the other, he and I have no controversy.

Mr. FESSENDEN. The Senator follows out the ideas suggested by the President. I stated what I understood the President to contend for; I do not know that he meant it. I only say that that is the inevitable inference, according to my judgment. I have no doubt on the mere question of credentials presented to the Senate alone, we could examine the whole subject if we saw fit, but I contend that under existing circumstances, and from the importance of the question, the preliminary inquiry as to the condition of the States should be settled by the joint action of both Houses in all these cases in order that there may be no collision between them. That question does not involve the question of the propriety or the regularity of the returns, qualifications, and elections of members necessarily, but it lies at the foundation and might properly be considered by itself. I understand, however, that my friend from Connecticut and other gentlemen contend that we ought not to leave that question of the condition of the States to the joint action of both Houses.

Mr. DIXON. I do. The Constitution makes each House, separately, the exclusive judge.

Mr. FESSENDEN. He says he does. I was contending that it was a very proper question to be so left. I understand the President, so far as his ideas may be gathered from what he has said, to be contending for the same thing as the Senator from Connecticut. I say it is no usurpation on our part, but a very proper and reasonable and necessary thing under the circumstances and condition of the country.

Mr. DIXON. I understand the Senator to say that because the President took this ground, that the Congress of the United States should not inquire into the question of the elections, qualifications, and returns of members here, but that it should go to each House, as the Constitution directs, therefore he could not vote to sustain the veto.

Mr. FESSENDEN. I infer it from the fact that he lays it down precisely, as I understand him, in this way: that that matter is settled; he says he has looked into this subject; he is satisfied about it, and he insists that these men should be admitted.

Mr. DIXON. I will say in reply to the Senator that the President says no such thing.

Mr. FESSENDEN. Read his veto message.

Mr. DIXON. I take all his sayings, I take his annual message to Congress, his last message together, and I find he says there that he brings these men to the doors of Congress in fact, and that now it is for Congress, each House for itself, to decide as to their admission. He goes on to say, and he has a right to go on to say, for the Constitution provides that he shall give us information in regard to the state of the Union, that he thinks there ought to be representation on the part of loyal men. But the Senator and those who think with him (and if I am mistaken I shall be very glad to be set right by the Senator) state that those of us who claim that the Senate shall judge alone are in some way letting down the bars, if I may use a common expression, that we are throwing wide open the doors of the Senate, that we wish to admit or may admit traitors into this body, because Congress does not act on this question.

Mr. FESSENDEN. I call the attention of the Senator to the language of the President in the veto message. He says:

"I would not interfere with the unquestionable right of Congress to judge, each House for itself, of the 'elections, returns, and qualifications of its own members,' but that authority cannot be construed as including the right to shut out, in time of peace, any State from the representation to which it is entitled by the Constitution."

The plain inference from which, I take it, is that that is exactly what Congress is doing.

"At present all the people of eleven States are excluded, those who were most faithful during the war not less than others. The State of Tennessee, for instance, whose authorities engaged in the rebellion, was restored to all her constitutional relations to the Union by the patriotism and energy of her injured and betrayed people. Before the war was brought to a termination they had placed themselves in relations with the General Government, had established a State government of their own, and as they were not included in the emancipation proclamation, they by their own act had amended their constitution so as to abolish slavery within the limits of their State. I know no reason why the State of Tennessee, for example, should not fully enjoy 'all her constitutional relations to the United States.'"

There are some other things in the message plainly intimating that Congress is attempting to keep these States out.

Mr. DIXON. Does the Senator deny the correctness of that portion of the message?

Mr. FESSENDEN. No; but I deny the correctness of the inference from it, and what I suppose to have been in his mind, and what I think everybody else must see was in his mind, and that is, that these States are in a condition to be admitted.

Mr. DIXON. That is what I supposed the Senator said. The Senator says he does not deny the correctness of that statement in the message, but he denies the inference that he draws from it. The Senator can draw inferences to a greater extent than most men. It is enough for me if what the President says is correct. I am not responsible, nor is the President responsible, for the inferences that may be drawn from it. What does he say?

"I would not interfere with the unquestionable right of Congress to judge, each House for itself, 'of the elections, returns, and qualifications of its own members.' But that authority cannot be construed as including the right to shut out, in time of peace, any State from the representation to which it is entitled by the Constitution."

The Senator admits the correctness of the proposition.

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

Mr. DIXON. Certainly.

Mr. TRUMBULL. Suppose that in a time of peace the Legislature of Tennessee is disloyal and swears allegiance to the Emperor Maximilian, does the Senator deny the authority of Congress to inquire into the character of that Legislature?

Mr. DIXON. I do, and there I come directly to the point. It is for the Senate, not for Congress, to make the inquiry if a Senator from Tennessee in the supposed case presents himself.

Mr. TRUMBULL. He denies the authority of Congress to decide whether the constituency is traitorous or loyal!

Mr. DIXON. That is another point.

Mr. TRUMBULL. That is the very one I put. If all the members of the Legislature of Tennessee swear allegiance to the Emperor Maximilian and send a Senator here, I want to know of the Senator from Connecticut if Congress has a right to inquire into the character of that Legislature?

Mr. DIXON. I will answer that by asking another question.

Mr. TRUMBULL. I do not wish to be interrupting the Senator, and before he answers that question I desire to ask him another.

Mr. DIXON. Let me answer the first before you ask another.

Mr. TRUMBULL. As I do not wish to interrupt the Senator again I desire to say all I have got to say, and then he can answer all my questions together.

Mr. DIXON. I hope the Senator will not put two questions at once. I desire to ask the Senator this question: suppose that was the case, that the Emperor Maximilian had entire control of the State of Tennessee, and a person claiming a right so to do should come here and offer himself as a member of the Senate, and should be received here; that, in judging of the qualifications, returns, and elections of the member, the Senate decided that he was a Senator, has Congress anything to do with the question? I ask him if the House of Representatives can interfere? Is there an appeal to Congress, or any other tribunal? I ask him if that man is not a Senator in spite of the world? Let the Senator answer that question.

Mr. TRUMBULL. If the Senator means to ask me if the Senate has not the physical power to admit anybody, elected or not, I admit they have the same right to do it that twelve jurymen would have, against the sworn and uncontradicted testimony of a hundred witnesses, to bring in a verdict directly against the evidence, and perjure themselves. I suppose we have the physical power to commit perjury here when we have sworn to support the Constitution. We might admit a man here from Pennsylvania avenue, elected by nobody, as a member of this Senate; but we would commit perjury in doing it, and have no right to do it.

Mr. DIXON. I am not on the question of right. I am not on the question of moral right or wrong. I am on the question of power. The Senator says physical power. So it is in one sense. We would tell our Sergeant-at-Arms to turn out a rejected member, and there it would be physical power. If we admitted him the only physical power exerted would be the power required of him to walk into the Chamber. I say it is a question of power wholly, and it is wholly in the Senate of the United States. Congress may provide by law that a certain State shall not be represented here, and if the Senate of the United States sees fit to admit a member from that State as a Senator, he is a Senator, and why? Because the Constitution says that each House shall be the judge of the elections, qualifications, and returns of its own

members. The Senator must know instances of this. The Senator recollects very well the case of Mr. Bright. Shortly after I came into the Senate I heard him argue that case. Mr. Bright, as the Senator claimed, was not elected here. He was picked up in the streets of Washington, as it might be said—the very case put by the Senator. He was never elected to this body; it was scarcely claimed that he was elected; but by the vote of the Senate the slave power admitted him on this floor. What could we do? The Senator made an eloquent protest against it, and it was the first time I heard him speak in this body, but could he eject Mr. Bright? And after Mr. Bright was admitted, did he ever attempt to eject him? Did we not keep him here until we were compelled to expel him as a traitor. The Senator says that Congress must act in order to exclude a man, and he says that if the Emperor Maximilian were to take possession of Tennessee, and Congress should act on the subject, its action would have some force or weight or vitality, or there would be some necessity for Congress being called upon so to do. I say that not only would there be no necessity, but no possibility of Congress being called upon to act. It is a question upon which Congress has no jurisdiction, and it is a question of jurisdiction. What would be the form of a law passed by the House of Representatives and the Senate and signed by the President providing that a certain State should not be represented in this body for any reason, I care not what? Suppose Congress enacts by this resolution, if you call it an enacting resolution, that no member shall be admitted from any of the southern States, it would be futile, nugatory; the Senate could admit Senators from those States notwithstanding; that is my position.

Mr. TRUMBULL. The point is this: the Senator insists that the Senate of the United States has the right to commit perjury; that a Senator who has sworn to support the Constitution has a right to vote to admit a man here from Pennsylvania avenue——

Mr. DIXON. I think the Senator ought not to take that ground. I claim no such thing. I say the Senate of the United States has the power to commit perjury, but does that power deprive the Senate of jurisdiction. So has the Supreme Court. So has Congress. But is that saying they have a right to commit perjury.

Mr. TRUMBULL. Very well; he is arguing here, then, in favor of the power to commit perjury. Now, if a person had a mind to commit perjury he could vote that a person on Pennsylvania avenue, without an election or anything else, should have a seat here; but I do not suppose that we are to argue questions in the Senate of the United States upon any such principle. The question here is not as to the election, qualification, and return of a person presenting himself as a Senator, but it goes behind that. It is for Congress to determine whether there is a State that has a right to send Senators here. It is for each House to determine when there is a constituency having a right to elect, whether they have sent persons qualified, and whether they have elected them properly. Those are two entirely distinct and separate questions. When the Senator reads from the message of the President of the United States that he has brought men to the doors of Congress, I deny *in toto* his right to bring members to Congress. What right has the President to bring members to Congress?

Mr. McDOUGALL. Mr. President——

The PRESIDENT *pro tempore*. Does the Senator from Connecticut yield the floor to the Senator from California?

Mr. DIXON. I hope the Senator will excuse me for a single moment. I must reply to these interruptions as I go along, and I shall hear him with pleasure presently.

The Senator from Illinois says that I take the ground that this body may commit perjury. I ask him if Congress may not commit perjury? Does he escape it by going to Congress? Cannot Congress just as well commit perjury with regard to the question whether Tennessee is entitled to representation as the Senate? It is wholly immaterial what power the body has to decide wrong. I agree that everybody has a power to decide wrong. Congress is as liable as the Senate to decide wrong. It is a question of jurisdiction, which body shall decide, not which shall decide right. I think this body more likely to decide right than Congress. That is my judgment, but I may be mistaken. I think Congress as likely to commit perjury as the Senate. The Senator is shocked at the idea that there is a possibility of perjury being committed and a bloody handed traitor being admitted into this body. I should have some fears that Congress might do that as well as this body, especially if the Senate goes on in its present course and we are obliged to refer this matter to the next Congress. I have great fears that the next Congress will be more likely to commit perjury on this subject than this Congress.

Mr. FESSENDEN. Will the Senator allow me to correct an error which I fell into a short time ago?

Mr. DIXON. Certainly.

Mr. FESSENDEN. I read a passage from the veto message, and my friend asked me if I acknowledged the correctness of it, and I told him that I did. What I meant to agree to was, and what I supposed him to refer to was, the statement of principle:

"At present all the people of eleven States are excluded; those who were most faithful during the war not less than others."

Then he goes on to say:

"The State of Tennessee, for instance, whose authorities engaged in rebellion, was restored to all her constitutional relations to the Union by the patriotism and energy of her injured and betrayed people."

I merely meant to object to the manner in which it was stated that Congress had no right to exclude the constitutional representation of a State in time of peace.

Mr. DIXON. "But that authority cannot be construed as including the right to shut out, in time of peace, any State from the representation to which it is entitled by the Constitution." The Senator does deny the correctness of that.

Mr. FESSENDEN. In regard to that, if there were no peculiar circumstances, ordinarily you could not do it, of course.

Mr. DIXON. There has been a time when my State and the State of the Senator from Maine, and the State of the Senator from Massachusetts were regarded as under peculiar circumstances in this body. Suppose at that time Congress had seen fit by law to shut out the State of Massachusetts from representation, would anybody pretend that Congress had power to do it? But there was a power in the Senate of the United States by which that Senator could have been excluded, and so could the Senator from Massachusetts. There could have been no appeal from that judgment. There must be an end somewhere. Now, let us see what Judge Story says on this point. I trust now the question between us is understood. I claim that this is a question of jurisdiction, who shall judge of everything relating to the qualifications of a Senator in this body, both as to his having a constituency and he himself being the representative of that constituency. Judge Story says, in commenting on the clause in the Constitution which provides that each House shall be the judge of the qualifications, &c., of its own members:

"It is obvious that a power must be lodged somewhere to judge of the elections, returns, and qualifications of the members of each House composing the Legislature; for otherwise there could be no certainty as to who were legitimately chosen members, and any intruder or usurper might claim a seat and thus trample upon the rights and privileges and liberties of the people. Indeed, elections would become, under such circumstances, a mere mockery; and legislation the exercise of sovereignty by any self-constituted body."—*Story's Commentaries*, sec. 833.

Does he say the protection is Congress? No; but he says:

"The only possible question on such a subject is as to the body in which such a power shall be lodged."

That is, the power to judge whether a man is a usurper, an intruder, or is legitimately chosen by a proper constituency.

"If lodged in any other than the legislative body itself, its independence, its purity, and even its existence and action, may be destroyed or put into imminent danger. No other body but itself can have the same motives to preserve and perpetuate these attributes; no other body can be so perpetually watchful to guard its own rights and privileges from infringement, to purify and vindicate its own character, and to preserve the rights and sustain the free choice of its constituents. Accordingly the power has always been lodged in the legislative body by the uniform practice of England and America."

Congress is not the legislative body. Congress is made up of two legislative bodies, and in some instances of three. The law-making power is vested in three bodies in this country, the Senate, the House of Representatives, and the President in cases where his approval is necessary to the passage of a bill. The legislative bodies which make up Congress are the House of Representatives and the Senate, and each body for itself is to judge of everything with regard to this subject.

But, sir, I have occupied much more time upon this point than I had intended. I trust I have shown, I have at least to my own satisfaction, that the President does not take the ground that this question may not be fully investigated. He does state that it should be done by each body for itself. That is his opinion. He has expressed it in a message in which he was giving information of the state of the Union, as he is bound to do. He says that we have no right to exclude representation totally under that clause of the Constitution. Does anybody claim that we have that right? We have the physical power perhaps, but we have no right to do it. We have no right to say that the State of Illinois shall not be represented in time of peace; and if Congress have the right to say that if the State of Tennessee shall not be represented in time of peace, the act is utterly futile and nugatory, because in spite of Congress the Senate may admit a member from Tennessee, and to-day if Mr. Fowler, of Tennessee, were admitted a member of this body, in spite of all your laws he would be a member of the body and you could not exclude him except by expulsion.

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

Mr. DIXON. Certainly.

Mr. KIRKWOOD. I want to understand the Senator if I possibly can. Do I understand him to say that the President takes the ground that the State of Iowa and the State of South Carolina stand to-day in the same identical position before Congress, and that each House has the right to decide just in the one case what it has in the other, no more, no less.

Mr. DIXON. I do not know what the President's opinion on that subject is, but I will tell the Senator what is mine; that is all that I can answer for. I think that the State of South Carolina can be represented to-day in this body if the fiat of the Senate of the United States goes forth to that effect. Let the Senate so say, and what will the Senator do? Suppose a Senator offers himself here from South Carolina and is admitted on the floor of this body, I think the Senator will find himself powerless to exclude him except by expulsion.

Mr. KIRKWOOD. I understand the Senator to say, then, that in his opinion the two States I have named do stand before Congress in the same position, with the same rights?

Mr. DIXON. Not by any means. That is a question for me and other Senators to decide. When they come here the Senate is to consider whether Iowa and South Carolina stand in the same position. We are to judge of that question. My private opinion is that South Carolina is vastly different as to her rights of representation in this body from Iowa, but I say that it is a question wholly for the Senate to decide, and that in point of law, whatever the Senate decides upon it is law in spite of any act of Congress to the contrary. As to the power of the Senate to admit their members, Iowa and South Carolina stand on

the same ground. As to the proper decision to be reached they stand on very different grounds.

Mr. HOWARD. Suppose the House of Representatives should decide the other way, and refuse to admit Representatives from South Carolina while the Senate admitted its Senators here, what would be the condition then, would the State be in the Union, or where would it be? Would it be *in nubibus*?

Mr. DIXON. That is possible; we may admit Senators while the House refuses to admit Representatives.

Mr. HOWARD. The Senator will pardon me. What would be the legal and constitutional condition of South Carolina in that event?

Mr. DIXON. I think the constitutional and legal condition of South Carolina would in that case be precisely what it is now. I do not think it would alter it in the slightest degree if this body should admit Senators and the House of Representatives should refuse to admit Representatives. I do not know that that would affect the character of South Carolina as a legal question. Take the Senator's own State——

Mr. HOWARD. Let me put my own question, if the Senator will pardon me. It involves this point, as the Senator will see, whether the war, as an existing state of things, has had any effect to change the political *status* and relations of the people of South Carolina as a political community, which we commonly call a State, or has it had no such effect?

Mr. DIXON. I would not say that it had no effect. I never have taken that ground.

Mr. HOWARD. But what effect has it had, if it had any?

Mr. DIXON. There may be a difference of opinion on that point. I think, notwithstanding, that South Carolina is still a State in the Union. That is my doctrine and always has been. I think that Tennessee is a State in the Union. I think that there never was a moment when they were not States, and when, if every citizen of those States had become repentant, and they had come here and been received, and you had been satisfied that they were entirely repentant, it would not have been perfectly competent, proper to say to those States, "You shall have your representation without a readmission." Now, if the Senator suggests that there is no difference between Iowa and South Carolina, or Michigan and South Carolina, I do not take that ground; but I say that South Carolina does not need readmission into this Union. Probably that is about the difference between us. I consider them somewhat in the condition of a man and wife who have separated for a period of years and who then come together; they need not remarry and they do not. If that may be made an illustration, I do not think there is a readmission of the rebel States necessary; I do not think remarriage is necessary. I think they are still in the eye of the law and the Constitution States; and provided the public safety in the opinion of the Senate will permit it, these members will properly be readmitted to seats in this body. But it does not follow from this that the strictest examination should not be made into all the circumstances of their condition, an examination which the Senate is fully competent to make. This is the constitutional tribunal where it should be made.

Mr. FESSENDEN. Can we not inquire what they have been doing in the mean time?

Mr. DIXON. Individuals in the rebel States have been fighting as there may have been fighting in the case I put. Now, sir, I never could see any great difficulty in this subject, but for the question of slavery and the question of negro suffrage. If these States were now inhabited by citizens of Connecticut and citizens of Maine and citizens of West Virginia, who would raise a question that they needed readmission? You would admit their representatives, in my judgment, at once. I think the Senator from Massachusetts would to-day receive them if they would allow negro suffrage. Universal suffrage, I think, would satisfy him; and if that were allowed, he would not demand their readmission as States before allowing them representation.

But, sir, let us come back to the point. The Senator from Maine says that those of us who take this ground are in some way remiss; that we propose in some manner to diminish and lessen the force of safeguards in this body. It is not for us to say where the jurisdiction shall be. It is established by the Constitution. If the Senate is made the body to decide, how can we help it? The Senator says that he desires to preserve the independence of the Senate. He wishes to keep it in the power of the Senate; and what does he do? I beg leave to call attention to what the remedy of the Senator from Maine is. How is it that he proposes to preserve the independence of the Senate upon this question? He has here a joint resolution, or rather a concurrent resolution, providing that no member shall be admitted into either body without an act of Congress. The object of this is to preserve the independence of the Senate! How does he do it? By providing that we shall not admit a member into this body until the law-making power—and, in a certain contingency, until the law-making power by a two-thirds vote—shall consent to it. Does that preserve the independence of the Senate? He proposes to place this possibly in the power of the President of the United States by a veto. It is not very likely that the President of the United States would veto an act of Congress allowing representation here or in the other House; but I do not know that he might not veto a bill readmitting those States. Perhaps he might feel that it was against settled principles. I do not know how that is; but suppose he does. The Senator says the independence of the Senate is to be preserved, and he places it in the power of a single man by a veto, at any time and at all times, to exclude a member from this body! I cannot see how the independence of the Senate is to be preserved in that way. Sir, what is this resolution?

Mr. FESSENDEN. The Senator evidently does not understand the resolution. He has not read it carefully.

Mr. DIXON. I have examined it critically.

Mr. FESSENDEN. It is "until Congress shall have declared" the State entitled to representation. That does not necessarily involve a law.

Mr. DIXON. Is not a declaratory law a law? What is Congress but the law-making power?

Mr. FESSENDEN. It may "declare" it by a concurrent resolution, as this is.

Mr. DIXON. If the Senator insists on a several resolution, why not have several action in other respects? If he will agree not only to several instead of joint resolutions but several instead of joint acts, and will insert in his resolution "each House for itself," making it several throughout, I will agree to the resolution. My objection to it is that it is joint.

Mr. FESSENDEN. It does not go to the President necessarily.

Mr. DIXON. I agree this resolution does not go to him; but an act of Congress goes to the President.

Mr. FESSENDEN. It does not say "an act of Congress."

Mr. DIXON. What does it say?

That in order to close agitation upon a question which seems likely to disturb the action of the Government, as well as to quiet the uncertainty which is agitating the minds of the people of the eleven States which have been declared to be in insurrection, no Senator or Representative shall be admitted into either branch of Congress from any of said States until Congress shall have declared such State entitled to such representation.

Mr. FESSENDEN. It may so declare by a resolution like the one before us.

Mr. DIXON. That is not an act of Congress. If it is an act of Congress you must have the approval of the President. Your evasion of the President's action in this case is because it is not an act of Congress; it is the act of each House by itself. Can you avoid the right of the President of the United States to concur or non-concur in every act of Congress?

Mr. FESSENDEN. Is not a concurrent resolution, if we pass it, the act of Congress? I do not say "an act of Congress."

Mr. DIXON. It is not an act of Congress.

Mr. FESSENDEN. Is it not the act of Congress?

Mr. DIXON. No; it is not the act of Congress.

The Senator says that this resolution is not an act of Congress, is not the action of Congress. I do not say that it is. The resolution itself, I think, is so shaped as possibly not to be the action of Congress. Why? Because it is several; it is not joint. I think there is a very great doubt whether the Senator has evaded the Constitution by this, although I agree he has come very near it, and possibly has done it. But I am not now talking of this resolution, whether this is a law of Congress or not; but I am speaking of the action of Congress to which it refers, which it anticipates, which it contemplates. It provides that no member shall be admitted into either branch of Congress from such State "until Congress shall have declared" the State entitled to representation. Will the Senator deny that that requires an act of Congress?

How can Congress declare a thing? Can Congress declare that a certain State is not entitled to representation except in due form of legislation? Nobody will contend for that. When the Constitution says that Congress shall do so and so, it means that the law-making power may do it; and you may here substitute "the law-making power" for "Congress" without altering the meaning in the slightest degree, "shall be admitted into either branch of Congress from any of said States until the law-making power shall have declared such State entitled to such representation."

I desire to ask the Senator if that is not the meaning. This resolution I do not claim is an act of Congress, nor do I consider it the action of Congress, but of each House; but that is immaterial. I say this means precisely as if it was written, "shall be admitted into either branch of Congress from any of said States until the law-making power shall have declared such State entitled to such representation."

What is the law-making power? It is the two Houses of Congress and the President. That is the position we are placed in by this resolution, if it amounts to anything; I agree it does not, but if it is of binding force you never can admit a member into this body until the President of the United States shall sign the bill, unless you can do it by a two-thirds vote over his veto. That is the mode in which the Senate desires to preserve the independence of the Senate. I confess, again, I cannot see it in that light.

But what is this resolution? I have a few comments to make on it. It is very singular in its inception and in its character. It was introduced in the other House with the declaration that it was in consequence of the veto message, and a great leader there stated that he should have been willing to admit members from Tennessee, if I am not very much mistaken, but for that veto message. And what does the veto message say? That the President of the United States desired such admission. That leader was willing to admit representation from Tennessee if the President of the United States had not expressed his desire for it. That is the whole of it. I take the chairman of our joint committee at his word; I think that was the reason; and I must say here upon my responsibility that I do not think it a good reason. It is not a good reason for refusing representation to a State, that the President of the United States desires it, even if he expresses his desire in a manner which some may consider somewhat objectionable.

The Constitution says he shall give us information of the state of the Union. It is his duty to do it. He has done it. He has told us con-

sidering the state of the Union on that subject, that there is a State not represented which ought to be; he says so; and therefore a great and distinguished leader says he will change his mind; that having come to the conclusion that the members from Tennessee ought to be admitted, he will refuse them admission for this reason.

The resolution begins with saying that it is "in order to close agitation." This is a subject which agitates and will continue to agitate this whole country. The waves of popular feeling are running high and will be more tumultuous; agitation never will cease till more or less of the representation of these States is admitted. But the Senator says to close agitation on this subject we should adopt this resolution.

The people are agitated; they desire to admit the Tennessee members. We are to stop their agitation by telling them we will not do it. Will that close agitation? I might refer to the experience of some members of this body. The Senator from Massachusetts has been in his day somewhat of an agitator. My breath is not agitation, but there have been times when he has gloried in being called an agitator, and there have been attempts to close his agitation, and how? By law. This is not even a law. There was the Kansas-Nebraska bill which was intended to close the Senator's agitation, and the agitation of the Senator from Illinois, and the agitation of the Senator from Maine, by declaring that the people of a Territory should decide for themselves, and that Congress had no power virtually to act on the question of slavery. Did that close agitation? Did the repeal of the Missouri compromise close agitation? There was another attempt. A decision was made by the Supreme Court of the United States with the view of closing agitation upon the question of slavery. That court decided that Congress had no power to pass an act upon the subject of slavery either in the States or in the Territories, and they fondly believed that would close agitation. Were men ever more deceived? Did it close agitation? If any act could accomplish the impossibility that would do it. It was supposed by some deluded men that the Supreme Court of the United States having taken that ground, the people of this country would stop their agitation and would cease to talk and legislate on the subject of slavery by their representatives in Congress. But, sir, that agitation has gone on until it has culminated in war, and finally slavery has been abolished on the battle-field.

I do not think the Senator is supported by experience in his desire to close agitation in this way. He knows that the vast business interests of this country are eagerly intent on this question. He knows that the people of this country are mutually attracted, the North and the South, and they must sooner or later act together. He knows perfectly well that whatever Congress may do, this question will not cease to be agitated. Adjourn, if you see fit, without settling this question; leave it as it is; admit no member from Tennessee; and when you go through the States next fall which hold their elections for Congress, see whether agitation has ceased. Sir, a word of caution may not be unfit on that subject.

In my judgment it is the solemn duty of this body to-day, to-morrow, at the first possible time to take up the credentials of Mr. Fowler—I name him; he is the applicant here as Senator from Tennessee—and to act upon that question, and in acting upon it, to consider the entire question whether Tennessee is a State in the Union, whether she has a Legislature, whether her people are loyal, whether the public safety will permit her admission, whether the man himself is fit to be admitted. On that question there is no doubt. Nobody questions that Mr. Fowler is as loyal a man as the Senator from Ohio himself. Upon that question there is no dispute. It is our duty to act upon the question of his admission. We cannot evade it, we cannot throw it upon Congress. Congress has no jurisdiction of the subject, in my judgment. It is the duty of the Senate of the United States, an independent body, of being a member of which I am proud, as the Senator from Maine declares himself to be, but never with my consent will I relinquish one of the prerogatives of this body. It is for us to say and it is our duty instantly, upon the moment, as a question of privilege, the privilege of a State, the privilege of a member, the privilege of the whole country, to consider the question of the representation of Tennessee, and of other States as their cases are presented. Every day that you omit it, in my humble judgment, Senators, you omit to do your duty. I shall vote for it at every opportunity offered. If others do not, the responsibility is theirs.

But, sir, what is the policy proposed instead of this? Instead of acting on this question, instead of the Senate of the United States taking up this question of the right of a State to representation, and of the right of the member chosen to be a member of the Senate, what is proposed? The Senator from Ohio [Mr. WADE] has asked me to state the policy of the President. It is more difficult to state the policy of those who oppose the President.

Mr. WADE. I have been listening to your whole speech, and I was going to ask the question over again, for I want to know what that policy is. It was very pertinent to some observations you made first.

Mr. DIXON. The Senator will not object to my stating it in my own time and place when I reach it, as I assured you I would. I wish first to consider what the Senator's policy is. That is a far more difficult question to answer. I have written statements of the President's policy. Vague and indefinite and fleeting like a myth, or like a ghost on the mountain in Ossian is the policy of the Senator himself and of his friends, excepting only my friend from Massachusetts. His policy is understood, and distinctly declared.

Now, sir, permit me to consider for a moment the policy of those men who say Congress is to settle this question. The Senator from Illinois yesterday said there was no man within the circle of his knowledge who claimed that there should be an indefinite extension in point of time of the admission of representatives from these States. Is that so? I think not. I have here as an index of the policy of those who differ from me and possibly from the President a resolution offered by the Senator from Wisconsin, [Mr. HOWE.] It has never been printed it seems, and I ask the Clerk to read it. That is one index of the policy.

The Secretary read the joint resolution introduced by Mr. HOWE, as follows:

"Whereas the people of Virginia, of North Carolina, of South Carolina, of Georgia, Florida, Alabama, Mississippi, Louisiana, Texas, Arkansas, and Tennessee, have heretofore declared their independence of the Government of the United States, have usurped authority denied to every State by the supreme law of the land, have abjured duties imposed upon every State by the same law, and have waged war against the United States, whereby the political functions formerly granted to those people have been suspended; and whereas military tribunals are not suited to the exercise of civil authority: Therefore,

"*Be it resolved, &c.*, That local governments ought to be provisionally organized forthwith for the people in each of the districts named in the preamble hereto."

Mr. DIXON. That is the policy proposed by the Senator from Wisconsin. Whether the Senator from Ohio agrees with it I do not know. I know that there are Senators here who agree with that policy, and who propose governments to be established for these States as foreign nations, as Territories, as districts, so-called mere districts. That is one policy. Is not that an indefinite extension? The Senator from Illinois says he knows no man that proposed any such thing.

Mr. TRUMBULL. Is that indefinite? Does it not tell when?

Mr. DIXON. In point of time it is very indefinite. It is definite enough in its character, but the time when those States can be represented is the question. Here is another indication. I find certain resolutions offered and adopted by a public meeting at Gettysburg on the 3d day of October, 1865, by Hon. THADDEUS STEVENS, a man of great distinction and ability, a leader I may say, in the other branch of Congress. His talents entitle him to the post. These are the resolutions which he offered:

"*Resolved*, That in our judgment the best way to effect that [reconstruction] is to treat the so-called 'confederate States' as subject to all the liabilities which they claimed for themselves as a belligerent independent *de facto* alien to the Constitution; and entitled to claim no protection under it.

"*Resolved*, That having conquered this hostile belligerent, they shall be held as a conquered enemy, and the laws which are to govern them shall be referred to Congress, to which, as our State convention has well resolved, it properly belongs.

"*Resolved*, That, until Congress shall have acted, none of the 'confederate States' is entitled to be represented in Congress, but shall be held and treated as Territories until again admitted into the Union.

"*Resolved*, That we demand, on behalf of the people of Pennsylvania, that Congress shall declare as forfeited and vested in the Government, all the real estate of such of the enemy as were rebels, whose estate at the beginning of the war was worth ten thousand dollars, or more, as our State convention resolved, though we would have preferred a lower sum; and who were the owners of more than two hundred acres of arable land.

"*Resolved*, That we desire that the forfeited land shall be divided into convenient farms; and after assigning a just portion to the freedmen the balance should be sold, at convenient periods, to the highest bidder; and the proceeds to be applied as follows:

"1. Invest $300,000,000 in six per cent. Government bonds, and add the interest semi-annually to the pensions of those who have become pensioners by the casualties of this infamous war.

"2. Appropriate $200,000,000 to pay the damages done by the rebels to loyal citizens, whether North or South.

"3. Pay the balance into the United States Treasury, toward the payment of the national debt."

Five hundred million dollars to be received by confiscation and sale of the property of the whole South and the balance of the price to go to pay the national debt. That is the proposition of the honorable chairman of this joint committee. This shocked the Senator from Massachusetts, and I may say that in the way of radicalism anything that shocks him must be sufficiently shocking. [Laughter.] He did not favor it. He was shocked by this monstrous proposition. What is it? The confiscation of the property of the whole people, the actual turning out to starvation of an entire population, and until that is done no representation shall be admitted into Congress. That is one of the things which Congress is to do. That is one mode of reconstruction! And still the Senator from Illinois says, in that convincing manner of his, that there is no human being, to his knowledge, who proposes any indefinite exclusion in point of time. Will it not take some little time to accomplish this, I ask that Senator? Is not the honorable member who introduced these resolutions at Gettysburg a man to whom that Senator looks as one who has the right to give opinions? I do not say that he always follows his lead, but he said that he knew no man who proposed an indefinite exclusion.

Sir, that gentleman is the chairman of this joint committee. To him you have committed this question of reconstruction. Our friend and colleague from Maine is powerless in that committee; he has, I think, six members on the part of the Senate. The other chairman of the committee has nine. What can our distinguished friend do in that body? It is a question of force, a question of physical power, a question of numbers, it is not a question of intellect. If it was a question of intellect, I think the two chairmen would be pretty fairly pitted against each other. I would say of the contest between these two men, the honorable member from Pennsylvania and the honorable Senator from Maine, as the poet said of the battle of Talavera:

"A glorious sight to see
For him who had no friend or brother there."

Now, sir, I have spoken of the policy of those who differ from me, and, as I suppose, from the President, on this subject. I might allude to other distinguished men. I have spoken of the gentleman from Pennsylvania; I have spoken of the Senator from Wisconsin. I will allude now to another gentleman of high position in the House of Representatives. I have read his speech in the Globe. I suppose in that official paper I may comment on it with propriety—a speech of great force, perhaps un-

surpassed by any speech made on this subject. I allude to a speech published in the Globe as the speech of Mr. SHELLABARGER, of Ohio. What does he say? He has a policy of reconstruction; and he says:

"Mr. Chairman, let this noble utterance—'irreversible guarantees for the rights' of American citizens of every race and condition—be written with pen of iron and point of diamond in your Constitution. Let it thus be made 'irreversible' indeed, by the action of the State, in the only way it can be made irreversible; and then to establish this and every other guarantee of the Constitution upon the only sure foundation of a free republic—the equality of the people and of the States—make, by the same organic law, every elector in the Union absolutely equal in his right of representation in that renovated Union, and I am content.

"Let the revolted States base their republican State governments upon a general and sincere loyalty of the people, and come to us under the guarantees of this renewed Union, and we hail their coming and the hour that brings them.

"If you ask again, 'Suppose such general loyalty should never reappear, shall they be dependencies forever?'

"Sir, convince me that the case is supposable, then with deepest sorrow I answer—Forever!"

Is not this indefinite in point of time? No, he limits it to forever. Unless he can get these guarantees, this Union must remain dissevered forever. Now, sir, is it surprising that some gentlemen on this floor think it is time for them to assert their individual sentiments against these opinions of men of eminent talent and ability in both Houses of Congress?

I come to another example, and one of still more power, probably, in the estimation of the Senate. I come to the opinions of the honorable Senator from Massachusetts, [Mr. SUMNER.] He, presiding at the call of the people of Massachusetts at a great State convention held in that noble State in the month of September last, laid down his ideas of the true policy of reconstruction. So radical is his plan of reconstruction that he cannot go for the resolution reported by the joint committee of fifteen. That does not go deep enough for him. His is a subsoil plow. He thinks it may require thirty years to accomplish his purpose. Am I mistaken?

Mr. SUMNER. Read the passage.

Mr. DIXON. Here is the speech, "The national security and the national faith," a splendid and magnificent effort, like all that comes from him. Before the assembled Republicans of the State of Massachusetts, a body over which he presided, of which I may say that probably it has never been surpassed by any similar body on the face of the globe for intelligence and for character, the Senator himself giving the people of Massachusetts solemnly his opinions and laying down his manifesto, announcing his project which was ratified by the convention. He says:

"There must be no precipitation. Time is the gentlest but most powerful revolutionist. Time is the surest reformer. Time is the peace-maker. Time is necessary to growth, and it is an element of change. For thirty years and more this wickedness was maturing. Who can say that the same time will not be needed now to mature the conditions of permanent peace?"

The Senator does not say it will take thirty years, but he says no man can say that it will not. I agree with him, no man can say it will not.

Mr. SUMNER. Finish the passage.

Mr. DIXON. Yes, it is worth reading:

"Who can say that a generation must not elapse before the rebel communities have been so far changed as to become safe associates in a common government? Plainly, this cannot be done at once. Wellington exclaimed at Waterloo, 'Would that night or Blucher had come!' Time alone was a substitute for a powerful ally. It was more through time than battle that La Vendée was changed into loyalty. Time, therefore, we must have. Through time all other guarantees may be obtained; but time itself is a guarantee."

Is that indefinite in point of time? I do not think all this can be accomplished short of a generation. I desire while that process is going on, while that generation is growing up, that the people of this country shall be reunited, that they shall be represented by loyal men from loyal States and districts in this body and in the other House, while the Senator is finishing the remainder of his useful career on earth in bringing that great work to accomplishment. Its completion will bring him to more than the allotted term of human life.

Is not this indefinite? But, sir, it is said—the Senator from Ohio will excuse me for not yet coming to the policy of the President—that the President's recent speech is an obstacle in the way of the President's policy. The Senator from Ohio [Mr. SHERMAN] saw fit to bring before this body a speech recently made by the President of the United States or I should not myself have alluded to it. I have but a few words to say upon it. I am not here either to justify or condemn it.

There are certain matters of public policy which when avowed by the President interest me somewhat deeply. Peculiar modes of expression do not very much interest me, I confess. Whether he states his views in a speech from the White House or in a message is to me somewhat immaterial. What he says is material upon great questions of public policy. We know that when General Washington was President of the United States he introduced, as was complained in those days, a somewhat regal and imperial mode of conducting the public business. It was as difficult to get access to him as to a monarch. When Mr. Lincoln came into the executive chair he was as accessible as he was in his office at Springfield. General Washington had one mode of transacting public business; Mr. Lincoln had another. I am not here to condemn or to justify either of those modes. I may have my preferences. Possibly if I could express my wish, it would be that the Washingtonian mode was in some respects revived and renewed. But does anybody suppose that great questions of public policy in the minds of the people are to be affected for a single instant by a question of taste? Does that affect the question of policy? It is not for us to inquire what is the President's mode of life or action, provided it is pure and virtuous. That we have a right to ask, and that is all we have a right to ask. Great questions of policy we have a right to consider, and the people of this whole country are looking with eager eyes upon the policy of the President, not upon his modes of expressing this policy.

To suppose that at this time, when the ocean of public opinion is heaving in multitudinous waves, the people of this country are to avert their gaze for a single moment from the question of policy in order that they may consider the question whether a particular mode of expression or action is in good taste or not, is to suppose what I think does not exist. What the people ask is, what is the policy of the Administration? and I am now prepared to tell the Senator from Ohio what I think that policy is.

Mr. WADE. Let me ask the Senator whether he derives the evidence of that policy from the speech of the President made on the 22d of February. If so, I suppose he knew nothing about it before. Let us have it, then, from that source.

Mr. DIXON. I shall take authentic and written declarations of his opinion. When this Congress met there was, I understand, no difference of opinion between the President and Congress. Was ever a message submitted to a more approving Congress? Was there ever a President's message read by a more admiring public? I need not refer to what followed in either House of Congress. Nearly three months have elapsed. It is said there is a difference of opinion at this time between the President and certain men in this body.

What is the difference of opinion existing between the President of the United States and those who are hostile to his reconstruction policy in the two Houses of Congress? I certainly disclaim, of course, any right to state what are his opinions, except as they are given to us in authentic public documents. From these alone I obtain his views.

That these are misrepresented, intentionally or otherwise, should not perhaps surprise those who consider how seldom a candid statement of the true question at issue is made by the advocates of conflicting doctrines and opinions. It would seem impossible, in view of the frank and explicit utterances which the President has often made of his opinions, to create in the public mind a misapprehension of his views. Yet this, to a certain extent, has been done. He is supposed by many to urge the admission of disloyal men from the rebel States to the two Houses of Congress. He is charged with a purpose to bring into their former places in this body bloody handed rebels. He is said to wish to "throw wide open" the doors of Congress and fill those seats with traitors fresh from the battle-fields of the rebellion. What is his true position? I might refer to the published statement of his views in his remarks to a delegation of Virginians the other day, in which he explicitly declared his opinion that only loyal men should be appointed to office; but I prefer to take his latest authentic written declarations. I shall read from his veto message. I find in that document the following:

"I hold it my duty to recommend to you, in the interests of peace and in the interests of the Union, the admission of every State to its share in public legislation, when, however insubordinate, insurgent, or rebellious its people may have been, it presents itself, not only in an attitude of loyalty and harmony, but in the persons of representatives whose loyalty cannot be questioned under any existing constitutional or legal tests."

Such is the language of the President in his veto message. Can it be misunderstood? Can it be misrepresented? What are existing constitutional and legal tests but the oath required by the Constitution, and the still stronger test oath prescribed by law?

Having stated what he recommends, the President then states what he is opposed to, as follows:

"It is plain that an indefinite or permanent exclusion of any part of the country from representation must be attended by a spirit of disquiet and complaint. It is unwise and dangerous to pursue a course of measures which will unite a very large section of the country against another section of the country, however much the latter may preponderate. The course of emigration, the development of industry and business, and natural causes will raise up at the South men as devoted to the Union as those of any other part of the land. But if they are all excluded from Congress; if, in a permanent statute, they are declared not to be in full constitutional relations to the country, they may think they have cause to become a unit in feeling and sentiment against the Government."

This is what the President is opposed to. We have, therefore, what he recommends and what he disapproves. He recommends the admission to Congress of loyal men who can take the required oaths, provided they come from States which present themselves in an attitude of harmony and loyalty. He disapproves of a permanent or indefinite exclusion of all representation, regardless of the loyalty of the representative or the people. Here, then, the issue is fairly presented. How could he state it more distinctly?

Yet we are daily told that the President desires to throw wide open the doors of Congress to bloody-handed rebels. Go where you will—in the halls of representation as well as in the public press—you will find the opponents of his policy stating the question in this form.

Mr. GRIMES. Will the Senator from Connecticut permit me to ask him whether or not he understands the President's theory to be that each and every one of these States is at this time in such a loyal attitude as to entitle it to be represented in this body and in the House of Representatives?

Mr. DIXON. That, I think, he leaves to the two Houses of Congress, each for itself to decide. All he says is that a total exclusion is not allowable; and in my private judgment, without being qualified or able to speak for him, I do not think that South Carolina stands on the same ground as Tennessee, and in the veto message he draws an evident distinction. He says Tennessee, for certain reasons, ought to be represented. He makes a much stronger case for Tennessee than South Carolina can present. Therefore, I think he does not consider that they are by any means on the same footing.

The Senator from Ohio, in the speech in which he introduced a resolution proposing an amendment to the Constitution the other day, said that he who would go for admitting traitors was himself a traitor.

Mr. WADE. Is that the President's policy?

Mr. DIXON. The Senator of course meant to assume that somebody had said that.

Mr. WADE. Allow me to say on that subject that I do not know what the President's policy is. I cannot find it out. I do understand, however, that he is violently opposed to the course that Congress is taking on the subject; but where the difference is between him and Congress I cannot exactly see. He calls us traitors.

Mr. DIXON. Not all of us.

Mr. WADE. Whom does he so call and who not? Now, one moment, for I do not wish to make a speech. The Senator said in opening his speech——

Mr. DIXON. The Senator will allow me. I prefer he should wait until I conclude.

Mr. WADE. Very well.

Mr. DIXON. I cited the Senator from Ohio with entire respect. I wish nothing personal in this discussion. The Senator said that somebody wished to receive traitors.

Mr. WADE. I did not say anybody did.

Mr. DIXON. He said a man who was willing to admit a traitor was a traitor himself, and so say I.

Mr. WADE. I put a hypothetical case.

Mr. DIXON. The Senator would not have said that if he did not suppose that some human being took that position. I suppose he referred to some one, but if he did not I am glad to hear it.

I have attempted to state the vague, indistinct, indefinite, undecided, and uncertain policy of those who dissent from the President's policy. It is not my fault that it has that character. I have read from their various opinions. If they are uncertain and indistinct and difficult to define, certainly it is not the fault of the opponents of those opinions.

Mr. President, what now are the two great systems of policy with regard to reconstruction and reunion on which the minds of the people of this country are to-day divided? One of these systems, known, by way of distinction, as that of the President, is indicated in the words which I have cited from his veto message. It contemplates a careful, cautious, discriminating admission of a loyal representation from loyal States and districts in the appropriate House of Congress, by the separate action of each, every case to be considered by itself and decided on its own merits. It recognizes the right of every loyal State and district to be represented by loyal men in Congress. It draws the true line of distinction between traitors and true men. It furnishes to the States lately in rebellion the strongest possible inducement to loyalty and fidelity to the Government. It "makes treason odious," by showing that while the traitor and the rebel are excluded from Congress, the loyal and the faithful are cordially received. It recognizes and rewards loyalty wherever it is found, and distinguishes, as it ought, between a Horace Maynard and a Jefferson Davis.

What is the other policy? It contemplates the entire exclusion of representation in either House of Congress from any State lately in rebellion, irrespective of its present loyalty or the character of its people, until the adoption of certain measures not definitely stated, whose advocates agree neither as to the measures proposed nor in the reasons given for their support—this exclusion to continue for an indefinite and unlimited period of time, declared by some to be for five years, by some thirty years, and by some in a certain contingency *forever*; the entire region comprised within the thirteen seceding States, including Tennessee, to be held meanwhile as conquered territory, and to be governed as subject provinces by the central power, and the people thereof to be ruled as vassals, liable and subject necessarily at all times to taxation, while thus wholly deprived of representation and of every right of self-government.

And now, to render certain this policy—or at least in view of it—it is proposed by the resolution now under consideration to enact, so far as such a resolution can enact, that neither House of Congress shall admit a member from any one of the States lately in rebellion, whatever may be his own past or present character and conduct, and however true and loyal may be the people by whom he is elected, until consent, by an act of Congress, passed by both Houses and signed by the President, in the face of the express provision of the Constitution, that "each House shall be the judge of the elections, qualifications, and returns of its own members."

These, Mr. President, are the two systems of policy now presented for the consideration of this country. One or the other must be adopted by the Government. All minor issues, and all intermediate views and opinions, must gravitate toward and be absorbed by one or the other of these great commanding systems of policy; and all questions of local interest or of minor details in the work of reconstruction become therefore unimportant, and may be left out of consideration.

I have stated what I believe to be the true issue in the briefest possible form of words. Here, in my judgment, is the whole of this vast question which is to agitate the public mind of this country, and the decision of which is to shape and control its governmental policy for a long period of years. All points of mere detail in regard to it will be lost sight of and forgotten in view of the vast and overwhelming idea of the permanent and fraternal reunion of the people of every one of those States under a common flag and a common representative Government. It is impossible, in the nature of things, that the public mind should be occupied by any other political question. Until this is decided, finally and forever, no personal or party consideration can divert the eager attention of the people from the exclusive investigation of this question. Nor can any thoughtful mind doubt as to the final decision. Before the war the love of the Union was the passion of the loyal national heart, and now that the war is over its passion will be reunion. For a brief period the dissevered sections of our country may be held apart by the main force of party and of faction, but every day the mutual attraction of the separated parts is growing stronger and more irresistible. If there are any who attempt to hold them asunder their fate will be that of Milo:

> "The Roman, when he rent the oak,
> Dreamed not of the rebound."

They may be crushed, but the Union will be restored under a Constitution amended and purified, by which slavery is forever abolished, and freedom, with all its incidents, forever guarantied.

Believing the first-named policy to be, as has been conclusively proven by the distinguished Senator from Wisconsin, [Mr. DOOLITTLE,] that of President Lincoln, and that in adopting it President Johnson has but followed in the path of his predecessor; and believing also that this policy is but a continuation of the great struggle in defense of the noble cause of the Union, for which President Lincoln and all his martyred brethren died, I declare my confident trust that the people will support and uphold Andrew Johnson in its advocacy and defense, as in the darkest days of the war they supported and upheld Abraham Lincoln.

Mr. TRUMBULL. Mr. President, by an interruption of the Senator from Connecticut in the course of his remarks he was forced, from a question which I propounded to him, to take the position that there was a difference between right and power; and he claimed the exercise of power, because there was the physical ability to do what he asked for, thereby admitting that he had no right to do it. Now, sir, I am not disposed to let the Senator from Connecticut escape from that position. He lays down and maintains before this body the position that the Senate of the United States and the House of Representatives, each for itself has the right—no, not the right: he admits that they have not the right, but he says they have the physical power, each body for itself, to decide upon the elections, returns, and qualifications of the members. I admitted that they had the physical power to do wrong. Every human being is so created by the great Maker of us all that he may do wrong; but it was reserved for the Senator from Connecticut, occupying a position here in this high assembly of the nation, acting under an oath and appealing to his Maker for the truth of what he should say, to assert that the Senate of the United States was the proper body to decide by itself upon the elections, returns, and qualifications of its members, because it had the physical power to do so, and not because it was right. I forced him to that position, and I shall not let him escape from it.

Mr. DIXON. The Senator forced me into no such position; but let him go on.

Mr. TRUMBULL. That was the very question, as to physical power. Now, sir, I deny that, as a Senate, we have the power to do that which it is not right to do. We can exercise no power but a rightful power; and when I prove, as I shall, that we have no rightful power to determine what a State organization is, I say we have no physical power to do it, except as criminals and culprits, false to the oaths we have taken and the positions we hold.

Sir, it is a monstrous doctrine, that a Senator of the United States has the physical power to do what he has no moral right to do; the physical power to do what he has no rightful power to do. That was the precise form in which the question was put. I asked if the Senate of the United States had the right, as I put the question, and he corrected me and said power—has the Senate of the United States power to take a person from the avenue and put him into this body—the physical power; and he said they had; that that person would be a Senator here; that it was a question of jurisdiction; and if they had the physical power to do it they had the jurisdiction. Sir, I deny it. I deny the rightful jurisdiction to do any such thing. Was not that the case put to the Senator from Connecticut? Did he not go on to comment on that very case, and say that Senators from Indiana were admitted into this body who were never elected, making that the basis of his argument?

Mr. DIXON. Did I say that was right?

Mr. TRUMBULL. No, sir, you did not say it was right; but you claimed that they had jurisdiction to do it.

Mr. DIXON. Had they not?

Mr. TRUMBULL. No, sir; it was a usurpation. That is the very point I want to bring the Senator from Connecticut to.

Mr. DIXON. I desire the Senator to explain to me why he submitted to it for a series of years and finally by a two-thirds vote expelled the member, if there was no jurisdiction and he was not a member of the Senate. After we had a majority in this body why did he not move a resolution declaring that that person was not a member of the body?

Mr. TRUMBULL. I have often been compelled to submit to things which I did not approve.

Mr. DIXON. Compelled by a majority of your own friends here, long before Mr. Bright was expelled?

The PRESIDING OFFICER. The Senators will address the Chair.

Mr. TRUMBULL. He was not expelled for that cause. I voted at a subsequent period to turn him out, before he was expelled. Has the Senator forgotten that when that person claimed a seat here, I took the ground that he had no more right to a seat than any person from Pennsylvania avenue who had never been elected, but who, by arbitrary power, by physical power, usurped authority, was placed in here? Subsequently the question arose again, and in conjunction with the Senator from Vermont, who is now no more, (Mr. Collamer,) who occupied the seat where the Senator now sits, made a report in favor of one of the present sitting Senators from the State of Indiana, insisting, when he was elected to that place, that he had a right to take the seat, that putting the other person in was nothing but usurpation.

Mr. DIXON. Will the Senator be kind enough to tell me the date of that report?

Mr. TRUMBULL. I cannot tell the date of it now; the Senator will find it in the reports.

Mr. DIXON. Was it not before the final action of the Senate on the subject?

Mr. TRUMBULL. No, sir. Fitch and Bright were voted into the Senate by, as the Senator admits, usurped authority, and he makes that a precedent now for another usurpation to get somebody else in. After they were placed in the Senate by usurped authority, my friend [Mr. LANE, of Indiana,] was elected by the Legislature to the Senate, and he came here to take the seat occupied by one of those usurpers. I tried to give him the seat to which he was entitled. The Senator from Connecticut is forgetful. He will find all that I have now stated in our records. I was not still under that usurpation. I think on that occasion one of my colleagues, the honorable Senator from New York, now Secretary of State, gave notice that from year to year, while he retained a seat in the Senate, he would bring up that question.

Now, sir, I have shown that the only ground upon which the Senator places himself is one of usurpation, one of physical power against the exercise of rightful authority; and he is driven to that position; he can occupy no other. No wonder that he took it, for any other is wholly untenable, at war with the practice of the Government, at war with the Constitution of the country.

Now, what is the question about which so much has been said? The Constitution of the United States authorizes each House to judge of the elections, returns, and qualifications of its own members; but that presupposes the existence of a body having authority to elect members, and the question whether there is such a body is reserved to Congress, not to each House by itself, nor to the President. How was it with California? California claimed to be a State of this Union. The question of the admission of members from the State of California into the Senate and House of Representatives, and the recognition of the authorities which had been set up in California, agitated this whole Union; and what did Congress do? Did each House consider whether the men sent here as members should take their seats, and settle the question in that way? Did it ever enter into the mind of a single human being in either House of Congress at that time, that the Senate had a right to decide that the persons sent here from California were entitled to seats, and that that would determine the whole question, as the Senator says, whether the organization which had been inaugurated in California was a rightful organization, to be recognized or not? Nobody thought of such a thing. The Congress of the United States, both Houses, declared "the State of California shall be one, and is hereby declared to be one, of the United States of America."

Mr. STEWART. I desire to propound a question to the Senator from Illinois. Does he regard Tennessee now as in the same position as California was before her admission? Is that the idea?

Mr. TRUMBULL. No, sir; but I regard the State government set up in Tennessee as being in precisely the condition of the State government set up in California. The State of Tennessee had once been organized as a State of this Union; the State of California never had been; the boundaries had not been fixed.

Mr. STEWART. Let me put my question again in distinct form. You regard the State government now set up in Tennessee as precisely the same thing as that set up in California?

Mr. TRUMBULL. Yes, so far as our action is concerned, applicable to the question.

Mr. STEWART. So that it requires an act of legislation, an act of Congress, to admit the State. Is that the position? Then I ask if it would not follow that there should be a new act of admission every time a State changes its constitution?

Mr. TRUMBULL. Not at all; nor does it require any act of admission of Tennessee now. I am assuming no such position. If the Senator will listen to me, and I am capable of making myself understood, he will understand my position. The State of Tennessee was once in the exercise of all its constitutional relations as one of the States of this Union. To that we all agree. At some period in 1861 the State government of the State of Tennessee was overthrown and another government was inaugurated there, the members of which swore allegiance to some other government, not that of the United States. While that condition of things existed in Tennessee there was no State government there, because the government set up in hostility to the United States was not a State government in the contemplation of the Constitution of the United States. That I presume the Senator admits. There was therefore a time when the State authorities were usurped by enemies of the country, and there was no organization there loyal to the country.

Now, what I mean to say is, that before the State of Tennessee can be again in constitutional relations with this Government, there must be set up an organization loyal to the Government. Does anybody doubt that? Who is to determine whether that organization has been set up and whether it is a republican government? Suppose that in the new organization which is set up principles are adopted that are anti-republican, what then? The Constitution says that the United States shall guaranty to every State in the Union a republican form of government. Who is to inquire whether a republican form of government has been set up in Tennessee? Somebody must. Has the President of the United States any authority to inquire? Where did he get it? Whence did he derive it? As Commander-in-Chief of the Army? A great deal of confusion has arisen in the minds of some men by confounding the powers of the President of the United States with his powers as Commander-in-Chief of the Army. They have no connection with each other. The President as President cannot draw to himself any of the powers belonging to a commander-in-chief, and the commander-in-chief or general cannot draw to himself any presidential powers when acting as the commander-in-chief.

It has been thought proper that the Constitution of the United States shall designate who shall command our armies, and it says that the person who is President shall be commander of the armies. It would have been competent for the people in their Constitution to have said that the person who was Chief Justice of the Supreme Court of the United States should be the commander of the armies; and if the Constitution had so prescribed, the Chief Justice would have had just as much power as Commander-in-Chief of our armies as the President has in that capacity. As Commander-in-Chief he can draw no powers to himself in consequence of being President. He is designated as Commander-in-Chief because he is the President, but he acts either in the one capacity or the other. Now, neither as President has the Constitution devolved upon the Executive authority to determine what is a republican form of government in a State, nor as Commander-in-Chief of the armies has it devolved upon him any such authority.

Mr. STEWART. Allow me to put a case to the Senator. Suppose that when the army of Lee was in the State of Pennsylvania it had advanced to Harrisburg, captured the State House, and every State officer, and all the public archives of that State, had destroyed them all, had burned down the State House, not leaving a single State officer or a paper to show that Pennsylvania had been a State, would it after the expulsion of that army have required an act of Congress to readmit Pennsylvania?

Mr. TRUMBULL. I have never said it would require an act of Congress to readmit Tennessee; and when the suppositious case that the Senator speaks of arises, it will be time enough to answer it. That is not the case. It is a little like the hypothetical case that the Senator from Connecticut dwelt upon a few moments ago in order to prove that somebody was in favor of keeping out of the Union eleven States indefinitely. How did he prove it? Mr. SHELLABARGER had made a speech in the House of Representatives in which he put a hypothetical case, and had said that in case such and such things were to happen, and he was asked the question how long the present state of things was to continue, he would with great regret say "forever;" and there the Senator thought that somebody was in favor of keeping the States out indefinitely! Now, will any such hypothetical case occur? I can put a hypothetical case to the Senator from Connecticut and he will say "forever."

Mr. DIXON. I think it will occur. What he demands will never be granted.

Mr. TRUMBULL. Does not the President of the United States say that if they were disloyal he would keep them out? Now, let me put a hypothetical case to the Senator from Connecticut. If the Senator from Connecticut was satisfied that the Legislature of South Carolina was disloyal and sent disloyal men here, and continued to do so, I ask him how long would he keep the State of South Carolina out? Would he not answer with tears in his eyes, "forever?" Or would he admit the men? Will the Senator please to answer whether he would let them in, traitors at home and traitors here? Let us have the answer.

Mr. DIXON. I will answer that question. I should say that the State of South Carolina should never be admitted so long as it was unsafe to admit her, so long as she was disloyal to the Government. But I say because the State of South Carolina cannot be admitted, therefore the members of eleven States should not be excluded. Now, sir, the case put by the gentleman from Ohio to whom I referred was not, strictly speaking, an impossibility or by any means an impossible case; it was the very case which has happened. He says that here are certain guarantees which must be required. I think they never will be granted; he never can carry those guarantees; but he says that until they are carried he is in favor of forever excluding all these States. Now, the Senator says, if I understand him, that he does not mean to put a real case, but one which can never happen. The case put by the Representative from Ohio was really the case before us; the guarantees which he demands are the very guarantees that are demanded by a large body of men here, and he says that until these identical guarantees are granted he will keep all these States out, the entire region out, forever. Now, the Senator asks me what I would do with the State of South Carolina. I have never denied that the Senate of the United States has the right to keep South Carolina out forever if it is unsafe to admit her; I say that the Senate of the United States must decide the question; and until the Senate of the United States says her members are to be admitted she never can be admitted to be represented here. Sir, it is not a question of time with regard to that, but it is a question as to who shall decide it, and it is astonishing to me that the Senator does not see it.

Mr. TRUMBULL. I have brought the Senator, then, to the admission that he himself would do the same thing in the hypothetical case which I suppose that Mr. SHELLABARGER said he would do, except that when I put the question to him how long he would keep South Carolina out, instead of saying, as Mr. SHELLABARGER did, "forever," he said he would never admit her. It is the difference between never doing a thing, and not doing it forever. He says my case will not happen. I hope it will not. I hope the State of South Carolina will not always be disloyal. I hope the State of Georgia will not always be disloyal and send the vice president of the rebellion here as one of its Senators. But, sir, he wants to know if because the State of South Carolina is disloyal, Tennessee is to be kept out. No, sir, not at all. I never heard anybody say so. I do not know that anybody thinks so, and I do not believe

that anybody does unless it is the Senator from Connecticut and those who think with him. He is talking about keeping Tennessee out. I know of no one who wishes to keep Tennessee out of the Union after she is in condition to be admitted into the Union; and we are now taking steps to admit Tennessee.

I speak inaccurately when I speak of "admitting Tennessee into the Union." The Senator from Connecticut and the Senator from Nevada have that idea in their heads, and put so many questions about admitting States into the Union that really they have got me to use that form of expression when I do not want any law to admit any of these States into the Union; but I do want the action of both Houses of Congress recognizing a government in South Carolina and in Tennessee which is loyal to the country and legitimately authorized to have representation here.

I did not rise with the view of making a speech but simply to press one point; and when I was interrupted I was trying to show that somebody, after the State government was usurped and overthrown, must decide when a new State government is set up which is authorized to be represented. Now, let me illustrate this in the form of interrogation. I submit to the Senator from Kentucky if the rebel Legislature of Tennessee had any authority to send Senators to this body? I do not ask him to reply for I know what he would say.

Mr. DIXON. You did not ask me the question.

Mr. TRUMBULL. Yes I did.

Mr. DIXON. No; you asked the Senator from Kentucky.

Mr. TRUMBULL. I meant the Senator from Connecticut. He will pardon me if I mix the Senator from Kentucky and the Senator from Connecticut together. They have been traveling the same road, and the mistake was a natural one. [Laughter.] I beg his pardon. The question which I propound is—I will not ask the Senator to answer it, because I know what his answer would be—had the disloyal Legislature of Tennessee, in 1862, which had sworn allegiance to a so-called confederate government which was in hostility to the United States and was at war with the United States, authority to send Senators to this body? Of course he will say it had not. That being so, before Senators can come to this body from the State of Tennessee there must be an organization there with authority to send them.

Mr. SAULSBURY. Will the honorable Senator from Illinois allow me to answer his question?

Mr. TRUMBULL. The question I asked the Senator from Connecticut?

Mr. SAULSBURY. Yes, sir.

Mr. TRUMBULL. Oh, yes, I will allow the Senator from Delaware to come in and answer if he will reply to the question and not make a speech.

Mr. SAULSBURY. I do not wish to volunteer in any controversy between gentlemen on the other side of the House; but as I propose to say a few words on this subject before the debate closes, and as I differ so widely from anything that I have heard said upon this floor upon either side of the question, I respond directly without any equivocation to the Senator, yes. When armed resistance to Federal authority was suppressed in the States which had assumed to secede, and when, saying that they are willing to resume their former relations to the Federal Government, they send their Representatives to the other House and their Senators here, and those Representatives and Senators are willing to take the oath to support the Constitution of the United States, and no other oath, I respond affirmatively that those States have a right to be represented by the men so chosen; and that is the basis of the argument which I shall presume to make before this discussion is over.

Mr. TRUMBULL. The Senator from Delaware states a different case from the one which I put. He says when peace has come; I said in 1862, when the Legislature of Tennessee was disloyal; when it had sworn allegiance to a so-called confederate government; and I asked whether then, when it was fighting the United States, it had a right to representation here; and the Senator instead of answering the question goes on to talk about a state of peace. That was not the case I put. Now, I wish to put it to the Senator from Delaware, as I asked it of the Senator from Connecticut, and no dodging about another case——

Mr. SAULSBURY. The Senator from Delaware never dodges.

Mr. TRUMBULL. The Senator interfered to answer my question. Sir, it is a question susceptible of an answer in monosyllable, and I shall be happy to hear the Senator from Delaware.

Mr. DIXON. The Senator from Illinois says "no dodging." He told me before that he did not wish me to answer that question.

Mr. TRUMBULL. I did not say that to the Senator from Connecticut. I was not addressing my remarks to the Senator from Connecticut, but I am talking now to the Senator from Delaware.

Mr. DIXON. The Senator said he put it to the Senator from Delaware and desired an answer from him because he had received none from the Senator from Connecticut, and then he said he wished no dodging, intimating that I had dodged his question. If the Senator had not said that he desired no answer from me I should have replied to him.

Mr. TRUMBULL. I did not say that I received none from the Senator from Connecticut.

Mr. DIXON. I think the Senator is mistaken. Probably he did not mean it, but he said it.

Mr. TRUMBULL. Not at all. I was not addressing myself then to the Senator from Connecticut. I had said to him before that I did not ask him to answer because I knew what his answer would be. The Senator from Delaware interposed and endeavored to give an answer, but he stated another case. I said to the Senator from Delaware, "No dodging of my question by putting another case about peace;" but I said nothing about dodging to the Senator from Connecticut, and I did not mean the word in any offensive sense to the Senator from Delaware. I only meant that I wanted an answer to this question, which is not one about a state of peace. When the State of Tennessee as a State organization was in armed rebellion against the Government of the United States, when its Legislature by every one of its members had sworn allegiance to a so-called confederate government in hostility to the United States, and was prosecuting this war, I ask the Senator from Delaware if then that Legislature was entitled to representation in this body?

Mr. SAULSBURY. Mr. President, the Senator from Delaware has no difficulty in answering a question of that character. Being an individual who, during this war, has sat in this Chamber and heard imputations, not direct and personal upon himself but upon those who were associated with him, and remaining as quiet as he could under the imputations, he is now free to answer the question of the honorable Senator from Illinois; and his answer is emphatic and to the point. Never having believed in the doctrine of secession, never having recognized the right of any State of this Union to go out and to assume independent relations with reference to this Government, he would not at any moment during the war, when a State, acting through its organic forms, would have sent a Representative to the other House or to this, have admitted him, but he would have said he had no right here. But when the heavenly angel of peace has appeared and there is no further war, when peace is restored to a bleeding and distracted country, and when the southern States have assumed the position which they ought to have maintained from the beginning, that of fealty and fidelity to the Federal Government, when they acknowledge that they entered into a bootless war and come back with that humiliation upon their lips, and they send men who now are what the gentleman calls loyal—a term that I do not know the meaning of as applied to republican government—when they send their representatives and say, "Now, we have appealed to the common arbiter, the sword; we have not succeeded in this contest, and we wish to resume our relations with the Federal Government," I hold to the doctrine that you have no right to apply any test to those representatives than that of present fidelity—can they take the oath to support the Constitution of the United States? That is my position.

Mr. TRUMBULL. Mr. President, the Senator's vision may be clearer than that of some of us, and we may not have been able to see this angel of peace that has been flitting before his eyes. But who is to determine when the angel of peace has come? The Senator from Delaware has seen the angel. [Laughter.] The rest of us may not have seen him. Will he not let us wait until we see that friendly angel coming, when we shall all rejoice to welcome back representatives from all the States that have been in rebellion? We all agree with him as to what is to be done when that time comes and when they are loyal to the country, though the Senator from Delaware—and I will pardon him for that—seems not to understand the meaning of the word loyalty. Some of us do. I am sorry that during this war he never has been able to ascertain what loyalty was.

Then, sir, I have it admitted by the Senator from Delaware that while the war was raging, and while the rebel Legislature was in session in Tennessee, it had no right to representation here. That is an admitted fact now—admitted even by the Senator from Delaware. I know my friend from Connecticut admits it. That being the condition of things, how are we to get out of it? There was a time when there was no State government in Tennessee from which we could receive representation. Now, it is said there is a State government in Tennessee. Who says so? The President of the United States. Who gave him authority to decide that? The Constitution says that each House shall be the judge of the elections, returns, and qualifications of its own members. What does that mean? It means that each House is the judge of the qualifications, the elections, and the returns of members from a locality or a constituency or a body that has a right to send members.

Mr. DIXON. Does not the Senate judge whether they have the right?

Mr. TRUMBULL. The Senate judges after it is once established that there is a constituent body. After you have got a congressional district, the House of Representatives determines whether a man is elected from that district; but the House of Representatives cannot fix the district. For instance, the good old State of Connecticut has, I believe, four Representatives in the other House. The House of Representatives determines whether a man is elected from one of those districts to the House of Representatives; but it cannot determine, and has no right to determine—there comes up the question of physical power—that a man who has got the most votes in two districts together is elected. The House of Representatives cannot fix the districts. Congress may fix the districts, although it has left that matter to be regulated by the States. It is in the power of Congress under the Constitution to determine what shall be a district in the State of Connecticut; but the House of Representatives cannot determine it, and why? Because no such power is vested in the House of Representatives in determining the elections, qualifications, and returns of its members. That is a very different thing from determining the constituency that is to elect.

Mr. DIXON. Does the Senator claim that the House has no jurisdiction of the question whether a district has taken its proper boundaries?

Mr. TRUMBULL. I do claim that the House of Representatives has no power whatever to fix what the boundaries of the district are, and

I claim that Congress has complete power to fix the boundaries of districts.

Mr. DIXON. I am not speaking of fixing the district; I am speaking on the basis of the existing law. A district is made by law, and a man presents himself claiming to be a member from that district; has the House of Representatives, or has it not, jurisdiction of the question whether the member is elected by that district with its proper boundaries?

Mr. TRUMBUL. Undoubtedly that is the very thing that the House of Representatives has jurisdiction of. When you have got a district to elect from, then the House of Representatives has jurisdiction to determine whether the member is elected from that district; and when you have got a State government in Tennessee to elect Senators, then the Senate is competent to determine whether Senators come from that State government. But the House of Representatives has no power to determine what shall constitute a district in Connecticut, and it would be usurpation if it attempted to do it. So it is a usurpation if the Senate attempts to determine what the State government of Tennessee is.

Mr. SAULSBURY. Will the Senator allow me to explain a remark which I made awhile ago?

Mr. TRUMBULL. Cannot the Senator wait until I get through?

Mr. SAULSBURY. I shall take but a minute.

Mr. TRUMBULL. Very well, I will hear the Senator.

Mr. SAULSBURY. I shall not interrupt the Senator further, but in my response to him just now I made use of a remark which I do not wish to go out to the country unexplained. I remarked that I did not know the meaning of or the office which the word "loyalty" performed during the war. I know what loyalty means according to my own interpretation as a citizen, as a member of the State. It means simply, in my judgment, obedience to the law. I recognize the word "loyalty," therefore, as a citizen of a State, or a citizen of the United States, as comprehending this in its fullest import, obedience to law. What I meant to say was that I did not understand what the term loyalty meant as used by gentlemen on the other side during this war. I shall enter into no further explanation now; I shall take occasion in a few days to explain what I meant by that; but I did not wish to be put upon the record as saying that I did not know what the word loyalty meant. According to my understanding it means obedience to law; obedience to Federal law within the scope of the powers of the Federal Constitution and the Federal Government; obedience to State law within the scope of State authority. I did not wish to interrupt the Senator; I merely wished to make this explanation.

Mr. TRUMBULL. I am exceedingly glad that the Senator from Delaware has made his explanation. I have no comment to make upon it. I only regret that it should have taken me from the precise point which I was trying to present to the consideration of the Senate, and that was the difference between determining what was an organization to elect members and determining the question of the elections, qualifications, and returns of members. I trust I have made that clear by the illustration in regard to the election of members from separate districts. While, as I say, the House of Representatives has a right to determine upon the election, qualifications, and return of a member from a district, it has no power to fix the district or to determine what the district shall be, but Congress has that power. When I use the word "power" I mean rightful power; I do not mean usurpation. When I am talking of the exercise of powers in this body, I mean rightful powers.

Mr. DIXON. That is what I mean.

Mr. TRUMBULL. Then if the Senator means rightful power, I undertake to say to him that the President of the United States has no rightful power to determine whether or not an organization has been established in Tennessee which is the legitimate State organization; I mean to say that the Senate has no rightful power to determine that; and I mean to say the United States have rightful power to determine that. "The United States shall guaranty to every State in this Union a republican form of government." The House of Representatives cannot do it; the Senate cannot do it; the President cannot do it; but it requires all together; they constitute the United Sates, and hence the mode of proceeding which has been adopted. But when members present themselves here, the Senator from Connecticut desires each House to act separately. What would be the consequence of that? Very possibly it would be that one House would admit members from the State of South Carolina, and the other House exclude them; and then what would be the condition of things? We have had that state of things during this rebellion once. There was a time during the rebellion when the House of Representatives admitted, improperly as I think, members from the State of Louisiana.

Mr. DIXON. Was that an act of usurpation?

Mr. TRUMBULL. I think it was an unauthorized act.

Mr. DIXON. Was it usurpation?

Mr. TRUMBULL. Yes, sir, it was an act without authority, in my judgment, because the State organization having been overthrown, I think it required the concurrent action of both Houses to recognize it again, just the same as in reference to California. Now, I come back to the point where the Senator from Nevada questioned me, when I read from the law to show that when the question arose as to whether the organization which had been originated in the State of California, not in pursuance of any law of Congress, but by a voluntary movement of the people, should be recognized as the State organization, it was submitted to Congress; and each House did not think of determining for itself whether it would admit the member who had been chosen. It is always so. In regard to the admission of new States we pass an enabling act authorizing a State government to be formed upon certain conditions, and we sometimes allow the President by his proclamation to declare the State in the Union when the conditions are complied with. At other times we hold the power in our own hands of determining by the action of Congress when a State is properly organized. So I say now. Not that I want any law to admit these States into the Union; I want no such law; I contend for no such principle; but I do contend that it is proper, and the only proper way, for Congress by joint action to ascertain and determine whether after a State government has been overthrown in any of the States the new organization which has been set up is entitled to representation or not.

Mr. COWAN. I wish to ask the Senator a question, and I want it answered distinctly, and as the Senator says in monosyllables, because it may be answered in that way. We had at one time in the State of Pennsylvania two Legislatures in session at the same time, two Houses of Representatives and two Senates. Now, what I want to know distinctly from the Senator from Illinois is whether if one of those Legislatures had elected a Senator to this body and his credentials had been presented here to the Senate and referred to his Committee on the Judiciary, that committee would have a right to inquire whether the body making the election was the true and legitimate Legislature of Pennsylvania, or whether it was not?

Mr. TRUMBULL. I will answer that question by asking another: was the State government of Pennsylvania overthrown and in the hands of traitors at any time?

Mr. COWAN. I cannot say; but it was thought by a great many of the people that half of it was.

Mr. TRUMBULL. When you get such a case and present it to me, I will answer your question.

Mr. COWAN. Then I understand that the Senator will not answer.

Mr. TRUMBULL. I am not given to evading questions which are put to me, and I think it is a pretty good answer to the question to tell the Senator that his case is not this case at all. Of course, each House determines whether a man who votes has a right to vote or not when the organization is admitted. Of course, the House of Representatives determines whether A, B, and C, who voted for a Representative had a right to vote. In Pennsylvania, when you have a legitimate State organization that nobody questions, of course the Senate determines when a Senator comes here. The question is not whether you have got a real government in Pennsylvania, but whether the men there who voted for the individual Senator had a right to vote or not; a very different question from the one whether there is any government at all in Pennsylvania that can be recognized by the authorities of the United States. It is a question simply of which was the Legislature. We had a similar case from the State of Rhode Island some years ago, as is suggested by a Senator near me, [Mr. POLAND.]

The very thing I have been trying to do at this session of Congress, and I believe the very thing the majority of the Senate has been trying to do, is to ascertain the fact whether the State of Tennessee, for that seems to be put forward, has organized a republican State organization, which is loyal to this Government, representing the loyal people of the State of Tennessee. That is what the committee of fifteen are charged with inquiring into, what they have been engaged I understand for fifty or sixty days—I think the committee was not organized until after the holidays—in endeavoring to ascertain. I am looking for a report from the committee. I am not a member of it. I should have rejoiced if the committee could have ascertained ere this that the government set up in Tennessee was a loyal government, representing the loyal people of the State, and in a condition that entitled it to representation in the two Houses of Congress. I should have rejoiced if they could have made that report weeks ago. I hope we shall have it to-morrow; and if not to-morrow, just as soon as the committee shall ascertain the facts and make the report.

The Senator from Connecticut talks about persons acting from passion. So far as I am concerned, my vote will not be controlled an instant, and I should think myself unworthy of a seat here if it could be controlled for one instant by outside speeches in regard to the recognition or non-recognition of the State government of Tennessee. On that question I trust I can divest myself of all feeling and all passion and all desire except to do my duty not only to Tennessee but to the whole country. Then what is the complaint? Why assume here that somebody wants to keep eleven States out of the Union when it is the earnest desire of every man to have all the eleven States in as soon as they can be properly admitted? Why say that resolutions are introduced for the purpose of keeping Tennessee out when the object of these resolutions is to facilitate her admission? Let me bring to the mind of the Senator from Connecticut the fact—if my recollection is wrong, I ask him to correct me now—that he and I both were anxious to have representatives from the State of Louisiana in this body a year ago.

Mr. DIXON. I was.

Mr. TRUMBULL. He coöperated with me. I was for it.

Mr. DIXON. I think I did not vote for the measure referred to by the Senator from Ohio.

Mr. TRUMBULL. I have not looked at the yeas and nays; but you and I agreed.

Mr. DIXON. That she ought to be admitted?

Mr. TRUMBULL. You and I agreed that the Senators asking admission into this body from the State of Louisiana ought to be admitted last year. That was then my opinion. That question was referred to the committee of which I have the honor to be chairman. We considered it deliberately; we heard evidence, we examined the facts, and we made a report. I was exceedingly anxious then for their admission, coöperating in harmony with

the late President of the United States, who thought that the public interests would be promoted by the early recognition of the new State government set up in Louisiana, who thought it would be the best policy to admit the members who had been sent from Louisiana. They were loyal men. The President of the United States and all of us wanted to strengthen those loyal men. We wanted to give them strength at home. We desired that they should go back to the people of Louisiana and say to them that the Congress of the United States was disposed to encourage them, just as we want to say now to these members from Tennessee who have been Union men, some of them all the time, and have fought in the Union Army.

It is with extreme regret, for one, that I feel compelled to wait an hour, to delay a moment, in admitting them to their seats in Congress. I want to strengthen them. I desire that the people of Tennessee shall see that these loyal men who have come here are supported by the nation, and I want them to have strength at home that the loyal men may rally around them. I undertake to say that that is the feeling of every Senator. But, sir, we cannot do that until we can ascertain whether the State organization has been established upon such a foundation that it will be true to the Government. We cannot do that if the probability is that the day after we have done it the State organization of Tennessee is to be overturned and placed in rebel hands and another civil war inaugurated and the Union men driven out of the State. But we want to do it as soon as it can be safely done, and I trust that it may be safely done very soon. I expect, from the information I have, that we shall be able to do it at an early period. I am sure there is no authority for saying that it is the intention of anybody to keep these members permanently out of this Congress, or to keep the State of Tennessee permanently out of the Union, as they call it, and dissolve the Union.

There is one other idea to which I desire to refer before I sit down, and that is, as to the course of the Senator from Connecticut and myself less than a year ago when I was anxious to have the members from Louisiana admitted. What did I do at that time, as the chairman of one of your committees, and by instruction of the committee? Did I ask the Senators from Louisiana to present themselves and be sworn as members of this body? Not at all; but by the unanimous instruction of that committee I brought in a resolution similar to that now introduced by the committee of fifteen, and what was it? If I had it here before me I would read it, but I can state the purport of it. It was a joint resolution declaring that the State government which was inaugurated in the city of New Orleans on a certain day is hereby declared to be the legitimate government for the State of Louisiana, entitled to representation in the Congress of the United States. Anxious as I was to have those Senators and Representatives admitted, I did not think, and the committee did not think that they had any proper authority to admit them until both Houses by joint action agreed that the State, its authorities having been once overthrown, was in a condition to be represented here. All of us who desired to admit those members were acting together then, and acting in harmony with the President of the United States, and nobody thought, and least of all did the lamented Lincoln think, that we were encroaching upon his powers. That is precisely what is proposed to be done now. As I made up my opinion deliberately then, the Senator from Connecticut can hardly expect me to depart now, at the bidding of any one, from what seemed to me upon conscientious convictions to be my duty then, and what seems to me, acting under the solemnities of an oath, to be my duty to-day.

Mr. NYE obtained the floor.

Mr. DIXON. I ask permission to say a word in reply to the Senator from Illinois.

Mr. NYE. I yield for an explanation.

Mr. DIXON. I will be very brief. Mr. President, the Senator from Illinois exceeds many members in this body in legal knowledge. He exceeds them all in that peculiar solemnity of manner in which he can point out the enormities of those who differ from him on this floor. If the solemnity of manner in which he depicted to the Senate the atrocities of the sentiments which I had uttered here could appear in the report I fear I could scarcely stand before my constituents.

The Senator represents me as being driven into the position, and he says he has driven me there, of claiming that this Senate has a right to usurp power; that I justified a usurpation of power. I think I need not say that I took no such ground. I said nothing about physical power until the Senator himself used the word. He said that a certain act was physical power. I said the Senate could use physical power. Any body which has jurisdiction of a subject can abuse it.

The Supreme Court of the United States may usurp power and may carry out its mandates. The House of Representatives may do it; Congress may do it; this body may do it. I do not claim that they have a right to do it; but I say that when the Senate of the United States in the the case of Mr. Bright took upon itself to judge whether he was elected, it was not a usurpation; it was a wrong decision. I think they decided incorrectly. I think that Mr. Bright before that vote had no right to a seat here; but after the vote the Senate acquiesced, and I understood the Senator himself to acquiesce in the decision. He says that he afterwards presented a report against the right of Mr. Bright to a seat. If he did, he very soon abstained from pushing it to a conclusion.

Mr. TRUMBULL. We had a vote on it.

Mr. DIXON. For two long years he acquiesced and the Senate acquiesced, for when the party to which we belong came into power Mr, Bright was sitting here and acting here as a legislator.

Mr. FESSENDEN. That resolution was taken up at the very first session after the other.

Mr. DIXON. In the first place, it was decided by Mr. Bright's political friends that he was entitled to a seat here. Afterward a claimant came here and demanded the seat. Many of us took the ground that he ought to have it. What did the Senate decide? That Mr. Bright was the Senator.

Mr. FESSENDEN. The Senate was Democratic then.

Mr. DIXON. Perhaps it was; but I say that we had a majority in this body long before Mr. Bright was expelled, and two decisions are no better than one. Had we not a majority in this body when Mr. Bright was expelled?

Mr. FESSENDEN. But how long before that?

Mr. DIXON. I do not know how long, but for a considerable time.

Mr. FESSENDEN. He was expelled the first session afterward.

Mr. DIXON. One session at least, and we all said then that the right of Mr. Bright to his seat had been acted upon by the Senate, and that he was a Senator. At all events, the Senate took that ground when it expelled him. I say that a man who is not a Senator cannot be expelled. If he was not a Senator a majority could have so declared. We expelled him for misconduct, for virtual treason.

Now, the Senator says that the President has no power to decide on this question. I do not claim that he has the power to decide. I claim this, that he has the power under the Constitution to inform Congress of the state of the Union, and that is all that he has done. He has stated to this body, in a message here, that he thinks some of those States are in a condition to be represented. Is that usurpation? Has he not a right to express that opinion? Is it not his duty to express that opinion? He does not decide it. He does not claim a right to decide it, so far as I know. Who shall decide it? That seems to be the whole question. My claim is this: that the Senate of the United States has plenary jurisdiction of the whole subject of the right of a member to a seat in this body, both as to himself and his constituency, the condition of his State, the fact whether it is a portion of this country. Everything with regard to it, in my judgment, belongs to the Senate of the United States, and the Congress of the United States is utterly powerless on that subject. In spite of any act of Congress the Senate of the United States has a right to admit a member to this body upon its own conscience, as the Senator from Maine said he would do in the case of Mr. Stark. That was a case where there was no doubt of the right of the body that sent him here to elect, I admit, but the character of the claimant was to be considered, and the Senator from Maine said that he on his conscience would go into that entire question.

Now, one single word with regard to the necessity of Congress acting on this subject. I think if the precedents are followed, it will be seen there is no such necessity. I think it will be found that in the case of Michigan there was no action by Congress. I think Senators were admitted into this body and members into the House of Representatives before Congress had acted in any way upon the admission of Michigan. Perhaps I am mistaken in that.

Mr. HOWARD. The Senator from Connecticut is certainly mistaken in saying that Congress admitted Senators and Representatives from Michigan before they admitted the State.

Mr. DIXON. Very well. I am very sure in the case of California there was none; but, however, I will not insist upon that point.

Now, take the case of Louisiana. The Senator says that he and I agreed on that subject. He says we were anxious for the admission of the members from Louisiana. What was done in this body on that subject? I am not sure that the Senator from Illinois himself reported a resolution to admit the members from Louisiana. I think the Senator from Kansas [Mr. LANE] moved to admit the members from Louisiana; and I think the Senator from Massachusetts, [Mr. SUMNER,] acting under a high sense of duty, took upon himself the responsibility of defeating that proposition by resorting to every parliamentary mode that could be used. Was not that the case? I think so. I think the question was on the admission of members from Louisiana.

Mr. TRUMBULL. If the Senator will look at the record he will find that he is mistaken.

Mr. DIXON. What was the question?

Mr. TRUMBULL. It was on the joint resolution which was reported by me, as chairman, from the Committee on the Judiciary.

Mr. DIXON. My impression is that Mr. LANE, of Kansas, moved that those members be admitted, and that on that question the Senator from Ohio, [Mr. WADE,] the Senator from Michigan, [Mr. HOWARD,] the Senator from Massachusetts, [Mr. SUMNER,] took what I thought to be the high responsibility of preventing the opinion of the Senate from being expressed. I think that to be the case. The Senator from Massachusetts assents to it. What, then, was the condition? It was proposed in this body to admit members from Louisiana in the absence of an act of Congress. There was no act of Congress declaring Louisiana admitted to the Union, or restored to the Union, or fit in any way to be represented here. It is true the Committee on the Judiciary had reported a resolution for that purpose, but it had not been adopted. It was then proposed to admit those members; and there is not a Senator within the sound of my voice who will not bear witness that this body, if it had been permitted to come to a vote, would have admitted the members from Louisiana. The Senator from Illinois was in favor of that admission. He is right when he says that he agreed with me at that time. Why were they not admitted? Because there was no act of Congress for the admission of the State? No, sir; but because there was no law permitting negro suffrage in Louisiana; and for that reason the Senator from Michigan, the Senator from Massachusetts, the Senator from Ohio, and the other Senator from Michigan combined together to defeat it—I will not say in an im-

proper manner. That is for them to judge. They are the judges of their own action. I thought if I had taken that course I should have been wrong; but they prevented a vote on that question.

Mr. TRUMBULL. If the Senator will allow me I will refer to the Journal on that subject, as he places me in a wrong position.

Mr. DIXON. Certainly; I only wish to ascertain the facts.

Mr. TRUMBULL. In the Journal of February 23, 1865, I find this entry:

"On motion by Mr. TRUMBULL to postpone the further consideration of the bill until to-morrow, and that the Senate proceed to the consideration of the joint resolution (S. No. 117) recognizing the government of the State of Louisiana,

"It was determined in the affirmative—yeas 20, nays 17."

The Senator from Connecticut voted with me on that motion. The resolution came up, and various motions were made, and we got no definite action upon it. The Senator recollects it probably; but the question was not on admitting members, but it was on recognizing the government of Louisiana.

Mr. DIXON. That is as I supposed.

Mr. HOWARD. If the Senator will permit me——

Mr. DIXON. If the Senator will excuse me, I prefer not to give way. I shall be through in a moment.

Mr. HOWARD. The Senator has made a statement in regard to myself which requires correction, and I hope he will allow me to correct it here.

Mr. DIXON. I will correct it myself. The Senator was not in that combination, if that is the point in which I err.

Mr. HOWARD. No, sir; that is not the point in which you err.

The PRESIDING OFFICER, (Mr. ANTHONY.) The Senator from Connecticut is entitled to the floor.

Mr. DIXON. I must decline to give way. The Senator will have an opportunity to reply.

Now, what was the condition of affairs? Here was a joint resolution, reported by the Committee on the Judiciary, to recognize the State government of Louisiana. The Senator says I voted with him on that resolution. Very well; if I did I probably voted right. What, then, followed? That resolution was never adopted by Congress. I think it was never adopted by this body. Notwithstanding that failure, a resolution was offered in this body for the admission of the Senators from Louisiana by name. Upon that question did the Senate come to a vote? No. Why not? Because, as the Senator from Illinois then said, a factious course was pursued in opposition to it. I think I am not mistaken in that.

Mr. TRUMBULL. It was not upon that question.

Mr. DIXON. It was on the question of the admission of Senators.

Mr. TRUMBULL. Not at all. We never had that question up for action.

Mr. DIXON. Then I stand corrected. I have a distinct recollection that somebody denounced it as a factious opposition, and I thought it was the Senator from Illinois; but he says I am mistaken.

Mr. TRUMBULL. The Senator from Connecticut and myself ought not to misunderstand the facts. The Senator is under a misapprehension, of course. We had no controversy in the Senate about a resolution to admit Senators. The controversy in the Senate was on the adoption of a resolution recognizing the State government of Louisiana, not on a motion by the Senator from Kansas or anybody else to admit Senators.

Mr. DIXON. Was it not for the admission of Senators from Louisiana?

Mr. TRUMBULL. No, sir.

Mr. DIXON. Then I am mistaken.

Mr. TRUMBULL. There may have been such a motion, but there was no controversy on that subject.

Mr. DIXON. If the Senator from Massachusetts did not prevent the Senate from coming to a vote on that subject, I am entirely mistaken.

Mr. TRUMBULL. You are mistaken.

Mr. DIXON. I will ask the Senator from Massachusetts whether I am right on that point.

Mr. SUMNER. I think the question was on the joint resolution to which the Senator from Illinois refers.

Mr. DIXON. Then I am mistaken. I supposed it was on the admission of the Senators from that State. If I am mistaken in that, of course what I have said on that point falls to the ground.

Mr. SUMNER. That was considered as preliminary, of course, to the admission of Senators.

Mr. DIXON. I know that we had a contest on the admission of those Senators. I know that we were divided on that subject. I know that the Senator from Illinois thought that they ought to be admitted. I so understood him. I thought the majority of the Senate were in favor of their admission at that session. Perhaps I am mistaken. The record will show, and I will examine it on that point.

Now, one single word as to the right of the Senate to judge of this whole matter. The Senator says it is an act of usurpation for the Senate to judge whether a State is a foreign government, or at war against this Government, or in any way, by reason of such a state of things, unfit to be represented. I have already read what Judge Story says on that subject, and I will read it once more.

"It is obvious that a power must be lodged somewhere to judge of the elections, returns, and qualifications of the members of each House composing the Legislature; for otherwise there could be no certainty as to who were legitimately chosen members, and any intruder or usurper might claim a seat and thus trample upon the rights and privileges and liberties of the people. Indeed, elections would become, under such circumstances, a mere mockery; and legislation the exercise of sovereignty by any self-constituted body.

"The only possible question on such a subject is as to the body in which such a power shall be lodged. If lodged in any other than the legislative body itself, its independence, its purity, and even its existence and action may be destroyed or put into imminent danger. No other body but itself can have the same motives to preserve and perpetuate these attributes; no other body can be so perpetually watchful to guard its own rights and privileges from infringement, to purify and vindicate its own character, and to preserve the rights and sustain the free choice of its constituents. Accordingly, the power has always been lodged in the legislative body by the uniform practice of England and America."

What is the legislative body? It is each House of Congress. Congress is made up of two bodies, the House of Representatives and the Senate, and, when it acts as a law-making power, the Executive, who must give his approval. Now, the Senator says I have advanced here a strange doctrine, and he, cruel man as he is, has driven me into a position in which I have been compelled to assert an enormous heresy, one that is scarcely compatible with an honest desire and intention to perform the duties of a Senator. I have taken no such ground. I have taken no ground that the Senate has a right to usurp powers. I think it has jurisdiction of the entire question of what constitutes a Senator in every aspect; and the fact that that power may be abused does not go against its jurisdiction. That is all I said.

I said admitting it was physical power and it might be abused did not prove that the jurisdiction did not exist. A jury may be corrupt; they have the physical power to do wrong; but they have jurisdiction of the question before them, and they can render a verdict. That verdict may be void for fraud or collusion or any other reason. There may be an appeal and a new trial. But here there is no appeal, no new trial. The decision of this body is final. There must be an end at some time of questions of this kind, and the Constitution of the United States has declared that the final decision shall rest in the Senate of the United States, and in the other House upon a similar question.

Does it follow because it may be abused that the power does not exist? And am I to be held up, in that solemn and magisterial tone which the Senator is so fond of assuming, as a man who has asserted before this Senate an atrocious doctrine, to which, he says, with that ample charity with which he covers the sins of his colleagues, I was driven by his powerful argument? If I was I am certainly excusable for the position I took if I could use no other. I said that the jurisdiction existed. It might be abused, but the fact that it might be abused, that physical power might be resorted to, did not prove that the jurisdiction did not exist. This body can exclude any member here, that Senator himself or myself, for any reason, or without giving a reason. Would it be right to do it? Of course it would not, but the fact that it can be abused, that tyranny may be practiced, and despotism may prevail here, does not show that we have not the power.

I do not wish to be understood as agreeing with the Senator from Illinois. He laid down a doctrine to which I do not agree. I think that a State lately in rebellion is not entitled immediately to representation in this body or in the other House; but who shall judge on that question? I say that this body and this body alone has the right to judge on the question of the admission of Senators, and that Congress has no jurisdiction whatever over the subject. I do not say that an act of Congress would be improper, but I say that this Senate would not be bound by it. I say that if Congress could pass an act to-day, and it should be approved by the President, excluding Tennessee from the Union, we could admit a Senator from Tennessee as a member of this body, and I avow here that I should vote for his admission in spite of such a law, because I should think such a law a violation of the constitutional rights of this body.

It will be remembered that when the resolution for the appointment of this committee of fifteen was before the Senate I offered an amendment to it providing that nothing therein contained should be so construed as to impair or delay the right of this body to judge of the qualifications of its own members. The Senator from Massachusetts [Mr. SUMNER] asked me if I supposed that any law could do that. I said no, I did not suppose so, but I would not pass an act that seemed on its face to do it. I would not pass an act that might be construed as doing it. I think the Senator meant that he believed Congress had no power to take away the entire jurisdiction of this body over the whole subject. It rests, in my judgment, here.

Now, sir, I do not suppose there is any Senator on this floor who would be more strict and more radical, if you please to call it so, than I should as to the question whether a man from the rebel States was fit to be a member of this body. I voted to expel a man *in limine* coming from a loyal State at peace with this Government, because he said that Jeff. Davis's flag was his flag. I differed from many Senators in that respect; and now if a member comes here from South Carolina I shall require of him the strictest proof, not only that his State is a fit one in all respects to be represented here, but that he himself is a fit associate for Senators on this floor, and that it is consistent with the public safety that he should sit here. That raises the question of time. With regard to that question I would not admit that any party desires delay. I was not objecting to an examination on that point. I was objecting to theoretical propositions being raised, schemes, projects, theories which require an indefinite time for their decision and consideration before the Senate could act on this question. That is what I had reference to when I spoke of the question of indefinite time, and not to the time that this body might exhaust. I should say that this body ought to take all the time that it supposed to be necessary, however long it might be, and if we were acting on the question of the admission of Senators from Tennessee, I do not think the public mind would be agitated because we took time to consider it. But when you lay down the proposition that no representation can possibly be had from any State, irrespective of its character, irrespective of the loyalty of the claimants until certain policies, projects, and guar-

antees are secured, I think it is a very different question. It strikes me that every Senator who argues in favor of those guarantees will agree with me. They all admit that the guarantees which they demand are a work of time, and if they must be considered before this body can act, there will be great delay. But, sir, I have exhausted myself and the Senate, and I shall say no more.

Mr. HOWARD. By permission of the Senator from Nevada, who holds the floor, I beg to say a few words by way of explanation of some of the statements made by the Senator from Connecticut. I do not propose at this moment to go into the consideration of the questions which have been discussed here, although I intend to do so before the discussion closes. I understand the Senator from Connecticut to say that myself and certain other gentlemen on this side of the Chamber strenuously opposed the admission, so to speak, of Louisiana at the last session upon the ground that the constitution then presented to us excluded negro suffrage, and that we entered into a sort of conspiracy or combination for the purpose of keeping out that State for that reason. I really am at a loss to know upon what ground it is that the Senator makes such a statement. This is the first occasion that I have ever heard of such a reason operating either upon myself or those gentlemen with whom I coöperated. I know this, Mr. President, and the Senator from Connecticut would have done well to have informed himself, I think, before he made so broad a statement as that, that I opposed the passage of the joint resolution to which reference has been made here, not because the constitution of Louisiana prohibited suffrage to the negro population, but because that constitution was got up under and by virtue of military power; because it was not the free expression and voice even of the loyal portion of the people of Louisiana. It was the result of military occupation and military power present within about one eighth part of the State of Louisiana at the time when it was made; and at the time the effort was made to admit the Senators from that State into this body the United States had not possession of more than one eighth part of the territory of Louisiana, and a still greater proportion of the population was in the actual control of the rebel armies and the rebel government. It was for this reason, and not because the constitution prohibited negro suffrage, that I voted against the resolution offered by my honorable friend from Illinois to admit the Senators and Representatives from that State.

I rose to make this correction in order to take away from the dexterous hand of the Senator from Connecticut the use of that sly, and what he regards as a poisonous dart, the love of negro suffrage. That question had not arisen at that time, not certainly in my own mind. I acted upon broader principles. I acted upon the principle that the Executive at that time had no authority whatever to undertake or assume, directly or indirectly, to impart political power or political government to a conquered province or a conquered territory: and that is a ground upon which I propose to act still; and when the thing is fairly looked into and examined in all its bearings, it will be discovered that that is the great rock upon which we have split in this controversy. I will go no further on that subject at this present time.

Mr. RAMSEY. I move that the Senate do now adjourn.

Mr. DIXON. The Senator will allow me to say that in stating what I did in regard to the Senator from Michigan, I quoted from memory, and did not intend to misrepresent him.

Mr. HOWARD. Certainly, there was no intention of the sort.

Mr. FESSENDEN. I ask the Senator from Minnesota to withdraw his motion to adjourn.

Mr. RAMSEY. If it is desired to have an executive session, I withdraw the motion.

The PRESIDING OFFICER. The motion to adjourn is withdrawn.

Mr. FESSENDEN. I do not desire an executive session, but I want to say to my friends on this side of the Chamber that if they intend that we shall not become perfectly contemptible in the eyes of everybody it will be time for us pretty soon to begin to do something, and not, after these matters have been dragged out to such a length, adjourn every day at this hour. I gave notice yesterday that I wished to have the debate continued longer than the ordinary time. If we come in here and make a speech a day in the way we have been going on, the result will be that we shall never get through, and never accomplish anything. There are questions behind this that must be acted upon. Gentlemen must make up their minds to stay here a little later than this if they ever expect to dispose of these matters. I hope the Senator from Minnesota will not renew his motion to adjourn.

Mr. HOWARD. The day is so far spent that I presume the Senator from Nevada would not feel like going on with his speech this evening, and as a matter of courtesy to him we should now adjourn.

Mr. FESSENDEN. I am very unwilling to object to the extension of a courtesy to my friend from Nevada, but if we adjourn simply because a friend on our side of the Chamber has the floor and wants to take the morning to make his speeeh, we cannot to-morrow refuse the same request when made by some gentleman on the other side who may wish to go on the next day. We must apply the same rule to ourselves as to others.

Mr. HOWARD. I take it that "sufficient unto the day is the evil thereof."

Mr. FESSENDEN. I am sorry to be obliged to do it, but as we must evidently apply the rule somewhere I would rather make the objection in the case of a political friend of mine than in the case of one who did not occupy that relation.

Mr. CONNESS. I suggest to the honorable Senator who has this matter in charge whether, until these discussions cease, the Senate ought not to follow the example set by the House of Representatives from time to time and hold night sessions for the purpose of allowing Senators who have speeches to make to make them. I know very well that night sessions are not agreeable, but we are not here in times like these altogether for agreeableness; and there is nothing more true than the statement made by the Senator from Maine that there is an absolute necessity, not only of disposing of this question, but of great questions that stand behind it and that are pressed back. It will be remembered also, Mr. President, that we are doing no other business. Our morning hour is consumed nearly every morning without passing a single legislative act of any kind. We have no time to do other business here, and the States we represent in local legislation will suffer until we can get these questions now pending out of the way.

I hope that gentlemen will prepare to sacrifice a little in this matter, a great deal if necessary, and come here during the evenings and make their addresses then. There is no doubt in the world, while we might receive more light from the speeches yet to be made on the subject, that after the discussion we have had even to this extent upon this question now pending in the Senate, what is said is mainly repetition. Still, Senators desire to be heard, but I think they ought to agree to come here in the evening and let us hear them then.

Mr. HOWARD. It is impracticable to come in the evening.

Mr. CONNESS. The Senator from Michigan, for whose judgment and feelings alike I have the greatest respect, replies that it is not practicable. Now, what is not practicable? The Senator has the power of locomotion, and so have I, and so have we all. If the Senator will say it is not agreeable, then all that I have said will address itself to that proposition.

Mr. HOWARD. What I mean to say is, what is undoubtedly in the experience of the honorable Senator from California, that it is next to impossible to have a quorum of the body together for the transaction of business in the evening. We have almost always found it so, except at the close of the session.

Mr. CONNESS. We may discuss these subjects without a quorum; we are not voting, and do not require a quorum, and we may meet here and transact the business, such as it is, that we are engaged in without the necessity of a quorum. Sir, these are no ordinary times in which we live. What was the burden of the entire discussion to-day? Apart from certain points of argument, the burden of the address of the honorable Senator from Illinois, the chairman of the Judiciary Committee, was to the end that there was a demand for the admission of these States, and those occupying the position of the Senator from Connecticut urge this against their friends here day by day in long speeches—burdensome speeches, I was going to say.

Now, sir, if there is a necessity for the admission of these States there is certainly a necessity of acting on the question in such a manner as to dispose of it. I hope we shall go on and sit in the evenings, as I have suggested.

Mr. JOHNSON. What is the question?

The PRESIDING OFFICER. The question before the Senate is on the adoption of the resolution from the House of Representatives.

Mr. JOHNSON. I move that the Senate do now adjourn.

Mr. FESSENDEN. I ask for the yeas and nays on that motion.

The yeas and nays were ordered; and being taken, resulted—yeas 21, nays 16; as follows:

YEAS—Messrs. Brown, Buckalew, Chandler, Davis, Guthrie, Harris, Henderson, Hendricks, Howard, Johnson, Lane of Kansas, Norton, Nye, Riddle, Saulsbury, Stewart, Stockton, Sumner, Van Winkle, Wade, and Yates—21.

NAYS—Messrs. Anthony, Clark, Conness, Cragin, Creswell, Dixon, Fessenden, Foster, Kirkwood, Morgan, Morrill, Ramsey, Trumbull, Willey, Williams, and Wilson—16.

ABSENT—Messrs. Cowan, Doolittle, Foot, Grimes, Howe, Lane of Indiana, McDougall, Nesmith, Poland, Pomeroy, Sherman, Sprague, and Wright—13.

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

HOUSE OF REPRESENTATIVES.

TUESDAY, *February* 27, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

The SPEAKER. The first business in order is the consideration of the proposed amendment to the Constitution, reported on yesterday from the joint committee on reconstruction, and which was postponed until this morning, immediately after the reading of the Journal. Upon that question the gentleman from California [Mr. HIGBY] has the floor.

Mr. HIGBY. I will yield the floor for a few minutes to my friend from New Jersey [Mr. NEWELL] and others, who desire to have some business disposed of now.

VETERAN RESERVE CORPS.

Mr. NEWELL presented the joint resolutions of the Legislature of the State of New Jersey in relation to the Veteran Reserve corps; which were referred to the Committee on Military Affairs, and ordered to be printed.

UNITED STATES ATTORNEYS, MARSHALS, ETC.

Mr. O'NEILL, by unanimous consent, introduced a bill supplementary to an act entitled "An act to regulate the fees and costs to be allowed clerks, marshals, and attorneys of the circuit and district courts of the United States, and for other purposes," approved February 26, 1853; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

SEWERAGE, ETC., IN WASHINGTON.

Mr. INGERSOLL. I ask leave to report back a bill from the Committee for the District of Columbia with a substitute; which I ask to have printed and recommitted to that committee.

Mr. WASHBURNE, of Illinois. What is the bill?

Mr. INGERSOLL. It is House bill No. 288, to establish a complete and uniform plan of sewerage of the city of Washington, and to provide for such improvement and regulation of the tide-water front of said city and of the canals and natural water-courses passing through the same as may be necessary for the public health of said city and the general interest thereof.

Mr. WASHBURNE, of Illinois. I am opposed to that and everything connected with it until we have passed upon some other matters.

LEAVE OF ABSENCE.

Mr. ALLISON asked and obtained leave of absence for his colleague, Mr. KASSON, for the remainder of the week on account of indisposition.

HEIRS OF JUAN MIRANDA.

Mr. McRUER, by unanimous consent, introduced a bill for the relief of the heirs and legal representatives of Juan Miranda, deceased; which was read a first and second time, and referred to the Committee on Public Lands.

AMBROSE L. GOODRICH AND NATHAN CORNING.

Mr. WELKER, by unanimous consent, introduced a joint resolution for the relief of Ambrose L. Goodrich and Nathan Corning; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

RIGHTS OF CITIZENS.

The House then resumed the consideration of the following joint resolution (H. R. No. 63) proposing an amendment to the Constitution of the United States:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two thirds of both Houses concurring,) That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three fourths of the said Legislatures, shall be valid as part of said Constitution, namely:

ARTICLE —. The Congress shall have power to make all laws which shall be necessary and proper to secure to the citizens of each State all privileges and immunities of citizens in the several States, and to all persons in the several States equal protection in the rights of life, liberty, and property.

Mr. HIGBY. Mr. Speaker, I differ from a great many members of this House, and I presume that I shall differ from a great many in authority as to the question of amending the Constitution of the United States. I do not believe in making any amendments that are going by very slow degrees to a proper conclusion. Neither do I believe in making such amendments as will occasion a division in the public mind as to whether any improvement has been made or not. But an amendment that will give strength to the Government of the United States, an increased strength over what it may have now under the present Constitution, will meet with my hearty concurrence.

I understand this joint resolution, should it become part of the Constitution of the United States, will only have the effect to give vitality and life to portions of the Constitution that probably were intended from the beginning to have life and vitality, but which have received such a construction that they have been entirely ignored and have become as dead matter in that instrument. When we read this proposed amendment we will think it already embraced in the Constitution, but so scattered through different portions of it that it has no life or energy. But by condensing it, as we find it in this joint resolution, should it become a portion of the Constitution, it will then become operative and beneficial.

Mr. Speaker, the article proposed, the adoption of which by two thirds of this House and of the other branch of Congress would be only a preliminary step to its becoming a part of the Constitution, is in these words:

The Congress shall have power to make all laws which shall be necessary and proper to secure to the citizens of each State all privileges and immunities of citizens in the several States, and to all persons in the several States equal protection in the rights of life, liberty, and property.

Well, sir, I find in the beginning of the eighth section of the first article the words, "Congress shall have power;" and in the latter portion of the same section are the words, "to make all laws which shall be necessary and proper." "To secure to" are new words embraced in this amendment. "The citizens of each State," and "all privileges and immunities of citizens in the several States," are words which are found in the Constitution in another place.

The fifth article of the amendments of our present Constitution provides that—

"No person shall be deprived of life, liberty, or property without due process of law."

The language of this proposed amendment is very little different. It provides that Congress shall secure—

To all persons in the several States equal protection in the rights of life, liberty, and property.

Thus, sir, we find by an examination of the Constitution that it was intended to provide in these separate portions precisely what will be provided by this article, should it become a portion of the Constitution.

Why, sir, what force or value is there in article four, section one, of the Constitution, in these words:

"The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States."

If that provision had been enforced heretofore, how different would have been the condition of the various States of this Union. Had that provision been enforced, a citizen of New York would have been treated as a citizen in the State of South Carolina; a citizen of Massachusetts would have been regarded as a citizen in the State of Mississippi or Louisiana. The man who was a citizen in one State would have been considered and respected as a citizen in every other State of the Union.

But, sir, that provision of the Constitution has been trampled under foot; it has been considered in certain States of this Union as nugatory and of no force whatever. The intent of this amendment is to give force and effect and vitality to that provision of the Constitution which has been regarded heretofore as nugatory and powerless.

Mr. Speaker, this resolution comes to this House from the joint committee on reconstruction, a committee that was appointed at the commencement of this session, not to exercise the power of a star chamber, not to assume a despotic control over both branches of Congress or any portion of this Government, but to do the servile work of Congress. That committee was appointed for the purpose of collecting information in reference to the condition of those States that have been in rebellion, and when fully informed to report their action and conclusions to both branches of Congress. This committee have no power of legislation. They have no power to prescribe. Their only power is to procure information and to report to each branch of Congress their proceedings, giving this body and the body at the other end of the Capitol light in reference to the condition of the States lately in rebellion.

Sir, in what I shall say, I shall forbear to dwell upon the condition of those States as to the facts or details that may be produced, for the simple reason that we have a body of men who have been appointed for the purpose of laying before Congress facts as to the true condition of those States. And, sir, it is too late in the day for me to dwell upon those points, when so many who are abler have long since spoken on those facts and have presented them so clearly to this body.

But, sir, I propose to dwell upon some points that are of very great importance at this time and in the present condition of the country. I wish to call attention to a few points which I consider of interest to all the members, and particularly to those who were members of the Thirty-Eighth Congress. I propose to examine whether this Thirty-Ninth Congress is consistent with the course pursued by the Thirty-Eighth Congress, or whether we have shot off from the true line, and the Executive has taken it up and is pursuing it; whether we are now adhering to the great principles which we deemed it our duty to maintain during the Thirty-Eighth Congress, or whether we have deserted them. And perhaps I will satisfy members we are consistent, and that the true course for the conservatives of this Government in the great principles of humanity lies here with this body, and with the one at the other end of the Capitol.

Mr. Speaker, I ask this question: when can each House assume the duties in reference to the election, returns, and qualifications of its members? The Constitution of the United States in the first article answers the question. The very first article of the Constitution tells us what are States in the Union. The first article of the Constitution tells us how many Representatives there may be in each State of the thirteen. Section five provides that "each House shall be the judge of the elections, returns, and qualifications of its members." I answer the question thus: whenever, either by virtue of the Constitution or by law of Congress, which the Constitution provides, a State may be admitted into the Union under the Constitution, when by act of Congress a State is admitted into the Union, and the number of its Representatives is settled by law, then and then only can each branch of Congress take up the question of the elections, returns, and qualifications of its own members.

Sir, let us look a little further into this section of the Constitution and see what it does provide. I invite the attention of members to this section, and I do it for this purpose, that they will find on examination that it does not provide for legislation, but simply for the organization of each body. There is no legislative power given in the fifth section of the first article of the Constitution. It is essential to the organization of each body to allow them to make rules by which each body shall be controlled. It is provided that each body shall be the judge of the elections, returns, and qualifications of its own members; and it is further provided that a majority of each House shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each House may provide. It has reference to organization and nothing else. It says, further, that each House may determine the rules of its proceedings, punish its members for disorderly behavior, and with the concurrence of two thirds expel a member. It provides that each House shall keep a Journal of its proceedings, and from time to time publish the same, except such parts as may, in their judgment, require secrecy; and the yeas and nays of the members of either House on any question shall, at the desire of one fifth of those present, be entered on the Journal.

It also provides that neither House, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than in which the two Houses shall be sitting.

Mr. Speaker, I have given you the whole of the fifth section, showing what its provisions are. It has reference to the organization of Congress and the government of each House while in session, and gives no legislative power whatever.

In this section do we find what we are required to do, and what is insisted upon by the Executive that we shall confine ourselves in considering the cases of these eleven States which have been in rebellion and which have occasioned the sacrifice of five hundred thousand lives and the burial of millions of the substance of the Union? Their Representatives have vacated these seats for four years of their own accord, and in the mean time those States have occasioned the losses I have stated. When they come to our doors and ask to be admitted we are told by the Executive of the Union we shall act only under the fifth section of the first article of the Constitution, which has reference only to the organization of each body, and where no legislative power whatever is given to Con-

gress. We are told that it is only for the separate action of each body. If South Carolina presents her Representatives at our doors and asks to be admitted, we are told all we can do, if any question is raised as to their right to seats, is simply to refer their credentials and papers to the Committee of Elections and that they are to consider the whole matter. They are to be empowered by this *dictum* to consider this whole matter and to decide the condition of the southern States.

I simply say this: that if each branch of Congress was to assume to decide a question of this character it would be usurping the powers of this Government.

Sir, the moment the relationship of States to the General Government is disturbed we can go behind these propositions laid down in the fifth section. The moment the inquiry is raised as to the condition of any State in the Union, it becomes a matter of legislation, and when it does it is taken away from each branch by itself and must be the joint act of both branches of Congress.

What is his opinion? Let me refer to his annual message to see what language he uses:

"The amendment to the Constitution being adopted, it would remain for the States, whose powers have been so long in abeyance, to resume their places in the two branches of the national Legislature, and thereby complete the work of restoration. Here it is for you, fellow-citizens of the Senate, and for you, fellow-citizens of the House of Representatives, to judge, each of you for yourselves, of the elections, returns, and qualifications of your own members."

The President of the United States brings them to the doors of Congress and then tells us all we have a right to do is that each branch for itself shall consider this question. We find the same thing reported in the veto message. We find that he is persistent on this point. He says:

"I would in nowise interfere with the discretion of Congress with regard to the qualifications of members."

The elections, returns, and qualifications of members are embraced in the annual message, and only the qualifications are found in the veto message.

Mr. Speaker, I have no animadversion to make, and it is not my business in the brief hour I have to speak. My business is to show the distinction between the course Congress is pursuing in vindication of its acts and that pursued by the Executive, and which has occasioned so much disquiet and discussion throughout the country. It is simply this: Congress insists—it did so during the Thirty-Eighth Congress, and is doing so now—it is a work of legislation to place these States which have been in rebellion in the condition of the loyal States, and that they may be entitled to representation, while the President of the United States insists there shall be no legislation on that subject. That is the grand and distinctive difference between the two.

Mr. Speaker, very much has been said in this House as to whether the States which were in the rebellion are in or out of the Union. I am not particular whether the one or the other is admitted so long as we can act in reference to this great object. But whether in or out of the Union I insist that it is within the power of a State to destroy, and destroy entirely, its internal State organization, whether for legislative purposes or for representative purposes in Congress. Let me make this statement—it is a truism—there is no Representative in Congress unless he comes from a State. It commenced in the Constitution, the original foundation of the Government. It has continued there ever since. It is there now. The State has its representatives by two Senators in the other House; but those who come to this body represent the people. The people do not get their representation until the State is organized. The original thirteen had the inherent power to create themselves into State organizations, and the same power was reserved under the Constitution to the States which may be admitted by Congress. Where have we had an instance that this central Government goes to work and makes a government for a State? The only one I now remember approaching it in any degree is the case of Kansas under the Administration of Buchanan. The Administration took the Lecompton constitution, put in additions, and gilded them, and then tried to get the people to send it back; but it was voted down by an overwhelming majority. Each State makes its constitution for itself, and the Government has no business to do in that work. It has simply to see that the State government shall be republican in form.

"Once a State always a State!" It may be so for Federal purposes, but if a State does not see fit to send any Representatives to Congress, I do not know how the Government of the United States can force them to send them here. If a State should refuse to keep up its State organization, should refuse to elect a Governor, to elect representatives to their State Legislature, to elect or appoint judges for their State courts, or officers for their counties or townships, I do not know what power the General Government has to force them to do it. The government is based upon the will of the people, and if they are disposed to lose by inaction, if you please, or by rebellion, their State organization, it is entirely within their power to do it; and, sir, whenever a community that has been a State in this Union, after a lapse either by non-action or by resistance to the General Government, comes and asks that its members shall be restored to seats after a long absence, we have not the power, under the fifth section of the first article, which I have read, to admit the members to seats here, and if we should do so, we would not only bid high for rebellion, but we would usurp the power of the Government, we would be trampling the Constitution beneath our feet which makes that provision ample, sufficient, and distinct.

That is the view of this subject that was held by the Thirty-Eighth Congress. We find that there was a disposition manifested on the part of that Congress to have the States come back into this Union when they should have observed certain rules and regulations laid down as a test of loyalty. I call attention, for I presume the country has not been advised as yet as to what it was, or what was done, or what was its character, but I call attention to a certain bill which never became a law, but which passed both branches of Congress at the first session of the Thirty-Eighth Congress; and I have some records upon that subject. I have tried to procure the bill precisely, *verbatim*, as it finally passed both Houses. I have not succeeded in doing that, but I have the bill as it passed the House, and it passed the Senate with some slight amendments in which the House agreed, and it became a law as far as it could become a law until it went to the President to receive his signature or veto. Since I could not find the bill as it passed both branches *verbatim*, I have made an abstract of its provisions.

The reconstruction bill, as it passed the House May 4, 1864, which was during the first session of the Thirty-Eighth Congress, provided very briefly as follows:

The first section provides for each of the States declared in rebellion a provisional governor, to be appointed, with the advice and consent of the Senate, by the President, to be charged with the civil administration of such State until a State government is recognized as thereinafter provided.

The second section provides, so soon as resistance is suppressed and obedience restored, for an enrollment of citizens and taking the oath, and if the majority enrolled take the oath, delegates are to be elected to meet in convention to declare the will of the people relative to reëstablishing State government.

The third section provides for the number of delegates to attend the convention—the day fixed for elections and places of voting by the Governor.

The fourth section provides who may vote, and where.

The fifth section provides how the election shall be conducted.

The sixth section provides for convening the delegates, and the place where, and the qualification by oath.

The seventh section provides through the convention a State constitution, which, when recognized by Congress as a government for the State, Senators and Representatives and electors for President and Vice President may be elected.

The bill further provides, on failure of the first effort to establish a State government acceptable to Congress, a further means to establish such a one as will be acceptable.

Such, in brief, is the substance of the bill on reconstruction. It will be observed that a State government must be first established before Senators and Representatives and electors for President and Vice President may be elected.

Mr. Speaker, I wish to call the attention of the House to the vote on this question. My friend from Pennsylvania [Mr. STEVENS] is charged with publishing very startling principles here at the commencement of this Congress. Now, let us see whether those principles are entirely new. I am now speaking more particularly to those members of this House who were members of the Thirty-Eighth Congress, because, having been here, and knowing what was said at the time, and taking part in what was done, they can state whether I make any mistake.

The bill of last Congress to which I have referred was House bill No. 244; and by reference to page 624 of the Journal of the House of Representatives for the first session of the Thirty-Eighth Congress, it will be found that the gentleman from Pennsylvania [Mr. STEVENS] moved the following preamble to the bill:

"Whereas the so-called confederate States are a public enemy, waging an unjust war, whose injustice is so glaring that they have no right to claim the mitigation of the extreme rights of war which are accorded by modern usage to an enemy who has a right to consider the war a just one; and whereas none of the States which by a regularly recorded majority of its citizens have joined the so-called southern confederacy can be considered and treated as entitled to be represented in Congress to take any part in the political government of the nation: Therefore,"

"Be it enacted," &c., as I have already stated. A vote was taken upon agreeing to that preamble, and the yeas and nays were called, and by examining the record I find that fifty-seven members of this House voted in favor of this preamble; the majority, however, voted against it. And of those fifty-seven who voted for that preamble, I find forty who are members of this House. The preamble was lost.

Then came the vote on the bill, and I find from this record that the vote, upon the yeas and nays, stood 74 in favor of the bill, and 66 against it. And of the seventy-four who voted in favor of the bill, of which I have given a synopsis, there were fifty-seven who are now members of this House, and there are other members of this House who were then members of the House, whose names are not recorded upon that bill. My friend from Maine [Mr. BLAINE] was not then present, for I do not find his vote in either instance. My friend from Pennsylvania, [Mr. STEVENS,] who moved the preamble, voted for that, but he did not vote either for or against the bill.

Now, sir, that is a fact of legislative history. That is something that was done by the Thirty-Eighth Congress at its first session. It shows that the true and loyal men in this body believed that that was the only policy proper to be pursued. They were not disposed to usurp any power; but they believed it required the Congress of the United States to settle this great question of the right of representation. That is the way this work began, so far as I have knowledge of it personally. That vote settles the question as to men's acts in reference to this matter. Who, then, have tried to get up an issue with the President of the United States?

This bill went to the Senate, and received the sanction of that body; and there are far more members in that body now who were in the Thirty-Eighth Congress than in this body, in proportion to its numbers. And my opinion is that if a vote should be taken upon that question in that body to-day we should find a ma-

jority of Senators right there who voted on that occasion for the passage of this bill.

This shows the legislative action of Congress while he who now sits in the presidential chair was provisional governor of the State of Tennessee, and was being supported there by the military arm of the Federal Government against the rebellion, whose fiery billows were threatening to roll over that State. Congress was then pursuing its legitimate business. It was pursuing the course it deemed not only politic and wise, but just and equitable. It was pursuing the course it deemed it must pursue under the Constitution of the United States, in order to aid in the reconstruction of these States as soon as it was possible to do so. While those southern States were seething and boiling in the fiery billows of the sultry hell of rebellion, Congress was deliberating here, and making provisions for those States to come back into this Union, if they saw fit to do so, under the provision that was then being made.

Mr. Speaker, I will omit nothing. It is true that our lamented President, the one who fell by the hand of the assassin, did not sanction that bill, or give it his approval. It is also true that this is the same bill, in reference to which a Senator from Ohio and a member from this House from Maryland, came out with their protest. But, sir, that does not affect the position of Congress; that does not affect the position that members here took to do what little they could do in these Halls to save this country and the Government. Even if the present occupant of the presidential chair does claim to have assumed the mantle of the dead President, and to be following in his footsteps, it does not show any inconsistency on this question in this body or the body at the other end of the Capitol.

Sir, I think that President Lincoln did wrong in refusing to sign that bill; and the terrible death which he received at the hands of an assassin has not sanctified his position in my estimation. While I respect him for his great honesty, his integrity of purpose, and the most excellent qualities of head and of heart, I cannot any the more believe in the correctness of his course upon that subject.

I trust, Mr. Speaker, that I have now made myself well understood in the points which I have submitted in reference to the distinction between the executive and the legislative department; and this is all that I designed to accomplish in that respect. But, sir, there is another point to which I wish to call the attention of every member of this House. It is one which, I think, has been to a great extent overlooked.

An amendment to the Constitution has been recently made. It passed this House on the last day of January, 1865, and since that time has received the sanction or the ratification of the Legislatures of three fourths of the States of this Union, and has become a part of the Constitution of the United States. What does that amendment provide? Its provisions are as follows:

"ARTICLE XIII.

"SEC. 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

"SEC. 2. Congress shall have power to enforce this article by appropriate legislation."

Now, sir, the Government of the United States cannot do away with the force of the exceptional portion of that article, which allows a State to frame its laws so that a man may be sold into slavery "as a punishment for crime." The legislation of a State may prescribe as the penalty for a particular offense, that the offender shall pay a fine, or be imprisoned in the State prison, or be sold into slavery. Is there any power in the Government of the United States by which it can declare that a State shall punish crime in only one certain way? Is there in this Union a single State whose criminal code does not provide alternative penalties? The law of my own State provides that for an assault with a deadly weapon with an intent to commit bodily injury, the offender on conviction may be sent to the State prison for two years, or be fined in the sum of $5,000. If the judge who pronounces the sentence sees fit to impose a fine, the offender, if he be able to pay it, suffers no other penalty. By paying the fine, he saves himself from imprisonment.

Now, let me suppose a case which not only may happen, but has happened, in the southern States. Grant that the laws must be made equal; that they must be administered equally upon all classes, without regard to color or race. Suppose that a State enacts a provision that a party guilty of a particular offense shall, on conviction, be imprisoned in the State prison for two years or be sold into slavery. Such a provision operates equally upon all classes, but the judge could discriminate, and could say to the white offender, "Go to the State prison," while he could say to the black man, "Go into slavery." You cannot prevent such things as that by any legislation in these Halls. Such things are being done now in the southern States, as organized under executive authority. Let Congress admit that those are States of this Union, with the right of representation, and we shall have given that system an irrevocable sanction beyond the future control of the Government of the United States, because those States are acting under the amendment of the Constitution, and can pass such laws in spite of anything which we may do in this Hall, and you leave slavery sealed upon the Government. That is one of the results, if the Executive is right in his position. We are tied and bound, and we cannot get by it; but if it requires legislation, then we hold the power. But we cannot, except we can get through an amendment of the character of the one now pending before this body, if they are States now, and have the right to come upon this floor, and we can only judge of the elections, returns, and qualifications of our own members.

I have heard a great deal here, Mr. Speaker, about taxing the people of the South and not allowing them representation. I cannot see any objection that the people who have buried so many of the noble men of this Union in their soil, as well as millions of our substance; I can see no objection that they are doing penance and probation, and that some fruit is coming from them to this Government.

Why, sir, we have been taxing without representation; and we are now taxing the people of Nebraska, which is only a Territory, having only a voice upon this floor and no voice at the other end of the Capitol. Nebraska furnished money and furnished soldiers for the Government. Nebraska was taxed during the war, although she had no vote here. How much better is rebel South Carolina than loyal Nebraska?

Mr. NIBLACK. I beg to inquire of the gentleman whether the amendment to the Constitution he is advocating is intended or calculated to have any effect on the condition of the Chinamen in California. If it is to have any effect upon the Chinese population there, let us know what effect it is to have?

Mr. HIGBY. If the Government will annul the treaty with China, the people of California will get rid of the Chinese. I know something of the Chinese, and do not believe the gentleman from Indiana does.

Mr. NIBLACK. I want information.

Mr. HIGBY. The Chinese are nothing but a pagan race. They are an enigma to me, although I have lived among them for fifteen years. You cannot make good citizens of them; they do not learn the language of the country; and you can communicate with them only with the greatest difficulty, as their language is the most difficult of all those spoken; they even dig up their dead while decaying in their graves, strip the putrid flesh from the bones, and transport the bones back to China. They bring their clay and wooden gods with them to this country, and as we are a free and tolerant people, we permit them to bow down and worship them.

Sir, they do not propagate in our country. A generation is not growing up in the State, except an insignificant few in comparison with the great number among us. Judging from the daily exhibition in our streets, and the well established repute among their females, virtue is an exception to the general rule. They buy and sell their women like cattle, and the trade is mostly for the purpose of prostitution. That is their character. You cannot make citizens of them.

The SPEAKER. The gentleman's hour has expired.

Mr. RANDALL, of Pennsylvania, obtained the floor.

Mr. HIGBY. I have a very few remarks to make.

Mr. NIBLACK. I hope the gentleman will be allowed to finish his speech.

The SPEAKER. How much time does the gentleman want?

Mr. HIGBY. Five or ten minutes.

The SPEAKER. Is there objection?

There was no objection, and it was ordered accordingly.

Mr. NIBLACK. I understand that gentlemen on the other side have taken the position that intelligence is not at all necessary to the exercise of the right of voting; that a man, from the fact of belonging to the human race, is entitled to vote and to be called a man and brother. I understand them to urge it is a question of manhood and not a question of morals, not a question of religion. If a Chinaman is one of the human race, why should he be degraded below the negro? Why should he not receive the same right as the negro? I should like to understand it. The negro is of pagan race, and is a pagan before he comes here.

Mr. HIGBY. But he is not a pagan now. The negro is as much a native of this country as the gentleman or myself. I will say, from what I have seen of the gentleman, when he knows that people as well as I do, I would abide by his judgment in reference to the position they should take in any civilized community.

Mr. NIBLACK. One word. The gentleman is very kind. I have no difficulty myself in arriving at a conclusion upon this question; and I was aware that the gentleman knew more about the Chinese people in this country and in the country from which they come than I do. I asked for information. I want to understand why we should exclude one race and include another, why we should deny to these people the right of naturalization, for instance, and allow it to others.

Mr. HIGBY. I will tell him. They are foreigners and the negro is a native.

Mr. NIBLACK. Why do you not naturalize them?

Mr. HIGBY. I have given a very good reason.

Mr. Speaker, I think the passage of this resolution and the adoption of it by the States, thereby making it a portion of the Constitution, will give power over these subjects. But, sir, it is no more than due and proper caution, in the midst of the stirring events that we are living in now, and in view of those which are past, that we should hold the power which we possess here in this legislative body to decide this question for ourselves, and in our own way, without executive dictation. And we hold this power if we insist, as we have been insisting, and as we are now insisting, that it shall be decided by legislative action. We hold this very subject of slavery that will grow up under the exception to the late amendment entirely within our power, and we will thereby be enabled to banish really and forever the institution of slavery from the limits of this country. And God knows that is my heart's desire.

Mr. Speaker, I trust that the wisdom of this House will run in the same channel that it has done heretofore, and that the radicalism that is talked about here, and which is made use of only as a flimsy excuse by the enemies of the country to stigmatize the very principles that were held to by the Thirty-Eighth Congress as the extreme of the revolutionary doctrines of the day—I hope that that radicalism will continue. It is the only straight-forward way of dealing with the question. If we stand firm in our adhesion to these doctrines we shall be the conservators of the rights of the people and the

institutions of the country. There will be no danger then and no doubt as to the successful termination of all our troubles.

Mr. RANDALL, of Pennsylvania. Mr. Speaker, in briefly stating, during the short time which is allowed me, the reasons which shall induce my vote upon this question, I shall not enter into a discussion of the merits of the proposition. I feel that in speaking I am actuated by no political consideration or influence of association, nor am I disposed to discuss the question with any unkind feeling toward the source from which it emanates.

My objection to the adoption of the proposed amendment to the Constitution I base simply upon the fact that the States in part to be affected by it, and the States hereafter to conform to it as the fundamental law of the country, are not here present to participate in the consideration and the action by which it is to become the law of the land. We are without the Representatives from eleven States, and it is proposed to make this binding upon them as a part of the Constitution of the country. The affirmative action of a portion of those eleven States are necessary to the adoption of this amendment before it can become a part of the organic law. That twenty-seven States are necessary to the adoption of a constitutional amendment cannot successfully be gainsaid by any gentleman on this floor. The Supreme Court of the United States have over and over again declared that these States are not only now in the Union, but they never have been out of the Union. Moreover, the present Executive, adopting the views of his predecessor, declares, under the seal of the Secretary of State, that twenty-seven States are required. And it will be impossible for this House or for the judiciary of this country to determine contrary to the explicit decisions of the Supreme Court and the firm and almost unanimous belief of the people of the country.

Again, I desire that any amendment to the Constitution shall be participated in by those who are loyal in the late rebel States. Sir, we give them just ground to reject any amendment adopted by this Congress if we decline to give them participation in the discussion and action upon it here. And our mouths will be closed to any complaint that we might hereafter make to a rejection of these amendments wholesale on the part of the late rebel States. Why are they not represented here? I do not appeal in behalf of disloyal men. I do not want any rebels here. That is not the position of those who oppose this amendment. But we do say that the Congress of the United States having clearly established the principle that these States are States in the Union, when they come here with loyal Representatives prepared to take the oath which the law prescribes, and which you and I have taken, it is revolutionary, it is unjust, to refuse them admission. It never will meet the approval of the American people to deny them that representation. For myself I go no further than to demand here the admission of Representatives from loyal people, who are loyal themselves, who have ever been loyal and who come here competent and willing to subscribe to the oath which we all of us, have taken. No further do I go.

Now, sir, some gentlemen have said here that they desire to examine into the character of the constitution of the State of Tennessee and other States, to see whether they are republican in form. You have been telling the American people that for three long months. Does it take three months to read the constitution of the State of Tennessee? No, sir; you hang your opposition simply upon a technicality, a legal objection which is not logical in law, and one which is in violation of common sense. Sir, the American people desire that these loyal people of the South shall be represented here by loyal persons. I believe, from information that I have, that ninety-nine out of every one hundred of the people of the South are now truly loyal and intend hereafter to be true citizens of the country. Believing that, I claim for them simply the right of representation; they are now taxed. Taxes being levied upon them, representation should not be denied.

Gentlemen may say that this question of representation and taxation is a mere make-weight argument. I tell them that it is a vital and fundamental principle of our Government. It is the principle which made the thirteen colonies seek a separation from the mother country, and it is lodged as clearly, as intensely, and as deeply in the American mind as any other principle of our Government. In the advocacy of these principles, I, as one of the Opposition here, am led into association with the President of the United States. Sir, in the language of Henry Clay, when twitted by his friend during the pendency of the compromise measures of 1850 for his association and coöperation at that period with the Democracy, who then said he was willing to join with any party or men who desired the continued peace and prosperity of the country, without regard to their antecedents, I say to you, gentlemen, that I am willing to associate with anybody, whether he be a Republican or a Democrat, or what not, regardless of what his antecedents may have been; all I want to know is that he is now advocating a full and faithful restoration of the Union. In doing this I am not impelled by any desire to secure office either for myself or my friends, but by principles which I have always regarded as sound and just. The majority here need not think that because we advocate or the people approve of the policy of the President we or they want offices.

I firmly believe to-day that if every man here representing a Democratic constituency were to array himself against the policy of the President in restoring the Union, that the masses of the American people whom they represent would repudiate them. It is not because he is Andrew Johnson that we sustain him; it is because the policy that he has recommended meets the approval of the people that they support him; they support him from the purest and most patriotic motives; their cup of patriotism is full in that respect. I have never yet, here or elsewhere, defended rebels, nor have I been in any respect the advocate of the rebellion; but the rebellion is over; these men have laid down their arms; they now ask you to admit their Representatives who are loyal, and I urge that we should do it. That is the issue between us, and nothing else. That is the issue you must meet and must face, and you cannot evade it. It is easy for you to-day to admit these Representatives who are loyal and can take "the iron-clad oath," as you call it. Why do you not do it? That is the point you must explain to the American people, and I venture the opinion that upon this question you will be left in a deserved minority. That is the point and the only point that I, as an humble member of the Democratic party, wish to argue with you. If you are in favor of that I am with you; if you are against it, I, as an humble member of the Democratic party, am against you. I am no defender either of rebels or of the rebellion; neither, let me say, do I subscribe to all the doctrines enunciated by the distinguished gentleman from New Jersey [Mr. ROGERS] yesterday. So far as he goes in supporting the policy I have indicated, I will join hands with him; in some of his extreme notions, I separate from him.

Mr. Speaker, I indicated when I commenced that I meant simply to state to the House the reasons which would govern me in voting against this amendment to the Constitution. At the proper time, when the South is represented here, I am willing to go into the consideration of amendments to the Constitution. I have much confidence in the gentleman who proposes this amendment, and when we shall all get together here under one roof and in full communion, I shall be willing to join with him in proposing and adopting such amendments to the Constitution as the changed circumstances and condition of the country may require. I hope that those who admit that these States are in the Union will be willing, having admitted that, to go along logically, and admit that therefore those States shall have a voice in the adoption of these amendments to the Constitution, and wait until such time as we shall have loyal men here from the South, with knowledge of the wants, authentic information as to the condition of the people of the South, of their labor question, and every other question in which their interests are involved.

And at that time I shall consider it proper to look into those amendments, and not until then. And until that time I shall feel myself compelled to cast my vote in this House against any proposition looking to an amendment of the Constitution which is to hereafter guide and rule our country.

Mr. KELLEY. Mr. Speaker, I shall support this proposed amendment of the Constitution of the United States, not because I believe it to be absolutely needed, but because there are those, and some of them on this side of the House, who doubt that the powers to be imparted by it are already to be found in the Constitution. I believe them to have been there from the hour of its adoption. They preceded the amendments proposed by the first Congress, and their existence is, as I will show, proven by the action of that Congress which was largely composed of members of the Convention that framed the Constitution and of the several State conventions that ratified it. When all men not disqualified by crime or pauperism shall be intrusted with the ballot they can protect their own rights, and will need no congressional guardianship; and when the States recognize the equality of all their people before their laws they will have no cause to dread congressional censorship.

On the 10th of January I took occasion to call the attention of the House to an extract from the debate in the Virginia convention upon ratifying the Constitution of the United States, which occurred on the 13th of June, 1788. That extract was as follows:

"Mr. Monroe wished that the honorable gentlemen who had been in the Federal Convention would give information respecting the clause concerning elections. He wished to know why Congress had an ultimate control over the time, place, and manner of elections of Representatives, and the time and manner of that of Senators; and also why there was an exception as to the place of electing Senator."

Mr. Madison said:

"Mr. Chairman, the reason of the exception was, that if Congress should fix the place of choosing the Senators, it might compel the State Legislature to elect them in a different place from that of their usual sessions, which would produce some inconvenience, and was not necessary for the object of regulating the elections. But it was necessary to give the General Government a control over the time and manner of choosing the Senators to prevent its own dissolution.

"With respect to the other point, it was thought that the regulation of the time, place, and manner of electing Representatives should be uniform throughout the continent. Some States might regulate the elections on the principles of equality, and others might regulate them otherwise. This diversity would be obviously unjust. Elections are regulated now unequally in some States, particularly South Carolina, with respect to Charleston, which has a representation of thirty members. *Should the people of any State by any means be deprived of the right of suffrage, it was judged proper that it should be remedied by the General Government.* It was found impossible to fix the time, place, and manner of the election of Representatives in the Constitution. It was found necessary to leave the regulation of this, *in the first place*, to the State governments, as being best acquainted with the situation of the people, *subject to the control of the General Government*, in order to enable it to produce uniformity and prevent its own dissolution. And considering the State government and General Government as distinct bodies, acting in different and independent capacities for the people, it was thought the particular regulations should be submitted to the former and the general regulations to the latter. *Were they exclusively under the control of the State governments the General Government might easily be dissolved.* But if they be regulated properly by the State Legislatures, *the congressional control will very probably never be exercised.* The power appears to me satisfactory and as unlikely to be abused as any part of the Constitution."

The Convention had already decided that the qualifications requisite for electors for members of Congress and for President and Vice President should be those for electors for the most numerous branch of the State Legislature. Hence it was that Madison said:

"With respect to the other point, it was thought that the regulation of the time, place, and manner of electing Representatives should be uniform throughout the continent. Some States might regulate the elections on the principles of equality, and others might regulate them otherwise. This diversity would

be obviously unjust. Elections are regulated now unequally in some States, particularly South Carolina, with respect to Charleston, which has a representation of thirty members."

The sages who framed the Constitution saw that it was necessary that the Federal Government should decide who should be electors for those who were to administer and maintain that Government. What had the Federal Government to do with the Legislature of South Carolina? And would not Madison's allusion to it have been irrelevant and impertinent if the article under discussion was not intended to empower Congress to remedy the inequality alluded to by fixing the qulifications of electors of the most numerous branch, when determining those of electors for members of Congress, President and Vice President? He was too precise a thinker and too cautious in expression to have subjected himself to such criticism.

Again on the 24th of January I read, in reply to the gentleman from Iowa, [Mr. KASSON,] who had combatted my position, the following extract from the debate in the National Convention on the 9th of August, 1787:

"Article six, section one, was then taken up.

"Mr. MADISON and Mr. GOUVERNEUR MORRIS moved to strike out 'each House,' and to insert 'the House of Representatives;' the right of the Legislatures to regulate the times and places, &c., in the election of Senators being involved in the right of appointing them; which was disagreed to.

"A division of the question being called for, it was taken on the first part down to 'but their provisions concerning,' &c.

"The first part was agreed to, *nem. con.*

"Mr. PINCKNEY and Mr. RUTLEDGE moved to strike out the remaining part, namely, 'but their provisions concerning them may at any time be altered by the Legislature of the United States.' The States, they contended, could and must be relied on in such cases.

"Mr. GORHAM. It would be as improper to take this power from the national Legislature as to restrain the British Parliament from regulating the circumstances of elections, leaving this business to the counties themselves.

"Mr. MADISON. The necessity of a General Government supposes that the State Legislatures will sometimes fail or refuse to consult the common interest at the expense of their local convenience or prejudices. The policy of referring the appointment of the House of Representatives to the people, and not to the Legislatures of the States, supposes that the result will be somewhat influenced by the mode. This view of the question seems to decide that the Legislatures of the States ought not to have the uncontrolled right of regulating the times, places, and manner of holding elections. It was impossible to foresee all the abuses that might be made of the discretionary power. Whether the electors should vote by ballot or *viva voce;* should assemble at this place or that place; should be divided into districts or all meet at one place; should all vote for all the Representatives, or all in a district vote for a number allotted to the district; these and many other points would depend on the Legislatures, and might materially affect the appointments. Whenever the State Legislatures had a favorite measure to carry, they would take care so to mold their regulations as to favor the candidates they wished to succeed. Besides, the inequality of the representation in the Legislatures of particular States would produce a like inequality in their representation in the national Legislature, as it was presumable that the counties having the power in the former case would secure it to themselves in the latter. What danger could there be in giving a controlling power to the national Legislature? Of whom was it to consist? First, of a Senate, to be chosen by the State Legislatures. If the latter, therefore, could be trusted, their representatives could not be dangerous. Secondly, of Representatives elected by the same people who elect the State Legislatures. Surely, then, if confidence is due to the latter, it must be due to the former. It seemed as improper in principle, though it might be less inconvenient in practice, to give to the State Legislatures this great authority over the election of the Representatives of the people in the general Legislature, as it would be to give to the latter a like power over the election of their representatives in the State Legislature.

"Mr. KING. If this power be not given to the national Legislature, their right of judging of the returns of their members may be frustrated. No probability has been suggested of its being abused by them. *Although this scheme of erecting the General Government on the authority of the State Legislatures has been fatal to the Federal establishment, it would seem as if many gentlemen still foster the dangerous idea.*

"Mr. GOUVERNEUR MORRIS observed that the States might make false returns, and then make no provisions for new elections.

"Mr. SHERMAN did not know but it might be best to retain the clause, though he had himself sufficient confidence in the State Legislatures.

"The motion of Mr. PINCKNEY and Mr. RUTLEDGE did not prevail.

"The word 'respectively' was inserted after the word 'State.'

"On the motion of Mr. READ, the word 'their' was struck out, and 'regulations in such cases' inserted in place of 'provisions concerning them,' the clause then reading: 'but regulations in each of the foregoing cases may, at any time, be made or altered by the Legislature of the United States.' This was meant to give the national Legislature a power not only to alter the provisions of the States, but to make regulations in case the States should fail or refuse altogether.

"Article six, section one, as thus amended, was agreed to, *nem. con.*"

An alternative was before the Convention. It was this: the power of deciding who should vote for members of Congress, President and Vice President of the United States, and with it the power to determine who should vote for members of the most numerous branch of the State Legislature, must either be given to the Legislature of each State or confided to Congress. Gentlemen have doubtless observed that Madison saw this, and said:

"It seems as improper in principle, though it might be less inconvenient in practice, to give to the State Legislatures this great authority over the election of the representatives of the people in the general Legislature, as it would be to give to the latter a like power over the election of their representatives in the State Legislature."

And Mr. King pointedly repudiated the idea of confiding this vital power to the States, when he said:

"Although this scheme of erecting the General Government on the authority of the State Legislatures has been fatal to the Federal establishment, it would seem as if many gentlemen still foster the dangerous idea."

What had brought the Confederacy, then expiring, to its death throe? It was the fact that it rested upon the Legislatures of the States; and the members of the Convention framing an instrument which should make a "more perfect Union," placed this vital power where it should be, where it would be used for the maintenance of the Union; and did not confide it to the States which had just used it for the destruction of the Confederacy.

Sir, I wish to project upon this House no new view. I desire to invoke no new rules of construction, but I am willing to be bound by those which prevail in all our courts, and in the courts of the land from which we derive our laws.

They are most briefly and explicitly expressed by Blackstone, and from his pages I take my rules of construction:

"The fairest and most rational method to interpret the will of the legislator is by exploring his intentions at the time when the law was made, by signs most natural and probable, and these signs are either the words, the context, the subject-matter, the effects and consequence, or the spirit and reason of them all."

Again:

"There are three points to be considered in all remedial statutes"—

The Constitution, adopted as it was to cure the defects of the Articles of Confederation, may be regarded as a remedial statute. The old Constitution, the Articles of Confederation, had failed utterly to accomplish its purpose. A new one was to be made to remedy its defects.

"There are three points to be considered in the construction of all remedial statutes—the old law, the mischief, and the remedy; that is, how the common law stood at the making of the act, what the mischief was for which the common law did not provide, and what remedy the Parliament had provided to cure this mischief."

Binding myself by these rules of construction, I undertake to make good the doctrine that they who framed and adopted the Constitution of the United States did it to remedy the evil of a General Government depending upon the judgment, caprice, or prejudices of the people of each of the several States. The Confederacy had crumbled from its false foundation upward to its cap-stone, and their object was to make a more perfect Union, one that would secure the blessings of liberty to themselves and their posterity till the last syllable of recorded time. Their purpose was to escape from chaos and to create and perpetuate order. The Union for which they provided was to rest on the suffrages of freemen, each the equal of others before the law, and was to be indivisible and indestructible.

Next, sir, let me point you to the context. The Constitution provides that "the United States shall guaranty to every State in this Union a republican form of government;" and the section to which I am referring gives Congress the power to enforce the guarantee. If the ultimate power to regulate the suffrage for Representatives in Congress, and members of the most numerous branch of the body that was to elect Senators had been left to each State to determine for itself, Congress could not have enforced this guaranty or prevented the establishment of aristocracies or oligarchies.

The members of that Convention had suffered for the want of an adequate and efficient General Government. They had endeavored to administer the Government of the Confederation, and had found it utterly incapable of maintenance. They therefore took care to arm the Government for which they were providing with power to enforce every right, privilege, and immunity accorded to the people, and to guaranty a republican form of government to each State.

Another duty which they laid upon the General Government springs from the provision that—

"The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States."

In this connection, on a former occasion, I illustrated the necessity of Congress possessing the control over the suffrage in the States to the extent I have indicated, which does not involve the question of electors of State, county, or municipal officers, by pointing to a bill then and now pending before the Legislature of "reconstructed" Virginia, which proposes that the privileges of citizenship shall be accorded to the citizen of any northern State only after a continuous residence of five years; and I said then, and repeat now, that if a State can disfranchise the citizens of other States who may settle within its limits for five years, it can disfranchise them for ten or fifty years, or any other term within the ordinary limits of the natural life of man. The disfranchised citizens of a democratic republican State would not be in the full enjoyment of "all privileges and immunities of citizens." The framers of the Constitution provided against such possibilities by confiding to Congress control of the "manner of holding elections."

The evils they sought to remedy required precisely the power which I assert was imparted to Congress by the fourth section of the first article of the Constitution. But I am not willing to let the question go to the country on my assertion, or the meager array of authorities I have hitherto produced. To prove that the proposed amendment will but reinvigorate a primitive and essential power of the Constitution, I pass, sir, to an examination of the debates in the several State conventions to which the draft of the Constitution was submitted for ratification. They exhibit most amply the broad construction which was given to the section to which I have referred by both the advocates and the opponents of the Constitution. They, in my judgment, establish beyond question the fact that the members of the Federal Convention, the members of each of the State conventions, and the enlightened people of the whole country knew that the power to determine the question as to who should be electors of all Federal officers was vested, by the express language of the Constitution, in Congress.

Patrick Henry, in the Virginia convention, June 17, 1788, said:

"Congress is to have a discretionary control over the time, place, and manner of elections. The Representatives are to be elected, consequently, when and where they please. As to the time and place, gentlemen have attempted to obviate the objection by saying that the time is to happen once in two years, and that the place is to be within a particular district or in the respective counties. But how will they obviate the danger of referring the *manner* of election to Congress? Those illumined genii may see that this may not endanger the rights of the people; but in my unenlightened understanding it appears plain and clear that it will impair the popular weight in the Government. Look at the Roman history. They had two ways of voting—the one by tribes and the other by centuries. By the former, numbers prevailed; in the latter, riches preponderated. According to the mode prescribed, Congress may tell you that they have a right to make the vote of one gentleman go as far as the votes of one hundred poor men. *The power over the manner admits of the most dangerous latitude. They may modify it as they please. They may regulate the number of votes by the quantity of property without involving any repugnancy to the Constitution.*"

In the same convention, June 14, six days later—

"Mr. Mason animadverted on the control of Congress over the elections; and was proceeding to prove that it was dangerous, when he was called to order by Mr. Nicholas for departing from the clause under consideration. A desultory conversation, and Mr. Mason was permitted to proceed. He was of opinion that the control over elections tended to destroy the responsibility. He declared he had endeavored to discover whether this power was really necessary, or what was the necessity of vesting it in the Government; but he could find no good reason for giving it. That the reasons suggested were, were that in case the States should refuse or neglect to make regulations, or in case they should be prevented from making regulations by rebellion or invasion, then the General Government should interpose."

In the same convention, Mr. Madison, June 14, 1788, said:

"With respect to the time, place, and manner of elections, I cannot think, notwithstanding the apprehensions of the honorable gentleman, that there is any danger, or if abuse should take place, that there is not sufficient security. *If all the people of the United States should be directed to go to elect in one place*, the members of the Government would be execrated for the infamous regulation. Many would go to trample them under foot for their conduct, and they would be succeeded by men who would remove it. They would not dare to meet the universal hatred and detestation of the people, and run the risk of the certain dreadful consequences. We must keep within the compass of human probability. If a possibility be the cause of objection, we must object to every government in America. But the honorable gentleman may say that better guards may be provided. Let us consider the objection. The power of regulating the time, place, and manner of elections must be vested somewhere. It could not be fixed in the Constitution without involving great inconveniences. They could then have no authority to adjust the regulations to the changes of circumstances. *The question then is, whether it ought to be fixed unalterably in the State governments, or subject to the control of the General Government. Is it not obvious that the General Government would be destroyed without this control?"*

I turn from Virginia to Massachusetts. On two days of January, 16 and 17, 1788, the debate ran on this question. In its progress—

"Mr. Pierce, after reading the fourth section, wished to know the opinion of the gentlemen on it, as Congress appeared thereby to have a power to regulate the *time*, *place*, and *manner* of holding elections. In respect to the manner, said Mr. Pierce, suppose the Legislature of this State should prescribe that the choice of the Federal Representatives should be in the same manner as that of Governor—a majority of all the votes in the State being necessary to make it such—and Congress should deem it an improper *manner*, and should order that it be as practiced in several of the southern States, where the highest number of votes make a choice; have they not power by this section to do so?

"Mr. Bishop rose and observed, that by the fourth section Congress would be enabled to control the election of Representatives. It has been said, says he, that this power was given in order that refractory States may be made to do their duty."

The gentleman from Iowa [Mr. KASSON] and other members made that response to my suggestion, and I beg them to observe how Mr. Bishop answered it to the members of the Massachusetts convention:

"But if so, sir, why was it not so mentioned? If that was the intention, he asked why the clause did not run thus: 'The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but,' *if any State shall neglect or refuse so to do* 'Congress' may, &c. This, he said, would admit of no prevarication. I am, says Mr. Bishop, for giving Congress as much power to do good as possible. It has been said, Mr. President, that the conduct of Rhode Island in recalling its delegates from Congress, has demonstrated the necessity of such a power being lodged in Congress. I have been informed by people belonging to Rhode Island, sir, that that State never has recalled her delegates from Congress. I do not believe it has. And I call upon the gentleman who mentioned it to authenticate the fact.

"Hon. Mr. King rose, and assured the convention that the State of Rhode Island did, by a solemn resolution, some time since, recall its delegates from Congress.

"Hon. Mr. Gorman confirmed what Mr. King had said, and added, that during the session of the Federal Convention, when seven States only were represented in Congress, application was made by two companies for the purchase of lands, the sale of which would have sunk seven or eight million dollars of the continental debt, and the most pressing letters were sent on to Rhode Island to send on its delegates, but that State refused. The consequence was the contract could not then be made.

"Mr. Bishop confessed himself convinced of the fact. He proceeded to observe that if the States shall refuse to do their duty, then let the power be given to Congress to oblige them to do it. *But if they do their duty, Congress ought not to have the power to control elections.* In an uncontrolled representation, says Mr. Bishop, lies the security of freedom. And he thought, by these clauses, that that freedom was sported with. In fact, says he, the moment we give Congress this power the liberties of the yeomanry of this country are at an end. But he trusted they would never give it, and he felt a consolation from the reflection."

Mr. Bishop's assault upon Congress reminds me of certain recent utterances of a like character. I am, however, happy in the consciousness that the people understand that executive assaults upon Congress are in derogation of their own rights. They recognize in the popular branch of Congress their own immediate representatives, and will sustain it in resisting all encroachments on their rights by whatsoever menaces they may be attempted to be enforced.

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

Mr. KELLEY. Yes, sir.

Mr. CHANLER. Does the gentleman recognize the President as the representative of the people or not?

Mr. KELLEY. I recognize him as the agent to whom has been confided by an inscrutable Providence the execution of the laws of the country. I recognize him as the one man in all the Union who has the least right to come, and, under threats of popular fury, dictate to the law-making branch what laws it shall consider and enact. He is excluded by the Constitution and the law from that right and that power.

Mr. CHANLER. One more question. Does the gentleman from Pennsylvania recognize the veto power as a constitutional power or as the exercise of arbitrary power?

Mr. KELLEY. I recognize the veto power as one of the executive functions which the President may legitimately exercise; and I know that it is exercised under responsibility to Congress and the people.

I return, Mr. Speaker, to the debate in the Massachusetts convention:

"Hon. Mr. Strong followed Mr. Bishop, and pointed out the necessity there is for the fourth section. The power, says he, to regulate the elections of our Federal Representatives must be lodged somewhere. I know of but two bodies wherein it can be lodged—the Legislatures of the several States and the general Congress. If the legislative bodies of the States, who must be supposed to know at what time, and in what place and manner the elections can best be held should so appoint them, it cannot be supposed that Congress, by the power granted by this section, will alter them; but if the Legislature of a State should refuse to make such regulations, the consequence will be that the Representatives will not be chosen and the General Government will be dissolved. In such case can gentlemen say that a power to remedy the evil is not necessary to be lodged somewhere? And where can it be lodged but in Congress?

"I will consider its advantage in another respect; we know, sir, that a negligence in the appointment of rules is the characteristic of all nations. In this State, and since the establishment of our present constitution, the first officers of government have been elected by less than one tenth part of the electors in the State. We also know that our town meetings for the choice of officers are generally attended by an inconsiderable part of the qualified voters. People attend so much to their private interests that they are apt to neglect this right. Nations have lost their liberties by neglecting their privileges, consequently Congress ought to have an interposing power to awaken the people when thus negligent. Even supposing, sir, the provisional clause suggested by the worthy gentleman from Norton should be added, would not Congress then be the judges whether the elections in the several States were *constitutional* and *proper?* If so, it will then stand on the same ground it now does. It appears evident that there must be a general power to regulate general elections.

"Mr. Bishop said the great difficulty with him was, that the power given by the fourth section was *unlimited*, and he did not yet see that any advantage would arise from its being so." * * * *

"Mr. Cabot. For my own part I confess that I prize the fourth section as highly as any in the Constitution, *because I consider the democratic branch of the national Government—the branch chosen immediately by the people, as intended to be a check on the Federal branch*, which latter is not an immediate representation of the people of America, and is not chosen by them, but is a representation of the sovereignty of the individual States, and its members delegated by the several State Legislatures; and *if the State Legislatures are suffered to regulate conclusively the elections of the democratic branch*, they may, by such an interference, first weaken and at last destroy that check; *they may at first diminish and at last finally annihilate that control of the General Government which the people ought always to have through their immediate representatives.* As one of the *people*, therefore, I repeat that in my mind *the fourth section is to be as highly prized as any in the Constitution.*

"A State Legislature under the influence of their Senators who would have their fullest confidence, or under the influence of ambitious or popular characters, or in times of popular commotion and when faction and spirit run high, would introduce such regulations as would render the *rights of the people insecure and of little value.* They might make an unequal and partial division of the States into districts for the election of Representatives, or they *might even disqualify one third of the electors. Without these powers in Congress the people can have no remedy.* But the fourth section provides a remedy, a controlling power in a Legislature composed of Senators and Representatives of twelve States, without the influence of our commotions and factions, who will hear impartially, and *preserve and restore to the people their equal and sacred rights of election.*

"Hon. Mr. White said, we ought to be jealous of rulers. All the godly men we read of have failed—nay, he would not trust a 'flock of Moseces.' If we give up this section, says he, there is nothing left. *Suppose the Congress should say that none should be electors but those worth fifty or a hundred pounds sterling, cannot they do it?* Yes, said he, they can, and if any lawyer (alluding to Mr. Parsons) can beat me out of it, I will give him ten guineas."

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"Mr. J. C. Jones said it was not right to argue the *possibility of the abuse of any measure* against its adoption. The power granted to Congress by the fourth section is a *necessary* power. It will provide against *negligence and dangerous designs. The Senators and Representatives of this State, Mr. President, are now chosen by a small number of electors; and it is likely we shall grow equally negligent of our Federal elections.* Or, sir, a State may *refuse* to send to Congress its Representatives, as Rhode Island has done. Thus we see its necessity. To say that the power may be abused is saying what will apply to all *power*. The Federal Representatives will represent *the people*—they will be *the people*—and it is not probable they will abuse themselves. Mr. Jones concluded with repeating, that the arguments against this power could be urged against any power whatever." * * * *

"Judge Sumner proceeded to demonstrate the necessity of the fourth section, the absurdity of the supposition that Congress would remove the places of election to remote parts of the States; combatted the idea that Congress would, when chosen, act as badly as possible, and concluded by asking, if a war should take place, (and it was supposable,) if France and Holland should send an army to collect the millions of livres they have lent us in the time of our distresses, and that army should be in possession of the seat of government of any particular State, (as was the case when Lord Cornwallis ravaged Carolina,) and that the State Legislature could not *appoint the electors*, is not a power to provide for such elections necessary to be lodged in the general Congress?"

* * * * * * * * * *

"Captain Snow. It has been said, Mr. President, that there is too much power delegated to Congress by the section under consideration. I doubt it; I think power the hinge on which the whole Constitution turns."

A note is appended to the report by the reporter of that convention. It is as follows:

"Several other gentlemen went largely into the debate on the fourth section, which those in favor of it demonstrated to be necessary: first, as it may be used to correct a negligence in elections; secondly, as it will prevent the dissolution of the Government by designing and refractory States; thirdly, as it will operate as *a check in favor of the people against any designs of the Federal Senate and their constituents, the State Legislatures, to deprive the people of their right of election;* and fourthly, as it provides a remedy for the evil, should any State, by invasion or other cause, not have it in its power to appoint a place where the citizens thereof may meet to choose their Federal Representatives."

I submit the following from the debates in the New York convention, June 25 and 26, 1788:

"Hon. Mr. Lansing did not think it right that Congress should have the power of prescribing or altering the time, place, and manner of holding the elections. He apprehended that the clause might be so construed as to deprive the States of an essential right which, in the true design of the Constitution, was to be reserved to them. He therefore wished the clause might be explained, and proposed for the purpose the following amendment:

"'*Resolved*, (as the opinion of the committee,) That nothing in the Constitution now under consideration shall be construed to authorize the Congress to make or alter any regulations in any State respecting the times, places, or manner of holding elections for Senators or Representatives, unless the Legislature of such State shall neglect to make laws or regulations for the purpose, or from any circumstance be incapable of making the same, and then only until the Legislature of such State shall make provision in the premises.'

"Hon. Mr. Jay said that as far as he understood the ideas of the gentleman he seemed to have doubts with respect to this paragraph, and feared it might be misconstrued and abused. He said that *every Government was imperfect unless it had the power of preserving itself.* Suppose that by design or accident the States should neglect to appoint Representatives; certainly there should be some constitutional remedy for this evil. The obvious meaning of the paragraph was, that if this neglect should take place Congress should have power, by law, to support the Government and prevent the dissolution of the Union. He believed this was the design of the Federal Convention.

"Hon. R. Morris suggested that so far as the people, distinct from their Legislatures, were concerned in the operation of the Constitution, it was absolutely necessary that the existence of the General Government should not depend for a moment on the will of the State Legislatures. *The power of perpetuating the Government ought to belong to their Federal Representatives; otherwise, the rights of the people would be essentially abridged.*"

The following extracts are from the debates of the North Carolina convention, July 25, 1788:

"Mr. Spencer. By this clause it is evident that it is in the power of Congress to make any alterations except as to the place of choosing Senators. They may alter the time from six to twenty years, or to any time; for *they have an unlimited control over the election of the Representatives.* It deprives the people of the very mode of choosing them. It seems nearly to throw the whole power of election into the hands of Congress. It strikes at the mode, time, and place of choosing Representatives. It puts all but the place of electing Senators into the hands of Congress.

"Mr. Iredell. An occasion may arise when the exercise of this ultimate power in Congress may be necessary. As for instance, if a State should be involved in war, and its Legislature could not assemble, as was the case of South Carolina, and occasionally of some other States during the late war. It might also be useful for this reason: lest a few powerful States should combine, and make regulations concerning elections which *might deprive many of the electors of a fair exercise of their rights*, and thus injure the community, and occasion great dissatisfaction. And it seems natural and proper that every Government should have in itself the means of its own preservation. A few of the great States might combine to prevent the election of Representatives at all, and thus a majority might be wanting to do business.

"Mr. Spencer. This clause provides that a Congress may at any time alter such regulations, except as to the places of choosing Senators. These words are so vague and uncertain that it must ultimately destroy the whole liberty of the United States. It strikes at the very existence of the States, and supersedes the necessity of having them at all.

"Mr. Bloodworth. Now, sir, does not this clause give *an unlimited and unbounded power to Congress over the times, places, and manner of choosing Representatives?* They may make the time of election so long, the place so inconvenient, and the manner so oppressive, that it will entirely destroy representation. I hope gentlemen will exercise their own understanding on this occasion, and not let their judgment be led away by these shining characters, for whom, however, I have the highest respect. This Constitution, if adopted in its present mode, must end in the subversion of our liberties. Suppose it takes place in North Carolina, can farmers elect then? No, sir. The elections may be in such a manner that men may be appointed who are not Representatives of the people. This may exist, and it ought to be guarded against. As to the place, suppose Congress should order the elections to be held in the most inconvenient place, in the most inconvenient district, could every person entitled to vote attend at such a place? Suppose they should order it to be laid off into so many districts, and order the election to be held within each district; yet *may not their power over the manner of election enable them to exclude from voting every description of men they please?*

"Governor Johnston. I am not apprehensive that this article will be attended with all the fatal consequences which the gentleman conceives. *I conceive that Congress will have no other power than the States had.* The States with regard to elections must be governed by the articles of the Constitution; so must Congress.

"Mr. M'Dowall. The freedom of election is one of the greatest securities we have for our liberty and privileges. It was supposed by the member from Edenton, that the control over elections was only given to Congress to be used in case of invasion. I differ from him. That could not have been their intention, otherwise they could have expressed it. But, sir, it points forward to the time when there will be no State Legislatures—to the consolidation of all the States. The States will be kept up as boards of elections.

"Mr. Iredell answered that he stated the case of invasion as only one reason out of many, for giving the *ultimate control over elections to Congress.*

"Mr. Davie. The gentleman from Edenton (Mr. Iredell) has pointed out the reasons of giving this control over elections, the principal of which was to prevent a dissolution of the Government by designing States. If all the States were equally possessed of absolute power over their elections, without any control of Congress, danger might be justly apprehended where one State possesses as much territory as four or five others, and some of them being thinly peopled now, will daily become more numerous and formidable. Without this control in Congress, those large States might successfully combine to destroy the General Government. It was therefore necessary to control any combination of this kind.

"Another principal reason was, that it would operate in favor of the people against the ambitious designs of the Federal Senate. I will illustrate this by matter of fact. The history of the little State of Rhode Island is well known. An abandoned faction have seized on the reins of government, and frequently refused to have any representation in Congress. *If Congress had the power of making the law of elections operate throughout the United States* no State could withdraw itself from the national councils without the consent of a majority of members of Congress. Had this been the case, that trifling State would not have withheld its representation. What has once happened may happen again; and it was necessary to give Congress this power to keep the Government in full operation. This being a Federal Government, and involving the interests of several States, and some acts requiring the assent of more than a majority, they ought to be able to keep their representation full. It would have been a solecism to have a Government without *any means* of self-preservation. The Confederation is the only instance of a Government without such means, and is a nerveless system, as inadequate to every purpose of government as it is to the security of the liberties of the people of America. *When the councils of America have this power over elections, they can, in spite of any faction in any particular State, give the people a representation.*

"Mr. Spencer. The gentleman from Halifax said that the reason of this clause was, that some States might be refractory. I confess that in my opinion the circumstances of Rhode Island do not appear to apply. I cannot conceive the particular cause why Rhode Island should not send Representatives to Congress. If they were united in one government, is it presumed that they would waive the right of representation? I have not the least reason to doubt they would make use of the privilege. With respect to the construction that the worthy member put upon the clause, were that construction established, I would be satisfied; but it is susceptible of a different explanation. They may alter the mode of election so as to deprive the people of the right of choosing. I wish to have it expressed in a more explicit manner.

"Mr. Davie. Mr. Chairman, the gentleman has certainly misconceived the matter when he says 'that the circumstances of Rhode Island do not apply.' It is a fact well known, of which perhaps he may not be possessed, that the State of Rhode Island has not been regularly represented for several years, owing to the character and particular views of the prevailing party. By the influence of this faction, who are in possession of the State government, the people have been frequently deprived of the benefit of a representation in the Union, and Congress often embarrassed by their absence. The same evil may again result from the same cause; and Congress ought therefore to possess constitutional power to give the people an opportunity of electing Representatives if the States neglect or refuse to do it."

"Mr. Maclaine. The clause enables Congress to alter such regulations as the States shall have made with respect to elections. What would he infer from this? What is it to alter? It is to alter the time, place, and manner established by the Legislatures if they do not answer the purpose. Congress ought to have power to perpetuate the Government, and not the States, who might be otherwise inclined. I will ask the gentleman, and I wish he may give me a satisfactory answer, *if the whole is not in the power of the people as well when the elections are regulated in Congress as when by the States?* Are not both the agents of the people amenable to them?"

I cite with pleasure the following extracts from the debates of the Pennsylvania convention, October 28, 1787:

"Mr. Wilson. I hope, sir, that it was no crime to sow the seed of self-preservation in the Federal Government. Without this clause it would not possess self-preserving power. By this clause the times, places, and manner of holding elections shall be prescribed in each State by the Legislature thereof. I think it highly proper that the Federal Government should throw the exercise of this power into the hands of the State Legislatures, but not that it should be placed there *entirely without control.*

"*If the Congress had it not in their power to make regulations, what might be the consequence?* Some States might make no regulations at all on the subject. And shall the existence of the House of Representatives, the immediate representation of the people in Congress, depend upon the will and pleasure of the State governments? Another thing may possibly happen: I do not say it will; but we were obliged to guard even against possibilities as well as probabilities. A Legislature may be willing to make the necessary regulations, yet the minority of that Legislature may, by absenting themselves, break up the House and prevent the execution of the intention of the majority.

"I have supposed the case that some State governments may make no regulations at all. It is possible, also, that they make improper regulations. I have heard it surmised by the opponents of this Constitution, that the Congress may order the election for Pennsylvania to be held at Pittsburg, and thence conclude that it would be improper for them to have the exercise of the power. But suppose, on the other hand, that the Assembly should order an election to be held at Pittsburg, ought not the General Government to have the power to alter such improper election of one of its own constituent parts?

"But there is an additional reason still that shows the necessity of this provisionary clause. The members of the Senate are elected by the State Legislatures. *If those Legislatures possessed, uncontrolled, the power of prescribing the times, places, and manner of electing members of the House of Representatives, the members of one branch of the general Legislature would be the tenants at will of the elections of the other branch, and the General Government would lie prostrate at the mercy of the Legislatures of the several States.*"

In the same convention, December 4, 1787, Mr. Wilson said, quoting from Montesquieu:

"In a democracy the people are in some respects the sovereign, and in others the subject. There can be no exercise of sovereignty but by their suffrages, which are their own will. Now, the sovereign's will is the sovereign himself. The laws, therefore, which establish the right of suffrage are fundamental to this Government. And, indeed, it is as important to regulate in a republic in what manner, by whom, to whom, and concerning what, suffrages are to be given, as it is in a monarchy to know who is the prince, and after what manner he ought to govern."

Then Mr. Wilson continues:

"In this system it is declared that the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature. This being made the criterion of the right of suffrage, it is consequently secured, because the same Constitution *guaranties* to every State in the Union a *republican* form of government. The right of suffrage is fundamental to republics."

Again, on December 11, 1787, Mr. Wilson said:

"It is repeated again and again by the honorable gentleman, 'that the power over elections which is given to the General Government in this system is a dangerous power.' I must own I feel myself surprised that an objection of this kind should be persisted in, after what has been said by my honorable colleague in reply. I think it has appeared by a minute investigation of the subject that it would have been not only unwise but highly improper in the late Convention to have omitted this clause, or given less power than it does over elections. Such powers, sir, are enjoyed by every State government in the United States. In some they are of a much greater magnitude, and why should this be the only one deprived of them? Ought not these, as well as every other legislative body, to have the power of judging of the qualifications of its own members? 'The times, places, and manner of holding elections for Representatives may be altered by Congress.' *This power, sir, has been shown to be necessary, not only on some particular occasions, but even to the very existence of the Federal Government.* I have heard some very improbable suspicions, indeed, suggested with regard to the manner in which it will be exercised. Let us suppose it may be improperly exercised, is it not more likely so to be by the particular States than by the Government of the United States? Because the General Government will be more studious of the good of the whole than a particular State will be; and, therefore, when the power of regulating the time, place, or manner of holding elections is exercised by the Congress, it will be to correct the improper regulations of a particular State."

Mr. McKean, December 11, 1787, said, in answer to the objections to section four, article one:

"Every House of Representatives is of necessity to be the judges of the elections, returns, and qualifications of its own members. It is therefore their province, as well as duty, to see that they are fairly chosen and are the legal members. For this purpose it is proper they should have it in their power to provide that the times, places, and manner of election should be such as to insure *free and fair elections.*"

There is but a meager report of the proceedings of the South Carolina convention, yet we have the record of the following language, uttered by Charles Cotesworth Pinckney, who had been a prominent member of the Convention that framed the Constitution:

"It is absolutely necessary that Congress should have this superintending power, lest by the intrigues of a ruling faction in a State the members of the House of Representatives *should not really represent the people of the State*, and lest the same faction, through partial State views, should altogether refuse to send Representatives of the people to the General Government."

Cotesworth Pinckney was much less devoted to the pernicious doctrine of State sovereignty than are some of the gentlemen on this floor.

Mr. Speaker, I thus close the extracts I propose to offer from the debates in the Convention. Let us pause for a few minutes, however, to examine the action of some of them. I shall draw thence pregnant evidence in support of my position, for the latitude of the congressional power under the fourth section of the first article was so keenly appreciated and was so thoroughly repugnant to those who still clung to the anarchy-engendering idea of State sovereignty, that each of five States that accompanied their acts of ratification by recommendations of amendments, proposed an amendment designed to restrict, curtail, or destroy congressional control over elections in the States.

The Massachusetts convention proposed an amendment in the following form:

"That Congress do not exercise the powers vested in them by the fourth section of the first article but in cases where a State shall neglect or refuse to make the regulations therein mentioned, or shall make regulations *subversive of the rights of the people to a free and equal representation* in Congress, agreeably to the Constitution."

The New Hampshire convention proposed the following as an amendment:

"That Congress do not exercise the powers vested in them by the fourth section of the first article but in cases where a State shall neglect or refuse to make the regulations therein mentioned, or shall make regulations *subversive of the rights of the people to a free and equal representation* in Congress; nor shall Congress in any case make regulations contrary to a free and equal representation."

The New York convention proposed the following amendment:

"That the Congress shall not make or alter any regulation in any State respecting the times, places, and manner of holding elections for Senators and Representatives, unless the Legislature of such State shall neglect or refuse to make laws or regulations for the purpose, or from any circumstance be incapable of making the same, and then only until the Legislature of such State shall make provision in the

premises: *Provided*, That Congress may prescribe the time for the election of Representatives."

The following is the amendment proposed by the convention of Rhode Island:

"That Congress shall not alter, modify, or interfere in the times, places, or manner of holding elections for Senators and Representatives, or either of them, except when the Legislature of any State shall neglect, refuse, or be disabled by rebellion or invasion, to prescribe the same, or in case when the provision made by the State is so imperfect that no consequent election is had, and then only until the Legislature of such State shall make provision in the premises."

And the convention of South Carolina appended to the act of ratification the following declaration:

"And whereas it is essential to the preservation of the rights reserved to the several States, and the freedom of the people under the operation of a General Government, that the right of prescribing the manner, time, and places of holding the elections to the Federal Legislature should be forever inseparably annexed to the sovereignty of the several States; this Convention doth declare that the same ought to remain to all posterity a perpetual and fundamental right in the local, exclusive of the interference of the General Government, except in cases where the Legislatures of the States shall refuse or neglect to perform and fulfill the same, according to the tenor of the said Constitution." * * * * *

"*Resolved*, That it be a standing instruction to all such delegates as may hereafter be elected to represent this State in the General Government to exert their utmost abilities and influence to effect an alteration of the Constitution conformably to the aforegoing resolutions."

That the Representatives of South Carolina in the First Congress most faithfully obeyed these instructions to fix the germ of decay in the Constitution, I will show directly.

By the propositions of amendment submitted by the ratifying conventions of five States the attention of the First Congress was distinctly drawn to the question of the propriety of amending the Constitution in the particular named. The action of that Congress on this subject is therefore of the greatest significance, and well worthy of review.

On June 8, 1789, James Madison, who, it will be remembered, had borne the foremost part in both the Federal Convention and that of Virginia, as a member of Congress from Virginia proposed, in the national House of Representatives, nine amendments to the Constitution. Was there among them one to limit the powers of Congress as suggested by the resolutions appended by those States to their acts of ratification? Let us see. Madison's remarks, in presenting and explaining these propositions, will be found in the Annals of Congress, First Congress, volume one, pages 440, 448–459.

[Here the hammer fell.]

Mr. HALE obtained the floor.

Mr. RANDALL, of Pennsylvania. I hope the gentleman's time will be extended.

Mr. KELLEY. I ask the gentleman from New York [Mr. HALE] to yield, and I hope the House will grant me the indulgence of extending my time. It is the first time since I became a member of the House that I have appealed to the House to grant me such a favor.

Mr. HALE. If the gentleman's argument touched the question before the House, or if it is likely to touch it, I will yield; but if it does not I most respectfully decline to do so.

Mr. KELLEY. I have thus far been engaged in presenting the evidence from which my argument is to be deduced, and I supposed I was laying broad premises to enable me to bring a very cogent argument to bear upon the question before the House. I have, not without some labor, quarried out matter, a portion of which I have given to the House, and I think it will enable me to touch with some potency the question before the House, a question which is to go before the people, if we pass the amendment, and the facts I am presenting ought to be considered by the people. As I am speaking without brief or notes except copies of the extracts I am presenting, I appeal to the courtesy of the gentleman.

Mr. HALE. I will yield to the gentleman ten or fifteen minutes if that is likely to bring the subject before the House.

Mr. KELLEY. Will not the House allow me to go on?

The SPEAKER. It cannot, unless the gentleman from New York yields the floor.

Mr. KELLEY. I again ask the courtesy of the gentleman.

Mr. HALE. If the gentleman will get through in fifteen minutes.

Mr. KELLEY. I cannot promise to close in fifteen minutes.

Mr. RANDALL, of Pennsylvania. I will make the motion that the gentleman be allowed to go on for half an hour, and that it shall not come out of the time of the gentleman from New York, [Mr. HALE.]

No objection being made, the extension of time was granted.

Mr. KELLEY. Most of the proposed amendments were subsequently incorporated in some shape into the Constitution. They were mainly designed to guaranty to the people the right of petition, freedom of the press, trial by jury, &c. No one of them, however, proposed or intimated any change in that section which declares the congressional right of control over the elections of national Representatives. During the debate which occurred when these propositions were presented, Mr. Vining, of Delaware, said, (as appears by the report on page 467 of the Annals:)

"There were many things mentioned by some of the State conventions which he would never agree to on any conditions whatever; they *changed the principles of the Government and were therefore obnoxious to its friends. The honorable gentleman from Virginia had not touched upon any of them;* he was glad of it because he could by no means bear the idea of an alteration respecting them: he referred to the mode of obtaining direct taxes, *judging of elections*," &c.

On the 21st of July, Mr. Madison's proposed amendments were referred to a select committee of one member from each State, of which Mr. Vining was chairman.

On the 28th of July that gentleman, as chairman of the committee, submitted a report, embracing ten proposed amendments, which were subsequently considered in Committee of the Whole, and some amendments thereto adopted. The debate on these propositions, in the report of which the propositions themselves will be found incidentally stated, extends from page 729 to 789 of the volume already cited. No one of them, however, proposed to limit the power of Congress with respect to elections for Representatives.

But when the propositions of the committee had been considered and reported by the Committee of the Whole, August 18, 1789—

"Mr. TUCKER, of South Carolina, moved that the following propositions of amendments to the Constitution of the United States be referred to a Committee of the Whole House, to wit."

Among the propositions then submitted were the following:

"Section four, clause one, strike out the words, 'but the Congress may at any time, by law, make or alter such regulations, except as to the places of choosing Senators.'

"Section fifth, clause one, amend the first part to read thus: 'Each State shall be the judge, according to its own laws, of the election of its Senators and Representatives to sit in Congress, and shall furnish them with sufficient credentials, but each House shall judge of the qualifications of its own members; a majority of each House shall constitute, &c.'"—*Page* 790.

"On the question, Shall the said propositions of amendments be referred to the consideration of a Committee of the Whole House? it was determined in the *negative*."—*Page* 792.

Thus failed the first effort of South Carolina to strike down the ultimate power of Congress over the elections of its own members by giving effect to the doctrine that the States had rights paramount to the General Government. But the champions of State rights had other efforts to make, and again attempted to restrict, that which they could not destroy, the power of Congress in this respect.

A few days later, on the 21st of August, the constitutional amendments being again under consideration, Mr. Burke, of South Carolina, who I may remark in passing had voted in the South Carolina convention against the ratification of the Constitution, said:

"I move you, sir, to add to the articles of amendment the following:

"'Congress shall not alter, modify, or interfere in the times, places, or manner of holding elections of Senators or Representatives, *except when any State shall refuse, or neglect, or be unable, by invasion or rebellion, to make such election.*'

"Mr. AMES said he 'thought this one of the most justifiable of all the powers of Congress; it was essential to a body representing the whole community that they should have power to regulate their own elections in order to secure a representation from every part, and prevent any improper regulations, calculated to answer party purposes only. It is a solecism in politics to let others judge for them, and is a departure from the principles upon which the Constitution was founded." * * * * *

"Mr. MADISON. If this amendment had been proposed at any time, either in Committee of the Whole or separately in the House, I should not have objected to the discussion of it. But I cannot agree to delay the amendments now agreed upon, by entering into the consideration of propositions not likely to obtain the consent of either two thirds of this House or three fourths of the State Legislatures. I have considered this subject with some degree of attention, and, upon the whole, *am inclined to think the Constitution stands very well as it is.*" * * * *

"Mr. SMITH, of South Carolina, said he hoped it would be agreed to; that eight States had expressed their desires on this head, and all of them wished *the General Government to relinquish their control over the elections.* The eight States he alluded to were New Hampshire, Massachusetts, New York, Pennsylvania, Maryland, Virginia, North Carolina, and South Carolina.

"Mr. CARROLL denied that Maryland had expressed the desire attributed to her.

"Mr. FITZSIMONS. The remark was not just as it respected Pennsylvania." * * * * *

"Mr. SEDGWICK, of Massachusetts, moved to amend the motion by giving the power to Congress to alter the times, manner, and places of holding elections, provided the States made improper ones; for as much injury might result to the Union from improper regulations as from a neglect or a refusal to make any. It is as much to be apprehended that the States may abuse their powers as that the United States may make an improper use of theirs.

"Mr. AMES said that inadequate regulations were equally injurious as having none, and that such an amendment as was now proposed would alter the Constitution. It would vest the supreme authority in places where it was never contemplated.

"Mr. SHERMAN observed, *that the Convention were very unanimous in passing this clause; that it was an important provision, and if it was resigned it would tend to subvert the Government.*

"Mr. MADISON was willing to make every amendment that was required by the States *which did not tend to destroy the principles and the efficacy of the Constitution;* he conceived that the proposed amendment would have that tendency; he was therefore opposed to it." * * * * * * *

"Mr. TUCKER objected to Mr. Sedgwick's motion of amendment, because it had a tendency to defeat the object of the proposition brought forward by his colleague, [Mr. Burke.] The General Government would be the judge of inadequate or improper regulations; of consequence they might interfere in any or every law which the States might pass on that subject.

"*He wished that the State Legislatures might be left to themselves to perform everything they were competent to without the guidance of Congress.*" * * * *

"Mr. GOODHUE hoped the amendment never would obtain." * * * * "Rather than this amendment should take effect he would vote against all that had been agreed to. *His greatest apprehensions were that the State governments would oppose and thwart the general one to such a degree as finally to overturn it.* Now, to guard against this evil, he wished the Federal Government to possess every power necessary to its existence.

"Mr. BURKE. I believe that many of those gentlemen who agreed to the ratification without amendments did it from principles of patriotism, but they knew at the same time that they parted with their liberties; yet they had such reliance on the virtue of a future Congress that they did not hesitate, expecting that they would be restored to them unimpaired as soon as the Government commenced its operations conformably to what was mutually understood at the sealing and delivering up of those instruments.

"It has been supposed that there is no danger to be apprehended from the General Government of an invasion of the rights of election. I will remind gentlemen of an instance in the Government of Holland. The patriots in that country fought no less strenuously for that prize than the people of America; yet by giving to the States general powers, not unlike those in this Constitution, their right of representation was abolished. That they once possessed it is certain, and that they made as much talk about its importance as we do; but now the right has ceased, all vacancies are filled by the men in power. It is our duty, therefore, to prevent our liberties from being fooled away in a similar manner.

"Mr. MADISON observed that it was the State governments in the seven united provinces which had assumed to themselves the power of filling vacancies, and not the General Government; therefore the gentleman's application did not hold.

"The question on Mr. Sedgwick's motion for amending Mr. Burke's proposition was put and lost."—*Pages* 797, 802.

A vote was then taken by yeas and nays on Mr. Burke's motion, and resulted—yeas 23, nays 28. (Page 802.)

Among the members who voted on this question we find seven who had been members of the Convention that framed the Constitution. Only one of them, Mr. Elbridge Gerry, voted for Mr. Burke's proposition; while six, Messrs.

Carroll, Clymer, Fitzsimons, Gilman, Madison, and Sherman, voted in the negative.

I submit, Mr. Speaker, to the House and country whether the proceedings just reviewed do not show clearly that the First Congress maintained, after the most elaborate discussion, the supervisory power of Congress over the suffrage regulations of the States, so far as related to the most numerous branch of the Legislature?

But the question received further illustration at the hands of the First Congress. By reference to the first volume of the Annals, it will be found that, January 15, 1790:

"*Ordered*, That a committee be appointed to prepare and bring in a bill or bills for establishing a uniform system of naturalization; and that Mr. Hartley of Pennsylvania, Mr. Tucker of South Carolina, and Mr. Moore of Virginia, be of said committee."

On February 3:

"The House went into a Committee of the Whole on the bill establishing a uniform rule of naturalization, Mr. Baldwin in the chair. The first clause enacted that all free white persons who have or shall migrate into the United States, and shall give satisfactory proof before a magistrate, by oath, that they intend to reside therein, and shall take an oath of allegiance, *and shall have resided in the United States for one whole year*, shall be entitled to all the rights of citizenship, except being capable of holding office under the STATE or General Government, *which capacity they are to acquire after a residence of two years more.*"

The next day, February 4, the same bill being under consideration:

"Mr. SMITH, of South Carolina, admitted the propriety of recommitting the bill; but he wished some principle to be first established for the direction of the committee; for, at present, he was at a loss to conceive what was the prevailing opinion. Many gentlemen had suggested new ideas, which occasioned new difficulties; he hoped they would settle and remove some of them before they rose. The gentleman from Maryland [Mr. Seney] has observed that we *have no right to declare upon what terms an alien shall be admitted to the offices of the State governments; the same argument extends also to the voters.* This opinion opens a new field of argument, and entirely changes the system; it ought therefore to be decided. *For his part he was of opinion that a uniform rule of naturalization would extend to make a uniform rule of citizenship pervade the whole continent*, and decide the right of a foreigner to be admitted to elect, or be elected, in any of the States.

"Mr. TUCKER, of South Carolina. With respect to the latter part of the first clause, he agreed with the gentleman from Maryland, [Mr. Seney,] that we ought to provide a rule of naturalization, without attempting to define the particular privileges acquired thereby under the State governments. By the Constitution of the United States, the electors of the House of Representatives are to have the qualifications requisite for electors of the most numerous branch of the State Legislatures. *He presumed it was to be left to the discretion of the State constitutions who were to be the electors of the State Legislatures;* and therefore the General Government had no right to interfere therein."

Gentlemen ask why, if this power exists, it has not been exercised. The limitation of my time precludes an elaborate reply, but I may show how politicians impaired the achievements of patriot statesmen. The efforts in the Convention and in Congress, when propositions to amend the Constitution were under consideration to deprive Congress of the ultimate control over elections in the States having so signally failed, the advocates of State rights resorted to popular expedients by which they hoped to overthrow that which they had been unable to undermine. They appealed to the passions and pride of the people and excited the fears of the slaveholders throughout the country, and succeeded in imbuing the controlling minds of the country with the pernicious doctrines set forth in the Kentucky and Virginia resolutions of 1798.

Mr. WRIGHT. I desire to ask the gentleman a question. He has spoken of James Madison and of the resolutions of 1798. I would ask him whether those resolutions of 1798 were not in affirmation of State rights, and as such contrary to the doctrine that the gentleman is insisting upon to-day?

Mr. KELLEY. As my time is inflexibly limited by the courtesy of the gentleman from New York [Mr. HALE] I cannot stop to answer a side question.

Mr. WRIGHT. Proceed, sir.

Mr. KELLEY. Mr. Speaker, so successful were the labors of those who had determined from the first to prevent the formation of a perfect Union, and so thoroughly was the spirit of State rights infused into the political philosophy of that day, that in 1807 we find a Representative from Virginia, who was too well informed and too frank and courageous to deny that what I claim had been put into the Constitution was there, declaring in the national House of Representatives that the controlling power of Congress over elections in the States had become a "dead letter," because it had not up to that time been exercised. I speak of John Randolph, of Roanoke.

The following paragraphs are from a debate, November 12, 1807, on the contested-election case of Barney *vs.* Creery, and will be found in the Annals of Congress, Tenth Congress, first session, page 887.

Mr. Fisk, of Vermont, (subsequently a judge of the supreme court of that State,) said that—

"There was one part of the Constitution applicable in the present discussion which had not been noticed. He alluded to the fourth section of the first article, 'The times, places, and manner,' &c. Mr. Fisk would only ask the gentleman from Virginia, [Mr. Randolph,] who had so ably defended the right of the States, if the power of Congress was not coequal and coextensive with that of the States, Congress might alter and prescribe the rule of elections so far as respected the time, *manner*, and place. [The word "manner" is italicized in the report.] If the gentleman contended that the States had a right to fix qualifications, he must also admit that Congress had the same right.

Mr. Randolph, of Virginia, said in reply:

"The gentleman from Vermont has quoted a part of the Constitution which had nothing to do with this subject—*which, in fact, in that day was nothing better than a dead letter.* Would the gentleman from Vermont move for a bill to regulate the time, place, and manner of holding elections in the several States for members to that House? After all that could be said, practice, long-established practice under the Constitution was the best evidence what the Constitution was. Powers indisputably exercised by the States ever since its adoption were as much departed from the General Government and imparted to the States as if especially delegated by the Constitution itself."

Sir, may I not ask whether the war just closed has not demonstrated the falsity of the doctrine that essential powers of the Government may die in consequence of their non-exercise for a term of years? The war against the rebellion called into energetic activity vital powers of the Government that had lain dormant since the adoption of the Constitution because they had never been called into action by the exigency against which they were ordained to provide. Sir, to the great authorities I have invoked I add one more. To name him will doubtless surprise the House. Whatever gentlemen may think of his patriotism, none will deny John C. Calhoun's familiarity with the phraseology or history of the Constitution, and in a speech in the Senate, April 2, 1846, on the bill for the admission of Oregon, he said:

"Whatever difference of opinion there may be as to what other rights appertain to a citizen, all must at least agree that he has the right to petition and also to claim the protection of his Government. These belong to him as a member of the body-politic, and the possession of them is what separates citizens of the lowest condition from aliens and slaves. To suppose that a State can make an alien a citizen of the State, or, *to present the question more specially, can confer on him the right of voting*, would involve the absurdity of giving him a direct and immediate control over the action of the General Government, from which he has no right to claim protection, and to which he has no right to present a petition. *That the full force of the absurdity may be felt, it must be borne in mind that every department of the General Government is either directly or indirectly under the control of the voters in the several States.* The Constitution wisely provides that the voters for the most numerous branch of the Legislature in the several States shall vote for the members of the House of Representatives."

The reference to this clause of the Constitution shows that its provisions were distinctly before the mind of Calhoun when he denied the unlimited control of the State over the right of suffrage:

"And as the members of this body [the Senate] are chosen by the Legislatures of the States, and the presidential electors either by the Legislatures or voters in the several States, it follows, as I have stated, that the action of the General Government is either directly or indirectly under the control of the voters of the several States. *Now, admit that a State may confer the right of voting on all aliens and it will follow as a necessary consequence that we might have among our constituents persons who have not the right to claim the protection of the Government or to present a petition to it.*"

Sir, the absurd suggestion of John Randolph is repeated in these days, and I am met by gentlemen on this floor with a tacit admission that those who framed and adopted the Constitution did understand that the power was in the Constitution; but, while admitting this, gentlemen point me to the decisions of courts and to the action of States for a period of eighty years and say that it is not there now. I admit the facts. I say that through the power and prescience of the great statesmen who controlled the councils of that Convention, and their recent memories of the misery entailed upon them during the days of the Confederacy from the want of an adequate Government, the people were up to the true mark, and instituted a Government which should be sufficient for the maintenance of their liberties and the protection of the rights of the States.

But when it came to the hands of politicians, slave-owners, importers and breeders of slaves, it was misconstrued and emasculated; but though a gap of eighty years stands between this day and the great era of pristine constitutional truth, I hesitate not to say that the large collection of volumes which contain cases doubted, cases denied, and cases overruled will be swollen by all that has been done judicially in furtherance of this great wrong, and that the people will yet assert, and that with judicial sanction, the original powers of the Constitution, dormant though they have been through that long period. Did I say long? I should have said brief period, for what are eighty years in the life of a nation whose territory is so broad as ours; whose mineral and agricultural resources are so widespread, vast, and varied; whose people are so sparse yet so intelligent, energetic, enterprising, and patriotic; and whose institutions are based on principles so righteous and so inspiring? To such a nation eighty years are but as the passing moment to the life of a citizen. Let me ask the attention of the House to one case by which nearly thirty-five years of unbroken action of the United States Government, State governments, United States courts and State courts were all set aside by one judicial decision. It was in 1820 that the Missouri compromise was adopted. They who had made the Constitution then presided over and administered the Government; they were in the Senate; they were in the Representative Hall of the country; and they made a law under the sanction of the Constitution which gave peace and prosperity to the country for more than thirty years. Under that constitutional compromise the Northwest grew up and became a land of public schools and churches, with a prosperous people, more enlightened and more blessed than had ever been a people holding so wide a territory or any territory upon the broad earth.

Yet, sir, where are the unbroken lines of decisions made under that law; where are the lines of State and national action, and what is to be said of their constitutionality? No gentleman upon the Administration side of the House will rise and say that any of it was constitutional. The breath of a bench, unconsciously corrupted by the spirit of a degenerate era, swept it away, and an enlightened and honest bench, impelled by a faithful people, will yet decide that Congress has the right to do what the proposed amendment will give it the undisputed power to do. This amendment, will, in my judgment, but reinvigorate a dormant power, and I want the people to go back to the fountains of political wisdom, where they will see that if they mean to maintain this Government peacefully, they must put into the Constitution express powers equivalent to these. For myself, I find in it now, powers by which the General Government may defend the rights, liberties, privileges, and immunities of the humblest citizen wherever he may be upon our country's soil.

The eloquent gentleman who now so gallantly leads the Administration party here, the gentleman from New Jersey [Mr. ROGERS] in his frank and brilliant speech of yesterday, asserted that the right of suffrage was property.

Mr. NIBLACK. Will the gentleman allow me a moment?

Mr. KELLEY. My time is so limited that with due respect to the gentleman I must under the control of the gentleman from New York [Mr. HALE] decline to yield. I was remarking that the gentleman from New Jersey had appealed to my distinguished colleague who is on the Judiciary Committee [Mr. WILLIAMS] to say whether the right of suffrage is not property. As my colleague did not reply, I had, sir, the curiosity to ask him to favor me with his answer to that question in writing. I have it and will take the liberty of quoting it. He says:

"If I had thought it worth while I would have said that it was not so *technically*, although it might be so *etymologically*, looking to the derivation of the word from the Latin *proprius*, which signifies that which is *a man's own*. I might have added that it was so *democratically*, in view of the fact that the right in question had been dealt with by that party as an article of merchandise.

"Assuming his idea to be correct, however, I would have proposed the question, how then, in view of the constitutional provision, which is, by the way, but a translation of Magna Charta, that 'no *person* shall be deprived of life, liberty, or property, without due process of law,' is the negro or any other person to be deprived of this right by State legislation? And how, also, in view of the other provision 'that private property shall not be taken for public use without just compensation, we are to find a measure of value for determining the amount of damage involved in the divestiture of a right that is inherent, inalienable, and inappreciable?'"

Assume the proposition of the gentleman from New Jersey to be correct, and I add that the right of franchise is not only property but to the American citizen, the dearest property he owns, and to the poor, humble, powerless man, the most valuable and sacred of his possessions. To such the proposed amendment is intended to secure it. It provides that—

The Congress shall have power to make all laws which shall be necessary and proper to secure to the citizens of each State all privileges and immunities of citizens in the several States, and to all persons in the several States equal protection in the rights of life, liberty, and property.

In conclusion, Mr. Speaker, I repeat that I hold that all the power this amendment will give is already in the Constitution. I admit that it has lain dormant. I admit that there has been raised over it a superincumbent mass of State and political usage and judicial decisions that it is mountain high; but when I remember the mass of judicial decisions, of State and political usage, which was swept away by the decision of Judge Taney's court that the Missouri compromise was unconstitutional, I am persuaded that it will yet be quickened and called into action. The aroused people will demand that all the powers of the Constitution be exercised so that each State shall be guarantied a republican government, and that the citizens of each State shall enjoy peaceably the privileges and immunities of citizenship in the respective States; but as some gentlemen question the existence of the power, and others the propriety of exercising it at this time, I hope we will submit this amendment to the people, that they may more explicitly empower Congress to enforce and maintain their rights throughout the limits of our wide-spread country.

Mr. HALE. Mr. Speaker, it is with great hesitation I rise to address the House to-day, for the reason especially that in the brief time allotted for the purpose, I feel that I have been entirely unable to prepare myself as one should be prepared to discuss a subject so important, a subject so serious in its bearing and effect, and one so much requiring cautious and deliberate action on the part of this House, as the one now under consideration. But I feel compelled, though I must do it crudely, imperfectly, to attempt to assign some of the reasons that must control my vote against this proposed amendment to the Constitution of the United States.

It is with great hesitation that I differ from the conclusions of the very able joint committee which has reported to the House this proposed amendment. That committee is composed of gentlemen, many of whom are eminent for their legal and constitutional learning; men whose opinions must always carry weight, not only in this House but in the country. But I am consoled by the reflection that the recommendation of this committee does not carry with it the same weight, to my mind, that it might if the vail of secrecy that is now thrown over all their proceedings were removed. If we could be favored with the arguments to which that committee have listened; if we could listen to the sentiments of the individual members expressed in that committee; if we could know who of that committee favored this, and who did not; whether all or a part only concurred in reporting this resolution to the House, we might be the better able to judge how great weight was to be accorded to the fact that the committee has recommended the passage of this joint resolution.

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

Mr. HALE. Certainly.

Mr. GRINNELL. I should like to ask my friend from New York [Mr. HALE] if it has not been the custom from time immemorial for committees to keep their own secrets; otherwise, that their proceedings should be kept to themselves until their report should be made.

Mr. HALE. I should be very happy to favor the gentleman from Iowa [Mr. GRINNELL] with my views upon that subject, and various others of a political, literary, theological, and scientific character. But as they have nothing to do with the subject under consideration the gentleman must excuse me.

Mr. GRINNELL. Mr. Speaker——

Mr. HALE. The gentleman must excuse me. I cannot consent to be diverted from the line of my proposed argument.

I can only say that, so far as this House is concerned, we know only the fact that a majority of the joint committee on reconstruction have reported this joint resolution here. It comes to us with simply that weight and no more. It does not bear with it the accumulated weight of the unanimous voice of that committee. The gentleman from Iowa [Mr. GRINNELL] entirely misapprehends me if he understands me as complaining; I state merely the fact. I say it comes to us with only the weight of the majority, and not with the united weight of the approval of all the members of that committee.

But it does seem to me, with the little knowledge that I possess of constitutional law, and with the very brief and hasty examination that I have been enabled to give to this matter, that no weight or authority of members of this House to-day ought to bring us to pass this amendment without at least a most careful and scrutinizing examination. It does seem to me that the tenor and effect of the amendment proposed here by this committee is to bring about a more radical change in the system of this Government, to institute a wider departure from the theory upon which our fathers formed it than ever before was proposed in any legislative or constitutional assembly. Listening to the remarks of the distinguished member of the committee [Mr. BINGHAM] who reported this joint resolution to the House, one would be led to think that this amendment was a subject of the most trivial consequence. He tells us, and tells us with an air of gravity that I could not but admire, that the words of the resolution are all in the Constitution as it stands, with the single exception of the power given to Congress to legislate. A very important exception, it strikes me, but one to which the gentleman seems to attach very little weight.

My friend from California, [Mr. HIGBY,] who addressed the House this morning in support of this resolution of the committee, (and I speak of that gentleman with the most entire respect and friendship,) went a little further, and succeeded in showing that the exception of the honorable gentleman from Ohio [Mr. BINGHAM] was unnecessary; for, said the gentleman from California, the words of this joint resolution are all in the Constitution as it now stands. He turns to the eighth section of the first article, and in the first clause of it he finds the words "the Congress shall have power." He turns to the last clause of the same section, and there he finds the words "to make all laws which shall be necessary and proper." He turns to the second section of the fourth article, and there finds the words:

"The citizens of each State shall be entitled to all privileges and immunities of citizens of the several States."

He turns to the fifth article of the amendments to the Constitution, and there finds the words:

"No person shall be deprived of life, liberty, or property without due process of law."

Thus, he says, you have included in the Constitution as it stands all the words of the amendment proposed by the committee. The ingenuity of the argument was admirable. I never heard it paralleled except in the case of the gentleman who undertook to justify suicide from the Scripture by quoting two texts: "Judas went and hanged himself;" "Go thou and do likewise."

Now, Mr. Speaker, what is the theory of our Constitution? I will not undertake to elaborate this matter too far; but briefly, imperfectly, and within very scanty limits, let me attempt an answer to this question. In general terms, is it not that all powers relating to the existence and sovereignty of the nation, powers relating to our foreign relations, powers relating to peace and war, to the enforcement of the law of nations and international law, are the powers given to Congress and to the Federal Government by the Constitution, while all powers having reference to the relation of the individual to the municipal government, the powers of local jurisdiction and legislation, are in general reserved to the States?

What is the effect of the amendment which the committee on reconstruction propose for the sanction of this House and the States of the Union? I submit that it is in effect a provision under which all State legislation, in its codes of civil and criminal jurisprudence and procedure, affecting the individual citizen, may be overridden, may be repealed or abolished, and the law of Congress established instead. I maintain that in this respect it is an utter departure from every principle ever dreamed of by the men who framed our Constitution.

Mr. STEVENS. Does the gentleman mean to say that, under this provision, Congress could interfere in any case where the legislation of a State was equal, impartial to all? Or is it not simply to provide that, where any State makes a distinction in the same law between different classes of individuals, Congress shall have power to correct such discrimination and inequality? Does this proposition mean anything more than that?

Mr. HALE. I will answer the gentleman. In my judgment it does go much further than the remarks of the gentleman would imply; but even if it goes no further than that—and I will discuss this point more fully before I conclude—it is still open to the same objection, that it proposes an entire departure from the theory of the Federal Government in meddling with these matters of State jurisdiction at all.

I now come directly, as I was coming in due order when the gentleman's very pertinent inquiry arrested my attention, to the consideration whether this is as has been maintained by the gentleman who reported the resolution, and by others, simply a provision for the equality of individual citizens before the laws of the several States. I submit, Mr. Speaker, that it means much more than that. Let me read the language of the resolution, striking out, for the purpose of making it more clear, that part which is simply irrelevant to the matter which I here discuss:

The Congress shall have power to make all laws which shall be necessary and proper to secure to all persons in the several States equal protection in the rights of life, liberty, and property.

Now, I say to the gentleman from Pennsylvania [Mr. STEVENS] that reading the language in its grammatical and legal construction it is a grant of the fullest and most ample power to Congress to make all laws "necessary and proper to secure to all persons in the several States protection in the rights of life, liberty, and property," with the simple proviso that such protection shall be equal. It is not a mere provision that when the States undertake to

give protection which is unequal Congress may equalize it; it is a grant of power in general terms—a grant of the right to legislate for the protection of life, liberty, and property, simply qualified with the condition that it shall be equal legislation. That is my construction of the proposition as it stands here. It may differ from that of other gentlemen.

Mr. ELDRIDGE. Will the gentleman allow me to ask him a question right here?

Mr. HALE. Certainly.

Mr. ELDRIDGE. I wish to know from the gentleman, and I ask for information, whether it may not bear a very different construction? Whether it may not be held to mean that where any State adopts a certain system of legislation in relation to the protection of life, liberty, or property, Congress shall have power to assimilate or equalize the legislation of all the other States to that standard?

Mr. HALE. The gentleman will pardon me if I do not pursue that branch of the discussion. It is outside of the line I have marked for myself. I do not mean any offense, either to the gentleman from Iowa [Mr. GRINNELL] or to the gentleman from Wisconsin, [Mr. ELDRIDGE,] but entertain an equal respect for both.

Mr. Speaker, let me go a little further here. If it be true that the construction of this amendment, which I understand to be claimed by the gentleman from Ohio, [Mr. BINGHAM,] who introduced it, and which I infer from his question is claimed by the gentleman from Pennsylvania, [Mr. STEVENS;] if it be true that that is the true construction of this article, is it not even then introducing a power never before intended to be conferred upon Congress? For we all know it is true that probably every State in this Union fails to give equal protection to all persons within its borders in the rights of life, liberty, and property. It may be a fault in the States that they do not do it. A reformation may be desirable, but by the doctrines of the school of politics in which I have been brought up, and which I have been taught to regard was the best school of political rights and duties in this Union, reforms of this character should come from the States, and not be forced upon them by the centralized power of the Federal Government.

Take a single case by way of illustration, and I take it simply to illustrate the point, without expressing any opinion whatever on the desirability or undesirability of a change in regard to it. Take the case of the rights of married women; did any one ever assume that Congress was to be invested with the power to legislate on that subject, and to say that married women, in regard to their rights of property, should stand on the same footing with men and unmarried women? There is not a State in the Union where disability of married women in relation to the rights of property does not to a greater or less extent still exist. Many of the States have taken steps for the partial abolition of that distinction in years past, some to a greater extent and others to a less. But I apprehend there is not to-day a State in the Union where there is not a distinction between the rights of married women, as to property, and the rights of *femmes sole* and men.

Mr. STEVENS. If I do not interrupt the gentleman I will say a word. When a distinction is made between two married people or two *femmes sole*, then it is unequal legislation; but where all of the same class are dealt with in the same way then there is no pretense of inequality.

Mr. HALE. The gentleman will pardon me; his argument seems to me to be more specious than sound. The language of the section under consideration gives to *all persons* equal protection. Now, if that means you shall extend to one married woman the same protection you extend to another, and not the same you extend to unmarried women or men, then by parity of reasoning it will be sufficient if you extend to one negro the same rights you do to another, but not those you extend to a white man. I think, if the gentleman from Pennsylvania claims that the resolution only intends that all of a certain class shall have equal protection, such class legislation may certainly as easily satisfy the requirements of this resolution in the case of the negro as in the case of the married woman. The line of distinction is, I take it, quite as broadly marked between negroes and white men as between married and unmarried women.

It was not within the purview of the original Constitution to grant the power of legislation to Congress on subjects of this character. Mr. Speaker, the powers conferred on Congress are all contained in the eighth section of the first article of the Constitution. I ask the House to look at these provisions, their nature, their general scope, the accuracy, precision, and care with which they are defined, and compare them with what I cannot but characterize, with all my respect and deference for the committee on reconstruction, as the extremely vague, loose, and indefinite provisions of the proposed amendment.

By the eighth section of the first article the subjects upon which Congress is to have power to legislate are enumerated. Congress is to have power to lay and collect taxes, duties, imposts, and excises; to pay the debts and provide for the common defense and general welfare of the United States; to borrow money; to regulate commerce with foreign nations, among the several States, and with the Indian tribes, (which are regarded in many respects as foreign nations;) to establish a system of naturalization and bankruptcy; to coin money; fix the standard of weights and measures; provide for the punishment of counterfeiting the coin and securities of the United States; establish post offices and post roads; provide for copyrights and patents; constitute certain judicial tribunals; punish piracy on the high seas outside of the jurisdiction of the States, &c.

Go through that section carefully and you will find no general power granted to Congress to legislate upon matters of a municipal nature, or matters relating to the social or civil rights of citizens of the States, but everywhere it points most strictly and carefully to the legitimate objects for which the national Government was created. And the last clause that is often quoted, and which I have heard quoted to-day in this House, but which is almost as often misquoted as quoted, gives to Congress only the power to make all laws which shall be necessary and proper for the carrying into execution the foregoing powers, and all other powers vested by the Constitution in the Government of the United States, or in any department or officer thereof. In that sweeping, comprehensive clause, as it is ordinarily deemed, covering all the powers essential to carry out the other powers granted by the instrument and the other powers conferred upon any department of the Government of the United States, we find that it is limited directly to these powers; it is not a general power to enact all laws for carrying out the provisions of the Constitution.

Again, the gentleman from Ohio [Mr. BINGHAM] refers us to the fifth article of the amendments to the Constitution as the basis of the present resolution, and as the source from which he has taken substantially the language of that clause of the proposed amendment I am considering. Now, what are these amendments to the Constitution, numbered from one to ten, one of which is the fifth article in question? What is the nature and object of these articles? They do not contain, from beginning to end, a grant of power anywhere. On the contrary, they are all restrictions of power. They constitute the bill of rights, a bill of rights for the protection of the citizen, and defining and limiting the power of Federal and State legislation. They are not matters upon which legislation can be based. They begin with the proposition that "Congress shall make *no law*," &c.; and if I were to follow the example of my friend from California, [Mr. HIGBY,] I might perhaps claim that here was a sufficient prohibition against the legislation sought to be provided for by this amendment. Throughout they are prohibitions against legislation. Throughout they provide safeguards to be enforced by the courts, and not to be exercised by the Legislature. And they provide in this noble fifth article, among others—provisions which at this time especially deserve the attention of the American people—that no person shall be deprived of life, liberty, or property, without due process of law.

Mr. BINGHAM. Will the gentleman refer to the second section of the fourth article?

Mr. HALE. The gentleman from Ohio refers me to the second section of the fourth article. I omit the consideration of that section for the reason that my argument is directed exclusively to the consideration of the final clause of the amendment proposed, which is founded on the fifth article of the amendments, without referring at all to the other clause, founded on the section to which the gentleman from Ohio refers me. The last-named section is therefore outside the range of my remarks on this occasion.

Now, I suggest to gentlemen: is it wise at this time, after the experience we have had of the working of this Constitution, with all the reverence in which we have been accustomed to hold it, after having it tested as it has been by this mighty rebellion—through peace, through foreign war, through civil war, having found its strength, its elasticity, its sufficiency for all circumstances and all trials—is it wise for us to alter it thus rashly, to alter it in its most vital and essential principle, to amend it by substituting a new principle for the very soul that animates the system created by it?

Mr. BINGHAM. The gentleman will allow me to ask him to point to a single decision. The gentleman says that the sufficiency of the Constitution has been tested and found in the past. I ask him now if he knows of a single decision in which the sufficiency of the Constitution to secure to a party aggrieved in his person within a State the right to protection by the prosecution of a suit, which by the organic law of the State was denied to him, has ever been affirmed, either by Federal statute or Federal decision, or whether the nation has not been dumb in the presence of the organic act of a State which declares that eight hundred thousand natural-born citizens of the United States shall be denied the right to prosecute a suit in their courts, either for the vindication of a right or the redress of a wrong? Where is the decision? I want an answer.

Mr. HALE. The gentleman will always get an answer when he asks me a question. It is never necessary for him to accompany his questions with a warning.

I have not been able to prepare a brief for this argument, and therefore I cannot refer the gentleman to any case. As I never claim to be a very learned constitutional lawyer I have no hesitation in making the admission that I do not know of a case where it has ever been decided that the United States Constitution is sufficient for the protection of the liberties of the citizen. But still I have, somehow or other, gone along with the impression that there is that sort of protection thrown over us in some way, whether with or without the sanction of a judicial decision that we are so protected. Of course, I may be entirely mistaken in all this, but I have certainly somehow had that impression.

Mr. ELDRIDGE. I wish to know if the gentleman from Ohio [Mr. BINGHAM] has found or heard of a case in which the Constitution of the United States has been pronounced to be insufficient?

Mr. HALE. I would rather leave these gentlemen to answer one another at some other time, if it will answer their purposes as well.

Mr. BINGHAM. I beg leave to say that I am ready to answer the gentleman now, and to produce such a decision, whether the gentleman from New York is or is not.

Mr. HALE. This is no doubt a very interesting side issue; but the gentlemen will pardon me if I prefer to go on with my own speech now, and leave them to make theirs in proper order.

I insist that the American people have not

yet found that their State governments are insufficient to protect the rights and liberties of the citizen. If the gentleman from Ohio has found it so, I recommend him to emigrate to New York, where he will find it very different.

Mr. BINGHAM. The gentleman will excuse me. I do not cast any imputation upon the State of New York. The gentleman knows full well, from conversations I have had with him, that so far as I understand this power, under no possible interpretation can it ever be made to operate in the State of New York while she occupies her present proud position.

Mr. HALE. The gentleman has the reply, and I hope he will pardon me for saying that I think he ought not to interrupt me now.

Mr. BINGHAM. I ought not to do so, and I do not wish to do it.

Mr. HALE. It is claimed that this constitutional amendment is aimed simply and purely toward the protection of "American citizens of African descent" in the States lately in rebellion. I understand that to be the whole intended practical effect of the amendment.

Mr. BINGHAM. It is due to the committee that I should say that it is proposed as well to protect the thousands and tens of thousands and hundreds of thousands of loyal white citizens of the United States whose property, by State legislation, has been wrested from them under confiscation, and protect them also against banishment.

Mr. HALE. I trust that when the gentleman comes to reply, he will give me as much of his time as he takes of mine. As he has the reply, I do not think he ought to interject his remarks into my speech. I will modify my statement and say that this amendment is intended to apply solely to the eleven States lately in rebellion, so far as any practical benefit to be derived from it is concerned. The gentleman from Ohio can correct me if I am again in error.

Mr. BINGHAM. It is to apply to other States also that have in their constitutions and laws to-day provisions in direct violation of every principle of our Constitution.

Mr. ROGERS. I suppose the gentleman refers to the State of Indiana?

Mr. BINGHAM. I do not know; it may be so. It applies unquestionably to the State of Oregon.

Mr. HALE. Then I will again modify my correction and say that it is intended to apply to every State which, in the judgment of the honorable member who introduced this measure, has failed to provide equal protection to life, liberty, and property. And here we come to the very thing for which I denounce this proposition, that it takes away from these States the right to determine for themselves what their institutions shall be. Oregon has not been contumacious toward this Union; Oregon has not been in rebellion; the gentleman has no charge to bring against her, except that she has incorporated into her constitution and laws provisions that to him are distasteful, and which he thinks unjust. I submit that that should never be a question for us to pass upon here in Congress. It is a question under the Constitution of the United States, and under the whole theory of our Government, for the people of Oregon to pass upon and to remedy, if remedy is required, and not for the gentleman from Ohio in his capacity as a member of this House, or for Congress.

If he claims that those provisions of the constitution or the laws of Oregon are inconsistent with the bill of rights contained in the Constitution of the United States, then I answer that his remedy is perfect and ample, and the courts may be appealed to to vindicate the rights of the citizens, both under civil and criminal procedure. Their powers are ample; it never was questioned, it never could be questioned, that the decrees of the courts, in all the States at least where slavery did not exist, have been thoroughly and sufficiently enforced.

But the gentleman says there is, and there has been from first to last, a violation of the provisions of this bill of rights by the very existence of slavery itself; that the institution of slavery itself has existed in defiance of the provisions of the bill of rights; that all the anomalies and all the enormities that have grown out of that institution have been equally in violation of it. I concede there is much force in that reasoning. Slavery was an anomaly under the Constitution; under the strict language of the Constitution I cannot see how it ever could have been claimed to exist. But nobody doubts that it did exist; that it existed when the Constitution was made; that the Constitution was made with knowledge of its existence, in full contemplation of it. And the most marked evidence of the full weight and appreciation given to that subject by the framers of the Constitution is the great care with which they dissevered the national Government from all connection with the institution of slavery, except in the two or three instances where they were forced into it, and then they only mentioned it by a circumlocution.

I contend, as I have always contended, that under the Constitution as originally framed slavery was intended to be solely and exclusively a State institution, under the jurisdiction of State laws, and removed from Federal authority in every respect except in the instances in which it is referred to in the Constitution; once in relation to the basis of representation and taxation; again in regard to the rendition of fugitives; and again in regard to the prohibition of importation. If that construction, which I hold to be the true State-rights doctrine from the beginning, if that doctrine had been persisted in and adhered to, I believe this war of the rebellion never would have occurred; that slavery never would have been found pushing itself into the Federal Territories; the Missouri question never would have arisen; the Kansas question never would have arisen; and I believe that slavery confined to the States as our fathers intended it should be confined, would have long since died out, and we would have enjoyed all the blessings of a free, peaceful, strong, national existence, without the fearful tribulation through which we have passed in this war of the rebellion.

But by constructions of courts and of Legislatures, by artificial constructions, and, if I may say it without disrespect to the powers that have been, by the constructions and decisions of the courts, which I believe to have been radically unsound in principle, slavery was cut loose from this confinement under State laws, and connected with the Federal Government as a national institution. I believe it was a departure from the spirit of the Constitution when it was held that Congress had power to legislate upon the subject of the rendition of fugitive slaves, although I know that at two different times Congress did consider that whole subject and pass laws for such rendition. It was not, in my opinion, within the powers conferred upon Congress. It was a part of the compact between the States, and I believe was intended to be left solely to State action.

But all this reference to the subject of slavery by the gentleman, by which I have been led into such a digression, only enforces the point that the time when an amendment like that under consideration was ever requisite or desirable, has passed. The monstrous anomaly of slavery in a free Republic has ceased to exist. Slavery is dead by constitutional enactment, and by the same enactment full power is given to Congress to enforce its extinction by legislation. At such a time and under such circumstances, it seems to me most unfit that such a sweeping amendment as that now proposed should be adopted, which could only be justified by the existence of that system now swept away forever.

I refer again to this digression merely to say that it is the inevitable tendency of power always to augment itself; to acquire additional power by mere amplification and accretion. Power goes on to increase and arrogate to itself power, from time to time, by extension and enlargement. That has been the tendency under the Constitution as it exists. The principle that it is the part of a good judge to amplify his jurisdiction has been not only a maxim of the courts but it also seems to have been the principle and maxim upon which the Federal Government has operated.

Now, I put it to the gentleman [Mr. BINGHAM] if at a single stride we take such a step as this, if we confer upon the Federal Congress powers, in such vague and general language as this amendment contains, to legislate upon all matters pertaining to the life, liberty, and property of all the inhabitants of the several States, I put it to the gentleman, whom I know sometimes at least to be disposed to criticise this habit of liberal construction, to state where he apprehends that Congress and the courts will stop in the powers they may arrogate to themselves under this proposed amendment.

It has been settled judicially, as well as legislatively, that the words "necessary and proper," which are found in this amendment, as well as in the original Constitution, by no means imply indispensable necessity; that the legislation "necessary" for carrying into execution powers is not the legislation without which the thing cannot be done. But it has been expressly settled that it means simply "needful," "requisite," "conducive to," and under that settled interpretation of his language I ask the gentleman where he will draw the line as to the powers which Congress may exercise as the "necessary and proper" legislation to attain these very general results?

It seems to me, sir, that this is, of all kinds of legislation, the most dangerous. I believe that the tendency in this country has been from the first too much toward the accumulation and strengthening of central Federal power. During the last five years of war and rebellion, that tendency has necessarily and inevitably increased. It must always happen that when the life of the nation is menaced the strength and extent of central power will be augmented. In such emergencies the nation arrogates to itself powers which it never thought of possessing or exercising in time of peace. We have become habituated to yielding to such things as matters of inexorable necessity. I submit to gentlemen whether it is not now time that we should check that current. I believe that this is, of all times, the last when we should undertake a radical amendment of the Constitution, so immensely extending the power of the Federal Government, and derogating from the power of the States.

Sir, I concede every disposition and every wish on the part of the gentleman to protect the liberty of the citizen—the humblest as well as the highest—the negro, the late slave, as well as others. In every such desire on his part I most fully and cordially concur. But let me warn gentlemen that there are other liberties as important as the liberties of the individual citizen, and those are the liberties and rights of the States. I believe that whatever most clearly distinguishes our Government from other Governments in the extent of individual freedom and the protection of personal rights we owe to our decentralized system, to the fact that the functions of government with which the citizen has immediate relation are brought home to him, that he operates immediately upon them and they immediately upon him, instead of there being that long chain of communication which in a centralized government must extend from the fountain of power, whether despotic or republican, whether executive or legislative, to the citizen. I appeal to gentlemen whether we ought not now to seek to strengthen the liberties of the States and the rights of the States as well as the liberties of the citizen.

It is true that this doctrine of State rights, like any other doctrine carried beyond its due measure, may, when pushed to extremes, generate evil. It is true that the orthodox, sound, fundamental doctrine of State rights may, by progressing beyond the proper line, become the heretical and dangerous doctrine of State sovereignty. Thank God, sir, that heresy has been put down.

Let us see that a more dangerous heresy be not allowed to rise in its place.

I will not spend more time upon this subject. I oppose the resolution as unsound in substance, as impolitic in itself, as not in conformity or harmony with the theory of the Constitution under which we live. I oppose it as uncalled for at all times, as especially uncalled for now when our tendencies ought all to be the other way. And, sir, I particularly oppose it in view of the manner in which it is now brought before this House and is now progressing here. Gentlemen will not, I trust, understand me as making any personal complaints. I am doing no such thing. I simply say that in my judgment the course taken is not a course promotive of that calm, deliberate, fair, full consideration which a constitutional amendment always demands.

This resolution was in fact first brought to the notice of the House yesterday morning. It had previously been reported and printed; but we all know how little attention is paid to these files upon our desks; how little we know of the mere routine business of the House. Yesterday morning this resolution was brought before the House by the gentleman from Ohio [Mr. BINGHAM] for debate, with the proposition that he would have it debated yesterday, and perhaps to-day, and that on one of those two days the vote should be taken. Now, is that the way in which great questions of constitutional law ought to be considered and decided by this Congress? Should we, on the few hours' hasty examination which we can give to such a question, amid the noise and confusion, the disturbance and excitement of this Hall, undertake to pass upon such questions? Should we not take time for ample, careful deliberation, and seek in some degree, at least, to overcome those external influences here which are so well calculated to disturb our action?

More than that, a large part of the little time which we have had devoted to this question has been occupied by discussion entirely aside from the subject. I regret that my friend from Pennsylvania [Mr. KELLEY] should have seen fit to criticise what he with such pointed irony termed my "generosity," in yielding a half hour to the continuation of his learned but general disquisition upon constitutional law. The point which I raised upon him I raised in entire good nature and good faith, and I think with entire propriety, that his speech, however learned and however interesting, was not addressed to the subject before the House. If I had had the same opportunity, I should have raised the same point upon my esteemed friend from California, [Mr. HIGBY.] However interesting the discussion of these gentleman may have been to the House, it appeared manifest to me that the greater part of their remarks were not germane to the question under consideration.

I submit if we are to have but some six or eight hours discussion of this constitutional amendment it ought at least to be devoted to that subject and not range over the whole field of constitutional relations and personal relations between Congress and the President.

I do not believe the present time favorable to that calm and dispassionate consideration which should always be given to a subject of such momentous importance as a change of the fundamental principles of our fundamental law. I do not believe the circumstances to-day surrounding this House conducive to that deliberation. Conceding this House to be a wise, discreet, and virtuous House beyond all precedent, still I beg leave to say, if I may do it without a breach of its privileges, I apprehend that its members are human, subject to like passions and infirmities as others. And believing that excited feeling and undue passion may even now unconsciously be so far influencing some of us that we are not in proper tone or temper to weigh the full importance of our vote upon the subject before us, I again appeal to gentlemen not to pass this amendment until at least time shall have been allowed for careful examination and dispassionate reflection.

Mr. PRICE. Mr. Speaker, it was not until the last fifteen minutes that I had the least intention of saying one syllable on this subject.

I will say in advance, sir, that I am one of the few men, the very few men, who live in this day who do not claim to be a constitutional lawyer. The last four years have been prolific in producing that article. I look at this joint resolution in a common sense view, I have read it and reread it with the intention to get at what it really means. It provides that Congress shall have power to make all the laws which shall be necessary and proper to secure to the citizens of each State all the privileges and immunities of citizens of the several States. When I read it the first time I gathered from it this idea, and I have not changed my opinion in reading it half a dozen times over. I understand it to mean this, and in my five minutes I shall confine myself entirely to the question involved in the resolution. I understand it to mean simply this: if a citizen of Iowa or a citizen of Pennsylvania has any business, or if curiosity has induced him to visit the State of South Carolina or Georgia, he shall have the same protection of the laws there that he would have had had he lived there for ten years.

The reason why my mind naturally came to that conclusion was simply this: for the last thirty years that has not been the case. I but state a fact well known to every man who has taken the trouble to know anything, that for the last thirty years a citizen of a free State dared not express his opinion on the subject of slavery in a slave State. I know that to be true; and there are hundreds of men who know it to be true from experience. A citizen of a slave State could come into a free State at any time during the last quarter of a century and express his opinion on any subject connected with State rights or any other which agitated the public mind; but if a citizen of a free State visiting a slave State expressed his opinion in reference to slavery he was treated without much ceremony to a coat of tar and feathers and a ride upon a rail.

Now, gentlemen may say that slavery is abolished, that the institution is dead, and therefore there is no danger in the future from this cause. I do not so understand it. I have learned within the last two weeks from a man who went from the State of Illinois into the State of Mississippi with seven companions, making eight in all, to work in a machine shop, and that there came back only six of them, the other two having been murdered between the shop and their boarding house. Slavery may be dead so far as the law is concerned.

Mr. WRIGHT. I rise to a question of order. I insist that the gentleman must confine himself to the subject under discussion. We are not trying murder cases.

The SPEAKER. The discussion on this amendment has taken a wide range; but this is the first point of order which has been made. If it had been made previously the Chair would have sustained it.

Mr. PRICE. If what I have said is irrelevant to the resolution I am in utter ignorance of it.

Mr. WRIGHT. I do not doubt it.

Mr. PRICE. I say, sir, that the intention of the resolution before the House is to give the same rights, privileges, and protection to the citizen of one State going into another that a citizen of that State would have who had lived there for years.

The SPEAKER. That is clearly in order. The Chair has just resumed possession of the chair, having been out. He supposed the gentleman was proceeding in the line of argument that had been indulged in during the day by others. The Chair sustains the gentleman from Iowa, as his remarks are clearly in order.

Mr. PRICE. Yes, sir. Though I am not a constitutional lawyer, I believe I do know how many two and two make—that when added together they always give the proper answer—four. That is the question, and I believe, without arrogating to myself anything that does not belong to me, that I am sticking a little closer to it than most gentlemen who have discussed it.

Now, sir, if that is the intention of the resolution, if it is designed to protect a citizen of Pennsylvania, New York, Iowa, or any other free State in going into a southern State where slavery has cursed the soil and the inhabitants, then I am most decidedly in favor of it. And when gentlemen rise here and talk about the Constitution of our fathers—and I have heard them talk about it here until if I had been a believer in ghosts I would have supposed that our fathers who have been invoked so loudly would have come from the grave to see what was wanted of them, [laughter]—when gentlemen declaim about the Constitution of our fathers, let me say that I find in that Constitution this language: that Congress shall have power among other things to provide for the general welfare. Now, if providing for the general welfare means the power to pass laws that shall extend equal protection over all the subjects of this Government, then that constitutional provision is sufficiently strong to suit me, and I do not want this amendment. But, sir, as I said before, an experience of thirty years has satisfied me that that constitutional provision is not sufficiently strong, or has not been enforced.

Mr. ROGERS. Will the gentleman yield one moment?

Mr. PRICE. Yes, sir.

Mr. ROGERS. Will the gentleman inform me where that clause of the Constitution is that authorizes Congress to provide for the general welfare?

Mr. PRICE. Most certainly. It has been a part of the joys of my life to impart information to the ignorant. [Laughter.]

Mr. WRIGHT. Charity begins at home.

Mr. PRICE. I will read:

"The Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts, and provide for the common defense and general welfare of the United States."

That is the eighth section of the first article of the Constitution of "our fathers," [laughter]—the same old Constitution that for four years past I have heard spoken of by some people as "the Constitution as it is."

Now, if the Constitution had protected the rights of citizens of one State in going into another, that Constitution is all that I would have wanted, and I do think that a fair interpretation of it, and a just enforcement of its provisions would have brought about that protection. But experience, though it may be a dear school, is one of the best that any man, whether he be foolish or wise, was ever taught in, and the experience of the last quarter of a century ought to have satisfied any gentleman that the Constitution has not afforded that protection. And now, while we are in the course of reconstruction, laying anew, as it were, the foundations of this Government, I want to see such a guarantee placed in the Constitution as will protect all citizens. I have passed the time of life when I shall expect to travel in the southern country, but I want to have a Constitution that shall protect my children and my children's children who may have occasion to travel in any part of the United States where the stars and stripes are honored as the ensign of our nationality. Until that is done it does not satisfy me. I am not one of those who believe that we are not to learn anything as we pass through this world.

Mr. ROGERS. Does the gentleman read from the text of the Constitution where it authorizes Congress to provide for the general welfare?

Mr. PRICE. Yes, sir.

Mr. ROGERS. I cannot find it in the text; it is in the preamble.

Mr. BINGHAM. The first article and the eighth section.

Mr. PRICE. I do not pretend to be anything more than a common-sense man—not a constitutional lawyer.

Mr. ROGERS. It is so. I never noticed it before. I supposed it was only in the preamble.

Mr. PRICE. I have done some good, sir, you see. [Laughter.] I have taught the gentleman from New Jersey, [Mr. ROGERS,] who can talk longer and louder than any man upon this floor, [laughter,] that there are some things in the Constitution of our fathers that even he was not aware of before. He has talked about the Constitution of our fathers; and he is not the first man I have heard talk about "the Constitution as it is," and when you bring them down to the letter, to the real old English of the Constitution of our fathers, about which they prate so much, these gentlemen are as ignorant of it as they were before they were born. [Laughter.] They never read it.

Several MEMBERS. He said he never read it.

Mr. PRICE. Now, sir, is it not time for men to pause upon this question, when we are to listen to harangues an hour and a half in length from men who are the especial defenders, if you are to believe them, of the Constitution and the Government, and the especial defenders of the Administration, at this time particularly. And yet, strange as it may appear, when brought to the test on that very instrument, they stand up in this House and before the country and acknowledge that they have never read the Constitution! [Laughter.]

Mr. CHANLER. Will the gentleman allow me one word about "the Constitution of our fathers?"

Mr. PRICE. Yes, sir.

Mr. CHANLER. This is a new question raised by the gentlemean from Iowa, and one I have never heard debated, and I wish to ask, merely for information, if I understand him to say that he bases his argument for the resolution before the House upon the eighth section of the first article of the Constitution, which he read, upon the powers granted for the protection of the "general welfare" of the country?

Mr. PRICE. When the gentleman asks his question I will answer it.

Mr. CHANLER. I ask that question.

Mr. PRICE. Any gentleman who has listened to what little I have said knows that I based no argument upon that at all. I base my argument upon the resolution before the House. I pledged myself, and my veracity is at stake, to speak to the question before the House. I referred, as a part of what I was saying, to what is called "the Constitution of our fathers," and gave the reasons why I am in favor of this resolution.

Mr. CHANLER. I would ask the gentleman——

Mr. PRICE. No, I do not yield further.

Mr. CHANLER. Then I must ask the Chair to have this article of the Constitution read. [Loud shouts of "Order!" "Order!"] It has been entirely misconstrued by the gentleman. [Renewed and continued shouts of "Order!"]

The SPEAKER. The gentleman from New York is out of order, and will resume his seat.

Mr. CHANLER. It is a mere power to raise direct taxes. [Loud cries of "Order!" "Order!"]

The SPEAKER. The rule requires a gentleman to resume his seat when the Chair orders him to do so. A member is in defiance of the House and of the Chair when he persists in speaking when the Chair calls him to order.

Mr. CHANLER. I beg pardon of the Chair. I was merely stating——

[Loud cries of "Order!"]

Mr. PRICE. I had not the least idea of raising such a hubbub in this House. [Laughter.] I will say, by way of explanation, that while I am perfectly willing to impart information and educate as many of the Democratic party as possible, it is a larger job than I would like to undertake this late in the day to educate the whole of them. [Laughter.]

Mr. CHANLER. Will the gentleman allow me to ask one thing?

Mr. PRICE. No, I do not yield to that gentleman.

Mr. CHANLER. He does not stand by his own declarations. [Loud cries of "Order!"]

The SPEAKER. The gentleman from New York is out of order, and will take his seat.

Mr. PRICE. The gentleman from New York evidently does not understand this question. The remarks I have made have been well understood by every gentleman who has paid any attention to my line of argument. I have only referred to this question because I have not heard it alluded to by any gentleman upon either side who has had the floor; and I now aver, most honestly and sincerely, as one great reason why the resolution should pass, that if it is possible, in the reconstruction of the Government and in the readmission of the States lately in rebellion, to so amend our Constitution as that each citizen of every State shall have the same rights and privileges as the citizens of every other State, then in the name of justice and humanity we ought to attend to that duty. Heretofore in the history of this country that has not been the case. I but state a fact which no gentleman dare call in question, and of which no successful contradiction can be made, when I state that up to this time there has not been that equal protection to the citizens of the different States that they were entitled to under the Constitution of our Government.

And this resolution is intended to give force and effect to that idea and principle. And for that reason I am in favor of this joint resolution, and hope that by all means this House will adopt it; and not only this, but any and every resolution that will give force and strength to that instrument, so that in the coming generations of time we may never have occasion again to lament the occurrence of such a war as the one we have just passed through. I trust that the Constitution, upon which all our civil and religious institutions are based, will have given to it sufficient stability and solidity to bear any burden that may be placed upon it, and give to us what we propose to have—equal rights and equal privileges from one end of this continent to the other.

Mr. BINGHAM. I propose now to call the previous question if no other gentleman desires to be heard to-day, and then let the vote be taken to-morrow morning, as there are many members of the House now absent from the Hall.

Mr. WASHBURNE, of Illinois. If they are not here, then let them take the responsibility of being absent.

Mr. BINGHAM. I desire to deal fairly by both sides of the House; and therefore I am willing to let the vote be taken to-morrow morning instead of to-night.

Mr. DAVIS. I do not desire to say much upon this subject; but I should like an opportunity to-morrow to say a few words.

Mr. WASHBURNE, of Illinois. I would suggest to the gentleman from Ohio [Mr. BINGHAM] to have the previous question seconded now, and then he can yield a portion of his time to the gentleman from New York, [Mr. DAVIS.]

Mr. BINGHAM. If the gentleman from New York does not desire to speak now, I will consent that this subject shall go over until to-morrow, and when he concludes his remarks, then I will call the previous question.

Mr. DAVIS. That will suit me. I will retain the floor on this question, but yield it this afternoon for other business.

TRADE WITH BRITISH AMERICA.

Mr. MORRILL, by unanimous consent, reported from the Committee of Ways and Means a bill regulating trade with the British North American possessions; which was read a first and second time, ordered to be printed, and made the special order for Friday next after the morning hour, and from day to day until disposed of.

PETROLEUM.

The SPEAKER laid before the House a communication from the Secretary of the Treasury, transmitting the report of S. S. Hays, of the United States revenue commission, on petroleum as a source of national wealth; which was referred to the Committee of Ways and Means, and ordered to be printed.

CLERKS IN THE TREASURY DEPARTMENT.

The SPEAKER also laid before the House a communication from the Secretary of the Treasury, transmitting, in compliance with the acts of Congress of April 20, 1818, and August 26, 1842, a list of the clerks employed in his Department, their salaries, &c.; which was laid on the table, and ordered to be printed.

ASSASSINATION OF PRESIDENT LINCOLN.

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

Resolved, That the President of the United States be requested, if not incompatible with the public interest, to communicate to this House all the information in his possession in regard to the distribution of the rewards offered by the Government for the arrest of the assassins of the late President Lincoln.

LANDS REQUIRING IRRIGATION.

Mr. JULIAN, by unanimous consent, reported back from the Committee on Public Lands House bill No. 10, to develop and reclaim public lands requiring irrigation, and to encourage agriculture in the Territories of Idaho, Colorado, Arizona, and Montana, and the State of Nevada; and the same was ordered to be printed, and recommitted to the committee.

PRESIDENT OF MEXICO.

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

Resolved, That the President be requested to communicate to this House, if in his opinion not inconsistent with the public interest, any correspondence or other information in possession of the Government in regard to the term of office of President Juarez, of the republic of Mexico; as to the period when, under the constitution, a popular election should take place, when free from foreign invasion; and as to any vote of confidence and extraordinary powers given to President Juarez by the Congress of the Mexican republic.

LAKE SUPERIOR HARBOR.

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

Resolved, That the Secretary of War be directed to communicate to the House such estimates, based upon surveys of Lake Superior harbor, as will show what appropriations are needful to clear the entrance into that harbor, and such information as to the necessity of that work as may be in the possession of the Department.

CHAPLAINS IN THE NAVY.

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

Resolved, That the Secretary of the Navy be requested to communicate to this House the names of the present chaplains in the Navy, together with the date of each appointment, and the State from which such appointment was made.

LIGHT-HOUSE DUES.

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

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of imposing light-house dues on vessels arriving at or departing from ports of the United States; and to report by bill or otherwise.

LOST DISCHARGES.

Mr. MERCUR, by unanimous consent, submitted the following resolution:

Whereas soldiers who have been honorably discharged from the service, and have lost their discharges, are now, under the rules of the War Department, precluded from obtaining duplicates thereof: Therefore,

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of providing by legislation for the issuing of certificates, as evidence of such discharges, and to report by bill or otherwise.

Mr. WASHBURNE, of Illinois. I move to amend the resolution by adding, "and that the committee have leave to report at any time." I know that there are some very hard cases where soldiers have thus lost their discharges, and I think there ought to be some legislation at once.

The amendment was agreed to.

The resolution, as amended, was adopted.

FRENCH TROOPS IN MEXICO.

Mr. VAN HORN, of Missouri. I ask unanimous consent to offer the following:

Whereas the Emperor of France, at the recent open-

ing of the French Chambers, announced his purpose of withdrawing his troops from Mexico, and expressed the hope that the emotions excited in this country would be allayed by such declaration; and whereas this nation accepting said declaration in good faith, it is but proper that it should insist, as a guarantee for its fulfillment, that no further employment of the French troops in Mexico should be made, except to preserve the *statu quo* until the period for their withdrawal arrives: Therefore,

Resolved, That, in the judgment of Congress, the employment of French troops in further conquests in Mexico would be and should be considered as a violation of such pledge on the part of France.

Mr. DAVIS. If the purpose is to have this resolution acted on at the present time, I object to its introduction.

Mr. VAN HORN, of Missouri. I desire to move that it be referred to the Committee on Foreign Affairs.

Mr. DAVIS. I have no objection to that.

There being no objection, the resolution was introduced and referred to the Committee on Foreign Affairs.

PORTAGE LAKE CANAL, MICHIGAN.

Mr. DRIGGS, by unanimous consent, presented joint resolutions of the Legislatures of the States of New York and Wisconsin, in favor of an extension of the time for completing the Portage Lake canal, in the State of Michigan, and for an additional appropriation of land therefor; which were referred to the Committee on Public Lands.

NAVAL STATION AT NEW LONDON.

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

Resolved, That the Committee on Naval Affairs be instructed to inquire into the advantages of a site offered to the Government upon the river Thames, near New London, Connecticut, for naval purposes, and to report upon the expediency of accepting the same for the purpose of establishing thereat a navy-yard or naval station for the construction, repair, or laying up in ordinary of iron, iron-clad, or other naval vessels, with leave to report by bill or otherwise.

And then, on motion of Mr. BINGHAM, the House (at four o'clock and ten minutes p. m.) adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to appropriate committees:

By Mr. BALDWIN: The petition of hospital stewards, in regard to the payment of bounty.

By Mr. CLARKE, of Kansas: Concurrent resolutions of the Legislature of the State of Kansas, memorializing Congress to make a grant of land to aid in the construction of a railroad from Elwood through the northern line of counties in said State.

By Mr. EGGLESTON: The petition of George W. Cone, and 87 others, citizens of Ohio, praying for an increase of the tariff on manufactured articles.

By Mr. ECKLEY: The petitions of wool-growers of Jefferson county, Ohio, asking additional protection on wool, so as to place them on an equality with manufacturers.

By Mr. KASSON: The petition of Thomas Evans, David McKee, and 490 others, citizens of southwestern Iowa, for an amendment of the United States Constitution, in order to recognize therein Almighty God and the ruling government of the Lord Jesus Christ.

By Mr. LYNCH: The petition of Hewett Chandler, and others, asking an amendment to the internal revenue laws.

By Mr. LONGYEAR: The memorial of John F. Miller & Co., and others, paper and envelope manufacturers and dealers and stationers, of Ann Arbor, Michigan, protesting against the enactment of any law authorizing the Postmaster General to sell stamped envelopes at the value of the stamps impressed thereon.

By Mr. McRUER: The memorial of officers of the United States steamer Comanche; of officers of the United States steamer Suwanee; of officers of the United States steamer Independence; and of officers of Mare Island navy-yard, for increase of pay to officers of the Navy.

By Mr. MERCUR: The petition of 102 citizens of Danville, Pennsylvania, praying for such a revision of the tariff laws as will protect domestic labor and invite the investment of capital in home manufactures.

By Mr. MORRIS: The petition of Elizabeth M. Atwell, and 51 others, ladies of Ontario and Steuben counties, New York, asking that the Constitution be so amended as not to disfranchise any citizen on the ground of sex.

Also, the petition of Willets & Smith, of Honeoye, New York, manufacturers of harvesters, asking for relief against inordinate taxes.

By Mr. O'NEILL: A supplement to an act entitled "An act to regulate the fees and costs to be allowed clerks, marshals, and attorneys of the circuit and district courts of the United States, and for other purposes," approved February 26, A. D. 1853.

By Mr. ROLLINS: A remonstrance of D. L. Guernsay, and others, against the passage of an act authorizing the Postmaster General to sell stamps and envelopes at the value of the stamps thereon.

Also, the petition of A. B. Classon, and 78 others, for an act granting bounty of land to soldiers of 1861 and 1862; and for a special bounty of land to the re-enlisted veterans.

Also, the petition of N. M. Colston, and 102 others, for an act granting a bounty of land to soldiers of 1861 and 1862; and for a special bounty of land to re-enlisted veterans.

By Mr. RICE, of Massachusetts: The petition of officers of the Provident Institution, in the town of Boston, for relief from tax on deposits in that institution.

Also, of officers of Plymouth (Massachusetts) Savings Bank, for the same.

Also, of officers of Ware (Massachusetts) Savings Bank, for the same.

Also, of officers of New Bedford (Massachusetts) Savings Bank, for the same.

Also, of officers of Franklin Savings Bank, (of Boston,) for the same.

By Mr. ROGERS: A petition from about 2,000 mechanics and workmen, of Paterson, New Jersey, praying that a law may be passed constituting eight hours a day's work for workmen, artisans, or laborers of the Federal Government.

By Mr. RAYMOND: The memorial of John J. Walsh, praying for the adoption of a gun-carriage invented by him.

By Mr. SCOFIELD: The petition of citizens of Tidioute, Pennsylvania, asking a reduction of the tax on rock oil.

By Mr. SCHENCK: The petition of citizens of Paducah, Kentucky, for compensation to Dr. J. Milton Best for property destroyed by order of the United States officer commanding at that place.

Also, the petition of Edward Naret, of West Virginia, for relief.

By Mr. SITGREAVES: The petition of Reese, Melich & Co., and others, manufacturers of agricultural implements in New Jersey, praying a reduction of the excise tax upon sales of agricultural implements.

By Mr. VAN HORN, of New York: The petition of plow-makers and manufacturers, of western New York, asking relief from taxation as now exists.

Also, the petition of 104 patriotic ladies of Alabama, Genesee county, New York, asking for suffrage.

By Mr. WELKER: The petition of Whiting, Roller & Co., manufacturers of harvesters and other agricultural implements, at Ashland, Ohio, asking that the tax law be so changed that the materials used in such manufactures already taxed shall not be again taxed in the hands of such manufacturers.

IN SENATE.

WEDNESDAY, *February* 28, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* presented a communication from the Commissioner of Patents, transmitting the annual report of the Patent Office for the year 1865; which was referred to the Committee on Patents and the Patent Office.

SENATOR FROM SOUTH CAROLINA.

Mr. JOHNSON presented the credentials of Benjamin F. Perry, chosen a Senator from South Carolina by the Legislature for the term ending March 4, 1871; which were ordered to lie on the table.

PETITIONS AND MEMORIALS.

Mr. MORGAN. I present a memorial of citizens of Clinton county, New York, in which they represent that they are engaged in the pursuits of agriculture, mining, commerce, and the mechanic arts, and would be at the present time enjoying the benefits which flow from the legislation that protects industry if it were not for the exceedingly heavy excise tax imposed on them by the war. They go on and state further that the duties on imports do not correspond with the excise tax, and they pray for increased duties on imports wherever the same are needed for the full protection of home labor. I move that the memorial be referred to the Committee on Finance.

The motion was agreed to.

Mr. CONNESS presented a memorial of the Legislature of California, in favor of certain amendments to an act to aid in the construction of an overland railroad and telegraph line; which was ordered to lie on the table, and be printed.

Mr. STEWART presented resolutions of the Legislature of Nevada, in favor of a speedy trial of Jefferson Davis; which were ordered to lie on the table, and be printed.

He also presented a memorial of the Legislature of Nevada, remonstrating against the sale of the mineral lands; which was referred to the Committee on Mines and Mining.

He also presented resolutions of the Legislature of Nevada, in favor of the enforcement of the Monroe doctrine in Mexico; which were referred to the Committee on Foreign Relations.

He also presented five petitions of officers of the Navy attached to the navy-yard at Mare Island, California, praying for increased compensation; which were referred to the Committee on Naval Affairs.

Mr. CHANDLER presented the memorial of the Board of Trade of Detroit, Michigan, praying for an increase of the duties on copper; which was referred to the Committee on Finance.

Mr. CRAGIN presented the petition of F. A. Cushman, of New Hampshire, a manufacturer of agricultural implements, praying to be relieved from the excessive duplication of taxes which now bears so heavily upon that branch of industry; which was referred to the Committee on Finance.

REPORTS OF COMMITTEES.

Mr. HARRIS, from the Committee on Private Land Claims, to whom was referred the petition of José Serafin Ramirez, praying for the passage of an act confirming to him the grant of land known as the Cañon del Aqua, in the county of Santa Fé, New Mexico, reported a bill (S. No. 173) to confirm the title of José Serafin Ramirez to certain lands in New Mexico; which was read, and passed to a second reading.

Mr. MORRILL, from the Committee on the District of Columbia, to whom was referred a bill (S. No. 161) to incorporate the Women's Hospital Association of the District of Columbia, reported it without amendment.

Mr. LANE, of Indiana, from the Committee on Pensions, to whom was referred a bill (S. No. 171) for the relief of Reuben Clough, reported adversely thereon.

Mr. FESSENDEN, from the Committee on Finance, to whom was referred the bill (H. R. No. 122) making appropriations for the naval service for the year ending 30th June, 1867, reported it with amendments.

BILLS INTRODUCED.

Mr. GRIMES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 174) to establish a hydrographic office in the Navy Department; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. HENDERSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 175) to incorporate the Pharmaceutical Association of the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 35) to fix the rate of milcage for officers traveling on public duty; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia. It is as follows:

Joint resolution to fix the rate of mileage for officers of the Army traveling upon public duty.

Resolved, &c., That so much of the act entitled "An act to define the pay and emoluments of certain officers of the Army, and for other purposes," approved July 17, 1862, as provided that the milcage of officers of the Army traveling on public duty should thereafter be six cents per mile, is hereby repealed, and the rate of milcage to be hereafter allowed to officers of the Army traveling upon public duty should be ten cents per mile when transportation in kind is not furnished them by the Government.

PACIFIC COAST RAILROAD.

Mr. CONNESS. I move that the Senate proceed to the consideration of Senate bill No. 133.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 133) granting lands to aid in the construction of a railroad and telegraph line from the waters of the bay of San

Francisco to Humboldt bay, in the State of California.

Mr. CONNESS. When the Senate last acted upon this bill it adopted the amendments proposed by the Committee on Public Lands, who recommended its passage; but there are a few verbal errors in names which I should like to have the privilege of correcting with the Clerk.

The PRESIDENT *pro tempore*. The clerical errors will be corrected.

The bill was reported to the Senate as amended, and the amendments were concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

MILITARY ROAD IN OREGON.

Mr. NESMITH. I move that the Senate proceed to the consideration of Senate bill No. 58.

Mr. NYE. I should like to make an appeal to the Senator from Oregon to let us take up Senate bill No. 74, for the admission of Colorado.

Mr. NESMITH. I should like to accommodate the Senator, but this bill will not occupy two minutes. It is a local bill.

The motion was agreed to; and the bill (S. No. 58) granting lands to the State of Oregon to aid in the construction of a military road from Corvallis to the Acquima bay was considered as in Committee of the Whole.

It proposes to grant to the State of Oregon, to aid in the construction of a military wagon road from the town of Corvallis to the Acquima bay, alternate sections of public lands, designated by odd numbers, for four sections in width on each side of the road. The lands granted are to be exclusively applied in the construction of the road, and to be disposed of only as the work progresses. All lands heretofore reserved by the United States by act of Congress, or other competent authority, are to be reserved from the operation of the act, except so far as it may be necessary to locate the route of the road through them, in which case the right of way is granted.

The lands granted are to be disposed of by the Legislature of Oregon for the purpose stated, and for no other; and the road is to be and remain a public highway for the use of the Government of the United States, free from tolls or other charges upon the transportation of any property, troops, or mails of the United States. The road is to be constructed with such graduation and bridges as to permit of its regular use as a wagon road, and in such other special manner as the State of Oregon may prescribe.

The lands hereby granted to the State are to be disposed of only in the following manner: a quantity of land not exceeding forty sections may be sold; and when the Governor of the State shall certify to the Secretary of the Interior that any ten continuous miles of the road are completed, then another quantity of land not to exceed forty sections may be sold, and so from time to time until the road is completed; and if the road be not completed within five years, no further sales are to be made, and the land remaining unsold is to revert to the United States.

The first amendment reported by the Committee on Public Lands was in line six of section one, after the words "alternate sections of" to insert "unoccupied," so as to read, "alternate sections of unoccupied public lands."

The amendment was agreed to.

The next amendment was in line seven, to strike out the word "four" and insert the word "three," so as to read, "designated by odd numbers for three sections in width on each side of said road."

The amendment was agreed to.

The next amendment was in section four, lines four and eight, to strike out "forty" and insert "thirty," so as to read, "that a quantity of land not exceeding thirty sections may be sold."

The amendment was agreed to.

Mr. GRIMES. I should like to inquire of the Senator from Oregon how much land we appropriate by this bill for the completion of this wagon road.

Mr. NESMITH. The bill as amended appropriates alternate sections of unoccupied public lands, designated by odd numbers, for three sections in width on each side of the road; that is, it appropriates the alternate sections for three miles on either side of the road, equal to a continuous grant of three miles.

Mr. GRIMES. That is, six miles wide?

Mr. NESMITH. It grants alternate sections six miles wide. I will state for the further information of the Senator that this road is about sixty miles long. About thirty miles of it is through a settled country where there can be no benefit from the land grant. The other thirty miles is a mountainous region where the land is comparatively of no value; but if the road is made, and it is thrown open to settlement, it will probably enhance the value of the land; but at present it is not regarded as of any particular value.

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

Mr. NESMITH. I observe a clerical error, that the word "Acquima" is spelt wrong in the bill; it should be "Aquina."

The PRESIDENT *pro tempore*. That correction will be made.

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

SOUTHERN PACIFIC RAILROAD.

Mr. BROWN. I move that the Senate proceed to the consideration of Senate bill No. 20.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 20) granting lands to aid in the construction of a railroad and a telegraph line from the States of Missouri and Arkansas to the Pacific coast, by the southern route.

The Secretary read the bill.

Mr. BROWN. There are several amendments reported by the Committee on the Pacific Railroad to this bill. I do not know whether it is worth while to go into them at this moment.

Mr. SHERMAN. Let it stand over and come up in the morning hour to-morrow.

Mr. BROWN. I will let it stand over as the unfinished business for the morning hour to-morrow.

The PRESIDENT *pro tempore*. The bill will be laid aside by common consent.

REPRESENTATION OF SOUTHERN STATES.

The PRESIDENT *pro tempore*. The morning hour having expired within but a moment, the Chair will call up the unfinished business of yesterday, which is the following resolution, upon which the Senator from Nevada [Mr. NYE] is entitled to the floor:

Resolved by the House of Representatives, (the Senate concurring,) That in order to close agitation upon a question which seems likely to disturb the action of the Government, as well as to quiet the uncertainty which is agitating the minds of the people of the eleven States which have been declared to be in insurrection, no Senator or Representative shall be admitted into either branch of Congress from any of said States until Congress shall have declared such State entitled to such representation.

Mr. NYE. Mr. President, in striking a ring, hit it where we may, we strike it in the center. It is thus with the manifold questions before the country. They are so blended, so interwoven with each other by inseparable connection, that hazard may be incurred by giving too much prominence in one direction, more especially if we fail to comprehend at the same time what is of equal importance in another. We are fallen on times and emergencies that have complicated questions beyond all past precedent. If ever there was a time that required rational deliberation, that time is now. I need not say there will be much and wide disparity of opinion; for it is unavoidable. Allow me to venture the suggestion, sir, that in the midst of our manifold embarrassments and difficulties there is and can be but one rule of conduct that will carry us safely through; and that is, a firm adherence to simple principle.

In approaching the subject or questions before the Senate I will not attempt to travel anew over the battle-fields where loyalty has successfully combatted treason. Though we cannot avoid the tearful memory of our young men, sacrificed in defense of the nationality, or more inhumanly murdered in confederate prisons, duty requires us to act, not from the force of resentment for the past, but security for the future. We cannot forget, nor should we, that we are now contemplating the cause of a conflict that has filled the land with widows and orphans; nor, Mr. President, whatever the inclination, will we be allowed to forget the vast accumulation of public debt that will hang for years like an incubus on the toil and industry of the country. It is no time now to gloss over or attempt to palliate the motives in which the rebellion originated. It is now necessary that we should take these motives into strict account, not only for the purpose of dealing with the present, but also for the purpose of understanding the better how to guard the future.

It has been said by a prominent Unionist of the South that "the motives of the treason should be stamped on the future history of the war." With that sentiment I concur. If ours has been the cause of justice defending itself against the machinations of injustice; if ours was the cause of humanity defending itself against brutality; if ours was the cause of Christian civilization defending itself against a remnant of barbarism transmitted from a pagan age; and if there has also mingled in the conflict a contention over the fundamental principles of government, it is well that the world should know it. If Richard Cobden, of England, truthfully characterized the revolt when he pronounced it "an aristocratic rebellion against a democratic Government," it is essential that our whole people should be made to comprehend the nature of the conflict. If it has thus far been a battle between the opposing principles of aristocracy on the one hand and democracy on the other, then, sir, I will assume that the settlement should be made and a finality enforced in accordance with the exact issue on which the battle has thus far been fought.

A southern Unionist, who watched the progress of treason and analyzed its motives from an inside view, has given the theory of the rebellion in these words:

"Separation from the North; the abrogation of the democratic principle in southern politics; the institution of government through a privileged class, making such government the agency to perpetuate slavery,"

Our countrymen will be slow to believe that such atrocity as this was embraced in the rebel programme. To induce such belief would require that irrefragable evidence which left no room to doubt. To make the indictment for such political crime as this would almost surpass belief. To prove it true, nothing less than the declarations of the rebels themselves will answer; we must, therefore, allow them to be the expositors of their own meaning. Much of the evidence I shall adduce has been captured as prisoner of war. I will bring to the attention of the Senate a letter of Mr. Garnett, of Virginia, to Mr. Trescott, of South Carolina, written in 1851. This letter was captured by General Hunter in the early part of the war at the residence of Mr. Trescott, on Barnwell's Island. It is as follows:

VIRGINIA CONVENTION, *May* 3, 1851.

MY DEAR SIR: You misunderstood my last letter if you supposed that I intended to visit South Carolina this spring. I am exceedingly obliged to you for your kind invitations, and it would afford me the highest pleasure to interchange, in person, sentiments with a friend whose manner of thinking so closely agrees with my own. But my engagements here closely confine me to this city, and deny me such a gratification.

I would be especially glad to be in Charleston next week, and witness your convention of delegates from the Southern Rights Associations. The condition of things in your State deeply interests me; her wise foresight and manly independence have placed her at the head of the South, to whom alone true-hearted men can look with any hope or pleasure. Momentous are the consequences which depend upon your action. Which party will prevail; the immediate secessionists, or those who are opposed to separate State action at this time? For my part, I forbear to form a wish.

Were I a Carolinian, it would be very different; but when I consider the serious effects the decision may have on you future weal or woe, I feel that a citizen of a State which has acted as Virginia, has no right to interfere, even by a wish.

If the General Government allows you peaceably and freely to secede, neither Virginia nor any other southern State would, in my opinion, follow you at present. But what would be the effect upon South Carolina? Some of our best friends here supposed that it would cut off Charleston from the great western trade which she is now striking for, and would retard very greatly the progress of your State. I confess that I think differently. I believe thoroughly in our own theories, and that if Charleston did not grow quite so fast in her trade with other States, yet the relief from Federal taxation would vastly stimulate your prosperity. If so, the prestige of the Union would be destroyed, and you would be the nucleus for a southern confederation at no distant day.

But I do not doubt, from all I have been able to learn, that the Federal Government would use force, beginning with the form most embarrassing to you and least calculated to excite sympathy—I mean a naval blockade. In that event, could you withstand the reaction feeling which the suffering commerce of Charleston would probably manifest? Would you not lose that in which your strength consists, the union of your people? I do not mean to imply an opinion. I only ask the question. If you could force this blockade, and bring the Government to direct force, the feeling in Virginia would be very great. I trust in God it would bring her to your aid.

But it will be wrong in me to deceive you by speaking certainly. I cannot express the deep mortification I have felt at her course this winter. But I do not believe the course of the Legislature is a fair expression of the popular feeling. In the east, at least, the great majority believe in the right of secession, and feel the deepest sympathy with Carolina in opposition to measures which they regard as she does. But the west, western Virginia, there is the rub! Only sixty thousand slaves to four hundred and ninety-four thousand whites! When I consider this fact, and the kind of argument which we have heard in this body, I cannot but regard with the greatest fear the question whether Virginia would assist Carolina in such an issue.

I must acknowledge, my dear sir, that I look to the future with almost as much apprehension as hope. You will object to the term Democrat. Democracy, in its original philosophical sense, is indeed incompatible with slavery and the whole system of southern society. Yet, if we look back, what change will you find made in any of our State constitutions, or in our legislation in its general course for the last fifty years, which was not in the direction of democracy? Do not its principles and theories become daily more fixed in our practice?—I had almost said in the opinions of our people, did I not remember with pleasure the great improvement of opinion in regard to the abstract question of slavery. And if such is the case, what have we to hope for the future? I do not hesitate to say that if the question is raised between Carolina and the Federal Government, and the latter prevails, the last hope of republican government, and I fear of southern civilization, is gone. Russia will then be a better Government than ours.

I fear that the confusion and interruption under which I write may have made this a rather rambling letter. Do you visit the North in the summer? I should be happy to welcome you to the Old Dominion.

I am much obliged to you for the offer to send me Hammond's eulogy on Calhoun; but I am indebted to the author for a copy.

With esteem and friendship, yours truly,

M. R. H. GARNETT.

WILLIAM H. TRESCOTT, Esq.

To explain the full meaning of this letter I must connect its date with the Nashville convention held a few months previous. It is now known that at that convention, in 1850, the project of secession was agreed upon. There existed in the convention two parties, one in favor of the separate action of the States, and the other of calling a general convention of the slave States and seceding in a body. This letter plainly alludes to that division of parties as to the manner of seceding. It corroborates what has been said of the determination at that early day to secede. It indicates leaving the time to such opportunity as preparation should make propitious. This, however, is not the most important part of the letter. "Democracy, in its original philosophical sense, is indeed incompatible with slavery and the whole system of southern society." Never, Mr. President, was a graver truth uttered than this. It was equally true that this sentiment was the very *animus* of the rebellion. It was this sentiment that stimulated the rebel leaders into the fixed belief that slavery could not be perpetuated under a democratic form of government. It was this sentiment that led to the conclusion that slavery could be perpetuated in no other manner than by overthrowing democracy and building up government through a privileged class.

The republicanism spoken of in this letter was unmistakably the republicanism of Greece or Rome—a privileged order of nobility on the one hand and a mass of slaves on the other. American democracy was the antagonism of this. Mr. Garnett's conclusion was truthful wherein he asserted that—

"In our State constitutions and in our legislation in its general course for the last fifty years the change had been in the direction of democracy."

To Mr. Garnett's mind this was a most alarming feature in American politics. It was this that so much troubled the pro-slavery sensibilities and made the advocates of the system politically frantic. This was the reason why Mr. Garnett so much desired that when matters were brought to the phase of civil war Virginia might be brought to the aid of South Carolina.

The letter of Mr. Garnett was evidently written in reply to a treasonable letter from Mr. Trescott, in which the latter had objected to the term "Democrat." That these two gentlemen entertained the same views and the same repugnance to the democratic principle in government is evidenced by the following extract from an address delivered by the latter before the Historical Society of South Carolina, in 1855. He says:

"The institution of slavery, which with the men of former times was an experiment, has become the 'corner-stone' of their social and political life; and yet there are some men in South Carolina who would eradicate the old State pride, destroy the conservative character in our State politics, strip us bare of the glorious achievements of the past, and drive us, destitute and dishonored, into a fit companionship of a vagabond and demoralized democracy."

I have alluded to the expressed sentiments of these prominent concocters and leaders of the rebellion for the reason that they were the types and representatives of the class to which they belonged. The spirit and reasoning that controlled them originated and controlled the rebellion from its inception to its final result.

Not less explicit was Mr. Spratt, of South Carolina, the leading secessionist of that State after the death of Mr. Calhoun. In his address in the Vicksburg secession convention of 1859 he became more emphatic than any of his compeers in the expression of the sentiment that democracy was the deadly antagonism of slavery. To this argument he gave point in the following manner:

"While our population has advanced, there has been no proportionate advancement in the number of slaves. The widening West has made demand of slaves upon the older States; the older States have been compelled to yield to such exaction. With every transportation there was hireling labor ready to supply its place; with hireling labor came the form and spirit of democracy. It made its way across the border; it overspread the States of Delaware and Maryland; it extended in the States of Kentucky, Missouri, and Virginia; it entered into southern cities; it glided into schools and pulpits; it crept about the halls of legislation; and so it is that we are not alone in the contest with the North, which bears the banners of democracy, but with the democracy itself within the States, the cities, and the institutions of the South." The speaker assumed that if this democracy could not be got rid of, "the separation from the North would merely adjourn the contest;" that "as this southern democracy grapples slavery in its homes, and on its hearth-stones, slavery was like the Thracian horse that bore its rider from the field, and that, escaping enemies abroad, it would be forced to wage a still more deadly contest with its enemies at home."

Mr. President and Senators, let us now put the emphatic inquiry: who were these enemies at home? They were not the influences that originated the personal liberty bills of Massachusetts, Vermont, or other States. They were not the political force that voted for Frémont in 1856 or for Mr. Lincoln in 1860. They were not the friends of freedom who resisted the atrocities in Kansas committed by the ruffianism that invaded that State. No, sir; these "enemies at home" were none other than the native-born white children of the South. They were the mass of non-slaveholders, grown to manhood and womanhood under the disparaging disability of a pro-slavery policy—a policy that viewed with contemptuous distrust every element in society that did not belong to its peculiar class. These enemies at home composed the class alluded to by Mr. Trescott as the "vagabond and demoralized democracy." Without pausing to comment further upon this paragraph, I will group with it the sentiments and principles of another advocate of "southern rights." I must draw from that oracle and depository of southern political literature, De Bow's Review. In a proposition to go back to the feudal system, the author says:

"The real civilization of a country is in its aristocracy. The masses are molded into soldiers and artisans by intellect, just as matter and the elements of nature are made into telegraphs and steam-engines. The poor who labor all day are too tired at night to study books. If you make them learned, they soon forget all that is necessary in the common transactions of life. To make an aristocrat in the future we must sacrifice a thousand paupers. Yet we would by all means make them, make them permanent, too, by laws of entail and primogeniture. The right to govern resides in a very small minority; the duty to obey is inherent in the great masses of mankind. All government begins with usurpation and is continued by force. There is nothing to which the South entertains so great a dislike as universal suffrage. Where ever foreigners settle together in large numbers, there universal suffrage will exist."

In contemplating these postulates and propositions I am at a loss to know how it was, or why it was, that such political atrocity had been encouraged into the boldness of undisguised declaration. Was it owing to the supposed fact that the manhood of the southern masses had been crushed out? Was it owing to the supposed pusillanimity of the General Government that had seemed to dispense with its powers of resistence to pro-slavery domination? Was it owing to the palsied subserviency of the highest judicial tribunal of the nation; or did the encouragement spring from the partial debauchment of that part of the northern political forces that seemed to have forgotten that principle was longer to be maintained? I know not, sir, whether the intended atrocity sprung from one or all these encouragements in the aggregate; but, sir, I do know that the present century has not disclosed a contemplated policy more at variance with our ideas of republican institutions than that put forth by these southern advocates of "State rights." John Milton was a poet of fertile imagination and great powers of description. Had he wished to improve on the features of diabolism he needed only to have lived in our day. By contemplating the project of crushing "the enemies at home" and "making permanent aristocrats" by sacrificing poor people, he could have improved upon his infernal pictures by substituting reality for fancy.

I have not done with the evidences by which I propose to establish the truth of my indictment. After the confederacy was supposed to be established with certainty, the leaders threw off all disguises as to the motives that moved in the undercurrent of the rebellion. The following extract from De Bow's Review is a complete elucidation of the form of government to which the leaders aspired:

"Those pestilent and pernicious dogmas—'the greatest good of the greatest number;' 'the majority shall rule'—are, in their practical application, the frightful source of disorders never to be quieted, philosophies the most false, and passions the most wild, destructive, and ungovernable. In America, by reason of the operation of causes wholly extraneous to the considerations of government and society, the republican experiment has been prolonged beyond recorded precedent; but, painful as the reflection must be to all such as subscribed to the Utopian philosophy, and have an abiding faith in the capacity of man for enlightened self-rule, it must be confessed that the experiment of the democratic Republic of America has failed."

The author concludes thus:

"The institution of an hereditary Senate and Executive is the political form best suited to the genius, and most expressive of the ideas, of the South."

I must now, Mr. President, digress, in order to call the attention of the Senate to the corresponding responses to this declaration by the governing classes of Europe. Scarcely had the assertion of "the failure of republican government in America" been made on this side before it was caught up in a spirit of derisive malice by the Tory press of England. The principles of American Government were denounced as an *ignis fatuus*. The "great Republic," on the authority of the London Times, "was no more!" "Democracy was a rope of sand." "It lacked the cohesive power to maintain an empire of such magnitude." "Disintegration was an accomplished fact." "No power existed in America to reunite the fragments of the dissolved Republic." In this exultation was mingled a corresponding malice

against the European advocates of liberal government. The champions of popular rights were arraigned as a set of "foolish dreamers," whose obstinate theorizing must now give way under the failure of the American example. Nor, Mr. President, was this the most significant part played by European influences. The French emperor ventured upon the declaration that "France was not interested in this—that the United States should absorb Mexico, dominate thence the Antilles, and thus become mistress of the commerce of the world." We may trace the machinations of the French emperor through the combinations of Roman Jesuitism in Europe, in the United States, and in Mexico; through the insidious appeal to the "Latin races;" through the mysterious conduct of an ambitious American prelate, going out as a loyal emissary and returning from Europe with a distrusted and doubtful fidelity. We may trace the French monarch through his intrigues with England and Spain, and the foul coalition against the Liberalists of Mexico. Concurrent with this the naval workshops of England were preparing the means of sweeping American commerce from the ocean. Never before has so broad and foul a conspiracy against the principles of popular government been entered into, and never have the principles of popular government suffered such an ordeal.

With a consolidated military organization in the South, adequate in a civil war to have overturned the strongest dynasty in Europe; with English allies despoiling our commerce on the ocean; with a half-debauched political force in the North of questionable loyalty, never before had the patriotic forces of any nation been brought to a more imminent verge of desperation. Father looked father in the face with anxious look and clenched hand as he sent his son to the battle. Anxious mothers looked upon the contest with tearful solicitude, knowing that the welfare of offspring depended upon the result of the conflict. Never shall we forget that voice of the people which came through the gloom in response to the call of our venerated President:

"We are coming, Father Abraham,
Six hundred thousand more."

That response settled the question of foreign intervention. It dissolved the Spanish-Anglo-French coalition; the one sneaking out on a piratical platform, content to abet the continuance of depredations on our commerce; another retiring to experiment on St. Domingo and the South American republics; and the other facetiously setting up a surplus scion of the House of Hapsburg as a mock insignia of royalty in Mexico.

Without alluding further to the prophesied failure of republican government, I come back to the closing postulate of the quotation, "An hereditary Senate and Executive is the political form best suited to the genius, and most expressive of the ideas, of the South." If this is intended to embrace the conspirators only, I have no doubt of the truth of the declaration. If by the word "South" the non-slaveholders and colored people are embraced, I must believe that there are ten millions of this population, who, if undeceived, and left to their own volition, would be advocates of republican government, and precisely of that kind of government which was intended to be guarantied in the Constitution.

To proceed further with the evidences, I must call as a witness the Southern Literary Messenger. This is no ordinary witness. It is subpenaed from the highest life of the confederacy. Most popular with the leaders, most authentic as their oracle, and most approved in their policy, I trust that its testimony will be deemed conclusive. In the middle age of the confederacy, when rebel hope was buoyant, and independence a supposed certainty, this print indulged in the luxury of contemplating and recommending the future political programme. In an article entitled "The great danger of the confederacy," the author discourses thus:

"That benign institution of slavery, which it is now the pride and glory of the South to ascribe to the conception of divinity, and which this war has proven to be, next to the devoted patriotism and undaunted resolution of her sons, the great element of power in the confederacy, will prove, in preventing too heavy an influx from foreign shores of that class of population devoted to menial pursuits, another bulwark against the encroachments of those tendencies to democracy which have been the Pandora's box of disintegration and ruin to all republics."

Again, speaking of democracy, it says—

"Disgraced by the crimes of her votaries in the northern States, humbled by her humiliating defeat in the destruction of her chosen empire, the late Union, and abashed by the proud triumph of constitutional liberty in the success of the young confederacy, democracy may vail the features of her prophet, and seek in humility and retirement from the theater of active conflict to efface the blood-stained record of her crimes."

And again:

"Let us seek at once to eradicate every vestige of radical democracy, every feature tending to make ours a popular Government, making it subject only to the intelligent and virtuous, and those who are interested in its successful administration."

And again:

"We would not be understood as uniting in the belief of the impossibility of a successful republic, that we cry out for the reëstablishment of royalty in this free country, whose noble sons daily attest their detestation of tyranny in all its forms, by those terrible libations which it is the habit of liberty to exact from her votaries. We have no special objections to royalty, when restrained by constitutional barriers."

That the evidence of conspiracy against the principles of republican government may not appear to come from one side alone, we will allow the southern Unionists to speak. I cite from the letter of the Democratic League to John Bright, of England, written in August, 1862:

"In order to judge with accuracy, it is necessary to understand what brought slaveholders to the desperate resort of attempted revolution. The doctrine was long since promulgated by them that 'a government of majorities must be abrogated;' 'that slavery and democracy were incompatible;' 'that under the operation of the democratic principle, and the laws of population and subsistence, slavery must soon lose its prestige and go down before the enfranchised masses.' What was to be done? Here was a process of reasoning, founded on foresight of the future, that no argument could turn aside. Statesmen in the North and South concurred in the same conclusion, but with this difference: the one insisting that the democratic principle must be subverted in order to maintain slavery unimpaired; the other insisting that the democratic principle in government must be maintained, though it involved the extinction of slavery. We have now the desperate conflict of arms founded upon the issue thus made."

This letter was drawn by the pen of a southern Unionist; by one who had long watched the progress of the secession project, and who had analyzed with scrutiny its ulterior objects. The accuracy of its statement few, I think, will question.

I call two other witnesses of equal note: Hamilton and Anderson, both refugees from Texas; the former now returned as provisional governor of that State, and the latter recently Governor of Ohio. These gentlemen, in their published speeches, both concur in the same conclusion as to the rebel intent of abrogating popular government in the South. Both parties have labored to warn their countrymen of the nature of the southern conspiracy, and to urge the issue as a conflict between the democratic and anti-democratic forces of the nation. But, Mr. President, if official prestige can add to the weight of testimony, I have still higher witnesses. Mr. Lincoln, in his annual message of December, 1861, thus throws out the warning voice to Congress and the country:

"It continues to develop that the insurrection is largely, if not exclusively, a war upon the first principles of popular government, the rights of the people. Conclusive evidence of this is found in the most grave and maturely considered public documents, as well as in the general tone of the insurgents. In those documents we find the abridgment of the existing right of suffrage boldly advocated, with labored arguments to prove that large control of the people in government is the source of all political evil. Monarchy itself is sometimes hinted at as a possible refuge from the power of the people.

"In my present position I could scarcely be justified were I to omit raising a warning voice against this approach of returning despotism."

Even at that early day, studied as the concealment of the more atrocious part of the programme had been, the ominous sound of conspiracy against the principles of free government had reached the ear of the executive Chief Magistrate, and in that convincing form which impelled him to bring the subject to the attention of Congress.

Not less explicit has been the voice of the present Chief Magistrate in declaring his convictions as to the motives and objects that animated the rebel leaders. Time and again has he repeated the declaration, in effect, that the contest was a battle between aristocracy and democracy; that it arose out of these antagonistic principles in government. Thus we have it in the testimony of all. There is no disagreement of witnesses. The Tories of England and the Liberalists of England have regarded the conflict in the same light, the one sympathizing with and aiding the rebellion; the other sympathizing with the Union cause, and hopefully regarding the stability of the great Republic as the harbinger of political disinthrallment for the masses of Europe. The Unionists of the South have concurred with the treason of the South in the precise statement of the issue; and it is not the least distinctive or significant fact, that upon this issue three hundred thousand troops of southern extraction have joined the Union Army—a force, in point of numbers, nearly equaling the whole number of slaveholders in 1860.

Mr. President, I have sometimes heard the northern apologists of treason assert that the rebellion of the South was analogous in principle to the struggle of our forefathers for independence. By what strange perversion of intellect such a parallel should be attempted surpasses my comprehension. I will concede, sir, that we have had the same battle, and the same issue that animated our fathers on the one side, and the Government of Great Britain on the other. But I shall not be disputed when I maintain that this Government has fought the same side of the issue that our revolutionary fathers fought, and have struggled successfully to maintain what they established. Our forefathers were made to chafe under monarchical insult and imposition. They learned to know by experience that common protection would never be awarded by privileged class. They entered into the contest in defense of their natural and inalienable rights, and made the cause of popular justice the strength and ennobling feature of the conflict. In the recent attempt at revolution the intended perpetuity of human bondage, added to the intended monopoly of wealth and political power, were the mainsprings of the rebellion. These were the aspirations that controlled the leaders of secession. A beneficent Government, most noted of all Governments for its principles of encouragement and protection, was attacked; not for the purpose of diffusing additional justice into the relationships of society, but for overturning all justice. The *animus* of the rebellion said, "I am mighty; I will make of this people hewers of wood and drawers of water; and they shall be my bondmen and bondwomen forever." The world has again witnessed the fulfillment of the declaration that "pride goeth before destruction, and a haughty spirit before a fall."

It appears to me, Mr. President, that it has been most unfortunate for the country that the true nature of the issue was not more widely and more definitely understood. It has been truly said that "the rebellion was inaugurated on false pretenses, and that it lived on its hypocrisy." Could it have been known throughout the Union, and distinctly known, that it involved a conspiracy against the principles of popular government, how few of the American people would have had a heart to sympathize with its objects. I believe, sir, could the ulterior objects of the attempted revolution have been definitely known to all, nine tenths of the aggregated population of the Union would have repudiated with scorn and indignation the whole project of secession. Every one now knows that the masses of the South were wickedly imposed upon, wickedly deceived, and that much of the political force in the North has been drawn into contumacy against the national Government, and against the party seeking to uphold it, by the same kind of deception. Had it not been for this deception in the South the

rebellion could never have been started into growth. Had not the same deception existed in the North, the basis of northern sympathy would have been taken away. Had it not been for this wide-spread deception nearly the whole country would have been a unit, and such unity would have been on the side of free popular government.

Having endeavored to elucidate the causes and objects of the attempted revolution, I come to the question of the political *status* of the seceded States. I shall not argue the question, whether technically or theoretically they are States or Territories in the Union, or States out of the Union. It is sufficient for me to know, sir, that these States in a seeming political form repudiated the Constitution of the United States; that they had dissolved all connection with the Union Government; that they had set up government in form in opposition to it; that, through force or persuasion, the bulk of the population of these States had been induced or compelled to forswear allegiance to the Union Government, and swear allegiance to the opposition government. Without going further into specifications, this was the attitude of the seceded States when the result of arms decided that these States or Territories, and the people thereon, belonged to the United States, and were to be dealt with precisely as the exigencies of the case demanded. That these States had demolished and broken down their old State governments; that they had superseded the State fundamental law, is technically, theoretically, and practically true; for it will not be contended that State governments can exist within the boundaries of the United States in disconnection with the Constitution, or in opposition to it: in short, State government cannot exist that does not accord with the Constitution, and which is not in subordination to this supreme law of the land. Neither the President, nor Congress, nor any department of the Government has yet assumed that the seceded States could reinstitute State government under their old constitutions. They have been told by the President that new constitutions must be made. They have been told the same by Congress. The people of these States are well aware that the old fundamental law was overthrown; that the pretended new governments, set up in the places of the old, have been demolished; and that the condition of citizenship has been immensely altered. I do not think, sir, that any one will contend that these old State governments can be revived by *scire facias;* for we have neither precedent nor authority for any such political writ; besides, there has been such a change of parties that it would render such a process entirely inexpedient. If I mistake not, sir, we are thrown back on the Constitution for power to deal with these States as States, or as Territories, and it matters not, to my mind, what their technical condition may be.

The President has told us by implication that there is a superintending power of control over these States. In the preamble of his proclamations, appointing the provisional governors, he has cited that clause in the Constitution which provides that "the United States shall guaranty to every State in the Union a republican form of government." It seems to be admitted that there is outside of these States a controlling power, and that the emergency has arisen that calls such power into requisition. It is important to know precisely where this power is lodged. These questions are new to us. They have no precedent. The public mind is in confusion, and perhaps the several departments of the Government equally so. While it may be excusable to be in error as to the lodgment of this superintending power, it is of peculiar importance that it should be exercised only by the department of the Government in which the Constitution has placed it. In construing the above clause we have the assistance of Mr. Madison's opinion as to its meaning:

"It may possibly be asked, what need there could be for such a precaution, and whether it may not become a pretext for alterations in the State governments without the concurrence of the States themselves? These questions admit of ready answers. If the interposition of the General Government should not be needed, the provision for such an event would be a harmless superfluity only in the Constitution. But who can say what experiments may be produced by the caprice of particular States, by the ambition of enterprising leaders, or by the intrigues of foreign Powers?"

I will assume, sir, without the aid of Mr. Madison's opinion, that this superintending power is lodged in the General Government. I assert that the Constitution itself, in plain terms, makes it a self-evident proposition. By grouping the provisional clause with the lodgment of power, and following it with the final clause as to what shall be the supreme law, it reads thus:

"The United States shall guaranty to every State in the Union a republican form of government." "Congress shall have power to make all laws which may be necessary and proper for carrying into execution this power, and all the other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof; and this Constitution, and the laws made in pursuance thereof, shall be the supreme law of the land, and the judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding."

As I have said elsewhere, it makes no difference whether the seceding States are called States or Territories; whether they are technically one or the other. The Constitution deals with States as States; it is the sovereign of sovereignties, and allows of no political institution or power in contumacy with its provisions. It interdicts the granting of any title of nobility. It inhibits the establishment of any anti-republican government through privileged class. It seeks to establish and enforce the maintenance of suffrage government, and no other. In addition to the form of the Government the enumeration of personal rights in the Constitution to be protected, prescribes the kind and quality of the governments that are to be established and maintained in the States.

It has been said that "a State cannot commit treason," and that consequently "the General Government has no power to coerce a State." I deny both propositions. In case a State through its political organization puts itself in opposition to the Constitution and the laws made in pursuance of it, and in addition thereto resorts to force to obstruct the execution of such laws, the State as a State commits treason, and every individual engaged is liable to be indicted, convicted, and hanged: nor is this all, sir. The State as a State, in case the contumacy is general enough to impose the necessity, can be politically punished. Its State government can be taken away, and the State governed by such laws and regulations as Congress may prescribe. It can be held in political duress by a military guard. It can be restrained and constrained and held in an iron grasp for such time as is necessary to bring the population to acquiesce in a political arrangement that accords with the Constitution. More than that; when the time arrives to go anew into State organization, Congress can prescribe the conditions; the provisions in its fundamental law; its rule of suffrage, or anything else to bring it into compliance with the supreme law. There are those who seem to believe that our Constitution was framed for the purpose of optional disintegration instead of compulsory Union. Our fathers prescribed no such programme. They knew what they were about. Instead of believing with the English Reviews, that our national domain was large enough for "eight republics," they said "there shall be but one." Judging from the scenes that have transpired during the last five years, I conclude that the bulk of their descendants have not yet apostatized from their doctrine.

In the enumeration of natural and personal rights to be protected, the framers of the Constitution apparently specified everything they could think of—"life," "liberty," "property," "freedom of speech," "freedom of the press," "freedom in the exercise of religion," "security of person," &c.; and then, lest something essential in the specifications should have been overlooked, it was provided in the ninth amendment that "the enumeration in the Constitution of certain rights should not be construed to deny or disparage other rights not enumerated." This amendment completed the document. It left no personal or natural right to be invaded or impaired by construction. All these rights are established by the fundamental law. Congress has no power to invade them; but it has power "to make all laws necessary and proper" to give them effective operation, and to restrain the respective States from infracting them.

Will it be contended, sir, at this day, that any State has the power to subvert or impair the natural and personal rights of the citizen? Will it be contended that the doctrine of "State sovereignty" has so far survived the wreck of its progenitor, slavery, that we are yet kept aloof from the true construction of the Constitution? I am aware, sir, that the political disease called "State sovereignty" with some minds has become chronic. With the invention of the cotton-gin, the spinning-jenny, and the power-loom, slavery became profitable. It grew to be "the great corner-stone." Stimulated by these auxiliaries it swelled into a "divinity." Nearly contemporaneous with the rapid growth of slave profits commenced the perversion of the resolutions of 1798. Ever since there has been a restless ghost wandering about called "State rights." It haunted the White House for forty years. It filled places in the Departments. It took its seat in the Senate and in the House. It became speaker and presiding officer in southern State Legislatures. The secession interpretation of the resolutions of 1798 was its political scripture. It seemed so ubiquitous and pertinacious in the propagation of its doctrines, that a stranger, coming from a foreign land, would have mistaken the perversion of these resolutions for the fundamental law of the nation. I confess, Mr. President, that I lived to be forty-five years of age before I learned the whole meaning of the doctrine of "State sovereignty." I never knew until the 12th day of April, 1861, when this omnipresent ghost of "State rights" went down to Charleston and superintended the artillery that opened on Sumter.

While slavery existed as a political power, it was not possible to adopt a true construction of the fundamental law. It was not possible to assert with success or vindicate the power of Congress. For one, sir, I now propose to go down to the "hard-pan" of the Constitution. This is necessary in order to lay the foundation for the restructure of southern State government; and, sir, if "hard-pan" is not solid enough for stable foundation, I am ready to join the Senator from Massachusetts and go down to granite. I stand here to vindicate the Constitution and the power of Congress under it. This Constitution is not a dangerous instrument. It has no attribute of oppression. The power of Congress is not a dangerous power, for it is only a power of protection. It is all arrayed on the side of right and justice, and the more of it there is, when properly exercised, the better. As a power, with attributes to maintain the nationality, we have just learned that it is a terrible power. Instead of its being "a rope of sand," as supposed by Europeans and secessionists, it is found to be a cable of strength. As a power of protection, it is imperious and overshadowing. The proudest State must bow in deference to its behests, for its scepter is the golden rule. None but petty tyrants need fear it, for it interferes not with the just.

I assume, Mr. President, that Congress, under the Constitution, has a controlling power to enforce the principle of protection on all the States. Congress is the tribunal of States; and this tribunal of States is the umpire in judging of what is protective republican government in the several States, and what is not; what the form of the State government should be, and what it should not be; what the distribution of power or degree of enfranchisement in order to guard against the despotism of class; and what the machinery to be adopted or tolerated so as to make the State government effective on the side of protection. No State government

that does not accord in spirit and form with the principles of the Constitution is legitimate; nor can it be made legitimate by Congress. Local State despotism is outside of the Constitution and illegitimate. It never can be made otherwise. It never was anything else than the offspring of the political heretic, State sovereignty. It has ever been a child of mischief and agent of evil. It has been trying ever since it was born to overthrow the principles embraced in the Declaration of Independence. It has sought with great pertinacity and success to regulate public opinion by mobs. It broke down the manly spirit in political communities, and produced pusillanimity instead of independent manhood. It inculcated a jealous, clannish hatred between sections, and broke down comity between the States. Whenever northern people went to reside within the realm of its dominion, to use a southern phrase, it made them "eat dirt." It was the greatest of sophists and falsifiers, and on the same principle that all political hucksters, who controvert the golden rule in politics, are falsifiers and hypocrites. We have had enough of this political perversity, and enough of its consequences. It is high time that the whole nation, from its center to its circumference, should be politically taught that we have a beneficent Constitution and a power in Congress under it that is adequate to apply the corrective.

We are told, sir, that if Congress is persistent in imposing terms, conditions, and guarantees we shall offend the South; that they are a proud and sensitive people. I am aware of this, sir; but at the same time I am not disposed to give up the Constitution on that account. What right would the Empire State, with its four million people, its vast commerce, its almost unexampled enterprise, have to set up any authority or exercise of power that did not comport with the Constitution? I love the State of New York for the good that is in it, while I am pained in reflecting upon the vices that have been exhibited within its jurisdiction. In years gone by, when the little band of humanitarian philosophers who advocated natural rights were beset by mobs, the conduct was not creditable. At a later day, when the attempt was made to murder forty or fifty unoffending colored men in a tobacco factory in Brooklyn, it was not an effort to be commended. At a still later day, when the riotous mob, sympathizing with secession, murdered the colored people in the streets of New York, burned the colored orphan asylum, and committed other atrocities of an infamous character, it was nothing to be proud of. And when again, sir, it was necessary to abstract twenty-four thousand men from the army of the Potomac to save the city of New York, and Lee taking advantage of the circumstance was enabled suddenly to reënforce Bragg with thirty-two thousand men, which led to the disaster of the brave army of the Cumberland at Chickamauga, it becomes painful to reflect upon it. New York has as much to be proud of, and her people as much to be proud of, as any other State. That consists, however, of her liberalized policy, her true statesmanship, her enterprise, her hospitality and amenities to the people of other States, her care for the education of her children, and her labor and care to promote a truly Christian civilization. These are things to be proud of, for these things harmonize with the Constitution and exemplify the beauties of republican government. I hope the time may come, if it is not already the case, that southern pride may have its foundation permanently laid on what is right. And while upon this subject, I will express the hope that the young State of Nevada, which I have the honor in part to represent, which has cherished me, and which I love, will lay all its foundations of future greatness upon the immutable principles of common justice. I trust that is what the future of the State shall have reason to be proud of.

THE WAR OF RACES.

We are told again and again, Mr. President, that in case equal rights and the means of maintaining those rights are awarded to the colored population in the South, "it will lead to a war of races." There has always been a class of men ready to adopt the idea that the peace of society can be best maintained by thwarting justice. I am a slow believer in this doctrine. I have formed my opinions from very different postulates and premises. In my simple method of reasoning, the opposite of this rule is true. I must be permitted to maintain that in my opinion strict and impartial justice is the only basis of stable and permanent peace in society. I think history furnishes no evidence to the contrary. If this hypothesis cannot be maintained, then, indeed, is the moral world in a poor condition. I have an example, sir, that comes from a portion of the history of the colored race that may not be unprofitable to present to the Senate.

Mr. President, the world has heard much of the horrors of San Domingo. It has been prophesied that in case the slaves of the South were set free, we should again witness the horrors of San Domingo. The horrors of San Domingo has been made the goblin story to teach the children of the South the necessity of riveting the chains upon the slave so firmly as to allow no escape. The horrors of San Domingo were the very logic of slavery; almost as much so as the designing perversion of truth about the productions of Jamaica. I now propose to give a succinct account of these horrors, and also, what is infinitely of more importance to the Senate, the true cause of them. It was not until recently that the records of authentic French history, relating to the troubles in this island, became known to the reading public. During the political troubles in France this island was neglected. England and Spain undertook to appropriate it. The negroes organized under colored leaders of talent and drove out the English and Spanish forces, conquered the whole island, and declared and established their freedom. The bravery and conduct of the negroes was commended and applauded by the French Government. The population that had performed all this had been slaves. They offered to restore the island to France on the condition that they should not be reënslaved. After a series of negotiations, Napoleon, in an evil hour, resolved on the subjugation of the island, in connection with the project of reënslaving the black population. It was through the influence of the old slaveholders that this measure was resolved on. An army of eighty thousand was sent out under Le Clerc, brother-in-law of Bonaparte, to accomplish the object. It is not necessary to go through the detail of hypocritical negotiation on the part of the French commander; suffice it to say, the blacks firmly resolved to maintain their freedom. The French general thought that by severity of example he could intimidate them into submission. He treacherously got some of the leaders into his power, and cruelly executed them. The atrocity was retaliated. It grew to be a warfare of atrocity and counter-atrocity that spared no enemy that fell into the power of the opposing belligerents. Humanity has never witnessed a more sickening picture of brutality than what was in reality the horrors of San Domingo. At the end of this contest, when Pauline returned to France a widow, Napoleon said to her, "I gave you an army of eighty thousand veterans—you return to tell me the story of its destruction." It may be profitable, sir, to contemplate the history of French atrocity in this island, for we may yet live to see a similar policy undertaken in our own country. It may be equally profitable to learn, that though the blacks, as a race, are naturally peacable, they are capable of being goaded into exasperation. I will now put the question, had the ruling powers of France been just to the blacks of this island, how much better would it have been made for all parties?

I do not deem it impossible, sir, that we may yet have something similar to the horrors of San Domingo in this country; for the spirit of slavery is the same everywhere. I do not deem it impossible, for it is said that "men learn little except through the teachings of calamity." We have gone on, sir, wisely or unwisely, converting the colored population into beings of power through military discipline. We have taught one hundred and sixty thousand of them in the art of killing. We have, to some extent, instructed them in the rudiments of military organization. As citizens of the United States they have equal right to protection, and to keep and bear arms for self-defense. They have long cherished the idea of liberty, and the nation has awarded it. More than that, sir, the colored man can point to his honorable scars, or to the grave of his companion in arms, and say, "We, too, have assisted in defending the Government." It must be a poor observer of human nature who does not realize that the colored people South can be goaded into desperation. It is a more obtuse observer still who does not comprehend the settled determination of the present forces, now coming into the political foreground of the South, to establish some species of local despotism whereby the colored man's condition shall be kept perpetually disparaged. In this probable cause of collision lies the danger; and, sir, in my humble opinion it is the chief danger to be guarded against.

Mr. President, while we are on this subject of the "war of races" it may be well, perhaps, to ventilate it more fully. I assert, sir, that nearly all the troubles that have ever existed in this Union since the adoption of the Federal Constitution have sprung directly or indirectly from the war of race upon race. Slavery itself is nothing else, never can be made anything else, than a warfare of one race or class upon another. The process of subjecting one race or class to the arbitrary will of another; to own it as goods and chattels; to subject it to involuntary servitude; to deny it all natural right, and then seek by all possible means, regardless of any other consideration, to perpetuate such bondage, amounts in the opinion of the world to a warfare of "race upon race." It has been fitly denominated "the sum of all iniquities." When we come to trace this war of race upon race in its consequences, direct and collateral, the definition of Wesley will be established as the true one.

In an economic point of view we can trace its blighting influence and paralyzing effect on the industries of States. Let the advocate of human bondage tell us what it is that gave to each man, woman, and child in Massachusetts an average product of $166 per year, while the *per capita* in South Carolina was $56. What made the difference between $156 in Rhode Island and $65 in Louisiana; $164 in Connecticut and $61 in Georgia; $117 in New Hampshire and $56 in Alabama; $112 in New York and $59 in Virginia; $99 in Pennsylvania and $49 in North Carolina; $120 in New Jersey and $67 in Mississippi; $96 in Vermont and $55 in Florida? I have cited from the tables prepared by the Senator from Kentucky [Mr. GUTHRIE] in his report on the finances for 1856 and 1857, at the time he was Secretary of the Treasury. I have drawn the comparison between States contiguous to market with seaport advantages. I do not think I shall incur the hazard of denial when I assert that this wide disparity springs directly from the war of race upon race. This question of income from industry is an important one. It goes directly to the subject of comfortable houses to live in, comely raiment for the body, palatable food for the table, and education for the children. I will now invite the Senator from Kentucky, [Mr. DAVIS,] who has dwelt so much on Jamaica, to turn his attention to the subject nearer home. When he shall have prepared himself by calculation I hope he will be able to inform the Senate how much the slave States have lost in the last fifty years by their "warfare against race."

Mr. President, I come to another subject of nearly, perhaps of quite equal importance. Recurring to the census statistics of 1850, and the educational condition of the several States as there exhibited, we find that in Maine nearly

one third of the aggregate population of the State was in school, receiving instruction, and being fitted for the duties of manhood and womanhood. In New Hampshire, Vermont, Michigan, and Ohio, between one third and one fourth of the aggregate population was in school. In New York, Massachusetts, Pennsylvania, Rhode Island, Connecticut, Indiana, and Illinois, the ratio, owing to the influx of foreign population, was less, and amounted to a fraction less than one fourth. In the slave States, including the white population only, it stood thus: Florida one tenth, Louisiana one eighth, Texas one eighth, Virginia one eighth, Alabama one seventh, Arkansas one seventh, Georgia one seventh, Maryland one seventh, South Carolina one seventh, Mississippi one in six and a half, Kentucky one sixth, and Missouri one sixth. I may be mistaken, sir, but in my simple comprehension this wide disparity, this descent from intelligence to ignorance, this step from civilization to barbarism is the result of warfare upon race.

I must refer another matter to the Senator from Kentucky. He will pardon me for relying on his arithmetical calculations, especially where the investment in colored people is concerned. I would not trouble him were Memminger present, but as we have not the principal here we will be obliged to rely on secondary authority. There must be floating about some three or four thousand millions of the confederate war debt, incurred in the process of transferring the investment in colored people from the Union to the confederacy. This precaution, adopted for greater security, cost much money. If the honorable Senator will estimate the depreciation of this confederate debt, and inform us what the depreciation amounts to, I will willingly set it down in my account of the expense of the warfare of race against race.

In the investment, whereby manhood was changed to chattelhood, I have merely alluded to some of the incidental sacrifices and expenses. Without going back to the original outlay incurred in the expense of kidnapping, I will come directly to the ultimate, inherent value of the investment itself. It had grown to be very large. It had absorbed southern surpluses, taking the necessary capital from southern commerce, southern mechanism, leaving the South without diversified industries, and consequently, the bulk of its white population without skilled labor and profitable employment. Two thousand millions, some say more, had been absorbed in what was once called "negro property." It grew and grew to be "corner-stone," from "corner-stone" to "divinity." This was as high as it could go. When it reached this point it began to stand up in the image of its maker. The rebellion opened its eyes. The colored people saw that they had natural rights, which some old-fashioned statesmen of the Revolution had pronounced "inalienable." They saw something else. They discovered that each one had two legs to run away on, and two hands each to fight the way from bondage to freedom. They soon discovered that they had privileges, the privilege of freedom and self-defense. In time another privilege was added by the rebellion; and that was, to look at the old master through the sights of a gun-barrel. It was in this way the whole institution graduated after a four years' training in the military school of the rebellion. It has been given its diploma of freedom. It has been incorporated into the family of American citizenship. Sir, I will not set down this change as loss to any State, or to the nation. I believe it to be highly beneficial to both. But to those who advocate human bondage, and have indulged in a false political economy, I may well put the question, "In this warfare upon natural right and upon race, how much have you made by the operation?"

Again, Mr. President, the picture saddens as we progress with the drawing. The predetermination to perpetuate this war upon race and to hold in bondage four million people and their increase for all future time, was the cause of the rebellion against the Constitution and the Union. The war against the nationality and against the principles of republican government has merely been a branch of the warfare against race. It was the concomitant of the warfare against race. Three hundred thousand, taken from the flower of northern free industry, have been sacrificed, and nearly the same number from the South. The destruction of life, the widowhood and orphanage, the destruction of property, the vast accumulation of public debt, and all other distresses consequent on war, have sprung from this southern warfare on race. Sir, if I understand the duty of the executive Chief Magistrate, and the great purpose for which he was elected, it is his duty to interpose the executive power to stop this warfare on race. If I understand my duty and the duty of this Congress, it is the first, highest, and most imperative of all duties to stop this warfare on race. If I understand the duty of the people, distressed by calamity as they have been, and afflicted by burdens as they are, they will insist that an end shall be put to this warfare on race.

Mr. President, I understand well the slaveholder's logic. It is no new thing. It was once alarming, and very effective on the side of wrong and injustice; but the nation has got used to it and begun to be brave from necessity. It consists of this: "If you do not let us war on this race we will visit on the country some great calamity. If you will not allow us to control it as we please, and under such laws as we please, we will exterminate it. You must allow us to dominate this population under unequal laws or it must be removed from the country." This is the essence of the argument that is poured into the executive ear. He has as many evil counselors as Napoleon had when persuaded to attempt reënslaving the colored people of San Domingo. Not a member of Congress but who has had thrust upon him this argument. It is the logic of petty tyrants. It has neither principle nor patriotism. It springs alone from those selfish, mercenary aims that have no regard for any interest in the country except that of its own class. No true statesmanship can be founded on this kind of logic. It is destructive of all that deserves the name of statesmanship. As against its machinations, it has been all that the statesmanship of the country could do to save the nation. I think the time has come when neither Congress nor the people will be frightened out of their sense of propriety by the repetition of this logic.

It may be well, sir, for Senators to estimate the expense in the aggregate resulting from the warfare upon race. If we take into account the expense of kidnapping; the vast absorption of southern surpluses in negro property; the yearly sacrifices by deficiency of southern production which slavery imposed; the amount of the rebel war debt; the Union war debt and interest, and the vast destruction of property and collateral sacrifices consequent on war, the amount will appear startling. If we add to this the loss of life, estimating the value of each man sacrificed at the market value of slaves before the war, it will swell into an amount equal to the aggregate value of the property of the Union in 1860. I speak now on this subject from a financial point of view. I speak to those who profess to be so "practical" in worldly affairs as to forget that there is an inexorable law of the moral universe that can neither be evaded nor overthrown by the cunning devices of man. It seems to me as though the voice of Omnipotence was saying to us, "I gave you understanding and you have perverted it; I sent my Son unto the children of men to teach them humanity, and to reveal and proclaim to them the rule for human conduct; I have commanded you to be just and righteous that other things might be added unto you. You have foolishly undertaken to fill your households and your land with plenty by overthrowing my statutes. Know, then, that the Lord God omnipotent reigneth!"

I have grown to believe, sir, that equal protection has become a matter of imperative national necessity. So far as the experiment has been tried in an opposite direction we have but a poor account. That account, sir, tallies with and accords with all history. The war of race upon race, or class upon class, is certain to lead to the destruction of patriotism in any nation. Nothing can spring from it but social and political discontent. It is the origin of convulsions, rebellions, and revolutions. I will maintain that no people has yet existed that did not find its causes of national decay and national dissolution in the warfare of class upon class. We have as yet held our nation together. The stern republicanism in the northern States; its intelligence and power of comprehension; its firm attachment to free popular government; its unbending determination to maintain such government, assisted by the white and colored loyalty found in the South, has carried us through the rugged part of the great shock. We know the cause of our difficulties, and we may know, if we will, that there is but one remedy for the future. That remedy lies in equalized protection under equal laws; and if that involves the necessity of equal suffrage, then, sir, in my opinion it becomes the stern duty of the nation to enforce it. If in the warfare of race upon race, or class upon class, unequal suffrage can be made an instrument of oppression, I insist on the right and power of the nation to make equal suffrage the agency of defense.

Mr. President, the greatest of all absurdities that ever perverted the human understanding is the assumption that any State or nation, claiming to be civilized, can be best governed by unequal laws. This is the oppressor's logic in all countries. In this political workshop the whole oppressive machinery of governments has been manufactured. Our fathers started with a new doctrine and a new theory. They threw aside the postulates of aristocracy, and started out on the plan of instituting government to protect natural and personal rights. In approving their theory I trust I will not be accused of too much "rhetoric." I do not design any. I am content to allow their simple idea of "inalienable rights" to stand as my creed and the creed of the great Union party.

Mr. President, it has been a persistent custom in pro-slavery society to slander and disparage the qualities and capacity of the colored man. It has been said that he would not fight. The exhibition of his bravery in our revolutionary struggle, in the contest with the French veterans in San Domingo, and more recently in our own civil war, has taught us better. It has been said that he cannot understand and comprehend his relation and duty to his Government in such degree as to make him a safe voter. If loyalty and fidelity to the Government are a test of capacity to appreciate, then most certainly has the colored man at least one of the highest and best of all qualifications. It has been said, again, that the colored man will not work without compulsion. Here again has the colored man's practical conduct exploded the white man's slander. In the winter of 1861 a bill was introduced into the South Carolina Legislature providing for the sale of the free negroes of the State into slavery. It was referred to a committee, of which J. Haralson Read was chairman. I extract the following from the report of that committee:

"Apart from the consideration that many of the class are good citizens, patterns of industry, sobriety, and irreproachable conduct, there are difficulties of a practical character in the way of those who advocate the bill. The free colored population of Charleston alone pay taxes on $1,561,870 worth of property, and the aggregate taxes reach $27,209 18. What will become of the one and a half millions of property which belong to them in Charleston alone, to say nothing of their property elsewhere in the State? Can it enter into the mind of any Carolina Legislature to confiscate this property and put it in the treasury? We forbear to consider anything so full of injustice and wickedness. While we are battling for our rights, liberties, and institutions, can we expect the smiles and countenance of the Arbiter of all events when we make war on the impotent and unprotected, enslave them against all justice, and rob them of the property acquired by their own honest toil and industry under your former protection and sense of justice?

Divide this property by the number of free colored people in Charleston in 1860, four thousand in number, and it gives to each person

$390; to each family of six persons $2,240; much higher than the average of the non-slaveholders South, and within a fraction of being as high as the northern population averages. I am credibly informed that the pecuniary condition of the free colored population of New Orleans, before the war, was still better.

Sir, the present is an interesting epoch for the colored population of the Union. It is as important as it is interesting. We cannot touch upon this subject without involving a collateral inquiry. It is not the colored family alone that is to be affected. The one cannot be dragged down and degraded without debauching and degrading the other. We cannot oppress the colored man or suffer him to be oppressed without endangering the peace of southern society. As he stands now, the colored man is a peaceful citizen. He has been bred to toil. He has acquired patience in performing industry. The main prosperity of the South has heretofore rested on his labor. He is loyal and attached to the Government, and, properly treated, no persuasion can shake his fidelity to the power to which he is now looking for protection and encouragement. Need I say, sir, that the colored family of the Union is capable of being managed into a useful and most important free industrial force; into an important and reliable element of national strength; or, mismanaged, into a turbulent, discontented, and most dangerous class. If ever there was a time when unjust prejudice should be displaced by right reason, and political philosophy should be deliberate and truthful, that time is now. I know of no other safe rule than to try to do that which is right in the sight of God and man.

I come to another question: the propriety or expediency of admitting into Congress Senators and Representatives from the seceding States. We are told by the apologists of these men who are being elected on their merits as rebels to the exclusion of Union men, that "we must not expect too much of them;" that "it is not expected that they could be fully converted in so short a time;" that "their disappointments have been grievous;" that "they have become Union men now, and if we do not spurn them they will in time grow to be reconciled to the national Government." I fully accede to the idea that we must not expect too much of these men. A class that during its whole political life has aimed at a monopoly of wealth, a monopoly of labor, and a monopoly of political power; that engaged in the attempt at revolution in order to establish more fully and to perpetuate such monopoly; that, failing in this, has become more bitter by disappointment, should have time; and, sir, I am decidedly in favor of giving them all the time necessary for the most substantial improvement. I would say to these men, "Go home! go back and labor as industriously to disabuse the minds of your constituencies as you labored to mislead and impose upon them. Tell them that the Union Government always was and never can be anything else than a just Government. Tell them that the Constitution has become the acknowledged sovereign, and that it presides in both Houses of Congress. Inform them, while you are about it, that the rebel sympathizers and apologists in the North can do them no good, that they are acting as much out of time and propriety now as they did in the time of the war, when their encouragement only prolonged the conflict and added to southern disaster. You may say to your constituencies, that the majority in Congress is very tenacious on the subject of the Union war debt; that it is determined to keep faith with the national creditors; that it is bent on adopting and throwing around it all the safeguards and precautions possible; and that your admission just now and your alliance with northern sympathizers would not be propitious in raising the value of our public securities. While you are conferring with your constituents, you may as well repeat to them the common political axiom, that Representatives are elected to represent their constituents, and that it is not believed at the seat of Government that a disloyal constituency would make such a mistake as to send loyal Representatives to Congress. In short, you may as well say to your people, that, as Congress represents the loyalty of the nation, South as well as North, and has much important work on hand, some of it requiring a two-thirds majority, it is not deemed wholly prudent to part with that majority out of mere comity to men from whom no assistance could be expected. Finally, by way of closing the suggestive instructions, you may give your constituents to understand that, as you went out of Congress rebel end foremost, you will not probably get into those vacant seats over yonder, except that you come back Union end foremost."

It is made a ground of argument that "taxation and representation should go together." This as a general rule is true, but there are conditions and exceptions to this rule which sometimes forbid its being followed. The very case under consideration more strongly elucidates both the conditions and exceptions than any other historic case. Eleven States of the South by an attempt at revolution imposed on the General Government the necessity of subjugating them. These people do not yet seem to be in a frame of mind to send into Congress representatives that would be of any assistance to the public questions; notwithstanding, they should be taxed. They are now standing in the incipient position following the result of war wherein subjugation and taxation bear companionship. The second degree will be that of allegiance and protection. The third, when heartfelt loyalty is prepared to elect the representative, will be "taxation and representation." Should it be insisted that the rule of "taxation and representation" should apply at once to the truly loyal white and colored people South, and, were it practicable to adopt the rule in the present mixed state of affairs, I should throw no obstacles in the way.

Mr. President, I have now gone through with the principal topics I intended to discuss. I have endeavored to trace the *animus* and ulterior objects of the rebellion. I have endeavored to prove its anti republican designs, and that it involved a conspiracy against the nationality; a conspiracy against the natural rights of the colored man; a conspiracy against the political rights of the masses of southern white men, as well as a conspiracy against the democratic or republican principle in government. I have endeavored to prove that the exigency has arisen that calls upon the Government for the exercise of its extreme powers, or those powers lodged in Congress to meet extraordinary emergencies. I would lay down the following as an epitome of the protective character of the Constitution, its prohibition upon the infraction of natural and personal rights, and the power of Congress to maintain them:

1. The exclusive power of Congress over the subject of citizenship and naturalization.

2. The power of Congress to give effect by the enactment and enforcement of laws to all the protective provisions of the Constitution, and to make the principle of protection practically coextensive with citizenship.

3. The positive constitutional interdict upon the power of Congress and upon the Legislatures of the respective States to subvert or impair the natural or personal rights enumerated or implied in the Constitution.

4. The power of Congress to compel the enforcement and maintenance of republican government in every State, making the enumeration of personal and natural rights and the protective features of the Constitution the definition and test of what is republican government; and further, in order to establish and maintain such local republican government in every State, to prescribe, in case of necessity, the rule of suffrage or qualification of voters.

I would here close my remarks but for some paragraphs contained in the elaborate speeches of the Senators from Wisconsin and Oregon. Speaking of the limitations upon the rights of the States, the Senator from Wisconsin [Mr. DOOLITTLE] says:

"One of the limitations upon those rights is that it shall have no power to organize any State government not republican in form, while it may adopt any form of republican government. And the same distinction between a State and its government is clearly recognized in the clause of the Constitution which provides that 'the United States shall guaranty to every State in this Union a republican form of government.' We see by this language a 'State in this Union' is one thing; the form of its government another and different thing. Recognizing the right of a State, under the law of nations, to put on or put off its form of government, it was thought essential to the more perfect union of these States under the Constitution to restrict this power of the State over its form of government so far as to deny its right to put on any other than a republican one. And therefore, when conspiracy and rebellion attempts it, or when usurpation succeeds in doing so, in any State in the Union, the United States not only has the right, but is bound to intervene against such usurpation, and restore to the State a republican form of State government."

With the latter part of this paragraph I entirely agree. I have said elsewhere that the Constitution deals with States as States, and the honorable Senator has spoken to the purpose on this point; but the question whether the power "to intervene against usurpation," and to establish or "restore republican State government" is lodged exclusively in the President, or, as Mr. Madison says, in the General Government, I do not deem worthy of discussion. I regret exceedingly that the honorable Senator should have placed the President so awkwardly, when, in speaking of the "Lincoln-Johnson policy," he made the President, by implication, little else than a usurper. When the Senator assumed that all power was lodged in the President, and as a result, none in Congress, I question his warrant of attorney from the President so to speak.

I will endeavor to discuss the first postulate of this paragraph. It is a most important position. When scrutinized, it will be found the exact epitome of the secession doctrine, originating in the heresy of State sovereignty. I repeat its language:

"One of the limitations upon those rights is, that it shall have no power to organize any State government not republican in form, while it may adopt any form of republican government."

These words, Mr. President, "any form of republican government" uttered at this time, and in connection with the questions of establishing governments in the southern States, become words of most portentous meaning. It is the old idea of the secessionists; has been repeated by them for the last forty years; is precisely in conjunction and rapport with their expressed ideas of State sovereignty; and means with these men of the South the right to adopt such republicanism as Mr. Garnett in his letter to Trescott alluded to, and which was in opposition to democratic or suffrage government. "Rome was a republic," says the South Carolinian, and the features of that government and the organization of society under it is the *beau ideal* of the controlling influences of the Palmetto State. The Amphictyonic League or Council has been called a republican political organization; and, judging it by its mixed medley of contradictions, it amounted in its diversified phases, using the language of the Senator by way of description, to about "any form of republican government." Venice was a republic, described as such in all history, and would be embraced in the Senator's category of "any form of republican government." I will not stop to describe its political organization, its machinery of oppression, but will content myself by saying, that to adopt its principles would lead us over a more "sorrowful bridge of sighs" than that which led from the Venetian palace to the prison of death. "A republic," says the English lexicographer, "may be either a democracy or an aristocracy." It has been this mischievous latitudinarian construction of the term republican government, in connection with the assumed right to adopt "any form of republican government," that has created the political divergence between South Carolina and Vermont, or between Mississipi and Ohio. All that these southern secessionists, now thrusting themselves in the foreground, have ever claimed, or could possibly desire, would be the permission to establish this "any form of republican government" according to their latitudinarian construction.

I suppose that when the Senator talks about State rights and State sovereignty, in connection with this "any form of republican government," he means such degree of "State sovereignty" as shall allow, not the people, but a privileged class in the seceded States, to establish just such republican government as they please.

I have no disposition to play upon words. Time and again, since the commencement of this session, have I heard the same phrase made use of. I understand its meaning well. Had the Senator from Wisconsin been alone in the use of this phrase, "any form of republican government," I would have attributed it to inadvertence; but when it is made a sort of political axiom by secessionists and secession sympathizers, and gravely repeated in this body, I shall endeavor to hold the Senator from Wisconsin politically responsible for the utterance of the exhumed heresy. Had the honorable Senator said, in general terms, "the States of the South may adopt such republican or suffrage government as accords with the spirit of our institutions, and is implied in the fundamental law, and with such practical organization as shall give the best possible protection to the natural and personal rights enumerated and implied in the instrument," I would have wholly agreed with him. But if the Senator should be disposed to take issue with our jot or tittle of this proposition, I pronounce him outside of the Constitution, and just so far at war with its principles.

The labored speech of the Senator from Wisconsin has greatly puzzled me. Though I do not accuse him of an attempt at imitation, it reminds me of a certain philosopher who gave his pupils instruction in the art of "popular persuasion." "If you have occasion to urge an unsound proposition," said he, "you must not urge it directly. You must first command the confidence and the credulity by a preface of self-evident propositions; and when you have effectually done this, you must pop in the sophistry on your audience unawares."

I quote from the Senator's speech the following extract:

"I now inquire, what must be the terms and conditions of peace in order to put an end to civil war in these United States? I answer, the Constitution of the United States is the paramount and indissoluble bond of union and relationship and peace among the several States. An attempt to overthrow that is civil war. Submission to that is peace. Therefore, neither the President, nor Congress, nor the Supreme Court, nor all put together, can make any other treaty of peace or bond of relationship among the States. Nothing short of successful revolution, or of a decision of the sovereign people of the United States to amend that Constitution, can change the relationship between the States one jot or tittle. Though men and parties may change, the Constitution as the basis of that relationship in this Union will remain perpetual.

"What terms had the President a right to demand of these States, or of their people, as conditions precedent to peace and the withdrawal of the Army?

"First, and before all, and as the basis of all, unqualified submission to the Constitution of the United States, and all laws of Congress passed in pursuance thereof.

"Second, the annulling of all acts, laws, and proceedings by which the States made or prosecuted war against the United States, including the rebel debt.

"Third, acquiescence in the situation which the war has brought upon them, including the abolition of slavery, for and on account of which they made the war; for the sincerity of such acquiescence, and as the supreme test of its good faith, the adoption of the constitutional amendment by which slavery, the cause of the war, is surrendered and made impossible, and liberty made sure, by being placed under the guardianship of Congress in every State and Territory forever.

"Fourth, the practical resumption of their political duties, upon those terms, as States in the Union.

"These are the conditions, in substance, upon which President Lincoln almost three years ago announced to the people of these States the terms of pacification to which he pledged the support of the executive Government.

"These are the substance of the terms offered by President Johnson."

Sir, I cavil with none of this preface. It is the following conclusion that I take exception to:

"Several of the States, or the people of several States, have accepted them, and offer now to resume all their political duties as States in this Union, and practically enjoy their rights as such. Shall we allow them to do so?

"If these terms have been accepted by these States, or the people of these States, in good faith, is not the faith of this nation pledged, just as much pledged as by the terms contained in the surrender of their armies?"

In these extracts we have the Senator's preface and his conclusions as to the duty of Congress to recognize their organization, and admit their Senators and Representatives.

Let us now inquire, Mr. President, whether the controlling influences in these States have mentally, morally, unreservedly, and in good faith given in their adhesion to the principles of the Constitution; whether, in their State organizations, they declared and recognized as citizens the whole native-born population on the basis of "equality before the law;" whether, and if so, what provision they have made for maintaining and protecting the natural and personal rights enumerated and implied in the Constitution. It seems to me, sir, that if they have done all this it would supersede the necessity of congressional legislation in establishing the Freedmen's Bureau, its vast and expensive machinery, and, if not imperatively required, its most objectionable power. If the Senator's affectionate confidence in these controlling forces in the South is so well founded, why is it that the President, his generals, and the War Department are debating the question as to whether we shall keep on foot an Army of fifty, seventy-five, or one hundred thousand men to hold them in subjection? Certainly these establishments are most expensive, most embarrassing to the national finances, and all of us alike deplore their necessity. It seems to me, sir, the Senator's peace is a strange kind of peace; and whether it is a peace upon a war basis, or a war on a peace basis, I trust the Senator will in due time inform us.

Mr. President, after enumerating reasons why loyalty alone should take seat in the Halls of Congress, there is one test and touch-stone of the kind of loyalty that should be required. It is that kind of loyalty which cherishes the names and brave deeds of the nation's defenders by land and water. If the offered representative should bear hatred or malice, or feel indifference or coldness toward this class of our citizens, or be barren in affectionate veneration to the memories of those who have fallen, or wanting in a disposition to nourish and sustain the widow and orphan, made such in the defense of the nationality, I would spurn him as a political viper that was not to be fellowshiped, tolerated. We know the political ideas and principles which these brave men defended, and the leaders of the rebellion know it as well as we. We know and understand the *animus* and spirit with which the southern conspiracy was entered upon, and these galvanized rebels know it as well as we. There can be neither peace nor security to the country until this contumacious spirit of the southern leaders is annihilated. There is no necessity of giving it encouragement, and I regard it as a criminal neglect of duty to palter to its humors. There is not a State in the South but which has fit men, and an abundance of fit men, according to the highest standard of qualification for representatives. They have men who have stood through peril for the Union; men of character, and men whose talents would adorn the Halls of Congress. These men alone are entitled to appear here, for they would be an assisting force. They are the only kind of representatives that any section can constitutionally claim. If we would not inaugurate anew the old rebel brawl in Congress, we shall wait until reliable and true men from the South shall be permitted to come and take seats by the side of loyalty.

Most unfortunately for the Senator's position, we have it from reliable authority that the unconditional loyalists, except in few localities, cannot be elected to office; that men if elected at all, must be elected on the strength of their notoriety as rebels; that in the organization of the social circle Union people are excluded, and amenities awarded to the disloyal only; that every arrangement is undertaken and carried out that can by possibility make Unionism unpopular and odious, and treason popular and respectable. Added to this, Senators and members are flooded with letters from southern Union men, begging and imploring that Congress may not leave them in the hands of these Philistines, unprotected, by withdrawing the Army. The provisional governor of Texas is a truly loyal man, and the information comes from a high authority that it is doubtful whether he could stay a day behind the withdrawal of the troops in safety. Governor Brownlow, of Tennessee, is another of the truly loyal Governors of the South. On the 15th of the last month he wrote to the Speaker of the House of Representatives as follows:

"If the removal of the Federal troops from Tennessee must necessarily follow upon the admission of our congressional delegation to their seats, why, then, and in that case, the loyal men of Tennessee beg to be without representatives in Congress. But our members can be admitted, and a military force retained sufficient to govern and control the rebellious. I tell you, and through you all whom it may concern, that without a law to disfranchise rebels, and a force to carry out the provisions of that law, this State will pass into the hands of the rebels, and a terrible state of affairs is bound to follow. Union men will be driven from the State, forced to sacrifice what they have, and seek homes elsewhere. And yet Tennessee is in a much better condition than any of the other revolted States, and affords a stronger loyal population.

"Those who suppose the South is 'reconstructed,' and that her people cheerfully accept the results of the war, are fearfully deceived! The whole South is full of the spirit of rebellion, and the people are growing more bitter and insolent every day. Rebel newspapers are springing up all over the South, and speaking out in terms of bitterness and reproach against the Government of the United States. These papers lead the people, and at the same time reflect their sentiments and feelings. Of the twenty-one papers in Tennessee, fourteen are decidedly rebel, outspoken and undisguised, some of them pretending to acquiesce in the existing state of affairs. In all the vacancies occurring in our Legislature, even with our franchise law in force, rebels are invariably returned, and in some instances rebel officers, limping from wounds received in battle fighting against the United States forces! And yet, I tell you that Tennessee is in a better condition than any other revolted State.

"Others will give you a more favorable account. I cannot, in justice to myself and the truth. I think I know the southern people. I have lived fifty-eight years in the South of choice, and two at the North of necessity."

Mr. President, there is a logic in this statement of Governor Brownlow that seems to me undeniable. It is a logic founded on practical experience. It is the same that led to the policy adopted in Missouri in disfranchising disloyalty, and which has given us a delegation from that State, ingrained in its loyalty, and firm and useful in establishing a just national policy. A class that started the rebellion into growth and attempted a revolution upon the idea that "republican government was a failure;" that "the real civilization of a country is in its aristocracy, which should be made permanent by laws of entail and primogeniture;" that regards popular government as "the mistaken civilization of the age;" that would institute in the place of republican government "an hereditary Senate and Executive" is neither fit to represent or to be represented in any political body, State or national, within the bounds of this Union. After having done and attempted what it has, there is but one right left to it, and even that is a matter of political grace, awarded not by justice, but by mercy. That right consists of bare permission to exist, but on the condition of peaceful conduct, and on strict forbearance to do their country or countrymen any further injury.

I have no doubt, sir, the Senator from Wisconsin might travel South, speech in hand, and be favorably received. If he would consent to denounce the majority in Congress as radical fanatics and enemies of the South, he would be "wined, dined, and feted;" secession ladies would smile on him; his journey be made a continued ovation; and the Senator everywhere the hero of the banquet. But should he go without his recent prestige, and talk as he talked to the people of Wisconsin when he induced them to send him here, I have no doubt he would come back with about the same opinions expressed by Governor Brownlow.

Mr. President, there is a strange idiosyncrasy in some minds, amounting to an almost perverse tendency to delusion. It springs from

a too great generosity of nature; a generosity that confides too far in doubtful sources of information. Mr. Lincoln, in the earlier part of the war, was surrounded and beset by rebels in disguise and rebel sympathizers of every grade. Most of his hesitating policy, so much complained of, was ascribed to this cause. If our present Executive is not more than human he cannot be wholly impervious to the stream of hypocrisy that for some months has been continually poured upon him. A rebel at the White House seeking a pardon, or claiming to be a representative in Congress, is a very different thing from a rebel teaching his neighbors or constituents that treason is a thing to be commended, and disloyalty to the Union Government a peculiar merit. For myself, sir, I have seldom been deceived by the statements of Union men. I have never known a man to rely on the statements of disunionists, where there was a possible motive to disguise the truth, but who was deceived. If loyalty and truthfulness do not go together, and if treason and hypocrisy are not concomitants, then, indeed, have my observations been at random. Senators will excuse me for adopting the homely adage, "If he cheat me once, the fault is in the cheater; if he cheat me twice, I make the fault my own." I prefer to rely on the statements coming from the loyalty of the South.

Mr. President, if it were the case that a compliance with the terms and spirit of the Constitution imposed any hardship on the South, or any class in the South, I might have scruples as to the course to be pursued. As no hardship or injustice is possible I shall now insist to the last extent that allegiance and protection must go together. If the contumacy in the South continues I shall not consent to call it peace. If protection cannot be enforced except by congressional legislation, Freedmen's Bureaus, and standing armies, there is a way, I think, to bring this rebellion to a close. Without further paltering, I announce myself ready to join in the proposed measure of laying contributions upon the seceded States to pay every dollar of the expenses which contumacy adds to the Government. If treason has not already had sufficient luxury out of rebellion, then let its cup be filled. I shall object to imposing these enormous expenses upon the honest, peaceful industry of the country.

I feel impelled, Mr. President, to review the position of the Senator from Oregon [Mr. NESMITH.] He assumes to deny "all power in Congress or the President, or in both combined, to make a State constitution or to dictate any provision which shall be contained in it." He assumes "that a constitution must be wholly made by the people over whom it is established, and can be made or amended by no other persons whatever." This, sir, is the doctrine of "State sovereignty" with a vengeance. It is the ultimatum of all that was ever claimed by the secessionists. It was the precise doctrine to which they attached their sliding scale perversion of the phrase. "Governments can be instituted only by the consent of the governed." It was from this "half-way house" that the secessionists started on their journey through the political wilderness of the confederacy. The Public Functionary at the White House said, "You have no right to secede, but if you do secede, the General Government has no power to restrain you." With the commencement of the war commenced the construction of the Constitution and the powers of the General Government under it. We had generals in command who construed and interpreted the Constitution as Mr. Buchanan did, and who fought in precise accordance with their interpretations. We had other generals who interpreted differently and fought differently. We had men in Congress who agreed with Mr. Buchanan, and who talked and acted like him, and others who thought, talked, and acted differently. We had a demoralized political party that agreed with its old leader, while the bulk of the people said, "This will never do." For four years we were engaged in construing the Constitution under the arbitrament of the sword. As the result of the conflict necessity compelled the rebels to lay down their arms. The terms of the surrender were "obedience in all things to the Constitution." This involved the surrender of the doctrine of "State sovereignty," the right to secede, and all other political heresies that had involved the nation in civil war. We have paroled the rebels, but we have not released them from any obligation to the Union. Their political heresies we have never released or paroled. We hold these heresies to-day as prisoner of war. They have not in any manner been amnestied, and it has become the duty of Congress to determine what shall be done with them. In dealing with these heresies, I am at no loss for power in Congress, for I read the Constitution thus:

"Whereas we, the people of the United States, and we, the people of the several States acting through the State authorities, for the purpose of securing a more perfect Union, and for the purpose of avoiding any tendency to disintegration by reason of State governments dissimilar in principle, do hereby ordain and agree that the United States shall guaranty and make secure to every State in this Union, and every State that may come into the Union, a republican form of government; which term 'republican form of government' shall be construed to mean popular suffrage government, and no other. It is further ordained and agreed that the natural and personal rights enumerated and implied in the Constitution are and shall remain inviolate, and that neither the United States, nor any State government or authority shall subvert or impair them. And it is further ordained and agreed that the General Government, acting for and in behalf of all the States, and of each State, shall have both a restraining and constraining power over every State, and such power as the exigency demands, to bring every State into compliance and accord with the principles of this Constitution. And it is further agreed, ordained, and established that the Constitution of the United States, and all the provisions thereof, though not written in the State constitutions, shall, nevertheless, be and remain a part of the constitution of each State, and shall form the common fundamental law of every State, and shall be and remain the supreme law in all the States; provided nevertheless, that each and every State shall have the right and power to adopt and establish such other provisions in its fundamental law as accords with and does not in any manner conflict with said common fundamental law of all the States."

Mr. President, how does it happen that men in looking at the governmental framework of the whole country overlook the fact that the Constitution of the United States forms a part of the constitution of each State, and what is more, the vital, sovereign, and controlling part of the fundamental law of every State? Sometimes a part of the Union Constitution is written out and ingrafted in form on a State constitution by what is called a "bill of rights." This adds nothing to the binding character of the provisions. A repetition of these fundamental provisions, as applicable to a locality, is merely incorporating what before, if I may use the expression, was the politically omniscient and omnipresent sovereignty, the national fundamental law. No State can adopt anything in a State constitution in conflict. When it is assumed that Congress cannot dictate to a State what its fundamental law shall be, I answer, the Constitution dictates: the Constitution makes the mandate on all the States; and the same Constitution commands Congress, as the tribunal of States, to carry that mandate into execution. This power of Congress to superintend and control the governmental framework of all the States, given, not only in express terms, but by all implications arising from political necessity, not only controls the political organization of States, but the legislation of every State. Let Senators cast about and see whether human ingenuity can suggest a natural or personal right that is not established and provided for in the Constitution. Let Senators again cast about and see whether human ingenuity can devise or invent any governmental machinery that could make transgression on these rights legitimate. These natural and personal rights are State rights, and all the legitimate sovereignty the States have, or can have, is to protect them under equal laws. It is thus, Mr. President, that I read and construe the Constitution and the power of Congress under it; and it is thus I propose to deal with the doctrine of State sovereignty and the reserved powers of the States.

If, in the restructure of southern State government, with its altered condition of citizenship, "neither the President, nor Congress, nor both together, had any power to dictate any provision which should be contained in the State constitutions," I should be at a loss to account for the conduct of the President. The Executive most certainly has assumed to dictate, or the people are very much misinformed. The President has said, "You must do so," and "You must do so," and "You must do so and so, or your work will not be accepted or ratified." The President, it seems, has practically agreed with Mr. Madison, who, in commenting on this provision guarantying republican government, says:

"In a confederacy founded on republican principles, and composed of republican members, the superintending government ought clearly to possess the authority to defend the system."

This great statesman, who is said to have drawn the provision, had no scruple in declaring that the superintending government, in case of necessity, "had the power to alter State governments without the concurrence of the States themselves." It seems to me, sir, that as soon as a State is outside of the Constitution, and in contumacy with it, the restraining and constraining power of the General Government attaches; that if the contumacy is persistent, it calls into requisition the military power of the nation; that if determined resistance follows, it may in the end call for the last degree of rigorous war. After having practiced for four years on this platform of right and power, we are now told in effect that the arm of the Government is paralyzed, and that it cannot consummate the work which the rebellion has imposed. Sir, I believe in no such doctrine.

Mr. President, I am no consolidationist in the objectionable sense in which that word has been employed. I am for the largest exercise of power by the States, and all the power that comports with the Constitution of the Union. I am a believer in the doctrine that such power properly and rightfully belongs to the States, and that the nature and design of the whole governmental framework was to permit local administration in all matters that were not of necessity thrown upon the General Government for strictly national purposes. I would be opposed to taking from the States any power they could rightfully claim, and no one regrets more than myself the painful necessity of congressional legislation to effect under circumstances now existing, what cannot at present be otherwise accomplished. Not a man in Congress, I presume, but would rejoice to see accomplished through local State legislation and State administration all that Congress can do, directly or indirectly, by restraint or constraint, in carrying out the principles of the Constitution. What I am contending for, is the power of Congress to force local State government into compliance with the sovereign law. This I claim in the most enlarged and liberal sense, and I should be unwarranted in consenting to yield one "jot or tittle" of that power; for experience now tells us that we know not when nor under what circumstances it may be needed, nor how imperiously its exercise may be demanded.

In standing here to vindicate the principles of the Constitution and the power of the General Government under it, I trust I shall not be accused of fanaticism. If it is urged that I am radical, I reply that I intend to be just as radical as the Constitution. It has often been said by unthinking men that the first

clause in the Declaration of Independence was a mere rhetorical flourish without any practical meaning. It may be said by the same class that the clause in the Constitution that guaranties republican government also has no practical meaning. That assertion, however, will be of little avail with a people who have suffered so much and who have so many safeguards to provide for the future. This provision has grown to be one of the most important provisions of the fundamental law. It is the restraining and constraining power that keeps the parts confined to their spheres and takes away the causes of jarring dissensions. It was designed to keep all political authority restricted to the protective principle. However expanded the nationality or jurisdiction might become, it was intended that expansion should carry with it the highest and best system of protective government. This was known by our fathers to be, as we know it to be, the only effective bond of Union. On the protective principle must we build the foundations of republican government, for that is strength, that alone is peace, that is progress. I am of the opinion, sir, that when the power of Congress, as it exists under the Constitution, is fully and widely comprehended by the people, and acknowledged and recognized by the people, it will do much to hasten the settlement of all difficulties. The very prestige of this power will have the same effect to keep the peace internally as the prestige of national power has in keeping the peace with other nations.

Mr. President, it has been said, and repeatedly insinuated in political circles, that the Republican party has performed its mission; that the great Union party of more recent formation has ended its work; that the rebellion has been put down, and that the party that has carried the nation through its perils thus far is not adapted to the consummation of a conciliatory peace. If such a peace is meant as would compromise with the pro-slavery spirit, as would aim at the reëstablishment or continuance of local despotism in the South; that would deny protection to the natural and personal rights of citizenship; that would bring the enemies of the Government South into effective alliance with the forces of doubtful loyalty in the North; then, sir, I trust that the great Union party is not in the frame of mind to negotiate or establish any such peace. The balance of the mission of this party is very different. It finds manifold difficulties of the same nature of those which troubled our fathers at the close of the Revolution. It finds these difficulties multiplied by a many times multiplied defection of political forces; by a vast national debt which these forces would repudiate; by a basis for illegitimate claims against the Government, that, if allowed, would destroy our national securities and prostrate the nation in finance; and added to this, the desperate efforts that will be made to undermine the political morality of the legislative and departmental powers of the Government. Our public affairs are, and will continue to be, in a critical situation for years to come. The danger does not lie with the loyal people of the Union, for they who have stood by their own great cause will not forsake it unless they are paralyzed by a betrayal here—here, at the seat of Government. It will be here, in the Halls of Congress, and in the departments of the Government, if betrayal comes at all. Were it competent for me to send forth a word of admonition to the people, I would say to them: "Stand to your own great cause with continued fidelity. Let us bear our burdens with patience and our griefs with fortitude. Send into the Halls of Congress none but such as you know you can trust, while the pledge is given here that none will be permitted to enter, with the assent of Congress, who would betray your cause."

Mr. President, I stand here no less the friend of the South than the friend of the North. I yield to no man in honest desire to do that which is best. We have all been instructed by common calamity, and if I have dealt plainly with the causes that led to it, I have neither spoken in malice nor intentionally stepped beyond the bounds of a just propriety. If the South choose to liberalize her policy, to put its industrial forces into requisition on the principle of a just mutuality, to invite capital, enterprise, and skill by amenity, to make the South flourish as it is capable of flourishing, its people socially and politically contented by improvement in the condition of its society, no one will rejoice more than myself, and no one will labor more earnestly to promote by any possible means such condition. I will assume, sir, that I speak the sentiment of the majority in this Congress when I express the desire that the seceded States shall be restored at the earliest possible day consistent with the public security. That time will depend on the greatly altered frame of mind that must come over the people of those States. I hope the time may soon come when the South can say with pride, "The strength of the North is my strength," and that the North can say with confidence, "The strength of the South is my strength." I trust that all the States will be enabled ere long to say, "We have built our governments, State and national, on the immutable principles of justice. On this platform must we all stand, assured that such only can be made the foundation of stable government." I assume this to be the *ultimatum* of the majority in Congress and the voice of the Union party that elected it.

While I am no advocate for the centralization of powers that could by possibility prove dangerous, I am the advocate of such central power as may operate with effect against local despotism; be adequate to diffuse simple justice, and make it extend to every political community, however remote from the center. This is all I claim; and this much, I think, is made more and more apparent the more we study the nature and design of our Government. To the student of political philosophy our Government will hereafter appear to have no feature or power of oppression, aggressive or permissive. When this is practically realized, and practically acknowledged, if such things be permitted to those beyond the grave, the five great men who stood up before the continental Congress and proclaimed a new political theory may look down and say, "It is accomplished! it is accomplished!"

Mr. JOHNSON. I rise, Mr. President, for the purpose of addressing the Senate upon the resolution before us, and upon the cognate questions which belong to it; but I feel almost physically incapable of doing it so as to attract the attention of the Senate (if I should be able to attract the attention of the Senate under any circumstances) at this time of the day; and I should be very much obliged to the Senate if they would postpone the subject until to-morrow.

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) The Senator from Maryland moves that the further consideration of this resolution be postponed until to-morrow.

Mr. FESSENDEN. I should like to know how long it is to be postponed, as I desire to get some sort of an idea when we may expect to get a vote. I of course have nothing to say against the wish of the Senator from Maryland, for I repeat, I do not see how gentlemen on this side of the Chamber who were so willing to accommodate one of our friends last night can refuse to accommodate the Senator from Maryland to-night. I shall vote as I did before with reference to an adjournment, because I think we ought to settle this matter at some time or other; but as I have been overruled by the Senate once on that subject, of course I consider myself as instructed to let this debate go along to any length that gentlemen may choose. I tried very hard to get it through last night, but I found three of my brethren on the committee voting against me and one other absent.

Mr. ANTHONY. I do not feel any embarrassment on the ground that the Senator from Maine states, for I voted against the adjournment yesterday, even to gratify my friend from Nevada, and I shall vote against adjourning for the accommodation of any Senator, if the Senator from Maine insists on going on with this resolution. I think there ought to be some time fixed when the vote shall be taken. If that is not done, I think we had better leave this subject and attend to some other business.

Mr. FESSENDEN. I should like to know from some one on the other side of the Chamber whether there are other gentlemen there who desire to speak on this subject, because, if we are to adjourn from day to day without knowing when we are to get a vote, we may as well abandon the whole thing.

Mr. STEWART. I desire to say something before the debate on this subject is concluded.

Mr. FESSENDEN. Is the Senator ready to go on?

Mr. STEWART. I had not anticipated going on now.

Mr. FESSENDEN. If the Senator is ready to speak, I suppose he may just as well go on this evening.

Mr. STEWART. I would prefer not to go on now.

Mr. SHERMAN. There are some reasons why the military bill ought to be considered as soon as possible; and why not go on with that now?

Mr. FESSENDEN. There is a vast deal of business awaiting our action; and if Senators desire that this resolution shall be brought to a conclusion, they must stay here and try to dispose of it. I shall certainly make no objection to-night to a postponement to accommodate the Senator from Maryland, for I took the liberty of stating yesterday that if Senators on this side chose to adjourn for the accommodation of one of our friends, they must necessarily do it for one of our adversaries. They chose to do it, and therefore I cannot see how the thing can well be helped now; but I shall make no motion with regard to it. Gentlemen can do as they see fit.

Mr. HENDRICKS. In answer to the question of the Senator from Maine, I will say that I do not know what gentlemen on this side of the Chamber are going to speak, but I think the Senator from Delaware [Mr. SAULSBURY] intends to speak upon this resolution. I am not prepared to say beyond that.

Mr. FESSENDEN. I will make one more effort. I wish to say to Senators on this side of the Chamber that if they adjourn over until to-morrow, I shall to-morrow ask them to stay until the matter is finished, let it be as late as it may.

Mr. HENDRICKS. I think that would be rather an unreasonable proposition on the part of the chairman of the committee.

Mr. FESSENDEN. Very well, sir; I will try it, reasonable or unreasonable.

Mr. HENDRICKS. If this were legislation and he had charge of it, I should not think there would be any question of his right to ask that of the Senate; but this is a simple proposition to tie the hands of Congress. Congress proposes to tie its own hands, as though it were afraid it would do something that would not be satisfactory to itself. I do not see any occasion (if we are to have this kind of proposition) to crowd the matter. If the Senator from Delaware wants to speak, I shall certainly not expect to see him required to speak at any unreasonable hour. The Senator from Maryland to-morrow will address the Senate in the morning, and the Senator from Nevada——

Mr. FESSENDEN. Next morning, and the Senator from Delaware the next morning and the Senator from somewhere else the next morning.

Mr. HENDRICKS. I do not know about that. The Senator from Nevada [Mr. STEWART] expects to speak after the Senator from Maryland. I should not want to see the Senator from Delaware crowded into a late hour of to-morrow evening to make his argument.

Mr. STEWART. If there is to be no other time except to-night for me to talk, I will go on now.

Mr. FESSENDEN. Very well, sir.

The PRESIDING OFFICER. The question is on postponing the further consideration of this resolution until to-morrow.

Mr. JOHNSON. I will withdraw my motion if the Senator from Nevada is willing to go on.

The PRESIDING OFFICER. The motion being withdrawn, the Senator from Nevada is entitled to the floor.

Mr. STEWART.. Mr. President, it is with some embarrassment that I rise to address myself to the very important subjects that are before this body. I should not regard the resolution under consideration as a matter of any great consequence if it stood abstractly and alone, for I do not believe that it would have any binding force whatever upon anybody. But at a time when the whole country is in agitation over conflicting opinions between Congress and the Executive; at a time when the voice of the American people and the hearts of the American people are uplifted for peace; at a time when we must either have peace or destruction; at a time when the very existence, perhaps, of our free institutions depends upon the calm, just, and patriotic disposition of all questions, a resolution coming from the committee of fifteen is a matter of grave consideration, and demands from every one a careful examination. We should investigate this matter and ascertain whether it will have any bearing toward harmony and peace, for if each step that is taken now is not in the right direction it may do great harm. We are, as it were, in this great contest like a little rivulet. The contest has commenced here in Congress; it is now like a small stream on the mountain side, which can easily be turned aside with the foot or with the spade in a moment; but if we let it go on by throwing slight obstructions in the way of the current of peace, until accumulated difficulties form a torrent of discord, sweeping us down into an ocean of trouble, it may be past human power to avert the calamities which will then threaten our country.

I regard this resolution (and shall proceed to give my views on it) as a stumbling block, as an obstruction, as something that will retard peace and retard Union. It is said in its defense that it is simply declaring that Congress has power, that this power is in the Constitution of the United States, that it has been repeatedly declared by acts of Congress and resolutions of this body. If that be true, why throw this new element of discord now into our already confused deliberations. There are differences of opinion about it; but if those who have brought forward this resolution as a declaration of power are correct in supposing that the power is ingrafted in the fundamental law, the Constitution of the United States, why is this agitating question to occupy the attention of Congress? That Congress has the power to exclude southern members from seats here is best proved by the fact that it has done it for the last twelve months, and still continues to do it, notwithstanding the war has ceased. The world knows that we can do it, because we have done it. The first thing when I came into these Halls was a proposition to admit Tennessee and Louisiana, and I believe the honorable Senator from Illinois was anxious then that they should be admitted. I voted for the postponement of the question, for the reason that I was not then certain that the organizations there existing would be able to sustain themselves and maintain their own existence. I was not sufficiently familiar with the question, and I voted to postpone the consideration of the matter. We did not let them in then. We proved our power to keep them out. They have come here again at this session and asked for admission. They have not yet been admitted, not even within these Halls, although some of the members they have sent were always truly loyal and served in your armies or were distinguished citizens who had been tried in the fiery furnace of secession, tried where rebellion raged with all its fury, and had come out true to the Union. Even they are excluded from this Hall. Have we not the power? Has not that been sufficiently vindicated? I think the world will answer, yes. Then, if you have the power to keep them out, if you have done it, if you have been exercising that power, why declare that you have it? If there is no good result from a proposition of this kind, there may be evil.

There are with regard to the ultimate result sought to be arrived at by this proposition differences of opinion. I have said before, there are two sets of opinions in regard to the mode of allowing the States to come back. There is a difference of opinion among good men. That difference of opinion threatens the very destruction of the country. I have felt that embarrassment ever since I have been here. I came as thoroughly desirous of having this Union restored upon just and equitable principles as any man; and I am now desirous that all the States should be represented in these Halls by loyal men. I yield to no man in that desire.

I have sustained this Government to the best of my ability throughout this war, and from its very first inception I have done it under all circumstances and on all occasions; and now in this issue I care not for self; I care not for the plaudits of men. If I can aid in contributing to bring about a restoration of these States and save this country from further war and future anarchy; if I can aid in securing what has been accomplished by our glorious warriors in the field; if I can aid in preserving that for posterity; if I can aid in the consummation of the prayers of those who love this country, it is my duty to do that; and the smiles of power or the frowns of enemies or of those who may desire to detract from my motives are nothing to me. I love my country more than party. I love my country more than self-aggrandizement. I love my country more than miserable forms. If we can get the substantial thing, I shall be satisfied. But upon this proposition there is a diversity of opinion. It must lead to a conflict of opinion, and its only operation, if it have any operation at all, is to delay union and peace.

All profess to desire the same result. I hope their professions are sincere. I am bound to take it for granted that both Congress and the President desire to arrive at the same result. They want the Union restored. They want the governments of the southern States in the hands of the loyal men. I well recollect when this controversy commenced. It was before I came here; it was at the time Mr. Lincoln issued his proclamation of reconstruction, which was, I think, in July, 1864. That proclamation was telegraphed to Nevada, where I live, and where we were struggling to maintain the Union cause; and I recollect the opposition that that policy met. I remember the powerful protest of the Senator from Ohio [Mr. WADE] and Mr. Davis, of Maryland, and the discussions upon it. I recollect going upon the stump and saying that these were minor controversies; that what we wanted was the Union; that the Union men would stand together, and go through the war successfully; that these matters were details which we could arrange afterward, which would not deprive us of union. When I came here at the last session there was a controversy on these subjects; but I had no idea that Union men would not be willing to yield their peculiar notions sufficiently to enable us to accomplish the great object.

Mr. Johnson has gone on with the same plan, except that he has restricted it somewhat; he has restricted the number of persons to whom amnesty was extended by Mr. Lincoln. Mr. Johnson has excluded many from the right of voting and the right of holding office who otherwise would have been entitled. He has added some eight conditions to those which Mr. Lincoln prescribed. Organizations have grown up in the southern States by the non-action of Congress. The war of rebellion was overthrown; the President must do something; he was not a dictator; he simply took the issues of the war, and said to these men, "Frame your governments upon this basis and come to Congress for representation." That is as far as he went.

Now, while I have not heard any substantial argument against what he did, while I have not heard any substantial argument against the forms of government set up in the southern States, I have constantly heard argument after argument for three long months to show, notwithstanding all this, that Congress had some power which had been overlooked in some way and was not being brought into proper exercise. I have heard argument after argument day after day here to show how we could keep these States out of the Union, but I have waited in vain for arguments to show how we could get them in. I have not heard the wisdom of the Senate on the question how we can get out of our present difficulties. Able and learned arguments have been adduced here to show that Congress can keep the States out. That we hear daily; and we not only hear of the power of Congress, but we see it, because Congress actually does keep them out; and after I thought that argument had been made so often that everybody was satisfied that Congress had this power, here comes a proposition to declare the existence of the power.

Now, I propose to examine some of the arguments that are adduced on the part of the President in support of his policy. I am not a stickler about the way these States get back. It is a sufficient objection to this resolution that it does not do any good, and it may do a great deal of harm. It is delaying the settlement of the question, and my only excuse for talking about it is that as we are to have delay for the purpose of talking we may as well talk in connection with this resolution as any other dilatory measure. As long as we are to have dilatory measures, we may as well talk on them.

It is said that this resolution is a proclamation of the power and an assertion of the right of Congress to declare when a State is entitled to representation. The President denies that Congress has the power to determine the question whether a State is entitled to representation in the Senate of the United States, for the Constitution expressly provides "that no State without its consent shall be deprived of its equal suffrage in the Senate," and the whole instrument is based upon the right of each State to representation in Congress, and that right as an abstract right cannot be taken from any State because its people have been in insurrection or for any other cause; but the abstract right must remain in each State as long as the Constitution and Union exist. But he does not say that therefore you have no power to keep traitors out of Congress. He says that all the acts of traitors in a State are void, that they cannot take a State out of the Union, but still you are to judge of the qualifications of your own members, you are to investigate the subject, and he says that covers the whole question. He says that you may determine upon the elections, returns, and qualifications of members, and in determining upon their election of course you will determine upon the qualifications of the parties who elected them. If the election is of a member from a congressional district, cannot the other House of Congress investigate the matter to see if the parties who cast the votes and elected the member had the right of suffrage? If the election is of a Senator, cannot we inquire whether the parties who cast the vote for him were acting in obedience to the laws of the United States and qualified to vote in the Legislatures of the States where they did vote? The respective Houses can inquire into the qualifications of the voters who send the parties here, whether they be State Legislatures, or whether they be the constituents generally in a district. There is no doubt about that; and the same result can be accomplished in that way, in pursuance of the Constitution, that is sought to be accomplished in another mode.

It seems to me that the power to suspend the right of a State to representation may imply a dangerous power and may imply a right to suspend it for any reason that Congress may see fit. That is the danger about it. The power to suspend the right of a State to be represented

may hereafter be a terrible precedent. The President wishes to avoid that. Mr. Lincoln during the whole war carefully avoided denying the right of a State to representation. He constantly denied that the Union was dissolved, that the laws admitting the States had been abrogated, that any of their acts while in rebellion were legal so far as to take away the right of a State to representation. He said that the people who rebelled had no right to representation, they were not in harmony with the Government, but they had not overthrown our Government, and that was a very material consideration that was carried all through the first part of the war. It was regarded as a very important point never to be yielded. Mr. Lincoln and his Administration carried it through. Every proclamation issued by him speaks of the insurrection of the inhabitants and not of the States. We have gone on thus far, and if we can get through without announcing that dangerous principle that these acts of secession were really valid, if we can get these States back in any other way, if we can have loyal men to represent them and reconstruct them without acknowledging that the rebellion was a success, it is regarded by Mr. Johnson, and it is regarded by a great number of loyal men, as an important proposition.

There is no provision in the Constitution conferring such a power upon Congress. No authority of the kind is expressed in that instrument, nor can I find any place where it is implied by just implication. In fact it was never anticipated that States would attempt to go out of the Union; and when they attempted to do it, we said that not being anticipated in the Constitution, that they could not do it legally, and any attempt on their part would be absolutely void. We started with that idea. This was simply a continuation of the discussion that commenced while Jeff. Davis was in this Hall. We said that they could not break the laws of Congress, that they must still be enforced. Whether right or wrong, we have continued on that idea. I say it is not necessary or proper to change it and get up a different declaration unless some great good can be accomplished or some great necessity exists for it. If there has been any action of Congress upon the subject, admitting that acts of secession were lawful or valid, I simply say that it was without warrant of the Constitution or laws, and that if we have got any precedents of that kind they are sufficient without the aid of a resolution which has no binding force upon the Senate.

I have another objection to this resolution, and it is a very important one. The resolution upon its face contains an untruth. The main recital of this resolution is not true in regard to a fact which has been heretofore regarded as important, whether it be really important or not. I do not regard it as so important as some do. It speaks of the eleven States which have been declared to be in insurrection. I ask when and by whom were eleven States declared in insurrection? The proclamation of the President, issued on the 16th of August, 1861, did not declare the States to be in insurrection: but Abraham Lincoln, acting upon the same theory which the President is to-day carrying out, said, "I do hereby declare that the inhabitants of certain States and parts of States," naming them, "are in a state of insurrection against the United States." Now, whatever you may do here which you admit has no binding force or effect on anybody, I protest against the recital of a fact which shall change the condition of things as they existed at the time of the issuance of that proclamation, or that shall place our late President in a false position in regard thereto, because if there was any point upon which he was careful it was that. I have examined all his proclamations, and he uniformly speaks of the insurrection of the inhabitants of the States. He always claimed that every loyal man in those States had a right to the protection of the laws of Congress, and that if there was but one tenth of them loyal they might form a State government. That I thought was of doubtful propriety, because I did not believe they could maintain it, but he all the while contended for the rights of those who remained loyal. He said that the inhabitants of a State might rebel, but the State never, and that all the laws of Congress, and the solemn compact of the Constitution should ever remain as a shield to every loyal man who might dwell in the South. That was the theory, and it is not a very preposterous one. It is the one on which we fought the war. It is the one that we inserted in our platform; and I protest that that proclamation of the 16th of August, 1861, shall not be made to declare that President Lincoln ever said or intimated that a State was in rebellion, for the language of the proclamation is as I have read. He declared the inhabitants of certain States and parts of States to be in insurrection.

Now, if this resolution was made to conform to the truth how would it read? It would read thus:

That in order to close agitation upon a question which seems likely to disturb the action of the Government, as well as to quiet the uncertainty which is agitating the minds of the people of the eleven States whose inhabitants have been declared to be in insurrection, no Senator or Representative shall be admitted into either branch of Congress from any of said States until Congress shall have declared such State entitled to such representation.

Now, is that a correct principle? Is it correct abstractly? It has no importance except as a declaration of principle. It is not legislation. It will have no legislative effect. There is no other excuse for it except its purity of principle. It is simply a declaration of principle. It is not to accomplish any ulterior end. It is simply brought in here as a grand declaration of some important principle. In passing bills, when there is a desire to reach some legitimate end, I can excuse inaccuracies in the statement of reasons; but if we are going to have a broad declaration of principle, I want it not only to conform to the truth, but to be a principle upon which we can stand.

Then, if this resolution be correct in principle, it means that if a portion of the people of a State go into insurrection that State shall be excluded from representation in Congress just so long as Congress may elect. I do not say that that principle ever will be, and I hope it never may be, applied to any other section or to this section again; but I ask you, are you willing to apply it to other sections? If a part of the people of a State rebel, you say Congress may then exclude loyal Representatives from the Halls of Congress so long as they may elect to do so.

Suppose the inhabitants or parts of the inhabitants of a State should be declared by the President to be in insurrection, and there should be a collision between the Congress and the President; suppose the President should happen to declare some section particularly hostile to him or to his party to be in insurrection, the question as to the right of the State to representation would be open and Congress would possess full power to exclude it. It does seem to me that this resolution is not of sufficient importance as an enunciation of principle that we should take up the time of Congress to consider it for a very long period at this important crisis. Why take time now to consider a resolution which its friends admit amounts to nothing, and which certainly cannot be maintained in point of principle? Here I may say that it is fortunate for the chairman of the committee of fifteen who reported this resolution to the House that this new doctrine was not understood, or at all events not applied, at the time of the "whisky insurrection" or the buckshot war in Pennsylvania.

Is it not a dangerous doctrine to admit, first, that a State may lose its right to representation, or, in other words, go out of the Union, and second, whether the State has done so or not is a matter which Congress may determine? Jeff. Davis said that a State could go out of the Union, and that the State was the proper tribunal to determine when that fact was accomplished. That roused the whole loyal heart of the people of the North. They rose against it. They fought it in these Halls. Mr. Lincoln came into power. You undertook to deny it, and it was the intensity and logic of that discussion that was then had which went through this rebellion and saved the country. This resolution says, in fact, that a State may go out of the Union, but that Congress is the sole judge when that fact has been accomplished. That is the difference. I do not care much whether the State judges or Congress judges. The Constitution is fixed; they cannot go out. I deny their power to go out, and I deny the power of Congress to put a State out or to force a State out, and I also deny the power of rebels and traitors to do it. We did deny it, and when they attempted to do it and submitted it to the arbitrament of war we decided the case on the battle-field that the laws and the Constitution of the United States were supreme and paramount and could not be destroyed. I do not want to take that declaration back. I have gotten into the habit of arguing it in that way. I have been through political campaigns and met copperheads on that issue, and I do not like to be compelled to recall my words and admit that I am wrong, because there are many men who can understand this issue and meet us on it.

It may be said that Congress is a safer tribunal before which to try that question than a single State; but are we certain that the majority of Congress may not some day, if this principle shall be maintained and become a precedent, find it convenient for party purposes, or to gratify sectional prejudices, to make other divisions or exclude from the Union other States besides those referred to in this resolution? The principle is a dangerous one; and if the resolution be adopted it may do more harm than will at first appear; but if we are simply here to declare principles, and not to legislate or take action, I say declare correct principles. It has cost too much blood and treasure to vindicate the integrity of the Union and to establish its indivisibility for us to admit that such a thing could be possible under any circumstances.

But it may be said that denying the right of a State to representation is not denying the fact that the State is in the Union. I ask what is the difference? Would any Senator here say that if every man in the State of South Carolina was as loyal as the Senator from Michigan had been, as true and as faithful to the cause as he has been during this war and after the rebellion was over, although during the war they had been overcome by treason, and elected the honorable Senator from Michigan and sent him here, that he should not be received? If they were every one that way, I ask, would you think of excluding him? I think not. I say, how can a State be in the Union and not be entitled abstractly to representation, that being the object for which the Union was formed?

But we are told by some that the States whose inhabitants have recently been in rebellion are not States at all; but that question can hardly arise under this resolution, for the resolution itself calls them States, and I shall not question the truth of that recital; for the argument of the Senator from Wisconsin, [Mr. HOWE,] although an effort of marked ability, failed to convince me that any State has been either killed or committed suicide, and since that Senator's great effort the Supreme Court of the United States have added to the executive branch of the Government their authority to the effect that the Union has not been dissolved. Upon the breaking out of the rebellion that court declined to hear cases from the States whose inhabitants were declared to be in rebellion, but not for the reason that those States had gone out of the Union.

If this discrimination between a State and its inhabitants is foolish, why does the Supreme Court keep up that distinction? The Supreme Court all the while calls them States, but speaks of the interruption of process by the insurrection of the inhabitants, and assigned that as a reason why it would not hear cases from those States. The Supreme Court said that the inhabitants of certain States have been declared to be in insurrection; we cannot carry out our

process there, and consequently will not hear those causes.

That is what they said when the rebellion broke out. They did not base their reason, mark you, on the fact that the States had gone into rebellion, but that the inhabitants of the States had gone into rebellion, and they could not issue process. That is the reason why they did not hear cases during the rebellion.

But at the present term the court has set several causes from Louisiana and other southern States, which could only be done upon the supposition that these are States in the Union, for the Supreme Court could only exercise such jurisdiction as is conferred by the Constitution and laws of the United States. The Constitution and the judiciary acts under which the court entertains jurisdiction in these cases apply only to States, as the court have repeatedly held.

The jurisdiction that this court exercises over the Territories is altogether distinct, and is derived from that clause in the Constitution which empowers Congress to make all needful rules and regulations respecting the territory or other property belonging to the United States; and the court has frequently decided that before any jurisdiction could be exercised in a Territory, Congress must expressly authorize the exercise of such jurisdiction by law. I am not aware that Congress has passed any law by which a case could be brought either from the Territory of Tennessee or Louisiana, and no law can be found authorizing the court to hear and determine cases to which I have referred unless they originated in States in this Union.

Will you say, if they are States, that all States have not the right of representation as an abstract right? There may be no one worthy to represent them; and, unfortunately for the loyal men of the South in many sections, they did not have loyal men to represent them. It was unfortunate for us that we had not the power to succor them and guaranty to them representation. It was unfortunate for us that we had to turn them over to be slaughtered by the cruel conspirators. But I deny that they lost their citizenship. I deny that the State of Tennessee was ever out of the Union. I deny that the President of the United States is or ever has been an alien. I deny that Maynard is an alien. I deny that Brownlow is an alien. I deny that any loyal man who stood firm in the darkest night of the rebellion is an alien. I will not vote for any motion, rule, resolution, or other proceeding that can imply such a thing by the most casuistical argument; and I say that this resolution is capable, I think, on a fair construction, but it is capable at all events of the construction that the Union of the States have been dissolved. There is no use in throwing these irritating questions into the present already too much excited state of the public mind

But it is said, to what does this argument lead? Have we not the power to prevent traitors and rebels from taking seats in this Senate? Jeff. Davis said we had no power to make war upon them unless we admitted they were a foreign power. They said we had no right to make war unless we admitted they were out of the Union, that we could not make war upon a State. We replied to Jeff. Davis, we do not propose to make war upon a State, but we will make war upon traitors. That is the way we met the argument. That is the way the Union soldiers met the argument. Now, you say that if we admit that a State is in the Union, and that it has the rights of a State, we cannot keep traitors out of Congress. I deny it. It does not follow. The Senate has no right to allow traitors to come into this Hall.

Mr. RAMSEY. Why not?

Mr. STEWART. Because they are not qualified. We have a right to expel them after they come here. We are bound to do it. If a man is elected by a disloyal organization, in violation of good faith to the Government, you have a right to inquire into that as a part of his election. You have done it and can do it without any congressional action. While I remain here, I intend to do it. I intend to see that disloyal persons are excluded, so far as my vote goes, but I do not intend to admit that the logic of Jeff. Davis was correct.

The power of the Senate to protect itself is too well understood for anybody to doubt it. It can just as well protect itself as it can with the other House to help it. Suppose that a person should come here claiming to be a Senator, and the question should arise whether the Legislature that elected him was loyal. Suppose that some of the members of that Legislature had been convicted of treason and were not entitled to seats in that legislative body, but were mere usurpers in it, and his credentials were here, would we not investigate the fact to see whether he obtained the requisite number of legal votes to elect him, and would we call upon the House to help us in the decision of that question?

You say that otherwise it may happen that a State may be represented in the House and not in the Senate, or *vice versa*. May it not happen that certain districts of a State are entitled to representation, and the whole State not be entitled to representation? Suppose that a district is truly loyal, as has been the case in several instances; suppose that every man, woman, and child within that district is willing to stand by the flag, and a member is elected by and goes to the other House from that district, have the laws of that State been so abrogated, is the State out of the Union so that that House cannot investigate the fact whether his loyal constituents shall be there represented?

It may be that the majority of a State may be loyal, and may organize a loyal State government, and there may be districts in that State that cannot be represented, or districts that will not send proper men. I deny that when you admit the right of a State to representation you are bound to admit all the delegation from that State at once. You are to investigate the cases of the persons who come here, and see whether they come up to your standard. Each House can do that better separately than they can jointly, for a joint rule may not work well. Do you pretend to say that if there is a district in the South that has always been loyal during this war, Jeff. Davis had the power to deprive those people of the right of representation? If so, why? Because he has abrogated the laws of Congress; and for no other reason. Davis never did have control of East Tennessee. He was simply a raider there. Those people stood out from the beginning to the end. They fought treason where it was darkest and thickest. Do you say that, notwithstanding he could not quench their insatiable thirst of liberty and loyalty, notwithstanding he could not make them false to the Union by burning their houses over their defenseless heads, and by robbing them of their property, he could render them incapable of enjoying the privileges to which they are entitled under the Constitution under which they live?

If these people in the case I have supposed have lost their right of representation, it is not from their *status*; because in that section the *status* was just as good as anybody's, but from the fact that there was some validity in the ordinance of secession; and if we admit that validity, and say that we are forced to readmit the State or pass any resolution that may be so construed, the precedent will surely injure the perpetuity of our Government. It is admitting a rotten plank. It is admitting that a part of the people of a State may deprive the remainder of the rights which they have under the Constitution. That is something that the last Administration were tenacious about. It was a thing that the Union party in the late struggle were tenacious about.

This resolution says that they shall not be admitted until Congress shall declare those States entitled to representation. If that is so how is Congress to declare it? I ask in all seriousness, how shall they declare it? Suppose they do it by a law, that law must assume, as this resolution does, that these eleven States are not States in the Union and entitled to representation, no matter how loyal the State governments or the Senators or Representatives who apply for admission may be; but the President—and here is his crime—has expressed a different opinion. He holds that loyal men representing State governments in these rebellious States that are in conformity to the laws of the United States may be admitted to Congress. If you say, how do we know that their constitutions are in accordance with it, how do we know that they have such constitutions, I say examine them, just as you do in every case. Suppose the State of California should again change her constitution, as she has once done, and then elect a Senator and send him here, would you have to readmit the State?

Mr. CONNESS. Will my friend permit me to ask him a question?

Mr. STEWART. Yes, sir.

Mr. CONNESS. Do I understand my friend from Nevada to see no difference between the petition of one of the eleven States that have been in rebellion and the State of California, in case the latter State changed the constitution of that State?

Mr. STEWART. You understand me to say this, that so far as going out of the Union is concerned there is no difference. There is a difference in the *status* of the people. The people of these States rebelled, California did not rebel. As far as the States are concerned neither has gone out of the Union.

Mr. CONNESS. Neither State out of the Union?

Mr. STEWART. Neither State has been out of the Union.

Mr. CONNESS. Do I understand the Senator to say that those States which have been in rebellion have not only not been out of the Union but are now in such a condition as to be admitted into the Union?

Mr. STEWART. I have not said anything of the kind.

Mr. CONNESS. Do I understand the Senator to say or to hold that the States in rebellion, before they shall come into the Union again and have their representation and their former relations resumed, are to consult the Executive?

Mr. STEWART. I will tell the Senator what I do hold. In the first place, I hold that no State has gone or can go out of the Union, and consequently so far as being in the Union is concerned they at all times remain the same. I will tell the Senator further, that the loyal men in those States have a right to the Constitution and laws of the United States; that the disloyal have not the right of representation; the loyal have, and if there is a sufficient number of loyal men to govern the State, they have the right to form a State government.

In the darkest time of the rebellion I deny that the right to represent Tennessee in this Hall by those who were loyal ever was for a moment suspended, but their power to obey the law, their power to represent it was prevented by treason. They were overpowered, and they were denied their right of representation, not by Congress, not by the Government. This war was to maintain for them that right which rebellion had sought to take away from them, and had for a time suspended the harmonious relations of the State to the General Government; and it will be too much to admit that this Government has ever been in such a fix that the people thereof were really not entitled to the protection of the Constitution, and because they were denied it this war was brought on, this war was prosecuted. A man may have a right to a farm, and a trespasser may keep him out of it, but if he sues on his right, he recovers not a new farm, not a new title, but he recovers the title he had before. We said that the loyal men in the South had a right to the Union, to the laws, to repre-

sentation, that rebels had no right to take these from them; they had no right to usurp the authority of this Government, and we called upon the loyal masses to rally to our aid. We tried the suit before the god of battles, and, thank that god, we won it, and we restored to those loyal men their right of representation, which existed all the time, but which traitors attempted and did for a time prevent them from enjoying.

Mr. CONNESS. Will my friend permit me to ask him a question?

Mr. STEWART. If I am expected to conclude to-night, I had better not be interrupted.

Mr. CONNESS. I do not want to interrupt the Senator, but I desire to ask a question.

Mr. STEWART. Very well.

Mr. CONNESS. Will my friend state in his opinion how many loyal white men there were in the State of South Carolina after the flag had been fired upon at Sumter? And up to the time that Sherman marched to the sea, how many loyal were there in South Carolina to organize a loyal government?

Mr. STEWART. Does the Senator say there were none?

Mr. CONNESS. No; I want the Senator's opinion on that point.

Mr. STEWART. I have not taken the census of South Carolina. What does the Senator think?

Mr. CONNESS. My opinion is there were not many, not enough to form a loyal government. Now, I ask the Senator's opinion.

Mr. STEWART. I do not think there were enough at that time to form a loyal government.

Mr. CONNESS. Then, I ask the Senator, what produced that? I ask the Senator, if he is here the advocate of the organization of what he calls a loyal government in South Carolina by executive agency, which denies the right of Congress to pass upon the question of whether they are a loyal State or not, whether they are fit or not to resume their former relations with the Government of the United States.

Mr. STEWART. I am not discussing South Carolina at this time. I am not examining her. I say that if there was a loyal man in South Carolina, he had his rights under the Constitution and that is what we declared in the beginning, and I might turn around and ask him now if he does not believe there were always in some of those States sufficient loyal men to carry on a State government. Why are they excluded? I am not talking about admitting or excluding anybody. I am talking about the principle. I am talking about this question, whether or not the rebels were able, not only to subjugate the loyal men of the South, to trample them under their feet, to burn their houses, to drive them from their homes, but to take from them their legal rights under the Constitution of the United States.

That is the proposition involved in this, and not whether all the inhabitants of South Carolina have yet become loyal, or whether she has sufficient loyal population to control the State. If she has not, and she does not send loyal men here, we will not receive them; but we will not say, in not receiving them, "You loyal men are as bad as the others; they have all lost alike." We will make the proper distinctions; we will stand upon the issues as we stood upon them during the war.

Mr. CONNESS. Do I understand the Senator to refuse to be interrogated further?

Mr. STEWART. I would rather not yield, because it is very late and it will take me a great while to get through if I am to be constantly interrupted.

Mr. HENDRICKS. If the Senator will yield I will move an adjournment.

Mr. CLARK. No, no; let us finish to-night.

The PRESIDING OFFICER. The Senator from Indiana moves that the Senate adjourn.

Mr. STEWART. It is at the pleasure of the Senate.

Mr. HENDRICKS. If the Senator prefers to go on, I shall not insist on the motion.

Mr. STEWART. No, I would like very well if the Senate would adjourn.

Mr. FESSENDEN. I hope there will be no adjournment. I must call for the yeas and nays.

Mr. HENDRICKS. Rather than go through with that, I withdraw the motion.

Mr. STEWART. I will go on. In discussing these questions, it is embarrassing for any one to do so without taking into consideration all the circumstances by which we are surrounded and the other propositions of this committee, and I propose to take up the other propositions in connection with this, so as to see from time to time how this bears upon the general question.

There is another proposition of the committee of fifteen, which, if passed, will obviate the necessity of passing this, and obviate the necessity of any further constitutional amendment, and I think obviate the necessity of any more State Legislatures or conventions. To that I propose to call the attention of the Senator, and it may be if we pass that, it is everything that it is necessary to do. I believe it accomplishes the whole work. All other legislation to fix guarantees is very unimportant if the article recently reported is passed, and I call the special attention of the Senate to this proposition to amend the Constitution of the United States. The resolution has not been at all discussed here, and my only object in calling attention to it is to show that it is a part of the work of this same committee, and to estimate if possible how long legislation will have to be delayed if this resolution passes. The merits of one depends so much upon the other that it is impossible, it seems to me, to consider one fairly, and particularly the one under consideration, without an examination of the others, in order to see whether it is necessary to wait for their final adoption or whether they are ever likely to be adopted. The propositions are three in number; the one which immediately preceded the resolution under consideration proposes the following as an amendment to the Constitution:

ARTICLE —. The Congress shall have power to make all laws which shall be necessary and proper to secure to the citizens of each State all privileges and immunities of citizens in the several States; and to all persons in the several States equal protection in the rights of life, liberty, and property.

This resolution has not been discussed. My only object in calling attention to it in this connection is that this part of the plan of reconstruction for which time is asked may not be overlooked. If I understand it correctly, it would work an entire change in our form of government. The first clause is not very material perhaps. It provides that Congress may pass laws to carry into effect a part of the Constitution of the United States as it now stands, which might be all well enough if the United States courts had not already complete jurisdiction to make part provisions of the Constitution effectual; for a citizen of each State will enjoy all the privileges and immunities of citizens of the several States, unless some State should pass a law abridging that right, which law would be unconstitutional, and the courts would be bound so to declare.

I repeat, the present provision of the Constitution will have all the effect of securing to the citizens of each State all the rights and immunities of the citizens in the several States, unless some State passes a law which denies that right. Then the United States courts have jurisdiction. Missouri once undertook that experiment in the memorable contest of 1819–20. An act was passed to allow Missouri to form a State government with slavery, provided certain territory should be reserved to freedom. She organized a constitution, and came here for admission with a clause that negroes and mulattoes should not enter the State, or rather she said that the first session of the Legislature should pass such a law. Congress decided that this was in violation of the constitutional provision that the citizens of each State should enjoy all the rights and immunities of citizens of the several States, and Mr. Clay, after the subject was discussed for weeks and weeks, offered a proviso which was adopted, and sent the State back. The proviso said that she might come into the Union if her Legislature would consent never to exercise that power; and the reason why it was sent back was because it was in conflict with the Constitution of the United States as it then stood.

I believe Illinois and some of the western States did practically carry this out for awhile, refusing to allow free negroes to go among them; but it was not for the want of a law but for the want of somebody to enforce it. The courts were open to anybody to enforce it. We had law enough. Why empower Congress to pass a law when you have the protection of the Constitution? But that is not the material part of this resolution; I wish to call the attention of the chairman to it, for I am in earnest about my construction and believe that I am correct. The last clause taken in connection with the first part of the sentence to which it belongs, omitting the intervening words, reads as follows:

The Congress shall have power to make all laws which shall be necessary and proper to secure to all persons in the several States, equal protection in the rights of life, liberty, and property.

That is to say, Congress shall have power by law to make all the laws in all the States affecting the protection of either life, liberty, or property, precisely similar; for the protection of life, liberty, and property, must be equally secured to all persons in all the States. And how shall this be effected, unless the laws are equal? And how shall they be made equal except by Congress? The laws of the several States in this Union are very dissimilar in many respects, and some may afford greater protection to life, liberty, and property than others; but Congress must examine and modify all these laws, so that they shall afford the same protection in all the States that they do in any. The only way this could be accomplished, would be for Congress to legislate fully upon all subjects affecting life, liberty, and property, and in this way secure uniformity and equal protection to all persons in the several States. When this was done, there would not be much left for the State Legislatures, for I apprehend that the great body of the laws of the several States as in fact of any government relate to the protection of life, liberty, and property.

Undoubtedly this had reference to some other subject. It undoubtedly had reference to protecting the negro or something of that kind, but it does not say that they shall have the same rights and privileges in the several States as in any State, but it says throughout the United States. The laws affecting life, liberty, and property shall equally secure these ends. Congress must pass all laws affecting life, liberty, and property, and I would like to know what is left to the States after you pass all these laws; and it must be done so as to secure these ends equally to all persons. We shall have no necessity for State Legislatures when that is done. But I hardly think when this is examined that anybody will favor it. We have got along so far so well that I hardly think we are willing to say that the laws of the States shall not continue to afford protection to all persons within their limits. I think the committee had in view one object, but by their amendment would accomplish another.

Is all action going to be postponed until this amendment is adopted by the States? I do not think it will ever be adopted, and if adopted there will be great difficulty in making laws equal in Massachusetts and in South Carolina so as to protect life, liberty, and property in the same way in both. It seems to me that the grammatical, legal, and necessary construction of this proposed amendment can hardly have been intended by its framers. But I propose to consider the various propositions, and I will pass on.

If the Senate would give me an adjournment now I should like it very well as I am really about to commence my speech.

Mr. GUTHRIE. I move that the Senate do now adjourn.

The question being put, there were, on a division—ayes 8, noes 16; less than a quorum voting.

Mr. FESSENDEN called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 8, nays 15; as follows:

YEAS—Messrs. Dixon, Guthrie, Hendricks, Nye, Stewart, Stockton, Van Winkle, and Willey—8.

NAYS—Messrs. Chandler, Clark, Conness, Creswell, Fessenden, Foster, Howard, Howe, Kirkwood, Morgan, Morrill, Pomeroy, Trumbull, Williams, and Wilson—15.

ABSENT—Messrs. Anthony, Brown, Buckalew, Cowan, Cragin, Davis, Doolittle, Foot, Grimes, Harris, Henderson, Johnson, Lane of Indiana, Lane of Kansas, McDougall, Nesmith, Norton, Poland, Ramsey, Riddle, Saulsbury, Sherman, Sprague, Sumner, Wade, Wright, and Yates—27.

The PRESIDING OFFICER. The Senate refuses to adjourn; but the vote discloses the want of a quorum.

Mr. CLARK. I move that the Sergeant-at-Arms request the attendance of the absent members.

Mr. HENDRICKS. I move—I believe that motion is now in order—that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *February* 28, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

The SPEAKER announced as the first business in order the consideration of joint resolution H. R. No. 63, proposing an amendment to the Constitution of the United States, on which Mr. DAVIS was entitled to the floor.

Mr. STEVENS. I ask the gentleman from New York to yield to me for a moment, that I may have a document read at the Clerk's desk.

Mr. DAVIS. I yield first to the gentleman from New Jersey, [Mr. ROGERS.]

PERSONAL EXPLANATION.

Mr. ROGERS. I rise to make a personal explanation. I am reported——

Mr. GRINNELL. If the gentleman indorses the paper from which he is about to read [the New York Tribune] I will offer no objection to his proceeding; otherwise I must object.

Mr. ROGERS. Well, I do indorse it in part. [Laughter.]

Mr. GRINNELL. If the gentleman accepts the witness, I will hear his explanation.

Mr. ROGERS. Mr. Speaker, the Associated Press report of my speech made last Monday, represents me as indorsing the speech of William H. Seward. I desire to say that I did not indorse him or his speech. I indorsed the speech of the honorable gentleman from New York, [Mr. RAYMOND.] I have not yet forgotten the "tinkling" of Mr. Seward's "bell;" and I would be ashamed to indorse Mr. Seward or his speech and then go before my constituency.

Mr. STEVENS. I can corroborate the gentleman. He did not indorse Mr. Seward. He indorsed the gentleman from New York [Mr. RAYMOND] and myself. [Laughter.]

Mr. ROGERS. Again, I am reported in this paper, the New York Tribune, as favoring the payment of the rebel debt. I did not make any such argument. I simply argued that each State had the right to do as it pleased in regard to the payment of its debts. If I had the power, I would oppose the payment of the rebel debt by any State.

INDORSEMENT OF CONGRESS.

Mr. STEVENS. The gentleman from New York will now yield to me for a moment to have read the paper I have sent to the Clerk's desk.

Mr. DAVIS. I decline to yield.

Mr. STEVENS. The gentleman said he would yield to me after the gentleman from New Jersey.

Mr. GRINNELL. He did yield to the gentleman from Pennsylvania.

The SPEAKER. The gentleman has the floor, and can yield or not.

Mr. STEVENS. I withdraw the document.

Mr. WASHBURNE, of Illinois. I hope the gentleman from Pennsylvania will be allowed to state what is the character of the paper. It shows that a caucus of the Union members of the Pennsylvania Legislature met last night, and pointedly and unanimously indorsed the course pursued by the Congress of the United States.

Mr. DAVIS. I must protest against interruption by the gentleman from Illinois.

The SPEAKER. The gentleman has the floor, and will proceed with his remarks.

RIGHTS OF CITIZENS.

The House then resumed the consideration of the following joint resolution (H. R. No. 63) proposing an amendment to the Constitution of the United States:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two thirds of both Houses concurring,) That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three fourths of the said Legislatures, shall be valid as part of said Constitution, namely:

ARTICLE —. The Congress shall have power to make all laws which shall be necessary and proper to secure to the citizens of each State all privileges and immunities of citizens in the several States, and to all persons in the several States equal protection in the rights of life, liberty, and property.

Mr. DAVIS. Mr. Speaker, an amendment of the Constitution of the United States, whatever it may be in its character, should be approached by this Congress with grave consideration. We have been taught in the past generations of our history to regard that Constitution as embodying perhaps more of human wisdom and human sagacity than was ever embodied in any instrument for civil government. We are told by those who framed it that we should be careful hereafter in changing its provisions or invading its spirit.

The proposition which is now before the House proposes to amend the Constitution so that "Congress shall have power to make all laws which shall be necessary and proper to secure to the citizens of each State all the privileges and immunities of citizens of the several States;" and then is added a most important provision—"and to all persons in the several States equal protection in the rights of life, liberty, and property."

Now, sir, the distinguishing feature in our Government is this: the Federal Government has its peculiar and restrictive duties. It is a Government of limited power and authority, extending over the whole country, providing for general and national interests; and in everything relating to the affairs which pertain to the Union that Government is supreme; but within that jurisdiction are erected many different States bound to allegiance to the Federal Government in all matters pertaining to the Union, yet in respect of social arrangement, in respect of the rights of property and control of persons, are entirely independent. And it is this feature which has given greater security and greater liberty to this country than was ever conferred before by any system of government which human wisdom has devised.

I am unwilling, after this Constitution has been tested in peace, and in foreign war, for nearly eighty years, and when, during the last four years, it has been to us as a cloud by day and a pillar of fire by night, pointing out a safe pathway to the nation through the Red Sea of civil war, and has led us to final triumph, and while the passions excited by the civil strife remain active and unsubdued, and wounds received are still open and bleeding, to amend or alter the organic law of the nation in any particular where a supreme necessity does not demand it. I am, moreover, especially opposed to any amendment which may prove subversive of the principles on which the Government is founded. We are the Representatives of States in this Union, and as such are under solemn obligations to see that while the national sovereignty of the Union is preserved, no infringement on the reserved rights of the States shall be permitted.

As a Representative of a constituency devoted to the Union and loyal to the State which protects them in all their rights of life, liberty, and property, I propose to meet the responsibilities of this hour in no spirit of partisanship and in no spirit of vindictiveness, and to do conscientiously what I may, to preserve the Union for my State and for every other which has been baptized into the communion of the Constitution.

For four years I was the advocate of war, with all the vigor, by all the means, and in all the modes which could make war effective in crushing the rebellion in order to prevent a dissolution of the Union. Disaster, defeat, and the necessity for unparalleled taxation, never for a moment suggested a doubt as to my duty. The stake was the Union of my fathers, in all the glories of its past, in all the beneficence of its present, in all its promises of the future. Who, for that, so cowardly or so selfish as to refuse the sacrifice of life or treasure? For that Union a half million of our best and bravest sleep beneath the ground the sleep that knows no waking, or on the battle-fields where treason was stricken down, have left their bones to bleach and rot unburied in the sun.

To-day, I am the advocate of peace, because the high purpose for which these heroes perished has been accomplished, and the sovereignty of the Union, with the right of protection to its own life, is recognized by every rebel who denied it.

Once I favored war, because war was a necessity for Union. Now I favor peace, because peace is a necessity for Union; and if we love the Union we shall seek peace, for peace alone can preserve it.

But, Mr. Speaker, we are told that the States recently in rebellion are no longer entitled to recognition as a part of the Union, and that the only mode of restoring them to it with safety to the Government, is by exercising over them the rights of conquerors in war and the powers of tyrants in peace.

The venerable gentleman from Pennsylvania [Mr. STEVENS] asserts even in respect to every citizen of any State recently in rebellion that he is an alien enemy, and that this Government, even after the suppression of rebellion, in a time of peace, has the right of universal confiscation of property without reference to the original or continued loyalty of the citizen.

The theory supported by the gentleman, and which I may denominate the "territorial theory," rests upon the assumption:

1. That the civil war from which we have emerged, creating, as I concede it did, distinct parties entitled to belligerent rights, made all of the citizens and residents of the seceding States public enemies, and therefore national enemies.

2. That as public enemies they lost all rights as States or as citizens in the Union.

3. That when subdued they were subdued as national enemies and as foreign territory, and are in all things subject to our absolute power.

It is unnecessary for me to say that our Government, composed of States retaining to themselves many of the rights and immunities of sovereignty over their own citizens, yet divested of all the powers of sovereignty as international States, which powers are granted to the Federal Government, finds no precise analogy in the history of nations.

The people of each State formed the government of such State. The people of all the States formed the Union, and each State, and all the States, individually and collectively, were thereby bound, and by a common, supreme Constitution, imposing reciprocal duties and obligations, to a common destiny. The Union was formed for a continental Government, into which new States, springing up under the creative energies of the Anglo-Saxon race, from the vast wilderness beyond the Alleghanies, might be permitted to enter, but from which none could depart, save by mutual consent or by superior force. It was perpetual in its character, as a necessity arising from the purposes of its formation.

Not for one hour, since the adoption of the Constitution, has the sovereignty of the Government over any State within it been annihilated, nor have its reciprocal obligations to such State been destroyed. The States were dependent on the Federal Union for their mutual security, and the Union was dependent on the State organizations for its life. The Constitution, ordained and adopted as the supreme and enduring law of all the States and the whole people, constituted a perpetual covenant, in which not only every State but every citizen of every State held an inalienable interest.

The secession of a State was no more authorized by the Constitution than the dissolution of the Union itself. The one would be no less disastrous than the other. The law of a mutual life forbade either. No legislative enactment, no vote by the people of a State, through a convention or at the polls, can of its own force or vitality take a State out of the Union, nor absolve it from its Federal obligations, nor can any law of Congress relieve the Federal Government from its constitutional duty to guaranty to every "State" a republican form of government, and to every citizen that protection in all his national rights and privileges, which is the consideration for obedience and allegiance.

As well might the stars which circle the Sun, living in his light and held to their orbits by his power, attempt to disturb the harmony of the solar system by receding from its limits; as well might the Sun, which in his revolution owns the counter-attraction of surrounding planets, attempt to veil his burning glories, and make Night and Darkness eternal in the heavens, as either the States or the Union claim the constitutional power of relaxing or annihilating those bonds which bind each and all in the unity, power, and perpetuity of the Republic. The unity of the solar system will remain till the supreme will of the Creator shall decree its dissolution: the Union of the States will be unbroken until the supreme will of the people, expressed by legislative action or physical force, shall announce its end.

This theory, which has secured to it the sanction of distinguished names, gives the lie to the expressed object for which the Union arose by the fiat of the people from the discordant elements of the old Confederation, into the matchless perfection of civil government. It is supported by no principle of international law applicable to the relations between States and the Union, and it is branded as false by all the facts of history and by all the arguments of reason.

Every act of war on the part of the Government, from April, 1861, till the surrender of Lee and Kirby Smith, was a denial of the right or the power of a State to leave the Union. The vast array of armies called forth by command of the Government, greater than any which in the history of our race imperial power ever organized for defense or conquest, was an avowal of the constitutional obligation of the Government to keep the Union of the States unbroken. Your iron-clad monsters guarding the coast-lines of an empire; your ships-of-war tracking confederate pirates upon every sea; your frowning fortresses reared from the Chesapeake to the Rio Grande; the thousand battles in which the soldiers of the Republic marched unfaltering to victory or the grave, express but the unalterable conviction of the American people that neither the constitutional obligations of the Federal Government nor the constitutional obligations of the States can be ignored, evaded, or destroyed. Sir, I shall endeavor to show that those obligations, mutually assumed and operative, created an enduring, perpetual Union, indissoluble save by physical force, or by the consent of its creators. Organized civil government presupposes the surrender by the individuals framing it or subject to it, to a greater or less extent, of their natural rights, and the character of the Government formed will depend not only upon the extent of the surrendered or delegated power, but upon the modes and agencies in and by which this power is to be exercised.

In an absolute monarchy, there exists, as between sovereign and subject, no limitation of power, except that which is directly or indirectly expressed in the right of revolution. In a limited monarchy, like England, the extent of the surrender of natural right is the precise equivalent of the power constitutionally exercised by the King and Parliament. In the two, sovereignty is united. In this country, and under our Constitution, sovereignty exists in the people, and in the people alone. Our Constitution is but the expression of the popular will as to the form in which, and the instrumentalities by which, that sovereignty shall be administered.

But we find existing here a distinguishing feature, an anomaly in civil government. A whole people, living within separate State jurisdictions, or governments, and owing obedience to the constitution and laws of such States, affecting personal rights and property, excepting only those which interfere with the constitutional powers of the Federal Government, still owe entire allegiance to that Federal Government in everything pertaining to national sovereignty.

I may use the expression of Judge Grier, in the Prize Cases, to show the anomaly I have alluded to:

"Under the very peculiar constitution of this Government, although the citizens owe supreme allegiance to the Federal Government, they owe also a qualified allegiance to the State in which they are domiciled. Their persons and property are subject to its laws."

When we undertake to apply the settled principles of the civil international law in relation to sovereignty and allegiance to the Federal Government, the people of the Union, and the citizens of the States, it is self-evident that no case in which these peculiar relations do not exist, can for one moment be urged as a precedent in determining the relations of a loyal citizen of a State in rebellion to the Federal Government.

There were four parties to our great constitutional covenant:

1. The people of all the States.
2. The people of each State.
3. The organized State government of each State.
4. The Federal and national Government.

The last was the creation of all the others, and they inspired it with life and supreme power as a sovereign nation, to preserve each State in the enjoyment of republican institutions and each citizen in the exercise of his national rights and privileges under a flag which, to the external world, should be the symbol of the united power of the whole people. Every citizen, no matter what the State of his residence, has a personal interest in this enduring covenant for the common protection, and I, as a citizen of New York, may demand of the Federal Government that, for the protection of my State in its constitutional immunities, South Carolina and Georgia shall not be permitted to overthrow republican government, and thus break up the Union. South Carolina and Georgia covenanted with every citizen of my State that he should enjoy the same rights within their lines as were accorded to their own citizens, both as to protection of person and personal rights, and they cannot take away that right unless they can dissolve this Union.

Every loyal man in any seceding State, has the right to demand of the Federal Government, not only protection in his citizenship, but protection against any usurping power in his own State which shall deny to him a republican government.

I submit, Mr. Speaker, that under the mutual covenants thus constituting the Government of the people, and affecting every citizen, no State can withdraw itself from the Union except by constitutional permission or by successful resistance to its authority.

Rebellion, therefore, if suppressed, could not destroy the Union by taking a State from it, no matter whether a month, a year, or five years were spent in the suppression of that rebellion. The constitutional duty of the State was in no way affected by its neglect to perform it; and the constitutional duty of the Government to every loyal State and to every loyal citizen could be discharged only by the maintenance of its sovereign authority.

If, as I have shown, all acts of Legislatures, all acts of conventions, and all popular action of the States attempting to secede were void, as in contravention of the supreme law of the whole nation, they, in no constitutional sense or manner, changed the relations of the State or people to the Federal Government; and we solemnly assert this doctrine by every statute we have enacted for the punishment of rebels. If any other doctrine be true, we have no right whatever to punish any citizen of a seceding State as a rebel, for secession would make him the subject of an independent sovereignty, and he could not be a rebel against a foreign Government.

Every gentleman who has addressed the House or the committee on this subject has denied all right of secession in express terms, and on this point I fully agree; but still, with strange and incomprehensible logic, they aver that although attempted secession has utterly failed; although the national sovereignty has been vindicated over all the States in rebellion; and although the sole purpose of the war, which terminated in the universal triumph of the national arms, was to keep the rebellious States in the Union, yet, because they are conquered and subdued to the Union, they are out of the Union, and may be treated as conquered Territories, and all their citizens as enemies, no matter whether such citizens were loyal or disloyal, no matter whether they were true or false to the flag of their country. The proposition is a paradox, an absurdity, and in no manner sanctioned by any principle of international law.

Every citizen of a southern State owed supreme allegiance to the Federal Government and subordinate allegiance to his State; and the Federal Government was bound as a condition concurrent in demanding his allegiance to extend to him its protection against any interference by his State with the discharge of his Federal allegiance.

Now, sir, when the great rebellion which we have conquered began, thousands of men in almost every southern State denied the right of secession, asserted their loyalty to the old Union, and called upon the Government for a protection it was powerless to afford.

State laws, null and void as against the Federal Constitution, pronounced these loyal citizens traitors to State governments. They were persecuted, despoiled of estates, imprisoned, tortured, and some of them were hanged because of their fidelity to the Federal Government. Some, escaping from prison, with the sentence of death upon them, leaving home, family, and hope, sought the Union lines with bloodhounds baying upon their tracks, entered the ranks as soldiers of the Republic under the flag which had failed to protect them at home, and fell beneath its folds to maintain its sovereignty and preserve the Union. Yet their widows in bereavement and their children in desolation are pronounced enemies of the Government for which their own lives were sacrificed, and the pittance of property left by rebel sequestration the honorable Christian gentleman from Pennsylvania [Mr. STEVENS] claims the right to confiscate, even when the war is at an end, as enemy's property.

I undertake to say that in this Government of ours the relations of the loyal people of the southern States to the Union have not been changed by State secession, either as to citizenship or the right of protection.

It is true that International law regards all persons residing within the military lines of an enemy as public enemies, but this term is restricted in its meaning, and relates simply to property, not to allegiance; it relates to a time of war, not to a time of peace.

Judge Grier says, in the "prize cases," which are quoted as leading authority by the Draconian advocates of dissolution, in speaking of the term "enemies' property," it is a technical

phrase peculiar to prize courts, and depends upon principles of public policy as distinguished from the common law. Whether property be liable to capture as "enemies' property" does not in any manner depend upon the personal allegiance of the citizen. It is of no consequence whether it belongs to an ally or a citizen.

Thousands of northern men who were doing their utmost to suppress rebellion, and many of whom were in the ranks of the Army, were the owners of property in the southern States, and when our armies were marching to the Gulf, all this property, if capable of contributing to the support of the enemy or to the aid of our own armies, was liable to seizure as "enemies' property;" and in respect to that property its owners, though loyal men, were technically "public enemies." The Prize Cases decided only that all property, whether belonging to a citizen of the United States, to a neutral residing in or out of the lines of the rebellion, or to a rebel, was liable, with the vessel bearing it, to seizure as "enemies' property" if taken in attempting to enter a blockaded rebel port. No court of competent jurisdiction has ever decided, and no court of common sense will ever decide, that the property of a loyal citizen in a late rebel State is liable to confiscation in peace as the property of an enemy.

Not a single authority has been cited which is applicable to the relations of an American citizen to his peculiar Government.

Vattel says:

"A civil war breaks the bands of society and government, or at least suspends their force and effect; it produces in the nation two independent parties, who consider each other as enemies, and acknowledge no common judge. These two parties must necessarily be considered as constituting, at least for a time, two distinct societies."

Vattel and Phillimore, Halleck, and all eminent publicists assign the true reason for this rule, which is to modify the atrocities and cruelties of war as between armies in the field, and to place captured persons upon the footing of prisoners of war instead of hanging them as rebels. The rule in nowise affects the obligation of the sovereign to his loyal subject:

"By the express authority of international law defining the duties of the sovereign toward his loyal subject, the former is bound to restore all property and effects which the enemy may have taken from his subject, if the sovereign shall reacquire it from the enemy."—*Vattel on the Rights of Postliminium*, chap. 14.

Instead, therefore, of the barbarous doctrine asserted by the gentleman from Pennsylvania, the Government, in lieu of acquiring the right of confiscating the property of loyal men in the southern States, is bound to restore to them all their effects of which the enemy may have deprived them, and which may have been taken from the enemy by our arms or by the ending of the rebellion.

As I stated, Mr. Speaker, the error into which gentlemen have fallen has arisen from their failure to distinguish between the term "enemies" as recognized by the common law, and "public enemies" as accepted by international law regulating captured property or the right of capture.

In this rebellion those only were enemies to the Government in the eye of the law, applicable to our condition, who were in arms against it or giving aid, assistance, and comfort to the confederate authority. They only were rebels, in the eye of the law, who of their own volition, or without compulsion, leagued together for the destruction of the Republic.

No reason, no logic, no law can sanction any other conclusion, or permit prejudice, vindictiveness, or malignity to say that any man living within the limits of the rebellion, who refused to participate in its iniquity or be false to the lawful Government of the United States, even though it failed to protect him, has either lost his citizenship or become a rebel or a traitor by the secession of his State.

It is a new doctrine; it is a false doctrine. It is secession clothed in the habiliments of patriotism. It is a theory in utter antagonism with every act and every purpose of the American people in the suppression of rebellion. It is in conflict with the policy of the Government, as announced from the commencement of the war to its close, and even to the present hour. It is an insult to the judgment of the American people. It is a libel upon the Constitution.

Tennessee seceded in 1861; but Andrew Johnson, of Tennessee, a citizen of Nashville, the rebel capital of the State, was still a Senator from that State in Congress, and made the Senate Chamber resonant with his eloquent denunciation of treason and secession.

From 1861 to 1863, Tennessee was represented on this floor as a State of the Union. Her citizens, as Representatives, took part in the measures enacted to suppress rebellion and keep Tennessee, as you claimed her to be, in the Union and a State, not as a Territory.

In 1864 the Republican party at Baltimore nominated to the high office of Vice President Andrew Johnson, of the State of Tennessee. Elected as Vice President, Mr. Johnson succeeded to the Presidency by the lamentable murder of the true and honest patriot, whose name and memory, honored and beloved by the pure of every land, will survive when those who maligned him as an usurper, traduced him as a tyrant, and to-day are ready to pay equal honor to his successor, shall have perished from the recollection of mankind. And yet, if Tennessee was out of the Union as a State in rebellion, or as a Territory in rebellion, then he has since its secession been and still is an alien enemy, and at least during the war, as a plaintiff in any court of a loyal State prosecuting a personal claim against a loyal citizen of such State, would have been driven out of court by a plea in bar of "alien enemy" to a Government of which he was the Executive Chief.

The State of Tennessee, sent thirty thousand men into your ranks to uphold the cause of the Union, and on every battle-field from Nashville to Atlanta, they attested their fidelity as citizens by their valor and their blood. To-day, you spurn their loyalty, you deny them citizenship, you refuse them representation, you pronounce them aliens, and Tennessee is but a Territory of the Republic, whose citizens enjoy only the privilege of being taxed and the "right of being hung."

If Tennessee be but a Territory, each seceding State is reduced to the same condition, and all is common territory from which not only State lines but State jurisdictions are obliterated, and from which Congress may erect new States, with such geographical limits as may be agreeable to its sovereign pleasure. It may hold the vast area under its absolute control, until with two Senators it shall knock for admission as a single State. The star of the Old Dominion may be stricken from your flag, and Virginia, Carolina, and Georgia, be known to history only in the record of their ancient glories and their recent crime. The iron fingers of a political despotism may spread the pall of eternal night over historic names, and States which were of the old Thirteen and gave birth to the nation, may disappear forever. The power of Congress over the Territories of the United States is unlimited. The language of the Constitution, article four, section three, is explicit:

"Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States."

What is the power to dispose of? We all understand it as a power to do what one pleases, with the subject or object over which the power is given.

Webster defines the very term "to dispose of" as follows: to part with; to alienate; to part with to another; to put in another's hand a power; to restore; to give away; to transfer by authority; to use or employ; to put away. Worcester defines it: to bestow; to give away; to arrange for; to place in some condition; to put out of one's possession; to put out of the way; to get rid of.

Is it not clear that the "dead carcasses" of these departed States, may under this power be disposed of in some other way than by sending them to a committee of anatomical surgeons for dissection or reconstruction.

There is, then, standing on the forefront of this territorial theory the bold assertion of a power to disintegrate and destroy the Union of these States, the vital object of which was perpetuity. The whole theory and its consequences are expressed in one clear, distinct, and fatal formula. The Constitution exists to preserve and perpetuate the Union of the States. It is the bounden duty of the Government to coerce any State attempting to secede from the Union, and to employ the whole power of the Government to subdue armed resistance, to prevent disunion. But when all resistance has been suppressed and secession prevented, then Congress may treat the rebellious State as a Territory; alienate it by virtue of constitutional authority to any foreign Power, and thus accomplish the very dissolution which it is its highest constitutional duty to prevent.

We may not anticipate the future; we cannot tell who shall come after us in other days to administer for our descendants the powers of this Government on the precedents we establish now.

We are dealing with great principles, we are deciding great questions, we are establishing permanent precedents; and for one I will not, while I hold a seat upon this floor, consent, for the purpose of eradicating a present though temporary evil, to the establishment of a precedent which may be a dagger in the bosom of posterity. I will not accept any theory which shall concede the right of the Federal Government to erect a despotism upon the ruins of the States. I will pour no poison into the sacred fountain of republican liberty.

I maintain, moreover, that this territorial theory is pressed at this time with a view to the exercise of the power of amending the Constitution in important particulars affecting not only the rights of States here represented, but also the rights of all loyal and true citizens of the States recently in rebellion, while they have no voice and no representation in Congress.

I do not question the motives of those who present these measures. They certainly act from convictions of duty; but I nevertheless believe that the pending amendment is not only in its effect, if adopted, to centralize power in the Federal Government, but that that power is intended to be exercised in the establishment of perfect political equality between the colored and the white race of the South.

The rebellion has, as one of its results, emancipated four million slaves, and lifted the chain from their posterity forever. They are free, and their freedom is guarantied by the strong arm of the Federal Government. An amendment of the Constitution duly submitted to and adopted by three fourths of all the States, gives to Congress full power to enact all laws which shall be essential to their protection. They must be made equal before the law, and be permitted to enjoy life, liberty, and the pursuit of happiness. I am pledged to my own conscience to favor every measure of legislation which shall be found essential to the protection of their just rights, and shall most cheerfully aid in any plan for their education and elevation which may reasonably be adopted.

Already within the last four years have we done more for the slave than has before been accomplished since European cupidity consigned him to bondage. We have given him his freedom, his wife, his children, and his unquestionable title to his own acquisitions.

Five years since, the most ardent friend of immediate emancipation would have compromised for the accomplishment of such results in a century. Two and a half years ago, he would have been content with peace and Union, even recognizing slavery as it existed in the beginning of the war, and trusting to a distant future for its gradual annihilation.

I rejoice, sir, in what has been accomplished; but in the interest of a downtrodden race I deny the expediency of any action by Con-

gress to raise them to the exercise of those political rights for which, as a people, they are now unfitted by long centuries of ignorance and degradation. It is insisted that such action is necessary to secure them against outrage and abuse. I answer, such action but invites outrage and abuse.

I, sir, have no sympathy with those who would oppress or abuse a freedman. I have no sympathy with any man who of his own volition lifted his hand in rebellion against the Government of my fathers. I hate treason and rebellion, and while I have a seat upon this floor I will never consent to the admission here of any rebel to represent any portion of any southern State, whose hands are, for aught I know, red with the blood of true and loyal men.

I regret that anything of disturbance or anything of insubordination is found in any State of the South. I have no apology to offer for what has been done by individuals or perhaps by associations. Let all abuses be punished. Let the right be vindicated; let justice prevail.

But, sir, we ought to remember that we are just emerging from a terrible war during which the civil law has been overthrown in the seceding States, and personal right has been sacrificed to the spirit of violence. A state of war excites the brutal passions, it makes life cheap, it disregards the restraint of civil authority, it deranges society itself.

Since the disbanding of our own armies our northern cities and towns have been startled by the frequency and atrocity of crime. Robbery, burglary, arson, and murder glare upon us from almost every newspaper and alarm every community. Here in the capital of the Republic we sleep securely only under the vigilance of public and private watchmen. Overthrow the administration of the criminal law throughout the North, as it has been overthrown at the South by war, and Carl Schurz would find in northern society ample material for another gloomy picture of our public condition.

I submit that it cannot be expected that the entire body of the people of the seceded States should accept without dissatisfaction and even disturbance the great and radical changes which have been forced upon them. They have been conquered by military power. Their boasted chivalry, invincible in theory, went down before the sturdy blows of the despised Yankee. Slavery has been utterly annihilated. The fabric of aristocracy which was based upon it is gone. The barriers behind which caste for three centuries had been intrenching itself were broken and leveled in an hour.

To add intenser bitterness to the chalice of humiliation, the armies of the confederacy, which were to run riot in northern capitals, were driven from the Rappahannock to the Gulf of Mexico, or, fleeing before the genius of Sherman and Thomas, left the fair fields and cities of Tennessee, Georgia, and Carolina a prey to desolation and the flames. You have made their servants and slaves their equals in legal right, and you menace them with equality in political power. Until you can change human nature, you cannot expect passive, universal, and unaffected submission to this bitterness of disappointment and this sudden and organic alteration of their social structure. Triumph has not changed our natures; defeat has not changed theirs. All of these southern States own the extinction of slavery; most of them consent to it. Thus the life of the rebellion is extinguished forever. Most of them have annulled all acts and ordinances of secession. They have repudiated the confederate debt, and are even in their poverty willing to contribute to the payment of our own. They have adopted the constitutional amendment. They ask of you two things.

1. That you shall allow to them the power of determining the political *status* of the freedman.

2. That when you tax them as States in the Union you shall permit them representation as States.

Mr. Speaker, our legislation should be consistent with the unvarying policy of the Government in the prosecution of the war to maintain the Union. It should be consistent with the dignity of a great nation, strong enough to be magnanimous in its power and merciful in its justice.

From the day when Abraham Lincoln delivered his inaugural address to Congress to the hour when himself unconscious of the ineffable crime which suffused the eyes of a nation in tears he passed to his reward, not one word did he utter, not one act did he perform which can be tortured into an approval of the doctrine that the seceding States had left the Union. In his proclamation of September, 1862, he expressly invited the States in rebellion to lay down their arms and return their Representatives to Congress as States in the Union and not out of it. In his letter to Fernando Wood he says that the laying down of the rebel arms was all that was necessary to the restoration of such States.

In his proclamation of emancipation he expressly recognizes them as States.

In his message of December 8, 1863, he submitted to Congress the exact plan for the restoration of these States to representation which President Johnson has pursued. The plan of the President above-mentioned was submitted by the President to his Cabinet and approved by each, and in his last public utterance, after his return from Richmond, and just preceding his assassination, he gave this policy his renewed sanction. This policy was fully indorsed by the American people in the renomination and reëlection of Mr. Lincoln in 1864.

The reconstruction bills introduced into the last session of the Thirty-Eighth Congress, and based on the idea of States converted into territory by secession, were rejected by the general sentiment of Congress, and their authors did not venture even to ask a vote upon them.

Congress treated Virginia as a State in the Union by erecting from her the State of West Virginia under the forms of the Constitution.

Louisiana, Arkansas, and Tennessee were recognized as States by the admission of their Representatives, although the rebels held armed possession of the greater portion of each.

In August, 1861, Congress by special act imposed a direct tax upon all the States in the Union to raise means for prosecuting the war, and this law was under the authority of section two of article one of the Constitution, which says Representatives and direct taxes shall be apportioned among the several States which may be included in this Union in proportion to their respective numbers. Each of the seceding States was charged with its due proportion of the whole tax of $20,000,000.

On the 4th of March, 1862, Congress made the apportionment of Representatives among the several States upon the census returns of 1860 as required by law, and all the seceding States which had then been guilty of every act which is now claimed as dissolving their connection with and destroying their rights in the Union were awarded their due share of representation as States still in the Union, and for weal or woe bound to its fortunes. Again, Congress in July, 1861, after the secession of all the States in rebellion, and just subsequent to the defeat of our Army at Bull Run, passed almost unanimously the following resolution:

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

This has never been contradicted by any subsequent act or legislation of Congress until the present session. The rebellious States now submitting to your authority, tell you in view of all your public acts and declarations, that you prosecuted for four years a gigantic war to keep them in the Union, and since you subdued them to the Union you continue a war upon them to keep them out; you treat them as conquered provinces; you tax them as loyal States; you demand of them abject submission to all you have done or may do, offensively to social and long-existing prejudice, and ask of them loyalty and devotion, while by your legislation you would throttle and extinguish even the germinating principle of loyalty. You can expect under such legislation no other reconstruction than that which shall be marked out by Federal bayonets, and whose lines will be preserved only in the presence of Federal cannon. You will have no peace save that which exists in universal solitude and universal desolation.

Mr. Speaker, I stand here to-day as the Representative of a radical constituency, who have voluntarily given $3,500,000 to suppress rebellion, to maintain, not to dissolve, the Union of these States. They have honored me with their confidence, and I will not willingly be recreant to their trust. I have no aspirations for the future in political life. I would cheerfully to-day resign a position where personal independence is treason to party power. But while I remain, I shall attempt to do my whole duty, in the exercise of my best judgment, not for my constituency alone, but for my whole undivided country.

I know that the sentiments I have uttered are by no means consonant with the opinions of those who lead, or mislead, the Union men of this House. They may not be in accordance with popular sentiment in my State or in the country, inflamed as it may be by appeals made here to prejudice and to passion. But they are my sentiments—they are honestly entertained; they are fearlessly uttered. I fear not the issue. I know the power of public opinion. I have felt it in its excitement. I have seen it in the fury of its tide. It may be irresistible; it may be omnipotent; but, thank God, it is not immutable; and for myself, holding fast to justice and to right, let me rather be submerged beneath the waves, to reappear when the storm is over, than borne like wrack and sea-weed on the ocean's breast, without purpose or self-control, drifted by its currents, and driven by its tempests, be cast high upon the shore, to mark in decay and rottenness the highest elevation of the tide and the point whence it receded.

Mr. Speaker, I shall shrink from no responsibility in extending to the freedman full protection in his rights as a matter of essential justice or as a recognition of the fidelity and heroism of his race during the rebellion.

But I will not consent to inflict needless and wanton injury upon the people of the South because they are not ready in a moment to surrender the pride or the prejudice of generations. I will not deny them the right of representation, and hold the Union dissolved, simply because they are not willing to extend to the colored race that universal enfranchisement which we ourselves deny them in every State of the Union save Vermont alone.

Such was not the purpose for which the war was prosecuted, and I will not prove false to its history.

To-day I summon from their honored though unmarked graves the countless thousands who beneath the Federal flag laid down their lives in this fierce and unnatural conflict. From the pestilential prison-yards of Andersonville, Castle Thunder, and Libby, I call forth the fifty thousand of our heroes who perished there from cruelty or slow starvation; and from the grim, ghastly throng, bearing yet upon them in death the tattered and bloody uniform of blue, I demand, for what did you die? Though they be dead they yet speak. The same answer comes from each and all, "We died for the Union unbroken, undivided, and at peace." Five hundred thousand men went down to bloody graves with the cry yet thrilling on their lips, "The Union forever!"

To-day we who sent them forth from friends and home to fall in battle for the Union; we who told them, by all our public acts and by solemn resolutions, that the war was prosecuted for no purpose of subjugation or conquest, but only to enforce submission to the Constitution

and the laws, spurn this sacrifice of death, and refuse, for Union and peace together, to surrender a suspicion or a prejudice.

The world moves. Is it backward or onward? Has it rolled backward for more than two thousand years into the deep darkness of barbaric ages, or has it rolled onward till that voice which, amid the agonies of crucifixion, uttered in love to his enemies, "Father, forgive them, they know not what they do," is audible no longer?

Sir, no social error, no political prejudice, no religious heresy was ever eradicated from the popular mind by persecution or proscription, fire or sword. The religion of the Redeemer, proclaimed from the hills of Judea, has survived the martyrdom of its founder, and the civil authority of those who by torture and flame sought to strangle its life. It held in its hand no firebrand and no sword in the hours of its peaceful triumph. The various sects to which it gave birth, regardless of its divine origin, in vain endeavored by punishment, imprisonment, and death to force their respective tenets upon the world. Catholic Spain, in the reign of Charles V, Philip II, and Philip III, tried inquisitorial power upon the Moors of Andalusia and the Protestants of the Netherlands. She hunted the former from their homes, confiscated their property, burned them by fire, and smothered them in caves, to convert them from the faith of Mohammed to the religion of peace, and finally exiled the helpless remnant of the race to the burning sands of the African deserts.

On the 26th February, 1568, Philip II signed the infamous decree of Ximenes, which consigned every Protestant in the Netherlands to the scaffold, even after the boast of Alva that he had beheaded twenty thousand heretics. The murder of one hundred and thirty thousand tested the persuasive power of sectarian despotism.

Catholic England burned Protestants at Smithfield. Protestant England hanged Catholics at Tyburn.

Since these scenes were enacted, three hundred years have passed away, and though the crumbling palaces of Granada, still attractive in the adornments of Arabian genius, no longer by the banks of the Jenil and the Darro cast their shadows on the Moor; though death has stayed the murderous arms of Charles and Philip and Alva and Granvelle on the Rhine; though the fires of Smithfield were long since extinguished, Spain, England, and the world, in the nineteenth century and in the high noon of its civilization, have yet to learn that the word of Love is mightier than the arm of Power, and that Truth itself ceases to be omnipotent when Oppression and Proscription stand as accredited ministers at her altars.

I fear, Mr. Speaker, that in the spirit of our legislation, and in the bitterness of our denunciations against the whole people of the late southern confederacy, we are committing an error and a crime. The war is over. The past, with all its passions, with all its cruelties, with all its sacrifices, with all its horrors, is gone. The thousands who in the tumult of battle met as foes, and

"Foremost fighting, fell,"

sleep together and at peace.

The aggregated hate of the nation toward the rebel living or the rebel dead cannot reanimate the ashes of a single of our loved ones who perished there for the Union. Alas! hate, proscription, and injustice, may render the sacrifice vain.

Our duty is not with the past but with the present; not with the dead but with the living; not with conquered provinces and foreign foes, but with our own soil shadowed by the ægis of the Constitution, and with our own citizens—erring, criminal, guilty, deserving of punishment, but still American citizens.

In the utter annihilation of Slavery, Reason and Philosophy discover that the seeds of harmony and peace are sown broadcast over the Republic. But the seed which the husbandman sows springs not up at the moment of its planting. It germinates in sunshine and gentle showers, it rises unseen through the protecting soil, it rejoices in the daylight, it expands and grows, its leaves open to the zephyrs of the spring. Nature supplies its wants; nature watches over it; nature and time mature the harvest, the blade, the ear, the full corn in the ear. This is nature's law. The planting is man's mission; the growth and the perfection belong to time and to God.

We have planted the seeds of universal freedom and equality. They will germinate neither in the frosts of neglect nor in the flames of anger. The gentle showers of prosperity and the sunlight of peace alone will give vitality to that we have planted; and God in His mercy and in His time will spread upon the field an abundant harvest.

I speak in the interest of republican government and of all people when I say that I believe no legislation will be so unwise and so disastrous as that which shall put far off the day of reconciliation with those of our countrymen who are now denied all interest in this Union; who are taxed without representation; without whose concurrence you propose to change the organic law of the land, and upon whom you design to enforce the principle of political equality in races, which our own constituents have never acknowledged.

Far better is it, as it seems to me, to return to the principles on which the Government was framed, and to recognize the interests of every loyal citizen in the legislation which permanently affects the country.

I want no war of races in this land, and to prevent it, our legislation should be so wise and so just as to give to no race reasonable ground for complaint.

It is but eleven years since that, one whose life and whose death were consecrated to freedom, and whose fiat struck the shackles from three million bondmen, declared that this country could not live at peace half free and half slave.

Sooner than he dreamed, the life-struggle began and ended—ended, alas! with his own life—and slavery went down before freedom, because freedom was stronger than slavery.

I hope that no page in our history shall hereafter prove that in almost half of the Republic our people could not live in peace, half white and half colored, or that our legislation was such as to provoke or justify collision.

Time and reason alone can remove existing prejudices of opinion. Time casts its mantle of oblivion over hate and passion. Time will bring its solace to wounded pride, and resignation to broken hearts. Time legislates for peace. Its decrees you can neither stay, modify, nor repeal by your legislation. It mocks your "previous question." Your descending gavel, Mr. Speaker, may note the passage of its hours, but cannot arrest its argument. If you will not hear it you shall feel it in returning prosperity and peace. Time lifts the continents from the ocean's bed, or buries them beneath the waves. Time legislates upon climates, upon productions. Time builds up and pulls down empires. It lays its hand upon the generations and races of mankind, and they pass away, the weaker before the stronger.

Four hundred years ago this continent was the home of Indian empire, and within its limits no white man trod the soil. Where to-day are the countless Indian tribes who then held undisputed sway from the Gulf of St. Lawrence to the Caribbean sea? King Philip has left his scepter to no descendant by the Narragansett. Massasoit, Canonicus, Metacomet, and Miantonomoh have left their graves, but not their empires to the present age. No child on the banks of the James now claims Virginia as an inheritance from Powhatan. The red rulers of the shade, and the races they governed, have gone forever. Anglo-Saxon civilization, crowding westward from the shores of Europe, bearing the arts of life in its hand and the elements of freedom in its bosom, demanded the slopes of the Atlantic and the great valleys of the West for its empire and its home. Civilization was stronger than barbarism, intelligence was stronger than ignorance, art was stronger than nature.

Mr. Speaker, I solemnly, I sorrowfully believe, that but one course can save the colored race of this country from speedy and almost universal destruction; and that is, not by forcing upon the ignorant and debased the full exercise of political rights, but by protecting them in the enjoyment of their freedom, by securing to them the reward of their own labor and all rights before the law, and providing for their education that thus they may be fitted for the ultimate political duties of freemen.

Give them protection, teachers, education, and hold out to them inducements to self-improvement, and patient industry will open the avenue to thrift, and thrift will secure both respect and enfranchisement.

In this mode you will avoid collision, and your policy will remove a prominent obstacle to restoration, and you will escape the inconsistency of giving the highest right of a freeman, which requires intelligence in its exercise, to a whole race, who are, by your solemn legislation in the last session of your Congress, pronounced incapable to make a contract for their own labor.

Cast to the winds your unconstitutional schemes of confiscation in peace without conviction for treason. Let the world know that the American Congress has learned that punishment is adjudged by law for the good of society, for the reformation of the offender, and not for revenge.

Permit me, before I close, to say that while I regard the Constitution as organizing the most perfect Government which we have known, its amendment may at times be essential and proper. Two amendments I have cheerfully supported because I believed them to be just. I am willing, if need be, to support others, but only when consistent with the general interests, and in harmony with the cardinal principles of the Government.

An amendment which gives in terms to Congress the power to make all laws to secure to every citizen in the several States equal protection to life, liberty, and property, is a grant for original legislation by Congress. If Congress may give equal protection to all as to property, it is itself the judge of the measure of that protection. Its legislation may be universal. It may enlarge protection, it may circumscribe it and limit it, if only it make it equal.

Under such a power the constitutional functions of State Legislatures are impaired, and Congress may arrogate those powers of legislation which are the peculiar muniments of State organizations, and which cannot be taken from the States without a radical and fatal change in their relations.

I will, sir, consent to no centralization of power in Congress in derogation of constitutional limitations, nor will I lodge there to-day any grant of power which may in other times, and under the control of unprincipled political aspirants or demagogues, be exercised in contravention of the rights and liberties of my countrymen.

Mr. WOODBRIDGE obtained the floor.

Mr. STEVENS. Will the gentleman yield to allow me to offer a paper for reference?

Mr. WOODBRIDGE. Yes, sir.

Mr. STEVENS. I ask consent to introduce the following paper, which I send to the Clerk.

The Clerk read, as follows:

[By telegraph from Harrisburg.]

FEBRUARY 28, 1866.

To Hon. THADDEUS STEVENS:

A full caucus of the Union members of both Houses last night unanimously passed resolutions sustaining Congress. R. W. SHENK.

Mr. STEVENS. I desire that it may be referred to the committee on reconstruction. [Laughter.]

Mr. CHANLER. I object.

Mr. ELDRIDGE. How does that come in?

The SPEAKER. The gentleman from Vermont [Mr. WOODBRIDGE] yielded the floor to the gentleman from Pennsylvania, [Mr. STEVENS,] who asked consent to have this referred.

Mr. ELDRIDGE. It is utterly useless to refer it; it is in the hands of that head of the committee who offered it.

Mr. STEVENS. If there is any trouble about it I withdraw the document.

Mr. WOODBRIDGE. Mr. Speaker, I do not intend to discuss this question at any length. The time of the House has been very profitably occupied in its discussion for several days, and I have no idea that any arguments that I may advance, or any views that I may submit, will alter the mind or the vote of any gentleman upon the floor. But, sir, great responsibilities rest upon the members of the present Congress. We are not writing history, which is difficult; we are making history, which is more difficult still. The footprints of this Congress will be upon the rocks of the mountains. National and political convulsions may ensue; republics may rise and fall; systems of government may be erected and destroyed; but never, so long as the earth rolls, will the footprints which this Congress makes be eradicated from history.

Sir, there has never been a day since the foundation of this Government when all the candor, the calmness, the deliberation, the foresight, the wisdom of Congress has been so imperatively demanded as now. Our fathers launched forth upon an unknown sea in a ship of state made without a model, and doubtless anticipated that during the voyage tempests might arise which would test the strength of the ship and develop its weakness, if any existed, and that repairs might become necessary. For many years propitious winds filled her sails. Breakers and the lee shore never seriously threatened her; the waves never rose high enough to beat upon and wrench from its place the only false and rotten plank which covered her side. But in the providence of God the tempest has come, and the rotten plank has been wrenched from its place; the old ship trembled from her rudder to her bowsprit, but, thank God, she rode out the storm, and now she needs, in my judgment, some slight repairs. The plank of slavery is to be replaced by the plank of freedom. We are told that now is not the time to make repairs; that we are not calm enough to do it; that we are surrounded by influences which have excited our passions; that the disappointment which has come upon the majority of this House has unsettled the calmness of their reason and rendered it impossible for them to give that deliberation which the greatness of this subject demands. Sir, a general in time of war and danger is calmest and bravest; the sailor may rest in the calm, but when the storm comes and breakers are ahead, every man must be at his post. The ship must be saved, though here and there a sailor loses his life.

To meet the present condition of things a great number of amendments have been proposed to the Constitution. Many of them, in my judgment, are improper, and most of them are entirely useless. And here permit me to say, that when an amendment to the Constitution is proposed, it should receive the candid, careful, cautious, and thoughtful investigation of the House. Free, full, fair, open debate should be allowed. The lash of the previous question should rarely be applied. It is somewhat dangerous ever to meddle with the great chart of our liberties. The more we tamper with it the less sacred it seems to be, and no amendment should be entertained unless under the present condition of the country—a condition which our fathers never could have anticipated or provided against—it is imperatively demanded.

Now, I have as much reverence for the old Constitution as the gentleman from New York, [Mr. HALE.] I have as much confidence in it as he can have; I am as thankful as he is that it has heretofore withstood all the attacks that have been made upon it, that it has carried us through two foreign wars with safety, and that in all respects it has protected the liberty of the citizen. Like the gentleman, I have been taught to admire that delicate and proper adjustment of the rights and powers of the States and of the General Government, whereby centralization, always dangerous to the Republic, cannot exist on the one hand, and unrestrained license, because always dangerous to the liberties of the people, cannot exist upon the other; and had all the people done right there would not at this time have been the need for any constitutional amendments.

But, sir, through the lust of power the harmony of our Government has been destroyed. New social and political relations have been established. Four million people have been born in a day. The shackles have been stricken from four million separate chattels, and they have become in an hour living, thinking, moving, responsible beings, and citizens of the United States.

And if Congress does not do something to provide for these people, if they do not prove equal to their duty, and come up to their work like men, the condition of those people will be worse than it was before. The accumulated prejudices of centuries, together with the unmitigated wrath of those who have held them in bondage, but by reason of the rebellion can no longer hold property in man, will culminate upon their heads.

And now, sir, what is the duty of the American people toward these men? Is it sufficient that we have merely knocked the shackles from their limbs? Is it sufficient that we have made them freemen and left them cold, hungry, and naked, without the power of attaining one of those civil natural rights which make freedom not only a name but a power? Is that all that the American Congress and the American people are to do with those people who by the result of war and the constitutional amendment have come forth from a state of bondage into a state of freedom?

But it may be said that all this may be done by legislation. I am rather inclined to think that the most of it may be so accomplished. But the experience of this Congress in that regard has been most unfortunate. Sir, I cast no imputation upon the President of the United States. I believe him to be honest, able, and patriotic. And I pray God that the sea of discord may become quiet, and that the President and Congress, acting together, firmly, manfully, and for the right, may preserve the great party of freedom, upon which, in my judgment, depends not only the liberty of the Republic, but the advancement of free principles and of Christian civilization throughout the world. But inasmuch as the President, honestly, I have no doubt, has told us that there were constitutional difficulties in the way, I simply suggest that we submit the proposition to the people, that they may remove these objections by amending the instrument itself.

What is the object of the proposed amendment? It merely gives the power to Congress to enact those laws which will give to a citizen of the United States the natural rights which necessarily pertain to citizenship. It is intended to enable Congress by its enactments when necessary to give to a citizen of the United States, in whatever State he may be, those privileges and immunities which are guaranteed to him under the Constitution of the United States. It is intended to enable Congress to give to all citizens the inalienable rights of life and liberty, and to every citizen in whatever State he may be that protection to his property which is extended to the other citizens of the State.

Sir, is there anything anti-republican in this? Is there anything wrong in this? Is there anything which interferes with the sovereign power of a State that adheres to a republican form of government? Is there not rather in this a tendency to keep the States within their orbits, and by what the gentleman from New Jersey [Mr. ROGERS] would call "the organic law," insure and secure forever to every citizen of the United States the privileges and blessings of a republican form of government? There is nothing more, there is nothing less, in this proposition.

It does not destroy the sovereignty of a State, if such a thing exists. It does not even affect its sovereign rights, but merely keeps whatever sovereignty it may have in harmony with a republican form of government and the Constitution of the country.

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

Mr. WOODBRIDGE. No sir; the gentleman must excuse me, as I have but five minutes, and that by courtesy. I believe that this amendment is not only justifiable, but necessary. I approach an amendment of the Constitution with as much shrinking and with as much hesitation as any man on the floor of this House. I have the highest opinion of that great charter which was founded by our fathers.

But, sir, the age is an age of progress. The conditions of society are different from what the fathers anticipated; and I fully believe that if we meet the obligations which we owe to the country, we must pass an amendment of this or of a similar character.

The adoption of this amendment, Mr. Speaker, will be no shock upon the present well-arranged system, defining the powers of the General Government and the States, under which we have so happily lived. The condition of the freedmen, if nothing else, demands the adoption of this resolution; and, in my judgment, the people will not have done their whole duty until they see to it that the amendment is adopted.

Mr. BINGHAM. Mr. Speaker, I approach the discussion of this subject, aware that it will be utterly impossible for me, within the time allotted me by the rules of the House, to do justice to the proposition reported by the joint committee.

I think, sir, that the honorable gentleman from Vermont [Mr. WOODBRIDGE] has uttered words that ought to be considered and accepted by gentlemen of the House, when he says that the action of this Congress in its effect upon the future prosperity of the country will be felt by generations of men after we shall all have paid the debt of nature. I believe, Mr. Speaker, as I have had occasion to say more than once, that the people of the United States have intrusted to the present Congress in some sense the care of the Republic, not only for the present, but for all the hereafter. Your committee, sir, would not have sent to this House for its consideration this proposition but for the conviction that its adoption by Congress and its ratification by the people of the United States is essential to the safety of all the people of every State. I repel the suggestion made here in the heat of debate, that the committee or any of its members who favor this proposition seek in any form to mar the Constitution of the country, or take away from any State any right that belongs to it, or from any citizen of any State any right that belongs to him under that Constitution. The proposition pending before the House is simply a proposition to arm the Congress of the United States, by the consent of the people of the United States, with the power to enforce the bill of rights as it stands in the Constitution to-day. It "hath that extent—no more." It is in these words:

Joint resolution proposing an amendment to the Constitution of the United States.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two thirds of both Houses concurring,) That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three fourths of the said Legislatures, shall be valid as part of said Constitution, namely:

ARTICLE —. The Congress shall have power to make all laws which shall be necessary and proper to secure to the citizens of each State all privileges and immunities of citizens in the several States, and to all persons in the several States equal protection in the rights of life, liberty, and property.

Gentlemen who seem to be very desirous (although it has very recently come to them) to stand well with the President of the United States, if they will look narrowly into the message which he addressed to this Congress at the opening of the session will find that the proposition pending is approved in that message. The President in the message tells this House and the country that "the American system rests on the assertion of the equal right of

every man to life, liberty, and the pursuit of happiness."

But, sir, that statement rests upon higher authority than that of the President of the United States. It rests upon the authority of the whole people of the United States, speaking through their Constitution as it has come to us from the hands of the men who framed it. The words of that great instrument are:

"The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States."

"No person shall be deprived of life, liberty, or property, without due process of law."

What do gentlemen say to these provisions? "Oh, we favor that; we agree with the President that the basis of the American system is the right of every man to life, liberty, and the pursuit of happiness; we agree that the Constitution declares the right of every citizen of the United States to the enjoyment of all privileges and immunities of citizens in the several States, and of all persons to be protected in life, liberty, and property."

Gentlemen admit the force of the provisions in the bill of rights, that the citizens of the United States shall be entitled to all the privileges and immunities of citizens of the United States in the several States, and that no person shall be deprived of life, liberty, or property without due process of law; but they say, "We are opposed to its enforcement by act of Congress under an amended Constitution, as proposed." That is the sum and substance of all the argument that we have heard on this subject. Why are gentlemen opposed to the enforcement of the bill of rights, as proposed? Because they aver it would interfere with the reserved rights of the States! Who ever before heard that any State had reserved to itself the right, under the Constitution of the United States, to withhold from any citizen of the United States within its limits, under any pretext whatever, any of the privileges of a citizen of the United States, or to impose upon him, no matter from what State he may have come, any burden contrary to that provision of the Constitution which declares that the citizen shall be entitled in the several States to all the immunities of a citizen of the United States?

What does the word immunity in your Constitution mean? Exemption from unequal burdens. Ah! say gentlemen who oppose this amendment, we are not opposed to equal rights; we are not opposed to the bill of rights that all shall be protected alike in life, liberty, and property; we are only opposed to enforcing it by national authority, even by the consent of the loyal people of all the States.

Mr. ROGERS. Will the gentleman yield to me?

Mr. BINGHAM. The gentleman must excuse me.

Mr. ROGERS. Only for a question. I only wish to know what you mean by "due process of law."

Mr. BINGHAM. I reply to the gentleman, the courts have settled that long ago, and the gentleman can go and read their decisions.

Mr. HALE. Allow me to put a question.

Mr. BINGHAM. Excuse me. Mr. Speaker, we have had some most extraordinary arguments against the adoption of the proposed amendment. Amongst others we have the argument of the gentleman from New Jersey, [Mr. ROGERS,] that he is opposed to it because he says it comes from a joint committee more tyrannical than any tyranny which disgraced the times of Louis XIV. I do not see, if the amendment be good, that that is any objection to its adoption. The gentleman seemed to think it was an objection. He must have spoken sportively; he must have spoken ironically of the committee of which the gentleman himself is a member. The gentleman unwittingly echoed the speech made at the other end of the avenue, and I regret to say by the President, in which he denounced to a party of the gentleman's choosing this joint committee of reconstruction, raised by the action of both Houses of Congress, as a central dictator unconstitutional and unauthorized by law. Why, sir, if the gentleman was not speaking sportively, if he was not speaking ironically, one would suppose he would make haste to withdraw himself from all connection with such a committee as that of which he thus speaks. Surely the gentleman does not mean by this denunciation of the committee to boast, like certain men of eighteen centuries ago, that he is better than other men, who lifted up their hands and thanked God that they were not like other men. If that be the gentleman's opinion of himself, it is time he should exclaim, "My soul, be not thou united with their assembly or sit in the council of the ungodly!"

We have the extraordinary argument of the gentleman from Pennsylvania, [Mr. RANDALL,] that however just the amendment may be we ought not to pass it in the absence of the Representatives of the eleven States lately in insurrection against the country. Mr. Speaker, when the gentleman comes to reflect upon that remark of his he will see by using it he casts an imputation upon the very men who framed the matchless Constitution of the country under which we are assembled here to-day. It was written in the Articles of Confederation that they "should be articles of perpetual Union" between the original thirteen States who were parties to it. It was written in the Constitution that, if adopted by nine States, it should become the Constitution for those nine States, the covenant of the Articles of Confederation to the contrary notwithstanding. It thence resulted that the Constitution did become the supreme law of some ten States, in the absence of assent thereto on the part of three, and in direct violation of the express covenant of the Confederation itself. And when the question was asked of one of the fathers of the Constitution, how can you break up the Confederation without the consent of all the States, and against the protest of some of them; how can you break the covenant "of perpetual Union" under the Articles of Confederation? he gave for answer, that the right of the people to self-preservation justifies it; it rests upon the transcendent right of nature, and nature's God. That right is still in the people and has justified their action through all this trial. It is the inherent right of the people. It cannot be taken from them. It has survived the storms and tempests of this great conflict of arms. Hence, if the gentleman's logic be true, that you cannot amend the Constitution without the assent of Representatives in Congress of the rebel States, you could not have passed any bill during all these four years of war, if it affected in any sense the interests of the eleven rebel States.

In that objection the gentleman, like the gentleman who preceded him, is simply following the argument of the President, who has said something of that kind in his veto message of the Freedmen's Bureau bill.

We have, then, sir, the calmer and more deliberate utterance of the honorable gentleman from New York, [Mr. HALE.] He says that the Constitution does contemplate equality in the protection of the rights of life, liberty, and property in every State. He admits it does contemplate that the citizen of each State shall be entitled to all the privileges and immunities of citizens in the several States. It will be noticed, the gentleman takes care not to utter one single word in opposition to that part of the amendment which seeks the enforcement of the second section of the fourth article of the Constitution of the United States, but by his silence he gives his assent to it. But the gentleman reiterates the old cry of State rights, and says, "You are impairing State rights." I would like to know, and when the gentleman comes to make another argument on this subject, I respectfully ask him to inform us whence he derives the authority for supposing, if he does so suppose, that any State has the right to deny to a citizen of any other State any of the privileges or immunities of a citizen of the United States. And if a State has not the right to do that, how can the right of a State be impaired by giving to the people of the United States by constitutional amendment the power by congressional enactment to enforce this provision of their Constitution?

The gentleman did not utter a word against the equal right of all citizens of the United States in every State to all privileges and immunities of citizens, and I know any such denial by any State would be condemned by every sense of his nature. If a State has not the right to deny equal protection to any human being under the Constitution of this country in the rights of life, liberty, and property, how can State rights be impaired by penal prohibitions of such denial as proposed?

But, says the gentleman, if you adopt this amendment you give to Congress the power to enforce all the rights of married women in the several States. I beg the gentleman's pardon. He need not be alarmed at the condition of married women. Those rights which are universal and independent of all local State legislation belong, by the gift of God, to every woman, whether married or single. The rights of life and liberty are theirs whatever States may enact. But the gentleman's concern is as to the right of property in married women.

Although this word property has been in your bill of rights from the year 1789 until this hour, who ever heard it intimated that anybody could have property protected in any State until he owned or acquired property there according to its local law or according to the law of some other State which he may have carried thither? I undertake to say no one.

As to real estate, every one knows that its acquisition and transmision under every interpretation ever given to the word property, as used in the Constitution of the country, are dependent exclusively upon the local law of the States, save under a direct grant of the United States. But suppose any person has acquired property not contrary to the laws of the State, but in accordance with its law, are they not to be equally protected in the enjoyment of it, or are they to be denied all protection? That is the question, and the whole question, so far as that part of the case is concerned.

The gentleman seemed to think that all persons could have remedies for all violations of their rights of "life, liberty, and property" in the Federal courts.

I ventured to ask him yesterday when any action of that sort was ever maintained in any of the Federal courts of the United States to redress the great wrong which has been practiced, and which is being practiced now in more States than one of the Union under the authority of State laws, denying to citizens therein equal protection or any protection in the rights of life, liberty, and property.

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

Mr. BINGHAM. No, sir; the gentleman will please excuse me.

Mr. HALE. If he is relating what took place in the debate——

Mr. BINGHAM. I am relating what I asked the gentleman yesterday.

Mr. HALE. In the debate?

Mr. BINGHAM. Yes, sir, in the debate. A gentleman on the other side interrupted me and wanted to know if I could cite a decision showing that the power of the Federal Government to enforce in the United States courts the bill of rights under the articles of amendment to the Constitution had been denied. I answered that I was prepared to introduce such decisions; and that is exactly what makes plain the necessity of adopting this amendment.

Mr. Speaker, on this subject I refer the House and the country to a decision of the Supreme Court, to be found in 7 Peters, 247, in the case of Barron *vs.* The Mayor and City Council of Baltimore, involving the question whether the provisions of the fifth article of the amendments to the Constitution are binding upon the State of Maryland and to be enforced in the Federal courts. The Chief Justice says:

"The people of the United States framed such a Government for the United States as they supposed

best adapted to their situation and best calculated to promote their interests. The powers they conferred on this Government were to be exercised by itself; and the limitations of power, if expressed in general terms, are naturally, and we think necessarily, applicable to the Government created by the instrument. They are limitations of power granted in the instrument itself, not of distinct governments, framed by different persons and for different purposes.

"If these propositions be correct, the fifth amendment must be understood as restraining the power of the General Government, not as applicable to the States."

I read one further decision on this subject—the case of the Lessee of Livingston *vs.* Moore and others, 7 Peters, page 551. The court, in delivering its opinion, says:

"As to the amendments of the Constitution of the United States, they must be put out of the case, since it is now settled that those amendments do not extend to the States; and this observation disposes of the next exception, which relies on the seventh article of those amendments."

What have gentlemen to say to that? Sir, I stand relieved to-day from entering into any extended argument in answer to these decisions of your courts, that although as ruled the existing amendments are not applicable to and do not bind the States, they are nevertheless to be enforced and observed in States by the grand utterance of that immortal man, who, while he lived, stood alone in intellectual power among the living men of his country, and now that he is dead, sleeps alone in his honored tomb by the sounding sea. I refer to that grand argument never yet answered, and never to be answered while human language shall be spoken by living man, wherein Mr. Webster says:

"There is no language in the Constitution applicable to a confederation of States. If the States be parties, as States, what are their rights, and what their respective covenants and stipulations? And where are their rights, covenants, and stipulations expressed? The States engage for nothing, they promise nothing. In the Articles of Confederation, they did make promises, and did enter into engagements, and did plight the faith of each State for their fulfillment, but in the Constitution there is nothing of that kind. The reason is, that in the Constitution it is the people who speak, and not the States." * * * * "They address themselves to the States and to the Legislatures of States in the language of injunction and prohibition. The Constitution utters its behests in the name and by authority of the people, and it does not exact from States any plighted public faith to maintain it. On the contrary, it makes its own preservation depend on individual duty and individual obligation." * * * * "It lays its hand on individual duty and individual conscience. It incapacitates any man to sit in the Legislature of a State who shall not first have taken his solemn oath to support the Constitution of the United States. From the obligation of this no State power can discharge him."—3 *Webster's Works*, p. 471.

Why, I ask, should not the "injunctions and prohibitions," addressed by the people in the Constitution to the States and the Legislatures of States, be enforced by the people through the proposed amendment? By the decisions read the people are without remedy. It is admitted in the argument of Mr. Webster, just cited, that the State Legislatures may by direct violations of their duty and oaths avoid the requirements of the Constitution, and thereby do an act which would break up any government.

Those oaths have been disregarded; those requirements of our Constitution have been broken; they are disregarded to-day in Oregon; they are disregarded to-day, and have been disregarded for the last five, ten, or twenty years in every one of the eleven States recently in insurrection.

The question is, simply, whether you will give by this amendment to the people of the United States the power, by legislative enactment, to punish officials of States for violation of the oaths enjoined upon them by their Constitution? That is the question, and the whole question. The adoption of the proposed amendment will take from the States no rights that belong to the States. They elect their Legislatures; they enact their laws for the punishment of crimes against life, liberty, or property; but in the event of the adoption of this amendment, if they conspire together to enact laws refusing equal protection to life, liberty, or property, the Congress is thereby vested with power to hold them to answer before the bar of the national courts for the violation of their oaths and of the rights of their fellow-men. Why should it not be so? That is the question. Why should it not be so? Is the bill of rights to stand in our Constitution hereafter, as in the past five years within eleven States, a mere dead letter? It is absolutely essential to the safety of the people that it should be enforced.

Mr. Speaker, it appears to me that this very provision of the bill of rights brought in question this day, upon this trial before the House, more than any other provision of the Constitution, makes that unity of government which constitutes us one people, by which and through which American nationality came to be, and only by the enforcement of which can American nationality continue to be.

The imperishable words of Washington ought to be in the minds of all of us touching this great question whether the unity of the Government shall be enforced hereafter by just penal enactments when the Legislatures of States refuse to do their duty or keep inviolate their oath. Washington, speaking to you and to me and to the millions who are to come after us, says:

"The unity of the Government which constitutes you one people is a main pillar in the edifice of your real independence, the support of your tranquillity at home, your peace abroad, of your safety, of your prosperity, of that very liberty which you so highly prize."

Is it not essential to the unity of the people that the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States? Is it not essential to the unity of the Government and the unity of the people that all persons, whether citizens or strangers, within this land, shall have equal protection in every State in this Union in the rights of life and liberty and property?

Why, sir, what an anomaly is presented to-day to the world! We have the power to vindicate the personal liberty and all the personal rights of the citizen on the remotest sea, under the frowning batteries of the remotest tyranny on this earth, while we have not the power in time of peace to enforce the citizens' rights to life, liberty, and property within the limits of South Carolina after her State government shall be recognized and her constitutional relations restored.

I commend especially to the honorable gentleman from New York [Mr. HALE] the paper issued by his distinguished fellow-citizen, when he was acting as Secretary of State for the United States, the lamented Marcy, touching the protection of the rights of Martin Koszta, a citizen of the United States, whose rights were invaded abroad, within the jurisdiction of the empire of Austria. Commodore Ingraham gave notice that he would fire upon their town and their shipping unless they respected the rights of a declared citizen of the American Republic. You had the power to enforce your demand. But you are powerless in time of peace, in the presence of the laws of South Carolina, Alabama, and Mississippi, as States admitted and restored to the Union, to enforce the rights of citizens of the United States within their limits.

Do gentlemen entertain for a moment the thought that the enforcement of these provisions of the Constitution was not to be considered essential? Consider the triple safeguards interposed in the Constitution itself against their denial. It is provided in the Constitution, in the first place, that "this Constitution," the whole of it, not a part of it, "shall be the supreme law of the land." Supreme from the Penobscot in the farthest east, to the remotest west whore rolls the Oregon; supreme over every hamlet, every State, and every Territory of the Union.

As the whole Constitution was to be the supreme law in every State, it therefore results that the citizens of each State, being citizens of the United States, should be entitled to all the privileges and immunities of citizens of the United States in every State, and all persons, now that slavery has forever perished, should be entitled to equal protection in the rights of life, liberty, and property.

As a further security for the enforcement of the Constitution, and especially of this sacred bill of rights, to all the citizens and all the people of the United States, it is further provided that the members of the several State Legislatures and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution. The oath, the most solemn compact which man can make with his Maker, was to bind the State Legislatures, executive officers, and judges to sacredly respect the Constitution and all the rights secured by it. And yet there is still another provision lest a State Legislature, with the approval of a State Executive, should, in disregard of their oath, invade the rights of any citizen or person by unjust legislation, violative alike of the Constitution and the rights secured by it, which is very significant and not to be overlooked, which is,

"And the judges of every State shall be bound by the Constitution of the United States, anything in the constitution and laws of any State to the contrary notwithstanding."

With these provisions in the Constitution for the enforcement in every State of its requirements, is it surprising that the framers of the Constitution omitted to insert an express grant of power in Congress to enforce by penal enactment these great canons of the supreme law, securing to all the citizens in every State all the privileges and immunities of citizens, and to all the people all the sacred rights of person—those rights dear to freemen and formidable only to tyrants—and of which the fathers of the Republic spoke, after God had given them the victory, in that memorable address in which they declared, "Let it be remembered that the rights for which America has contended were the rights of human nature?" Is it surprising that essential as they held the full security to all citizens of all the privileges and immunities of citizens, and to all the people the sacred rights of person, that having proclaimed them they left their lawful enforcement to each of the States, under the solemn obligation resting upon every State officer to regard, respect, and obey the constitutional injunction?

What more could have been added to that instrument to secure the enforcement of these provisions of the bill of rights in every State, other than the additional grant of power which we ask this day? Nothing at all. And I am perfectly confident that that grant of power would have been there but for the fact that its insertion in the Constitution would have been utterly incompatible with the existence of slavery in any State; for although slaves might not have been admitted to be citizens they must have been admitted to be persons. That is the only reason why it was not there. There was a fetter upon the conscience of the nation; the people could not put it there and permit slavery in any State thereafter. Thank God, that fetter has been broken; it has turned to dust before the breath of the people, speaking as the voice of God and solemnly ordaining that slavery is forever prohibited everywhere within the Republic except as punishment for crime on due conviction. Even now for crimes men may be enslaved in States, notwithstanding the new amendment.

As slaves were not protected by the Constitution, there might be some color of excuse for the slave States in their disregard for the requirement of the bill of rights as to slaves and refusing them protection in life or property; though, in my judgment, there could be no possible apology for reducing men made like themselves, in the image of God, to a level with the brutes of the field, and condemning them to toil without reward, to live without knowledge, and die without hope.

But, sir, there never was even colorable excuse, much less apology, for any man North or South claiming that any State Legislature or State court, or State Executive, has any right to deny protection to any free citizen of the United States within their limits in the rights of life, liberty, and property. Gentlemen who oppose this amendment oppose the grant of power to enforce the bill of rights. Gentlemen who oppose this amendment simply declare to

these rebel States, go on with your confiscation statutes, your statutes of banishment, your statutes of unjust imprisonment, your statutes of murder and death against men because of their loyalty to the Constitution and Government of the United States.

That is the issue that is before the American people; and God helping me, without respect for persons in high places who show a disposition to betray this great cause, I will not betray it, so long as it is given me to know the right.

Pending this great issue, what utterances do we hear? You have, in the first place, the utterances of him whom we elected Vice President of the United States, and who is now, by the work of an assassin, President of the United States, and of whom I have been accustomed to speak with great respect. The House and the country will remember that at the opening of this session I declared in my place here that if an issue was to be made between the President and the Representatives of the people it must be made by him and not by us. It has been made by him.

I trust in God that for his own sake, for the sake of his country, and of the friends who gave him his high position, he will retrace his steps; but whether he does or does not, I trust that the American people will not strike the word "forward" from their vocabulary, but will go right on to the consummation of the great work which Providence has committed to their hands; that is, the enforcement of their Constitution in every State, in every Territory, and upon every sea, wherever our flag floats, whoever may oppose at home or abroad.

What, in brief, are those utterances? Why, says the President in his speech—not in his message to Congress, but in his speech, which is received with so many laudations in certain quarters, and over which, it seems, the gentleman from New Jersey [Mr. ROGERS] and his party held a sort of general jubilation—"Let all those lately in insurrection against the Government and laws of the United States, who will now declare their allegiance and take the oath, be admitted into this Union, and by their representatives into the councils of this nation."

Take the oath! What oath? Not the oath of the Constitution which they have broken, but the oath prescribed by the President himself, and which, except in the tribunals of military justice, has no more force or effect than the paper upon which it is printed. Ay, take the oath! "Swear him, and let him go." It would be about as reasonable, under existing circumstances, to swear that venomous reptile which was the symbol of South Carolina's treason—the rattlesnake—and let it go.

What have we more touching this great issue? The venerable Secretary of State, in the city of New York, makes a speech, and in the course of that speech gives to the country another of his prophecies. I have been accustomed to sustain, in my humble way, that gentleman in the past, and I am accustomed now to speak of him most gratefully for the services he has rendered to the country, by his surpassing skill as a diplomatist, and by his undoubted fidelity to the interests of his country in his great office as minister of foreign affairs. What I say of him now I speak with regret and sorrow, not in anger. What I speak of him I say from a sense of duty to a cause which I think imperiled by his speech. It is fit the people should not be deceived. "The man who speaks the truth is greater than a king."

Need the people of this country be reminded of what they do know, that he is no prophet, that his other memorable prophecies have failed? I remember, sir, that when the foundations of the Republic were rocking beneath the mustering tread of the armed hosts who were about to strike at the nation's life, that gentleman in the same city of New York uttered his oracular declaration that the rising storm would last only sixty days.

Mr. HALE. I rise to a question of order. I submit that the remarks of the gentleman from Ohio are not pertinent to the subject before the House.

Mr. BINGHAM. We shall see about that.

Mr. HALE. I submit that the speech of Mr. Seward, in New York, has nothing to do with the question as to the propriety of passing the constitutional amendment now under consideration.

Mr. BINGHAM. I am answering the objections to the passage of this resolution. Those objections were made in New York as well as in this House.

The SPEAKER. The gentleman from New York makes a point of order. The Chair will notice particularly the remarks of the gentleman from Ohio, and will arrest them if they are out of order.

Mr. BINGHAM. Well, sir, I was only saying that these prophecies which are uttered as objections against this proposition of security for the future cannot properly be accepted by the American people as a basis for their action, because the gentleman who utters these prophecies gave speculative utterance before of what was to be in the future, which most miserably failed of fulfillment. In that same city, in December, 1860, he told the people——

Mr. HALE. Mr. Speaker, I insist on my point of order.

The SPEAKER. The gentleman from New York makes a point of order that the gentleman from Ohio is not confining himself to the constitutional amendment now under consideration. The Chair sustains the point of order. The Chair said yesterday that he would confine the debate to the constitutional amendment whenever a point of order should be made; and the Chair thinks that the gentleman from Ohio, in discussing a speech delivered by the Secretary of State in New York, is going beyond the subject.

Mr. BANKS. If the Chair will allow me——

The SPEAKER. The Chair will be very glad to hear any suggestion of the gentleman from Massachusetts, [Mr. BANKS,] who formerly occupied the chair.

Mr. BANKS. I submit that the ruling just made by the Chair will, if insisted upon, limit the debate much too closely. As I understand the speech of the Secretary of State, delivered in New York, he asserts that there is no danger. The Secretary of State, as I understand, maintains that there is perfect national safety. The gentleman from Ohio thinks that there is danger, and brings in a constitutional amendment to obviate that danger and to save us from troubles which he thinks threaten us. Under these circumstances, we must most assuredly be permitted to discuss opinions so important as those of the Secretary of State.

The SPEAKER. The gentleman from Massachusetts, who once occupied this chair, is familiar with the rules, and knows that in the Committee of the Whole on the state of the Union, on the President's message, unlimited debate is allowed; but that on bills in the House which are special orders, or any bills pending, or on constitutional amendments pending before the House, if the question of order is made, the debate must be confined to them. The Chair thinks that the gentleman from Ohio [Mr. BINGHAM] was not indulging in the line of debate in order on the amendment before the House, whether the Constitution shall be amended in regard to the rights of the people of each State in the several States.

The gentleman from Massachusetts and the House, of course, must understand there must be some limit to debate in the House. In the Committee of the Whole on the President's message, the debate is not limited; every subject is allowed to be discussed then: but in the House it must be confined to the matter pending before the House.

Mr. BANKS. I did not refer to the ruling as existing in the House of Representatives at an earlier period, but only to the ruling as it affects this question. A constitutional amendment raises to the fullest extent the condition of the country——

Mr. HALE. I rise to a point of order, that this question is not debatable, and that the gentleman from Massachusetts has no right to debate it.

Mr. BANKS. Then I take an appeal from the decision of the Chair, and I do it for the purpose of saying what I have to say on the subject.

The SPEAKER. The question is, Shall the decision of the Chair stand as the judgment of the House?

Mr. BANKS. If the gentleman from Ohio [Mr. BINGHAM] discusses the official acts of the Secretary of State he is not in order; and I have heard with pain allusion in this House to the official acts of the chief officers of the Government. I do not think it admissible in debate. If there is anything of which we complain, anything in the official conduct of officers of the Government, notice should be given of some provision for its correction. But in this case there is an opinion of great importance given to the country by the Secretary of State, unofficial and informal, affecting its condition and the safety of the people; and certainly we must be allowed to discuss the condition of the country in reference to the proposed amendment, and incidentally the opinion of the Secretary of State in regard to it, informally and unofficially expressed.

I refer to the general rule controlling parliamentary discussion, and not to the distinction which has been properly made as to the rules of the House as they now stand.

It is not my wish to make an issue with the Chair; and therefore having had the opportunity to express myself, I withdraw the appeal.

Mr. BINGHAM. I renew it. Gentlemen would not permit me to make a statement by which I think it would be made plain I was in order. Gentlemen would not permit me to proceed with my remark at the moment of interruption so that the Speaker could understand my purpose. I have spoken in respectful terms of the Secretary of State's unofficial utterance to the effect that there is safety to the future of the country without any further action of the people; but I wanted to show that his prophecy was not to be relied on, because he had made similar ones before which had failed. At that point I was interrupted. If the words of this high official of the country may go out, and we cannot answer them upon this floor, then I appeal from the decision of the Chair.

The SPEAKER. The gentleman from Ohio is well aware how painful it is for the Chair to rule his remarks out of order, but he must discharge his duty with impartiality under the rules.

Mr. BINGHAM. I take pleasure in acquitting the Chair of any disposition to do me injustice.

The SPEAKER. The proposed constitutional amendment is as follows:

ARTICLE —. The Congress shall have power to make all laws which shall be necessary and proper to secure to the citizens of each State all privileges and immunities of citizens in the several States, and to all persons in the several States equal protection in the rights of life, liberty, and property.

The rule, from page 76, Barclay's Digest, is as follows:

"A member shall confine himself to the question under debate and avoid personality, but in Committee of the Whole on the state of the Union he is not bound to so confine himself."

The language of the rule is imperative that a member shall confine himself to the question, except in Committee of the Whole, where the largest liberty of debate is allowed. The Chair cannot understand that a discussion as to the prophecies of the Secretary of State can be regarded as confining the debate to the pending constitutional amendment. The line as to debate and its latitude must be drawn somewhere, and unless some connection is made between some portion of the speech alluded to and the pending amendment the Chair is compelled to hold that the general remarks thereon of the gentleman from Ohio are not within the rule just quoted.

The Congress shall have power to make all laws which shall be necessary and proper to secure to the citizens of each State all privileges and immunities of citizens in the several States, and to all persons in the several States equal protection in the rights of life, liberty, and property.

The Chair is still of opinion that in the remarks where the gentleman from Ohio [Mr. BINGHAM] was arrested he was not confining himself to the question in debate. From that decision the gentleman from Ohio appeals, and the question now is, Shall the decision of the Chair stand as the judgment of the House?

Mr. ELDRIDGE. I move to lay the appeal on the table.

The SPEAKER. The Chair would prefer that the question shall be taken directly on the appeal.

Mr. RAYMOND. The question is debatable, I believe.

The SPEAKER. The point as to which the appeal is taken is debatable.

Mr. RAYMOND. I desire to ask the gentleman from Ohio——

Mr. BINGHAM. To save further delay, I will withdraw it.

Mr. RAYMOND. I believe I have the floor, and while I have it the gentleman cannot withdraw it. I desire to ask the gentleman, inasmuch as he thinks it quite proper and right to introduce entirely new matter into this discussion, whether he proposes to allow any reply to be made to his remarks, or whether he proposes to move the previous question and cut off all debate. An answer to this question will influence my vote on the question of order somewhat.

Mr. CONKLING. Is the appeal withdrawn?

The SPEAKER. The gentleman from New York [Mr. RAYMOND] had the floor when it was proposed to withdraw it. The gentleman from Ohio will state whether he withdraws it.

Mr. BINGHAM. I withdraw it.

The SPEAKER. The gentleman from Ohio withdraws his appeal. He will proceed with his remarks.

Mr. RAYMOND. Why does not the gentleman answer the question? Is it because it is discourteous or improper?

Mr. BINGHAM. With all respect, I answer I have no further reply to make.

Mr. RAYMOND. Is the question of order decided?

The SPEAKER. The gentleman has withdrawn the appeal.

Mr. BINGHAM. Mr. Speaker, there is one further remark I desire to make here, and I trust it will not be deemed out of order. It has been announced by persons in high places unofficially that no amendment should be made to the Constitution; that there is no danger to be apprehended from the million men lately in arms against the Republic; that all the lately rebellious States should be admitted at once to representation without any condition; that the loyal people of the United States who have saved their Government from overthrow by the wager of battle have no right to require any security for the future; that nothing remains for them to do but to kill the fatted calf and to welcome back the returning prodigal traitors by the million.

Mr. CHANLER. I rise to a point of order. Under the ruling of the Chair the gentleman's remarks are out of order, not being pertinent to the question.

The SPEAKER. The Chair does not think so. The gentleman is now speaking directly to the question of the constitutional amendment, referring to an argument that no constitutional amendments should be passed, and is therefore in order.

Mr. BINGHAM. In that connection, in order to show the danger to the peace of the country, I beg leave to make another remark which I trust will be appreciated by gentlemen and not considered out of order; and that is, that at no distant day I have no doubt testimony will be adduced to satisfy every honest man in this country, who wishes well to the Government and the Constitution that there is now a conspiracy extending through every State lately in insurrection, and perchance beyond their limits, among these returning prodigal rebels for whom we are invited to kill the fatted calf, to take possession of the legislative power of this country, and accomplish by corrupt legislation what they failed to accomplish by arms. In support of that statement I ask that the Clerk shall read what I send now to the Speaker's table, purporting to be occasioned by the recent veto, but which also bears witness of the present purpose and expectations of the returning prodigals. It is taken from the Norfolk (Virginia) Post:

The Clerk read, as follows:

"GREAT VICTORY FOR THE SOUTH.—Since the morning of July 22, 1861, when the news of the great southern victory achieved by Beauregard over McDowell and the awful rout of the Federal Army on the plains of Manassas was borne through the South on the wings of the wind as it were, carrying joy and jubilation into every loyal southern household and gladdening every true southern heart, there has been no news received with so much rejoicing by the people of the South as that contained in the dispatch informing them the President had vetoed the Freedmen's Bureau bill."—*Norfolk (Virginia) Post.*

Mr. ELDRIDGE. I rise to a question of order. This being a part of the gentleman's argument, I insist that it is not pertinent to the question under discussion.

The SPEAKER. The Chair thinks the gentleman from Ohio has connected it with the subject under discussion. This constitutional amendment proposes to give Congress "power to make all laws which shall be necessary and proper to secure to the citizens of each State all privileges and immunities of citizens in the several States, and to all persons in the several States equal protection in the rights of life, liberty, and property." And if the Chair is correctly informed by the remarks of the gentleman from Ohio as to what this extract is, it relates to the veto by the President of a bill passed by Congress in regard to the rights of certain persons, and if that is the case, it may be within the province of Congress to pass a constitutional amendment to secure those rights and the rights of others generally, and therefore, as a part of the remarks of the gentleman from Ohio, this is certainly in order.

The Clerk resumed and concluded the reading of the article, as follows:

This is the greatest victory they have achieved during the war—greater than any of the feats of arms of Stonewall Jackson or of Robert E. Lee; and it has given them more pleasure than had General Lee been elected Governor of Virginia. They have found an ally in the President worth more to them than the alliance of France or England, and they now begin to see, even as they saw foreshadowed at Manassas, the final triumph of the great southern cause. The Republicans have been ignominiously defeated and driven from the field—routed horse, foot, and dragoons; and nothing can save them from total annihilation. All that is necessary for the South to do is to continue to hold up the President's hands, and wage an unceasing and bitter warfare against the Republican Congress. True, that Congress has numbers; but then it is only a mongrel horde of miscreants, who can easily be put to flight, and with "their friends" of the North to aid them as they did during the armed struggle, all that is necessary for the South is to bring every available man to the front, and push the present victory to a full consummation of their dearest and most cherished hopes.

But in the general joy of the moment, there are still a few "croakers" to be found, as there were in the days of open warfare, who caution their friends against too much exuberance of feeling, lest it should prove to be "that joy which kills." They say it is certainly a most brilliant victory, and has secured them the President—who will be kindly welcomed back, even as the prodigal son—and they will kill the fatted calf for him; but then much remains undone. The President is only one of the Republican armies that has been annihilated, and the least powerful at that. The Republicans, though mean and unscrupulous, are wily and determined fellows, and in all probability their defeat, as did that at Manassas, will serve their purpose to "fire the northern heart," and will only make them the more determined to restore the Government on their basis. They will now in all probability draw the sword, and throwing away the scabbard, wage a relentless warfare against the South till it acknowledges the people as the legitimate source of all power and Congress as its representative.

Mr. ROGERS. I would like to know what paper that is read from.

Mr. BINGHAM. I will inform the gentleman. It is an article from the Norfolk Post, a Virginia paper. It may be the organ of secession or it may not.

Mr. MARSHALL. It is proper that the gentleman should state that it is a radical paper.

Mr. ROGERS. It was the Chronicle it was read from.

Mr. BINGHAM. Mr. Speaker, I do not yield to the gentlemen.

Mr. CHANLER. I rise to a question of order. It is not in order for a gentleman to publish doctrines of a revolutionary and rebellious character in his speech.

The SPEAKER. The Chair overrules the question of order. It is not a point of order.

Mr. BINGHAM. I make the discovery that it is not in order, in the judgment of some gentlemen here, to warn the people of the danger that is impending over them.

Mr. ROGERS. I rise to a point of order. I want to know if we have not a right to know what paper it was that that was read from?

The SPEAKER. No gentleman has a right to the floor except the gentleman from Ohio, [Mr. BINGHAM,] who is entitled to it for one hour. No gentleman has a right to interrupt him without his consent.

Mr. ROGERS. Have we not a right to know what paper was read from?

The SPEAKER. The gentleman has only a right to know the speech of the gentleman from Ohio for one hour. [Laughter.]

Mr. ROGERS. It was read from the Chronicle.

Mr. BINGHAM. It will be copied all over the country I hope, and I wish it put on the records of the House. I wish to call the attention of Representatives to it. It has been already intimated that the fatted calf is to be killed at the North to welcome back the returning prodigals—traitors whose hands are red with the blood of murder and assassination, who for four years struck at the life of your country and at the life of its defenders. Whether the publisher of that paper at Norfolk who uttered the words which have been read was speaking ironically as to this conspiracy at the South, or whether as the accredited organ of the conspirators, it makes not a particle of difference. It is, in my judgment, according to the declared purpose of those men. They are ready to kill the fatted calf if Andrew Johnson will only forget his former utterances, wherein he said that treason is a crime that must be made odious and traitors must be punished; that traitors are no longer citizens and should not be permitted to participate in the reconstruction and reorganization of the States; and especially if he would lend himself to that black and villainous suggestion which finds a place in the columns of the Chicago Times—a paper which in its day was, I believe, suppressed for its treasonable utterances by order of General Burnside—that the President would do well to drive the Representatives of the people by an armed *posse* from the Hall of Representatives.

Mr. CHANLER. I rise to a question of order. I submit that remarks about the Chicago Times are not pertinent to the question under consideration.

The SPEAKER. The Chair doubts whether such remarks are pertinent.

Mr. CHANLER. Then I raise the further point of order, that when a gentleman is ruled out of order he must take his seat.

The SPEAKER. If a gentleman is indulging in disorderly language and is called to order he must take his seat as a matter of course, but when he is simply called to order because his remarks are not relevant to the question before the House he can proceed in order.

Mr. CHANLER. He must take his seat until the decision of the Chair is made.

The SPEAKER. The Chair has decided that remarks in regard to the Chicago Times are scarcely within the purview of this constitutional amendment. But the gentleman from Ohio has the right to proceed, and it is not required, on a mere question of relevancy, to take his seat.

Mr. BINGHAM. Well, Mr. Speaker, I have accomplished my purpose, notwithstanding the objection of gentlemen to let the country know that there are utterances of this sort afloat.

And now, sir, having said this, I desire to proceed with the argument to make good the declaration that there is danger to the Republic unless the loyal people who have saved this country by arms shall save it also by laws, which

they can only do within the limits of organized States, restored to their constitutional relations to the Government, by and through an amendment to your Constitution.

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

Mr. BINGHAM. I will yield for a question only.

Mr. LATHAM. I desire to ask the gentleman from Ohio, [Mr. BINGHAM,] whether he proposes to make the adoption of this constitutional amendment by the constitutional majority of the States a condition precedent to admitting the Representatives of any of the eleven States that are not now represented in Congress?

Mr. BINGHAM. It is not for me, Mr. Speaker, or for any member of this House, to suppose any such thing as that. And I beg leave to state further, in which I have no doubt the venerable gentleman from Pennsylvania, [Mr. STEVENS,] the chairman of the committee on reconstruction on the part of the House, will join me, that every endeavor has been made by that committee, without regard to this amendment, to present the case of Tennessee; so that by the sovereign act of the American people, through the joint act of Congress, the constitutional relations of the State of Tennessee as a State of this Union might be restored. I am not at liberty to state, even if I knew, what the committee intend to do in regard to that State. I do know that the matter is still before us; and that we have given it attention.

And I may be pardoned for reminding the House at this point of my remarks, that when early in the session the distinguished gentleman from New York [Mr. RAYMOND] introduced his resolution to refer the credentials of gentlemen from the State of Tennessee to the joint committee, I rose in my place here and asked him to be good enough to accept a suggestion in the form of an instruction to the joint committee to report to this House as soon as practicable, whether Tennessee had a reorganized constitutional government, and was entitled to representation in Congress. And I added, that as soon as Congress decided that question I was ready to admit her Representatives in accordance with the apportionment of 1862. There is where I stand now; I am ready to coöperate with the House upon this subject, whenever the committee may report, which I trust will be at no distant day.

But that does not excuse us from the consideration of this question. The adoption of this amendment is essential to the protection of the Union men of Tennessee; those grand, true men, who "unshaken, unseduced, unterrified," their loyalty they kept, amid the howl of treason, whose infernal engineery shook the continent. And every honorable man sent here from Tennessee to-day—and I believe they are all honorable men—will bear me witness when I say that the Union men of Tennessee to-day have no security except from the armed presence of the United States Government there. And, when the State shall be restored, and the troops of the Government withdrawn, they will have no security in the future except by force of national laws giving them protection against those who have been in arms against them.

Sir, the State of Tennessee is perhaps in a better condition to-day than any other of the eleven States that have been in insurrection, and yet I state a fact, which I believe that people will hereafter in no way contradict, when I say that a large majority of the qualified voters of Tennessee, under the former constitution of that State, are the sworn enemies of the loyal State organization and the sworn enemies of the national Government. Will any man tell me how forty thousand loyal and true men in Tennessee can hold the power in that State against ninety thousand who, in social position, are equal to them, and who in wealth are greatly superior to them?

Mr. GRIDER. Mr. Speaker, will the gentleman allow me——

Mr. BINGHAM. My friend must excuse me, although I am willing to oblige him at almost any time.

Mr. GRIDER. I have only one question to ask.

Mr. BINGHAM. I must decline, because it interrupts the course of my argument. However, if it is not taken out of my time, I will yield to my venerable friend from Kentucky, [Mr. GRIDER.]

Mr. GRIDER. I simply want the gentleman to state, if he pleases, whether the facts and deductions which he is stating in relation to Tennessee are based upon his own information, or whether he states them as conclusions which have been arrived at by the joint committee.

Mr. BINGHAM. The gentleman, if he had noticed my remarks, would have observed that I was referring to honorable gentlemen from that State whom I have seen here. I am not at liberty to speak about the proceedings of the committee. Its report must speak for itself. But I undertake to say that no report will ever be made by that committee, and no testimony that discloses the truth about the matter will fail to show that a large majority of the people of Tennessee have declared themselves the sworn enemies of the State and the sworn enemies of the nation.

Mr. GRIDER. Does not the gentleman know that there is a report to the contrary?

Mr. BINGHAM. No, sir; I know no such thing. And I beg leave to say further, without regard to the testimony taken by the committee touching the condition of the other States, for I have not read it, but from information which I have derived from casual conversations with gentlemen who are residents of those States, and in whom I have confidence, that it will prove to be the fact that the rebels will be found in a majority of three to one or four to one in every one of the States that have been engaged in the rebellion, except in Tennessee.

How will you prevent that overpowering majority from taking possession of those reconstructed governments? Do you call it a "republican government" within the meaning of the Constitution to maintain a minority in power indefinitely in a State by Federal bayonets? I do not, nor does any other intelligent man. What then? Why, according to the programme before us, those rebels are all to be sworn in—sworn in upon an oath that makes no conditions, as announced in the President's speech the other day at the White House, save that they will hereafter support the Consititution. They are all to be sworn in and to be allowed to assume the control of their respective States. Where is the power in Congress, unless this or some similar amendment be adopted, to prevent the reënactment of those infernal statutes of banishment and confiscation and imprisonment and murder under which people have suffered in those States during the last four years? Let some man answer. Why, sir, the gentleman from New York [Mr. HALE] himself yesterday gave up the argument on this point. He said that the citizens must rely upon the State for their protection. I admit that such is the rule under the Constitution as it now stands.

I beg leave to read, in confirmation of the truth of what I say, an utterance made in the hearing of the whole people of this country in 1788, when the Constitution was on trial for its deliverance. I read from No. 45 of the Federalist, a paper written by James Madison:

"The powers reserved to the Federal States will extend to all the objects which, in the ordinary course of affairs, concern the lives, liberties, and properties of the people, and the internal order, improvement, and prosperity of the State."

I submit that this is the text of the Constitution, except as to the new amendment prohibiting slavery, and providing for legislation to prevent it except as punishment for crime. It stands as the ruling of the Supreme Court of the United States in the great case of McCullough *vs.* The State of Maryland, in 4 Wheaton. It stands as the ruling of the same tribunal in the case of Ogden *vs.* Gibbons, in 9 Peters. It stands, in short, as the uniform ruling of the Supreme Court of the United States, concurring with the continued action of the other departments of the Government from the year 1789 till this hour, there being no law anywhere upon our statute-books to punish penally any State officer for denying in any State to any citizen of the United States protection in the rights of life, liberty, and property. It stands as the very text of the Constitution itself, which declares that—

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States are reserved to the States respectively or to the people."

The word "powers" controls the whole question. The Government of the United States has no legislative powers, save the express grants and the general grant to pass all laws which shall be necessary and proper to carry into execution all other powers vested by the Constitution in the Government of the United States, or in any department or any officer thereof, and the implied powers necessary to carry the express powers into effect. A grant of power, according to all construction, is a very different thing from a bill of rights. In support of what I have said on this point I ask attention to the following citations:

McCullough *vs.* Maryland, 4 Wheaton, 405, Marshall, C. J., says:

"The Constitution of the United States is one of limited and expressly delegated powers, which can only be exercised as granted, or in cases enumerated."

Speaking of the authority given to Congress by the last clause of the first article, eighth section, of the Constitution, Judge Story in his Commentaries, section 1238, says:

"The plain import of this clause is, that Congress shall have all the incidental and instrumental powers necessary and proper to carry into execution all the express powers. It neither enlarges any power specifically granted, nor is it a grant of any new power to Congress."

In Martin *vs.* Hunter's Lessee, 1 Wheaton, 326, it is said:

"The Government of the United States can claim no powers which are not granted to it by the Constitution, and the powers actually granted are such as are expressly given or given by necessary implication."

In Gibbons *vs.* Ogden, 9 Wheaton, 187, Chief Justice Marshall, speaking of the Constitution, says:

"This instrument contains an enumeration of powers expressly granted by the people to their Government."

In Kent's Commentaries, volume one, pages 388–390, there is this language:

"The correct principle is that whenever the terms in which the power was granted to Congress, or the nature of the power required that it should be exclusively exercised by Congress, the subject was as completely taken away from the State Legislatures as if they had been expressly forbidden to act upon it."

You have the express power to define the punishment of treason; the express power to punish the counterfeiting of coin or securities of the United States; the express power to define and punish piracies and felonies committed upon the high seas, and offenses against the law of nations; exclusive legislative power within this District; express powers to govern all Territories; but where is the express power to define and punish crimes committed in any State by its official officers in violation of the rights of citizens and persons as declared in the Constitution? And from what expressly delegated power in the Constitution can any such power be implied? Passing the anti-slavery amendment, is there any one prepared to say that the bill of rights confers express legislative power on Congress to punish State officers for a willful and corrupt disregard of their oaths and oppressive and flagrantly unjust violations of the declared rights of every citizen and every free man in every free State? The words of Madison cited are very significant: "The powers reserved to the several States will extend to all the objects which concern the lives, liberties, and properties of the people." The fact is that Congress has never by penal enactment in all the past attempted to enforce these rights of the people in any State of the Union.

Sir, the great question is presented for the consideration of the House and the country,

shall these States, all of them, be restored in their present condition, and with no new securities taken by the people for the future? Shall South Carolina be thus restored, for example, nine tenths of her people who vote having been rebels in arms or directly engaged in rebellion against the country, and her Governor having been an active member of the rebel senate at Richmond during the four years' trial, now acting Governor over the loyal men of the State? Is that State to be restored without the power in Congress to protect the few loyal white men there against State statutes of confiscation and statutes of banishment? And for the emancipated slaves of South Carolina are you to have no power save to prohibit their reduction again to slavery except as punishment for crimes against the laws of South Carolina? Let some gentleman who opposes this amendment stand up in his place and answer to the country how, after these States are restored to political power, the Government of the United States can by law intervene, except as to slavery, under the Constitution of the United States, as it now stands, to protect the loyal white minority or the loyal but disfranchised colored majority in that State against banishment?

The SPEAKER. The gentleman's hour has expired.

Mr. CONKLING obtained the floor.

Mr. ROGERS. I hope the gentleman from Ohio will be allowed to finish his speech. He is the most liberal man on the other side of the House. He has allowed full debate on this amendment, whereas if it had been reported by another, debate would have been cut off at once by the previous question.

Mr. ROSS. I object.

Mr. CONKLING. I am willing the gentleman from Ohio shall continue his remarks. I will be happy to give him from my time such portion as he wants.

The SPEAKER. The gentleman from New York has the floor, and can yield for explanation to any gentleman he pleases.

Mr. STEVENS. I am reminded that several of our employés get no pay because we have not passed the appropriation bill. If it will be agreeable to the gentleman to make his remarks a few days hence, I will move we now proceed to the consideration of one of the appropriation bills.

Mr. CONKLING. I sought the floor for a purpose which will accommodate the gentleman from Pennsylvania, if he will allow me, as well as the gentleman from Ohio. Of course the gentleman from Ohio does not wish to postpone his remarks. If he wants to complete them, he wants to complete them now. He may take such portion of my time as he wants, leaving the floor to me at the conclusion of his remarks.

Mr. BINGHAM. I am obliged to the gentleman.

Mr. CONKLING. How much time do you want?

Mr. BINGHAM. Very little more.

Mr. CONKLING. I yield to the gentleman indefinitely.

Mr. BINGHAM. Mr. Speaker, I have already called the attention of the House to the condition of South Carolina, in which I will be sustained by the facts already before the House and before the country touching that people. I call the attention of the House also to the condition of Mississippi. How is it that a man who fought in the armies against the country throughout all these years of conflict—a man who, I believe, had a rebel commission as brigadier general—is elected Governor of that State, and is now Governor over that people? The people who would elect Humphreys Governor are doubtless the people who followed Humphreys in the war for treason, in the war for the dismemberment of the Union. Now, we are told by these gentlemen to make haste to restore all of those States and permit them to reënact by law the crimes which they have inflicted by force for the last four years.

I think there are exceptions among those States. I think there is a greater proportion of loyal men in some than in others. I think it may become the accepted policy of this House, and I trust it will, to admit such States as are so far advanced in reconstruction and reorganization and an honest return to allegiance under the Government as will enable them to consolidate their strength and maintain a republican constitutional State government.

It seems to me equally clear if you intend to have these thirty-six States one under our Constitution, if you intend every citizen of every State shall in the hereafter have the immunities and privileges of citizens in the several States, you must amend the Constitution. It cannot be otherwise. Restore those States with a majority of rebels to political power, and they will cast their ballots to exclude from the protection of the laws every man who bore arms in defense of the Government. The loyal minority of white citizens and the disfranchised colored citizens will be utterly powerless. There is no efficient remedy for it without an amendment to your Constitution. A civil action is no remedy for a great public wrong and crime.

Nobody dreams, if we admit these States unqualifiedly, but some of their officials would violate their oaths as they have heretofore done and clothe themselves with perjury as with a garment in order to sweep away the rights of loyal men, and be avenged upon them for their fidelity to the sacred cause of the Constitution, and the laws.

Sir, we are no longer permitted to doubt that whole communities are capable of so great infamy and perfidy. They did this in eleven of these States five years ago, and if they did it once may they not do it again?

We are told they will be in terror of the prowess of your arms. Ay, they have occasion to be in terror of the prowess of your arms, and they will doubtless avoid any such conflict again. But the point I desire to make clear is, that unless you put them in terror of the power of your laws, made efficient by the solemn act of the whole people to punish the violators of oaths, they may defy your restricted legislative power when reconstructed; they may dismember your Union and rend it into fragments and drive into banishment every loyal man in all those rebel States, and hold as their heritage a territory half as large as continental Europe without firing a gun or daring again to commit the overt act of treason. With these convictions of the power of the rebel population when their States are fully restored, I urge this amendment upon the consideration of the House and upon the consideration of the country. I pray gentlemen to consider well the vote they may give now or at a future day when we come to act finally upon this measure.

The present rejection of this measure and the admission to full representation of all the rebel States now, may bring your institutions into peril. Whatever may be the result I shall not despair of the Republic. My trust will be in the people to whose decision I ask you to commit this amendment—that great people who saved their imperiled Constitution amid the fire and tempest of battle. They will, I trust, though it may be not without additional sacrifice, correct all errors, perfect their Constitution, enforce by just and equal laws all its provisions, and so fortify and strengthen the Republic that it will stand unmoved until empires and nations perish.

Mr. Speaker, I speak in behalf of this amendment in no party spirit, in no spirit of resentment toward any State or the people of any State, in no spirit of innovation, but for the sake of a violated Constitution and a wronged and wounded country whose heart is now smitten with a strange, great sorrow. I urge the amendment for the enforcement of these essential provisions of your Constitution, divine in their justice, sublime in their humanity, which declare that all men are equal in the rights of life and liberty before the majesty of American law.

Representatives, to you I appeal, that hereafter, by your act and the approval of the loyal people of this country, every man in every State of the Union, in accordance with the written words of your Constitution, may, by the national law, be secured in the equal protection of his personal rights. Your Constitution provides that no man, no matter what his color, no matter beneath what sky he may have been born, no matter in what disastrous conflict or by what tyrannical hand his liberty may have been cloven down, no matter how poor, no matter how friendless, no matter how ignorant, shall be deprived of life or liberty or property without due process of law—law in its highest sense, that law which is the perfection of human reason, and which is impartial, equal, exact justice; that justice which requires that every man shall have his right; that justice which is the highest duty of nations as it is the imperishable attribute of the God of nations.

Mr. HALE. Before the gentleman takes his seat will he allow me to ask a single question pertinent to this subject?

Mr. BINGHAM. Yes sir.

Mr. HALE. I desire after hearing the gentleman's argument, in which I have been much interested as a very calm, lucid, and logical vindication of the amendment, to ask him, as an able constitutional lawyer, which he has proved himself to be, whether in his opinion this proposed amendment to the Constitution does not confer upon Congress a general power of legislation for the purpose of securing to all persons in the several States protection of life, liberty, and property, subject only to the qualification that that protection shall be equal.

Mr. BINGHAM. I believe it does in regard to life and liberty and property as I have heretofore stated it; the right to real estate being dependent on the State law except when granted by the United States.

Mr. HALE. Excuse me. If I understand the gentleman, he now answers that it does confer a general power to legislate on the subject in regard to life and liberty, but not in regard to real estate. I desire to know if he means to imply that it extends to personal estate.

Mr. BINGHAM. Undoubtedly it is true. Let the gentleman look to the great Mississippi case, Slaughter and another, which is familiar, doubtless, to all the members of the House, and he will find that under the Constitution the personal property of a citizen follows its owner, and is entitled to be protected in the State into which he goes.

Mr. HALE. The gentleman misapprehends my point, or else I misapprehend his answer. My question was whether this provision, if adopted, confers upon Congress general powers of legislation in regard to the protection of life, liberty, and personal property.

Mr. BINGHAM. It certainly does this: it confers upon Congress power to see to it that the protection given by the laws of the States shall be equal in respect to life and liberty and property to all persons.

Mr. HALE. Then will the gentleman point me to that clause or part of this resolution which contains the doctrine he here announces?

Mr. BINGHAM. The words "equal protection" contain it, and nothing else.

Mr. CONKLING. Mr. Speaker, I have not sought the floor for the purpose of discussing the merits of this amendment. It was introduced several weeks ago and considered in the committee of fifteen. At that time and always I felt constrained to withhold from it my support as one of the committee, and when the consent of the committee was given to its being reported I did not concur in the report. So much I deem it fair and right to say.

There are, Mr. Speaker, I know, a number of gentlemen upon the one side and the other of this question who wish further time to consider it, if not to discuss it, and I therefore intend, without any hostility to the gentleman who has it in charge, but at least, I think, by his *quasi* consent, to make a motion to postpone. But before I do so, my colleague, [Mr. HOTCHKISS,] I believe, wants to say a word, and if he will say it now I will allow him to do so and then resume the floor.

Mr. HOTCHKISS. My excuse for detaining the House is simply that I desire to explain why I shall vote in a manner that may be regarded as inconsistent with my usual votes in this House.

I have no doubt that I desire to secure every privilege and every right to every citizen in the United States that the gentleman who reports this resolution desires to secure. As I understand it, his object in offering this resolution and proposing this amendment is to provide that no State shall discriminate between its citizens and give one class of citizens greater rights than it confers upon another. If this amendment secured that, I should vote very cheerfully for it to-day; but as I do not regard it as permanently securing those rights, I shall vote to postpone its consideration until there can be a further conference between the friends of the measure, and we can devise some means whereby we shall secure those rights beyond a question.

I understand the amendment as now proposed by its terms to authorize Congress to establish uniform laws throughout the United States upon the subject named, the protection of life, liberty, and property. I am unwilling that Congress shall have any such power. Congress already has the power to establish a uniform rule of naturalization and uniform laws upon the subject of bankruptcy. That is as far as I am willing that Congress shall go. The object of a Constitution is not only to confer power upon the majority, but to restrict the power of the majority and to protect the rights of the minority. It is not indulging in imagination to any great stretch to suppose that we may have a Congress here who would establish such rules in my State as I should be unwilling to be governed by. Should the power of this Government, as the gentleman from Ohio fears, pass into the hands of the rebels, I do not want rebel laws to govern and be uniform throughout this Union.

Mr. BINGHAM. The gentleman will pardon me. The amendment is exactly in the language of the Constitution; that is to say, it secures to the citizens of each of the States all the privileges and immunities of citizens of the several States. It is not to transfer the laws of one State to another State at all. It is to secure to the citizen of each State all the privileges and immunities of citizens of the United States in the several States. If the State laws do not interfere, those immunities follow under the Constitution.

Mr. HOTCHKISS. Constitutions should have their provisions so plain that it will be unnecessary for courts to give construction to them; they should be so plain that the common mind can understand them.

The first part of this amendment, to which the gentleman alludes, is precisely like the present Constitution; it confers no additional powers. It is the latter clause wherein Congress is given the power to establish these uniform laws throughout the United States. Now, if the gentleman's object is, as I have no doubt it is, to provide against a discrimination to the injury or exclusion of any class of citizens in any State from the privileges which other classes enjoy, the right should be incorporated into the Constitution. It should be a constitutional right that cannot be wrested from any class of citizens, or from the citizens of any State by mere legislation. But this amendment proposes to leave it to the caprice of Congress; and your legislation upon the subject would depend upon the political majority of Congress, and not upon two thirds of Congress and three fourths of the States.

Now, I desire that the very privileges for which the gentleman is contending shall be secured to the citizens; but I want them secured by a constitutional amendment that legislation cannot override. Then if the gentleman wishes to go further, and provide by laws of Congress for the enforcement of these rights, I will go with him.

But now, when we have the power in this Government, the power in this Congress, and the power in the States to make the Constitution what we desire it to be, I want to secure those rights against accidents, against the accidental majority of Congress. Suppose that we should have here the influx of rebels which the gentleman predicts; suppose a hundred rebels should come here from the rebel States. Then add to them their northern sympathizers, and a reasonable percentage of deserters from our side, and what would become of this legislation? And what benefit would the black man or the white man derive from it? Place these guarantees in the Constitution in such a way that they cannot be stripped from us by any accident, and I will go with the gentleman.

Mr. Speaker, I make these remarks because I do not wish to be placed in the wrong upon this question. I think the gentleman from Ohio [Mr. BINGHAM] is not sufficiently radical in his views upon this subject. I think he is a conservative. [Laughter.] I do not make the remark in any offensive sense. But I want him to go to the root of this matter.

His amendment is not as strong as the Constitution now is. The Constitution now gives equal rights to a certain extent to all citizens. This amendment provides that Congress may pass laws to enforce these rights. Why not provide by an amendment to the Constitution that no State shall discriminate against any class of its citizens; and let that amendment stand as a part of the organic law of the land, subject only to be defeated by another constitutional amendment. We may pass laws here to-day, and the next Congress may wipe them out. Where is your guarantee then?

Let us have a little time to compare our views upon this subject, and agree upon an amendment that shall secure beyond question what the gentleman desires to secure. It is with that view, and no other, that I shall vote to postpone this subject for the present.

Mr. CONKLING. It would be a great pleasure to me, under the circumstances, to agree with my distinguished colleague [Mr. HOTCHKISS] who has just taken his seat. But I shall vote to postpone this subject for very different reasons from, if not entirely opposite to, those he has given. I certainly think no objection is to be made to this proposed amendment because it does not go far enough or because it is not sufficiently radical.

Mr. ELDRIDGE. Will the gentleman yield to me?

Mr. CONKLING. For what purpose?

Mr. ELDRIDGE. I desire to move to lay this joint resolution upon the table.

Mr. CONKLING. No, I thank you; just by way of variety, I will occupy the floor during my own time, if the gentleman will allow me.

I rose for the purpose of moving to postpone this subject to a day certain. Although I intended to make some remarks upon it, yet so much has been said, and so well said already upon it, and the gentleman from Pennsylvania [Mr. STEVENS] is in a hurry to get at an appropriation bill, I will forego any remarks, and simply submit the motion that this whole subject be postponed until the second Tuesday of April next, and upon that motion I demand the previous question.

Mr. ELDRIDGE. Is it in order now for me to move to lay the whole subject upon the table?

The SPEAKER. That motion is in order.

Mr. ELDRIDGE. Then I make that motion, and upon it I ask the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 41, nays 110, not voting 32; as follows:

YEAS—Messrs. Ancona, Bergen, Brooks, Chanler, Coffroth, Davis, Dawson, Denison, Eldridge, Finck, Glossbrenner, Goodyear, Grider, Griswold, Hale, Aaron Harding, Hogan, Edwin N. Hubbell, Kerr, Kuykendall, Marshall, Marvin, McCullough, Niblack, Nicholson, Noell, Phelps, Samuel J. Randall, Ritter, Rogers, Ross, Rousseau, Shanklin, Sitgreaves, Strouse, Taber, Taylor, Thornton, Trimble, Winfield, and Wright—41.

NAYS—Messrs. Alley, Allison, Ames, Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Barker, Baxter, Benjamin, Bidwell, Bingham, Blaine, Blow, Boutwell, Brandegee, Broomall, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Darling, Defrees, Delano, Deming, Donnelly, Dumont, Eckley, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Abner C. Harding, Hart, Hayes, Higby, Holmes, Hooper, Hotchkiss, Demas Hubbard, John H. Hubbard, James R. Hubbell, Hulburd, James Humphrey, Ingersoll, Jenckes, Julian, Kelley, Kelso, Ketcham, Laffin, Latham, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, McClurg, McKee, McRuer, Mercur, Moorhead, Morrill, Morris, Moulton, Myers, Newell, O'Neill, Orth, Paine, Patterson, Perham, Pike, Price, Raymond, Alexander H. Rice, John H. Rice, Sawyer, Schenck, Shellabarger, Sloan, Spalding, Stevens, Thayer, Francis Thomas, John L. Thomas, Trowbridge, Van Aernam, Burt Van Horn, Warner, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—110.

NOT VOTING—Messrs. Beaman, Boyer, Bromwell, Culver, Dawes, Dixon, Driggs, Harris, Henderson, Hill, Asahel W. Hubbard, Chester D. Hubbard, James M. Humphrey, Johnson, Jones, Kasson, Le Blond, McIndoe, Miller, Plants, Pomeroy, Radford, William H. Randall, Rollins, Scofield, Smith, Starr, Stilwell, Upson, Robert T. Van Horn, Ward, and Whaley—32.

So the motion to lay the joint resolution on the table was not agreed to.

During the roll-call,

Mr. LATHAM said: Mr. Speaker, both my colleagues, [Mr. HUBBARD, of West Virginia, and Mr. WHALEY,] are absent on account of sickness.

Mr. ANCONA said: My colleague, Mr. JOHNSON, is confined to his bed by sickness.

Mr. KELLEY said: The gentleman from New Jersey, Mr. STARR, requested me to announce that he has been imperatively called away, and that if here he would vote for this amendment.

The result was announced as above stated.

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

The previous question was seconded, and the main question ordered, which was upon the motion to postpone the joint resolution till the second Tuesday in April, after the morning hour.

Mr. ANCONA. I demand the yeas and nays on the motion to postpone.

On ordering the yeas and nays there were—ayes 22, noes 81.

Mr. ANCONA called for tellers on ordering the yeas and nays.

Tellers were ordered; and Messrs. ANCONA and CONKLING were appointed.

The House divided; and the tellers reported—ayes thirty-three, noes not counted.

So the yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 110, nays 37, not voting 36; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Barker, Baxter, Benjamin, Bidwell, Bingham, Blaine, Blow, Boutwell, Brandegee, Broomall, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Darling, Defrees, Delano, Deming, Donnelly, Dumont, Eckley, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Griswold, Hale, Abner C. Harding, Hart, Hayes, Higby, Holmes, Hooper, Hotchkiss, Demas Hubbard, John H. Hubbard, James R. Hubbell, Hulburd, James Humphrey, Ingersoll, Jenckes, Kelley, Kelso, Kerr, Ketcham, Kuykendall, Laffin, Latham, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, Marvin, McClurg, McKee, McRuer, Mercur, Moorhead, Morrill, Morris, Moulton, Myers, O'Neill, Orth, Paine, Patterson, Perham, Phelps, Pike, Price, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Shellabarger, Spalding, Stevens, Thayer, Francis Thomas, John L. Thomas, Trowbridge, Van Aernam, Burt Van Horn, Warner, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Wentworth, James F. Wilson, and Woodbridge—110.

NAYS—Messrs. Ancona, Bergen, Brooks, Chanler, Coffroth, Davis, Dawson, Denison, Eldridge, Finck, Glossbrenner, Goodyear, Grider, Aaron Harding, Edwin N. Hubbell, Marshall, McCullough, Newell, Niblack, Nicholson, Samuel J. Randall, Ritter, Rogers, Ross, Shanklin, Sitgreaves, Sloan, Strouse, Taber, Taylor, Thornton, Trimble, Williams, Stephen F. Wilson, Windom, Winfield, and Wright—37.

NOT VOTING—Messrs. Beaman, Boyer, Bromwell, Culver, Dawes, Dixon, Driggs, Harris, Henderson, Hill, Hogan, Asahel W. Hubbard, Chester D. Hubbard, James M. Humphrey, Johnson, Jones, Julian, Kasson, Le Blond, McIndoe, Miller, Noell, Plants, Pomeroy, Radford, William H. Randall, Raymond, Rousseau, Scofield, Smith, Starr, Stilwell, Upson, Robert T. Van Horn, Ward, and Whaley—36.

So the motion to postpone was agreed to.

Mr. CONKLING. I move to reconsider the vote just taken; and also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PATENT OFFICE REPORT.

The SPEAKER laid before the House a communication from the Commissioner of Patents, transmitting his annual report for 1865; which was laid upon the table, and ordered to be printed.

Mr. GRINNELL moved that ten thousand extra copies be printed.

The motion, under the law, was referred to the Committee on Printing.

DEFICIENCY BILL.

Mr. STEVENS. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union, to take up the deficiency appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. ASHLEY, of Ohio, in the chair,) and proceeded to the consideration of the special order, being House bill No. 86, making additional appropriations, and to supply deficiencies in the appropriations for sundry civil expenses of the Government for the fiscal year ending the 30th of June, 1866, and for other purposes.

The CHAIRMAN stated that general debate had been terminated, and the bill was now being considered under the five minutes' debate.

Mr. WASHBURNE, of Illinois. Mr. Chairman, before the House proceeds with the consideration of the bill where we left off, I ask unanimous consent to go back to the 9th page so that I may move to strike out from line one hundred and eighty-six to line one hundred and ninety-one. I think I can make a statement entirely satisfactory to the committee to show they ought to be stricken out.

Mr. CHANLER. Read what is proposed to be stricken out.

The Clerk read, as follows:

For payment of claims due for the construction and furnishing the Baltimore court-house, $109,000.

For payment of claims due for the repair of Government warehouses and construction of wharves, Staten Island, New York, $29,000.

Messrs. CHANLER and J. L. THOMAS objected to going back.

Mr. WASHBURNE, of Illinois. I ask gentlemen to hear my statement.

Mr. CHANLER. I do not object to the gentleman making his statement.

Mr. WASHBURNE, of Illinois. I move, sir, to strike out those lines for the reasons I will state to the committee very briefly.

The provision is for the payment of claims due for constructing and furnishing the Baltimore court-house, $109,000. When the matter was up before I had not the information which I now have. I have since found, by inquiry at the Treasury Department, that this appropriation is not at all for the payment of claims due for the construction and furnishing of this Baltimore court-house, but is simply for damages. I have a letter from the Secretary of the Treasury on the subject, which I desire to be read; and then I will make a further statement to show to Congress the carelessness which has been displayed at the Treasury Department in regard to this matter.

The Clerk read, as follows:

TREASURY DEPARTMENT, *February* 16, 1866.

SIR: In answer to your verbal inquiry relative to the nature of the claim of $100,000 for constructing the Baltimore, Maryland, court-house, and of $29,000 for construction of wharves and repairs of Government warehouses at Staten Island, New York, I herewith respectfully submit the following:

The contract for constructing the court-house at Baltimore, Maryland, was made in 1860 with Mr. N. Osborne, from Rochester, New York, was suspended by order of the Department in May, 1861, and resumed also by order of the Department, in June, 1862. As only a small portion of the work had been done during the fall of 1860 and spring of 1861, the bulk of the same had to be done during a period when the prices of labor and materials were nearly double those on which the contract was based.

The claim due for repair of Government warehouses and constructing wharves at Staten Island, New York, is for a balance of the contract hitherto withheld on account of nonconformity of the work with said contract, and which will become due whenever the contractors will comply with the same to the satisfaction of the Department.

Very respectfully, H. McCULLOCH,
Secretary of the Treasury.

Hon. E. B. WASHBURNE, *House of Representatives.*

Mr. WASHBURNE, of Illinois. Mr. Chairman, this is simply a private claim which has been interjected into this bill. It is false on its face. It is here for the payment of claims due for the construction and furnishing of the Baltimore custom-house; but it is for no such thing. A contract was made for the construction of the Baltimore court-house, and it has been paid for according to the terms of that contract.

On examination I find the damages are alleged for suspension of work. There was an estimate of $109,000, but the matter has never been passed upon. It is a mere claim for damages, which has never been considered by any Department of the Government. The Secretary of the Treasury, who I admit has managed the affairs of the Treasury with a great deal of fidelity and honesty, admitted to me when this matter was brought to his attention that he knew nothing about it.

Under these circumstances I ask the committee to strike out this item. It is one of the most monstrous I have ever seen. It has not been investigated by any proper authority. A mere clerk put it in as an estimate, and it was put into this bill as an appropriation for $109,000. It ought not to be here.

There was a controversy which sprung up between the gentleman from Iowa [Mr. KASSON] and myself in regard to the furnishing of the Baltimore court-house. I went to the Interior Department and obtained a full history of the matter. I have a letter from the Secretary of the Interior, in which he says when the claim was presented there it was rejected because there was no authority on the part of those who made the contract to make it. The letter is too long to be read in the limited time of five minutes.

In regard to the repair of the Government warehouses and construction of wharves at Staten Island, the Secretary says nothing is due, yet we have an appropriation for $29,000. I hope the committee will strike out both items.

Mr. CHANLER. I did not understand the gentleman in regard to the $29,000. Will he explain what the appropriation was for which he said there was no necessity existing?

Mr. WASHBURNE, of Illinois. I can state in regard to the Staten Island matter.

Mr. CHANLER. I would like to hear the gentleman on that point.

Mr. WASHBURNE, of Illinois. There has been a great deal of controversy in regard to the Staten Island matter. Instead of the Government being indebted to the contractors it has been thought that the contractors were indebted to the Government. It is contended that there is nothing due to them now, and I do not see the propriety of making appropriations when the Secretary of the Treasury tells us there is nothing due.

Mr. CHANLER. I do not understand that the Secretary of the Treasury positively makes that assertion in regard to the $29,000. I merely wanted information on the subject.

Mr. FARNSWORTH. I understand that every officer of the Government who has examined this matter on Staten Island has reported against the claim, and how it came to get in the estimate of the Department I cannot conceive. There is a brief now waiting the action of the Secretary of the Treasury in reference to this very claim made out by an officer of the Government who has reported against it. It is a liquidated claim.

Mr. CHANLER. After the statement of the gentleman from Illinois [Mr. FARNSWORTH] I am of course satisfied.

Mr. J. L. THOMAS. One question in regard to the court-house claim. As I stated when this bill came up before the committee some weeks ago, the city of Baltimore has not a particle of interest either in the payment or refusal to pay this claim. This gentleman, Mr. Osborne, called on me the other day after he saw that I had taken an interest in getting this claim through, and put a statement in my hand in relation to this case, and I want the gentleman from Illinois [Mr. WASHBURNE] to state to the House, if he knows the facts, whether or not the work on that court-house was suspended in 1861 by order of the Secretary of the Treasury, and whether the Secretary of the Treasury did or did not give Mr. Osborne, the contractor, an order to proceed and prosecute the work, and whether or not that is not the basis of the damages now claimed.

Mr. WASHBURNE, of Illinois. I do not know but Mr. Osborne may have a claim in good faith against the Government, but this has never been examined or passed upon by any competent authority.

Mr. J. L. THOMAS. Then I understand that the damages that Mr. Osborne claims which have been reported upon by the chairman of the Committee on Appropriations have not been ascertained by any Department of the Government.

Mr. WASHBURNE, of Illinois. It is not damages. The bill speaks of claims due. There are none due. The whole claim which Mr. Osborne has is for damages for the postponement of the work, and I understand he made no protest when it was so ordered, but went right on.

Mr. J. L. THOMAS. What I want to know from the gentleman is, whether the money is claimed in the nature of damages or in any other way, and whether it has been asked for by the Treasury Department?

Mr. BERGEN. Mr. Chairman, I object to this.

The CHAIRMAN. Objection is made, and the discussion is out of order.

Mr. WASHBURNE, of Illinois. If I can have the attention of the chairman of the committee, I wish to say a word about the fees of the engineers. I suppose the engineer's office belongs to the War Department, and I will move in the first place to strike that clause out. And I hope the committee will give me their attention one moment in regard to the appropriations which follow this which I move to strike out. They all pertain to the payment of engineers and commissioners who are connected with the Pacific railroad. Now, sir, I desire some information from the committee in regard to this matter. As I understand the Pacific railroad bill, all these expenses are to be borne by the company; and when we go back and look at the legislation in regard to that railroad, we may well be astonished at this additional piece of legislation. This company came to the last Congress and induced Congress to assume a liability of $95,000,000 and got an appropriation of a hundred million acres of public lands, and now they come in here and ask the Government to pay their expenses. I would like to know if there is any law human or divine that would justify such an appropriation as this? [Laughter.]

Mr. STEVENS. I suppose it would be as well for the gentleman to move to strike out all these appropriations at once.

Mr. WASHBURNE, of Illinois. Well, I will move to strike out from line four hundred and one to line four hundred and fifty-three inclusive, as follows:

For mileage of Government engineers from Washington to New York, and back, in August, 1865, on account of the Union Pacific railroad, two hundred and twenty-five miles, at ten cents per mile, $45.

For compensation of three Government commissioners appointed by the President of the United States, agreeably to the act of July 1, 1862, to examine forty miles of the Union Pacific railroad, eastern division, (Kansas branch,) in May, 1865, fourteen days, at eight dollars per day each, $336.

For mileage of three Government commissioners, at ten cents per mile, $200.

For compensation of three Government commissioners appointed by the President of the United States to re-examine forty miles of the Union Pacific railroad, eastern division, in October, 1865, thirty-one days, at eight dollars per day each, $744.

For mileage of three Government commissioners, at ten cents per mile, $500.

For compensation and mileage of Government commissioners of the Central Pacific railroad during the reëxamination already made of the railroad, at $500 each, $1,000.

For compensation and mileage of three commissioners of the Union Pacific railroad, eastern division, and Central Pacific railroad, appointed by the President of the United States, agreeably to act of July 1, 1862, and amended act of July 2, 1864, during the probable examination of the railroad before the close of the fiscal year of examinations, twenty days each, at $1,000, $6,000.

For compensation and mileage of commissioners to examine portions of railroads reported completed according to law, to which grants of land inure, $2,500.

For pay, subsistence, and transportation of the surveying party required by act of July 1, 1862, to make the surveys to enable the President of the United States to fix the point on the one hundredth meridian of longitude, between the south margin of the valley of the Republican river and the north margin of the valley of the Platte river, at which the several branch roads shall converge and meet the Union Pacific railroad, $20,000.

For drawing instruments, mapping materials, stationery, &c., $150.

For cost of completing bridge over Big Sioux river, near Sioux City, $10,000.

For incidental traveling expenses, $1,000.

Mr. HIGBY. I move to amend what is proposed to be stricken out by striking out on page 18, in line four hundred and sixteen, the words "three Government commissioners," and inserting in lieu thereof "one Government commissioner;" and if that amendment prevails, I will offer other amendments to conform to it.

I will state that at the request of the Secretary of the Interior who invited the commissioners appointed by the President to inspect the road to come to Washington, one of the commissioners has come here from the State of California. He was not invited to come here by the railroad company, but by the Secretary of the Interior who invited him here for a certain purpose.

Now, I will state in reference to the law, that the law incorporating this company provided that three commissioners should be appointed by the President to make examinations and report to the Government; but the law makes no provision how these commissioners shall be paid. That is the simple fact in regard to the law. I offer this amendment in order that one of the commissioners, who has come here in compliance with the request of the Government, shall receive his pay. I know this to be the fact, for I went to the Secretary of the Interior myself, on the part of the committee, and obtained this information. I know further that this commissioner has been here in Washington twice, and is now in waiting here.

Mr. WASHBURNE, of Illinois. Let this amendment be made, anyhow; it will make the provision better than it now is; but I hope the committee will strike out the whole of these appropriations.

Mr. STEVENS. I oppose this amendment of the gentleman from California. Either the Government is bound to pay all of these three commissioners or to pay none of them.

Now, in looking at the railroad law, I can find no authority for the Government paying either of them. The Government has paid to these railroads all they intend to contribute toward their construction. The Government was authorized to exercise a certain supervision, by the appointment of five directors and the appointment of commissioners, and before they issued bonds there were to be surveys made to fix the initial points, but I never supposed that that was not a part of the legitimate expenses of the company in the location and construction of the road. It is just as much a part of the duty of the company to pay for it as it is to pay for laying down the track of the road.

I agree therefore, with the gentleman from Illinois, that the Government has nothing to pay to this company except the small triffe of $16,000, $32,000, and $64,000 per mile, when the road is completed. It was never designed that this should be an annual tax upon the Government in addition to what they have done for the road.

I hope, therefore, that all modifications will be rejected, and that the motion of the gentleman from Illinois [Mr. WASHBURNE] will prevail.

Mr. BIDWELL. It strikes me that it would be very bad policy indeed to trust the employment and payment of commissioners to the company. They must be paid by somebody.

Mr. STEVENS. Will the gentleman allow me to say that the Government has the appointment of these men? The Government appoints the directors and the commissioners. They are Government appointees, but payable by the company.

Mr. BIDWELL. Very well. The appointing power is very strong—it is potential. But the paying power is equally as strong. I would like to see officers in the employ of the Government paid by the Government, in order that they might act independently and make fair reports, on which Congress and the country can rely; and considering the importance of the Pacific railroad, I think the Government should not hesitate to pay the trifling salary of $1,800. If the company is to pay these expenses, they will certainly, to a greater or less extent, control the result of the investigation. I am opposed to striking this out.

The question recurred upon the motion of Mr. HIGBY, to strike out the word "three" and insert the word "one."

Mr. HIGBY. I will withdraw that amendment for the simple reason that I have been misled by having a bill differently printed from the one under consideration. I presume I understand the pith of this matter, but at the same time I want to do my duty.

I will now propose another amendment, which will test the question properly. I propose to amend by inserting what I send to the Clerk's desk to be read.

The Clerk read, as follows:

For compensation of one Government commissioner of the Central Pacific railroad, appointed agreeably to the act of July 1, 1862, and the act of July 4, 1864, and instructed by the Secretary of the Interior to attend a meeting of the board of Government directors, commissioners, and engineers at Washington, District of Columbia, January 10, 1866, for the purpose of fixing upon the standard of railroads to which the Pacific railroad and branches shall conform, seventy-five days, at eight dollars per day, $600.

Mr. HIGBY. I will test the principle upon that amendment. I propose to offer another amendment if this is adopted.

Mr. WASHBURNE, of Illinois. I make the point of order that this amendment is not carrying out any existing law, but is independent legislation upon an appropriation bill, and therefore out of order by every ruling of the House.

Mr. HIGBY. It is in the original bill as it came from the Department. It was considered by the Committee on Appropriations as a part of the bill. And if it does not appear here it is because it was stricken out.

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

The question recurred upon the motion of Mr. WASHBURNE, of Illinois, to strike out from line four hundred and one to line four hundred and fifty-three inclusive.

The motion was agreed to.

Mr. HAYES. I move to amend the bill by inserting after line four hundred and fifty-seven the following:

To enable the Joint Committee on the Library to pay the first installment due on a contract made with William H. Powell for a naval picture to be placed in the Capitol in pursuance of a joint resolution approved March 2, 1865, $2,000.

Mr. PRICE. If I understand correctly the reading of that amendment, it is to pay $2,000 for a picture. Now, I have no vote to give for money to buy a picture just at this time. I shall vote against all appropriations for pictures for this Government until it is able to buy and pay for what we actually must have. I hope this committee will not vote any money to pay for pictures or tinsel or ornamentation of any kind until we have money to pay for what we must have.

Mr. HAYES. At the last session of Congress, a joint resolution was passed directing the Joint Committee on the Library to enter into a contract with Mr. Powell for a picture to be placed in this Capitol. The contract has been made in strict accordance with that resolution. This amendment is offered in order that the first payment under that contract may be made. I ask the Clerk to read the joint resolution passed at the last session.

The Clerk read, as follows:

Joint resolution authorizing a contract with William H. Powell for a picture for the Capitol.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Joint Committee on the Library be, and they are hereby, directed to enter into a contract with William H. Powell, of the State of Ohio, to paint a picture for the United States, to be placed at the head of one of the grand staircases in the Capitol, illustrative of some naval victory; the particular subject of the painting to be agreed on by the committee and the artist: *Provided*, That the entire expense of said picture shall not exceed $25,000, and $2,000 shall be paid to said William H. Powell in advance, to enable him to prepare for the work, the remainder of said installments at intervals of not less than one year, the last installment to be retained until the picture is completed and put up.

Approved March 2, 1865.

Mr. WASHBURNE, of Illinois. I am sorry to say, Mr. Chairman, that this amendment is strictly in order. I resisted at the last session the passage of the joint resolution which has just been read; but it has become a law, and I suppose that it is obligatory upon us to carry it out.

Mr. ROSS. I would like to inquire, Mr. Speaker, whether this work has been commenced, or whether it is possible to rescind the contract and avoid the expenditure for this picture. I recollect very well that when this joint resolution was passed during the last session of Congress it was pressed through the House by the chairman of the Committee on Military Affairs, [Mr. SCHENCK,] while at the same time that gentleman opposed a proposition which was made to increase the pay of our soldiers to twenty dollars per month. He maintained that the Government was not able to pay that increase; and by his maneuvering and that of the committee the proposition was defeated; yet he urged through this House that joint resolution making an appropriation of $25,000 for the painting of a picture.

Mr. HAYES. I have no doubt that if my colleague, the chairman of the Committee on Millitary Affairs, was present he would have something to say in reply to the gentleman from Illinois, [Mr. ROSS.] I will only say that the work upon this picture has been commenced, and that the contract cannot honestly be rescinded.

The amendment was agreed to.

Mr. PRICE. I move to amend by striking out in lines four hundred and eighty-seven and four hundred and eighty-eight the following words:

For surveying public lands in Dakota Territory, $15,000.

I am informed upon authority which I believe to be trustworthy that there are no lands in Dakota Territory which need to be surveyed, and that therefore no appropriation is necessary for this purpose. On looking over this bill, I find no appropriation for surveying lands in Montana Territory, where there is a considerable quantity of public lands that need to be surveyed. Hence I think it would be good policy to strike out this appropriation for surveying lands in Dakota, where, if I am correctly informed, there is no need for an appropriation of this sort——

Mr. BURLEIGH. Mr. Chairman, if the gentleman from Iowa [Mr. PRICE] had traveled over Dakota Territory as much as I have, he would entertain a different opinion in reference to the necessity of this appropriation. The public lands in Dakota are, I believe, of as good quality as those in the State of Iowa or in any of the western Territories. The lands in Dakota are almost the only public lands which are not in the hands of speculators, and on which the poor emigrants of our country can find homesteads.

During the continuance of the war, it is true,

emigration to our section of the country has not been very extensive; but at present a large emigration is pouring into that region. In order to accommodate the emigrants who are now going to the Territory of Dakota from every State in the Union it is absolutely necessary that the public lands there should be surveyed. The gentleman from Iowa represents a section of the country where the public lands have been almost entirely absorbed by private individuals and speculators, so that emigrants have no opportunity to find homesteads there; and I trust that he will not oppose this appropriation which is demanded for the sake of those worthy men who are seeking homesteads in the Territories of the far West.

Mr. CHANLER. I have no objection whatever to the appropriation. I am particularly desirous every facility shall be afforded for the settlement of the public lands. But there is no limitation of time. It does not seem to be fixed as a salary. The appropriation may be for one year, or only one month. I ask for information what period of time this covers, and whether it is in accordance with any existing contract? I hope the gentleman who is charged with the matter will so far enlighten us as to answer that question. The chairman of the Committee on Appropriations perhaps knows for what time these sums are set down.

Mr. STEVENS. I have not been able to hear what the gentleman says.

Mr. CHANLER. There are appropriations here from fifteen to thirty thousand dollars for surveying the public lands; but there is not a word in the bill which will tell us the time for which those appropriations are made. We do not know whether they are for the past or for the future. We do not know what is the character of the appropriations.

Mr. STEVENS. This bill as it stands now was for last year. It was intended as a deficiency, although I believe the surveying has not been done. I do not know but it would be proper to put it in the deficiency bill for the current year. I think likely the better way would be to reduce the appropriation from $15,000 to $5,000, so that they may go on now until the bill for the current year is taken up. I am inclined to think it is too large here. I move to reduce the appropriation from $15,000 to $5,000.

Mr. PRICE. I withdraw my amendment.

Mr. BURLEIGH. I am under the impression a part of the money has already been expended in surveying these public lands.

Mr. STEVENS. A very small portion—$5,000 will cover it.

Mr. DRIGGS. Has the committee any information whether the money has been expended? I do not want to strike it out if they have none there now in that Department.

Mr. STEVENS. I cannot find from inquiry whether any account has been rendered. I learn only a small portion has been expended. I want the appropriation reduced and the surplus carried into the bill for the current year. It will not suffer.

Mr. HOGAN. Mr. Chairman, these appropriations for surveying the public lands are always made in advance, largely in advance; because the contracts have to be entered into, and the parties have to go upon the fields. Where these lands have been procured by the Government in these distant Territories, it is absolutely necessary they should be surveyed and open to the public.

Mr. STEVENS. This is a bill for last year, and therefore ought to contain nothing more than has been expended. The House, in the usual way, will have another bill for the current and next years; and that is the one to which the gentleman's remarks will apply. This is only for what is past.

Mr. HOGAN. I am satisfied.

Mr. STEVENS's amendment was agreed to.

The Clerk read, as follows:

For the fencing in, repair, and completion of the United States court-house and post office at Indianapolis, Indiana, and paving the sidewalks in front of the same, the sum of $5,000, or such part thereof as may be necessary, to be expended under the Secretary of the Interior.

Mr. BOUTWELL. I move to add to that the following:

For the alteration and repair of the court-house in the city of Boston, $5,000.

Mr. WASHBURNE, of Illinois. Is not that the same amendment that was offered the other day and ruled out of order?

Mr. BOUTWELL. It was out of order to rule it out of order.

The CHAIRMAN. Does the gentleman raise the point of order?

Mr. WASHBURNE, of Illinois. It is a settled question; *res adjudicata*. It was before the committee before, and the Chair ruled it out of order. I make the point of order it is out of order.

The CHAIRMAN. The Chair overrules the point of order. It is clearly in order.

Mr. BOUTWELL. I ask that a letter of the Secretary of the Interior be read.

The Clerk read, as follows:

DEPARTMENT OF THE INTERIOR,
WASHINGTON, D. C., *February* 5, 1865.

SIR: I inclose herewith for the consideration of the Judiciary Committee, copies of sundry letters received at this Department, relative to alterations and an addition to the building at Boston, owned by the United States, and appropriated to the uses of the Federal courts:

1. Letter from John S. Keyes, Esq., marshal of the United States for the district of Massachusetts, urging the contemplated improvements, to which are added the certificates of the proper United States attorney and the district judge.

2. Letter from Mr. Justice Clifford, and District Judge Lowell, to the same effect.

3. Letter from Hon. Alexander H. Rice, and other Representatives in Congress from Massachusetts, who, after making a formal examination of the building, concur in the recommendation.

4. Letter from G. J. F. Bryant, Esq., architect, to Judges Clifford and Lowell, explanatory of the alterations.

I am satisfied that the improvements should be made at once. The estimated cost is $5,000, and I recommend that a clause, appropriating that sum for the purpose, be inserted in the miscellaneous appropriation bill.

I inclose a memorandum which, if adopted, would effect the object contemplated.

I am, sir, very respectfully, your obedient servant,
JAMES HARLAN,
Secretary.

Hon. JAMES F. WILSON,
Chairman Committee on the Judiciary.

Mr. BOUTWELL. I only wish to say that the expediency of this appropriation has been considered by the Judiciary Committee and recommended. The court-house was purchased by the Government. It was not fitted for the business. It is poorly ventilated and lighted, and more than all, there is no safe in which the public papers can be deposited and kept secure. I trust there will be no objection on the part of the committee or the House to this amendment.

Mr. BERGEN. In acting on this appropriation bill a few days ago, there were items relating to public buildings which we owned, which were partly completed, and which unless completed would be destroyed and become useless or at least suffer great damage. Those appropriations were reduced or stricken out because of the exceeding weight of debt this country has now to sustain. But here we find a court-house in such a situation that it can be used, as I understand, which answers the purpose, but which requires improvements to be made upon it. There is no danger that the building will become dilapidated, as I understand, much less destroyed. Now, if our necessities are so great that buildings in process of erection are to be subjected to the elements and left to destruction, certainly we ought not, under the circumstances, to pay money to improve buildings which are not in such danger, and which can be and now are used. To be consistent, then, the committee ought to vote against this appropriation, and I hope that they will do so.

The question being taken on the amendment of Mr. BOUTWELL, it was agreed to.

Mr. McRUER. I offer the following amendment:

After line five hundred and twenty-two insert:

For grading lot around marine hospital at San Francisco, $5,000.

Mr. WASHBURNE, of Illinois. I rise to a point of order. The amendment is not in order. It is not carrying out any existing law.

The CHAIRMAN. The Chair sustains the point of order.

Mr. WASHBURNE, of Illinois. I move to strike out the following item:

For discharge of all miscellaneous claims not otherwise provided for, as shall be admitted in due course of settlement at the Treasury, $10,000.

It does not seem to be for a specific purpose. It is miscellaneous, and is not carrying out any existing law.

Mr. STEVENS. I shall not object to its being stricken out.

The question being taken on striking out the foregoing item, it was agreed to.

Mr. PRICE. I move to strike out, in lines five hundred and twenty-six, five hundred and twenty-seven, and five hundred and twenty-eight, the following:

For facilitating communication between the Atlantic and Pacific States by electric telegraph, $40,000.

This appropriation may be all right, but if anybody was to ask me why we give $40,000 for a telegraph line I could not tell him. And I do not know of any better time to raise the question than now.

Mr. STEVENS. I am afraid we shall be obliged to allow this to remain. If some of our friends—I do not mean the gentleman from Iowa, [Mr. PRICE]—had joined me when that grant was made—a most enormous and extravagant one, in my judgment—of $40,000 for what we ought never to have paid a cent, we would not have had to put this appropriation in. The grant was made against the protest of some of us, nevertheless the House carried it. By law now, therefore, on our statute-books we are compelled to pay that company this sum. I do not see how it is possible to avoid it without a violation of law.

Mr. PRICE. Then I understand that this is a contract.

Mr. STEVENS. It is part of the law under which the telegraph line was built, and I am constrained to believe it was part of the contract for building the line. I would like to have the matter tested, and to know whether we have the constitutional power to repeal it. I have always looked upon it as a rascally thing. Nevertheless, it is the law, and I do not feel justified in refusing the appropriation so long as the law exists.

Mr. PRICE. I am as anxious as any gentleman can be to keep all the contracts of the Government in good faith. I was not aware when I made the motion to strike out that there was a contract to pay the money. I now ask the gentleman from Pennsylvania how long this contract runs?

Mr. STEVENS. I do not now recollect. I am afraid as long as water runs. [Laughter.] I have not seen the law since it was passed. I believe there is a limitation to it, but I am not quite sure. Some gentleman says ten years. It may be about ten years, which would only make it $400,000.

Mr. PRICE. I withdraw the motion to strike out. If there is a contract we must pay the money.

Mr. DRIGGS. I move to amend the clause in relation to the detection of counterfeiting by striking out "$100,000," and inserting "$50,000;" so that it will read:

For expenses in detecting and bringing to trial and punishment persons engaged in counterfeiting Treasury notes, bonds, and other securities of the United States, as well as the coin of the United States, $50,000.

Mr. WASHBURNE, of Illinois. I believe that this is an appropriation that ought not to be cut down. I understand from the Solicitor of the Treasury that counterfeiting is going on to an immense extent, and a heavy appropriation is needed for this purpose.

Mr. DRIGGS. If that is true it can be provided for in the new bill to which the gentleman from Pennsylvania [Mr. STEVENS] has referred. An appropriation of $50,000 for this purpose is pretty good for a beginning, and I think we may strike out this amount more

appropriately than many appropriations that have been stricken out already; that, for instance, for surveys in Dakota Territory. I am willing to give $50,000 for the detection of counterfeiters. I think that is ample for the present. When they want more I will be ready to vote it.

The question was taken on Mr. DRIGGS's amendment; and it was not agreed to—ayes twenty-eight, noes not counted.

Mr. BERGEN. I move to strike out the following clause:

For building a custom-house at Portland, Maine, in addition to the sum heretofore appropriated by Congress, $75,000: *Provided*, That the Secretary of the Treasury may, if he thinks it advisable, expend a sum, not exceeding $25,000, in the purchase of ground adjoining the site of the old custom-house on Fore street, now owned by the United States, for the purpose of enlarging the same, or the Secretary may exchange the lot now owned as aforesaid for a more eligible one, if the same can be procured; but no money shall be paid or agreed to be paid by the United States in consideration of such exchange, and no transfer, assignment, or conveyance of property by the United States shall be made upon such exchange, except a conveyance, on its behalf, by the Secretary of the Treasury, of the interest of the United States in the lot aforesaid and the building thereon.

I would inquire if they have a custom-house at this time in Portland, Maine.

Mr. LYNCH. I would inform the gentleman that at present the custom-house at Portland is in a building occupied for the custom-house, post office, and United States court-rooms, and that the accommodations are entirely inadequate to the business to be done. The room now occupied for the custom-house is in the second story of the building, and is needed for the United States court-room, which is now on the third story. It is proposed, as I understand, to remove the internal revenue offices into the rooms now occupied by the United State courts. They are now in buildings outside which are rented by the Government. The Government owns a lot upon which the custom-house formerly stood, and it is proposed to erect a new building on that lot.

This appropriation passed both Houses during the last session of Congress, and it is recommended by the Secretary of the Treasury. I may state that the business of the custom-house at Portland has more than tripled in the last three years, and that the present accommodations are entirely inadequate.

Mr. BERGEN. It appears, then, that they have already a custom-house there. Is it wise at this time, when the country is so much in debt, to incur further indebtedness in this way? The cost of labor and building materials is so high at present that individuals are afraid to build. Is it wise for the Government at such a time, burdened as we are with debt, to erect new buildings when it can be avoided?

The gentleman from Illinois [Mr. WASHBURNE] has opposed all these unnecessary appropriations, and has even moved to strike out appropriations which are absolutely necessary for the protection of buildings already erected and to prevent their going to decay. I had expected to hear him raise his voice in opposition to this appropriation of $75,000 for a new building, but not one word do we hear from him.

The question was taken on the amendment; and there were—ayes 35, noes 32; no quorum voting.

Mr. WASHBURNE, of Illinois. I hope the gentleman from New York, with whom I voted, will not break up the committee by insisting on a further count on his amendment.

Mr. ROSS. I understand that if we do not press a vote on the amendment now, there will be no chance to recur to this provision. Surely my colleague would not permit an appropriation of this kind to go through?

Mr. BERGEN. I insist on a further count.

Mr. WASHBURNE, of Illinois. Then I call for tellers.

Mr. STEVENS. I move that the committee do now rise.

The motion was agreed to.

So the committe rose, and the Speaker having resumed the chair, Mr. ASHLEY, of Ohio, reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly bill of the House No. 86, making additional appropriations, and to supply deficiencies in the appropriations, for sundry civil expenses of the Government for the fiscal year ending 30th of June, 1866, and for other purposes, and had come to no conclusion thereon.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had passed a bill (S. No. 58) entitled "An act granting lands to the State of Oregon to aid in the construction of a military road from Corvallis to Aquina bay;" also, a bill (S. No. 133) entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the waters of the bay of San Francisco to Humboldt bay;" in which he was directed to ask the concurrence of the House.

And then, on motion of Mr. STEVENS, (at ten minutes to five o'clock p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of Corporal James J. Ferris, of the seventh Indiana volunteers, asking increase of pension.

By Mr. ALLEY: The petition of Cape Ann Savings Bank, for reduction of taxes.

By Mr. ASHLEY, of Nevada: A resolution of the State of Nevada, concerning a mail to Silver Peak from Aurora.

By Mr. BALDWIN: The petition of officers of the Southbridge Savings Banks, at Southbridge, Massachusetts, in regard to the taxation of deposits in savings banks.

Also, a petition of Kniffen & Harrington, of Worcester, Massachusetts, in regard to the excessive duplication of taxes on harvesters and other agricultural implements.

By Mr. BUNDY: The petition of David Gaddis, and 110 others, citizens of Adams and Brown counties, Ohio, for a post route from Ripley, Brown county, to Bradysville, Adams county, Ohio, tri-weekly mail.

Also, a petition of 495 citizens of Meigs and Vinton counties, Ohio, for a daily stage and mail route from Middleport, in Meigs county, via Rutland, Langsville, Salem Center, Wilkesville, Eagle Furnace, to Hamden, in Vinton county, Ohio.

By Mr. COFFROTH: The petition of certain manufacturers of agricultural implements, of Waynesboro, Franklin county, Pennsylvania, asking for a change in the internal revenue law relieving them from unequal taxation.

By Mr. HALE: The petition of the Northern Transportation Line, and others, interested in the commerce of Lake Champlain, for the improvement of Plattsburg harbor.

By Mr. HOLMES: The petition of Abram C. Rhinehart, for American register for sloop Minetta of Gananoque.

By Mr. HOLBROOK: A memorial of the Legislative Assembly of the Territory of Idaho, praying for an appropriation for public buildings, a territorial prison, and public library in said Territory.

By Mr. HULBURD: The remonstrance of John Allendorph, and others, citizens of Ogdensburg, New York, against sale of stamped envelopes for the price of stamps, &c.

Also, the remonstrance of Fisk Taylor, and others, of Brasher Falls, New York, against admission of southern States until proper guarantees have been established.

By Mr. JULIAN: The petition of sundry citizens of Indiana, praying Congress not to restore any of the States lately in rebellion to their former rights till adequate security has been obtained against further acts of rebellion, against the payment of the rebel debt, and demanding other specified guarantees.

By Mr. KETCHAM: The petition of Adriance, Platt & Co., manufacturers of the Buckeye mower and reaper, at Poughkeepsie, New York, for relief from the duplication of taxes which bear so heavily upon their branch of industry under the present internal revenue laws.

Also, the petition of Ludwig Ebstein and of Gifford, Sherman & Ennis, of Poughkeepsie, New York, for such an adjustment of the tariff and internal tax on chemicals as shall not bear oppressively upon the American manufacturer.

By Mr. LAFLIN: Resolutions of the Legislature of the State of New York, relative to a ship-canal from Portage Lake to Lake Superior, across the base of Keweenaw Point.

By Mr. LYNCH: The petition of S. A. Boothby, and others, asking that such conditions be imposed upon the rebel States as shall punish treason, reward loyalty, and abolish all distinctions in their constitutions and laws on account of race or color.

Also, the petition of Thomas Cole, and others, asking amendments to the Constitution of the United States.

By Mr. MERCUR: The petition of honorably discharged soldiers, of Alba, Bradford county, Pennsylvania, praying Congress to grant to soldiers who were enrolled previous to October 24, 1863, the same pay and bounties as were allowed to soldiers who enlisted after that date.

By Mr. MYERS: The petition of mechanics and laborers in Duffy & Street's, and other Philadelphia manufactories, for increased protection to American labor.

By Mr. O'NEILL: The petition of mechanics and laborers in the shops of the Reading Railroad Company at Philadelphia, asking for an amendment to the tariff so as to afford greater protection to American manufactures.

By Mr. PERHAM: The petition of S. H. Marrow, and 32 others, citizens of the State of Maine, against the restoration of the States recently in rebellion to their place as governing partners in the Union till adequate security has been obtained against their renewal of the attempt to secede; against any distinction on account of color or descent in the laws or municipal regulations in the District of Columbia; and asking several amendments to the Constitution.

By Mr. ROGERS: The petition of citizens, workmen, and mechanics, of Boonton, New Jersey, for a law of Congress making eight hours a day's work for mechanics and laborers of the Federal Government.

By Mr. SITGREAVES: The petition of Hiram Deats, of New Jersey, manufacturer of agricultural implements, praying for the passage of an amendatory act which will allow the manufacturers in making returns to deduct the value of any and all parts of such machinery which have already paid a tax, &c.

By Mr. SLOAN: The petition of W. S. Johnson, and 115 others, citizens of Wisconsin, asking that a commission may be appointed to proceed to Europe to investigate in relation to the cattle disease prevailing there, with a view to prevent its spread in this country.

Also, the petition of James E. Perry, and 38 others, soldiers of Wisconsin, asking that additional bounties may be given to soldiers enlisting early in the war, so that some approximation to equality may be had.

By Mr. THAYER: The memorial of the Board of Trade of Philadelphia, praying for an extension of the jurisdiction of the courts of the United States.

Also, the petition of citizens of Richmond, Pennsylvania, praying for an increase of duties on foreign importations.

By Mr. UPSON: The petition of George M. Buck, Wilson D. Fargo, and 238 others, citizens of Michigan and late soldiers, praying Congress to allow proper, just, and equitable bounties to those volunteer soldiers who enlisted into the service of the United States in 1861, 1862, and the first eight months of 1863.

By Mr. WELKER: The petition of D. Smith & Co., manufacturers of harvesters and other agricultural implements, at Smithville, Wayne county, Ohio, asking that the tax law be so changed that the materials used in such manufacture already taxed shall not again be taxed in the hands of such manufacturers.

By Mr. WILSON, of Iowa: The petition of Barclay Johnson, and 70 others, citizens of the State of Iowa, praying Congress "not to restore any State that has rebelled and warred against the United States to its place and power as a governing partner in the Union till adequate security has been obtained against its renewing the attempt to secede; against its being represented in Congress beyond its just proportion according to its voting population; against any payment of debt incurred in rebellion, or for its emancipated slaves; against any distinction in its laws or municipal regulations on account of color or descent; and against any person being admitted as a Senator or Representative in the Congress of the United States who has at any time held office, civil or military, in the so-called Confederate States."

NOTICE OF A BILL.

The following notice for leave to introduce a bill was given under the rule:

By Mr. COFFROTH: A bill for the relief of the citizens of Chambersburg, Pennsylvania.

IN SENATE.

THURSDAY, *March* 1, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore*. The Chair has received and been requested to present to the Senate a memorial of the Legislative Assembly of the Territory of New Mexico, in which they state that that Territory has been under the control of the Government of the United States for the past eighteen years, and set forth, further, the amount of losses, both of life and property, which the Territory has sustained in consequence of Indian depredations; and they pray Congress to appoint a board of commissioners to receive evidence touching these claims and to make provision for their payment. This memorial, if there be no objection, will be referred to the Committee on Territories.

The PRESIDENT *pro tempore* also presented the petition of Henry Hofen, a private in company E, fourth regiment United States artillery, praying for additional bounty; which was referred to the Committee on Military Affairs and the Militia.

Mr. WILSON presented the petition of Brig-

adier General James H. Carleton, and other officers; and also a petition of Brevet Major H. B. Bristol, and other officers, praying that the compensation of Army officers may be increased; which were referred to the Committee on Military Affairs and the Militia.

Mr. MORGAN. I present the memorial of the American Free Trade League, of which Mr. William C. Bryant is president, in favor of continuing the arrangement of the present reciprocity treaty regulating trade with the British Provinces; and also asking for an enlargement of existing treaty regulations, and for an entirely free interchange of all goods between the Provinces and this country, subject to no other taxes or imposts than are necessary to make the goods imported in this way contribute as much to our internal revenue as would be levied upon them if of domestic origin. I ask that it be referred to the Committee on Finance.

It was so referred.

Mr. POMEROY presented the petition of Mrs. Sarah Wilson, representing that her husband died in consequence of sickness and wounds received in the line of his duty as a volunteer surgeon, and that, as he was not mustered into the service, she cannot draw a pension, and praying that a pension may be allowed her; which was referred to the Committee on Pensions.

Mr. SHERMAN presented a letter from the Commissioner of Agriculture addressed to the chairman of the Committee on Agriculture, communicating statistical information upon the present cultivation of the madder plant in the United States and elsewhere; which was referred to the Committee on Agriculture, and ordered to be printed.

Mr. JOHNSON presented the memorial of Samuel M. Salomon, executor and devisee of Haym M. Salomon, deceased, praying for indemnity for advances of money made by his grandfather, Haym Salomon, during the revolutionary war; which was referred to the Committee on Claims.

Mr. STOCKTON. I present certain joint resolutions of the Legislature of New Jersey in reference to the bounty to New Jersey soldiers engaged in the suppression of the rebellion. I ask that they be read, referred to the Committee on Military Affairs and the Militia, and be printed.

The Secretary read them, as follows:

Joint resolutions relative to bounty to New Jersey soldiers mustered into the service of the United States for the suppression of the rebellion.

Whereas a large number of the people of New Jersey, impelled by a spirit of patriotism and devotion to the Union, did, during the years 1861 and 1862, enter the military and naval service of the United States, for the suppression of the rebellion, voluntarily and without receiving any bounty; and whereas it is but a just recognition of their services, thus freely rendered, that they should be equally rewarded in the bestowment of bounties with those who later in the war bore with them its burdens; Therefore,

Be it enacted by the Senate and General Assembly of the State of New Jersey, That Senators and Representatives of this State in the Congress of the United States be requested to favor the passage of such law for the equalization of bounty to volunteers as may not be incompatible with the general interests of the United States; and

Be it resolved, That the Governor be requested to forward copies of this preamble and resolutions to the Senators and Representatives from this State in Congress.

The resolutions were referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

Mr. STOCKTON. I also present a concurrent resolution of the Legislature of the State of New Jersey, in regard to the Veteran Reserve corps, which I ask may be read.

The Secretary read, as follows:

Whereas the question is now pending in Congress whether the Veteran Reserve corps shall be disbanded or retained in the service; and whereas these wounded soldiers of the Republic deserve for their valor the thanks of every good citizen as well as the protection and cherishing care of a Government they have done so much to preserve: Therefore,

Resolved, That each member of the Senate and House of Representatives in Congress from New Jersey be requested to use all honorable exertion to the end that the Veteran Reserve corps shall be provided for and retained in the service, and that an engrossed copy of this resolution be sent to our representatives in Congress.

I move that this resolution be printed, and referred to the Committee on Military Affairs and the Militia.

The motion was agreed to.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. FESSENDEN, it was

Ordered, That the memorial and other papers of Captain H. Clay Wood, of the eleventh United States infantry, praying for compensation for property lost by the evacuation of Fort Cobb, Texas, under Post Order No. 87, issued for the evacuation of that post, be taken from the files of the Senate, and be referred to the Committee on Claims.

Mr. HARRIS. A few days ago I presented a memorial from the Bishop Gutta Percha Company, remonstrating against the passage of the bill (S. No. 26) in relation to the International Ocean Telegraph Company. That bill was then pending before the Senate, and the memorial which I presented was laid upon the table. The bill has since been referred to the Committee on Commerce, and I desire that the memorial shall take the same direction.

The PRESIDENT *pro tempore*. It is moved that the memorial referred to be taken from the table and referred to the Committee on Commerce.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. WILLEY, from the Committee on Naval Affairs, to whom was referred a joint resolution (H. R. No. 24) for the relief of Lucretia M. Perry, widow of the late Nathaniel H. Perry, United States Navy, submitted an adverse report thereon; which was ordered to be printed.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred a joint resolution (S. R. No. 32) to disband the militia forces in certain States and to prohibit their organization, reported it without amendment.

Mr. RAMSEY, from the Committee on Naval Affairs, to whom was referred the petition of Commander George Henry Preble, submitted a report, accompanied by a bill (S. No. 176) for the relief of George Henry Preble, a commander in the Navy of the United States. The bill was read, and passed to its second reading, and the report was ordered to be printed.

PRINTING OF A BILL.

On motion of Mr. RAMSEY, it was

Ordered, That the bill (S. No. 162) to secure the speedy construction of the Northern Pacific railroad and telegraph, be printed.

BILLS INTRODUCED.

Mr. MORRILL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 177) to incorporate the National Safe Deposit Company of Washington; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. CRESWELL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 178) to incorporate the Metropolitan Mining and Manufacturing Company; which was read twice by its title, and referred to the Committee on the District of Columbia.

BONDED WAREHOUSE IN OREGON.

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

Resolved, That the Committee on Finance be instructed to inquire into the expediency of the construction by the United States, at the city of Portland, in the State of Oregon, of a building to be used for a bonded warehouse, post office, and the United States circuit and district courts, and that they have leave to report by bill or otherwise.

EULOGY ON HENRY WINTER DAVIS.

Mr. WILSON submitted the following resolution; which was considered by unanimous consent, and referred to the Committee on Printing:

Resolved, That ten thousand copies of the address of the Speaker of the House of Representatives, and the eulogy on the late Henry Winter Davis by Hon. J. A. J. CRESWELL, on the 22d ultimo, be printed for the use of Senators, and that the same be printed in the Globe.

SOUTHERN PACIFIC RAILROAD.

Mr. BROWN. I move that the Senate proceed to the consideration of Senate bill No. 20.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 20) granting lands to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific coast by the southern route.

The PRESIDENT *pro tempore*. The Committee on the Pacific Railroad have reported this bill with various amendments, which will be acted on in their order.

The first amendment of the committee was in section one, line nineteen, in the list of corporators, after the word "Pennsylvania," to strike out the names of "Theodore F. Randolph, Amos Robins, James F. Scovil, Providence Ludlam," and to insert "Charles Knap, J. L. N. Stratton, James B. Dayton, Robert F. Stockton, James F. Scovil."

The amendment was agreed to.

The next amendment was in section one, line forty-four, to strike out "Joseph" before "Thompson," and to insert "P. A.," and in line forty-five to insert "Charles E. Moss, Edward Walsh, A. E. Easton, Truman J. Homer, J. B. Eads, D. R. Garrison, W. A. Kayser."

The amendment was agreed to.

Mr. POMEROY. In the forty-ninth line of the same section the name "Stotter" should be "Stottler," and "I. C. McDowell" should be "J. C. McDowell."

The PRESIDENT *pro tempore*. Those corrections will be made by the Clerk.

The next amendment was in section one, line sixty-three, to strike out the word "Southern," and to insert "Atlantic and" so that it will read: "A body corporate and politic, in deed and in law, by the name, style, and title of the Atlantic and Pacific Railroad Company."

The amendment was agreed to.

The next amendment was in section one, line eighty-three, after the word "route" to strike out the words "over the region embraced in the surveys made under the direction of the War Department by Lieutenant Whipple and Edward F. Beale, Esq."

The amendment was agreed to.

The next amendment was in section one, line eighty-seven, after the words "thence by," to strike out the words "way of the San Gorgonio pass to San Diego, and by the Tejon passes and the Tulare and San Joaquin and their lateral valleys to the bay of San Francisco," and to insert "the most practicable and eligible route to the Pacific."

The amendment was agreed to.

The next amendment was in section one, line ninety-five, after the words "town of Van Buren," to strike out the words "and shall also have the right to connect their roads, at the point of crossing the Colorado river, by steamer with Guaymas."

The amendment was agreed to.

The next amendment was in section one, line one hundred and six, to strike out the word "Southern," and to insert "Atlantic and," so as to make the name of the company, "The Atlantic and Pacific Railroad Company."

The amendment was agreed to.

The PRESIDENT *pro tempore*. It is proposed by the committee to make this amendment in all the sections of the bill, where the title of the company occurs, and if there be no objection, the word "Southern" will be stricken out wherever it occurs, and the words "Atlantic and" inserted.

The next amendment was in section one, line one hundred and ten, to strike out the words "at such time," and to insert "on the 1st day of January, A. D. 1867, or at such time within three months thereafter," so that the clause will read:

The first meeting of said board of commissioners shall be held at the Turner Hall, in the city of St. Louis, on the 1st day of January, A. D. 1867, or at such time within three months thereafter as any ten

commissioners herein named, from Missouri, shall appoint.

The amendment was agreed to.

The next amendment was in section one, line one hundred and sixteen, after the word "appoint," to strike out the words "not more than six months from the passage of this act."

The amendment was agreed to.

Mr. POMEROY. I will suggest that on the 7th page of the bill, line one hundred and fifty-five, in the clause directing the directors to turn over all the properties and subscription books to the stockholders, the word "moneys" be inserted before "properties." The principal thing they will have to turn over will be the money that has been subscribed. "Properties" includes money, but it is a vague way of stating it.

Mr. BROWN. I have no objection to the amendment.

The PRESIDENT *pro tempore*. The Chair will suggest that the amendments reported by the committee are perhaps more properly in order in the first instance, and then the amendments which any other Senators may wish to make. The bill will be open to amendment after the amendments of the committee are disposed of.

Mr. POMEROY. Some of these amendments are merely clerical, and I should like to have them made as we go along.

The next amendment of the committee was in section three, line thirty-five, after the word "first," to insert the words "and seventeenth."

The amendment was agreed to.

The next amendment was in section four, line six, after the word "same," to insert "who shall be paid a reasonable compensation for their services by the United States, to be determined by the Secretary of the Interior," so that the section will read:

That whenever said Atlantic and Pacific Railroad Company shall have twenty-five consecutive miles of any portion of said railroad and telegraph line ready for the service contemplated, the President of the United States shall appoint three commissioners to examine the same, who shall be paid a reasonable compensation for their services by the United States, to be determined by the Secretary of the Interior.

The amendment was agreed to.

The next amendment was in section nine, line seven, after the words "United States," to strike out "by its Congress."

The amendment was agreed to.

The next amendment was in section ten, line five, after the word "subscription," to strike out the words "and no mortgage or construction bonds shall ever be issued by said company or said road, or mortgage or lien made in any way, except by the consent of the Congress of the United States."

The amendment was agreed to.

The next amendment was in section twelve, line eight, to strike out the words "served on the President of the United States," and to insert, "deposited in the office of the Secretary of the Interior;" so that the section will read:

That the acceptance of the terms, conditions, and impositions of this act by the said Atlantic and Pacific Railroad Company shall be signified in writing under the corporate seal of said company, duly executed pursuant to the direction of its board of directors first had and obtained, which acceptance shall be made within two years after the passage of this act and not afterward, and shall be deposited in the office of the Secretary of the Interior.

The amendment was agreed to.

The next amendment was in section thirteen, line two, after the word "make" to insert the words "and publish."

The amendment was agreed to.

The next amendment was in line four of section thirteen, after the word "directors" to insert the words "a copy of which shall be deposited in the office of said Secretary of the Interior;" so that the section will read:

That the directors of said company shall make and publish an annual report of their proceedings and expenditures, verified by the affidavits of the president and at least six of the directors, a copy of which shall be deposited in the office of said Secretary of the Interior; and they shall from time to time fix, determine, and regulate the fares, tolls, and charges to be received and paid for transportation of persons and property on said road, or any part thereof.

The amendment was agreed to.

The next amendment was in section seventeen, line ten, to insert the following proviso:

Provided, That any such grant or donation, power, aid, or assistance from any Indian tribe or nation shall be subject to the approval of the President of the United States.

The PRESIDENT *pro tempore*. That proviso will be added if there be no objection. None being made it is adopted.

The next amendment was to strike out section eighteen, in the following words:

SEC. 18. *And be it further enacted*, That said Southern Pacific Railroad Company shall obtain the consent of the Legislature of any State through which any portion of said railroad line may pass previous to commencing the construction thereof; but said company have the right to put on engineers and survey the route before obtaining the consent of the Legislature.

And to insert in lieu thereof:

SEC. 18. *And be it further enacted*, That the Southern Pacific railroad, a company incorporated under the laws of the State of California, is hereby authorized to connect with the said Atlantic and Pacific railroad, formed under this act, at such point near the boundary line of the State of California as they shall deem most suitable for a railroad line to San Francisco, and shall have a uniform gauge and rate of freight or fare with said road; and in consideration thereof, to aid in its construction, shall have similar grants of land, subject to all the conditions and limitations herein provided, and shall be required to construct its road on the like regulations, as to time and manner, with the Atlantic and Pacific railroad herein provided for; and the Northern Central Railroad Company, a company incorporated under the laws of the State of Nevada, be, and the same is, also authorized to construct a branch northwardly, from some point on its line at or near the Colorado river, by such route or routes as may be by them deemed most practicable, to such points in the State of Nevada and Utah Territory as they may select; and such branch lines, when located and adopted, shall have the same rights and franchises and the same land grants as herein provided for the main line of the Atlantic and Pacific railroad.

Mr. POMEROY. This new section which the committee propose to insert in the bill proposes to make a land grant to two other railroad companies not named in the bill. One of those companies, the California company, seems to be a continuation of this Atlantic and Pacific railroad line, and therefore ought not to be objected to; but the section also provides that the same quantity of land may be given to another company in the State of Nevada, subject to the same limitations and the same restrictions. While that may be also a very good thing to be done, I question whether a new company entirely, in another State, not connected with this Atlantic and Pacific road at all, should be put into this bill and be provided for in one section, without any reference of the subject to the Committee on Public Lands, who have generally had charge of these local roads through the various States. If the Senator from Missouri thinks it important to have it in this bill, I shall not make any strenuous opposition to it; but it is something entirely new in passing a Pacific railroad bill to insert in it a provision for a road in another State that is not connected with the road contemplated in the bill. If there are any reasons for it that I do not know of I should be glad to have them stated. It occurs to me that it is a provision not germane to the bill and should not be attached to it.

Mr. CONNESS. I should like to have a division of the question, so as to have the two propositions embraced in the section proposed to be inserted by the committee voted upon as separate sections. They are not necessarily dependent upon each other, and therefore should not be placed in the same section.

Mr. POMEROY. The road in California will have a direct connection with this Atlantic and Pacific road; and therefore I think it very proper that that road should be included in this bill.

Mr. CONNESS. I supposed it was in a separate section, and I am a loss to know how to make a motion so as to have it so regarded.

Mr. BROWN. Move to amend the amendment so that the latter part of it shall be marked as a separate section.

Mr. CONNESS. If that will be in order, I will make that motion.

The PRESIDENT *pro tempore*. Will the Senator state his motion?

Mr. CONNESS. I move to amend the amendment of the committee by marking all after the word "for," in line thirteen of the proposed amendment, being section eighteen, as a separate section, as section nineteen. The section proposed to be inserted contains two distinct propositions, and it was my understanding that they were to stand separately, as different sections of the bill; and I wish that to be done; therefore my motion is to amend the amendment by making all that portion of the amendment after the word "for," in the thirteenth line, section nineteen.

Mr. POMEROY. The Senator means simply to move to strike out all after the word "for."

Mr. CONNESS. I do not wish to do that. I desire that a vote shall be taken on the second branch of the section relating to the Northern Central Railroad Company of Nevada by itself. For the sake of coming more readily at the proposition I move to strike out all after the word "for" in the proposed amendment; and it can be replaced again as a new section.

The amendment to the amendment was agreed to; and the amendment of the committee, as amended, was adopted.

Mr. BROWN. I believe those are all the amendments reported by the committee. There are one or two verbal corrections in the first section I would like to make. In the twenty-seventh line of the first section I move to insert the name of "George B. Center" after "Storer."

The amendment was agreed to.

Mr. BROWN. In the fifty-seventh line of the first section the name should be "J. K. Moores" instead of "J. R. Moores."

The PRESIDENT *pro tempore*. That correction will be made.

Mr. BROWN. In the fifty-eighth line of the first section the name "Dawdell" should be "Dowell."

The PRESIDENT *pro tempore*. That correction will be made, as it is a mere clerical error.

Mr. BROWN. In line forty-five the name "A. E. Easton" should be "A. R. Easton."

The PRESIDENT *pro tempore*. That correction will be made, as it is a clerical mistake.

Mr. POMEROY. I now renew the suggestion that I made before, that is, in section one, line one hundred and fifty-five, to strike out the word "properties," and to insert "money and property."

Mr. BROWN. I suggest to the Senator that in lieu of that the word "moneys" be inserted before "properties," so that it will read, "all the moneys, properties, subscription-books, and other books in their possession."

Mr. POMEROY. Very well.

The PRESIDENT *pro tempore*. That amendment will be made.

Mr. POMEROY. The last clause of the second section reads thus:

The United States shall extinguish, as rapidly as may be consistent with public policy and the welfare of the said Indians, the Indian title, &c.

That is the first place in all the bill where the word "Indians" is used, and the word "said" should be stricken out.

The PRESIDENT *pro tempore*. That correction will be made.

Mr. POMEROY. I notice that in the seventeenth line of the third section it is provided that the lands proposed to be granted are not to be withdrawn from market until the line of the road is definitely located. We have usually had the lands withdrawn from market when a plat of the general route was filed. If you wait until the line of the road is definitely fixed by sections and quarter sections, you will lose your land.

Mr. BROWN. That can be obviated by inserting the words "by filing a plat," after the words "definitely fixed."

Mr. POMEROY. That will help it some. I wish to call attention to the proviso on the

10th page of the bill, that in case this road passes through a mineral section, other lands, agricultural lands in lieu of the mineral lands, are to be selected. I think that is a new feature. We have not inserted such a provision in any of the other land-grant bills.

Mr. BROWN. The Senator is mistaken about that. It is the same provision that was contained in a bill at the last session of Congress in regard to the Northern Pacific railroad.

Mr. POMEROY. It may possibly have been done in regard to that road.

Mr. BROWN. This is identical in language with that bill.

Mr. LANE, of Kansas. At the request of the delegation from the Chickasaws and Cherokees, who reside in and own the greater portion of what is known as the Indian Territory, I call the attention of the Senate to one feature of this bill. The title of the Indian country is in five tribes, and we are under treaty obligations not to enter upon them without their consent. They are strenuously opposed, and protest against selling any portion of their country for white settlement. This railroad will run through the entire length, I believe, of the Indian Territory. The second section of this bill contains the following provision:

That the United States shall extinguish, as rapidly as may be consistent with public policy and the welfare of the said Indians, the Indian title to all lands falling under the operation of this act, and acquired in the donation to the road named in the bill.

For them, and in their name, and in behalf of the Government, I desire to have that clause stricken out, a clause compelling the Government to extinguish the Indian title so far as the Indian Territory is concerned. We are under the most solemn treaty stipulations not in anywise to intrude upon them. The title to the land is in them, and they are strenuously opposing any sale of their land for white settlement. They have suggested, in the treaties they are now making, that if a railroad is to be made through that country, each tribe having a separate government, the sale of the lands by the Government or by the railroad company shall be to some member of their tribes and not to white men.

It may be well for me to state that there is now pending before the Committee on Territories a bill for the organization of this Indian country, having in view the building up of an Indian Territory, excluding all white men therefrom. This bill if it passes will destroy the theory of that bill, and will expose these Indian tribes to the same encroachments and the same fate that has overtaken them and other Indian tribes before. I have not the treaties with those tribes before me, but the President *pro tempore* of the Senate laid those treaties before this body at the last session. They are of the most solemn character. We have agreed that there shall be no government extended over them without their consent; that there shall be no encroachments upon them; and now I submit to the Senator from Missouri as well as to other Senators whether it is expedient for the Government to bind themselves to extinguish the Indian title within that Territory, which will open up that country, as I have before remarked, to white settlement and drive off the Indians as they have heretofore been driven off.

Mr. BROWN. I do not know that there is anything in this bill that will bind the Government of the United States to take any action that would conflict with its treaty obligations. I do not suppose that there is. I do not suppose that we could bind the Government to do so. If there are any obligations of that sort, of course they will control the action of the Government, and this clause will not interfere with it. If there are not, I see no objection to the clause. I do not participate in the view that the Senator seems to have, that that country should be kept exclusively for Indian tribes any further than we are obligated to do so now.

Mr. LANE, of Kansas. What I have said has been at the request of the delegation of Chickasaw and Cherokee Indians who are now in the Marble Room.

Mr. BROWN. This is the same clause that has been put in all these railroad bills in regard to extinguishing Indian titles. It does not differ from them in any respect.

Mr. LANE, of Kansas. We have heretofore agreed to extinguish a possessory title that the Indians have; but here is a legal title. The lands are patented to them. I now have the treaties before me. Every Senator on this floor is aware of those stipulations. They are of the most solemn character that we will not encroach upon them, that we will not intrude upon them without their consent; and yet this bill proposes to compel the United States to extinguish their title. To be sure there is a clause that it shall be extinguished "as rapidly as may be consistent with public policy and the welfare of the said Indians;" but if this bill passes we agree to extinguish that Indian title, which is an agreement on our part to destroy and trample under foot the most solemn treaty stipulations that we have with these Indian tribes.

Mr. BROWN. On the contrary, the language of the clause expressly prohibits that thing. It says that the Indian title is to be extinguished as far as is consistent with the policy of the Government.

Mr. LANE, of Kansas. "The United States shall extinguish, as rapidly as may be consistent with public policy and the welfare of the said Indians, the Indian title to all lands falling under the operation of this act, and acquired in the donation to the road named in the bill." It seems to me that that is just the same as if the Government were to agree to extinguish the title to my land or to your land. We have never engaged to do any such thing heretofore. We have agreed to extinguish a possessory title, but not where the title is in fee as in this case.

Mr. GRIMES. I should like to be informed whether or not this road is to run through the Cherokee, Choctaw, and Chickasaw lands?

Mr. LANE, of Kansas. Their entire lands.

Mr. GRIMES. By the provisions of this bill, if it should be enacted into a law, will this company acquire a title to land belonging to these Indians?

Mr. Lane, of Kansas. They acquire alternate sections, just as has been granted heretofore in these bills.

Mr. POMEROY. Oh, no, not the alternate sections; nothing but the right of way, under this bill.

Mr. LANE, of Kansas. The third section of the bill provides:

That there be, and hereby is, granted to the [Southern] Atlantic and Pacific Railroad Company, its successors and assigns, for the purpose of aiding in the construction of said railroad and telegraph line to the Pacific coast, and to secure the safe and speedy transportation of the mails, troops, munitions of war, and public stores, over the route of said line of railway and its branches, every alternate section of public land, not mineral, designated by odd numbers, to the amount of twenty alternate sections per mile, on each side of said railroad line, as said company may adopt.

Then there is the other clause that I have read making it——

Mr. BROWN. The Senator understands that that does not refer to Indian land, the title to which is not in the United States.

Mr. LANE, of Kansas. But here is a clause at the end of the second section that compels the Government to extinguish the Indian title along the line of this road.

Mr. GRIMES. Then I understand that the idea of the Senator from Kansas is, that when the Government shall extinguish these titles, that title is to inure to the benefit of this company.

Mr. LANE, of Kansas. Certainly; and it is peremptory on the Government to extinguish the Indian titles just as was provided in the bills that were passed for railroads in the State of Iowa.

If the Senator from Missouri desires these treaties to be read again, (as they have been read in the Senate,) I have them here and can read them. I repeat, they are of the most solemn, peremptory, and emphatic character, that we will not intrude upon nor encroach upon these Indians. I am as anxious to have this road as the Senator from Missouri; but I suggest to him whether, inasmuch as we are trying to get up a government for these Indians, in order that everything may be consistent, it would not be as well to refer this bill to the Committee on Territories, which now have before them a bill for the organization of a territorial government for these Indians, so that the two bills may be made to harmonize. The Indians would have no objection to this railroad, provided the grant is made through their governments.

I desire to say to the Senator from Iowa and to the other Senators that the Chickasaw government (and a delegation of them are now in the city) has already granted a charter for a railroad company through their nation. They claim the same jurisdiction over their territory that Missouri or Iowa does over its territory. The question, I submit, in their name and for them is, that we ought not to compel the Government to extinguish the title in their country if the title when extinguished is to go into the hands of white settlers.

Mr. BROWN. I suggest to the Senator if that is his object, I do not think the clause bears the construction which he puts upon it. He may strike out the word "welfare," and insert the word "assent."

Mr. LANE, of Kansas. I will suggest to the Senator from Missouri that what these Indian tribes desire is, that they may make the grant. The Chickasaw tribe of Indians, in making their grant, reserved a bonus to their nation. What they want of your company is, that instead of obtaining the grant of land through the General Government, they should get it through them, giving them a bonus. The Chickasaw Indians reserved a bonus of two per cent. of the net profits of the road to which they made a grant. They want to go forward and aid this road, and you will have no trouble in getting your land grant from them.

Mr. SHERMAN. As it is probable that we can hardly pass this bill before the morning hour expires, I should like to take up a bill to which I am sure there will be no objection.

Mr. BROWN. There is nothing to prevent the passage of this bill now if this matter is passed upon.

Mr. SHERMAN. If there is to be no further debate upon it, I shall not object; but I should like to have the bill to which I refer passed before the regular order of the day comes up.

Mr. BROWN. I will move to insert in the seventeenth line of the second section, after the word "Indians," the words "and only by their consent;" so that the clause will read:

The United States will extinguish, as rapidly as may be consistent with public policy and the welfare of the said Indians, and only by their consent, the Indian title to all lands falling under the operation of this act and acquired in the donation to the road named in the bill.

Mr. POMEROY. I do not think it necessary to make that amendment. It will not do any good. You cannot extinguish the Indian title except by their consent.

Mr. BROWN. I know that; but it brings it within the objection that the Senator's colleague has taken.

Mr. LANE, of Kansas. While that may be true, you may bind the Government to do it.

Mr. POMEROY. This does not bind the Government to do it.

Mr. LANE, of Kansas. Yes, sir, I so understand it.

Mr. BROWN. I do not so understand it.

Mr. JOHNSON. I suggest to my friend from Missouri that perhaps he had better let this subject go over until to-morrow. If there is any doubt whether, as the bill now stands, it would interfere with the treaties, we ought to solve that doubt very positively before proceeding further.

Mr. BROWN. I do not see how there can be any possible doubt, when the language of the bill leaves it subject to the action of the Government in the future exclusively.

Mr. JOHNSON. I do not say that there is any well-founded doubt; but I understand that the Senator from Kansas has a doubt on that subject.

Mr. BROWN. I believe this amendment removes even his doubt.

Mr. JOHNSON. He says not; and certainly no member of the Senate is disposed to interfere with the obligation of treaties. I am satisfied the Senator from Missouri is the last member who would do it.

Mr. BROWN. I am willing to let the bill go over until to-morrow, and we can take it up then and dispose of it.

The PRESIDENT *pro tempore*. By common consent the bill will be considered as postponed until to-morrow.

CATTLE DISEASES.

Mr. SHERMAN. The Committee on Agriculture, to whom was referred the bill (H. R. No. 321) to amend an act entitled "An act to prevent the spread of foreign diseases among the cattle of the United States," approved December 18, 1865, have directed me to report it back without amendment, and I ask the consent of the Senate to put it upon its passage at once. I am told that it is necessary to pass it as soon as possible in order to enable the Secretary of the Treasury to carry out the former law.

By unanimous consent the Senate, as in Committee of the Whole, proceeded to consider the bill, which provides that the act entitled "An act to prevent the spread of foreign diseases among the cattle of the United States," approved December 18, 1865, shall be amended so as to read as follows:

That the importation of neat cattle and the hides of neat cattle from any foreign country into the United States is hereby prohibited: *Provided, however*, That the operation of this act, or any part thereof, shall be suspended as to any foreign country or countries, or any parts of such country or countries, whenever the Secretary of the Treasury shall officially determine, and give public notice thereof, that such importation will not tend to the introduction or spread of contagious or infectious diseases among the cattle of the United States; and the Secretary of the Treasury is hereby authorized and empowered, and it shall be his duty, to make all necessary orders and regulations to carry this law into effect, or to suspend the same as therein provided, and to send copies thereof to the proper officers in the United States, and to such officers or agents of the United States in foreign countries as he shall judge necessary.

SEC. 2. *And be it further enacted*, That the President of the United States, whenever in his judgment the importation of neat cattle and the hides of neat cattle may be made without danger of the introduction or spread of contagious or infectious disease among the cattle of the United States, may, by proclamation, declare the provisions of this act to be inoperative, and the same shall be afterward inoperative and of no effect from and after thirty days from the date of said proclamation.

SEC. 3. *And be it further enacted*, That any person convicted of a willful violation of any of the provisions of this act shall be punished by a fine not exceeding $500, or imprisonment not exceeding one year, or by both such fine and imprisonment, in the discretion of the court.

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

REPRESENTATION OF SOUTHERN STATES.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday, upon which the Senator from Nevada [Mr. STEWART] is entitled to the floor.

The Senate resumed the consideration of the following resolution:

Be it resolved by the House of Representatives, (the Senate concurring,) That in order to close agitation upon a question which seems likely to disturb the action of the Government, as well as to quiet the uncertainty which is agitating the minds of the people of the eleven States which have been declared to be in insurrection, no Senator or Representative shall be admitted into either branch of Congress from any of said States until Congress shall have declared such State entitled to such representation.

Mr. STEWART. Mr. President, before the meeting of Congress, various propositions were suggested in the public prints for amendments to the Constitution as guarantees for the future security of the country. It was feared that there would be an effort on the part of the late rebellious States to embarrass the Government by attempts to assume, in some form, obligations incurred in support of the rebellion. I was one among the number who had some fears on this subject, and although most of the southern States had expressly repudiated the rebel debt, still I felt that it would not be unreasonable to place that repudiation beyond recall, by a national compact, and it seemed to me that no one could complain of such compact by way of amendment to the Constitution, inasmuch as the justice of the proposition was manifest to all, and denied by none, the only objection being that it was a work already accomplished, and no danger was to be apprehended from that source. I still think that an amendment of this kind, properly worded, would be readily adopted by all the States, both North and South, and might prevent harm to the country. At all events, it would be a guarantee of some value to loyal men, and need not retard for a single day the work of reconstruction, for with the present state of feeling the South would be quite as ready to adopt it as the North. It is but a declaration of a conceded proposition perfectly in harmony with the spirit of the Constitution and the verdict of the war.

But this is not a proposition under consideration. There was another question growing out of the abolition of slavery which changed the basis of representation in the South from the entire population, less two fifths of the slaves, to the whole population without any reduction whatever. The public mind was much exercised over this question, and the general verdict of the people, as manifested through the press, was that the basis of representation should be so changed as not to accord to the South increased representation as a reward for rebellion, and it was generally conceded that that could be accomplished by adopting male citizens of the United States over the age of twenty-one years, who are allowed to vote in their respective States, as the basis of representation, and the assessed value of property, both real and personal, as the basis of taxation. Both of these propositions are embodied in the resolution which I shall at the proper time offer as a substitute for that reported by the committee, and which I will read:

Representatives shall be apportioned among the several States which may be included within this Union according to the number of male citizens of the United States in each State over twenty-one years of age qualified by the laws thereof to choose members of the most numerous branch of its Legislature. And direct taxes shall be levied in each State according to the value of real and personal property situated therein not belonging to the State nor to the United States.

These propositions appeared for a time to meet with universal favor, for they appeared to be founded in justice and equality. It based the political power of the country upon the number of voters, giving each an equal voice; giving a voter in California the same representation here as one in Mississippi; making an elector in Ohio equal to one in Kentucky. It said to the South, "If your negroes, women, and children do not vote they shall not be counted; not because they are negroes, women, and children, but because they are not voters." It said to the North, "If you do not allow your aliens and women and children to vote they shall not be counted; not because they are aliens, women, and children, but because they are not voters." It left the control of the elective franchise where the Constitution of the fathers had placed it, within the jurisdiction of the several States, only limiting their representation in Congress to such male citizens over the age of twenty-one years in the several States as the States themselves would trust with the ballot. This, it was thought, would be a sufficient inducement to all the States to extend the right of suffrage to all who could safely exercise that right. It would not only secure to the negro a fair prospect of being enfranchised when his advancement in civilization shall have entitled him to that high prerogative, but would also allow that privilege to be conferred upon him gradually, as it has been done in some of the States of New England, where he now enjoys many of the privileges as well as all the rights of citizenship, and so fast as he is enfranchised in any State he is counted in the basis of its representation. This is the most favorable position for the negro to occupy, for it avoids the necessary conflict that must arise in forcing the emancipated slave, all unprepared for the conflict, upon a political equality with his late master—a position which the Senator from Maine himself has told us no one will contend is desirable.

This resolution accomplishes another object quite as important in my estimation as the question of representation itself, and that is, it holds out an inducement to the South to allow the northern emigrant to vote, and makes the proposition recently brought forward in the Virginia Legislature to require five years' residence before a Union soldier from the North can vote in the Old Dominion quite as detrimental to Virginia herself as to the American citizen to whom she denies the elective franchise. Here let me say that the idea suggested in the proposition to require five years' residence to qualify an American citizen to vote in Virginia, is the most unfriendly and disloyal manifestation since the fall of the rebellion, and its malice is only surpassed by its folly. Would not the fact that voters only are counted in the basis of representation, operating with other things, induce the South to abandon such madness?

I now propose to examine some of the objections to this proposition, and why it was laid aside. It is said by the Senator from Maine that we are accustomed to the idea that representation should be based upon population, that it is a part of the genius of our institutions; but let me ask that Senator, if such be the case, why make an exception as in his proposition; why make any change in the Constitution whatever? Have we not become accustomed to the whole Constitution as it is, and if such an argument be sound, does it not prove too much? But what was the real reason why the proposition to make voters the basis of representation was abandoned? It was a gentleman from New England, I believe, who suggested that it would not operate fairly upon the old States from which the young men who have built up the West have emigrated, leaving a surplus of females, and a comparison was instituted between Vermont and California, and upon this partial view, without any examination into the general effect of the amendment, the whole plan was abandoned and a system of indirection adopted which I shall hereafter discuss more at length. Were the fears of New England well grounded? Is it a fact that her non-voting population bears a greater proportion to the whole population than that of the great States of the northwest? An examination of the census of 1860 shows the reverse to be true. For while the East has a greater proportion of females, the West has a greater proportion of minors, and strange as it may seem, that while the white males over twenty years of age in the States of Ohio, Michigan, Indiana, Iowa, Illinois, and Wisconsin constitute only one third of the whole population, or eleven in thirty-three, in the New England States the ratio of white males over twenty to the balance of the population is as eleven to twenty-nine—I do not pretend that my figures are exactly correct, as I was compelled to omit fractions, but are sufficiently so for the purposes of this argument. Tested by another rule, taking Mr. CONKLING's table, prepared with great care, we find that representation based on white suffrage would give an increase of nine Representatives in the States east of the Alleghany mountains, namely, one to Connecticut, two to Massachusetts, one to Maine, one to New Jersey, and four to New York, while the States west of the Alleghanies would gain only five. This, however, might be somewhat modified on account of the foreign males over twenty which we have no means by the census of separating from the aggregate of white males over that age. But the changes occasioned by this element would certainly not be prejudicial to the East, the preponderance of foreigners being in the West, and the population of California, which has been held up as an example of the extreme injustice and inequality of this proposition, is nearly fifty per

cent. foreign. When actual voters are made the basis and not white males over twenty, by which we now only approximate the result, Vermont will not cry out against the unjust representation of California.

Suppose California should be largely represented for a few years until population should regulate itself; suppose she should have one or two Representatives more than Vermont, with one hundred and seventy-five thousand voters to eighty-seven thousand in Vermont; with a territory greater than all New England and the middle States combined; with $50,000,000 a year exports, while Vermont has only $850,000; with $216,000,000 worth of property, while Vermont has only $179,000,000; with $1,200,000 worth of manufactures and productions, while those of Vermont are valued at only $437,000; and finally, paying into the national Treasury on account of internal revenue nearly four million dollars, while Vermont pays less than eight hundred thousand, and with the third port of entry in the United States. If, sir, I repeat, she should have one or two more Representatives than Vermont, would a great wrong be committed? I take Vermont and California, for between these the comparison is usually instituted. Take the proposition of the committee, and California has two Representatives and Vermont three, for California will never allow her Chinese population to vote, and they must be excluded from the basis of representation. You say they are not citizens. Why have they not become so? Because they know very well that they will not be allowed to vote in any event; and consequently California is not much troubled with their applications for citizenship. But let it be known that California cannot afford to exclude them from the right of suffrage, and the question will be at once forced upon her to decide whether she will allow Chinese to vote or lose her just representation in the Halls of Congress. The same question will be presented to Nevada and the other Pacific States in the next five years, and the Chinaman will become the negro of the Pacific. But it may be said by some, let him vote. I can only say to them, you do not know the Chinaman. They will reply that this is the argument of the South, that Senators from the North do not know the negro. But is there no force in the argument even as to the negro, who is an American, generally a believer in the Christian religion? And with how much more force can this argument be used with regard to the pagan-Asiatic, speaking an unknown tongue, and being a stranger, and ever remaining an alien and a stranger, to our language and our institutions.

The following is the proposition of the committee:

ARTICLE —. Representatives shall be apportioned among the several States which may be included within this Union according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed: *Provided*, That whenever the elective franchise shall be denied or abridged in any State on account of race or color, all persons therein of such race or color shall be excluded from the basis of representation.

What are the arguments in favor of this strange proposition? The only one that I have yet heard is, that it will force the South to universal suffrage or deprive her of an acknowledged right; for the proposition asserts that population is the just basis of representation, but that the late slave States shall be excluded from that basis until they will extend suffrage to the blacks. But it may be said that this provision applies equally to the blacks of the North with those of the South. This is a mere subterfuge, for every one knows, so far as the practical question is concerned, that there are no negroes in the North, or not a sufficient number, to make any material difference whether they are included or excluded. The non-voting population of the North consists of aliens, women, and minors. The non-voting population of the South consists of negroes, women, and minors. The North will exclude on account of alienage, sex, and age, and avoid the operation of the proviso; while the South and the Pacific coast must either confer universal suffrage on negroes and Chinamen, or lose their just representation. This will ever be a source of discontent, and it will be hard to explain to fair-minded men why an alien, and even an alien enemy, should be represented in the North and a free negro unrepresented in the South. But it is said that the South can avoid this inequality and injustice by enfranchising all the negroes—for mark, they must all be enfranchised or none are counted—a measure which the chairman of the committee who reported this resolution tells us is not desirable or proper.

But how will this proposition be received by the people of the nineteen original free States which deny suffrage to the few comparatively intelligent negroes within their jurisdiction? When you tell them that you propose to punish the South for not extending universal suffrage to her emancipated slaves, can they with any propriety inflict this punishment by a constitutional amendment when they are guilty of the same offense with far less provocation? What will fifteen original slave States, who are to be punished by this proposition, say when you tell them that you deprive them of their just representation because they refuse to do what every fair man must admit they cannot and ought not to do, to enfranchise the late slaves without the slightest preparation for the exercise of that important privilege?.

If I were compelled to choose between the proposition of the committee and the resolution offered by the Senator from Missouri to confer universal suffrage at once, I should accept the latter, because it is bold and affirmative, and has every reason in its favor that can be offered in support of the resolution of the committee without the conclusive argument of indirection to disgrace it in the eyes of bold, honest men. Show me where or when the American people ever indorsed an indirect or equivocal proposition. The politician may waver and shrink from responsibility, but the people are honest and fearless, and whenever they are prepared to amend the Constitution, they will amend it in plain and direct terms for plain and direct reasons, and if it be true that no amendment to avoid this evil which is supposed to exist can be adopted in plain terms with the consent of the American people, it is some evidence that no great necessity exists, and is quite conclusive evidence that no amendment can be carried, for Congress cannot cheat the American people. I do believe that if we had not become wise above our day and generation, but had adopted the plain and simple proposition of voters as a basis of representation, that we could have been successful. But the proposition under consideration is heartily approved by none, and must fail sooner or later. It is illogical on its face, and contains within itself its own best refutation and condemnation.

"Better endure the ills we have," than to fall into this labyrinth of confusion worse confounded.

Suppose you pass this resolution, and it should become a part of the Constitution, what may be the consequences? You have departed from the original compromises of the Constitution; you have deprived the South of just representation for not doing a thing which you confess she ought not to do; you have established the precedent that whole sections may be punished by constitutional amendments; you have commenced a crusade upon the compromises of the Constitution, abandoning principle, and confessing that your justification rests upon expediency alone. Where shall this crusade end? May not the time come when the giant States of the Mississippi valley, now free from the Gulf to the Lakes, soon to teem with a hundred million inhabitants, shall inquire by what warrant of authority New England holds twelve places in this Senate Chamber? Will New England then reply, by equality of right, or, by the compromises of the Constitution? If by the former, may not these mighty States demand a count, and if by the latter, may not this proposition be brought up in judgment against her as having repudiated those compromises? May not Kentucky some day say to Rhode Island, was it just for you, in the day of your power, to deprive me of representation, for revenge? May not Virginia one day complain of Connecticut, and may she not, by the coöperation of New York, Pennsylvania, Ohio, and other great States, have the power to make that complaint effectual? Beware how you kick a sleeping lion. The South is now free; the shackles of bondage have fallen from the limbs of the slave, and idleness must depart from the homes of the whites.

Why should not the richest half of the national domain some day become the most populous and powerful? I know to-day the South looks broken and destroyed, prostrate, miserable, weak, and poor, but this war has done far more for the South than it has for the North. It has broken up an institution that was destroying the white man and impoverishing the country, and has opened the fertile fields of that vast region for free labor; and if this resolution passes, the sons of New England and the young men now residing in the North will be heard joining their voices with the natives of the South proclaiming against the injustice which we have done to their adopted country. We can punish men, we can besiege and overrun a country, but an attempt to punish rich land; which is to be inhabited by New England Yankees like ourselves, is, to say the least, a doubtful exercise of power.

But this proposition comes from the committee on reconstruction, and for that reason, and that reason alone, we are to presume that it has something to do with that subject. How or in what way it will harmonize existing difficulties or give any additional security to the North, I am unable to comprehend. Its manifest injustice will inspire nothing but heart-burnings and discontent, and excite new enmities not only against the Government but against the negro, who will be regarded as the cause of a great calamity and a grievance to be removed from the land, and some mode will be devised whereby to evade the law by placing the distinction on some other ground besides race or color.

Is the question of representation so important after all as has been supposed? It is said that the two fifths of the slaves who were not counted will give the original fifteen slave States eighteen more Representatives. But this calculation is based upon the hypothesis that the loss and mortality in the North have been equal in proportion to that in the South, and that there has been no greater proportional increase in the North than in the South during the past five years. The fact is, there can be no new apportionment of Representatives until the new census is taken; and does any one doubt that the loss of the South in actual deaths and emigration, added to the failure of increase, will more than equal the two fifths of the slaves that will be added to the basis of representation by their emancipation? Beside all this, the progress of the North has not been materially retarded by the war. By the census of 1860 the fifteen slave States, rejecting the two fifths of the slave population, had eighty-five Representatives in Congress, and the nineteen free States one hundred and fifty-six. It is safe to say that a census to-day, based upon the Constitution as it now is, would not increase the representation of the original slave States, but it is quite certain that it would decrease it.

But there is another fact which is very important in this connection. We have gained over to freedom some of those original slave States. Missouri to-day, with nine Representatives, is quite as radical as Massachusetts; and Maryland is only one step behind Missouri, so that we may take fourteen from the eighty-five and add it to the one hundred and fifty-six; and we hope to be able before long to add to this list Union men from Tennessee, and other southern States; and we intend to exclude from both Halls of Congress all but loyal men. Can we not in this way, with our present majority, keep the rebels from taking charge of this Government, at least for the present session

of Congress, and for the next, and until we either depart from principle or disobey the will of our constituents and are hurled from power?

There is no danger of rebels obtaining the ascendency unless we ourselves take positions which cannot be sustained before the country. But although I do not regard the danger of no amendment equal to the danger of adoptiug the illogical proposition of the committee, still I think my substitute, making voters the basis, better than no amendment, and if the idea had not been abandoned without investigation it would have passed both Houses and gone to the country long before this. It is the only true principle, if a change is to be made, upon which representation can be based. We must either take population or votes. If we take population, no amendment is necessary. A coercive proviso in favor of the negro will be a coercive proviso against the proposition. But what objection is there to the principle of adopting voters as the basis of representation? It is the voters, after all, who are the ultimate source of all political power. They decide all political questions by their votes. Their voice is assumed to be the voice of the people, and why should one elector have a greater voice than another, on account of his surroundings? Why should the young men of the East, who are surrounded by mothers and sisters anxious for their emigration to the undeveloped West have a greater voice in the councils of the nation than their more enterprising brothers, surrounded by the most prodigal and bounteous gifts of nature, and burning with a laudable desire for such representation and legislation as shall lead to the development of the homes of their adoption? Do not the mighty resources of the West require more representation, more care, more ability in the opening of new channels of trade and new avenues of wealth than is required in following the grooves of legislation in which the eastern States have so harmoniously moved from the organization of the Government until now?

But the objections on the ground of there being a greater non-voting population in the East than the West have been shown to be without foundation, and the principle that a voter in the North is equal to a voter in the South, I am willing to advocate anywhere as an independent, abstract proposition—independent of negro suffrage or any other suffrage; but I am not willing to maintain a proposition which assumes that population is the only just basis, and then denies its universal application to coerce negro suffrage, or to accomplish any other object.

I must be permitted to digress for a moment to examine the position of the Senator from Massachusetts; for it so happens that we agree in our opposition to this resolution. He opposes it because he contends that the Constitution has already conferred power to extend suffrage to the negro, and for other reasons. I oppose it because I believe it is unjust, and for other reasons. But I do not wish to be understood as agreeing with him in his principal reason of opposition; for if there is anything clear to my mind, it is that the question of suffrage is exclusively within State jurisdiction under the Constitution as it now stands. It is contended that the provision in the Constitution that the United States shall guaranty to every State in this Union a republican form of government denies to the State the power to exclude the negro from the elective franchise. A strange construction, indeed! When this Constitution was made, a majority of the States were not only excluding the negro from voting, but absolutely treating him as a chattel, and continued so to do during all the brightest days of the Republic. I fancy that it would have taken something more than the eloquence of the Senator from Massachusetts to have convinced the Convention which framed the Constitution of the United States that a majority of its members, and a majority of the States there represented for the purpose of forming a more perfect Union, were not republican in form, but that it was reserved for a son of Massachusetts to ascertain that the framers of the Constitution intended and made it the duty of the United States to guaranty to Virginia and the other slave States a different form of government from that which then existed, and which continued to exist until a wicked conspiracy sought to destroy the Union of the States and the free government of the fathers.

But the honorable Senator inquires, wherein does the Constitution guaranty to the States the right to regulate the elective franchise? A new doctrine! Where, I ask, in that instrument have the States conferred that power upon the United States? The power existed in the States before the formation of the Constitution; and the Constitution provides in express terms that—

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

But in this case we have something more than the mere fact that the power to regulate the question of suffrage was not conferred by the States upon the United States, and was therefore reserved; for we have the express recognition and acknowledgment of the right of the States to determine the qualification of electors or voters in the second section of the first article of the Constitution, wherein it is provided that the electors in each State shall have the qualifications requisite for electors (or voters) of the most numerous branch of the State Legislature. These plain provisions of the Constitution have been sanctioned by uniform practice for over three quarters of a century, and vindicated, sustained, and expounded by every patriot and statesman of the present and former generations until now, and clearly and strongly maintained by the great constitutional expounder, and the predecessor of the Senator from Massachusetts through a long life of service and usefulness, but never in more marked or unmistakable language than in the following passage in his reply to Hayne:

"To avoid all possibility of being misunderstood, allow me to repeat again in the fullest manner, that I claim no powers for the Government by forced or unfair construction. I admit that it is a Government of strictly limited powers; of enumerated, specified, and particularized powers, and that whatsoever is not granted is withheld."

But in this case so far from the power to regulate suffrage being granted to the General Government, language is used fully recognizing the existence of that power in the States, and I fear the honorable Senator from Massachusetts will be compelled to reason a little more closely or fail to acquire the reputation of his great predecessor as the expounder of the Constitution of the United States.

But to return to the question of reconstruction. What has this resolution or any other proposition emanating from the committee to do with that subject? Suppose Congress should adopt each of these resolutions, will we be any nearer the consummation of the great work before us than we were on the day when Congress assembled? The committee has not informed us what guarantees are to be demanded of the South before it will be safe and proper to allow the late rebel States representation in Congress. If conditions are necessary ought they not to be named at once, that Congress may approve them and the people of the South adopt them? Congress has been in session now nearly three months, and volumes of able and elaborate arguments have been made to show how the South can be kept out of the Union, and that Congress has power to exclude the southern States from a participation in the legislation of the country, but a proposition or plan for bringing them back has not appeared. The plan suggested by the President has been severely criticised but no other has been suggested. The country is perfectly willing that Congress shall present a different plan from that of the President, and if a better one can be presented all Union men everywhere, and, I have no doubt, the President himself, would be quite willing to accept it, for it is certain that the people want Union, and will have it at any cost. The history of the last five years is conclusive upon this point, and if no better plan than that suggested by the President can be devised, and that speedily, they want it on the plan of Andrew Johnson, and will sustain him and his plan against all arguments tending to show how disunion may be successfully accomplished.

I for one wanted some other guarantees besides those contained in any document I have yet seen emanating from the President. I wanted the repudiation of the confederate debt placed beyond a peradventure; I wanted the basis of representation established upon the voters of the country; but I would not sacrifice the Union for even these, for I do not believe that this country will ever become so degraded and lost to honor and patriotism as to send Senators and Representatives to Congress who will ever under any circumstances pay one dollar contracted by rebels for the overthrow of the Government, but a constitutional amendment would avoid the agitation of such a question, and the other question of representation I have already shown is not so great an evil as a partial examination of the question might indicate.

But it is intimated that the President would open the doors of Congress to rebels and traitors. I deny that there is the slightest foundation for such a charge. On the contrary, while he has on all occasions disclaimed any authority or control over the action of either branch of Congress as to the admission of members, he has on repeated occasions expressed a decided opinion that disloyal persons should be excluded from these Halls. In his recent veto message he says:

"The right of a State to representation would in no wise interfere with the discretion of Congress with regard to the qualifications of members; but I hold it my duty to recommend to you, in the interest of peace and in the interests of the Union, the admission of every State to its share of public legislation, when, however insubordinate, insurgent, or rebellious its people may have been, it presents itself not only in an attitude of loyalty and harmony, but in the persons of Representatives whose loyalty cannot be questioned under any existing constitutional or legal test."

Again, to the delegation of Virginia, he says:

"He who comes as a representative, having the qualifications prescribed by the Constitution to fit him to take a seat in either of the deliberative bodies which constitute the national Legislature, must necessarily, according to the intent of the Constitution, be a loyal man, willing to abide by and be devoted to the Union and the Constitution of the States. He cannot be for the Constitution, he cannot be for the Union, he cannot acknowledge obedience to all the laws, unless he is loyal."

I challenge any man to show me that the President has ever advised the admission of rebels or traitors into Congress. And why should he? Has he any cause to love treason or traitors? Did they not first assail him with vituperation and abuse when he stood alone in these Halls and renounced party ties and party associations and separated himself from all his personal and political friends, and, braving the prejudices and arrogant insolence of the slave power, dared to stand with the hated "abolition party," which was regarded by his section as degradation and infamy, and with it defend the Union, defy traitors, and make war upon treason? Why should he, when, after he left these Halls, he found that traitors had laid waste his beloved State, that ruin and desolation had overtaken his loyal constituents, and himself branded a criminal and outlaw for daring to defend the right? I like that portion of President Johnson's plan which excludes disloyal persons from the Halls of Congress, and shall ever insist upon the faithful observance of that condition, but I do believe that we should discriminate, and that speedily, between the loyal and the disloyal; that we should commence at once to strengthen the hands of those in the South who have been true to the Government during the terrible civil war that has passed. They were situated where it cost something to be Union men. We thought with over one third of our population from the South, and they comprising the boldest political leaders of all the Pacific coast, perfectly familiar with all the machinery of party politics, and supported by large and constantly arriving reënforcements from Price's army, all eager to

contest for political supremacy upon the chosen battle-field of Nevada, that it was some credit to be a Union man; but if our position was uncomfortable, what shall we say of a Union man in the South where the penalty of even a suspicion of loyalty was death; where every Union soul was tortured by the concentrated heat of the fires of rebellion; where, for a time, there was no ray of hope and no bow of promise for the faithful, and where to be for the Union was to renounce home, family, and country, and to be exiled and outlawed?

Men of the North who obtained office and honors, personal security and wealth by loyalty should pause before they question the patriotism of Andrew Johnson and the loyalists of Tennessee, who were true to the flag of the Union when you had no power to succor them, when they were surrounded by the legions of rebellion, driven from their homes, their houses burned over their defenseless families, and those who were most dear to them either thrown into dungeons or murdered before their eyes. The struggles of this people surpass any other example of history, and all honor is due to their patriotism. They never did succumb to rebellion. They kept the Union fires burning in Tennessee in the darkest night of treason, and established and maintained their own civil government with small aid from the United States while the war was still raging. The people of the United States recognized the virtues and heroism of the Unionists of Tennessee by elevating from their number Andrew Johnson to the second place in the Government of the United States.

But the Congress of the United States have closed the doors of both Houses to a loyal delegation from Tennessee, chosen by those same Unionists. Why is this done? The country asks why? And if Congress would justify themselves before the country, they must speedily open the doors to Tennessee or assign good and cogent reasons why those doors should remain closed. It is no answer to say the President had no right to organize the State of Tennessee. The President did not organize that State. It was organized by the people; and if it were otherwise, it would not be a matter of the slightest practical consequence, as the people have adopted it and Congress can ratify all, if ratification is necessary, by an admission of her delegation or such of them as can walk up to that stand and subscribe to the oath prescribed by Congress. And the same process can be adopted with other States as fast as they comply with all your tests of loyalty. There must be a distinction made between the loyal and the disloyal in the South, or every friend of the Government in that region will be destroyed. It will not do to complain of a failure of the President to make this distinction, while Congress is guilty of such sweeping injustice.

Neither this Congress nor the President will follow the example of Pierce, who called into his Cabinet the arch traitor Jeff. Davis, and his legion of minions and traitors into almost every place of power and trust in the Government, immediately after their overthrow by the Unionists of the South in the memorable contest of 1851. We have not forgotten how Buchanan, through his infamous Secretary of War, Floyd, armed the disunionists of the South and left these same loyalists of Tennessee and other sections to struggle without hope and without aid against armed traitors, under the treasonable plea that there was no power in this Government to maintain its own existence by force, until almost the entire South were plunged or driven into the most cruel, bloody, and wicked war that history has recorded. Who does not believe, if the power and patronage of the Government during Pierce's Administration had been in the hands of Unionists, and if Buchanan had followed that example and called none but Unionists about him, and armed none but Unionists, and executed the laws as his oath required, but that this war could have been averted? And who does not confidently hope and expect that a Union party can now be built up in the South, ever faithful and true, by commencing with those whose loyalty has been tested by this war, and admitting them to our confidence and thereby establishing a nucleus around which the people of the South can rally? But this never can be done by declaring a want of confidence in the faithful equally with the unfaithful. We have nothing to fear from the people of the South. Uninfluenced by passion and undeceived by demagogues, they will soon learn to love that Union which they had known only as a blessing until justice required that they should be punished for the terrible rebellion into which they were plunged by the most wicked conspiracy that can ever disgrace the history of man.

But the resolution under consideration was born in the excitement of passion created by the veto of the Freedmen's Bureau bill. It was announced that last week there was a disposition to admit Tennessee, but that all was changed, not for anything that Tennessee had done, but because the President had exercised his constitutional power to veto a bill, and this resolution passed the House under the "previous question" without argument or a moment's time for the voice of reason to be heard. Suppose the President had no right to veto the bill, was that a reason why Congress should do wrong, or act rashly and unwisely? I think candid and fair men will say it was no reason, and if this resolution would not have appeared but for that action of the President, it should now be defeated, for that action furnishes no ground for its adoption. But did the President after all commit such an offense against his party or his country as to subject him to condemnation? I voted for and supported the Freedmen's Bureau bill, although conferring, as it did, vast discretionary power upon the President. I did this because I was anxious to do all in my power to protect the freedman, and to afford him a chance to live and labor and enjoy the fruits of his labor, but I did this supposing the President could sign it and carry its provisions into effect. This, upon examination, he found he could not do, and I was unwilling to embarrass the situation of the freedmen by placing on the statute-book a law which would be a nullity unless it could be executed by the Executive, and it could hardly be supposed that the President could exercise his discretion to carry into effect a law which he himself believed to be unconstitutional and a violation of his oath of office.

Believing that the President had acted honestly, and knowing that the objections which he urged were of grave consideration, and had been so regarded by the friends of the bill, I felt called upon to sustain the veto, believing that more could be done for the freedmen by coöperating with the President who had already done so well and so much for them than by the passage of a bill to which he was so much opposed. I think even now, in view of the construction of the former law by the President, as indicated by the letter of General Howard, that the real friends of the freedman will say I was right. But, independent of the merits of the Freedmen's Bureau bill, I was alarmed for my country at the excitement which prevailed, and particularly from the haste with which this resolution was being pressed in the other House, and felt that neither the Union party nor the country could afford to allow a bill, of whatever character, to be passed over the veto of the President under such extraordinary circumstances. I thought it was time to stop and reflect before we took such action as might forever separate the President and Congress.

I felt that the country called upon us, both President and Congress, to harmonize in the great work before us, not only in protecting the freedmen, but in restoring the Union of these States. He had proven to the world his desire to protect the freedmen by the thorough organization of a bureau under the charge of one of the most able and trusted officers of the United States; and while he was earnestly engaged in the good work I was unwilling to embarrass him by the passage of what he regarded as an unconstitutional law. I believed that he was honestly and faithfully carrying out the principles of the Union party which nominated and elected him, and that his coöperation with the Union men was absolutely necessary to a restoration of the Union; and I was unwilling to weaken his influence or alienate him from the Union majority in Congress by passing a bill over his veto in a moment of excitement or passion. Has Andrew Johnson violated any of his obligations to the Union party? I have the Baltimore platform upon which he was nominated, and I ask the Clerk to read it.

The Secretary read, as follows:

Resolved, That it is the highest duty of every American citizen to maintain against all their enemies the integrity of the Union and the paramount authority of the Constitution and laws of the United States; and that, laying aside all differences of political opinions, we pledge ourselves as Union men, animated by a common sentiment, and aiming at a common object, to do everything in our power to aid the Government in quelling by force of arms the rebellion now raging against its authority, and in bringing to the punishment due to their crimes the rebels and traitors arrayed against it.

Resolved, That we approve the determination of the Government of the United States not to compromise with rebels, nor to offer any terms of peace except such as may be based upon an "unconditional surrender" of their hostility and a return to their just allegiance to the Constitution and laws of the United States, and that we call upon the Government to maintain this position, and to prosecute the war with the utmost possible vigor to the complete suppression of the rebellion, in full reliance upon the self-sacrifice, the patriotism, the heroic valor, and the undying devotion of the American people to the country and its free institutions.

Resolved, That as slavery was the cause, and now constitutes the strength of this rebellion, and as it must be always and everywhere hostile to the principles of republican government, justice and the national safety demand its utter and complete extirpation from the soil of the Republic; and that we uphold and maintain the acts and proclamations by which the Government, in its own defense, has aimed a death blow at this gigantic evil. We are in favor, furthermore, of such an amendment to the Constitution, to be made by the people in conformity with its provisions, as shall terminate and forever prohibit the existence of slavery within the limits of the jurisdiction of the United States.

Resolved, That the thanks of the American people are due to the soldiers and sailors of the Army and Navy, who have periled their lives in defense of their country and in vindication of the honor of the flag; that the nation owes to them some permanent recognition of their patriotism and valor, and ample and permanent provision for those of their survivors who have received disabling and honorable wounds in the service of the country, and that the memories of those who have fallen in its defense shall be held in grateful and everlasting remembrance.

Resolved, That we approve and applaud the practical wisdom, the unselfish patriotism, and unswerving fidelity to the Constitution and the principles of American liberty with which Abraham Lincoln has discharged under circumstances of unparalleled difficulty the great duties and responsibilities of the presidential office; that we approve and indorse, as demanded by the emergency and essential to the preservation of the nation, and as within the Constitution, the measures and acts which he has adopted to defend the nation against its open and secret foes; that we approve especially the proclamation of emancipation, and the employment as Union soldiers of men heretofore held in slavery; and that we have full confidence in his determination to carry these and all other constitutional measures essential to the salvation of the country into full and complete effect.

Resolved, That we deem it essential to the general welfare that harmony should prevail in the national councils, and we regard as worthy of public confidence and official trust those only who cordially indorse the principles proclaimed in these resolutions, and which should characterize the administration of the Government.

Resolved, That the Government owes to all men employed in its armies, without regard to distinction of color, the full protection of the laws of war; and that any violation of these laws or of the usages of civilized nations in the time of war by the rebels now in arms, should be made the subject of full and prompt redress.

Resolved, That the foreign immigration, which in the past has added so much to the wealth and development of the resources and increase of power to this nation, the asylum of the oppressed of all nations, should be fostered and encouraged by a liberal and just policy.

Resolved, That we are in favor of the speedy construction of a railroad to the Pacific.

Resolved, That the national faith, pledged for the redemption of the public debt, must be kept inviolate; and that for this purpose we recommend economy and rigid responsibility in the public expenditures, and a vigorous and just system of taxation; that it is the duty of every loyal State to sustain the credit and promote the use of the national currency.

Resolved, That we approve the position taken by the Government that the people of the United States never regarded with indifference the attempt of any European Power to overthrow by force, or to supplant by fraud, the institutions of any republican Government on the western continent; and that they view with extreme jealousy, as menacing to the peace and independence of this our country, the efforts of any such Power to obtain new footholds for monarchical

Governments, sustained by foreign military force, in near proximity to the United States.

Mr. STEWART. Mr. President, suppose at the time that platform was adopted we could have had union upon the terms that are now offered; suppose that we could have had union then upon the plan of Lincoln and Johnson, is there any person living in the United States who believes there would have been opposition to it? If we could have foreseen when that platform was adopted that by the month of March, 1866, every southern State would have laid down its arms, that not only the northern States but nearly every one of the southern States would have adopted the constitutional amendment referred to in that platform, and not only adopted it but abolished slavery by their own Legislatures, and would be anxious to be restored to their relations to the Union upon almost any terms that Congress or the President might suggest—if that picture had been presented to us then, would it not have made the hearts of the American people glad? To-day we have that picture before us. We have union within our power upon the principles laid down in that platform carried out to the fullest extent, and the question is, shall we accept it or shall we destroy the Union party by the introduction of new propositions and new theories? I stand by the platform of 1864. I say that the Union men who rallied around the flag under that platform cannot be excommunicated from the party while they stand by that platform. It is the party pledge, and before new party tests or new party pledges are required the people must again assemble and make new party declarations.

Now, I repeat my question, what principle in that platform has the President violated? You say he has usurped power. How? In inviting the loyal men of the South to organize State governments, and fixing conditions. I ask, what condition did he impose that had not been already determined by the war, or what principle did he abandon that had been vindicated by the war? Mr. Lincoln's plan of reconstruction which he followed was made an issue in that canvass and triumphantly sustained by the people. Was it not to be expected that Mr. Johnson when he came into power would follow the indorsed plan and retain in his Cabinet the well-tried constitutional advisers of his predecessor? And for doing this is he to be condemned? Have we a right to force new issues which the people never have and probably never will sustain, and demand their adoption or resolve upon the destruction of the Administration upon which the existence of the party, if not the Union, depends?

One issue which is constantly urged, and which is a disturbing element, is the question of immediate and universal negro suffrage. Many Senators have discussed that proposition. Very few of them say whether they are for or against it, but they are constantly agitating and discussing it. Why do they discuss it if they are not for it? If they are not for it, it has no business in these discussions. But the committee of fifteen, while not demanding negro suffrage directly, are willing to do it by indirection, or deprive one section of the country of what they admit is just representation; and it has been frequently said that it was the only difficulty in the way of restoration. The New York Tribune, the leading organ of these views, the paper which complains most bitterly of the President, and which is followed by a great portion of the press, says:

"Let it be distinctly understood that, if the whites of the South are not represented in Congress, it is because they deny all right of representation or power of self-protection to the blacks. Show us a single State which admits her blacks to vote on a like intellectual, educational, moral, and pecuniary basis with her whites, and we will urge the instant admission of the chosen Representatives of that State, though they be all ex-rebel generals of the most obnoxious type."

There the New York Tribune, the leading journal advocating these views, says distinctly, let the negroes vote and we will advocate the admission of ex-rebels of the most obnoxious type into the Halls of Congress. If Senators continue to argue the question of negro suffrage without stating whether they are for or against it, the country is bound to infer therefrom that after all that is the issue. If it is not the issue, it should not be discussed here in these troublesome times. If the South is to be kept out until negro suffrage can be accomplished, the quicker the country know it the better. If you discuss that question continually they will believe that it is the issue and the only issue, and you will destroy the Union party.

It is sufficient to say in defense of the President for not conferring the right of suffrage upon the negro in the organization of the southern States, that neither the platform of his party, the Congress of the United States, nor the policy of his predecessor, would have warranted him in such action.

But if the question of negro suffrage is not the difficulty, what is the difficulty? Is his plan of restoration so plainly and obviously wrong as has been asserted? If so, it ought not to be a difficult matter to suggest a better one. But has this been done? Has not the matter been agitating the country for near eighteen months, and has any plan been suggested that would be more acceptable to the majority in Congress than that of the President? The committee of fifteen have labored long, and I presume diligently, and have failed to produce a plan which seems likely to meet with the approval even of those who claim to be the greatest friends and champions of the freedmen. The Senator from Massachusetts himself, who has spent a lifetime in defense of the negro race, is constrained to repudiate the main proposition of the committee. Let me appeal to the Union majority of this House to act promptly and receive at once the loyal Representatives from the South, for if the Union party fails, which it seems likely to do, after all its glorious achievements, it will be overthrown, and the loyal masses of the country will rally around the Executive and enable him to accomplish the great work; for, be assured, the Union will be preserved, and if we prove incompetent, others will take our places. It is said that we must give the committee time to act, but let me tell them, that great emergencies demand immediate action. When the national finances are depressed with uncertainty; when the nation is groaning under three thousand millions of debt; while every house in all this broad land is in mourning for the sacrifices made for the Union of these States; when the only hope of thirty million people is centered in restoration and peace, delays for matter of form cannot long be endured.

If the committee would free itself from the growing apprehension that its counsels are controlled by the well-known and destructive —permit me to say—sentiments of THADDEUS STEVENS, of Pennsylvania, they must present at once some feasible plan by which harmony can be restored; and until such a plan is presented, the Lincoln-Johnson plan will remain the only way to peace and Union known to the American people. I appeal to the loyal majority of this House to sink all minor differences and secure the Union of these States, with slavery, the parent of secession, abolished, with the dignity and honor of the nation preserved and vindicated, with the free Constitution of the fathers intact, before discord and confusion shall have again drenched this land with fraternal blood. We are called upon by all that we hold most sacred and dear to secure at once the fruits of victory, to risk nothing to chance or anarchy; and if we cannot obtain all we would, let us obtain what we can. If we preserve what we now have, an all-wise Providence, in his own good time, will grant us still greater blessings and greater advancement in the work of regeneration and reform; but if anarchy and discord are allowed by us to obscure the bright sunshine of peace which is lighting the way and cheering the hearts of the benevolent and true, a fearful responsibility awaits us, both here and hereafter.

Mr. JOHNSON. Mr. President, the subject which I propose to discuss in the first instance is, what is the condition of the States in which the insurrection has heretofore prevailed? Upon a former and a comparatively recent occasion, I stated to the Senate that, in my opinion, they were as much States of the Union and in the Union as they were before the insurrection commenced; and I endeavored to maintain that proposition by such arguments as occurred to me. I should have left the proposition itself, as far as I was concerned, to stand upon the force of the reasons which I presented to the Senate, but for the different opinion pronounced by the honorable member from Maine, [Mr. FESSENDEN,] and the speech by which he attempted to make good that opinion. In common with every member of the Senate, I always feel grave doubts as to the correctnesss of my own opinions when I find myself in conflict with the member to whom I allude upon any question, and especially upon questions of the character of the one which I am about to examine. I therefore listened to him almost with the expectation that I should be satisfied that the view which I originally entertained was erroneous; but such was not the result. He will pardon me, I know, for saying—for it is said with all respect—that so far from feeling less confidence in the opinion which I originally maintained, in consequence of the speech to which I have alluded, I have felt, upon further reflection since that speech was delivered, still more confirmed in its correctness. I need not say—and certainly not to the honorable member—that in what I am about to do, in combatting the reasons upon which he relied in support of the view which he entertained, I shall do it with the respect which from the first of our acquaintance to the present hour I have sincerely entertained.

The question is: what is the present condition of the States in which the rebellion prevailed? I suppose all will agree that the rebellion or the insurrection or (if my friend will have it so) the war, as contradistinguished from rebellion and insurrection, has terminated. There is no hostile force now to be found in any one of the States in which the rebellion or the insurrection or the civil war existed. There is no opposition found anywhere in those States, by act, to the authority of the Government of the Union. The paramount obligation due to that authority is practically conceded everywhere, and a willingness to abide by that paramount authority is manifested everywhere, so far as my information extends. However it may be in relation to individuals or classes of individuals to be found in those States, there does not exist now in any one of them any purpose or any wish to resist the authority of the General Government. On the contrary, so far from wishing to resist that authority, their ardent desire is to have it exercised over them, and to be protected by all the securities which the Constitution throws around individuals or States in the exercise of that authority.

If the fact be as I have stated, and I repeat that I know of no evidence in contradiction of it, then it would seem strange that any department of this Government, while extending to them the authority of the Government, enforcing as against them the allegiance due by them to the Government, legislating in relation to them by virtue of authority, legislating in every form of legislation which Congress has a right to adopt, taxing them under the taxing power, both by the imposition of duties upon imports in their several ports and by the imposition of taxes by your internal revenue law, should be unwilling to give them the same security, the same guarantee that the Constitution secures to you and to all of us and our respective States in the execution of the same authority upon us and our States.

With these preliminary remarks, I deem it necessary for the purpose I have in view very briefly to call the attention of the Senate to the character of the Government under which we live. My friend from Maine, and to a greater extent the member from Massachusetts, [Mr.

SUMNER,] and even to a greater extent in that particular the Senator who spoke yesterday from Nevada, [Mr. NYE,] have discussed the question which I am about to examine as if we were living under but one Government, owing but one allegiance, a Government not only paramount within any prescribed limits, but paramount everywhere without limitation, capable of doing everywhere what any Government, national in point of character, can do within its domains. Is that true, Mr. President?

When the thirteen colonies determined to resist what they considered the tyrannical usurpations of England and declared themselves free and independent, and succeeded in achieving that independence, each for itself became as absolutely a nation as it is possible for any people to be. They professed to have no superior; they claimed perfect and absolute nationality as separate and distinct people, competent to do in peace or in war what any people under any form of government, was competent to do in that condition. Finding it necessary, however, to have some form of general government, they adopted for that pupose the Articles of Confederation, and in those articles not only did not devolve upon that Government any powers inconsistent with their absolute sovereignty, but cautiously guarded against a possibility of an inference of that kind by saying that all the powers not expressly granted to the Government created by the Articles of Confederation were still to be considered as remaining in the several States; and they did more. The form of government, if government it could be called, which those articles created was in one sense no government at all. It constituted but a compact; it amounted but to a league; and all the powers, whatever they were, conferred upon it were powers to be exerted not upon the individual citizen anywhere directly, but upon the individual through the State governments. The capital vice of such a government, as experience soon demonstrated, was that it was unable to perform the functions for which governments are created; and the men of that day becoming convinced of that fact, recommended to the American people the Constitution under which we now live, which, for the execution of its own powers, looks to no State interference, to no State assistance, but to the direct responsibility of each individual citizen, to the Government within the limit of the powers conferred upon the Government.

But it did not pass by the States altogether. It not only did not design to impair in any manner, except to the extent of the powers expressly delegated or existing by implication from those expressly delegated, the sovereignty of the States, but in order to place the continuing existence of that sovereignty beyond all doubt, and exempt it from the hazard of a possible implication that there might be found in some clause in the Constitution a feature which in the future might be construed to impair the sovereignty of the States, they, by an amendment soon after adopted, declared that all the powers not conferred were reserved to the States or the people. And in the clause relied upon by the honorable member from Massachusetts, which gives to Congress the authority to pass all laws that may be necessary and proper, that power is limited to such laws only as may be found necessary and proper to carry out the express or implied powers.

Now, Mr. President, is the Government created by that Constitution a national Government? Not if the men of the day when it was adopted knew what its character was. It was partly national and partly Federal. Its adoption, the very act of its adoption, the very manner provided for its adoption, demonstrates that in the judgment of the men of that day it was not a national Government. Its approval or rejection was submitted to the people of the several States respectively. The effect of the concurrence of the people of each of the States in a number necessary according to the provisions of the Constitution to give it actual being is another matter; but as far as relates to the act of adopting the Constitution, the people of the States considered and judged separately. It was not adopted by a majority of the people of the United States. It might have been adopted by the required number of States, and yet not have met the approval of a majority of the people of the United States. The Senate will find upon refreshing their memories on the subject that the character of the Government is stated with his accustomed perspicuity by Mr Madison, the author of the thirty-ninth number of the Federalist. I forbear to read many of the passages which relate to the particular question, and will content myself with reading the paragraph at the close of the number:

"The proposed Constitution, therefore, even when tested by the rules laid down by its antagonists, is, in strictness, neither a national nor a Federal Constitution, but a composition of both. In its foundation, it is Federal, not national; in the sources from which the ordinary powers of the Government are drawn it is partly Federal and partly national; in the operation of these powers it is national, not Federal; in the extent of them, again, it is Federal, not national; and finally, in the authoritative mode of introducing amendments, it is neither wholly Federal nor wholly national."

That is obvious from this consideration: that the machinery of the Government, that without which it cannot continue at all, involves the existence of States. This body cannot be convened, and without it there can be no Congress, except by the votes of States. That is very clear. The provision is express that Senators are to be chosen by the States through their Legislatures; and no provision is made for any other mode under any possible state of circumstances by which they can be chosen. States, therefore, are absolutely necessary to the very existence of the Government. You can no more administer the Government without States than you would be able to administer the Government without people; and therefore, he who seeks to blot out of existence a State, strikes a blow at the very life of the Government. It may live, although one be stricken out of existence; it may live though eleven be stricken out of existence; but the blow at the Government, although not absolutely fatal, according to the hypothesis of fact which I have supposed, is no less a fatal blow. If the men by whom that Constitution was framed had been asked if they contemplated as possible a contingency when any of the existing States should cease to exist, they would have said no, because the continuing, wholesome existence of the Government depends upon the continuing existence of the States. The General Government is infinitely more dependent upon the States than the States are upon the General Government. Why do I say so? Honorable members who have been engaged in this debate seem to suppose that all the political questions which can possibly arise, all the measures which it may be necessary to adopt in order to secure the prosperity and freedom of the people, are with Congress. That is not so. Not only is there a large mass of power necessary to be exerted in order to secure prosperity and peace and protection to the individual citizen, secured to the States, but the far larger mass of power belongs to the States. The whole subject of contracts as between man and man, the mode of disposing of personal property, the mode of disposing of real estate, the mode of devising real and personal estate, the law of marriage, the judicial jurisdiction over these several subjects of intimate concern to the interest of individuals, is with the States.

Not only is the power of the Government limited as far as regards its legislative department, but it is equally limited in relation to its judicial department, and we should in vain search in that department of the Government for any authority to adjudicate upon the infinite variety of transactions which take place as between man and man in the States. The Government deals with external affairs, with matters involving the interests of the States *inter se*, with contracts entered into by the individuals of the several States, and it confers all measures of that description, and all judicial power over controversies arising out of measures of that description, upon this Government, but there it stops. Jurisdiction of all cases in law and equity—I cite the language literally, certainly substantially—arising under the Constitution and laws of the United States and treaties made in pursuance of their authority is conferred upon the judicial department of the Government; but nothing else. Then what is to become of the interest of the people of the several States if they have no government of their own? Anarchy, unless (a proposition which I propose to examine) as far as the particular crisis in which we now are is concerned, those States are reduced to the condition of Territories; but assuming that they are now States as contradistinguished from Territories, then it follows that to the extent of the powers remaining in the States, if they have no lot in their execution, and you have no authority to provide for them, they are in a condition of anarchy. To use a favorite comparison of my friend from Massachusetts, that is as plain as the multiplication table.

If that be plain, what would seem to be the consequence? That the Constitution never contemplated that the States should cease to exist, and it above all never could have contemplated that the Government of the United States, under any or all the powers conferred upon it by the Constitution, was intended to possess under any state of circumstances the power to put an end to a State; and yet if they are now ended, if they have ceased to exist, and are to be treated as Territories, they did provide that the Congress of the United States, or the Government of the United States, should have the authority to assume over the people of those States the right to legislate, and the right to adjudicate upon matters expressly reserved to the States and the people of the States, although such was not the apparent purpose, and although so far from being the apparent purpose it was expressly disavowed, and assume to themselves the authority to convert this Government into a national, as contradistinguished from a Federal Government.

I do not understand my friend from Maine to go to the extent of denying that they are to be considered as States now, but simply that their relations as States to the Government have terminated. The honorable member from Massachusetts goes a step further, and he maintains, and did as far back as 1862, that the effect of the rebellion as it then existed was to reduce the States where it prevailed to a territorial condition. My memory, owing to age or some other cause, is not as good as it should be, and if I am wrong the honorable member from Massachusetts and the honorable member from Maine will set me right; but I think when the honorable member from Massachusetts announced that proposition, it was said on the floor of the Senate that perhaps he was the only member of the body who would be found to support it; and yet, as the Senate will see in a moment, it is, if I understand the position taken by most of the Senators who have spoken on the other side of the Chamber, the very ground now assumed. It is said that war existed and the consequences of war followed, and as one of the consequences of war was to put the enemy in the hands of the conqueror, it necessarily follows that the people of the South and the States of the South are now at the footstool of the conqueror, bound to take whatever condition he may think proper to impose, bound by any legislation he may think proper to adopt. What was the doctrine of the honorable member from Massachusetts not only announced once, but over and over again repeated and maintained with all the learning for which he is remarkable? On the 11th of February, 1862, that honorable member submitted to the Senate resolutions "declaratory of the relations between the United States and the territory once occupied by certain States, and now usurped by pretended governments without constitutional or legal right." The preamble to those resolutions was in these words:

"Whereas certain States, rightfully belonging to the Union of the United States, have through their

respective governments wickedly undertaken to abjure all those duties by which their connection with the Union was maintained; to renounce all allegiance to the Constitution; to levy war upon the national Government, and for the consummation of this treason have unconstitutionally and unlawfully confederated together with the declared purpose of putting an end by force to the supremacy of the Constitution within their respective limits; and whereas this condition of insurrection, organized by pretended governments, openly exists in South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas, Arkansas, Tennessee, and Virginia, except in Eastern Tennessee and Western Virginia, and has been declared by the President of the United States in a proclamation duly made in conformity with an act of Congress, to exist throughout this territory, with the exceptions already named; and whereas the extensive territory thus usurped by these pretended governments and organized into a hostile confederation, belongs to the United States as an inseparable part thereof, under the sanctions of the Constitution, to be held in trust for the inhabitants in the present and future generations, and is so completely interlinked with the Union that it is forever dependent thereupon; and whereas the Constitution, which is the supreme law of the land, cannot be displaced in its rightful operation within this territory, but must ever continue the supreme law thereof, notwithstanding the doings of any pretended government acting singly or in confederation, in order to put an end to its supremacy."

His first resolution was:

"1. *Resolved*, That any vote of secession or other act by which any State may undertake to put an end to the supremacy of the Constitution within its territory is inoperative and void against the Constitution, and when sustained by force it becomes a practical abdication by the State of all rights under the Constitution, while the treason which it involves still further works an instant forfeiture of all those functions and powers essential to the continued existence of the State as a body-politic, so that from that time forward the territory falls under the exclusive jurisdiction of Congress as other territory, and the State being, according to the language of the law, *felo de se*, ceases to exist."

Am I right or am I wrong in saying that when that resolution was submitted to the judgment of this body it was said in debate that it was exceedingly doubtful whether it could receive the vote of any member of the body except the mover? I am not sure that he was not himself so well satisfied of it that he did nothing more than have it referred, and there it slept. Then, at that time, whatever may be the judgment of Senators now, it could not be asserted of these States that either by abdication or forfeiture they had reduced the territory belonging to them to the condition of a territory subject to be legislated over by force of the territorial clause of the Constitution. If not, why not? If the honorable member from Massachusetts was not right in proclaiming that the effect of the insurrection and the effect of the ordinances of secession which the States had before passed was to work abdication and forfeiture, and as it was not pretended at that time that there was any other mode by which the States could cease to exist except in consequence of the insurrection, then they were still existing. If *flagrante bello* the Senate considered them as States, in the name of reason why are they not to consider them as States now that the war is ended? If although enemies in fact, they were friends in law; foes in fact, but brothers in legal intendment; if they were continuing in existence politically while the war was being waged, by what, I was about to say, sophistry can the human mind be brought to the conclusion that what the war itself while it was being waged could not accomplish is the result of a successful prosecution of the war?

I do not wish to be interrupted, and I make the suggestion because I think my friend before me [Mr. HOWE] is somewhat inclined to suggest a question. [Laughter.]

Now, Mr. President, what is the result if I am right so far? That they are States. States of what character? States standing in what relation? If the honorable member from Massachusetts was wrong in saying that they had abdicated or forfeited the character they possessed and the relation in which they stood, and they are States still, they are as much States as they were when the insurrection was inaugurated, and their relation to their sister States, and their consequent relation to the Government of the United States, is the same relation in which they stood to both when the insurrection was inaugurated. That would seem to follow logically as a necessary result, and if that is a necessary result, does it not also follow that they are entitled to representation in this Chamber? Whether they can present persons who can take their seats, because they have individually committed crimes against the United States is another question; but I speak now of the right itself.

What provision is there in the Constitution which puts it in the authority of this body to deny to any State of the United States an equal representation with those States that are represented here? Not only is there nothing; but so sedulous were the framers of that great instrument to guard against the possibility that any State should not be equally represented upon the floor of the Senate with every other State, that they placed that right beyond the power of amendment. The language of the Constitution, as we all know is, that under the amendment clause of the Constitution, no State shall be deprived of its equal suffrage in the Senate of the United States except by its own consent.

There are only two rights in the Constitution which were excepted out of the power of amendment; one of them, the one of which I have just spoken, was placed beyond such power absolutely; the other, in my judgment, was a blot upon the Constitution itself, but it was a blot which the wise men and patriotic men of that day thought it was necessary should exist, because without it it was evident that a Government such as they desired could not be constituted—I mean the power of importing slaves for a period of twenty years. The concluding part of the fifth article, which contains the provision for an amendment of the Constitution, is in these words:

"*Provided*, That no amendment which may be made prior to the year 1808 shall in any manner affect the first and fourth clauses in the ninth section of the first article"—

They related to slaves—

"and that no State, without its consent, shall be deprived of its equal suffrage in the Senate"—

at any time; not until 1808, but throughout the entire existence of the Government. It was, therefore, in the view of the framers of the Constitution, a cardinal principle necessary to the success of the Government, and necessary to the protection of the States, that each State under every possible condition of circumstances should be entitled at all times thereafter, unless she consented to abandon it, to an equal suffrage in the Senate.

If, therefore, they are still States and not Territories, if they are as they were when the insurrection commenced, then it would seem to be obvious that they have as much right to be represented in this Chamber as any one of the States that are here represented; and yet, what are we doing? I did not understand the honorable member from Maine as denying the right, but only as denying that the time had come when the right should be enjoyed; as only asserting that because of some external circumstances there might be danger to the Government, and that is the only danger that we can recognize. Party danger is not a danger that we can notice. It is the peril to the nation, if there is any peril, which will justify the exclusion of any State from the enjoyment of that right of suffrage upon which the Senate can rely. And what is there to show that there will be any danger to the public weal? Have they not thrown down their arms? We know they have. Have not all their armies been surrendered? We know they have. Are they not daily supplicants for the clemency of that department of the Government vested with the power to be clement? We know they are. Do they wish to be represented? Your table is loaded with their credentials. Do you object to the individual men? No. Perry, of South Carolina, whose credentials I had the honor to present yesterday; Hunt, of Louisiana, whose credentials I presented some three or four weeks ago; Sharkey, of Mississippi, and others of the same description of men, are now at your door, invoking you as brothers and statesmen, by the memories of the past, to permit them to come among you as equals, and claiming it upon the ground that every department of the Government, except ourselves, and that at this session, has admitted to be true in point of fact that they are still States of the Union.

Mr. SUMNER. If the Senator will allow me to interrupt him, I wish to ask him a question. Is the Senator not aware that Mr. Perry of South Carolina held office under the rebel government, so that he cannot take the oath required by law?

Mr. JOHNSON. I am. That is another matter. I speak of the man individually.

Mr. SUMNER. I have with me a South Carolina paper showing that he was in that condition.

Mr. JOHNSON. I am aware of it. I would have made the same suggestion to the honorable member that I did to the Senator from Wisconsin, but he was so far off I could not catch his eye.

Mr. FESSENDEN. That restrained me from questioning you.

Mr. JOHNSON. Now, you will not admit them. I understand from the question which my friend from Massachusetts has propounded to me that his objection to South Carolina being represented on this floor is personal to the man. Then he will admit anybody who can take the oath, I suppose; otherwise, his question was a little out of place. I will not speak of Mr. Perry, as I know him by reputation to be, and as he informs me his course was during the whole of the rebellion, nor shall I speak at all in that regard of other members whose credentials are upon your table. All I mean to say is that they are here. Whatever may have been their mistakes in the past, however they may have violated the laws in the past, and have subjected themselves to prosecution because of such violation, yet they are here, permit me to say to the honorable member from Massachusetts, (and I say it with all sincerity and with no possible purpose of disparaging his loyalty,) as loyal this hour as he is. Mr. President, it is a grateful theme to me to refer to those men in terms of praise. Nobody denounced their course more decidedly than I did; but the mass of them were honest.

It was not my purpose to call the attention of the Senate to what I am about to read, but the question propounded to me by the honorable Senator from Massachusetts makes it perhaps more applicable to this part of the question than it would be to any other. I shall read a sentence or two from a speech recently delivered before the General Assembly of the State of Georgia, delivered on Washington's birthday, the 22d of February, by Mr. Alexander H. Stephens. The whole speech, I am satisfied, if it shall be read by the Senators, will give them nothing but pleasure, both for its spirit and its patriotism, and for its chastened eloquence:

"Another one of our present duties is this: we should accept the issues of the war, and abide by them in good faith. This, I feel fully persuaded, it is your purpose to do, as well as that of your constituents. The people of Georgia have in convention revoked and annulled her ordinance of 1861, which was intended to sever her from the compact of Union of 1787. The Constitution of the United States has been reordained as the organic law of our land. Whatever differences of opinion heretofore existed as to where our allegiance was due during the late state of things, none for any practical purpose can exist now. Whether Georgia, by the action of her convention of 1861, was ever rightfully out of the Union or not, there can be no question that she is now in, so far as depends upon her will and deed. The whole United States, therefore, is now without question our country, to be cherished and defended as such by all our hearts and by all our arms. The Constitution of the United States, and the treaties and laws made in pursuance thereof, are now acknowledged to be the paramount law in this whole country."

And he concluded, looking to the prospect and indulging the hope that our country would be grander in everything in the future than it had been in the past, by saying:

"All this is possible if the hearts of the people be right. It is my earnest wish to see it. Fondly would I indulge my fancy in gazing on such a picture of the future. With what rapture may we not suppose the spirits of our fathers would hail its opening scenes from their mansion above! Such are my hopes resting on such contingencies; but if, instead of all this,

the passions of the day shall continue to bear sway, if prejudice shall rule the hour, if a conflict of races shall arise, if ambition shall turn the scale, if the sword shall be thrown into the balance against patriotism, if the embers of the late war shall be kept aglowing until, with new fuel, they shall flame up again, then our present gloom is but the shadow, the penumbra of that deeper and darker eclipse which is to totally obscure this hemisphere, and blight forever the anxious anticipations and expectations of mankind. Then, hereafter, by some bard it may be sung:

"'The star of hope shone brightest in the West;
The hope of liberty, the last, the best;
That, too, has set upon her darkened shore,
And hope and freedom light up earth no more.'

"May we not all, on this occasion, on this anniversary of the birthday of Washington, join in a fervent prayer to heaven that the Great Ruler of events may avert from this land such a fall, such a fate, and such a requiem?"

This was received with the applause of the whole assembly. Now, ought we to deal with the mass of these men as if they were criminals in intent? The doctrines that they held in relation to the character of the Government were not confined to the South; they had a place in what were called the free States. I stated when I had the honor to address the Senate on a former occasion, that the doctrine of the right of a State to judge for itself without being responsible to the Government of the United States whether the *casus fœderis* existed which would authorize the State to abandon her place in the Union, was by Mr. Jefferson in so many words announced. I have not the resolutions of Kentucky, of which he is known to be the author, by me, but I have an extract from a eulogy pronounced by the late John Quincy Adams on Mr. Madison, in which he says:

"Concurring in the doctrine that the separate States have a right to interpose in cases of palpable infractions of the Constitution by the Government of the United States, and that the alien and sedition acts presented a case of such infraction, Mr. Jefferson considered them as absolutely null and void, and thought the State Legislatures competent not only to declare, but to make them so, to resist their execution within their respective borders by physical force, and to secede from the Union rather than submit to them if attempted to be carried into execution by force."

But I have said that that doctrine was not confined to gentlemen of the South. I find in one of the papers of the day a resolution offered at a meeting in the State of Ohio some seven years ago, in which the doctrine almost in the words of Calhoun was announced, said to have been reported by a committee of which one of the honorable Senators from Ohio, not now in his place, [Mr. WADE,] was a member, and to have been supported by him in a speech, and to have also been supported by a speech of the present Chief Justice of the United States. It was during the excitement, as I understand, growing out of the attempted execution of the fugitive slave law. Ohio was inflamed. She deemed it unconstitutional. The Supreme Court had decided unanimously that it was constitutional, but she, in the exercise of her alleged right of judgment, deemed it to be unconstitutional, and having that opinion, what did her people in council determine to do? What did they state were the reasons that had brought them to adopt that opinion? I beg the Senate to bear with me while I read:

"On the 25th of May, 1859, but little more than seven years ago, a convention was held at Cleveland, Ohio. It was styled Convention of the Sons of Liberty, and was presided over by Joshua R. Giddings, lately United States Consul General for the Canadas. Upon its committee of resolutions, the chief man was BENJAMIN F. WADE, then as now, United States Senator from Ohio. That committee brought forward a series of resolutions, which were adopted, the principal one being as follows:

"*Resolved*, That the several States comprising the United States of America are not united on the principle of unlimited submission to their General Government, but that, by compact, under the style and title of a Constitution for the United States, and of amendments thereto, they constituted a General Government for certain definite powers, reserving, each State to itself, the residuary mass of right to their own self-government; and that whensoever the General Government assumes undelegated powers, its acts are unauthoritative, void, and of no force, and being void, can derive no validity from mere judicial interpretation; that to this compact each State acceded as a State, and is an integral party; that this Government, created by this compact, was not made the exclusive or final judge of the extent of the powers delegated to itself, since that would have made its discretion and not the Constitution the measure of its power; but that, as in all other cases of compact among parties having no common judge, each party has an equal right to judge for itself, as well of infractions as of the mode and measure of redress."

And that resolution it is said was supported not only by my friend from Ohio, [Mr. WADE,] but by the present Chief Justice of the United States; and that was in 1859; literally a transcript from some of the resolutions offered by John C. Calhoun. I have not cited it for the purpose of assailing the present loyalty of the Senator from Ohio, but I have cited it for the purpose of proving that holding such opinions as that even a few years ago is no evidence of present disloyalty. If the honorable member from Ohio has a right now, as he certainly has, and as it will be his pleasure I am sure to do, to renounce and denounce the doctrine which he maintained in 1859, these southern gentlemen have the same right; and if they exert it, if they do renounce and denounce it, why should not their loyalty be considered as dear as the loyalty of the men who presented and supported the resolution to which I have just adverted?

But it was no new thing. It had a place in Massachusetts, that State which now is giving us so many good political maxims. In the war of 1812, as we know historically, she refused to let her soldiers go beyond her limits. That it was an act of disloyalty, I felt then and have never doubted since. That for a time she was under opprobrium, we all know. She has emerged out of it since, and stands among us now as a peer as loyal as the most loyal; but there were other times when she was obnoxious to loyal criticism. Sir, in the debate in the House of Representatives of January, 1811, in relation to the acquisition of the territory of Orleans, as it then was called, Massachusetts was again on fire. The men of that day taught their people that there was under the Constitution no authority to acquire territory by treaty, and one of her most distinguished sons, one whose memory will live as a scholar and a statesman (notwithstanding the language to which I am about to call the attention of the Senate) as long as letters live, Josiah Quincy the elder, now gathered to his fathers, full of years and full of honors, denounced that act—an act which has proved of such material advantage to the prosperity of the country—as a flat violation of the Constitution. And what did he say it was the duty of Massachusetts to do? I read from the Annals of Congress a passage from Mr. Quincy's speech on that occasion:

"Mr. Speaker, there is a great rule of human conduct which he who honestly observes cannot err widely from the path of his sought duty. It is to be very scrupulous concerning the principles you select as the test of your rights and obligations; to be very faithful in noticing the result of their application; and to be very fearless in tracing and exposing their immediate effects and distant consequences. Under the sanction of this rule of conduct, I am compelled to declare it as my deliberate opinion, that, if this bill passes, the bonds of this Union are virtually dissolved; that the States which compose it are free from their moral obligations, and that, as it will be the right of all, so it will be the duty of some, to prepare definitely for a separation—amicably if they can, violently if they must."

Has any gentleman whose credentials have been laid on the table of this body, ever uttered a sentiment so manifestly disloyal, so palpably unconstitutional, announcing that the purchase of Louisiana, if consummated by an appropriation to pay the amount of purchase money by Congress, would lead to a separation to be attained peaceably if it could be so attained, but as far as Massachusetts was concerned, if it could not be attained peaceably, to be attained by force? If he was here an applicant for a seat on the floor of this body, and the honorable member from Massachusetts was himself a Senator from that State, would he object to his being admitted on the ground of disloyalty? And yet he will say, I am sure, that the sentiment which I have just read as coming from his lips was as disloyal as anything that ever came from the lips of John C. Calhoun. Why would he not? Because he would know that he would be loyal now, and would prove an ornament to this Chamber.

I question not the Senator's motives, I have no right to question the motives of any Senator, and if I had I would not do it, because I am satisfied their motives are as pure as my own; but it is a little singular that disloyalty now, as proved by the expression of disloyal opinions in the past, is to take from the States a right of representation on this floor when we have upon the floor a member whose loyalty nobody will now doubt, who has stood by his country in her recent peril as one of her firmest friends and supporters, willing to sacrifice all in vindicating her integrity, but who seven years ago announced to the people of his own State doctrines as heretical, and disloyal because heretical, as ever fell from the lips of any southern man. Ay and that doctrine had the support of the present Chief Justice of the United States, who, like the Senator from his State, is equally loyal now. Judicial interpretation in relation to the validity of the fugitive slave act, however unanimous, was as nothing if erroneous in the opinion of Ohio; and if persevered in upon the faith of such interpretation, Ohio, assuming to herself the sovereignty with which she went into the Union, claimed the right to decide for herself, notwithstanding decisions by Congress, decisions by the Executive, decisions by the judiciary of the United States, whether the Constitution in the passage of the act had been violated, and if she came to the conclusion that it had been, to resist by force! A monstrous doctrine, fatal wherever entertained to the continuing existence of the Government, contrary to the provisions of our fathers, inconsistent in my view with almost every provision to be found in the Constitution, and yet honestly entertained. Who will question the honesty of Mr. Quincy? Nobody. Certainly none who knew him personally. Who will question the honesty of the honorable member from Ohio? Nobody who knows him. Frank, if possible, even to a fault, he carries his heart in his hand. And who will question the honesty of the present Chief Justice of the United States?

Mr. President, if the Chief Justice of the United States has not changed the opinion which he entertained in 1859, he is not the man to sit in judgment upon Mr. Jefferson Davis, or anybody else standing in the like position. He might pronounce him—and I suppose he would—to have been guilty of treason according to the letter of the law; but, with this resolution in his hand, he would say to the department of the Government in which the power of mercy is lodged, "For God's sake, as you value me and my character, pardon, for he did only to a greater extent what I said I would have done or that my State should have done if the contingency had arisen."

But I have wandered somewhat from the purpose of the argument. Let me go back to the condition of the States. My friend from Maine maintains that I am in error in supposing that the insurrection which prevailed for four years was put down only by virtue of that clause of the Constitution which gives to Congress the right to use military force for the purpose of suppressing insurrection.

Mr. FESSENDEN. Using the militia.

Mr. JOHNSON. Well, the act of 1807, passed under that authority, gives the same power to use the Army and Navy of the United States that previous acts gave to use the militia, and we have legislated still more extensively by raising troops for the purpose of putting it down. I maintained in good faith, as I am sure every Senator who knows me will believe, that the authority is to be found exclusively under that clause. I stated that under the war power (that is, the power conferred upon Congress to declare war,) there was no authority to war against a State of the Union, and I supported that opinion by referring to a part of the opinion given by Mr. Justice Grier, speaking in behalf of the majority of the Supreme Court, in the prize cases as reported in 2 Black, and in the dissenting opinion of Mr. Justice Nelson, in each of which it is stated that there is no clause in the Constitution which, either by direct terms or by implication, can be construed to confer upon Congress the author-

ity to declare war against a State; and they go on, each of them, to maintain that the power conferred upon Congress in regard to the southern rebellion is the power conferred by that clause of the Constitution which gives them authority to suppress insurrection, and is carried out by the passage of the acts of 1792 and 1795; and yet they say, and say properly, as I think, (although in relation to that there was a difference of opinion, but only as to the time when that condition of things existed,) that an insurrection may be of such an extent as entirely to put a stop practically to the authority of the Government, that it may become a war according to the extent to which it may be carried on by the insurgents. What did they say it for? What was the question before the court?

The President had blockaded the southern ports; prizes had been made for a violation of the blockade, and the question in each of those prize cases was whether the vessels captured were subject to forfeiture. The majority of the court held that, independent of your act of July 13, 1861, a state of war existed, out of which grew belligerent rights, and one of the belligerent rights is the right of capture for violation of a blockade instituted by one belligerent as against the other belligerent. That is all. The minority of the court came to the same result in relation to captures made after the passage of the act of July 13, 1861. They denied that there was a war within the meaning of the Constitution existing antecedent to that period, because the whole war power was conferred upon Congress, and the President had no right to initiate war, but when the war existed under the sanction of Congress it carried with it all the rights which belonged to belligerents, and therefore carried with it the right of the United States to blockade the enemy's ports, that being a belligerent right, and to capture for violation of the blockade.

My friend from Maine says virtually (he did not refer to the decision in terms) that there is no distinction between a civil war and an international war, and with the clearness which belongs to all his speeches he got on pretty well until he came to consider what effect upon that condition of war would be the operation of our peculiar Government, and he seemed to be a little puzzled to reconcile his own mind to the conclusion that the Government of the United States could by war of any kind put an end to a State government.

Mr. FESSENDEN. I beg the honorable Senator to understand that if I have not made the matter clear it is for want of ability to make that plain to others about which, however puzzled I may be in the gentleman's eyes, I have not the slightest doubt in my own mind.

Mr. JOHNSON. Judging from the report it seems to have flitted across the mind of the honorable member that perhaps there might be something in the peculiar character of the Government that would make a distinction. Now, I understand him to say, what he intended to say at that time, that there is no distinction.

Mr. FESSENDEN. That was a necessary part of the argument. I discussed the question whether it did change it. My opinion was that it did not.

Mr. JOHNSON. I will not turn to the report, because it may not be correctly reported, but my memory is very distinct, as far as the report is concerned. But, now, is there not a distinction? Is there not some difficulty arising from the fact that the Government of the United States is not a Government over the State at all? The Government of the United States and the government of the State are equally, as far as the people of that State are concerned, the government of the people of that State. They owe allegiance to a certain extent to the Government of the United States; they owe allegiance to a much greater extent to the government of the State. The General Government cannot get on without the States. The States are not only a component but an essential part of the General Government. Blot them out, and the Government is at an end; blot them out, and these seats must be vacated, and the other Hall be left desolate. Nobody can deny that. We could not vote ourselves in permanent session, I suppose. If not, our time expires; and how are our places to be filled? If any one State is left, or any two or three States are left, there will be some three or four or five or six Senators. Is that the Government our fathers designed? How is the judicial department of the Government to exercise its functions? It has no courts in these States if they have ceased to be States; if they are Territories, there is an end to the judicial system, so far as those Territories and the people who are to be found within their limits are concerned. In the case of Canter *vs.* The American Insurance Company, (1 Peters,) which has been very often before this body, and brought to the attention of the public as demonstrating the authority of Congress to regulate, even by abolishing, slavery in the Territories, this question was decided. The case is pregnant with instruction upon various points in this debate. It arose in this way: a vessel was wrecked upon the coast of Florida, then a Territory, and the cargo and the vessel, in part, were rescued, and the salvors filed a petition in the admiralty court of Florida, a court constituted by the Territorial Legislature of Florida for the sale of the property to pay them the amount of their salvage, and it was sold. The property came into the hands of the purchaser and he carried it to South Carolina. Upon the wreck of the vessel the insured abandoned to the underwriter, and the underwriter, when the property came into the port of Charleston, sued the person in whose possession it was to recover it, and he defended himself upon the ground that the decree under which it was sold was a legitimate decree. The Supreme Court came to that conclusion. Among other objections to the validity of that decree was this: the court in Florida consisted of judges appointed for a limited time, whereas the courts known to the United States under the Constitution of the United States were composed of judges holding office during good behavior; and it was clear that if what had been done was done under the judiciary clause of the Constitution of the United States the sale was void, because the court was unconstitutional. Chief Justice Marshall said:

"It has been contended that, by the Constitution, the judicial power of the United States extends to all cases of admiralty and maritime jurisdiction, and that the whole of this judicial power must be vested 'in one Supreme Court and in such inferior courts as Congress shall from time to time ordain and establish.' Hence it has been argued that Congress cannot vest admiralty jurisdiction in courts created by the Territorial Legislature.

"We have only to pursue this subject one step further to perceive that this provision of the Constitution does not apply to it. The next sentence declares that 'the judges, both of the supreme and inferior courts, shall hold their offices during good behavior.' The judges of the superior courts of Florida hold their offices for four years. These courts, then, are not constitutional courts, in which the judicial power conferred by the Constitution on the General Government can be deposited. They are incapable of receiving it."

Now, let me apply this to what I have just stated. If it be so, why are your courts now in those States vested with the judicial authority conferred by the Constitution of the United States, exercising all their functions, administering justice as between man and man in those cases in which jurisdiction is conferred upon them by the Constitution? Why are they there? Only because they are still States. The moment you strike them down from the elevated character of States to the subordinate character of Territories, at once the judicial authority of the United States ceases within their limits; any yet what is the Supreme Court doing? What did they do the other day unanimously with the exception of the Chief Justice? They are receiving now records from the decisions of the courts in those States and they are hearing them. By a special order, passed a few days since, they directed that parties whose cases were here from the States lately in rebellion should have a right, if they applied for its enjoyment, to have their cases heard in advance, they having lost their priority only because of the war, and the court held that, the war ended, the judicial authority of the United States at once attached; and if the doctrine of Canter *vs.* The American Insurance Company be sound, (and nobody can dispute it; nobody, certainly, in the past has disputed it,) if the judicial authority contained in the Constitution is an authority conferred only upon the courts with reference to the United States as contradistinguished from the Territories, the Supreme Court could only have come to the conclusion that those cases were to be heard now and decided now, because they were of opinion that those States are now States of the Union.

It is always agreeable to have the support of a friend on all political questions. What did the Senator from Ohio, the same Senator to whom I have alluded before, [Mr. WADE,] think was the condition of these States? He was very anxious to have passed the bill that was passed in the House of Representatives and came here for our approval in the summer of 1864—a bill so eloquently defended by the late member from Baltimore, Mr. Davis, and it was proposed here to amend it. It was obnoxious to objection on the part of some. It did not provide that there should be no distinction on account of color; and that seemed to touch the sensibility of my friend from Massachusetts. Among other things he said, true to his doctrine, that these States had blotted themselves out of existence, if we had not blotted them; and he was answered in this way by the honorable member from Ohio:

"It has been contended in the House of Representatives, it has been contended upon this floor, that the States may lose their organization, may lose their rights as States, may lose their corporate capacity by rebellion. I utterly deny that doctrine. I hold that once a State of this Union, always a State; that you cannot by wrong and violence displace the rights of any body or disorganize the State. It would be a most hazardous principle to assert that."—*Congressional Globe, Thirty-Eighth Congress, first session*, p. 3450.

Now, as to this right of war. War, says my friend from Maine, though it be a civil war, carries with it all belligerent rights. It does carry all belligerent rights that are not inconsistent with the character of the parties engaged in the war. What sort of a war is it that we are supposed to have been waging against these insurgents, this civil war, as he imagines it to have been? Was it a war of conquest? Could it be a war of conquest? If it was, it would have been the most extraordinary conquest that ever was made: it would have been a Government conquering itself. The States are a part of itself. Its existence depends upon the existence of the States. You cannot elect a President without the States; you cannot elect members of the House of Representatives without the States; you cannot elect members of the Senate without the States. Then to suppose that, under the authority to suppress insurrections, however those insurrections may be carried on, into whatever magnitude they may culminate, is to enable the Government to destroy the States under the doctrine of conquest, is to hold the doctrine that the Government can conquer itself. Whoever heard of that? What! the Government of the United States conquer States, and, by virtue of that conquest, extinguish the States! You might as well attempt to conquer the President; perhaps that may be done one of these days, sooner or later; or the President might as well attempt to conquer Congress; that may be done; and some people think, perhaps, that it ought to be done; but what is the result of either? The Government is either fatally destroyed or seriously wounded. A power, then, conferred on Congress to preserve is a power which Congress has a right to exert for the purpose of destroying. A power to be exerted merely for the purpose of vindicating the authority of the Constitution and the laws, seeing that they are faithfully observed by those who are bound to observe them, is an authority which, with reference to the people upon whom it is exercised, may be so carried on as to destroy the authority and the laws.

Can that be so? What is the meaning of the book? [Holding up Vattel.] My friend did not read it. He only did me the credit to say that I was familiar with the whole doctrine, and he kindly intimated that the propositions for which

he contended were to be found in a book under his hand. That was all I heard of it. If my brother, professional and senatorial, had read the book he would have found, I think, that it contains no such doctrine. You can acquire—that is the chapter of Vattel to which he called my attention—you can acquire property by conquest; but I speak, as I think, understandingly, not only standing upon the authority of Vattel, but upon the authority of every writer upon the law of nations with which I am at all familiar, when I say that nowhere do any of them maintain the proposition that a Government can conquer itself. One nation carrying on war against another may obtain its territory, its people, by one of two modes, either by conquest effected by absolute subjugation, or by treaty independent of actual conquest; but when a Government wages war as against its own citizens, no matter what may be the form of government, be it monarchical, be it imperial, be it democratic, the result is the same. If it carries on war against its own citizens, it may, if the war is carried on to a successful termination, punish the men who have been engaged in it; but the country remains; no title to the country is obtained by conquest. Whatever right it has in such a contingency is the right with which it started. That original right was suspended by force of arms; the arms subdued, the suspension ceases, and the Government stands as it stood when the war originated, having but the one country under the one Government; and whatever may be the form of government, if it carries on the war to a successful result, all that it has a right to do is to punish the individual parties who have been concerned in the opposition to its authority. I read from Vattel, page 388, a sentence only:

"In the conquests of ancient times, even individuals lost their lands. Nor is it matter of surprise that in the first ages of Rome such a custom should have prevailed. The wars of that era were carried on between popular republics and communities. The State possessed very little, and the quarrel was in reality the common cause of all the citizens. But at present war is less dreadful in its consequences to the subject; matters are conducted with more humanity; one sovereign makes war against another sovereign, and not against the unarmed citizens. The conqueror seizes on the possessions of the State, the public property, while private individuals are permitted to retain theirs. They suffer but indirectly by the war; and the conquest only subjects them to a new master."

But when the war is over, what are the rights of a sovereign over his conquered subjects? Vattel answers the question on page 426:

"When the sovereign has subdued the opposite party, and reduced them to submit and sue for peace, he may except from the amnesty the authors of the disturbances, the heads of the party; he may bring them to a legal trial, and punish them, if they be found guilty."

That is all that he can do.

Mr. FESSENDEN. Are those words, "that is all that he can do," there?

Mr. JOHNSON. No; but they might have been put there to express more clearly what the author meant.

Mr. President, I am getting tired, and the Senate is getting tired, and I have not done by any means. Although not immediately belonging to the question which I am discussing, it is not inappropriate for one of the purposes I have in view to call the attention of the Senate to another passage in the great work of this same writer, page 389:

"It fortunately happens that in this particular, as in every thing else, sound policy and humanity are in perfect accord. What fidelity, what assistance, can you expect from an oppressed people? Do you wish that your conquest may prove a real addition to your strength, and be well affected to you? Treat it as a father, as a true sovereign. I am charmed with the generous answer recorded of an embassador from Privernum. Being introduced to the Roman Senate, he was asked by the consul, 'If we show you clemency, what dependence can we have on the peace you are come to sue for?' 'If,' replied the embassador, 'you grant it on reasonable conditions, it will be safe and permanent; otherwise, it will not last long.' Some took offense at the boldness of this speech; but the more sensible part of the Senate approved of the Privernian's answer, deeming it the proper language of a man and a freeman. 'Can it be imagined,' said those wise Senators, 'that any nation, or even any individual, will longer continue in an irksome and disagreeable condition than while compelled to submit to it? If those to whom you give peace receive it voluntarily, it may be relied on; what fidelity can you expect from those whom you wish to reduce to slavery?' 'The most secure dominion,' said Camillus, 'is that which is acceptable to those over whom it is exercised.'"

There are many other matters, Mr. President, to which I might advert, but I proceed now very briefly to consider the particular question before the Senate. And here it is supposed that the view which I now take is inconsistent with one which, as a member of the Judiciary Committee, I maintained a year or two ago. What was that? The war was being waged; it was by no means certain how it would result; the Army was in all the southern States; Louisiana was said to be in the keeping of the military; the election it was stated was an election held under the authority and supervision of the military; the same was said in the case of Arkansas; and in that condition of things I agreed to a report which said that it would be improper to admit them until there was an act of Congress; not that it was illegal to admit them; nobody could pretend that. The honorable Senator from Maine, I think, admitted the other day—I am not sure that I recollect his speech correctly, but I so understood it—that perhaps it would be in the power of either branch of Congress to admit Senators or Representatives from these States even after the passage of this resolution. What is the case now? The war has been over almost a year. What do you want to find out? Do you want to find out the theoretical opinions of the citizens? Suppose you do find that they entertain political opinions in theory that are different from your own, is there any disloyalty in that? Cannot a man be a monarchist in the United States and free from any crime? Who can doubt that? Any Christian sect might say with the same propriety, "You must think precisely as we think or be punished."

That doctrine does not exist at the present day. Is there anything in our institutions which renders it incumbent on every man to think that the Government under which he lives is the best Government in the world? I have never supposed that that was any test of loyalty. The good sense of the party may be questioned; his wisdom may be called into doubt; but that is all, there is no disloyalty in it. Error of judgment there may be, but there is no practical crime, and no crime of any sort. Nature gives him the judgment with which he is endowed; and if in the fair exercise of that judgment he comes to a political opinion different from that entertained by his fellows, is he to be called a criminal? Nobody, I am sure, will say that that is a just doctrine.

Then what are you trying to find out? You go to the South and you examine A, B, and C, to ascertain whether they are disposed to be kind or not to the freedmen. Suppose they are not; suppose they think, some of them or a great many of them, that it would have been better for the freedmen that they should not have been emancipated; that it would have been better for their States that they should not have been emancipated; that it would have been better for the United States that they should not have been emancipated; is there any crime in that? The late President did the same thing. Read his proclamation and you will see that he contemplated at one time only a gradual abolition; and it is yet a problem, which time alone can work out, what are to be the material results of emancipation. I have my opinion that they will be exceedingly advantageous; but I am not disposed to find fault with him who entertains a different opinion, and charge as against him disloyalty. I think and have ever thought that slavery is wrong, upon every ground, political and religious; but am I to quarrel with the men who have thought otherwise, with the Washingtons, with the Jeffersons, and the Madisons who must have entertained a different opinion practically, or at least an opinion that it was not advantageous to have an instantaneous emancipation.

Now, I suppose, and my friend from Maine supposes, and we all, perhaps, suppose that the rebellion had no just foundation; but a great many people in the United States, even in the loyal States, thought that it had. There was no injustice, in my opinion, perpetrated by the North upon the South that could not have been corrected, if it was unjust, by the fair administration of the Constitution of the United States; but a great many thought that the time had come when safety to themselves demanded a separation. They have paid the penalty of the error, and now they are before us asking us, through the proper constituted authority of the country, to pardon the error; they are before us now pledged, if we can take the testimony of their leading men holding high official station, to abide by the result of the trial to which their doctrine of secession and of slavery has been submitted. They stand before you now admitting that their hopes are centered in the Union, that their safety is there to be found, and there only, and they ardently implore you to suffer them to come again into your midst, share your duties, participate in your trials, join their counsels to your own for the purpose of making the country even greater than it was in any time of the past.

Now, what do you say by this resolution? "You must be kept out until Congress shall by law declare that you ought to be admitted." When is that to be? I am no prophet; but if the signs of the times are to be relied upon, that is to be just when Congress shall think proper; and when they will think proper, and why they will think proper, and what conditions they will annex is all now in the womb of time. Are they to be kept out until that matter is settled by Congress? They will be if you pass this resolution and it is observed. Is it right? I heard it on this floor when I had formerly the honor of a seat in this body, and I heard it in conversation from time to time, sometimes angrily, sometimes socially, "the southern men cannot be driven to separation," and I heard it from others that the northern men could not be driven into hostility as against them. The error of both has been signal. What sort of rebellion have we had? One greater than the world has ever before witnessed. You have crushed it. Now, what do you propose to do? Vattel tells you, treat them kindly and then you will have peace; treat them unkindly, deal with them as unequal, treat them oppressively, and the time for a renewed struggle depends only upon their becoming convinced that they have a reasonable chance to make a renewed struggle successful; and if what you propose to do shall lead to delay, which I suppose may be the consequence of it, you will find that the people in the loyal States will be divided. They are now asking why is it, when not an arm is raised against the authority of the Government, that we have not peace? Why is it that on the contrary we have every day increased agitation? They see, a great many of them, that one means of having peace and quiet is to take the States back, to give them all the rights which the Constitution secures to them, to set the citizens of the States at work. Do this, let them be satisfied that they have the protection of the Government of the Union, as well as the protection of their own States, and the South soon will again blossom like the rose; her wealth in the past, great as it has been, will prove to be as nothing compared with what it will be in the future; and my life for it—I think I am warranted in so saying from my knowledge of the character of the men—my life for it, let them participate in all the rights which the Government was intended to secure to all, and so far from the country being imperiled, its increased strength, its enhanced power, will date from that happy day.

We have passed through four years to all of us of unexampled distress; our own homes have felt the desolation of war; but our homes are as nothing to the homes of the southern people. Where comfort and luxury were to be seen and hospitality was extended to all, there is now nothing but penury and almost absolute want. The women of the South, brought up in luxury and educated to refinement, are now

almost hewers of wood and drawers of water in order to sustain themselves and their children. So it must be until we take them by the hand, throw around them the ægis of the Constitution, and give them a new birth, welcome them among us as brothers, extend to them the right hand of fellowship, and then they and we, when that time shall come—God grant that it may come at once—will pray to Heaven that in no time of the future shall there ever be again a citizen of the United States to raise his arm against his Government.

The PRESIDENT *pro tempore*. Is the Senate ready for the question on the resolution?

Mr. HENDRICKS. I move to amend the resolution by inserting between the word "States" and "which" the words "the inhabitants of," so as to make it read, "the people of the eleven States, the inhabitants of which have been declared in insurrection." The Senator from Kansas [Mr. POMEROY] asks me, in a good-natured way, if I will vote for the resolution if these words be inserted. I am very free to say that I shall not vote for this resolution at all; and yet I think it my duty to make it as unobjectionable as I can. I am sure I do not propose the amendment for the purpose of making the measure more objectionable.

Two purposes, it seems to me, are intended by this resolution; or at least two results are likely to be secured by its adoption in its present shape. The first is to have a congressional declaration that the States themselves, as States, have been in rebellion. The second is to make the impression upon the country that these States are only to be brought back into the Union again by an act of Congress. I do not believe in either of these propositions. The States have not been regarded as in rebellion. That has not been the language of the executive proclamations; it has not been the language of Congress in its legislation in regard to the insurrection. The phraseology has heretofore been, "States, the inhabitants of which have been declared to be in rebellion." Certainly, the State of Virginia was one of the most prominent States in this rebellion. The weight that she brought to the cause when she seceded, and the power which she brought to the army during the war, made her a very conspicuous member of the southern confederacy that was attempted to be established. Yet all of Virginia was not regarded as in rebellion. Some of the counties of the State of Virginia were excepted, as I now recollect, by the President in his proclamation declaring what portions of the territory of the United States were in rebellion. The State was never declared to be in rebellion as a State; but the inhabitants of portions of the State of Virginia were declared to be in rebellion. Why, at the close of the war, after it is over, shall we adopt language that was not used during the pendency of the war or at its commencement—legislative language, if you please—to give a character to the rebellion which it has not had heretofore?

This matter needs no further argument. The Senator from Nevada [Mr. STEWART] yesterday made this objection to the resolution so clear that it needs but the proposition for an amendment at my hands.

My great objection to this resolution is that it undertakes to establish the idea in the country that these Stases have to be brought back into the Union by an act of Congress, which I do not believe. I believe that in law the States are in the Union, and that all that is needed is to give them practical relations to the Federal Government in every respect. So far as that was within the power of the Executive it has been done. The executive department is exercising all of its powers within and over these States. In some of the States, I believe, the Federal judiciary is also exercising its powers. It now simply requires the action of Congress to give them their full rights as States in the Union. Therefore I do not think it is proper te say in this resolution that the States have been in rebellion, or to provide that the States are to be brought back again by an act of Congress. This is all I have to say upon the amendment.

Mr. WADE. Mr. President, I was so unfortunate as not to be present while the Senator from Maryland was making his observations. But I understand that he called me in question for having been present at a meeting which he affirmed was held in Cleveland some seven years ago by persons called "Sons of Liberty," and he alleged that I there consented to certain resolutions that were passed which favored the doctrine of secession, and that I was chairman of the committee which reported them. Sir, the charge is a total forgery so far as I am concerned. I never was at any such meeting of the Sons of Liberty or any other sons. I never uttered such a sentiment in my life; and I would thank gentlemen to look better to their authorities when they call my course in question than to produce this kind of a paper. I do not know what it is, but I presume it is of the copperhead persuasion.

Mr. CONNESS. What is it?

Mr. WADE. I see that the paper containing the charge is the Baltimore Gazette.

Mr. JOHNSON. It is an extract published by that paper. I looked for the Senator from Ohio this morning in order to show it to him. Knowing the opinions that Senator has entertained lately, I was a little surprised to find that he was supposed to have entertained these opinions.

Mr. WADE. I do not wonder that the Senator was surprised to hear that I had uttered such sentiments; and I am rather surprised that he should believe I had ever uttered any sentiments disloyal to this nation or favoring secession in any manner or form. I am not one of those who have or have had much association with gentlemen holding to secession principles. My associations have all been the other way. During the war that secession made my counsels were against it. I was for war to the death against the principle of secession, while many other gentlemen in my eye were either participants in or apologists for that sentiment. I never excused a man from his oath on the ground of secession or any other ground. When a man lifts his hand to God and swears that he will do or forbear to do a certain thing, I will hold him to it before God and man, and I do not seek to find out whether it is constitutional or not. His conscience is involved; and if he is not a perjured man he will regard his oath.

But I only rose to say on this occasion that all that relates to me which has been read from the paper which I now hold in my hand, and all the comments upon it, are without the least foundation in the world, so far as I am concerned. I never presided over such a meeting, I never was present at any such meeting, and I never knew that such a meeting was held.

Now, Mr. President, I am perfectly aware that a war is made—and I am willing to meet it anywhere—upon what are called radicals of the country, and I am one of them. In olden times I was here in the Senate called an abolitionist, but they have changed the name since. They have all got to be abolitionists now, and they have changed my name to "radical."

Mr. CONNESS. A radical change!

Mr. WADE. No, sir, it is not a radical change. My radicalism is exactly the same thing that what you called my abolitionism was. Sir, it has conquered you. Who dare get up to-day and say that he is not an abolitionist?

Mr. SUMNER. And it will conquer again.

Mr. WADE. Will conquer again! It has conquered. What do you call this tempest in a teapot now before us? Do you call that a war?

Sir, it does not rise to the dignity of warfare. The attempt is put down now in the hearts of the people. God knows the reverberations from all parts of the country show that the attempt to war on the radicals will not rise to respectability enough to make a defense. [Laughter.] I thank God for it, for, Mr. President, in the history of mankind, so far as I have read or know it, there never has been a time when parties were so organized on radical principles of justice and right. The party with whom I act appeal to no expediency, to none of your political policies; we dig down to the granite of eternal truth, and there we stand, and they who assail us have to assail the great principles of the Almighty, for our principles are chained to His throne, and are as indestructible as the Almighty himself. And do you think by your puny attempts, by false, copperhead, miserable papers like this to assail us, and think to prevail over the principles which we have adopted? I want no warfare with anybody; but if you will make war upon such principles as we have adopted, it is the worse for you. You cannot prevail.

I have been in these political warfares for a long time; I claim to be an old soldier in them. I stood in this Senate when there were not five men with me to support me, and then I rose here and told those who were inveighing like demons against the principles that they called abolitionism, that I was an abolitionist. To-day you are all abolitionists, not voluntarily, but by compulsion. [Laughter.] Yes, sir, compulsory abolitionists, for who does not go for abolition? Your President is an abolitionist; every leading man of the South is compelled to say he is an abolitionist, whether he is at heart or not. Such are the triumphs of the great principles of right, justice, and liberty, which were abetted and advocated by the great party with whom I have acted and claim now to act.

Talk not to me about resolutions or the veto of a bill making any successful opposition to the measures that we have brought forward now for the purpose of advancing right, liberty, and justice in the South and everywhere else. You may delay the blow, but come it will, for the decree is not of us, but of the Almighty; we shall prevail, and all you can do or say will not be able to prevail against it.

I have wondered a great deal why men did not learn more about these things than they seem to do. Our principles are assailed now with just the same virulence that they used to be when we were in a small minority. I do not hold that they have triumphed thus far because of any superior capacity on our part. Certainly not. Why is it, then, that we, from the smallest of all beginnings, have conquered the prejudices of the people and conquered the predominant party of this country which had stood completely dominating the whole nation for more than forty years? Why is it that we have conquered you and now are triumphant here in this Senate and almost by two thirds in both branches, with the whole nation at our backs? What miracle has wrought this change? None other than the great consoling fact that justice, liberty, and right are destined among the American people to succeed, and the gates of hell cannot prevail against them, although they are trying at this particular time very hard to do it. [Laughter.]

Mr. President, I did not rise to speak on this resolution. It has been here long enough. I wish we could come to a vote upon the subject. I did not intend to open my mouth upon it, and I should not have said anything now but for the fact that I have been assailed by forgeries and falsehoods here without the least foundation in the world. When I see things running as calmly, as glibly, and as triumphantly as the principles I advocate do now, I am content to sit still and see the hand of the Lord. I am not compelled to labor now. Formerly we had a little something to do, but now we may sit still, in perfect calmness, and see how right and justice will work themselves out.

I say to you, Mr. President, that it will not be one month from to-day before any man who claims that he is not a radical here will wish to God he had been. [Laughter.] I understand very well that, from the President of the United States to the copperhead and the sympathizer, the radicals are sought to be put down, but you ought to have found out that it requires hard wrestling to put them down. You have not the force you used to have to contend with them; and, as I said before, you do not seem to be capable of learning anything. [Laughter.]

I tell you we are triumphant. The people are impatient; the people are ahead of any of us, but I do not intend that they shall be of me if I can help it. [Laughter.] On the great principles of justice and right, for which I have always contended in this body, I have always intended to be ahead of the great mass of the people, but they have overtaken me, and are now threatening to go ahead of me. If I could take another advance I would do it; but having grounded myself on the granite of eternal truth, as I said before, I do not see that I can get any further; that is my foundation and I defy all opposition to it. I do not care whether I am assailed by Presidents and called a traitor or by somebody else; I do not care who it is that assails me or from whom the assault comes; it does not shake my nerves at all. I have seen times when a man wanted more faith to believe in the triumphant justice of God than now. His course with this nation has been so manifest for years past that no man but an utter heathen can doubt that the Almighty arm is bared in defense of the principles we advocate. If now, backed by the impatience of the people, who are ready and eager for the contest on the issue that is sought to be joined with us, we should be backward we should be the greatest cowards on God's earth. But we are not; and I say if Presidents or kings seek to make opposition to us, stand firm, my friends, and you that waver had better go back a little.

Mr. DIXON. Waver in what?

Mr. WADE. Waver in the determination to do right and justice by all men. If you waver upon that and think by expediency you can triumph you are mistaken. You cannot do it; nobody can do it. The Senator from Connecticut the other day called me in question because I had presented an amendment of the Constitution so that a man should not hold the office of President more than one term.

Mr. DIXON. I think the Senator is mistaken. I did not intend at all to call him in question, I merely alluded to the fact.

Mr. WADE. You alluded to the fact and remarked that I had brought it forth at this particular time in order to effect certain purposes. Perhaps that was not the Senator's language; I do not suppose it was exactly.

Mr. DIXON. I stated what the Senator said at the time, that he brought it forward at this particular period, as I understood him to say, as a proper measure at this time.

Mr. WADE. So far from that, I said when I brought it forward that it had been in my mind for a great many years as the only salvation for the country, as a barrier against the ambition of men, and I told you it was not aimed at any particular man, because in my judgment human nature was not proof against the temptations of electioneering with the whole powers of the Government for another term. That is what I said about it. I thought the principle was right. I thought we had a Chief Magistrate in the Chair by mere accident who would have no ambition to continue his position there to another term, and I supposed, therefore, it was peculiarly propitious to interpose this great remedial act. I say now, as I did before, I introduced it for no party purpose whatever. I did it because my observation has taught me to believe that without some such breakwater to the ambition of Presidents, your nation will be constantly in danger. I hope it will be received in no party spirit. It has not been a party measure heretofore. Indeed it was peculiarly and emphatically in the mouth of a man whose politics I never did agreed to. General Jackson was the most emphatic on that subject of any man. It was a doctrine avowed by his party; it was an emanation of the sagacity, wisdom, and honesty of that great statesman. It came also from Washington.

I hope that when that proposition comes up (and I shall insist upon it whenever I can see an opportunity where the Senate is so disengaged from other business that they can attend to it) I shall urge it upon the consideration of the Senate in no partisan spirit, but in the hope that patriotism will triumph over party considerations and enable us all to come up with one voice and interpose this great remedy against human ambition.

But, sir, I did not rise to make a speech, and I am very willing now that the vote shall be taken.

Mr. JOHNSON. The Senator from Ohio has done me the justice to suppose that I did not intend to assail him by using the resolution which I read. I looked through the Chamber to-day to submit it to him, in order to ascertain whether it was true or not. It is taken from an Ohio paper as a resolution offered at a meeting presided over by Mr. Giddings.

Mr. WADE. I know nothing about it. I was not within sixty miles of where any such meeting was held.

Mr. JOHNSON. There were meetings of that sort held, I recollect; but I had no idea the Senator was there until I read it in this paper as taken from an Ohio paper; and coming from an Ohio paper I thought it possible it might be true.

Mr. WADE. Do you know what Ohio paper?

Mr. JOHNSON. No, I have forgotten. I said that it surprised me exceedingly, because I never had heard the honorable member express any opinion that was not entirely loyal; but we are sometimes so excited as to forget for a moment our duty not only to the country but to others, and I thought it barely possible, seeing it taken from an Ohio paper, that it might be true; but I would not have used it, if the honorable member had been in his seat, without first submitting it to him. He was not here.

Mr. WADE. All right.

Mr. COWAN. Mr. President, I had proposed to speak to the resolution now before the Senate at some length; but I certainly have no disposition, if a vote is to be pressed this evening, to trespass on the Senate. I shall be glad, however, if the Senate will consent that the resolution shall go over until one o'clock to-morrow, at which time I shall be here in my place ready to say what I have to say upon it. I make the motion that it be postponed until that hour.

Mr. FESSENDEN. I cannot consent to that.

Mr. HENDRICKS. I suppose that Senators on all sides desire to get this subject disposed of, and I suggest that we agree to take the vote to-morrow evening at four o'clock.

Mr. JOHNSON. I think we can come to that understanding.

Mr. SAULSBURY. I shall desire to be heard before the vote is taken.

Mr. HENDRICKS. Perhaps I am not authorized to make any proposition.

Mr. FESSENDEN. I will say to the Senator from Indiana that we do not desire, on this side, to press the resolution unnecessarily and improperly; but the debate has seemed to be interminable, and our desire is to bring it to a close. If it can be generally understood that we shall have a vote to-morrow at a reasonable hour, that will be satisfactory.

Mr. SHERMAN. The Senator from Delaware says he may desire to speak; but I think we can vote to-morrow.

Mr. FESSENDEN. If the Senator from Delaware objects to any understanding, of course we shall gain nothing by seeking to make an arrangement now.

Mr. SAULSBURY. I do not wish to delay the Senate; but I had intended to say something on this subject to-day, and as I have been very unwell all day, I must defer it until to-morrow.

Mr. HENDRICKS. I believe I can now say that we can agree to take the vote to-morrow. I do not suppose that any Senator desires to continue the question until next week. I should like to see some prospect of adjourning the session before the middle of the summer. That is a question in which I feel some interest.

Mr. HENDERSON. Let us take the vote at five o'clock to-morrow.

Mr. HENDRICKS. I will modify the suggestion which I made, and instead of fixing four o'clock I propose that we take the vote to-morrow.

Several SENATORS. Say at five o'clock.

Mr. WILSON. We had better not fix any particular hour.

Several SENATORS. Say five o'clock.

Mr. HENDRICKS. Well, I propose to name five o'clock, if that is satisfactory.

Mr. CONNESS. After the announcement that the honorable Senator from Pennsylvania will take the floor at one o'clock to-morrow, not knowing what that distinguished Senator may say, and supposing that he intends to make a very general assault upon the resolution, although I am as anxious to come to the vote as any other Senator, I should be unwilling to fix an hour for taking the vote which would prevent a reply being made to what he may say. I object to fixing the hour until I shall first hear what the Senator from Pennsylvania may say.

Mr. CLARK. Oh! let us take the vote and pass the resolution.

Mr. CONNESS. I am willing to agree to the arrangement that a vote shall be taken to-morrow, but I do not like to have the hour fixed.

Mr. CLARK. I suggest to the Senator from California whether if we can fix the time for taking the vote it is worth while to risk the matter by any objection to that understanding.

Mr. FESSENDEN. As the general disposition of the Senate seems to be to fix a time for taking the vote, I will consent to name five o'clock to-morrow, with the understanding with Senators on the other side, that if I find it necessary in consequence of anything that occurs in the debate to make a short reply, without opening the debate again, I shall have the right to do so. I shall certainly not be disposed to seek an opportunity to speak; but if I should find it necessary to do so, and that should take me a little beyond five o'clock, I suppose there will be no objection.

Mr. JOHNSON. There can be no objection to that.

Mr. FESSENDEN. As I have charge of the resolution perhaps it may be necessary—I hope it will not be—for me to say a few words upon it.

Mr. CONNESS. With that understanding, I have no objection to the arrangement.

Mr. FESSENDEN. Then I believe we are all agreed, it being understood that I shall have an opportunity to reply to what may be said, if I deem it necessary, though it may go beyond five o'clock, my reply not being regarded as opening the debate again.

Mr. DAVIS. I will not consent myself to the arrangement that the vote shall be taken at five o'clock. I have no objection to the Senate continuing in session to-morrow until the question can be taken.

Mr. FESSENDEN. Then we may as well go on to-night.

Mr. HENDRICKS. I make one more proposition, and that is that this resolution be made the order of the day for twelve o'clock to-morrow, or immediately after the reading of the Journal, and that we finish it up before we adjourn. That will give one more hour, and we can certainly get through in six hours. We can as well sit it out to-morrow as to-night. I should be in favor of sitting here then. With that feeling I move that we adjourn.

The motion was not agreed to.

Mr. HENDERSON. I understand that an arrangement of this character will be satisfactory: that the vote be taken to-morrow at six o'clock. That is to say, the vote may be taken by four o'clock, but we shall certainly take the vote at six o'clock to-morrow. I understand the Senator from Kentucky wants about an hour, the Senator from Pennsylvania about an hour and a half, and the Senator from Delaware perhaps an hour or an hour and a half. Possibly we can take the vote by half past four o'clock, but I understand that Senators all agree that if the vote is not forced before six o'clock it may then be taken. ["Agreed."] If that be satisfactory, we can have it so understood.

Mr. FESSENDEN. I should like to know whether Senators are agreed on that, with the understanding that if other gentlemen take up

until six o'clock I shall have the privilege of a short reply if I deem it necessary, ["Certainly," "Certainly,"] and that will not be considered as opening the debate again.

Mr. HENDERSON. Let us have that understanding. ["Agreed."]

The PRESIDENT *pro tempore*. The motion before the Senate is that the further consideration of this resolution be postponed until to-morrow at one o'clock, and made the special order for that hour.

Mr. FESSENDEN. I should like to know, first, whether that is universally agreed to on the other side.

Mr. SHERMAN. We will sit it out to-morrow.

Mr. DAVIS. I understand that those who are opposed to the resolution are willing that the question shall be taken at six o'clock to-morrow, and if the gentleman from Maine wants any time afterwards, I suppose there will be no objection to his taking just such time as he wishes.

Mr. HENDERSON. And that the vote be taken at the close of his speech.

Mr. DAVIS. Yes, sir.

Mr. HENDERSON. That is satisfactory. ["Agreed."]

Mr. CLARK. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *March* 1, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

NATIONAL SAFE DEPOSIT COMPANY.

Mr. BLAINE, by unanimous consent, introduced a bill to incorporate the National Safe Deposit Company, of Washington, District of Columbia; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

RELIEF OF CHAMBERSBURG.

Mr. COFFROTH. I ask unanimous consent to submit the following resolution:

Whereas the citizens of Chambersburg, Pennsylvania, were assessed with an internal revenue tax for the year 1864, and the said tax was collected from the said citizens after the town of Chambersburg had been burned by the rebel army commanded by the notorious and fiendish General McCauslin: Therefore,

Be it resolved, That the Committee of Ways and Means be, and are hereby, instructed to report, by bill or otherwise, an act for the relief of such persons whose property was burned, or whose business was destroyed or suspended by the burning of said town, by refunding to said citizens the amount of the internal revenue tax they paid for said year.

Mr. WASHBURNE, of Illinois. That resolution is mandatory upon the committee as it now reads. It should be modified so as to instruct the committee to inquire into the expediency of doing so and so.

Mr. COFFROTH. I have no objection to that modification.

The resolution was modified accordingly; and as modified it was agreed to.

PACIFIC RAILROAD.

Mr. PRICE, from the Committee on the Pacific Railroad, reported back House bill No. 138, to lay out and construct a railroad and telegraph line from the city of Portland, in Oregon, to the Central Pacific railroad, with a substitute; and the substitute was ordered to be printed, and, with the bill, was recommitted to the committee.

LAND GRANT FOR MICHIGAN RAILROADS.

Mr. TROWBRIDGE, by unanimous consent, introduced a bill to amend an act entitled "An act making a grant of lands to the State of Michigan, in alternate sections, to aid in the construction of railroads in said State, and for other purposes," approved June 3, 1856, and supplemental thereto; which was read a first and second time, and referred to the Committee on Public Lands.

NATIONAL CAPITAL INSURANCE COMPANY.

Mr. MERCUR, by unanimous consent, introduced a bill to incorporate the National Capital Insurance Company; which was read a first and second time, and referred to the Committee for the District of Columbia.

DUTY ON PAPER.

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

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of reducing the duty on paper, and that they report by bill or otherwise.

PORTAGE LAKE SHIP-CANAL.

Mr. DAVIS presented the joint resolution of the Legislature of the State of New York, relative to a ship-canal from Portage Lake to Lake Superior, across the base of Keweenaw Point; which was referred to the Committee on Public Lands, and ordered to be printed.

Mr. WASHBURNE, of Illinois. Cannot all these bills and joint resolutions be introduced on Monday next?

The SPEAKER. On next Monday, during the morning hour, States and Territories will be called for bills and joint resolutions on leave.

Mr. WASHBURNE, of Illinois. Then I object to any more being introduced now.

LEAVE OF ABSENCE.

Mr. DELANO. I ask leave of absence for my colleague, Mr. CLARKE, who has been compelled to return home.

Leave was accordingly granted.

RIGHTS OF CITIZENS.

Mr. WILSON, of Iowa. I now call up the motion I made a few days since to reconsider the vote of the House, referring to the Committee on the Judiciary Senate bill No. 61, to protect all persons in the United States in their civil rights, and to furnish the means for their vindication; and upon that motion I call the previous question.

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

The question recurred upon the motion to refer the bill to the Committee on the Judiciary.

Mr. WILSON, of Iowa. I now withdraw that motion.

The House then proceeded to the consideration of the bill.

Mr. WILSON, of Iowa. This bill has been considered by the Committee on the Judiciary, and I have been instructed by that committee to offer several amendments to it. The first amendment is in the seventh line of the first section, to strike out the words "inhabitants of" and insert the words "citizens of the United States in;" so that that portion will read:

There shall be no discrimination in civil rights or immunities among the citizens of the United States in any State or Territory, &c.

This amendment is intended to confine the operation of this bill to citizens of the United States, instead of extending it to the inhabitants of the several States, as there seems to be some doubt concerning the power of Congress to extend this protection to such inhabitants as are not citizens.

I demand the previous question on the amendment.

Mr. BINGHAM. I hope that the previous question will not be seconded until I can have an opportunity to offer a further amendment.

The SPEAKER. The gentleman from Iowa [Mr. WILSON] proposes, as the Chair understands, to perfect the bill by offering these amendments, after which the whole bill will be before the House.

Mr. BINGHAM. Very well.

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

Mr. WILSON, of Iowa. I move further to amend, as follows:

In line nine, strike out the words "but the inhabitants," and insert in lieu thereof the words "and such citizens;" so that the clause will read, "and such citizens of every race and color."

The amendment was agreed to.

Mr. WILSON, of Iowa. I offer the following amendment, not as coming from the committee, but because it is necessary to perfect the amendment already offered:

Insert after the word "property," in line fifteen of the first section, the words "as is enjoyed by white citizens;" so that the clause will read:

Shall have the same right to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, as is enjoyed by white citizens.

The amendment was agreed to.

Mr. WILSON, of Iowa. I move further to amend as follows:

On page 3, in lines fifteen and sixteen, strike out the words "enlarge the powers of the Freedmen's Bureau," and insert in lieu thereof the words "establishing a Bureau for the Relief of Freedmen and Refugees, and all acts amendatory thereof."

The amendment was agreed to.

Mr. WILSON, of Iowa. I now desire, Mr. Speaker, to enter a motion to recommit the bill.

Mr. BINGHAM. Is that designed to cut off amendments?

The SPEAKER. It will have that effect.

Mr. BINGHAM. Then I object.

The SPEAKER. The gentleman from Iowa has the right to enter the motion.

Mr. WILSON, of Iowa. The gentleman from Ohio will understand what I propose, before I get through.

Mr. BINGHAM. I only want to know whether the gentleman makes that motion for the purpose of cutting off further amendments?

Mr. WILSON, of Iowa. The motion does have that effect for the present.

Mr. Speaker, I desire to bring this bill to a vote to-morrow after the morning hour, and I hope that the House will second my endeavor to accomplish this object. As there are many other measures of great importance demanding the action of the House, I trust that we shall so conduct the discussion on this bill as to get it out of the way as speedily as possible, that we may proceed with the other business before us.

Mr. Speaker, the importance of this bill, the magnitude of the questions involved in it, the objects sought to be reached and secured by it, will insure for it the most deliberate consideration of this House. Few measures of graver import have ever commanded the attention of Congress. It is a very positive bill, and I expect it to meet with most positive opposition, but I believe it will survive this and triumph.

Some of the questions presented by this bill are not entirely free from difficulties. Precedents, both judicial and legislative, are found in sharp conflict concerning them. The line which divides these precedents is generally found to be the same which separates the early from the later days of the Republic. The further the Government drifted from the old moorings of equality and human rights, the more numerous became judicial and legislative utterances in conflict with some of the leading features of this bill.

The Committee on the Judiciary bestowed on this subject a degree of careful examination which we believe will enable us to maintain successfully our conclusions both as to the propriety and constitutionality of this measure.

The first section of the bill contains the following declaration concerning citizenship:

That all persons born in the United States and not subject to any foreign Power, excluding Indians not taxed, are hereby declared to be citizens of the United States without distinction of color.

This provision, I maintain, is merely declaratory of what the law now is. This, I presume, would not be disputed if the language were qualified by the presence of the word "white." In the absence of this word, I am sure that my proposition will be disputed by every member of this House who believes that this Government is exclusively a "white man's Government." I think this question of sufficient im-

portance to justify me in giving it something more than a mere passing notice.

Blackstone says:

"The first and most obvious division of the people is into aliens and natural-born subjects. Natural-born subjects are such as are born within the dominions of the Crown of England; that is, within the ligeance, or, as it is generally called, the allegiance of the king; and aliens are such as are born out of it."—*Sharswood's Blackstone*, vol. 1, p. 364.

The principle here laid down applies to this country as well as to England. It makes a man a subject in England, and a citizen here, and is, as Blackstone declares, "founded in reason and the nature of government."

The English law made no distinction on account of race or color in declaring that all persons born within its jurisdiction are natural-born subjects; nor does it do so in regard to naturalization. This law bound the colonies before the Revolution, and was not changed afterward.

The Constitution of the United States recognizes the division of the people into the two classes named by Blackstone—natural-born and naturalized citizens. It speaks of "natural-born" citizens, and also provides for the establishment of "a uniform rule of naturalization" by Congress. But in neither case does it apply race or color as a limitation on citizenship; and Congress, when it came to establish a uniform rule of naturalization, recognized by implication the citizenship of the native-born negro by providing "that any alien, being a free white person, may be admitted to become a citizen of the United States," &c. Why use the word "white" in this way if a negro cannot be a citizen of the United States? If he is excluded from citizenship because of his race or color, though born within our jurisdiction and on our own soil, could Congress make him a citizen by naturalization? If he could not be born a citizen could he be legislated into one? No one, I presume to say, will assume the affirmative of this question. But unless some one will affirm this absurdity we have in the naturalization act of April 14, 1802, that which amounts to an unqualified declaration that a negro may be a citizen of the United States; for in the first section of that act it is provided:

"That any alien who was residing within the limits, and under the jurisdiction of the United States, before the 29th day of January, 1795, may be admitted to become a citizen on due proof made to some one of the courts aforesaid; that he has resided two years at least within and under the jurisdiction of the United States, and one year at least immediately preceding his application within the State or Territory where such court is at the time held."

No one can doubt that an alien African could be naturalized under this part of the act of 1802, who was residing in the United States prior to the 29th day of January, 1795. Well, if Africans naturalized under this law should have had children born to them, will any person say that such children would be less citizens than their parents? The parents being citizens of the United States by naturalization, would it not follow that children born to them would be citizens by birth? I apprehend that it will not be claimed by any one that the children of naturalized citizens of the United States do not partake of the citizenship of their parents.

The act of February 28, 1803, provides that:

"No master or captain of any ship or vessel, or any other person, shall import or bring, or cause to be imported or brought, any negro, mulatto, or other person of color, not being a native, a citizen, or registered seaman of the United States, or seamen natives of countries beyond the Cape of Good Hope, into any port or place of the United States, which port or place shall be situated in any State which by law has prohibited, or shall prohibit, the admission or importation of such negro, mulatto, or other person of color."—*Brightly's Digest*, p. 487.

This is a very direct admission by the law-making power of the Government that a negro may be a citizen of the United States. Ship-masters are prohibited from bringing into any State described in the section of the act quoted any negro who is not either a native or a citizen of the United States. If no negro could be a citizen, why use this language? Why use the term citizen as a descriptive term if the persons described cannot be citizens of the United States? Let him answer who can.

Section ten of the act of September 4, 1841, says:

"That from and after the passage of this act, every person being the head of a family, or widow, or single man, over the age of twenty-one years, and being a citizen of the United States, or having filed his intention to become a citizen, as required by the naturalization laws, who since the 1st day of June, A.D. 1840, has made or shall hereafter make a settlement in person on the public lands to which the Indian title had been at the time of such settlement extinguished, and which has been or shall have been surveyed prior thereto, and who shall inhabit and improve the same; and who has or shall erect a dwelling thereon, shall be, and is hereby, authorized to enter with the register of the land office of the district in which such land may lie, by legal subdivisions, any number of acres not exceeding one hundred and sixty, or a quarter section of land, to include the residence of such claimant, upon paying to the United States the minimum price of such land," &c.—*United States Statutes-at-Large*, vol. 5, p. 455.

Under this section a colored man made application to preëmpt land in the State of Illinois. The Secretary of the Treasury, Hon. John C. Spencer, submitted to the Attorney General of the United States, for his opinion, the question, can a free man of color be admitted to the privileges of a preëmptioner under the act of 4th September, 1841? On March 15, 1843, Mr. H. S. Legare, the then Attorney General, gave his opinion in writing, from which I quote the following:

"I have delayed giving an opinion on the subject, because I was desirous of bestowing upon it very deliberate consideration. The result is, that I am of opinion that a free man of color, a native of this country, may be admitted to the privileges of a pre-emptioner under the tenth section of the act of 4th September, 1841."—*Opinions of Attorneys General*, vol. 4, p. 147.

I am aware that the Attorney General tried to soften this opinion down by speaking of "denizens." But the statute says citizens. The law officer of the Government tells us that his opinion was given after "very deliberate consideration," and the law shows us that the limitation of citizenship was acting upon his deliberation. He gave in his opinion what every man must admit to be true, that a negro can be a citizen of the United States, and as such enjoy the privileges of a preëmptioner under the act of 1841. Besides this, Mr. Legare was well aware that—

"A denizen is an alien born who has obtained or *donatione regis* letters patent to make him an English subject, and that in the United States there is no such civil condition."—*Bouvier's Law Dictionary*, vol. 1, title Denizen.

And further, that—

"Citizens, under our Constitution and laws, mean free inhabitants, born within the United States or naturalized under the law of Congress."—*Kent's Commentaries*, vol. 2, p. 278, note.

Hence the free negro upon whose case the opinion was given became a preëmptioner because he was a native-born citizen of the United States.

On this question of citizenship, Mr. Marcy, while he was Secretary of State, in a note dated March 6, 1854, expressed himself as follows:

"Although in general it is not the duty of the Secretary of State to express opinions of law, and doubts may be entertained of the expediency of making an answer to your inquiries an exception to this rule, yet I am under the impression that every person born in the United States must be considered a citizen of the United States, notwithstanding one or both of his parents may have been alien at the time of his birth."

I quote this not to claim that it was written concerning a colored person, but for the purpose of showing how broad the rule is which Mr. Marcy affirmed. Every person born in the United States must include negroes, for they are persons and are born in the United States; and I submit that, under the rule thus laid down, all such persons "must be considered citizens of the United States."

I know, Mr. Speaker, that Mr. Marcy subsequently modified this opinion, at least a letter written by his Assistant Secretary, Mr. Thomas, to Mr. Rice, of New York, of date November 4, 1856, substantially affirms that negroes "are not citizens of the United States." This change of opinion may not be without a solution. The first letted is dated March 6, 1854, the second November 4, 1856; between these two dates an important political event occurred. The Kansas-Nebraska bill passed Congress in May, 1854, receiving the approval of President Pierce on the 30th day of that month. This act was full of trouble to the Democratic party; and the leaders of that organization became very anxious to have the question of slavery, so far as it related to the Territories and the *status* of negroes, adjudged and "settled" by the Supreme Court of the United States. The case of Dred Scott *vs.* Sanford found its way to the docket of that court, and was argued the first time at the December term, 1855, and ordered to be reargued at the December term, 1856. It was not safe to cast the monstrosities of that decision into the presidential campaign of 1856. The Democratic party had all it could carry without the abominations which the end of that case was destined to disclose. The case was held over, Buchanan was elected, and then the leaders of the party were ready to let slip the pestilent doctrines of the Dred Scott case.

No one now doubts that the leaders of the Democratic party knew what was to come out of that case in the form of aid and comfort to them. Buchanan doubtless knew what it would be, for in his inaugural address, delivered March 4, 1857, in speaking of the slavery question, he says:

"This is, happily, a matter of but little practical importance. Besides, it is a judicial question which legitimately belongs to the Supreme Court of the United States, before whom it is now pending, and will, it is understood, be speedily and finally settled. To their decision, in common with all good citizens, I shall cheerfully submit."—*Senate Journal*, 1856-57, p. 378.

The opinion of the court was soon after given to the country, but instead of becoming a triumphant platform for the Democratic party, it proved to be the scaffold on which the party was executed. These facts, taken in their proper relation to each other, may explain the change which transpired in the Department of State between the 6th day of March, 1854, and the 4th day of November, 1856. The first opinion was an honest and true statement of the law, the latter a mere partisan subterfuge.

The ablest and most exhaustive opinion ever given on the subject of negro citizenship by any law officer of the Government is that of Attorney General Bates, of date November 29, 1862. This opinion was called for by the Secretary of the Treasury, Hon. S. P. Chase, by a letter from which the following extract is taken:

"The schooner Elizabeth and Margaret, of New Brunswick, is detained by the revenue cutter Tiger at South Amboy, New Jersey, because commanded by a 'colored man,' and so by a person not a citizen of the United States; as colored masters are numerous in our coasting trade, I submit for your opinion the question suggested by Captain Martin of the Tiger: are colored men citizens of the United States, and therefore competent to command American vessels?"

No ship or vessel can be deemed a ship or vessel of the United States unless wholly owned by a citizen or by citizens of the United States, nor unless commanded by a citizen of the United States, and no American registry can be granted to any ship or vessel until after the filing with the proper officer of the Government affidavits stating that the entire ownership vests in a citizen or citizens of the United States, and that the commander is a citizen. (Act of December 31, 1792; Brightly's Digest, page 823.)

From this statement of the law it will be seen that the question propounded by Secretary Chase to the Attorney General was of the highest importance to the shipping and commercial interests of the country. Many vessels engaged in the coasting trade were commanded by colored men; many vessels were owned in whole or in part by colored men, and all such would forfeit their American registry and character if the colored men interested as owners or commanders were not citizens of the United States; for the first section of the act of 1792 expressly provides that they shall not continue to enjoy the benefits and privileges of ships and vessels of the United States "longer than they shall continue to be wholly owned and to be commanded by a citizen or citizens of the said States." And the fourth section of said act provides as a penalty for a false statement of the facts to be set out in the oath required by said section, among which facts so required is the citizenship of the owner

and commander, "a forfeiture of the ship or vessel," &c. Under this law it was held in the case of the Venus "that if two part owners own jointly a commercial house in New York and one of them obtains an American register for a ship by swearing that he, together with his partner, of the city of New York, are the only owners of the vessel for which the register is obtained, when in fact his partner is domiciled in England, the vessel is liable to forfeiture," and it was forfeited. (8 Cranch R., page 253.)

Attorney General Bates fully appreciated the importance of the question submitted to him for his opinion by the Secretary of the Treasury, and devoted to it a most careful and painstaking examination. This is amply evidenced by the elaborateness of the opinion and by the ability manifested in every one of its twenty-seven pages. I might with profit draw largely from the pages of this opinion in support of the position I maintain, but the time allotted me by the rules of the House constrains me to confine myself to quoting the conclusion arrived at by the author of this able paper. It is in these words:

"And now, upon the whole matter, I give it as my opinion that the free man of color mentioned in your letter, if born in the United States, is a citizen of the United States, and if otherwise qualified, is competent, according to the acts of Congress, to be master of a vessel engaged in the coasting trade."

Here I might let this branch of the case rest, for it is known to every member of this House that every department of the Government is now following the lead of the doctrine supported by the authorities I have cited; but, sir, I feel unwilling to omit some others that I have examined.

It is in vain we look into the Constitution of the United States for a definition of the term "citizen." It speaks of citizens, but in no express terms defines what it means by it. We must depend on the general law relating to subjects and citizens recognized by all nations for a definition, and that must lead us to the conclusion that every person born in the United States is a natural-born citizen of such States, except it may be that children born on our soil to temporary sojourners or representatives of foreign Governments, are native-born citizens of the United States. Thus it is expressed by a writer on the Constitution of the United States:

"Every person born within the United States, its Territories, or districts, whether the parents are citizens or aliens, is a natural-born citizen in the sense of the Constitution, and entitled to all the rights and privileges appertaining to that capacity."—*Rawle on the Constitution*, p. 80.

And this writer continues, as if he intended a refutation of the position assumed by some persons at this time, that a negro is neither a citizen nor an alien, but a mere person with no definable national character, and adds:

"It is an error to suppose, as some have done, that a child is born a citizen of no country, and subject of no Government, and that he so continues till the age of discretion, when he is at liberty to put himself under what Government he pleases."—*Pages* 80, 81.

No nation, I believe, ever did recognize this absurd doctrine; and the only force it ever had in this country, was that given it by the Democratic party which used the negro as a foot-ball for partisan games. The growing importance of the colored race in the United States, now that the entire race is free, will soon cause even the Democratic party to abandon the indefensible position it occupies on this question. That we have six million persons in this Government subject to its laws, and liable to perform all the duties and support all the obligations of citizens, and yet who are neither citizens nor aliens, is an absurdity which cannot survive long in the light of these days of progressive civilization.

It will not be denied by any one, I presume, that the English doctrine which claims as a subject every person born within the jurisdiction of the Crown, made negroes born in the colonies out of which the original thirteen States were created, British subjects; nor will it be contended that they were not citizens of the States after the States threw off their allegiance to the mother country, and being citizens of the States that they became, on the establishment of the Government of the United States, citizens of the United States. A very clear statement of this doctrine occurs in the case of the State *vs.* Manuel, 3 Devereaux & Battle's N. C. R., page 26, in these words:

"The term 'citizen' as understood in our law is purely analogous to the term subject in the common law, and the change of phrase has entirely resulted from the change of government. The sovereignty has been transferred from one man to the collective body of the people, and he who before was a 'subject of the king is now a citizen of the State.'"

This position is maintained by Rawle on the Constitution, page 80; Kent's Commentaries, volume two, lecture twenty-five; Lawrence's Appendix to Wheaton on International Law. I might multiply authorities, but I have referred to enough for my purpose. By our law colored persons are citizens of the United States. Of this there can be no reasonable doubt; and we have been too tenaciously devoted to the doctrine "once a citizen always a citizen" to strike out of our column of citizens six million persons in obedience to any such political irrationality as lies buried in the Dred Scott case.

But, sir, suppose I should admit for the sake of an argument that negroes are not citizens, would that be an objection to the power of Congress to enact the provision of this bill to which I have called the attention of the House? If they are not citizens may we not naturalize them? If this can be done, then in either view of the case the provision of the bill which I am now discussing is proper, and is not obnoxious to the objection that we do not possess the power to pass it.

The Constitution, in article one, section eight, provides that Congress shall have power "to establish a uniform rule of naturalization." This does not mean that the power of Congress exhausts itself by being once used, nor that there can be but one rule, nor that the rule established must provide that the naturalization shall be by action upon single or individual cases, nor yet that only foreigners can be thus made citizens. The practice of the Government is against all these positions. The rule must be uniform in its operation upon the class affected by it, and must not be confined in terms in its operation to any particular State or district of country, except when it operates only on a particular class of persons who may be occupying a limited district of country. Several statutes, establishing as many different rules, each uniform in itself, have been enacted on this subject. Most of these rules provide for the naturalization by individual cases:

"But a collective naturalization may also take place, of a class of persons, natives of the country or otherwise, and who, without any act on the part of the individuals, may be made citizens."—*Lawrence's Appendix to Wheaton on International Law; Opinion of Attorney General Cushing, in Opinions of Attorneys General*, vol. 7, p. 746.

The power thus to naturalize collectively has been exercised in several instances by the Government. The most striking case is that which is found in the act of March 3, 1843, in which it is provided that the

"Stockbridge tribe of Indians, and each and every of them, shall be deemed to be, and from that time declared to be, citizens of the United States."

Mr. Speaker, these authorities are sufficient upon this point, and I will leave the question of citizenship as presented in the first part of this section, and call the attention of the House to the next proposition of the section as proposed to be amended by the committee. It is in these words:

There shall be no discrimination in civil rights or immunities among citizens of the United States in any State or Territory of the United States on account of race, color, or previous condition of slavery; and such citizens of every race and color, without regard to any previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall have the same right to make and enforce contracts, to sue, be parties and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of person and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, and penalties, and to none other, any law, statute, ordinance, regulation, or custom, to the contrary notwithstanding.

This part of the bill will probably excite more opposition and elicit more discussion than any other; and yet to my mind it seems perfectly defensible. It provides for the equality of citizens of the United States in the enjoyment of "civil rights and immunities." What do these terms mean? Do they mean that in all things civil, social, political, all citizens, without distinction of race or color, shall be equal? By no means can they be so construed. Do they mean that all citizens shall vote in the several States? No; for suffrage is a political right which has been left under the control of the several States, subject to the action of Congress only when it becomes necessary to enforce the guarantee of a republican form of government. Nor do they mean that all citizens shall sit on the juries, or that their children shall attend the same schools. These are not civil rights or immunities. Well, what is the meaning? What are civil rights? I understand civil rights to be simply the absolute rights of individuals, such as—

"The right of personal security, the right of personal liberty, and the right to acquire and enjoy property." "Right itself, in civil society, is that which any man is entitled to have, or to do, or to require from others, within the limits of prescribed law."—*Kent's Commentaries*, vol. 1, p. 199.

To use the language of Attorney General Bates, in the opinion already cited, "The word rights is generic, common, embracing whatever may be lawfully claimed." The definition given to the term "civil rights" in Bouvier's Law Dictionary is very concise, and is supported by the best authority. It is this:

"Civil rights are those which have no relation to the establishment, support, or management of government."

From this it is easy to gather an understanding that civil rights are the natural rights of man; and these are the rights which this bill proposes to protect every citizen in the enjoyment of throughout the entire dominion of the Republic.

But what of the term "immunities?" What is an immunity? Simply "freedom or exemption from obligation;" an immunity is "a right of exemption only," as "an exemption from serving in an office, or performing duties which the law generally requires other citizens to perform." This is all that is intended by the word "immunities" as used in this bill. It merely secures to citizens of the United States equality in the exemptions of the law. A colored citizen shall not, because he is colored, be subjected to obligations, duties, pains, and penalties from which other citizens are exempted. Whatever exemptions there may be shall apply to all citizens alike. One race shall not be more favored in this respect than another. One class shall not be required to support alone the burdens which should rest on all classes alike. This is the spirit and scope of the bill, and it goes not one step beyond.

Mr. Speaker, I think I may safely affirm that this bill, so far as it declares the equality of all citizens in the enjoyment of civil rights and immunities, merely affirms existing law. We are following the Constitution. We are reducing to statute form the spirit of the Constitution. We are establishing no new right, declaring no new principle. It is not the object of this bill to establish new rights, but to protect and enforce those which already belong to every citizen. I am aware, sir, that this doctrine is denied in many of the States; but this only proves the necessity for the enactment of the remedial and protective features of this bill. If the States would all observe the rights of our citizens, there would be no need of this bill. If the States would all practice the constitutional declaration, that

"The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States." (*Article four, section two, Constitution of the United States,*)

and enforce it, as meaning that the citizen has

"The right of protection by the Government, the enjoyment of life and liberty, with the right to acquire and possess property of every kind, and to pursue and obtain happiness and safety; to claim the benefit of the writ of *habeas corpus*; to institute and maintain actions of any kind in the courts of the State; to take, hold, and dispose of property, either

real or personal; to be exempt from higher taxes or impositions than are paid by the other citizens of the State." (*Corfield* vs. *Coryell*, 4 *Washington's Circuit Court Reports*, p. 380.)

we might very well refrain from the enactment of this bill into a law. If they would recognize that "general citizenship" (Story on the Constitution, volume two, page 604) which under this clause entitles every citizen to security and protection of personal rights, (Campbell *vs.* Morris, 3 Harris & McHenry, 535,) we might safely withhold action. And if above all, Mr. Speaker, the States should admit, and practice the admission, that a citizen does not surrender these rights because he may happen to be a citizen of the State which would deprive him of them, we might, without doing violence to the duty devolved upon us, leave the whole subject to the several States. But, sir, the practice of the States leaves us no avenue of escape, and we must do our duty by supplying the protection which the States deny.

Mr. Speaker, if all our citizens were of one race and one color we would be relieved of most of the difficulties which surround us. This bill would be almost, if not entirely, unnecessary, and if the States, seeing that we have citizens of different races and colors, would but shut their eyes to these differences and legislate, so far at least as regards civil rights and immunities, as though all citizens were of one race and color, our troubles as a nation would be well-nigh over. But such is not the case, and we must do as best we can to protect our citizens, from the highest to the lowest, from the whitest to the blackest, in the enjoyment of the great fundamental rights which belong to all men.

It will be observed that the entire structure of this bill rests on the discrimination relative to civil rights and immunities made by the States on "account of race, color, or previous condition of slavery." That these things should not be is no answer to the fact of their existence. That the result of the recent war, and the enactment of the measures to which the events of the war naturally led us, have intensified the hate of the controlling class in the insurgent States toward our colored citizens is a fact against which we can neither shut our ears nor close our eyes. Laws barbaric and treatment inhuman are the rewards meted out by our white enemies to our colored friends. We should put a stop to this at once and forever. And yet I would not do this in a way which would deprive a white man of a single right to which he is entitled. I would merely enforce justice for all men; and this is lawful, it is right, and it is our bounden duty.

In order to accomplish this end it is necessary to fortify the declaratory portions of this bill with such sanctions as will render it effective. The first of these is found in the second section, and in these words:

SEC. 2. *And be it further enacted*, That any person who, under color of any law, statute, ordinance, regulation, or custom, shall subject, or cause to be subjected, any inhabitant of any State or Territory to the deprivation of any right secured or protected by this act, or to different punishment, pains, or penalties on account of such person having at any time been held in a condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, or by reason of his color or race, than is prescribed for the punishment of white persons, shall be deemed guilty of a misdemeanor, and on conviction shall be punished by a fine not exceeding $1,000, or imprisonment not exceeding one year, or both, in the discretion of the court.

Now, sir, unless I am mistaken in all that I have said up to this point, our power to enact this section cannot be questioned. If citizens of the United States, as such, are entitled to possess and enjoy the great fundamental civil rights which it is the true office of Government to protect, and to equality in the exemptions of the law, we must of necessity be clothed with the power to insure to each and every citizen these things which belong to him as a constituent member of the great national family. But it may be urged that we can exercise only such powers as are delegated by express provision of the Constitution or arise by implication from its express provisions. And following this may come the demand for the express or implied powers to support this and the subsequent sections of this bill.

Well, sir, as to those citizens who may be in danger of being subjected to slavery or involuntary servitude, I answer that the express power supporting this measure may be found in the following provision of the Constitution:

"SEC. 1. Neither slavery nor involuntary servitude, except as punishment of crime whereof the party shall have been duly convicted, shall exist in the United States, or in any place subject to their jurisdiction.

"SEC. 2. Congress shall have power to enforce this article by appropriate legislation."

Here, certainly, is an express delegation of power. How shall it be exercised? Who shall select the means through which the office of this power shall effect the end designed by the people when they placed this provision in the Constitution? Happily, sir, we are not without light on these questions from the Supreme Court. In the celebrated case of McCulloch *vs.* The State of Maryland, Chief Justice Marshall, in delivering the opinion of the court, says:

"We admit, as all must admit, that the powers of the Government are limited, and that its limits are not to be transcended. But we think the sound construction of the Constitution must allow to the national Legislature that discretion with respect to the means by which the powers it confers are to be carried into execution, which will enable that body to perform the high duties assigned to it in the manner most beneficial to the people. Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the Constitution, are constitutional."—4 *Wheaton's Reports*, p. 420.

Who will say that the means provided by this second section of the bill are not appropriate for the enforcement of the power delegated to Congress by the second section of the amendment abolishing slavery, which I have quoted? The end is legitimate, because it is defined by the Constitution itself. The end is the maintenance of freedom to the citizen. What means more appropriate could be selected than that which punishes a man by commonly inflicted punishments through the ordinary channels of the law and the courts for depriving the citizen of those rights which, while he enjoys them, are his sure defense against efforts to reduce him to slavery? A man who enjoys the civil rights mentioned in this bill cannot be reduced to slavery. Anything which protects him in the possession of these rights insures him against reduction to slavery. This settles the appropriateness of this measure, and that settles its constitutionality.

Of the necessity of the measure Congress is the sole judge. This is clearly announced in the case just cited, and in this language:

"Where the law is not prohibited, and is really calculated to effect any of the objects intrusted to the Government, to undertake here to inquire into the degree of its necessity, would be to pass the line which circumscribes the judicial department and to tread on legislative ground."—*Page* 423.

If this bill shall pass both Houses and become a law, that fact of itself determines the question of necessity, and from this decision there is no appeal except to another Congress. This is the doctrine of the Constitution, as declared by the highest judicial tribunal known to our laws.

Mr. Speaker, I have endeavored to show that this bill provides means for the execution of the power delegated to us appropriate to the end designed by the Constitution. I may not have succeeded in convincing all that my position is correct, and some may claim that this particular mode of enforcing the power is in some way excepted from the broad field of our choice of means. Sir, the establishment of this exception must be the work of those who suggest it. Nor do I make this assertion without high authority for it. In the same case from which I have quoted the court said:

"The Government which has a right to do an act, and has imposed on it the duty of performing that act, must, according to the dictates of reason, be allowed to select the means; and those who contend that it may not select any appropriate means, that one particular mode of effecting the object is excepted, take upon themselves the burden of establishing that exception."—*Page* 409.

Here, sir, I may safely rest this branch of my justification of this bill. Let those who may claim that this mode of enforcing the power granted to us for effecting the object the people had in view when they placed the abolition amendment in the Constitution, is excepted from our grand range of choice, assume their burden and establish the exception. I am content to leave that branch of the work to them.

The remaining sections of the bill are aids to what has gone before, and I will not spend time in discussing them. Suffice it to say that they are based on the act of September 18, 1850, commonly known as the "fugitive slave law," the constitutionality of which has been affirmed over and over again by the courts. (*Vide* 5 McLean, Rep., 469; 2 Paine, C. C. 348; 16 Barbour, 268; 7 Cushing, Mass., 285.) And, sir, I am not willing that all of these precedents, legislative and judicial, which aided slavery so long, shall now be brushed into oblivion when freedom needs their assistance. Let them now work out a proper measure of retributive justice by making freedom as secure as they once made slavery hateful. I cannot yield up the weapons which slavery has placed in our hands now that they may be wielded in the holy cause of liberty and just government. We will turn the artillery of slavery upon itself.

But, sir, this bill may have a broader application than that which would reach the cases of persons designed to be protected by the delegation of power contained in the amendment of the Constitution upon which I have commented. If it does reach beyond these cases, and in its enlarged operation step out of the bounds of this express delegation of power, upon what, in this more extended sphere, must it rely for support?

I have already said, "If citizens of the United States, as such, are entitled to possess and enjoy the great fundamental civil rights which it is the true office of Government to protect, and to equality in the exemptions of the law, we must of necessity be clothed with the power to insure to each and every citizen these things which belong to him as a constituent member of the great national family." Whatever these great fundamental rights are, we must be invested with power to legislate for their protection or our Constitution fails in the first and most important office of government.

What are these rights? Certainly they must be as comprehensive as those which belong to Englishmen. And what are they? Blackstone classifies them under three articles, as follows:

1. The right of personal security; which, he says,

"Consists in a person's legal and uninterrupted enjoyment of his life, his limbs, his body, his health, and his reputation."

2. The right of personal liberty; and this, he says,

"Consists in the power of locomotion, of changing situation, or moving one's person to whatever place one's own inclination may direct, without imprisonment or restraint, unless by due course of law."

3. The right of personal property; which he defines to be,

"The free use, enjoyment, and disposal of all his acquisitions, without any control or diminution, save only by the laws of the land."—*Sharswood's Blackstone*, vol. 1, chap. 1.

In his lecture on the absolute rights of persons, Chancellor Kent (Kent's Commentaries, volume one, page 599) says:

"The absolute rights of individuals may be resolved into the right of personal security, the right of personal liberty, and the right to acquire and enjoy property. These rights have been justly considered, and frequently declared, by the people of this country, to be natural, inherent, and inalienable."

Thus, sir, we have the English and American doctrine harmonizing. The great fundamental rights are the inalienable possession of both Englishmen and Americans; and I will not admit that the British constitution excels the American Constitution in the amplitude of its provisions for the protection of these rights. Our Constitution is not a mockery; it is the never-failing fountain of power from whence we may draw our justification for the passage of this bill; for there is no right enumerated in it by general terms or by specific designation which is not definitely embodied in one of the rights I have mentioned, or results as an inci-

dent necessary to complete defense and enjoyment of the specific right.

Now, sir, I reassert that the possession of these rights by the citizen raises by necessary implication the power in Congress to protect them. If a citizen of the United States should go abroad, and while within the jurisdiction of a foreign Power be despoiled of his rights of personal security, personal liberty, or personal property contrary to the due course of law of the nation inflicting the wrong, this Government would espouse his cause and enforce redress even to the extremity of war.

It may be said this case is provided for by the Constitution, when it declares that Congress shall have power "to declare war;" and in a certain sense this is true. But it must be remembered that the Constitution does not provide in detail how the war when once declared shall be carried on. It leaves that to Congress as the law-making power and the President as the executive power of the Government. Through these redresses for wrongs suffered by our citizens at the hands of another nation may be enforced. Well, if all the terrible powers of war may be resorted to for the protection of the rights of our citizens when those rights are disregarded and trampled on beyond our jurisdiction, is it possible that our Constitution is so defective that we have no power under it to protect our citizens within our own jurisdiction through the peaceful means of statutes and courts?

[Here the hammer fell.]

Mr. ROGERS obtained the floor.

Mr. DAVIS. I hope that, by unanimous consent, the gentleman from Iowa will be allowed sufficient time to conclude his remarks.

There was no objection.

Mr. SHANKLIN. Mr. Speaker, would it be in order at this time to move an amendment?

The SPEAKER. A motion to recommit has been made, which, while pending, precludes any motion to amend.

Mr. SHANKLIN. I ask the gentleman from Iowa to withdraw that motion to allow me to offer an amendment.

Mr. WILSON, of Iowa. I prefer at present to conclude my remarks.

Mr. Speaker, I assert that the only office of that clause in the Constitution which says that Congress shall have power to declare war, is to determine what particular department of the Government shall discharge the high duty of determining when the nation shall assert its rights through the terrible engineries of war; and that if the Constitution said not a word about declaring war, raising armies, and providing a navy, the nation would possess the power to do all these things as completely as it now does. The nation could not live without these powers. They vest in it simultaneously with its organization. They are a part of its being, and depend not upon any phrases in the Constitution. These clauses being in the Constitution prevent conflicts between the several departments of the Government as to which particular department shall exercise these inherent powers of Government. They do this and nothing more. Thus it will be perceived that the delegation of the war power to Congress does not militate against the exercise of the power in the absence of such delegation. The power exists without this delegation, and the Constitution provides a legislative department and an executive department through which it may be fully exercised, and determines no question concerning it other than that which names one of these two departments to fix the time when the power shall be called into action. When we call this power into action we do, in pursuance of the laws of war, summarily and by force, those things which in time of peace are done in obedience to civil law as administered by the courts.

For nearly five years we have been exercising these powers for the preservation of the life of the Republic, the enforcement of our laws, and the protection of the rights of our citizens within our own jurisdiction. We are still exercising them, although armed resistance to our authority has ceased, and in spite of the assertion that the rebel States "still live" as States. Some of the acts which are now being done by virtue of this great power may be gathered from the following orders which are enforced to-day by military direction, namely:

[General Orders, No. 9.]

HEADQUARTERS DEPARTMENT OF LOUISIANA,
NEW ORLEANS, LOUISIANA, *January* 28, 1866.

The following General Order from the War Department is republished for the information and guidance of all concerned:

[General Orders, No. 3.]

WAR DEPARTMENT,
ADJUTANT GENERAL'S OFFICE,
WASHINGTON, *January* 12, 1866.

To protect persons against improper civil suits and penalties in late rebellious States:

Military division and department commanders, whose commands embrace or are composed of any of the late rebellious States, and who have not already done so, will at once issue and enforce orders protecting from prosecution or suits in the State or municipal courts of such State, all officers and soldiers of the armies of the United States, and all persons thereto attached, or in anywise thereto belonging, subject to military authority, charged with offenses for acts done in their military capacity, or pursuant to orders from proper military authority; and to protect from suit or prosecution all loyal citizens, or persons charged with offenses done against the rebel forces, directly or indirectly, during the existence of the rebellion; and all persons, their agents and employés, charged with the occupancy of abandoned lands or plantations, or the possession or custody of any kind of property whatever, who occupied, used, possessed, or controlled the same pursuant to the order of the President, or any of the civil or military departments of the Government, and to protect them from any penalties or damages that may have been or may be pronounced or adjudged in said courts in any of such cases; and also protecting colored persons from prosecutions in any of said States charged with offenses for which white persons are not prosecuted or punished in the same manner and degree.

By command of Lieutenant General Grant:

E. D. TOWNSEND,
Assistant Adjutant General.

1. All prosecutions and suits embraced in the foregoing order, pending in any court not of Federal jurisdiction, within the limits of this command, will at once be discontinued and set aside, and the records, process, pleadings, orders, decrees, judgments, and all papers relating to the same, forwarded to these headquarters for safe-keeping.

2. Whenever it shall appear that any suit or proceeding of the character mentioned is pending in a State court, in violation of this order, district commanders are authorized and required to give and enforce such orders as may be necessary and proper, reporting their action in each case, and the reason therefor, to these headquarters; but they are enjoined to take this action in a discreet and orderly manner, and with due respect to the judicial authorities before whom such cases are pending.

By order of Major General E. R. S. Canby:

WYCKHAM HOFFMAN,
Assistant Adjutant General.

Official: NATHANIEL BURBANK,
Acting Assistant Adjutant General.

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WAR DEPARTMENT,
BUREAU OF REFUGEES, FREEDMEN,
AND ABANDONED LANDS.
WASHINGTON, *November* 27, 1865.

GENERAL: As the suspension of the collection of the school-tax, in Circular 27 from your office, will work unjustly toward those who have paid their assessment, and as the bureau has no authority to revoke General Orders No. 38, series of 1864, headquarters department of the Gulf, Circular No. 27, current series, from the office of the assistant commissioner for the State of Louisiana, is disapproved, and the school-tax, as instituted in General Orders No. 38, will be collected. The schools must go on.

See General Canby and secure his assistance; and consult with him on subject of tax that the freedmen are willing to have imposed on themselves.

By order of Major General O. O. Howard:

MAX WOODHULL,
Colonel and Assistant Adjutant General.

Official copy: MAX WOODHULL,
Assistant Adjutant General.

Official: A. F. HAYDEN,
Captain and Assistant Adjutant General.

Brevet Major General A. BAIRD, *Assistant Commissioner, &c., New Orleans, Louisiana.*

Here we have a practical exemplification of the war power in the accomplishment within our own jurisdiction, for the protection of our citizens, of some of the very things which this bill proposes to secure through the powerful operations of the courts. By these orders, "State laws," "State courts," municipal ordinances and courts, are crushed and pushed out of the way to make room for the perfect enjoyment by the citizen of a portion of his rights. Taxes are levied and enforced, actions are discontinued, records removed, decrees and judgments of courts suspended and annulled, and everything done to make the summary remedy provided by military law swift, sure, and complete. These orders go far beyond the provisions of this bill, and yet who will question the authority of the Lieutenant General and his subordinates to issue and enforce them?

These things are done by a power which must be subordinate to the civil authority—done in the presence of war, actual or theoretical. Many of the things in these orders provided, as I have remarked, go far beyond the scope of this bill, but are directed to the same end, the protection of the citizen. Cannot this protection be rendered in the mode prescribed by the measure we now have under consideration? If not, a perpetual state of constructive war would be a great blessing to very many American citizens. If a suspension of martial law and a restoration of the ordinary forms of civil law are to result in a subjection of our people to the outrages under the operation of State laws and municipal ordinances which these orders now prevent, then it were better to continue the present state of affairs forever. But such is not the case; we may provide by law for the same ample protection through the civil courts that now depends on the orders of our military commanders; and I will never consent to any other construction of our Constitution, for that would be the elevation of the military above the civil power.

Before our Constitution was formed, the great fundamental rights which I have mentioned, belonged to every person who became a member of our great national family. No one surrendered a jot or tittle of these rights by consenting to the formation of the Government. The entire machinery of government as organized by the Constitution was designed, among other things, to secure a more perfect enjoyment of these rights. A legislative department was created that laws necessary and proper to this end might be enacted. A judicial department was erected to expound and administer the laws. An executive department was formed for the purpose of enforcing and seeing to the execution of these laws. And these several departments of Government possess the power to enact, administer, and enforce the laws "necessary and proper" to secure these rights which existed anterior to the ordination of the Constitution. Any other view of the powers of this Government dwarfs it and renders it a failure in its most important office.

Upon this broad principle I rest my justification of this bill. I assert that we possess the power to do those things which Governments are organized to do; that we may protect a citizen of the United States against a violation of his rights by the law of a single State; that by our laws and our courts we may intervene to maintain the proud character of American citizenship; that this power permeates our whole system, is a part of it, without which the States can run riot over every fundamental right belonging to citizens of the United States; that the right to exercise this power depends upon no express delegation, but runs with the rights it is designed to protect; that we possess the same latitude in respect to the selection of means through which to exercise this power that belongs to us when a power rests upon express delegation; and that the decisions which support the latter maintain the former. And here, sir, I leave the bill to the consideration of the House.

Mr. ROGERS resumed the floor.

Mr. RAYMOND. I ask the gentleman from New Jersey to yield to me for a moment, that I may address one or two questions to the chairman of the Judiciary Committee, [Mr. WILSON, of Iowa.]

Mr. ROGERS. I yield to the gentleman.

Mr. RAYMOND. I desire in the first place to inquire whether this bill as now under discussion before the House has been printed, and is now on our files.

Mr. WILSON, of Iowa. The bill is printed and on our files in the form in which it passed the Senate. The House has this morning

adopted several amendment. Consequently the bill on the file does not correspond precisely with the bill now before the House.

Mr. RAYMOND. I desire to make one other remark.

Early in the present session I introduced into the House a bill aiming at precisely the same general object contemplated in the bill now before the House, and asserting the same great principle. That bill was referred to the Committee on the Judiciary. I would like, if it meets with the concurrence of the Judiciary Committee and the House, in the remarks I may at some future time make on this bill, to have that also open for discussion here. I would like to ask the chairman of the Committee on the Judiciary, if he is at liberty to state what, if any, has been the decision of that committee on the bill to which I refer—House bill No. 88.

Mr. WILSON, of Iowa. I will state that my present recollection in reference to that bill is that the committee authorized its report to the House, and that it is in the hands of the gentleman's colleague, [Mr. MORRIS,] who is a member of the committee, to be reported. That is my recollection of the action of the committee.

Mr. RAYMOND. If the gentleman will allow me, I will ask him further, whether it will be in harmony with the rules of the House to have that bill reported so as to come before the House for discussion in connection with the pending measure?

Mr. WILSON, of Iowa. That can only be done by unanimous consent; indeed, even then, I do not see how it can be done, as we cannot have two bills before the House at the same time.

Mr. RAYMOND. I will send to the Clerk's desk a copy of that bill—it is a short one—to be read; and I will say, if I have occasion to make any remarks on this bill, I will then, if in conformity to the rules, move it as a substitute for the one under consideration.

Mr. STEVENS. That cannot be done until the pending motion is disposed of.

Mr. RAYMOND. It is mainly for the purpose of discussion, and not in the view of pressing it as an amendment. I ask the Clerk to read the bill as I submitted it.

The Clerk read, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all the acts of Congress relating to naturalization be, and the same are hereby, amended by striking out, wherever they occur, the words "being a free white person," and the words "free white," and the words "a free white person and," so that in the matter of naturalization there shall be no distinction as to race or color.

SEC. 2. *And be it further enacted*, That all persons born, or hereafter to be born, within the limits and under the jurisdiction of the United States, shall be deemed and considered, and are hereby declared to be, citizens of the United States, and entitled to all rights and privileges as such.

SEC. 3. *And be it further enacted*, That nothing in this act contained shall be construed to naturalize or authorize the naturalization of any members of the Indian tribes.

Mr. SHANKLIN. I ask the honorable gentleman from Iowa to withdraw his motion to recommit so that I may have an opportunity to offer an amendment.

Mr. WILSON, of Iowa. It is not my intention to ask a vote on the motion to recommit. I do not desire the bill to go back to the committee. It is my intention, if I can, to put the bill on its passage to-morrow. I will hear the gentleman's amendment.

Mr. SHANKLIN. I will state that when I shall have the opportunity I shall move the following amendment to the bill:

Amend by adding the following additional section at the end of the bill, to wit:

SEC. 11. *And be it further enacted*, That nothing in this act contained shall be so construed as to confer on any negro, mulatto, or Indian the right to vote at any election or to invest them with any other political or social rights not expressly named herein.

Mr. WILSON, of Iowa. I do not withdraw it for that purpose, as it is in the bill now.

Mr. ROGERS. I yield to the gentleman from Kentucky.

Mr. SHANKLIN. I then offer it as an amendment now.

The SPEAKER. Amendment is not in order until the motion to recommit is disposed of.

Mr. SHANKLIN. I understand the gentleman does not propose to insist on that motion.

The SPEAKER. But he has not withdrawn it. When it is disposed of the bill will be open to amendment.

Mr. WILSON, of Iowa. I decline to withdraw it.

Mr. ROGERS. Does this come out of my time? I will not ask to have my time extended as I expect to speak within the hour.

The SPEAKER. The Chair will not regard this as coming out of the gentleman's time.

Mr. LOAN. Mr. Speaker, I desire to ask the chairman who reported this bill, why the committee limit the provisions of the second section to those who act under the color of law. Why not let them apply to the whole community where the acts are committed?

Mr. WILSON, of Iowa. That grows out of the fact that there is discrimination in reference to civil rights under the local laws of the States. Therefore we provide that the persons who under the color of these local laws should do these things shall be liable to this punishment.

Mr. LOAN. What penalty is imposed upon others than officers who inflict these wrongs on the citizen?

Mr. WILSON, of Iowa. We are not making a general criminal code for the States.

Mr. LOAN. Why not abrogate those laws instead of inflicting penalties upon officers who execute writs under them?

Mr. WILSON, of Iowa. A law without a sanction is of very little force.

Mr. LOAN. Then why not put it in the bill directly?

Mr. WILSON, of Iowa. That is what we are trying to do.

Mr. ROGERS. Mr. Speaker, I, as one of the committee from which this bill was reported, deem it my duty, as I have had probably more opportunity to investigate the character of it than some other gentlemen in the House, to expatiate somewhat upon the bill, not only with regard to its constitutionality, but its policy.

Let me say, in the commencement, that there is no person in this House more willing to extend to the negro all the rights of life, liberty, and property than I am. I am willing to treat him in the most kindly and Christian-like manner, and extend to him every privilege that ought to be guarantied to any man in the United States for the protection of his liberty, his life, and his property. But when I took my seat in this body I took a solemn oath, which I implanted deeply in my heart and conscience, that I would support the Constitution of the United States and defend it against its enemies, whether within or without.

Now, sir, it cannot be pretended by any lawyer in this House, whatever his political opinions may be, who will base his integrity upon his professional experience, that there is any authority in the Congress of the United States to enter the domain of a State and interfere with its internal police, statutes, and domestic regulations.

Why, sir, the proposed amendment of the Constitution which has just been discussed in this House and postponed till April next, was offered by the learned gentleman from Ohio [Mr. BINGHAM] for the very purpose of avoiding the difficulty which we are now meeting in the attempt to pass this bill now under consideration. Because the amendment which he reported from the committee of fifteen was intended to confer upon Congress the power "to make laws which shall be necessary and proper to secure to the citizens of each State all the privileges and immunities of citizens in the several States, and to all persons in the several States equal protection in the right of life, liberty, and property." There is no protection or law provided for in that constitutional amendment which Congress is authorized to pass by virtue of that constitutional amendment that is not contained in this proposed act of Congress which is now before us. Therefore we have the opinion of the majority of the committee of fifteen, and the opinion of the learned gentleman from Ohio, [Mr. BINGHAM,] that in order to do what this bill proposes, Congress must be empowered by an amendment to the organic law.

I affirm, without the fear of successful contradiction, that by the decision of the highest court of the United States, that august tribunal to whose decisions every honest and patriotic man is bound to bow, it has been expressly and solemnly decided, after the most mature deliberation, by a bench of the most enlightened and learned lawyers that ever sat upon it, that negroes in this country, whether free or slave, are not citizens or people of the United States within the meaning of the words of the Constitution, and that therefore no law of Congress or of any State can extend to the negro race, in the full sense of the term, the *status* of citizenship. And the organic law, by its letter and spirit, and in view of the contemporaneous circumstances under which it was passed, fully vindicate the authority of this decision of the Supreme Court, declaring that no power within any State, much less in the Congress of the United States, can change the *status* of the negro. That cannot be done until the requisite amendment is made to the Constitution, until some such article has been carried into effect by two thirds of both Houses of Congress and three fourths of the States.

I ask gentlemen on the other side, because I treat them with the same respect that I would treat those who agree with me in political opinion—I know them to be men of judgment and men of sense—to discriminate between the great rights which are vested in the States and the rights and powers delegated by the States to the Federal Government. I am here to-day to vindicate the doctrine of Jefferson, Madison, and Jackson, those great polar stars of State sovereignty, which State sovereignty has led this country in peace and prosperity for seventy-five years; which has made it what it is among the nations of the earth; that sustained the great elementary principles contained in the organic law, that when Congress undertakes to inflict legislation upon the reserved rights of the States it is a usurpation. And it is the duty of every Representative, whatever his politics may be, to prevent any such usurpation, and to maintain and preserve the safeguard and rights of the States unimpaired, as they were intended to be, by the framers of the organic law when they assembled in the old Hall of Independence in 1789.

Now, sir, no bill has been offered in this House or in the other, the freedmen's bill not excluded, which proposes to give to Congress such dangerous powers over the liberties of the people as this bill under consideration, and if it can be constitutionally passed by the Congress of the United States, and is no infringement upon the reserved or undelegated powers of the States, then Congress has the right, not only to extend all the rights and privileges to colored men that are enjoyed by white men, but has the right to take away. If Congress has the right to extend the great privileges of citizenship, which heretofore have been controlled by the States, to any class of beings, they have the right, by the same authority, to take away from any class of people in any State the same rights that they have the right to extend to another class of persons in the same State. In other words, if the Congress has power under our present organic law to decide what rights and privileges shall be extended to negroes, it has the same power and authority under that organic law to extend its legislation so as to take away the most inestimable and valuable rights of the white men and the white women of this country, and not only take away but destroy every blessing of life, liberty, and property, upon the principle that Congress has unlimited sovereign power over the rights of the States; and whenever, in its judgment, it may see fit, it may carry this power on to an unlimited extent.

Now, sir, is there any member on the other

side of the House who, on the honor of a man of conscience and integrity, can make himself believe that this Congress has the right to control the privileges and immunities of every citizen of these States, as contemplated in this bill, without a change in the organic law of the land?

Now, not only in the Dred Scott decision has it been expressly decided in the Supreme Court what the true *status* of the colored race is, but it was decided early in the history of the country, in a free State, the State of Pennsylvania, that although the constitution of that State allowed every free man to vote, using the word "freeman," which is not to be found in the Constitution of the United States, yet the supreme court of Pennsylvania, then the highest court in that State, most solemnly and unequivocally decided that the negro was not included within the term "freeman," whether he was free or whether he was a slave, and that under the clauses of the Constitution of the United States speaking of "citizens" and "people" free negroes and slaves were never included within those terms.

I will refer to the case which I have not produced before. I will not now read the Dred Scott decision, because I have read it here, and every one in the House is familiar with it. But I will read from the Pennsylvania case of Hogg *vs.* Fogg, which is to be found in volume six of Watts' Reports, page 553.

The judges of election, when a free colored man, not a slave, offered himself to vote in Pennsylvania, under the constitution of the State which allowed every "freeman" to vote, refused to receive his vote, and hence this action was brought on the plea of an invasion of property. The court says:

"In the first section of the third article it is declared that 'in elections by the citizens every freeman of the age of twenty-one years, having resided in the State two years before the election, and having within that time paid a State or county tax,' shall enjoy the rights of an elector.

"Now, the argument of those who assert the claim of the colored population is, that the negro is a man; and, when not held to involuntary service, that he is free; consequently that he is a freeman; and if a freeman in the common acceptation of the term, then a freeman in every acceptation of it.

"This pithy and syllogistic sentence comprises the whole argument, which, however elaborated, perpetually gets back to the point from which it started. The fallacy of it is its assumption that the term freedom signifies nothing but exemption from involuntary service; and that it has not a legal signification more specific. The freedom of a municipal corporation or body-politic, implies fellowship and a participation of corporate rights; but an inhabitant of an incorporated place, who is neither servant nor slave, though bound by its laws, may be no freeman in respect of its government. It has, indeed, been affirmed by text writers, that habitance and paying scot and lot, give an incidental right to corporate freedom; but the courts have refused to acknowledge it, even when the charter seemed to imply it; and, when not derived from proscription or grant, it was deemed a qualification merely and not a title. (Wilcox, chap. 3, p. 456.) Let it not be said that the legal meaning of the word freeman is peculiar to British corporations, and that we have it not in the charters and constitutions of Pennsylvania." * * * * * * *

"But in addition to interpretation from usage, this antecedent legislation furnishes other proofs that no colored race was party to our social compact, as was justly remarked by President Fox, in the matter of the late contested election, our ancestors settled the province as a community of white men; and the blacks were introduced into it as a race of slaves; where an unconquerable prejudice of caste, which has come down to our day, insomuch that a suspicion of taint still has the unjust effect of sinking the subject of it below the common level. Consistently with this prejudice, is it to be credited that parity of rank would be allowed to such a race? Let the question be answered by the statute of 1726, which denominated it an idle and a slothful people; which directed the magistrates to bind out free negroes for laziness or vagrancy; which forbade them to harbor Indian or mulatto slaves, on pain of punishment by fine, or to deal with negro slaves, on pain of stripes; which annexed to the interdict of marriage with a white the penalty of reduction to slavery; which punished them for tippling, with stripes, and even a white person with servitude for intermarriage with a negro. If freemen, in a political sense, were subjects of these cruel and degrading oppressions, what mast have been the lot of their brethren in bondage. It is also true, that degrading conditions were sometimes assigned to white men, but never as members of a caste. Insolvent debtors, to indicate the worst of them, were compelled to make satisfaction by servitude; but that was borrowed from a kindred and still less rational principle of the common law. This act of 1726, however, remained in force till it was repealed by the emancipating act of 1780, and it is irrational to believe that the progress of liberal sentiments was so rapid in the next ten years as to produce a determination in the convention of 1790, to raise this depressed race to the level of the white one. If such were its purpose, it is strange that the word chosen to effect it should have been the very one chosen by the convention of 1776, to designate a white elector, 'every *freeman*,' it is said, chapter two, section six, 'of the full age of twenty-one years, having resided in this State for a space of one whole year before the day of election, and paid taxes during that time, shall enjoy the rights of an elector.'"

* * * * * * * * *

"I have thought it fair to treat the question as it stands affected by our municipal regulations without illustrations from those of other States, where the condition of the race has been still less favored. Yet it is proper to say that the second section of the fourth article of the Federal Constitution, prevents an obstacle to the political freedom of the negro, which seems to be inseparable. It is to be remembered that citizenship as well as freedom is a constitutional qualification; and how it could be conferred so as to overbear the laws imposing countless disabilities on him in other States, is a problem of difficult solution. In this aspect the question becomes one, not of intuition, but of power; and of power so doubtful as to forbid the exercise of it. Every man must lament the necessity of these disabilities; but slavery is to be dealt with by those whose existence depends on the skill with which it is treated. Considerations of mere humanity, however, belong to a class with which, as judges, we have nothing to do, and, interpreting the Constitution in the spirit of our institutions, we are bound to pronounce that men of color are destitute of title to the elective franchise."

I want this question answered. Has Congress the power to enter the domain of a State, and destroy its police regulations with regard to the punishment inflicted upon negroes? For instance, the State of Kentucky, provides by law that if a negro man commits a rape upon a white woman, he shall be punished by death; but a white man committing a rape upon a white woman is to be punished by imprisonment. And in the State of Indiana, by the organic law of the State, by the solemn enactment of the highest authority of the State of Indiana, it is declared that no negro or mulatto shall come into the State and purchase and hold real or personal property. The laws of nearly all the States prohibit a colored man from marrying a white woman.

In the State of Pennsylvania there is a discrimination made between the schools for white children and the schools for black. The laws there provide that certain schools shall be set apart for black persons, and certain schools shall be set apart for white persons. Now, if this Congress has a right, by such a bill as this, to enter the sovereign domain of a State and interfere with these statutes and the local regulations of a State, then, by parity of reasoning, it has a right to enter the domain of that State, and inflict upon the people there, without their consent, the right of the negro to enjoy the elective franchise to the same extent that it is accorded to the white men in that State, because there is nothing in the letter of the Constitution which gives this authority to Congress; nor is there anything in the letter of the Constitution which gives authority to Congress to regulate the elective franchise in a State; and as the Constitution is equally silent with respect to each of these great rights, it follows, *à fortiori*, that if Congress has the right to enter the domain of a State by such a bill as this, it has the right to enter a State for the purpose of extending the elective franchise to colored men, or of restricting the exercise of that right by white men.

Sir, this bill is broad and dangerous in the powers which it proposes to exercise. It is nothing but a relic of the Freedmen's Bureau bill, which was vetoed by the President of the United States; and it strikes me that the object in attempting now to carry this bill through Congress is merely to compel that high functionary, that noble, honest, Constitution-loving man, the President of the United States, to put his veto upon it because it violates the wisdom of our fathers, and aims a blow at those principles of American liberty for the vindication of which they fought against the tyranny of King George of England.

I am ready to join in the passage of any law for the protection of every citizen of the United States, provided such law comes within the constitutional power and legitimate jurisdiction of the Federal Government. But when an attempt is made to tear down those solid bulwarks of constitutional liberty which were erected by our fathers, I, as a representative of New Jersey, one of the old Thirteen, am here to protest against the consolidation of power in the Federal Government.

Why, sir, let me state a case which may arise under the operations of this bill. Suppose that before a judge in the State of Delaware a negro should offer himself as a witness. The judge is bound to decide that a negro is not a competent witness, because the law of the State of Delaware has expressly excluded the negro from giving testimony. Yet, if that judge should conscientiously believe this bill to be unconstitutional, and should, in accordance with the law of his State, decide that that negro is not entitled to be a witness, he is liable, under this bill, to be prosecuted, and indicted as a criminal, and sentenced to be incarcerated in the State prison, and fined in the sum of $1,000, simply for administering the law of his own State according to his judgment and conscience and oath of office. As a white man is by law authorized to marry a white woman, so does this bill compel the State to grant to the negro the same right of marrying a white woman; and the judge who should declare the marriage void, in pursuance of the law of his State, is liable to be indicted, imprisoned, and fined.

I do not wish to misrepresent any of the provisions of this bill. Let members calmly examine for a moment the second section of the bill, and see whether it is not justly liable to the objections which I urge—whether it is not violative of those great principles which define the boundaries of State jurisdiction and protect it from the encroachments of Federal power. I will read the second section, and in view of its provisions, I ask the House to consider the consequences which must necessarily result from the passage of this bill. That section provides—

> That any person who under color of any law, statute, ordinance, regulation, or custom, shall subject or cause to be subjected any inhabitant of any State or Territory to the deprivation of any right secured or protected by this act, or to different punishment, pains, or penalties on account of such person having at any time been held in a condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, or by reason of his color or race—

Here is the trouble—

> than is prescribed for the punishment of white persons, shall be deemed guilty of a misdemeanor, and on conviction shall be punished by fine not exceeding $1,000, or imprisonment not exceeding one year, or both, in the discretion of the court.

I defy gentlemen on the other side of the House to deny the proposition I now lay down. If the statutes of the State of Kentucky provide that the punishment of death shall be inflicted upon a negro who shall commit a rape upon a white woman, which is not imposed upon a white man for the same offense, this bill will prevent the execution of such a law, for the second section of this bill provides that any person who, under color of any law, statute, ordinance, regulation, or custom, shall subject or cause to be subjected any inhabitant of any State or Territory to the deprivation of any right secured or protected by this act, or to different punishment, pains, or penalties on account of such person having at any time been held in a condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, or by reason of his color or race, than is prescribed for the punishment of white persons, shall be deemed guilty of a misdemeanor, and on conviction shall be punished by a fine not exceeding $1,000, or imprisonment not exceeding one year, or both, in the discretion of the court.

I hope the honorable gentlemen on this side of the House will not allow so odious a bill as this to pass without at least raising their voices against it. This act of legislation would destroy the foundations of the Government as they were laid and established by our fathers, who reserved to the States certain privileges and immunities which ought sacredly to be preserved to them.

I go further, and say if we have a constitu-

tional right to pass it, then Congress is authorized to exercise sovereign power and domain in the States in regard to the elective franchise; and that under it Congress may provide that a negro may go to the ballot-box and exercise the same political right of suffrage as is exercised by white men in all the States of the Union. The bill provides that—

There shall be no discrimination in civil rights or immunities among the inhabitants of any State or Territory of the United States on account of race, color, or previous condition of slavery; but the inhabitants, of every race and color, without regard to any previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall have the same right to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of person and property, and shall be subject to like punishment, pains, and penalties, and to none other, any law, statute, ordinance, regulation, or custom, to the contrary notwithstanding.

What broader words than privileges and immunities are to be found in the dictionary? What right do we exercise under the Constitution, including that of the right of suffrage, that under this language Congress may not grant to the negro? The right of suffrage is not a natural right. It is a civil right. It is a right derived from the Government and municipal law, as laid down in the organism of a State, and to extend to such persons as it may see fit.

There are only two kinds of right: one is that which a man acquires from the civil municipal laws. There is another right which God gives us, the right of self-defense, the right to protect our lives from invasion by others. There are no other rights but the rights of nature and the great civil rights, the privileges and immunities created and granted to citizens of a country by virtue of the sovereign power under which the citizen lives.

All the rights that we enjoy, except our natural rights, are derived from Government. Therefore, there are really but two kinds of rights, natural rights and civil rights. This bill, then, would prevent a State from refusing negro suffrage under the broad acceptation of the term "civil rights or immunities." In fact, it has been decided by the circuit court of the United States, in the case of Corfield *vs.* Coryell, 4 Washington's Circuit Court Reports, pages 380 and 381, that the elective franchise is included in the words privileges and immunities. The court say:

"The inquiry is, what are the privileges and immunities of citizens in the several States?"

The court then go on to name the particulars, and include the elective franchise among them.

I have another question to put to gentlemen on the other side. I ask the learned chairman of the committee, [Mr. WILSON, of Iowa,] a man for whom I have as high a respect as any man in this House, believing him to be honest and sincere in reference to the positions which he assumes upon this floor, could Congress, before slavery was abolished in the country, have passed a law making all the free negroes of the States citizens with all the rights of white citizens, in defiance of the laws or police regulations of a State? Could Congress twenty years ago have passed an act providing that the negroes in Virginia, in South Carolina, in Delaware, in New Jersey, and in all the other States of this Union, should have all the privileges and immunities of citizens of the several States? Could they have passed a law prohibiting a State from passing laws, as many did, that the testimony of a negro should not be taken against a white man? Could they have passed a law annulling, for instance, the constitution of Indiana, which prohibits a negro from settling or owning property in that State, or the law of Illinois which prohibited a negro from coming within the limits of that State? Could Congress twenty years ago have passed a law annulling all those laws and setting at defiance the jurisdiction and powers of the States? Could it have passed a law repealing the statute of a State which made it penal for a negro to marry a white person? Could it have repealed all the laws of all the States which made a distinction between colored people and white, which existed in the laws of every State twenty years ago? Could it have legislated for free negroes in the States then? If it had no constitutional power then it has none now.

If you had attempted to do it in the days of those who were living at the time the Constitution was made, after the birth of that noble instrument, the spirit of the heroes of the Revolution and the ghosts of the departed who laid down their lives in defense of the liberty of this country and of the rights of the States, would have come forth as witnesses against the deadly infliction and the destruction of the fundamental principle of the sovereignty of the States in violation of the Constitution and the breaking down of the ties that bind the States, and the violation of the rights and liberties of the white men and white women of America.

Mr. FARNSWORTH. If the gentleman will allow me. Several times it has been asserted upon this floor that the State of Illinois has on her statute-book laws preventing free negroes from coming into the State.

Mr. ROGERS. There has been such a law, and its constitution still authorizes such a law.

Mr. FARNSWORTH. I want now forever to deny that slander. That old relic of barbarism has been wiped out.

Mr. ROGERS. Was it not once in existence?

Mr. FARNSWORTH. Why, certainly.

Mr. ROGERS. That does not alter the parity of reasoning. I merely instanced the State of Illinois as an illustration of my argument, to show that there is no constitutional authority in the Federal Government to enter the domain of a State for the purpose contemplated in this act.

Now, sir, it will not be denied, or at least it cannot be successfully denied, that negroes are not citizens of this country, for the simple reason that the common law is not in force under the Constitution of the United States. The whole of the principles which govern the action of the Federal Government are contained in the Constitution; and none of the principles of the common law, as laid down by Blackstone or any other author on common law, can have any weight or bearing on the important subject of rights and powers under the Constitution.

I know that one of the chief justices of the king's bench declared a hundred years ago that no negro could set his foot on British soil without being free by the common law. But our fathers enacted a law for the government of the nation under the power given to it by the States, which is embodied in the Constitution of the United States, which is the only law and sovereign power which can control and regulate the general legislation upon this or any other subject.

Now, sir, if you pass this bill you will allow the negroes of this country to compete for the high office of President of the United States. Because if they are citizens at all, they come within the meaning and letter of the Constitution of the United States, which allows all natural born citizens to become candidates for the Presidency, and to exercise the duties of that office if elected.

A MEMBER. Are you afraid of that?

Mr. ROGERS. I am afraid of degrading this Government. I am afraid of danger to constitutional liberty. I am alarmed at the stupendous strides which this Congress is trying to initiate. And I appeal in behalf of my country, in behalf of those that are to come after us, of generations yet unborn, as well as those now living, that conservative men on the other side should rally to the standard of sovereign and independent States, and blot out this idea which is inculcating itself here, that all the powers of the States must be taken away and the power of the Czar of Russia or of the Emperor of France must be lodged in the Federal Government.

Sir, where is the civilized country on the face of the earth that gives to the negro the right to hold the highest office within the gift of the sovereign people, or any other office?

Mr. GRINNELL. Liberia.

Mr. ROGERS. That is a nation of barbarians, of heathens, and cannibals, like the nations of Africa. Savages from the coast of Africa were brought here by Englishmen and sold to the colonists for mere speculation. I am sorry that the negro was ever enslaved. I am sorry that they are among us. But since they are here I am not in favor of extending to them more privileges than we are authorized to extend to such people under the Federal Constitution.

Now, sir, there are other decisions to which I will call the attention of the House. In the case of Gibbons *vs.* Ogden, in the Supreme Court of the United States, (9 Wheaton, page 203,) in speaking of the powers of a State, the court says:

"They form a portion of that immense mass of legislation which embraces everything within the territory of a State not surrendered to the General Government, all which can be most advantageously exercised by the States themselves. Inspection laws, quarantine laws, health laws of every description, as well as laws for regulating the internal commerce of a State, and those which respect turnpike roads, ferries, &c., are component parts of this mass. No direct general power over these subjects is granted to Congress, and consequently they remain subject to State legislation. If the legislative power of the Union can reach them it must be for national purposes; it must be where the power is expressly given for a special purpose, or is clearly incidental to some power which is expressly given."

Now, the eighth section of the first article of the Federal Constitution defines the powers that the States intended to delegate to the Federal head. If the States had intended to delegate to the Federal head unlimited powers they would not have made any specifications of the particular powers, and nowhere under the powers laid down can you find any authority in the Federal head to control or regulate the internal or domestic affairs of any State.

In the case of Albert *vs.* Bayley, (6 Pickering, pages 92 and 93,) Chief Justice Parker, in delivering the opinion of the court, in speaking of the clause in the Constitution of the United States which declares the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States, says:

"The constitutional provision referred to is necessarily limited and qualified, for it cannot be pretended that a citizen of Rhode Island coming into this State to live is, *ipso facto*, entitled to the full privileges of a citizen, if any term of residence is prescribed as preliminary to the exercise of political or municipal rights. The several States then remain sovereign to some purposes, and foreign to each other, as before the adoption of the Constitution of the United States, and especially in regard to the administration of justice, and in the regulation of property and estates, the laws of marriage and divorce, and the protection of the persons of those who live under their jurisdiction."

Who will pretend that there is any authority under the organic law of this country to pass such a law as this in the face of the decision of Chief Justice Parker, of Massachusetts, one of the ablest judges that ever sat on the bench of that State.

Sir, the supreme court of Maryland, in the case of Campbell *vs.* Morris (3 Harris & McHenry's Reports, page 554) decide:

"All powers, jurisdiction, and rights of sovereignty not granted by the people by that instrument, or relinquished, are still retained by them in their several States, and in their respective State Legislatures, according to their forms of government. Uniformity of laws in the States is contemplated by the General Government only in two cases—on the subject of bankruptcies and naturalization. The legislative powers of Congress are particularly defined in the eighth section of the first article. Those powers do not interfere with or abridge the power of the States to make laws and regulations, the operation of which is confined to the State."

Sir, do not these decisions most clearly sustain the argument which I am making here, and will you not take as authority the law as administered by the sworn judges of the highest courts of the country when they are under the solemn obligations of an oath, and when party strifes had not risen to that high pitch to which they have now gone? I ask you to stand by the law of the country and to regulate these Federal and State systems upon the grand principles upon which they were intended to be regulated, that we may hand down to those who are to come after us this bright jewel of civil liberty unimpaired; and I say that the

Congress or the men who will strip the people of these rights will be handed down to perdition for allowing this bright and beautiful heritage of civil liberty embodied in the powers and sovereign jurisdiction of the States to pass away from us.

Why, sir, all the arrangements of life with regard to the protection of property and person and the interests of mankind are complete and safe without the interposition of the Federal Government. If the Federal Government had never been established, if it never had been known that the stars were to be emblazoned together on the flag of this country as one common Union, yet the old thirteen States, had they remained as before entering into the Confederation, would have secured to the people of those States and to their children and descendants who were to come after them all those blessings of liberty that the State authorities and the Federal authorities are now authorized to extend to the citizens of any State or any Territory in this Union.

The honorable chairman undertook to establish a theory for this action upon a clause in the amendment to the Constitution abolishing slavery which authorizes Congress to pass appropriate legislation to carry the foregoing clause into effect.

Now, did not Mr. Seward say to some persons in the rebel States, who made objection to indorsing the constitutional amendment because of the second clause, which they feared would be claimed to authorize such legislation as this, that their objection was a mere myth and a mere subterfuge? As slavery was abolished, if any State undertook again to put the bonds of slavery upon those who had been made free, it would then be in the power of the Federal Government to put a veto upon the exercise of any such power, and to say that the shackles and chains of slavery shall not again be placed upon the black race in this land.

Now, the constitutional amendment abolishing slavery provides in the second section that "Congress shall have power to enforce this article by appropriate legislation." "Appropriate legislation" for what? What is the subject-matter to which the legislation of Congress is to apply? Slavery or involuntary servitude is forever abolished, and this is to enable Congress to compel a State that undertakes, by its legislative power, to inflict the stigma of slavery again upon the escutcheon of this country, to forbear from so doing. It is to enable Congress to lay the hand of Federal power, delegated by the States to the General Government, upon the States to prevent them from reënslaving the blacks which it could not do before the adoption of this amendment to the Constitution.

Slavery is dead, and I have no desire to revive it. I believe that in this Christian age of enlightenment and wisdom, the experience of mankind and the laws of God themselves have implanted the systems of freedom in this country, and that it will be extended to all countries. And while we are extending this principle of freedom to the colored people, do not forget the millions of our brave soldiers, their widows and orphans, the children whose faces bear the impress of destitution and want, whose wails of sorrow pierce the very clouds. Do not forget our wasted fields, our ruined cities, the annihilation of our industry, the countless myriads of freemen from whose bodies limbs have been torn in the great storm of battle, or trampled under the hoofs of cavalry and artillery. Let us remember that we are to legislate for them; for those who achieved the independence of our country; for the brave men who buckled on their armor, and left their little families behind them, while the aristocrats remained at home. Many of those men laid down their lives around the sacred precincts of the tomb of Washington, and their bodies have been laid in the soil of Virginia, so as to perpetuate the liberty which our fathers designed should be extended to the white men and the white women of this country forever and ever.

I wait for an argument based upon constitutional grounds, showing our right to give Congress this awful power to enter into the jurisdiction of the States of this country, and to prostrate and destroy and break down those grand symbols and principles of liberty which lie at the foundation of our Government, and under which we have enjoyed peace and prosperity for more than seventy-five years, in the full protection of life, liberty, and property.

I am willing to trust brave men, men who have shown as much bravery as those who were engaged on battle-fields against the armed legions of the North; because I believe that even when they were fighting against the flag of their country, the great mass of those people were moved by high and conscientious convictions of duty. And in the spirit of Christianity, in the spirit which Jesus Christ exercised when He gave up His own life as a propitiation for a fallen world, I would say to those southern men, come here in the Halls of Congress and participate with us in passing laws which, if constitutionally carried into effect, will control the interests and destinies of four million people, mostly living within the limits of your States.

I remember that our forefathers rebelled against the power of Great Britain. Three millions of the downtrodden people buckled on their arms against all the power that the King of England could summon, because the British Parliament attempted to pass laws affecting vital interests of the colonists, while the latter were not allowed representation in that Parliament. Shall we now, in this era of civilization and enlightenment, and as I hope of civil liberty, when the groundworks of our Union have been reëstablished on a firm foundation which I trust shall never be shaken or disturbed, enact a law as despotic and tyrannical as was the legislation of the British Parliament when it attempted to enforce upon the American colonies "taxation without representation?"

I believe that the eleven States of this Union whose Representatives are at present denied admission to these Halls ought to be represented on this floor; and even if this measure was altogether right and proper in its provisions, yet as it is to affect mainly eight million people who are not allowed to participate in our legislation, I should still be unwilling to give it my sanction, because I claim to be here, not only as a Representative of my own State, but as a guardian of the interests of the downtrodden millions of the whole country, whether they be within the limits of the southern States, or within the boundaries of the northern States that have always been loyal to the Union.

I want to see this a great and glorious Union, spreading itself over the whole continent. I desire that our legislation shall be animated by the spirit of charity and Christianity which will induce southern men to love our country and love the Union, so that when war shall again invade our borders we may be able to march in solid phalanx as one united people to the halls of the Montezumas, to proclaim ourselves the champion of the rights of downtrodden Ireland and of all the oppressed millions, either of the western or the eastern continent. I am as much in favor of progress as any man; I am as much in favor of the extension of civil liberty as anybody. I am ready to join in such legislation as will place us before the world as a united people, and thus strike terror to the monarchies and despotisms of the Old World.

Mr. THAYER. Will the gentleman permit me to ask him a question?

Mr. ROGERS. Certainly.

Mr. THAYER. The gentleman says he is a progressive man, and a man in favor of the extension of human liberty. I desire the gentleman to state whether he voted for the constitutional amendment abolishing slavery.

Mr. ROGERS. No, sir; and I thank God that I never did. I could not lie down on my bed at night with a clear conscience if I had been guilty of being engaged as a participant in robbing a portion of the people of this country of millions of dollars invested under the Constitution in property in negroes, property which was recognized by our revolutionary fathers, and for the protection of which they fought as much as for anything else.

Mr. NIBLACK. Why did not the gentleman vote against it?

Mr. ROGERS. I did vote against it the first time it was offered, but the second time it came up I was unable to vote against it. If I had been here, I should have voted against it. I had very good reasons for not being here. I am clear in my conscience before God, and I am willing to appear before Him at the judgment seat on the last day to answer for the truth of the assertion which I make now. If I could have been here, I would have cast my vote most unhesitatingly against it. But slavery is dead now, and I am glad it is gone.

[Here the hammer fell.]

Mr. COOK. Mr. Speaker, in listening to the very eloquent remarks of the gentleman from New Jersey, [Mr. ROGERS,] I have been astonished to find that in his apprehension this bill is designed to deprive somebody in some State of this Union of some right which he has heretofore enjoyed. I am only sorry that he was not specific enough; that he did not inform us what rights are to be taken away. He has denounced this bill as dangerous to liberty, as calculated in its tendency at least to destroy the liberties of this country. I have examined this bill with some care, and so far as I have been able to understand it I have found nothing in any provision of it which tends in any way to take from any man, white or black, a single right he enjoys under the Constitution and laws of the United States.

We are told that this bill is destructive of constitutional liberty, but we are not told whose rights are infringed. We are not pointed to one single right now possessed by a single white man in this Government touched or impaired by the provisions of this bill.

I would have been glad if he would have told us in what manner the white men of this country would have been placed in a worse condition than they are now if this becomes the law. This general denunciation and general assault of the bill, without pointing out one single thing which is to deprive one single man of any right he enjoys under the Government, seems to me not entitled to much weight.

What is the situation of affairs for which we are called to legislate for four million human beings who have been set free from chattel slavery by the emancipation proclamation of the President and the amendment to the Constitution of the United States? They have become free. They have become self-dependent. They are in a position where they are required to take care of themselves. Many of these men have been engaged in defense of the country. In the hour of danger they have been called upon by us to aid in defense of the country; and we have succeeded with their aid in suppressing a rebellion which threatened to overthrow the Government of the country. What do we see? In six States of the Union formerly in rebellion laws have been passed by the reconstructed Legislatures of those States which have been so malignant in their spirit toward these freedmen, so subversive of their liberties, that the President of the United States and the commanders acting by his authority have set aside those laws and prevented their execution. General Thomas in Mississippi, General Swayne in Alabama, General Sickles in South Carolina, and General Terry in Virginia have issued positive orders forbidding the execution of the laws which have passed the Legislatures of those States against these black men.

Vagrant laws have been passed; laws which, under the pretense of selling these men as vagrants, are calculated and intended to reduce them to slavery again; and laws which provide for selling these men into slavery in punishment of crimes of the slightest magnitude; laws so abhorrent to the spirit of the Govern-

ment and the spirit of the age that they have been absolutely set aside by the military power.

The time when these men can be protected by the military power will cease. Gentlemen are insisting that the time has come when these States should be represented in Congress and restored to their original position in the Union; and the last part of the speech of the gentleman from New Jersey [Mr. ROGERS] was devoted to a denunciation of gentlemen on this side of the House because they do not believe the time had fully come. Suppose that proposition is agreed to, and these States are restored to all the rights of sovereign States within this Union, and they carry out the same spirit they have already manifested toward these freedmen. Then the question is, shall we leave the men who have been loyal during this struggle, have fought on our side, and who have aided to carry the banner of the Republic in triumph through this terrible rebellion; shall we leave them to the operation of laws denounced as tyrannical by the military powers and as practically reducing these men to the condition of slavery?

It is idle to say these men will be protected by the States. The sufficient and conclusive answer to that position I submit is, that those States have already passed laws which would now virtually reënslave them. Is there any answer to that? Does the gentleman tell us when these men are remitted to the action of these States lately in rebellion they mean that they shall be subjected to the operation of vagrant laws which reduce them virtually to the condition of slavery? Do they mean that, when they ask us to admit Representatives from these States upon this floor, and thus to admit these States into relations to the Union? Do they mean we shall surrender these freedmen to the power of their former masters, that we shall surrender these loyal men to the traitors, when we have the example before us which cannot be contradicted, that it will be to surrender them to a condition worse than they were before the proclamation of emancipation was issued?

The gentleman from New Jersey [Mr. ROGERS] commenced his speech by saying that he was in favor of giving civil rights to all men, and that he was a progressive man. He says this bill cannot be passed because it is unconstitutional. The other day when a proposition was made to amend the Constitution in this regard he opposed the amendment to the Constitution. He is for the protection of these men, but he is against every earthly mode that can be devised for protecting them; like the man that I heard of in the State of Maine, who was in favor of the Maine law but was opposed to its enforcement.

Sir, I know of no way by which these men can be protected except it be by the action of Congress, either by passing this bill or by passing a constitutional amendment. And when gentlemen tell me that they are in favor of protecting the people of color, and yet oppose every practicable method of protecting them, I beg leave most respectfully to doubt their judgment in the matter. The question is, shall we leave these men in this condition? It is idle to say we are not leaving them to a system of slavery. If it had not been for the acts of the military commanders, had not the laws which have already been enacted by the Legislatures of the rebel States been set aside, the negroes would all have been slaves now under the operation of their vagrant acts or other laws.

I believe that this bill is a proper remedy for these evils. I believe that we have the constitutional power to pass it, and that it is our duty to pass it. I affirm that we shall be justly chargeable with want of good faith, want of honor and of common honesty, if we abandon these men, who by our invitation have aided us and have thereby made themselves obnoxious to the majority of the white men of the South, and leave them to the tender mercies of our enemies and theirs.

This bill provides that all persons born within the United States, excepting those who do not owe allegiance to the United States Government, as children of embassadors of foreign Powers, and such as are not subject to our laws, and Indians not taxed who owe a tribal allegiance, shall be citizens of the United States. I think this is the law now. I do not believe that in this Government of ours there is any class of freemen who are not citizens. I do not believe that between the slave, who has no rights which white men are bound to respect, and a citizen there is any class of men provided for in the Constitution of the United States.

But I am not going to discuss this question, because it is apparent to me that the constitutional power of Congress to make any men or class of men citizens must be conceded. If they are not citizens now this act will make them citizens. To the Congress of the United States is given the power to establish a uniform rule of naturalization. This power has been construed, both by Congress and the courts, and we have admitted men to the rights of citizenship in precisely the same manner contemplated in this bill. We admitted the Stockbridge Indians by act of Congress, and vast numbers of Mexicans resident in Texas at the time of the annexation were made citizens by act of Congress. There are men within the sound of my voice who were here when a law was passed admitting large numbers of these men of Texas to citizenship, who would not otherwise have been citizens. This question has been long settled.

Then the question arises if we have power to make them citizens, about which I do not think there can be any reasonable doubt, there certainly cannot be any unless we are willing to go back and reverse all the precedents that have been set since the beginning of the Government. Then the question that remains is simply this: can the Congress of the United States provide that as between citizens of the United States there shall be no discrimination in civil rights or immunities, but they "shall have the same right to make and enforce contracts, to sue, be parties, give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of person and property?" Has Congress the power to so enact that there shall be no discrimination in these things between the citizens of this Government? That is the whole question, so far as relates to the constitutional power.

To my mind the power is a clear one resting upon the amendment to the Constitution which has lately been adopted. Under that amendment slavery and involuntary servitude are forever prohibited in the United States, and Congress has power to enforce that article of the Constitution by appropriate legislation.

Now, sir, I suppose that chattel slavery could not exist even without this second section of the amendment. Suppose it had never been adopted, no court could hold that any man in any State had a right to hold another as his slave in the sense in which slaves had been held before; but it is apparent that under other names and in other forms a system of involuntary servitude might be perpetuated over this unfortunate race. They might be denied the right of freemen unless there was vested a power in the Congress of the United States to enforce by appropriate legislation their right to freedom.

If that be not the meaning of the second section of this amendment, I see no meaning to it. The first section would have prohibited forever the mere fact of chattel slavery as it existed. When Congress was clothed with power to enforce that provision by appropriate legislation, it meant two things. It meant, first, that Congress shall have power to secure the rights of freemen to those men who had been slaves. It meant, secondly, that Congress should be the judge of what is necessary for the purpose of securing to them those rights. Congress must judge as to what legislation is appropriate and necessary to secure to these men the rights of free men, whether we can do this except by securing to them the right to make and enforce contracts and the other rights which are specified in this bill, and each member of this House must determine for himself, upon his oath, what legislation is appropriate to prevent their being reduced to any servitude which is involuntary.

Now, sir, I am prepared, for myself, to say that when those rights which are enumerated in this bill are denied to any class of men on account of race or color, when they are subject to a system of vagrant laws which sells them into slavery or involuntary servitude, which operates upon them as upon no other part of the community, they are not secured in the rights of freedom. If a man can be sold, the man is a slave. If he is nominally freed by the amendment to the Constitution, he has nothing in the world he can call his own; he has simply the labor of his hands on which he can depend. Any combination of men in his neighborhood can prevent him from having any chance to support himself by his labor. They can pass a law that a man not supporting himself by labor shall be deemed a vagrant, and that a vagrant shall be sold. If this is the freedom we gave the men who have been fighting for us and in defense of the Government, if this is all we have secured them, the President had far better never have issued the proclamation of emancipation, and the country had far better never have adopted the great ordinance of freedom.

Take, for instance, the act that was passed in the State of South Carolina, and set aside by General Sickles. What is the condition of the freedman under that act? Is he secured in any right of freedom? Can any member here say that there is any probability, or any possibility, that these States will secure him in those rights? They have already spoken through their Legislatures; we know what they will do: these acts, which have been set aside by the military commanders, are the expressions of their will.

Now, are these men free? If a man can be sold as a vagrant because he does not labor, without any inquiry as to whether he can or cannot procure labor, is he a freeman?

To my mind the conclusion is irresistible that the second section of this amendment of the Constitution which gives us the right to enforce the article of the Constitution which provides against slavery or involuntary servitude, gives us the right to protect these men against precisely such a system of legislation as the one to which I have referred. If it does not it is worth nothing.

General Grant, on the 12th of January last, issued this order:

"Military division and department commanders, whose commands embrace or are composed of the late rebellious States, and who have not already done so, will at once issue and enforce orders protecting colored people from prosecution in any of such States charged with offenses for which white persons are not punished in the same manner and degree."

I have a right to assume, and I do assume, that that order was issued under the direction of the President of the United States, that it is his act, and when we provide by legislative action precisely the same thing and nothing more, I do not think that gentlemen upon the other side have the right to assume in advance that we are to encounter the executive veto. If the principle of this bill differs in any respect from the principle which the military authorities have found it necessary to carry out in order to protect these people in the enjoyment of their freedom, I cannot see in what that difference consists.

And one reason assigned most gravely in this House, why we should abandon these people and deliver them up to the operation of just such laws as I have been commenting upon is that if we do not do so a negro may be elected President of the United States; that a majority of the white men of this country will choose to elect a black man as President of the United States. That is the answer that is made to us when we ask whether these people are to be turned over to those men who hate them because they have been loyal to the Union and to the old flag. Objection is made to everything that the wit of man can contrive for their protection.

It is said that this measure is unconstitutional. Then let us amend the Constitution so as to render such legislation proper. Oh, no, they say, we will not amend the Constitution. Then let us prescribe some conditions to these States that will guaranty the protection of these people. No, they cry; it is tyranny to ask for any guarantee from them. The whole scope and meaning of this objection and opposition are that these people are to be abandoned, are to be left without the protection of this Government. They are to be told that notwithstanding the faith of this nation, when we asked them to take up arms in our defense, was pledged to guaranty freedom to them, yet now when we have secured our end by their aid, we will abandon them, and leave them in the hands of men whose hatred against them is intensified by the very part they played at our command.

Does any man in this House believe that these people can be safely left in these States without the aid of Federal legislation or military power? Does any one believe that their freedom can be preserved without this aid? If any man does so believe, he is strangely blind to the history of the past year; strangely blind to the enactments passed by Legislatures touching these freedmen. And I shuddered as I heard the honorable gentleman from New Jersey [Mr. ROGERS] claiming that he was speaking and thinking in the spirit which animated the Saviour of mankind when He made atonement for our race; that it was in that spirit he was acting when he was striving to have these people left utterly defenseless in the hands of men who are proving day by day, month by month, that they desire to oppress them, for they had been made free against their consent. Every act of legislation, every expression of opinion on their part proves that these people would be again enslaved if they were not protected by the military arm of the Federal Government; without that they would be slaves to-day. And I submit, with all deference, that it is anything but the spirit which the gentleman claims to have exercised which prompted the argument he has made.

For myself, I trust that this bill will be passed, because I consider it the most appropriate means to secure the end desired; and that these people will be protected. I trust that we will say to them, because upon our call you aided us to suppress this rebellion; because the honor and faith of the nation were pledged for your protection, we will maintain your freedom, and redeem that pledge.

Mr. THAYER obtained the floor.

Mr. STEVENS. I move that the further consideration of this subject be postponed for the present. I propose, if this motion be adopted, to move that the House resolve itself into the Committee of the Whole on the state of the Union, and resume the consideration of the deficiency bill.

The motion was agreed to.

BOUNTIES TO SOLDIERS.

Mr. SITGREAVES, by unanimous consent, presented the joint resolutions of the Legislature of the State of New Jersey, relative to bounties to New Jersey soldiers mustered into the service of the United States for the suppression of the rebellion; which were referred to the Committee on Military Affairs, and ordered to be printed.

STATISTICS OF MILITARY SERVICE, ETC.

Mr. FARNSWORTH, by unanimous consent, submitted the following resolution:

Resolved, That the Secretary of War be directed to communicate to this House the number of regiments of each arm of the service furnished by each State during the recent war, designating them by number or name, how distributed during each year of service, in what battles they were engaged, their aggregate strength on entering the service, the number of recruits received by each during each year, the aggregate present at each battle, where engaged, and the number of killed and wounded at each battle.

The SPEAKER. This being a call for executive information, unanimous consent is necessary for its consideration on this day.

There was no objection.

Mr. ROSS. Will not my colleague [Mr. FARNSWORTH] consent to modify this resolution so as to inquire also why the Illinois troops whose time has expired have not been mustered out of service?

Mr. FARNSWORTH. I have no objection to that inquiry, but I think that my colleague had better embrace it in a separate resolution.

The resolution was agreed to.

EXAMINERS IN THE PATENT OFFICE.

Mr. MYERS, by unanimous consent, introduced a bill regulating appeals to the examiner-in-chief in the Patent Office; which was read a first and second time, and referred to the Committee on Patents.

MISSOURI CONTESTED ELECTION.

The SPEAKER, by unanimous consent, presented papers in the case of Sempronius H. Boyd, contesting the seat of Hon. JOHN R. KELSO, a Representative from the State of Missouri; which were referred to the Committee of Elections.

DEFICIENCY BILL.

Mr. STEVENS. I now move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, to take up the deficiency appropriation bill

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. WENTWORTH in the chair,) and resumed the consideration of the special order, being House bill No. 86, making additional appropriations, and to supply deficiencies in the appropriations, for sundry civil expenses of the Government for the fiscal year ending the 30th of June, 1866, and for other purposes.

The pending question was upon the motion of Mr. BERGEN, to strike out lines five hundred and forty-six to five hundred and sixty-two inclusive, as follows:

For building a custom-house at Portland, Maine, in addition to the sum heretofore appropriated by Congress, $75,000: *Provided*, That the Secretary of the Treasury may, if he thinks it advisable, expend a sum not exceeding $25,000, in the purchase of ground adjoining the site of the old custom-house on Fore street, now owned by the United States, for the purpose of enlarging the same, or the Secretary may exchange the lot now owned as aforesaid for a more eligible one, if the same can be procured; but no money shall be paid or agreed to be paid by the United States in consideration of such exchange, and no transfer, assignment, or conveyance of property by the United States shall be made upon such exchange, except a conveyance, on its behalf, by the Secretary of the Treasury, of the interest of the United States in the lot aforesaid and the building thereon.

The amendment was not agreed to.

Mr. STEVENS. I move to amend by striking out lines five hundred and seventy-five to five hundred and seventy-seven inclusive, as follows:

To enable the Joint Committee on the Library to purchase files of newspapers for the Congressional Library, $1,500.

The amendment was agreed to.

Mr. BENJAMIN. I move to amend, by inserting after line six hundred the following:

Provided, That no part of the sums appropriated by the provisions of this act shall be expended in violation of the provisions of the act entitled "An act to prescribe an oath of office and for other purposes," approved July 2, 1862.

Mr. BROOMALL. Mr. Chairman, I desire to know what the gentleman from Missouri [Mr. BENJAMIN] means by the amendment which he proposes. This is the second time that such a proviso has been offered, without explanation, to an appropriation bill. I rise for the purpose of asking the gentleman what he intends by it; whether he means to imply that any Department of this Government has been paying out the public money in violation of the provisions of the act cited in his proviso?

I ask him whether there is not now a law prohibiting moneys being paid out of the Treasury to any person who has not complied with the provisions of that act? Why is he reënacting that law? I ask again, what is the use of the existing law if it requires reënactment on every bill?

If any Department has been violating that law, it is quite time the people of the country should know it. If there is anybody in the country above and beyond the law, it is quite time the people should be informed. My object is to get that information.

Mr. BENJAMIN. Mr. Chairman, in reply to the question of the gentleman from Pennsylvania, I will say that we have the fact officially made to the Senate by the heads of at least two of the Departments, that appointments have been made in violation of law. The further fact is reported that in the case of certain persons appointed as provisional governors they have been paid out of the contingent fund of the War Department.

The purpose of the amendment will be readily understood by all who are conversant with the act to which the amendment alludes. It is humiliating to be obliged to legislate to prevent a further violation of the laws on the part of those upon whom the Constitution has imposed the duty of seeing that they are faithfully executed. Congress has, after deliberation, passed an act designed to protect the Government against the machinations of traitorous officers by requiring them to declare their innocence of any complicity in the late attempt to subvert it, and a promise of loyalty in the future. The law is either a good law or it is a bad law, either wise or unwise, wholesome or unwholesome. If the law is unwise and operates injuriously, it should be forthwith repealed; but whether good or bad, it should be enforced until it is repealed. I assume, however, that Congress intends to perpetuate the restrictions imposed upon those "guilty of their country's blood," as I see no effort is being made to remove them from the statute-book. Perhaps we are powerless in preventing the appointment of such persons to important offices, but we can give a gentle hint to all those "whom it may concern" of our displeasure at such flagrant violations of the law of the land, by refusing the means for their payment. If we fail to rebuke such acts, but go on and vote the money for their salaries, we indirectly sanction the act and make ourselves *particeps criminis*. Let us say in these bills, "We believe the Republic contains a sufficient number of loyal citizens to fill all the offices, and if any others are imposed upon us they need expect no compensation from Congress." I hope the amendment will be adopted.

Mr. BROOMALL. I move to strike out the last word.

Mr. Chairman, I ask the Clerk to read the existing law.

The Clerk read, as follows:

"Hereafter every person elected or appointed to any office of honor or profit under the Government of the United States, either in the civil, military, or naval departments of the public service, excepting the President of the United States, shall, before entering upon the duties of said office and before being entitled to any of the salary or other emoluments thereof, take and subscribe the following oath or affirmation:

"I do solemnly swear (or affirm) that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought nor accepted, nor attempted to exercise the functions of any office whatever under any authority or pretended authority in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States hostile or inimical thereto.

"And I do further swear (or affirm) that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will faithfully discharge the duties of the office on which I am about to enter. So help me God.

"Which oath, so taken and signed, shall be preserved among the files of the court, House of Congress, or Department to which the said office may appertain. And any person who shall falsely take the said oath shall be guilty of perjury, and on conviction, in addition to the penalty now prescribed for that offense, shall be deprived of his office, and rendered incapable forever after of holding any office of place under the United States."

Mr. BROOMALL. Now, Mr. Chairman, I desire to know whether any language can be stronger than the language of the act which has

just been read? If we do not intend to enforce that law there is no use in attaching this provision to the appropriation bills.

I had heard it intimated that the law had been violated, and it was for the purpose of knowing whether that was true I made what might appear an objection to the amendment. My purpose is to vote for it, just as I would vote for the prosecution of violations of existing law, and just as I would vote for articles of impeachment for violating that law, if brought here. It is quite time some one should take upon himself to enforce acts of Congress, and not suffer them to be violated by any officer, in whatever position he may be.

I withdraw my amendment.

Mr. BROOKS. I renew it. I rise simply to say, Mr. Chairman, if the charges which are made by the honorable gentleman from Missouri and the honorable gentleman from Pennsylvania are correct, the proper course is not to reënact the law—that is a mere farce—but to follow out the insinuation or suggestion of the gentleman from Pennsylvania, and that is to institute an inquiry for preferring articles of impeachment against the President of the United States.

Mr. STEVENS. I rise to oppose the amendment of the gentleman from New York, [Mr. BROOKS.] We know how easy it is for men who are full of business, as they are in the Departments of this Government, to overlook a small law of this kind. I do not suppose that they have willfully violated it. True it is, the Secretary of the Treasury tells us that he does not find men there sufficiently qualified to act, and therefore he takes these men. So, I believe, the Postmaster General, out of six thousand post offices, can find but two thousand which he considers he can fill under the law. Now, I understand and a great many have understood that law to mean, not only that no rebel should be put in, but we must find loyal men who sustain the President's doctrine of reconstruction; and that being the delusion under which these gentlemen are acting, it is probably right that we should pass this amendment for the purpose of clearly defining what Congress means.

Mr. BROOKS withdrew his amendment.

The question being taken on the amendment of Mr. BENJAMIN, it was agreed to.

Mr. STEVENS. I move to amend by transferring the item on page 32, and inserting it after what has already been inserted after line six hundred, that being the appropriate place for it. It is a mere transfer:

For the purchase of the property in Washington city known as Ford's theater, for the deposit and safe-keeping of documentary papers relating to the soldiers of the Army of the United States, and of the museum of the medical and surgical department of the Army, $100,000.

The amendment was agreed to.

Mr. WASHBURNE, of Illinois. I move to strike out the following on pages 28 and 29, lines one to fourteen inclusive:

SEC. —. *And be it further enacted*, That the sum of $10,432 45 be, and is hereby, appropriated to pay Madison Sweetzer, upon condition that the said Madison Sweetzer shall, first, by a good and sufficient deed, convey to the United States all his right, title, and interest in and to the following lands, conveyed by the United States to Joseph Richardville, sr., and Joseph Richardville, jr., by treaty at St. Mary's, October 6, 1818, to wit, the west half of section number twenty-six, the east half of section number twenty-eight, and section number twenty-seven, of township five south, range four east, lying in the county of Auglaize and State of Ohio.

This seems to be purely a private matter, and has no right to be in an appropriation bill.

Mr. STEVENS. This was a matter connected with the Government in the granting of land. It granted and received pay for land which it did not own, and, upon a settlement afterward with Mr. Sweetzer, upon a recommendation from the Department to pay it, the matter came legitimately before the Committee of Ways and Means last year, and before the Committee on Appropriations this year. As it came from one of the Departments upon a recommendation, I considered it appropriate in its present place; and, unless there is some objection to the claim itself, of which I know nothing, not having investigated it, I do not see why the parties should be any longer delayed.

Mr. WASHBURNE, of Illinois. I think we ought to have affirmative reasons for putting a thing of this kind in this bill.

Mr. SPALDING. I hope my friend from Illinois will withdraw that motion. It is right, I have no doubt about it.

The question being taken on striking out the foregoing section, it was agreed to.

Mr. WASHBURNE, of Illinois. I move to strike out the following section:

SEC. —. *And be it further enacted*, That the Secretary of the Treasury is hereby authorized to increase the clerical force in the office of the Assistant Treasurer of Philadelphia, and the aggregate salaries of said clerks shall not exceed the sum of $9,000, which amount is hereby appropriated out of any money in the Treasury not otherwise appropriated.

I do it for the reason that it is increasing the salaries of the officers of the Government of a particular class. I do not think we should go on to increase salaries generally, much less to do so in special cases. This seems to be an absolute increase of the clerical force in Philadelphia. If that is done, the same reason will apply to Boston, New York, Chicago, Cincinnati, and elsewhere. I do not see any reason why we should make this distinction, and I hope this section will be stricken out.

Mr. STEVENS. I hope it will not. It has been recommended by the Treasury Department, upon a full examination, as absolutely necessary in order to carry on the department. There was one department which always had less appropriation for compensation than any similar department anywhere else. This is one which requires good men to fill it, and this is inserted upon the recommendation of the Treasury Department.

Mr. WASHBURNE, of Illinois. One word. I think the gentleman from Pennsylvania must be mistaken. This has nothing to do with the Mint, as I understand, but merely with the Assistant Treasurer, under the sub-Treasury law.

Mr. STEVENS. He is an officer of the Mint, *ex officio*.

Mr. WASHBURNE, of Illinois. I am not aware of that, and the same principle would apply all around. Unless we are prepared to go ahead and increase all these salaries, I do not see why we should increase the salaries of this particular class.

Mr. DARLING. I move *pro forma* to strike out the last word of the clause proposed to be stricken out.

I suggest that if this clause is to be retained, it should provide for the number of clerks to be employed. It is very clear that otherwise one clerk might be appointed, constituting an "increase of the clerical force," who could receive the whole amount appropriated, $9,000, or he might receive a salary of $1,000, and the balance of the appropriation might be divided among the existing force of this Assistant Treasurer.

It strikes me that if this section is to be retained—and I do not know but what it should be retained—it should define the clerical force to be paid by the appropriation.

I now withdraw my amendment to the amendment.

The question was taken on Mr. WASHBURNE'S amendment; and it was disagreed to—ayes thirty-one, noes not counted.

Mr. STEVENS. I move to strike out from line one, on page 30, down to and including the last line on page 32, as follows:

SEC. —. *And be it further enacted*, That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the objects hereinafter expressed, viz:

Office of United States depositary, Louisville:
For salary of cashier, $1,800.
For salary of book-keeper, $1,500.
For salary of assistant cashier, $1,320.
For salary of clerk, $1,320.
For compensation of the officers, clerks, messengers, and others, receiving an annual salary in the service of the House of Representatives, $1,184 64.
For contingent expenses, $625.

Office United States depositary, Chicago:
For salary of cashier, $1,600.
For salary of clerk, $1,000.
For contingent expenses, $400.

Office United States depositary, Pittsburg:
For salary of cashier, $1,500.
For salary of assistant cashier, $1,000.
For salary of watchman, $900.
For contingent expenses, $200.

Office United States depositary, Baltimore:
For salary of cashier, $1,800.
For salary of clerk, $1,500.
For salary of clerk, $1,200.
For salary of clerk, $1,000.
For salary of clerk, $900.
For salary of messenger, $900.
For contingent expenses, $360.

Office United States Assistant Treasurer, San Francisco:
For salary of cashier, $2,500.
For salary of book-keeper, $2,000.

Office United States depositary, Cincinnati:
For salary of assistant cashier, $1,500.
For salary of assistant cashier, $1,200.
For salary of assistant cashier, $1,000.
For salary of teller, $1,300.
For salary of book-keeper, $1,500.
For salary of two clerks, $2,500.
For salary of clerk, $1,200.
For contingent expenses, $2,000.

For the purchase of the property in Washington city, known as Ford's theater, for the deposit and safe-keeping of documentary papers relating to the soldiers of the Army of the United States, and of the museum of the medical and surgical department of the Army, $100,000.

SEC. —. *And be it further enacted*, That the sum of $9,881 25 be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the payment of salaries of clerks and others indicated in the preceding section, and of contingent expenses for the three months ending June 30, 1865.

And to insert in lieu thereof the following:

SEC. —. *And be it further enacted*, That the following sums be, and the same are hereby, appropriated out of any money in the Treasury not otherwise appropriated, for deficiencies in the appropriations for the objects hereinafter expressed, viz:

For compensation of clerks, messengers, and others receiving an annual salary in the service of the House of Representatives, $142,964.

For clerks of committees and temporary clerks in the office of the Clerk of the House, $4,180.

For contingent expenses of the House of Representatives, viz:

For fuel and lights, pay of engineer, firemen, and laborers, repairs and materials, $10,000.

For furniture, repairs, and packing boxes for members, $20,000.

For pages and temporary mail boys, $2,300.

For stationery, $13,432.

For salary of the stenographer, appointed under resolution of January 5, 1865, $3,650.

For additional compensation to laborers in the Clerk's office of the House of Representatives, as allowed by act of June 25, 1864, $730.

The amendment was agreed to.

The Clerk read, as follows:

SEC. —. *And be it further enacted*, That the proper accounting officers of the Treasury Department be, and they are hereby, authorized to pay A. D. Collingsworth, O. H. Vedder, Edward R. Sherman, Theophilus H. Galdwin, Charles C. Adams, Samuel W. Tucker, and the other persons employed by the deputy provost marshal of the District of Columbia in the enrolling office of said marshal, for night-work and special service performed in pursuance of a contract between said clerks and said provost marshal, such accounts being properly certified upon the rolls, or by said deputy provost marshal, and the amount necessary therefor is hereby appropriated out of any money in the Treasury not otherwise appropriated.

Mr. STEVENS. I felt unwilling to allow this section to pass without naming the persons who were to be paid under it. I therefore went to the Treasury Department and obtained the names not here inserted. I now move to strike out the words "and the other persons," after the words "Samuel W. Tucker," and insert the following:

J. G. Adams, A. Bengerol, J. A. Odell, V. Barnes, R. A. Cronin, T. N. Adams, J. C. Cleary, W. D. Lindsey, A. Jewett, jr., F. Cochin, B. C. Farliss, J. P. Townsend, C. W. Odell, J. C. Morchead, T. P. Lee, H. W. Satter, James Cross, J. R. Crud, H. B. Rourke, E. A. Lipscomb, George Cottenham, C. A. Perkins, W. B. Cudlipp, T. S. Baher, J. M. Conroy, O. W. Bogden, J. O. Armes, J. Bellows, E. T. Brossius, J. J. Calvert, F. G. Calvert, G. D. Curtis, W. B. Dyer, D. A. Fish, A. H. Gillespie, R. D. Guillien, Charles Gohun, H. Holmes, G. C. Halliday, R. E. Messer, E. C. Messer, F. Madden, W. McKee, W. H. E. Overend, S. B. Porter, P. W. Pearson, J. L. Bowland, C. V. Rotterden, E. J. Schale, E. J. Sweet, F. J. Schea, J. C. Williams, J. G. Wilson, L. K. Brown, J. H. Gunn, H. A. Dobson, J. A. McIntyre, V. B. Munson, J. J. Dickens, W. E. Armes, and B. W. Parsons.

The amendment was agreed to.

Mr. WASHBURNE, of Illinois. I hope the committee will consent to go back and strike out the lines which on yesterday I proposed to have stricken out, but some gentleman on the other side objected. I understand that objection is now withdrawn. I therefore ask

unanimous consent of the committee to move to strike out the following:

For payment of claims due for the constructing and furnishing the Baltimore court-house, $109,000.

For payment of claims due for the repair of Government warehouses and construction of wharves, Staten Island, New York, $29,000.

Mr. HOTCHKISS. I object.

Mr. WASHBURNE, of Illinois. Will the gentleman from New York [Mr. HOTCHKISS] state why he objects to having those clauses stricken out?

Mr. HOTCHKISS. I understand that it is a meritorious claim.

Mr. WASHBURNE, of Illinois. Well, I do not understand any such thing.

Mr. HART. I move to amend this bill by inserting what I send to the Clerk's desk to be read.

The Clerk proceeded to read, as follows:

And be it further enacted, That to meet the balance due for expenses incurred for the Fourteenth street sewer, across Ohio avenue, across Pennsylvania avenue, and in front of the reservation on the south side of the avenue, in front of Franklin square, and across Vermont and Massachusetts avenues, $1,084 50.

For E street north, paving carriage-way in front of reservation south side of E street north, between Thirteenth and Fourteenth streets west, five hundred and fifty-three feet, $2,637.

For Seventh street sewer, in front of Patent and Post Offices, also in front of Government reservation, and across Pennsylvania avenue and Louisiana avenue, $12,712.

For Four-and-a-half street, paving Four-and-a-half street to canal and Missouri avenue, also side foot-walks, four hundred feet, $4,910.

Mr. WASHBURNE, of Illinois. That is far enough. I understand this whole thing. It is the same amendment that was ruled out of order the other day as not being in accordance with any existing law.

Mr. HART. I claim that this is strictly in accordance with existing law.

The CHAIRMAN. The gentleman from New York [Mr. HART] will send up the law under which he claims that this amendment is in order.

Mr. HART. I will do so.

Mr. STEVENS. When was this work done?

Mr. HART. It was done in 1864 and 1865.

Mr. STEVENS. Then it is not the old claim we had here the other day?

Mr. HART. This work was all done after the passage of the law of 1864. I ask the Clerk to read the third section of an act approved May 5, 1864.

The Clerk read, as follows:

"SEC. 3. *And be it further enacted*, That in all cases in which the streets, avenues, or alleys of the said city pass through or by any of the property of the United States, the Commissioner of Public Buildings shall pay to the duly authorized officer of the corporation the just proportion of the expense incurred in improving such avenue, street, or alley which the said property bears to the whole cost thereof, to be ascertained in the same manner as the same is apportioned among the individual proprietors of the property improved thereby."

Mr. HART. Now, Mr. Chairman, I ask for the reading of a communication from the Commissioner of Public Buildings, which I send to the Clerk's desk.

The Clerk read, as follows:

OFFICE COMMISSIONER OF PUBLIC BUILDINGS,
CAPITOL OF THE UNITED STATES,
WASHINGTON CITY, *January* 22, 1866.

SIR: In compliance with your request, I have the honor to report that I have gone, with great care, over the items of charge made by the mayor of Washington against the United States in his letter addressed to the Secretary of the Interior in November last. I have done this with diagrams of the city of Washington and the mayor's vouchers before me. I find that every improvement specified as fronting on a public space or reservation is so situated, the distances are correct where stated, and where not stated I have measured them and given them to the committee, with the prices charged, which, in my opinion, are very reasonable, indeed; in many instances exceedingly low.

I have made a detailed report on this subject, which I have the honor to inclose.

I am, with high respect, your obedient servant,
B. B. FRENCH,
Commissioner of Public Buildings.

Hon. E. C. INGERSOLL, *Chairman of the Committee for the District of Columbia, House of Representatives, United States.*

Mr. WASHBURNE, of Illinois. I would like to ask the gentleman from New York [Mr. HART] what is the aggregate amount proposed to be appropriated by his amendment.

Mr. HART. About thirty-six thousand dollars.

Mr. WASHBURNE, of Illinois. I do not see, Mr. Chairman, that this proposition is presented in such a shape as to bring it within the scope of the act which has been read. I insist upon my point of order.

Mr. FARNSWORTH. This proposition has once already been ruled out of order.

Mr. SPALDING. I would inquire of the gentleman from New York whether this is not the same matter that was offered in Committee of the Whole some days ago.

Mr. HART. It is the same matter, but it did not then seem to be understood by the House.

The CHAIRMAN. The Chair decides that this amendment having on a previous day been decided out of order, and no appeal having been taken from that decision, the present occupant of the chair has no right to overrule the decision previously made.

Mr. HART. I do not understand that any such decision was made.

The CHAIRMAN. The Chair has been informed by the Clerk that this was decided out of order.

Mr. HART. This is a just debt, and it ought to be paid.

Mr. STEVENS. I will state, if the Chair will allow me, what I understood to have been the previous action of the committee on this subject. There were a large number of items of this kind, running back to 1855. The first item, referring back to 1855, was offered, and a question of order was raised upon it. There being no law for 1864, the Chairman ruled that that item, so far as it went, was out of order. It is true that this item was a part of the same series, but it was never offered.

Mr. HART. The gentleman from Pennsylvania [Mr. STEVENS] has stated the case correctly, as I understand it. The amendment which I now present is designed to pay a claim for work done since the passage of the act which has been read. As I understand the matter, the chairman of the Committee for the District of Columbia the other day had mingled with some claims resting on legal authority others in reference to which there may be a question whether they are covered by the law. I desire to separate these two classes of claims, and present only those for which we have clear legal authority.

The CHAIRMAN. The Chair has been informed by the Clerk, on reëxamination of the matter, that this amendment is not the same that was ruled out of order the other day. This amendment proposes to pay for work done since the passage of the law of 1864. Therefore it is in order.

Mr. WASHBURNE, of Illinois. Then I should like the gentleman from New York to present to the committee some evidence that will warrant an appropriation of thirty or forty thousand dollars for the payment of a claim of this kind.

Mr. HART. I have already presented the letter of the Commissioner of Public Buildings.

Mr. WASHBURNE, of Illinois. The letter of the Commissioner of Public Buildings is not, I think, sufficient evidence to justify this committee in voting an appropriation of money for a purpose of this kind. We ought to have the bills, and they ought to be thoroughly examined by the Committee for the District of Columbia. The gentleman from New York [Mr. HART] is, I believe, a member of that committee.

Mr. HART. Yes, sir.

Mr. WASHBURNE, of Illinois. Then let that committee examine this subject carefully, and if they believe these claims are just, let them report a bill to meet them, and let them present to the House the facts of the case, so that we may pass upon the question intelligibly. I protest against the introduction of appropriations for these claims in a bill of this kind, with no proper evidence before the House as to their correctness.

The amendment was not agreed to; there being, on a division—ayes 38, noes 55.

The Clerk read, as follows:

For the Indian service in Utah, being for money advanced by Brigham Young, while Governor and *ex officio* superintendent of Indian affairs, found due and allowed by the Secretary of the Interior, $38,487 53.

Mr. WINDOM. Mr. Chairman, I wish to strike that out, and I desire to state, as briefly as I can, some of the reasons why I think it should be stricken out.

I am aware this account of Brigham Young has been submitted to the Interior Department, and, as reported in this bill, found due to him; and I believe it has also been reported to be due by a commission sent to investigate it; and on this statement of facts was, I presume, presented to the Committee on Appropriations. The Committee on Indian Affairs at the last session of Congress reported the same amount to be paid to Brigham Young; that bill was placed upon the Calendar, but, on further investigation, new facts being discovered in reference to it, that committee were induced to prevent the passage of the bill at that Congress. I desire to present some of the facts upon which we changed our action in regard to this appropriation.

As I stated a moment ago, I have no doubt this amount was paid out by Brigham Young, but for what purpose and under what circumstances was it paid, at least a portion of it? I find this money was paid out in 1857. I believe he made the claim it was to keep the peace between the Government of the United States and the Indians, and was paid out in the way of presents to the Indians surrounding that Territory. I believe it is well known now that at the same time these presents were being made by Brigham Young to keep peace between those Indians and the United States, we were sending a force for the purpose of conquering Brigham Young, and I apprehend he was not anxious the Indians should be upon peaceable terms with the Government.

Mr. Chairman, on the 10th of December, 1857, occurred one of the most fiendish massacres which ever disgraced this continent. Within three hundred and twenty miles of the city of Salt Lake, if the facts I have to present can be relied upon, some of the Mormons having painted themselves as savages, with the assistance of other savages who needed no paint, attacked a train crossing from the Arkansas river to California, and murdered one hundred and twenty men and women in the most horrible manner. I wish I had the time to present these facts in full.

The first item of evidence is from the speech of Judge Cradlebaugh, February 7, 1860. He was formerly a judge in Utah. He says:

"The Indians would not have saved the infant children from the slaughter. Neither could they have induced the 'emigrants' to have left their protected position. It should also be borne in mind that Brigham Young at the time claimed to be, and was, acting as superintendent of Indian affairs in the Territory. There is now pending in this House a claim for thirty or forty thousand dollars, which includes about four thousand dollars for goods distributed by John D. Lee to the Indians about the Mountain Meadows within twenty days after the massacre; and also includes pay to Lee while he was engaged in the commission of the massacre. Whether Brigham will get it or not, I do not know. This, however, I do know, that some two years ago Congress passed an act to pay to the Territory of Utah some fifty-two thousand dollars for amount paid by the Territory in suppressing Indian hostilities in the Territory in the years 1852 and 1853. I have before me every law passed in the Territory, every appropriation made by the Legislature, and the statement of the territorial auditor of accounts. I defy the Delegate from Utah to show that there was ever appropriated or paid from the treasury of the Territory an amount to exceed three thousand four hundred dollars. It never was done. But you know Brigham says 'That he has the most adroit scoundrels in the world in Zion, and that he can beat their sharpest shavers.' So there is no telling but in his persevering he may succeed in procuring his demands for murdering, and expenses of endeavoring to purchase the Indians to aid him in his rebellion. The present claim was all made while Utah was in rebellion."

I do not know what reliability is to be placed upon the statement of Judge Cradlebaugh; I am not acquainted with him; but I have some other evidence on that point. I now read from the report of R. P. Campbell, a captain sec-

ond dragoons, commanding Santa Clara expedition:

"Nothing of interest occurred until my arrival at the Mountain Meadows, which are situated about one hundred and fifty miles south of Camp Floyd, and on the southern rim of the basin. Here I found human skulls, bones, and hair scattered about, and scraps of clothing of men, women, and children. I saw one girl's dress, apparently that of a child ten or twelve years of age. These were the remains of a party of peaceful inhabitants of the United States, consisting of men, women, and children, and numbering about one hundred and fifty, who were removing with their effects from the State of Arkansas to the State of California. These emigrants were here met by the Mormons (assisted by such of the wretched Indians of the neighborhood as they could force or persuade to join) and massacred, with the exception of such infant children that the Mormons thought too young to remember or tell of the affair. The Mormons had their faces painted so as to disguise themselves as Indians."

The CHAIRMAN. The gentleman's five minutes have expired.

Mr. GRINNELL. I move that the gentleman be allowed to finish his speech.

Mr. WASHBURNE, of Illinois. The debate has been closed by the House, and the gentleman's time cannot be extended by the committee.

Mr. STEVENS. I rise to oppose the amendment. I know how easy it is to raise a clamor against an unfortunate and unpopular people; and I know, if we had the decency of statesmen, how we ought to cast aside all these prejudices and do justice.

Mr. WINDOM. I say this is a great fraud and swindle.

Mr. STEVENS. I say it is not a great fraud and swindle, but justice.

Mr. THAYER. I offer the following amendment, to come in after line seventeen, page 34:

Hereafter no portrait or likeness of any living person shall be engraved or placed upon any of the bonds, securities, notes, or postal currency of the United States.

The practice which has grown up of late of placing upon the notes and securities of the United States likenesses of living individuals is one which I think is condemned by the public sentiment of the country and by every principle of good taste and propriety. We have had a great variety of likenesses upon these notes, considering the short time in which the practice has obtained—some of very good looking men, some of very ugly looking men, some of very great men, and some of very little men. If there is any necessity for resorting to this new description of ornamentation of our currency, let us put upon the securities, notes, and currency of the United States the likenesses of men who are associated with the historic glories of the country. It is, in my judgment, a very unbecoming thing that such likenesses as some I could refer to are to be found on the notes and fractional currency of this country. I hold in my hand a five-cent note of this fractional currency of the United States. If you ask me, whose image and superscription is this? I am obliged to answer, not that of George Washington, which used to adorn it, but the likeness of the person who superintends the printing of these notes. I have nothing to say against that gentleman, and no reflection to cast upon him. It may not be his fault that it is there. I do not know by whose direction it was placed there, but I would like any man to tell me why his face should be on the money of the United States.

Mr. ROSS. I would ask the gentleman, if he is not aware that this is a progressive age, and that the party that holds the reins of power is a progressive party.

Mr. THAYER. Yes, sir; and I am sorry the that gentleman is not more of a progressive man, but insists upon clinging to the carcass of the dead past after it has become offensive in the nostrils of the people. [Laughter.]

Sir, when we shall have a living Cæsar to make both the laws and the money of this country, it will be time enough to place his effigy upon the coins and notes of the United States. There is no reason why this practice should be persisted in. It is derogatory to the dignity and the self-respect of the nation; and I trust the House will support me in the cry which I raise of "Off with their heads!"

Mr. STEVENS. I will accept the amendment; and move to amend it by excepting the likeness of the President of the United States. The gentleman is mistaken, I believe, in supposing that the face of Mr. Clarke is engraved on the five-cent notes, unless he knows him better than I do. I see in this House a very worthy member whose face is exactly like that.

Mr. THAYER. Whatever difference may exist between my colleague and myself in regard to the ownership of the likeness referred to, I think he will agree with me that the real proprietor, whoever he may be, might maintain an action at law for a libel against the engraver, and be sure of a verdict in his favor upon putting the note in evidence.

Mr. STEVENS. If the gentleman will accept my amendment I will accept his.

Mr. THAYER. No, sir; I insist on mine.

Mr. ROSS. Inasmuch as this is to apply only to living persons, I presume it will not exclude any of the members of the committee on reconstruction. Their likenesses and memories may still be preserved. [Laughter.]

The question being taken on the amendment of Mr. THAYER, it was agreed to.

Mr. WINDOM. I move to amend by inserting at the end of the bill the following proviso:

Provided, That no money shall be paid under the provisions of this bill to reimburse Brigham Young for money advanced while Governor and *ex officio* superintendent of Indian affairs of the Territory of Utah, until the same shall be thoroughly investigated by the Secretary of the Interior, or by some of the standing committees of Congress.

I desire to make a few suggestions in reference to this amendment.

Mr. STEVENS. I do not see any objection to it.

Mr. WINDOM. I have the floor. I was surprised a moment ago to find certain gentlemen who have hitherto been so anxious to save money to this Government, so very desirous of passing this appropriation for Brigham Young, and especially the gentleman from Illinois, [Mr. WASHBURNE,] who is willing to deny an honest claim, no matter what, if he can save money to the Government, but who is anxious to force through this claim of nearly forty thousand dollars, to reimburse Brigham Young for massacreing one hundred and twenty of our fellow-citizens as I have heretofore stated. These are briefly the facts in this case, and I have evidence here before me to show it; not from the testimony of Judge Cradlebaugh, who, the gentleman says, is unworthy of belief, but from the testimony of officers of the Army who have gone there and investigated the matter.

Some twenty days from the time these murders occurred at Mountain Meadows, some thirty thousand dollars of this amount was paid over by Brigham Young on the certificates of John D. Lee, who, it was proven by these Army officers, was the man who was the leader in that atrocious murder at Mountain Meadows.

But gentlemen take advantage of the rules of the House and will not allow this evidence to be heard, and attempt to force this claim through, and then, perhaps, when the next amendment comes up, probably for the benefit of some honest claimant, some man in one of the rebellious States, whose property was taken from him and used by the Government, we shall be told that his claim must not be allowed because the Government cannot afford to pay it! Sir, I am astonished at such a course being pursued in this House. I am astonished that members should take advantage of the rules of the House for the purpose of pressing through appropriations paying for murders, and to such a man as Brigham Young has proved himself to be!

Sir, I have other evidence here which I should like to introduce, but I presume the House does not want to hear it.

Mr. STEVENS. Mr. Chairman, I was about to say that I have no particular objection to this amendment, but I am glad my friend from Minnesota has had the opportunity to deliver such an eloquent philippic. [Laughter.]

I know what is the feeling in regard to these people out in that valley. Ever since Joseph Smith was murdered and an erring people were driven out of their property in Illinois and compelled to inhabit a country which is almost uninhabitable, in order that they might get rid of Christian persecution, this same spirit has boiled up against them whenever their name was mentioned.

Sir, it is a spirit unworthy of a Christian age. While I have nothing to say in favor of the great principle of Brigham Young—I am too old for that, [laughter,]—yet I am sorry to see this spirit manifested in regard to everything which concerns these people. I am sorry that, after two successive Secretaries of the Interior and a commission specially appointed to examine into the matter have reported that this sum is due, this old cry about the Indian massacre, and this stale charge of murder which has never been proved, should be brought up here. Sir, it has nothing to do with this question now before the committee. I am almost ashamed to see a matter of that kind brought up here on the mere question of paying a liquidated claim, one that has been long settled and entered on the books of the Department, and which the claimant is as much entitled to as you are to your day's pay.

Mr. WASHBURNE, of Illinois. I move *pro forma* to strike out the last half of the amendment.

One would suppose, Mr. Chairman, that the gentleman from Minnesota [Mr. WINDOM] and myself had changed places, and that I was here as the champion of a claim which is not valid, and he was here defending the Treasury against an invalid claim. If that be so I certainly have changed places with him, for I have never known anything in the shape of a claim of any kind, excepting this, that has not received his vote.

Now, I happen to know all about this claim, and I can simply state what it is, and then gentlemen may howl it down if they please. The facts are known to the gentleman from Pennsylvania [Mr. STEVENS] and the other old members of this House.

This claim is not particularly for Brigham Young, but it is for money which was advanced by others as well as himself, upon the application of Brigham Young, for the purpose of feeding and clothing the Indians and quelling hostilities among them. And it received the sanction of the proper Department of the Government more than once, and it comes here recommended for payment by the proper officer, and nothing but the clamor which has been raised here has prevented it from being paid before now.

Whenever this claim has been investigated in either House it has been passed; and every guard has been thrown around its examination that it is possible to throw around the investigation of any claim. It passed at the last session, as I recollect, in the deficiency bill which was lost. It passed the Senate in another bill some years ago. It was fully examined over and over again. The Department of the Interior examined it and declared it to be a valid and just obligation against the Government.

That was not sufficient, and an Indian agent in Utah examined it in detail. That agent reported his evidence, and furnished the vouchers, item by item, and it is published in Executive Document, No. 29, showing that every dollar of this money was faithfully expended. And then by a resolution of the Senate, at the last session of Congress, the Secretary of the Interior was directed again to examine it. He has examined it, and has again reported to Congress that it is a just claim and ought to be paid. Such are the facts as I understand them.

And now the gentleman from Minnesota [Mr. WINDOM] seems to have discovered a mare's nest in the speech of Mr. Cradlebaugh, which is reported to have been made in this House, and which the gentleman says he heard. Well, I never knew of anybody else hearing it. Now I know something about this man and his speech. This Mr. Cradlebaugh who is brought in here in order to strike down this claim, was

a Delegate from Nevada. He was one of the judges sent by old Buchanan to Utah. He was the man who induced Floyd to send an expedition to Utah, which cost this Government ten million dollars. He got himself involved in all sorts of quarrels with the Mormons, and then went over into Nevada and got himself elected a Delegate to Congress from that Territory. He gathered up a great mess of stuff against the Mormons, and wove it into a long speech, accusing them of almost everything that could be conceived of.

But the idea that the Mormons were concerned in this bloody massacre which the gentleman from Minnesota [Mr. WINDOM] talks about, is too monstrous and fiendish for belief. I do not believe there was even the shadow of a shade of proof to support such an allegation. As bad as the Mormons are charged with being, it is not possible for them to have been engaged in that shocking massacre. And even if it had been true that some Mormons were engaged in it, what has that to do with the just claims that are due, not to Brigham Young, but to persons all over this country who gave credit to this Government? That is the question.

I have examined this claim, and know something about it. And if any claim can be just, I take it this is; but the committee can do what they please. The gentleman from Minnesota says that I am generally opposed to claims. I am opposed to all claims where I know they are not just. But when I know a claim to be just, then I am ready to sustain it, independent of any clamor which is raised against me, like that which is frequently raised against me for opposing claims. I endeavor to act justly, both to the Government and individuals, regardless of all clamor.

I regret that the Delegate from Utah [Mr. HOOPER] is not here to speak for himself. He is thoroughly familiar with this whole matter, and is a reliable man, well known to me. But he has been called away suddenly by the death of his daughter and cannot be heard. He could explain fully, and to the entire satisfaction of this committee, that there is not one particle of truth or justice in the assertion of the gentleman from Minnesota.

Mr. WINDOM. I do not wish to weary the House with this discussion; and I think I can get through all I have to say in a few moments. In regard to the gentleman from Illinois [Mr. WASHBURNE] and myself having changed places in regard to claims I will not undertake to say. But I do know that he never favors any claim unless it originates in the neighborhood of Galena. As this Delegate from Utah once lived in Galena, and I suppose has had the ear of the gentleman from Illinois, that circumstance, perhaps, accounts for his favoring this claim, the only one that he has favored during this Congress.

Mr. WASHBURNE, of Illinois. Such considerations as the gentleman from Minnesota has stated may perhaps influence him, but he has no right to assume that they have the same influence on me.

Mr. WINDOM. I do recollect one other claim which the gentleman favored, and that was a claim which he urged me, as a personal favor, to assist him in getting through.

I desire, Mr. Chairman, to introduce one other evidence in this case. It is the testimony, not of Judge Cradlebaugh, but of a captain in the regular Army. He says:

"The Mormons were led on by John D. Lee, then a high dignitary in the self-styled Church of Jesus Christ of Latter Day Saints, and Isaac Haight, now a dignitary in the same.

"This affair began by a surprise. The emigrants were encamped near a spring from which there is a ravine. Along this ravine the Mormons and Indians crept to the spring during the night. When the emigrants arose in the morning they were fired upon, and some twelve or fifteen of them killed. The emigrants then seized their arms and defended themselves so bravely that, after four days, the Mormons and Indians had not succeeded in exterminating them. This horrid affair was finished by an act of treachery. John D. Lee, having washed the paint from his face, came to the emigrants and told them that if they would surrender themselves, and give their property to the Indians, that the Mormons would conduct them safely back to Cedar City. The emigrants then surrendered, with their wives and children. They were taken about a mile and a half from the spring, where they, their wives, and their children—with the exception of some infants—were ruthlessly killed.

"The infants were taken to Cedar City, where they were either sold or given away to such of the Mormons as desired them."

This same John D. Lee figures prominently in connection with this claim. I have here the report of a committee sent to investigate this subject, by which report it appears that $3,527 was paid on the 30th of September, twenty days after this massacre occurred, the account being certified by this same John D. Lee.

Now, sir, I will not say whether Judge Cradlebaugh is worthy of confidence or not; but I claim that the facts I present are sufficient to show the propriety of our hesitating in reference to this matter. I care not who has investigated the payment of this money. I doubt not that Brigham Young has presented vouchers to show that he has paid the money over; but I claim that he paid it for the purpose of hiring these wretches to commit these murders.

In speaking on this subject, I have no prejudice against Brigham Young, any more than my venerable friend from Pennsylvania, [Mr. STEVENS,] who, when he speaks of being "too old," should remember that Lord Palmerston was indicted at the age of eighty. [Laughter.] I do not know that the principles of Brigham Young have anything to do with this question. I am speaking of his practises. I have presented the proofs that he did send his chief men, painted as savages, to commit these outrages. I have other proof that I would like to read; but I trust that I have said enough to convince the committee of the propriety of adopting my amendment.

Mr. WASHBURNE, of Illinois. I withdraw my amendment.

Mr. RICE, of Maine. I move to amend the amendment by striking out that part of it which proposes to require an investigation by the Secretary of the Interior, so as to leave the matter in the hands of Congress. This whole matter is now being investigated by the Committee on Territories of this House and they will report during the present session.

Mr. FARNSWORTH. It seems to me, Mr. Chairman, that if the Committee on Indian Affairs have, as I understand they have, investigated this subject sufficiently to come to the conclusion that this money should be paid, the House ought to show some regard to the proceedings of that committee.

Mr. WINDOM. I accept the amendment of the gentleman from Maine [Mr. RICE] as a modification of my amendment.

The amendment, as modified, was agreed to.

Mr. LYNCH. I move to insert the following at the end of the bill:

For certain alterations of the post office portion of the building in Portland, Maine, used for post office, custom-house, and court-house, $5,000.

I ask the Clerk to read the letters I send up.

The Clerk read, as follows:

TREASURY DEPARTMENT, *February* 28, 1866.

SIR: I inclose herewith a copy of the report of the assistant supervising architect, in relation to the proposed alterations in the post office at Portland, Maine, made after a personal examination of the premises; previous to which an estimate was made (based upon the papers and plans forwarded by the postmaster) that contemplated an expenditure of $3,000, and an appropriation asked for that sum.

After an examination of the premises and consultation with the Post Office Department, it has been deemed advisable to prepare a plan that it is believed will obviate in a permanent manner all the objections to the present post office, the estimated expense of which is $5,000. The plan proposed by the postmaster would only remedy a portion of the inconvenience at present complained of. I therefore recommend an increase of the appropriation asked for to $5,000.

Very respectfully, H. McCULLOCH,
Secretary of the Treasury.

Hon. THADDEUS STEVENS,
Chairman Committee on Appropriations.

TREASURY DEPARTMENT,
OFFICE OF SUPERVISING ARCHITECT,
February 27, 1866.

SIR: During my recent visit to Portland I examined the custom-house building in that city, and have the honor to report as follows: the building is in good repair, (though somewhat in need of cleaning and whitening in many of the rooms,) and is also much crowded, and with the growing needs of the port will, in my opinion, be totally inadequate for the proper transaction of business before long.

I examined the post office in relation to the proposed alterations, and concur in the opinion that some changes are necessary, and have prepared a plan which will in my opinion meet the approval of every citizen of Portland and the Post Office Department, which is submitted herewith. I would recommend that the appropriation asked for be increased to $5,000. It may not exceed $3,000, but the alterations proposed are of such a nature that a definite estimate is impracticable.

Very respectfully, A. B. MULLETT,
Assistant Supervising Architect.

Hon. HUGH McCULLOCH, *Secretary of the Treasury.*

Mr. LYNCH. I wish simply to say in reference to this matter, that it has been recommended by the Postmaster General. The building in which the custom-house is also located is under the charge of the Secretary of the Treasury; and when the matter was referred to him, he sent the supervising architect of the Government to examine and report, and he did report that these alterations were necessary for the convenience of the post office.

I will state further that the alterations are for additional box-room for those doing business at the office; and that the Government will be reimbursed before three years for this outlay.

The CHAIRMAN. The gentleman's five minutes have expired.

Mr. SPALDING. Are not these all in one building?

Mr. LYNCH. I move to strike out the last word, for the purpose of replying to the gentleman. The post office is in the same building with the custom-house, the former being on the first floor, and the latter on the second.

Mr. SPALDING. Have we not already made an appropriation for that building?

Mr. LYNCH. That is for a new custom-house, and not for this building. A portion of this building now occupied as a custom-house is to be used as a United States court-room. This is for the enlargement of the post office portion of the building for the accommodation of the persons doing business there. It is to give additional box room, to be paid for by those doing business at the office. The Postmaster General is satisfied the Government will be reimbursed in less than three years by means of this additional box room. There will be no loss to the Government, as the office is self-sustaining. It is indorsed by both the Postmaster General and the Secretary of the Treasury.

I withdraw the amendment to the amendment.

Mr. BERGEN. Mr. Chairman, it seems they have a building there now used for post office and custom-house purposes, yet we have in this bill an appropriation of $75,000 to put up a new building; and the gentleman is not satisfied with that, but asks for $5,000 more.

Mr. LYNCH. This has nothing to do with the appropriation for the custom-house.

Mr. BERGEN. Seventy-five thousand dollars have been appropriated for that.

Mr. LYNCH. For another building and another purpose.

Mr. BERGEN. They are not satisfied with the custom-house building they have, but they want a new one. I think they ought to be satisfied with what they have. Much of the Government business here in Washington is transacted in hired houses. It is found cheaper to hire buildings than to put them up. We have not a single Government building in Brooklyn, the third city in the Union in population; we have not a single public building—they are all hired by the Government. Portland, small compared with Brooklyn, with not one half the population, has one building, and we appropriate $75,000 for another, and yet the gentleman is not satisfied. He asks for more. If we have money to expend let us expend it where we have no public buildings. But the price of materials is so high that you find that private individuals prefer to hire than to build.

The committee divided; and there were—ayes 50, noes 40.

So the amendment was agreed to.

Mr. WASHBURNE, of Illinois. I move to add the following:

And provided further, That no part of the money hereby appropriated for claims due for the construction and finishing of the Baltimore court-house, and for payment of claims due for repairs of Government warehouses and construction of wharves on Staten Island, New York, shall be paid for damages, and no payments whatever shall be made except in full examination by the proper Department of the Government and certificate of the Attorney General that said amounts to be paid are legal and proper.

Mr. WASHBURNE, of Illinois. I move to amend by adding another proviso, as follows:

Provided further, That no part of the money hereby appropriated for gas in the city of Washington shall be paid at a larger sum per hundred cubic feet than was paid prior to the passage of the act to amend the charter of the Washington Gas-Light Company, approved January 30, 1865.

Mr. STEVENS. I am afraid my friend has run mad with provisos. The last Congress the company showed that they were losing money, and Congress altered the rate, fixing a certain amount to be paid by the citizens and a less amount to be paid by the Government, but fixed the amount. Under the law then passed the company has gone on and supplied us with the gas, and this amount which we have appropriated is not for future use but for what has already been supplied. Now, sir, are we going to repudiate a contract which we entered into with this company to take their gas at that price? They would not be bound to furnish it if we had not made the contract at a price fixed for the Government which is different from the price at which they furnish it to individuals. To repudiate this would be nearly as bad as the repudiation of the claim of Brigham Young, for I look upon that as a shameful repudiation, and I hope when it comes into the House it will not be concurred in. Though this company is not perhaps in quite so bad odor as Brigham Young, yet the contract is just as binding, and this money is as justly due. We cut down an appropriation the other day for lighting from $85,000 to $50,000. That amount is all expended but about a thousand dollars, and when that is gone we shall have the pleasure of being in darkness, for there will not be a dollar to pay for gas.

Mr. WASHBURNE, of Illinois. I move to amend the proviso by inserting the word "hereafter," so as to make it apply to the future. That will meet the objection of the gentleman from Pennsylvania, which may have something in it. I do this for the purpose of reducing the price of gas which the Government will have to pay for in the future.

Mr. STEVENS. I raise the question of order that what the gentleman now proposes is independent legislation upon an appropriation bill.

Mr. WASHBURNE, of Illinois. That is no point of order with my friend; it would do very well for me to raise it in regard to him.

Mr. STEVENS. I make it *ad hominem*.

Mr. WASHBURNE, of Illinois. *Ad hominem* is not quite as profitable as the price of gas.

The CHAIRMAN. No legislation is in order that proposes independent legislation.

Mr. WASHBURNE of Illinois. I want to stand by that rule of the House, and am glad to see my colleague in the chair [Mr. WENTWORTH] sound on that subject. But if the objection raised by the gentleman from Pennsylvania is sound, then I ask the House to adopt the amendment as it now stands. The company came in here at the last Congress and got a large increase in the price of gas in this city. It is legislation that ought not to be sanctioned, and now that we have an opportunity of repealing it I trust we shall do so. The amount we pay to this company is very great. Gentlemen will recollect that in this bill, a few days ago, there was an appropriation of $85,000 for lighting, which the House reduced to $50,000. I hope the House will put an end to this extravagance and adopt the amendment.

The CHAIRMAN. The Chair rules the amendment out of order.

Mr. DAVIS. The gentleman from Illinois [Mr. WASHBURNE] seems to have some particular spite, if I may use the expression, against the gas company.

The CHAIRMAN. The amendment is ruled out, and there is nothing pending.

Mr. SPALDING. I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. WENTWORTH reported that the Committee of the Whole had had under consideration the state of the Union generally, and particularly House bill No. 86, making additional appropriations, and to supply deficiencies in the appropriations, for sundry civil expenses of the Government for the fiscal year ending the 30th of June, 1866, and for other purposes, and had made sundry amendments thereto.

Mr. STEVENS. I move the previous question on the bill and the pending amendments.

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

The amendments reported from the Committee of the Whole on the state of the Union, were, by unanimous consent, voted on and agreed to *en masse*.

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

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

The latter motion was agreed to.

The House resumed the consideration of the bill of the Senate No. 61, "to protect all persons in the United States in their civil rights and furnish the means of their vindication," upon which the gentleman from Pennsylvania [Mr. THAYER] was entitled to the floor.

Mr. NIBLACK. I ask the gentleman from Pennsylvania to yield to me that I may ask the unanimous consent of the House to introduce a joint resolution for reference only.

Mr. THAYER. As I do not desire to address the House this evening, I will yield to any gentleman who desires to ask unanimous consent of the House.

EIGHT-HOUR SYSTEM.

Mr. NIBLACK, by unanimous consent, introduced a joint resolution declaring eight hours labor a day's work in all cases where laborers, mechanics, or artisans may be employed by or in behalf of the Government; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

LEAVE OF ABSENCE.

Mr. SMITH. I ask leave of absence for my colleague, General ROUSSEAU, until Monday next.

No objection was made, and the leave of absence was granted.

Mr. ELDRIDGE. I ask leave of absence until Monday next for Mr. HOGAN, of Missouri.

No objection was made, and the leave of absence was granted.

Mr. ANCONA. I ask leave of absence for one week from to-day.

There was no objection, and the leave of absence was granted.

RAILROAD GRANT TO CALIFORNIA.

On motion of Mr. McRUER, by unanimous consent, bill of the Senate No. 133, granting lands to aid in the construction of a railroad and telegraph line from the waters of the bay of San Francisco to Humboldt bay, in the State of California, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Public Lands, with the understanding that it should not be brought back by a motion to reconsider.

LAND GRANT TO WISCONSIN.

On motion of Mr. SAWYER, by unanimous consent, bill of the Senate No. 85, granting to the State of Wisconsin a donation of public lands to aid in the construction of a breakwater and harbor and ship-canal at the head of Sturgeon bay, in the county of Doar, in said State, to connect the waters of Green bay with Lake Michigan, in said State, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Public Lands, with the understanding that it should not be brought back by a motion to reconsider.

FRANCIS A. GIBBONS AND F. X. KELLEY.

Mr. HOTCHKISS. I ask the unanimous consent of the House to introduce a joint resolution for the purpose of putting it upon its passage, referring the papers in the case of Francis A. Gibbons and F. X. Kelley to the Court of Claims.

I will state that the parties desire to withdraw their claim from before the Committee of Claims, for the reason that they have found the evidence which was wanting in their case, and it is much better that it should be investigated by the Court of Claims than by the Committee of Claims.

Mr. WASHBURNE, of Illinois. I object.

And then, on motion of Mr. SMITH, (at five o'clock p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to the appropriate committees:

By Mr. ALLISON: The petition of soldiers of Iowa regiments, discharged on account of physical disability, praying for additional bounty.

By Mr. ALLEY: The petition of Lynn Savings Bank, also the Savings Bank of Newburyport, for reduction of taxes upon savings institutions.

By Mr. BUNDY: The petition of William D. Kelly & Co., proprietors of Center and Hecla Furnaces, Lawrence county, Ohio, for an increase of the tariff.

Also, the petition of Lindsey Kelley, and 163 others, citizens and laborers at and near Center Furnace, in said county, for the increase of the tariff.

By Mr. DRIGGS: The petition of Samuel Ackley, and 40 others, of Iosco and Bay counties, Michigan, asking an appropriation of $50,000 to improve the harbor at the mouth of Au Sauble river, in said State.

By Mr. ELIOT: The petition of Nantucket Institution for Savings, praying that such institutions, having no capital stock, shall be relieved from the taxes now charged upon them.

Also, the petition of Plymouth Savings Bank, Massachusetts, praying for relief from certain taxation of savings institutions not having capital stock.

By Mr. FARNSWORTH: The petition of Thompson & Co., of Rockford, Illinois, who are manufacturers of harvesters and other agricultural implements, to be relieved from excessive taxation.

By Mr. FERRY: The memorial of J. H. Tompkins, praying for relief in consequence of the improper disposition of certain land warrants.

By Mr. GARFIELD: The petition of George W. Harney, and 109 others, citizens of Youngstown, Ohio, praying Congress to increase the duties on imports wherever needed to fully protect home labor, and remonstrating against free trade.

Also, the petition of Messrs. Brown & Bonnell, and 212 others, citizens of Youngstown, Ohio, praying Congress to amend the tariff so as to protect American labor, at least to the extent of the difference of the cost of capital and labor here and abroad, with the addition of the taxes paid by American industrial products from which the foreign are free.

By Mr. HIGBY: The petition of the officers of the United States steamer Independence, for an increase of pay.

Also, the petition of the officers of the United States steamer Suwanee, for the same purpose.

Also, the petition of the officers of the United States steamer Comanche, for the same purpose.

Also, the petition of the officers of the Navy attached to the navy-yard at Mare Island, California, for the same purpose.

By Mr. HALE: The petition of C. A. Stevens, and others, citizens of Crown Point, Essex county, New York, for protection to American industry.

Also, thirteen petitions of citizens of Essex and Clinton counties, New York, to same effect.

Also, the petition of Thomas Hammond, and others, citizens of Crown Point, Essex county, New York, to same effect.

By Mr. HOGAN: The petition of sundry dealers of St. Louis, Missouri, against allowing the Post Office Department to sell stamped envelopes for only the value of the stamps.

By Mr. JENCKES: The petition of George Harland, and others, soldiers of the war of 1812, for pensions.

By Mr. LONGYEAR: The petition of M. B. Wood, and 685 others, citizens of the State of Michigan, residing in the counties of Ingham, Eaton, Jackson, and Hillsdale, for an extension of the land grant heretofore made by Congress to aid in the construction of a railroad from Amboy, by the way of Lansing, to some point at or near Traverse bay.

By Mr. MERCUR: The petition of honorably discharged soldiers of Bradford county, Pennsylvania, asking that all soldiers who were enrolled previous to October 21, 1863, be granted the same pay and bounties as were allowed to soldiers who enlisted after that date.

By Mr. NIBLACK: The petition of Dr. Eli Lewis,

and others, of Indiana, praying compensation to Dr. Jonathan R. Tilman, late assistant surgeon of the sixtieth regiment of Indiana volunteers.

By Mr. PAINE: The petition of Mr. F. W. Pitkin of Natchez, Mississippi, respecting tax on cotton.

By Mr. STEVENS: The petition of Alexander Rider, a disabled soldier, praying for increase of pension.

By My. UPSON: The petition of Ezra Berry, W. H. Kellogg, and 44 others, of Quincy, Michigan, asking Congress to pass a law equalizing soldiers' bounties.

By Mr. WASHBURN, of Indiana: The petition of Joseph Potts, and 280 other persons, praying for a mail route from Rockville, Parke county, to Covington, Fountain county, Indiana.

By Mr. WASHBURN, of Massachusetts: The petition of John B. Beach, and 16 others, citizens of the ninth Massachusetts district, praying for an amendment of the Constitution so that the President and Vice President may be chosen by the legal voters of the United States without the intervention of Electoral Colleges; also, for an intelligent voting basis without distinction of race or color.

Also, the petition of John B. Beach, and 21 others, citizens of Barre, Massachusetts, asking for an amendment to the Constitution so as to protect all loyal citizens.

Also, the petition of the trustees of Amherst Savings Bank, in Massachusetts, praying that all savings institutions may be relieved from the tax imposed upon them.

By Mr. WENTWORTH: The petition of citizens of Marshall county, Iowa, for increased transit facilities.

NOTICE OF A BILL.

The following notice for leave to introduce a bill was given under the rule:

By Mr. MYERS: An act regulating appeals to the examiners-in-chief in the Patent Office.

IN SENATE.

FRIDAY, *March* 2, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY.

The Journal of yesterday was read and approved.

LEAVE OF ABSENCE.

Mr. CHANDLER. In behalf of my colleague, [Mr. HOWARD,] I ask that he be granted leave of absence for two weeks on account of the death of his wife.

The PRESIDENT *pro tempore*. The Senator from Michigan moves that his colleague be allowed leave of absence for two weeks in consequence of domestic affliction.

Leave was granted.

PERSONAL EXPLANATION.

Mr. DOOLITTLE. Mr. President, I deem it my duty to rise to a personal explanation which concerns the relations between the honorable Senator from Massachusetts [Mr. SUMNER] and myself. Since my entrance into this body I can assure that honorable Senator that none but the highest personal estimation of him has been entertained by me, feelings of sincere friendship and regard as well as high respect. And I should not rise now to say anything were it not for the fact that a telegram addressed to the honorable Senator finds publication in a newspaper in this city which is published by the Secretary of the Senate. It is dated "New Haven, Connecticut, February 28, 1866," addressed to "Hon. CHARLES SUMNER," and is in these words:

"DOOLITTLE was hissed and silenced for disparaging you in a speech here to-night. "W. A. CROFFUT."

Mr. President, there are three great mistakes of fact in those two lines; first that I disparaged Mr. SUMNER at all in my remarks on that occasion; second that I was hissed at all; and third that I was silenced. All three of those allegations are false. What I said on that occasion, Mr. President, which referred to the honorable gentleman, I find briefly stated in the Boston Journal, whose reporter was present, and it is also stated in the journals of Connecticut. In speaking upon the pending constitutional amendment before the Senate, I expressed my belief that it was doubtful whether that amendment could be carried. I read from the Boston Journal:

"In his [my] opinion it was not worth while to delay reconstruction to carry through such an amendment. Even among those men who are denominated radicals, like Mr. SUMNER, of Massachusetts"—

Then commenced by some persons in the assembly the hisses which are referred to, and the Journal goes on to remark:

"Here were many hisses, which were drowned by thunders of applause continually raised for several minutes at every continuation of the hisses."

Then I continued:

"Even such men are doubtful about such an amendment. I do not mean to censure the motives of Mr. SUMNER. [More hisses and thundering applause.] Hear me, gentlemen; I do not mean to censure such men, for I shall vote on the pending amendment with Mr. SUMNER. [Applause.]"

This, Mr. President, is a statement substantially of just what occurred. Neither did I disparage the honorable Senator, nor was I hissed, nor was I silenced, for I immediately went on and finished the speech. I feel called upon to say this, because this telegram addressed to the honorable Senator appears in a newspaper which is published and controlled by the Secretary of the Senate.

Mr. SHERMAN. I beg leave to say that I think the people meant to disapprove of the probable vote of both these gentlemen. Probably that was the purpose of the hisses. The people meant to indicate that they were both wrong on the constitutional amendment.

Mr. DOOLITTLE. If my friend desires to go into that subject, I can tell him that the applause was very much more than the hisses.

Mr. SHERMAN. They are both in the same boat on that subject. [Laughter.]

PETITIONS AND MEMORIALS.

Mr. NESMITH presented three petitions of officers of the Navy attached to the navy-yard at Mare Island, California, praying for an increase of their compensation; which was referred to the Committee on Naval Affairs.

Mr. SHERMAN presented resolutions of the Legislature of Ohio, in favor of an increase in the regular Army, and recommending the appointment of competent volunteer officers to positions therein; which were referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

He also presented a petition of citizens of Ohio engaged in the manufacture of harvesters and other agricultural implements, praying that they may be allowed in making their returns to deduct the value of any and all parts of machinery which have already paid a tax; which was referred to the Committee on Finance.

Mr. ANTHONY presented the petition of Benjamin Tilley, of Rhode Island, praying for compensation for rent of land occupied by the War Department in Washington city; which was referred to the Committee on Claims.

Mr. POMEROY presented the memorial of Commodore Henry Eagle, praying to be reimbursed for money alleged to have been stolen from him on the 2d of June, 1848, while acting as purser of the United States bomb-vessel Etna, at Frontera, in the State of Texas, he having paid the same on the settlement of his accounts; which was referred to the Committee on Naval Affairs.

Mr. MORGAN presented the petition of William Masters and Thomas Smith, praying for an increase of the duties on imported clay pipes; which was referred to the Committee on Finance.

Mr. HARRIS presented a memorial of a committee appointed by a convention of plowmakers and manufacturers of agricultural implements of western New York, praying for a reduction of the tax on agricultural implements; which was referred to the Committee on Finance.

Mr. DOOLITTLE presented a memorial of the Legislature of Wisconsin in favor of payment to Alexander F. Pratt, late sheriff of Waukesha county, in that State, for expenses incurred by him in pursuing and keeping a prisoner convicted in the United States district court for that State for counterfeiting United States coin; which was referred to the Committee on Claims, and ordered to be printed.

Mr. SUMNER. I present a petition of the authors and editors of our country, and as it is very brief I will read it:

To the members of the Senate and House of Representatives of the United States of America:

We, the undersigned, citizens of the United States, do most respectfully represent to your honorable bodies that the true interests of American literature demand the adoption of an international copyright law by this Government and that of Great Britain, and do pray that you will enact such measure or measures as will secure at the earliest possible day the consideration of such a law by the two Governments herein mentioned. And your petitioners will ever pray, &c.

This petition is headed by William C. Bryant, and among the names I observe Parke Godwin, Leonard Bacon, Willam L. Kingsley, George P. Putnam, C. P. Cranch, E. P. Whipple, George E. Ellis, Benson J. Lossing, J. C. Fletcher, Oliver Wendell Holmes, and many others whose names I do not read.

I also present a similar petition, which is headed by Henry W. Longfellow, and I find among the names James Russell Lowell, Jared Sparks, S. Austin Allibone, and most, if not all, those who have done the most for the literature of our country, and also most of the leading editors of the country.

Some fourteen years ago, sir, I had the honor of presenting a similar petition signed by Washington Irving, Fenimore Cooper, and William H. Prescott. Those illustrious persons have passed away without seeing the prayer which they addressed to Congress answered. I trust that some, at least, of these numerous petitioners may see their prayer answered before they too shall pass away.

I have had some hesitation as to the committee to which these petitions should be referred. It will be observed, however, that they concern primarily an international question, inasmuch as they propose action on our part which looks to reciprocal action on the part of Great Britain. I shall therefore ask the reference of these petitions to the Committee on Foreign Relations; but should that committee not be able to mature any measure in pursuance of the petitions, I shall expect that they will be reported back to the Senate and referred to some more appropriate committee, who may undertake to mature some measure in pursuance of the prayer of the petitioners. I ask their reference to that committee.

The PRESIDENT *pro tempore*. That reference will be ordered.

Mr. SUMNER. Mr. President, I present a petition signed by John A. Andrew, and a large number of the most distinguished and respectable gentlemen of Massachusetts, and, as you will see from its size, [holding up the petition,] the signatures are very numerous. It is very brief, and I will read it:

The undersigned, people of Massachusetts, respectfully pray that the Constitution of the United States may be amended:

1. So that the President and Vice President may be chosen by the qualified voters of the United States directly, without the intervention of electoral colleges.

2. So that the qualifications of voters for President, Vice President, and Representatives in Congress may be established on an impartial, just, and constitutional basis, imparting and limiting the privilege of voting for those officers to those citizens who can read and who comply with the other requirements and conditions made by the laws of their respective States respectively; provided that no one shall be abridged or affected in his enjoyment of this franchise by reason of race, color, descent, or social condition, and that no one shall be disfranchised who already enjoys it under existing laws.

I move the reference of this petition to the joint committee on reconstruction.

The motion was agreed to.

SENATOR FROM LOUISIANA.

Mr. JOHNSON. I have been requested to present (and I comply with the request with pleasure) the credentials of Hon. Henry Boyce, elected as one of the Senators from the State of Louisiana for the term ending March 4, 1867. I move that they lie on the table.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. ANTHONY, from the Committee on Claims, to whom was referred the memorial of Robert W. Dunbar, praying to be reimbursed for damages sustained in consequence of a revocation of his appointment as agent to take charge of public property at Port Orford, in Oregon, asked to be discharged from its further consideration, the case coming within the juris-

diction of the Court of Claims; and the report was agreed to.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the memorial of Miss Clara Barton, praying for aid to carry out a plan, originated by her, for obtaining information of soldiers and communicating the same to their relatives, submitted a report, accompanied by a joint resolution (S. R. No. 36) providing for expenses incurred in searching for missing soldiers of the Army of the United States, and for the further prosecution of the same. The joint resolution was read, and passed to a second reading, and the report was ordered to be printed.

Mr. LANE, of Indiana, from the Committee on Pensions, to whom was referred the petition of A. J. Gray, praying for a pension, reported a bill (S. No. 180) for the relief of A. J. Gray; which was read, and passed to a second reading.

BILL INTRODUCED.

Mr. HARRIS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 179) in relation to the district courts of the United States in the State of California; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

NATIONAL CONSTITUTIONAL CONVENTION.

Mr. LANE, of Kansas. I offer the following resolution:

Resolved, That the Committee on the Judiciary be instructed to inquire as to the expediency of Congress recommending a general convention of the people of the United States to consider amendments to the Constitution; to report by resolution or otherwise.

I move that the resolution be printed, and I shall call it up hereafter.

The motion to print was agreed to.

SOUTHERN PACIFIC RAILROAD.

Mr. BROWN. I move that we now resume the consideration of Senate bill No. 20.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 20) granting lands to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific coast, by the southern route, the pending question being on the amendment of Mr. BROWN to insert in the second section after the word "Indians," in line seventeen, the words "and only by their consent."

Mr. BROWN. I modify the amendment so as to say "and only by their voluntary cession." That is the language of the treaties, and I prefer to use the same language.

The PRESIDENT *pro tempore*. The Senator has the right to modify his own amendment.

Mr. LANE, of Kansas. Let the clause be read as it will stand if thus amended.

The SECRETARY. If the clause be amended as proposed, it will read as follows:

The United States shall extinguish as rapidly as may be consistent with public policy and the welfare of the said Indians, and only by their voluntary cession, the Indian title to all lands falling under the operation of this act.

Mr. LANE, of Kansas. I ask the Senator if that includes the right of way.

Mr. BROWN. Yes, sir; it includes everything.

The amendment was agreed to.

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

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

On motion of Mr. BROWN, its title was amended by striking out the words "by the southern route."

SOLDIERS' AND SAILORS' ORPHANS' HOME.

Mr. WILSON. I am directed by the Committee on Military Affairs and the Militia, to whom was referred the joint resolution of the House of Representatives (J. R. No. 76) authorizing the Secretary of War to transfer to the National Home for Soldiers' and Sailors' Orphans, of Washington city, certain stores not needed for the use of the Government, to report it back without amendment; and I ask that the resolution be put on its passage now. I presume there will be no objection.

By unanimous consent, the joint resolution was considered as in Committee of the Whole. It proposes to authorize the Secretary of War to deliver to the lady directors of the National Home for Soldiers' and Sailors' Orphans, of Washington city, for the use and aid of that society in its benevolent objects, such blankets, bedding, and other furniture and articles as may be proper for their purposes, and as are now on hand in the stores of the Surgeon General's department, and no longer needed for Government account; the Secretary to determine, at his discretion, the specific amount and character of the stores thus to be appropriated, and of which due account shall be taken.

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

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the Speaker of the House of Representatives had signed an enrolled bill (H. R. No. 321) to amend an act entitled "An act to prevent the spread of foreign diseases among the cattle of the United States," approved December 18, 1865; and it was thereupon signed by the President *pro tempore*.

MESSAGE FROM THE HOUSE.

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

A bill (H. R. No. 86) making additional appropriations, and to supply deficiencies in the appropriations for sundry civil expenses of the Government for the fiscal year ending the 30th of June, 1866, and for other purposes;

A bill (H. R. No. 347) for the relief of R. L. B. Clarke; and

A bill (H. R. No. 345) for the relief of Christina Elder.

REPRESENTATION OF SOUTHERN STATES.

Mr. GRIMES. I move that the Senate now proceed to the special order of the day.

The motion was agreed to; and the Senate resumed the consideration of the following resolution of the House of Representatives:

Resolved by the House of Representatives, (the Senate concurring,) That in order to close agitation upon a question which seems likely to disturb the action of the Government, as well as to quiet the uncertainty which is agitating the minds of the people of the eleven States which have been declared to be in insurrection, no Senator or Representative shall be admitted into either branch of Congress from any of said States until Congress shall have declared such State entitled to such representation.

The pending question being on the amendment of Mr. HENDRICKS to insert the words "the inhabitants of" after "eleven States."

Mr. COWAN. Mr. President, in any remarks I may make to-day, I shall not attempt to suggest any new remedies for the evils which now afflict the country. I shall only try to show that the old are amply sufficient, and that there is not the least necessity for going outside the Constitution and laws in order to vindicate the Government. We do not need to amend the one or to remodel the other—and especially we ought not to violate the one and disregard the other in order to attain our ends.

I am glad to say to the country that I only state in this the views of the President. He has sworn to support and maintain the Constitution and see that the laws are fully executed, and he will stand there, no matter what comes.

My object now, then, is simply to induce a return to the great principles of the Government, which for a period of three quarters of a century were undisputed, and which gave to us a progress and prosperity heretofore unparalleled in the world.

Mr. President, the United States are in themselves a body-politic or corporation, created originally by thirteen States, with certain powers conferred upon it by a great charter called "The Constitution of the United States," which from the year 1787 till the present, with a few amendments not material here, has continued to be the law of its existence and the measure of its power and authority. In and by the terms of the Constitution it was provided that new States might be admitted by the Congress into the Union, and under this authority, from time to time, States have been admitted till the number amounts to thirty-six.

The States that originally joined in creating the Union were themselves bodies-politic or corporations, with governing powers granted to them by their people supreme, except so far as limited in their constitutions and the Constitution of the United States. The new States have also their charters or constitutions, made by their people, and, when once admitted, stand upon the same footing in all respects as the original States.

The Constitution further provides that the Senate of the United States shall be composed of two Senators from each State, and that each House shall be the judge of the elections, returns, and qualifications of its own members.

Five years ago, upon the election of Mr. Lincoln to the Presidency, the secession party of the cotton States, deeming it a fitting occasion to commence the carrying out of their schemes, and being in possession of most of the places of power in those States, they undertook to repeal the ordinances by which they had bound themselves in the Union by enacting ordinances of secession. They then expelled the United States authorities from the possession of their territories in all of their ports, except two small forts, Pickens and Sumter. In the mean time the Congress was in session and the President was in the Executive Mansion. They had full power to raise and support armies, to provide and maintain a navy, and they had full power to call forth the militia to execute the laws of the Union and suppress the insurrection. They did nothing, and for four months the people of the cotton States were left at the mercy of the conspirators, with no protection and no assistance. The Government was paralyzed, and the rebels, without let or hinderance, established a confederate government in fact and in full possession, which had the power to compel the obedience of the people to all its decrees and laws; and this was done with an iron hand. The people on their part, without organization, without means, looked in vain to the United States for aid and deliverence, but none came. They voted, when they had a chance, in opposition to the scheme of secession, but their votes were disregarded and the usurpation went on to its completion.

The 4th day of March, 1861, came, and Mr. Lincoln was inaugurated. There was no Congress. The Army was demoralized, the Navy was distrusted, and the Treasury was empty. No one knew what to do; wise men hesitated; timid men quailed; and it was doubtful whether we would attempt to rescue the people, suppress the insurrection, and put the Union again in possession. This suspense lasted till the 12th of April, 1861, when the rebels, emboldened by the apparent weakness of the Government, opened their fire upon Fort Sumter to drive the United States from the possession of their last foothold in South Carolina. The first shot settled the question forever; almost every man in the North started as if struck by it, and rushed to offer his services to the President. War was imminent, and sides must be taken.

Mr. Greeley, in his American Conflict, volume one, page 450, says:

"Secession, as we have seen, had been initiated by the aid of the most positive assurances that, once fairly in progress, every slave State would speedily and surely unite in it; yet, up to this time but seven of the fifteen slave States, having a decided minority of the population, and a still more decided minority of the white inhabitants, of that section, had justified the sanguine promise. On the contrary the so-called 'border States,' with Tennessee and Arkansas, had voted not to secede, and most of them by over-

whelming majorities; save that Kentucky, Maryland, and Delaware had scarcely deigned to take the matter into consideration. And, despite vice president Stephens's glowing rhetoric, it was plain that the seceded States did not and could not suffice to form a nation. Already the talk in their aristocratic circles of protectorates and imported princes betrayed their own consciousness of this. Either to attack the Union, and thus provoke a war, or to sink gradually but surely out of existence beneath a general appreciation of weakness, insecurity, and intolerable burdens, was the only choice left to the plotters and upholders of secession.

"And, though signally beaten in the recent elections of the non-seceded slave States, they had yet a very strong party in most of those States; stronger in wealth, in social standing, and in political activity and influence than in numbers. A majority of these had been able to bring the conventions or Legislatures of their respective States to say, with tolerable unanimity, 'If the Black Republicans attempt to coerce the seceded States we will join them in armed resistance.' It was indispensable, therefore, to their mutual purposes that there should be 'coercion.'

"So late as the 4th—a month after the return of their 'commissioners' from the abortive peace conference—Virginia, through her convention, by the decisive vote of 89 to 45, refused to pass an ordinance of secession."

In March, Tennessee voted 91,803 Union and 24,749 for convention, (*Ibid*, page 481,) but afterward the Legislature entered into articles with the confederacy giving it control of the military force and public property—Senate, yeas 14, nays 6, absent or not voting 5; House, yeas 43, nays 15, absent or not voting 18. This was the 7th of May, 1861, and an ordinance of secession was ratified by the people on the 8th of June following, under the following circumstances, says Mr. Greeley, page 483—and I read with great pleasure from Mr. Greeley, because if there is any man in the country who ought to be authority with the dominant party in the Senate, I think it is Mr. Greeley:

"The network of railroads checkering the State, and especially the great line connecting Virginia, through Knoxville and Chattanooga, with the cotton States, was instantly covered with rebel soldiers, and all freedom of opinion and expression on the side of the Union completely crushed out. Governor Harris, on the 24th of June, issued his proclamation declaring that the vote of the 8th had resulted as follows:

	Separation.	*No separation.*
East Tennessee	14,780	32,923
Middle Tennessee	58,265	8,198
West Tennessee	29,127	6,117
Military camps	2,741	
Total	104,913	47,238

"But a convention of the people of East Tennessee—a region wherein the immense preponderance of Union sentiments still commanded some degree of freedom for Unionists—held at Greenville on the 17th, and wherein thirty-one counties were represented by delegates, adopted a declaration of grievances wherein they say:

"We, the people of East Tennessee, again assembled in a convention of our delegates, make the following declaration in addition to that heretofore promulgated by us at Knoxville on the 30th and 31st days of May last:

"So far as we can learn, the election held in this State on the 8th day of the present month was free, with but few exceptions, in no part of the State other than East Tennessee. In the larger portion of Middle and West Tennessee no speeches or discussions in favor of the Union were permitted. Union papers were not allowed to circulate. Measures were taken in some parts of West Tennessee in defiance of the constitution and laws, which allow folded tickets, to have the ballots numbered in such manner as to mark and expose the Union voters."

From the same volume, page 485, we may learn how North Carolina was carried into the whirlpool of rebellion. Here it is:

"The State of North Carolina, though never deliberately and intelligently hostile to the Union, became a much easier prey to the conspirators. Her Democratic Legislature—reconvened at Raleigh, November 19, 1860—had refused, a month later, to pass a bill to arm the State, though visited and entreated to that end by Hon. Jacob Thompson, then a member of Mr. Buchanan's Cabinet; and had adjourned without even calling a convention. This, as we have seen, did not prevent Governor Ellis taking military possession of the Federal forts near Beaufort and Wilmington (January 2) on the pretext that, if he did not do it, a mob would! He proceeded to reconvene the Legislature in extra session, and to worry it into calling a convention for which an election was duly held. But the act making this call provided that the people, when electing delegates, might vote that the convention should or should not meet. They profited by the gracious permission, and while electing a Union convention by an immense majority, voted—to guard against accidents—that the convention should not meet; their vote—quite a heavy one—standing, for holding, 46,672; against holding, 47,323; majority for no convention, 651. This vote temporarily checked all open, aggressive movements in the interest of disunion, but did not arrest nor diminish the efforts of its champions. On the contrary, a great State-rights convention was assembled at Raleigh on the 22d of March, and largely attended by leading disunionists from South Carolina, Virginia, and other States. Its spirit and its demonstrations left no doubt of the fixed resolve of the master-spirits to take their State out of the Union, even in defiance of a majority of her voters. But they concluded to await the opportunity which South Carolina was preparing. This opportunity was the taking of Fort Sumter; when Governor Ellis proceeded to seize the United States branch mint at Charlotte and the Federal arsenal at Fayetteville; and thereupon to call an extra session of the Legislature. This session commenced May 1, and in a few days thereafter resulted in the passage of the following:

"'Whereas by an unwarranted and unprecedented usurpation of power by the Administration at Washington city, the Government of the United States of America has been subverted; and whereas the honor, dignity, and welfare of the people of North Carolina imperatively demand that they should resist, at all hazards, such usurpation; and whereas there is an actual state of revolution existing in North Carolina, and our sister State of Virginia, making common cause with us, is threatened with invasion by the said Administration; Now, therefore,

"'*Resolved*, That his Excellency the Governor be authorized to tender to Virginia, or to the government of the confederate States, such portions of our volunteer forces now, or that may be hereafter, under his command as may not be necessary for the immediate defense of North Carolina.'"

Here is his version of the way the Arkansas ordinance was procured, to be found on page 486:

"The Arkansas convention assembled about the 1st of March, and on the 16th was waited on by William S. Oldham, a member of the confederate congress and a commissioner from Jefferson Davis, bearing a message from that potentate dated March 9, four days after the adjournment of Congress, and when the contents of Mr. Lincoln's inaugural were familiar to the entire South. The convention listened to Mr. Davis's letter, wherein he dilated on the identity of institutions and of interests between his confederacy and the State of Arkansas, urging the adhesion of the latter to the former; and after taking two days to deliberate, a majority—39 to 35—voted not to secede from the Union. The convention proceeded, however, to resolve that a vote of the people of their State should be taken on the 1st August ensuing—the ballots reading, 'secession' or 'coöperation'—the convention to stand adjourned to August 17, when if it should appear that secession had received a majority this should be regarded as an instruction from their constituents to pass the ordinance which they had now rejected; and so having elected five delegates to a proposed conference of the border States at Frankfort, Kentucky, May 27, the convention stood adjourned. Yet this identical convention was reconvened upon the reception of the news from Fort Sumter, and proceeded with little hesitation to pass an ordinance of secession by a vote of 69 to 1. That ordinance asserts that this convention, by resolves adopted March 11, had pledged 'the State of Arkansas to resist to the last extremity any attempt on the part of such power to coerce any State that seceded from the old Union.' The ordinance proceeds to set forth that the Legislature of Arkansas had, on the 18th October, 1836, by virtue of authority vested therein by the convention which framed the State constitution, adopted certain propositions made to that State by Congress, which propositions were freely accepted, ratified, and irrevocably confirmed as articles of compact and union between the State of Arkansas and the United States, which irrevocable compact this convention proceeded formally to revoke and annul, and to declare 'repealed, abrogated, and fully set aside,' by the identical act which withdraws Arkansas from the Union and absolves its citizens from all allegiance to its Government.'"

In summing up the results of all the indications of public opinion, it is impossible to dissent from the conclusion of Mr. Greeley's twenty-second chapter, page 351:

"The slave States and District which had not united in the movement, were as follows:

States.	*Free population in* 1860.	*Slaves.*	*Total.*
Arkansas	324,323	111,104	435,427
Delaware	110,420	1,798	112,218
Kentucky	930,223	225,490	1,155,713
Maryland	599,846	87,188	687,034
Missouri	1,067,352	114,965	1,182,317
North Carolina	661,586	331,081	992,667
Tennessee	834,063	275,784	1,109,847
Virginia	1,105,192	490,887	1,596,079
District of Columbia	71,895	3,181	75,076
Total	5,704,900	1,641,478	7,346,378

"So that, after the conspiracy had had complete possession of the southern mind for three months, with the southern members of the Cabinet, nearly all the Federal officers, most of Governors and other State functionaries, and seven eighths of the prominent and active politicians, pressing it on, and no force exerted against nor in any manner threatening to resist it, a majority of the slave States, with two thirds of the free population of the entire slaveholding region, were openly and positively adverse to it; either because they regarded the alleged grievances of the South as exaggerated if not unreal, or because they believed that those wrongs would rather be aggravated than cured by disunion."

Now, to sum up, here is a free population of over five and a half millions in the insurrectionary States, of which Mr. Greeley asserts two thirds to have been loyal and true to the Union in spite of the extraordinary influences brought to bear upon them, leaving not quite two millions represented by secession. But to understand this in a still clearer light, it is necessary to analyze this two millions and take a look at its elements before we undertake to decide upon its loyalty.

Arkansas had a white population of 324,323 in 1860, and she cast a vote of 54,050, showing that the adult males over twenty-one years of age were almost exactly one sixth of the whole. Who were the other five sixths? Women and children. Yes, sir, 270,000 people in Arkansas, whom nobody would dream of charging with treason, who could not well commit it under any circumstances, much less in those which surrounded them.

Again, 25,321 adult men voted against Mr. Breckinridge, against 28,732 for him, and I suppose nobody pretends but that those who voted for Douglas and Bell were Union men, whatever the others might be. But who were the others? They were 28,000 of the rank and file of American voters, and I will consider for the argument's sake that they were as intelligent as any equal number taken from any other part of the country. How many of them voted for Breckinridge with intent to destroy the Union? No man can say that if that had been the issue distinctly pronounced, that 14,000 would have so voted, nor that 7,000 would have done so, nor indeed that any number would have done so, except the actual leaders of the movement.

So much for Arkansas. Let us look at Tennessee next. Her white population was 834,000, and her votes in 1860 were, Bell 69,274, Douglas 11,350, and Breckinridge 64,209, or a few more than one sixth of the whole, and showing a majority of more than 16,000 votes for the Union candidates, Bell and Douglas. She had 700,000 or nearly, of innocent women and children, and 80,000 loyal voters at least, and if we add to these the thousands and tens of thousands who voted for Breckinridge without for one moment thinking of treason, among them the present President of the United States, whose loyalty has been tried in the fire, how many actually guilty conspirators can you point out in Tennessee? Will any one hazard the assertion that 10,000 or even 5,000 original conspirators could be found there? Let him hesitate.

Next North Carolina. Her white population was 661,586, and her votes in 1860 were, for Douglas 2,701, Bell 44,990, Breckinridge 48,538, or nearly one for every seven and a half of her people, and all I have said of Tennessee may well apply to her. Virginia presents herself in the same category with a vote somewhat larger for her population, and a majority of more than 18,000 for the Union candidates. And so I might go on, with every State, county, and neighborhood throughout the South, and after sifting the matter to the very bottom, it would be found that the number of the guilty contrivers of secession is so small when compared with the masses of the people, or even the masses of the voters, that it sinks into insignificance. Nor is this strange. It is only what the world has always known, and the postulate upon which it has always acted. There never can be in any community as highly civilized as ours any very great number of men capable of the crime of treason, and it is well it is so, otherwise society would enjoy few intervals of peaceful repose. War would be the rule and not the exception. The people in all ages have been disposed to yield themselves to leaders, and to follow them, not always with a blind obedience, but with confidence that their trust would not be abused.

How many responsible leaders were there in the seceding States when the United States authorities were ousted from the possession of their territories? How many guilty men controlled the movement up till the time they had the people wholly in their power? Because from that time forward you will remember that no man who had not taken part before, can be or ought to

be responsible except in so far as he suffers in the war which follows. Were there ten thousand, or were there but five thousand? In answering this question let every man look to his own county or district, and let him fix the number of men in it who ought to be held for the disorders sure to result for an attempt of this kind. I think he will find the number he would ever think of arraigning to be very few.

Where, too, are most of those guilty men of the South to-day? Is not much the larger number of them gone; some dead in the course of nature, Floyd, Yancey, and others; some dead on the battle-fields, as Jackson, Barksdale, and others; some are in exile in foreign lands, as Mason, Slidell, Price, Wigfall, and others; so that those who remain are incapable of great mischief, or only of such mischief as we have ample means of preventing by recourse to the common and obvious legal remedies.

If any man asks how it came that the people, being in favor of the Union, could be overcome and led away into such a terrible rebellion as we have just put down without being themselves guilty, I will answer him that in this case their confidence was abused by their leaders; they were for a long time induced to believe that these were their friends, with no motive in view but the good of the whole country; that their zeal in their behalf was the result of excessive patriotism and not heated by an unseen fire; that they were their safest defenders against the greater strength of the North because they were loudest in their warnings of danger from that quarter, and therefore they bestowed upon them all the offices and places in the gift of the strongest and most popular party in their midst. All usurpers achieve places of power by great apparent devotion to the interests of the people, and I suppose the cruelty of the tyrant has always been pitiless in the same ratio as his former patriotism was ardent. His shortest route to the throne is when he marches through the most crowded thoroughfares bearing aloft the flag of liberty; and the devil is never half so successful and bloody in his crusades as when he puts on the armor of superior sanctity and walks humbly under the banner of the cross.

Again, the people are easily misled by terror or overcome by fear. The wicked and designing combine, contrive, and organize; the virtuous and unambitious pursue their avocations; they first multiply their power indefinitely by acting in concert according to a preconstructed plan; the latter, however numerous, are as an army without leaders and without discipline, an easy prey to their captors. Here, too, perhaps, lies the true secret of the necessity for government, inasmuch as it is the organized force of the people kept constantly on foot for the purpose of furnishing for them a rallying point from which to resist and crush other and inimical combinations against the peace of society. Hence nothing so much aids in a revolutionary movement in a confederacy as that the insurgents should get hold of the governments of the States composing it, or some of them, because the treason is easy in proportion to the control the traitor can exercise over the insignia of power among the people. Let him carry the loyal flag, and thousands will follow it as though in loyal hands. Let him sign with the national seal, and thousands will respond as though the impress was made by a loyal officer. The Government of England halted at one time because James II had thrown the great seal in the Thames! How to get along without that piece of iron was a puzzle, but it shows the reverence men everywhere entertain for the insignia, the emblems, of power.

Thus in our case, when the secessionists procured themselves to be made Governors, judges, and legislators all over the southern States, according to their several constitutions and laws, they were in a position to command the obedience of the southern people whenever they were not protected by superior force. Nor will it be found so easy for the common people to decide between the State and the United States when they are in conflict as most persons thoughtlessly suppose. Lawyers may be very clear; but the people are not all lawyers, and are not expected to judge correctly of either titles or jurisdiction; they usually follow those who are in possession of the tribunals to which they are accustomed. Hear Mr. Greeley on some of the machinery which may be brought to bear upon them by means of secret societies, organized with the sole view of overawing them, and compelling their coöperation in deeds of violence, and then let Senators say what they would have done themselves in such a reign of terror. I read from page 350, *et seq.*:

"Before the opening of 1861, a perfect reign of terror had been established throughout the Gulf States. A secret order, known as 'Knights of the Golden Circle,' or as 'Knights of the Columbian Star,' succeeding that known, six or seven years earlier, as the 'Order of the Lone Star,' having for its ostensible object the acquisition of Cuba, Mexico, and Central America, and the establishment of slavery in the two latter, but really operating in the interest of disunion, had spread its network of lodges, grips, passwords, and alluring mystery all over the South, and had ramifications even in some of the cities of the adjoining free States. Other clubs, more or less secret, were known as 'the Precipitators,' 'Vigilance Committee,' 'Minute Men,' and by kindred designations; but all of them were sworn to fidelity to 'southern rights,' while their members were gradually prepared and ripened, wherever any ripening was needed, for the task of treason. Whoever ventured to condemn and repudiate secession as the true and sovereign remedy for southern wrongs, in any neighborhood where slavery was dominant, was thenceforth a marked man, to be stigmatized and hunted down as a 'Lincolnite,' 'submissionist,' or 'abolitionist.' One refugee planter from southern Alabama, himself a slaveholder, but of northern birth, who barely escaped a violent death because of an intercepted letter from a relative in Connecticut, urging him to free his slaves and return to the North, as he had promised, stated that he had himself been obliged to join the 'Minute Men' of his neighborhood for safety, and had thus been compelled to assist in hanging six men of northern birth because of their Union sentiments, and he personally knew that not less than one hundred men had been hung in his section of the State and in the adjoining section of Georgia, during the six weeks which preceded his escape in December, 1860."

And at this point I wish Senators to pause before determining upon the guilt of the people of any State in circumstances like these. Let us see if the fault was on their side.

Where were they to look for protection against all this terrible machinery of parties, secret societies, precipitators, vigilance committees, and minute-men, backed as these were by the State officers everywhere? What power had they established to stand watch and ward over them at such a time? It was the Federal Government of the United States, having authority over the armies, the militia, and the navies of the United States. It was, too, the very object of all these threats, and was openly notified and cognizant of all these preparations against it. It was bound by the very law of its own existence to defend itself, and it was further bound, nay, it was of the very essence of its Constitution, to protect the freedom and liberties of the people. It was created for that purpose, and was entitled to the allegiance of the people only when it performed its trust.

What then, I ask, did it do?

Mr. President, I tremble when I answer, nothing, nothing; but, on the other hand, allowed itself to be ignominiously stripped of its arsenals, forts, and public property of every kind all over the disaffected region. Not a gun was fired, not a sword drawn, to sustain its authority or vindicate its honor. Congress accuses the President, and the President accuses Congress, for these shameful derelictions of duty. I leave it to the future to decide between them; it is enough that we do now know that there never was such a great breach of public trust before. Never before had men intrusted with the government of a great empire counting millions upon millions of people loyal and true to it abdicated their high prerogatives so basely; never before were a people so shamefully deprived of that protection which was due to them as the consideration for their allegiance.

And yet it is this people, thus betrayed by their leaders, by their State governments, by the Federal Government, thus defenseless in the very face of civil war, who voted every time they were free to do so for the old Union and the old flag with a pertinacity and a resolution of which every lover of his country and its people ought to be proud. Yet it is this same people who, after being rescued from the grasp of the conspiracy, are constantly held up to the country as though they had been all traitors, and guilty of treason against the United States. And while the Federal Government is now in undisputed possession of all the national domain, from the Potomac to the Rio Grande, with ample means and opportunity to seize upon and arrest all original conspirators and leaders in secession, all Knights of the Lone Star or Golden Circle, all vigilance committees, all precipitators and minute-men, with courts, judges, juries, marshals, &c., and all the machinery proper for their trial and conviction, yet no one has been punished, nor have I seen or heard of a single one of all the furious patriots with which this Congress teems, and who never speak of the South without telling you it is swarming with traitors, who has made the slightest effort to enforce the law against any one of these really guilty persons. Not one of them has sued out a warrant, not one has made an arrest, not one of them has even asked that the law and the law alone shall decide; not one. And yet these same persons spend week after week and month after month in devising unlawful measures and schemes for the punishment of the people, not as individuals in courts, where they may be heard in their own defense, but as States and communities, in a Congress where they are not represented, and where all are confounded together, loyal and disloyal, true men and traitors, innocent and guilty, tender women and blood-stained minute-men, little children and grim demagogues, in one great mass, condemned as guilty, and punished as such with a rigor that Austria has repented of and Russia abandoned, it is hoped, forever.

Mr. President, I am unable to express in terms sufficiently strong my condemnation of our cruelty to this rescued people. When I think of the way we abandoned them in the outset, how we allowed them to get into the toils of the conspirators, of the terrible war in which they were involved, of their desolate homes and devastated fields, I cannot think there is a human being who would say that they ought to suffer further. Whatever guilt may have been on their souls surely has been atoned for by what they have suffered in the war, and as the people they are purged, and ought to stand purged in the forum of the nation.

I say the people are purged; war always purges the people; but I want it distinctly understood, that while I myself utter no cry for more blood, I will do all that lies in my way to punish any I think really guilty of treason in this rebellion. If I find one of this sort undertakes to thrust himself into the councils of the country or to take the lead in public affairs, I will not appeal to the House of Representatives nor to the Senate nor to the President to prevent him; I will appeal to that which is higher still—the law, the expressed will of the American people. I will have him arrested by the law, arraigned by the law; I will offer evidence of his guilt to a jury of his peers, and I will not assail his State or its people. I will not involve the women and children of his neighborhood in his guilt; nay, in my eyes his own wife and children shall be presumed innocent. He shall be heard in his defense fully, and confronted with the witnesses against him. He may show everything which goes to show his innocence; he may show that the Federal Government either did not or could not protect him; that another government was over him which he durst not disobey. I would have all this done, soberly, solemnly, and patiently, in a court of justice, and according to all the forms which have been adopted by us as befitting the dignity of the American people, so that all men should bow their heads reverently in presence of its majesty. If he was convicted, I would have him punished and made ignominious. Treason is a great, nay, the most heinous of all crimes, and ought to be punished; but it must be punished by the law, and not by Congress

nor by the military nor by anybody but the law, administered by the judges and jurors in the courts. It is no answer to say to me that the courts are corrupt and the juries are tainted; the man who makes such an assertion asserts the infamy of his Government, the infamy of his countrymen, and that the great Republic has failed to answer the ends for which it was established. The law is the will of the American people, and whenever the Government cannot or will not try and punish all offenses against that law, then the American people are at the mercy of offenders or tyrants.

It is time we came to this, Mr. President. It will be the solution of all our difficulties, and relieve us from all our troubles; but as long as we endeavor to impress our people with the idea that the populations of the southern States are all rebels and traitors, that they are not to be punished in courts by the law, but in Congress by a deprivation of their rights as free peoples, then the further we go the worse we will fare, for the simple reason that we assume as a fact that which is a falsehood. It is not true that the southern people are now or ever were traitors; and if the Government had given them the protection to which their allegiance entitled them, they never would have yielded themselves to rebellion.

Let us, then, treat the people according to the great law of the Union, as free States, equal members in the Union, and if we punish at all, let us punish individuals in the courts, where punishment alone can be inflicted.

I now propose to apply the principles I have laid down to a solution of the question which now agitates the country, and I think they will be found effectual. And at the outset, I may ask in all sincerity, what the difference may be, in the eyes of the law, between putting down a great rebellion by armies in war and arresting a single felon who resists by a constable? Is not the difference to be found wholly in the number of persons engaged? Is not the object in both cases the same—to vindicate the laws? Is not the means the same, to use such force as to compel submission to the laws? Surely nobody can doubt this. Let us see, then, what happens during the process. If the felon resists, the constable may kill him; so, if the rebels resist, the soldiers may kill them. When the felon yields, the constable turns him over to the law; and no matter how heinous may have been his crime or how desperate his resistance, he has a right to be tried by the law and punished by the law. The constable being himself the mere creature of the law as such officer, must yield his prisoner to the law; as a man simply, he has no power to touch a hair of his head.

So it is with the rebel or rebels when they surrender to the President or to his generals; these have no power to touch a hair of the head of one of them; the law, which is supreme over Presidents, generals, and Congress, becomes the arbiter of their fate the moment they yield, and this for the most potential of all reasons, namely, that the American people have so willed it. They have adopted it in their Constitution and enacted it in their laws, and no greater indignity could be offered to them than for any one, no matter who, who should dare to substitute his will and his punishment upon any criminal for the law and its punishment; and no matter how atrocious has been the crimes of the prisoner he has a right to appeal to the law against all people; this also is due to the law, because it was against the law he offended, and to the law he ought to make atonement.

And now, Mr. President, this disposes of, or ought to dispose of, all the questions with which the country is so uselessly convulsed. These I propose to examine *seriatim*, and show not only their legal absurdity but also their mischievous effect in preventing the pacification of the country.

The first of these whimsies is that the rebellion destroyed the States whose people were engaged in it by a kind of incorporeal *felo de se*, not very clearly explained even by the authors of the charge. And, indeed, when we consider that the State is an artificial and not a natural person, a body-politic or corporation, existing merely in contemplation of law, not having a soul to be damned nor a body to be kicked, it is difficult to see how it could achieve the extraordinary feat of committing suicide. It is said, however, this is done by forfeiture, as a punishment for crimes committed, not by the State I suppose, for folly has not yet gone that length, but by its officers and people. Well, I have no objection to the punishment of individuals who commit crimes, but I would ask where it was or is the law that the State should die for the sins of the people. I guess, however, that those who advocate this theory really mean to say to the people of the rebel States, "You have been so wicked recently that as a penalty therefor you shall not have a State at all." But the people, wicked though they may be, still have a right to say, "Will you be good enough to show us where it is written in the Constitution or laws of the United States that we shall not have a State as a punishment for any crime or crimes whatever? If there is any such law we submit of course."

Nobody has shown any such law.

But perhaps the best answer to the *felo de se* hypothesis is in the fact that the States in question give the lie to it by persisting to be alive all the time they are avowed to be dead. And what is still more conclusive, not only alive but vigorous and in very nearly full function, with territories, boundaries, inhabitants, constitutions, laws, Governors, Legislatures, and judiciaries, and more than all that, with the armies of the United States standing by, ready to defend them from all internal and external dangers. This is thought quite ample to repel the imputation of self-murder.

The second sophism is equally fallacious, but far more cowardly, because being afraid to say to a living corporate body "You are dead," it says "You are in fine robust health to be sure, but for fear you might overdo yourself we will take the task of government off your hands and govern your people ourselves as a conquered people." So you see it comes back to the old point precisely, namely, that the people are or ought to be deprived of their States as a penalty for crimes.

Another class of these patriots disavow the dogmas of dead States and conquered peoples, but nevertheless sternly insist that having put down the rebellion at an enormous loss of men and money, we have now a right to impose terms upon the States in question before we restore them again to their old rights. Some of them call this requiring indemnity for the past and security for the future, a phrase that has about as much application to the suppression of an insurrection as it has to the operation of the courts of quarter sessions in dealing with riots. These are both liable as usual to the same fatal objection which beset the others—they are without the sanction of either Constitution or law, or rather in direct contravention of both. We have seen that when the rebels surrendered they surrendered to the law, and if the law provided no mode by which we can impose conditions or make terms then we are at an end of it.

Again, there is another set still more metaphysical in their notions. They hold that although the rebel States are still States in the Union, yet, because they were for awhile, on account of the rebellion, prevented from enjoying their rights in the Union, they are not now to be restored to those rights till Congress, either by law or concurrent resolution, (I do not know which,) has declared they ought to be so restored. And to fashion this business properly for the action of the two Houses is the work allotted to the somewhat famous committee of fifteen. That body was instructed to inquire into the condition of the States which formed the so-called confederate States, &c., and report whether they or any of them are entitled to be represented in either House of Congress. This is the resolution, but it has been taken to be a little wider than its terms, and the committee has gone on to inquire into the condition of the people as well as into that of the States. So far as it is possible to know, it would seem that this inquiry is not as to the physical condition of the people, their religious or moral condition, nor their intellectual condition, but their loyal condition; and when that word is uttered there is a dead stop; nobody attempts to define it or tell what they mean by it, only it is generally understood to be a clincher and unanswerable.

Suppose we look at this word which serves so many uses to-day. What is a loyal man? What must he do, say, think, or feel, to entitle him to this appellation? Usually he has been held to be one who submitted himself to the laws. He was thus contradistinguished from a rebellious man who resisted the laws. If this then is the meaning put upon it by the committee, their task may be performed soon and with some certainty, because the executive officers could soon report whether in any part of the country there was resistance to the laws on the part of the people.

If, however, we depart from this, and inquire further into the condition of the people, it is hard to see where the end is. If it is to depend on some mental or emotional condition of the person examined, who is to judge? How completely must the secession opinion have been flogged out of him by the war? Will it do to say he gives it up, or must he go further and say he is convinced the other way? What must he think of slavery? That it was a curse to the master, or a curse to the slave, or to both? What ought to be his views on suffrage? Ought he to insist on universal suffrage, universal adult suffrage, or universal manhood suffrage? Will he be required to believe in universal negro suffrage, or may he circumscribe and limit it by a literary fence so high that a large number of negroes cannot jump it?

Then again it is thought important to know what party these fellows would prefer, whether for or against the late veto.

I confess I should like to know how much of all these several ingredients must enter into the composition of a loyal man, and then how many this laborious committee must sample in order that they may accurately determine for us the character of the whole lot.

Mr. President, I cannot conceive of anything so utterly absurd and ridiculous as this pretense of inquiring into the loyalty of the people anywhere, in a time of peace, when nobody pretends there is flagrant war. Does any sane man believe any good will ever come out of it?

But it may be said that the committee only inquire as to the condition of States, not people. If so, I would ask to what characteristic element of States they have turned their attention? Is it to their constitutions as the limitation of their powers put upon them by the people? Or do they look at the mode and manner by which they provide for the organization of the State? Or will they go behind even their constitutions themselves, and inquire whether there was fraud, duress, or undue influence used upon the people to such an extent as to vitiate these instruments and nullify them?

If they look at the limitations only, can they say these are too few or too many; that the sovereignty is too much restrained or too much abandoned? And how long does this require for eleven constitutions? Have the committee read them? Have they got them? And how? By private enterprise, or by the usual reference? And suppose the examination made: what is the standard of the committee to try them? And if they thought them or any of them not made as they would have made them, what are they going to do about it?

They have not told us.

If it is the mode of organization they look into, what is their guide? Do they inquire into the primary distribution of political power or the right of suffrage? And if they concluded this was improper, would the State be free if they could impose terms and compel a modification? Would a form of government imposed upon a State by compulsion be a republican form, the Federalist to the contrary not-

withstanding? All these are nuts for the committee to crack.

Again, can they inquire into the duress of the people in forming these constitutions? If so, who alleges it? Who imposed it? And who can remedy it, if not the people? And if the people, who now hinders the people from doing so? Cannot we make them free now to have their own way as they ought to have under our system?

Mr. President, all these labors of the committee seem so ludicrous and extravagant that it is hardly possible to treat them with becoming gravity, especially as we have seen that the results are still less than the throes which give them birth. We want information as to the condition of certain States, and we are treated to an amendment to the Constitution and a legal opinion—bad law at that. Is the proposed amendment germane to the committee; is it within the scope of its authority; or is it a mere ebullition of the Constitution-making rage which seems to darken the visages of all members of Congress nowadays? I propose to trespass upon the Senate a dissection of it, and I hope they will witness the operation patiently. What I have to do with it may as well be done now.

What does this amendment mean?

Mr. President, the amendment means this: that the several States of the Union may have full and entire control over the political *status* of all their people, except the negro, without incurring any penalty whatever; but if they do not choose to intrust him with the franchise of an elector then they are to be deprived of all representation for him in Congress. In other words, we care nothing about any one else; our sole business in this respect is to protect the negro.

"Race and color" is your touch-stone. Do anything you will to the poor, to the foreign-born, to the unfortunate, to the woman, to the minor, to anybody but to the man of color, the man of a different race from ourselves, to him you must be generous, even to the sharing of dominion with him.

Let us see, if we can, how race and color at this time demand such essential consideration over and above all other disabilities; because, as I have said before, no other is taken into account. The States may debar for want of money, learning, residence, height, weight, or any other measure they may see fit to adopt, but they must not touch race and color. They may refuse the right to a man who cannot read, and you have no rebuke for this, you have no penalty to impose. Why not, I would ask? If the States are competent to protect the unlearned soldier who cannot read the Constitution, why are they not good enough to be guardians of the negroes who can? You commit the one in all confidence to their tender mercies, and yet the other you must hedge round with a constitutional amendment because of race and color. What did you say to this unlettered soldier when your armies were to be recruited and your draft quotas filled? Did you examine into his literary qualifications then, or tell him it was necessary then to have a certain amount of constitutional learning, or did you say it was enough for him if he could give and receive the countersign? Do not your payrolls show you took his mark as a valid signature, as valid as the stroke of his saber and the thrust of his bayonet.

And yet you leave him to the mercy of the States. Why do you do this? How do you intend to apologize to the men who fought your battles? How do you expect to conciliate the Army by thus abandoning the unlettered soldier at a point where he may be disfranchised even by Massachusetts?

Again, the States are competent to deal with the question of the age at which the voter is qualified. They may fix it at eighteen or thirty, or at any other age, without penalty. They can do the same with regard to residence. They can require the voter to reside in one spot ten days or ten years before voting, and yet you do not restrain them.

You leave, too, at the mercy of the States the poor man; they have the right to disfranchise him to any extent. Is he not, too, a man and a brother? And upon what principle can you punish his poverty as a disqualification? It may be the result of unavoidable misfortune, the result of the visitation of God, or the public enemy. It may be from defective organization, or may have been from the very excess of his virtues. Yet no one has ever suggested an amendment of the Constitution to protect him against the State in which he lives. It is not a question of race and color.

You talk of taxation without representation, and you apply it not to the whole community, but to certain classes of the community. If so, how do you exclude the thousands of women all over the country who are pursued by your tax-gatherers with as much vigor as if they were all members of Congress? Yet they are at the will of the States disfranchised now, and most likely will continue to be so. Did it not strike the committee of fifteen that something might be done for this meritorious class of our taxpayers? Is it composed wholly of single men, widowed or celibate? It involves no question of race or color.

Why should the foreigner who seeks our shores to aid us in establishing a glorious Republic, where the people shall alone bear rule, run the risk of having to stand back at the bidding of a State, deprived of his franchise? How could he help the cause of his exclusion? It is very clear that he could not come to this country before he was born; and if that event happened in foreign parts, I do not see, sir, how he could avoid it or postpone it until he could be ushered in with the Declaration of Independence in his pocket, and be swaddled in the starry folds of the national flag. He comes as soon as he can, and surely stands on as fair footing as those who did not come at all, or had to be brought.

But, Mr. President, I have another objection to this amendment, which is fatal, I think. It will be observed that the committee who have reported this bill were appointed by Congress in order to inquire into the condition of the States in which these negroes reside, it being alleged here that their people were so traitorous, diabolical, and malignant toward the Federal Government and the negroes that they ought not to be allowed the privilege of representation in Congress along with their taxation, and the committee was to report thereon. Now, after weeks of inquiry, I infer the committee thinks that allegation true, because surely, if it did not, it would not keep eleven sovereign States, deprived of that first and dearest of all rights, standing outside the legislative Halls where the laws are made which are to govern them. I say, then, they must have found or believed the people of those States were very bad people, or they would not have kept them out.

Well, sir, this august committee, which, as I said some days ago, carries on its girdle the keys of the Union, and upon whose terrible fiat the rights of sovereign States depend; this committee proposes in this amendment to sell out four million (radical count) negroes to the bad people of those States forever and ever. In consideration of what? I am asked. Oh, shame! where is thy blush? I answer, in dust and ashes, for about sixteen members of Congress. Has there ever been before, sir, in the history of this or any other country, such a stupendous sale of negroes as that? Never, never! It is saying to the southern States, you may have these millions of human beings whom we love so dearly, and about whom we have said so much, and for whom we have done so much; you may do with them as you please in the way of legislative discrimination against them, if you will only agree not to count them at the next census, except as your sheep and oxen are counted; waive your right to sixteen members of Congress, and the great compromise is sealed; the long agony is over; the nation's dead are avenged; the nation's tears are dried; and the nation's politics are relieved of the negro.

Again, this proposition presenting an alternative to the States. We have a right to suppose its authors intend to be satisfied, no matter which horn of the dilemma is taken; if the States enfranchise the negro they are satisfied; if, on the other hand, they waive their right to the sixteen members of Congress, they are satisfied; and if this latter should turn out to be a swap of negroes in exchange for increased political power, then they are satisfied.

Call you that backing of your friends? No wonder many of the friends of humanity threaten to starve ere they will rob a foot further in such company. I admire their spirit, and will strengthen their firmness if it needs it.

The conclusion then is inevitable that the committee are perfectly willing that the States shall have unlimited rights over all people except the negro, the man distinguished by race and color, and as to him they can also have these rights if they will yield their present right to sixteen members of Congress. And I might ask, does any man doubt what the States ought to do, nay, what they will do in the event this amendment becomes a part of the Constitution? Will they on any account, much less on account of a member of Congress or two in each State, agree to share political power with the negro? Will they consent to make him the custodian of the institutions of their fathers, himself the helpless, degraded ward of the Freedmen's Bureau? Will they open the door to his admission to a seat in their magisterial chairs, their legislative assemblies, or to wear the ermine in the courts of justice? Will they consent to enlarge the field wherein passion sows and demagogues reap, wherein the tribal antipathies of the races will be the terrible levers to be used by the tribal demagogues on both sides? Can they possibly accept this insidious invitation to antagonize their people in that most dangerous strife of all—the strife of politics, where the lust of ambition and the love of money engender together a brood of demons delighting in conflagration, massacre, and war? To suppose it, sir, is to suppose the country gone mad, ready to rush on to its own destruction. No midnight witches in the interest of revolution ever threw into their fearful caldron such a quantity of black ingredients as is here contemplated, and none could form such a charm of powerful trouble. No one who knows the strife of races can think of the consequences without a shudder.

Mr. President, I have shown, I think, beyond the possibility of dispute, that this amendment cares nothing really for the interests, rights, and liberties of white people, and really very little for black people, but that the great purpose disclosed by it is to punish the States in which negroes reside by diminishing their rights of representation, and in the same ratio increasing the political power of the States having no black population. In other words, it is a scheme to transfer political power in Congress from one section of the Union and give it to another section. Here, sir, we have reason to congratulate ourselves that the framers of the amendment were not as sagacious as they were bold, not as wise as they were enterprising. Their work is palpably defective, even to effectuate their own purposes, and their machinery is so clumsy of contrivance as to render it useless.

As I have said before, their object is to deprive certain States of a part of their political power or else compel them to allow negroes to vote; and to achieve this, they provide "that whenever the elective franchise shall be denied or abridged in any State on account of race or color, all persons therein of such race or color shall be excluded from the basis of representation." Now, I submit there are many ways of denying or abridging the right in question besides putting it on the ground of race and color, which are not in themselves reasons for the denial or abridgment in any case, but are mere words of description by which a class of people are excluded. Now, if that class can be described by any other equally precise and

definite terms, then these may be discarded and the reason for the exclusion still remain as before.

Now, the negro is not now, never was, excluded, either on account of his race or color; surely not on account of his race, for the large majority of the people everywhere believe that he is of our race, descended from our Adam, and entitled to be made alive in Christ the same as other men are. Nor is it on account of his color, for if all to be hereafter born were Albinos, as many are, it would make no difference, so far as the real reason is concerned. What is really the true reason for his exclusion? It is not that he is not a man, or that he is a colored man, but that he is an inferior man—an inferior article of man. Now, if a State denied suffrage to negroes on account of general ignorance, vice, or what not, this amendment would not punish the exclusion; it cannot be construed beyond its terms.

Another objection is the uncertainty of the clause. Is it meant that all of the colored race in a State shall vote, men, women, and children? I suppose not; but if not, where is the abridgment or denial to begin which begets the forfeiture? Suppose it is confined, as in Massachusetts or in New York, that would not be a denial; would it be an unconstitutional abridgment? And how long would it take Congress to decide it on an apportionment bill? Cromwell's democratic House worked three weeks on the meaning of the word "incumbrances;" this is a much more knotty puzzle.

Again, would the denial of the right to blacks forfeit the right to representations for the yellow, and if not how are the several shades of color to be distinguished? Will all the classes have to be kept separate or not? These and a hundred other difficulties might be stated, and no deliberative assembly could solve them, whatever a court might do under the maxim that construction must make the clause avail, and not destroy it. But could it be avoided? What would prevent a State from extending the franchise before the apportionment to all, and after it was made withdrawing it? Congress could not reapportion for ten years, and the same process would serve again to defeat this provision at the end of that time.

I know, sir, that it will be said that these objections are fine-spun, frivolous, &c., but to all who have listened to the debates which arise here upon the true import of phrases the meaning of which has been settled for hundreds of years, they will not appear so. Who could have foreseen that the phrase "to coin money" could have been construed to give the right to issue United States notes, that is, to "coin money out of lamp-black and rags," of leather, cloth, or anything you choose with or without reference to intrinsic value? Who could have foreseen an elaborate argument to prove the fugitive slave clause in the Constitution did not warrant the rendition of slaves, but only absconding white apprentices? No, sir, the rule is to cavil on the ninth part of a hair, and those who are ambitious of fame as Constitution-makers should look to it.

But, sir, I now come to a different class of objections, which in my judgment are sufficient to make all prudent men hesitate in the face of a proposition of this kind, made at the time, in the manner, and with the interest this is made. First, the proposition in itself is revolutionary, striking directly at the freedom of the several States, and if accomplished will overturn the Government down to its very foundations. Revolutionary, because it seeks to influence the free distribution of political power in the States by saying to them, "If you do not bestow a portion of it upon a particular class of your people we will deprive you of yours to the same extent you deprive them."

Now, if there is any one thing more than another vital to the existence of a free State, which, indeed, is of its very essence, it is that the people of such State shall say of themselves, without external dictation, who shall and who shall not be the depositaries of their political power; in other words, who shall do their voting, who shall cast their ballots; and any attempt on the part of any power outside the State to compel them in any way to do in that behalf what they are unwilling to do is just so much sheer tyranny, and sets such outside power over that inside, making it the master. What right would New York have to compel New Jersey to admit a certain class of her people to this privilege? Or Pennsylvania to compel Maryland? Would not these weaker States feel that such an attempt would be fatal to their independence? They would say at once that this right of theirs was vital, and to yield it would be to yield their freedom itself. Then, if New York or Pennsylvania have no supervisory rights of this kind, in what way could they acquire them by joining with them the rest of the States or any number of them? The clause is revolutionary and destructive, just as much so as to attempt to compel the people of a State to elect such officers as might be pointed out to her by the United States for that purpose, because everybody knows that the elector in the States is just as much the creature of the people, just as much elected and chosen by them to vote as the officers are elected to hold offices. What would be thought of a proposition to amend the Constitution to compel the States each to send one negro member to Congress? And yet this amendment amounts to just the same thing in a roundabout way. It really says to certain States, if you do not elect a few negroes, you shall not elect any; we will diminish the number to which you are now entitled in the same ratio.

Mr. President, whenever the Constitution is amended in this part of it, then there is no United States; there will be no States; all will be consolidated into one great central despotism, in which the States will play the part of provinces, and all the safeguard we now have in the freedom of this people will be gone forever.

I know many will say this amendment is fair because it will not allow representation for a class of people who have no voice in public affairs. But this, sir, is founded in misapprehension. Our system is not one of class representation in any case, but the representation of communities, and when the community is represented all classes in it are represented, although the great majority have not, and many cannot have a representation of their own. The Irish and Germans of Pennsylvania never think of claiming for themselves a class representation, neither do the various trades and occupations, but all are looked upon as constituting a unit for the purposes of State government, a unit for counties, cities, towns, &c., and there can be nothing unfair in the fact that any class is excluded; it only shows that its power in the community is subordinate to one superior.

Others say that by the abolition of slavery two fifths is added to the basis of the late slave representation, which, being the result of an accident not contemplated at the time, ought not to be allowed to remain for the advantage of the slave States. To this I answer, that from all we can learn, the number of these negroes in 1870 will more than likely be two fifths less than it was in 1860, owing to the increased mortality resulting from the war, from the change in their mode of life, and the withdrawal of the master's care over them. But whether or not, the freedom of the States is worth more a thousand times, especially to the smaller ones, than all the increase of power they would gain by this amendment.

I am opposed to it, however, on other grounds. It is proposed to be carried by a minority party, for it will be recollected that there was nearly a million of a popular majority against Mr. Lincoln in 1860, when all the States voted. They are all now back again, and I am inclined to think, unless we change our conduct toward them, there will not be a large number of them disposed to vote with the Republicans in the future. You will be in a minority again, and the majority will manifest itself by a return to power and place. Do you suppose they will not be disposed to do a little tinkering at the Constitution, too? These patches of yours look very unseemly to them, and they may take a notion to rip them off and put on some of their own not quite to please you. Indeed, I can conceive how they might affect you or some of you even on this very tender point of representation. They might take it into their heads to make the Senate national instead of Federal; and seeing you can do so much, being a minority, what do you think they cannot do, being a majority?

Besides, you are only able to do this to them by shutting them out of these Halls; they may be strong enough to do it to you even while allowing you to be present to witness the operation. Now, sir, I would much rather let all this alone than run the risk of having the same bitter chalice come back to our own lips in the future.

It must also be evident to any sagacious man that an amendment to the Constitution which can only operate upon a particular section of the country, and which is proposed by Congress at a time when that section has no representation there, would not be worth a straw. Communities do not submit to such things so tamely, and sooner or later they manage to come out victorious over all such attempts to take advantage of their weakness. God himself may aid them. Who knows?

Besides this, sir, it would not be hard to show that none of these projects for amending the Constitution come from the people, or are demanded by the people with that earnest and decisive significance which ought always to precede organic changes such as this purports to be. How many people have petitioned for this change? Certainly I should think fifteen or twenty thousand would cover the whole of them. How small a part of the thirty millions to be affected; and what a narrow foundation upon which to base a change of a Constitution.

But that is not the worst of it. We do know that a very large majority of the Republican party are opposed to any change. They have made great sacrifices to enforce the Constitution. They look upon it as the ark of our Union covenant, and they will permit no meddlesome Uzzah to lay officious hands upon it upon pretense that it requires his aid to steady it along.

Then it is equally clear that the other half of the people of the North, the Democratic party, is also opposed to this and all similar measures. In fact, upon negro suffrage they are a unit in opposition.

But the worst opposition, and the one most to be respected, is in the States where it alone would be felt; and on the whole I think it may be safely said that but a very small part of the whole people can be said to favor it.

I now come to the resolution of the committee which proposes to stop agitation and quiet the country by declaring that eleven States shall not have representation in Congress or either branch of the same until Congress shall have declared such State entitled to such representation.

Now, let us for one instant contemplate this most extraordinary proposition. Is it not a virtual setting aside or suspension of the Constitution itself until Congress shall be moved to declare it restored?

That instrument declares that—

"Representatives" * * * * "shall be apportioned among the several States which may be included within this Union according to their respective numbers," &c.

And by an act of Congress of March 4, 1862, a certain number of Representatives, fifty-six, were apportioned to the eleven States in question, fixing by law their constitutional right in this behalf.

The resolution before us sets all that at naught, and declares that these States shall have no representation at all till Congress shall so decide. The Constitution further declares that—

"The Senate of the United States shall be composed of two Senators from each State."

And this resolution declares that eleven States shall have no Senators at all till Congress shall so decide.

Now, it is well to know whether Congress

or the Constitution is supreme in this respect. We have been in the habit of thinking Congress was but the creature of the Constitution; that its title to rule and legislate for the people was under and by virtue of that instrument. How, then, does it assume to disregard it? Has the Sabbath become greater than the Lord of the Sabbath? Has the stream risen above the fountain, and the servant above his master?

But it is said these States have been in rebellion. Well, suppose they have. Rebellion is treason; treason is a crime, and ought to be punished. But can Congress inflict that punishment? The Constitution says emphatically:

"No bill of attainder or *ex post facto* law shall be passed."

Now, if Congress were to pass this resolution, it would be both; because it is a bill which of itself inflicts this deprivation of right upon the people of eleven States as a punishment for their alleged treason, which is a species of attainder known as a "bill of pains and penalties," and which has been held to be included in the prohibition of "bills of attainder." Again, even if that barrier was not in the way, there is another equally impassable, lying in this. Up until this time it has never been the law of the United States that a community could be punished at all *en masse*, either for treason or anything else, and if Congress were to attempt it now as a punishment for crimes already committed, it would be null and void; it would be an "*ex post facto* law," and one expressly forbidden.

The whole is monstrous no matter in what light it may be viewed. We have seen how small a number of traitors there were even in the worst parts of the South, and that after the people of all classes had been left by the Federal Government at the mercy of these fiends, men, women, and children; after they had suffered all the miseries of war as the consequence, then to turn round to them and say to them, "We will not punish the rebels who are guilty, and who have brought all these misfortunes upon you, but we will punish you who are innocent." Instead of saying to the traitors "We will hang you for treason," you say to the innocent people, "We will keep you out of Congress." Think of it.

We have no right to do this, either by law or in morals, and just as long as we persist in it, just so long will we be the allies of disunion, and enemies to the peace of the country. We hear it said here very often that in order to enable us to judge correctly and act advisedly in this matter we ought to have a general recognition of the State governments by Congress, that we may act together and avoid conflict. All this is plausible, but mischievous, because there is really not a doubt but that the present State governments are in the sole and undisputed possession of their several States, and are obeyed cheerfully as such. And the pretense that they require investigation and legislation to restore their relations with the Federal Government is only urged as it indirectly attains the end so much to be deprecated, namely, that of punishing the people in an unlawful and unconstitutional manner.

Another and fatal objection to the course proposed in this resolution is that it provides for the joint action of the House and Senate in a matter which it is of the greatest moment should be kept entirely separate. If joint action can take place in cases of this kind, then the advantages which the country expected, and which it has realized, in the Senate of the United States, are lost to it perhaps forever.

The constitutions of the two Houses are entirely different. The House of Representatives is national, representing numbers; the Senate is Federal, representing States. The great States of New York, Pennsylvania, Ohio, Illinois, are therefore potent in the House, but in the Senate, Rhode Island, Delaware, Vermont, and New Hampshire are their equals, and serve as a kind of breakwater to prevent the effects of the sudden impulses of such heavy populations as inhabit the States first named. The Senate is indeed the bulwark of the smaller States, and they ought therefore to be the especial guardians of the Constitution, because it is only by maintaining the strictest reverence for it they can expect to maintain their equal rights. I have been much surprised therefore to find Senators on this floor, whose interests of all others were most in danger, show such apathy with regard to these innovations, which if they are ever to become precedents will assuredly work the destruction of the lesser States.

Now, the Constitution expressly provides that—

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

A provision that must strike every one at first sight as necessary if the bodies are to be a check one upon the other. Because if the Senate had to decide who shall go into the House or who shall not go in, the House would soon become the creature of the Senate and dependent upon it for its existence; and so if the Senate were to allow the House the same rights over its members. This resolution, however, very ungenerously selects only a single point upon which to apply the joint action complained of, and that is this: that both Houses shall jointly decide which are the States entitled to representation. That is the whole of it.

Now, Mr. President, can anything be clearer than that this very question has been already settled authoritatively and beyond dispute? Has not the Constitution settled it? Is it not to be found on every line and page of our laws—and especially in the act of March 4, 1862?

Then, if this be so, the joint committee prevents the Senate from deciding on the elections, returns, and qualifications of its members, because it gets behind the whole and denies the right of States to members at all. It does not deny but that they have Legislatures competent to elect—if it did the answer would be obvious: the Senate will decide that on the question of elections—but it declares at once, boldly, that although the people of these States are desirous of submitting to the laws they offended against, we will impose upon them a new penalty not known to the law.

Mr. President, I think I have shown beyond question that at the breaking out of the rebellion there was not any considerable number of people, in any of the States in question, who ever were guilty of treason to the United States, if we admit the law to be as I hold it is, namely, that if the legitimate Government of any country suffers itself to be dispossessed and a hostile Government to be established and put in possession in its stead, so that it cannot protect its citizens in their resistance to such hostile Government, then it cannot punish them for acts done afterward under the authority of and in obedience to the hostile Government; such acts cannot amount to treason and the law excuses them.

I think I have also shown that the moment the rebels yield and surrender, that they are immediately in the custody of the law, and can only be subjected to such punishment as it provides—to be inflicted upon them through the courts according to "due process" of law.

I have shown that for any guilty part taken by the people in the late war, that the sufferings and losses they endured in that war were the natural and sufficient punishment; that after it they remain purged, and ought to be remitted to all their constitutional rights at once.

That it is due to the dignity of the United States as a great nation if she punishes the actual traitors who incited the rebellion, that it be done solemnly and according to the strictest form of law, in open courts, where the prisoners may have counsel and witnesses, so that they may make their defense, if they have any.

That according to the Constitution and laws all the States are still in the Union; that secession ordinances could not repeal the one, nor war set aside the other; that they are neither dead by forfeiture or *felo de se*, but are now in full and perfect existence with all their municipal machinery in full play.

That the proposition of the committee of fifteen to amend the Constitution is fundamental and revolutionary, and destructive of the freedom of the States and the liberties of the people; that it is a threat to deprive them of their rights by compelling them either to admit negroes to the right of suffrage or to give up a share of their representation, which is theirs by law and the last amendment to the Constitution.

That the resolution now before us from the same committee is also revolutionary and destructive, being an attempt to suspend the Constitution and laws in regard to representation in Congress over eleven States of the Union until Congress shall see fit to restore them. It is a declaration on the part of the members of the present House and Senate, that having the means of keeping these States from being represented here, they are going to do so as long as they please; that no one of these measures can be justified as a punishment for the rebellion; that the Constitution forbids them as bills of pains and penalties, and as *ex post facto* in their character.

Then, sir, here at the conclusion, I will endeavor to answer a question which has been so often put; and with that air of braggart triumph that indicates an answer impossible. The question is this: "Would you bring back here into the Senate rebels and traitors, the authors of all our troubles, whose hands are yet red with the blood of our slaughtered people? And if not, how do you propose to avoid it unless you deny these States representation for a time at least?"

To all this I answer, no, as emphatically as any other Senator can do; but I would keep them out in a very different way from that proposed. I would keep them out by following the mode and seeking the remedy afforded by the Constitution and laws, instead of adopting a course forbidden by both and unjust in itself. I would keep out traitors, not keep out States; I would punish criminals, and not enslave communities; I would single out the guilty, and not confound the innocent with them.

Is not this easy? When the traitor asks admission here, you can arrest him for his treason; you can commit him for trial; and the offense is not bailable. I suppose everybody will agree that would keep him out, at least till he is tried. It has another great advantage, too: it is lawful and none can complain of it.

After the trial, if acquitted, he is not a traitor, and his case presents no difficulty. If he is convicted, attainted, and hanged, I suppose that would allay all fears of his return.

Now, Mr. President, when I think how obvious and effectual this plan would be, I am amazed that it should have ever entered into the human mind to contrive another. Why is it not adopted? Sir, I am afraid to answer. I am afraid there are patriots who would prefer to let treason go unwhipped rather than they should risk their own hold on power. It looks to me much like that; and if so, I am sorry that any man can be so short-sighted as not to see the fatal consequences of such an exchange as this. Does it not say, your treason may go if you let us rule the country?

One word more and I am done. The country is alarmed, the people are anxious, and the political atmosphere bodes the coming of no common storm. What can we do to prevent it and bring back peace to the country and harmony to the party? Is there no common ground on which we can stand? Is there no common standard round which we can rally? I think there is, sir. Surely, we may go back to the Constitution which we have all sworn to support. We can go back to the laws and enforce them without dissension among ourselves. Then there are things which we may avoid doing. We may avoid new measures on which we cannot agree, and which only serve as wedges to split us further and further asunder.

Mr. President, why these new measures? Who is bound to the support of a new measure except the author of it? What member of a party is bound to a new measure not in contemplation of the party at the time it was organized, at the time its platform was laid down,

except the author; and if dissension and division spring up from the new measure, who is responsible for that? The man who stands on the record, or the man who introduces the new measure? The man who catches the foxes and ties their tails so as to send them into the standing corn, or the men who do not? These are questions that the country are coming to ask. They will ask who did this thing, who brought this about? Was the Freedmen's Bureau in the Baltimore platform? Was it in the Chicago platform? Where did the party agree to that as a party? Where was that laid down as a line to which all party men should come? The pretense is absurd. The Freedmen's Bureau bill is not now and never was a party measure, except with some few people who took it into their heads that it was a very good thing. Nobody blamed them for that; they had a right to believe that; but other people who did not believe it are not to be ostracized on that account, particularly if those who did not believe it thought that in itself it was not only inexpedient and impolitic, but that it was unconstitutional.

Mr. CONNESS. Will the Senator permit me?

Mr. COWAN. No, sir; not till I am done.

Mr. CONNESS. I saw the Senator was not reading, otherwise I would not propose to obstruct him.

Mr. COWAN. Now, Mr. President, I say the country is beginning to inquire who introduced this cause of dissension; who started this wedge which is to drive and drive until it separates the great Republican party? I say it is perfectly plain that the man who started the new measure, the man who persists in it, the man who ostracizes and denounces everybody who differs with him about it. I think, Mr. President, that is so plain that he who runs may read. Certainly there can be no doubt about that.

Then, in conclusion, I have only to say that if we refuse these moderate counsels, if we refuse to abandon these *nova res*, these new things, the only remedy will be to take the consequences, and they seldom linger long behind the act.

Mr. WILSON. Mr. President, the Senator from Pennsylvania closed his speech by telling us that these are exciting, anxious times; that the people of the country are asking questions which must be answered——

Mr. COWAN. If the Senator is going to make a speech now, I give him notice that I shall consider the arrangement which was made last night as at an end. There are other gentlemen who want the rest of the time allotted for the consideration of this subject; and if after they are through there is any time left, the Senator may occupy it.

Mr. WILSON. I intended to reply to a few remarks of the Senator from Pennsylvania, but I am told that I am ruled out, that it is not proper for me to say anything.

Mr. CONNESS. How ruled out? By what rule?

Mr. COWAN. We do not undertake to rule you out, but you insisted yesterday on fixing six o'clock as the time for taking the vote, and the time is allotted for particular members to speak.

Mr. WILSON. The Senator says that the arrangement which was made is to be broken if I occupy any part of the time, and therefore I must not presume to do so.

Mr. DAVIS. I presume there is time for the Senator from Massachusetts to go through with his remarks.

Mr. WILSON. The Senator from Pennsylvania informs me that the arrangement which has been made will, if I occupy any of the time, be broken.

Mr. COWAN. I only say it in behalf of the gentlemen who are still to speak, as I understand.

Mr. WILSON. The Senator from Nevada——

Mr. FESSENDEN. Mr. President——

Mr. WILSON. I will not say anything here that will break the rule. The day before yesterday——

Mr. GRIMES. I will state to Senators that at my instance to-day there was half an hour extra time given for the gentlemen who proposed to debate this question, by calling up the subject at half past twelve instead of one o'clock. If the Senator from Massachusetts will only take that half hour it will not interfere with the arrangement.

Mr. COWAN. I have no objection to let the Senator from Massachusetts have an hour. What I suggested to him was that an arrangement had been made, and that if he spoke in violation of it we must be excused for replying to him afterwards. We admit the right of the chairman of the committee to reply, but not of other people without giving us an equal right.

Mr. WILSON. Mr. President, I choose now to say just this: the day before yesterday the Senator from Nevada took the floor, and instead of closing his speech that night went over until the next day. Then the Senator from Maryland [Mr. JOHNSON] made a very long and very elaborate and very able speech; and he has been followed to-day by the Senator from Pennsylvania, who has spoken for two hours; and then when another Senator rises, he notifies that Senator that if he speaks the arrangement that was made in the Senate yesterday to take the vote on this resolution at four or five o'clock to-day would be violated. The Senator has spoken; and I do not know that he had a right to speak for anybody else; but as the remark has been made, I do not choose now to occupy the time of the Senate, and peril this question; and therefore I shall yield the floor.

Mr. DAVIS. When this arrangement was made it was contemplated that the honorable Senator from Delaware [Mr. SAULSBURY] and myself should both speak. That honorable Senator has declined to speak on this question. There is plenty of time for the Senator from Massachusetts, or any other Senator who chooses to do so, to address the Senate upon the subject; and I am entirely willing to yield the floor to him or to any other Senator on the other side of the Chamber who wishes to speak; indeed I prefer to do so. I therefore make the overture that if any of the Senators on that side wish to speak on the subject——

Mr. WILSON. Will the Senator from Kentucky, who desires to speak, go on according to the arrangement? If there is any time at the end of the day I may take occasion to notice a few remarks that have been made.

Mr. SAULSBURY. When that arrangement was entered into yesterday, I proposed to occupy for a short time the attention of the Senate to-day in discussing this resolution; but supposing this morning that there would not be time for two Senators to speak upon it within the time named, I notified my friend from Kentucky that I would speak early next week on the amendment to the Constitution, upon which I can make my remarks as well as upon the question now before the Senate. I therefore, in order that there may be perfect harmony, and that gentlemen upon the other side may have an opportunity to discuss this question, will defer any remarks that I have to make until Monday or Tuesday next when the amendment to the Constitution will be before the Senate.

Mr. DAVIS. I am not only willing but desirous that the Senator from Massachusetts or any other Senator who wishes to address the Senate on the subject-matter of this resolution should now do so, and that he should take his own time. I have no idea that it will interfere with the amount of time which I wish to appropriate in any remarks that I design to make on the proposition before the Senate. I therefore shall be gratified if that Senator or any other Senator who chooses to make a speech shall do so now.

Mr. WILSON. If the Senator will allow me to interrupt him, I hope he will now go on, and that the Senators who are opposed to this measure will have the time allotted to them by the arrangement made yesterday, and then, if when they have concluded there is any of the time specified left, I may use a portion of it; if not I will let it pass.

Mr. DAVIS addressed the Senate in opposition to the resolution. [His remarks will be published in the Appendix.]

Mr. DOOLITTLE. Mr. President, if there be one thing more certain than another in the Constitution of the United States it is that each House of Congress is the judge of the elections, returns, and qualifications of its members. Each House is independent of the other; each House is independent of the Supreme Court; and each House is independent of the Executive.

Mr. CONNESS. There is a difference in your party then.

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) Does the Senator from Wisconsin yield the floor to the Senator from California?

Mr. DOOLITTLE. I do not.

The PRESIDING OFFICER. The Senator from Wisconsin will proceed.

Mr. DOOLITTLE. Mr. President, if we choose to admit or refuse to admit Senators upon this floor what have the House of Representatives to do about it? Can they send their Sergeant-at-Arms over here and take out our members? Can they send over their Sergeant-at-Arms and put members into this body? Can the Supreme Court do it? Suppose they decide that somebody has a right to come into this body or that he ought to be kept out, can they send their marshal to the Senate with their decree that A B and C D shall take their places in the Senate of the United States, or can they send over their marshal with their decree that A B or C D shall be taken from this body? Not at all. The idea that the President of the United States can send down any person here directing that A B or C D shall be admitted into this body, or that A B and C D shall be removed from this body, is equally preposterous, absurd, and revolutionary.

It is because I, as an individual member of this Senate, insist that upon this question of judging upon the right of representation in this body from every State, this body is independent of the House of Representatives, independent of the Supreme Court, independent of the Executive, independent of everybody under heaven, that I oppose the resolution that is now pending before the Senate—a resolution which on its face purports to be no law and has no binding effect. It binds nobody except as a man may be bound by a caucus resolution. You may say it binds his honor. It pledges him, that is all. This resolution has no effect. It is as void as a blank piece of paper, so far as any legal effect is concerned. But there is contained in this resolution a proposition that we as Senators pledge ourselves that we will not act upon the question of the admission of Senators of this body until the House gives their consent. This is, substantially, a mere caucus arrangement anyhow. It is not legislation. It is merely the expression of the opinion of gentlemen in the House of Representatives and gentlemen sitting here in the Senate that the two Houses of Congress have no authority to go into an examination of the right of representatives to seats here until the two Houses by joint resolution or act of Congress agree. That is my objection to this resolution. My honorable friend from Maine [Mr. FESSENDEN] the other day in opening the debate on this question said it was proposed to take away from Congress all right to judge on the question of the right of members to their seats.

Mr. FESSENDEN. I said no such thing.

Mr. DOOLITTLE. It was substantially that.

Mr. FESSENDEN. No, sir; it was not substantially that.

Mr. DOOLITTLE. The gentleman went on to say, "Are we to be mere children? Are we to surrender our judgment, and have no judgment on this question?"

Mr. FESSENDEN. I was speaking of the President's speech.

Mr. DOOLITTLE. The gentleman refers to the President's speech, in which the President himself says that each House is to judge, and to judge for itself. That is just the point, and I propose to bring the Senator from Maine to the point on this question. I will suppose a case. I will take the State of Maine. I suppose that a war of invasion may have operation upon a State or upon the people of a State as well as a civil war or a war of insurrection. Now, let me suppose a case. I grant it is hardly a supposable case, because our friends in Maine have demonstrated their valor on every battle-field during this war. But suppose we were to get into a war with Great Britain. Maine has five congressional districts. Suppose Great Britain should capture one; could that district elect a member to the other House? I should like to see how they could do it. If the people of a district were captured by a foreign enemy, how could they hold an election? It is nonsense to talk about it. Could the other four districts elect four members to the other House? Who doubts it for an instant? Suppose England should capture two, three, ay, four districts of the State of Maine, could not the other district elect a member to the House?

Mr. FESSENDEN. Certainly.

Mr. DOOLITTLE. "Certainly," my friend says, and I say certainly. Very well. If England should capture one district she would not capture so many of your people as that you could not elect a Legislature. If she captured two districts you could still elect a Legislature; for there are about one hundred and fifty members in the lower House of the Legislature of Maine, and about thirty in each congressional district. If she should capture two districts, she would capture the people who elect sixty members of the lower House. Suppose she should capture four of your districts, then she would capture the people of Maine who elect one hundred and twenty of the members of the lower House, and your one remaining district which could elect a member to the House of Representatives, could not elect a Legislature, and you could not elect a Senator. Why? Because you would not have a Legislature and you could not elect one. So you could have a Representative in the House when you could not have a Senator. Suppose you reverse the order. Suppose that we should recapture two of those districts, you could not then elect a majority of your Legislature. But suppose we should recapture three out of the five, then you could elect a majority of your Legislature, and you could go on and elect your Senators. The two districts remaining in the hands of England could not send anybody to the House of Representatives while the other three could. The business of electing members to the House, and of electing Senators, is entirely distinct from each other.

Mr. SHERMAN. I should like to put a question to my friend in the very case stated by him, and I think it is a fair one. Shall Congress or the President determine the question when the British supremacy ceases so as to enable the State to elect Senators?

Mr. DOOLITTLE. I will give an answer to that question. It is just what I am coming to. I undertake to say that Congress is to judge, but each House for itself. The House of Representatives is to judge when the district is in a condition to elect a Representative and the Senate has not a word to say about it.

Mr. BROWN. Will the gentleman permit me to ask him a question?

Mr. DOOLITTLE. Certainly.

Mr. BROWN. If I am correct, I believe the position which the Senator from Wisconsin takes now is different from the position which he has taken heretofore.

Mr. DOOLITTLE. The Senator refers to a certain resolution that he introduced some years ago that did not pass both Houses.

Mr. BROWN. I refer to a resolution which expressly declared——

Mr. DOOLITTLE. I supposed that the Senator rose merely to ask me a question, and not to enter into a long argument in relation to that question. I understand that there was a resolution passed through the Senate as a substitute——

Mr. BROWN. Taking exactly the reverse of the ground the Senator now takes, and for which he voted.

Mr. DOOLITTLE. The Senator says that I voted for the resolution which excluded these States when in a state of insurrection from electing anybody, and so I did.

Mr. BROWN. And which said that they should not elect Representatives until they were authorized to do so by act of Congress.

Mr. DOOLITTLE. Very well. That may have been contained in that resolution, but that does not change the principle, nor does it change the force of the argument.

Mr. CLARK. And it does not change the vote.

Mr. DOOLITTLE. It does not change the vote in relation to it. That might have been a thing well to be done at that time. But I have been drawn off somewhat by this interruption from the argument I had in my mind, and I will return to it.

Now, I undertake to say that this is the true position in relation to this question: the Senate judges when a State is in a condition to elect a Legislature; the House judges when a district is in a condition to elect a member of Congress.

Mr. SHERMAN. If I do not interrupt the Senator, I should like to ask him another question.

Mr. DOOLITTLE. I have no objection to an interruption, if it is precisely to the point I am arguing; but I do not wish to be drawn off on another point.

Mr. SHERMAN. Certainly not, and the question I propose to put is upon that very point. Suppose that in the case put by the Senator the House was considering whether the third district of the State of Maine was in such a condition, so freed from English supremacy, as to elect a member; and suppose that the Senate at the same time was considering whether the whole State was in a condition to elect Senators, would there be any impropriety in the two Houses carrying on their investigation jointly, with a view to enlighten each other by their examinations and investigations? Would there be anything wrong in each House, each being the exclusive judge of the separate subject, as stated by the Senator, to postpone action until the joint examination and joint investigation should bring the two Houses to a common, concurrent view?

Mr. DOOLITTLE. My friend from Ohio is now putting a very different question from the one that is before us.

Mr. FESSENDEN. That is the very question.

Mr. DOOLITTLE. No, it is not. This resolution speaks of the right of the House. The Senator from Ohio speaks of the propriety of joint action. I am not discussing that now. If, for instance, a resolution were introduced declaring that Tennessee was entitled to her representation, and you should ask me to vote for it in the Senate, I would vote for it, although it were a joint resolution, though I would not think it at all necessary for me to vote for it in order to pass upon the question as to the right of Senators from that State to seats in this body. But what you propose is to declare that we shall not do it until the House shall act. Suppose the two Houses disagree; suppose the Senate believe that Tennessee is in a condition to entitle her to representation in this body, and suppose the House believe that she is not, and decide otherwise, what are you going to do about it? If we believe that the State of Tennessee is in a condition to elect a Legislature which can elect Senators properly to this body, if a majority of this body believe they are so entitled, and the House say otherwise, shall we refuse to act upon our belief in reference to the admission of our own members into this body? That is the question.

Mr. SHERMAN. I say, certainly not.

Mr. DOOLITTLE. Then I agree with you. If you talk about this thing as a mere matter of courtesy, as a mere matter of propriety that you wish to consult the opinion of the other House about, that is another question; but when you talk to me on the question of right, that this body is to surrender its power to judge over the right of membership in this body, and the condition of States to elect members to this body, I will repudiate it just as I repudiate the proposition of the Senator from Kentucky, that the President of the United States is to judge for us when members shall take their seats here. When you speak of it as a matter of right, I repudiate it as such.

Mr. DAVIS. Will the gentleman permit me to ask him a question?

Mr. DOOLITTLE. I do not like to give way, because there may be other gentlemen who desire to speak on this subject, and I believe it is understood that we are to take the vote at six o'clock.

Mr. DAVIS. It will take but a moment. Suppose that the Senate was to divide into two bodies, each body claiming to be the proper Senate, would it not devolve upon the President of the United States to recognize which was the Senate?

Mr. DOOLITTLE. It is not a supposable case that the Senate may propose to go into revolution.

Mr. DAVIS. Such cases have happened in State Legislatures.

Mr. DOOLITTLE. Now, Mr. President, to come back to the case of Tennessee, the mass of the people of the eastern part of the State of Tennessee have been as loyal as the people in many of the northern States; they have suffered as much; they have fought as well for the Union, and there are certainly two or three districts in that State just as loyal as districts in Missouri, districts in Kentucky, districts in Maryland, and even districts in some of the States further north than those States. Those districts may be entitled to representation, even if, on examination by our Judiciary Committee, it should be found that the State of Tennessee generally has been so overcome by the rebellion, so distracted by the civil war, that the people are not in a condition to elect a Legislature at all, and Tennessee might be entitled to have Representatives from some of her districts when she would not be entitled to have a Senator on this floor; and so it might occur *vice versa*.

The only argument I have ever heard that bears against this position is the argument to be drawn from the act of Congress of 1861, which authorized the President to declare these States in insurrection. That act on its face did not shut us off from political intercourse with those States. The act on its face simply cuts off commercial intercourse, and cuts off that commercial intercourse just so far as the President in his judgment shall deem it necessary as a new war power and a measure of war to compel those States to obedience to the Constitution. How can any man contend that this act of 1861, which I have before me, was intended to cut off political intercourse? After reciting the conditions upon which the proclamations should issue, it declares:

"Then and in such case it may and shall be lawful for the President, by proclamation, to declare that the inhabitants of such State, or any section or part thereof where such insurrection exists, are in a state of insurrection against the United States; and thereupon all commercial intercourse by and between the same, and the citizens thereof, and the citizens of the rest of the United States shall cease and be unlawful so long as such condition of hostility shall continue; and all goods," &c.,

passing from one section to the other are liable to be confiscated. Now, what is conclusive evidence that there was no intention to cut us off from political intercourse from Tennessee is the fact that Mr. Johnson, then a Senator from Tennessee, representing the State of Tennessee in this body, voted for this very act. I have before me the vote that was taken on the passage of this act. The gentlemen who voted for it were—

"Messrs. Anthony, Bingham, Chandler, Clark, Col-

lamer, Cowan, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Harris, Howe, Johnson of Tennessee, King, Lane of Indiana, Lane of Kansas, Latham, Morrill, Nesmith, Pomeroy, Rice, Saulsbury, Sherman, Simmons, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, Wilmot, and Wilson."

And now gentlemen pretend to say that act was intended to cut us off from political association with the State of Tennessee, and to deprive Tennessee of her representative in this body.

Mr. FESSENDEN. Who said that?

Mr. DOOLITTLE. That is the effect of the argument.

Mr. FESSENDEN. Nothing of that sort has been said by any one that I know of.

Mr. DOOLITTLE. Gentlemen rely on this act and on the declaration that the State of Tennessee was in insurrection as a reason why, until some new act of Congress is passed, Tennessee cannot send Senators to this body and Representatives to the other House. My friend suggests that this is a man of straw. I do not think myself that it amounts to much. Does my friend from Maine admit that there is no law on the statute-book which cuts off Tennessee from political representation in Congress?

Mr. FESSENDEN. I am not aware of any.

Mr. DOOLITTLE. The Senator says he is not aware of any. I take his admission. Then how does the law stand? In 1795 a law was passed which admitted her into the Union, declaring that she was entitled to one Representative, and every ten years from that time down to 1862 a new law has been passed declaring how many Representatives Tennessee was entitled to in the House of Representatives; and therefore, upon the law as it stands, by the law of the United States, Tennessee is this day legally entitled to that number of Representatives. The simple question is, whether the several districts are in a condition to elect those Representatives? The House of Representatives is to judge of that fact. One district may have been overrun by a pestilence, so that they could not hold an election; it may have been invaded by a foreign enemy so that the people could not hold an election; it may have been broken up in civil war or insurrection, and in such a condition that the people could not elect; but the House of Representatives are to judge of those questions as to each district for itself. How is it in relation to electing a Legislature? The Senate is to judge of that. Senators say that the Senate can only judge of the elections, qualifications, and returns of its members.

Mr. FESSENDEN. Oh, no.

Mr. DOOLITTLE. I understood several gentlemen to say that that was all the Senate could judge of. There have been a great many things said that I do not remember, but I am quite sure I have heard that more than once.

Mr. FESSENDEN. Nothing of that sort has been said on this side of the Chamber.

Mr. HOWE. If my colleague is in doubt as to who said it, I do not undertake to say whether it has been said; but I am willing to say it now, and stand responsible for it.

Mr. DOOLITTLE. I understand that my colleague says that, substantially, and I understand that the Senator from Illinois, not now in his seat, [Mr. TRUMBULL,] has said again and again, and other Senators have said, that all the Senate can do is to judge of the elections, qualifications, and returns of members of this body.

Mr. FESSENDEN. I ask the Senator if he is not under a mistake about that.

Mr. DOOLITTLE. I do not say that the Senator has said that, but that other Senators have said so.

Mr. FESSENDEN. What gentlemen on this side have said has been this: that so far as those questions were concerned, they were exclusively in the hands of the Senate; but I am not aware that anybody on this side has held that there was nothing else the Senate could judge of except those.

Mr. DOOLITTLE. I understand that they claim that we as a Senate cannot judge beyond that, and therefore they say that you must have a law of the two Houses. I understand that to be precisely the point in the case. It was because the Senate were powerless to go beyond what are denominated the elections, returns, and qualifications of the member that the Senator from Illinois argued, as I understood him, that it was necessary to have the joint action of both Houses by a joint resolution or an act of Congress. Now, suppose we were confined just to those words of the Constitution of the United States, what do they mean? We are to judge of the "elections" of Senators. Who elect Senators? Legislatures. Can anybody else elect them but Legislatures? No. Therefore we are empowered by the Constitution to judge whether there are any Legislatures. Judging of the election of Senators of necessity involves the question whether there is a Legislature to elect them. If there is no Legislature to elect the Senator, no election of a Senator can take place. The Senate is made the judge whether there is an election or not, and therefore the Senate is to judge whether there is a Legislature for that purpose or not. It puts the whole question of judgment into our hands. Cannot we judge whether there was a pestilence prevailing in a State so that the people could not get together and elect a Legislature? Cannot we judge whether a foreign invasion ever overrun a State, capturing the people and holding them in such a way that it was utterly impossible for that people to elect a Legislature? Cannot we judge whether a civil war is pending in a State by which the people are rendered powerless to elect a Legislature? All these things come under the question of judging of the elections of members of this body, and the existence of Legislatures is involved in the question. There seems to have been a persistent determination almost on the part of some not to understand the point which I have made from the beginning.

Mr. President, when gentlemen suppose that on our part there is any disposition to let down the dignity or the power of this body, or the control of this body over its membership, they make a very great mistake. I insist now, as my friend from Maine knows I have insisted all the time everywhere, publicly and in private consultation with our friends, that the Senate is by the Constitution made an independent department of the Government, so far as this question is concerned; and I repudiate the idea that we must ask the permission of the House, or the permission of the President, or the permission of the Supreme Court when we pass upon the question whether a man shall enter this Chamber as a member or not. I do not understand Mr. Lincoln in the proclamation which he issued to take any other ground. In the very proclamation in which Mr. Lincoln first announced this reconstruction policy, a reconstruction policy which he announced upon consultation with, and by the advice of, every member of his Cabinet, including Chief Justice Chase, he stated distinctly that it in no way interfered with the power of Congress, each House for itself, to judge of the elections, qualifications, and returns of its members. Nor has the existing President of the United States in any way questioned that power. He concedes it over and over again in every message and in every speech that he has made, each House to judge for itself, independent of the other.

Mr. HOWE. I wish my colleague would enlighten me upon one point. Suppose the same Legislature elects two Senators, each of whom has the age, citizenship, and residence prescribed by the Constitution; do I understand him to say that we can reject one of them and accept the other?

Mr. DOOLITTLE. I say that this body has absolute power over its membership, and from its decisions there is no appeal. If they decide right or if they decide wrong, you are without remedy, there is no appeal. If two gentlemen were to come here from Upper Canada and claim that they had a right to seats in this body, if we admitted them the House could not help themselves, nor the President either, nor the Supreme Court. We are just that independent of all of them. It is a thing for us to decide. Have we no confidence in ourselves, no confidence in our own judgment? Cannot we take care of our own membership? Must we ask the consent of the House?

Mr. FESSENDEN. Can we admit three Senators from a State?

Mr. JOHNSON. No.

Mr. FESSENDEN. Why not, if we can admit two members from Canada?

Mr. DOOLITTLE. I do not say that we could rightfully do that; it would be revolutionary to do it; but if we did it, what could the House do about it? What I said was, that if we did it, neither the House nor the President could do anything about it.

Mr. JOHNSON. If the Senator will permit me to interrupt him, perhaps he has gone further than he intends. The authority to judge of the qualifications, elections, and returns of a member applies to those who may be elected by the States.

Mr. DOOLITTLE. I understand that. Take the case of Colorado. The question is whether Colorado is in or out of the Union. Some say that she is not. Perhaps somebody might get up an argument that she is. Suppose that we should admit the two gentlemen now here from Colorado, and place their names upon our roll and tell the Clerk to call them, what could the House do about it? What could the President do about it? I say it is a question which we control, and a question upon which our opinions and decisions are absolute, and from which there is no appeal. Therefore I reject the proposition of the Senator from Kentucky that the President can judge and put members into this body just as I reject this proposition that we have no right to admit Senators from Tennessee until the House shall choose to do it.

Mr. FESSENDEN. That is not the proposition.

Mr. DOOLITTLE. That is the substance of it.

Mr. FESSENDEN. No, sir; it is not the substance of it.

Mr. DOOLITTLE. I understand it in effect to declare that.

Mr. DAVIS. I am not satisfied that the honorable Senator should misunderstand me. I have made no such statement as he intimates. I have not said, nor intimated, that the President has any right whatever over the membership of the Senate or the House of Representatives. I do not believe any such thing. What I said was simply this: that if the two Houses were to divide themselves into four bodies and were to get to contending which was the true House and which was the true Senate, the President would have the right to ascertain which was the true House and which was the true Senate.

Mr. DOOLITTLE. If such a thing should happen, which God in His mercy I hope will always prevent, that the Senate should be divided, and one portion should go into one room and another into another, each claiming to be the Senate, I suppose the House of Representatives could direct its Clerk to go to one body and not go to the other, and I do not know but the President of the United States would have the power, in case of such a division, to send his Private Secretary with messages to one body and not send them to the other. Perhaps that might occur, but it is one of those cases that are not to be supposed or to be tolerated.

Mr. JOHNSON. It is revolutionary.

Mr. DOOLITTLE. It is revolutionary, and it is not to be supposed for one moment that any such thing could occur in this body.

Mr. GRIMES. Revolutionary on whose side?

Mr. DOOLITTLE. On the side of the Senate to divide in that way.

Mr. GRIMES. I understand the Senator from Kentucky to take the position that if the twenty-two Senators from the excluded rebel States shall come here and unite with six or eight or ten gentlemen on the other side, and constitute a majority, then it would be proper for the President of the United States to recognize them as the legitimate Senate of the Uni-

ted States. Do I understand the Senator from Wisconsin to concur in that view?

Mr. DOOLITTLE. The Senator has been out of the Chamber, I conclude. He has not heard my speech, for I have been very distinct and very emphatic in repudiating that doctrine on that side, just as I repudiate the doctrine on this side that we cannot admit a member here until the House consents.

Mr. CONNESS. No such doctrine has been stated.

Mr. DOOLITTLE. That is the substance of the doctrine. I repudiate them both. I have simply said this, Mr. President, in order that it may be understood that if the two Houses should happen to disagree on the question of whether a given State is or is not entitled to be admitted, I shall not regard this resolution as binding me in the slightest degree whatever so as to prevent my action upon the admission of any member of this body, and I do not believe that it has or ought to have any binding force whatever upon the Senate on that subject.

Mr. WILSON obtained the floor.

Mr. SAULSBURY. Will my friend from Massachusetts, as I have yielded my right to the floor, allow me to make one remark, which will not take a minute?

Mr. WILSON. Certainly.

Mr. SAULSBURY. It is sometimes said on the other side of the Chamber that certain doctrines uttered upon this side are repudiated. Sir, I do not know that this side of the Chamber has distinctly announced any opinions through this debate. We have kept very quiet. It seems a division has been gotten up on the other side of the Chamber between what are called the radicals and the conservatives. The Democratic portion of this body have sometimes been referred to as operating with the conservatives and as against the radicals. I think that any fair and impartial observer of what transpires here will bear testimony to the truth of what I now say. We have taken no sides in this quarrel. It is a division among the gentlemen themselves. They exercised what they supposed to be and what was, if they believed the bill to be a constitutional bill, the constitutional right of passing what was called the Freedmen's Bureau bill. The President of the United States in returning it with his objections exercised a perfectly constitutional right. Because he did so there was a very considerable manifestatian of disapprobation of his action. When his veto message came in, the Democratic portion of this Chamber voted upon that subject precisely as they voted before. But will my radical friends—as they seem to glory in the appellation of radicals—allow me to make one remark? In the great issue which they have made upon the President, and not the President upon them, they are pretty much in the situation, in my opinion, of the crazy man who got on the railroad track in the far West, where they had never before seen a car. It being announced that the cars would run on a certain day he went out and placed himself near a station, and as the train came along threw up his hat and his arms. The engineer, supposing that something was on the track, stopped the train and inquired what was the matter. The man replied, "I want you to know, sir, that I, after having fought the lions of Bashan, am not going to be scared by a certain kind of hen-coop set up on wheels." [Laughter.] Sir, Andrew Johnson has laid the track, the car is in motion, and if our radical friends do not want to get run over they had better get off the track. [Laughter.]

Mr. McDOUGALL. I will ask my friend from Massachusetts to yield me the floor for a few moments.

Mr. WILSON. Very well.

Mr. McDOUGALL. I do not rise in my place now to enter into any lengthy discussion, for I would not trespass on the time of the Senator from Massachusetts who has been kind enough to afford me an opportunity of saying a few words. I choose not to engage in a general discussion of the questions that have been debated here, but to say a few words only as to the pending question. I have not been able yet to comprehend in the mind of a fair-minded and just man who speaks the truth, or who desires to speak it, the possibility of his undertaking to overcome the Constitution of the United States by a resolution of the two Houses. That is the proposition pending, to overcome the plain letter of the Constitution of the United States by a resolution of the two Houses. There is a crime known to criminal law as obtaining property by false pretenses; and it is said, I believe, in that law, that if you pretend as to an after-fact, it is not a technical false pretense. If the swearing is as to a past fact, then the person charged, on the charges being proven, may be condemned and punished. It has struck me that it may be a grave question now, whether falsely swearing as to what one has done is perjury, while falsely swearing as to what one will do, is not. It has been the practice of our Government ever since it was instituted to swear all the State officers to support the constitution of the State and the Constitution of the United States, and I suppose every gentleman on this floor has taken that oath many times. Falsely swearing as to what you will do, perhaps may not be technical perjury; but permit me to say that when gentlemen undertake to violate the Constitution which they have sworn to support, and dare to say that because what they propose to do is right they dare to violate their oaths, it is one of the technical ways of avoiding just conclusions, which has been condemned by all just men, and will be condemned above.

Mr. WILSON. Mr. President, if Senators on the other side of the Chamber do not desire to occupy the time of the Senate further, I will do so for a few moments. If any of them desires the time, I will yield the floor to him now as I have during the day.

Mr. SAULSBURY. I believe that under the arrangement the Senator from Massachusetts may occupy the floor now.

[Mr. WILSON proceeded to address the Senate. [His remarks will be published in the Appendix.]

Mr. SHERMAN. Mr. President, the honorable Senator from Maryland, [Mr. JOHNSON,] in his remarks yesterday, made some statements which, while I did not wish to controvert them at the time, I felt to be unjust to a distinguished citizen of my State, but as I had no documents before me, no papers to which I could refer, I did not feel at liberty to correct him while he was speaking or after he spoke. The remarks to which I allude I will read from the reported speech as contained in the Globe of this morning:

"I find in one of the papers of the day a resolution offered at a meeting in the State of Ohio some seven years ago, in which the doctrine almost in the words of Calhoun was announced, said to have been reported by a committee of which one of the honorable Senators from Ohio, not now in his place, [Mr. WADE,] was a member, and to have been supported by him in a speech, and to have also been supported by a speech of the present Chief Justice of the United States."

Then the Senator from Maryland proceeded to quote a resolution adopted at a meeting at Cleveland in 1859; and after reading it, he said:

"And that resolution, it is said, was supported not only by my friend from Ohio, [Mr. WADE,] but by the present Chief Justice of the United States; and that was in 1859; literally a transcript from some of the resolutions offered by John C. Calhoun."

I knew very well at the time these words were uttered that the Chief Justice had never supported and sustained the doctrine of such a resolution; but I was not then prepared to state, as I am now, the part he took in the meeting referred to. He was suddenly called to Cleveland, when Governor of the State of Ohio, by events which at the time caused great excitement. Certain persons had by force and fraud combined enticed a resident of Ohio from his ordinary avocations at Oberlin into the country, then gagged him and bound him and endeavored to take him away out of the State. It was a gross and palpable outrage which would have created excitement in any community. The man was a colored man. The citizens arose, without much regard to party, and rescued him, and many of them were arrested and bound over by the United States district court. A meeting was called at Cleveland to denounce the act, and there was a large attendance, much excitement, and some fear of an armed resistance to the United States authorities. The present Chief Justice was then Governor of the State of Ohio, and he was invited from Columbus to Cleveland to address this meeting. He declined to do so; but on the morning of the day of the meeting he received a telegram from Cleveland to the effect that trouble was feared, and he took the cars and arrived in the midst of the meeting. I regret that I cannot find a full report of what he said. I have been trying to get the report of his speech, but there being no files of Ohio papers here, the only report I can find is a brief one contained in the New York Times of a day or two afterward, and that I will read so that the Senator may see how unjust he was in the statement he has already made:

"A meeting of some six thousand persons was held at Cleveland on the 24th instant, to denounce the fugitive slave law, in view of its enforcement against the Oberlin prisoners. The published call invited all 'foes of slavery and despotism,' and stigmatized the proceedings of the district court as a 'despotic usurpation of power.' Joshua R. Giddings presided. Among the prominent persons present was Governor Chase, who, upon invitation, addressed the concourse. His remarks were brief and sensible. Concurring with those who heard him in dislike of the fugitive slave law, he yet counseled no forcible resistance. On the contrary, his advice was to oppose it through the ballot-box alone, by electing men to Congress and to the Presidency who would repeal it. He did not even assail its constitutionality, but left that question to the proper tribunals, State and Federal."

That was the position taken by Governor Chase at the time. I know that his remarks on the occasion were received with dissent by the excited audience, and he was not applauded during the whole of his brief remarks. He counseled moderation and strict obedience to law, and took no part in framing, advocating, or passing the resolutions. It is due to the Chief Justice to make this statement. And the honorable Senator made another remark, which, I think, was also very unjust, if I understand the meaning of it. He said:

"Mr. President, if the Chief Justice of the United States has not changed the opinion which he entertained in 1859, he is not the man to sit in judgment upon Mr. Jefferson Davis, or anybody else standing in the like position. He might pronounce him, and I suppose he would, to have been guilty of treason according to the letter of the law; but, with this resolution in his hand, he would say to the department of the Government in which the power of mercy is lodged, 'For God's sake, as you value me and my character, pardon, for he did only to a greater extent what I said I would have done or that my State should have done if the contingency had arisen.'"

This, I suppose, was based upon the allegation that the Chief Justice had approved the resolution which the Senator read. Now, sir, you may look through all the writings and all the speeches of that distinguished citizen, and you will find nothing in them that would sanction secession or nullification or any of those outrageous doctrines which emanated from John C. Calhoun and Jefferson Davis. While he has resisted, in the sense in which we use the word among lawyers, the execution of the fugitive slave law; while he has uniformly denounced it and held it to be unconstitutional, he never has advised any armed resistance to that law or advised any one to seek any redress against its barbarous provisions except the redress of the courts of justice and an appeal to the people through the ballot-box. Certainly he never counseled armed resistance to the law as announced by the courts to be made either under State or individual authority, and is as free from such a reproach as any citizen of the United States.

I do not know that it is necessary for me to say anything more. I make this correction in justice to a distinguished citizen of my State, and in justice to myself as his representative.

Mr. JOHNSON. It is hardly necessary for me to say, Mr. President, to the Senate that it was very far from my purpose to deal unjustly with the Chief Justice of the United States, or in what I said to deal unjustly with the Senator

from Ohio, [Mr. WADE.] That Senator has taken away all ground upon which I could have relied for the purpose of showing that he did at all in any way assent to the doctrine contained in the resolution which I read yesterday. The Chief Justice of the United States, I had a right to suppose, if present when the resolution was offered and adopted by the meeting, and having addressed the meeting, must have had some knowledge of the character of the resolutions. But of course I must acknowledge my error, on learning, as I now do, from the honorable Senator from Ohio, [Mr. SHERMAN,] that his speech was made before the resolutions were offered, and as I understand him—and his information is no doubt, I suppose, derived from the Chief Justice—he never afterward saw the resolutions until they were printed; did not see them at the time the meeting was being organized or while the deliberations of the meeting were being carried on. I had supposed, as a matter of course, that a gentleman of his distinction attending a meeting of that description, when resolutions of that sort were offered, could not have been ignorant of their character. What I said afterwards in which the honorable member thinks I did gross injustice to the Chief Justice, was founded entirely on the assumption that he was the friend and advocate of the doctrines of that resolution which I read; and assuming that he was the friend and advocate of that resolution, I said (and if the fact were so I would repeat) that I did not see how he could sit in judgment against a gentleman who had only carried out the same doctrine. But if in point of fact he had no knowledge of the resolutions and did not approve of them, or if when he came to the knowledge of them either upon the ground or afterward he denounced them, there would be no justice in imputing to him the advocacy of such a resolution, or in supposing that he was placed in a situation in which he would not be entirely free to sit in judgment on Mr. Jefferson Davis or any man situated in like position.

It did, I confess, surprise me when I read the resolution, because I had always supposed that the doctrines of the present Chief Justice were Federal as far as the Constitution of the United States was concerned. I had always supposed from his antecedents that he was more of a disciple of the Hamilton than even of the Madison school, and certainly more a disciple of the Hamilton than of the Jefferson school. It was therefore far from my purpose in what I said yesterday, or in what I have said at any time in the past, or shall say at any time in the future, to assail the Chief Justice of the United States. There is no man who admires him personally more than I do, or who has a higher opinion of his ability. And if he will devote himself to the duties of his high station—the highest in my opinion in the gift of the Government—and think of nothing else, he will be a worthy successor of whoever may have been the brightest luminary of that tribunal heretofore.

Mr. WADE. Mr. President, I rise merely to say that the reason why I did not speak of Chief Justice Chase yesterday is that I was not present while the Senator from Maryland was speaking, and did not know what he had said except so far as others reported it to me in regard to myself; and if I had been here and heard the whole of it, I had no knowledge of the meeting referred to that would have enabled me to explain the matter as my colleague has now done. Otherwise when I was on the floor defending myself I certainly should have defended him if I had known enough about the case to do so.

Mr. FESSENDEN. Mr. President, I propose to detain the Senate but a few minutes; and I regret very much that I feel called upon to do so. What I shall say will be confined to the resolution before the body, and to the action of the committee whose proceedings, after what has been said, may need some comment from me. I am very unwilling to detain the Senate even for a short time, because I know with what impatience, at such an hour as this, Senators listen to remarks from anybody. They are very much in the condition described in a line of the old ballad called John Gilpin, which was—

"The dinner waits, and we are tired."

And I feel like adding, as John Gilpin did—

"And so am I."

Nevertheless, as the matter is before us, and as after I have closed the Senate cannot be tormented by anybody else, according to the understanding, until after the vote is taken, I may as well say what I have to say on the subject.

Mr. President, there was a little misunderstanding between the honorable Senator from Wisconsin [Mr. DOOLITTLE] and myself as to what this resolution was. I disputed point blank an assertion he made as to the effect of the resolution. Now, in order that there may be no misunderstanding about it, I ask, as I did in the beginning of my remarks the other day, that the resolution be read.

The Secretary read the resolution, as follows:

Be it resolved by the House of Representatives, (the Senate concurring,) That in order to close agitation upon a question which seems likely to disturb the action of the Government, as well as to quiet the uncertainty which is agitating the minds of the people of the eleven States which have been declared to be in insurrection, no Senator or Representative shall be admitted into either branch of Congress from any of said States until Congress shall have declared such States entitled to such representation.

Mr. FESSENDEN. Now, sir, it will be observed that the resolution does not declare that neither body shall have the right to admit members until Congress has made a declaration upon the subject. There is nothing said about the right in any way or in any terms. It is precisely what I designated it to be the other day, a mere legislative declaration of our opinion and determination that, until Congress has declared the State (whichever one it may be that is before us) to be in a condition to be represented here, neither body will act upon the credentials of members.

It will be noticed, and I say this in answer to what has been said by the honorable Senator from Connecticut [Mr. DIXON] as well as the honorable Senator from Wisconsin, [Mr. DOOLITTLE,] that in no way does the resolution touch the question, as commonly understood, of the elections, qualifications, and returns of members. It leaves that matter precisely where it found it. It does not undertake to judge on the subject or to investigate it; and, in accordance with that idea, all the credentials which have been laid before the body, instead of being sent to the committee, have been simply laid upon the table.

Now, Senators inquire, why will you deprive yourselves of the power to do certain things? The question of the admission of a member is in the hands of a majority of the body. The majority can control it always. It can do as it pleases with reference to it. If a majority of this body thinks that it is advisable that Congress should first settle the question of the condition of the States, whether the States have placed themselves in a condition to send members here, they have the unquestionable power to lay those credentials on the table, and to keep them there until that question has been determined to their satisfaction. The Senate having that power to lay these credentials on the table and keep them there, is it a great stretch of power, is it going beyond their jurisdiction, to say that we will not take them from the table—for it is the majority that is to determine the question of qualifications and everything else—until both branches have come to the conclusion that they shall be taken from the table in each branch and be acted upon? It is nothing but a legislative declaration of the course we intend to pursue with reference to the credentials that have been laid on our table, and I should like to inquire of anybody whether we have not the perfect right to do it? Even after we have done it, after we have made that legislative declaration—which I deem it important to make, because I think the power of Congress over the question of the condition of these States has been questioned—we, as a Senate, I concede, can, in spite of this legislative declaration, at any moment take them from the table and act upon them without asking the consent of the House of Representatives, and the House can, on its own side, in spite of this resolution, if passed, take the credentials of those claiming to be members of that House from its table and act upon them if it pleases. There is no question about that; and therefore this resolution is precisely what I described it to be—nothing in the world but a legislative declaration that we do not deem it advisable, and do not mean, and do not intend, to act upon the question of the admission of individuals who come here claiming seats, until Congress, both branches, shall have investigated and settled the question of the condition of the States.

Now, sir, for one I am free to say if matters should go so far as to show that either House was acting unreasonably, willfully, from temper, unjustly, so as to produce improper delay, I should conclude that it was time to reverse this action so far as this body was concerned.

The ground on which I put this resolution originally—and Congress can at any time pass a law to the same effect if it pleases—was simply that we owed it to ourselves that this matter should be properly investigated, should be investigated by both branches, should be investigated in such a manner as to enable us to come to a conclusion which should be satisfactory, and that it had better be done by a joint committee of both branches, because it would be a very serious matter if one branch was to come to one conclusion and admit members, and the other branch was to come to the opposite conclusion and refuse to admit members. Under the circumstances by which we are surrounded, I have thought that Congress, by the concurrence of both branches, should first settle the question which lies at the foundation, whether the States were in a condition and had the right as well as the power (if you choose to admit that) to send members here.

Gentlemen have not chosen to discuss that question; but how has this resolution been met? By the talk of my honorable friend from Connecticut that we refuse to act, and undertake to commit to another body what is peculiarly within our province. They have taken it for granted that we had asserted that all the Senate could do as a Senate acting separately was to examine into the mere fact of elections and qualifications. That is a broad assertion. Sir, nobody has pretended that the Senate had not the perfect power and right by itself, when it was looking into the question of the election and qualification of members, to look and see what was the authority under which they came, what was the body which elected them, whether that body was legally and correctly organized and had a right to elect, and every question of that description. I have not contended for any such thing, nor has any Senator, to my knowledge, contended for any such thing. All we have contended for was, that in the peculiar circumstances of the country, with these great questions pressing upon us, in view of the danger that a different conclusion might be arrived at in one body from that reached in the other, it would be advisable and sensible and proper, and in fact I think it our duty, and have thought so from the beginning, that both branches of Congress should investigate the subject deliberately and fairly, and candidly come to a conclusion upon which both branches might agree, and that preliminary question being settled, then each branch should take up the question of the individuals and examine into their elections and qualifications, and act upon that question as it might be presented.

That is the simple question before the country, and I do not wish it to be misrepresented or misunderstood, for I was among the first men that said I never would consent in any way to put the credentials of our members, and the right of individuals claiming seats in the Senate, into the hands of any other body. But there is a great question which lies at the foundation of the whole which should first be inves-

tigated. That I say now, and I believe common sense sustains me in it, although I will not say, as the Senator from Pennsylvania said several times, as I understood him in the course of his speech to-day, "I have conclusively proved" it, because it is not for me to assume that, but I say I have no doubt of the correctness of the proposition.

The honorable Senator from Wisconsin attacks this resolution on the ground that it is a violation of the Constitution. I believe the Senator from Maryland did not attempt to assume that ground. Now, I call the attention of the Senator from Wisconsin to something that has been done heretofore. I find on our records a bill offered to this body, and acted upon, which reads as follows:

"That when the inhabitants of any State have been declared in a state of insurrection against the United States by proclamation of the President, by force and virtue of the act entitled 'An act further to provide for the collection of duties on imports, and for other purposes,' approved July 13, 1861, they shall be, and are hereby declared to be, incapable of casting any vote for electors of President or Vice President of the United States, or of electing Senators or Representatives in Congress, until said insurrection in said State is suppressed or abandoned and said inhabitants have returned to their obedience to the Government of the United States, nor until such return to obedience shall be declared by proclamation of the President, issued by virtue of an act of Congress, hereafter to be passed, authorizing the same."

Now, I should like to know if the Senator can draw a distinction, so far as constitutionality and right are concerned, between that proposition and this resolution. They shall not, any of them, be admitted until the President, by proclamation, issued in pursuance of an act of Congress authorizing the same, shall have settled that question. So says the proposition. Well, who voted for that?

Mr. DOOLITTLE. What is the date of it?

Mr. FESSENDEN. The date of it is July 2, 1864. Mind you, it was not enough that the insurrection should be quelled, it was not enough that the people should have returned to their allegiance, it was not enough that everything should be pacified; but an act of Congress was to be passed to authorize their return, and the President himself was to issue his proclamation under that act. Who voted for it?

Mr. HENDERSON. That passed the Senate, but did not pass the other House.

Mr. BROWN. It passed the Senate and went to the House of Representatives, and a committee of conference reported back another bill.

Mr. FESSENDEN. And who voted for this? Let me read the list:

"YEAS—Messrs. Brown, Carlile, Cowan, Davis, Doolittle, Grimes, Henderson, Hendricks, Johnson, Lane of Indiana, McDougall, Powell, Richardson, Riddle, Saulsbury, Trumbull, and Van Winkle—17."

Mr. COWAN. Who voted against it?

Mr. FESSENDEN. I will read the vote on the other side:

"NAYS—Messrs. Chandler, Clark, Conness, Hale, Harlan, Lane of Kansas, Morgan, Morrill, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Wade, Wilkinson, and Wilson—16."

Mr. SHERMAN. The Senator will find that that was not the final vote. That was the vote on adopting that proposition as a substitute for the reconstruction bill of the House, but afterward a vote was taken upon the passage of that bill as amended, and Messrs. Powell, Saulsbury, and Davis, voted in the negative.

Mr. FESSENDEN. That vote was upon the passage of the bill, which was amended so as to be substantially the provision I have just read.

Mr. TRUMBULL. It was precisely the same.

Mr. McDOUGALL. I desire simply to say that if my name was thus entered upon the record, the record is somewhat untrue.

Mr. SAULSBURY. And so may I say.

Mr. FESSENDEN. Now, let me come to the vote on the passage of that bill after it was amended to read exactly in these words. The vote I before read was on the amendment. Now, I will read the vote on the passage of the bill as thus amended:

"YEAS—Messrs. Brown, Chandler, Conness, Doolittle, Grimes, Hale, Harlan, Harris, Henderson, Johnson, Lane of Indiana, Lane of Kansas, McDougall, Morgan, Pomeroy, Ramsey, Riddle, Sherman, Sprague, Sumner, Ten Eyck, Trumbull, Van Winkle, Wade, Wilkinson, and Wilson.

"NAYS—Messrs. Powell, Davis, and Saulsbury."

Mr. SAULSBURY. There "Saulsbury" is right.

Mr. FESSENDEN. Now, can mortal man tell me the difference between that action of the Senate, which is not stronger so far as the question of constitutionality is concerned, and this resolution, which is a mere legislative declaration? That was a proposed law.

Mr. DIXON. Will the Senator allow me to ask him a question for information merely?

Mr. FESSENDEN. Certainly.

Mr. DIXON. I wish to know whether if that proposition had become the law of the land and was now on the statute-book it would have any binding force or effect to prevent the Senate from admitting a member from any State?

Mr. FESSENDEN. I will let the Senator decide that for himself. I am speaking now about who voted and how they voted. That is another thing entirely.

Mr. DIXON. That is as to the question of constitutionality.

Mr. FESSENDEN. No, I am not troubled with the question of constitutionality. I am trying to remove the doubts of the Senator's friend, and his trouble about constitutionality. I believe that my honorable friend from Maryland said that when this action was had by the Senate, the insurrection had not been quelled. He voted for this proposition; but if he will examine it he will find that not only was the insurrection to be quelled and the people to be in a state of peace and quietness, but there was to be a law passed by Congress, and the President was to issue his proclamation based upon that future law, before Representatives and Senators could be admitted from these States.

Mr. DIXON. I understand the Senator to decline to answer my question.

Mr. FESSENDEN. I do decline to answer it, and you have no right to ask me to answer it unless I choose to do so. It has nothing to do with what I am talking about. A gentleman may ask an impertinent question if he chooses, but I am not obliged to answer it.

Mr. VAN WINKLE. I should like to explain, so far as I am concerned, why I think I might with great propriety have voted for that proposition at that time and vote in an entirely different way now. I believed that measure was offered in good faith and was so intended. It is since that time that I have learned that negro suffrage is to be made the condition of the admission of these States.

Mr. FESSENDEN. The Senator, then, has learned something that I have not learned.

Mr. VAN WINKLE. I have learned it from the pending resolution in this body proposing to amend the Constitution. I have learned it from another resolution proposing an amendment to the Constitution which has been under consideration in the other House, and has there been laid over until April. I have learned it also, I think, from declarations made on this floor that these States ought not to be admitted for five years, or for a generation, until the matter of suffrage was settled to suit them. That declaration has come from gentlemen of the majority here, gentlemen of the radical branch. And as I am unalterably opposed to forcing suffrage of that kind on the States I vote against this resolution.

Mr. FESSENDEN. One would think that my honorable friend from West Virginia was clear-headed enough to distinguish one thing from another, one bill from another, and that he had pluck enough to vote against what he did not like, and was not compelled to vote against what might be a good thing because he may be afraid that somebody else is going to vote for something he did not like. A Senator, I think, might arrive at that high eminence.

Mr. VAN WINKLE. The gentleman will permit me to say a word. We have been waiting here for some time to hear a report from the committee over which he presides. That report is delayed, and instead of our being informed of what is the condition of these States, we have put upon us amendment to the Constitution after amendment, and these to me are all objectionable. I think that this is just part and parcel of the other movements of this committee; and although I have clearness of head enough to know that it is not precisely the same as a constitutional amendment, yet I think I know that it proceeds from the same source and is likely to be enforced in the same manner, and I have no confidence, especially after the votes we have had in the other end of the Capitol, that there is any disposition to take up even for consideration the cases of those States for an unlimited time to come.

Mr. FESSENDEN. I will show you about that in a very few minutes; I am prepared on that subject. The Senator from West Virginia must satisfy himself. If he is afraid that his innocence will be entrapped into doing something that he does not want to do, and therefore he must be careful on all occasions for fear he will find himself where he does not want to find himself, it is his business, not mine. I can take care of all my votes at any rate. All these statements with regard to tying the hands of the Senate are merely volunteer; they have no foundation. It is a mere, I was about to say, excuse for gentlemen which they never dreamed of when they voted for the proposition which I have just read, which they never dreamed when others similar to it were voted for; but just now it is convenient to set up that what they were willing to agree to as a law of the land they cannot put in the shape of a concurrent resolution, for fear they may be overstepping the proper bounds of the Constitution!

Now, let us go a little further. The Senator from West Virginia has said something that I wanted somebody to say here in direct terms; he has imputed to the committee of fifteen a disposition to delay action upon this matter. But before I come to that let me say that when gentlemen talk about the committee assuming jurisdiction that did not belong to it in reporting a resolution for the amendment of the Constitution they are talking without the book. That resolution substantially was specifically referred to that committee by the House of Representatives. Do not Senators know, is there any man here who will dispute, that when there is a joint committee, and either House refers a subject to it, as either House may do, it becomes its duty, certainly its right and privilege, to report upon it? That has been the acknowledged law of proceeding of the Senate ever since I have been a member of the body always. I know it for I have been a member of two joint committees: one the Joint Committee on Printing, and the other the Joint Committee on the Library. These committees exist, and when either House refers a subject to a joint committee, no matter what, if it takes jurisdiction, (and it has a right to take jurisdiction by the reference,) it becomes its duty to report in some way or other. Now, in regard to the resolution proposing to amend the representation clause of the Constitution, my colleague in the other House, Mr. BLAINE, sent it directly to the committee on reconstruction; and another gentleman of the House, Mr. CONKLING, of New York, sent the same measure, in other terms, varied a little, to the committee on reconstruction. Had or had we not a right to report upon it? Were we traveling out of our jurisdiction? Were we doing what gentlemen have undertaken to say here several times we had no right to do, taking up something not referred to us? They should understand the facts before they make these assertions, and know something of what has been done in both branches of Congress.

Now, sir, a few words as to the question whether we have purposely delayed, whether there has been a disposition to delay in this matter. I have spoken of what the committee has done. Now let us inquire about how action has been delayed. I would like to give you a little history. This subject was introduced into Congress early, and the resolution authorizing the appointment of the joint committee came to the Senate at the beginning of the session. The

Senate deliberated upon it. It did not like the last clause, or thought it expedient to leave it off. It was taken up—I do not know whether it went to a committee or not—and the last clause struck off; it was passed as amended, and the House agreed to the amendment.

When was that done? When was the committee appointed? I have taken the pains to look at this matter a little and see how the fact stands. That resolution was finally adopted by the concurrence of both Houses on the 13th of December, 1865. The committee was appointed in the Senate on the 21st of December, and on the same day, the 21st of December, Congress by a joint vote adjourned to meet on the 5th of January, 1866. Of course the committee could not meet during the recess. I suppose the Senator will admit that.

Mr. VAN WINKLE. If the Senator from Maine is addressing me particularly, I will say that I have never questioned the right of the committee to report the resolutions referred to.

Mr. FESSENDEN. I thought the Senator in the remarks he made a few moments ago spoke of the fact that the committee had reported an amendment to the Constitution of the United States, as proving that they meant to keep these States out.

Mr. VAN WINKLE. I spoke of that as the purpose of the amendments.

Mr. FESSENDEN. We reported just what was sent to us to be considered.

Mr. VAN WINKLE. Exactly.

Mr. FESSENDEN. Very well.

Mr. VAN WINKLE. In other words, we have the action before we have the report. I should like to see the report, so as to know whether it sustains the action.

Mr. FESSENDEN. We cannot act on everything at once. We have come now to the 5th of January, because Congress adjourned to meet on the 5th day of January, 1866. On the 5th day of January, 1866, when we met together the honorable Senator from Massachusetts [Mr. SUMNER] submitted the following resolution, which was considered by unanimous consent, and agreed to:

"*Resolved*, That the President of the United States be requested, if in his opinion not incompatible with the public interest, to furnish to the Senate copies of all papers or proclamations designating certain persons as provisional governors of States, and an account of the salary, if any, they may have been allowed; the oaths, if any, they may have taken before entering upon their duties, and if they did not take the oath of office prescribed by Congress for officers of the United States, then why they did not take the same; also all instructions with regard to their duties, and communications between them and the President, telegraphic or otherwise; also copies of any communications in his possession from such persons to any convention or Legislative Assembly in their respective States; also copies of any constitution, articles, or laws, purporting to have been adopted in such States, so far as the same affect the present condition of such States and the rights of persons therein."

On the 12th day of January a similar resolution in effect—I do not know whether it was in the same exact terms—was offered in the House of Representatives by Mr. RAYMOND, of New York, and passed.

When that committee came together, what was the first thing they were to consider? They were to consider what these States had done, what was their present condition, what were their Legislatures, what were their constitutions, and everything about them, as showing whether they were or were not in a condition to return. Where were all these papers? In the hands of the President and nowhere else. He had them and nobody else had them. On the 27th of February, only a few days ago, the information not having been furnished, the same resolution was renewed on the motion of the Senator from Massachusetts, and again adopted by the Senate.

I may as well betray the secrets of the committee to a certain extent, so far as to say that the first thing the committee thought or said was, before proceeding to ascertain and come to a conclusion as to the condition of the States which lately composed the so-called confederate States, we must have a knowledge of these facts; we must have the constitutions; we must have a statement of what the Legislatures were, how they were composed, whether the members had taken the requisite oaths, and generally all the facts in relation to what had been done in organizing the State governments. Let nobody undertake to tell me that we could go on discharging our duty as members of that committee, to decide on the condition of these States, without knowing anything of what the States had done in the way of organization. Was not that the very first question that we were to ascertain? Must we not see what their constitutions were? To ascertain these facts we must do one of two things: we must either send to Florida and Texas and all the other States and hunt up these papers, and then we could not get near the whole of them because they are in the hands of the President and only in his hands; or we should call on the President to give them to us.

The President sent us an annual message in December, in which he said that he had appointed provisional governors and proceeded a certain distance in the way of reconstruction, and that he left the question of the admission of Senators and Representatives to us. Did he send us any papers, any documents? Did he send us any information in relation to these States? He had it all. All the correspondence was with him. He had all the papers in his hands; he had all the telegraphic dispatches; he knew what these governors had done; he knew whether they had taken the oath; he knew everything connected with the subject, for he had all the papers. What did he do in answer to this call of the Senate? Did he tell us that it was not consistent with the public interest that we should have these papers or have this information? No, sir; he said no such thing, but he simply kept quiet.

From that day to this we have been waiting patiently, hoping that the President, who was so anxious to have us act on the subject, would furnish us the information that he had and that nobody else had in order to enable us to do so; but although three calls have been made upon him, one on the 5th of January by the Senate, one on the 12th of January by the House of Representatives, and again on the 27th of February by the Senate, we have not yet received this information.

Was there no reason for desiring these documents? Let us look at a fact or two. Whom did the President appoint as provisional governor of South Carolina? I am not complaining of his appointment; I am speaking of facts; he appointed Mr. Perry, who, as we all understand was a judge under the confederate government—I think that was the office he held. How do we know that he has been pardoned even? We have no proof of it. Look at Mississippi. What took place there? There were two candidates for Governor, one a Union man and the other a General Humphreys, covered all over with treason, who had been fighting through the whole war in the confederate army, and had risen to the rank of a brigadier general. He was nominated on the other side, and the newspapers of the day stated (Mr. Sharkey can tell whether it is true or not) that Mr. Sharkey, the provisional governor there, gave notice in Mississippi that General Humphreys was not an eligible candidate, and votes would be thrown away upon him, because he was not even pardoned. He was a traitor who had received no pardon, and yet we are told that he has since been pardoned. Do we know it? Have we any proof of it? Do we know anything about it? Has the President furnished us any information with regard to it? For aught we know to-day the man who signed the credentials of the Senators from Mississippi, if they are here, is an unpardoned rebel, a man who served during the whole war against us.

I speak of these instances, not that I find fault with anybody. The President may have perfectly good reasons for withholding this information. He has not chosen to tell us that he had any reason or that he wished to withhold it; but although we called for it on the first day that the Senate met after the recess, the very day that we could begin our operations, from that day to this we have not been able to obtain the information that lay at the foundation of our whole proceeding, that would enable us to ascertain the fact whether there was a constitution in any of these States, what it was, whether there was a Governor, whether he had been pardoned or not, and any facts in relation to its condition, all of which we ought to know, and all of which we must know before we can proceed a day or an hour. And yet gentlemen talk about delay, and say the committee have been delaying and not reporting, when the fact is that all the information is in the hands of the President. All these papers are with him, and he, urging us, as I understand he does urge us, to act upon these credentials, will not send a single one of these papers, and we can get them nowhere else without taking double the time that has already elapsed, and then we could not get more than half of them, because of course we cannot get all the telegraphic dispatches and other things.

Now, with what face can any gentleman get up here and talk about the disposition of this committee to delay? With what face can anybody anywhere in this whole country charge us with a disposition to delay? We have been employing all the time we could get to act upon this question. What did we have to do? While we were waiting for these documents, waiting for these constitutions, waiting for evidence of the organization of these Legislatures, waiting for the facts which lay at the very foundation of the admission of Senators and Representatives, what have we been doing? We have eleven States to look over. The Senate and House of Representatives have ordered us to do it. We must examine into the condition of them. There was but one other way in which to do it. What was that? To take testimony; and we have been constantly engaged in taking testimony. When the Senate has adjourned over Saturdays and Senators have gone to their own particular occupations or avocations, whatever they might be, that committee has been in session considering these questions, waiting for these documents, and in the mean time taking testimony, and it is divided into four subcommittees, who are taking testimony every day in the week and trying to come to a conclusion; and the reason why we have not come to a conclusion is because we can only meet occasionally. All of us are busy about other things; we can meet but two hours in the morning, and on Saturdays we meet as we have met almost every Saturday for hours, anxiously studying over this matter and trying to arrive at the facts, and in the mean time here is all this information which we called for two months ago, lying where we cannot get at it, although we had called for it; and yet we are accused of delay. Where has been the delay? Who has prevented our coming to a conclusion and proposing action?

Sir, I say this with no disposition to throw blame upon anybody, because there may be very good reasons why these documents have not been furnished; but it does not lie in the mouth of any man to say to us that we have been delaying when we have been at work week after week and day after day, parts of the committee all the time we could get, and begging for information upon which we could found a report and a conclusion to be given to the Senate and the House of Representatives; and I want the country to understand that it is not the committee who have kept things back.

Sir, I should not have alluded to the fact of this call having been made here had it not been that it became my solemn duty to defend myself, my own reputation as a man to whom the Senate has committed a trust, and the reputation of the gentlemen connected with me to whom a trust has been committed, and who have been called upon to ascertain what to them was a most unwelcome matter, and to assume a labor that added very much to the severe labors that were pressing upon them from other directions. While we are doing this and laboring all we can, and reporting upon

the subjects that we can report upon as fast as we can, and calling for information, begging for it, not only once, but twice and thrice, and not getting it, I cannot stand here quietly and take all the imputations that may come from any quarter as to a disposition to delay, and not show what the reason is why time has gone on and no action has been had upon this matter.

Sir, I rose simply to these two points: to explain in the first place what I understand by this resolution, to answer the question which has been raised so far as I could answer it in regard to the constitutionality of our action, show what I thought it necessary and advisable for the Senate and House of Representatives to do under the circumstances; and secondly, and more than all, to rid myself once and forever, as I hope, and the committee which I have the honor to represent, from these imputations that are cast upon them from one quarter and another, by newspapers and others, of not doing their duty and of delaying action upon a subject upon which they could not act sooner, and to show the reason why they could not act sooner than they have done.

Sir, it would gratify me if I had time and the hour was not so late to allude to some few arguments that have been adduced against the resolution, but I shall not open that matter again. I never make promises to make a speech in the future, but perhaps the time may come when I may deem it proper to say something further upon the resolution pending in the Senate for the amendment of the Constitution and other kindred topics. Having done on the present occasion all that I deemed it advisable to do with reference to the particular question now before us, and I hope set the committee right before the country with reference to its action, and shown how the delay has been brought about, I leave the question here.

Mr. JOHNSON. I rise merely for the purpose of asking the Senator from Maine if he supposes that I imputed any delay to the committee. I did not.

Mr. FESSENDEN. I have not heard anything of that kind from the Senator from Maryland.

Mr. JOHNSON. I am a member of the committee, and so far as I have been before the committee I have seen no such disposition.

Mr. FESSENDEN. I heard it from different quarters. I heard it most distinctly from the honorable Senator from West Virginia this afternoon, and I have heard it from other gentlemen that we were not acting in good faith.

The PRESIDENT *pro tempore*. The question is on the amendment proposed by the Senator from Indiana [Mr. HENDRICKS] to insert the words "the inhabitants of" after the word "States," in the fourth line of the resolution.

Mr. SAULSBURY. I move to amend that amendment by inserting the words "a portion of whose" before the word "inhabitants," so as to read, "a portion of whose inhabitants have been declared to be in insurrection."

The amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question recurs on the amendment of the Senator from Indiana.

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

The Secretary proceeded to call the roll.

Mr. JOHNSON, (when his name was called.) I vote "yea," because the proclamations all state that the inhabitants and not the States were in insurrection.

Mr. COWAN, (who had at first voted in the negative.) I change my vote to "yea." At the time I voted before, I was not aware of what the language of the old act was, whether it was "the States which have been declared to be in insurrection," or the inhabitants of the States. I understand now that the language is "the inhabitants who have been in insurrection." I therefore vote "yea."

The result of the vote was announced—yeas 17, nays 29; as follows:

YEAS—Messrs. Buckalew, Cowan, Davis, Doolittle, Guthrie, Hendricks, Johnson, Lane of Kansas, McDougall, Nesmith, Norton, Riddle, Saulsbury, Stewart, Stockton, Van Winkle, and Willey—17.

NAYS—Messrs. Anthony, Brown, Chandler, Clark, Conness, Cragin, Creswell, Fessenden, Foster, Grimes, Harris, Henderson, Howe, Kirkwood, Lane of Indiana, Morgan, Morrill, Nye, Poland, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Trumbull, Wade, Williams, Wilson, and Yates—29.

ABSENT—Messrs. Dixon, Foot, Howard, and Wright—4.

So the amendment was rejected.

Mr. SAULSBURY. I move to amend the resolution by striking out in the first line the words "by the House of Representatives, the Senate concurring," and inserting in lieu of these words "the Senate and House of Representatives in Congress assembled;" so as to make it read, "Resolved by the Senate and House of Representatives in Congress assembled." On this amendment I have only one remark to submit. In section seven of the first article of the Constitution, there is this clause:

"Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary, (except on a question of adjournment,) shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill."

This is not a question relating to an adjournment. I hold that the subject-matter of the resolution is the subject-matter of a bill by Congress, or of a joint resolution by Congress, which, according to this provision of the Constitution, it is absolutely necessary shall be presented to the President of the United States for his signature. If there be any conflict between the Congress of the United States and the President of the United States in reference to any proper subject-matter of either a bill or a joint resolution then that subject-matter ought to be presented to the President of the United States for his approval. Holding the matter embodied in this resolution, which is called a concurrent resolution, but which, despite of its name, is in fact and in substance a joint resolution, I propose this amendment, and with the distinct understanding that it should go to the President of the United States for his approval or disapproval. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. McDOUGALL. Mr. President, as a favor from the Senator from Massachusetts, I occupied the floor about one minute a short time since. I did not then say all I would desire to say upon the pending question. If it be possible for an ascendent majority to carry through such a proposition it is revolutionary and strikes at the foundation of this Republic as established by its framers. I would not make this remark but that I find the Senator from Maine has gone beyond the six o'clock of the evening which was fixed for the vote, and therefore we are not absolutely limited as to time.

Mr. SHERMAN. It was part of the agreement that he should have the privilege of doing so.

Mr. McDOUGALL. I did not know that. If it be so, it is all right and I find no fault. I understand that this Government was organized with great care by men who were part of and who succeeded the Revolution of 1776, and the men who organized the Constitution of 1787 were of the largest minds who have produced thought in this Republic. I learned some of my lessons from them, and from my early boyhood I have kept the Federalist at my side that I might learn what was said by Madison and Jay and others who were the wise men of a wiser period than this period when we are now extant. They studied the organizations of all the old Governments from long antiquity; they were familiar with the Aeropagites; they were familiar with the principles of the Achæan League; they were familiar with the founders of republican Rome; they were familiar with the men who built the republics of Italy, some of which republics still continue. They were great and I think they were wise men. They possessed the idea that to establish a republic there must be a distribution of power, and that in the distribution they must make equivalents. Therefore the idea which has been expressed and expounded by every man who has studied the science and art of this nation is this: the executive, the judicial, and the legislative branches shall be all equally conducted; the President himself coming from the people as a tribune with his greatest power to say "I forbid;" the Senate coming from the organized States representing concentrated communities; the House of Representatives coming directly from the people, representing them immediately.

In order to give sufficient independence to the legislative department of the Government, it is laid down in the Constitution that each House is to judge of the qualifications of its own members. The Senate, designed to have been the most dignified body in this Republic, was authorized by the terms of the Constitution to say who might enter the Senate Hall as the representative of any State in the Union. That power was conferred upon the Senate by the people of the United States because it was the people of the United States who made the Constitution of the United States and established it, as they hoped, forever. They authorized each one who had the right to claim his place here to be a judge to determine the qualifications of any person who presented himself here to claim the right of a Senator, and in that respect the Senate is sovereign. So the House of Representatives, the body that represents the people directly, is authorized to say who has a right to take his seat from any organized State or any organized Territory, and its judgment in that respect is sovereign. We are, if you please, a trinity in unity. These three great departments of the Government realize that ancient idea which is illustrated by all nature.

It would be one of the greatest wrongs that could be perpetrated by the great body representative of the States of the American Union, if they should by a resolution like this ignore their own right of judgment. It is that and nothing less than that. It may be disguised. It makes me sad of heart that Senators who have risen high enough in the estimation of their respective communities to be sent to this forum should come forward and present such a proposition, to say nothing of its coming from the committee of fifteen. Why should the Senate of the United States in its judgment on such a question take counsel outside of its own body? We have been commissioned to judge; we are bound to judge; we cannot part with the office; it is ours unless we are too cowardly to assert our right of office. I am, I believe, too great a coward to do a conscious wrong; and with what little courage I may possess, I would not dare to vote for this proposition because I have some regard for the great Judge who lives above.

I have heard it said, or at least suggested, "Well, no matter what the Constitution says, this is right;" and I have heard on this floor a Senator appealing from the Constitution to the Almighty, who he says infuses him with the fifth element. It may be so with him; but then he ought to go and put himself with the gods and not sit in the Senate Hall among men who live in a concrete world where we do not understand always exactly what is right.

Mr. President, the question pending now, as simple as it appears, as practically useless as it will be as a rule if passed, is yet mischievous. It will have no validity, because it is not within the power of the Senate to pass it. It will be my right to ignore it, the right of every Senator, and the right of every man who represents the Government in office. It is, however, in the way of teaching bad precedents, false law, unsound loyalty. These things are like the worms that eat into the majestic oaks, which are used to build vessels to ride the sea, and decay their strength so that they fall down and make wrecks of navies.

These things ought not to be done by men who earnestly and truthfully mean to maintain republican institutions in America. These things should not be done, because it is only by

our adherence to great principles and great truths that we can maintain ourselves as our fathers maintained themselves, and as I trust we may maintain ourselves yet through all this tribulation.

Mr. President, I have said this much to have it understood distinctly how I comprehend this proposition. I hold it to be one full of infinite mischief.

Mr. SAULSBURY. I ask leave to withdraw the call for the yeas and nays on the amendment which I have submitted, because I know of course that it will be voted down, and I have got my opinion in regard to it on record. I do not propose, therefore, to take up the time of the Senate. I ask permission to withdraw the call for the yeas and nays, and I am even willing to withdraw the amendment.

The PRESIDENT *pro tempore*. The Senator from Delaware asks common consent of the Senate to withdraw his amendment. It can only be done by general consent, the yeas and nays having been ordered. No objection being made, the proposed amendment is withdrawn. The question is on the resolution.

Mr. TRUMBULL. I desire before the vote is taken to interpose a motion that when the Senate adjourns to-day it be to meet on Monday next.

The PRESIDENT *pro tempore*. The motion can be entertained only by unanimous consent, another question being before the body.

Mr. FESSENDEN. I object to it until a vote has been taken on the resolution.

The PRESIDENT *pro tempore*. The question is on the passage of the resolution.

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

The Secretary proceeded to call the roll.

Mr. POLAND, (when Mr. FOOT's name was called.) I suppose it is well known here in the Senate that my colleague is prevented by sickness from being present to vote; but it may not be known to his constituents and the country, as he desires it to be, that if present he would vote for the resolution.

Mr. CHANDLER, (when Mr. HOWARD's name was called.) My colleague who obtained leave of absence this morning, desired me to say that if present he would vote for this resolution.

The result of the vote was announced—yeas 29, nays 18; as follows:

YEAS—Messrs. Anthony, Brown, Chandler, Clark, Conness, Cragin, Creswell, Fessenden, Foster, Grimes, Harris, Henderson, Howe, Kirkwood, Lane of Indiana, Morrill, Nye, Poland, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Trumbull, Wade, Willey, Williams, Wilson, and Yates—29.

NAYS—Messrs. Buckalew, Cowan, Davis, Dixon, Doolittle, Guthrie, Hendricks, Johnson, Lane of Kansas, McDougall, Morgan, Nesmith, Norton, Riddle, Saulsbury, Stewart, Stockton, and Van Winkle—18.

ABSENT—Messrs. Foot, Howard, and Wright—3.

So the resolution was concurred in.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, the Chief Clerk, announced that the House had passed the bill (S. No. 93) to quiet the title to certain lands within the corporate limits of the city of San Francisco; and the bill (S. No. 142) for the relief of the heirs of James Bawdin.

The message also announced that the House had passed a bill (H. R. No. 346) for the relief of Hugh Leddy; in which it requested the concurrence of the Senate.

ADJOURNMENT TO MONDAY.

Mr. GRIMES. I move that when the Senate adjourns to-day it be to meet on Monday next.

The motion was agreed to.

HOUSE BILLS REFERRED.

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

A bill (H. R. No. 86) making additional appropriations, and to supply deficiencies in the appropriations for sundry civil expenses of the Government for the fiscal year ending the 30th of June, 1866, and for other purposes—to the Committee on Finance.

A bill (H. R. No. 345) for the relief of Christina Elder—to the Committee on Claims.

A bill (H. R. No. 347) for the relief of R. L. B. Clarke—to the Committee on Claims.

A bill (H. R. No. 346) for the relief of Hugh Leddy—to the Committee on Claims.

Mr. BROWN. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *March* 2, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

The SPEAKER. The first business in order is the call of committees for reports of a private nature, commencing with the Committee on Roads and Canals.

CHAPLAINS IN THE NAVY.

The SPEAKER laid before the House a communication from the Secretary of the Navy in response to a resolution of February 27, 1866, transmitting the names of the present chaplains of the Navy, with the date of their appointment and the State from which they were appointed; which was laid on the table, and ordered to be printed.

PRINTING AND PAPER FOR TREASURY.

The SPEAKER also laid before the House a communication from the Secretary of the Treasury relative to the cost of paper, printing, and advertising of that Department for the year 1865; which was referred to the Committee on Printing, and ordered to be printed.

CONTESTED ELECTION, MISSOURI.

The SPEAKER also laid before the House evidence in the contested-election case of Boyd *vs.* Kelso, fourth congressional district of the State of Missouri; which was referred to the Committee of Elections, and ordered to be printed.

PACIFIC RAILROAD AND TELEGRAPH.

Mr. HIGBY, by unanimous consent, presented the joint resolution of the Legislature of the State of California concerning an act to aid in the construction of an overland railroad and telegraph; which was laid upon the table, and ordered to be printed.

INCREASE OF THE REGULAR ARMY.

Mr. SCHENCK, by unanimous consent, presented the joint resolution of the General Assembly of the State of Ohio relative to an increase of the regular Army, and recommending the appointment of competent volunteer officers to fill positions therein; which was referred to the Committee on Military Affairs, and ordered to be printed.

SAFETY OF STEAMBOAT TRAVEL.

Mr. EGGLESTON, by unanimous consent, introduced a bill further to provide for the safety of the lives of passengers on board of vessels propelled in whole or in part by steam, to regulate the salary of steamboat inspectors, and for other purposes; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

WILLIAM A. WEST.

Mr. COFFROTH, by unanimous consent, introduced a bill for the relief of William A. West, late marshal of the Territory of Nebraska; which was read a first and second time, and referred to the Committee on Territories.

BOUNTIES TO SOLDIERS.

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

Resolved, That the Committee on Military Affairs be instructed to inquire into the propriety of providing by law that soldiers who enlisted in 1861 and 1862, and served more than one year, and were discharged in consequence of disease contracted in the service, shall receive the Government bounty to which they would have been entitled had they served two years.

EXPENDITURES OF AGRICULTURAL BUREAU.

Mr. MOULTON. I ask unanimous consent to submit the following resolution for immediate action:

Resolved, That the report of the Commissioner of the Agricultural Bureau, made to this House in answer to a resolution of inquiry, be referred to the Committee on Agriculture, with power to send for persons and papers in relation to said report, should said committee deem it necessary.

Mr. SPALDING. I object.

NIAGARA SHIP-CANAL.

Mr. VAN HORN, of New York, from the Committee on Roads and Canals, reported a bill to construct a ship-canal around the falls of Niagara; which was read a first and second time, ordered to be printed, and recommitted to that committee.

MEMORIALS FROM ALABAMA AND GEORGIA.

Mr. BOUTWELL. I have two petitions here: one from loyal white citizens of Alabama, the other from loyal black citizens of Georgia, five hundred and fifty-eight in number. The petitions are quite brief, and I ask consent of the House to have them read.

No objection was made.

The Clerk read the following petition:

We, the undersigned, colored citizens of the State of Georgia, respectfully represent that we are loyal, always have been loyal, and will remain loyal; and in order to make our loyalty most effective in the service of the Government, we humbly petition to be allowed to exercise the right of suffrage.

The memorial was referred, under the rule, to the joint committee on reconstruction.

Mr. BOUTWELL. The other memorial is one from the citizens of Alabama, "setting forth their grievances."

The Clerk commenced the reading of the petition, as follows:

To his Excellency Andrew Johnson, President of the United States, and Senators and Representatives in Congress:

The subscribers, who have always been uncompromising Union citizens of northern Alabama——

Mr. NIBLACK. Mr. Speaker, how does that paper come before the House?

The SPEAKER. The gentleman from Massachusetts [Mr. BOUTWELL] asked consent of the House to have the petition read. The Chair stated audibly to the House the request of the gentleman, and there was no objection made.

Mr. NIBLACK. If that is a memorial of white men I do not object to its reading. If it is from colored men I do object.

The SPEAKER. The Chair is of opinion that the objection of the gentleman is made too late, the reading of the memorial having been commenced. But for the information of the gentleman the Chair will state that the memorial now being read is from white men.

The Clerk resumed and concluded reading the memorial, as follows:

The subscribers, who have always been uncompromising Union citizens of northern Alabama, would most respectfully lay before you the statement of their deplorable condition, socially and politically, and ask you for relief.

Among the petitioners are sixty members of the first Alabama cavalry, who were among General Sherman's escort through the South. Several had relations and friends murdered in cold blood by the rebels; others had to flee for their lives; and nearly all of them suffered greatly for the sake of their principles. All of them aided the cause of the United States by every means in their power; and they are now, of course, the special objects of hatred to the rebel aristocracy.

They would most respectfully state that nearly all the offices of the State government are in the hands of those who are hostile to the national Government. Some of the former officers of the confederacy have either been reappointed or reelected by rebel votes. The late elections were a mere farce, as none of the requirements as to oath, &c., were complied with. In many cases loyal men were kept from the polls by threats of violence.

In consequence of this state of affairs the loyal people, and particularly those who have in any way aided the cause of the national Government during the war, are entirely at the mercy of their enemies, the rebels; and they cannot obtain an impartial judgment in any court of justice. In many cases Union soldiers have been and are yet imprisoned without the shadow of a legal cause and their property taken from them.

They would, therefore, most respectfully petition your Excellency not to remove the national troops from this part of the country until those in power and the people at large shall have given more satisfactory evidence of their loyalty.

They would also most respectfully protest against the organization of the militia as proposed by the Governor of the State, as from the appointments already made, it would be commanded entirely by the "heroes" of the rebellion, the enemies of the loyal people and the Government. As the civil and military power would thus be again in the hands of the rebels, our position would be truly deplorable, and exile would be our only resort.

They would also most respectfully state that thousands of the people of this district are in the utmost state of destitution. Scarcely any crop was made last season on account of the vicinity of the lines of hostile operations, loss of stock, and on account of the great drought which prevailed all over the land.

The bearer, J. J. Giers, Esq., our Union candidate for Congress, who has suffered much for the sake of his principles, and who is well acquainted with the condition of our country, can give you all further information. He presented a petition, signed by many of us, to the lamented Abraham Lincoln, to which we beg most respectfully to refer.

We remain, most respectfully, your obedient servants, CALEB KING, and others.

The memorial was referred to the joint committee on reconstruction.

CLERK OF MILITARY COMMITTEE.

Mr. SCHENCK, from the Committee on Military Affairs, presented, in reply to a resolution of the House, a report relative to the employment of a clerk by that committee.

The report, which was read, states that in the judgment of the committee a clerk is necessary for the transaction of their business; that the time occupied by their clerk in the necessary and legitimate business of the committee cannot be distinctly stated, varying as it does with the pressure of business; but it is, as the committee believe, much more than the average time devoted to clerical labor in any of the Executive Departments of the Government.

As to what portion of the time of the clerk is occupied in attending to the private business of the members of the committee, the committee state that they deem that a matter of comity between gentlemen, affecting only the personal relations of the clerk and themselves, and which, if not in any way interfering with the proper discharge of his public duties, ought not, the committee respectfully submit, to be made a question for legislative action, nor even a subject for impertinent inquiry.

The committee further state that, having their attention thus directed to the efficient and valuable services rendered by their clerk, they avail themselves of the occasion to offer the following resolution:

Resolved, That the Clerk of the House pay, out of the contingent fund, to the clerk of the Committee on Military Affairs such additional sum as will make his annual compensation equal to that of the clerk of the Committee of Claims.

The SPEAKER. Is there objection to the introduction of the resolution and its consideration at the present time?

There was no objection.

Mr. SCHENCK. Mr. Speaker, I wish simply to state that the present compensation of the clerk of the Committee on Military Affairs is six dollars *per diem*, which, allowing an average of seven months for the long session and three months for the short session, gives him $1,800 for the two years, or $900 per annum. This clerk is, as stated in the report, constantly engaged, and, as we believe, does more labor, regarding the time employed, than the clerks in the Executive Departments; yet he receives a smaller compensation than the lowest class of those clerks.

It is true that this clerk has at his command the vacation between the sessions; but being called away during a great part of the year from any pursuit or business in which he may be engaged at home, his time is, virtually, all given to the public service.

I call the previous question upon the resolution.

Mr. WASHBURNE, of Illinois. I trust that the gentleman will withdraw that call for a moment. I desire to inquire of him, what is the present compensation of this clerk?

Mr. SCHENCK. As I have already stated, it is six dollars per day during the session of Congress, amounting to about eighteen hundred dollars for two years.

Mr. WASHBURNE, of Illinois. I was not aware that there had been any distinction as to pay between the clerk of the Committee on Military Affairs and other committee clerks. The other clerks receive but four dollars *per diem*. I think that compensation rather small, and I should be willing, perhaps, to vote for increasing the pay by giving an additional dollar per day. But I certainly cannot consent to make the clerkship of the Committee on Military Affairs a permanent office at the rate of $1,800 per year.

Mr. SCHENCK. This resolution will not create a permanent office. It merely proposes that the clerk of the Committee on Military Affairs shall be placed on an equal footing, as to compensation, with the clerk of the Committee of Claims.

Mr. WASHBURNE, of Illinois. That will make a permanent clerkship, and I hope my friend will not insist on it.

Mr. SCHENCK. It does not do that.

Mr. WASHBURNE, of Illinois. I ask the gentleman to put in a proviso.

I have read the report, which is a good one, and I shall adopt it as the report of the Committee on Commerce, and wish it to be so taken. [Laughter.]

Mr. SCHENCK. The gentleman will have to take care of his own committee and his own clerk.

Mr. CONKLING. How many clerks are there in the House whose pay is only equal to that of the clerk of the Committee on Military Affairs?

Mr. SCHENCK. That is more than I can answer.

Mr. CONKLING. So I thought.

Mr. SCHENCK. The Committee on Military Affairs have come to the conclusion the pay of the clerk might justly be increased from $900, knowing what his services are and that they are deserving of such increase.

Mr. CONKLING. I wish to say for one, I shall vote against this proposition, seeing, as I do clearly, it is the entering wedge by which the pay of every clerk is to be lifted up. If this clerk be made permanent the result will be to make every other clerk permanent.

Mr. SPALDING. I believe I was opposed to the passage of the original resolution which called for the report of my colleague over the way. But, sir, on listening to what has been read, it seems to me some passages are hardly respectful to this House, and I would not like to have the chairmen of other committees to adopt it as a standard work. If I am right in that construction, I do not think the House should be charged with impertinence for the passage of a resolution of inquiry in respect to the intimacy between the committees and their respective clerks in their labors. I wish my friend would modify his resolution so far as respects that, and say perhaps it was not competent for the mover of the resolution to say the chairmen of committees had not the right to employ a part of the time of their clerks. For, so far as the House is concerned, it was not impertinent to inquire into the value of the labor of these clerks and how it was employed.

Mr. HALE. I suggest the resolution be referred to the Committee on Rules, with instructions to inquire and report in reference to the adjustment and equalization of the pay of the clerks of the different committees.

Mr. SCHENCK. I only heard my colleague indistinctly. So far as the resolution is concerned, I will make a motion which will relieve him and the House in regard to any question of propriety in passing or acting on it now.

But so far as the report is concerned, I will say nothing was further from the intention of the chairman of the Committee on Military Affairs than to charge the House with impertinence. The committee report the general proposition that they deem investigation into the personal relation between the clerk and members of the committee not a proper subject for legislative action, or even for pertinent inquiry, leaving it for those who put the cap on to wear it. If any person makes a pertinent inquiry, of course he falls within the opinion of the committee; not otherwise.

I will now withdraw my demand for the previous question, and move the resolution and report be laid upon the table, and ordered to be printed; which will accommodate the object we have in view.

The motion was agreed to.

AMENDMENT OF THE CONSTITUTION.

Mr. BAKER. I ask unanimous consent to submit the following:

Joint resolution proposing an amendment to the Constitution of the United States.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two thirds of both Houses concurring,) That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, namely:

No person who has voluntarily participated in the civil, military, or naval service of the late so-called confederate States of America, or who has voluntarily adhered to the said so-called confederate States of America by giving them aid and comfort, shall ever be eligible to the office of President or Vice President of the United States, or to the office of Senator or Representative in the Congress of the United States, or to the office of judge, clerk, or reporter of any court of the United States, or to the office of attorney, marshal, or deputy marshal of any judicial district of the United States, or to the office of Attorney General of the United States, or to the office of Secretary or head of bureau of any Executive Department of the United States, or to the office of embassador or other public minister or consul of the United States, or to any military or naval office in the regular Army or in the Navy of the United States; and the Congress shall have power to make all laws, and each House thereof all rules, which may be necessary and proper to carry this article into effect.

Mr. CHANLER. I object.

LIVERMORE'S IMPROVED CHUTE.

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

Resolved, That the Committee on Commerce be respectfully requested to take into consideration the trial and adoption of Livermore's improved chute to improve the navigation of rivers, and, if expedient, to give some means to test it.

CHRISTINA ELDER.

Mr. DARLING. I ask to report from the Committee on Invalid Pensions a bill for the relief of Christina Elder. The old lady to whom the pension was due died before receiving the certificate, and the bill only proposes to transfer the arrears to the daughter, who supported her.

There was no objection, and the bill was read a first and second time.

Mr. TAYLOR. I would suggest to my colleague that the Committee on Invalid Pensions have a bill ready to report that will cover the case he presents. There is no real necessity for action on this particular case.

Mr. DARLING. This is a case of extreme hardship. The party was entitled to a pension four years ago. This old lady has been living in a state of destitution and suffering, awaiting the action of the Government, and the daughter in her filial affection has been supporting her mother. And now the daughter comes and asks Congress to give her this money which she has been advancing out of her private means. The Commissioner of Pensions has refused to pay the money because the certificate was not issued until twenty-five days after the death of the lady. I knew the son who died in the service of the country. He was lieutenant colonel of the tenth regiment of New York volunteers. He enlisted in my district, and proved a meritorious officer. He went to the war leaving his mother to be supported by the proceeds of his own wages. I hope the House will pass the bill.

Mr. TAYLOR. I do not object to the bill, but I do not see that the gentleman is going to facilitate the matter a particle. A bill on the subject is ready to be reported.

Mr. DARLING. Let us pass this.

The Clerk read the bill. It provides for the payment of the pension, due to Jessie Elder, mother of Colonel Alexander B. Elder, of the tenth New York volunteers, to Christina Elder, under the provisions of the act of July 14, 1862.

Mr. BENJAMIN. How does this bill come in?

The SPEAKER. It is reported from the

Committee on Invalid Pensions by unanimous consent of the House by the gentleman from New York.

Mr. TAYLOR. I believe that is a mistake.

The SPEAKER. The gentleman from New York [Mr. VAN AERNAM] reported it at the suggestion of his colleague, [Mr. DARLING.]

Mr. PERHAM. If my colleague on the committee has reported it I have no objection.

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

Mr. DARLING. I move to reconsider the vote by which the bill was passed; and to lay that motion on the table.

Tho latter motion was agreed to.

ALEXANDER THOMPSON.

Mr. BANKS, by unanimous consent, from the Committee on Foreign Affairs, to whom was referred the petition and papers of Alexander Thompson, late consul of the United States at Maranham, in Brazil, submitted a report, accompanied by a joint resolution for the relief of the same.

The report and joint resolution were read.

The joint resolution provides for the payment of the salary of the petitioner, the same as if he had been a citizen of the United States.

Mr. WASHBURNE, of Illinois. How does this come in?

The SPEAKER. By unanimous consent.

Mr. WASHBURNE, of Illinois. I object.

The SPEAKER. The next business in order is the calling of the committees for reports of a private nature, commencing with the Committee on Roads and Canals.

F. A. GIBBONS AND F. X. KELLEY.

Mr. McKEE. On the 22d day of January there was a joint resolution reported from the Committee of Claims, according to instruction, referring back the papers in the case of Francis A. Gibbons and F. X. Kelley to the Committee of Claims. I now ask that that joint resolution be taken up and passed simply as a House resolution, as that will accomplish the same purpose.

The resolution as modified (H. R. No. 36) was accordingly ordered to be engrossed; and being engrossed, was read the third time, and passed.

Mr. McKEE. I move to reconsider the vote by which the resolution was passed; and to lay that motion on the table.

The latter motion was agreed to.

THOMAS FOSTER.

Mr. SLOAN, from the Committee of Claims, reported adversely on the case of Thomas Foster; which was laid on the table, and ordered to be printed.

RESOLUTIONS OF WEST VIRGINIA.

On motion of Mr. SLOAN, the Committee of Claims was discharged from the further consideration of the resolutions of the Legislature of West Virginia asking aid from Congress to repair bridges, &c., destroyed by the Union armies as a means of safety during the rebellion; and the same were laid upon the table.

DILLARD HAZLERIGG.

Mr. SLOAN, from the Committee of Claims, made an adverse report on the petition of Dillard Hazlerigg; which was laid upon the table, and ordered to be printed.

AMBROSE MORRISON.

Mr. SLOAN, from the same committee, made an adverse report on the petition of Ambrose Morrison; which was laid on the table, and ordered to be printed.

JOSEPH BALLOU.

Mr. SLOAN also, from the same committee, made an adverse report on the petition of Joseph Ballou; which was laid upon the table, and ordered to be printed.

CLAIMS AGAINST THE GOVERNMENT.

Mr. SLOAN, from the same committee, reported back, with the recommendation that it do not pass, bill of the House No. 94, to provide for ascertaining and adjusting claims against the Government for injury or destruction of property by the armies of the United States or by the military authorities during the late rebellion; and the same was laid upon the table.

W. P. JONES.

Mr. SLOAN also, from the same committee, made an adverse report on the petition of W. P. Jones, of Nashville, Tennessee; which was laid upon the table, and ordered to be printed.

MRS. A. H. THOMPSON.

Mr. BARKER, from the Committee of Claims, made an adverse report on the petition of Mrs. A. H. Thompson; which was laid upon the table, and ordered to be printed.

D. E. HAYNES.

Mr. BARKER, from the same committee, made an adverse report on the petition of D. E. Haynes, late captain of Louisiana scouts; which was laid upon the table, and ordered to be printed.

SAMUEL M. MULLINS.

Mr. BARKER also, from the same committee, made an adverse report on the petition of Samuel M. Mullins; which was laid upon the table, and ordered to be printed.

ANNA M. ROBLAS Y ROBALDO.

Mr. BARKER also, from the same committee, made an adverse report on the petition of Anna M. Roblas y Robaldo; which was laid upon the table, and ordered to be printed.

A. C. MASON.

Mr. BARKER also, from the same committee, made an adverse report on the petition of A. C. Mason; which was laid upon the table, and ordered to be printed.

CREW OF THE SHIP NIGHTINGALE.

Mr. WASHBURN, of Massachusetts, from the Committee of Claims, made an adverse report on the petition of the crew of the ship Nightingale for wages; which was laid upon the table, and ordered to be printed.

CHARLES H. UPTON.

Mr. WASHBURN, of Massachusetts, from the same committee, made an adverse report on the petition of Charles H. Upton, United States consul at Geneva, Switzerland; which was laid on the table, and ordered to be printed.

STARKE, STAUFFER AND COMPANY.

Mr. WASHBURN, of Massachusetts, also, from the same committee, made an adverse report on the petition of Starke, Stauffer & Co.; which was laid upon the table, and ordered to be printed.

HUGH LEDDY.

Mr. WASHBURN, of Massachusetts, from the same committee, reported a bill for the relief of Hugh Leddy; which was read a first and second time.

The bill directs the Secretary of the Treasury to pay to Hugh Leddy the sum of $682 40 in full for liquors wrongfully seized by order of the provost marshal on the 2d of September, 1862, and appropriated to the use of the Government through the medical department.

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

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

The latter motion was agreed to.

THE CHEROKEE NATION.

Mr. WASHBURN, of Massachusetts, from the same committee, made an adverse report on the memorial of the delegates of the Cherokee nation asking relief; which was laid upon the table, and ordered to be printed.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had passed joint resolution of the House No. 76, authorizing the Secretary of War to transfer to the "National Home for Soldiers' and Sailors' Orphans, in Washington city," certain stores not needed for the use of the Government.

R. L. B. CLARKE.

Mr. WASHBURN, of Massachusetts, from the Committee of Claims, reported a bill for the relief of R. L. B. Clarke; which was read a first and second time.

The bill directs the Treasurer of the United States to pay to R. L. B. Clarke the sum of $1,500 in full for the time and expense incurred by him in contesting the seat of Augustus Hall, from the first congressional district of Iowa, in the Thirty-Fourth Congress.

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

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

The latter motion was agreed to.

THOMAS H. FLOURNOY.

Mr. WASHBURN, of Massachusetts, from the same committee, made an adverse report upon the petition of Thomas H. Flournoy; which was laid upon the table, and ordered to be printed.

N. C. AND H. J. WINSLOW.

Mr. WASHBURN, of Massachusetts, from the same committee, made an adverse report upon the petition of Nathan C. Winslow and Hezekiah J. Winslow; which was laid upon the table, and ordered to be printed.

ULAM W. BARKER.

Mr. WASHBURN, of Massachusetts, from the same committee, made adverse reports upon two claims of Ulam W. Barker; which were laid on the table, and ordered to be printed.

MRS. C. A. GROVE.

Mr. WASHBURN, of Massachusetts, from the same committee, made an adverse report upon the petition of Mrs. C. A. Grove; which was laid on the table, and ordered to be printed.

WILLIAM H. GODDARD.

Mr. WASHBURN, of Massachusetts, from the same committee, made an adverse report upon the petition of William H. Goddard; which was laid on the table, and ordered to be printed.

SUPERVISORS OF MONROE COUNTY, NEW YORK.

Mr. WASHBURN, of Massachusetts, from the same committee, made an adverse report upon the petition of the board of supervisors of Monroe county, New York; which was laid on the table, and ordered to be printed.

MRS. JANE PARKER.

Mr. WASHBURN, of Massachusetts, from the same committee, made an adverse report upon the petition of Mrs. Jane Parker; which was laid on the table, and ordered to be printed.

BENJAMIN GRATZ.

Mr. WASHBURN, of Massachusetts, from the same committee, made an adverse report upon the petition of Benjamin Gratz; which was laid on the table, and ordered to be printed.

LOSSES BY REBEL RAIDS.

Mr. WASHBURN, of Massachusetts. I hold in my hand some forty petitions for damages arising from the raids made in July, 1864, by rebels in the vicinity of Fort Stevens. By a resolution of the House it was declared inexpedient at this time to consider and pass upon this class of cases. I am directed by the Committee of Claims, in accordance with that resolution, to report the same back, and ask that the committee be discharged from their further consideration.

It was ordered accordingly.

MARIA L. SAUNDERS AND SAMUEL M'CORMICK.

Mr. THORNTON, from the Committee of Claims, asked leave to withdraw from the files the memorials and papers of Mrs. Maria L. Saunders and Samuel McCormick, copies of the same being left on file.

Leave was granted accordingly.

JOHN R. PRENTICE.

Mr. THORNTON, from the same committee, made an adverse report upon the petition of John R. Prentice; which was laid on the table, and ordered to be printed.

CALVERT GAITHER.

Mr. THORNTON, from the same committee, made an adverse report upon the petition of Calvert Gaither; which was laid on the table, and ordered to be printed.

CAPTAIN G. H. BONEBREAK.

Mr. THORNTON, from the same committee, made an adverse report upon the petition of Captain G. H. Bonebreak; which was laid on the table, and ordered to be printed.

B. F. GAITHER.

Mr. THORNTON, from the same committee, made an adverse report upon the petition of B. F. Gaither; which was laid on the table, and ordered to be printed.

THOMAS WELLS.

Mr. THORNTON, from the same committee, made an adverse report upon the petition of Thomas Wells; which was laid upon the table, and ordered to be printed.

HENRY F. MAYER.

Mr. THORNTON, from the same committee, made an adverse report upon the petition of Henry F. Mayer; which was laid on the table, and ordered to be printed.

HENDERSON ADAMS.

Mr. THORNTON, from the same committee, made an adverse report upon the petition of Henderson Adams; which was laid upon the table, and ordered to be printed.

SPECIFIC FOR CHOLERA.

Mr. THORNTON. In the case of the petition of Dr. M. T. Garwood, offering for $2,000 from each State to furnish an infallible cure for the cholera, the Committee of Claims have instructed me to report back the petition, and to state that the committee having had the same under consideration have come to no conclusion thereon, and to ask that the same may be read for the action of the House.

The Clerk read, as follows:

To the honorable Members of Congress:

GENTLEMEN: Sirs, I hope you are all good Union men, true to the Constitution and laws of the United Slates. Also, I hope a number of you has passed the living arch and become Arch-Masons, like myself, the best institution that ever were adopted among mankind to hold a Government together, and to put down rebellion and all the leaders also; for they have been a curse to the Government in some measure. But they had to knock under. So all transgressors should be punished for their evil doings.

I tell you, I am an old doctor—been long in practice. In the years 1832 and 1833 the cholera made its appearance in the United States. It made great havoc among the cities and towns—among the people—the citizens. I accidentally made a compound medicine that cured every case that took of it. So in 1848 and 1849, at Portsmouth, in Ohio, I used the same medicine, and it cured every case that took of it. Yet, if the Congressmen of each State of the Union would make up the sum of $2,000 for each State of the Union they can have a true recipe of the same to cure the cholera. It will cure the cholera morbus and cramp cholic as well. I presume the cholera will make its appearance the coming summer, and will sweep off thousands in the cities and towns.

I am willing to give another recipe to cure the dysentery in the worst form, and the diabetes, and to strengthen the back, kidneys, and other organs. You can have the two recipes by sending Government bonds or checks to the State Bank of Columbus, Ohio, and its branches. If you think proper to embrace the opportunity of the two recipes by complying with the sum I demand of each State, by so doing it will save millions of lives that would fall victims to these fatal complaints.

Look over all my mistakes, as it was wrote by candle light.

Yours, with respect, Dr. M. T. GARWOOD.

So please write to me soon after you think proper.

[The reading of the petition was frequently interrupted by laughter.]

Mr. THORNTON. I move that the petition be referred to a select committee of one, to consist of my friend from Illinois, [Mr. WENTWORTH.]

Mr. ELDRIDGE. I rise to a question of order. I submit the question whether this petition does not, by virtue of the resolution of this House, go to the joint committee of fifteen on the subject of reconstruction.

The SPEAKER. The Chair thinks not.

Mr. BANKS. I object to any action upon this subject.

The SPEAKER. The gentleman from Illinois [Mr. THORNTON] has made a motion to refer the petition to a select committee of one member. He had the right to make that motion.

Mr. BANKS. I believe the paper was read only by unanimous consent.

The SPEAKER. It was reported from the Committee of Claims.

Mr. BALDWIN. I move that the petition be laid on the table.

The motion was agreed to.

CLAIMS FOR DAMAGES, ETC.

Mr. DELANO, from the Committee of Claims, reported adversely upon petitions and bills for relief and compensation of the following-named persons:

Daniel H. Bingham, of Alabama; D. L. Burchett, of Kentucky; Mrs. Eliza Bell, of Kentucky; Frank Bon, of Kentucky; Marcus L. Broadwell, of Kentucky; John Bruce, of Kentucky; Charles Carpenter, of Kentucky; Lot Chamberlain, paymaster of volunteers, of New York, for loss of public money; Harmon Degan, of Arkansas; C. F. Delling, of Kentucky; James E. Dickey, of Kentucky; J. S. Frizzell, of Kentucky; Abelard Guthrie, of Nebraska, for mileage and per diem; F. T. Garrard; and others, of Kentucky; F. M. Gray, of Kentucky; J. E. Horseman, of Virginia; Aldridge James, of Virginia; Henry Johnson, of Kentucky; Alexander Lindsey, of Kentucky; George Mack and twenty-four others, of Kansas, for loss of bounty as Army officers; Mrs. Melinda Murphy, of Kentucky; John S. Magee, of Kentucky; William M. Nourse, of Kentucky; Henry C. Noble, of Kentucky; Frederick Robitzer, of Kentucky; Harvey Spaulding, of Kansas, for loss of sutler's supplies; Mrs. Mary Scott, of Kentucky; Mrs. Susan Tomlinson, of Kentucky; C. G. Tachan, of Kentucky; John W. Taylor, of Pennsylvania; Joseph F. Ware, of Kentucky; Caleb Walton, of Kentucky; Charles A. Webster, of Kentucky, and Isaac N. Webb.

The several petitions and bills were laid on the table, and the report was ordered to be printed.

BOUNTY TO SOLDIERS OF 1861.

Mr. DELANO, from the Committee of Claims, reported back House bill No. 116, granting bounty and additional bounty to the soldiers, seamen, and marines of the war of 1861, or their heirs, and moved that it be referred to the Committee on Military Affairs.

The motion was agreed to.

CLAIMS AGAINST THE UNITED STATES.

Mr. DELANO, by unanimous consent, introduced a bill to provide for the payment of certain claims against the United States; which was read a first and second time, and referred to the Committee of Claims.

JAMES BAWDIN.

Mr. DRIGGS reported back Senate bill No. 142, for the relief of James Bawdin, and asked that it be put on its passage.

The bill provides that on payment to the United States of $1 25 per acre therefor, the Commissioner of the General Land Office shall cause a patent to be issued to James Bawdin for that tract of land lying and being at Eagle Harbor, on Lake Superior, situate upon the north part of section number six, in township number fifty-eight north, of range number thirty west, in the Sault Ste. Marie land district, State of Michigan, containing about six and fifty-four hundredths acres of land, and being all that part of the lands known as the light-house reservation at Eagle Harbor, which lies east of the dotted line marked "S. 86° 45′ E. 12.76 chains," as shown on the plat of "Bawdin's survey" of said reservation in the office of said Commissioner of the General Land Office, except so much of said lands as may be required for the use of a road four rods wide, from the light-house across said six and fifty-four hundredths acres to the waters of said harbor, as the same is now laid out and used for that purpose; provided that this act shall only be construed to be a relinquishment of the title of the United States, and shall not interfere with the rights of third persons.

Mr. DRIGGS. Mr. Speaker, the facts in this case are briefly these: in the year 1842 the Government of the United States made certain leases of land in the Lake Superior region to encourage mining before surveys had been made. Among others, was one to the New York and Boston Mining Company to enter certain lands in the vicinity mentioned in the bill; and that company gave a lease, and were to give a title, when it secured title, to James Bawdin to half an acre of land, upon which he erected warehouses, stores, &c. In the mean time the Government set apart a light-house reservation, including this half acre. There are no minerals upon the land. It is only valuable because of the improvements of Bawdin. The Light-House Board have stated it is not needed for light-house purposes, and the Commissioner of the General Land Office is in favor of giving a title to Bawdin to this land. It has been passed by the Senate, and unanimously agreed to by the Committee on Public Lands of this House.

Mr. WASHBURNE, of Illinois. Does it appear from the papers that the Light-House Board do not need this land for light-house purposes?

Mr. DRIGGS. I have not the papers before me. They were before the committee of the Senate. It is only half an acre of land, and only valuable because of these improvements.

Mr. WASHBURNE, of Illinois. Let the gentleman add a proviso, provided the land is not needed for light-house purposes.

Mr. DRIGGS. I assure the gentleman that that is the fact.

Mr. WASHBURNE, of Illinois. It is proper it should be in the bill.

Mr. DRIGGS. It will carry it back to the Senate. I demand the previous question.

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

WITHDRAWAL OF PAPERS.

Mr. DELANO moved that leave be granted for the withdrawal from the files of the House of the papers in the cases of R. W. Dourman and Mary Scott on condition that copies be left.

The motion was agreed to.

OPERATION OF STATE LAWS ON LICENSES.

Mr. SMITH, by unanimous consent, introduced a bill to amend section seventy-eight of an act to provide internal revenue for the support of the Government, to pay the interest of the public debt, and for other purposes, approved June 30, 1864; which was read a first and second time, and referred to the Committee of Ways and Means.

QUIETING TITLE TO LANDS IN CALIFORNIA.

Mr. McRUER, from the Committee on Public Lands, reported back Senate bill No. 93, to quiet the title to certain lands within the corporate limits of the city of San Francisco.

The bill provides that all the right and title of the United States to the land situated within the corporate limits of the city of San Francisco, in the State of California, confirmed to the city of San Francisco by the decree of the circuit court of the United States for the northern district of California, entered on the 18th day of May, 1865, be relinquished and granted

to the city of San Francisco and its successors, and the claim of the said city to said land is hereby confirmed, subject, however, to the reservations and exceptions designated in said decree, and upon the following trusts, namely: that all the said land, not heretofore granted to said city, shall be disposed of and conveyed by said city to parties in the *bona fide* actual possession thereof, by themselves or tenants, on the passage of this act, in such quantities and upon such terms and conditions as the Legislature of the State of California may prescribe, except such parcels thereof as may be reserved and set apart by ordinance of said city for public uses; provided, however, that the relinquishment and grant by this act shall not interfere with or prejudice any valid adverse right or claim, if such exist, to said land, or any part thereof, whether derived from Spain, Mexico, or the United States, or preclude a judicial examination and adjustment thereof.

Mr. WASHBURNE, of Illinois. I am pressed not to make objection to this bill, and I will not do it, although I do not see my way clear in reference to this kind of legislation if I am called on to vote.

Mr. McRUER. My object in urging the passage of the bill at the present time is that the bill requires the action of the Legislature of California, which will adjourn in thirty or forty days, and will not meet again for two years. This has been a vexed question for the last fifteen years, and affects the title to every lot of land in San Francisco. It is of the greatest importance to my constituents that this question should be finally settled. The right is reserved to individuals who may have claims to adjudicate them in the courts. I demand the previous question.

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

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

The latter motion was agreed to.

RIGHTS OF CITIZENS.

The House proceeded to the consideration of the special order, being Senate bill No. 61, to protect all persons in the United States in their civil rights, and to furnish the means for their vindication; the pending question being on the motion to recommit, on which the gentleman from Pennsylvania [Mr. THAYER] was entitled to the floor.

Mr. THAYER. It would have afforded me, Mr. Speaker, much more satisfaction if my public duties had allowed me time to present what I have to say to the House in reference to this bill in a somewhat more orderly and methodical manner than I shall be able to do. I cannot, however, consistently with what I conceive to be the duty which I owe to the loyal constituency which I have the honor to represent upon this floor, allow the opportunity which now presents itself to pass without expressing in such manner as I may be able the reasons which govern me in giving, as I do, my cordial assent to the principles and the details of this great measure.

Sir, this bill is the just sequel to, and the proper completion of, that great measure of national redress which opened the dungeon doors of four million human beings. Without this, in my judgment, that great act of justice will be paralyzed and made useless. With this it will have practical effect, life, vigor, and enforcement. It has been the fashion of gentlemen holding a certain set of opinions in this House to characterize that great measure to which I have referred as a revolutionary measure.

Sir, it was a revolutionary measure. It was one of the greatest, one of the most humane, one of the most beneficial revolutions which ever characterized the history of a free State; but it was a revolution which, though initiated by the conflict of arms and rendered necessary as a measure of war against the public enemy, was accomplished within and under the provisions of the Constitution of the United States. It was a revolution for the relief of human nature, a revolution which gave life, liberty, and hope to millions whose condition until then appeared to be one of hopeless despair. It was a revolution of which no freeman need be ashamed, of which every man who assisted in it will, I am sure, in the future be proud, and which will illumine with a great glory the history of this country.

The bill which now engages the attention of the House has for its object to carry out and guaranty the reality of that great measure. It is to give to it practical effect and force. It is to prevent that great measure from remaining a dead letter upon the constitutional page of this country. It is to carry to its legitimate and just result the great humane revolution to which I have referred. The events of the last four years, the convulsions through which this country has passed, the fortunes of war, the progress of ideas, the triumph of republican liberty, have changed this large class of people who dwell within the confines of the United States from a condition of slavery to that of freedom. The practical question now to be decided is whether they shall be in fact freemen. It is whether they shall have the benefit of this great charter of liberty given to them by the American people.

Sir, if it is competent for the new-formed Legislatures of the rebel States to enact laws which oppress this large class of people who are dependent for protection upon the United States Government, to retain them still in a state of real servitude; if it is practicable for these Legislatures to pass laws and enforce laws which reduce this class of people to the condition of bondmen; laws which prevent the enjoyment of the fundamental rights of citizenship; laws which declare, for example, that they shall not have the privilege of purchasing a home for themselves and their families; laws which impair their ability to make contracts for labor in such manner as virtually to deprive them of the power of making such contracts, and which then declare them vagrants because they have no homes and because they have no employment; I say, if it is competent for these Legislatures to pass and enforce such laws, then I demand to know, of what practical value is the amendment abolishing slavery in the United States? Tell me when you boast of the glorious character of that addition to your Constitution what benefit you have conferred upon the men who are liberated from slavery by it, if these things are to be done under the flag of the United States and in the face of the authority of the Federal Constitution.

For one, sir, I thought when I voted for the amendment to abolish slavery that I was aiding to give real freedom to the men who had so long been groaning in bondage. I did not suppose that I was offering them a mere paper guarantee. And when I voted for the second section of the amendment, I felt in my own mind certain that I had placed in the Constitution and given to Congress ability to protect and guaranty the rights which the first section gave them.

The simple principle of the bill under consideration and its whole essence is contained in its first section. The rest is all matter of detail. The whole life and substance of the bill is in its first section. That section enacts that—

> All persons born in the United States and not subject to any foreign Power, excluding Indians not taxed, are hereby declared to be citizens of the United States, without distinction of color, and there shall be no discrimination in civil rights or immunities among the inhabitants of any State or Territory of the United States on account of race, color, or previous condition of slavery.

Now, sir, what is there in that? Let me appeal to the common sense and judgment of every member of this House when I put the question. What is there in that to challenge the denunciation which the House listened to yesterday from the gentleman from New Jersey, [Mr. ROGERS?] Is any man to be injured by it? Are any man's rights to be invaded or taken away by it? Who will pretend that such is the case? It is an enactment simply declaring that all men born upon the soil of the United States shall enjoy the fundamental rights of citizenship. What rights are these? Why, sir, in order to avoid any misapprehension they are stated in the bill. The same section goes on to define with greater particularity the civil rights and immunities which are to be protected by the bill. They are—

> The right to make and enforce contracts, to sue, be parties and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of person and property, and to be subject to like punishment, pains, and penalties, and to none other.

Now, sir, I will pay so high a compliment to the intelligence of the gentleman who addressed us yesterday, as to say that I do not think he can believe that this bill extends or alters, or can be construed to extend or alter, the laws regulating suffrage in any of the States. Sir, no lawyer who is acquainted with the use of terms and the rules which regulate the construction of laws will, I think, seriously contend that the language of this bill can by any possibility, or by any forced construction, produce any such result.

In the first place, the words themselves are "civil rights and immunities," not political privileges; and nobody can successfully contend that a bill guarantying simply civil rights and immunities is a bill under which you could extend the right of suffrage, which is a political privilege and not a civil right.

Then, again, the matter is put beyond all doubt by the subsequent particular definition of the general language which has been just used; and when those civil rights which are first referred to in general terms in the bill are subsequently enumerated, that enumeration precludes any possibility that the general words which have been used can be extended beyond the particulars which have been enumerated.

It is well for gentlemen at the outset to disabuse themselves of any such idea as that which has been suggested in regard to the point which I am now considering. I tell gentlemen that no man upon this floor can successfully defend himself before the country for voting against this bill upon the ground that it impairs the rights of States in determining the qualifications of electors. It has no such effect, and I tell those gentlemen that when they vote against this bill they will have to answer to their constituents for voting, not to protect the rights of States in the regulation of suffrage, but for voting against the protection of the fundamental rights of citizenship and nothing else. If they can stand at home upon any such platform as that, they may safely vote against this bill, but there is nothing else in the bill but this.

Now, sir, why should not this be done? Why should not these fundamental rights and immunities which are common to the humblest citizen of every free State, be extended to these citizens? Why should they be deprived of the right to make and enforce contracts, of the right to sue, of the right to be parties and give evidence in courts of justice, of the right to inherit, purchase, lease, hold, and convey real and personal property? And why should they not have full and equal benefit of all laws and proceedings for the security of person and property?

I confine myself now to the principle and substance of the bill. I shall presently have a few words to say in regard to the details of the bill which have given rise to animadversion on the part of those who oppose it. I speak now of the principle of the bill, and challenge any man in this House to give me, if he can, a sensible reason, a reason which he can reconcile with his own sense of justice, why the rights which are enumerated in the first section of this bill should not be extended to the freedmen of the South?

The sole purpose of the bill is to secure to that class of persons the fundamental rights of citizenship; those rights which constitute the essence of freedom, and which are common to the citizens of all civilized States; those rights which secure life, liberty, and property, and which make all men equal before the law, as they are equal in the scales of eternal justice and in the eyes of God.

To accomplish this great purpose, the bill declares, in the first place, that all persons born in the United States, and not subject to any foreign Power, are citizens of the United States. Now, I do not regard that as the enunciation of any new principle. It is, in my judgment, but declaratory of the existing law. According to my apprehension, every man born in the United States, and not owing allegiance to a foreign Power, is a citizen of the United States. It is a rule of universal law, adopted and maintained among all nations, that they who are born upon the soil are the citizens of the State. They owe allegiance to the State, and are entitled to the protection of the State. Such is the law, whether you put it into this bill or not. So far as this declaration of the bill is concerned, it is but reiterating an existing and acknowledged principle of law.

Well, conceding that this general proposition is true, either by the force of existing law, or by the declaration which it is proposed to put into this bill, it is then asked, by what power, by what authority, do you propose to guaranty and protect the rights of the citizens of this Government? If the proposition which I have assumed as true be correct, that these people are citizens of the United States, does it not seem at the first blush to be a very singular proposition to say that the United States under its Constitution have no right to guaranty to its own citizens, by positive law, those great fundamental rights of citizenship which are enumerated in this bill? Does it not strike the mind of every man with wonder that the framers of the Constitution of the United States who made this great and wonderful fabric of human Government, and who evinced so much skill and foresight in making it, should have framed a Government which is incapable of protecting its citizens in these fundamental rights of citizenship? Would it not be an extraordinary circumstance if the framers of the Constitution had made a Constitution which was powerless to protect the citizens of the United States in their fundamental civil rights, their rights of life, liberty, and property? And yet to that position are these gentlemen driven who deny the existence of any power which authorizes Congress to pass this bill.

If I am asked from whence the power is derived to pass this bill, I reply that I derive it, in the first place, from the second section of the late amendment to the Constitution. I say, further, that so far as regards the power to declare the freedmen citizens is concerned, it may be clearly derived (if it be not inherent in the very frame of every Government) from that clause of the Constitution which gives the express power to Congress to pass laws for naturalization. And I might say, also, that in my judgment sufficient power is found, by implication at least, in that clause of the Constitution which guaranties to all the citizens of the United States their right to life, liberty, and property.

There are sources of power enough from which this power can be deduced. In my judgment no man can find any difficulty in seeking constitutional grounds upon which to place his justification for supporting this bill. The object of the late amendment to the Constitution was to abolish slavery. It was the purpose of that amendment to relieve those who were slaves from all the oppressive incidents of slavery. It would have been idle on the part of the people of the United States to say that they would abolish slavery, and at the same time to say that they would permit any section of the country to impose upon that class of persons who were liberated by that great act of justice all the concomitants, all the disabilities, and all the tyrannical restrictions which grow out of and were a part of their condition of slavery.

Sir, that cannot be said. The amendment to the Constitution gave liberty to all; and in giving liberty it gave also a complete exemption from the tyrannical acts, the tyrannical restrictions, and the tyrannical laws which belong to the condition of slavery, and which it is the object of this bill forever to remove.

The bill under consideration is intended only to carry into practical effect the amendment of the Constitution. Its object is to declare not only that slavery shall be abolished upon the pages of your Constitution, but that it shall be abolished in fact and in deed; not only that that feature of slavery shall be abolished which permitted the purchase and sale of men, of women and of little children as slaves, but that all features of slavery which are oppressive in their character, which extinguish the rights of free citizens, and which unlawfully control their liberty, shall be abolished and destroyed forever.

To put any other construction upon this great amendment of the Constitution is to deprive it of its vital force, of its effective value. It is to cheat the world by sounding phrases; and while you pretend to give liberty to those who were in bondage, to leave them in reality in a condition of modified slavery, subject to the old injustice and the old tyranny which characterized their former unhappy condition.

Sir, what kind of freedom is that which is given by the amendment of the Constitution, if it is confined simply to the exemption of the freedmen from sale and barter? Do you give freedom to a man when you allow him to be deprived of those great natural rights to which every man is entitled by nature? I ask the Democratic members of this House, what kind of freedom is that by which the man placed in a state of freedom is subject to the tyranny of laws which deprive him of rights which the humblest citizen in every State in Christendom enjoys? What kind of freedom is that under which a man may be deprived of the right of going at his own volition from one place to another; may be deprived of the ability to make a contract; may be deprived of the ability to sell or convey real or personal estate; may be deprived of the liberty to engage in the ordinary pursuits of civilized life; may be deprived of the right to be a party or a witness in a court of justice, or may be subjected to pains and penalties which are not inflicted upon other citizens?

No, sir, it is in vain that any such restrictive interpretation is sought to be placed upon this great charter of freedom, which has recently been given by the people of the United States to this class of its people. It is contradictory of the whole scope and object of this great grant, and you cannot maintain it without canceling and rendering nugatory the grant itself. I say, therefore, that by virtue of the second section of the amendment of the Constitution Congress has express power to pass laws which will guaranty and insure these great rights and immunities of citizenship to those who, by the act of emancipation and the amendment of the Constitution, were made freemen, and who in becoming freemen became citizens.

Now, if any doubt exists in the mind of any man in regard to the position that this class of persons having become free have by law become also citizens, in the strict and legal meaning of that word, then I say that by that provision of the Constitution which gives to Congress an express power to naturalize, Congress has ample authority to confer the rights of citizenship upon this class of persons. Therefore those who do not assent to the correctness of what I have expressed as my own opinion in regard to the legal *status* of these people, independent of the declaration contained in the first section of the bill, ought, it seems to me, in their search for power to pass the bill, to have their doubts removed by the consideration that the bill itself in conferring citizenship upon the freedmen confers it in pursuance of and by virtue of an express power delegated by the Constitution to Congress.

The Constitution, as we all know, has given to Congress this express power to naturalize. It is capable of being established by numerous precedents that that does not mean that the Government of the United States, acting through Congress, can confer the right of citizenship upon foreigners only. The word "naturalize" conveys no such exclusive idea. It simply means to give to a man, or any class of men, the same rights of citizenship which belong to a natural-born citizen of the country. It does not mean that we can only do that in the case of foreigners; it means that we can do it in respect to any one, or in respect to any class, the only restriction being the uniformity of the law which may be adopted on that subject.

There are, as the House well knows, numerous precedents for the exercise of such power by Congress. We are all familiar with that provision of the naturalization law which naturalizes the minor children of foreigners who have been naturalized. We all know that there have been instances in the history of this Government in which the right of citizenship has been given under this clause of the Constitution to whole tribes of Indians existing among us, and who have been gradually reclaimed by time and civilization from their barbarous condition. All these precedents are against any argument which can be made to restrict the power of naturalization to the case of foreigners.

If that be admitted, or if nothing of countervailing force can be urged against it, then why have we not the power under this express clause of the Constitution to confer the rights of citizenship upon this class of persons? I do not know what answer can be given to that question. I do not know, sir, how that position can be denied.

Mr. ROGERS Why, sir, it is well settled that the laws in regard to naturalization have no reference except to foreigners, and are not intended to include persons who were born here.

Mr. THAYER. That is a declaration which I deny; and I have taken up some little time in indicating the grounds upon which I deny it. The gentleman says it is well settled. I ask him to tell me where and when it was so decided.

Mr. ROGERS. It was so decided in one of the cases I have referred to.

Mr. THAYER. The gentleman says it was so decided in one of the cases he has referred to. I cannot test the accuracy of such a citation as that. I am not aware that any such decision has been made; and I challenge the gentleman now to produce such a decision. It is in the face of the numerous precedents established by the legislation of this country, and always recognized by the Government. Let us see the decision to which the gentleman refers.

Mr. ROGERS. Does the gentleman pretend that the clause in the Constitution authorizing Congress to make uniform rules of naturalization was intended to naturalize persons who were born in this country? Does he not know the object was to naturalize persons who came from abroad? Has not that been the uniform application given to it? Has not that been the construction given to it from the foundation of the Government down to the present time? The Constitution contemplated foreigners, and not citizens or inhabitants of the United States.

Mr. THAYER. The position of the gentleman is wholly untenable. It has not to my knowledge been so decided, and there is nothing in the language of the Constitution which gives the slightest color to it. We may naturalize any class of persons. It is a process to which you may not only submit foreigners, but one born in this country, and all the precedents bear me out in the position I assume.

Mr. RAYMOND. I have endeavored to satisfy myself and have come to the same conclusion as the gentleman from Pennsylvania on the precise point he is now discussing. I ask

him, while he is passing this point in his argument, whether he is prepared to reply to the objection taken to his posititon in the opinion of Justice Curtis, not the opinion of the court, but the opinion of an individual to which great weight is to be attached, I presume, from the authority and learning of the eminent judge who delivered it.

Mr. THAYER. I have read the Dred Scott case to which the gentleman from New York has referred, but not recently; and I should feel much hesitation in commenting on the opinion of the learned judge referred to without having consulted it more recently. I do not understand the gentleman to labor under the difficulty which afflicts the gentleman from New Jersey, for I understand the substitute offered by the gentleman from New York to enact precisely what is in the first section of this bill; that is, to confer the right of citizenship on this class of persons.

Mr. RAYMOND. My opinion is that Congress has the right to naturalize persons born in this country, and as the gentleman is passing that point I desire to be strengthened in that view of it.

Mr. THAYER. I do not think I should do justice either to Judge Curtis or myself if I were to undertake to comment on the opinion the gentleman from New York refers to without having more recently made myself familiar with the precise language he uses in his opinion, and I have not the book at hand.

Mr. ROGERS. I ask whether Judge Curtis, in the opinion referred to, did not take the same ground in reference to uniform rules of naturalization I take now, that they were only intended to apply, by virtue of the power given in the Constitution, to foreigners, persons not born here—persons who come from other countries.

Mr. THAYER. If Justice Curtis took any such view, the gentleman will have an opportunity to show it. I am not aware that he agrees with the gentleman from New Jersey in that or any other of the extraordinary views—I say it with all deference—which the gentleman from New Jersey submitted to the House on yesterday. Now, sir, for myself, I can safely say I have no difficulty on that subject. I do not see any just ground of objection to that interpretation of the Constitution I have insisted on, and especially I do not see any ground of objection in view of the legislative precedents to which I have referred. If, then, the freedmen are now citizens, or if we have the constitutional power to make them such, they are clearly entitled to those guarantees of the Constitution of the United States which are intended for the protection of all citizens.

They are entitled to the benefit of that guarantee of the Constitution which secures to every citizen the enjoyment of life, liberty, and property, and no just reason exists why they should not enjoy the protection of that guarantee of the Constitution.

What is the necessity which gives occasion for that protection? Sir, in at least six of the lately rebellious States the reconstructed Legislatures of those States have enacted laws which, if permitted to be enforced, would strike a fatal blow at the liberty of the freedmen and render the constitutional amendment of no force or effect whatever. It is a matter of history that in four of these States at least the laws that they have passed have been of such an oppressive and tyrannical character that the military commandants of those districts have felt it to be their duty to prevent the enforcement of those laws. We know perfectly well that this has been done by the military commanders in Mississippi, in Alabama, in South Carolina, and in Virginia. Laws have been passed by the reconstructed Legislatures of those States of a character so oppressive and so cruel that the military commanders of the United States forces there have been obliged to issue peremptory prohibitions against the enforcement of those laws. That, sir, demonstrates the necessity for enforcing the guarantees of liberty and of American citizenship conferred by the Constitution.

Now, sir, let me say a few words in regard to the details of this bill. A great clamor was raised against this bill by the gentleman from New Jersey [Mr. ROGERS] because of what he called the military despotism which it created. Surely the gentleman could not have made himself familiar with the provisions of this bill or he would not have indulged in any such unfounded and exaggerated statements in regard to its effects.

Mr. ROGERS. Will the gentleman allow me to put a question?

Mr. THAYER. A very short one.

Mr. ROGERS. Does not the bill provide for calling out the land and naval forces to carry it into effect?

Mr. THAYER. Mr. Speaker, I am not a little astonished at the question put by the gentleman from New Jersey. Does not the gentleman know that express power is given to Congress by the eighth section of the first article of the Constitution to provide for calling forth the militia to execute the laws of the Union? Why, sir, the gentleman has been living under a military despotism all his life and has not found it out until yesterday. Until this bill was introduced he does not seem to have been aware of the fact.

Mr. ROGERS. I have been aware of it during the last four years.

Mr. THAYER. There is nothing in this bill in this respect that is not already in the Constitution of the United States. The power here conferred is expressly given by that instrument, and has been exercised upon the most stupendous scale in the suppression of the rebellion.

What is this bill? I hope gentlemen, even on the opposite side of the House, will not suffer their minds to be influenced by any such vague, loose, and groundless denunciations as these which have proceeded from the gentleman from New Jersey. The bill, after extending these fundamental immunities of citizenship to all classes of people in the United States, simply provides means for the enforcement of these rights or immunities. How? Not by military force, not through the instrumentality of military commanders, not through any military machinery whatever, but through the quiet, dignified, firm, and constitutional forms of judicial procedure. The bill seeks to enforce these rights in the same manner and with the same sanctions under and by which other laws of the United States are enforced. It imposes duties upon the judicial tribunals of the country which require the enforcement of these rights. It provides for the administration of laws to protect these rights. It provides for the execution of laws to enforce them. Is there anything appalling in that? Is that a military despotism? Sir, it is a strange abuse of language to say that a military despotism is established by wholesome and equal laws. Yet the gentleman declaimed by the hour in vague and idle terms against this bill, which has not a single offensive, oppressive, unjust, unusual, or tyrannical feature in it. These civil rights and immunities which are to be secured, and which no man can conscientiously say ought to be denied, are to be enforced through the ordinary instrumentalities of courts of justice.

Where, then, is this great military power which so alarms the indignation of the gentleman? All that there is of military power in the bill is simply this: the last section of the bill contains a provision "that it shall be lawful for the President of the United States, or such person as he may empower for that purpose, to employ such part of the land or naval forces of the United States, or of the militia, as shall be necessary to prevent the violation and enforce the due execution of this act."

It clothes the President of the United States with power to enforce the laws of the United States if necessary by the military power of the United States. It confers power upon the President of the United States to enforce the laws of the United States, if necessary, by the whole military power of the Government. Who objects to that? What good objection can be made to the enforcement of the laws of the United States by all the power of the United States, whether it be military or civil? Why, sir, the framers of the Constitution, as I have already stated, put that very power into the Constitution in order that there might be no doubt upon the subject.

[Here the hammer fell.]

Mr. DEFREES. I ask that by unanimous consent the time of the gentleman be extended.

No objection was made.

Mr. THAYER. Mr. Speaker, I thank the House for its indulgence, and will not make an improper use of it. The framers of the Constitution put that very power into the Constitution in order to make the laws of the United States supreme and irresistible. It is a power which, as all know, has heretofore been exercised by the Government. What kind of a Government would that be which did not possess this power, and the execution of whose laws might be set at defiance and baffled by any combination of men who might choose to set themselves up in opposition to them? Why have laws if Government has not physical force and strength to enforce them? Enforce them if you can through the forms of judicial procedure and by the ordinary means at the command of judicial tribunals as this bill provides; but if there are combinations against the peaceful enforcement of those laws, why should not the military power of the United States, in pursuance of the express power given in the Constitution, come to the rescue of the civil power in order to enforce a law solemnly promulgated by the people of the United States?

It is over this last section, which gives the President of the United States this power to enforce the laws of the United States when the civil power is unable to do it, that all this senseless clamor has been raised by the gentleman from New Jersey. I see nothing, sir, in this last section of the bill to arouse the fears of the most vigilant guardian of republican institutions and republican liberty, nothing which can give the least color of justice or truth to the denunciations which have been hurled against it.

No, sir; all the provisions of this bill are of a civil nature except the one to which I have referred, which only confers the power in reserve upon the President to enforce the laws. The bill is, from the beginning to the end of it, in all other respects a civil bill, a bill for the enforcement of civil rights by civil remedies, by civil tribunals, by civil officers, and so far from its being obnoxious to any charge of tyranny, it is entirely free from it, and contains no power which is not necessary to protect and defend the great rights of American citizenship.

Mr. Speaker, allow me to say, in conclusion, that such being the general nature of the bill, and such being the character of its particular details, there does exist, in my judgment, a most imperative necessity which demands of Congress the passage of this law. It is the only protection which we can give to these unfortunate people whom you have ransomed by a great price from the bondage in which they groaned.

I approve of the proposition of the gentleman from Ohio, [Mr. BINGHAM,] in which he offers to put this protection substantially into the Constitution of the United States, though, according to my best judgment, it is not necessary to do so, and I have little hope that the proposition he submits will ever be carried into effect. Still I will, in order to make things doubly secure, vote for the proposition of the gentleman from Ohio. I will also vote for this bill. I will vote for every constitutional measure which is necessary to discharge my honor of the obligation which rests upon it (as it rests upon the honor of every member of this House, in my judgment) to carry into practical operation and effect the amendment abolishing slavery in the United States, and which will secure beyond the possibility of loss those fundamental civil rights and immunities to which every freeman who dwells under the flag of the United States is entitled. I will vote for every measure which is constitutional and which has for its object

the accomplishment of this great purpose and the discharge of this great obligation.

I agree in sentiment with the gentlemen upon this floor who have expressed their sense of the great importance to the country at large of the early restoration of the citizens of the States lately in rebellion to all the privileges which they renounced and forfeited by their rebellion. I would throw no unnecessary obstacle, so far as I am concerned, in the path which leads to that desirable end. But for one I will not do that so inconsiderately or with such haste as to place in jeopardy what has been so dearly purchased by the people of the United States. I will not do that at the expense of the free institutions of this country, I will not do that in a manner which will place in the hands of traitors and disloyal men the control of the Government of this country. I will not return to the hands of the public enemy the sword which is yet red with the blood of the soldiers and martyrs of the American Union.

The gentleman from New York [Mr. RAYMOND] told us in his eloquent peroration upon this subject that we should follow the example of Cæsar, who, after he had overcome his great rival, Pompey, forgave his enemies immediately, restored them to all their privileges, and took them again to the bosom of the State. It occurred to me, sir, as I listened to the eloquent remarks of that gentleman, that the illustration drawn from Roman history was a most unfortunate one for the line of argument he had in hand. The gentleman was right in his statement of historical facts. Cæsar, immediately after the decisive battles in which he overcame his enemies, did take to his bosom those who had been the best friends of Pompey and the worst enemies of Cæsar. The result of that fatal error is well known.

Brutus and Cassius and many of the other conspirators against the life of Cæsar fought against him at Pharsalia. The enemies of Cæsar, stealing into his confidence under the mask of friendship and abusing his generous clemency, conspired against his life. His pardoned enemies, converted suddenly into false friends and restored to their seats in the Senate, stabbed him in the Capitol. Sir, I pray God that the Republic may not be betrayed in like manner, and that she may not, acting under the influence of inconsiderate counsels, be in like manner put to death in the Capitol by the false friends who were so recently her most deadly enemies. Let us be just and generous, but let us also guard with vigilance the great trust which is reposed in our hands, and see to it that the cause which has been triumphant in battle be not betrayed and ruined by false counsels in peace. Let the enemies of the Republic be restored to their lost privileges as soon as it can be done with safety, but beware that it be done in such a manner and under such conditions that the Republic itself shall receive no detriment.

While engaged in this great work of restoration, it concerns our honor that we forget not those who are unable to help themselves; who, whatever may have been the misery and wretchedness of their former condition, were on our side in the great struggle which has closed, and whose rights we cannot disregard or neglect without violating the most sacred obligations of duty and of honor. To us they look for protection against the wrongs with which they are threatened. To us alone can they appeal in their helplessness for succor and defense. To us they hold out to-day their supplicating hands, asking for protection for themselves and their posterity. We cannot disregard this appeal, and stand acquitted before the country and the world of basely abandoning to a miserable fate those who have a right to demand the protection of your flag and the immunities guarantied to every freeman by your Constitution.

Mr. HILL. I desire to offer an amendment to the bill under consideration.

The SPEAKER. An amendment is not in order at this stage while the motion to recommit is pending.

Mr. HILL. Then I will move to amend the motion to recommit by adding thereto instructions to the Committee on the Judiciary to amend the bill by inserting after the words "foreign Powers," in line four of section one, the words "except those who have voluntarily borne arms against the Government of the United States or given aid and comfort to the enemies thereof." Also, to insert at the end of line sixteen, section four, the words "except the right of suffrage."

Mr. Speaker, I do not desire to detain the House by making any extended remarks upon this subject. But at the same time I think it is proper that these amendments should be made. It is certainly proper that the bill should state what is the intention of the House in adopting it if it shall be adopted.

The first amendment I have proposed leaves the condition of those who have been in rebellion against the Government of the United States precisely as it now is. If they are now full citizens, entitled to all the rights of citizenship, this amendment does not affect them in that respect. If they are not now entitled to the full rights of citizenship, it at least leaves them without giving them those rights by this bill. I suppose it is not the intention of the friends of the bill to confer rights of citizenship not now possessed, if any such rights might exist, upon those who have been in rebellion. My amendment takes no rights from them, but leaves their rights to be determined hereafter.

The amendment upon the subject of suffrage is, it seems to me, but a proper, fair, explicit declaration of what has been repeatedly stated in argument, but does not appear in the bill. It seems to me important, in order to relieve this measure from any ambiguity. If it is not the intention of the friends of this bill, as I understand it is not, to grant under the provisions of this measure the right of suffrage to the colored race, it certainly is but fair and proper that the bill should so declare. This amendment will relieve the bill from any ambiguity on that point.

Mr. ELDRIDGE. Mr. Speaker, I thought yesterday that I would discuss this measure at some length; but I find myself this morning very unwell; and I shall therefore make only a few remarks, suggesting some objections to the bill, and then give way to my friend from Illinois, [Mr. THORNTON.]

I look upon the bill before us, Mr. Speaker, as one of a series of measures arising out of a feeling of distrust and hatred on the part of certain individuals, not only in this House, but throughout the country, toward those persons who formerly held slaves. I had hoped that long before this time the people of this country would have come to the conclusion that the subject of slavery and the questions connected with it had already sufficiently agitated this country. I had hoped that now, when the war is over, when peace has been restored, and when in every State of the Union the institution of slavery has been freely given up, its abolition acquiesced in, and the Constitution of the United States amended in accordance with that idea, this subject would cease to haunt us as it is made to do in the various measures which are constantly being here introduced.

This bill is, it appears to me, one of the most insidious and dangerous of the various measures which have been directed against the interest of the people of this country. It is another of the measures designed to take away the essential rights of the States. I know that when I speak of States and State rights, I enter upon unpopular subjects. But, sir, whatever other gentlemen may think, I hold that the rights of the States are the rights of the Union, that the rights of the States and the liberty of the States are essential to the liberty of the individual citizen. The gentleman from Pennsylvania [Mr. THAYER] inquires what right of the States this bill proposes to take away. I reply, it seeks to lay prostrate at the feet of the Federal Government the judiciary of the States. It not only proposes to enter the States to regulate their police and municipal affairs, but it attempts to destroy the independence of the State judiciary.

The second section of this bill provides:

> That any person who under color of any law, statute, ordinance, regulation, or custom, shall subject or cause to be subjected any inhabitant of any State or Territory to the deprivation of any right secured or protected by this act, or to different punishment, pains, or penalties on account of such person having at any time been held in a condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, or by reason of his color or race, than is prescribed for the punishment of white persons, shall be deemed guilty of a misdemeanor, and on conviction shall be punished by a fine not exceeding $1,000, or imprisonment not exceeding one year, or both, in the discretion of the court.

Is it not an invasion of the right of the citizen of a State when you thus declare that an independent judge, who, in the exercise of his conscientious judgment and in obedience to his oath of office, renders a decision in accordance with the laws and constitution of his State, shall be convicted as a criminal and subjected to punishment by fine or imprisonment? Is it not a most flagrant and tyrannical interference with the independence of the judiciary when you thus seek to influence a judge in his decision by holding up before him a penalty for the violation of some pretended right of some black inhabitant of a State? Has the citizen no interest in the independence of the judiciary? Is this not an interference with the rights of the white man? The inquiry was made by some gentleman—I think by the gentleman from Missouri, [Mr. LOAN]—why are these penalties made applicable only to the judicial officer? It was answered that the purpose was to control the judge and prevent his executing the law of the State by his judgment when it operated peculiarly upon the freedman and thereby enforce the execution of the Federal law. There is no doubt it is a measure designed to accumulate and centralize power in the Federal Government.

But, sir, let me ask the gentleman from Pennsylvania, [Mr. THAYER,] by what provision of the Constitution is the Federal Government authorized to affix a penalty to the decision which the judge of a State court may make in the exercise of the judicial function? What provision of the Constitution gives you that authority? I have read the Constitution with some interest, but in vain if any such warrant is in it——

Mr. THAYER. As the gentleman has asked me a question, I will, with his permission, ask him a question. I ask the gentleman from Wisconsin whether in his judgment the United States have not the right constitutionally to enforce its own laws by pains and penalties? If he supposes the United States have that right, upon what ground he contends the United States have no right to enforce its law by pains and penalties imposed for its violation?

Mr. ELDRIDGE. My answer to that is this: there can be no law of Congress in a case like this, because there is no warrant in the Constitution to justify the law. There is no authority, no warrant in the Constitution, and hence any act you may pass will be no law.

Mr. THAYER. I understood the gentleman not to argue the penalty could not be constitutionally enforced and imposed because the law itself was unconstitutional, but to argue on the independent ground there was no constitutional authority in Congress to impose on a judge for refusing to execute the law which it was his official duty to execute. If the gentleman places it upon the ground the law itself was unconstitutional, that is placing the argument on different ground from that which I understood him to assume.

Mr. ELDRIDGE. Does the gentleman contend Congress may require a State judge to execute laws of Congress? Can they, by force, compel him to carry them out? Can they, by pains and penalties, make him the mere creature of the Federal Government? The question has been decided over and over again that they cannot enforce them through a State judge.

But, Mr. Speaker, this bill has other objections. Not only does it attach pains and pen-

alties to the judge of a State court who, in the exercise of his judicial functions, shall act contrary to its provisions, but it offers inducements, if not bribes, for the execution of those provisions. It confers jurisdiction upon officers to make arrests and gives them rewards for making them. It fills the States with Federal officials, watching and sneaking to get prizes for the execution of their work.

Mr. THAYER. Will the gentleman excuse me? What clause refers to the duties imposed upon State judges?

Mr. ELDRIDGE. I refer to the second section.

Mr. ROGERS. That includes everything.

Mr. THAYER. With the gentleman's permission, I will say I see nothing in that section which warrants the argument the gentleman attempts to construct upon it. That section is as follows:

That any person who, under color of any law, statute, ordinance, regulation, or custom, shall subject or cause to be subjected any inhabitant of any State or Territory to the deprivation of any right secured or protected by this act, or to different punishment, pains, or penalties on account of such person having at any time been held in a condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, or by reason of his color or race than is prescribed for the punishment of white persons, shall be deemed guilty of a misdemeanor, and on conviction shall be punished by fine not exceeding $1,000, or imprisonment not exceeding one year, or both, in the discretion of the court.

Now, sir, if the gentleman undertakes to say, when the Congress of the United States pass a law, and when the Constitution of the United States says that law, made in pursuance of the Constitution, shall be the supreme law of the land, that anybody under color or authority of any kind, can with impunity violate that supreme law, and the United States cannot punish for that violation, then I understand his argument. Do I understand him correctly?

Mr. ELDRIDGE. I will answer the gentleman when he gets through.

Mr. THAYER. There is nothing in the bill which imposes on a judge any more than to refrain from violation of the law.

Mr. ELDRIDGE. I understand precisely the position the gentleman takes, and I presume he understands me. None can say this second section is not aimed directly at the State judiciary. No one who reads the section or who heard the argument of the gentleman from Iowa [Mr. WILSON] can hesitate a moment to admit the purpose and object of this section is to control the judges of the State courts and prevent them from executing the laws of the States. If a judge were, in the case cited by the gentleman from New Jersey, [Mr. ROGERS,] to sentence a black man, who had committed a rape upon a white woman, to death, when for the same offense a white man would be only sentenced to imprisonment, he would be subject to the penalties of this bill.

Now, it may be said that there is no reason for this distinction; but I claim that there is. And there is no man that can look upon the crime, horrid as it is, diabolical as it is when committed by the white man, and not say that such a crime committed by a negro upon a white woman deserves, in the sense and judgment of the American people, a different punishment from that inflicted upon the white man. And yet the very purpose of this section, as I contend, is to abolish or prevent the execution of laws making a distinction in regard to the punishment.

But, further, it is said the negro race is weak and feeble; that they are mere children—"wards of the Government." In many instances it might be just and proper to inflict a less punishment upon them for certain crimes than upon men of intelligence and education, whose motives may have been worse. It might be better for the community to control them by milder and gentler means. If the judge sitting upon the bench of a State court shall, in carrying out the law of the State, inflict a higher penalty upon the white man than that which attaches to the freedman, not that I suppose it is ever contemplated to enforce that, yet it would be equally applicable, and the penalty would be incurred by the judge in the same manner precisely.

But I proceed to the section I was about to remark upon when the gentleman interrupted me. The marshals who may be employed to execute warrants and precepts under this bill, as I have already remarked, are offered a bribe for the execution of them. It creates marshals in great numbers, and authorizes commissioners to appoint almost anybody for that purpose, and it stimulates them by the offer of a reward not given in the case of the arrest of persons guilty of any other crime.

It goes further. It authorizes the President, when he is apprehensive that some crime of this sort may be committed, on mere suspicion, mere information or statement that it is likely to be committed, to take any judge from the bench or any marshal from his office to the place where the crime is apprehended, for the purpose of more efficiently and speedily carrying out the provisions of this bill.

The gentleman from Pennsylvania [Mr. THAYER] tells us that it is very remarkable that it should be claimed that this bill is intended to create and continue a sort of military despotism over the people where this law is to be executed. It seems to me nothing is plainer. Where do we find any laws heretofore passed having no relation to the negro in which such a provision as this tenth section is to be found? Generally the marshal seeks by himself to execute his warrant, and failing, he calls out his *posse comitatus*. But this bill authorizes the use in the first instance of the Army and Navy by the President for the purpose of executing such writs.

The gentlemen who advocate this bill are great sticklers for equality, and insist that there shall be no distinction made on account of race or color. Why, sir, every provision of this bill carries upon its face the distinction, and is calculated to perpetuate it forever as long as the act shall be in force. Where did this measure originate but in the recognition of the difference between races and colors? Does any one pretend that this bill is intended to protect white men—to save them from any wrongs which may be inflicted upon them by the negroes? Not at all. It is introduced and pressed in the pretended interest of the black man, and recognizes and virtually declares distinction between race and color.

But gentlemen claim that there is warrant and authority in the second section of the recent amendment to the Constitution for this measure. I believe that is the only authority upon which the eloquent gentleman from Pennsylvania [Mr. THAYER] rested his claim of the right to pass this bill.

Mr. THAYER. The gentleman will recollect that I also founded a portion of my argument in favor of the constitutionality of this bill upon the guarantee which is contained in the Constitution, of life, liberty, and property to citizens of the United States, and I argued that if this measure was necessary to enforce that guarantee it was a power necessarily contained by implication in the Constitution.

Mr. ELDRIDGE. Then the gentleman differs in all his claims with his friend, the able gentleman from Ohio, [Mr. BINGHAM,] who introduced the resolution proposing the amendment of the Constitution for the purpose of meeting the constitutional objections to the passage of this bill. He admitted, or seemed to admit, when that resolution was under consideration, that there is by the Constitution as it now stands no warrant for the Federal Government to go into a State for the purpose of protecting the citizen in his rights of life, liberty, and property. I shall not undertake to argue that question. It is enough for my purpose that the majority of this House have urged the necessity of the passage of that resolution to amend the Constitution in order to enable them to attain the purpose sought by this bill.

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

Mr. ELDRIDGE. No, I will not yield to that gentleman. He refused me a similar courtesy a short time ago.

Mr. GRINNELL. Now, you are even. [Laughter.]

Mr. ELDRIDGE. Yes, now we are even. The gentleman from Pennsylvania bases his argument also upon the power given to Congress by the Constitution to establish a uniform system of naturalization. I was surprised that that position should have been assumed by the able gentleman from Pennsylvania, for I look upon him as one of the ablest lawyers in this House. What does naturalization mean? Does it relate to persons born in this country? The gentleman from New York [Mr. RAYMOND] well suggested that doubts might arise upon the decisions of the courts. They have held expressly in several cases which are referred to in the decision from which I will read in a moment, that the right of naturalization under the Constitution referred only to persons of foreign birth, that it had no reference to persons born in the United States.

Justice Curtis, in his dissenting opinion in the Dred Scott case, a gentleman who, I believe, is authority with the other side of the House, even if Chief-Justice Taney is not, held this language:

"Among the powers expressly granted to Congress is the power to establish a uniform rule of naturalization. It is not doubted that this is a power to prescribe a rule for the removal of disabilities consequent on foreign birth. To hold that it extends further than this would do violence to the meaning of the term 'naturalization,' fixed in the common law and in the minds of those who concurred in framing and adopting the Constitution. It is in this sense conferring on an alien and his issue the rights and powers of a native-born citizen that it is employed in the Declaration of Independence. It is in this sense it is expounded in the Federalist, it has been understood by Congress, by the judiciary, and by commentators on the Constitution."

Several authorities are cited by Justice Curtis to sustain his views.

It appears then that the only power expressly granted to Congress to legislate concerning citizenship is confined to the removal of the disabilities of foreign birth. The opinion of the majority of the court, delivered by Chief Justice Taney, is to the same effect. So far as I am aware, no decision in the United States has ever conflicted with that decision. Upon what ground, then, can it be claimed that naturalization can be conferred upon persons born in the United States?

Mr. RAYMOND. I would like to ask the gentleman a question upon that point.

Mr. ELDRIDGE. I yield for that purpose.

Mr. RAYMOND. I would ask the gentleman this question: even if citizenship cannot under the Constitution be absolutely conferred upon native-born inhabitants, according to this decision of the court which he cites, may not Congress declare that all native-born inhabitants of the country are citizens, making it a declaratory act instead of one conferring citizenship?

Mr. ELDRIDGE. It is enough for me to know that Congress has not done it, and that by the organic law it has no power to do it.

Mr. RAYMOND. I do not see the pertinency of the gentleman's remark. Congress, he says, has not done it, but is there anything in the Constitution which prohibits or renders it impossible for Congress to declare that all native-born inhabitants are citizens?

Mr. ELDRIDGE. There is no authority in the Constitution for Congress to pass any such law. Naturalization, of its own force, imparts and applies only to foreign-born persons, so that the warrant in the Constitution to establish a uniform system of naturalization applies only to foreigners and cannot apply to those born in this country. Hence, before you can pass such a law, you must have constitutional warrant for it. I think the gentleman is answered.

Mr. RAYMOND. I only wished to call the gentleman's attention to the point.

Mr. ELDRIDGE. I claim and insist that this authority of the Constitution applies only to foreigners, or to foreign-born persons; that it does not apply to persons born in this country; and that if it is desirable to confer the

rights of citizenship upon negroes, we must have a constitutional amendment that will warrant the act before it can be done.

But, Mr. Speaker, if it were so, if citizenship could be conferred, and therefore this act of Congress would be authorized, it is enough for me to answer that it has not been done.

I find, Mr. Speaker, as I expected, that my voice begins to fail me, my throat being sore. I shall therefore not attempt to argue this question further.

I will say, however, before I close, that I had hoped that this subject would be allowed to rest. Gentlemen refer us to individual cases of wrong perpetrated upon the freedmen of the South as an argument why we should extend the Federal authority into the different States to control the action of the citizens thereof. But, I ask, has not the South submitted to the altered state of things there, to the late amendment of the Constitution, to the loss of their slave property, with a cheerfulness and grace that we did not expect? Have they not acquiesced more willingly than we dared to hope? Then why not trust them? Why not meet them with frankness and kindness? Why not encourage them with trust and confidence?

I deprecate all these measures because of the implication they carry upon their face that the people who have heretofore owned slaves intend to do them wrong. I do not believe it. So far as my knowledge goes, and so far as my information extends, I believe that the people who have held the freedmen slaves will treat them with more kindness, with more leniency, than those of the North who make such loud professions of love and affection for them, and are so anxious to pass these bills. They know their nature; they know their wants; they know their habits; they have been brought up together, and have none of the prejudices and unkind feelings which many in the North would have toward them.

I do not credit all these stories about the general feeling of hostility in the South toward the negro. So far as I have heard opinions expressed upon that subject, and I have conversed with many persons from that section of the country, they do not blame the negro for anything that has happened. As a general thing, he was faithful to them and their interests until the Army reached the place and took him from them. He has supported their wives and children in the absence of the husbands and fathers in the armies of the South. He has done for them what no one else could have done. They recognize his general good feeling toward them, and are inclined to reciprocate that feeling toward him.

I believe that is the general feeling of the southern people to-day. The cases of ill-treatment are exceptional cases. They are like the cases which have occurred in the northern States where the unfortunate have been thrown upon our charity. Take for instance the stories of the cruel treatment of the insane in the State of Massachusetts. They may have been barbarously confined in the loathsome dens as stated in particular instances, but is that any evidence of the general ill-will of the people of the State of Massachusetts toward the insane? Is that any reason why the Federal arm should be extended to Massachusetts to control and protect the insane there?

It has also been said that certain paupers in certain States have been badly used, paupers, too, who were whites. Is that any reason why we should extend the arm of the Federal Government to those States to protect the poor who are thrown upon the charities of the people there?

Sir, we must yield to the altered state of things in this country. We must trust the people; it is our duty to do so; we cannot do otherwise. And the sooner we place ourselves in a position where we can win the confidence of our late enemies, where our counsels will be heeded, where our advice may be regarded, the sooner will the people of the whole country be fully reconciled to each other and their changed relationship; the sooner will all the inhabitants of our country be in the possession of all the rights and immunities essential to their prosperity and happiness.

Mr. THORNTON obtained the floor.

Mr. DUMONT. Will the gentleman from Illinois yield to me a moment?

Mr. THORNTON. Certainly.

Mr. DUMONT. I move to amend the amendment of my colleague [Mr. HILL] to instruct the Committee on the Judiciary, by adding thereto further instructions to amend the bill by striking out all after the word "except," near the close of the first section, and inserting the following:

That nothing herein shall be construed as re-extending the rights of citizenship to any one who has renounced the same, or acknowledged allegiance to any government or pretended government in hostility to the United States, or held office under the same, nor to any one who voluntarily has borne arms against the United States in the late rebellion, or who has been guilty of any act whatever which by the laws of nations makes a forfeiture of citizenship.

Mr. MILLER. I desire to move an amendment to the amendment.

The SPEAKER. The gentleman from Iowa [Mr. WILSON] has the right to withdraw at any time the motion to recommit; and he has very plainly intimated to the House his intention to do so. The proposed instructions to the committee will fall with the withdrawal of that motion. Hence those propositions to instruct the committee are more in the shape of notices to amend than anything else.

Mr. MILLER. I move to amend the amendment by adding at the end of the second section the following:

Provided, That judges of State courts who decide judicially, under the constitution and laws of the respective States in which they reside, shall be exempted from the penalties imposed by this section; *And provided further*, That the party aggrieved by such decision shall be entitled to an appeal to the district or circuit court of the United States, and from there to the Supreme Court of the United States.

Mr. THORNTON. Mr. Speaker, as I occupy the floor through the courtesy of the gentleman from Wisconsin, [Mr. ELDRIDGE,] and as the time allowed me is but brief, I shall not indulge in any extended remarks upon the bill.

From the commencement of this Government it has uniformly been held that each State has the exclusive right to determine the *status* of its inhabitants. This position is, I believe, conceded by the gentlemen who are supporting this bill; otherwise I might sustain it by a reference to the opinions of Mr. Madison, of Chief Justice Marshall, and other eminent statesmen and jurists.

The advocates of this bill have referred to two provisions of the Constitution, under which it is assumed Congress may constitutionally pass this measure. One is the recent amendment to the Constitution abolishing slavery; the other is that provision in the bill of rights which declares that—

"No person shall be deprived of life, liberty, or property without due process of law."

Can the passage of this bill be justified by the constitutional amendment for the abolition of slavery? That amendment is in these words:

"ARTICLE XIII.

"SEC. 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

"SEC. 2. Congress shall have power to enforce this article by appropriate legislation."

Now, Mr. Speaker, to determine the power conferred by any particular provision of the Constitution, it is proper to ascertain the object sought to be accomplished by the adoption of that provision. What, then, was the object proposed to be accomplished by this constitutional amendment? Before its adoption a portion of the inhabitants of the United States were slaves, were chattels, were in the eye of the law property. The object of this provision was to change the condition of those persons from that of chattels or property to that of freemen. That was the sole object of the provision.

Now, sir, can it be maintained that all the civil rights and immunities sought to be secured by this bill are necessary to constitute a man a freeman? There are persons who never enjoyed these rights; yet they have been regarded as freemen.

I insist, sir, that the construction given to the constitutional amendment by gentlemen who advocate this bill is too broad, too latitudinarian. The sole object of that amendment was to change the *status* of the slave to that of a freeman; and the only power conferred upon Congress by the second section of that amendment is the power to enforce the freedom of those who have been thus emancipated. Is it necessary to constitute a man a freeman that he should have conferred upon him all the civil rights and immunities provided for in this bill? Follow this idea to its legitimate and logical conclusion, and where does it lead? Gentlemen may say, as has been said in the other end of this Capitol, that the right of suffrage is absolutely necessary to protect the negro in his freedom, and therefore Congress has the right to enact a law conferring upon him the right of suffrage.

If, to protect the negroes in their freedom, you have the right to confer upon them all the civil rights and immunities contemplated by this bill, you have the right to carry your legislation to any extent that the whim or caprice of gentlemen may dictate. If the construction contended for by the advocates of this bill be correct, then the power conferred on Congress by this constitutional amendment is an indefinite power, unlimited except by the passions or caprice of those who may assume to exercise it. I submit that no just rule of constitutional interpretation will warrant the broad construction which some gentlemen seek to give to the second section of the amendment abolishing slavery.

I grant the power necessary to secure and protect the negro in his freedom as given to him by virtue of this amendment. Congress has the right, if it chooses to exercise it, to provide for the punishment of all persons who may attempt to reënslave the negro; to provide for the punishment of all persons who may make any effort to reduce him to the state from which he has just emerged; to that extent we have the power to go, and no further.

Is it necessary, sir, for this protection, to confer upon him the right to give evidence between parties in all the States as this bill does? Is it necessary to give him all the rights necessarily included in the term civil rights and immunities? Congress has the power to punish any man who deprives a slave of the right of contract, or the right to control and recover his wages. To that extent it may be necessary to have legislation. But to go beyond that is to trench upon the rights of the States, and is assuming power which has always belonged to the States of the Union.

I will call attention for a single moment to what Mr. Madison said, in urging upon the people of the country the adoption of the Constitution of the United States, as to the powers of the Federal Government and the powers of the State governments. He says, in the Federalist:

"The powers delegated by the proposed Constitution to the Federal Government are few and defined. Those which are to remain in the State governments are numerous and indefinite. The former will be exercised principally on external objects, as war, peace, negotiation, and foreign commerce, with which last the power of taxation will, for the most part, be connected. The powers reserved to the several States will extend to all the objects which in the ordinary course of affairs concern the lives, liberties, and properties of the people, and the internal order, improvement, and prosperity of the State."

Chief Justice Marshall said in a case, I think to be found in 6 Wheaton's Reports, that the States composing this Union, so far as regarded mere municipal concerns, were sovereign; that they did not derive their independence from the British king; that the treaty of peace recognized but did not grant it. I ask gentlemen, in the light of the opinions of these able jurists in regard to the power of the Federal and State governments, have we the power, under a reasonable construction of the Constitution, to enact this bill into a law?

The gentleman from Pennsylvania [Mr. THAYER] insists that the power exists by virtue

of the fifth amendment, which provides that no man shall be deprived of life, liberty, and property without due process of law. Is this bill necessary to prevent the deprivation of life, liberty, and property? If laws are enacted in the southern States of the character alleged, their constitutionality can be tested in the courts of the United States and there declared to be void because in violation of the supreme law. It is not necessary for the protection of life, liberty, and property that this bill should be passed. Is it necessary that the negro should be a witness in all cases between parties to secure his freedom?

Look at the condition of those whom this bill is most to affect. Reflect upon the relations between the late master and his late slave. These relations have been such for a long series of years as to engender a state of feeling which will prevent the negro from being an impartial and unbiased witness in controversies between white men. This bill gives this right to the late slave of being a witness in all cases without regard to the feeling which may exist between him and the white population.

I, sir, have no desire, even if I had the power, to oppress this unfortunate class of our people. I accept for one the amendment of the Constitution abolishing slavery. I make no reference to the past for the purpose of cavil, but I accept the fact, and am willing to legislate for the protection of this class so far as to prevent any enslavement of them, and punish, if need be, any violation of their rights and property. But I cannot consent to force upon the people of the southern States, or of any of the States, the provisions of this bill. Such matters should be regulated by the several States.

The first section of the bill declares all persons citizens without regard to color. The term, citizen, is frequently used in the Constitution; but in every instance, I think, but one, for the purpose of distinguishing between a native and an alien. Before the adoption of the recent constitutional amendment the slave was not a citizen. Under our Constitution a citizen is a free inhabitant, either born within the United States or naturalized under a law of Congress. The amendment made the slave a free man and therefore a citizen.

The authority of Congress to make citizens exists solely under that provision "that Congress shall have power to establish a uniform rule of naturalization." What is the meaning of the term naturalize? It is the investing of an alien with the privileges of a native-born citizen. What is an alien? A foreigner, one born in another country. The negroes, or the large portion of them, are natives of the United States. There is no power in the Constitution to do what is provided in the first section of this bill. The negroes are citizens in one sense. They are citizens because they were born here and are now free. They were inhabitants before the adoption of the recent amendment; they are citizens now according to the general definition of the term.

Wherefore, then, the necessity of the first section of this bill? What is the object of it? If there is not something hidden, something more than appears in the language, why do gentlemen on the other side decline to accept the proviso that has been offered, restricting the meaning of the words "civil rights and immunities" so that the bill shall not confer upon the negro the right of suffrage?

It is said that the words "civil rights" do not include the right of suffrage, because that is a political right. Look in any of our dictionaries, Webster, Worcester, or any other, and you will find the word "civil" is synonymous with "political." I do not assume, as a lawyer, that the words "civil rights" do include the right of suffrage; but with the loose and liberal mode of construction adopted in this age, who can tell what rights may not be conferred by virtue of the terms as used in this bill? Where is it to end? Who can tell how it may be defined, how it may be construed? Why not, then, if it is not intended to confer the right of suffrage upon this class, accept a proviso that no such design is entertained?

The most serious objection that I have to this bill is, that it is an interference with the rights of the South. It was remarked by my friend from Wisconsin that it has often been intimated on this floor, and throughout the country, that whenever a man talks about either the Constitution or the rights of the States, he is either a traitor or a sympathizer with treason. I do not assume that the States are sovereign. They are subordinate to the Federal Government. Sovereignty in this country is in the people, but the States have certain rights, and those rights are absolutely necessary to the maintenance of our system of government. What are those rights? The right to determine and fix the legal *status* of the inhabitants of the respective States, the local powers of self-government, the power to regulate all the relations that exist between husband and wife, parent and child, guardian and ward, all the fireside and home rights which are nearer and dearer to us than all others.

Sir, this is but a stepping-stone to a centralization of the Government and the overthrow of the local powers of the States. Whenever that is consummated, then farewell to the beauty, strength, and power of this Government. There is nothing left but absolute, despotic, central power. It lives no longer but as a naked despotism. There is nothing left to admire and to cherish.

Mr. WINDOM. Mr. Speaker, it is not my habit to occupy much of the time of the House in speech-making, but as this is one of the most important bills upon which we shall be called to act, I wish briefly to state what I believe to be the sentiments of those whom I represent on this subject.

I was somewhat surprised yesterday in listening to the argument of the gentleman who, I believe, is the recognized leader of the Democratic party of the House—the gentleman from New Jersey, [Mr. ROGERS]—for I believe, Mr. Speaker, that what we daily witness on this floor justifies me in according to him the leadership on that side of the House.

Mr. ROGERS. Mr. Speaker——

Mr. WINDOM. Have I done him too much honor?

Mr. ROGERS. Mr. Speaker, I hope nobody on that side of the House will make that assertion again. The object and the intention is only to create dissatisfaction on this side of the House. I do not claim to be a leader, nor do I want any such statements made any more. Gentlemen will do me a service by refraining from such remarks.

Mr. CONKLING. I should like to indulge my curiosity for a moment. Who in the world is the leader of that side of the House if the gentleman from New Jersey is not?

Mr. WINDOM. I cannot yield any further.

Mr. MARSHALL. Allow me a word on this question of leadership.

Mr. WINDOM. The gentleman can have an hour after I get through.

Mr. MARSHALL. Just a moment.

Mr. WINDOM. I did not expect, when I attempted to pass a merited compliment upon the very learned and logical gentleman from New Jersey, to stir up so much excitement on the other side of the Chamber. I think that excitement arises from two different causes, a superabundance of modesty on the part of the gentleman from New Jersey, and a lack of the same on the part of his friends. It seems that he declines the honor which I proffered him, and regards it almost as an insult. [Laughter.]

Mr. MARSHALL. I wish merely to say that we do not recognize him as our leader.

Mr. WINDOM. I must decline to yield; it is a very unimportant matter.

Mr. MARSHALL. We do not recognize any autocrat. [Loud cries of "Order!"]

The SPEAKER. The gentleman from Illinois is out of order. The gentleman from Minnesota declines to yield, and gentlemen must not insist on defying the rules of the House.

Mr. WINDOM. If it were a matter of any importance I would certainly yield. I think every member upon this side of the House and every modest member upon the other side accords to the gentleman from New Jersey the position I assign him. [Laughter.] I was simply about to say that I was surprised yesterday when the leader of the Democratic party on this floor [illegible]and, I may add, one of the chief nurses of the new party born at Grover's theater on the 22d of last month,) [laughter,] advanced certain sentiments which he did.

His speech was somewhat long, and it may be interesting to bring the extreme ends of it together that all may see how they agree. I read now a brief extract from the beginning. He says:

"Let me say, in the commencement, that there is no person in this House more willing to extend to the negro all the rights of life, liberty, and property than I am. I am willing to treat him in the most kindly and Christian-like manner, and extend to him every privilege that ought to be guarantied to any man in the United States for the protection of his liberty, his life, and his property. But when I took my seat in this body I took a solemn oath, which I implanted deeply in my heart and conscience, that I would support the Constitution of the United States and defend it against its enemies, whether within or without."

That is the first end.

A passing word in reference to his oath to support the Constitution having prevented him from extending to the negro "all the rights of life, liberty, and property." If I read correctly the discussion which took place between him and the gentleman from Iowa, [Mr. PRICE] a few days ago, or rather if he is correctly reported in the Globe, the gentleman stated that he had never read the Constitution of the United States. [Laughter.] If that be true, the gentleman from Pennsylvania [Mr. STEVENS] was justified in the side remark that "when he took the oath, he must have gone it blind." [Laughter.]

Mr. ROGERS. I hope the gentleman will not misrepresent me. I did not say I had never read the Constitution of the United States. I said my attention had not been called to the particular paragraph in the Constitution and that I supposed it was in the preamble. That is what I said.

Mr. WINDOM. The gentleman spoke an hour and a half on this subject, about the length of time he always edifies the House when such questions are under discussion, and yet he cannot tell you whether one of the most important provisions in that Constitution is in the preamble or in the body of the instrument. This is the leader of the constitutional Democracy of the present day! [Laughter.]

Now, sir, I have heard a great deal of this same sort of constitutional argument here upon this floor, and in the country, from those belonging to the party which this gentleman represents, and I never knew a single proposition which had a tendency to elevate the masses of mankind, or which, during the last four years, was calculated to crush out rebellion, that was not assailed as unconstitutional by the so-called Democratic party.

Sir, I remember well, that five years ago, when traitors from the South and their allies from the North were here on this floor plotting treason, and a proposition was made to coerce those States which had seceded, or attempted to secede, coercion was declared to be unconstitutional, and everything is declared to be unconstitutional which tends to preserve the country, or to guaranty to its humbler citizens their rights.

I read this part of the speech of the gentleman from New Jersey [Mr. ROGERS] for the purpose of comparing the gentleman's alleged devotion to liberty with sentiments expressed toward the close of his remarks. The gentleman from Pennsylvania [Mr. THAYER] interrupted the gentleman from New Jersey with this question:

"The gentleman says he is a progressive man, and a man in favor of the extension of human liberty. I desire the gentleman to state whether he voted for the constitutional amendment abolishing slavery."

The gentleman from New Jersey replied:

"No sir; and I thank God that I never did. I could

not lie down on my bed at night with a clear conscience if I had been guilty of being engaged as a participant in robbing a portion of the people of this country of millions of dollars invested under the Constitution in property in negroes, property which was recognized by our revolutionary fathers, and for the protection of which they fought as much as for anything else."

Now, sir, in this very speech, in which he tells us he is willing to go as far as anybody in securing the rights of life, liberty, and property to the negro, he also devoutly thanks his God that his conscience is clear and he can sleep quietly at night because he did not vote to give the negro his freedom.

Mr. THAYER. Will the gentleman allow me to make a suggestion at this point?

Mr. WINDOM. Certainly.

Mr. THAYER. The gentleman will recall the dialogue, and he will see that it was the question of the gentleman from Indiana [Mr. NIBLACK] rather than my question which discomfited the gentleman from New Jersey, [Mr. ROGERS.] The question of the gentleman from Indiana was why the gentleman from New Jersey had not voted against that amendment abolishing slavery.

Mr. WINDOM. I think that question gave the gentleman from New Jersey rather more trouble than the question of the gentleman from Pennsylvania. But it was the answer to the question of the gentleman from Pennsylvania which I desired more particularly to read and bring into juxtaposition with this grand declaration of love of freedom made in the opening part of his speech.

I do this for the purpose of showing how much the Democracy really love liberty. They say they will go to any length to give liberty to the slave, but whenever there has been an amendment proposed to the Constitution to accomplish that end, they thank God that their consciences are clear and they can sleep soundly o' nights because they did not vote for it.

Before I pass from this speech of the gentleman from New Jersey I desire to say that I was informed at the time that he was pledged to vote for it, but that he was sick when it was passed, and was not here. I know not how that may be, and do not care.

Mr. ROGERS. Will the gentleman allow me to explain?

Mr. WINDOM. Most certainly.

Mr. ROGERS. That is an utterly false statement, without one particle of truth in it. And whoever made such a statement as that to the gentleman from Minnesota [Mr. WINDOM] utters what he knows to be a deliberate falsehood. I never agreed, directly or indirectly, to vote for that constitutional amendment. I made a speech here against it, and if I had been able to be here I should have voted against it when it passed, as I did the winter before in this very Hall, when the very same amendment was under consideration.

Mr. WINDOM. I do not know how that may be; of course I accept the gentleman's explanation.

Mr. NIBLACK. Will the gentleman from Minnesota allow me to make a brief remark?

Mr. WINDOM. Yes, sir.

Mr. NIBLACK. As my name has been brought into this discussion, I wish to say, that in addressing my interrogatory yesterday to the gentleman from New Jersey, I desired simply to afford that gentleman an opportunity to explain the circumstances under which he failed to vote against the constitutional amendment then referred to, as there had been some comment at the time upon the fact that he, with other prominent gentlemen, had failed to vote on that question. I had no doubt that the gentleman had a very good reason, and I wanted to give him an opportunity to state it. As the great consideration with which he has been treated by the Speaker in the appointment of our committees, as well as the constant remarks of gentlemen on the other side, would seem to imply that the gentleman from New Jersey is our "leader," we desire to have him stand *rectus in curia* upon this and all other questions.

I only regret that the gentleman was not able to give us more particularly and in detail the reasons why he did not vote on that subject. I myself never doubted that he had good reasons, and I wanted those reasons understood, especially as we on this side stand committed before the House and the country for all that he says upon this and all other questions. I trust that the gentleman appreciates my motives.

Mr. WINDOM. I cannot yield for any further remarks on this point. I will leave the gentleman from Indiana [Mr. NIBLACK] and the gentleman from New Jersey to settle questions of this kind between themselves.

I apprehend, Mr. Speaker, that if gentlemen on the other side continue to carry out the principles which have governed their votes during the last four years they will soon be each and every one of them so heartily ashamed of having ever belonged to that party that they will wisely drop all questions with reference to leadership. Therefore I will not now interfere in this quarrel.

Mr. NIBLACK. Will the gentleman allow me one further remark?

Mr. WINDOM. Yes, sir.

Mr. NIBLACK. I desire simply to say that we on this side do not need any "leader." There are not enough of us. [Laughter.] Therefore every man carries on a kind of guerrilla fight. I trust that in this remark I shall be understood as implying no discourtesy toward the gentleman from New Jersey.

Mr. SPALDING. I trust there is no jealousy of the gentleman from New Jersey because he occupies a preëminent position.

Mr. NIBLACK. I may say to gentlemen on the other side that even without a leader we shall perhaps be able to surround and capture them, with the help we may obtain from other quarters, before the present Congress expires.

But jesting apart, we on this side, especially those of us who are in the habit of talking considerable ourselves, do feel very keenly this constant talk about the gentleman from New Jersey being our "leader." It does provoke our jealousy in a way that is very unpleasant. [Laughter.]

Mr. ROGERS. That is the object of such talk.

Mr. NIBLACK. I hope, therefore, gentlemen will not persist in making the gentleman from New Jersey so prominent at the expense of the rest of us on this side of the House.

Mr. WINDOM. I am very glad, Mr. Speaker, that the gentleman from Indiana has made this explanation. It convinces me that there are at least two or three gentlemen on the other side who do not recognize this leadership. It also enlightens us on another point. The gentleman has said that members on that side do not want a leader, because they only carry on a kind of guerrilla warfare. That explains why gentlemen on that side voted at the last session of Congress against the bill to punish guerrillas. [Laughter.]

Mr. THAYER. If the gentleman from Minnesota will permit me, I desire to ask the gentleman from Indiana to define more particularly what he means when he speaks of obtaining "help from other quarters."

Mr. NIBLACK. I mean defections in your own ranks.

Mr. GARFIELD. I suppose the gentleman would vote for a bill to encourage desertions and not to punish guerrillas. [Laughter.]

Mr. WINDOM. I wish to make another extract from the speech of the gentleman from New Jersey. He said, "If you pass this bill you will allow negroes to compete for the high office of the President of the United States." You will actually allow them to compete for the Presidency of the United States! As for this fear which haunts the gentleman from New Jersey, if there is a negro in the country who is so far above all the white men of the country that only four millions of his own race can elect him President of the United States over twenty-six millions of white people, I think we ought to encourage such talent in the country.

Sir, the gentleman has far less confidence in the white race than I have if he is so timid in regard to negro competition. Does he really suppose that black men are so far superior to white men that four millions of them can elect a President of their own race against the wishes of thirty millions of ours? Ever since I knew anything of the party to which the gentleman belongs it has entertained this same morbid fear of negro competition, and sometimes I have thought that if we were to contemplate the subject from their stand-point we would have more charity than we do for this timidity and nervous dread which haunts them. I beg leave, however, to assure the gentleman that there is not the slightest danger of electing a black President, and that he need never vote for one unless he thinks him better fitted for the office than a white man.

I wish now to refer to some of the positions assumed by the gentleman from Wisconsin, [Mr. ELDRIDGE,] who has just taken his seat. He hopes the negro question is at rest, and that we shall hear no more of it. Let me say to him that question never will rest until this nation does justice to the negro and every other citizen in it. He says it overrides the State laws, and is therefore unconstitutional. I believe the gentleman from Wisconsin is at present one of the most earnest indorsers of the policy of the President of the United States. I believe, sir, that the entire party on the other side of this Chamber indorse fully the policy of the President of the United States, who has found it necessary through his general in Virginia to override one of the laws passed by that State affecting the negro. I ask, then, how they can consistently indorse that policy and at the same time declare a law of Congress is unconstitutional which does the same thing?

But perhaps the gentleman claims that as these States have not yet been admitted to representation in Congress they are under military rule. I think he also claims that those States are in the Union and always have been in the Union. Then the President of the United States has no more right to override the laws of Virginia now than when her Representatives were upon this floor. I ask if it is consistent to claim this bill as unconstitutional when gentlemen indorse the President of the United States, who overrides the laws of a State in time of peace by military order? I indorse the President in setting aside those iniquitous laws of Virginia, and I believe this bill is constitutional.

Mr. ELDRIDGE. I believe the States lately in rebellion are in the Union and were never out of it. I believe they attempted to go out and failed. I do indorse the President's policy of reconstruction. I believe it is the best policy which can be adopted under the circumstances for the restoration of those States to their proper places and functions in the Union. I indorse none of the President's unconstitutional acts if he has committed any. I indorse him where he is right and oppose him where he is wrong. That is my position in regard to these questions.

I do not indorse any unconstitutional act of any President or other officer of the Government. If the President has done any act forbidden by the Constitution, he has done that upon his own responsibility.

Mr. WINDOM. Do you indorse that act of the President setting aside the vagrant laws of Virginia?

Mr. ELDRIDGE. I do not indorse that act.

Mr. WINDOM. The gentleman from Wisconsin [Mr. ELDRIDGE] finds an objection to this bill in that clause which he says offers a bribe to the officers for the execution of the law, and he asks if any other such law has ever been passed. I think I can enlighten the gentleman. I point him to a law which is certainly quite as bad as he says this is, namely, the fugitive slave law.

Mr. ELDRIDGE. I beg pardon; I did not ask any such question in regard to that law.

Mr. WINDOM. The gentleman certainly made the objection to this bill that it did offer a bribe.

Mr. ELDRIDGE. I did that.

Mr. WINDOM. And now I propose to show him another law that offers a bribe.

Mr. ELDRIDGE. I know well what the gentleman refers to.

Mr. WINDOM. By the provisions of the fugitive slave law the commissioner who tried the case and returned the slave to his master got ten dollars, but if he did not return him he got only five dollars. And yet the entire Democratic party, with which the gentleman acts, has always, I believe, indorsed that law; and if I am not mistaken the gentleman himself indorsed it, for he voted in the last Congress against its repeal. There certainly has been no law which the Democratic party has commended more than that same fugitive slave law, and since I have been in Congress the southern wing of the party declared the non-execution of it as sufficient cause to disrupt this Union.

But, sir, I desire to address a few remarks more directly to the bill.

The broad and comprehensive justice of this measure is disclosed in its title, "A bill to protect all persons in the United States in their civil rights and furnish the means of their vindication." This, I believe, is one of the first efforts made since the formation of the Government to give practical effect to the principles of the Declaration of Independence; one of the first attempts to grasp as a vital reality and embody in the forms of law the great truth that all men are created equal and endowed by the Creator with the inalienable rights of life, liberty, and the pursuit of happiness. If there be any reasonable objection to the bill, it is that it does not go far enough. It assumes only to protect civil rights, and leaves the adjustment and protection of political rights to future legislation. But, so far as it does go, it is, in my opinion, in strict conformity with the spirit and design of the grand old architects who, when they laid the foundations of our republican edifice, made these rights of human nature the chief corner-stone. Had this design been followed by those who built the superstructure we might have been spared the desolation and bloodshed of the last five years.

A true republic rests upon the absolute equality of rights of the whole people, high and low, rich and poor, white and black. Upon this, the only foundation which can permanently endure, we professed to build our Republic; but at the same time we not only denied to a large portion of the people equality of rights, but we robbed them of every right known to human nature.

Now that the armed power of the rebellion has been crushed, the duty is upon us to so reconstruct the Government as to avoid this grand mistake of the past. Our warrant for the passage of this bill is found in the genius and spirit of our institutions; but not in these alone. Fortunately, the great amendment which broke the shackles from every slave in the land contains an express provision that—

"Congress shall have power to enforce this article by appropriate legislation."

When this amendment was acted upon, it was well understood, as it is now, that although the body of slavery might be destroyed, its spirit would still live in the hearts of those who have sacrificed so much for its preservation, and that if the freedmen were left to the tender mercy of their former masters, to whose heartless selfishness has been superadded a malignant desire for vengeance upon the negro for having aided us in crushing the rebellion, his condition would be more intolerable than it was before the war. And hence the broad grant of power was made to enable Congress to enforce the spirit as well as the letter of the amendment. Now, sir, in what way is it proposed to enforce it? By denying to any one man a single right or privilege which he could otherwise constitutionally or properly enjoy? No. By conferring on any one person or class of persons a single right or immunity which every other person may not possess? By no means. Does it give to the loyal negro any preference over the recent would-be-assassins of the nation? Not at all. It merely declares that hereafter there shall be no discrimination in civil rights or immunities among the citizens of any State or Territory of the United States on account of race, color, or previous condition of slavery, and that every person, except such as are excluded by reason of crime, shall have the same right to enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, sell, hold, and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of person and property, and shall be subject to like punishment, pains, and penalties, and to none other.

In other words, it declares that henceforth the perjured white traitor shall have no civil rights or immunities which are denied to the black patriot; that the colored soldier, who has worn the uniform of the Republic and periled his life for its defense, shall have an equal right, nothing more, with the white rebel yet reeking with the blood of our murdered defenders; to make and enforce contracts, to give evidence in court, and to hold and enjoy real and personal property; that in laws and proceedings for the security of person and property, and for the punishment of offenses, no discrimination shall be made in favor of traitors, because they are white and have always been petted and pampered by the Government, as against patriots because they are black and have always been held in cruel and degrading bondage. This is substantially all the bill before us proposes to accomplish. It does not, as I have already said, confer the privilege of voting, for that is a political right, and not included in the bill. It does not attempt to confer on the freedmen social privileges. It merely provides safeguards to shield them from wrong and outrage, and to protect them in the enjoyment of that lowest right of human nature, the right to exist. Its object is to secure to a poor, weak class of laborers the right to make contracts for their labor, the power to enforce the payment of their wages, and the means of holding and enjoying the proceeds of their toil.

Who can deny them this? To do so would be to repudiate utterly the pledges we made in the day of our sore trial, and would justly merit the scorn and contempt of mankind. We know, and the whole world knows, that when in the hour of our extremity we called upon the black race to aid us, we promised them not liberty only, but all that that word liberty implies. All remember how unwilling we were to do anything which would inure to the benefit of the negro. I recall with shame the fact that when five years ago the so-called Democracy—now Egyptians—were here in this capital, in the White House, in the Senate, and on this floor, plotting the destruction of the Government, and we were asked to appease them by sacrificing the negro, two thirds of both Houses voted to rivet his chains upon him so long as the Republic should endure. A widening chasm yawned between the free and slave States, and we looked wildly around for that wherewith it might be closed. In our extremity we seized upon the negro, bound and helpless, and tried to cast him in. But an overruling Providence heard the cries of the oppressed and hurled his oppressors into that chasm by hundreds of thousands until the whole land was filled with mourning—yet still the chasm yawned. In our anguish and terror we felt that the whole nation would be speedily ingulfed in one common ruin. It was then that the great emancipator and savior of his country, Abraham Lincoln, saw the danger and the remedy, and seizing four million bloody shackles he wrenched them from their victims, and standing with these broken manacles in his hands upraised toward heaven, he invoked the blessing of the God of the oppressed, and cast them into the fiery chasm. That offering was accepted and the chasm closed.

If the Government reluctantly adopted emancipation as a means of its own salvation, it was not because those in authority did not sympathize with the slave, and love liberty, but because the old prejudices were still strong, and it was feared that it might exasperate our enemies. During the first year of the war it was believed that the South could be conciliated; and hence to gratify rebels in arms we spurned the slave from our camps; and when he came into our lines to give information concerning the enemy, he was sent back to his rebel master to be scourged, and sometimes murdered, for his loyalty to our cause. He was plainly told that the war was not waged for his benefit, or for his emancipation, and that if we could save the Union by preserving slavery we would do so. All this we did to conciliate the master and to avoid "firing the southern heart." Finally, when it was decided to accept the proffered services of the blacks, and to permit them to aid in fighting our battles, we were still unwilling to do them full justice; and they entered the Army with less pay than white soldiers, and without any of that protection which the laws of war accord to belligerents. The black soldier knew full well when he was enrolled in the Army it was with a halter about his neck, and that if taken prisoner no quarter would be shown him.

Yet, notwithstanding these discouragements and disadvantages they heard the nation's promise to the race, made in the proclamation of emancipation, and trusting to the nation's honor to make good its pledges, two hundred thousand strong arms seized the musket, and two hundred thousand dusky heroes grappled with the foe. Nobly have they performed their part, and largely have they contributed to our victory. They come to us now and demand the fulfillment of our promise. They ask us by this bill for that protection of person and property without which liberty is a solemn mockery. They implore us to give them the right to live and to enjoy the fruits of their own labor, and in answer to these just demands, sanctioned by a most solemn compact, they are told that they must look to their State laws for protection, and that this is a "white man's Government." Sir, when a few months ago we saw our depleted battle-riven ranks filling with stalwart negroes, we forgot for a time that this was a "white man's Government," and even the Egyptians on the other side of this Chamber began to think that a black man had, after all, some rights which a white man was bound to respect. When we heard of the fiendish massacre at Fort Pillow there were some radical enough to believe that civil and even political rights might be almost as safely and properly lodged in the hands of the loyal African as in the hands of Forrest and his band of murderers.

When the reports from Port Hudson and Fort Wagner thrilled all loyal hearts by the recital of the heroic deeds of the black soldier, we were not reminded that if the negro were permitted to enjoy the same rights under the Government his valor helped to save that are possessed by the perjured traitors who sought its destruction, it would "lead to a war of races." Oh no! Then we were in peril, and felt grateful even to the negro, who stood between us and our enemies. Then, our only hope of safety was in the brave hearts and strong arms of the soldier at the front. Now, since by the combined efforts of our brave soldiers, white and black, the military power of the South has been overthrown, and her Representatives are as eager to resume their places on this floor as five years ago they were to quit them for a place in the rebel army, we are told that having been victorious it becomes a great nation like ours to be magnanimous. I answer, it is far more becoming to be just. I am willing to carry my magnanimity to the verge of justice, but not one step beyond. I will go with him who goes furthest in acts of generosity toward our former enemies, unless those acts will be prejudicial to our friends. But when you advise me to sacrifice those who have stood by us during the war in order to conciliate unrepentant rebels whose hearts still burn with ill-suppressed hatred to the Government, I scorn your counsel.

But do the freedmen need the protection which this bill proposes to give? The Presi-

dent informs us in his message vetoing the Freedmen's Bureau bill, a kindred measure to this, that—

"He should be protected by the civil authorities, especially by the exercise of all the constitutional powers of the courts of the United States and of the States."

And he adds:

"His condition is not so exposed as may at first be imagined. He is in a portion of the country where his labor cannot well be spared. Competition for his services from planters, from those who are constructing and repairing railroads, and from capitalists in his vicinage and from other States, will enable him to command almost his own terms."

This certainly sounds very hopeful, but what are some of the facts of the case? On the 15th of December, 1865, Colonel De Gauss wrote to Major General Howard, of the Freedmen's Bureau, as follows:

"HOUSTON, TEXAS, *December* 15, 1865.

"SIR: I have the honor to respectfully report that in some portions of this State the negroes are not yet free, that the pass system is still in force, and when a freedman is found at large without a pass, he is taken up and whipped.

"That a freedman is not allowed to hire out without written permission from his former master; at least planters have held meetings and have agreed not to hire freed people without such permission. These facts are known to me from personal observation, and written statements of reliable men."

Lieutenant Stewart Eldridge writes to Major General Howard from Vicksburg, Mississippi, under date of November 28, 1865:

"I have the honor to inclose herewith for your consideration the freedmen's bill, which has just become a law in this State, and would respectfully ask your attention to the following points thereon:

"Section first prohibits the holding, leasing, or renting of real estate by freedmen.

"Section third compels all freedmen to marry whomsoever they may now be living with, and to support the issue of what was in many cases compulsory cohabitation.

"Section fourth excludes freedmen from testifying in cases all white.

"Section five authorizes mayors and boards of police by their sole edict to prevent any freedmen from doing any independent business and to compel them to labor as employés, with no appeal from such decision.

"Section seven gives the power to any white citizen over the person of a freedman unknown to any other law, and denies the right of appeal beyond the county court."

Colonel Samuel Thomas, assistant commissioner, writes from Jackson, Mississippi, concerning this same Mississippi freedmen's bill:

"The freedmen bill has become law. It does not allow freedmen to own or lease estate. Thousands of acres have been rented from owners of land by freedmen who expected that they would be allowed to cultivate land in this way. They are notified that they must give up their leases by citizens. What course must I pursue?"

The State laws of Georgia and South Carolina prohibit any negro from buying or leasing a home. In North Carolina the black code of slavery is still in existence. In Virginia the laws and customs reduce the negro to vagrancy, and then seize and sell him as a vagrant. In South Carolina and other States there are laws compelling the return of the freedman to his master under the name of employer, and allowing him to be whipped for insolence.

These, sir, are some specimens of protection which they get from the civil authorities of the States in which they live. They are denied a home in which to shelter their families, prohibited from carrying on any independent business, and then arrested and sold as vagrants because they have no homes and no business.

Planters combine together to compel them to work for such wages as their former masters may dictate, and deny them the privilege of hiring to any one without the consent of the master; and in order to make it impossible for them to seek employment elsewhere, the pass system is still enforced. If a freedman is found away from home he is taken up and whipped, and if he has the impudence to complain he is whipped again. And yet we are told that "his condition is not so exposed as may at first be imagined." In the name of liberty and justice, I ask, what was the exposed condition "at first imagined?" Sir, do you at this late day call the whipping-post and the pass system evidences of liberty? Do you call that man free who cannot choose his own employer, or name the wages for which he will work? Do you call him a freeman who is denied that most sacred of all possessions, a home? Is he free who cannot bring a suit in court for the defense of his rights? Sir, if this be liberty, may none ever know what slavery is. Bear in mind the fact, too, that these wrongs are inflicted upon the freedmen by communities and States while they are yet supposed to be on their good behavior for the purpose of regaining their old places of power in the Union. If such is the protection they now get from the civil authorities of their own States, what may we reasonably anticipate when those States again resume their places and have no favors to ask of the Federal Government. "If these things be done in the green tree, what shall be done in the dry?" Sir, our duty is clear; let no man falter in its performance.

Mr. SHELLABARGER. Mr. Speaker, I do not rise because I have anything very important to say, or because I am disposed to participate in the discussion on this bill. But a few moments ago a remark or two dropped from the gentleman from Wisconsin [Mr. ELDRIDGE] which has induced me to make a suggestion or two in regard to the first section of the bill.

I understand it to be claimed by those who oppose this bill that it is not proper for Congress to naturalize by law or treaty any class of individuals as a class, but that under the constitutional provision in regard to a uniform rule of naturalization each individual must be naturalized upon his personal act and application; and that there is no other power in the Government in regard to naturalization except that which is to be found in that constitutional clause. Now sir, a little observation of what has occurred in the history of our own Government in this regard will, I think, relieve this question of all difficulty.

I agree with the gentleman on the other side of the House that this bill cannot be passed under that clause of the Constitution which provides that Congress may pass uniform rules of naturalization. Under that clause it is my opinion that the act of naturalization must not only be the act of the Government, but also the act of the individual alien, by which he renounces his former allegiance and accepts the new one. And that proposition and distinction will be found, I think, in all judicious arguments upon the subject; certainly in Wheaton on International Law.

The next remark I proposed to make is this: that there is another class of persons well recognized, not only in our constitutional history, but also by the law of nations, as will be found by reference to a very eminent work of Puffendorf on the law of nations, as well as to other works on the subject; there is a class of persons who are not citizens of a given country, and yet who are not foreigners, who occupy an intermediate position, and that intermediate position is defined by the law of nations by the word "subjects." Subjects are all persons who, being born in a given country and under a given Government, do not owe an allegiance to any other Government.

To that class in this country, according to the decisions of our own courts hitherto, belong American Indians and slaves, and according to the Dred Scott decision, persons of African descent whose ancestors were slaves. All these were subjects by every principle of international as well as of settled constitutional law in this country.

Now, then, to that class belong the persons who are naturalized by this bill. If they were not indeed citizens hitherto, they were at least subjects of this Government by reason of their birth, and by reason of the fact that they owed no foreign allegiance.

That brings me to the next remark, and it is this: that these subjects not owing any foreign allegiance, no individual act of theirs is required in order to their naturalization, because they owe no foreign allegiance to be renounced by their individual acts, and because, moreover, their being domiciled in our own country and continuing here to reside is the individual election of each member of the tribe or race or class to accept our nationality; therefore no additional individual act of the subject is required in order to his citizenship.

That being proved, it is competent for the nationality, or for the Government, wherever that subject may reside, to naturalize that class of persons by treaty or by general law, as is proposed by the amendment of the gentleman from New York, [Mr. RAYMOND.] It is the act of the sovereign alone that is requisite to the naturalization of that class of persons, and it may be done either by a single act naturalizing entire races of men, or by adopting the heads of families out of those races, or it may be done to any extent, greater or less, that may please the sovereign. For this proposition I refer gentlemen who desire to examine this subject to the authorities that may be found collected in any judicious work on public law, and they will find them very fully collected certainly in the notes to Wheaton.

Now, then, what power may do that act of naturalization, and how may it be exercised? That is also answered by these same authorities. It may be done in this country either by an act of Congress, or it may be done by treaty. It has been done again and again and again in both ways in this country. It was done once in the case of the Choctaw Indians, as you will find in the Statutes-at-Large, where in case the heads of families desired to remain and not to remove to the West, it was provided by the treaty of September 27, 1830, that those families should be naturalized as a class.

It was done again, as you may remember, in the case of the Cherokees in December, 1835. There again a class was naturalized by treaty.

Then, again, it was done in the other way, by an act of Congress, in the case cited by my learned friend from Iowa, [Mr. WILSON,] in the case of the Stockbridge Indians. I will read a simple clause from that law in order to see how exactly it harmonizes in language and in effect with this bill. In the act of Congress of March 3, 1843, it is provided:

"That the Stockbridge tribe of Indians, and each and every one of them, shall be deemed to be, and are hereby declared to be, citizens of the United States to all intents and purposes, and shall be entitled to all the rights, privileges, and immunities of such citizens, and shall in all respects be subject to the laws of the United States."

That is an act of Congress, and it was passed during the Administration of Mr. Tyler.

That is all I desire to say. There is really, upon a candid and fair investigation of this question, no difficulty in voting for the bill proposed by the gentleman from New York [Mr. RAYMOND] for the naturalization of all these people, and I may say that the usefulness of such a measure as that is just as great, as grand, and as profound as it is useful to be an American citizen.

Mr. BROOMALL obtained the floor.

Mr. WILSON, of Iowa. I do not wish to interfere with the gentleman from Pennsylvania, but I ask him to give way until I can make a proposition to the House.

Mr. BROOMALL. I yield for that purpose.

Mr. WILSON, of Iowa. I desire now to submit a proposition to this House in relation to this bill. My proposition is that it shall be postponed until Thursday next after the morning hour, with the understanding that the vote shall be taken upon it upon that day.

My reason for asking this long postponement is that the Committee of Ways and Means have some business of great importance which they desire to bring before the House for its action early next week, and it will probably occupy two or three days to dispose of it; and in order to afford them full time to bring that business before the House and have the House act upon it, and also to give gentlemen additional time to examine this bill, I submit this proposition to the House, and hope there will be no objection to it.

Mr. CONKLING. I suggest to the gentleman from Iowa [Mr. WILSON] that I doubt whether it is better to fix any time for a vote upon this bill. He can at any time call the previous question on it, and if that call is sec-

onded he can bring the House to a vote upon the bill.

The SPEAKER. The Chair will state that according to usage, whenever the gentleman from Iowa [Mr. WILSON] notifies the Chair privately that he desires the floor to close debate upon this bill, he will be recognized by the Chair. He can then call the previous question, and if the House are ready for the vote to be taken on the bill they will second the demand for the previous question. If the majority of the House desire to continue the debate upon it, they have only to refuse to second the call for the previous question.

Mr. WILSON, of Iowa. The reason why I desire to have some understanding when the previous question will be called and the vote taken upon the bill is in order that I may be relieved from the constant applications on the part of members to know when I intend to bring this debate to a close. I presume that one half the members of this House have called upon me to-day to know when I would close the debate upon this bill.

And the reason why I desire to have this understanding is that several members have notified me that they expect to be absent during a part of next week, and they want to know when the vote will be reached in order that they may certainly be here. Those are the reasons why I desire to fix the time for this vote to be taken.

Mr. CONKLING. I do not like to oppose my friend from Iowa, [Mr. WILSON,] but I will make a suggestion to him as a reason why he should not press his proposition upon the House. I think it may very well be that before next Thursday comes, or on that day, there may be reasons which would make it desirable in the estimation of the gentleman from Iowa, or some other gentlemen, that this vote should be taken on some other day rather than on that day, and therefore even while I think it ordinarily would not be worth while to fix any time for such a vote, I think that now especially it would not be worth while to do so. And while I dislike to make objection, I hope the gentleman from Iowa will not press his proposition. He can call the previous question at any time whenever he pleases.

Mr. STEVENS. As it is now about the usual hour of adjournment I desire to submit to the House a proposition to take a recess until half past seven o'clock to-night for business. It is impossible to get along with the appropriation bills at this rate, and the business of the Departments is very much affected for want of the necessary appropriations.

Mr. MORRILL. I hope the proposition of the gentleman from Pennsylvania [Mr. STEVENS] will prevail, and that we will have an evening session. The loan bill is pending, and before it can be properly considered and matured it may be necessary for the House to act upon some other matters and send them to the Senate for their action.

Mr. WASHBURNE, of Illinois. I hope we will not commence this thing of night sessions on Friday night, for it is an unlucky night. [Laughter.] I think we had better wait till next week before we commence night sessions for business.

The SPEAKER. It requires unanimous consent, under the resolution of the House, which is suspended until further order, to have a night session for the purpose of business. But a mere majority may order a night session for purposes of debate only.

Mr. SPALDING. Then I object.

Mr. STEVENS. I hope that gentlemen will be prepared for night sessions next week until we get through some of the pressing business before us. And I now give notice that I shall move for night sessions next week for that purpose.

Mr. NIBLACK. I desire to inquire of the gentleman from Iowa, [Mr. WILSON,] whether he proposes to leave this bill in a condition which will allow it to be discussed in the mean time. There are several gentlemen who desire to speak, as they would prefer to speak upon this bill rather than upon any other. If the gentleman will consent to leave it so situated that it can be debated in the mean time, it will tend very much to prepare the House to take the vote at the time he suggests.

Mr. WILSON, of Iowa. I know of no way in which that can be accomplished, unless to-morrow should be occupied by gentlemen who wish to speak on this bill. It is for the purpose of economizing the time of the House, and in order to permit the Committee on Appropriations to go on with their business, that I propose the postponement of this bill until next Thursday.

The SPEAKER. The Chair will state that he is informed of two gentlemen who wish to speak to-morrow on general subjects in Committee of the Whole. The Chair will cheerfully remain here to-morrow till as late an hour as any gentleman may desire, in order that speeches may be made on this subject or any other.

Mr. WILSON, of Iowa. I will give notice that, if this proposition be agreed to, I intend to allow Thursday afternoon for discussion, reserving to myself sufficient time to close the discussion after the demand for the previous question.

The SPEAKER. The gentleman from Iowa asks that, by unanimous consent, this bill may be postponed, to be taken up positively on Thursday next, after the morning hour.

Mr. HARDING, of Illinois. I object.

The SPEAKER. If the House passes away from the consideration of the bill, without fixing a time when its consideration shall be resumed, it will take its place behind the loan bill and the bankrupt bill, which are both special orders after the morning hour.

Mr. WASHBURNE, of Illinois. I hope that my colleague [Mr. HARDING] will consent to withdraw his objection.

Mr. HARDING, of Illinois. I should like to hear some good reason for doing so.

Mr. WASHBURNE, of Illinois. Reasons which appear to me very satisfactory have already been given by the gentleman from Iowa.

Mr. HARDING, of Illinois. I trust that the House will allow full opportunity for debating this bill either in the House or in Committee of the Whole.

Mr. WASHBURNE, of Illinois. That matter is left entirely open by the arrangement suggested.

Mr. HARDING, of Illinois. I do not propose, so far as I am concerned, to yield the entire control of legislation to one or two men.

Mr. WASHBURNE, of Illinois. My colleague will understand that the arrangement suggested has nothing to do with closing the debate; it simply proposes to leave the bill where it can be reached for the purpose of debate. That is all.

Mr. CONKLING. May I inquire, Mr. Speaker, what is the proposition to which the gentleman from Illinois objected?

The SPEAKER. He objects to an order of the House that this bill be taken up on Thursday next, after the morning hour.

Mr. CONKLING. I think the gentleman is right in that objection.

Mr. HARDING, of Illinois. I object to fixing any particular day when we shall be compelled to take up this bill and vote upon it on the suggestion of the gentleman from Iowa, whether we want to do so or not.

Mr. WILSON, of Iowa. I understand the gentleman from Illinois [Mr. HARDING] to object to a postponement. I know of no other method of proceeeding, then, than to let the consideration of the bill go on. I have made my proposition in order that the committees of the House might be accommodated and the pressing business of the country promoted. If gentlemen object, I know of no other course for me to pursue than to permit the bill to proceed under the rules of the House; and that I must do.

Mr. STEVENS. I will state another course that the gentleman can adopt: he can call the previous question, and have the bill passed.

Mr. WILSON, of Iowa. That would not be fair to gentlemen who have left the House under the impression that no vote would be taken to-day.

Mr. STEVENS. Then adjourn, and let the bill go over till Monday.

The SPEAKER. If the previous question be now demanded and seconded, and the House then adjourns, the bill will go over and come up as the first business in order after the morning hour on Monday; but then the only time remaining for debate will be the hour to which the gentleman from Iowa will be entitled.

Mr. WILSON, of Iowa. The gentleman from Pennsylvania [Mr. BROOMALL] is holding the floor.

Mr. BROOMALL. I cannot yield.

Mr. WILSON, of Iowa. The gentleman from Pennsylvania desires to be heard on the bill; and I will state further that I have two or three amendments which I propose to offer.

Mr. FARNSWORTH. I hope the gentleman will propose his amendments to-night, and let us know what they are. It seems to be nonsense to debate a bill for three or four days, and then move a substitute and call the previous question.

Mr. WASHBURNE, of Illinois. If we adjourn now, and the bill goes over until Monday, cannot the gentleman from Iowa move to suspend the rules so as to postpone it until the following Thursday?

The SPEAKER. He can.

Mr. WILSON, of Iowa. I withdraw the motion to recommit.

I move to amend the third section by inserting in the twelfth line, after the word "persons," the words "for any cause whatsoever;" so that the section will then read, as amended:

SEC. 3. *And be it further enacted*, That the district courts of the United States, within their respective districts, shall have, exclusively of the courts of the several States, cognizance of all crimes and offenses committed against the provisions of this act, and also, concurrently with the circuit courts of the United States, of all causes, civil and criminal, affecting persons who are denied or cannot enforce in the courts or judicial tribunals of the State or locality where they may be any of the rights secured to them by the first section of this act; and if any suit or prosecution, civil or criminal, has been or shall be commenced in any State court against any such person for any cause whatsoever, &c.

I demand the previous question on that amendment.

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

Mr. HALE. I suggest the objection made by the gentlemen from Illinois was under a misapprehension of what was to be the understanding of the House. If I understand him correctly now, I think the original proposition of the chairman of the Committee on the Judiciary can be carried out?

Mr. HARDING, of Illinois. I withdraw my objection to the bill being postponed.

The SPEAKER. If there be no objection, the consideration of this bill, it will be understood, shall be resumed on Thursday next after the morning hour.

There was no objection, and it was ordered accordingly.

Mr. WILSON, of Iowa. I move to add to the fourth section the following:

And said commissioners are hereby authorized and required to exercise and discharge all the powers and duties conferred upon them by this act, and the same duties with regard to offenses created by this act that they are authorized by law to exercise with reference to offenses against the laws of the United States.

I propose to follow that by moving to strike out the fifth section, so the commissioners will exercise such powers as are provided by the judiciary act of 1789, and the amendment of 1842.

The amendment was agreed to.

Mr. WILSON, of Iowa. I move to strike out the following:

SEC. 5. *And be it further enacted*, That said commissioners shall have concurrent jurisdiction with the judges of the circuit and district courts of the United States, and the judges of the superior courts of the Territories, severally and collectively, in term time and vacation, upon satisfactory proof being made, to issue warrants and precepts for arresting and bring-

ing before them all offenders against the provisions of this act, and on examination to discharge, admit to bail, or commit them for trial, as the facts may warrant.

The motion was agreed to.

Mr. WILSON, of Iowa. I move to add the following as a new section:

And be it further enacted, That nothing in this act shall be so construed as to affect the laws of any State concerning the right of suffrage.

Mr. Speaker, I wish to say one word. That section will not change my construction of the bill. I do not believe the term civil rights includes the right of suffrage. Some gentlemen seem to have some fear on that point.

The amendment was agreed to.

Mr. WILSON, of Iowa. I renew the motion to recommit; and I move the bill, as amended, be printed.

The latter motion was agreed to.

The bill then went over, according to the understanding of the House, until Thursday next, after the morning hour.

REGULAR ARMY.

Mr. SCHENCK. I ask leave to introduce the following resolution:

Resolved, &c., That the Secretary of War be requested to furnish as soon as possible, for the information of Congress, the following:

First, the strength of the regular Army of the United States on the 1st day of May, 1865.

Second, the strength of that Army on the 31st day of December, 1865.

Third, the number of recruits added thereto from May 1, 1865, to January 1, 1866.

Fourth, the number of deserters from the regular service (so far as shown by reports already received by any bureau of the War Department) for each month from May 1, 1865, to January 1, 1866, including desertions from recruiting or other rendezvous and depots.

Mr. WASHBURNE, of Illinois. I object. I do not think we ought to pass that at the present time. We ought to have time to look into it.

ORDER OF PROCEEDING TO-MORROW.

Mr. WASHBURNE, of Illinois. I ask the unanimous consent of the House, that when the House meets to-morrow it be for debate, as in Committee of the Whole, on the President's message.

No objection being made, it was so ordered.

THE MEXICAN LOAN.

Mr. SCHENCK. I ask the unanimous consent of the House to offer the following resolution:

Resolved, That the President be requested to communicate to this House, at as early a day as practicable, if in his opinion not incompatible with the public interest, any correspondence or other information in his possession, or on file in the State Department, having relation to any steps taken by the republican Government of Mexico directed to the negotiation of a loan in the United States for the purpose of procuring means to sustain that Republic in its efforts to maintain its independence.

Mr. BOUTWELL. I object.

ENROLLED JOINT RESOLUTION SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled joint resolution (H. R. No. 76) authorizing the Secretary of War to transfer to the "National Home for Soldiers' and Sailors' Orphans, of Washington city," certain stores not needed for the use of the Government; when the Speaker signed the same.

AGRICULTURE AND MECHANIC ARTS.

Mr. HOTCHKISS, by unanimous consent, introduced a bill to encourage education in agriculture and the mechanic arts; which was read a first and second time, referred to the Committee on Agriculture, and ordered to be printed.

And then, on motion of Mr. CONKLING, (at five minutes to five o'clock p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to appropriate committees:

By Mr. AMES: The petition of North Bridgewater Savings Bank, praying for a modification of the internal revenue law taxing deposits and dividends of savings banks.

Also, the petition of North Easton Savings Bank, for relief from taxation on deposits and dividends of savings banks.

Also, the petition of the Bristol County Savings Bank, praying for a modification of the internal revenue law imposing a tax on deposits and dividends of savings institutions.

Also, the petition of Lewis Holmes, and others, citizens of Bridgewater, Massachusetts, for an amendment to the Constitution to impose such conditions upon the rebel States as shall punish treason and reward loyalty and abolish all laws making distinction on account of race or color.

Also, the petition of Artemus Hale, and others, citizens of Bridgewater, Massachusetts, asking an amendment to the Constitution of the United States, providing for the election of President and Vice President by a direct vote; also authorizing Congress to prescribe by law the qualifications of voters for President, Vice President, and Representatives to Congress.

Also, the petition of Hingham Institutions for Savings, praying for the modification of the internal revenue law, imposing tax on deposits and dividends of savings institutions.

By Mr. ASHLEY, of Nevada: The memorial of officers of United States steamer Saranac.

Also, the memorial of officers of United States steamer Comanche.

Also, the memorial of officers at Mare Island navy-yard.

By Mr. BALDWIN: The petition of the Worcester county, Massachusetts, Institution for Savings, for relief from tax on deposits in savings banks.

By Mr. BARKER: The petition of citizens of Blair county, Pennsylvania, asking that the revenue laws be so adjusted that more adequate protection be afforded to American industry.

Also, the petition of citizens of Philadelphia, asking that the revenue laws be so adjusted as to afford more adequate protection to labor.

Also, the petition of Olive Wright, of the State of Maine, widow of Joseph Wright, a revolutionary soldier, asking the benefit of act of Congress approved April 1, 1864, entitled "An act to increase the pension of revolutionary pensioners now on the roll of the Pension Office," to be extended to her.

Also, petitions of citizens of Blair county, Pennsylvania, praying that such alteration be made in the revenue laws as will insure to the laborers in all branches of industry constant employment at remunerative wages.

By Mr. BOUTWELL: The petition of Lowell Institutions for Savings, in reference to taxing savings banks.

Also, the petition of 568 colored citizens of Georgia, asking for the elective franchise that they may more efficiently exhibit their loyalty.

Also, the memorial of loyal citizens of Alabama, setting forth their grievances.

By Mr. BUNDY: The petition and vouchers of W. D. Wesson, late a commissary of subsistence of volunteers, for pay due him from the 10th day of September, 1863, to January 2, 1864.

By Mr. COOK: The memorial of 120 citizens of La Salle county, Illinois, praying that Government bonds be subjected to equal taxation with other property, and remonstrating against the withdrawal of legal notes by the substitution of untaxed bonds.

Also, the memorial of Dillman & Co., of Will county, Illinois, praying that the internal revenue law be so amended as to relieve manufacturers of agricultural implements from the excessive duplication of taxes to which they are now subjected.

By Mr. CULLOM: A remonstrance signed by numerous citizens of Springfield, Illinois, against the passage of a law authorizing the Postmaster General to sell stamped envelopes at the value of the stamps impressed thereon.

By Mr. DAVIS: The petition of A. Bradley & Son, manufacturers of agricultural implements in Syracuse, New York, praying for alteration of internal revenue law affecting manufacturers.

By Mr. DEMING: The petition of envelope manufacturers, against the gratuitous distribution of envelopes.

By Mr. JENCKES: The petition of H. A. Hautz, and others, citizens of Pennsylvania, for passage of a general bankrupt law.

By Mr. HOTCHKISS: The remonstrance of citizens of the State of New York, against the passage of a law authorizing the Postmaster General to sell stamped envelopes at the value of the stamps impressed thereon.

Also, the petition of citizens of Binghamton, New York, praying Congress to enact uniform laws upon the subject of insurance.

By Mr. LAWRENCE, of Ohio: The petition of D. F. Spain, and others, wool-growers of Champaign county, Ohio, in favor of a tax on dogs.

Also, the remonstrance of W. O. Haskins, and others, of Piqua, Ohio, against the bill to authorize the Postmaster General to sell stamped envelopes at the value of the stamps thereon.

Also, the remonstrance of Kelley & Brother, of Troy, Ohio, on the same subject.

Also, the petition of O. Ferrall, Daniels & Co., of Piqua, Ohio, and others, manufacturers of agricultural implements, for a change in the revenue laws affecting such manufactures.

Also, the petition of William M. Bryant, of Jay county, Indiana, and others, asking that said Bryant, of company A, second battalion, second regiment, United States volunteers, in the war of 1812, for a pension.

Also, the petition of P. H. Wylie, and many others, citizens of Ohio, asking Congress to adopt measures for amending the preamble to the Constitution of the United States so that it shall acknowledge Almighty God as the source of all authority and power in civil government, and the Lord Jesus Christ as the Ruler among the nations, and His revealed will as of supreme authority, &c.

Also, the petition of I. C. Garrett, and 54 others, citizens at and near Vinton Furnace, Vinton county Ohio, for an increase of the tariff on imports to protect manufacturers of iron, &c.

Also, the petition of Isaac Brown, and 64 others, from the same place, on the same subject.

Also, the petition of John Brooks, and 55 others, citizens at Lawrence Furnace, Lawrence county, Ohio, on the same subject.

Also, the petition of John Stewart, and 59 others, of Gallia Furnace, Gallia county, Ohio, on the same subject.

Also, the petition of T. A. Dempsy, and 67 others, of Vesuvius Furnace, Lawrence county, Ohio, on the same subject.

By Mr. LAWRENCE, of Pennsylvania: The petition of the association of wool-growers of western Pennsylvania, for an increase of duties on foreign wool.

By Mr. MILLER: The petition of trustees of the Baptist church of Tyrone, and the trustees of the United Brethren's church of Tyrone, Blair county, Pennsylvania, for damages done to the church buildings in consequence of the same being occupied by Captain J. W. Carpenter, of company K, sixteenth regiment Veteran Reserve corps.

Also, the petition from mechanics and laborers in manufacturing establishments of Union county, Pennsylvania, for amending the tariff so as to protect labor.

By Mr. MOORHEAD: The petition of Mrs. Elizabeth T. Moorhead, of the District of Columbia, praying for relief.

By Mr. MORRIS: The petition of A. F. Whitaker, of Penn Yan, and others, a committee of the plowmakers of western New York, asking for relief from inordinate taxes.

By Mr. PAINE: The petition of A. O. Richmond, and 99 others, tobacco-growers of Walworth county, Wisconsin, for a reduction of the tax on the lower grades of cigars and smoking tobacco.

By Mr. RICE, of Massachusetts: The petition of Edward F. Devens, acting volunteer lieutenant United States Navy, for reimbursement for expenses in defending himself in a suit against the owners of the French ship La Manche.

By Mr. SCHENCK: The petition of soldiers of Ohio, for equal bounties.

Also, the petition of mechanics and laborers, for legislation to protect American industry.

By Mr. SPALDING: The petition of Patrick Boylan, of Cleveland, Ohio, asking for a register for the British-built schooner, E. P. Ryerse, now owned in the United States.

By Mr. WASHBURNE, of Illinois: The petition of many citizens of Illinois, praying Congress to pass a law enacting that eight hours shall be the period of a legal day's labor for all workmen, artisans, or laborers in the employ of the United States.

HOUSE OF REPRESENTATIVES.

SATURDAY, *March 3*, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

The House resumed, as in Committee of the Whole on the state of the Union, the consideration of the President's annual message, upon which the gentleman from Kentucky [Mr. McKEE] was entitled to the floor.

RECONSTRUCTION.

Mr. McKEE. I ask the Clerk to read the joint resolution which I send to the Clerk's desk.

The Clerk read, as follows:

Joint resolution to amend the Constitution of the United States, prohibiting conspirators and men who have been or shall be engaged in rebellion from holding certain offices.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two thirds of both Houses concurring,) That the following amendment to the Constitution be proposed to the several State Legislatures, which, when ratified by three fourths of the several States, shall be valid to all intents and purposes as part of the Constitution:

ARTICLE —. No person shall be qualified or shall hold the office of President or Vice President of the United States, Senator or Representative in the national Congress, or any office now held under appointment from the President of the United States and requiring the confirmation of the Senate, who has been or shall hereafter be engaged in any armed conspiracy or rebellion against the Government of the United States, or who has held or shall hereafter hold any office, either civil or military, under any pretended government or conspiracy set up within the same; or who has voluntarily aided, or who shall hereafter voluntarily aid, abet, or encourage any conspiracy or rebellion against the Government of the United States.

Mr. McKEE. Mr. Speaker, it is my purpose at present to submit some remarks on the proposition just read. I know, sir, that the country is excited, agitated, and perplexed on the great question of reconstruction upon which all men talk, and yet, sir, if we adopt the theory of certain persons, and of a certain party, the term is wholly inappropriate. These men

tell us the work is done; nay more, that when the conflict of arms ceased that people who had hurled war upon the land were and are to-day entitled to all the rights the same as if they had for four years moved on in the smooth path of obedience to law. If this be true, then why talk of reconstruction? We are told again by this same party and these same men that we have no need of constitutional amendments, and he who proposes them and the party which advocates them are denounced as men who seek to destroy the Government of our fathers.

Now, sir, how does the nation find herself to-day? A great war has swept over the land, a war set on foot and carried on by an armed conspiracy for the avowed purpose of destroying the Union of the States secured to us by the blood of our fathers. This war against the Union, against the Constitution, against freedom, and in the interest of slavery, having failed in its purpose, and the armed power of the conspirators having been crushed, at the end of the great struggle it appears most fit and proper to examine the framework of our Government, see if any of its parts have been shaken, if any have been broken in by the storm, to take them out, put new ones in their places, remove the rotten planks and put in new bulwarks against which the storm-cloud of treason in future may dash its winds in vain. Even while the war raged the great loyal heart of the nation when it discovered the rotten plank tore it out of the ship of state and cast it forth into the sea of oblivion. Like a skillful physician we went right at the root of the disease, tore it from the side of the patient who had groaned under its smart for almost a century, and cast it out forever. Yes, forever! for freedom's voice has recorded the verdict, "The curse of slavery shall never blight this fair land again." One great work has been accomplished even during the struggle with arms. At the end, what do we need? We need to reconstruct the Government. Not that it has been destroyed, but to adapt it to our changed condition, and to secure to the people the rule of that Government they risked their all to save.

I care not to argue the question or discuss the theory as to whether the States lately in rebellion are dead or living States; this is not material to my purpose nor to the proposition which I submit. This much I will only say. That so far as the rebellion could, it destroyed their State governments, and certainly while it held control over the eleven seceded States claimed by the now defunct confederacy they had no State governments which the Constitution of the United States and the power which administered it recognized as legal. Men may cry out until the end of time, "Once a State always a State," but that cry will prove nothing, and cannot conceal the fact that their legal governments were overthrown. The structures set up for them by the Constitution and laws of the United States were thrown down. Disloyal ones and governments foreign to our laws took their places. At the end of the war these disloyal and foreign State organizations are swept out of existence. New governments must be given the people of these States. In the absence of Congress the executive head of the nation begins the work. Has he any power, given him under our laws to create a civil government for any State? Yet in all these States he pulls down whom he wills and sets up whom he desires. What provision of the Constitution or what law of Congress authorizes him to appoint a provisional governor for a State? What power does he derive from our theory of civil government to prescribe an oath for a voter and make a franchise law for a State? By what authority does he say to a Legislature of a "sovereign State," you must ratify certain constitutional amendments before I can accept you as being in your proper relations with the Union over which I preside? Upon what law does he proceed to order a convention to remodel the constitution of a State which never lost its power and say to that convention when assembled, you must repudiate your war debt, you must abolish slavery, before you can resume your place in the Union again?

I make no war upon the President for these acts. These are questions for his newly acquired supporters to reconcile to themselves. But I would scorn to accept the most costly jewels of earth handed over into my hands by one who had plucked them illegally and unlawfully from the head which wore them. By the law martial he exercised these acts. For myself I found no fault with them at the time, except that they perhaps fell short; but I do contend that all these acts are matters that the representatives of the people, the national Congress, has the right to pass upon, and that it belongs to them to determine when and how these States shall again resume their proper relations in the Union.

Their structures, then, having been thrown down, we must see that they are set up again; and in doing this, oppression, wrong, injustice, cruel laws, everything which stands in freedom's pathway, must be buried with the dead of the conspiracy. The great, mad scheme of armed treason having failed; the death-stroke aimed at the nation having been thrust back and in the midst of war having cast out a great disturbing element, we want protection such as will be a a guarantee for the future; such guarantees as will say to those who sought the nation's death, you cannot seize the helm and guide the ship of state again. We want, and the loyal people of the land demand, such action here as will secure to us in peace the triumph we have obtained by war.

Daily almost we are told on this floor and all over the country that the law which says no man who cannot take the oath commonly called the "test oath" is unconstitutional, that it is a disgrace to a free people—ay, sir, it does disgrace traitors—that we had no authority to pass it, and that we have no power under the Constitution to enforce it; that red-handed traitors, if they have taken an oath to support the Constitution, have as much right to come into this Capitol and legislate for the people as the gallant soldier who bore the flag of his country amid the smoke and thunder of battle, and crushed out by war these men who sought the life of the Republic; that these betrayers of their country have equal rights and are to stand in future side by side in equal honor and esteem with the war-worn veterans of four long weary years of toil and battle to save the nation from destruction. Go tell it to these men, and they will hurl it back with such scorn as will wither him who dare assert it in their presence. Go tell it to the survivors of the twelve thousand heroes who in the low, flat marsh of Belle Isle, passed the terrible winter of 1863 and 1864, and the ghosts of the starved and freezing dead of that pen of misery will confront you with the living heroes; and if shame itself does not compel you to call back the assertion, then you have not the heart of a man. Go tell it to the twelve hundred, who in the same winter looked out through the iron bars of "old Libby's" gloomy walls, and in sight of boxes piled up across the street, stored for them by the loved ones at home with all the necessaries of life, starved and sickened for food, that the men who thus insulted them through those iron bars, taunted them and stole from them the bread for lack of which so many died, are to be their lawgivers in future, and you change humanity if you are not rebuked. Go tell it in the homes, once happy and bright, of the sixty thousand starved soldiers who died in loathsome and foul prison-pens, that the men who committed these terrible crimes against them, against humanity and God, must make laws for the widow and orphan of the dead, and if your heart is not seared and cold as death, you will see the ghosts of their lean and wasted forms rise up before you and hear their sepulchral voices crying, "Back, back, back! Hide yourself along with the traitor whose cause you come to plead."

If the present law which prevents these men seizing the best places and all Federal offices is unauthorized and unconstitutional, then there is need that we make a constitutional provision itself which will say to them, "Having failed by arms in your purpose to rule, you must be ruled hereafter by the loyal men who defeated your mad and wicked design." Let us make the substance of this law a part of the Constitution itself, and then the great triumph is secured to the people, that those, and those only, who are true to the nation, and who fight against treason, shall have the reward given them to rule the land, and by this prove that the hundreds of thousands who have gone down to their graves in the death-grapple with treason have not died in vain.

Again, treason by law is declared a crime. The present head of the nation has uttered the sentiment over and over again in every position he has held during the war, from that of a private citizen even up to the very exalted position he now holds. Shall a crime go unpunished? Shall men guilty of this the greatest of all crimes against the State, and those who are its guilty actors, go free? Shall they in future be regarded as on an equal footing with those who for more than four long years peilled their lives in defense of the liberties which these men sought to destroy? Shall they be permitted, simply upon taking an oath to the Constitution of the United States, to come back into these Halls, from which, when they took their voluntary departure, they swore in their wrath they never would return, to stand here again and legislate for the widow and orphan of the brave men whose lives were sacrificed by the insane attempt of these men to destroy all that is great and good on the continent of America? Is this the punishment treason is to have meted out to it? Is this what the President of the United States meant when he declared that treason is a crime and must be punished? Is this the meaning of his declaration of March 2, 1861, in the other end of this Capitol—

"Show me who has been engaged in these conspiracies, who has fired upon our flag, who has given instructions to take our forts and custom-houses and arsenals and dockyards, and I will show you a traitor. Were I President of the United States I would do as Thomas Jefferson did in 1806 with Aaron Burr. I would have them arrested, and if convicted within the meaning and scope of the law, by the eternal God I would execute them."

Hear another declaration from the same voice as late as April 20, 1865, only six days after the conspirators of treason had struck down by assassination Abraham Lincoln:

"It is time the American people should be taught to understand that treason is a crime—not in revenge, not in anger, but that treason is a crime, and should be esteemed as such and punished as such."

Again, sir, I make no attack upon the President. I indorse every word in the two quotations which I have read, and again I leave it to the unhung rebels, the unpardoned traitors, the anti-war party at the North, who make up the great mass of the new supporters of the President, to reconcile their sentiments with the support they now extend.

In this connection I know I will be pardoned for observing that an evening journal of this city, which has kept these declarations at its masthead in flaming capitals for many months, has, since the extraordinary scene in this capital of the 22d of last month, struck them out altogether. Are these declarations to be withdrawn? Are we to lose sight of them? Sir, I pray God the people will not forget them, but that they will proclaim them with a voice so loud and deep that it will bring back the nation to the sound, and thunder it into the ears of power until they compel their fulfillment, at least upon the chiefs of the conspiracy.

But let me quote once more, and let the people think over this language when they view what has followed upon the close of the war. On the 10th of June, 1864, at Nashville, we find the President use this language. For language similar to this, used by members upon this floor, such members have been denounced by those who now clamor for the President and his policy as traitors and disunionists:

"But, in calling a convention to restore the State, who shall restore and reestablish it? Shall the man

who gave his influence and means to destroy the Government? Is he to participate in the great work of reorganization? Shall he who brought this misery upon the State be permitted to control its destinies? If this be so, then all this precious blood of our brave soldiers and officers, so freely poured out, will have been wantonly spilled. All the glorious victories by our noble armies will go for naught, and all the battle-fields which have been sown with dead heroes during this rebellion will have been made memorable in vain. Why all this carnage and devastation? It was that treason might be put down and traitors punished. Therefore I say that traitors should take a back seat in the work of restoration. If there be but five thousand men in Tennessee loyal to the Constitution, loyal to freedom, loyal to justice, these true and faithful men should control the work of reorganization and reformation absolutely. I say that the traitor has ceased to be a citizen, and in joining the rebellion has become a public enemy." * * * "Before these repenting rebels can be trusted, let them bring forth the fruits of repentance."

And he added:

"And these leaders must feel the power of the Government. Treason must be made odious and traitors must be impoverished. Their great plantations must be seized and divided into small farms and sold to honest, industrious men."

Let us see how these utterances have been followed. Have traitors a back seat in the restoration of the States recently in rebellion? Who is Governor of the State of Mississippi? Benjamin J. Humphreys, elected even before he had his pardon in his pocket. Who of North Carolina? Jonathan Worth, who beat Holden, whose loyalty to the South was such that the soldiers of Jeff. Davis threw his printing press into the streets. Who of the State of South Carolina? James L. Orr, who was a leader in the rebel congress. Who ruled their conventions in their reorganization? Men fresh from the rebel armies. Who came knocking at the doors of these Halls for admission? An unbroken delegation of traitors from the States of South Carolina, Georgia, and Alabama; men who served as senators and representatives under that bastard concern of Jeff. Davis. Even the unpardoned vice president of the so-called confederacy is sent as a Senator from the State of Georgia, and the sterling patriot Hill is told, we have no use for such men as you in Georgia, and she wants no such representatives at the national capital.

Now, sir, we do not expect to hang all the traitors. The world affords no parallel of a great conspiracy, such as we have had in this country, in which all the guilty actors suffered the penalty of the law. For myself, I shall be satisfied if the President will carry out his declarations so far as to hang even a few of the leading actors in this drama of blood; but I will not be satisfied to see these men and their sympathizers gain the triumph, when the war has passed, by the ballot which they failed to secure by the bayonet in the field.

Again, sir, we are told that we must trust these people, these men who sought the life of the nation. We are told, now that they submit, that they are as loyal as any people. Yes, we are told more than this; we are now told that the men who stood by the flag of their country, and who defied treason in the darkest hours of the Republic, and who now demand guarantees for the security of their hard-earned labors, and the representatives of these loyal people who demand these guarantees, are disunionists, traitors, disloyal men, and that we are seeking to destroy the Government.

Mr. Speaker, if seeking to secure to those who resisted a great conspiracy, and who defeated its aims, the control of the Government which their strong arm has saved constitutes a disunionist, then I plead guilty to the charge. If asking that traitors be punished, and have given to them the very modified form of punishment which simply prohibits them from holding office under the Government whose death they sought, then I bear upon me the mark of traitor, and shall wear it to my grave as the proudest badge of honor my country could bestow upon me. If to ask that the victory won by loyal arms be secured by a fundamental law to those who never faltered in their support of the Union against armed foes, and that those foes in future shall not stand on an equality with these brave men, then I am a disloyal man; but bear in mind, sir, such a disloyal man, such a traitor, such a disunionist as no law, no statute, and no constitutional provision known in this Republic condemns either to death, to exile, to imprisonment, or to disqualification from office. How stands my case in comparison with the followers of Jefferson Davis? I leave the country to judge as to who are the traitors.

The law defines treason as a crime and fixes the penalty; but as no man expects or desires, as history shows no case, and should not where all who have engaged in such gigantic conspiracies have suffered the extreme penalty of the law, and as the President himself has declared that treason is a crime, must be punished, and traitors made odious, let us by this amendment punish them for their crimes; let us make all who have engaged in treason infamous in the eye of the law to all time by saying to them, you can neither make laws nor can you administer them for the loyal people of this land. And while I do think that the vindication of the power of the Government demands the execution of certainly the leading traitors of the rebellion, justice to the memory of the dead requires that their graves shall not be ruled over by men who waged a war against the nation in whose defense these heroes fell.

In my humble judgment, this is the safest and surest guarantee the nation can have for the future. Men know when they enter a great conspiracy that if it fails they will not have the extreme penalty of death inflicted upon them, therefore they do not hesitate when it gets under way to enter it; but let the Constitution cut them off forever from all the offices of trust, honor, or profit, and let this provision be enforced, and ambitious men will be slow to commit an act which silences their voices in all that pertains to the great rights of freemen forever. Let us adopt this amendment, and the men who have proved unfaithful, the men who made war upon us, can never assume control of this Government again. Adopt this amendment, and you put the legal stamp of condemnation upon them, and forever secure to the loyal the victory over armed treason which the Army of the Union achieved and sealed by the blood of more than three hundred thousand slain soldiers of the Republic.

Now, let us see how much these people are to be trusted. We must judge the future by the past. What has been their past? Do they present such a record as will justify this House, the Representatives of the people, the executive power, and the great loyal country which maintained the Government, in trusting them? Their great leaders sat in these Halls, held high places in all departments of the Government, and the most responsible positions in each of the States which went into secession. Each and every one had sworn to support the Constitution of the United States and to uphold the laws thereunder, and with this solemn oath resting upon their souls they plunged into a rebellion having for its chief purpose the destruction of the very Government they had thus pledged their honor to maintain. They then eagerly took a second oath, and pledged their eternal support to a bogus confederacy in direct antagonism to the Government of the United States. Four years roll on—years of strife, of din and battle and war, in all its fury, by reason of this treachery; and these same leaders, with their deluded followers echoing their sentiments, pour out anathemas and invectives against the freemen of the North, swear and reswear and then swear once more that they never will consent to live under Federal power again; that the war must go on until their independence is achieved, or war forever; that they would continue until the last of the race had gone down into bloody graves upon the battle-field rather than yield; that the honor of the sons of the South would carry on the struggle until victory or death crowned their labors.

What has come of all their oaths; what of all their boasts; what of their honor? They perjured themselves in their first oath of allegiance to the Government of the United States when they left our flag. Their boastings and their honor fell back in terror, and presented a ghastly show before the advance of the grand Army of the Union as it swept on from Culpepper, through the Wilderness, over the ramparts of Spottsylvania, across the Rapidan, and thundering at the gates of Petersburg, rolled its echoes to the rebel capital, and made the great leader of treason tremble for his safety. Ay, sir, went out of their souls as the heroes of liberty, with the grand shout of victory, closed around their lines, and the ripling waters of the Appomattox told the story, "Your vaunting words have failed." What scene do we witness then? Not having taken oaths enough yet; not having pledged their honor sufficiently often, they advance from their discomfiture, and faster than oaths can be filled up, they swear anew to support the Constitution of the United States, swear to support all laws of Congress and all proclamations made by the President during the war in reference to slaves; ay, further, swearing to support all that are to be made in future; and having done this they coolly tell us, "We are loyal men, we are to be trusted," and uniting with those who during the war were their sympathizers in the North, and who aiding them by attempts to baffle the Government, preaching against it, and denouncing it as a tyranny and a usurpation, more than half fought their battles of treason. Joined to a few recreants to the cause of their country and freedom, with fawners at the foot of power, they have the effrontery to say to the representatives of the nation in this Capitol, to the representatives of that people who crushed out treason, "You are traitors to your country if you deny our right to rule." Ay, more, it is printed in their papers, not only South but North, and their utterances whispered through excited crowds, led by men who during the war were shut up in prison for their treason, "This traitor Congress must be driven from the Halls of the nation's Capitol" if we do not admit to our deliberations these unrepentant conspirators; these thrice-perjured individuals; these men of honor!

And are we to be controlled by such threats as these? Must we fling wide open our doors and bid such men, acknowledged traitors to their country's laws, with fierce wrath burning in their hearts not only against us, but against all who resisted them, because of their defeat, and because we dare ask a vindication of the honored dead, because we dare propose laws to secure to the living heroes the control of the land in whose peril they went forth to battle, and which by their valor they saved; must we yield to them the fruits of our victory, bought by four long weary years of blood? Let others do as they may, but when you ask me to give my consent and to join in the surrender, I answer "Never! never! never!"

Believing this proposition to be right, I contend for it, and I ask the representatives of the nation's defenders to consider it, to adopt it, and hold out for it until we have secured its ratification. Will men hesitate to do right because of a fear, because of opposition in certain quarters, a fear that it will not be adopted; that we cannot secure the required number of States in its favor? There is no measure, sir, that will so firmly unite the loyal people. There is nothing to the support of which they will more eagerly rally. Upon this the loyal party of the nation can stand and can and will win success, because it will be a success of the right, a victory over treason and crime, and crowning the heroes of the struggle in peace with the laurels they so nobly won in war. Dare any party go before the loyal North and contend that traitors shall be allowed to make and execute laws and rule over the men by whose strong arm the power of the conspiracy was crushed in war; they will be swept out of existence and more overwhelmingly defeated than were the armed hosts of Jefferson Davis. We can secure the adoption of this amendment, which, in my opinion, the country so imperatively demands,

Every State which was loyal during the war will pass such an amendment; then, sir, if the States which went into the rebellion desire to move on again on the great principle which the war has settled, that those who stand by the Government shall rule, let them accept this, the greatest issue of the war.

But we are told that these people and these States submit now; that they accept the issues of war. Do they? How do they accept them? By their course since their armies surrendered; by their public and private acts; by their fierce and bitter invectives against and denunciations of all who stood up to thwart their designs; by their ostracism, politically, civilly, and socially, of all Union men within the limits of territory over which they lately ruled; by electing the most violent rebels to all the offices in all these States, and by the largest majorities, when opposed by men who have dared to stand by their country; by insulting the loyal dead and the living victor in sending up to this Capitol, to take part in the national legislation of the country, the very leaders of the rebellion itself, and that, too, in the face of the law which says you shall not enter—even sending to our doors unpardoned rebels? Sir, if men see submission in these things I do not. If men find an acceptance of issues in these things their search is deeper and more incomprehensible than mine.

Sir, I desire peace. I have seen enough of war. For four years I lived and breathed and acted in the midst of war. I have seen it on the battle-field, heard it in the groans of the dying; have seen its fierce fires sweep around my own home; have seen the soldiers of the Republic in the dark, gloomy, and horrid pens of misery, where rebel bayonets compelled these heroes and defenders of freedom to starve and freeze and sicken under a banner which flaunted treason over them as, away from friends and all they held most dear, life fled and their spirits went home to God; have seen it in all its horrors, and want to no more. But I want a peace which, when it binds up the wounded side of the Republic, will say to the widows and orphans of these dead heroes of the nation, you shall enjoy the fruits of victory gained by the martyrs who have fallen. I want a peace which places those gems of honor which men seek to wear in their crowns forever beyond the reach of him who has dared to raise his hand or lift his voice to bring dishonor upon our banner of beauty and glory, or who has had it in his heart to blot out one star from that emblem of liberty and freedom. I desire to see our country move on in her career of glory, but I desire to see her made secure to the people who stood by and upheld her laws, and do not wish to see her destinies transferred into the hands of men who sought her destruction. I desire to see those people who wandered away from their duty come back into our house again, but not to rule it. When the poor prodigal who without cause left his father's house, found himself starving and in want, he did not come back claiming the inheritance as these men do. How would his father have met him had he come proudly boasting of his deeds, and said, all the matters over which you exercise control I have an equal right to share and govern with my brother who always remained with you in obedience? Would the old man, think you, have killed the fatted calf for this unrepentant son? Such is not the teaching of the Book from which this parable comes.

Let these wanderers, then, accept the issues of war, the main one of which is that the loyal must rule. Let them prove their faith by their works; show their loyalty by their acts; show their submission by giving their voices to secure the great ends for which the gallant army of the Union fought. Let us put this amendment before them. Upon it they may pledge their faith, and when they adopt the proposition they then prove to the world that they do accept the greatest of all issues, and the nation teaches a lesson to men to rebel against a free Government no more forever. If they refuse to accept it, it is proof that they do not accept the issues of the conflict; that they do not admit their wrong; and with their hearts still burning with fiery zeal and indignation against those who prevented them from carrying into effect their schemes to destroy this Union are they, or so long as they hold these feelings will they be, fit to resume all their rights and proper relations in this Union? Are they the men to be placed upon an equal footing with those who never raised an arm against their country's flag? Whether we would have the right or whether it would be true policy to say to them, you cannot resume your proper relations in the Union until you have ratified this amendment, is a question I need not answer. But should we demand such action, we have the precedent of the President of the United States to guide, and I believe the loyal heart of the nation would respond in a loud amen.

But we will be told that this kind of a restoration is incomplete: that its success will not tranquilize nor satisfy the South, and that it ought not to do so; that there are not loyal men enough in the South who are fit to represent them; that only traitors are intelligent and have qualifications such as are suitable for representatives of the people. Then, sir, it is their fault and not ours. Let them go unrepresented until men rise up who are fit. In this land ideas are rapidly developed, and while we wait for material the interests of the country will not suffer because we have not these intelligent traitors to aid us in making and executing the laws of the nation. But the assertion is not true. To-day there are in every district in the southern States Union men as well qualified to hold Federal places of all kinds as the traitors who arrogate this wisdom to themselves. In the language of a man whose home is more southern than my own, "Let them have the benefit of equal laws, but take from them at once and forever the power and temptation to renew their assaults upon the life of their country. Let no Union man, high or low, court the favor of traitors. He will never win it. From the first they have held him as their enemy, and to the last they will be his. Every Union man who puts his trust in them will sooner or later find it out."

Let the representatives of the people do their duty and the people will stand by them. Let us make this a part of the Constitution of our country. A real, permanent triumph will then have been achieved; the honor of the nation not only vindicated, but the nation itself protected and guarantied for the future; the honor of the scarred veteran, and of his dead brother soldiers engraven in colors of living light which no time can efface on their country's record; the widows and orphans of the departed heroes have their sad homes—made lonely by accursed treason—comforted in the great accomplished fact, written in characters in the Constitution of the country, in whose defense their martyred husbands and fathers died, in characters which will last so long as the Republic lives; the loyal rule the land they saved; the traitor's voice is hushed and must be silent forever; the green grass which grows upon the patriot's grave, the flowers which bloom around their resting-places shall wave in the triumph of freedom, and the whirlwind and the thunder-cloud as they sweep past their tombs, reëcho with tones that will shake the world; the hand that lifts itself against the law is struck down; the voice which advocates treason, conspiracy, and rebellion shall not again be heard in the Republic forever.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had passed a bill (S. No. 20) granting lands to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific coast, in which he was directed to ask the concurrence of the House.

The message further informed the House that the Senate had concurred in the resolution of the House of Representatives to prohibit the admission of Senators or Representatives into either House of Congress from the States lately in rebellion until Congress shall have declared such States entitled to representation.

RECONSTRUCTION—AGAIN.

Mr. LOAN then addressed the House. [His remarks will be published in the Appendix.]

Mr. THORNTON. Mr. Speaker, the absorbing question since our assemblage here is, in one view of it, a question of union or disunion, and in another view it is a question of absolute power in the Federal Government, and the consequent extinguishment of the States, or a national Government, with delegated powers, composed of States clothed with full powers of local government.

If the States which attempted to secede are "out of the Union," either in fact or in law, then the war has failed in its avowed object. If they are "dead and defunct" States, then the war was a fearful tragedy, resulting in the death of both the Union and the States. If they have "lost their powers of local government," then we have a despotism, a consolidated Government, instead of one with specific and limited powers. If they have no right of representation in Congress, then the American Revolution was a mockery, and free representative government is a fleeting shadow.

The legal *status* of these States is the merest abstraction, separated from the denial of any right. But it becomes of infinite importance to every man in this broad land, when, as a consequence of such condition, it is declared that the people there have no rights in a Government based upon the consent of the governed. Gentlemen upon the opposite side differ somewhat in the language used to designate the character of these States. Some call them dead, and with ghastly smile gloat and enjoy the picture imaged by a diseased mind. Some say that they are out of the Union; that they have wandered from the homes of their infancy, and deserted the halls of their manhood; and yet, like a cruel and unnatural parent, they refuse to welcome them back, and shut the door against them, when repentant they return. Others assert that they do not sustain practical relations to the national Government; and yet no attempt at reconciliation is made; no word of kindness is spoken; no warm grasp of friendship is given; but bitter invective and unmanly revilings are hurled at a defeated enemy. Each one, however, arrives at the same conclusion, that the Union is not and shall not be restored.

It may be said that there is no intention to debar the States from a participation in the Government for any great length of time, and that the desire is to defer the admission of Representatives merely to ascertain the devotion of the people to the Constitution and laws. A Representative should be attached to the Constitution, and should sincerely pledge himself to support, protect, and defend it. He should be loyal to the Government, and I hold, in the language of the President, that—

> "A man who acknowledges allegiance to the Government, and who swears to support the Constitution, must necessarily be loyal. A man cannot take that oath in good faith unless he is loyal."

I also adopt and commend for consideration the language of the President in his veto message:

> "I hold it my duty to recommend to you in the interests of peace and in the interests of the Union the admission of every State to its share in public legislation; when, however insubordinate, insurgent, or rebellious its people may have been, it presents itself, not only in the attitude of loyalty and harmony, but in the persons of Representatives whose loyalty cannot be questioned under any existing constitutional or legal test."

The assumed right to exclude Representatives until their loyalty is proved by witnesses to be called, or until the Constitution is amended, or some favorite measures of policy are enacted into law, is revolutionary, and if persisted in must end in a complete change of the Government. Such is the plan. This House has adopted a resolution, in the hour of passion and by the suppression of discussion, depriv-

ing eleven States of any share in the councils of the nation until Congress shall have declared such States entitled to representation. By the terms of this resolution, the Senate and House must concur as to the qualifications of Senators and Representatives. This rule is in direct opposition to the Constitution, which provides that—

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

This action is in effect disunion. Disguise it as you may by urging the anomalous condition of these States; palliate it by the plea of necessity; insist upon it as a consequence of treason and rebellion, still this resolution will forever be upon record as a declaration of the American Congress severing the only ligament which bound these States to the Union.

What is the tie which links these States together? What is the bond of Union? I answer, the Constitution of the United States, which gives to each State the right of representation. Without a guarantee of this right there never would have been a ratification of it. Before its adoption there was no "perfect Union." In the language of the Articles of Confederation,

"Each State retained its sovereignty, freedom, and independence."

The Constitution made one harmonious whole out of thirteen separate, independent States. Each new State has been admitted coequal with them, with well-defined and amply secured rights written in the bond. By virtue of this instrument the States are members of the Union, and derive all their rights and powers in the Union from it. Their functions as States in the Union are regulated by it; therefore they cannot exist for a day or an hour as States of the Union without the sanction of the Constitution. In cases of contract, where certain rights are secured by stipulations in the bond, if either force or fraud should be used to divest such rights, every honest judge in the land would enforce the contract, and punish the dishonest attempt to violate it. Rights are not lost unless the instrument is canceled. Neither are the rights of States, contained in express provisions of the Constitution, "lost or forfeited," so long as the Constitution shall live. Has it been overthrown? Not by the rebellion. War was waged upon our part to maintain it. It has been trampled upon and disregarded by a portion of the people when frenzy raged. Armed hosts assailed it, secession attempted to undermine its firm foundations, men blind with fury spurned it. Yet, like a thing of life, endued with perpetual existence, it has withstood the shock of battle, and is still the supreme law of the land. The Constitution having been saved, the States are saved with it. The salvation of the one is the salvation of the other. You cannot separate the one from the other, and preserve either in their integrity. Secession has failed, armed rebellion has failed seriously to impair the vitality of the great charter of American freedom. Shall the future historian record the fact that the wild dreams of the theorist and the base passion of party defaced the sacred instrument which had survived the most violent civil commotion which ever convulsed the world? Sir, the Constitution still lives, an enduring monument to the wisdom of our fathers, which will rise higher and higher until it shall shadow all the land. It may be set aside here; attempts to amend it may succeed here; yet the people will open their hearts to receive it, and will guard it from injury and overthrow. They will love it and cherish it; for all the grand glories of the past gather round it, and a bright and hopeful future awaits it.

The States are vital to the Union. They are united together by a Federal compact, and thus form a supreme national Government, acting not only upon the States as members of the Union, but upon all the people in their individual and corporate capacities. Though subordinate to the sovereignty of the nation, they are necessary to its existence. They may live without the Federal Government; but it cannot live without their sustaining power. The continuance of each department of the Government depends upon the action of the States. Abolish them, and the corner-stone of the building is removed. If a part of the States can be reduced to Territories as a punishment for rebellion, where is the limitation? As well may any refractory member be reduced to a territorial condition for slighter offense, if the numerical and physical power exists. Any act of legislation declaring the States Territories or conquered provinces violates the Constitution, because it recognizes all which have been admitted into the Union as States with equality of rights. Such an act would make a centralized despotism, as odious and oppressive and dangerous to the liberties of the people as successful secession. The States and the Union must stand together, or the Union will vanish and become—

"A school-boy's tale,
The wonder of an hour."

Let no unholy hand seek to disrobe the States of their powers, and cast them, naked and shivering, out of the Union. Rather let us admit their rights and reclasp them to our hearts.

Chief Justice Marshall, in speaking of the States, said:

"These States are constituent parts of the United States. They are members of one great empire."—6 *Wheaton*, 264.

I assume, therefore, that they are elemental parts of the Union, as necessary to its life and vigor and power as the soul is to the body. Sever the ties that bind the one to the other, and the Union will become a ghastly corpse, for "soul is wanting there." You cannot make them "defunct" States or States with "lost powers." Their proper habitation is in the Union. The States and the Union coexist. You cannot and dare not drive them out or shut the door against them unless you blot out the brightest page in the history of man, and darken forever the light of hope which is dawning upon us. When the people of these States yield a willing obedience to the Constitution and laws of the Union they have a right, through their representatives in Congress, to say to you, in the language of the noble Clay:

"I am in the Union, and I am for staying within the Union, and defying any portion of the confederacy to expel me or drive me from the Union."

The States are not only refused representation, but they are to be denied the right of local government. The gentleman from Ohio [Mr. SHELLABARGER] said:

"Such States [the seceded States] and their people ceased to have any of the rights or powers of government, as States in the Union; and this loss of the rights and powers of government was such that the United States may and ought to assume and exercise the local powers of the lost State governments."

This is only clothing in different language the dogma that the States derive their local powers of government from the Union. In an opinion of the Supreme Court of the United States, Chief Justice Marshall said:

"The several States which composed the Union, so far at least as regarded their municipal regulations, became entitled, from the time when they declared themselves independent, to all the rights and powers of sovereign States; and they did not derive them from concessions made by the British king. The treaty of peace contains a recognition of their independence, not a grant of it."

This independence, this right to make their own municipal regulations, they have never surrendered. It is a right higher and more sacred than any which kings and parliaments and congresses can grant. It is a right given by God to man, sanctified by the blood of our fathers, and handed down to us for preservation. Any infringement upon it is an act of stern despotism, which will meet with the rebuke of free men everywhere.

Have these States "lost their constitutional relations to the Union," or are they "out of the Union," or are they "outside and defunct States," in the language of the gentleman from Pennsylvania, [Mr. STEVENS?] If the rebellion had been successful they would not form a part of the Union. It did not succeed. Gigantic as it was, it has been crushed. We kept them in the Union, and therefore they have never been out, either in fact or in law. They levied armies to resist laws to which they were alike subject with us. They contemned the authority of the common Government, and did not, for a time, coöperate with us in the enactment and administration of the laws. We compelled the fulfillment of their duties, enforced the law and obedience to the Constitution. Their acts could never take them out of the Union without our consent, unless success crowned their efforts. Only a part of the people forfeited their rights by rebellion and crime if the law was enforced. If there are forfeitures by operation of law, and without trial, the clemency of the Executive, by general amnesty and special pardon, has remitted them. Before the rebellion these States had rights in the Union. During the war they failed, and refused to exercise them. Such failure and refusal did not make them "defunct States;" or take from them their constitutional rights.

Upon no principle of law or reason does the neglect or refusal to enjoy or use a right necessarily deprive you of it. Unless barred by lapse of time, or changed circumstances utterly prevent its exercise, a right is continuing. The rights of the States are not barred by time. No altered condition of things can prevent or render unnecessary the exercise of them, except a complete change of Government. The war has ceased; the people are willing to obey the laws, and adapt themselves to the new state of things. The Constitution resumes its sway, and the States resume their functions in the Union. Unless this be so the southern people are mere serfs; and while you claim the honor of having freed four million slaves, history will award to you the infamy of having enslaved six million freemen.

Subjugation is claimed as a result of the war. The gentleman from Pennsylvania [Mr. STEVENS] has informed us—

"That the late confederate States are out of the Union to all intents and purposes for which the conqueror may choose so to consider them."

The war was commenced to preserve the Union and the equality and rights of the States unimpaired. Now it is over, you insist upon a destruction of these rights and the confiscation of private property. Even in the midst of war the rights of war are to be measured by the object of the war. Since the example of William of Normandy in the conquest of England, no such rights of conquest have been demanded among the civilized nations of Christendom. During a war it is not only a right, it is humane and a necessity, to resort to stringent measures, and sometimes to desolate the enemy's country; but when the battle has ended, private rights and private property should always be respected. The southern States insisted upon the right of secession. We denied it by the authority of the Constitution, which prohibits them from keeping troops or ships of war in time of peace, entering into any compact with a foreign Power, or engaging in war unless invaded or in imminent danger of invasion. By virtue of the same Constitution we raised armies to prevent a separation; and it protects the citizen in his property, of which he cannot be deprived without due course of legal proceedings, and as a punishment for crime.

In vindication of this monstrous doctrine of confiscation the void ordinances of secession are presented. This plea of estoppel is a most unfortunate one. Lord Kenyon said: "Estoppels are not to be favored, because the tendency of them is to prevent the investigation of truth." Is the plea made to smother investigation, to cover up the past, and thus conceal the mad fanaticism which afforded a pretext for the rebellion? This is its general design and office. But there were two parties to the record. The seceded States were one, and the United States the other. It is laid down in the books that an "estoppel is reciprocal, and binds both parties and their privies." If,

therefore, the record bars the late "confederate States," it is equally obligatory upon the United States. If they have no rights in the Union, then by the same record we are estopped from any interference with them. The true position is, that the record was made before a tribunal having no jurisdiction, and that all ordinances of secession are null and void because in conflict with the supreme law.

The *status* of the States lately in rebellion, in a legal and constitutional sense and not in fact, is the question. During the late war the legislative and executive departments of the Government recognized these States as States. Mr. Lincoln, in his first inaugural address, declared that "The right of each State to order and control its own domestic institutions according to its own judgment exclusively is essential to the balance of power on which the perfection and endurance of our political fabric depends." In his first message, on the 4th of July, 1861, he said that after the suppression of the rebellion he would "probably have no different understanding of the powers and duties of the Federal Government relatively to the rights of the States and the people under the Constitution than that expressed in the inaugural address." In a debate on the Army bill in the Senate on the 18th of July, Senator SHERMAN said that the war was "not to be waged for the purpose of subjugating any State or to interfere with the social or domestic institutions of any State; it was to preserve this Union, to maintain the Constitution as it is in all its clauses, in all its guarantees, without change or limitation." In that dark hour after the battle of Bull Run, when the fate of the nation and its capital hung suspended by a thread, and when impending danger made men sincere and honest, the following resolution was offered, on the 22d of July, 1861, in the House of Representatives, by the venerable and lamented John J. Crittenden:

"*Resolved*, That the present deplorable civil war has been forced upon the country by the disunionists of the southern States, now in arms against the constitutional Government and in arms around the capital; that in this national emergency Congress, banishing all feelings of mere passion or resentment, will recollect only its duty to the whole country; that this war is not waged on their part in any spirit of oppression, or for any purpose of conquest or subjugation, or purpose of overthrowing or interfering with the rights or established institutions of those States, but to defend and maintain the supremacy of the Constitution and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired; and that as soon as these objects are accomplished the war ought to cease."

The resolution was adopted with only two dissenting votes. This was a solemn promise made in the hour of trial and of gloom. The country relied upon it and acted upon it. Our honor and our manhood and our triumph demand its fulfillment. The time has come when this resolution says "the war ought to cease." Then, in the name of liberty and of Union, let it cease.

On the 8th of August, 1861, the Secretary of War wrote to General Butler as follows:

"It is the desire of the President that all existing rights in all the States be fully respected and maintained. The war now prosecuted on the part of the Federal Government is a war for the Union and for the preservation of all constitutional rights of States."

In December, 1862, after nearly two years of war, and after the establishment of a *de facto* government in the late "confederate States," when urging upon the attention of Congress an amendment of the Constitution providing for the gradual emancipation of slavery, Mr. Lincoln said:

"The plan is proposed as permanent constitutional law. It cannot become such without the concurrence of two thirds of Congress and three fourths of the States. The requisite three fourths of the States will necessarily include seven of the slave States."

During the Thirty-Eighth Congress a joint resolution was adopted, proposing an amendment to the Constitution abolishing slavery. On the 18th of December, 1865, Secretary Seward officially announced the ratification of the amendment by the requisite number of States and included in the number the States of Virginia, Louisiana, Tennessee, Arkansas, South Carolina, Alabama, North Carolina, and Georgia. They have exercised the highest function belonging to a State in the Union. They can change the supreme law, and yet are denied representation here to aid in ordinary legislation.

In 1863 Mr. Lincoln proposed a plan for the establishment of loyal State governments in the States then in rebellion, and used the following language:

"And it is suggested as not improper that, in constructing loyal State governments in any State, the name of the State, the boundary, the subdivisions, the constitutions, and the general code of the laws, as before the rebellion, be maintained subject only to the modifications made necessary by the conditions hereinbefore stated."

These were the abolition of slavery and taking an oath to support, protect, and defend the Constitution and abide by all laws and proclamations with reference to slaves, so far as not modified or declared void by the Supreme Court.

He adhered to this plan to the day of his death. In his last public utterance, only three days before his assassination, in reference to it, he said:

"This plan was submitted to the then Cabinet and approved by every member of it."

At the same time he declared the question as to whether the States were in or out of the Union to be a "pernicious abstraction."

From the commencement to the close of the war, the executive department of the Government committed itself and the country against this idea of "defunct States." Loyal men South, as well as North, were thus encouraged, and their sympathies enlisted against the rebellion. Evenhanded justice, if no higher incentive, commends this policy now as well as then.

The legislative as well as the executive department of the Government presents an impassable barrier against this intended inroad upon the rights of the States.

On the 5th of August, 1861, after the organization of a government in the "confederate States," and in the midst of the war, Congress passed an act to provide for raising revenue. In that act a direct tax of $20,000,000 was imposed upon the United States. In the apportionment of this tax, the law uses the following language as to the seceded States:

To the State of	
Virginia	$937,550 66
North Carolina	576,194 66
South Carolina	363,570 66
Georgia	584,367 33
Alabama	529,513 33
Mississippi	413,084 66
Louisiana	385,886 66
Tennessee	669,498 00
Arkansas	261,886 00
Florida	77,522 66
Texas	355,106 66

Every provision of law for raising a revenue is enforced in these States to-day. Stamp duties and income duties are imposed upon the people. The tax-gatherers of the Federal Government are there exacting taxes from an unrepresented people. Section second of article one of the Constitution provides that—

"Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers," and that "each State shall have at least one Representative."

I grant that a State refusing to send Representatives may be taxed by the majority of the States. But when Representatives have been chosen and ask admission into our councils and it is denied, there is no right of taxation. To impose burdens in such case is in violation of the Constitution and of every principle of free government. It is a usurpation and a crime.

The action of Congress during the war in the recognition of these States as members of the Union has been uniform. A law was passed on the 4th of March, 1862, declaring that the number of members of the House of Representatives of Congress should be two hundred and forty-one after the 3d of March, 1863. Of this number fifty-seven members were assigned to the seceded States. We have here only one hundred and eighty-four. Where are the fifty-seven? They are knocking at the door, and you refuse them not only admission as members, but the common courtesy of seats in this Hall to listen to your deliberations.

During the war Senators from the State of Virginia and Representatives from the States of Louisiana and Tennessee were admitted as a part of the legislative body of the country.

Ports of entry were established in some of these States, and judges, marshals, and district attorneys were appointed, with the consent of the Senate, while the war was raging.

I will quote in this connection from a letter of a man tried and true and who nobly battled in his country's cause. General Sherman, in a letter dated Savannah, January 8, 1865, said:

"Georgia is not out of the Union, and therefore the talk of reconstruction appears to me inapplicable. My opinion is that no negotiations are necessary, nor commissions, nor conventions, nor anything of the kind. Whenever the people of Georgia quit rebelling against their Government, then the State of Georgia will have resumed her functions in the Union."

The record, therefore, is against the position that the seceded States were or are out of the Union, in any sense or for any purpose. Executive message and proclamation and legislative enactment all concur in pronouncing it false in theory and in fact. We are precluded by the record, and a denial now of representation is an attack upon the opinion of the late President, stultifies the action of the Republican party, and involves it in a dark labyrinth of inconsistency from which there is no escape but in base dishonor.

Let me recur to the assumption that these States are "conquered territory." Four of them aided in the formation of the Constitution; then ratified it and became members of the Union. All the others had been admitted as coequal States. We had purchased the territory of a number of them. The Constitution was and is the shield to protect them. Every assault upon them is a covert assault upon the Constitution. In what sense are we conquerors with the rights of conquest? We have conquered the rebellion, but our conquest goes not one step beyond. Before the war the territory was our territory; it is our territory now. The people were and are now a part of this great nation. But gentlemen say, "We treated them as belligerents during the war, and therefore they have become to us as a foreign people, as alien enemies." The late President and his Administration, moved by the noblest promptings of mercy and humanity, recognized the people in arms against the Government as belligerents, as an enemy carrying on a war. This recognition did not make them a foreign people. The legitimate purpose of the war, the suppression of the rebellion and the preservation of the Union and the States, was not thereby defeated. The only object was to mitigate the evils of the war. Even if the rebellion could properly be called a revolution, it was only an internal revolution. Wheaton says:

"A State, as to the individual members of which it is composed, is a fluctuating body, of which the existence is perpetually kept up by a constant succession of new members. This existence continues until it is interrupted by some change affecting the being of the State. If this change be an internal revolution, merely altering the municipal constitution, the State remains the same. It neither loses any of its rights, nor is discharged from any of its obligations."

The rebellion did not rise to the dignity of a revolution. Success alone could have stamped it a revolution. The insurrection having failed, the States remain the same.

Even if the rights of conquest existed, that spirit of manhood and of true courage which ever prompts mercy to a fallen foe bids passion and hatred stay their work. But in cases of conquest the Supreme Court of the United States has said:

"It is very unusual, even in cases of conquest, for the conqueror to do more than displace the sovereign and assume dominion over the country. The modern usage of nations, which has become law, would be violated; that sense of justice and of right which is acknowledged and felt by the whole civilized world would be outraged if private property should be confiscated and private rights annulled."—7 *Peters.*

Notwithstanding this opinion of the highest tribunal in the country, the gentleman from Pennsylvania [Mr. STEVENS] proposes a most nefarious scheme of confiscation, which would

outrage our sense of justice and of right, bring dishonor upon the character of the nation; madden and make desperate the people of the South, utterly prevent any Union of the sections, and in time would make us detest our own baseness.

Sir, there are now no belligerents. The soldiers of the army lately in hostile array against us have gone to their homes in accordance with the manly and merciful terms of Grant and Sherman. The prominent leaders have either fled or are in prison or have sued for pardon. Our own gallant Army has been disbanded. In the case of Amy Warwick, in admiralty, Judge Sprague, of Massachusetts, said:

"It has been supposed that if the Government have the rights of a belligerent, then, after the rebellion is suppressed, it will have the rights of conquest; that a State and its inhabitants may be divested of all political privileges and treated as foreign territory acquired by arms. This is a grave and dangerous error. Belligerent rights cannot be exercised where there are no belligerents. Conquest of a foreign country gives absolute, unlimited sovereign rights; but no nation ever makes such a conquest of its own territory." * * * * "When the United States take possession of a rebel district they merely vindicate their pre-existing title. Under despotic Governments the right of confiscation may be unlimited; but under our Government the right of sovereignty over any portion of a State is given and limited by the Constitution, and will be the same after the war as before."

I think that I have shown, both by reason and by authority, that the law of conquest does not apply; and if it did, to attempt its enforcement would violate the modern usages of civilized States, shock the moral sense of the Christian world, and make a record of oppression and infamy that would defy the tooth of time. It would fix a stain upon our national character upon which no recording angel would drop a tear and blot it out forever.

What is a State in the American Union? It is a fundamental error to give the same definition to a State in the Union as is given to the term State in the law of nations. Wheaton says:

"A sovereign State is generally defined to be any nation or people, whatever may be the form of its internal constitution, which governs itself independently of foreign Powers," and that "the subjects of international law are separate political societies of men, living independently of each other."

Such a State may have its form of government completely changed, either by the act of its own citizens or by foreign conquest. It may be deprived of its independence, as have been Poland and Hungary, and no parent Government rescues it from disaster or relieves its downfall. A State in the family of nations is one thing, and a State in the American Union a different thing. Both have territory, definite boundary, people, and a system of laws. The one is sovereign, the other subordinate. The one is independent, the other dependent. The one can regulate commerce with other nations, coin money, declare war, make peace and ratify treaties, raise and support armies, and provide and maintain ships of war in time of peace; the other is expressly prohibited from the exercise of these high acts of sovereignty. To the one the law of nations applies; to the other it does not. Therefore, the definition of a State in the law of nations has no appropriate application. In this country absolute sovereignty is in the people. The national Government represents this sovereignty. The powers delegated to it, and the restrictions imposed upon the States, both impair the sovereignty of the States. The Constitution says:

"Each State shall have at least one Representative."

"The Senate shall be composed of two Senators from each State."

"Each State shall appoint in such manner as the Legislature thereof may direct a number of electors equal to the whole number of Senators and Representatives."

In reference to these provisions Chief Justice Marshall said:

"These clauses show that the term 'State' is used in the Constitution as designating a member of the Union, and excludes from the term the signification attached to it by the writers on the law of nations."

A State, as a member of the Union, is established for perpetuity as the Union is established for perpetuity. As such, therefore, it can never die. It may modify its government at pleasure, always preserving a republican form, but it cannot take itself, and no earthly power can take it, out of the Union without the consent of all the States. Treason and rebellion may rage, the storm and tempest of war may come, but if the Union is carried safely through to a haven of rest, each State will find secure shelter in the same haven.

The President, with true discernment, has perceived and in forcible language has expressed the correct theory as to the rights of the seceded States. In his message he said:

"The States, attempting to secede, placed themselves in a condition where their vitality was impaired, not extinguished, their functions suspended, not destroyed."

All who entertain this doctrine are called by the gentleman from Pennsylvania [Mr. STEVENS] "dreaming theorists." Sarcasm and bitterness will never change a truth. The President will be sustained in this view by the people of the country who desire peace and Union, with equality of rights to all the States, degradation to none. His plan will commend itself to the judgment of all men uninfluenced by hate and fanaticism. His course for the restoration of peace and confidence and Union will be welcomed and approved by the American people. Did the fact of rebellion destroy the rights of the States; subject them to your will; give you power to govern them by officers of your appointment, by laws of your enactment; to tax the people and allow them no representation; make them abject slaves? If you had declared these as the objects of the war, the brave and gallant men who rushed to the rescue of their Government would have laughed at your calamity. They suffered and toiled and battled and died to secure liberty and Union, to hold the States from madly rushing from their spheres. The grand purpose was accomplished, and now you would change the fruit of their labors into bitterness. This idea of "defunct States" is a most cruel mockery, not only to the people of the southern States but to the hopes and aspirations of millions everywhere, whose hearts throbbed with joy and pride and exultation over peace returned, the Union restored, and the States still shining in their original luster.

The right to exercise certain functions in the administration of the General Government, to be represented in the Senate and House of Representatives, is as fully secured as the right of local government. These functions for a time may be abandoned, and you have no power to compel a resumption of them. The exercise of them may be given up and again resumed at the pleasure of the State. It has often happened that there has been only a partial representation in the Senate and House from some of the States. Does the refusal to exercise these functions occasion a loss, a destruction, or a suspension of them? The existence of the General Government depends upon the action of a majority of the States. If non-action in time of rebellion destroys the rights of the States, then non-action in time of peace would effect the same result. Gentlemen on the other side reason that the cause of the assumed legal death of the States is their failure to act as members of the Union. The States constitute the Union. If such is the consequence to the State, then a failure of a majority of them to act would cause the death of the Union. That there is only a suspension, and not a destruction of legislative powers in such a case, is evident from the opinion of the Supreme Court. In the case of Cohen *vs.* Virginia, (6 Wheaton) Chief Justice Marshall said:

"The people make the Constitution, and the people can unmake it. It is the creature of their will, and can only live by their will. But this supreme and irresistible power to make and to unmake resides only in the whole body of the people, not in any subdivision of them." * * * * "It is true that if all the States, or a majority of them, refuse to elect Senators, the legislative powers of the Union are *suspended*."

During the war of 1812, a place called Castine was captured by the enemy, and remained for a time in his exclusive possession. After the cessation of hostilities and the evacuation by the enemy, in a case which arose, the Supreme Court use the following language:

"The sovereignty of the United States over the country was *suspended*. By the surrender the inhabitants passed under a *temporary* allegiance to the British Government."—4 *Cranch*, 391.

I prefer to adopt the choice language of Marshall, rather than the wild theory of destruction. In such cases the legislative powers of the Union are suspended, not lost or destroyed. During the late war the sovereignty of the United States over a portion of the States was suspended. They were for years under a temporary allegiance to the usurped government of the late "confederate States." The war which caused this suspension and temporary allegiance has ceased, the law has triumphed, and they are clothed with all the attributes of government as before the war. They are like—

"Spirits that live throughout,
Vital in every part."

Their vitality may be impaired, but cannot be annihilated except by the supreme and irresistible power of the whole people. The constitutions and laws of the southern States, as they have always existed, are their constitutions and laws to-day, except as modified by them or by the constitutional action of the Federal Government.

No one will deny that before the war the southern States possessed all the powers of local government, and had the right of representation in this House, as fully as New York or Illinois. These local powers must live as long as liberty survives. This right of representation must endure as long as the Union endures. The first inheres in the States; the latter can only be disturbed by the act of the States or by despotic power. In all of the northern States, during the war, the privilege of the writ of *habeas corpus* was suspended; freedom of speech was denied; the freedom of the press was abridged; the right to bear arms was infringed; the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, was violated; the courts were restrained; personal liberty was crushed; the citizen was denied the benefit of counsel, the right of trial by jury, and imprisoned without legal accusation. Our rights were not thereby destroyed. They are inherent. Upon a revocation of the proclamation, and a cessation of the state of things which prompted these arbitrary measures, the Constitution and laws woke from their lethargy, and again became our shield and safeguard. American freemen inhabit the southern States. The right of self-government inheres in them. Deprive them of it, and you chill the warm hopes of freemen everywhere, and obscure, it may be forever, the gleam of light which is brightening our pathway into the uncertain future.

The right to control these States is claimed to exist by virtue of the fourth section of the fourth article of the Constitution, which says:

"The United States shall guaranty to every State in this Union a republican form of government."

And the gentleman from Pennsylvania [Mr. STEVENS] exclaims, in triumphant and mocking language:

"They [the southern States] have torn their constitutional States into atoms, and built on their foundations fabrics of a totally different character. Dead men cannot raise themselves. Dead States cannot restore their own existence 'as it was.'"

Sir, if they are dead, no new life will ever be infused into them by this Congress. You are but tolling the death-bell, attending upon the funeral rites without sorrow and without a tear; sitting at the "sad funereal feast," and stimulating a desire for the more sumptuous banquet craved by a morbid appetite. But, sir, these States are restored, and have republican governments. A republican government is one administered by representatives chosen by the people, or one which derives its power from the people. In reference to the guarantee of such a government, Mr. Madison, in the Federalist, said:

"In a confederacy founded on republican principles the superintending Government ought clearly to possess authority to defend the system against aris-

tocratic or monarchical innovations." * * * "If the Federal Government should interpose by virtue of this constitutional authority, it will be of course bound to pursue the authority. But the authority extends no further than to a guarantee of a republican government, which supposes a preëxisting government of the form to be guarantied. As long, therefore, as the existing republican forms are continued by the States they are guarantied by the Federal Constitution. Whenever the States may choose to substitute other republican forms, they have a right to do so, and to claim the Federal guarantee for the latter. The only restriction imposed on them is that they shall not exchange republican for anti-republican constitutions."

The duty of guarantee does not devolve upon the General Government unless there is an attempt in the States to establish aristocratic or monarchical governments. I know that the opinion has been expressed, in this House and elsewhere, that no government is republican in form unless all men are allowed the right of suffrage. Then there is no such government in America. In all the States a portion of the citizens are denied this right, either on account of age or intelligence or caste or crime. Madison and Hamilton and Jefferson, in their simplicity, never comprehended the new theory of republican government. They assumed that the governments which existed in the States in 1787 were republican in form. Now, as then, Representatives and Governors are elected by the people. I would trust the wisdom of the fathers rather than the superficial knowledge of the children.

"Knowledge is proud that he has learned so much;
Wisdom is humble that he knows no more."

Sir, these States need not your guarantee. What is the plan proposed for the government of these States? It is said that disloyalty, perfidy, and treason still lurk there. Therefore they shall not have representation, and provisional governors, with military powers, must be appointed. For this there is not even the tyrant's plea of necessity. The whole machinery of civil government, executive, legislative, and judicial, is in successful operation there. The governments are recognized by the President. The clemency and wisdom of the executive department attract them to the central Government. The President, by the centripetal force of kindness and confidence, is drawing them to the Union; you, by the centrifugal force of hate and suspicion, are repelling them from the Union. Consummate this plan, and what are the consequences? A conflict is created between the Governors of the States and the provisional governors, between the Legislatures of the States and the Territorial Legislatures, between the judges of the State and the judges of your appointment, and the action of the executive department of this Government, to reinstate them to their condition before the war, is ignored. This will beget a state of feeling and originate a state of conflict, which will last for years, bring on another bloody revolution, and may finally end in the downfall of liberty here; for having enslaved these people you make them fit instruments to aid in the enslavement of the freemen of the North.

What are the conditions precedent to the admission of these States? The investiture of the negroes with civic rights and the extension to them of the right of suffrage, either by amendment of the Constitution or by legislation of Congress. The recent amendment of the Constitution has emancipated four million slaves. The late slave is now a freeman. He should be protected in this freedom by just and reasonable legislation. Justice and humanity require that we should give the shelter and defense of beneficent law to this class of our population, yesterday slaves, to-day freemen, and in consequence of their late degraded condition entitled to our sympathy and protection. But the extension to them of suffrage would be dangerous in every view. It would be cheapening this inestimable right. Such action on our part would be usurpation. It is one of the reserved rights of the States to determine the political *status* of their citizens, and to regulate the number and qualifications of voters. Alexander Hamilton, who, more than any of the fathers, favored the concentration of power in the Federal Government, in commenting on its right to regulate elections in the States, said:

"The truth is, that there is no method of securing to the rich the preference apprehended but by prescribing qualifications of property, either for those who may elect or be elected. But this forms no part of the power to be conferred upon the national Government. Its authority would be expressly restricted to the times, the places, and the manner of the elections. The qualifications of the persons *who may choose* or be chosen are defined and fixed in the Constitution, and are unalterable by the Legislature."

Such has been the construction of the Constitution by those who made it, and uniform usage for more than eighty years has established it as correct. I prefer to stand by the ancient landmarks. "Cursed is he that removeth his neighbor's landmarks." Though "the time is out of joint," yet time, the great avenger, is marching on with silent but rapid step, and the day will come when thrice accursed will be the party and the men who are removing all the landmarks of the Constitution; and, wise in their own conceit and with unskillful hands, are marring the symmetry and fair proportions of the beautiful edifice erected by the great and good men of the Revolution.

The enfranchisement of the negro is neither for his good nor the good of the country. The avowed object is disclosed by the leader of the party, Mr. STEVENS. He said:

"If they [the southern States] should grant the right of suffrage to persons of color, I think there would always be Union white men enough in the South, aided by the blacks, to divide the representation, *and thus secure the Republican ascendency.*"

This is a bold but impious avowal. Will you legislate for party purposes, and tinker with the Constitution for party ends? According to the plan proposed, the negroes must be clothed with political rights and the Constitution amended—no, sir, not amended, but blurred and scarred all over; ay, more, the Union, the Union of our love and pride, the Union that has cost us tears and blood, and millions of treasure, must be severed, if need be, forever, to fasten upon the country a party that will, if it has not already, worked its ruin.

Our fathers designed the Union to be perpetual; not a mere Union of territory, but a Union of States and of the people of the States. You may by arbitrary power govern these States, insult the people, and drive them to desperation. You may suppress the governments which the wisdom of the Executive has called into being, and send provisional governors, and install and protect them, if need be, by military power, arrest and imprison the citizen without trial, institute star chambers, and levy fines and confiscate property; but the Union will exist only in name, a thing to be feared and abhorred, but never loved. Such measures will never revive the mutual respect, the obedience to law, the kindly feeling, so necessary to a real Union. The outward form, the whitened sepulcher, may be preserved; but the inward beauty, the strength, the soul, will be gone. It will then be as

"An empty casket, whence the jewel, life,
By some damned hand, was robbed and ta'en away."

The war which appalled the sense with horror, blanched the cheek, dimmed the eye with tears, brought mourning into every household, and sorrow to every heart, has ceased, and we again breathe freely. The chieftain at the head of our armies is disbanding the military forces, and sending to their homes the scarred veterans of a hundred battle-fields. The people rejoice that peace has smiled upon us. The cheering cry has been echoed and reëchoed over hill and valley, "The Union is saved, the Constitution is supreme." Shall this joy be changed to sadness?

Look upon another picture. The South madly and wickedly rushed into rebellion. She marshaled her armies and fought long and gallantly in a bad cause. We have crushed her, humbled her pride, burned her towns and cities, impoverished her people, and compelled her sons to sue for pardon, almost to

"Prostrate fall, and there confess
Humbly their faults, and pardon beg with tears."

This beautiful and sunny land with genial clime, where nature ever smiled, and which only a few short years ago abounded in wealth and comfort, is now in many parts a mass of charred and sickly ruin. Many of those she loved and trusted most and who were false to her truest interests are wanderers in other lands or linger in prison walls

Why degrade this people more and longer? They proffer the only test you have the right to require—obedience to the Constitution and laws of the land. Why indulge in abuse and suspicion? This will only inflame. Lord Bacon said "Suspicions among thoughts are like bats among birds; they ever fly by twilight." No generous thought, no noble emotion, can ever come from the dark caverns of a mind filled with hate and suspicion. Love and confidence can never be forced; they must be won by soft words and gentle acts. If these States are ever to be bound together in an equal and enduring Union by us, we must rise to the high dignity of true manhood and Christian charity and bury forever the feelings of distrust which now haunt the mind.

The charge is constantly made that the southern people are perfidious; that they will keep no pledges; that no oath will bind them. Can they ever accept your conditions-precedent tendered in such a spirit? Never. They will never agree to make the slave of yesterday the social and political equal of to-day. They would deserve and receive even *your* scorn if they would accept of so degrading a condition. Unless they can come in as coequal States they will never come. You may call, "but will they come when you do call for them?" What then? Force will govern, and history will rewrite itself, and the tyranny over Hungary and Poland and Ireland will be reënacted in once free America.

This tyranny cannot continue. Your brief day will soon be spent. The people, in whom I have an abiding faith, will take care of this Government and this Union, and will rise in majestic strength and hurl from power those who have been faithless to their trust.

The noble words of the President, "The people must be trusted with their government," are a truism for our guidance. Discard distrust and jealousy and hatred; win confidence by extending confidence. The sword and bayonet in the hands of the true men of the land have subdued the armies of the southern people; now let kindness, which is ever nobler than revenge, melt their hearts and calm their passions. Draw an impenetrable veil between the present and the frightful past which shall never be lifted by mortal hands.

In the beautiful language of the late President, beautiful in its simplicity and in its tenderness:

"With malice toward none, with charity for all, with firmness in the right, as God gives us to see the right, let us finish the work we are in, to bind up the nation's wounds."

Renew the sources of prosperity of the South; reinvigorate the sleeping energies of her people by a restoration to these States of their functions in the Union, and humanity and liberty will consecrate the deed, and "hereafter ages" will cherish the memory of the men who gave peace and harmony and law to a divided country.

Mr. KUYKENDALL. Mr. Speaker, I need not assure you that I approach the investigation of the many grave and important subjects treated in the message of the President of the United States, at the convening of the present Congress, with constraint and embarrassment. No deliberative body has ever had presented for their consideration subjects of more grave importance or requiring more cool or calm deliberation.

And in the discussion of these various subjects submitted, I feel a want of confidence in myself and fear my inability to rise to the height of their magnitude or in any way to be equal to the emergency. Yet I flatter myself that I feel and fully appreciate their dignity and importance, and that I shall be enabled on this occasion to merge the partisan in the patriot.

The great questions to which our attention is called in the message demand our most care-

ful and earnest consideration, and my most earnest desire is that I shall say nothing in this discussion which shall be unbecoming a member of this honorable body in speaking to his fellow-Representatives or the people of the United States.

What are the grave questions to which our attention is invited? First, I invite your attention to that part of the message pertaining to the relations existing between the United States Government and the State governments respectively, and of their mutual connection, in which he says:

"The best security for the perpetual existence of the States is the supreme authority of the Constitution of the United States; the perpetuity of the Constitution brings with it the perpetuity of the States; their mutual relations make us what we are, and in our political system their connection is indissoluble.

"A whole cannot exist without the parts, nor the parts without the whole. So long as the Constitution of the United States endures the States will endure. The destruction of the one is the destruction of the other. The preservation of the one is the preservation of the other."

From this plain and lucid statement it is evident that he holds that the States lately in rebellion are still in the Union, and have not been by the act of treason of a part of their citizens taken out of the Union, and thereby become "dead or defunct" States.

Now, sir, let me examine and see if this position taken by the President is correct. I hold that it is. And in order to arrive at a proper solution of this question we must examine it and test it by the touch-stone of the Constitution, and having in it no model, the similitudes and analogies applicable to other systems of government, it must more than any other be its own interpreter according to its text and the facts in the case. We will hunt for precedents in vain, remembering that there never was a Government either in ancient or modern times that our republican form of government can be likened unto. Hence all precedents laid down as to what constitutes a State in other Governments is no evidence either for or against the position taken as to what constitutes a State under our form of Government.

Are the rebel States still States in the Union? In order to come to a correct conclusion on this point we must test it by the compact that brought into existence the Union of the States, and ascertain if possible the intentions of the framers of the Constitution, and in that way we will be enabled to come to a correct conclusion.

In the year 1778 a formal compact of Union was entered into; that compact was styled "Articles of Confederation and perpetual Union" between the States, naming them. A part of the fourteenth article of the Articles of Confederation is as follows:

"And the articles of this Confederation shall be inviolably observed by every State, and the Union shall be perpetual."

Under these Articles of Confederation the States composing the Federal Union solemnly plighted their faith to each other that the Union should be perpetual, and so existed and kept their faith, bound together by indissoluble ties, from the year 1778 to the year 1789, when our present Constitution was adopted.

Sir, I will not take up the valuable time of this House, as I might do, by citing authorities or introducing arguments to prove that the object of the change from the Articles of Confederation to the present Constitution was not to relieve the States from their perpetual obligations or in any way weaken the Federal Union, but to give it greater strength.

For I take it, and it is admitted by all, that the leading object of Congress in recommending, the Convention in framing, and the people in adopting the present Constitution, was to strengthen the Union. And, sir, I am sustained in this view by the Congress of 1787 which recommended the Convention of 1789. The State Legislatures which appointed the delegates to the Convention, and the people of the States who ratified it, declared their leading object to be to strengthen and perpetuate the Union in existence.

Now, sir, I hold, as it has been held often before by eminent statesmen, that since the organization of the new Government in 1789 the people of the United States have been living under two Governments deriving their power from the same source—that source being the sovereign people of the several States. Each Government, however, has a distinct class of powers. The United States possessing power over all matters relating to the public, in the due exercise of which all the States have a common interest, while the States retain all powers relating to their domestic institutions, and each Government acting within its own sphere is as independent of the other as if they were wholly foreign, and in exercising those sovereign rights given them by the people. If one should infringe on the incontestable rights of the other, the remedy is found in the United States courts that the sovereign people established for that purpose. And again, the Constitution of the United States is a compact between the sovereign people of each State with the sovereign people of every other State, acting through conventions, which cannot be abolished or changed in any manner without the consent of all parties to it, except in the manner prescribed in its own provisions. And further, sir, the laws of the United States like the laws of the States reach and bind citizens high and low, and the United States cannot absolve any one from their obligations to obey the State laws passed within their respective spheres. So neither can the States absolve any one from their obligations to abide by and obey the laws passed by the United States within their sphere. Such, at least I think, is the true theory of our institutions.

Now, sir, what is a State? The people composing it. What is the United States? The people composing them, in the sense of the Constitution, where it says, "We, the people of the United States;" and in that people is vested and merged the sovereignty of the people of the States, so far as it covers the powers granted in the Constitution. In reference to all the reserved powers in the Constitution, the people of the States remain sovereign, subject, however, to all the restrictions placed upon themselves by the grant of sovereign powers to the General Government.

In the view I have taken of this question respecting the relations of the States to the General Government, I am fully sustained by the following letter from that erudite statesman, Mr. James Madison:

"In order to understand the true character of the Constitution of the United States, the error, not uncommon, must be avoided of viewing it through the medium either of a consolidated Government or of a confederated Government, while it is neither the one nor the other, but a mixture of both. And, having in no model the similitudes and analogies applicable to other systems of government, it must, more than any other, be its own interpreter according to its text and the facts of the case.

"From these it will be seen that the characteristic peculiarities of the Constitution are: 1. The mode of its formation. 2. The division of the supreme powers of government between the States in their united capacity and the States in their individual capacities."

"1. It was formed, not by the governments of the component States, as the Federal Government for which it was substituted was formed. Nor was it formed by a majority of the people of the United States, as a single community in the manner of a consolidated Government. It was formed by the States; that is, by the people in each of the States acting in their highest sovereign capacity, and formed consequently by the same authority which formed the State constitutions.

"Being thus derived from the same source as the constitutions of the States, it has, within each State, the same authority as the constitution of the State; and is as much a constitution, in the strict sense of the term, within its prescribed sphere, as the constitutions of the States are, within their respective spheres; but with this obvious and essential difference, that being a compact among the States in their highest sovereign capacity, and constituting the people thereof one people for certain purposes, it cannot be altered or annulled at the will of the States individually, as the constitution of a State may be at its individual will.

"2. And that it divides the supreme powers of government, between the Government of the United States and the government of the individual States, is stamped on the face of the instrument; the powers of war and of taxation, of commerce and of treaties, and other enumerated powers vested in the Government of the United States being of as high and sovereign a character as any of the powers reserved to the State governments.

"Nor is the Government of the United States, created by the Constitution, less a Government, in the strict sense of the term, within the sphere of its powers, than the governments created by the constitutions of the States are within their several spheres. It is, like them, organized into legislative, executive, and judiciary departments. It operates, like them, directly on persons and things. And, like them, it has at command a physical force for executing the powers committed to it."

Again Mr. Madison said, in his correspondence in reference to the ratification of the Constitution by the different States, "it was unconditional and bound them forever."

Now, sir, I propose to examine the records of the legislative department of this Government and see if they have not sustained by their action the idea that the existence of the Union of these States is perpetual, at the same time repudiating the idea that States could cease to have existence or, by the act of the war, could become "dead or defunct." I will first call the attention of this House to a resolution passed the 24th day of July, 1861, by an almost unanimous vote, which is as follows:

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

It may be said, however, that this resolution was passed soon after the commencement of the war, and at a time when the relations of the States to the General Government had not been so thoroughly discussed and were not so well understood as at present. But, sir, this is not true; it was passed at a time when men were cool and inclined to take statesmanlike views of great and important questions, while reason held its sway and madness did not rule the hour. Would to God we could say as much in reference to the manner in which we now examine questions in this House.

The Constitution of the United States provides that—

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

And under this provision of the Constitution, in August, 1861, Congress passed an act apportioning the direct taxes among the several States, including the States in rebellion, thereby recognizing the same by name as States still of the Union, which said act is in the following words and figures:

"*And be it further enacted*, That a direct tax of $20,000,000 be, and is hereby, annually laid upon the United States, and the same shall be, and is hereby, apportioned to the States respectively and in manner following. To the State of—

Maine	$428,826 00
New Hampshire	218,462 66⅔
Vermont	211,068 00
Massachusetts	824,581 33⅓
Rhode Island	116,963 66⅔
Connecticut	308,214 00
New York	2,603,918 66⅔
New Jersey	450,134 00
Pennsylvania	1,946,719 33⅓
Delaware	74,683 33⅓
Maryland	436,823 33⅓
Virginia	937,550 66⅔
North Carolina	576,194 66⅔
South Carolina	363,570 66⅔
Georgia	584,367 33⅓
Alabama	529,313 33⅓
Mississippi	413,084 66⅔
Louisiana	385,886 66⅔
Ohio	1,567,089 33⅓
Kentucky	713,695 33⅓
Tennessee	669,498 00
Indiana	901,875 33⅓
Illinois	1,146,551 33⅓
Missouri	761,127 33⅓
Kansas	71,743 33⅓
Arkansas	261,886 00
Michigan	501,763 33⅓
Florida	77,522 66⅔
Texas	355,106 66⅔
Iowa	452,088 00
Wisconsin	519,688 66⅔
California	254,538 66⅔
Minnesota	108,524 00
Oregon	35,140 66⅔

Congress also, as late as 1862, again recognized these States as States of this Union and entitled to representation, by passing an act on the 4th of March of that year, which by its terms was not to take effect until the 4th of March, 1863; which act apportioned the rep-

resentation of the eleven rebellious States on the same basis as the loyal States of the Union.

Thus, by the action of Congress in apportioning direct taxes and representation, the *status* of the eleven seceded States was fixed, and the States included within this Union. After the action of Congress in so many instances declaring these States to be in the Union, it seems to me a declaration now by the same Congress that these States are out of the Union, having no political existence, not entitled to representation, is a proposition so monstrous that it will fall upon the ears of the country, and especially those of the soldiers who fought to maintain the proposition that those States could not go out of the Union, with astounding effect.

Now, sir, I desire to present some of the views entertained by our lamented late Chief Magistrate, Abraham Lincoln, on the same point, showing that he was desirous of carrying out the same plan of reconstruction and entertained the same views that are found in the message of President Johnson, to wit:

That the eleven seceded States whose citizens have been engaged in a rebellion for the purpose of dividing this Union and setting up a separate government for themselves have signally failed, and the legitimate and logical result of that failure is, that the Union is not divided; a separate Government is not in existence; the States are not out but in the Union. Instead of two Governments we have but one —one Constitution and one flag; and in the name of the Constitution of this proud Republic, the flag of this glorious Union, the thousands of bones of Union soldiers bleaching on southern soil, I do here protest against this House, by its legislation, blotting out eleven stars from that glorious emblem of our unity and strength; a thing that was tried for over four years by hundreds of thousands of armed men in rebellion and which they most signally failed to accomplish.

'I will now call the attention of this House to the proclamation of President Lincoln, issued December 8, 1863, in which he fully sustains the position I have taken:

"I do further proclaim, declare, and make known, that whenever, in any of the States of Arkansas, Texas, Louisiana, Mississippi, Tennessee, Alabama, Georgia, Florida, South Carolina, and North Carolina, a number of persons, not less than one tenth in number of the votes cast in such State at the presidential election of the year of our Lord 1860, each having taken the oath aforesaid and not having since violated it, and being a qualified voter by the election law of the State existing immediately before the so-called act of secession, and excluding all others, shall reëstablish a State government which shall be republican, and in nowise contravening said oath, such shall be recognized as the true government of the State, and the State shall receive thereunder the benefits of the constitutional provision which declares that 'the United States shall guaranty to every State in this Union a republican form of government, and shall protect each of them against invasion.'"

You see from the reading of this proclamation that President Lincoln's idea was to maintain these States in the Union, and to give to the loyal portion the right to control the State governments, thereby forming a nucleus around which the loyal and true might rally in opposition to the disloyal and untrue. A very different position from that taken by some members of this House, who, by refusing to recognize loyal members elected by the loyal people of one of those States, place them on a par with rebels, giving no encouragement whatever to the men who have been loyal and true during the whole rebellion in the southern States, whereby they might organize such a strong and powerful party as would give full and complete protection to the rights of all, both black and white.

And again, sir, on the 11th day of April last President Lincoln spoke to the people of Washington, just three days before his assassination, from which I quote the following:

"In the annual message of December, 1863, and accompanying proclamation, I presented a plan of reconstruction, (as the phrase goes,) which I promised, if adopted by any State, should be acceptable to and sustained by the executive Government of the nation." * * * * * * * * *

"This plan was, in advance, submitted to the then Cabinet, and distinctly approved by every member of it." * * * * "Every part and parcel of the plan which has since been employed or touched by the action of Louisiana."

"Some twelve thousand voters in the heretofore slave State of Louisiana have sworn allegiance to the Union; assumed to be the rightful political power of the State; held elections; organized a free government; adopted a free State constitution, giving the benefit of public schools equally to black and white, and empowering the Legislature to confer the elective franchise upon the colored man. Their Legislature has already voted to ratify the constitutional amendment recently passed by Congress abolishing slavery throughout the nation. These twelve thousand persons are thus fully committed to the Union, and to perpetual freedom in the State, committed to the very things, and nearly all the things, the nation wants, and they ask the nation's recognition and its assistance to make good that committal.

"Now, if we reject and spurn them, we do our utmost to disorganize and disperse them. We, in effect, say to the white man, 'You are worthless, or worse; we will neither help you nor be helped by you.' To the blacks we say, 'This cup of liberty which these, your old masters, hold to your lips, we will dash from you, and leave you to the chances of gathering the spilled and scattered contents, in some vague and undefined when, where, and how.' If this course, discouraging and paralyzing both to white and black, has any tendency to bring Louisiana into proper practical relations with the Union, I have, so far, been unable to perceive it.

"If, on the contrary, we recognize and sustain the new government of Louisiana, the converse of all this is made true. We encourage the hearts and nerve the arms of the twelve thousand to adhere to their work, and argue for it, and proselyte for it, and fight for it, and feed it, and grow it, and ripen it to a complete success. The colored man, too, seeing all united for him, is inspired with vigilance and energy and daring to the same end. Grant that he desires the elective franchise. Will he not attain it sooner by saving the already advanced steps toward it than by running backward over them? Concede that the new government of Louisiana is only to what it should be as the egg is to the fowl, we shall sooner have the fowl by hatching the egg than by smashing it." * * * * * * * * *

"I repeat the question, 'Can Louisiana be brought into proper practical relation with the Union sooner by sustaining or by discarding her new State government?' What has been said of Louisiana will apply generally to other States."

From the foregoing remarks of Mr. Lincoln, it is evident that the executive branch of the Government was and is committed to the policy that these States are in the Union as States. The evidence is abundant that Congress by its legislation; the President by his proclamation, had no other purpose than to perpetuate the Union with all the dignity, equality, and rights of the several States unimpaired. This same policy and principle was indorsed by the convention at Baltimore that nominated Mr. Lincoln and Mr. Johnson; and was most triumphantly confirmed at the polls by the people who elected them President and Vice President of the United States.

It will be remembered that the policy inaugurated by Mr. Lincoln, known as his reconstruction policy, and attempted to be carried out by Mr. Johnson, was as much ratified by the people as any other part of Mr. Lincoln's administration.

I may, however, be asked by what right has the President appointed provisional governors for the rebellious or seceded States? I think the President was justified in doing so, and that it was his imperative duty so to do. The States had been in rebellion. The rebellion had been conquered; they were left without any State governments, and the duty devolving upon the Executive in the execution of the laws and the Constitution, and in guarantying to each State a republican form of government. It became a necessity in order to put the machinery of the State government in proper shape and motion. The same as out of necessity grew the authority for the issuing of the emancipation proclamation, an inherent power, residing in a government higher and above the Constitution —the right of self-preservation.

As Chief Executive of the nation it was his sworn duty to enforce the execution of the Constitution and the laws passed in pursuance thereof, and to prepare the way for the loyal people of those States to have that protection which our Government should afford them; to give them protection in the exercise of an inherent right that is older than the Government itself; the right to regulate their domestic affairs in their own way, subject alone to the Constitution of the United States; and that they might restore their constitutional relations with the Government of the United States by adopting for themselves a constitution and State government that would be republican in form.

Now, Mr. Speaker, those who have followed the thread of my remarks will see that I claim our forefathers to have intended to make this Union perpetual, and that the late war was prosecuted for the purpose of perpetuating that great principle. The blood of our brothers and sons was shed upon many a battle-field for the purpose of preserving and saving those States as a part of the great whole, and not for the purpose of destroying or wiping them out of existence. Every act of the Government during this bloody conflict has recognized them as insurgent States, with a view to their restoration to their former relations to the General Government, and not with a view to their destruction as States. Hence it will be seen that I do not subscribe to the theory of "dead or defunct" States, but insist, in the language of President Johnson, that the whole cannot exist without the parts, nor the parts without the whole.

I believe it is admitted by all that the Union was designed to be perpetual. If that be true, it must from necessity follow as equally true that the States are perpetual. I contend that the Government was administered during the four years of rebellion by Mr. Lincoln upon the idea of the perpetuity of the Union and the States, and that Mr. Johnson shows clearly in his message that his intentions are to administer it upon the same loyal, legal, and proper principle.

This great principle has been canonized in the hearts and minds of the loyal people of the United States, and I am curious to know why it is the honorable gentleman from Pennsylvania, [Mr. STEVENS,] and those who hold to the same new-fangled ideas, are so extremely anxious to abandon the safe line that has carried us so successfully through so many storms and over the boisterous billows of the Red sea of the rebellion and landed us safely upon the broad platform of the Constitution.

There must be some reason for it that I cannot see or understand that lies deep beneath the surface that will only show itself when their objects are accomplished. I wish I could believe that this new and startling doctrine of "dead or defunct" States were the result of an honest conviction of the better judgment of these gentlemen. I could then have more charity for their views.

But I believe their object to be, first, to reduce those States to a territorial condition, and then to legislate for them by Congress, and in that way, by act of Congress, declare universal suffrage, or in other words, give the negroes the right to vote in those eleven seceded States.

To this I am opposed. First, because Congress has no right to destroy the States. Second, Congress has no right to regulate the suffrage question in any State, that being a right guarantied to the people of the different States by the Constitution of the United States. Third, I think it would be proper in us of the northern States to change our own State constitutions so as to enfranchise the black man at home before we undertake to force this doctrine upon States with whose domestic affairs we have nothing to do, and who are not here represented and can have no voice in the affair.

I may be asked, however, what action I would take in reference to these southern States? In answer I would say that I would treat them with as much kindness as their conduct from time to time showed them entitled to receive. I would keep a sufficient military force in each one of those States to insure a prompt and faithful execution of the Constitution and laws. I would guaranty such protection to the freedmen as would insure them against harm or violence, and give them full and complete protection in all their rights. I would admit the loyal delegates sent here from Tennessee, that State having been exempted from the emancipation proclamation of Mr. Lincoln as a loyal State, the members-elect from that State being loyal and true men, one or more of them scar-worn veterans, who have served during the whole war in the Union Army, and being in favor of thus

admitting those loyal men, I suppose I differ with the great leader of the Radicals in this House, [Mr. STEVENS,] and his followers. I also differ with the copperhead persuasion of this House; they would repeal the test oath and admit any Representatives that might be elected from the southern States, be they loyal men or rebels.

I am not in favor of repealing the test oath, but am in favor of its remaining there as a monument of loyalty, to be subscribed to and taken by every member who shall hereafter enter the councils of the nation, be he from what State he may, and whenever men are sent here from the rebellious States or from any other of the States who cannot subscribe to that oath, I would say to him, "Go back to your constituents and say to them that the Congress of the United States, being the judges of the qualifications of its own members, will not allow a rebel to enter their Halls as a member, any more than they would a convict from one of the State penitentiaries." But if you will send us a loyal man who has stood the test of the fires of this rebellion, he should be admitted and act as your mouth-piece in the councils of the nation.

Mr. MARSHALL. If my colleague will allow me, before he passes from that point, I would like to make a remark. I have nothing to say about the good taste of using the epithet "copperhead" if my colleague thinks it comports with his own sense of propriety to use such stale and worn-out epithets upon this floor. But in his statement in regard to my position here, he is entirely mistaken if he intends to apply the term "copperhead" to me and those who act with me, or to intimate that I am willing to admit any man from the South, whether he be a traitor or not, to a seat upon this floor.

He is entirely mistaken in regard to my position. I say that the southern States are in the Union, and ought to be recognized as much as any other States in the Union, and that when they send loyal men here who are willing to stand by the Constitution and the Union it is an outrage to reject them.

Sir, if such men as Jeff. Davis, John Slidell, John C. Breckinridge, and a host of others whom I might name, were to present themselves here, I should myself, so far as I am individually concerned, remain here until Gabriel blew his trumpet before I would consent to admit them to seats as Representatives here. I would consider the claims of each man personally, but I hold that the States are in the Union and are entitled to representation here. That is my position in regard to this question. And the gentleman is entirely mistaken in assigning me the position which he has done.

Mr. KUYKENDALL. I do not wish my colleague to interpolate his remarks into my speech. I spoke of the "copperhead persuasion." I did not know that that struck any member from my State.

Mr. MARSHALL. It is well known that the disunionists upon the other side of the House—I do not class my colleague in that number—apply the term "copperhead" to the members on this side of the House, around whom are clustering all the hopes of the people of this country who desire an immediate restoration of the Union.

Mr. KUYKENDALL. Let me say that of the Democrats in my district three fourths are not considered copperheads; they are war Democrats although they voted the Democratic ticket. We call one party there the Democratic party, and we have another party there which we call the Copperhead party. I do not know whether they have any Representatives here or not, but I want to ask my colleague whether he is in favor of maintaining or of repealing the test oath.

Mr. MARSHALL. If my colleague desires my opinion about that I will give it to him.

Mr. KUYKENDALL. I want a categorical answer.

Mr. MARSHALL. I will state simply this: that I am inclined to believe that it is unconstitutional. That question, however, is before the Supreme Court for decision. I think, however, that the better mode is to repeal the oath and determine the question as to each member when he presents himself here, whether he is now a loyal man, and as such entitled to be admitted to membership on this floor.

I cannot say that I would at this time be in favor of removing all tests of every character, but I think at all events that the time will very soon come when that test oath ought to be stricken from the statute-book, and when such men as Alexander H. Stephens, who have been complicated with the rebellion, ought to be admitted, if we are satisfied that they are now true to the Union and the Constitution. I would recognize the States as in the Union and entitled to representation, and consider the case of each individual member as he presented his claims to a seat here.

Mr. ROGERS. Will the gentleman from Illinois [Mr. KUYKENDALL] allow me to ask his colleague a question?

Mr. KUYKENDALL. Oh, of course, I will yield to that gentleman.

Mr. ROGERS. I ask the gentleman from Illinois [Mr. MARSHALL] this question. Suppose Alexander H. Stephens was elected as a Representative in Congress from the State of Georgia, and should come here; would you or would you not vote for his admission if he was regularly elected?

Mr. MARSHALL. If I was satisfied that he was true to the Constitution and the Union, and intended to stand by the Government and insist on its perpetuation under the Constitution, acting in good faith, I would vote for his admission. But I should not consider that in so doing I was adopting a principle that would require me to admit men whom I believe still to be traitors.

Mr. KUYKENDALL. I must insist that these gentlemen do not occupy all my time.

Mr. ROGERS. My only object was to get the views of the gentleman about the test oath.

Mr. MARSHALL. While I am up will my colleague let me say a word in reference to the gentleman from New Jersey, [Mr. ROGERS?]

Mr. KUYKENDALL. Yes, if it is not too long.

Mr. MARSHALL. It will be very brief indeed. A number of gentlemen on the disunion side of the House, it seems, have been very anxious, I know not for what purpose, to denominate the gentleman from New Jersey the leader of this side of the House.

Now, if it is meant that he has made more speeches and longer speeches, and, if you please abler ones, than any other member on this side of the House, I have certainly no objection to the gentleman being considered the leader in that sense. I am willing to accord to him the great ability and eloquence which I recognize him to possess. But I must say for myself, that in many of the extreme views expressed by that gentleman since this Congress commenced its session, he does not, in my judgment, represent the Democratic portion of this House. In many of his views he does, and in others he does not, and I am not willing to have it insisted upon here or understood by the country that the gentleman from New Jersey [Mr. ROGERS] is in his discussions on this floor the representative of this side of the House; nor am I willing to be bound by everything that he or any other member may choose to say.

Mr. KUYKENDALL. The gentleman has not yet answered my question. I want a direct answer from him. I want him to say whether or not he would vote to repeal the test oath at this time. That is a question easily answered, yes or no. He says he would repeal it in regard to Alexander H. Stephens; why not also in regard to Jeff. Davis?

Mr. MARSHALL. I have already said that very soon, if not now, I think this test oath should be repealed; and that men, although they may have been drawn into the rebellion, who are now true to the Union, and are well known and recognized to be such, should, if they are elected, be admitted to seats in this House.

Mr. ROGERS. Will the gentleman from Illinois [Mr. KUYKENDALL] yield to me for a moment?

Mr. KUYKENDALL. Not now.

Mr. ROGERS. I have been very liberal to others.

Mr. KUYKENDALL. I know that; but the gentleman is not answering any question I have put.

Mr. ROGERS. Just a moment.

Mr. KUYKENDALL. Very well.

Mr. ROGERS. I know that my views are somewhat in advance of those of some members on this side of this House. But I suppose the Speaker of this House has noticed that during my career in Congress I have always acted and spoken upon principle, regardless of any political consequences to me. I have always expressed my views openly and fairly to the best of my ability; and I am here to-day to say that I would vote now, and it would give me as much pleasure as any vote that I have ever given or ever could give, to repeal the present test oath. I believe that oath is unconstitutional, and that no Congress under the authority of the Constitution has the right to impose any such requirement upon the conscience of any man. And the President of the United States himself, Mr. Johnson, in the last colloquy he had with gentlemen from New York, expressly stated that he believed that oath ought to be repealed, and that no other obligation ought to be imposed upon any man than an oath to support the Constitution of the United States.

Mr. KUYKENDALL. I object to the gentleman from New Jersey [Mr. ROGERS] as authority for what President Johnson says. What I want to know is, whether he speaks for his entire party.

Mr. ROGERS. No, sir; I speak for myself; I do not speak for the Democratic party at all. I do not profess or claim to be any leader of that party. I advocate what I believe to be Democratic principles. I do not pretend to control anybody; and I know no one on this side of the House is so foolish as to be controlled by anything but his own ideas of right and justice. It is a serious, a great insult to undertake to charge upon this side of the House that they are to be led by any man. They are men of sense and judgment and discretion, and are able to pursue their own course according to their own judgment, with the same right and the same sense of obligation and duty that I can exercise; and with equally as much if not more sense.

Mr. KUYKENDALL. We all believe that. [Laughter.] But I would like my friend from Illinois [Mr. MARSHALL] to answer this question. He says that he thinks the time will come very soon when this test oath should be repealed. Now, if Mr. Breckinridge should be elected a member of this House from the State of Kentucky by a majority of the qualified voters of the district, and was willing to take the oath to support the Constitution of the United States, would the gentleman vote to give him a seat upon this floor?

Mr. MARSHALL. I would not. I would have these questions properly referred, so that the merits of each individual presenting himself might be thoroughly and properly considered. I believe that those States are entitled to representation. I have already said that I would not vote for the admission of those men whom I believe to be guilty of having originally concocted treason and deliberately plotted the destruction of this Government. But among those in the South who were drawn into the rebellion after it commenced there are many good men who, in my opinion, are to-day as loyal to the Union and the Government as is my colleague; and when a man of this class presents himself here as the Representative of a State, I am ready to vote for his admission.

Mr. KUYKENDALL. Mr. Speaker, I have now attained the object of my inquiry. My colleague said that he was perfectly willing to vote for the admission of the ex-vice president of the confederate government; but that if the

former Vice President of the United States should present himself here, he would be in favor of excluding him. I simply desired to understand the ground of the distinction which my colleague makes between the cases of these two individuals, both of whom have been prominently engaged in the rebellion. I am glad that he has defined his position. I will leave him to explain to his constituents why he prefers the vice president of the confederacy to the ex-Vice President of the United States.

But, Mr. Speaker, there is another grave question to which I want to call the attention of this House; that is, the settlement forever of this question that has so long taken up the entire time of Congress, the question of the African race. It appears to be impossible to have legislation on any other subject until this question is finally settled.

I come, sir, from the great Northwest, where the people are a producing people, and more interested in the price of beef, pork, corn, wheat, oats, &c., than they are in the negroes being made their equals at the ballot-box. Let us, then, take such steps as will forever drive this question from the Halls of Congress and give us peace and quiet the balance of our days.

I may be asked how this is to be done. In answer I would say, I would make a treaty with the republic of Mexico, and arrange with them to colonize the American citizens of African descent in the warm climate and rich valleys of Mexico, with all the rights pertaining to them of Mexican citizens. I would enforce the Monroe doctrine, drive Maximilian out of the country, assist in reëstablishing a republican form of government, secure to the negroes lands, give them a fair start in the world, give them all the assistance incumbent on a Christian people to do, and there let them under the guidance of Providence and protection of the United States mark out their own destiny.

The Monroe doctrine has been indorsed by all the political parties of this country for the last forty years, and never would have been infringed upon by any foreign Power had it not been that we were engaged in the suppression of a great and gigantic rebellion.

Taking advantage of this, the Emperor of France caused to be established in Mexico, an empire, and placed on the throne Maximilian, and we sit quietly by to allow a sister republic to be crushed and ground to dust, in violation of the doctrines that we have always espoused and advocated, and in violation of one of the resolutions of the platform upon which Lincoln and Johnson were elected.

I here read the resolution which was last adopted by the Baltimore convention:

"*Resolved*, That we approve the position taken by the Government that the people of the United States can never regard with indifference the attempt of any European Power to overthrow by force or to supplant by fraud the institutions of any republican government on the western continent, [prolonged applause,] and that they will view with extreme jealousy, as menacing to the peace and independence of their own country, the efforts of any such Power to obtain new footholds for monarchical governments, sustained by foreign military force, in near proximity to the United States."

The indorsing of this resolution by the American people showed that they were in earnest on this question, and Maximilian's remaining in Mexico is a part and parcel of the late rebellion, and it will never be finally crushed out until he is driven to an abandonment of his throne and across the broad waters of the ocean.

I propose here, sir, to read a letter written by Thomas Jefferson on the 14th October, 1823, to Mr. Monroe, then President of the United States:

"The question presented by the letters you have sent me is the most momentous ever offered to my contemplation since that of independence. That made us a nation; this sets our compass and points our course which we are to steer through the ocean of time opening on us; and never could we embark on it under circumstances more auspicious. Our first and fundamental maxim should be, never to entangle ourselves in the broils of Europe. Our second, never to suffer Europe to intermeddle with cisatlantic affairs. America, North and South, has a set of interests distinct from those of Europe, and peculiarly her own. She should, therefore, have a system of her own, separate and apart from that of Europe. While the last is laboring to become the domicile of despotism, our endeavor should surely be to make our hemisphere that of freedom. One nation, most of all, could disturb us in this pursuit; she now offers to lead, aid, and accompany us in it. By acceding to her proposition we detach her from the band of despots, bring her mighty weight into the scale of free government, and emancipate a continent at one stroke, which might otherwise linger long in doubt and difficulty. Great Britain is the nation which can do us the most harm of any one, or all on earth; and with her on our side we need not fear the whole world. With her, then, we should most sedulously cherish a cordial friendship; and nothing would tend more to knit our affections than to be fighting once more, side by side, in the same cause. Not that I would purchase even her amity at the price of taking part in her wars. But the war in which the present proposition might engage us, should that be its consequence, is not her war, but ours.

"Its object is to introduce and establish the American system of keeping out of our land all foreign Powers, of never permitting those of Europe to intermeddle with the affairs of our nation. It is to maintain our own principle, not to depart from it; and if, to facilitate this, we can effect a division in the body of the European Powers, and draw over to our side its most powerful member, surely we should do it. But I am clearly of Mr. Canning's opinion, that it will prevent instead of provoke a war. With Great Britain withdrawn from their scale and shifted into that of our two continents, all Europe combined would not undertake such a war. For how would they propose to get at either enemy without superior fleets? Nor is the occasion to be slighted which this proposition offers, of declaring our protests against the atrocious violations of the rights of nations, by the interference of any one in the international affairs of another, so flagitiously begun by Bonaparte, and now continued by the equally lawless alliance calling itself holy.

"But we have first to ask ourselves a question: do we wish to acquire to our own confederacy any one or more of the Spanish provinces? I candidly confess that I have ever looked on Cuba as the most interesting addition that could ever be made to our system of States. The control which, with Florida point, this island would give us over the Gulf of Mexico, and the countries and isthmus bordering on it, as well as all those whose waters flow into it, would fill up the measure of our political well-being. Yet, as I am sensible that this can never be obtained, even with her own consent, but by war; and if its independence, which is our second interest, (and especially its independence of England,) can be secured without it, I have no hesitation in abandoning my first wish to future chances, and accepting its independence, with peace and the friendship of England, rather than its associations at the expense of war and her enmity.

"I could honestly, therefore, join in the declaration proposed, that we aim not at the acquisition of any of those possessions, that we will not stand in the way of any amicable arrangement between them and the mother country, but that we will oppose, with all our means, the forcible interposition of any other Power, as auxiliary, stipendiary, or under any other form or pretext, and most especially their transfer to any Power by conquest, cession, or acquisition in any other way. I should think it, therefore, advisable that the Executive should encourage the British Government to a continuance in the dispositions expressed in these letters by an assurance of his concurrence with them as far as his authority goes; and that as it may lead to war, the declaration of which requires an act of Congress, the case shall be laid before them for consideration at their first meeting, and under the reasonable aspect in which it is seen by himself.

"I have been so long weaned from political subjects, and have so long ceased to take any interest in them, that I am sensible I am not qualified to offer opinions on them worthy of any attention. But the question now proposed involves consequences so lasting, and effects so decisive of our future destinies, as to rekindle all the interest I have heretofore felt on such occasions, and to the hazard of opinions which will prove only my wish to contribute still my mite toward anything which may be useful to our country. And praying you to accept it at only what it is worth, I add the assurance of my constant and affectionate friendship and respect."

Mr. Monroe, finding that he had the support of Mr. Jefferson, on the 2d of December, 1823, issued his message to Congress, and enunciated the doctrine known as the "Monroe doctrine," which, summed up, is as he stated it:

"As a principle in which the rights and interests of the United States are involved, that the American continent, by the free and independent condition they have assumed and maintained, are henceforth not to be considered as subjects for future colonization by any European Power."

In the letter of Mr. Jefferson and the message of Mr. Monroe the doctrine is so well stated that I have given the statements to the country, and I now insist that we hold this doctrine sacred and will maintain it. The people are for it; they are for driving Maximilian out of the country, and I am for it.

Now, sir, having given my views unrestrained, I will say they are the doctrines upon which I was elected and upon which Mr. Lincoln was elected, and I am determined to stand by them, come weal or come woe.

Now, sir, hoping that the legislation of the country may be directed in such a channel that the country shall be calmed and peace and quiet entirely restored, and believing that the ship of state will be guided through the present troubled seas without being stranded upon the rocks of passion and prejudice, and having great faith in the wisdom of the American people, believing all will yet be well, I shall, so far as my own action is concerned, attempt to do that which I believe to be right; and, trusting in a kind Providence to guide me in the right direction, I have faith that I will succeed in doing justice to all.

Mr. FINCK. Mr. Speaker, having some weeks since introduced into this House a bill which has for its purpose to prescribe the oath of office, so as to make it conform to the requirements of the Constitution of the United States, and to repeal the act of July 2, 1862, commonly known as the test oath, I desire to submit a few considerations to the House why, in my judgment, the act of July 2, 1862, should be repealed.

It is as follows:

"I, A B, do solemnly swear (or affirm) that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have never sought nor accepted, nor attempted to exercise the functions of any office whatever under any authority or pretended authority in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States, hostile or inimical thereto. And I do further swear (or affirm) that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter," &c.

Now, Mr. Speaker, it seems to me that this oath, at least so far as it relates to Senators and Representatives in Congress, is unconstitutional.

Section two, article one, of the Constitution declares:

"No person shall be a Representative who shall not have attained the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen."

And in relation to Senators, it is provided that—

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

Article six provides that—

"The Senators and Representatives before mentioned, and the members of the several State Legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution."

Justice Story, in his Commentaries on the Constitution, speaking of the House of Representatives, section 624, says:

"It would seem but fair reasoning upon the plainest principles of interpretation, that when the Constitution established certain qualifications as necessary for office, it meant to *exclude* all others. From the very nature of such a provision the affirmation of these qualifications would seem to imply a NEGATIVE OF ALL OTHERS."

Mr. Madison, in the Federalist, commenting on the same subject, says:

"The qualifications of the elected being less carefully and properly defined by the State constitutions, and being at the same time more susceptible of uniformity, have been very properly *considered and regulated by the Convention*. A Representative of the United States must be of the age of twenty-five years; must have been seven years a citizen of the United States; must at the time of his election be an inhabitant of the State he is to represent, and during the time of his service must be in no office under the United States. *Under these reasonable limitations* the door of this part of the Federal Government is open to merit of every description, whether native or adoptive, whether young or old, and without regard to poverty or wealth, or to any particular profession or religious faith."—*Federalist*, No. 52.

But, Mr. Speaker, if Congress had authority to prescribe this test oath of 1862, it has the power to add other and different qualifications for Senators and Representatives than those provided in the Constitution, and thus change the organic law by legislative enactment; and we have hardly advanced far enough yet for such a claim of power as that.

The first act of the First Congress was to prescribe the oath of office, and which was as follows:

"That the oath or affirmation required by the sixth article of the Constitution of the United States shall be administered in the following form, to wit: I, A B, do solemnly swear or affirm (as the case may be) that I will support the Constitution of the United States."

I do not pretend to say that the Constitution will require the oath to be in these precise words. Congress may very properly require the party to swear that he will faithfully discharge the duties of the office on which he is about to enter, but I do say that the oath provided for in the Constitution cannot be so *substantially* and *materially* changed as to operate to *add* NEW and OTHER qualifications for holding the office than those provided for in the instrument itself. If it can be, and the taking of such oath required as an essential prerequisite to the exercise of the office, then, indeed, Congress can most effectually defeat the purposes of the Constitution and the rights of the people.

Sir, the RIGHT to hold a seat on this floor is defined and provided for under the Constitution, and does not depend so much upon the determination of this House, as it does upon the legal voters of the proper districts, and the qualifications clearly defined by the Constitution. But the exclusive right to judge "of the elections, returns, and qualifications of its own members," has been expressly conferred upon this House, and it would be false to itself and to the country if it should neglect the fair and constitutional exercise of this high and necessary power in every case where it is called upon to act. It would, however, be a most wicked and monstrous perversion of this power should a party majority ever be found so corrupt as to use it for the purpose of maintaining its ascendency, by depriving the people of any of the districts in the Union from being represented on this floor, through members constitutionally elected and possessing the requisite qualifications.

Sir, considering the present condition of affairs, I do not believe the people of the South will send men here who would be wanting in fidelity to the Constitution.

It will be their interest to send only such Representatives as are determined to support and defend the Constitution and preserve the Union.

These people will never again attempt to break up the Union. Their interest and prosperity in the future are only to be advanced in maintaining the Constitution and the Union against all those who would seek their overthrow. The danger of the hour is not now *secession*; that has been met and overcome, but it is a danger in a *different direction*. It is, sir, the danger of the *centralization* of power in the Federal Government.

Certainly, sir, no man who is not fixed and determined in his purpose to support and defend the Constitution and maintain the Union ought to be sent here; and I trust no man who is not thus sincere and patriotic in his purposes, whether he comes from the North or the South, will ever occupy a seat in these Halls.

And here allow me to read an extract from a very able and patriotic address made a few weeks since by the President, in reply to a committee from the Legislature of the State of Virginia:

"On the cardinal principle of representation to which you refer, I will make a single remark. That principle is inherent; it constitutes one of the fundamental elements of this Government. The Representatives of the States and of the people should have the qualifications prescribed by the Constitution of the United States, and those qualifications most unquestionably imply loyalty. He who comes as a Representative, having the qualifications prescribed by the Constitution to fit him to take a seat in either of the deliberative bodies which constitute the national Legislature, must necessarily, according to the intendment of the Constitution, be a loyal man, willing to abide by and be devoted to the Union and the constitution of the States. He cannot be for the Constitution, he cannot be for the Union, he cannot acknowledge obedience to all the laws, unless he is loyal. When the people send such men in good faith, they are entitled to representation through them."

But suppose, Mr. Speaker, that I am mistaken as to the constitutionality of the test oath, there are other reasons which I desire to state very briefly to the House, why, in my judgment, it should be repealed.

Test oaths have never been favored. They are inconsistent with the legislation and spirit of a free people.

This act of 1862 was one of the measures which grew out of the war, and should pass away with the war which has ended.

The effect of the oath is to exclude almost an entire population of a large section of the country from holding any office whatever under the General Government. I submit with great confidence that the continuance of this oath cannot result in any good to the country. The rebellion has ended, and the people of the late insurgent States are hereafter to be associated with us as citizens of the same Government.

It seems to me that every consideration of duty and patriotism unite in urging us to so shape our legislation as to harmonize the country and restore kind and fraternal relations between the two sections.

Certainly no man can entertain any well-grounded apprehensions that there will ever occur a repetition of the attempt to break up the Union by secession; and if there should, test oaths would have but little influence in preventing it.

Sir, the best possible security we have against any further attempt at secession consists in this one great fact, *the utter and complete failure of the late rebellion.*

Mr. Speaker, you never will, nor will our children who come after us, ever hear of another attempt at secession made by the people of the South.

Sir, the sad lessons of the last four years will be our firmest bulwark against its repetition. It has been settled by the war more firmly than constitutional amendments or test oaths piled mountains high could settle it, that a State has no right to withdraw from this Union, and this decision will not and cannot be reversed.

It has been settled beyond any question, that we are to be one people, having one Federal Government and one flag.

Now, what is our duty to the people of the South? Is it to crush them, and while we impose upon them the burdens of Government exclude them from its benefits? Is it, sir, to seek by our legislation to degrade them and make them outlaws? We have determined that they *shall* remain with us, citizens of the same common Government. Shall they remain with us as our equals or not?

Sir, I rejoice that the rebellion has been crushed, and that these people have returned to their full and complete allegiance to the Constitution; but I want them to return, not as an inferior or degraded people, but in their true manhood, as the equals of the people of every other State. We must have confidence in them. They and their children are destined to live with us and our children for generations to come. It is best, sir, in my judgment, that we should live together on terms of friendship and equality.

Sir, a wise and patriotic President, rising above the miserable and petty passions and prejudices of the hour, has, with a generous clemency and magnanimity which become the exalted station that he occupies, set us an example which it would be well for us not to forget. On the 29th day of May last he issued his proclamation granting pardon and amnesty, with a few exceptional cases, to the entire people of the late insurgent States who had been engaged in the rebellion.

There can be no controversy about the power in the President to grant such pardon and amnesty. The Constitution, article two, section two, declares that "he shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment." This power thus granted by the Constitution is placed beyond the control or reach of Congress. It is absolute and unqualified, except as to cases of impeachment, and may be exercised either before trial or after conviction.

But Congress did by the act approved July 17, 1862, fully recognize this wise and just power, and did in the act "to suppress insurrection," &c., by the thirteenth section, provide as follows:

"SEC. 13. *And be it further enacted*, That the President is hereby authorized, at any time hereafter, by proclamation, to extend to persons who may have participated in the existing rebellion in any State, or part thereof, pardon and amnesty, with such exceptions, and at such time, and on such conditions, as he may deem expedient for the public welfare."

Thus we see how fully and completely the President was and is clothed with the power to grant pardon and amnesty to all "who may have participated in the" late "rebellion;" and Congress, by the section already quoted, has solemnly committed itself in favor of the existence and exercise of the power.

Now, Mr. Speaker, let me inquire what was the effect of this proclamation of the 29th of May, 1865?

The rebellion having been completely suppressed, the President, with a wise and generous clemency which will live in history to his honor for all time to come, said to almost an entire people, You have wandered from the path of duty; in a fatal hour you have sought to break up the Union of our fathers; but you have acknowledged your great error, and seek again to return to the protection of that flag which has been planted in the capital of every State of this Union. We receive you back, and the offenses committed by you in attempting to withdraw from the Union, are now blotted out and pardoned, on the *condition* that you shall renew your allegiance to the Constitution; show the sincerity of your return by your fidelity to that Constitution and Union in the future. The effect was to remove entirely and completely, before the law, the crime which was included in the pardon, with all its legal consequences; and I beg to call the attention of the House to a few authorities on this question. Chief Justice Marshall, in the case of the United States *vs.* Wilson, 7 Peters, 162, speaking on this subject of pardons in England, said:

"As the power has been exercised from time immemorial by the Executive of that nation whose language is our language, and to whose judicial institutions ours bear a close resemblance, we adopt their principles respecting the operation and effect of a pardon, and look into their books for the rules prescribing the manner in which it is to be used by the person who would avail himself of it."

In 7 Bacon's Abridgment, page 416, it is said:

"It was formerly doubted whether a pardon could do more than take away the punishment, leaving the crime and its disabling consequences unremoved. But it is now settled that a pardon, whether by the king or by act of Parliament, removes not only the punishment *but all the legal disabilities consequent on the crime.*"

The doctrine is thus stated in 1 Bishop on Criminal Law, 713:

"The effect of a full pardon is to absolve the party from all the legal consequences of his crime, and of his conviction direct and collateral, including the punishment whether of imprisonment, pecuniary penalty, or whatever else the law provided."

Also in 5 Bacon's Abridgment it is laid down:

"It seems agreed that a pardon of treason or felony, even after an attainder, so far clears the party from the infamy, and all other consequences thereof, that he may have an action against any who shall afterward call him a traitor or felon, for the pardon makes him as it were a NEW MAN."

Blackstone says:

"A pardon may be pleaded in bar as at once destroying the end and purpose of the indictment, by remitting the punishment which the prosecution is calculated to inflict."

Also:

"The effect of such a pardon by the king is to make the offender a new man; to acquit him of all corporal punishment and forfeitures annexed to that offense for which he obtains his pardon."

In Lilly's Abridgment the doctrine is thus laid down:

"A pardon doth discharge not only the punishment which was to have been inflicted upon the person that did commit the offense pardoned, but also the guilt of the offense itself. It pardons *culpa* so clearly that in the eye of the law the offender is as innocent as if he had never committed the offense."

The same doctrine is substantially recognized and approved in the case of Cope *vs.* The Commonwealth, 28 Pennsylvania State Reports.

Authorities might be multiplied, but I will not detain the House by further citations on this point.

Notwithstanding the effect of the pardon and amnesty of the President was to completely and absolutely wipe out the offense pardoned, yet this oath of 1862 forever prohibits all those who were included in this amnesty from holding any office whatever under the General Government, even the most insignificant post office at the most insignificant cross-roads within the Republic.

Is it intended by the majority on this floor that the people of an entire section of this country, comprising eleven States of this Union, and over seven millions of our own race, shall be excluded from all participation in the administration of the General Government? Is it intended, sir, that the great fundamental principle on which our system of government is based, *that taxation and representation are inseparable*, shall be deliberately ignored? There is no warrant for it in the Constitution. It is subversive of the true purposes of the Union, and is, in my judgment, revolutionary in its tendency. What right, sir, have gentlemen who are in the majority on this floor, and who control the action of this House, to say to the people of Tennessee and North Carolina, or of any other State within this Union, (for, sir, all the States are in the Union as equal members,) that they shall not be represented here if they send members who have been duly elected, and who possess the qualifications required by the Constitution?

Sir, hundreds and hundreds of thousands who are deprived under the terms of this test oath of July, 1862, from holding office under the General Government, because they have been engaged either in the civil or military service of the late insurgent States, are men who have acted under the honest and sincere belief that their States had the right to secede; an opinion most unwarrantable in my judgment, yet it is known to every man on this floor, that there always existed, prior to the termination of the late struggle, a large body of men in the southern States who believed that a State had a right to secede when in her judgment her rights or interests demanded it; a most fatal heresy, I admit, and one which I have always opposed. But, however erroneous this opinion was, and it was, in my judgment, the gravest of errors, still it existed from an early period of the Government, and was, I believe, honestly entertained by many of the people of the southern States; and it would be difficult to account for the fact that almost an entire section of this country united in the attempt to break up the Union on any other theory.

But, sir, leading and influential journals and statesmen of the North encouraged these people in the belief that they might peaceably secede. Senator WADE, in a speech delivered in the Senate, third session of the Thirty-Fourth Congress Congressional Globe, page 25, referring to the speeches of southern men about the dissolution of the Union, said:

"If they do not feel interested in upholding this Union, if it really trenches on their rights, if it endangers their institutions to such an extent that they cannot feel secure under it, if their interests are violently assailed by means of this Union, I am not one of those who expect they will long continue under it. I am not one of those who would ask them to continue in such a Union. It would be doing violence to the platform of the party to which I belong. We have adopted the old Declaration of Independence as the basis of our political movement, which declares that any people when their Government ceases to protect their rights, when it is so subverted from the true purposes of government as to oppress them, have the right to recur to fundamental principles, and if need be to destroy the Government under which they live, and to erect on its ruins another more conducive to their welfare.

"I hold that they have this right. I will not blame any people for exercising it whenever they think the contingency has come. I shall certainly be the advocate of that same doctrine whenever I find that the principles of this Government have become so oppressive to the section to which I belong that a free people ought not longer to endure it. You will not find me backward in being the advocate of disunion; but the contingency having never come, I have never yet opened my mouth in opposition to this Union. But, for heaven's sake, act, not talk. I am tired of this eternal din of 'dissolution of the Union' which is brought up on all occasions, and thrust into our faces as though we of the North had some peculiar reasons for maintaining the Union that the southern States have not. I hope the Union will continue forever. I believe it may continue forever. I see nothing at present which I think should dissolve it; but if the gentlemen see it, I say again, that they have the same interest in maintaining this Union, in my judgment, that we of the North have. If they think they have not, be it so. *You cannot forcibly hold men in this Union;* for the attempt to do so, it seems to me, would subvert the first principles of the Government under which we live."

Here we have the explicit and unqualified declaration that "you cannot forcibly hold men in this Union."

But further, we find in the New York Tribune, February 23, 1861, the following:

"Whenever it shall be clear that the great body of the southern people have become conclusively alienated from the Union and anxious to escape it, we will do our best to forward their views."

Again, the same paper, of date March 2, 1861, we have this clear statement on the same point:

"We have repeatedly said, and we once more insist, that the great principle embodied by Jefferson in the Declaration of Independence, that governments derive their just powers from the consent of the governed, is sound and just; and that if the slave States, the cotton States, or the Gulf States only, choose to form an independent nation, they have a moral right to do so."

But while we were in the midst of the war, Mr. Greeley, in the Tribune, on the 21st February, 1863, said:

"I was willing in the winter of 1860-61, to let the cotton States go if they really desired it. I was not only then willing that the Union should in good faith make them the offer, but *I now* DEEPLY REGRET that it was not made and acted on."

Lieutenant Governor Stanton, in a speech delivered on this floor on the 15th of January, 1861, used the following language, which I will ask the Clerk to read from the Congressional Globe which I send to the desk.

The Clerk read, as follows:

"I grant you very freely and frankly, that I do not believe this Government can permanently be held together by military force. I do not believe that any section of this Confederacy will ultimately subjugate and overrun the other and hold it as a conquered province. I have no idea of any such thing. It is against the genius and the spirit of the age. Nobody would attempt any such thing. I regard civil war as really settling the question that there is to be ultimately a separate confederacy. I have no idea that such a war could end otherwise than in a separation of this Union, and the organization of separate confederacies. I am perfectly satisfied of that."

Mr. FINCK. But the same distinguished gentleman, in another speech, delivered during the same session of Congress, on the 23d of February, 1861, said:

"Mr. Speaker, when there were fifteen slaveholding States acknowledging allegiance to this Federal Government, and, therefore, having in their hands the power to protect themselves against any invasion of their rights on the part of the Federal Government, it was a matter of very little consequence whether such amendment as that were incorporated in the Constitution or not. But the state of the country is now radically and essentially changed. Seven or eight States now deny their allegiance to this Government, have organized a separate confederacy, and have declared their independence of this Government. Whether that independence is to be maintained or not is with the future. If they shall maintain their position, and if public opinion in those seceding States shall sustain the authorities there for a year or two to come, so as to show that nothing but a war of subjugation and conquest can bring them back, I for one am disposed to recognize that independence."

Now, I do not pretend to say that Governor Stanton was in favor of secession; but certainly these declarations, thus distinctly and clearly made, by these distinguished leaders of the Republican party, could not have failed to have added force to the belief, in the minds of the people of the South, that they would be allowed to peaceably withdraw from the Union.

But, sir, this test oath must operate on all who have given aid to the rebellion, whether they acted under the honest belief that their States had the right to secede, or whether they acted under the belief that they were bound to follow their States in the attempted secession. Nay, more than this, it will exclude hundreds and thousands who were not rebels, but who, nevertheless, assisted in the rebellion; for I take it that it will not be questioned by any gentleman who has examined the subject, that all that large body of the people of the late insurgent States who aided in the rebellion *only* after the Federal Government was ousted of its jurisdiction, and no longer able to protect them from the jurisdiction of the usurped power, are not guilty of the crime of treason. And I make this declaration upon the broad and well-settled principle of public law, that protection and allegiance are reciprocal duties, and that the Government which fails, or is unable to protect its citizens from a usurped power or other jurisdiction, cannot, after it regains its rightful jurisdiction, turn around and punish the unfortunate people for having yielded obedience to such usurped power during the period that the rightful Government was so ousted of its jurisdiction, and thus rendered unable to protect these people. To do so, would be most monstrous, and at war with the clearest dictates of sound reason and Christian civilization, and the well-settled principles of law. This doctrine has been fully recognized and applied in the case of the United States *vs.* Rice, 4 Wheaton R., and has been acted on in England for many generations.

But, sir, all these people are affected by the oath of July, 1862; and its continuance is most unjust and unwise. These people have returned to their allegiance to the Federal Government. They have pledged themselves anew to perform their duties and obligations.

But we are told that they are not yet prepared to be represented here; they are not yet sufficiently *loyal*. Some reckless fellow has knocked down a negro, or cursed a Yankee, and a whole State is declared unfit to be represented in the Congress of the United States. Sir, if these people are not yet loyal, please inform me how many years it will require of such legislation as has been favored by the majority on this floor during this session of Congress to make them loyal. And what new arguments do you propose in order to convert them? Is it by excluding them from representation in these Halls, and imposing upon them the burdens of taxation?

Sir, in this connection I wish to read a few brief extracts from a speech delivered by Alexander H. Stephens, before the Legislature of Georgia, on the 22d of last month. He says:

"Whatever differences of opinion heretofore existed as to where our allegiance was due during the late state of things, none for any practical purpose can exist now. Whether Georgia, by the action of her convention of 1861, was ever rightfully out of the Union or not, *there can be no question that she is now in, so far as depends upon her will and deed. The whole United States, therefore, is now without question our country, to be cherished and defended as such by all our hearts and by all our arms.* The Constitution of the United States, and the treaties and laws made in pursuance thereof, are now acknowledged to be the paramount law in this whole country."

Again:

"Let old issues, old questions, old differences, and old feuds be regarded as fossils of another epoch. They belong to what may be considered the Silurian period of our history. Great, now, living questions are before us. Let it not be said of us in this day, not yet passed, of our country's greatest trial and agony, that there was a party for Cæsar, a party for Pompey, and a party for Brutus, but no party for Rome; but let all patriots, by whatever distinctive name heretofore styled, rally in all elections everywhere to the support of him, be he whom he may, who bears the standard with 'constitutional Union' emblazoned on its folds. President Johnson is now, in my judgment, the chief great standard-bearer of these principles, and in his efforts at restoration should receive the cordial support of every well-wisher of his country."

And in speaking of the duty of the people of Georgia in relation to the colored people of that State, he uses the following language:

"In legislation, therefore, under the new system, you should look to the best interests of all classes—their protection, security, advancement, and improvement, physically, intellectually, and morally. All obstacles, if there should be any, should be removed, which can possibly hinder or retard the improvement of the blacks to the extent of their capacity. All proper aid should be given to their own efforts. Channels of education should be opened up to them. Schools and the usual means of moral and intellectual training should be encouraged among them. This is the dictate, not only of what is right and proper and just in itself, but it is also the promptings of the highest considerations of interest. It is difficult to conceive a greater evil or curse that could befall our country, stricken and distressed as it now is, than for so large a portion of its population as this class will quite probably constitute among us hereafter, to be reared in ignorance, depravity, and vice."

The Legislature of the State of Louisiana, speaking for the people of that State, have

recently passed the following preamble and resolution:

"Whereas in the debates upon the question of reconstruction in the national Congress, the enemies of the policy of President Johnson are endeavoring to mislead public opinion by the grossest misrepresentations of the opinions and sentiments of the people of this and other southern States: Therefore,

"*Be it resolved by the Senate and House of Representatives of the State of Louisiana in General Assembly convened*, That, as representatives recently elected by the people of this State, and being fully conversant with their opinions and sentiments, we do declare that they have with unparalleled unanimity accepted the results of the war as a final settlement of the questions at issue therein; that there does not exist an intention or desire to reopen the agitation of those questions; that they acquiesce in the abolition of slavery as an accomplished fact, and they are ready to extend to the late slaves the protection of the laws in the enjoyment of their rights; that instead of entertaining any hostility to the negro race in the southern States, they hold for them the kindly feelings which grew out of their former relation to the white race, and recognize it as their interest as well as duty to do whatever is proper to advance them in intelligence, morality, and religion. That the professions of the people of Louisiana, that they are willing to subscribe to the national authority and constitutional Government of the United States, are sincere and unqualified, and that any accusations made in contradiction of the above statement, from whatever source or on whatever authority, we pronounce to be without foundation in fact, and are infamous attacks upon the honor, courage, and good faith of the people of Louisiana."

Sir, this Government is certainly not what I supposed it to be, if after the war has ended, and these people have returned to their allegiance to the Constitution, they cannot be intrusted with the full exercise of the rights which belong to them under the Constitution.

After the rebellion has been overthrown, it is too late to speak of an entire people as rebels and traitors. The war has done its work most effectually. Let us now have peace, and the return of all the legitimate relations of peace.

Have we indeed degenerated? Are we less patriotic, less magnanimous, less merciful, and controlled more by the base passions of hate and revenge, than were the statesmen of Rome two thousand years ago? I trust not.

In reading a speech delivered on the 8th of January last, by a distinguished citizen of Ohio, once a leading member of the Senate of the United States, and who I regret is not now in the councils of the nation, I was reminded of an event in the history of the Roman people which it would be well for us not to forget.

Nearly a hundred years before the Christian era there was an attempt made by some of the Roman States to *secede* from the Italian Union. A war ensued like our own, most bloody and destructive, and lasting about the same period of time. But the confederates then, as now, were utterly and completely defeated. How, let me inquire, did the great men of Rome, on whose minds no ray had yet been shed of that divine religion which our Saviour came upon earth nearly a century later to establish, treat the conquered people of those States? Did Roman senators, like American representatives, propose to hold those States as subjugated territories and deny to their people the rights of citizens? No, sir; no such unwise counsels prevailed in the Roman senate; but with a true wisdom and magnanimity, which even at this day must command our warm admiration, they generously conceded to the people of the insurgent States the full rights of Roman citizens, and merged the remnant of the armies of the late confederates with the legions of the republic, marching them together under the Roman eagle to recover the territories which had been overrun and occupied by a foreign enemy during the social war, thus preserving the power, and strength, and glory, of the republic.

Cicero, in one of his beautiful orations, speaks in terms of the most eloquent praise of the custom which had prevailed among the Roman people of granting the rights of citizens to conquered enemies. Other instances of the exercise of the same wise and liberal policy might be cited from Roman history.

And now I may be allowed to inquire whether it is possible that the Congress of the United States at this day, in the full blaze of Christian civilization, will be less magnanimous to our brethren of the South than were the Roman people two thousand years ago to their conquered enemies?

Sir, I am not insensible to the fact that the events of the last four years have produced estrangements and divisions which time alone can fully restore; that wounds have been inflicted which are yet too fresh to allow us to hope for that perfect restoration of cordial friendship and amity for which every lover of his country and his race will most ardently pray.

But it seems to me that it would be the part of true wisdom in us, after having so completely crushed the rebellion, and when these people have so unanimously and sincerely, as I believe, resolved to return to their duties and obligations to the General Government, to treat them with that clemency and kindness which will not fail to win their affection, and thus settle more firmly the foundations of the Union, and add additional luster to the brilliant victories we have achieved.

I know they have committed a great wrong, but I ask, now that we have vindicated before the world that no right exists under our Constitution for a State to secede, after we have exhibited a determination which admits of no misconstruction or doubt, that we will have but one Constitution and one flag, would it be the part of wisdom and magnanimity, in this hour of our triumph, to seek to crush and degrade these men who we have determined shall live with us as brethren of the same common country?

No, sir; no, sir; this is the hour for clemency and forgiveness. Let us generously say to these people, "It is true, indeed, that you have committed a great crime in endeavoring to break up this Union, made by the sacrifices, the toil, and the wisdom of your fathers as well as ours, but you have abandoned your error and expressed your desire to return to the common household. We know how to be generous in the council chamber, as our armies have been magnanimous, gallant, and brave in the field, and however great has been your error, you are still our countrymen. Come, let us again be sincere friends. We trust and believe that in the future you will be as devoted and patriotic to the Union as you have been brave and heroic in a mistaken cause in the past. Let us once more unite in the pleasing task of advancing the true glory, happiness, and prosperity of our common country. Come, let us enjoy as equals and as brothers the rich blessings of this priceless heritage which has come down to us from an illustrious ancestry."

Let us not forget, I beseech you, Mr. Speaker, the petition in that best of prayers which was pronounced by the lips of our divine Redeemer himself, and which was taught us at our mothers' knee, "Forgive us our trespasses as we forgive them who trespass against us." And as we prostrate ourselves in humble adoration before the Supreme Ruler of nations, to beg His blessing and the forgiveness of our many transgressions, oh let us not forget that He is the common Father of us all, and that in order that our prayers may be heard, we, too, must forgive every one from our hearts.

Sir, I believe the pure precepts of Christian charity will be a much safer guide for us in this crisis of our history than the principles of hate and revenge. I have always been opposed to the doctrines of secession. I was determined in my opposition to the rebellion. I have always been devoted in my attachment to the Union of these States. All my interests are in the North. There sleep the ashes of my ancestors. There live my kindred and my friends, those whose love and friendship make life happy. But, sir, I shall never forget that every State of the thirty-six is a part of my country, and that their citizens are my countrymen. I shall never forget, Mr. Speaker, that the independence of this nation was achieved and the union of these States formed by the united toil and sacrifices—the blood and wisdom of both sections; and my most earnest prayer to-day is that this whole people may again be true friends, and that all of these States may once more gather around the common altar of the Union, linked together as equals by the strong and enduring ties of mutual confidence and affection.

Mr. ORTH obtained the floor.

Mr. THAYER. Will the gentleman yield to me for a motion to adjourn?

Mr. ORTH. I will.

LEAVE OF ABSENCE.

Mr. THAYER asked and obtained leave of absence for Mr. MOORHEAD for four days from next Monday.

And then, on motion of Mr. THAYER, the House (at half past four o'clock p.m.) adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to appropriate committees:

By Mr. BROOMALL: The petition of 375 citizens of Chester county, Pennsylvania, praying for a modification of the tariff law so as to afford protection to American industry.

Also, the petition of citizens of Delaware county, Pennsylvania, praying for an appropriation to improve the harbor of Marcus Hook, on the Delaware river.

By Mr. ELIOT: The petitions of Fall River Savings Bank; Five Cent Savings Bank, of Fall River, Massachusetts; Citizens' Savings Bank, of Fall River, Massachusetts, respectfully praying that savings institutions not having capital stock may not be subject to certain taxes.

By Mr. MOORHEAD: The petition of 660 citizens of Pennsylvania, praying for protection to American labor.

By Mr. STEVENS: The petition of Alexander Dunbar.

IN SENATE.

MONDAY, *March* 5, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY.

The Journal of Friday last was read and approved.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore*. The Chair has received and been requested to present to the Senate a communication from the Governor of North Carolina, inclosing certain resolutions passed by the General Assembly of that State, accepting certain lands donated to that State by the Congress of the United States by an act passed July 2, 1862, entitled "An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts." This communication and these resolutions will be laid on the table and printed, if there be no objection.

The PRESIDENT *pro tempore*. The Chair has also received and been requested to present to the Senate a petition of Benjamin Rawls, of Columbia, South Carolina. The petitioner describes himself as an old man, ninety-three years of age. He says that he was the owner of a house, with furniture and other property connected with it, at Columbia, worth at least ten thousand dollars, which was all the property he possessed, being the fruits of a long life of labor and industry, and that it was all destroyed in a single night by the Army of the United States, leaving him in a condition not able to buy a loaf of bread. He says that he has always been loyal to the Government of the United States, has taken an oath to support the Constitution, and has never broken it; that, during the days of nullification he suffered pecuniarily for his devotion to the Union cause, and has never yielded in his devotion from that day to this. The last sentence of his petition is very short, and with the permission of the Senate the Chair will read it:

"May the Grand Architect of the universe, who, by His wisdom, founded the earth, and by His understanding established the heavens, supervise and direct all the deliberations and legislative acts of your honorable body to the total extermination from our remotest borders of the evil spirit of strife, discord, and war, and erect in its stead the beautiful temple of peace, harmony, and friendship throughout the United States."

The petitioner prays that Congress will make some provision for the loss that he has sustained. This petition, if there be no objection, will be referred to the Committee on Claims.

Mr. WADE. I present a petition numerously signed by citizens of Ohio, praying Congress—

I. Not to restore any State that has rebelled

and warred against the United States to its place in power as a governing partner in the Union till adequate security has been obtained against its renewing the attempt to secede, &c.

II. Not to allow any distinction on account of color or descent in the laws or municipal regulations of the District of Columbia.

III. To propose for ratification by the several States amendments to the Constitution, substantially as follows:

1. The Union of the United States of America shall be perpetual.

2. If, by the constitution or laws of any State, persons are denied on account of their race or color the right of voting equally with others, then those inhabitants of that race or color shall not be counted in determining its number of Representatives in Congress.

3. That the national faith of the Union shall be forever sacred, and any State which shall be hereafter admitted or restored to this Union shall thereby, as it becomes a partner in the national power and treasure, to assume its proportionate share of the national responsibilities, &c.

4. That no State which shall hereafter be admitted into this Union, or which may have attempted to withdraw from it, shall make any distinction in its constitution, laws, or municipal regulations on account of color or descent, or any payments, either by the State or the United States, for emancipated slaves.

5. Congress shall have power to enforce these articles by appropriate legislation.

I move that this petition be referred to the committee on reconstruction.

The motion was agreed to.

Mr. WILSON presented the petition of officers of the Dedham Institution for Savings, praying that savings banks or institutions for savings, having no capital, and whose business is confined to receiving deposits and loaning the same on interest, for the benefit of depositors only, and which do no other business of banking, may be exempted from the payment of the internal revenue tax upon deposits or otherwise; which was referred to the Committee on Finance.

Mr. DOOLITTLE presented resolutions of the Legislature of Wisconsin in favor of a grant of lands to aid in the construction of a ship-canal across the base of Kewenaw Point from Lake Superior to Portage Lake; which were referred to the Committee on Public Lands, and ordered to be printed.

Mr. COWAN. I present the petition of divers citizens dwelling upon the banks of the Delaware river, in which they set forth that the public piers at Marcus Hook, on that river, are in a very dilapidated condition and need repairs. They therefore pray that an appropriation of $10,000 be made to build two new piers, and $2,000 for the purpose of repairing the old wharves. I move that this petition be referred to the Committee on Finance.

The motion was agreed to.

Mr. COWAN. I also present a petition very numerously signed by Singer & Co., of the Sheffield Steel Works, Jacob Knapp, and others, praying Congress to pass such a tariff as will protect the national industry, replenish the national Treasury, and develop our vast national resources, making us in fact, as well as in theory, a great, prosperous, and independent people. I move that this petition be referred to the Committee on Finance.

The motion was agreed to.

Mr. COWAN. I also present a petition signed by mechanics and laborers in American manufacturing establishments, and members of that great creative force whose hands built and equipped our Navy, and supplied the materials that armed, equipped, and kept the nation's armies in the field, and literally saved its life. They pray the Senate and House of Representatives, in the discharge of their duty, to watch over and promote the interests of the people, to avert from them and their wives and children the misfortunes with which they are threatened, by amending the tariff so as to protect their labor to the extent of the difference of the cost of capital and labor here and abroad, with the addition of the taxes paid by American industrial products, from which the foreign are free. This petition is signed by David Reeves, J. P. McAllister, George H. Sellers, and others. I move the reference of this petition to the Committee on Finance.

The motion was agreed to.

Mr. COWAN. I have also another petition of the same import, signed by John H. Buckly, Henry Richl, William E. Fordham, and others; also another signed by William Murray Neveil, George J. Neveil, John Boardman, and others; also another signed by James McBride, Daniel Keen. Cornelius T. Peacock, and others. I move that these petitions be also referred to the Committee on Finance.

The motion was agreed to.

Mr. SUMNER. I offer a petition of citizens of the United States, respectfully praying Congress not to restore any State that has been in rebellion, and warred against the Union, so that it shall become a governing partner in the Union until adequate security has been obtained for the future. The terms of security desired by these petitioners are set forth in their petition. I ask its reference to the committee on reconstruction.

It was so referred.

Mr. SUMNER. I also offer a petition of the members of the Park street church or congregation, in Boston, well known as one of the most important religious societies in Massachusetts, asking Congress so to legislate as will secure to every inhabitant of these United States equality before the law. I ask the reference of this petition to the committee on reconstruction.

It was so referred.

Mr. MORGAN presented a petition of assistant assessors of the sixth collection district of New York, praying for increased compensation; which was referred to the Committee on Finance.

Mr. HARRIS presented the memorial of J. B. Van Petten, late colonel and brevet brigadier general, praying for an amendment to the act of March 3, 1865, entitled "An act making appropriations for the support of the Army for the year ending June 30, 1866," so as to include in the benefit of its provisions not only those officers in the United States military service at that date, but also those who were mustered into the service subsequently and were discharged at the conclusion of the war; which was referred to the Committee on Military Affairs and the Militia.

Mr. BROWN. I present the petition of George S. Park, of Parkville, Missouri, in which he recites that in 1855 his press was thrown into the Missouri river, his property destroyed, his life threatened, and that he was driven from his home and country; that he appealed to the Governor of Missouri; that he said he had no power to act, but referred him back to the circuit judge and sheriff. The judge was a counselor and the sheriff a leader of the mob. He further states:

"I then appealed to the President of the United States. He could find no power to protect me. I then found that our Government, while it protected the American citizen in foreign countries and on the ocean, utterly failed to protect life, liberty, and property from domestic violence and the infringement of justice by local officers. Many similar outrages have occurred. Therefore your petitioner respectfully asks an amendment to the Constitution of the United States that will give the necessary power in such cases, compelling all officers, State and national, to protect every American citizen, without regard to race or color, in every right; or if such protection can be secured more fully, to authorize the appointment of commissioners who will be independent of local influence, or in any other way your wisdom may dictate; so that every American citizen may feel and know that the Government of his country will hear his voice and protect him. And your petitioner will ever pray."

I move the reference of this petition to the Committee on the Judiciary.

The motion was agreed to.

Mr. POMEROY presented the petition of James G. Clarke, praying for compensation for services and expenses as acting *chargé de affaires* in Belgium, from June 11, 1857, to September 3, 1858; which was referred to the Committee on Foreign Relations.

Mr. STEWART. I ask leave to present resolutions of the Legislature of the State of Nevada, instructing her Senators and requesting her Representatives to procure, if possible, the passage of an act by Congress prohibiting the Central Pacific Railroad Company, or any other railroad company that may hereafter receive donations of public lands by Congress in aid of its construction, from acquiring any right, title, or interest whatever to the minerals of whatever character, except iron and coal, and asking that mineral lands may be held for prospecting and exploration. I will state, in connection with these resolutions, that I understand those reservations are substantially in all the laws that have been passed on the subject. However, I will ask that these resolutions be referred to the Committee on the Pacific Railroad.

They were so referred.

Mr. WILSON presented the petition of Daniel French, and one hundred and thirteen others, citizens of Waltham, Massachusetts, relative to the condition of the late rebel States, and praying for certain amendments to the Constitution and for the adoption of guarantees to prevent any State from again attempting to secede; which was referred to the joint committee on reconstruction.

Mr. WILLEY presented the petition of J. F. Caldwell, praying for compensation for four guns alleged to have been taken from his house in 1862 by order of General Crook; which was referred to the Committee on Claims.

Mr. GRIMES presented resolutions adopted at a meeting of soldiers in Marengo, Iowa county, Iowa, on the 5th day of February, 1866, in favor of an equalization of bounties; which were referred to the Committee on Military Affairs and the Militia.

Mr. CHANDLER presented the memorial of C. A. Sheldon, praying for the passage of an act authorizing him to register the bark Mary in the custom-house at Detroit; which was referred to the Committee on Commerce.

Mr. TRUMBULL presented the petition of United States assistant assessors of the first district of Illinois, praying for an increase of their pay and allowances; which was referred to the Committee on Finance.

Mr. JOHNSON. I present the petition of Mrs. Serena McLane, who states that she is the widow of the late Captain George McLane, who was killed in 1860, in a battle with the Nevajo Indians in New Mexico. He was so distinguished in the war with Mexico that he was brevetted twice for gallant conduct. She states that her pension, under the laws as they now stand, will expire during the present year, and she asks that the pension may be continued to her during her widowhood. She was left a widow with four infant children, and represents herself entirely without the means of supporting them. I move that this petition be referred to the Committee on Pensions.

The motion was agreed to.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. FESSENDEN, it was

Ordered, That the petitions and other papers in the cases of Ebenezer Ricker and James E. Linscott, praying for invalid pensions, be taken from the files of the Senate, and referred to the Committee on Pensions.

On motion of Mr. POLAND, it was

Ordered, That Eli W. Goff have leave to withdraw his petition and other papers from the files of the Senate.

REPORTS OF COMMITTEES.

Mr. DIXON. I am directed by the Committee on Post Offices and Post Roads, to whom was referred the joint resolution (H. R. No. 66) relative to the courts and post office of New York city, to report it back with two amendments, one in the fourteenth line, and one adding two names. I should like to have the resolution acted upon at the present time as it is a matter of some importance.

Mr. LANE, of Indiana. I object until reports have been made.

The PRESIDENT *pro tempore.* Objection being made, the joint resolution cannot be considered to-day.

Mr. CLARK, from the Committee on Claims, to whom was referred a bill (H. R. No. 345) for the relief of Christina Elder, asked to be discharged from its further consideration, and that it be referred to the Committee on Pensions; which was agreed to.

Mr. LANE, of Indiana, from the Committee on Pensions, to whom was referred the petition of Emma J. Hall, praying for a pension, reported a bill (S. No. 181) for the relief of Emma J. Hall. The bill was read, and passed to a second reading, and the report was ordered to be printed.

Mr. ANTHONY. The Committee on Printing, to whom was referred a resolution to print for the use of the Senate the regular number of copies of the Dictionary of Congress, as revised and brought down to date, have directed me to report it back without amendment and recommend its passage; and if there be no objection I will ask for its present consideration.

The resolution was read for information, as follows:

Resolved, That there be printed for the use of the Senate the regular number of copies of the Dictionary of Congress, as revised and brought down to date, and that the same copyright be paid the compiler that was paid to him by resolution of this body, adopted June 20, 1864.

Mr. GRIMES. I object to the consideration of that resolution.

Mr. RIDDLE. I appeal to the Senator from Iowa to withdraw his objection. The committee have considered the resolution very carefully, and the Senate might as well dispose of it to-day as at any other time. The committee were unanimous in making the report.

The PRESIDENT *pro tempore.* Objection being made, the resolution lies over under the rule.

BILL RECOMMITTED.

Mr. POLAND. I move to recommit the bill (S. No. 171) for the relief of Reuben Clough, to the Committee on Pensions. The committee reported it back adversely on the second morning after it was referred to them, and some papers which were left in my charge to be given to the committee they failed to receive. I therefore, with the concurrence of the chairman, make this motion to recommit.

The motion was agreed to.

BILLS INTRODUCED.

Mr. CONNESS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 182) to enlarge the northern judicial district of California, and for other purposes; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. BROWN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 183) to fix eight hours' labor as a day's work in all cases where laborers, mechanics, or artisans may be employed by or under the authority of the Government of the United States; which was read twice by its title, referred to the Committee on Naval Affairs, and ordered to be printed.

Mr. MORRILL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 184) to define more clearly the jurisdiction and powers of the supreme court of the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. MORRILL also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 185) to preserve evidence of marriages in the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. STEWART asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 186) amendatory of an act to provide for the reports of the decisions of the Supreme Court of the United States; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. STEWART. I present a letter of the reporter of the Supreme Court explanatory of the bill, which I ask may be printed, and referred with the bill to the Committee on the Judiciary.

The motion was agreed to.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 37) to provide for the representation in Congress of the States lately in rebellion, and for the resumption of the practical relations of the said States to the United States; which was read twice by its title, referred to the committee on reconstruction, and ordered to be printed.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the Speaker of the House of Representatives had signed the following enrolled bills and joint resolutions; which were thereupon signed by the President *pro tempore:*

A bill (S. No. 93) to quiet the title to certain lands within the corporate limits of the city of San Francisco;

A bill (S. No. 142) for the relief of James Bawdin; and

A joint resolution (H. R. No. 76) authorizing the Secretary of War to transfer to the National Home for Soldiers' and Sailors' Orphans, of Washington city, certain stores not needed for the use of the Government.

KIDNAPPING IN THE SOUTH.

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

Resolved, That the President of the United States be requested to communicate to the Senate, if not incompatible with the public interest, any information which may be in the possession of the Executive in regard to the alleged kidnapping of colored persons in the southern States for the purpose of selling them as slaves in Cuba or elsewhere.

TELEGRAPH TO THE PACIFIC.

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

Resolved, That the Secretary of War be directed to inform the Senate whether he, or any other officer or person by his order or under his advice, has granted any right or title to any person or persons or any corporation to construct and operate a line of magnetic telegraph from the city of New Orleans to the city of San Francisco or elsewhere on the Pacific coast of the United States; and if so, to whom such right was granted, or with whom such contract was made, at what time, upon what terms and condition, and by what authority such right was granted or such contract made.

JOSÉ SERAFIN RAMIREZ.

On motion of Mr. HARRIS, the bill (S. No. 173) to confirm the title of José Serafin Ramirez to certain lands in New Mexico, was read the second time, and considered as in Committee of the Whole. It proposes to confirm the grant to José Serafin Ramirez of the Cañon del Aqua, as approved by the surveyor general of New Mexico January 28, 1860, and designated as number seventy in the transcript of private land claims in New Mexico, transmitted to Congress by the Secretary of the Interior January 11, 1861, with a proviso that this confirmation shall only be construed as a relinquishment on the part of the United States, and shall not affect the adverse rights of any person whomsoever.

Mr. JOHNSON. What is the necessity of this bill?

Mr. HARRIS. It is under the treaty ceding New Mexico to confirm a grant from the Mexican Government.

Mr. CONNESS. I should like to inquire of the honorable chairman of the Committee on Private Land Claims whether the grant proposed to be confirmed by this bill has been ascertained by him and by the authorities of the United States to be a perfect grant on the part of the Government of Mexico. This mode of confirmation of private grants is one that has not been taken generally; and unless the case has been very closely examined, and the Senator is able to say to us that it is a perfect grant on the part of the Mexican Government, I should be unwilling that the bill should pass.

Mr. HARRIS. I have examined this case with great care, and am satisfied that the claim is just. This tract of land was granted to the applicant by the Mexican Government, in due form, according to the laws and usages of Mexico and Spain. He was put in possession of it, and has been in possession of it ever since; he was in possession of it at the time New Mexico was ceded to our country. Under the law of 1854, requiring these grants to be examined by the surveyor general of New Mexico, proof was taken by the surveyor general of New Mexico, and he made a report of it, the concluding clause of which is as follows:

"The grant to the lands situated at the Cañon del Aqua was made according to the laws in existence at the time it was made. It is proved to have been in the quiet and undisturbed possession of the applicant from that date up to the present time. It is fully covered by the treaty of Guadalupe Hidalgo of 1848. It is therefore approved, and respectfully transmitted for the action of Congress in the premises."

This is in precise accordance with the act of Congress, passed in 1854, in relation to such claims.

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

BONDED WAREHOUSES.

Mr. CONNESS. It will be remembered by the Senate, Mr. President, that there was a motion pending for the reconsideration of the bill relating to warehousing goods, and that it has been pending in this body now for six or eight weeks or thereabouts. I stated once before to the Senate that when the bill had passed both Houses I, in accordance with the wishes of mercantile men at San Francisco, telegraphed the entire bill as having passed both Houses. Subsequently there was a motion entered to reconsider, which has been discussed at considerable length, but at considerable periods of time apart; and I now move that the Senate take up the consideration of that motion and that we have a vote upon it. It has been sufficiently discussed. I have not undertaken to say anything on the subject myself, although I will state that the bill is one of great importance to the people that I in part represent, that in the absence of it every year since I have been in the Senate we have been called upon to pass special acts to meet the difficulties that arise and which this is proposed to meet generally. I do not desire to prolong remarks upon the subject, but hope the Senate will take it up and take a vote on it.

Mr. HOWE. If my friend will indulge me, I want to make a few remarks by way of personal explanation.

The PRESIDENT *pro tempore.* Does the Senator from California withdraw his motion for that purpose temporarily?

Mr. CONNESS. Yes, sir.

PERSONAL EXPLANATION.

Mr. HOWE. I find in the Washington correspondence of the New York Times, Mr. President, some remarks which it has seemed to me worth while to notice. In speaking of the debate which took place on Friday on the passage of the concurrent resolution, this is said:

"Mr. DOOLITTLE'S colleague, Mr. HOWE, who appears to have an ambition to out-radical all the radicals, run into a trap upon invitation of Mr. DOOLITTLE to any one who holds that the Senate's function was confined to the simple examination of credentials of applicants for seats in the Senate, to show himself. Upon this invitation Mr. HOWE showed himself, and distinctly avowed that he entertained that view. He stuck to it persistently, notwithstanding the whispered admonishments from Mr. FESSENDEN and other Republicans, who tugged at the coat-tail of the Wisconsin Senator, and endeavored to make him take back the fallacy. This was, however, nuts to crack for Mr. DOOLITTLE, who went at it with a gusto, and completely demolished his colleague's theory."

Mr. President, I thought I might say to my colleague that it was not exactly kind of him to be setting such traps for one so simple and so verdant as myself. I do not think he ought to do it, and I think it is very unkind of the New York Times to laugh at me when I do fall into them. I am afraid the New York Times does not comprehend how terrible a thing it is

for so solemn a sheet as this is, to indulge in a laugh. To one of my weak nerves, it is absolutely frightful, and I hope the experiment will not be tried again upon me.

Now, Mr. President, I ask for one moment to call attention to the trap that was set for me. I came into the Senate from the other end of the Capitol, and I found my colleague asserting that some Senator "entertained the opinion that the Senate can only judge of the elections, qualifications, and returns of its members." He boldly stated that some Senators had asserted that doctrine. Nobody seemed willing to be responsible for it, and inasmuch as the proposition was stated in the exact words of the Constitution, I thought I would venture to stand responsible for the correctness of the Constitution; and so I advised my colleague that if he could not find anybody else to say it, I would say it myself. And now, you see, whenever my colleague or any one else sets a trap for me and baits it with the exact words of the Constitution, I am extremely apt to fall into it, because I snap at all such language.

That was his proposition; that was his accusation; that was the heresy with which he charged Senators somewhere, that the Senate could only judge by itself of the elections, qualifications, and returns of members; and that is precisely what the Constitution says the Senate can determine for itself. That is the doctrine which this correspondent of the New York Times says my colleague pitched into with gusto and utterly demolished. How did he demolish it? You see that if he demolished it at all, he demolished a clause of the Constitution; and but for the assertion of the New York Times—which I am in the habit of reading, and which I believe—I should never have dreamed that he had demolished the Constitution; but upon such authority I shall not dispute it. How did he demolish it? Why, he went on to argue like this:

"We are to judge of the 'elections' of Senators. Who elect Senators? Legislatures. Can anybody else elect them but Legislatures? No. Therefore we are empowered by the Constitution to judge whether there are any Legislatures."

Very well; the Senator argues that under the power to judge of elections we can investigate and ascertain and determine whether there are Legislatures to elect. Having established that he has demolished this clause of the Constitution. He was arguing as to what is included within the power to judge of elections, and upon that point there was no question between my colleague and myself. There had been none raised up to that time, and I do not know that any has been raised since. I simply asserted that we were only authorized by the Constitution to determine these three things. He goes on to argue that in determining these three things we may determine certain preliminaries or certain incidents to these things. In other words, he is arguing as to what is included within the power to judge of elections, and I was simply asserting that that was one of the three things which we could determine. That was the difference between my colleague's argument and my proposition. I did subsequently put another question to him as to whether, in judging of the qualifications, if a given Legislature should send up here two gentlemen to take seats in the Senate, each one of them having the qualifications which the Constitution prescribed for all Senators, if we were authorized to admit one and reject the other. I put that question to him because I was of the opinion that he held that we could not do so. I found by his reply that I was mistaken; that I woke up the wrong passenger decidedly. He satisfied me in an instant that he did hold the very idea which I had supposed he repudiated. He says we could admit one and reject the other; we could reject them both; we could admit two Senators from Canada. I find by looking at the debate that he did disclaim our power to admit three from Canada. We are only limited to admit two from Canada; and I think he says we cannot admit but two from a State.

Mr. DOOLITTLE. My colleague will allow me to state that in that connection I asked, if we admitted two from Canada, what could the House do about it? But I said subsequently it would be revolutionary for us to admit Senators from Canada, but the other House could not do anything about it, nor could the President. That was my point.

Mr. HOWE. Let me read the question which I put to my colleague and the answer:

"Mr. HOWE. I wish my colleague would enlighten me upon one point. Suppose the same Legislature elects two Senators, each of whom has the age, citizenship, and residence prescribed by the Constitution; do I understand him to say that we can reject one of them and accept the other?

"Mr. DOOLITTLE. I say that this body has absolute power over its membership, and from its decisions there is no appeal. If they decide right or if they decide wrong, you are without remedy; there is no appeal. If two gentlemen were to come here from Upper Canada and claim that they had a right to seats in this body, if we admitted them the House could not help themselves, nor the President either, nor the Supreme Court. We are just that independent of all of them."

So then it amounts to just this: my colleague insists that if two gentlemen come up here from Georgia, elected by the same Legislature, having the same qualifications, we can admit one of them and reject the other just as well as we can admit two Senators from Canada. Upon that point, thus stated, I agree with him, and so I do not feel any more demolished than I suppose the Constitution of the United States feels.

Mr. DOOLITTLE. As a matter of course I do not desire to enter into any discussion with my colleague on this matter of personal explanation. The point I was making was that there were some Senators who contended that it was necessary that we should have the joint action of the two Houses or some kind of legislation before we could proceed to judge upon the elections of Senators to this body from these States.

BONDED WAREHOUSES.

Mr. CONNESS. Senators who have had so much time to make themselves understood upon the proposition debated by the Senators from Wisconsin, it appears to me, are hardly excusable for occupying the morning hour upon it. I now renew my motion to take up the bill (H. R. No. 135) to extend the time for the withdrawal of goods for consumption from public store and bonded warehouse, and for other purposes, which is pending on a motion to reconsider.

Mr. SPRAGUE. I desire to ask the Senator from Maine whether he intends to press the consideration of the constitutional amendment this morning.

Mr. FESSENDEN. I was just about to call the attention of the Senate to that matter. It has been understood that the Senator from Delaware [Mr. SAULSBURY] desires to speak upon that question. He is, however, quite unwell to-day, and desires that it may be postponed until to-morrow, saying that if he is not ready to proceed to-morrow he will not ask the Senate to delay on his account. I feel, in such a case, not disposed to press a Senator under those circumstances; but I wish to inquire whether there are any other gentlemen on either side of the House who desire to address the Senate on that question and are ready to do so. If so, we may as well occupy the time in hearing them.

Mr. POMEROY. If the Senator from Delaware is not prepared to go on, there are other Senators who would like to occupy the time to-day or at an early day.

Mr. FESSENDEN. Very well, then, I shall call up that question.

Mr. CONNESS. I hope it will not be called up for a few minutes until we can get a vote upon the proposition to which I have directed the attention of the Senate.

Mr. FESSENDEN. If there is to be no lengthy debate on that subject I do not insist upon calling up the other question now.

Mr. CONNESS. I think there is no disposition to debate it unless the honorable Senator from Rhode Island wishes to make another speech, and I think he has discussed it at sufficient length; but that is for himself to determine. I trust that he has said all that he wishes to say, and that we shall soon come to a vote upon it. I desire to say to the honorable Senator from Rhode Island that it is a measure in which we feel as great an interest as he can, and we are entitled to a vote upon it. If the Senator has anything further to say, of course he will proceed; but I hope we shall have a vote this morning.

Mr. SPRAGUE. I consider it my duty to fight this measure step by step under all circumstances and upon every occasion, to antagonize it with any measure which may be before the Senate. I know of no other way when it is presented here than to express my disapprobation of it in every sense, and I accumulate hostility as often as the measure is postponed, and I have new reasons for opposition every day that I give reflection to the subject. I am not willing that the measure shall be presented to the Senate at any time without expressing my disapprobation and recalling the ideas and views I expressed on a former occasion. I do not mean that they shall be forgotten if I have voice enough to express the hostility I feel for the measure, and I shall occupy the floor as long as I have ideas to express or memory to bring them forward, whenever the measure is taken up for consideration, whether this morning or to-morrow morning or the next day. But I do hope the Senate will take time for the consideration of this question and that it will not simply give it a minute or five minutes of the morning hour, but will assign to it some particular portion of the week when it may receive the consideration of Senators. Each time that it has been discussed Senators have been desirous of expressing their views; there is a hostility to the measure entertained by Senators who have reflected longer and more wisely on the subject than I can ever expect to do, and they have been cut off from giving their opinions to the Senate. I trust that it will not be taken up unless there is a disposition to give it time.

Mr. CONNESS. Mr. President——

The PRESIDENT *pro tempore*. The morning hour having expired it becomes the duty of the Chair to call up the special order.

Mr. CONNESS. I move that the special order be temporarily laid aside until we can get a vote on the measure to which I have called attention.

Mr. FESSENDEN. It may take all day, and if so I cannot yield.

Mr. CONNESS. I shall not ask for its consideration all day. It certainly is hardly fair that after the honorable Senator from Rhode Island has occupied as much time as he has he should expect the Senate to delay coming to a vote upon a measure that has been pending for six or eight weeks. I am, I confess, astonished at the position taken by the honorable Senator this morning. He certainly should not be concerned to give other Senators an opportunity to express their views; that is for them to determine, he having said all that he desired to say on the subject himself. I listened to him with great care and interest. I hope we shall now take the vote.

The PRESIDENT *pro tempore*. The special order can only be laid aside by common consent. If a motion is made to postpone the special order and all other orders and proceed with the measure referred to by the Senator from California, the Chair will put the question on that motion. If there be no objection, however, the special order may be laid aside informally.

Mr. SPRAGUE. I object.

Mr. CONNESS. I make the motion to lay aside the special order not with the intention of antagonizing this measure to the proposition for the amendment of the Constitution, in regard to the consideration of which I feel as deep an interest as any Senator can; but it is palpable to the Senate that if it is to be its conceded policy that one objection is to prevent the passage of a bill, we may as well adjourn. I hope the Senate will agree to put the special order

over for a short time until we come to a vote on the reconsideration. I have nothing to say on the subject; I shall occupy no time upon it. The honorable Senator from New York has addressed the Senate in defense of the bill, and I presume he desires to offer no additional views on that subject.

Mr. MORGAN. I am entirely willing to have the question taken without any discussion, unless there be more discussion on the part of those who are opposed to the measure. It was reported from the Committee on Commerce with the unanimous approval of that committee; I do not care to discuss it any more unless debate comes from those who are opposed to it.

Mr. CLARK. I hope the Senator from California will not push his motion to postpone the special order at this time. Apart from the general consideration of the importance of the amendment to the Constitution, there are some special reasons why it is desirable that it should be proceeded with. I ask him why he will not let the motion to reconsider lie until the morning hour to-morrow, so that we may go on with the debate on the constitutional amendment?

Mr. FESSENDEN. I hope the Senator from California will take that course.

Mr. CONNESS. If we can have a vote then I shall do so with great pleasure. My simple desire is to get a vote on a subject about which I feel that the people whom I represent are deeply concerned. I feel, indeed, that that right is as complete as the right of the honorable Senator from Rhode Island to delay it by objections after he has occupied time in discussion. I yield, however, to the suggestions of honorable Senators and withdraw my motion, giving notice that I shall call up the question to-morrow morning.

BASIS OF REPRESENTATION.

The PRESIDENT *pro tempore*. The special order is the joint resolution from the House of Representatives (H. R. No. 51) proposing to amend the Constitution of the United States.

Mr. POMEROY. Mr. President, in speaking on this resolution I must speak of the conflict and the triumph.

Great events come and go with the slow, measured tread of centuries. But all events, great and small, are of "Him who seeth the end from the beginning."

The events of our own day and time are unsurpassed, whether viewed in the light of the history of our own country or of other lands.

No age or country has been exempt from periods of turmoil and conflicts, for all communities which have ever aspired to have a name among nations have passed through, each for itself, periods of trial and of conflict.

Our world has been little else than a theater of conflicts since the day discord appeared in Eden, which then and there, for the first time, committed man to rebellion and disturbed the harmony of creation. But the great conflicts which have most disturbed mankind, and occupied by far the largest share of history, have been in the main one and the same. Although assuming diversified forms, appearing and disappearing at near and at remote periods, and among all nations, coming and going, amidst successes and defeats, still, I say, in the leading features and main characteristics they have been one and the same. For amid all the contentions of parties, ancient and modern, of our time and of all time, the great concentrating and controlling element has been for freedom on the one side, and for despotism upon the other. Of this conflict and this triumph I propose to speak.

Freedom and despotism, I admit, have appeared under different forms, partaking always of the type of the civilization of the age, sometimes mental, called tyranny of the mind, producing a despotism of ideas and opinions. And then again, tyranny of the body, claiming ownership of man, producing human slavery. This has been the "conflict of ages," reaching back forever, and forward, also, to our own time, in some form extending to all nations and among every tribe. This conflict, at some period, has seemed to sleep, and the world was said to be at peace. But before a rest could be realized and enjoyed contentions would spring up. Offenses would come, for human society has been as restless as the troubled ocean, whose waters never sleep.

Now, what have been the teaching of events, and what the lessons of history, if they have not given concurrent testimony that no great wrong and injustice can be put permanently to rest? All the natural elements of the universe are against it; and no attribute of Omnipotence can take sides with it. There must be a war between right and wrong, liberty and despotism, freedom and slavery, or justice has abdicated the throne and God left His universe. Compromising with injustice decides nothing, settles nothing. To attempt it in this way is to take sides with it. It is in itself restless and aggressive, making war upon the right; a disturber of the peace, an apple of discord, and in its very nature a restless sea; and no whispers of peace, by whomsoever uttered, can allay its troubled waters.

Oppression and despotism in some form have been reduced to a system, more or less odious, of organized violence and outrage upon mankind. In this sense the "whole creation has groaned and travailed in pain until now."

Men have always been ready to arraign themselves on the one or the other side of the issue, securing a despotism to be indulged in by the few, while submission and slavery have been meted out to the million. And at the moment when power was thought to be safely installed at the head of a despotism, the returning surge of the popular will would shake the pillars of the throne, or some divine decree would write in finger marks its doom upon the walls of the palace.

All testimony concurs in saying that war has been the rule, and peace the exception, in human society. Degrees of civilization may vary the time, and temper the form of every conflict, still, never changing the law, that the wrong cannot rest, so that the records of the past reveal more of war than peace. More money has been spent, and more energies wasted in destroying men than in saving them. There is an irreconcilable as well as "irrepressible conflict" between liberty and despotism, freedom and slavery; it has always existed, and exists to-day. It has always been and will be chief disturbing element to the harmony of nations and to the peace of the world.

Slavery is older than civilization, older than any written history. But I have no purpose to refer to it for any great period in the past, but simply to state the fact, in the light of the conflict of arms, from which we have just emerged, and draw from its lessons some reasons why we should never again temporize or compromise with slavery, either in substance or in shadows. Why not now be thorough and do full justice, not by implication and indirection, but direct, open, and conclusive, so that the destruction of slavery shall include all its supports and all its legacies?

The slow, weary way which this nation has traveled in its conflict with slavery need not be recounted.

These steps have made up the history of the last quarter of a century, and the highway to civilization and national freedom, has been found at last to be "by the way of the wilderness and the Red sea," and yet all the while freedom has been "marching on," and still onward, at one period slow, and then impetuous, and always irresistible. But the pathway of freedom has been strewed with many wrecks. Some efforts seem to deserve success that did not find it. Not every struggle has been a triumph, neither in this country nor Europe, for its progress among the nations can even now be traced along a weary and endless pathway by the blood of the martyrs, by the sepulchers of the prophets, with here and there only monuments to their memories. It has nevertheless been a highway for the nations, and defeats in one land have been only the stepping-stones to the temple of liberty in another.

The establishing of an independent republican government in this country was commenced by men who came with more of a purpose to get rid of oppression than to found an empire of freedom. But there was a divine Hand that led them, and a divine purpose to be accomplished, which even those good men did not realize. They had had the discipline of adversity, with stripes and imprisonment, in which they learned to hate oppression and to love liberty. They were driven about in the mother country as if infected with some incurable and contagious disease; sent from England to Holland, from city to mountains, from prison to death. Thus, as in a furnace-blast, was God preparing to cast the pillars of this nation!

> "This was the vine out of Egypt;
> He drove out the heathen and planted it."

It may be asked, why was this magnificent continent held back from discovery and settlement for so many years? Why, but for a purpose? And what purpose more grand or sublime than to preserve it fresh and pure from all the conflicts and despotisms of the Old World, and to consecrate it for the purposes of freedom, where, after the strife of three centuries and the triumph of slavery over the ballot-box, the courts, and the Constitution, there should be brought on the great contest of arms, culminating in this the great "conflict of ages," and producing the first grand national triumph of freedom over slavery, liberty over despotism.

For what other purpose, I repeat, was this American continent held back for so many long ages? For thousands of years it had been adapted and ready for cultivation; its mountains towered in splendor; its waters rolled in majestic and navigable rivers; its prairies teeming with the richest verdure lay stretched out to the setting sun with soil rich as the valleys of the Nile. But for long ages no mountains smiled upon civilization; no waters turned the wheels of industry or floated the commerce of labor; and the soil yielded only the luxuriance of forests or weeds of neglect. Here slept the wealth undiscovered, the resources undeveloped of the millions that were to be. Why, I ask again, was all this hidden from other eyes, and only revealed in these later times but for the grand final settlement and overthrow of slavery in the greatest conflict of arms ever witnessed, from which we are now so gloriously emerging amid the wonder if not admiration of the world.

Mr. President, the elements of the contest and triumph in this country seem to sustain some relations to each other. For an experience and observation of twenty years of struggle has taught me that the triumph of freedom over slavery was absolutely essential to the success of this experiment of free government. And it is a most noticeable fact that the institutions in controversy here were planted the very same year. For 1620 is no more memorable for the landing of pilgrims than for the landing of slaves. For while the one came out of the May Flower holding up the Bible and the spelling-book as the foundation of strength, the other came up the James river, Virginia, holding out its chains and fetters!

These were the symbols of the two systems, and were settled, I repeat, upon this American continent the very same year. It had, as I hinted, been reserved as a theater where could be acted on a most magnificent scale the great slave drama of centuries. The platform for the exhibition has proven to be the grandest of the world, and its results most auspicious for mankind. For this terrible attempt at revolution, in the form of rebellion, has now secured the basis of free government for an example if not an inheritance of all nations. Upon the hundred battle-fields of this war have been fought out the liberties of mankind. The representatives of all the nations stood shoulder to shoulder in the ranks of the Union Army, and the blood of all nations mingled together in the death conflict; and the anxious and patriotic of all civilized nations have

wept and rejoiced with us. This victory is not simply American, it now belongs to mankind, and its blessed results shall be a legacy to the race.

The fathers planted the principles of a free Government here two and a half centuries ago. They planted, as I said, upon a virgin soil in this western hemisphere, where their eyes lingered in golden sunsets and the day faded in hope! They founded Government upon some new and quite original principles, and in the elements of its structure is found the true idea of the "republican form" for which the General Government went surety and became the "guarantor" for each State to the whole United States.

I am thankful they did not attempt to patch up the old Confederation into a Union for a national Government. That had independencies, but no unity and power as a Government. And, too, they did not attempt to reconstruct upon the ruins of a decayed dynasty, or to sandwich in between despots and serfs. No, sir, it was equality of rights and duties among the people, the whole people, man as man, that lay at their foundation. That was good seed sown upon good ground. It had the rain and the sunshine, the night and the day, the pure light of heaven, and the free breath of mountain air, coming down from some of its loftiest summits, near to where God dwells, and the pure snows are eternal.

Slavery had a milder climate and a better soil. Indeed, in some respects it had superior advantages to freedom. It had a central position in the country, and soon secured power and influence in the Government. Freedom took a high northern latitude, contended with a hard soil, long, consuming winters, barren rocks and hills; but labored on in the midst of difficulties and triumphing over all obstacles, quarried its granite into gold, and skimming its frozen waters, sold the products in southern markets.

The early settlements were made amid the old forests of centuries which towered in magnificence, and the wilderness before them was as broad and dangerous as the ocean that murmured behind them. It took a century for these pioneers to ascend the Alleghanies, and another to awaken to civilization and to life the sleeping valleys of the Ohio and the Mississippi. But this third century has opened half the continent, placed the pioneer in the midst of the Rocky mountains, and given us the golden States of the Pacific. Thus these two institutions, freedom and slavery, undertook the work of possessing and subduing the continent; and "by their fruits ye have known them." Freedom, taking the path of empire westward, with her loyalty untarnished, and with her literature and her religion has given a distinctive character to her progress across the continent, planting all the way monuments of its civilization upon the banks of every stream, beside the lakes of the great Northwest, in the valleys of the Mississippi and the Missouri, and amid the everlasting mountains which are piled beyond them, and over them even to the shores of the peaceful Pacific; everywhere has this basis of her strength been laid in that Christian civilization which recognized the equality and rights of all men.

Slavery, on the other hand, "dragged its slow length along," degrading labor, dethroning manhood, prostituting womanhood, impoverishing the earth, and polluting the air; so that it has borne mingled wails of agony and tears of anguish. And this picture deepened often by the very drapery of despair. This institution has, from the beginning, been the chief disturbing element in our social and political system. Especially during the last twenty-five years it has put on power and assumed everything, and introduced to our politics the most infamous and dangerous dogmas ever taught in any political circles. It resisted the Confederation in 1797, and opposed the adoption of the Federal Constitution in 1798, and, what was worse, ever afterward perverted its meaning. Georgia and South Carolina refused to come into the Union until there had been secured three compromises for slavery:

1. The three fifths representation in Congress.
2. The slave trade until 1808.
3. The rendition of fugitive slaves from the other States.

Slavery began with a majority of the States in its interests, got a recognition, I am sorry to say, in the Constitution itself. The fathers gave it a place there, but, thank God, they left it without a name. But it grew into strength, always a unit for itself, and finally was able to make and control Presidents and Cabinets, shape our legislation at home, and our diplomacy abroad among the nations. And the demand for compromise lines, as in 1820, or their repeal as in 1854, was never rejected. Slavery triumphed everywhere—in elections, in Congress, in the Supreme Court, in every department of the Government, in the Navy and in the Army, on the sea and on the land, unchecked everywhere until it was undertaken upon the soil of my own State; and there only after the struggle of three years and the disgrace of two Administrations was the thing successfully met and vanquished.

That Kansas record I regard as a forerunner of the late rebellion; a pocket edition of the same work. Mr. President I now come to the conflict and the triumph of arms produced by the rebellion of 1860-61.

Now, sir, let me inquire, what occasioned the rebellion of 1860 and 1861? For what was the attack upon the Government and the Union made? And who made it? Who were the enemies of free government? Who had predicted and planned our overthrow? Sir, the opposition to free government was inherent in slavery, could not have been avoided, and ought to have been anticipated. It is more of a wonder that it was delayed than that it was produced. It had threatened the life of the nation for twenty years. It could not live as one of the institutions of a free Government. Its existence was only intended to be temporary, and was given only a reluctant recognition in the Constitution. Still it should be remembered that the fathers constructed Government amid the storms of the Revolution, and had neither history or experience to shine upon their work. They could not tell more than other men what the years would bring forth; but trusted, I have no doubt, that it would fade away and become extinct before the light of that freedom which should rise high, and still higher, and become perfect in a more perfect day.

Why, I ask again, was the blow aimed at such a Government, and the old flag of the Union left trailing in the dust? I answer once for all. It was slavery. In 1860 it was found that the Government could not be further prostituted to the extension of human slavery, and when found indisposed for that purpose it was to be thrown off, and then slavery plunged us into a four years' war, drew from us our blood and treasure in rivers. It left half a million young men dying upon battle-fields; starved to death fifty thousand more in the prison-houses of the South; and at last, as a crowning act, struck out the life of the President and left the nation in tears while the whole civilized world paid tributes of mourning.

Here, then, I repeat, was the cause of the great rebellion; not originating in the election or defeat of any one man, as President or Vice President of the United States, but it was the culminating point to which have tended the teeming events of a half century; no one of which could have been sufficient of itself, but combining with the antagonisms of all previous issues about slavery, made the occasion of the first election of Mr. Lincoln the long-threatened hour, and their own soil became their chosen battle-field. Thank God, the day did at last come by the first blow being struck in the interests of slavery. It was to be that the offense must come from that quarter. The blow at liberty must of course be struck by slavery; and, by the same necessity, the blow at the heart and life of slavery, to be significant as well as effective, must be dealt by its own bloody hand; and whoever writes the history of its death-struggle must begin and end by declaring that the rebellion was the suicide of slavery.

Freedom might, I think, have been justified in striking a blow of resistance to the aggressions of slavery long, long years ago, but did not, when territory was purchased and the Treasury drained for its payment. It might have said no, but did not, when Indians were hunted with hounds, sacrificed, and removed for the propagation of slavery, and $200,000,000 spent in disgraceful Indian wars. Freedom might have made resistance, which it did it not, when Texas was seized for slavery and Mexico was warred upon for the same purpose. Freedom might have held back both the purse and the sword, (it had the votes to do it,) but it did not, when, as in 1854, the great landmarks of freedom were obliterated by one stroke of the pen and slavery became nationalized, and at the same time the Supreme Court prostituted to its power and to its interests. Freedom might have echoed back that divine decree of Omnipotence to the ocean wave, "Thus far shalt thou come, but no further; and here shall thy proud waves be stayed;" but no voice was potent enough in Congress to carry the vote, and no arm could hold back the executive approval, and so the struggle was carried to the Territories.

Now, sir, I ask, can we, standing upon such an eminence and in the face of all the nations, do less than complete the work given us to do?

The soldier, wearied of long marches and hard fighting, has laid aside his musket and his uniform.

The prisioner, wasting away in southern prison-houses, has been restored to the home of family and friends. The dead, laid aside hastily in rude and unmonumented graves, are now decently buried; and, as far as possible, the name has been snatched from oblivion, and hereafter to be honored as one only is who dies for his country.

Now, the missions of mercy to our Army and Navy in those organized charities that have been unsurpassed are closing up their books, and committing their records to the judgment of mankind.

Sir, when the soldier was mustered out Congress was mustered in, and there is thrown upon us the work of securing and perpetuating the victories of the battle-field. In two bills already passed this Senate, something has been done and gained. What is now proposed is to make it all unrepealable by ingrafting into the Constitution itself security for civil and political rights in the spirit of the framers of that instrument, and as a guarantee of republican governments for all time to come. Why not then make it complete and indisputable by such an amendment as shall leave no chance for evasion, perversion, or uncertainty?

This is the golden opportunity, which comes but once in the lifetime of individuals, or of the country. This is the forming and molding period, and the stamp now given to the organized form of both sentiment and law will remain and bear that impress, it may be, forever.

Why then temporize or compromise? Instead of leaving anything in doubt or uncertainty, why not give it perfection and completeness in one act, and not leave even the possibility of disfranchisement or inequality to be again enacted into law? The resolution of the joint committee is as follows:

> Representatives and direct taxes shall be apportioned among the several States which may be included within this Union according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed: *Provided*, That whenever the elective franchise shall be denied or abridged in any State on account of race or color, all persons of such race or color shall be excluded from the basis of representation.

That does allow in a certain contingency just what now exists under the Constitution—every iniquity of the old slave code to be again

framed into law. If that is allowed in any contingency to men smarting under the defeat of their cause and loss of their slaves, still living in open day before their own eyes, what can we expect but that if there is a constitutional allowance they will embrace it, making the legal *status* of those slaves and their posterity even worse than before? If violence and robbery must be enacted to "organize," as they call it, "the labor of the South," let it be done outside the Constitution, or under the old form and construction, and not under its amended provisions. For, say what you will, if that resolution becomes part of the Constitution, and a State chooses to relinquish a portion of its congressional representation, it may then under this regenerated Constitution not only disfranchise the freedman but legislate him again away from the ballot-box, the court-room, and the school-room. This amended Constitution will be then made the instrument of this injustice, and nothing will be left the black man whose loyalty through all the vicissitudes of our struggle was unfaltering, and even prophetic, adorning him amidst treason, about him as a crown of glory, but again to be legislated away from the rights of his manhood, not only, but also from the fountains of learning, literature, and religion, dooming him once more and forever to the grave and hope of the brute.

It is not sufficient to tell me that they can do it now under the Constitution as it is, for that is the very thing I would avoid. It is the change that I am seeking. It is the change that is demanded, for no matter what men may say, the heart of the American people is not so dull as not to perceive that two fifths more of representation added to the South is too great a reward for treachery and treason. It cannot be acquiesced in uncomplainingly if sixteen more members of Congress shall be added to the southern Representatives while they cast actually less votes than before. Who ever heard before this of a conquered people making more out of a contest than the conqueror? What other people ever were so rewarded for rebellion? And those who insist upon no change must defend and maintain this monstrous injustice. For my part, I denounce it, and will never be reconciled to such an increased representation with no increase of voters. And this injustice is the more apparent when we remember that this increase of representation is obtained while the true, loyal black man is allowed no vote and no voice. What kind of compensation is that for all his long years of fidelity to our old flag? What an answer to his earnest prayers for his freedom and our triumph! What a reward for his faithful nursing and kind treatment of our Union soldiers and prisoners! Oh, the very statement of such propositions is its own answer.

It cannot be that rebellion is now to be rewarded and loyalty punished. Are the enemies of the Union to wield hereafter the strength of their own numbers and the strength of the freed millions beside? Then, indeed, have we fought without success, and victories of the field are lost to the nation by the inefficiency of Congress to transfer their triumphs over the enemies of the Union into the laws of the Union. The soldiers will have succeeded; Congress will have failed and surrendered. I said that when the soldier was "mustered out" Congress was "mustered in;" and the victories of the battle-field are now to be preserved or lost. And nothing is made certain in reorganizing civil society that is not secured in the fundamental law. I was then for an amendment to the Federal Constitution, and for that form of amendment which is most likely to produce the result I aim at, namely, securing justice and equal rights to every citizen in the land; and I mean all the rights enjoyed by any American citizen. There is no justice short of this, and hence no safety, no security.

The resolution introduced by the Senator from Missouri on this side of the Chamber, and ably sustained by him in a most convincing argument, is of the two the most complete, and if its force could be secured by any statute, which we have not now a right to pass, might be, perhaps, unexceptionable. Here it is:

"No State, in prescribing the qualifications requisite for electors therein, shall discriminate against any person on account of color or race."

And what is the penalty if they do? Ah! there is the weak point. If a State does make a "discrimination on account of race or color," where is your remedy?

But what is law, or constitution even, with no penalty? Supposing that the reorganized States should neglect or refuse to ingraft this provision in their statutes, or, in spite of it, should make such qualifications for the elective franchise as they have always had, what remedy have we? What remedy have the colored people? What appeal can they make successfully when once the States shall have been admitted to full fellowship in the reorganized Union? We shall only have added two fifths to their representation in Congress, with less loyal voters than ever before, if, indeed, there can be found a white loyal constituency at all! With such a result I ask, what has been gained by the war, and who are the gainers? Not the loyal men of the South, for they have lost all. Not the black man, surely, for without his rights of manhood he had better remained a slave; for with a master the self-interest of his owner was some security to the slave. But to be outlawed and outraged and no protection in statute or interest as property, then, I repeat, "the last state of that man is worse than the first." It is adding insult to the long injury of centuries to give them the shadow of liberty without the substance, to invite them to freedom and not give the guarantees. Such neglect violates the pledge of the nation given by the Commander-in-Chief of the Army and Navy in that immortal proclamation of emancipation, in which it was said that "this nation would maintain the freedom of the slave." Now, then, I ask how can the freedom of men be maintained under our form of Government when there is left out unprotected a whole race, it may be a majority, without one of the constitutional safeguards of personal freedom?

And what are the safeguards of liberty under our form of Government? There are at least, under our Constitution, three which are indispensable—

1. Every man should have a homestead, that is, the right to acquire and hold one, and the right to be safe and protected in that citadel of his love. If he can have no title to real estate, as in these old slave States they have again enacted this into law, how can he have a homestead?

2. He should have the right to bear arms for the defense of himself and family and his homestead. And if the cabin door of the freedman is broken open and the intruder enters for purposes as vile as were known to slavery, then should a well-loaded musket be in the hand of the occupant to send the polluted wretch to another world, where his wretchedness will forever remain complete; and

3. He should have the ballot, for he has no security short of it. With that in his hand he is respected and smiled upon at least one day in the year, the election day. On that day and all the days of the ensuing year he will be treated as a man, for he then is a man among men! And where the balance of power may be in the hands and votes of black men, each party, to secure that power, will vie with each other to maintain every right and mete out full justice to the men who have this power. The ballot is his weapon of defense and offense. It will work out the regeneration of his race, secure their elevation, education, and a full developed manhood. And why should all this not be made secure? Are white men so weak that they need legal protection? Must the black man be kept down by legal inequalities? Is he so sure to win in the race of life that he must run under the accumulated weight of ignorance, prejudice, and law.

No, sir, no! we need no protection, and if we did, we ought not to have it. If they are an "inferior race," then we need not fear, we shall survive, and our elevation above them will forever remain unapproachable. If there is no inferiority in natural rights and gifts, then why make them in Constitution and law? Why not let the track be clear, the burdens equal, and the race of life open and unobstructed to all? And when there shall have been as many centuries of freedom enjoyed as there have been of slavery endured, then, and not till then, can we begin to decide questions of inferiority or of superiority. I repeat, that to start with, every person should have the safeguards of law weighed out in equal and exact balances, and the homestead, the musket, and the ballot are entirely indispensable.

Mr. President, the constitutional amendment that would be entirely unobjectionable I fear cannot pass. I do not know as we need one. This nation, although severely disciplined, has not yet reached the point of giving to all men their rights by a suffrage amendment; three fourths of the States are not ready. And any patchwork, any "step toward it" (as said the chairman of the committee) which does not reach it, I fear to take. Because but one opportunity will ever be afforded us to step at all; and lost opportunities are seldom repeated. The golden moment of exacting what was just and equal for all men in the rebel States by executive power and influence passed, it may be, during the months of April and May last. That opportunity was afforded in the surrender of the rebel forces, and in the power and influence our cause obtained in the assassination of our Chief Magistrate. One thing could then as well have been demanded as another. Where all rights were forfeited in rebellion, no terms were or could be insisted upon. Men who lose all, and are condemned of all, are in no position to demand; it is only suitable for them to receive. I would not inflict degradation or inequality, much less would I allow caste, proscription, or servitude. The power that could inaugurate civil government where governments had failed, or had been usurped and destroyed, could give just such form of government as the Constitution prescribes as republican, or as the enlightened convictions of mankind would justify. If one qualification for voting could be prescribed, so could another. If a portion of the people worth over $20,000 could be disfranchised, then another portion, "not knowing where to lay their heads," could be enfranchised by the same executive power. For, as a question of power, is it any more of an exercise of power to make a voter than to unmake one? If one qualification could be urged and enforced, then could two, three, and all. At that moment equal and exact justice could have been secured to all loyal men, and exact punishment or disfranchisement could have been allotted to the disloyal. And all just men and just Governments the world over would have approved the act. With this weapon of government, forged of ballots, they had once not only been breakers of the peace and liable to ordinary indictment, but had actually warred upon the General Government and dealt heavy blows at the very life fountain. Would it have been a cruel or unheard-of punishment to have disarmed such offenders, or gone one step further and taken security for good behavior in the future?

Acting for the millions yet to live, what could have been demanded less than the complete restoration to rights of that race so long enslaved but now and forever to be free? Sir, there is a law of compensations in this world whether we enact one or not. There is one handed out to us from eternity whether we ever read it or not, and is legible in every passing event, whether we can see it or not.

That fatal shot which was fired at Sumter, was aimed at liberty and a free Government. It has, nevertheless, been returned and lodged in the very heart of slavery. They have desolated their own homes and countrymen, putting

out forever the fires of their own hearth-stones. Those who robbed the poor slave are now themselves made desolate. Fortunes amassed by unpaid labor have disappeared in a day. Those who coined gold out of the blood and tears of the poor have been made naked and destitute as the king of Babylon while dieting upon grass. Oh, there is poetic, if not divine justice, in bringing to the oppressed his freedom and to the oppressor his ruin.

Mr. President, we are just emerging from a war. Yes, sir, a war; I will not belittle it or mistake it by calling it simply an insurrection or a rebellion. It was eleven States in one confederation, united and organized under one controlling head, inspired with the same spirit and animated with the same hopes. And one surrender surrendered all; not only all the men and all the property and arms of the rebels, but all there was at issue between the contending Governments and all they went to war about. It was all surrendered in the surrender of Lee and Johnston, and all became property or persons of the United States. Now, I ask, if we conquered in this late war, why are not we entitled to the rights of conquerors? And why must not the other side accept the duties of the conquered?

Now, sir, what are the rights of a conqueror? And especially what are their rights in the hour of their triumph? I apprehend they are not unlike the rights of an individual under the common law when his life is attacked. If I am assaulted by a highwayman, by a man armed and determined, my first duty is to resist him, and if necessary, use my arms also. If he persists with violence, my next duty is to prostrate him, and then to disarm him. And while prostrate and disarmed, it is also equally my duty to take such security from him or from those allied to him as my own safety and the peace of the community will justify; and I have no right to stop short of that.

Now, sir, I repeat that this war was a blow at the heart and life of this nation; and we at first resisted it by surrounding the Government with bayonets for defense. The assault was repeated and continued. We then prostrated the assassins and proceeded to disarm them; and now here we are, hesitating about the security. And some of us propose to take none at all; and others propose only that conditional security that still leaves all in the hands and at the will of the assassins; to leave with them all the elements of security.

If suffrage in the rebel States is now placed in the hands of only those who voted before, what reason can any one give why they will not vote again to make war on the United States when the times and occasion shall promise success more certainly? Does an inability to prosecute longer the war and a surrender on that account change the character or purpose of the people engaged in it? When did exhaustion or defeat ever eradicate the conscientious convictions of a great people, struggling, as they supposed, for their rights and their liberties, deluded though they were? No, sir, no. Little or nothing has been gained; and we shall have little or nothing to show for the blood and the treasure, the agony and the tears which have flowed, if no manhood has been achieved and no equality secured. If the leading and voluntary rebels are not disfranchised and all loyal men enfranchised, and that made secure in law, then have we taken no security and nothing has been gained. The soldiers triumphed and made every battle-field historic and glorious. We shall have surrendered, basely surrendered; and the golden opportunity to crown with the freeman's ballot a redeemed race will have gone from us forever.

I think I know and feel somewhat of the responsibilities of this hour. These responsibilities are upon us. They cannot be laid aside or transferred to another. The fathers have gone to their rewards, and posterity sleeps. We, the men of to-day, must make our triumph secure or lose all, and plant the pathway of coming generations with thorns.

We must do it! Not only for the safety of the Republic and for the faith of the nation pledged in the emancipation proclamation, but for justice to that race which have waited and prayed and labored with undying hope for our and their deliverance. It will have come at last for them and for us, if they are allowed to vote on the side they prayed and fought. I have no more fears of their voting for slavery and Democracy—"twin sisters, so unlovely in their lives, and in death not divided"—than I had of their fighting for the same.

But the proposition before the Senate may be thought to be one more of apportionment and representation than of suffrage; and here I will say, that some change, either in the law of suffrage or in the Constitution, is imperative, and demanded by a change of condition for three million people. It is bad enough for five to count three in the representation, as was established by law while they were slaves, but to add two fifths more, while the chattels are changed into freemen, is a monstrous injustice which cannot be tolerated while the Government remains republican. It would then become a burlesque upon republicanism, and can never, and ought never, to be acquiesced in.

I hesitate about giving my support to the proposition of amendment reported by the committee because—

1. It is not in harmony with any other provision of the Constitution of the United States. The inequality of the representation recognized by the Constitution as it now stands relates only to slaves; nowhere does it allow the freeman, being a citizen, to be disfranchised and outlawed. This proposition is to allow a State, upon a contingency which she may make or choose, not to regulate the franchise as to age, residence, and sex, but to disfranchise and destroy rights held to be sacred by all men; and such powers are now for the first time to be ingrafted upon the Constitution of the United States. It is making provision in the fundamental law that colored men may fight for the Government, be taxed for the Government, but shall go unrepresented and disfranchised forever.

Sir, if that crime is to be perpetrated upon any race for no fault of their own let it be done in violation of the Constitution and against the supreme law. Such an amendment is against the declared purposes of the Constitution, and in its spirit unconstitutional. If that instrument is now to be amended, with all the lights of our history and experience thrown upon it, it should be truly a "step forward," but my most solemn conviction is that this is a step backward. It could not have received the sanction of the fathers, who had never known a "slaveholder's rebellion;" why should it receive ours? It is not enough to tell me that colored men are now disfranchised; that they have always been so; that the loyal States do the same thing, and still their representation is allowed in Congress and in the Electoral College and everywhere. To all that it is a sufficient answer for me to say that what has been is not now, nor is the same to be the history of the future.

While slavery lasted, slave laws were a necessary result. When slavery wanted whips and fetters the East could manufacture them for the market; and when they wanted a public sentiment made for their support they always found some willing tool to gild over a "South-side view;" and when they wanted the fugitive slave law executed for the sake of making a humiliating demonstration of their overseerism, they found some judges and some marshals and some commissioners ready for the work. And while slavery lasted, and hung like a cloud over one half of the country, it is not strange that its shadow should fall more or less heavily upon the other half. And the degradation of a race in one end of the country found plenty of sympathizers in the others. Hence, I say, that it does not stop my mouth to tell me that they are now disfranchised, and still counted in the ratio of representation. What I plead for is, that with the fall of slavery, may fall also all its connections, all its supports, and all the inequalities among citizens. I am not a stickler for the form of the law, I care more for the substance, I want the result, I am contented with any laudable means. I prefer to unite with those who seek the one result with myself rather than divide. And any result for the better, secured by a constitutional amendment, must be an alleviation for the Constitution itself as if anticipating such a result has provided for it.

2. Have we made loyalty secure in the seceded States if only a portion of the men vote, and especially if that disfranchised portion be of the ranks of the truly loyal? The disloyal acquiesce, but do not love the power that prostrated them. Is it in man to hug to his bosom the instrument of his death? It is said that only bears will do that. Are we not expecting too much when we expect at once their loyalty and devotion? If their cause has fallen, are they the ones to uphold ours? Does not "misery love company" so well that they would rather now see both destroyed, and they then stand as our equals in reconstruction? If their wounded soldiers and widows go unpensioned will they vote and be taxed to pension ours? If their currency is worthless, will they maintain faith in ours? If their bonds are repudiated, will they make secure ours? Having been terribly thrashed out do you suppose they will now pay for the whips?

Mr. President, some security is needed and must be had. We are put in trust of this great estate, and what will the heirs say when they come to demand their rightful legacies? Will it be any answer to tell them that we trusted all to those who had just gone into hopeless bankruptcy, and gave up the old homestead and the solvent heirships to wasteful, profligate, and abandoned creditors? Whoever before this heard of such wicked infatuation? Such trustees must speedily be settled with or the estate is ruined.

Oh, sir, by all the vows we made in the dark hours of our trial, by all the memories of the fallen, by all the gratitude we owe the living, and for the hope of millions who are yet to live, let this security be now demanded; and let us take nothing short of it.

Sir, I now come to inquire if a constitutional amendment, securing what is so desirable, can be passed by the requisite votes in Congress, and then adopted by three fourths of the States.

I confess, sir, to great doubts. The form reported by the committee will, I doubt not, secure as large a vote and as many States as any other which has been named. But if no form can receive the constitutional majority, are we helpless and hopeless? I trust not. I do not believe that the equal justice we plead for all loyal men is now, and is to be, held by men and States who will not yield it. The hope of the freedmen is not surrounded by such a cloud.

There is no extremity in the case, for the last constitutional amendment embraced all, gave the most ample powers, even if they did not exist before, for, after having secured the freedom of all men wherever the old flag floats, it provided that Congress might "secure" the same by "appropriate legislation."

What more could it have said? And who are better judges of appropriate legislation than the very men who first passed the amendment and provided for this very case?

Sir, what is "appropriate legislation" on the subject, namely, securing the freedom of all men? It can be nothing less than throwing about all men the essential safeguards of the Constitution. The "right to bear arms" is not plainer taught or more efficient than the right to carry ballots. And if appropriate legislation will secure the one so can it also the other. And if both are necessary, and provided for in the Constitution as now amended, why then let us close the question by congressional legislation. If the States, by putting these powers and provisions into the Constitution, have authorized legislation, then let it be done.

Sir, for more than five years in this Senate I have voted for every measure that tended toward human freedom and impartial rights;

and now, I hope, we shall not part company. I have supported, before, measures which I deemed incomplete, in the hope that others more complete would follow; and should I vote for this amendment of the Constitution it will not be because I think it can ever become part of the fundamental law, but rather because it aims at that which is undeniably of great importance, equalizing representation, and is intended by the distinguished committee which reported it—in whom I have the very highest confidence—as a measure necessary to complete the long contest about American slavery. And it is certainly time such a result was reached. And by supporting this measure, let it be distinctly understood, I am not precluded from supporting every other proposition which tends to the same result.

The proposition to place representation upon voters, being citizens of the United States, will be, I suppose, considered, and upon that resolution I shall offer some reasons for its passage by the Senate, and in favor of its approval by the States.

The basis of strength in a Government, whether civil or military, is in the number, the virtue, and the intelligence of the able-bodied men. Those who fight and save the Government should be represented, and vote the measures for its perpetuation.

I prefer to do nothing by indirection. And I do not believe we should do indirectly what we ought not and have not the power to do directly. I prefer to say directly what the amendment of the Senator from Missouri says, or, what is better still, to enact that into law, and if any appropriate legislation is allowable under the late amendment, this law of direct enfranchisement of all men is most appropriate. And to this result, after all, we must come. Let us not take counsel of our fears, but of our hopes; not of our enemies, but of our friends. I remember those who have persistently resisted every measure against slavery and for freedom which has been proposed for a quarter of a century. They opposed the efforts to secure the Territories to freedom. They opposed emancipation is this District. They ridiculed the emancipation proclamation, and held up their hands in horror when it was proposed to put a musket in the hands of the black men to enable them to strike the redeeming blow of their own freedom.

They resisted day after day the late amendment to the Constitution, and pronounced even the war for the Union a "failure." But, sir, like the inevitable decrees of destiny, it has all come to pass, and the contest and the triumph have been in our day and time. Thank God, we have lived to see it and to take part in it, and now have the responsibility of closing it.

By all the memories which cluster about the pathway in which we have been led; by all the sacrifices, suffering, blood, and tears of the conflict: by all the hopes of a freed country and a disenthralled race; yea, as a legacy for mankind, let us now secure a free representative Republic, based upon impartial suffrage and that human equality made clear in the Declaration of Independence. To this entertainment let us invite our countrymen and all nations, committing our work, when done, to the verdict of posterity and the blessing of Almighty God.

The PRESIDING OFFICER, (Mr. CLARK in the chair.) The question before the Senate is on the amendment offered by the Senator from Missouri [Mr. HENDERSON] to the amendment proposed by the Senator from Massachusetts, [Mr. SUMNER,] which will be read.

The Secretary read the amendment to the amendment, which was to strike out all after the word "that" in the amendment and to insert the following in lieu thereof:

The following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three fourths of said Legislatures, shall be valid to all intents and purposes as a part of the said Constitution, namely:

ARTICLE 14. No State, in prescribing the qualifications requisite for electors therein, shall discriminate against any persen on account of color or race.

Mr. FESSENDEN. If there is no other Senator who is disposed to speak upon this resolution to-day, in accordance with the understanding I suggested this morning in regard to the Senatar from Delaware, [Mr. SAULSBURY,] I move that its further consideration be postponed until to-morrow and be made the special order at one o'clock. If, however, there is any Senator present who is prepared to speak upon it to-day, I would prefer that he should go on now.

The motion was agreed to.

SEARCH FOR MISSING SOLDIERS.

Mr. WILSON. I move to take up Senate joint resolution No. 36.

The motion was agreed to; and the joint resolution (S. R. No. 36) providing for expenses incurred in searching for missing soldiers of the Army of the United States, and for the further prosecution of the same, was read the second time, and considered as in Committee of the Whole. Miss Clara Barton having, during the late war of rebellion, expended from her own resources large sums of money in endeavoring to discover missing soldiers of the armies of the United States, and in communicating intelligence to their relatives, the resolution therefore appropriates the sum of $15,000 to reimburse Miss Clara Barton for the amount so expended by her, and to aid in the further prosecution of the search for missing soldiers; and the printing necessary in the furtherance of that object is hereafter to be done by the public printer.

Mr. WILSON. There is a report accompanying the resolution which I should like to have read.

Mr. GRIMES. It is not necessary to read the report.

Mr. WILSON. Very well; I will not ask for its reading.

Mr. TRUMBULL. I should like to hear the report read. This resolution makes an appropriation of $15,000, and I should like to know upon what grounds it is placed.

The Secretary read the following report:

The Committee on Military Affairs and the Militia, to whom was referred the memorial of Miss Clara Barton, praying aid to carry out a plan she has originated for obtaining information of missing soldiers and communicating the same to their relatives, having had the subject under consideration, beg respectfully to report:

That on the arrival at Annapolis of large numbers of paroled and exchanged prisoners of war, in the winter of 1864-65, she received letters of inquiry from all parts of the country desiring information of soldiers supposed to have been captured.

She then advertised, with the entire approval of President Lincoln, that she would receive and answer such letters from Annapolis, and by publication of the names of missing soldiers, and personal inquiry among the prisoners, she received information of more than a thousand of the fifteen hundred soldiers whose names were thus published, and which she communicated without delay to their anxious relatives.

She subsequently found it necessary, on account of the largely increased number of inquiries, to extend her labors and incur additional expense, by the employment of clerks and the publication of additional lists of missing men, twenty thousand of which were distributed through the country, including one copy to each post office in the loyal States.

The system which she has originated has thus far proved a complete success, but she has been compelled to abandon the project solely for the lack of means to carry it on; and in order to enable her to carry it to completion, the committee respectfully recommend the passage of the accompanying joint resolution appropriating $15,000 to reimburse her for expense already incurred, and to aid her in completing her work. The only aid she has heretofore received has been the printing of the rolls by the public printer, which the joint resolution recommends shall be continued.

She has, in many instances, obtained information of soldiers who were reported "deserters," while they were languishing in southern prisons, and their families were mourning for them as disgraced, and her report has carried joy to many a household whose members, while they have had presumptive evidence of the capture or death of the absent one, only received positive evidence through her instrumentality. Her observation warrants her in stating that, if the desired aid be granted, information can be obtained of probably four fifths of those whose fate will otherwise never be ascertained.

The committee therefore respectfully recommend the passage of the accompanying joint resolution.

Mr. NESMITH. I was not present in the committee when this resolution was under consideration, and I beg to inquire of the chairman whether any voucher or evidence has been presented of the expenditure of the money which is proposed to be reimbursed by this joint resolution, and what guarantee is to be taken for its proper disbursement hereafter.

Mr. WILSON. Miss Barton has spent several thousand dollars in this work. I have here the two lists that have been printed and circulated over the country. There are several thousand letters now on hand which she is not able to answer on account of the want of means to hire clerks to do the vast amount of correspondence that this effort of hers has imposed upon her. She has spent in this work already several thousand dollars of her own money; $7,900 has already been expended, with over a year of toil and work on her part, and a great deal of contributions made otherwise by persons who helped to do the writing. This appropriation is not so large as persons who have examined the subject very carefully desire. They thought that it ought to be $20,000 or $25,000. The committee put it at the lowest possible sum, supposing that if that would not finish it, at some future time a small additional appropriation might be made. I think, however, that this $15,000 will complete the work.

Mr. GRIMES. This is a case that I have personally examined, and I think I can give the Senator from Oregon a little information on the subject. Of Miss Barton I never knew anything until my attention was directed to her after the adjournment of the last Congress when I saw her name mentioned in the newspapers as being engaged in the work of discovering the whereabouts of missing soldiers. When I came here at this session, at the instance of a friend I examined the merits of this claim and examined the vouchers, and I can assure the Senator that she has a great abundance of them, proving that her work has been most laborious and most valuable to the cause of humanity and the country.

It seems that Miss Barton was connected with the Sanitary Commission and was stationed at Annapolis. While she was there, a great many persons came to Annapolis in great grief and trouble in search of their friends, expecting them to be on board of the ships that brought our returned prisoners from Belle Isle and Andersonville. A few of them were successful in finding their friends, but a large portion of them did not. They were unable to ascertain whether they were dead or whether they might expect them on any other transport ship, and there was no system devised by the War Department or by the Sanitary Commission or by any one else by which the facts in regard to those missing soldiers could be obtained. Miss Barton devised a scheme herself, and undertook to perform that labor. Whenever the missing soldier's name was handed to her, she obtained the number of his regiment and company, the State he was from, and if possible his birthplace, and all the facts in connection with him. She then published lists of missing soldiers, first beginning in a small way, as she was able to write them herself or procure the assistance of others, and posting them upon barrack doors and the most conspicuous places about Annapolis, so as to attract the attention of our returned prisoners from Belle Isle, Andersonville, and Salisbury. The work greatly enlarged until it was impossible to post them all upon the barrack doors in this way. It was soon learned that she was in search of these missing soldiers, and letters began to pour in upon her from all sections of the country. I am told (I did not count them, but I should judge the statement must be true from what I saw) that she has at this time unanswered nearly six thousand letters from the parents, wives, and relatives in one degree or another of missing soldiers. Her means are exhausted, and the question arose among the people who were interested in the prosecution of this work, what is the best way to carry it forward? Everybody admitted that thus far Miss Barton had succeeded most admirably and accomplished a most humane and desirable purpose. For one, when I was consulted by the chairman of the Committee on Military Affairs as to what my

opinion was, I thought it would be better to enlarge this appropriation a few thousand dollars, and let Miss Barton go on in her own way precisely as she has been doing heretofore. I think it is the sentiment of everybody who has examined into the labor of Miss Barton in this connection that she deserves well of Congress, and that she has accomplished a most humane and excellent work.

Mr. NESMITH. I do not desire to be understood as interposing any obstacle or objection to the resolution. I simply made the inquiry for information. It was my own fault that I was not present when the resolution was considered by the committee.

Mr. GRIMES. I did not understand the Senator as opposing it.

Mr. NESMITH. Certainly I should be the last Senator to interpose any objection to the accomplishment of so laudable an object as this. My simple object was to ascertain whether there was any guarantee for the proper disbursement of this money.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

WINNEBAGO RESERVATION IN NEBRASKA.

Mr. DOOLITTLE. I move to take up Senate bill No. 121.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 121) to provide for the enlargement of the Winnebago reservation, in the Territory of Nebraska, and other purposes.

Mr. DOOLITTLE. The Committee on Indian Affairs have reported a substitute for the entire bill, and I suggest, therefore, that the substitute only be read.

The PRESIDING OFFICER. That course will be taken if there be no objection.

The Secretary read the amendment reported by the committee, which was to strike out all of the bill after the enacting clause and to insert the following in lieu thereof:

That the President of the United States be, and he hereby is, authorized to reserve from entry, sale, or location the unoccupied and unsold sections and parts of sections numbered thirteen, fourteen, twenty-three, twenty-four, twenty-five, twenty-six, thirty-five, and thirty-six, in township twenty-seven north, of range eight; fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, twenty-six, twenty-seven, twenty-eight, twenty-nine, thirty, thirty-one, thirty-two, thirty-three, thirty-four, thirty-five, and thirty-six, in township twenty-seven north, of range nine; nineteen, twenty, twenty-nine, and thirty, in township twenty-seven north, of range ten east of the sixth principal meridian, in the Territory of Nebraska, or such portions of the same as he may deem necessary for the purpose and to attach the same to the reservation recently acquired by the Winnebago Indians by purchase from the Omahas for their future home.

SEC. 2. *And be it further enacted*, That the President of the United States be, and he is also hereby, authorized to purchase such portions of said sections as have been sold or otherwise legally disposed of by the United States, together with the improvements thereon, as he may deem necessary for the use and welfare of said Winnebago Indians, for which purpose the sum of $60,000, or so much thereof as may be necessary, is hereby appropriated out of any money in the Treasury not otherwise appropriated; *Provided*, That before any portion of the amount appropriated by this section shall be drawn from the Treasury an appraisement of such portions of said sections as have been sold or otherwise legally disposed of by the United States, and of the improvements thereon, shall be made by three discreet and disinterested men, to be appointed by the Secretary of the Interior for that purpose, who, before making such appraisement, shall severally take an oath that they will diligently inquire into and ascertain the actual cash value of said lands and improvements, and will faithfully, fairly, and without partiality make and return an appraisement of the same to the Secretary of the Interior, which appraisement shall be submitted to and examined by the superintendent of Indian affairs for the northern superintendency for the time being, and the agent for the Winnebago Indians, who shall each make oath that they have carefully examined such appraisement, and that they believe the same to be a fair just, and impartial cash valuation and appraisement, and shall also be approved by the Secretary of the Interior; *And provided further*, That no portion of the sum so appropriated shall be expended in the purchase of any portion of said lands at any price exceeding the valuation of the same as shown by said appraisement.

SEC. 3. *And be it further enacted*, That the sum of $100,000, or so much thereof as may be necessary for that purpose be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, to enable the Secretary of the Interior to reimburse the Winnebago trust fund for moneys drawn therefrom and expended in their removal from the State of Minnesota, the same to be invested by the Secretary of the Interior in United States registered bonds, and the interest thereon to be paid annually to the Winnebagoes, as their other annuities are paid, or expended for their benefit, as the said Secretary may deem best.

Mr. RAMSEY. I should like to inquire of the chairman of the Committee on Indian Affairs whether this appropriation of $60,000 is to be taken out of the Winnebago fund realized out of the sale of their lands in Minnesota?

Mr. DOOLITTLE. No, sir.

Mr. RAMSEY. The whole reservation was ordered to be sold for their benefit, and I imagine that would yield a fund sufficiently large to purchase any land they may require in their new reservation.

Mr. DOOLITTLE. What the honorable Senator says may be true, and yet it is not just to the Winnebago Indians. The Winnebago Indians were not engaged in that war in Minnesota. They were peaceable and had no part in the massacre; but the Government of the United States compelled them in fact to leave the State of Minnesota, to give up their choice lands on the Minnesota river, many of them having good farms and good houses. They were induced to go or pressed to go by assurances on the part of this Government that their removal should be at our expense and not at theirs. We took eighteen hundred or more of them up on the Missouri river, and although we promised them that they should have just as good lands as they had in Minnesota, it is the truth (and I say it in shame and sorrow) that the lands to which we took them are barren. Many of the Indians suffered and almost starved, and the Government was compelled to take them away from the reservation on the Upper Missouri, and permitted them to come down on to the Omaha reservation, where they have remained. It is but a matter of justice that we ourselves should pay that expense and not take it out of the fund which belongs to these Winnebago Indians.

That was the sentiment of the committee, and that course is strongly recommended by the Interior Department, and is enforced by the facts which are stated in the report of Mr. Taylor, the superintendent of Indian affairs, which accompanies the papers. I would read from his report, if it was not taking up too much time of the Senate, a brief statement of the facts. I say to my honorable friend from Minnesota, that in this case, inasmuch as the Indians were not at war and yet we pressed them to go under the circumstances, with such assurances as were made, it is injustice to this feeble band of people if we insist that the expense of all this must come out of their fund. That is my judgment about it, and that is the judgment of the committee.

Mr. RAMSEY. I have a great sympathy for the Winnebagoes; I think they were very hardly dealt with; but still, at the time, the Government could do no otherwise than it did. Nevertheless the fact is that they were removed from a reservation of very valuable lands—lands that were of no especial use to the Indians, but might be to white settlers in Minnesota. I think they had twelve townships there. Those bands have been ordered, by the legislation of Congress within a year or two past, to be sold for their benefit, and out of them they can certainly realize an abundant fund, quite sufficient to purchase a new reservation for them. I do not think there is any occasion to charge the Treasury of the Government with this new purchase, nor do I believe the Indians themselves would be much benefited by it. I presume the Government paid the expense of the removal of the Indians. That is no charge upon their fund. The Government placed them on this reservation in Dakota, to which they were removed, and now I think the expense of this purchase in Nebraska may well be taken from their fund, and they will still have a very large amount realized out of the sale of the lands in Minnesota. If I supposed that they would be benefited by any additional appropriation, I should not oppose it; but I do not think they will be. From their character I do not think they will profit by it. If it would be of any value to the Indians I should not make the slightest objection; but I do not believe it will be. The Government had much better keep the money in its own Treasury, and at some future day, if there is any occasion to make them a donation of this kind, do it; but I do not think, at this time, in their condition, there is any occasion for it. The fund realized out of the sale of their reservation in Minnesota must yield much more than this. If they get that money, in addition to our making this purchase for them, what will they do with it? They will buy horses with the money, in all probability. This is a great passion which the Winnebagoes have.

Mr. GRIMES. And whisky.

Mr. RAMSEY. Whisky and horses, but horses especially. Give them a thousand horses, and in twelve months there will not be one of them left.

Mr. DOOLITTLE. I think my honorable friend misapprehends the effect of this section. It does not propose to give them any money at all.

Mr. RAMSEY. But to leave in reserve a large amount of money which they will receive in some other shape.

Mr. DOOLITTLE. It gives the interest to the Winnebagoes.

Mr. RAMSEY. I do not think it would be any kindness to them to save them this $6,000 per annum and take it out of the Treasury to buy this land. It will be just as kind to them to take the money from their own fund and buy the land; and if the necessities of the Winnebagoes should at any time require, the Government can take this amount of money out of the Treasury and contribute it to their relief. I do not know that they are in a condition at this time to require it; I do not think they are. What amount does this purchase comprehend, I should like to know? There are but fifteen hundred or sixteen hundred of these Indians altogether.

Mr. DOOLITTLE. I have before me a map sent down here from the Interior Department which the Senate can look at. While my honorable friend from Minnesota is examining the map, I will call the attention of the Senate to some facts.

These Winnebagoes, when they were removed from their lands in Minnesota, went with the assurance of the Government that they should be removed to lands where they could earn their living, and that assurance entirely failed. They have been fed out of their own fund, using up, exhausting their fund in order to support them, when we promised that they should be removed at our expense and placed upon good lands where they could make their living and not eat up and exhaust their fund. I think it is a very great hardship if we do not carry out this part of the arrangement at least.

Mr. RAMSEY. Will the honorable chairman inform me whether the expense of their removal from Minnesota to their new reservation in Nebraska was paid by the Government or was a charge upon the Indian fund? If it has been a charge upon their fund, of course it ought to be reimbursed to them.

Mr. DOOLITTLE. I understand that the expense of their removal came out of their fund; and the expense of their being fed while out in this barren country on the upper Missouri has come out of their fund; and their fund being exhausted in that way, is the very reason why the Department urge that we should put this $100,000 into the Treasury to their credit, giving them the interest of it. I think it is clearly a case of justice.

Mr. RAMSEY. It is very singular that the Government of the United States should have taken these Indians without their own consent and removed them and made the expense of the removal a charge upon themselves. Of course if the chairman of the committee says so, it must be so, but it seems to me very strange.

Mr. DOOLITTLE. I have before me a brief history of the facts which if it is not trespassing too much on the time of the Senate I will read.

Mr. GRIMES. Who writes that history?

Mr. DOOLITTLE. It is from the superintendent of Indian affairs.

Mr. GRIMES. Who is he?

Mr. DOOLITTLE. This report is made by Mr. E. B. Taylor, superintendent of Indian affairs, and Mr. Charles Matthewson, United States Indian agent, which report accompanies the recommendation of the Secretary of the Interior and the Commissioner of Indian Affairs. In this report these gentlemen say:

"Soon after the massacre of the white settlers in Minnesota by the Sioux it became apparent that not only that tribe, but all the Winnebagoes (who had no complicity with the Indian murders) would be compelled to leave the State. Public sentiment in Minnesota seemed to demand their removal, and accordingly an act of Congress was passed, (approved February 21, 1863,) providing for 'the removal of the Winnebagoes and the sale of their reservation in Minnesota for their benefit.' (See Annual Report Commissioner Indian Affairs for 1863, page 307.)

"This act provides 'that the President of the United States is authorized to assign and set apart for the Winnebago Indians a tract of unoccupied lands equal in extent to their diminished reservation, (beyond the limits of any State,) the same to be well adapted for agricultural purposes.'

"The Commissioner of Indian Affairs, for the purpose of complying with the requirements of said act, on the 10th of April, 1863, issued a letter of instructions to late Agent Balcombe, then in charge of the tribe. (See pages 305, 306, 307, Commissioner's Report 1863.) In this letter the honorable Commissioner says:

"'It has thus become the duty of the President to set about their removal, and he has determined to locate them on the Missouri river, somewhere within a hundred miles of Fort Randall, where it is not doubted they will be secure from any danger of intrusion from whites. Localities may be found there where they can be established with a river front, and abundance of timber for all necessary purposes, with a rich and productive soil, easy of cultivation, where they can, with proper efforts, live happily.

"'Superintendent Thompson has already gone forward to make the proper selection for their new homes, and to purchase farming implements, animals, seeds, and to engage artisans and laborers to build them houses and open farms, so as to make them more comfortable than they have ever yet been. Everything will be done for their welfare, and they will be greatly advantaged by the change. They will not only not be required to pay anything for the land they will occupy, but will receive, in such form as will best advance their interest, the proceeds from the sale of their present homes. You will explain the accompanying act of Congress to the Indians at the proper time, and the advantages that will result to them from an early compliance therewith, and direct all your energies to that end.'" * * * * * *

"'I am well aware of the reluctance of the Winnebagoes to abandon their present reservation, and I regret the necessity of their so doing, but I am equally satisfied the provision which is being made for them will be for their benefit, and you will fail in no effort to convince them of it.'

"Agent Balcombe complied faithfully with these instructions. He 'failed in no effort to convince them' that their removal would be 'for their benefit.' He told them they were to be made 'more comfortable in their new homes than they had ever yet been; that they were to be greatly advantaged by the change;' that they were not to be required to pay anything for the land they were to occupy. All of these inducements and assurances had been made by the proper authorities of the Government, and the agent had a right to believe that they would be faithfully complied with.

"Thus assured, the Winnebagoes peacefully left their comfortable homes in Minnesota, where they had been surrounded by all the comforts of civilization. They were huddled together (nearly two thousand souls) on steamboats and transported down the Mississippi, from Mankota to the mouth of the Missouri, and up the Missouri to Crow creek, in Dakota Territory. There they were located by Superintendent Thompson, who had been authorized to make a 'proper selection' for them, in the midst of a very Sahara of sterility and desolation, where no amount of labor will avail to produce a crop. Agent Balcombe, after becoming satisfied that this reservation was utterly worthless for agricultural purposes, so informed the Department. Acting Commissioner Mix, on the receipt of this information, addressed a letter to the agent, (see page 321 Commissioner's Report, 1863,) from which we make the following extract:

"'You will inform them (the Winnebagoes) that in case their present location is found unsuited to their wants, measures will be taken to secure for them elsewhere a location that shall not be liable to such an objection.' 'It is the determination of their Great Father that a home that shall be healthy, pleasant, and fertile shall be furnished to them at the earliest practicable moment. I desire to impress upon your mind, and through you upon the Indians, that it is the intention of the Government to deal with them in good faith, and to fulfill all the promises made to them; and, further, that in carrying this intention into effect no unnecessary delay will be permitted, and in the mean time they will be supplied with the necessary means of subsistence.'

"These promises, under the circumstances, were eminently just and proper. That they should have been faithfully fulfilled no one will question. What are the facts? They were removed at their own expense. One hundred thousand dollars of their trust bonds were retained to meet this expenditure. They have been subsisted from the day of their removal to the present time from their own funds. And so anxious are these poor people to obtain homes for themselves, where they can subsist by honest industry, that they have agreed with the Omahas to pay them $50,000 for the reservation which they have recently purchased, and to bear all the expenses of fitting it up and providing themselves with horses, farming implements, &c. The Government should not permit this sacrifice on the part of this much-abused tribe. Their new homes should be purchased for them without cost to their tribal fund. The cost of their subsistence since their removal should be reimbursed to them by the Government, and they should be rendered comfortable and self-sustaining at the earliest practicable moment. In every council which we have held with this tribe they recur to those promises on the part of the Government, and ask us why it is that the Winnebagoes, who have always been peaceful and loyal, should be thus treated. We can only answer that the Government means to deal justly by them, and that their wrongs will be speedily righted. We sincerely hope that the present year will vindicate the sincerity of these oft-repeated promises, and that justice, though tardy in its accomplishment, will be ample and complete."

Now, Mr. President, they have gone down with the Omahas, and the arrangement has been made to purchase a part of the Omaha reserve for them. This bill proposes to set apart certain sections of our public lands. On a portion of those lands there are some persons who have some claim of right or title, and the bill provides that for the purpose of getting those rights settled, a sum of money may be expended under the direction of the Secretary of the Interior under the provisions of the second section, which is as well guarded as a section can possibly be drawn, I believe, to secure its proper and just expenditure; and the third section provides that $100,000 shall be set apart in the Treasury for their benefit, and that the interest of it shall be paid to them as a part of their fund. Under the circumstances it certainly appeals to me as but an act of justice, which I cannot deny, that the recommendation of the Department shall be carried out.

Mr. RAMSEY. The reservation in Minnesota must have comprised nearly three hundred thousand acres of land. Such land is selling at from two to five dollars an acre. It must yield them more than five hundred thousand dollars. There can be no impropriety on the part of the Government in asking of these Indians to pay for this new reservation. Of course the expense of their removal from Minnesota to their new reservation in Nebraska ought to be borne by the Government, but for myself I should like to inquire whether or not this has been done before passing on this matter. The sympathies of the Senator from Wisconsin are perpetually drawn out for these Indians whenever their removal is spoken of. He ought to remember that in the year 1832 they were removed from Wisconsin just as violently as they have been from Minnesota. They were taken from Wisconsin and carried into Iowa in 1832, and they have had three or four removals since then. They were then removed from the counties just immediately in the rear of the Senator's town.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. HOWE. Before the bill is passed, I wish to ask my colleague, the chairman of the committee, if he knows what portion of the lands which the bill proposes to set aside for the use of the Winnebago Indians, have been purchased and are now owned by individuals. How much will the Government have to purchase?

Mr. DOOLITTLE. Here is the map furnished by the Department with the names of the persons claiming any portion of these lands.

Mr. GRIMES. I should like to have that question answered, and I should like furthermore to know how much land it is proposed to set apart for the Winnebago Indians.

Mr. HOWE. I see that it is thirty-four sections, or about twenty-two thousand acres.

Mr. DOOLITTLE. It is rather difficult for me to explain in words, without looking at the map, the situation of this land which is proposed to be added by the Government to the reservation which has been obtained for the Winnebagoes. The reservation is bounded on the east by the Missouri river. The Government proposes to grant the sections named in the bill, thirty-four sections which are represented on the map. In a portion of the country there are some private individuals who have gone in upon the lands. The proposal is to purchase out the claims of these individuals up to a certain lake which is called on the map "Fish Lake," which abounds in fish. They will have the control of this section without any whites in their neighborhood.

Mr. GRIMES. I understand that the proposition is to add to the lands that are already devoted to the uses of the Winnebago Indians, and which embrace several million acres of land, some thirty-four sections, or about a township, for which we are to appropriate some sixty thousand dollars. I am going to vote against that proposition, and I will state the reason why.

When I first knew anything about the Winnebago Indians they were, as the Senator from Minnesota has said, situated in Wisconsin. The Government bought out their reservation there—a purchase made for the benefit of their traders and Indian agents and persons connected with them—and sent them over into Iowa. After they had been in Iowa a certain number of years, the Government bought them out again, the principal part of the money going into the hands of the men who were connected or associated with the Indians, their agents, traders, blacksmiths, and other parties. After remaining there a few years they were bought out again, and sent into Minnesota, and there they have sold out their lands, realizing, as the Senator from Minnesota has stated, about half a million dollars, and have been sent over into Dakota, where they had set apart to them several million acres of land. Next year, or the year after next, when the pockets of the gentlemen who are connected with these Indians shall have been nearly exhausted of their money, there will be strenuous efforts made to induce us to make an appropriation to enter into negotiations again with these Indians to remove them to some other Territory. There are only fourteen hundred of these Indians altogether. You have already assigned to them several million acres, and why do you propose to add thirty-four sections more, and to buy out white settlers, men who have gone there to make *bona fide* improvements, and have established their homes and their farms for the purpose of taking their land and setting it aside for the benefit of these Indians, that they may establish barbarism where civilization now exists?

But it is said the land assigned to these Indians is not productive; that they cannot sustain themselves. Sir, they will not sustain themselves, send them where you may; you cannot make them produce anything; you cannot make agriculturists of them. I suspect the Senator from Minnesota will so inform you, and he has lived in their neighborhood, he has treated with them, he has been Governor over them, and he knows something about them. I suspect that he can tell you that all they need and all they will cultivate during any one year will be five or six acres of bottom land, where they will raise a little squaw corn, and five or six acres of land with a running stream, where they can occasionally fish, is all the land they want.

Mr. COWAN. This is to give them a lake to fish in.

Mr. GRIMES. I am willing to give them the lake, but I do not want to buy the land.

Mr. DOOLITTLE. I will read from the printed document which I hold in my hand on the subject—the report of the superintendent of Indian affairs, upon which the recommendation of the Commissioner of Indian Affairs and the Secretary of the Interior is based.

Mr. POMEROY. The present Secretary or the former Secretary?

Mr. DOOLITTLE. The present Secretary.

Mr. GRIMES. It is not the Secretary of the Interior, but the superintendent of Indian affairs who makes the recommendation.

Mr. DOOLITTLE. I say the Secretary of the Interior and the Commissioner of Indian Affairs make the recommendation, based upon the facts stated in this report of the superintendent of Indian affairs:

"The accompanying map or plat of a portion of the reserve, together with the adjacent lands on the north, will serve to facilitate a correct understanding of what follows.

"The best farming lands on this reserve are in the valley of Omaha creek. About three hundred acres of these lands were broken some three months since by late Agent Balcombe, and a crop may be raised upon them the coming season if the treaty be ratified in time and the necessary appropriations be made to carry it into effect.

"We propose that, as a matter of interest to the Winnebagoes and for the benefit of the Government, the lands inclosed within red lines upon the map be purchased for the tribe and added to the reservation recently purchased by them from the Omahas. The reasons in favor of said purchase are briefly as follows:

"1. They adjoin the three hundred acres of bottom land already broken, and all lie in the valley of Omaha creek, which is very rich and productive.

"2. There are four hundred acres of broken land upon these improved farms, upon which a crop may be raised the coming summer, thus giving seven hundred acres of choice land in a body, which, if properly cultivated, with an average yield, will supply all the breadstuffs and vegetables which the tribe will require.

"3. The cost of those lands (about eight hundred acres) will be about $6,500. There are five houses upon them, worth nearly or quite one-half the amount; and, in our judgment, the crop of the first year will be worth to the Indians all that these lands will cost. Besides, there is a good mill site upon one of the farms—the only mill privilege within fifteen miles of the reserve—which affords ample fall for a good water-mill, with plenty of water to propel from one to two run of stones in the driest season.

"4. With this purchase all the plow-land necessary for the uses of the tribe will be in a single body, and in the best possible locality. Those who desire farms in severalty can be accommodated along the valleys of the small tributaries of Omaha creek, in the immediate vicinity.

"5. The purchase of these lands will extend the north line of the reserve to a point from which the Indians can have excess over lands belonging to the Government, to a lake indicated on the map, which abounds in fish, and which will furnish an abundant supply for the tribe for many years to come. These Government lands, together with this lake, we think should be donated to the uses of the tribe. There are other Government lands on the north of the reservation, between the north line and the Missouri river, which are of little value. These should also be given to the Indians, in our judgment, so as to prevent their occupancy by a class of settlers who may hereafter locate upon them for the purpose of conducting an improper or illegal traffic with the tribe. The Winnebagoes were abundantly supplied with fish and game at their former homes in Minnesota; and if this lake be given to them they will, in this respect at least, be as comfortably situated as before their removal. In full council the chiefs and headmen of the tribe repeatedly requested us to ask that this lake, with the adjacent Government lands, be given to them by the Great Father.

"6. Omaha creek has high and almost perpendicular banks. It will therefore serve as a secure fence against stock at all seasons along the entire west line of the cultivated lands. If the proposed purchase be made, one and a half mile of fencing will be saved, leaving only about five miles of fencing necessary to inclose some two thousand acres of excellent plow-land; a sufficient quantity for all the requirements of the tribe.

"SAW MILL—COTTONWOOD TIMBER.

"On a tract of land adjoining the northeast corner of the reservation there are about seven hundred acres of heavy cottonwood timber. There is a good saw-mill, nearly new, now in operation on this tract. The timber and mill are owned by citizens of Nebraska. It is believed they can be purchased at a fair rate. If so, in order to avoid the delay consequent upon the building of a mill in the coming spring, and to insure a supply of lumber in time to inclose the plow-land for a crop the coming season, we would earnestly recommend that they be purchased. If not, then the building of a mill at the earliest practicable period is the only alternative. This is the only soft-wood timber within several miles of the reserve. Much of it will be needed for the fencing of the land, weather-boarding, and inside finish of the various buildings provided for in the treaty. In our judgment it will cost the Winnebagoes far less to purchase what timber they will require to fit up their reservation at a single purchase than to buy it as their necessities may require, especially as the timber is nearly all owned by two or three individuals who will be much more likely to combine for high rates than to establish low rates by active competition."

Mr. President, in relation to the purchase of these lands, the committee have carefully guarded the section so that if there be any integrity to be found in any of the officers of this Government, I know of no reason why we cannot as well trust them to purchase these lands for the benefit of this Indian tribe as we can trust them to purchase quartermaster's stores or commissary stores for the Army or any other service in the Government. Upon that subject this proviso is attached:

Provided, That before any portion of the amount appropriated by this section shall be drawn from the Treasury an appraisement of such portions of said sections as have been sold or otherwise legally disposed of by the United States and of the improvements thereon, shall be made by three discreet and disinterested men, to be appointed by the Secretary of the Interior for that purpose, who, before making such appraisement, shall severally take an oath that they will diligently inquire into and ascertain the actual cash value of said lands and improvements, and will faithfully, fairly, and without partiality, make and return an appraisement of the same to the Secretary of the Interior, which appraisement shall be submitted to and examined by the superintendent of Indian affairs for the northern superintendency for the time being, and the agent for the Winnebago Indians, who shall each make oath that they have carefully examined such appraisement, and that they believe the same to be a fair, just, and impartial cash valuation and appraisement, and shall also be approved by the Secretary of the Interior; *And provided further*, That no portion of the sum so appropriated shall be expended in the purchase of any portion of said lands at any price exceeding the valuation of the same as shown by said appraisement.

Here is a sum, it is true, of $60,000 that is put under the control of the Secretary of the Interior for him to use in the purchase of these lands, or so much of them as may be necessary, in order to complete this reservation, so that these Indians can have access to the river and access to this lake, so that they can be there without any white settlers whatever in their way, that they can have the reservation and have it to themselves. It is but just to them that they should have it. The simple question is, whether you can throw any additional guard around this provision as to the mode of the expenditure of the money. The Secretary of the Interior is himself to appoint three disinterested persons to make the appraisement. Then the agent and the superintendent both must take their oath that it is a fair appraisement, and the whole thing after all goes back to the Secretary of the Interior for his approval. If you can guard any expenditure of money from the Treasury with any better or safer provisions I am perfectly willing to add any safeguard; but you cannot ask more than that unless you distrust every officer in the Government, and because he is about to expend a dollar of money for the benefit of Indians we are to presume that there is something wrong about it. We can very liberally and generously, and without an inquiry, trust millions and hundreds of millions to the expenditure of the agents of the War Department in purchasing quartermaster's supplies and commissary supplies without one half the guards that are put upon this.

Mr. GRIMES. There is no doubt in the world—I have no controversy with the Senator on that subject—that he has thrown sufficient guards around the expenditure of this money, provided we see fit to appropriate it; but my controversy with him is on the question whether we ought to appropriate it; whether we ought to buy farms already improved for the purpose of transferring them to the custody of Indians whom we know never will cultivate them; whether we shall break up settlements in a rising and prosperous territory for the purpose of turning them over to Indians. If you do it, in the course of three or four years you will want to purchase them out and send them still further West. Is that justice to the Territory of Nebraska? Judge by what your experience has already been with some of these Indians; and such has been your experience with every tribe. They have been drifting from one State to another. The Winnebagoes were bought out and sent only a few years ago to Wisconsin; they were then bought out at enormous expense and sent to Iowa. Then they were bought out at still greater expense and sent into Minnesota. Then they were bought out only a few years afterward and sent to Dakota where you have given them several million acres of land, vastly more than they can ever use. Now, you propose in addition to that, at this particular time, to put your hand into the Treasury for the purpose of drawing out $60,000 more with which to buy improved farms occupied by white settlers in Nebraska in order to transfer them over to the barbarism that these Indians will plant upon that soil where now civilization reigns. I am opposed to it, and in the name of the people of Nebraska I protest against it.

Mr. POMEROY. The course of the Government to this tribe of Indians has been a very sore question to all who have had any knowledge of it. Under a great clamor, and for some good reason, the people of Minnesota insisted on having them removed. I had occasion to see some of them; I have seen them once or twice since, and it is the sorest subject of anything that has been transacted in the Indian department. They were taken out on the edge of Dakota, near the Missouri river, to a place where nobody can live. They had a right to complain. They did complain. Many died, and the rest would have died if they had remained there. They are now on the Omaha reservation, where they have been placed as an act of mercy to save them, and if our bowels of compassion are not shut up and closed forever we ought to begin to do something for this tribe under these circumstances. I suppose the reason it is proposed to buy out a few settlers there is that if they are left there they will be selling whisky to the Indians and complete the degradation that has already begun. The object, as I understand, in buying out these few settlers is to have it clear and entire for this tribe. I do not believe we ought to resist the passage of this bill.

Mr. DOOLITTLE asked for the yeas and nays, and they were ordered; and being taken resulted—yeas 30, nays 8; as follows:

YEAS—Messrs. Anthony, Chandler, Clark, Conness, Cowan, Creswell, Davis, Dixon, Doolittle, Foster, Guthrie, Hendricks, Howe, Johnson, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Pomeroy, Riddle, Sprague, Stewart, Stockton, Sumner, Trumbull, Van Winkle, Wade, Willey, Wilson, and Yates—30.

NAYS—Messrs. Brown, Fessenden, Grimes, Kirkwood, Poland, Ramsey, Sherman, and Williams—8.

ABSENT—Messrs. Buckalew, Cragin, Foot, Harris, Henderson, Howard, McDougall, Nesmith, Norton, Nye, Saulsbury, and Wright—12.

So the bill was passed.

MISSOURI MILITIA EXPENSES.

Mr. BROWN. I move to take up for consideration Senate bill No. 31.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 31) to reimburse the State of Missouri for moneys expended for the United States in enrolling, equipping, and provisioning militia forces to aid in suppressing the rebellion.

It directs the President to appoint a commissioner to ascertain the amount of moneys expended by the State of Missouri in enrolling, equipping, subsisting, and paying such State forces as have been called into service in that State since the 24th of August, 1861, to act in concert with the United States forces in the suppression of rebellion against the United States. The commissioner is to proceed at once to examine all the items of expenditure made by the State for the purposes named, allowing only for disbursements made and amounts assumed by the State for enrolling, equipping, subsisting, and paying such troops as were called into service by the Governor, at the request of the United States department commander commanding the district in which Missouri may at the time have been included, or by the express order, consent, or concurrence of such commander, or which may have been employed in suppressing rebellion in the State. No allowance is to be made for any troops which did not perform actual military service in full concert and coöperation with the authorities of the United States and subject to their orders.

In making up the account, for the convenience of the accounting officers of the Government, the commissioner is to state separately the amounts expended respectively for enrolling, equipping, arming, subsisting, and paying

the troops, and from the aggregate amount he is to deduct the amount of direct tax due by the State to the United States, under the act entitled "An act to provide increased revenue from imports, pay interest on the public debt, and for other purposes," approved August 5, 1861, or the act entitled "An act to allow and pay to the State of Missouri the amount of money expended by said State in the arming and paying of troops employed in the suppression of insurrection against the laws of the United States," approved July 17, 1862.

In the adjustment of the accounts the commissioner is not to allow for any expenditure or compensation for service at a rate greater than was at the time authorized by the laws of the United States in similar cases. So soon as the commissioner shall have made up the account and ascertained the balance he is to make a written report, showing the different items of expenditure, to the Secretary of the Treasury; and if from the report it shall appear that any sum remains due to the State, he is to draw his warrant for it, payable to the Governor of the State, and deliver it to him.

The commissioner, before proceeding to the discharge of his duties, is to be sworn that he will carefully examine the accounts existing between the United States and the State of Missouri; and that he will, to the best of his ability, make a just, true, and impartial statement of them. He is to receive such compensation for his services as may be determined by the Secretary of the Treasury; and $6,775,000 is appropriated to carry the bill into effect.

Mr. BROWN. I will state for the information of the Senate that this is a bill which has already been twice passed by this body. It was passed at the last session of Congress in the same terms and language with the bill now before us and went to the House of Representatives, and failed there, owing to a misapprehension on the part of the Military Committee that a previous provision had already been made to cover the expenses incurred. It was subsequently reported by the Committee on Military Affairs, and placed as an additional clause to the miscellaneous appropriation bill, added to it on the last night of the session; but that bill itself failing, of course this appropriation failed also. The bill is, as it states, for reimbursing the State of Missouri for moneys which were actually expended in subsisting, paying, and equipping troops who were in the service under officers of the United States. I ask the Clerk to read the report which comes from the Military Committee in connection with this bill.

The Secretary read the following report made by Mr. BROWN on the 15th of February:

The Committee on Military Affairs and the Militia, having had under consideration a bill "to reimburse the State of Missouri for moneys expended for the United States in enrolling, equipping, and provisioning militia forces to aid in suppressing the rebellion," beg leave to report the same back with a unanimous recommendation in favor of its passage.

This is a bill designed, as its title expresses, to reimburse the State of Missouri for moneys expended in equipping, subsisting, and paying militia troops called into service to act in concert with the United States forces, and under the authority of United States officers, in maintaining the peace against guerrilla bands, and in repelling hostile invasion. The amount appropriated is $6,715,089 65, and it is provided that a commission shall first examine and approve all the vouchers for the outlay of the State of Missouri before any payment shall be made. The bill prescribes likewise that the amount of the direct tax due to the United States, being $761,127 33, shall be deducted from the aggregate indebtedness.

Your committee have had before them the evidences establishing the general correctness of this claim, evidences embracing the sworn returns of the officers of the State as to the amounts paid out by them; also abstracts showing the regiments, number of men furnished by each, and the aggregate of days actually engaged, verified by affidavit of the adjutant general of Missouri; also the proclamations calling them out for the purposes named, and placing them under the control of United States officers; also numerous orders from department headquarters, from the General-in-Chief, and from the Secretary of War, recognizing their service, and making disposition of the same, and attesting the fact of relief thus furnished at critical conjunctures, or volunteer troops thereby rendered disposable, who were sent to points of imminent danger. All these taken together sufficiently confirm the right of the State to reimbursement, upon grounds established by many precedents not necessary to be here reviewed.

Your committee further submit that these advances of money and payments of troops by the State of Missouri have been made under the most adverse circumstances, at ruinous sacrifice, and with signal loyalty. Forced to an issue of bonds to meet such a drain upon finances already almost overwhelmed with debt, they could only be sold at a great discount, while their availability for tax purposes made them in the past, and still continues to make them, a great embarrassment in the way of collecting any revenue. This almost paralyzes the industrial recuperation of the State, has made necessary a sale unreservedly of its great unfinished works of internal improvement, and necessitated the imposing of such increased taxes on a community torn by the ravages of invasion as its people are little able to bear.

Under such conditions it is believed that the reimbursement of these advances cannot with any justice be longer postponed, as they are part and parcel of those immediate war liabilities in the pay, equipment, and provisioning of troops which the policy of the Government has already established as having the first claim upon the Treasury of the United States.

All of which is respectfully submitted.

Mr. HENDRICKS. I want to inquire of the Senator from Missouri whether these expenditures are of a peculiar character, different from the expenditures made by other States, so that the State ought to be relieved by a special act, or whether, upon the other hand, these expenditures are not like the expenditures made by other States, and whether all the States ought to be provided for by a general act.

Mr. BROWN. I think that the circumstances are different in this case, although I am not fully apprised of all the facts which relate to the furnishing of troops by other States. In this case and in this State the force became virtually a part of the United States force, was continued for a long time in the United States service, and in so far answered in the stead of United States troops. Again, I will state that the circumstances attending the financial condition of the State render it eminently proper that some action shall be had now. I have no objection to any claims which may be presented from any other State properly authenticated and properly revised, and shall be very glad to have them audited and paid; but I do not think that forms any reason why we shall not consider a case that has already been passed upon heretofore, and which affects very seriously the finances of my own State. We are laboring there under a condition of affairs which renders it almost impossible to obtain taxes enough to carry on the government, and unless we can get relief in this matter we shall be impoverished in the future.

Mr. FESSENDEN. I do not know that this is not very necessary, but it strikes me that a bill which appropriates nearly seven million dollars cannot be taken up at the heel of the session, late in the afternoon, and considered in the way it ought to be. I do not know but that the bill is all right, but as there is, I understand, a desire for an executive session, I suggest to the Senator from Missouri whether we may not as well have an executive session leaving this bill to come up to-morrow morning.

Mr. BROWN. I have no objection to that, and then this bill will be in order to-morrow as the unfinished business.

EXECUTIVE SESSION.

Mr. FESSENDEN. I move, then, that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *March* 5, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of Saturday last was read and approved.

The SPEAKER announced as the first business in order the call of States and Territories (commencing with the State of Maine) for the introduction, on leave, of bills and joint resolutions for reference, and not to be brought back by a motion to reconsider.

GUARANTEE OF MEXICAN BONDS.

Mr. WOODBRIDGE. I desire to introduce the following joint resolution, that it may be referred to the Committee on Foreign Affairs, and ordered to be printed:

Whereas the people of the Government of the United States of America are not indifferent to the patriotic struggles of the people of Mexico to establish and perpetuate their republican form of government; and whereas the said republic of Mexico, through its duly authorized agent, is about to issue fifty thousand bonds of $1,000 each, dated April 1, 1866, with interest coupons attached, payable at the city of New York, in gold coin, the principal after thirty years, and the interest semi-annually at the rate of seven per cent. per annum, each of which bonds is to bear the signature of the register appointed by his excellency M. Romero, the duly recognized minister from the said republic: Therefore,

Be it resolved, &c., That payment of the aforesaid loan of $50,000,000, with the interest thereon, according to the tenor of said bonds, be, and the same hereby is, guarantied by the United States of America.

Mr. BLAINE. I object.

The SPEAKER. The only objection that can be made is objection to granting leave for the introduction of the joint resolution.

Mr. BLAINE. I object to granting leave.

The SPEAKER. The question then is, Shall leave be granted?

On the question there were—ayes 30, noes 20; no quorum voting.

The SPEAKER, under the rule, ordered tellers, and appointed Messrs. WOODBRIDGE and BLAINE.

Mr. SCHENCK. As I understand, all the gentleman from Vermont asks is that the resolution be introduced, referred to the Committee on Foreign Affairs, and ordered to be printed.

Mr. WOODBRIDGE. I have already so stated.

Mr. BLAINE. I object to the first step looking toward the object which this resolution contemplates.

The House divided; and the tellers reported—yeas 40, noes 26; no quorum voting.

Mr. BLAINE. Mr. Speaker, if it is competent for me to withdraw my objection, I will do so, as I do not care to divide the House.

Mr. ASHLEY, of Ohio. I demand the yeas and nays.

The yeas and nays were ordered.

Mr. FINCK. I move that the resolution be laid upon the table.

The SPEAKER. The resolution is not yet before the House.

The question was taken; and there were—yeas 64, nays 64, not voting 55; as follows:

YEAS—Messrs. Allison, Anderson, Delos R. Ashley, James M. Ashley, Baker, Banks, Baxter, Bidwell, Bingham, Brandegee, Bromwell, Bundy, Sidney Clarke, Delano, Donnelly, Driggs, Eckley, Eliot, Farnsworth, Farquhar, Ferry, Grinnell, Hale, Abner C. Harding, Henderson, Higby, Hooper, Asahel W. Hubbard, James R. Hubbell, Hulburd, Ingersoll, Jenckes, Julian, Kelley, Kelso, Knykendall, Latham, William Lawrence, Lynch, McClurg, McKee, Morris, Orth, Paine, Patterson, Perham, Raymond, Alexander H. Rice, John H. Rice, Rollins, Schenck, Spalding, Stevens, Taylor, Burt Van Horn, Robert T. Van Horn, Warner, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Whaley, Williams, Windom, and Woodbridge—64.

NAYS—Messrs. Alley, Ames, Baldwin, Beaman, Bergen, Blaine, Boutwell, Brooks, Broomall, Chanler, Cobb, Conkling, Cook, Cullom, Davis, Defrees, Deming, Denison, Eldridge, Finck, Goodyear, Grider, Aaron Harding, Hill, Hogan, Chester D. Hubbard, James Humphrey, Kerr, Ketcham, George V. Lawrence, Marshall, McCullough, McRuer, Miller, Morrill, Myers, Newell, Niblack, O'Neill, Phelps, Pike, Price, Radford, Ritter, Rogers, Rousseau, Sawyer, Scofield, Shanklin, Shellabarger, Sitgreaves, Sloan, Stilwell, Thayer, Francis Thomas, Thornton, Trimble, Trowbridge, Upson, Van Aernam, Wentworth, James F. Wilson, Stephen F. Wilson, and Winfield—64.

NOT VOTING—Messrs. Ancona, Barker, Benjamin, Blow, Boyer, Buckland, Reader W. Clarke, Coffroth, Culver, Darling, Dawes, Dawson, Dixon, Dumont, Eggleston, Garfield, Glossbrenner, Griswold, Harris, Hart, Hayes, Holmes, Hotchkiss, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell, James M. Humphrey, Johnson, Jones, Kasson, Laflin, Le Blond, Loan, Longyear, Marston, Marvin, McIndoe, Mercur, Moorhead, Moulton, Nicholson, Noell, Plants, Pomeroy, Samuel J. Randall, William H. Randall, Ross, Smith, Starr, Strouse, Taber, John L. Thomas, Ward, Welker, and Wright—55.

During the vote,

Mr. THAYER stated that his colleague, Mr. MOORHEAD, absent by leave of the House, would be absent for four days; and that he was paired with his colleague, Mr. RANDALL.

The SPEAKER voted in the affirmative.

So the joint resolution was introduced, read

a first and second time, and referred to the Committee on Foreign Affairs.

PENSION AND PROVOST MARSHAL'S BUREAUS.

Mr. BANKS introduced an act to provide for the consolidation of the Pension and Provost Marshal's Bureaus; which was read a first and second time, and referred to the Committee on Military Affairs.

COLORED MINISTRY.

Mr. BALDWIN introduced an act to incorporate the national association to educate colored men for the Christian ministry; which was read a first and second time, and referred to the Committee for the District of Columbia.

NATIONAL CURRENCY.

Mr. MILLER. I ask leave to introduce a further supplement to an act entitled "An act to provide a national currency secured by pledge of United States bonds, and to provide for the circulation and redemption thereof."

Mr. ASHLEY, of Ohio. I ask that the proposition be read.

The Clerk read as follows:

A further supplement to an act entitled "An act to provide a national currency secured by pledge of United States bonds, and to provide for the circulation and redemption thereof."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That where Government bonds have been and may hereafter be transferred and delivered to the Treasurer of the United States in accordance with the law now in force, the association making the same shall be entitled to receive from the Comptroller of the Currency, circulating notes of different denominations in blank, registered and countersigned as by law now provided.

The amount of such circulating notes to be furnished to each association shall be in proportion to its paid up capital, as follows:

To each association whose capital does not exceed two hundred thousand dollars, the amount of the par value of the bonds so transferred and delivered to said Treasurer, if bearing an interest of not less than five per cent. per annum; to each association whose capital exceeds five hundred thousand dollars, but not over one million dollars, ninety per cent. of such capital; to each association whose capital exceeds one million dollars, but not over three million dollars, eighty-five per cent. of such capital, and to each association whose capital exceeds three million dollars, seventy per cent. of such capital.

SEC. 2. That so much of laws heretofore passed as are inconsistent with the preceding section be and the same is hereby repealed.

Mr. PRICE. I object to the introduction of that bill, as it contains a provision which ought not to be adopted by this House.

Mr. ASHLEY, of Ohio, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 17, nays 114, not voting 52; as follows:

YEAS—Messrs. Donnelly, Farnsworth, Garfield, Grinnell, Hotchkiss, Demas Hubbard, John H. Hubbard, McKee, McRuer, Miller, Phelps, Spalding, Van Aernam, Warner, Whaley, Stephen F. Wilson, and Windom—17.

NAYS—Messrs. Alley, Allison, Ames, Anderson, James M. Ashley, Baker, Baldwin, Banks, Baxter, Beaman, Benjamin, Bergen, Bidwell, Blaine, Boutwell, Brooks, Broomall, Buckland, Bundy, Chanler, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Davis, Defrees, Delano, Deming, Denison, Driggs, Eckley, Eldridge, Eliot, Farquhar, Ferry, Finck, Goodyear, Grider, Griswold, Hale, Aaron Harding, Abner C. Harding, Hayes, Henderson, Higby, Hill, Hogan, Holmes, Hooper, Chester D. Hubbard, James R. Hubbell, Hulburd, James Humphrey, Ingersoll, Jenckes, Julian, Kelley, Kelso, Ketcham, Kuykendall, Latham, George V. Lawrence, William Lawrence, Marshall, Marvin, McClurg, McCullough, Morrill, Moulton, Myers, Newell, Niblack, O'Neill, Orth, Paine, Perham, Pike, Price, Radford, Alexander H. Rice, John H. Rice, Ritter, Rogers, Rollins, Ross, Rousseau, Sawyer, Schenck, Scofield, Shanklin, Shellabarger, Sitgreaves, Sloan, Stevens, Stilwell, Taber, Taylor, Thayer, Francis Thomas, Thornton, Trimble, Trowbridge, Upson, Burt Van Horn, Robert T. Van Horn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Wentworth, Williams, James F. Wilson, Winfield, and Woodbridge—114.

NOT VOTING—Messrs. Ancona, Delos R. Ashley, Barker, Bingham, Blow, Boyer, Brandegee, Bromwell, Reader W. Clarke, Coffroth, Culver, Darling, Dawes, Dawson, Dixon, Dumont, Eggleston, Glossbrenner, Harris, Hart, Asahel W. Hubbard, Edwin N. Hubbell, James M. Humphrey, Johnson, Jones, Kasson, Kerr, Laflin, Le Blond, Loan, Longyear, Lynch, Marston, McIndoe, Mercur, Moorhead, Morris, Nicholson, Noell, Patterson, Plants, Pomeroy, Samuel J. Randall, William H. Randall, Raymond, Smith, Starr, Strouse, John L. Thomas, Ward, Welker, and Wright—52.

So leave was not granted for the introduction of the bill.

NAVIGATION AND TRANSPORTATION COMPANY.

Mr. McCULLOUGH introduced a bill to incorporate the Potomac Navigation and Transportation Company of the District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

INCREASE OF DUTIES.

Mr. BUNDY introduced the following preamble and joint resolution; which were read a first and second time, and referred to the Committee of Ways and Means:

Whereas questions connected with the so-called reconstruction of the Government have hitherto engrossed so much of the time and attention of the present Congress as to exclude from its deliberations matters more particularly pertaining to the financial interests of the country; and whereas the unprecedented importations of foreign manufactures into the United States within the last two months cause serious embarrassments to the productive interests of the country, threatening the ultimate destruction of important branches thereof, the rapid accumulation of an overwhelming foreign debt, involving a large exportation of coin and bonds to pay the same, and a large diminution in the receipts of internal revenue levied upon and paid by the aforesaid industrial interests of the country; and whereas the large sums of money necessary to pay the current expenses of the Government, including the payment of the annual accruing interest on the public debt, are heavy burdens and taxes on the labor and capital of the people, demanding the adoption by Congress of all judicious measures which will, so far as practicable, relieve the people from burdens, and at the same time stimulate and foster all departments of industry and production: Therefore,

Be it resolved by the Senate and House of Representatives, &c., That until the end of one hundred and fifty days from the passage of this resolution, or until Congress shall so amend or modify the present tariff of duties as that the interests of the whole people shall be more fully and perfectly protected by appropriate legislation, fifty per cent. of the rates of duties and imposts now imposed by law on all goods, wares, merchandise, and articles imported into the United States, be added to the present duties and imposts now charged on the importation of such articles: *Provided*, That printing paper unsized, used for books and newspapers exclusively, shall be exempt from the operation of this resolution.

Mr. ROSS. I move to lay that resolution on the table.

The SPEAKER. It must be referred under the rule.

EDWARD P. M'KINNEY.

Mr. HOTCHKISS introduced a bill for the relief of Edward P. McKinney, late captain and assistant commissary of subsistence; which was read a first and second time, and referred to the Committee of Claims.

RECENT ISSUE OF FIVE-CENT CURRENCY.

Mr. SPALDING introduced the following joint resolution; which was referred to the Committee on Banking and Currency:

Resolved by the Senate and House of Representatives, &c., That the Secretary of the Treasury be, and he is hereby, required to call in and suppress, without unnecessary delay, the recent issue of five-cent notes, on which the head of a private individual appears in place of that of George Washington, as represented on previous issues of that denomination.

And be it further resolved, That henceforward no head or face or person shall be placed on any portion of the bonds or currency of the United States without express designation by the Secretary of the Treasury.

Mr. HOOPER. I ask that that joint resolution be acted upon now.

The SPEAKER. That cannot be done under the rule.

RECONSTRUCTION.

Mr. ASHLEY, of Ohio, introduced the following concurrent resolutions:

Resolved by the House of Representatives, (the Senate concurring,) That the Constitution of the United States confers on Congress ample power for the protection of the emancipated slaves and freedmen in the States recently in rebellion.

Resolved, That in behalf of the loyal American people, the Congress of the United States pledge full and complete protection to all loyal men, irrespective of race or color, residing in the States recently in rebellion, and especially to the soldiers and sailors who served in the Union Army and Navy, and to this end the Congress will demand such guarantees as to them shall seem sufficient, before recognizing any of the new State governments which now are or which hereafter may be organized, either under the order and direction of the President or by an independent movement of the loyal people in any such State.

Resolved, That the Union party of the nation, represented in Congress, earnestly desire that all States recently in rebellion shall, at the earliest moment consistent with the safety of the national Union, be restored to all the privileges, rights, and dignities of the States of the American Union which have not been in rebellion, and that so soon as constitutional State governments are organized therein, which shall secure, by constitutional provisons, the rights of all loyal men, without regard to race or color, and when the people of such States shall have elected men of undoubted loyalty as Senators and Representatives, the Congress of the United States will recognize such government as the constitutional government of such State.

Resolved, That in addition to the foregoing, Congress will also demand, as a condition to the complete restoration of any reorganized State, the entire exemption of every citizen from liability to taxation for payment of the rebel debt, or reimbursement either of expenditure incurred by State or local authorities, in aid of the rebellion, or for loss incurred by the emancipation of slaves.

Before the conclusion of the reading of the above the morning hour expired.

Mr. ROSS. Does not that go to the committee on reconstruction?

The SPEAKER. The morning hour having expired that question cannot be raised now.

TENNESSEE.

Mr. BINGHAM. I rise to a privileged question. The joint committee on reconstruction have instructed me to report a joint resolution concerning the State of Tennessee, together with a memorial and other papers, and the testimony taken by the committee in relation to the State of Tennessee. I ask that the memorial and other papers, with the testimony, be printed, and that the joint resolution receive its first and second readings and be recommitted to the committee, and I give notice that at an early day next week I shall report the joint resolution back by the instruction of the committee.

The joint resolution was read a first and second time by its title.

It was then read at length, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That whereas the people of Tennessee have made known to the Congress of the United States their desire that the constitutional relations heretofore existing between them and the United States may be fully established, and did, on the 22d day of February, 1865, by a large popular vote, adopt and ratify a constitution of government, republican in form, and not inconsistent with the Constitution and laws of the United States, and a State government has been organized under the provisions thereof, which said provisions and the laws passed in pursuance thereof, proclaim and denote loyalty to the Union; and whereas the people of Tennessee are found to be in a condition to exercise the functions of a State within this Union, and can only exercise the same by the consent of the law-making power of the United States: Therefore,

The State of Tennessee is hereby declared to be one of the United States of America, on an equal footing with the other States, upon the express condition that the people of Tennessee will maintain and enforce in good faith their existing constitution and laws, excluding those who have been engaged in rebellion against the United States from the exercise of the elective franchise for the respective periods of time therein provided for, and shall exclude the same persons for the like respective periods of time from eligibility to office; and the State of Tennessee shall never assume or pay any debt or obligation contracted or incurred in aid of the late rebellion; nor shall the said State ever in any manner claim from the United States or make any allowance or compensation for slaves emancipated or liberated in any way whatever: which conditions shall be ratified by the Legislature of Tennessee, or the people thereof, as the Legislature may direct, before this act shall take effect.

The joint resolution was recommitted, and ordered to be printed.

Mr. BINGHAM. I enter a motion to reconsider the vote by which the joint resolution was recommitted.

I now move that the memorial and accompanying papers, together with the testimony in relation to Tennessee taken by the committee, be printed, and on that motion I demand the previous question.

Mr. BROOKS. Suppose there is objection to the printing of the testimony?

The SPEAKER. The question will be submitted to the House.

Mr. BINGHAM. I have called the previous question on the motion to print.

Mr. BROOKS. I call for the reading of the testimony.

The SPEAKER. The gentleman has a right to demand it and it will be read.

Mr. WASHBURNE, of Illinois. Unless the majority of the House should determine otherwise.

The SPEAKER. The House can at any

time suspend the rules to dispense with the reading.

Mr. BINGHAM. I move to suspend the rules so as to dispense with the reading.

Mr. BROOKS. I raise the point of order that the gentleman cannot move to suspend the rules to dispense with the reading until the reading has commenced.

Mr. BINGHAM. I move to suspend the rules so as to dispense entirely with the reading.

Mr. BROOKS. How many motions can the gentleman make?

The SPEAKER. He can make as many motions as the gentleman can make points of order, having the floor to make them. This is an independent motion. The gentleman from Ohio [Mr. BINGHAM] moves the printing of the memorial, the testimony, and the accompanying documents. The gentleman from New York [Mr. BROOKS] objects and calls for the reading of the testimony. The gentleman from Ohio then moves to suspend the rules for the purpose of dispensing with the reading.

Mr. ELDRIDGE. I heard no objection made. The gentleman from New York called for the reading of the testimony.

Mr. BROOKS. I merely called for the reading.

The SPEAKER. He had a right to demand the reading, but the gentleman from Ohio moves to suspend the rules so as to dispense with the reading.

Mr. BROOKS. I want the record made right. I do not now know whether I should object to the printing of those papers or not, because I do not know what they contain.

The SPEAKER. The Chair so understands, and sustained the gentleman in his right to demand the reading of the evidence under the rule; whereupon the Chair ordered the Clerk to commence the reading. Thereupon the gentleman from Ohio [Mr. BINGHAM] moved to suspend the rule giving a member the right to call for the reading of a paper, which he had the right to do.

The question was then taken upon suspending the rules, and upon a division there were —ayes one hundred and seventeen, noes not counted.

Two thirds voting in the affirmative, the rule allowing a member to require the reading of a paper was suspended.

The motion of Mr. BINGHAM, that the memorial, accompanying papers, and testimony be printed, was then agreed to.

Mr. ROGERS. I ask leave to present a short minority report, which I ask to have read.

Mr. WASHBURNE, of Illinois. I object to the reading of the minority report, but I have no objection to its reception.

The minority report, submitted by Mr. ROGERS, was received and ordered to be printed.

Mr. WASHBURNE, of Illinois. I desire to state that the gentleman from Massachusetts [Mr. BOUTWELL] and myself dissent from the report of the majority of the joint committee on reconstruction. We therefore ask leave to submit our views hereafter.

Mr. CONKLING. I move that each member of the committee be allowed to file his views hereafter upon this subject.

The motion was agreed to.

Mr. SPALDING. I now move that the various minority reports which may hereafter be offered, under the order just offered, be printed for the use of this House.

The motion was agreed to.

ENROLLED BILLS SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled, Senate bills of the following titles, and the Speaker signed the same, namely:

An act (S. No. 93) to quiet the title to certain lands within the corporate limits of the city of San Francisco; and

An act (S. No. 142) for the relief of the heirs of James Bawdin.

ADVERTISING FOR NAVY DEPARTMENT.

The SPEAKER laid before the House a communication from the Secretary of the Navy, transmitting, in compliance with the resolution of the House of February 11, 1866, a statement of the amounts paid for advertising during the year 1865; which was referred to the Committee on Printing, and ordered to be printed.

SEA AND LAKE COAST HARBORS.

The SPEAKER also laid before the House a communication from the Secretary of War, transmitting, in compliance with a resolution of the House of January 29, 1866, the report of the chief Engineer in regard to harbors on the sea and lake coast where public works have been built.

Mr. ELIOT moved that the communication be printed, and that the same be referred to the Committee on Commerce.

The motion was agreed to.

WAGON ROAD IN NEVADA.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, in compliance with a resolution of the House of February 16, 1866, transmitting the report of Colonel James A. Sawyer, superintendent of the wagon road from Niobrara to Virginia City, of his explorations; which was laid on the table, and ordered to be printed.

AGRICULTURAL COLLEGES.

The SPEAKER. The Chair asks the consent of the House to lay before it a communication, which will be read by the Clerk.

The Clerk read as follows:

STATE OF NORTH CAROLINA,
EXECUTIVE DEPARTMENT,
RALEIGH, N. C., *February* 28, 1866.

SIR: I herewith inclose to you resolutions of the General Assembly of this State, accepting lands donated by the Congress of the United States, by act passed July 2, 1862, entitled "An act donating public lands to the several States and Territories which may provide schools for the benefit of agriculture and the mechanic arts."

Very respectfully, your obedient servant,
JONATHAN WORTH,
Governor of North Carolina.

Hon. SCHUYLER COLFAX, *Speaker of the House of Representatives, Washington, D. C.*

Mr. STEVENS. I object to the reception of that paper.

The SPEAKER. The question will then be taken upon receiving the paper.

Mr. BROOKS. Upon what ground does the gentleman from Pennsylvania [Mr. STEVENS] object to the reception of this paper?

Mr. STEVENS. I object to it because it is perfectly well known that at present we do not recognize the State government of North Carolina, and I hope we will be consistent in all respects.

Mr. ELDRIDGE. I call the yeas and nays upon the question of receiving the communication which has just been read.

The House divided; and there were—ayes 25, noes 76.

So (one fifth of the members present voting in the affirmative) the yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 38, nays 100, not voting 45; as follows:

YEAS—Messrs. Delos R. Ashley, Bergen, Brooks, Chanler, Davis, Denison, Eldridge, Finck, Goodyear, Grider, Hale, Aaron Harding, Hogan, Edwin N. Hubbell, James Humphrey, Kerr, Kuykendall, Latham, Marshall, McKee, Newell, Niblack, Nicholson, Noell, Phelps, Radford, Raymond, Ritter, Rogers, Ross, Rousseau, Shanklin, Taber, Taylor, Thornton, Trimble, Whaley, and Winfield—38.

NAYS—Messrs. Alley, Allison, Ames, Anderson, James M. Ashley, Baker, Banks, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Boutwell, Brandegee, Bromwell, Broomall, Buckland, Bundy, Sidney Clarke, Cobb, Coon, Cullom, Defrees, Deming, Donnelly, Driggs, Dumont, Eckley, Eliot, Farnsworth, Farquhar, Ferry, Grinnell, Abner C. Harding, Hayes, Henderson, Higby, Hill, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbell, Hulburd, Ingersoll, Jenckes, Julian, Kelley, Kelso, Ketcham, William Lawrence, Lynch, Marston, McClurg, McKee, Miller, Morris, Moulton, Myers, O'Neill, Orth, Paine, Patterson, Perham, Pike, Price, William H. Randall, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Spalding, Stevens, Stilwell, Thayer, Francis Thomas, John L. Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Warner, Elihu B. Washburne, Henry D. Washburn, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—100.

NOT VOTING—Messrs. Ancona, Baldwin, Blow, Boyer, Reader W. Clarke, Coffroth, Conkling, Culver, Darling, Dawes, Dawson, Delano, Dixon, Eggleston, Garfield, Glossbrenner, Griswold, Harris, Hart, Chester D. Hubbard, James M. Humphrey, Johnson, Jones, Kasson, Laflin, George V. Lawrence, Le Blond, Loan, Longyear, Marvin, McCullough, McIndoe, Mercur, Moorhead, Morrill, Plants, Pomeroy, Samuel J. Randall, Sitgreaves, Smith, Starr, Strouse, Ward, William B. Washburn, and Wright—45.

So the House refused to receive the communication.

During the roll-call,

Mr. McKEE announced that his colleague, Mr. SMITH, was detained from the House by sickness.

Mr. LAWRENCE, of Pennsylvania, stated that he had paired with his colleague, Mr. ANCONA.

Mr. DRIGGS announced that his colleague, Mr. LONGYEAR, had been imperatively called away.

The result of the vote was announced as above stated.

Mr. STEVENS moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CONDITION OF THE TREASURY.

Mr. STEVENS, by unanimous consent, submitted the following resolution:

Resolved, That the Secretary of the Treasury be, and is hereby, requested to prepare a statement showing the amount of money now in the United States Treasury, including all sums in the hands of Assistant Treasurers, of the national banks, and all other depositaries, designating the amount in each separately, and report the same to this House.

The SPEAKER. This being a call for executive information, unanimous consent is necessary for its consideration at this time.

There being no objection, the resolution was considered, and agreed to.

PARDONS BY THE PRESIDENT, ETC.

Mr. STEVENS, by unanimous consent, submitted the following resolution:

Resolved, That the President be requested, if not inconsistent with the public interest, to communicate to this House the following information, to wit: to how many persons worth more than $20,000 each he has issued special pardons, and what are their names; how much property, real, personal, and mixed, which has been seized as forfeited to the United States, under the act of 1862, as enemies' property, has been taken from the officers of the United States and returned to the enemies of the Government, who claimed to be the original owners; and to state whether the persons upon whom it was so bestowed had been soldiers in the army of the so-called confederate States of America, or had been giving aid and comfort to such belligerent enemy.

Resolved, That he be also requested to state how much abandoned property which had been taken possession of by the United States under the act of Congress, and had been allotted to the freedmen and occupied by them, has been ordered to be restored to returning rebels, and the occupants (freedmen) displaced, stating in both the above cases the particular property thus restored, and by whose order the same was done.

The SPEAKER. This being a call for executive information, unanimous consent is necessary for its consideration on this day.

There being no objection, the resolution was considered, and agreed to.

BRITISH CLAIMS.

Mr. BANKS presented a letter from the Secretary of State in relation to a claim presented by the British legation; which was referred to the Committee on Foreign Affairs, and ordered to be printed.

EVENING SESSION.

Mr. BLAINE. I ask unanimous consent to submit the following resolution:

Resolved, That on and after this date the House, until otherwise ordered, will take a recess daily, except on Saturday, at four and a half o'clock p. m. and reassemble at seven and a half o'clock p. m.; and that in addition to the morning hour now provided for there shall be an additional hour each evening from seven and a half to eight and a half o'clock, devoted to receiving reports from committees, to be called in regular order, under the same rules and restrictions that govern the morning hour; and the hour thus set apart and the regular morning hour shall not be interrupted by privileged questions or reports until all the committees shall have been called once.

Mr. CONKLING. I trust that that resolution will not be adopted.

Mr. WASHBURNE, of Illinois. I object to it.

Mr. BLAINE. I move to suspend the rules.

The House divided; and there were—ayes 48, noes 51.

So (two thirds not voting in the affirmative) the rules were not suspended for the introduction of the resolution.

SHIP-CANAL.

Mr. ELDRIDGE presented a joint resolution of the Senate and Assembly of the State of Wisconsin for a grant of land to aid in the construction of the Portage Lake and Lake Superior ship-canal; which was referred to the Committee on Public Lands.

INVALID PENSIONS.

Mr. PERHAM submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Invalid Pensions be directed to inquire what further legislation is necessary to prevent the transfer or assignment of the benefits of any pension to brokers or speculators. Also to inquire into the expediency of providing by law, that when an applicant for an invalid pension shall die while such application is pending, and after the proof has been completed, and leaving no widow and no minor child under the age of sixteen years, his heirs or legal representatives shall be entitled to receive the accrued pension to which the applicant would have been entitled had the certificate been issued before his death; that pensions be paid to officers or their dependents according to the rank for which they were commissioned, when from unavoidable reasons they were not duly mustered; that in the administration of the pension laws the period of service of any person in the military service shall be construed to extend to the time of disbanding the organization to which such person belonged, or until their actual discharge for other cause than the expiration of the service of such organization, and to provide that if any person in the military or naval service shall have died leaving a widow or minor child or children under the age of sixteen years, and said widow shall abandon the care of such child or children the pension shall be withheld from the said widow and be paid for the support of the said minor child or children, and report by bill or otherwise.

RAILROAD AND TELEGRAPH COMPANY.

Mr. PRICE introduced a bill for the organization of a company to construct a railroad and telegraph from Puget sound to the Columbia river; which was read a first and second time, ordered to be printed, and referred to the Committee on the Pacific Railroad.

CHANGE OF MODE OF SURVEYING.

Mr. HENDERSON introduced a bill to authorize a departure from the established mode of surveying in certain cases; which was read a first and second time, and referred to the Committee on Public Lands.

MILITARY ACADEMY APPROPRIATION BILL.

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

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. BRANDEGEE in the chair,) and proceeded to the consideration of House bill No. 37, making appropriations for the support of the Military Academy for the year ending the 30th of June, 1867.

The bill was read.

Mr. SCHENCK. I move to add the following at the end of the bill:

The continuing the erection of memorial tablets and mural monuments to deceased officers of the regular Army and of volunteers; arranging and preserving trophies of war; and marking with proper inscriptions guns captured during the rebellion, $5,000.

Mr. Chairman, I will explain my object in moving the amendment. I will premise my information arises from the fact that I happened to be selected as one of the Board of Visitors at the last annual examination of the Academy; and as president of that board, I will say, in conjunction with the other members of the board, a most thorough examination was made of the institution and all that pertains to it. The amendment which I offer now, as well as some others I will propose hereafter, embody the conclusions in reference to some appropriations at which that Board of Visitors arrived after that examination.

I propose now an appropriation of $5,000 for continuing the memorial tablets at the chapel of the Academy, and also for marking guns captured during the rebellion with the name of the battles in which they were taken. Any one who has visited West Point will remember that among the objects of greatest interest there are the tablets of black marble on the walls of the chapel, giving a brief military history, at least the date of the death, of the officers who have fallen or died at any time in the service of the country, from the earliest revolutionary period down through the Mexican war. It was thought proper that this sort of memorial should be continued, to embrace the officers in the service of the United States, both of the regular Army and volunteers, there being no distinction made between them. A small appropriation is necessary for this, and in addition to this, for the purpose of marking the guns captured during the rebellion. This is embodied in the recommendation of the Board of Visitors.

The Superintendent at West Point desired to mark these guns, and he sent to the chief of the Engineer corps, now on duty in this city, having general supervision of the Academy and its interests, and who perhaps may have for a little time longer, to get the necessary authority or means for that purpose. The reply was, in substance, that the guns could not be marked because it might hurt the feelings of some southern students who might hereafter come to that institution.

I will read the correspondence on this subject, sent to us by the Secretary of War in answer to a call of this House:

WEST POINT, NEW YORK, *May* 27, 1865.

SIR: There are now at this post, for which I am accountable, upward of thirty cannon of various descriptions and calibers, taken from the rebels in the present war. Many of them are of historic value, and not a few, of foreign manufacture, have also a most interesting history. All these guns should have cut upon them, after the manner of those taken in the Mexican war, such data as will always serve to identify them, but there are no means whatever at my disposal at present to accomplish the work. I have no man in my detachments sufficiently skilled to perform it, and I know of no appropriation to cover the necessary expenditure. I understand that all the Mexican trophies referred to were marked at Governor's Island, under the direction of the commanding officer of the arsenal there.

I would, therefore, respectfully recommend that the matter may be referred to the chief of Ordnance at Washington for his consideration, and that these guns be suitably marked by the same workmen, if possible, who did the Mexican guns, at the expense of that department.

I remain, very respectfully, your obedient servant,
GEORGE T. BALCH,
Captain Ordnance Corps, and
Instructor Ordnance and Gunnery.

Captain E. C. BOYNTON,
Adjutant United States Military Academy.

ENGINEER DEPARTMENT, *June* 3, 1865.

GENERAL: The letter of Captain Balch, of 27th May, referred by you to this department (in relation to certain captured guns) has been received.

It is not desirable to inscribe on any of these guns evidences of capture as trophies of war, to remain at an institution where young men from all parts of our united and once happy country are to meet and contract friendships. It should be our study with these young gentlemen to present nothing of an irritable or boastful spirit to be placed constantly before the sight of those whose section of country suffered by rebellion.

Let history tell the evils this rebellion has produced, and let us, through the instrumentality of the Military Academy, renew its powerful influence in establishing national feelings through the friendships that are sure to flow from scholastic friendship under military training for years.

These guns should be preserved only as historical of the artillery arm of service, indicating the period and place of manufacture of each caliber, and description of gun, omitting everything connected with capture or use.

RICHARD DELAFIELD,
General, and Chief Engineer United States Army.

Brigadier General GEORGE W. CULLUM, *Superintendent United States Military Academy, West Point, New York.*

The Board of Visitors concluded that it was not possible and just as little advisable to undertake to blot out the history of the war of the rebellion; but on the contrary it was better to perpetuate it. And the committee were likewise of opinion that no southern youth was fit to be educated at West Point until his patriotism should arise to that level when he would feel glad to see the evidence there that even his own people had been put down when in their madness they attempted to destroy this Government.

But, sir, to explain the matter more fully and clearly I will read on this subject the concluding paragraphs of the report which I had the honor to make, as president of the Board of Visitors, to the Secretary of War in June last:

"Among many improvements made during the administration of the present Superintendent is one of peculiar and touching interest. It is the device of placing on the walls of the chapel neat marble tablets or mural monuments inscribed with the names of those dead Army officers who have in the past been made illustrious by rank, or gallant deeds of arms, or have fallen in battle. It was a happy thought to be executed at this particular place. It is most fitting that the United States Military Academy, the nation's great school of arms, should be made to perpetuate such names and histories; thus keeping before the eyes and in the memories of the young men here educated the noble example of faithful service and devotion to our common country.

"The board recommend that the tasteful and enduring record thus begun shall be continued; and that means be furnished to extend the same marks of respect to all the officers of our Army, regulars and volunteers alike, who have suffered and fallen in the war just closed, in a glorious and successful struggle to vindicate the honor and maintain the life of the nation.

"Happy for the recreants who fought to destroy their Government, if in the light shed from such a brilliant roll of the faithful their names and treasonable career could be thrown into deeper shadow of oblivion! For continuing the erection of these memorial tablets, including a mural monument to Washington, for which an appropriate design has been made, the board earnestly recommend an appropriation by Congress of $5,000. Such a sum will also enable the Superintendent to finish a now incomplete arrangement for the preservation of many of the most interesting trophies of war which have accumulated here; and especially to inscribe suitably, with the names of battles in which they were taken, some of the finest pieces of ordnance that have been captured during the rebellion, and sent here for keeping. Let these lasting lessons engraved on stone and bronze and iron fill and stimulate the hearts and minds of those whose special task it must be hereafter to aid in upholding and defending our flag and all that it represents. Let those who may come here in the future to prepare for such duty, from States once in insurrection, hail the sight of these proofs that the parricidal attempt of their fathers was a failure. And let all unite in cultivating, by every help and influence, that which now more than ever before seems to be the growing and strengthening sentiment of this national school of military and general science, that the truest and most precious interests, duties, and inheritance of the soldier and the citizen are one, the same, and can never be separated."

The question being taken on the amendment of Mr. SCHENCK, it was agreed to.

Mr. SCHENCK. I offer another amendment, to insert at the end of the bill the following:

For enlarging and improving the cemetery, and for repairing the inclosure thereof, $5,000.

Among other matters examined into was the condition of the cemetery for the burial of those in the service of the United States who died at West Point or who are memorialized. We found it in an extremely dilapidated condition, the fences down, and overrun with grass. And we found that there was no appropriation enabling either the walks to be repaired or the fences to be mended. It is besides crowded at this time, being very small in extent, and it is thought proper that it should be enlarged. This is also in accordance with the recommendation of the Board of Visitors, made in their report.

The question being taken on the amendment, it was agreed to.

Mr. SCHENCK. I offer another amendment in accordance with the same recommendation, to add the following;

For the removal to a safe place and the reconstruction of the magazine, $10,000.

One word as to this. By a peculiar ingenuity in the exercise of engineering skill, a former Superintendent of that Academy has placed the magazines just along side of the barracks of the soldiers' station there, and upon the slightest accident the mischief will not stop with the magazine, but must necessarily destroy the neighboring building and whoever may be in it. It is considered, I believe, by every body connected with West Point, a triumph of engineering skill, so far as any prospective mischief is concerned, and I believe that is about the only general con-

clusion at which anybody has arrived in regard to it.

Mr. BROOKS. Is there any estimate from the Department of the Secretary of War for this?

Mr. SCHENCK. No, sir. The report of the Board of Visitors was sent into the War Department, and has been communicated here with the papers accompanying the report of the Secretary of War, which has been sent to be printed, but I do not know when we shall get it.

Mr. BROOKS. Was there any estimate of any engineer or officer connected with it?

Mr. SCHENCK. Yes, sir; and I have put it below the amount of the estimate.

Mr. BROOKS. I was about to say that I do not know but that this is all right. I presume it is, but it is a very dangerous way to make an appropriation in an appropriation bill when, first, it does not come under the sanction of the Committee on Appropriations, and second, when it does not come under the official authority of the War Department.

Mr. SCHENCK. I will explain exactly the position of the matter. It is not my fault, nor, as far as I know, is it the fault either of the Committee on Appropriations or of any member of the House that we have not the material before us to legislate with a full understanding of this whole matter. The report of the Secretary of War presents, among the accompanying papers, this report of the Board of Visitors to West Point, and the Board of Visitors, when they made their report, accompanied it with subordinate reports making estimates in regard to these various improvements. All these documents were referred to the Committee on Appropriations, but, at the same time, they were ordered to be printed, and there is no other copy of the papers, so far as I know, excepting the original which has gone to the public printing office, and when they will return to us again I think no man in this House can say. These papers will make a part of some large document, almost utterly useless at the time it reaches us, but which we shall have for distribution among our constituents next year. For the practical purposes of legislation they are not here and are not likely to be. I can only say, therefore, that in offering this amendment I have gone under the mark, but this whole subject was inquired into and a report accompanied by estimates was submitted to the Secretary of War.

Mr. STEVENS. That report never reached us in any shape. It was sent to the Public Printer and has never been before the Committee on Appropriations.

Mr. PAINE. I should be glad to know from the gentleman from Ohio [Mr. SCHENCK] the name of the engineer officer who wrote to the military Superintendent at West Point the letter to which he has referred?

Mr. SCHENCK. That letter, with the name of the writer, is among the documents of this House, for I submitted the resolution calling for the correspondence. There can, therefore, be no objection to my stating that it is General Delafield, the head of the Engineer corps. I simply stated the general substance of the letter, but the gentleman can see exactly what was written; the letter speaks for itself.

The question was taken on Mr. SCHENCK'S amendment; and it was agreed to.

Mr. SCHENCK. There were three or four other subjects brought to the attention of the Board of Visitors, but I believe I will confine myself to offering one more amendment; which is as follows:

For ventilating and heating the barracks and other academic buildings, improving the apparatus for cooking for the cadets, repairing the hospital building, including the introduction of baths for the sick, the construction of water closets in the library building, and new furniture for the recitation room, $20,000.

Mr. WASHBURNE, of Illinois. It seems to me that that is pretty steep. I would like to have some explanation of it.

Mr. SCHENCK. The gentleman from Michigan, [Mr. DRIGGS,] who was one of the committee of the Board of Visitors to whom this subject was referred, says that the estimate, which was very carefully made, was $30,000 for these purposes. I think that some sum certainly ought to be expended for these various objects, and there need be no apprehension about it. The money thus appropriated will be fairly, properly, and most economically applied by the present Superintendent at West Point, General Cullum. I can vouch for his entire trustworthiness and discretion in regard to any expenditures which may be made by the Government to accomplish the objects intended by this amendment.

Furthermore, I will say that the recitation room is in a most dilapidated condition; and the provision made in reference to the sick in hospital, for want of baths, or access to water in any way, was complained of by the surgeon in charge; and the Board of Visitors were satisfied, from a close inspection, that the complaints were just.

The other inconveniences (for I have made the amendment very comprehensive) all exist; and it seems to us, if you are to give efficiency to the conduct and management of the institution, it is absolutely requisite that these expenditures should be made. I wish I had here the papers and the reports, not only of the Board of Visitors, but of the sub-committee, who, with the aid of engineers and by personal inspection, made the estimates which have been submitted. But I have not, for the reason I have already explained to the House.

I have proposed the least sum reported by that committee as sufficient. I think the gentleman from Michigan [Mr. DRIGGS] was a member of that sub-committee—I think its chairman. I propose this sum shall go as far as it may to accomplish something of these necessary objects. I trust the gentleman from Michigan will himself give some explanations of this subject.

Mr. RADFORD. I ask the chairman of the sub-committee [Mr. DRIGGS] to state why they recommend $30,000 instead of the $20,000 substituted by the gentleman from Ohio, [Mr. SCHENCK.]

Mr. DRIGGS. I will state in answer to the gentleman from New York, [Mr. RADFORD,] that as chairman of the sub-committee having charge of the investigation of the particular matters referred to by my friend from Ohio, [Mr. SCHENCK,] I found, and so did the committee, that the recitation rooms were very dilapidated, the roofs were leaky, the ventilation was bad, and the furniture deficient. And it seemed to us that an appropriation to remedy these wants was merely a matter of economy to the Government. After a most careful investigation, and a thorough inspection of all the departments there, we recommended an appropriation, I think, of $30,000.

I understand that my friend from Ohio [Mr. SCHENCK] has suggested the amount of $20,000. I can only add in this connection that I believe the sum of $30,000, under the supervision of General Cullum, will be expended for the benefit of the Government. It is just and right and economical. Gentlemen will bear in mind the fact that it has been recommended that the number of cadets be increased to four hundred, instead of the present number. If that recommendation is adopted it will involve the necessity of further improvement, for the purpose of affording sufficient accommodation for them. But in order to protect the public property, it is now requisite that provision be made for repairing the roof of the building, procuring some new furniture, altering the ventilating apparatus, &c., which is embraced in the purview of the amendment of the gentleman from Ohio, [Mr. SCHENCK.] I think the amendment is just and proper, and I hope it will be adopted.

Mr. RADFORD. I move to amend the amendment so as to make it $30,000 instead of $20,000.

Mr. WASHBURNE, of Illinois. I hope that will not be done. If we give what the Committee on Military Affairs ask, I think that is enough.

Mr. DRIGGS. I would suggest to my friend from New York, [Mr. RADFORD,] that he better not press his amendment to the amendment.

Mr. RADFORD. Very well; I will withdraw it.

The amendment of Mr. SCHENCK was then agreed to.

Mr. DRIGGS. I move further to amend the bill by adding the following:

For the removal and enlargement of the gas-works, $6,000.

I am not in the habit of taking up much of the time of the House, but I will state very briefly that the present gas-works are located immediately in the range of the battery, where they are liable to injury from the explosion of shells, &c. They are located upon a high hill, constantly requiring a great expense for the transportation of coal from the vessels at the dock up to the gas-works. The works are in quite a dilapidated condition now, and the committee have deemed it necessary to recommend to Congress that a small appropriation be made to remove the works to the bank of the river, where the coal can be transferred immediately from the vessels to the gas-works, and where the works will be secure from the explosion of shells, &c., in the experiments in artillery practice.

Mr. SPALDING. I would ask the gentleman how it happens that these estimates were not sent in to the Committee on Appropriations by the Secretary of War?

Mr. DRIGGS. Well, sir, the committee appointed by the President and Secretary of War to visit West Point and make suitable recommendations were themselves puzzled to know why that was not done. They made a very extensive and laborious examination, and in the recommendations embraced in their report to the Secretary of War they included only the absolute necessities of the institution at West Point. When I learned that the recommendations made by that committee had not been submitted to Congress I called upon the Secretary, and he said that he had not had time to read the report, and in fact had hardly seen it. I then called upon General Delafield and asked him to explain why the recommendations of the committee had been ignored. I said to him that it was useless for the Government to expend five or six thousand dollars to send a committee to West Point if no notice was to be taken of their report. He said that he had not had the facts submitted to him, and had never seen our report.

Now, sir, this committee have made certain recommendations; among others, one for the removal of the gas-house at West Point to the bank of the river. The sum needed is very small; and I hope that the appropriation will be made.

Mr. WASHBURNE, of Illinois. Has there been no recommendation from the chief Engineer or any officer of the War Department in regard to the removal of these gas-works?

Mr. DRIGGS. I think not.

Mr. WASHBURNE, of Illinois. Then I think we ought not to make this appropriation.

Mr. DRIGGS. I think that we ought to make it; it is very much needed.

Mr. STEVENS. Have the Board of Visitors agreed upon this?

Mr. DRIGGS. Yes, sir; unanimously.

Mr. WRIGHT. Mr. Chairman, I believe I am as much in favor of that institution at West Point as anybody else in this House. But as I have had some little experience in gas-works on a small scale in my own establishment, I should like to ask the gentleman from Michigan this question: if these gas-works were located improperly, who had the superintendence of the location, and are we obliged now to repair by large payments of money the faults of those who were presumed to be competent to determine the location for such works as those?

I do not know whether these gas-works are ordinary gas-works, or whether they are such as I have in my own private house; but I think we ought to have some information as to why this error was not earlier discovered. There is, in my judgment, a great deal of gas in-

volved in this question; and I think that the sooner the matter is ventilated the better.

Mr. DRIGGS. I will answer the gentleman by saying that this matter has been reported upon several times. Three or four Boards of Visitors have recommended that an appropriation be made to remove those gas-works to the bank of the river. I cannot account for the error in the original location; but an error, a very gross error, was committed. The necessity for a change in this respect was one of the first things to which the attention of the board was called by the present Superintendent, General Cullum; and we were urgently solicited to recommend a small appropriation to remove the works to the banks of the Hudson river.

Let me add, Mr. Chairman, that the expenditure for this purpose is likely to be not detrimental to the interests of the Government, but decidedly advantageous. The removal of coal and other necessary material from the river-bank to the present location of the works costs almost as much annually as the amount of this appropriation asked for the removal of the works.

Mr. WRIGHT. The gentleman has not answered my question as to who was the Superintendent at the time the present location was made.

Mr. DRIGGS. General Boreman, I think, was Superintendent at the time when the works were located, though I am not sure as to that. But I know that General Cullum, the present Superintendent, desires to have the works removed to the bank of the river. The expenditure proposed is not large. Any gentleman familiar with the location or construction of gas-works must know that the appropriation proposed is very small.

It is only an appropriation to pay for the transfer of gas-works to the banks of the river; and I do not know it is necessary to multiply words on a subject so simple and necessary. I hope the vote will be taken, and the amendment will be adopted.

Mr. GRINNELL. I should like to save $3,000 in half a minute; and I therefore move to strike out "six" and insert "three." An appropriation of $6,000 for the removal of gas-works, when there is to be no expense for machinery, is preposterous. I think $3,000 is enough.

Mr. RADFORD. Mr. Chairman, I will say but a few words in opposition to the amendment. The reason why the locality of these gas-works is proposed to be changed is this: since these gas-works were erected upon the hill a large embankment has been taken down, the flats have been filled up with the material, and a large extent of new ground has been made, sufficient for the erection of these works upon the banks of the river. If this removal be made, then there will be no further necessity for hauling coal half a mile up hill; and I have no doubt, in consequence, the Government will save $1,000 a year in the item of cartage. That, I think, is a sufficient reason why these gas-works should be removed to the banks of the river, where there is ample ground. There is enough room upon the docks for these gas-works upon the banks of the Hudson river, so that vessels may come alongside and unload, and thus save the expense of cartage.

Three thousand dollars will not be enough for the purpose of removing the gas-works to the new locality. I hope, therefore, the amendment will be adopted as originally presented.

Mr. WINFIELD. I should like to ask a question of the gentleman from Iowa.

Mr. GRINNELL. Very well, sir.

Mr. WINFIELD. Does he move to curtail this estimate because he believes this change of location of these gas-works is unnecessary?

Mr. GRINNELL. No, sir.

Mr. WINFIELD. Does he move it on any information of his own, that the change can be effected at a less expense?

Mr. GRINNELL. I have no doubt it can be done for $3,000. I will myself enter into personal bonds to do it for $3,000.

Mr. WASHBURNE, of Illinois. There is so much dispute about this matter that I move the whole thing be stricken out, and thus save the entire $6,000.

Mr. WINFIELD. A saving of that kind might be the most unsafe thing we could do. We appoint a board to visit the institution annually. They are usually men of high intelligence and of perfect competency for the place they are selected to occupy; and I take it last year was not an exception. And after carefully conferring with the local authorities there, this board came back and recommended an appropriation for the purpose of effecting this change. I am willing to be guided by their judgment; and I think it is as safe as anything we can do.

Mr. WRIGHT. The gentleman will permit me to ask him a question; whether the legitimate order of business would not direct an appropriation of this kind to be considered first by the Committee on Appropriations. If that be so, what do that committee say on the subject?

Mr. WINFIELD. It is hardly worth while for the gentleman to submit a point of order to me. I am not perhaps as familiar with the domestic manufacture and the domestic use of gas as my friend from New Jersey. We do not manufacture it at our house, nor do we use it; and on that subject he may be better informed than I am.

Mr. WRIGHT. It may rise spontaneously.

Mr. WINFIELD. I do not know but we may have spontaneous production of it in the State of New Jersey, from which my friend hails.

I take it we are well informed through the action of this Board of Visitors. If we are, I think we are safe in voting for this amendment as it was offered.

The amendment to the amendment was rejected.

Mr. SCHENCK. I will add only one word in regard to this matter, since discussion has sprung up in regard to it. What has been described as the condition of that building, its insufficiency, and its ineligible situation, is strictly within my own recollection. We all examined it, and were all struck with the fact it was at an improper place and insufficient, and that some remedy ought to be applied. A subcommittee was appointed, of which the gentleman from Michigan [Mr. DRIGGS] was chairman, and they made a report. I do not recollect the estimate that was made; I know whatever sum was recommended by the committee was, after full discussion, agreed to unanimously by the Board of Visitors. The gentleman from Michigan says the first proposition was for $10,000, but on investigation of the whole matter, bringing it down to the most economical point, only $6,000 was asked.

As I said before, I do not myself recollect the precise sum, but whatever sum it was, this, we are informed by the gentleman from Michigan, was the amount unanimously agreed upon by the Board of Visitors to recommend as the least for which the work could be done.

The question being taken on the amendment, it was agreed to.

Mr. BENJAMIN. I offer the following amendment, to come in after the amendment just adopted:

Provided, That no part of the sums appropriated by the provisions of this act shall be expended in violation of an act entitled "An act to prescribe an oath of office, and for other purposes," approved July 2, 1862.

The question being taken on the amendment, it was agreed to.

ARMY APPROPRIATION BILL.

Mr. STEVENS. I now move to lay aside the Military Academy appropriation bill and take up the Army appropriation bill.

The motion was agreed to; and the committee accordingly proceeded to the consideration of House bill No. 127, making appropriations for the support of the Army for the year ending June 30, 1867.

By unanimous consent the first reading was dispensed with, and the Clerk proceeded to read the bill by paragraphs for amendment.

Mr. FARNSWORTH. I move to amend the paragraph—

For pay of the Army, $10,748,652—

by changing the amount to $10,712,052.

I make the amendment in pursuance of a conversation which I had with the Paymaster General and Secretary of War in regard to this item contained in the estimate of appropriations. It was ascertained by the Paymaster General, and was so stated to me, that this appropriation was larger than was necessary by $36,600, from the fact that there was an estimate for supernumerary second lieutenants, graduates of the Military Academy, and there were none such now and would be none until next year.

The question being taken on the amendment, it was agreed to.

Mr. STEVENS. I move to amend the item—

For commutation of officers of subsistence, $2,286,724 50—

by making the amount $1,651,511 50.

It is found on examination that that is all that is needed.

The question being taken on the amendment, it was agreed to.

Mr. STEVENS. I move to amend the item—

For payments in lieu of clothing for officers' servants $195,666—

by making the amount $191,766.

The question being taken on the amendment, it was agreed to.

The Clerk read the following paragraph:

For the regular supplies of the quartermaster's department, consisting of fuel for the officers, enlisted men, guard, hospitals, storehouses, and officers; of forage in kind for the horses, mules, and oxen, for the quartermaster's department, at the several posts and stations, and with the armies in the field; for the horses of the several regiments of cavalry, the batteries of artillery, and such companies of infantry as may be mounted, and for the authorized number of officers' horses when serving in the field and at the outposts, including bedding for the animals; of straw for soldiers' bedding, and of stationery, including blank books for the quartermaster's department, certificates for discharged soldiers, blank forms for the pay and quartermaster's departments; and for the printing of division and department orders and reports, $4,134,499 33.

Mr. WRIGHT. Will the chairman of the Committee on Appropriations permit me to ask him a question in relation to that item? How is it possible, looking at that paragraph, for us to ascertain what amount is to be paid to each department, or what will be the amount paid to the several departments named?

Mr. STEVENS. If the gentleman will turn to the estimates, on page 238, he will find that they are there enumerated, and this is the sum total.

Mr. PAINE. I ask the unanimous consent of the House to go back to this item:

For commutation of forage for officers, $105,200.

I wish to ask the chairman of the committee whether there is any law or regulation now in regard to commutation for forage of officers' horses.

Mr. STEVENS. I understand that there is such a thing as commutation for forage. That is, they give it when the officers do not use forage. I know it has been so in the past.

Mr. PAINE. I asked the question because I was under the impression that there is no such law or regulation now. I would ask the gentleman from Ohio, [Mr. SCHENCK,] who, I suppose, is better informed on the subject, if there is such a law now existing.

Mr. BLAINE. The amount appropriated is very small, and I think it is intended to cover those cases where the officer is so situated as to be unable to draw forage from the Government and is compelled to supply it himself. There is no such thing as commutation of forage recognized where it can be supplied by the Government, but there are cases occurring almost continually at different places where the officer is compelled to supply himself, and this small appropriation is intended to cover that class of cases. It is exceptional, and not the rule.

Mr. PAINE. Very likely that is so, but there can be no objection to passing by this section with the understanding that after the law is brought in we can go back to it.

The CHAIRMAN. The Chair has not yet taken the sense of the committee as to whether there is any objection to going back to the consideration of this subject.

Mr. STEVENS. I think there is no necessity for it. I am satisfied that this is only intended for those cases in which officers are obliged to purchase forage.

The CHAIRMAN. The gentleman from Wisconsin asks unanimous consent to go back on the bill.

Mr. PAINE. I only ask that after seeing the law we may go back.

Mr. STEVENS. I object for the present.

The Clerk read the following paragraph:

For transportation of the Army, including the baggage of troops when moving, either by land or water; of clothing, camp, and garrison equipage, from the depots at Philadelphia, Cincinnati, and New York to the several posts and Army depots, and from those depots to the troops in the field; and of subsistence stores from the places of purchase, and from the places of delivery under contract, to such places as the circumstances of the service may require them to be sent; of ordnance, ordnance stores, and small-arms, from founderies and armories to the arsenals, fortifications, frontier posts, and Army depots; freights, wharfage, tolls, and ferriages; for the purchase and hire of horses, mules, oxen, and harness, and the purchase and repair of wagons, carts, and drays, and of ships, and other sea-going vessels, and boats required for the transportation of supplies and for garrison purposes; for drayage and cartage at the several posts; hire of teamsters; transportation of funds for the pay and other disbursing departments; the expense of sailing public transports on the various rivers, the Gulf of Mexico, and the Atlantic, and Pacific; and for procuring water at such posts as, from their situation, require it to be brought from a distance; and for clearing roads, and removing obstructions from roads, harbors, and rivers, to the extent which may be required for the actual operations of the troops in the field, $3,000,000.

Mr. STEVENS. I move to strike out "three millions" in the last line, and to insert in lieu thereof "five millions." It is a mistake; $5,000,000 is the amount asked for.

The amendment was agreed to.

Mr. WRIGHT. I am willing at all times, under all circumstances, to rely upon the judgment of the Committee on Appropriations. But in regard to the items which are contained in the paragraph which has been read, we are all in the dark in respect of the specific amounts of each of these items, either of which may be much larger than our necessities demand. No one knows from the report, or in any other manner can tell from the bill presented to the House, what specific amount is to be devoted to any one of the objects enumerated in this clause. I would ask, therefore, that the paragraph which has been read be recommitted to the Committee on Appropriations with instructions to report the items contained in this very large appropriation.

The CHAIRMAN. That motion is not in order in committee. The gentleman can accomplish his purpose by moving to strike out the paragraph.

Mr. STEVENS. I am very sorry that my colleague on the Committee on Appropriations, owing to illness, has never been able to be present in the investigation of these matters by the committee. Hence it is entirely natural that he should not know anything about them. The estimate last year for these same items was $30,000,000. This year it is $5,000,000, which the officers who have reported say is the least they can get along with, but they hope it will be reduced hereafter.

Mr. WASHBURNE, of Illinois. I offer the following proviso, to come in at the end of the bill:

Provided, That no part of the money hereby appropriated shall be used for paying the Illinois Central Railroad Company for the transportation of the troops or the property of the United States; and the Attorney General of the United States is hereby directed to institute a suit against said company in the circuit court of the United States, in the seventh circuit, without delay, to recover from the said company any moneys that have been paid to said company by any Department of the Government for the transportation of troops or property of the United States; and the said Attorney General is hereby further directed to appear for the United States in said court and prosecute its interest in the said suit.

Mr. FARNSWORTH. I make the point of order that that amendment is not in order. It is independent legislation, and upon a subject not germane to this appropriation bill.

Mr. WASHBURNE, of Illinois. It is simply a proviso limiting the appropriation, and that has always been held to be in order.

The CHAIRMAN. The Chair overrules the point of order.

Mr. DAVIS. I rise to oppose the amendment of the gentleman from Illinois, [Mr. WASHBURNE.] That same question, I believe, was presented to the House last winter, and we went into a full discussion of it and the reasons for it. I suppose those reasons exist in the same force to-day as they existed then, and no more. After a very full consideration of this subject, the House struck out the amendment which the gentleman persistently and repeatedly attempted to force upon us. The House decided, as I believe in accordance not only with law and equity, but with strict justice, that no such provision ought to be incorporated in the appropriation bill or in any form adopted.

I suppose the object of this amendment is simply to prevent the Illinois Central Railroad Company receiving from the War Department the commutation allowed to them by the Government for transportation of military stores, troops, and munitions of war. I understand very well, as do gentlemen here, that in the grant of land which was given by this Government to the State of Illinois for the purpose of aiding in the construction of the Illinois Central railroad, there was a provision of this nature, that troops and munitions of war should be transported or carried over the line of that road without any charge or toll thereon to the Government.

Yet gentlemen well know, and those who were members of this House last year well know, that that provision in exactly that language was incorporated in bills giving grants of land to aid in the construction of canals in the western States. And yet no one ever pretended that the Government or any one else in making these appropriations to aid in the construction of those canals ever expected anything more than the simple privilege of transporting troops and munitions of war in their own vessels, or chartered for them, through the canal without payment of tolls to the State. The idea that the State of Illinois in accepting the grant of land for the construction of the canal, upon which it never intended to put any vessel or boat for transportation, should carry the troops and freight of the United States free of charge, is one that never was entertained. The State simply had the right to impose tolls upon vessels put upon that canal by other parties. And when you look at the condition of the State of Illinois exercising this privilege and this right, nobody ever supposed that the State was under any obligation to furnish vessels to the Government for the transportation of its munitions and its stores.

There is something singular in the fact that from the time the gentleman from Illinois [Mr. WASHBURNE] entered this House, or rather from the time the Illinois Central railroad was constructed, he has allowed no opportunity to escape him of doing something to bring reproach if possible upon that company. They are strangers to me I never was interested in the road. I never passed over it, as some gentlemen have done, without paying full fare. I have never asked any favors of the Illinois Central Railroad Company. But when I find men here attempting to do what I believe to be absolute and monstrous injustice, I must rise in my seat to say that I will defend the company so far as I can from that injustice.

Let us look one moment at the condition of things during this war. The Illinois Central railroad was constructed for the purpose of affording commercial facilities to the State of Illinois through the entire length of which it was constructed. And they furnished these facilities to the extent of its capacity. It had a long line of road, over seven hundred miles, and had facilities for doing the ordinary business of the country, transporting those who desired to travel over the road and carrying the products of the country to market. When this war came on, the demand of the Government for transportation was so great that the Government was obliged to take the stock of connecting railways and put it upon the Illinois Central railroad in order to carry what the Government demanded for military purposes. Yet by the argument of the gentleman from Illinois, the Government is to refuse to pay the Illinois Central railroad one dollar of compensation, not only for what was done on the road by the stock of the company, but by all that was put upon it from other roads by direction of the Government.

Now, sir, I say that no such condition of things was ever contemplated by the parties when the State of Illinois accepted this land grant. There were times when, for six weeks together, trains of cars covering in extent six or seven miles of railway laid back of Cairo awaiting discharge by the Government. This company was prevented from doing its ordinary business. Its business was almost suspended. Yet, although the company was subjected to all these inconveniencies and losses, the gentleman from Illinois comes here and asks that the Attorney General should be directed to prosecute this company for the recovery of money paid to them, under the authority of the last Congress, for service rendered by them.

During the war the land-grant railroads, at least in the West, and I believe elsewhere, proposed, by way of making an equitable arrangement with the Government, that the companies should take, I think, one half of the ordinary prices of transportation on property carried for the Government. They did whatever the departments believed to be right by way of allowance for the easement which the Government intended to grant and which the State of Illinois received. No one has ever questioned that if the Government itself had purchased or hired rolling stock and employed it in running the Illinois Central railroad, no tolls or charges could have been rightfully demanded of the Government for its use of the road.

Mr. SPALDING. I desire to understand the position of my learned friend from New York. It was, as I understand, urged in the last Congress that we ought not to avail ourselves of the privilege reserved in the land grant to this company, because a state of war, with the consequent extreme pressure of business on the road, was not contemplated at the time that privilege was reserved. I desire to ask the gentleman whether he, as a lawyer, takes the position that in time of peace we have no right to reserve the privilege of transporting Government troops and munitions of war over this road at any time whatever. Does he contend that the only right the Government has is to run its own cars over the road?

Mr. DAVIS. I say that the condition of things existing in a state of war was so utterly different from that which either party had in contemplation when the contract was made, that it was entirely right that a new basis or arrangement should be formed between them.

Mr. SPALDING. Supposing that to be conceded, my other question is, whether, when we are not in a state of war and have nothing but ordinary transportation, we have not the right to send it over the road free of toll?

Mr. DAVIS. I have no doubt that this Government has a right to send all the property it pleases over any land-grant road free of toll; but I do not suppose that in a time of war, when the ordinary capacity of the road is overtaxed by its business, the Government has the right to ask that a corporation which has received a land grant shall employ four times the amount of stock necessary in a time of peace, in order to transport the property of the Government.

Mr. SPALDING. Then I ask the gentleman this further question: if this amendment be divested of that portion which proposes to authorize the Attorney General to sue for the recovery of the tolls already paid by the Government; if it be amended so as to apply only to the future, will the gentleman then have any objection to it?

Mr. DAVIS. I have no sort of objection to

anything that is equitable and just toward that company. I have no doubt whatever that they will cheerfully perform the ordinary transportation of the Government without any charge. But when, for some purpose which I cannot understand, unless it be connected with the local politics of Illinois, attacks are made year by year upon this railroad company, which, according the testimony of the Secretary of War, has performed most faithful and devoted service to the country, I must defend this company to the utmost of my ability.

I trust the amendment will not be adopted.

Mr. WASHBURNE, of Illinois. Mr. Chairman, I have introduced this proviso in conformity to what I supposed to be the unanimous sentiment of the House. After the act was passed by the House to facilitate intercourse between the States, it was suggested such a construction could be given to it that the Illinois Central Railroad Company could receive compensation for the transportation of troops and property of the United States, which was not authorized by the law making the grant to the road; and with that understanding, such was the excitement in the House, such appeared to be the feeling of indignation of gentlemen all over the House, that we should sanction such a principle, that, by unanimous consent, the bill was called back from the Senate to amend it so that this railroad company could not, under any circumstances, receive such compensation.

Now, sir, I have never had any doubt on this question. It is idle for the gentleman from New York [Mr. DAVIS] to arraign me here in regard to my course concerning the Illinois Central or any other railroad company. It has nothing to do with the merits of the question before the House. As to my position with respect to the Illinois Central railroad, the public understand what it is; and I am willing to stand on it in any part of the State.

First, Mr. Chairman, in reply to what the gentleman has said in regard to the action of the last Congress. This House passed this proposition over and over again on an amendment moved by the gentleman from Iowa [Mr. WILSON] that no portion of the appropriation should be used to pay this Illinois Central Railroad Company. And why did the House pass it? Because the law making the grant to the Illinois Central Railroad Company provided expressly that they should carry the troops and property of the United States free of toll or other charge. It was shown this company had received an immense grant of lands, and it was shown they were pledged to do that when they accepted the land, that is, that they should do this work for the United States. The amendment was adopted by an overwhelming majority. We voted on it many times, but the Senate refused to concur, and we had three or four committees of conference. At the heel-end, when the sands of the session were fast running out, in order to prevent the loss of the appropriation bill, the House finally receded; but it was the opinion of the House, as indicated by vote after vote, that this company had no right whatever to receive any pay for their service.

In the Congress before the last one this question was referred to the Committee on the Judiciary, one of the ablest committees. It was in that Congress composed of the most distinguished men in the House. What was their report? They reported to the House that the company was not entitled to receive any compensation whatsoever.

Why, sir, that was admitted in the discussion. It was claimed we were driving a hard bargain with the Illinois Central Railroad Company, that they never expected to be called upon to do this work. In answer to that it was shown that by the war, by the additional business which they had received growing out of the war, that company had done from twenty-five to fifty per cent. more business than they would have done had not the war broken out. It was shown, although they charged nothing for the work done for the Government, they would be from twenty-five to fifty per cent. better off than if there had never been any war.

But they came in with these charges on the ground stated by the gentleman from New York, and which in my judgment is utterly untenable. They went to the Secretary of War and said they would have to give up the road unless they were paid, and he paid them, according to the report, $5,552,000, leaving a large amount unpaid. Whether an additional amount has been paid I do not know; but I do know this company has no right under the law. It has no such right under its charter from the State of Illinois, which I understand provides they shall not receive any compensation. They had no right to this sum paid them and they have no right to any additional sum. Therefore, sir, I have moved this amendment: in the first place providing no additional sum shall be paid to them; and in the second place, for testing this matter before the courts, that is, whether under the terms of their grant they have any right to receive any compensation whatsoever.

These are the grounds upon which I have introduced this amendment; and I trust there will be no substantial division in the committee in regard to the subject.

If the courts decide they are entitled to this money, they will get it; if they decide they are not entitled to it, then they ought to be compelled to refund what they have already received.

Mr. FARNSWORTH. I shall not detain the committee with any lengthy remarks on this question. But there are new members here who were not members of the House at the last session; and I do not understand how my colleague could have supposed an amendment such as he has offered would pass this committee unanimously.

I see around me a good many members of the House who were members of the last Congress who opposed it then, and who opposed it not only by votes but by speeches, and I presume that they have not changed their determination in regard to it. I now rise merely for the purpose of stating this case as it is, and brushing away the fog which has been thrown around it by my colleague. I am not in favor of giving to a railroad nor any other company any more than is their just due. At the same time I will not allow any private grudge or any popular demonstration that may be made against this company to swerve me from what I conceive to be an act of justice and legal right.

The original charter which passed Congress granting lands to the State of Illinois for the purpose of aiding in the construction of a railroad provided that such road should be free to the Government for the transportation of troops and munitions of war. There is no provision in that act to which my colleague adverted requiring that the company shall transport supplies or troops over the road free of charge. Nothing of the kind. If the Government sees fit to use the road and put rolling stock upon it for the transportation of troops, it may do so, but nobody it seems to me, could ever have dreamed that in time of a great war, when the Government kept the entire rolling stock of this road employed in the transportation of its troops and property, it should be allowed to do so without charge thereon. The agent of the railroad company, when the Government desired to use the road for transportation, made a contract with the Secretary of War, with the concurrence of the then President of the United States, and upon the opinion of the Attorney General, as I understand, all concurring that the railroad company was entitled to payment for the transportation of troops and munitions of war. And they were transported by the company in pursuance of a contract that the company should receive so much and no more. I do not remember how much it was, about two fifths or three fifths the usual tariff of rates, I believe, making allowance for the right of the Government to use the road bed and paying the company for the use of the rolling stock, its agents, conductors, and freight men.

Now it is true that my colleague, or some other gentleman at the last session of Congress, proposed an amendment similar to this. It is true the House voted it in, and it is true that we voted upon it and discussed it a number of times, the Senate steadily adhering to its first vote and non-concurring in the amendment which was proposed in the House, upon a full, free, open and fair discussion. It came back to the House afterwards, and was discussed a second, third, and fourth time, and on each of those occasions my colleague got less votes for his amendment than he got before.

It is a very easy thing to propose an amendment of this sort, making an assault upon a railroad company, charge it with being a monopoly, or with robbing the Government, and all that sort of thing, and in that way to carry such a measure through without regard to right or justice. But it does seem to me that when the House shall understand this question, when it shall understand that the railroad company used almost its entire rolling stock, all its agents, conductors, engineers, and other employés in the service of the Government, and that this was a contract made with the Secretary of War, upon a careful consideration of the law, the rights of the Government and the rights of the company, it does seem to me that the House will not interfere with that contract.

Mr. WASHBURNE, of Illinois. I knew it to be the opinion of the Secretary of War that the railroad company was not entitled to this money, and paid it distinctly under protest.

Mr. FARNSWORTH. What did he make the contract for, then?

Mr. WASHBURNE, of Illinois. He did not; it was the former Secretary of War that made it.

Mr. FARNSWORTH. It was a contract nevertheless.

Mr. DAVIS. The gentleman from Illinois [Mr. WASHBURNE] is entirely mistaken in regard to the opinion of the Sedretary of War.

Mr. WASHBURNE, of Illinois. I have only to state that I am not mistaken.

Mr. DAVIS. The gentleman tells two stories.

Mr. COOK. I wish to say a single word in reference to this matter.

Mr. WOODBRIDGE. Will the gentleman yield to me?

Mr. COOK. Yes, sir.

Mr. WOODBRIDGE. I am rather inclined to think that by the letter of this bond, as a legal question, the Illinois Central Railroad Company would not be able to recover for transportation of troops and property of the Government under any circumstances whatever. Certainly in time of peace nobody would set up such a claim. The simple question is whether in time of war the legal relations between the parties and the Government are changed by reason of the war. Strictly speaking, they are not. But a great Government like ours, a body that cannot be sued, a body whose duty it is to protect the interest of the citizen, must look at such matters through the light of equity rather than through that of stern and harsh law.

Now, sir, the Government has never lost anything by giving these lands to the State of Illinois. It has doubled the price of every alternate section of land on the line of the road; and the road itself has developed that great State almost from its northern to its southern boundary, and brought there untold wealth, which, without it, would never have been carried to that State. So that in equity the Government, even in time of peace, would lose nothing if she treated the Illinois Central railroad, notwithstanding this contract, as she treats other roads which have had no land grants.

Sir, things have very much changed since that grant was made. Who supposed that we were ever going to have such a war as has afflicted us during the last four or five years? When this contract was made no such condition of things could have been anticipated or provided against; but the time came when the whole material of that road was for month after month, as I am informed, demanded by the Government for the transportation of its troops and supplies. The road always furnished whatever

the Government demanded, and always performed its duty faithfully, honestly, with celerity, and to the satisfaction of the Goverment.

Now, suppose the Government had been obliged to take possession of the road for six months and use it for nothing but military purposes, and by so doing had destroyed or greatly impaired the value, not only of the road but of the rolling stock, would the gentleman from Illinois, [Mr. WASHBURNE,] though he is the guardian and the "watch dog" of the Treasury—and I admire him for his valor in standing up here and facing down almost every appropriation—under such a condition of things say that the Illinois Central railroad should lose all this depreciation of their rolling stock and of their road, and that the Government should have the use of the entire property for months and months without any consideration? I am sure the gentleman's sense of equity would prevent his taking a position of that kind. And to an extent that condition of things has existed, and for years their property was used for the purposes of the Government. Troops were transported to the southern portion of Illinois with all the supplies and munitions of war. The Government had the benefit of this; and shall the Government now, because it has a bond that by its strict letter would operate unjustly upon the company, avail itself of all the obligations of that bond and say to these people you shall not have these equitable rights, which it is our duty as a Government to secure to you? It seems to me that it is not right for us to take that view of the case, and, more especially, as this matter has gone to the proper department and been canvassed there, and payments have been made.

More especially is it improper for us to say now that the Attorney General shall commence a suit against the railroad company for the recovery of the amount that has been paid by the Department because it was against the strict letter of the law under which the grant was made by the Government.

Now, I believe in doing justice. No man ever yet suffered, in my judgment, in reputation or in profit, in the long run, who stood up and did precisely what he thought was right. I believe it was right that this company should receive the very moderate compensation which they have received, and I believe it would be wrong for us because we have the power to undertake to exercise that power to the injury of the company.

Mr. WILLIAMS. I understand the gentleman to surrender this case upon the law. He puts it now upon mere equitable considerations. In that view I would ask him whether upon the whole this company has been advantaged by the war, or otherwise? If it has been damaged, then there may be force in his argument; otherwise there is none.

Mr. WOODBRIDGE. I cannot say whether the company has been injured or otherwise by the war, but I can say that the country has been benefited by the railroad, and if it had not been for this railroad, the whole southern portion of that beautiful State would have been overrun by guerrillas, and millions and hundreds of millions worth of property and thousands of lives would have been sacrificed thereby.

Mr. WILLIAMS. I would ask the gentleman, where, then, is his equity?

Mr. WOODBRIDGE. I will tell the gentleman where my equity is. My equity is, in the first place, the Government of the United States have never lost one dollar for all the time of the war by reason of granting these lands to the Illinois Central railroad. After the war began, by reason of having the railroad running through the State where it did, the Government was benefited to an amount that can hardly be calculated by arithmetic. And when we have received these benefits I do think there rests upon us an equity to do that toward the persons conferring those benefits which other parties do that are similarly situated to the Illinois Central railroad.

I do not base my argument upon the matter of strict law, because I believe a strict construction of the law would be against the claim. But I put it upon what is better and higher and purer and nobler than law; upon the ground of right. And I say, let come what will come, so long as I have a vote to cast, where the interests of my fellow-citizens are concerned, I will do what is right. When I go into a court of law, I will then undertake to determine what is given by the law that governs the case.

Mr. SLOAN. It seems to be conceded that this railroad company has no legal right to the money that has been paid it for transporting the freight and troops of the Government. There is not the least ground for claiming that this railroad has any legal right to this money. They entered into a contract to which there was no exception. It applied to and was in force in time of peace as well as in time of war, and the contract thus entered into has been kept and performed on the part of the Government, and there is no reason why this railroad company should not keep and perform the contract upon its part, unless, as is now alleged, it would be a very inequitable and unjust thing to require them to do so, and it appeals to Congress to relieve it from what is a hard bargain. But I submit that no gentleman, certainly not the gentleman who has just taken his seat, [Mr. WOODBRIDGE,] has attempted to show that this railroad company has made a hard bargain with the Government from which it ought in justice and in equity to be relieved.

Sir, what is the extent of the consideration which this railroad company received for carrying free of charge the freights and troops of the Government? It is the most magnificent grant of land that ever has been or ever will be donated by this Government, worth to this company at least twenty million dollars. This company will realize from this magnificent grant of land enough money to build the entire road without the investment of a dollar besides. At least every dollar invested by the stockholders will be reimbursed to this company from the sale of this land.

Now, in comparison with this very large amount which this company has received, the cost of transportation for the Government is very small, and there is no reason in equity or in justice why the Government, in time of war, and when its finances are absorbed in carrying on its military operations, should put its hand into the Treasury and give as a donation, for it is nothing else, to this monopoly, this railroad company to which this Government has already given from the public domain at least twenty million dollars, this further amount which has already been paid it for transportation of freight and troops for the Government.

I notice, and I ask this committee to notice, that gentlemen who base this claim upon the ground of equity and justice fail to point out how and why, in an equitable and just point of view, the Government in its time of need, when its resources are taxed to their utmost capacity, should give to this corporation this additional sum, when both the legal right of the Government and every consideration of equity and justice require that the railroad company should perform its part of the contract it entered into. It has already received an ample consideration ten times over for the services which it has performed for the Government. And gentlemen will now be unjust to the country, unjust to their constituents who are bearing an onerous burden of taxation to support the Government, if they are willing to give this amount of money as a mere donation to this corporation, already wealthy and prosperous. Instead of having been injured by the war this company has never been so prosperous, has never made so much money, has never divided so large dividends, as during the last five years. Never could this corporation better afford to carry out the contract into which it has entered than now; and there will never arrive a time when the Government will more need that the contract should be performed. I trust that we shall act in this matter as it is our duty to do—protect the interests of the Government and the interests of the people.

If this were a hard case, if this company had received an inadequate consideration, if it were unable to perform its part of the bargain, or if it were a hardship to compel the performance of the contract, I would be willing to join with gentlemen here in relieving the company from its obligations. But, there are no such circumstances appealing to our consideration. Taking into view the amount which this company has received from the Government, and its prosperous condition during the war, I defy gentlemen to state any facts which will convince any impartial mind that any consideration of justice or equity demands that we should now pay this amount of money from the public Treasury to this railroad corporation. We might as well give the money to any other corporation as to this company, which it is admitted has no legal claim, and whose equitable claim, I submit, stands upon as slender a foundation as the legal one.

Mr. COOK resumed the floor.

Mr. GRINNELL. Will the gentleman yield to me for a few moments?

Mr. COOK. Yes, sir.

Mr. GRINNELL. I move to amend the amendment by striking out the latter clause of it, so that it will read as follows:

Provided, That no part of the money hereby appropriated shall be used for paying the Illinois Central Railroad Company for the transportation of the troops or the property of the United States.

Mr. Chairman, to the extent of the clause which I have just read, I am in favor of this amendment; but I am not disposed to go any further. The gentleman from Illinois [Mr. WASHBURNE] will bear me witness that, at the last session, I fought him to the best of my ability upon this question. A long time was then occupied in its discussion. I then held that to deny the company any pay for the transportation of troops and munitions of war was driving a hard bargain. I do not believe in such bargains. I do not believe that because you have the power you should exact the last drop of blood from a man or a corporation; and I therefore at the last session contended for a lenient policy toward this company.

But I am willing that, in the future, no more money shall be paid to this company by the Government. The condition of the company has changed. It cannot now justly make an appeal to our charity. Its stock has advanced greatly in value. As a company it is not acting quite as well as I could desire. I remember that there occurred upon that road, not long since, an incident in which a wounded soldier, who had lost one leg in the service of the United States, was ejected from the train into a snow bank, and left there to the mercy of the storm. I mention this incident not to create prejudice against this company, but in explanation of the vote which I shall give.

I am ready to vote against paying this company any more money; but I am not in favor of causing a suit to be instituted by the Attorney General of the United States for the recovery of the amount which the corporation has already received from the Government. The contract for the payment of that money was made, as I understand, by the Secretary of War; and I am willing that the money which has been paid under that contract shall be retained by the company; but I am not willing to vote for paying another dollar.

I say nothing upon the question whether this corporation has abused the rights and privileges bestowed upon it. The road, I doubt not, has been a great benefit to the State. It is able at this time to get along without any favors at our hands. Hence, I say, let the company keep what it has received; but let us protect for the future the interests of the Government by declaring that this corporation shall receive no more.

Mr. HARDING, of Illinois. Mr. Chairman, I desire to say I concur in the views which have been expressed by my colleague [Mr. WASHBURNE] and the gentleman from Wiscon-

sin, [Mr. SLOAN.] I do not agree at all that the proposition is an equitable one. It is certainly illegal. It is admitted on all hands to be so. I deny its equitable character.

I have lived in the State of Illinois some thirty years; I was a member of the public body which accepted this munificent grant of land to the people from the General Government; and I know, and I bear witness to the fact, the terms of the contract were understood on all hands to be that in all future time the Government was to have its troops and property transported free over that road. The grant was accepted, a grant of lands, as the gentleman from Wisconsin says, more than sufficient for the construction of the road. A few per cent. on the nominal amount of the stock was paid in. Now, it is true, sir, that the proceeds of the lands will result in more money to the stockholders of that company than has been expended in the construction of the road.

Why, sir, they say this railroad has been of great advantage to Illinois. Yes, sir. But who built it?

Mr. COOK. My colleague is greatly mistaken in the assumption that the lands will pay for this road, or anything like it. If there is any evidence, I should like to know it.

Mr. HARDING, of Illinois. I challenge my friend to an investigation on that point; and I should like to have the bill postponed, so that the House may know fully all the facts in the case.

Mr. WASHBURNE, of Illinois. I ask my colleague to yield to me.

Mr. HARDING, of Illinois. Certainly.

Mr. WASHBURNE, of Illinois. What was the amount of lands this road received, how much has the road cost, and how much per acre have the lands been sold for?

Mr. FARNSWORTH. The Government has lost nothing, for it has received twice the usual price for the alternate sections.

Mr. HARDING, of Illinois. I undertake to say the company has received more for the lands than the road has cost.

Mr. FARNSWORTH. I do not care for that; the Government has received $2 50 per acre, when otherwise it would have received only $1 25. It has received as much for the lands as if it had not given the company one acre.

Mr. HARDING, of Illinois. I wish to make only one or two remarks and then I will leave the subject. I protest against this allowance to this company. I believe it entirely inequitable. I would not give this gratuity, for it is not for the benefit of the people of Illinois, or any portion of them, to those who agreed to construct this road in consideration of this grant of lands and agreed to do this work, and who come up now and ask to be paid for it a second time.

The company was exempted from taxation in consideration of a trifling amount to be paid to the State of Illinois from its earnings. While the war has imposed increased burdens this company has been free from any such increased burdens of taxation. They have borne none of our war debts.

The gentleman says the road would have been given up except for the obligations set aside in their favor by the Secretary War. It is not so. The company has been immensely benefited by the large freights and travel which have been incident to the war, independent of the amount of work they were required to perform under their contract for the Government.

It is true, as my colleague has said, that the road was operated in the interest of our enemies. I have heard of hundreds of soldiers' insulted and wronged upon this road. I do not doubt but maimed and crippled soldiers have more than once been put off the cars.

The stockholders of the road do not live in Illinois. They are mostly Englishmen, foreigners, capitalists from elsewhere.

A MEMBER. And blockade runners.

Mr. HARDING, of Illinois. Yes, sir. No portion of the people of Illinois would come here and ask to be relieved from these obligations to the Government; and they do not ask that this company shall be relieved. As one of the Representatives of Illinois I do not ask that the Central Illinois railroad shall be relieved from doing the work which it has already been paid to do.

Mr. COOK. When this charter was passed there was this provision in it: that the lands hereby granted to the said State of Illinois shall be subject to the disposition of the Legislature thereof for the purpose authorized and none other, that is, for the purpose of building a railroad, and that said railroad and branches shall be, and forever remain, a public highway for the use of the Government of the United States free from toll or other charge for the transportation of troops and other property of the United States.

The provision is that the road shall remain a public highway, free of tolls or other charges to the Government. This provision had been construed in other grants for canals and highways to mean that the Government should have the right to transport on those canals and highways whatever it had to carry. That question, to say the least of it, when this war commenced, was an open one, one about which there was a difference of opinion. The question was submitted to the then President and his Cabinet. It received a careful consideration from both, and by way of settlement of the question, about which every one will consider that there might reasonably be a difference of opinion, a proposition was made to pay a certain proportion to that road and to deduct a certain proportion. The proposition came from the Government first to the railroad, being made by the Secretary of War in the following letter addressed to the president of the road:

WAR DEPARTMENT, *August* 15, 1861.

SIR: Upon consultation with the Quartermaster General, it has been decided by this Department that the clause in your charter, section four, gives a clear right to the Government of the United States to the use of your roadway, without compensation, for the transportation of its troops and its property.

As a proper compensation for motive power, cars, and all other facilities incident to transportation, two cents per mile will be allowed for passenger travel, subject to a discount of thirty-three and a third per cent. as due to Government for charter privileges. Payment for transportation of freights, stores, munitions of war, and other public property, will be made at such reasonable rates as may be allowed to other railroad companies, subject, however, to the abatement of thirty-three and a third per cent. as before specified. The foregoing basis has been arranged with the distinct understanding that transportation shall be furnished by your company at such times and in such manner as the Government of the United States may require, and that preference shall be given to Government transportation, in accordance with the requisitions of this Department and of its officers.

If this proposition is acceptable to your company, notice, in writing, to that effect, will be expected within ten days from this date.

Very respectfully, your obedient servant,
SIMON CAMERON,
Secretary of War.

W. H. OSBORN, Esq.,
President Illinois Central Railroad.

Mr. WASHBURNE, of Illinois. Mr. Cameron was Secretary of War at that time.

Mr. COOK. Yes, sir. On the 17th of August, 1861, the president of the railroad made this reply:

NEW YORK, *August* 17, 1861.

SIR: I have the honor to acknowledge your communication of the 15th, containing the determination of the Government in relation to the use of the railroad of this company. Under present circumstances an important part of our line is imperiled. An active coöperation with the Government is indispensable, and I beg to notify you that the proposition of the Government is accepted.

The company will endeavor to forward the troops and property with the utmost promptitude, preference always being given as indicated.

I am, sir, very respectfully, your obedient servant,
W. H. OSBORN, *President.*

To Hon. SIMON CAMERON, *Secretary of War.*

Mr. WILSON, of Iowa. I would like to ask a question. The gentleman stated that the first letter was written by the Secretary of War to the president of the Illinois Central Railroad Company; I wish him to state what caused that letter to be written; whether it was not because the company had said that they would refuse to operate the road unless they were allowed compensation for the services rendered.

Mr. COOK. I have no knowledge at all in regard to that. These documents of which I have procured copies are those upon which I rely.

Mr. WILSON, of Iowa. My understanding is that the company took that position. And I know very well that that was the position occupied by the company in relation to that question when it was pending in the Thirty-Eighth Congress, for I had it from one of the highest officers of that road—that the company would not operate it unless the Government would pay the compensation. And further, the Secretary of War himself told me that he must pay this compensation, otherwise he could not have transportation over the road, and the military operations of the country would be impeded. Therefore he favored the omission from the appropriation bill of the Thirty-Eighth Congress of the provision which was passed by the House and finally was left out in the conference between the two Houses.

Mr. WILLIAMS. I desire to ask my friend from Illinois [Mr. COOK] whether the terms submitted in the letters to which he has referred were any lower, or were precisely the same as were agreed upon with other railroad companies which were under no obligation whatever to the General Government.

Mr. COOK. I will state in answer to the gentleman that they are thirty-three and a third per cent. lower than with any road not having lands granted.

Mr. FARNSWORTH. It is thirty-three and a third per cent. less.

Mr. COOK. I want to present that point. I want to state to the committee that this road did not receive the same compensation which was paid to other roads that had not been the recipient of land grants. They were placed, I believe, upon an equality with other roads that had received land grants.

I call the attention of the committee to the fact that this particular road has been singled out as the object of attack. No other road that has received a land grant has been thus assailed.

Mr. ROGERS. There is another road in the same position, the Camden and Amboy railroad.

Mr. COOK. I was not aware that that was a land-grant road.

Mr. ROGERS. Still it has been singled out for attack.

Mr. COOK. I am speaking now of the land-grant roads, and I say that although a great many roads did receive land grants yet this proviso is limited in its terms to this particular road, and that, too, when papers constituting a contract passed between the Government and the road at the time the war commenced.

It is said by the gentleman from Iowa [Mr. WILSON] that the railroad refused to transport the Government troops and munitions of war. It may well be that this railroad could not have furnished the amount of transportation necessary for the Government without compensation. I do not think it could. I do not think it was in its power to do so. It is contended here that it ought not only to have given up its road, and its entire rolling stock, but to have furnished means to transport the immense amount of freight which was offered by the Government. I do not think it could have done it. I do not think it had the pecuniary ability to meet that demand. It is a fact, which I imagine is well known, that the amount of freight which was offered by the Government to this road compelled it to exclude almost all other business for a long period of time. The company might have surrendered its rolling stock and its entire road to the Government, but I apprehend that there is nothing more which the Government could have required it to do. If it had turned over its locomotives and cars and its road to the Government without charge, the Government could have required nothing more. But, at all events, here was a disputed claim, a proposition about which there might be two opinions, and, for

the purpose of settling the controversy, the Government said to the company, "If you will go on and do this transportation we will pay you a certain sum less than we pay other roads except those roads that are in your precise position." The company accepted that offer. Now, I affirm that, as between man and man in a disputed claim, where one party alleged a claim and the other disputed it, a settlement like this ought to be binding.

But there is something more than this. At the time the grant was made to this road it was never supposed, in the mind of any man, that the Government would ever call upon this road for transportation amounting to anything like the sum here specified, an amount which taxed all the energies of the road, with all its rolling stock and motive power for many months in every year for four long years. Nothing of that sort was ever anticipated. It is inequitable as well as unjust for us to claim now, after this money has been paid to the company under an agreement sanctioned by the highest authorities of of the Government, that the company shall pay it back.

I want to say one word now, in reply to my colleague, [Mr. HARDING,] who seems to be laboring with strange zeal, according to my idea, to take out of the treasury of the State of Illinois money that is there; because the State of Illinois is also a party to this proceeding. He says that the road is comparatively untaxed. Why, sir, this road bears a taxation of seven per cent. on its gross earnings. The privilege of exemption from taxation was accorded to this road only upon the condition that it should pay seven per cent. on its gross earnings, and it is the most heavily taxed road in the State af Illinois, or in any other State.

Mr. HARDING, of Illinois. I am not acting under the influence of that bribe; it makes no difference to me what it would cost to the State of Illinois. If the State of Illinois got a share of this plunder out of the Government when it was in a strait, I have no interest in that plunder.

Mr. COOK. The gentleman insisted that the road was not taxed. He tried to convey the idea to the committee that it was exempt from taxation, except to a very trifling amount, when the truth is that seven per cent. of its gross earnings have been reserved and paid into the coffers of the State. And so far from there being a slight taxation, it is the heaviest taxation imposed upon any road.

Mr. TRIMBLE. How much has been paid by the Government heretofore to this railroad company for transportation?

Mr. COOK. I have stated that a great many times.

Mr. TRIMBLE. I mean the aggregate amount.

Mr. COOK. That I cannot tell.

Mr. WASHBURNE, of Illinois. I will answer the inquiry of the gentleman from Kentucky [Mr. TRIMBLE.] By a report from the Secretary of War, which the gentleman will find among the documents here, it appears that up to the last Congress there had been paid the enormous sum of $5,552,000. That was a portion of the amount claimed, and was paid by the Secretary of War under protest.

Mr. COOK. Allow me to state now that, in pursuance of this contract—for it is a contract, no just and fair man can construe it in any other light than a contract settling and disposing of a disputed right—whatever the United States have paid the Illinois Central railroad has been fully earned. If it has been a large amount it is because a large amount of service has been rendered by that road to the exclusion of all other trade. It has been paid in pursuance of this contract. It has been paid with the sanction of the highest officers of the Government.

Mr. TRIMBLE. How much is yet unpaid?

Mr. COOK. I do not know that there is anything back or anything now demanded. But I insist that it is inequitable, unjust, and unfair for us to institute a suit for money which has been paid upon a contract solemnly ratified by the authorities which had the right to make the contract; which had the right to settle this disputed claim; which had the right to say to this railroad company, "We will pay you so much for this transportation if you will make it;" when it was the right of the company, if this proposition had not been made, to say to the Government, "We will turn over to you the rolling stock and motive power of the road, and you can operate it for yourself."

Mr. HOTCHKISS. Will the gentleman yield the floor to me for a few minutes?

Mr. COOK. Certainly.

Mr. HOTCHKISS. I would like to understand the principle upon which gentlemen propose to vote away the public money in this way. To my mind some very startling propositions have been made here. I will concede that if parties bargain together with the full knowledge of the fact, although the law may not warrant their bargain, may not require it, then the party is bound by what he agrees to. But does that apply to an official agent of the Government?

I understand gentlemen here to say that this railroad company was bound to perform this service by law, by contract; that with this contract existing the Secretary of War made another contract, by which the road was to receive payment from the Government for this same service. Is there any lawyer in this House who will say that the Government is bound by that; or that after the money has been paid over the Government shall not have the right to go into court and litigate with the other party, and have the question determined whether that money was lawfully or unlawfully paid? I think it is a very startling proposition to say that that shall not be done.

And furthermore, is it to be tolerated here that an officer of the Government shall make a bargain that is unlawful in itself, in contravention of law, or in the absence of law, when the Government is under no legal obligation to pay the money; that an officer of the Government shall make a bargain to pay money out of our Treasury, and then when we are asked to make an appropriation for it we are to be told that is equitable and should be paid; that equity overrides law? I would like to know where it is laid down in any book that equity ever authorizes Congress or the Government or any officer of the Government to override contracts. If the money in our Treasury is to be paid out in violation of law, or in absence of law, how long will we be able to keep it replenished by taxing the people, and have them contented, and we be permitted to retain our places here? If a railroad company is to be permitted to come into this House and plead equity in its favor I would like to know upon what ground we could justify this when we deny compensation to citizens whom the Government has deprived of their property during the war, simply because we have not the money to pay them.

Mr. MORRIS. I wish to ask the gentleman from New York [Mr. HOTCHKISS] one question.

During the Thirty-Eighth Congress I had occasion to look into this matter to some extent. It seems now to be conceded that there was a contract between the United States and this corporation; that the Government should yield up certain lands to the corporation in consideration of the performance of certain service. It is now proposed, as a matter of equity, to grant this company compensation for such service. I desire to inquire of the gentleman, as a lawyer, whether it is not a well-settled legal principle that the person seeking equity must first do equity; and whether that principle would not require that the Illinois Central Railroad Company should restore the money it has received without warrant of law before it asks equitable consideration at our hands.

Mr. HOTCHKISS. Why, Mr. Chairman, I cannot conceive of a single equitable principle which can be urged on behalf of this company in this case. The payments which have been made to this company have been, I hold, in wanton violation of law.

It has been said that a former Secretary of War made the contract under which this money was paid. If so he ought to be made a party to the suit. If he made the bargain ignorantly, he ought to pay for this ignorance of the law. No matter who made the bargain, or who signed the contract, if the law did not warrant the transaction this company has no right to come in here and claim advantage of it.

Mr. COOK. I decline to yield further. I have only two or three minutes of my time remaining.

Mr. Chairman, it is insisted here that the law is perfectly clear, and that this is not the compromise of a disputed right. If, sir, there is no doubt about the law, it is because the law is clear that this company only agreed, as other companies had agreed, to give the United States a right of way across its road. The law says that the railroad and its branches "shall be and remain a public highway for the use of the Government of the United States." The company is not bound by the terms of the law to furnish the rolling stock, the motive power, and the men, to transport the freight of the Government.

Mr. WILSON, of Iowa. Read the remainder.

Mr. COOK. I will read the remainder; but I submit to my friend from Iowa as a lawyer that the clause I have just read is the governing clause:

"Shall be and remain a public highway for the use of the Government of the United States, free from toll or other charge upon the transportation of property."

What shall be free? The highway shall be free. That is the just construction of the act—that the public highway shall be free from toll or other charge.

Mr. WILSON, of Iowa. If the gentleman has time, I would like to ask him one question.

Mr. COOK. I will hear it.

Mr. WILSON, of Iowa. If this railroad should be sold under a mortgage, would not the rolling stock and everything else necessary to operate the road pass by the sale?

Mr. COOK. Certainly; but the engineers and the firemen would not.

Mr. WILSON, of Iowa. Of course not. But the gentleman contends, as I understand, that the Government has only the right of transportation over the road, the Government furnishing its own rolling stock. I apprehend that whatever is necessary to operate the road must be included in the right of transportation.

Mr. COOK. I agree to that; but you cannot call upon the corporation to run the road under such circumstances.

Mr. WILSON, of Iowa. Then, by the gentleman's own admission, the Government has something more than the mere right of way over the road.

[Here the hammer fell.]

Mr. STEVENS. I desire to say a few words on this subject; and I shall then move that the committee rise, in order to close debate.

This question has been so often discussed here that I am almost sick of it. It seems to me that if there is any proposition in the law free from all doubt, it is that when the United States granted to this company three million acres of land, the best land in the western country, it was upon the condition that on all occasions the Government should have the right to transport upon that road whatever it wished "free from toll or other charges." What does "other charges" mean, if the Government was to work the road?

Why, sir, there never was any authority given to any body to start the road and work it except this company. It seems to me about one of the most absurd conditions to expect to be made by the Government.

Mr. DAVIS. Suppose the Government makes a grant of lands to aid in the construction of a canal on precisely the same terms as are used in the grant of lands to aid in the construction of this railroad, would the gentleman hold that the company was to supply the Government with boats for its use to transport troops and munitions of war?

Mr. STEVENS. It is a very plain case. The company does not run the canal, it does not put packet boats on it, or anything else, but it simply allows it to be used, individuals run it. It has no application to the case before the House, no analogy whatever.

Mr. DAVIS. Let me read from an act to authorize the State of Illinois to open a canal through the public lands to connect the Illinois river with Lake Michigan:

"It is hereby further enacted and declared that said canal when completed shall be, and forever remain, a public highway for the use of the Government of the United States, free from all toll or other charge whatever, for any property of the United States or persons in their service passing through the same."

These terms will be found precisely equivalent in effect to those used in the law making a grant of land to the State for the purpose of constructing the Illinois Central railroad.

Mr. STEVENS. Precisely, the canal company does not stock the canal. The canal company has no authority under that to stock the canal. They allow individuals to go upon it with boats, and they allow the Government to go upon it as individuals go upon it. It is just like any common road where toll is charged.

Mr. DAVIS. Under the act granting lands to the State of Illinois, where the same terms are used, if individuals were permitted to charge the Government for transportation, would not that be a violation of the contract to transport free from any charge by anybody?

Mr. STEVENS. We have argued this matter so often, that no good lawyer can doubt that when that grant was made this company was bound to carry, at its own expense, the troops and property of the Government in consideration of the grant of lands which it had made.

Mr. FARNSWORTH. Suppose the railroad company did not furnish rolling stock to operate the road, could the Government have compelled them to do so?

Mr. STEVENS. If they cannot compel them to live up to their contracts they could not. If they mean to allow them to violate their contracts they cannot compel them to put rolling stock on the road. That is the whole of it.

They are bound by contracts to furnish necessary means, and they are bound to transport free all that the Government asks them.

I remember nearly twenty years ago when this grant was made, Mr. Rantoul went out from here and was connected with the road. I suggested this same idea, that when they got the grant they would come in and ask for something more. I remember the indignation with which gentlemen repelled it as a reproach upon the company. It is a reproach which has become history now.

What did we give? We gave to that company, out of the heart of the country, three million acres of the public land.

Mr. WASHBURNE, of Illinois. Two million seven hundred thousand acres.

Mr. STEVENS. About three million, it was estimated in advance. I remember it as if it were yesterday. What did the company do? They accepted the grant. If it is a hard bargain let them restore the goods they have got and we will release them. They had their eyes open. They were the shrewdest men in the country. They went to England and procured a loan. Their land was not sold at $2 50 an acre but at from five to twenty dollars an acre. I have seen them advertised where the company asked from fifteen to twenty dollars an acre.

I have seen an estimate made that they will have more than ten million dollars from sales of the lands after all the expenses of building the road. There will be $10,000,000 to divide among the stockholders and the road will not cost them a cent—one of the grandest roads in the country. Now, talk about equity, equity on a contract entered into by full-grown men, men shrewder than we, shrewder than Presidents, shrewder than Secretaries of War! Because they refuse to comply with their contract at a moment when troops were necessary to be sent to the seat of war and the Secretary of War paid them, which he had no right to do, because there was some payment made to get troops down South to quell the rebellion, this company claim it has a right of equity. I think the equity is on the other side. I move that the committee rise to close debate.

The motion was agreed to.

So the committee rose, and the Speaker having resumed the chair, Mr. BRANDEGEE reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the Military Academy appropriation bill, and had directed him to report the same back to the House with sundry amendments; also that it had under consideration the Army appropriation bill, and had come to no conclusion thereon.

Mr. STEVENS. I move that when the House go into Committee of the Whole on this bill again, general debate be closed in five minutes.

The motion was agreed to.

MILITARY ACADEMY BILL.

The House then proceeded to the consideration first of the Military Academy appropriation bill.

Mr. STEVENS. On that I move the previous question.

Mr. SCHENCK. I ask my friend to withdraw it to allow me to offer an amendment.

Mr. STEVENS. I will do so.

Mr. SCHENCK. I move to amend by adding at the end the following proviso:

And provided moreover, That no part of the moneys hereby appropriated shall be applied to the pay or subsistence of any cadet appointed from any State lately in rebellion against the Government until such State shall have been restored to its original relations to the Union under and by virtue of an act or joint resolution of Congress for that case made and provided.

Mr. STEVENS. Now, sir, I call the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the amendments made in committee were agreed to.

The question then recurred on agreeing to the amendment offered by Mr. SCHENCK.

Mr. ELDRIDGE. On that I demand the yeas and nays.

Mr. SCHENCK. I wish to insert the word "hereafter" in the proviso.

Mr. ELDRIDGE. I object to amending it.

The question was then taken on agreeing to the amendment offered by Mr. SCHENCK; and it was decided in the negative—yeas 38, nays 80, not voting 65; as follows:

YEAS—Messrs. James M. Ashley, Banks, Baxter, Brandegee, Broomall, Sidney Clarke, Driggs, Dumont, Eckley, Abner C. Harding, Hart, Henderson, Higby, Holmes, Hotchkiss, Demas Hubbard, Hulburd, Ingersoll, Kelley, Loan, Lynch, McClurg, Miller, Morris, Moulton, Orth, Paine, Perham, Price, Rollins, Sawyer, Schenck, Sloan, Stevens, Trowbridge, Upson, Wentworth, Williams, and Stephen F. Wilson—38.

NAYS—Messrs. Alley, Allison, Ames, Baker, Baldwin, Beaman, Bergen, Bidwell, Bingham, Blaine, Boutwell, Brooks, Conkling, Cook, Cullom, Davis, Defrees, Denison, Donnelly, Eldridge, Eliot, Farnsworth, Farquhar, Ferry, Finck, Garfield, Grider, Grinnell, Aaron Harding, Hayes, Hill, Hogan, Asahel W. Hubbard, John H. Hubbard, Edwin N. Hubbell, Jenckes, Julian, Kerr, Ketcham, Kuykendall, Latham, William Lawrence, Marshall, Marvin, McKee, McRuer, Morrill, Myers, Newell, Niblack, Nicholson, Noell, O'Neill, Phelps, Radford, Raymond, Alexander H. Rice, John H. Rice, Ritter, Rogers, Ross, Shanklin, Shellabarger, Spalding, Taber, Taylor, Thayer, Thornton, Trimble, Burt Van Horn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Whaley, James F. Wilson, Windom, Winfield, Woodbridge, and Wright—80.

NOT VOTING—Messrs. Ancona, Anderson, Delos R. Ashley, Barker, Benjamin, Blow, Boyer, Bromwell, Buckland, Bundy, Chanler, Reader W. Clarke, Cobb, Coffroth, Culver, Darling, Dawes, Dawson, Delano, Deming, Dixon, Eggleston, Glossbrenner, Goodyear, Griswold, Hale, Harris, Hooper, Chester D. Hubbard, James R. Hubbell, James Humphrey, James M. Humphrey, Johnson, Jones, Kasson, Kelso, Laffin, George V. Lawrence, Le Blond, Longyear, Marston, McCullough, McIndoe, Mercur, Moorhead, Patterson, Pike, Plants, Pomeroy, Samuel J. Randall, William H. Randall, Rousseau, Scofield, Sitgreaves, Smith, Starr, Stilwell, Strouse, Francis Thomas, John L. Thomas, Van Aernam, Robert T. Van Horn, Ward, and Warner—65.

So the amendment was disagreed to.

During the roll-call,

Mr. WENTWORTH attempted to explain his vote but was called to order by the Chair.

Mr. BAKER stated that for defect of phraseology he voted no.

The result having been announced as above,

Mr. SCHENCK said: Another gentleman having drawn the amendment the word "hereafter" was inadvertently omitted. I now move to reconsider the vote by which the previous question was ordered so as to offer the amendment again.

The SPEAKER. The previous question will not exhaust itself until the bill is engrossed for a third reading.

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

Mr. STEVENS. I now move to postpone the further consideration of the bill till to-morrow. I do it for the purpose of getting the Army appropriation bill ended; otherwise we must have a night session.

Mr. SCHENK. I now enter the motion to reconsider.

Mr. STEVENS. As we have adopted this Army bill I suggest that by common consent we consider it reported, and then proceed to consider it with the understanding that the amendments adopted by the committee shall be voted upon, and also that there shall be a vote taken on the amendment of the gentleman from Illinois, [Mr. WASHBURNE,] and the amendment to the amendment offered by the gentleman from Iowa, [Mr. GRINNELL.]

There being no objection, it was so understood.

Mr. STEVENS. I now move the previous question on the amendments agreed to in Committee of the Whole.

The question being taken on concurring in the amendments made in Committee of the Whole, with the exception above stated, they were concurred in.

The question then recurred on the amendment to the amendment as offered by Mr. GRINNELL.

Mr. STEVENS. On that I move the previous question.

Mr. BROOMALL. Before the previous question is sustained, I desire to offer an amendment.

Mr. STEVENS. There is an amendment to an amendment already pending, and you cannot offer it. I insist on the previous question.

The previous question was seconded, and the main question ordered, being first upon the amendment to the amendment offered by the gentleman from Iowa, [Mr. GRINNELL.]

Mr. WASHBURNE, of Illinois. To adopt the amendment of the gentleman from Iowa, would be merely to "lock the stable door after the horse was stolen," instead of getting the horse back.

The question was taken on the amendment to the amendment; and it was not agreed to—ayes 30, noes 66.

The question recurred on the amendment offered by Mr. WASHBURNE, of Illinois.

Mr. FARNSWORTH demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 74, nays 21, not voting 88; as follows:

YEAS—Messrs. Alley, Allison, Ames, James M. Ashley, Baker, Baldwin, Beaman, Bergen, Bidwell, Blaine, Boutwell, Brandegee, Broomall, Sidney Clarke, Cobb, Conkling, Defrees, Deming, Denison, Donnelly, Dumont, Eliot, Farquhar, Ferry, Finck, Abner C. Harding, Hart, Hayes, Higby, Hill, Hogan, Holmes, Hotchkiss, John H. Hubbard, Edwin N. Hubbell, Hulburd, Jenckes, Julian, Ketcham, William Lawrence, Loan, Lynch, Marston, McClurg, McKee, Miller, Morris, Myers, O'Neill, Paine, Radford, John H. Rice, Ritter, Rollins, Schenck, Shellabarger, Sloan, Spalding, Stevens, Taylor, Thayer, Trimble, Trowbridge, Upson, Van Aernam, Burt Van Horn, Elihu B. Washburne, William B. Washburn, Welker, Williams, James F. Wilson, Windom, Winfield, and Wright—74.

NAYS—Messrs. Banks, Cook, Cullom, Davis, Driggs, Eldridge, Farnsworth, Hooper, Ingersoll, Kerr, Latham, Marshall, Niblack, Nicholson, Noell, Rogers, Ross, Sawyer, Thornton, Wentworth, and Whaley—21.

NOT VOTING—Messrs. Ancona, Anderson, Delos R. Ashley, Barker, Baxter, Benjamin, Bingham, Blow, Boyer, Bromwell, Brooks, Buckland, Bundy, Chanler, Reader W. Clarke, Coffroth, Culver, Darling, Dawes, Dawson, Delano, Dixon, Eckley, Eggleston,

Garfield, Glossbrenner, Goodyear, Grider, Grinnell, Griswold, Hale, Aaron Harding, Harris, Henderson, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, James R. Hubbell, James Humphrey, James M. Humphrey, Johnson, Jones, Kasson, Kelley, Kelso, Kuykendall, Laflin, George V. Lawrence, Le Blond, Longyear, Marvin, McCullough, McIndoe, McRuer, Mercur, Moorhead, Morrill, Moulton, Newell, Orth. Patterson, Perham, Phelps, Pike, Plants, Pomeroy, Price, Samuel J. Randall, William H. Randall, Raymond, Alexander H. Rice, Rousseau, Scofield, Shanklin, Sitgreaves, Smith, Starr, Stilwell, Strouse, Taber, Francis Thomas, John L. Thomas, Robert T. Van Horn, Ward, Warner, Henry D. Washburn, Stephen F. Wilson, and Woodbridge—88.

So the amendment was agreed to.

During the roll-call,

Mr. HILL said: My colleague, Mr. STILWELL, is confined to his room to-day by illness.

The result of the vote having been announced as above recorded, the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

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

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed a joint resolution (S. R. No. 36) providing for expenses incurred in searching for missing soldiers of the Army of the United States, and for the further prosecution of the same; and a bill (S. No. 173) to confirm the title of José Serafin Ramirez to certain lands in New Mexico; in which the concurrence of the House was requested.

LEAVE OF ABSENCE.

Mr. DENISON. I ask leave of absence for my colleague, Mr. STROUSE, for one week, and for my colleague, Mr. COFFROTH, for four days.

There was no objection; and the leave of absence was granted.

The SPEAKER. The Chair asks leave of absence for Mr. HALE for two weeks.

There was no objection, and the leave of absence was granted.

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

Mr. SCHENCK. I ask the gentleman to allow me to make a suggestion. There is a motion to reconsider pending relative to an amendment to the Military Academy bill. I suggest that we dispose of it now.

Mr. ELDRIDGE. There is no quorum here.

Mr. RADFORD. It will lead to debate.

Mr. SCHENCK. It will give rise to no debate at all. The object is merely to correct an inadvertency in an amendment that was offered.

Mr. RADFORD. It will take half an hour to call the yeas and nays on it. I insist on my motion.

The SPEAKER. The bill to which the gentleman from Ohio [Mr. SCHENCK] refers will come up the first thing after the reading of the Journal to-morrow. Barely a quorum voted on the last call of the yeas and nays.

The question was taken on Mr. RADFORD'S motion, and it was agreed to; and thereupon (at five minutes to five o'clock p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to appropriate committees:

By Mr. ALLEY: The petitions of Lynn Five-Cent Savings Bank, the Newburyport Five-Cent Savings Bank, and the Salem Savings Bank, for the reduction of taxes.

Also, the petition of William S. Boyce & Sons, with others, for alteration in the tariff respecting lastings.

By Mr. AMES: The petition of Abington Savings Bank, for a modification of the internal revenue law imposing a tax on the deposits and dividends of savings banks.

By Mr. ASHLEY, of Nevada: The memorial of officers of United States ship Independence.

Also, the memorial from the Legislature of Nevada, on railroad land grants.

By Mr. BANKS: The memorial of M. J. Gouzales, late chaplain in the Army of the United States, for compensation for losses sustained while engaged in the performance of official duty.

Also, the memorial of J. W. Black, a soldier of the Army, asking a pension, in consideration of services rendered and the loss of his sight while engaged in the public service.

By Mr. BEAMAN: The petition of Illinois Central, Chicago, Burlington and Quincy, Chicago and Northwestern, the Detroit and Milwaukee, and other railroad companies, praying for a modification of the revenue laws so as to encourage the construction and introduction into general use of iron railroad bridges and certain other iron structures, and to render the same practicable.

By Mr. BINGHAM: The petition of the Columbus and Indianapolis Central, the Bellefontaine, the Cincinnati and Zanesville, the Indianapolis, Peru and Chicago, and Indianapolis and Cincinnati Railroad Companies, praying for a modification of the revenue laws so as to encourage the construction and introduction into general use of iron railroad bridges and certain other iron structures, and to render the same practicable.

By Mr. BROOMALL: The petition of 116 citizens of the United States, residing in Chester county, Pennsylvania, praying for such change in the Constitution of the United States as will make the President and Vice President eligible by direct vote, and shall empower Congress to prescribe the qualifications of voters for President, Vice President, and Representatives.

Also, the petition of 119 citizens of the United States, residing in the said county, praying Congress to impose such conditions upon the rebel States as shall punish treason, reward loyalty, and abolish distinctions in their constitution and laws on account of color or race.

By Mr. CLARKE, of Kansas: The petition of George Ford, M. Hartman, and 120 citizens of Lawrence, Kansas, praying for relief for the widows and orphans of that city, left so by the Quantrell raid and massacre in August, 1863.

By Mr. DAVIS: The remonstrance of Messrs. Wynkoop & Brother, Charles Cornell, and others, dealers in and manufacturers of stationery, envelopes, &c., against the passage of the proposed act to authorize the sale of stamped envelopes at the price of the stamps.

By Mr. DELANO: The petition of P. S. Hamrickhouse, and 50 others, wool-growers of Coshocton county, Ohio, praying for an increased duty on foreign wools upon the principle of protecting the woolgrower equal with that of the manufacturer of this country.

By Mr. DEFREES: The petition of the ladies of Steuben county, Indiana, asking for universal suffrage.

By Mr. DUMONT: The petition of Thomas E. Watts, John B. Green, John Jennings, and 70 others, citizens of Marion and Boone counties, in the State of Indiana, praying that mail route 12017, from Whitestown, by Royalton, to White Lick, be changed so as to be from Augusta Station, in Marion county, by Royalton, to White Lick; and that from Augusta Station to Royalton the route may be via Trader's Point, in Marion county.

By Mr. FINCK: The petition of Mary Ann Hiles, of Hocking county, Ohio, praying for the allowance of a pension.

By Mr. HALE: Two petitions of citizens of Clinton county, New York, for protection to American industry.

By Mr. HOOPER, of Massachusetts: the petition of the savings institutions at Cambridge, Massachusetts, to be relieved from tax on their deposits.

Also, the petitions of the savings institutions in the city of Worcester, to be relieved from tax on their deposits.

By Mr. KELLEY: The memorial of 30 inhabitants of Byberry township, Philadelphia county, Pennsylvania, praying for the imposition of such conditions upon the rebel States as shall punish treason, at least with ineligibility to office and loss of power, and reward loyalty with confidence and honor; and which shall demand as an evidence of sincere loyalty and good faith, on the part of those States, the abolition of all distinctions in their constitutions and laws on account of color or race; and further to immediately so amend the Constitution of the United States as to make these conditions imperative and perpetual.

By Mr. MILLER: The petition of firms in Lewisburg, Pennsylvania, engaged in the manufacture of harvesters and other agricultural implements, for the purpose of a law allowing them in making returns to deduct the value of any and all parts of machinery which have already paid a tax.

By Mr. McCLURG: The petition of citizens of Cass county, Missouri, for the relief of Colonel H. W. Cleveland.

By Mr. MORRIS: Ten petitions, containing 800 names of citizens and tax-payers of Yates county, New York, protesting against the renewal of the so-called reciprocity treaty with Canada.

By Mr. NEWELL: The petition of T. Abbott, and others, in favor of an increase of the tariff.

Mr. NIBLACK: The petition of John L. White, of Evansville, Indiana, praying for an extension of his patent for improvement on the trucks of locomotive engines.

By Mr. ORTH: The petition of the Jeffersonville, Terre Haute and Indianapolis, and Ohio and Mississippi Railroad Companies, praying for a modification of the revenue laws, so as to encourage the construction and introduction into general use of iron railroad bridges and certain other iron structures, and to render the same practicable.

By Mr. RAYMOND: The petition of H. Howard Cargill, and others, assistant assessors of the sixth district of New York, praying for an increase of compensation.

Also, the memorial of the paper and envelope manufacturers and dealers and stationers of New York, against the proposed law in relation to the sale of stamped envelopes.

By Mr. RITTER: The petition of Colonel A. M. Stout on behalf of Lieutenant John W. Taylor, company F, twenty-seventh Kentucky volunteers, praying for compensation for services from July 1, 1863, to February 13, 1864, in the grade of second lieutenant.

Also, the petition of Captain J. C. McFerian, assistant quartermaster United States Army, to be credited by moneys out of which he was defrauded by an officer of the commissary department.

By Mr. RICE, of Maine: The petition of Lorenzo E. Sabine, and others, of Brewer, Maine, for the abolition or reduction of internal tax on manufactures of bricks.

Also, the remonstrance of E. F. Dunn, and others, of Bangor, Maine, against the passage of a law for sale of stamped envelopes at the price of stamps.

By Mr. RICE, of Massachusetts: The petition of the officers of the Dorchester Savings Bank, for exemption from tax on deposits in that institution.

By Mr. SPALDING: The petition of Joseph T. Holloway, and others, citizens of Cuyahoga Falls, Ohio, in relation to insurance.

By Mr. WASHBURN, of Massachusetts: The petition of the trustees of Franklin Savings Institution of Greenfield, Massachusetts, praying for the repeal of the tax on such institutions.

Also, the petition of trustees of Northampton Institution for Savings, in the ninth Massachusetts district, praying for the repeal of the tax on such institution.

By Mr. WENTWORTH: The petition of certain assistant assessors, for increase of pay.

By Mr. WELKER: The petition of A. B. Spitzer, M. G. Goodrich, and 137 others, wool-growers of Medina county, Ohio, asking the passage of such laws as will afford adequate protection to wool-growers against foreign competition.

By Mr. WILSON, of Pennsylvania: The petition of citizens of Tioga county, Pennsylvania, praying Congress to enact such just and equal laws for the regulation of inter-State insurances of all kinds as may be effectual in establishing the greatest security for the interests protected by policies, &c.

NOTICE OF A BILL.

The following notice for leave to introduce a bill was given under the rule:

By Mr. ELIOT: A bill to provide for the settlement of accounts of certain public officers.

PAPERS WITHDRAWN AND REFERRED.

By Mr. LYNCH: The petition of John Gordon for pension was withdrawn from the files and referred to Committee on Invalid Pensions.

IN SENATE.

TUESDAY, *March* 6, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY.

The Journal of yesterday was read and approved.

PERSONAL EXPLANATION.

Mr. WADE. I notice in the report of the remarks I made on Thursday last a statement which was undoubtedly a slip of the tongue. I presume it was taken down precisely as it was stated, but it did not express my meaning. It was with regard to a question put by the Senator from California, [Mr. CONNESS.] It reads thus:

"Mr. CONNESS. A radical change!

"Mr. WADE. No, sir; it is not a radical change. My radicalism is exactly the same that what you called my abolitionism was. Sir, it has conquered you."

As though it was addressed to the Senator from California. That was a slip of the tongue. I intended it to apply to those who oppose that sentiment, certainly not to the Senator from California.

PETITIONS AND MEMORIALS.

Mr. WILSON presented the memorial of C. B. Gardner, praying for compensation for brick belonging to him used by the United States Army during the siege of Nashville, Tennessee, in the month of December, 1864; which was referred to the Committee on Claims.

Mr. HOWE presented two petitions of citizens of Wisconsin, praying for the establishment of a mail route from Glen Bulah, Sheboygan county, to West Bend, Washington county, Wisconsin; which were referred to the Committee on Post Offices and Post Roads.

Mr. WILLIAMS presented a memorial of officers of the United States receiving ship Independence, stationed at the Mare Island navy-yard, California, praying for an increase of pay; which was referred to the Committee on Naval Affairs.

Mr. KIRKWOOD presented the petition of Henry Bodenheim & Co., praying for compensation for cotton alleged to have been taken from them by United States troops in February, 1864, at Yazoo county, in the State of Mississippi; which was referred to the Committee on Claims.

Mr. CONNESS presented the memorial of José Dominguez, praying to be confirmed in the title granted to him September 24, 1845, by Governor Pio Pico, and approved by the departmental assembly of Alta California, June 3, 1846, of the land known as Los Prietos y Najalayegua, in the county of Santa Barbara, California; which was referred to the Committee on Private Land Claims.

Mr. McDOUGALL presented a memorial of the Legislature of California, praying for such an amendment to the act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862, as will more fully protect the rights of miners and *bona fide* occupants of such lands as may be conveyed by virtue of that act; and also in favor of the exemption of all mineral lands in any grant of land under that act; which was ordered to lie on the table.

REPORTS OF COMMITTEES.

Mr. MORRILL, from the Committee on Commerce, to whom was referred a bill (H. R. No. 154) to further secure American citizens certain privileges under the treaty of Washington, reported it without amendment.

He also, from the same committee, to whom was recommitted a bill (S. No. 26) granting to the International Ocean Telegraph Company the right and privilege to establish telegraphic communication between the city of New York and the West India islands, reported it with an amendment.

He also, from the Committee on the District of Columbia, to whom was referred a bill (S. No. 137) to amend the acts approved August 6, 1861, and July 16, 1862, establishing a metropolitan police in the District of Columbia, to increase the efficiency thereof, and for other purposes, reported it with amendments.

Mr. SHERMAN, from the Committee on Finance, to whom was referred a bill (H. R. No. 201) to declare the meaning of certain parts of the internal revenue act, approved June 30, 1864, and for other purposes, reported it with amendments.

Mr. DOOLITTLE, from the Committee on Indian Affairs, to whom the subject was referred, reported a bill (S. No. 188) to provide for an annual inspection into Indian affairs, and for other purposes; which was read, and passed to a second reading.

Mr. NORTON, from the Committee on Claims, to whom was referred the petition of John R. Brown, praying for remuneration for the seizure of the schooner Robert Bruce, submitted an adverse report; which was ordered to be printed.

BILLS INTRODUCED.

Mr. CONNESS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 187) to quiet land titles in the State of California; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 189) to confirm the grant of certain lands to José Dominguez in California; which was read twice by its title, referred to the Committee on Private Land Claims, and ordered to be printed.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 38) providing quarantine regulations to prevent the introduction and spread of the Asiatic cholera; which was read twice by its title.

Mr. SPRAGUE. I ask that that resolution may be read at length.

The Secretary read it, as follows:

Resolved, &c., 1. That it shall be the duty of the Secretary of War, with the coöperation of the Secretary of the Navy and the Secretary of the Treasury, whose concurrent action shall be directed by the Commander-in-Chief of the Army and Navy, to cause a rigid quarantine against the introduction into this country of the Asiatic cholera through its ports of entry whenever the same may be threatened by the prevalence of said disease in countries having direct commercial intercourse with the United States.

2. That he shall also enforce the establishment of sanitary cordons to prevent the spread of said disease from infected districts adjacent to or within the limits of the United States.

3. That said Secretaries are hereby authorized to use the means at their commands to carry out the foregoing provisions.

4. That it shall be the duty of the Secretary of State to open correspondence with the foreign Powers whose proximity to the United States shall endanger the introduction of Asiatic cholera into this country through their ports and territory, soliciting their coöperation with this Government in such efforts to prevent the introduction and spread of said disease.

Mr. RAMSEY. I move that the joint resolution be printed, and referred to the Committee on Commerce.

The motion was agreed to.

WASHINGTON CANAL.

Mr. RIDDLE submitted the following resolution; which was referred to the Committee on the District of Columbia:

Resolved, That the President be, and hereby is, requested to cause to be detailed three experienced and skillful engineers of the Army of the United States, who shall be directed to examine the entire line of the Washington city canal and report what immediate means, in their judgment, should be adopted for such temporary improvement thereof as will best secure the health of residents and citizens of the national metropolis during the coming summer, and also such plan for the permanent improvement and regulation thereof as will most effectually remove the existing nuisances and prevent future similar accumulations.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House of Representatives had passed a bill (H. R. No. 127) making appropriations for the support of the Army for the year ending 30th of June, 1867; in which it requested the concurrence of the Senate.

ORDER OF BUSINESS.

Mr. BROWN. I move that the Senate proceed to the consideration of the bill which was under discussion when we adjourned last evening.

Mr. CONNESS. It will be remembered that yesterday morning I called for the action of the Senate upon a question that should be regarded as a question of privilege, the reconsideration of a vote by which a bill passed this body some six or eight weeks since. As all the discussion on that subject has been had, I move that we proceed to its consideration in preference to other business this morning, and after we get a vote upon that the honorable Senator from Missouri can go on with his bill.

Mr. BROWN. If there is nothing to do but to take a vote on the bill alluded to, I have no objection to its being done, and will very cheerfully yield for that purpose. If, however, it is designed to spend the morning hour in debating it again, I think it would be better, perhaps, to proceed with the bill we had under consideration last evening. That I do not think will elicit any more debate, and we can take a vote on it.

Mr. CONNESS. I think the proposition is hardly fair in view of the statement made by the Senator from Rhode Island that he would antagonize the motion I now make with other motions and keep it off by all the delays that he could employ. I ask the Senate earnestly for a vote on this subject. I shall not discuss it, for one, and I think, considering the length of time it has been pending in this body, it will be conceded that it has a privilege beyond any other business that may now be called up. I hope we shall proceed with it, and I make that motion.

Mr. BROWN. I should like to ask the Senator from Rhode Island whether he contemplates discussing the question referred to by the Senator from California any further.

Mr. SPRAGUE. I do, sir, at considerable length.

Mr. BROWN. Then I move to take up the bill we had under consideration last evening.

Mr. CONNESS. I object to this entirely.

Mr. BROWN. You are at liberty to object.

Mr. CONNESS. Of course I am. The Senator from Missouri asks another Senator whether he will speak upon the bill that I propose to take up; the other Senator rises and smiles and says he will, after having already tired the Senate with speeches on the subject. Now, sir, I ask for a vote. If the Senator from Rhode Island has a speech to make let him make it, but the public business should not be trifled with any longer in this manner.

Mr. SPRAGUE. I have no doubt tired the Senator from California, and I intend to tire him still further.

Mr. CONNESS. So the Senator said yesterday.

Mr. SPRAGUE. But not for the purpose of tiring him. I intend always when I rise in my seat here to smile if it so suits me. I envy not the man who can never smile or who smiles only when his interest is excited. I do not wish to occupy that position. I believe that the discussion of questions before the Senate should be conducted in a friendly and a smiling manner, and I trust that that will always be the position that I shall occupy in this body.

Mr. BROWN. I believe the motion of the Senator from California is not a privileged motion; and the motion I made was first in order.

The PRESIDENT *pro tempore*. The Chair will state the motion. The Senator from Missouri moves that the Senate now proceed to the consideration of Senate bill No. 31, to reimburse the State of Missouri for moneys expended for the United States in enrolling, equipping, and provisioning militia forces to aid in suppressing the rebellion. The Senator from California moves as an amendment to that motion that the Senate proceed to consider the motion to reconsider the vote by which the Senate passed the bill (H. R. No. 135) to extend the time for the withdrawal of goods for consumption from public store and bonded warehouse, and for other purposes. The question is upon the amendment of the Senator from California to the motion of the Senator from Missouri.

Mr. CONNESS. Allow me to say to the Senate again that the only purpose I have is to get a vote on the bill to which I refer. I have no object in discussing it. I do not wish to occupy a moment of time upon it. The Senate knows that that question has been before it for six or eight weeks.

Mr. SPRAGUE. I object to the consideration of the bill alluded to by the Senator from California, because if it should be taken up, there will not be sufficient time for its discussion, as in half an hour more the morning hour will expire, and the order of the day will be called up. That has been the history of the bill ever since it was presented to the Senate, and I trust that there will be some other time than the morning hour devoted to its consideration, so that it may have a full discussion, and Senators may have ample time for its discussion. I understand that the Senator from Delaware [Mr. SAULSBURY] intends to occupy the attention of the Senate at one o'clock upon the report from the reconstruction committee, and there is not sufficient time in the interval for the discussion of this question.

Mr. CONNESS. If the Senator from Missouri will withdraw his motion, I will make a motion to make the bill which I desire to have considered the special order for a time distant, so that the Senator from Rhode Island shall not have an excuse further to prolong its consideration.

Mr. BROWN. I shall be very glad to facilitate the gentleman in any way that I can. I am disposed to aid him in pressing the consideration of that bill, and if I can facilitate him in appointing it for a day fixed I shall do so. But I think it is asking too much to ask me to waive the motion now before the Senate in order to allow another to be submitted.

However, I will withdraw it for the time being for a few moments.

Mr. CONNESS. I now move that the bill (H. R. No. 136) to extend the time for the withdrawal of goods for consumption from public store and bonded warehouse, and for other purposes, be made the special order for half past twelve o'clock to-morrow.

Mr. BROWN. Say two days hence. I may not get through with this bill to-day. You have taken up half of the morning hour already.

Mr. CONNESS. I withdraw the motion at the present time and will make none in connection with it.

MISSOURI MILITIA EXPENSES.

Mr. BROWN. I move, then, that we proceed to the consideration of the bill that I have named.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 31) to reimburse the State of Missouri for moneys expended for the United States in enrolling, equipping, and provisioning militia forces to aid in suppressing the rebellion.

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

HOUSE BILL REFERRED.

The bill from the House of Representatives (H. R. No. 127) making appropriations for the support of the Army for the year ending 30th of June, 1867, was read twice by its title, and referred to the Committee on Finance.

BONDED WAREHOUSES.

Mr. CONNESS. I move now to proceed to the consideration of the bill named by me in my former motion.

The motion was agreed to; and the Senate resumed the consideration of the bill (H. R. No. 135) to extend the time for the withdrawal of goods for consumption from public store and bonded warehouse, and for other purposes, the pending question being on the motion to reconsider the vote passing the bill.

Mr. SPRAGUE. Mr. President, it is known to the Senate that I am opposed to the object designed to be accomplished in the passage of this bill. I endeavored upon a former occasion to state my objections to it somewhat at length, and I have since reflected upon the measure and evil tendencies and consequences to which the interests of the country will be subjected if the bill is permitted to become a law. With the view of a most thorough investigation of the subject, or as thorough as my ability would permit, I have gone back to the views of those who framed the Constitution and assisted in bringing the nation into birth. I have been among those who have thought well and deeply upon all questions connected with the industry of the people, and I design to read a portion of the address of the Congress of the United States of 1778 on this subject. It is pertinent now, and the people of the country and the Legislature of the country may look wisely to the suggestions and advice that that address contains. It says:

"Refrain a little while from purchasing these things which are not absolutely necessary, that so those who have engrossed commodities may suffer, as they deservedly will, the loss of their ill-gotten gains by reason of their commerce with foreign nations."

Thus spoke the Congress of 1778, and further that same Congress in 1779, with regard to monopolies, said:

"It is our opinion that taxes judiciously laid on such articles as become the object of the engrossers, and those frequently collected, would operate against the pernicious tendencies of such practices."

I have endeavored to show, and I have certainly convinced myself if I have not been able to convince others, that the effect of the measure called the bonded warehouse system is to engross commodities, that speculation may be made therefrom. The Government and the importer join hands to engross commodities out of the markets of the people, so that when the rates of prices are of a character to suit the profits that they design to obtain, those commodities may be launched upon the market. Sir, if those who desire to recall to our minds the works and the acts of the early fathers, will go with me and will study their acts, they cannot but believe with me that the doctrines of this bill are pernicious and should not be made a part of the American system.

As I progress in the investigation of this subject I discover new ideas. I discover that it is not as it seems to be. I discover that the law when it was first enacted established a certain system, and after it had been in effect for a time decisions of the Treasury Department or acts of Congress were obtained which changed the intent entirely of the original projectors of the system. This bonded warehouse system is understood generally, I believe, by the people to be a system of store-houses in the possession of the Government where the goods are entered, kept in the possession of the Government in their bonded warehouses, and under their control, subject to their direction; but such is not the fact. The bonded warehouse may be the counting-house or the office or the store of the importer. The goods are in his possession, and he has simply to give to the Government a bond that when his goods are entered for consumption he will pay the duties prescribed by law. Such, I believe, is the fact, that the Government for a piece of paper, upon which may be the name of anybody that may be accepted by the officials of the custom-house department in any city or in any town where there is a custom-house, parts with its property. In case of fire those goods of course are never entered upon the market, and the consequence is that so much of revenue is lost to the Government. You not only are speculators, you not only join partnership with the importer for the introduction of commodities into consumption, but you insure the commodities to the importer. You are thus a great insurance agency. You first help to buy the article, then you insure the sum that the duty amounts to. I do not believe that the working of this system is generally understood by legislators and by those who direct public acts of legislation and by the country.

One reason why I have brought this subject to the attention of the Senate and the country is because of the flooding of the desks of Senators with articles directed against the American system and the industry of the people. It is necessary that there should be counter-statements made, and where better than in the Congress of the nation? I cannot expect either to attract the attention of Senators by eloquence or by rhetoric, but I do desire to convince them by the convictions that are within me.

It has been said that my course in regard to this matter will prejudice the American system, will prejudice the industrial interests of the country as applied to import duties. Sir, if that great system stands upon no firmer foundation than that any portion of it could be in any way affected by a poor advocacy of it, then it ought never to exist. I am sure that it has merits of its own, that however poor the advocacy, it will not affect its ultimate success, and the ultimate good that the people of this country will receive from it. If such ideas are to be used as a threat, threats are the mother of fear, and if fear has taken possession of the opponents of those who advocate this system, I have nothing to say to them. They are in the position that I designed they should be. Fear is not on the side that I advocate. We are strong because we know that the system that we desire to have perpetuated in the legislation of the United States has resulted in prosperity, and it will result in the strength of the American people and of the American nation.

The able Senator from Maine [Mr. FESSENDEN] has distinguished me by the suggestion that, perhaps, the working of the system is as I have endeavored to show. If such is the fact, if I have proved the assertions that I have made, if I have convinced him, I am proud of the action that I have taken. The Senator from Ohio [Mr. SHERMAN] is disposed to think that it may be so also, but he thinks this system has become so ingrafted into the trade and into practices of the people that it may be difficult to uproot it. Sir, wherever there is a system that is detrimental to the interests of the people, detrimental to the interests of trade and of commerce, detrimental to the interest of any bill or measure before the body, it is the duty of those that understand it to stand firmly and fearlessly in the advocacy of measures that will promote different results.

Sir, this measure is endeavoring to aid commerce with foreign nations. Let us see for a moment the figures as applied to this question. Let us for a moment compare the revenue as derived from custom duties and those derived from internal revenues. In 1865 the value of dutiable goods, wares, and merchandise imported amounted to $183,304,467. The customs or duties from them amounted to $80,635,238. The total value of goods, wares, and merchandise not liable to duty was $51,129,700. In 1865 the amount received from internal revenue was $211,129,529 17. The business that produced that revenue, as near as I can calculate it, would amount to $3,500,000,000. The amount of business that produced from imports a revenue of $80,635,238, is $183,304,467. You propose to foster a business of $183,304,467 at the expense and to the detriment of a business of $3,500,000,000.

The advocates of this bill suggest that the object to be attained is, that there may be duties collected in the ports of the United States on goods that may be withdrawn by ships and people of foreign nations engaged in trade. Now, sir, let us see to what extent that great object is designed to be accomplished. Here is a letter from the Assistant Register of the Treasury giving the exact figures on this subject, which I will read:

TREASURY DEPARTMENT, REGISTER'S OFFICE,
WASHINGTON, *February 5*, 1866.

SIR: In accordance with your request, I have the honor to state that the importations during the fiscal year ending June 30, 1865, were as follows: free, $51,081,532; dutiable, $183,258,278; total, $234,339,810. Entered for exportation from warehouse during same period, value dutiable, $9,978,593 74.

Very respectfully, your obedient servant,
J. A. GRAHAM,
Assistant Register.

For the purpose of having about ten millions of value of goods in bond, the Government of the United States are made to join hands with traders, with insurance agents, with speculators, who compete with the industry of the people of this country in every department of industry.

The Senator from California, and no one respects him or his State more than I, designs to create for the city of San Francisco a great mart for commerce, greater than London or New York. I honor him for that disposition. One would know that he would follow in that track, and that he would foster any enterprise, any State, or any people with whom he was identified. I have yet to learn that his actions and his votes have not a wider aim, and I have yet to see that his interests and his energies are not devoted to the interests and prosperity of our common country. But, sir, he may, like other men, be mistaken in the plans that he would carry into effect in carrying out this design. California to be a great State must be great other than by her mines of gold or silver. She must develop her agricultural resources; she must develop her manufacturing interests. She can never expect to be a great agricultural State until she also becomes a great manufacturing State, for the markets that the manufacturers open to the agriculturists are not only necessary but essential to the increase of the products of the agriculturists. As it is in the older States, so it must be in the new; and he will do well to direct the people of his State so that all the people, both miners and traders, and inhabitants of all kinds may have varied occupations as in the older States, so that every member of the family may find remunerative employment. Until he can employ his whole people, from the children to the old men,

California cannot be prosperous like those States that pursue that course with their population.

The PRESIDENT *pro tempore*. The morning hour having expired it becomes the duty of the Chair to call up the special order of the day, upon which the Senator from Delaware [Mr. SAULSBURY] is entitled to the floor.

APPORTIONMENT OF REPRESENTATION.

The Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (H. R. No. 51) proposing to amend the Constitution of the United States.

Mr. SAULSBURY addressed the Senate in opposition to the resolution. [His remarks will be published in the Appendix.]

Mr. SUMNER. I wish to be heard upon this subject again before the debate closes, hoping to have an opportunity of reviewing the different propositions before the Senate. I am not ready to go on this afternoon, and I doubt if the Senate would be willing to listen to me now, even if I were ready. I understand that there is other business which Senators would be glad to bring forward, and therefore, if there is no objection, I move that the pending question be postponed until to-morrow at one o'clock and made the special order for that time.

Mr. FESSENDEN. I of course shall not oppose that motion, as the Senator says that he will be ready to go on to-morrow and is not ready now; but it becomes my duty to give notice to the Senate that I must press a vote on this subject. I think I shall be liable to the charge of being remiss in my duty if I do not urge the matter to a vote pretty soon. I believe most of the members of the Senate have made speeches on the subject, and we ought now to conclude it within a day or two. Gentlemen who are ready to proceed after to-day must be prepared to finish their speeches abruptly.

The PRESIDENT *pro tempore*. The question is upon the motion of the Senator from Massachusetts, that the further consideration of this joint resolution be postponed to and made the special order of the day for to-morrow at one o'clock.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

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

A bill (H. R. No. 37) making appropriations for the support of the Military Academy for the year ending the 30th of June, 1867; and

A bill (H. R. No. 358) to amend an act to extend the charter of the president and directors of the Firemen's Insurance Company of Washington and Georgetown, in the District of Columbia.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, transmitting, in answer to the resolutions of the Senate of the 5th of January and 27th of February, reports from the Secretaries of State and War giving information in relation to the provisional governors of States; which, on motion of Mr. SUMNER, was referred to the joint committee on reconstruction, and ordered to be printed.

The PRESIDENT *pro tempore* also laid before the Senate a message from the President of the United States, transmitting, in compliance with a resolution of the Senate of the 27th of February, a report from the Secretary of War communicating the reports of the assistant commissioners of the Freedmen's Bureau made since December 1, 1865.

Mr. MORRILL. I move that that communication, with the accompanying documents, be referred to the joint committee on reconstruction, and printed.

Mr. WILSON. I suggest that the subject of the freedmen is now before the Committee on Military Affairs. We have two bills on that subject before us.

Mr. MORRILL. I supposed that the facts in these reports might be important to the committee on reconstruction.

Mr. WILSON. Very well. I have no objection to that reference.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Maine that this communication, with the accompanying documents, be referred to the joint committee on reconstruction, and printed.

Mr. HENDRICKS. I believe that no proposition was made to print. Those documents seem to be very voluminous.

Mr. MORRILL. They are not very voluminous.

Mr. HENDRICKS. This is not a regular report from a bureau or a Department, as I understand. I wish to inquire whether the motion was to print them.

Mr. MORRILL. It was. I thought they were very brief.

Mr. JOHNSON. I understand the motion to be to refer the communication to the committee of fifteen.

Mr. HENDRICKS. I was about to say that when the communication and accompanying documents are referred to the committee, if the committee find them to be of sufficient importance to justify the expense of printing, of course I shall not object; but I suggest whether we ought to order the printing before the Senate knows anything about them, this not being a regular report from a bureau or Department.

Mr. MORRILL. I withdraw the motion to print.

The PRESIDENT *pro tempore*. The motion to print being withdrawn, the question will be on referring the communication and the accompanying documents to the committee on reconstruction.

Mr. FESSENDEN. I should like to know who offered the resolution calling for these documents.

Mr. MORRILL. I did.

Mr. FESSENDEN. Your object was to furnish information to the committee on reconstruction.

Mr. MORRILL. It was. I had reason to believe that the information was important.

Mr. FESSENDEN. It will be impossible for us to look over them understandingly and be able to read them in a written form.

Mr. JOHNSON. As one of the committee of fifteen I agree with the honorable member from Maine. The object of the call was, I suppose, to refer whatever might be sent under that call to that committee, and I understand the motion is now made to refer it to the committee. If the purpose is to enable the committee to act upon any of the subjects committed to it with the information contained in that report before them, it will be absolutely necessary to print it, and the only question is, whether we shall print it now or whether the committee, after they shall have received the papers under the motion to refer, shall ask to have them printed. It will save time, I think, to have them printed now, and I renew the motion to print.

The PRESIDENT *pro tempore*. It is moved that this communication, with the accompanying documents, be referred to the committee on reconstruction, and that the documents be printed.

The motion was agreed to.

HOUSE BILLS REFERRED.

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

A bill (H. R. No. 37) making appropriations for the support of the Military Academy for the year ending the 30th of June, 1867—to the Committee on Finance.

A bill (H. R. No. 358) to amend an act to extend the charter of the president and directors of the Firemen's Insurance Company of Washington and Georgetown, in the District of Columbia—to the Committee on the District of Columbia.

ORDER OF BUSINESS.

Mr. CONNESS. There being some time now, I ask the attention of the Senate for a while to the consideration of two bills reported from the Committee on Public Lands which are of considerable interest to my State. The first is the bill (S. No. 125) granting aid in the construction of a railroad and telegraph line from the town of Folsom to the town of Placerville, in the State of California. I move that the bill be taken up for consideration.

The motion was agreed to; and the bill was read.

The PRESIDENT *pro tempore*. The Chair is advised that the bill which has just been read is in the hands of the Committee on Public Lands by vote of the Senate, and has not yet been reported.

Mr. CONNESS. I move, then, to discharge the committee from its consideration.

Mr. CLARK. Oh, no! You had better let the committee act.

Mr. CONNESS. I can explain the matter to the Senate in a moment. There are two bills providing for the building of a branch of the Pacific railroad from the State of Nevada, by what is known as the Placerville route, over the Sierra Nevada mountains, but in the hands of two companies. The bill proposing the grant from Nevada to Placerville has been reported, and I supposed this bill had been reported also; they are or ought to be exactly alike, and if they are not, can readily be made to conform each to the other. The committee, it seems, have reported the one bill and not the other, of which I was not aware. If now the committee be discharged from the consideration of this bill, we can make it conform to the other.

Mr. CLARK. I suggest to the Senator from California that some of us who are not upon the committee, when we examine these matters, are obliged very much to rely upon the report of the committee, and it is much more satisfactory to have the report, though the case may be entirely as the Senator says. It is better always to have a bill of this importance come from the appropriate committee in its due course.

Mr. POMEROY. The general provisions of this bill have met the approval of the committee, but they desire to introduce quite a number of amendments, as they have done in the other bill referred to by the Senator from California. They have not yet, however, completed this bill; it has not been reported. There is nothing objectionable in the bill, but a few amendments are needed to make it conform to our general legislation. The amendments are slight and can be made in the Senate; but I did not suppose the bill was to be considered before the committee reported it, though I have no objection to that course if it is deemed best.

Mr. CLARK. It seems to me that there can be no such haste about it as would require the bill to be taken out of the hands of the committee.

Mr. CONNESS. Well, as there is objection to the course proposed, let the bill lie over.

The PRESIDENT *pro tempore*. Does the Chair understand that the motion to discharge the committee is withdrawn?

Mr. CONNESS. Yes, sir; and now I propose to go on with the consideration of the other bill which has been reported relating to the same road.

Mr. CLARK. I was about to ask the Senate to proceed to the consideration of the House joint resolution giving the consent of Congress to the annexation of the two counties of Jefferson and Berkeley to the State of West Virginia, which is a matter of some importance, as I understand there may be a conflict of jurisdiction in the two counties, and it is desirable that the question should be settled by Congress giving its consent. If the Senator from California is not so desirous of pressing his bill at the present time as to interfere with it, I should like to call up that resolution.

Mr. CONNESS. It is of great consequence that we get the action of the Senate on the

measure to which I have called attention; and if the Senator from New Hampshire will allow it to be considered, I shall be much obliged to him.

Mr. CLARK. I am not disposed to antagonize one measure with another so as to obstruct public business; but I think this joint resolution will take but a very few minutes.

Mr. WILLEY. I have received, within a few days past, a letter from the Governor of West Virginia urging as speedy action as may be consistent with the convenience of the Senate on the question referred to by the honorable Senator from New Hampshire, and informing me that he anticipates some disagreeable conflicts of State authority shortly, unless speedy action is taken in the premises. I should be exceedingly glad to have action now.

Mr. CONNESS. I withdraw my motion.

STATE OF WEST VIRGINIA.

Mr. CLARK. I move to take up House joint resolution No. 17, to which I have alluded. It will not take long.

Mr. HENDRICKS. I suggest to the Senator from New Hampshire, who has charge of that resolution, that he assign an early day for its consideration. I have not had an opportunity to examine it, and it is rather an important question; one that ought to be investigated and discussed, that we may fully understand it. I do not think very many Senators have examined the subject thoroughly as yet.

Mr. CLARK. And I suppose they will not as long as it lies under their desks and is not called up. I propose to call it up, and then if it should lead to serious discussion, or there should be a necessity for delay, it can be laid over; but I think it had better be called up and attended to. I insist on my motion.

The motion was agreed to; and the joint resolution (H. R. No. 17) giving the consent of Congress to the transfer of the counties of Berkeley and Jefferson to the State of West Virginia, was considered as in Committee of the Whole, the question being on the amendment reported by the Committee on the Judiciary to strike out all of the resolution after the resolving clause, in these words:

That the consent of Congress is hereby given to the transfer of the counties of Berkeley and Jefferson from Virginia to the State of West Virginia; that the jurisdiction exercised over them by the State of West Virginia be, and is hereby, approved and confirmed, and that said counties are, and henceforth be, part of the State of West Virginia.

And in lieu thereof to insert these words:

That Congress hereby recognizes the transfer of the counties of Berkeley and Jefferson from the State of Virginia to West Virginia, and assents thereto.

Mr. CLARK. I move to amend the amendment by striking out "assents" and inserting "consents" which is the word of the Constitution.

The amendment to the amendment was agreed to.

Mr. RIDDLE. As the amendment has been amended, I doubt whether the motion I desire to make is in order. I desire to offer a proviso to the amendment of the committee.

The PRESIDENT *pro tempore*. That is in order.

Mr. RIDDLE. I offer this proviso:

Provided, The question of the annexation of the said counties to West Virginia shall be referred to a vote of the people of each of them at an election to be held on the second Tuesday in May next by commissioners to be appointed by the Governor of Virginia, and a majority of the legal voters of each of the said counties under the laws of Virginia shall be found in favor of such annexation.

Mr. CLARK. I desire to say that that has already been done in both of the counties. The people have voted on the question, and the result has been in favor of annexation to the State of West Virginia.

Mr. RIDDLE. If the Senator from New Hampshire will pardon me, I will state that out of sixteen hundred voters but fifty voted in Jefferson county on that proposition. There are now thirteen hundred voters in the county since the abandonment of the armory, and twelve hundred and fifty of those thirteen hundred voters have asked that this proposition be presented to the Senate, and their remonstrance is before the body.

Mr. CLARK. I understand it very well, I think, Mr. President. It does not appear from any evidence that has been taken that all the people in those counties might not have voted who wished to vote at the time the vote was taken; but there is no doubt a portion of their people were in the rebel army fighting against the country and the interests of the country and of those counties, and therefore did not vote. Now, when they have got back from their wicked work, they ask that a vote may be taken that they may defeat this annexation. For one, I am not disposed to delay for the purpose of taking the votes of these rebels, nor to give them an opportunity of voting.

Mr. WILLEY. The Senators will allow me to suggest here that under the laws of West Virginia they cannot vote.

Mr. RIDDLE. I will merely say that I lived in Jefferson county during the last year longer than the Senators from West Virginia have lived there during their whole lives, and that I have talked to the people of that county. I admit, as the Senator from New Hampshire has said, that a great many of the people of Jefferson county were in the southern army, but a great many of them were in the other army. They went into the southern army *nolens volens*. Under the southern conscription act they were compelled to go there, as the Senator would have been if he had been there and under age. These men ought to be heard; and if you refuse them the right to be heard, I think you are doing an injustice to the people. I am not speaking for myself, for I know that if my property in Jefferson county were in West Virginia, I should be taxed on it much less than I am in the State of Virginia; but to do justice to the people of Jefferson and Berkeley counties, I want them to have a fair opportunity of saying where they will go. I do not care who may appoint the commissioners for which my amendment provides; I would let the Governor of West Virginia appoint them; all I ask is that the people may be heard and their feelings respected. I want the people to be heard, and if you deny it you deny the wishes of twelve hundred and fifty out of thirteen hundred voters.

Mr. CLARK. I have no particular desire to hear from rebels, nor any particular desire that they shall be heard. It may be true, as the Senator says, that a part of this people were forced into the rebel army. I have no disposition to deny it; but this I say to him, if they were so forced, I want to put them into a State where the jurisdiction hereafter will be sufficient to protect them; where they shall never be so forced again.

Mr. RIDDLE. They have no such disposition now.

Mr. CLARK. I do not know that there is any such disposition about now; but there is a conflict of jurisdiction in regard to these two counties which makes it necessary to remove all doubt, that Congress shall give its consent, and I hope Congress will give its consent, and that the loyal people of these two counties who have voted that they would be annexed to West Virginia shall have the opportunity of being annexed there, mangre the rebels who have come back. I am disposed to accommodate the loyal people and not wait a great while for the accommodation of the rebels who have returned. They may be thankful if they are permitted to live under the Government which they attempted to destroy, without endeavoring to control it. It is all they deserve. I hope the resolution will pass.

Mr. RIDDLE. The map which I have before me shows what a shaped State West Virginia will be with the annexation of the counties of Berkeley and Jefferson to it. I believe somewhat in geographical shapes and geographical lines. This annexation will extend the State of West Virginia down to the Potomac, bringing it into a narrow angle and cutting it off from the other States. The blue lines on the map before me designate the boundaries of West Virginia. Now, it is proposed to extend its limits and to take in the little angle in which Jefferson and Berkeley counties are included, the result of which would be to make it the most disproportioned State in the Union.

Mr. POMEROY. I rather like the amendment of the Senator from Delaware, but I have examined it and find it to be a little faulty in one respect.

Mr. RIDDLE. I will accept any amendment.

Mr. POMEROY. If the Senator from Delaware will accept an amendment, I will propose one; and that is that the question be submitted to the people of these two counties without regard to color. All the people there have an interest in it. It is as much the interest of one class as another. As the Senator suggests, it is not in order for me to move this amendment, but as he says he will accept it, it can be incorporated with his.

Mr. RIDDLE. I beg to be excused. I know the Senators from West Virginia would not agree to that.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Delaware to the amendment of the committee.

Mr. WADE. Let it be read.

The Secretary read the amendment to the amendment.

Mr. HOWE. I understood that the amendment suggested by the Senator from Kansas was accepted by the Senator from Delaware.

Mr. POMEROY. The Senator from Delaware promised that he would accept it, but after hearing what it said he would not.

Mr. CLARK. Then I hope my friend from Kansas will not press his amendment to the amendment, but will let us take a vote upon the proposition of the committee, and agree to it.

Mr. POMEROY. I think we had better perfect the amendment first; we can reject it afterward.

Mr. CLARK. I think we had better not waste much time about it.

Mr. SAULSBURY. I have been requested by some gentlemen of Virginia when this bill should come before the Senate to give it some attention; but I suppose that this consent of Congress will be given to an act which, if it ever was legal, has been repealed by the State of Virginia before the consent of Congress was asked. I think I could demonstrate, if I thought it was of any use to go into the argument, that there never was any consent given by the Legislature of Virginia to what has been done by West Virginia or what was done by the people of those counties. On the day that the election was required to be held by the law of Virginia on which the consent is based, as I understand, there were only two voting places at which any person could vote, and they were on the line of the Potomac and while these two counties were in the possession of the military power of the Government. The act of Virginia required an election to be opened at the respective voting places in these two counties, and made its consent dependent upon the fact that a majority of the people at such a vote to be held should vote for the transfer; that is should vote at the different voting places in the two counties.

There are other questions, though, connected with the matter of a more vital and fundamental character, grave, serious, constitutional questions, arising in this case; and yet I cannot consent to take up the time of the Senate in arguing a cause which I know is lost to the people of those two counties. Sir, Virginia is a noble State. The greatest and best men that have ever adorned the council chambers of this nation or reflected honor upon the council chambers of any nation had their birth and have lived in Virginia; and I do not wonder that the people of Berkeley and Jefferson counties, when it is proposed to take them away from the great State of Virginia and to annex them to a new State which has grown out, if not the exigencies, of the passions of the war, should be opposed to such transfer and would like to

remain with the old State. If I thought that I could say a word which would do them good, or which could secure them, not this privilege, but this right, of remaining in the old State where their fathers lived, and in the prosperity of which and in the renown of which they feel a personal pride, I would willingly stand here for an hour to say something in their behalf. But no, although every man in Jefferson and Berkeley be opposed to this transfer, the transfer is to be made, and on what ground? Because the voice of rebels in such cases is not to be heard, and nobody but loyal men are to be heard!

Mr. President, we have a wholesale way of deciding upon treason and crime. Under the Constitution of the United States and the laws of the land there is a judicial mode of ascertaining who is a traitor and who has committed crime, and there is only one mode in which you or I or anybody can ascertain whether a man is a traitor, and that is by presentment by a grand jury, conviction by a petit jury, judgment of a court of competent jurisdiction; and when the evidence comes before me in this Chamber, or comes before me as a private citizen, comes before me in any capacity whatever, I can decide upon the criminality of no man, and I cannot ascertain his guilt in any other way than by the production of the record of his trial and conviction. And yet, sir, on the bare assumption that a majority of the people of these two counties have been guilty of treason, the highest crime known to the law, and have justly forfeited their lives, we are to ascertain their guilt, not as the Constitution and laws of the land say it shall be ascertained, but by surmise, by conception. I will never, in the private relations of life or in any public capacity which I fill, determine the criminality of any one in that way, and I protest now against whole communities and whole peoples being thus charged with treason and with crime when there is no evidence of a legal character that there is a man in Jefferson or Berkeley that is guilty of treason. Till that evidence is furnished, let the people residing in those two counties have a voice in determining their future situation and their future relations to these two States. If a majority of the people there wish to go to West Virginia let them go; if they wish to remain in Virginia let them remain.

I make these remarks with no feeling of hostility to West Virginia. I wish her all the prosperity which now is open before her in her career as a State; but I do say that in a question of this kind, where not only the property of citizens is to be affected, but where their homes, everything that is dear to them, their personal feeling, their personal interest, their political association is concerned, these people ought to have a right to say whether there shall be any such transfer. As I understand the facts as presented to me, they have never had any such opportunity. But at two places, and two only, in Jefferson county were the polls opened—at Shepherdstown and Harper's Ferry—and about one hundred votes cast out of the whole population of Jefferson county. But, sir, opposition can avail nothing.

Mr. WILLEY. Mr. President, I do not desire to go into a full investigation of this question. It was very fully investigated in the other House; a very full and able and exact report was made by a member of the Judiciary Committee in the other House, and the question was argued at length, and decided with very great unanimity in favor of the consent being given.

The PRESIDENT *pro tempore*. The Chair will suggest that allusion to proceedings in the other House is not in order here.

Mr. WILLEY. Well, sir, I merely allude to it not to bring them into the proceedings here, but simply to say that there is a report here from the other House laid upon our tables. I suppose it is in order to refer to that, and that is the only reference that I make. That report shows that the matter was fully investigated.

I do not wish to get into a controversy with my friend from Delaware in regard to the facts in this case. I will content myself by saying that I have not a doubt to-day that there is not a loyal man, as we used to understand that term, in the county of Jefferson that is not in favor of remaining where Jefferson county is now supposed to be, a part of West Virginia. In the county of Berkeley it cannot be controverted that there is a very large majority of the people there, loyal and disloyal, taking the aggregate of all the people of that county, in favor of remaining with West Virginia, and I am disposed to believe that to-day since certain recent action on the part of the West Virginia Legislature repealing a law affecting the rights of disloyal persons to prosecute suits in the courts, if the vote were taken in Jefferson county there would probably be a majority in that county for remaining in West Virginia. The disability of which they complained so grievously has been removed by legislative action in West Virginia.

Now, sir, what are some of the facts? These counties for some years past have been with West Virginia after fair action by the Legislatures of both States. Polls were opened in both the counties, permission to hold the election having been granted by the Legislature of Virginia; the election was held in pursuance of an act allowing it to be held; the votes were duly certified by the Governor of Virginia to the Governor of West Virginia, and the Legislature of West Virginia, acting upon the proceedings, accepted these counties. The counties have gone on under these circumstances to organize under the very different system of county police and judicial proceeding and recording of deeds, &c., provided in the constitution of West Virginia from that which originally existed in these counties when they were under the jurisdiction of Virginia. Deeds have been recorded; various things have been done under our new constitutional provisions, and under our new legislation in West Virginia, enacted in pursuance of our constitution; rights have accrued under this legislation. Now, if they are sent back to old Virginia, the result will be confusion in title papers and in the decrees of courts; and a great many mischiefs that will readily occur to every Senator under this existing state of circumstances must necessarily ensue.

The loyal people are satisfied where they are. The election was openly held in these counties. Every man that wanted to vote could have voted. The men who are petitioning to-day that a vote be taken again were not in the counties at the time that election was held; but where were they? They were in the armies of the alleged confederacy. They were fighting against the loyal men of these counties. They were not at home. Some of them, the principals, perhaps, in this matter, held seats in the Legislature of Virginia under the authority of the confederate government. I trust it may be the pleasure of the Senate to let these people remain where they are.

As to the form of the State, it is a little zigzag; but it was the desire of this people themselves, principally because these counties lie upon the Baltimore and Ohio railroad, which railroad runs out into our State, and therefore connects them directly with the interior part of the State commercially, and for every other convenience; whereas they are not connected by railroad with east Virginia, and in order to get to the capital of that State they would have to do as we have from all over West Virginia, come by Baltimore and Washington city in order to get to Richmond.

Mr. RIDDLE. I do not desire to prolong the discussion, but my friend from West Virginia who has just addressed the Senate was the first to convince me that Jefferson and Berkeley counties should not be in West Virginia. Now I quote Willey against Willey. On the 1st of July, 1862, that Senator said:

"I confess that I was infinitely surprised when the committee reported to the Senate a bill including fifteen counties within the valley of Virginia in the proposed new State. What are the facts on this subject? The people of northwestern Virginia had looked over all this ground; they had considered where the line of demarkation should go; they had considered it well; and they fixed the Alleghany mountains as the natural barrier. They were willing to agree to that; not only were those mountains the natural barrier, because they divided the commercial, industrial, and social relations of the State, but they were the natural barrier between the desire of the people who wished to be erected into a new State, and the desire of those people who were opposed to being included within the new State." * * * * * * *

"Sir, I speak of what I know, I speak of what I am fully advised by hundreds of letters received during the last ten days, that the people of northwestern Virginia are utterly and irreconcilably opposed to any connection with these people in the valley. They are opposed to it because they have no commercial relations with them; they have no industrial interests in common; they are disconnected by impassable mountain barriers. They have no close social relations with them. They are different in interests, different in social habits, different in feeling, different in desires in this respect; and I venture the assertion that out of the one hundred and forty thousand inhabitants proposed to be included in the new State from the counties of the valley, there are not five thousand that desire any union with us. As was forcibly remarked by one of my colleagues the other day, in reference to this matter, if we were thus united in the same State organization, it would be like tying two cats by the tail; we should be forever fighting each other. They are utterly and irreconcilable hostile in social relations and hostile in feeling."—*Congressional Globe, second session Thirty-Seventh Congress*, part 4, p. 3037.

These were the sentiments of my honorable friend from West Virginia in 1862.

Mr. WILLEY. They are my sentiments still. If my friend from Delaware would get the map and see where these fifteen counties lie, he would see that his own argument would be answered. These two counties contain the five thousand people of whom I spoke along the railroad that are connected with us by direct and easy communication, and whom I reserved in my speech. The other thirteen counties lying in the valley are disconnected from us and have no relation with us.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Delaware to the amendment of the committee.

Mr. GRIMES. Do I understand the Senator from Delaware to withdraw his consent to the amendment suggested by the Senator from Kansas?

Mr. RIDDLE. I never gave my assent to it. I said I would agree to anything; but when I heard what the amendment was, I of course would not agree to it.

The amendment to the amendment was rejected.

The amendment reported by the Committee on the Judiciary was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in. The amendment was ordered to be engrossed, and the joint resolution to be read the third time. The joint resolution was read the third time; and on the question of its passage,

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

The question being taken by yeas and nays, resulted—yeas 32, nays 5; as follows:

YEAS—Messrs. Anthony, Brown, Chandler, Clark, Conness, Cragin, Creswell, Dixon, Doolittle, Fessenden, Foster, Grimes, Harris, Howe, Johnson, Kirkwood, Lane of Kansas, Morgan, Morrill, Norton, Poland, Pomeroy, Ramsey, Sherman, Sprague, Stewart, Sumner, Trumbull, Van Winkle, Willey, Wilson, and Yates—32.

NAYS—Messrs. Davis, Guthrie, McDougall, Riddle, and Saulsbury—5.

ABSENT—Messrs. Buckalew, Cowan, Foot, Henderson, Hendricks, Howard, Lane of Indiana, Nesmith, Nye, Stockton, Wade, Williams, and Wright—13.

So the joint resolution was passed.

REPORT OF A COMMITTEE.

Mr. POMEROY, from the Committee on Public Lands, to whom was referred the bill (S. No. 125) granting aid in the construction of a railroad and telegraph line from the town of Folsom to the town of Placerville, in the State of California, reported it with amendments.

EXECUTIVE SESSION.

On motion of Mr. GRIMES, the Senate proceeded to the consideration of executive

business. After some time spent in executive session the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *March* 6, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

The SPEAKER stated the first business in order was the motion made on yesterday by Mr. SCHENCK to reconsider the vote by which the Military Academy appropriation bill was ordered to be engrossed and read a third time.

PACIFIC RAILROAD AND TELEGRAPH.

On motion of Mr. LOAN, by unanimous consent, Senate bill No. 20, granting lands to aid the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific coast, was taken from the Speaker's table, read a first and second time, and referred to the Committee on the Pacific Railroad.

LEAVE OF ABSENCE.

Mr. CONKLING. My colleague, Mr. LAFLIN, has received intelligence of the death of his only son. I make this statement in order to explain his not having voted on several occasions of late, and also as a reason for asking that leave of absence be granted him for ten days.

Leave was accordingly granted.

BAILIFFS AND CRIERS.

Mr. INGERSOLL, by unanimous consent, introduced a bill fixing the compensation for the bailiffs and criers of the courts of the District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

PRINTING OF TESTIMONY.

Mr. BOUTWELL. I am instructed by the joint committee on reconstruction to report in part the evidence taken by them in relation to the States of Arkansas, Mississippi, Alabama, and Georgia. I move that the same be printed.

The motion to print was agreed to.

Mr. BOUTWELL moved to reconsider the vote by which the testimony was ordered to be printed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

MAIMED SOLDIERS AND SAILORS.

Mr. ECKLEY, by unanimous consent, introduced a bill allowing compensation to maimed soldiers and sailors who are entitled by law to artificial limbs in lieu of said artificial limbs; which was read a first and second time, and referred to the Committee on Military Affairs.

MILITARY ACADEMY BILL.

Mr. FARNSWORTH demanded the regular order of business.

The SPEAKER. The first business in order is the consideration of House bill No. 37, making appropriations for the support of the Military Academy for the year ending the 30th of June, 1867. The pending question is upon the motion of the gentleman from Ohio [Mr. SCHENCK] to reconsider the vote by which the bill as amended was ordered to be engrossed and read a third time.

Mr. SCHENCK. My object in making the motion to reconsider is to obtain an opportunity to move in an amended form the amendment which I submitted on yesterday, and which was virtually carried; but which was ultimately lost by members changing their votes because it was discovered that the word "hereafter" had been inadvertently omitted from the amendment. That omission it was supposed would lead to an ambiguous construction which was not intended. I desire now to give notice that if the motion to reconsider shall prevail, I will offer the amendment which I send to the Clerk's desk to be read. I have modified it so as to meet the objections of gentlemen, and to provide only prospective application.

The Clerk read the amendment, as follows:

And provided further, That no part of the money appropriated by this or any other act shall be applied to the pay or subsistence of any cadet from any State declared to be in rebellion against the Government of the United States, appointed after the 1st day of January, 1866, until said State shall have been restored to its original relations to the Union, under and by virtue of an act or joint resolution of Congress for that case made and provided.

Mr. SCHENCK. I now move the previous question on the motion to reconsider.

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

The motion to reconsider was then agreed to.

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

Pending which,

Mr. SCHENCK said: I now move the amendment which has just been read at the Clerk's desk. And I now call the previous question upon the bill and pending amendment.

Mr. BLAINE. Will the gentleman yield to me for a few moments?

Mr. SCHENCK. I will yield for five minutes.

Mr. BLAINE. I rise to oppose the amendment, and I wish to have read at the Clerk's desk what I would have offered as a substitute for the amendment of the gentleman from Ohio [Mr. SCHENCK] if I had had the opportunity.

The Clerk read, as follows:

And provided further, That no part of the money hereby appropriated shall be applied to the support or pay of any cadets hereafter appointed not in conformity with the express provision of law regulating appointments of cadets for that Academy.

Mr. BLAINE. I wish to call the attention of the House, Mr. Speaker, to the precise nature of the pending amendment, and for that purpose I will read it again. It is as follows:

And provided further, That no part of the moneys appropriated by this or any other act shall be applied to the pay or subsistence of any cadet from any State declared to be in rebellion against the Government of the United States, appointed after the 1st day of January, 1866, until such State shall have been restored to its original relations to the Union, under and by virtue of an act or joint resolution of Congress for that case made and provided.

As the previous question has been demanded, I am not allowed to offer an amendment. If I were permitted to do so, I would offer the following in the nature of a substitute for the pending proposition of the gentleman from Ohio, [Mr. SCHENCK:]

Provided further, That no part of the money hereby appropriated shall be applied to the pay or support of any cadets hereafter appointed not in conformity with the express provisions of law regulating appointments of cadets at that Academy.

This proposition is precisely the same *verbatim et literatim* that was incorporated in the West Point appropriation bill at the first session of the Thirty-Eighth Congress, April, 1864, and was then moved, I believe, by the gentleman from Ohio who now offers the pending amendment. The design at that time was to cure an existing evil which I will briefly explain. The law authorizing the appointment of cadets gives one to each congressional district in the United States, and requires that the cadet shall be an actual resident of the district for which he is appointed. After the late war had been raging some two years, and the southern districts were not represented at West Point, nominations were made from the northern States to fill about three fourths of these districts. I hold the Cadet Register in my hand, showing that some thirty-eight or forty northern boys were foisted contrary to law on these southern districts, and are at West Point to-day in virtue of those appointments. It was to stop this method of illegal nomination that the provision I have quoted was inserted in the West Point appropriation bill in April, 1864.

To-day, if the President should fill all the vacancies in the southern States, he would not have over eighteen appointments, because the cadets already appointed from the North representing southern districts will not graduate until 1867, and some of them not until 1868. If the pending amendment, therefore, should be defeated, the only cadets the President could appoint in the southern States would be these eighteen, together with such proportion as he might choose to assign to that section from the ten at large whom he is empowered to appoint annually. Can we not trust the President with this power? Are we to reflect on him and on the Secretary of War by declaring here that we cannot trust them to appoint a single cadet from the southern States? Are we to say to the President, as this amendment does, "If you wish to nominate Governor Brownlow's son to West Point, you shall not do it; if you wish to nominate John Minor Botts's son, you shall not do it; you shall not appoint the son of any of those patriots of East Tennessee who, in their mountain fastnesses, struggled and died for the Union." The amendment summarily cuts off the power of the President to appoint any lad, however promising and however loyal, to West Point, if he be so unfortunate as to have been born and lived in the South. His father may have died for the Union, but the son cannot be recognized by the President of the Union.

I am opposed to the amendment, sir; opposed to it root and branch. I regard it as proscriptive, illiberal, and narrow-minded. Its logic can be justified only on the ground taken by my distinguished friend from Pennsylvania, [Mr. STEVENS,] who holds that the entire population of the eleven southern States are alien enemies. I admit that the amendment is perfectly consistent with that doctrine; and if any gentleman espouses that creed he will find in the pending amendment a legitimate outgrowth of his theory. Not believing myself in this extreme dogma, but holding, as I always have, that the man who has been truly loyal to the Government, whether in the North or in the South, is entitled to its protection and its benefits, I shall vote against the amendment, even if I stand alone in my opposition.

Mr. CONKLING. I desire to ask one question. Are we to understand that, under either the amendment pending or that suggested by the gentleman from Maine, these boys who, the gentleman says, have been colonized and are now in West Point, would be disturbed?

Mr. BLAINE. No, sir; neither amendment will affect the boys now at West Point; but my amendment proposes simply to reaffirm the action of the Thirty-Eighth Congress. It will prevent any further colonization, and leave the matter just as it stands under the law to-day.

The SPEAKER. The gentleman's five minutes have expired.

Mr. SCHENCK. I shall depart from my purpose to say nothing on this subject because of the remarks submitted in opposition to the amendment by the gentleman from Maine, [Mr. BLAINE.]

As to the charge that this is the most narrow-minded and illiberal proposition ever made in this House, I shall not stop to bandy epithets with the gentleman; but, sir, the effect of the amendment suggested by the gentleman is to warn the Secretary of War and the President not to violate the law; and if there be any reflection it seems to me to be contained in that amendment rather than in the one now pending, which simply proposes to make a certain enactment, expecting those officers to conform to it.

Now, sir, in reference to former appointments, some, I know, have been irregularly made. We have stopped that. Some of those appointments, most of them perhaps, were appointments of northern young men who were fastened, as it were, in this way upon districts in the southern States—States in rebellion. Some of them were young men who had served in the Army, and who, from having been on duty in Alabama, Tennessee, or elsewhere in the South, were construed for the time being to have a residence there, and under that view were appointed. This practice has been stopped. The amendment proposes not to interfere with any appointments which have been made, not

to have any reference to the law as it now exists, for we expect compliance with it, and reflect upon no one by throwing out an imputation that he will probably violate the law; the amendment simply proposes to lay down as the future rule upon this subject that no appointment shall be made from any State which has been in rebellion until such State shall be regularly rehabilitated by act of Congress, according to what seems to be the settled policy of Congress, at least with reference to the restoration of the Union.

The gentleman yields the whole question when he admits the provisions of the law to be that appointments to West Point shall be made with reference to the congressional districts. We know the usage to be that the appointments shall be made upon the nomination of the member representing the district. I hold, therefore, the appointment of cadets to West Point are appointments incidental to the representation of the districts in the several States here; and whenever representation comes, then I say will appointments to West Point as an incident to that representation follow. Let each man who is admitted here make his nomination as is the case with members from loyal districts, and let that nomination be received and the appointment made accordingly; and when Mr. Maynard, or Mr. Stokes, of Tennessee, or any gentleman representing a district, comes in, I would have him indicate who shall go to West Point from his district. Neither the President, nor the Secretary of War, nor any one else can complain when we lay down the rule in advance and reflect upon nothing so far that has been done by the Government.

Mr. BLAINE. Let me ask the gentleman a question. Will not the amendment I propose to offer as a substitute entirely cut off the President from filling any one of these districts? Can the President fill a solitary district under it?

Mr. STEVENS. I do not think it will.

Mr. SCHENCK. If the gentleman's proposed amendment be identical with what he characterizes as an illiberal and narrow-minded proposition, what then is his object?

Mr. CHANLER. I ask the gentleman to yield to me.

Mr. SCHENCK. I decline to yield.

Now, having defended the amendment against the criticism of the gentleman from Maine, I demand the previous question.

Mr. STEVENS. After the previous question has been seconded, I shall claim my right under the rule, having reported the bill, to speak for a few minutes.

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

Mr. CHANLER. I ask the gentleman to yield to me.

Mr. STEVENS. Not now.

Mr. Speaker, I shall occupy a moment in consequence of the extraordinary remarks made by the gentleman from Maine, [Mr. BLAINE.] He characterizes the amendment in the worst kind of terms. Before the South turned rebel, the law as it was understood allowed to each congressional district a cadet, on the nomination to the Department of the Representative of that district. Such was the uniform practice, and such now is the practice in the loyal States. Members are notified when vacancies happen in their districts and are requested to nominate to fill them. Such is the law. Now, when the South went out and were no longer here there was nobody who would fulfill the law and make nominations. It may have been a misfortune, as it was to some loyal men, to live under a government which was disloyal and hostile to the country; but they took the condition of the men living in the district; all suffered alike. Although they were free from punishment, although they ought not to be punished personally for anything done there, yet there they were; their destiny was bound up with the destiny of the government *de facto* under which they lived.

The gentleman says I call them foreign governments; I call them alien to all the rights of this Government while they are in that condition. It has been decided all their citizens were enemies according to the law of nations.

Now, sir, I object to the President or anybody else going down there and selecting, against the law, individuals, however innocent, and giving them a preference beyond the law over those of the North. I know the President and several of the Secretaries did violate the law; I do not say shamefully, as it was under a misapprehension. I think they appointed seventy or eighty cadets, on the nomination of a few Senators, from my district and other districts when there was no power for it. This provision is intended to correct that. It goes no further than to put in plain language the duties of the officers of the Government, so that the States lately in rebellion shall not be entitled to come in and have any of the privileges of this Government until, as my friend says, they are rehabilitated. I can understand how men who think, as we all do here, that these States are entitled to no privilege until declared so by Congress will support the amendment. I can also understand with what propriety the politicians of a mixed character can vote for the amendment of the gentleman from Maine; but I cannot understand how we can stultify ourselves by going for it.

Mr. BLAINE. In addition to the district appointments the President of the United States is to appoint annually ten cadets at large. Now, under the amendment would he have the power to appoint as one of these the son of a loyal man of East Tennessee, of Governor Brownlow or any other? I want a distinct answer.

Mr. STEVENS. I shall give a distinct answer. If the President wanted to appoint a son of Semmes or of Jeff. Davis I would not allow it. And as Tennessee is about to come in of course she will not suffer. As she is the object of so much lachrymose appeal we will open the door for her, and if she will not come in, why she will stay out I suppose. I hope we shall rally on some proposition in spite of the President and bring her in. And we shall do it, I hope, unless we are defeated by the votes of such members as the gentleman from Maine, [Mr. BLAINE.]

Mr. CHANLER. Will the gentleman from Pennsylvania yield?

Mr. STEVENS. I am sorry to say I have resumed my seat and cannot yield.

Mr. ROGERS. I demand the yeas and nays on agreeing to the amendment.

The yeas and nays were ordered.

The question was then taken on agreeing to the amendment; and it was decided in the affirmative—yeas 89, nays 39, not voting 55; as follows:

YEAS—Messrs. Alley, Allison, Ames, Delos R. Ashley, James M. Ashley, Baker, Banks, Baxter, Beaman, Benjamin, Bingham, Blow, Boutwell, Brandegee, Bromwell, Broomall, Buckland, Bundy, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Defrees, Deming, Donnelly, Dumont, Eckley, Eliot, Farnsworth, Farquhar, Ferry, Grinnell, Abner C. Harding, Hart, Hayes, Higby, Holmes, Asahel W. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbell, Hulburd, Ingersoll, Jenckes, Julian, Kelley, Kelso, Ketcham, William Lawrence, Loan, Lynch, McClurg, McKee, Mercur, Miller, Morris, Myers, Newell, O'Neill, Paine, Perham, Pike, Price, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Sloan, Spalding, Starr, Stevens, Thayer, Francis Thomas, John L. Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, and Windom—89.

NAYS—Messrs. Anderson, Bergen, Blaine, Brooks, Chanler, Davis, Denison, Eldridge, Finck, Goodyear, Grider, Aaron Harding, Hill, Hogan, Chester D. Hubbard, Edwin N. Hubbell, Kerr, Kuykendall, Latham, Marshall, McCullough, McRuer, Morrill, Niblack, Phelps, Radford, William H. Randall, Ritter, Rogers, Ross, Shanklin, Sitgreaves, Taber, Taylor, Trimble, Robert T. Van Horn, Henry D. Washburn, Winfield, and Woodbridge—39.

NOT VOTING—Messrs. Ancona, Baldwin, Barker, Bidwell, Boyer, Reader W. Clarke, Coffroth, Culver, Darling, Dawes, Dawson, Delano, Dixon, Driggs, Eggleston, Garfield, Glossbrenner, Griswold, Hale, Harris, Henderson, Hooper, Hotchkiss, James Humphrey, James M. Humphrey, Johnson, Jones, Kasson, Laffin, George V. Lawrence, Le Blond, Longyear, Marston, Marvin, McIndoe, Moorhead, Moulton, Nicholson, Noell, Orth, Patterson, Plants, Pomeroy, Samuel J. Randall, Raymond, Rousseau, Shellabarger, Smith, Stilwell, Strouse, Thornton, Ward, Warner, Whaley, and Wright—55.

So the amendment was agreed to.

During the roll-call,

Mr. THORNTON stated that he had paired with Mr. BARKER.

The result having been announced as above recorded, the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question recurred on the passage of the bill; and being put there were—ayes 65, noes 29.

So the bill was passed.

Mr. STEVENS. I move to reconsider the vote by which the bill was passed; and to lay that motion on the table.

The latter motion was agreed to.

MESSAGE FROM THE PRESIDENT.

A message from the President of the United States, by Colonel WILLIAM G. MOORE, announced that the President had aproved an act (H. R. No. 321) to amend an act entitled "An act to prevent the spread of foreign disease among the cattle of the United States," approved December 18, 1865.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. MCDONALD, its Chief Clerk, informed the House that the Senate had passed an act (S. No. 121) providing for the enlargement of the Winnebago reservation in the Territory of Nebraska, and for other purposes, in which he was directed to ask the concurrence of the House.

The SPEAKER announced as the next business in order, the calling of the committees for reports, commencing with the Committee for the District of Columbia.

WASHINGTON SEWERAGE

Mr. INGERSOLL. The Committee for the District of Columbia have had under consideration House bill No. 288, to establish a complete and uniform plan of sewerage in the city of Washington, and to provide for such improvement and regulation of the tide-water front of said city and of the canals and natural water-courses passing through the same as may be necessary for the public health of said city, and the general interest thereof, and have directed me to report back the same with an amendment in the nature of a substitute; which I ask to have recommitted, and printed.

Mr. CONKLING. I would like to know whether the gentleman means to bring it back on a motion to reconsider.

Mr. INGERSOLL. I did not.

Mr. CONKLING. In order that there may be no doubt about it, I move to reconsider the motion to recommit the bill, and to lay that motion on the table.

The question being put on the motion of Mr. CONKLING, no quorum voted.

The SPEAKER ordered tellers; and appointed Messrs. CONKLING and INGERSOLL.

The House divided, and the tellers reported—ayes 39, noes 54.

Mr. WASHBURNE, of Illinois. I demand the yeas and nays.

Mr. INGERSOLL. I do not think the condition of this question is understood by the House, judging from the many interrogatories put to me by members while passing through the tellers. I wish the Chair would again state it.

Mr. CONKLING. Nor do I think it is understood as to the amount involved in it. I believe it is $150,000.

Mr. INGERSOLL. There is no such appropriation in this bill.

The SPEAKER. Discussion is out of order.

Mr. WASHBURNE, of Illinois. I ask to have the bill read.

The SPEAKER restated the condition of the question.

The Clerk read the bill.

The yeas and nays were ordered on the motion of Mr. CONKLING.

The question was taken on Mr. CONKLING'S motion; and it was decided in the affirmative—yeas 70, nays 53, not voting 60; as follows:

YEAS—Messrs. Allison, James M. Ashley, Baker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Blow, Boutwell, Brandegee, Broomall, Bundy, Sidney Clarke, Conkling, Cook, Deming, Driggs, Dumont, Eckley, Eliot, Ferry, Abner C. Harding, Hayes, Hill, Holmes, Asahel W. Hubbard, Hulburd, James Humphrey, Julian, Kelley, Kelso, Ketcham, William Lawrence, Loan, Lynch, McClurg, McKee, Miller, Morrill, Morris, Newell, Paine, Patterson, Perham, Pike, Price, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Scofield, Shellabarger, Sloan, Spalding, Starr, Stevens, Thayer, Trowbridge, Upson, Van Aernam, Burt Van Horn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Wentworth, Williams, Stephen F. Wilson, and Winfield—70.

NAYS—Messrs. Alley, Ames, Baldwin, Bergen, Brooks, Chanler, Cobb, Davis, Denison, Eldridge, Farnsworth, Farquhar, Finck, Goodyear, Grider, Aaron Harding, Hart, Hogan, Chester D. Hubbard, James R. Hubbell, Ingersoll, Jenckes, Kuykendall, Latham, Marshall, Marvin, McCullough, Mercur, Myers, Niblack, Nicholson, Noell, O'Neill, Orth, Radford, Raymond, Ritter, Rogers, Ross, Rousseau, Schenck, Shanklin, Sitgreaves, Stilwell, Taber, Taylor, Francis Thomas, John L. Thomas, Thornton, Trimble, Warner, Welker, and Whaley—53.

NOT VOTING—Messrs. Ancona, Anderson, Delos R. Ashley, Banks, Barker, Boyer, Bromwell, Buckland, Reader W. Clarke, Coffroth, Cullom, Culver, Darling, Dawes, Dawson, Defrees, Delano, Dixon, Donnelly, Eggleston, Garfield, Glossbrenner, Grinnell, Griswold, Hale, Harris, Henderson, Higby, Hooper, Hotchkiss, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell, James M. Humphrey, Johnson, Jones, Kasson, Kerr, Laflin, George V. Lawrence, Le Blond, Longyear, Marston, McIndoe, McRuer, Moorhead, Moulton, Phelps, Plants, Pomeroy, Samuel J. Randall, William H. Randall, Smith, Strouse, Robert T. Van Horn, Ward, James F. Wilson, Windom, Woodbridge, and Wright—60.

So the motion to reconsider was laid upon the table.

WASHINGTON FIRE DEPARTMENT.

Mr. INGERSOLL, from the Committee for the District of Columbia, reported back, with amendments, bill of the House No. 183, concerning the fire department of Washington city.

The bill provides that the right to have, use, and occupy the several buildings, with their appurtenances, known as the Union, Franklin, Columbia, and Anacosta engine-houses, be granted to the city of Washington, District of Columbia; said possession and occupation to continue as long as they shall be used for the purposes of the fire department and the pleasure of the Congress of the United States; and that in the event of the city of Washington being deprived of such possession and occupation by the General Government, the cost and expenses of all substantial improvements made to said buildings shall be repaid by the General Government.

The committee reported an amendment to strike out the words—

The cost and expense of all substantial improvements made to said buildings by said city to be repaid by the Government.

And to insert in lieu thereof the following:

The United States shall pay to the city of Washington the then existing value of such improvements as shall have been made thereon after the passage of this act.

The amendment was agreed to.

The committee reported a further amendment to add to the bill the following proviso:

Provided, That the said use and occupancy of the Columbia engine-house shall not in any way interfere with the possession and occupancy by the Columbia Fire Company of the room now used as a library in said building.

The amendment was agreed to.

Mr. STEVENS. I should like to know why the Government is to pay this.

Mr. CONKLING. And so should I like to know it.

Mr. INGERSOLL. Within the last year or two a new steam fire department has been inaugurated in this city, superseding the old fire department authorized by Congress. The new fire department of the city desire now to build houses sufficient for the protection of the new steam engines and the watchmen and horses attached to them, and they desire to make them of a permanent character. The Government owns the ground upon which the old fire department had its buildings, engines, and so on. The Government are now willing, as the committee report, to permit the use and occupation of these lots for the new fire department, suffering them to put upon them such permanent buildings as may be necessary, and if the Government ever desires to reoccupy this ground and repossess itself of these lots, the bill simply provides that the Government shall pay the additional value given by the expenses incurred by the city government of Washington after the passage of this act.

The Government may never wish to repossess itself of these lots; it is not likely they ever will. They have been used by the old fire department for forty years without being disturbed by the Government of the United States; and they will probably continue to be so used by the fire department. If, however, the occasion shall arise when the Government shall think it advisable to repossess itself of these lots, or of any one or more of them, this bill proposes that the Government shall pay the city for the increased value of the lots in consequence of the expense put upon them by the city government. That is all.

Mr. STEVENS. I do not know that I should have found any difficulty if the gentleman from Illinois [Mr. INGERSOLL] had brought in a bill granting in fee-simple these lots to the city. But this bill seems to provide for connecting the General Government in operations with the city government, and after awhile, when they want another change, the Government will have to pay for these improvements, while they go off somewhere else. I would rather a great deal that the gentleman should bring in a bill giving these lots to the city in fee-simple, and let the Government have no further responsibility about it. I do not understand the bill fully; but are we not now to pay something?

Mr. INGERSOLL. Nothing; not a cent. Neither are we ever to pay anything at the option of the city government. But if the United States Government, for some special purpose, shall desire to repossess itself of one or more of these lots, the committee thought it but fair that the city should be paid for the permanent increased value caused by the improvements made by the city government. The committee supposed it was for the benefit of the Government to add this provision. If the House think it better to give these lots in fee-simple to the city, the committee will have no particular objection to it.

Mr. STEVENS. If the lots are not needed by the Government, then let us give them at once to the city; and let the city build what it pleases on them, and hold us to no contingent responsibility.

Mr. INGERSOLL. There is no responsibility resting upon the Government at this time. But it was thought possible that the Government might one day want some of these lots, although we could not imagine any purpose for which they are likely to be required by the Government.

Mr. CONKLING. I would like to understand one thing about this bill. I would like to know, if I may, whether I am wrong in supposing this to be true: in the first place, the Government gives to the city of Washington, as to occupation at least, these lots. In the next place the city of Washington goes on, and by assessment upon these and other lots belonging to the Government raises money and makes improvements. And then the bill provides that whenever the city shall be disturbed in this occupation, not merely deprived of the possession, but disturbed in the occupation hereby granted, the General Government is to pay back to the city of Washington whatever amount the city may have chosen to raise by assessment upon the property of the Government and upon other property and expend for these improvements. Is not that the effect of this bill?

Mr. INGERSOLL. The gentleman from New York, [Mr. CONKLING,] I think, will find himself in error in regard to Government property being assessed at all for taxes by the city.

Mr. CONKLING. Is it not taxed for local improvements?

Mr. INGERSOLL. No, sir; except for grading and improving the streets near the Government reservations.

Mr. CONKLING. Then it amounts to this: that whenever in any way the city of Washington shall be deprived of the occupancy it now has of these lots, upon that contingency the Government is to pay back to the city whatever has been raised by assessment upon their property and expended in these improvements. For one, I agree entirely with the gentleman from Pennsylvania, that we had better give the property out and out, instead of putting our hand, as it were, into the machinery, to be drawn in we do not know how far.

Mr. INGERSOLL. I wish to correct a misapprehension on the part of the gentleman from New York. The proposition is only to pay the value of the improvements on the property at the time when the Government may wish to repossess itself, not what may have been expended upon the property.

I can state on the part of the committee, that the corporation of Washington would much prefer to have the lots in fee-simple, relieving the Government of all liability in every way. If any gentleman will offer a proposition of that kind, it would be accepted most cheerfully.

Mr. STEVENS. If I had an amendment prepared, I would offer it. The bill has not been printed, I believe.

Mr. INGERSOLL. No, sir.

Mr. STEVENS. Let it go over and be printed.

Mr. INGERSOLL. I dislike to let the bill go over.

Mr. RICE, of Maine. I desire to ask the chairman of the Committee for the District of Columbia whether it is proposed to occupy for these purposes any lots now otherwise occupied.

Mr. INGERSOLL. None.

Mr. RICE, of Maine. How many lots are there?

Mr. INGERSOLL. The Clerk will answer that. There are three or five. They are all named in the bill.

Mr. RICE, of Maine. Are we to understand the gentleman as saying that the committee do not know where these lots are located?

Mr. INGERSOLL. They cannot describe them by metes and bounds; they know about where they are. It is not material where they are.

Mr. RICE, of Maine. Have the committee examined the lots?

Mr. INGERSOLL. No, sir; they have not.

Mr. RICE, of Maine. Then, Mr. Speaker, I for one should be opposed, without more information on the subject, to giving away these lots; and I should also be opposed to granting this power for the corporation of Washington to put on these lots extensive improvements, so that if the time should come when the Government should want to occupy these lots we should be obliged to take them at a valuation to be made in this city. I should also like to have information about the size of these lots. It seems to me that we should not act in the dark.

Mr. WASHBURNE, of Illinois. It does not appear from the remarks of my colleague [Mr. INGERSOLL] what is the amount of the property we are voting away.

Mr. INGERSOLL. As the lots were in the first place a donation to the Government of the United States, the question which the gentleman suggests is not so very material, particularly as the lots have been occupied for the last forty or fifty years by these fire companies.

Mr. WASHBURNE, of Illinois. If the gentleman will allow me, I will make a motion to recommit the bill with instructions to bring in a detailed report. I should like to vote upon the subject understandingly.

Mr. INGERSOLL. I cannot yield for that purpose. Does the gentleman from Pennsylvania [Mr. STEVENS] desire to offer an amendment?

Mr. STEVENS. I suggest that the bill be

postponed till the morning hour to-morrow, and that it be printed.

Mr. INGERSOLL. I have no objection to that.

Mr. DAVIS. Before that motion is made, I desire to say a few words.

This question seems to me to lie in a very contracted circle. The Government owns certain lots for which it has, it appears, no present use. The city has occupied them for a long period, and proposes now to put certain improvements upon them for the accommodation of its fire department. What those improvements may be in character or extent or value I do not know; but, sir, it seems to me that it would be unwise for us to give away these lands in fee. I think it would be much better for the Government to reserve the right to repossess itself of these lots, if at any time hereafter it should desire to do so, by paying the appraised value of the improvements which may have been constructed. I can see no injustice in such an arrangement. The Government will get the value of all it will pay; while by the proposition of the gentleman from Pennsylvania, it will give away now what hereafter its necessities may require. Hence, if the amendment suggested by the gentleman from Pennsylvania be offered, I shall oppose it.

Mr. INGERSOLL. I am willing that the bill shall go over until to-morrow morning, that it may be printed.

The SPEAKER. If there be no objection, the bill will be postponed until the morning hour to-morrow, and will be ordered to be printed.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. W. J. McDONALD, its Chief Clerk, announced that the Senate had passed a bill to reimburse the State of Missouri for moneys expended for the United States in enrolling, equipping, and provisioning militia forces to aid in suppressing the rebellion, in which the concurrence of the House was requested.

FIREMEN'S INSURANCE COMPANY.

Mr. INGERSOLL, from the Committee for the District of Columbia, reported a bill to amend an act to extend the charter of the president and directors of the Firemen's Insurance Company of Washington and Georgetown, in the District of Columbia; which was read a first and second time.

Mr. WASHBURNE, of Illinois. I should like to have some explanation of that bill.

Mr. INGERSOLL. The paper which I send to the Clerk's desk to be read will fully explain it.

The Clerk read, as follows:

To the Congress of the United States:

The undersigned, a committee of the board of directors of the Firemen's Insurance Company of Washington and Georgetown, in the District of Columbia, duly appointed to petition your honorable body for an amendment of the charter of said company, respectfully represent that when said company was chartered, in 1837, there were regularly organized fire companies in the said cities, and it was provided in the sixth section of said act that those companies alone should open books of subscription for the stock of said company. In the seventh section of said act it was provided that if any fire company should not in the space of three years subscribe for the amount of stock allotted to it, that then the residue of the shares not taken might be subscribed for by other companies. In the eighth section of said act it was provided that no person not a member of a fire company should be entitled to purchase or hold stock in said company; and upon the decease of any stockholder that his stock should become extinct, and the value of his stock paid to his heirs, and that new stock should be created to replace the same, and be disposed of by the directors. Section nine provided that no stock should be transferred on the books of the company to any other than a member or members of a fire company; and section ten provided that special advantages of insurance should be granted to all members of fire companies.

In February, 1857, an act was passed to extend the said charter, and the sections as above specified were by that act continued in force.

Since the passage of that act of extension the fire department has been reorganized within the said cities of Washington and Georgetown, and the fire companies have ceased to exist, and there are no firemen within the meaning of the provisions of said acts of incorporation to which the same can apply.

Your petitioners, therefore, pray that the said seventh, eighth, ninth, and tenth sections of said act of 1837, extended by said act of 1857, may be repealed, leaving the stock of said company open to the ownership of any one who may desire to purchase it, and governed by the same rules and regulations as the stock of other stock companies within the District of Columbia.

B. B. FRENCH,
C. W. DAVIS,
T. EDWARD CLARK,
Committee.

WASHINGTON, *January* 22, 1866.

Mr. INGERSOLL. I demand the previous question on the passage of the bill.

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

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

The latter motion was agreed to.

MUTUAL FIRE INSURANCE COMPANY.

Mr. MERCUR, from the Committee for the District of Columbia, reported back House bill No. 223, to amend an act to incorporate the Mutual Fire Insurance Company of the District of Columbia, without amendment.

The bill was read.

Mr. CONKLING. I should like to have some explanation of the bill.

Mr. MERCUR. This Mutual Fire Insurance Company was incorporated about eleven years since with a capital of $20,000. The act of incorporation provided that the capital should consist of premium notes and cash interest paid upon those notes, and that that cash should never at any time exceed $20,000. The business of the company has become enlarged, and they cannot attend to the wants of the community as they desire unless we allow them to increase their capital from $20,000 to $50,000.

Mr. DAVIS. Is this to be real capital, or like the original, to consist of premium notes?

Mr. MERCUR. I will read from the act of incorporation:

"SEC. 3. *And be it further enacted*, That the capital stock of this company shall consist of the premium notes given by the insured, and of the cash paid in as interest on said premium notes, which cash shall never exceed $20,000. Said notes shall be payable on demand, and shall constitute and be a lien to the amount thereof respectively upon all buildings insured by said company, and the land upon which they stand, and the appurtenances to such land, and upon the estate and interest, legal or equitable, of the assured in such buildings, lands, and appurtenances, and upon the other property insured by said company in consideration thereof."

This increases that capital from $20,000 to $50,000.

Mr. DAVIS. What is the reason for it?

Mr. MERCUR. The increased business wants of the community.

Mr. DAVIS. This allows this company to receive $50,000 in premium notes; in other words, it is a credit and not a capital. My own knowledge and experience in regard to mutual insurances induces me to protest against any system of mutual insurance based upon credit. The system in New York has been one of disaster to every one who has been engaged in it. I think my friend from New York knows something of the history of these companies, and that every man in our part of the State would rather put his head into the fire than have anything to do with these insurance companies.

Mr. CONKLING. I agree with what my colleague has said; and believing that every man who touches these schemes based upon premium notes defiles himself with pitch, I shall vote against this proposition.

Mr. MERCUR. I agree to what both gentlemen have said in reference to the insurance companies of New York. So far as my knowledge goes, they have not only defrauded their own citizens, but the citizens of their sister States. [Laughter.] But I affirm the history of mutual insurance companies in Pennsylvania has been different; they have sustained a different reputation; and they have commended themselves to the business interests of the country.

Mr. DAVIS. Do they stand as high in the public estimation as the oil companies? [Laughter.]

Mr. THAYER. Everybody knows the oil companies are owned in New York.

Mr. MERCUR. My colleague has anticipated my reply.

Mr. CONKLING. It is entirely from New York the money has come which has been honestly paid in, so far as we know.

Mr. MERCUR. One word more, and I am done.

The SPEAKER. The morning hour has expired, and the bill goes over until to-morrow.

EXECUTIVE COMMUNICATIONS.

A message, in writing, having been received from the President of the United States,

The SPEAKER laid the same before the House; and it was laid on the table, and ordered to be printed.

The Clerk read the communication, as follows:

To the House of Representatives:

In answer to the resolution of the House of Representatives, of the 12th of January last, requesting information in regard to provisional governments of certain States, I transmit a report from the Secretary of State, to whom the resolution was referred.

ANDREW JOHNSON.

WASHINGTON, *March* 6, 1866.

To the President:

The Secretary of State, to whom was referred the resolution of the House of Representatives of the 12th of January last, requesting the President, "if not deemed by him incompatible with the public interest, to communicate to this House copies of all messages, proclamations, and other documents, issued by the provisional governors of any States that may have been proclaimed at any time to be in rebellion; of all acts, ordinances, resolutions, and proceedings of conventions, or of Legislatures, held in such States under the authority or at the call of said provisional governors; of all returns of elections for members of such conventions and Legislatures, together with the qualifications required for voters at such elections, and for members when elected; together with such other information concerning the public action of such States, tending to throw light upon their political condition, as may be in his possession; and to communicate, further, copies of all proclamations issued by the President, or his immediate predecessor, relating to this subject, whether issued by him directly or through the Secretary of State, and the papers accompanying the same," has the honor to state that a copy or originals of all the voluminous papers called for by the resolution have been, with reports from this Department, of this date, laid before the President, to enable him to answer a similar resolution of the Senate. As these papers will undoubtedly be printed for the use of the Senate, it is presumed to be unnecessary to have another copy made to enable the President to answer the resolution of the House of Representatives.

Respectfully submitted.

WILLIAM H. SEWARD.

DEPARTMENT OF STATE,
WASHINGTON, *March* 1, 1866.

The SPEAKER also laid before the House a message from the President in answer to a resolution of the House of Representatives transmitting a report in regard to the distribution of rewards offered for the arrest of the assassins of the late President Lincoln.

The report of the Secretary of War was read, as follows:

WAR DEPARTMENT,
WASHINGTON CITY, *March* 1, 1866.

MR. PRESIDENT: In answer to the resolution of the House of Representatives hereto annexed, referred by you to this Department, I have the honor to report that no distribution has yet been made of the rewards offered by the Government for the arrest of the assassins of the late President Lincoln. Many persons presented claims for the rewards, and by the order of this Department the Adjutant General and Judge Advocate General were appointed a special commission to examine and adjudicate upon the respective claims. The period for award has on application by claimants been extended from time to time, in order that all claimants may be heard. When the award has been examined and approved, notice by publication will be given.

I have the honor to be, your obedient servant,

EDWIN M. STANTON,
Secretary of War.

To the President of the United States.

The message and accompanying report were laid on the table, and ordered to be printed.

The SPEAKER also laid before the House a communication from the Secretary of State, in response to a resolution of the House of February 21, 1866, transmitting a statement of the cost of printing and advertising of that Department during the year 1865; which was ordered to be printed, and referred to the Committee on Printing.

TRADE WITH BRITISH AMERICA.

Mr. MORRILL. I move to postpone all prior orders in order to take up House bill No. 337, regulating trade with the British North American possessions.

Mr. STEVENS. Unless there is some special reason for this I shall certainly object to it, for we have two or three appropriation bills that are urgent. I cannot see the necessity for immediate action on this.

Mr. MORRILL. The gentleman from Pennsylvania [Mr. STEVENS] made very good progress yesterday with his appropriation bills; we have postponed this from day to day in order that he might do so. It is indispensably necessary that some action should be had on this now, in order that the bill may reach the Senate and be acted upon there before the 17th of March, when the reciprocity treaty will expire.

The motion was agreed to.

Mr. MORRILL. I now ask unanimous consent that the bill may be considered in the House, and after speeches on the general subject it shall be considered as under the five-minute rule.

Mr. SPALDING. I object.

Mr. MORRILL. Then I move to suspend the rules, and that the House resolve itself into the Committee of the Whole.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. RAYMOND in the chair,) and proceeded to the consideration of House bill No. 337, regulating trade with the British North American possessions.

Mr. MORRILL. Mr. Chairman, the present bill concerning the trade with the British North American Provinces has become necessary in consequence of the termination of the reciprocity treaty, which takes place on the 17th of the present month. The treaty was an ill-omened one from the start, having been first extorted from us by the armed raid upon our fishermen, in 1852, made by the combined armaments of the Provinces, and led on by the imperial Government; and, second, won from us by the delusion that favors would beget fraternity. We are too old to be again deluded, and, being quite able to withstand a bite, we shall be unlikely to yield to a growl. For eleven long years the United States, overflowing with generosity, have granted to these Provinces what their own mother country has long since weaned them from, that is to say, privileges not granted to others. Henceforth we shall treat them as friends, unless they entitle themselves to be treated as favorites or provoke that treatment awarded to enemies. By the present bill we grant certain privileges provided ample equivalents are obtained. In the main, however, increased revenue has been our object.

This House, after this recent unfortunate experience, will not, at least during the present generation, relinquish its constitutional prerogative to originate all revenue bills. To the extent of our trade with the Provinces our legitimate prerogative has been curtailed and denied. If such commercial treaties were to be tolerated it is easy to be seen that they might in due time embrace all countries with whom we have commercial relations, and thus the proper functions of the House in regard to imposts and taxation would be usurped and superseded. If it is important that we do not transcend our just power, it is equally important that we do not abdicate and surrender that which we are preëminently called upon not only to exercise but to guard.

That this treaty arrangement was not to our advantage we not only have the testimony of the fishermen of Maine; the lumbermen of New York, Pennsylvania, Michigan, and Maine; the wool-growers of Ohio, Illinois, Pennsylvania, New York, and Vermont; the grain-growers of all the western States, and the manufacturers whose business with the Canadas has so notably decreased, but even the provincial officials tacitly confess to the prosperous gale they have enjoyed by the tender of terms less onerous to us, if not less lucrative to them, than those of the treaty. They feel that they can afford to treat us better.

Though we have ascertained in our recent struggle with the late slaveholding aristocracy, far more powerful than any other on the globe, that the Governments of the world do not love us nor our Republic, it is as foreign to American ideas to base legislative action upon hatred as upon fear. We are simply looking after the interest and honor of our own people, and propose that they shall not be made unhappy by the contrast of their condition with that of their neighbors in respect to taxation or markets.

I am aware that some very good people, enjoying possibly a present trade which may be in danger of being shorn of its profits, look ominously and shake their heads, saying, "Are you not afraid that our seamen—such turbulent, reckless sea-dogs—will disregard the three-mile shore line and involve us at last in a war with England?" Well, they may, but this story has "an ancient and fish-like smell," and we may as well not hug it too closely. It is true that if England desires a conflict with us a pretext may be easily obtained through collisions among eager and exasperated fishermen touching her absurd headland interpolation, but there is no lack of heroic pretexts elsewhere, and whenever the conflict comes, whatever the alleged provocation may be, or by whomsoever precipitated, no one knows better than England herself that the Provinces will be gone forever, "hook and line, bob and sinker." Not that we desire this, but, to escape the blows, they would run nearer to us.

But the terms offered in this bill in relation to the fisheries do not invite a repulse. On the contrary it is believed, especially from the frank and friendly exchange of views between the Committee of Ways and Means and the ministers representing the Provinces, who were recently here, that they will be readily accepted by most if not all of the Provinces—certainly by those most interested in the trade.

If there is any doubt on this point it is really whether the terms of this bill are not too indifferent toward our own fishermen. The public believes, and so believe the people of the Provinces, that a mutuality in the right to their shore fisheries is of great value, and hence we have had to concede some equivalent, though conscious that the right acquired, or rather restored, is vastly overrated.

The rates of duty which the Committee of Ways and Means have proposed in this bill are such as it is believed will afford revenue, and will not in any case prove prohibitory. In other words, we expect to take as much of their lumber, coal, and barley as heretofore; but before a sale can be allowed alongside of American products, the privilege must be bought with a price equal at least to our taxes, and often much greater. Even with these terms, a commission sent to China or Peru will disclose no other market so valuable. When we abandoned all duties on lumber under the treaty, the effect was not to reduce the price in American markets, but the value of lumber increased in the Provinces. Reversing our action, it is not impossible that our revenue may be increased without much additional cost to the consumer. Lumber being an article of universal necessity and incapable of any increase in quantity, only moderate duties have been proposed. At the present time we seek rather to diminish than to multiply objects of taxation; and while lumber during the war might easily have contributed a liberal revenue, it is not now proposed to levy any internal duties upon it; therefore we have only offered a scale of moderate duties. It is sound policy to make building materials cheap. Wood as a building material is used to some extent by all, and exclusively used by men of moderate means, and the lower qualities for fencing purposes are indispensable to land-owners. The reasons for exempting it from the burdens of taxation appear to be ample. Articles that were embraced in the reciprocity treaty have for the most part been treated in all tariffs for the last ten years with neglect, and the present bill is therefore the more needful.

That part of the bill which gives up the bounty hitherto paid to our fishermen may be looked upon with more distrust than anything else proposed. The pittance was small, not much more than the duty paid by them on the salt used in curing their fish, and yet the determination in some quarters to regard this as a New England question, and not a national one, has constrained even New England men to repudiate the measure—obnoxious because it has been misrepresented—and to sever at once all guardianship of the Government over our school for seamen—a school which I do not hesitate to say has been and is to-day of as much importance to the glories of our Navy as the Naval School at Annapolis, and yet one which has been maintained at comparatively a very small expense. Here five thousand seamen, it has been computed, are annually introduced to the mysteries and the perils of sailor life. France, eager to maintain her place as a naval Power, does not so legislate; but in spite of her remoteness from the little remnant of her ancient North American possessions, nurses and maintains a large fleet of fishermen by the most liberal bounties. Upon the surrender of the bounty there would be no decency in charging these men eighteen cents for every one hundred pounds of salt used by them in curing fish, and this it is proposed to remit. Whether remitted or not the fisherman can have free salt with little inconvenience by calling at provincial ports. Provincial men have complained of the bounty, but having free salt themselves, they cannot complain that our fishermen are placed upon an equality.

Hereafter our seamen, unlooked after, must be entirely self-educated and self-reliant. May we never have reason to reproach ourselves that we have ignored and deserted a class whose vocation is one of continuous toil and danger, who furnish more widows and orphans than any other class of equal numbers, and whose conspicuous bravery, whenever their country demands a sacrifice, challenges the pride and affection of every true-born American!

Such articles as the Committee of Ways and Means have proposed to place in the free list—only four in number—are those which they would most likely deem it wise to place there at any time unless the exigencies of the Treasury imperiously demanded larger supplies.

It is proposed to admit bituminous coal from the British Provinces, in consideration of certain privileges to be extended to the United States, at fifty cents per ton, while from all other places under existing laws it will be charged $1 25 per ton. The present internal duty of six cents per ton and the two and a half per cent. on the gross receipts of railroads for freight, amounting on the average to at least twice as much more, it may be hoped will at an early day be removed. If with free coal from the Provinces, while that from out our own mines has been taxed, our miners could live at all, the change which frees them from a home tax and imposes a duty of even fifty cents per ton on provincial coal, must be hailed with favor.

Coal is a raw material, and for every ton of iron made at least three tons of bituminous or two of anthracite coal are consumed. It is the motive power of railroads and steamboats, as well as of manufacturing establishments. We tax iron and all other manufactures when produced and sold, and we tax railroads and steamboats on their business. Can we not afford to have our coal free? It is, too, an article of universal consumption, required in our rigorous climate in large quantities by those unable to clothe themselves in heavy and abundant woolens or thick and costly furs; by the poor as well as the rich. There are hardly more reasons for a tax on coal than upon firewood. In addition to this, our own coal-fields are unsurpassed in extent and quality by any in the world.

But our export to the Canadas of coal from Ohio, Virginia, and Pennsylvania bids fair to

equal in amount all that we bring from the Provinces; the value of our exports in 1864 being $555,332, and that of our imports $883,805. So that under any circumstances, here is one article which approaches the idea of reciprocity, and an interchange effects economy in long lines of freight, relieving ourselves, as well as others, from positive loss.

When the reciprocity treaty was made a low tariff prevailed in Canada, and England, only eight years previously, had adopted the doctrine of free trade. Great expectations were held out by the negotiator, Lord Elgin, feeding the not unwilling hopes of our people, of an increased demand for American manufactures; but suddenly the Canadas adopted the principles of protection and largely increased their tariff on manufactures. The imperial Government did not veto these acts, and these great expectations were nipped in the bud. The United States, never expecting to find in the Provinces a market for the productions of its agriculture, nor of its mines, forests, or fisheries, at once found their manufactures also practically excluded. But now, making no compact, we yet tender a law conceding certain privileges. If this shall not be met by a corresponding liberality, sufficiently indicated in the conditions embodied in the bill, we have the right, and it will be our duty, to change the terms of the present bill for such as will be most advantageous to us, regardless of the interests of others.

The bill proposes to grant the free use of Lake Michigan as well as the Sault Ste. Marie canal to British subjects if the use of the St. Lawrence and the Welland and other canals shall be continued to us in return. The tolls we pay form much the largest share of the tolls of the Welland canal, and its use, though much more frequent, is hardly much more important to us than is the St. Marie's to them. The St. Lawrence has been very little used by us, and the right to navigate Lake Michigan appears to be a very large equivalent.

It has often been supposed that the traffic carried on over the Canadian railroads, transporting merchandise in bond for Americans, and the same with regard to the railroads of the United States and British merchandise intended for the Provinces, was conducted under the provisions of the reciprocity treaty, but that is not the fact; all this has been done for twenty years at least under Treasury regulations. It has been deemed far better that it should rest upon positive law, and, therefore, the system has been incorporated into this bill. This will insure the accommodations we now have for travel and freights to and from the West. However useful to us this outlet may be, a ship-canal around the falls on the American side at Buffalo is needed, and also from the St. Lawrence to Lake Champlain and thence to the Hudson. When this line of improvements shall be completed, and so far as my vote is concerned I am ready at all times to give them my support, a cheap water communication will have been secured that will be commensurate with the wants of the future commerce of the West, however great that may be.

I think it will be conceded that the bill is not only necessary, but one of importance; and if so, it is very desirable that it should pass in order that notice may reach all points prior to the 17th instant.

Mr. PIKE. I do not propose to make any extended remarks on this bill, but as it touches in its general provisions certain leading articles and pursuits of my people, and as I have spoken several times upon the reciprocity treaty in previous Congresses, I shall now say a few words for the purpose of endeavoring to obtain, if I can, some of the benefits which it is supposed the repeal of that treaty would confer upon us.

The objects of this bill I approve. I understand there are three leading purposes: 1. To obtain protection for those pursuits of this country which come in competition with those of the Provinces. 2. To obtain a revenue from articles imported from the Provinces. 3. To get from the Provinces, if possible, certain commercial advantages which we suppose may be obtained by reciprocal legislation.

Now, these three things can be better got in this way than by treaty. A treaty is found objectionable for this reason, among others: it is not to be interfered with during its life. It is the paramount law. Having adopted the treaty in 1854 for the purpose of interchange of products with the Provinces, we were not at liberty to impose any duties to protect the interest of this Government so long as that treaty remained in existence, but we were obliged, with all the patience we could command, to wait the slow-rolling years which should bring around in their good time a termination of the unfortunate arrangement.

Now, the bill before us is objectionable, in one point of view, in the same way that the treaty was objectionable. It does not, in its terms, form a compact, but still, without some expression of opinion to the contrary, there is a sort of implied agreement running along through the provisions of this bill, that so long as the Provinces perform the part which is assigned to them in this bill so long shall the legislation upon which their action is based continue. For one, I wish here and now to notify the Provinces, if my humble voice can be heard so far, that there is, so far as I know, no design whatever of that kind in this bill; and that hereafter this Congress at its next session, or the next Congress, or any subsequent one, will feel itself entirely at liberty to change any one provision of this bill and have a lighter duty or a heavier duty put on any article as may be for the interest of this Government, and that hereafter the interests of this Government alone shall be consulted.

I was astonished to hear the expression which fell from the distinguished chairman of the Committee of Ways and Means [Mr. MORRILL] that provided "the Provinces did not accept this bill, then we should be at liberty in our legislation to consult our own interests—as if now we were in some measure to consult provincial interests as well as our own. I say, for one, that if that is the correct interpretation of this measure, then I am against it. But although that expression fell from his lips, I am persuaded that that is not his construction of this bill, as I am quite sure it is not the intention of the other friends of the measure, by any act here, in however remote a degree, by implication or in any other way, upon the important question of the importation of articles from any of these Provinces, to bind or control the action of future Congresses.

Now, sir, the treaty which this bill takes the place of, and the negotiations which led to the formation of that treaty, proposed to regulate the conduct of the Government in relation to the products of the mine, of the farm, of the forest, and of the sea.

In relation to the products of the farm I have little to say. I see other gentlemen here who are capable of representing that very great interest, an interest which the statistics during the life of the treaty show to have been the leading interest in the business intercourse between these Provinces and this country. I presume they will take care that hereafter the interests of the farm shall not be jeopardized by the action of the Provinces. I for one am willing to vote with them in protecting the interests of the western farmer. They can tell better what those interests are than I can. As to the mines, I represent no mining interest. Other gentlemen do, and those gentlemen are able to take care of themselves. But I do represent interests which are deeply affected by this bill, interests which are not peculiar to my State, but which are the same in other leading States of the Union: these are the interests of the forest and of the sea.

Sir, in the manufacturing statistics of the country, in 1860, the lumbering interest stood in its magnitude as third; its annual product in 1860 was over one hundred million dollars. And of the whole list, comprising six hundred and thirty-one different manufactures, the fishing interest stood as twenty-second in magnitude. The capital invested was about eighteen million dollars, and the annual product over fourteen million dollars—a very respectable interest, and one which should have the consideration of this House in common with the other interests on which they legislate.

Now, sir, these two interests suffer alike from proximity to the people of the Provinces who are not taxed. In many particulars they have a common interest. In each case the men go away from home for the purpose of getting out those products, which are afterward brought to market. They fit out their "crews," the one for the forest and the other for the sea. Their pursuits are more hazardous than the ordinary run of human pursuits, for they are not only uncertain as to the markets they supply, but they run great risks in obtaining the products themselves. The one depends, in a great degree, on the snows of winter, and the other on the catch which they happen to take. If the snow be too little or too much; if the fickle fish avoid the hook, or the storm overwhelms the adventurer with destructive violence, great loss necessarily ensues. But both of these interests suffer heavy taxation. The lumberman cannot cut down a tree without paying a tax on the ax he wields. Nor can he haul a log without using a taxed chain to bind it on his sled, and as he drives and saws his winter's stock his expenditures for taxation increase. Everything he uses down to the brad in the end of his goad-stick must go through the hands of the assessor. There is no escaping. He marches through taxation as through a cloud that constantly envelopes him.

And so with the fisherman. The moment he begins to obtain his "outfit" he is taxed. He buys taxes with his hooks and lines, and he covers himself with a taxed "ile sute" and "sou'-wester." He is taxed for the food he takes with him, and he is taxed on his clothing; and above all, the vessel in which he sails is the most heavily taxed thing in this country.

Why, sir, these interests realize the celebrated description, by Sidney Smith, of English taxation, which ran through the whole life of man from the cradle to the grave, from the taxed top of the school-boy to the taxed hearse on which the old man was borne to his last resting-place.

And in two important particulars the Provinces have an advantage over us in both these pursuits. They are nearer the fishing grounds. They may in the intervals of fishing attend to other pursuits, while our people are obliged to make a distant voyage and be content with such result as they may be able to obtain from it alone. They have free forests. New Brunswick sells her lumber by the square mile, and the operator can, for a nominal sum, annually take as much as he pleases. Canada scarcely averages fifty cents per thousand for stumpage. In these important particulars, the Provinces have advantages that are of great importance.

Sir, under these circumstances, shall we allow these pursuits to be unprotected? You make all these assessments, tariff and other tax, for the benefit of the whole country. Go over the list of manufactures, and you will find a protective tariff of thirty and forty and fifty per cent. And the men engaged in these important pursuits have to supply themselves with articles from this heavily taxed list.

Now, sir, these people engaged in these pursuits come in competition with a people every way similar to our own; hardy, prudent, skillful. Perhaps as skillful mariners as ever sailed a ship can be found in those Provinces. They are celebrated as boatmen, and have heretofore taken the yacht prizes away from the most famous yachting clubs in this country. They are a vigorous, active race of men, and what is important to us, as lightly taxed as any men on this globe. The British Provinces to-day are the least taxed of any country where there is a system of taxation. I have examined into this matter, and I find that taking our town, county, and State taxes, and adding them to

the taxes of the General Government, we pay very greatly more than they; enough more to make it a considerable element of cost in anything we produce.

Now, sir, I am not going to make a long speech upon this subject. But in considering and arranging a tariff, I propose to bring up the duties on fish and lumber so that they will approximate somewhat to the general average of the duties imposed on dutiable articles. The average of duties is about forty per cent. taking the whole list of importations into the country.

The committee in this case propose a very low taxation upon the article of dried codfish, selling now in the market of New York for ten or eleven dollars. They propose a tax of about fifty cents upon the quintal, or five per cent. Upon the article of mackerel, which for the last six years has averaged twelve dollars a barrel, they propose a tax of one dollar a barrel, which is about eight per cent. of its value. And so upon some of the other articles. I propose to change that, so as to bring the duty up to about twenty or twenty-five per cent. of the value.

And I wish to say a few words upon the question of fishing bounties, to which the gentleman from Vermont [Mr. MORRILL] referred, and upon which the gentleman from Illinois [Mr. WASHBURNE] is in the habit of holding forth so interestingly. The fishing bounty has been in existence ever since the year 1790. The first act was framed in 1790, and gave a small bounty upon fish, stating expressly in the act as the reason for it that it was in lieu of duties imposed upon the importation of salt. That was the only reason ever existing for giving these fishing bounties. That act has been changed from time to time, and during the war of 1812 and 1814 it was repealed temporarily. Afterward it was reëstablished and has come to be a settled thing.

Since I have been in Congress I have constantly said that I was willing the fishing bounties should take the course of other articles. I have said that my constituents did not wish to come here as mendicants; they did not ask favors of Congress in regard to this matter of fishing bounties. But the Congress of 1854, while adopting a protective system in other respects, shut out the fishing interests of this country. They allowed those provincial people to come in here and compete in our markets untaxed, while our fishermen were taxed in respect to everything they consumed. I have said that when this reciprocity treaty was repealed, and this fishing business was placed on a par with every other pursuit, we will not ask for these fishing bounties. For that reason I do not object to having this fishing bounty taken away; for it was not a bounty, but simply an exchange for the duties which the Government collected from the fishermen on the salt they consumed.

This bill contains a provision which is supposed to be for the benefit of the fisherman—a provision for giving him a drawback upon salt. I am very glad that that provision has been presented; but it is not for the benefit of the fisherman. It is for the benefit of the merchant who supplies him. The fisherman, under our present law, can take out his outfit at home, sail into the Provinces, buy his salt at Halifax, cure his fish, and bring them into New York. Of course he pays no duties on the salt; but there is an inconvenience about the transaction. It is much more convenient for him, when obtaining his outfit, to get his salt with his other articles and have them all packed together. It is much more convenient that the merchant who furnishes the outfit should have the profit on the salt; that our ships should bring the salt from Liverpool, which is the salt the fishermen use, and should deposit it here in the storehouses of our merchants. This is much better for the trade of our country than that the salt should be brought to Halifax and our fishermen obliged to buy it there, leaving our merchants without their profit and our ships without the freight.

For the general benefit of trade and commerce this provision is very good, and I hope it will be retained; but as a protection to the fisherman, how idle it is to talk of it. The whole of this duty on salt is eighteen cents to the hundred weight, and it takes a hundred weight for a quintal of fish, so that the drawback would be only eighteen cents on the quintal of fish.

Now, sir, I have here letters from highly respectable gentlemen in my district in relation to this matter of fishing. One gentleman writes:

"One dollar invested in Nova Scotia will do as much toward fitting out vessels and hiring men as two dollars will here; and unless we have ordinary protection, we will have to give up the business to Nova Scotia men or carry it on there. It is impossible for us to carry it on in Maine, competing with people of the Provinces, under this scale of duties."

Mr. SHELLABARGER. Will the gentleman from Maine yield to me a moment?

Mr. PIKE. Yes, sir.

Mr. SHELLABARGER. I desire simply to inquire of the chairman of the Committee of Ways and Means, [Mr. MORRILL,] whether it is the purpose of that committee to bring in a general tariff bill at any time during the present session of Congress. I see that the provisions of the bill now before us do touch somewhat upon the general tariff question; are not confined exclusively to importations from the British Provinces. I propose my inquiry, in order that it may become known to the country whether the committee propose to bring in any other bill. We of the West feel considerable interest in the question of increased protection of American wool; and I should be glad to obtain some information on this subject.

Mr. MORRILL. In response to the gentleman from Ohio, I will say that it is the purpose of the Committee of Ways and Means to report a tariff bill which will include duties upon wool. But it is proposed first to act upon the subject of internal revenue, which may affect to a considerable extent the adjustment of the tariff.

In relation to the subject of wool, I may say to the gentleman from Ohio that, as I understand, a committee of the wool-growers from various parts of the country have held meetings at New York and Philadelphia, and after a conference with the wool manufacturers have agreed upon a scale of duties which they will recommend to Congress. I presume that we shall be able to adopt that scale of duties, whatever it may be. Certainly if it is a reasonable one, as I have no reason to doubt it will be, it will be satisfactory to myself.

Mr. PIKE. I have another letter from several gentlemen, known to me as gentlemen of high character and intelligence, who are engaged in this business. They say:

"The duty on dry fish is entirely too low, and if passed will throw the whole cod-fishery into the hands of our provincial neighbors.

"Fish can be caught in the Provinces two dollars per quintal cheaper than we can catch them, and we want about that amount of protection in some shape."

I have other letters of the same purport. They all show that it is an absolute necessity to receive some protection in order to carry on their business, otherwise they say they cannot compete with a people living in proximity to the fisheries and running the race of competition with a light weight of taxation.

We do not wish to see these people driven across the line for the purpose of escaping taxation. No doubt they can go, but they will go with the greatest reluctance. They are not a character of men who can readily change their pursuits. They have education in this as others in mechanical and professional pursuits. They were born in this kind of pursuit, and they have followed it for a livelihood and must continue to follow it or suffer from want.

Under these circumstances, the question whether we should look to our own interests or the interests of these Provinces should be readily decided. Why should Congress endeavor to protect the interests of the Provinces instead of the interests of these men?

Is there anything in their history for the past half a dozen years which should induce us to do it? I do not desire to excite any prejudice in this House; but the matter would be only half presented did we not take into consideration the character of these two parties, did we not remember that on the one side we have a population loyal to the Government. If that means anything in these days, if it be creditable to have stood by the Government when it needed assistance, if there be anything in that fact, let me say these men have contributed of their substance freely, and furnished their full quota to the war. I ask the House, while taking this into consideration, also to bear in mind the additional fact that the war was prolonged and the services of more men were rendered necessary by the conduct of the people you propose to take care of. Some of their ports were the rendezvous of blockade-runners and piratical cruisers upon our commerce. Halifax, the headquarters of provincial fishermen, was also headquarters for depredators upon our interests. It is too soon yet to forget the Chesapeake or the Howqua. I am amicably disposed toward the people. I wish them no harm; but I cannot respond to the desire to protect their interests at the expense of our own.

By the bill the Provinces are to give us free fishing along their coast. They are not to insist upon the three-mile restriction to which we foolishly agreed in the convention of 1818. But my constituents assure me they do not place great value upon the boon. They are willing to take their chances of catching fish where they can, and allow the provincials to do the same. They write me not to be influenced by this consideration.

Mr. Cartier, in the Canadian Parliament, said three years ago that the cod fish was a valuable fish, and was strong enough to carry the treaty of 1854, and that it would carry a renewal of the treaty in 1865. But the fishermen that I represent assure me that the codfish does not swim within three miles of Nova Scotia, and for that reason there is no need of asking provincial permission to catch him. Mr. Cartier should rely upon some more stable assistance in carrying a measure of this magnitude.

Sir, I have already spoken longer than I intended. I have this to say, in conclusion: that while we yield the bounty, while we yield the reciprocal part of this bill, we do ask to be treated fairly. While we are advocates of the great protective interests of this country, while my constituents year after year send men here to vote a protective tariff on all the great industries of the country, thus benefiting others and endearing the prices of the articles they consume, while we willingly and cheerfully pay our additional assessments in consequence of the tax upon the various articles of consumption, we in turn ask to be treated simply with average fairness. We ask barely the average of the protection we cheerfully accord to others. I trust to the sense of justice of the House to accord it to us.

Mr. WASHBURNE, of Illinois. I am not going to speak to the general question of this bill, for I have not yet made up my mind to what extent I shall support it. But there is one provision in it which has my hearty approbation; and it is the precise one which was reported by the Committee on Commerce repealing the fishing bounties; and I desire at this time simply to place upon the record something in relation to these fishing bounties in order to show when a particular interest gets once fastened upon the Government how it holds.

The gentleman from Maine [Mr. MORRILL] has properly stated that these fishing bounties commenced under the law of 1790; and they have been kept up by various acts since. They owe their existence much, no doubt, to the rhetorical and rounded periods of Mr. Webster.

Now, I have a statement here furnished by the Treasury Department showing the vast amount of money this country has paid to this favored interest. It appears that we have paid since 1793 no less than $15,341,734, amounting to an averege of $222,329 per year.

Mr. PIKE. Probably not one quarter of the value of the six million acres that the Illinois Central railroad got.

Mr. WASHBURNE, of Illinois. I am not here to discuss that question. I discussed it yesterday, and shall be prepared to discuss it hereafter whenever the question comes up. I am here to discuss the fishing bounty; and I am happy to see my friend from Maine [Mr. PIKE] is magnanimous enough to come out to support the proposition to strike off the fishing bounties. I believe the gentleman has been very fair about it. And I will say it is to the credit of my distinguished colleague on the Committee on Commerce, [Mr. ELIOT,] who represents a large fishing interest, that he also concurred with the other members of that committee in reporting this bill to repeal the fishing bounties.

But I was simply desirous of calling attention to the large amount of money paid for fishing bounties, as shown in the following table, prepared by J. A. Graham, Assistant Register of the Treasury Department:

Statement exhibiting amounts paid for fishing bounties from 1791 to 1865, both inclusive.

Years.	*Bounties.*
1791	-
1792	-
1793	$72,968
1794	93,765
1795	66,282
1796	76,889
1797	80,475
1798	94,688
1799	128,607
1800	87,855
1801	74,520
1802	104,448
1803	117,173
1804	145,988
1805	152,927
1806	162,190
1807	161,253
1808	143,716
1809	47,165
1810	3,406
1811	-
1812	-
1813	-
1814	-
1815	1,811
1816	84,735
1817	119,915
1818	148,918
1819	161,622
1820	197,833
1821	170,054
1822	149,897
1823	176,711
1824	197,179
1825	198,728
1826	215,860
1827	206,185
1828	239,147
1829	261,071
1830	197,641
1831	199,631
1832	219,747
1833	245,183
1834	218,220
1835	223,787
1836	213,090
1837	250,180
1838	314,150
1839	319,855
1840	301,631
1841	355,141
1842	235,613
1843	169,934
1844	249,075
1845	289,839
1846	274,944
1847	276,427
1848	243,434
1849	287,601
1850	286,796
1851	328,267
1852	304,589
1853	323,199
1854	374,286
1855	346,196
1856	271,838
1857	464,178
1858	389,500
1859	426,962
1860	484,821
1861	457,358
1862	429,556
1863	355,097
1864	352,876
1865	317,218
Total sixty-nine years	$15,341,734
Average per year	$222,329
Average under law of 1792	100,795
Average under law of 1813	265,213
Average per year for last twenty-five years	331,785
Average per year for last six years	399,473

During the late war, when the country has been taxed to its utmost to raise funds to carry it on, we have paid three or four million dollars for these bounties to the fishermen.

Mr. ELIOT. I want to say for myself just here, that while it may be true that the amount stated by the gentleman from Illinois [Mr. WASHBURNE] has been paid by this Government for the bounties named, yet it is also true that there is not a great maritime Power on the face of the earth that has not paid double, treble, and nearly quadruple the amount that this Government has paid, either in the form of direct or indirect bounty to the cod-fisheries belonging to those nations, for the very purpose of securing to them that which this Government desired to secure to our fishermen; that is to say, a firm, able and skillful body of men who in time of war could stand upon our decks and quarter-decks and fight our battles at sea.

Now, sir, there is not a naval Power on the earth that has not done twice and three times as much as this nation has done.

Mr. WASHBURNE, of Illinois. I have not been speaking about what other Powers have done. I have been showing by official records the amount of bounties paid to this interest in the Northeast, amounting, as I have said, to the sum of $15,341,000.

But the gentleman has also put it upon another ground, one upon which it has been often put; he claims that these bounties are necessary to sustain this nursery of fishermen. Now, I could never realize that exactly, any more than that we should grant a bounty to beef and pork to sustain a nursery for soldiers on the prairies of Illinois.

Mr. BLAINE. If the gentleman will allow me a moment, I wish to state this fact, to which I called attention in the Thirty-Eighth Congress: that but $15,000,000 has been paid to this interest from the beginning of the Government. Now, sir, the war progressed three years before bounties were paid to men who enlisted in the naval service. If the number of men brought up in these fisheries who enlisted in the naval service had been paid the average bounty that was paid to soldiers, the amount paid would have more than doubled the entire fishing bounties which have been paid in seventy-six years.

Mr. WASHBURNE, of Illinois. Independent of any question of the amount paid, many of these bounties have been obtained through the grossest fraud and perjury, and I think that was one of the reasons why my colleague from Massachusetts [Mr. ELIOT] on the Committee on Commerce was induced to give his consent to the repeal of the fishing bounties. I have a letter here on this subject from the Secretary of the Treasury, which I ask to have read.

The Clerk read, as follows:

TREASURY DEPARTMENT, *February* 7, 1866.

SIR: In reply to your inquiries relative to the operation of the existing fishing-bounty laws and their contemplated repeal, contained in your letter of the 3d instant, I transmit in the first place a copy of the regulations that have been prescribed by this Department to aid in carrying out the laws on the subject.

From these you will learn the main features of the laws, their dates, and the method of carrying them into execution.

I transmit likewise a tabular statement of the amount of bounties paid (in the aggregate) each year for the last seventy-three years, ever since the first enactment of a bounty law in 1792.

You will observe that the aggregate amount paid in the last six years is $2,396,840, and the average $399,473. The payments were somewhat reduced in 1863, 1864, and 1865 by various causes, partly, of course, by the same which effected so large a reduction in the tonnage of other branches of our mercantile marine, and partly by the efforts made to prevent fraud and irregularity in preferring and allowing the claims.

The law of June 20, 1864, also effected some reduction in the amount of bounties paid, many of the fishermen preferring the privilege of purchasing their salt in the British Provinces free from the duty imposed by our laws to their claim for bounty. From this cause the allowances will doubtless this year fall largely short of the general average, though it is impossible at present to speak with exactness on this point, the estimates not having been approved as yet. Touching the matter of frauds it is of course impossible to make any definite statement of their extent. I can only say that in the last season nearly a hundred vessels were thrown out of the lists from various causes, upon the report of a special agent assigned by the Department to investigate the claims. The character, too, of the frauds and irregularities is as various as their number is uncertain. I will mention a single instance where a claim in due form was presented for bounty upon a vessel which was discovered to have been for several years dismantled and sunk in an obscure inlet. A principal means of fraud, and one which it is frequently difficult to detect, is found in the very general practice of fabricating the log book after the termination of the voyage, so as to present a history such as will secure the bounty without regard to the facts of the case.

I learn that the making of "logs" is a branch of trade of considerable importance at some of the fishing ports.

These are doubtless incidents inseparable from the bounty system; I therefore suggest no remedy, but being satisfied that the Government receives no advantage from the payment of bounties I have recommended their discontinuance.

My object in suggesting a provision allowing fishermen to take their salt from bond without payment of duty was to compensate them in a certain degree for the loss of bounty by contributing so much to their convenience in the purchase of salt at home rather than in the British Provinces. The Government loses nothing in duties, for the fishermen would, without such liberty, avail themselves of the existing law to purchase abroad, and the benefit to our carrying trade is considerable, because the salt market is transferred from British territory to our own.

It was with these views that I transmitted my recommendations to the Committee on Commerce on the 11th ultimo.

I am, sir, very respectfully,

H. McCULLOCH,
Secretary of the Treasury.

Mr. WASHBURNE, *Chairman Committee on Commerce, House of Representatives.*

P. S.—I need hardly add the amounts paid in each year are for bounties earned in the season preceding.

Mr. PIKE. I would ask the gentleman whether the frauds referred to did not occur under the very corrupt Adminstration of Mr. Buchanan, and whether these frauds were not done away with under the Administration of Mr. Lincoln.

Mr. WASHBURNE, of Illinois. I cannot state.

Mr. PIKE. I understand that to be the fact.

Mr. WASHBURNE, of Illinois. I am sorry to say that from this report of the Secretary of the Treasury it appears that it is not so.

Mr. PIKE. So far as I know, it is.

Mr. WASHBURNE, of Illinois. I have said all I desire to say.

Mr. BANKS. I do not doubt that there have been many frauds connected with the fishing bounties, perhaps to the extent described by the gentleman from Illinois, but frauds are inseparable from all matters connected with the Government, and if we are to abolish any tax or revenue or system of favor on account of possible frauds, we shall have no Government at all. The gentleman from Illinois must see that he would destroy every means the Government has to support itself on the reasoning of the Secretary of the Treasury. I do not doubt that it has cost something to maintain the fishing interests, and perhaps as much as has been stated, and yet the Government has derived much benefit from it. The fishing interest was the foundation of the commerce of these States. But for the prosperity which it initiated and upheld there would hardly have been a constituency in the State of Illinois. It has enabled the capitalists of this country to expend $1,100,000,000 for railroads, $800,000,000 of which have been expended within the last ten years. And it will enable the country to spend $800,000,000 more during the next ten years for railways, in a great degree for the West, during the next ten years. It is not exactly just nor exactly liberal for the gentleman from Illinois [Mr. WASHBURNE] to taunt the East with the receipt of this bounty, even to the extent which he has stated, when it has been expended to build up the prosperity especially of his particular section of country.

Mr. WASHBURNE, of Illinois. It was not in the nature of a taunt. I only stated a fact; I am not in the habit of taunting.

Mr. BANKS. I received it as a taunt. The gentleman said he was going to put it upon record for the benefit of future generations.

Mr. WASHBURNE, of Illinois. A statement of the amount of money paid to this interest.

Mr. BANKS. I desire to say to the gentleman—not for the purpose of having my reply go down to future generations—that that which was given us was for the benefit of the country; and it was as wisely expended and as wisely

bestowed as any other favor ever received from the Government by any other portion of our people. As we have progressed in civilization and prosperity, we have been able to dispense with this assistance. And I do not suppose that that part of the country which I represent in part will press against the judgment of the West or the central portion of the Union the continuance of this bounty.

Mr. ALLEY. I rise merely to say a word in reply to the remarks of the gentleman from Illinois. I have the honor to represent a district which is largely interested in the fisheries, and I cannot permit the declarations and statements of that gentleman to go to the country without saying a word in behalf of an interest so important to the country generally, and to my constituents in particular.

I am not surprised, but I am very sorry, to see the gentleman from Illinois [Mr. WASHBURNE] assailing every interest that favors New England upon every opportunity that presents itself. I know not why it is; but ever since I entered Congress, he has seized with avidity upon every opportunity to censure the acts of New England, and to go against her interests. That he is watchful and vigilant in guarding the door of the Treasury I know, and for this I commend him; but it seems to me he is a little more severe upon New England interests than justice or policy require.

Now, with regard to this question of the fishing bounties, it seems to me that there was no necessity for the gentleman from Illinois to make such an attack upon that interest as he has made upon this occasion. With regard to the charges of fraud that have been made upon those who have received the benefit of this bounty, that has been the cry from the commencement of the opposition in this Hall to this bounty system. The repeal of those fishing bounties has been sought over and over again by the southern members of Congress when they were here, upon the ground chiefly that the interests of New England were thereby favored to the exclusion of other sections of the country, and so apparent did it appear that it was solely for that reason that their efforts proved always unsuccessful.

Sir, as my colleague [Mr. ELIOT] has observed, it has been the policy of all other nations to favor above almost any other industrial pursuit the fishing interests. England has spent ten dollars where we have spent one in fostering that interest. France has done several times as much as we have done in the same period of time. Spain has done a great deal. And even Portugal has regarded that interest as one of the most important. At times in her history, I believe, she has regarded it as the most important of her material interests. And so also with thrifty and sagacious Holland, as it has been with all countries that have had a fishing interest to sustain and foster.

It has been conceded, I believe, by all statesmen in other countries, and it has been held by the wisest statesmen of this country ever since the organization of the Government, that there was no interest that needed fostering more than the fishing interest, so far as the growth and prosperity of the maritime interests of the country were concerned. And whoever will reflect upon the advantages which have been secured to the maritime interests of this country, and understands and comprehends what the fishing interest has done for commerce, what it has done in the way of furnishing men for our Navy, I think cannot certainly grudge the small amount expended by the Government for the fishing bounty system.

If there was no other benefit to be derived from it than that we have already derived from its being a nursery of seamen for the benefit of the commerce of the country and the naval interests of the country, that alone would be sufficient to justify this small expenditure. For although in the aggregate it amounts to a large sum, when you consider the period of time it covers, from 1790 down to the present moment, a period of seventy-six years, the amount per year is very small.

Why was it that the fishing bounties were granted by the founders of the Government? Chiefly because they saw the overruling necessity for a nursery of seamen, but partly, also, on account of the onerous duty on salt; and the benefit which has been derived from that source has gone a great ways to offset the amount paid out for bounties.

But, Mr. Chairman, that the fisheries are of vast importance to this country, as much so as to any other country, needs no argument, I trust, to convince this House. That they are local, comes from the necessities of the case, and however much gentlemen may be disposed to disparage them, they form, and must continue to form, an important element not only affecting vitally our material interests, but as nurseries of seamen of overshadowing importance to our commercial and naval service. What American does not feel proud of the glorious record made by our hardy fishermen in maritime warfare upon the decks of our frigates and gunboats in the several wars in which we have been engaged? I cheerfully admit that in striking down the fishing bounties you give them some equivalent, though slight, in other provisions of the bill, for which, I trust, we shall be duly thankful.

Mr. WASHBURNE, of Illinois. The gentleman from Massachusetts has accused me of voting against New England measures. I would like to know what particular measures I have voted against which he has not voted against. He has made a general statement; I desire that it shall be made specific.

Mr. ALLEY. I will say, Mr. Chairman, that I am not here to specify any particular measure; but I do not believe that there is an individual member who has been here as long as I have who will not bear witness to the truth of my assertion when I say that the gentleman from Illinois has upon every occasion gone against New England interests, especially when it involved expenditures of public money.

Mr. WASHBURNE, of Illinois. Can the gentleman state one occasion when I opposed New England interests? I can state one occasion when the gentleman from Massachusetts undertook to get in a little amendment about leather. I went against it, and the House went against it also. [Laughter.]

Mr. ALLEY. The gentleman's statement is a gratuity entirely; I never undertook to get in such an amendment, never against a vote of the House, or when the House did not sustain me.

Mr. GRINNELL resumed the floor.

Mr. LYNCH. Will the gentleman from Iowa yield to me for a moment?

Mr. GRINNELL. Yes, sir.

Mr. LYNCH. The gentleman from Illinois has said that the Government has paid to the fishermen $15,000,000.

Mr. WASHBURNE, of Illinois. I did not say that. The Secretary of the Treasury said it.

Mr. LYNCH. Well, as I understand, the gentleman takes the ground that that $15,000,000 has been paid as a bounty to a class interest. Now, I desire to ask the gentleman a question. If that interest had been taxed $15,000,000, who would have paid the tax finally? Would not the consumers have paid it? I presume the gentleman would answer in the affirmative. Now, sir, if $15,000,000 has been paid by the Government as a bounty, have not the consumers finally got the benefit of that?

Mr. GRINNELL. Mr. Chairman, I shall hereafter, when the opportunity arises, offer the following amendment:

> Add at the end of the third section the following: On wool ten cents per pound, and ten per cent. *ad valorem*; cleansed, twenty-five cents per pound; and on shoddy or mungo, fifty cents per pound.

Mr. Chairman, the national pulse has a feverish throb. Rumors of conspiracies against our national credit pass from city to city with the speed of lightning. The alliance of any party with our foreign enemies was thought to be impotent for mischief while carrying a debt to be honorably discharged by a tariff and internal revenue tax. We have rested in a delusion. Foreign emissaries, taking advantage of gluted grain markets, since a mighty army of men and horses are disbanded, and the high price of fabrics woven with dear labor, and from cotton many times its usual price, are perambulating the Northwest, organizing free-trade leagues, with exclamations on the rumors of rich dividends on manufacturing stocks, and scattering their tracts thick as autumnal leaves in the forest, and are hopeful of early results. It is section against section, occupation against occupation. The national league is officered most sagaciously with an array of high-sounding names, and in the back-ground are the sinews of this foreign warfare, controlled by agents apt in combinations, who have, by the enlistment of newspapers, adopted one half of their free-trade maxim, namely, "to buy where you can buy the cheapest."

We are carried back to that well-established fact in our legislation, that subscriptions were made in Manchester and Glasgow of $60,000, and in all not less than $1,000,000 were spent of British money to break down our tariff in 1846. This was deemed a wise investment if but one per cent. was made on their exportations, and since they sold more than one hundred million dollars' worth of goods a year to us following 1846 than the five years preceding, the return was most satisfactory. How much more tempting is the prize now! We have added ten millions to our people and from four million things have made men with the wants of civilization. Hungry war for years has devoured our substance, and fratricidal strife and slaughter has lessened our usual production, yet we have a surplus of 50,000,000 bushels of wheat and 200,000.000 bushels of corn waiting for purchasers. An annual importation of $370,000,000 in value of goods fails to glut the market, and our bonds, by the world's judgment better than consols, can be had for sixty-five cents on a dollar by a gold standard; and so stands our national balance-sheet that after exporting all our gold and the same amount of domestic products the present year as the last, that to protect our bonds and corporate indebtedness $200,000,000 in value of our bonds would be required. No wonder that we tempt the spirit of perfidy and cupidity which, like birds of evil omen during war, hovering, waited for our national annihilation.

I have before me a letter of recent date from one of our distinguished citizens now in London, from which I read the following:

> "The idea of supplying our markets is uppermost in their minds. Their iron-works are vastly extended—one establishment covering near twenty acres of land. They have no idea that we have a right to do anything but raise the raw material and send it to them to be worked.
>
> "I wish every American could hear these British talk free trade. They fairly hate us because we have a tariff. A member of one of the largest manufacturing firms in Great Britain said they would have our tariff reduced this session of Congress. They think MORRILL ought to be hung instead of Jeff. Davis—a very high compliment."

Our consul at Liverpool warns us that great efforts will now be made by English capitalists and manufacturers to induce us to reduce our tariff and permit them to do all our manufacturing. "There will be a terrible pressure put on the Government." This is the language of the London Mining Journal:

> "The formal constitution of a free-trade league in the United States is a very hopeful sign. The representatives from the South are almost sure to vote for it, and it will be strange if the West does not. Should these anticipations prove true, we may expect a very large trade with that country."

But on home testimony this suspense is not to be of long continuance. An officer of the league, author of the "Buckeye Abroad," and of "Eight Years in Congress," who made in this House a strange commingling of figures and fiction, takes up the prophetical office in his book of speeches, and announces prefatorily that "before 1868, agriculture and commerce, labor of all kinds, consumers of every degree, will join in a new Bund to rescue famishing toil from fiscal tyranny." Such is the strain prophetic taken up by that Samuel who has not perished between the temple

of freedom and the altar of sacrifice. Such are the emissaries who would destroy our domestic industry and give England a market worth more than the trade of her colonies and the Indies. Stern justice is the most we owe to that country, and before asking us to accept of the selfish theories of her economists and bribes of her agents let her make apologies that in the drear night of our war she raised slave-driving traitors to the dignity and power of belligerents. Let her atone for masked neutrality compounded with the crimes of pirates, when her honored citizens furnished capital for the fitting out of the Alabamas and Shenandoahs to sweep our commerce from the ocean, and meet our claims of millions of dollars lost on the oceans, with which that Government is chargeable, then we may consider the question of "famishing toil," and whether it shall be our policy to degrade and oppress labor to the foreign standard or invite the skilled artisans of the Old World to the comfort and competence to be found in the New. The question of our national independence and readiness to meet any domestic war or foreign invasion I leave to be decided by the following reflection, which needs no comment, being both a financial lesson and a political caution and warning:

ECONOMY FROM AN EX-REBEL.

A sagacious rebel general recently remarked, "We made two great mistakes. Had we avoided them we should have conquered you. The first was that we did not substantially destroy the protective features of the tariff in the winter session of 1857-58 by an act which provided a rapid annual sliding scale to free trade. As a Democratic measure, we could have passed such a law and held it tight on you till it had closed the furnaces, workshops, woolen and cotton mills, and steel and bar and iron works of the whole North and West, and scattered your workmen over the prairies and Territories. When the war was ready for you you wouldn't have been ready for the war. You could not have armed and equipped and put in the field a large army, nor built a navy. You would have been without supplies, machinery, and workmen, and you would have been without money and credit. Our second mistake was in withdrawing our Senators and Representatives from your Congress. Had we left them there, their vote, combined with the northern Democratic, would have thwarted every military and financial measure necessary to enable you to carry on the war for a sufficient length of time to have enabled us to seize the Government, occupy some of your States, obtain recognition abroad, and dictate hard terms to you. How the —— we blundered in these two respects I can't understand, except upon the hypothesis of an overruling Providence."

He who now, under the guise of friendship for labor, proffers free trade or even a reduction of our tariff, save to make it equal, and shouts "Monopoly!" to decry our manufactures, strikes at our infant enterprises, builds up mighty rivals, and deserves execration. I venture a reply, and propose to

1. Examine the charge of monopoly.
2. The theory and practical results of free trade.
3. The true policy and just demands of the agricultural interests of the Northwest.

MONOPOLY.

Monopoly is a most convenient term of reproach on the lips of free traders who find it more convenient to excite prejudice than to answer arguments, it meaning exclusive advantages or control by production or sale. It is easy to prove that free trade tends directly to establish a foreign monopoly, while protection will distribute the benefits of trade and production at home.

A hundred years of direct and indirect protection, by the British Government, of their manufactures, has brought together well-skilled labor, and making an alliance with a moneyed power has secured colossal fortunes which at the first opportunity would be launched upon infant enterprises, paying larger interest for money and meeting heavy internal taxes, and without governmental protection.

Great Britain has had a long experience. She controls her own markets, and has the power to combine her merchants, ship-masters, and capitalists to break down any rivals. She has nothing to fear from unfriendly legislation, and experience has given a technical and business skill which sways a capital that will forego returns to-day, if on the depression or ruin of our industry she can in the future dictate prices to her rival as in the past.

The power of capital entices the strong and controls the weak. In the language of Edmund Burke, "The large capitals of Great Britain are the great instruments of warfare against the competing capital of foreign countries, and are the most essential instruments now remaining by which the supremacy of our manufactures can be maintained." Our labor costs thirty per cent. more than hers, and cash capital is fifty per cent. dearer; but by protection our workmen became so far skilled, and aid to such an accumulation of capital by skillful management that certain articles are made cheaper here than in any other country. There are, of this class, printing presses, sewing-machines, India-rubber goods, reaping and mowing machines, forks, hoes, axes, shovels, cut nails, combs, tacks, and clocks. Who believes that if Great Britain alone manufactured these articles that they would be as cheap as now when we can defy her competition in the markets of the world? Repeatedly has she broken down rivals to control the markets, and nothing is plainer than this, that the spirit which forbade the colonies to manufacture before the Revolution, and has used the power of genteel bribery to break down our tariff, was to establish a foreign monopoly, whose establishment could be measured by the dependence of labor, and their regard for us by the prospect of national destruction.

If, then, tariffs create a monopoly, it is one in which the Government and the whole people have an interest, furnishing articles for taxation and giving scope for enterprise and diversifying labor, establishing independence and thrift by those methods approved in the history of the strongest and wisest Governments of earth. It is our first duty to secure to the nation those privileges to which the endowments of nature give title; to discriminate against another Government is to invite labor on our own soil to be better paid, and where the citizen may find a fair field for his industry and skill. Is it then the monopoly of trade or a section? Not at all. He may at his option work in leather, at the forge, in the cotton or woolen mill, whether a citizen of Maine or Iowa. There are no special permits for the purchase of cotton or wool or leather. Water-power, from the Merrimac to the Missouri, can be obtained for a trivial sum. In Pennsylvania, coal lands by the acre can be bought at the rate of one mill a bushel for coal in the mines; and iron ore at one penny a ton. The untold mineral wealth of Lake Superior and the iron mountains of Missouri are awaiting purchasers at nominal figures. From the meeting of the turbid waters of the Missouri with the Mississippi, up to the leaping Minnehaha, there is water power, virtually free, sufficient to weave clothing for all the people on the globe, and coal sufficient in the State of Iowa alone, by the testimony of geology, for domestic and manufacturing purposes to meet the wants of all civilized nations, which can be bought at the price of a New Jersey peach orchard or a New England pasture by the acre. Where is the manufacturing monopoly? Capital from abroad and skilled labor are more than welcome. The protection of law, national pride, and every social interest, invite competition and summon capital, enterprise, and skill, to share the dividends of mechanical industry. What more delusive, then, than this cry of monopoly when all the avenues of trade on our own soil are alike open to every capitalist or free-trade croaker, native or foreign?

THE PROPOSED ANTIDOTE.

I turn to the antidote of monopoly—free trade—most wonderful panacea for a nation's ills, as if the physician, prescribing in sickness, ever took his own medicine. It is not France, her annual tariff duties being next in amount to those of Great Britain, which are $120,000,000 annually; more than double our own; as a term applied only a philological petty larceny; nor does the real free trade, as illustrated by Portugal, Turkey, and nations of lower rank, present those attractions which should swerve us from our national policy. In the decline, not less than in the rise and progress of nations, we have enforced the wisest lessons of political economy and warnings in the memory of those years which mark the eras of 1837 and 1856, under a rule which brought low prices, little demand for labor, financial convulsions, and bankruptcy in our country.

Free-trade maxims and theories may be politically sound as between States under one Government with joint liabilities and common interests and motives to expansion; but can we put them in practice? I answer, no; involving—

1. A breach of faith to the employers of eight hundred millions of capital which has been invested under the implied pledge of protection such as a tariff affords against the inundation of the country with foreign goods. It is the policy inaugurated in the preamble to the second act passed by the First Congress, that—

"Whereas it is necessary for the support of Government, for the discharge of the debts of the United States, and for the encouragement and protection of manufactures, that taxes be laid on goods, wares, and merchandise imported."

Washington, in his homespun, signed the protective law; and the nation has never had a free-trade President, but rather received those molding influences by the authority of the great names pledged to manufacturing interests, leading to a development that for the last fifty years their growth has been double that of our population.

2. A change of our long-approved policy would involve a reducing of our operatives, the workers in iron, leather, and in the cotton and woolen mills, proximately to the standards of foreign labor. That plane of the operatives of the Old World which represents a hundred million people is far below ours in the diffusion of intelligence and the promotion of comfort and morality. Our ten millions would have no adequate power to draw up to us a hundred millions wanting in the versatility of our people too poor to emigrate; and the alternative would be presented in a demand inexorable as death to sink to poverty and discomfort or seek another employment. Mercantile or professional life would furnish but few openings, and skilled labor could only betake itself to agricultural pursuits. What arithmetic could then compute the years of apprenticeship and dear experience wasted by millions as novices? Where the scope for mechanical skill and inventive genius so necessary to develop and employ the varied gifts of the race? The delicate artisan, with untrained muscle, then comes into competition with brawny workmen in the field, and, transferred from a profitable consumer to a producer, there follows overproduction and a glutted, worthless market.

3. It would deprive the nation of that cheap method of collecting revenue which, by the concurrent judgment of the wisest Governments, is the least oppressive and offensive to the people. It would destroy, by a safe judgment, two thirds of the product of our manufacturing industry, amounting to $2,000,000,000 annually, and deprive the Government of not less than fifty millions now collected by excise duty, leaving no alternative but repudiation or a direct taxation on real estate more oppressive than has ever been borne by any nation in modern times.

4. This dispersion of skilled labor, sure to follow unsuccessful competition with cheap capital and poor-paid labor abroad, and the closing of manufacturing establishments, would present to powerful nations salient points of attack, and greatly lessen our security.

With a small army, and facilities furnished by furnaces in full blast, manufactories in good order, and abundant workmen, we established our promptitude and ability to build navies, mold and mount guns, equip and clothe regiments with such facility that our success in the rebellion was early assured; and the failure of the rebels as plainly foreshadowed in their want of furnaces and factories, on the closing of their ports to unfriendly nations.

In a foreign war, without that proper national independence which is our birthright, commerce vexed, skilled labor dispersed, great establishments required to be built, and capital timid, our ruin would be effected. Therefore, I hold a prospered, diversified industry as placing proud and unfriendly nations under a cheaper and not less salutary restraint than the presence of a mighty army and navy. The historian of Napoleon illustrated this philosophy thus: "Protection, the industrial creation of Napoleon, was the most precious and principal cause of his conquests," a policy which is now approved by the Emperor of Russia.

5. Free trade renders the agriculturist dependent on an uncertain, fluctuating, and distant market; uncertain and fluctuating for the reason that the costs of carriage are subject to slight variations, while a surplus of heavy products near the consumers renders those distant of no value. In illustration of this position the maker of cutlery at Sheffield or a French shoemaker cannot afford to accept of the gift of a cargo of corn at Chicago or of a load of wheat fifty miles from a railroad in Iowa. A dependence on this distant market would add to the disability of farmers by exchanging gross products at a heavy cost of transportation with the producer of concentrated values in skilled labor costing but a small per cent. of the value to reach a market. Hence, in all the northern States good land beyond the suburbs of cities is valued according to its proximity to a high market, and save for grazing, that market is only attractive where there is a dense population, a condition which is not possible where agriculture is the chief occupation.

6. It would arrest immigration. What is the basis for the prediction that half a million people from the crowded States of the Old World will the present year make a home with us but this, that we pay higher wages than in Europe, and that our lands are attractive because their products find a near and ready market? Open the ports free to foreign goods, and the cheaper interest for money and the long-fostered manufacturing establishments of the Old World would put out the fires at our forges and close nine tenths of our cotton and woolen mills, as the latter were closed not long since when not a yard of broadcloth was made. Colossal wealth and foreign combinations would so far prostrate our mechanical interests that operatives would be compelled to return to the old country or enter into competition with the farmers, which would glut the market, and because of the great distance from the consumer render well nigh valueless the farmer's products. Shall we turn back the ship-loads of sturdy adventurers and laborers, depriving the nation of the coin, to the value of millions of dollars, which they will circulate? Will we push our great national railway to the gold mines and the Pacific? Shall we invite to our new States population which is wealth, and a development of our mines; the increase of our lake and river commerce; the multiplication of our animal races, and the building up of cities and towns, furnishing the best markets for gross products, which never can have a permanent establishment in a simply agricultural community except at the gate of commerce? Can we afford to accede to the wishes of our enemies across the ocean, remaining exporters of heavy cereal products to receive only concentrated values, when by our homes we have skilled artisans, abundant motive power, raw staples, cheap food, and every motive in nature to establish our fiscal independence? I submit that it is wiser now to offer a premium to immigration than to adopt a policy which involves a dispersion of population, adding to our freight bills those made by the commerce of the ocean, and a multiplication of agents in our exchanges unproductive as keepers of toll-gates. In the industrial contest we have but to cultivate our own and attract millions to our shores ready to share our burdens and join in an intelligent purpose to secure a public policy, at once unwavering in character, uniform, and just to all interests.

ADDITIONAL PROTECTION TO WOOL.

In establishing the reciprocity treaty and tariff policy, it will become the duty of Congress to offer proper protection to wool. The Lord Chancellor of England has for centuries presided in the House of Lords sitting on a woolsack, a seat without back or arms, being a symbolical tradition of the importance which that nation has always attached to the wool product. Marshall, the eminent writer and agriculturist of the last century, embodied the sentiment in the remark, "As an object of national attention the coat of the sheep is of the first importance, and every willful attempt to supplant or debar it is an act of treason against the State." Our country has adopted another policy in a seeming exhibition of the spirit of the eccentric John Randolph, founded on the remark attributed to him, yet never uttered, that "he would go a mile to kick a sheep." True, that eminent writer and faithful friend of the flock, Henry S. Randall, LL. D., gave to the southern States a volume in counsel of which they were not worthy in behalf of sheep husbandry and labor. It did not turn them to the enriching of their lands, the diversioning of their industry, and to the emancipation of a race, and the blind homage paid to King Cotton was followed by rebellion. From fallen royalty the public mind has been turned to a prince worthy to reign, by the suggestions of western economists, that the fleece was the best concentrated product for a distant market, and by the observation of a rural New Yorker in Congress that the flock made surer the wheat harvest; not forgetting the honorable chairman of the Committee of Ways and Means, [Mr. MORRILL,] who cannot forget the sweet grasses of the mountain pastures, and the Vermont merinos, surpassing all the royal flocks of Europe, and the gentleman who gave good evidence of sound American ideas by arousing the ire of the London Times in 1861, we can confidently hope will not forget what is due to a neglected interest now.

I would institute no comparison of the domestic animals. The horse and the bullock hold a high place among the animal races. Swine, though once prohibited as an article of food for man and deemed fit in a herd, after the spirit of Satan had entered them, to be drowned in the sea, have their admirers. And dogs, which no free trader in this Congress proposes to tax, have, in their worthlessness to the number of four millions, immunity from assessment, eating out the nation's substance annually to the amount of $30,000,000; and these, with unleashed license, though indulging their appetite for mutton at a cost of millions of dollars annually, have their admirers and defenders. I would venture more than a passing word for the animal "behaving well under all circumstances." Two centuries ago it was the remark of a statesman, "Wool is the flower and strength, the revenue and blood, of England." A study of the policies and industries of that country up to the era of the American cotton-gin confirms that opinion; and to-day the golden-hoofed animal, whether regarded as scavenger and gleaner on the hill-sides or fertilizer in wastes and fields, producer of food or material for comfortable clothing, employment in the mill—a staple which diversifies trade and spreads the sails of commerce—is not appreciated as when the Roman, Augustus, was possessed of a flock of two hundred thousand by will, and at the remote period when Greek shepherds moistened the growing fleece with oil and wine, or during the period when England forbid the exportation of sheep, and the two hundred years she has denied the exportation of wool.

Great Britain has now one sheep to each acre, exclusive of mountain and forest, and the annual product of her woolens is hundreds of millions of dollars. Australia, where English policy and enterprise obtain, grew thirty years ago 3,000,000 pounds of wool, and has now 80,000,000 pounds.

France, with an area not larger than four of our northwestern prairie States, with a crowded population, folds ten million more sheep than all the United States; which, instead of having, like France, one sheep to the acre, has a hundred acres of pasturage for every sheep.

During the last four years we imported 250,000,000 pounds of wool and woolens, to the value of $133,000,000, making a grand total of $225,000,000 worth in our currency. I know these figures are startling, but they do not convey the whole truth, since false invoices have lessened the total. Who can doubt the wisdom of that policy of European nations which has regarded wool as the "flower and strength, the revenue and the blood?" It is unquestioned; related to enriched lands, cheap and palatable food, increased products of manufacturing industry, rural contentment, constant employment without drudgery, remuneration to the maimed soldier and the nation's orphans, a scope for maturity of judgment, profitable pastime for the shepherd in life's evening, and a scope for æsthetic culture which has worthily enlisted the time and benefactors of princes and noblemen for centuries.

We ask nothing for an exotic. Our latitudes, grasses, conformations, and limpid springs render this country quite as natural a home for the sheep as the pastures fed by the flocks of Laban, or the shepherd kings of the East. Gentler than the caressing child, undegenerate by migration, scarcely decimated in numbers by the vicissitudes of war, and so yielding to scientific care that the breeder may make his ideal form of beauty and then give it existence. Thus transferred from tropical heat to a country of frost and snow, additional care and scientific breeding have given us animals models of beauty, added to the softness and strength of the fleece, and raised it from an annual clip of one and a half pounds to four pounds, greatly improving the form, invigorating the constitution, adding to longevity and coöperating with nature in enveloping the animal with a suitable protection against the rigors of a northern winter. With a mockery of protection under the frown of the South, and subject to a policy changeable as parties, the American merino has attained a perfection never reached in the vales of the Orient under the shadow of Lebanon, nor with the care of Spanish shepherds or the patronage of princes and nobles in continental Europe. At the great international fair, held at Hamburg two years since, where three hundred and fifty entries of sheep were made contending for premiums, Vermont merino sheep bore off the first two and second premiums. The same success is anticipated at the World's Fair about to be held at Paris. These twelve animals on exhibition were sold to a Silesian count for $5,000, yet not a larger sum than enterprising flock-masters now pay for a single animal.

Shall this superiority be maintained, and the noble blood be spread until our country as far surpasses other nations in the number of its flocks as it does now in excellence, or must this great interest be depressed, our flocks reduced by the emigration of the young shepherds to South America, where sheep-walks have but a nominal value and there is immunity from school taxes and excise duties? Or will we hold our vantage position until the flock shall be found in the foreground of every rural scene of beauty, and in the march of empire that vast pasture ground between the Sierra Nevada and the Rocky mountains, stretching from Mexico to the British possessions, and one thousand miles in width, be white and peopled as the hill-sides of Vermont? This Congress in the adjustment of a reciprocity treaty and tariff will answer.

Here is the plea in figures which exhibits at once our suicidal reliance upon foreign countries and a just claim for protection.

Taking the prices of the products and articles consumed in the great market of the Northwest in November, 1860, and November, 1865, on a gold basis, thus enumerated—wheat, corn, oats, barley, mess beef, mess pork, lard, beef cattle, live hogs, cheese, broom corn, sorghum, and butter, and they were sixty-seven per cent. higher.

Taking six examples of articles made from

iron and the advance is thirty-four per cent. Five examples in woolens show an advance of nineteen per cent., while wool shows an advance of only fourteen per cent.

The following statistics are certified to be correct by the Treasury Department and by the authority of J. R. Dodge, Esq., of the Department of Agriculture:

Wool imported in the year ending June 30, 1865, the first year of present tariff.

	Duty. Cents.	Pounds.
At 12 cents or less	3	17,297,247
At 12 to 24 cents	6	22,981,168
At 24 to 32 cents	-	31,044
At 32 cents and over	-	15,092
Scoured	triple duty	47,524
Shoddy	3	4,863,064
Total dutiable		45,235,139
Canadian, (free)		3,486,079
Of this there was from the Argentine republic		9,859,618
Second grade, (12 to 24 cents)		6,244,271
Total, (of coarse)		16,103,889
From Africa, (first grade)		32,290
From Africa, (second grade)		8,279,973
Total, (of fine)		8,312,263

The duties, as may be seen, amount to little more than $2,000,000, or less than five cents per pound. If invoiced at real value as compared with wool grown in the United States the duty would not be over two and a half cents per pound. From personal examination I am satisfied as to the false invoices, and there is no friend of the wool interest who does not admit the protection sought a failure.

Total woolens imported in four years ending June 30, 1865.

1862	$14,844,394
1863	20,411,615
1864	32,139,336
1865	20,347,563
Grand total	$87,782,918
Total woolens, as shown	$87,782,918
Total wool in same time	45,569,044
Total wool and woolens, (in gold)	$133,351,962

Or say $225,000,000 in currency.

Summary of wool and shoddy imported in four years ending June, 30, 1865.

Year.	Wool. Pounds.	Wool. Dollars.	Average price per pound. Cents.	Wool on skin.	Shoddy. Pounds.	Total value wool and shoddy. Dollars.
1862	41,958,946	6,480,306	15.4	-	6,291,077	6,922,682
1863	71,917,754	11,772,004	16.3	-	7,586,601	12,953,208
1864	87,193,462	14,595,140	17.7	148,487	8,133,391	15,565,141
1865	40,372,075	6,201,108	15.3	105,803	4,583,064	6,720,096
Wool, dutiable in four years, pounds						251,442,237
Shoddy, pounds						27,155,133
Canadian, free, pounds						10,585,559
Total						289,182,929
Value (gold) dutiable						$39,048,618
" shoddy						2,055,519
" wool on skin						257,080
" Canadian						4,207,832
Total in four years						$45,569,049

If it be urged that this protection will advance the price of cloth, the answer is, it will protect the people from the impositions of shoddy and foreign staples far inferior to our own. The strength and durability of our wool was subjected to a test by the Army and Navy in the wearing of twenty-five million garments made from a domestic staple in a single year, and by the authority of the office of the Quartermaster General in charge of these supplies, we have the testimony officially: "It has been demonstrated that American Army cloths are much stronger than those in use in the armies of Europe." Home-made shawls and flannels are more durable, and the latter cheaper than those imported, and when the service of the garment is considered, the increased first cost is no fatal objection. A large class using the home loom or who make exchanges with the neighboring factory are unaffected by higher prices, while the grain raiser finds at the folds of the shepherd a better corn market than at the railroad or by the lakes or the Mississippi. It is to-day in the wool-growing districts twenty per cent. higher than in the near cities, as the prices-current will demonstrate. An expansion of this interest furnishes a new demand for mechanical labor, multiplies commodities, increases the ability of the country to buy, stimulates the erection of manufactories, and gives value to the lands, of which there are hundreds of millions of acres producing the nutritious grasses which have seemingly no further use than to light up the heavens with autumnal fires grander than the aurora borealis. Untimbered and distant from railways they can have but a nominal value; simply held for grain raising are worth no more by the acre than was real estate in Sodom.

Let me not fail to mention that by the flock we rejuvenate the fields, wasted and skimmed by the exportation of wheat and the burning of the straw, and prepare for the cultivation of domestic grasses. Encouragement, too, is offered to an all-the-year-round employment, consisting mainly in little attentions which can be bestowed by the child and the man unsuited to severe labor, in contrast with grain-growing, which involves a few months of severe toil; and then the practice of giving up of robust manhood to idleness and squandering, conditions which may be fitly represented by father and sons when the former had returned from a western visit, asking his sons what they had done, to gain the reply, "We have picked up the apples and made the cider." "And what else?" "We have, with the neighbors, drank up the cider."

If I seem to push these arguments, my apology is, I want no policy which shall be for the moral disgust and pecuniary loss of the great agricultural masses. It is no worthy ambition to aspire to be the granary of the world. Egypt of old enjoyed that preëminence, but her Delta that brought forth the crop, and the Nile and the sea to bear it away to opulent cities, did not maintain there the preëminence of virtue, science, and the arts. Germany only threw off her vassalage when she encouraged the growth of animals rather than grain, and encouraged manufactures.

The flocks of the State of Iowa have increased more than six hundred per cent. for the last five years, and those of the Northwest for the same period at the rate of three hundred per cent. Iowa has one and a half million, and the new Northwest an investment of forty millions in the wool interest, which can readily and at an early day be increased to a hundred millions with proper encouragement, which shall not be detrimental to any interest, rather contributing to national honor and wealth.

SHODDY.

Having shown the just claims of the wool-grower, and that protection to him involves national independence and the welfare of all our industries, I pause for a moment to make allusion to that article inimical to our protection and the greatest imposition of the age, known as shoddy or mungo. It has come to be associated with fraudulent contracts and snobbery, since furnished through deception in place of wool. What is it but a picked up mass of broken fibers, taken from worn and rotten garments, imported from junk-shops, stripped from the lazzaroni of the Old World, from hospitals and pest-houses, with such satanic greed and cupidity that rebels by the importation of foreign rags required but few devices to bring among us loathsome diseases and pestilence? How gross the impositions visited on our soldiers!

What they bought for cloth was as destitute of fiber as putrid flesh of muscle, altogether wanting in strength and durability. How mortifying to the gentleman, having innocently supposed that his beaver coat was of the best merino staple, to know that he wore the less genteel than second-hand clothing, segregations taken from petticoats cast off by South American barbarians and clothes worn by Italian beggars, which have crowded the holds of the vessels touching our shores! This is no fancy. The fact of the imposition and too willing degradation is known to all our manufacturers. The importation the last year was five million pounds, which required at least two million sheep for its growth, almost equal to the number found in the great State of Pennsylvania. Twenty-seven million pounds were imported in four years. And what were the cash profits of our humiliation? Three cents a pound duty. Most pitiful return for the impositions practiced for four years on a million soldiers and unsuspecting ladies and private gentlemen. As one who would protect the wool-grower from indignity, and cloth-wearers from a sham and a fraud, I would make no treaty stipulation with Canada for its importation, and prohibit it from abroad, and place shoddyite and rebel on the same probationary plane.

A COMPARISON WITH OTHER ARTICLES PROTECTED.

In my argument, if indulging in comparisons I shall not be regarded as inimical to any great interest now protected, but ask why hemp and flax receiving generous protection are more entitled to it than wool? These articles impoverish the land while sheep husbandry enriches it. We have more hemp manufactured at forty dollars a ton protection than will be tested at this political juncture for rebel neck-ties, and our linens for either utility or ornament cannot be compared with wool, the common staple, which in facility for imparting beauty gives a thousand hues and colors indestructible as the fabric itself; and as promoter of health can never be supplanted. Why should the occupation of the glass-maker have preference to that of the wool-grower who only takes from the earth to let in the light; the other rescuing from earth's surface the grasses to clothe the man, an earlier necessity than the light? In peace and in war gunpowder has received higher protection than wool, but can the occasion be found in the greater necessity for gunpowder than covering for the soldier who bears the gun, or are there any compensating considerations in favor of rude coal-burners or chemists?

Salt-boilers are not more patriotic and intelligent than shepherds; nor can the manufacturer of this necessary article make that plea for favor of the wool-grower, that he restores wastes, enriches lands, and contributes to the promotion of the first great wants of the race in furnishing clothing; yet a bushel of salt, worth thirty-five cents, has a protection of eighteen cents, while a pound of wool, worth fifty cents, enjoys a protection of five cents per pound. I offer no apology for the plea I make in behalf of our great clothing staple. This gigantic interest, representing hundreds of millions of dollars, has had no special defenders, and I ask, as in the last Congress—

"Can Government reasonably ask the flock-master, wounded in our battles, returning home to his farm, a man of education, meeting the responsibilities of a citizen and the head of a family, to compete with nomads, the half-clothed tribes of South America and South Africa, who sleep in huts, subsist on tropical fruits, contributing nothing to social order and the stability of government, races who now flood our markets with wool?"

If a comparison of the claims of the several great interests shall secure harmonious and equal justice in our legislation, the burdens of Government will be more cheerfully met, and that new portion of the country in behalf of which I speak may safely inaugurate a policy which will attract population and capital, and permit us to enter upon a new era of growth and prosperity.

THE NORTHWEST.

The new States of the Northwest, representing five million people, have added not less than a half million to their population during the past five years. Of the tillable lands, but one third of the area is under improvement; yet twenty million bushels of wheat, in granaries and elevators, are waiting purchasers, and a hundred million bushels of corn is found in excess of home demand. The much prized grain market in Europe has become of less value than that of the city of Washington during one session of Congress, and the actual export the last year was not more than the consumption of McClellan's army while ditching by the banks of the Chickahominy. Were railroad and shipping charges reduced to the rates before the war, four fifths of the surplus grain product would not pay for transportation to the best market. Added to other rivals, Russia has just become a powerful and successful competitor in the grain markets of Europe. Her people are industrious and skillful. Wheat is indigenous to a hundred million of her acres which have just been brought forth from isolation. The main railroad line connecting Balta and the great port of Odessa is opened, and the immense landed estates of the nobles, the interests of sixty million people, and the pride of the most sagacious ruler of Europe, who has announced the policy of national protection, all conspire to establish the conclusion that a foreign demand for the cereals of the West is to be determined by blight or famine prices.

The States of Missouri, Kentucky, and Tennessee, hitherto so largely engaged in pork raising, promise to reduce the value of that product to an extent that contracts for the next year's delivery can be made at half the present prices. The almost boundless cattle-pastures of Arkansas, Texas, and the Indian Territory, which furnished meat for the South during the rebellion, we are unable to compete with in a colder climate; and unwilling to forego schools and society to conform to their modes of life, have successful competitors. In connection with these facts there is another of material concern, that simply as grain raisers, we defy nature in impoverishing the land, rendering the crops certain, and without the presence of mechanical and manufacturing industry, we must meet freight charges, commissions, insurance, loss of time and product, supporting not less than sixteen middle-men in the circuit of each exchange in that sure road to poverty and dependence which has attended every nation adhering to such a policy.

I admit the necessity of cheaper outlets; that there may be well-founded complaints of extortion; and am not blinded to the fact that our prairie States are designated in nature as the favored seat of agriculture on this continent; and the crowding of our granaries to meet the demand occasioned by short crops in other countries, at remunerative prices, is wise economy. But such an awaiting for others' calamities nourishes the spirit of the wreckers on the coast who are moved to pray for storms and shipwrecks. Such is not the mission of our people. They ask no thrift which is dependent on others' misfortunes, nor a policy of negations, but rising to the grandeur of a people founding and molding the industries and policies of the great central States of a continent, they have, in a measure, the power of determining their own social and financial destiny. For one, I accept the policy of the gentleman from Chicago, [Mr. WENTWORTH,] who, in the early days of congressional life, was reputed to have sent to his constituents tons of free-trade speeches, and who now writes them:

"We want home consumption. Home manufactures will furnish this. Illinois must and shall be a manufacturing State. If it requires legislation to effect this, then the legislation must be had.

"Then will our home markets be our best protection against the oppressive transit combinations. Then shall we have home mechanics, happy in their competence, for our bright exemplars in peace and our sure defenders in war. Then shall we have laborers, intelligent, respected, and well paid, glorying in a country which protects her sons against the pauper labor of the Old World."

Most confidently may the State of Iowa aspire to such a destiny. Our national currency has caused money to bear a less interest. Her railway system reaches the motive power of her noblest rivers, and a rich heritage of coal-fields far excelling those of Great Britain, where cheap bread, homesteads, and healthful breezes welcome enterprise, labor, and capital. To these favoring conditions for prosperity there the flocks have increased for five years in a ratio unprecedented, and the manufacturing woolen capital of the State is doubled in two years, and under that law of this century which attracts it to the coal measures we can anticipate greater success.

And here in a pleasing digression, I would mention the circumstances of the closing of the last manufactory of that "stock-on-hand" article in the fourth district of Iowa by the putting out of the fires of a mammoth distillery in the city of Oskaloosa, and the future occupancy of the establishment, remodeled, by woolen machinery, resting by exhaustless coal deposits, its influence to be set over against the agents of social degradation and vice; esteemed as an enterprise bringing comfort, wealth, societary blessings, agricultural development, and the accepted omen of a higher civilization which like a beacon lit upon a hill, after diffusing warmth and blessings around, tinges the distant horizon with its glow.

Mr. Chairman, there is God's charter in nature for the growth, culture, and power of our northwestern prairie States. And this is the era which invites a cultivation of our resources and the inauguration of a domestic policy which shall be permanent and promotive of a diversified industry. The world has no such lakes for commerce, and not a young city has so proudly, during the ages, sat at the gate of commerce a queen as Chicago. Our rivers have no rivals as the great channels of trade, nor was there ever a plainer designation in nature that the opulent and now free "Mound City," almost in the shadow of the mountains of minerals, shall be the home of ten thousand sons of Vulcan, to create economical exchanges which shall mingle the merry life-currents of enterprise and bring development to our lands and increased resources by a diversity of labor.

Our soil is unincumbered with forests and rocks, which have in the older States taxed for their removal the energies of a generation. In richness it is only surpassed by the Delta of the Nile, and is traversed by railways which reach coal deposits equal to the wants of a dense population for untold ages. Each year of war has advanced our people a decade in moral heroism and intelligent conviction. They will cheerfully meet the burden of taxes, but spurn foreign machinations and free-trade economists as alike inimical to the occupancy of their lands now vacant, their social interests, and an honorable discharge of national obligations.

He shall be my Gamaliel and political economist who speaks like Mr. Speaker, [Mr. COLFAX,] thus:

"Now that the war for the Union has closed, blessed as we are with a nation vast in its area from ocean to ocean, within the very parallels of latitude in which is found three quarters of the world's population, nearly all of its highest phases of civilization, abounding in all kinds of mineral wealth, with unequaled agricultural resources, with boundless water power, with an industrious population, with American energy and American enterprise, our future, if our legislation is wise, will be more brilliant than the most glorious annals of our past."

In this most critical period of our financial history, I would cling to our opportunities and leave nothing to the too late friendship of rival nations in the forming of treaties and adjustment of tariffs.

Our industry is weary of foreign assaults, changes, and a blind trusting to nature and Providence. The plain philosophy of an incident in history shall be my guide. It is related that at nightfall as Mohammed and his attendants were crossing the desert and weary prepared their camp, a companion—no doubt a free-trade trust-in-Providence philosopher—was overheard to say, "I will loose my camel and commit him to God." Mohammed, who shall be my Mentor, chided his friend, "Tie your camel, and then commit him to God." Clasp our gifts in nature with our industries and arts to the people by law, and our financial success is assured now and for a century.

Mr. KELLEY obtained the floor, but yielded to

Mr. F. THOMAS, who said: Mr. Chairman, my attention was attracted to this bill by the fact that it contains some provisions very materially, indeed vitally, affecting very large interests of the district which I represent, and indeed, I may say, the whole State of Maryland.

Until yesterday I was not aware that such a bill would be under consideration to-day, and I have listened to-day with great attention to the remarks of the chairman of the Committee of Ways and Means, in the hope that he would show why this measure was to be considered, as he now states, "solely with a view to its effect upon the revenues of the Government." During the last Congress, I listened repeatedly to that gentleman when the tariff of 1864 was under discussion; and I well remember that the tendency of that bill to bring money into the public Treasury was always considered as secondary to its main object. That main object, as openly and unreservedly avowed, was a legitimate, a prudent, a wise object; for whatever might have been at one time the true policy of a country like ours, occupying so immense an area, the day has gone by when you can consider the question of free trade without taking into view the embarrassments which the existing state of the country throws around it. Vast interests have grown up under the system of protection, which would wither and die under a free-trade policy.

In the last session of Congress, I say, these gentlemen considered the tariff of 1864 in its bearing upon the domestic industry of the country, and more than once, I think, vindicated it even if it were to have the effect which some gentlemen then undertook to say it would have, even if it were to have a tendency to cut off the revenues of the Government in the shape of receipts from duties levied on foreign commerce. Why this wonderful distinction now?

Bituminous coal and lumber were used under the reciprocity treaty as a means of securing very great advantages in navigating on the canals and in transporting on the railroads in the Provinces of Canada. Now, when we were once more to have released from the obligations of the reciprocity treaty the great interests thus availed of, we thought they were to be considered as a part of our own domestic industry, to be treated like our woolen manufactures, our cotton manufactures, and our iron manufactures; and I did expect to-day to hear from the chairman of the Committee of Ways and Means some reason why we were to legislate with a view to protect the manufactures of New England, New York, and New Jersey, why we were to consider how far they needed protection, when we were to levy duties under the act to regulate foreign commerce and guard the profit of capital invested in them, and have no view to the policy of protection when we were legislating for the great interests which are essential to the success of these manufactures, without which they have but little vitality.

I care not how much you may cherish or protect the railroad interests of the country, how much you may cherish and encourage the iron interest of the country; I care not how you may encourage capital employed in the manufacture of cotton and woolen goods, or the steam navigation; if you are to neglect altogether the great coal mines on the Atlantic front, if you are not to encourage their development, how are you to place the pursuits or employments named beyond the reach of foreign confiscation? What would become of our steam marine in the event of a foreign war if you are dependent on the Pictou coal of Nova Scotia to put your machinery in motion? What becomes of your vast system of railroads here on the Atlantic front if you are not in some degree to have at hand the bituminous coal of the Alleghany mountains?

I expected to hear the chairman of the Committee of Ways and Means assign some reason why our vast coal and timber interests are not to be protected. It occurred to me by possibility that the Committee of Ways and Means was laboring under the same error as one of the commissioners of revenue, Mr. Colwell, whose letter I have in my possession, and to which, as I do not intend to trouble the House with any remarks at length, I will hereafter refer.

It seems that the Committee of Ways and Means must not have been sensible how vast this coal interest is, I mean this bituminous coal interest is. I will not speak for Pennsylvania. I know there has been an immense outlay in Pennsylvania to make accessible the coal deposits in what is called the Round Top region of that State. I know how anxiously West Virginia looks to the immense coal deposits under the soil of that State from one end of the State to the other. I am aware of all that, but the gentlemen from those sections can speak for themselves. I shall confine myself, for the few moments I shall speak, to affairs under my own eye in my own mountain home in the Alleghanies. Why, sir, $30,000,000 have been invested in the Alleghany mountains in furtherance of the great coal interest of that section; $18,000,000 have been expended by Maryland on the Chesapeake canal from tide-water to the coal regions of the Alleghanies; and from fifteen to twenty millions on the Baltimore and Ohio railroad for the same purpose of developing these coal deposits. Now, does the gentleman tell me these vast domestic interests are to be considered only as a means of revenue, and are entitled to no fostering care at the hands of the Government? It is not a question whether you will invite capital in that direction; it is not a question whether you will cherish and encourage this vast expenditure upon this domestic employment; but it is a question whether this reciprocity being abrogated you will crush this interest already existing under such merciless legislation as that proposed in this bill, under the idea that it is of no moment except as it can furnish additions to the revenues of the country.

I claim for the coal interest higher consideration. I claim at the hands of the House a higher rule of action on such an occasion. And if the gentlemen on the Committee of Ways and Means shall institute a comparison between this interest and those interests which they have fostered and protected in the tariff of 1864, I shall be prepared to go more into detail than I propose to do now.

I have alluded to a letter that I have received. Perhaps it will be as well for me to have it now read, because the high respectability of the source from which it comes is such that the opinions of its author may have influenced the committee, and the letter itself may influence the opinion of the House.

I will ask the Clerk to read.

The Clerk read, as follows:

PHILADELPHIA, *March* 1, 1866.

DEAR SIR: I expected to have an interview with Mr. Wells yesterday on the questions touching your interests, but have been disappointed.

When the subject of this coal was before the commission, no one had previously appeared before any member of the commission to support the interests of that class of coal. I had no idea of the extent to which that coal had made its way to the sea-board, and of course could not appreciate its importance. So far as I am concerned, I should prefer to have the question of the duty on soft coal regarded as an open question. The parties interested were not all before the commission. The whole topic is one of great importance, and deserves the serious attention of the Committee of Ways and Means.

Very respectfully, STEPHEN COLWELL.

ISRAEL W. MORRIS, Jr., Esq.,
Chairman Committee on Bituminous Coal Trade.

Mr. F. THOMAS. Mr. Chairman, the coal region that I represent upon this floor is able to supply ten million tons annually for thousands of years to come to the Atlantic sea-board, and avenues of communication have been opened, or will be opened, which will bring that quantity to market whenever there is a demand for it. But instead of encouraging this vast field of domestic industry we are now required to reënact the reciprocity treaty so far as this domestic industry is or was concerned.

I have other documents upon this subject, but I cannot dwell on them. It is only necessary to call the attention of gentlemen to the principles and invite them to reflect. Every gentleman has abundant facts within his knowledge from which to draw conclusions just as readily as I can.

Mr. Chairman, this is a contest of interests between the coal trade of Pennsylvania, Maryland, and West Virginia, and the coal trade of the British Provinces. For if this bill should pass in its present shape, the law of 1864 will be repealed so far as the bituminous coal of the British Provinces is concerned. The law of 1864 imposes a duty on all foreign bituminous coal of $1 25 per ton. This bill proposes to repeal that law, and imposes only fifty cents per ton if imported from the same Provinces, and leaves the duty imposed by the law of 1864 on all other coal importation, and in effect makes law in that respect the provisions of the reciprocity treaty.

Let us see how the reciprocity treaty operated on the interest I am considering. I have here a report of the secretary of mines, so called in one instance, and in another the commissioner of mines of Nova Scotia, made in 1864, showing the effect upon capitalists of this country of the low rate of duty or rather the want of duty upon that coal under the reciprocity treaty. From that report it appears that a large amount of American capital has been embarked in those foreign coal-fields, and that a large number of Americans were engaged in opening up avenues for that trade in our own country, superseding altogether the production of the bituminous coal-fields of Pennsylvania, Maryland, and Virginia. It also appears from other documents I have, but will not pause to read, that the profit derived from that coal trade under the reciprocity system has been so great that in some instances companies engaged in coal mining in Nova Scotia have divided one hundred and seventy-five per cent. on the capital employed, and in others from twenty to forty per cent. And yet the interest that I desire to protect has without profit to capitalists absorbed in the Alleghany mountains $20,000,000, and will sink $20,000,000 more unless the Congress of the United States shall now interpose its authority.

And what do I ask? I ask for my constituents that you take up this branch of public industry and consider it in connection with the other industries of the country, and that you shall not look to that only as a source of revenue but as to its condition, and see what further protection it needs from this border competition with which it is contending.

Mr. Chairman, I need not go into detail. I only advert to the fact that the Pictou coal of Nova Scotia can be brought to Boston for four dollars a ton less than the same article can be brought from the Alleghany mountains of Maryland or Pennsylvania. Now, we do not want the Government of the United States to foster other branches of domestic industry that you may put a tariff upon this coal, only that you shall omit to legislate on the subject altogether. We do not ask for a new law; we ask only to have the tariff law of 1864, which imposes a duty of $1 25 per ton on bituminous coal, of forty cents per ton on anthracite coal, and of twenty-five per cent. *ad valorem* on coke and the culm of coal may not be repealed. With that veiw, I shall at the proper time move to strike out of this bill all that which relates to bituminous coal, anthracite coal, and coke and culm of coal, leaving in force the provisions of the law of 1864. By the law of 1864, I repeat, Congress has imposed a duty of $1 25 per ton on bituminous coal brought from foreign countries, no matter where. You impose a duty of forty cents a ton on anthracite coal brought from foreign countries, and a duty of twenty-five per cent. on coke and culm of coal imported from foreign countries.

Now, all we will ask will be that we shall be placed upon the same basis, upon the same foundation, and be treated and considered and cherished not only as a source of revenue, but as a great interest of the country, just as other interests are provided for and cherished and protected by the tariff of 1864.

Gentlemen who are not familiar with that law can rest assured that I am accurate in saying that while this duty now proposed of fifty cents upon bituminous coal would not amount to anything like eight per cent. *ad valorem*, the duty upon rolled iron, and the duty upon manufactures of wool and manufactures of cotton, is in specific duties equal to from forty-five to eighty and sometimes up to ninety per cent. *ad valorem*. These duties are levied perhaps wisely. I do not propose to discuss that question now; but I do ask this House to cooperate with me and the other representatives of the bituminous coal interest to strike from this bill all the provisions that relate to that branch of industry, and leave it to the operation of the law of 1864.

Sir, there is no room here for a discussion about a protective policy in this country. We have progressed too far in that direction now to retreat. No man to-day would propose to repudiate the entire protective policy of this country; to obliterate from the statute-book all our tariff laws, and to prostrate thereby the millions on millions of capital that have been embarked under the fostering care of the Government of the United States.

But, let me say to gentlemen, very respectfully—and it is a warning not entirely out of place—that if one interest of this character is to be treacherous to another, inevitable ruin impends over the whole. If one branch of industry is to have the life-blood trampled out of it, what security have others? Do gentlemen suppose that my constituents will agree that enormous burdens shall be piled upon them for the consumption of the very necessaries of life; that we shall pay double prices for the iron we consume in the construction of our railroads and in the manufacture of the machinery necessary for the working of those railroads? Do they expect that we would pay double price for the manufactures of wool and cotton under the law of 1864, when we find the special purposes of local interests are sought to be promoted by this death-blow aimed at one of the most important, one of the largest, one of the most vital interests to which the attention of the councils of the country has at any time ever been directed?

I repeat that our coal-fields are the very tap-root of the towering tree of manufactures that is spreading all over our land its beneficent branches. Strike at that interest and leave the railroads and canals to perish which have been constructed for its development, and what becomes of the pretense that we will be independent of the supplies of foreign Governments in the event of a foreign war? We shall have to lay up our steam marine in dry-dock in the event of non-intercourse between us and Nova Scotia or Liverpool or any other port from which we draw our coal supply.

Sir, I will not dwell longer on this point because it is only necessary to refer to it with gentlemen of intelligence.

I have only to repeat that our great domestic interests are to be safely protected only by the perfect fidelity of all its subdivisions, their standing by each other in all the emergencies that may come upon them.

Mr. STEVENS. I will ask the gentleman from Maryland, [Mr. F. THOMAS,] before he takes his seat, to submit a motion to strike out all in this bill in regard to coal, in order that that amendment may be before the House for its consideration and action.

Mr. F. THOMAS. I purpose doing so. But before I submit that motion I desire in this connection to have read by the Clerk the papers which I have sent up to his desk, because they are a practical illustration of all for which I contend. They emanate from high and respectable sources in the neighboring Provinces, and

they tell the story with an emphasis exceeding, perhaps, anything I could say. They show that under that reciprocity treaty every inducement was offered to our people to emigrate and carry their capital with them, and seek for profitable employment under a treaty we have abrogated, and will, I hope, admonish the House not to pass a bill which, if it becomes a law, must in like manner diminish our wealth and population.

The Clerk read, as follows:

Report of the Inspector of Mines of the Province of Nova Scotia.

CROWN LAND OFFICE, *February* 3, 1864.

The large amount of capital already expended within the Province by enterprising individuals from the United States has operated beneficially in a variety of ways, independent of their mining operations. I believe that the present year will equal all former ones in the advancement of our mining interests; and as regards the demand for various qualities of coal we possess, we have the influence and coöperation of those residing in the United States in the necessary efforts to provide a ready market for the supply.

Report of the Chief Commissioner of Mines for the Province of Nova Scotia for the year 1864.

DEPARTMENT OF MINES,
HALIFAX, *December* 12, 1864.

I am happy to be able to furnish a report of the recent growth and present prosperity of the mining interests of Nova Scotia, which I cannot but think will prove satisfactory as a review of the past, while it clearly indicates a large and prosperous extension of those interests during the future.

On reference to the comparative statement, (appendix G,) it will be seen that the year's operations show a considerable increase over 1863 in the quantity of coal mined. Notwithstanding that there was a large falling off in the product of the mines at Sidney, owing to a strike, 1864 will have shown an increase of about twenty-four per cent. over 1863 in the product of our coal mines. I can safely venture to predict that the operations of 1865 will show a much larger proportionate increase. A large amount of foreign capital is being induced into the Province to be expended in the development of these mines. Owing to this fact, to the keen and widely-extended activity with which explorations have been and are still being carried on, and to the great success which has attended them, I confidently predict that the incoming year will exhibit a greatly increased activity in this department of Nova Scotia industry, and a corresponding increase both of the products of our mines and of the revenue which they will yield to the provincial treasury.

Mr. F. THOMAS. Let me for a moment advert to some facts with which members of the House may not be familiar, and I will conclude. The owners of the coal mines of Nova Scotia have to employ land transportation for only about six miles, and then they reach navigable waters. The large mine is about six miles, and I think some of the other mines are even less.

Gentlemen know enough of the geography of our own country to know that the coal mines of the Alleghany mountains in Maryland are nearly two hundred miles from tide water, either by way of the canal or the railroad. And I suppose the coal mines of the Broad Top region of Pennsylvania, where coal similar to that of the Alleghany mountains of Maryland is found in large quantity, are two hundred miles from the sea-board.

Now, it is only necessary for gentlemen to recall to mind the very heavy excise duties which are imposed upon everything used in the transportation of coal to the market. In the first instance, the Government derives a very large amount from taxing the net profits of the railroad companies. Then, upon every item of their machinery they must pay a high tax. They will therefore readily see that the protection which I shall claim under the tariff of 1864, and that is all that we shall ask, is very far short of the mere difference in the cost of transporting coal from the Alleghany mines to the sea-board, and transporting coal from the mines of Nova Scotia to navigable waters. And when you take into consideration the cost of transportation, enhanced very largely by our excise laws, it will be seen that at least $1 25 is spent for land transportation upon every ton of coal that is taken from our mines to the sea-board more than that which comes from Nova Scotia.

In conclusion, I move to amend this bill by striking out the following from the first section of the bill:

On bituminous coal, fifty cents per ton of twenty-eight bushels, eighty pounds to the bushel; on all other coal, twenty-five cents per ton of twenty-eight bushels, eighty pounds to the bushel; on coke and culm of coal, ten per cent. *ad valorem*.

The CHAIRMAN. The bill is not now being read for amendment.

Mr. F. THOMAS. I concur in that opinion. I moved the amendment at this time at the suggestion of the gentleman from Pennsylvania, [Mr. STEVENS.] However, I give notice that at the proper time I will propose the amendment I have indicated.

Mr. KELLEY obtained the floor.

Mr. MORRILL. Will the gentleman give way to allow me to move that the committee now rise? I suppose he is not very desirous to proceed with his remarks to-day.

Mr. KELLEY. I will yield for that purpose, if such is the desire of the House.

Mr. MORRILL. I move that the committee now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. RAYMOND reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and particularly House bill No. 337, regulating trade with the British North American possessions, and had come to no resolution thereon.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. MCDONALD, its Chief Clerk, announced to the House that the Senate had passed a joint resolution (H. R. No. 17) giving the consent of Congress to the transfer of the counties of Berkeley and Jefferson to the State of West Virginia, with an amendment, in which he was directed to request the concurrence of the House.

BRITISH AMERICAN TRADE—AGAIN.

Mr. MORRILL. I presume that most of the general debate upon the bill just reported from the Committee of the Whole has been concluded. I therefore move that when the consideration of that bill shall be again resumed in Committee of the Whole, all general debate shall be closed in an hour. That will give the gentleman from Pennsylvania [Mr. KELLEY] an opportunity to make his remarks; and then the five-minute rule will apply.

Mr. DRIGGS. I would suggest to the chairman of the Committee of Ways and Means [Mr. MORRILL] that this is a bill affecting many interests of the entire northern portion of the country, and therefore I hope the gentleman will allow more time for general discussion than will be required by the gentleman from Pennsylvania [Mr. KELLEY] for his remarks.

Mr. MORRILL. The debate would be entirely unlimited, subject to the five-minute rule. I merely desire that we shall make as much progress as possible, in order to finish the bill to-morrow.

Mr. DRIGGS. I hope that two hours, instead of one, will be allowed for general debate. Several other gentlemen, whose names have not been mentioned, desire to speak.

Mr. MORRILL. I withdraw my motion for the present, as I see that the House is not full.

CLERK TO PACIFIC RAILROAD COMMITTEE.

Mr. PRICE. I ask unanimous consent to make a report from the Committee on the Pacific Railroad.

The SPEAKER. The report will be read for information, after which the Chair will ask for objections.

The report, which was read, states, in response to a resolution of the House in reference to clerks of committees, that the Committee on the Pacific Railroad has never had a clerk, the clerical work having heretofore been performed by a member of the committee; that the present accumulation of work renders it impossible for the work to be done hereafter in the same way. Hence the committee submit the following resolution:

Resolved, That the Committee on the Pacific Railroad be allowed a clerk for the next ninety days, at the same compensation as is allowed to clerks of similar committees.

Mr. THAYER. I rise to a point of order. My point is that the instruction embraced in the resolution adopted by the House extended only to those committees that have clerks, and not to committees that have not clerks.

The SPEAKER. If that is the case, the gentleman from Iowa has not the right to make the report.

Mr. PRICE. The committee certainly are not to blame for making the report, as the resolution was sent to them and they naturally supposed that a report was expected from them.

Mr. THAYER. I insist on my point of order.

The SPEAKER. The Chair sustains the point of order.

Mr. WASHBURNE, of Illinois. I move that the House adjourn.

The motion was agreed to; and thereupon (at five o'clock p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to appropriate committees:

By Mr. BOUTWELL: The petition of the Brighton Savings Bank, Lowell Five-Cent Savings Bank, Mechanics' Savings Bank, Lowell, Massachusetts, all for a reduction of the tax on savings banks.

By Mr. BRADFORD: The memorial of the Legislature of Colorado, asking for an appropriation to aid in the erection of public buildings in Colorado.

By Mr. DRIGGS: Joint resolutions of the Legislature of the State of Wisconsin, in favor of an additional appropriation of public land to aid in completing a ship-canal at Portage Lake, Lake Superior, Michigan.

By Mr. FERRY: The protest of numerous manufacturers of and dealers in stationery of Michigan, against the passage of a law authorizing the Postmaster General to sell stamped envelopes at the value of the stamps impressed thereon.

By Mr. HAYES: The memorial of Robert G. Mitchell, as to tax on red oil.

By Mr. HUBBARD, of Iowa: The petition of citizens of the sixth congressional district of Iowa, relating to the Dubuque and Sioux City railroad.

By Mr. KETCHAM: The petition of N. Gridley, and others, of Dutchess county, New York, for such amendments of the present tariff laws as will more effectually protect American labor.

By Mr. MCKEE: The petition of A. H. Markland, for compensation for house destroyed in Paducah, Kentucky.

Also, the memorial of manufacturers of Catlettsburg, Kentucky, in regard to the mode of paying internal revenue tax.

By Mr. MERCUR: The petition of 168 mechanics and laborers in manufacturing establishments in Danville, Montour county, Pennsylvania, praying that the tariff may be so amended as to protect their labor to the extent of the difference of the cost of capital and labor here and abroad, with the addition of the taxes paid by American industrial products from which the foreign are free.

Also, the petition of Blood & Co. and C. H. Pierce, of Athens, Bradford county, Pennsylvania, manufacturers of harvesters and other agricultural implements, praying for the passage of a law which will allow them in making returns to deduct the value of any and all parts of such machine which have already paid a tax, particularly where such parts have been specially made for and adapted to the same.

By Mr. PAINE: The memorial of the Legislature of Wisconsin, recommending the construction of a ship-canal from Lake Superior to Portage Lake.

By Mr. PRICE: The petition of citizens of Iowa, asking for change of tax on the manufacture of agricultural implements.

By Mr. RICE, of Massachusetts: The petition of officers of the Eliot Savings Bank, Roxbury, Massachusetts, for exemption from tax on deposits in that institution:

Also, of the officers of the Roxbury Institution for Savings, for the same.

NOTICE OF A BILL.

The following notice for leave to introduce a bill was given under the rule:

By Mr. JULIAN: A bill fixing eight hours as a day's work for all laborers employed under the authority of the Government of the United States.

IN SENATE.

WEDNESDAY, *March* 7, 1866.

Prayer by Rev. M. J. GONZALES, late chaplain United States Army.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War, transmitting, in compliance with a resolution of the Senate of the 5th instant, information in relation to the construction of a magnetic telegraph line from New Orleans to

San Francisco; which was ordered to lie on the table.

The PRESIDENT *pro tempore* also laid before the Senate a communication of the Secretary of War, transmitting, in answer to a resolution of the Senate of the 27th ultimo, a report of the chief Engineer of the United States Army in relation to the improvement of the harbors on Lake Michigan, in Wisconsin, and also at Superior, on Lake Superior; which was ordered to lie on the table, and be printed.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a memorial of the Legislative Assembly of the Territory of New Mexico, asking for an additional appropriation for the completion of the capitol building in that Territory; which was referred to the Committee on Territories.

He also presented a memorial of the Legislative Assembly of the Territory of New Mexico, in favor of an amendment to the tenth section of the organic law of that Territory, so that the probate courts be authorized to decide civil cases where the amount does not exceed $1,000, and in criminal cases where the fine or punishment for the crime does not exceed $100; which was referred to the Committee on Territories.

He also presented a memorial of the Legislative Assembly of the Territory of New Mexico, asking Congress to sustain the act authorizing the Governor of that Territory to call a convention to frame a constitution for a State government, and that said Territory be admitted as a State into the Union when the constitution is approved by the people of that Territory; which was referred to the Committee on Territories.

He also presented a memorial of the Legislative Assembly of the Territory of New Mexico, asking for an amendment of the organic act of that Territory in regard to the veto power of the Governor; which was referred to the Committee on Territories.

He also presented a memorial of the Legislative Assembly of the Territory of New Mexico, asking for an appropriation to erect a penitentiary in that Territory, and that authority be given to the Secretary of the Treasury to have the stone used in the present unfinished penitentiary used in finishing the capitol building, and the site sold and the proceeds appropriated to the purchase of a new site where there is a sufficiency of water; which was referred to the Committee on Territories.

Mr. CLARK presented the memorial of Stuart Gwynn, praying for the passage of an act explanatory of the act of March 2, 1865, for his relief, whereby he may be enabled to receive payment for printing presses, machinery, material, and labor furnished the Treasury Department in 1861 and 1862; which was referred to the Committee on Finance.

Mr. VAN WINKLE presented four petitions of citizens of West Virginia, praying for the passage of a law establishing semi-annual terms of the district Federal courts in the city of Parkersburg, in that State; which were referred to the Committee on the Judiciary.

Mr. SUMNER. I offer two petitions similar to the petitions which I presented the other day from authors and editors. One of them is headed by Bishop Hopkins, of Burlington, Vermont, and the other by Mr. R. Shelton Mackenzie, of Philadelphia, praying for the passage of some law by Congress which shall secure international copyright. As that subject has already been referred to the Committee on Foreign Relations, I ask the reference of these petitions to that committee.

They were so referred.

REPORTS OF COMMITTEES.

Mr. RAMSEY, from the Committee on Naval Affairs, to whom was referred the petition of Wilson D. Burlingame, late acting master's mate United States Navy, and William Peterkin, late acting gunner United States Navy, officers in charge of the second cutter of the United States steamer Shamrock, for themselves and eleven others, the boat's crew, praying for a distributive share of the prize money resulting from the blowing up of the rebel ram Albemarle, on the 27th of October, 1864, asked to be discharged from its further consideration; which was agreed to, and the report was ordered to be printed.

Mr. GRIMES, from the Committee on Naval Affairs, to whom was referred the petition of Captain F. M. Faircloth, praying for remuneration for property lost on board of the steamer Boston, while on an expedition up the Ashepo river, South Carolina, in May, 1864, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

He also, from the same committee, to whom was referred the memorial of Henry Eagle, a commodore in the naval service of the United States, praying to be reimbursed for money alleged to have been stolen from him June 2, 1848, while acting purser of the United States bomb-vessel Etna at Frontera, in the State of Texas, he having paid the same on settlement of his accounts, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

He also, from the same committee, to whom was referred the memorial of Albert Greenleaf, praying for compensation for extra services while holding the office of Navy agent at Washington, District of Columbia, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

Mr. RIDDLE. The Committee on the District of Columbia, to whom was referred a bill (S. No. 159) to amend an act entitled "An act to incorporate the Guardian Society, and provide for reforming juvenile offenders in the District of Columbia," and for other purposes, have directed me to report adversely thereon, and to move that it be indefinitely postponed.

The motion was agreed to.

Mr. MORRILL, from the Committee on the District of Columbia, to whom was referred a bill (S. No. 185) to preserve evidence of marriages in the District of Columbia, reported it with an amendment.

Mr. WILLIAMS, from the Committee on Claims, to whom was referred the petition of Mrs. Elizabeth R. Smith, widow of Lieutenant Richard H. Smith, United States Army, who was lost on board the steamer San Francisco in December, 1853, praying for compensation for property lost on board that steamer at the time it was wrecked, submitted an adverse report; which was ordered to be printed.

Mr. HENDRICKS, from the Committee on Naval Affairs, to whom was referred the petition of Charles Murray, a paymaster in the United States Navy, praying for additional compensation for services at the naval station at Mare Island, California, reported adversely thereon.

WASHINGTON CANAL.

Mr. MORRILL. The Committee on the District of Columbia, to whom was referred a resolution requesting the President to detail three competent engineers to survey the canal in this city with a view to its improvement by the removal of existing nuisances, have instructed me to report it back and recommend its passage; and I ask for the present consideration of the resolution.

By unanimous consent, the Senate proceeded to consider the following resolution:

Resolved, That the President be, and hereby is, requested to cause to be detailed three experienced and skillful engineers of the Army of the United States, who shall be directed to examine the entire line of the Washington city canal and report what immediate means, in their judgment, should be adopted for such temporary improvement thereof as will best secure the health of residents and citizens of the national metropolis during the coming summer, and also such plan for the permanent improvement and regulation thereof as will most effectually remove the existing nuisances and prevent future similar accumulations.

The resolution was adopted.

EULOGY ON HENRY WINTER DAVIS.

Mr. ANTHONY. The Committee on Printing, to whom was referred a resolution to print ten thousand copies of the eulogy on the late Henry Winter Davis by Hon. J. A. J. CRESWELL, on the 22d of February, have instructed me to report it back with an amendment, and to ask for its present consideration.

There being no objection, the Senate proceeded to consider the resolution, which is in the following words:

Resolved, That ten thousand copies of the address of the Speaker of the House of Representatives and the eulogy on the late Henry Winter Davis by Hon. J. A. J. CRESWELL, on the 22d of February, be printed for the use of Senators, and that the same be printed in the Globe.

The amendment of the committee was to strike out "ten" and insert "six," so that it will read "six thousand copies."

Mr. ANTHONY. That is the same number that was printed of the eulogies on our late associate, Mr. Collamer.

The amendment was agreed to.

The resolution as amended was adopted.

BILL INTRODUCED.

Mr. TRUMBULL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 190) to incorporate the District of Columbia Canal and Sewerage Company; which was read twice by its title.

Mr. TRUMBULL. I desire to say in reference to this bill that I have not examined it; it was prepared by a gentleman who handed it to me with a request that I would introduce it. I move its reference to the Committee on the District of Columbia.

The motion was agreed to.

PRINTING OF AN AMENDMENT.

Mr. POMEROY. I ask leave to introduce an amendment to a bill which is now pending before the Committee on Public Lands. It is an amendment to the bill (S. No. 143) to revive and extend the provisions of an act granting the right of way and making a grant of land to the States of Arkansas and Missouri, to aid in the construction of a railroad from a point upon the Mississippi, opposite the mouth of the Ohio river, via Little Rock, to the Texas boundary, near Fulton, in Arkansas, with branches to Fort Smith, and the Mississippi river, approved February 9, 1853, and for other purposes. I move that the amendment be printed and referred to the Committee on Public Lands.

The motion was agreed to.

PROTECTION OF ARMY OFFICERS FROM SUITS.

Mr. WILSON. I offer the following resolution:

Resolved, That the Committee on the Judiciary be directed to inquire what legislation is necessary to protect officers of the Army from arrest and prosecution by civil suits for acts done in execution of the orders of their superior officers during the rebellion, while they were holding commissions in the Army of the United States, and subject to the Rules and Articles of War; and that the committee have leave to report by bill or otherwise.

There being no objection, the Senate proceeded to consider the resolution.

Mr. WILSON. I desire simply to say that I have introduced this resolution because of the large number of prosecutions that have recently been commenced in some parts of the country against the officers of the Army after being mustered out of service, and against some who are still in the service. In the State of Kentucky I learn that several officers have been prosecuted and fined by courts, that certainly have done nothing during the war to support the country, and heavy fines imposed upon them; and but the other day General Terry, from Richmond, called on me and said he had been prosecuted, on an official visit to this city, for acts done in Virginia, and already subjected to large expenses. I hope that the Committee on the Judiciary will take this subject into serious consideration and see if something cannot be done to protect the officers who have acted under orders and performed their duty during the rebellion through which we have passed.

The resolution was adopted.

PASCHAL'S CONSTITUTION.

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

Resolved, That the Committee on Public Printing inquire into the propriety of purchasing, for the use of the Senate, a number of the copies of the Constitution of the United States, with the notes of reference and a complete index, prepared by George W. Paschal.

Mr. HENDRICKS. I ask that the specimen of the Constitution and notes which I have sent up to the Secretary's desk be referred with the resolution to the committee.

The PRESIDENT *pro tempore*. It will be so referred.

CHOLERA COMMISSION.

Mr. SPRAGUE. I submit the following resolution, and ask for its present consideration:

Resolved, That the Committee on Foreign Relations consider the expediency of reporting a bill for the appointment of a medical commission of two members, to be selected, one from the Army, the other from civil professional life, to examine the subject of cholera, disinfectants, and quarantine, and to attend the proposed international convention as suggested in the President's communication upon the same subject, heretofore referred to the Committee on Foreign Relations.

There being no objection, the Senate proceeded to consider the resolution.

Mr. SPRAGUE. The resolution shadows forth the opinion of many medical men bearing on the subject of cholera and disinfectants and quarantine, and upon the international congress about to meet at Constantinople. I trust the subject will receive the earnest attention of the Committee on Foreign Relations, as it is one to which legislation at this time may well direct itself. I know of no subject more important to the interests of the people of this country.

The resolution was adopted.

INVESTIGATION OF COTTON FRAUDS.

Mr. DAVIS. I move to take up the resolution that I offered some time since for the appointment of a committee to investigate cotton frauds.

Mr. CONNESS. I ask whether the bill that was pending yesterday in the morning hour does not now come up without a motion, as the order of the morning hour?

The PRESIDENT *pro tempore*. It has not been the practice of the Senate to take up resolutions or bills that are left as unfinished business in the morning hour. Any motion to proceed to the consideration of any other subject has always been considered as in order.

Mr. CONNESS. I trust the honorable Senator from Kentucky will let his resolution pass over for another morning or two, since we are in the midst of a debate and near a vote on the other question to which I allude.

Mr. DAVIS. If the honorable Senator will allow an amendment which I propose to offer as a substitute for my original resolution to be read, I have no objection to the matter taking the course he indicates.

The PRESIDENT *pro tempore*. Does the Senator from Kentucky wish to have the motion put on taking up the resolution referred to by him, or does he ask common consent to have the proposed substitute read?

Mr. DAVIS. The resolution can be taken up first, and then the proposed substitute can be read.

The PRESIDENT *pro tempore*. Then the question is on the motion of the Senator from Kentucky to proceed to the consideration of the resolution indicated by him.

The motion was agreed to; and the Senate resumed the consideration of the following resolution, submitted by Mr. DAVIS on the 9th of February:

Whereas charges of fraud, peculation, and extortion have been made against agents of the Cotton Bureau by citizens, and especially cotton planters and cotton factors; and whereas said charges have also been made through the public press, and the serious attention of the Senate called thereto; and whereas it has been made to appear to the Senate that agents, in some instances, have been indicted by the State courts for swindling, and the jurisdiction of said courts in the premises having been denied, and the accused agents taken out of the hands of the civil authorities by military force:

Resolved, That a committee, to consist of —— Senators, be, and the same is hereby, appointed to investigate the said charges, with authority to have brought before them persons and papers; and said committee will report the result of its investigation to the Senate for its action.

The PRESIDENT *pro tempore*. The Senator from Kentucky offers an amendment, as a substitute for the resolution, which will be read.

The Secretary read it, as follows:

Resolved, That the following be added to the special rules of the Senate:

At this time, and hereafter at the commencement of each session, the President of the Senate shall appoint a committee, to consist of five members, on the abuses of power by all officers and employés of the United States.

2. When there is a political party in the Senate opposed to the party which may be administering the Government, the President shall appoint a majority of said committee, including the chairman, from the Opposition. Said committee shall investigate all abuses of trust and power by the officers and employés of the Government, commencing their investigations from the 1st of January, 1861.

Mr. DAVIS. I asked that that amendment be read for information of the Senate, and I have now no objection of the matter going over.

Mr. TRUMBULL. Before this subject-matter passes from the consideration of the Senate, I wish to say a word. It will be remembered that when the Senator from Kentucky called up this resolution some days ago, he caused to be read at the Secretary's desk a statement, I do not know from whence it came, reflecting very much upon an officer in the Army who is from my State, General Brayman. I have received from General Brayman a note which, in justice to him, as he was severely reflected upon by that communication, I think ought to be read.

Mr. CONNESS. It can be read when the subject is up.

Mr. TRUMBULL. It is up now and may never be up again. It will take but a moment to read it. I ask that General Brayman's letter may be read that it may have the same publicity as the charge that was presented against him. I will read it myself or ask the Clerk to read it.

The PRESIDENT *pro tempore*. It will be read, if there be no objection.

The Secretary read, as follows:

WASHINGTON, D. C., *March* 1, 1866.

SIR: When Hon. GARRETT DAVIS, of Kentucky, shall have concluded the reading of the communication of William Burnett, will you have the kindness to ask that this note be read at the Secretary's desk, that it may have equal publicity before the Senate and the country?

While in command at Natchez in 1864, I was furnished, by a party on duty in the Treasury Department, with an elaborate detailed statement, under oath, of extensive frauds and crimes perpetrated by William Burnett, and others, against the Government and private citizens. This complaint I forwarded to my superior officer, asking for instructions. Being authorized, I ordered the arrest of Burnett and his accomplices. A commission, composed of able and honest men, made a thorough investigation. The proofs of Burnett's guilt were so overwhelming that he resigned on the fifth day of the investigation.

The commission made a full and elaborate report, accompanied by charges and specifications. These were transmitted to my superior officers, with copies for the War and Treasury Departments, where, I doubt not, they are on file. Then, and during the whole period of my command, I urged the trial of Burnett for the offenses charged.

I now reaffirm the guilt of this man. I reaffirm and stand by all my official orders and acts in his case, and am prepared to convict him, whenever his friends consent to an investigation. As an officer of the Government, I did but my duty. My superiors were advised of every step taken, and I had their approval throughout.

I cannot condescend to notice the grossly indecent personal allusions which the paper contains, further than to say that they were made in 1864 by men smarting under a sense of detected guilt, thoroughly investigated by my superior officers, and by their written orders and indorsements, now in my possession, pronounced false and malicious. It is amazing that Mr. Burnett, knowing his statements to be untrue and officially discredited, should venture their repetition; and unfortunate that he should be able to impose them upon the courtesy of Senators.

Please do me the favor to join in demanding a committee, with power to send for persons and papers, that a most thorough investigation may be made. It may be well even now to inquire why William Burnett was not tried, and whether at one time the infection of crime and speculation had not made bad men strong enough to thwart all efforts at conviction and defy fair accountability.

Respectfully, your obedient servant,

M. BRAYMAN,
Brevet Major General Volunteers.

Hon. L. TRUMBULL, *United States Senate.*

Mr. DAVIS. The paper that I proposed to have read the other day was objected to by the Senate before much progress had been made in the reading. Without any objection on my part, this communication from General Brayman has been read. I know nothing of the matters referred to in either paper except what the papers themselves set forth, with this additional exception: there is a gentleman, a resident of Cincinnati, whom I know, and whom I know to be a man of high character, whom I have seen since I received the communication from Mr. Burnett. I handed that communication to him and he read it, and he said that much the most of the charges which that paper made against General Brayman he himself knew to be true, and he said furthermore that the treatment by General Brayman of Mr. Burnett was so unjust, so oppressive, and so atrocious that he would have slain him the moment he was released from the military court, if he had received the same treatment that Mr. Burnett did from this General Brayman.

Now, I merely ask that this resolution be made the special order for half past twelve o'clock to-morrow; and that then the residue of the paper which I offered the other day from Mr. Burnett may be read, referring only to facts and charges; I think there is but little vituperation in it; and then the Senate may, without further discussion or consumption of time upon my part, dispose of the subject upon my motion either to have a special committee to investigate that charge, or a general committee to investigate the subject of abuses on the part of the officers and employés of the General Government, as one of the special rules of the Senate. I therefore hope that in justice to Mr. Burnett, as the Senate have permitted this counter-communication of General Brayman to be read without having his communication read, they will allow this subject to be taken up at half past twelve o'clock to-morrow, simply to have the reading of his communication completed, and that the subject may then be disposed of according to the judgment of the Senate.

Mr. TRUMBULL. I have not examined this case, and therefore I will not undertake to affirm the guilt or innocence of any of these parties. I will state to the Senator from Kentucky that General Brayman, with his letter, transmitted to me a very long document, showing the official proceedings and orders in regard to this Mr. Burnett. I have not asked to have them read. I have not read them myself. I only had the letter of General Brayman read to show that he denies all these accusations, and manifestly the Senate could not decide upon this matter by reading these papers. General Brayman avows himself quite ready and desirous to have an investigation. If the matter is of such character as ought to be investigated, and the Senator from Kentucky thinks it is, and has examined it, I hope he will insist on the appointment of a special commitee to look into it. That is what General Brayman demands. I hardly think it would be worth while to ask the Senate, or that the Senate would consent to the reading of all these papers, and I do not see any good to come of it. I only asked to have General Brayman's letter read that he might simply deny the charges. He does not go into the details in his letter as will be seen, but I have here a long statement from him on the subject. I cannot say what it proposes, for I have not had time to examine it myself. I hope the Senator from Kentucky will insist on his special committee and investigate this matter. That is what General Brayman desires.

Mr. DAVIS. I will accept the suggestion of the Senator from Illinois if I may be allowed to do so. At twelve o'clock to-morrow I will ask that a special committee be raised in conformity to the request both of Mr. Burnett and of General Brayman.

Mr. GRIMES. It will be remembered that in the paper that was partially read at the

request of the Senator from Kentucky there were some very serious charges made against General James M. Tuttle, a citizen of the State which I have the honor in part to represent. I have not had an opportunity to have any communication with General Tuttle since that paper was read, but I desire to say, in vindication of General Tuttle, that two years ago his character was so fair and unblemished in the State of which he is a citizen that he was the Democratic candidate for Governor, and he received the whole strength of that party; and in vindication of that party I think it is due that I should here say in their behalf that they would not consent to give their votes in behalf of a man who stands charged justly of the offenses which are set forth in that paper. I will say further, that so far as I know and believe General Tuttle is an honorable and excellent man. I never heard any of these charges against him, and although I am not prepared to say that they are not true, I am prepared to say that I do not believe one word of them.

Mr. CONNESS. I hope that now this subject will go over at present; and I will state again to the honorable Senator from Kentucky that I agree in the suggestion made that this whole matter should go to a special committee. I think he will concede that the reading of these papers before the Senate should not be had now, and that the whole subject-matter should be sent to a committee to investigate it.

Mr. DAVIS. I have acquiesced in that before.

Mr. CONNESS. I hope the resolution will go over in order that we may take up this other subject to which I have alluded and come to a vote upon it. I am exceedingly anxious to have that disposed of, because I receive constantly letters and telegraphic dispatches calling my attention to it.

Mr. DAVIS. My suggestion is simply this: that this matter be made the special order for half past twelve o'clock to-morrow with a view then to raise a committee.

Mr. CONNESS. The Senator can move to take it up without making it a special order. There will be no objection to it.

Mr. DAVIS. I hope we shall then take a vote without any discussion. Before I take my seat I will remark that I was advised, as the Senator from Iowa has stated, that General Tuttle was the Democratic candidate for Governor in the State of Iowa. I took it for granted, and I still am of opinion, that he is a man of integrity and of character. If he be so, then the investigation cannot harm him or any other man who occupies such a position, but would have the effect to vindicate them from all aspersions; and I shall be gratified if General Tuttle and General Brayman and everybody else implicated in the charges made by Mr. Burnett shall come forth as bright as burnished gold.

Mr. FESSENDEN. I wish to enter my protest against this investigation being had under the resolution originally offered by the Senator from Kentucky. That resolution points at the Treasury Department and the Treasury agents, &c. The evidence he has adduced has reference to abuses by officers of the Army and not officers of the Treasury Department. If he varies his resolution so as to meet this individual case without regard to which it may be considered that evidence has been offered, I shall make no objection to it; but I shall object to an investigation under the original resolution. No testimony whatever has been offered on that subject except to deny that there has been any abuse; that is to say, so far as the Senate are concerned.

Mr. CONNESS. All that will necessarily come up when the question of appointing the committee comes up, and there is value in the suggestion made by the honorable Senator. I hope the subject will go over now, and the Senator from Kentucky can take it up without opposition in the Senate on any morning.

The PRESIDENT *pro tempore*. It is moved that the further consideration of this resolution be postponed until to-morrow, and be made the special order at half past twelve o'clock.

The motion was not agreed to.

Mr. DAVIS. I suppose that is an end of the matter.

Mr. CONNESS. The Senator may call it up at any time, and I have no doubt he will be allowed to do so. I move that the Senate now proceed to the consideration of the motion to reconsider which was pending yesterday.

The PRESIDENT *pro tempore*. The subject before the Senate is not disposed of. The Senate merely refused to make it the special order for to-morrow at half past twelve o'clock.

Mr. CONNESS. Then I move it be postponed until to-morrow.

Mr. YATES. I will inquire of the Senator from Kentucky whether these papers are withdrawn. I understood him to say, "This is an end of the matter." Are the papers introduced withdrawn?

Mr. DAVIS. I do not withdraw anything.

Mr. YATES. I desire to say in behalf of General Brayman that he demands an investigation, and I do not see, unless it is not in order at present, why this committee might not be appointed by unanimous consent. I hope it will be done, or at least it will be agreed that the committee shall be appointed.

The PRESIDENT *pro tempore*. The motion before the Senate is that the further consideration of the resolution be postponed until to-morrow.

The motion was agreed to.

BONDED WAREHOUSES.

Mr. CONNESS. I now renew my motion.

The motion was agreed to; and the Senate resumed the consideration of the bill (H. R. No. 135) to extend the time for the withdrawal of goods for consumption from public store and bonded warehouse, and for other purposes, the pending question being on the motion to reconsider the vote passing the bill.

Mr. SPRAGUE. I move that the further consideration of this subject be postponed until the day after to-morrow.

Mr. CONNESS. I hope that will not be done by the Senate. The honorable Senator has told us that he intended to contest this measure by postponement. Now, I hope we will come to a vote.

Mr. SPRAGUE. I brought to bear to the consideration of this question yesterday a very hoarse voice, and to-day I find that my voice is no better, and I have also somewhat of a fever, which would render it rather difficult for me to express the views that I entertain in the manner that I should be glad to do. I therefore make the motion to postpone, and trust that upon that day I shall be able to continue and conclude the remarks that I propose to make upon this subject.

The PRESIDENT *pro tempore*. It is moved that the further consideration of this bill be postponed until the day after to-morrow.

The motion was agreed to.

Mr. CONNESS. I give notice that on the day after to-morrow I shall call for a vote, and shall call for the yeas and nays on this question.

INTERNAL REVENUE.

Mr. SHERMAN. I reported a bill yesterday morning from the Committee on Finance which I will ask the Senate to take up and act upon now. I suppose we can dispose of it before the hour arrives for the consideration of the special order.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 201) to declare the meaning of certain parts of the internal revenue act approved June 30, 1864, and for other purposes.

It provides that in section one hundred and twenty of the act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, the words, "all dividends in script, or money thereafter declared due, and whenever the same shall be payable, to stockholders, policy holders or depositors," shall mean all dividends in scrip or money whenever payable, and all stockholders, policy holders, depositors, or parties whatsoever, including non-residents, whether citizens or aliens.

It further provides that in section one hundred and twenty-two of that act the word "stockholders" shall mean all persons or parties whatsoever that are or may be stockholders, including non-residents, whether citizens or aliens; and the words "all such interests or coupons, dividends or profits, whenever the same shall be payable," are to apply to all such interest or coupons, dividends or profits, whenever the same are or may be payable, and to whatsoever party or person the same are or may be payable, including non-residents, whether citizens or aliens.

It is to be the duty of all persons required to make returns or lists of income and articles or objects charged with any duty or tax to declare in such returns whether the several rates and amounts therein contained are stated according to their values in legal-tender currency; and in case of neglect or refusal so to state, to the satisfaction of the assistant assessor receiving such returns or lists, the assistant assessor is required to make returns or lists for such persons so neglecting or refusing as in the case of persons neglecting or refusing to make the lists or returns required, and to assess the duty thereon, and to add thereto the amount of penalties imposed by law in case of such neglect or refusal. Whenever the rates and amounts contained in the lists or returns are stated in coined money, it is to be the duty of each assessor receiving them to reduce such rates and amounts to their equivalent in legal-tender currency according to the value of such coined money in currency at the time when and place where the lists or returns are receivable, and which value the assessor is to determine. The lists required by law to be furnished to collectors by assessors are in all cases to contain the several amounts of taxes or duties assessed, estimated, or valued in legal-tender currency only.

The provisions of this act are, so far as necessary, to apply to all returns, lists, assessments, and collections required by those acts in addition to those above mentioned, by whomsoever made, returned, assessed, or collected, in any mode or for any purpose whatever. The Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury, is authorized to make all necessary rules and regulations for carrying this act into effect.

The Committee on Finance reported the bill with two amendments, in section one, line ten, and also in section two, line eight, to strike out the word "whenever" and insert "where ever."

The PRESIDENT *pro tempore*. Those corrections will be made if there be no objection, being merely verbal corrections.

Mr. SHERMAN. Perhaps it is due to the Senate that I should state the effect of this bill. It is to change and modify the income tax somewhat. By a decision made by the Chief Justice in Baltimore certain bonds if they belong to foreigners are exempted from the income tax. The purpose of the first two sections of the bill is to reach incomes due to foreigners derived in this country from coupons, bonds, &c., of corporations. I think that is manifestly just. The third and fourth sections are intended to cover an evasion or fraud of the law. When the income of an individual is payable in gold, it is often returned as so much money in gold; but if it should be reduced to the standard of our ordinary currency it would make a considerably larger sum. The purpose is, where the income is returned in gold, that the tax shall be paid in gold or its equivalent. With this explanation, I do not know that it is necessary to say anything further.

The bill was reported to the Senate as amended, and the amendments were concurred in, and ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

COMMITTEE ON VENTILATION.

Mr. BUCKALEW. I move to proceed to the consideration of the resolution now on the table in relation to the appointment of a committee on ventilation.

The motion was agreed to; and the Senate proceeded to consider the following resolution submitted by Mr. BUCKALEW on the 18th of January:

Resolved, That a committee of the Senate be appointed for the present session, to consist of five members, to be entitled the committee on ventilation, to which shall be assigned the consideration of all questions relating to the ventilation and sanitary condition of the Senate wing of the Capitol.

The resolution was adopted.

A. J. GRAY.

Mr. LANE, of Kansas. I move that the Senate proceed to the consideration of the bill (S. No. 180) for the relief of A. J. Gray.

The motion was agreed to; and the bill was read a second time and considered as in Committee of the Whole. It requires the Commissioner of Pensions to place the name of Andrew J. Gray, late a pilot on board the United States gunboat Judge Torrence, upon the list of invalid pensioners, at the rate prescribed for officers of his rank by act of Congress approved July 14, 1862.

Mr. FESSENDEN. I should like to hear the report in that case.

The PRESIDENT *pro tempore*. The Chair is advised that there is no report accompanying the bill.

Mr. FESSENDEN. Then I hope the bill will not be acted upon at the present time. There ought to be a report accompanying all these pension bills.

Mr. LANE, of Kansas. This case was referred to the Commissioner on Pensions, and was considered by the Committee on Pensions and unanimously reported to the Senate.

Mr. FESSENDEN. I am opposed to acting on these cases out of the ordinary course. If they do not come within the provisions of the law, a report should be submitted with each case so that the Senate may be able to judge upon them. It is very unsafe doing business in this way upon the mere verbal statements of individual Senators. There ought to be a report in all these cases stating the facts upon which the bills are based.

Mr. LANE, of Indiana. The papers in this case are very full, stating the facts, and they are filed with the bill. The facts are these: this man was disabled by the concussion of a shell while serving on a western gunboat as a pilot. Those volunteer pilots are not provided for in any pension law. The committee thought it but proper that this case should be provided for. The proof is clear. The bill merely proposes to place him upon the pension rolls just as he would have been if he had been in the regular Navy of the United States. This is the whole of it.

Mr. FESSENDEN. The custom has been heretofore, and it has been invariable so far as I know, to make a report in each case giving the facts, and this practice that may be growing up, to have no reports but to take verbal statements, is, in my judgment, a very bad and unsafe one with regard to claims before Congress and the granting of special pensions. For the sake of the precedent we ought always to have a report upon the subject. I am opposed to this practice. I think it is a bad one. I know it is an innovation. We ought not take the mere verbal statements of parties. It seems to me that we are becoming very careless in these matters. I dare say this is a very good claim. I know nothing about it.

Mr. LANE, of Indiana. If there was time I could read all the papers accompanying the bill. They contain all the facts in the case.

Mr. FESSENDEN. That would take longer than a short report showing the facts.

Mr. GRIMES. I observe this bill says that this person was a pilot, and it provides that he shall draw the pension that is allowed to persons of his rank and grade. What is that?

Mr. LANE, of Indiana. Twenty-five dollars a month.

Mr. GRIMES. What is the rank?

Mr. LANE, of Indiana. Pilot in the regular Navy.

Mr. GRIMES. I would inquire if there is any law that specially designates the rank of a pilot?

Mr. LANE, of Indiana. Yes, sir.

Mr. GRIMES. In the pension laws?

Mr. LANE, of Indiana. Yes, sir; in the law of 1862, to which this bill refers. If Senators desire it I have no objection to the bill being recommitted, and then I can report it back again with a written report.

Mr. FESSENDEN. I should like that to be done, because I would like to know what the case is.

Mr. LANE, of Indiana. I move that the bill with the accompanying papers be recommitted to the Committee on Pensions, so that we may accompany the bill with a written report.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House of Representatives had agreed to the amendment of the Senate to the joint resolution of the House (H. R. No. 17) giving the consent of Congress to the transfer of the counties of Berkeley and Jefferson to the State of West Virginia.

The message further announced that the House of Representatives had passed the following bills and joint resolution, in which it requested the concurrence of the Senate:

A bill (H. R. No. 183) concerning the fire department of Washington city;

A bill (H. R. No. 223) to amend an act to incorporate the Mutual Fire Insurance Company of the District of Columbia; and

A joint resolution (H. R. No. 84) for the relief of the sufferers by the late explosion at the United States arsenal in the District of Columbia.

APPORTIONMENT OF REPRESENTATION.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday, being the joint resolution (H. R. No. 51) proposing to amend the Constitution of the United States, upon which the Senator from Massachusetts [Mr. SUMNER] is entitled to the floor.

Mr. SUMNER. Mr. President, I hesitate to intrude again into this debate, which now, after the interjection of another debate on another question, is again renewed. I do it with unfeigned reluctance, and I hope not to trespass too much on your patience.

The question before us, even in its simplest form, is of incalculable importance; but it has an added interest, inasmuch as it opens the whole vast subject of reconstruction. Into this field I shall not be tempted at this time, except to express a short opinion on the general principles we should seek to establish. Treason must be made odious, and to this end power must be secured to loyal fellow-citizens. In doing this, two indispensable conditions cannot be forgotten: first, all who have been untrue to the Republic must for a certain time, constituting the *transition period*, be excluded from the partnership of government; and secondly, all who have been true to the Republic must be admitted into the partnership of government, according to the sovereign rule of the Constitution, which knows no distinction of color. Following these two simple commandments, there will be safety and peace, together with power and renown. Neglecting these two simple commandments, there must be peril and distraction, together with imbecility and dishonor. In the one way reconstruction will be easy; in the other way it will in any just sense be impossible. It may seem for the moment to succeed; but it must fail in the end. This is all I have to say at present on reconstruction, and I turn at once to the precise question before us.

Pardon me, sir, if I remind you here on the threshold that there are two modes of debate. One is to attack the previous speaker with personality of criticism or of manner. The other is to speak plainly on the question, and to deal directly according to your convictions with the principles involved. Sometimes these two modes are allowed to intermingle. If ever there was an occasion when the first should be carefully avoided, when the question alone should be handled, and not the previous speaker, when the attention should be directed exclusively to the principles involved, and not to any subordinate point of mere form, it is now, when we are asked to insert a new provision in the Constitution, fixing the basis of political power at the expense of fellow-citizens counted by millions. In this spirit I shall try to say what I have to say. To my mind, the occasion is too solemn for personal controversy, and I shall not be drawn into it.

CHARACTER OF THIS COMPROMISE.

The proposition now before you is the most important ever brought into Congress, unless, perhaps, we may except the amendment abolishing slavery, and to my mind it is the most utterly reprehensible and unpardonable. The same sentiment which led us to hail the abolition of slavery with gratitude as the triumph of justice, should make us reject with indignation a device to crystallize into organic law the disfranchisement of a race. It is with infinite regret that I differ from valued friends about me, but I cannot do otherwise. I bespeak in advance their candor, and most cheerfully concede to all from whom I differ the same indulgence which I claim for myself. In exposing such an attempt, I must speak frankly, as on other occasions, in exposing the Crime against Kansas or the infamy of that enactment which turned the whole North into a hunting-ground, where man was the game. The attempt now is on a larger scale and is more essentially bad than the Crime against Kansas or the Fugitive Slave Bill. Such a measure, so obnoxious to every argument of reason, justice, and feeling, so perilous to the national peace and so injurious to the good name of the Republic, must be encountered as we encounter a public enemy. There is no language which can adequately depict its character. Thinking of it, I am reminded of those words of Chatham, where he held up to undying judgment a measure of the British Ministry, which I think had already received the sanction of the House of Commons, as the present attempt has already received the sanction of the House of Representatives. Chatham did not hesitate, nor did he tame his words, but exclaimed:

"I am astonished, shocked, to hear such principles confessed; to hear them avowed in this House or in this country, principles equally unconstitutional, inhuman, and unchristian. I call upon you to stamp upon them an indelible stigma of the public abhorrence."

Then, rising to still higher flight, he exclaimed:

"My lords, I am old and weak and at present unable to say more; but my feelings and indignation were too strong to have said less. I could not have slept this night in my bed, nor reposed my head on my pillow, without giving this vent to my eternal abhorrence of such preposterous and enormous principles."

But what was the measure which thus aroused the veteran orator compared with that which is now before us? It was only a transient act of wrong, small in its proportions, which he denounced. I am to denounce an act of wrong permanent in its influence, colossal in its proportions, operating in an extensive region, affecting millions of citizens, positively endangering the peace of the country, and covering its name with dishonor. Such is the character of the present attempt. I exhibit it as I see it. Others may not see it so. Of course, its supporters cannot see it so. The British Ministry did not see the measure which Chatham denounced as he saw it and as history now sees it. Of course Senators would not support the present proposition if they thought it disgraceful; nor would the British Ministry have supported that earlier proposition had they thought it disgraceful. Unhappily, they did not think

so; but I trust you will be warned by their example.

With the eloquence of Chatham, another person from his place in the House of Lords held up to reprobation that apprentice system, which under the sanction of both Houses of Parliament, followed emancipation in the British West Indies. I refer to Brougham. He did not hesitate to exclaim: "Prodigious, portentous injustice!" And then continuing, he exclaimed again: "The gross, the foul, the outrageous, the incredible injustice of which we are daily and hourly guilty toward the whole of the ill-fated African race!" But how small was the injustice which aroused his reprobation compared with that which you are now asked to perpetuate in constitutional law. The wrong which he arraigned was against eight hundred thousand persons in distant islands, to whom the people of Great Britain were bound by no ties of gratitude, and who were to them only fellow-men. The wrong which I now arraign is against four million persons, constituting a considerable portion of the "people" of the United States to whom we are bound by ties of gratitude, and who are to us fellow-citizens.

From the moment I heard this proposition first read at the desk I have not been able to think of it without pain. The reflection that it might find a place in the Constitution, or even that it might be sanctioned by Congress, is intolerable. And this becomes more so when I call to mind the circumstances by which we are surrounded and the exigency of the hour.

Lord Bacon tells us that the highest function which men can be called to perform on earth is that of founders of States, or, as he expresses it, *conditores imperii*. Such is the duty now before us. We are to help in this great work by a fundamental provision which shall fix the basis of our political system for an indefinite future. There are none among the great lawgivers of history who have had a sublimer task.

But this duty is enhanced when we consider that it is the consequence and sequel of an unparalleled war. At a moment of peace such a duty would be commanding; but it is now reënforced by exceptional considerations arising from the exceptional condition of affairs. For four years Rebellion, in the largest proportions known to authentic history, raged among us, threatening to rend this Republic in twain. Millions of treasure were sacrificed. Lives more precious than any treasure were heaped in hecatombs. Families were filled with mourning. In the terrible struggle, while the country was bleeding at every pore and the scales of battle hung doubtful, assistance came from an unexpected quarter. Intermixed with the false men who warred on the Republic were more than three million slaves, shut out from rights of all kinds, and compelled to do the bidding of masters. These slaves became our benefactors. They were kind to our captive soldiers, sheltering them, feeding them, supplying their wants, and guiding them to safety. Thus in the very heart of the Rebellion there was a filial throb for the Republic. At last arms were put into the hands of these benefactors, and two hundred thousand brave allies, representatives of an unmustered host, leaped forward in defense of the national cause. The Republic was saved. The Rebellion was at an end. Meanwhile the good President who at that time guided our affairs put forth his immortal Proclamation, declaring that these slaves "are and henceforward shall be free," and not stopping with this declaration, he proceeded to announce, that the Executive Government of the United States, including the military and naval authorities thereof, "will recognize and *maintain* the freedom of such persons." Thus was the Republic solemnly pledged to these benefactors: first, by the ties of gratitude that should be enduring, and secondly, by an open promise in the face of the civilized world. And this pledge was taken up and adopted by the people of the United States, when, by constitutional amendment, they expressly empowered Congress to maintain this freedom by appropriate legislation.

And now, sir, called as we are to readjust the foundations of political power, which are naturally changed by the disappearance of slavery; and called also to perform sacred promises to benefactors, in harmony with sacred promises of our fathers, while at the same time we save the name of the Republic from dishonor and see that the national peace is not imperiled, Congress is about to liquidate all these inviolable obligations by a new compromise of Human Rights, and, so far as it can, to place this compromise in the text of the Constitution; thus establishing a false foundation of political power, violating the national faith, dishonoring the name of Republic, and imperiling the national peace. Others have dwelt on the inadequacy of this proposition, even for its avowed purposes. Conceived in a desire to do indirectly what ought to be done directly, and thus "by indirections find direction out," it must naturally share the conditions of such a device. Falstaff tells us that "wit may be made a jackanapes when 'tis upon an ill employ;" but what ill employ ever equaled that of this attempt?

Looking at this compromise in its most general aspect, it reminds me, if you will pardon the illustration, of that leg of mutton, served for dinner on the road from London to Oxford, which Dr. Johnson, with characteristic energy, described "as bad as bad could be, ill-fed, ill-killed, ill-kept, and ill-dressed." So this compromise—I adopt the saying of an eminent friend, who insists that it cannot be called an "amendment," but rather a "detriment" to the Constitution—is as bad as bad can be; and even for its avowed purpose it is uncertain, loose, cracked, and rickety. Regarding it as a proposition from Congress to meet the unparalleled exigencies of the present hour, it is no better than the "muscipular abortion" sent into the world by the "parturient mountain." But it is only when we look at the chance of good from it that this proposition is "muscipular." Regarding it in every other aspect it is infinite, inasmuch as it makes the Constitution a well-spring of insupportable thralldom, and once more lifts the sluices of blood destined to run until it comes to the horse's bridle. Adopt it, and you will put millions of fellow-citizens under the ban of excommunication; you will hand them over to a new anathema maranatha; you will declare that they have no political rights "which white men are bound to respect," thus repeating in a new form that abomination which has blackened the name of Taney. Adopt it, and you will stimulate anew the war of race upon race. Slavery itself was a war of race upon race, and this is only a new form of this terrible war. The proposition is as hardy as it is gigantic; for it takes no account of the moral sense of mankind, which is the same as if in rearing a monument we took no account of the law of gravitation. It is the paragon and master-piece of ingratitude, showing more than any other act of history what is so often charged and we so fondly deny, that republics are ungrateful. The freedmen ask for bread, and you send them a stone. With piteous voice they ask for protection. You thrust them back unprotected into the cruel den of their former masters. Such an attempt, thus bad as bad can be; thus abortive for all good; thus perilous; thus pregnant with a war of race upon race; thus shocking to the moral sense, and thus treacherous to those whom we are bound to protect, cannot be otherwise than shameful. Adopt it, and you will cover the country with dishonor. Adopt it, and you will fix a stigma upon the very name of Republic. As to the imagination, there are mountains of light, so are there mountains of darkness: and this is one of them. It is the very Koh-i-noor of blackness.

OBJECTIONS TO THIS COMPROMISE.

I shall not content myself by describing this proposition. This is not enough, where such an attempt is made. You have seen it in its general character only. You shall see it now in its guilty parts, each one of which is sufficient to arouse the conscience against it.

1. Of course you cannot fail to be struck by its language. Here words become things. In express terms there is *an admission of the idea of Inequality of Rights founded on race or color.* That this unrepublican idea should be allowed to find a place in the text of the Constitution will excite especial wonder when it is considered how conscientiously our fathers excluded from that text the kindred idea of property in man. The saying of Mr. Madison cannot be too often repeated:

"He thought it *wrong* to admit in the Constitution the idea of property in man."

But is it less wrong to admit in the Constitution the idea of Inequality of Rights founded on race or color? Surely the authors of this proposition have acted very inconsiderately and with little regard to the spirit of the fathers. Imagine it introduced into the Convention which framed the Constitution. It would have been scorned as a defilement not to be tolerated. It would have been scouted from that text which, with pious care, was to be guarded against degradation. And now mark the change. After the lapse of generations, when our obligations have increased with increasing light—at an epoch of history when mankind are more than ever before sensitive to the claims of human rights—and when among ourselves there is more than ever before a desire and a duty to fulfill all the promises of the Declaration of Independence, we are invited to make the Constitution slap the Declaration of Independence in the face; to make it insult the conscience of mankind, and to make it disregard all the obligations pressing upon us. But this is a mild way of stating the character of this attempt as it appears in the words. Its essential uncleanness is not disclosed; and this you must understand. Adopt this proposition, and you will be little better than the foul Harpies who defiled the feast that was spread. The Constitution is the feast spread for our country, and you are now hurrying to drop into its text a political obscenity, and to spread on its page a disgusting ordure,

"Defiling all you find,
And parting leave a loathsome stench behind."

If I use plain language it is because the occasion requires it. Only in this way can this enormity be adequately exposed. Only in this way can you be made to see it in its true character. Only in this way can you be moved to shrink from it with proper repugnance. It is in this spirit that the religious press of the country is beginning to speak. The Boston Recorder, which is the most venerable of all the religious papers of New England, and perhaps of the whole country, which for more than half a century has been a weekly teacher at uncounted firesides, thus solemnly appeals to the conscience of patriots and of statesmen:

"The proposed amendment to the Constitution of the United States, which passed the House of Representatives last week by a vote of 120 to 46, will, if it should become the fundamental law of the land, *inflict upon our free institutions greater infamy than anything contained in our written Constitution.* There are things there which were sufficiently disgraceful in their intent and purpose. That the slave trade should not be prohibited before 1808; that three fifths of the slaves should be represented in Congress by the votes of their owners; that fugitive slaves should be returned to their owners: these were scandalous provisions to which our noble fathers submitted only because without them we could have no common national existence. But they couched these offensive propositions in terms that, on the cessation of slavery, would have no objectionable meaning. This event they anticipated much earlier than it has actually occurred. And now that it is a fact, no one wishes the clauses of the Constitution to which we have alluded to be stricken out.

"But now it is proposed to ingraft upon this revered instrument a principle that a State may decree that all men are not born equal, and may disfranchise a majority of her citizens and their sons and their sons' sons forever! Good jurists have declared that the Constitution as it now stands would forbid any such State action, and that all constitutions and laws disfranchising citizens because of their parentage, color, race, or descent are null and void. We are not aware of any attempt to refute this view with a shadow of success.

"And now it cannot be that we shall give up our vantage ground *and stain the triumph* bought with so much precious blood with *a concession which might be turned to so base a use!*

"Let every patriot, to whom the good name of America is dear, bestir himself. Let every Christian who believes that God is no respecter of persons; let every father who would not leave to his children a legacy of national discord and a birthright in a nation

yet to bleed in Helot conspiracies; let every statesman who believes that even justice is the only sure foundation of national tranquillity arouse himself."

I have heard somewhere a strange apology for these words of defilement. It is said that they are "punitive" in character, and that the idea of Inequality of Rights is to be admitted into the Constitution for punishment and not for sanction. As well say that the term "three fifths of all other persons" in the Constitution was "punitive" in character. It was no such thing. It was a Compromise; and such is the precise character of the present proposition, which, by its very words, is a plain license to a disgusting tyranny in consideration that the tyrants pay in political power. The primary element in the case, which stands out in "darkness visible," is the license; the secondary element is the pay. Here is nothing less than a mighty House of Ill Fame, which it is proposed to license constitutionally for a consideration. Even if political power is curtailed, it is only as a consideration for the license. It is a new sale of Indulgences on a larger scale than that of Tetzel. The latter came from Rome into Germany dispensing indulgences for adultery, robbery, theft; but the outrage aroused Martin Luther, and the Reformation began. As well say that since pay was required, therefore the indulgences of Tetzel were "punitive" as that the present proposition is "punitive."

Thus far I have spoken of this proposition only as it appears in its words, without analyzing it in detail. On its face it is shameful. In its elementary parts and consequences, it is, if possible, more shameful still.

2. One of its elementary parts and consequences is that *it sanctions the acknowledged tyranny of taxation without representation.* A whole race, constituting a considerable part of the people of the United States, and embraced under the words of the preamble to the Constitution, "We the people," are left without representation in the Government, but nevertheless held within the grasp of taxation of all kinds, direct and indirect, tariff and excise, State and national. Sir, this is tyranny or else our fathers were wrong when they protested against a kindred injustice. This principle is fundamental. You cannot violate it without again dishonoring the fathers.

To the application of this principle there have been two replies: first, that in its nature it was a claim of representation for communities only, and not for individuals; and secondly, that in its nature it embraces women as well as men. And from these two considerations it has been argued that it cannot be invoked for the protection of our four millions "guilty of a skin not colored like our own." Even if it had been originally a claim for communities only, and not for individuals, it is difficult to see how it can be rejected as a rule in determining the rights of a mass of fellow-citizens counted by millions. Our fathers when they cried out that taxation without representation is tyranny were not more than two millions and a half. Our fellow-citizens who now echo the same cry throughout the whole country are more than four millions, possessing the weight of numbers if not of organization. But it is a mistake to suppose that the original claim was for communities only and not for individuals. This is a question of history, to be considered with the gravity of history, and as such I ask your attention to it.

Already in opening this debate I carried you to that Provincial Court in Massachusetts where in assailing writs of assistance, James Otis first launched the thunderbolt, "Taxation without representation is Tyranny." You will remember how careful he was to insist that without representation there could be no taxation of any kind, direct or indirect, on land or on trade, and that the representation must be substantial, real and not merely imaginary, or, as it was expressed at that time, "virtual." It was in developing this principle that he announced the Equal Rights of all without distinction of color. On this ground he stood when he uttered those memorable words which the whole country adopted at once with patriotic frenzy, and which I insist you shall not deny in our organic law.

Would you know more precisely the meaning of Otis? Let him be his own interpreter. Again and again he asserts the Equality of men. This was his fundamental principle, which on an important occasion he thus expressed: "The first and simple principle is Equality and the Power of the Whole." (Otis, *Rights of Colonies*, p. 14.) Nor did he allow this to be limited in its application by any distinction of color. John Adams, who was present when the orator first raised his great cry, says, "Nor were the poor negroes forgotten. Not a Quaker in Philadelphia, or Mr. Jefferson, of Virginia, ever asserted the rights of negroes in stronger terms." (John Adams's *Works*, vol. 10, p. 315.) Shortly afterward Otis, in another form, assailed directly the distinction of color, saying, "Will short curled hair, like wool, instead of Christian hair, as it is called by those whose heart is as hard as the nether mill-stone, help the argument?" (Otis, *Rights of Colonies*, p. 29.) Such, then, were his premises, the Equal Rights of all without distinction of color. From these his conclusion was easy. Here it is in his own words:

"The very act of taxing exercised over those who are not represented appears to me to be depriving them of one of their most essential rights as freemen, and *if continued, seems to be, in effect, an entire disfranchisement of every civil right.* For what one civil right is worth a rush after a man's property is subject to be taken from him at pleasure without his consent? If a man is not his *own assessor*, in person or by deputy, his liberty is gone, or he is entirely at the mercy of others."—*Otis, Rights of the Colonies*, p. 58.

Stronger words for universal suffrage could not be employed. His argument is that if men are taxed without being represented they are deprived of essential rights; and the continuance of this deprivation despoils them of every civil right, thus making the latter depend upon the right of suffrage, which by a neologism of our day is known as a political right instead of a civil right. Then, to give point to this argument, the patriot insists that in determining taxation, "every man must be his own *assessor*, in person or by deputy," without which his liberty is entirely at the mercy of others. Here, again, in a different form, is the original thunderbolt, "Taxation without representation is Tyranny;" and the claim is made not merely for communities, but for "every man."

Such a principle naturally encountered opposition at that time, even as it does now in this Chamber; but Otis was ready at all points. To the argument that Manchester, Birmingham, and Sheffield, like America, returned no members to Parliament, he flashed forth in reply:

"If they are not represented they ought to be. *Every man of a sound mind should have his vote.*"

And then, again, taking up the reply, he exclaimed:

"Lord Coke declares that it is against Magna Charta, and against the franchises of the land, for freemen to be taxed but by their own consent."—*Bancroft's History of United States*, vol. 5, p. 230.

Thus does he interpret again the flaming words, "Taxation without representation is Tyranny."

But while thus positive in his demand, there is reason to believe that Otis so far yielded to a prevailing sentiment, and especially to the opinions of Harrington, whose *Oceana* was much read at that time, as sometimes to recognize property in determining the basis of political power. On one occasion he said that Government could not be "rightfully founded on property alone," thus seeming to intimate that property might enter into the foundation, although, as he derisively remarks, "the possessor of it may not have much more wit than a mole or musquash." (Otis, *Rights of Colonies*, p. 10.) But it was doubtless obvious to his clear intelligence that a claim of power founded on property was very different from a claim of power founded on color. Property may be acquired; but color, from its nature, is an insurmountable condition. The original constitution of Massachusetts recognizes property as an element of political power; but it rejects all discrimination founded on color. If, therefore, under the maxim of Otis, there may be a discrimination founded on property, most clearly, according to reason and early practice, there can be no discrimination founded on color, so that at the present hour his maxim is of vital force as a claim, not merely for the community, but for the individual. Let the country now, as aforetime, take it up and repeat it until it becomes the watchword of patriotism.

But Otis was not the only interpreter of this maxim of Liberty. The Legislature of Massachusetts on repeated occasions made the same claim. On one occasion, in solemn resolutions drawn by Samuel Adams and adopted unanimously, it spoke as follows:

"That by the law of nature no man has a right to impose laws more than to levy taxes upon another; that the freeman pays no tax, as the freeman submits to no law but such as emanates from the body in which he is represented."—*John Adams's Works*, vol. 1, p. 78.

Surely this claim is not merely for the community. It is for the individual freeman also.

Virginia was not behind Massachusetts. In her Bill of Rights, drawn by that determined patriot, George Mason, and adopted June 12, 1776, anterior to the Declaration of Independence, is the following emphatic claim:

"All men having sufficient evidence of permanent common interest with and attachment to the community *have the right of suffrage and cannot be taxed or deprived of their property for public uses without their own consent* or that of their representatives so elected, nor bound by any law to which they have not in like manner assented for the public good."

Here again the claim is not merely for the community. It is for "all men," and it is set forth thus positively in a Bill of Rights.

Let Benjamin Franklin interpret these words. Here is a statement found among his papers, under date of 1769, while the colonists were echoing the cry, "Taxation without representation is tyranny:"

"That *every man* of the commonalty, except infants, insane persons, and criminals, is of common right, and by the laws of God, a freeman and entitled to the free enjoyment of liberty. *That liberty or freedom consists in having an actual share in the appointment of those who frame the laws*, and who are to be the guardians of every man; life, property, and peace; for the *all* of one man is as dear to him as the *all* of another; and the poor man has an *equal* right, but *more* need to have representatives in the Legislature than the rich one.

"That they who have no voice nor vote in the electing of representatives *do not enjoy liberty; but are absolutely enslaved to those who have votes and to their representatives*; for to be enslaved is to have governors whom *other men have set over us*, and be subject to laws *made by the representatives of others*, without having had representatives of our own to give consent in *our* behalf."—*Franklin's Works*, vol. 2, p. 372.

Here is no claim for communities merely, but expressly for "every man," including especially "the poor man," and without distinction of color.

This American testimony is fitly crowned by the Declaration of Independence, which, beginning with the proclamation that "all men are created equal," proceeds to assert that Governments "derive their just powers from the consent of the governed." Here again is no claim for communities, but for "all men;" and this is the most authoritative interpretation of the original claim, thundered forth by Otis, and echoed throughout the land. It is idle to show that, in certain instances, the fathers failed to apply the sublime principles which they declared. Their failure can be no apology for us, on whom the duty is now cast.

But there is still another interpreter to be invoked. The maxim of Otis was not original with him. It may be found in the writings of John Locke, so remarkable for masculine sense and an exalted love of liberty. On a former occasion I adduced his authority, which is plain and positive. Pardon me if I call your attention to it once more. After asserting that Government cannot take the property of any one without his own consent or that of the majority of the people, the philosopher thus expresses himself:

"For, if any one shall claim a power to lay and levy taxes on the people by his own authority *and without such consent of the people*, he thereby invades the fundamental law of property and subverts the

end of government; for what property have I in that which another may by right take, when he pleases, to himself?"—*Locke's Civil Government*, book ii, ch. 7; ch. 14.

Mr. Hallam, commenting on this text, does not hesitate to say, that, "in substance it charges with usurpation all the established Governments of Europe;" "that neither the Revolution of 1688 nor the administration of William III could have borne the test by which Locke tried the legitimacy of government." (Hallam, *History of Literature*, vol. 3, pp. 545, 448.)

A later English writer, Mr. Tremenheere, commenting also on this text, sets forth its two propositions as follows: "first, that a political society can only be bound by the act of the majority; secondly, that taxation without representation is tyranny." (Tremenheere, *Political Experience*, p. 130.) Such are the two propositions which this English writer finds in Locke and which he cites for condemnation. Thus, if we repair with Otis to the very source from which he drew, we shall find that there was no claim for communities merely but for the individual man without distinction of color.

Mr. Bright, our English friend, in one of his admirable speeches, only recently has furnished an additional illustration. He has brought to light a resolution from no less an authority than Lord SOMERS on an important occasion, kindred to the present, when it was proposed to disfranchise all who were not of the Established Church, as it is now proposed to disfranchise all who are not of a certain color. Speaking for the House of Lords, in conference with the Commons, this great constitutional lawyer thus insisted:

"The Lords allowing that no man can claim a place by birthright, yet conceive that *giving a vote for representative in Parliament is the essential privilege whereby every Englishman preserves his property*, and that whatsoever deprives him of such vote deprives him of his birthright."

Here again is the very cry of Otis; and you cannot fail to observe that the claim is not for communities merely, but for "every Englishman" without distinction of color.

Surely here is enough on this head. But it is said that this claim is as applicable to women as to men, especially where women are taxpayers. To this I reply, that Locke, Somers, Otis, and Franklin, in making this claim, did not give to it any such extent, and the question which I now submit is simply as to their meaning in the words "Taxation without representation is Tyranny." Clearly their claim was for *men*, believing, as they did, that *women* were represented through men; and it is hardly candid to embarrass the present debate, involving the rights of an oppressed race by another question which is entirely independent. In saying that the claim was for men, I content myself with the authority of Theophilus Parsons, afterward the eminent Chief Justice of Massachusetts, who, in a masterly state paper, known as the "Essex Result," which was the prelude to the constitution of Massachusetts, thus discloses the opinion of the Fathers on this precise point:

"Every freeman, who hath sufficient discretion, should have a voice in the election of his legislators. All the members of the State are qualified to make the election, unless they have not sufficient discretion, or are so situated as to have no wills of their own; persons not twenty-one years old are deemed of the former class from their want of years and experience. Women, what age soever they are of, are also considered as not having a sufficient acquired discretion; not from a deficiency in their mental powers, but from the natural tenderness and delicacy of their minds, their retired mode of life, and various domestic duties. These concurring prevent that intercourse with the world which is necessary to qualify them for electors. Slaves are of the latter class and have no wills."—*Parsons' Life of Chief Justice Parsons*, p. 376.

The reasons assigned for the exclusion of women may be very unsatisfactory; but they show at least that the Fathers, when insisting that taxation and representation must go together, did not regard women, any more than minors, within the sphere of this commanding principle. And here I leave this head of the argument, concluding as I began, that you cannot adopt the proposition now before the Senate without setting at defiance that great maxim of Constitutional Liberty, which was the rallying cry of our Fathers. God forbid that there should be any such outrage.

3. Proceeding with the dissection of this proposition, I now exhibit it as a new form of *concession to State Rights*. Such it is plainly on its face; such it is in reality; and the more you examine it the more complete the concession appears. Already it has been announced as such by those who seek to commend it in quarters of doubtful loyalty. Here, for instance, is a speech of Hon. John E. King, claimant of a seat in Congress from Louisiana, only a few days ago, addressed to the Legislature of his State, where, after calling attention to the present so-called amendment, he thus exults in what seemed to him the prospect of its adoption:

"The present Congress is proceeding to amend without the eleven States that are unrepresented in that body. *However, there is some good in all this evil.* If this amendment should pass, and the Speaker said that himself and colleagues had no doubt that it would, it will settle forever the right of the States to legislate, each for itself, as to who shall be the voters therein."—*New Orleans Delta*, February 13, 1866.

Thus, while deprecating amendments to the Constitution in the absence of the eleven rebel States, the partisan of State Rights is reconciled to the proposition now pending, inasmuch as it is a triumph of this sectional pretension. Alas! that now, at the close of a rebellion in the name of State Rights, we should be considering calmly how to give this pernicious heresy new support in the Constitution itself. From the beginning State Rights have been used for oppression and wrong. The terrible war from which we are emerging makes it an especial duty now to restrain them, not to extend them.

Of course I suggest no interference with the just rights of the States. These belong to the harmonies of the Union. But, in the name of Justice, I insist that nothing further shall be done to invest the States with peculiar local power. If not taught by the lessons of the late war, then be taught by the principles avowed at the very beginning of the Government.

The object of the Constitution was to ordain, under the authority of the people, a national Government possessing unity and power. The Confederation had been merely an agreement "between the States," styled "a league of firm friendship." Found to be feeble and inoperative, through the pretension of State Rights, it gave way to the Constitution, which, instead of a "league," created a "Union" in the name of the people of the United States. Beginning with these inspiring and enacting words, "We, the people," it was popular and national. Here was no concession to State Rights, but a recognition of the power of the people, from whom the Constitution proceeded. The States are acknowledged; but they are all treated as component parts of the Union in which they are absorbed, under the Constitution which is the supreme law. There is but one sovereignty, and that is the sovereignty of the United States.

On this very account the adoption of the Constitution was opposed by Patrick Henry and George Mason. The first exclaimed, "that this is a consolidated Government is demonstrably clear; the question turns on that poor little thing 'We the people,' instead of the States." The second exclaimed, "Whether the Constitution is good or bad, it is a national Government, and no longer a Confederation." But against this powerful opposition the Constitution was adopted in the name of the people of the United States. Throughout the discussions, State Rights were treated with little favor. Madison said, "The States are only political societies, and never possessed the rights of sovereignty." Gerry said, "The States have only corporate rights." Wilson, the philanthropic member from Pennsylvania, afterward a learned judge of the Supreme Court of the United States and author of the "Lectures on Law," said, "Will a regard to State Rights justify the sacrifice of the Rights of Men? If we proceed on any other foundation than the last, our building will neither be solid nor lasting." Such were the voices at that early heroic day. And now at the end of an unparalleled war to abase State Rights, we are asked to naturalize in the Constitution a new provision confirming to the States an odious pretension, shocking to the moral sense. But the character of this pretension belongs to another head.

4. Proceeding with the dissection of the proposition before the Senate I now exhibit it, not only as a concession to State Rights, which is admitted by a Louisiana supporter, but, should it be adopted, as the *constitutional recognition of an Oligarchy, Aristocracy, Caste and Monopoly, founded on color*. All this appears on the face; and as you examine the proposition, the intolerable consequence becomes still more apparent. Thus far we have been saved from such shame. The proposition now before us assumes that the elective franchise may be denied or abridged constitutionally on account of race or color, and thus sanctions the usurpation, thereby investing those who deny or abridge it with exclusive political control, without any regard to their number, though they may be a minority or even a small fraction of the people. What, sir, is this rancid pretension, if it be not an Oligarchy, Aristocracy, Caste, and Monopoly, founded on color, under the sanction of the Constitution? It is all these together, having beyond question the distinctive features of each and the distinctive discredit of each—therefore odious in government, odious in religion, odious in economy, and altogether constituting an outrageous indecency beyond anything in any constitution of which history makes record.

It is idle to say that this has been done already in the States. It may have been done *in fact*. But now you propose to give to this criminal fact the support of the Constitution and lift it into perpetual vigor. Who can depict the painful character of such a proposition, especially at this time, when the Republic is moved by every sentiment of justice, honor, gratitude, and self-respect, to beat down such a pretension as you would beat down Satan under your feet?

Already the country has been harassed and degraded for generations by the Slave Power, which was nothing but an Oligarchy, Aristocracy, Caste, and Monopoly; and now, when this Power has been overcome in battle it is proposed to inaugurate it anew, with a slight change of name, but with the same field of action and with the same malignant spirits to wield its energies. By your concession it tyrannized before; and now by your concession it will tyrannize again. The citizens whom it once trampled on as slaves it will continue to trample on as outcasts; and it will set up your permission embodied in the Constitution itself; God willing never by my vote.

5. Proceeding with the proposition before us, I denounce it as petrifying in the Constitution the wretched *pretension of a white man's Government*. At this moment, when we are striking the word "white" from the statutes of the United States; when this word has disappeared even from the Post Office laws; when, by a vote of the House of Representatives, this word has been condemned in the laws regulating the elective franchise in the District of Columbia, it is proposed to insert its equivalent in the Constitution itself. To exhibit this shame is surely enough to cause you to turn away from it. Do not say that it is not proposed to insert it. What is the concession that the elective franchise may be denied or abridged "on account of race or color" but an insertion of the word "white" in the Constitution? In that text, as it still stands, from the beginning to the end, from the Preamble to the signature of George Washington, or the last word of the last Amendment, there is no recognition of "color." For the sake of decency, let us keep it so.

6. Proceeding still further with the pending proposition, I denounce it as assuming what is false in constitutional law, *that color can be a qualification for an elector*. The Constitution says that "the electors in each State shall have the *qualifications* requisite for electors of the most numerous branch of the State Legislature." Of course this leaves open the question what is meant by "qualifications." But this word must be interpreted in the light of the Consti-

tution, which knows no "color," and again in the light of the Declaration of Independence, which knows no "color," and yet again in the light of common sense, which refuses to recognize "color" as a "qualification," in any just sense of this term. Consult the dictionaries of the day, and you will find it means "fitness," "ability," "accomplishment," "the state of being qualified;" but it does not mean "color." It is applicable to the conditions of age, residence, character, education, property, and the payment of taxes; but it cannot be applicable to "color." The English dictionaries most in vogue at the time of our fathers were those of Bailey and Johnson. Look at these. According to Bailey, who was the earliest, "qualification" is thus defined:

(1.) "*That which fits any person or thing for any particular purpose.*
(2.) "*A particular faculty, or endowment, or accomplishment.*"

According to Johnson, who is the highest authority, it is thus defined:

(1.) "*That which makes any person or thing fit.*"
Example.—"It is in the power of the prince to make piety and virtue become the fashion, if he would make them necessary *qualifications* for preferment."—*Swift.*
(2.) "*Accomplishment.*"
Example.—"Good *qualifications* of mind enable a magistrate to perform his duty, and tend to create public esteem of him."—*Atterbury.*

Thus, according to these definitions, "qualification" means "fitness" or "accomplishment," and according to the examples from classical writers, it means qualities like "piety" and "virtue," or like "faculties of mind." Obviously it cannot embrace color, which is a physical condition, insurmountable in its character. An insurmountable condition is not a *qualification* but a *disfranchisement.* As well say that the quality of the hair or the length of the foot should be a "qualification," as the color of the skin. The whole pretension is one of the false glosses fastened upon the Constitution by slavery, which must now be sloughed off. But the pending proposition adopts it and gives to it a pernicious life.

7. Again, I denounce the proposition as positively *tying the hands of Congress in its interpretation of a Republican Government*, so that under the guarantee clause it must recognize an Oligarchy, Aristocracy, Caste, and Monopoly, founded on color, with the tyranny of taxation without representation as republican in character, which I insist they are not. At present the hands of Congress are not tied. Congress is free to act generously, nobly, truly, according to the highest idea of a republic, discountenancing all inequality of rights and the tyranny of taxation without representation. Let the pending proposition find a place in the Constitution, and the guarantee clause will be restrained in its operation. The two clauses taken together, as they must be, will read substantially as follows: "The United States shall guaranty to every State in the Union a republican form of government; it being understood that the denial or abridgment of the elective franchise on account of race or color and the tyranny of taxation without representation are not inconsistent with a republican government." In other words, the denial or abridgment of the elective franchise on account of race or color, and the tyranny of taxation without representation will be recognized in the Constitution as republican in character. Of course all attempt to enforce this guarantee against an Oligarchy, Aristocracy, Caste, and Monopoly, founded on color, or against the tyranny of taxation without representation will be from this time impossible. The precious power which now exists will be lost forever.

8. Again, I denounce the proposition as *positively tying the hands of Congress in completing and consummating the abolition of slavery.* By the second clause of the recent constitutional amendment Congress is expressly empowered to "enforce" the abolition of slavery by "appropriate legislation." In pursuance of this power the Senate, by what is known as the Civil Rights Bill, has already undertaken to establish equality of civil rights in all the States and Territories, so that hereafter in our courts at least there shall be no discrimination on account of color. It was justly insisted that such "legislation" was needed to "enforce" the abolition of slavery, and on this account was constitutional. The Senate acted accordingly. The bill has passed this body by more than a two-thirds vote. Obviously by the same title equality in political rights can be established also under this amendment if such equality shall be deemed important to "enforce" the abolition of slavery, or, in other words, to complete and consummate the good work. In the exercise of a granted power Congress is the sole judge of the "means" it shall employ; and this conclusion is sustained not only by reason but also by the Supreme Court of the United States in solemn judgments. You will remember the familiar precedents, which I insist are decisive. And now, in the face of these judgments, in the face of the reason of the case, and in the face of the authoritative precedent of the Senate establishing equality of civil rights, it is proposed to insert in the Constitution a provision despoiling Congress of its power under the constitutional amendment, so that hereafter that amendment, which should be interpreted generously and to advance liberty, will be changed so as to read, "Congress shall have power to enforce this article by appropriate legislation, it being understood that it shall not interfere for this purpose with any denial or abridgment of the elective franchise in any State on account of race or color." Thus again will a beneficent power be lost at a moment when all is needed for the safety and renown of the Republic.

9. Again, I denounce this proposition as *installing recent rebels to govern loyal citizens* under the sanction of the Constitution. The ruling class began and sustained the rebellion. The citizens whom you disfranchise were loyal, and some of them poured out their red blood for the Republic, and yet we are now asked to intrench this ruling class in the Constitution, so that they can wield unchecked power, while loyal millions are humbled at their feet. The bare statement of the case offends the reason and the conscience.

Pray, who may justly look to the Republic for protection? Is it the rebel or the loyalist? Is it the citizen who has caused all your woes, and now gnashes his teeth at your triumph, or is it the citizen who has watched your flag with sympathetic pride, and now rejoices in your triumph? Who can hesitate? And yet the proposition now before the Senate gives the palm of power and honor to the rebel class, and fixes this preëminence in the Constitution itself. It will not do to say, with Cain, "Am I my brother's keeper?" You are your brother's keeper; and you must see that he is saved from cruel oppression.

10. And lastly, I denounce this proposition as a *Compromise of Human Rights*, the most immoral, indecent, and utterly shameful of any in our history. Persons out of the Senate have sought to vindicate it, as other compromises have been vindicated in times past, by representing it as something which it is not. This is done by exhibiting one side only of the Compromise and then calling it "punitive" in character; as if in 1850 the admission of California, which was one side of the Compromise, had been exhibited only, while the unutterable atrocity of the Fugitive Slave Bill, which was the other side of the Compromise, had been concealed from view. The present Compromise, like all other compromises, has two sides; in other words, it is a concession for a consideration. On one side it is conceded that the States may, under the Constitution, exclude citizens counted by the million from the body-politic and practice the tyranny of taxation without representation, provided, on the other side, that there is a corresponding diminution of representative power in the lower House of Congress, without, however, touching the representative power in the Senate. Of course, the transcendent feature of this Compromise is the criminal concession, constituting, as it does, the sacrifice of brave defenders, and even of a whole race to whom we owe protection. The consideration is small. It will be forgotten when the gigantic concession will loom in history as a landmark of dishonor.

There have been other Compromises of Human Rights in times past. But considering the grandeur of the occasion; the promises of the Fathers; the extent of present obligations; the promptings of gratitude; the demands of public faith; the demands of public security, and the good name of the Republic, all of which are now involved, I am sure that no compromise so discreditable and disastrous was ever before proposed. A feeble prototype may be found in that intolerable Treaty known as the Assiento contract, from which every Englishman now turns with a blush, where at the end of an unprecedented war England bartered all that had been won by the victories of Marlborough for the privilege of supplying slaves to the Spanish colonies. The slave trade received a solemn sanction, and England pocketed the dishonest profits; just as now a kindred offense on a grander scale is to receive a solemn sanction, and we who sanction it are to pocket the profits in political power. Do not talk, sir, of this measure as "punitive" in character, unless you mean that it is punitive of our benefactors, for this is the only character it can bear in history. On a former occasion I entreated you not to copy the example of Pontius Pilate, who handed over the Saviour of the world, in whom he found no fault at all, to be scourged and crucified. It is my duty now to remind you that you go further than Pontius Pilate. He was a mocker and a jester; but he received nothing for what he did. You do. Not content with resolving the Senate into a Pretorium, you imitate Judas who betrayed the Saviour for thirty pieces of silver, and you imitate the soldiers who appropriated to themselves the raiment of the Saviour. Do not answer me with a sneer. Has not the Saviour himself told us that what we do to the least we do to Him? Ay, sir, in offering fellow-citizens to be sacrificed, in betraying them for less than "thirty" Representatives in Congress, and in appropriating their political raiment, you do all this to the Saviour himself. Pardon the necessary plainness of my speech. I speak for my country, which I seek to save from dishonor; I speak for fellow-citizens whom I seek to save from outrage. And I speak for that public faith and public security in which is bound up the welfare of all.

SUMMARY OF OBJECTIONS.

Mr. President, such is the argument for the rejection of the pending proposition. Following it from the beginning you have seen, first, how this proposition carries into the Constitution itself the idea of Inequality of Rights, thus defiling that unspotted text; secondly, how it is an express sanction of the acknowledged tyranny of taxation without representation; thirdly, how it is a concession to State Rights at a moment when we are recovering from a terrible war waged against us in the name of State Rights; fourthly, how it is the constitutional recognition of an Oligarchy, Aristocracy, Caste, and Monopoly, founded on color; fifthly, how it petrifies in the Constitution the wretched pretension of a white man's Government; sixthly, how it assumes what is false in constitutional law, that color can be a "qualification" for an elector; seventhly, how it positively ties the hands of Congress in fixing the meaning of a republican government, so that under the guarantee clause it will be constrained to recognize an Oligarchy, Aristocracy, Caste, and Monopoly founded on color, together with the tyranny of taxation without representation, as not inconsistent with such a government: eighthly, how it positively ties the hands of Congress in completing and consummating the abolition of Slavery according to the second clause of the Constitutional Amendment, so that it cannot for this purpose interfere with the denial of the elective franchise on account of color; ninthly, how it installs recent rebels in permanent power over loyal citizens; and,

tenthly, how it shows forth in unmistakable character as a Compromise of Human Rights, the most immoral, indecent, and utterly shameful of any in our history. All this you have seen, with pain and sorrow, I trust. Who that is moved to sympathy for his fellow-man can listen to the story without indignation? Who that has not lost the power of reason can fail to see the cruel wrong?

And now the question occurs, what shall be done? To this I answer, reject at once the pending proposition; show it no favor; give it no quarter. Let the country see that you are impatient of its presence. But there are other propositions in the form of substitutes. For any one of these I can vote. They may differ in efficiency; but there is nothing in them immoral or shameful. There is, *first*, the proposition to found representation on voters instead of population, and, *secondly*, the proposition to secure Equality in political rights by constitutional amendment or by act of Congress.

REPRESENTATION FOUNDED ON VOTERS.

The proposition to found representation on voters instead of population was originally introduced by me during the last Congress. Almost at the same time I introduced a series of resolutions declaring not only the power but the duty of the United States to guaranty republican governments in the rebel States on the basis of the Declaration of Independence, so that the new governments should be founded on the consent of the governed and the equality of all persons before the law. Thus, while proposing to found representation on voters I at the same time asserted the power of Congress under the Constitution to secure Equality in political rights. The proposition with regard to voters was much discussed during the recess of Congress. At the beginning of the present session it seemed to find favor. But at last statistics were adduced tending to show that it would transfer power from eastern States to western States in proportion to the excess of females over males in the former; and this abnormal circumstance was made an argument against it. Since then it has given place to the offensive proposition now before the Senate.

The proposition to found representation on voters instead of population may be seen, *first*, in what it does not do, and *secondly*, in what it does do.

Seeing it in what it does not do, all will confess that it does not carry into the Constitution itself the idea of Inequality of Rights, thus defiling that unspotted text; that it gives no sanction to the acknowledged tyranny of taxation without representation; that it makes no concession to State Rights, at a moment when we are recovering from a terrible war waged against us in the name of State Rights; that it does not recognize an Oligarchy, Aristocracy, Caste, and Monopoly, founded on color; that it does not petrify in the Constitution the wretched pretension of a white man's Government; that it does not assume what is false in constitutional law, that color can be a "qualification" for a voter; that it does not positively tie the hands of Congress in fixing the meaning of a Republican Government, so that under the guarantee clause it will be constrained to recognize an Oligarchy, Aristocracy, Caste, and Monopoly founded on color, together with the tyranny of taxation without representation, as not inconsistent with such a government; that it does not positively tie the hands of Congress in completing and consummating the abolition of Slavery according to the second clause of the constitutional amendment; that it does not install recent rebels in permanent power over loyal citizens; that it does not show forth in unmistakable character as a Compromise of Human Rights, the most immoral, indecent, and utterly shameful of any in our history. All these things, so offensive to the conscience and the reason, this proposition does not do. In all these respects it is at least blameless.

On the other hand, without inflicting any stigma upon the Constitution or upon the Republic, without abandoning any principle, without making any concession to the States, without tying the hands of Congress, and without any Compromise of Human Rights, it does rearrange the basis of representation, so as to accomplish all that is proposed even by the most sanguine supporters of the other proposition, and it does this effectually without the opportunity for evasion which is afforded by the other proposition. The alleged inequality in its operation, owing to the excess of females over males in certain States, may make you hesitate to adopt it; but better take representation founded on voters even with any such alleged inequality, than do a grievous wrong. Better even wrong yourselves than wrong others.

Let me confess that I was tempted to this proposition by the conviction that I was carrying out the cherished idea of Massachusetts as embodied in her own constitution. According to a recent amendment the representation in both branches of the Legislature is founded on "legal voters," and not on population. Here are the words:

"A census of the *legal voters of each city and town*, on the 1st of May, shall be taken and returned into the office of the secretary of the Commonwealth."

"The enumeration aforesaid shall determine the apportionment of Representatives for the periods between the taking of the census."

"The House of Representatives shall consist of two hundred and forty members, which shall be apportioned by the Legislature, at its first session after the return of each enumeration as aforesaid, to the several counties of the Commonwealth, *equally, as nearly as may be, according to their relative numbers of legal voters*, as ascertained by the next preceding special enumeration."

"The Senate shall consist of forty members. The General Court shall, at its first session after each next preceding special enumeration, divide the Commonwealth into forty districts of adjacent territory, *each district to contain, as nearly as may be, an equal number of legal voters*, according to the enumeration aforesaid."

"Each district shall elect one Senator."

Obviously in adopting this rule Massachusetts has followed what seems to be a correct principle. Representative government is an invention of modern times. It was unknown in antiquity. Athens was a democracy where the people met in public assembly for the government of the State; but there was no representative body chosen by the people for this purpose. The public assembly was practicable in that age as the State was small, and the assembly at no time exceeded five thousand citizens—a large town meeting or mass meeting, we might call it, which Milton has termed "the fierce democracie." But where the territory was extensive and the population scattered and numerous, there could be no assembly of the whole body of citizens. To meet this precise difficulty the representative system was devised. By a machinery, so obvious that we are astonished it was not employed in the ancient commonwealths, the people, though scattered and numerous, are gathered, through their chosen representatives, into a small and deliberative assembly, where, without tumult or rashness, they may consider and determine all questions which concern them. In every representative body, properly constituted, the people are practically present.

If then the representative body is a substitute for the people themselves, meeting in primary assemblies, it would seem that it should be founded upon the people who compose the primary assemblies; in other words, upon the legal voters. Ordinarily there may be little difference between the proportion of legal voters and the proportion of population; but strictly the representative system is the agent of legal voters, and therefore the logic of the case is better satisfied if it be founded on legal voters rather than on population. With me this is no new idea. On another occasion in my own State, I asserted it. This was in a convention for revising the constitution of Massachusetts as long ago as 1853. Pardon me if I read a brief passage from a speech in that convention, not from any importance which I attach to it, but as showing how completely at that time this rule seemed to me just:

"A practical question here arises, whether this rule should be applied to the whole body of population, including women, children, and unnaturalized foreigners, or whether it should be applied to those only who exercise the electoral franchise; in other words, to voters. It is probable that the rule would generally produce nearly similar results in both cases, as the voters, except in a few places, would bear a uniform proportion to the whole population. But it will be easy to determine what the principle of the representative system requires. Since the object of the system is to provide a practical substitute for the meetings of the people, it should be founded in just proportion on the numbers of those who, according to our constitution, can take part in those meetings, that is, upon the qualified voters. The representative body should be a miniature or abridgment of the electoral body, in other words, of those allowed to participate in public affairs."—*Sumner, Recent Speeches*, p. 217. *Speech on the Representative System*, July 7, 1853.

In this view I found myself supported by two illustrious names in our history. Mr. Jefferson, shortly after the victory at Yorktown had rescued Virginia from invasion and secured national Independence, prepared a draft of a constitution for his native State, which expressly provided that "the number of delegates which each county may send shall be *in proportion to the number of its qualified electors*, and the whole number of delegates for the State shall be *proportioned to the whole number of qualified electors in it*." This proposition, which is substantially the Rule of Three applied to voters, was not adopted, but it still exists as a record of opinion. Sometime afterward, in the debates in the Convention which framed the Constitution, Mr. Madison gave his authority to the same conclusion, as follows:

"It has been very properly observed that representation was an expedient by which the meeting of the people themselves was rendered unnecessary, and *that representatives ought, therefore, to bear a proportion to the voters which their constituents, if convened, would respectively have.*"—*Madison, Debates*, vol. 2, p. 1103.

Thus, representation founded on voters seems to be commended by authority and principle. Its adoption now would at least give symmetry to our national system and make the representative more precisely the embodied presence of his constituents, while at the same time it would tend to enlarge the suffrage and to harmonize sectional pretensions with the national will when exerted for Human Rights. If representation were founded on voters the States would care little if Congress should annul all inequality in the elective franchise on account of color.

EQUALITY IN POLITICAL RIGHTS.

But there are other propositions which to my mind are more satisfactory, because they reach the special necessity of the hour, and provide the only effectual remedy. Speaking in the name of national justice and for the national safety, they cannot be put aside with indifference; nor is it wise to say that any measure of justice is not practical. I refer, of course, to the propositions, in different forms, to secure that Great Guarantee, *Equality in political rights*, by constitutional amendment, or by act of Congress, or by both.

A constitutional amendment which shall place Equality of political rights under the safeguard of a special text may be superfluous, but it is not unconstitutional or immoral. It will be supplementary to provisions already in the Constitution, and will be in the nature of a declaratory statute removing all doubts and cavils. It will be like an additional force in mechanics, or like a reënforcement in the field. It will be reduplication in a new form. On such an occasion, where such a cause is in issue, I welcome every alliance; and such I regard the proposition of the Senator from Missouri, [Mr. HENDERSON.]

PROPOSITION TO SECURE EQUALITY BY ACT OF CONGRESS.

The other proposition, which looks to the direct action of Congress under the existing Constitution and its amendments, is obviously the simplest and most practical, inasmuch as it deals with the exigency promptly, frankly, and according to the necessities of the hour. It does not undertake to act by indirection; nor does it postpone to an indefinite future what cannot be postponed without detriment to the Republic. Refusing to procrastinate it saves all. Such a proposition is commended by every argument of reason, humanity, and patriotism. To say that it is not constitutional

is to say that the Constitution itself is not constitutional, for it is derived from the very heart of the Constitution and is filled with all its best life-blood.

Something has been said of the form in which the proposition has been presented. There is the bill of the Senator from Illinois, [Mr. YATES,] which he has maintained in a speech of singular originality and power, that has not been answered, and I do not hesitate to say cannot be answered. By this bill it is provided that all citizens in any State or Territory shall be protected in the full and equal enjoyment and exercise of their civil and political rights, including the right of suffrage. This is founded on the consideration that, by the abolition of slavery, the slave became at once a citizen, subject only to such disabilities as are common to other citizens, and that, by the second clause of the constitutional amendment, Congress is empowered to enforce the abolition of slavery by appropriate legislation. On this foundation the Senator places his bill, assuming that to complete the abolition of slavery, all restrictions, penalties, or deprivations of right, resulting from slavery in any State or Territory must be made to cease. The proposition that I have had the honor of presenting, is a joint resolution, which after declaring the duty of Congress to guaranty a republican form of government in States where the governments have lapsed, and also, the duty to complete the abolition of slavery by the removal of all relics of this wrong, proceeds to provide that there shall be no Oligarchy, Aristocracy, Caste, or Monopoly, nor any denial of rights civil or political on account of color or race, but all persons shall be equal before the law whether in the court-room or at the ballot-box. Not doubting the power of Congress to carry out this principle everywhere within the jurisdiction of the United States, I content myself for the present by asserting it only in the lapsed States lately in rebellion, where the two-fold duty to guaranty a republican government and to enforce the abolition of slavery is beyond question. To that extent I now urge it.

OBJECTIONS OF FORM.

Both these propositions are opposed as informal and inoperative, because they are without machinery or penalty. Such is the objection, if I understand it. As it has been made I answer it. Each proposition on its face is an act of Congress prohibiting the denial of certain rights on account of color. In this respect each is at least a congressional interpretation of the Constitution; and it is by no means clear that it could not be enforced in the courts. The bill, which has already passed the House of Representatives, striking out the word "white" in the electoral laws of the District of Columbia, is without machinery or penalty; but it is at least a congressional declaration, to be followed, of course, by other legislation with proper machinery and penalty; and this is the precise character of the propositions presented by the Senator from Illinois and by myself. Of course the objections to these propositions, if valid at all, must be equally valid against the bill for enfranchisement in the District of Columbia, and against every other congressional declaration without machinery or penalty. It is at most an objection of form, which I put aside and advance at once to the substance. The question is too vast and the times are too serious for a special demurrer. It must be tried on its merits. This question is as to the power of Congress to establish Equality of political rights at least in the rebel States. If Congress has this beneficent power, then exercise it in such form as shall seem best with machinery and penalty or without machinery and penalty; but, in God's name, exercise it, for the sake of the country which suffers from your delay.

THE POWERS OF CONGRESS.

Has Congress the power to secure Equality of political rights, at least in the rebel States? I do not at this time raise the question of its power throughout the United States, but in the rebel States. If this question were less transcendent in its relations, or if it could be approached calmly and without prejudice, in the light of reason, I cannot doubt the judgment you would give. But you must bring to its determination the same simple desire for truth undisturbed by external influences which would control a judicial tribunal; for, in the determination of your powers under the Constitution, you are a judicial tribunal. It will not be enough to deny the beneficent power or to mock at those who find it in the Constitution. You must answer their arguments.

1. I do not like to dwell on what has been so often discussed and so much misunderstood; and yet I must remind you of the power of Congress over the rebel States from the *necessity of the case*, because after the overthrow of legitimate governments, whose members were sworn to support the Constitution of the United States, there was no other rule possible for these States than that of Congress; precisely as the Territories according to Chief Justice Marshall, in a famous judgment, fell under "the power and jurisdiction of Congress" from the necessity of the case. I do not say that a State becomes a technical Territory, as that term is understood among us; but I do say, that in the lapse of the rebel States and in the absence of legitimate governments with members sworn to support the Constitution, these States fell under "the power and jurisdiction of Congress" until such time as they are reorganized according to the requirements of the Constitution. In the exercise of such a power and jurisdiction thus cast upon it, Congress must see that all loyal citizens without distinction of color take part in the formation of the new governments.

2. I do not like to dwell on another source of power, which is found in the *Rights of War;* but this too must be made plain. Nobody doubts that the United States were justified in asserting their supremacy in the rebel States by force of arms; but the war, when once begun, was subject to all the conditions of war, according to the Rights of War as found in the Law of Nations, doubly obligatory on us, first, because we belong to the Family of Nations, and secondly, because the Law of Nations is expressly recognized by the Constitution itself. Now, according to the Rights of War, as found in the Law of Nations, a conquering Power is justified in requiring not only Indemnity for the Past but Security for the Future. It depends upon the people of the United States, as represented in Congress, to determine the guarantees of this security. In support of this conclusion, I ask attention to a familiar authority, whose statement seems to cover the case. I read from Vattel:

"The whole right of the conqueror is derived from *justifiable self-defense*. He may in the first place do himself justice respecting the object which had given rise to the war, and indemnify himself for the expenses and damages he has sustained by it; he may, according to the exigency of the case, subject the nation to punishment by way of example; he may, even, if prudence so require, *render her incapable of doing mischief with the same ease in future*."

The offending party when conquered may be rendered incapable of doing mischief with the same ease in future. This is according to natural justice. Then again the same familiar authority expresses himself as follows:

"If the inhabitants have been personally guilty of any crime against the conqueror, *he may by way of punishment deprive them of their rights and privileges*. This he may also do if the inhabitants have taken up arms against him and thus become his enemies. In that case he owes them no more than what is due from a humane and equitable conqueror to his vanquished foes."—*Vattel*, book iii, cap. 18, sec. 197.

Surely out of this ample power Congress cannot hesitate in requiring Justice to the wards and allies of the Republic through whom the Rebellion was crushed; especially when without justice to them Security in the Future is nothing but a mockery and a phantasmagoria.

3. From these sources of power I pass to that other which is found in the *constitutional obligation to guaranty to every State of the Union a republican form of government*. Here is the text of the Constitution:

"The United States shall guaranty to every State in this Union a republican form of government."

This obligation is peremptory and not discretionary. It is *shall* and not *may*. The United States must do it. Of course, in executing this guarantee, you must affix a meaning to the term "republican form of government." To do this I have already in this debate endeavored to show the essential principles which our fathers had at heart when they founded the Republic. I shall not weary you now with the historic statement. It is enough if I present the conclusion. According to the fathers all men are equal in rights, and as corollaries from this truth all just government is founded on the consent of the governed, and taxation without representation is tyranny. Such was their idea of a Republican Government.

It is idle to allege against this definition, that there were property "qualifications" in most of the States by which the number of voters was essentially limited. This is true. But it must not be forgotten that a property "qualification," unless unreasonably large, is not a disfranchisement. It is a condition, sometimes onerous, but not in its nature insurmountable as is the condition of color, and it is equally applicable to all. And yet it is apparent from the recorded opinions of the fathers, that even this "qualification" was regarded as inconsistent with the genius of republican institutions.

It is idle also to allege against this definition, the toleration of slavery. This was sad enough; but the fathers who did it regarded slavery as absolutely exceptional. According to the definition of a slave, he has no will of his own, and can give no "consent" to government. Therefore he was not considered as belonging to the "body-politic." But as he was not represented he was not taxed, except as property. Indeed, a careful examination of his relations to the Government will show how completely in his case the rights of the "people" are left untouched. He was not regarded as one of the "people," and therefore was not under the safeguard of the rights of the "people." But all this was changed when he became a freeman. He was then one of the "people," whose property could not be taken by taxation without representation, and whose consent was essential to government. The difference was not between whites and blacks, but between slaves and freemen. All freemen without distinction of color were citizens. Listen, if you please, to the *Federalist*, in an article which has been attributed to each of the three eminent authors of that collection, and which the Senator from Maryland [Mr. JOHNSON] assumed was by Madison, but which is claimed for Hamilton, in the last edition of the *Federalist* by his son. Here are the important words:

"It is only under the pretext that the laws have transferred the negroes into subjects of property, that a place is disputed them in the computation of numbers; AND IT IS ADMITTED THAT IF THE LAWS WERE TO RESTORE THE RIGHTS WHICH HAVE BEEN TAKEN AWAY, THE NEGROES COULD NO LONGER BE REFUSED AN EQUAL SHARE OF REPRESENTATION WITH THE OTHER INHABITANTS."—*The Federalist*, No. 54, by Hamilton.

Such is the exposition of the actual Constitution by Hamilton. According to him, "If the laws were to restore the rights which have been taken away, *the negroes could no longer be refused an equal share of representation* with the other inhabitants." But this very hour has sounded. The laws have restored the rights which had been taken away, and it is now your duty to see that the people who have regained their rights are no longer refused an equal share of representation. The opinion of Hamilton on this vital question is still further attested by his saying that the liberty for which our fathers fought was the "right of each individual to a share in the Government;" that "the electors are to be the *great body of the people* of the United States;" and still further, by his proposition in his plan of a Constitution, as follows:

"Representatives shall be chosen, except in the first instance, by the *free male citizens and inhabitants* of the several States comprehended in the Union, all of whom of the age of twenty-one years and upward *shall be entitled to an equal vote.*"

In this proposition, which, though not adopted in terms, may be regarded as the pole-star of our Fathers, the distinguished author fol-

lowed the Continental Congress which apportioned the war expenses among "the free citizens and inhabitants" without distinction of color.

Curiously enough we find confirmation of the true principle where you would little expect it, in that very Dred Scott case, which undertook to blast a race. Chief Justice Taney on that occasion laid down a rule which at this moment is applicable to every "citizen" without distinction of color. Here is his rule:

"The words, 'people of the United States' and 'citizens' are synonymous terms and mean the same thing. They both describe the political body, who, according to our republican institutions, form the sovereignty, and who hold the power and conduct the Government through their representatives. They are what we familiarly call the sovereign people, *and every citizen is one of this people and a constituent member of this sovereignty.*"—19 *Howard Rep.*, 404.

This is strong enough; but the Chief Justice is still more precise:

"There is not, it is believed, to be found in the theories of writers on government or in any actual experiment heretofore tried an exposition of the term *citizen*, which has not been considered as conferring *the actual possession and enjoyment or the perfect right of acquisition and enjoyment of an entire equality of privileges, civil and political.*"—*Ibid*, p. 476.

Thus does that terrible judgment, which was like a ban to the colored race, now testify to their indisputable rights as "citizens."

Therefore I do not hesitate to say that when the slaves of our country became "citizens" they took their place in the "body-politic" as a component part of the "people," entitled to Equal Rights and under the protection of these two guardian principles, first, that all just government stands on the consent of the governed, and secondly, that taxation without representation is tyranny; and these rights it is the duty of Congress to guaranty as essential to the idea of a Republic. The aspiration of Abraham Lincoln, in his marvelous utterance at Gettysburg, was that "government of the people by the people and for the people should not perish from the earth." But who will venture to exclude millions of citizens from the "people?"

If the governments in the rebel States are brought to this touch-stone it will be found that they must fail. The departure from the true standard is not merely theoretical, as it might be regarded in States where the disfranchised are few in number, but there is an absolute failure to come within the conditions required. It is not decent to call a State republican where more than a majority of its "people," constituting the larger part of its "body-politic," is permanently disfranchised; nor is it decent to call a State republican where any considerable portion of its "people," constituting an essential part of its "body-politic," is permanently disfranchised. Even if in times past such a State could have been treated as republican, it will not do to treat it so now. It lacks the vital elements of a republican government, and must be treated accordingly. I do not dwell on this point, for it seems absurd to call it in question.

Clearly it is your duty to enforce the guarantee of a republican government. By the oaths you have taken to support the Constitution, you must take care that in all the States where governments have lapsed this guarantee shall be carried out. In the performance of this duty you may proceed either by an *enabling act*, establishing in advance the conditions on which these States shall be restored to their "practical relations with the Union," or by an act directly annulling all constitutions and laws of any such States inconsistent with a republican government. The power is in Congress. It has been recognized in formal terms by the Supreme Court; and you are the final judge of the "means" you shall employ. To say that you have not the power is to abdicate at a great exigency the very means of salvation. It is to fling away your arms in the very face of the enemy. It is to spike the Constitution at a moment when its full cannonade is needed for the overthrow of wrong. Clearly you have the power, and upon your heads will be the fearful responsibility if you fail to exercise it.

4. From this source of power in the Constitution I pass to another in the Constitution also, supplied by the *second clause of the constitutional amendment*. It is there provided that Congress shall "enforce" the abolition of slavery by "appropriate legislation." Under these words, according to all rules of interpretation and the judgments of the Supreme Court, Congress is empowered to do what in its discretion seems best to this end. It may adopt any "means" which shall seem "appropriate." It may select any weapon in the arsenal of power. I do not stop to cite the judgments of the court or to dwell on this power. The case is clear, and I challenge any contradiction. As the grant is recent it is not open to any suggestion of loss or waiver by desuetude or non-user. It is fresh as the abolition of slavery itself, and at this moment is just as vital. You may as well deny the one as the other.

Here, even at the cost of repetition, allow me to remind you that already during the present session the Senate, in pursuance of this power, has undertaken to pass a bill entitled "To *protect all persons in the United States in their civil rights* and furnish the means of their vindication." The declared object of the bill, in its very title, is the protection of all persons in the United States in their civil rights; and this object is carried out by the following provision:

"There shall be no discrimination in civil rights or immunities among the inhabitants of *any State or Territory of the United States* on account of race, color, or previous condition of slavery."

The bill proceeds to provide machinery and penalties for the enforcement of this prohibition. Mark, if you please, that this is not merely in the rebel States, nor even in the States where slavery was recently abolished, but everywhere throughout the United States. All this is done by virtue of that very clause of the constitutional amendment which I now adduce. It is done by Congress, in the exercise of its discretion, in order to "enforce" the abolition of slavery. It is the "means" which Congress adopts to this end. It is the weapon which Congress selects from the arsenal of power. But surely, if Congress, in order to "enforce" the abolition of slavery, can secure all persons throughout the United States in their *civil rights*, it can, out of the same abundant source of power, secure all persons throughout the United States in their *political rights*; and this is precisely what is proposed by the bill of the Senator from Illinois. My own proposition, as I now present it, aims for the present at securing *political rights* throughout the rebel States; but the irresistible argument is the same in each case. Each is to "enforce" the abolition of slavery.

I do not stop now to exhibit the elective franchise as essential to the security of the freedman, without which he will be the prey of slavery in some new form, and without which he cannot rise to the stature of manhood. In opening this debate I have presented this argument fully. Suffice it to say in this place that Emancipation will fail in its beneficence if you do not assure to the former slave all the rights of the citizen. Until you do this your work will be only *half done*, and the freedman will be only *half a man*.

Such, sir, are the four sources of power in Congress, each of them ample: first, the necessity of the case, as with Territories, where there is no other jurisdiction; secondly, the Rights of War, under which all needful safeguards for the future may be required; thirdly, the duty to guaranty to every State in the Union a republican form of government; and fourthly, the authority to "enforce" the abolition of slavery by appropriate legislation. Out of each and all of these sources Congress may derive its power. It only remains that it should act as becomes the representatives of the American people.

URGENCY OF OUR DUTIES.

Mr. President, as I am about to close, allow me to remind you once more, that from the nature of the case and from the character of your obligations, the work of Emancipation must be completed by the National Government. It cannot be left to become the sport of sectional prejudice or wayward passion. It began with you and it is for you to give to it that final assurance which can be found only in Enfranchisement. It is for you "to maintain" the former slave in that liberty which he received at your hands. Such a duty cannot be renounced or delegated. It must be sacredly performed by the National Government according to its original pledge in the Proclamation of Emancipation and according to all the suggestions of reason. Humanity, too, joins in the cry. You cannot consent that the child Emancipation, born of your breath, shall be surrendered to the custody of enemies. Take it in your arms, I entreat you, and nurse it into strength. Be instructed by the examples of history, teaching that the masters of slaves cannot be trusted to legislate for them. This conclusion has been announced by the best English statesmen, one of whom thus gathers together the result. It is Brougham who speaks:

"I entirely concur in the observations of Mr. Burke, repeated and more happily expressed by Mr. Canning, that the masters of slaves are not to be trusted with making laws upon slavery; that nothing they do is ever found effectual; and that if by some miracle they ever chance to enact a wholesome regulation, it is always found to want what Mr. Burke calls *the executory principle;* it fails to execute itself."—*Brougham's Speeches*, vol. 2, p. 219.

Such is the concurring voice of Edmund Burke, George Canning, and Henry Brougham. Thus, by testimony as well as by reason, in harmony with the national pledge, we are admonished that this work must be done by the Nation.

Do not say that you have not the power, when the will only is needed. It is the part of a good judge to amplify his jurisdiction. *Boni judicis est ampliare jurisdictionem.* Such is an approved maxim of the law handed down to us from early days. Kindred in character are other maxims which enjoin the duty of inclining always in favor of Liberty to the extent of catching at anything, even a twine thread, by which to save it. But on this occasion the good Congress need not amplify its jurisdiction. Enough if it enforces what plainly exists. It need not catch at any twine thread to save Liberty. The great cables of the Constitution with mighty anchors are at command.

Sir, the freedman must be protected, and not sacrificed. You can do it, but only in one way. Paper will not do it. Parchment will not do it. Compromise will not do it. Give to him the strength which comes from the fullness of citizenship and he will then be protected. Do not hesitate. Follow principles. They are like those divine promises which, when properly understood and applied, will answer every case of difficulty or distress, and as in the Pilgrim's Progress, "will open any lock in Doubting Castle." Have faith. Difficulties disappear before the earnest man. To the boatman who said it was impossible to brave the storm that was raging, William Tell, full of patriotic purpose, cried out, "I know not whether it be possible, but I know that it must be attempted;" and the deliverer reached his destination. The same courage is needed now. The attempt at least must be made. And who can say that it will fail? On its side will be Providence, the prayers of good men, nature in her manifold attributes, and the awakened judgment of the civilized world. The time has passed when the Spirit of Caste can continue to bear sway. See to it, Senators, that this Spirit has no foothold in the Constitution of our country. To this duty I summon you now by every obligation of statesmanship, for the sake of the Republic and for your own sakes. To the spirit of Caste answer back in the spirit of that Christian truth which you have been taught. Recall the precious words of the early English writer, who, describing "the good sea-captain," tells us that he "counts the image of God nevertheless his image cut in ebony as if done in ivory." The good statesman must be like the good sea-captain. His ship is the State which he keeps safe on its track. He, too, must see the image of God in all his fellow-men, and, in the dis

charge of his responsible duties, must set his face forever against any recognition of Inequality in Human Rights. Other things you may do; but this you must not do.

Mr. DOOLITTLE. Mr. President, when our fathers placed in the Constitution the clause by which they determined "that Representatives and direct taxes shall be apportioned among the several States which may be included within this Union according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other persons," they expected that in a very brief period of time all persons within the United States would be free. In this they were most grievously disappointed. Slavery not only continued, but by its fostering care the number of slaves were increased beyond all expectation and all calculation; and now that the day of emancipation has come, and come amid the fires of revolution and civil war; now that slavery has gone out in blood, stricken down by the hands of those who were its professed friends—for they opened the civil war which brought slavery to its end—a new question arises, whether this disturbance of the basis of representation, sudden by act of war, by the crime of the South, requires an amendment of the Constitution.

The apprehension which lies at the bottom and which leads many persons to seek for an amendment is substantially this: they say the South is guilty of the crime of bringing on this war; the slaves have been set free as a consequence of the war; shall the South reap a benefit from its own wrong? Shall the South go into a rebellion against the Government, in consequence of which her slave population has been set free and the basis of her representation has been increased, and shall she reap an advantage for her crime? That is the question.

Now, Mr. President, before I go any further I desire to call attention to some facts which I think will show that this apprehension of an increase of the basis of representation in the South will prove to be without foundation. The destruction of the population, both white and black, during the civil war has been most enormous. Of the white population there were in those States in 1860 of white males over twenty years of age about one million six hundred thousand. Nearly one third of that white population over twenty years of age has perished. As to the black population we have not the specific facts upon which we can make a positive mathematical calculation; but we have facts stated to us upon the very highest authority, and estimates made by gentlemen who have had the means of knowing, if it is possible for any human being to know, that the actual destruction of the black population since 1860 has been at least twenty-five per cent. of that whole population. The high officers in our own Army state this, and give this as their opinion, without any qualification, that twenty-five per cent., one million of the four millions, have perished already.

Governor Aiken, of South Carolina, who was recently in Washington, made a statement upon that subject, and his opinion is entitled to the very highest consideration. It is known by all that he was one of the largest slaveholders in the State of South Carolina, if not the largest. He has lived in that section of country during the whole of this civil war. His means of information are very extended, and he states most unequivocally that more than a million of blacks have perished—more than twenty-five per cent. of their whole number. Hon. Randall Hunt, of the city of New Orleans—and I refer to him because he is a Union man and has been, as I understand, during the whole of this struggle, and has lived there his whole life—states also that beyond twenty-five per cent. of them have perished. Captain Haynes, another gentleman from Louisiana, who has been in the Union Army, been assistant provost marshal, been sheriff of the counties there, states to me—and he is writing a communication on that subject—that at least from twenty-five to thirty per cent. have perished.

These gentlemen go on to give the reasons why this is so. It is not that they have all perished in battle, perished directly by wounds or what may have been inflicted upon them by the war itself, but wherever the armies of either the North or South have gone in that country the whole negro population of the plantations has been broken up. The able-bodied men and women have often fled from fright, leaving the weak, the infants, the children, the old, the feeble to perish before they could return. The small-pox, as a disease, has traveled from the Rappahannock to the Rio Grande among the colored population, sweeping them by thousands and by hundreds of thousands, and all the other diseases which gather around camps, which come from the fact that they are congregated together in crowds, unaccustomed to that mode of life, have destroyed them. In all human probability when the next census comes to be taken and the fearful record is opened up, appalling as the fact is to us, two fifths of the colored population will be found to be in the ground. It is an appalling fact, Mr. President, but it is a fact which we must look at and see as it is. I tell you it is true as Holy Writ from all this information directly from those who have been there and have had the means of information.

Now, Mr. President, the destruction of the white race, as I have said, has been almost in equal proportion, not so much, perhaps, among the women and children, but of the males over twenty years of age in the South, nearly one third of the whole have perished. The destruction of this war upon the southern States is a destruction compared with which we have nothing in the loyal States that can give us any adequate conception. It was estimated by the Senator from Kentucky, [Mr. GUTHRIE,] I believe, that at least ten thousand millions of property in the South had been destroyed by the civil war. I have not gone into the figures on that subject, and do not give my own opinion in relation to the amount of property destroyed. I suppose he included in his estimate what was supposed to be the value of the slave property. I cannot speak much from my own knowledge. I have only made one short trip into the southern States, and some of my friends around me were with me on that occasion, in the month of March last, a year ago.

We sailed to Hilton Head, and from there to the city of Charleston. I never shall forget the morning of the 20th of March last, as we sailed into that harbor, just as the sun was rising out of the Atlantic ocean. We passed by Fort Sumter and sailed up into the harbor of Charleston. As we approached the city, we sailed along from dock to dock and dock to dock three quarters of a mile before we could find a dock at which we could make a landing. They were all broken up; the piles were rotten; the planks were rotten, and as we looked over the city, for about a mile and a half of it solid, scarcely a building could be seen that had not been injured by the shot and shell that General Gillmore from behind his sand batteries, four or five miles away, had been raining upon that devoted city; and as we looked over the whole city, it seemed to me like the city of the dead. It certainly was a dead city to all appearance to me. That picture of destruction which I there saw in the city of Charleston gave me something of a realizing sense of the destruction which this war has brought upon the southern States.

But I do not desire to dwell upon that. The question of the destruction of property perhaps has no direct bearing on the question of the destruction of population; but the population of the South has been so destroyed and wasted and enfeebled in consequence of this war that I do not for one, I confess, feel those apprehensions which some entertain that if they are admitted to representation under the Constitution just as it stands they will have any increase of Representatives. My opinion is that after the next census their representation will be diminished unless emigration from the North or from Europe shall fill up their population and increase it so as to entitle it to an increased representation.

Mr. President, I only desired to say a very few words; it was not my purpose on the present occasion to make any extended remarks. In relation to the pending proposition, without going into the argument of the proposition itself or the principle which is involved in it, I have this objection to it, that I think it fails to accomplish the very purpose which it seeks on its face to accomplish. I do not see that there is anything in the resolution which would prevent South Carolina or any other State from passing a law that any person who was born free or whose ancestors were free, should exercise the elective franchise, and none others. That would exclude the whole of the colored population, and yet would leave the State to have its full representation. There is nothing which would prevent the State of South Carolina or any other State from saying that only those persons who had served in the military service and their descendants should exercise the elective franchise. That would exclude the colored population, and the Union population too, if they refused to serve in the army.

Mr. President, I rose principally to say that the proposition which I have submitted as a substitute for this resolution, as it seems to me, is a better proposition than the one now pending. My amendment is, in substance, that representation shall be apportioned among the several States which may be included within this Union according to the number in each State of male electors over twenty-one years of age, qualified by the laws thereof to choose members of the most numerous branch of its Legislature, and that direct taxes shall be apportioned among the several States according to the value of the real and personal taxable property situated in each State, not belonging to the State or to the United States.

This bases representation upon the qualified voters of the several districts which elect members of Congress in the several States, and it does, in substance, accomplish the object which I understand to be aimed at; that is to say, if it requires twenty thousand electors in the State of Wisconsin to choose one Representative and give one vote in the House of Representatives, it requires twenty thousand electors elsewhere to do the same thing, and, therefore, every elector in every State has precisely the same weight and the same voice in the House of Representatives. And on the question of the taxation of property I insist that the true principle is that direct taxes should be apportioned according to the value of the property and not on the basis of population. When the question comes up for action it is my purpose to move this as a substitute for the pending resolution.

I know it is objected that if voters are made the basis of representation, some of the eastern States will lose. When, however, you come to look into the figures, it will be shown that there will be no substantial reduction of the representation of New England. In reference to the State of California, and probably it would be true of all the mining districts where the principal part of the population is males, there would be an increase of representation, but generally the inequality of males and females will regulate itself, and will disappear after a few years.

I have before me a table which was prepared on that subject by Hon. Mr. CONKLING of the other House, and to which I refer to substantiate what I have said. I will not present the table at length; but from it the facts appear which I have stated. I will read a single paragraph from what Mr. CONKLING states to be shown by the table:

"From these tables it will be seen that no New England State would lose a single Representative either by making white men over twenty-one, or all men over twenty-one, the basis of apportionment. On the contrary, taking white men over twenty-one as the basis, Massachusetts would gain two, and Connecticut and Maine one each. New York would gain four. The losses would not be in the East. Upon a basis of male voters, black and white, Ohio and Illi-

nois would lose one Representative each, and Pennsylvania two. California, almost alone of the States heretofore free, would gain. Her extraordinary abundance of male population would double her representation. It is now three; it would be six."

Mr. ANTHONY. How would it be, let me ask the Senator from Wisconsin, with Tennessee, where they have disfranchised those who were engaged in the war on the rebel side?

Mr. DOOLITTLE. In relation to that, I will state to my honorable friend that the census which we have already taken runs to 1870, and practically the apportionment will not be made till about 1872, six years to come.

Mr. BROWN. Unless we order another in the interval.

Mr. DOOLITTLE. Of course.

Mr. ANTHONY. But, I understand that in Tennessee where those who have been engaged in the war against us are disfranchised, this amendment will compel the people of the State of Tennessee to admit them to suffrage, or else to lose a large portion of their representation. It would be, therefore, a direct inducement to them to extend suffrage to a class that they have disfranchised for treason.

Mr. MORRILL. Mr. President——

Mr. JOHNSON. If the Senator from Maine will give way, I move that the further consideration of this question be postponed until one o'clock to-morrow. This is the first time the honorable Senator has proposed to address the Senate on the subject, and it is rather late to ask a Senator to speak at this hour. I suppose there is no purpose of taking a vote to-day; I therefore move that the subject be postponed until to-morrow at one o'clock.

Mr. FESSENDEN. I do not wish to urge this matter, as I suppose it is impossible to get a vote to-night, against the wishes of my colleague, if he prefers to speak in the morning. I should like very much, however, to know whether there are other gentlemen who propose to speak, so that we can have some understanding. I hope gentlemen will be good enough to state whether they wish to speak. If there are none others to speak I hope there will be no objection to our getting the vote to-morrow. I shall have something more to say myself, and I can as well say it at one time as another, though I suppose, according to the ordinary courtesy of the Senate, it would rather belong to me to close the debate.

Mr. MORRILL. I shall not occupy much time.

Mr. FESSENDEN. But you would prefer the resolution to go over until to-morrow morning?

Mr. MORRILL. That would be more agreeable to me.

Mr. FESSENDEN. I shall not object to it; but I give notice to the Senate that I shall endeavor to get the vote to-morrow if there are no other gentlemen who desire to make speeches, and I take it, from the silence of Senators, that there are no more who wish to speak on the subject.

Mr. JOHNSON. They are not all here. I renew my motion to postpone the further consideration of this subject until to-morrow at one o'clock, and make it the special subject for that hour.

The motion was agreed to.

GREAT FALLS ICE COMPANY.

Mr. MORRILL. I move that we proceed to the consideration of Senate bill No. 64.

The motion was agreed to; and the bill (S. No. 64) to incorporate the Great Falls Ice Company, of Washington, District of Columbia, was considered as in Committee of the Whole.

It proposes to declare Charles W. Boteler, jr., Lemuel J. Middleton, Frederick Pilling, John F. Callan, William E. Spalding, John Pettibone, William W. Rapley, Charles B. Church, H. A. Chadwick, William W. Russell, James L. Barbour, John Van Riswick, James Sykes, John R. Elvans, George W. Corcoran, and their present and future associates, a body politic or corporate, by the name and style of the "Great Falls Ice Company, of Washington, District of Columbia," to have perpetual succession, to be capable in law and equity of suing and being sued, to have a common seal, and to purchase, hold, receive, and enjoy, either by absolute conveyance in fee-simple, or upon ground-rent, such real estate in the District of Columbia as may be necessary for the construction of ice-houses and cutting, securing, and selling ice in the District, or in such other place or places as the directors of the company may determine.

The capital stock of the corporation is not to exceed $200,000, divided into shares of $100 each, which are to be considered as personal property, and may be transferred under such regulations as the corporators may judge convenient. A general meeting of the stockholders is to be held on the first Tuesday in November, annually, for the election of officers of the company, who shall be a president, a vice president, a treasurer, a secretary, and seven other stockholders, who together shall constitute a board of directors; but if such meeting or election shall not take place, the corporation shall not, for that cause, be dissolved, but such meeting or election shall take place as soon thereafter as may be, of which such notice shall be given as the directors may deem necessary. All elections are to be by ballot, and each stockholder present, either in person or by proxy, is to have one vote for each share of stock held by him at the time of the election.

The corporation is also to have power to make such by-laws, rules, and regulations, as may be necessary for carrying out its objects, not inconsistent with the laws in force in the District of Columbia. The power is reserved to alter, amend, or repeal the act by Congress at its pleasure.

The bill was reported to the Senate.

Mr. POMEROY. I notice that the bill is apparently so drawn that this corporation is to exercise its franchise in the District of Columbia, and yet it is not confined to the District of Columbia by the terms of the bill. I notice at the end of the first section that it is provided that the corporation may carry on its business in the District, "or in such other place or places as the directors of the company may determine." They may go to Maine or anywhere else. We have not heretofore, I think, made a corporation to have existence and do business outside of the District.

Mr. MORRILL. You will see that by the first section its whole operations are confined to the District. These persons are made "a body politic or corporate by the name and style of the Great Falls Ice Company, of Washington, in the District of Columbia," and they are empowered to acquire "real estate in the District of Columbia." It is confined to the District.

Mr. POMEROY. But the last clause of the first section reads, "or in such other place or places as the directors of the company may determine." I move to amend this clause by inserting the words "within the District" after the word "places."

Mr. MORRILL. I have no objection to striking out that clause.

Mr. POMEROY. I move the amendment which I have suggested.

Mr. CLARK. That amendment is wrong. It makes a repetition of the clause relative to the District.

Mr. MORRILL. I think the whole operation of the corporation is as was intended confined to the District of Columbia, except in the mere matter of selling the ice. The provision to which the Senator from Kansas refers merely gives authority to sell ice "in said District or in such other place or places as the directors of the company may determine."

Mr. POMEROY. That lets them go all over the world.

Mr. MORRILL. Only for the purpose of selling. It allows a sale undoubtedly outside of the District. If your object is to prevent that, strike out the last words of the first section.

Mr. POMEROY. My object was to prevent our making a corporation to travel all over the world. We can make a corporation for the District, but ought not to allow it to extend its operations elsewhere—to Maine or Massachusetts or other States.

Mr. MORRILL. I think that is rather too strait-laced for the District of Columbia. Because people living in the District of Columbia are authorized to carry on a trade or employment in the District of Columbia, I can hardly conceive that they ought to be restricted from the sale of their commodities outside of the District. Suppose we were to incorporate them as a manufacturing company for the manufacture of cotton or woolen goods, would the honorable Senator desire to have the sales of their goods restricted to the District of Columbia?

Mr. POMEROY. I would not allow them to go and travel all around to sell their goods.

Mr. MORRILL. We do not allow them to travel with their corporation, but with their products, the result of their labors, so that they may find a market in any part of the country. They should have the same privileges, it seems to me, as the citizens of any of the States would have. We give these people a corporate organization for the cutting and preservation of ice or any other purpose, mechanical or otherwise. For the sale of their products the whole country should be open to them as well as to the citizens of the States. If the object of the amendment is to prevent that, I am opposed to it. I think, on the whole, I would insist on the provision as it comes from the committee, unless the Senate should think it too liberal as it now stands. These people are authorized to cut and preserve ice, and to that end they may take and hold by absolute conveyance in fee-simple or upon ground-rent such real estate in the District of Columbia as shall answer their purposes; and they may sell their ice so taken in the District or elsewhere where they can find a market. I think that is fair. I hope that my friend from Kansas will not object to that.

Mr. POMEROY. I do not suppose there is very much in the objection. I do say, however, that it is a new feature in our legislation to allow a corporation, created by Congress, in this District to set up business outside of the District.

Mr. MORRILL. Oh, no.

Mr. POMEROY. They may, under this provision, have an agency in the State of Maine, if Maine was a marketable place for ice, and in their corporate capacity sell ice in the State of Maine; and if they can, as a corporate company, sell ice outside of the District, then their corporation exists outside of the District. They can have an agency in Charleston and the corporation may exist inside of a State. That is the only point I make, that if they are allowed to sell ice as a corporation outside of the District, they may have an agency for the sale of ice anywhere. I do not say that I care anything about it, but it is a point we never have yielded, that corporations created by Congress should either be in the Territories or in this District, where we have exclusive legislation; and they should not be allowed to set up inside of a State. That is the only point I make.

Mr. HENDRICKS. I suppose the corporation cannot exercise its franchise outside of the District anyhow, in a State, without the consent of the State. If the States give their consent to it, it may.

Mr. JOHNSON. That is not the difficulty that I have. I agree that a corporation here chartered by Congress would have no power of doing business at all outside of the District. That is my opinion of the authority of Congress; but if the law gives them the power expressly to sell outside the District, then the question will arise in the States whether they have not the right to be there independent of State legislation; and that is a question of great moment. If it is not the purpose of the committee to give them the authority to act in the States or anywhere except in the District by virtue of their chartered powers, it ought to be made plain. If it is doubtful, I should hope it might be so

restricted as to compel them to locate here in the District, giving them of course the power which they would have of going elsewhere, provided the States permit them to go elsewhere, by having an agency elsewhere, and not to give them the right to go as against the will of the States to carry on their business in the States without the assent of the States.

The case of McCulloch *vs.* The State of Maryland settled as far as it could be settled by judicial determination the constitutionality of the Bank of the United States. There are, perhaps, portions of the opinion from which it might be inferred that Congress would have the authority to establish a corporation for a different purpose than that for which the Bank of the United States was established. But I think in the case of Cohen against somebody indicted for selling lottery tickets in Virginia in a lottery authorized by Congress the court decided, or at least intimated very strongly the opinion, that there was no authority on the part of Congress, in its legislation in the District, to do more than a State would be competent to do if the District, instead of being exclusively under the jurisdiction of Congress, was of itself a State. If so, of course all its legislation would be legislation applying exclusively to the territory composing the State; but I ask for the reading of the amendment in order to see whether we are about to give to this corporation the authority to go out of the District without the consent of the States.

The SECRETARY. The amendment is in section one, line eighteen, after the word "places," to insert "within the District," so that that portion of the clause will read:

For the construction of ice-houses, and cutting, securing, and selling ice in the said District or in such other place or places within the District as the directors of the company may determine.

Mr. MORRILL. Let me see if I can meet the views of the Senator from Kansas. I suggest that we strike out all after the word "ice" down to and including the word "places" in the next line. It will then read "for the construction of ice-houses and cutting, securing, and selling ice as the directors of the company may determine."

Mr. JOHNSON. That will do.

Mr. MORRILL. That leaves out the words "in the said district, or in such other place or places."

Mr. POMEROY. That is right. I will accept that.

The PRESIDING OFFICER, (Mr. HOWE.) The amendment as modified will be reported.

The Secretary read the amendment, which was in line seventeen of section one to strike out the words "in the said District, or in such other place or places."

The amendment was agreed to.

Mr. POMEROY. I suppose I ought not to make any other objection, but I see that the last section provides:

Said corporation shall also have power to make such by-laws, rules, and regulations as may be necessary for carrying out its objects.

It is a very unlimited power to give them. They judge of what is necessary to do and they have the power to do it.

Several SENATORS. That is usual.

Mr. MORRILL. Of course they must not be inconsistent with the law establishing it.

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

HOUSE BILLS REFERRED.

The following bills and joint resolution from the House of Representatives were severally read twice by their titles, and referred to the Committee on the District of Columbia:

A bill (H. R. No. 183) concerning the fire department of Washington city;

A bill (H. R. No. 223) to amend an act to incorporate the Mutual Fire Insurance Company of the District of Columbia; and

A joint resolution (H. R. No. 84) for the relief of the sufferers by the late explosion at the United States arsenal in the District of Columbia.

ADMISSION OF COLORADO.

Mr. RAMSEY. I move to postpone all other business, and to proceed to the consideration of Senate bill No. 74 for the admission of the State of Colorado into the Union.

Mr. SUMNER. I hope that will not be proceeded with now.

Mr. CLARK. I hope it will not be taken up at the present time.

Mr. RAMSEY. I hope at least we may give it one reading at present, and then proceed from time to time as we can get along. The gentlemen who represent Colorado have been waiting here for some time, and it is due to them that we should at least give the bill a reading.

Mr. SUMNER. I have no objection to that.

Mr. BROWN. There are several gentlemen that want to speak on it.

Mr. RAMSEY. I desire the Senate to proceed with the consideration of this bill. That is my motion.

Mr. POMEROY. I do not suppose we shall be able to consider it at length to-night, but I think we ought to set an early day for considering it.

Mr. RAMSEY. It is not very long; only two sections.

Mr. POMEROY. I am opposed to having it put off indefinitely. I have never known a Territory to come here as Colorado has when the case was not even considered. There are two Senators from Colorado sitting with us here, and their case is not even considered, but is day by day and day by day postponed. I think we ought to set an early day for its consideration.

Mr. RAMSEY. This is the earliest possible day we can consider it. I hope the Senate will take up the bill.

Mr. WILSON. It will not be of any use to take it up at this time; nothing will be gained by doing it. We have a constitutional amendment pending which it is intended to dispose of to-morrow, or at the farthest next day, and then the Senator can move to take up this bill. I apprehend that this measure is not going to pass without some discussion, from what I hear about me, and therefore I think we had better not take it up now, but go into executive session and do a little business.

Mr. MORRILL. Allow me to pass a small bill first that will not take over five minutes.

Mr. TRUMBULL. My friend from Massachusetts knows quite as well as anybody in the Senate that when the constitutional amendment is disposed of something else will come up. There will always be business before the Senate to take up its time and attention. It does seem to me that this question in regard to the admission of Colorado as a State is entitled to the consideration of the Senate. I shall express no opinion at this time as to whether that State has formed a constitution in accordance with the enabling act authorizing the people of that Territory to form a State government, and be admitted into the Union. They have formed a State government; they have sent their representatives here and ask to be admitted; and it does seem to me that we are bound to give that case consideration; and we ought not to postpone it from time to time. If the enabling act has not been complied with, and the facts do not warrant the recognition of this State, certainly the people of Colorado are entitled to know it. I think we had best take up the bill this afternoon, and proceed with it at once. If gentlemen desire to speak upon it, it is not likely we shall get through with it this afternoon; but it will be under consideration. I trust the Senate will sustain the motion of the Senator from Minnesota, and let us call up the bill. I consider it due to the gentlemen who are here representing the State, and due to the former action of Congress itself.

Mr. SUMNER. I have no disposition to interpose one day's delay to the consideration of this bill; but when I look at the clock and see the hour, it does seem to me that it is not advisable for the Senate at such an hour to commence the consideration of such a bill. My friend from Illinois says we shall not do much with it to-day. Then why take up time with it now?

Mr. TRUMBULL. So as to begin it.

Mr. SUMNER. "So as to begin it," the Senator says. He has already told us, or a Senator has told us, that there are but two sections in the bill. Those can be read in two minutes. How far then shall we get? I have given notice myself of an amendment that I shall move, and I have several letters and papers which I have received from Colorado which at the proper time I wish to lay before the Senate. I have brought them down to the Senate half a dozen times in a file expecting that this bill might be called up. It has not been called up. This morning, knowing that I was to address the Senate on another matter, I did not bring my file of papers with me; I have not got them here; I am not, therefore, in a condition to go on with the discussion, and I say to the Senate that I have letters and papers which I wish to lay before the Senate with reference to this question.

Mr. TRUMBULL. If the bill is up, and we get so far with it that we can proceed no further without the Senator from Massachusetts going on, certainly, for one, I shall vote with him to put it over until to-morrow, in order to give him an opportunity to express his views and present the facts he desires to lay before the Senate. But if we do not take up the bill now, it will be to-morrow just as it has been to-day. The Senator has from time to time come here with his papers prepared to consider this subject, but it has got to be such an old story with him that he has now forgotten them and left them at home. I think we had better commence upon it, and then he will know that we design proceeding with it, and will bring his papers here.

Mr. SUMNER. It seems to me that we had better make it a special order, perhaps for half past twelve o'clock to-morrow.

Mr. CONNESS. There is an order for that hour.

Mr. SUMNER. Then say half past twelve the next day,

Mr. RAMSEY. Let us progress as far as we can now.

Mr. SUMNER. How far can you get? It is ten minutes past four o'clock, and you propose to take up the bill when a Senator who has made a motion which lies at the threshold says he has not his papers here upon which he bases the motion he proposes to make. I have drawn up my motion but have it not here with me; I have not the papers with me. I have not the letters which I have received from various parties in Colorado. I did not expect that this bill by any possibility could come up to-day, and it is the first day for a week that I have left my papers at my room. The Senator may call it up to-morrow or the next day, and I will assist him in bringing it up.

Mr. WILSON. I move that the Senate proceed to the consideration of executive business.

Mr. CONNESS. I hope not. I will inquire of the Chair whether that motion is in order while another motion is pending.

The PRESIDING OFFICER, (Mr. HOWE in the chair.) The Chair understands that it is.

Mr. CONNESS. I hope we shall not go into executive session at this hour. There are several Senators who have charge of bills of great interest that we can pass in half an hour or an hour.

The PRESIDING OFFICER. The question is on the motion to proceed to the consideration of executive business.

The motion was not agreed to.

Mr. CONNESS. I will now ask the Senate to consider Senate bill No. 125, which was read through a day or two since, and if the Senate will give me half an hour of its time, or thereabout, to consider it and the accompanying bill, I shall feel much obliged to them. I now move to take up Senate bill No. 125.

The PRESIDING OFFICER. There is a

motion before the Senate to proceed to the consideration of another bill, the Colorado bill.

Mr. CONNESS. I do not wish to antagonize anything to that motion. Do I understand the Senator from Minnesota to withdraw that motion at present?

Mr. RAMSEY. No, sir. I think we ought to make some progress with it at least. After it is taken up, if Senators desire it to go over, it can be done.

Mr. CONNESS. I do not wish to antagonize with that bill.

The PRESIDING OFFICER. The question is on the motion of the Senator from Minnesota, to proceed to the consideration of the Colorado bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 74) for the admission of the State of Colorado into the Union.

Mr. STEWART. I move to fill the blank in the preamble with the word "twelve," so that it will read, "and whereas it appears by the message of the President of the United States, dated January 12, 1866, that the said people have adopted a constitution," &c.

The amendment was agreed to.

Mr. RAMSEY. It has been suggested to me by the friends of the bill that it be postponed until Monday, and made the special order for that day at one o'clock. I make that motion.

The motion was agreed to.

A. T. SPENCER AND GURDON S. HUBBARD.

Mr. DIXON. I ask the Senate now to take up Senate bill No. 114.

The motion was agreed to; and the bill (S. No. 114) for the relief of A. T. Spencer and Gurdon S. Hubbard was read a second time and considered as in Committee of the Whole. It instructs the Postmaster General to audit and adjust the account of A. T. Spencer and Gurdon S. Hubbard for carrying the United States mail from Chicago, Illinois, to Mackinac, Sault Ste. Marie, Marquette, Copper Harbor, Eagle Harbor, Eagle River, and Ontonagon, Michigan; La Pointe and Superior, Wisconsin; from 1854 to 1858, inclusive, and allow therefor such amount as to him shall appear just and equitable, not exceeding the amount allowed for the same service to the party who afterward performed it under contract.

Mr. SHERMAN. I should like to have the report read.

Mr. DIXON. There is a report accompanying the bill.

Mr. TRUMBULL. Unless it is called for by some Senator, it need not be read.

Mr. CLARK. Let it be read.

The PRESIDENT *pro tempore*. The Chair is advised that there is no report accompanying the bill.

Mr. DIXON. There was a report made at a previous session, which was adopted as the report of the committee at this session, which I ask may be read.

The Secretary read the following report, submitted by Mr. Hale on the 27th of February, 1860:

The Committee on Post Offices and Post Roads, to whom was referred the petition of A. T. Spencer and G. S. Hubbard, of Chicago, Illinois, praying compensation for services performed in carrying the mails on their line of steamers between Chicago and the ports on Lake Superior, have had the same under consideration, and beg leave to report:

The memorialists represent that they transported, at the request of the postmasters and agents of the Post Office Department, the United States mails in steamboats between the city of Chicago, Illinois, and the several ports on Lake Superior, from the year 1854 to the present time, during the season of navigation, for which they have not been compensated, and they now pray that Congress will allow them a fair and equitable remuneration for the said service.

They further represent that this service was performed in contemplation of an allowance to be made to them equal to that awarded by the Government for service of a similar character, and the distinct assurance of the agents of the Post Office Deparment was given to them that they would be adequately compensated therefor.

The evidence before the committee of the faithful and efficient character of the service rendered by the memorialists is clear and satisfactory; and that it was undertaken and performed at the request of the Government officials having charge of the mails.

Most satisfactory proof of the performance of the service is to be found in the testimony of Captains J. E. Turner, John Wilson, and B. G. Sweet, confirmed by the affidavits of the postmasters at Chicago, Milwaukee, Mackinac, Marquette, Eagle River, Ontonagon, and La Pointe. This evidence, coming from men of character and experience, entirely conversant with all the facts connected with the transportation of the mails on the route, is such as the committee are disposed to place the fullest reliance in as substantiating the facts alleged by the memorialists.

The evidence being somewhat voluminous, the committee will not burden the Senate with its full publication, but will solicit its attention to the explicit affidavit of Captain J. E. Turner, appended to this report, marked exhibit E.

The witnesses generally concur in the statement set forth in the petition that the service was performed by the memorialists at times under circumstances of great hazard to life and property; and it is the unanimous opinion of the committee that they should receive compensation proportionate to the service rendered and the danger incurred.

The committee are satisfied that the steamers belonging to the line owned by the memorialists afford the most expeditious and reliable means for the transportation of the mail between the city of Chicago and the several ports on Lake Superior; and moreover, that it was through their agency that the inhabitants of a remotely located country were furnished with their semi-monthly mails from that point, during the season of navigation, since the year 1854.

From all the evidence in the case, and from the statements of reliable persons having a personal knowledge of the facts, the committee are confident that the service for which compensation is sought was actually and faithfully performed; that the interest of a large and active business community engaged in the development of an important source of national wealth required the performance of the service rendered by the memorialists, and for which they have received no compensation.

In view of the facts in the case the committee believe that a bill should be passed instructing the Postmaster General to settle the claim of the memorialists, upon the principle of a compensation equal to that paid for like service of the United States; and they report a bill accordingly and recommend its passage.

Mr. TRUMBULL. I suppose it is not necessary to read the testimony accompanying the report.

The PRESIDENT *pro tempore*. The further reading of the report will be dispensed with if there be no objection.

Mr. DIXON. The bill is not entirely in accordance with that report. It does not provide that these persons shall receive an amount equal to what would have been paid by contract, but that the Postmaster General shall make an equitable settlement of their claim, not exceeding that sum.

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

FOLSOM AND PLACERVILLE RAILROAD.

Mr. CONNESS. I now move that the Senate proceed to the consideration of Senate bill No. 125.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 125) granting aid in the construction of a railroad and telegraph line from the town of Folsom to the town of Placerville, in the State of California.

The PRESIDENT *pro tempore*. The bill has been read heretofore, but the Committee on Public Lands have reported the bill with various amendments, which will now be read and considered in their order.

The first amendment of the committee was in section one, line four, after the word "company" to insert the words, "a corporation existing under the laws of the State of California;" so that it will read:

That the Placerville and Sacramento Valley Railroad Company, a corporation existing under the laws of the State of California, is hereby authorized and empowered to lay out, locate, construct, furnish, equip, maintain, and enjoy a continuous railroad and telegraph line, with the appurtenances, from the town of Folsom to the town of Placerville, in the State of California, &c.

The amendment was agreed to.

The next amendment was in section two, line twelve, to strike out the words "and so forth."

The amendment was agreed to.

The next amendment was in section three, line four, to insert the words "railroad and" before the word "telegraph;" in line eight to strike out the word "even" and insert "odd;" in line twenty-one, to strike out the word "ten" and to insert "twenty;" and in line twenty-three, to strike out the word "ten" and to insert "twenty;" so that it will read:

SEC. 3. *And be it further enacted*, That there be, and is hereby, granted to the Placerville and Sacramento Valley Railroad Company, its successors and assigns, for the purpose of aiding in the construction of said railroad and telegraph line, and to secure the safe and speedy transportation of the mails, troops, munitions of war, and public stores over the route of said line of railway, every alternate section of public land, not containing gold or silver, designated by odd numbers, to the amount of ten alternate sections per mile, on each side of said railroad line, as said company may adopt, whenever, on the line thereof, the United States have full title, not reserved, sold, granted, or otherwise appropriated, and free from preëmption or other claims or rights at the time the line of said road is definitely fixed, and a plat thereof filed in the office of the Commissioner of the General Land Office; and whenever, prior to said time, any of said sections or parts of sections shall have been granted, sold, reserved, or covered by private land grants, or occupied by homestead settlers, or preëmpted, or otherwise disposed of, other lands shall be selected by said company, in lieu thereof on the line of said road, within twenty miles of the same, under the direction of the Secretary of the Interior, in alternate sections, and designated by odd numbers, not more than twenty miles beyond the limits of said alternate sections.

The amendment was agreed to.

The next amendment was in section three, line twenty-four, after the word "provided" to strike out the following words:

That all lands containing gold or silver be, and the same are hereby, excluded from the operations of this act, and in lieu thereof a like quantity of unoccupied and unappropriated public lands, in even-numbered sections, nearest to the line of said road, may be selected as above provided: *And provided further*,

So that the proviso will read:

Provided, That the word mineral, when it occurs in this act, shall not be held to include iron or coal.

The amendment was agreed to.

The next amendment was in section five, line thirteen, after the word "rates" to insert the words "to the Government, its officers or agents;" so that the proviso will read:

Provided, That said company shall not charge higher rates to the Government, its officers or agents, than they do to individuals for like transportation and telegraphic service.

The amendment was agreed to.

The next amendment was in section six, line three, to strike out the word "ten" and to insert "twenty," and in line six to strike out the word "even" and insert "odd."

Mr. CONNESS. Those are merely clerical amendments to make that section correspond to the other sections of the bill.

The PRESIDENT *pro tempore*. Those corrections will be made, no objection being interposed.

The next amendment was to strike out the tenth section of the bill, in the following words:

SEC. 10. *And be it further enacted*, That said Placerville and Sacramento Valley railroad, or any part thereof, shall be a post route and military railroad, subject to the use of the United States for postal, military, naval, and all other Government service, and also subject to such regulations as Congress may impose, restricting the charges for such Government transportation.

The amendment was agreed to.

The PRESIDENT *pro tempore*. That completes the amendments reported by the committee.

Mr. HENDRICKS. It is not my purpose to oppose the bill, but I feel it to be my duty to let the Senate know in what respect this bill is a departure from the policy of the Government in granting lands to the States in aid of the construction of railroads. In the first place, the first section of this bill proposes to grant to this railroad company certain powers. Whether independently of this proposed grant of power to a company of a State, the company, by virtue of State legislation, possesses the same powers, I do not know, and I believe the Senate is not informed by any report from the committee. It is rather extraordinary that the Senate should propose by an act of Congress to confer upon a corporation of a State the power to construct a railroad upon a certain line.

In the next place, this bill departs from the general policy in making the grant to the company itself instead of making it to the State. I know that in the case of the Pacific road the grant, I believe, was made directly to the com-

pany, but there were important considerations governing that case. At the last session it was proposed to enlarge a grant to the State of Wisconsin to aid in building a road from Hudson to Superior, a road running in a southeastern direction across the State of Wisconsin to Superior, and even in the cases where there had been old grants and those grants had been transferred by the States to the company, Congress refused to make the grant to the company, but granted the lands to the State that they might be at the disposal of the State. I wish to call the attention of the Senate simply to the fact that this bill and the one to follow it proposes to make these grants to the company instead of making them to the State. What these companies are, what are their powers, what are their obligations, what are their assurances that the road will be constructed, I think the Senate is not informed.

The next departure from the policy heretofore adopted in this bill is that the grant is of ten miles upon each side of the road instead of six. I know that in several cases last year the grants were extended from six to twelve miles upon each side of the road, but it was upon the ground that the roads passed over a very poor country, and more land was required to enable the companies to construct the roads than had been previously granted. To some extent the policy became adopted at the last session of making a grant of ten miles on each side of the road instead of six. This is not in that regard a departure from the policy altogether; but it is right that I should say to the Senate that in nearly all the grants that have been made they were limited to six miles on each side of the roads.

There are other peculiarities about this bill. If it is the pleasure of the Senate thus to modify the policy in regard to grants to railroads, I do not know that I have any very special objection to it. It has not been regarded heretofore as safe to make the grants to the company, but much more desirable to make the grants directly to the States that they may be under the control of the State authorities; and that policy has seemed to work well so far. While I have been a very ardent friend of these grants, I know enough of them to know that Congress ought to be very careful in making them. At the last session we granted—the committee were very reluctant to agree to the bill—an increase of land to one of the Wisconsin roads. It was granted to the State for the benefit of that road. At least one, and I understand others of the parties that came here to get that grant gave their earnest assurance that the work would be commenced at once, and the road be completed at an early day. Instead of going to work and raising money to build the road, or doing anything about it, they sold out for a very large sum of money the benefits of that grant. I have understood that they sold it for one hundred and eighty-odd thousand dollars. The road has now fallen into the hands of parties in the city of New York, who, I believe, will build it; but even with the guard of making the grant to the State, there is an abuse that may be made.

Now, if we make the grant directly to the company, we place the entire thing at the disposal of a body that Congress has no control over, and so far as the grant is concerned, the State has no control over. When the Senator from California the other day very earnestly urged the passage of a bill making a grant of land for a railroad from the waters opposite to San Francisco up to Humboldt, a distance of about two hundred miles, and making the grant to the company itself and not to the State, I did not object because it was to a very considerable extent through a rough and broken country, and the land, perhaps, was not of very great value. It seems to me we go far enough in departing from the general policy when we grant to one company in the State of California alternate sections of ten miles for two hundred miles without now passing two additional bills, No. 125 and No. 126, for two additional roads.

Mr. STEWART. It is the same road.

Mr. HENDRICKS. The same road, but two bills making two separate grants to two additional companies, as I understand it. I do not believe that it is a safe policy. I did not think so in the committee-room; I do not think so here; and although I made no objection to the first bill that passed, I feel it to be my duty to call the attention of the Senate to the peculiar provisions of this measure.

Mr. POMEROY. In reply to the Senator from Indiana, I will only say that there is no new provision in this bill, none but what were incorporated in similar bills last year and ever since I have been a member of the Senate. It is true that the policy has been in the case of new States when they first come into the Union to give the land to the State for the benefit of certain lines of communication across the State, but in old States, or States that have been many years in the Union, like the State of Iowa, where the companies have been organized, where they have commenced the work and are building the roads, as in this case, we have made the grant to the companies time and again. This is a quite different case from what would be the making of a grant to a company that had not already spent $1,000,000, and who had not a real existence. As a general rule in the new States we do give the grants to the States. That is a policy from which we have never deviated except in the case of the Pacific railroad. But in States as old as California, as old as Iowa, and States like Missouri, that have chartered these companies, and where the companies are building the roads themselves out of their own means, we then give the company the grants of land, but with this restriction, not one acre can they get except as they build the road.

Mr. CONNESS. And until they have built it.

Mr. POMEROY. And until they have built it, and they cannot get it in advance of building it. The old system that was adopted before I came into the Senate of allowing them to get land away up on the line of the road by building the first section of twenty miles, we have entirely discontinued. They can only get the land now conterminous with the completed point, and all our bills contain that feature. We have refused to deviate in a single instance from it. The only point in which the bill differs from the bills which we have passed in reference to the new States is, that we make this grant to a live, active company who are actually building the road, and it is in an old State, and it is not necessary that the same safeguards should be thrown around it that are necessary to be thrown around grants to companies that are not organized, and that have not got a definite and fixed capital and are not doing work.

In regard to the amount of land granted, it is not much larger in this bill than in other bills. The Senator says that we enlarged the grant in other bills because the land was poor. We have never passed a bill making a grant to a road where the land was so poor as this.

Mr. STEWART. That is just what I was about to remark.

Mr. POMEROY. There was a provision in the original bill that where the land was mineral they might take agricultural land in lieu of it; but to guard the bill I struck out that provision, so that if it is mineral land, that is, land containing gold or silver, they do not get any. This bill, therefore, has all the safeguards and is entirely in harmony with our legislation on this subject for the old States, not, I admit, for the new States, because when a State first comes into the Union and they have a land grant, we never give it to the companies. We have deviated from that only once or twice.

Mr. CONNESS. Permit me to say a very few words only in addition to what has been said by the honorable chairman. I have listened to what the honorable Senator from Indiana has said, and taking some of the legislation of Congress in consideration, his remarks were pertinent. But in addition to what has been said by the Senator from Kansas, the chairman of the Committee on Public Lands, I wish to say that under the old system of making the grant to the States, neither the State nor the company were required to build any particular kind of road. I have examined all the legislation on the subject by Congress, and they might have laid down a wooden track or a horse railroad or anything else and have got the land; but this company is required to build a first-class road—

> In a substantial and workmanlike manner, with all the necessary draws, culverts, bridges, viaducts, crossings, turnouts, stations, and watering places, and all other appurtenances, including furniture and rolling stock, equal in all respects to railroads of the first class when prepared for business, with rails of the best quality, manufactured from American iron, and a uniform gauge—

before they get an acre of land; and in no case do they get an acre of this mountain land until they have constructed the road. No bill has ever been presented to Congress in which the interests of the public and of the Government have been so thoroughly protected as in this bill.

Mr. HENDRICKS. I desire to correct the Senator in one or two particulars. The Senator from Kansas, who so ably heads the Committee on Public Lands, informs the Senate that this bill is peculiar in this, that it does not allow the land to go unless the road is built; but that the grants heretofore have been to the States; they became absolute; and the States got the lands whether they built the roads or not.

Mr. POMEROY. I did not say that.

Mr. HENDRICKS. If the Senator did not intend so to be understood his argument has no force. All of the laws provide, where the grants were made up to within a year or two, that if the roads are not completed within ten years the lands granted shall revert to the Government; it is an absolute forfeiture. No absolute right can be secured to the State or to any grantee of the State until the road is entirely completed. The State cannot dispose of her lands under the grants until she does complete the road, although the patents may be made out as evidence of the selections and for ten years the lands are removed out of the market, yet no title passes to the State that is not subject to a forfeiture and return of the lands to the Government until the roads are completed.

I understand him also to say that the only cases in which the grants have been made to the State and not to the company are the cases in new States; that in the case of new States just admitted into the Union the grants are made to the States; but whenever the grants have been made to States already in the Union they are made directly to the company that proposes to build the road.

Mr. POMEROY. I did not say that.

Mr. HENDRICKS. The Senator says he did not say that. I thought he did say it. I thought that was the idea. I will ask the Senator if the State of Illinois was a very new State when that magnificent grant was made for the construction of her system of railroads, a grant to a very large extent of lands that could not be sold by the Government because they were in the midst of prairie, inaccessible to the farmer unless a highway was opened, and that was a grant of six miles on each side, and a grant nor to the company, but to the State. Was the State of Iowa a very new State in 1856 when the grant was made to her? The grant was not made to the railway companies of the State, but the grant was made to the State. Was the State of Wisconsin an entirely new State in 1856 or 1857 when the grant was made to her for her great lines of railroad? The grant was made to the State and not to the companies.

The question for Senators to consider is, is it a safe policy now to grant the public lands to the companies and not to the States? If we grant the lands to the States we have the honor, the assurance, and the interest of the State and of the people of the State that the roads shall be built; but if we make these grants to the railroad companies we place them in a position where they may be made the subject of specu-

lation. Even as it is, when the State has made the grant to the companies, it has become the subject of speculation in some instances—a thing that we ought to avoid. Now, sir, as a friend of this system, as one who always votes these grants very liberally to the States, I want to know of the Senate if it is now safe to depart from the policy heretofore adopted, and to grant the lands directly to the railroad companies? In other words, this Government shall grant her lands not to the States to be controlled by the States, but to corporations over which Congress can have no control. I admit that it is a very wise provision of this bill and of other bills that have passed and that are pending, that the lands shall be granted to the companies only as the roads are completed; but practically that is the provision which is found in all the grants, that the grant is not absolute to the grantee until the road is built, and that has been so from 1840 to the present time.

Now, sir, I undertake to repeat what I said before, that this is a departure from the general policy. The general policy has been to make the grants to the States and let the companies get their rights from the States and not from the General Government; but if it is the pleasure of the Senate to change this policy, I have no particular objection to it. I desire California to be encouraged in her enterprises. I feel as much interest in that, I think, as any Senator except those who immediately represent her people. Of course I cannot claim to feel the same degree of interest as if I lived in California, but I desire to see these railroads constructed, and I think the Government ought to aid in their construction; but the question is, shall we depart from a fixed policy of the Government?

Mr. STEWART. This case is a little different from what the Senator supposes. In the first place the lands through which the road goes will not be sold unless the road is built. It is through a mountain, and the parties who are asking for this grant of land are the parties who have made a wagon road over the mountain already at an expense of $1,000,000, and are very enterprising and worthy citizens.

These two bills constitute a line of road that goes into Nevada. This bill, in connection with the bill No. 125, constitutes the whole line. It is true that all the land for this part of the road is in California; but the major part of the whole line, when constructed, will be in Nevada. The Legislature of Nevada, in consequence of the enterprise of this company, has passed a resolution of instruction to her Senators here to advocate this grant of land to the company. There is an understanding between these two companies. The parties are engaged harmoniously together. They have asked for a grant of land. A large portion of this line is in the State of Nevada; and Nevada has already acted upon the question, so far as the State is concerned, by recognizing the propriety of making the grant directly to the company; and no one there would think of making any change. If Congress should grant the land to the States, it would only be a matter of expense and delay. Inasmuch as my State has already acted, I should be unwilling that the company should be delayed to go to the State of California to get her consent, when it is quite obvious that the grant will be given to no other company but the company that has spent about a million dollars, or nearly that, on the road, and a very large amount in the enterprise of a wagon road across the mountains.

Mr. CONNESS. If the Senator will permit me, I will say that the Legislature of California will adjourn now, comparatively, in a few days; the constitution itself adjourns it on the 1st of April, and it does not meet again for two years.

Mr. STEWART. We must be delayed, before anything can be done, for the space of two years. These parties have gone on building this road, spending their own money, never having had a cent from the Government. They think that with this land grant they can go on. The land is certainly of no value to anybody but them, and if they can build a road over these mountains by getting a little mountain land which is not worth a cent to the Government unless they succeed in the enterprise, they certainly have my good wishes, and I do not see any other way in which the Senate can help them.

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

Mr. RAMSEY. I regret very much to interfere in this matter; but I agree with the Senator from Indiana that we ought to be uniform in our practice. If in the other States we exact this condition that the donation shall be to the States in the first instance, I think we ought to insist upon it throughout and be uniform in our practice. I am very sorry to interfere with the bill of the Senator from California. I had supposed it was of the character of other land-grant bills which we have passed.

Mr. CONNESS. Permit me to say to the Senator that if that rule were adopted in this case the grant would be simply of no use to the company. They are going on now, and are stopped for the want of means. They are struggling to build this road.

Mr. STEWART. Besides, it is a branch of the Pacific railroad, and you made the grant to that company in the same way.

Mr. RAMSEY. All the northwestern grants are to the States.

Mr. STEWART. All the grants for the branches to the Pacific railroad were made in the same way.

Mr. TRUMBULL. The Pacific Railroad Company is a company created by Congress. I really wish my friend from California would get this bill in a shape that we could all vote for it.

Mr. CONNESS. Permit me to say to my friend that the Pacific railroad in California is being built by a corporation organized under the general incorporation laws of that State. Congress in that bill authorized that company to do certain things to build the road. This is a similar case precisely. The companies engaged in constructing this branch of the Pacific railroad, by what is known as the Placerville route, over the Sierra Nevada mountains, are companies organized just exactly as the other was under the incorporation laws of the State of California. The case is precisely similar. We ask nothing but a grant of lands. We do not come here to ask for bonds or money.

Mr. POMEROY. What prevailed with the committee was that the Legislature of California does not meet for two years, and that the Legislature of Nevada had already memorialized us to do this thing so far as Nevada was concerned. Under these circumstances we thought we ought to give the grant directly to the company as we did in the case of the Pacific railroad and two of the Iowa roads last year, and the same as we would do to any company that was as well established, that had such capital, and was known as well as this company.

Mr. TRUMBULL. I am not upon the Committee on Public Lands, and of course have not looked into the details of the matter; but the Pacific railroad is being built under an act of Congress with a great many guards in it and provisions for commissioners to examine the road. Having such safeguards thrown around it, Congress thought proper to make the grant of land directly to the company with these checks. That is really a Government road. I supposed that this was somewhat different. It is not a branch of the Pacific railroad in reality. It may operate as a branch, but it is not a part of the Pacific railroad corporation; and I had supposed we had always made these grants to the States.

The Senator from Kansas states that we made two grants of this character to companies in Iowa last year. I was not aware of that. The grants to Iowa some years ago I know—I had occasion to look into them some time ago—were all to the State. If there was a grant made to a company at the last session, I was not aware of it.

Mr. HENDRICKS. I will state to the Senator from Illinois that my recollection about it is that the grant to Iowa last year, in addition to the grant of 1856, was made to the State. It was urged, I recollect, and urged very earnestly, that as the State had transferred the lands already granted, the additional lands ought to be given to the company; yet Congress would not do it. I think the Senator from Kansas is mistaken about the grant to Iowa at the last session.

Mr. STEWART. On this side you have four branches with land grants.

Mr. CONNESS. Will the Senator from Illinois give me his attention for one moment? That portion of the Pacific railroad that is in California is not being built by the national incorporated company at all, but by a company incorporated under the laws of the State of California, and this bill in like manner provides that whenever this company shall have so many consecutive miles of any portion of the railroad or telegraph line ready for the service contemplated "the President of the United States shall appoint three commissioners to examine the same, and if it shall appear that twenty miles of said road and telegraph line have been completed in a good and substantial manner, and in all respects as required by this act, the commissioners shall so report to the President of the United States, and patents of lands, as aforesaid, shall be issued to said company confirming to said company the right and title to said lands." In all respects every safeguard that is found in the Pacific railroad act is found in this. As I said before, this is a branch of the Pacific railroad which our people propose to build without any grant of money or bonds, but by the aid of this grant of land.

Mr. TRUMBULL. Let me inquire of the Senator from California if it would not justify a meeting of the Legislature to act upon it?

Mr. CONNESS. Not at all. The calling of our Legislature together would be very expensive. I cannot estimate the sum of money it would cost. The members of our Legislature receive ten dollars per diem for their compensation, in gold. The popular branch has eighty members, and the other branch thirty-five. There is not a single objection that can be urged which we have not guarded. I hope we shall come to a vote.

Mr. RAMSEY. I should like to vote for this bill, but with this provision in it I cannot do so. There ought to be some uniformity in our legislation on this subject. If the Committee on Public Lands intend to introduce an entire change in the policy in regard to these land grants, we ought to know it, and all ought to have an opportunity to take advantage of it.

Mr. POMEROY. This is nothing new. If the Senator had been on the committee he would know that we have occasionally passed bills of this character. It has been done every year, I think, since I have been here.

Mr. DOOLITTLE. In relation to these land grants, I know that in the case of Wisconsin it has been insisted that the lands should be granted to the State. There was a case that arose here last winter, or the winter before, where a railroad company which had already received from the State a certain donation of lands on the line of the route asked for an additional grant of some sections, and my impression is that when the law was passed it was insisted that the grant should be made to the State, and not to the company, and it was so done.

Mr. CONNESS. Was the honorable Senator present during the whole of this discussion?

Mr. DOOLITTLE. I was not.

Mr. CONNESS. I will say, then, to the honorable Senator that the reasons for taking this course have been specially stated. The company is struggling now and engaged in building this road. Our Legislature does not meet for two years. Besides, this is a branch of the Pacific railroad. The bill is guarded in every respect, very differently and in a very superior manner

over any act ever passed granting lands for a railroad before, except the act granting lands for the construction of the Pacific railroad passed by this body.

Mr. DOOLITTLE. I will make no opposition to the passage of the bill; but if I can, I will look into it, and if I find that my friend is mistaken about it I shall reserve the privilege of moving a reconsideration.

Mr. CONNESS. I have no objection to that. I will make the motion for the Senator if he desires it.

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

Mr. CLARK. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *March* 7, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

The SPEAKER announced as the first business in order the call of committees for reports, commencing with the Committee for the District of Columbia.

COURT OF CLAIMS.

On motion of Mr. WILSON, of Iowa, the bill (S. No. 33) entitled "An act in relation to the Court of Claims," was by unanimous consent taken from the Speaker's table, read a first and second time, and referred to the Committee on the Judiciary.

FREEDMEN'S BUREAU.

Mr. ELIOT. I ask unanimous consent to introduce, that it may be printed and referred to the select committee on freedmen, a bill to continue in force and amend an act entitled "An act to establish a Bureau for the Relief of Freedmen and Refugees, and for other purposes."

Mr. BROOKS. I do not object to the printing or the reference of this bill; but I desire that it shall not be allowed any precedence of other business.

Mr. ELIOT. That is not desired. I am willing to agree that the bill shall not be brought back by a motion to reconsider.

The SPEAKER. If there be no objection, the bill will be read a first and second time, referred to the select committee on freedmen, and ordered to be printed, with the understanding that it shall not be brought back by a motion to reconsider.

There was no objection.

PAYMENT OF PENNSYLVANIA WAR DEBT.

Mr. STEVENS, by unanimous consent, reported, from the Committee on Appropriations, a bill to reimburse the State of Pennsylvania for moneys advanced to the Government for war purposes; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, ordered to be printed, and made the special order for Wednesday, the 14th instant, and from day to day until disposed of.

CHESAPEAKE AND OHIO CANAL, ETC.

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

Resolved, That the Committee for the District of Columbia be instructed to inquire into the expediency of providing for the construction of an aqueduct across the basin at the mouth of Rock creek, to pass the water from the Chesapeake and Ohio canal into the Washington canal, and through the Washington canal to the Eastern Branch, near the navy-yard, that cargoes from loaded boats from the Chesapeake and Ohio canal may with facility be unloaded on the banks of the Washington canal and at the Eastern Branch, and thus diminish the cost of coal and of other articles to the citizens of Washington and to the Government of the United States.

REIMBURSEMENT TO MISSOURI.

Mr. LOAN, by unanimous consent, moved to take from the Speaker's table Senate bill No. 31, to reimburse the State of Missouri for moneys expended for the United States in enrolling, equipping, and provisioning a militia force to aid in suppressing the rebellion, and that it be referred to the select committee on the war debts of the loyal States.

Mr. STEVENS. That bill should be referred to the Committee on Appropriations.

Mr. LOAN. I have no objection to that reference.

The bill was referred to the Committee on Appropriations.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

MUTUAL FIRE INSURANCE COMPANY.

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

The SPEAKER. The regular order of business is the consideration of House bill No. 223, to amend an act to incorporate the Mutual Fire Insurance Company of the District of Columbia, reported back from the Committee for the District of Columbia without amendment; on which the gentleman from Pennsylvania [Mr. MERCUR] is entitled to the floor.

Mr. MERCUR. Mr. Speaker, at the expiration of the morning hour yesterday I was about to answer an objection of the gentleman from New York, [Mr. DAVIS.] It would be anticipated from his remarks that we were to inaugurate a new system of insurances in this District, whereas such is not the fact. This is simply an amendment to an act of incorporation which has been in force for the last eleven years; and the sole object of this is to enable the company to increase its business in accordance with the increased requirements of the business community of this District. It is the design, in a measure, in addition to the increase of business, to enable the company to keep a large sum of money on hand to meet the demands that may be made on it for the payment of losses. The original charter limited the amount of money it should have upon hand to $20,000. In accordance with the requirements of the community and their increased business it was found it wants a fund greater than that; and therefore this amendment is simply for the purpose of enabling the company to transact a larger amount of business and to have a sufficient amount of money on hand at all times to meet its obligations. I demand the previous question.

Mr. DAVIS. I ask the gentleman to yield to me.

Mr. MERCUR. I yield to the gentleman.

Mr. DAVIS. Mr. Speaker, I objected yesterday to the passage of this bill because I believe the principle involved is one unsafe to the community. I have nothing to say in regard to the management of this company. It may be perfectly sound and safe in all respects. Nor will I say a company upon such a basis may not be properly administered so that the public interests will not suffer. But I do say, in the history of such companies wherever they have been incorporated there has been so much of fraud, so many inducements to do wrong and commit fraud, that I protest against the adoption of such a principle of incorporation here.

An insurance company should have something besides the credit of premium notes which it may hold to represent capital. It should have an active, actual capital paid in or secured. When based upon credit one disastrous night may wipe out the entire capital, and those who hold unpaid insurances to the amount of fifty to one hundred thousand dollars have nothing to look to except assessments upon the premium notes held by this corporation.

All the security the parties dealing with the company have is the amount of $30,000 capital; yet the risks under the policies may amount to half a million or a million dollars.

Now, in order to illustrate the working of this system, I will refer to the history of one or two companies in the State of New York, the affairs of which it has been my duty to investigate. In one company where this system of premium notes was adopted the directors all lived in a little village. They made a by-law that they should meet every night, and that every director should receive two dollars a session, and any member not present was liable to be fined a box of cigars or a basket of champagne, that was to be paid out of the funds of the company. Large salaries were given to traveling agents. The result was, after issuing insurances to the amount of hundreds of thousands of dollars, when the claims for losses came in, not five per cent. could be collected on the premium notes. The whole thing was found to be a sham and a fraud upon the community.

And that is the history of four or five companies in the State of New York. Upon these premium notes litigations were commenced costing the parties many thousand dollars.

Now, sir, I do not wish to see the people of the District of Columbia or of the adjoining States who have business with this company subjected to such frauds as these. If this company desire to increase their capital let them be allowed to contribute $30,000 in cash. With the consent of the gentleman, I will move an amendment that the company be allowed to pay in an additional cash capital of $30,000.

Mr. MERCUR. I cannot consent to that. In answer to the objections urged by the gentleman from New York I will read a few lines further from the original act of incorporation.

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

Mr. MERCUR. Yes, sir.

Mr. STEVENS. In these mutual insurance companies the premium notes of members of the company are received, and they are responsible for losses by assessment; so that they are all responsible to the amount of business done on the premium notes or on the cash. Is this company organized on the same principle?

Mr. MERCUR. Precisely.

Mr. STEVENS. Then where is the fraud about it? Everybody who goes into it is responsible, and nobody is bound to go into it unless he chooses. I can very well understand the fraudulent contrivances which operate in the neighborhood of the gentleman from New York, [Mr. DAVIS,] but other mutual insurance companies are chartered in the same way.

Mr. MERCUR. There is this additional security, which most other corporations do not have in their charters:

> Said notes shall be payable on demand, and shall constitute and be a lien to the amount thereof respectively upon all buildings insured by said company, the lands upon which they stand, and the appurtenances to such lands, and upon the estate and interest, legal and equitable, of the assured in such buildings, lands, and appurtenances, and upon the other property of said company, in consideration thereof.

Thus it will be observed that all the safeguards which the law can throw around it have been clearly and specifically defined by the terms of this bill. Not only is there a claim to assess on the premium notes but the property assured is bound by the premium notes, and it cannot pass out of the reach of the same.

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

Mr. MERCUR. Yes, sir.

Mr. DAVIS. Take the case of insurance of personal property which is changing hands; I would like to know what the security is in respect to that kind of property except the note.

Mr. MERCUR. There may be difficulty in giving full force and effect to this act in its application to personal property, but not in its application to real estate. The gentleman objects to this because they have not funds enough on hand to meet their obligations. The object of this amendment is to remedy this evil, to guard against that defect, and it is to enable them to have larger funds on hand than they otherwise would have. It seems to me there can be no valid objection to it. I move the previous question.

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

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

Mr. LAWRENCE, of Ohio. I demand the yeas and nays on the passage of the bill.

The yeas and nays were not ordered.

The bill was then passed—ayes 61, noes 35.

Mr. MERCUR moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

THE ARSENAL EXPLOSION.

Mr. INGERSOLL. I might as well give notice that the proposition which I have now to present contains an appropriation, so that here is a good opportunity for gentlemen who are watch-dogs of the Treasury "to be on their guard."

Mr. CONKLING. I suppose we can reserve any point of order about its going to the Committee of the Whole on the state of the Union until we hear what it is.

The SPEAKER. Certainly.

Mr. INGERSOLL. There was a resolution sent to the Committee for the District of Columbia instructing them to make inquiry in regard to the sufferers by the late explosion at the United States arsenal in this city. The committee found that ten persons were killed by that explosion, several of them leaving widows dependent on them for subsistence, and one of them leaving ten children, seven of whom are dependent on the widow.

This explosion occurred without any fault or negligence on the part of these workmen, and they were not enlisted men, but hired employés of the Government. The committee having considered all the circumstances and the necessities in each case, have determined to report to the House a joint resolution proposing a small appropriation for the benefit of the survivors and the widows of those who were killed.

They find that it has been customary where such explosions have occurred, for Congress to make an appropriation for those who survive. In the case of private corporations, railroad corporations, and others, where by accident employés are killed, it is frequently the case for appropriations to be made for the benefit of their families; and in this case the committee propose that $2,500 shall be appropriated.

The joint resolution for the relief of the sufferers by the late explosion at the United States arsenal in the District of Columbia was read a first and second time.

It appropriates $2,500 to be placed by the Secretary of the Treasury in the hands of Colonel Benton, the commandant of the United States arsenal in the District of Columbia, to be distributed by him among the sufferers by the late explosion according to the equities and necessities of their several cases, and directs the said superintendent to report the details of said distribution to Congress with vouchers therefor.

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

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

The latter motion was agreed to.

GREAT FALLS ICE COMPANY.

Mr. INGERSOLL, from the Committee for the District of Columbia, reported back, with the recommendation that it do pass, bill of the House No. 231, to incorporate the Great Falls Ice Company of Washington, District of Columbia.

The bill was read.

Mr. CONKLING. I should like to hear some reason assigned why special legislation of this kind should be had to create an ice company.

Mr. INGERSOLL. It is nothing more than a proposition to aggregate capital to carry out the object of the bill, which is to maintain a good supply of ice for the benefit of the people of this District.

Mr. CONKLING. Why not have a company incorporated to build meat markets and grist-mills and other things of that sort in Washington?

Mr. INGERSOLL. I believe there are corporations of this character in the gentleman's own State. I know they have them in my State.

Mr. CONKLING. No, sir.

Mr. INGERSOLL. No ice companies in New York?

Mr. CONKLING. We have no ice company in New York under a special charter.

Mr. INGERSOLL. Well, you have them under a general law, which is the same thing.

Mr. CONKLING. I desire to say a few words on this bill.

Mr. INGERSOLL. For how long a time?

Mr. CONKLING. A few minutes.

Mr. INGERSOLL. I cannot yield unless the gentleman will specify the time he wants.

The SPEAKER. The gentleman from Illinois [Mr. INGERSOLL] can resume the floor at any time.

Mr. INGERSOLL. Very well; I will yield.

Mr. CONKLING. I desire to say that if the object of this House is to enable the residents of this city to supply themselves with ice cheaply, the way which suggests itself to my mind is to leave that business open to competition just as the business of selling meat, vegetables, groceries, or other family supplies, is open. If, on the contrary, this House desires, in the first place, to inaugurate a system of special legislation for the benefit of favored persons, this bill is an excellent way, and this is an excellent time to commence or continue that practice. And especially is this a good proposition, if the House wishes, in place of furnishing ice to the people of Washington, to establish a monopoly which will enable certain men whose names are in this bill and their friends to make great profits out of the business of vending ice.

And I think that some time a motion should be made to change the title of this bill, unless there is some special excuse for it which does not occur to me, so as to make it read, "A bill to raise the price of ice," to begin with, "in the city of Washington, and to insure profit which cannot otherwise be had in that business to the persons herein named."

Now, for one, I am entirely opposed to this whole matter. If anything of this sort is necessary, let us pass a general law, such as the gentleman says exists in New York and in other States, under which companies may organize for necessary purposes. But do not let us have a monopoly, to the end that still further extortion may occur than now takes place in the city of Washington, in regard to one of the luxuries, if not one of the necessaries, of life.

I am reminded by a friend of something which I thought I observed while the bill was being read, but I was not certain of it. It is provided in this bill, if I am not mistaken, that this company shall sell ice in Washington "and elsewhere." Is not it so stated in the bill?

Mr. INGERSOLL. I should not be surprised if it was.

Mr. CONKLING. I should not be surprised either. And I may add that I should not be surprised at anything, as an invention, ostensibly for the benefit of the people of this city. This whole system is vicious, and ought to be reduced to some general provision open to the world, so that all can understand it.

I thank the gentleman for yielding to me.

Mr. INGERSOLL. The gentleman is perfectly welcome. This proposition does not interfere in the least with any private enterprise in the world. His friends or anybody else can go on with the ice business to any extent they may please. This bill does not affect that matter one way or the other. It simply does this: where a large amount of capital is required for the accumulation of ice in the winter, and housing it for use in the summer, it gives the necessary facilities for that purpose, nothing more. And this ice business does require a greater amount of capital than is at the disposal of any single individual who may have any enterprise in that direction. And this bill proposes, and that is the only proposition, to enable capital to be supplied and used by a corporation. And if a bill of this kind should come before any northern Legislature you would not hear any objection to it. And the only objection to it here is because it is in the District of Columbia. Sir, I have heard enough of such objections.

This is the capital of the United States; and if you intend that it shall continue to be the seat of the national Government, then treat it as becomes the representatives of a great people at their national capital. That is what I have to say with regard to that point. I maintain that no more franchises are allowed citizens of this city than are allowed to citizens elsewhere; and for one, I am opposed to withholding from the people of the city of Washington any right that I would extend to the people of my own town.

Mr. SLOAN. Will the gentleman yield to me for a moment?

Mr. INGERSOLL. I do not wish any interruption upon a question of so little importance as this.

Mr. SLOAN. I merely wish to ask the gentleman a question.

Mr. INGERSOLL. I will yield for a question.

Mr. SLOAN. Is it true that this bill will allow this company to establish the ice business in any of the States?

Mr. INGERSOLL. No, sir; it is not true.

Mr. SLOAN. If the company have the right to sell ice "elsewhere," they may establish business in any State.

Mr. INGERSOLL. They may establish it here, and that is all.

Mr. CONKLING. May I inquire of the gentleman where "elsewhere" is found on the map of this country?

Mr. INGERSOLL. I have never examined that subject with a reference to this bill.

Now, Mr. Speaker, this is a matter of very little importance to anybody except the citizens of Washington, none of whom, I am sure, have objected, and to the gentlemen who ask to be incorporated, that they may aggregate their capital and perhaps make a little money—how much I do not know and do not care, provided they do not practice extortion upon the people. I believe that, instead of raising the price of ice, the incorporation of this company will tend to reduce the price.

Gentlemen talk about the "extortion" practiced in this city. I will say that I have resided here during the large portion of five years, and I know nothing of "extortion" here with regard to the price of anything. [Laughter.] I challenge gentlemen to name a single thing the price of which is in excess of the price in the city of New York.

Mr. GRINNELL. House rent.

Mr. INGERSOLL. No, sir; house rents are higher in the city of New York than here.

Mr. GRINNELL. But the houses in New York are not shanties.

Mr. INGERSOLL. The houses are no better there than here at the same rents; for I have examined that subject. Board is no higher here than elsewhere. [Laughter.]

Mr. STEVENS. If the gentleman is dealt with here in such a way as to enable him to say that, I do not blame him for advocating the interests of this city. The rest of us have not had the same agreeable experience as the gentleman from Illinois.

Mr. INGERSOLL. Well, sir, I am treated like a gentleman everywhere.

Mr. Speaker, this bill contains no extraordinary provisions. I am surprised that it has excited so much feeling here. I can imagine no reason why it should encounter opposition.

Mr. CONKLING. Will the gentleman allow me to make one very quiet remark?

Mr. INGERSOLL. No, sir. Mr. Speaker,

I am willing that the House may do with this bill as it deems proper. I demand the previous question.

The previous question was seconded, and the main question ordered, which was upon ordering the bill to be engrossed and read a third time.

Mr. CONKLING. I move that the bill be laid on the table; and before the question is taken, I ask that the Clerk read the clause of the bill which provides where this company may carry on its operations. I believe I have the right to have that read.

The SPEAKER. The gentleman has the right to have it read.

The Clerk read, as follows:

To purchase, hold, receive, and enjoy, either by absolute conveyance in fee-simple or upon ground-rent, such real estate in the District of Columbia as may be necessary for the construction of ice-houses and cutting, securing, and selling ice in the said District, or in such other place or places as the directors of the company may determine.

Mr. INGERSOLL. That only refers to the places where the ice shall be cut; the place of sale is here.

Mr. CONKLING. I object to debate. The motion to lay on the table is pending.

On agreeing to the motion to lay on the table, there were, on a division—ayes 48, noes 50.

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

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 69, nays 58, not voting 56; as follows:

YEAS—Messrs. Allison, Ames, Delos R. Ashley, James M. Ashley, Baker, Baxter, Beaman, Bergen, Boutwell, Brandegee, Broomall, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Deming, Dixon, Eckley, Eldridge, Farnsworth, Farquhar, Ferry, Grinnell, Abner C. Harding, Hooper, Asahel W. Hubbard, Edwin N. Hubbell, Hulburd, Kelso, Kerr, Ketcham, William Lawrence, Le Blond, Longyear, Marston, McClurg, Morrill, Morris, Moulton, Niblack, Paine, Patterson, Perham, Price, Radford, Rollins, Sawyer, Scofield, Sitgreaves, Sloan, Spalding, Starr, Stevens, Strouse, Taber, Taylor, Trowbridge, Upson, Van Aernam, Burt Van Horn, Elihu B. Washburne, Henry D. Washburn, Wentworth, Williams, James F. Wilson, Winfield, Woodbridge, and Wright—69.

NAYS—Messrs. Anderson, Baldwin, Banks, Bidwell, Blaine, Blow, Boyer, Bromwell, Brooks, Buckland, Davis, Defrees, Eliot, Goodyear, Griswold, Harris, Hart, Hayes, Henderson, Higby, Hill, Hogan, Chester D. Hubbard, John H. Hubbard, James R. Hubbell, Ingersoll, Julian, Kelley, Latham, Loan, Lynch, Marshall, Marvin, McCullough, McKee, McRuer, Mercur, Miller, Myers, Nicholson, Orth, Phelps, Pike, William H. Randall, Raymond, Rogers, Ross, Stilwell, Thayer, Thornton, Trimble, Robert T. Van Horn, Warner, William B. Washburn, Welker, Whaley, and Stephen F. Wilson—58.

NOT VOTING—Messrs. Alley, Ancona, Barker, Benjamin, Bingham, Bundy, Chanler, Reader W. Clarke, Coffroth, Culver, Darling, Dawes, Dawson, Delano, Denison, Donnelly, Driggs, Dumont, Eggleston, Finck, Garfield, Glossbrenner, Grider, Hale, Aaron Harding, Holmes, Hotchkiss, Demas Hubbard, James Humphrey, James M. Humphrey, Jenckes, Johnson, Jones, Kasson, Kuykendall, Laflin, George V. Lawrence, McIndoe, Moorhead, Newell, Noell, O'Neill, Plants, Pomeroy, Samuel J. Randall, Alexander H. Rice, John H. Rice, Ritter, Rousseau, Schenck, Shanklin, Shellabarger, Smith, Francis Thomas, John L. Thomas, Ward, and Windom—56.

So the bill was laid upon the table.

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

The latter motion was agreed to.

RECONSTRUCTION.

Mr. WASHBURNE, of Illinois, from the committee on reconstruction, submitted testimony in reference to the States of Louisiana, Texas, and Florida; and moved that it be printed.

The motion was agreed to.

FIRE DEPARTMENT OF WASHINGTON.

Mr. INGERSOLL. I now call up House bill No. 183, concerning the fire department of Washington city, which was laid aside yesterday. It has been printed.

I move to amend the bill by inserting after the word "such," in the fifteenth line, the word "permanent," so that it will read:

That the right to have, use, and occupy all the several buildings, with their appurtenances, known as the Union, Franklin, Columbia, and Anacostia engine-houses, be, and is hereby, granted to the city of Washington, in the District of Columbia, said possession and occupation to continue so long as used for the purposes of the fire department and the pleasure of the Congress of the United States; and in the event of the city of Washington being deprived of such possession and occupation by the General Government, the United States shall pay to the city of Washington the then existing value of such permanent improvements as shall have been made thereon after the passage of this act: *Provided*, That said use and occupancy of the Columbia engine-house shall not in any way interfere with the possession and occupancy, by the Columbia Fire Company, of the rooms now used as library rooms in said building.

Mr. BRANDEGEE. I suggest to the gentleman to say "such necessary permanent improvements," &c.

Mr. INGERSOLL. I agree to that.

The amendment as modified was agreed to.

Mr. STEVENS. I move to strike out these words:

And in the event of the city of Washington being deprived of such possession and occupation by the General Government, the United States shall pay to the city of Washington the then existing value of such improvements as shall have been made thereon after the passage of this act.

Mr. Speaker, I have a word to say. If my amendment be adopted, these companies will have their houses without any rent so long as they use them for fire purposes, or until for special reasons the Government of the United States shall withdraw this privilege. I have no idea the Government will ever withdraw that privilege from them unless there is an absolute necessity for doing so. If there should be, they will have had the use of them free of charge. The idea of them allowing an assessment to be made for such improvements as they may put there would be compelling the Government to pay for improvements that may be useless to it. I have no idea that Congress will fail to make proper arrangements with the companies at the proper time, but thus in advance to bind ourselves in a particular way when we do not know under what circumstances we may want them, seems to me to be unwise. I hope the amendment will be adopted.

Mr. INGERSOLL. Mr. Speaker, it is of course for the House to do what may be proper in regard to the amendment. I will simply say if the amendment be adopted the fire department can only occupy these lots so long as it may be the pleasure of Congress. It seems to me it would be unfair to let the city government go on and build permanent houses on these lots which may hereafter be taken by the Government without any obligation upon them to refund to the city authorities the value of the then existing improvements upon such lots.

Mr. STEVENS. This privilege can never be withdrawn without an act of Congress, and that act of Congress can fix whatever compensation may be necessary.

Mr. INGERSOLL. Well, that makes it perhaps a little better. At any rate it will give a kind of notice that they will withdraw the grant. That is the effect of it. The House may do as it thinks proper. I think the amendment is unjust and probably will defeat the object of the bill, which is the establishment of permanent buildings for the use of the fire department.

I demand the previous question.

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

The question being taken on the amendment of Mr. STEVENS, there were—ayes 38, noes 39; no quorum voting.

The SPEAKER ordered tellers, and appointed Messrs. STEVENS and INGERSOLL.

The House divided; and the tellers reported—ayes 55, noes 54.

So the amendment was adopted.

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

Mr. STEVENS. I move to reconsider the vote by which the bill was passed, and to lay that motion on the table.

The latter motion was agreed to.

SENATOR CRESWELL'S EULOGY.

Mr. LATHAM, from the Committee on Printing, submitted the following resolution:

Resolved, That there be printed, for the use of the members of this House, twenty thousand copies of the address of the Speaker and the eulogy of Hon. J. A. J. CRESWELL on the life and character of the late Henry Winter Davis, delivered in the Hall of the House of Representatives on the 22d of February last.

Mr. STEVENS. What became of that part of the resolution which I offered, that the addresses be published in the Globe?

The SPEAKER. That was also referred to the committee.

Mr. STEVENS. I move to amend the resolution by adding that the addresses be also printed in the Globe.

The amendment was agreed to; and the resolution as amended was also agreed to.

BERKELEY AND JEFFERSON COUNTIES.

Mr. LATHAM. I ask unanimous consent to take from the Speaker's table House resolution No. 17, giving the consent of Congress to the transfer of the counties of Berkeley and Jefferson to the State of West Virginia, which has come from the Senate with an amendment.

No objection being made, the joint resolution was taken from the Speaker's table, and the amendment of the Senate was concurred in, as follows:

Strike out all after the enacting clause, and insert in lieu thereof as follows:

That Congress hereby recognizes the transfer of the counties of Berkeley and Jefferson from the State of Virginia to West Virginia, and consents thereto.

Mr. LATHAM. I move to reconsider the vote by which the House concurred in the amendment of the Senate, and to lay that motion on the table.

The latter motion was agreed to.

TENNESSEE.

Mr. BINGHAM, from the joint committee on reconstruction, by unanimous consent, submitted the following resolution:

Resolved, That there be printed for the use of the House five thousand copies of the joint resolution concerning Tennessee and the accompanying documents and testimony, and a like number of copies of the testimony reported by the joint committee on reconstruction.

Mr. CONKLING. I would like to inquire whether this resolution will cover testimony that is to come in hereafter.

Mr. BINGHAM. I will add after the word "reported" the words "or hereafter to be reported."

The resolution was referred to the Committee on Printing under the law.

REORGANIZATION OF THE ARMY.

Mr. SCHENCK, from the Committee on Military Affairs, by unanimous consent, reported a bill to reorganize and establish the Army of the United States; which was read a first and second time, ordered to be printed, and recommitted.

PROTECTION OF CIVIL RIGHTS.

Mr. LATHAM, by unanimous consent, introduced an amendment as a substitute for the Senate bill now pending to protect all persons in the United States in their civil rights, and furnish the means of their vindication; which was ordered to be printed.

ELIZABETH WILLETT.

Mr. BIDWELL, by unanimous consent, introduced a bill for the relief of Elizabeth Willett, of San Francisco, California; which was read a first and second time, and referred to the Committee of Claims.

PERSONAL EXPLANATION.

Mr. RAYMOND. I rise to a personal explanation. I find by the Globe—how it may be on the official record I do not know—that I am reported as not voting on the amendment offered yesterday by the gentleman from Ohio [Mr. SCHENCK] to the Military Academy bill. I desire simply to say that I voted in the negative.

The SPEAKER. The gentleman's vote is not recorded, but the Journal will be corrected accordingly.

PENSION LAWS.

Mr. PERHAM, by unanimous consent, from the Committee on Invalid Pensions, reported

a bill supplementary to the several acts relating to pensions; which was read a first and second time, recommitted to the committee, and ordered to be printed.

PRINTING OF STATE DEPARTMENT.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of State, in reply to a resolution of the House of the 21st ultimo, in regard to the cost of printing and advertising for said Department; which was referred, under the law, to the Committee on Printing.

STATE GOVERNMENT FOR NEW MEXICO.

The SPEAKER also, by unanimous consent, laid before the House resolutions of the Legislative Assembly of the Territory of New Mexico in regard to a State government for that Territory; which were referred to the Committee on Territories, and ordered to be printed.

CAPITOL BUILDINGS IN NEW MEXICO.

The SPEAKER also, by unanimous consent, laid before the House resolutions of the Legislative Assembly of New Mexico in regard to the capitol buildings of that Territory; which were referred to the Committee on Territories, and ordered to be printed.

VETO POWER IN NEW MEXICO.

The SPEAKER also, by unanimous consent, laid before the House the resolutions of the Legislative Assembly of New Mexico asking for a change of the organic act of that Territory in regard to the veto power of the Governor; which were referred to the Committee on Territories, and ordered to be printed.

JUDICIARY OF NEW MEXICO.

The SPEAKER also, by unanimous consent, laid before the House the resolutions of the Legislative Assembly of New Mexico in regard to the jurisdiction of the present judges in that Territory; which were referred to the Committee on Territories, and ordered to be printed.

PENITENTIARY IN NEW MEXICO.

The SPEAKER also, by unanimous consent, laid before the House the resolutions of the Legislative Assembly of New Mexico in regard to a penitentiary in that Territory; which were referred to the Committee on Territories, and ordered to be printed.

DISTILLED SPIRITS.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, transmitting additional reports of the United States revenue commission in regard to distilled spirits as a source of national revenue; which was referred to the Committee of Ways and Means, and ordered to be printed.

DUPLICATION OF TAXES.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, transmitting a report of the United States revenue commission on the influence of the duplication of taxes on American industry; which was referred to the Committee of Ways and Means, and ordered to be printed.

REPORTS OF REVENUE COMMISSION.

Mr. MORRILL. I move that one thousand copies of the reports, general and special, of the United States revenue commission shall be printed for the use of the Treasury Department.

The motion was referred, under the law, to the Committee on Printing.

TRADE WITH BRITISH AMERICA.

Mr. MORRILL. Before moving to go into Committee of the Whole on the state of the Union, I desire to have the assent of the House that all general debate upon the bill now pending in Committee of the Whole on the state of the Union in relation to trade with the British Provinces shall be closed in an hour and a half. I desire to give gentlemen who wish to speak upon the subject an opportunity to do so, and then I may desire to occupy ten or fifteen minutes in reply.

Mr. WENTWORTH. Make it two hours.

Mr. MORRILL. I will take my chance and not move to close debate now. I move that the rules be suspended, and the House resolve itself into Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended, and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. RAYMOND in the chair,) and resumed the consideration of House bill No. 337, regulating trade with the British North American possessions, upon which the gentleman from Pennsylvania [Mr. KELLEY] was entitled to the floor.

Mr. MORRILL. I move that the committee rise in order to enable me to submit a motion to close debate on this bill. I will accept the suggestion of the gentleman from Illinois [Mr. WENTWORTH] to close debate in two hours; or I will ask the unanimous consent of the committee that debate shall close in that time.

Mr. WENTWORTH. I will have to object to that until I know how many of these men who have put down their names for speeches want to take an hour each. We want to talk on this bill after awhile.

The question was then taken on the motion that the committee rise to close debate, and it was not agreed to.

Mr. KELLEY. If I had made my remarks yesterday afternoon, I should have added another to the many illustrations I have given this session of the mistake made by the gentleman from Illinois [Mr. WENTWORTH] when he said I never took less than an hour when I got the floor, for I am quite sure that twenty minutes would then have sufficed me. But I have had a night in which to examine the provisions of this bill and to reflect upon them, and I shall probably ask the attention of the House for a longer period this morning.

I would have been satisfied yesterday with the amendment proposed by the distinguished gentleman from Maryland [Mr. F. THOMAS] coupled with one or two others. To-day, however, this will not satisfy me. Sir, the bill should be rejected. It is false in principle and in detail, and will materially diminish the revenues of the country by suspending several important branches of our industry. As I conned its sections I became doubtful of its origin; whether it was of British or American conception. There are many of its features which constrain me to think that it is of foreign and not of American origin. I point gentlemen to the ninth section. Its authors seem to have been oblivious to the fact that we are still living under democratic-republican institutions, and have not yet fallen under a dictatorship. The ninth section confides the regulation of all the commerce that may grow up between the United States and the British Provinces to the absolute and unrestricted control of the President. Let me astound gentlemen who have not examined the bill by reading that portion of the section to which I refer:

SEC. 9. *And be it further enacted*, That the President is hereby authorized to terminate or suspend the provisions of this act, or any section or sections thereof, and as to the whole or part of the British North American colonies, by giving public notice of such termination or suspension, whenever in his opinion it may appear just and proper, &c.

Sir, such power may be exercised by the Emperor of Russia in regard to the commerce of his empire; but such power, regulating the trade of this country according to his caprice, has never been confided to the President of the United States, or will be confided to one while the American people remain free.

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

Mr. KELLEY. I would rather not now. The gentleman knows my time is limited.

Mr. ROGERS. I wanted to ask the gentleman from Pennsylvania [Mr. KELLEY] if this bill gives the President any more power than was proposed to be given to him by the Freedmen's Bureau bill?

Mr. KELLEY. I have no time for side issues now. I will answer that question some time when my distinguished friend has the floor and kindly yields to me. [Laughter.]

Sir, this bill is of a piece with others now pending before this House. It is like the loan bill, which proposes to contract the business of the country to the narrow dimensions it filled before the war, and to give the Secretary of the Treasury, while he has an average balance of $40,000,000 lying on deposit in the banks, the power to control the currency of the country, to contract or expand it as he will. It is also in this respect like the postal bill, which, as an inducement to the people to buy their envelopes from Government employés or contractors, proposes to give one free of cost to every man who buys a postage stamp.

Sir, when I regard this feature of the bill, I feel that its paternity may have been American, that it may have emanated from the Administration. But when I consider its provisions in reference to trade, and see how well they are calculated to prostrate many of the leading interests of the country; the advantages it secures to foreign commodities which compete with the productions of our laboring people; how it stimulates the development of the resources of the British Provinces, and induces emigration to them, while it restricts the development of our resources, and is calculated to divert immigration from our shores; when I see all this, I say, I feel that the Canadian ministry must have concocted this bill.

Mr. CONKLING. I would like to ask the gentleman from Pennsylvania [Mr. KELLEY] a question pertinent to what he is now saying.

Mr. KELLEY. I would rather not yield now, having just declined to yield to the gentleman from New Jersey, [Mr. ROGERS.]

I know, Mr. Chairman, how hard it is to break away from habit, to escape from established usage; and I remember that for more than ten years, under the fraudulently named reciprocity treaty, we have had our habits, usages, and modes of thought controlled by the infamous provisions of that treaty; and it may be that their influence has controlled the committee that presented this bill. But, sir, nothing is more certain than that had we never had that treaty we never would have had this bill; it is its legitimate offspring, and embodies many of the worst vices of its parent.

Sir, what was that treaty? It was conceived in iniquity and executed in sin. It was one of the master-strokes of policy of the sagacious and recklessly ambitious men who had even then determined to destroy our country. Its object was to enfeeble and impoverish the North, and to strengthen the Provinces of our most powerful enemy, that bound the whole line of our northern frontier. It was the result of a deliberate conspiracy, the first object of which was to give the American market to foreign manufacturers, by destroying every leading branch of American manufactures; and the second was, when they had attained the first, to prostrate the grain-growers and provision-producers of the West and North, and thus reduce the impoverished North to subjection to the slaveholding oligarchy of the South. Its ultimate purpose was to produce bankruptcy and discord in the North, that they might more easily accomplish their then purpose, which they expressed by open action in April, 1861.

In order that gentlemen may see that I speak by the record, I send to the Clerk's desk a volume bearing the imprint of Prichard, Abbott, & Loomis, Augusta, Georgia, 1860, and entitled "Cotton is King, and Pro-Slavery Arguments, comprising the Writings of Hammond, Harper, Christie, Stringfellow, Hodge, Bledsoe, and Cartwright, on this Important Subject, by E. N. Elliott, LL. D., president of Planters' College, Mississippi, with an Essay on Slavery in the Light of International Law, by the Editor."

Let one of these distinguished men inform the country whether I am correct in what I now say.

The Clerk read, as follows:

"Thus also was a tripartite alliance formed by which the western farmer, the southern planter, and

the English manufacturer became united in a common bond of interest, the whole giving their support to the doctrine of free trade.

"This active commerce between the West and South soon caused a rivalry in the East, that pushed forward improvements by States or corporations, to gain a share in the western trade. These improvements, as completed, gave to the West a choice of markets, so that its farmers could elect whether to feed the slave who grows the cotton or the operatives who are engaged in its manufacture. But this rivalry did more. The competition for western products enhanced their price and stimulated their more extended cultivation. This required an enlargement of the markets, and the extension of slavery became essential to western prosperity.

"We have not reached the end of the alliance between the western farmer and southern planter. The emigration which has been filling Iowa and Minnesota, and is now rolling like a flood into Kansas and Nebraska, is but a repetition of what has occurred in the other western States and Territories. Agricultural pursuits are highly remunerative; and tens of thousands of men of moderate means or of no means are cheered along to where none forbids them land to till.

"For the last few years public improvements have called for vastly more than the usual share of labor and augmented the consumption of provisions. The foreign demand added to this has increased their price beyond what the planter can afford to pay. For many years free labor and slave labor maintained an even race in their western progress. Of late the freemen have begun to lag behind, while slavery has advanced by several degrees of longitude. Free labor must be made to keep pace with it. There is an urgent necessity for this. The demand for cotton is increasing in a ratio greater than can be supplied by the American planters, unless by a corresponding increased production. This increasing demand must be met, or its cultivation will be facilitated elsewhere, and the monopoly of the planter in the European markets be interrupted. This can only be effected by concentrating the greatest possible number of slaves upon the cotton plantations. Hence they must be supplied with provisions.

"This is the present aspect of the provision question, as it regards slavery extension. Prices are approximating the maximum point, beyond which our provisions can be fed to slaves, unless there is a corresponding increase in the price of cotton. Such a result was not anticipated by southern statesmen when they had succeeded in overthrowing the protective policy, destroying the United States Bank, and establishing the sub-Treasury system. And why has this occurred? The mines of California prevented both the free-trade tariff (the tariff of 1846, under which our exports are now made, approximates the free-trade principles very closely) and the sub-Treasury scheme from exhausting the country of the precious metals, extinguishing the circulation of bank notes, and reducing the prices of agricultural products to the specie value. At the date of the passage of the Nebraska bill, the multiplication of provisions by their more extended cultivation was the only measure left that could produce a reduction of prices and meet the wants of the planters. The Canadian reciprocity treaty, since secured, will bring the products of the British North American colonies, free of duty, into competition with those of the United States when prices with us rule high, and tend to diminish their cost."

Mr. KELLEY. Mr. Chairman, as the bill before the House has, in my judgment, all the vices of that treaty, I shall propose the following as a substitute for it.

The Clerk read, as follows:

Strike out all after the enacting clause and insert as follows:

That from and after the 17th of March, 1866, there shall be levied, collected, and paid on all articles imported from her Britannic Majesty's possessions in North America, that is to say, from Canada, New Brunswick, Nova Scotia, Newfoundland, Prince Edward's Island, and the several islands thereunto adjacent, Hudson's Bay Territory, British Columbia, and Vancouver's Island, the same duties and rates of duties which are now imposed by law on like articles imported from other foreign countries.

Mr. KELLEY. I am not prepared to say that my substitute contains all the provisions it should; that it may not be amended with advantage; but I do say that it is infinitely preferable, for every leading interest of the country, to the bill now under consideration.

Why should we have a special tariff law for the British Provinces? What have they done to win our love? Why should we sacrifice our interests to protect or advance theirs?

The gentleman from Vermont [Mr. MORRILL] said in the course of his remarks that we should not base our action on hatred or fear. I do not propose to base any of my acts in this House upon any of the passions. I mean to be governed by cool judgment.

But, sir, I remember when we were in a death grapple with our insane brethren of the South, the people of these Provinces smote us first on one cheek and then on the other; and I know, sir, if we were prepared to forgive them seven times seventy, their transgressions against us had exceeded that number before they organized a raiding party and sent it into the gentleman's own State to rob the banks and murder the citizens who attempted to defend them. Backed as they are by the power of England, they are our most dangerous enemies, because they are our nearest; and I do not find it laid down even in the Christian code of morals that we shall injure ourselves and impoverish our families and country to benefit those who would have disseminated poison among us, who would have burned our cities and towns, and who did all that the devilish ingenuity of the madmen of the South could suggest to injure us and destroy our country.

They are foreigners to our soil, and let us regard them as we do the people of other countries, as friends in peace and enemies in war. Let us legislate for them, as the substitute I have submitted proposes to do, precisely as we do for the rest of mankind. I can understand, sir, in the light of the invaluable book from which I have had an extract read, why every provision of the so-called reciprocity treaty was adverse to our country. Both parties to it meant mischief to us. But I cannot understand why a bill should be reported by the Committee of Ways and Means which if adopted would inevitably strike down several of the principal or leading interests of our country. It might well be entitled a bill to destroy the fisheries, salt-works, and lumber trade of the country, and to prevent the working of bituminous coal-beds east of the summit of the Alleghanies and within the limits of the United States. Should it become a law it will ruin all those great branches of industry.

The gentleman from Vermont, in introducing the bill, said with great plausibility—more plausibility than candor, I am sorry to say:

"Coal is a raw material, and for every ton of iron made at least three tons of bituminous or two of anthracite coal are consumed. It is the motive power of railroads and steamboats as well as of manufacturing establishments. We tax iron and all other manufactures when produced and sold, and we tax railroads and steamboats on their business. Can we not afford to have our coal free? It is, too, an article of universal consumption, required in our rigorous climate in large quantities by those unable to clothe themselves in heavy and abundant woolens or thick and costly furs; by the poor as well as the rich. There are hardly more reasons for a tax on coal than upon firewood. In addition to this, our own coal-fields are unsurpassed in extent and quality by any in the world.

"But our export to the Canadas of coal from Ohio, Virginia, and Pennsylvania bids fair to equal in amount all that we bring from the Provinces; the value of our exports in 1864 being $555,332, and that of our imports $883,805. So that under any circumstances here is one article which approaches the idea of reciprocity, and an interchange effects economy in long lines of freight, relieving ourselves as well as others from positive loss."

Carlyle tells us that nothing lies like figures, although the general proposition is that figures never lie. I say, then, the statement made is as plausibly delusive as a statement each of the propositions of which is in itself true can be.

Sir, is chalk cheese, or cheese chalk? In speaking about bituminous and anthracite coal we speak of two distinct articles, as unlike as cheese and chalk. This bill does not in any way, or by any possibility, affect either advantageously or disadvantageously the anthracite coal trade and interests of the country.

Canada must have our anthracite coal. She has none of it, nor can she obtain it elsewhere. Our Pennsylvania anthracite coal-fields are a God-given monopoly, as are the long-staple cotton-fields of the South. Our anthracite interest asks no protection so far as Canada is concerned. Were it constitutional to impose an export duty you might put a light one on anthracite coal, and the Canadas would still buy it from us. The $555,332, worth of coal exported under the treaty in 1864 was anthracite, and in fact, therefore, has no part in a discussion relating as this does to the bituminous coal interests of the country. The article bears the name of coal, and there is no other reason why it should be named in connection with this bill.

From what fields, and to what provincial ports, have we exported bituminous coal from Ohio? I ask the well-informed gentlemen who compose the Ohio delegation to tell me if there be one line of steamers, or any other kind of boats, employed in carrying Ohio coal to the British Provinces. Why, sir, they could not sell it at the wharf in any provincial town for its cost. Virginia coal go to the British Provinces! It cannot, in the nature of things, have gone there save as a curiosity for mineralogical cabinets. It never went there as an article of commerce.

The gist of the gentleman's argument is that we need cheap coal. Why, then, does he not propose to take the duty of a dollar and a quarter per ton off British coal, so that we may have it still cheaper? Where is his logic?

Mr. MORRILL. Does the gentleman desire an answer?

Mr. KELLEY. Yes, sir.

Mr. MORRILL. Mr. Chairman, in relation to this subject of coal, I confess that I am not clear that it is proper to protect it at all. I do believe that it is one of those articles that cannot be increased by protection, and if it is so, the whole foundation of the doctrine drops out, in my judgment. I think, as I stated in the extracts which the gentleman has just read, that it is so nearly allied to firewood that it deserves perhaps no protection.

And while I am up allow me to ask the gentleman if he has any statistics to show that this coal that goes to Canada is not bituminous coal. Do they not use it there for the purpose of making gas? Or do they use anthracite coal throughout the Provinces for making gas? I ask for information.

Mr. KELLEY. I will answer the question of the gentleman. There may have some small quantity of Ohio coal gone there for experiment in gas making, or occasionally a vessel may have carried it as ballast to some western town. It is not a recognized article of commerce, and there is neither an organized company for the sale or carrying of bituminous coal from Ohio, Virginia, or Pennsylvania, to the Canadas. I admit that there may be special cargoes shipped for gas companies in some extreme western parts of Canada, but that does not touch the argument. But while I admit the fact, for the argument's sake, I must say that I do not believe it, for I do not see how it can be true.

The gentleman from Vermont [Mr. MORRILL] says the quantity of coal cannot be increased. Allow me to say that I am speaking for no Pennsylvania interest to-day. I am speaking for poor, wasted, war-trampled Virginia, for Maryland, West Virginia, Kentucky, Tennessee, and Missouri, for Georgia, and all the southern States. They all need our fostering care, and all have inexhaustible beds of bituminous coal that ought to be productive. I am not willing that the rebellious people of the South shall become my political master or equal in the councils of the nation until they are politically regenerated. But I desire to develop their natural resources, to induce capitalists, laborers, and men of enterprise to go and settle among them, and build up industrious and peaceful Commonwealths in the hearts of whose people loyalty to the Union shall dwell. It is in these interests that I speak. The bituminous coal interest of eastern Pennsylvania is comparatively unimportant; but we have the only paying bituminous coal company east of the summit of the Alleghany mountains. Thirty-odd millions of capital have already been invested outside of my State in this branch of the coal trade. Thirty millions more have been invested in railroads to convey the coal from the mines to market, and though it is all unproductive, or nearly so, the owners do not abandon it as lost.

They hope that, impelled by a sense of justice, or the pride of American citizenship, Congress will protect them against the assaults of British capital and ill-paid labor. They have waited in hope for the day when the infamous treaty which blasted their prospects should be annulled and they be permitted to enjoy equal chances with foreigners in our own markets. Give them but an even chance, burdened as they are by our war taxes, and all these dead millions will become productive. I challenge

any member of the House to name another bituminous coal company than the Westmoreland Company that has paid or earned a dividend in the last three years on the eastern slope of the mountains. Give them protection equal to the taxes, direct and incidental, which you impose upon them, and you will find that instead of the product of 1867 being but two million tons, as it was last year, we can produce ninety-five million tons, as England did in that same year. Our fields are broader and richer than hers and those of Nova Scotia combined. They are scattered from the mountain above the clouds, on the brows of which Hooker and his brave comrades fought, eastward and northward and westward all over our country.

MESSAGE FROM THE SENATE.

Here the committee rose informally, and the Speaker having resumed the chair, a message from the Senate by Mr. McDONALD, its Chief Clerk, informed the House that the Senate had passed bill of the House No. 201, to declare the meaning of certain parts of the internal revenue act, approved June 30, 1864, and for other purposes, with amendments, in which he was directed to ask the concurrence of the House.

The Committee of the Whole on the state of the Union then resumed its session.

TRADE WITH BRITISH AMERICA—AGAIN.

Mr. KELLEY. Give them but that measure of protection which under the weight of taxation they bear will secure an equal chance in our markets, and they will give you an adequate supply of coal, and in two or three years domestic competition, while it will by patronizing your railroads and carrying companies have filled your Treasury and enabled you to reduce your scale of taxation, will bring down the price of coal in all our markets.

Pennsylvania, I repeat, has no special interest in this question. Her interest is that the general prosperity of the country shall be promoted. We want you manufacturers of New England to clothe the men who dig and handle our coal; we want you men of the Northwest to feed the men who dig and handle our coal; and Pennsylvania will rejoice in her share of the general prosperity which will then bless our country.

Sir, I turn to the fortieth page of the letter of the Secretary of the Treasury, embodying the report of the revenue commissioners, and find that in the fiscal year 1865 there were imported, under the reciprocity treaty, 13,025,432 bushels, being 465,194 tons of bituminous coal, free of duty, from the British Provinces. There were imported in the same year, paying a duty of $1 25 a ton, 6,131,608 bushels, being 218,986 tons, from England. There were exported of domestic production, which, as I have said, was all or nearly all anthracite, 3,708,264 bushels, and there were exported of foreign production 25,536 bushels, making nearly 1,000 tons.

Sir, will it be said that the vast coal-beds of this country cannot supply our wants, and that we cannot increase our production? Or will any gentleman say that a duty of fifty cents is enough to protect these embarrassed but important interests? I ask gentlemen to mark the fact, that though 465,194 tons came in under the reciprocity treaty, free of duty, from her Provinces, England was still able to send in, and pay $1 25 duty per ton, the enormous amount of 218,986 tons. Is it not apparent from these facts that we will bankrupt every bituminous coal company in the country if we pass this bill?

Do gentlemen say our demands in this behalf are exorbitant, or ask why our coal cannot be sold cheaply as that of England and the Provinces? I answer them in part by another question, which is, do they wish the American miner to toil for the wages given to laborers in English collieries? Sir, the heartlessness of the capitalists of England was never more fully exposed than by the report of the parliamentary commission appointed to inquire into the condition of the mining population of the country. England's shame is nowhere written in broader or darker colors than in that report, and I will not permit myself to believe that any member of this House is anxious that we should emulate that page of her history.

Our better wages for labor and our heavy war taxes answer the suggestion thrown out. How much England and her American Provinces did to protract and aggravate the war is known to all, and I am not willing they should derive advantage from their treachery. On this subject I quote a few lines from a letter from an intelligent coal operator:

"It is almost impossible to compute precisely the amount of revenue that Government reaps from a ton of bituminous coal, but the fairest way to get at it will be to take the cost of putting the article on board vessel before the war, (or in 1860,) $3 50 per ton, as compared with the present cost, seven dollars per ton, making an increase in the actual cost of $3 50 per ton. This increase is in the main occasioned by the taxes which have been levied in order to support the Government, (which we pay cheerfully;) and they touch every article of provisions and repairs about the mines and railroads, as well as the two and a half per cent. upon the gross rate of transportation and five per cent. upon the net earnings of the carrying companies, which, when all summed together, amount to very nearly if not quite three dollars per ton."

Sir, we are in a transition age; and here I reply to the remark of the gentleman from Vermont [Mr. MORRILL] that coal ought not to be protected. We are in a transition age in more senses than one. We are passing from war to peace and from the age of iron to the age of steel. In a few years, if we foster our industry, steel will supplant iron in almost all the uses to which it is now applied. Sir, coal and iron are the muscles of modern civilization; and fire—ignited coal—is the material force that is impelling us onward and upward. Had the southern States had equal mastery with us of these elements, I doubt whether we would yet have made conquest over them. I query whether the result might not have been otherwise than it was. What were Vulcan and the Cyclops to an American mechanic handling a steam-engine or a trip-hammer? We live in a new age. Old mythologies and traditions serve but to hamper us. We must adapt ourselves to the agencies by which we are surrounded and the exigencies in which we are involved.

Sir, when the consular wreath first graced the brow of Napoleon he had only conquered Italy, which, in the somewhat boastful language of the historian, extended "from the Alps to the Papal dominions." And what had he done? Why, sir, all that Italy which he had conquered, could it be lifted bodily, could be set down comfortably within the limits of the State of Maine or of South Carolina. He had never then commanded so many men as Burnside marched through the city of Washington when taking his single corps to swell the grand army of Lieutenant General Grant in the Wilderness. How was it that we could move such masses of men, fight this war over the broadest theater of international or civil war known to history, and conclude it in little more than four years? It was because we used coal and iron as our muscles, and fire—ignited coal—as our force. These gave us New Orleans, and battered down Fort Fisher.

And I may add that, had there been a well-stocked railroad from Moscow to the Rhine, Napoleon's retreat would have been marked by fewer horrors, and the history of the nineteenth century would not probably have read as it does.

And if the chairman of the Committee of Ways and Means desires to secure us a respectable position among the nations, he will not strike down, disparage, or neglect the coal and iron interests of the country, to subserve any interest of his own, his State, or section. They are the primordial elements of our greatness, and should be cherished above all others. Look at their power. Behold a woman with an iron machine before her moving noiselessly; it is impelled by coal and iron fashioned into an engine, and is doing more work in one day than one hundred such women could have done in a week one century ago. Or see yonder pallid little girl attending such a machine; she will produce results in one day that would have taxed the industry of her grandmother for a year. The power of those delicate people is not superhuman; it is coal and iron that produce these more than magical results.

The gentleman doubts whether the production of coal can or should be stimulated, and is willing we should depend on our most powerful and our nearest enemies for this elemental substance. The country will not respond to such purblind patriotism. And the passage to this bill will reduce us to such abject dependence.

In eleven months of 1865—I do not go back to 1864, but take the first eleven months of 1865, of last year—sixty-six per cent. of the bituminous coal consumed in the States east of Pennsylvania was mined by the laborers of Britain or of the British Provinces. Let me prove this. The amount of bituminous coal received at Boston and New York from the British Provinces, free of duty, to the 1st of December, 1865, was 392,158 tons. The amount of English coal received at the same points during the same period, which paid a tax of $1 25 per ton, was 103,723; total foreign coal, 495,891 tons. The amount of coal produced in the United States, delivered during the same period at the same points, was but 287,874 tons; balance in favor of foreign coal, 208,874 tons—one coal company in the British Provinces declaring dividends of one hundred and seventy-five per cent. in a year, and but one of the hundreds of companies in our country able to declare a dividend of one per cent., making a contrast so unfavorable to us that many of our enterprising people, as was shown yesterday by the gentleman from Maryland, [Mr. F. THOMAS,] abandoned their country and embarked their capital in the coal regions of Nova Scotia. Can we strengthen our country by exporting enterprise, industry, and capital?

And is it not marvelous that such an exhibit against us can be made, in view of the facts that our bituminous coal-fields are so much broader and richer than those of England and Nova Scotia combined, and that we depend for the support of our Government and its credit upon taxes derived in great part from the forge, the furnace, the foundery, the railroad, the machine shop, the coal-bed, and iron mines? Are gentlemen willing to perpetuate the malign influence that has produced a state of facts so disparaging to our intelligence, patriotism, and interests? No; I believe they will agree with me that the time has arrived when we should develop our own resources, foster American labor, and guard our own interests. One effect of the reciprocity treaty has been to send to Canada one million five hundred thousand immigrants who, but for the advantages it gave the Provinces over us, would have swelled our population. Let us now, by taking care of our own people, induce them to come and share our burdens and blessings.

Sir, I have said that I would not legislate with reference to the Provinces under the influence of fear or hate. It would indeed be unwise, for these people will yet be our countrymen. When British free trade, preventing, as it ever does to the people of British Provinces, the diversification of their industry, shall have impoverished their soil and repelled immigration from their shores; when that system of British free trade which keeps those upon whom it is inflicted at hard labor in the production of white crops, has impoverished their fields as it has those of our old States, and reduced them to oft-recurring bankruptcy, as it inevitably must; and when adequate protection to our labor shall have developed our boundless resources, and generous wages invited to our shores the skilled laborers of the world, the contrast between our condition and that of the people of the Provinces will impel them to unite their destiny with ours, and then I shall, or my posterity will, be ready to greet them cordially as compatriots.

Sir, what do we get in return for the immeasurable degradation proposed by this bill? Why,

sir, we get the right to navigate the St. Lawrence and to patronize the canals and railroads of Canada, and the right to cut lumber—mark you, "the right to cut lumber or timber of any kind on that portion of the American territory in the State of Maine watered by the river St. John and its tributaries, and when floated down that river to the sea to ship the same to the United States from the Province of New Brunswick without any export duty or other duty." I take it, sir, that these rights will not be long withheld from us, even if we determine to give the American laborer a fair field in which to compete with those of England and her Provinces.

Let me pause for a moment to say to the gentleman that his statement of the amount of coal imported and exported is more plausible than candid in a respect not yet noticed. It is appraised at *ad valorem* prices, which are specie prices in the land from which it is exported; while ours is calculated at currency prices. This fact must be borne in mind in making the calculations of relative quantities.

But to resume and conclude. Sir, to get these rights we give precisely the same rights in larger degree and with greater advantage to the British colonists. We will therefore get them without this bill. I do not wish to acquire them by force. I am anxious to see them granted reciprocally by our country and the Provinces; but not as this bill does it.

It can be done by treaty or by act of Congress; but be that as it may, do not let us agree to destroy the fisheries of New England, the salt-works of West Virginia, the lumber business of the Northwest and of Maine, and the bituminous coal-works of the whole country, as the price of the privilege of yielding more specifically and in kind than we get.

No, sir; let us maintain our rights, our interests, and our country's dignity. Let us go on our way as though there were no British Provinces; and the mere action of British legislation, constraining their people, as I have already said, to unrequited agricultural labor, will make them sigh for our prosperity. And then we shall find that the American Constitution is as elastic as it is grand and enduring. It has expanded to embrace immense tracts of territory. Our flag has swept from the limits of the original thirteen States to the Pacific, and southward to the Rio Grande; and, sir, when the people of Canada shall, as they will if we protect our labor, ask to unite their destinies with ours, the world will receive additional proof that when Providence impelled our fathers to the creation of our Government, it gave them the wisdom to bless us with a Constitution which is the fit canopy of a continent, and will yet crown one.

Mr. MORRILL. Mr. Chairman, I move that the committee rise for the purpose of terminating debate, unless we can have an understanding, by the unanimous consent of the committee, that general debate shall close after one hour, to be divided among some three or four gentlemen.

The CHAIRMAN. Unanimous consent is asked that debate terminate in one hour.

Mr. DRIGGS. I object.

The motion that the committee rise was not agreed to; there being—ayes thirty-one, noes not counted.

Mr. DRIGGS. Mr. Chairman, I do not intend to occupy the attention of the House for more than ten or fifteen minutes; and I shall confine my remarks especially to the duty proposed to be laid upon the article of Canadian lumber.

I understood the gentleman from Vermont [Mr. MORRILL] to promise that he would not call up the bills in relation to the duties on salt and lumber until such members of this House as were interested had an opportunity to appear before the Committee of Ways and Means to explain the reasons why they deem the duties fixed upon these two articles by the committee are too low. With this understanding, I confess, Mr. Chairman, that I was much surprised when the bill under consideration was called up yesterday without such opportunity having been afforded.

Mr. MORRILL. The gentleman did speak to me in relation to salt, and I gave him a promise that he should be heard before the Committee of Ways and Means. I am surprised now that he makes complaint that he has not been allowed full opportunity of explaining his views before the committee as to the article of salt, which is not embraced in this bill, and which the committee have not considered. When they do he will have his opportunity; but I never gave the gentleman any assurance as to lumber.

Mr. DRIGGS. Then there has been a misunderstanding. I certainly meant to include in my remarks the articles of salt and lumber. As the gentleman explains that he did not understand me as including lumber, I of course accept the explanation.

Mr. Chairman, the object of my remarks this morning is with a view of convincing the House that the duty imposed by this bill upon manufactured Canadian lumber is entirely too low to place the American lumberman on an equality with the Canadian. The reasons, Mr. Chairman, why this is so are very plain and simple.

In the first place the stumpage, as the lumbermen call it, or the cost of the lumber in the tree, is only about fifty cents per thousand feet in Canada, while it is from two to five dollars in the States. In the next place, the transportation to the entire eastern market is much shorter from the lumber regions of Canada than from the forests of Michigan and Wisconsin.

Then the cost of labor in the States over that of Canada, when added to the internal revenue taxes, makes a difference of at least two dollars per thousand feet in favor of Canada, and all together a discrimination in favor of Canadian lumber of at least four dollars per thousand.

The duty fixed by the committee in the bill under consideration on lumber not worth over seven dollars per thousand is one dollar per thousand; on all lumber worth not over twelve dollars, nor under seven dollars per thousand, two dollars per thousand; while the duty proposed by the amendment is three dollars per thousand on all manufactured pine lumber. Even this will not, as we claim, be a protective tariff; nor will it place the American laborer on an equal footing with the Canadian; but we hope, by the superior skill of our manufacturers, that they will be able to compete with their Canadian neighbors.

Mr. Chairman, it is well known that a superior article of white pine east of the Mississippi in our country is found mostly in the States of Michigan and Wisconsin, and that it is rapidly diminishing and passing away, never to be again replaced, it requiring nearly a century for its perfect growth. It is supposed by many that the manufacturing of lumber is a very profitable business; but this is a great mistake, the profits chiefly being made by the capitalists and speculators, who stand between the producer and consumer. And I assert, Mr. Chairman, what I know to be true, that not one half of the lumber producers of northern Michigan, after pursuing their business for years, have been able to meet their notes at maturity, and that most of them are to-day poor. I am opposed to an *ad valorem* duty on lumber for the reason, mainly, that it will be impossible to have such a duty honestly collected. All the higher qualities imported from Canada will be brought in mixed with the lower qualities, to be separated and reinspected in the States; and thus all Canadian lumber will be brought in at one dollar duty per thousand, instead of higher duties, as proposed by the bill. To prevent this, Mr. Chairman, it will require a swarm of custom-house officers along the entire border from Lake Superior to Augusta, Maine, whose united salaries would amount to more than the entire duty collected on importations from Canada.

I will add, sir, that the district which I represent is largely interested in the lumber trade; and that I am as much in favor as the gentleman from Ohio or any other of producing lumber as cheaply as possible. But I promised not to take up much time, and I will conclude by offering the following amendment:

Page 2, line twelve, after the word "pine," insert "when manufactured into boards or plank, three dollars per one thousand feet."

Mr. WENTWORTH. Mr. Chairman, I rise not to make a speech, in the ordinary acceptation of the term, but to call attention to the bill and its particular provisions. I look upon it as the most important bill that will come before the House at this session of Congress. It is a sort of twofold bill, a bill carrying a great deal more than actually appears upon its face. It is a sort of treaty made with this House, without asking the Senators to take the responsibility which belongs to them under the Constitution.

Now, Mr. Chairman, the consideration which ought to influence this House is this: whether there should be any reciprocity treaty or not. That is the first thing to be considered. If we are to have a reciprocity treaty, I do not know any individual to whom I would intrust the making of it so much as to the chairman of the Committee of Ways and Means. He understands the subject thoroughly, as thoroughly as anybody in the country. Indeed, you can hardly speak of tariff without thinking of Mr. MORRILL, or of Mr. MORRILL without thinking of the tariff. Morrill and tariff are synonymous, just like Lincoln and liberty.

If we are not to have a reciprocity treaty, I have nothing to say about the details of it. Every gentleman upon this floor understands the interests of his constituents, and each one will come to conclusions for himself. I will pass by, then, all that appertains to the tariff proper, only making this suggestion, if we should conclude not to have a reciprocity treaty, to refer this bill back to the Committee of Ways and Means with instructions to report a bill conforming this tariff to the one now in existence. In looking over the House, I find a great many gentlemen who would much rather have that tariff. We would then have a uniformity of tariff.

There is a great deal of reason in what the gentleman from Pennsylvania [Mr. KELLEY] has said as to singling out the British Provinces for our favor. I think we should treat all nations alike, and have but one tariff for all nations. If we are to have a tariff, I will leave the present bill in the hands of men who are able to defend it.

Now, the next reciprocity treaty you find in section nine. It reads thus:

SEC. 9. *And be it further enacted*, That the President is hereby authorized to terminate or suspend the provisions of this act, or any section or sections thereof, and as to the whole or part of the British North American colonies, by giving public notice of such termination or suspension, whenever in his opinion it may appear just and proper, or whenever the following privileges, or any of them, shall not be accorded and secured to the citizens and inhabitants of the United States, namely, &c.

I do not know what treaty there is behind this. I do not know but the Secretary of the Treasury, the Secretary of State, and the British embassador here may have a treaty which will come down flat upon us as soon as this is passed. It may be a good one, and it may be a bad one; but as a Representative from one congressional district here I should like to see it. If there is to be a treaty the two Senators from my State can take their proper share of responsibility. We are contending about these small provisions of the bill when they may amount to nothing two hours after the bill is passed. Who knows how soon the President of the United States will suspend it?

As to the advantages of a reciprocity treaty, I find that depends upon the locality from which a man comes. Men from one locality say that it is advantageous, and others from another locality say that it is disadvantageous. I think if we do without a treaty for sixty or ninety days it would speak for itself. The treaty expires on the 17th of March. There is no reason why we should hurry in this matter. I

take it for granted Congress is not going to adjourn very soon. I have heard, however, of a recess being taken; but there is no probability this Congress will adjourn until after we shall have seen the practical operations of doing without a treaty.

The Constitution says that the President shall make treaties by and with the advice and consent of the Senate. Now, if I had my way, I would refer this bill back to the Committee of Ways and Means, to strike out all that relates to a reciprocity treaty; and after sixty or ninety days we can judge for ourselves.

As a Representative from the West, I have sought information of what Canada could do for us; I have asked men confidentially what we could demand, and they have told me she had nothing to give us.

Now, then, to come to the Welland canal. I would like myself to have the Welland canal enlarged, so that vessels loaded at Chicago might not break bulk until they reach the ocean. They cannot do it now. And when we ask the Canadians why they do not enlarge their canal as some compensation for this favor, what is the answer? They say they are not able to do it.

I do not feel at liberty to repeat private conversations which I had with distinguished Canadian gentlemen on this subject, but the nearest proposition that I could get from any of them was that they would be willing to negotiate with us and see if we would not enlarge the canal together, we to own half of it. Now, I do not suppose that any individual in this House believes that we are ever to own half of anything that is in Canada.

Mr. BROOKS. Will the gentleman yield?

Mr. WENTWORTH. Certainly.

Mr. BROOKS. I want to correct what I think is a misunderstanding on the part of the gentleman. I do not think he fairly represents the opinion of the Canadians on this subject. My own impression is—and I need not say how I obtained it; the gentleman is cognizant of the mode of getting knowledge on this subject as well as myself—my own impression is that the Canadians would enlarge the Welland canal for ship navigation from Chicago so that vessels need not break bulk, provided there could be a renewal of what is called the reciprocity treaty.

Mr. WENTWORTH. Exactly; that is what I was coming to. They made a very liberal offer in that respect, and they asked on our part a guarantee to them of our trade. I would like to see the man that would do it. I have no doubt if it was in the power of this Government to guaranty to Canada for ten years our trade the Canadians would take hold and enlarge that canal. But where is the man to execute the bond? I am as desirous of providing an outlet for the western trade as anybody, but I have not despaired of New York yet. I hope there are men in that State whose patriotism bears the same relation to that of De Witt Clinton that the great New York and Erie canal bears to the small canal around the falls of Niagara. I hope that the Empire State will yet condescend to give us that little bit of a canal.

My own State has been trying to get a canal to connect the lakes and rivers. Despairing of that, she has gone to work and made a contract to deepen the present canal, giving up for the present the idea of enlarging it. And when we have done that we hope to have the aid of the legislation of Congress. Instead of being driven over to Canada to make a treaty with them for an outlet, we hope to be able to get it from the State of New York, and if the Empire State cannot do it herself, then we want the nation to do it.

That is all that can be done for us out West just now. This treaty, which depends upon the *ipse dixit* of the President of the United States, is of no real value to us. It secures to us nothing, and even if it did, it is dependent entirely upon the whims of a man who happens to be at the head of the Government for a short time.

Mr. Chairman, I think this bill should be sent back to the committee for the present, because I understand the chairman to have intimated to the House that in making the other tariff bill some local matters were passed over in relation to Canada in consequence of that reciprocity treaty. Whatever extra legislation is now wanted in consequence of the expiration of this treaty I have no doubt this House would unanimously pass. And when we have secured that we could see whether this was wanted.

I know there is one alarming state of things, and that is the fisheries. But I take it for granted that our New England friends will observe all the laws and treaties of this country, and when they know that they cannot go upon those old fishing grounds which they have so long enjoyed, they will not do anything that will plunge this country into difficulty on that account. If our fishermen should go there with their vessels, I suppose they will take the consequences, and if those consequences are as serious as they are represented, then this House would be in session, and it will not take us long to legislate upon the matter.

Mr. SPALDING. Mr. Chairman, in the last Congress I was with my friend from Vermont, [Mr. MORRILL,] the experienced chairman of the Committee of Ways and Means, in his incessant efforts to put an end to this miscalled reciprocity treaty. I believe I voted with him under all circumstances, led mainly by his enlightened guidance, and it is therefore with no little surprise that I find at this period, before even the time limited, the 17th of March, comes round, that gentleman coming before us virtually to renew that treaty in a modified form.

Sir, I object at the present time to this whole system of legislation, and the very sensible remarks submitted by the gentleman from Illinois [Mr. WENTWORTH] relieve me from the necessity of an argument upon it. I simply say that I can see no reason as yet in the argument of the chairman of the Committee of Ways and Means or in the remarks from any other quarter of the House for making a distinction between the Canadas and the British Provinces generally, and any other foreign country, in regulating our national tariff.

Mr. Chairman, why do we not have a special tariff between the United States and the island of Cuba? That may be claimed with the same urgency as a special tariff for the Canadas. The Canadas are upon our borders. The island of Cuba is not a great distance from the coast of Florida or the coast of Louisiana. Why not, then, have a special tariff for Cuba, or for any other portion of the world with which we have trade?

Mr. Chairman, I object to this legislation for the reason that it is not possible—I will not say probable—it is not possible to afford protection by specific legislation unless you afford it to the whole country. Now, I concede to the learned Committee of Ways and Means, and especially to the chairman of that committee, as much disinterestedness as to any gentlemen upon this floor, and more than I claim for myself, because I know that in our legislation here I do feel moved whenever it touches my particular district of country. It must be so to some extent with my learned friend, the chairman of the Committee of Ways and Means; and on looking at his bill I find that some of the important interests of Vermont are very well taken care of, not perhaps so much in this bill as in the general tariff bill of the country. I find, for instance, that the marble of Vermont—and I suppose there is marble enough in their quarries to supply the whole United States, and I am very glad that they have that capacity—is protected against Italian marble to the tune, I believe, of about fifty per cent. Am I not right in this? Fifty cents on the cubic foot, and in addition thereto twenty per cent. *ad valorem*. That is the tariff now upon Italian marble.

Mr. MORRILL. Mr. Chairman, this is entirely foreign to the subject before the committee. I am really surprised that so good a logician as my friend from Ohio should lug extraneous matters into this debate. I am perfectly willing that he shall do so, however, if it meets his views of propriety.

In relation to this subject of marble, let me say that my State is not alone interested in it. I believe that the States of Massachusetts, Maryland, Tennessee, and to some extent New York, are likewise interested in it.

As to the point he makes, that there is a protection of fifty per cent., let me say that Italian marble is sold at the present time in New York for $5 50 per cubic foot. I do not care what may be its pretended value abroad, you may estimate it at what you please, but every man of sense must know that there is no such protection as fifty per cent.

Mr. SPALDING. My learned friend, the chairman of the Committee of Ways and Means, will excuse me if in the short time during which I shall occupy the attention of the committee I show myself misinformed. I did not intend any disparagement to the State of Vermont or to the gentleman himself. I was only illustrating my position that we are, all of us, actuated somewhat, not by motives of self, but by motives which seek to aggrandize the localities in which we live.

Mr. MORRILL. My reply is, that while I have been jocosely accused by political opponents of doing what the gentleman suggests, I have never yet been accused of it before by a political friend.

Mr. SPALDING. My friend will pardon me. I say that he may do it involuntarily.

Now, I will refer to an article of which the State of Vermont may well be proud, its Morgan horses. I believe that breed of horses is very nearly peculiar to the State of Vermont. Those horses are coveted in all parts of the country; they are in demand everywhere. Vermont exports a vast number of those horses, very many of them to my own section of country and to the far West. Now, I find in the general tariff bill that all live animals are admitted free of duty. But in this bill my friend has taken care to insert a duty of twenty per cent. *ad valorem* on all live animals; which will protect Morgan horses pretty well.

Mr. MORRILL. If the gentleman from Ohio [Mr SPALDING] will allow me to interrupt him again, I will say that while the reciprocity treaty was in force of course it was proper that the same exemptions and the same duty should be imposed upon live animals from all parts of the world, because we obtained none, or very few, except those which came from the Provinces. If the gentleman will look at the prior tariff he will find that animals were admitted at a duty of twenty per cent. *ad valorem*. This bill merely proposes to restore the same duties that existed prior to the enactment of the reciprocity treaty.

Mr. SPALDING. In the humble district I represent on this floor the article of grindstones cut a very conspicuous figure.

Mr. MORRILL. "There's the rub." [Laughter.]

Mr. SPALDING. "Ay, there's the rub," says the gentleman; and I may as well rub on the grindstone as anywhere else, and in time I may become sharp enough for the gentleman from Vermont. [Laughter.] Under the general tariff law grindstones, manufactured, were protected with a duty of twenty per cent. *ad valorem;* unmanufactured grindstones, ten per cent. In this bill grindstones, rough or unfinished, are found among the articles free of duty.

Now, sir, it is an established fact that the grindstones of Nova Scotia can be brought to the markets of Boston, New York, and Philadelphia by sea for three dollars a ton, whereas it costs my constituents some eight or nine dollars a ton to transport to the same markets their grindstones. They are left without any protection whatever to compete with this great interest of Nova Scotia.

Again, the wheat-growing interest is somewhat extensive in the western country. My State is somewhat largely interested in it; and the States of Indiana, Illinois, Iowa, and other northwestern States are even more interested in it.

In the general tariff bill the duty on wheat is put down at twenty cents a bushel. It is placed in this bill at the same rate, twenty cents a bushel. Now, mark: Canadian wheat can be brought to Buffalo for two cents a bushel. You cannot bring wheat from Iowa to Buffalo under forty cents a bushel. You start from Buffalo to the eastern market, and under this bill the Canadians will have an advantage of eighteen cents a bushel over Iowa. Now, sir, are we, the representatives of the grain-growing interests of the West, to be called upon to support a measure of this sort?

Sir, I have every reason in the world to stand up for New England and her interests. I was born in old Massachusetts; I was educated in Connecticut; but for forty years I have been a citizen of Ohio. I would not go with my friend from Illinois, [Mr. WASHBURNE,] and denounce the bounty which has been given to our fishermen ever since the organization of the Government, although that bounty through these long years may have reached the amount of $15,000,000. Had that sum been quadrupled I would still say that this nation has received a full equivalent for it. And I do not know that the time has yet arrived for us to interfere with that great nursery of seamen, the fishermen of our eastern coasts. I do not regret at all the legislation of days past in favor of that interest. But I do not care now to be made a party to any bargain to exchange the fishing bounty for a drawback on salt, taking from one pocket to put in the other.

Mr. PIKE. Will the gentleman from Ohio [Mr. SPALDING] allow me one word here?

Mr. SPALDING. Most cheerfully.

Mr. PIKE. I desire simply to say, by way of explanation in reference to the bounty upon fish, that the ground we take is, that the fishing interest, instead of having been protected heretofore, has not received the average protection accorded to other interests in the country; that if the fishing interest could receive the average protection accorded to the manufacturers of iron, of wool, of cotton, and other articles of the same class, amounting, as the tariff shows, to about forty per cent., we should be better off by throwing the bounty to the winds. Under the idea that the House had come to this conclusion, I said yesterday that we were desirous of exchanging positions, and that instead of being apparently mendicants before Congress and receiving what is nominally bounty, we would rather take our position with the average of the manufacturers of this country. That, in my judgment, would be much better and more profitable for the fishermen.

Mr. SPALDING. I instanced the fishing bounty simply to explain my position. I do not occupy an attitude of hostility to the interests of New England in any way whatever. I only say that a specific and special tariff bill, like this with the Canadas, cannot be made without operating favorably to some portions of our Union and unfavorably to others. With regard to the general tariff for the whole nation, if we experience inconveniences we must submit to them; but we are not bound to submit to them in a bill like this.

This bill, corresponding in this respect, word for word and letter for letter, with the provision of the reciprocity treaty which is about to expire, provides that we shall enjoy the benefits of the navigation of the St. Lawrence and the canals of Canada equally with British subjects, subject to no greater tolls. The provision of that treaty, which is copied word for word in this bill, gives to the citizens of the United States—

"The right to navigate the river St. Lawrence and the canals in Canada used as the means of communicating between the great lakes and the Atlantic ocean with their vessels, boats, and crafts, as fully and freely as the subjects of her Britannic Majesty, subject only to the same tolls and other assessments as now are or may be hereafter exacted of her Majesty's said subjects."

Now, sir, that is the way in which the treaty stood when it was made some nine or ten years ago. We have been cheated by Canada in that respect, and shall be cheated again though we make as many laws and regulations as we please.

A report made by the Committee on Commerce of this House in the Thirty-Seventh Congress contained the following important disclosure:

"The Welland canal, connecting Lakes Erie and Ontario, is extensively used by American citizens. Under an enactment of 1860, if vessels and goods, having paid tolls on the Welland canal, enter the St. Lawrence canals or any Canadian port, all except ten per cent. of the Welland charges is refunded, and thus is created a discrimination of ninety per cent. against vessels going to American ports, besides a free passage through the canals of the St. Lawrence."

Just so soon as that treaty, called a treaty of reciprocity, was concluded, the Canadian Parliament regulated their tolls upon the Welland canal with a view to discriminating in this wise: if one of our American vessels went through that canal she paid toll to the amount, say of a dollar per ton; and if she was bound with her cargo to Oswego or Ogdensburg, for instance, in the State of New York, that remained as the amount of duty; but if she would land her cargo in the port of Kingston, or any other Canadian port, ninety per cent. of the duty was refunded, leaving the toll only ten cents per ton.

This was a discrimination made by the Canadian Parliament in favor of their own ports—a discrimination imposed upon us after that treaty had been made. It is now proposed that we shall renew the same contract, leaving ourselves subject to the same imposition. We have men lobbying here in these Halls for the passage of this bill to restore that same contract which has thus been violated year after year.

Mr. MORRILL. I presume the gentleman does not desire to do injustice. What he says was true at one time; but it is no longer true, as they have repealed it.

Mr. SPALDING. That is very well. So the rebels have surrendered. Why do we not receive them into this House? They have surrendered. The Canadians have surrendered until they have a chance to do so again. I tell you, sir, they can play that game better than we can, and as soon as we have adopted a treaty again, without passing an act with this provision in it, they will meet us with regulations by which cargoes from American ports shall pay six times as much duty as their own do.

Now, Mr. Chairman, I have no faith in this tribe. I live near them. I live upon the southern shore of Lake Erie opposite to Canada. I happened to be a member of the great commercial conventions at Chicago and Detroit; and I saw there what they were. They have been here this winter, and they will be here incessantly. If they cannot make it by fair means they will by foul. I tell you our only true course is to leave this business to the tariff.

I agree with my friend from Illinois. Let the bill go back to the committee, and there I hope it will be buried. Let us try them under the operation of the general tariff, because, as my friend says, so soon as the 17th of March is over they will come under the operations of the general tariff. If that be not sufficient let the learned committee who have the subject in charge report a revised bill. But I do most strenuously object to this special bill for the benefit of the Canadians, who have never done anything particularly in our favor.

I have done. If this bill is to pass I give notice I shall offer a variety of amendments, and perhaps some of them my friend from Vermont [Mr. MORRILL] will acknowledge to be rubbing upon the grindstone.

Mr. PHELPS. Mr. Chairman, in view of the course the debate on this bill has taken, I do not propose to go into any extended remarks in the same line which gentlemen who have immediately preceded me have pursued, but I simply wish to call the attention of the committee to a few prominent considerations which will control my vote in opposition to the present bill.

Under existing laws the tariff on the article of bituminous coal now stands at $1 25 per ton. Under the provisions of this bill it is proposed to admit bituminous coal coming from a certain locality, very much lower. It is proposed to admit bituminous coal from the British Provinces at fifty cents per ton. We have the further fact that, under the operation of this reciprocity treaty now about to expire, for eleven years the bituminous coal interest of Maryland, Pennsylvania, West Virginia, Kentucky, and Ohio has languished, while on the other hand the same interest competing with it in the British Provinces has thrived and flourished to an unprecedented extent, so much so that, as has been shown, some of these companies are making enormous dividends; as high in one case as one hundred and forty per cent. It has been said there is not a single company east of the Alleghany mountains which is making more than a nominal dividend upon the capital invested in this business. If this thing is allowed to continue; if the coal from Nova Scotia, with cheaper labor and facility for transportation, is allowed to compete under the provisions of this bill with American bituminous coal, that interest will continue to decline until we have almost a paralysis of that branch of American industry.

I cannot allow this opportunity to pass without raising my voice in protest against the discrimination now proposed to be made. No such discrimination exists in favor of England or other foreign countries, but it is confined to the British Provinces. I ask for what these people have entitled themselves to our consideration or our sympathy? On what ground are they to be allowed to come in and claim this discrimination in their favor? Is it because of any sympathy or materal aid we received from that quarter during the existence of the rebellion? I have heard of our muster-rolls being swelled at least nominally by forty thousand Canadians. And I remember to have seen a communication from the Buffalo Board of Trade which may possibly furnish some light upon this large number of Canadian recruits to our Army. I have seen it stated that a certain city in the State of New York, being desirous to fill its quota, procured as many as thirty-nine Canadians, at least their names appeared on the muster-roll, at a cost of $39,000, as substitutes for drafted men. In less than six months there were but two of those substitutes to be found, and they were in a town in Canada, in a magistrate's office, quarreling over the distribution of the plunder. One swore he had enlisted twenty-six times, and the other only swore to thirteen. Only two out of the whole thirty-nine, pocketing $39,000, did any fighting, and that was in a magistrate's office in Canada. So much for bounty-jumpers. The harbor afforded by the Provinces to piratical cruisers and the shelter to rebel emissaries have already been noticed.

While we are legislating for the benefit of these people we are striking down and prostrating—if this measure is to become a law—a great and growing interest of a large section of this country, one which is necessary, in my judgment, for the continued prosperity of the city which in part I have the honor to represent on this floor.

Twenty-five hundred tons of Cumberland coal daily come to a market in the city of Baltimore. Half that quantity is consumed in her manufactories and steamers. Eighty steamers, with a tonnage of nearly fifty thousand, ply in her waters in connection with that trade. It is estimated that, with the increased facilities to be presently afforded, the Baltimore and Ohio railroad will alone convey over one million tons from the mountains to the sea during the current year. This amount is independent of that transported by canal.

The question is, shall this great interest, with the immense amount of labor and capital involved in it, be subjected without protection to a ruinous competition? Shall that capital be driven to a more lucrative development on a foreign soil and the labor be unemployed from the closing of the mines? Or, on the other hand, shall immigration be encouraged and the resources of the country developed by the mod-

erate protection now provided for this interest by existing law?

I earnestly hope the House will adopt the amendment proposed by my colleague [Mr. F. THOMAS] to strike out from the first section of the bill all that relates to a tariff upon coal of any kind, leaving the whole subject to be regulated by the act of 1864.

Mr. HOGAN. This subject, Mr. Chairman, has elicited a great deal of discussion and excited a great deal of attention. I had not apprehended that so much would be said in reference to a question of this character. But it seems that almost, if not every gentleman that has spoken upon the subject, has had some peculiar system of advancing taxation to insist upon. Now, I think it high time that we were beginning to inquire whether we are not running protection into the ground; and whether the people of this country have not the right to some little protection against the monopolies and systems fostered by legislation in the interest of the few and against the many.

This bill, as reported by the committee, is as far as possible an equitable adjustment of duties on that class of articles which the reciprocity treaty, now about to expire, admitted free.

The committee, with a view to attainment of revenue and the relief of the consumer, but not to the detriment of any of the interests concerned, have proposed the duties in this bill in the hope of making it satisfactory to all; but from the remarks of gentlemen it seems very clear that they do not get such prohibitory duties as they wish, and hence they propose amendments and seek to change those parts of the bill which even in so slight a degree look to the protection of the consumer; indeed, to the masses of the people.

A great deal of attention has been given to this subject by every member of the committee, who have investigated it in detail, with a view to the establishment of such principles as, while producing a revenue, would afford incidental protection to the consumers, those whose necessities we should look to in part at least.

Gentlemen come forward and demand an increased duty on fish, others upon wool, others upon coal, and others upon lumber. All these things are sought to be protected, while nobody has called upon the committee or upon this Congress to make any provision at all for the people who are to consume all these products and pay all these enormous duties.

I speak of the article of coal. I have no objection to the development of the coal-fields of Maryland, Pennsylvania, and West Virginia, but I cannot understand how it is that just now every coal-dealer in the country is about to be ruined unless you give him a dollar and a quarter a ton protection. Why, sir, have not these coal-fields been developed in the last ten years, and all that time the coal of Nova Scotia has come in free? Does anybody pretend to say that the coal-men of Pennsylvania and West Virginia and Maryland have not been making money all that time?

The gentleman from Maryland [Mr. F. THOMAS] informs us that these men have sunk $30,000,000, and that unless they can get a protection of a dollar a ton, or three quarters of a dollar a ton, more than this bill proposes, they will have to cease the development of the coal-fields entirely. Why, sir, in reference to all this matter let me say that these coal-men have made more money during the last few years by the enhanced value of coal than they ever made before; and yet the people who have to consume and pay for the coal, what protection do you give them? This bill proposes a duty of fifty cents per ton on coal. But gentlemen say that is not enough; you must make it $1 25 at least. The heavy coal-owners, if the amendment be adopted, will, by the operation, put into their pockets seventy-five cents per ton, which the consumer will have to pay in the price of the coal, yet the Government will gain nothing by the operation. Is there any protection proposed to the men who dig it, to the men who mine it, to the laborers who do all the work? Sir, have they not had to strike for higher wages in view of the fact that they could not make a living by the prices that were allowed them? And yet you propose to protect the monopolists, so that they may then bring their power to bear upon the men who do the work, and grind them down.

Mr. WHALEY. I wish merely to ask the gentleman from Missouri what particular locality he is speaking in behalf of, the Northeast, or the West? After the able speeches made yesterday by the gentleman from Maryland, [Mr. F. THOMAS,] and to-day by the gentleman from Pennsylvania, [Mr. KELLEY,] and the gentleman from Illinois, [Mr. WENTWORTH,] and the gentleman from Ohio, [Mr. SPALDING,] I want to know what portion of the United States, or what locality the gentleman thinks is going to be damaged by this proposition.

I, sir, represent a coal and salt region; but this question has been so ably discussed by the gentlemen to whom I have referred, that I do not think it necessary or worth while for me to add anything to what they have said.

Mr. HOGAN. In reply to the inquiry made by the gentleman, I have to say that I am a Representative in the American Congress to advocate the interests of no locality, but to look to the interests of the people everywhere; their interests are my interests, and my interests are theirs. I do not propose to do anything, if I can help it, the tendency of which shall be to raise up a tremendous moneyed aristocracy in this country, to crowd down the masses of the people, when we have been fighting for four years past to put down, as was said so often, an aristocracy in another portion of the country.

I ask again, what protection do you give to the man that digs out the coal? You put him under ground to delve for it, and you hardly pay him such wages as will enable him to support his family.

Mr. STROUSE. I would like to ask the gentleman from Missouri where he gets his information that the miner is oppressed, and does not get adequate wages for his labor, and has to go under ground and delve for coal without being properly paid for his services.

Mr. HOGAN. Why, sir, I derive it from this source: I find that all over the country, in Pennsylvania, as well as in other States, the coal miners have been compelled to rise *en masse* in order to secure fair wages from the men who employ them, and who get a very large price for their coal.

Mr. STROUSE. Let me say, for the information of the House, as well as of my friend from Missouri, that he is misled by exaggerated stories in the newspapers. I believe it is pretty well understood that I have the honor to represent upon this floor the largest coal-fields in the State of Pennsylvania. The county of Schuylkill, in my district, shipped during the year 1865 upward of four million tons of anthracite coal. And because occasionally a band of men, or a few men, may not be satisfied with the very high wages which we paid them, it is heralded out through the press that the whole mining population of Pennsylvania are up in revolt because they do not receive adequate pay. I deny it. It is simply not true. There is not a more liberal class of employers in the whole country than the coal operators and owners in Pennsylvania, which is the great coal-producing region of the country.

Again, sir, we have very few corporations in the State of Pennsylvania. The majority of the coal operations are carried on by individuals, by individual capital and individual enterprise, and the wages of the miners now range from three to five dollars a day.

The only objection I have to this bill at all is, that the duty which it proposes to impose upon coal imported from Nova Scotia and the other British Provinces is entirely too low.

Sir, the gentleman says that he is a member of the American Congress. So am I. But I am in favor of legislating for the American people before I legislate for foreigners.

Mr. HOGAN. I am not used to this kind of running debate in the House. As was said by the gentleman from Connecticut, [Mr. DEMING,] I have not yet quite got the hang of this school-house, [laughter,] and these interruptions disturb me somewhat; but I would ask my friend from Schuylkill county one question right here, and it is this: did you ever know a laboring man in the coal fields of Pennsylvania who made much money?

Mr. STROUSE. I did. I have known thousands of them who have owned houses and lands, the fruits of their own labor.

Mr. HOGAN. I am very glad to hear it; I wish there were more of them.

Mr. GRISWOLD. Will the gentleman yield to me for a moment?

Mr. HOGAN. Well, I am speaking on a question that I feel a great interest in, namely, the protection of the people against class legislation for the benefit only of the rich, and as no one else seems to think of their condition, no one as yet having spoken for them, and as I speak without any notes, I prefer not to be interrupted.

Mr. GRISWOLD. I desire to interrupt the gentleman for a moment, merely to give him some information.

Mr. HOGAN. Very well; I will yield to the gentleman.

Mr. GRISWOLD. I desire to state to the gentleman, as a matter of information—for it is evidently a subject to which he has given some attention—that if there are any such effects of monopolies as those to which the gentleman has so eloquently referred, there is no more significant instance of it than in the very laborers in the coal-fields of Pennsylvania and other localities. I desire to inform the gentleman that throughout this broad land there is no class of men who have been so exorbitantly paid as the laborers in the coal-fields, where they have earned from five to ten and fifteen dollars a day.

Mr. HOGAN. Good for them. I am very glad of it. All I have got to say in reference to that is, that if these accidental benefits have resulted to the laborer, I rather take it, it has been from the enormous price of coal. These capitalists were anxious to get labor in order to make the enormous profit on the coal. You have put thousands and thousands of dollars into the hands of these moneyed men. They might well say, we can get a dollar or two dollars more per ton for our coal; if we pay these poor fellows a few cents a ton more for picking it, we will get the dollar or two dollars and they will get the few cents. That has been the operation of the whole thing from the beginning.

Now, I have no opposition, no feeling of antagonism, to this great coal interest; I am in favor of it; I admire it. But while I am for it, I want to see something done that will benefit the great mass of the people and not increase the already exorbitant price of this necessary article.

Let me say a word or two to the gentleman on the other side [Mr. PIKE] who wants an increase of duty upon fish. A great cry is raised here that we must increase the duty on fish; the fishermen of Maine and Massachusetts will be absolutely ruined, will be crushed to death, if you do not put another dollar of duty on fish, and the Provinces will make this a fish country if you do not stop the introduction of their fish here. Now, I want to ask how it is that during the last ten years, when all this was free, they still made money? Look at the price of fish now, and compare it with what it was ten years ago, before Canadian fish was allowed to come in free. The price of fish has been increased almost three times what it was before this treaty allowed fish to come in free, and these men have gone on increasing the production of fish, have gone everywhere hunting fish, and yet all this time they have been absolutely nearly ruined! It is strange how long these men can stand being ruined in this way. Ten years ago they did not begin to get the prices for fish that they have been getting for the last ten years while fish have been coming in free; yet now, when it is proposed to give them half a dollar, a dollar, and two dollars per barrel in the way of duty, they say they will be absolutely driven off the water, and we will have no fish unless we

make the duty three and four and five dollars a barrel.

Do the gentlemen know that my constituents and the people of the West have to pay these additional duties? Do they know that the great market for the sale of these commodities is all through our western country? The farmers and the laborers and the mechanics of the West are the men who will pay that additional duty, for they are the chief consumers.

Do you suppose that the men who primarily pay that dollar as duty to the Government lose that dollar? No, sir; they add that dollar, with fifty per cent. interest upon it, to the price of the barrel of fish; and because we in the West will have cod-fish and mackerel we must pay that dollar and a half instead of the dollar which is in the first instance paid as duty to the Government.

Now, sir, the same duty has been imposed upon every description of fish. The poor "No. 3" mackerel, which the poor man is compelled to buy, pays the same duty as the fine "No. 1" mackerel, which the man of wealth alone can afford to purchase. No discrimination is made in favor of the laboring man who is obliged occasionally or frequently to subsist in great part upon salt fish. We are urged to impose additional duties upon this article, without thinking of the men who consume it, because there are class interests to be regarded and protected in all the legislation of the American Congress.

So again in reference to the question of wool, which is brought up by the gentleman from Iowa, [Mr. GRINNELL,] who wishes us to impose an additional duty of ten cents per pound. Now, sir, why should we protect by this increased duty the wool-grower in Iowa or any other portion of the West? One might almost expect that Vermont should ask a tariff discriminating against Iowa wool for the protection of Vermont wool.

Mr. GRINNELL. I desire to ask the gentleman whether there is any more impropriety in increasing to a small extent the duty on wool than there is in a duty of forty dollars per ton upon hemp, a prominent production of Missouri, but one for which we do not seem to have very much use just now. [Laughter.]

Mr. HOGAN. Granting the duty on hemp to be forty dollars per ton, does that benefit the people of Missouri? The description of hemp which we raise is not produced to any great extent anywhere except in this country.

Mr. GRINNELL. Russia has been a competitor with us in the production of hemp.

Mr. HOGAN. The duty on hemp is, in my view, simply a tub thrown to the whale. We who raise hemp are not benefited by that duty to the extent of a row of pins. We in the West can raise hemp more cheaply than it can be produced abroad. These duties are imposed simply to blind the farmers of the West, and induce them to believe that they get protection when in point of fact they get no protection.

Gentlemen say that wool is an article of universal consumption. Well, I agree to that. I wear a coat of cloth manufactured in Missouri and made of Missouri wool. We do not want any protection upon the article, because we can grow and manufacture the article more cheaply than anybody else if you allow only fair competition.

Now, sir, the land in Iowa and northern Illinois and Missouri is perfectly well adapted to the production of sheep. That land can be bought at prices ranging from $1 25 to five dollars per acre. Nature furnishes the food by which the sheep are to be sustained. The prairie grass grows fine, and affords the sheep excellent food. They are not obliged to wear out their noses in hunting for a blade of grass. [Laughter.] But, sir, Vermont, whose people raise sheep and produce wool, ought to have a stringent tariff to protect them against the wool of Iowa, which can be grown much more abundantly and cheaply than the wool of Vermont, the land in Vermont costing more money, the production of the land, without heavy manuring, not being adequate to the production of large crops, and the rigor of the climate requiring not only longer in-door feeding, but better protection to the animal. Why, then, if you must add ten cents a pound to wool for the benefit of the wool-grower of Iowa, you should give the wool-grower of Vermont at least ten cents more to protect him against the cheaper and more easily-cultivated land of Iowa. And where will you stop your system of protection?

But, sir, you hear nothing about protecting the laboring man, the farmer, the mechanic, the poor man who must buy this heavily taxed wool or go without a coat. You tax the wool, you tax the railroad that carries the wool to market; you tax the commission merchant who sells the wool; you tax the manufacturer who makes up the wool; you tax the merchant who sells the woolen cloth; and when the manufactured article reaches the poor man in the distant West who has to buy a coat, my word for it he foots the bill for all this taxation.

You put ten cents per pound into the pocket of the man who is engaged in the production of wool, and you drag that with the added percentages upon it from the pockets of a people already overtaxed in every possible way. Is this fair? Is it just? How long do you suppose the people will endure such burdens and exactions?

He has to pay the tax, and the man who raises the sheep puts the money into his pocket. There is no thought of anybody protecting these men who are taxed. Ah, no! they are good enough to work, but do not put any money into their pockets, or they will be elevated if you do.

So with lumber, of which the gentleman from Michigan [Mr. DRIGGS] has spoken so eloquently. Look at that lumber interest. He tells you they have suffered for a long while in every way. He tells you they cannot come into competition with the cheap labor and the cheap logs of Canada.

I say, Mr. Chairman, these gentlemen have the market almost entirely, and yet they cannot stand it unless they can get additional protection. Eh! but what about the poor farmers in the West who open up your lands and who cannot make fences without this lumber? Not a word about them. The farmer of the West has to fence his farm and build his cabin, and all these incidental changes go to the pockets of the men in Michigan and elsewhere who make lumber from the stock. They all consent that logs shall come in as near free as possible from the Canadas. I have no objection to that. I have no objection to admit the stock to come in free that our men may make lumber; but I want the cheap lumber of Canada to come in to build upon our prairies and open up and develop the resources of the West. I do not want a monopoly that is to be brought to bear upon it, by which we have been taxing all the lumber that is used in Illinois and Missouri to pay a dollar extra to some men in Michigan for cutting it.

I do not care where the lumber comes from. All the lumber that enters into the uses of the agriculturists and farmers of the West should come in free. We want millions and millions of it. It is advantageous to us to get cheap lumber because we want stock for our fences.

The gentleman says that stumpage is five dollars in Michigan, and that in Canada stumpage is worth only fifty cents a thousand. Now, let us get the Canada cheap logs, and let us allow them to use it if they will to give us cheap lumber for the development of the resources of the great Northwest.

I agree in this bill generally. I suppose every member of the committee did agree in it. I did not suppose there would be any opposition, as I looked upon this as a very equitable measure. We have to tax some things and some things have to come in free.

I tell gentlemen in this House, and tell them in all candor, that while I am in some sense a tariff man I am not a prohibitory man.

Mr. DRIGGS. Allow me a word. I understand the gentleman to argue in favor of lumber coming in free. I understand him to say he is in some sense a tariff man. If we understand him, he is in favor of such articles as his locality produces, and in favor of letting all the articles that his locality does not produce come in free.

Mr. HOGAN. The gentleman has supposed me to be like himself. He is in favor of discriminating in favor of those things in which his people are interested. The difference between him and me is, that I am in favor of such discrimination as will be useful to the whole country without regard to my own section at all. I said I should prefer low-price lumber, suitable for agriculturists of the West. And if the timber from which to cut it is too high in Michigan, then I am willing they shall have cheap logs from Canada. And I was and am willing for them to cut it and make a profit on their labor and capital, but do not prohibit the introduction of cheap lumber for common uses, for you thereby but retard the cultivation of the great prairies of the West.

But I compromised on that matter, and went in for a low tariff upon that class of commodities putting a higher rate of duty upon those commodities of our own which came more in competition with foreign articles. But I say now to gentlemen who are for protection, that the people of this country will revolt ere long against the enormous tariff-duties that are sought to be heaped upon them under the plea of protection. I am in favor of such incidental protection as will really benefit the whole people without reference to locality, whether East, West, North, or South. I know no locality in this kind of legislation. I am an American congressman, and as such would seek to legislate for all. I do not seek to build up an interest here by putting down an interest there, to take money out of this man's pocket and put it into another man's. Sir, we have an enormous debt weighing upon us; a debt such as no other nation in the world, perhaps, groans under at the present time, and I want such a revenue to be collected from our imports as will go toward paying that debt instead of giving such protection as will amount almost to prohibition, and enable the monopolists of this country to divide their hundred, two hundred, and three hundred per cent. per annum, while the poor and middle classes are taxed to death to pay the interest upon the national debt.

I am in favor of incidental protection, but gentlemen tell us that these manufacturing interests are perishing and must die unless there are high duties imposed, such as will prohibit the introduction of commodities from abroad that come into competition with theirs, and thus prevent our getting any tariff duties at all upon those commodities, so that we shall have to levy direct taxes upon the American people in order to meet the interest upon the debt.

Gentlemen say that on account of the higher rate of interest that we pay it is absolutely necessary to have protection. Sir, has not the Congress which preceded this given the iron and all other interests of this country ample protection? I had a conversation the other day with a manufacturer in the city of New York, who told me that he had made an arrangement by which a certain commodity was to be made out of English iron; and he said that the English iron was not to be got, that it was out of the market. And what is the consequence of its being out of the market? Why iron has risen to such a degree that hardly any man can fulfill a contract made two or three years ago.

Mr. STROUSE. I will say for the information of my friend, and in contradiction of his informant, that there is at this time a great deal of iron imported, not only from England and Wales, but from Sweden and Norway. And I will further say that the revenue we impose upon our own iron almost overbalances the duty on foreign iron, so that there is really now an inducement to the British, Welsh, and Swedish manufacturers to export to this country. These are the facts.

Mr. KELLEY. Will the gentleman from Missouri yield?

Mr. HOGAN. The gentleman remarked, when he was making his speech, that he did

not want to be interrupted, and though I did not try to interrupt him, I will follow his example, and for the reason more especially that I am a new member and am not very familiar with this matter, and I do not want to get my head wool-gathering, for I am not in the wool business nor in the iron business. And as I have neither notes nor yet a written speech, as those I follow mostly had, I would now prefer not to be interrupted.

Now, sir, let me say, if notwithstanding the large duty imposed upon iron, there can be some little iron introduced, having more duty upon it you will prohibit entirely the importation of it, and then you will derive no revenue from that source. Now, I would be willing to say that we should have nothing but internal revenue duties but in that case have no tariff. I would be willing that we should have nothing but an internal reveuue taxation. But while we have this complex system of internal and external duties, and an apparent idea is held out to many that goods may be introduced into this country by paying a large tariff, and while by the system of duplex taxation, first upon the commodity and then upon the people who consume it, paying the internal revenue duties thereon, we are crowding the people to death, the time is not distant when, if this system is carried on, the people of this country will wipe out your tariff entirely, and say, "Let every tub stand on its own bottom."

By our tariff we invite from all the world articles we need for use; but yet, while the hope is held out to the people that by these duties on imports we are to pay the interest in great part upon our public debt, yet by the high duties you impose you virtually prohibit importation, thereby precluding you from getting any or but little revenue from the tariff, and yet you enhance the price to the consumer, and enable the manufacturer to add the duty to his goods and thus put money in his pocket. Sometimes he crowds the price up so that the foreign commodity can afford to pay the duty and come into the country, thus allowing the people some competition; but instead of reducing his profits, he comes at once to Congress and will be ruined unless you give higher duty, more protection. Where, where will this stop?

Mr. Chairman, I caution gentlemen to beware in reference to this matter. This thing has gone on, and gone on, and gone on, and the more you have given the more has been demanded of you. At every session of Congress there has been a demand for increased duties. You have propositions made in every Congress to increase the duties upon commodities manufactured by men who are counting up their hundreds of thousands of dollars annually as income from manufactures that do not pay anything and yet need to be protected! I tell you, Mr. Chairman, and I tell this committee, that unless they think more of the demands of the people and less of the demands of the manufacturers and monopolists, they will put on that feather which finally breaks the camel's back, and the people will crush out this thing of protection entirely.

Mr. GRISWOLD. Will the gentleman allow me a moment?

Mr. HOGAN. Well, yes.

Mr. GRISWOLD. I desire to state, by the permission of the gentleman, for his information and that of the House, that I am authorized to state positively and unqualifiedly, that the report which we shall have in a very few days from the board that has been investigating the industrial interests of the country, will prove that upon the capital invested in manufacturing for twenty years past the average profit has not been two and a half per cent.

Mr. HOGAN. Well, that will be a great curiosity. I would really like to see that report. While I have been for twenty years a purchaser of commodities, and have been in the habit of dealing with large manufacturers, I have not found any of them in all that time who have pursued their business and have not made very large amounts of money.

Now, I would like to ask the gentleman from New York if that information was derived from manufacturers.

Mr. GRISWOLD. Why, yes.

Mr. HOGAN. I have no doubt of it.

Mr. GRISWOLD. It is the result of the evidence drawn from manufacturers all over this country. What I have stated is the result of absolute figures. If hereafter it shall appear that I am wrong, I will acknowledge it frankly.

Mr. HOGAN. I know that these singular facts are alleged. We know how terribly these manufacturers hate to tell about these things, that they are absolutely going to ruin. They want, of course, to stand fair before the community. They would like to ride in their carriages very finely; to drive fast horses; to build lovely palaces; but all these things are but a figment of the imagination to induce the people to believe that they are rich. When a revenue commission summons them before it to draw the facts out of them—and it is like drawing eye-teeth—they are compelled to say "We haven't made a red [laughter]—not a dollar; we have not been making a dime for the last ten years; we have been patriotically running large mills and increasing the productions of the country solely for the benefit of the country; of course we had no interest in it; we had better have quit five years ago, and then we would not have lost the immense sums that we have lost during these last five years of terrible strife and war."

No, sir, no; the gentleman cannot present such facts to me as coming from a source that would challenge my own unqualified belief. Not that I would doubt his word for a moment, but "facts are stubborn things," and all these men have shown that they are rich; they have been growing rich and have been fattening upon the very life-blood of the American people, sucking the blood out of the people of this country, who are not protected by your laws.

Why, sir, these men are constantly here asking for more protection—constantly. There is scarcely a day passes that somebody does not come here asking increased protection, increased protection for anything, for everything. The man who makes five thousand a year as a manufacturer knows perfectly well that he can double his money if you will only give him a dollar's additional duty on the article he manufactures; he will kneel for it, beg for it, urge it before the committees of Congress; and it is said that such men can afford to pay a little money to get these things done. I do not know how that is. I have seen nothing of that kind myself, but that is the allegation in the country. I know one thing, that plenty of men can afford to leave their business, and to leave all their affairs in the hands of others, and come here to log-roll before Congress in order to get additional protection to put money into their pockets at the expense of the people.

Now, Mr. Chairman, I have said a great deal more than I intended when I rose, and I leave the subject with the House.

Mr. MORRILL obtained the floor.

Mr. BROOKS. Will the gentleman from Vermont [Mr. MORRILL] yield to me for about ten minutes?

Mr. MORRILL. I will yield to the gentleman from New York [Mr. BROOKS] presently.

Mr. Chairman, I perceive from the temper exhibited by this committee in regard to this bill, that it will very likely be amended and possibly be lost. But I desire to fully discharge my own duty in the premises.

I was an earnest and an early advocate of the termination of the reciprocity treaty. I perceive that members here have advanced very much perhaps beyond my standard. For one I desired that we should terminate that treaty in order that we might obtain revenue from those articles which were locked up in the reciprocity treaty. I desired also that we might terminate that most unreciprocal of reciprocal treaties which the wit of man ever devised, because it was an unequal bargain. I hoped that we might obtain all that we had obtained under the reciprocity treaty, and also obtain a very considerable sum of revenue for our Treasury. But it seems that the present committee is not ready even for that. And I fear that they are disposed to take no action on this bill; to defeat it by laying it on the table or by recommitting it.

The distinguished gentleman from Maryland [Mr. F. THOMAS] never rises in this House to address us but I feel the most profound respect for the statesmanlike manner and the dignity and the ability with which he discusses a question. And yet when he announced in his remarks of yesterday that his State had invested $12,000,000 in a canal and $18,000,000 in a railroad to bring coal to the tide-water, it did strike me that he had not observed that in the course of the remarks which I had the honor to submit I gave the intimation that there was to be some compensation even in not allowing but fifty cents per ton duty upon provincial coal. I suggested that the Committee of Ways and Means might very possibly, and at an early day, report a bill by which the present internal duty on coal would be remitted, and also that the present tax upon the gross receipts for freight upon railroads might be remitted. Let me say to the gentleman from Maryland [Mr. F. THOMAS] that that amounts to twice or thrice as much as the specific duty on coal, for all of our coals have more or less to be transported a considerable distance before they reach a market.

Then the coals that we receive from the Provinces are not a majority of the coals that we receive from abroad. We receive much more coal from Europe than we do from the Provinces, all of which pays, and will still pay, $1 25 duty. That seems not to have been considered by the gentleman from Maryland.

Now, it strikes me that if these millions of dollars of capital invested in the canal and in the railroad could have their voice here, they would be quite ready to compromise as we propose, and to say that if they could be relieved from the tax upon their gross receipts they would run their risk of finding a market for the coal they mine as well as that of any diminution of freight.

A remark was made by the gentleman from Pennsylvania [Mr. KELLEY] which I will notice briefly. I know it was not said in any unkind spirit; but he made a remark intimating that the returns which I took from our book of commercial relations represented a falsehood to this House. What were those returns? That we sent into the Provinces $555,000 worth of coal in 1864, while we received from the Provinces $883,000 worth. Now, is not that true?

Then the gentleman represents that there is as much difference between bituminous coal and anthracite coal as between chalk and cheese. I do not so understand it. I understand that for most purposes bituminous coal can be used as well as anthracite coal, and anthracite coal as well as bituminous coal. For gas purposes anthracite coal cannot be so used.

Mr. KELLEY. I desire simply to say to the gentleman that if he understood any language of mine as attributing to him a conscious misstatement, or if the House understood me as making any such intimation, then my language did great injustice to my feelings.

Mr. MORRILL. I did not so understand him; but I understood him as saying that figures might sometimes convey a very stupendous falsehood. If I had understood him offensively, I might have retorted upon him by quoting one of our profoundest moralists, who says that a man who makes a declaration, not knowing it to be true, utters a falsehood. The gentleman did not know whether this coal that we export to the British Provinces was bituminous or anthracite, because there is no return that shows the fact one way or the other. It was as impossible for him to know as it was for me.

Mr. KELLEY. The collateral facts, Mr. Chairman, all demonstrate the correctness of the statement which I made. It is not customary to prove a negative; and the gentleman cannot prove the affirmative to the contrary of what I stated.

Mr. MORRILL. I am perfectly willing to admit, as I have no doubt it is the fact, that a large portion of the coal that goes into the Provinces is anthracite coal. Yet does that militate against the statement which I made that here is one article at least in reference to which there is something of reciprocity? Certainly it appears to me that an exchange even of anthracite for bituminous coal is something of reciprocity.

Now, Mr. Chairman, the gentleman from Pennsylvania says, "Pass this bill, and we shall bankrupt every company engaged in the production of bituminous coal." Why, sir, when this reciprocity treaty was passed the Senators who represented Pennsylvania and Maryland, and I believe Virginia—all those coal-mining regions where bituminous coal is obtained—were in favor of the treaty, and when the question came up in this House not a single gentleman from those States rose to make an objection, and when the bill passed, Mr. Washburn, of Maine, endeavored to obtain the yeas and nays, but that without avail, only seven gentlemen rising to order them.

Now, Mr. Chairman, if these bituminous coal mines have been mined for ten or eleven years without the proprietors being brought to bankruptcy, when there has been no duty imposed upon coal, and when the bill as it is now before the House proposes a duty upon the coal brought from the Provinces, and when it is extremely probable that these mines will be relieved from direct taxation as well as indirect taxation, I confess that I do not see the imminency of their bankruptcy.

Mr. STEVENS. Will the gentleman allow me to state one fact? During the operation of this reciprocity treaty three companies have embarked in mining this coal in the Cumberland region; they have been three times reënforced with capital, and yet they are all bankrupt.

Mr. MORRILL. I suppose, Mr. Chairman, that in some other branches of business you will find men who have gone to bankruptcy. All men who engage in business have not equal success. I suppose that in every branch of business there are some fools who embark in undertakings which cannot succeed. I do not say that these men mentioned by my friend from Pennsylvania were not sagacious; but I do say that it is the luck of all departments of business to furnish some wrecks.

But the gentleman from Illinois, [Mr. WENTWORTH,] to my surprise, takes up this bill and asks, or seems to ask, whether we are to have reciprocity or not, as though this bill, if it were passed, would restore reciprocity! I think, Mr. Chairman, that that will be the most gratifying news that will be carried to-day across the telegraphic wires to Canada. I think the people there will be extremely delighted to learn that there is a bill pending here which will give them reciprocity such as they have enjoyed during the last ten years.

But, Mr. Chairman, there is not a particle of foundation in this bill for any such idea. But two articles named in the bill, only two, retain even a shadow of the old reciprocity treaty. One is fish, the other is coal; and even on these it will be seen that moderate duties are proposed.

Now, Mr. Chairman, it seems to me, although I had a great repugnance to the reciprocity treaty, that we might distill something out of it worthy of our consideration. I did believe there were some things in the reciprocity treaty which it might be worth while not to repudiate. Those only in the first section of the bill retain any smack of the reciprocity treaty. The last end of the bill, to be sure, allows the Provinces to concede certain privileges or not to do it, as they may please. In my judgment they will not do it. But I supposed it was wise for us to make a fair offer; then if they do not do it we would come forward with such legislation hereafter as the judgment of Congress might devise. But in the outset it did occur to me as eminently proper that we should present a fair proposition to these Provinces. In consideration to the minority of the country, who still believe in the reciprocity treaty, it was wise that we should present a fair and moderate proposition such as is embodied in this bill.

Let me warn gentlemen if this bill is not passed, that after the 17th of March you will have this state of things: all the animals—cattle, sheep, horses, and hogs—raised in the Canadas will still come in free of duty. And another anomalous condition of things will exist: while lumber, sawed and hewed, will be admitted at twenty per cent., when planed, tongued, and grooved lumber will come in free. But I will not go into details.

Now, Mr. Chairman, of course it is competent for the House to amend this bill in any direction. I suppose we might amend it so as to suit my friend from Ohio, [Mr. SPALDING,] and in relation to the subject of lumber and some other articles to which objection has been made. We may amend in any direction, but it will be most convenient for us to pass the bill in some shape or other.

I yield to the gentleman from New York, [Mr. BROOKS.]

Mr. BROOKS. Mr. Chairman, I should not have arisen to obtrude my remarks upon this committee after the subject had been so ably discussed—discussed with an ability and ingenuity that reminded me of ancient times in this House, and which demonstrates to me that when we are engaged in subjects which interest us there is like ability here to that which was exhibited in the olden times. I say I would not have obtruded myself on this House after as able impromptu debates as have ever been exhibited, if I had not voted last year with others for the abrogation of this reciprocity treaty, and if I did not see from the tendencies and sympathies of this House that the moment this bill passes from the hands of the committee to the House, it will receive its death-blow.

Under these circumstances, after that vote, I feel it necessary to say I do not believe there would have been obtained in this House thirty votes last year for the abrogation of that reciprocity treaty with Canada, but upon the explicit understanding that some sort of reciprocity would have been forthwith established by the treaty-making or the legislative power of the Government. I voted for its abrogation under a high sense of duty. Our people under their internal revenue law were ground down or about to be ground down with internal taxation, and I did not feel at liberty to allow the reciprocity treaty to stand without enabling us to make some sort of a bargain with the people of Canada to levy upon the imports from there the same duties we levied upon our own articles of production. It was on that understanding, and exclusively on that understanding, I voted for the abrogation of that reciprocity treaty.

But I think I see now the additional claims of those who represent the lumber interest, the coal interest, and other interests of the country to obtain as high duties as possible, higher than those which exist at the present moment. If that be so I shall regret all my life having cast that vote. Last winter I voted for the abrogation of the treaty on the understanding it should be substantially renewed.

The Provinces of Canada, Nova Scotia, and New Brunswick are situated very differently, so far as we are concerned, from any other countries in any other portion of the world; very differently from those in Europe. They are our neighbors. They are in some degree our friends. They are connected with us by kindred and blood. They rightfully belong to us, and I hope to live to see the day, some day hereafter and not far distant, when upon the floor of this House and of the other there shall be Senators and Representatives in Congress from New Brunswick, Nova Scotia, Canada, Prince Edward's Island, and all the other Provinces that belong to this continent, and whose people speak the English language.

Mr. SPALDING. I would ask the gentleman if the last Congress did not distinctly vote down a proposition for a new board of commissioners upon this subject.

Mr. BROOKS. I believe they did; but it was because we reserved to ourselves legislative power practically to renew the treaty. It was upon that ground that I gave my vote for the bill to terminate the treaty, and upon no other whatsoever. I regret to see now that there is not only no disposition to renew the treaty, but that there is a disposition to aggravate the difficulties of trade between us and Canada yet more and more. The gentleman from Wisconsin [Mr. ELDRIDGE] before me rebuked me at the time for the vote I then gave, and the rebuke left a deep impression on my mind. He tells me now that he voted against that bill because he entertained no such belief in regard to the action of this Congress as I did.

I was about to say when I was interrupted that the geographical position of Canada interlacing, interlocking, and interlining all of this American continent, from Passamaquoddy, in the State of Maine, to Puget sound, on the Pacific, makes it impossible for us to keep up the same high rates of duty with regard to Canada that we can keep up with regard to European countries. Sir, if we were to line the whole of this vast coast with custom-house officers, from Puget sound to Passamaquoddy, you would have no power to collect the high duties that your tariff proposes. Thousands upon thousands of custom-house officers, stationed upon these thousands of miles of frontier, running as it does into the very bosom of our territory at Detroit, could never collect these duties, and the amount of smuggling would be beyond anything that has ever been known in any European country.

Hence, reason, practical common sense, and self-interest alike demand that in some form or other negotiations should be entered into for reciprocal trade with our Canadian brethren upon the frontier.

Thus much upon that subject; and I have but a few words to add in reference to two of the articles included in the treaty, barley and coal. But before I proceed to make these remarks, I wish to say that abrogation or interference with sixty-four millions of trade, for that is the amount of our trade with the British Provinces, is a very serious undertaking; and when it is undertaken and accomplished, I venture to say there will come an outcry from the frontier and from all parts of this great country which will demand a renewal, in some form or other, of this trade with Canada and the other British Provinces.

I will not consume the time of the committee further than to dwell upon two articles. Let me take first the article of barley. Under the old tariff the duty on barley was fifteen cents a bushel. Barley is imported from Canada. It is only in the northern high latitudes of our country, in Minnesota and northern Iowa, that we can raise barley of a sufficiently good quality to make that article which is so much consumed, not only by our German fellow-citizens, but by all of us now; I mean the article of lager beer.

Mr. BLAINE. The gentleman seems to have forgotten one of the products of his native State.

Mr. BROOKS. I thank the gentleman for reminding me of one of the hardy productions of my own native State. Maine, Minnesota, northern Iowa, and the high northern latitudes produce an article of barley that is fit to be manufactured into lager beer. No like article can be produced in the more southern latitudes of our country.

Now, sir, in addition to our tax upon this article of lager beer, so largely consumed by Germans, and which produces for us now an enormous amount of revenue, largely supporting this Government, we are about to add a tax of fifteen cents per bushel upon the whole amount of barley which we import from Canada, which for the last year was six million bushels. Enough, however, upon that subject.

Now a word or two in regard to what has been said upon coal. It is alleged that the coal miners and those who have invested their capital in coal to a very large amount have failed. I did not hear the statement made by the

honorable gentleman from Pennsylvania, [Mr. STEVENS.] I would like to have him state again the number of failures among those who have invested their capital in coal mines. I did not hear the statement he made to the gentleman from Vermont, [Mr. MORRILL.]

Mr. STEVENS. I spoke of companies which had been renewed and revived in the region represented by the gentleman from Maryland, [Mr. F. THOMAS.] He could tell more about the matter than I can. I know of two or three companies there which have failed, though their capital has been renewed. I know that at present their capital is all sunk or doing no good, and will not be doing any good of course until they can get their productions to a market.

Mr. BROOKS. I want that statement to go before the country in this connection: that ninety out of one hundred of our merchants also fail.

Mr. KELLEY. Will the gentleman allow me a moment?

Mr. BROOKS. Certainly.

Mr. KELLEY. I ask the gentleman to distinguish between anthracite coal and bituminous coal. There has been no plea made here to-day for anthracite coal. This bill contemplates none but bituminous coal.

Mr. BROOKS. The best reply to all this plea for coal, an ironical plea it may be, is to be found in the hearts of the poor people of the country who have had to pay during the past winter from fourteen to sixteen dollars a ton for that coal. What more eloquent answer can there be than to let the mouths of our poor countrymen state the prices they have been paying for their coal?

Mr. Chairman, the coal mines of Pennsylvania are not all owned there, not the half of them, even. A large portion of my constituents have invested the surplus of their capital in the coal mines of Pennsylvania. I care not what may be said about their having lost their capital in the coal business. It is well known that none of our people make greater display of wealth in fashionable society than do these same capitalists and their wives and daughters. Note the magnificent adornment of their wives and daughters; their diamonds, their bracelets, their jewels, and all those things which make woman beautiful. The proof is sufficient that the owners of these coal-mine stocks have made large profits. I know they have made within the last two, three, or four years, at least twenty per cent. per annum upon the capital they have invested.

Mr. Chairman, I might dwell at almost any length upon these subjects. But my friend from Maine [Mr. BLAINE] desires to say a few words on this bill, and with the consent of the gentleman from Vermont, [Mr. MORRILL,] by whose courtesy I have been speaking, I will now yield to him.

Mr. MORRILL. How long does the gentleman from Maine [Mr. BLAINE] desire to speak? I was about to move that the committee rise.

Mr. BLAINE. I can say all I desire to say in five minutes.

Mr. MORRILL. I will yield to him for that time, retaining my right to the floor, so that I can submit the motion that the committee rise in order to close debate.

Mr. BLAINE. Before general debate is closed, Mr. Chairman, I desire to occupy the attention of the committee a few minutes in regard to the provisions of the pending measure. It is styled "A bill regulating trade with the North American British Provinces," and is designed to take the place of the "reciprocity treaty," whose final termination will be joyfully hailed on the 17th of this month. The bill seems to me so radically wrong in its details that I despair of seeing it amended into any acceptable form, and I therefore wish to have a test question on it at this time. It seems to me to sacrifice and subordinate American interests to provincial interests; and, so far as my own State and district are concerned, it certainly affords no adequate protection against injurious competition from the Canadas and New Brunswick. I represent a constituency whose leading interest is agriculture; and I look in vain in this bill for any fair protection to that interest against the cheap and untaxed products of our British neighbors. The same is true of the lumber trade, also a large interest in my district—an interest most injuriously affected by the reciprocity treaty, and which is not much improved by the scale of duties proposed in this bill. As the matter stands I prefer to leave the whole question to be regulated in a general tariff law, and not have any specific basis of trade with the British Provinces different from other foreign countries. In order to test the sense of the committee on the merits of the bill, I move now to strike out the enacting clause.

On the motion to strike out the enacting clause of the bill, there were—ayes 51, noes 56.

Mr. BLAINE called for tellers.

Tellers were ordered; and the Chairman appointed Messrs. BLAINE and MORRILL.

The committee divided; and the tellers reported—ayes 53, noes 68.

So the motion was not agreed to.

Mr. MORRILL. In order to terminate debate on this bill, I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. RAYMOND reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and particularly House bill No. 337, regulating trade with the British North American possessions, and had come to no resolution thereon.

Mr. MORRILL. I move that when the Committee of the Whole on the state of the Union shall resume the consideration of this bill, all general debate shall terminate in twenty minutes. There are two gentlemen who desire to speak about ten minutes each, and I think it fair that they should be accommodated.

The motion was agreed to.

ENROLLED JOINT RESOLUTION SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a joint resolution (H. R. No. 17) giving the consent of Congress to the transfer of the counties of Berkeley and Jefferson to the State of West Virginia; when the Speaker signed the same.

PRESIDENT JUAREZ.

A message in writing, from the President of the United States, was received by Mr. W. G. MOORE, his Secretary.

The SPEAKER, by unanimous consent, laid before the House the following message from the President of the United States:

To the House of Representatives:

In answer to a resolution of the House of Representatives of the 27th ultimo, requesting certain information in relation to President Benito Juarez, of Mexico, I transmit a report from the Secretary of State.

ANDREW JOHNSON.

WASHINGTON, *March* 6, 1866.

The message, with the accompanying report, was referred to the Committee on Foreign Affairs, and ordered to be printed.

INTERNAL REVENUE.

On motion of Mr. MORRILL, Senate amendments to the bill (H. R. No. 201) entitled "An act to declare the meaning of certain parts of the internal revenue act, approved June 30, 1864, and for other purposes," were, by unanimous consent, taken from the Speaker's table, and referred to the Committee of Ways and Means.

LEAVE OF ABSENCE.

Mr. WASHBURNE, of Illinois. Mr. Speaker, the delegation in Congress from my State has appointed a committee, consisting of five of its members, my colleague from the Monmouth district, [Mr. HARDING,] my colleague from the Springfield district, [Mr. CULLOM,] my colleague from the State at large, [Mr. MOULTON,] my colleague from the Shelbyville district, [Mr. THORNTON,] and myself, to proceed to West Point to-morrow to attend the funeral of one of the noblest and most gifted sons of our State. I allude to Colonel Theodore M. Bowers, adjutant general upon the staff of Lieutenant General Grant. Colonel Bowers, who yesterday was instantly killed while getting upon the cars at Garrison's Landing, opposite West Point, was a man of qualities so remarkable, of patriotism so pure, of loyalty so elevated, of a character so exalted, and had rendered during the war services so valuable to the country, that the members of both Houses from the State of Illinois deem it proper to pay a tribute to his memory by being represented at his funeral. I therefore ask leave of absence for my colleagues whom I have named and myself for the remainder of this week.

Leave was granted.

AUGUSTINE AMIOT.

Mr. THAYER, by unanimous consent, introduced a bill to confirm to Augustine Amiot, or his legal representatives, a certain lot of ground in the city of St. Louis; which was read a first and second time, and referred to the Committee on Private Land Claims.

And then, on motion of Mr. LE BLOND, the House, (at twenty minutes to five o'clock p. m.) adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to appropriate committees:

By Mr. ALLEY: The petition of Rockport Savings Bank, for reduction of taxes.

By Mr. BANKS: The memorial of Hon. James Adams, Nathan A. Tufts, Edward Lawrence, and others, officers of the Warren Institute of Savings, in Charlestown, Massachusetts, praying exemption from the payment of any tax upon deposits or otherwise, except the tax of five per cent. upon dividends, as now provided by law.

By Mr. COBB: The petition of Francis Baker, of Linden, Wisconsin, for a change in the internal revenue laws.

By Mr. DELANO: The petition of James McLaughlin, John McCune, Samuel Huffman, Hugh Dunne, Burke Clark, Daniel Chrisman, and Henry Rogers, for an appropriation of $21,150, the value of cotton lost on the flotilla first running the blockade of the Mississippi, at Vicksburg, Mississippi.

Also, the petition of Robert Sapp, and 100 others, citizens and wool-growers of Knox county, Ohio, praying for such duty on foreign wools as may afford equal protection to the wool-growers as now received by woolen manufacturers of this country.

By Mr. FERRY: The memorial of citizens of Michigan, praying that no rebellious State be restored to the Union except upon the following accepted conditions:

1. That the Union of the United States shall be perpetual.

2. That denial of suffrage on account of race or color shall be an exclusion of such population from representation.

3. The national faith of the United States shall be held forever sacred; that each State shall share its just proportion of national responsibilities; that no debt incurred by any rebellious State shall be recognized or paid by the United States or individual State.

4. That no distinction in laws or municipal regulations on account of color or descent, nor payment either by United States or State for emancipated slaves.

5. Congress shall have power to enforce these articles by appropriate legislation.

By Mr. HOOPER, of Massachusetts: The memorial of manufacturers of concentrated fertilizers, for relief from discrimination by admitting the foreign products free of duty and taxing the domestic manufacture.

By Mr. HULBURD: The remonstrance of H. L. Ward, and others, citizens of St. Lawrence county, New York, against admission of southern States until proper guarantees are secured.

By Mr. INGERSOLL: The petition of John G. Faris, and 80 others, soldiers of Marshall county, Illinois, praying for the equalization of bounties.

By Mr. KETCHAM: The memorial of assistant assessors of the twelfth district of New York, in favor of allowance of necessary traveling expenses.

By Mr. LAWRENCE, of Ohio: The petition of B. H. Rea, and others, of Logan county, Ohio, in favor of sundry amendments to the Constitution of the United States.

By Mr. LONGYEAR: The petition of George H. French, and 399 others, asking for an extension of the land grant to the Amboy, Lansing and Traverse Bay Railroad Company, in the State of Michigan.

Also, the petition of Henry A. Shaw, and 542 others, for the same purpose.

Also, the memorial of the Jackson, Lansing and Saginaw Railroad Company, in regard to railroad grants in the State of Michigan, and remonstrating against the renewal and continuance of the Amboy, Lansing, and Traverse bay land grant on the present line of its road south of Lansing.

By Mr. MERCUR: The petition of 15 honorably discharged soldiers of Bradford county, Pennsylvania, asking that the same pay and bounties may be granted to all soldiers who were enrolled previous to October 24, 1863, as were allowed to soldiers who enlisted after that date.

By Mr. PAINE: The petition for an act regulating insurance in the United States.

By Mr. WELKER: The petition of E. Matcham, and 102 others, wool-growers of Pittsfield, Lorain county, Ohio, asking protection on wool against foreign competition.

By Mr. WASHBURN, of Massachusetts: The petition of the trustees of the Fitchburg Savings Institution in the ninth Massachusetts district, praying that the tax on such institutions may be repealed.

By Mr. WASHBURNE, of Illinois: The petition of paper and envelope manufacturers and dealers and stationers, against the passage of the bill to authorize the Postmaster General to sell stamps and envelopes at the value of the stamps impressed thereon.

By Mr. WENTWORTH: The petition of the Ship Carpenters' and Calkers' National Union of Chicago.

Also, the remonstrance of citizens of Chicago, against the renewal of the reciprocity treaty.

IN SENATE.

THURSDAY, *March* 8, 1866.

Prayer by Rev. THOMAS H. SKINNER, of New York.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. NESMITH presented a petition of citizens of the Territory of Montana, praying for an enlargement of postal routes in that Territory, and for the establishment of a mail route from Sioux City, Iowa, to Walla Walla, in Washington Territory; which was referred to the Committee on Post Offices and Post Roads.

Mr. ANTHONY presented the memorial of officers of the Savings Bank of Newport, Rhode Island, praying Congress to restore to savings banks that have no capital, but merely receive deposits from the humbler classes of the community and loan the same on interest for the benefit of the depositors only, the exemption from the income tax which was provided in the original internal revenue law, but was afterward stricken out in the amended law; which was referred to the Committee on Finance.

Mr. LANE, of Indiana, presented a petition of the Columbus and Zanesville, Indianapolis and Cincinnati, Terre Haute and Indianapolis, and the Indianapolis, Peru and Chicago Railroad Companies, and a petition of the Jeffersonville, and Ohio and Mississippi Railroad companies, praying that bar and cast iron used in the construction of railroad bridges and other superstructures may be exempt from customs and excises; which were referred to the Committee on Finance.

Mr. TRUMBULL presented the petition of John M. Douglas, president of the Illinois Central railroad, and other officers of railroads in the State of Illinois, praying for the passage of a law exempting bar and cast iron used in the construction of railroad bridges and other superstructures from customs and excises; which was referred to the Committee on Finance.

Mr. POLAND presented the petition of Eli W. Goff, praying for compensation for property rescued from him while inspector of customs for the district of Vermont; which was referred to the Committee on Claims.

Mr. VAN WINKLE presented joint resolutions of the Legislature of West Virginia, in favor of an appropriation by Congress for the payment of military claims created by that State during the late war, accompanied by vouchers and pay-rolls; which were referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

Mr. FESSENDEN presented the petition of H. J. Libby & Co., and others, citizens of Portland, Maine, praying for the enactment of just and equal laws for the regulation of inter-State insurance of all kinds; which was referred to the Committee on Commerce.

Mr. CLARK presented the petition of David Morrison, praying for a pension; which was referred to the Committee on Pensions.

Mr. WILSON presented a petition of officers of the armies of the United States, praying for an increase of their pay; which was referred to the Committee on Military Affairs and the Militia.

Mr. NYE presented resolutions of the Legislature of Nevada, in favor of the passage of a law prohibiting the Central Pacific Railroad Company or any other railroad company which may hereafter receive donations of land in aid of its construction from acquiring any right, title, or interest whatsoever to the minerals of whatever character, except iron and coal, which have been or may hereafter be discovered in lands so donated; which were referred to the Committee on Public Lands.

He also presented resolutions of the Legislature of Nevada, in favor of the so-called "Monroe doctrine," and adverse to the establishment of any empire or other government, by the aid of foreign intervention, on any portion of the American continent, and especially opposing the establishment of the empire of Maximilian in Mexico by French influence as an unfriendly act toward the United States; which were referred to the Committee on Foreign Relations.

He also presented a resolution of the Legislature of Nevada, in favor of a speedy trial of Jefferson Davis; which was referred to the Committee on the Judiciary.

He also presented a resolution of the Legislature of Nevada, in favor of the establishment of a semi-weekly mail route from Aurora to Silver Peak in that State; which was referred to the Committee on Post Offices and Post Roads.

He also presented a resolution of the Legislature of Nevada, in favor of the establishment of a daily mail from Virginia City to American City, in that State; which was referred to the Committee on Post Offices and Post Roads.

REPORTS OF COMMITTEES.

Mr. MORGAN. The Committee on Finance, to whom was referred the petition of the Union League Club of the city of New York, praying Congress to appropriate and pay to the family of the late President Lincoln his salary for his full term of office, have had the same under consideration, and have instructed me to ask to be discharged from the further consideration of the petition, Congress having already taken action in regard to that subject.

The report was agreed to.

Mr. POMEROY, from the Committee on Public Lands, to whom was referred a bill (S. No. 145) for a grant of lands to the State of Kansas to aid in the construction of the Northern Kansas railroad and telegraph, reported it with an amendment.

Mr. RAMSEY, from the Committee on Post Offices and Post Roads, to whom was referred the memorial of J. W. Warren, of Albany, Wisconsin, praying for compensation for damages sustained by him in consequence of the rescinding of the acceptance of his bid by the Postmaster General to carry the United States mail on route No. 13130 from Mill Haven to Grand Rapids in that State, submitted an adverse report. The committee were discharged from the further consideration of the memorial, and the report was ordered to be printed.

Mr. RAMSEY also, from the same committee, to whom was referred a bill (S. No. 163) to authorize the Milwaukee and Prairie Du Chien Railway Company to construct a bridge across the Mississippi river, and establish a post route, reported it with an amendment.

Mr. CHANDLER, from the Committee on Commerce, to whom was referred a joint resolution (H. R. No. 57) authorizing the Secretaries of War and the Navy to place hulks and vessels at the disposal of commissioners of quarantine or other proper authorities at ports of the United States, reported it without amendment.

A. J. GRAY.

Mr. LANE, of Indiana. The Committee on Pensions, to whom was recommitted the bill (S. No. 180) for the relief of A. J. Gray, have directed me to report it back without amendment, accompanied by a written report, and to ask that the bill may be taken up and acted upon now. It is the same case that we had under consideration yesterday.

There being no objection, the Senate as in Committee of the Whole proceeded to consider the bill.

Mr. LANE, of Indiana. I ask the Secretary to read the report.

The Secretary read it, as follows:

The Committee on Pensions, to whom was referred the petition of A. J. Gray for a pension, beg leave to report that A. J. Gray was appointed a pilot of the Mississippi squadron on the 21st day of December, 1862; he served for a short time on the steamer Louisville, and then was, by order of Admiral Porter, detailed to serve on the Judge Torrence, on which he served until the 13th of February, 1863. He was honorably discharged on account of disease contracted in the service of the country. His disease, according to the certificates of two surgeons, one a Government officer, was caused by concussion resulting in a settled nervous disease which has caused partial paralysis of the nerves of locomotion, rendering him a cripple for life, and also impairing his sense of hearing. His injuries have rendered him unable to make a support for himself and family, and the committee think the facts in this case fully justify the bill herewith reported.

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

PAPERS RECOMMITTED.

Mr. WILLIAMS. By the instruction of the Committee on Claims I made an adverse report yesterday morning on the case of Mrs. Elizabeth Smith. I now move to recommit the petition, papers, and report to the Committee on Claims for further consideration.

The motion was agreed to.

BILLS INTRODUCED.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 191) to provide clerical force for military divisions and departments; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. POLAND asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 39) to refer the claim of the administrator of Richard W. Meade, deceased, to the Court of Claims; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. POLAND also asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 40) proposing an amendment to the Constitution of the United States; which was read twice by its title.

Mr. CRESWELL. I ask that that resolution may be read at length.

The Secretary read it, as follows:

Resolved, &c., That the following amendment to the Constitution of the United States shall be proposed, which, when ratified by the Legislatures of three fourths of the States, shall be valid to all intents and purposes as part of the Constitution of the United States:

ARTICLE —. No person who has been or shall be willingly engaged in rebellion against the United States shall exercise the elective franchise or hold any office under the authority of the United States or of any State.

ARTICLE —. Congress shall have power to pass all laws necessary to enforce the foregoing article.

Mr. POLAND. I move that the joint resolution be printed, and referred to the joint committee on reconstruction.

The motion was agreed to.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 41) relating to lands granted to the State of Minnesota to aid in constructing railroads; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. HENDERSON submitted the following resolutions; which were ordered to lie on the table, and be printed:

1. *Resolved*, That the late rebellion was a contest between freedom and slavery. To perpetuate human bondage against the influences of a progressive civilization, which it was feared would soon manifest itself in the political action of the Government, a portion of the people of eleven States attempted to withdraw themselves and their States from the operation of such influences.

2. When the laws were resisted in this attempted secession it was the province of Congress "to provide for calling forth the militia to execute the laws of the Union." When insurrection was inaugurated Con-

gress alone had the power and was charged with the duty to "suppress" it.

3. Whether the insurrection thus organized in these eleven States has been suppressed or not, is to be determined by Congress, and not by the Executive alone. It is for Congress to decide not only whether armed resistance to the national authority yet exists, but whether the causes of the rebellion have been removed; and if not removed, it is for Congress to adopt such constitutional measures as will remedy existing evils, and prevent, if possible, the recurrence of such wars in the future.

4. In this attempted secession, the people of these eleven States suffered the political connection established by their State governments with the Federal Government to be severed; and in this condition of things the States themselves are without such republican forms of government as are contemplated in the Constitution, and it becomes the duty of the United States, and not of the Executive, to "guaranty" such forms. The people of these States who voluntarily abjured their allegiance to the Federal Government, and willingly transferred that allegiance to a hostile "*de facto*" Government, have, as far as they are able, become alienated and denationalized, and it is for Congress to determine to what extent they have succeeded in such efforts at alienation, and what rights they are now entitled to claim as citizens of the United States.

5. The Union is not restored until State governments in these States, republican in form, shall have been established and recognized by the Federal Government; and it is the opinion of the Senate that such governments should at once be organized upon the true principle of republicanism—the consent of the governed. That while we recognize, in full force, the great truth that the people of these States should not be taxed without representation in Congress, we cannot forget that we are now asked to accept as republican in form State constitutions which deny representation to nearly one half their entire people and yet inflict upon them the burdens of taxation.

6. That the committee on reconstruction are hereby required to inquire at once into the propriety and expediency of providing by law for the reorganization and reëstablishment of State governments in the seceding States on the principles contained in these resolutions.

PETER ANDERSON.

The PRESIDENT *pro tempore*. If there be no further morning business, the Chair will call up the special order for one o'clock, being the joint resolution (H. R. No. 51) proposing to amend the Constitution of the United States, upon which the Senator from Maine [Mr. MORRILL] is entitled to the floor.

Mr. FESSENDEN. My colleague is not in his seat at present. I suppose he expected it to come up at one o'clock.

Mr. POMEROY. I thought there was a special order for half past twelve o'clock to-day.

The PRESIDENT *pro tempore*. The Chair is not advised of any special order for this day at half past twelve o'clock.

Mr. POMEROY. I thought the resolution of the Senator from Kentucky [Mr. DAVIS] for the appointment of a committee to investigate cotton frauds was made a special order for this morning.

The PRESIDENT *pro tempore*. There is a special order for Friday at half past twelve o'clock.

Mr. CRESWELL. If the gentleman from Maine is not quite ready to go on, I will call the attention of the Senate to a bill which I think will take but very little time, and will give him a few moments to prepare his papers, if he desires it.

Mr. MORRILL. I am ready to go on.

The PRESIDENT *pro tempore*. The special order can be laid aside informally by common consent.

Mr. MORRILL. I have no objection, if the Senator desires to pass a bill.

The PRESIDENT *pro tempore*. The Chair hears no objection.

Mr. CRESWELL. Then I move to take up Senate bill No. 79, for the benefit of Peter Anderson.

The motion was agreed to; and the bill was read a second time, and considered as in Committee of the Whole. It directs the Secretary of the Treasury to pay to Peter Anderson $1,128, being in full for back pension, at the rate of six dollars per month, from the day he received his wounds to the day his pension commenced, under the award of the Commissioner of Pensions, that is to say, from November 7, 1847, to July 13, 1863.

Mr. SHERMAN. I should like to hear the report in that case.

The PRESIDENT *pro tempore*. The Chair is advised that no report has been made.

Mr. CRESWELL. I will state, for the information of the Senator from Ohio, that this is a measure that was submitted to the Committee on Invalid Pensions in the other House during the last Congress, and I being a member of that committee during that Congress, examined this bill myself and prepared a report upon it.

Mr. SHERMAN. If there is a report from the other House let that be read.

Mr. CRESWELL. I have the report which was prepared and presented to the House last year, containing the facts, which facts I know to be correct, because the report was drawn by myself after investigation. If the gentleman desires it, I will read the report myself, or send it to the Clerk. I will read it:

The Committee on Invalid Pensions, to whom was referred the petition of Peter Anderson, respectfully report:

From the evidence adduced in support of the petition, it appears that the petitioner served as a seaman on board the United States frigate Independence, in the Pacific ocean, during the Mexican war, and that he was wounded several times very severely while in a boat action between the boats' crews of the Independence and the Mexican forces at Urias, on the 7th of November, 1847; that in consequence of the wounds thus received he has lost the use of his right arm, and has been compelled to submit to the amputation of his left leg; and that a competent board of naval surgeons, after due examination, has reported that his disability is total and permanent. These facts having been established to the satisfaction of the Pension Bureau, a naval pension, at the rate of six dollars per month was awarded him under the act of Congress of April 23, 1800, to date from July 13, 1863.

The petitioner now asks that he may receive his back pension from November 7, 1847, the day he was wounded, to July 13, 1863, the day of the commencement of his present pension, and explains his delay in making application for his pension in the following manner: he states that it was not originally his intention to ask the Government of the United States to grant him a pension; but that, having determined to maintain himself as long as he could, he settled, after the Mexican war, at Mobile, where he succeeded, with the assistance of his friends, in earning a decent support until driven out by the rebels, who presented to him the alternative of fleeing the South or forswearing his country; that by his compulsory flight he lost all that he had saved out of the hard earnings of seven years; and that, being without adequate means of support and unable to gain a livelihood by manual labor, he was compelled, after placing himself under the protection of the Government of the United States, to claim the bounty which it tenders to those who have been disabled in its service.

Your committee are of the opinion that the application of the petitioner is meritorious, and that his prayer should be granted; and to that end report the accompanying bill, with a recommendation that it do pass.

The committee in the other House last year were entirely satisfied that this was a meritorious case, and there is this particular feature about it: although entirely disabled in the service of his country, under the old act of 1800 this man receives but six dollars a month, whereas the present rates of pension far exceed that. Senators know that the present rate is very considerably more, nearly double that. We thought it a meritorious case and one that especially presented itself by reason of this man's patriotism and sufferings during the rebellion, and we believed that he should receive his back pension from the time he was actually disabled in the service of his country. The committee so recommended.

The bill was reported to the Senate without amendment.

Mr. HENDRICKS. I wish to ask the Senator from Maryland whether my colleague who is at the head of the Committee on Pensions, but whom I do not see in the Chamber at present, has examined and reported in favor of this bill. Have the committee of this Senate reported in favor of the bill?

Mr. CRESWELL. They have. The gentleman from Kentucky [Mr. DAVIS] made the report, and at his request, being intimately acquainted with the facts of the case, I asked that the bill should be taken up.

Mr. HENDRICKS. It is a departure from the established precedents.

Mr. DAVIS. I will inform the honorable Senator from Indiana that this case was very carefully considered by the Committee on Pensions. They examined all the facts and thought it an exceedingly meritorious case. The committee agreed harmoniously and heartily in favor of the bill as it has been reported. I hope it will pass.

Mr. GRIMES. There is just one question presented by this bill. I believe I am a little familiar with it, as the person who asks this pension claims to be a citizen of my State. The rule heretofore prevailing has been that the pension should not go back anterior to the time at which the application was made. In this case the Committee on Pensions have recommended that the pension shall go back anterior to that time, and as I understand it, principally for the reason that this party was wounded some years ago, during the Mexican war, and has lost his property during the rebellion. The question is whether the Senate will establish a new rule or will make this an exception to the general rule which has heretofore prevailed, that pensions shall not run prior to the time at which the party asking the pension made the application.

Mr. DAVIS. I will merely remark that it appeared satisfactorily to the committee that in consequence of these wounds this man Anderson was utterly disabled from performing any labor for his own support. His services were very meritorious; his disability was complete; and he had been in that condition for many years; and the committee, without any hesitancy, and unanimously, thought he ought to have this pension, and reported the bill providing for his relief.

Mr. VAN WINKLE. The facts of this case are very peculiar. I did not recognize the name when it was first called up, but in the absence of the chairman of the committee I will state that this man was in the Mexican war, and in doing some boat service—I think in the harbor of Vera Cruz—he was wounded several times, so that he has not the use of either one of his limbs. While they remain attached to his body, he has not the full use of either arm or either leg. Notwithstanding he was in that condition, after the Mexican war ceased, he did not apply for a pension. On the contrary, he went into a little business, keeping a fruit and cigar store in the city of Mobile, and had actually accumulated one or two thousand dollars' worth of property at the time the rebellion broke out. He was employed by some of our authorities to convey some information to the troops at New Orleans, and was suspected of having done so, and in consequence of that he was driven out of that place. He had converted about a thousand dollars of his property, if I recollect rightly, into tobacco. That he also lost. He came here and was before the Pension Committee last winter, a perfectly helpless man. In his patriotism he disdained to ask for his pension, notwithstanding he was so severely crippled, but went on and supported himself, and his family also, by his own industry; but now being deprived of everything, being much older than when that thing occurred, unfit for anything like manual labor, utterly helpless, he comes here and asks simply that the arrears of pension which his patriotism induced him to relinquish may be paid to him. This, I believe, is about the outline of his story.

Mr. BUCKALEW. I think the Senator from West Virginia is speaking of another case. There seems to be a question as to the identity of this man. The name in this bill is Peter Anderson. The name of the person to whom the Senator from West Virginia refers is C. F. Johnson.

Mr. CRESWELL. The Senator from Pennsylvania is entirely mistaken. This is precisely the case stated by the Senator from West Virginia.

Mr. BUCKALEW. I should like to ascertain that fact before I consent to vote for this bill and break down the rule that has been heretofore established.

Mr. POMEROY. The facts stated by the Senator from West Virginia are very familiar to me. I have heard of those facts before, but I supposed they applied to another man.

Mr. BUCKALEW. I think so.

Mr. CRESWELL. Those were precisely the facts put in proof before the Committee on

Invalid Pensions of the House of Representatives at the last session, and upon the strength of those facts this report was made, not giving the facts so much in detail as they have been given by the Senator from West Virginia, but I remember distinctly that they were all stated and proved, and in making this report the same conclusions were given.

Mr. BUCKALEW. I move that this case be laid over for the present, and when the question in regard to the identity of this person is cleared up I will call it up again.

Mr. LANE, of Indiana. This is a bill for the relief of Peter Anderson, and the report is in relation to Peter Anderson, and there cannot be any mistake about it.

Mr. CLARK. I think the identity of this man had better be established, for certain it is that we have precisely a similar case before the Committee on Claims of a man asking payment for tobacco, who calls himself Johnson. If they be different persons, their cases are marvelously alike. If they are but one that fact should be ascertained.

Mr. LANE, of Indiana. Here is the signature attached to the papers.

Mr. CLARK. That does not identify the man. There can be no harm in laying the bill aside until we can ascertain the fact.

Mr. VAN WINKLE. I will state that there must be a mistake in the name. This case of Anderson's was considered in the committee under the supposition that it was the same as the case of the person called Johnson.

Mr. CLARK. It may be all right, but we certainly have a man by the name of Johnson, who was wounded in the Mexican war, who has not the use of his limbs, who has a claim for tobacco, and he asserts that he went through our lines to do service for us and lost that tobacco. I think we had better determine this question of identity before proceeding further. I have no hostility to the claim.

Mr. VAN WINKLE. I suggest that the bill be recommitted.

Mr. CLARK. Let it lie on the table, and we can ascertain how the facts are.

Mr. DAVIS. I happen to be upon both committees, and I know the two cases are separate and distinct. The case the Senator from New Hampshire refers to is the case of tobacco which was lost in the Mississippi river in a skiff.

Mr. CLARK. Allow me to ask the Senator if he knows the two men, and knows they are different men?

Mr. DAVIS. I know that the loss of the tobacco in these two cases was at different periods, and at different and distant places. One lost his stock in trade in the city of Mobile; the other had his tobacco on the Mississippi river in a skiff, which he said was taken possession of by some United States officers, and a storm came up and sunk his skiff.

Mr. CLARK. If the Senator from Kentucky will say that he knows the two men, and knows them to be different persons, I will not object to the bill; otherwise, I shall move to lay it upon the table until we ascertain that fact.

Mr. DAVIS. I do not know either of them.

Mr. CLARK. Then I think it had better lie on the table for the present.

The PRESIDENT *pro tempore*. It is moved that this bill be laid upon the table, and that motion is not debatable.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed the joint resolution of the Senate (S. R. No. 36) providing for the expenses incurred in searching for missing soldiers of the Army of the United States, and for the further prosecution of the same.

The message further announced that the House of Representatives had passed a bill (H. R. No. 334) to fix the number of judges of the Supreme Court of the United States, and to change certain judicial circuits, in which it requested the concurrence of the Senate.

ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House of Representatives had signed an enrolled joint resolution (H. R. No. 17) giving the consent of Congress to the transfer of the counties of Berkeley and Jefferson to the State of West Virginia; and it was thereupon signed by the President *pro tempore*.

APPORTIONMENT OF REPRESENTATION.

The PRESIDENT *pro tempore*. The special order assigned for to-day at one o'clock, being the joint resolution (H. R. No. 57) proposing to amend the Constitution of the United States, will now be considered as before the Senate, and upon that question the Senator from Maine [Mr. MORRILL] is entitled to the floor.

Mr. MORRILL addressed the Senate in support of the joint resolution. [His remarks will be published in the Appendix.]

Mr. WILSON. Mr. President, there are indications not to be mistaken that this amendment is doomed to defeat. To me this result will be a subject of sincere and profound regret. My heart, my conscience, and my judgment approve of this amendment, and I support it without qualification or reservation. I approve of the purpose for which it is introduced; I approve it because I believe it would sweep the loyal States by an immense majority; that no public man could stand before the people of the loyal States in opposition to it or oppose it with any force whatever. I approve it because I believe if it were put in the Constitution every black man in America, before five years could pass, would be enfranchised and weaponed with the ballot for the protection of life, liberty, and property.

Senators on the other side of the Chamber pronounce this measure unjust to the States recently in rebellion. Some of them tell us that we who are pressing it are willing if we can secure franchise for the black men to let all other races go. We are quite as careful of the rights of other races as are the Senators who reproach us. We are also told that it is immoral and indecent, an offense to reason and to conscience. Sir, this measure came into Congress with the sanction of the committee on reconstruction, composed as it is of men of individual honor and personal character, and as true to the cause of the colored race as any other men here or elsewhere. It comes to the Senate by an overwhelming vote of the House of Representatives. It is sustained by ninety-nine out of every hundred of the public journals that brought the present Administration into power, and were it submitted to the American people it would I am quite sure be sustained by men in the loyal States who believe that the soldier who fought the battles of the Republic is the equal of the traitor who fought against the country. It would be a question of manhood, a question whether one rebel in South Carolina shall count as much in the Electoral College and in the House of Representatives as two loyal men of New England, or of the great central States, or of the West.

Fighting the battle before the people on the question of the equality of the basis of representation, it would triumph, go into and become a portion of the Constitution of the country. Being incorporated in the Constitution, the practical effect would be this, and only this: it would raise up a party in every one of these States immediately in favor of the enfranchisement of the colored race. That party might be animated and influenced by the love of power, by pride, and by ambition. These men might begin the contest, for they would not like to yield the power of their States in Congress; they might begin the battle animated by no high and lofty motives; but as soon as the discussion commenced, it would address itself to the reason, to the heart, and to the conscience of the people. The advocates of negro enfranchisement would themselves speedily grow up to believe in the justice, equity, and right of giving the ballot to the black men. There would be discussion on every square mile of the rebel States. Appeals would be made to their pride, to their ambition, to their justice, to their love of fair play, to their equity; all the interests and passions and all the loftier motives that can sway, control, and influence men, would impel them to action. They would cooperate with the friends of freedom throughout the country; would seek their counsel and aid. They would be the left wing of the great army of freedom, of elevation, and improvement in the country. We would give them our influence, our voices, and our aid in fighting the battle of enfranchisement. They would have the support and the prayers of the poor black men of the South; and before five years had passed away, there would not be a rebel State that did not enfranchise the bondman. And when they did triumph, they would have made a public sentiment by which every black man could go to the ballot-box in safety with his friends, vote with his friends and under the protection of his friends, and without "having his head broken." Force suffrage by positive law upon Virginia or the Carolinas or any of these States to-day, and the negro would go to the ballot-box almost at the peril of his life; but let there be four or five years of discussion by liberal and just men in any of these States, and let them triumph and give the suffrage themselves, and they will make it as easy for the black men to vote without molestation as they vote to-day in the Commonwealth of Massachusetts.

I believe if this amendment were placed in the Constitution it would bring suffrage to the black men of the country within five years; I entertain not the shadow of a doubt about it; and that when suffrage did come under those circumstances, it would come, in the words of Mr. Lincoln, "to stay;" it would be fixed forever in the general policy of the whole country. Believing this, I must give my vote for the proposition. If I were to contribute to the defeat of this great measure, and nothing should be done for the enfranchisement of the men who have fought the battles of this country, and of this race to which the country owes so much, I could not go back to my State and answer the people there or answer my own conscience.

Senators on the other side of the Chamber have been pleased to talk about these proposed amendments to the Constitution as though we here were "innovators" and "radicals," for that seems to be a phrase that falls glibly from the lips of gentlemen in our time. Do not Senators know that the framers of the Constitution of the United States, mindful of the imperfections of human institutions, prescribed a mode for the amendment of the work of their hands? Do they not know that the First Congress under the Constitution, guided by men who were in the constitutional convention, proposed twelve amendments to the Constitution, ten of which were incorporated into that instrument? Do they not know that the Third Congress proposed another amendment, and the Seventh Congress another, which were adopted? Do they not remember that eminent statesmen from that time until this have proposed amendments to the Constitution without subjecting themselves to denunciation as "innovators" and "radicals?" Do not these Senators remember that five years ago, when these Halls rang with angry menaces of incipient treason, five amendments to the Constitution were proposed in what is called the Crittenden compromise: an amendment to recognize and establish slavery, and protect it south of 36° 30′; an amendment forbidding the nation to prohibit slavery where it possessed exclusive jurisdiction; an amendment forbidding Congress to abolish slavery in the District of Columbia without the consent of Maryland and Virginia; an amendment to allow the slave-masters to take their slaves with them and range all over the loyal States, and hold them manacled and chained in the face of a Christian people; and an amendment to pay for fugitive slaves that had escaped from the United States marshals or were taken from them by any mob that might be raised up in any part of the country? Do not Senators remember

that the men who now taunt us with a proposition to amend the Constitution voted to place these inhuman and unchristian amendments in the Constitution of this country? Sir, the propositions embodied in that Crittenden compromise were the wickedest measures that were ever presented to a nation since the morning of creation.

Sir, we have passed through this war. It has tested alike the weakness and the strength of our institutions. By the framers of the Constitution, persons held in bondage numbered three fifths in the basis of representation. That concession to slavery gave the slaveholding States undue power and influence in Congress, and was ever a just cause of complaint. By emancipation these persons formerly accounted as slaves are free, thus giving additional Representatives to the late slaveholding States. By the Constitution as it is, four and a half million slaves recently emancipated are added to the free population of the country, adding thirteen Representatives to the emancipating States. By the Constitution as it is, the States are clothed with power to prescribe the qualifications of electors. The emancipated slaves that would give to the slaveholding States some thirty Representatives in Congress are wholly denied the right of suffrage. By adding to the basis of representation these freedmen, the power of those who deny their rights in the government of the country would be strengthened. By the Constitution as it is, one rebel in South Carolina or Mississippi is equal in power in the House of Representatives and the Electoral College to two loyal men in New England, the great central States, or the States of the West. Such inequality is unjust and wholly indefensible.

When the Constitution of the United States was framed the States controlled this subject of suffrage. We have had quoted to us the opinions of the eminent statesmen of other days. Sir, whatever may have been their utterances, the statesmen of that period were the men who made the State constitutions, and under those State constitutions it is a question whether one half of the men who fought the battles of the American Revolution could vote or not. In the State of Massachusetts, to be a voter under the constitution of the State at the time the Constitution of the United States was framed the voter must be in possession of $300 worth of property. I have no hesitation in saying that when the Constitution was framed fifty per cent. of the men of Massachusetts who had fought in the ranks during the Revolution did not possess the $300, and could not vote in that State. In Connecticut $200 worth of property was required. In Rhode Island there was a property qualification, and it continued until the Dorr rebellion. In New York there was a property qualification, a freeholder or an annual rent of forty shillings; in New Jersey $250; in Indiana fifty acres of land were required; in Virginia a freeholder; in North Carolina fifty acres of land; and in South Carolina fifty acres of land.

Do Senators believe that in these States the men who fought the battles of the country during the revolutionary war could vote under those constitutions? If you will look at the number of votes cast in those States at that time you will see that not one fourth of the men who would be entitled to vote, if all persons over twenty-one years of age were allowed to vote, did vote. The men who framed the Constitution of the United States made these State constitutions. They called them republican in form, and inserted a provision in the Constitution of the United States guarantying that they should continue to be republican in form. They also provided in the Constitution that the electors under it should be the electors of the most numerous branch of the State Legislatures, and they well knew what those qualifications were. Every State constitution provides for electors, prescribes the qualifications for suffrage. The laws of the States provide for qualifications of electors. Every State, from the adoption of the State constitutions to this hour, has claimed the authority, and exercised it, to settle the questions pertaining to suffrage. They never supposed that the Federal Government had the power to change it. They never gave that power; they never intended to give that power; and I do not believe that a respectable vote could be obtained in the States to give the Federal Government this power.

Mr. YATES. I desire to propound a question or two to the Senator, not with any view of embarrassing him, but for my own information. I should like to ask the Senator whether every man made free by the first clause of the constitutional amendment is not as free and entitled to the same civil and political rights and privileges as the Senator or myself. In other words, I ask whether he is not one of the people of the United States, one of the citizens of the United States, and entitled to the same rights and privileges as the Senator or myself or any other one of the people of the United States, by force of the constitutional amendment abolishing slavery and emancipating that people, as I contend, into the sovereignty, into the body-politic of the United States?

That proposition being true, as I think he will admit and cannot deny, according to the stand-point from which he and I see things, I will not ask him whether under the Constitution as it now exists the States have jurisdiction over the question of citizenship in the States, but I will ask him whether, when we come to make an organic alteration in the Constitution of the United States, and when we have in view the securing of the rights of all the citizens of the United States without regard to race or color—those words, I believe, according to the opinion of the Senator from Maryland, have no longer any meaning under the Constitution of the United States—we propose to place it in the power of any State in this Union, a rebellious State or any other State, to disfranchise any portion of the American people? And further, I will ask if it is to be submitted to the people of the rebellious States to decide whether the freedmen are to have these rights or not?

Does the Senator from Massachusetts or the Senator from Maine, [Mr. FESSENDEN,] whose opinions are so respected in my own State, or any other Senator pretend to say that under this constitutional amendment the question of representation will be decided by the citizens of these rebellious States, by which I mean not only white citizens, but all citizens, the people who are as free and have the same rights that you and I have to-day? The question is, whether you will permit in a new organic change of the Constitution a portion of the people of the southern States, and rebels and traitors at that, to say who shall be represented by those States upon the Senate floor?

Those are the questions that I desire to propound. I do not put them with any view of embarrassing the Senator, but for my own information; for I will say to the Senator that I have not yet decided whether I shall support this amendment or not. I confess these questions have disturbed me to some extent, and I should like to have them answered.

Mr. WILSON. I can assure the Senator from Illinois that his questions, which he says were not put to embarrass me, but for information, will certainly not embarrass me, and I shall endeavor, if I can, to answer them fairly and squarely. The constitutional amendment that was proposed by the Senator from Missouri, [Mr. HENDERSON,] and reported by the Senator from Illinois, [Mr. TRUMBULL,] adopted by Congress and ratified by the people, was never understood by any man in the Senate or House of Representatives, by any portion of the public press, or by any Senator or Representative in any State, to confer upon Congress the right to prescribe or regulate the suffrage in any State of this Union. If it had been supposed that it gave that power the amendment would never have passed Congress, never have received the sanction of the States. I will state what power it gave Congress beyond all doubt or question. It clothes Congress with ample powers to protect the civil rights and immunities of every emancipated slave in the country. That emancipated slave is as free as I am; the child emancipated in its cradle to-day is as free and as much a citizen of the United States as the Senator from Illinois or myself. But, sir, citizenship never did carry in this country and does not carry in itself the right of suffrage or the right to hold office. A man may be a citizen and not have the right of suffrage. There are men in Massachusetts, in all the States, who are citizens and who have not the right of suffrage.

Mr. YATES. Will the Senator allow me to ask him another question?

Mr. WILSON. Certainly.

Mr. YATES. Was it understood at the time of the passage of the amendment to the Constitution that it would confer civil rights?

Mr. WILSON. I suppose so. I have no doubt of it; none whatever. When that amendment was added to the Constitution it gave Congress ample power to make these men free, as free as the non-voting white population of those States, as the women or children, or such persons as were not allowed the privilege of suffrage. The Massachusetts bill of rights declares that "each individual in society has a right to be protected by it in the enjoyment of his life, liberty, and property." Mr. Webster says that "the right of being protected in life, liberty, and estate is due to all, and cannot be justly denied to any, whatever be their age, property, or residence in the State." This sacred right to be fully protected in life, liberty, and estate is due to the freedmen, and I belive Congress is clothed with ample authority to secure the emancipated slaves in their civil rights and immunities. But I did not understand then, and I do not believe now, that it gives Congress the power to clothe these men with suffrage or to confer office upon them. Participation in the Government is one thing; the right to be protected in life, liberty, and estate is another thing. Every human being in the country, black or white, man or woman, or little child in the cradle, has a right to be protected in life, in property, and in liberty; that is, civil liberty. The right to hold an office, the right to vote, the right to take part in the governing power of the country is a thing that has been regulated by the State in every State in the Union from the beginning of the Government. It is a thing that may be modified and changed by law. No State has a right to pass a law denying security to life, liberty, or property. In the words of Daniel Webster, the State that does not give protection to the life, liberty, and property of all men violates its duty, because every person has this due him for his allegiance to the Government and his contribution to the support of the country.

Mr. YATES. I do not deny the power of the States to regulate suffrage, to make rules and regulations, and to decide upon the qualifications of those who are electors. It is the duty of the State to preserve and regulate the right, but it cannot destroy the right. I ask the honorable Senator from Massachusetts now, if he believes in the power of the State of Massachusetts or the State of South Carolina, not simply to regulate the right of suffrage, but to deprive a citizen of the right to vote altogether? Can you disfranchise an American citizen?

Mr. WILSON. Well, Mr. President, I answer by saying that, right or wrong, the States do not always enfranchise American citizens. Massachusetts denies suffrage to citizens unless they can read and write.

Mr. YATES. That is not the question. The question is whether she can do it rightfully.

Mr. WILSON. The Senator may say that it is not a thing that ought to be done. I agree to that; and I voted against the amendment in my State requiring reading and writing for that reason. I do not fear universal suffrage. I believe it to be safe in our country.

Mr. YATES. I ask the Senator whether this constitutional amendment will not permit

that thing to be done. Does it not permit the rebellious States to exclude from the right of voting and to disfranchise entirely the freedmen?

Mr. WILSON. I answer emphatically, no! In my judgment—and I have tried very hard to think the other way, and have heard and read a good deal on that subject—this amendment permits nothing, nothing whatever. I have never seen or heard or read anything yet that convinces me that the adoption of the constitutional amendment making free these people gave the Congress of the United States any power to settle the question of suffrage in Pennsylvania, Ohio, Indiana, or anywhere else.

Mr. YATES. The honorable Senator does not understand the last question which I put to him; and that is, whether by the constitutional amendment now proposed the State of South Carolina or any other of the rebel States may not disfranchise the freedmen entirely. Does it not give the States the right to say that colored people shall not vote, or that a certain portion of them shall not vote? Is not that the spirit of the pending amendment? Does it not give constitutional sanction to that doctrine?

Mr. WILSON. I will answer the Senator by saying that I think this amendment leaves the matter with the States just precisely as it is now; there is no implication in it, no compromise in it, no surrender by this Government of any power whatever. This amendment does not touch the question of suffrage at all; this "amendment" simply proposes a penalty for denying to freemen the right of suffrage. It proposes that free persons, as now, shall continue to be the basis of representation; but that if any portion of them, on account of color or race, are denied, in any State, the right of suffrage, they shall not be counted in the basis of representation.

If it is true—and who can doubt it—that the States possess the power of prescribing the qualifications of electors, how can it be maintained that by implication this amendment concedes to the States the power of denying the right of suffrage? This amendment concedes nothing whatever. It yields nothing whatever of the powers now possessed by the Federal Government; but it does say to every State, "If you deny suffrage to any man on account of color or race the whole of that class or race shall be excluded from the basis of representation." There is no compromise in this, no concession, no surrender of any rights now possessed by the Government.

Mr. YATES. Let me state to the Senator the position which I assume. Before the adoption of the constitutional amendment abolishing slavery and giving Congress power to enforce that abolition by appropriate legislation, the States had a right under the Constitution, according to the decisions of the Supreme Court of the United States, to disfranchise the colored people. They were considered a subject race, they were not considered a part of the people, a part of the sovereignty, a part of the citizens of the United States. But by that constitutional amendment they are free, as free as the Senator from Massachusetts this day; and now the question is whether, with this amendment staring us in the face, we shall proceed to insert in the Constitution a new clause by which the States may disfranchise these persons altogether. That is the question—an entirely different question from any that was presented before the adoption of the anti-slavery amendment.

Mr. WILSON. I hold that the amendment neither yields, gives, or surrenders any power. It simply imposes a penalty upon the States for continuing to do what they are now doing. I have in my hands an opinion given by Attorney General Bates, and I think a few paragraphs from it might be advantageous to the Senator from Illinois to hear, and I will read them to him. Mr. Bates says:

"In discussing this subject, it is a misleading error to fail to mark the natural and characteristic distinction between political rights and political powers. The former belong to all citizens alike, and cohere in the very name and nature of citizenship. The latter participation in the powers of government by voting and exercising office does not belong to all citizens alike, nor to any citizen, merely in virtue of citizenship. His power always depends upon extraneous facts and superadded qualifications; which facts and qualifications are common to both citizens and aliens."

And Mr. Bates says further:

"The Constitution of the United States, as I have said, does not define citizenship; neither does it declare who may vote, nor who may hold office, except in regard to a few of the highest national functionaries. And the several States, as far as I know, in exercising that power act independently and without any controlling authority over them, and hence it follows that there is no limit to their power in that particular but their own prudence and discretion, and therefore we are not surprised to find that these faculties of voting and holding office are not uniform in the different States but are made to depend upon a variety of facts purely discretionary, such as age, sex, race, color, property, residence in a particular place, and length of residence there." * * * *

"And as to voting and holding office, as that privilege is not essential to citizenship, so the deprivation of it by law is not a deprivation of citizenship. No more so in the case of a negro than in case of a white woman or child."

Mr. President, if we had the power by legistive action to regulate suffrage in the States I should vote for extending the right of suffrage to the black man with all my heart, soul, and reason. I had hoped to be able to deduce the power from the provisions of the Constitution so that I could vote for it according to my judgment and conscience; but I cannot do so. If the Senator from Illinois or any other Senator has come to the conclusion that he has the power I cannot object to it; and if the Senate and the country arrive at that conclusion I shall not complain. I have labored in public and in private life for thirty years for the emancipation of this race and for their elevation and improvement. I believe that suffrage to them is a weapon of self-protection and that it ought to be granted. If after having called one hundred and eighty thousand men of the colored race, native-born American citizens, to fight our battles, after the aid they have given us, after they refused to take the musket for the defense of the confederacy when the confederacy appealed to them to do it, if we refuse to extend to them the suffrage, the weapon of protection, it will bring upon this nation, as slavery brought upon it, the curse of an offended God. I believe in the years to come we shall be punished for it as we have been punished for four weary years with fire and blood and death for two centuries of oppression. I will go as far as he who goes furthest in every practical measure that can bring about negro suffrage. I do not see the power in the Constitution as it now stands; I do not believe that Congress or anybody in Congress thought the power was given when we adopted the anti-slavery amendment; I do not believe the States thought so when they adopted it. I do not find the power there. I abandon, then, all hope of accomplishing the object by legislation of Congress, at any rate for the present.

Sir, we have various propositions for the amendment of the Constitution. A proposition is made by the Senator from Missouri [Mr. HENDERSON] that in suffrage there shall be no distinction on account of color. I am wedded to that idea as a principle, and I would vote for that amendment and send it to the people if I believed the people would adopt it. I cannot think, however, there is any hope for its adoption after the indications of the last six months—after what has been done by enlightened Christian States. These States summoned the black man to fight the battles of the endangered country, put the musket in his hands, gazed with beaming eye upon his glittering steel, and heard the inspiring music of his tramp as he moved away to fight, bleed, die, that the nation might live, and saw those men come back maimed and wounded. These States know that thousands of them are in their graves, for within five miles of where we sit sixty-two hundred black soldiers sleep in their graves. And yet, after all the fidelity and heroic conduct of these men, prejudice, party spirit, and conservatism, and all that is base and mean on earth combine to deny the right of suffrage to the brave soldier of the Republic. God alone can forgive such meanness; humanity cannot. After what has taken place, is taking place, I cannot hope that the constitutional amendment proposed by the Senator from Missouri will receive a majority of three fourths of the votes of the States. I therefore cannot risk the cause of an emancipated race upon it. In the present condition of the nation we must aim at practical results, not to establish political theories, however beautiful and alluring they may be.

In regard to that question I feel as I do in regard to the question of legislation by Congress. I do not believe the cause ought to be risked upon that uncertain proposition. I care too much for this question of enfranchisement to risk it on any theory whatever. I choose to meet it on the practical facts that are before me to-day. I have to answer to God for my vote, and I cannot justify myself on any man's theories; but I must act on the facts as presented to me in the exercise of the best judgment I have on those facts.

Then there is a constitutional amendment proposed by the Senator from Wisconsin [Mr. DOOLITTLE] basing representation upon voters. I do not commit myself against it, but let us look at it for a moment and see what it really is. Suppose it were adopted, it leaves the black men in the South just where the pending amendment leaves them. They are there at the mercy of those States. There are no differences between the two propositions in that respect. I know no objection against the pending amendment that does not apply with equal force to this amendment so far as giving suffrage to the black man is concerned.

But suppose, Mr. President, the rebel States give the negro the right of suffrage, then they would stand in power just where they stand now. How is it with the loyal States? It throws out of the basis at least two and a half millions of unnaturalized foreign-born men and women, and by this we lose at least fifteen Representatives in the other House and fifteen presidential electors; and they do not go from the East to the West, but from the North to the South. Under that system Massachusetts would lose one or two Representatives, not because of her excess of women. The western States would gain, perhaps, in the aggregate not to exceed three or four Representatives from New England and the central States, by having more males than females; but that is a trifling matter. A great result of this proposition would be to cast out of the calculation of the basis of representation two and a half millions of persons who are now included. In 1860 there were in the loyal States 3,856,628 unnaturalized persons of foreign birth, and in the rebel States 233,651. I estimate that Massachusetts would lose one Representative certainly, and probably two, by this change; that New York would lose at least four, Pennsylvania two, Ohio two; and other States would lose in their representation.

It may be best to make this sacrifice, to take fifteen Representatives from the loyal States and add them to the strength of the rebel States; you may be able to go before the people and prove that it is right; you may go to the great State of New York and get her to agree to a constitutional amendment basing representation on the number of voters by which she will be unable to count half a million of unnaturalized foreigners for whom she now has four Representatives in Congress; but I apprehend that it will lead to discussion, to division, to opposition, if it ever passes; and if it is done I apprehend it will be whispered in the ears of the immigrants from the Old World that for the sake of the negro we have counted them out of the basis of representation.

Mr. STEWART. I should like to inquire of the Senator how he makes it out that under that proposition New York would lose four Representatives as compared with the rest of the country.

Mr. WILSON. I will answer in this way: that New York to-day has four Representatives in the other House who are there by reason of her

unnaturalized foreign-born population being included in the basis of representation. She would of course lose every one of them.

Mr. STEWART. I think it will be found on examination that the foreign element is more equally distributed throughout the northern States than would at first be supposed—I speak particularly of the males over twenty years of age; there are more minors West than there are East. There is another fact to be taken into consideration when you come to apply such a measure to the South. The South has lost a greater proportion of its male population than the North. I think that on the basis of voters, the result would be to give a greater strength to the North as compared with the South than would the constitutional amendment proposed by the committee. I think this would be the result, because the South as I have said, has lost a far greater proportion of her male population than the North. Her males have been mostly in the army, and from the best statistics I can get—and I have had several gentleman helping me to figure the matter out—I have come to the conclusion that the South will lose more in proportion than the North if you take the basis of voting, and that the foreign-born element is pretty equally divided throughout the North. I do not think, after a careful examination, that any of the results the Senator apprehends will follow.

Mr. WILSON. I think if the Senator will make a close and careful calculation, he will come to the same conclusion that I have. We were told the other day by the Senator from Pennsylvania that the South had lost during the war a million colored persons; the Senator from Wisconsin yesterday repeated that statement; the Senator from Nevada tells us to-day that the South has lost a great many more men than we have.

Mr. STEWART. In proportion to the relative numbers.

Mr. WILSON. I believe this talk about the great negro loss has no foundation in fact.

Mr. STEWART. I was not speaking of the loss of the negroes, but of the white race.

Mr. WILSON. I understand the honorable Senator. I made inquiries the other day of General Saxton, a gentleman who, I think, knows more about that subject than almost any man in the country—at any rate as far as South Carolina and Georgia are concerned—and he expressed the opinion that there are as many negroes in South Carolina and Georgia as there were when the rebellion broke out, and more.

Mr. DOOLITTLE. On that subject allow me to state that Governor Aiken, who resides in the immediate neighborhood where General Saxton is in command, made the statement to me which I stated yesterday, and he went into details as to the mortality among negroes directly under the command of General Saxton.

Mr. WILSON. I will state to the Senator that General Saxton knows far more about it than Governor Aiken. Governor Aiken lost some negroes, and I find it estimated that on one island down there where they thought they had about two thousand negroes there turns out to be seven thousand. Then, in regard to this matter of loss, it may be that the rebel States lost a half million men, including white men and black men both, in the war; we probably lost three hundred and fifty thousand or not far from that. I do not think either estimate is exceeded by the actual fact.

Mr. DOOLITTLE. The Senator will allow me a word on that point. Governor Aiken stated another fact in relation to one of those islands there, that five thousand negroes coming down from the country had gone on one of those islands. They were there during a period of six or seven months, and twenty-eight hundred of those who went on that island were buried there of that five thousand.

Mr. WILSON. When that statement is investigated, it will be found that Governor Aiken has made a great mistake; at any rate I had a long talk with General Saxton, who has been there for years, who has placed these men on the islands, who has located eight thousand families, about forty thousand of these colored people on forty acre lots there, and he says there is a great mistake in all these estimates about the mortality of the negroes. I was authorized by General Saxton to assert that these statements made by Governor Aiken are entirely incorrect.

There is another objection, Mr. President—I do not say it is a fatal one, if we could not get anything else, which would prevent my voting for it. Maryland, Missouri, Tennessee, and Arkansas have shut out certain classes of rebels for a number of years; they are not permitted to vote on account of their participation in the rebellion. Pass this amendment, and what is the effect of it? To let the rebels in those States immediately in to vote. They will be let in at once, and you will prevent these other States from doing anything to keep any portion of the rebels from voting. That will be the operation in Maryland. It will be the same in Missouri. Perhaps that would be a good thing, but I have some doubt about it.

Mr. STEWART. I should like to inquire whether the operation of that exclusion in Missouri goes longer than 1870. I believe the operation of it in all those States is until 1870. Then there is to be a new census. This change cannot take place until 1870; and consequently if they do not intend to extend it beyond that time, it would not operate on them. Clearly that argument would not be good as to anything they have already done, nor would it prevent any State from excluding such persons until 1870.

Mr. WILSON. It might not prevent their doing it up to that time; but I think that some of these States, and especially Tennessee, have excluded for a longer time, and I am willing that these States shall deal with their rebels pretty much as they please, and I do not wish to offer a bounty for rebels to participate in the government of this country.

Mr. LANE, of Kansas. Will the Senator allow me to put one question; and I should like to hear him upon it? Kansas, when she grants suffrage to the colored men, will grant it on the basis of qualification. We have, say, eight thousand black men; and we pass a law authorizing those who can read and write to vote. Four thousand of them, under that qualification, vote under the amendment the Senator is now advocating; we should get no credit for the four thousand who exercise the right of suffrage, while under the constitutional amendment proposed by the Senator from Wisconsin we would get credit for the four thousand who do exercise the right of suffrage.

There is one other question on which I should like to hear the Senator from Massachusetts. Is it true that the delegation lost by New York and Massachusetts would be gained by the South, unless the South extended the right of suffrage to the black men? And if the South does extend the right of suffrage to the black men, cannot the philanthropists of Massachusetts and New York afford that loss for the good of other people?

Mr. WILSON. I would be willing to make many sacrifices for the purpose of securing suffrage to the black men of the South and of preventing what I regard one of the greatest crimes ever perpetrated in history; that is, if after a war like that through which we have passed we are to settle down and exclude an entire race of four and a half million people from any participation in the election of public officers.

Mr. LANE, of Kansas. I should like the Senator to answer the case I put.

Mr. WILSON. I answer the Senator frankly that I think basing representation on legal voters will have a tendency to secure suffrage to colored men.

Mr. LANE, of Kansas. But it is the other question I put which is the most important to me and to my constituents. If we grant suffrage on an educational basis to one half of our colored people and refuse it to the other half, do we under the language of the amendment to the Constitution reported by the reconstruction committee get credit for that four thousand? Are we not refused it?

Mr. WILSON. Of course, under the very terms of it. Is the Senator in favor of suffrage in Kansas on qualifications?

Mr. LANE, of Kansas. Yes, sir, and our people are. I am instructed by my constituents to vote for a constitutional amendment predicating representation on suffrage, and I am instructed to vote for extending suffrage in the District of Columbia on an educational basis. There is where I stand, and where my constituents stand.

Mr. WILSON. I am glad to hear that declaration from the Senator, and especially in regard to the District of Columbia. Sir, a few words in regard to the proposition of the committee and I close. I support it for the reason that it settles the basis of representation and imposes a penalty on States that exclude any class of men on account of race or color. It is in the nature of a penalty. I see no compromise in it, no surrender in it, no defilement of the Constitution in it, no implication that can be drawn from it against the rights or interests of the colored race. On the contrary, I believe the black men from the Potomac to the Rio Grande would go for it and rejoice to see it adopted. I venture to say that if you put the question to the black men of Charleston, South Carolina—and there are hundreds of them of intelligence, as I know by personal observation, and some of them of marked intelligence—put the question to them whether they would rather see that amendment adopted, which would say to South Carolina, "The basis of representation rests on the whole population, just as it is in the Constitution now; but if you exclude the black men of South Carolina from the suffrage, your representation shall be reduced from six Representatives to two," how do you think they would vote? You would find them to be practical men, men who to achieve the impossible will not peril the possible.

Mr. DIXON. Frederick Douglass and George T. Downing have remonstrated against it.

Mr. WILSON. I am not speaking of the theories of Mr. Douglass or of Mr. Downing, but simply of what those men who are to be affected by the amendment would say. I tell you that ninety-nine of every hundred of those black men would say "amen" to that proposition with all their hearts.

Mr. LANE, of Kansas. To which proposition?

Mr. WILSON. To the original proposition now pending, that will cut down the representation of South Carolina in the House of Representatives if she continues to deny suffrage to them; and why? They would say, "These men who represent South Carolina in Congress are not our friends; they are not men who advocate our rights or support our rights; their voices and their votes are given against us; therefore if they deny to us the privilege of voting, we hail and welcome an amendment that shall cut down their representation, and put a penalty on them for their denial of suffrage to us." I say these colored men would welcome it; and I say further, that if that amendment was incorporated into your Constitution, men in South Carolina and other States would at once begin to advocate the enfranchisement of the black men. I have conversed with a great many leading southerners on this subject, and I have yet to meet the first man who does not admit that if it was an achieved fact—if it was in the Constitution—the practical effect would be that they would give suffrage to the colored men; and they would give it entire, not dependent upon anything. It would come, come by their advocacy, come by their speech, come by their votes, come by their lifting up the public sentiment and instructing it in their States to a height that would comprehend not only their own pride, ambition, and interest and feelings, but the rights of the poor black men; and when it was carried the black men would march with them, shoulder to shoulder, to the ballot-box,

and give their votes for the country that enfranchised them, and for the men who advocated and maintained their rights and interests.

Sir, it is for that reason that I support this, and for this reason besides, that if you put that question to the people of Kansas, of Pennsylvania, of Indiana, New York, or any of the New England States, I should like to meet the man and like to see any man in the Senate or elsewhere go before that people and oppose it. It would go like a prairie fire, sweeping everything before it, for there is deep down in the minds of the men who saved the country in the field, and of the people generally, a feeling that we at any rate are man for man equal to the men in the rebel States, and will not permit a settlement of this question making one rebel in South Carolina, Mississippi, or Louisiana, the equal of two loyal soldiers in Indiana, in Ohio, Pennsylvania, Kansas, or anywhere else.

Sir, this original amendment would have no prejudices to encounter in the loyal States. It would have no prejudices against negro suffrage to encounter, no disputes about power. It is plain upon its face, a clear declaration that the Constitution shall stand as it is in regard to the basis of representation; but if the States exclude any class of men on account of race or color, they shall pay the penalty of diminishing their basis of representation and their power; and it would carry the people as no other question that has been propounded from your chair, sir, for the last four years carried them; stronger than the anti-slavery constitutional amendment itself. There is no doubt about that. Pass the amendment to-day and the Legislatures that are now in session in the loyal States will adopt it. If we had passed it three weeks ago, twenty States would already have adopted it. Either of the other amendments—the one of the Senator from Wisconsin to base representation on legal voters, or the one of the Senator from Missouri forbidding any distinctions on account of color or race—would have to encounter in several States debate, resistance, opposition. This amendment would sweep over the loyal States with the resistless force of a squadron of Sheridan's cavalry in the valleys of the Shenandoah.

Mr. NESMITH. I move that the Senate proceed to the consideration of executive business.

Mr. FESSENDEN. I wished to take the floor upon this question, but I was waiting for a moment to see if there was any other Senator who desired to address the Senate.

Mr. NESMITH. I withdraw the motion.

Mr. FESSENDEN. Mr. President——

Mr. JOHNSON. Will the honorable member from Maine yield me the floor for a moment?

Mr. NESMITH. It is late in the day, and I presume the Senator from Maine would prefer to speak to-morrow.

Mr. FESSENDEN. I cannot ask any indulgence of the Senate for myself personally. I am perfectly willing to go on, and close the debate to-night. I am very desirous that this question shall be taken.

Mr. SHERMAN. There will be amendments to be acted on before we reach the final vote.

Mr. FESSENDEN. I presume so.

Mr. SHERMAN. Perhaps we had better proceed to act on them now, and let the Senator postpone his remarks until the proposition assumes a more definite form.

Mr. FESSENDEN. I am unwilling to let the matter stop here for to-day, unless we have a definite hour fixed for taking the vote.

Mr. JOHNSON. I was about to propose, with the consent of the Senator from Maine, that we should come to an understanding to begin to vote to-morrow at three o'clock, so that the Senator from Maine may address the Senate to-morrow. It is nearly four o'clock now.

Mr. STEWART. Why not name a later hour to-morrow, so as to give the Senator from Maine a chance to get through?

Mr. FESSENDEN. If there are other Senators who propose to speak we had better go on further now. If, however, there is nobody to speak on the main question but myself, I shall not require all the time between one and three o'clock.

Mr. STEWART. There are amendments to be disposed of.

Mr. JOHNSON. My suggestion was that we begin to vote at three o'clock to-morrow.

Mr. FESSENDEN. In fact I do not propose to make any very extended remarks on the subject; but if Senators think it would be more convenient to take the vote to-morrow at three o'clock, and are willing to indulge me for awhile in the morning, I shall then occupy a short time. I think I shall not take up anything like the time that will elapse between one and three o'clock. But if it is understood and assented to all around that the vote is to be taken at that time, and that I retain the floor, I shall not object to the postponement.

Mr. JOHNSON. I make the motion to postpone.

Mr. FESSENDEN. I desire to know first whether I understand the Senators on the other side, as well as on this, to agree that the vote is to be taken to-morrow at three o'clock.

Mr. JOHNSON. That we begin to vote at three o'clock.

Mr. FESSENDEN. That that is the end of the debate?

Mr. JOHNSON. I think that that is agreeable to Senators on this side.

Mr. FESSENDEN. If that is considered an honorable understanding on the part of Senators, I shall not object to postponement.

Mr. JOHNSON. It is "honorable" on this side.

Mr. FESSENDEN. I presume it is, if on any. I referred to both sides.

Mr. CLARK. I am very desirous to leave the city to-morrow, and I hope that we shall be able to get a vote before I go.

Mr. NESMITH. I renew my motion that the Senate proceed to the consideration of executive business.

EXECUTIVE SESSION.

The motion was agreed to; and after some time spent in executive session the doors were reopened.

HOUSE BILL REFERRED.

The bill from the House of Representatives (H. R. No. 334) to fix the number of judges of the Supreme Court of the United States, and to change certain judicial circuits, was read twice by its title, and referred to the Committee on the Judiciary.

PATENT OFFICE REPORT.

Mr. COWAN, from the Committee on Patents and the Patent Office, to whom was referred the annual report of the Commissioner of Patents for the year 1865, reported the following resolution; which was, on his motion, referred to the Committee on Printing:

Resolved, That there be printed for the use of the Senate ten thousand copies of the annual report of the Commissioner of the Patent Office for the year 1865.

THEODOR G. EISWALD.

Mr. ANTHONY. I move to take up Senate bill No. 150. It will create no discussion, and will not occupy two minutes. I have been waiting a good while for an opportunity to call it up. The Senator from Minnesota [Mr. NORTON] has the bill in charge, but it is very short, and will explain itself.

The motion was agreed to; and the bill (S. No. 150) for the relief of Theodor G. Eiswald was read the second time, and considered as in Committee of the Whole. It proposes to authorize the Secretary of the Treasury to issue and pay to Theodor G. Eiswald, of Providence, in the State of Rhode Island, two United States coupon bonds, known as the denomination of seven-thirty bonds, of $1,000 each, with coupons attached, in lieu of two seven-thirty bonds of the United States, issued under an act of Congress, partially destroyed by fire, the charred remnants thereof being now deposited in the office of the Secretary of the Treasury, and numbered respectively 104,152 and 104,153; but Eiswald is to execute a bond in the penal sum of $5,000, to be approved by the Solicitor of the Treasury, indemnifying the United States against any loss, cost, or damage on account of the issuing of the bonds.

Mr. NORTON. I move to amend the bill by inserting before the proviso, in line fourteen, the words "dated June 15, 1865, and issued under the act of March 3, 1865." After the case was examined by the committee and the bill reported the exact description of the bonds was ascertained; and for the sake of greater certainty in the description I move to insert these words.

The amendment was agreed to.

Mr. SHERMAN. I ask the Senator from Minnesota, as this is an important question, whether there is anything on file in the Treasury Department showing the identity of these bonds?

Mr. NORTON. There is. The charred remains of the bonds are at the Department, and sufficient is left to identify the numbers and dates. I have here a letter from the Treasurer giving the dates and numbers of bonds.

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

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

Mr. TRUMBULL. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *March* 8, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

MISS CLARA BARTON.

Mr. SCHENCK. Mr. Speaker, I ask the unanimous consent of the House to take from the table Senate joint resolution No. 36, providing for expenses incurred in searching for missing soldiers of the Army of the United States, and for the further prosecution of the same. It appropriates money to Miss Clara Barton, a lady who has been engaged in collecting the names of missing soldiers, to enable her to continue that noble work. It has already passed the Senate, and I hope will pass this House.

There was no objection; and the joint resolution was taken up, and read a first and second time by its title.

The joint resolution provides that, whereas Miss Clara Barton has, during the late war of rebellion, expended from her own resources large sums of money in endeavoring to discover missing soldiers of the armies of the United States, and in communicating intelligence to their relatives, the sum of $15,000 be appropriated, out of any money in the Treasury not otherwise appropriated, to reimburse her for the amount so expended by her, and to aid in the further prosecution of the search for missing soldiers; and the printing necessary in the furtherance of the said object shall hereafter be done by the public printer.

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

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

The latter motion was agreed to.

TENNESSEE.

Mr. BOUTWELL, by unanimous consent, submitted a statement from a minority of the committee on reconstruction in reference to the

State of Tennessee; which was laid upon the table, and ordered to be printed.

BRIDGE OVER THE MISSISSIPPI RIVER.

Mr. DAVIS. I ask the unanimous consent of the House to introduce a bill declaring a certain bridge over the Mississippi river a postal route of the United States.

Mr. HARDING, of Illinois. I ask that the bill be read.

The bill was read.

Mr. MOORHEAD. I object.

RIGHT OF WAY.

Mr. HIGBY, by unanimous consent, introduced an act granting the right of way to ditch and canal owners in the State of California over the public lands; which was read a first and second time, and referred to the Committee on Public Lands.

ADDITIONAL CLERK.

Mr. ROLLINS. I ask unanimous consent to report back from the Committee of Accounts a resolution that the Sergeant-at-Arms be allowed to employ an additional clerk in his office during the present session of Congress at a salary of $125 per month.

Mr. FINCK. I object.

FREEDMEN'S BUREAU.

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

Resolved, That the Secretary of War be directed to communicate all orders issued from time to time by the assistant commissioners of the Bureau of Freedmen in their districts, and of the Commissioner of the bureau, and such other papers and information as to the condition of freedmen not heretofore communicated as may be in the possession of the bureau.

STATE INTERCOMMUNICATION.

Mr. WILSON, of Iowa, from the Committee on the Judiciary, reported back House bill No. 11 to facilitate commercial, postal, and military communication among the several States, with an amendment, and demanded the previous question.

The Clerk read the bill. It provides that every railroad operated by steam shall be authorized to carry passengers, troops, Government supplies, mails, and freight, on their way from any State to another State, and to receive compensation therefor.

The amendment reported is as follows:

Provided, That this act shall not affect any stipulation between the Government of the United States and any railroad company for transportation or fares without compensation, nor impair or change the conditions imposed by the terms of any act granting lands to any such company to aid in the construction of its road.

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

The bill was then engrossed for a third reading; and being engrossed, it was read the third time.

Mr. ELDRIDGE. I demand the yeas and nays on its passage.

Mr. HARDING, of Illinois. I desire to say that by the provisions of this bill unlimited permission seems to be given to the railroad companies to charge whatever rate they please for all future time. They acquire a national character and national authority, and are not subject to any limitation or control by law. Now, I object to this provision, although I am anxious to vote for the bill. I wish the power to be reserved by which Congress may limit or abridge that authority if it should be exercised to the extent of extortion upon the public.

Mr. WILSON, of Iowa. This bill was referred to the Committee on the Judiciary for the purpose of having an amendment prepared to prevent it from operating so as to release the land-grant railroads from the conditions imposed upon them to transport troops and property of the Government free of toll or charge. The committee have not deemed it necessary or proper, under the circumstances, to go into an examination of the general principles involved in the bill. The judgment of the House was had on that before the reference to the committee.

This is the bill, it will be recollected, which passed the House and went to the Senate, and upon a suggestion of the gentleman from Massachussets [Mr. BALDWIN] was recalled from the Senate in order that an amendment, such as has now been reported and adopted by the House, might be prepared by the committee. We therefore considered but that one question, taking for granted that the judgment of the House was made up in regard to the general principles involved in the bill. And I do not think that the bill will have the effect suggested by the gentleman from Illinois, [Mr. HARDING.]

Mr. SLOAN. Will the gentleman from Iowa [Mr. WILSON] allow me to ask whether it is certain that the bill will not repeal the provision of the law in the State of New York, which limits the amount of charges for passengers upon railroads at two cents per mile? My own State is about taking action for the purpose of limiting charges for passengers and freight, and I think it is important that that question should be considered.

Mr. WILSON, of Iowa. I do not think it possible that that construction can be given to the bill. They may charge and receive such compensation, of course, as may be regulated by law, if the States do regulate that compensation.

Mr. SLOAN. Has the chairman of the committee any objection to amending the bill so as to place that beyond doubt?

Mr. WILSON, of Iowa. I do not know but the bill has passed the amendment stage. I certainly have no objection to such an amendment.

The SPEAKER. The gentleman may attain his object by moving to reconsider, or by obtaining unanimous consent to allow the amendment to be made.

Mr. WILSON, of Iowa. I will ask unanimous consent to allow the gentleman to offer his amendment.

Mr. BERGEN. I object.

Mr. CONKLING. I would like to make a request of the gentleman from Iowa. Is there any objection to allowing this bill to be printed with the amendment as it stands?

Mr. ROGERS. I hope the House will take that course.

Mr. WILSON, of Iowa. I have no objection to its going over until the next morning hour if it will not lose its place, and in the mean time let it be printed.

The SPEAKER. The next morning hour when it will come up again will be next Tuesday, unless it is interrupted by some other question.

Mr. MORRILL. I object to any special order.

Mr. ELDRIDGE. Will it come up again then?

The SPEAKER. The Chair cannot state whether there will be any morning hour on Tuesday next.

The motion to postpone until Tuesday next in the morning hour, and also that the bill be printed with the amendment, was adopted.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. MCDONALD, its Chief Clerk, informed the House that the Senate had passed bills of the following titles, in which he was directed to ask the concurrence of the House:

An act (S. No. 64) to incorporate the Great Falls Ice Company of Washington, District of Columbia;

An act (S. No. 114) for the relief of A. T. Spencer and Gurdon S. Hubbard;

An act (S. No. 125) granting aid in the construction of a railroad and telegraph line from the town of Folsom to the town of Placerville, in the State of California; and

An act (S. No. 180) for the relief of A. J. Gray.

SUPREME COURT OF THE UNITED STATES.

Mr. WILSON, of Iowa, from the Committee on the Judiciary, reported back, with the recommendation that it do pass, bill of the House No. 334, to fix the number of judges of the Supreme Court of the United States, and to change certain judicial circuits.

The bill was read. The first section provides that hereafter the Supreme Court of the United States shall consist of one chief justice and eight associate justices.

The second section provides that the first, second, and third circuits shall remain as now constituted; that the districts of Maryland, Delaware, Virginia, North Carolina, and South Carolina shall constitute the fourth circuit; that the districts of Georgia, Florida, Alabama, Mississippi, Louisiana, and Texas shall constitute the fifth circuit; that the districts of West Virginia, Ohio, and Michigan shall constitute the sixth circuit; the districts of Indiana, Illinois, Kentucky, and Tennessee shall constitute the seventh circuit; the districts of Wisconsin, Minnesota, Iowa, Missouri, Kansas, and Arkansas shall constitute the eighth circuit; and the districts of California, Oregon, and Nevada shall constitute the ninth circuit.

Mr. WILSON, of Iowa. This bill proposes to make the number of the judges of the Supreme Court the same as it was prior to the passage of the act of March 3, 1863. At that time the States of California and Oregon memorialized Congress to establish a circuit court of the United States for those two States. It was found upon an examination of the question that those States were so distant from the other States of the Union that it was impossible to associate them with any of the States on the Atlantic side and at the same time secure to them the benefit of a court presided over by a judge of the Supreme Court of the United States, that so much time would be occupied by the judge in traveling to and from the different portions of his circuit that it would practically result in leaving those States just where they were, without a circuit court. In order to obviate that difficulty, an additional judge was placed upon the supreme bench of the United States, constituting the court of ten judges.

It was urged at the time that the increase in the number of judges would be rather detrimental to the business of that court than otherwise, and I know that some of the members of that court are confirmed in that opinion that the court is too large.

We have now an opportunity to reduce it to the old number of nine, and I am satisfied that the business of the court and of the country will be promoted and benefited by a still further reduction. There is now a vacancy on the supreme bench. The purpose of this bill is to avail ourselves of that event so as to reduce the number of judges and again constitute the court of an odd number, and parcel the vacant circuit out among the remaining circuits. That is the sole object of this bill.

I should be in favor myself, from information I have from some of the members of the court, of still further reducing the number if another vacancy now existed; and I think that in the judiciary amendment act it might be well to provide for a further reduction if vacancies should occur.

I have stated the object and scope of the bill, and unless some gentleman desires some further explanation I will ask the previous question.

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

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

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

The latter motion was agreed to.

COLLECTION OF SOLDIERS' CLAIMS.

Mr. WILSON, of Iowa, from the Committee on the Judiciary, reported back, with the recommendation that it do pass, bill of the Senate No. 88, to restrict the expenses of collecting soldiers' claims against the Government.

The bill provides that the fees of agents and attorneys for making out and causing to be executed the necessary papers, and for establishing and collecting any claim against the United States for bounty, arrears of pay, and allowances, or gratuities for military services, whether due to the person performing such services, his heirs, assigns, or legal representatives, shall in no case exceed ten dollars, unless the accounting officer allowing such claim shall certify a further sum to be just and proper.

Any agent or attorney who shall directly or indirectly, without a certificate from the accounting officer, demand or receive any greater compensation for his services in the collection of any claim for bounty, arrears of pay, or other allowances, or who shall contract, agree to prosecute, or collect any such claim on the condition that he shall receive a per cent. upon any portion of it, or who shall wrongfully withhold the payment of the proceeds to the claimant, is to be deemed guilty of a misdemeanor, and upon conviction to be fined not exceeding $300 or imprisoned at hard labor not exceeding two years, or both, according to the circumstances and aggravations of the offense.

Mr. FARNSWORTH. Mr. Speaker, I did not notice anything in this bill, as it was read, in reference to requiring bounty and pay agents to give proper security before they are allowed to collect the pay and bounties to which the soldiers may be entitled. I think this bill should include something of that kind. I know a great many soldiers and officers who have been most miserably defrauded by these infernal rascals who have set up agencies in Washington for the collection of pay and bounty to soldiers. These agents have collected the money and run off with it. I wish the Committee on the Judiciary would report some provision requiring these agents to give bond in large security, payable in some manner to some officer for the benefit of the soldiers and others for whom they act as agents.

It is but a few days since a case of this kind was brought to my knowledge. A couple of agents had established an office in the city of Washington, and had collected a large amount of money for soldiers and officers and then run off to Canada, beyond the reach of the parties whom they had defrauded, and I have learned from the pay department that this is a common occurrence here, and that these were only two scamps out of a large number who have done the same thing, and I think something ought to be done by us to put a stop to it.

Mr. WILSON, of Iowa. I have no doubt that is a very proper subject to be considered by the Committee on the Judiciary, and if the gentleman will refer it to us we will consider it. But I do not see that it is necessary to delay the passage of this bill in order to consider the subject at this time. I therefore demand the previous question on the passage of this bill.

Mr. SHELLABARGER. Will the gentleman from Iowa [Mr. WILSON] withdraw that call for a moment?

Mr. WILSON, of Iowa. I will.

Mr. SHELLABARGER. As there is a very large amount of this particular business done in my district, I have had quite a number of letters on that subject; and I would state that the trouble and the point of inquiry seems to be this; and I desire to bring it to the attention of the chairman of the Committee on the Judiciary, [Mr. WILSON, of Iowa.] It is said, and I have no doubt that it is the fact, that there is a large number of cases which cannot be attended to at all for ten dollars each. The bill as reported, and which is now before the House, I perceive contemplates that fact and provides for it.

Now, the purpose of my rising is to inquire whether the officer to whom by this bill is referred the matter of allowing increased compensation to those agents will have the means of ascertaining and fixing the amount which ought to be allowed. And in that connection I want to say that the scope and language of this bill I think are in general exceedingly proper. And I think that most persons of intelligence are able to look after their interests with sufficient care so as to prevent these agents from getting any undue advantage over them. And I think our soldiers comprise as much intelligence, as a general thing, as any other class of our people. Yet there is a class of claims in which the soldiers are very much dependent upon the fidelity of these agents; and that fidelity has been found to be wanting in a very large number of cases. Hence, the necessity for this bill, and the one on a similar subject which preceded it. Now, I desire to ask the chairman of the Committee on the Judiciary if that portion of this bill is deemed to be of any practical value; whether these accounting officers, (I believe they are the officers to whom this matter of fixing the increased compensation is referred) will have the means of telling when a fee larger than ten dollars should be allowed?

Mr. WILSON, of Iowa. My answer to the gentleman from Ohio [Mr. SHELLABARGER] is that the accounting officer, at least the one before whom most of these claims will go, stated, as I am informed, to the member of the Senate who originally introduced this bill to that body, that there would be no difficulty in adjusting the compensation allowed to agents for these claims where more than ten dollars were to be allowed. And in addition to that I may state that every member of this House has had more or less to do with claims of this character, and I am satisfied, from my experience in relation to them, that a fee of ten dollars is more than a reasonable compensation in a very large number of cases, and that the charge of that fee will be ample compensation in most cases where there may be more than the ordinary amount of labor. And in addition to that I am informed, as I have already stated, that the accounting officer stated that there would be no difficulty in adjusting that matter upon the presentation of the proper proof.

Mr. SPALDING. I desire to ask the chairman of the Judiciary Committee whether this bill, in any part, provides that a claim may be adjusted so as to entitle the person performing the service required in any case to more than ten dollars?

Mr. WILSON, of Iowa. Yes, sir.

Mr. WENTWORTH. Mr. Speaker, I do not see why we should allow any of the soldiers to be swindled, even to the extent of ten dollars. When this Government honestly owes a soldier money, I do not see why he should have difficulty in getting his money. I know that it is necessary to have some preliminary papers made out; but the rules and regulations are sent to all the justices of the peace and notaries public throughout the country; and their charges are generally only two or three dollars in each case. I have yet to learn that, if a soldier sends his papers here, the collection of his claim cannot be attended to without the aid of any agent whatever.

I was here all through the Mexican war, and in those days these claim agents began to multiply. Ex-Senators and ex-Representatives, and even ex-foreign embassadors and ex-Cabinet ministers went into the business. They sent their circulars all over the country pretending that, in consequence of their experience here in Washington, they had greater access to the Departments, as if everything went by privilege or favor. Well, sir, an immense number of those claims came through my hands. I never recognized one of those claim agents.

I remember that one day, when I was walking on the avenue in company with a distinguished Senator, now dead, who used to be known by the name of *Pater Senatus*, I spoke to one of these agents. That Senator rebuked me, saying, "Never speak to one of those men; I never do." "Why not?" I asked. "Because," said he, "they live by swindling your constituents. A man may swindle me, and I will stand it; but a man who swindles one of my constituents, I do not intend to recognize anywhere."

That incident set me to thinking; and it has been my opinion, from that time to this, that there is patriotism and talent enough in my congressional district to prepare these claims for presentation to the proper Department without subjecting the soldier to any charge. I know that there are numerous school-teachers of both sexes who are willing to perform without charge the necessary clerical labor in preparing these claims.

I do not believe that it is necessary to support about the capital of the nation, at the expense of our soldiers, these harpies under the name of claim agents. Rather than vote for this bill, allowing a fee of ten dollars in every case, I would prefer to support a proposition to fine, yes, and imprison, the man who charges these soldiers anything for collecting their claims. If we pass this bill, authorizing a charge of ten dollars, the agent will claim that he is entitled to that amount in every case. I want the soldiers of this country to know that it is not necessary for them to employ any agent in this District for the collection of their claims; that they need only send their papers to their respective members of Congress, who will take pleasure in attending to the business for them.

Mr. WILSON, of Iowa. The gentleman from Illinois [Mr. WENTWORTH] is mistaken if he supposes that this bill fixes a fee of ten dollars to which every claim agent will be entitled in each case in which he may be engaged. The bill merely fixes a limitation upon the charges; and within that limit the soldiers of the country may drive any bargain which they may be able to make with these claim agents. The difficulty in the past has been that these agents have in the great majority of cases charged more than this bill proposes to allow them to charge. The bill is intended to protect the soldiers against the exorbitant charges of claim agents. I know that a great many of these agents have made exorbitant charges, yet I am not prepared to join with the gentleman from Illinois in a universal denunciation of claim agents. Some of them, I know, are honorable men, who attend to their duties faithfully, charging reasonable fees. Others charge exorbitant rates; and for the purpose of protecting the soldiers against these, this bill has been reported.

The gentleman from Illinois speaks of members of Congress taking charge of the collection of these claims. I fear that if all the soldiers of his district should send their claims to him he would have very little time to devote to the reciprocity legislation which has come from his committee.

Mr. WENTWORTH. I attended to such claims for my constituents all through the Mexican war, and I expect to give equal attention to claims of my constituents arising out of this war. I am a gratuitous agent for every man living in my district for all his Washington business.

Mr. WILSON, of Iowa. Well, Mr. Speaker, the district which the gentleman now represents probably sent into the Army during the rebellion nearly as many soldiers as the United States sent to Mexico during the Mexican war. The collection of soldiers' claims is a business of much vaster extent than it was at the time of the Mexican war. I have had a good deal of experience in attending to these claims for soldiers in my own district. I have always done it cheerfully and without exacting any compensation; and I have no doubt other members of Congress have done the same. But, sir, I cannot undertake to attend to my duties as a member of Congress and at the same time attend to all the claims that may be sent to me here for adjustment.

Mr. WENTWORTH. Allow me to say that it requires no particular attention on the part of members of Congress; the claims come to them, they make memoranda, and send them to the Departments. All the rest is humbug.

Mr. WILSON, of Iowa. I am afraid a great

many of the claims intrusted to the care of my friend from Illinois remain unadjusted if he gives them no more attention than to send them to the Department in a note.

Mr. WENTWORTH. That is the way to get an early report. If they are good, they ought to be allowed; if they are dishonest, they ought to be rejected.

Mr. WILSON, of Iowa. That is only the threshold of the labor. I demand the previous question.

The previous question was seconded.

Mr. SCHENCK. My object, I will state, is to have this business done and paid for by the United States as it is by the States.

Mr. WILSON, of Iowa. I will hear the gentleman's proposition.

Mr. SCHENCK. I propose to recommit, with instructions to report a bill to provide for a system of agents, to be paid by the United States, by whom the claims of soldiers for back pay and bounties due from the Government may be collected free of cost to the soldier.

Mr. WILSON, of Iowa. I do not yield to that proposition.

Mr. SHELLABARGER. I wish to make the statement that the State of Ohio has continued her agency; and she has here an agent of great fidelity and devotion to the interests of the soldiers, Mr. James C. Wetmore, who, within a few weeks, has assured me that he will with pleasure attend to all the claims of Ohio soldiers which may be sent to him. He is doing it now free of charge. I address the soldiers of my State in this way in reference to this State agent.

I am asked to make the same statement in reference to the Indiana State agent.

Mr. WILSON, of Iowa. I desire to say, in addition to what has been said by the gentleman from Ohio, that Iowa has an agent here who attends to all the claims of Iowa soldiers sent to him, and free of charge to the soldiers.

Now, the proposition of the gentleman from Ohio [Mr. SCHENCK] will not cure the present evil. Notwithstanding agents are provided by the several States, still soldiers in those States do employ agents. Even if you adopt the proposition of the gentleman, for which I will cheerfully vote, you still need this bill to protect the soldiers who do not send their claims to the State agents. I will cheerfully vote to establish agents here who shall attend to all claims sent to them by soldiers free of charge; but I would also protect the soldiers who do not send their claims to such agents.

I hope the proposed amendment will not be adopted. I hope it will be reserved and submitted in a separate bill.

Mr. ELDRIDGE. I desire to ask whether there is not a law now upon our statute-book limiting the amount a claim agent shall charge in reference to soldiers' claims.

Mr. WILSON, of Iowa. It has reference only to pensions.

Mr. ELDRIDGE. Is not this increasing the amount a claim agent may exact for services?

Mr. WILSON, of Iowa. No, sir; the gentleman has been misled by the act in relation to pension claims. First, the charge for those was five dollars; but that was amended so as to allow a fee not exceeding ten dollars. That only applies to claims for pensions. By the terms of the act it applies only to those cases pending before the Commissioner of Pensions; but there is no law for fees in reference to claims other than for pensions.

Mr. INGERSOLL. Mr. Speaker, I desire to say that Illinois, ever mindful of the welfare of her soldiers, has her agent here in the person of Colonel H. D. Cook, who is an efficient and honest man, and one who looks after the claims and interests of our citizen soldiers with unwearied vigilance, and I am happy to say that he enjoys the fullest confidence of all the Government Departments, and consequently possesses superior facilities for the adjustment of soldiers' claims over any mere "claim agent," many of whom have shamefully robbed and swindled the "brave volunteer" out of his money, earned at the "cannon's mouth." Sir, it is high time that Congress should interfere and put a stop to this systematic plundering of the soldiers. With a view to the accomplishment of this noble purpose, our patriotic soldier-Governor Oglesby, appointed Colonel Cook agent for Illinois, and sent him here at the expense of the State for the purpose of prosecuting the claims of the Illinois soldiers against the Government *free of all expense to the soldier*. In my opinion, this expense should be borne by the Government and not by the State. Therefore I am in favor of the amendment offered by the gentleman from Ohio, [Mr. SCHENCK,] which proposes that the United States Government shall employ all necessary agents to attend to this business without cost to the soldier.

When the Government called upon our brave men to shoulder the musket in defense of the country, it said to them, "Go and fight for the Republic and you shall be paid; if you contract disease, you shall receive a pension; if you die, then *all* this shall go to your widows and your little ones." They went, they fought, and, alas! many of them died; but they won the grand victory, and the Republic lives. Now, so far as I am concerned, the Government shall fulfill the contract and pay the soldier whatever may be due for back pay, for bounties, for losses sustained, and for pensions.

I would like to go further than this amendment proposes. I should prefer the establishment of a "Soldiers' Bureau" here, in either the Treasury or Interior Department, all the officers and clerks thereof to be appointed by the Governors of the respective States, the whole to be maintained at the expense of the Government. Then the claims of all our soldiers of whatsoever nature would be prosecuted, settled, and paid with dispatch, which is very far from being the case at the present time. I hope the amendment will be adopted.

Mr. WILSON, of Iowa. I hope the House will now pass this bill and secure at least some safeguard against the extortion which has been imposed upon the soldiers of this country.

Mr. COBB. Will the gentleman yield?

Mr. WILSON, of Iowa. Does the gentleman desire to say that Wisconsin ought to have an agent?

Mr. COBB. No, sir; by no means.

Mr. WILSON, of Iowa. Then I yield.

Mr. COBB. I have some acquaintance with this business of claim agency, and I wish to state what I think is known to most members of this House, or ought to be. It is not in Washington city where claim agents' services are valuable to the soldier or where they are required at all. It is at home, at the points accessible to the soldiers, where the evidence of the claims is to be collected and the proof obtained and prepared to be sent here. And when it is prepared by the local agent then the intervention of any agent here or of the service of any member of Congress is the most useless thing that can possibly be imagined.

The experience of every member here certainly will bear me out in this, that we at our rooms or on this floor are scarcely nearer to the Department here practically than at our residences at home. We are scarcely nearer than are the offices of these local claim agents in the several States. And if the soldiers would only procure the services of competent, faithful claim agents at home, whose services, such as are absolutely necessary in preparing the papers and proof, should be paid for, and would have these agents address these intelligently and properly to the Department at Washington; if they would eschew and ignore these Washington claim agents and not pay too much attention to members of Congress, then their claims would be properly presented, and would be in a great majority of cases acted upon and in due time properly and fairly paid.

All of these local claim agencies at Washington, whether those established by individual enterprise or sent here by the States, are in my opinion—and I claim to have had some experience at both ends of the line—entirely useless and unnecessary, and tend to impede the prosecution of the payment of claims rather than to facilitate them. And if I should say anything to my old companions in arms or to my constituents at home who have these claims against the Government, it would be to look to it well that they employ honest and capable claim agents at home who will procure the proof upon which the claim rests and send it directly to the Department and wait a reasonable time, and then, if necessary, make further communications through their agents at home, and if in extraordinary cases it is necessary, apply to a member of Congress. But by all means let them avoid the claim agents that hover about the capital and the Departments of the Government here. Let them employ the local claim agents or agents established by the State governments.

Mr. SCHENCK. I move to reconsider the vote by which the previous question was seconded. And I desire to modify the instructions as follows:

Recommit with instructions to amend the bill by providing for a system, under proper restrictory clauses, of claim agents in the several States to be paid by the United States, by whom the claim of back pay and bounties due from the Government may be collected free of cost to the soldier.

Mr. WILSON, of Iowa. I have already said that I am in favor of the establishment of these agencies, but the result of the recommitment of this bill will be to carry it over to the call of the committee again, and I do not know whether that will occur during the session. If the House desires to gain so much benefit to be derived by the soldiers as this bill provides, better pass this now and take up that as an independent proposition.

The question being upon Mr. SCHENCK's motion to reconsider, it was put; and there were —ayes 38, noes 39; no quorum voting.

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

The SPEAKER. The yeas and nays cannot be ordered on a vote reconsidering the seconding of the previous question, as the yeas and nays could not be ordered on the second.

Mr. SCHENCK. Then I call for tellers.

Tellers were ordered; and Messrs. WILSON of Iowa, and SCHENCK, were appointed.

The House divided; and the tellers reported—ayes 54, noes 48.

So the vote by which the previous question was seconded was reconsidered.

The question recurred on seconding the demand for the previous question; and being put, the House refused to second the previous question.

Mr. SCHENCK. I now move to recommit the bill, with the instructions I have indicated.

Mr. TAYLOR. I ask the gentleman to insert the word "pensions" after the word "bounties."

Mr. SCHENCK. I accept that modification.

Mr. J. L. THOMAS. I would ask the gentleman from Ohio, who is to appoint these agents?

Mr. SCHENCK. That will depend upon the provisions of the bill when it is brought back from the committee. This is a general instruction to the committee to report a bill, and the bill will provide for the appointment of these agents, and if the House does not like the provision they can change it.

Mr. TAYLOR. I would like the gentleman to move that the Committee on the Judiciary have leave to report back this bill at any time.

The SPEAKER. That would require unanimous consent.

Mr. ELDRIDGE. I object.

Mr. WILSON, of Iowa. If objection is made to giving the committee leave to report at any time, it does seem to me that the House had better not recommit this bill, because without that leave the bill may hang in the committee until the end of this session, and the soldiers in the mean time will derive no benefit whatever from this attempt to protect them.

I trust, therefore, that the House will not recommit the bill, but will pass it, and then embody the proposition of the gentleman from

Ohio [Mr. SCHENCK] in an independent bill. At all events let us give the soldiers the benefit of the provisions of this bill.

Mr. SCHENCK. I must insist on my motion to recommit. I know that in all business relating to public affairs, when we fix a limit to compensation or to salary, in every case the charge goes up to that limit; and to pass this bill would be equivalent to passing a bill allowing ten dollars to claim agents in every case; at least I feel very sure that it would operate in that way.

I will still further modify the instructions which I have moved so as to instruct the committee to amend the bill by introducing a system of agencies in the several States. The committee can then preserve the features of this bill if they think proper to do so, so that the soldier shall have his option to employ either the agent of the United States or the agent that he himself may select. But I do wish to advertise all the soldiers of all the United States that the Government of the United States will treat them just as some of the States have treated the soldiers within their particular limits, and will look to the collection of their claims against the Government without cost to them, and without any deduction for the expense of collection.

Mr. WILSON, of Iowa. The same difficulty will occur in relation to the modified instructions that attach to the original instructions; that of getting an opportunity to report the bill back again.

Mr. SCHENCK. I have great faith in the diligence, industry, and capacity of that committee, and I have no doubt that with a little extra application they can produce a bill thus amended, by the time the committee is again called.

Mr. WILSON, of Iowa. There will be no meeting of the committee before that time.

Mr. SCHENCK. A meeting of the committee can be called for that purpose.

Mr. WILSON, of Iowa. I now call the previous question.

Mr ELDRIDGE. Will the gentleman from Iowa [Mr. WILSON] yield to me for a moment?

Mr. WILSON, of Iowa. If I yield, the morning hour will expire.

The SPEAKER. The morning hour will expire in about a minute.

The previous question was seconded, and the main question ordered; which was upon the motion of Mr. SCHENCK to recommit the bill with instructions.

The House divided; and there were—ayes 44, noes 52.

Before the result of the vote was announced, Mr. SCHENCK called for the yeas and nays.

The question was upon ordering the yeas and nays, and was taken; but before the result was announced,

Mr. SCHENCK called for tellers on ordering the yeas and nays.

Mr. ELDRIDGE. Has not the morning hour expired?

The SPEAKER. It has; but before it expired the House seconded the call for the previous question, and ordered the main question to be now put, and the House is now engaged in executing that order.

Tellers were ordered upon the call for the yeas and nays; and Messrs. SCHENCK and COOK were appointed.

The House again divided; and the tellers reported—ayes thirty-two.

That number being more than one fifth of the number present, the yeas and nays were accordingly ordered.

The question was then taken; and it was decided in the affirmative—yeas 70, nays 68, not voting 45; as follows:

YEAS—Messrs. Anderson, Baker, Baxter, Bingham, Blow, Brooks, Buckland, Bundy, Sidney Clarke, Coffroth, Cullom, Defrees, Delano, Deming, Denison, Donnelly, Eldridge, Farquhar, Finck, Glossbrenner, Hayes, Henderson, Higby, Hill, Hooper, Asahel W. Hubbard, John H. Hubbard, James R. Hubbell, Ingersoll, Kelley, Kelso, Kerr, Ketcham, Kuykendall, Latham, William Lawrence, Le Blond, Loan, Lynch, Marshall, Marston, McClurg, Miller, Newell, Niblack, Nicholson, O'Neill, Orth, Plants, Raymond, Rogers, Ross, Rousseau, Schenck, Shellabarger, Sitgreaves, Spalding, Starr, Stilwell, Strouse, Taylor, John L. Thomas, Thornton, Robert T. Van Horn, Ward, Henry D. Washburn, Welker, Whaley, Stephen F. Wilson, and Winfield—70.

NAYS—Messrs. Alley, Allison, Delos R. Ashley, James M. Ashley, Baldwin, Banks, Beaman, Bergen, Bidwell, Boutwell, Boyer, Bromwell, Broomall, Chanler, Cobb, Conkling, Cook, Darling, Davis, Dawson, Dixon, Driggs, Eliot, Farnsworth, Ferry, Goodyear, Aaron Harding, Harris, Holmes, Chester D. Hubbard, Demas Hubbard, Edwin N. Hubbell, Hulburd, James Humphrey, Jenckes, Julian, Longyear, McKee, Mercur, Morrill, Morris, Paine, Patterson, Perham, Phelps, Pike, Price, William H. Randall, Alexander H. Rice, John H. Rice, Ritter, Rollins, Sawyer, Scofield, Shanklin, Sloan, Stevens, Thayer, Francis Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Warner, William B. Washburn, Wentworth, Williams, and James F. Wilson—68.

NOT VOTING—Messrs. Ames, Ancona, Barker, Benjamin, Blaine, Brandegee, Reader W. Clarke, Culver, Dawes, Dumont, Eckley, Eggleston, Garfield, Grider, Grinnell, Griswold, Hale, Abner C. Harding, Hart, Hogan, Hotchkiss, James M. Humphrey, Johnson, Jones, Kasson, Laflin, George V. Lawrence, Marvin, McCullough, McIndoe, McRuer, Moorhead, Moulton, Myers, Noell, Pomeroy, Radford, Samuel J. Randall, Smith, Taber, Trimble, Elihu B. Washburne, Windom, Woodbridge, and Wright—45.

So the motion to refer the bill with instructions was agreed to.

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

The latter motion was agreed to.

POST ROUTE.

Mr. DEFREES, by unanimous consent, introduced a bill to establish a post route; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

LEAVE OF ABSENCE.

Mr. LE BLOND. I ask leave of absence for my colleague, Mr. FINCK, for two weeks.

Leave was accordingly granted.

WILLIAM A. WEST.

Mr. STROUSE. I ask leave to report from the Committee on Territories a joint resolution (H. R. No. 79) authorizing the Secretary of the Interior to settle the accounts of William A. West, as marshal of the Territory of Nevada.

The joint resolution was read. It authorizes the Secretary of the Interior to settle the accounts of William A. West, as late marshal of the Territory of Nevada, on the basis of allowing and crediting him the expenditures which are certified to be correct, by the chief justice or either one of the associate judges of that Territory at the time such expenditures are stated to have been made, and to pay him the amount found to be due, provided that it shall not exceed the sum of $4,400.

Mr. HUBBARD, of Iowa. I object.

RIGHTS OF CITIZENS.

The House, agreeably to order, resumed the consideration of the bill (S. No. 61) entitled "An act to protect all persons in the United States in their civil rights and furnish the means of their vindication;" on which Mr. BROOMALL was entitled to the floor.

Mr. BROOMALL. Mr. Speaker, in some remarks which I had the honor to offer in the House a few weeks ago I said that "the Government of the United States above all other duties owes it to itself and to humanity to guard the rights of those who in the midst of rebellion periled their lives and fortunes for its honor, of whatever caste or lineage they be," and "that no system of reconstruction ought to be considered unless it shall effectually guaranty the rights of the Union men of the South."

Everything that has transpired since then, from all departments of the Government, satisfies me that these, our southern allies in the war waged to preserve the existence of the nation, have nothing to trust to except the integrity and firmness of the Union majority in the two Houses of Congress. That majority, through its appropriate committees, presents the bill under consideration as one of the measures on which it relies to carry out its great and patriotic purpose.

The object of the bill is twofold—to declare who are citizens of the United States, and to secure them the protection which every Government owes to its citizens. It will hardly be said that these are not proper subjects of legislation, and especially the latter one. If the same thing has not been attempted before, it was partly because there never before was the same necessity, and partly because of the long continued and remarkable forbearance of those for whom what necessity there was existed.

The first provision of the bill declares that all persons born in the United States and not subject to any foreign Power are citizens of the United States. As a positive enactment this would hardly seem necessary. Even as a declaration of existing law, a proposition that at most can only be said to embrace the true meaning of the word "citizen" would seem to find its more appropriate place in the elementary treatises upon law rather than upon the statute-books. What is a citizen but a human being who by reason of his being born within the jurisdiction of a Government owes allegiance to that Government?

But modern Democratic political science discovered and promulgated the dogma that this is the country of the white man, and that no other man has rights here which the white man is bound to respect. When, therefore, this peculiar science culminated in an attempt to overthrow the Government, and was itself overthrown, it is as well that a return to the principles of the founders of the Government should be made manifest to future generations by a declaration upon the statute-books.

The objection to this part of the bill is that it calls the negro a citizen. And why should it not? Civilized man must of necessity be a citizen somewhere. He must owe allegiance to some Government. There is some spot upon the earth's surface upon which it is possible for him to commit treason. Now, the negro in America is civilized. Ask the minister of religion where he finds the most sincere devotion, the school-teacher where he finds the greatest desire to learn. Ask the very southern rebel, whose representatives are most earnest against the bill, where he found the most implicit and unquestioning obedience to law and order under circumstances hardly justifying the hope of obedience to law and order.

The American negro is civilized, and of necessity must owe allegiance somewhere. And until the opponents of this measure can point to the foreign Power to which he is subject, the African potentate to whom after five generations of absence he still owes allegiance, I will assume him to be, what the bill calls him, a citizen of the country in which he was born.

Let those who say with the air of such omnipotent authority that this is the country of the white man, explain how it happened that the Ruler of the universe suffered it to be occupied by the red man for countless ages of the past. And then let them say, if they know, whether it may not be His purpose to suffer some small portion of it to be occupied by the black man for countless ages of the future. No, our country is the country of its inhabitants. Our Government the Government of the governed.

But there is another class of persons born within the limits of the United States whose *status* requires fixing by legislation. I allude to those who took upon themselves the responsibilities and duties of allegiance to another power; who forswore their citizenship and allegiance. There is nothing in our form of government, nothing in our institutions that contradicts the right of expatriation. True, that right is not anywhere expressly granted, but our naturalization laws are founded upon the idea that such right is inherent in men, and I believe this is true.

Most certainly if the confederation had sustained itself its citizens would have ceased to be citizens of the United States, and by a process that would have related back to the very commencement of the rebellion. Now, the fact that it did not sustain itself was the result of no merit of these men. They did all they could to succeed. As far as intention is con-

cerned their condition of expatriation is complete. Why may not the Government take them at their word and assume that the position they took upon themselves is their true one, that they are no longer entitled to the benefits of the allegiance they forswore? Why may they not be estopped from contradicting their own oaths, from pleading their own crimes? If they are citizens they have forfeited their lives to the outraged laws of their country; out of humanity, then, why may we not hold them to have lost that dangerous characteristic?

Look at the question in another point of view. By the doctrine laid down by all the writers upon public law, so clearly expressed by the Supreme Court in the prize cases, 2 Black, 673, in civil wars the belligerent that claims sovereign rights may in all cases elect between the civil law and the laws of war, may treat its opponents either as citizens or public enemies, may hang for treason or hold as prisoners of war. The unavoidable consequence of this doctrine is that if that belligerent shall be the victor, the question of the citizenship of its opponents is for it to decide.

If I am right in all this, then it is for the Government to elect whether or not it will hereafter treat the rebels as citizens or banish them as alien enemies. Now, if this were the mere decision of a right, it would be within the province of the courts of justice; if it were the announcement of a great fact, the Executive might do it; but being the exercise of a discretion, and the granting or withholding of a favor, nothing but the supreme law-making power can perform the function.

A question might naturally arise whether we ought again to trust those who have once betrayed us; whether we ought to give them the benefits of a compact they have once repudiated. Yet the spirit of forgiveness is so inherent in the American bosom that no party in the country proposes to withhold from these people the advantages of citizenship; and this is saying much. With a debt that may require centuries to pay, with so many living and mutilated witnesses of the horrors of war, with so many saddened homes, so many of the widowed and fatherless pleading for justice, for retribution, if not revenge, it speaks well for the cause of Christian civilization in America that no party in the country proposes to deprive the authors of such immeasurable calamity of the advantages of citizenship.

But the election must be made. Some public legislative act is necessary to show the world that those who have forfeited all claims upon the Government are not to be held to the strict rigor of the law of their own invoking, the decision of the tribunal of their own choosing; that they are to be welcomed back as the prodigal son whenever they are ready to return as the prodigal son.

The act under consideration makes that election. Its terms embrace the late rebels, and it gives them the rights, privileges, and immunities of citizens of the United States, though it does not propose to exempt them from punishment for their past crimes.

But it is said by the minority in this body that we have no right under the Constitution to pass the law; that the General Government was never intended to be intrusted with the power to protect individual persons; that that was to be left to the States. What, then, does the preamble mean? An ordinary reader would look there for the object and intent of the document:

"We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America."

This certainly has the appearance of being designed to protect the rights of individuals within as well as beyond the jurisdiction of the Government. Yet, strange as it may seem, while the Government has been always held competent to protect its meanest citizen within the domain of any European potentate, it has been considered powerless to guard the citizen of Pennsylvania against the illegal arrest, under color of State law, of the most subordinate officer of the most obscure municipality in Virginia. Strange as it may seem, while the Government of the United States has been held competent to protect the lowest menial of the minister of the most obscure prince in Europe, anywhere between the two oceans, and from the Lakes to the Gulf, it had no power to protect the personal liberty of the agent of the State of Massachusetts in the city of Charleston, or enable him to sue in the State courts.

If the Government has not the power, by appropriate legislation, to protect its citizens within as well as without its jurisdiction, I would like to know what the eighth section of the first article of the Constitution means when it empowers Congress to provide for the general welfare of the United States, and when it empowers Congress to pass all laws necessary for that purpose. Does it not pertain to the "general welfare" that "the citizens of each State," in the language of the second section of the fourth article of that instrument, "shall be entitled to all privileges and immunities of citizens in the several States?"

But throwing aside the letter of the Constitution, there are characteristics of Governments that belong to them as such, without which they would cease to be Governments. The rights and duties of allegiance and protection are corresponding rights and duties. Upon whatever square foot of the earth's surface I owe allegiance to my country, there it owes me protection, and wherever my Government owes me no protection I owe it no allegiance and can commit no treason. In the very nature of things this position is incapable of being overthrown, and while it stands it demonstrates not only the right but the duty to protect American citizens by appropriate legislation.

An unexpected argument has been adduced by the leader of the Opposition in this body, [Mr. ROGERS,] that this bill will permit the negro to vote in the several States of the Union. It is rather ludicrous than otherwise that the committee having it in charge have agreed to put in a provision to quiet the alarm of the opposite party. I am willing to concede of late that if the Democrats are to be kept above the negroes in the social scale there must be some discriminating legislation in their favor. I used to think the white man a better man than the negro, but an experience of three winters south of Mason and Dixon's line has partly satisfied me that this depends somewhat upon the white man's politics.

Does not the gentleman from New Jersey [Mr. ROGERS] know that the Constitution of the United States fixes the qualification of voters among its citizens? Does he not know that without a change of that instrument Congress cannot extend the right of suffrage in the States? The bill declares women and children citizens, yet it did not occur to the gentleman that this might make them electors.

Let me now ask our opponents upon this floor, and in other departments of the Government, how they propose to protect the citizens of the United States within the domain of the United States. They will surely not deny the duty. They will not say that we have a Government for the purpose of allegiance and for the punishment of treason, but none for the protection of the citizen.

Will they say that the rights of citizens of the United States can be safely intrusted to the governments of the several States? If this were true it might afford some excuse for neglecting to provide the appropriate legislation, but none for refusing it. But it is not true. For thirty years prior to 1860 everybody knows that the rights and immunities of citizens were habitually and systematically denied in certain States to the citizens of other States: the right of speech, the right of transit, the right of domicil, the right to sue, the writ of *habeas corpus*, and the right of petition. It will be said that this state of things was owing to the existence of what we politely called "the peculiar institution," but will it be said that with the disappearance of the peculiar institution this state of things also disappeared?

Within the jurisdiction of the United States there never was a time when more black freemen, citizens of the United States, were enslaved without even the color of law, and denied the right to process of law to test the validity of the claim of those who pretend to own them. There never was a time when more black freemen, citizens of the United States, were kidnapped and sold into other countries against positive law, and yet denied the process of law to enforce the right and to avenge the wrong.

But the opponents of this bill have one answer to all appeals for justice against this species of wrong—an answer furnished from the political speeches of the judges of the Supreme Court of the United States on the occasion of their assembling to celebrate the election of James Buchanan, called in mockery their decision in the Dred Scott case: "A negro has no rights which a white man is bound to respect."

As my object is to satisfy our political opponents of the necessity of the pending measure, I choose to admit the force of this answer. Yet I might say with truth that American statesmanship could go no further in that direction; that even Democracy could assume no meaner position. But are the evils complained of limited to the black man? While I would blush if I could admit that that fact, if acknowledged, would in any degree lessen the necessity for the passage of this law, I nevertheless maintain and hold myself ready to prove that white men, citizens of the United States, have been, and are now being punished under color of State laws for refusing to commit treason against the United States at the bidding of Democratic candidates for the Presidency; that white men, soldiers of the Republic, have been arraigned in State courts, under State laws, for the crime of shooting down traitors on the field of battle by the command of their military superiors, and only saved from being hanged, on conviction of murder, by the interposition of that branch of the military forces of the Government known as the Freedmen's Bureau. I maintain further, that white men, citizens of the United States, have been driven from their homes, and have had their lands confiscated in State courts, under State laws, for the crime of loyalty to their country, and that now they are begging in vain for a redress of wrongs in the courts of the reconstructed South.

Our political opponents will not deny these allegations. They are fully conscious of the state of things existing at the South. They know that there loyalty is the crime and treason the virtue; not throughout the entire country, because there are honorable exceptions, but throughout more than half of the eleven States lately in rebellion. The very fact that the President of the United States, armed with the war power, is now annulling legislative enactments in those States, quashing the decrees of courts, and standing guard over the rights of the loyal people, is conclusive proof, binding upon the entire Democratic party, that citizens of the United States need the protection of their Government in the several States of the Union.

Mr. WRIGHT. I rise to a question of order. I believe that the subject under discussion is, "An act to protect all persons in the United States in their civil rights, and furnish the means of their vindication." I have looked over the bill carefully and have failed to find in it one word about either the Democratic party or the Republican party—"copperheads" or "niggerheads"—and the gentleman is talking wide of the mark if he means to apply his epithets to the constituency I have the honor to represent.

The SPEAKER. The last part of the remarks of the gentleman from New Jersey [Mr. WRIGHT] are certainly not in order. The Chair overrules the point of order. The Chair thinks that the gentleman from Pennsylvania is con-

fining himself to the bill, which is very wide in its range, proposing to protect all persons in the United States in their civil rights and furnishing the means of their vindication. The Chair thinks the gentleman is not indulging any undue latitude of discussion.

Mr. BROOMALL. Probably, since the last election in New Jersey, I ought to treat the gentleman's constituents with a little more consideration; but whether I ought to apologize to them or not will depend a little upon their future behavior.

Mr. Speaker, it is alleged that this species of legislation will widen the breach existing between the two sections of the country, will offend our southern brethren. Do not gentlemen know that those who are most earnestly asking this legislation are our southern brethren themselves? They are imploring us to protect them against the conquered enemies of the country, who, notwithstanding their surrender, have managed, through their skill or our weakness, to seize nearly all the conquered territory. This is not the first instance in the world's history in which all that had been gained by hard fighting was lost by bad diplomacy.

But they, whose feelings are entitled to so much consideration in the estimation of those who urge this argument, are not our southern brethren, but the southern brethren of our political opponents; the conquered rebels, pardoned and unpardoned; traitors priding themselves upon their treason.

These people are fastidious. The ordinary terms of the English language must be perverted to suit their tastes. Though they surrendered in open and public war, they are not to be treated as prisoners. Though beaten in the last ditch of the last fortification, they are not to be called a conquered people. The decision of the forum of their own choosing is to be explained away into meaningless formality for their benefit. Though guilty of treason, murder, arson, and all the crimes in the calendar, they are "our southern brethren." The entire decalogue must be suspended lest it should offend these polished candidates for the contempt and execration of posterity.

Out of deference to the feelings of these sensitive gentlemen, an executive construction must be given to the word "loyalty," so that it shall embrace men who only are not hanged because they have been pardoned, and who only did not destroy the Government because they could not. Out of deference to the feelings of these sensitive gentlemen, too, a distinguished public functionary, once the champion of the rights of man, a leader in the cause of human progress, a statesman whose keen foreknowledge could point out the "irrepressible conflict between slavery and freedom," cannot now see that treason and loyalty are uncompromising antagonisms.

It is charged against us that the wheels of Government are stopped by our refusal to admit the representatives of these southern communities. When we complain that Europe is underselling us in our own markets, and demand protection for the American laborer, we are told to "admit the southern Senators and Representatives." When we complain that excessive importations are impoverishing the country and rapidly bringing on financial ruin, we are told to "admit the southern Senators and Representatives." When we complain that an inflated currency is making the rich richer and the poor poorer, keeping the prices of even the necessaries of life beyond the reach of widows and orphans who are living upon fixed incomes, the stereotyped answer comes, "Admit the southern Senators and Representatives." When we demand a tax upon cotton to defray the enormous outlay made in dethroning that usurping "king of the world," still the answer comes, and the executive parrots everywhere repeat it, "Admit the southern Senators and Representatives."

The mind of the man who can see in that prescription a remedy for all political and social diseases must be curiously constituted. Would these Senators and Representatives vote a tax upon cotton? Would they protect American industry by increasing duties? Would they prevent excessive importations? To believe this requires as unquestioning a faith as to believe in the sudden conversion of whole communities from treason to loyalty.

We are blocking the wheels of Government! Why, the Government has managed to get along for four years, not only without the aid of the southern Senators and Representatives, but against their efforts to destroy it; and in the mean time has crushed a rebellion that would have destroyed any other Government under heaven. Surely the nation can do without the services of these men, at least during the time required to examine their claims and to protect by appropriate legislation *our* southern brethren. None but a Democrat would think of consulting the wolf about what safeguard should be thrown around the flock.

Those who advocate the admission of the Senators and Representatives from the States lately reclaimed from the rebellion, as a means of protecting the loyal men in those States, and as a substitute for the system of legislation of which this bill is part, well know that the majority in both Houses of Congress ardently desire the full recognition of those States, and only ask that the rights and interests of the truly loyal men in those States shall be first satisfactorily secured.

Much useless controversy has been had about the legal *status* of those States. There is no difference between the two parties of the country on that point. The actual point of difference is this: the Democrats affiliate with their old political friends in the South, the late rebels, the friends and followers of Breckinridge, Lee, and Davis. The Union majority, on the other hand, naturally affiliate with the loyal men in the South, the men who have always supported the Government against Breckinridge, Lee, and Davis. Each party wants the South reconstructed in the hands of its own "southern brethren."

In short, the northern party corresponding with the loyal men of the South ask that the legitimate results of Grant's victory shall be carried out, while the northern party corresponding with the rebels of the South ask that things should be considered as if Lee had been the conqueror, or at least as if there had been a drawn battle, without victory on either side.

This brings the rights of those in whose behalf the opponents of the bill under consideration are acting directly in question, and in order to limit down the field of controversy as far as possible, let us inquire how far all parties agree upon the legal *status* of the communities lately in rebellion. Now, the meanest of all controversies is that which comes from dialectics. Where the disputants attach different meanings to the same word their time is worse than thrown away. I have always looked upon the question whether the States are in or out of the Union as only worthy of the schoolmen of the middle ages, who could write volumes upon a mere verbal quibble. The disputants would agree if they were compelled to use the word "State" in the same sense. I will endeavor to avoid this trifling.

All parties agree that at the close of the rebellion the people of North Carolina, for example, had been "deprived of all civil government." The President, in his proclamation of May 29, 1865, tells the people of North Carolina this in so many words, and he tells the people of the other rebel States the same thing in his several proclamations to them. This concludes the Conservatives and Democrats, who, however they may disagree, at least agree in this, that the President shall do their thinking.

The Republicans subscribe to this doctrine, though they differ in their modes of expressing it. Some say that those States have ceased to possess any of the rights and powers of government as States of the Union. Others say, with the late lamented President, that "those States are out of practical relations with the Government." Others hold that the State organizations are out of the Union. And still others that the rebels are conquered, and therefore that their organizations are at the will of the conqueror. The President has hit upon a mode of expression which embraces concisely all these ideas. He says that the people of those States were, by the progress of the rebellion and by its termination, "deprived of all civil government."

One step further. All parties agree that the people of these States, being thus disorganized for all State purposes, are still, at the election of the Government, citizens of the United States, and as such, as far as they have not been disqualified by treason, ought to be allowed to form their own State governments, subject to the requirements of the Constitution of the United States.

Still one step further. All parties agree that this cannot be done by mere unauthorized congregations of the people, but that the time, place, and manner must be prescribed by some department of the Government, according to the argument of Mr. Webster and the spirit of the decision of the Supreme Court in Luther *vs.* Borden, 7 Howard, page 1.

Yet another step in the series of propositions. All parties agree that as Congress was not in session at the close of the rebellion, the President, as Commander-in-Chief, was bound to take possession of the conquered country and establish such government as was necessary.

Thus far all is harmonious; but now the divergence begins. At the commencement of the present session of Congress three fourths of both Houses held that when the people of States are "deprived of all civil government," and when, therefore, it becomes necessary to prescribe the time, place, and manner in and by which they shall organize themselves again into States, while the President may take temporary measures, yet only the law-making power of the Government is competent to the full accomplishment of the task. In other words, that only Congress can enable citizens of the United States to create States. I have said that at the commencement of the session three fourths of both Houses held this opinion. The proportion is smaller now, and by a judicious use of executive patronage it may become still smaller; but the truth of the proposition will not be affected if every Representative and Senator should be manipulated into denying it.

On the other hand, the remaining fourth, composed of the supple Democracy and its accessions, maintain that this State-creating power is vested in the President alone, and that he has already exercised it.

The holy horror with which our opponents affect to contemplate the doctrine of destruction of States is that much political hypocrisy. Every man who asks the recognition of the existing local governments in the South thereby commits himself to that doctrine. The only possible claim that can be set up in favor of the existing governments is based upon the theory that the old ones have been destroyed. The present organizations sprang up at the bidding of the President after the conquest among a people who, he said, had been "deprived of all civil government."

If the President's "experiment" had resulted in organizing the southern communities in loyal hands, the majority in Congress would have found no difficulty in indorsing it and giving it the necessary efficiency by legislative enactment. In this case, too, the President never would have denied the power of Congress in the premises. He never would have set up the theory that the citizens of the United States, through their representatives, are not to be consulted when those who have once broken faith with them ask to have the compact renewed.

Our opponents have no love for the President. They called him a usurper and a tyrant in Tennessee. They ridiculed him as the negro "Moses." They tried to kill him, and failing that, they accused him of being privy to the murder of his predecessor. But when his "experiment" at reconstruction was found to result

in favor of their friends, the rebels, then they hung themselves about his neck like so many millstones, and tried to damn him to eternal infamy by indorsing his policy. Will they succeed? Will he shake them off, or go down with them?

But let us suffer these discordant elements to settle their own terms of combination as best they may. The final result cannot be doubtful. If ten righteous men were needed to save Sodom, even Andrew Johnson will find it impossible to save the Democratic party.

Our path of duty is plain before us. Let us pass this bill and such others as may be necessary to secure protection to the loyal men of the South. If our political opponents thwart our purposes in this, let us go to the country upon that issue.

I am by no means an advocate of extensive punishment, either in the way of hanging or confiscation, though some of both might be salutary. I do not ask that full retribution be enforced against those who have so grievously sinned. I am willing to make forgiveness the rule and punishment the exception; yet I have my *ultimatum*. I might excuse the pardon of the traitors Lee and Davis, even after the hanging of Wirz, who but obeyed their orders, orders which he would have been shot for disobeying. I might excuse the sparing of the master after killing the dog whose bite but carried with it the venom engendered in the master's soul. I might look calmly upon a constituency ground down by taxation; and tell the complainants that they have neither remedy nor hope of vengeance upon the authors of their wrongs. I might agree to turn unpityingly from the mother whose son fell in the Wilderness, and the widow whose husband was starved at Andersonville, and tell them that in the nature of things retributive justice is denied them, and that the murderers of their kindred may yet sit in the councils of their country; yet even I have my *ultimatum*. I might consent that the glorious deeds of the last five years should be blotted from the country's history; that the trophies won on a hundred battle-fields, the sublime visible evidences of the heroic devotion of America's citizen soldiery, should be burned on the altar of reconstruction. I might consent that the cemetery at Gettysburg should be razed to the ground; that its soil should be submitted to the plow, and that the lamentation of the bereaved should give place to the lowing of cattle. But there is a point beyond which I will neither be forced nor persuaded. I will never consent that the Government shall desert its allies in the South and surrender their rights and interests to the enemy, and in this I will make no distinction of caste or color either among friends or foes.

The people of the South were not all traitors. Among them were knees that never bowed to the Baal of secession, lips that never kissed his image. Among the fastnesses of the mountains, in the rural districts, far from the contagion of political centers, the fires of patriotism still burned, sometimes in the higher walks of life, oftener in obscure hamlets, and still oftener under skins as black as the hearts of those who claimed to own them.

These people devoted all they had to their country. The homes of some have been confiscated, and they are now fugitives from the scenes that gladdened their childhood. Some were cast into dungeons for refusing to fire upon their country's flag, and still others bear the marks of stripes inflicted for giving bread and water to the weary soldier of the Republic, and aiding the fugitive to escape the penalty of disloyalty to treason. If the God of nations listened to the prayers that ascended from so many altars during those eventful years, it was to the prayers of these people.

Sir, we talked of patriotism in our happy northern homes, and claimed credit for the part we acted; but if the history of these people shall ever be written, it will make us blush that we ever professed to love our country.

The Government now stands guard over the lives and fortunes of these people. They are imploring us not to yield them up without condition to those into whose hands recent events have committed the destinies of the unfortunate South. A nation which could thus withdraw its protection from such allies, at such a time, without their full and free consent, could neither hope for the approval of mankind nor the blessing of Heaven.

Mr. DAVIS. During the course of the gentleman's remarks, I desired to put to him a question which has been partly answered by his closing observations. I desired to ask him whether he regards a loyal man of this country, who was never false to his flag, who perhaps suffered by reason of his loyalty under the proscription of State laws, as an "enemy" to the Government, whose property is liable to seizure and confiscation.

Mr. BROOMALL. I do not; yet the property of that class of men has been seized and confiscated in State courts in the territory in whose behalf I should be sorry to believe the gentleman speaks; and these people have been denied remedy in those courts.

Mr. DAVIS. Sir, I have never spoken in that behalf. If the gentleman so understood me, I certainly have used language the meaning of which I did not understand myself. I have maintained, on the contrary, that it is the solemn obligation of this Government to protect the property and the person of every loyal man. I have taken my position upon this floor on the principle that under no circumstances could this Government be false to the man who was true to the Government in the South.

Mr. BROOMALL. What I have been complaining of is that the citizens of the United States, whether of the North or the South, loyal men who never took part in treason, have had their property confiscated by the State courts, and are denied remedy in the courts of the reconstructed South; while on the other hand the property of traitors, acknowledged traitors, condemned and confiscated by the Government of the United States, has been restored to them, and they have been reinstated, as our opponents would argue, in all their old rights by executive pardon.

Mr. DAVIS. So far as I am concerned, I have taken the position upon this floor, and I take it again, that it is the solemn duty of this Government to protect every loyal citizen in the southern States; that no citizen has ever, by the secession of his State, been deprived of the right to demand from this Government protection in his person and his property; and I will go as far as the gentleman himself, or any other gentleman on this floor, in asserting the power of this Government to protect that citizen.

Mr. BROOMALL. I propose to ask the gentleman how he intends to do this—how he intends to secure the rights of these people; whether he intends to vote for this bill or any similar measure, or whether he intends to leave these people at the mercy of the State courts in whose ever hands those courts may be organized.

Mr. DAVIS. Mr. Speaker, I will support and advocate any bill which does not trench upon the constitutional rights of the States, which is not an invasion of legitimate State authority, which is not a usurpation by the General Government of powers which were never delegated to it. That is the only possible objection that I have to this bill.

Mr. BROOMALL. Can the gentleman prepare a bill that will answer his purpose?

Mr. DAVIS. Yes, sir, I can prepare a bill which shall be in consonance with the Constitution of the United States, and will not be in derogation of the rights of the States reserved under the Constitution; and such a bill this is not.

Mr. BROOMALL. I have only to say that if the gentleman is able to prepare a bill that will have the effect this bill is intended to have, and will not, in his judgment, be in conflict with the Constitution of the United States, he has not, it seems to me, performed his full duty as a Representative in not having here such a bill to offer as a substitute for this, because all we want is proper protection for the rights of citizens of the United States within the several States.

Mr. THAYER. I ask my colleague to yield to me.

Mr. BROOMALL. Certainly.

Mr. THAYER. I desire to ask the gentleman from New York whether, in his judgment, it is an invasion of the reserved rights of the States to enact a law which will compel obedience on the part of everybody to a law constitutional in itself, and the object of which is the protection of all classes of citizens of the United States?

Mr. DAVIS. Mr. Speaker, my distinguished and personal friend from Pennsylvania begs the whole question when he speaks of it as a constitutional law. That is the difficulty. My apprehension is that in this act, which I am anxious to support, there is a provision which is in conflict with the principles of the Constitution.

Mr. BROOMALL. Will the gentleman point it out?

Mr. DAVIS. I will. I refer to the second section of the bill:

> That any person who, under color of any law, statute, ordinance, regulation, or custom, shall subject or cause to be subjected any inhabitant of any State or Territory to the deprivation of any right secured or protected by this act, or to different punishment, pains, or penalties on account of such person having at any time been held in a condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, or by reason of his color or race than is prescribed for the punishment of white persons, shall be deemed guilty of a misdemeanor, and on conviction shall be punished by fine not exceeding $1,000, or imprisonment not exceeding one year, or both, in the discretion of the court.

Now, sir, I undertake to say that this bill may conflict with the rights of the States under their constitutions. Restrictions may exist in regard to the right of certain persons of a certain race holding title to real estate. Those questions may arise in the State courts, and come to the cognizance of officers appointed by the States who are required to execute the process and administer the laws of those States. I believe, sir, if we undertake, before the constitutionality of the law shall be decided, to say that an officer of a State who obeys the process of State courts to which he is responsible, shall be liable to impeachment, arrest, and imprisonment by authority of the law of the Federal Government, we are infringing upon the rights of the States, and violating constitutional provisions. We shall then be assuming that the Federal Government has power over the States which perhaps the courts of the Federal Government may say have never been delegated by the States.

Mr. BROOMALL. In answer to that I have to say, I have always lived under the impression that the Constitution of the United States and the laws made in pursuance thereof were the supreme law of the land, anything contained in the constitution of a State to the contrary notwithstanding. If the gentleman believes a State constitution and laws are above those of the General Government, then I wonder he ever came to the conclusion that it was perfectly constitutional to coerce States, and I believe he did come to that conclusion.

Mr. DAVIS. I never believed any other doctrine. I was born under the sovereignty of the American flag. I was born on the old Green mountains of Vermont. I drank in the air of freedom with my infancy; and I breathe it, thank God, yet. The flag of my country has been my protection wherever I have been. I have stood by it in the dark hours of the rebellion as I stand by it now. Come what will, obloquy, imprisonment, or torture, though my limbs may be drawn one from another, muscle from muscle, or bone from socket, I never will in this land of my birth recognize any other national sovereignty than that symbolized by the stars and stripes of the Republic.

I tell gentlemen this Government is one of delegated powers, and that every law enacted is circumscribed by the limitation of the Constitution. The States have reserved all sovereignty and power which has not been expressly

or impliedly granted to the Federal Government. The sole question I ask my friend is, whether a judicial officer of a State who performs his duties in obedience to the laws of that State is to be arrested and imprisoned by process under this bill before a court of Federal jurisdiction shall have pronounced upon the constitutionality of this Federal law which prohibits him from performing his duty as a State officer?

The SPEAKER. The hour of the gentleman from Pennsylvania has expired.

Mr. BINGHAM. I offer the following amendment to the motion to recommit.

The Clerk read the amendment, as follows:

Amend the motion to recommit by adding the words, "with instructions to strike out of the first section of the bill the following, to wit: 'And there shall be no discrimination in civil rights or immunities among citizens of the United States in any State or Territory of the United States on account of race, color, or previous condition of slavery.' Also to strike out all parts of said bill which are penal and which authorize criminal proceedings, and in lieu thereof to give to all citizens of the United States injured by denial or violation of any of the other rights secured or protected by said act, an action in the United States courts, with double costs in all cases of emergency, without regard to the amount of damages."

Mr. RAYMOND. Mr. Speaker, I have no intention of following the gentleman who has just taken his seat [Mr. BROOMALL] in his discursive remarks upon the general question of reconstruction, nor have I any purpose of discussing the bill itself at any length, or with any amplification of argument in regard either to its general scope or to its details. Indeed, if it were not for the fact that I have taken the responsibility of offering a substitute for the bill as reported by the Committee on the Judiciary, I should say nothing upon it at this stage of the discussion; for I am free to confess that I am not prepared to say anything upon it at all worthy of its great importance. Whether we consider it by itself, simply as a proposed statute, or in its bearings upon the general question of the restoration of peace and harmony to the Union, I regard it as one of the most important bills ever presented to this House for its action, worthy in every respect to enlist the coolest and the calmest judgment of every member whose vote must be recorded upon it.

The bill proposes two things: 1. To declare who shall be citizens of the United States, and to declare that all shall be citizens without distinction of race, color, or previous condition of servitude, who are, have been, or shall be born within the limits and jurisdiction of the United States. 2. To provide for that class of persons thus made citizens protection against anticipated inequality of legislation in the several States.

Both of these provisions are of the utmost possible importance. I am thoroughly and heartily in favor of both, and I shall vote for both if I can convince myself or if others can convince me that they fall within the powers conferred upon Congress by the Constitution and are demanded by the emergency of the occasion. I have endeavored to separate the two, and in the substitute which I have offered I have endeavored to provide thoroughly by the assertion of a great fundamental principle for the attainment of the first of these objects. The substitute which I have offered declares—

That all persons born, or hereafter to be born, within the limits and under the jurisdiction of the United States, shall be deemed and considered, and are hereby declared to be, citizens of the United States, and entitled to all rights and privileges as such.

That is the enunciation of a great principle which ought, and which under ordinary circumstances would, secure to every citizen thus introduced into citizenship ample and full protection in all the rights guarantied to every other citizen. It is not worth while, indeed I have no desire, to conceal the fact that the special object of that substitute, as indeed the special object of the bill, is to introduce into American citizenship the four million persons just emancipated from a condition of slavery. I do not know that any bill is necessary for that purpose. I am inclined to think that none is necessary; that the moment the disabilities imposed upon them by the condition of servitude were removed, that moment they became, by virtue of that act, citizens of the United States, and are to-day entitled to all the rights, privileges, and immunities of citizenship. But we all of us know that this point has been doubted, has been denied in courts, in legislative halls, and in the executive department of the Government. It has been asserted repeatedly, and decisions are on our records to that effect, that they are not citizens because they are of the African race.

Now, sir, the proposition that I have introduced proposes to declare, in behalf of Congress and by the exercise of whatever power belongs to Congress to accomplish that purpose, that they are citizens, and shall be regarded as such from this time forward. Some question has been raised as to the power of Congress to pronounce such a decision. It has been said that the only clause in the Constitution that confers upon Congress any power in regard to citizenship is that clause which empowers Congress to establish a uniform rule of naturalization, and the point has been taken here that that means simply to provide for the naturalization of aliens. I confess my mind has not been wholly clear as to the legal scope of that clause. I know that jurists of high repute and courts of great authority have thus restricted the meaning of the term "naturalization." But, sir, if that be so, and if there be no other power conferred upon Congress to declare who shall be citizens of the United States, it introduces a curious anomaly into our system of government. All the laws which Congress has made in regard to naturalization have in them the word "white." They are confined in their operations to whites alone. Congress has up to this time passed no law for the naturalization of anybody but free white persons coming from a foreign country.

Now, I suppose no one doubts that Congress might have left out the word "white" if it had seen fit, and that Congress might to-day pass a law to naturalize any colored alien coming to our shores. I take it that is universally conceded. Now, if Congress may naturalize a colored alien and cannot naturalize a colored native, we have colored aliens enjoying advantages that native colored persons cannot enjoy; the one class may be made citizens by act of Congress, and the other is absolutely debarred from it. Is it possible that the Constitution ever intended a distinction so invidious? It seems to me not. There is no reason for supposing that the Constitution ever contemplated or intended to confer power upon Congress to do for the alien what it could not do for one of its own native-born citizens.

I am inclined to think, therefore, that the word "naturalization" may very properly, so far as legislative purposes are concerned, be construed in a larger and more liberal sense; that we may fairly regard the power of naturalization conferred on Congress as ample, and as including the power to introduce into citizenship those who are now excluded from it, whether native or alien born.

But not to dwell upon that point—for I am not prepared to argue it in detail—even if that cannot be done by the direct authority of Congress conferred in that clause of the Constitution, I do not see where we get any authority to except these native-born Africans from the general rule of law that all born upon the soil are subjects or citizens of the Government. That is the rule in England, it is the rule in France, it is, and always has been, the rule in this country. There are only two classes of citizens, so far as I can detect, provided for in the Constitution of the United States. In the second article, I think, it is declared that none but a "natural-born citizen" shall be President of the United States. That clause, and the one relating to naturalization, implying that there may be naturalized citizens, are the only two clauses designating the classes of citizens within the contemplation of the Constitution of the United States.

Now, where is the authority to except the native-born African from the application of the general rule of law that every native shall be a citizen of the country on whose soil he is born? Is there anything in the Constitution which excepts him? Is there anything implying or conferring on Congress the power to except him? I cannot find it. I can find no such power conferred, and no such power has ever been exercised.

Now, sir, I do not propose to argue further this power of constitutionality. It will come up often enough in debate if this bill should fail to become a law and the substitute I have offered be reported from the Committee on the Judiciary, as I understand will be done. And when that bill shall come up for discussion, I shall take great pleasure in examining this subject further and responding to any inquiry that gentlemen propose to put to me in regard to its principles.

Now, sir, assuming as I do, without any further argument, that Congress has the power of admitting to citizenship this great class of persons, just set free by the amendment to the Constitution of the United States abolishing slavery, I suppose I need not dwell here on the great importance to that class of persons of having this boon conferred upon them.

We have already conferred upon them the great, inestimable, priceless boon of personal liberty. I cannot for one moment yield to what seems to be a general disposition to disparage the freedom we have given them. I think the fact that we have conferred upon four million people that personal liberty and freedom from servitude from this time forward for evermore, is one of the highest and most beneficent acts ever performed by any Government toward so large a class of its people.

Having gone thus far, I desire to go on by successive steps still farther, and to elevate them in all respects, so far as their faculties will allow and our power will permit us to do, to an equality with the other persons and races in this country. I desire, as the next step in the process of elevating that race, to give them the rights of citizenship, or to declare by solemn statute that they are citizens of the United States, and thus secure to them whatever rights, immunities, privileges, and powers belong as of right to all citizens of the United States. I hope no one will be prepared or inclined to say that this is a trifling boon. If we do so estimate that great privilege, I fear we are scarcely in the frame of mind to act upon the great questions coming before us from day to day here. I for one am not prepared or inclined to disparage American citizenship as a personal qualification belonging to myself or as conferred upon any of our fellow-citizens.

Sir, the right of citizenship involves everything else. Make the colored man a citizen of the United States and he has every right which you or I have as citizens of the United States under the laws and Constitution of the United States. He has the right of free passage from one State to another, any law in any State to the contrary notwithstanding. He has a defined *status;* he has a country and a home; a right to defend himself and his wife and children; a right to bear arms; a right to testify in the Federal courts; he has all those rights that tend to elevate him and educate him for still higher reaches in the process of elevation.

And it is not among the least of the advantages of conferring upon him the right of citizenship that it will have and constantly exercise upon him an educating process. Nor is it an advantage second to that, that giving him the right of citizenship will teach all others of his fellow-citizens of all races to respect him more, and to aid him in his steps for constant progress and advancement in the rights and duties that belong to citizenship. He will have access to the courts as a citizen of the United States the same as any other citizen has. And if in any State court his rights under the Constitution and laws of the United States are denied him, he has the right to take his cause into a Federal court and there have it tried

under the Constitution and laws of the United States. He can freely remove, if the occasion requires it, into another State, and there commence original process, for wrongs he may have suffered, in the courts of the United States.

But I need not dwell upon that. All will perceive that it is of the highest possible value to any portion of the people living in this country to receive at the hands of their Government the *status* of American citizenship and the rights belonging thereto.

Now, sir, I present these considerations rapidly, hurriedly, imperfectly, simply as the reasons which induce me to offer the bill which is now presented here as a substitute for the one pending. And now, as to the particular bill which we are discussing, it is intended to secure these citizens against injustice that may be done them in the courts of the States within which they may reside. It is intended to prevent unequal legislation in those States affecting them injuriously. That is a high and a proper object. I will cordially coöperate with any portion of this House, or with the whole House, as I hope the whole House will favor so laudable an object, in securing that right to them or to any other citizens by proper and legitimate means. My colleague, [Mr. DAVIS,] who made some remarks just before I took the floor, declared his purpose also to vote for any bill which should be constitutional, designed and calculated to secure this common object. I was—I will not say surprised, but somewhat grieved, to hear the point made against him that he required a law to be constitutional before he would give it his vote. Not in terms, but in tone, that point was certainly made.

Now, sir, I cannot, on my conscience and on my oath, however much I may think an object desirable, vote for attaining it by means which seem to me unconstitutional. I care not how pressing the emergency may be, acting here on my responsibility as a legislator, not under the stress of the necessities of war, but acting calmly, supposed to be acting calmly whatever the fact may be, I cannot and will not vote for any bill that may be presented here unless my judgment is satisfied that it is a constitutional bill. So much, sir, for my own conviction upon the subject. Moreover, on grounds of expediency, upon which I will not dwell, I desire myself, and I should feel much relieved if I thought the House fully and heartily shared my anxiety, not to pass here any bill which shall be intercepted on its way to the statute-book by well-grounded complaints of unconstitutionality on the part of any other department of the Government.

Now, sir, I confess that there is a section of this bill which I cannot as yet justify to my own judgment. I shall be very happy to hear at the proper time any argument that will reconcile me to it. It is the second section, which provides—

> That any person who under color of any law, statute, ordinance, regulation, or custom, shall subject or cause to be subjected any inhabitant of any State or Territory to the deprivation of any right secured or protected by this act, or to different punishment, pains, or penalties on account of such person having at any time been held in a condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, or by reason of his color or race, than is prescribed for the punishment of white persons, shall be deemed guilty of a misdemeanor, and on conviction shall be punished by a fine not exceeding $1,000, or imprisonment not exceeding one year, or both, in the discretion of the court.

Now, sir, unless I have entirely mistaken the purport of that section, it provides that if a judge or sheriff or any other officer of a State court should take part in enforcing any State law making distinctions among the citizens of the State on account of race or color, he shall be deemed guilty of a misdemeanor and punished with fine and imprisonment under this bill. Is not this the plain intent and meaning of that section? Indeed, that is its express language, its specific provision, and this is declared in debate to be the only way in which the apprehended injustice can be warded off from this class of our fellow-citizens.

Now, sir, is it just, is it right, have we the power to say that a judge of a State court shall be punished by fine and imprisonment for enforcing a State law? Why, sir, if he does not enforce it he is subject to punishment as an officer of the State by the government of the State. If he does enforce it, he is to be punished by the Federal Government for thus enforcing it. This seems to me a direct violation of the rights of every State and of every State court. The gentleman from Ohio [Mr. BINGHAM] takes, I infer, substantially the same view of this matter, for he has just had read a substitute for that section. For that substitute, so far as I now see, I can give my vote. It appears to me that that section will attain substantially the objects which we have in view. I shall, however, leave him at the proper time to speak for himself on that point.

Now, sir, one other point, and I shall conclude. It was urged at length and with great force by the gentleman who preceded me in this discussion that the condition of the southern States absolutely requires us to take some such strong, direct, punitive action as this, in order to secure the rights which this bill proposes to confer upon the citizens of the southern States. If that were absolutely established, it would be a consideration entitled to great weight.

But I have not been able as yet to convince myself that the state of the South is so wholly and irredeemably bad as it is thus represented to be. I have been waiting all this session for some authoritative statement of the condition of the South, some authentic record of its public action since the war closed. We have heard it urged from all quarters as the reason for legislation of all kinds. We have heard it submitted as a reason for excluding Representatives on this floor. We have had it urged upon us on every occasion when the question of restoration is brought before us.

We have all sorts of evidence presented to us except that which seems to me entitled to weight. All the hearsay evidence, all the stories circulated in the papers, every outrage, every murder committed in the South, are brought in and charged to the political condition of the southern States. We all know perfectly well that a war like this leaves behind it a great wreck, a great *debris* of order, peace, and respect for law. It is so in the South. The armies disbanded there have in perhaps many instances broken up into bands of guerrillas. A spirit of lawlessness pervades them to a greater extent than in the northern States, for our soldiers went at once to their homes, to their farms, or their professional or mechanical pursuits, and again became a part of the great body of society; and yet who does not know that all over the country, even in our northern States, there are more crimes of violence committed than before the war or during its progress? This is the effect of war, to demoralize the public sentiment of all communities until all the people are again brought into subjection to law and order. In the South this must be the case to a greater extent than elsewhere.

You remember, Mr. Speaker, the extraordinary evidence introduced by the gentleman from Ohio [Mr. BINGHAM] in debate the other day, which almost took the House off its feet and startled this Congress from its propriety. [Laughter.] That celebrated extract from the Norfolk Post, which gave us in such graphic style the *animus*, as my friend from Connecticut, [Mr. DEMING] would say, of the southern people. Those of us who knew what it was, recognized it at once as a caricature, a burlesque, and yet it was presented as gravely as any of the other great body of newspaper evidence which has done great execution on this floor from time to time, and it had a great deal of weight, and I have no doubt if the vote had then been taken the Constitution would have been amended. Our fundamental law would have been changed by acclamation, on the strength of the alarm aroused by that testimony concerning the temper of the South!

But this is all aside from what I was about to say. Before we decide on the condition of the South we ought to have authentic information. The gentleman from Ohio will excuse me from refusing to be controlled by any evidence unless from an authentic quarter. You can find papers in the North and in Washington filled with like statements to that of the Norfolk Post.

Mr. WOODBRIDGE. The editor of the Norfolk paper is a Vermonter and a thoroughly loyal man, and in justice to him I say that the article referred to is not an expression of his sentiments. It was inserted by him, doubtless, as rather a burlesque than otherwise, though I do not doubt that the article is a faithful representation of the sentiments of a very large portion of the South, and hence the necessity of such a bill as has been reported from the Judiciary Committee.

Mr. SCHENCK. I have always thought the point of that burlesque was in the close resemblance to the actual utterances and opinions entertained in the South, proved by the evidence laid before the House by the committee on reconstruction.

Mr. RAYMOND. That is the point I was coming to. The gentleman may have had an opportunity to peruse that testimony; I have not; and before I make up my mind about the condition of the southern States I should like to have an opportunity to read it. Before I make up my mind to vote for this bill to authorize the Federal Government to punish a State judge for obeying the State laws I should like to read that testimony. I suggest whether it would not be worth while to wait until it has been printed, so that we may see on what ground we have to act.

I will not proceed further, as I have promised to yield to two gentlemen from Ohio who wish to speak upon this subject [Mr. DELANO and Mr. BINGHAM] the residue of the hour to which I am entitled.

Mr. DELANO addressed the House. [His remarks will be published in the Appendix.]

Mr. KERR. Mr. Speaker, the bill of the Senate (No. 61) in which that body ask the concurrence of this House involves propositions and principles of the gravest importance. It attempts the attainment of ends by means hitherto untried and unheard of in congressional legislation. It appeals to power which, if it be nominated in the bond, has lain dormant since our national birth. It challenges, therefore, and should receive, the most dispassionate consideration. In times like the present, when so much of human action is prompted by the sentiments and feelings, uncontrolled by the severer discipline of reason and legal limitations on power, it may be well to remember, and especially for the majority in this Congress, the words of Montesquieu:

> "It is a lasting experience that every man who has power is brought to the abuse of it. He goes on until he finds its limit."

Many of the objects desired to be secured by this bill have my earnest sympathy. In any effort to secure them which is, in my judgment, consistent with the Constitution and sound public policy, I will cheerfully coöperate, I care not who leads. But out of the great mercy of a kind Providence the time has come again when the American legislator can and ought to approach the consideration of such measures as this in that spirit of liberty so happily defined in the following words of Daniel Webster, the great Expounder:

> "The spirit of liberty is, indeed, a bold and fearless spirit; but it is also a sharp-sighted spirit; it is a cautious, sagacious, discriminating, far-seeing intelligence: it is jealous of encroachment, jealous of power, jealous of man. It demands checks: it seeks for guards; it insists on securities; it intrenches itself behind strong defenses, and fortifies itself with all possible care against the assaults of ambition and passion. It does not trust the amiable weaknesses of human nature, and therefore it will not permit power to overstep its prescribed limits, though benevolence, good intent, and patriotic purpose come along with it."

Now, in this spirit let us turn to the important provisions of this bill and briefly consider them in their order. In the first section it declares "all persons *born* in the United States and not subject to any foreign Power, excluding Indians not taxed, to be citizens of the United States without distinction of color." This declaration appears to me to be utterly vain. I cannot persuade myself that it can

accomplish any effective result. It is not an exercise of any express power in the Constitution. It is not a law "to establish a uniform *rule* of naturalization." Naturalization is the act of investing an *alien* with the rights and privileges of a native subject or citizen. (19 Howard R., 578.) But native subjects or citizens need no act of naturalization to enable them to receive from the hands of their Government an enlargement of their rights and privileges if that Government has power to enlarge them. The real purpose of this bill is to bestow such enlargement upon the African subjects of our Government. It ought to bear that name. Any other title is a misnomer. The act of naturalization requires some acts on the part of the person seeking it. It implies a subsisting relation to some other Government on his part which he desires to cast off; some allegiance or obligation which he desires to renounce. But such is not the case with any of the persons to be affected by this bill. I assume, therefore, that this declaration is entirely nugatory. But it has a purpose. It is designed to cover up and conceal from critical observation the *real aim* of this measure, which is to enlarge, by act of Congress, the rights and privileges of negroes, not as subjects of the Federal Government, but as subjects or citizens of the several States. Has Congress the power to do this? I deny it because I can find no warrant for it in the Constitution. But this question may properly be further considered in connection with the balance of the same section, which reads as follows:

> And there shall be no discrimination in civil rights or immunities among citizens of the United States in any State or Territory of the United States on account of race, color, or previous condition of slavery; and such citizens of every race and color, without regard to any previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall have the same right to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of person and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, and penalties, and to none other, any law, statute, ordinance, regulation, or custom to the contrary notwithstanding.

The phraseology of this provision was obviously dictated by a desire to find support for it in the second section of the fourth article of the Constitution, which provides that "the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States," and in the last amendment of the Constitution abolishing slavery. So far as the last amendment is concerned, I shall not take time now to discuss it at any length. I hold that it gives no power to Congress to enact any such law as this or any other law, except such only as is necessary to prevent the reëstablishment of slavery. Slavery was a domestic relation only. That relation gave a right to the master to require involuntary service from his slave. That relation is now severed, and there exists now no power to renew it. The personal freedom of the slave is established, and no power can take it from him. He needs no such law as this to protect him against reënslavement or to assure his personal freedom.

Is it slavery or involuntary servitude to forbid a free negro, on account of race and color, to testify against a white man? Is it either to deny to free negroes, on the same account, the privilege of engaging in certain kinds of business in a State in which white men may engage, such as retailing spirituous liquors? Is it either to deny to children of free negroes or mulattoes, on the like account, the privilege of attending the common schools of a State with the children of white men? Is it either for a religious society, on the same ground, and in pursuance of its long-established *custom*, to refuse to a free negro the right to rent and occupy the most prominent pew in its church? Is it either for a State to refuse to free negroes and mulattoes the privilege of settling within its boundaries or acquiring property there?

It will require a most vigorous exercise of the imagination to give affirmative answers to these questions. But if these discriminations constitute slavery or involuntary servitude, which are the only things prohibited by the last constitutional amendment, then whose slaves are the persons so discriminated against? They are not the slaves of individuals. They must, then, be the slaves of the State. It follows, therefore, that my State, Indiana, has been a slave State ever since its organization, a fact which its citizens will hardly admit. Let it not be inferred that I am opposed to allowing negroes to testify, or to providing facilities for the education of their children. I am in favor of both. But I assert that the Federal Government has no power whatever to do either in the States. The State alone has the power. The construction which would allow Congress to do these things would give it equal power to grant the right of suffrage and holding office in the States.

But this act rests chiefly for support on the constitutional provision first cited, and is so understood by its author, Senator TRUMBULL, and I will now return to its consideration.

This bill rests upon the theory that Congress has the right to declare who shall be citizens of the United States, and then to provide that *such* citizens shall enjoy in the *States* all the privileges and immunities allowed therein to the most favored class of citizens of such State. Does this right exist? If it does, it is a proper mode of argument to trace it to its logical results, and thus test its propriety and reasonableness. If it exist at all, it exists without limit on its exercise, except the will of Congress. Congress may, then, go into any State and break down any State constitutions or laws which discriminate in any way against any class of persons within or without the State. It may thus defy and set aside the right of each State, in the exercise of its own judgment, to exclude certain persons from its boundaries, or to withhold from them certain civil rights. It can admit into Indiana negroes or mulattoes, coolies or Mexicans, Hottentots or Bushmen, and make them equal there in civil rights and privileges to the highest type of human beings.

The people of the State may be convinced, no matter how firmly, that such classes are unfit to be admitted to live with them or to share full civil rights with them, or that their presence will tend to demoralize or to destroy their society and ultimately their institutions. But all this makes no difference. They have no right to have any opinions on these subjects. The sacred right of self-defense is to this extent surrendered by them and by the States to Congress. Congress may present inducements to all the inferior races of the earth to seek asylums and civil rights in America, and then declare them citizens of the United States; and by the magic power of this declaration invest them with all the high civil rights accorded to any class of citizens in any State in which they may please to abide. We may thus, by the liberal exercise of this mighty power, become substantially *Africanized*, *Mexicanized*, or *Coolyized*, and our glorious institutions and national and personal individuality give place to anarchy and weakness. Was any intention to confer such power on Congress ever expressed? Did our ancestors ever intimate any such intention?

There is certainly nothing in our early history to justify such an opinion. There is nothing in the writings or the proceedings of the early councils of our statesmen to justify it. There was nothing in the circumstances, customs, or laws of the colonies or States at the date of the formation of the Constitution to support it. On the contrary, they are all utterly and irreconcilably at variance with any such views. There were no two colonies or States in which there were not discriminations against such classes, differing both in extent and principle. Is it rational to suppose that the framers of the Constitution intended to clothe Congress with power to wipe out these discriminations, to break down these barriers, and determine for each State the civil *status* of every person, of any race or color, who should elect to settle therein? The proposition is alarming. It is most dangerous. It suggests its own most emphatic denial. (19 Howard R., 579.)

There is an equal lack of evidence in the subsequent *practice* of the States and in the decisions of the courts to sustain such a doctrine. There is not one single adjudication, State or Federal, that approves or tolerates any such claim of power in Congress.

But it is said that this bill is justified by section two, article four, of the Constitution. Let us analyze somewhat that provision:

> "The citizens of *each* State shall be entitled to all privileges and immunities of citizens in the *several* States."

It will not be claimed that this permits the citizen of Ohio who desires to become a citizen of Indiana to carry with him into the latter and enjoy there the "privileges and immunities" which he enjoyed in the former State. Chancellor Kent, speaking of this provision, says:

> "The laws and usages of one State cannot be permitted to prescribe qualifications for citizens, to be claimed and exercised in other States, in contravention to their local policy."

This opinion is sustained by the decisions and opinions of other judges and statesmen too numerous to be cited here. (2 Kent, 71; 19 Howard R., 405.)

It will hardly be claimed that this or any other provision gives Congress power to declare who shall be citizens of each State. Neither government can confer citizenship in the other. The provision in question only requires that the citizens of *each State* shall enjoy certain privileges in the other States to which they may temporarily or permanently remove; but not that citizens of the United States shall enjoy such privileges in the *States*. We should not confound the rights of citizenship which a State may confer within its own limits and the rights of citizenship as a member of the Union. It does not follow that because a person has all the rights and privileges of a citizen of a State he must be a citizen of the United States. He may have all the rights and privileges of the citizen of a State and yet not be entitled to the rights and privileges of a citizen in any other State. Previous to the adoption of the Constitution of the United States every State had the undoubted right to confer on whomsoever it pleased the character of citizen, and to endow him with all its rights. But this character was confined to its own boundaries, and gave no rights or privileges in other States beyond those secured by the law of nations and the comity of States.

The States have not surrendered the power of conferring these rights and privileges by adopting the Constitution of the United States. Each State may still confer them upon an alien, or any one it thinks proper, or upon any class or description of persons; yet they would not be citizens in the sense in which that word is used in the Constitution of the United States, nor entitled to sue as such in its courts, nor to the privileges and immunities of citizens in the other States. Congress has the exclusive right to establish a uniform rule of naturalization for citizenship in the Union. It may confer what Mr. Story calls "a *general* citizenship," which would entitle the recipient of it to the protection of the General Government within the sphere of its constitutional power, and would confer certain fundamental rights, which I will not stop now to enumerate. But they are by no means identical with those attempted to be secured by this bill. Congress might declare every person of foreign birth, of whatever race or color, who should come to this country a citizen of the United States on merely taking an oath of allegiance. Would that entitle such persons to citizenship in every State of the Union? And if it did, to what civil and political rights would it entitle them? (19 Howard R., 405, 578, 579.)

Again, it should be borne in mind that by its terms the provision in question relates to the privileges and immunities which the citizens of *each* State shall enjoy when in any of the *other* States. Now, when I, a citizen of

Indiana, go into the State of Kentucky for a *temporary* purpose, with no intention to change my permanent residence, I go there as a citizen of Indiana, and am entitled, by virtue of this constitutional guarantee, to enjoy "all privileges and immunities of citizens of the several States," so long as I so remain. But citizenship and the rights of citizenship in Kentucky form no part of those privileges and immunities, for I am still a citizen of Indiana. If I had gone into Kentucky with an intention to leave Indiana and settle permanently in Kentucky, I would then have ceased to be a citizen of Indiana and could no longer claim rights guarantied to me as a citizen of that State, for I would then have become a citizen of Kentucky, and would by my own act and choice have become subject to the laws of Kentucky, and could claim and exercise there only such rights of citizenship as those laws allowed. The laws of Kentucky would then determine my *status*, both civil and political, and not those of Indiana. (19 Howard R., 422.)

But let us suppose that Kentucky, disliking Indianians because they are abolitionists, should provide in its laws that the citizens of Indiana should not be permitted to come into and settle in and become citizens of Kentucky, with full civil and political rights under its laws on the same footing as the citizens of Virginia or any other favored State; then might they not justly complain that the spirit of this guarantee was violated? Or let us suppose that Indiana, in the exercise of its fundamental right of self-protection, believing that the safety and purity of its society and institutions require that coolies should be entirely excluded from the State, should by law prohibit *all* persons of that race anywhere from coming into or settling in the State or acquiring property or civil or political rights there. Would such a law involve any violation of this guarantee? What, then, does this guarantee mean?

I understand its primary object to be to secure equal privileges and immunities to the citizens of *each* State while *temporarily* sojourning in any other State, and its secondary and only other purpose is to prevent any State from discriminating in its laws *in favor of or against* the citizens of any other State *merely because* they are the citizens of such other State, or in other words, for mere *sectional* reasons. For example, Indiana cannot form any tacit or express alliance or friendship with Kentucky which shall require or justify Indiana in giving to the citizens of Kentucky who shall settle in Indiana any privileges and immunities it does not equally give to the same *class* of citizens from any other State.

Our ancestors had formed a sisterhood of States, and they merely intended by this provision to prevent any combinations arising out of mutual interests or animosities between certain States from taking the form of legislative discriminations against the citizens of other States. Texas cannot, because it dislikes Yankees, withhold from the citizens of New England any privileges and immunities it accords to the citizens of the same class from Louisiana. But Texas can deny to the paupers, vagabonds, or negroes of New England privileges and immunities which it denies, on grounds of local public policy, to the same classes from other States, and which it denies on the same grounds to persons of the same classes within its own limits, although such persons may in New England have been invested with greater rights. This interpretation is reasonable, practical, and free from the dangerous and centralizing tendencies of the one claimed in this bill. It is consistent with the full enjoyment by the States respectively of the sacred and natural right of local self-government and self-protection. It will enable the States to protect the body-politic against the dangers and demoralizations which would inevitably result from the other theory.

In this view, I am fully sustained by that distinguished jurist whom I have once quoted. He says:

"The article in the Constitution of the United States declaring that citizens of each State were entitled to all the privileges and immunities of citizens in the several States, applies only to natural-born or duly naturalized citizens; *and if they remove from one State to another, they are entitled to the privileges that persons of the same description are entitled to in the State to which the removal is made, and to none other. The privileges thus conferred are local and necessarily territorial in their nature.*"—2 *Kent*, 71.

To the same effect is the opinion of Justice Story:

"The intention of this clause was to confer on them, if one may so say, a *general citizenship;* and to communicate all the privileges and immunities which the citizens of the *same State would be entitled to under the like circumstances.*"—*Story's Commentaries on Constitution*, sec. 1806.

Now, if my construction of this constitutional provision is incorrect, and the one claimed by the friends of this bill is correct, then it follows that aliens made citizens by the States are entitled to all the privileges of citizens in any other States to which they may remove, because they were citizens in the State they removed from. But the contrary is both the law and the practice throughout the Union. Such a citizen, removing to another State, is then entitled only to such privileges as are accorded by the laws of that State to persons of the *same class*. Chancellor Kent says:

"These civil privileges, conferred upon aliens by State authority, are dictated by a just and liberal policy, but they must be taken to be strictly local; and until a foreigner is duly naturalized, according to the act of Congress, he is not entitled in any other State to any other privileges than those which *the laws of that State allow to aliens.*"—2 *Kent*, 70; 6 *California R.*, 250; 2 *Curtis's History of Constitution*, 200.

Therefore if negroes remove from Massachusetts, or coolies from California, to Ohio or Indiana, they are entitled there to enjoy the same privileges and immunities which are accorded by those States respectively to negroes or coolies from any other State, "but to none other." They cannot import into those States the laws of Massachusetts or California. The right to exclude them or to limit them in civil or political rights and privileges is fundamental and necessary to the existence and safety of the State. It antedates all constitutions. It is original in the State.

I now cite, and invite careful attention without much further comment, to certain high authorities, in corroboration of these views. First, I consult the Chancellor again:

"Citizens, under our Constitution and laws, mean free inhabitants, born within the United States, or naturalized under the laws of Congress. If a slave, born in the United States be manumitted or otherwise lawfully discharged from bondage, or if a black man be born within the United States, and born free, he becomes thenceforward a citizen, *but under such disabilities as the laws of the States respectively may deem it expedient to prescribe to free persons of color.*"—2 *Kent*, 259; *Hobbs* vs. *Fogg*, 6 *Watts*, 553; *the State* vs. *Claiborne*, *Meigs*, 331; *Opinions of Attorneys General*, vol. 1, 382.

Next, hear the views of Justice Washington:

"The inquiry is, what are the privileges and immunities of citizens in the several States? We feel no hesitation in confining these expressions to those privileges and immunities which are in their nature fundamental; which belong of right to the citizens of all free Governments; and which have at all times been enjoyed by the citizens of the several States which compose this Union, from the time of their becoming free, independent, and sovereign. What these fundamental principles are it would perhaps be more tedious than difficult to enumerate. They may, however, be all comprehended under the following general heads: protection by the Government; the enjoyment of life and liberty, with the right to acquire and possess property of every kind; and to pursue and obtain happiness and safety, subject, nevertheless, to such restraints as the Government may justly prescribe for the general good of the whole. The right of a citizen of one State to pass through or to reside in any other State for purposes of trade, agriculture, professional pursuits, or otherwise; to claim the benefit of the writ of *habeas corpus;* to institute and maintain actions of any kind in the courts of the State; to take, hold, and dispose of property, either real or personal; and an exemption from higher taxes or impositions than are paid by the other citizens of the State, may be mentioned as some of the particular privileges and immunities of citizens, which are clearly embraced by the general description of privileges deemed to be fundamental; to which may be added the elective franchise, *as regulated and established by the laws or constitution of the State in which it is to be exercised.*"—*Corfield* vs. *Coryell*, 4 *Washington's Circuit Court Reports*, page 380.

These views were uttered in reference alone to white citizens, as were also the following:

"A decision by the supreme court of Massachusetts upon this clause of the Constitution declares that—

"The privileges and immunities secured to the people of each State in every other State can be applied only in case of removal from one State into another. By such removal they become citizens of the adopted State without naturalization, and have a right to sue and be sued as citizens; *and yet this privilege is qualified and not absolute, for they cannot enjoy the right of suffrage or of eligibility to office without such term of residence as shall be prescribed by the constitution and laws of the State into which they shall remove.* They shall have the privileges and immunities of citizens; that is, they shall not be deemed aliens, but may take and hold real estate; *and may, according to the laws of such State*, eventually enjoy the full rights of citizenship without the necessity of being naturalized."—6 *Pickering*, 92, *Abbott* vs. *Bayley*.

I now refer at some length to the views of the judges in the Passenger cases, 7 Howard, 466, which bear directly upon and illustrate this subject. After referring to the cases of Holmes *vs.* Jennison, 14 Peters, 540; Groves *vs.* Slaughter, 15 Peters, 449; and Prigg *vs.* The Commonwealth of Pennsylvania, 16 Peters, 539, Chief Justice Taney, remarks:

"If these cases are to stand the right of the State is undoubted. And it is equally clear that, if it may remove from among its citizens any person or description of persons whom it regards as injurious to their welfare, it follows that it may meet them at the threshold and prevent them from entering. For it will hardly be said that the United States may permit them to enter and compel the State to receive them, and that the State may immediately afterward expel them. There could be no reason of policy or humanity for compelling the States, by the power of Congress, to imbibe the poison, and then leaving them to find a remedy for it by their own exertions and at their own expense. Certainly no such distinction can be found in the Constitution, and such a division of power would be an inconsistency, not to say an absurdity, for which I presume no one will contend. If the State has the power to determine whether the persons objected to shall remain in the State in association with its citizens it must, as an incident inseparably connected with it, have the right also to determine who shall enter. Indeed, in the case of Groves *vs.* Slaughter the Mississippi constitution prohibited the entry of the objectionable persons, and the opinions of the court throughout treat the exercise of this power as being the same with that of expelling them after they have entered.

"Neither can this be a concurrent power, and whether it belongs to the General or to the State government, the sovereignty which possess the right must in its exercise be altogether independent of the other. If the United States have the power, then any legislation by the State in conflict with a treaty or act of Congress would be void. And if the States possess it, then any act on the subject by the General Government in conflict with the State law would also be void and this court bound to disrespect it. It must be paramount and absolute in the sovereignty which possesses it. A concurrent and equal power in the United States and the States as to who should and who should not be permitted to reside in a State would be a direct conflict of powers, repugnant to each other, continually thwarting and defeating its exercise by either, and could result in nothing but discord and confusion.

"Again, if the State has the right to exclude from its borders any person or persons whom it may regard as dangerous to the safety of its citizens, it must necessarily have the right to decide when and toward whom this power is to be exercised. It is in its nature a discretionary power to be exercised according to the judgment of the party that possesses it. And it must, therefore, rest with the State to determine whether any particular class or description of persons are likely to produce discontent or insurrection in its territory, or to taint the morals of its citizens, or to bring among them contagious diseases, or the evils and burdens of a numerous pauper population. For if the General Government can, in any respect, or by any form of legislation, control or restrain a State in the exercise of this power, or decide whether it has been exercised with proper discretion and toward proper persons, and on proper occasions, then the real and substantial power would be in Congress and not in the States. In the cases decided in this court, and hereinbefore referred to, the power of determining who is or is not dangerous to the interest and well-being of the people of the State has been uniformly admitted to reside in the State.

"I think it, therefore, to be very clear, both upon principle and the authority of adjudged cases, that the several States have a right to remove from among their people, and to prevent from entering the State, any person, or class or description of persons, whom it may deem dangerous or injurious to the interests and welfare of its citizens; and that the State has the exclusive right to determine, in its sound discretion, whether the danger does or does not exist, free from the control of the General Government."

Mr. Justice Grier, in the same case, said:

"It must be borne in mind (what has sometimes been forgotten) that the controversy in this case is not with regard to the right claimed by the State of Massachusetts in the second section of this act, to repel from her shores lunatics, idiots, criminals, or paupers, which any foreign country, or even one of her sister States, might endeavor to thrust upon her; *nor the right of any State, whose domestic security might be endangered by the admission of free negroes, to exclude them from her borders. This right of the States has its foundation in the sacred law of self-defense, which no power granted to Congress can restrain or annul. It is admitted by all that those powers which relate to merely municipal legislation, or what may be more properly called*

internal police, are not surrendered or restrained; and that it is as competent and necessary for a State to provide precautionary measures against the moral pestilence of paupers, vagabonds, and convicts, as it is to guard against the physical pestilence which may arise from unsound and infectious articles imported."—Page 47.

Justice Story, in delivering the opinion of the Supreme Court of the United States in the case of Prigg *vs.* Commonwealth of Pennsylvania, 16 Peters, page 625, says:

"To guard, however, against any possible misconstruction of our views, it is proper to state that we are by no means to be understood, in any manner whatever, to doubt or to interfere with the police power belonging to the States in virtue of their general sovereignty. That police power extends over all subjects within the territorial limits of the States, and has never been conceded to the United States."

Now, let it be remembered that in all these authorities it is assumed that the privileges and immunities referred to as attainable in the States are required to be attained, if at all, *according to the laws or constitutions of the States*, and never in *defiance* of them.

This bill rests upon a theory utterly inconsistent with and in direct hostility to every one of these authorities. It asserts the right of Congress to regulate the laws which shall govern in the acquisition and ownership of property in the States, and to determine who may go there and purchase and hold property, and to protect such persons in the enjoyment of it. The right of the State to regulate its own internal and domestic affairs, to select its own local policy, and make and administer its own laws for the protection and welfare of its own citizens, is denied. If Congress can declare what rights and privileges shall be enjoyed in the States by the people of one class, it can by the same kind of reasoning determine what shall be enjoyed by every class. If it can say who may go into and settle in and acquire property in a State, it can also say who shall not. If it can determine who may testify and sue in the courts of a State, it may equally determine who shall not. If it can order the transfer of suits from the State to the Federal courts, where citizens of the same State alone are parties, in such cases as may arise under this bill, it can by parity of logic dispense with the State courts entirely. Congress, in short, may erect a great centralized, consolidated despotism in this capital. And such is the rapid tendency of such legislation as this bill proposes.

I now submit that I have established beyond successful controversy the propriety of my positions. But before I invite attention to the details of this bill, I must notice briefly another claim of constitutional authority for it.

The gentleman from Pennsylvania [Mr. THAYER] has fairly won the distinction, in this debate, of having discovered a new fountain of congressional power. He informs us in effect that the first eleven amendments to the Constitution are grants of power to Congress; that they contain guarantees which it is the right and duty of Congress to secure and enforce in the States. Hitherto those amendments have been supposed, by lawyers, statesmen, and courts, to contain only *limitations* on the power of Congress. The history of the country teaches us that the people of the States feared that, by such vicious constructions as we now daily hear, Congress might usurp powers not granted to it, and thus peril the rights of the States and of their citizens; and *therefore* the States demanded these amendments as safeguards against encroachments on the part of the General Government. In almost every convention by which the Constitution was adopted, amendments to guard against the abuse of power by the General Government were recommended. They were not intended to be, and they are not, limitations on the powers of the States. They are bulwarks of freedom, erected by the people between the States and the Federal Government, and this bill is an attempt to prostrate them. What right has Congress to invade a State, and dictate to it *how* it shall protect its citizens in their right not to be deprived of life, liberty, or property without due process of law? Or what right has it to assume that a State will not do its duty to its citizens in these particulars, and then, upon such assumption, to usurp the functions of the State government? This bill attempts to do this thing. It applies to every State in this Union. Are the States supposed to have lost all interest in the welfare and protection of their own citizens?

Mr. THAYER. Will the gentleman yield?

Mr. KERR. If I have misstated his position I will.

Mr. THAYER. I do not know that the gentleman has misstated my position, but I ask him of what value he supposes such a guarantee is, if, as he contends, there is no power to maintain it.

Mr. KERR. I will answer the gentleman from the pen of a man—I say it for no offense—who is a safer guide in questions of constitutional law than he.

I answer the gentleman's position on this point by a quotation from the pen of that most revered judge, Chief Justice Marshall, which he will find in the decision of the Supreme Court of the United States, in the case of Barron *vs.* The Mayor, &c., of Baltimore, (7 Peters R., 243:)

"The Constitution was ordained and established by the people of the United States for themselves, for their own government, and not for the government of the individual States. Each State established a constitution for itself, and in that constitution provided such limitations and restrictions on the powers of its particular government as its judgment dictated. The people of the United States framed such a Government for the United States as they supposed best adapted to their situation, and best calculated to promote their interests. The powers they conferred on this Government were to be exercised by itself; and the limitations on power, if expressed in general terms, are naturally, and, we think, necessarily applicable to the Government created by the instrument. They are *limitations* of power granted in the instrument itself; not of distinct governments, framed by different persons, and for different purposes."

"If these propositions be correct the fifth amendment must be understood as restraining the power of the General Government, *not as applicable to the States.* Had Congress engaged in the extraordinary occupation of improving the constitutions of the several States by affording the people additional protection from the exercise of power by their own governments in matters which concerned themselves alone they would have declared this purpose in plain and intelligible language."

Is the gentleman answered?

Mr. THAYER. No, sir. I do not consider that I have received any answer at all. The gentleman has read a passage from the opinion of Chief Justice Marshall in regard to the limitations of the powers granted by the Constitution to Congress. My question was as to the guarantees of the Constitution. Of what value are those guarantees if you deny all power on the part of the Congress of the United States to execute and enforce them? That question was not answered, nay, it was not touched by the passage which the gentleman has read from the opinion of Chief Justice Marshall.

Mr. KERR. I submit that the position now taken by the gentleman evades the whole question. The gentleman dodges the issue concerning which I am speaking. I am speaking now about the limitations upon the power of Congress. I am telling him, and I am telling this House, that they have no right to find a grant of power in what was intended as a limitation upon power. That is my position. There are no guarantees in these limitations in the Constitution. Chief Justice Marshall, in the case from which I have cited, expressed the unanimous opinion of the court when he said that these are limitations upon the power of Congress and not upon the powers of the States. They are not guarantees at all, except to protect the States against the usurpations of Congress and the General Government. They simply say that Congress shall not invade the rights of the States of this Union to do things that are forbidden to be done by the first eleven amendments of the Constitution. I say, therefore, that so far as the basis of this power insisted on by the gentleman in his argument the other day is concerned, he cannot support it by any reference to these amendments of the Constitution. So far as the Constitution does contain guarantees in favor of the people, which it is the right of the General Government to enforce, I hold them as sacred as any man can. And where they need congressional legislation to enforce them, I am in favor of enacting it.

The same construction is given to these amendments by the same court in 5 Howard R., 432. See also 17 Alabama R., 516; 8 Wendell R., 100; 10 *Id.*, 449; 24 *Id.*, 337.

Now, Mr. Speaker, these considerations convince my judgment that this bill is not fit to be voted for. But I cannot hope that they will produce the slightest effect upon the minds of those gentlemen on the other side of this Chamber whose fashion it is to treat with derision the frequent appeals to the Constitution which are made on this side. If any gentleman on that side considers such conduct consistent with the high duties of an American legislator, that is his matter, not ours; but it does not change or lessen the duties of the faithful minority on this floor. I beg leave to remind the majority, in no spirit of unkindness, that if they had been more mindful of the admonitions they have received from the minority here it would not have become necessary for the President, more faithful to the Constitution than they, to cast them into mourning by his late invincible veto. If my wishes were dictated by mere partisan motives I should earnestly pray them to continue to act in the same reckless spirit and to propose and pass such measures as this. Such measures will plead our cause before the popular tribunal of our country with more eloquent tongues than our most eloquent popular advocates. The popular verdict upon such legislation cannot fail to vindicate us sooner or later. We say to you, therefore, if you will:

"Be thou the trumpet of our wrath,
And sullen presage of your own decay."

Now, I will advert to some of the details of this bill. The second section reads as follows:

That any person who, under color of any law, statute, ordinance, regulation, or custom, shall subject or cause to be subjected any inhabitant of any State or Territory to the deprivation of any right secured or protected by this act, or to different punishment, pains, or penalties on account of such person having at any time been held in a condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, or by reason of his color or race, than is prescribed for the punishment of white persons, shall be deemed guilty of a misdemeanor, and on conviction shall be punished by fine not exceeding $1,000, or imprisonment not exceeding one year, or both, in the discretion of the court."

Viewing this and the first section of the bill together, we learn that the proposed statute will be both remedial and penal in its character. It proposes to protect certain rights and to punish for the failure to protect them. Clearness and certainty should be found in every criminal law. This bill is liable to the very great objection that its provisions are uncertain as to their meaning. Its intentions are expressed in terms which are alike undefined and indefinable. For example, what does the word *citizen* mean in the first section? Etymologically, it is said to mean a person who enjoys the freedom and privileges of a city. In American law, one writer says it means a person, native or naturalized, who has the privilege of voting for public officers and of being elected to office. Another says it means any person, native-born or naturalized, of either sex, who is entitled to full protection in the exercise and enjoyment of the so-called private rights, but does not define what those rights are. This bill says:

There shall be no discrimination in civil rights or immunities among citizens of the *United States* in any State or Territory, on account of race, color, or previous condition of slavery.

But it does not define the term "civil rights and immunities." What are such rights? One writer says civil rights are those which have no relation to the establishment, support, or management of the Government. Another says they are the rights of a citizen; rights due from one citizen to another, the privation of which is a *civil injury* for which redress may be sought by a *civil action*. Other authors define all these terms in different ways, and assign to them larger or narrower definitions according to their views. Who shall settle these questions? Who

shall define these terms? Their definition here by gentlemen on this floor is one thing; their definition after this bill shall have become a law will be quite another thing. The anti-slavery amendment of the Constitution had one very simple object to accomplish when gentlemen on the other side of this House desired to secure its adoption; but now it is confidently appealed to as authority for this bill and almost every other radical and revolutionary measure advocated by the majority in this Congress. Those gentlemen often have strange visions of constitutional law, and it is not safe to judge from their opinions to-day what they will be to-morrow.

This bill forbids any discrimination in civil rights and immunities on account of *race* or *color*. Under the laws of Indiana no person except white male inhabitants can be allowed to engage in the business of retailing spirituous liquors. But a negro procures the requisite petition and applies to a county board for a license to retail liquors. It is refused. Now, this discrimination is based both upon color and race. And the county board, by refusing the license, violates the second section of this act, and thereby commit a misdemeanor, for which they may be fined each not exceeding $1,000, or imprisoned not exceeding one year, or both, in the discretion of the court. But this punishment shall not be administered in the courts of Indiana, but must be in the Federal courts at the capital of the State, as prescribed in the third section of this bill. Or, the city of New Albany, in which I live, whose ordinances follow the State law, might refuse a license to a negro under the same circumstances, and the common council would thus become wrong-doers, subject to the same punishments. Now, it cannot be said that selling liquor according to law in Indiana is not a civil right. It certainly is; but if it is not, yet a license is a contract, and this bill says the negro shall have "the same right to make and enforce contracts" as the white man. It is as much a contract or civil right as would be a license to sell meat in their market-house or to run a dray in their streets or to carry on any other business.

Again, the constitution of Indiana has dedicated a munificent fund to the support of common schools for the education of the children of the State. But negro and mulatto children are by law excluded from those schools. Negroes and mulattoes are exempt by law from school tax. They are denied a civil right, on account of race and color, and are granted an immunity, (from school taxation,) but are taxed for all other purposes. Now, a negro or mulatto takes his child to the common school-house and demands of the teacher that it be admitted to the school and taught as the white children are, which is refused. The teacher then becomes a wrong-doer and is liable to the same punishments, to be administered in the same way; because all the persons referred to would be acting under *color* of some law, statute, ordinance, regulation, or custom.

The constitution of Indiana, adopted in 1851, forbids any negro or mulatto to come into or settle in that State after the adoption of that constitution, and declares all contracts made with any negro or mulatto coming into the State contrary to the provisions of that constitution shall be void. This bill proposes to annul those constitutional provisions and all State laws passed to secure their execution. A negro comes into the State in defiance of them, and makes contracts, and the courts of Indiana, acting under *color* of those provisions and laws, refuse to enforce those contracts. There will thus arise, not only a conflict of authority, which may lead to most unhappy results, but the officers refusing to enforce such contracts would, under the provisions of this bill, at once become criminals, subject to the penalties already mentioned. Or if a State court or officer refused in any such proceeding to receive the testimony of any negro, where he was forbidden by the State law to receive it, he too would incur the penalties of this bill. It cannot be claimed that the persons to whom I have referred could not be punished under the provisions of this bill because they were acting as officers and their conduct was the result of errors of judgment only. That would be no valid defense—no defense at all—against the positive terms of this law. I hold that the only persons intended to be punished by this bill are persons acting under State authority in some sort of official capacity. By its very terms, it only applies to persons who shall do these prohibited acts "under *color* of any law, statute, ordinance, regulation, or *custom*." Who can act under such *color* but officers of some kind?

I might go on and in this manner illustrate the practical working of this extraordinary measure. But I have said enough to indicate the inherent viciousness of the bill. It takes a long and fearful step toward the complete obliteration of State authority and the reserved and original rights of the States. It puts the local policy and officers, executive, ministerial, and judicial, of the States, at the mercy of the petty Federal officers, who, under this bill, may be made to swarm over the whole country, exercising both ministerial and judicial functions, by arresting, examining, and imprisoning persons charged or suspected of having done any of the forbidden things under *color* of local laws or policy. Then the things attempted to be prohibited are in themselves so extraordinary and anomalous, so unlike anything ever attempted before by the Federal Government, that the authors of this bill feared, very properly too, that the system of laws heretofore administered in the Federal courts might fail to supply any precedent to guide the courts in the enforcement of the strange provisions of this bill, and not to be thwarted by this difficulty, they confer upon the courts the power of judicial legislation, the power to make such other laws as they may think necessary. Such is the practical effect of the last clause of the third section, which reads as follows:

> But in all cases where such [laws of the United States] are not adapted to the object, or are deficient in the provisions necessary to furnish suitable remedies, and punish offenses against law, the *common law*, as modified and changed by the constitution and statutes of the State wherein the court having jurisdiction of the cause, civil or criminal, is held, so far as the same is not inconsistent with the Constitution and laws of the United States, shall be extended to and govern said courts in the trial and disposition of such cause, and, if of a criminal nature, in the infliction of punishment on the party found guilty.

That is to say, the Federal courts may, in such cases, make such rules and apply such law as they please, and call it *common law*.

Then, as if to widen the breach and augment the irritations occasioned by the enforcement of such a measure between the Federal officers and the officers and people of the States, it is further provided in the third section that—

> If any suit or prosecution, civil or criminal, has been or shall be commenced in any State court against any such person, or against any officer, civil or military, or other person, for any arrest or imprisonment, trespasses or wrongs done or committed, by virtue or under color of authority derived from this act, or the act establishing a Bureau for the Relief of Freedmen and Refugees, and all acts amendatory thereof, such defendant shall have the right to remove such cause for trial to the proper district or circuit court in the manner prescribed by the "act relating to *habeas corpus* and regulating judicial proceedings in certain cases," approved March 3, 1863.

No matter how arbitrary, offensive, or outrageous the conduct or wrongs of these officers may be toward the citizens of the States, the people of the States are denied all remedy in their own courts, but must seek it at great expense and inconvenience, almost equivalent to its denial, in the Federal courts.

The fourth section of the bill requires the circuit courts of the United States to appoint as many commissioners in their respective circuits as they may deem necessary "to afford a speedy and convenient means for the arrest and examination of persons charged with a violation of this act." These officers may become as numerous throughout the country as justices of the peace are now. This never-ceasing multiplication of officers over the country to consume the substance of the people is one of the most dangerous and mischievous evils of the times. If it is continued much longer it will not be strange if our Government become *hateful* to the people.

In conclusion, I shall call attention to one more of the novel and original features of this bill. It is in the ninth section, which I will read:

> That whenever the President of the United States shall have reason to believe that offenses have been or are *likely to be* committed against the provisions of this act within any judicial district, it shall be lawful for him, in his discretion, to direct the judge, marshal, and district attorney, of such district, to attend at such place, within the district, and for such time as he may designate, for the purpose of the more speedy arrest and trial of persons charged with a violation of this act; and it shall be the duty of every judge or other officer, when any such requisition shall be received by him, to attend at the place and for the time therein designated.

Our Federal courts are thus to be made *itinerant*, and speedy justice administered at each offender's own door, and if he is found guilty he may perhaps enjoy the singular felicity of being executed at home. But courts do not consist of judges alone. It will be the duty of the judges, district attorneys, marshals, clerks, grand and petit juries, and the bailiffs of the courts, with the records, to accompany each other in these remarkable visitations and perambulations. It seems to me the framer of this section of the bill has left at least one defect in it. He should have provided for an executioner, who should be of the favored race and color, and should march in the forefront of the procession with a guillotine.

Mr. BINGHAM obtained the floor.

Mr. WILSON, of Iowa. I ask my friend from Ohio [Mr. BINGHAM] to yield to me for a moment.

Mr. BINGHAM. For what purpose?

Mr. WILSON, of Iowa. I desire to withdraw the motion to recommit for the purpose of offering an amendment, after which I propose to renew the motion to recommit; and then I will allow my friend from Ohio an opportunity to renew his amendment to the motion to recommit by adding instructions. After that I shall demand the previous question, and if I can get it seconded, I shall be willing to let the subject go over until to-morrow.

Mr. BINGHAM. But I shall desire to be heard upon it to-morrow.

Mr. WILSON, of Iowa. I have already stated to the gentleman that I propose to give him a portion of my time.

Mr. BINGHAM. With that understanding, if it is the desire of the House, I have certainly no objection to the seconding the previous question.

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

The SPEAKER. The gentleman from Ohio [Mr. BINGHAM] is entitled to the floor, and has not yielded for that motion.

Mr. BINGHAM. I am perfectly willing to submit the question in reference to closing debate to the House, if it is understood that I am to have an opportunity to speak to-morrow. It is, however, proper that I should say that there are other gentlemen who desire to be heard upon this question. For myself, I am content with the arrangement suggested by the chairman of the Committee on the Judiciary, [Mr. WILSON, of Iowa.] I will now yield to that gentleman to test the sense of the House upon this question.

Mr. WILSON, of Iowa. I withdraw the motion to recommit, and move the additional amendment, which I ask to have read.

The Clerk read, as follows:

> On page 3, line seventeen, after the word "thereof," insert the following:
>
> Or for refusing to perform any act upon the ground that it would be inconsistent with this act.

Mr. WILSON, of Iowa. I now renew the motion to recommit.

Mr. BINGHAM. I move to amend the motion to recommit by adding the following:

> With instructions to strike out of the first section the words "and there shall be no discrimination in civil rights or immunities among citizens of the United States in any State or Territory of the United

States on account of race, color, or previous condition of slavery," and insert in the thirteenth line of the first section, after the word "right" the words "in every State and Territory of the United States." Also to strike out all parts of said bill which are penal, and which authorize criminal proceedings, and in lieu thereof to give to all citizens injured by denial or violation of any of the other rights secured or protected by said act an action in the United States courts with double costs in all cases of recovery, without regard to the amount of damages; and also to secure to such persons the privilege of the writ of *habeas corpus*.

Mr. WILSON, of Iowa. I now demand the previous question.

The House divided; and there were—ayes 53, noes 45.

So the previous question was seconded, and the main question ordered, which was upon recommitting the bill with instructions.

LEAVE OF ABSENCE.

Mr. WARD asked, and obtained, leave of absence for one week for Mr. GRISWOLD.

Mr. THAYER asked, and obtained, leave of absence for one week for Mr. ECKLEY.

Mr. LOAN asked, and obtained, indefinite leave of absence for Mr. BENJAMIN.

Mr. ROLLINS asked, and obtained, leave of absence for ten days for himself.

TRANSFER OF SMITHSONIAN LIBRARY.

Mr. PATTERSON, by unanimous consent, introduced a bill for the transfer of the Smithsonian library; which was read a first and second time, and referred to the Committee on the Library.

S. V. P. STRAUBER.

Mr. LATHAM asked, and obtained, leave to withdraw from the files of the House the papers in the case of S. V. P. Strauber, leaving copies of the same.

INDIANS IN MICHIGAN.

Mr. UPSON, by unanimous consent, introduced a joint resolution directing the Secretary of the Interior to pay to the Chippewa, Ottawa, and Pottawatomie Indians residing in Michigan the amount of annuities and moneys which equitably belong to the portions of said tribes residing in the State of Michigan out of any moneys or stocks now in the possession or under the control of the United States belonging to the said Chippewa, Ottawa, or Pottawatomie Indians, or to the Pottawatomie nation of Indians; which was read a first and second time, and referred to the Committee on Indian Affairs.

Mr. THAYER moved that the House adjourn.

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

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to appropriate committees:

By the SPEAKER: The petition of A. Boylan, T. H. Sweeny, A. Gaa, M. Taylor, M. Wilkur, and 500 others, of Laporte, Indiana, in favor of a law enacting that eight hours shall be a legal day's work for all workmen, artisans, or laborers in the employ of the United States.

By Mr. AMES: The petition of officers of the Quincy Savings Bank, of Quincy, Massachusetts, to be relieved from tax on dividends and deposits now imposed by the internal revenue law.

By Mr. BEAMAN: The petition of A. J. Walker, and others, citizens of Hillsdale county, Michigan, praying for an extension of the time for completing the Amboy, Lansing, and Traverse Bay railroad.

Also, the petition of Warren Jackson, and 350 others, citizens of the township of Litchfield, Hillsdale county, Michigan, asking for an extension of the land grant to the Amboy, Lansing, and Traverse Bay Railroad Company.

Also, the petition of W. Huff, and others, citizens of Jonesville, Hillsdale county, Michigan, asking for the extension of the land grant to the Amboy, Lansing, and Traverse Bay Railroad Company, State of Michigan.

By Mr. BOYER: The petition of certain citizens of Pennsylvania, for the reduction of tax on agricultural implements.

Also, the petition of C. H. Nimson, and 61 others, mechanics and laborers of Pennsylvania, praying for an increase of the tariff.

By Mr. DELANO: The petition of Edward Barrett, and 100 others, veteran volunteers of Coshocton county, Ohio, praying for the equalization of bounties to soldiers by the United States Government who enlisted in 1861 and 1862.

Also, the petition of James White, Norman Guernsey, and 15 others, assistant assessors of internal revenue, praying an increase of compensation and allowance of traveling fee and office rent.

By Mr. FARNSWORTH: The petition of B. F. Lawrence, A. B. Fish, and 50 others, citizens of Elgin, Illinois, for improved water facilities for transportation to the sea-board.

By Mr. GARFIELD: The petition of 25 citizens of Charlestown, Portage county, Ohio, for several laws providing for immediate payment of bounties to soldiers in the war for the suppression of the rebellion in such proportion as will make it equal to the time of service rendered—in the aggregate $300 for three years.

Also, a petition of 41 citizens of the same place, of like import.

Also, the petition of 67 citizens, praying for such legislation as will protect the mechanics and laborers in American manufacturing establishments "to the extent of the difference of the cost of capital and labor here and abroad, with the addition of taxes paid by American industrial products from which the foreign are free."

Also, from 76 persons engaged in "agriculture, mining, manufactures, commerce, and the mechanic arts," remonstrating against any alteration in the present rates of duties on imports which will lead to large importations, and in favor of such alterations in the revenue laws as will insure constant employment to laborers in all branches of industry at remunerative wages, and not benefit the Governments which, during our civil war, by act and sympathy, labored to destroy us.

By Mr. GLOSSBRENNER: The petition of a number of manufacturers of agricultural implements, praying for a reduction of the tax upon sales of such implements, and for a repeal altogether of the tax upon castings made by themselves when such castings enter into the construction of the implements.

By Mr. HUBBARD, of New York: The petition of 200 citizens of the town of Sherburne, New York, for a new mail route from Sherburne, in the county of Chenango, to Oneonta, in the county of Otsego, via Columbus and New Berlin.

Also, the petition of 120 citizens of Columbus, New York, for the same.

Also, the petition of citizens of New Berlin, New York, for the same.

By Mr. LONGYEAR: The petition of A. E. Goodrich, and others, of Chicago, Illinois, asking an appropriation of money to aid in the improvement of Eagle harbor, Michigan, on Lake Superior.

By Mr. MARVIN: The petition of Rawson Bellis, and others, citizens of New York, praying for a law to regulate inter-State insurances of all kinds, &c.

By Mr. MERCUR: The petition of 48 citizens of Montour county, Pennsylvania, asking for such a revision of the tariff laws as will protect domestic labor and invite the investment of capital in home manufactures.

By Mr. MORRIS: The petition of E. G. Lapham, Esq., and 35 others, of Ontario county, New York, asking that Congress will enact such laws as may be just for securing inter-State insurances.

Also, the petition of James O. Sheldon, and over 60 others, of Ontario county, New York, asking for a renewal of a patent right upon a corn-sheller to Thomas D. Burrell, of Geneva, New York.

By Mr. RICE, of Massachusetts: The petition of the officers of the South Boston Savings Bank, for exemption from tax on deposits in that institution.

By Mr. SAWYER: The petition of R. L. D. Porter, and others, residents of Waushara county, Wisconsin, for Congress to grant such judicious and sufficient aid as will hasten the completion of the improvement of the Fox and Wisconsin rivers, the ship-canal connecting Lake Erie with Lake Ontario and the Hudson river, and other internal improvements.

Also, the petition of T. C. Shove, and 75 others, citizens of Manitowoc county, Wisconsin, praying for an increase of pension to Samuel E. Stone, late sergeant company E, fourteenth Wisconsin volunteers.

By Mr. SCHENCK: The petition of 1,007 citizens and soldiers of Ohio, for additional bounties to such soldiers as enlisted prior to December 24, 1863.

By Mr. STEVENS: The memorial of Colonel Julius W. Adams, of the city of New York, engineer, setting forth certain facts relative to the burning of petroleum as fuel under marine and other boilers, and asking for an appropriation of $5,000, to be expended under the direction of the Secretary of the Navy, at the Brooklyn navy-yard, for the purpose of ascertaining the calorific power and economic value of petroleum as a fuel for steam purposes as compared with anthracite coal as now used in the United States Navy.

By Mr. WELKER: The petition of H. E. Wood, and 155 others, wool-growers of La Fayette, Medina county, Ohio, asking protection on wool.

Also, the petition of J. Barnard, and 146 others, wool-growers of Chatham, Medina county, Ohio, for the same purpose.

By Mr. WINDOM: The petition of citizens of Minnesota, for redress for damages committed by certain Sioux or Dakota Indians in said State in the year 1863.

NOTICE OF BILLS.

The following notice for leave to introduce bills were given under the rule:

By Mr. JULIAN: A bill to incorporate the Island Mutual Building Association of the city of Washington.

By Mr. WASHBURN, of Indiana: A bill to provide for continuing in service the acting medical officers of the Navy, to supply vacancies in the regular list.

IN SENATE.

FRIDAY, *March 9*, 1866.

Prayer by Rev. A. D. GILLETTE, D. D., of Washington, District of Columbia.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. HOWE presented the petition of U. H. Kendall and other citizens of Wisconsin, praying for the establishment of a mail route from Wrightstown to Pauquette in that State; which was referred to the Committee on Post Offices and Post Roads.

Mr. HOWE. I also desire to present a petition, and I do so with pleasure, very numerously signed by citizens of Kenosha, in Wisconsin, asking that the Constitution of the United States may be amended: first, so that the President and Vice President may be chosen by the qualified voters of the United States directly, without the intervention of electoral colleges, and for one term only; second, so that the qualifications of voters for President and Vice President and Representatives in Congress may be established on an impartial, just, and constitutional basis; imparting and limiting the privilege of voting for those officers, to those citizens who can read and who comply with the other conditions and requirements made by the laws of the States respectively; provided, that no one shall be abridged or affected in the enjoyment of this franchise by reason of race, color, descent, or social condition, and that no one shall be disfranchised who already enjoys it under existing laws. I move the reference of this petition to the joint committee of fifteen.

The motion was agreed to.

Mr. HOWE. I also present a petition from citizens of the same place asking that such conditions may be imposed upon the rebel States as shall punish treason at least with ineligibility to office and loss of power, and reward loyalty with confidence and honor; and which shall demand, as an evidence of sincere loyalty and good faith on the part of those States, the abolition of all distinctions in their constitutions and laws, on account of color or race; and that these provisions may be secured by such amendments to the Constitution as are necessary to that end. I move that this petition be referred to the committee of fifteen.

The motion was agreed to.

Mr. POMEROY presented the petition of Thaddeus Hyatt, praying for an extension of his patent for improvements in vault covers; which was referred to the Committee on Patents and the Patent Office.

Mr. WILSON. I present the petition of Ezra Dodge and several hundred other citizens of the towns of Danvers, South Danvers, and Topsfield, in Essex county, Massachusetts, asking the Government in reconstructing the rebellious States to punish treason at least with ineligibility to office and loss of power, and to reward loyalty to the Government. I move its reference to the committee on reconstruction.

It was so referred.

Mr. HARRIS presented a memorial of citizens of Clinton county, New York, remonstrating against the renewal of the so-called reciprocity treaty; which was referred to the Committee on Foreign Relations.

Mr. CHANDLER presented a memorial of officers of the United States Army, praying for increased pay; which was referred to the Committee on Military Affairs and the Militia.

Mr. FESSENDEN presented the memorial of Colonel Julius W. Adams, of the city of New York, engineer, setting forth certain facts relative to the burning of petroleum as fuel under marine and other boilers, and asking for an appropriation of $5,000, to be expended under the direction of the Secretary of the Navy, at the Brooklyn navy-yard, for the purpose of ascertaining the calorific power and economic value of petroleum as fuel for steam purposes as compared with anthracite coal as now used

in the United States Navy; which was referred to the Committee on Naval Affairs.

Mr. HENDRICKS presented two memorials of the Indiana Soldiers' Association, praying for the enactment of a national militia law and for an equalization of the bounties paid to soldiers in the late war; which were referred to the Committee on Military Affairs and the Militia.

Mr. GRIMES presented a memorial from the Legislature of Iowa, praying for a grant of land to aid in the construction of the Iowa Central railroad; which was referred to the Committee on Public Lands.

PAPERS WITHDRAWN.

On motion of Mr. HENDRICKS, it was

Ordered, That James Pool have leave to withdraw his petition and other papers from the files of the Senate.

REPORTS OF COMMITTEES.

Mr. ANTHONY, from the Committee on Claims, to whom was referred the petition of Goldsmith Brothers, praying to be indemnified for United States bonds lost on the steamer Brother Jonathan on the 31st of July, 1865, submitted a report, accompanied by a bill (S. No. 192) for the relief of Goldsmith Brothers, of the cities of San Francisco, California, and Portland, Oregon.

The bill was read, and passed to a second reading, and the report was ordered to be printed.

Mr. BROWN, from the Committee on the Pacific Railroad, to whom was referred the bill (S. No. 119) granting lands to the Leavenworth, Lawrence, and Fort Gibson Railroad Company, to aid in extending their railroad and telegraph line from the southern boundary of Kansas to the northern boundary of Texas, in the direction of Galveston bay, reported it with amendments.

COMMITTEE ON VENTILATION.

On motion of Mr. BUCKALEW, it was

Ordered, That the President *pro tempore* appoint the committee on ventilation authorized to be appointed by the resolution of the Senate of the 7th instant.

BILLS INTRODUCED.

Mr. CHANDLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 193) to amend an act entitled "An act granting lands to the State of Michigan to aid in building a harbor and ship-canal at Portage Lake, Keewenaw Point, Lake Superior," approved March 3, 1865; which was read twice by its title, and referred to the Committee on Commerce.

Mr. WILLIAMS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 194) to establish a post route in the State of Oregon; which was read twice by its title, and referred to the Committee on Post Offices and Post Roads.

ROCK ISLAND.

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

Resolved, That the Secretary of War be directed to inform the Senate what legislation is necessary to fix and establish the position of the Chicago and Rock Island railroad and bridges at Rock Island arsenal, so as to best accord with the purposes of the Government in its occupancy of said island for military purposes; also, what additional legislation, if any, is necessary to enable the War Department to occupy for military purposes the small islands contiguous to Rock Island, and known as Benham's, Wilson's, and Winnebago Islands; also, what appropriations are necessary to liquidate the claims of persons claiming property in these islands, and of those whose property on Rock Island has been taken, in pursuance of law, for military purposes; for securing water power at the head of Rock Island; for the erection of storehouses for the preservation of arms and other munitions of war at this point, and for establishing necessary communication by bridges between the cities of Davenport, Iowa, and Rock Island, Illinois, and Rock Island arsenal.

PRESIDENTIAL APPROVAL OF LAWS.

A message from the President of the United States, by Mr. ROBERT JOHNSON, his Secretary, announced that the President had approved and signed, on the 8th instant, the following acts:

An act (S. No. 93) to quiet the title to certain lands within the corporate limits of the city of San Francisco; and

An act (S. No. 142) for the relief of James Bawdin.

BONDED WAREHOUSES.

Mr. CONNESS. I move that the Senate proceed to the consideration of the motion made by the Senator from Rhode Island [Mr. SPRAGUE] to reconsider the bill (H. R. No. 135) to extend the time for the withdrawal of goods for consumption from public store and bonded warehouse, and for other purposes. I believe it was postponed for consideration until to-day.

The motion was agreed to.

The PRESIDENT *pro tempore*. The question is, Will the Senate reconsider the vote passing the bill? And on that question the Senator from Rhode Island is entitled to the floor.

Mr. SPRAGUE. Mr. President, I have to beg the indulgence of the Senate for submitting the remarks that I have to make in part this morning from paper. The severe cold that affected me on a former occasion still continues, and I am still very much prostrated by the effects of that disorder. I did not feel competent to trust myself to state orally the views that I have to express. I state this as a preamble simply to the remarks that I will now submit to the Senate.

Because the Senator from California has telegraphed to his constituents in that great State, the passage of the bill under consideration, we are told this bill must be hurried through. Sir, the bribe is too small—$10,000,000, $1,000,000, of trade, $100,000 of profit is too small a bribe to continue a system, the evil effect of which is felt by billions of trade and by millions of profits.

As the Most High removed the scales from the eyes of St. Paul that had blinded his sight from the perception of this great doctrine, so He likewise has removed from my heart the timidity that has tied my tongue for the past two years; for I now feel bold in the advocacy of the principles that are in me, and I do not desire to affect other than the minds of the Senate. I trust the reporters will not dignify me by any remarks in their very able and valuable papers. My remarks are intended exclusively for the Senate.

My health being such, I feared I should be unable to resume the consideration of the question before the Senate, and I have, therefore, hastily thrown together one or two ideas that are more important than others in writing, and I beg the pardon of the Senate for so doing, and assure them that it is but the preamble to the remarks I desire to submit upon this occasion.

If the same opposition that is now and ever has been brought to bear upon the principles of right and justice, as applied to the political conventions of the people, and as applied to the industrial interests, was applied to the principles of mathematics, the larger part of the people would be led to doubt the truth that two and two make four.

If a vote was to be taken to-morrow by the whole people as to whether they would continue the tariff, I am not sure but the vote would be against it, which would be in effect to decide that they will not be as well clothed or have as good food, and be as well educated and be surrounded with as much of happiness and have as stable and pure government as the people of continental Europe, whose Governments direct aggressions upon the industrial interests of this country to strengthen their ruling classes and contribute even more of wealth to their trading classes, and in this country are aided by men whose sole end and aim is to accumulate money without regard to principle, country, or good sense. Three fourths of the southern people acted, I believe, honestly in what they felt to be the defense of their country, of their rights, and for a better condition for themselves and for their children; and yet every blow they struck was to forge a link in the chain of their political, social, intellectual, moral, and industrial slavery.

The great mass of the Irish, and also the uneducated population of this country, sympathize with the rebellious portion of southern society, the ruling object of that society being to keep from all advancement in civilization and in position the very class that supports them. Such are some of the contradictions that to-day beset us in the discussion of this and of all other questions that command public attention.

Look at my own situation. We have the semblance of a tariff, with little of reality, so badly administered, with so many acts of legislation that neutralize it as a means to equalize the labor of this with older countries, that I sometimes feel that it would be better if there were none at all. We should at least get rid of the prejudice respecting this policy that has fastened itself upon the people. When we consider that twenty-five millions of revenue is lost to the Government by undervaluation and introduction through the bonded warehouse, and through fraud and the loss of interest from the time of entry into bond until withdrawn therefrom of ten millions besides, we may well suppose, with these large, well-understood corruptive influences, that the accumulation of those not seen by the public may be as large as these, and as they are far more numerous so they injuriously affect greater number and classes of people.

While we know this to be so, is it not the part of wise men and of statesmen to prevent such heresies from being extended or from growing stronger by any legislative acts of ours?

None will deny but that this country is the great workshop for European monopolists. I tremble almost as I survey the ground and ask myself what is to be the future. We are slaves to that power, bound hand and foot. I have not myself penetration sufficient to see the end.

Who are the real friends of this country? Was Lord Chatham, when, if his policy had prevailed until now, we should have been still colonies of Great Britain, and the words that "if America as much as makes a stocking or forges a hobnail I would let her feel the whole power of Great Britain," would be the policy that would have prevailed here? It is said that the devil when bent upon any very extraordinary wickedness takes upon himself the outward habiliments of a saint. In England those who sympathized with our cause during the war, those who advocate reform bills, a more enlarged suffrage, and freedom, politically and socially, for the people, advocate free trade for this country. Did not slavery say, let us alone? Do not all monopolists say let us alone? Let us enjoy free trade without competition? Does not the Camden and Amboy resist the erection of any competing lines? It is free trade for her and no trade for the rest of the people. If the managers of this interest were wise and good, if there were nothing human in their nature, if they were never subject to a feeling to take advantage of their secure position, still the old maxim prevails, that "competition is the life of trade." England, therefore, through Bright and Cobden, advocates for this country free trade; and I am not sure but that on the sole judgment of their voices, and contrary to the general opinions of the people they represent, there are Senators here who act upon their reasoning as law. What can be expected of the man?

England advocates free trade on commodities of which she has the monopoly. She taxes tobacco two dollars the pound and obtains from a tariff upon kindred articles $115,000,000 out of $354,000,000, the latter sum being the amount of her revenues for the year. The planters of Connecticut from New England, of Virginia, Maryland, Kentucky, and Tennessee, have more reason to ask for free trade for their product than England has for her manufacturers. For if the people now will pay two or three dollars per pound, would not, in the event of the custom tax being removed, this $115,000,000, or a large portion of it, go into the pockets of the planters? If the people can and do afford to pay for it at all, what is it to them who receives it? France upon the same and kindred

articles exacts exclusion of trade. She derives a revenue of $50,000,000 of gold from the purchase, manufacture, and sale of tobacco, snuff, and cigars. She desires free trade for America such articles as she has to export, but exclusive for trade for all articles she imports. Suppose that free trade was permitted, instead of one buyer of tobacco there would be five thousand, and as many traders; would not the planter be receiving far greater prices for the replenishing of his exhausted soil?

The great object to be attained is to sell our soil and our labor for the highest price. Now, flour, corn, wheat, hay, and every product of the soil is as much a part of a shovel as the wood, iron, and labor that comprise its principal parts. If manufactured in England, you have no market for your corn, your wheat, your hay, which is your soil in another and different form. The products of the soil are as much a part of cloth as cotton and oil and fuel, the wear and tear of machinery. It is as much a part of a shawl or cassimere as the wool, the wear and tear of machinery, and prices, insurance, interest, and the great and grand catalogue of industries that are prospered by being so employed. We thus may go on indefinitely. Every shop industry is a new market for the products of the soil; and the price for this product increases while the production is curtailed by the withdrawal of hands into the shop, store, and office occupation. Or if supplies are drawn from abroad, the cost of transportation, of interest, of brokerage, insurance, and the like, are added to the price of the crop introduced, thereby fixing prices for the crop on the spot. On the other hand, prices will remain the same, but the farmer will gain more profit, upon the principle of small profits upon large production, which is the true theory for the prosecution of every business interest; if he cultivates more land by increasing his energies, drawing from abroad additional hands, and if he obtain the same price upon an increased quantity, his profits are thus increased. The price will increase if the market is found at home for the surplus that was before exported, as the cost of transportation, insurance, &c., must be added to the price that he will get for his crop. This is the practical working of the introduction into a farming nation of the shop, store, and office industry. We have, in addition to this, increased value of the land, railroads, and highways; but more than this, you have places of profit and improvement for the increased members of your family. The shop, the store, and the office furnish the children, the young men, and the young women with occupation that the bonded warehouse would carry to England and France, to neither of which places can you send your sons and your daughters; but besides this, you will obtain something of the profit that goes to the shop. If his profits are out of proportion to the capital and skill employed, the farm will soon share a portion.

The shop cannot enjoy for a long time a larger percentage of profits than wear and tear, and the interest of the money. If he does so, he will find other capital introducing itself into the same occupation.

The men of the West or middle States must have learned ere this not to pin their faith on England or France for a market, and on no one but the United States; and it should be their best effort to unite with interest the true patriotism that is within them, to advance and contend for every home interest that is now struggling with the capital and monopolized labor of the Continent.

New England produces nothing in proportion to the supplies necessary to feed her people. She draws it all from the West. Every State is interested, if they will but see it, to sustain New England interests in this respect, as every intermediate State gets the transportation and does the business first for the articles consumed in the products of the mills of New England, and in distributing the products of the mills to the rest of the country. The effect of free trade is to trade with a country or with countries that do not contribute one cent's worth of the value of the product to any State or to any people. She takes the public, State, and national securities, bonds, and shares of banks and railroads and our gold in payment, nothing else. She contributes nothing, and draws from us our life-blood. We owe the continent of Europe to-day thirteen hundred millions of money for our railroads, war, public buildings, and wearing apparel. The effect of a policy that employs all our labour in increasing the prices for our raw material or farming products to their highest state of development, furnishing markets for your products, places and employments, in shops, stores, and offices for your sons and your daughters, is the unpopular word protection, better told as equality in trade.

And this the bonded warehouse system every day evades, hinders, and, if permitted to continue, will not only curtail, but will stop altogether.

If I should here state it, would you believe, and yet so it is, that there are to be found those who actually permit the erection of such establishments, refuse to sell their lands when a portion only is needed; who are miles from schools and churches, when the establishments will bring such to their very doors; when they cannot give their lands to any one if the pay for them is that they must be worked; and who are clothed in rags, who live without light at night, and retire early in consequence; who never eat meat, because they have not the wherewith to purchase it; and who, in other words, live poorer than the lowest and meanest Indian on the plain, when they could live without raising their hands far better than any clerk or employé in the Departments, or any member of Congress at the National Hotel and at Willards, not, perhaps, with the same number of stuffs, but if fewer far better, and whose water and air, whose social and political atmosphere would be much superior as is the climate of the more bracing, vigorous air of New England as compared with that of the rice plantations of South Carolina. Such, sir, upon my reputation as a man, as a Senator, is the fact, and such has been my own experience, for as you yourself know, both are inhabitants of two of our own great States. And it is my deliberate judgment that the mass of the American people through the country take the view, if he who refuses all that I have stated these people do refuse, when they refuse their approbation and their coöperation in the establishment of laws for the equalization of the products of their labor with that of the monopolist of continental Europe. America is not contending with the labor of Europe. Her labor is contending with those who monopolize labor. Labor in Europe is enslaved—the master of this labor is our antagonist.

The Democratic party, who ever pretended to sympathize with the people, the common people, the uneducated people, have been the greatest supporters of those who enslave the people both here and in Europe. My friend, the honorable Senator from Indiana, [Mr. HENDRICKS,] and as he must feel, has within this body no warmer admirer for his great talents and his fine social qualities and gentlemanly instincts than myself, represents this false doctrine in his recent speech, and who could not rest until he had struck a blow at New England. He claims she has more of representation than she is entitled to, population as a basis, and he cites six of the largest States of the Union to compare. Let him take six of the western States, not the largest, and then in his next speech give us the statement he makes up. He will find that New England has not enough of representation. But, sir, it was not of that I desired to speak. It was his blows at the industrial interests that are peculiar to New England that he speaks; interests of which I am endeavoring to have better understood. He will see no advantages from anything that has for its watchword equality. Yet he can see advantages in the establishment of manufacturing interests nearer his own delightful city of Indianapolis, and he and his people are ready to coöperate with any enterprising men from New England in establishing and carrying on mechanical interests. His people and his Legislature could, through him, be made to see and feel its value, and would contribute to its security. Herein he acknowledges the necessity of establishing the very principle he refuses, as this interest cannot be established unless the labor of Indiana is made equal with the monopolized labor in Europe.

But because the interest is thought to be that more especially of New England he opposes it. I will not here assert that in the rest of the country this peculiar interest is established to as great an extent as in New England; the statistics show this. He and those who think with him, as they have heretofore, supported those who monopolized the labor of the blacks in this country and who have kept whites out of the pale of civilization and from all avenues of employment; who contended for thirty years, and fought as no people ever before fought for four years, for the maintenance of slavery. He, I say, with those he represents, following in that well-trod and beaten track, prefers to support those in foreign countries who monopolize and enslave the laborers there than to see any advantages coming from the free labor of New England, bringing with it its institutions of learning, its proud charities, its virtues, its religion, its enterprise, and its manly defense of free principles. If he will not appreciate the virtues of the people in New England he is ready to testify to their value when devoted citizens of Indiana, and he will be as ready as any one to bid God speed to the efforts that always animate the men and women of New England to transport from New England all of her institutions to the States where their fortunes are cast. Be consistent, then, and if you will not see any virtue in the advancing civilization of these hated commonwealths, exclude the people from your States. Do not give them countenance. There is no hate so intense as that of the master toward those once his slaves who are free without his consent. There is no hate so intense as that of the despot to those that advocate free principles. Hate is fear. One who fears is a coward, and his downfall is sure to follow. Let New England and her institutions be more and more hated by tyrants, by monopolies, and their advocates, say I.

But, sir, let us see how Bright and Cobden reason for this country. Free trade, as we understand it, means free trade for England and for the United States in every department of human industry. We cannot sell a dollar's worth into Canada of our shop products. Is this free trade? We cannot go to the West Indies, to Mexico, to Central America or South America, to Australia or to the East Indies. England and France, having the disadvantages of a more expensive and a double transportation, have monopolized all the trade of the world. How has this been done? First, by most unwise, most pernicious legislation in the past and want of forethought and statesmanship and comprehension in the present. But it is through the very system itself that she has conquered us. For years she bought all the richness of our southern soil and left all the uplands an almost dreary waste, completely exhausted, on account of the unpaying prices that she paid for our great staple. For years she monopolized this trade, and until the introduction of Yankee spindles she was the sole purchaser and had the crop at her own price, and northern traders were unable to sell unless at two and three years' credit. This was changed only when the Yankee came in as a customer. Cotton advanced and credits diminished. The hated race emancipated the southern planter from financial dependence upon Europe. And my friends will agree with me that the most torturing and depressing dependence is that upon money in another's keeping.

England would have had free trade here, but the men of New England said no, we will break in upon that system, and we will emancipate you from the anaconda's coil. It was done;

but the lands remain worn out and exhausted; their richness has gone into the pockets of the traders of Europe, and has aided in strengthening the chains of the despots and tyrants upon that continent, aided by those who would be so here. Free trade, therefore, means free trade for us to sell to you exclusively. You are told, buy in the cheapest market, sell in the dearest. You have had comparisons of this, and you have been led to take the value of a bale of cotton as valued in this country, and made to buy for it double the iron that it would buy in this country, and we are thus told, "See, see, dealers in brooms carried on for a long time a competition in trade until the brooms were almost given away. This called for consultation. 'How is this,' says one, 'I can no more make brooms at this price?' Says another, 'I could not, but I steal the straw.' 'Yes,' says another, 'I can; I steal the straw and the handle.' 'Nor I,' says another, 'I steal the brooms made up.'" The traitorous advocates of free trade in this country steal the prices of cotton which is made and continued high by the effect of the establishment in this country of the business of manufacturing, based upon the theory of custom rates as applied to importation. And how beneficial it has been to this country to compel the manufacturers of Great Britain to pay to us, the owners of the soil, these unusual high prices for the quantity she uses, and at a time above all others when it had become necessary that we should realize gold for our products. You cannot but admit the men of New England have aided practically in doing this.

Let us look at it in another phase. How indignant and with what holy horror did a pamphlet speak, the other day, in reference to a thread mill in Connecticut making three hundred per cent. Sir, the thief many times is the first to discover to his pursuers his own guilt. The free traders here have furnished a club to beat out their own brains. I know something of this interest. Up to the beginning of the war no establishment had been able to maintain its existence in this country. The great English aristocratic manufacturing house of Coates & Co., whose thread had exclusive *entrée* into every woman's work-basket in this country, gradually worked up their prices so high that the enterprising Yankee of Connecticut, poor in pence but rich in brains, went to work, and with a few thousands started a machine, succeeded partially, started a company; they went on a little larger, and upon the prices that the English monopolist has established a large profit has been obtained; that is expended in erecting larger works, so that the prices may be reduced and the profit obtained upon increased quantity.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday, which is the joint resolution (H. R. No. 51) proposing to amend the Constitution of the United States.

Mr. CONNESS. With the consent of the Senator from Maine, I move that the regular order be temporarily laid aside for half an hour, so that the Senator from Rhode Island may close his remarks, and that we may get a vote on this subject.

The PRESIDENT *pro tempore*. It can be laid aside by common consent, if there be no objection.

Mr. FESSENDEN. I have no objection, so far as I am concerned, to its being postponed for half an hour, if there is no objection on the part of any one else in the Senate, for I certainly do not expect to occupy all the time from one until three o'clock. If it is desired by the Senate, therefore, that the consideration of this subject should continue for awhile longer, I shall interpose no objection to it.

The PRESIDENT *pro tempore*. No objection being interposed, the joint resolution will be laid aside informally, and the Senator from Rhode Island will proceed.

Mr. FESSENDEN. Before that is done, I will ask the Senator from Rhode Island how long he will take to conclude his remarks.

Mr. SPRAGUE. Certainly half an hour or an hour.

Mr. CONNESS. The honorable Senator from New Hampshire [Mr. CLARK] desires to return to his State to-day, and is desirous, of course, of voting on the resolution to amend the Constitution. There are some other reasons why that question should be at once disposed of, and therefore I move that the question just considered by the Senate be postponed until half past twelve o'clock to-morrow.

The PRESIDENT *pro tempore*. The joint resolution to amend the Constitution is really before the Senate, and no motion is required to bring it up.

Mr. CONNESS. I make the motion to postpone the bonded warehouse bill until Monday next, and that it be made the special order for half past twelve o'clock on that day, with the understanding that we shall come to a vote upon it at that time.

The motion was agreed to.

ADJOURNMENT TO MONDAY.

Mr. CRESWELL. I move that when the Senate adjourns to-day it adjourn to meet on Monday next at twelve o'clock.

Mr. FESSENDEN. I should like my friend to withhold that motion for the present, until we see whether we can dispose of this resolution to-day.

Mr. CRESWELL. Certainly.

The PRESIDENT *pro tempore*. The motion is withdrawn.

APPORTIONMENT OF REPRESENTATION.

The PRESIDENT *pro tempore*. The joint resolution (H. R. No. 51) proposing to amend the Constitution of the United States is now before the Senate, and the Senator from Maine [Mr. FESSENDEN] is entitled to the floor.

Mr. FESSENDEN. Mr. President, I regret sincerely, as the honorable Senator from Massachusetts [Mr. SUMNER] did, that I find it necessary in my judgment to say something more upon the question under consideration. I do not intend, however, to present again the argument that I have already had occasion to make; but some things have been said and some grounds taken by honorable Senators since those views were presented which, in my judgment, require a short reply. It is not my intention to consider the subject at any very considerable length; and perhaps I may be obliged to speak rather upon matters and things in general than upon the question under consideration; and I hope if I shall do so that the Senate will not judge me too severely.

Mr. President, I have been taught since I have been in public life to consider it a matter of proper statesmanship, when we aim at an object which we think is valuable and important, if that object, in our judgment, is unattainable, to get as much of it and come as near it as we may be able to do. It was with views something like these, actuated by considerations of this description, that the committee of which I have the honor to be one, presented the resolution which is now under consideration. As I before took occasion to state, it was not all they wished, it was not in some particulars exactly what they might have desired. So far as my own judgment was concerned, and is concerned now, the resolution is defective; and that is, in my mind, the objection to it. It is not defective, as I think, in principle. The principle upon which it is founded is a safe and wise one; but I think it comes short of what ought to be attained, and I think, too, that as it is drawn it may be liable to evasion, and that it may not accomplish what on its face it may seem to accomplish.

The honorable Senator from Indiana, [Mr. HENDRICKS,] in the address which he made upon this subject, commented somewhat severely, as I thought upon an expression used by me on a former occasion, that as I could not accomplish by direct action what I wished to accomplish in this regard, namely, to bring about a state of things which would allow the ballot to such colored men as were proper persons to exercise it, since I could not accomplish it in the way I would like to do, by directly abolishing all distinctions of color, I was willing to reach it by this resolution, which in my judgment would, after a series of years, greater or less, accomplish the same purpose indirectly; and he asked me very distinctly and very significantly whether it was proper to accomplish by indirection that which we could not accomplish directly. I have yet to learn that where a legislator avows his object and his purpose, states what he wishes to accomplish and the mode by which he is to accomplish it, he is to be charged, although it operates indirectly, with what is properly understood by the term "indirection," which conveys the idea of a trick, a contrivance, to do something by taking advantage of others which you cannot do if you make plain to their senses what is the object. I put no such construction upon it, and I do not hold myself as at all amenable to such a charge. Legislators may often with great propriety pass bills which do not lead directly to a particular result with a view and intention that they shall finally accomplish it, and I think it is the part of wisdom so to act in many cases.

Sir, if I may be allowed to say so, when the Saviour of the world came upon earth He found many abuses, many errors, many corruptions existing which He would gladly have terminated at once. He did not deem it wise or prudent to attempt to put them down by the strong arm of power; but He laid down a set of principles, and He gave instructions which, if they became acceptable to the people, and were finally taken as a rule of action, would inevitably, by the effect they would produce upon the minds of men, tend to banish all those errors, to destroy all those corruptions, and to make the world what it should be. The action of such legislation, if I may call it so, was not direct, but indirect; and I have yet to learn that such action was not eminently wise and good, being calculated to effect the object that He had in view—the improvement of the world.

I have no more to say upon that subject. I wished simply to relieve myself of the imputation which the honorable Senator from Indiana seemed to desire to cast upon me for using that expression. I adhere to the same position; and I think, with regard to the present question, it is better to accomplish it indirectly than by force. The question is a great one, involving the right of a large number of people to exercise suffrage. Many of them, perhaps, would be fit to exercise it to-day; many of them may be unfit to exercise it to-day; many more may become fit to exercise it in the process of time, when they shall have enjoyed their freedom and received instruction. A system aiming at their development and at the full exercise, as they become capable of using it in process of time, of this great privilege of suffrage, which aims to accomplish it gradually, kindly, mildly, and not at once by forcible imposition, against all the prejudices and feelings and habits of the people with whom they are connected and among whom they live, would be better, in my judgment, and tend more to the peace of the community and the eventual public good and safety of the nation. And I will say to the honorable Senator, if it can be accomplished by the indirect action of an amendment of the Constitution which appeals to the interest of those who have hitherto been and who are yet probably the ruling class among whom this large population is situated, and with whom they live, it will be far better than to run the risk of all the difficulties that might arise from a forcible imposition, which would create ill-feeling, generate discord, and produce, perhaps, undying animosities. This, however, is my own private opinion, and perhaps it is of little value.

The honorable Senator from Indiana seemed to feel very strongly upon this subject, and he placed his opposition to this measure upon three grounds. The first was that it was in-

tended for a party purpose. Had the Senator any right to say that? Has he any right to attack the motives of a committee of this body in introducing an amendment of the Constitution? Has he any right to attack the motives of those who support it? Must it necessarily be attended with benefit to a particular party? If so, it is necessarily attended with injury to another party, of which the honorable Senator is a prominent member; and it would as well become me to say that his opposition to it is for party purposes and for party objects as it became him to say that its introduction and its support were intended for party purposes. I say it would as well become me to say it, because I have precisely the same right to attack the motives of his action that he has to attack mine for any action that I choose to take. I do not do it, and I omit to do it on this particular ground: it is well known here and out of this Senate that the honorable Senator from Indiana is a gentleman who never in any of his addresses here says anything that is in the slightest degree calculated to effect a party purpose, and has so little of that party feeling which presses itself upon other men as to be hardly suspected of being a party man at all. [Laughter.]

The Senator objected to this measure upon another ground, and that was, that in one sense it was intended as a punishment, and that was wrong; and in another sense it was what he called a bribe, a reward, and that was wrong. If he considers it a punishment, he differs very much from his leading associate on this question, the honorable Senator from Massachusetts, [Mr. SUMNER,] for he does not consider it a punishment at all. The Senator from Massachusetts says there is nothing punitive in it; on the contrary, it is a reward to these States; it is conferring power upon them; it is strengthening power in the hands of the whites of the South, and only oppressing the colored race. Behold how doctors disagree! They operate upon the same patient and are operating at the same time, with different remedies and in different directions.

Suppose it is a punishment, and suppose it is a bribe, a reward: it does not differ very much from the principle upon which all criminal legislation is founded, to say the least of it. We punish men when they do wrong. I never heard that it was an objection to legislation that it punished those who perpetrate a wrong. I never heard that it was an objection to legislation that it held out rewards to those who did right. If we believe it is wrong in the States to deprive this race of the right of suffrage, they having become freemen, if they are fit to exercise it, I do not see that it is any great breach of morality to provide that if they do it, a political punishment shall follow, because it is the exercise of political power, and if we provide that if political power is exercised in a wrong direction, certain political consequences shall follow, lessening the power which is thus exercised, I do not see that we depart from the great principle which lies at the foundation of all our action upon such subjects. If we hold out a reward and say, provided you do this or do that, which we believe to be beneficial, which we believe to be right, you shall receive such and such advantages from it, I see nothing injurious in it to the public morals, and nothing contravening the great principles of legislation.

But the honorable Senator from Indiana had another ground of objection to this measure which struck me as very curious, and that was that it was a blow at the agricultural interests of the West for the benefit of the East. There was nothing of a party aspect, I take it, or calculated to affect the prejudices of the western people with a party view in all that. I never could suspect the honorable Senator from Indiana of thinking of such a thing. The argument is so obvious, it is so striking, it is so well addressed to the sense of the men about him on both sides of the Chamber, and to the thinking men of the country, instead of to their prejudices, that certainly it could not fail to strike everybody with great force. [Laughter.]

The Senator said—and I marked his language—New England has been largely benefited by this war, which grew up, perhaps, more from the action of New England than from the action of any other part of the country; I will not say purposely. Did he mean to intimate that it might be said with any propriety that this war had been patronized and sustained by New England because of the advantages to be gained by her? Did the honorable Senator in using that expression mean to tell his constituents of the West, "Look at New England; she sustained the war because she has been making money out of it?" It is astonishing to me that the Senator should have allowed himself for a moment to hint at the possibility of such a thing. As I said before, knowing that it could not be for any party purpose or to affect the minds of men with reference to anything of that description, I am a little at a loss to know why he allowed himself to make an imputation of that kind.

But he said this measure was intended as a blow at the agriculture of the West. Why? Because it is keeping out all the representatives of the agricultural interests of the South, and as long as they are kept out the commercial and manufacturing interests of New England, and of the eastern and middle States generally, will have the advantage over the agricultural interest. I hope I do not misrepresent the honorable Senator's argument. It is very astonishing to me that so many gentlemen on this side of the Chamber, representatives of the West, do not see it. It is astonishing to me that the representatives from Iowa and Michigan and Ohio and other States of the Northwest do not feel that, in sustaining an amendment which has for its object to allow suffrage to a larger portion of the southern people, they are particularly attempting to subject the agricultural interests of the West to the commercial and manufacturing interests of the North and Northeast and East. Sir, what is there in this argument except a desire—for I will endeavor to say nothing that I ought not to say—to impress upon the people of his own State, and those who may listen to him, the idea that when we are attempting to give power to a large mass of people who are entitled to exercise it because they are men, instead of being actuated by those high considerations which should always actuate statesmen, particularly on questions of this kind, we have only in view the petty, miserable consideration of whether the East or the middle States shall retain a little more power, or whether they shall lose it? Does not the Senator know that if this amendment should be adopted the effect will be, not to give power so much to New England and the middle States as to the Northwest? But it does not immediately enable gentlemen of a particular political stripe in that region to have the support of the Southwest here, and thus, perhaps, carry what they might wish to carry, not so much with reference to the ordinary legislation of the country on questions affecting its good, as upon other things which here must not be mentioned.

I was not impressed with the argument of the honorable Senator from Indiana as really affecting this question. Not one word of it was addressed to the question of right. Not one word of it was addressed to the question of whether men of one color were entitled to the same rights and the same immunities, the same privileges as men of another color. Indeed, he expressed the opinion that the South never would allow colored men to vote, in his judgment; and I think he added they ought not to allow them. Therefore I look upon him, in the argument which he presented, as appealing simply to prejudice, to considerations affecting party, and leaving out of view any of those that look to the future of this country as an entirely free country, with all men (to use an expression that has become very fashionable) having the same rights before the law, and entitled, as they become able to exercise them, to the same privileges under the institutions which we claim to be free and equal. I propose to say no more in reference to the speech of the honorable Senator from Indiana.

Mr. HENDRICKS. If the Senator will allow me to interrupt him for a moment, he asked me a very proper question: by what right did I charge the advocacy of this measure to partisan purposes? I had no right to do it unless the measure in itself, in its character, and the arguments that have been presented in authoritative quarters justified it. I thought I was justified in saying it was urged upon Congress upon partisan grounds, because the chairman of the committee of fifteen in the House of Representatives, in urging the passage of this measure in that body, urged it upon partisan grounds; and that I might not be misunderstood upon that question, in the remarks that I submitted to the Senate, I quoted his language, which with the permission of the Senator I will repeat. That distinguished member of the House of Representatives used this language:

"According to my judgment they ought never to be recognized as capable of acting in the Union, or of being counted as valid States, until the Constitution shall have been so amended as to make it what its framers intended, and so as to secure perpetual ascendency to the party of the Union."

Then I undertook to show that this was the party language of the times by which one class of gentlemen undertook to describe their own political party. But I was not willing to leave it there, and quoted the following from the speech of that distinguished gentleman:

"If they should grant the right of suffrage to persons of color, I think there would always be Union white men enough in the South, aided by the blacks, to divide the representation, and thus continue the Republican ascendency."

Using there the distinct party language and in respect to this very question, and using this argument of party ascendency as a consideration that ought to govern the House in supporting this particular measure.

Mr. FESSENDEN. I remember very well that the honorable Senator from Indiana quoted those remarks; but I conceive that his gloss was entirely unjustifiable. The words were used in no party sense. "The party of the Union" is very well understood. Does not the Senator belong to it?

Mr. HENDRICKS. I think I do; but I do not belong to the political party that calls itself "the Union party" and is opposing the admission or restoration of these States into the Union.

Mr. FESSENDEN. The honorable member of the House called it "the party of the Union." The Senator says that he belongs to that party. I might have had some doubt about it some time ago, but since he says he does, we are willing to accept him on that platform. When that member of the House spoke of the Republican party, he meant (because the old Republican party is now extinct) the party which is sustaining the existence of the Republic. Why does everything in the Senator's mind run directly into party, let it be said by whom it may? We are not all like him. Some of the rest of us can think of things here without connecting them with parties.

Mr. HENDRICKS. I am very glad to hear that.

Mr. FESSENDEN. I was somewhat struck, too, by the argument of the honorable Senator from Pennsylvania, [Mr. BUCKALEW.] That honorable Senator has exhibited since he has been a member of the Senate, for a man of his ability, a remarkable reticence. He said nothing during all the last Congress. He says he supported the measures for the prosecution of the war. I believe he did support the appropriation bills; but I hardly think that the other measures for the prosecution of the war had his vote. The appropriation bills were not all the measures that were judged necessary. He says he deemed it proper to wait until the minds of men had become calm before he gave his views to the Senate on these important topics,

and he would not have even done it on this occasion had it not been for the fact that no other gentleman who had spoken had presented the views which struck his mind as being particularly important. It is a little singular with regard to those views that eight out of the sixteen pages of his speech were devoted to abuse of New England and to showing that New England had too much power in the Senate and out of the Senate and that it ought to be abridged in some way. I do not see that there was any very great originality in that, for I believe most of the views the Senator presented on that subject have been from time to time presented by others in the same way, and perhaps, I might say, with as little effect. He closed those remarks by saying (for which I was very much obliged to him) that he did not despise New England. We are happy to know it. I will say to him that New England does not despise him that I am aware of. [Laughter.] I am not aware that it is really affected in any degree by the elaborate attack of eight pages which he delivered against New England on that occasion, and which he thought were views so important that he could not be justified if he failed to give them utterance.

Let us look a little at the ideas which he presents, by way of argument, on this measure. In the first place, he said that New England had twelve Senators, and if you took the population of New England and divided it by twelve it would give one Senator to about two hundred and fifty thousand of population; whereas if you took the central States, the great States of New York, Pennsylvania, New Jersey, &c., and coupling them with the West, and taking eighteen or twenty of them—I think eighteen—it would require a much larger ratio. Was that a fair way of making the division? Why select New England? Why not, if you are making a division, couple the eastern States, as the Senator called them, and the middle States together? Their connection is much more natural and much more intimate in business relations and everything else. Why not add to them the State of New York and the State of Pennsylvania, and offset those against the great western States? You would find in that case, if you made that division, the ratio would be very much larger. It looked to me very much as if a strong attempt was made to show up New England by itself, and to disconnect it with any other section of the country. Take the last six States, including one or two of the smaller States, in the list that he gives in his speech, and you will find that the ratio for Senators is very much smaller than it would be even in the six New England States coupling them together. Why not offset them against those States? It looked to me very much like a labored attempt, if possible, to throw some stigma upon New England, as if she was holding and trying to retain that which did not properly belong to her. I have never indulged in remarks of that kind since I have been in the Senate. It is a matter of taste, upon which each gentleman must judge for himself.

The Senator even went so far as to repeat the old story about the chairmanship of committees, and he pointed to the fact that the great State of Pennsylvania was only permitted to bear up in the hands of his stalwart colleague the banner of the Committee on Patents. If I were disposed to be ill-natured, and say things I did not think, I would say that other considerations might influence the question of chairmanships, and that it would have some relation to men, and if Pennsylvania wanted chairmanships, she must send men here strong enough to bear them up; but I do not think any such thing, and therefore I will not say it, especially with regard to my honorable friend, [Mr. COWAN,] who is strong enough to bear up anything.

Now, sir, this pointing to things which are mere matters of course in this Senate as developing power and as exhibiting an inclination to hold and keep power, and to increase it, strikes me, to say the very least of it, as very much out of place. I do not intend to dwell long upon this subject; but perhaps the most remarkable thing of all is the closing part of the speech of the Senator from Pennsylvania. He said that at one period, when we had only forty-nine Senators, by a rule of the Senate twenty-five made a quorum, and that the twelve Senators from New England, with one more, would constitute a majority of a quorum, and that if two or three more Senators were added to the body fourteen would be a majority of a quorum, and he depicted the awful consequences that might result. Only suppose that on some occasion the twelve Senators from New England should get somebody else to vote with them, and there are only twenty-five present—think of it—there would be a bill passed by the vote of New England, with one more! And even if we had two or three more members, and it required fourteen to make a majority of a quorum on some occasion, the twelve from New England may be present, and if they can get two more they will pass a bill, if everybody else happens to be absent except just enough to make a quorum! This is complimentary to New England. It supposes that her Senators are always in their seats, always have the same views—that is not very evident just now, I think—always ready to go together, always aiming at the same thing, and that other Senators are scattered about and do not attend to their business, but let everything go by default.

Let me say to the honorable Senator that there is no part of this country, no State in this country that has made such large drafts upon New England as the State of Pennsylvania. Her interests are not, to be sure, in all respects identical with those of New England, but they run in the same direction. If New England is protective in its policy, Pennsylvania is much more so, and always has been. Where has she looked always for support except to New England in matters most interesting to her? And if it should happen that on some great question connected with the interest of Pennsylvania, the duties upon iron or something of that sort, she should get the twelve votes of New England, and if, with the aid of the honorable Senator's vote added to them, a bill should be carried, I think he would not consider it a very great calamity.

This attack upon New England and upon New England policy and upon New England men comes with the most exceeding ill grace from Pennsylvania of all States in the world, and that State is the very last which, if the power we have, more or less, is extended hereafter as it has been heretofore, should seek to diminish it, for she has required it all, called for it all, had it all, enjoyed it all, and this is the sort of payment, I suppose, that we are to expect from her.

The Secretary of State has a favorite story that he tells on all occasions when he gets an opportunity, in the Senate, in public meetings, and at other places, which I think is exceedingly applicable to this supposition of the honorable Senator from Pennsylvania in regard to what the twelve Senators from New England might do. It is the old story of the brass door-plate with the name of Thompson upon it that Mrs. Toodles bought at auction. Her husband asked her—she had no children—"What did you buy that door-plate for with the name of Thompson upon it?" "Why, my dear," she replied, "suppose we should have a daughter, and suppose she should grow up, and suppose she should marry a man by the name of Thompson, how very convenient this door-plate would be." [Laughter.] I think my honorable friend from Pennsylvania must be in some way related to the Toodles family.

I propose to go no further with reference to these arguments, if they may be called arguments. They are an appeal to prejudice; they are an attempt to get up on this great question a feeling which ought not to exist; and whatever influence they may have in the country, (and the honorable Senators know vastly better than I do what sort of arguments their constituents most relish and are most likely to influence their judgments,) I take it they will have very little effect here.

Mr. President, I may say—it is well that I should say it—that I have no expectation that this proposed amendment of the Constitution will be adopted. I know, to use a common expression, that noses have been counted. I know that enough has been found to prevent the necessary majority of two thirds, if we may trust to what gentlemen have said outside and what they have made a matter of boast. It may be so; I think it likely it is so; but still I know very well that a very decided majority of this Senate is in favor of the amendment; and while I stand with nearly all those friends with which I have been so proud to act in relation to the matter, I do not feel disposed to abandon the support of it, but to leave it to take its fate, according to the judgments of men.

I said in the beginning that the committee were influenced by the desire to do something, to do something practical, to do something which in the result would be attended with good. I know that that desire was a sincere one. I know that they canvassed carefully all the propositions before them, and they came to the conclusion that an amendment of this kind if it could be adopted would be beneficial, and that its chance of adoption was much better than that of any other that had been presented to them. It was introduced into the House of Representatives, and as I stated on a former occasion, after a large discussion, was adopted by a vote of more than two thirds of that House, a body which, it has been said, is composed of men not inferior to any House of Representatives that has ever been known before in this place. It came to the Senate, and it has here in the Senate a large and a decided majority of friends. Under these circumstances I cannot abandon it, and I cannot permit certain arguments used with reference to it, which I believe to be unfounded in fact and in law, to go out unanswered before the people; and I can still less permit what I cannot but regard as most gross imputations not only upon the committee who recommend it, but upon all who support it, to pass without some words of comment.

The honorable Senator from Massachusetts, [Mr. SUMNER,] in the commencement of his speech, undertook to tell us that there were two kinds of parliamentary debate: one was a reply to a previous speaker with personality of criticism or manner; the other was a discussion of principle, to which he said he should confine himself. I am unable to perceive that there is any impropriety in answering a previous speaker in parliamentary debate. I have been laboring under the delusion all my life that the proper kind of parliamentary debate was to meet things as they came; if you had a proposition to defend, defend it; if you differed with the previous speaker in his views, answer him on the spot, have a discussion, sift the matter from beginning to end, and see where the truth lies. What is to be understood by "personality of criticism" I do not exactly know. If you criticise the matter or the remedy, I do not perceive but that you are following a very legitimate and proper course. If you criticise the individual in relation to other matters, that is another thing. I do not know that anybody here is ever guilty of it. What is understood by personality of manner, I am very much at a loss to conceive. We have a different manner. It is very fortunate that we are not all exactly the same, or we should be a very dull assembly. Variety is said to be charming, and I do not know but it is charming in oratory, if there is any oratory among us, as in anything else. I should hate to be judged by my manner because it has not all the suavity and elegance of that of some other gentlemen. I do the best I can, and if I do not equal in manner the Senator from Massachusetts, or any other Senator, it is my misfortune, and I ought not to be charged on account of any deficiency of that sort.

I say, then, that while I entertain my present opinions I shall regard it as true that I have a

right, standing here, to criticise a previous speaker; if he attacks my propositions, to examine his arguments; if he offers a substitute, to examine that substitute and see what there is in it or of it; and so long as I do that in respectful language and in parliamentary style, I cannot conceive that any Senator has a right to complain of me for so doing. If his speech, or whatever it may be, will not bear criticism, that is not my fault; and if I fail in my criticism it is my misfortune. I think we are a little too sensitive upon this subject. Criticism upon a speech does not necessarily imply unfriendliness; it is not personality. I know it has been called so, and some exception has been taken to it, and some little nervousness has been exhibited in regard to it. But, sir, a speech made by any Senator here is fair game, especially to one who is opposed to its principles or its assumptions; and if a Senator commenting upon it deals with it fairly and honestly and does not misrepresent it, he has a right to do it, and it is his duty to do it.

That is not the only distinction which exists in parliamentary debate in this country. There are two kinds of debate here, if they may be called debate. One kind is a long, labored, written, printed oration, prepared carefully in the study, elaborated, proof corrected, all the thunderbolts forged, everything put into proper shape, and then read to the Senate. Another kind is where a Senator, in unpremeditated language and to the best of his power, as occasion serves him, takes up the subject and discusses it without the advantage of that previous study and examination. It is not for me to say which of these is the best, which is the most parliamentary. I only know—I have been told; I never was there—that in the Parliament of England, and in France in their Parliament, no man is ever permitted to read a speech. He is scraped down, coughed down, and put down at once.

Mr. COWAN. Oh, no; not in France. They are permitted to read speeches there.

Mr. FESSENDEN. I was not aware of that; but I know that the practice in England is as I have stated; that is, I have been told so. It is not for me to say which of these two kinds of debate is the best. I can only say that if a man is looking to future ages, making history, and wants to leave something on record that will be creditable to him, perhaps the orationizing is vastly the best of the two. But I do not think that Senators who have not that ambition, and if they had, cannot expect to gratify it, and are obliged to get along as they can, and do the best they can under the circumstances on the subject of debate, ought to be blamed very much if they are willing to content themselves with the little modicum of reputation they make in that way. Sir James Mackintosh said that these written orations proved nothing except the power of argument and imagination, and did not necessarily denote a capacity for affairs. That was his opinion. I presume he was influenced very much by the practice that prevailed in England, and with which he was most accustomed.

There is another distinction that I should like to draw. There are two kinds of personalities in debate. One is a personality that is aimed directly at an individual in the heat of debate, when men are somewhat excited, when they cannot or do not stop to choose their words, and when sometimes things are said which are to be regretted. Another is a personality which does not aim at individuals, but aims at masses, numbers, confines itself to nobody, deals in epithets, deals in denunciation; does not pick out an individual who can reply to it on the spot; and is elaborated carefully in the closet, full of all manner of bitterness, but so expressed that no particular individual has a right to take it to himself. Both kinds of personality are deserving of reprehension. I think the latter, inasmuch as it is cool, deliberated upon, the words chosen, exhibits vastly the most malice of the two, more certainly than the hasty words that escape one in the heat of argument.

Having thus drawn my distinctions with regard to debate (and I suppose I am as well entitled to draw them as anybody else) I wish to call attention to the speech that under the head of argument was made by the honorable Senator from Massachusetts. On this subject I think he has occupied about eight or nine hours of the time of the Senate, and on the last occasion, while saying that principles were to be considered, he has undertaken to designate the character of this proposed amendment. I have already stated who the men were who were in favor it. What does the Senator call it? I have chosen a few, and but a few, flowers of rhetoric from the speech of the honorable Senator: "compromise of human rights," "violating the national faith," "dishonoring the name of the Republic," "bad mutton," "new muscipular abortion," "a new anathema maranatha," "abomination," "paragon and masterpiece of ingratitude," "abortive for all good," "shocking to the moral sense," "the very Koh-i-noor of blackness," "essential uncleanliness," "disgusting ordure," "loathsome stench;" and the men who support it, if they pass it, will be "Harpies," "Pontius Pilate, with Judas Iscariot on his back." I think I cannot do better than read a few extracs from the honorable Senator's speech:

"Looking at this compromise in its most general aspect, it reminds me, if you will pardon the illustration, of that leg of mutton, served for dinner on the road from London to Oxford, which Doctor Johnson, with characteristic energy, described 'as bad as bad could be, ill-fed, ill-killed, ill-kept, and ill-dressed.' So this compromise—I adopt the saying of an eminent friend, who insists that it cannot be called an 'amendment' but rather a 'detriment' to the Constitution—is as bad as bad can be; and even for its avowed purpose it is uncertain, loose, cracked, and rickety."

Again:

"Regarding it as a proposition from Congress to meet the unparalleled exigencies of the present hour, it is no better than the 'muscipular abortion' sent into the world by the 'parturient mountain.'"

That is a specimen of composition that very few of us would attempt. Again:

"Adopt this proposition, and you will be little better than the foul Harpies who defiled the feast that was spread. The Constitution is the feast spread for our country, and you are now hurrying to drop into its text a political obscenity, and to spread on its page a disgusting ordure,

"'Defiling all you find,
And parting leave a loathsome stench behind.'"

And what do you think the honorable Senator calls this? He says:

"If I use plain language it is because the occasion requires it."

Plain language! Again:

"It was no such thing. It was a compromise; and such is the precise character of the present proposition, which, by its very words, is a plain license to a disgusting tyranny in consideration that the tyrants pay in political power. The primary element in the case, which stands out in darkness visible, is the license; the secondary element is the pay. Here is nothing less than a mighty House of Ill Fame, which it is proposed to license constitutionally for a political consideration."

I will quote no more of these flowers of rhetoric. The application of these phrases and epithets to a proposition coming from a committee of the Senator's own political friends, and most of them his personal friends, one of them certainly his very intimate friend and colleague, passed by more than two thirds of the House of Representatives, among whom were the greater number of his own colleagues in that House, supported by a large majority of this Senate, among whom is his colleague who sits by my side, not applied in the heat of debate, but prepared in the closet, printed, the proof corrected, and brought in here to be retailed before the country upon the men with whom he is associated, is a matter the propriety of which must be left to himself to judge. I only allude to the fact that such is the attack made upon this body and upon the House of Representatives.

Now, sir, I come to the question itself and to parts of it which I cannot permit to pass out without being accompanied more or less with a little comment.

Mr. President, what is the present state of this question? In the first place, how does the right of suffrage stand now, and how would it stand after the passage of this amendment, if it should be passed? There are two provisions of the Constitution which have a material bearing upon the question under consideration:

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

That is the way the Constitution stands now. That is the third clause of the second section of the first article. The first clause of that section is in these words:

"The House of Representatives shall be composed of members chosen every second year by the people of the several States; and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature."

If I understand the Constitution at all, it has always been considered that the clause which I last read acknowledged the right of the States to regulate the question of suffrage. I do not think it has ever been disputed. That is a matter assumed, that as the Constitution stands now in its written text it is the right of the several States to fix the qualification of voters. The first clause that I read apportions Representatives according to population, with one or two exceptions. Now, these "three fifths of all other persons" have become free, and according to the argument of the honorable Senator from Maryland, which perhaps I should not dispute, it is simply inoperative with regard to them. There may be no persons who come within the exception. What is it, then? How does the clause stand? It is conceded that the power exists in the States to fix the qualifications of voters. It reads thus:

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

Leaving out that which has become obsolete. Now, what is this resolution? Leaving out the words "and direct taxes," for we do not propose to meddle with that, it is this:

"Representatives shall be apportioned among the several States which may be included within this Union according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed."

In totidem verbis precisely the language of the Constitution as it stands now. It is merely redrawn, leaving out that part of it which was considered to have become obsolete.

Under that, will any Senator dispute—and I address myself to the honorable Senator from Illinois, [Mr. YATES]—that the States have, as the Constitution stands to-day, the perfect right to fix the qualifications of voters, and that this part of the proposition which I have read leaves it just as it was before, and does not change it? Very well. Suppose we strike out that portion of the proposition; it is nothing but repetition; it is the old form; and the old form is just as good unless you wish to add something more to it. Then how would the proposition to amend stand? It would stand precisely in this way:

Whenever the elective franchise shall be denied or abridged in any State on account of race or color, all persons of such race or color shall be excluded from the basis of representation.

Take that as a substantive proposition by itself; the other is nothing; it is mere repetition. The States have a perfect right to-day, and they may exercise it as they see fit, to make such rules as suit them without regard to the qualifications of electors; and there is no power in Congress, leaving out the argument of the Senator from Illinois with regard to the power derived under the new provision abolishing slavery, to interfere with that right; at least, there is nothing in the Constitution about it. Then what we propose to add to the constitutional provision is simply this:

Whenever the elective franchise shall be denied or abridged in any State on account of race or color, all persons of such race or color shall be excluded from the basis of representation.

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

Mr. FESSENDEN. Certainly; if the Senator will not be too long. I find I am consuming a great deal of time.

Mr. YATES. I desire to call the attention of the Senator to the clause of the Constitution to which he refers:

"The House of Representatives shall be composed of members chosen every second year by the people of the several States; and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature."

Now, I should not have interrupted the Senator if he had met my point.

Mr. FESSENDEN. I am trying to meet the Senator's point if he will allow me; but I cannot meet it if he will not allow me to come to it.

Mr. YATES. I simply contend that these people by the act of emancipation are made a part of "the people" who are to elect the Representatives of the United States, and that the States have a right to define the qualifications of electors, of these people, but not to disfranchise them, and the amendment advocated by the honorable Senator may admit of the construction that a portion of the people may be disfranchised. That is the point.

Mr. FESSENDEN. The honorable Senator from Illinois I know has a very healthy brain, and I do not see how such an idea as that could have got into it. I admit, as decidedly as the Senator does, that the people are to elect Representatives; but what I have been speaking of is, that everybody has admitted from the foundation of the Government down to the present day that the power to fix the qualifications of voters rested with the States.

Mr. YATES. I admit that that was so until the constitutional amendment was passed.

Mr. FESSENDEN. They have the power to fix the qualifications. Now, for instance, suppose they carry it out, and say colored men shall not vote.

Mr. YATES. They cannot do that.

Mr. FESSENDEN. They have the power to do it. I am not speaking of the right; I am speaking of the power.

Mr. YATES. Under the Constitution they cannot do it.

Mr. FESSENDEN. What constitution?

Mr. YATES. The clause of the Constitution which I have just read.

Mr. FESSENDEN. How are you going to interfere?

Mr. YATES. "The people" are to elect the Representatives.

Mr. FESSENDEN. I know that, but who decides who shall be "the people" to elect the members of the lower branch of the Legislature?

Mr. YATES. That is the objection I make to this amendment. You say it shall be decided by the States now, which would exclude that portion of the people who were made free by the constitutional amendment.

Mr. FESSENDEN. The Senator is entirely mistaken. It says no such thing. Striking out that portion of this proposition which is a repetition of what is now in the Constitution, its language is this:

Whenever the elective franchise shall be denied or abridged in any State on account of race or color, all persons of such race or color shall be excluded from the basis of representation.

Mr. YATES. That admits that it may be denied.

Mr. FESSENDEN. I say that that is nothing in the world but a limitation upon the Constitution as it stands. The Senator says it admits the right of the State to exclude them. I say it admits no such right; it denies the right.

Mr. YATES. It suffers it.

Mr. FESSENDEN. No, sir; it denies the right of the State to exclude them. It does not deny the power, for you cannot deny the power. The power exists under the Constitution. The power is there.

Mr. YATES. I do not deny the power to violate the Constitution, of course.

Mr. FESSENDEN. Very well; that is all I want the Senator to say. You do not deny the power to make the rule. Then, the States having the power, what does this proposition say? "You have the power to do wrong, but if you exercise that power so as to exclude them you shall not have representation for it." Does that say, "We think it is all right that you shall do it?" It takes the Constitution just as it finds it, with the power in the States to fix the qualifications of suffrage precisely as they see fit, and with no power to interfere with it outside of the amendment to the Constitution abolishing slavery, of which I shall speak by and by, but it says to them, "If, in the exercise of that power, you deny the right of suffrage to a race, or any portion of a race, you shall not count them in the representation." Is that giving them a right to exclude them? On the contrary, it is saying, "If you abuse the power which you have under the Constitution in that way, you shall suffer by another clause of the Constitution such a penalty." That is all there is of it. Take it by itself and read it and the Senator cannot but perceive that that must be of necessity its construction.

Mr. YATES. I simply say that you recognize the right of the State to disfranchise these people.

Mr. FESSENDEN. Suppose we say, "If you steal, you shall be sent to the penitentiary for thirty days," would the Senator say there is a recognition of the right to steal?

Mr. YATES. Not at all.

Mr. FESSENDEN. That is all there is of this proposition.

Mr. YATES. I say these people are free and are citizens now, and I do not propose by a new organic act to deprive them of their rights and say they shall be disfranchised.

Mr. FESSENDEN. I cannot give way any further because I have not time.

Mr. YATES. There is the trouble; I cannot reply.

Mr. FESSENDEN. I do not know that it is necessary that the Senator should reply. I was trying to convince him. If I fail, it is my misfortune. I understand precisely what the Senator's difficulty is, and when I addressed myself to him, it was not so much with a view to a reply on his part as to see if I could not remove any doubts that might remain in the Senator's mind.

The Senator from Massachusetts makes several points against this proposition, to which my answer is the same. His first point is, that it recognizes "the idea of inequality of rights founded on race or color." I deny *in toto* the correctness, or even the plausibility to a man of sense, of any point that he has raised on the subject. There is not one of them that is tenable; and more than that, there is not one of them but what is just as tenable against the proposition he is in favor of to found representation on voters as this. What lawyer in the world ever heard that a denial is an admission? What lawyer ever heard that a penalty is a permission? By this proposition we say simply this: "If in the exercise of the power that you have under the Constitution you make an inequality of rights, then you are to suffer such and such consequences." What sane man could ever pretend that that was saying, "Make an inequality of rights and we will sanction it?" We do not deny, nobody can deny that the power may be thus exercised. What we say by this amendment is, "If you attempt to exercise it in this wrongful way, you create an inequality of rights, and if you do create an inequality of rights"—not we, but you—"if you undertake to do it under the power which exists in the Constitution, then the consequence follows that you are punished by a loss of representation." That is all that is in it. Does not the same thing follow with reference to the proposition to base representation upon voters? Suppose we put it upon voters; what is the consequence? What have they got to do? If they do not admit colored men to vote, they lose their representation. If they do admit them to vote, they have the representation. The effect is precisely the same in both cases, only in one case we put it in a different form, and say directly, "If you do make this distinction, founding it on population, then this consequence will follow."

So it is with reference to the Senator's second point. The second point seems introduced not so much with reference to this argument as with reference to the speech the honorable Senator from Massachusetts made the other day. What is it? That it is authorizing and sanctioning taxation without representation. That was first adduced in the very able and learned argument of the Senator made some days ago, to show that it was not consistent with a republican form of government as he understood it. It is now introduced here for another purpose, and the Senator now undertakes to controvert the remark that was made then, that this original proposition that taxation without representation was tyranny, was intended and confined to communities and not to individuals. I think he has failed to make it evident. He has attempted to do so by quoting certain loose expressions from the different writers, I was about to say, of ancient and modern times. He goes back to Lord Coke and John Locke. I should like to know how many freemen voted in England at the time Lord Coke laid down the principle, as he did in strong terms, that the liberties of England depended upon the right of the freemen to vote? And yet he sustained the constitution of England as a free constitution. He thought that the liberties of England were protected by the right of suffrage; and who voted? I have not time to ascertain precisely what the qualification was at that time, but I presume the Senator will admit it was only the men of rank and men of fortune, and some burgesses in the cities, and perhaps the owners of large farms. The great mass of the population did not vote then; and it was not much better in the days of John Locke. Were they contending that the constitution of England was not a free constitution? They dealt with general principles, subject to such limitations as the good of the community might seem to require. So it was with Otis, even. Why, sir, at the very time that he made his declaration, the constitution of Massachusetts fixed a property qualification for voters. Did he complain of it? Did he say it was not a republican form of government? Did he demand the right in any convention of Massachusetts, or anywhere, that every free man of the age of twenty-one years should vote? Not at all.

What is the constitution of Massachusetts to-day? It contains an educational qualification. A man must read or he cannot vote. Is not that an exclusion of a class? How does that agree with the quotation of one single sentence from Otis, that every man of twenty-one years and sound mind should he allowed the ballot? Is it so in Massachusetts to-day? Not at all. Is there not a class exclusion—I think it a wise one—in Massachusetts? In every State there are more or less men who cannot read, and those men who cannot read are always to be found. One may learn, and he then comes within the class of voters; another may not, and he may stay in the excluded class for his life. All of the very writers cited by the honorable Senator lived under Governments and approved and sustained Governments which did not allow the right of suffrage to every man twenty-one years of age of sound mind, and there is not a Government on the face of the earth that does it to-day or can be expected to do it.

I have no time to deal with the Senator's argument on that subject at any length, nor have I learning enough to deal with it at any length, for I have not looked into the books on the subject, but the question is precisely what I have stated it to be, and the Senator has not proved one word, in my judgment, to the contrary, that the right contended for on the principle of representation with taxation was the right of the community, leaving every community to settle for itself who should exercise the right of suffrage. The Senator has confounded the right of representation with the right of suffrage. He does not draw the distinction between the two. A community may be rep-

resented, every man in the community may be represented, and every woman and child in the community may be represented, and yet not every man twenty-one years of age be a voter. Nobody ever contended until this day that it was so or could be so. No community has ever carried it so far, and I doubt if any community ever will carry it so far. There will always be numbers, more or less, of freemen who ought not to exercise the right of suffrage.

In saying this I do not mean to differ with the Senator upon his great ground that it would be most iniquitous and most outrageous to exclude all the colored men of the United States because they are colored men. I say as strongly as he does, that they have the right and ought to have the right of suffrage as well as the whites. I have no sort of hesitation upon that subject; but I do say that even the Senator himself is not in favor at the present day of admitting them to universal suffrage. He is in favor, as I am, of abolishing the distinction that exists between men of different classes or different colors; but he goes, if I understand him, no further than that. It is of no use, then, to contend that we cannot have a republican form of government unless every man of the age of twenty-one years is allowed to vote. That is out of the question. It never has been so, and I doubt if it ever will be so, until very nearly the time of the millennium.

It is still more unjust to say that because we propose an amendment to the Constitution which simply provides that if that abuse does exist it shall be punished, therefore we propose to tax without allowing representation. The Senator proposes to base representation upon voters. Suppose a State excludes a large portion of its population and sends Representatives here, would the Senator omit to tax them for their own fault? If they choose to exclude the blacks or any other class from voting and thus cut down their representation and cut down their number of votes, does the Senator say he would not tax them? It is their fault. They are still represented although they do not vote. What we say is this: "We tax you as we tax all communities; you are represented as all communities are represented, according to your population; but if in framing your law in relation to suffrage, you choose to cut out a large portion of your population, whom you ought not to cut out, they shall not be counted, but you and they shall be taxed. Why not? The fault is not in us. We do not propose to restrict the suffrage. We propose to give the power to put it on the largest basis of population, counting every man, woman, and child; but if you, the State, choose to cut out one half of your population and say they are not fit to exercise the right of suffrage, you shall lose your representation, but you shall not escape from bearing your share of the burdens of this Government." That is what we say and all we say in this resolution.

That is the second point of the Senator. There are a great many of them, and perhaps I am wrong in attempting to consider them in detail. They are all of the same character, all depending upon the same misapprehension of the amendment of the Constitution that is now before the Senate.

The third point, and the Senator adopts a very imposing style of speech, is this:

"Proceeding with the dissection of this proposition, I now exhibit it as a new form of concession to State rights."

Why? The State right now, under the Constitution, is to make just such regulations as it chooses with regard to its qualification for voters. That is the present State right, which nobody can dispute, because it has been admitted from the foundation of the Government. What do we say? If you exclude a portion of your people from exercising that right, we cut you off from representation. Is that a concession to State rights? It is the very reverse of the honorable Senator's proposition, if I know it; and therefore I beg leave to say, with all respect, that the heterogeneous character of this opposition on all sides of the Senate, "black spirits and white, blue spirits and gray," some fighting it on one ground, and some on precisely the opposite ground, is a most singular spectacle. I trust it will be properly appreciated. A concession to State rights, when you tell them, "If you exercise a power which you can exercise under the Constitution, we cut you off from representation!" In what fantastic dream was such an idea conceived? It is precisely the opposite, and every man must see it; and the leading ground on which the honorable Senator from Maryland [Mr. JOHNSON] opposed the resolution was that it attacked State rights.

Proceeding with the dissection of the proposition, the Senator says it is "a constitutional recognition of an oligarchy, aristocracy, caste, and monopoly, founded on color." If the brain of the honorable Senator from Massachusetts should ever chance to be dissected, I think those words would be found very strongly impressed on it. They seem to haunt the honorable Senator. If he can find them in this resolution, he can find them in the Lord's Prayer, or the Westminster Assembly Catechism. When we say distinctly to a State, "If you attempt to make a distinction in political rights on account of color, we will punish you by depriving you of representation *pro tanto*, the Senator says that is recognizing an oligarchy and aristocracy founded on color! Why, sir, there is not a man of ordinary intellect not blinded by passion or prejudice, not misled by preconceived opinions; nay, not a woman, who is equal to a man in intellect I know, although Judge Parsons thought she had not discretion enough to vote, or one of our children of decent years at school in New England, who would not say that it is precisely opposite; and the same remark applies to every point the honorable Senator has made.

Again, he says, that it is "petrifying in the Constitution the wretched pretension of a white man's Government." I will omit the comment upon that. It is too palpable.

Then the Senator objects to this proposition as "tying the hands of Congress in its interpretation of a republican government." How? His next proposition is, and I will consider them together, that "it is tying the hands of Congress in completing and consummating the abolition of slavery." I will not discuss the question; it is not necessary that I should discuss the question, for my purpose here, whether Congress has this power of legislation or not; whether it has it under the clause guarantying a republican form of government or not. Opinions differ upon that subject; but for the sake of the argument, admit that Congress has the power, how in the world does this proposition deprive them of any power they have. What is the expression? "If you undertake to deny suffrage on account of race or color you shall not have representation for that race." It is a denial, a bar. Suppose they do, they do not get the representation if this passes. Suppose Congress has the power to decide that the colored people shall vote, does this give it away? Does this diminish it? If it exists in the Constitution to-day, is Congress deprived of the power on account of this prohibition? Is it affected in the slightest possible degree in any way? Every man must see that it is not. If the power exists, which my honorable friend from Illinois contends does exist, Congress has the power to legislate and ought to legislate. If this amendment of the Constitution is adopted, does he find anything in it which prohibits Congress from legislating under that clause? If there was a permission in it, if it read in this way, "provided that any State or every State shall have the power to exclude from the ballot any portion of its people that it sees fit, and those so excluded shall not be counted in representation," that, I grant you, would give the power.

Mr. STEWART. I should like to ask the Senator a question on a matter of construction. Suppose the Constitution was entirely silent on this point, and there was nothing else in the instrument to determine it, and there was no question of practice under the Constitution by which we were to determine its construction; suppose it were a new instrument, and you added this clause, would not the other parts of the Constitution, taken in connection with this, be evidence of the intention of the framers of the Constitution that the States should exercise the right to exclude persons from the right of suffrage? In other words, would it not be a recognition of the power of the State to do so? Would not that be the fair construction? If you had nothing but that and the rest of the instrument whereby to be guided, and it said that the whole number of people should be counted in the basis provided as in this amendment, that if the States did certain things certain persons could not be counted, would not that be an evidence of the intention of the framers of the Constitution to leave it with the States? Would it not be so construed? If that was the only guide by which you had to determine their intention, would you not say that they presumed that the power existed in the States?

Mr. FESSENDEN. I confess that owing to my very great stupidity I do not understand what the Senator is driving at. If he means to ask me whether this proposition is not an admission that the States have the power under the Constitution, I say certainly it is, and I have been arguing that this last half hour or more. It does admit that the States have the power under the Constitution as it stands to regulate the question of suffrage. Whether Congress has the power to regulate it is another question, and that is the question I am considering.

Mr. STEWART. If the Senator will allow me——

Mr. FESSENDEN. I cannot yield for any more questions. I am too much pressed for time. That is precisely what I have been endeavoring to follow up. I say, then, that the Senator's supposition amounts to nothing, because I am not talking of the Constitution as it is not, but as it is. I am not called upon to argue or to say what would be the consequence if the Constitution was not what it is. I am trying to make out how the matter stands, the Constitution being such as it is; and the Constitution being thus, that the States have the power to regulate the qualifications of suffrage, this proposition is nothing in the world but a prohibition and limitation. If, in addition to that, as the Senator from Massachusetts contends, Congress has the power of legislation, which covers the whole question, this does not affect it in the slightest possible degree, for it does not allude to it in any shape or form.

Mr. STEWART. I do not think he is right; but I think if he is right, it takes away the right.

Mr. FESSENDEN. Very well. I do not propose to dwell on the Constitution now. But, sir, what protection have you in an act of Congress when regulating a matter of this kind? Suppose my honorable friend from Illinois and the Senator from Massachusetts are right, what protection have you in an act of Congress? You settle a question to-day by an act of Congress, which excites great feeling, great animosity, and which divides the people of this country and you may possibly carry it into effect; to-morrow Congress changes its character, or there is another Congress, and your act is repealed, and these men are put back to where they were before.

What I want to do, then, for the benefit of the race of whom the honorable Senator talks so much, is to give them the protection of the Constitution, not leave them to an act of Congress which may be passed to-day and repealed to-morrow, and they be left to be the sport and foot-ball of fortune and of caprice and tyranny, but to place them under a safeguard which shall stand as long as the Constitution itself stands, and requires more than the mere action of a majority of Congress to repeal. I would exercise all that power if we have it. I do not say but we have; and if this should not prove sufficient, I should certainly exercise it; but,

sir, I should look upon it as a most uncertain and weak protection to any class of men, because what we may do to-day others may undo to-morrow.

So much for "tying the hands of Congress." There are one or two other points, two I think, made by the Senator from Massachusetts, and the answer to them is the same. He denounces this proposition as "installing recent rebels to govern loyal citizens under the sanction of the Constitution." How? Does it give them power? No, sir; it limits their power. Does it deprive any man, black or white, of his vote? Does it tie the hands of the loyal people of those States? No. They are tied already by the Constitution, if they can be; that is to say, they are in the power of the whites, if they choose to exercise it. Perhaps this proposition does not go as far as it ought to go to relieve them, but it leaves them something to hope for in the future.

The last point of the Senator is that this proposition is "a compromise of human rights, the most immoral, indecent, and utterly shameful in our history."

Mr. President, I stand rebuked, but I do not feel so bad as I might. The committee of fifteen, the friends and associates of the honorable Senator, stand rebuked. More than two thirds of the House of Representatives and a large majority of this body, all the political friends and associates of the Senator, stand charged with proposing a compromise of human rights the most immoral, indecent, and shameful in our history! All I can say with regard to that is, that neither on its face, in its effect, nor in its intention, is it any compromise. None such was dreamed of. The honorable Senator from Massachusetts, like the honorable Senator from Pennsylvania [Mr. COWAN] who originated the idea, chose to call it a wholesale sale of negroes. The honorable Senator from Pennsylvania knew better. He laughed almost when he was reading that portion of his speech. He is a licensed joker and much may be pardoned to him; but the grave assertion of it by the honorable Senator from Massachusetts strikes me with astonishment. If I thought it was, if I thought that I and the other gentlemen connected with me were acting as he described, that we were, to use his own illustration, parting the raiment of the Saviour between us, I should certainly feel like hiding my head in shame; but fortunately the words of the Senator fix the character of no man. We stand upon something better than the opinions of a heated controversialist, penned in his closet and poured out in the Senate. The natural effect of this would be to charge all of us with indecency and immorality. It is vain to say that such could not be the intention, because we were not aware of what we were doing. Sir, I am no more anxious to be called a fool than I am to be called a knave. A matter that I have studied carefully, deliberated well, and come to a conclusion about, I am responsible for. I do not wish to be excused on the ground of a want of sense. When I have with me nearly all of the presses of the country of my own political faith, when I have with me all of my own political faith of the committee of fifteen who offered this amendment, more than two thirds of the chosen Representatives of the people, and much more than one half, to say the least of it, of the members of this Senate, I am content to stand under the rebuke of the honorable Senator and even under his denunciation.

But I say this is no compromise. Nothing can be made of this charge; there is no argument to support it. It is nothing but the bold, bald assertion of the Senator to that extent. It admits of no proof; not even the Boston Recorder, which the Senator calls the "religious press of the country," and which, if I recollect aright, for twenty years was the most consistent and bitter opponent of the abolition of slavery of any press in New England, except the Democratic press, and is only a recent convert to its present position. That is the only religious press that the honorable Senator chose to cite.

Mr. President, it is sufficient for me to say that every objection that the honorable Senator makes to this amendment applies to the amendment in regard to voters, which he says he is in favor of. It affects precisely the same thing on the same principles; and let me tell you that, in my judgment, would be a more unsafe proposition than this. Look at the position in which we shall be placed by that. I may vote for it; if I cannot get anything better, I shall vote for it; but I think this infinitely the best. But just look at the effect of placing representation on the voting basis. We have proposed to introduce Tennessee into the Union on condition that she disfranchises, or keeps disfranchised, her rebels. I should be glad to apply the same rule for a given length of time to every other State. Here we propose—and the honorable Senator is in favor of that; I know he is in favor of it, for he has so expressed himself—to disfranchise every man who has been in the rebel army, and then we turn around to these States and tell them, "We will found your representation on voters." That is the double proposition. Is the Senator in favor of both of those? Who, then, is to govern the States? The blacks entirely, with a small number of whites? That must be the consequence. Take it, however; I am content, if gentlemen are content to take the voters. I have no attachment to any of these propositions. I think this is an imperfect one as it stands, but I would like to get something that looks to the enfranchisement of these men in the future, if not in the present.

Mr. President, I have not time to go further; the hour agreed upon for taking the vote has about arrived. I cannot close, however, without saying how amusing seems to me the character of the opposition to this joint resolution. That opposition is composed of men of all shades of opinion. The Democrats on the other side of the House oppose it because they say it is unjust to the southern States. My honorable friends who have been some time with us are opposed to it because—I do not know why, except that the President is opposed to it, and I believe that is the ground. My honorable friend from Massachusetts objects because it is unjust to the negro. Why, sir, just imagine all the gentlemen opposed to this resolution met in caucus together, and looking around at each other, would there not be a smile on all their faces to see what company they had fallen into? I think I see the honorable Senator from Oregon winking at the honorable Senator from Pennsylvania and wondering how he got there.

Mr. NESMITH. I suggest to the Senator that we do not propose to meet in caucus.

Mr. FESSENDEN. I think it would be just as well if they did not come together. The meeting would be a curious one. I think Senators would be surprised to find themselves there, and, like the countryman looking at the reel in the bottle, they would consider how the devil they did get there. [Laughter.] It would be a very strange meeting; and yet they are all against this proposition.

I know that when there is an attempt to overthrow the Constitution, and perpetrate iniquity by those who are iniquitous, good men of all sorts must come together, as they are very apt to do, to prevent the injury that is contemplated. I can only account for the proposed meeting upon that principle.

Mr. SUMNER. There is a familiar story of a shield with inscriptions on it which was suspended in a highway. Two travelers approached it from opposite quarters, and standing face to face, each read the inscription as he saw it. Straightway there was a difference and a contest. Each insisted that the inscription was as he read it. At last on looking at both sides it was ascertained that each was right, as the inscriptions on the two sides were different. So it is on the present occasion. The measure now before the Senate has two sides. The Senator from Maine, as he approaches it, sees only the side which limits the representation. As I approach it I see the recognition of a caste and the disfranchisement of a race. He defends it; I condemn it. But he defends only what he sees. I condemn only what I see. It is the misfortune of the measure that it has two sides with two opposite inscriptions. This is especially unhappy at this moment when we are bound to be frank and loyal, and to do nothing which may be interpreted in a double sense. Above all should this be the case with regard to an amendment of the Constitution. But the present proposition does not fall within these conditions. It is enough that there are at this moment two opposite opinions with regard to its meaning.

Now, sir, it will not be denied that there are opposite opinions on the meaning of this proposition. The Senator from Maine affixes to it one meaning. I affix to it another. The Senator sees nothing bad in it. I see in it nothing good; or, rather, all that it proposes to do is absorbed, merged, and lost in its evil. Against this proposition I am in earnest, and I speak so. What is debate? It is the expression of opinions, conclusions, and convictions on matters before the Senate. These must be expressed fully, freely, and according to the conscience of the speaker. If a measure is deemed to be bad, injurious, pernicious, founded in wrong principles, and calculated to produce infinite mischief, all this must be said; and it must be said with plainness according to the nature of the exigency. To this end language is given. The measure must be exposed. There are no terms to be spared which may be needed in this exposition, whether to reach the judgment or the feelings. Of course, on this occasion I see only the subject.

But I am not alone in my interpretation of this proposition. Only the other day I presented the petition of the editor of the Boston Recorder, in which he was moved to protest against it as "disgraceful," inasmuch as it disfranchised a race and offended against the Declaration of Independence. I have here papers and testimonies showing how extensively this proposition is so interpreted. Here, for instance, is a communication from an honored citizen of New York, once a member of the other House, one of the Old Guard of Abolitionists, who from the first gun at Fort Sumter has seen our duties with a sensitive conscience and a patriotic soul; I mean Mr. Gerritt Smith. Mark, if you please, that I cite his words simply as showing how an ingenuous nature is touched by this proposition:

"I see that the House of Representatives approves, and by a very strong vote, the proposed apportionment amendment of the Constitution. I see, too, that nearly all the members, who are the most radical friends of freedom, are included in this vote; and that there is, therefore, no room in the case for questioning motives. Freedom may, however, be wounded unwittingly. Nay, she may be wounded even in the house of her friends. Such is her fate in the present instance. And no less deep and dangerous is the wound, but, on the contrary, all the deeper and more dangerous, because inflicted by hands which aimed not to harm but to help her. Moreover, though it is always consoling to be able to trace an error to the understanding, the error may, nevertheless, be quite as pernicious as if the heart were involved in it."

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"A disgraceful, if not indeed fatal, blot upon the Constitution and country will be this one. Disgraceful is it to a Government to license the gambling-house, even though it be on the condition of being paid for the license. Disgraceful to it to license the brothel or the dram-shop, even though on such condition. But how emphatically disgraceful for a Government to license slavery, that crime of crimes, even though the consideration in return for the license be very great and the pay very tempting. This, however, is the deep disgrace with which the apportionment amendment threatens the Constitution and the country." * * * * * "It is true that slavery is not literally in the amendment. It is true, too, that proscription from the ballot-box does not always mean slavery. But it is also true that, where such proscription is of one race by another, there is an instance where the proscribed are enslaved. The power, therefore, which this amendment will give the southern whites to withhold the ballot from the southern blacks will be their power to enslave them. If they shall withhold from them the ballot, they will also withhold from them freedom."

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"It goes to hinder the identification of the South with the nation. Another, and by far the gravest of all objections, is that they whom it leaves unrepresented, are deeply wronged and cruelly insulted by such an ignoring of their manhood. What a mean as well as great crime against the scores of thousands of black men who took up arms to save the nation, and without whom it would not have been saved, is this shutting of them out from representation. Is the

reply that they would gain nothing by being represented so long as they have not the ballot? Most unsatisfactory reply! For who but the nation is responsible for their not having it? Who but the conqueror shall decide what is due to the brave men who so essentially helped to make him conqueror? Surely, it is not for their and his enemies to decide it."

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"Unrepresented though the southern negro will be, he will not be left untaxed, and this they understand full well who favor the amendment which permits this oppression. Our revolutionary fathers felt that taxation without representation was just cause for war. But in this amendment their degenerate sons open wide the door for the perpetration of this flagrant injustice." * * * * * * * * *

"How idle the hope, so often expressed, that the tendency of things at the South will be such as, after a very few years, to give her blacks access to the ballot-box. Just the reverse will be this tendency. The indisposition to do them justice will be constantly increased by the exercise of absolute power over them. This amendment adopted, and they will never get suffrage, until a bloody revolution shall bring it to them." * * * * * * * * *

"The nation still uncured, even by the very horrid war from which she has just emerged, of her pride of race on the one hand and her contempt and hatred of race on the other, must, I strongly fear, continue to drift on toward another and even still more horrid war—a war of races." * * * * "That the Republican party was demoralized by this great mistake of the President is but too clearly indicated by this disastrous vote of the House of Representatives on the apportionment amendment. Had the President entered upon his high office with the conviction burning in his soul, that 'a man's a man,' however conditioned or colored, no such amendment, nor anything in its place short of the instant demand for negro suffrage would have been so much as thought of." * * * * "I do not forget that the amendment in question is claimed to be a protest against the caste spirit. Sufficient, however, for its utter condemnation is the fact that instead of prohibiting it permits the indulgence of this accursed spirit." * * * * * * *

"I have spoken of the crushing effect of this amendment on the negro. Well-nigh as crushing will it be on the white Unionist at the South. His protection, as well as the negro's, until the great battle-day comes, could be only in the negro's ballot. Hence he will retreat to the North unless he shall elect to stay and fight by the negro's side." * * * * *

"I notice that a common excuse among the friends of freedom for favoring this apportionment amendment is that we can get nothing better. I know not how that may be. But I do know that we can get nothing much worse; and that it would be far better to get nothing than to get this."

I have also presented to the Senate the petition of George R. Downing, Frederick Douglass, and others, representing the colored race in Washington, in which they give their opinion of this proposition. They protest against its adoption as operating disfranchisement on account of race or color. They pray Congress—

"To favor no amendment of the Constitution of the United States which will grant or allow any one or all of the States of this Union to disfranchise any class of citizens on the ground of race or color."

They then proceed to say that—

"In the Constitution, as it now stands, there is not a sentence nor syllable conveying any shadow of right or authority by which any State may make color or race a disqualification for the exercise of the right of suffrage; and the undersigned will regard as a real calamity the introduction of any words, expressly or by implication, giving any State or States such power; and we respectfully submit that if the amendment now pending shall be adopted it will enable any State to deprive any class of citizens of the elective franchise."

Such is the testimony of these very intelligent representatives of colored persons. They speak with a peculiar authority from the interest which they necessarily have in the question. They speak for the freedmen.

Mr. President, I do not wish to argue the main question again. I have said enough. The Senator has reminded you several times how much. I am sorry to have trespassed so often and so long. I will not trespass now. Of course there is a radical difference between the Senator and myself. We see opposite things when we look at this proposition. And permit me to say we see opposite things when we look at the Constitution itself. I cannot accept his interpretation. I do not believe that under the Constitution even as it exists the disfranchisement of a considerable portion of fellow-citizens is consistent with a republican government. Still further, I do not believe that "color" can be a "qualification" for an elector. He does. And here is a point of divergence which carries us far apart.

I have listened to all that has been said. But the proposition is to me as obnoxious as ever. I cannot see it otherwise. Feeling that Caste and Disfranchisement on account of color are utterly irreligious, flagitious, and unrepublican, you must pardon me if I exert myself to prevent their introduction in the Constitution of my country, especially at a moment when we are under such obligations of gratitude to these outcasts, and when injustice to them is so full of peril to the Republic. I have spoken strongly; you will pardon it to the ardor of my nature and to the strength of my convictions. I have fought a long battle with slavery, and I confess my solicitude when I see anything that looks like concession to it. It is not enough to show me that a measure is expedient; you must show me also that it is right. Ah! sir, can anything be expedient which is not right? From the beginning of our history the country has been afflicted with compromise. It is by compromise that Human Rights have been abandoned. I insist that this shall cease. The country needs repose after all its trials; it deserves repose. And repose can only be found in everlasting principles. It cannot be found by inserting in your Constitution the disfranchisement of a race.

This proposition can be fully appreciated only when it is considered as the offering of Congress at this time for the protection of those to whom we are under obligations of gratitude. This is our panacea, our Balm of Gilead for them. This is what we are asked to do. And the Senate has been warned not to give the protection found in the elective franchise either by constitutional amendment or by act of Congress; that such a constitutional amendment would not be adopted by the people, and, therefore, we ought not to present it; and that Congress has not the power to destroy inequality in political rights. Sir, I do not despair of the Republic; I will not; I cannot. But if ever I were disposed to despair it would be when listening to such arguments and excuses. The people are in advance of us and will sustain us if we are courageous. They will adopt any constitutional amendment that ought to be adopted. They will adopt anything that is true, just, and noble for the protection of benefactors and to carry out the principles of our Government. They will sustain any legislation having the same object. This is what they expect. It is what the freedmen expect. It is what the Unionists of the South expect. They do not wish to be surrendered to the tender mercies of the rebels. They ask Congress to protect them. And they see that this can be done only by giving the ballot to the freedmen. I have in my hand a letter from a Unionist of Alabama addressed to another and received only yesterday, dated February 25, and written in the very heart of Alabama, who thus speaks of this very question:

"All men of common sense must now see that there can now be no loyal civil governments in these States if the negroes are not permitted to neutralize with their votes the votes of rebels. On this account I do hope the joint resolution recently introduced in the Senate by Mr. SUMNER will prevail. Whatever may have been our former notions in regard to the negro, it is now very evident that practically they are better citizens than the majority of whites in some portion of the rebel States. The Declaration of Independence is the true and just basis upon which these State governments must be founded."

Such is the voice of a Unionist of Alabama. He looks to Congress. God forbid that Congress should abdicate its beneficent powers. They are all needed for the safety and welfare of the Republic. I cannot, I dare not help in any such abdication.

Mr. WILSON. I do not propose, Mr. President, to continue this debate, but as the authority of Mr. Gerritt Smith has been quoted to-day, I propose to state a fact to show how much the opinions of that gentleman should be permitted to guide the counsels of the Congress of the United States. There is no man living for whose motives I have more respect than I have for the motives of Gerritt Smith; but I cannot forget that when we proposed to amend the Constitution so as to make it forever impossible that there should be a slave in the United States of America, that gentleman, influenced by the theory which he and a few gentlemen had held for many years, that the Constitution did not permit the existence of slavery within the United States, publicly opposed that amendment to the Constitution of the United States. Congress, however, not holding to that theory, proposed an amendment to the Constitution forbidding slavery; the American people sanctioned that amendment; it is now in the Constitution of our country, and slavery has forever ceased to exist in America. Now, when the authority of Gerritt Smith is brought into the Senate to guide our action, I remind the Senate and the country of his course on the constitutional amendment; and I ask the Senate and the country, where, in God's name, would be the former slaves in this land if the counsels of Gerritt Smith had governed Congress two years ago.

There are gentlemen now who have got a new theory up, and have about as many followers as Gerritt Smith had two years ago in his notion that slavery could not exist under the Constitution; and impelled by that theory, they oppose the amendment proposed to the Constitution by the committee of fifteen, when every man in America knows that if it were to-day in the Constitution that provision would as surely enfranchise the black men as the amendment already adopted has emancipated them. I do not question anybody's motives; I do not choose that anybody shall question mine; I choose to exercise my own judgment in this matter; and I think I understand it quite as well as Mr. Gerritt Smith understands it.

Sir, I do not propose to continue the debate. If I know myself to-day, I would go to the scaffold joyfully before the sun goes down if I could put this proposed amendment into the Constitution of my country; for if it were there, there would be but one result and one end to it, and that is the enfranchisement of every black man within the bounds of the United States. Believing so, I vote for it. That is the motive that governs me; and I believe it to be the motive of those who proposed it, the motive of those who advocate it here, and the motive of ninety-nine out of every one hundred of the men who sent us here; therefore I give my vote for it cheerfully and joyfully; and I never gave a vote in my life, not even for the constitutional amendment abolishing slavery, with the same clear conviction of a sense of public duty.

Mr. McDOUGALL. Mr. President, it was my pride to have served in the public councils with Gerritt Smith, whose name has been mentioned on both sides of this House, and of whom I can speak particularly. He was a man known for his truth and for his love of human liberty. He was wise enough to have learned a lesson taught by the ablest man I think our own country has produced, that you have to climb up from the concrete into the abstract; and he always said that while he advocated certain abstract propositions he did not expect to see them realized in a day. He knew he was in advance of his age; he was willing to be so; he sought no office. That was his position, as he stated it to me and as it has been developed in his public life. So much for him whom I respect and of whom I desire to speak respectfully, for he is a noble man.

Indulge me in another word. Since the Master of the universe said, "Let there be light, and there was light;" since He cast the spheres into action, from the earliest times, there have been rulers, He being the Great Ruler, and where there are rulers there must be subjects. The highest organizations of the world have had the ruling of mankind *sub lunâ*.

The Senator from Massachusetts talks about universal peace. What is universal peace? Universal stagnation; no life; a dead sea where no life is. I will not make a speech now, but I say that universal peace is universal death, because it is motion, life, antagonism, that carries on the world of life. I object to the amendment of the Senator from Missouri; and now I wish to say a word simply on the amendment of the Senator from Wisconsin.

The Constitution as it stands, in assessing direct taxes, would charge Iowa with as much

as it would charge Massachusetts, although Massachusetts has twenty times the wealth of Iowa. This is an unjust rule. When I once inhabited the West, on this side of the Mississippi, and had occasion to look to these things, I found that Illinois might have been charged as much as Massachusetts with less than twenty times its wealth. Taxation should properly be assessed on the people according to their means to pay taxes. The amendment by the Senator from Wisconsin meets my approbation for that reason. I am also in favor of the use of the term "electors" which he introduced into his amendment. The Senator from Ohio [Mr. SHERMAN] excepts to that, and says we should use the phrase "citizens." If we do so the question of determining who are citizens will have to be discussed in the courts. Electors are commissioned by their States. It is a plain word and can be understood. We do not want constitutional arguments in the Supreme Court of the United States and disputes throughout the country to settle its meaning. I believe that amendment is carefully drawn and is exactly right. I agree to the proposition that the men who are electors shall be the persons represented in the Federal Government. I would like to extend the provision and have them represented both in the House and in the Senate; but the trouble is, we cannot do it in the Senate. If, however, Maine and Massachusetts undertake to be too absolute, we may provide an equivalent in some other way.

The PRESIDENT *pro tempore*. The pending question is on the amendment moved by the Senator from Missouri [Mr. HENDERSON] to the amendment proposed by the Senator from Massachusetts, [Mr. SUMNER.]

Mr. JOHNSON. I ask that that be read.

Mr. CRESWELL. I ask that the original resolution and all the pending amendments be read, so that we can understand the matter.

The PRESIDENT *pro tempore*. All the propositions will be read, if there be no objection.

The Secretary read the original resolution, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two thirds of both Houses concurring,) That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three fourths of said Legislatures, shall be valid as part of said Constitution, namely:

ARTICLE —. Representatives shall be apportioned among the several States which may be included within this Union according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed: *Provided*, That whenever the elective franchise shall be denied or abridged in any State on account of race or color, all persons therein of such race or color shall be excluded from the basis of representation.

The Secretary next read the amendment of Mr. SUMNER, which was to substitute for the resolution the following:

Whereas it is provided in the Constitution that the United States shall guaranty to every State in the Union a republican form of government; and whereas by reason of the failure of certain States to maintain governments which Congress can recognize, it has become the duty of the United States, standing in the place of guarantor, where the principal has made a lapse, to secure to such States, according to the requirement of the guarantee, governments republican in form: and whereas, further, it is provided in a recent constitutional amendment that Congress may "enforce" the prohibition of slavery by "appropriate legislation," and it is important to this end that all relics of slavery should be removed, including all distinction of rights on account of color: Now, therefore, to carry out the guarantee of a republican form of government and to enforce the prohibition of slavery,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be no oligarchy, aristocracy, caste, or monopoly invested with peculiar privileges and powers, and there shall be no denial of rights, civil or political, on account of color or race, anywhere within the limits of the United States: but all persons therein shall be equal before the law, whether in the court-room or at the ballot-box. And this statute, made in pursuance of the Constitution, shall be the supreme law of the land, anything in the constitution or laws of any State to the contrary notwithstanding.

The Secretary next read Mr. HENDERSON's amendment, which was to strike out all of the amendment of Mr. SUMNER, and in lieu of it to insert these words:

Resolved, &c., (two thirds of both Houses concurring,) That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three fourths of said Legislatures, shall be valid to all intents and purposes as a part of the said Constitution, namely:

ARTICLE 14. No State, in prescribing the qualifications requisite for electors therein, shall discriminate against any person on account of color or race.

Mr. HENDERSON. I of course do not rise for the purpose of debating this question any further. I have occupied too much of the time of the Senate already. I have been appealed to by friends with whom I am acting politically to withdraw my amendment. I have felt very much disposed to do so, but upon reflection, inasmuch as I shall be compelled to vote against the amendment proposed by the committee and also against the bill of the Senator from Massachusetts if I were to withdraw this proposition, it seems to me it would place me in a very awkward position before the country. I should have withdrawn the only proposition which I can support, and then refused to support the other propositions. It seems to me that inasmuch as we feel the necessity of doing something it will leave my motives to be very much misinterpreted. I believe that the amendment I offer is the true proposition; I believe that it is just to the North and just to the South. I believe to-day, as conscientiously as I ever believed anything on earth, that the southern people themselves will be bettered by this amendment. I believe that they will accept it; I feel confident that in the course of a year or two they will gladly accept it. There is no species of injustice in it. They argue that the negro is not qualified to vote at present. They may exclude him on account of the fact that he is not educated and yet not exclude him on account of race or color; but then they are compelled to exclude a great many other persons who are whites, and those whites and negroes combining in the course of a few years will compel the suffrage to be extended to whites and blacks alike.

It is the proper amendment. I am aware that the Senate will vote it down now. Let them vote it down. It will not be five years from to-day before this body will vote for it. You cannot get along without it. You may adopt the other proposition, but the States will not accept it; the northern States in my judgment will not accept it, because they will misapprehend the meaning of it. The Senator from Massachusetts, [Mr. WILSON,] who has just spoken with a great deal of warmth, says the object of it is to secure negro suffrage, and he says nine tenths of the people backing him up to-day intend that that shall be the result of the amendment. If nine tenths of the loyal people who stand at our backs sustaining and supporting us to-day believe that it ought to be done, why not do it directly? Why not come up squarely and do it? It is right, it is fair, it is just. The South itself cannot exist in peace without extending modified suffrage to the negro, and we all know it.

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

Mr. HENDERSON. I shall be through in a moment. We are asked now to admit these southern States. The President insists and his friends insist, my friends who sit near me insist, that we must admit these States immediately, because now we tax them without representation. What sort of constitutions are they presenting to us to-day? One half of the people of these States are disfranchised by them; and these are the constitutions that we are being asked to admit as republican in form. They deny forever and ever all participation in Government in these States to one half their people. Are the negroes to be taxed in the southern States for all time to come without representation? Much complaint is made against us because we do not rapidly receive these States as republican in form. We are complained of for not admitting as republican in form State constitutions that for all time to come deny suffrage and representation to these men, and yet compel them to bear the burdens of Government. I say that the South in less than five years from to-day will be compelled to grant to this population the elective franchise. I do not ask that they shall grant it to every uneducated negro; I would not do it; I would as soon think of giving treasure to the idiot. But if the negro is educated, if he discharges his duties as a citizen, if he is qualified for the suffrage, why not give it to him upon an equality with others? If Senators believe that that is the true rule, and they are supporting the committee's amendment for the purpose of conferring the suffrage upon the negro, let us meet the question fairly and squarely.

Mr. JOHNSON. What does your own State constitution say? Does it not exclude the blacks?

Mr. HENDERSON. It does temporarily. I can state to the Senator, however, that I am very well satisfied that in the course of a few years the negroes will be granted the suffrage in the State of Missouri. I am very well assured of it; I feel satisfied of it; and if it be thought necessary on this occasion in order to give peace to the country to adopt the principle generally—and I believe that this is a measure calculated to do it—if it be thought by Congress that this amendment ought to be adopted, the present Legislature will adopt it in twenty-four hours after you have passed it by a two-thirds vote of the two branches of Congress. Missouri will be the first State to accept it, and to grant her negroes the suffrage immediately. I can speak that much, I think, for the State of Missouri to-day on the floor of the Senate.

Mr. SUMNER. Massachusetts, too. Every loyal State would.

Mr. HENDERSON. I believe the States would. Now is the time to accomplish this, it is the only time when it can ever be done; and if you do not let it pass here to-day, you never will have another opportunity. But suppose the southern whites should come to the conclusion to accept your proposition, what will be the consequence? I do not speak disrespectfully of the amendment of the committee. I know the able Senators who are supporting it. They are much more worthy than I am; what they say is entitled to more respect in the country. They have been longer fighting this battle than I have. What I say is entitled to but little consideration; what they say is entitled to much. If they will give my proposition their countenance and support, the people of this country will rise up *en masse* and say, "If this is to be a settlement of the question, we accept it in good faith." Why should we not accept it? It does justice to everybody. But if the southern whites accept your proposition to disfranchise the negro in consideration merely of the loss of political power in the House of Representatives and in the Electoral College in elections for President of the United States, what will be the future? Very much of what the Senator from Massachusetts says has proved to be true. I can appreciate the Senator's feelings. He has been long fighting this battle of slavery, and believes within his heart to-day that if you adopt this proposition the South will accept it and lessen their political power here for all time to come, and tax the negroes without representation by their State laws. All this can be avoided and their governments may be made republican in form and in fact. Why cannot gentlemen rise above the trammels of party influences and do what they feel within their souls and consciences to be correct action? Mr. President let us do it. I think the amendment is right. I know it is to be defeated; but I for one desire to cast my vote for it.

Mr. CONNESS. I shall not of course——

Mr. GRIMES. I rise to a question of order. The Senator will pardon me for doing it.

Mr. CONNESS. Of course.

Mr. GRIMES. I understood yesterday that the Senate made an order—I do not know whether it was a formal order entered upon the record or not, but there was an order made which was acquiesced in on both sides of the House, that at three o'clock we should proceed to vote upon these questions. Now, sir, nearly an hour has elapsed in violation of that rule.

There was a mutual agreement and a perfect understanding on all sides. This question has been discussed here for three weeks, and it seems to me that we might as well proceed to vote now as at any time. I should be pleased to hear the Senator from California, but I have to interpose some time or other.

Mr. CONNESS. The Senator does not know what I have to say, and I think he is presuming a great deal on its merits by saying he would like to hear it. [Laughter.]

The PRESIDENT *pro tempore*. The point of order made by the Senator from Iowa the Chair must overrule. The Senator from California is in order. The Senator from Iowa is no doubt right as regards the question of understanding—if the Chair may be allowed to use that term—but as it regards the rules of the Senate, the Senator from California is entitled to occupy the floor as long as he chooses, on this or any other question.

Mr. CONNESS. I think if the Senator from Iowa had heard me for an instant he would not have made his speech. I appreciate his feelings and what dictates the speech; but he will, I know, acknowledge that I have not occupied one instant of the time of the Senate in all the discussions that have taken place upon these great propositions. I have voted steadily, to use the language of other Senators, with my friends, content to vote and say nothing. I rise now simply to say that there are three or four forms of propositions before the body and that I shall be compelled to vote *seriatim* against each until I come to the one that I think should be adopted. I intended simply to explain that I shall vote against these propositions, not upon their merits; but with a view of voting them down if possible and arriving at the proposition which I think a sufficient number of Senators will be willing to adopt as a part of the Constitution or as their opinion upon that subject. That is all I intended to say. I have listened to long speeches here, some introduced to-day; and, indeed, some Senators, (if they will permit me to say so,) not content with making their own speeches, bring in here letters and papers written by others that we have all read, and we are excluded from an instant of time even to explain our votes. I did not intend, as the Senator from Iowa will see, to intrude upon the understanding made by the Senate.

Mr. CLARK. The amendment offered by the Senator from Missouri is an amendment in the second degree, and hence I cannot move to amend it. I therefore, as the only course left open to me, call his attention to his amendment that he may see whether it does not need to be perfected. It provides that no State in prescribing the qualifications requisite for electors therein shall exclude any person on account of color or race; but suppose they discriminate against him on account of having been in slavery and say that no man who has once been a slave or who is the descendant of a slave shall be allowed to vote, would that be within this amendment?

Mr. HENDERSON. That would be, certainly.

Mr. HENDRICKS. Is not that in the same language as the other proposition in that respect?

Mr. CLARK. It is; and when we come to that I shall propose an amendment. I would move an amendment to this, but it is not in order; the only thing left to me is to call the Senator's attention to it that he may modify it if he chooses.

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

Mr. HENDERSON. I will state to the Senator from New Hampshire that my amendment, although it may be adopted as a substitute for the proposition of the Senator from Massachusetts, will be subject to amendment afterward in anything of that sort; it can be perfected then.

Mr. SUMNER. Allow me to make an explanation. The proposition of the Senator from Missouri is moved as a substitute for my own amendment. He felt that it was necessary to present it in that way in order to bring it before the Senate, and I do not complain. I am for his proposition, and therefore I shall vote for it even though in voting for it I seem to vote against my own. When his proposition shall be out of the way it will be in order for me to press a vote on my own or to urge my own in some other way. I merely make this explanation.

Mr. HENDERSON. The Senator from Massachusetts has a proposition which is a mere bill and he can go for both; he can vote for my amendment very consistently, and immediately afterward offer his bill and press it to a vote.

Mr. ANTHONY. Is the amendment of the Senator from Massachusetts in order? Is it allowable to amend a proposition to amend the Constitution by striking it out and substituting for it a bill, an act of Congress?

Mr. SUMNER. It is a joint resolution which I propose.

The PRESIDENT *pro tempore*. It is in the form of a joint resolution. The Chair thinks that the amendment of the Senator from Massachusetts is in order.

The question being taken by yeas and nays on Mr. HENDERSON'S amendment, resulted—yeas 10, nays 37; as follows:

YEAS—Messrs. Brown, Chandler, Clark, Henderson, Howe, Pomeroy, Sumner, Wade, Wilson, and Yates—10.

NAYS—Messrs. Anthony, Buckalew, Conness, Cowan, Cragin, Creswell, Davis, Dixon, Doolittle, Fessenden, Foster, Grimes, Guthrie, Harris, Hendricks, Johnson, Kirkwood, Lane of Indiana, Lane of Kansas, McDougall, Morgan, Morrill, Nesmith, Norton, Nye, Poland, Ramsey, Riddle, Saulsbury, Sherman, Sprague, Stewart, Stockton, Trumbull, Van Winkle, Willey, and Williams—37.

ABSENT—Messrs. Foot, Howard, and Wright—3.

So the amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question recurs on the amendment of the Senator from Massachusetts, [Mr. SUMNER.]

Mr. CLARK. I move now to amend the proposition of the Senator from Massachusetts by striking it all out and inserting the following:

Resolved, &c., (two thirds of both Houses concurring,) That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three fourths of said Legislatures, shall be valid as part of said Constitution, namely:

ARTICLE —. Representatives shall be apportioned among the several States within the Union according to the number of male citizens in each of twenty-one years of age and upward, having the qualifications requisite for electors of the more numerous branch of the Legislature, but each State shall have at least one Representative.

I have only to say that this is an amendment founding representation upon voters.

Mr. SHERMAN. I did not hear it distinctly. It has not been printed, and I dislike to vote for a proposition without understanding it. Let it be again read.

The Secretary read the amendment of Mr. CLARK.

Mr. SHERMAN. The substance of that amendment I should vote for with great pleasure, but I suggest to the Senator from New Hampshire whether he had better submit it as an amendment to the proposition of the Senator from Massachusetts. Let us have it rather as an amendment to the original proposition distinctly.

Mr. CLARK. I have considered that; and if we agree to it as an amendment to the amendment of the Senator from Massachusetts, then it will come directly with the original resolution face to face. I have antagonized it with the other two propositions.

Mr. McDOUGALL. I inquire of the Senator from New Hampshire if he has put in his amendment a provision in regard to the apportionment of direct taxes?

Mr. CLARK. I did not propose that.

Mr. WILSON. I think if we are to have that proposition tried, the best form it can be put in is the amendment proposed in the House of Representatives by Mr. SCHENCK. That is by far, I think, the best drawn of any of these propositions.

Mr. ANTHONY. I wish to ask if this amendment does not produce an undesirable effect in the border States. The State of Maryland, the State of Tennessee, and some other States have disfranchised all their rebel voters, all those persons who have been engaged in the rebellion, or in any way have given aid or comfort to the rebellion. Now, if this amendment is passed, those States having disfranchised about one half their voters will be reduced to one half their present number of Representatives. It will be an encouragement for those States to restore the franchise to the rebels, and it will be a discouragement to other States to follow the very good example which they have set.

Mr. CLARK. I have considered that point; and I will say to the Senator from Rhode Island that I do not suppose this amendment will take any effect until 1870 or 1871, until a new census shall be had; and by that time I hope these States will be in a condition to be represented. The contingency is so remote that it does not affect the question, I think.

Mr. CONNESS. In addition to that I will say that it also presents as strong an inducement for those States, Maryland, Missouri, and Tennessee, which have deprived the colored man of the right to vote, to extend the franchise to him, and thus gain in their basis of representation.

Mr. CLARK. I may be allowed to say further to the Senator from Massachusetts [Mr. WILSON] that this is almost in the words of the amendment that Mr. SCHENCK proposed at this session. It does not contain the whole of that; it leaves out some things which I think it should not contain.

Mr. TRUMBULL. I merely wish to say one word in reference to the amendment which was proposed in the House by Mr. SCHENCK. The amendment now proposed by the Senator from New Hampshire is the precise amendment proposed in the House of Representatives almost word for word, leaving out the latter part of the amendment offered in the House; and that can be regulated by legislation. It is not necessary to put it into the Constitution of the United States that Congress shall go on at its first session, after the ratification of the amendment, and take a census. We can do that by legislation. That is a mere matter of detail; we do not want that in the fundamental law. The rest of the amendment is this proposition substantially, and almost *verbatim*. This is a little more distinct than the one which was presented in the House of Representatives.

Mr. SUMNER. I would further remark that the proposition of the Senator from New Hampshire is almost identically in the words of the amendment which I had the honor of moving here in February of last year, and which I also moved again on the first day of this session, and which has been much discussed in the newspapers. I mention that to show that the language of the proposition of the Senator has undergone a very careful consideration, not only here, but by the public in general.

Mr. SHERMAN. As this is a very important question and we should vote understandingly, I will state to Senators that the proposition of the Senator from New Hampshire is in fact almost in the same words as the first part of the proposition offered by the Senator from Wisconsin, [Mr. DOOLITTLE,] except that the proposition of the Senator from Wisconsin bases representation upon "electors" and this bases it upon "citizens." The proposition now made is substantially the one which has from the beginning met my judgment, and I therefore shall vote for it, although I would have preferred to have it offered as an amendment to the proposition of the committee.

Mr. FESSENDEN. I wish to say to the Senator that if this is adopted as an amendment to the proposition of the Senator from Massachusetts, it will then stand as a proposed substitute for the resolution of the committee, and then we can go on and perfect the resolution of the committee, and after that the vote will be taken between the two.

Mr. SHERMAN. To avoid complication, I

think we had better adopt this as an amendment to the proposition of the Senator from Massachusetts, and then we shall have these two propositions before us, whether we shall base representation upon voters, upon citizens of the United States above the age of twenty-one, or whether we shall accept the proposition of the committee.

Mr. CRESWELL. I have two objections to the proposed amendment of the Senator from New Hampshire. The first is, that he uses the word "citizen," which as yet, under the interpretations of our courts, is a term of doubtful meaning. The gentleman faces the decision of the Supreme Court in the Dred Scott case, in which it is alleged, at any rate on one side of the discussion, that they decided that a negro, whether free or slave, was not a citizen. I admit that there is considerable discussion as to the precise meaning the court intended to give to their words; but nevertheless, I believe that is the interpretation generally given by the profession to that decision. He therefore opens a fountain of discussion in the very phraseology of his amendment. I think on that ground it is obnoxious to very serious objection.

But an objection still more imperative upon me is, that I believe the effect of the amendment (whether it is so intended by the gentleman or those who first suggested it or not) is to impose upon all the States of the South, as well as the border States who have not actively participated in the rebellion, the necessity of incorporating among their voters all their citizens, whether they have been participants in the rebellion or not. That being the effect of it, those States being subject to the penalty of having their representation restricted if they do not do that thing, I am opposed to this proposed amendment, because I believe conscientiously that the men who brought about this rebellion, the men who engineered it, who started it in the beginning, should never be admitted to the full rights of citizenship, not even to the right of suffrage; and I think that all those States will be placed in a false position if they are deprived of a portion of their representation in Congress, because they feel themselves compelled to shut out from the right of suffrage the very worst traitors, men who have brought them into this condition.

Mr. ANTHONY. I was not satisfied with the explanation of the Senator from New Hampshire, because I do not think that within five years from this time it will be safe to admit all those men to suffrage, or that it is expedient for Congress to encourage the States to admit to suffrage men who have been engaged in the rebellion, and because I believe if this amendment be passed there will be a new census. A proposition has already been made in the other House to take an intermediate census; and if this amendment be passed, and we have the two Halls of Congress replenished by members and Senators from those States which are now unrepresented, we shall have an intermediate census.

Mr. TRUMBULL. One of the objections made by the Senator from Maryland, that the word "citizen" is used in this proposed amendment, commends it particularly to my view. I would have the word "citizen" there. I wish to end that very controversy, whether the negro is a citizen or not. If this proposition is adopted, then in order to have the benefit of full representation, the States will have not only to make the negro a voter, but a citizen. The fact of his being a voter, if they do not recognize him as a citizen, will not entitle them to representation for him. It requires them, if they wish the benefit of the negro population in their representation in the national councils, to make the negro a citizen as well as a voter. I prefer it in that form; and the very reason suggested by the Senator from Maryland, I think, should commend it to our favor, rather than be made an objection to it.

As to the other objection, that some of the States will lose in their representation because they desire to disfranchise rebels, the answer already made by the mover of the proposition seems to me to be a very good one; that is, that it will be some time before this proposition goes into effect, and it is quite likely that most of these rebels may have extended to them the right of suffrage before the constitutional amendment can be carried into effect if it be adopted. But whether that be so or not, if these rebels are not fit to vote they are not fit to be counted in the basis of representation. Then leave them out; that is a temporary thing. In fixing the fundamental law of the land for all time as to the basis of representation, we ought not to take into consideration the fact that some State may lose for a short period her relative weight in the councils of the nation because there happen to be among her inhabitants a number of rebels. If she admits them to votes she will be entitled to additional representation; but, let me say to the Senator from Rhode Island that I trust there will be patriotism enough among the Union men of those States when they shall have established their governments upon a firm basis, and where they have excluded rebels from voting because it would be unsafe to let them vote, to keep them away from the ballot-box till they can safely be admitted there. Besides, as is well suggested by the Senator from California, [Mr. CONNESS,] those States can extend the right of suffrage, if they think proper, to the negro, and in that way get the representation which they would lose in consequence of excluding rebels.

Mr. McDOUGALL. My friend, the Senator from Illinois, has spoken of the word "citizens." I should like to have him or some other learned Senator define what "citizen" means. It never has been particularly defined in any book. We know what is meant by "denizens" in English law; but the exact meaning of the term "citizen" as a general term is not understood and has never been accurately defined in the books.

Mr. JOHNSON. If this amendment is to be adopted, it is important that the Senate should understand exactly its effect. I am not sure that I do understand what its operation will be; but I will state to the Senate what I think will be its operation.

In the first place, as far as the negro population of the southern States is concerned, they will be excluded from the enumeration unless those States should think proper to admit them to the right of suffrage. But in the next place, (and it is for that especially that I rise, because of an observation made by my friend from Illinois,) it may very materially affect the representation of some of the States. In several, I forget how many, of the northwestern States the right of suffrage is given to persons who are not citizens. Those who have just arrived in the country, without any regard to the length of time they have been in the country, or those who have been in the country for a specified length of time, although they have not become citizens, are permitted to vote. There is a large number of them, and they will be deducted from the enumeration which is to ascertain the proportion of representation, unless it be in the power of the State to make them citizens. Now, what I suggest to my friend from Illinois is, that the term "citizen," as used in the amendment proposed by my friend from New Hampshire, means a citizen of the United States.

Mr. TRUMBULL. Undoubtedly.

Mr. JOHNSON. And I know no mode by which an alien can become a citizen of the United States except under the naturalization laws of the United States. If he cannot be made a citizen in any other way than under those laws, the operation of the amendment would be to exclude from the enumeration all who may not be citizens.

Another question will arise, as stated by my colleague, whether the negroes are to be considered as citizens. I think they are; but in that opinion I know I have not the concurrence of a great many; and perhaps looking to the judgment of the Supreme Court in the case so often mentioned, it would be a serious question whether a negro, who is the descendant of an African who was originally a slave, is or can be a citizen of the United States. The language of the court is that under the Constitution of the United States they are not citizens, and cannot be made citizens by any provisions in the Constitution. They cannot be naturalized because they are not foreigners. They are said not to be citizens, although natives, because they are descendants of Africans who were slaves. The result of course would be, if that opinion is right, that the whole of the original slave population, although they may be allowed the right of suffrage in the future would be deducted from the enumeration; or at least the question would be left open and would be the subject of serious difficulty in the future.

My own impression is that the true mode of settling the difficulty which now exists is to make the representation depend on the number of voters and to make direct taxation depend on the actual wealth of the State. The latter is not within this amendment, but the first is, and I shall therefore vote for it; but the Senators from the Northwest or from the States where aliens are permitted to vote ought to look to it, because otherwise they may lose a good many of their Representatives.

Mr. TRUMBULL. The Senator from Maryland is probably misinformed as to most of the northwestern States. It requires citizenship in my State, and I think in most of them, and I presume the Senator from Maryland agrees with me that citizenship ought to be required.

Mr. JOHNSON. I think so.

Mr. TRUMBULL. Then you can have no objection to this amendment.

Mr. JOHNSON. I have none personally.

Mr. TRUMBULL. In reference to those States where citizenship is not now required, the only effect would be this: all persons who are entitled to vote at the present time by the laws of any of the States will doubtless have been here long enough to become citizens before this constitutional amendment can go into effect if it be adopted; and therefore they will lose none of their representation. It will require several years to adopt the amendment, take the census and fix the apportionment; and any foreigner can become naturalized in five years. If foreigners have the right to vote now they must have been here some length of time.

Mr. JOHNSON. But they are coming in constantly.

Mr. TRUMBULL. I know; but for the future I presume no State would have any objection to requiring citizenship as a qualification of suffrage. They would not lose anything therefore. The point of the Senator from Maryland was that the States of the Northwest would lose a part of their representation. I wanted to show that they would lose nothing, because every one of their present voters could be a citizen by the time you could carry this constitutional amendment into effect; and as to the future, I do not think men ought to vote until they become citizens. As to those who are here, and who now have the right of suffrage, the States would not lose under this constitutional amendment, because those men could become citizens by the time you can carry the amendment into effect. They must have been here one or two or three years to vote in any of the States. It used to be the constitution of my State at one time that an alien who had resided one year in the State was entitled to vote; now we require citizenship. But before this amendment can be carried into effect all present voters, I apprehend, can become citizens, and therefore no State will lose anything by it; and as to the future, I think the Senate and the country will agree that citizenship is but a proper requirement for the exercise of the right of suffrage.

Mr. COWAN. Mr. President, I wish to state here my objection to any amendment to the Constitution upon this point. To me it is fundamental; it strikes at the very vital part of the Constitution; it strikes at that part which is essential to the existence of the whole; it destroys the freedom of the States; it destroys the republican form of government of the States. What was the struggle at the time the Constitution was formed? It was to create out of the

Union of free States a general Federal Government such as we now enjoy. The first great design of the founders was to preserve the freedom of the States and to so bind them together that while they preserved that freedom they would still enjoy for certain general purposes the benefit of a consolidated Government. Whenever the United States undertake to say to the States "You shall distribute the political power within your borders according to our dictation," that moment they violate their own guarantee that each State shall have a republican form of government, because the framers of the Constitution understood, and they have so said in the Federalist, that to have a constitutional form of government each State must make that government for itself.

I cannot conceive of a plainer proposition than that. If a State is not at liberty to form its own government according to its own notions of propriety in that formation, it is not a free State; and it is of the essence of a free State that it distribute its political power as it chooses. It is just as much of the essence of a free State that it say who shall cast its ballots as who shall hold its offices—precisely the same. Now, I ask you, Mr. President, and I ask any Senator in this Chamber, whether a State would be free if we could dictate to that State whom it should elect as its officers? Certainly nobody would contend for that; and if we undertake to dictate to a State who shall be its electors, that is equally a violation of its freedom. It is true that the State chooses its electors by a general rule and chooses its officers by a particular vote; but the electors are just as much the depositaries of the political power of the State in the beginning as the officers are the depositaries of its power and authority in the end. It is idle to talk to me about a free State or to talk about the independence of these States, as the framers of the Constitution understood it, if either the United States or any other authority can interfere with them in the distribution of their political power within themselves.

Why, Mr. President, if anybody has the power to say directly or indirectly to the State of Pennsylvania, "You must allow one hundred thousand of your citizens who have been deprived of voting to vote," is not that to introduce from outside, *ab extra*, into Pennsylvania a power equivalent to one hundred thousand votes? Is she free if she submits to the dictation of this power *ab extra*? It seems to me to be a plain proposition. It is one of the fundamental principles of the Constitution, which is out of the reach of amendment, because to amend it, to touch it, is to violate the spirit of the instrument itself and to violate its own guarantee. What was the force of that guarantee? When we guarantied to the States a republican form of government we guarantied their freedom; we guarantied that they should do the very thing you are now trying to take away from them; we guarantied that they should, as to the distribution of their own political power, be free; and now, in the face of that guarantee, can we claim the right to say to them that they shall let this class or that class or the other class of their people vote?

Mr. President, when this is done there is no United States of America, there will be no States, the whole will be consolidated and agglomerated into one great government, and you will lose all the advantage that you have heretofore derived from the checks and balances which are to be found in the fact that the States are free. This power is essential to the very existence of a free State. Whether a State exercises it right or whether she exercises it wrong, is not the question. It lies there at the very foundation of the fabric, imbedded in the Constitution itself, and to move it, to attempt to move it, to touch it in any way, is to destroy the very base of the whole fabric. It is not amending the Constitution in form; it is not like amending the Constitution in so far as a great legal principle is concerned; but it is amending the Constitution in touching with intent to destroy the very thing that the Constitution itself was made to subserve and to support.

I know a great many say that because we have guarantied to the States a republican form of government, therefore we must supervise their forms in order to see that they are republican. Mr. President, the guarantor is only bound to discharge his guarantee when he is called upon by the guarantied. No guarantor ever interferes with the guarantied and says, "I am going to perform and discharge my guarantee." Nobody ever does that. It will be time enough for us to discharge this guarantee when some State comes here and says to us, "We have been interfered with." We ask, "Are you not free to form your State government as you choose?" "No." "Well, who has interfered with you?" Whoever creates that interference, we the United States are bound to interfere against and to prevent it; but we have no more warrant to interfere ourselves than any outside power has authority to interfere.

These are my objections to any amendment to the Constitution touching the basis of representation. It is out of our reach. It is true that some of these amendments do not do this directly, but they hold the whip over the head of the States and they say, "If you do not give suffrage to a certain class, we will deprive you of representation *pro tanto* to the same extent," which is the same thing. I trust that no one of these attempts to destroy the freedom of the States will prevail. That freedom to me is worth more, a thousand times over, than all that is expected to be gained by this digging about the very foundation and cornerstone of the Constitution. This is temporary, but that is for eternity. The freedom of the States is necessary to the perpetuation of the fabric; and the moment that is gone, the fabric itself ceases to be as it was originally established.

Mr. JOHNSON. As I stated to the Senate, it is my purpose to vote for the amendment suggested by the honorable member from New Hampshire. I propose to say but a word in reply to my friend from Pennsylvania. I understand him as objecting to that amendment and as objecting to any amendment changing the basis of representation upon the ground that it will interfere with the freedom of the States. That is a proposition that I cannot well comprehend. In the Convention by which the Constitution was adopted, the manner in which representation was to be ascertained and taxation was to be levied was a subject of serious discussion; there were different opinions held by different members of that Convention, but nobody intimated that however the basis might be ascertained the effect would be to interfere with the freedom of the States. The only question was, what was the proper mode of ascertaining the number of Representatives and of apportioning taxation? They came to the conclusion that the proper basis for each was numbers. We are, or at least I am individually, of the opinion that the proper mode of ascertaining it is the number of qualified voters. What is there in that that interferes with the freedom of the States more than the other?

But the honorable member seems to suppose that because the Constitution when it was adopted established a different basis, the basis which is now in force, it interferes with the freedom of the States to change that basis. What was the amendment clause of the Constitution inserted for? I suppose the object of that clause was to give to the people of the United States, acting in the way suggested by the clause to which I advert, the authority to change the Constitution from time to time. When the Constitution was adopted some of the States, the most of the States, had slaves, and they claimed as a constitutional right the authority to hold slaves; and it was contended upon this floor, I think by my friend from Delaware, [Mr. SAULSBURY,] by the honorable member from Kentucky, [Mr. DAVIS,] that it would interfere very much with the freedom of the States to take from the States the slaves that they had a right to hold under the express guarantees of the Constitution; but the Senate thought differently. They agreed to amend the Constitution so as to abolish slavery throughout the United States, and if my memory does not fail me, my friend from Pennsylvania voted for that amendment.

Mr. COWAN. I did.

Mr. JOHNSON. Now, what is there in this which more interferes with the freedom the States had at the time the Constitution was adopted (meaning by that term the powers which the States had, the rights which the States had, at the time the Constitution was adopted) than in the case of the amendment abolishing slavery? The only question, therefore, with me is, when any amendment to the Constitution is proposed, whether the amendment proposed is right; and the moment it is right, then according to my view it is proper that it should be adopted; but it never occurred to me that the adoption of any amendment would be considered legitimately, logically, or in point of fact as interfering with the freedom of the States.

Mr. COWAN. I have but a word to say in reply. I may not have made myself clear. It is very evident that the honorable Senator has supposed me to be confounding the basis of representation with the number or character or qualification of the voters of a State. I did not do so. I do not care what the basis of representation may be; I do not care anything about that; let that be made anything at all that may be agreed upon. They might have allowed the basis of representation to be the number of acres of land contained in the several States. They might have allowed them to be represented according to their wealth. They have allowed them to be represented according to their numbers. I am satisfied; I should have been satisfied with either; but what I allege is a violation of the spirit of the Constitution in this amendment is, that while it undertakes to readjust the basis of representation, it undertakes to compel the States to distribute their political power in a way that they themselves might not desire to do it. Now, I trust that is plain.

Suppose, if you please, that the Constitution had made the number of acres of land the basis of representation, had said that there should be a Representative in Congress for every million acres of land in a State. Of course that would have left each State perfectly free to say who should cast her ballots and who should not; but if Congress were to readjust that, and say, "You shall only have a member for two million acres of land, unless you allow certain people in your State, a certain class, to vote," that would be to strike at the very root of the whole concern. It would be destructive of the whole agreement. It would be radical in its character.

Mr. DAVIS. The honorable Senator treats the basis of representation and the voter as distinct matters.

Mr. COWAN. Certainly.

Mr. DAVIS. So do I.

Mr. COWAN. I care not what you make the basis of representation. It may, as I said before, be the numbers of the people; it may be the extent of territory; it may be the wealth of the people. But what I object to here is, that you threaten the people of the States that unless they allow a certain class to vote they shall be shorn of their representation to the same extent. What then? They may adopt the alternative, it is true; but it is nevertheless interfering with their freedom. Take California, if you please; California has now, I believe, sixty thousand Chinese within her borders. Pass some of these amendments to the Constitution, and unless she admits them to the right of suffrage she is shorn of her representation to the same extent. I say that is to introduce a power into California from without California to regulate and control in her domestic concerns, and in that, I say, it destroys the freedom of the States.

Mr. CLARK. I find that several Senators desire to come to a vote on the original proposition as one which they like best. I prefer that original proposition myself if it can be carried, and therefore I withdraw this amendment for the present, and if the original proposition fails I shall offer it hereafter as an independent measure.

The PRESIDENT *pro tempore*. The proposed amendment to the amendment being withdrawn, the question is on the amendment of the Senator from Massachusetts.

Mr. SUMNER. No action having been taken upon my amendment, I suppose it is competent for me to modify it.

The PRESIDENT *pro tempore*. It is.

Mr. SUMNER. I modify it so as to make it read, after the enacting clause, as follows:

That in all States lately declared to be in rebellion there shall be no oligarchy, aristocracy, caste, or monopoly invested with peculiar privileges and powers; and there shall be no denial of rights, civil or political, on account of color or race, but all persons shall be equal before the law, whether in the court-room or at the ballot-box. And this statute, made in pursuance of the Constitution, shall be the supreme law of the land, anything in the Constitution or laws of any such State to the contrary notwithstanding.

It will be observed that this is applicable only to the States recently declared to be in rebellion. There is another proposition from the distinguished Senator from Illinois [Mr. YATES] which is applicable to all the States. Believing as I do that either proposition is consistent with the Constitution, I can sustain his and of course my own; but I have thought it best to have a vote on the proposition which is applicable only to the rebel States, leaving it to the Senator from Illinois to move his applicable to all the States of the Union. I suggest to the Senator to move it after this amendment of mine has been acted upon.

Mr. YATES. My amendment is not in order at this time, as I understand.

Mr. McDOUGALL. Mr. President, still pursuing the same order of discussion, permit me to make a suggestion to the gentleman from Massachusetts, as he belongs to those who inhabit the classical regions and knows something of Parnassus. He who stood upon that burning mount, the practice of which made him invisible, had seraphim marshaled in order about him according to the law of command, the law of order which compels the necessity of rule, and the rule must be by the superior, and you cannot make the inferior rule. In my best judgment, instead of the policy indicated being a kindly policy to the African blood, it will be their destruction. In my own observation I have seen twenty-five thousand Indians at one time in a single valley, and when I left my home to come here there were not two hundred and fifty of them remaining. They had been sacrificed by this kind of humanity. And so, "Alas, the poor negro!" as it was said long time ago, "Alas, the poor Indian!"

Mr. SUMNER called for the yeas and nays on his amendment, and they were ordered.

Mr. DOOLITTLE. I do not rise to say a word except simply that I shall vote against this amendment, as I shall vote against the proposition of the committee, because I intend to offer the following:

After the census, to be taken in the year 1870, and each succeeding census, Representatives shall be apportioned among the several States which may be included within this Union, according to the number in each State of male electors over twenty-one years of age, qualified by the laws thereof, to choose members of the most numerous branch of its Legislature; and direct taxes shall be apportioned among the several States according to the value of the real and personal taxable property situate in each State, not belonging to the State or to the United States.

I shall vote against these propositions, intending to offer and urge the one I have just stated.

The question being taken by yeas and nays on the amendment proposed by Mr. SUMNER, resulted—yeas 8, nays 30; as follows:

YEAS—Messrs. Brown, Chandler, Howe, Pomeroy, Sumner, Wade, Wilson, and Yates—8.

NAYS—Messrs. Anthony, Buckalew, Clark, Conness, Cowan, Cragin, Creswell, Davis, Dixon, Doolittle, Fessenden, Foster, Grimes, Guthrie, Harris, Henderson, Hendricks, Johnson, Kirkwood, Lane of Indiana, Lane of Kansas, McDougall, Morgan, Morrill, Nesmith, Norton, Nye, Poland, Ramsey, Riddle, Saulsbury, Sherman, Sprague, Stewart, Stockton, Trumbull, Van Winkle, Willey, and Williams—30.

ABSENT—Messrs. Foot, Howard, and Wright—3.

So the amendment was rejected.

Mr. YATES. I move to strike out all of the resolution after its enacting clause, and to insert:

That no State or Territory of the United States shall by any constitution, law, or other regulation whatever, heretofore in force or hereafter to be adopted, make or enforce in any way, or in any manner recognize any distinction between citizens of the United States or of any State or Territory, on account of race or color or previous condition of slavery; and that hereafter all citizens, without distinction of race, color, or previous condition of slavery, shall be protected in the full and equal enjoyment and exercise of all their civil and political rights, including the right of suffrage.

On this amendment I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. CLARK. I think the amendment of the Senator from Illinois is offered as a substitute for the resolution of the committee.

Mr. YATES. It is.

Mr. CLARK. Before the question is taken on that, I move to perfect the resolution by striking out the proviso and inserting in lieu of it:

But whenever the elective franchise shall be denied or abridged in any State in the election of Representatives to Congress or other offices, municipal, State, or national, on account of race, color, or descent, or previous condition of servitude, or by any provision of law not equally applicable to all races and descents, all persons of such race, color, descent, and condition shall be excluded from the basis of representation as prescribed in the second section of the first article of the Constitution.

The PRESIDENT *pro tempore*. The first question is on the amendment of the Senator from New Hampshire.

Mr. CLARK. The object of the amendment is to perfect the original resolution so that it shall not be evaded, so that if persons are disqualified from voting by reason of slavery or any provision of law not equally applicable to all classes they shall not be counted in the basis of representation. On this amendment I ask for the yeas and nays.

The yeas and nays were ordered.

The question being taken by yeas and nays, resulted—yeas 26, nays 20; as follows:

YEAS—Messrs. Anthony, Brown, Chandler, Clark, Conness, Cragin, Creswell, Fessenden, Foster, Grimes, Harris, Henderson, Howard, Howe, Lane of Indiana, Morgan, Morrill, Nye, Poland, Pomeroy, Sprague, Sumner, Trumbull, Wade, Willey, Wilson, and Yates—26.

NAYS—Messrs. Buckalew, Cowan, Davis, Dixon, Doolittle, Guthrie, Hendricks, Johnson, Kirkwood, Lane of Kansas, McDougall, Nesmith, Norton, Riddle, Saulsbury, Sherman, Stewart, Stockton, Van Winkle, and Williams—20.

ABSENT—Messrs. Foot, Howard, Ramsey, and Wright—4.

So the amendment was agreed to.

The PRESIDENT *pro tempore*. The question is now on the amendment proposed by the Senator from Illinois, [Mr. YATES,] upon which the yeas and nays have been ordered.

Mr. POLAND. Let it be read.

The Secretary read the amendment, which was to strike out all of the resolution after the resolving clause, and in lieu of the words stricken out to insert the following:

That no State or Territory of the United States shall by any constitution, law, or other regulation whatever, heretofore enforced, or hereafter to be adopted, make or enforce in any way, or in any manner recognize any distinction between citizens of the United States, or of any State or Territory, on account of race or color or previous condition of slavery; and that hereafter all citizens, without distinction of race, color, or previous condition of slavery, shall be protected in the full and equal enjoyment and exercise of all their civil and political rights, including the right of suffrage.

The question being taken by yeas and nays, resulted—yeas 7, nays 38; as follows:

YEAS—Messrs. Brown, Chandler, Pomeroy, Sumner, Wade, Williams, and Yates—7.

NAYS—Messrs. Anthony, Buckalew, Clark, Conness, Cowan, Cragin, Creswell, Davis, Dixon, Doolittle, Fessenden, Foster, Grimes, Guthrie, Harris, Henderson, Hendricks, Kirkwood, Lane of Indiana, Lane of Kansas, McDougall, Morgan, Morrill, Nesmith, Norton, Nye, Poland, Ramsey, Riddle, Saulsbury, Sherman, Sprague, Stewart, Stockton, Trumbull, Van Winkle, Willey, and Wilson—38.

ABSENT—Messrs. Foot, Howard, Howe, Johnson, and Wright—5.

So the amendment was rejected.

Mr. DOOLITTLE. Now, in pursuance of the notice which I gave, I offer this as a substitute for the joint resolution of the committee:

That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three fourths of said Legislatures, shall be valid as part of said Constitution, namely:

ARTICLE—. After the census, to be taken in the year 1870, and each succeeding census, Representatives shall be apportioned among the several States which may be included within this Union, according to the number in each State of male electors over twenty-one years of age, qualified by the laws thereof to choose members of the most numerous branch of its Legislature; and direct taxes shall be apportioned among the several States according to the value of the real and personal taxable property situate in each State not belonging to the State or to the United States.

Mr. SHERMAN. I do not wish now to detain the Senate by moving to amend this proposition, as I shall have to do if the Senator presses a vote upon it. I desire to make a suggestion to him and to the Senate so as to expedite the attainment of a result. I suggest to the Senate whether we had not better now take a definite vote on the proposition of the committee. If it be defeated, as the Senator who reported it seemed to think it would be, then any Senator who votes with the successful party may move a reconsideration, and then these other propositions can be offered. The Senator from Missouri [Mr. HENDERSON] has stated to me that he will vote against the proposition, and if it fails he will move a reconsideration in order to enable us then to test the sense of the Senate on the question of basing representation on voters. That is the quickest and easiest way by which we can accomplish the result of getting the sense of the Senate. If the Senator from Wisconsin insists upon his amendment now, I shall have to move two or three amendments to it which will take time, and then the vote taken will be unsatisfactory.

I hope we shall at once take the vote upon the resolution of the committee. If it receives two thirds of the votes of the Senate, it will be adopted. If it be not adopted, then in the manner I suggest we can get a vote on the other propositions. I think that it is the best way. It is too late in the evening for us to go on proposing all variety of amendments.

Mr. DOOLITTLE. I have no objection to taking that course if we can now come to a direct vote on the proposition of the committee.

The PRESIDENT *pro tempore*. The Chair understands the amendment of the Senator from Wisconsin to be withdrawn.

Mr. POMEROY. There are some Senators who desire to vote for the proposition of the Senator from Wisconsin, but who, if that shall be defeated, will vote for the resolution reported by the committee.

Mr. SHERMAN. If two thirds agree to the report of the committee, let it stand.

Mr. POMEROY. I shall vote for the report of the committee if we cannot do better. I would much prefer, however, to vote for the proposition of the Senator from Wisconsin.

Mr. SHERMAN. But this is the condition in which we are placed: there are Senators here who say they prefer the report of the committee, and they will therefore vote now against the proposition to base representation on voters, and we shall not get a fair test of that proposition in any other way than that I have suggested. I think we had better take the vote in the way I have suggested.

Mr. DOOLITTLE. I desire to get in some way the sense of the Senate on the proposition which I have offered as it stands. I am not very particular whether that vote shall be taken now, by way of antagonism to the present proposition, or afterward. The Senator from Kansas expressed his strong preference for this proposition as it stands to the proposition that comes from the committee, and says that unless it be offered now he shall be compelled to vote for the proposition that comes from the committee.

Mr. CONNESS. I wish to say to the Senator from Wisconsin——

Mr. DOOLITTLE. I yield to the request of my friend from Ohio.

Mr. McDOUGALL. I object.

Mr. DAVIS. I offer an amendment in line four, after the word "Legislatures," to insert the words "next hereafter to be chosen in each State." I will only say a word on this amendment. My object is to bring the question before the people, that they may have an opportunity of considering and acting on the subject. The Legislatures of most of the States were elected before the subject of this particular proposition of amendment was thrown before the country. The consequence is, that it could be brought before Legislatures that had been elected by their constituencies when this proposed amendment was not a question in the canvass and before the people in regard to which they elected their different Legislatures. My object, as every gentleman will immediately perceive, is, that the principle of our Government, which lies at its foundation, shall be adhered to in the matter of this amendment; that is, that the amendment shall be made, if at all, by the people.

At this time half of the Legislatures, it is said, are in session, or more than half; some twenty or twenty-two. I have no doubt from what we see in the papers that probably all the Legislatures that are in session in the free States would vote in favor of the amendment; and yet if the proposition of amending the Constitution was thrown before the people of all the States, one half of those States would vote against the amendment. That would involve the country in this dilemma: that the Legislatures of the States would adopt an amendment to the Constitution to which the people were opposed, and that the Legislatures of those States would vote for the adoption of that particular amendment, when if the amendment was submitted to their constituencies now or had been before they were elected, their constituents would vote against it. It is for the purpose of bringing the proposed amendment to the test of the true sovereign power of the nation, the people, that I make this motion. It is simply that the Legislatures to which the amendment shall be submitted shall be hereafter chosen by their constituents. I suppose that no gentleman who is favorable to the great principle of our Government would oppose that proposition. Have not the people a right, is it not their right, and is it not the best policy in relation to changing our fundamental law, that every proposition to make such a change shall be considered by the people, that they shall have an opportunity to judge of it and to act upon it when they are called upon to elect their members of the Legislature who are to adopt or reject the particular proposition? Can a proposition than that be more just, reasonable, and proper? I therefore hope that this amendment will prevail; at any rate, I ask for the yeas and nays on it.

The yeas and nays were ordered; and being taken, resulted—yeas 12, nays 31; as follows:

YEAS—Messrs. Buckalew, Cowan, Davis, Guthrie, Hendricks, Johnson, McDougall, Nesmith, Riddle, Saulsbury, Stockton, and Van Winkle—12.

NAYS—Messrs. Anthony, Brown, Chandler, Clark, Conness, Cragin, Creswell, Dixon, Fessenden, Foster, Grimes, Harris, Henderson, Kirkwood, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Nye, Poland, Pomeroy, Ramsey, Sherman, Sprague, Stewart, Sumner, Trumbull, Willey, Williams, Wilson, and Yates—31.

ABSENT—Messrs. Doolittle, Foot, Howard, Howe, Norton, Wade, and Wright—7.

So the amendment was rejected.

Mr. SUMNER. I move an amendment to the resolution to strike out all after the word "taxed" and insert what I send to the Chair.

The SECRETARY. It is proposed to strike out the following words:

But whenever the elective franchise shall be denied or abridged in any State in the election of Representatives to Congress or any other officer, municipal, State, or national, on account of race, color, or descent, or previous condition of servitude, or by any provision of law not equally applicable to all races and descendants, all persons of such race, color, descent, and condition shall be excluded from the basis of representation as prescribed in the second section of the first article of the Constitution.

And in lieu of them, to insert:

And the elective franchise shall not be denied or abridged in any State on account of race or color.

Mr. SUMNER. That is a direct, positive proposition, slightly different in its language from the proposition on which the Sanate has voted. I should like to have a vote on it by yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 8, nays 38; as follows:

YEAS—Messrs. Brown, Henderson, Howe, Poland, Pomeroy, Sumner, Wade, and Yates—8.

NAYS—Messrs. Anthony, Buckalew, Chandler, Clark, Conness, Cowan, Cragin, Creswell, Davis, Dixon, Doolittle, Fessenden, Foster, Grimes, Guthrie, Harris, Hendricks, Johnson, Kirkwood, Lane of Indiana, Lane of Kansas, McDougall, Morgan, Morrill, Nesmith, Nye, Ramsey, Riddle, Saulsbury, Sherman, Sprague, Stewart, Stockton, Trumbull, Van Winkle, Willey, Williams, and Wilson—38.

ABSENT—Messrs. Foot, Howard, Norton, and Wright—4.

So the motion was rejected.

Mr. SUMNER. I offer another amendment, to come in at the end of the resolution:

And they shall be exempt from taxation of all kinds.

Now let the clause be read as it will be if thus amended.

The Secretary read, as follows:

All persons of such race, color, descent, and condition shall be excluded from the basis of representation as prescribed in the second section of the first article of the Constitution, and they shall be exempt from taxation of all kinds.

Mr. SUMNER. The object of that is simply to carry out the original principle of our fathers, to associate taxation and representation. By a solemn provision of the Constitution it is proposed to declare that certain persons shall not be included in the basis of representation. I think in justice to them they ought not to be taxed. You ought not here in the Constitution to repeat the tyranny of taxation without representation. In so many words, you are about to despoil them of representation, and I say, in order to be consistent with your own institutions and with the principles upon which your Government is founded, you must exempt them from taxation.

The amendment was rejected.

Mr. HOWE. I am in the difficulty precisely that the Senator from Kansas complained of. I prefer to vote for the proposition submitted by my colleague, but if that be rejected I shall vote for this resolution of the committee.

Mr. SHERMAN. The Senator will see that some persons prefer the report of the committee, and they will vote "nay" on the proposition of your colleague. Now, let us take a fair vote on the proposition of the committee, and then, if it is defeated, a Senator here present has offered to move to reconsider.

Mr. HOWE. But if it is adopted, what chance shall I have to get a vote on the other?

Mr. SHERMAN. If it is adopted by two thirds, it ought to be adopted; that is all.

Mr. HOWE. Very well, I yield.

Mr. STEWART. I prefer to vote on the proposition of the Senator from Wisconsin first. I shall vote for that and shall vote against this.

Mr. SHERMAN. You will have a chance. The motion to reconsider will be made in either event.

Mr. HENDERSON. I understand that this proposition, in order to be adopted, must be carried by a two-thirds vote. He who votes in the minority, being larger than one third, will have a right to move to reconsider. I shall have a right so to move. I have promised the Senator from Ohio to move to reconsider, provided the proposition is defeated, in order that the amendment of the Senator from Wisconsin may be offered. The Senator from Ohio has an amendment of a similar nature, the form of which I like better. If Senators prefer the committee's report hereafter, after this reconsideration is moved, I suppose they can move it. There is no doubt about that.

Mr. WILLIAMS. What is the precise question before the Senate?

The PRESIDENT *pro tempore*. The question is whether the Senate have got through their discussion, so that the resolution can be taken out of the Committee of the Whole into the Senate. The joint resolution is now before the Senate as in Committee of the Whole, and if no other amendment be proposed it will be reported to the Senate.

The joint resolution was reported to the Senate as amended.

The PRESIDENT *pro tempore*. The question is, Will the Senate concur in the amendment made as in Committee of the Whole?

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

The yeas and nays were ordered.

Mr. FESSENDEN. Before that vote is taken I wish simply to say that I voted for that amendment of the honorable Senator from New Hampshire because I thought it improved the original proviso somewhat; but on the whole I have come to the conclusion that, as it is to be lost whatever shape it assumes, we may as well take the vote on the resolution as it came from the committee; and I therefore shall vote against the amendment in the Senate, although I voted for it in the Committee of the Whole.

Mr. TRUMBULL. I wish to appeal to the Senator from New Hampshire to withdraw that amendment, and let us have a direct vote on the House proposition.

Mr. CLARK. I will, if allowed to do so.

Mr. TRUMBULL. By unanimous consent it may be done, and that will give us a direct vote on the proposition as it came from the committee.

Mr. CLARK. I will withdraw it by unanimous consent, if allowed to do so. I do not wish to embarrass the original proposition at all.

The PRESIDENT *pro tempore*. Is there any objection to the withdrawal of the amendment?

Mr. CONNESS. I have this objection: I will vote for the resolution of the committee with the amendment of the Senator from New Hampshire; otherwise I feel inclined to vote against it.

Mr. SHERMAN. Let us have the yeas and nays; we can take the question while we are talking about it.

Mr. CLARK. Let me appeal to the Senator from California. I think it very evident now that if we were to take the yeas and nays on the amendment, the only result would be that it would be defeated.

Mr. CONNESS. Very well; I withdraw my objection.

Mr. CLARK. There is no objection, then, to the withdrawal of the amendment.

The PRESIDENT *pro tempore*. The Chair understands the amendment to be withdrawn by the unanimous consent of the Senate. The question now is on ordering the joint resolution to a third reading.

Mr. TRUMBULL. Let us have the yeas and nays on that question.

Several SENATORS. Oh, no; on the passage.

Mr. TRUMBULL. We may as well test the question on this vote. If the Senate refuse to order the resolution to a third reading, a reconsideration can be moved; you do not want two reconsiderations.

Mr. CLARK. I desire to inquire of the Chair whether a majority cannot send the resolution to the third reading. The two-thirds vote is only required on the passage.

The PRESIDENT *pro tempore*. A majority can order the resolution to a third reading.

Mr. CLARK. Then the Senator from Illinois would not accomplish what he desires by having the yeas and nays taken on that question.

Mr. TRUMBULL. Very well; let it go.

The joint resolution was ordered to a third reading, and was read the third time, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two thirds of both Houses concurring,) That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution

of the United States, which, when ratified by three fourths of the said Legislatures, shall be valid as part of said Constitution, namely:

ARTICLE —. Representatives shall be apportioned among the several States which may be included within this Union according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed: *Provided*, That whenever the elective franchise shall be denied or abridged in any State on account of race or color, all persons therein of such race or color shall be excluded from the basis of representation.

The PRESIDENT *pro tempore*. This joint resolution having been read three times, the question is, Shall it pass? This vote must, in the opinion of the Chair, be taken by yeas and nays under the Constitution.

The yeas and nays were taken, with the following result:

YEAS—Messrs. Anthony, Chandler, Clark, Conness, Cragin, Creswell, Fessenden, Foster, Grimes, Harris, Howe, Kirkwood, Lane of Indiana, McDougall, Morgan, Morrill, Nye, Poland, Ramsey, Sherman, Sprague, Trumbull, Wade, Williams, and Wilson—25.

NAYS—Messrs. Brown, Buckalew, Cowan, Davis, Dixon, Doolittle, Guthrie, Henderson, Hendricks, Johnson, Lane of Kansas, Nesmith, Norton, Pomeroy, Riddle, Saulsbury, Stewart, Stockton, Sumner, Van Winkle, Willey, and Yates—22.

ABSENT—Messrs. Foot, Howard, and Wright—3.

The PRESIDENT *pro tempore*. On this question the yeas are 25 and the nays 22. Two thirds of the Senators present not having voted for the joint resolution, it is not agreed to.

Mr. HENDERSON. I move now to reconsider the vote by which the resolution has been defeated.

The motion to reconsider was agreed to—ayes thirty-three, noes not counted.

Mr. SHERMAN. Is an amendment now in order?

Mr. TRUMBULL. No; we must first reconsider the third reading.

Mr. SHERMAN. I move to reconsider the vote by which the joint resolution was ordered to a third reading.

The motion was agreed to.

The PRESIDENT *pro tempore*. The joint resolution is now before the Senate and open to amendment.

Mr. DOOLITTLE. I now send to the Chair the amendment which I offered before. Before it is read I ask whether there is any objection to a motion being made now that when we adjourn to-day, it be to meet on Monday next. I ask unanimous consent to submit that motion.

Mr. CLARK. I object.

The PRESIDENT *pro tempore*. The motion cannot be entertained, objection being made.

Mr. GRIMES. Then I make a motion that the Senate do now adjourn.

The motion was not agreed to—ayes eleven, noes not counted.

Mr. CRESWELL. Now, I move that when the Senate adjourns to-day, it be to meet on Monday next.

Mr. CLARK. I object.

The PRESIDENT *pro tempore*. Objection being made the motion cannot be entertained.

Mr. TRUMBULL. I move to postpone the present subject and all other subjects for the purpose of making a motion that when the Senate adjourns to-day it adjourn to meet on Monday next. I move to postpone all business before the Senate with a view of making that motion.

Mr. CLARK. I desire to say to the Senator from Illinois that I make this objection in no captious spirit. It is very important that I should leave the city to-morrow if I can; and I desire that we shall go on with this matter as far as we can to-night. I wish to vote upon it. If I am compelled to stay here I must, that is all.

Mr. TRUMBULL. I am willing to stay here to-night and go on until we reach a vote on this question. All I desire is that when we do adjourn to-night we adjourn to meet on Monday.

Mr. CLARK. I shall have no objection to that motion being made when we get through with this question.

Mr. TRUMBULL. I am willing to stay here to-night until we finish this question; I think we had better do so; but when we do adjourn I desire that we adjourn over to Monday.

Mr. CLARK. Then I shall not object.

Mr. TRUMBULL. Very well. I move to adjourn over.

Mr. CLARK. Let us finish this first.

Mr. CONNESS. Some other Senator may object at that time. I hope the Senator from New Hampshire will withdraw his objection, and we will remain here until we get a vote to-night.

Mr. CLARK. I withdraw the objection.

Mr. TRUMBULL. I move, then, that when the Senate adjourns to-day it be to meet on Monday next.

The PRESIDENT *pro tempore*. The Chair can entertain that motion only by unanimous consent. Is there objection? The Chair hears no objection, and he will put the question on the motion of the Senator from Illinois.

The motion was agreed to.

The PRESIDENT *pro tempore*. The amendment proposed by the Senator from Wisconsin to the joint resolution before the Senate will be read.

The Secretary read the amendment, namely:

Strike out all after the enacting clause of the resolution, and insert the following:

That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three fourths of said Legislatures, shall be valid as part of said Constitution, namely:

ARTICLE —. After the census, to be taken in the year 1870, and each succeeding census, Representatives shall be apportioned among the several States which may be included within this Union, according to the number in each State of male electors over twenty-one years of age, qualified by the laws thereof to choose members of the most numerous branch of its Legislature; and direct taxes shall be apportioned among the several States according to the value of the real and personal taxable property situate in each State, not belonging to the State, or to the United States.

Mr. SHERMAN. I now move, in pursuance of the understanding we had, as a substitute for the article proposed by the Senator from Wisconsin, this:

Representatives shall be apportioned among the several States which may be included within this Union, according to the number in each State of male citizens of the United States, over twenty-one years of age qualified by the laws of such State to choose members of the most numerous branch of its Legislature.

I strike out of the Senator's proposition the word "electors" and insert "citizens of the United States," for the very obvious reason that electors in some States are not electors in other States, and we ought to have a uniform standard of citizenship of the United States. That is the only material difference as to the first clause. Then I make the operation of the amendment immediately, instead of after the next census, which is a very indefinite term. The last clause in regard to direct taxes I omit, because although I am in favor of apportioning direct taxes according to property, I think it would be an embarrassing question to throw in now at this period, and likely to defeat the whole proposition.

Mr. STEWART. Has the Senator got both of those propositions in his present amendment? I want the questions taken separately.

Mr. SHERMAN. I offer one amendment. My proposition is simply that Representatives shall be apportioned among the several States which may be included within this Union according to the number in each State of male citizens of the United States over twenty-one years of age qualified by the laws of the State to choose members of the most numerous branch of its Legislature. This is the proposition of Professor Lieber.

Mr. COWAN. That is, the same as electors—male citizens over twenty-one years of age.

Mr. SHERMAN. Allow me to explain. It is not that. Citizens of the United States do not include unnaturalized voters according to the laws of a State. There is just the material difference; no man can be a citizen of the United States unless he is native or naturalized.

Mr. DOOLITTLE. I appeal to my honorable friend from Ohio to allow these two votes to be taken separately. He proposes with a single vote to strike out two things that are contained in my proposition. One is to strike out "electors qualified by the laws of the States" and to substitute "citizens of the United States qualified," &c., and he also proposes to strike from the last clause the proposition in relation to the apportionment of direct taxes upon the valuation of property. I hope my honorable friend will so modify his motion as to take the two questions separately: first the change from "electors" to "citizens," and then we can take the sense of the Senate on the other proposition, whether we shall strike out of this amendment of mine altogether the question of apportioning direct taxes. In my own mind I link these two questions together, taxation and representation.

Mr. SHERMAN. In accordance with the spirit with which I have desired to approach this subject, I am perfectly willing to withdraw my proposition at present and let the Senator from Wisconsin get a direct vote on his. If the Senator is satisfied with that, I shall vote for his amendment, and then if that is defeated, I shall offer mine.

Mr. CONNESS. I desire to get the attention of the Senator from Ohio and the Senator from Wisconsin, for I understand that what the Senator from Wisconsin desires I desire also; that is, to get a vote upon the question of substituting in his amendment the word "electors" for the words "male citizens."

Mr. TRUMBULL. This is an amendment to an amendment, and you cannot amend it further.

Mr. SHERMAN. Let the vote be taken on the proposition of the Senator from Wisconsin. If that is voted down, I will offer mine.

Mr. STEWART. I send to the Chair a substitute for the proposition of the Senator from Wisconsin. The only difference between the propositions is the word "citizens" in place of the word "electors."

The PRESIDENT *pro tempore*. The amendment to the amendment will be read.

Mr. FESSENDEN. Before we go any further, I desire to make a suggestion. It is very obvious to me that the proposition being a new one Senators are not prepared to act on it; everybody will be presenting an amendment embodying his own views. We shall go on until midnight without being able to reach any result. I move, therefore, that the further consideration of the subject be postponed until Thursday next.

Mr. ANTHONY. I hope that will not be done. I think we had better settle the question now.

Mr. STEWART. Before the question is postponed, I should like to have an order made to print the various propositions on the table.

Mr. FESSENDEN. They can be printed by common consent. It will be understood that they are to be printed. I insist on my motion to postpone the further consideration of the subject until Thursday next.

The motion was agreed to.

Mr. STEWART. Now, let an order be made to print the various propositions of amendment.

The PRESIDENT *pro tempore*. That order will be regarded as made by unanimous consent.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the Speaker of the House had signed the enrolled bill (H. R. No. 201) to declare the meaning of certain parts of the internal revenue act, approved June 30, 1864, and for other purposes; and the joint resolution (H. R. No. 36) providing for expenses incurred in searching for missing soldiers of the Army of the United States, and for the further prosecution of the same.

MILITARY ESTABLISHMENT.

Mr. WILSON. I move to take up the bill (S. No. 138) to increase and fix the military peace establishment of the United States. My object is to assign it for consideration on Tuesday next.

The motion to take up the bill was agreed to.

Mr. WILSON. I now move that the bill be

postponed until Tuesday next, at one o'clock, and be made the special order for that hour.

The motion was agreed to.

Mr. TRUMBULL. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *March* 9, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

A. T. SPENCER AND G. S. HUBBARD.

On motion of Mr. WENTWORTH, by unanimous consent, Senate bill No. 114, for the relief of A. T. Spencer and Gurdon S. Hubbard, was taken from the Speaker's table, read a first and second time, and referred to the Committee on the Post Office and Post Roads.

ROBERT LYON AND CHARLES MORRIS.

Mr. MILLER, by unanimous consent, introduced a bill to grant pensions to Robert Lyon and Charles Morris, soldiers of the war of 1812 with Great Britain; which was read a first and second time, and referred to the Committee on Invalid Pensions.

INTERNAL REVENUE.

Mr. MORRILL, from the Committee of Ways and Means, reported back Senate amendment to House bill No. 201, to declare the meaning of certain parts of the internal revenue act, approved June 30, 1864, and for other purposes, with a recommendation that the House concur in the amendment.

The amendment was read, as follows:

On page 1, line nine, strike out "whenever," and insert in lieu thereof "wherever."

The amendment was concurred in.

ACCOUNTS OF PAYMASTERS.

Mr. FARNSWORTH, by unanimous consent, introduced a bill concerning the settlement of accounts of paymasters of the Army; which was read a first and second time, and referred to the Committee on Military Affairs.

MAJOR F. A. SAWYER.

On motion of Mr. BLAINE, the Committee on Military Affairs was discharged from the further consideration of the petition of Major F. A. Sawyer, late first lieutenant of the forty-seventh New York volunteers; and the same was referred to the Committee of Claims.

WILLIAM M. M'BRYAN.

On motion of Mr. BLAINE, the Committee on Military Affairs was discharged from the further consideration of the petition of William M. McBryan; and the same was referred to the Committee on Invalid Pensions.

VOLUNTEERS IN SERVICE.

Mr. ROSS. I ask unanimous consent to submit the following resolution, upon which I ask action at this time:

Resolved, That the Secretary of War be instructed to inform the House of Representatives how many United States volunteers whose terms of service have expired are still retained in the service; and why the twenty-eighth regiment of Illinois infantry, Veteran volunteers, are still kept in the service of the United States at Brownsville, Texas, against their will, after their terms of service have expired.

Mr. COBB. I object.

Mr. ROSS. I appeal to the gentleman from Wisconsin [Mr. COBB] to withdraw his objection. This is a matter in which my constituents are interested; and they are constantly writing me that they desire to be discharged, their time having expired.

Mr. COBB insisted upon his objection.

COMMITTEE CLERK.

Mr. JULIAN, from the Committee on Public Lands, made the following report; which was read, laid upon the table, and ordered to be printed:

The Committee on Public Lands, in obedience to the resolution of the House of February 26, 1866, on the subject of clerks of committees, submit the following report:

They are clearly of opinion that a clerk is necessary for the transaction of their business. The time occupied by their clerk in the necessary and legitimate business of the committee cannot be stated with precision, as it must vary with the amount and pressure of business; but it is amply sufficient, in the judgment of the committee, to require his services.

In addition to his ordinary duties as clerk, he is specially charged with the care, preservation, and continuation of the series of land maps ordered for the use of the committee by resolution of House of Representatives of May 4, 1848; and by resolution of the House of May 27, 1862, a land map room is provided for in the Capitol, in which all the maps constructed under the resolution referred to shall be preserved by the order of the committee for the use of the House of Representatives.

In further response to the resolution of inquiry, the committee adopt the language of the Committee on Military Affairs in answer to the same resolution, and would respectfully submit that "as to what portion of the time of the clerk is occupied in attending to the private business of the members of the committee, the committee state that they deem that a matter of comity between gentlemen, affecting only the personal relations of the clerk to themselves, and which, if not in any way interfering with the proper discharge of his public duties ought not, the committee respectively submit, to be made a question for legislative action, nor even the subject for impertinent inquiry." GEORGE W. JULIAN.

Mr. WASHBURNE, of Illinois. I ask unanimous consent that the other committees called upon for reports under the resolution of my colleague [Mr. ROSS] have leave to file their reports with the Clerk of the House.

Mr. ROSS. I object.

SUPREME COURT OF DISTRICT OF COLUMBIA.

Mr. WOODBRIDGE, by unanimous consent, introduced a bill regulating the salaries of the judges of the supreme court of the District of Columbia; which was read a first and second time, and referred to the Committee on the Judiciary.

MRS. C. A. GROVE.

On motion of Mr. WASHBURN, of Massachusetts, by unanimous consent, leave was granted to withdraw from the files of the House the papers of Mrs. C. A. Grove, copies of the same to be left.

STARK, STAUFFER AND COMPANY.

On motion of Mr. J. L. THOMAS, leave was granted to withdraw from the files of the House the papers in the case of Stark, Stauffer & Co., copies of the same to be left.

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

The SPEAKER. The first business is the execution of the order of the House on yesterday directing the question to be taken upon the civil rights bill.

PERSONAL EXPLANATION.

Mr. SCHENCK. Will the gentleman from Illinois [Mr. Ross] withdraw his demand for the regular order until I have had an opportunity to make a personal explanation?

Mr. ROSS. I must insist on the demand. I find I can offer nothing to which objection is not made.

Mr. SCHENCK. I desire to make a personal explanation in justice to the Speaker of this House.

Mr. ROSS. Of course, if it is anything concerning the Speaker of this House, I will make no objection.

Mr. SCHENCK. Mr. Speaker, a little incident occurred yesterday, which you yourself may have forgotten, in the course of the debate upon the soldiers' claim bill, in regard to which I desire the attention of the House for one moment. On my demand for tellers upon the call for yeas and nays, the Speaker counted the House and announced that only sixteen had voted to order tellers. Standing in my place, and being anxious for my motion, and perhaps a little excited as well as anxious, I remarked that more than sixteen had voted as I could myself see. The Speaker insisted on the correctness of his count.

I do not find it so reported in the Globe of this morning, nor any notice of this little passage between the Speaker and myself, the reporter probably regarding it as by-play, and omitting it, and, in my opinion, very properly. I think proper, however, and that it is due to myself, to call attention to it because I saw that the Speaker, although he made no complaint to me about it, was a little nettled for the moment, as it was natural he should be. Almost instantly after I felt regret that I had spoken so abruptly; and I wish to say now that there was nothing further from my mind than any purpose or design to reflect upon the accuracy or fairness of our Presiding Officer, in whose uniformly just and fair administration I have the greatest confidence.

The SPEAKER. The Chair is under obligation to the gentleman from Ohio [Mr. SCHENCK] for the voluntary statement he has just made. The Chair will state that he always endeavors to count every gentleman who rises to demand the yeas and nays, that their constitutional right may not be impaired.

ORDER OF BUSINESS.

The SPEAKER. The gentleman from Illinois [Mr. Ross] demands the regular order of business, on which the gentleman from Iowa [Mr. WILSON] is entitled to the floor.

Mr. STEVENS. I ask the gentleman from Illinois to permit me to report from the Committee on Appropriations an appropriation bill.

VOLUNTEERS IN SERVICE—AGAIN.

Mr. ROSS. I have been unable for days to get in a resolution for reference.

Mr. COBB. I withdraw my objection to that resolution.

The resolution was again read, as follows:

Resolved, That the Secretary of War be instructed to inform the House of Representatives how many United States volunteers, whose terms of service have expired, are still retained in the service; and why the twenty-eighth regiment of Illinois infantry, Veteran volunteers, are still kept in the service of the United States, at Brownsville, Texas, against their will, after their terms of service have expired.

Mr. CONKLING. The resolution should be amended so as to read "as is alleged;" we ought not to assume the fact.

Mr. ROSS. I accept that modification of the resolution.

The resolution, as modified, was adopted.

LEONARD ST. CLAIR.

Mr. ROGERS, by unanimous consent, introduced a bill granting a pension to Leonard St. Clair; which was read a first and second time, and referred to the Committee on Invalid Pensions.

Mr. STEVENS. I ask unanimous consent to report an appropriation bill.

Mr. CHANLER. I object.

RIGHTS OF CITIZENS.

The House, agreeably to order, resumed the consideration of the bill (S. No. 61) entitled "An act to protect all persons in the United States in their civil rights and furnish the means of their vindication;" on which Mr. WILSON, of Iowa, was entitled to the floor.

Mr. WILSON, of Iowa. I yield thirty minutes of my time to the gentleman from Ohio, [Mr. BINGHAM.]

Mr. BINGHAM. Mr. Speaker, it may be said that the objections which I deem it to be my duty to urge against the passage of the bill pending before the House apply to the instructions I have introduced by way of amendment to the pending motion to recommit; but I have this to say to gentlemen on that subject. Admitting that the objections do apply to the instructions which I have had the honor to submit by way of amendment to the pending motion, if the gentleman who reports the bill urges these objections against the instructions for its amendment, it is a confession, sir, on his own part that this bill ought not to pass with or without amendment. The House by recommitting with the instructions proposed will not be concluded but may finally reject the bill as amended or reject the amendments proposed and substitute others which may be less objectionable.

Mr. Speaker, on that subject I beg leave further to say, that although the objections which I urge against the bill must, in the very nature of the case, apply to the proposed in-

structions, I venture to say no candid man, no right-minded man, will deny that by amending as proposed the bill will be less oppressive, and therefore less objectionable. Doubting, as I do, the power of Congress to pass the bill, I urge the instructions with a view to take from the bill what seems to me its oppressive and I might say its unjust provisions.

Mr. Speaker, the instructions moved by me are these:

Amend the motion to recommit by adding the following:

With instructions to strike out of the first section the words "and there shall be no discrimination in civil rights or immunities among citizens of the United States in any State or Territory of the United States on account of race, color, or previous condition of slavery," and insert in the thirteenth line of the first section, after the word "right" the words "in every State and Territory of the United States." Also to strike out all parts of said bill which are penal, and which authorize criminal proceedings, and in lieu thereof to give to all citizens injured by denial or violation of any of the other rights secured or protected by said act an action in the United States courts with double costs in all cases of recovery, without regard to the amount of damages; and also to secure to such persons the privilege of the writ of *habeas corpus*.

As I propose to take nothing for granted by favoring this amendment, but to submit this proposition in the least objectionable form to the final decision of the Federal tribunals of the country, I beg leave to suggest to my honorable friend from Iowa, [Mr. WILSON,] who knows me well enough to know that I make no captious objection to any legislation in favor of the rights of all before the law, to consider, if this bill be recommitted, the propriety of providing therein for a final appeal of all questions of law arising under it to the Supreme Court of the United States.

Having said this much, Mr. Speaker, I proceed to present to the consideration of the House my objections to the bill. And, first, I beg gentlemen to consider that I do not oppose any legislation which is authorized by the Constitution of my country to enforce in its letter and its spirit the bill of rights as embodied in that Constitution. I know that the enforcement of the bill of rights is the want of the Republic. I know if it had been enforced in good faith in every State of the Union the calamities and conflicts and crimes and sacrifices of the past five years would have been impossible.

But I feel that I am justified in saying, in view of the text of the Constitution of my country, in view of all its past interpretations, in view of the manifest and declared intent of the men who framed it, the enforcement of the bill of rights, touching the life, liberty, and property of every citizen of the Republic within every organized State of the Union, is of the reserved powers of the States, to be enforced by State tribunals and by State officials acting under the solemn obligations of an oath imposed upon them by the Constitution of the United States. Who can doubt this conclusion who considers the words of the Constitution: "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people?" The Constitution does not delegate to the United States the power to punish offenses against the life, liberty, or property of the citizen in the States, nor does it prohibit that power to the States, but leaves it as the reserved power of the States, to be by them exercised. The prohibitions of power by the Constitution to the States are express prohibitions, as that no State shall enter into any treaty, &c., or emit bills of credit, or pass any bill of attainder, &c. The Constitution does not prohibit States from the enactment of laws for the general government of the people within their respective limits.

Mr. Speaker, I would further remark in this connection, I honor the mover of this bill for the purpose he seeks to attain, which is to compel the exercise in good faith by the States of this reserved power. I cast no reflection upon the honorable committee of this House, in seeking to remedy, if possible, the great wrongs that have hitherto been inflicted upon citizens of the United States, I may say in almost every State of the Union, by State authority, and inflicted, too, in the past, without redress. I am with him in an earnest desire to have the bill of rights in your Constitution enforced everywhere. But I ask that it be enforced in accordance with the Constitution of my country.

Has the Congress of the United States the power to pass and enforce the bill as it comes to us from the committee? Has the Congress of the United States the power to declare, as this bill does declare, in the words which I propose to strike out, that there shall be no discrimination of civil rights among citizens of the United States in any State of the United States, on account of race, color, or previous condition of slavery.

I find no fault with the introductory clause, which is simply declaratory of what is written in the Constitution, that every human being born within the jurisdiction of the United States of parents not owing allegiance to any foreign sovereignty is, in the language of your Constitution itself, a natural-born citizen; but, sir, I may be allowed to say further, that I deny that the Congress of the United States ever had the power or color of power to say that any man born within the jurisdiction of the United States, not owing a foreign allegiance, is not and shall not be a citizen of the United States. Citizenship is his birthright, and neither the Congress nor the States can justly or lawfully take it from him. But while this is admitted, can you declare by congressional enactment as to citizens of the United States within the States that there shall be no discrimination among them of civil rights?

What are civil rights? I know the learning and ability of the honorable chairman of the Judiciary Committee, [Mr WILSON.] It was my good fortune to be associated with him two years on that important and responsible committee, and I take pleasure in bearing witness to-day to the integrity, fidelity, and ability with which he discharged all his duties. I respectfully submit to that gentleman, that by all authority the term "civil rights" as used in this bill does include and embrace every right that pertains to the citizen as such.

Why, sir, the very origin of the term "civil" ought to satisfy gentlemen on this point, that it has relation to the rights and all the rights of the citizen. I submit that the term civil rights includes every right that pertains to the citizen under the Constitution, laws, and Government of this country. The term "citizen" has had a definite meaning among publicists ever since the days of Aristotle. He interpreted and rendered that term to signify a person who was a partner in the government of the country. Under the Constitution of the United States every natural-born citizen of the Republic is, in some sense, a partner in the Government, although he may take no active part in it. A distinction is taken, I know very well, in modern times, between civil and political rights. I submit with all respect that the term "political rights" is only a limitation of the term "civil rights," and by general acceptation signifies that class of civil rights which are more directly exercised by the citizen in connection with the government of his country. If this be so, are not political rights all embraced in the term "civil rights," and must it not of necessity be so interpreted? Blackstone, whose Commentaries on the common law are so exact in definition, uses in that classic of the law the terms "civil liberty" and "political liberty" everywhere as synonymous. It never occurred to him that there was a colorable distinction between them.

If civil rights has this extent, what, then, is proposed by the provision of the first section? Simply to strike down by congressional enactment every State constitution which makes a discrimination on account of race or color in any of the civil rights of the citizen. I might say here, without the least fear of contradiction, that there is scarcely a State in this Union which does not, by its constitution or by its statute laws, make some discrimination on account of race or color between citizens of the United States in respect of civil rights.

I know there are some exceptions. I cannot stop to mention them within the thirty minutes of time allowed me or to make clearer what I have said. I say with some few exceptions every State in the Union does make some discrimination between citizens of the United States, either by its constitution or its statute laws, in respect of civil rights on account of race or color. I desire to call the attention of the House to the fact that the honorable gentleman who reported this bill in the Senate, and for whom I have the highest respect, had the candor to admit to me the other day that the franchise of office, according to all the authorities, is a civil right, and in my opinion by every fair interpretation of the Constitution it can rightfully be conferred upon no man in any State save upon a citizen of the United States.

By the constitution of my own State neither the right of the elective franchise nor the franchise of office can be conferred upon any citizen of the United States save upon a white citizen of the United States. What do you propose to do by this bill? You propose to make it a misdemeanor, punishable upon conviction by fine and imprisonment in the penitentiary, for the Governor of Ohio to obey the requirements of the constitution of the State, which requires that none shall be elected, and therefore none commissioned, to office in that State save white citizens of the United States.

I understand very well, from private conversation that I have had with my learned friend, the chairman of the Judiciary Committee, that he does not look on this clause in the first section as an obligatory requirement. I have no time to undertake to discuss that question, but I submit that it is as much obligatory as any other clause of the section. The clause is imperative. It is in the language of law. It provides that—

There shall be no discrimination in civil rights or immunities among citizens of the United States in any State or Territory of the United States on account of race, color, or previous condition of slavery.

That is as obligatory as any other portion of the section. If it is not obligatory, what objection has the gentleman to striking it out? If it is obligatory, it must be stricken out or the constitutions of the States are to be abolished by your act, or, what is the same thing, their enforcement by the State officers charged with that duty made a crime for which they are to be imprisoned. I deny the power of Congress to make an error of judgment in a State officer a crime to be punished by imprisonment. However honest, however just, however humane the purposes of the gentleman may be in presenting this penal provision of the bill, I deny the power of Congress to enact obedience to a State law which has been passed and is enforced in good faith into a crime. This is the further provision of the first section:

And such citizens of every race and color, without regard to any previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall have the same right to make and enforce contracts, to sue, be parties and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of person and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, and penalties, and to none other, any law, statute, ordinance, regulation, or custom, to the contrary notwithstanding.

I say, with all my heart, that that should be the law of every State, by the voluntary act of every State. The law in every State should be just; it should be no respecter of persons. It is otherwise now, and it has been otherwise for many years in many of the States of the Union. I should remedy that not by an arbitrary assumption of power, but by amending the Constitution of the United States, expressly prohibiting the States from any such abuse of power in the future. Instead of sending out such amendment to the people we are asked to remedy this State wrong by enacting in the second section of this bill as follows:

That any person who, under color of any law, statute, ordinance, regulation, or custom, shall subject or

cause to be subjected any inhabitant [citizen] of any State or Territory to the deprivation of any right secured or protected by this act, or to different punishment, pains, or penalties on account of such person having at any time been held in a condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, or by reason of his color or race, than is prescribed for the punishment of white persons, shall be deemed guilty of a misdemeanor, and on conviction shall be punished by a fine not exceeding $1,000, or imprisonment not exceeding one year, or both.

Mr. Speaker, the word "inhabitant" is printed in the second section in mistake for "citizen." I say this upon the suggestion of the chairman of the committee. If this is to be the language of the bill, by enacting it are we not committing the terrible enormity of distinguishing here in the laws in respect to life, liberty, and property between the citizen and stranger within your gates? Do we not thereby declare the States may discriminate in the administration of justice for the protection of life against the stranger irrespective of race or color?

Sir, that is forbidden by the Constitution of your country. The great men who made that instrument, when they undertook to make provision, by limitations upon the power of this Government, for the security of the universal rights of man, abolished the narrow and limited phrase of the old Magna Charta of five hundred years ago, which gave the protection of the laws only to "free men" and inserted in its stead the more comprehensive words, "no person;" thereby obeying that higher law given by a voice out of heaven: "Ye shall have the same law for the stranger as for one of your own country." Thus, in respect to life and liberty and property, the people by their Constitution declared the equality of all men, and by express limitation forbade the Government of the United States from making any discrimination.

This bill sir, with all respect I submit, departs from that great law. The alien is not a citizen. You propose to enact this law, you say, in the interests of the freedmen. But do you propose to allow these discriminations to be made in States against the alien and stranger? Can such legislation be sustained by reason or conscience? With all respect to every gentleman who may be a supporter of it, I ask, can it be sanctioned? Is it not as unjust as the unjust State legislation you seek to remedy? Your Constitution says "no person," not "no citizen," "shall be deprived of life, liberty, or property," without due process of law.

If the bill of rights, as has been solemnly ruled by the Supreme Court of the United States, does not limit the powers of States and prohibit such gross injustice by States, it does limit the power of Congress and prohibit any such legislation by Congress.

But, sir, on yesterday, the honorable gentleman from Pennsylvania [Mr. BROOMALL]—than whom there is no more candid or just gentleman in the House—treated this measure as though it was a bill simply for the protection of freedmen in their rights for the time being in the late insurrectionary States. That is a great mistake. It applies to every State in the Union, to States which have never been in insurrection, and is to be enforced in every State of the Union, not only for the present but for all future time, or until it shall be repealed by some subsequent act of Congress. It does not expire by virtue of its own limitation; it is intended to be permanent.

And let me here suggest to the House that this bill stands in strange contrast with the solemn action of the Senate and of the House in that just and righteous bill known as the Freedmen's Bureau bill. I shall not now take up the time of the House to read the seventh and eighth sections of that bill. But I beg leave to remark to the House, and I ask consideration to the fact, that the seventh and eighth sections of the Freedmen's Bureau bill enumerate the same rights and all the rights and privileges that are enumerated in the first section of this bill, and for a violation of those rights and privileges within any of the insurrectionary States they impose the same penalty, and no other, than that which is imposed by the second section of this bill. But it contains this remarkable provision, that the jurisdiction conferred by the seventh and eighth sections upon the Freedmen's Bureau to inflict these penalties and enforce the rights enumerated shall cease and determine upon the restoration of those insurrectionary States to their constitutional relations with the United States, and the establishment therein of the courts.

The two sections referred to of the Freedmen's Bureau bill, so recently passed and vetoed, are as follows:

"SEC. 7. *And be it further enacted*, That whenever in any State or district in which the ordinary course of judicial proceedings has been interrupted by the rebellion, and wherein, in consequence of any State or local law, ordinance, police or other regulation, custom, or prejudice, any of the civil rights or immunities belonging to white persons, including the right to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to have full and equal benefit of all laws and proceedings for the security of person and estate, including the constitutional right of bearing arms, are refused or denied to negroes, mulattoes, freedmen, refugees, or any other persons, on account of race, color, or any previous condition of slavery or involuntary servitude, or wherein they or any of them are subjected to any other or different punishment, pains, or penalties for the commission of any act or offense, than are prescribed for white persons committing like acts or offenses, it shall be the duty of the President of the United States, through the Commissioner, to extend military protection and jurisdiction over all cases affecting such persons so discriminated against.

"SEC. 8. *And be it further enacted*, That any person who, under color of any State or local law, ordinance, police or other regulation, or custom, shall, in any State or district in which the ordinary course of judicial proceedings has been interrupted by the rebellion, subject, or cause to be subjected, any negro, mulatto, freedman, refugee, or other person, on account of race or color, or any previous condition of slavery or involuntary servitude, or for any other cause, to the deprivation of any civil right secured to white persons, or to any other or different punishment than white persons are subject to for the commission of like acts or offenses, shall be deemed guilty of a misdemeanor, and be punished by fine not exceeding $1,000, or imprisonment not exceeding one year, or both; and it shall be the duty of the officers and agents of this bureau to take jurisdiction of, and hear and determine all offenses committed against the provisions of this section, and also of all cases affecting negroes, mulattoes, freedmen, refugees, or other persons who are discriminated against in any of the particulars mentioned in the preceding section of this act, under such rules and regulations as the President of the United States, through the War Department, shall prescribe. The jurisdiction conferred by this and the preceding section on the officers and agents of this bureau shall cease and determine whenever the discrimination on account of which it is conferred ceases, and in no event to be exercised in any State in which the ordinary course of judicial proceedings has not been interrupted by the rebellion, nor in any such State after said State shall have been fully restored in all its constitutional relations to the United States, and the courts of the State and of the United States within the same are not disturbed or stopped in the peaceable course of justice."

This jurisdiction shall cease, and in no event be exercised *in any State*, after said State shall have been fully restored in all its constitutional relations to the United States. What was that but a solemn declaration by the Senate and House of Representatives to the whole world that during the insurrectionary condition of the States we have the power, and the duty rests upon us, to enforce these rights of person and citizen, in behalf not only of those freedmen but of refugees and of all men within the limits of the insurrectionary district, by the establishment of this extraordinary bureau of justice known as the Freedmen's Bureau? What was it but the solemn conviction and declaration of Congress that with the restoration of those States to their constitutional relations, and the establishment of courts of justice therein, our powers in the premises cease, and under the Constitution of the country freedmen and refugees alike are dependent for justice and their rights upon the civil administrators of the law within those respective States? Why did not the Congress declare in that bill that upon the restoration of the civil authority within those States and when the courts of the United States therein shall no longer "be stopped in the peaceable course of justice," the jurisdiction thus conferred should be exercised by the courts of the United States? Why, on the contrary, did the Congress solemnly enact by that bill that upon such restoration this jurisdiction for the protection of refugees and freedmen should cease and determine? It was a confession by solemn and formal enactment that in that event your judicial power in the premises is ended.

It was that, sir, and nothing but that. I would be ashamed, sir, to go to your tribune, and take upon my soul the oath prescribed by the Constitution, if I thought this Government had not the power to establish tribunals of justice within the insurrectionary districts during the time of insurrection, and until the duly organized State governments were restored for the protection of life, liberty, and property, to all men alike. Hence, sir, I stand by the Freedmen's Bureau bill; and standing by that bill I hold it up this day before the House as a point, blank condemnation of the attempt to assert this great power over States duly organized, and sustaining their full constitutional relation to the Government of the United States, and in which the courts are not "disturbed or stopped in the peaceable course of justice."

This brings me, sir, to the closing remark which I propose to make on this subject, and that is this: that in the language of the "old man eloquent," which I have had occasion more than once to quote upon this floor in the hearing of some of those who now honor me with their attention, in time of war, whether it be civil or foreign war, the public safety becomes the highest law; and tribunals of States and institutions of States, to use his own terse words, "go by the board for the time being." But when peace is restored; when the courts of justice are opened; when her white-robed ministers take the golden scales into their hands, justice is to be administered under the Constitution, according to the Constitution, and within the limitation of the Constitution.

What is that limitation, sir? Simply this, that the care of the property, the liberty, and the life of the citizen, under the solemn sanction of an oath imposed by your Federal Constitution, is in the States, and not in the Federal Government. I have sought to effect no change in that respect in the Constitution of the country. I have advocated here an amendment which would arm Congress with the power to compel obedience to the oath, and punish all violations by State officers of the bill of rights, but leaving those officers to discharge the duties enjoined upon them as citizens of the United States by that oath and by that Constitution. Standing upon this position, I may borrow the words of the most distinguished man who was ever sent hither from the Old World to make a personal observation of the workings of our institutions, as truly descriptive of the American system: "centralized government, decentralized administration." That, sir, coupled with your declared purpose of equal justice, is the secret of your strength and power.

I hold, sir, that our Constitution never conferred upon the Congress of the United States the power—sacred as life is, first as it is before all other rights which pertain to man on this side of the grave—to protect it in time of peace by the terrors of the penal code within organized States; and Congress has never attempted to do it. There never was a law upon the United States statute-book to punish the murderer for taking away in time of peace the life of the noblest, and the most unoffending as well, of your citizens, within the limits of any State of the Union. The protection of the citizen in that respect was left to the respective States, and there the power is to-day. What you cannot do by direction you cannot do by indirection.

To show that I am not mistaken on this subject, I desire to read the language of one of those grand intellects who during life illustrated the jurisprudence of our country, and has left in his works a perpetual monument of his genius, his learning, and his wisdom. I read from the text of Chancellor Kent:

"The judicial power of the United States is necessarily limited to national objects. The vast field of the law of property, the very extensive head of equity jurisdiction, the principal rights and duties which flow from our civil and domestic relations fall within the control, and we might almost say the exclusive

cognizance of the State governments. We look essentially to the State courts for protection to all these momentous interests. They touch, in their operation, every chord of human sympathy, and control our best destinies. It is their province to reward and to punish. Their blessings and their terrors will accompany us to the fireside, and be in constant activity before the public eye."—1 *Kent*, Lecture 19, sec. 446.

Sir, I have always so learned our dual system of Government by which our own American nationality and liberty have been established and maintained. I have always believed that the protection in time of peace within the States of all the rights of person and citizen was of the powers reserved to the States. And so I still believe.

Now, what does this bill propose? To reform the whole civil and criminal code of every State government by declaring that there shall be no discrimination between citizens on account of race or color in civil rights or in the penalties prescribed by their laws. I humbly bow before the majesty of justice, as I bow before the majesty of that God whose attribute it is, and therefore declare there should be no such inequality or discrimination even in the penalties for crime; but what power have you to correct it? That is the question. You further say that in the courts of justice of the several States there shall, as to the qualifications of witnesses, be no discrimination on account of race or color. I agree that, as to persons who appreciate the obligation of an oath—and no others should be permitted to testify—there should be no such discrimination.

But whence do you derive power to cure it by a congressional enactment? There should be no discrimination among citizens of the United States in the several States, of like sex, age, and condition, in regard to the franchises of office. But such a discrimination does exist in nearly every State. How do you propose to cure all this? By a congressional enactment? How? Not by saying, in so many words, which would be the bold and direct way of meeting this issue, that every discrimination of this kind, whether existing in State constitution or State law, is hereby abolished. You propose to make it a penal offense for the judges of the States to obey the constitution and laws of their States, and for their obedience thereto to punish them by fine and imprisonment as felons. I deny your power to do this. You cannot make an official act, done under color of law, and without criminal intent and from a sense of public duty, a crime.

[Here the hammer fell.]

Mr. BAKER. If it be in order, I will move that the gentleman from Ohio be allowed to proceed with his remarks.

Mr. WILSON, of Iowa. The gentleman from Ohio and myself have arranged this matter between us.

The SPEAKER. The gentleman from Iowa is entitled to the floor.

Mr. WILSON, of Iowa. I yield a few moments of my time to the gentleman from Ohio, [Mr. SHELLABARGER.]

Mr. SHELLABARGER. Mr. Speaker, I shall not, of course, attempt to discuss any single feature of this bill in the few minutes allowed me; it is not for this that I have sought the favor which the gentleman from Iowa has accorded me. I propose simply to take this opportunity to explain the vote which I shall give upon this question, as I shall vote to refer this bill to the committee without instructions, in hope that it may be changed in some of its provisions; but should it not be referred, I, as now advised, will vote for the bill.

Now, sir, I have no difficulty in regard to the constitutionality of the second section of this bill, provided we have the power to enact the first section. My mind, I frankly state, has not reached satisfactorily the conclusion that there is not doubt as to whether we have power to enact the first section of this bill; and if we have not power to pass the first section, then we cannot enact the second. My mind, however, has come to a conclusion which, although not a settled conviction in which I can say that my mind rests, yet I shall resolve the doubts which I have, if I can say I have any, in favor of the security and protection of the American citizen for which the bill is meant to provide.

Permit me, then, to indicate to the House how I attain the conclusion that we may pass this first section into law.

I do not understand that there is now any serious doubt anywhere as to our power to admit by law to the rights of American citizenship entire classes or races who were born and continue to reside in our territory or in territory we acquire. I stated the other day some of the cases in which we naturalized races, tribes, and communities in mass, and by single exercises of national sovereignty. This we did by the treaty of April 30, 1800, by which we acquired Louisiana; also in the treaty of 1819, by which we acquired Florida; also in the treaty of 1848, by which we acquired part of Mexico; also by the resolution of March 1, 1845, annexing Texas, and the act of December 29, same year, admitting Texas into the Union, we made all the people not slaves citizens; also, by the treaty of September 27, 1830, we admitted to citizens certain heads of families of Choctaws; also, by the treaty of December 29, 1855, we did the same as to the Cherokees; also, by the act of March 3, 1843, we admitted to full citizenship the Stockbridge tribe of Indians. There can, therefore, be no doubt as to our right to enact that part of this section which confers citizenship upon all our native people.

The residue of the section provides that—

> There shall be no discrimination in civil rights or immunities among citizens of the United States in any State or Territory of the United States on account of race, color, or previous condition of slavery; and such citizens of every race and color, without regard to any previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall have the same right to make and enforce contracts, to sue, be parties and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of person and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, and penalties, and to none other, any law, statute, ordinance, regulation, or custom, to the contrary notwithstanding.

Now, sir, these provisions, first, prohibit its discrimination in securing the civil rights of citizens on account of race, color, or previous condition of slavery. Second, that these, without regard to such race or condition, shall have the same right to contract, convey, sue, testify, inherit, and to claim benefit of the laws protecting person and property as white citizens, and shall be subject to the same penalties, and this notwithstanding any other laws.

Now, Mr. Speaker, if this section did in fact assume to confer or define or regulate these civil rights, which are named by the words contract, sue, testify, inherit, &c., then it would, as seems to me, be an assumption of the reserved rights of the States and the people. But, sir, except so far as it confers citizenship, it neither confers nor defines nor regulates any right whatever. Its whole effect is not to confer or regulate rights, but to require that whatever of these enumerated rights and obligations are imposed by State laws shall be for and upon all citizens alike without distinctions based on race or former condition in slavery.

If it undertook, for example, to say that a married woman or child under age of intelligence should testify, that would invade the rights reserved to the State. But, sir, it does nothing like that. It permits the States to say that the wife may not testify, sue, or contract. It makes no law as to this. Its whole effect is to require that whatever rights as to each of these enumerated civil (not political) matters the States may confer upon one race or color of the citizens shall be held by all races in equality. Your State may deprive women of the right to sue or contract or testify, and children from doing the same. But if you do so, or do not so as to one race, you shall treat the other likewise. It does not prohibit you from discriminating between citizens of the same race, or of different races, as to what their rights to testify, to inherit, &c., shall be. But if you do discriminate, it must not be "on account of race, color, or former condition of slavery." That is all. If you permit a white man who is an infidel to testify, so you must a colored infidel.

Self-evidently this is the whole effect of this first section. It secures—not to all citizens, but to all races as races who are citizens—equality of protection in those enumerated civil rights which the States may deem proper to confer upon any races. Now, sir, can this Government do this? Can it prevent one race of free citizens from being by State laws deprived as a race of all the civil rights for the securement of which his Government was created, and which are the only considerations the Government renders to him for the Federal allegiance which he renders? It does seem to me that that Government which has the exclusive right to confer citizenship, and which is entitled to demand service and allegiance, which is supreme over that due to any State, may, nay, must, protect those citizens in those rights which are fairly conducive and appropriate and necessary to the attainment of his "protection" as a citizen. And I think those rights to contract, sue, testify, inherit, &c., which this bill says the races shall hold as races in equality, are of that class which are fairly conducive and necessary as means to the constitutional end, to wit, the protection of the rights of person and property of a citizen. It has been found impossible to settle or define what are all the indispensable rights of American citizenship. But it is perfectly well settled what are some of these, and without which there is no citizenship, either in this or any other Government. Two of these are the right of petition and the right of protection in such property as it is lawful for that particular citizen to own.

In support of this proposition, I can, in these few minutes allotted to me, cite little authority. But I cite one or two from the extremest and ablest of the State-rights school of American politics, and I do so because if these concede to the Federal Government the power I claim, then there ought to be no doubts about the power.

I first cite the speech of Mr. Calhoun in the Senate, 2d April, 1836. He says:

> "Whatever difference of opinion there may be as to what other rights appertain to a citizen, he has the right to petition and also to claim the protection of his government. These belong to him as a member of the body-politic, and the possession of them is what separates citizens of the lowest condition from aliens and slaves."

This much as to the fact that the lowest grade of citizenship gives the right of protection in person and property.

And the right of all citizens to be secured in the enjoyment of whatever privileges their citizenship does confer upon them is in its very nature equal, and therefore the highest and lowest citizen is alike entitled to his country's protection. Mr. Lawrence, in his Wheaton's International Law, says, in speaking of the right of the States to add to the qualifications of naturalization other qualifications before he shall vote, says:

> "It is believed that such qualifications, whatever they may be, must apply equally to all classes of citizens in the State, whether native or naturalized."

And Vattel, in his Law of Nations, defines citizens to be—

> "Members of civil society bound to this society by certain duties, and subject to its authority; they equally participate in its advantages."

Innumerable authorities might be produced to show a self-evident thing, that protection by his Government is the right of every citizen, and that this right to protection is equal to all citizens; but that is not proper.

In that same great argument Mr. Calhoun shows that these rights of citizenship, so conferred and entitled to protection by the United States, cannot be taken away or impaired by the action of the States. Surely no proof is necessary to show this. If the States may abridge or destroy rights of citizenship which the United States confers and is bound to secure, and must even levy war to protect against the slightest outrage by a foreign Government, then the United States is no nation. Then South Car-

olina may do, with utter impunity, a violence to an American citizen which all the armies and navies and treasures of the Republic must be exhausted in order to prevent at the hands of a foreign State. It must here be noted that the violations of citizens' rights, which are reached and punished by this bill, are those which are inflicted under "color of law," &c. The bill does not reach mere private wrongs, but only those done under color of State authority; and that authority must be extended on account of the race or color. It is meant, therefore, not to usurp the powers of the States to punish offenses generally against the rights of citizens in the several States, but its whole force is expended in defeating an attempt, under State laws, to deprive races and the members thereof as such of the rights enumerated in this act. This is the whole of it.

Who will say that Ohio can pass a law enacting that no man of the German race, and whom the United States has made a citizen of the United States, shall ever own any property in Ohio, or shall ever make a contract in Ohio, or ever inherit property in Ohio, or ever come into Ohio to live, or even to work? If Ohio may pass such a law, and exclude a German citizen, not because he is a bad man or has been guilty of crime, but because he is of the German nationality or race, then may every other State do so; and you have the spectacle of an American citizen admitted to all its high privileges, and entitled to the protection of his Government in each of these rights, and bound to surrender life and property for its defense, and yet that citizen is not entitled to either contract, inherit, own property, work, or live upon a single spot of the Republic, nor to breathe its air. Is not a doctrine that leads us to this amazing for its defiance of the merest decencies of law or logic? And yet, sir, if we cannot pass into law the main provisions of the first section of this bill, it does place this Government in this position of utter helplessness, and destroys the American nationality.

The only doubt I have as to the constitutionality of this first section arises out of the question whether all these rights to testify, &c., which are enumerated in this section, can be said to come within the rule laid down by the Supreme Court in innumerable cases, that in order to entitle this Government to assume a power as an implied power of this Government it "must appear that it is appropriate and plainly adapted to the end." (2 Story on Constitution, sec. 1255.) If each one of these rights, to testify, &c., are thus necessary to secure that which must, as we have seen, be within the powers of the Government, to wit, the securing of the "protection" of an American citizen, then the bill is constitutional.

I cannot remark on the second section further than to say that it is the ordinary case of providing punishment for violating a law of Congress. Surely there is nothing new or startling in that. I shall vote, then, sir, for the bill if it is not referred. I shall vote for its reference because I am certain that some of the matters in which equality of right in different races is provided for may be omitted from the bill without greatly impairing its value, and which will remove doubts as to constitutionality. I may desire to say something further about the second section should this bill come back to us hereafter.

Mr. WILSON, of Iowa. I had hoped, Mr. Speaker, to be able on this occasion to answer some of the positions taken by the gentleman from Ohio, [Mr. DELANO,] who addressed the House yesterday, but I find that his remarks are not contained in the Globe this morning; and as I do not wish to misrepresent any of his positions, I shall forego the answer I had intended to make to his most remarkable State rights speech.

This bill, sir, has met with opposition in both Houses on the same ground that in times gone by, before this land was drenched in blood by the slaveholders' rebellion, was urged by those who controlled the destinies of the southern portion of the country, and those who adhered to their fortunes in the North, for the purpose of riveting the chain of slavery and converting this Republic into a great slave nation. The arguments which have been urged against this bill in both Houses are but counterparts of the arguments used in opposition to the authority the Government sought to exercise in controlling and preventing the spread of slavery. But I have not time in the few minutes allotted to me to go over the general ground, and I shall confine myself to the points which have been made by the gentleman from Ohio, [Mr. BINGHAM,] who addressed the House this morning.

Now, sir, I do not intend to be driven or lured from the position I took at the opening of this discussion in justification of this bill by any of the "glittering generalities" which have been drawn into the discussion. I affirmed on that occasion, and I reaffirm here to-day, that citizens of the United States, as such, are entitled to certain rights; and I stand here to-day to affirm that being entitled to those rights it is the duty of the Government to protect citizens in the perfect enjoyment of them. The citizen is entitled to life, liberty, and the right to property. The gentleman from Ohio tells us in the protection of these rights the citizen must depend upon the "honest purpose of the several States," and that the General Government cannot interpose its strong right arm to defend the citizen in the enjoyment of life, liberty, and in possession of property. In other words, if the States of this Union, in their "honest purpose," like the honesty of purpose manifested by the southern States in times past, should deprive the citizen, without due process of law, of life, liberty, and property, the General Government, which can draw the citizen by the strong bond of allegiance to the battle-field, has no power to intervene and set aside a State law, and give the citizen protection under the laws of Congress in the courts of the United States; that at the mercy of the States lie all the rights of the citizen of the United States; that while it was deemed necessary to constitute a great Government to render secure the rights of the people, the framers of the Government turned over to the States the power to deprive the citizen of those things for the security of which the Government was framed. In other words, the little State of Delaware has a hand stronger than the United States; that revolted South Carolina may put under lock and key the great fundamental rights belonging to the citizen, and we must be dumb; that our legislative power cannot be exercised; that our courts must be closed to the appeal of our citizens. That is the doctrine this House of Representatives, representing a great free people, just emerged from a terrible war for the maintenance of American liberty, is asked to adopt.

The gentleman from Ohio tells the House that civil rights involve all the rights that citizens have under the Government; that in the term are embraced those rights which belong to the citizen of the United States as such, and those which belong to a citizen of a State as such; and that this bill is not intended merely to enforce equality of rights, so far as they relate to citizens of the United States, but invades the States to enforce equality of rights in respect to those things which properly and rightfully depend on State regulations and laws. My friend is too sound a lawyer, is too well versed in the Constitution of his country, to indorse that proposition on calm and deliberate consideration. He knows, as every man knows, that this bill refers to those rights which belong to men as citizens of the United States and none other; and when he talks of setting aside the school laws and jury laws and franchise laws of the States by the bill now under consideration, he steps beyond what he must know to be the rule of construction which must apply here, and as the result of which this bill can only relate to matters within the control of Congress.

He says that we cannot interpose in this way for the protection of rights. Can we not? What are the great civil rights to which the first section of the bill refers? I find in the bill of rights which the gentleman desires to have enforced by an amendment to the Constitution that "no person shall be deprived of life, liberty, or property without due process of law." I understand that these constitute the civil rights belonging to the citizens in connection with those which are necessary for the protection and maintenance and perfect enjoyment of the rights thus specifically named, and these are the rights to which this bill relates, having nothing to do with subjects submitted to the control of the several States.

And now, sir, we are not without light as to the power of Congress in relation to the protection of these rights. In the case of Prigg *vs.* The Commonwealth of Pennsylvania—and this it will be remembered was uttered in behalf of slavery—I find this doctrine, and it is perfectly applicable to this case. The court said:

"The fundamental principle applicable to all cases of this sort would seem to be that where the end is required the means are given; and where the duty is enjoined the ability to perform it is contemplated to exist on the part of the functionaries to whom it is intrusted. The clause is found in the national Constitution and not in that of any State. It does not point out any State functionaries or any State action to carry its provisions into effect. The States cannot, therefore, be compelled to enforce them; and it might well be deemed an unconstitutional exercise of the power of interpretation to insist that the States are bound to provide means to carry into effect the duties of the national Government nowhere delegated or intrusted to them by the Constitution. On the contrary, the natural, if not the necessary, conclusion is, that the national Government, in the absence of all positive provisions to the contrary, is bound, through its own proper department, legislative, judicial, or executive, as the case may require, to carry into effect all the rights and duties imposed upon it by the Constitution. The remarks of Mr. Madison, in the Federalist, (No. 43,) would seem in such cases to apply with peculiar force. 'A right,' says he, 'implies a remedy; and where else would the remedy be deposited than where it is deposited by the Constitution?' meaning, as the context shows, in the Government of the United States."

Now, sir, in relation to the great fundamental rights embraced in the bill of rights, the citizen being possessed of them is entitled to a remedy. That is the doctrine of the law as laid down by the courts. There can be no dispute about this. The possession of the rights by the citizen raises by implication the power in Congress to provide appropriate means for their protection; in other words, to supply the needed remedy.

The citizen is entitled to the right of life, liberty, and property. Now, if a State intervenes and deprives him, without due process of law, of these rights, as has been the case in a multitude of instances in the past, have we no power to make him secure in his priceless possessions? When such a case is presented can we not provide a remedy? Who will doubt it? Must we wait for the perpetration of the wrong before acting? Who will affirm this? The power is with us to provide the necessary protective remedies. If not, from whom shall they come? From the source interfering with the right? Not at all. They must be provided by the Government of the United States, whose duty it is to protect the citizen in return for the allegiance he owes to the Government. Justice, reason, everything, asserts this as the true theory for the guidance of our action. This is in accord with the dignity of government. Without it the Republic becomes an oppressor, exacting a discharge of duty by the citizen, in the absence of the power to return a protective compensation.

I will now notice particularly the provisions of the amendment proposed by the gentleman from Ohio [Mr. BINGHAM] to the motion to recommit. I want no more complete assertion of the power to pass this bill as reported from the committee than the gentleman's own amendment. What does he propose? To instruct the committee to report back this bill, striking out of the first clause the words "and there shall be no discrimination of civil rights or immunities among citizens of the United States, in any State or Territory of the United States, on account of race, color, or previous condition of slavery;" and to insert in the eighth line of the

first section, after the word "right," the words "in every State and Territory of the United States;" leaving the section in every other repect precisely as reported by the committee.

Now, sir, what rights does the gentleman propose to protect? Let his own instructions answer for him:

And such citizens of every race and color, without regard to any previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall have the same right in every State and Territory of the United States to make and enforce contracts, to sue, be parties and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to have equal benefit of all laws and proceedings for the security of person and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, and penalties, and to none other, any law, statute, ordinance, regulation, or custom to the contrary notwithstanding.

Now, I want to know whether these rights are any greater than the rights which are included in the general term "life, liberty, and property." And yet the gentleman admits by his instructions, and asks this House to indorse his admission, that the General Government may secure to citizens of the United States in every State the possession of these enumerated rights. I take the gentleman's own instructions, and his argument in favor of them, and I apply them as arguments in support of the report of the Judiciary Committee. They go as far as we have gone, and assert the identical powers and principles which we have asserted.

But he says the second section is objectionable. Well, I want no more direct authority than his own in vindication of the principle involved in the second section. What does he propose in regard to it? He moves—

Also to strike out all parts of said bill which are penal, and which authorize criminal proceedings, and in lieu thereof to give to all citizens injured by denial or violation of any of the other rights secured or protected by said act an action in the United States courts, with double costs in all cases of recovery, without regard to the amount of damages; and also to secure to such persons the privilege of the writ of *habeas corpus*.

What difference in principle is there between saying that the citizen shall be protected by the legislative power of the United States in his rights by civil remedy and declaring that he shall be protected by penal enactments against those who interfere with his rights? There is no difference in the principle involved. If we may adopt the gentleman's mode we may also select the mode provided in this bill. There is a difference in regard to the expense of protection. There is also a difference as to the effectiveness of the two modes. Beyond this, nothing. This bill proposes that the humblest citizen shall have full and ample protection at the cost of the Government, whose duty it is to protect him. The amendment of the gentleman recognizes the principle involved, but it says that the citizen despoiled of his rights, instead of being properly protected by the Government, must press his own way through the courts and pay the bills attendant thereon. This may do for the rich, but to the poor, who need protection, it is mockery. The highest obligation which the Government owes to the citizen in return for the allegiance exacted of him is to secure him in the protection of his rights. Under the amendment of the gentleman the citizen can only receive that protection in the form of a few dollars in the way of damages, if he shall be so fortunate as to recover a verdict against a solvent wrong-doer. This is called protection. This is what we are asked to do in the way of enforcing the bill of rights. Dollars are weighed against the right of life, liberty, and property. The verdict of a jury is to cover all wrongs and discharge the obligations of the Government to its citizens.

Sir, I cannot see the justice of that doctrine. I assert that it is the duty of the Government of the United States to provide proper protection, and to pay the costs attendant on it. We have gone out with the strong arm of the Government and drawn from their homes all over this land, in obedience to the bond of allegiance which the Government holds on the citizen, hundreds of thousands of men to the battle-field; and yet while we may exercise this extraordinary power, the gentleman claims that we cannot extend the protecting hand of the Government to these men who have been battling for the life of the nation, but can only send them at their own cost to juries for verdicts of a few dollars in compensation for the most flagrant wrong to their most sacred rights. Let those support that doctrine who will, I cannot.

Sir, in the votes upon the several propositions now before us I expect to have the indorsement of most, if not all, of the members of this House of the great principle involved in the bill. Of course our Democratic friends will vote for the motion of the gentleman from Ohio [Mr. BINGHAM] to recommit the bill with instructions, and thereby direct the committee to report a bill which shall declare all persons, negroes included, citizens of the United States, and we shall have the gentleman from Ohio who addressed the House yesterday voting in favor of instructing the committee to report the bill back so amended as to still embrace all the specified rights to which he objected. And we shall have the gentleman from New York, [Mr. RAYMOND,] who addressed the House yesterday, voting in favor of instructions which will compel the Committee on the Judiciary to report back a bill which shall involve the identical principle of the second section of this bill, upon which he based his opposition. Every vote in favor of these instructions will be a vote in favor of the principles of this bill. And, sir, although it may result in the defeat of what I regard to be most important legislation, I shall at least have the consolation of knowing that this intelligent House accepts the conclusion that the Committee on the Judiciary arrived at—that all these rights belong to the citizen and should be protected, the only difference between us being that the committee insists that the protection should be extended at the cost of the Government, while those in favor of the instructions believe that we should compel the citizen to seek his remedy at his own cost.

Now, sir, in relation to the remainder of the bill which the gentleman from Ohio proposes to strike out, we have had an indorsement of that by our Democratic friends for very many years. Those provisions are made up of the several sections of the old fugitive slave law, modified in such a manner as to exclude therefrom the features to which many of us formerly objected. I am not prepared to cast a vote which shall declare that all the powers exercised by this Government in former times in behalf of slavery shall not be exercised in behalf of the freedom of the citizen and his ample protection in all his fundamental rights.

[Here the hammer fell.]

Mr. BINGHAM. As the gentleman from Iowa has taken advantage of me by misstating my position, I withdraw my motion to amend the motion to recommit by adding certain instructions.

Mr. WILSON, of Iowa. I withdraw the motion to recommit.

Mr. BINGHAM. I renew the motion to recommit.

The SPEAKER. The House is acting under the previous question, and neither the motion to recommit nor the motion to amend that motion can be withdrawn.

Mr. LATHAM obtained leave to print the following remarks: Mr. Speaker, I rise to oppose this bill, and in doing so I shall detain the House but a short time. Some legislation by Congress may become necessary under the second section of the amendment to the Constitution abolishing slavery; but in my opinion the right of congressional interference attaches only by virtue of local obstruction to the great amendment. But in my opinion this bill goes far beyond anything contemplated or justified by this amendment.

The first section provides—

That all persons born in the United States and not subject to any foreign Power, excluding Indians not taxed, are hereby declared to be citizens of the United States, without distinction of color, &c.

It is very difficult to ascertain exactly the meaning and scope of this provision. Honorable gentlemen, the friends of the bill, are not agreed upon this point. I propose to take what I conceive to be a practical view of the matter. The provision means either something or nothing. Should the bill become a law, rights will attach by virtue of this provision or else they will not. Can Congress confer citizenship upon persons who are excluded by the Constitution? The courts have uniformly decided that negroes are not citizens under the Constitution. I know that gentlemen profess no respect for these decisions; appeal to the tribunal of party politics, and tell us the people have reversed them. I most respectfully submit, however, that while a legitimate appeal lies from Congress to the people upon questions of governmental policy, no such appeal lies from the Supreme Court upon questions of law. If we are dissatisfied with one decision of the court, and the matter is beyond the reach of ordinary legislation, our only legitimate remedy is to go back into court and reverse the decision there.

What may be or is the effect of universal emancipation is a question of constitutional law to be decided by the courts. Believing, as I do, that the Constitution confers upon Congress no power to confer citizenship except upon naturalized foreigners, I believe such rights conferred by this act to be in violation of the Constitution, which is "the supreme law of the land." But I am told the act confers no right, but is only declaratory of rights which have already attached. How attached, and by what instrumentality? By constitutional provision abolishing slavery? Without expressing an opinion as to whether citizenship attaches by virtue of this amendment or not, I am very decided in the opinion that its interpretation is matter for the judiciary and not for the legislative department of the Government. Congress may declare what interpretation shall be put upon their own acts but not upon the Constitution of the United States, otherwise the eleventh amendment to the Constitution need never have been adopted. And if this provision is only declaratory of rights which have already attached, I ask gentlemen to define "the situation," provided the judiciary department of the Government should interpret the Constitution differently? This, then, is in my opinion simply a question of constitutional law, which cannot be effected by any declaratory act of Congress. I know such declarations may frighten the timid, but bold men will bring them to a judicial test. Blackened wood in imitation of guns around a camp may frighten cowards, but brave men will test their caliber. I object, then, to Congress professing to do what I believe they cannot do.

This section provides further "that there shall be no discrimination in civil rights or immunities among the inhabitants of any State or Territory of the United States on account of race, color, or previous condition of slavery." Though by the wording of this clause it might not refer to discriminations by the State or other local law, yet it is very evident from its connections, and from the entire bill, that its reference is to such discriminations. No one, I presume, doubts the power of Congress to place all the inhabitants of the United States upon an equal footing as to all matters within the legitimate scope of congressional legislation, and consequently Congress may provide that there shall be no discrimination on account of race, color, or previous condition of slavery in civil rights or immunities which may be constitutionally defined or regulated by Congress; or in other words, that all may stand upon an equal footing in the Federal courts. But as the right to define and regulate the "civil rights or immunities" of the inhabitants in the several States is not among "the powers delegated to the United States by the Constitution, nor prohibited by it to the States," it is by the tenth amendment "reserved to the States respectively or to the people." My conviction, then, is that Congress has no right under the

Constitution to interfere with the internal policy of the several States so as to define and regulate the "civil rights or immunities among the inhabitants" therein. If I am correct in this opinion, this clause is without constitutional warrant, and the balance of the section, being based upon it, necessarily falls with it.

I object to the entire second section of the bill as a departure from the principles and practice of the Government. Much might be said upon this section, but I propose to dismiss it with the simple remark that it has been long determined that United States laws must be executed by United States officers, coupled with the opinion that where there is a conflict between the State and United States laws, the legitimate remedy is civil and not penal; or in other words, that the legitimate remedy is by appeal to the United States courts instead of by penalty upon the State officer executing the State law; and further, that the provisions of this bill, being without constitutional warrant, no such conflict can legitimately arise, and no such appeal can legitimately lie under it.

I consider this as one of a series of measures which have been introduced into this Congress, which, if adopted, would change not only the entire policy, but the very form of our Government, by a complete centralization of all power in the national Government, and as most dangerous to the liberties of the people and the reserved rights of the States. And I cannot dismiss this subject without expressing my astonishment and concern that the representatives of the people, with so short a tenure of power, should be engaged in this work. Were this Congress composed of an hereditary aristocracy such action would be but natural. Let us consider that the liberty of the people is the liberty of ourselves and our posterity, and that its preservation demands the exercise of "eternal vigilance" by the people, not only with regard to invasions from without, but also with regard to usurpations within the Government.

This disposes of my objections to the fundamental principles of the bill. The details I object to entire, because they provide for carrying into effect fundamental principles to which I am opposed. I would have been pleased to address the House at greater length upon these points, to have elaborated my reasons, and spread the authorities upon which they are based upon the record; but time fails, and I give them as they are to the House and country as the reasons which shall control my vote upon this most important measure.

Mr. ELDRIDGE. I move that this whole subject be laid on the table; and on that motion I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 32, nays 118, not voting 33; as follows:

YEAS—Messrs. Ancona, Boyer, Brooks, Chanler, Coffroth, Dawson, Denison, Eldridge, Glossbrenner, Goodyear, Grider, Aaron Harding, Harris, Hogan, Edwin N. Hubbell, Kerr, Le Blond, Marshall, Niblack, Nicholson, Radford, Ritter, Rogers, Ross, Rousseau, Shanklin, Sitgreaves, Taber, Taylor, Thornton, Trimble, and Winfield—32.

NAYS—Messrs. Alley, Allison, Ames, Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Baxter, Beaman, Bidwell, Bingham, Blaine, Blow, Boutwell, Bromwell, Broomall, Buckland, Bundy, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Darling, Davis, Defrees, Delano, Deming, Dixon, Donnelly, Driggs, Dumont, Eliot, Farnsworth, Farquhar, Ferry, Grinnell, Abner C. Harding, Hart, Hayes, Henderson, Higby, Hill, Holmes, Hooper, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Hulburd, James Humphrey, Ingersoll, Jenckes, Julian, Kelley, Kelso, Ketcham, Kuykendall, Latham, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, Marvin, McClurg, McKee, McRuer, Mercur, Miller, Moorhead, Morrill, Morris, Moulton, Myers, O'Neill, Orth, Paine, Perham, Phelps, Pike, Plants, Price, Raymond, Alexander H. Rice, John H. Rice, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Spalding, Starr, Stevens, Thayer, Francis Thomas, John L. Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Warner, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—118.

NOT VOTING—Messrs. Barker, Benjamin, Bergen, Brandegee, Reader W. Clarke, Culver, Dawes, Eckley, Eggleston, Finck, Garfield, Griswold, Hale, Hotchkiss, James R. Hubbell, James M. Humphrey, Johnson, Jones, Kasson, Laflin, McCullough, McIndoe, Newell, Noell, Patterson, Pomeroy, Samuel J. Randall, William H. Randall, Rollins, Smith, Stilwell, Strouse, and Wright—33.

So the House refused to lay the whole subject on the table.

The question then recurred on the motion of Mr. BINGHAM to amend the motion to recommit by adding the words:

With instructions to strike out of the first section of the bill the following, to wit: "And there shall be no discrimination in civil rights or immunities among citizens of the United States on account of race, color, or previous condition of slavery;" and insert in the first section, line thirteen, after the word "right," the words "in every State and Territory of the United States." And also to strike out all parts of said bill which are penal, and which authorize criminal proceedings, and in lieu thereof to give to all citizens of the United States injured by denial or violation of any of the other rights secured or protected by said act an action in the United States courts, with double costs in all cases of recovery, without regard to the amount of damages, and also securing such persons the privilege of the writ of *habeas corpus*.

Mr. WILSON, of Iowa. Is it in order for me to accept the proposed amendment to my motion to recommit?

The SPEAKER. It is not, except by unanimous consent.

Mr. STEVENS and others objected.

Mr. WILSON, of Iowa. I would only do that to save a vote.

On the motion of Mr. BINGHAM, there were, on a division—ayes 31, noes 80.

Mr. BINGHAM demanded the yeas and nays.

The House divided, and there were—ayes eighteen, not one fifth of a quorum.

Mr. BINGHAM demanded tellers on the yeas and nays.

Tellers were ordered; and Messrs. WILSON, of Iowa, and BINGHAM, were appointed.

The House again divided; and the tellers reported—ayes twenty-four, more than one fifth of those present.

So the yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 37, nays 113, not voting 33; as follows:

YEAS—Messrs. Anderson, Bingham, Blow, Bundy, Conkling, Darling, Davis, Defrees, Delano, Deming, Dumont, Farquhar, Hill, Chester D. Hubbard, John H. Hubbard, Hulburd, James Humphrey, Jenckes, Ketcham, Kuykendall, George V. Lawrence, Longyear, Marston, Marvin, McKee, Mercur, Miller, Myers, Orth, Phelps, Plants, Raymond, Stilwell, John L. Thomas, Robert T. Van Horn, Henry D. Washburn, and Whaley—37.

NAYS—Messrs. Alley, Allison, Ames, Ancona, Delos R. Ashley, James M. Ashley, Baker, Banks, Baxter, Beaman, Bidwell, Blaine, Boutwell, Boyer, Bromwell, Brooks, Broomall, Buckland, Chanler, Sidney Clarke, Cobb, Coffroth, Cook, Cullom, Dawson, Denison, Dixon, Donnelly, Driggs, Eldridge, Eliot, Farnsworth, Ferry, Garfield, Glossbrenner, Goodyear, Grinnell, Aaron Harding, Abner C. Harding, Hart, Hayes, Henderson, Higby, Hogan, Holmes, Asahel W. Hubbard, Demas Hubbard, Edwin N. Hubbell, Ingersoll, Julian, Kelley, Kelso, Kerr, Latham, William Lawrence, Le Blond, Loan, Lynch, Marshall, McClurg, McRuer, Moorhead, Morrill, Morris, Moulton, Newell, Niblack, Nicholson, Noell, O'Neill, Paine, Perham, Pike, Price, Radford, Alexander H. Rice, John H. Rice, Ritter, Rogers, Ross, Rousseau, Sawyer, Schenck, Scofield, Shanklin, Shellabarger, Sitgreaves, Sloan, Spalding, Starr, Stevens, Taber, Taylor, Thayer, Francis Thomas, Thornton, Trimble, Trowbridge, Upson, Van Aernam, Burt Van Horn, Ward, Warner, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, Windom, Winfield, and Woodbridge—113.

NOT VOTING—Messrs. Baldwin, Barker, Benjamin, Bergen, Brandegee, Reader W. Clarke, Culver, Dawes, Eckley, Eggleston, Finck, Grider, Griswold, Hale, Harris, Hooper, Hotchkiss, James R. Hubbell, James M. Humphrey, Johnson, Jones, Kasson, Laflin, McCullough, McIndoe, Patterson, Pomeroy, Samuel J. Randall, William H. Randall, Rollins, Smith, Strouse, and Wright—33.

So the amendment was rejected.

During the vote,

Mr. THAYER stated that Mr. ECKLEY was absent by leave of the House.

The vote was then announced as above recorded.

The question recurred on the motion to recommit.

Mr. BINGHAM demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 82, nays 70, not voting 31; as follows:

YEAS—Messrs. Ancona, Anderson, Baker, Bingham, Blow, Boyer, Brandegee, Brooks, Buckland, Bundy, Chanler, Coffroth, Conkling, Darling, Davis, Dawson, Defrees, Delano, Deming, Denison, Dumont, Eldridge, Farquhar, Glossbrenner, Goodyear, Grider, Aaron Harding, Hayes, Hill, Hogan, Chester D. Hubbard, John H. Hubbard, Edwin N. Hubbell, Hulburd, James Humphrey, Ingersoll, Jenckes, Kerr, Ketcham, Kuykendall, Latham, George V. Lawrence, William Lawrence, Le Blond, Marshall, Marston, Marvin, Mercur, Miller, Morrill, Myers, Newell, Niblack, Nicholson, Noell, O'Neill, Orth, Phelps, Plants, Radford, Raymond, Ritter, Rogers, Rousseau, Schenck, Scofield, Shanklin, Shellabarger, Spalding, Stilwell, Taber, Taylor, John L. Thomas, Thornton, Trimble, Robert T. Van Horn, Warner, Henry D. Washburn, Welker, Whaley, Stephen F. Wilson, and Winfield—82.

NAYS—Messrs. Alley, Allison, Ames, Delos R. Ashley, James M. Ashley, Baldwin, Banks, Baxter, Beaman, Bidwell, Blaine, Boutwell, Broomall, Sidney Clarke, Cobb, Cook, Cullom, Dixon, Donnelly, Driggs, Eliot, Farnsworth, Ferry, Garfield, Grinnell, Abner C. Harding, Harris, Hart, Henderson, Higby, Holmes, Hooper, Asahel W. Hubbard, Demas Hubbard, Julian, Kelley, Kelso, Loan, Longyear, Lynch, McClurg, McKee, McRuer, Moorhead, Morris, Moulton, Paine, Perham, Pike, Price, Alexander H. Rice, John H. Rice, Ross, Sawyer, Sloan, Starr, Stevens, Thayer, Francis Thomas, Trowbridge, Upson, Van Aernam, Ward, Elihu B. Washburne, William B. Washburn, Wentworth, Williams, James F. Wilson, Windom, and Woodbridge—70.

NOT VOTING—Messrs. Barker, Benjamin, Bergen, Bromwell, Reader W. Clarke, Culver, Dawes, Eckley, Eggleston, Finck, Griswold, Hale, Hotchkiss, James R. Hubbell, James M. Humphrey, Johnson, Jones, Kasson, Laflin, McCullough, McIndoe, Patterson, Pomeroy, Samuel J. Randall, William H. Randall, Rollins, Sitgreaves, Smith, Strouse, Burt Van Horn, and Wright—31.

So the bill was recommitted.

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

The latter motion was agreed to.

ENROLLED BILL SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill and joint resolution of the following titles; when the Speaker signed the same:

An act (H. R. No. 201) to declare the meaning of certain parts of the internal revenue act approved June 30, 1864, and for other purposes; and

A joint resolution (S. R. No. 36) providing for expenses incurred in searching for missing soldiers of the Army of the United States, and for the further prosecution of the same.

LAKE SUPERIOR HARBOR.

The SPEAKER laid before the House a communication from the Secretary of War, transmitting the chief Engineer's report of the estimates required for Lake Superior harbor, to clear its entrance, &c.; which was ordered to be printed, and referred to the Committee on Commerce.

REIMBURSEMENT TO MISSOURI.

Mr. STEVENS, from the Committee on Appropriations, reported back Senate bill No. 31, to reimburse the State of Missouri for moneys expended for the United States in enrolling, equipping, and provisioning militia forces to aid in suppressing the rebellion, with amendments; and moved that it be referred to the Committee of the Whole on the state of the Union, and made the special order for this day two weeks.

Mr. WASHBURNE, of Illinois. I shall object to making it a special order.

Mr. STEVENS. I hope it will be made; it is an appropriation bill.

The SPEAKER. It is not a general appropriation bill; only a general appropriation bill can be made a special order by a majority.

Mr. STEVENS. Cannot a majority make this a special order?

The SPEAKER. It cannot. What action does the gentleman desire?

Mr. STEVENS. Let it be fixed for the time I have named.

The bill was accordingly read a first and second time, ordered to be printed, and postponed till two weeks from to-day, after the morning hour.

PRINTING OF TESTIMONY.

Mr. STEVENS. I offer the following resolution:

Resolved, That ten thousand extra copies of the

evidence reported by each of the sub-committees on reconstruction, or which may be hereafter reported, be printed for the use of the members of this House.

Mr. LE BLOND. I object.

Mr. STEVENS. It merely goes to the Committee on Printing.

Mr. LE BLOND. The effect is simply to bring it back into the House again.

Mr. STEVENS. The gentleman has, of course, a right to object.

The SPEAKER stated that the next business in order was calling the committees for reports of a private nature, beginning with the Committee on Public Lands.

ORDER OF BUSINESS.

Mr. MORRILL. I move that the rules be suspended in order to take up House bill No. 337.

Mr. RAYMOND. I ask the gentleman to yield a moment for a question.

Mr. MORRILL. I will hear it.

Mr. RAYMOND. I have been receiving, as I suppose other members of Congress have received, constant inquiries from my constituents as to the probability of some report being made from the Committee of Ways and Means upon the subject of internal revenue taxation. I desire to ask the chairman of the Committee of Ways and Means if he can give the House any information as to when that committee will probably be ready to report, either in whole or in part, on that very important subject.

Mr. MORRILL. In reply to the gentleman's inquiries I will state that the Committee of Ways and Means had expected to make an early report, embracing the subject of taxes on cotton and incomes, with various reductions in the internal revenue. We had hoped to report ere this.

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

The SPEAKER. The gentleman from Vermont [Mr. MORRILL] has moved to suspend the rules.

Mr. ANCONA. The Chair has stated that the order of business was calling the committees for reports of a private nature, and has commenced the call.

The SPEAKER. The motion to suspend the rules is in order. The Chair will have the rule read.

The Clerk read the rule, as follows:

"A motion to go into Committee of the Whole House on the state of the Union may be entertained on private-bill day, but the motion to go into Committee of the Whole House takes precedence."

TRADE WITH BRITISH AMERICA.

The motion of Mr. MORRILL to suspend the rules was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. RAYMOND in the chair,) and resumed the consideration of the special order, being House bill No. 337, to regulate trade with the British North American possessions.

Mr. MORRILL. At the close of the debate when the committee had this subject last under consideration, all general debate was to be terminated in twenty minutes. The gentleman from Iowa [Mr. ALLISON] desired to occupy a part of that time, and the gentleman from Maine [Mr. LYNCH] the remainder.

Mr. ALLISON. Mr. Chairman——

The CHAIRMAN. How much time does the gentleman expect to occupy?

Mr. ALLISON. I expect to be limited to ten minutes, and the gentleman from Maine [Mr. LYNCH] is to have the remaining ten minutes.

A proposition affecting our commerce to the amount of $68,000,000 should be carefully considered before action is taken.

I do not know that I shall support the bill as it is reported from the committee. There are many objections to it which I will not take time now to point out, hoping that amendments will be made to obviate those objections.

But, sir, I have been surprised at the opposition that has been made to this bill, especially at the arguments made by the gentleman from Pennsylvania, [Mr. KELLEY.] He informs us that when this bill was first under consideration he intended to support it with the amendment offered by the gentleman from Maryland, [Mr. F. THOMAS,] having reference to the bituminous coal, but after a night's examination of the bill he came to the conclusion that it was false in principle and false in detail, and that it had no merit in it whatever. And after this general statement he informs the committee of the several imperfections in the bill by saying that if a certain proposition is adopted it will prostrate and destroy several material interests of this country; and then he goes on to specify them, namely, the fisheries, the salt-works, the lumber trade, and the bituminous coal interest east of the Alleghany mountains.

Now, sir, in the first place let me say that there is nothing whatever in this bill in reference to any salt interest. I am not aware that there is any salt produced in the British colonies; on the contrary, the Canadian Provinces take salt from us. There is no restriction in it having reference to tariff on salt. And in regard to the several other interests of which he has spoken, I desire to examine the statistics for a moment.

The gentleman from Pennsylvania [Mr. KELLEY] informs us that if this bill goes into operation it will affect materially the bituminous coal interest of this country. Now, it is the fact, as appears from the statistics, that in the fiscal year 1864–65 there were only 317,000 tons of bituminous coal imported into this country from the British Provinces. The present tariff imposes a duty of $1 25 per ton on coal of this character, while this bill imposes a duty of fifty cents; so that the difference is only seventy-five cents.

Now, this difference of $200,000, the gentleman tells us, will be placed in the pockets of the men of the British Provinces, and will to that extent interfere with the production of bituminous coal in this country. Now, what are the statistics of the production of bituminous coal in this country? There have been produced during the last year 17,000,000 tons of coal, and I think it is hardly possible that the introduction of 317,000 tons would materially affect the price of seventeen millions produced in this country from our own mines.

Mr. KELLEY. Will the gentleman permit me one moment?

Mr. ALLISON. Only for a question. I have not time to yield for an explanation.

Mr. KELLEY. I want to correct some of the gentleman's figures. The amount of coal imported from the Provinces of Great Britain into the States east of Pennsylvania was more than the amount of domestic coal consumed in those States by within a few tons of the amount stated as the total amount imported into this country.

Mr. ALLISON. That is not my proposition. I stated that there were imported from the British North American Provinces 317,000 tons of coal during the fiscal year 1865. It is true that there have been imported from Great Britain 208,000 tons of coal, paying a duty of $1 25 per ton, because that coal can come in as cheaply as that from the Provinces, coming as it does in the shape of ballast. Therefore the amount of tariff proposed does not materially affect the price. But if the importation of 317,000 tons of coal in a single year, with a tariff duty of fifty cents instead of $1 25 per ton, will prostrate the coal interest of this country, which produces 17,000,000 tons of coal annually, at an expenditure of $85,000,000, then it seems to me that the coal production has very little to sustain and support it in the way of tariff. Hence, while I would not particularly object to a proper increase of duty on coal, I think I have shown from these figures that the difference between fifty cents and $1 25 will not affect the price of coal, and yet the gentleman from Pennsylvania [Mr. KELLEY] informs us that this great interest of this country, involving as it does $85,000,000 per annum, is to be suspended and prostrated. It is proper to say, further, that coal is a raw material and is used in almost every branch of industry, and the duty at last is paid by the consumers of these articles.

The chairman of the committee [Mr. MORRILL] very appropriately informed the gentleman that it was proposed to take off the internal duty upon coal, and in addition to that to take off the duty upon the freight earnings of the railroads, and thus reduce the average amount of internal duty upon coal fifteen or twenty cents per ton.

Mr. KELLEY. If the gentleman will permit me for an instant, I will now read the correct figures, which I have from the report of the Secretary of the Treasury. I will not say a word, merely read the figures. During the fiscal year of 1865 there were imported free of duty from the British Provinces, 465,194 tons of coal; from England, paying a duty of $1 25 per ton, 218,986 tons.

Mr. ALLISON. I have nothing to say with reference to these figures; I presume they are taken from the report of the revenue commissioner. But I also have the exact figures in reference to the importation of coal, taken from the statistics of the Provinces. But whether it be 317,000 tons or 465,000 tons does not make any difference in the argument. And I have further figures in reference to that question which will show that the coal production of this country has been immensely stimulated within the last three or four years. In the fiscal year of 1862–63 there were produced 9,000,000 tons; in the fiscal year of 1863–64 there were produced 15,000,000 tons; and during the last fiscal year there were produced 17,000,000 tons, in round numbers. And I have been informed by gentlemen upon whose statements I place great reliance, that the coal interest of this country, for the last three or four years, has been an immensely prosperous interest and has divided large dividends.

Therefore the objection of the gentleman from Pennsylvania [Mr. KELLEY] to this bill, which he denounced as of British origin and concocted evidently by the Canadian ministry, cannot be sustained from his argument in relation to coal. I might say with as little truth and more of plausibility that the substitute offered by him is the offspring of a Canadian parturition, because in that substitute he proposes to strike down one of the great interests of the West, that of production of live animals. The statistics of last year show there have been imported from Canada alone, live animals and produce of animals to the value of over seven million dollars. Yet the proposition of the gentlemen would strike down this great interest of the country, as this bill proposes to levy a duty of twenty per cent. *ad valorem* upon the value of all live animals imported which under existing law come in free of duty, and thus have an advantage over the producing States of the West.

Now, with reference to some of the other interests which the gentleman considered would be entirely suspended if this bill goes into operation. There is the lumber interest of the country. I have endeavored to examine this bill in reference to the present tariff upon lumber, and I am satisfied that whether this bill or the general tariff law goes into operation on the 17th instant, it will not materially affect the lumber interest, if it affects it at all. It allows the importation into this country of a class of lumber which we must have for the use of our farms; that is, the cheap lumber used for fencing and other purposes on our farms.

I have nothing to say in reference to the fisheries, for that question has been already fully argued here. But I will venture the assertion that if the general tariff law goes into operation on the 17th instant it will in the aggregate protect our fisheries no better than the bill now under consideration by this committee.

The CHAIRMAN. The time of the gentleman from Iowa [Mr. ALLISON] has expired.

Mr. KELLEY. I move that the gentleman's time be extended.

The CHAIRMAN. By order of the House general debate is limited.

Mr. KELLEY. I hope it will be done by unanimous consent.

Mr. LYNCH. As I have but ten minutes' time allowed me, and can say but little of what I want to say in that time, I will yield five minutes of it to the gentleman from Iowa, [Mr. ALLISON.]

Mr. ALLISON. I am obliged to the gentleman from Maine [Mr. LYNCH] for his courtesy.

I have stated the principal interests upon which the gentleman from Pennsylvania [Mr. KELLEY] bases his opposition to this bill.

There are other great interests involved in this bill which I think ought to be considered. The great West, the farm-producing section of this country, is entitled to the consideration of this committee and of this House, and at the proper time I shall move some amendments to this bill which I think will protect that great interest. I do not wish gentlemen to suppose for a moment that we consider the duty of twenty cents per bushel upon wheat, and twenty per cent. *ad valorem* duty upon live animals is in any degree a protection to the farming interests of the country. It will, no doubt, have some effect upon the prices. But the truth is, we produce in the great western States of this country, the States of Iowa, Wisconsin, and Illinois, a sufficient amount of live animals, and of wheat, corn, and barley, and that class of products, to make entirely valueless for protection the small duty upon those great staples. These three States, as appears from the agricultural statistics of 1864, produced one fourth of all the live stock, one third of all the wheat, and one half of the corn produced in the United States during that year. Besides, we send to the Provinces more wheat than we import from the Provinces; we send them each year a large amount of corn and receive little or none from them.

What is twenty per cent. *ad valorem* upon live animals to the great producing States I have named? Or what is twenty cents per bushel on wheat and ten cents upon corn? It costs us more than that sum to transport our wheat and our corn from the Mississippi to Buffalo and the lake waters. Such a duty would afford us but very little protection, if there was great competition in the production of these articles. And so far as I understand this bill, it is not framed especially upon the principle of protection. It is designed, at least in a certain degree, to maintain and continue the commerce which has grown up within the last few years between this country and the British Provinces. But while we do this we must so regulate the duties as to protect every branch of industry; and in this I would include especially the great interest so ably represented by my colleague [Mr. GRINNELL]—the wool interest of this country. We must protect other great productions of this country as well as our manufactures; but at the same time we must see to it that the revenues from this source be increased; and we cannot accomplish that except by the adoption of some measure which will be just to this country and will not entirely cut off the trade which has existed between us and the British American Provinces.

Now, sir, this bill contains provisions which certainly commend themselves in some degree to the farming interests of the West. I refer to those provisions designed to keep open those great channels of communication upon which we rely for the transportation of our produce from the West to the East; but I tell gentlemen on this floor that we are not satisfied with the provisions of this bill in this respect. I cannot but remember that at the last session, when the question of a Niagara ship-canal was before this House, a large number of gentlemen representing certain interests of this country voted against that measure—a measure absolutely essential to the transportation of our western produce to the East. I will take this occasion to say to the committee that we must have increased facilities for the transportation of our great products. If we do not obtain such facilities the productive industries of New England and all the great central States must not expect us to join in giving them that protection which they have enjoyed the last few years. Legislation on these questions must be mutual and reciprocal. If they would continue to produce for us the great manufactured products which we have been accustomed to obtain from them, they must give us the facilities for reaching their mills and their factories with the great staples of the western States. This can only be done by the enlargement of our great natural channels and by new modes of water communication.

The Welland canal is of value to us; but its value is small compared with the increasing interests and increasing products of the West. The Canadian railroads are of value to us because they do to some extent create a competition with the great east and west line from Chicago to the sea-board. The inevitable laws of trade and of self-interest will keep these avenues open despite reciprocal legislation or hostile enactments. But they are not adequate. We should have a canal within our own borders, connecting the great Lakes Erie and Ontario, of sufficient capacity to pass our large lake vessels. We must also improve at the national expense the great Mississippi river, of which I shall say more hereafter.

[Here the hammer fell.]

Mr. LYNCH. Mr. Chairman, I hardly know whether to avail myself of the privilege so generously granted me of speaking for five or ten minutes on this question. Five or ten minutes is a very short time in which to attempt the discussion of a great question like this—a question which has agitated the country for more than thirty years; for I beg gentlemen to bear in mind that this is not simply a tariff bill; it is something more; it is, as the gentleman from Illinois has said, a reënactment of the reciprocity treaty; but it reënacts it in such a way that we shall realize all the advantages which we enjoyed under that treaty, while we shall give in return a very small equivalent.

The treaty of 1818 was intended to settle the northeastern boundary of the country — the boundary line between the State of Maine and the Province of New Brunswick—and also to define the rights of the United States with regard to the fisheries on the coast of Newfoundland. Within two or three years after the ratification of that treaty, the question of the boundary between Maine and New Brunswick was brought into dispute, and from that time until 1838 or 1839 there was constant trouble growing out of the question of that disputed boundary. The dispute finally gave rise to what was known as the Aroostook war, in which the State of Maine attempted to protect her territory from invasion and occupation by an armed force. The United States interfered in the matter, and Maine was obliged to withdraw. The result was the treaty of Washington of 1842, by which that boundary line was settled, Maine losing five thousand square miles of her territory. By that treaty the rights and interests of the State of Maine and the honor of the nation were sacrificed.

About the same time, in the year 1823, this question of the fisheries, which was attempted to be settled by treaty in 1818, gave rise to another misunderstanding; and from that time until the reciprocity treaty was made there was constant trouble with Great Britain on this question of the fisheries. Our fishermen were driven off or seized, and we were on the verge of war with that country. It was to avoid these constant troubles about the fisheries this reciprocity treaty was negotiated. The right to fish and cure our fish on the coast of Newfoundland was granted to us. It was so well defined at that time that it has never been called into question since. The right was also granted to navigate the St. Lawrence and the Canadian canals.

I will say further——

The CHAIRMAN. The time for general debate, by order of the House, has now terminated.

Mr. MORRILL. I have several verbal amendments to offer from the Committee of Ways and Means. I move, first, the following:

Second section, page 2, line four, after the word "section," insert "subject to the provision of section nine," so it will read:

SEC. 2. *And be it further enacted*, That from and after the day and year aforesaid, there shall be levied, collected, and paid, on the articles hereinafter mentioned, and embraced in this section, subject to the provision of section nine, the following duties and rates of duty, that is to say, &c.

Mr. BLAINE. I do not consider that a mere *pro forma* amendment, and I hope the gentleman will withhold it for the present.

Mr. MORRILL. I withdraw it. I now move the following:

Line thirteen, page 2, after the word "round," insert the word "split," so it will read:

On lumber, pine, ash, butternut, bass-wood, birch, elm, maple, and white-wood, round, split, or sided, three fourths of one cent per cubic foot.

The amendment was agreed to.

Mr. MORRILL. I move the following amendment:

Page 4, lines forty-two and forty-three, after the word "clapboards," insert the words "four feet long," so it will read:

On pine clapboards four feet long, $4 per thousand; On spruce clapboards four feet long, $2 50 per thousand.

The amendment was agreed to.

Mr. MORRILL. I move to insert the following proviso:

Provided, That clapboards of greater length, whether of pine or spruce, shall pay a proportionate increase of duty."

The amendment was agreed to.

Mr. MORRILL. I move to amend as follows:

Line thirteen, second section, after the word "barley," insert the words "not including pearl or hulled," so it will read:

Barley, not including pearl or hulled, ten cents per bushel.

The amendment was agreed to.

Mr. MORRILL. I move the following amendment:

Line fourteen, after the word "except," insert "Tonqua," so it will read:

Beans, (except Tonqua, vanilla, and castor oil,) twenty-five cents per bushel.

The amendment was agreed to.

Mr. MORRILL. I move the following:

After line nineteen, page 2, insert: "Fish oil of all sorts, twenty per cent."

The amendment was agreed to.

Mr. MORRILL. I move the following:

Page 5, after the word "hides," in the twenty-fourth line, insert "raw, salted, or pickled," so it will read:

Hides, raw, salted, or pickled, ten per cent. *ad valorem*.

The amendment was agreed to.

Mr. MORRILL. I move, in line twenty-seven, after the word "ores," to strike out "ten" and insert "of copper, five," so it will read:

Ores, of copper, five per cent. *ad valorem*.

The amendment was agreed to.

Mr. MORRILL. I move page 8, section nine, line seven, after the word "privileges," to insert "and conditions," so it will read:

SEC. 9. *And be it further enacted*, That the President is hereby authorized to terminate or suspend the provisions of the act, or any section or sections thereof, and as to the whole or part of the British North American colonies, by giving public notice of such termination or suspension, whenever in his opinion it may appear just and proper, or whenever the following privileges and conditions or any of them shall not be accorded and secured to the citizens and inhabitants of the United States, namely, &c.

The amendment was agreed to.

Mr. MORRILL. I move, on page 8, line sixteen, after the word "second" to insert the following:

The right to ship to the United States from the Province of New Brunswick, without any export or other duty, agricultural products of or any lumber or timber cut on that portion of the American territory in the State of Maine watered by the river St. John and its tributaries after the same shall have been floated down that river to the sea.

The amendment was agreed to.

Mr. MORRILL. On page 9, I move to strike out from line twenty-two to line twenty-five, as follows:

3. Freedom from exposure to illicit trade and smug-

gling, which the establishment or maintenance of any free port or ports in the British North American colonies near to our boundaries tends to induce.

And insert in lieu thereof the following:

3. The abolition and suppression of all free ports near the boundaries of the United States.

The amendment was agreed to.

Mr. PIKE. I offer the following as a substitute for the first section of the bill:

On fish: salmon, $2 per barrel; shad, $1 50; mackerel, when valued at $6 and less, $1 per barrel; when valued at over $6 per barrel, $2 per barrel; herring, pickled or salted, $1 per barrel; all other pickled fish, $1 per barrel; all fish not otherwise provided for, one cent per pound: *Provided*, That fish in packages other than barrels shall pay in proportion to the rates charged on similar fish in barrels: *And provided further*, That herring imported in bulk shall pay at the rate of fifty cents per barrel of two hundred pounds.

Mr. SPALDING. Does that amendment make the duty on cod-fish one cent per pound?

Mr. PIKE. There are two reasons why the amendment I offer should pass. One is that it is but a trifle more than the tariff proposed by the Committee of Ways and Means to the Canadian commissioners under schedule B. Some kinds of fish are somewhat more, but the average is but little greater. I know the Canadians did not like that schedule, and probably for that reason the committee changed it. But it gives the rates the committee think ought to be established, and I agree with them.

Another reason is, that this bill repeals the fishing bounties. Our people have confidently expected that the established policy of the country would not be now overthrown. They had a right to suppose that laws coeval with the formation of the Government, and forming a system which had survived all political parties for three quarters of a century, would not be suddenly struck down, and without a warning notice to those interested in it. Confidently expecting stability in this legislation, they invested their money. Large investments have clung around the system. It is grossly unfair now to strike off all protection and leave a worthy and patriotic class of men exposed to competition which, for the reasons I gave the other day, must be ruinous. And why should it be done?

It is particularly annoying to the people interested in fisheries that a system of bounties which has resisted all domestic attacks up to this time should be made to yield to the demands of Nova Scotians. If the report of the Committee on Commerce, made the other day, had been adopted we should have had the satisfaction of knowing that the bounties had at last given way to what was claimed to be the general good. But to have them now thrown in as a *placebo* to provincial legislation is adding insult to injury. And why do it? Are the committee afraid that the Provinces will get mad if we exercise our right to tax what we please and when we please, and to protect our own industries as we choose?

Fisheries are truly said to be the nurseries of commerce. In our case they are, to a considerable extent, American commerce itself. It is well known that our deep-sea tonnage is manned by foreigners. The shipping lists of New York are filled up with foreign names having American "protections." I know the law is otherwise, but the fact is as I state it. Nine out of ten of sailors on board our ships are foreigners. The coasting trade has a mixture. The fisheries are almost purely American. A foreigner in one of our fishing smacks is as scarce as a white blackbird. If we would encourage an American commerce we must cultivate and protect our fisheries.

The scale of duties I propose is not far from twenty-five per cent. of a fair valuation. I do not make them *ad valorem* because of the probability of fraud. We know what the real value is, but what it would be sworn to be at Halifax who can say? The average of duties upon the importations of the country is about forty per cent. In asking for twenty-five per cent. upon this article we are largely within the mark, and I feel as if our request should be granted without hesitation. Surely the House will not strike down the fishing bounties without a word of warning to valuable and confiding interests, and then refuse the average protection that other branches of industry receive at the hands of Government. It would be not only ungenerous, but the extreme of bad faith.

Mr. HARDING, of Illinois. I move to strike out four dollars a barrel on mackerel, and to insert six.

Mr. Chairman, I am glad that for once I can unite in the policy of the gentleman from Maine in relation to this matter. I am heartily in favor of protecting the interests of this country against competition from abroad. When we established fishing bounties we intended to encourage fishing in British waters for the purpose of introducing into this country cheap food to compete with the productions of this country.

Now, sir, I am glad to see that the gentleman is satisfied to abandon that policy of importing our provisions from abroad. I understand him now to be in favor of increasing the duty on foreign fish for the purpose of protecting the American product. I am in favor of that policy. I am, furthermore, in favor of extending that principle over the length and breadth of our country. I know that the centralizing policy of England has made Canada almost exclusively an agricultural country. There was a Yankee who went from my country and manufactured sleigh-bells there, but he is the only manufacturer that I ever heard of in Canada. Everything they use is manufactured in England, and the people of Canada are producing merely what the American people produce.

Now, I am not in favor of having a reciprocity treaty with them on this platform. If they were a manufacturing people who could compete with New England and our eastern manufacturers, so as to bring down the price of manufactured articles, I do not know but what I should have been in favor of a reciprocity treaty. But what is the effect of the principle of this bill? It is to throw open to New England the agricultural region of Canada to supply them with cheap food, thus excluding our own country from a market which we should otherwise have. Sir, I have been for thirty years—nay thirty-five years—in the ranks, in the rear or in the front; sometimes in the one position, and sometimes in the other, sustaining a tariff which should ultimately give a good market at home for the productions of our farms. We have encouraged the manufacturing interests of this country until now we make quite a respectable show in the world. But in place of furnishing a market for our agricultural productions, this bill opens the door to Canada, an agricultural region, to compete with us.

Now, I want to say to these gentlemen from the East that I will go for putting on a high, a prohibitory tariff upon manufactured goods, but you must deal with us fairly. Shut the door against those things that compete with us, such as cattle, horses, hogs, corn, and wheat, and then we can live together. I will buy my shirt of you and you will buy your bread of me—that is my principle. I withdraw the amendment to the amendment

Mr. MORRILL. I do not feel any especial interest in this question so far as the proposition of the gentleman from Maine [Mr. PIKE] is concerned. I would, however, suggest to him the propriety of making the closing part of his amendment read:

One dollar per hundred weight for all other descriptions of fish.

Allow me to say that I do not think it is quite fair to assume, in levying duties at this time, that the high price of fish is to continue, when but recently the price of the different sorts of fish was at least one half, if not two thirds, less than what it is at the present moment.

Mr. ELIOT. Will the gentleman allow me a moment?

Mr. MORRILL. The gentleman can have five minutes after I get through.

Now, sir, the price of fish is something like seven, eight, and nine dollars per quintal. And the proposition made by the gentleman from Maine [Mr. PIKE] would not be unreasonable should these prices continue. But if prices were to recede to their normal condition, to $2 50 and $3 and $3 50 per quintal, as they have been in years past, then the proposition of the gentleman would be extravagant.

I do not feel any special interest in this subject, although a lover of the cod-fish, whether swimming or in the frying-pan.

Mr. ELIOT. Will the gentleman from Vermont [Mr. MORRILL] allow me the remainder of his five minutes?

Mr. MORRILL. I would do so with the greatest pleasure if there was any of it left.

Mr. ELIOT. Then I move, *pro forma*, to strike out the words "one hundred weight," and insert "one hundred pounds."

I desire, in reply to a remark just made by the gentleman from Vermont, [Mr. MORRILL,] to say that he is under a great misapprehension as to the present price of dried cod-fish. If this bill passes as reported by the committee, at present prices the business cannot be continued. He speaks of it now as commanding in the market the price of seven dollars, eight dollars, and nine dollars per quintal. Sir, there are now ten thousand quintals in a single port in my district which may be had from $3 50 to $4 50 per quintal. The gentleman, I fear, has been speaking without accurate knowledge of the price of this article. I have seen the price-current to which the gentleman refers, and I am stating what is the actual fact, that in the markets of Philadelphia this article is now sold at the prices I have named, and that at the port to which I have referred there is the amount I have named which can be had at that price.

It costs more than four dollars per quintal to catch and cure that fish. The prices now upon the average are less than the cost of taking and curing them. During the time the large Army demand existed prices were high, but during the past season they have not been high. I have upon my table statistics showing the prices which the catch of certain vessels has produced, and I could demonstrate, if it was at all desirable, that although prices have been exaggerated because of the war, yet they are now on the decline.

Let me state one fact more. In the two counties of Yarmouth and Shelburne, in Nova Scotia, they are now building vessels and preparing for a catch of not less than one hundred and fifty thousand quintals during the next year. If this bill should pass as it now stands, it will be utterly impossible for us to compete with them, because we have to pay about one hundred dollars a ton for our vessels ready for the outfit, while in Canada they can be procured for thirty-three dollars a ton, and we have to pay more than twice as much for the outfit as they do. So that the protection afforded by the amendment of the gentleman from Maine [Mr. PIKE] is quite as little protection as ought to be given by this House. It ought not to be reduced; and therefore I hope that the amendment of the gentleman from Vermont [Mr. MORRILL] will not prevail.

Mr. MORRILL. I intended to withdraw my amendment.

Mr. ELIOT. Then I will withdraw my amendment, and hope the amendment offered by the gentleman from Maine will prevail.

Mr. MORRILL. I object to the gentleman from Massachusetts [Mr. ELIOT] withdrawing his amendment until I reply to what he has just stated. The gentleman denies my statement as to the present prices of fish. I quote now from the Commercial and Financial Chronicle, of January 20, 1866. It is there stated that dried cod-fish is from $7 to $9 25 per hundred weight; dried, scaled, $6 75 to $7 50. And then I quote from the New York Mercantile Journal, of March 8, yesterday. I presume no one will question the authority of this paper: cod-fish, George's Bank, per quintal $9; large Grand Bank, $6 50 to $7; small, $6; hake, $4 50; pollock $3 to $4; and that is the only kind of fish that could be included in the gentleman's statement; he evidently alluded to pollock.

I have nothing further to say on this subject.

Mr. ELIOT. I withdraw my amendment.

Mr. MORRILL. I move to amend the part

proposed to be stricken out by the gentleman from Maine [Mr. PIKE] by striking out "fifty cents per one hundred pounds," and inserting "one dollar per hundred weight."

The amendment of Mr. MORRILL was not agreed to.

The amendment of Mr. PIKE was then agreed to.

Mr. F. THOMAS. I now submit the proposition of which I spoke the other day when this bill was under consideration. I move to amend this first section by striking out the following:

On bituminous coal, fifty cents per ton of twenty-eight bushels, eighty pounds to the bushel; on all other coal, twenty-five cents per ton of twenty-eight bushels, eighty pounds to the bushel; on coke and culm of coal, ten per cent. *ad valorem.*

As I explained to the House the other day, this leaves in full force the general tariff law of 1864. Within the compass of time that is now prescribed for debate, it would be idle in the highest degree to undertake to enlarge upon the position I then attempted to occupy.

But, Mr. Chairman, let me say that if it is necessary for the encouragement of the domestic industry of the country to levy a duty of $1 25 per ton upon coal which is brought across the ocean, with all the risk and expense of the transit, there certainly is much more reason for levying a similar duty upon coal which is brought into our ports of entry from the mines of the neighboring British Provinces.

Mr. Chairman, I may have appeared to some as dealing in hyperbole when I spoke the other day of the inexhaustible mineral resources of our country, the latent value of which I desire gradually and legitimately to develop. Why, sir, there is a single section of country, being partly the Alleghany region of Maryland, and extending also into the States of Pennsylvania and Virginia, embracing three hundred square miles of bituminous coal—a region traversed by the Baltimore and Ohio railroad, and approached very nearly by the western terminus of the Chesapeake and Ohio canal. In that coal basin there are veins four, six, and twelve feet thick. I admit that no one of those veins runs throughout the entire basin; but taking the average it may be said that there is a body of coal eight feet thick extending throughout those three hundred square miles of land. Let any gentleman calculate the cubic feet of coal embraced within a single square mile of that region, and calculate also the cubic feet contained in a single ton of coal, and he will see that I am speaking entirely within bounds when I say that that region alone can furnish, for the supply of all our steam marine and all our manufacturing establishments accessible by our coasting trade, sufficient coal for thousands of years to come.

Now, Mr. Chairman, is it right that a vital interest of this character should be sacrificed to the cupidity—I must use that phrase—of a very small section of this country? After the manufacturing interests have been encouraged from 1816 to the present hour by enormous duties, they now ask that for their further protection you should levy duties of twelve cents upon the square yard of cotton or woolen goods, and forty-five per cent. *ad valorem.* What am I asking now? That you shall encourage by a moderate duty of less than twenty per cent. a branch of domestic industry in which is embarked more than $30,000,000 of capital; for if you strike out the eight per cent. *ad valorem* provided for in this bill you leave only twenty per cent. *ad valorem* under the tariff of 1864.

If time allowed, I might refer to the statistics before me to show that the coal-producing interest is at this hour trembling for its existence. Hundreds of men who have been engaged in the coal mines of the Alleghany region are now actually out of employment by reason of the very low price of this article. There are millions of capital now invested in this branch of industry with no prospect of any dividend. Are you to prostrate by a merciless policy this great interest which is now in its infancy?

[Here the hammer fell.]

Mr. GARFIELD. Mr. Chairman, I rise to oppose the amendment. No man is more unwilling than I am that anything should be enacted in this bill or any other to the injury of any branch of American industry. But I have been really surprised to hear the remarks which have been made during this discussion by the gentleman from Pennsylvania, [Mr. KELLEY,] and the gentleman from Maryland, [Mr. F. THOMAS,] on the subject of bituminous coal. Those gentlemen would have us think that a great interest is being imperiled and is likely to be overthrown if we refuse to impose increased duties for its protection. Now, sir, this interest in bituminous coal has prospered during the last ten years as one of the articles on the free list in the reciprocity treaty with the British Provinces. We have sold them coal at one end of our frontier line and they have sold us about the same amount at the other. We have never heard that our coal interest was perishing under this arrangement. If the high price of coal in this city is any criterion of the general state of the market I should suppose it was a very good business.

Now, the Committee of Ways and Means propose to impose a duty of fifty cents per ton on all coal shipped from that country to this; and we are told by these gentlemen that the coal trade of this country will be ruined.

How formidable is the competing interest which, with a duty of fifty cents, will ruin the American coal trade? And how large is the American trade to be ruined by it? The internal revenue derived from six cents a ton on bituminous coal in this country is almost sufficient to purchase, at the market price, all the coal brought into the country under the reciprocity treaty. From Pennsylvania alone, at six cents per ton, we collected in 1864 $644,576 56; from Maryland, $27,263; from Ohio, $69,127; and from Kentucky, $4,383.

Mr. KELLEY. What was the amount from Pennsylvania?

Mr. GARFIELD. Six hundred and forty-four thousand five hundred and seventy-six dollars and fifty-six cents. Now, we collected from these four States, at six cents a ton, for internal revenue, $742,533. The Committee of Ways and Means propose to repeal the six cents tax on coal and thus give to those States a sum that would purchase more than three fourths of all the coal that is brought into the United States from the British Provinces. Yet gentlemen say that this coal interest is trembling on the verge of ruin because we do not affix a duty of $1 25 per ton on coal from the Provinces.

Mr. STROUSE. I ask the gentleman to yield to me to correct his facts.

Mr. GARFIELD. My time is too short to yield to the gentleman. I am speaking from official papers and no gentleman can correct my facts. I repeat my statement, that the coal imported from the Provinces, which makes our coal interest "tremble in the balance," is so insignificant in quantity that three fourths of its total value when it reaches us is only equal to the revenue derived from our coal product at six cents per ton. I think if the trade could flourish for ten years without Government aid, it will manage to survive when protected by a duty of fifty cents per ton on the competing article and relieved of the six cents on the home tax. I hope the amendment will not prevail.

Mr. HUBBARD, of West Virginia. I move to insert "one dollar and," so it will read "one dollar and fifty."

Mr. Chairman, we ask for the coal interest only what has been granted to the wool interest, that is that it may be left out of this bill. Wool which came in free under the reciprocity treaty has been left out, and takes its place under the general law. We ask that coal may be placed on the same footing, or if included that the duty shall be as high or higher than under the tariff of 1864.

In reference to the remarks of the gentleman from Ohio, [Mr. GARFIELD,] I will say this only affects the coal which seeks a market on the Atlantic border. It is not the coal interest of the whole country, but only that which finds its market on the Atlantic border, or otherwise is without a market.

In regard to the proposed reduction on coal, I wish to say a few words why this should not be done. I quote from the opening remarks of the gentleman from Vermont, [Mr. MORRILL,] chairman of the Committee of Ways and Means:

"It is proposed to admit bituminous coal from the British Provinces, in consideration of certain privileges to be extended to the United States, at fifty cents a ton."

This is the consideration, that the coal interest of Canada may be specially protected and taken care of without regard to home interests, that capital may be induced to go from this country into Canada, as it has already largely gone, thereby escaping taxation and its share of the public burdens here, then to come back in the shape of coal at a reduced price, to the injury of our home product. If we cannot tax that capital here, we should catch it on its return.

It is said the article of coal stands at the same level with firewood. Now, bituminous coal forms no part of the ordinary fuel of New England. It is used solely for gas and steam purposes, and to some extent in manufacturing, and occasionally to make a sea-coal fire in the parlor of the wealthy. It does not form any part of the fuel for the poor.

They ask us in the West to protect and purchase the manufactures of New England, and we are glad to do so; but we want to pay to some extent with coal in return. They say we can get coal cheaper from the Provinces. Is not the same argument good in our case? We may say we can get manufactured goods cheaper from old England. If they want us to purchase their manufactures in New England let there be a little reciprocity in this respect.

I agree with the gentleman from Missouri, [Mr. HOGAN,] that we should protect the laborer. I know no better way to protect the labor of this country than when we make a market for its products, and thus increase the demand. This is the only way in which we can legislate for the protection of labor. And this kind of labor lies at the very foundation of the welfare of the country, for out of the ground, by the tools of the miner and the implements of the farmer, must come the wealth which is to pay the debt of our Government. And our revenue system should be adapted to the important end of creating national wealth.

Mr. MORRILL. Mr. Chairman, this coal question is, I think, rather the pivot upon which this whole subject hangs. I desire to submit a few additional remarks to what I have already made. In my judgment there is not an article among the whole products of the country which is so justly to be subjected to competition as coal. What have we seen in the last few years? Speculation has run mad in our coal-fields throughout the country, and people have been seeking to make fortunes out of them in a day, and with success. Prices of coal have been enormous. And now we are asked to give greater protection to the coal interest or it will be utterly prostrated.

Sir, the thing cannot be done. Take the coal of western Pennsylvania, where it has to be transmitted nearly three hundred and fifty miles. The ordinary freight upon coal cannot be afforded at less than about two cents per mile. Certainly, in my part of the country transportation of any kind of freight cannot be afforded for less than that. Now, that we should undertake here to give protection that will make a market for coal not only three hundred and fifty miles distant from the mines, but three or four hundred in addition to that, is, in my judgment, asking a little too much.

There is another suggestion connected with freights which while I am on the floor I will discuss, and that was the question alluded to by the gentleman from Illinois [Mr. HARDING] as to protection of agricultural productions in this bill. The question of the tariff stands here on corn and wheat precisely where it has always stood.

It will benefit the man in Illinois just as much as the man in New England. There is no difference. Then, why this outcry against New England? Our farmers are really more exposed to the competition of Canada than the West. Why, when you come to the protection of New England, our place of consumption is at home, and that is our greatest protection. The West will have it in due time. The giant is already born and will wax in strength until it eclipses New England altogether. Ten cents upon corn might be to the same advantage in New England that it would be in Ohio or in Illinois; but corn in New England being worth $1 25 a bushel, protection cannot of course overcome the distance so that corn in Illinois will bring the same price, but it will receive the benefit of ten cents, and that is all New England corn receives.

It does look to me as though we were contending for very inconsiderable matters. If the gentleman from Maryland [Mr. F. THOMAS] and the gentleman from Pennsylvania [Mr. KELLEY] will examine the propositions which have been made they will see that their constituents are to gain actually by the proposition which has been made, if Congress should adopt it, in connection with this, in relation to the abrogation of direct tax on coal and indirect tax on freight.

Mr. HUBBARD, of West Virginia. I withdraw the amendment.

Mr. STEVENS. I move to amend by striking out on page 2, line twenty-one, "fifty cents," and inserting "$1 25;" so that it will read: "On bituminous coal, $1 25 per ton."

Mr. Chairman, I leave all but bituminous coal out. I am willing that the reduction to twenty-five cents per ton on anthracite and all other coals shall remain.

Mr. MORRILL. As they do not import any.

Mr. STEVENS. I do that because Pennsylvania's chief interest lies in her anthracite coal-fields.

Now, sir, I object to this whole bill upon general principles, and therefore I have made an amendment to conform to the present general rate in the tariff. I object to special legislation for special countries or special classes. I think it is introducing a most vicious system. If you are to legislate for Canada upon one particular subject, you may legislate for St. Thomas on another, for Cuba on another, for South America on another, and then where has your general tariff bill gone to? You fritter it away until you have no general principle to stand upon; but you are making piecemeal tariffs for particular favorite neighbors, and not for particular favorite States.

Now, sir, I go upon the question of revenue, and I am not alarmed at the competition of foreign bituminous coal, for I do not think it would make much difference. I think under the tariff of $1 25 our New England friends would use just as much Pictou coal as they will under a tariff of fifty cents or as they do now. I think they will use and import as much from Liverpool as they do now.

The only difference will be one which I greatly regret, namely, that the manufacturers, the gas companies, and others, will pay a revenue, according to last year's importations, of $338,000 more upon that coal than they will under the tariff of fifty cents per ton. Now, I regret this very much. I wish that these enterprising gentlemen could get the coal for nothing if the revenue would allow it. But as a revenue question, you are throwing away about half a million dollars. No, you are not throwing it away; you are bestowing it upon the most worthy people in the world, men who need encouragement. I am sorry that we must raise this revenue; but as we do have to raise it from every part of the country, and on everything that comes either from Pennsylvania or any other quarter, I am afraid our friends will have to bear this loss.

Now, sir, as to gaining fisheries by this, my friend has taken the true ground. He repudiates the idea that was once contended for in the reciprocity treaty, and partly given up, that the fish that swim within a marine league of the shore of another country are not to be caught by our fishermen. The idea that you are to be excluded from your fisheries in these vast bays by running a line from headland to headland instead of going around by the shore, it seems to me, is against all the publicists that I have ever read on the subject, and a principle which cannot be maintained. I admit that there is one advantage. Although you can go there and catch the fish, you are not permitted to land them unless these gentlemen who want your custom will allow it. That is the only thing you gain by it, and the gentleman from Maine [Mr. PIKE] says his constituents do not want that.

I therefore say you gain nothing, but you make a concession by giving up a great principle in the law of nations, namely, the right to fish anywhere on God's highway except within a marine league of shore; although by this you give up the idea of drawing a line from headland to headland, and keeping out a thousand miles within that straight line.

For all these reasons I am opposed to this whole bill, and propose to have a vote taken upon this amendment. We may as well test the sense of the House in regard to the principles of the bill now on this amendment, unless the gentleman from Vermont [Mr. MORRILL] chooses to do it on another, in which case I am willing to withdraw it.

Mr. MORRILL. As this vote will undoubtedly test the question, I desire to say a word or two more in relation to the matter.

Mr. Chairman, I trust that the bill will pass even if this amendment should be made, because there are some slips and vacancies in the present law that this bill would remedy, and so it would be proper that it should pass, even with the amendment of the gentleman from Pennsylvania, [Mr. STEVENS,] or that of the gentleman from Maryland, [Mr. F. THOMAS.]

But it does seem to me that if we are possessed of even ordinary perception and candor we shall be willing to admit that there were some things in that reciprocity treaty of practical benefit which were conceded to us. And are gentlemen going on the ground that they will flout and refuse even those conditions in our favor that are contained in the latter end of the bill, and say, "We will reject and have nothing to do with you?"

It seems to me that there are evidently some things that were conceded in the reciprocity treaty which are desirable to be retained in this bill; for instance, the fisheries near shore, the privilege of cutting our timber and floating it through provincial territory into our own jurisdiction again, the privilege of canals, and the navigation of the St. Lawrence, and we ought to be willing at least, I think, to acknowledge there were some things which were in our favor in that treaty. And let me say that in return, the things upon which any special legislation is asked, and that very slight, is in relation to fish and coal. If the proposition of the gentleman from Pennsylvania [Mr. STEVENS] shall prevail, then there is not left in the bill a single argument upon which any provincial man could urge upon his own people the adoption of any of the privileges and conditions which we demand at their hands. That is all I have to say about it.

Mr. DAVIS. I move to amend the amendment by reducing the duty to $1 25.

The CHAIRMAN. The amendment of the gentleman from Pennsylvania [Mr. STEVENS] is to strike out the word "fifty," and insert in lieu thereof "$1 25," upon which debate is exhausted.

Mr. DENNY. I move to amend the amendment of the gentleman from Pennsylvania [Mr. STEVENS] by striking out "twenty-five" and inserting "thirty," so that it will read "one dollar and thirty cents per ton."

Mr. STEVENS. Is that motion in order? Mine was an amendment to an amendment.

The CHAIRMAN. The Chair understands that the original motion of the gentleman from Maryland [Mr. F. THOMAS] was to strike out the clause relating to duty on coal. The motion of the gentleman from Pennsylvania [Mr. STEVENS] is for the purpose of perfecting the clause before the motion to strike out is put. The motion of the gentleman from Washington Territory [Mr. DENNY] to amend the amendment of the gentleman from Pennsylvania is in order.

Mr. DENNY. Mr. Chairman, I have noticed, in listening to the discussion upon this bill, so far as it relates to coal and lumber particularly, that it seems to be regarded as applying especially to those interests in the Atlantic region of the country. I wish to say that it applies with equal force to the interests of the far-off Pacific coast. In the Territory which I represent here, the Territory of Washington, we have an extensive coal-field, and we are endeavoring to develop that interest. But as the original bill stands we will be wholly without that protection which is necessary to enable us to do so. I hope therefore this provision as it now stands, or as it is proposed to amend it, will not pass this House.

I do not propose to enter into the discussion of this question, even to the extent of the five minutes which I understand to be allowed. I simply rise for the purpose of stating the naked fact that this bill does interest the extreme Northwest, perhaps equally as much as it does the East and the Northeast. I now withdraw my amendment to the amendment.

Mr. DAVIS. I renew the amendment to the amendment made by the gentleman from Washington Territory, [Mr. DENNY,] and I do it for the purpose of noticing the remark of the chairman of the Committee of Ways and Means [Mr. MORRILL] in relation to the removal of the tax upon the transportation of railroads. He gives that as an insuperable argument against any claim made here for protection on coal. I desire to say that the gentleman has overlooked the fact that from central and northern Pennsylvania there are lines of water communication by which the city of New York can be reached; and from many of the coal-fields there there is a short transit by railway to the water transportation. And therefore, inasmuch as water communication makes it of far less cost than the amount estimated by my friend, there is an eminent reason why we should afford protection to our own interests against foreign competition.

I do not urge this in any spirit of hostility to the British Provinces, and I regret exceedingly to hear upon this floor intimations which look as if we were legislating in a spirit of indignation or resentment. I have no such feeling. But I think it is the duty of the American Congress to protect and foster the interests of American citizens. We can never pay the vast public debt which burdens this country unless we supply our citizens with opportunities to labor. And when the question is between British labor and American labor, I shall be compelled to advocate and maintain the interests of my own constituents.

I now withdraw the amendment to the amendment.

Mr. LYNCH. If it is in order I move to amend the amendment by striking out from line twenty-one to line twenty-five inclusive, and inserting after line nine, on page 6, the words, "coal, coke, and culm of coal."

The CHAIRMAN. The only amendment in order at this time is one to the amendment of the gentleman from Pennsylvania, [Mr. STEVENS,] which is to strike out "fifty" and insert "$1 25."

Mr. LYNCH. I move to amend the amendment by striking out "$1 25," and inserting in lieu thereof the word "free."

My reason for offering this amendment is that, according to the statement of the chairman of the Committee of Ways and Means, [Mr. MORRILL,] the internal revenue bill which is to be brought in will give to this coal interest a much greater advantage than any protection which this bill would afford, even with the duty of $1 25 proposed by the gentleman from Pennsylvania. The Committee of Ways and Means

propose to remit all the internal duties upon this commodity, and also to take off the duty on its transportation. If this is to be done, I am opposed to taxing the fuel of the country.

I am opposed to it for another reason. The bill now before us will give us all the advantages which we enjoyed under the reciprocity treaty, and for which we gave a free list embracing twenty-eight articles. This bill will change the tariff of 1864 in only a very slight degree. It proposes to put into the free list only two articles which are not there already. It will increase the duty on two articles, tallow and barley, and slightly decrease it on five articles, fish, lumber, potatoes, seed, and coal. The placing of two articles in the free list and the reduction of the duty on five others is all that we give under this bill for the continued enjoyment of the advantages which we have had under the reciprocity treaty. If that treaty gave us any advantages which compensated us for that long free list, I submit to the House whether we ought not to be willing to give for the same advantages the very moderate return proposed by this bill. I also submit to the House whether the article of coal should not, as suggested by the Committee of Ways and Means go into the free list with firewood—whether the fuel of the country ought not to forego the advantage of protective duties, provided it is exempted from the burdens of internal taxation?

Mr. F. THOMAS. Mr. Chairman, I desire to say that I shall vote very cheerfully for the proposition submitted by the chairman of the Committee on Appropriations, [Mr. STEVENS,] because it does not conflict in the slightest degree with the purpose which I have in view. I accord very fully with all the arguments of that gentleman. I am willing to vote to amend the section, and shall then vote to strike out the section thus amended.

The principal purpose which I had in view in rising was to respond to the remarks of the gentleman from Ohio, [Mr. GARFIELD.] We have heard calculations about the amount of income derived from the tax upon the coal interests of the country; and it has been asserted by the gentleman from Ohio that with the amount of revenue thus derived we might purchase nearly the whole of the coal imported from the British Provinces. Sir, is that a fair, a legitimate mode of treating this question? What we are to consider, in legislating upon questions of this sort, is not the present, but the future, of the country. Was not a similar argument used with great effect when the cotton interest of the South was in its infancy; when a thousand pounds of cotton was the sole product of a section of country which in recent years, prior to the mad infatuation of the occupants of that section, yielded three million bales?

I need not dwell upon this theme. It is the mere a b c of all the learning on this subject of tariff and protection. Interests of this character demand in their incipiency the fostering care of the Government, not with a view to the present, but with reference to their future bearings upon the destiny of the country. And, sir, I hesitate not to affirm that no interest in this country has so vital and momentous a bearing on our future population, our future wealth, our national independence, as this very coal interest to which I have adverted. Why, sir, to what can Great Britain trace her present commanding position among the nations of the world? To what can she trace her vast dominions embracing so large a part of the habitable globe? To her manufacturing interest at home, based upon the coal mines of Cornwall and other sections. If Great Britain had heeded such arguments as have been urged here to-day, and had failed to extend a fostering and cherishing care to her coal interests as the foundation of her navy, as the foundation of her manufactures, and those manufactures the foundation of an immense commerce, we should not have witnessed to-day that overpowering empire which has so long been the admiration of the civilized world.

What has been done within the compass of the coal regions of England can be done here. What has been done there under her institutions would be more than accomplished under our beneficial institutions. There are in Manchester, Leeds, Birmingham, Liverpool, millions of people, every one of whom would be thrown out of employment to-morrow if her coal-beds were exhausted.

But I will not go further into that subject. It is only necessary to take the position so well fortified by the gentleman from Pennsylvania, [Mr. KELLEY.]

The CHAIRMAN. The gentleman's time has expired.

Mr. LYNCH. At the request of the gentleman from Ohio I withdraw my amendment, on condition he renews it.

Mr. GARFIELD. I renew it. Mr. Chairman, I only rise to say the distinguished gentleman from Maryland [Mr. F. THOMAS] has utterly misunderstood and misapprehended my remarks. It was far from my purpose to disparage the extent and importance of the coal interest. On the contrary, I hold it to be one of the largest interests of the country. I know we have more coal than all other countries put together, so far as has yet been developed.

Mr. F. THOMAS. I misunderstood the gentleman from Ohio.

Mr. GARFIELD. What I said was, the coal interest opposing our coal interest was small. I said that the revenue from our coal of six cents per ton would pay within one quarter of the entire value of the coal brought from the Canadas. It seems to me, therefore, when that interest has thrived for ten years under free trade with Canada it can now survive fifty cents as a protective tariff. I withdraw the amendment.

Mr. F. THOMAS. I misunderstood the whole compass of the gentleman's speech. It is impossible for gentlemen in five minutes——

Mr. MORRILL. I move that the committee rise to close debate.

Mr. KELLEY. Permit me to reply to the gentleman from Ohio.

Mr. MORRILL. I yield for that purpose.

Mr. KELLEY. Mr. Chairman, it was the misfortune of the House, and it will be a misfortune to the country if his argument prevail, that the gentleman from Ohio [Mr. GARFIELD] was absent from the House when the discussion of this subject took place on Wednesday. Like the chairman of the Committee of Ways and Means, he does not distinguish between bituminous and anthracite coal. He says Pennsylvania pays more than six hundred and forty-four thousand dollars of internal revenue on her coal. The next State paid $60,000, and Maryland only some forty thousand dollars. Yet Maryland is as rich in bituminous coal as Pennsylvania, but the reciprocity treaty has prevented the working of her mines. Pennsylvania paid on her anthracite coal which is not touched by this bill. The arguments of the gentleman on the provisions of this bill do nothing to protect American industry. They are operative only against the colonists. The provisions of the bill simply give England a greater advantage over her American Provinces than she now enjoys but do not protect our miners. While competing with her Provinces which are sending bituminous coal into our country free of duty under the so-called reciprocity treaty, she could send in one ton to every two sent to New York or any State east thereof. She has poured in her coal and will continue to pour it in upon us, notwithstanding the fact that she pays $1 25 per ton and the colonies send it free of duty. Even now, English coal goes into New Orleans, when they ought to get their supply from Missouri. How does she do it? It is carried as ballast in her cotton-vessels, and being delivered free, or almost free of freight, closes the market which Kentucky, Tennessee, and Missouri ought to supply at the mouth of the Mississippi. The question is one in which every laboring man in the country is interested.

Sir, do gentlemen wish to reduce the colliers of our country to the condition of those of England? The blackest page of the shame of England is the report of the parliamentary committee to inquire into the condition of her colliers and mine laborers. It proclaims the fact that naked men and women, ay, naked men and women, were indiscriminately harnessed to boxes, which they dragged through passages so narrow that they must crawl on their hands and knees to bring the coal to where it might be deposited in cars that could be drawn by quadrupeds. It showed that men and women were thus employed who had never heard that God was the name of a being, and others that knew not that He had a Son whom the Christian world revered as its Redeemer. It proved that many of them were not only hatless, but were regardless of the commonest proprieties of life, and knew not the moral value of clothing. It showed that among the laborers in the mines of England and Wales there was no distinction between the sexes, and that many of the children born and reared there had no means of knowing or guessing who their paternal parents were. I beg leave, limited as my time is, to ask gentlemen whether they desire to bring the laboring people of the United States to a condition like that. I ask them to pause, and especially do I ask the gentleman from Ohio, [Mr. GARFIELD,] who represents a district in which there are collieries, to pause before he says American labor shall not be protected against the competition of people who are content with the wages and life of the people described in that report.

Mr. MORRILL. What do the colliers receive?

Mr. KELLEY. If I had the parliamentary report I could speak exactly about it. It is years since I read it, and I do not carry all the minute facts in my mind; but I believe I have faithfully depicted the condition of these people as reported to Parliament by the commission it raised to make the inquiry.

Mr. MORRILL. I move that the committee do now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. RAYMOND reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly the bill of the House (No. 337) regulating trade with the British North American possessions, and had come to no resolution thereon.

BUSINESS FOR TO-MORROW.

Mr. STEVENS. I should like to have a session for business to-morrow. [Several MEMBERS, "Oh, no."] There seems to be objection to that, and I will therefore ask that to-morrow be devoted, as Saturdays have been lately, to the discussion of the President's message as in Committee on the Whole.

No objection was made.

Mr. STEVENS. Let me give notice now, that next week I shall ask the House to hold evening sessions for business.

REPORT ON IMMIGRATION.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of State, transmitting, in compliance with the act of July 4, 1864, a report of the Commissioner of Immigration, on the expenditures, &c., since the establishment of the bureau; which was referred to the Committee on Commerce, and ordered to be printed.

CLOSE OF DEBATE.

Mr. MORRILL. I move that all debate in Committee of the Whole on the state of the Union on the pending section, and the amendment thereto, of the bill now before the committee, terminate in one minute after the committee shall resume the consideration of the same.

The motion was agreed to.

TRADE WITH BRITISH AMERICA—AGAIN.

Mr. MORRILL. I now move that the rules be suspended, and that the House resolve itself

into Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended, and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. RAYMOND in the chair,) and resumed the consideration of House bill No. 337, regulating trade with the British North American possessions.

Mr. MORRILL. I merely desire to say that I am informed by gentlemen of this House that men who own a large amount of capital in coal mines have received extravagant dividends for the last few years, and will receive them, even if this bill shall pass. I am also informed that there is a greater price paid for the labor of common colliers than that received by men of education or skilled artisans.

The CHAIRMAN. The time allowed by the House for debate upon this section has expired.

The question being upon the amendment offered by Mr. STEVENS, it was put; and there were—ayes 61, noes 48.

Mr. MORRILL. I demand tellers.

Tellers were ordered; and Messrs. STEVENS and MORRILL were appointed.

The committee divided; and the tellers reported—ayes 66, noes 58.

So the amendment was agreed to.

The question then recurred on the motion of Mr. F. THOMAS, to strike out the whole paragraph in relation to coal.

Mr. F. THOMAS. I have been asked by so many gentlemen who have given friendly votes upon this question, to withdraw that motion, that I will do so. I now withdraw that motion.

Mr. DARLING. I move, *pro forma*, to strike out on line five the words "to say."

I am opposed entirely to all the provisions of this bill. Canada has not, neither has the mother country, commended herself to our special regard or consideration. If Canada wants any protection at our hands let her come under the protection of the stars and stripes, which protect the interests of all who owe it allegiance and respect its power. I withdraw my motion.

Mr. BLAINE. I move to strike out from line six to line eleven, on page 2, inclusive, as follows:

On lumber, hemlock and spruce, round or sided, one half cent per cubic foot; when hewn square, three fourths of one cent per cubic foot; when sawed, and valued at seven dollars or less per thousand, one dollar per thousand feet; when valued at over seven dollars per thousand, two dollars per thousand feet.

And to insert in lieu thereof the following:

On lumber, hemlock, round, split, or sided, one half cent per cubic foot; when hewn square, three quarters of one cent per cubic foot; when sawed, one dollar per thousand feet.

On lumber, spruce, round, split, or sided, one half cent per cubic foot; when hewn square, three fourths of one cent per cubic foot; when sawed, two dollars per thousand feet.

I offer this amendment with the assent of the chairman of the Committee of Ways and Means; it only makes it more specific.

Mr. MORRILL. Allow me to say that personally I have no objection to this amendment, but it has not received the sanction of the Committee of Ways and Means.

Mr. BLAINE. I referred only to the gentleman, not to the committee. As the provision reads now, it puts hemlock and spruce timber together and subjects them to the same duty.

The question being on Mr. BLAINE'S amendment,

Mr. ELDRIDGE demanded tellers.

Tellers were ordered; and Messrs. BLAINE and ELDRIDGE were appointed.

The committee divided; and the tellers reported—ayes 65, noes 35.

So the amendment was agreed to.

Mr. SPALDING. I move that the committee do now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. RAYMOND reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly the bill of the House (No. 337) "regulating trade with the British North American possessions," and had come to no resolution thereon.

And then, on motion of Mr. ALLISON, (at twenty-five minutes to five o'clock p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to appropriate committees:

By Mr. BANKS: The petition of Mrs. Almira H. Thompson, for compensation for services in military hospitals in Missouri, Tennessee, Arkansas, Louisiana, and the comfort and care of sick and wounded men of the Army of the United States.

Also, the petition of Charles Colburn, for compensation for service in the Navy.

By Mr. BOUTWELL: The petition of Marlboro Savings Bank, asking for a reduction of tax.

By Mr. BUNDY: The petition of Garrett & Co., and 51 others, proprietors of and laborers at Union Furnace, Lawrence county, Ohio, for an increase of the tariff to promote the industry and production of the country.

Also, the petition of 46 others, from the same place, on the same subject.

By Mr. DAVIS: The petition of John J. Blair and Lucius B. Cracke, praying the passage of an act to make a certain bridge over the Mississippi river at Clinton, Iowa, a postal route and highway of the United States.

By Mr. DELANO: The memorial of Henry Horne, of Macon, Georgia, for relief and remuneration for money loaned to a Rev. Father Whelan, a Catholic priest, who expended the same in ministering to the sick and wounded soldiers of the United States Army in the Andersonville camp of prisoners.

By Mr. DEMING: The petition of United States assessors for first congressional district of Connecticut, for increased pay.

By Mr. GARFIELD: The petition of mechanics and laborers of Youngstown, Ohio, for an increase of tariff so as to protect labor to the extent of the difference of the cost of capital and labor here and abroad, with the addition of the taxes paid by American industrial products from which the foreign are free.

By Mr. HOOPER, of Massachusetts: The petition of the Institution of Savings in Canton, Massachusetts, for relief from the tax on their deposits.

Also, the memorial of the Board of Trade of the city of Boston, Massachusetts, in aid of the memorial of the Chamber of Commerce of the city of San Francisco, California, for an appropriation for the removal of Rincon and Blossom rocks in the harbor of San Francisco.

By Mr. HUBBARD, of Iowa: The petition of 89 citizens of Marshall county, Iowa, asking Congress not to restore any State that has rebelled and warred against the United States to its place and power in the Union till adequate security has been obtained against its renewing the attempt to secede; against its being represented in Congress beyond its just proportion according to its voting population; against any payment for debt incurred in rebellion or for its emancipated slaves; and against any distinction in its constitution, laws, or municipal regulations on account of color or descent.

By Mr. INGERSOLL: The petition of James L. Short, James W. Carpenter, J. H. Aley, and 30 others, citizens of Galesburg, Illinois, praying for a law regulating inter-State insurance.

By Mr. JENCKES: The petition of Providence Institution for Savings, for amendment of internal revenue act.

By Mr. KELLEY: The petition of 5 officers of the United States Army, praying for an increase of pay adequate to meet their necessities.

Also, the memorial of 150 citizens of Montgomery county, Pennsylvania, praying for an amendment in the tariff laws so as to protect the labor of this country to the extent of the difference of the cost of capital and labor here and abroad, with the addition of the taxes paid by American industrial products from which the foreign are free.

Also, the memorial of 51 inhabitants of Wilmington, Delaware, respectfully but earnestly entreating your honorable body to adopt such a proposed amendment of the United States Constitution; to be presented to the several States for ratification, as will forever prevent every State from making any distinction in civil rights and privileges among the naturalized citizens of the United States residing within its limits, or among persons born on its soil, on account of race, color, or descent.

Also, the memorial of 31 paper manufacturers and dealers and stationers, of Philadelphia, Pennsylvania, respectfully protesting against the passage of a bill now before your honorable body, which empowers the "Postmaster General to sell stamped envelopes at the value of the stamps impressed thereon;" that the effect of second section of the proposed law, if passed by the Congress of the United States, would be a great pecuniary loss to the Government of this country, a manifest injustice to a large and important branch of national industry, and a detriment to the entire people of this Republic.

Also, the memorial of 22 paper manufacturers and dealers and stationers, of Philadelphia county, Pennsylvania, respectfully protesting against the passage of a bill now before your honorable body which empowers the "Postmaster General to sell stamped envelopes at the value of the stamps impressed thereon;" that the effect of second section of the proposed law, if passed by the Congress of the United States, would be a great pecuniary loss to the Government of this country, a manifest injustice to a large and important branch of national industry, and a detriment to the entire people of this Republic.

Also, the memorial of 37 paper manufacturers and dealers and stationers, of Philadelphia county, Pennsylvania, respectfully protesting against the passage of a bill now before your honorable body which empowers the "Postmaster General to sell stamped envelopes at the value of the stamps impressed thereon;" that the effect of second section of the proposed law, if passed by the Congress of the United States, would be a great pecuniary loss to the Government of this country, a manifest injustice to a large and important branch of national industry, and a detriment to the entire people of this Republic.

By Mr. LOAN: The petition of Isaac H. Sturgeon, president of the North Missouri Railroad Company; George Taylor, president of the Missouri and Pacific Railroad Company; Thomas L. Price, of the Union Pacific Railroad Company, and others, asking that iron used for the construction of iron railroad bridges may be exempted from all custom and excise duties.

By Mr. MORRIS: The petition of Isaac W. Hartshorn, and over 90 others, citizens and tax-payers of Yates county, New York, protesting against a renewal of the so-called reciprocity treaty with Canada.

By Mr. NIBLACK: The petition of Levi Ferguson, late captain in the one hundred and forty-sixth regiment of Indiana volunteers, praying for an allowance of three months' extra pay.

By Mr. O'NEILL: The petition of Jacob Senneff, praying for an extension of his patent for making heddles.

Also, petitions, signed by 319 citizens of Philadelphia, praying that Congress may adopt at its present session an amendment to the Constitution providing for a ratio of representation based upon the number of voters of the several States, instead of, as at present, upon the whole population; and after the adoption of such an amendment, that its ratification by the people of the seceded States shall be one of the conditions precedent to their readmission to the Union.

Also, petitions, numerously signed by mechanics, workingmen, and operatives in the Continental mills and Manayunk mills, Philadelphia, praying for further increase of duties on imports so as to protect American manufactures.

By Mr. RICE, of Massachusetts: The petition of officers of the Boston Penny Savings Bank, for exemption from tax on deposits in that institution.

By Mr. SPALDING: The petition of Otis Guild, and others, citizens of Ohio, asking that the surviving soldiers of the war of 1812 be placed on the pension list.

By Mr. STEVENS: The petition of citizens of Lancaster county, Pennsylvania, praying for a mail route from Gordonsville to Intercourse.

By Mr. WASHBURNE, of Illinois: The petition of women of Jo Daviess county, Illinois, praying Congress "in order to simplify the machinery of Government and insure domestic tranquillity, that you legislate hereafter for persons, citizens, tax-payers, and not for class or caste."

By Mr. WILSON, of Pennsylvania: The petition of the citizens of Oswego, in the county of Potter, Pennsylvania, praying Congress to propose an amendment to the Constitution of the United States, to be presented to the several States for ratification, as will forever prevent every State from making any distinction in civil rights and privileges among the naturalized citizens of the United States residing within its limits, or among persons born on its soil, on account of race, color, or descent.

HOUSE OF REPRESENTATIVES.

SATURDAY, *March* 10, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

The SPEAKER. By the order of the House, no business is in order to-day except debate as in Committee of the Whole upon the President's annual message, upon which the gentleman from Indiana [Mr. ORTH] is entitled to the floor.

TRUE BASIS OF RECONSTRUCTION.

Mr. ORTH. Mr. Speaker, the rebellion, which so recently convulsed our beloved country like an earthquake, has ceased, so far as it manifested itself in armed hostility, but, like the earthquake in the material world, its reverberations still remain. The ground on which we tread is unsteady; we feel its motion; it may be only the undulations which follow the shock, or it may be (which God forbid) the premonitory symptoms of another visitation.

Man cannot control the material forces of nature; these are beyond his wisdom and his power; but the virtue and patriotism of the American people may so control and fashion the political elements of the country as to prevent a recurrence of the horrid scenes which are so vividly impressed upon our memories. The people, under our form of government, can only act through their agents, to whom for the time being they have confided their political power, and from whom they expect, and have

a right to expect, an honest, fearless, and patriotic discharge of duty.

In the contest with treason on the field of battle they looked with confidence to the soldier, nor did they look in vain. The soldier met the responsibility, and with steady tread, whether amid days of gloom and despondency or of brightening prospects, he pressed forward to the accomplishment of his mission. He felt that the eyes of the world were upon him; that the prayers of the good were offered up for his encouragement; that to fail in such a cause was to turn back the dial-plate of time a hundred years; hence he pressed on until victory, thorough and complete in all its parts, crowned his efforts, and the eagles of the Republic were everywhere in the ascendent. His work done and well done, the soldier returned to the ranks of the citizen, crowned with immortal honors and welcomed by the plaudits of the country.

Now the work of statesmanship commences. The terrific contest has left its traces wide and deep; the foundations of society in the immediate theater of the war have been broken up; no such earthquake can shake the land and leave no marks of desolation; the shock has shattered and broken some of the majestic columns of our political edifice; their fragments are visible to our sight; but though turret and column have been disturbed, the grand old foundation of the fathers, laid strong and deep in the principles of universal freedom and humanity, still remains, ready to receive a superstructure more beautiful in design, more perfect in all its parts; a superstructure which it is the duty of wise statesmanship to erect.

Upon the members of this House devolves in a great measure this responsible work. We dare not shrink from the trust without incurring the just imputation of cowardice, and we cannot avoid this responsibility if we are true to those whose voices we speak on this floor.

To gather up and repair the shattered columns, to erect the superstructure in unison with the great principles of the foundation, and to harmonize the whole with truth, with justice, with freedom, and with humanity in its broadest sense, is a labor equal if not superior to any ever committed to the wisdom and patriotism of man. If we succeed in this work each one of us can say, in the language of the Roman poet, "I have builded a monument more enduring than brass." If we fail, it can with truth be said of us, "It were better we had not been born."

As in the case of the soldier, the people look to us with confidence; like the soldier let us meet the responsibility, and amid days of gloom or of brightening prospects, press forward to accomplish our mission, feeling that the eyes of the world are upon us; that the prayers of the good are offered in our behalf, and that a failure here will make of Vicksburg and Donelson, of the Wilderness and Gettysburg, mocking disasters; and the sacrifices of the Army, the Navy, and the people, will turn to bitterness and to woe.

The people will not falter in this work however much we may falter. Our hesitancy, or blindness, or recreancy, may postpone the final result, it cannot destroy it; for let me assure this House that a people whose bravery and sacrifices are the wonder of the world, will recover from our errors and mistakes as during the rebellion they recovered from other errors and mistakes, and will not cease their efforts until throughout the American Republic but one great law shall be known, recognized, and enforced for every citizen.

RESTORATION OF THE LATE REBEL STATES.

We cannot for any great length of time continue in the anomalous condition we now occupy. Sooner or later these States must be restored to their practical relations in the Union. Our interest and our duty alike demand it. This Republic cannot remain long in its present dismembered condition, nor will it, in my opinion, remain so for any great length of time. But we must remember that while time is measured by days in whatever pertains to individual man, it is measured by years in the growth, consolidation, and perfection of nations.

"Make haste slowly" seems to be the voice of our people, for errors committed now may require ages to correct; and the builder to whom is intrusted his part of this "restoration" must do his work in such a manner that when completed, not only himself, but the world shall be able to say, "It is well done."

Before the assembling of Congress nothing had been done or could be done toward restoring the rebel States, except such action as the President might take under the war powers of the Constitution, and this was of course only provisional in its nature. It was his duty to protect the people of the rebellious States (after their surrender) in their social and civil rights, so far as possible, by the establishment of military rule, and to advise the people to initiate the process of civil government.

Thus matters stood at the meeting of Congress. The President had gone to the extent of his authority, and now Congress must take up the work and carry it forward to completion. No time was lost by either House in entering upon this work with a calm deliberation befitting its gravity. Every step taken was traveling in a new and untried path, the world's history furnishing no precedent for our guidance; and hence the necessity for greater caution and circumspection. No time has been lost in collecting evidence and providing *data* upon which to come to safe conclusions; and I venture to affirm that the croakers and maligners of this Congress will themselves be astonished at the magnitude of our work when our actions shall have passed into history.

We have yet hardly had ninety working days, a mere speck when compared with the time which was deemed necessary to establish our Government after the treaty of peace with Great Britain; and the assertion is made in no spirit of arrogance that the work now devolving upon the Government is second only in importance and difficulty to the work of the fathers.

Whence comes this unmeaning and senseless clamor for speedy action? Does it come from the men who stood by the nation during the five long and bloody years through which we have at last so triumphantly passed? No, sir! No! The clamor comes mainly from those whose hearts were not on the side of their country during the war, from those who in solemn convention at Chicago declared "the war a failure," who constantly voted against men and money to prosecute the war, who derided and scoffed at the soldiers, branding them on all occasions with the opprobrious epithet of "Lincoln hirelings," who sent no cheer to the soldier in the field or in the hospital, and who were continually proclaiming "You cannot conquer the South." Who else are clamorous? The reconstructed, but I fear, unrepentant rebels, anxious doubtless to be able soon to strike hands with their northern sympathizers, who now, as during the war, are their willing champions.

Congress has no difficulty in coming to the conclusion whose voice they should obey.

Slowly, surely, deliberately we shall pursue our work, determined to do it right so far as we can, under the providence of God, perceive the right, regardless of clamor, abuse, or vituperation.

What department is vested with the power of reconstruction?

The legislative branch of the General Government is alone clothed with authority to recognize State governments. This is a proposition, in view of our constitutional and judicial history, so clear as hardly to admit of argument.

The *status* or condition in which those States were left by the rebellion was tersely and truly stated by President Lincoln, when he said, "We all agree that the seceded States are out of their proper practical relations with the Union." He never for a single moment entertained the dangerous dogma "that those States" lost nothing by going into rebellion; that "the war being over, all that is necessary to complete the Union is to permit the late rebel communities to send their representatives to Congress, and no questions shall be asked." This convenient doctrine might suit rebels and rebel sympathizers, but loyal men will never give it their assent.

President Johnson, when called upon to act with reference to those States, soon after his accession to the executive chair, emphatically declared that the rebellion had deprived the people of the rebel States "of all civil government." I refer to the North Carolina proclamation, in which he uses this language:

"Whereas the rebellion which has been waged by a portion of the people of the United States against the properly constituted authorities of the Government thereof, in the most violent and revolting form, but whose organized and armed forces have now been almost entirely overcome, has, in its revolutionary progress, deprived the people of the State of North Carolina of all civil government."

Mr. SHELLABARGER. Will the gentleman from Indiana, [Mr. ORTH] allow me to interrupt him a moment at this point?

Mr. ORTH. Certainly.

Mr. SHELLABARGER. The gentleman from Indiana has just quoted from the proclamation in regard to North Carolina. It is a carefully prepared state paper issued under the attest of the Secretary of State, and the language of that paper has been seven times repeated. It is to be found in every one of the seven proclamations that have been issued, reconstructing seven of the States which have been declared to be in insurrection. The language just quoted by my friend embraces the proposition that the rebellion in its revolutionary progress has deprived those States of all civil governments.

Mr. ORTH. I alluded to the proclamation issued to the people of North Carolina simply because it was the first in the series. I was aware, that all the other proclamations took the same position, and it is a position which I venture to affirm will receive the cool, calm, and unanimous verdict of approval by the American people.

The civil governments, then, having been destroyed, how can they be again created, brought into existence, and restored to their "proper practical relations with the Union?" Do they like Minerva spring full grown out of the brain of some Jupiter, presidential or otherwise, and is no one to inquire into their paternity and see whether they come to us legitimately, or are base-born bantlings whom none but self-interested bystanders are willing to acknowledge, and then merely for the sake of infinite trouble and mischief? These States are now arising from the smoke and ashes of the rebellion, some of them so slowly that their progress is almost imperceptible, and, claiming to have reorganized their local constitutions, ask for recognition and representation.

Who is to examine and decide this claim—the executive, the judicial, or the legislative branch of the Government?

The Supreme Court has furnished an answer.

During the Dorr rebellion in Rhode Island, two State governments had an organized existence, both claiming to be the work of the people of that State, and questions growing out of this unsettled condition finally found solution in the case of Luther *vs.* Borden, 7 Howard's Reports, page 42, and where the Supreme Court says:

"Under this article of the Constitution it rests with Congress to decide which government [of the two set up in Rhode Island] is the established one, for as the United States guaranties to each State a republican government, Congress must necessarily determine what government is established in a State before it can decide whether it is republican or not. When the Senators and Representatives of a State are admitted into the councils of the Union the authority of the government under which they are appointed is recognized by the proper constitutional authority. And its decision is binding on every other department of the Government."

The duty is thus devolved upon Congress, and we have recently by solemn vote declared to the country that we intend to discharge this duty in due season, deciding the case of each State upon its individual merits.

While in the discharge of our duties here we must act in accordance with our own convic-

tions of right. Yet it is a pleasing reflection to the Representative to know that his action meets the approval of his constituency.

That noble organization, the Union party of Indiana, which during the trying scenes of the rebellion was able to meet the open, armed traitors in the field, as well as the secret and oath-bound conspiracy of the "Sons of Liberty" at home, recently, in State convention, announced by resolution—

"That it is the province of the legislative branch of the General Government to determine the question of reconstruction of the States lately in rebellion against that Government, and that in the exercise of that power Congress should have in view the loyalty of the people in those States, their devotion to the Constitution and obedience to the laws; and until the people of those States by their acts prove themselves loyal to the Government, they should not be restored to the rights and position enjoyed and occupied by them before the rebellion."

This comes to you, Mr. Speaker, to myself, and to our Union colleagues, from those whose voice we are commissioned to speak in these Halls, and proves to us, if proof were necessary, that our constituents are as quick to perceive the true path of national safety as they were brave and resolute when armed dangers threatened the country.

DO THE PEOPLE IN THESE STATES MANIFEST A PROPER SPIRIT OF LOYALTY?

Can we admit them to assist us in perfecting such measures of legislation as are demanded by the extraordinary events of the last four years? Is the old slaveholder to be intrusted with the power of providing for the security and safety of the manumitted slave? Is the traitor, whether "reconstructed" or not, to be transformed into the national legislator, with power to act upon such laws as the country demands for the punishment of treason, if not as an indemnity for the past at least as a security for the future? Let not this new-born zeal and love for "our erring brothers" carry us so far as to forget our duty to country and humanity in these hours of emergency and peril. Mercy, kindness, and conciliation are noble attributes of our nature, implanted for high and holy purposes, but like other attributes they are not to be abused. The people who have sacrificed so much, at home and in the field, are determined that "traitors shall be punished and treason made odious;" that these words shall have a living reality, and not to be regarded simply as the idle vaporings of the hour; that these words shall be words of power and of majesty, the growth and outburst of patriotism, and not a mere figure of rhetoric or a feeble promise made to the ear but broken to the hope.

And here let me say that the people will never forgive the public man, whatever position he may occupy, who shall be found derelict in his duty; who shall endeavor to hug treason and traitors to his bosom and turn his back upon those who so generously elevated him to power, and who forgets in the delirium of that power the sacred principles upon which he was so elevated. But I am digressing from the question whether the people in these States manifest a proper spirit of loyalty, and are in a fit condition to resume their position in the Union. Most gladly would I answer it in the affirmative could it be done without falsifying the daily and almost hourly occurrences which reach us from official and well-authenticated sources. The hope was indulged that with the surrender of the rebel armies we should also have a surrender of the rebellious spirit; that upon the dispersion of their military power the people would be relieved from what we had regarded as a military despotism, and that they would with alacrity return to their duty and allegiance as American citizens. In all these just expectations the country has been most sadly disappointed.

Were I not pressed for time I could give instances almost without number of the spirit of disloyalty and treason constantly manifesting itself in very large portions of the rebellious district; but I must content myself to refer to a few of the most striking cases, which are, however, fully illustrative of the general feeling.

B. G. Humphreys, formerly a brigadier general in the rebel service, was chosen Governor of the State of Mississippi, under the proclamation of the President, and after his election had to seek a pardon from the President (which was granted him) before he could enter upon the discharge of his executive functions.

The following extracts from his first message to the Legislature of Mississippi exhibit the "loyalty" of this reconstructed rebel general, namely:

"Under the pressure of Federal bayonets, urged on by the misdirected sympathies of the world in behalf of the enslaved African, the people of Mississippi, have abolished the institution of slavery, and have solemnly declared in their State constitution that the Legislature shall provide by law for the protection and security of the person and property of the freedmen of the State, and guard them and the State against any evils that may arise from their sudden emancipation."

Speaking of the Freedmen's Bureau, he says:

"How long this hideous curse, permitted of Heaven, is to be allowed to rule and ruin our unhappy people I regret it is not in my power to give any assurance, further than can be gathered from the public and private declarations of President Johnson, that 'the troops will all be drawn from Mississippi when, in the opinion of the Government, the peace, and order, and civil authority has been restored, and can be maintained without them.'"

Let us now pass to the State of South Carolina, and examine for a moment the "loyalty" of her reconstructed traitors. She has a Governor and a Legislature, by virtue of the proclamation of the President, and is supposed by many innocent persons to be faithfully discharging her duties and obligations to her people and the General Government, and entitled to take her place in the national councils.

Although she is, by some, claimed to be "a State in the Union," yet the President, in obedience to what he conceives to be his duty to that State, continues her under martial law, and governs her by the strong arm of military power.

That brave soldier, General Sickles, commands the chivalric South Carolinians, and so recently as the 17th of January, 1866, felt himself compelled, by "General Orders, No. 1," to wipe out a large portion of the statute laws of that State, and substitute military law, in order to insure safety and protection to her people. I subjoin a few extracts from that celebrated order:

"II. All laws shall be applicable alike to all the inhabitants. No person shall be held incompetent to sue, make complaint, or to testify, because of color or caste."

"VI. Freed persons, unable to labor, by reason of age or infirmity, and orphan children of tender years shall have allotted to them by owners suitable quarters on the premises where they have been heretofore domiciled as slaves, until adequate provision, approved by the general commanding, be made for them by the State or local authorities, or otherwise; and they shall not be removed from the premises, unless for disorderly behavior, misdemeanor, or other offense committed by the head of a family or a member thereof."

"XIII. The vagrant laws of the State of South Carolina, applicable to free white persons, will be recognized as the only vagrant laws applicable to the freedmen; nevertheless, such laws shall not be considered applicable to persons who are without employment, if they shall prove that they have been unable to obtain employment, after diligent efforts to do so."

"XV. The proper authorities of the State in the several municipalities and districts shall proceed to make suitable provision for their poor, without distinction of color; in default of which, the general commanding will levy an equitable tax on persons and property sufficient for the support of the poor."

"XVII. To secure the same equal justice and personal liberty to the freedmen as to other inhabitants, no penalties or punishments different from those to which all persons are amenable, shall be imposed on freed people; and all crimes and offenses which are prohibited under existing laws, shall be understood as prohibited in the case of freedmen; and if committed by a freedman, shall, upon conviction, be punished in the same manner as if committed by a white man."

I submit to this House and to the country, whether it is safe to recognize the late rebel States as fully entitled to representation so long as the President finds it necessary, through his military officers, thus to abrogate their State laws and enforce a military code, in order to protect any portion of their citizens.

It will not do to overlook the "Old Dominion" lying within view of this Capitol; hence let us see whether she, who has been so justly and so terribly scourged, is in any better condition than other of her "erring sisters." She, too, is yet under the surveillance of military authority, and so recently as the 24th of January, 1866, General Terry, who commands the "department of Virginia," felt himself called upon to set aside an act of her Legislature, the intention and effect of which was to resuscitate the old system of slavery, by another name, in defiance not only of the constitutional amendment abolishing slavery, but also in defiance of her own State constitution on that subject. I ask the Clerk to read his order.

The Clerk read, as follows:

RICHMOND, VIRGINIA, *January* 24, 1866.

By a statute passed at the present session of the Legislature of Virginia entitled "A bill providing for the punishment of vagrants," it is enacted, among other things, that any justice of the peace, upon the complaint of any out of certain officers therein named, may issue his warrant for the apprehension of any person alleged to be a vagrant, and cause such person to be apprehended and brought before him; and that if upon due examination said justice of the peace shall find that such person is a vagrant, within the definition of vagrancy contained in said statute, he shall issue his warrant directing such person to be employed for a term not exceeding three months, and by any constable of the county wherein the proceedings are had be hired out for the best wages which can be procured, his wages to be applied to the support of himself and his family. The said statute further provides, that in case any vagrant so hired shall, during his term of service, run away from his employer without sufficient cause, he shall be apprehended on the warrant of a justice of the peace and returned to the custody of his employer, who shall then have, free of any further hire, the services of such vagrant for one month in addition to the original terms of hiring, and that the employer shall then have power, if authorized by a justice of the peace, to work such vagrant with ball and chain. The said statute specifies the persons who shall be considered vagrants, and be liable to the penalties imposed by it.

In many counties of this State meetings of employers have been held and unjust and wrongful combinations have been entered into for the purpose of depressing the wages of the freedmen below the real value of their labor, far below the prices formerly paid to masters for labor performed by their slaves. By reason of these combinations wages utterly inadequate to the support of themselves and their families have, in many places, become the usual and common wages of the freedmen. The effect of the statute in question will be, therefore, to compel the freedmen, under the penalty of punishment as criminals, to accept and labor for the wages established by these combinations of employers. It places them wholly in the power of their employers, and it is easily to foresee that even where no such combination now exists, the temptation to form them offered by the statute will be too strong to be resisted, and that such inadequate wages will become the common and usual wages throughout the State. The ultimate effect of the statute will be to reduce the freedmen to a condition of servitude worse than that from which they have been emancipated, a condition which will be slavery in all but its name.

It is therefore ordered that no magistrate, civil officer, or other person shall, in any way or manner apply, or attempt to apply, the provisions of said statute to any colored person in this department.

By command of Major General A. H. Terry:

EDWARD W. SMITH,
Assistant Adjutant General.

Mr. ORTH. In this connection, let us see what that clearheaded patriot, General Schurz, says in his report to the President:

"There are two principal points to which I beg to call your attention. In the first place, the rapid return to power and influence of so many of those who but recently were engaged in a bitter war against the Union has had one effect which was certainly not originally contemplated by the Government. Treason does, under existing circumstances, not appear odious in the South. The people are not impressed with any sense of its criminality. And secondly, there is, as yet, among the southern people an utter absence of national feeling. I made it a business while in the South to watch the symptoms of 'returning loyalty' as they appeared, not only in private conversation, but in the public press and in the speeches delivered and the resolutions passed at Union meetings. Hardly ever was there an expression of hearty attachment to the great Republic, or an appeal to the impulses of patriotism; but whenever submission to the national authority was declared and advocated, it was almost uniformly placed upon two principal grounds: that, under present circumstances, the southern people could 'do no better;' and, then, that submission was the only means by which they could rid themselves of the Federal soldiers, and obtain once more control of their own affairs." * * * * * *

"The emancipation of the slaves is submitted to only in so far as chattel slavery in the old form could not be kept up. But although the freedman is no longer considered the property of the individual master, he is considered the slave of society, and all independent State legislation will share the tendency to make him such. The ordinances abolishing slavery, passed by the conventions under the pressure of circumstances, will not be looked upon as barring the establishment of a new form of servitude."

Mr. THAYER. If the gentleman from In-

diana [Mr. ORTH] will permit me, I would like to have read at the Clerk's desk a letter which I have just received from the State of Georgia. As it has a direct bearing upon the facts and questions the gentleman is now offering to the House, it may be well to have it read.

Mr. ORTH. I will yield for that purpose.

The Clerk read the letter, as follows:

AUGUSTA, GEORGIA. *March* 1, 1866.

MY DEAR SIR: Thinking you would like to hear the views and impressions of one located in the heart of the South, I have concluded to write you in regard to the State of the country here. Since I arrived I have studied the temper and disposition of the people of both of my district and this city, where I reside, and you will perhaps be astonished when I say to you that they are as intolerant and rebellious as any time during the war. I do not think they understand the situation in Washington. All this neighborhood is infested with mounted bands of desperadoes, who are ex-rebel soldiers, and who are murdering Union men and negroes by scores. In my district there are two such bands, one led by an ex-major of the rebel army. Only last night I received information that they had murdered two negroes. This fellow has eleven ears, cut from negroes, which he exhibits as trophies. I have seen two poor fellows whose ears were cut off. Mr. Beaton Smith (son of the late Dr. Beaton Smith, of Philadelphia) has just left my office; he has been driven from his plantation and robbed, simply because he is of northern birth; he is forbidden to return home, and is expecting hourly to hear his home has been burned. General King was dismounted and robbed of everything within a mile of this city; and the very streets of Augusta are unsafe for northern men after dark.

I have conversed with men of all classes here, and they say openly that they were not conquered but only laid down their arms because it was expedient to do so; and that they intend to resume hostilities the moment they see a chance of doing so with advantage. These facts you may rely upon, for I assure you I have seen the men on whom these devilish outrages were committed. I have seen the smoldering ruins of the property of northern settlers. It is no mere rumor or gossip. If desirable, it can be substantiated by hundreds of witnesses. Nothing but the strong arm of military power can bring these people to their senses, and we have not the force to do it with. The moment the troops are removed the citizens say openly that they intend to send every Yankee where they belong, and will attend to the negroes as they deserve.

I hope you will excuse this long letter, but I thought it my duty to give you an idea of the state of feeling here. You know I am not an extremist, but rather conservative in my views; but I do not like to see the people of the North misled.

I am, very truly, yours, ——— ———.

Hon. M. R. THAYER, M. C., *Washington*.

Mr. THAYER. For obvious reasons, I withhold from publication the name of the writer of this letter; but I desire to say that he is well known to me. He is a citizen of Philadelphia, of the most unimpeachable veracity and of the highest character; a gentleman whom I have known for many years, and about whose words no man can express the slightest doubt. I desire to say further, that the writer of this letter is a gallant officer of the Army of the United States, and while serving in defense of his country he has received two rebel bullets through his body.

Mr. ELDRIDGE. Does he support President Johnson or Congress?

Mr. THAYER. He is for his country and against traitors everywhere.

Mr. ORTH. I prefer not to yield any further at this time.

The press of the country has at all times been regarded as a fair exponent of the feelings and sentiments of the people in its immediate locality.

The old editors of the South whose business it was to "fire the southern heart" and prepare the way for treason, are again engaged in their nefarious work of stirring up strife and sedition and keeping alive a feeling of bitterness and hatred toward the Government which they failed to destroy. To such an extent has this evil grown as to call from General Grant the promulgation of this order:

HEADQUARTERS ARMIES OF THE UNITED STATES,
WASHINGTON, D. C., *February* 17, 1866.

You will please send to these headquarters as soon as practicable, and from time to time thereafter, such copies of newspapers published in your department as contain sentiments of disloyalty and hostility to the Government in any of its branches; and state whether such paper is habitual in its utterances of such sentiments. The persistent publication of articles calculated to keep up a feeling of hostility between the people of different sections of the country cannot be tolerated.

This information is called for with a view to their suppression, which will be done from these headquarters only.

By command of Lieutenant General Grant;
T. S. BOWERS,
Assistant Adjutant General.

The following communication sent to this House by the Secretary of the Treasury shows the great difficulty under which the Government is laboring while searching among the rebel rubbish of the South to find "loyal" men sufficient to fill the few revenue offices in their States. It is a rehearsal of the old story of Diogenes with his lantern hunting for an honest man. In fact, "but one such could be found in twenty-three of the most populous counties of the State of Georgia." I would respectfully suggest to the honorable Secretary that he will find plenty of men all over the loyal States, honest, capable, and willing to accept all the offices within his gift in these rebellious States, and who can take the "test oath" without the commission of perjury; and especially will he find such men among that noble army who are conversant with the State of Georgia, having accompanied the gallant Sherman in his "march to the sea."

ASSESSOR'S OFFICE, U. S. INTERNAL REVENUE,
THIRD DISTRICT OF GEORGIA,
AUGUSTA, *December* 20, 1865.

SIR: I am constrained to write you in relation to the repeal or modification of the "test oath" so far as it relates to the internal revenue officers, at least assistant assessors in southern States. I have labored assiduously to find competent men (who could take the oath) for assistants, and have to report that I failed to find any such, except in a single instance, in my district, comprising twenty-three of the most populous counties in the State of Georgia. I have organized my district by allowing the assistants to take the oath of office and allegiance and proceed to the discharge of their duties, trusting to Congress to provide for their payment, as directed by the Commissioner of Internal Revenue. Many of these men are very much reduced in circumstances by the war, and stand in imperative need of their pay in order to provide for their families. Indeed, some of them will be compelled soon to resign their places in order to engage in some business that will yield them ready money on which to live. I am satisfied that unless something is done in this matter immediately I shall be unable to assess the tax in my district.

If Congress would so modify the oath as far as it relates to officers of the Internal Revenue and Post Office Departments down here, I am sure it would be regarded everywhere and prove to be a patriotic measure—one in which both North and South are equally interested. Unless something of the kind is done I am at a loss to know what we are to do.

Respectfully, J. BOWLE,
Assessor Third District of Georgia.

Hon. HUGH MCCULLOCH, *Secretary of the Treasury.*

I do not think it likely that the present Congress, at least, will accommodate these Georgia gentlemen, who are now so anxious to fill office under our Government, and it will be for the people hereafter to say whether they will suffer men to be elected or appointed to any Federal office who have voluntarily borne arms in the rebel government, or given aid and comfort to the enemy.

Permit me, Mr. Speaker, to give another instance of this want of loyalty on the part of "our southern brethren." It occurred on the floor of the House but a few days ago, and the vivid impression it made will not soon be forgotten. The chairman of the Post Office Committee [Mr. ALLEY] had presented a bill in reference to postal affairs in the South, when the following colloquy occurred:

"Mr. BOUTWELL. Let me ask my colleague a question. Why has not a postmaster been appointed in every village, town, and city of the South?

"Mr. ALLEY. The reason is because the Postmaster General is so particular, and justly so, that he will not allow any man to serve in that Department who does not subscribe to the oath prescribed by the laws of the United States.

"Mr. BOUTWELL. Does the chairman of the Committee on the Post Office and Post Roads inform this House that there is not at least one loyal man in each post office district of the South?

"Mr. ALLEY. I mean to say there is not, at least the Postmaster General has only been able to find something like two thousand, being only one fourth of the whole, who could take the oath which the law prescribes."

Here is food for reflection. Let loyal men ponder it well! What is the remedy for this state of things?

We are told by the gentleman from Ohio, [Mr. FINCK,] who has preceded me in this discussion, that the panacea for these evils is the immediate repeal of the test oath of July 2, 1862, and he has already introduced a bill for that purpose. He is at least a bold, if not a brave, man who, in the light of our recent history, is anxious to break down this great barrier, and at this early day to invite the traitors to take possession of the Government. Wait at least, I pray you, until the blood of our murdered kindred shall have dried on rebel hands. Wait at least until the approaching spring shall cover with verdure the graves at Libby and Andersonville. Wait at least until the wounds of the soldier shall have had time to heal.

A justly incensed people will command you to wait until the last traitor shall sleep the sleep of death before that test oath shall be removed from the nation's statute-book.

My remedy for the evil is to appoint only loyal men to the offices of the Government, and where none such can be found in any particular locality, select them from other localities. An infusion of loyalty from the North will be beneficial to the South, and there is no better way to make treason odious than to place upon the traitor the brand that he shall forever be disqualified from holding any office under the Government which he attempted to destroy.

TENNESSEE.

The evidences of disloyalty to which I have called the attention of the House, exist in a greater or less degree all over the rebellious district, but particularly so in what are known as the Gulf States.

The border States now, as in 1861, when secession first swept over the land, are in a much better condition than those lying further South, and for the simple reason that, being in closer proximity to the loyal States, they are brought into more intimate relations with them socially and commercially, and thus, imperceptibly if you please, more readily imbibe loyal sentiments. In this category Tennessee occupies a most prominent position. We are told that liberty loves to dwell among the mountain regions of the world; that crags and precipices but seldom become the abode of despotism; and to this we can doubtless attribute the fact that among the rugged fastnesses of East Tennessee we have always found a spirit of freedom and of loyalty to the Republic equal to that of any other portion of the country. When we could not extend to them a helping hand, they rallied of their own accord to the defense of their homes and the old flag with sublime and heroic devotion, amid persecutions the most bloody and unrelenting of any that blacken the records of this rebellion.

When others feared and trembled for the safety of the Republic they never wavered in their support of the right; defeat and disaster seemed but to nerve them to deeds of nobler daring.

Patriotism so pure, and courage so undaunted, could not be without its effect, and long before the collapse of the rebellion her patriotic sons commenced the work of reorganization upon the basis of freedom and loyalty, which they have carried forward and maintained under difficulties which would have appalled less earnest men. Tennessee thus presents a much better position than the other revolted States. She effected a loyal State organization while the fires of rebellion were burning all around her. She has preserved such organization, adding to its efficiency and permanency every day. Of her own free will and accord she amended her Constitution, forever abolishing the institution of slavery, which was submitted to her people, and by them ratified and adopted. It is republican in form and not inconsistent with the Constitution and laws of the United States. She has passed, and still maintains upon her statute-books, a law disfranchising all her leading rebels for the term of fifteen years, and by her legislative acts granting to her freedmen civil rights and privileges, she has set an example which ought to be followed by some States in this Union whose loyalty has never been doubted. As another evidence of a purified public sentiment, her congressional delegation is composed, so far as I know them, of men upon whose garments there is not the

least taint of treason, some of them bearing honorable wounds as the result of their devotion to the Union. And yet with all this evidence in her favor we cannot close our eyes to this important fact, which is apparent from the testimony submitted to Congress, that it would be unsafe to withdraw our military protection from the State; that the effect of such withdrawal would be detrimental to the Union men, and might place the destiny of the State to a serious extent in the hands of the rebel portion of her population. This fact of itself is sufficient to justify Congress in acting with the utmost caution and deliberation in determining upon her restoration and right of representation.

Much of what I have said respecting the State and people of Tennessee will apply with equal force to the State of Arkansas, which, under the wise and firm military leadership of one of my own respected constituents, General Reynolds, is rapidly merging from the errors, the crimes, and the follies of rebellion, and preparing to assume a position of loyalty and devotion to the Union.

Would that I could say half as much in favor of the other rebel States; for if I know my own heart, I desire to see all the States once more in union and harmony with the General Government; but by no vote of mine shall they ever be recognized, until I am thoroughly satisfied that it can be done without jeopardizing in the least the peace, safety, and prosperity of our people.

CONSTITUTIONAL AMENDMENTS.

Our great charter of liberty, the Constitution of the United States, formed by wise and patriotic men, justly claims the regard and veneration of our people. For three quarters of a century it has protected our citizens, and demonstrated the fact, so long problematical, that man is capable of self-government. At its adoption but thirteen States formed the American Union, while now it embraces within its jurisdiction thirty-six States, while its capacity to control by its vast and complicated machinery an almost indefinite number of States hardly admits of a serious doubt. At one time but three million human beings acknowledged its authority and enjoyed its blessings. That number has increased tenfold, and still it protects them all. It has carried us safely through two foreign wars, and survived the terrible shock of a gigantic rebellion. Amendments to such a Constitution will not be made by the people without due deliberation and reflection. The changed condition of public affairs will, however, require its amendment; and when the people become convinced of the necessity for any change, they will undoubtedly act upon such conviction; for however much we may revere it, we will not lose sight of the fact that the Constitution was made for the people, and not the people for the Constitution, and that it is their right to mold and fashion the fundamental law to suit their own judgment. Five years ago the people were almost willing to amend it in the interest of slavery, providing that the institution should be perpetual, and yet to-day we find an amendment, but recently adopted with singular unanimity, declaring that slavery shall not exist in any portion of our wide domain.

Congress cannot amend the Constitution. Their action is merely initiatory; they can only propose amendments for ratification or rejection by the several States, acting either through the Legislatures or by conventions called for that specific object; and even this initiatory action must receive a two-thirds vote of each House of Congress before the States can be called upon to act, and such amendments must be ratified by the votes of three fourths of the States before they become a part of the fundamental law.

With all these safeguards and restrictions thrown around the Constitution, we may well assume that no changes will ever be made, except such as are regarded of the utmost necessity and importance.

The amendment abolishing slavery was a necessity growing out of the rebellion, and the people appreciated and acted upon that necessity.

So with the amendments now pending in Congress: the first providing against the assumption of the rebel debt, and the second with reference to the representation of the several States in the House of Representatives and the Electoral College. The second is demanded by the abolition of slavery, which, without such amendment, would give to the late slave States an undue and unjust amount of political power in the Government, for the reason that before slavery was abolished the slave States were entitled to representation for only three fifths of their slaves, while now they are entitled to representation for all their former slaves.

Representation should be based on actual voters in each State, and so long as the right of suffrage is withheld from the freedmen, so long should the States in which they reside be deprived of the exercise of political power based upon that population. This is a proposition so just, so democratic, that the American people will at no distant period make it a part of their Constitution.

Another amendment of great importance in view of the recent rebellion, and as a security, to a great extent, against any future rebellion, should be proposed by Congress, providing—

That any person who has been, or shall hereafter be, engaged in rebellion against the Government of the United States, shall be disfranchised and rendered incapable of holding any office of honor or emolument under the Government against which he rebelled.

These changes I regard as essential to our future welfare and safety as a people, and their adoption is demanded by the events of the last five years. We must never lose sight of the lessons taught us by such bitter experience, and if we are wise, if we are true to ourselves, we will profit by that experience, and thus add to the power and perpetuity of our Government.

In conclusion, Mr. Speaker, permit me to say that the country is not yet saved; the sentinel upon the watch-tower cannot yet be relieved. All the vast interests of the country which were involved and which suffered in this gigantic attempt to destroy our Government must receive the careful attention of years of wise and patient legislation, even after all the States shall have been recognized and restored. Questions of finance, of currency, the public debt, the regulation of trade and commerce, the protection of all our people, and especially the freedmen, in their rights of life, liberty, and property; questions of revenues, tariff, and taxation, justice to all our soldiers in the equalization of bounties, the revision of our pension laws, the development of our agricultural and mineral resources; all these, and more, must for years claim the attention of our people; and who so well qualified to solve all these important questions in the spirit of the age in which we live, and in the light of surrounding circumstances, as that party which has thus far preserved the Government from destruction?

We need no new party. Those who assumed the once honored name of "Democracy," under which to carry out their traitorous designs, and have thus brought deserved reproach upon themselves and their party cognomen, may need a new party organization to cover up and hide from merited public scorn the last five years of their history. The Union party, which sprang into existence when rebellion fired its first gun, which has stood by the Government under every difficulty and saved it thus far from subversion, is able under the providence of God to meet all present and future emergencies and solve all questions pertaining to our national safety and prosperity. Animated by the common dangers of the past, by the difficulties of the present, and the importance of the future, let Union men press on in the discharge of every duty, discarding mere questions of expediency, about which a difference of opinion may well be tolerated, and remembering that upon their united and patriotic action depends the salvation of the Republic.

RECONSTRUCTION.

Mr. STEVENS. Mr. Speaker, I must apologize to this House for the tameness of the remarks which I am about to make, and especially for their untimeliness. It will be remembered that at the opening of the session I made some remarks upon the condition of the country, and that I was replied to by the gentleman from New York, [Mr. RAYMOND,] and by the able gentleman from Ohio, [Mr. FINCK.]

A recess of Congress followed. When Congress reassembled for business on the 8th of January, I had prepared some reply to their remarks, and had obtained the floor for the purpose of delivering them, but the respectable gentleman from West Virginia [Mr. LATHAM] desired to make a speech on that occasion, and as he was a young member I yielded the floor to him, and have never since had an opportunity to deliver those remarks, which I did not consider important at any time; and they have lain by till now.

Now, as this is a school for debate, and as it has been intimated to me that my turn to speak had come, I have dug up the old manuscript, which is consequently tame, as the most of it has been since said by myself or others; and not being willing to lose the paper, [laughter,] I have come here for the purpose of saying now what I had intended to say then. It is pretty much as follows:

Since I had the honor to speak on the questions contained in the President's message relative to reconstruction, the gentleman from Ohio, [Mr. FINCK,] and the gentleman from New York, [Mr. RAYMOND,] have replied to it; in a few plain remarks I will show with how much effect. They have very properly directed their efforts to refuting a single proposition, as on that depended all subsequent questions. I asserted that the late "confederate States of America" had occupied a position which entitled them according to the law of nations to be considered and treated as a belligerent, entitled to all the rights and subject to all the liabilities of a belligerent engaged in a public war, and that they had been so acknowledged and treated both by ourselves and all the civilized nations of the world; that they formed a regular government, raised armies, fitted out vessels-of-war, and issued commissions to commanders both by sea and land which were accepted by us and by the civilized world as protecting those who fought under them from the charge of piracy and murder, and gave them precisely the same standing as the soldiers of two foreign nations at war with each other; that for four years they claimed to be a foreign, independent nation, and made war to maintain that declaration.

I argued from this state of facts that the people and States within the jurisdiction of the confederate government had severed their former connection with the United States, and broken the ties which bound them together, not justly or legally, but *in fact;* that the United States had conquered this formidable power, and as their conqueror had a right to dispose of them as they deemed for their own interest, always duly regarding the law of nations.

To prove the law arising from the facts, I cited several authorities both from elementary works of celebrated publicists, and adjudicated cases of courts of the last resort. I think no one will deny that *prima facie* these authorities made out my positions. Now, when learned gentlemen came to reply to an argument founded on legal authorities, and which is not pretended to be based on or even fortified by the opinion or judgment of the speaker, it was certainly to be expected that it would be met by other *legal authorities,* either modifying, contradicting, or overruling those already cited. Legal questions are to be decided by authority, by judicial decisions, or by the works of distinguished elementary writers. The mere unwritten opinion or judgment of no man or set of men delivered in debate can weigh a straw against such standard authority. I have looked through the speech of the distinguished gentleman from New York, (which I was not so fortunate as to hear,)

and do not find that he has cited a single authority on this point to contradict or explain those which I produced. Why not produce some authority? He does not deny the facts from which I reasoned. But he does deny that the civil war broke the bands of the Union, or dissolved the original condition of the nation. I had quoted Vattel where he says:

"Civil war breaks the bands of society and government." * * * * "They stand precisely in the same predicament as two nations who engage in a contest." * * * * "The State is dissolved, and the war between the two parties stands on the same ground *in every respect* as a war between different nations."

Now, sir, this, without multiplying authorities, makes out my main substantive proposition, from which all the others are corollaries.

The gentleman denies the correctness of Vattel's doctrine, and says the war did not "dissolve the States;" but he gives us no authority but his own. I admit the gravity of the gentleman's opinion, and with the slightest corroborating authority should yield the case. But without some such aid I am not willing that the sages of the law whom I have been accustomed to revere, Grotius, Rutherford, Vattel, and a long line of compeers, sustained by the verdict of the civilized world, and armed with the panoply of ages, should be overthrown and demolished by the single arm of the gentleman from New York.

The gentlemen say that this admits the doctrine of secession and the efficacy of the secession ordinances. The gentlemen are too shrewd to believe this stereotyped inference, but they may hope that others will believe it. The ordinances of secession amounted to nothing, either in law or in fact. It was the formation of a regular, hostile government, and the raising and supporting of large armies, and for a long time maintaining their declaration of independence, that made them a belligerent and the contest a war. Had there been nothing but secession ordinances it would have been "barren thunder." Who is stupid enough to believe that the assertion of a fact is the justification of it? Does the gentleman believe that the people are not astute enough to discern between the *right* and the *fact?*

The gentleman in one place says "that individuals, not States, made this war." Phillimore, as I quoted, says "individuals cannot make war." The Supreme Court says that this "war was made by States." I pray the gentleman to quote authority; not to put too heavy a load upon his own judgment; he might sink under the weight. Give us your author. The gentleman says, "The gentleman from Pennsylvania says they forfeited their State existence by the fact of rebellion." That is not my doctrine; but as others hold that doctrine, I argued that, if true, still my view of the proper power to reconstruct was the same, to wit, Congress. I never held to the suicide of States, though I think it possible; but it did not happen in the present case. The gentleman, in his colloquy with my colleague, [Mr. KELLEY,] stated the true doctrine of the existence of States, though it seemed to me wholly inconsistent with his other position, that this was a war of individuals, and not of States. His position is, that the rebel States have never been disorganized, but have been always under State government; and that their relation to the United States did not affect that question. So say I; and so I said two years ago. While others contended that the loyal people formed the State, I thought, and still think, that ALL the people within its jurisdiction who are legal citizens have an equal voice in the State government, without regard to character; that the control of republics depends on the number, not the quality of the voters. This is not a Government of saints. It has a large sprinkling of sinners. The eleven confederate States have always been well organized under State governments. True, after the rebellion they quit the Union, and organized under the confederate government. They were well-organized States; but they were not organized in but out of the Union, under laws very different from those of the United States. If they wish to reorganize their States, must they not come into the Union anew? But how come in, if they were never out? It seems to me it reduces the gentleman's argument to an absurdity.

The gentleman from Ohio is much more logical than the gentleman from New York. He contends that as the States were never out of the Union they may send Representatives here and demand admission under the Constitution without conditions or asking leave of any one. If both the gentlemen are right as to the *status* of the States, then the gentleman from Ohio is certainly right. What authority has the gentleman from New York to question the right of a member from a sovereign State, except upon the ground of his qualifications? By declaring these States never out of the Union, does not the gentleman see in what deplorable guilt he involves the President? What rank usurpations has he practiced in intermeddling with the domestic affairs of a State! All States in the Union are equal, as the gentleman from Ohio justly declares. How long would the President occupy the White House if he attempted the same things in New York and Pennsylvania that he has done in South Carolina, Alabama, and other rebel States? If I believed as the gentlemen do, I should deem it the duty of Congress forthwith to present articles of impeachment.

At this point I desire to say a word which may seem egotistic. You may have observed that since I made my first speech at the opening of Congress, giving my views on reconstruction, certain newspapers have been attempting to disturb the harmony which existed between the President and myself. In the most polite language and the most flattering epithets within their vocabulary, they have denounced me as the enemy of the President, and, with the aid of a certain high official, as having waged a successful war against him. Those journals have, perhaps unintentionally, done me too much honor. I will say, however, once for all, that instead of feeling personal enmity to the President, I feel great respect for him. I honor his integrity, patriotism, courage, and good intentions. He stood too firmly for the Union, in the midst of dangers and sacrifices, to allow me to doubt the purity of his wishes. But all this does not make me fear to doubt his judgment and criticise his policy. When I deem his views erroneous, I shall say so; when I deem them dangerous, I shall denounce them. While I can have no hostility to the President, I may have, and have, very grave objections to the course which he is pursuing. I should have forgot the obloquy which I have calmly borne for thirty years in the war for liberty, if I should turn craven now.

Mr. PRICE. I desire to ask the gentleman, with his consent, whether there may not be some mistake here. When I remember most distinctly that the public press of the country for the last few weeks has been repeating the name of a certain "THADDEUS STEVENS" as having been used by the President in a certain speech at the White House, and when I hear a gentleman whom I suppose to be the THADDEUS STEVENS referred to speak in such strong terms in favor of the President, I wish to know whether he is the same gentleman, or some other. [Laughter.]

Mr. STEVENS. Why, Mr. Speaker, does the learned gentleman from Iowa [Mr. PRICE] suppose for a single moment that that speech, to which he refers as having been made in front of the White House, was a fact? [Laughter.] I desire at this time to put the gentleman right. What I am going to say now, I do not wish to have reported. It is a confidential communication, and I presume none will violate the confidence I repose in them. [Renewed laughter.]

Sir, that speech which has imposed upon the gentleman from Iowa, which has had a considerable run, and has made some impression upon the public mind, was one of the grandest hoaxes ever perpetrated, and has been more successful than any except the moon hoax, which I am told deceived many astute astronomers. [Laughter.] I am glad to have at this time the opportunity (although I do not wish the matter to go before the public, for they might misunderstand my motives,) to exonerate the President from ever having made that speech. [Renewed laughter.] It is a part of the cunning contrivance of the copperhead party, who have been persecuting our President since the 4th of March last. Why, sir, taking advantage of an unfortunate incident which happened on that occasion, [laughter,] they have been constantly denouncing him as addicted to low and degrading vices. To prove the truth of what I say about this hoax, I send to the Clerk's desk to be read, a specimen of this system of slander. It is an extract from the New York World of March 7, 1865. Let the Clerk read that vile slander from the leading paper of the Democratic party.

The Clerk read, as follows:

"The drunken and beastly Caligula, the most profligate of the Roman emperors, raised his horse to the dignity of consul—an office that in former times had been filled by the greatest warriors and statesmen of the republic, the Scipios and Catos, and by the mighty Julius himself. The consulship was scarcely more disgraced by that scandalous transaction than is our Vice Presidency by the late election of Andrew Johnson. That office has been adorned in better days by the talents and accomplishments of Adams and Jefferson, Clinton and Gerry, Calhoun and Van Buren. And now to see it filled by *this insolent, drunken brute, in comparison with whom even Caligula's horse was respectable*, for the poor animal did not abuse his own nature! And to think that only one frail life stands between *this insolent, clownish drunkard* and the Presidency! May God bless and spare Abraham Lincoln!"

Mr. STEVENS. Now, Mr. Speaker, is it any wonder that——

Mr. NIBLACK. I beg to inquire of the gentleman whether that may not also be a hoax of the same kind as the President's speech.

Mr. STEVENS. That was a serious slander which appeared as an editorial in the New York World. That party, taking advantage of an incident which it is thought by many they themselves brought about, have been persecuting the President with such slanders as that ever since. But, sir, although they have asserted it from time to time, they have never made the loyal Republican people of this nation believe it, and they never could. We never credited it, but looked with indignation upon the slander which was thus uttered against the President of our choice. Being, therefore, unable to fix such odium upon our President by evidence which the lawyers would call *aliunde*, they resort, with the skill of a practiced advocate, to another expedient. My friend before me, [Mr. BINGHAM,] if he were trying in court a case *de lunatico inquirendo*, and if the outside evidence were doubtful, leaving it questionable whether the jury would adopt the view that insanity existed, would cautiously lead the alleged lunatic to speak upon the subject of the hallucination, and if he could be induced to gabble nonsense, the intrinsic evidence of the case would make out the allegation of insanity. So, Mr. Speaker, if these slanderers can make the people believe that the President ever uttered that speech, then they have made out their case. [Laughter.] But we all know he never did utter it. [Laughter.] It is not possible, sir, and I am glad of this opportunity to relieve him from that odium. But they had wrought it up in such a cunning way——

Mr. WINFIELD. The gentleman will allow me. May not we hope that the injunction of secresy will be removed from this earnest, generous, and sincere defense?

Mr. STEVENS. I hope not. [Laughter.] I hope the gentleman will not violate the confidence I have placed in him and all others. [Renewed laughter.] It is a confidential communication.

Now, Mr. Speaker, they worked it up pretty cunningly, enough to impose upon the people. For instance, they went into circumstantial account, as in the moon hoax. They pretended the counsel of the assassins of the late President escorted him to the stone wall on which they say he mounted in front of the White

House; and they said he was supported by a late rebel mayor of this city, who was gratuitously furnished lodgings in one of our penal forts for some time. [Great laughter.] All these circumstances they threw about it. The people may have been deceived; but we who knew the President knew it was a lie from the start. [Renewed laughter.]

Now, sir, having shown my friends that all it is built upon is fallacious, I hope they will permit me to occupy the same friendly position with the President I did before. [Laughter.]

Mr. PRICE. I am satisfied the House and the country will agree with me there was a mistake, a very great mistake, and although I have not lived as long as the gentleman from Pennsylvania, I have found history cannot always be depended upon, and but for this accidental occurrence that would have gone down in history as a fact. Probably, sir, the present and succeeding generations would not have discovered it had not this fact been opportunely developed. [Laughter.]

Mr. STEVENS. I know the gentleman is satisfied now it is all a hoax. [Renewed laughter.]

But I will proceed, sir. I am glad to find the President is not in the dilemma in which these gentlemen would put him. What he has done has not been done to "States in the Union," but to conquered provinces; and he has done it, not as President under any power in the Constitution, but as Commander-in-Chief of the Army, exercising military authority. In the exercise of such authority it is not surprising that he should sometimes mistake the dividing line between civil and martial law, and be tempted to overstep the boundaries of authority in pursuit of what his ardent patriotism supposed to be the public good. How unfortunate these men in power cannot realize that no permanent public advantage can arise out of disregard of organic law! Remember that I am arguing from the position of the States which the gentlemen assume for the President, and for themselves as the President's friends, not from my own position. The President goes into the State of Tennessee—a State in the Union say they, of course coequal with all other States—he appoints a provisional governor, which, if he means thereby a military governor, he had a right to do as Commander-in-Chief of a conquering army, if she was a conquered territory; but as a State what right had he to appoint a governor? Whence does he derive his authority? It is not in the Constitution of the United States nor in the constitution of Tennessee. He put it under martial law, and then directs his governor to call a convention of certain citizens to form a constitution. He fixes the qualification of voters. He finally prescribes the constitution which this convention shall adopt. Governor Brownlow in an address informs the people of Tennessee that as they were in rebellion the President has a right to order them what constitution to adopt. What a free people! What a republican restoration!

So of the others. South Carolina has a governor appointed in like manner. In rebuilding her government, as per order, she wanted to lay a foundation, and sent word to the President stating its shape. He orders them to give it another round. They do so, and await his approbation. Still another, he demands—to adopt the constitutional amendment. That body muster courage enough to demur to the second section. Mr. Seward scolds them with imperial dignity; tells them that "appropriate legislation" is a restraining term; tells them that they are querulous, and orders them forthwith to obey. Obedience was instantaneous; thanks to the virtue of martial law and fixed bayonets!

Virginia had assembled the free representatives of fragments of about eleven townships out of one hundred and forty-two counties, elected in spots between the contending armies on disputed ground—twelve men—who met within the Federal lines, called itself a convention, formed a constitution, ordered elections for the whole State, and Governor Peirpoint received about thirty-three hundred votes for Governor (half Yankee soldiers, I suspect) and was proclaimed in the market-house of Alexandria Governor of imperial Virginia, the mother of statesmen. In "reconstruction" the President acknowledged him as the Governor, and those twelve as the representatives of a million and quarter of people, and counts this Virginia as one of the twenty-seven States that adopted the constitutional amendment. I am fond of genteel comedy, but this low farce is too vulgar to be acted on the stage of nations. Are these free republics, such as the United States are bound to guaranty to all the States in the Union? Should these swindles, these impostures, bred in the midst of martial law, without authority from Congress, be acknowledged here?

But the gentleman from New York says that these proceedings were had under decrees from the President. When asked for the President's authority, he showed a distressing perplexity. Knowing that the Executive had no legislative powers, he derived the authority to him as Commander-in-Chief of the armies, and these acts as flowing from the right of conquest. But the gentleman forgets that these were no conquered people, but were merely "States in the Union" under the paternal care of their benevolent Father. But taking them as a conquered people, (their true condition, I admit,) and the President at the head of the conquering force, what right did that give him to create civil State governments or interfere with the duties of the law-making power of the nation? The gentleman knew that he had none. He then justifies the imposition of these governments as the terms of their surrender. Who before ever heard that any such terms were proposed or accepted? General Sherman undertook to incorporate into the surrender of Johnston's army certain terms for the future government of the rebels; but he was quickly relieved, and the terms discarded. The gentleman says:

> "My impression is that these requisitions are made a part of the terms of surrender, and it belongs to the Commander-in-Chief of the Army and Navy to fix the limits as to what they will embrace."

This will be news to Grant and Sherman. "Terms of surrender" are fixed before the enemy lays down his arms, not after.

Does the gentleman mean that the President is entering into a treaty and negotiating terms under the treaty-making power? With whom is he negotiating? If he claims it under the treaty-making power he must submit it to the Senate, two thirds of whom must "advise" and approve of it. I do not hear that he invokes any such aid. The gentleman is evidently at fault in tracing the source of this power to intermeddle with "States in the Union." There can be no such power. The President is made to misconceive his duties, and to treat with too little respect the powers of Congress.

The gentleman can see no analogy between the commission of a crime, murder for instance, and the disruption of the Union, both being forbidden by law; the murder having been accomplished and the disruption only attempted. That is begging the question. We say that the severance was accomplished, and until a reunion was complete *de facto*, we have admitted fact the law declared that result. We have cited authority. Contradict us by authority if you can. But have done with mere assertions, I pray you; that is merely the childish bandying of declarations. But gentlemen say that this is conceding the right of secession, and screening the rebels from punishment for treason. Need we again refute this shallow argument? We ask to punish them for the crime of secession perpetrated in *fact* but not in law. If nothing was done, why ask their punishment? Even conservatives agree that they should be fully punished by suffering the humiliation of asking and receiving pardon. The gentleman says they have "been punished as no community was ever punished before for the crime of treason which they have committed." Of course he would require no further punishment. How were they punished? Not by anything which the law calls punishment.

Being defeated in war is not punishment, except in the language of the pugilist, whose antagonist is said to be "punished" when he is knocked down. I do not agree with the gentlemen who sympathize so deeply with the rebels, "that they have been punished as a community was never before punished for treason." Search the whole records of crime, from the rebellion of the angels and the first transgression of man to the present day, and you can find nowhere so great a crime so inadequately punished. A rebellion only less guilty than that of the devilish angels was waged with fiendish cruelty against the best Government on earth until it cost that Government at least four billion dollars, and almost half a million of brave men, while they suffered but little more than half as much in either; and then when their arms were torn from them, they claim to be our "loving brethren," and always "in the Union!" And the claim is allowed! What punishment has followed? All the masses were released by one sweeping decree; and almost ever since the President has been employed, it is said with several clerks and a machine, in preparing pardons for rich rebels. All who made special application must have been worth more than twenty thousand dollars. While our loyal men have had their property stolen, robbed, and burned by order of these very men, they have had their property restored to them, even after confiscation; and the loyal tenants, who were placed on it by Government, have been turned out to starve. Did any respectable Government ever before allow such high criminals to escape with such shameful impunity? Who has been punished for this wholesale murder and plunder? One poor, insignificant, wretched foreigner (Wirz) has been tried and executed for acts for which his superiors, not he, ought to be held responsible; unless, indeed, this was a war of individuals and not of belligerents, as learned gentlemen contend. Then every confederate soldier was a murderer; and the high officials were innocent, as they dealt no blows, and theirs was not a government!

If this Congress has any respect for its own prerogatives, and for the rights of the people, the punishment which so distresses the gentleman from New York [Mr. RAYMOND] will not stop here. I have never desired bloody punishments to any great extent, even for the sake of example. But there are punishments quite as appalling, and longer remembered, than death. They are more advisable, because they would reach a greater number. Strip a proud nobility of their bloated estates; reduce them to a level with plain republicans; send them forth to labor, and teach their children to enter the workshops or handle the plow, and you will thus humble the proud traitors. Teach his posterity to respect labor and eschew treason. Conspiracies are bred among the rich and the vain, the ambitious aristocrats. I trust yet to see our confiscation laws fully executed; and then the malefactors will learn that what Congress has seized as *enemy's* property and invested in the United States cannot be divested and returned to the conquered belligerent by the mere voice of the Executive. I hope to see the property of the subdued enemy pay the damages done to loyal men, North and South, and help to support the helpless, armless, mutilated soldiers who have been made wretched by this unholy war. I do not believe the action of the President is worth a farthing in releasing the property conquered from the enemy from the appropriation made of it by Congress. No, sir; they have not been punished as they deserve. They have exchanged forgiveness with the President, and been sent on their way rejoicing. Why say that our doctrine screens them from the punishment of treason? Need gentlemen be taught the horn-book law, that in civil wars the parent Government may exercise both belligerent and sovereign rights? I trust gentlemen will not mislead the people who have not the books at hand.

Still another extraordinary proposition I have to notice. The gentleman says that if the "con-

federate States" were a belligerent, and have been conquered by the United States, that we became liable for the confederate debts by the law of inheritance. Will the gentleman excuse me for asking him in what book he finds any such startling doctrine? Who before ever conceived such an idea? The gentleman has confounded it with a usurper, who dethrones the reigning monarch and reigns in his stead. There the Government is the same; the nation is the same; the ruler only is changed. The debts of the nation are not repudiated, but the property and liabilities of the crown attach to the existing Government. But when one nation conquers another, it imposes such terms as it deems beneficial to itself. Assuming the belligerent debts is not among those benefits. When belligerent Europe conquered France, the allies did not assume the debts of the French nation. When belligerent America overcame the mother country and established her independence, she did not inherit or assume the debts of Great Britain. When England suppressed the great mutiny, I have not heard that she assumed or paid the debts of the court of Delhi.

Did the gentleman from New York adopt this idea from a suggestion of the learned gentleman from Ohio? If so, I beg that gentleman to be more cautious how he drops such heterodoxies, as he sees into what painful positions he leads confiding young men.

I was anxious that there should be no collision between the different branches of Government, no controversy as to the rightful jurisdiction of either. Hence I construed the President's message, (after having stated his views,) to refer the whole question of reconstruction to Congress, to whom it so evidently belongs. I regret to find the gentleman from New York, [Mr. RAYMOND,] who, with the gentleman from Ohio, [Mr. FINCK,] are evidently on confidential terms with the President, very much impairs my hope of harmony when he says:

"I cannot assent to the intimation thrown out by the gentleman from Pennsylvania that the President concurred in the views he had expressed, *or that he had handed the whole subject of pacifying the States lately in rebellion and of restoring the States to the practical exercise of their functions as members of the Union to the hands of Congress.*"

I regret extremely that this authoritative declaration of the position and determination of the Executive has placed him in an attitude to which, it seems to me, that Congress cannot submit without the most humiliating surrender of its rights and dignity. I cannot believe the legislative power of this great Republic, holding their sovereignty in trust for the whole people, will, while it is in session and capable of acting, permit any other branch of the Government to fix or dictate any of the terms upon which the conquered States shall be invested with the rights of citizenship. I trust the President has been misunderstood, and that he will at once disclaim this position.

Let us distinctly understand each other, in order that the different parties in this House, as well as every other department of the Government, may know precisely what position the other assumes. Let me ask a few plain questions; and I should be glad if the gentleman would give explicit answers.

1. Do you wish the Constitution of the United States to be so amended as to apportion the representation among the States according to the number of actual persons instead of the present basis of Federal numbers?

2. Do you wish it so amended as to authorize Congress to lay a duty on exports when $100,000,000 could be raised on exported cotton to aid in paying the interest on the public debt?

3. Do you wish it so amended as to prevent the assumption of the rebel debt or the repudiation of our own?

4. Do you wish it to provide that all laws, State and national, shall operate equally on all?

Will gentlemen answer candidly whether they wish the adoption of all or either of these amendments?

Will they with equal candor say whether they believe either of them could be adopted if the eleven confederate States were to be counted as States in making the requisite three fourths?

The gentlemen know that neither of said amendments could then be adopted.

If those amendments were desirable, will not gentlemen agree that even if we are not compelled to treat those States as out of the Union, yet that we are at liberty so to do by right of conquest? Surely the rebel States cannot gainsay it, as they have uniformly taken the same position.

If gentlemen will not agree to our assuming either of these propositions for the sake of perfecting our Constitution and doing some justice to the suffering North, then it is evident that such objection comes rather from partiality to the rebels than from love of the Union and a desire for the purification of our Constitution.

Those who desire the elective franchise to be extended to every native-born citizen of the South will find no other way of accomplishing it. In framing territorial governments, Congress can provide that all shall vote for members of the Legislature. In passing enabling acts to allow them to form constitutions, it is competent for Congress to provide for universal suffrage. Thus, no doubt, members would be chosen who would form a republican constitution. If they did not they might well be remitted to their territorial condition as Utah has been from year to year. To hope that the States when formed and admitted will ever grant that privilege is idle. To pretend that either the President or Congress by direct legislation can impose it on the States is worse than idle.

Gentlemen seem confident of the success of the plan of the Commander-in-Chief of the Army and Navy, and profess that the people will be with them. They have the great advantage of commanding almost the whole corps of the metropolitan press, which speaks to thousands. The people have to rely on their country organs, too many of which are edited by office-holders, or have the public printing. I am satisfied, from the renewed energy of those journals that worship at the shrine of power, that all the vigor of the Administration, and all the art which political magicians are master of, are to be put in requisition to conquer Congress. I observe that the organ in this city, in a strong editorial this week, asserts that no considerable portion of the people have differed with the President's plan, while he well knew that no disinterested portions except the Democrats agreed to it. The people ought to know the value of such bold editorials. It may corroborate the declaration of the gentleman from New York, [Mr. RAYMOND.] The weathercocks are veering to the cardinal points.

I understand there is but one paper in this country understood to be Union that opposes the policy of Congress. Every paper in my State, except one hermaphrodite paper in Philadelphia, and one belligerent paper in Harrisburg, edited by the postmaster, sustains Congress; and every man not an applicant for power in the Republican party, from the Alleghanies to the Delaware, every man who ever professed to be a lover of liberty, is this day for Congress, even though he may fall under the ban of the President.

Such, I am assured, is the case in the great Northwest, where the free winds of heaven blow over the prairies and purify the atmosphere; where sturdy men are willing to work and not to play the sycophant.

I do not speak of New York now in that connection, for I do not know much about her. I do not know who does. [Laughter.] They say that Secretary Seward professes to understand her; if he does, God knows he must be wiser than most men. [Renewed laughter.] Every paragraph in the papers there lauding the President is the outcrop of an official advertisement.

I have no fear as to the final result. The people have stood too firmly and borne the burdens of a four years' war too cheerfully to be willing to surrender the fruits of victory. Nor have I any fear of Congress. Members came too well fortified by the courage of their constituents to be seduced or driven from their positions.

I know that elsewhere, but not in this branch of Congress, the genial rays which emanate from the source of all light and warmth here will soften the spinal marrow of a few ill-contrived subjects; and frequent genuflections at the footstool of power will weaken the knees of others. You can easily designate them by their shuffling, cringing, fawning manner. They never stand erect when manhood is required. But the number is so few that a large majority will still stand by their own honor and their country's welfare.

To you who do not desire these reforms or any of them, I say frankly, it is of no importance by whom or when or how reconstruction is effected. For in three short years this whole Government will be in the hands of the late rebels and their northern allies.

To you who desire the above reforms or some of them, and believe them essential to the future prosperity and stability of the Republic, and, as necessary thereto, the continued ascendency of the Union party, let me say with all earnestness, discard every idea of reconstruction which does not put the conquered territory into territorial governments, or something equivalent; and thereby distinctly declare that in adopting those amendments their aid will neither be desired nor permitted, but that when they enter the Union they will swear allegiance to a Constitution to which the consent of their Legislatures will not be asked. Seek out every other invention and mode of reconstruction which is within the jurisdiction of Congress, or the power of the Commander-in-Chief, and none can be found which can secure us from rebel rule, and save the freedmen from laws more oppressive than the old slave code.

I had almost overlooked a very important item of the gentleman from Ohio. He says if Tennessee was reduced to a Territory, Andrew Johnson would not be eligible as President. The gentleman has not well consulted the Constitution. While the President must be a citizen of the United States, he can live in a Territory or even the District of Columbia, which was never a State.

If any of you have technical scruples, you can have none as to the power of the conqueror over the vanquished. Cut the Gordian knot, if you cannot untie it, and save the GREAT REPUBLIC.

Mr. Speaker, I have said a great deal more than I intended. Perhaps it is a little out of place. My remarks were prepared some time ago, and I have used them now for the same reason that President Lincoln signed a bill and then sent in a veto: he liked the veto and did not want to lose it. [Laughter.] I did not like to lose this speech, and so I now allow it to be embarked upon the surges of this turbulent debate.

Mr. GOODYEAR. Mr. Speaker, I have sought for several weeks past an opportunity to offer a resolution in the regular order of business, but without success. Not that the regular order is at all times observed. I am aware that the rules are suspended at any time by the majority whenever it is deemed necessary to press forward a measure sanctioned by a caucus or to restrict the debate to the side of the House where by force of numbers the proceedings are under absolute control. But for any gentleman on this side to hope for the accomplishment of anything out of strict rule is simply preposterous.

I occupy the floor at this time, not by courtesy, but by strict rule, and I know well, that even should I desire it the inexorable hammer would not be suspended an instant at my request. The knowledge of this fact will necessarily restrict my remarks to correspond with the given limits, and I choose the debate upon this subject for the reason that in the only opportunity I may have during the session it will allow the expression of opinions, the statement of facts, and a course of remark generally which might be deemed irrelevant and

improper upon any other question. The resolution to which I referred was, with the preamble, as follows:

Whereas taxation without the right of representation has from the earliest traditions of our Government been considered a tyrannical usurpation of power jusifying rebellion and revolution: Therefore,

Resolved, That the levying and collection of taxes by the Federal Government in States not allowed representation in Congress is oppressive and unjust, and ought to be discontinued.

Now, sir, I proposed to offer that resolution, not because I supposed there existed doubt here or elsewhere in this country as to the abstract right or want of right, but because it furnished an apt illustration of the absurdities into which the Government was being involved by a departure from the fundamental doctrines upon which our system is based. Of course I do not propose to discuss the question, for in the history of this Government it has been settled upon an occasion and in a manner too memorable to be now open for argument. Whatever other grievances were incorporated in the Declaration of Independence, it is well known that the infraction of this right was the sole moving cause which stimulated the colonies to resistance and successful rebellion. Still less do I propose to answer by argument the labored efforts of gentlemen to justify upon principles of international law the policy which it is their declared purpose to pursue in regard to the southern States. Why attempt a refutation when the whole reasoning is a patent subterfuge, intended to conceal the real purposes of the party? I presume no one here is deceived, whatever may be the fact as to the country at large. We all know here that these voluminous speeches are merely a fit illustration of Talleyrand's witty apothegm, "that language is given us to conceal our thoughts;" for who doubts here that all these proposed amendments to the Constitution, this endless array of speeches, in all their dreary length and dullness, point to one sole, fixed object, namely, the perpetuation of party ascendency based upon the exclusion of the southern States from all participation or interest in the Government? I have waited patiently from the commencement of the session in the vain hope that the action of the majority might indicate some returning sense of their responsibility for the interests, to say nothing of right or justice, of the whole country; some attachment for a Union which they profess, profession merely, to revere; and I may say, further, that the country has looked with a like anxiety for this development, and, I need not add, with a like feeling of disappointment and disgust. Further concealment is quite useless. Disguise it as you may, the main fact is becoming every day more apparent to the country, manifested by every vote upon the floor of this House, that the settled purpose of the party is adverse to any plan of reconstruction which, by admitting the southern States to representation in Congress and the Electoral College, might tend to impair the ascendency of the party in the administration of the Government.

That is to say, for the full performance of the programme we are to have a crippled nationality and dissevered Union maintained without limit as to time—at all events, until after the next presidential election, with all its baleful influences, commercial, social, national—merely for the purpose of continuing in power a political party, a party influenced in its actions by a painful consciousness that its very existence depends upon a dissolution of the Union, devoting all its tactics and strategy to the accomplishment of that one object, regardless of all other interests, however imminent and pressing.

Am I asked for the proofs? I answer, the open declaration of the bold and the obsequious concurrence of the timid in every measure relating to reconstruction from the opening of the session to this hour.

Sir, it may be conceded that the tone and manner of gentlemen of the majority are somewhat less bold and defiant than they were at the commencement of the session—a slight concession to the universal expression of popular feeling. Then the design to hold the southern States as conquered provinces, to be disposed of at the will of the conqueror, was boldly asserted. Now, a desire is expressed to restore them to their normal condition in the Union as speedily as may be consistent with the interests of the country—meaning the party. Then the policy of exclusion was justified by the simple assertion of the right. Now, gentlemen condescend to plead an apology upon some slight show of badly manufactured facts as to the condition of the southern States. For example, the rebellious utterances of some obscure individuals, colored by pensioned and anonymous letter-writers, to represent the state of popular feeling at the South; or, perhaps, newspaper paragraphs bearing evidence of having been written in this city for a like purpose and sent South for publication in radical papers, in opposition, it is true, to the most incontrovertible evidence from sources of the highest and most unquestionable authority. It is not the least remarkable fact of this gigantic rebellion, its entire suppression, both its material resources and its spirit.

But in the mean time, with language less bold and defiant, the party advances toward its original design with a sternness of purpose that courts the opposition of the Executive and sets argument and remonstrance on this floor at defiance. The mysterious power to which is committed, without debate, all matters relating to the restoration of the Union, from its midnight sittings utters its inquisitorial rescripts with undiminished confidence, and demands the action of the House in tones no less despotic. Its latest utterance in regard to the admission of Tennessee is no new development of conscious weakness or of altered purposes, but rather is an exceedingly adroit maneuver to involve every branch of the Government in its revolutionary policy. Beside coupling the admission with conditions which, as to Territories, would under ordinary circumstances justify the immediate rejection of the resolution, it seeks to commit the executive as well as the legislative branch of the Government to the monstrous, radical theory, that Congress, instead of exercising its simple constitutional prerogative to judge of the qualifications of its members without regard to the constituent State, has the power and right to exclude from representation the constituent State without regard to the qualification of its members. This once settled, with the assent of all the legislative branches of the Government, including the executive, and the work of disloyalty to the Union is nearly or quite finished. By a cheap concession to one State only, the theory which declares the southern States out of the Union, and by necessary sequence excluded from the Electoral College and their assent to constitutional amendments wholly unnecessary, obtains the sanction of the Government, and the Union is practically dissolved.

Sir, without this little episode the plot for the dissolution of the Union would be quite incomplete. The dangers suggested by a disputed claim to the Presidency, based upon the right of the southern States to vote in the Electoral College and sustained by the Executive, might well appall the boldest conspirator. But with this joint resolution for the admission of Tennessee into the Union as a newly organized State, passed through both Houses and signed by the President, every department of the Government will be irrevocably committed to the radical theory, the danger to the conspiracy averted, and its power for evil not sensibly diminished.

Notwithstanding the dissensions in the committee, disclosed by the minority report, I presume it is the intention of the majority to pass the resolution. It remains to be seen whether the President by persuasion or threats can be induced to affix his signature. Should he do so, in my judgment the game is up and the Union dissolved. The hope of the Republic rests in the firmness of the President.

Sir, I profess no new-born zeal in support of the Chief Magistrate; not having favored his election, I have no claims upon his patronage, and neither seek or expect personally any favors; but, in the rupture of party ties, my affiliations will follow my convictions of the right. But while I avow my entire confidence in the President's plan of reconstrucion, believe in its wisdom and the necessity of its speedy adoption for all the best interests of the country, still I propose no argument in its favor; my time will not admit.

It has been put forth by the President himself in language most clear, cool, and dispassionate, and it is now before the people for adoption or rejection. Arguments in its favor from the other side of the House, most eloquent and convincing, have not been wanting. Gentlemen who, speaking against their party but voting with it, seem assigned to that part of the programme by which the last fall elections were carried, affecting a cordial affinity with the President while denouncing him and his policy, in private, with curses not loud but deep. This equivocal position, so successfully maintained, is now, I think, ended. The decisive action of the President, forced upon him by the unwise and unconstitutional measures of Congress, has placed a large majority of both Houses squarely in an attitude of hostility. To use a form of speech expressive but inelegant, this game of false pretenses is now played out.

Knowing, as I do, that it has never been any part of the policy of the majority to adopt the plan of the President, and that a perpetual separation of the States, so far as the action of this House is concerned, is a foregone conclusion, I have no hope that anything said by me would exert the force of a feather's weight in arresting the fatal tendencies of the party. I propose, therefore, to devote the brief time allotted me upon this floor to some exposition of the spirit and influences which pervade this Congress and are dominant in the party.

But first let me say that the present position of the omnipotent radical element is by no means inconsistent with its antecedents. The party commenced its existence upon a platform that implied a conflict of interests and feelings betwixt the two sections of the country. Sentiments hostile to the Union were fostered and made to contribute to its growth and progress. The irrepressible conflict was made its battle-cry. Petitions were circulated throughout the country and presented upon this floor and that of the other House, praying for the dissolution of the Union; and when the dragon's teeth thus industriously sown sprang up in armed rebellion, we find leaders in the party as well as its most influential journals insidiously trying the temper of the people by advocating the right of the southern States to withdraw from the national compact. Thus at that time a sectional party, having achieved a victory by exciting feelings hostile to the Union, hoped to maintain an ascendency by its dissolution. It was only after it became certain that the people would rally to no other slogan than that of the Union that the party reluctantly adopted the name and hypocritically professed to be its exclusive friends and supporters. And in this respect the party is now where it was before the commencement of the war, looking solely to party ascendency, and by the same means a perpetual severance of the States. But in opposition to the settled policy of an overwhelming majority, acting with entire fidelity to party discipline upon all the decrees of caucus, I have already remarked that argument is quite useless.

We will assume, then, that the time for argument in this forum has gone by, that the issue is made up, and that the appeal is to the people, by whom, I doubt not, it will be speedily decided. But let the question be fairly stated; no subterfuge, no equivocation. Throw away a disguise which affords no concealment. Tell the people that the restoration of the Union is inconsistent with the existence of your party; that you are, therefore, practical secessionists. Leave it to me to show your consistency, by proving that you have never been anything else.

But above all, for shame, if not for honesty, renounce a name which implies a falsehood. "Doff that lion's hide and hang a calf's skin" —you know the rest. And allow me to suggest that in this contest before the people it will be well to accompany assertion with some show of proof. Rely not alone upon the mere form of speech so common upon the lips of the faithful, "that the President's plan of reconstruction is a failure." The popular voice is becoming clamorous for the evidence. Is it a failure because military resistance to the Government has entirely ceased? Is it a failure because the people of every southern State, in solemn convention assembled, have declared their ordinances of secession utterly null and void, and that the semblance of civil governments, independent of and hostile to the Union, are wholly dissolved and abandoned? Is it a failure because the civil government of each State has been reorganized upon principles in subordination to the Constitution and laws of the United States? Is it a failure because every suggestion of the President, as a preliminary to reconstruction, the abolition of slavery, the amendment of the Constitution, placing that question for the future outside the action of the States, the repudiation of the rebel debt, have all been adopted without reserve or qualification? Is it a failure because the southern people profess entire submission and fealty to the Constitution and laws of the United States and their acts correspond with their words?

But, says the gentleman from Connecticut, we must have guarantees for the future. If this were not one of the patent subterfuges resorted to in order to conceal the ulterior designs of the party, I should say that this precaution exhibits less of the statesman than the lawyer, whose training and education utterly disqualify him to comprehend any other arrangement of an apprehended assault than by bonds to keep the peace. What other, I ask, if any, guarantee is needed than the terrible experience of the last four years? This voluntarily acted upon, far better than any galling and constantly irritating act of abject submission, will prove to us a perfect immunity from the dangers of civil war for the next century at least. But, say gentlemen, and with the genuine puritanical twang, they must show forth fruits meet for repentance. I do not know what precise meaning gentlemen attach to this form of speech, or what particular act of humiliation is required by it from the South. Do gentlemen know themselves? But this idea, at all events, may be drawn from it, that it is the purpose of the party to clothe the conditions of reconstruction in terms so oracular that compliance may be deemed impossible so long as party interests demand their exclusion.

It is of the same character with other objections as this. We have no evidence that the spirit of the rebellion is broken. They merely accept the situation. What more do gentlemen ask? Ought they not to accept it? Yes, they do accept the situation, and when all their acts and words testify to the fact, it is an unfriendly interpretation of their thoughts which is to be used against them.

This is the genuine spirit of a proscriptive and persecuting fanaticism. That spirit, whenever or by whomsoever entertained, acknowledges no rights and suggests no other ideas of human liberty than the right and liberty to think as they do. The same spirit prevailing extensively at the North, and coöperating with a like spirit at the South, operating in the same direction with opposite motives, brought upon us the late war, with all its waste of blood and treasure and mountain of debt; a spirit struggling even now with convulsive efforts to shape the future policy of the country, and against the dangerous tendencies of which I desire, by going somewhat into its past history, to raise a warning voice.

Sir, the institution of slavery was made the pretext, but was not the cause of the war. Indeed, when the annals of the late contest come to be written up the future historian will be not a little puzzled, in seeking for its causes in existing circumstances, to find literally none, nothing underlying the social structure, nothing in its practical working. The irrepressible conflict had no existence even in the brain of him who first gave the thought utterance; no rival interests springing from the competing productions of the two systems of labor. There could never be any competition in the productive industry of the two sections, for the reason that the avails of the labor of each could by no possibility be profitably produced by the other. The alarm sought to be created at the North as to the successful competition of slave labor had never any foundation in fact. The avails of slave labor, with the single exception of cotton, always cost more than an equal amount produced by free white labor. All that was profitable in the slave labor of the South could not be produced at all at the North, so that competition was out of the question. But more, the two systems worked together in admirable harmony for the greatest good of both. The cotton raised at the South was manufactured at the North and returned in the manufactured state for consumption, thus each furnishing the other the best possible market for the products of its labor. As, then, there was not and could never be any conflict in the material interests of the sections, the historian will seek the causes of the war in influences operating outside of mere business relations, in a restless impatience of servitude on the one hand prompting insurrectionary movements, and an active sympathy on behalf of an oppressed and suffering people on the other; but here, too, his researches will be at fault.

For the events of this war have proved this one fact, if no other: that all our hopes of success based upon the active coöperation of the enslaved race, in an earnest effort for liberty, were entirely delusive. I am aware that it is much the fashion in this House to eulogize their loyalty and patriotic services in the late war. Gentlemen say they furnished some two hundred thousand recruits for our Army. Furnished! Who furnished? Not the negro. I am yet to be told of the first instance of a black man joining the Army voluntarily and without other inducement than the hope of aiding the emancipation of his people or loyalty to the Union. No, sir; it was the enormous bounties offered at the North, the capital of New England, that bought them up and placed them in the Army to save their own sons from the conscription.

The negro, as a race, has no aspirations for freedom, except it be the freedom from labor necessary for his daily subsistence. He vastly prefers the luxury of a warm climate, a comfortable cabin, an indolent life, freedom from care, and dependence upon a master to any problematical benefits proffered by the questionable philanthropy of the North.

Sir, I wish it not understood from this view of the subject that I have, looking to the future of the country, any objections to the abolition of slavery. I discuss merely its probable influences upon the race.

In the darkest period of the war I always entertained and professed an abiding faith in the maintenance of the Union, yet never doubted that the first cannon shot boomed out the death-knell of slavery. And while I now profess a belief that emancipation will in time result in great good to the white race and to the States as political communities, yet I have an equally strong conviction that the act dooms the black race to a lingering atrophy, to end in their ultimate extinguishment. So much for the officious beneficence of the fanatical reformer. He forces his universal panacea upon a reluctant subject; it proves a deadly poison, and the victim of a morbid philanthropy lingers and dies. The mere abrasion of the races, with interests, fancied or real, conflicting from changed relations, will from necessity wear out the inferior race, and human wisdom will be found wholly inadequate to apply the remedy. Conferring political privileges, as the right of suffrage, will not do it; it will have no tendency to make the black man industrious and provident, but by making him an object of occasional interest at local elections, will rather tend to unsettle any habits of industry already formed. A grand system of pauperism contemplated by the Freedmen's Bureau, with its thousands of Government agents, will be found insufficient. No pauper system ever tended to the elevation of a race of people; besides, it is inconsistent with our institutions, which presuppose that all interests, corporations, and classes are self-sustaining. Soon, if not already, the black man will cease to be an available instrument in the strife of parties; and then, though humanity may stand appalled at the frightful waste of human life from disease, neglect, starvation, and crime, the enlightened reformer, who is seldom troubled with any exalted notions or feelings of practical benevolence, though he could move the powers of heaven and earth, not to mention the other place, to confer an unsolicited immunity, will stand by quite indifferent to his fate. Alas, the poor negro! Death is the common lot; and if this were all, humanity might draw to itself some consolation in contemplation of the extinction of a race of people. But oh! the heart grows weary and very sad in the effort to measure the amount of human wretchedness which must herald in this final consummation.

The next census will no doubt furnish some fearful evidence as to the rapid progress of annihilation, and perhaps open the eyes of a mistaken, not to say insincere, philanthropy, to the terrible boon we have bestowed upon him. But to pursue the argument in the view I have taken, the war may be said to be entirely without cause at the North, as it certainly was without justification at the South. But the influences which, acting without apparent cause, led to the war, lie upon the surface. The existence of slavery gave rise to the only question which could by possibility divide the Union on geographical lines, and shrewd politicians could not fail to discover that the North, having a numerical preponderance in the Electoral College, a party formed upon this issue alone, if successful in arousing a sectional feeling of hostility to the South, could not fail to achieve a political victory. The nucleus of such a party had long existed in a radical element at the North, which, from its intolerant nature, is inconsistent with and even dangerous to republican institutions, yet never fails to furnish the unprincipled partisan with a powerful and unscrupulous auxiliary.

The true type of New England fanaticism is to be found in all the States, but most abounds in New England, especially in Massachusetts and Vermont. "He is well described as necessarily a narrow man." I make this definition of a fanatic here because I believe it represents a spirit that is now dominant in the councils of the nation. "He is possessed of his one idea, and he sees nothing else. This he pushes to the last resort. His mind feeds upon an abstraction, to which he endeavors to mold the nature and constitution of things about him. They are divergent from his purpose, and formed and regulated with reference to other considerations than his sole idea. They are unyielding, therefore, and his labor upon them is useless or mischievous, according to his power. The fanatic is also a bad man in effect, if not in intention. Fanaticism often, though not always, assumes the guise of benevolence. A good man is really benevolent and charitable to the errors, the vices, the sins of the human race. He does not confine his sympathy to a class or a section. A fanatic is always uncharitable. He is bitter against such as do not coincide in his views or favor his cause. He takes into no consideration the differences in the structure and capacity of the human mind; its different education, habits, and aptitudes, the grand sum which makes up the varying characters and dispositions of men. He is not content with holding his own opinions to himself, but compasses earth and sea to make one proselyte. He is an intemperate total abstinence man; an overbearing advocate of universal emancipation; a violent non-resistant; a furious friend of peace; a malignant philanthropist. Formerly he burned heretics, and now, if he had the

power, he would find some Procrustean means to reduce all opinions to the level of his own standard. As he cannot do this, he rails at other men and devotes his energies to the overthrow of the institutions of his country and to undermine the religious faith of the people. He is a brutal soldier, a bigoted priest, an unjust judge, a dishonest politician, a seditious citizen; never to be trusted in any capacity, for he, of all others, deems that the end justifies the means. Such is the fanatic; and he is only mischievous, and that continually. He stands in antagonism, therefore, to the humane warrior, the gospel minister, the upright judge, the patriotic statesman, the private man who generally loves his country and seeks its honor and its welfare. It is upon moral grounds, in opposition to him, that some men are conservative instead of radical, and work for the common weal, not ignorantly and willfully for the public mischief. The difference lies as deep as the fundamental principles which eternally separate good from evil."

For want of some more vulnerable object upon which to expend its force, this element in northern society made the existence of slavery at the South the subject of its special abhorrence, and openly sought and advocated the dissolution of the Union by way of sundering all connection with slaveholders. This doctrine was for many years industriously promulgated from the platform and taught in the schools. The clergy, who, as a class, from their habits, education, and reading, are least of all qualified to advise in matters of civil government, were deeply imbued with this heresy, and lost no opportunity of infusing into the public mind its pernicious principles. As the party gathered strength, it drew to its support radicalism in every form. Reformers of every shade and description, every one who waged war with society as at present constituted, free lovers and free thinkers, vagabond lecturers of both sexes, strong-minded women and weak-minded men, communism, Fourierism, and infidelity, in short, every man with an ism, and woman with a mission, all that class of uneasy spirits whose concert in action would alone be likely to inspire distrust in the mind of every cool, right-thinking man, constituted, nevertheless, the framework of a very formidable party. The mere politician saw his opportunity and made the most of it. At an early day he commenced ministering to its tastes and fostering its growth, passing unconstitutional personal liberty bills, and poisoning the public mind with utterly unfounded ideas of conflicting interests, at the same time firing the heart of a radical party at the South, equally prompt and ready to assume the final conditions of this rapidly growing hostility, a dissolution of the Union, and, if need be, the arbitrament of arms. The rest has already become history. We have had the war, and secession has triumphed, not in the interest of slavery, but in the interest of fanaticism. The war for the Union, which suppressed the rebellion, has now to be fought over by the people, bloodless, I hope, but with none the less earnestness and devotion. The leaders did probably not foresee the results in all its consequences, but in aiming at a party triumph by these unhallowed means they conjured up a devil that would not down at their bidding.

Sir, it is by the dexterous manipulation of like agencies that the party in power seek, even now, to establish as the policy of the Government their original design, the dissolution of the Union. It is quite useless, this attempt at disguise; the facts stand out in bold relief, notwithstanding the labored efforts of gentlemen to mystify and cover it up. Why this effort to prove, by reference to Grotius, Vattel, Puffendorf, and I know not what array of antiquated authorities, that the South by the war have forfeited all political rights? Why, if the battle-cry of the Union, which gave to the party its victories; which sustained the hopes of the people through all the vicissitudes of this terrible war; which cheered on the army of the Potomac in its bloody track from the Rapidan to the James, and stimulated and sustained the army of Sherman in its wondrous march, was not a fiction; why, if the very name assumed is not a delusion and a sham, why these endless speeches to prove that the southern States are out of the Union?

Why this array of resolutions to amend the Constitution except, by their failure to pass both Houses by the requisite majority, or their known rejection by the States, to furnish the excuse for the continued exclusion of the South from representation on this floor?

By the way, this species of legislation seems thus far to have engrossed almost the entire time and attention of the House. Gentlemen, in their eagerness to centralize and grasp the powers of the Government, seem disposed to treat the Constitution with as little reverence as the resolves of a town meeting. We have, I am told, some twenty propositions to amend the Constitution, and an equal number of bills to secure the rights of the negro race and to make them provident, wise, and intelligent, fit to exercise the right of suffrage by act of Congress. Why is it that these exclusive friends of humanity, black humanity, see no occasion for placing additional safeguards round the liberties of the white man? I have waited in vain, among all the numerous resolutions of amendment, for some proposition more clearly defining the right of Congress to suspend the writ of *habeas corpus*, when in case of rebellion or invasion the public safety may require it, beyond the lines of actual military operations, or in places or States where the civil jurisdiction are discharging all their functions without let or hinderance. Just recovering, as we are, from a reign of terror, in which we had seen the civil power completely subordinated to the military, the rights of the citizen wholly disregarded, arrested by telegraphic dispatch, imprisoned without cause assigned, and discharged, without trial after months of imprisonment, are no measures needed to silence that little bell for all future time? This time, of all others, seems to me most proper for providing the necessary securities for the liberties of the white man.

In my judgment, that member, whose lease of office will be longer than mine, for I have no hope of speedy action on the proposition—the black man must first be attended to—who would in the language of Benton, in regard to the expunging resolutions, "solitary and alone" introduce an amendment for that purpose and press it from session to session until a returning sense of duty to the white race should end in its adoption by Congress and the States, would surround his memory with immortal honor. But, in this fratricidal policy to which the party is so blindly committed, I warn gentlemen they will fail. The purpose is as criminal as the southern rebellion, and will be equally unsuccessful. No matter how formidable the array of authorities by which you seek to sustain your position, I care not if every writer upon international law that can be raked up from the musty records of the past, may be cited to make the right of exclusion impregnable. The people, in every dollar contributed to the prosecution of this war, in every son sacrificed upon the altar of the Union, every tear shed, every drop of blood spilled, every groan of anguish uttered, have declared that it shall not be the fact. A people who have shown themselves capable of enduring all the calamities of a war unparalleled in history in support of one fixed idea, the Union, will scatter to the winds, alike the dicta of schoolmen and the sophistries of politicians.

I tell you that outside the agencies to which I have referred and the immediate dependents upon the patronage of power, you cannot muster a corporal's guard that is not committed heart and soul to the reconstruction policy of the President. Go on, then, you have the power; exclude the southern States, agitate for the negro, make country subordinate to party, set aside the mighty interests dependent upon and resulting from a united country, and above all, outrage that feeling which of all others has for the last four years of gloom and despondency warmed every patriot heart, and see what will come of it.

Sir, I have spoken upon these subjects as if the forum was already changed and the contest transferred to the people. I believe it to be so. I have no hope that any progress will be made in healing up the wounds of the country by this Congress, and in my judgment the sooner it dissolves and returns to the constituencies the better for the country. I have no ambition to connect my name with a session which may draw upon this House the odious epithet historical in connection with the famous Barebones Parliament of England.

But, sir, I wish to say in conclusion that the issue before the people must be met without evasion. It is simply union or disunion. Mere vituperation or epithets applied to individuals or a party—so successful upon many an occasion past—will not, in this contest, satisfy the people. The term copperhead, so courteously used by gentlemen on the other side, is somewhat stale, but upon the whole has improved. The people seeing those to whom the epithet is applied most earnest in every patriotic effort to restore the Union, and they who apply the term most freely plotting for its dissolution, begin to suspect that there is some mistake in the application of the term or some misapprehension as to its meaning. Besides, it is much in the condition of the powder that has been once used; and further, though bandying epithets is not a democratic folly, it may provoke retorts. I commend gentlemen to a prudent husbandry of their ammunition. But, sir, I intended more particularly to speak of the recent manifestations as to the character of the warfare which it is designed to wage, indicated by the personal abuse and vile epithets heaped upon the President and spread abroad by miscreant letter-writers throughout the land. We can easily understand that the defection of the President may have exasperated the chief conspirators beyond measure. It surrounds the plot for the dissolution of the Union with new and quite unexpected difficulties not only, but may render its execution exceedingly hazardous. This feeling finds vent in personal abuse and defamation, grateful to the malignant passions thus excited, and at the same time subservient to party purposes.

The people who have noticed the tone and language of his frequent replies to the numerous delegations, representing various localities and interests, that have addressed him since his inauguration; who have read with unalloyed delight his first message to Congress, a state paper received with more demonstrations of unqualified approval, not only in this country but in Europe, than any paper of like character from any former Executive; also the cool, dispassionate, and ably reasoned veto message, know that he is not the drunken debauchee which his quondam friends now represent him to be. And even the speech of the 22d February, so fiercely criticised, though somewhat broken by the vociferations of the crowd, still bears the highest evidence to his perfect mental soundness. The people, less sensitive upon the subject of personal dignity, would not wish a sentence changed. They cannot afford to lose the slightest thought embodied in that speech, not a word but that goes straight to the American heart. I am not cognizant of any alliance between the Democratic party and the President. We uphold the Executive so long as he represents our principles and faith. He may to-morrow, for aught I know, disappoint all our hopes and expectations. But it is, nevertheless, a duty we owe to truth and fair and upright dealing; we, who see him from day to day, look upon his calm, thoughtful brow, and listen to his utterances fraught with the profoundest political wisdom. It is our duty, from which we are not absolved by any chances of political alienation, to testify to the country that the base and malignant slander has not the slightest foundation in fact.

Mr. ASHLEY, of Nevada. Mr. Speaker, I am ill fitted to-day to speak, having a sore throat which almost prevents my talking at all. And I am unprepared, not knowing until this morning that the sun would ever rise on the day when I would have an opportunity to discuss this subject. But now an opportunity offering for me to speak upon the important matters pending before this Congress and the country, I cannot allow it to pass without saying something; and more especially do I desire so to do because in some respects I differ from many with whom I am affiliated here.

We have passed through a war in regard to which it has been grandiloquently said the world never saw its equal. Certainly it is in many respects the most important that the history of this country records. To initiate a nation that is to exist for a little time and then vanish like a vision is an easy thing; but to place a nation upon such foundation that it can stand the trial of time and demonstrate its adaptability to the wants of a community like ours, in a country extending three thousand miles from ocean to ocean, is a triumph. And such I believe to be this nation and Government of ours.

But, sir, after the clash of arms has passed we must not beguile ourselves with the belief that everything is settled. There are insidious movements made in time of peace which are more dangerous than the attempts of men with arms in their hands to strike down a Government; because in the midst of war the feelings of all men are aroused, and they have their eyes upon all the measures taken; while in time of peace men are lulled into security, and plans that are laid to overthrow or change the Government are more likely to make progress. Such was the origin of the late rebellion, which assumed the gigantic proportions we have seen and grappled and crushed.

Now that the war is over, we should be conscious of the immense responsibility resting upon us in reinstating civil rule, and must look to the consequences likely to follow. No man need tell me that the American people will maintain a system which regards one third of the national territory as provincial. They will insist that Congress shall come speedily up to the work of bringing in the States lately in rebellion to an equality with the rest. And if we fritter away our time, if we go home at the end of this session without making some certain and effective provision for bringing in those States, if we differ among ourselves and insist upon a multitude of little matters, leaving the great and essential points of reconstruction undetermined, the time will come, and speedily, when the representatives of those States lately in rebellion will by some means secure their entrance into these Halls. Our Constitution is futile, if by law and resolution we can indefinitely, and at our caprice, postpone the day when it shall have equal effect, give uniform protection, and insure to each State the right of self-government and the common and fundamental privilege of representation throughout all parts of our country.

Now, sir, I know that to be so. Gentlemen may delude themselves with the idea that they can carry these southern States along in this way by military power. So they can just now. But I tell you that even those men who have been in the ranks of the Union Army during the war will not always consent to be voting against the reconstruction of the Union upon a basis common North and South. And for that reason I desire to see some steps taken immediately to define the grounds we can safely insist upon as essential in reconstruction—a basis plain, short, just, honorable, generous, on which loyalty can rally, and to which only captious demagogues can object.

I have been satisfied for a long time that many of the measures proposed here cannot be passed. Why is it that we have spent here day after day and week after week over a Freedmen's Bureau bill? It is because we believed that something ought to be done to protect the late slaves. And practically we in this House and in the other branch of Congress showed our willingness to pass such a measure, provided it should only extend to the States which had been in rebellion.

But when it is proposed to pass a law which shall apply generally throughout the country, to States that opposed the rebellion as well as those that supported it, you find that members of our own party are not agreed upon such a measure. We had a bill before us yesterday and some days before for the protection of civil rights—one that had passed the Senate—and after an elaborate discussion here, that bill could not marshal a majority in its favor. Was it simply because it provided that no State should have the right to pass laws discriminating between its citizens? That was simply what we voted for in the Freedmen's Bureau bill. But when that same principle was incorporated into a bill which would apply to our own States as well as the States which were in rebellion, then we are not willing the rule shall be applied. And why is it that men of my own party, from New York, Massachusetts, Ohio, and California vote in such manner as that? Do we occupy a position maintainable before the people of this country when we are willing to vote for a bill applicable to only the southern States in a certain manner, but will not vote that it shall apply to all the States?

Now, if this bill in relation to civil rights is not proper or constitutional in all respects, then most assuredly the President was right in vetoing the Freedmen's Bureau bill, because it imposed the same terms upon a certain number of the States. I do not believe we have a right to specially legislate for some States in a manner not constitutional and proper for all. If we claim that the northern States may make class legislation, then the others have the same right.

Sir, I am afraid we have been squandering our time away in these matters. We should look only to the essential requisites upon which we intend to insist. The Constitution of the United States is an instrument that we should not lightly touch in the way of amendment. There should be grave cause for amendment before we undertake to change it. If such grave cause exists, then we should be as willing to amend that instrument as any other law. Several amendments to the Constitution were adopted soon after its formation; and it has lately been amended so as to abolish slavery, that curse which brought on the war.

The next important change which I think should be made is in regard to the basis of representation in this House. It should be made in a liberal spirit, in such manner that the best interests of the whole country will be maintained. Let us not be influenced by men who say, "We admit the propriety of the change, but insist that it shall be made in a certain manner, so that our section of country shall not lose by it in any way whatever." An amendment has passed this House to put into the Constitution of the United States, not the direct authority perhaps, but words by which you acknowledge the authority of States to make discrimination on account of race or color, in giving political rights and powers; an admission not offensively made in the Constitution as it stands, and a fact which, though true, it is in bad taste and policy to flaunt to the world in the Constitution of our Republic. I know that many men in this House voted for that amendment, while they execrated the policy and management which drove them to it. They desired to avoid occupying such a position; but they were driven to it because of the sectional argument and power used here against a certain other proposition based on the eternal principles of justice and of right views of representation, on the pretext that it would lessen the relative power of certain States which happen to be located in glorious old New England. Now that South Carolina has lost her scepter, is the mantle of sanctity to fall around the prerogatives of two or three little States in the North?

That other proposition was that representation in Congress should be based upon the number of citizens allowed the right to vote. Now, sir, as a fundamental principle of representative democracy, I cannot see than any link is lacking in the demonstration that such system of representation is the true one. If this country were so small in geographical extent that all those entitled to share in legislative power could meet in one assembly, who would take part in that assembly? Would women, would children, would the insane, would slaves, and others excluded from the right of voting, act as members of such a democratic Legislature? No, sir, only those whom the country recognizes as having the right to vote in such a primary meeting would be allowed to participate in that governmental assemblage. That being the fact, I ask, when the country has increased to such grand proportions that you cannot call a general meeting of that sort, what is the philosophic consequence in reference to representation?

Why, sir, that a certain number of individual voters who do not present themselves in person may send a representative. If we were now establishing our Government, what would be thought of the proposition of ten men who should say, "True, we are only ten, but we claim the same representation as a hundred, because we have ninety women and children at home?" Why, sir, such a proposition would be scouted. In my estimation, there is no sense in the argument that because a man happens to be surrounded by persons who are not entitled to have their own voices heard, he should for that reason have more influence and power in the Government than a man living in another section of the country and having no such surroundings. It is the argument of aristocracy, and strikes down democratic right by the same reasoning, and no other, which defends a privileged class in its claim of right to govern by reason of birth, wealth, and custom.

But it was urged that the principle of representation based on voters could not be adopted, because some of the New England States, or I believe only one of those States objected on the ground, not that they would lose representation directly, but that some other States would positively gain something. Sir, after all the glorious sacrifices that New England has made for our nation during the Revolution, and in the war of the rebellion, after all the laurels which she has won, I had hoped that she would manifest a spirit of liberality, and that, at the present crisis when it is proper, if not imperatively necessary, that a change in the basis of representation should be made, she would not act the part of the dog in the manger, and object to a wise and just proposition, because some other State will realize under it some little advantage, which relatively the northeastern States do not.

The argument against that proposition was that California would gain two or three Representatives. Sir, what is the position of California. That is a State to which hardy, industrious, enterprising men from the eastern States have gone, and have developed a country which now exports between fifty and seventy-five million dollars of gold and silver per annum. She yearly contributes that amount to the national affluence. And is it maintained that a basis of representation, thus well founded in principle, must be rejected because such a State will get two or three additional Representatives? I affirm that one hundred thousand men who are all producers, who are liable to be called into your armies, who are paying taxes on their incomes, are entitled, as a matter of justice, though there are in their neighborhood few or no women or children or slaves, to more representation than twenty thousand men who happen to be surrounded by eighty thousand non-voters, the products of the labor of these twenty thousand being all absorbed in sustaining that community of one hundred thousand. Yet a principle of representation so well based received only thirty votes in this House. This prejudice against California is akin in its folly to the

cupidity which slew the hen that laid golden eggs.

The gentleman from New York [Mr. CONKLING] presented to this House an estimate, approximately and practically correct, of the results of the various constitutional changes as to representation in case of their adoption.

From that estimate I find the following facts in case the voter basis were adopted:

	Present basis.	*Voter basis.*
Maine	5	6
New Hampshire	3	3
Vermont	3	3
Massachusetts	10	12
Rhode Island	2	2
Connecticut	4	4
	27	30
Michigan	6	7
Illinois	14	15
Indiana	11	11
Iowa	6	5
Missouri	9	9
Wisconsin	6	7
	52	54
Pennsylvania	24	24
New York	31	35
California	3	6
	58	65

Thus it will be seen that the six New England States gain three members, and the six western States named gain two, while New York gains four and California three.

Thus the amendment harmonizes with natural laws, and distributes political power in a just ratio to the natural centers of business and production, and makes the voter in any one State the peer in power with a voter in any other State.

And it may be well to observe that as these estimates are based on the number of male residents in each State, and as the amendment bases representation on male citizen voters, it is probable New York and California will not gain, by at least one or two each, so many as the estimate shows, because in these two States the alien residents are in greater ratio to their population than will be found in other States.

This amendment leaves, as now, to each State the untrammeled power to regulate the right of voting in its own borders. A State may, as some now do, allow alien residents to vote, but they cannot be counted in the representative census, for it is not correct in principle or consistent with national security and dignity that aliens shall be represented and have a power in our Congress.

The naturalization laws are liberal, requiring only a short residence sufficient to enable the foreigner to become acquainted with our institutions, identified with our interests, and in sympathy with our success; and he who prefers to be an alien ought not to enjoy political advantages equally with a citizen.

This amendment, too, allows the States, in their discretion, to grant suffrage from time to time to such citizens as have become qualified to exercise the right, and so fast as the privilege is accorded the State *pro tanto* gains in its representation. It also discourages the enactment of laws in the South or elsewhere requiring a long residence of persons coming from other States as a prerequisite to voting. Sound in principle, it has a happy adaptation to settle the differences, quiet the passions, and dispel the prejudices now standing in our way.

As to the other proposition which passed this House for basing representation upon population, exclusive of any races the members of which might be excluded from voting, let me say that, putting aside the question of its justice, there was never any possibility that it could be embodied in the Constitution by the approval of the requisite number of States or could even pass this Congress. If the members of this House did not know this, they ought to have known it. I knew, as many others did, that we were only wasting our time in the discussion and passage of such a proposition. If the theories broached in favor of immediate and universal negro suffrage are even true, what then? You have not the power to enact the theory into law, while the exigency of the country is such that we should hasten to do the best within the range of possibility without delay.

Sir, I believe that the time will come when negroes, becoming educated and acquiring property, will be allowed to vote; but they must be introduced to the full enjoyment of the rights and powers of citizenship gradually. That proposed constitutional amendment does not provide for any such gradual process. It declares that unless they be at once all admitted as voters the State excluding a portion of them shall have no representation for even those allowed to vote.

Mr. Speaker, I do not know that we shall be again called upon to act on this question; but I know that the proposition to base representation on voters is the only one that can be secured. If we are not willing to accept that rule, we shall obtain no change in the Constitution on this subject. If a proposition of this sort cannot be successful here at this session, I should like anybody to tell me when we can get a change. It must be a very sanguine imagination that can see in the future any time when the Union party will be stronger in this Congress than it is to-day. That time is far off, because now that the war is over there are numerous new questions arising to distract our constituencies; questions of trade, of finance, of tariff, &c.

That amendment basing representation on voters is founded in justice, is based on eternal principle, and it affords the solution for many difficulties which have arisen under our present representative system.

It has been urged that we must control the southern States as to their representation, because they are proposing, at least in Virginia, to declare that a man coming from another State must be a resident five years before he can vote. If they can do that, and perhaps they can, they can make a requirement of twenty years' residence to qualify as a voter a man going there from another State; and thus they might continue the political power of the State for twenty years in the hands of the present residents of the State. It is said that they are rebels. Granting that this is so, still they have the power in their hands; and I do not think it will be stricken from their grasp. The effect of the voter basis will be that the representation of a State in Congress will be reduced in proportion to the number of men that it excludes from the exercise of the right of suffrage. If a hundred thousand loyal men from the northern States settle in the State of Virginia, and she does not allow them to vote, she gains no increased representation by the addition to her population. If the basis of representation were founded on voters, the States would be induced to forego the passage of such laws as those to which I have referred; while a constitutional provision referring simply to the exclusion from voting on account of race or color would have no such effect.

If we adopt the principle of basing representation on voters, it will, as I have said, permit and encourage the introduction of negro suffrage. Besides, by such a change in our Constitution, we would, adopting the whole proposition, establish the principle that direct taxes shall be levied on property wherever it may be located, according to its value.

That proposition was defeated, I believe, because California would gain by it two or three Representatives——

Mr. GRINNELL. My friend from Nevada will allow me to remind him that one of the great objections that was urged against the principle of representation based on voters was that it would offer a direct inducement to Maryland and Missouri to accord the exercise of suffrage to those who have been engaged in the rebellion, and who for that reason are now excluded from voting in those States.

Mr. ASHLEY, of Nevada. Mr. Speaker, the correctness of rules is determined sometimes by a reference to extreme cases. Maryland and Missouri, and I believe Tennessee, (which it is proposed to bring in) are in the same category in that respect; they do not allow those who have been engaged in the rebellion to vote. Now, sir, the great mass of those who were engaged in the rebellion have had an amnesty granted them; they are not to be punished. I think that very few practically will be punished; certainly the great mass of those who were engaged in the rebellion will not be.

This class of persons are left with all their rights of property; and they constitute, if not in Maryland and Missouri, in some of the southern States, perhaps nine tenths of the population; and if we are to permit our system of popular government again in those States, we must allow the people resident there to control their own local State governments. We cannot rule those States as conquered provinces by military law for any considerable length of time without violating the spirit of our Government and endangering its continuance, for military power soon forgets to loose its hold, and unbroken history tells how surely in the end liberty always perishes under martial rule.

And, sir, if you wish to sustain the principles of your Government by punishing those men who have been engaged in rebellion, the proper method is to bring them before the courts to answer in accordance with law for the crimes which they may have committed. If they are not fit to be citizens, if they are not fit to be intrusted with power on account of crimes, you ought to have brought them before the courts and sent them to prison or the gallows. As long as you allow them to constitute four fifths of the community, as long as you tax them on account of their labor and wealth, as long as you allow them to hold property and occupy the country, excluding other people, I tell you, as long as you care anything for the genius of our institutions, you must allow them to control their States, rebels though they were. If that is not to be the rule, why did we grant them an amnesty? Whether founded upon correct principle or not, it will practically work out in that way; and the only escape we have from the results of giving them increased representation on account of the abolition of slavery is to adopt this amendment for the voters' basis. I think that answers the question put to me as to allowing rebels to vote. We do not allow, we simply cannot escape it. You can no more through Congress pass a law regulating suffrage in Tennessee or Arkansas than in New York or California.

I think, sir, it is a strange era in the history of the American Government when, in Congress, we are to punish a portion of the people by depriving them of their political rights. I thought heretofore, when men had committed crimes, they were to be punished in the courts of law. If they presumed to make a rebellion, we opposed force to force, and in that manner, to some extent, they have been punished. Why, sir, all the institutions of the South were based upon slavery. It was the substratum of the aristocratic system which raised armies against the Government, and they have been punished by having that swept away. Indeed those men who had political power and were the rulers in the South are no more potent than I or any other humble individual in this country to-day, except so far as their individual weight and merit aids them. They have been punished in that respect. They have lost large numbers of their population. They have lost the prestige which made them leading men, and they are not to regain it except through petty divisions among ourselves we throw it into their hands.

I do not believe we ought to vituperate against each other. I do not believe we ought to take it for granted so soon, until it is forced upon us inevitably, that men who have been with the Union party, and have made sacrifices for the Government, who came from the southern States and were as loyal and as brave in defense of this Union as men from any other section, are traitors to the Union cause or affiliate with rebels because their plan of reconstruction is not ours. I, for one, do not believe we have at this day the right to assume that the man who, of all others, was loyal in Tennessee, and finally

established a civil government there before the rebellion was entirely closed, is now false to his country. I will not join with those who believe we ought to drive him from our ranks by abuse, assuming beforehand he is a traitor. I say, no matter what men may do in this District, and in this atmosphere, it will be hard to make the voters of the country believe that Andrew Johnson, whom they elected Vice President a little more than a year ago, is a traitor. No, it cannot be.

Traitor for what? Because he is not willing that negro suffrage shall be forced upon the country? I never heard he favored that measure, and certainly during the election the adherents of Lincoln and Johnson on the Pacific coast disclaimed holding such a doctrine.

I do not believe negroes should have equal political power with other men given them now, because they are not yet fitted to vote. I cannot think that where they are in a numerical majority they ought to have the control of States; and you cannot make the people believe men are traitors for that opinion. Negroes did not establish this Government and they did not maintain it. They gave us aid during the rebellion, and for that we gave them freedom; and for that I am in favor of their education and improvement to qualify them for the exercise of political rights. But I would not insist on their having those powers now.

If we can get an amendment of the Constitution of the character I have discussed, let it be adopted, for we can get nothing else. If that cannot pass we might as well stop.

We ought to have an amendment to the Constitution that no State shall pay any debt contracted for the rebellion. With two or three thousand millions of debt, I tell you the southern States will have an important influence hereafter in urging the payment of that debt. Therefore we ought to have that constitutional amendment.

Then we should have another constitutional amendment prohibiting the States from levying taxes to pay pensions to the men engaged in the rebellion against the Government of the United States; because men who have devoted their property and their time to the defense of this Government, who may happen to go into the southern States hereafter, should never be subjected to the least exaction to pay any of the obligations contracted by those who engaged in the rebellion.

Then there should be an amendment of the Constitution prohibiting payment for the value of slaves that have been emancipated.

And then, if you are to have any change of representation, let it be based upon the number of voters.

With these amendments of your Constitution what else do you want? Do you wish to have it said that you are going to exclude southern Representatives from this floor so long as you can maintain your power in Congress simply on the ground that the southern States have rebelled? If so, try it. But let me tell you there will be opposition enough to defeat that policy before three years pass away.

Thus having stated what I consider all the essential provisions needed in the way of constitutional amendments, I insist we should leave the people of the various States to govern themselves as heretofore. You cannot force negro suffrage upon the States either by statutory enactment or constitutional amendment, and I do not believe in enforcing political penalties against those who took part in the rebellion any further than the law holds them personally responsible. The gentleman from Ohio [Mr. SCHENCK] uttered the true doctrine in his remarks on this floor when the constitutional amendment in regard to the basis of representation was before this House, when he declared that "now is the golden opportunity for us to base representation upon the number of voters, and it should not be lost." There is a volume of wisdom in the remark.

These amendments are to be adopted not as penalties, but as changes really desirable in themselves, and as the irreversible guarantees for future security which the nation has a right to demand as the fruit of its many sacrifices. You have now the opportunity to ingraft a principle in your Constitution as the basis of representation which will not be regarded as a penalty, for it affects all the States alike, and can be adopted because it is right, and not for the sake of punishment. Representatives ought to come from the ruling people, from the men who vote, and not from those who are excluded. Thus let this amendment be urged upon the South as the true principle of representative government, while it leaves them full control over the matter of suffrage in their own States. The experience of the last sixty years has demonstrated that a mistake was made at the outset, to some extent, by the framers of the Constitution in basing representation upon a class that were excluded from all participation in Government, and adopted only as a compromise to secure the right to levy direct taxes on slave property, which property now having ceased to exist, leaves the injustice of the provision more marked than before. By this experience let us profit, and introduce a rule needing no defense or explanation and enduring as the temple of reason.

We must hasten in our policy of reconstruction, for there is a growing impatience to have the country quieted. The late rebel States have accepted the abolition of slavery. Now, suppose complete restoration is proffered with these other bases of organic law—equal power and representation to every citizen voter throughout the nation; no taxation to pay debts or obligations incurred in warring against the Union, and no gratuity or donation for services against our country; no compensation for loss or emancipation of slaves; loyal men to be accepted as Senators and Representatives from the now unrepresented States—ought not the offer to be accepted by those we have spared from the sword, and cannot we, the victors, generously grant these terms? Yes; and the loyal masses who sustained your Government through the late trials will not falter in your support. Only present your plan of reconstruction, rather than theories and modes of exclusion, and the clouds that now darken our prospect will give way from horizon to zenith, leaving all bright in a restored and strengthened country.

Mr. HOLMES obtained the floor.

Mr. HIGBY. With the consent of the gentleman from New York, I will move to adjourn.

Mr. HOLMES. I will consult the wishes of members of the House whether I shall speak now or at a future time. Either will suit my convenience.

Mr. HULBURD. I would inquire whether there will be an opportunity hereafter?

The SPEAKER. The Chair will state that the accumulation of public business is such that it is doubtful whether more than another Saturday can be devoted to general debate.

Mr. HIGBY. Then I withdraw the motion to adjourn.

Mr. HOLMES. Mr. Speaker, the policy to be pursued by Congress with the States and people lately in rebellion is brought to our notice by the annual message of the President, now under consideration, and it has occupied the attention and elicited discussion from some of the best minds of the age, both in and out of Congress. I do not expect that I can at this time throw any new light upon this subject, especially in the hour allotted to each member in this discussion, and which hardly gives time to state, much less to examine at any length, the different propositions that have been advanced.

The effect produced by civil war upon the relations of these States and their people to the General Government has been often referred to in this debate, and yet I ask the indulgence of the House while I read from a well-known American author, Chancellor Kent, a concise statement of the rights, duties, and disabilities growing out of a state of war:

"It is a well-settled doctrine in the English courts and with English jurists, that there cannot exist at the same time a war for arms and a peace for commerce. The war puts an end at once to all dealings and all communications with each other, and places every individual of the respective Governments, as well as the Governments themselves, in a state of hostility. This is equally the doctrine of all the authoritative writers on the law of nations and of the maritime ordinances of all the great Powers of Europe. It is equally the received law of this country, and was so decided frequently by the Congress of the United States during the revolutionary war, and again by the Supreme Court of the United States during the last war; and it is difficult to conceive of a point of doctrine more deeply or extensively rooted in the general maritime law of Europe, and in the universal and immemorial usage of the whole community of the civilized world.

"It follows as a necessary consequence of the doctrine of the illegality of all intercourse or traffic without express permission, that all contracts with the enemy made during war are utterly void. The insurance of enemies' property is an illegal contract, because it is a species of trade and intercourse with the enemy. The drawing of a bill of exchange by an alien enemy on a subject of the adverse country is an illegal and void contract, because it is a communication and contract. The purchase of bills on the enemy's country, or the remission and deposit of funds there, is a dangerous and illegal act, because it may be cherishing the resources and relieving the wants of the enemy. The remission of funds in money or bills to subjects of the enemy is unlawful. The inhibition reaches to every communication, direct or circuitous."

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"Every relaxation of the rule tends to corrupt the allegiance of the subject and prevents the war from fulfilling its end. The only exception to this strict and rigorous rule of international jurisprudence is the case of ransom-bills, and they are contracts of security founded on a state of war and engendered by its violence." * * * * "All commercial partnerships existing between the subjects of the two parties prior to the war are dissolved by the mere force and act of the war itself."—1 *Kent's Com.*, 78-80; *Vattel*, 321; 16 *John Rep.*, 438; *Wildman*, vol. 2, p. 8; 2 *Wallace*, 258, 419.

"All the property of the people of the two countries, on land or sea, is subject to capture and confiscation by the adverse party, as enemy's property."—2 *Black*, 666, *Opinion of Justice Grier.*

Also, dissenting opinion of Justice Nelson, in this case, in which three other justices concurred, describing the effect of war substantially as above stated, and holding that after the passage of the act of Congress of July 13, 1861, civil war, with all its rights and obligations, existed between the United States and the States in rebellion. (See opinion of Nelson at page 687.)

This is undoubtedly the strict, rigid rule of international law. It is based upon the theory that the Government represents every individual in the State, and that each individual is, in judgment of law, a party to the acts of his own Government, and responsible for them. It ignores, in the first instance, the question whether the individual citizen is, or is not, in feeling and at heart, an enemy of the nation or State with which his Government is at war; and assumes that commercial intercourse is dangerous and improper, in time of war, with parties occupying the position of public enemies.

When these well-settled principles of law are stated here or elsewhere, our political opponents, without solicitation, I trust, immediately assume the gratuitous task of defending the President and loyal men of the States lately in rebellion from the consequences of these doctrines, and from what they are pleased to call the assaults upon them of Union members of Congress, and like all new converts, especially those who have sinned longest and strongest, and who cannot trace their conversion to any mental conviction of sin, they manifest an extraordinary and very suspicious zeal in their defense.

They tell us that these principles make the President an alien enemy, a usurper of the office he now holds, and that they convert the States lately in rebellion into foreign nations. We have seen strange things in our day, but none more strange than this new-born friendship for the President and loyal men of the southern States. Had it manifested itself in the early stages of the rebellion it would have saved oceans of blood and millions of treasure. Had it come even when, as Governor of Tennessee, Andrew Johnson was endeavoring to protect the loyal men of that State from the rebel hordes that infested it, and secure to them the rights of electors under a free Government, or even if it manifested itself now in favor of all loyal men of the South without distinction of color, it might be less liable to suspicion

than it is under the present circumstances. The friendship that denounced Governor Johnson as a tyrant and usurper, and labored for his political overthrow, and now fawns around President Johnson; that strikes hands with unrepentant rebels and flatters loyal white men in the rebel States, while it turns its back upon, and shuts its ear against, the patient application for a recognition of his rights by the loyal colored man, is hardly worth possessing; and if ever the time shall come when the President shall be reduced to the necessity of relying upon such friendship and support, he will be the most unfortunate and unfriended man that the sun ever shone upon. May Heaven in its mercy save him and the nation from such deep disgrace and humiliation.

But let me examine this question for a few minutes, and see what is the legitimate effect and extent of this doctrine, and whether the President and loyal people of the southern States need or require the services or protection of the party that has so magnanimously volunteered for their defense. The term public enemy does not necessarily imply an alien enemy. A public enemy may be either permanent or temporary; permanent when his hostility is supposed to continue during the war, and temporary when it is of shorter duration, and exists only in relation to the position or business which the party may occupy or be engaged in, and terminates when he ceases to occupy a hostile position or to carry on a business that is prohibited by the rules of war. Permanent residents in, and persons owing allegiance to, a State at war are regarded as permanent enemies. At most, the hostile character thus acquired continues only during the war. It recedes before the permanent occupation of the territory of either State by the opposing army; and the parties that to-day without their consent are converted into public enemies, without any actual crime on their part, and because their Government or State is at war, may to-morrow be as suddenly changed into friends by being brought within the lines and under the jurisdiction of the opposing army. The seizure, condemnation, and confiscation of enemy's property is confined, by modern usage, almost exclusively to maritime prizes, and such property on land as is particularly useful to the enemy in the prosecution of the war. The property on land of non-combatants is seldom taken or destroyed except in case of necessity, and not for gain. Slavery and cotton, the one the cause and the other the main reliance of the enemy for means to carry on the war against the Union, became the legitimate objects of destruction or capture. I am not speaking here of those who in a civil war are actually engaged in rebellion, but of those who are denominated enemies by reason of residence in or allegiance to the State in rebellion. As to the former, the right on the part of the sovereign Government to except any of them from amnesty and punish them for participation in the rebellion, although belligerent rights may have been conceded them, is unquestioned. (2 Black, 666; Vattel, 426.) As to the latter, the extent to which the disabilities of public enemies shall be enforced against them during the war rests with each belligerent.

In the case of the Venice, 2 Wallace, 258, Chief Justice Chase, in delivering the opinion of the court, at page 274, says:

"The States of Louisiana and Mississippi were wholly under rebel dominion and all the people of each State were enemies of the United States. The rule which declares that war makes all the citizens or subjects of one belligerent enemies of the Government and of all the citizens or subjects of the other applies equally to civil and to international wars. Either belligerent may modify or limit its operations as to persons or territory of the other, but in the absence of such modification or restriction, judicial tribunals cannot discriminate in its application."

Here we see that either belligerent may modify or limit the operation of this rule as to the property, persons, or territory of the other. What has been the policy of Congress on this subject during the war? I assert that from the commencement of the war to the present time it has been the settled policy of Congress by legislation, to draw a broad line of distinction between loyal and disloyal people in the rebel States; that the former have been protected in person and property in every way that it could be done with safety to the public interests; that as to them the term public enemy has been substantially obliterated, and that it has been entirely ignored so far as property on land is concerned. Pardon me while I refer to some of the legislation where this disposition or policy is distinctly manifested.

The act of July 13, 1861, authorizes the President, by proclamation, to declare what States and parts of States are in insurrection, and provides that thereupon all commercial intercourse with such States and parts of States shall cease. But it also provides that the President may license such trade as he shall think best.

This provision was modified by section nine of the act of July 2, 1864, and limited to such trade only as should be necessary to supply the wants of "loyal persons" residing in the insurrectionary States. The object of this law was to prohibit intercourse of a commercial nature with the States in rebellion, and at the same time to license or permit it so far as it was necessary to supply the wants of loyal citizens.

The act of August 6, 1861, confiscates certain property used or permitted to be used in support of the rebellion, and liberates or frees all slaves so used by consent of their owners.

The act of July 17, 1862, confiscates the property of persons and classes therein mentioned, and who were engaged in the rebellion.

The act of March 12, 1863, provides for the collection and sale of captured or abandoned property in the States in insurrection, the payment of the proceeds into the Treasury, and that the owner at any time within two years after the suppression of the rebellion may have the proceeds thereof, upon proving that he has never aided the rebellion. This act is extended by section three of the act of July 2, 1864, so as to include all property mentioned in the acts of July 13, 1861, and of July 17, 1862, commonly called the confiscation laws. And by section seven of the act of July 2, 1864, it is provided that no property seized or taken upon the inland waters of the United States by the naval forces thereof shall be regarded as maritime prize, but shall be delivered over to the proper officer and sold as provided by the act of March 12, 1863, for the collection and sale of captured or abandoned property.

We thus see, Mr. Speaker, by this reference to some of the principal laws passed during the progress of the war that Congress has recognized in terms the loyal people in the insurrectionary States, permitted the legalizing of trade to supply their wants, and provided for the collection, preservation, and restoration to them of all property which had been abandoned by them or captured by the Army or Navy of the United States. What else, I ask, could be done by Congress to preserve their property or rights or satisfy them that they were not to be regarded or treated as public enemies of the Government?

For the purpose of showing that I am right in thus regarding the effect of the legislation I have referred to, I read from the head notes to Mrs. Alexander's case, 2 Wallace, 404:

"The principle that personal dispositions of the individual inhabitants of enemy's country as distinguished from those of the enemy's people generally, cannot in questions of capture be inquired into, applies in civil wars as in international. Hence all the people of any district that was in insurrection against the United States in the southern rebellion are to be regarded as enemies, except in so far as by action of the Government itself that relation may have been changed.

"Our Government, by its act of Congress of March 12, 1863, to provide for the collection of abandoned property, &c., does make distinction between those whom the rule of international law would class as enemies; and, through forms which it prescribes, protects the rights of property of all persons in rebel regions who during the rebellion have in fact maintained a loyal adhesion to the Government. The general policy of our legislation during the rebellion having been to preserve for loyal owners obliged by circumstances to remain in rebel States all property or its proceeds which has come to the possession of the Government or its officers."

This case, it will be seen, after asserting the strict rule of law in relation to public enemies and the power of the Government to modify it, holds that the act of March 12, 1863, has had that effect, and that this has been the settled policy of the Government from the commencement of the rebellion. I am sorry to take from our political opponents any of their small stock in trade on this subject, but I am compelled to say that no loyal person, black or white, in the States lately in insurrection, is now to be regarded as a public enemy of the United States, and that the President, under the strictest construction of international law has never been a public enemy. The rebellion found him a Senator of the United States from the State of Tennessee, true to his trust when others failed, denouncing and opposing secession and all its attendant crimes. When as military governor he returned to Tennessee, and succeeded as few men could have done at that time in upholding and sustaining there the authority of the General Government, he was as truly and effectually in the service of the Government as though he had command of its armies in the field. For this he was denounced as a tyrant and usurper by those who now claim to be his special friends and defenders. The people whose Government he was then sustaining elevated him in spite of their opposition and detraction to the position by virtue of which upon the death of the President he assumed the duties of the highest and most responsible office in a republican government.

The people under our Government are the court of last resort for the trial of all public men and public measures. They have passed upon his loyalty and fidelity during that fearful struggle, and from that decision there is no appeal. And as he values their continued support and approval as well as the verdict of impartial history he will shun, as he would shun political death, an alliance with the men who now seek to do by flattery and simulated support what they failed to accomplish by detraction and unscrupulous opposition. He has successfully encountered their opposition. He cannot outlive their support.

Much has been said in this discussion upon the question whether the States lately in rebellion are States or Territories; whether they are in the Union or out of the Union? There is doubtless, to some extent, a difference of opinion between members of the Union party upon this subject. Much, however, of the apparent conflict of opinion arises from the use of different terms designed to express substantially the same meaning. All agree that there has been a time during the progress of the war when these States were not entitled to representation either in this or the other and higher branch of Congress; when no loyal State government was recognized in either of them by any department of the General Government. By some their condition at this time has been assumed to be out of the Union, or that they had relapsed into the condition of Territories. Others claim that they were and still are in the Union, but that their rights to a greater or less extent have been forfeited by their participation in the rebellion; and others still, that their functions have only been suspended and their vitality impaired. All these terms or expressions are intended to assert the fact that these States have not been in harmony with the General Government; and that they are not authorized to resume their relations with that Government and exercise all the rights of the States that did not participate in the rebellion until some power or authority outside of these States shall determine that their government, institutions, and people are again in harmony with the General Government, and that they are entitled to share in its duties and responsibilities and participate again in the privileges it confers. The terms or language used to express this condition are of little consequence so long as there is a general assent to the conclusions arrived at.

President Lincoln, in the last speech he made, used this language in reference to the condition of these States:

"We all agree that the seceded States, so-called, are out of their proper practical relations with the Union, and that the sole object of the Government, civil and military, in regard to these States is again to get them into that proper practical relation. Let us all join in doing the acts necessary to restoring the proper practical relations between these States and the Union, and each forever after innocently indulge his own opinion, whether in doing these acts he brought the States from without into the Union, or only gave them proper assistance, they never having been out of it."

Every one should cheerfully assent to this catholic recommendation of the late President.

For myself, Mr. Speaker, I do not believe that States easily die or cease to exist. They may change their form of government, be submerged by strife and civil war, their relations with surrounding States changed, and yet their identity preserved, and the Government of to-day be liable for the debts and obligations created by its predecessor. (Phillimore, vol. 1, pp. 147, 148; Lawrence's Wheaton, 39, 40.)

In relation to the States lately in insurrection, I do not believe that they have ever, during the rebellion, been out of the Union, that they are dead in the Union, or that they have even slumbered for a single moment from the commencement of the war to the present time. Their State organizations have been constantly wielded with terrible effect against this Government during the entire war. As States, they rebelled; as States, they did all in their power to sustain a rival government and to overthrow this; as States, they were overcome; and, as States, they still live, with all the passions that led them into the rebellion, maddened and embittered by defeat, and using their State organizations to drive out or destroy every person who was loyal to the Union in the hour of its peril.

That they may do all this and still retain and exercise all the rights of the loyal States: that they may send their representatives unbidden and almost unchallenged again into the halls of the national Legislature, to resume the seats they polluted and disgraced by treason, with the right and privilege of legislating again for a Government they failed to destroy, is a proposition too monstrous to be stated or received with approval in any loyal community; and if adopted would be offering a premium for treason, perjury, and crime. Those only who were engaged in the rebellion, and those who sympathized with it during its existence, can be guilty of promulgating such disloyal sentiments and opinions. Certain it is, no one connected with the late Administration, and I trust for the honor of humanity that no one connected with the present Administration, has, ever indulged such a thought. The criminal cannot pronounce his own pardon and absolution. It must come from a higher and purer fountain. The Government that has been sinned against, and whose laws have been defied and disregarded, is the only power that can prescribe the terms upon which forfeited rights can be restored or resumed.

The power of the General Government, as the successful party in war, to dictate such terms and enforce such conditions as shall be just in relation to the reorganization of these State governments, can be readily justified by the law of nations.

I read from Vattel, at page 388:

"The whole right of the conqueror is derived from justifiable self-defense. He may, in the first place, do himself justice respecting the object which had given rise to the war, and indemnify himself for the expenses and damages he has sustained by it; he may, according to the exigency of the case, subject the nation to punishment by way of example; he may even, if prudence so require, render her incapable of doing mischief with the same ease in future."

I commend this quotation to all who insist that there is "nothing in the recognized or established code of international law which can punish a State as a State for any act it may perform," and to remind them that it is not uncommon to find a State shorn of its sovereignty or part of its possessions, its government modified, and large sums of money exacted from it by way of indemnity and punishment for acts done as a State.

But I do not seek to justify the Government by the law of nations in exacting from the rebel States such guarantees as I may think necessary before permitting them to resume their full relations with the General Government, and I disclaim any desire to see the doctrine of the conqueror and the conquered as recognized by those laws applied to them. But we may at least look to those laws so see what the civilized world regards as right and just in such cases, while ample power is found, in my judgment, in the Constitution of the United States to enforce such of those principles as the safety and perpetuity of the Government imperiously demand.

By section four of article four it is made the duty of the United States to guaranty to every State a republican form of government. And by section four of article one Congress has power—

"To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof."

The governments in these States were entirely subverted, so far as fidelity to the Union, the Constitution, and national Government was concerned. Not a vestige of loyalty could be found in any official position. To show how perfect and entire was the destruction of these governments, I read from the proclamation of the President, drawn up with great care and issued by him for the purpose of securing a reorganization of the government in each of these States. These proclamations not only announce the entire overthrow of all civil government therein, but claim that the power to reconstruct or reëstablish them is contained in that portion of the Constitution which enjoins upon the United States the duty to guaranty to every State a republican form of government:

"PROCLAMATION.

"Whereas the fourth section of the fourth article of the Constitution of the United States declares that the United States shall guaranty to every State in the Union a republican form of government, and shall protect each of them against invasion and domestic violence; and whereas the President of the United States is, by the Constitution, made Commander-in-Chief of the Army and Navy, as well as chief executive officer of the United States, and is bound by solemn oath faithfully to execute the office of President of the United States, and to take care that the laws be faithfully executed; and whereas the rebellion which has been waged by a portion of the people of the United States against the properly constituted authorities of the Government thereof, in the most violent and revolting form, but whose organized and armed forces have now been almost entirely overcome, has in its revolutionary progress deprived the people of the State of ——, of all civil government; and whereas it becomes necessary and proper to carry out and enforce the obligations of the United States to the people of ——, in securing them in the enjoyment of a republican form of government:

"Now, therefore, in obedience to the high and solemn duties imposed upon me by the Constitution of the United States and for the purpose of enabling the loyal people of said State to organize a State government whereby justice may be established, domestic tranquillity insured, and loyal citizens protected in all their rights of life, liberty, and property, I, Andrew Johnson, President of the United States, and Commander-in-Chief of the Army and Navy of the United States, do hereby appoint —— —— provisional governor of the State of ——, whose duty it shall be at the earliest practicable period to prescribe such rules and regulations as may be necessary and proper for convening a convention composed of delegates to be chosen by that portion of the people of said State who are loyal to the United States, and no others, for the purpose of altering or amending the constitution thereof, and with authority to exercise within the limits of said State all the powers necessary and proper to enable such loyal people of the State of —— to restore said State to its constitutional relations to the Federal Government, and to present such a republican form of State government as will entitle the State to the guarantee of the United States therefor, and its people to protection by the United States against invasion, insurrection, and domestic violence: *Provided*, That in any election that may be hereafter held for choosing delegates to any State convention as aforesaid, no person shall be qualified as an elector or shall be eligible as a member of such convention, unless he shall have previously taken and subscribed the oath of amnesty, as set forth in the President's proclamation of May 29, 1865, and is a voter qualified as prescribed by the constitution and laws of the State of —— in force immediately before the —— day of —— 1861, the date of the so-called ordinance of secession. And the said convention when convened, or the Legislature that may be thereafter assembled, will prescribe the qualifications of electors and the eligibility of persons to hold office under the constitution and laws of the State, a power the people of the several States composing the Federal Union have rightfully exercised from the origin of the Government to the present time."

Under these proclamations the President and the officers appointed by him have gone forward in the process of reconstructing the State governments. Conventions have been called and held; constitutions altered and amended; members of the Legislatures and other State officers elected; Representatives and Senators chosen to represent the States in Congress; and during the entire time the right to determine when the officers thus elected should enter upon the duties of their respective offices, to set aside elections, and also to set aside or disregard laws passed by some of these Legislatures, has been claimed and exercised by the President in the most direct and pointed manner.

Although I see in the proceedings of the President in the reorganization of these State governments some of the dangers which the gentleman from Pennsylvania who sits near me [Mr. WILLIAMS] has so vividly described, and though I may have desired that other qualifications for electors had been prescribed, I do not on the whole regret the course taken by the President, because it gave the people of those States the opportunity of showing to the world what they would do if again trusted with unrestricted power.

In no other way could they have shown so well their entire unfitness to be trusted at present with the sacred responsibilities and duties of a republican government. If trembling and shrinking loyalty in the person of colored men had been permitted to come to the polls, it might have modified the exhibition of hatred for the freedman, now so apparent and intense. Then we might have been deceived. Now there is no excuse for shutting our eyes against the evidence of disloyalty, so apparent that he that runs may read. The President has labored patriotically and earnestly, I doubt not, to bring about a better state of affairs, but his labors have not been blessed in a very great degree. The seed he has scattered has fallen upon stony ground and has produced a very inconsiderable crop, if loyalty is to be the standard by which it is measured. In his annual message, at the opening of the present session of Congress, he says:

"The States attempting to secede placed themselves in a situation where their vitality was impaired, but not extinguished; their functions suspended, but not destroyed."

Who is to determine when these suspended functions and this impaired vitality are restored? Has Congress nothing to do with it except to pass, each House for itself, upon the certificates of election of members claiming seats in such House? The decision of this question rests, in my judgment, with the law-making power, and requires the sanction and assent of the entire law-making power of the Government. In no other way can the rule be uniform. Separate and independent action might leave one rule prevailing in this House, another in the Senate, and still another with the executive department. These States are entitled to full and absolute recognition by each of these departments of the Government, or else they are not entitled to recognition by either. Ample power exists under the eighth section of article one of the Constitution of the United States, above referred to, to pass any law necessary to carry out and enforce the guarantee of a republican government to each State, and to recognize such government when established; and this can only be done by legislation, and not by either department of the Government acting independently and alone.

When shall these States be admitted to representation on this floor and to all other rights of loyal States? My simple answer is, when their governments are republican, their people loyal, and they send loyal men to represent them. There has been a time during this rebellion when no one will claim that they were entitled to representation here. They certainly were not when fully represented by the action and con-

sent of their respective Legislatures and nearly their entire population in the rebel congress. Representation there was only one evidence of their disloyalty and unfitness for representation here. At the last session of the Thirty-Eighth Congress, this House without division passed a resolution declaring that they were not entitled to participate in the election of President and Vice President. Have the sentiments of the people of these States changed since that vote was taken? Where is the evidence of such change and of their present loyalty? Do you point to the adoption by their Legislatures of the constitutional amendment abolishing slavery? Governor Humphreys, in his message, says it was forced upon them by Federal bayonets. The plea of action under duress is already made in some quarters and a conditional ratification is attempted in others. Are we to assume that these Legislatures, elected as they were, represent a majority of the people of their respective States; and that they will not be entirely repudiated by the people and their acts declared usurpations? Who can assure us that these mushroom governments that have grown up in a night in the hot-bed of executive influence can stand one hour of solar heat and light? Above all, who can satisfy us that there is a majority of loyal men in any one of these States ready and willing and able to sustain a loyal government. A loyal people and a loyal government must exist in all cases as the foundation of the right to representation.

But it is asked, and with great force and by men whose opinions are entitled to consideration and respect, why not admit loyal men from these States who are claiming seats in this House? I hope the time is not distant when we shall find such a state of facts existing in some of these States as will justify their admission. No one can be more anxious than I am to see the time when we shall be honored by the presence as members of this House of some of the loyal men from those States. I know their trials, struggles, and sacrifices for the Union, and that their loyalty was unquestioned when secession and treason swept over their States and strong men bowed before the storm. I give them all honor for their fidelity and courage. But there is a question of principle involved in the admission of representatives as loyal as the best of them that we must not overlook. It is not merely loyal representatives that we want, but loyal constituencies behind them. Are the States they claim to represent loyal to-day, and were they so when they were elected? Have the loyal people of either of these States the power to sustain a State government without the aid of Federal bayonets? Can they live to-day in safety in either of these States if the United States Government withdraws its protection? Is not hostility to the Government as wide spread and unyielding as during the palmy days of the rebellion; and as soon as the United States Army is withdrawn will not the State governments pass into the hands of disloyal men who are waiting only for this last and full recognition of their rights to wipe out, by unfriendly legislation or otherwise, every person, white as well as black, suspected of unconditional loyalty to the General Government?

The battle-fields of those States are covered with the sacred ashes of men who left their homes in northern and loyal States and laid down their lives that this Government might be preserved, and with it the power to protect loyal men everywhere. In defense of that Government, they marched down to the harvest of death side by side with loyal men from southern States, meeting a common enemy and finding a common grave. The sons and brothers of your constituents and mine, Mr. Speaker, are sleeping there the sleep that knows no waking. The sacrifice required was great, but it was freely made. We bound the fillets around their temples and laid them upon the altar. Do not ask us, before the grass has grown upon the grave of the nation's dead, to take a course that may compel us to repent the awful sacrifice. You must not require it at our hands. We cannot afford to give up the control of this Government to rebels and rebel sympathizers to be used in crushing out loyal men. I fear if it is now surrendered that very soon we shall again hear from the loyal people in each of these States the Macedonian cry, "Come over and help us." We have a higher duty to perform than merely to gratify political or personal friends here or elsewhere. We owe a duty to our country and the men who have laid their lives and treasure upon their country's altar, that requires us to see that so much blood and treasure shall not be spent in vain.

The presence of United States soldiers all over the South is conclusive evidence, if any were needed, that the President does not believe that civil governments could be maintained without them. The report of Major General Carl Schurz shows an entire want of loyalty in these States. And Lieutenant General Grant, in his report made at the same time, says:

"I did not meet any one, either those holding places under the Government or citizens of the southern States, who think it practicable to withdraw the military from the South at present. The white and the black mutually require the protection of the General Government."

The Attorney General of the United States, in a letter sent to the Senate by the President on the 10th of January last, and which of course has the approval of the President, says "a state of war still exists over the territory in rebellion," and that "peaceful relations between the Government and the States have not been restored." It is only necessary, in addition, to refer to the infamous legislation enacted by the Legislatures of many of these reconstructed States, and the evidence taken before the joint committee of Congress at the present session and recently reported to this House, to show how wide spread and universal is the feeling of hostility to the General Government in most if not all of these States. Who, under such circumstances, can consistently with his duty to a loyal constituency vote to recognize as reconstructed, with the right of representation in the national Legislature, States that, in addition to all this, select men to represent them who have distinguished themselves in the service of the rebellion, and who have held some of the highest offices in the government organized to secure its success? I cannot do it, and I am glad of an opportunity to say in this connection that no person, with my consent, shall ever hold office under the Government of the United States who has in any way voluntarily aided the rebellion.

Before admitting these States to a participation in the law-making power of the Government, we must, in the language of Vattel, above referred to, do ourselves justice and render them "incapable of doing mischief with the same case in future." We must do justice to the public creditor who has furnished the Government the means to carry on this war and give him assurance doubly sure that come what may, the debt created for that purpose shall be paid to the "uttermost farthing." The debt created to aid the rebellion must be repudiated and with it the political heresies that engendered the war. Representation and the ballot must go hand in hand, and the fulfillment of the pledges to the freedmen made in the emancipation proclamation must be placed beyond any contingency.

President Johnson in his annual message says it is "not too much to ask of these States that they should ratify the constitutional amendment abolishing slavery as a pledge of perpetual loyalty and peace." If this may be required by the President, may not something be asked by Congress looking to the same object, "perpetual loyalty and peace?" Let me refer once more to Vattel on this subject. At page 391 he says:

"It has been observed that we may be obliged, if not externally, yet in conscience, and by the laws of equity, to restore to a third party the booty we have secured out of the hands of an enemy who has taken it from him in an unjust war. The obligation is more certain and more extensive with regard to a people whom our enemy has unjustly oppressed. For a people thus spoiled of their liberty never renounce the hope of recovering it. If they have not voluntarily incorporated themselves with the State by which they have been subdued, if they have not freely aided him in the war against us, we certainly ought so to use our victory as not merely to give them a new master, but to break their chains. To deliver an oppressed people is a noble fruit of victory. It is a valuable advantage gained thus to acquire a faithful friend."

How beautifully the dictates of international law harmonize with our duty to the freedman. "To deliver an oppressed people is a noble fruit of victory." These people are nominally free, but really slaves. We must, in the language of the emancipation proclamation, "recognize and maintain their freedom." This duty, repudiated elsewhere, appeals to us with a double power. Whatever others may do, we must neither hesitate nor turn back from its full performance. By us it must neither be repudiated, evaded, or compromised. The right of these people to life, liberty, and the pursuit of happiness, to protection of person and property, to equal and exact justice and privileges before the law, and in all courts and proceedings, must be freely conceded and amply guaranteed. When these things shall be done, and the rebellion suppressed in fact as well as name; when loyalty shall be the rule instead of the exception; when the States lately in rebellion shall recognize and enforce the great truths of the Declaration of Independence, and guaranty to all their people, without distinction of race or color, the blessings and privileges of free governments, then will our Government have reached the position designed for it by its founders; then will it have fully entered upon that mission of beneficence and justice which is to regenerate a continent and bless the world. And then, and not till then, can we truly say, it is well with us and well with our country.

LEAVE OF ABSENCE.

Mr. HILL obtained the floor and stated that he desired leave of absence for his colleague, Mr. WASHBURN, of Indiana.

Leave was accordingly granted.

Mr. GRINNELL. With the consent of the gentleman from Indiana, [Mr. HILL,] I move that the House do now adjourn.

The motion was agreed to; and thereupon (at five o'clock p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to appropriate committees:

By Mr. BALDWIN: The petition of the Worcester Mechanics' Savings Bank, of Worcester, Massachusetts, for relief from the tax on deposits in savings banks.

Also, the petition of the North Brookfield Savings Bank, of North Brookfield, Massachusetts, to the same effect.

By Mr. BEAMAN: A communication from the Board of Trade of the city of Detroit, recommending that Congress make such appropriation as may be necessary to pay the expenses of transportation of articles for exhibition to Paris and back, on the occasion of the Universal Exposition to be opened in Paris in April, 1867.

By Mr. BUNDY: The petition of William Chamberlain, and 125 others, citizens of Vinton and Meigs counties, Ohio, for a post route from Hamden, in Vinton county, via Eagle Furnace, Wilkesville, and Rutland, to Middleport, in Meigs county, Ohio.

By Mr. McKEE: A petition of soldiers and citizens of Kentucky, asking an equalization of bounties.

By Mr. LONGYEAR: The petition of A. N. Hart, and others, of Lansing, Michigan, asking for an extension of the land grant to the Amboy, Lansing and Traverse Bay Railraid Company, in the State of Michigan

Also, the petition of R. J. Bell, and others, of Windsor, Eaton county, Michigan, for the same purpose.

IN SENATE.

MONDAY, *March* 12, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY.

The Secretary proceeded to read the Journal of Friday last.

Mr. GRIMES. I move that the reading of the Journal be dispensed with.

Mr. HENDRICKS. Why?

Mr. GRIMES. It is very long; there are many yeas and nays; it covers thirty pages, and will consume a great deal of time.

The PRESIDENT *pro tempore*. The reading can be dispensed with by unanimous consent only, as the rule requires the reading of the Journal. No objection being made, the reading is dispensed with.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Interior, transmitting, in obedience to law, copies of the accounts of the superintendents and agents having charge of the tribes of Chickasaws, Seminoles, Wichitas, &c., for the third quarter of 1865; which was referred to the Committee on Indian Affairs.

The PRESIDENT *pro tempore* also laid before the Senate a message from the President of the United States, transmitting, for the consideration of the Senate, a copy of a letter of the 21st ultimo, from the Governor of the Territory of Colorado to the Secretary of State, with the memorial to which it refers, relative to the location of the Pacific railroad; which, on motion of Mr. CONNESS, was referred to the Committee on the Pacific Railroad.

PETITIONS AND MEMORIALS.

Mr. GRIMES presented a memorial of the General Assembly of the State of Iowa, representing that they believe Jefferson Davis ought to be brought to a fair, speedy, and impartial trial, and that, if found guilty of the crime of treason, he ought to suffer the penalty provided by law; which was referred to the Committee on the Judiciary.

Mr. LANE, of Indiana, presented the petition of Ann Heth, widow of William Heth, who was killed by the confederate forces under the command of John Morgan, July 9, 1863, praying for a pension; which was referred to the Committee on Pensions.

He also presented additional papers in relation to the claim of Mrs. Charles W. Purcell, for a pension; which were referred to the Committee on Pensions.

Mr. WILLIAMS presented two petitions of citizens of Oregon, praying for the establishment of a weekly mail route from Oregon City to Lebanon, in that State; which were referred to the Committee on Post Offices and Post Roads.

Mr. POMEROY presented a petition of loyal citizens of the counties of Augusta and Albemarle, in the State of Virginia, praying for payment for stores and supplies furnished to the Union Army; which was referred to the Committee on Military Affairs and the Militia.

Mr. HOWE presented a petition of citizens of Wisconsin, praying for the establishment of a tri-weekly mail route from Glen Bulah, Sheboygan county, to West Bend, Washington county, in that State; which was referred to the Committee on Post Offices and Post Roads.

He also presented a memorial of the Milwaukee and Rock River Canal Company, praying that the remainder of the trust fund arising from the sale of canal lands, found by the Commissioner of the General Land Office to have come into the possession of the State of Wisconsin, may be appropriated and paid to it in full of all demands; which was referred to the Committee on the Judiciary.

Mr. WILSON presented a petition of officers of the Cohasset Savings Bank, praying that savings banks or institutions for savings having no capital, and whose business is confined to receiving deposits and loaning the same on interest for the benefit of depositors only, and which do no other business of banking, may be exempted from the payment of any further internal revenue tax; which was referred to the Committee on Finance.

Mr. ANTHONY presented a petition of officers of the Pascoag Savings Bank, in Rhode Island, praying that savings banks or institutions for savings having no capital, and whose business is confined to receiving deposits and loaning the same on interest for the benefit of depositors only, and which do no other business of banking, may be exempted from any further payment of internal revenue tax; which was referred to the Committee on Finance.

Mr. DAVIS presented a resolution of the Legislature of Kentucky, remonstrating against the proposed tax on leaf tobacco; which was referred to the Committee on Finance, and ordered to be printed.

Mr. HARRIS presented the memorial of Mrs. Mary Elizabeth Bouligny, praying that certificates of new location may be issued to her for one sixth part of the land claim of the heirs of J. A. Bernard Dauterive, in Louisiana, called the Bayagoula Concession; which was referred to the Committee on Private Land Claims.

BURNING OF COLUMBIA, SOUTH CAROLINA.

Mr. SHERMAN. I am requested to present the petition of Benjamin Rawls, who represents himself to be a poor old man, ninety-three years of age, who has been most harshly treated by the Army of the United States, having all the property that he had accumulated during a long life of hard work destroyed in one night. He describes the character of property and the nature of it, and states it to have been worth $10,000. He further says he has always been a true and loyal citizen of the United States; that he was early educated that the Union and the Constitution were sacred landmarks set up by the fathers and not to be removed by us. For this he suffered in the days of nullification pecuniary loss. He states that ever since 1823 he has been under oath to defend the Constitution of the United States, first as a magistrate, in 1836 as a postmaster, and in 1865, in that city, in the provost marshal's office, and that he has never violated that oath, but has been always true and faithful to the Government of the United States. He thinks that under the peculiar circumstances of the case he should be compensated for the injury done him by the Army. His property was burned in the fire at Columbia. He also represents that he communicated his case to the President, and the President referred him to Congress. He also says he called upon General Sherman, the army under whose command committed this injury, and he also advised him to make the same reference; and he now respectfully makes this appeal to Congress. He incloses a correspondence between himself and General Sherman, and I will take the liberty now, in order to set a matter of history right, so far as the statement of the general in command can do it, to read the letter of General Sherman in reply to this application:

HEADQUARTERS MILITARY DIVISION MISSISSIPPI,
ST. LOUIS, MISSOURI, *March* 8, 1866.

DEAR SIR: I have your letter, without date, inclosing a petition to the Congress of the United States, asking to be indemnified for the loss by fire of your house and contents at the time of our occupation in February, 1865.

I assure you that I feel deeply for you and all others who lost their property in that fire, but if the United States were to assume the liability it would be an admission that we had done wrong. This is not true. The rightful authority of the national Government had been resisted in the State of South Carolina for years, and we were compelled at great cost of life and money to conduct thither a vast army, and our progress was resisted by all the force the State could obtain. Your own citizens resisted our approach not only with arms, but by burning the bridges over the Edisto, the Congaree, Saluda, and Broad rivers. They burned the depot in Columbia before we entered because it contained corn and stores they supposed we needed, and set fire to thousands of bales of cotton rolled out into the streets, and which were burning before we entered Columbia. I myself was in Columbia as early as noon, and saw these fires, and know that efforts were made to extinguish them, but a high and strong wind kept them alive. I gave no orders for the burning of your city, but on the contrary the reverse, and believe that the conflagration resulted from the great imprudence of cutting the cotton bales, whereby the contents were spread by the wind, so that it became an impossibility to arrest the fire. I saw in your Columbia newspapers the printed order of General Wade Hampton that on the approach of the Yankee army all the cotton should thus be burned, and from what I saw myself have no hesitation in saying that lie was the cause of the destruction of your property. Your true remedy is against him and such others of your own citizens as conspired with him and made the military occupation of your city an absolute necessity.

I hardly think it is fair that the Congress of the United States should tax the people of Ohio, Illinois, and Missouri to pay for such losses, but as it is not my province to judge in such matters, I will send your petition according to its address.

I again assure you of my personal sympathy, by reason of your age and infirmity, but this must not lead me to indorse a wrong principle.

I am, with great respect, your obedient servant,
W. T. SHERMAN, *Major General.*

BENJAMIN RAWLS, *Columbia, South Carolina.*

As this old gentleman is undoubtedly a true and loyal man, one of the very few, probably, in the State of South Carolina, I trust this petition, although I think it ought not to be granted, will receive a respectful hearing by Congress, and I therefore move that it be referred to the Committee on Claims.

The PRESIDENT *pro tempore*. It will be so referred. The Chair will remark in this connection that he received, he presumes, a copy of the same petition or the original of the same and presented it to the Senate some ten days ago, and that is already in the hands of the Committee on Claims.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. MORGAN, it was

Ordered, That the memorial of E. Brown, jr., of the city of New York, praying for additional compensation for services rendered as an artist with the naval expedition, under Commodore Perry, to Japan, be taken from the files of the Senate and referred to the Committee on Naval Affairs.

REPORTS OF COMMITTEES.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred a joint resolution (S. R. No. 31) manifesting the sense of Congress toward the officers and seamen of the vessels, and others, engaged in the rescue of officers and soldiers of the Army, the passengers and the officers and crew of the steamship San Francisco, from perishing with the wreck of that vessel, reported it without amendment.

He also, from the same committee, to whom was referred a joint resolution (S. R. No. 35) to fix the rate of mileage for officers traveling on public duty, reported it without amendment.

He also, from the same committee, to whom was referred a bill (S. No. 81) ceding to the State of West Virginia the lands and tenements, with the rights, privileges, and appurtenances thereunto pertaining, belonging to the United States, and lying and being in the county of Jefferson, at Harper's Ferry, in the State of West Virginia, reported adversely thereon.

Mr. DAVIS, from the Committee on Claims, to whom was referred the petition of P. A. Wheeler, acting chaplain and assistant quartermaster, praying for the passage of an act relieving him from all responsibility for money stolen from him on the 30th of September, 1865, at Eastville, Virginia, submitted an adverse report thereon.

BILLS INTRODUCED.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 195) to amend an act to provide for the payment of horses or other property lost or destroyed in the military service of the United States, approved March 3, 1849; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. WILLIAMS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 196) to extend the port of entry of the collection district of the State of Oregon; which was read twice by its title, and referred to the Committee on Commerce.

APPORTIONMENT OF REPRESENTATION.

Mr. GRIMES. I believe my time has come, Mr. President, to offer an amendment to the Constitution, and I propose to submit one.

There being no objection, leave was granted to introduce a joint resolution (S. R. No. 42) proposing to amend the Constitution of the United States; which was read twice by its title.

Mr. GRIMES. I ask that it be read at length.

The Secretary read, as follows:

Resolved, &c., That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three fourths of said Legislatures, shall be valid as part of said Constitution, namely:

ARTICLE —. Representatives shall be apportioned among the several States which may be included within this Union according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed; but whenever in any State the elective franchise shall be denied to any portion of its male citizens above the age of twenty-one years, except for crime or disloyalty, the basis of representation of such State shall be reduced in the proportion which the number of male citizens so excluded shall bear to the whole number of male citizens over twenty-one years of age.

Mr. GRIMES. I simply desire to say that I do not know whether I am myself in favor of that proposition or not. I have taken it from a proposition submitted by a distinguished Representative in the House of Representatives, Mr. BROOMALL, and as it came according to my construction of it nearer to what I thought ought to be adopted after the Senate rejected the proposition which was before it last Friday, I have deemed it proper to offer it to the consideration of the Senate, so that when this question shall come up again it shall be one of the number of propositions that shall receive its consideration. I move that it be printed.

The motion was agreed to.

Mr. HENDRICKS. Does not that proposition go to the committee of fifteen?

Mr. GRIMES. They have reported on this subject, and this is an amendment I propose to offer.

Mr. WILSON. I ask leave now to introduce an amendment which I intend to propose to the amendment proposed by the Senator from Wisconsin [Mr. DOOLITTLE] to the joint resolution (H. R. No. 51) proposing to amend the Constitution of the United States, which I ask to have read.

The Secretary read it, as follows:

Representatives shall be apportioned among the several States according to the number of male citizens over twenty-one years of age having the qualifications requisite for electors of the most numerous branch of the State Legislature; citizens possessing like qualifications disfranchised for participation in any rebellion; and persons of like age not naturalized. The number of Representatives shall not exceed one for every hundred thousand of actual population, but each State shall have at least one Representative.

The proposed amendment was ordered to be printed.

Mr. SUMNER. I ask leave to send to the Chair an amendment which, at the proper time, I hope to offer as a substitute for the apportionment amendment to the Constitution which has been under discussion so long in this Chamber. I ask to have it read and printed.

The Secretary read the amendment, which was to strike out all after the word "namely" at the end of the sixth line of the resolution (H. R. No. 51) proposing to amend the Constitution of the United States, and to insert in lieu thereof the following:

ARTICLE —. Representatives shall be apportioned among the several States which may be included within this Union according to their respective numbers, which shall be determined by taking the whole number of persons, and excluding Indians not taxed: *Provided*, That whenever male citizens of the United States over the age of twenty-one years shall be excluded from the elective franchise in any State, except for participation in rebellion, the basis of representation therein shall be reduced in the proportion which the number thus excluded bears to the whole number of male citizens of the United States over the age of twenty-one years in such State.

Mr. SUMNER. With the indulgence of the Senate, I will merely call attention to the fact that that proposition is not open, I think, as will appear on its face, to any evasions; in the second place, it contains no words which can imply any recognition of inequality of rights; and, in the third place, it contains no words which can imply any recognition of the right of a State to disfranchise on account of color or race; and therefore it seems to meet the objections which were adduced against the pending proposition.

The PRESIDENT *pro tempore*. The order to print will be made, if there is no objection.

CLERK TO A COMMITTEE.

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

Resolved, That the Committee on Mines and Mining be authorized to employ a clerk.

WIDOW OF CHARLES W. PURCELL.

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

Resolved, That the Committee on Pensions be instructed to inquire into the expediency and propriety of granting a pension to the widow of Charles W. Purcell, late a second lieutenant in the third Missouri cavalry, and report by bill or otherwise.

IMPROVEMENT OF FOX RIVER HARBOR.

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

Resolved, That the Secretary of War be requested to furnish the Senate with any information in his possession as to the money required for the improvement of the harbor at the mouth of Fox river, in the State of Wisconsin.

BILL BECOME A LAW.

A message from the President of the United States, by Mr. WILLIAM G. MOORE, his Secretary, announced that the President had approved and signed, on the 10th instant, a joint resolution (S. R. No. 36) providing for expenses incurred in searching for missing soldiers of the Army of the United States, and for further prosecution of the same.

BONDED WAREHOUSES.

Mr. SPRAGUE. I move that the Senate proceed to the consideration of the bill (H. R. No. 135) to extend the time for the withdrawal of goods for consumption from public store and bonded warehouse, and for other purposes.

The motion was agreed to.

The PRESIDENT *pro tempore*. The question is, Will the Senate reconsider their vote passing this bill?

Mr. SPRAGUE. Mr. President, there are always men to be found in every assembly who, whatever is said or done, think it is said or done with reference to them and them only. In the discussion of the bill before the Senate I have been actuated by no motive personal to any Senator here or to any other man. I should not have thought it necessary to make this remark, or to excuse myself from that imputation, had not a suggestion of that kind been reported to me from gentlemen of the Senate. My opposition is to the measure and not to men. I believed from the start that it was pernicious in its effects, and in its consequences, and I determined from the first to oppose it step by step in its progress before the Senate. This I have done. I have gained time for the consideration of the bill by the Senate. I desired that its consideration should not be confined to half an hour, or to a quarter of an hour, or to the ten minutes left in the morning hour, but that a longer time should be assigned to its discussion, and that when the vote was taken it should be taken unembarrassed by any other question under consideration which might be deemed by Senators of greater importance than this.

I have endeavored to state some of the points upon which my objections to this bill are founded. I have not been able to state them all. They are as numerous as the words in the language. The whole system is wrong from the very foundation, in all its workings and in all its results. I have been obliged, in my judgment, to confine my remarks somewhat to the tariff itself; and I have been charged with acting outside of the rule, or of acting outside of the necessity of the case, by in any way touching upon that great question. I believe that this question is one that is founded upon that, that it materially affects it, and that if the policy that supports and sustains this measure was permitted to continue to its ultimate extent the tariff would go under, and this warehousing system would prevail. This is a free-trade measure from the start; and it has been necessary for me to combat free-trade ideas and free-trade sentiments that have been suggested here and elsewhere during this session of the Senate. Senators' desks are flooded every day with pamphlets upon free trade, filled with slurs, innuendoes, and insinuations against those who sustain the interests of American industry. Only on Saturday last I received a printed document to that effect. You will find them everywhere. You find associations of men engaged in plotting the overthrow of American industry here and elsewhere to-day, as you have always found them. They are moths upon the surface of our industrial society. Sir, let me say to those who sneer and slur at a great question and a great interest, that they themselves, in some future time, may find that the slur and insinuation are not upon their side of the question. That which has been in the past the rejected material has become the chief corner-stone; and it may be that the policy which I advocate, which I believe is for the real and true interests of American society, will prevail, will obtain strength for itself, founded upon its own merits, and will banish from American statutes all contrary provisions.

When interrupted by the special order on Friday last, I was speaking, as an illustration, of the family of Coats, who had the run of the American market in the manufacture of thread, &c., in reply to a statement that had been placed before the Senate that an American manufactory engaged in the same business had made a profit of three hundred per cent. I endeavored to show that this interest, which is condemned in this country on that account, was established upon the heel of the prices that were adopted by the Coatses themselves; that for a century they had had command of the American market, and that they had forced up prices, year by year, until they became so exorbitant that this American company was able to commence the business, although they were opposed by the capitalists of England, who endeavored to destroy the American interest that desired to devote its energies to that particular business. Up to the beginning of this war that interest could not prevail in this country, because this great monopoly had obtained complete power and control of the American market; but after this war commenced, like rats who flee from the sinking ship, they distrusted the American ability to sustain itself, and they withdrew from the market, and this American interest established itself.

If the illustrations which are around us every day are not sufficient for us to determine that it is impolitic and destructive for Americans to permit their markets to be monopolized by anybody, whether it is by home manufacturers or foreign manufacturers, then it is impossible to furnish more. To my judgment, there should be no monopoly of either class, foreign or American. There cannot be any by Americans, for the reason that American manufacturing is wide spread; it belongs to every State and is found in every community, and cannot be limited by towns or by cities or by States; but it is a monopoly which belongs to the whole country.

England exacts free trade of this country as the price of her good opinion of us; and John Bright, who sustains our theory of government, advises us to pursue the policy of free trade as the very acme of our material and economical system. Sir, you might as well tie the hands and limbs of a man and throw him in the water and then ask him to swim, as to ask this country to pursue this system of free trade, bound hand and foot, commercially, financially, and materially. English capitalists have possession to a certain extent of all our railroads. They have to a certain extent the command of the financial affairs of our banks. They have the command of everything in this country upon which the industry of Americans is founded; and we are asked with that pressure upon us, to produce articles cheaply so that we can compete with her in the markets of the world! Take, for instance, the percentages now paid and which have been paid by our railroads. Those percentages go into the hands of foreigners. They have been obtained by the high rates of freight upon all articles of American production. They have aided to enchance those prices, and have in consequence compelled us to find a home market because we could not compete in a foreign one. Look at the wages paid to the laboring man in France, thirty-six dollars a year, and his expenses of living twenty-one dollars, whereas the wages of the laboring man in this country would be from $300 to $500 per annum, and the expense of living from $400 to $450. We cannot compete with these disadvantages against us; and these disadvantages have not grown out of anything that we can prevent, but

we are bound hand and foot, bound financially, bound materially, bound in every form and in every way to prevent us from removing the dead lock which has been for the last fifty years, and which still continues, upon our material, commercial, and manufacturing industry.

Look at the interest which the manufacturer or the trader in this country pays. As a general thing it is about ten per cent. The rate of interest abroad is three per cent. The interest upon the cost of every product that is consumed, that is removed, that is transported, upon which we trade, is three times as much in this country as it is in England. How can we carry out the principles of free trade upon that system? What has caused this difference in interest? Why is it that we have not as much capital in this country as they have in England or France or Germany? The reason is plain and well understood. Our system has carried away all our securities both national and State, and has brought back goods that we have consumed and that we have nothing to show for.

It has been said that the inflation of our currency has caused prices to advance. This is a part of the war upon the industry of the people that is now applied to the currency of the country and to the banking interest of the country. I contend that the increase of prices is due to demand and supply and not to any inflation of the currency. The currency is the slave of prices, and not prices the slave of the currency. I contend that the system now being pursued at the Treasury Department in reducing the price of gold and restricting the amount of currency has a tendency and in effect restricts trade, reduces capital, increases interest, and affects injuriously every branch of American industry; and I will explain it. In former times, an adventure of $5,000 would be paid in a note of sixty or ninety days, four months, six months, eight months, or twelve months, in accordance with the times, in accordance with the condition of the trade and industry of the country. To-day that $5,000 is paid for in greenbacks. In one case, an individual was under obligation for the note; that note was again used in trade in the purchasing of an article of trade, and the individual who received it became security for it, and he was indebted to the same amount, and the indebtedness before the amount was paid would be piled up in accordance with the number of individuals who had used this note in the adventure they had engaged in. If ten men had been engaged in it, there would be an indebtedness of $50,000. As the case is now, with plenty of currency, there is no indebtedness, and the $50,000 is paid for when it becomes due in $5,000. A decrease in the currency carries us back to the old system of credits for six, twelve, eighteen, and twenty-four months. An increase of the currency places everything upon a cash basis, lessens the demand for money because there is more of it, and in the end enables us to compete with foreigners upon the same basis, upon the basis of easy money markets, which is the blood that carries on the trading system of the world.

The bill before the Senate, Mr. President, has for its object the extension of the time within which merchandise may be withdrawn from the bonded warehouses for consumption, and if they are not withdrawn after a certain time ten per cent. additional duties are to be levied and assessed upon them. I desire to read for the information of the Senate a section of the law approved July 4, 1862, on this subject, in these words:

"That the privilege of purchasing supplies from the public warehouses, duty free, be extended under such regulations as the Secretary of the Treasury shall prescribe to the vessels-of-war of any nation in ports of the United States which may reciprocate such privilege toward the vessels-of-war of the United States in its ports."

Sir, while the country was engaged in a war for its life; while the people were engaged in a war for the establishment of the principles of a free Government and of popular liberty; while they were engaged in removing the monopoly that slavery had fastened upon the industry and political system of the country; while the foreign allies of the rebels were on the brink of acknowledging the independence of the southern confederacy; and while the capitals of London and Paris swarmed with traitors who were negotiating arrangements to bring about that recognition; while all this was being carried on there was engrafted upon your statute-book a provision to enable these same Powers to obtain their supplies in this country easier and cheaper than before. If there is anything that would make me oppose the further extension of the privileges demanded by the movers of this proposition, it is that while the country was engaged in the great work which they have successfully accomplished there should be found within the country elements that work to strengthen the hands of our outside enemies; for the benefit of whom? Of the few engaged in endeavoring to carry into effect the ideas of the bill which is before you. During the last war with Great Britain there were individuals upon Long Island and the main land who furnished fresh meat and provisions to the enemy then blockading our ports, upon the excuse that unless they were furnished they would be taken by the enemy. Perhaps that might have been a fact. The excuse that they gave, in my opinion, was far better and far wiser than the one that is given, if you study the section of the act approved July 14, 1862, to which I have referred.

I have been alarmed while sitting quietly in my seat in the Senate to witness propositions coming from this same quarter and presented by honorable Senators as petitions to this Senate, and among them my honorable friend from Illinois [Mr. TRUMBULL] has been particularly singled out as the medium through whom these communications should be presented. I have been surprised that they should select for that purpose the representative of the State of Illinois. The market for the products of Illinois is found in the East. Illinois supplies nearly one half the population of my own State, the products of the soil of Illinois coming directly to be consumed by the inhabitants of Rhode Island. If the policy of the communications he presents to the Senate is to prevail, the market that he now finds for the products of Illinois in the State of Rhode Island must of necessity cease.

I have endeavored to trace out as far as I could who are the supporters of this measure. It is well known who are those who support it strenuously in Congress. But, sir, I have endeavored, as far as I could with the limited time and limited means at my command, to inform myself that I might inform the Senate as to what class of men and what class of interests have forced this measure from the time of its inception until the present moment upon the attention of the legislation of the country. I have come to the conclusion that it comes from a society of men organized in the city of New York, from the Chamber of Commerce of New York, whose advice ingrafted upon you a system of the character of that which is before the Senate. England had her Norths, her Hutchinsons, and her Barnards, whose policy was persisted in and sustained by the then Parliament of England, and lost the Government of England the then colonies of America. A few men at the South brought on the rebellion and succeeded in prosecuting a destructive war of four years to sustain slavery. When any great mischief is accomplished there are always a few men who are at the foundation of it, who unite the people, and the result is, that instead of they being alone injured by the consequences of their act, their country and its interests are destroyed by their means.

I do not know but it may be for the interest of legislation and of the country that it should receive its policy from the Chamber of Commerce of the city of New York; but, sir, if we are to be guided by any of the transactions of that city, if we are to take as our guide the policy that they would have us carry into effect, we must look to see how far we may be guided by the examples which they have furnished us as to such proceedings. The city of New York to-day, as I understand, in its legislation, in its common council, and in its board of aldermen, is controlled by the Legislature of the State of New York. The government of the State of New York furnishes the city of New York its police, its health commissioners, and is every day restraining, regulating, and controlling the measures of that great city. The people of the country are not willing, as I understand, to take the politics of the city of New York as their guide for the government of this country.

It has been within my experience that when the financial system of that great city prevailed the policy adopted by those who controlled that system affected the commerce and trade of the whole country. It was in their power to produce panics, to produce an easy or a tight money market, in fact to regulate and control the financial concerns of the whole country. They held this power at the beginning of the war. If no other gain has been obtained in the past four years, in my judgment, the emancipation of the trade and industry of the country from the grasp of the monetary power of the banks of New York has been a great gain. The national banking system swallowed up the banking system of New York, and now holds it powerless for mischief. It remains for those who have charge of the system to see to it that the same injurious effects, brought about by the worst of management, shall not affect your national banking system, but that it will avoid the rock upon which the banks of New York split in regulating the industries of the country.

If you will not take the banking system of New York for your guide in financial affairs, if you will not take its political system as a guide for your political action, and if you will repudiate all the measures that come from that great city and will not consent that they shall be a part of your system, then I contend that the proposition before this body to continue a system that comes alone from a few who occupy the position of importers and those engaged in foreign commerce shall not prevail to an extent that affects unfavorably the whole internal industry and the whole internal commerce of this great country. Is there not a word to be offered in favor of that great internal commerce and that great internal trade? Must the whole attention of the country, as it has been during the past four years by special acts of legislation, be devoted to one interest, while we are engaged now in making an effort to equalize the difference in taxation so that the burdens which are now upon the industry of the country may be to some extent removed; and while men differ as to the policy that shall prevail, shall this system receive special attention and be forced through Congress without consideration and without discussion?

Mr. President, during a recent visit of the American minister at St. Petersburg to Moscow, the question as to the industry of the respective countries was discussed by him and the merchants of Moscow——

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the special order for one o'clock, which is Senate bill No. 74, for the admission of Colorado into the Union.

Mr. CONNESS. I move to postpone the special order and all prior orders that we may proceed with this question and have a vote upon it.

Mr. STEWART. How long will it take?

Mr. RAMSEY. If that motion should be agreed to, when will the Colorado bill come up?

Mr. CONNESS. The Colorado bill will come up immediately afterward.

The PRESIDENT *pro tempore*. The motion is that that special order and all other orders be postponed in order to proceed with the discussion of the bill on which the Senator from Rhode Island is now on the floor.

Mr. STEWART. Why not postpone the Colorado bill until two o'clock, so that it will not lose its place?

Mr. CONNESS. I wish to say to the Senator from Nevada, and those interested in Colorado, that I have always been in favor of proceeding with the consideration of that bill; but it is palpable to those gentlemen and to all Senators that unless we determine to continue the consideration of the measure now before us we shall never be able to get a vote upon it. I beg also to call attention to the fact that the 1st of April is fixed in this bill as the period of time within which only these goods may be withdrawn, and therefore unless we soon come to a vote upon it, it will be utterly useless to pass the bill at all. I propose when we do come to a vote to have the bill reconsidered, for the purpose of amending it so as to substitute the 1st of May for the 1st of April, so that it may be applicable on the Pacific coast.

Mr. STEWART. I will not object to continuing the consideration of this bill, but I should like to have a general understanding that the Colorado bill shall come up when this bill is through, so that it shall not lose its place.

Mr. CONNESS. I presume that is the feeling of the Senate.

Mr. RAMSEY. Could not the Senator from California amend his motion so as to fix some specified time for the Colorado bill to come up?

Mr. CONNESS. The Senator will see that that is impossible. I do not know when the honorable Senator from Rhode Island will conclude his remarks. There is no Senator that I know of who desires the passage of this bill that has a single word to say on the subject, and when the honorable Senator shall get through we shall proceed to vote. The Senator from Rhode Island may be able to answer the Senator from Minnesota as to when that may be.

Mr. McDOUGALL. I desire to say to my friend from Nevada that this is a very important measure for our coast and all the commercial cities. I think it should be acted upon promptly. I am of the opinion that we can take up the Colorado bill afterward, and I shall be glad to give it my support; but this measure is one of great importance, even if Rhode Island thinks not.

The PRESIDENT *pro tempore*. It is moved that the special order and all prior orders be postponed in order that the discussion may proceed upon the bill on which the Senator from Rhode Island is upon the floor.

The motion was agreed to.

Mr. SPRAGUE. I remarked, Mr. President, that in a recent interview of the United States minister at St. Petersburg with the manufacturers and commercial men of Moscow the question that now agitates and has agitated the American people was discussed, and the conclusions arrived at were the conclusions of those who desire to equalize American industry with the industry of the people of foreign countries. The people of Russia had understood that the transfer of their raw materials to Germany, France, and England, and taking therefrom their manufactured goods was the proper policy for Russia to pursue. They had been led to reflect on the subject by the position which this country had taken through those who presented the contrary view in the legislation of the country, through the press, and through pamphlets written by distinguished men, and they had come to a contrary conclusion. They had commenced to establish manufactories, and those who had heretofore employed their products in Germany, in England, and in France, transferred them to the soil of Russia, and the profits of the manufacture and the profits of the raw material remained in Russia; and the people of Germany, of England, and of France have found it necessary to find other markets for those products of their factories heretofore consumed in Russia. They believe in the doctrine that the raw material, whether it be corn, or hemp, or cotton, or wool, must be perfected and increased to its highest state of development and value in the country where it is produced. My friend from Kansas [Mr. POMEROY] has succeeded in producing the finest of goat hair, and sells it in a foreign market for twelve or fifteen dollars a pound; but he understands, and every Senator can well understand, that if we had the machinery in this country for manufacturing it, as fine an article of camel's-hair scarfs and shawls would be produced as is produced in England or France; and the value of his goat hair, instead of being twelve or fifteen dollars a pound, would bring forty or fifty dollars near his own door.

I believe in the proposition that the finer the men and women and children in this country are clothed the better they are. I do not believe in rags, except, as my friend from Maine [Mr. MORRILL] suggests, for paper, and I believe substitutes have been found superior to that article for that purpose. I believe that the clothing of the people of this country can be manufactured by the people of this country cheaper than the same clothing can be manufactured by any other people; but, sir, we cannot do it as we are now bound financially and commercially. It is impossible for us to live by the side of those who would destroy us; who have plotted our political destruction and our material destruction; who have shut us off from every market of the world, and are now endeavoring to destroy what remains for us in our own country.

Sir, it is here that I desire to fight and to destroy, it may be, the power for evil of the Governments of Great Britain and France. I would destroy it through the industries of their country and of their people. I would draw their industries to this country. I would draw their people who are now occupied upon those industries here under the flag of this country. But I would not organize armies and navies in order to crush out the power of England, for the moment that the national honor of that people is attacked, they respond as one man in defense of their Government, however bad it may be. A war with Great Britain is a war with the people of Great Britain. You cannot war with the Government and not touch the people—a people who during the last four years have lived in abject poverty, half fed and half clothed, and yet have stayed the progress and the threatening attitude of their Government and compelled it to keep peace with us, because it was their desire to strengthen the people of this country in the great contest in which they were engaged. I am not disposed to make war upon a people who have made such sacrifices and for such principles. But I desire to draw from that country the people engaged in those industries and plant them under our flag and sustain them here. Sir, the policy of those who advocate this bill, if permitted to prevail, is a policy that will, instead of bringing those interests to this country, carry them to England and to France. It is impossible for a state of things like the present to continue and that result not be arrived at. I need not recite all the instances of American inventors who are to-day creating manufacturing interests abroad, because they are over-taxed here, because they are taxed out of existence here, and because our manufacturers, if they expect to compete with the manufacturers of England or France, must go to England and France for that purpose.

Sir, you cannot do without your manufactures, you cannot do without the people engaged in those interests. From the time when Charles V of Spain, through the influence of the Inquisition and the Roman church, endeavored to establish the Romish religion in Flanders, and William of Orange, united with the weavers of the Dutch republic, steadily, determinedly, vigorously opposed those measures, and succeeded in establishing their independence and freedom from that church up to the present time, those that have been engaged in the manufactures of their respective countries have been those that have been most loyal, most true to principle, and most energetic in the defense of principle and of right.

In proof of this assertion we need not go further than the examples given to us by our own country. We know that those engaged in this interest in the East have been for a long time vigorously opposed to the aggressions of slavery. Their votes for the past ten years have indicated the feelings that have actuated those people. When the war commenced, and when it began to assume the gigantic proportions that it did, where did you find an organization ready to respond to the country's call? Sir, the call of the bell to the daily labor has a tendency to discipline the mind; it has a tendency to organize men to habits of industry and to obedience to law and regulation; it has a tendency to inculcate frugality and economy; it has a tendency in every respect to make free and industrious citizens, to make wise and able advocates of our system of free government, and in every respect it has a tendency to give power and strength to the nation.

Now, sir, I have about ended the remarks which I designed to make. There is one thing as to the details of the bill that I have not heretofore suggested. I desire to point out its effect as a revenue measure. If I import goods and leave them in bond, and if the tariff is increased and I reëxport those commodities and enter them again for consumption at a decreased tariff, the Government thereby loses the revenue which it would have received if those goods had been entered for consumption at first. That proposition has brought my mind to another consideration, and I desire all who hear me to give attention to it. By the accumulation of a large stock of goods in bond at the beginning of this war men were made exorbitantly rich in consequence of that accumulation, and the people of the country were of necessity obliged to pay for that exorbitant increase. If those goods had been withdrawn for consumption the moment of their entry into the ports of the country, it will readily be perceived that the people could have purchased all those commodities at their fair value, and the goods would have increased in price in their hands instead of the hands of the original importer.

No one in the progress of this discussion has given any reasons why this warehouse system should continue and why it should be strengthened in this way, or why this bill should pass. While the system of taxation both on foreign goods and on domestic products has been changed in almost every particular, while you have inaugurated a new system of internal taxation, increased and decreased your tariff and regulated it in many ways, not a suggestion has been made in reference to this system, but it has been allowed to continue, and the proposition now before the Senate will make it more objectionable in its provisions and more injurious to the interest of the domestic producer than ever before.

In the beginning we were told that this proposition was a correct one because the Secretary of the Treasury had informed us that it was correct. We were told that it was intended to create in bond an amount of goods that might be exported to foreign countries or that the ships of foreign countries might receive a supply. We controverted that doctrine by showing by statements from the Government itself that but ten millions of dutiable goods during the past year had been reëxported, That was conclusive to the minds of those who investigated the subject that it was not for that reason this system was to be continued and strengthened and perfected.

We were told, again, that it was to regulate the trade of the country; that the prices in this country were unstable, and that upon the continent of Europe and in Great Britain prices were uniform; that they remained about the same from one year's end to the other. It was suggested in reply, if you can change and regulate the prices in one extent, in any one particular, you can in all particulars. If you can regulate them low, you can regulate them high as well. It must be apparent to the mind of any man that any project that can regulate and fix the prices of the commodities of this country is a dangerous element in the hands of any man or of any set of men.

Again, it has been suggested that it was to

benefit the trade of a city on our Pacific coast; but it has been conclusively shown that the amount of trade which that city would obtain from the passage of this measure would be little or nothing in comparison with the great industrial interests of the country which it affects and which, if it is continued, it will injure materially. On the other hand, it has been shown that while the American product pays its tax to the internal revenue immediately after its production, and pays it several times over, the product introduced into this country through this channel is permitted a year, and by this bill three years, of credit. That is conclusive, it seems to me, to the mind of any one reflecting on the subject that the Government and the importer become parties to the speculation, unite together to draw from the trade of the country goods in bond to be launched upon that trade whenever the market that has been rendered bare by this operation will be in a suitable condition as regards price to remunerate those engaged in the enterprise. It is perfectly apparent to me that the manufacturer and producer of this country as well as the consumer are injuriously affected by the principles of this measure. Any system or plan that has for its object and is able to withdraw articles from other markets and to continue them withdrawn will of necessity increase the price of those articles. It is impossible that the effect can be otherwise. It is shown to my mind conclusively that these goods are placed out of the hands of the Government, and as security therefor a bond is taken, and if the goods should be consumed by fire the Government loses the duties prescribed by law, and therefore the Government is made a great insurance agency for their benefit, at least to the amount of the duties that the law prescribes. The Government is now the great insurer to the importer for the amount of the duty.

Mr. President, everything that tends to change an existing theory upon which laws have been established is injurious. If it is the design of Congress in the legislation of the country to encourage all departments of the industry of the people, it is not wise or judicious to ingraft upon that policy any proposition that has for its effect the curtailment of those industries. The measure before the Senate is in effect a proposition to ingraft upon our legislation a system which will tend to check and to curtail the growth of our material interests. We have been told by the report of the Secretary of the Treasury that the Government loses annually twelve or fifteen million dollars from under-valuation. As I have reflected upon the bill now before the Senate, I believe, upon my judgment as a man and as a Senator, that those frauds are occasioned by the system and policy that is ingrafted upon your system like the one now before the Senate. Believing as I do that this whole system is pernicious in every respect, I must in the discharge of my duty as a member of the Senate attack it from whatever quarter it comes and under all circumstances. I shall deem it my duty, whatever position it takes before the Senate, to oppose its progress hereafter, and if I can, to eradicate it from our legislation. I do it, as I have informed the Senate, with no personal feelings, with no feeling toward any man, but from a deep conviction that it is wrong in principle, in theory, and in practice. I trust, therefore, that the vote on the passage of this bill will be reconsidered in order that I may propose amendments which I think will perfect it.

The PRESIDENT *pro tempore*. The question is, Will the Senate reconsider the vote passing this bill?

Mr. CONNESS. I hope the Senate will agree to the reconsideration, so that we may make the amendment in the bill that I have proposed.

The motion to reconsider was agreed to.

Mr. CONNESS. I now move that the vote ordering the bill to be read a third time be also reconsidered.

Mr. HENDRICKS. I should like to know what is the object of that.

Mr. CONNESS. I wish to offer an amendment, and I will explain the amendment that I design to propose in a moment.

The motion was agreed to.

The PRESIDENT *pro tempore*. The bill is now before the Senate and is open to amendment.

Mr. CONNESS. I move to amend the bill in the fourth, eleventh, and thirteenth lines of the first section, by striking out the word "April" and inserting "May." It will be remembered by Senators that this bill has been pending on this motion to reconsider for some seven or eight weeks past. As it now stands, the first section reads:

> That on and after the passage of this act, and until the 1st day of April, 1866, any goods, wares, or merchandise under bond, in any public or private bonded warehouse, upon which the duties are unpaid, may be withdrawn for consumption, &c.

Unless the amendment that I now suggest be made, there will be no time for the operation of this bill in the ports of the Pacific coast, and therefore it is necessary to give this extension of time, which is not an extension equal to the amount of time that the measure has been delayed in this body, but it will be perhaps sufficient.

The amendment was agreed to.

Mr. SPRAGUE. I desire to submit some amendments to this bill. In the thirteenth line of the first section, I propose to strike out the words "one year" and to insert "three months;" in the sixteenth and seventeenth lines I propose to strike out the words "one year" and to insert "three months;" in the seventeenth line I desire to strike out the words "the expiration of three years from said date," and to insert "January 1, 1867;" and in the twenty-first line I desire to strike out the word "ten" and to insert "twenty-five." I desire simply to say in reference to these amendments that they are almost in the letter of the act of August 5, 1861. I have some other amendments to offer but not to that section.

The PRESIDENT *pro tempore*. The question will be on the first amendment proposed by the Senator from Rhode Island, in section one, line thirteen, to strike out the words "one year" and to insert "three months;" so that it will read:

> May be withdrawn for consumption within three months from the date of original importation on payment of the duties, &c.

Mr. SPRAGUE. I ask for the yeas and nays on that amendment.

The yeas and nays were ordered.

Mr. FESSENDEN. I wish simply to say that this amendment will change the existing law on the subject. One year is now allowed for the withdrawal of the goods for consumption. That period was fixed upon after very considerable deliberation in the passage of the last tariff bill. That is the law now. They have the privilege of withdrawing the goods at any time within one year. This period of three months was adopted in a former law, but was afterwards deliberately abandoned, and one year was thought to be a proper time.

Mr. HENDRICKS. I suggest to the Senator from Rhode Island that although I am inclined to vote with him upon this measure, still I would not feel justified in voting upon these amendments now. I think if this bill is to become a law at all, the framework of it adapting it to our general policy ought to come from a committee of this body, and we ought not to pass a bill which will be greatly changed by amendments thrown upon the Senate in this way which we cannot consider, and which we cannot understand in their bearing upon the general system. I will not vote for these amendments because I do not understand what may be their effect upon existing laws. I will vote on the general proposition with the Senator on the ground that I think three years is too long a time to hold goods in warehouse. I do not think the Government ought any more to go out of its way to encourage importations than it ought to go out of its way to discourage importations. I think, in other words, that the frame-work for the collection of revenue and the whole system for the collection of revenue ought to be with a view of getting revenue, and not for the purpose of encouraging or discouraging importations. A reasonable time, I think, is enough to allow importers.

Mr. SHERMAN. I should like to have an explanation from the Senator from New York in regard to this measure. I think the present law allows one year after the importation to pay the duties.

Mr. FESSENDEN. It does.

Mr. SHERMAN. Then this bill stands precisely in the same way, and what is the use of passing it?

Mr. FESSENDEN. It is the same as far as that is concerned.

Mr. SHERMAN. Then I do not see any object in passing it. If the amendment of the Senator from Rhode Island should be adopted, as a matter of course it would render the bill nugatory, because the provision of this bill is that goods "may be withdrawn for consumption within one year from the date of original importation." That is the present law, and I do not like to reënact the present law unless some reason can be given for it.

Mr. FESSENDEN. This is a revision of the existing law on the subject.

Mr. SHERMAN. I must confess I do not see any object in passing the first section of the bill. It is but a repetition of the present law.

Mr. MORGAN. If this bill should become a law as it passed both Houses originally there are two points only contained in it. In all the larger ports there are some quantities, not very large, of merchandise left over, that have passed beyond the period of one year. If this bill passes the merchant having goods thus situated will be enabled until the 1st of April —the Senator from California, in order to meet the case upon the Pacific coast, proposes to change that to May—to enter these goods, these remnants, if I may so call them, or whatever they are. They cannot enter them for consumption unless this bill is passed. It is impossible, because they have been in store more than one year, and they will be compelled to export them.

Mr. SHERMAN. That is the very thing to which I wish to ask the attention of the Senator. They have but one year from the date of original importation, and if that year has already passed this bill does not cover them.

Mr. FESSENDEN. They are covered by the very first clause of the bill.

Mr. MORGAN. The object they have in view will be accomplished if this bill passes. They will be enabled to enter the goods for consumption and pay the duties. That is the effect of that portion of the bill. Now, what else does the bill provide? It does not change the law in relation to the withdrawal of goods within one year from the date of importation, but it provides that if at the expiration of one year hereafter there are any goods remaining, on paying ten per cent. additional they can also be entered for consumption. Instead of the merchants coming here as they do now, asking Congress for this privilege of entering their goods, it has been proposed that they be required to pay ten per cent. additional and not come to Congress and not be compelled to export them. That is all the bill contains. There is nothing else in it except those two points. I want to be extremely accurate when I say that is all.

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

Mr. SPRAGUE. Mr. President——

The PRESIDENT *pro tempore*. The call of the roll is commenced, and one Senator has answered. The Chair will recognize the Senator from Rhode Island, however, if there be no objection.

Mr. FESSENDEN and others. The Senator rose before the call.

Mr. SPRAGUE. I rose before the call commenced. I will suggest that I will submit an amendment.

Mr. McDOUGALL. I rise to a question of order. The call of the roll has been com-

menced, and an answer given, and I object to debate.

The PRESIDENT *pro tempore*. That is the rule; but the Chair is reminded by Senators, and thinks the fact is so, that the Senator from Rhode Island rose before the answer of the first Senator was received. The Senator from Rhode Island is entitled to the floor.

Mr. RIDDLE. If the Senator will allow me a moment I wish to make a suggestion. I have no doubt that the Senator rose before the name of his colleague was called, but I wish to suggest to my friend from Rhode Island, as this is an important bill, that he submit all of his amendments together, and that they be ordered to be printed before we are called upon to act upon them.

Mr. SPRAGUE. If it is in order I will move that the amendments I have suggested and those I will now send to the Chair may be printed, and the bill with the amendments be referred to the Committee on Finance.

Mr. CONNESS. I rise to a question of order. The yeas and nays having been ordered on an amendment which is now pending in the Senate, the Senator's motion is not now in order.

The PRESIDENT *pro tempore*. The Chair thinks the motion is in order.

Mr. CONNESS. Then I call for the yeas and nays upon it.

The PRESIDENT *pro tempore*. The motion of the Senator from Rhode Island is that the amendments which have been proposed to the bill be printed, and that the bill be referred to the Committee on Finance.

Mr. SPRAGUE. My motion includes not only the amendments that I have already proposed, but also the amendments that I now send to the Chair, which are proposed simply to perfect the bill in accordance with the original amendments that I offered limiting it as to time.

Mr. GRIMES. Are these all the amendments that you propose?

Mr. SPRAGUE. These are all.

Mr. GRIMES. Then I think we ought to have them printed, and we can take up the bill to-morrow.

Mr. CONNESS. They are easily understood, and I do not think it is necessary to postpone the bill.

The PRESIDENT *pro tempore*. It is moved that the bill and amendments now sent to the Chair, and those already read, be printed, and the bill with the amendments be referred to the Committee on Finance.

Mr. FESSENDEN. I should like to inquire whether that motion is not divisible.

The PRESIDENT *pro tempore*. It is.

Mr. FESSENDEN. It may be well enough, perhaps, to print the amendments if they are numerous; but it is entirely unnecessary to refer a bill of this kind to the Committee on Finance. It has been already before the Committee on Commerce, and been reported by them, and has been before the body a long time, and we have spent a great deal of time upon it. I really hope it will not be sent to the Committee on Finance.

The PRESIDENT *pro tempore*. The Senator from Maine asks for a division of the question, and the motion will first be on ordering the amendments to be printed.

Mr. CONNESS. There can be no use on earth for printing those amendments. There is not a Senator in this body who does not understand what the amendments are, and therefore I call for the yeas and nays upon the motion. I hope that the Senate will do nothing of the kind.

The yeas and nays were ordered.

Mr. McDOUGALL. I think no Senator on the floor misunderstands the purpose of these amendments. They are all of one order and against the policy of the bill. I think it is well understood, and I think these amendments are merely delaying time in postponing the consideration of the question. As the Senator from Maine says, it is not worth while to refer the bill to the Committee on Finance. It has been before the Committee on Commerce. I believe all are prepared to vote on every one of those amendments, because all of them involve the very same question, differing with the report of the committee in presenting this bill.

Mr. MORRILL. I hope this bill will not be delayed longer. It has been a long time before the Senate. The honorable Senator from Rhode Island has announced his purpose to defeat the measure, and has been talking against time for several days. He declares his purpose to continue that style of opposition; and further, that his purpose is not to perfect the bill, but to defeat it. He does not stand here in the attitude of desiring to perfect a measure which he is desirous of passing in any shape whatever, but declares his unqualified hostility to the bonded warehouse system of the country. Now, I submit whether it is worth while for the Senate to indulge—if I may use that phrase—that sort of opposition longer. This bill is exactly in harmony with the system which has been established since 1846, I think. It does not propose to change it in any essential particular, but simply modfies it in this way: as the law stands, importers are permitted to enter their goods for consumption within one year; that year is about expiring, and to prevent any difficulty growing out of that fact the first section of this bill provides that they may enter those goods at any time before the 1st of April; or, as it is now amended, at any time before the 1st of May. It further provides that being so entered they may enter them for consumption any time within three years thereafter upon the payment of ten per cent. additional revenue. That is designed to obviate a difficulty that has been found in the practical workings of the department. Persons who were desirous of entering their goods for consumption, but kept them on until the first year within which they are able to do it, have been in the habit of coming here to Congress and asking legislation to permit them so to do, to have the time extended; and it has been granted time and again. It is said at the Treasury Department that it will work no injustice to anybody, but is perfectly in harmony with the system and in harmony with the general interests of the country, both the interest that my honorable friend from Rhode Island so zealously protects and that other interest which ought not to be regarded as antagonistic with it, the importing interest, to allow this to be done.

My honorable friend from Rhode Island rises here and says he is opposed to this whole system. That is the ground on which he places his opposition to this bill. If it is the sense of the Senate that the system is wrong, then the delay which my honorable friend asks for should be granted. His object is to defeat the whole measure, and not only defeat this measure, but he announces his purpose to defeat the whole system which has obtained since 1846. With the views the honorable Senator takes no doubt he is right. His predecessor in office took the same view. He asserts, upon a great variety of facts which he produces here, that this whole system is inimical to the system of American industry which he advocates. Do the Senate propose to settle that question on this bill, which is simply intended to amend the system? If my honorable friend is sincere, and he intends to carry his opposition to the whole system, he should bring in a bill to repeal the act of 1846, to repeal this bonded warehouse system, and then he would have a remedy; but the remedy he seeks here is partial at best. I submit, therefore, under the circumstances, it is hardly reasonable that my honorable friend should ask further indulgence on this question and ask that the numerous amendments he sends to the Chair should be printed, when I very much suspect the object to be such as he has declared heretofore, simply for delay. I hope, therefore, that the bill will not be recommitted. I believe that is the question now before the Senate.

The PRESIDENT *pro tempore*. The motion now is to print the amendments.

Mr. HENDRICKS. For some reason or other this bill attracted but little attention when it was before the body upon a former occasion, and it is now receiving that consideration which if its importance had attracted the attention of the Senate it would then have received. I have great confidence in the Senator from Maine who reported this bill—as much so as any gentleman can have—but I think this bill ought to be investigated by the Committee on Finance. I have always felt, in my connection with any legislative body, the great importance of sending every measure to its appropriate committee. The investigation in the committee-room, I think, is worth more than the investigation anywhere else. Now, this bill relates to the financial system. I will ask the chairman of the Committee on Finance if the original measure or policy of establishing bonded warehouses did not come from that committee, and if the time now fixed for the withdrawal of these goods was not upon a bill reported by that committee, or did it come from the Committee on Commerce?

Mr. FESSENDEN. I can inform the honorable Senator that I really do not know. I was not a member of Congress at the time the original system was adopted, and I cannot tell.

Mr. HENDRICKS. Well, sir, I will venture to guess—and I do not think there can be any doubt about it—that it did come from the Financial Committee, because it relates to the collection of the revenues of the Government. It is a question as to the credit that shall be given on the payment of duties from importations. How that can be considered a question of commerce I am not able to see. This is an important bill, whether the credit shall be one year or three years. The ten per cent. that is referred to by the Senator from New York is not a matter of much consequence. It is only ten per cent. upon the tax. This bill proposes to give three years' credit on the payment of duties upon importations provided the party will pay an additional ten per cent. upon the tax itself. That is not much. It is a change of the system by which we collect our revenue, and I think it ought to go to the Committee on Finance. My judgment does not approve of such a long credit. I cannot see that it is right, either for the interest of the Government or dealing fairly by the manufacturing interest of the country. It seems to me that it may place the manufacturers of this country in an embarrassing position if we allow goods to be brought from foreign countries and piled up in great quantities in the warehouses to be thrown upon the market at any time that cannot be anticipated by the manufacturers, it may be this month, it may be next month, and it may be six months, according to the caprice of the importers. I do not think it is right; but if the Committee on Finance will say that this is a proper measure I will withdraw my objection to it. It is a matter relating more to the frame-work of the revenue system than to its very merits, and of course I would yield my judgment to the opinion of that committee; but I do not think this is a question of commerce. I think it is one that relates to the revenues.

Mr. CONNESS. The question before the Senate, it appears now, is on the motion to print these amendments. I hope we shall get a vote on that question. When that is disposed of I shall have a word to say about the question of reference.

The question being taken by yeas and nays, resulted—yeas 12, nays 22; as follows:

YEAS—Messrs. Anthony, Buckalew, Cragin, Davis, Grimes, Guthrie, Hendricks, Norton, Riddle, Sherman, Sprague, and Van Winkle—12.

NAYS—Messrs. Chandler, Conness, Doolittle, Fessenden, Foster, Harris, Howe, Johnson, Kirkwood, McDougall, Morgan, Morrill, Nesmith, Poland, Pomeroy, Stewart, Sumner, Trumbull, Wade, Willey, Williams, and Yates—22.

ABSENT—Messrs. Brown, Clark, Cowan, Creswell, Dixon, Foot, Henderson, Howard, Lane of Indiana, Lane of Kansas, Nye, Ramsey, Saulsbury, Stockton, Wilson, and Wright—16.

So the motion was not agreed to.

The PRESIDENT *pro tempore*. The remainder of the motion is that the bill and amendments be referred to the Committee on Finance.

Mr. MORRILL. In reply to my honorable friend from Indiana, I desire to say that the subject-matter of this bill is certainly not one of finance. If there is any question touching finance in it, it is incidental. The bonded warehouse system as a measure was a commercial measure, a measure of commerce the regulation of commerce. This is a proposition to amend that measure. The tax which it proposes was simply an incident. Therefore, I submit that the subject-matter is not as my honorable friend supposes; it is the regulation of commerce, and the tax is simply an incident. Therefore, it does not properly belong to the Committee on Finance.

Another reason urged by the honorable Senator why it should be examined by the Committee on Finance—I am not sure that I quote him exactly—is, that it involves a question of the interests between commerce and American industry-manufactures. What is that question? Is that finance?

Mr. HENDRICKS. That is incidental.

Mr. MORRILL. That is incidental, undoubtedly; but if it is a question, it is a mixed question, to say the best of it; it is a question falling as properly under the Committee on Commerce, I submit, as the Committee on Finance. It embraces two systems, neither of which originally belonged to the Committee on Finance. One of them, certainly, the question of commerce, would go to the Committee on Commerce, and the question of manufactures would go to the committee of which my honorable friend from Rhode Island is himself chairman. I submit, therefore, that the bill has received the consideration of the committee to which it properly belongs. If the Senate are satisfied that it has been properly considered, I hope that it will not refer it to the Committee on Finance, and that the bill will have the action of the Senate at the present time.

Mr. VAN WINKLE. I should like to ask the Senator from Maine, who I believe reported this bill from the Committee on Commerce, whether the question that has been raised by the honorable Senator from Rhode Island as to the effect of this long credit, this long time for the storage of these goods, upon manufactures has been considered by that committee; and if so, whether he could give us some information on the subject. My own impression is that the foreign manufacturer has a great advantage over the domestic manufacturer in this way: he can pile up goods of a certain kind in these warehouses, and the American manufacturer is debarred from manufacturing the same kind of goods for fear of overcrowding the market, and when the foreign manufacturer sees a favorable opportunity, or when he sees some American manufacturer about embarking in it, then we have the old game so often played by English manufacturers, and it has been said assisted at times by the English Government, of throwing these goods on the market to crush the American manufacturer. If I am wrong in this, if there is no such possibility, I should like to know it. If the Committee on Commerce considered that question, perhaps there is no necessity for a further reference of the bill; but I should be inclined to adopt the gentleman's own suggestion and send it to the Committee on Manufactures for a report on that subject.

Mr. MORRILL. In reply to the Senator from West Virginia, I will say that subject was considered by the Committee on Commerce, and it was referred to the Secretary of the Treasury for information. I did not report the bill to the Senate, though I considered it in committee. The Senator from New York [Mr. MORGAN] reported the bill to the Senate, and he had the information from the Secretary of the Treasury which satisfied the committee that upon the precise question submitted by the Senator from West Virginia there was no reason for apprehension. I will give way to the Senator from New York, who will give the Senator more information than I can on that point.

Mr. MORGAN. The bill was submitted to the Secretary of the Treasury and met his entire approval. The view that he took of it was, that inasmuch as at the expiration of a year the importer could export his goods to Canada or any near port in the West Indies and import them again, that expense might as well go into the Treasury. He therefore thought that an additional duty of ten per cent. would be equivalent to the expense of exporting and reimporting, which he thought belonged to the Treasury. The bill was drawn in the Treasury Department originally.

Mr. CONNESS. I wish to point out to some Senators, if I can get their attention upon this very point, the facility with which this exportation may be made on the Pacific coast. The port of San Francisco is the third in degree in the payment of duties on foreign imports in the United States. The port of Victoria, a British port in British Columbia, within two days of San Francisco, is a free port, to which these goods may be exported and brought back and entered less the ten per cent.; and we stand in our own light and encourage foreign industries and foreign trade, and throw obstacles in the way of getting duties upon imports if we fail to pass this bill. I hold in my hand a letter received this morning from a Boston merchant, who has a cargo of hides which has remained more than a year, by an error, as he states, in bond. He desires to withdraw them, and he cannot do it without the passage of this bill. He wants to pay the Government the duty upon them. He is compelled to export them. Similar statements have come here year after year, and now a general provision is proposed to meet these difficulties that have been provided by special legislation each year, and to impose ten per cent. additional for the privilege, and there is opposition to it.

Mr. HENDRICKS. I will ask the Senator another question. Is not that quite as likely to occur at the expiration of three years as at the expiration of one year?

Mr. FESSENDEN. It cannot.

Mr. HENDRICKS. Why not?

Mr. FESSENDEN. Because they cannot keep them that length of time.

Mr. HENDRICKS. The parties hold them over a year, and I do not see but that they are just as likely to hold them three years.

Mr. CONNESS. It is rather a far-fetched question.

Mr. FESSENDEN. I will say to the Senator that if they remain more than three years without being entered for consumption or exported, they are liable to be sold at auction.

Mr. CONNESS. Yes, sir; that is the case. I was going to address myself in brief to the general objections that have been made by the Senator from Rhode Island to this bill. If I could appreciate them at all in the sense in which he has spoken, that the passage of this bill would be an injury to the domestic manufactures, I would hesitate before it could get any vote of mine. My vote has been given consistently since I have had a seat in the Senate in favor of giving all the advantage we could by legislation to the protection of American industry and manufactures. But, sir, as I understand that question, it is involved in the amount of tax that we impose upon the foreign product. When that proposition comes before the Senate we will have an opportunity to discuss it and vote upon it. But, sir, if to protect the manufacturer means that you shall not extend facilities to commerce, that you shall impede commerce, that you shall lay embargos upon commerce and ships, then indeed I would hesitate before I would vote for a protective policy any longer. I think the agency of this Government should not be employed to impede any industry; and with the disposition that exists so strongly in the American Congress at the present time to stand by domestic industry, I must say that I am astonished to find any gentleman representing that industry pursuing the course pursued here by the Senator from Rhode Island. Sir, this country cannot exist upon domestic industry and manufactures alone. It has other interests, and those desire protection and require to be facilitated by the acts of the Government. Those great interests are agriculture, commerce, and trade. Is it wise, except as we do it by the discreet imposition of duties upon foreign products, to do any thing that impedes trade?

But, sir, I am forbidden from discussing this subject. I have avoided presenting any view upon it because I desire to get a vote upon it.

Mr. GUTHRIE. My impression from the first has been in favor of passing this bill. I had occasion once to look into the subject of warehousing goods, and during that time the system was a good deal of an experiment. The whole object was to extend the commerce of the country. One great difficulty was that our vessels trading with the islands of South America could not obtain assorted varieties of cargoes in our own land and were often driven to Europe to make out their cargoes, and thus compelled to extend their voyages. Upon a careful consideration of the subject I concluded that it was best we should have in our great commercial emporiums a variety of goods, so that our vessels could get their cargoes without crossing the Atlantic, and that we could carry on our trade with the countries that lay more contiguous to us to greater advantage than they could otherwise, and in the position I was in I promoted that as much as I could, and I believe to the benefit of our trade with foreign countries, and particularly with South America and those islands that we can easily reach. I cannot see either how goods brought here for reëxportation to other markets can affect the manufacturers of this country.

There is no fear in my mind that a three years' warehousing system will be extended so as to include the largest portion of manufactured merchandise; there are but few articles that will lie over two or three years, and then the cost of that will not enable the owners to make much by it. It is true that when an importer has a large quantity of goods in warehouse and the home market furnishes him a profitable sale, he will enter them for consumption. That is one of the chances he has in making the importation and risking his money. Another advantage is the furnishing assorted cargoes to those that trade to countries with which we are connected. In the view I was able to give this subject during the four years that my attention was particularly called to it, I see no disadvantage to the manufacturer and great advantage to the commerce of the country in this warehouse system. The time will never come when a large quantity of goods in our warehouses will prevent any great demand for domestic manufactures, for the domestic manufactures will come in competition with them. But is it not right that this country should have the benefit of this system in the commerce and trade of the country? The manufacturers have all the benefits of the tariff that is granted by our laws. Therefore I see nothing in this bill that I will not vote for, and I do not think I am voting against the manufacturer or his rights and interests. I think if we ever intend to compete for the commerce of the world at New York and our Atlantic ports, and for the commerce of the world on the Pacific, we must have this warehousing system and have it extended.

The PRESIDENT *pro tempore*. The motion is that this bill with the amendments be referred to the Committee on Finance.

The motion was not agreed to.

The PRESIDENT *pro tempore*. The question now is on the first amendment proposed by the Senator from Rhode Island, which is to strike out the words "one year" in the thirteenth line of the first section and insert the words "three months."

Mr. SPRAGUE. The object of all the amendments I have suggested is to ingraft upon the warehouse system the fifth section of the act approved August 5, 1861. I will read that law:

"SEC. 5. *And be it further enacted*. That all goods

wares, and merchandise actually on shipboard and bound to the United States, and all goods, wares, and merchandise on deposit in warehouses or public stores at the date of the passage of this act, shall be subject to pay such duties as provided by law before and at the time of the passage of this act: *Provided*, That all goods deposited in public store or bonded warehouse after this act takes effect and goes into operation, if designed for consumption in the United States, must be withdrawn therefrom or the duties thereon paid in three months after the same are deposited, and goods designed for exportation and consumption in foreign countries may be withdrawn by the owner at any time before the expiration of three years after the same are deposited; such goods, if not withdrawn in three years, to be regarded as abandoned to the Government, and sold under such regulations as the Secretary of the Treasury may prescribe, and the proceeds paid into the Treasury: *Provided*, That merchandise upon which the owner may have neglected to pay duties within three months from the time of its deposit may be withdrawn and entered for consumption at any time within two years of the time of its deposit upon the payment of the legal duties, with an addition of twenty-five per cent. thereto."

The object of this amendment is that three months may be the time in which the goods must be withdrawn, and that if not withdrawn within the three months and they remain in bond one year after that date, twenty-five per cent. shall be assessed upon them. In other words, it is to take as far as may be the law of 1861 and make it a part of the present law.

The next amendment proposed by Mr. SPRAGUE was in section one, line sixteen, to strike out the words "one year" and to insert "three months."

The amendment was not agreed to.

The next amendment was in line seventeen of section one, to strike out "expiration of three years from said date," and insert "January 1, 1867."

The amendment was rejected.

The next amendment was in section one, line twenty-one, before "per cent." to strike out "ten" and insert "twenty-five."

The amendment was rejected.

Mr. SPRAGUE. I move to add this proviso to the first section:

Provided, That goods, wares, and merchandise remaining in bond July 1, 1867, must be withdrawn therefrom and the duties provided by law thereon paid; and all goods, wares, and merchandise imported after January 1, 1867, must be withdrawn and the duties thereon paid within one month from the date of original importation.

The amendment was rejected.

Mr. SPRAGUE. In line seven of section two after the word "exportation" I propose to insert the following amendment:

Provided, That merchandise upon which duties have been paid if exported to a foreign country within one year from the date of original importation, shall be entitled to a return of duties on proper evidence of such merchandise having been landed abroad, to be furnished to the collector by the importer, one per cent. of such duties to be returned by the Government.

The amendment was rejected.

The bill was ordered to a third reading, and was read the third time.

Mr. SPRAGUE. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

Mr. SHERMAN. I do not intend to debate this bill, but I will simply state that after examining it very carefully I am satisfied that the third clause of the first section of the bill ought not to be passed in the form of law, and therefore I shall vote against the bill.

Mr. FESSENDEN. What is that clause?

Mr. SHERMAN. Extending to three years the time within which the duties may be paid. The present law gives the importer of goods one year within which to pay the duties, but it makes no provision for the sale if they are not removed, and in that the law is defective. The purpose of the act was to require the duties to be paid within the year, except where the goods are exported to foreign countries or to the Pacific coast. The old law allowed three years for that purpose. My own impression is that one year is enough. Within that time the importer ought to find a market and sell his goods; or if they are not entered for consumption they ought to be sold precisely as they are required to be sold in the law of 1862, at the expiration of three years; and as that is really the only material clause in this bill I shall content myself by voting against it.

The question being taken by yeas and nays, resulted—yeas 24, nays 10; as follows:

YEAS—Messrs. Buckalew, Chandler, Conness, Cragin, Davis, Doolittle, Fessenden, Foster, Guthrie, Harris, Howe, Johnson, Kirkwood, McDougall, Morgan, Morrill, Nesmith, Poland, Stewart, Stockton, Sumner, Willey, Williams, and Wilson—24.

NAYS—Messrs. Anthony, Grimes, Hendricks, Lane of Indiana, Pomeroy, Ramsey, Sherman, Sprague, Van Winkle, and Wade—10.

ABSENT—Messrs. Brown, Clark, Cowan, Creswell, Dixon, Foot, Henderson, Howard, Lane of Kansas, Norton, Nye, Riddle, Saulsbury, Trumbull, Wright, and Yates—16.

So the bill was passed.

COMMITTEE ON VENTILATION.

The PRESIDENT *pro tempore* appointed Messrs. BUCKALEW, ANTHONY, BROWN, NYE, and STOCKTON as the committee on ventilation, under the resolution of the Senate adopted on the 7th instant.

ADMISSION OF COLORADO.

On motion of Mr. RAMSEY, the Senate as in Committee of the Whole resumed the consideration of the bill (S. No. 74) for the admission of the State of Colorado into the Union. It recites that on the 21st day of March, 1864, Congress passed an act to enable the people of Colorado to form a constitution and State government, and offered to admit that State, when so formed, into the Union upon compliance with certain conditions therein specified; and that it appeared by a message of the President of the United States, dated January 12, 1866, that the people have adopted a constitution, which upon due examination is found to conform to the provisions and comply with the conditions of the act, and to be republican in its form of government, and that they now ask for admission into the Union; and then proceeds to enact that the constitution and State government which the people of Colorado have formed for themselves shall be accepted, ratified, and confirmed; and that the State of Colorado shall be one of the United States of America, and is hereby admitted into the Union upon an equal footing with the original States in all respects whatsoever. The State of Colorado is declared to be entitled to all the rights, privileges, grants, and immunities and to be subject to all the conditions and restrictions of an act entitled "An act to enable the people of Colorado to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States," approved March 21, 1864.

Mr. STEWART. Before the bill is proceeded with I call for the reading of the memorial of the delegation from Colorado in explanation.

The Secretary read the following memorial:

WASHINGTON, D. C., *January* 29, 1866.

To the honorable Senate and House of Representatives in Congress assembled:

Your memorialists having been chosen to represent the people of Colorado in Congress, and having been requested by their State Legislature-elect to present their application for the admission of the State into the Union, respectfully represent:

That the people of Colorado desire said admission in accordance with the provisions of the enabling act of Congress, approved March 21, 1864, as is provided in Senate bill No. 74, now pending.

That the protest presented to your honorable body against such admission, purporting to be from colored citizens of Colorado, is without signatures, the names being printed thereon. And your memorialists have satisfactory assurances that many of said names were thus used without the knowledge or consent of the parties, and that they have expressed dissatisfaction therewith. And further, that the leading man among them regrets his inconsiderate action, and has since expressed in writing a desire for the admission of the State notwithstanding his protest.

Your memorialists would further call your attention to the fact that this petition makes several misrepresentations in its statements. It represents that the framing and adoption of the Constitution were "accomplished by the utmost recklessness and disregard of law, and in many cases by actual fraud."

The truth is, the convention that framed the constitution was composed of a large body of the best men in the Territory. Its deliberations were conducted in good order, with care and marked ability. This is shown by its journal of proceedings and the admirable constitution it adopted, which has challenged universal approbation, excepting the franchise clause, on account of its retaining the word "white" in its qualifications. The elections were held and conducted in compliance with the laws regulating elections in the Territory by an ordinance of the convention. Instead of having been carried by fraud, the vote on the constitution was universally received as a fair verdict, and all parties yielded a ready assent to it. They all acted in good faith in the subsequent proceedings under the constitution. After the vote on its adoption was known, the elections for member of Congress, State officers, and members of the Legislature were participated in by all parties, in all parts of the Territory, in good faith, proving a hearty assent to the adoption of the constitution. And the Legislature-elect met to choose United Senators, as provided for by ordinance, every member being present, and participating in its proceedings.

And further, it is not true, as the language of the protest implies, that there is anything in the constitution excluding colored children from public schools. Nor is there anything in its provisions restricting the colored man from the full enjoyment of all the immunities, rights, and privileges of white men, excepting the privileges of the elective franchise; and for this, and all of its provisions, the constitution provides a ready mode of amendment.

We make this notice of the protest because of the attention it has attracted, lest our silence might be regarded as an assent to the correctness of its statements.

We further remark that it is believed that the privilege sought to be secured to the few colored men of Colorado (they do not probably exceed one hundred or one hundred and fifty in all) can be more readily and speedily attained by the present admission of the State than by its rejection.

The people of Colorado having, at great expense of time and labor, organized their State government, after having been invited to do so by act of Congress; having complied with all the essential conditions and carried out the spirit of said act, we respectfully submit whether it would be right to set aside their work and deprive them of its advantages for a doubtful prospect of sooner securing the elective franchise to the few colored people that reside among them.

We respectfully suggest whether it would be just and right that the great and permanent interests of an eminently loyal and patriotic community, which is destined soon to be one of the most productive, wealthy, and populous among the new States, should be disregarded or set aside on account of a feature in its State constitution which is found in those of nineteen out of the twenty-five loyal States of the Union, and especially after no intimation against following their example was given to the people in their enabling act.

It is believed by the people of Colorado that their admission as a State into the Union will greatly promote their prosperity by giving increased confidence in their public institutions; substituting a stable and permanent government by the people for the temporary government provided for them.

That their paramount interest, mining the precious metals, being peculiar, furnishes special and strong reasons why they should govern themselves.

And it is believed that this encouragement in the promotion of their interests is of great national importance, more especially at this time, when an increase in the domestic production of bullion is looked to with so much hope as a means of strengthening the public credit and improving the condition of the finances of the country.

Confiding in the assurance given by the enabling act, that the Government is ready to admit them, believing themselves to be fully able and competent to assume the burdens and meet the responsibilities of a State government, and feeling that their undoubted loyalty and tried patriotism entitle them to the consideration, the people of Colorado respectfully ask to be admitted as a State into the Union without any other conditions than those that have already been imposed by Congress, and cheerfully complied with on their part.

We have the honor to be, very respectfully, your obedient servants,

JOHN EVANS,
J. B. CHAFFEE,
United States Senators-elect for Colorado.
G. M. CHILCOTT,
Representative to Congress elect from Colorado.

Mr. SUMNER. If I can have the attention of the Senate for a few moments, I think I can satisfy the Senate that there are grounds at least for hesitation in regard to the admission of this Territory into the Union as a State. I say "hesitation;" but perhaps when Senators listen to all that may be said they will agree that something more than hesitation will be required from us in the discharge of our duty. I do not, sir, undertake to oppose even, as I shall now, the admission of a new State into the Union without hesitation and reluctance, both of which I feel sincerely; but it is my duty, having given some little attention to this case, to lay before the Senate the result of my inquiry.

It seems to me that there are three distinct objections at this moment to the admission of Colorado as a State, and I will speak of them in their order: first, the irregularity of the proceedings which have ended in the seeming adoption of the constitution presented to us; second, the small number of people constituting the population of that Territory, not being sufficient, as I submit, to justify us in investing

it with all the great prerogatives of a State; and in the third place, it does not come before us now according to the requirements of the enabling act with a constitution republican in form, and consistent with the Declaration of Independence. Either one of these objections would be sufficient, sir, to make you pause; all of them, if sustained, I think, will carry you to the conclusion that this constitution, at least in its present form, cannot receive the sanction of the Senate.

Now, sir, in the first place, with regard to the irregularity of the proceedings, and I pray the attention of the Senate to that point, because I have heard it said in conversation that we are concluded by the enabling act, that it is no longer an open question, that we have got to receive this constitution which has been sent to us, because at a certain date we passed an enabling act under which it is said the people in this distant Territory have proceeded to form themselves into a State. On that point allow me to call attention first to the language of the President in his message communicating to the Senate the papers in this case:

To the Senate and House of Representatives:

I transmit herewith a communication addressed to me by Messrs. John Evans and J. B. Chaffee, as "United States Senators-elect from the State of Colorado," together with the accompanying documents.

Under authority of the act of Congress, approved the 21st day of March, 1864, the people of Colorado, through a convention, formed a constitution making provision for a State government, which, when submitted to the qualified voters of the Territory, was rejected. In the summer of 1865 a second convention was called by the executive committees of the several political parties in the Territory, which assembled at Denver on the 8th of August, 1865. On the 12th of that month this convention adopted a State constitution, which was submitted to the people on the 5th of September, 1865, and ratified by a majority of one hundred and fifty-five of the qualified voters. The proceedings in the second instance for the formation of a State government having differed in time and mode from those specified in the act of March 21, 1864, I have declined to issue the proclamation for which provision is made in the fifth section of the law, and therefore submit the question for the consideration and further action of Congress.

ANDREW JOHNSON.

WASHINGTON, *January* 12, 1866.

There, in those few words, you have a statement by the President merely in outline of the irregularity of this proceeding. There was, Senators will bear in mind, an enabling act which I now have before me, approved March 21, 1864, entitled "An act to enable the people of Colorado to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States." This act is formed on the model of most of the previous enabling acts. Among its provisions is this, in the fourth section, with reference to the meeting of the convention to form a State constitution:

"That the members of the convention, thus elected, shall meet at the capital of said Territory on the first Monday in July next, and, after organization, shall declare, on behalf of the people of said Territory, that they adopt the Constitution of the United States; whereupon the said convention shall be, and it is hereby, authorized to form a constitution and State government for said Territory."

Then follow the customary conditions introduced into such acts. Now it appears that there was an effort under this act to create a constitution, but that it failed; the constitution was rejected. The question naturally recurs, then, whether by the rejection of the constitution at that time this act was not so far exhausted that the people in this Territory could no longer derive under it any authority for those preliminary proceedings that were required in the formation of a State government.

But, sir, in addition to this important fact, which I may say is of record, and with regard to which there can be no question, there were other irregularities which are not so precisely of record, to which it is my duty to call your attention. I have in my hand a memorandum, given to me yesterday, prepared and signed by a gentleman from Colorado, who arrived in town, I believe, yesterday morning, and who is actually president of the Territorial Council, Henry C. Leach. He has undertaken very briefly to set forth some of the irregularities that occurred; and I will read them:

1. The convention which framed the constitution was not elected by the people, being simply delegates appointed by caucuses ordered by political parties.

2. The counties of El Paso, Pueblo, Huerfano, Costilla, and Conejos, were not represented in the convention, and had no part in making the constitution. These counties represent one third of the population of Colorado.

3. The constitution was submitted to the people without the safeguards and protection of law one week in advance of the annual territorial election; it was publicly asserted that if submitted on the same day "the people would vote it down."

4. Information that the constitution was to be voted on did not reach the county of Conejos until ten o'clock on the morning of the election.

5. None of the provisions of the enabling act of 1864 were complied with, except the submission of the constitution to the people, and this was done without authority or protection of law.

6. The total vote was—

In favor of the constitution	3,025
Against	2,870
Majority for	155

This vote was obtained by a union of the politicians of all parties and the support of all the newspapers in the Territory, there being no organized opposition, and no protection of law from fraudulent voting.

7. The election for State officers in November was without authority or protection of law, and large frauds were perpetrated, the entire vote of the first ward in Denver being declared fraudulent by the canvassers. The Legislative Assembly were elected at the same time and by the same vote.

8. Fifty-eight voters in the county of Summit elected two representatives and one senator to the "State" Legislature.

HENRY C. LEACH.

Such is what I have to say on the irregularity of these proceedings. Perhaps it was not necessary to go into these details of the irregularity, for it is enough to show that the people did not act by virtue of any enabling statute; that the act, though passed by Congress, was exhausted; that therefore all subsequent proceedings were in the nature of volunteer proceedings, to be respected like any other proceeding of the people, but not having any sanction derived from a preliminary act of Congress. It is on this account that I insist Congress is not in any way compromised or bound by its previous enabling act, and it can approach this whole question free from all embarrassment. It may treat it as if no enabling act had ever been passed.

This brings me to the second objection, which is the want of a proper population. On this head the evidence is very strong. The gentlemen who appear here with credentials as Senators do not undertake to state with any confidence what the population is. After several conversations with those very respectable gentlemen, I have found that they were not prepared with any precise statement on that question. They are, in short, without any official evidence with regard to the population. In that respect, therefore, they stand on an equality with other gentlemen of intelligence in the Territory. I have in my hand a letter from a gentleman whose character and intelligence I can vouch, an original Massachusetts citizen, who had been in the Senate of Massachusetts and mayor of his town, which was New Bedford, which Senators well know is certainly one of the most important of the towns in Massachusetts, and who has carried his household gods and his fortune to that distant Territory, Hon. Rodney French, well known also in the politics of Massachusetts. He writes me under date of January 3, as follows:

"Pardon me, but I trust you will be able to discover that our State movement is entirely premature. We have not over twenty-five thousand, if indeed we have twenty thousand inhabitants in the Territory. The friends of the movement claim 155 votes majority for the State constitution. Never believe it carried, as they never published the official vote, simply the 155 majority. Our property valuation to put the taxes upon is only some eight or nine millions. The whole movement was got up with money by a few interested."

That is the testimony of one gentleman.

Mr. TRUMBULL. Will the Senator from Massachusetts allow me to ask if this same Mr. Rodney French was not one of the members of the convention that formed the constitution?

Mr. SUMNER. Certainly, he was.

Mr. TRUMBULL. He has changed his opinion since?

Mr. SUMNER. No; he opposed the constitution.

Mr. TRUMBULL. How came he to be in a voluntary convention to form a constitution for a State that had not sufficient population?

Mr. SUMNER. It is not for me to explain all the details of his conduct. I simply let him speak for himself.

Mr. POMEROY. It may throw some light on the subject to suggest that individual members of the convention who expected they could get office under the State constitution were for it; but when they found they could not they were against it.

Mr. TRUMBULL. That explains it.

Mr. SUMNER. That may explain it. I shall not undertake to answer that suggestion, for I have no facts one way or the other with regard to it, and I have no disposition to press this case in any such way. My simple desire is to bring before the Senate such facts as through my inquiries I have been able to learn, thinking that the Senate ought to know them, and believing that they ought to have some influence in determining the judgment on this question.

Mr. WILLEY. I understand the Senator to say that there never has been official certification of the votes on the constitution.

Mr. SUMNER. I have made no such assertion.

Mr. WILLEY. I thought you made it upon the authority——

Mr. SUMNER. I read a few words from Mr. French's letter.

Mr. WILLEY. But that is to that effect.

Mr. SUMNER. Not precisely.

Mr. WILLEY. I find on my table a printed paper containing in detail the vote of all the counties, purporting to be signed by the officers of the Territory and the clerk of the executive department of Colorado Territory. I merely rise to make the inquiry whether or not the Senator was aware that this was really an official document?

Mr. SUMNER. I was aware of it; I have it on my table and propose to consider it in a minute, with the Senator's permission.

Mr. GRIMES. I can say to the Senator from West Virginia that I have the original document, the one signed by the executive officer who certifies it, not printed, but in manuscript.

Mr. SUMNER. On the question with regard to the population, Mr. French states that it may be twenty-five thousand, and he hardly thinks it is more than twenty thousand. Others have placed it at twenty-five thousand. The gentlemen here claiming seats as Senators place it higher; but I do not understand that any one of them places it above thirty or thirty-five thousand. Therefore, even supposing it to be thirty or thirty-five thousand, the Senate will see that it is a very small body of men to invest with the character of a State government. But, sir, there are certain facts which will enable us to get something of an idea of the amount of population. I have here a table of the votes in the Territory for a succession of years.

Mr. STEWART. Before the Senator passes from Mr. French, I call his attention to the sixth page of the documents accompanying the President's message on this subject, where it appears from the proceedings of the convention that Mr. French was a defeated candidate for president of the convention.

Mr. SUMNER. Was he not the president of the convention?

Mr. STEWART. No; he was a defeated candidate.

Mr. SUMNER. That only attests the eminent position that he held in the convention.

Mr. STEWART. The fact that he was defeated might have had some effect upon his estimates.

Mr. SUMNER. I doubt whether it is advisable to go into any such question of motives on this occasion. I do not mean to raise any such question. I have a great many papers and letters that raise questions with regard to the gentlemen who are here. I do not propose to make any allusion to them. There are letters and papers here on my table which I do not propose to read, but which, if I should read, would reflect seriously upon those gentlemen.

I do not propose to make any reflection upon anybody. I am speaking of the facts.

I have here a table of the total vote at the elections in different years. In August, 1861, the vote was 10,580; in December, 1861, 9,354; in October, 1862, 8,224; in September, 1864, 5,769; in September, 1865, 5,895; so that you will perceive that from 1861 to 1865 the vote constantly diminished, being at the beginning upward of 10,000, and at the end something upward of 5,000. And when the constitution was submitted only 3,025 voted for it, while 2,870 voted against it. Now, the precise question is, whether 5,895 voters shall be invested with the powers of a State; whether they shall send into this Chamber two Senators, whose votes shall be equal to the vote of New York, of Pennsylvania, of Ohio, or of Massachusetts? Is that just? Is it fair? When a State is once admitted into the Union, we all know our obligations to it under the Constitution; that is, it is admitted on a footing of perfect equality; and certainly we should well consider in advance before we receive a State into that high equality, whether it is in the numbers at least entitled to that equality.

It is not an answer to me to say that Pennsylvania, New York, Ohio, and Massachusetts have a large political weight in the other House which this new State, should it be received, will not have. The question is, whether in this Senate it will not have a weight to which such a number of voters cannot be justly entitled. That leads me to ask you to consider for one moment the functions of the Senate. The Senate of the United States is a peculiar body, utterly without precedent or without parallel in the history of any other constitutional Government, differing clearly from the upper House of the English Parliament, differing from the upper House of the French Chambers, differing from the upper House in Prussia, from the upper House in Italy, and in this respect the Senate of the United States has three functions, one legislative, one diplomatic, and one executive. By its legislative function it acts in coöperation with the other House on all laws of the country. By its diplomatic function it acts, without any coöperation with the other House, on all treaties of the country; and by its executive function it acts, without the other House, on all the nominations of the President. Whatever may be the preponderance of power that the larger States may have in the House of Representatives, that will not affect these two last functions which are exercised by the Senate of the United States, the diplomatic and the executive; and the question is, whether a few more than five thousand voters in a distant Territory shall be organized so as to come into this Chamber and on questions of diplomacy and on executive questions to neutralize the vote of the large States to which I have referred. Sir, even conceding that on legislative questions through the preponderance of the large States in the other House there may be a certain remedy to this disorder, there is no such remedy in the exercise of these two other important functions of the Senate. I submit, therefore, that it is not advisable for us at this moment to invest this small number of voters with these large political powers. They must wait a little longer, wait until they are more numerous, so as at least to be entitled to one full Representative in the other House. When the time comes we shall gladly welcome them. At present, I submit that the time has not come.

But then, sir, there is another objection, and that is on the face of their constitution. I submit that it is not republican in form and in harmony with the Declaration of Independence. The requirement of this very enabling act under which they have pretended to proceed, but which, as I have shown, was already exhausted before they entered upon these proceedings, is as follows:

"That the constitution, when formed, shall be republican, and not repugnant to the Constitution of the United States and the principles of the Declaration of Independence."

Now, what is the constitution? Article three, entitled "Suffrage and Elections," begins as follows:

"SEC. 1. Every white male citizen of the age of twenty-one years and upward, who is by birth, or has become by naturalization or by treaty, or shall have declared his intention to become a citizen of the United States according to the laws thereof, and who shall have resided in the State of Colorado for six months preceding any election, and shall have been a resident for ten days of the precinct or election district where he offers to vote, shall be deemed a qualified elector and entitled to vote at the same."

There you have the requirement, "every white male citizen;" in other words, nobody who is not "white" under this constitution is recognized as entitled to the elective franchise. Now, sir, I insist, and on that head I challenge a reply from any Senator on this floor, that such a constitution does not comply with the requirement, that it is not republican, and that it is repugnant to the principles of the Declaration of Independence. I say that it is not republican, for the first principle of republican government is equality. Let that be denied, and you fail in your republican government. I say still further that the first principle of republican government is equality; equality in rights is the first of rights.

Mr. McDOUGALL. Will the Senator allow me to ask him a question? In what age of the world was there a republic where there was equality? Please answer me that.

Mr. SUMNER. Mr. President, some days ago I had the honor of discussing that question at great length before the Senate. I do not think the Senate is disposed to go into it again, and certainly I am not.

Mr. McDOUGALL. I would like to have the single instance where it existed in ancient times, in the middle ages, or in the modern ages.

Mr. SUMNER. When I spoke on that subject I took occasion to show that there was no such case. The Senator is right. There was no such case. It was for our fathers; it was left to them, when they first undertook to constitute a new Government, to establish that as the essential and cardinal principle of a republican government. My answer therefore to the Senator is precise: there was no such case. But the true idea of a republican government began with our fathers, and its definition will be found in their Declaration of Independence. Were they not sufficiently precise? Is their language vague? You may call it a "glittering generality," but there it is in an immortal text whose truth will be recognized more and more as time advances. You may not recognize it now, but others who come after you will recognize it and do it reverence.

I say, therefore, that this constitution now before us is repugnant to the principles of the Declaration of Independence. I say that the government which it constitutes is not a republican government. And now the question is how that difficulty shall be met. I know well that Senators may say, but there are States in the Union that have the same discrimination. Connecticut has it; New York has it; but permit me to say that that does not touch the argument at all. We have no occasion now to review the constitution of Connecticut or of New York, but we have occasion at this moment in the discharge of a solemn duty to review the constitution of this proposed State. If there were occasion in this Chamber to review under the responsibilities of our official positions the constitution of Connecticut or of New York, my course would be clear; it would be to say that that constitution was not republican in form; but there is no such occasion, and therefore we have no such responsibility. There are other States in this Union with regard to which we have at this moment that responsibility—and I simply now allude to them for illustration—and they are the States lately in rebellion; their constitutions have been overthrown or subverted; new constitutions have been set up; and it becomes the solemn duty of Congress to examine those constitutions in order to see whether they are republican in form and not repugnant to the principles of the Declaration of Independence. We have in regard to those States precisely the same responsibility at this moment that we have with regard to this new comer, distant Colorado. We must examine the constitutions and see whether or not they are in conformity with those sublime principles which enter into the true idea of a republican government.

Again, sir, I submit that at this moment, when the whole country is agitated by the great question, what shall be done for the protection of the colored race, to what extent we shall exercise the high powers of Congress in order to carry that protection into the rebel States, it will hardly be decent for us in reviewing the constitution of a new State not to apply to it the highest possible test. It will not do for us now to recognize this constitution of Colorado as republican in form. We owe it to ourselves to set an example and to require that in a State now organized under our influence a good example shall prevail. How many of us heard with regret the result last autumn in Connecticut, and again in Wisconsin, by which suffrage to the colored race was denied. We felt that by those two votes liberty had suffered, that an enfranchised race was placed in jeopardy, that its rights were dishonored by those who ought to have upheld them; and now, sir, you have cast upon you in this Chamber that same identical responsibility. You are with reference to this constitution of Colorado in the precise position in which the people of Connecticut were with regard to their own constitution and the people of Wisconsin with regard to theirs. Some of us have regretted poignantly the policy of those two States; I hope there will be no occasion to regret any similar policy in this Chamber. And now, sir, in order to bring the Senate to a vote on that precise question, I send to the Chair an amendment to the bill.

The PRESIDENT *pro tempore*. The amendment offered by the Senator from Massachusetts will be read.

The Secretary read the amendment, namely:

Insert at the end of the second section the following proviso:

Provided, That this act shall not take effect except upon the fundamental condition that within the State there shall be no denial of the elective franchise or of any other rights, on account of color or race, but all persons shall be equal before the law; and the people of the Territory shall by a majority of the voters, at public meetings to be convened by the Governor of the Territory, declare their assent to this fundamental condition, and the Governor shall transmit to the President of the United States an authentic statement of such assent, whenever the same shall be given, upon receipt whereof he shall by proclamation announce the fact, whereupon without any other proceedings on the part of Congress this act shall take effect.

Mr. SUMNER. In offering that amendment I have followed almost precisely what is known as the Missouri precedent. Senators will remember that the admission of the State of Missouri into this Union gave rise to two different controversies, each of which resulted in what at the time was known as a compromise. Those two controversies are very often confounded. The first controversy was in regard to what was, in the language of the time, called a restriction of the State of Missouri itself, requiring that State within a certain period of time to abolish slavery. That at the time was called familiarly "the Missouri restriction." It was opposed, as the history of the time records, vehemently in both Chambers. At last what was called the restriction was defeated by a compromise to this effect, that the State of Missouri should be admitted into the Union, provided that the outlying territory north of a certain parallel of latitude should be thereafter free territory and slavery therein should be prohibited. That compromise passed into law. The State of Missouri then came a second time before Congress, but on examining its constitution it was found to contain a provision to the effect that colored persons should not be allowed to come within the borders of the State. Then came the Missouri question in a new form, and in that form it raged in these Chambers during one session, and when introduced in this second form Mr. Clay again interfered and by his persuasive influence brought about a second compromise, which was that Missouri should be admitted under a

fundamental condition similar in form and in its substantial parts identical in language with that which I have sent to the Chair. This proposition in what was known as the Missouri debate showed itself first on the motion of Mr. Eustis, afterward Governor of Massachusetts, and was in the following form:

"*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, and it is hereby declared*, That on the — day of —— next ensuing the State of Missouri shall be admitted into the Union upon an equal footing with the original States, in all respects whatsoever: *Provided*, That so much of the twenty-sixth section of the third article of the constitution of said State, presented to Congress at the present session, as makes it the duty of the present Legislature to pass such laws as shall be necessary 'to prevent free negroes and mulattoes from coming to and settling in this State, under any pretext whatsoever,' shall, on or before that day, have been expunged therefrom."

That was the original form of the proposition, which underwent much discussion, and was referred to two different committees, of one of which, at least, if not both, Mr. Clay was chairman. At the end of their investigation and of the debates this resolution was adopted:

"Resolution providing for the admission of the State of Missouri into the Union, on a certain condition.

"*Resolved, &c.*, That Missouri shall be admitted into this Union on an equal footing with the original States, in all respects whatever, upon the fundamental condition, that the fourth clause of the twenty-sixth section of the third article of the constitution submitted on the part of said State to Congress, shall never be construed to authorize the passage of any law, and that no law shall be passed in conformity thereto, by which any citizen of either of the States in this Union, shall be excluded from the enjoyment of any of the privileges and immunities to which such citizen is entitled under the Constitution of the United States: *Provided*, That the Legislature of the said State, by a solemn public act, shall declare the assent of the said State to the said fundamental condition, and shall transmit to the President of the United States, on or before the fourth Monday in November next, an authentic copy of the said act; upon receipt whereof, the President, by proclamation, shall announce the fact; whereupon, and without any further proceeding on the part of Congress, the admission of the said State into this Union shall be considered as complete."

It will be observed that by this resolution this fundamental condition was submitted to the Legislature of the State of Missouri. That was practicable at that time because Missouri had already gone so far in her organization that she had a State Legislature. Now, I understand that in point of fact Colorado is not so far advanced; there is no State Legislature at this moment which can undertake to act on any fundamental condition, should one be submitted by Congress. Therefore I have thought it advisable to require the fundamental condition to be submitted by the territorial Governor to a popular vote; and when that popular vote shall be properly authenticated to the President of the United States, he will be authorized by proclamation to declare Colorado a State of the Union.

Possibly a question may arise as to the effect of such a fundamental condition. I do not think there is any question on that point. I do not doubt that such a fundamental condition, especially if sanctioned by the popular vote according to the terms of the proviso which I have offered, will be absolutely obligatory on the State. I believe that you may apply to it the language which you will find in Mr. Webster's great speech in this Chamber in reply to Mr. Hayne, where, speaking of the Northwest Ordinance, he used this very striking, and, to my mind, exquisitely beautiful language:

"It laid the interdict against personal servitude in original compact, not only deeper than all local law, but deeper than all local constitutions."

Now, sir, I call upon the Senate at this time to do for this distant State what Mr. Webster in this beautiful language said was done by our fathers with regard to the Northwest Territory, to lay an interdict against all inequality of rights in original compact, not only deeper than all local law, but deeper than all local constitutions. Let that be done, and one of the objections to the admission of Colorado will be removed.

Mr. STEWART. The last objection of the Senator certainly waives the first, because taking that vote would not, that I can see, remove the objection of the want of population. If his last objection is good, his first cannot be.

Now, as to the first objection, the want of population, it is undoubtedly a serious one. It appears to be a great hardship to a large State that a few people in a distant Territory should be entitled in the Senate to an equal voice with the great State of New York. I feel, myself, the injustice of the system as regards the State I represent; although at the time of her admission she cast a vote of some seventeen thousand, we were pretty nearly on a par in that respect with several other States. In regard to Colorado, however, there are some peculiar circumstances which the Senate may not understand. She was remarkably prosperous at the time war broke out. She furnished about four thousand soldiers for the war, a very large proportion for her then population. During the progress of the war Indian difficulties broke out in the country between her borders and the organized States on this side and raged most of the time, and communication was cut off which retarded her progress. She also had local difficulties; her agricultural progress was injured very much by grasshoppers for two successive years. The Indian troubles kept the Territory back very much. Then the people there were troubled about another matter which this bill if passed will relieve them of. They had a local government that was entirely inadequate to their condition. It is impossible for a mining State to grow up with a local government organized in Washington and sent there. It feels no responsibility to the people. The interests intrusted to the judges are immense—great cases as large as in the older States. It is in an entirely different situation from what it would be if it were merely an agricultural country. They want to put their best men in office and hold them directly responsible. They can certainly get along much better and will improve much more rapidly in that way. They claim to be able to support themselves. They will relieve the Government of the burden of supporting them for a year or two, because it is only a question of a year or two, and in the mean time they can certainly take better care of their own interests. Local legislation is very necessary in communities situated as they are. An imperfect knowledge of the situation prevails here in Washington, and the persons who are sent there are often incompetent, and not being directly responsible to the people, the interests of the Territory suffer.

These are the circumstances that induced the people of Colorado to take this action, as I understand. There must always be some injustice when a new State comes in on a footing of equality. That is evident. There has been no new State which when it came into the Union had an equal population with New York. It will be but a few years before Colorado will grow to rival some of the eastern States. It is peculiarly situated for growth. The Pacific railroad is tending in that direction. It has large agricultural resources, larger than almost any other mining State. It has large mining resources. The Indian troubles are now so far over that population is going in that direction. Everything is tending to develop the country. It will be but a year or two before the inequality which must exist when any new State first comes in will be done away with by actual growth. It is, then, only a question of a very short time, and they will certainly advance more rapidly if admitted now than if you postpone their admission.

They have organized the State government on the invitation of Congress. Now you say they have not complied with your enabling act. True, they have not technically complied, but by your enabling act you invited them to act; you led the people to believe they would be admitted. They canvassed the matter twice. They rejected the proposition first, and then they came to the conclusion that they had been mistaken in their judgment, and they reconsidered it. The fact that they have not complied technically with the enabling act does not affect the general question. You invited them to come here; you caused them to take all this action; they have been to a great deal of trouble and expense in considering the matter, and the whole community now appear to be well satisfied. It would certainly be discouraging to those people to refuse them admission after they have organized under this invitation, and have complied with your enabling act in all respects except as to the manner of forming their convention.

Mr. McDOUGALL. Allow me to make a suggestion. The Senator from Nevada and myself have been citizens of the same State. He will remember well that it was under the direction of President Taylor, without an enabling act, that California was organized and admitted into the Union.

Mr. STEWART. There are plenty of precedents. There is no trouble on that point. There have been several States admitted without any enabling act. There is only a technical difficulty in the way. If that technical difficulty had not occurred, if they had come here in the manner prescribed by the enabling act, they would not require an act of Congress now; but the President would be authorized to issue his proclamation declaring the State in the Union. The spirit of your action has been complied with, and now there ought to be some good reason before you change your policy.

But the Senator from Massachusetts proposes to admit them if new conditions be imposed, and he cites the case of Missouri as authority for this action. I deny that that is authority for action like this. It is no authority unless the Senator is correct in his position that that clause of the Constitution of the United States which provides that the United States shall guaranty to each State a republican form of government prevents a State from inserting in its constitution a clause like that of which the Senator complains in this case; that is, that it takes away from the States the power to regulate the question of suffrage. If he is correct in that, he is perfectly logical. If he is incorrect in that, as I believe nearly all the Senate have expressed their opinion that he is, then it is no precedent. Missouri was sent back upon the express ground that the provision in her constitution requiring the Legislature to pass an act excluding negroes and mulattoes from coming into the State was in conflict with the Constitution of the United States, and therefore void; and Mr. Clay held that the United States had a right to require a State to repudiate its attempt to violate the Constitution of the United States. That was the first decision, and a very important decision, to the effect that negroes and mulattoes were citizens. The Dred Scott case overruled that decision, but I think there was more weight in that decision of Congress at that time than in the Dred Scott decision. I believe it was the correct opinion. I believe that the clause of the Constitution which declares that the citizens of each State shall have the privileges and immunities of citizens of the several States, applies to all native-born citizens. It was held by Congress, after deliberate consideration, in 1821, that that clause in the Constitution was violated by any State refusing to allow negroes and mulattoes to come within its borders. They said:

"It being a violation of the Constitution, the Legislature must resolve that it will not pass a law in open violation of the Constitution of the United States, or we will not admit her into the Union."

It was a very important decision. It decided that negroes and mulattoes were citizens. It decided, furthermore, that the Congress of the United States could require a State, upon its admission, to abandon a proposition to violate the Constitution of the United States. But what is this case? Here is a proposition to send the State constitution back, pointing out to the people what provisions they shall put in it, and that, too, in a matter where it is not in conflict with the Constitution of the United States. I shall not go into that discussion at length; but at the formation of the Constitution many of the States were slave States. Nineteen of the free States now exclude blacks

from the right of suffrage. The construction of the Constitution from the earliest time down has left that matter to the States. Whether they allow negroes to vote or not, is a matter for themselves, and their action either way is not in conflict with the Constitution of the United States. We have no right to make a constitution for a State. If their constitution has in it anything in conflict with the Constitution of the United States, we can say to them, "You must agree not to enforce it," but we are not here to make a constitution for the State of Colorado. We are here with power to restrain her from violating the Constitution of the United States, and that is all. If you can make this part of the constitution of Colorado, you can make an entire constitution for her. If you can say she shall come into the Union on an equal footing with the other States, provided she shall not have the power to regulate the question of suffrage as the other States have, you can say she shall come in on an equal footing, provided she would pass some other favorite law of yours, and you could carry it through and make her come in with a constitution made for her by you. I think this would be a very dangerous precedent for the Congress of the United States to set. It would be making constitutions for the States by the Congress of the United States. If this clause be inserted and the State sent back to insert it, and it be held to be binding, Colorado will not be in the Union on an equal footing with the other States, because she will have no control over the question of suffrage, and it has been repeatedly held that that matter is in the control of the States. It would take away from her one of her rights as a sovereign State.

I must oppose this amendment on principle. I do not believe the people of Colorado would accept it. If they cannot now come in on an equal footing with the other States, I think it will be better for them to struggle along as they are for the present; and if they do not prosper as well as they otherwise would, let them wait until they can come in with a constitution made by themselves. Colorado has complied with your conditions. She has embodied your constitutional amendment abolishing slavery in an ordinance irrevocable. She has adopted in the same way the other requirements contained by your enabling act. It seems to me that good faith, fair dealing requires that we should act upon this question without making a new constitution for Colorado. It seems to me that the interests of the whole country will be subserved by letting her come in now. She will certainly prosper more this year by being in than otherwise, and no great harm will be done to anybody.

Mr. POMEROY. I am somewhat acquainted with Colorado——

Mr. GRIMES. Will the Senator from Kansas yield to a motion to adjourn or go into executive session?

Mr. POMEROY. I have no objection.

Mr. GRIMES. I move that the Senate proceed to the consideration of executive business. There is a great deal of business on the Executive Calendar that ought to be attended to.

Mr. SUMNER. Before the question is put on the motion of the Senator from Iowa, I desire to have an order made for printing my amendment.

The PRESIDENT *pro tempore*. That order will be made, if there be no objection.

Mr. RAMSEY. When will the Colorado bill come up again, if we now go into executive session?

The PRESIDENT *pro tempore*. It will come up to-morrow at one o'clock as the unfinished business of to-day.

Mr. WILSON. There is a special assignment for one o'clock to-morrow. I must insist on going on with the Army bill then.

Mr. POMEROY. The unfinished business will take precedence of that.

Mr. GRIMES. We can settle that point to-morrow when it arises.

Mr. RAMSEY. I prefer to understand it now.

The motion of Mr. GRIMES was agreed to; and after some time spent in executive session the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *March* 12, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of Saturday was read and approved.

The SPEAKER announced that the first business in order was the call of committees for reports to go upon the Calendar and not to be brought back on a motion to reconsider, commencing with the Committee of Elections.

No reports were made.

The SPEAKER announced that the next business in order was the call of States and Territories for resolutions in the inverse order, commencing with the State of Indiana, where it was suspended on the 26th of February.

PORTRAIT OF JOSHUA R. GIDDINGS.

Mr. ASHLEY, of Ohio. I offer the following resolution:

Resolved, That the Joint Committee on the Library be instructed to inquire into the expediency of purchasing the portrait of Hon. Joshua R. Giddings, now on exhibition in the Congressional Library, and that they have liberty to report by bill or otherwise.

The portrait referred to was painted and is owned by Miss Ransom, of Cleveland, Ohio.

As a work of art it is as faultless as it is faithful in its life-like representation of the great and good man who for nearly a quarter of a century in these Halls—

"Faithful stood with prophet finger
Pointing toward the blessed to be,
When beneath the spread of heaven
Every creature shall be free."

It is fitting and proper that this House should order such a portrait of such a man to be placed among the historic ornaments of the national Capitol.

I trust, sir, the resolution may pass unanimously, and that the commitee will give it their early attention.

Mr. ROSS. Is debate in order?

The SPEAKER. If the gentleman from Ohio debates the resolution it will go over under the rule.

Mr. ASHLEY, of Ohio. Then I call the previous question.

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

Mr. ROSS. We have had enough of pictures. I call for tellers on the resolution.

Tellers were ordered; and Messrs. Ross, and ASHLEY of Ohio, were appointed.

The House divided; and the tellers reported—ayes 69, noes 24.

Mr. ELDRIDGE demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 78, nays 33, not voting 72; as follows:

YEAS—Messrs. Allison, Ames, Anderson, James M. Ashley, Baker, Baldwin, Banks, Baxter, Beaman, Bidwell, Bingham, Blaine, Blow, Boutwell, Broomall, Buckland, Bundy, Cullom, Darling, Davis, Dixon, Donnelly, Dumont, Eliot, Ferry, Garfield, Grinnell, Hayes, Henderson, Higby, Hill, Holmes, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Hulburd, James Humphrey, Jenckes, Julian, Kelso, Ketcham, Kuykendall, Laflin, William Lawrence, Longyear, McClurg, McKuer, Mercur, Miller, Morris, Moulton, Newell, Orth, Paine, Perham, Plants, Price, Alexander H. Rice, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Starr, Stevens, Stilwell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Elihu B. Washburne, Welker, Wentworth, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—78.

NAYS—Messrs. Ancona, Bergen, Brooks, Cobb, Conkling, Dawson, Defrees, Denison, Eldridge, Glossbrenner, Goodyear, Aaron Harding, Edwin N. Hubbell, Kerr, Latham, Le Blond, Marshall, Niblack, Radford, Samuel J. Randall, Rogers, Ross, Rousseau, Shanklin, Sitgreaves, Taber, Thayer, Thornton, Trimble, Warner, William B. Washburn, Whaley, and Winfield—33.

NOT VOTING—Messrs. Alley, Delos R. Ashley, Barker, Benjamin, Boyer, Brandegee, Bromwell, Chanler, Reader W. Clarke, Sidney Clarke, Coffroth, Cook, Culver, Dawes, Delano, Deming, Driggs, Eckley, Eggleston, Farnsworth, Farquhar, Finck, Grider, Griswold, Hale, Abner C. Harding, Harris, Hart, Hogan, Hooper, Hotchkiss, James R. Hubbell, James M. Humphrey, Ingersoll, Johnson, Jones, Kasson, Kelley, George V. Lawrence, Loan, Lynch, Marston, Marvin, McCullough, McIndoe, McKee, Moorhead, Morrill, Myers, Nicholson, Noell, O'Neill, Patterson, Phelps, Pike, Pomeroy, William H. Randall, Raymond, John H. Rice, Ritter, Rollins, Smith, Spalding, Strouse, Taylor, Francis Thomas, John L. Thomas, Trowbridge, Ward, Henry D. Washburn, Williams, and Wright—72.

So the resolution was agreed to.

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

The latter motion was agreed to.

EIGHT HOUR LABOR SYSTEM.

Mr. JULIAN introduced a bill to fix eight hours as a day's work in all cases where laborers, mechanics, or artizans shall be employed by or under the authority of the Government of the United States; which was read a first and second time, and referred to the Committee on the Judiciary.

TAXATION OF UNITED STATES NOTES, ETC.

Mr. SPALDING. I desire to introduce a joint resolution in relation to the taxation of United States notes and certificates of indebtedness by the several States.

As it is very important, I ask that it be committed to the Committee of Ways and Means with leave to report at any time. It is important that it should be done speedily if done at all.

The joint resolution was read a first and second time. It provides that the act of June 30, 1864, entitled "An act to provide ways and means for the support of the Government, and for other purposes," shall not be so construed as to exempt from taxation by or under State or municipal authority United States notes or certificates of indebtedness not bearing interest.

Mr. SPALDING. I move that the joint resolution be referred to the Committee of Ways and Means, with leave to report it back at any time; and on that motion I demand the previous question.

Mr. WENTWORTH. Is that motion in order without unanimous consent?

The SPEAKER. The latter part of the motion, giving the committee leave to report at any time, requires unanimous consent.

Mr. WENTWORTH. I object to it. I object to anything that looks like repudiation.

Mr. SPALDING. If debate is in order I have something to say.

The SPEAKER. No debate is in order.

The previous question was seconded.

Mr. STEVENS. I hope the gentleman will make his resolution a resolution of inquiry.

Mr. SPALDING. It is a joint resolution, and the committee can report it back or not as they see fit.

Mr. WENTWORTH. I have no objection to referring anything since the Mexican bonds were referred.

The SPEAKER. Debate is not in order. The House is acting under the previous question.

The question being upon the reference of the resolution to the Committee of Ways and Means,

Mr. MORRILL demanded the yeas and nays.

The yeas and nays were ordered.

Mr. CONKLING. Would it be in order for me to ask the gentleman from Ohio [Mr. SPALDING] to modify his joint resolution so as to make it apply only to such securities of the United States as may be issued hereafter?

Mr. SPALDING. I cannot consent to that. I want to tax the greenbacks in the States; it is as much as we can do to carry the interest-bearing bonds without taxation.

Mr. MORRILL. Will the gentleman not make it a subject of inquiry on the part of the Committee of Ways and Means?

Mr. SPALDING. No further than to refer the joint resolution to the Committee of Ways and Means; the committee can take such action as they please.

Mr. WENTWORTH. Would it be in order

for me to move to reconsider the vote ordering the main question?

The SPEAKER. That motion would be in order.

Mr. WENTWORTH. Then I submit that motion. I think this resolution should be discussed.

Mr. STEVENS. I move to lay the whole subject on the table; it is rank repudiation, and nothing else.

Mr. ELDRIDGE. I rise to a point of order. Is it in order to move to reconsider the vote ordering the main question to be put, after the yeas and nays have been ordered?

The SPEAKER. The motion to reconsider is in order. The order of the House upon the previous question can be reconsidered at any time before the House actually commences to execute the order.

Mr. STEVENS. I will withdraw my motion to lay on the table.

The question recurred upon reconsidering the vote seconding the previous question.

The question was taken upon the motion to reconsider; and upon a division there were—ayes 66, noes 30.

So the motion to reconsider was agreed to.

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

Mr. ROGERS. I move to lay the whole subject upon the table; and upon that motion I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 42, nays 90, not voting 51; as follows:

YEAS—Messrs. Ames, Anderson, Delos R. Ashley, James M. Ashley, Bidwell, Bingham, Broomall, Bundy, Darling, Deming, Dixon, Eliot, Grinnell, Henderson, Higby, Holmes, Hooper, Demas Hubbard, James Humphrey, Jenckes, Kelley, Kelso, Laflin, Loan, Marvin, McClurg, Miller, Moorhead, Newell, Paine, Perham, Price, Sawyer, Schenck, Starr, Stevens, Thayer, Francis Thomas, William B. Washburn, Wentworth, Williams, and Woodbridge—42.

NAYS—Messrs. Alley, Allison, Ancona, Baker, Baldwin, Banks, Beaman, Bergen, Blaine, Boutwell, Boyer, Bromwell, Buckland, Chanler, Cobb, Coffroth, Conkling, Cook, Cullom, Davis, Dawes, Dawson, Defrees, Denison, Donnelly, Dumont, Eldridge, Farnsworth, Ferry, Garfield, Glossbrenner, Goodyear, Aaron Harding, Abner C. Harding, Harris, Hayes, Hill, Asahel W. Hubbard, Chester D. Hubbard, John H. Hubbard, Edwin N. Hubbell, Hulburd, Ingersoll, Julian, Kerr, Ketcham, Kuykendall, Latham, William Lawrence, Le Blond Longyear, Lynch, Marshall, McRuer, Mercur, Morrill, Morris, Moulton, Niblack, Noell, Orth, Phelps, Plants, Radford, Samuel J. Randall, Alexander H. Rice, Rogers, Ross, Rousseau, Scofield, Shellabarger, Sloan, Spalding, Stilwell, Taber, John L. Thomas, Thornton, Trimble Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Warner, Elihu B. Washburne, Welker, Whaley, James F. Wilson, Windom, and Winfield—90.

NOT VOTING—Messrs. Barker, Baxter, Benjamin, Blow, Brandegee, Brooks, Reader W. Clarke, Sidney Clarke, Culver, Delano, Driggs, Eckley, Eggleston, Farquhar, Finck, Grider, Griswold, Hale, Hart, Hogan, Hotchkiss, James R. Hubbell, James M. Humphrey, Johnson, Jones, Kasson, George V. Lawrence, Marston, McGullough, McIndoe, McKee, Myers, Nicholson, O'Neill, Patterson, Pike, Pomeroy, William H. Randall, Raymond, John H. Rice, Ritter, Rollins, Shanklin, Sitgreaves, Smith, Strouse, Taylor, Ward, Henry D. Washburn, Stephen F. Wilson, and Wright—51.

So the motion to lay on the table was not agreed to.

The question again recurred upon seconding the demand for the previous question.

Mr. MORRILL. I ask the gentleman from Ohio [Mr. SPALDING] to modify his resolution so as to make it simply a resolution of inquiry.

Mr. CONKLING. I would again ask the gentleman from Ohio to modify his resolution so as to make it apply only to future issues of Government securities.

Mr. WENTWORTH. I object to any modification.

Mr. SPALDING. If I have the liberty of doing so, I will modify the resolution by striking out "certificates of indebtedness."

The SPEAKER. The Chair is of opinion that the vote ordering the main question having been reconsidered, and the question now being upon seconding the demand for the previous question, the gentleman from Ohio [Mr. SPALDING] has the same right to modify his resolution that he would have if he had but just submitted the motion for the previous question.

Mr. WENTWORTH. I rise to a point of order. I desire to call the attention of the Speaker to this fact: a vote by yeas and nays upon this resolution has just been taken, and it will go upon the record as having been taken upon such and such a resolution. In a few minutes a resolution is offered for adoption, differing from the one upon which the vote has just been taken. Will not every member here be placed in a false position when the resolution goes upon the record, having already been placed upon the record upon what is practically a different resolution?

The SPEAKER. That may possibly be. But when the House reconsiders the demand for the previous question the resolution stands open to modification by its mover just exactly as if he had just moved the previous question.

Mr. WENTWORTH. Will the Journal show the modification of the resolution?

The SPEAKER. The Journal will show that the gentleman from Ohio [Mr. SPALDING] modified his resolution after the motion to lay upon the table was voted down.

Mr. WENTWORTH. Will the Speaker allow me to ask whether the Journal will show both resolutions—the one upon which we have voted and also the resolution as modified?

The SPEAKER. The Journal does not incorporate bills and joint resolutions in full.

Mr. WENTWORTH. Very well; then I ask the Speaker (and I hope he will not make a decision without considering the matter) whether the resolution as now before us is the same as that on which we have voted.

The SPEAKER. It is not.

Mr. WENTWORTH. Then that ought certainly to appear on the Journal.

The SPEAKER. It will appear upon the Journal that, after the motion to lay on the table had been rejected, and when the question recurred on seconding the demand for the previous question, the gentleman from Ohio modified his resolution.

Mr. WENTWORTH. Will the Journal show what the modification was?

The SPEAKER. The Globe will show that; but the Journal will only state the fact that the resolution was modified. The Journal does not incorporate the details of bills.

Mr. SCHENCK. I rise to a question of order. I submit that the resolution upon which we have voted is one thing and that the resolution as modified, being an entirely different thing, ought to appear upon the Journal in its modified shape. I make that point of order.

The SPEAKER. The Chair overrules the point of order. In accordance with the uniform usage of the House from the establishment of the Government, bills and joint resolutions are not incorporated in full in the Journal, although the amendments made to them in the House are journalized.

Mr. WENTWORTH. Would the Speaker have any objection to allowing the gentleman from Massachusetts [Mr. BANKS] to be heard on this subject?

The SPEAKER. The Chair would have no objection; but it would hardly be in accordance with the rules.

The question recurring upon seconding the demand for the previous question,

Mr. SCHENCK and others called for the reading of the joint resolution as modified.

The Clerk read, as follows:

Be it resolved, &c., That the act of June 30, 1864, entitled "An act to provide ways and means for the support of the Government, and for other purposes," shall not be so construed as to exempt from taxation by or under State or municipal authority any amount of United States notes not bearing interest held by any person as money.

On seconding the demand for the previous question there were—ayes 35, noes 28; no quorum voting.

The SPEAKER, under the rule, ordered tellers, and appointed Messrs. SPALDING and WENTWORTH.

The House divided; and the tellers reported—ayes 64, noes 36.

So the previous question was seconded.

The main question was ordered, which was on the motion to refer the joint resolution to the Committee of Ways and Means.

Mr. RANDALL, of Pennsylvania. I desire to ask the gentleman from Ohio [Mr. SPALDING] to modify his resolution by inserting after the word "person" the words "or corporation."

Mr. SPALDING. I have no objection to making that modification.

The SPEAKER. The resolution cannot be modified at this time. The House is acting under the previous question.

The motion to refer the joint resolution to the Committee of Ways and Means was agreed to.

EXCLUDING THE DISLOYAL FROM OFFICE.

Mr. SHELLABARGER submitted the following resolution, on which he demanded the previous question:

Resolved, That the Committee on the Judiciary be directed to inquire and report to this House upon the constitutionality and propriety of providing by law that no person who is disloyal to the Government of the United States, and who has voluntarily engaged in rebellion against such Government, shall be entitled to exercise the rights of an elector in any State or to hold office under such Government during such disloyalty, and providing also by law for persons who have been so engaged in such rebellion being admitted to exercise such elective franchise upon proof of loyalty to the Government.

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

PRINTING EVIDENCE.

Mr. SCHENCK. I submit the following resolution, and demand the previous question on its adoption:

Resolved, That five thousand extra copies of reports of evidence from the reconstruction committee be printed for the use of members of this House.

Mr. LE BLOND. I move that the resolution be laid upon the table; and on that motion I demand the yeas and nays.

Mr. SCHENCK. I modify the resolution, whether it goes upon the Journal or not, so as to make it twenty thousand extra copies; and on the resolution as modified I demand the previous question.

Mr. LE BLOND. Can the gentleman modify his resolution?

The SPEAKER. He can.

The morning hour having expired, the resolution went over until next Monday.

RIGHT OF WAY.

Mr. HIGBY. I rise to a privileged question. On Thursday morning last I, by unanimous consent, introduced an act granting the right of way to ditch and canal owners in the State of California over the public lands, which was read a first and second time, and moved it be referred to the Committee on Mines and Mining. I find in the Journal of the House and in the Globe it has been, through some mistake, referred to the Committee on Public Lands. I move that the mistake be corrected.

The Committee on Public Lands was discharged from the further consideration of the bill; and it was referred to the Committee on Mines and Mining.

MEXICAN AND FENIAN BONDS.

Mr. MORRILL obtained the floor.

Mr. BLAINE. I ask the gentleman to yield the floor to me to submit the following resolution:

Resolved, That in giving leave, on the 5th instant, for the introduction of a resolve to guaranty a loan for Mexico, this House did not thereby in any way approve such a measure, and it is hereby declared, as the sense of this House, that all schemes looking to the guarantee of Mexican bonds, or Fenian bonds, are unwise and inexpedient.

Mr. WOODBRIDGE and Mr. SMITH objected.

Mr. MORRILL. I must decline to yield for the introduction of the resolution if it is going to consume any time, as I think it will.

APPROVAL OF CONGRESS.

Mr. COBB, by unanimous consent, submitted resolutions of the Legislature of Wisconsin, expressing approbation of Congress in passing the Freedmen's Bureau bill and in excluding representation from rebellious districts;

which were referred to the committee on reconstruction, and ordered to be printed.

MISSOURI CONTESTED-ELECTION CASE.

The SPEAKER presented certain papers in the case of Boyd *vs.* Kelso; which were referred to the Committee of Elections.

EVENING SESSIONS.

Mr. STEVENS. I offer the following resolution:

Resolved, That until otherwise ordered the House will take a recess daily, except Saturdays, at four and a half o'clock p. m., and meet again at seven and a half o'clock p. m., for the transaction of business; and the morning hour for reports shall not be interfered with by any other description of business whatever.

Mr. WASHBURNE, of Illinois. I make the suggestion to the gentleman from Pennsylvania, chairman of the Committee on Appropriations, to suspend offering that resolution for the present, as I think the House will consent to sit until six o'clock this evening rather than have an evening session.

Several MEMBERS. Oh no!

Mr. WASHBURNE, of Illinois. Well, I do not object, as it seems to be the sentiment of the House the resolution should pass.

Mr. BROOKS. I object.

Mr. STEVENS. I move to suspend the rules.

Mr. CHANLER. I rise to a point of order: that the proposition is a mere hoax. [Laughter.] The gentleman has taken that business in hand now.

The SPEAKER. The Chair overrules the point of order. The resolution is a serious one.

The rules were suspended; and the resolution was then adopted.

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

The latter motion was agreed to.

INVENTORS, ETC.

Mr. RADFORD, by unanimous consent, introduced a bill to amend an act in regard to inventors, patentees, &c.; which was read a first and second time, and referred to the Committee on Patents.

PRINTING OF PAPERS.

Mr. STEVENS, from the Committee on Appropriations, submitted papers in support of the bill to reimburse Missouri for expenses in raising militia, &c.; which were laid upon the table, and ordered to be printed.

BRIGADIER GENERAL OF MARINES.

Mr. DARLING, by unanimous consent, introduced a bill to create the grade of brigadier general commandant in United States Marine corps; which was read a first and second time, and referred to the Committee on Naval Affairs.

LEAVE OF ABSENCE.

The SPEAKER asked for leave of absence for Mr. NIBLACK for two weeks; which was granted.

Mr. HUBBARD, of New York, asked for leave of absence for Mr. HOTCHKISS; which was also granted.

CHANGE OF REFERENCE.

On motion of Mr. HOOPER, of Massachusetts, the Committee on Banking and Currency was discharged from the consideration of the petition of Robert H. Ober, and others; and the same was referred to the Committee of Claims.

BRIDGE ACROSS THE MISSISSIPPI RIVER.

Mr. PAINE, by unanimons consent, introduced a bill to authorize the Milwaukee and Prairie du Chien Railway Company to construct a bridge across the Mississippi river and to establish a post route; which was read a first and second time, and referred to the Committee on Roads and Canals.

Mr. PAINE. I move to have the bill printed.

Mr. WASHBURNE, of Illinois. I object. I ask to have the bill read.

The bill was accordingly read.

Mr. WASHBURNE, of Illinois. I object to the introduction of the bill.

The SPEAKER. It has already been introduced and referred.

Mr. WASHBURNE, of Illinois. To what committee?

The SPEAKER. On Roads and Canals.

Mr. WASHBURNE, of Illinois. It ought not to go to that committee. I move to reconsider the vote by which it was so referred, for the purpose of having it referred to the Committee on the Post Office and Post Roads.

Mr. WENTWORTH. As a member of the Committee on Roads and Canals, had I known that it was proposed to refer it to that committee, I should have objected. I thought my colleague [Mr. WASHBURNE] did object to its reference in time.

The SPEAKER. The objection was made to the printing.

Mr. PAINE. I have not the slightest objection to the change of reference to the Committee on the Post Office and Post Roads.

By unanimous consent the reference was so changed.

RIGHT OF WAY OVER PUBLIC LANDS.

Mr. BIDWELL, by unanimous consent, introduced a bill reserving the right of way for certain purposes over the public lands of the United States; which was read a first and second time, and referred to the Committee on Public Lands.

LAND GRANTS IN CALIFORNIA.

Mr. BIDWELL also, by unanimous consent, introduced a bill to confirm the selection and location of lands granted to the State of California by the United States; which was read a first and second time.

Mr. BIDWELL. I ask that it be printed, and laid upon the table.

Mr. MORRILL. I think this is a bad practice. We ought not to print any bills until they are reported by a committee.

Mr. BIDWELL. Then let it be referred to the Committee on Public Lands.

The bill was referred accordingly.

TEMPORARY INCREASE OF DUTIES.

Mr. MORRILL. I am directed by the Committee of Ways and Means to report back adversely on joint resolution (H. R. No. 81) to increase temporarily the duties on imports, and move that it be laid on the table.

Mr. GRINNELL. I ask for the reading of the bill.

The bill was accordingly read.

Mr. MORRILL. I will state that it is the intention of the committee to take up the subject of the tariff at an early day, and it was therefore thought inexpedient to take any action upon it in advance in the way proposed by this bill.

Mr. BUNDY. Will it be in order to move that the resolution be referred to the Committee on Manufactures?

The SPEAKER. It will, if the gentleman from Vermont [Mr. MORRILL] withdraws the motion to lay on the table.

Mr. MORRILL. I cannot do it, because it would be an improper subject for the Committee on Manufactures to consider.

The motion to lay on the table was agreed to.

Mr. MORRILL. I move to reconsider the vote by which the bill was laid on the table, and to lay that motion on the table.

The latter motion was agreed to.

EXECUTIVE COMMUNICATIONS.

The SPEAKER laid before the House a communication from the Secretary of War, transmitting, in compliance with the resolution of the House of January 29, 1866, a communication from the chief Engineer, inclosing maps which should have been transmitted with that officer's report of the 1st instant respecting harbors on the sea and lake coasts; which, on motion of Mr. WASHBURNE, of Illinois, was referred to the Committee on Commerce.

The SPEAKER also laid before the House a communication from the Department of the Interior, transmitting a copy of the accounts of the superintendents and agents in charge of the tribes of Chickasaws, Seminoles, Wichitas, &c., for the third quarter of 1865, in accordance with the fifth section of the act of Congress approved March 3, 1865; which was laid on the table, and ordered to be printed.

TRADE WITH BRITISH AMERICA.

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

The motion was agreed to.

So the rules were suspended, and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. INGERSOLL in the chair,) and resumed the consideration of the special order, being House bill No. 337, to regulate trade with the British North American possessions.

Mr. BLAINE. I move to insert on page 2, after line eleven, the following:

On lumber, pine, round, split, or sided, three fourths of one cent per cubic foot; when hewn square, one and one fourth cent per cubic foot; when sawed, three dollars per thousand feet.

Mr. Chairman, that amendment is in accordance with, and corresponds precisely in the proper ratio with the amendment adopted by the committee on Friday last. It imposes the precise duty reported by the Committee of Ways and Means on pine, round, split, and sided, and the same on that hewn square. The object of my amendment is simply this: the Committee of Ways and Means, when they came to sawed lumber, have introduced, I think, in its worst features, the *ad valorem* system, because they have admonished the provincial shippers of lumber exactly at what figure to invoice their cargoes. They propose to lay a tax of one dollar per thousand on all invoiced at less than seven dollars per thousand, on over seven and less than twelve dollars, two dollars per thousand, and above twelve dollars, three dollars per thousand.

Now, I believe that we should never get any lumber invoiced at over seven dollars a thousand under this law. It admonishes men who ship lumber in the Provinces where to strike in their invoices, so that none of the duties contemplated can be collected under this section.

The amendment I offer proposes to make the duty specific and uniform. It places the men in this country who are engaged in the lumber business on an equality with the provincial lumber dealers. Owing to the greater expense of operating in the United States, growing largely out of our own system of internal taxation, this duty will place us just about on an equality with the provincial lumber dealers. I do not think that is an unreasonable thing to ask in a House which seems disposed to favor the protective system. We ask no advantage, but simply that we be placed on an equality, and that we shall be placed on that equality with such figures as will prevent the cheating which the *ad valorem* system universally gives rise to, and that is here, in my judgment, incorporated in the very worst form, because it is suggestive to those who ship their cargoes just how to invoice them.

Mr. MORRILL. The *ad valorem* system was incorporated in the bill in the form in which it is for the purpose of allowing the lower qualities of pine, which are used almost altogether in the West for fencing purposes, and which are used for cheap building materials all over the country, to come in at a lower rate than what is imposed on the higher and finer qualities of pine lumber. Now, it seems to me that it is monstrous to place a duty upon this knotty pine, that is not worth more than six or seven, or perhaps only five dollars, per thousand feet, the same duty that you place upon an article that costs fifty and sixty dollars per thousand feet.

And then, as to this system of taxation being in the very worst form, I beg leave to differ with the gentleman from Maine. I say that if

you are to have an *ad valorem* duty at all, this is in the very best form. It provides that lumber that is valued at less than seven dollars shall be at one rate; lumber valued at over seven and less than twelve dollars, another rate; and that over twelve dollars it shall have another rate.

Now, I say, the opinion of the gentleman from Maine to the contrary notwithstanding, that if we are to have an *ad valorem* duty at all, this is the very best form in which it can be provided.

And now, Mr. Chairman, I will move to amend the original bill by striking out the word "seven" and inserting "six" in line eleven on page 2.

Mr. BLAINE. I will explain to the gentleman that my amendment is to come in after line eleven.

The CHAIRMAN. The Chair will state for the information of the committee that from line six to line eleven inclusive, on page 2 of the bill, was stricken out on Friday last.

Mr. MORRILL. Then I move to amend the amendment of the gentleman from Maine, as follows:

On pine, when valued at six dollars or less per thousand, one dollar per thousand feet; when valued at over six dollars and not over ten dollars per thousand, two dollars per thousand feet; and when valued at over ten dollars per thousand, three dollars per thousand feet.

Mr. BLAINE. The bill is already amended so that hemlock, the cheapest lumber, shall come in uniform at one dollar per thousand, and spruce at two dollars per thousand; and the amendment now pending proposes that pine shall be uniform at three dollars per thousand.

Mr. SLOAN. I trust the amendment of the gentleman from Maine [Mr. BLAINE] increasing the duty upon the article of lumber will not be adopted by this committee. There is a disposition on the part of the committee to increase the amount of tariff upon every article which any gentleman may propose for that purpose. Before this system is carried any further, I ask gentlemen to consider that there is one great interest in this country that is incapable of being protected to any very great extent; there are but few articles produced by it which can be protected by a tariff; and that is the agricultural interest of this country.

Now, in a large portion of the State in which I reside, and also in Illinois, Iowa, and Minnesota, and in the whole of the vast region of the Mississippi valley, we are almost entirely destitute of the article of lumber. Those who have settled there upon their farms have as yet but begun to make improvements in fences and in buildings. You must remember that the amount of lumber in this country is limited, and under the demand which exists it is constantly decreasing; so that it is almost alarming to consider how much longer our forests can supply the lumber required for the whole country.

I assert that it is now almost impossible for this country to produce sufficient lumber for the demands of the agricultural and other interests of the country, even with the addition of all that can be introduced from Canada and every other country from which it can be brought. And I assert, further, that there has been no interest in this country more prosperous for the last five years, or is now more prosperous than the lumber interest of our country. No class of our citizens have been making more money, and have been growing more rapidly rich than those who have been engaged in the lumber business.

Now, every cent of your duty upon the article of lumber is so much increase of tax upon the farmers of the West, and those persons in the East who are not engaged in the lumber business. You not only increase the duty upon Canadian lumber, but you also increase the price of the lumber produced in this country, although our lumber capitalists are unable to supply the demand. There is no danger of any interest suffering in this country, unless it can supply the article produced by it more largely than is the demand for it. As long as the demand is in excess of the supply of any article of production the business of producing must be prosperous.

Now, that is the condition of the lumber interest in this country; it is now unable and will continue to be unable to meet the demand; and hence it will always be a remunerative and a profitable business. We have had no duty upon this article for the last ten years; the Canadian article has competed freely in the markets of this country wherever it can reach. The high price of lumber has not been depressed; on the contrary the lumber-producing interest has been growing all the time more prosperous, because the demand for and consumption of lumber have been constantly increasing and extending.

But the agricultural interest to-day is more depressed and more prostrate than any other interest in this country. Grain is lower in price to-day than it has been for years; wheat is selling in the West for a dollar and less per bushel; corn is selling from twenty to twenty-five cents per bushel; oats from eighteen to twenty cents per bushel, and yet we have to pay enormous prices for everything we use in connection with agriculture. And it would be very unjust to place this additional taxation upon this article of absolute necessity.

Mr. WILSON, of Pennsylvania. I move to strike out all after the word "sawed" in the fifteenth line.

The CHAIRMAN. The committee have not yet reached that portion of the section.

Mr. WILSON, of Pennsylvania. Then I move to strike out the tenth line——

The CHAIRMAN. That has already been stricken out by the committee. The pending question is upon the amendment offered by the gentleman from Vermont [Mr. MORRILL] to the amendment offered by the gentleman from Maine, [Mr. BLAINE.]

Mr. SCOFIELD. I would like to say a word in reply to the gentleman from Wisconsin, [Mr. SLOAN.] He complains that the agricultural interest of this country is not protected and cannot be. He seems to forget that that interest has the whole advantage of the market, has the monopoly of the market. It cannot be protected, because it has no competition; if it had, as a matter of course the protection would be given. If the agricultural interest is depressed, it is simply because it is overdone. Every one who buys an agricultural product buys a domestic product; and there is a large foreign demand besides for our agricultural products.

But this subject of lumber is an entirely different thing. There is a heavy tax upon it at home. I understood the gentleman from Vermont [Mr. MORRILL] to say the other day that if we imposed a tax upon it as it comes across the lines, he would have to recommend a tax on it at home. We have now a heavy tax upon it at home.

Mr. WASHBURNE, of Illinois. In what shape?

Mr. SCOFIELD. I will state in what shape. In the first place, the manufacturer at home must get his license, for which he pays a pretty large sum. The Canadian manufacturer takes no license. In the second place, the home manufacturer must buy his lumber standing, the cost being, perhaps, five dollars a thousand. The Commissioner of Internal Revenue has decided that the home manufacturer must pay five per cent. upon all that he gets for his lumber when sold in market, not deducting the cost of the timber, but only deducting the cost of the labor employed to put it in the shape of boards. In other words, the Commissioner has decided that if you sell your lumber in market for twenty dollars a thousand, your timber having cost you five dollars a thousand standing, and the cost of manufacture being ten dollars a thousand, you must pay a tax of five per cent. on ten dollars. You may deduct the ten dollars per thousand which it cost you to manufacture the lumber, but you must not deduct any portion of the large sum which you invested in the standing timber.

Mr. MORRILL. I have frequently been surprised to find the taxation which is imposed under the internal revenue act by constructions of the Commissioner of Internal Revenue. I desire to say that it never was the purpose of any Committee of Ways and Means with which I have been associated to tax lumber at all. Whenever the subject has been brought up, that committee has expressly decided that lumber should be exempted from all internal taxation.

Mr. SCOFIELD. I cannot say what the committee that framed the law designed; but the officer charged with the construction of the law gives it that construction. He may be wrong.

Mr. BLAINE. With the permission of the gentleman from Pennsylvania, I desire to state another fact in reference to the internal revenue taxation as imposed under the construction of the Commissioner of Internal Revenue; and I beg the attention of the chairman of the Committee of Ways and Means to this statement: if a man owns a timber tract, and cuts all the timber off, he has to render the entire receipts as income, although the tract is left bare and valueless. No deduction whatever is made for loss of property and using up of capital.

Mr. SLOAN. I hope that the amendment of the gentleman from Vermont will not be adopted. It will not accomplish the object.

Mr. MORRILL. If the gentleman votes against the amendment proposed by me he will vote to tax all lumber three dollars per thousand.

Mr. SLOAN. The gentleman is mistaken in supposing that fencing lumber is cheaper than the common sort of lumber. It sells for two dollars per thousand higher.

Mr. BLAINE. What is the average price of fencing lumber?

Mr. SLOAN. Twenty dollars per thousand.

The amendment of Mr. MORRILL to the amendment of Mr. BLAINE was rejected.

Mr. BANKS. I move to amend the amendment by striking out "three" and inserting "two." I offer this amendment for the purpose of making a single suggestion upon this subject, not touching the question of revenue or the question of protection.

I think that the objection of the gentleman from Maine [Mr. BLAINE] to the *ad valorem* feature of the bill is well taken. It is certainly desirable that that system should, if possible, be avoided; and I hope the gentleman from Vermont [Mr. MORRILL] who has charge of this bill will devise some means by which it can be avoided. But I desire to say that lumber, besides being a subject of revenue, is an element of power, and we ought not to tax it any more than is absolutely necessary.

There are four million people in the lately insurgent States who are more ambitious for houses now than they have ever been for anything. The first thing the freedmen of the South will do will be to get for themselves houses, and after that to get for themselves clothes.

In addition to that it is well known all through the former fifteen slave States buildings of almost every kind, the dwellings of all classes of people, have been destroyed and must be rebuilt. It is a part of reconstruction which should be carried out as rapidly as possible; for every man who has a house constructed or in process of construction becomes so far a friend to the Government. We ought to assist them as far as possible; and we ought not to put any more tax than is absolutely necessary. I hope gentlemen interested will agree on the lowest amount.

Mr. FERRY. Mr. Chairman, I rise to oppose the amendment of the honorable gentleman from Massachusetts, [Mr. BANKS.] I reply to him by merely saying that there are pine forests in the southern States now waiting for northern industry and ingenuity, and that

there is timber enough there untouched to supply all the pressing wants of the South.

But my main object is to reply to the argument presented by the distinguished chairman of the Committee of Ways and Means. I call attention to his remarks by reading the following lines from what he offered to fortify the pending bill:

"When we abandoned all duties on lumber under the treaty, the effect was not to reduce the price in American markets, but the value of lumber increased in the Provinces."

I thank the honorable chairman for the weight of his considerate testimony to my observations of the history of the lumber market in the States. It will be observed by his statement of facts that at the commencement of the treaty domestic competition had so perfectly adjusted the legitimate value that the influx of Canadian lumber free of duty had no perceptible effect upon the markets. Instead of the quantity supplied by the Provinces cheapening the price, rates remained precisely as they were before the treaty went into operation. In other words, Canadian lumber possessed no control over the markets in the States.

Now, sir, the proposition of the Committee of Ways and Means is to fix a grade of duty of one dollar on a valuation of seven dollars and under, two dollars on a valuation of over seven and under twelve, and three dollars on all over twelve dollars. I advocate a uniform duty of three dollars per thousand feet on all pine lumber brought into the markets of the States. The gentleman from Massachusetts has well observed that a uniform method is preferable. I coincide with him for its practical simplicity not only, but because we are thereby only placed upon a par with Canada stumpage. The value of the timber standing in Canada is less than twenty-five cents per thousand, and in the States ranging from two to six dollars per thousand. This price of three dollars is only placing timber standing in the States upon a par with that of Canada.

Mr. Chairman, if we could be assured of an honest invoice of the qualities of the lumber coming from the Provinces into the markets of the States, I would not so urgently press a modification of the bill. But the plan it proposes will in practice prove nothing less than a legalized bid for misrepresentations of qualities and values—a system of shrewd practice, to say the least of it, to avoid the higher rates of duty. The prevalence of continued smuggling along the border, notwithstanding the utmost vigilance of officers of both countries, is a fitting comment upon a system so prejudicial to good morals and so disastrous to public revenue. If honesty is to prevail in the workings of the graded method and the dutiable lumber supplied of the higher quality subject in practice to three dollars per thousand, according to the bill, and the Canadian lumber being admitted to be mostly of the higher grades, why this opposition to the simpler method of a uniform duty of three dollars on all classes received, if the result is to be practically the same? Why tenaciously hold to the complex scheme and reject the uniform method? Such persistency bodes no good faith in the workings of the graduated system. I am totally opposed to making the United States a party to commercial fraud.

A labored effort has been made by a large and influential delegation from the Provinces, recently here, to secure the adoption of the features of the bill as reported. I will not charge that delegation with intentional misrepresentation of facts, but I will call attention of the committee to an article bearing upon the profits of the lumber business, which by some accident, if not design, recently appeared in the Intelligencer. It is copied from the Cincinnati Times, and purports to be taken from the Detroit Free Press. It is headed a "swindle;" doubtless meant to be a financial swindle. I will characterize it more properly a diplomatic swindle.

Here is the article:

THE LUMBER SWINDLE.

Muskegon, Michigan, is a prodigious lumber region. The Detroit Free Press gives statistics of twenty-six mills, which are valued at $746,000, and which are capable of cutting 147,000,000 feet. They employ 950 men, and from September to April about 3,000 men are employed in the forests cutting and hauling logs to the stream, which are rolled upon the ice and left to float down when it breaks up. Each log is branded with the owner's name. There were cut last season 142,799,866 feet, worth at the mills the respectable sum of $21,419,979. The salaries paid are $1,300 to $2,000 to foremen and engineers, $3 to $4 per day to sawyers, and from $2 to $2 25 for laborers.

The salaries and wages paid are about as follows:

To foremen and engineers	$208,000
To sawyers	136,000
To laborers at the mills	402,000
To loggers in the forests	900,000
Total	1,646,000
Value of product	21,419,979
Balance to proprietors	$19,773,979

With that profit the proprietors realize at least one hundred per cent. on the capital invested; and yet they cry out for a duty on Canada lumber to protect them against competition! We think the people have some rights in this matter, one of which is the right to lumber as cheap as it can be afforded. Of course they will not get protection unless the people shall make themselves felt at Washington.—*Cincinnati Times.*

Now, sir, I read from the Detroit Advertiser and Tribune the correct statement of this noted swindle. Instead of $21,419,979 as the total value of the manufactured product which would be at the rate of $150 per thousand feet, the true value as shown by the Tribune is $2,141,997, at the rate of fifteen dollars per thousand feet, the average valuation at the mills. The swindle makes out a profit of the enormous sum of $19,773,979, while the fact exhibits but $495,979. Permit me, Mr. Chairman, to analyze this profit so as to completely ventilate this swindle. The cost of the amount manufactured was $1,646,000; the interest on $900,000, the value of logs and loggings at seven per cent. is $63,000; insurance of mills valued at $746,000 at seven and a half per cent. $55,950; depreciation of mill value of $746,000 at ten per cent. is $74,600; commission and inspection on sales of 142,799,866 feet, and loss by navigation five per cent., is $107,099; making an aggregate of $1,946,649, which deducted from the $2,141,997, leaves a net profit of $195,348, which is an average profit of $1 37 per thousand feet. Before I pass from this exposure, I wish to express my obligations for the opportunity of placing upon the records of Congress the fact that Muskegon, in the district in Michigan which I have the honor to represent on this floor, is the largest lumber manufacturing locality in the United States, and I take pleasure in thus paying a merited tribute to the enterprise, ingenuity, and sagacity of the lumbermen of Muskegon; adding, to their high credit, that manufacturing is there done more perfectly and scientifically than any other place in the States, and I might with propriety say in the world.

[Here the hammer fell.]

The CHAIRMAN. Debate is exhausted on the pending amendment.

Mr. CHANLER. I renew it. Sir, I was delighted at the position taken by the able Representative from Massachusetts [Mr. BANKS] with regard to the present condition of the country—a position which he has always taken whenever a debate has risen here involving the interests of the southern people. There is nothing more handsome and liberal than for the gentleman to undertake to represent the southern country. And when he informs us that in our action here we are about to interfere with or promote the interests of the southern people he speaks in trumpet tones, in a deeper basso than ever.

Mr. MORRILL. I rise to a question of order. I do not desire to make it against the gentleman on the other side, but I do propose to confine gentlemen to the bill.

Mr. CHANLER. I ask that the gentleman listen and not interrupt my argument, which is as good as his arguments generally are, which cover the whole surface of the earth in order to protect the marble of Vermont. I understand what I am about, and I know very well what the chairman of the committee [Mr. MORRILL] is about. His object is to protect Vermont. He seeks to interrupt me while I am aiding the able Representative from Massachusetts [Mr. BANKS] in demanding of this House a fair representation of the southern country.

Sir, the gentleman from Massachusetts knows that the question of lumber is the one involved here. It is with regard to furnishing a market for lumber. Now, there is no better field of enterprise in the lumber business than the State of North Carolina. The oak, hemlock, and pine of that region are as valuable to this Government as they were before the war, when the whole country was represented here.

Mr. MORRILL. Mr. Chairman——

Mr. CHANLER. The gentleman interrupts me without cause. I am speaking to the point. More than that, this treaty, of which this is a clause, is but a pretext for a tariff, covering up a scheme of protection whereby the Constitution of the United States is to be overridden. Representation and taxation go together. The Constitution declares that—

"Representation and direct taxes shall be apportioned among the several States which may be included within this Union according to their respective numbers, which shall be determined," &c.

The lumber interest of the South, and of my own district that sends as noble ships on the ocean as any other, demands that in your adjustment of this treaty you look to the interest of this country, and not, as the gentleman who preceded me said, to the suggestions of the able delegates from Canada. The gentleman from Vermont trembles, by proximity to Canada, for the interest of his section; and he is sensitive whenever the interests of the South are alluded to in competition with his own locality. I admire the magnanimity of the gentleman from Massachusetts, [Mr. BANKS,] whose intimate relations with the southern people give him an influence and power on this floor.

Mr. TROWBRIDGE. I rise for the purpose of giving the floor to my colleague, [Mr. FERRY.]

Mr. FERRY. I feel exceedingly obliged to my colleague [Mr. TROWBRIDGE] for granting me his time to finish what I had to say. The exhibit I gave of the profits upon lumber the last season proves that notwithstanding prices ruled higher than any former year, expenses of material and labor were so great that the business was less remunerative than the preceding years. Let me be understood as speaking of manufacturers simply, for it is upon the basis of the value of lumber at the mills that my statement is founded. And in this connection I will add another fact, that for the past fifteen years seven out of every ten lumber manufacturers have failed. Gentlemen are mistaken about manufacturers making such great profits upon their business. It is the dealers, having yards where the different qualities are selected, stuck up, seasoned, and sold, that make the principal profits. These middle-men between the manufacturer and consumer invest largely, take the risks of the season market, paying large yard-rents and insurance, who make the money; and like every other agent, banker, or factor, if consumers find it for their interest to purchase of them, they must pay the current rates demanded by their practical agents. The farmer, mechanic, or consumer can, as well as the dealer, purchase upon the market by cargoes and save the profits which the dealer bides his time to receive; but if he prefers not to invest so largely at once and throws the risks of the market upon a class known as dealers, then he should not complain of dealers' prices. In adjusting a proper duty, therefore, upon lumber coming from a foreign country, we should at least place our own upon a par with another. Fix the duty at three dollars, as proposed by the amendment, and you

start from the stump in Canada and the States alike, and upon that we will stand. We ask for no protection except for the difference of value of timber, caused greatly by the heavy taxation growing out of the matchless struggle for national life through which we have victoriously passed. Against Canadian cheap labor, cheap water-mills, we will compete with our unequaled steam-mills and ingenuity.

Now, I wish to say to the gentleman from Wisconsin, [Mr. SLOAN,] that in the face of the advance of the markets the past year, growing out of the fact of the increased expenses of labor, materials, and taxation, the price of lumber has steadily gone forward, notwithstanding the influx of Canada lumber; proving what was stated by the chairman of the Committee of Ways and Means, that Canadian lumber has no control in regulating prices in the States.

In regard to the value of lumber, the honorable gentleman is mistaken. I read from the Chicago Tribune of March 1, instant, that the value of fencing now in Chicago is eighteen dollars per thousand. When the treaty went into operation it was but twelve dollars per thousand; it is now fifty per cent. higher. How stands the farmer and his prices compared with this? The price then of wheat was seventy-five cents, and on the 1st of March instant it was $1 25. Corn then was so low that much of it remained unsold, and was used for fuel, because it would not pay transportation to market, and to-day it is worth forty-three cents a bushel. Beef, which was then worth eight dollars a barrel, is now worth eighteen dollars. Pork, which was then worth twelve dollars, is now worth twenty-six dollars per barrel. This shows that the farmer, instead of growing poorer, has become richer; and it is because and on account of that prosperity that there has been a greater demand for lumber. And I state here, that instead of supply, demand regulates the price of lumber in the market. I take exception to the remark of the chairman of the committee, when he states that the quantity of lumber cannot be increased. I meet the statement by the fact that last year the amount of lumber sold in the market of Chicago was over a million more than the amount sold in any preceding year.

Let me state to the gentleman from Wisconsin [Mr. SLOAN] that most of the fencing, which he seems to be more anxious for, is furnished by the States, and but very little comes from Canada. The Canadians are too shrewd to send fencing to market. Does he know that fencing has to be cut into one and one eighth inch in thickness, and sold for inch, at a loss of that one eighth in material and the same loss in transportation? Canadian manufacturers understand and act upon this. When they cut six-inch wide strips they cut them into one and one quarter inch thick, so as to be used for flooring, and gain the measurement and freight of the quarter inch. They understand the advantages of sawing so well that most of their lumber is cut into boards the full width of the logs, known as Canada boards, and very easily invoiced as common lumber, because boards are generally known as such, and then sold in the market according to quality. In this way is the farmer's want of fencing cheated by Canada not only, but your revenue is defrauded by sharp practice of its just rights, under a graded duty, of five millions of money, and to-day it is proposed to follow this same plan of legislating away the just revenue of the Government.

It is shown by facts that the quantity of lumber brought from Canada does not affect materially the price of lumber in the market of the States; hence the question resolves itself simply into one of loss or gain to the resources of the country. We absolutely need every resource of revenue. Are we under any obligations to pursue so generous a policy as is proposed by the committee toward Canada? What has she done to merit this liberal treatment? What has been the experience of the past years of our sanguinary war? Did she lend the aid of her sympathy and good-will, most cheaply given, and would have been gratefully received? No, sir, she preferred to offer her soil as an asylum for plotters, conspirators, and traitors against the life of this Government. The treatment we had given Canada deserved her encouragement in the hour of our peril. Her press and voice should have been raised to conciliate England, to remind her that in the veins of this great people, battling for life and liberty, there ran the blood of her own sons, and that her hands should be stayed against a contest so righteous as putting down a rebellion founded upon human slavery. We fought alone, under the sneers and jeers of both England and Canada, and crowned our victory with universal liberty, and vindicated the rights of humanity.

[Here the hammer fell.]

Mr. GARFIELD. I move to strike out the last three words of the amendment for the purpose of saying a few words.

It has been clearly shown that lumber in this country is one of the prime articles of necessity, not only for building the houses of ninety-nine hundredths of all the people of this country, but for fencing a large part of the western country. If any article should be favored because it belongs to the necessities of life, lumber certainly ought thus to be favored. Now, it has been favored in the internal revenue act, as will be seen by the fifty-fourth page, and the ninety-sixth section, by being entirely exempted from internal revenue. If there has been any construction made by the Commissioner of Internal Revenue which puts lumber under a revenue tax, it is a false construction, and one that I have no doubt this House will remedy.

Mr. SCOFIELD. Allow me a word.

Mr. GARFIELD. I have but a moment. I say it is a false construction.

Mr. SCOFIELD. But still they give it that construction.

Mr. GARFIELD. That is what the gentleman has himself already said.

Mr. SCOFIELD. I will not interrupt the gentleman, but will seek an opportunity to reply to him.

Mr. GARFIELD. Now, I ask the attention of the House for a moment to the tax proposed by this bill on foreign lumber. It is, when computed *ad valorem* on Canada lumber, from seventy-five to one hundred per cent. on the value of the timber; and if there is any gentleman here who thinks that a small tax I disagree with him.

Now, what is the value of this lumber interest? The report of the Census Commissioner on manufactures shows that in the year 1860 the capital invested in the lumber business of this country was $76,000,000; the annual cost of raw material was $51,000,000; the annual cost of labor was $30,000,000; and the annual cost of the product of lumber was $104,900,000.

Now, I call that a very fair money-making business, and if you find any business better than that in this country, you will have to go to the fisheries to find it, or to some place not known to me. Gentlemen say, add it up. The true way to add it would be to take the interest on $76,000,000, the fixed capital, add to that the annual cost of the raw material, $51,000,000, and the annual cost of labor, $30,000,000; and the profit on all that will be found by comparing that amount with $104,900,000. I have no hesitation in saying that the profit of the business as recorded in 1860, was more than a hundred per cent. on the actual value of the money expended during the year.

Well, now, sir, if the lumber business has thrived since 1854 on free trade between this country and Canada, I ask if it will suffer very badly when we put a protective duty of one, two, and three dollars per thousand feet on lumber valued respectively at six, ten, and more than ten dollars per thousand feet; for that is the present proposition of the Committee of Ways and Means. I repeat, that if the lumber business has been so profitable during a period of free trade between us and Canada, it cannot suffer very badly now we give it this much protection.

I hope, therefore, that the proposition of the gentleman from Maine [Mr. BLAINE] will not be adopted. I hope we will not impose additional taxes upon the consumers of this country everywhere, the farmers and manufacturers alike, by increasing the protection of men who are making very good profits at the business they are engaged in.

Mr. BLAINE. I desire to say a word in regard to a point which I think has not been sufficiently impressed upon the attention of the committee.

I do not think the lumber interest would object to the scale of duties reported by the Committee of Ways and Means at all if they had the slightest faith or the slightest assurance that these duties could be enforced. The Committee of Ways and Means propose to put a duty of three dollars per thousand on lumber over twelve dollars per thousand feet. I would like to ask the honorable chairman of that committee how much lumber is imported at that price.

If you can have an honest and fair valuation of the lumber imported, the duties in this bill are satisfactory; but it is just because they propose this vicious, cheating inducement to fraud, the system of *ad valorem*, that I object to it, and object on the part of the lumber interest. Under this bill you will not have any lumber come in valued at a higher rate than your minimum. The moment you put this *ad valorem* system into your custom-houses you invite these men to fraud, and invite them very much more to fraud than if you imposed the old duty of twenty per cent., because you not only ingraft the *ad valorem* principle on your system, but you tell these cunning provincials just where to strike to evade the duties.

If you put the minimum at seven dollars per thousand the invoice price will be placed at $6 75 per thousand; if you put it at eight dollars the invoice price will be $7 75; if at nine dollars, then the invoice price will be $8 75; and at whatever price you fix the minimum, the invoice will be sure to be placed just below it. And therefore I denounce this proposition of the committee (although I do not think they so intended it) as a fraud upon the revenue as well as a fraud upon the lumber interest. It will result in a fraud upon the Government and in defrauding one of the interests proposed to be protected by the Government.

Now, a word in reply to the gentleman from Michigan, [Mr. FERRY,] who has been advocating the admission of lumber, in order to enable the people of the South to rebuild the houses that have been destroyed by the war. I would ask the gentleman if he expects many houses to be built in the eleven southern States of lumber from Canada. Almost all of those States have lumber of their own, as good lumber as can be obtained anywhere; and if their Representatives were here to-day, I have no doubt they would say to us, give us a specific duty on lumber, and thus enable us to develop that interest among us.

I desire also to say a word in reply to the honorable gentleman from Ohio, [Mr. GARFIELD.] His figures represent the case differently to my mind from what they seem to his mind. Instead of the vast amount of profit which he represents, if he will deduct from the returns the amount of depreciation of the investment, there will be no such margin of profit left as is the case with other interests. The very figures the gentleman gives are unreliable; I do not attach much importance to them.

Mr. GARFIELD. I withdraw my amendment to the amendment.

Mr. SCOFIELD. I renew the amendment to the amendment. I desire to say a word or two in reply to the gentleman from Ohio, [Mr. GARFIELD,] which I had not an opportunity of saying in the five minutes allowed to him. He says some fifty million dollars of capital is invested in the raw material. Very well; you tax that five per cent., and no man who knows

anything about the practice under the revenue law can deny it. The gentleman looks in the bill and says there is nothing on lumber. Sir, this is in the income tax; there is a five per cent. tax on every man's income; and the Commissioner of Internal Revenue, or the Secretary of the Treasury, has decided that the amount invested in lumber shall not be deducted from the income. If you sell your lumber for $20,000, and the raw material costs you $10,000, you are bound to pay a tax of five per cent. upon, say $10,000, and $10,000 may be deducted for labor. I have had the decision put in writing and published in my district. I have called at the bureau and exposed it. I know from experience that that is just what is paid, for we have a great deal of lumber in my district; we have to get a license for the raw material; then we must get a license to float it down the river; and then the man who puts it in the market must get another license.

But the gentleman from Wisconsin [Mr. SLOAN] says that lumber is an article of first necessity, and so says the gentleman from Massachusetts, [Mr. BANKS.] I would like to ask those gentlemen if clothes are not articles of the first necessity? Will not the poor freedmen want something with which to cover their persons? Is the gentleman from Massachusetts willing to remove the tariff on cloth, manufactured in Canada or elsewhere, so as to allow the poor freedman to get his clothing without paying a tax? And will the gentleman from Iowa, [Mr. GRINNELL,] who has taken so much interest in the growing of wool, consent to have the tax on wool removed, so the poor freedman may get his clothing a little cheaper? All the things that are now protected by high tariffs, of New England and New York manufacture, are articles of the first necessity. We must have clothes before we can prepare our houses to live in. And yet there is a tax on all those things.

But we do not complain of that. I am perfectly willing that there shall be no tax on lumber, that Canadian lumber shall come in entirely free, if you will only give us fair competition. But a tax of five per cent. upon the land upon which the lumber grows, and then heavy licenses for its manufacture, is not giving us a fair chance in the market.

I hope the gentleman from Massachusetts [Mr. BANKS] will be here by and by, when the Committee of Ways and Means brings in its twenty per cent. tax on petroleum. I shall propose to reduce the tax upon the poor man's light; upon the light which the poor freedman wants to use in his shanty at night as he studies his spelling-book; and I hope the gentleman will give me his assistance in that respect.

Mr. GARFIELD. The gentleman from Pennsylvania [Mr. SCOFIELD] has very skillfully evaded the point I made. His remarks seem to imply that the committee favored the total removal of the tariff on lumber. He says that the lumbermen pay a license and a tax on their capital. Very true; but so does every other manufacture pay a license.

But the gentleman does not answer this fact, that the law makes an exception in favor of lumbermen, and their product is not taxed as the product of other manufacturers is——

Mr. SCOFIELD. Lumbermen pay an income tax on the capital invested in lumber tracts, which no other manufacturers are required to do.

Mr. GARFIELD. The gentleman is mistaken; farmers pay an income tax.

Mr. SCOFIELD. Not on the capital invested in the land, but only on the product of it.

Mr. GARFIELD. I wish to say that the income tax reaches everywhere. When the gentleman says lumbermen are taxed an income tax it is only saying they are a part of the people of this country, all of whom pay an income tax. I wish to say that when the general tax law on manufactures was passed at the last session, lumbermen were excepted so far as their product was concerned; and therefore lumbermen have been favored by the Government. We do not say we will take off the tariff from lumber and give it no protection, for we not only take off the internal tax on lumber, but we will protect it to the extent of three dollars a thousand. We object to the amendment moved by the gentleman from Maine to make it higher.

[Here the hammer fell.]

Mr. PIKE. I wish to say one word.

Mr. SCOFIELD. I withdraw my amendment.

Mr. PIKE. I renew it.

Mr. Chairman, in the production of lumber more than one half is labor. The gentleman knows as well as I do, when you come to the details of anything, the census has no credit at all. I know something about this business. The man who drives the log represents labor, while the log itself represents capital. The labor and capital go together to the mill. It is difficult to separate one from the other. But, sir, when we do separate them it is found that considerable more than one half is labor.

The gentleman from Ohio says the product of lumber is not taxed. How fallacious, when everything the laborer consumes and everything his family consume and everything they raise is taxed. Now, you can procure labor in the Provinces for one half what you can procure it here. It is because of the taxes imposed upon labor here. That is one reason why our labor should be protected. Another reason is this: in the Provinces there are large tracts of land owned by the Government, which are let out by the square mile. In the lower Provinces you can get six hundred and forty acres for one year for a pound note, and the occupant can go upon the land and cut as much timber as he pleases. Here lands are owned by individuals. So far as that competition goes our laborers are at a disadvantage.

The average of duties is over forty per cent., that is in the list of duties upon imported articles. It runs over forty per cent. When the lumber interest comes here to be protected we ask only five eighths of the protection which is granted to other interests.

Mr. BANKS. Mr. Chairman, unreasonable duty makes an unreasonable price, and I beg the gentleman from Maine not to press for an unreasonable duty upon lumber. Lumber is an article of prime necessity. People must have shelter first of all. Therefore that fact should be considered in apportioning the duty.

A MEMBER. Is not clothing the first necessity?

Mr. BANKS. Before everything else shelter is the first thing asked for. In all considerations of political economy shelter is the first necessity of man.

Lumber is at such a high price that very few are inclined to build. The difficulty is principally in the high price of lumber, and I do not know how that can be remedied by increasing the duty.

Mr. BLAINE. It is no higher than is imposed upon the products of the gentleman's own State.

Mr. BANKS. I do not know that. I say lumber is at a high price. I believe in no part of the country building is going on as we should like, in the Northwest, Southwest, or in the East, or anywhere else, because lumber is so high. I would like to see this article of lumber put into the general tariff bill. I would give the lumber interest as full protection as any other interest.

Mr. MORRILL. Mr. Chairman, I propose to occupy the attention of the House for a minute or two before asking the committee to rise to close this debate. The proposition embodied in the amendment of the committee was a fair one. I agree with the gentleman from Maine that an *ad valorem* duty is in most instances a fraud and deception, but it will not do to apply the same *ad valorem* duty where the article varies so much in value as lumber. There are some sorts of pine lumber brought in from Canada and the Provinces that are of no greater value than the hemlock and spruce.

I say, therefore, that it is monstrous that we should impose the same duty upon that class of lumber which we impose upon the higher or finer classes of pine lumber.

Then, again, there are some qualities of pine lumber that vary in value from twenty to sixty and even to seventy-five dollars per thousand feet. Now, on that class of lumber it is no hardship at all to pay three dollars a thousand, and that, I suppose, is a class that is produced in the main in the district of my friend from Pennsylvania. It is certainly a class of lumber produced largely in Michigan.

And then, in reply to the suggestion of the gentleman from Maine, that this will all be computed at one rate, it is enough to say that people run the risk of forfeiting their whole cargoes when they undervalue them. I do not think there is any greater dishonesty among the lumbermen than others; but we shall have as fair an administration of the revenue laws when applied to lumber as to anything else.

In relation to the value of the lumber that is imported from the Canadas, it varies. The average value of all we received in 1859 was eight dollars per thousand; in 1851 it was seven dollars; in 1857 it was eleven dollars; and in 1864 and 1865 it was ten dollars. Now, the rate which I propose here amounts to at least twenty per cent. on the lowest average, and very little less than that on that which is higher. If gentlemen will direct their attention to the subject, they will find that the amendment submitted by me at first to the amendment of the gentleman from Maine is one that ought to be adopted.

I now move that the committee rise for the purpose of closing debate on this section; amendments to be in order.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. INGERSOLL reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly the bill of the House (No. 337) regulating trade with the British North American possessions, and had come to no resolution thereon.

Mr. MORRILL. I move that all debate in Committee of the Whole on the state of the Union on the pending section, and the amendment thereto of the bill now before the committee, terminate in five minutes after the committee shall resume the consideration of the same.

The motion was agreed to.

LEAVE OF ABSENCE.

Mr. F. THOMAS asked and obtained leave of absence for Mr. J. L. THOMAS.

TRADE WITH BRITISH AMERICA—AGAIN.

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

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. INGERSOLL in the chair,) and resumed the consideration of House bill No. 337, regulating trade with the British North American possessions.

Mr. WILSON, of Pennsylvania. When a duty is asked for the protection of the lumber interests in the United States, I am surprised at the spirited opposition exhibited against it on this floor. This opposition, in my judgment, arises mainly from the fact that the committee and many of the members of the House are not sufficiently posted upon the cost of lumber manufactured in the United States. In my district about three hundred million feet are manufactured annually, at an average cost of seventeen dollars per thousand feet.

The committee seem to have had evidence before them that pine lumber can be manufactured and sold in Canada at a cost of six to twelve dollars per thousand feet. And this estimate corresponds with the information that I have received on the subject. This bill proposes to open our markets, namely, New York, Albany, Rochester, Syracuse, Buffalo, Philadelphia, and all the great lumber markets east and north of the Susquehanna river,

to free competition with the Canada lumber, saving a duty of one dollar per thousand feet on lumber worth less than seven dollars, and two dollars per thousand feet upon lumber worth more than seven dollars and less than twelve dollars.

A statement of the case shows, perhaps, clearer than argument, that the duty proposed is entirely inadequate for protection. Timber standing in my district is worth not less than three dollars per thousand feet. In Canada, pine timber standing is worth, according to the best information that I can get on the subject, only from fifteen cents to fifty cents per thousand feet. This demonstrates that the duty proposed does not protect against the price of raw material.

In my district it costs nine dollars per thousand feet to convey the logs from the tree to the mill; this is labor. It requires but the statement to satisfy every member on this floor that you can procure as much labor in Canada for six dollars as you can command in Pennsylvania for nine dollars. Here, again, is a difference of three dollars.

Again, I am informed that you can get lumber sawed and piled in Canada for $2 50 per thousand feet. In my district it costs four dollars per thousand feet without regard to quality, and added to this is one dollar per thousand feet boomage.

Compare your proposed protection in this bill with the cost in Canada and here, and the fallacy of this as protection must be apparent.

When our lumber is manufactured it is as far from market as is the Canada lumber.

This bill is disastrous alike to the capitalist who owns the mills and timber and the man who performs the labor for food and clothing for his family. The argument that lumber is a necessity and therefore ought to be let in with a nominal duty is equally fallacious.

Protect your own manufactures, and you are certain of lumber, by competition, at the very lowest prices that it can be manufactured for in the United States, and any man who wants it for less is unworthy of being an American citizen. This whole bill is a sad commentary upon protection for American manufactures and American labor.

Mr. SLOAN. I offer an amendment to the amendment of the gentleman from Maine, by striking out all after the word "sawed" in the amendment, and inserting in lieu thereof the following:

When sawed and valued at $7 or less per thousand, $1 per thousand feet; when valued at over $7 per thousand, and not over $12 50 per thousand, $2 per thousand feet; when valued at over $12 50 per thousand, $3 per thousand feet.

Mr. BLAINE. I raise the point of order, that the amendment of the gentleman from Wisconsin [Mr. SLOAN] is in the nature of a substitute. It is *totidem verbis* that which was pending as part of the bill.

Mr. MORRILL. The gentleman is mistaken.

Mr. BLAINE. It is in the identical words.

The CHAIRMAN. The Chair does not sustain the point of order.

The amendment of Mr. SLOAN was adopted—ayes 55, noes 37, the Chairman [Mr. INGERSOLL] voting in the negative to make a quorum.

The question recurred on the amendment of Mr. BLAINE as amended, as follows:

On lumber, pine, round, split, or sided, three fourths of one cent per cubic foot; when hewn square, one and one fourth cent per cubic foot; when sawed and valued at $7 or less per thousand, $1 per thousand feet; when valued at over $7 per thousand and not over $12 50 per thousand, $2 per thousand feet; when valued at over $12 50 per thousand, $3 per thousand feet.

Mr. ROSS. I move to strike out all this section in relation to lumber, and add "lumber" to section three on the free list.

The CHAIRMAN. That is not in order.

Mr. BLAINE. I move to strike out of the clause all after the words "cubic foot," and insert in lieu thereof the following:

When sawed and not valued over $10 per thousand, $3 per thousand feet——

Mr. MORRILL. I submit that the committee have adopted the language proposed to be stricken out by the gentleman from Maine, [Mr. BLAINE,] and it is not in order now to move to strike it out.

The CHAIRMAN. The Chair sustains the point of order.

The question was then taken on the amendment of Mr. BLAINE, as amended, and it was adopted.

Mr. SLOAN. I move to amend the first line of this paragraph by striking out the word "pine," so that it will read, "on lumber, ash, butternut, bass-wood, birch, elm, maple, and white-wood, round, split, or sided," &c. That is made necessary by the amendment just adopted on my motion.

The motion to strike out was agreed to.

Mr. WARNER. I move to amend this paragraph by adding the following:

On freestone, sandstone, and granite when in the rough and uncut to dimensions, thirty-five per cent. *ad valorem;* when wrought and cut to dimensions forty per cent. *ad valorem.*

I offer this amendment in this connection because I consider it as germane to this paragraph as to any other in the bill.

The CHAIRMAN. Debate is not in order on this section,

Mr. MORRILL. I hope the gentleman from Connecticut [Mr. WARNER] will withhold his amendment until we bring in the regular tariff bill.

Mr. WARNER. I will withdraw it for the present.

Mr. ROSS. Is it in order to move to strike out all of this section, so as to place lumber in the free list in section three?

The CHAIRMAN. It is not in order to move to strike out any portion of this section from the consideration of which the committee has passed. It would be in order to move to strike out the pending paragraph.

Mr. ROSS. I will move to strike out all I can. I move to strike out the following paragraph:

On lumber, ash, butternut, bass-wood, birch, elm, maple, and white-wood, round, split, or sided, three fourths of one cent per cubic foot; when hewn square, one and one fourth of one cent per cubic foot; when sawed, and valued at $7 or less per thousand, $1 per thousand feet; when valued at over $7, and not over $12 per thousand, $2 per thousand feet; when valued at over $12 per thousand, $3 per thousand feet: *Provided*, When lumber of any sort is planed or finished, in addition to the rates herein provided, there shall be levied and paid for each side so planed or finished, seventy-five cents; and if planed on one side and tongued and grooved, $1 50; and if planed on two sides and tongued and grooved, $2.

The motion to strike out was not agreed to.

Mr. BLAINE. I move to add to this paragraph the following:

The valuation of lumber in all cases to be made at the port of entry.

That will prevent fraud and give this bill a legitimate effect.

Mr. MORRILL called for tellers.

Tellers were ordered; and Messrs. MORRILL and DAWSON were appointed.

The committee divided; and the tellers reported—ayes 48, noes 64.

So the amendment of Mr. BLAINE was not agreed to.

Mr. PIKE. I move to strike out the following:

On ship timber, fifty cents per ton.

I do that for the purpose of having it put in another place.

Mr. CONKLING. I would like to ask the gentleman if that other place is the free list.

Mr. PIKE. It is; and the chairman of the Committee of Ways and Means agrees with me that it should be put there.

The question was taken; and the motion to strike out was not agreed to.

Mr. HARDING, of Illinois. I move to strike out "fifty cents," and insert "two dollars" as the duty per ton on ship timber.

The motion was not agreed to.

Mr. HARDING, of Illinois. I move to strike out "three cents" and insert "one cent" in the following clause:

On railroad ties, rough, hewn, or sawed, three cents each.

The motion was not agreed to.

Mr. SPALDING. I move to strike out "seventy-five cents" and insert "one dollar" in this clause:

On rift pine and cedar shingles, seventy-five cents per thousand.

And I will ask to have a letter read which I will send to the Clerk.

The CHAIRMAN. That would be in the nature of debate, and would not be in order.

The amendment of Mr. SPALDING was not agreed to.

Mr. ROSS. I move to strike out "seventy-five," and insert "fifty."

The motion was not agreed to.

Mr. PIKE. I move to insert the word "staves" after the word "palings" in the following clause:

On pickets, palings, and lath, twenty per cent. *ad valorem.*

The motion was agreed to.

Mr. WILSON, of Iowa. I would ask the gentleman from Vermont [Mr. MORRILL] if there is any provision made here for duty on clapboards that may be less than four feet in length.

Mr. MORRILL. There is not. The gentleman's criticism is just, and I hope he will suggest an amendment to supply the omission.

Mr. WILSON, of Iowa, I will then move to amend the clauses in relation to clapboards so that they will read as follows:

On pine clapboards, four feet or less in length, $4 per thousand.

On spruce clapboards, four feet or less in length, $2 50 per thousand: *Provided*, That clapboards of greater length, whether of pine or spruce, shall pay a proportionate increase of duty.

The amendment was agreed to.

Mr. WARNER. I move to amend the second section by inserting the following after line eight:

On freestone, sandstone, and granite, when in the rough and uncut to dimensions, thirty-five per cent. *ad valorem;* when wrought or cut to dimensions, forty per cent. *ad valorem.*

I desire to say that my reason for offering this amendment is that under the present law the duty imposed upon the articles specified in the amendment is twenty per cent., making a discrimination, as I understand it, against the mechanic of this country and in favor of the mechanic in Nova Scotia. The present law makes no difference between stone cut to dimensions and ready to be used in building, and stone in the rough as cut from the quarry. This interest involves an expenditure of millions of dollars annually. Since the war a large amount of capital has been invested in Nova Scotia, where quite a number of quarries have recently been developed and are now being worked with great success. The committee will see that if this interest be left without any other protection than such as is afforded by the present tariff, the superior advantages of those engaged in this business in Nova Scotia will entirely destroy the domestic interest in freestone, in the quarrying and preparation of which so large an amount of American capital is invested. I have knowledge of three quarries located in my district, which prior to the reciprocity treaty employed fifteen hundred men and more than sixty vessels. Since the introduction of this material from Nova Scotia under that treaty, the number of employés in those quarries has been reduced from fifteen hundred to seven hundred, and there has been a corresponding decrease in the number of vessels engaged.

I fully agree with the opinion of the chairman of the Committee of Ways and Means that building material should be made cheap, but the rate of duty which I propose will still leave these materials cheap as compared with some of the other articles specified in the bill. For instance, under this bill a certain description of lumber will be protected by a specific duty much higher than that which is named in my amendment, and marble which this bill leaves to be protected by a specific duty of fifty per cent. per cubic foot and twenty-five per cent. *ad valorem*, is an article with which freestone comes in competition; and I think we are as much entitled to protection upon freestone as

another locality is entitled to protection upon marble.

Besides, sir, I understand it to be our duty to protect labor. Where labor enters into the producton of an article to a great extent there should be a specific duty for the protection of that labor. As to the article of lumber, labor makes up fifty per cent. of its value. In freestone, sandstone, and granite, the labor involved in the production makes over seventy-five per cent. of the value; while in marble the proportion is only fifty per cent.

Let me remark, also, that if the object of levying duties be to provide revenue, the articles named in the amendment, not being articles that rank among the necessaries of life, afford a fair subject for the imposition of duties, and can well sustain a duty of the amount which I propose.

Let me state further that agents in the city of New York, for the sale of the imported freestone, were informed by gentlemen who had in view the protection of the domestic interest in this article, that an application would be made to Congress for the imposition of a duty of fifty per cent., and they did not object to a duty of thirty-five or forty per cent.

Mr. HOOPER, of Massachusetts. I hope that this amendment will not be adopted. It appears to me that it is not pertinent to this bill, which is designed to regulate trade with only British North America. If this subject be not embraced in the present bill, the duty on the articles named in the amendment can be fixed in the regular tariff bill, and will be the same on articles imported from Canada as on those from any other country. If the duty be fixed in this bill it will leave the articles to be imported from other countries at a different rate. The Committee of Ways and Means, as I understand, are not opposed to the insertion of the gentleman's proposition in the general tariff bill when that shall come up for consideration. I hope, therefore, that the gentleman from Connecticut will not insist on inserting the proposition in this bill, which is limited to the trade with the British Provinces.

Mr. THAYER. I would like to ask the gentleman from Massachusetts whether his objection would not apply equally to this whole bill; whether it would not perhaps be just as well to leave this whole subject to be regulated by the general tariff?

Mr. HOOPER, of Massachusetts. That is not the proposition at present before the House. Many of the articles named in this bill are reduced somewhat below the rates fixed in the general tariff.

Mr. THAYER. The proposition of the gentleman from Connecticut is to protect a particular interest in which his constituents are interested—the production of freestone against injurious competition from Nova Scotia. The objection made by the gentleman from Massachusetts, that this interest can be taken care of under the general tariff, would be just as pertinent with reference to everything else which it is proposed to protect by this bill.

Mr. HOOPER, of Massachusetts. I will merely suggest that the duty on the articles named in the amendment should be uniform, no matter from what country they may be imported. This proposition, if adopted now, will merely impose a duty upon building-stone from the British Provinces.

Mr. THAYER. So with the other parts of this bill; they will simply impose a duty upon so much of the articles named as may be imported from the British Provinces.

The question recurred on Mr. WARNER'S amendment.

The committee divided; and there were—ayes 54, noes 31; no quorum voting.

The CHAIRMAN ordered tellers; and appointed Messrs. WARNER and MOORHEAD.

The committee was again divided; and the tellers reported—ayes sixty four, noes not counted.

So the amendment was agreed to.

Mr. ROSS. I move to amend on page 4, line nine, by striking out "twenty" and inserting "twenty-five," so that it will read:

Animals, living, of all sorts, twenty-five per cent. *ad valorem.*

Mr. WILSON, of Iowa. I move to amend by making it thirty per cent.

Mr. Chairman, this is the first paragraph of the bill which interests directly and particularly the Northwest. It is one of the first instances in a tariff bill in which protection is afforded to the agricultural interests of the country. Last year there were imported from Canada and the Provinces about seven million dollars in live animals. I am willing to allow reasonable duty for the protection of all branches of industry of the country, but while we do that I must insist that the agricultural interest shall likewise be protected. I hope, therefore, this increase of duty on live animals will be voted in by the committee.

Mr. BROOKS. I hope that the amendment will not prevail. Is not beef dear enough to satisfy everybody? Does anybody want to pay a higher price than is now paid? I think the high price of thirty and thirty-five cents per pound asked in the market is high enough.

Mr. WILSON, of Iowa. I will suggest we would be perfectly willing to compromise on this subject if we can have the duty reduced on articles manufactured in the East which are consumed in the West.

Mr. BROOKS. I want the House and the country to know the adoption of this amendment is to increase the price of beef. I want to say this is not the way to protect the agricultural interests. Hundreds and thousands of living animals come from Canada and are fattened in the United States, especially in northern Ohio and northern New York, all along the Hudson. Thousands of them are fattened there which come lean and lank from the Canadas, indeed hardly eatable. They consume our grain and grass, and in behalf of that interest I protest against this proposed increased duty.

Mr. GRINNELL. I wish to say, sir, one word in reply to the gentleman from New York. The well-fed beef which the gentleman and his constituents eat is raised where corn is cheap, and not in Canada where corn is worth one dollar a bushel. Therefore, what he has said has no application to the pending amendment at all.

We propose by this to get some revenue from the importation of Canadian horses. The gentleman may drive a fine span of Canadian horses on which, perhaps, he has paid no duty. We propose when he buys his next span that he shall pay thirty per cent. duty.

Let me say Canada is a place where they raise fine horses. Thousands and tens of thousands of them are imported into the United States. We propose to get some duty on them, and that they shall not be brought into direct competition with our own horses.

I repeat that the well-fattened cattle do not come from Canada. Therefore the gentleman, in reference to his appeal to the beef-eating community, is in fault. The amendment does reach the question of revenue. We propose that those who import fine horses shall pay a tax on them.

Mr. ROSS. I accept the amendment of the gentleman from Iowa as a modification of my own, and I entirely agree with him in relation to the sentiments he has expressed in relation to it being our duty to increase the tax so as to protect the agricultural productions of the country. It is well known, sir, that these things can be raised in Canada much cheaper than in this country because the labor there is cheaper, and the land is cheaper. And you must take into consideration the distance we have to transport the productions of the West to reach a market so that the gentleman from New York and his constituents may be afforded an opportunity to purchase them and not be compelled to live upon the poor, lank, lean beef from the Canadas. In order to give him good beef it must be transported from the West.

In my judgment, in looking over this bill, this whole list was made up either in Canada or New England. The West is to be burdened with taxation to protect the manufacturers of the East, but no tax is to be imposed for the protection of the West. Our interests are to be neglected. I trust that if there is a western interest upon the floor they will insist upon protecting the agriculturists of the country.

Mr. LYNCH. I desire to say a single word in reply to the gentleman from Illinois, in reference to the protection given in this bill to the West. Now, there is not one single product of the West in this tariff reported by the Committee of Ways and Means, the duty on which is not the same or an increase on the old tariff. The duties are as high upon every western product, and in many cases higher than they are by the old tariff.

Now, what is the fact in regard to the products of New England, which the gentleman says have all the protection here? Every article in which New England is interested is reduced in this bill as compared with the tariff of 1864. You have reduced the tariff on lumber and you have increased the tariff on all the articles that enter into the consumption of the producers of lumber.

Mr. DELANO. I would like to ask the gentleman one question. I understand him to say that there is not a single article of western production that has not a higher duty fixed on it by this bill than by the tariff of 1864. What is the duty in this bill on the article of wool?

Mr. LYNCH. There is no duty on the article of wool in this bill. It is not mentioned. You have increased the duty on live animals twenty per cent., and now the gentleman wants to raise it to thirty per cent., and that at a time when our whole country has been drained of its cattle and horses by the destructions of war and when we need them more than at any previous time.

There is another thing I wish to call attention to, and that is, to the principle of protection. The question of protection, as I have understood it, has been a question of protecting American labor as against cheap foreign labor. You reduce the duty on lumber when seventy-five per cent. of the production of lumber is in labor, and now you propose to increase the duty on live animals, into the production of which very little labor enters. And it is so with all the productions of the West. Hers are agricultural productions, into which very little labor enters; while our productions in the East are manufacturing productions, into which labor enters largly.

Mr. WILSON, of Iowa. I wish to state that there is a very good reason why live animals are on the free list in the general tariff, and that is, that they were embraced within the terms of the reciprocity treaty.

Mr. LYNCH. That is no reason at all, because we import live animals from other countries beside Canada and the British Provinces.

Mr. WILSON, of Iowa. Very few; only those which are imported for the purpose of improving our stock. Those that are imported for the purpose of consumption in this country are imported from the British Provinces.

Now, I wish to say that the gentleman is mistaken in regard to some other items, the item of barley, for instance. Under the tariff law, the duty on barley is fifteen cents a bushel; by this bill it is ten cents; and there are several other articles where there is a reduction.

I wish to say to the gentleman, and to all who represent manufacturing interests in the eastern States, that while we of the West have been voting protection to these interests, we now, inasmuch as we have an opportunity, the reciprocity treaty being out of the way, shall insist upon some protection to western products, and I tell them that unless they are prepared to give us reasonable protection against competition from the British Provinces, we will have compensation by a reduction of the duties on other items.

Now, sir, it will cost almost the entire amount of the duty I propose on live animals for us to bring the animals of the western States to the

point of competition with those entering the United States from the Provinces, which is Buffalo. The freights that we have to pay on the lines of railroad will cost us more than twenty per cent. to get our animals from the Mississippi to Buffalo where they come in competition with the animals of the Provinces. When we get them there we wish to have a small protection, and on that we will insist.

Mr. COOK. I suppose that, according to the views that have been advanced heretofore by the gentleman from New York, [Mr. BROOKS,] he must believe that if he gives us a reasonable protection upon our beef, he will get beef in New York both cheaper and fatter than he has ever got it before. That I understand to be the logical deduction from the argument which he used to present; I do not know whether he presents it now.

A day or two ago the gentleman from Maryland [Mr. F. THOMAS] appealed successfully to this House to have the tariff raised upon coal. The reasons urged by the gentleman were these: first, that the coal of Maryland, having a large land transportation, could not compete successfully with the coal of New Brunswick on the sea-board, which is the point of competition. He also insisted that free trade in coal had been disastrous to the miners of Maryland and the coal interests of Maryland. And the House adopted his reasoning by raising the tariff on coal. Now, upon the same principle, as the coal of Maryland could not compete with the coal of New Brunswick until it got to the sea-board, the point of competition, no more can western agricultural products compete with the products of Canada until we come to Buffalo; and inasmuch as New Brunswick coal at the point of competition costs less than Maryland coal, so the agricultural products of Canada at the point of competition cost less than the products of Illinois and Iowa. These things are so. Strike off this protection, and the agricultural interests of Illinois are precisely where the coal interests of Maryland would be without protection.

Now, there should be some little protection of the agricultural interests of the West to enable our agriculturists to compete successfully with the agriculturists of Canada at the point of competition, and that is Buffalo. I call the attention of the committee to this fact, that in raising the tariff upon the different articles mentioned in this bill, we have raised the tariff upon fish, upon dried cod-fish and mackerel, the only things from New England used to any extent in Illinois and Iowa. You have raised the tariff on coal, which enters into the value of every article of machinery which we use, of every farming implement we use, for their price is graduated to some extent by the price of coal. You have raised the price of these things upon us in the West by the alterations made in this tariff since it has been reported to this House. I believe, and I am willing to say it here, that the system of internal revenue and of the tariff have been so arranged in this House as to operate most injuriously upon the agricultural interests of the West, and if western men think as I do about this matter, we will contrive some means to have a fair show in this matter in time to come. If we are called upon to protect eastern interests, and to adjust our tariff for protection, we must have them adjusted in such a manner that we of the West and our interests shall receive equal protection.

Mr. KELLEY. Mr. Chairman, I think that my constituents are as fond of good beef and consume as much of it as the constituents of the gentleman from New York, [Mr. BROOKS.] Yet I am in favor of imposing the duty proposed, and that on very broad general principles. We need in this country men and capital to develop our resources. Our legislation has been such as to repel emigration and to induce our own citizens of energy and capital to go to Canada. The reciprocity treaty had that effect. During the last ten years a million and a half of emigrants who should have settled in this country have gone to Canada. In addition to that, many of our own citizens, in consequence of our system of taxation, have gone to that country and built up there factories and other establishments.

I would make beef as cheap as the gentleman from New York desires to make it; but I would do it by striking off the absurd tax in the internal revenue act upon slaughtered animals, thus equalizing the matter so that our legislation this session should have no special effect upon the price of beef; for if we remove the internal revenue tax it will about counterbalance this.

Sir, the object which I would seek in legislating on this subject is to put Canada in the same position in which all other foreign nations are. I propose that she shall have no benefactions from us; that we shall leave her to the tender mercies of Great Britain, who soon will so impoverish her that our own citizens who have gone there will return to us to give us the benefit of their capital and their enterprise, and the emigrants from the other side of the Atlantic will come to the United States instead of going to Canada.

I am therefore in favor of putting this tax upon living animals, and inducing our own people to raise a larger supply. I desire that our people shall be so prosperous that the Canadians, feeling the injurious influence of the British Government, shall compare their condition with that of ourselves, living on kindred soil and so near to them, and shall find that to be the colonists of Great Britain, unless patronized as they have been for the last ten years by the Republic of America, is to occupy a degraded position.

Mr. COOK. I withdraw my amendment to the amendment.

Mr. HULBURD. I move to amend the amendment by adding the following:

Provided, That milch cows be admitted on a duty *ad valorem* of twenty per cent.

The interest which this amendment proposes to care for will not compete or conflict with any of the interests of the Northwest, which has such strenuous advocates here. The amendment proposes to protect the dairy interests not only of the northeastern but other large States, my own State in particular, and, to a certain extent, Pennsylvania. There can be no pretense that the Northwest or the West will furnish milch cows for us of the East that we may make butter and cheese. I hope, therefore, that gentlemen from the West and Northwest will not object to this amendment, so that if the duty on other living animals is to be raised milch cows will be allowed to come in at the old rate of twenty per cent., as proposed by the committee.

Mr. RANDALL, of Pennsylvania. I hope that this proposition for an increased duty on living animals will not prevail. I look upon this as a question of cheap or dear beef. Now, sir, if there is any particular in which the public at large have been imposed upon, it is by the combinations of drovers and others by which the price of beef has been raised to an exorbitant figure. The high price of beef has, during the last few years, been a subject of universal complaint; and I for one do not want to impose an increased duty so as to afford those who have engaged in these combinations the opportunity to raise the price of beef still higher; for the mass of the people are even now almost debarred from the use of that article.

Mr. GARFIELD. I wish to say one word in response to a single point suggested by the gentleman from Pennsylvania, [Mr. KELLEY.] He has said that if we repeal the internal revenue duty on slaughtered animals it will just about counterbalance what is proposed here, and therefore will not affect the price of beef. I desire to suggest to him that if he had looked a little more carefully at the features of the two cases, he probably might not have made that statement. On slaughtered animals now we pay forty cents a head on part and five cents a head on part; we pay ten cents a head on swine and five cents a head on sheep. The gentleman argues that if this internal tax upon slaughtered animals is remitted it will be equivalent to thirty per cent. *ad valorem* on live stock. I simply suggest to the gentleman that if he had considered the subject more thoroughly he would not have made that statement.

Mr. HULBURD. I will withdraw my amendment to the amendment, and will move it at the end of the section.

Mr. CHANLER. I renew the amendment to the amendment. The whole character of this bill is illustrated in this section. It is a practical violation, as I understand it, of the Constitution of the United States, especially of that provision which asserts that no tax shall be laid on articles exported from any State; and that provision which declares that no preference shall be given by any regulation of commerce or of revenue to the products of one State over those of another.

Now, gentlemen propose here to adjust the provisions of this bill to suit one section or another, to anticipate the tariff, to protect one interest while they sacrifice every other interest which has not had a full hearing in the arrangement and making of this bill. The beef, the mutton, the wool, every interest, every manufacture, every production, except it be, as gentlemen claim, some of the far West, are fully looked after in this bill. The first interest of Iowa, the mutton interest, finds an admirable representative on this floor.

The section which I have the honor in part to represent does not ask you to give us any protection in this matter. We ask the opportunity of finding the best and cheapest market for what we want. We want you to restore to us that harmony and that balance of interest which can only come by a restoration of the whole Union. We wish such an honest and fair adjustment of the interests of this whole country as can only be had by having this House organized by a full and thorough representation of the whole country. It is not a question of interest to the State of New York whether our beef is cheap and our cotton dear. We want by the results of our enterprise in the past to be able to enter into fair competition with the capitalists of the whole world. And following the principles and policy which have been a source of prosperity to this country in the past, we wish to open up trade not only with Canada but with the whole world.

Mr. SMITH. I had not intended to say anything upon this subject, but as I come from a grain-growing country, a cotton-growing country, a hog and corn country, I desire to answer briefly some remarks that have been made here. I am satisfied that the only way in which this country can pay its debts, the only way in which the people can be prosperous, is by giving to all our citizens of every avocation of life the fullest and completest protection. Therefore I am for increasing the tariff upon animals imported from other countries.

And I know that it would be impossible for the people of Kentucky, Ohio, Indiana, Illinois, or any other State of the West, in transporting our products to New York, or the New England States at the present rates to compete with animals brought from Canada. I know that the eastern portions of our country have demanded and obtained national legislative protection upon their manufacturing interests, and I am willing to give our manufacturing interests full protection by a proper protective tariff, I am willing to accord to them all they can gain by that. I stand here as the friend of their interests. But while I do that, I ask that as a reciprocal favor, ay, as a reciprocal duty to the great producing sections of the country, they shall also give us equal protection.

Now, I believe the protection of the one gives protection and advancement to the other. The protection of manufactures in a proper degree gives protection to the grain-growing and producing elements of the country. Why do you ask us to give protection to the woolen manufacture, to the cotton manufacture, or to anything else that you make in the East, in the New England States, when you propose to bring us into competition with the people on the other

side of the line in reference to cattle and the variety of products of our own agricultural interest? In the East your support depends upon your manufactures, and you ask and get protection for them. Our support depends on our cattle, our grain, and other agricultural products. I would in this respect give such protection to each section of the country that it can live. We must have it in the West.

Here let me throw out a hint to gentlemen on the other side of the House. The West is rapidly growing not only in wealth but in population. The State of Illinois since 1860 has increased five hundred thousand in population. Up to the next census we may presume her population will increase in a like ratio, and her representation upon this floor will be increased in a proportionate degree. Such will be the case with Ohio and Indiana, and with Kentucky and Tennessee, and the whole western country, as well as with the South. Especially such will be the case with Missouri, for I must not leave her out. What will be the result then? Then you must see the West and the South will stand with a mighty force in Congress, and will compel you to give protection to their agricultural interests.

The CHAIRMAN. The gentleman's time has expired.

Mr. MORRILL. I move that the committee rise for the purpose of terminating the debate on this paragraph.

Mr. SMITH. I have not interrupted the committee before, and I hope the gentleman will yield to me to finish what I have to say.

Mr. MORRILL. I withdraw my motion, so that the gentleman may continue his remarks.

Mr. SMITH. Mr. Chairman, I am tired and sick of the doctrine enunciated in the country of "free trade and sailors' rights." I do not believe in any such doctrine. I believe in giving the whole people full and free protection. When the people of New England demand the highest price for all of their manufactures, why should they not give a good price for the corn, flour, and other products of the West? When we are asked to protect the manufactures of New England from competition, why should not the products of the West be also protected from foreign competition? We are told that things are moving in Canada; that will end in a little while in her annexation to the United States. In that event we shall not need any such a tariff.

I say let us give protection to our people in every avocation of life and in every section of country. Let the people of the New England States, the people of the whole East, remember that they live through and by the great western country. They cannot live without us. If we are afforded reciprocal protection we can live prosperous and happy. Then it will not be long before we shall be able to pay off our national debt.

Take the single article of wool. We can produce all we want in the United States. The western country has territory enough to produce wool for all the world. Why, then, should it be brought into the country, to keep it down at a low price, while you keep up the manufactures at a high price? It is a wrong principle which we ought to set our faces against.

Mr. MORRILL. I move by unanimous consent all debate be terminated on the pending paragraph.

There was no objection, and it was ordered accordingly.

Mr. Ross's amendment was adopted.

Mr. HULBURD. I move to add:

Provided, Milch cows shall be twenty per cent. *ad valorem*.

The amendment was rejected.

Mr. PRICE. I move to amend by striking out "ten" and inserting "fifteen," so it will read:

Barley, not including pearl or hulled, fifteen cents per bushel.

Mr. Chairman, I understand that makes it in accordance with the present tariff. That is one reason for the amendment. Then there are other reasons; and I will say here what I have to say in reference to the several items of this section, beef, pork, lard, flour, grain, &c.

What I have to say will apply with equal force to all of these.

I heard the gentleman from Pennsylvania, [Mr. SCOFIELD,] whose opinions are generally good upon questions of this kind, make use of the declaration, a very few minutes ago, that there was no competition in regard to the agricultural products of the country, that the farmers had the entire field to themselves. Now, if that is true why introduce this bill? If there is no competition and no danger of competition in regard to such articles as wheat, corn, barley, rye, pork, lard, hams, &c., coming in from Canada, then why have such a bill as this at all before us? The very fact that we are considering it is evidence conclusive that these things do come from Canada and compete with us. And when it is a notorious fact that the great prairies of the West can raise bread and meat enough for the habitable globe, I want to know why we should have anything come from any other country unless it pays well for the privilege?

I have no disposition to protect one part of the country at the expense of the other, but while it is clearly the duty of American statesmen to protect our own manufactures and our productive interests in one section of the country, it is clearly their duty to protect them in all sections of our common country.

These arguments apply not only to the paragraph under consideration, but to the entire bill with equal force. And I hope those who represent the grain-growing sections of the West will look well to this matter. If we were not able to produce enough for the consumption of our own country and have a surplus left for other countries, then we might need some such bill as this. But when we are able to send abroad a surplus of our own products, it is manifestly our duty, as well as the dictate of sound policy, to protect the agricultural interest of the country. You may talk about your manufacturing, commercial, and other interests of the country, but it is the agricultural that underlies all the others, and furnishes the foundation of all our prosperity. Without it they must all wither, droop, and die; with it all may be made successful and prosperous. And it is therefore the first duty of statesmen in framing a tariff for the country to see that the agricultural interests are well and safely protected, so that all the other interests may prosper in their turn.

Mr. BROOKS. Mr. Chairman, I do not want to discuss the tariff. But I am surprised to hear that motion come from the gentleman from Iowa, [Mr. PRICE,] and first because he is a temperance man. Sir, the best way to promote temperance in this country is to have people drink lager beer instead of whisky and high-wines.

Mr. STEVENS. Why not water?

Mr. BROOKS. Water is very good, but people are not content with it. They will have something else—tea and coffee—even the gentleman from Pennsylvania [Mr. STEVENS] himself.

Now, here is a proposition to increase the price of beer to the laboring classes, although gentlemen desire to further the cause of temperance. The most temperate countries on earth are those where the people drink cheap wines and lager beer, while those in which they drink, as our people do, stronger liquors, are the most intemperate. And yet you propose to increase the price of lager.

In the second place I am surprised because this is a direct blow at the revenue. There is already now a revenue of $6,000,000 derived from lager beer, and it is increasing at the rate of ten per cent. per annum. And now it is proposed to raise the duty on Canadian barley from nothing to fifteen cents per bushel, which must have an effect on the consumption of lager beer.

As to protection of the agricultural class, you cannot have it in a country like this where your prices are fixed not even by those of the New York market, but by those of Liverpool, London, and Havre. The price of wheat is not regulated in New York, nor Iowa, but in the great markets of Europe. And the duty you impose upon it by this bill is to have an effect upon that. Wheat that now comes from Canada directly through New York, and is exported in American vessels, will take the circuitous route of the river St. Lawrence to the English and European markets, and the price is to be fixed by the price it brings at Liverpool and Havre, and not in New York; and then we lose the transfer of the freight. We cannot have protection for wheat and many of those articles, the price of which is not regulated in the United States, but in the great marts of Europe. Your competition is not with Canada, but with the region of the Baltic and the region of the Black sea. You must reduce your wheat to their prices, without any reference to the Canadian market, so that it is impossible to have any protection upon that subject.

This matter might be unfolded to a great length, if there was time for it; but it cannot be properly done in the five minutes that are allowed. Our agricultural interests must realize from the fertility of their soil, from the facilities of their communication with the Atlantic coast, and the rapid transfer of their products over railroads and canals. Those alone are the means to protect the industry of our farms.

Mr. MORRILL. I move that the committee rise, for the purpose of closing debate upon this paragraph.

Mr. PRICE. I desire to reply to the gentleman from New York, [Mr. BROOKS.]

The CHAIRMAN. Debate is closed upon the amendment.

Mr. MORRILL. I must insist on my motion that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. INGERSOLL reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly the bill of the House (No. 337) regulating trade with the British North American possessions, and had come to no resolution thereon.

CLOSE OF DEBATE.

Mr. MORRILL. I move that all debate in Committee of the Whole on the state of the Union on the pending paragraph, and the amendment thereto, of the bill now before the committee, terminate in five minutes after the committee shall resume the consideration of the same.

Mr. GRINNELL. I move to amend that motion by making it three minutes instead of five minutes.

The amendment of Mr. GRINNELL was not agreed to.

The motion of Mr. MORRILL was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. WILLIAM J. MCDONALD, its Chief Clerk, informed the House that the Senate had passed House bill No. 135, extending the time for withdrawal of goods for consumption from bonded stores and public warehouses, and for other purposes, with sundry amendments, in which he was directed to request the concurrence of the House.

TRADE WITH BRITISH AMERICA—AGAIN.

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

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. INGERSOLL in the chair,) and resumed the consideration of House bill No. 337, regulating trade with the British North American possessions.

The pending question was upon the motion of Mr. PRICE to make the duty upon barley fifteen cents instead of ten cents per bushel.

Mr. WILSON, of Iowa. I move to amend the amendment of my colleague [Mr. PRICE] by making it twenty-five cents instead of fifteen cents, and I will state my reason for making that motion. It will cost forty cents per bushel to transport barley from the Mississippi river to Buffalo, the point where it will come in direct competition with Canadian barley. Now, sir, I propose a duty of fifteen cents less per bushel than it will cost my colleague's constituents to transport a bushel of barley raised by them to the competing point, Buffalo. His county, I believe, is one of the greatest barley-growing counties in the entire Northwest.

I hope my colleague will accept my amendment and let us have a vote on it instead of on the one he has offered.

Mr. PRICE. I accept the amendment of my colleague, [Mr. WILSON.] I wish to say in reply to the gentleman from New York, [Mr. BROOKS,] in regard to the temperance view of this question which he has taken, that if I had any idea it would make the people of the country, and particularly of the city of New York, more temperate than they are now, I might be induced to waive this amendment so far as I am concerned; but I have yet to learn that the desired result would be produced in this way.

But, sir, I deny that morality or temperance has ever been promoted by the increased manufacture of lager beer. More than that, sir, I deny that the wine-drinking countries of the world are the most temperate countries of the world. I know that this has been stated; but I challenge any gentleman to produce the proof. I have been informed by those who have traveled in Europe and have had full opportunity of observation, that in the wine-drinking countries of Europe even the women are in the habit of becoming intoxicated. When, therefore, the assertion is made, here or elsewhere, that the wine-drinking countries of the world are the most temperate countries of the world, I desire that the seal of condemnation shall be put upon that assertion.

No, sir; neither lager beer, wine, nor anything of the kind, has ever conduced to virtue or to temperance, nor ever will. The argument of the gentleman from New York, so far from inducing me to vote against the pending amendment, would be an additional inducement, were that necessary, for voting the other way.

But, sir, this is a tariff for revenue, and for protection to American manufacturers and American productions; and we shall not be doing our duty to the country if we fail to protect our agricultural products against undue importations from other countries.

Mr. STEVENS. Allow me to suggest that if the provisions of this bill are important to regulate trade with Nova Scotia or some other corner of Canada, why should not these provisions be embraced in a general tariff bill and be made uniform for all the world? Why patch up the thing by corners in this way?

Mr. PRICE. I am perfectly willing, Mr. Chairman, that we shall have one general tariff, which shall include not merely one "pent-up Utica," but a "whole boundless continent."

Mr. MORRILL. I desire to say, in reply to the gentleman from Pennsylvania, that for many of the articles included in this section there is no provision in the general tariff.

I now move to amend the amendment by striking out "twenty-five" and inserting "fifteen."

The amendment to the amendment was rejected.

The amendment of Mr. PRICE was agreed to.

Mr. PRICE. I move to amend as follows:

In line sixteen strike out "one" and insert "two," so that the clause will read: "Beef, two cents per pound."

Mr. BERGEN. I move to amend the amendment by striking out "two" and inserting "one half."

I think, Mr. Chairman, that the laboring men of the country already have sufficient difficulty in obtaining the necessaries of life. I object to increasing the burdens under which they labor. I am in favor of relieving the laboring man of the country, the working man; and I think a reduction in the price of the article of beef will have this effect. I hope my amendment will be adopted, so that instead of increasing we will diminish the price of beef.

Mr. FARNSWORTH. I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. INGERSOLL reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and particularly House bill No. 337, regulating trade with the British North American possessions, and had come to no resolution thereon.

The SPEAKER. The hour of half past four having arrived, the House, in obedience to the order adopted this morning, will take a recess until half past seven o'clock this evening.

EVENING SESSION.

The House at half past seven o'clock p. m. resumed its session.

CIVIL SERVICE.

Mr. JENCKES. I ask unanimous consent to offer the following resolution:

Resolved, That a select committee of seven members be appointed by the Speaker, whose duty it shall be to consider the subject of the civil service of the United States, and measures to promote its efficiency, and report by bill or otherwise.

There was no objection, and the resolution was received.

Mr. WOODBRIDGE. Mr. Speaker, I will state the facts in the matter. That bill is now before the Judiciary Committee. It was introduced by my friend from Rhode Island and referred to the Committee on the Judiciary. I am ready whenever that committee is called to report; and I may inform my friend from Rhode Island that the report of the committee will be adverse to the bill. I will say, in justice to him, that the bill is drawn with remarkable clearness and ability, copying to a great extent the English and French systems. It was impossible for the Judiciary Committee, with the vast amount of business before them, to give it that consideration and pruning which seemed to them necessary if the bill should pass.

I have no idea the Judiciary Committee would object if the bill were taken from them and referred to a select committee. It is an important subject, and one in which my friend from Rhode Island takes a deep interest; and though I am free to say I do not agree with him in the policy of the bill, yet having it in charge as a member of the Judiciary Committee, I would be willing the House should take it from that committee and give it to a select committee.

Mr. WILSON, of Iowa. I will say, in addition to what has been said by the gentleman from Vermont, if the House conclude to raise this select committee I am satisfied the members of the Committee on the Judiciary would agree that the bill might be reported back now and referred to that committee.

Mr. JENCKES. It was in view of the business before the Judiciary Committee I submitted the pending resolution. I demand the previous question.

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

Mr. WASHBURNE, of Illinois. What is the position of the resolution?

The SPEAKER. It is before the House.

Mr. WASHBURNE, of Illinois. I hope it will not be sent to a select committee. We have now too many select committees.

The resolution was adopted.

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

The latter motion was agreed to.

ILLINOIS CENTRAL RAILROAD.

Mr. STEVENS, by unanimous consent, submitted the following resolution:

Resolved, That the Secretary of War be directed to inform the House what amount of money has been paid to the Illinois Central Railroad Company for the transportation of troops and property of the United States, and what amount is yet claimed by the said company to be due for such service.

The resolution was adopted.

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

The latter motion was agreed to.

CITY OF TORONTO.

Mr. SCOFIELD, by unanimous consent, introduced a joint resolution granting an American register to the British-built brigantine City of Toronto; which was read a first and second time, and referred to the Committee on Commerce.

IOWA LAND GRANTS.

Mr. ALLISON, by unanimous consent, presented a joint resolution of the Legislature of Iowa, in relation to the lands granted to that State in aid of the construction of railroads; which was referred to the Committee on Public Lands.

KANSAS AND NEOSHO VALLEY RAILROAD.

Mr. VAN HORN, of Missouri, by unanimous consent, introduced a bill to aid in the construction of the Kansas and Neosho Valley railroad, connecting the great lakes, Iowa, Missouri, and Kansas with Texas and the Gulf of Mexico, and to secure to the Government the use of the same for postal, military, and other purposes; which was read a first and second time, and referred to the Committee on the Pacific Railroad.

BUREAU OF AGRICULTURE.

Mr. MOULTON. Mr. Speaker, a resolution was introduced into this House to procure certain information in detail from the Commissioner of Agriculture. His report has come to the House, and it shows the expenditure of vast sums of money. And permit me to say, in my opinion, the report on its very face discloses great irregularities and looseness in that bureau. I offer the following resolution:

Resolved, That the report of the Commissioner of the Agricultural Bureau, made to this House in answer to a resolution of inquiry, be referred to the Committee on Agriculture, with power to send for persons and papers in relation to said report, should said committee deem it necessary.

The resolution was adopted.

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

The latter motion was agreed to.

BRIDGE OVER THE HUDSON.

Mr. BEAMAN, by unanimous consent, from the Committee on Roads and Canals, reported adversely on House bill No. 38, to declare the bridge over the Hudson river a highway; and moved that the bill be laid upon the table.

The motion was agreed to.

BONDED GOODS.

Mr. MORRILL. I move to take up House bill No. 135, to extend the time for withdrawal of goods for consumption from public stores and bonded warehouses, and for other purposes.

Mr. WASHBURNE, of Illinois. I object to its consideration at this time.

The bill and amendment were referred to the Committee of Ways and Means.

CLERK TO COMMITTEE.

Mr. PRICE. I ask leave to offer the following resolution:

Resolved, That the Committee on the Pacific Railroad be allowed a clerk for the next ninety days at the same compensation as is allowed to the clerks of similar committees.

Mr. ROSS. I object.

AGRICULTURAL REPORTS.

Mr. MILLER. I ask leave to offer the following resolution:

Whereas, owing to the increasing demand for Agricultural Reports, the number of copies heretofore issued are inadequate to supply those engaged in agricultural pursuits: Therefore,

Resolved, That the Committee on Printing be, and

are hereby, required to inquire into the expediency of having an additional number of copies of the Agricultural Reports printed, and make report accordingly.

Mr. MORRILL. I object.

POST-ROUTE BILL.

Mr. ALLEY, by unanimous consent, moved to take from the Speaker's table the Senate amendments to the post-route bill, and that they be concurred in.

The motion was agreed to.

TRADE WITH BRITISH AMERICA.

Mr. MORRILL. I move to suspend the rules, and that the House resolve itself into the Committee of the Whole.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. INGERSOLL in the chair,) and proceeded to the consideration of House bill No. 337, regulating trade with the British North American possessions.

The CHAIRMAN. The amendment pending moved by the gentleman from Iowa [Mr. PRICE] is to strike out "one" and insert "two," so it will read, "beef, two cents per pound;" to which the gentleman from New York [Mr. BERGEN] moved an amendment to strike out "one" and insert "one half."

The amendment to the amendment was disagreed to.

The amendment was adopted.

Mr. ROSS. I move to amend by striking out "fifteen" and inserting "twenty-five," so it will read—

Broom-corn, twenty-five per cent. *ad valorem.*

The amendment was agreed to.

Mr. MORRILL. I move to add the proviso that this shall not take effect for one year.

Mr. Chairman, I hope the House will consent to act upon this bill with reference to making it a practical measure. Now, in regard to this article of broom-corn, I suppose if we adopt the amendment in the House of twenty-five per cent. we merely offer a hint to the Provinces as to the way in which they shall fix their duty. As I understand the matter we sell them far more broom-corn than we buy from them.

I perceive there is a spirit here on the part of those opposed to this bill to load it down as the tariff of 1828 was loaded down by gentlemen of the South. Then they said they would make New England molasses so sweet that it would disgust them. If gentlemen will undertake to make a tariff bill that will operate equally on all parts of the country they will soon find it is not a very easy job. Gentlemen who believe they can make a tariff bill which will suit every section of the country and every gentleman in this House, I advise to try it once for themselves.

For myself, and for the Committee of Ways and Means, I will say that we have endeavored to make a bill that would be fair and proper as a national measure, and I utterly scout and scorn the idea of legislating in behalf of a single article in this bill with reference to its being a product of New England or the West, or the North or the South. I take it that we are the Representatives of the whole United States, and the idea that is brought up here constantly through the course of this debate, that one portion of the Union is at war in its industrial relations with the other, is, so far as the Committee of Ways and Means are concerned, utterly without foundation. We have refused those amendments only which were put in by gentlemen who desire to destroy the bill. If the House in its deliberate judgment shall disagree with the committee, there is not another word to be said. We adopt their action. But I beg to say that we may make progress by making only those amendments about which we are all sincere and in earnest, and which are not made for the purpose of delaying or destroying the bill by indirection.

Mr. CONKLING. Mr. Chairman, I agree with the gentleman from Vermont that we had better address ourselves to making substantial progress in the important question before us, and I am not sure that we can progress more wisely than to pause at this point and see whether we had better attempt further to press the bill. The subject before us is a somewhat grave one. Great Britain has more square miles upon this continent than we have. The people who inhabit these possessions have a trade amounting to $68,000,000. As the treaty which has for years regulated this trade was about to expire, the Committee of Ways and Means felt that the country demanded at its hands to propose some substitute for the dying treaty which should give the country some commercial advantages. The committee therefore proposed a scale of imposts, of which great complaints are made in the Canadian and provincial press—a scale more or less unsatisfactory to all those on the other side of the frontier to be affected by it. The attempt of the committee in reporting the pending bill was to regulate this subject by consulting legislation, by legislation which should be adjustable from time to time on our part to the spirit of liberality or of hostility which should be exhibited on the other side.

Having proposed this measure, what do you find? Hardly an encouraging response from the House certainly. We find gentlemen who are the enemies of any such measure whatever, combining with the friends of particular local propositions, of propositions to give excessive protection, for the purpose of so loading the bill that it ought not to pass, and would lead to no reciprocal action if it should. Indeed it is already loaded with amendments which violate the fundamental principles of American policy. Looking at it as a revenue measure it violates these principles. Why? Because there is no need of imposts so enormous in the case of any nation in this hemisphere or the other. The revenue is abundant without going to such extremes. The estimates for the next fiscal year are $284,000,000. The revenue is vastly in excess of that sum, and we are able to dispense with a very considerable part of taxes, excises, and similar burdens. As a question of protection the bill, as already amended, violates the settled American policy. Why? Because we are imposing imposts prohibitory, or nearly so, upon raw material. For example, in the general tariff as it now stands, common to the world, building-stone uncut is twenty per cent. Here we propose to tax it thirty-five per cent. Barley stands at fifteen per cent. and we here propose to tax it twenty-five per cent. Cattle are free, here we put a high tariff on them. Why is all this? Everybody knows that those who advocate such amendments, and the majority which carries them into the bill, really design to destroy it by putting into it legislation special to Canada upon which we would not stand for one moment as applicable to the world. We all know that no one seriously means to refuse raw material from Canada at the same rate at which we allow it to come in from the rest of the world.

Looking to this action and at other indications my belief is that a determination prevails against the measure as a whole. I will not say that gentlemen are wrong in their hostility; that is not the question at this point; my impression is that it would be well, before expending more time, to test the strength of the general proposition. I make no motion, but my judgment is that the Committee of Ways and Means ought not to struggle against the determination of the House. As one member of the committee I do not feel bound to do so.

Mr. MORRILL. I withdraw my amendment.

Mr. PRICE. I renew it for the sake of being able to say that the gentleman from New York [Mr. CONKLING] is slightly mistaken in one respect. I undertake to say just as positively, and I will try to say it just as distinctly, as that gentleman made his statement, that everybody does not know that every man who has attempted to make amendments to this bill is in favor of loading it down so as to kill it. I presume I am understood. I want to say just as distinctly and positively that every man who has made amendments to this bill——

Mr. CONKLING. The gentleman is better understood than I am. I did not say that every gentleman who offered amendments desired to kill the bill.

Mr. PRICE. The gentleman said the amendments, and that includes the whole

Mr. CONKLING. No, not the whole at all.

Mr. PRICE. If the gentleman denies that he means that, why then, that is enough.

Mr. CONKLING. Not at all.

Mr. PRICE. I noted the language very particularly, and I thought I would take advantage of the opportunity, if I got the floor, to deny it, and I have done so.

Now, I want to ask the gentleman from New York, or the chairman of the Committee of Ways and Means, or any other gentleman, why do we want to tax broom-corn if we do not buy any from Canada? Do we want to put a tariff upon an article that we sell to them and do not buy of them? And if that is a reason for not putting twenty-five per cent. on broom-corn, the reason is just as forcible as against fifteen per cent. We get no revenue from articles which we sell and do not buy. If we buy and do not sell, then we want twenty-five per cent. instead of fifteen per cent. If the argument proves anything it proves too much, and is therefore good for nothing.

And, now, to the great question before the House. Here are agricultural products for which we are not dependent on any foreign countries. This is an agricultural country; the success of every interest in the country depends upon the agricultural interest of the country, and unless these things are protected, then the agriculturists of the country are the persons who suffer. The amendments which I have attempted to make to this bill I have attempted to make in good faith, and because I believe the doctrines I have broached on the subject. The more I look at the subject, the more I believe them. If we want to hold out inducements to the Canadians to bring in their flour, corn, buckwheat, their hams, and other products, then I do not understand the policy of legislation that seeks to do it. If they bring them, I propose that they shall pay for it, because this is preëminently an agricultural country, and if any interest in the country ought to be protected, it is the agricultural interest of the country.

Inasmuch as the gentleman who introduced the amendment in reference to building-stone is not present, I will say that if we have building-stone in the country we want to protect that interest also and all other interests that are peculiarly American. We wish to protect them against any other power, and particularly when special legislation is sought to be brought into the House for the purpose of overriding the best interests of this country.

Mr. MORRILL. I merely desire to make an appeal to the House that we may get through with the bill this evening. We have got nearly through with that part of the bill which I suppose will excite debate. I think we are coming to some provisions that all will concede are of importance to us all; for instance, I suppose that gentlemen from the West desire that the avenues for the transportation of their freight shall be left open; and I hope, therefore, that we shall be able to make some progress in the bill, and that its real friends will only make such motions as they really desire to have passed.

Mr. SPALDING. If the gentleman will let us vote on the bill instead of making so many speeches, we may make some progress.

Mr. WINFIELD. I have been extremely gratified at the declaration of the chairman of the Committee of Ways and Means that the only intention of this bill was to provide for an equitable law to act as a substitute for our Canadian reciprocity treaty, and I should have been more gratified if the chairman of the Committee of Ways and Means had announced that the only purpose of this bill was to afford revenue for the support of the Government.

I rejoice to learn that he has had no desire in framing and presenting this bill for the consideration of the House to foster any particular branch of American industry to the preju-

lice, perhaps, of all others. And if we are to infer from that that the only object of the bill was revenue, then I regret exceedingly that many of those who with myself have been on all occasions sticklers for revenue solely should not have received and acted upon this bill in the same spirit in which it was proposed.

I have witnessed with regret that among gentlemen with whom I have associated and always agreed upon questions of this kind there is a disposition, wherever this bill affects any particular local interest of their own, to depart from what has been the cardinal principle of the party whose representatives we are. It is true the representation of that party here is small, but I had hoped they would be faithful to the principles upon which they were elected. With reference to all those propositions to protect particular interests, I would ask what commodity there is that is now being used by the people at large, the price of which demands this extraordinary protective legislation. Whether it be coal, or petroleum, or cotton fabrics, or beef, or broom-corn, I desire to inquire whether they are not bringing in the market all that the consumer can pay for them. Hence I feel annoyed at the pertinacity with which particular members of my own party insist upon protection for articles in which their particular constituents are interested. I trust that hereafter we shall, at least, preserve consistency with our past professions of principle in regard to this subject.

Mr. ROSS. Mr. Chairman, I desire to——

The CHAIRMAN. Debate is exhausted upon the pending amendment.

Mr. ROSS. I move to amend by adding, "not to take effect for the next ten days." I regret that anything should have occurred in my conduct that should have given pain to my distinguished friend from New York, [Mr. WINFIELD.]

Mr. BEAMAN. I rise to a point of order. The gentleman from Illinois [Mr. Ross] is not discussing the pending amendment.

The CHAIRMAN. The Chair sustains the point of order. The gentleman from Illinois [Mr. Ross] will proceed in order.

Mr. ROSS. I am just reaching the amendment. I say that, in my judgment, under the circumstances by which we are surrounded, it is proper legislation to be had by this Congress. Nor do I regard it as a departure from the fundamental principles, to which my friend has alluded, which have governed the action of the Democratic party.

Mr. BEAMAN. I insist upon my point of order, that the gentleman is not discussing the amendment he has proposed.

The CHAIRMAN. The gentleman from Illinois must confine his remarks to the pending amendment.

Mr. ROSS. I will say I was surprised at the remarks which fell from the gentleman from Vermont, [Mr. MORRILL,] showing that he should object to a duty of twenty-five per cent. upon the products of the farmers of the West, when he is not satisfied with less than from forty to fifty and one hundred per cent. upon the labor of his own State.

Mr. BEAMAN. I rise again to a point of order. The amendment of the gentleman proposes that this shall not go into effect for ten days. My point of order is that he is not discussing that amendment.

The CHAIRMAN. The Chair overrules the point of order.

Mr. ROSS. If the gentleman has got through his points of order I will proceed. I have understood the theory heretofore urged by the peculiar friends and advocates of the system of protection to be that the higher the tariff the cheaper the goods. Now, I want to apply that to my New England friends. I want them to try if, by putting a tariff on wheat and pork and beef and broom-corn, those articles will come cheaper to them. Why, sir, this article of broom-corn is a matter of very great interest to my constituents; it is an article that is raised largely in Illinois, and in the district which I represent.

Now, I ask, why should we not have a duty of at least twenty-five per cent. upon this article, while upon the article of marble, my friend, the chairman of the Committee of Ways and Means, [Mr. MORRILL,] wants forty or fifty per cent. duty?

Mr. WINFIELD. I would ask my friend if he is a convert to the doctrine that a high tariff makes cheap goods?

Mr. ROSS. No, sir; I think the tendency of the legislation of this country should be toward free trade rather than toward a high tariff.

The CHAIRMAN. The gentleman's time has expired.

Mr. ROSS. It seems to me that my time has been taken up by the points of order of the gentleman from Michigan, [Mr. BEAMAN.]

Mr. PRICE. I withdraw my amendment.

Mr. SCHENCK. I move to amend by striking out the word "broom." I offer this amendment for the purpose of spoiling the bill; and why I wish to do this I will indicate in a very few words.

The distinguished chairman of the Committee of Ways and Means has said that he knows no undertaking more difficult than the attempt to make a tariff which shall gratify all portions of the country and be in accordance with the views of the representatives of each locality. Now, I think I can suggest to the gentleman one thing still more difficult: it is to make one tariff for the British Canadian Provinces, another tariff for the West Indies, another for the Russian possessions upon our borders, another for Mexico, another for each of the European States. This is a task which it is impossible for any one to undertake with success.

I should think that by this time the gentlemen of the Committee of Ways and Means would have discovered that this bill is an outrage upon the American policy in more senses than have been indicated by the gentleman from New York, [Mr. CONKLING,] one of the committee. It is an outrage upon the American policy in attempting to make a tariff with reference to one particular country, instead of having a general tariff system which shall bear equally upon all foreign countries which make importations into the United States.

Now, sir, what is the fact in regard to the British American Provinces? A few years ago they were gravitating toward us; and there is good reason to believe that, if we had had no reciprocity treaty, no differential system, in reference to those neighboring Provinces, by this time it would only have remained for us to say whether we would or would not have them attached to this Union as a component part. But when we adopted a reciprocity treaty, when we gave to those Provinces the benefits of a bargain by which they had all the advantage of being in the Union, without bearing any of the burdens, they grew saucy as they prospered under that bargain, and came to be, during our late trials, among the most detestable of all our enemies.

Now, sir, I propose in reference to these British Provinces, as in reference to all other outside countries, to treat them "as enemies in war, in peace friends;" and when we make a tariff, let it be a general tariff, under which goods coming from those Provinces shall fall under the same law that regulates importations from all other quarters of the globe.

There may be other provisions of this bill—for instance, those regulating transit through the canals—which it may be well enough to consider at some future time; but I do not know that we are quite ready at present for the consideration of those questions. I wish those gentlemen upon the other side of the border to wait awhile; I wish the reciprocity to end on the 17th day of this month; and though thereby there may be some little inconvenience in particular localities of our country and to especial branches of trade or manufacture, I think it will be better to bear all such inconveniences until we can pass a general law putting the importations from the British Provinces on the same footing as the importations from all other countries. The outrage, as I regard it, upon American policy consists in attempting this special, differential, exceptional legislation in reference to the outsiders of a single country, while we adopt no such system with reference to others.

Mr. BLAINE. Mr. Chairman, I was very much surprised and somewhat mortified a few days ago on finding when I had made a motion to get rid of this bill at an early stage of the debate upon it, that a great many gentlemen who sympathized with my purpose considered it a discourteous and rude motion. I certainly intended nothing of the kind to the Committee of Ways and Means. The chairman of that committee assuredly knows that it would be utterly impossible for me to make a motion in this House intended to convey disrespect or discourtesy to him. I thought that the House was against the bill. I do not think that opposition to a bill was ever more unmistakably indicated than has been to this bill from first to last; and I do not believe you can find forty gentlemen who can say that they intend to vote for the bill as it has gone through the amendatory process.

Now, as our time is valuable, is it not best to express the sense of the House on a direct motion? And having said that I did not intend any disrespect before, it is unnecessary to repeat that I do not now intend disrespect when I renew the motion, for the purpose of bringing this question to a head at once, to strike out the enacting clause of the bill. I submit that motion.

Mr. CONKLING obtained the floor.

Mr. MORRILL. Will the gentleman allow me one minute?

Mr. BLAINE. I will.

Mr. STEVENS. I submit that the motion to strike out an enacting clause is not debatable.

Mr. MORRILL. If it is not, the gentleman can withdraw it, so that I can say a word, and I will renew it.

Mr. CONKLING. I believe I am on the floor, as I was recognized.

Mr. BLAINE. I withdrew it with the understanding that the gentleman from Vermont [Mr. MORRILL] had the floor, and understanding that he would renew it.

Mr. CONKLING. I had the floor.

Mr. BLAINE. Very well; I had the floor.

The CHAIRMAN. Does the gentleman from Maine withdraw his motion to strike out the enacting clause?

Mr. BLAINE. I withdrew the motion at the request of the gentleman from Vermont, [Mr. MORRILL,] and the gentleman from New York [Mr. CONKLING] stepped in by some clever trick, in order to say that I yielded to him. I did not yield to the gentleman. I insist my motion is before the committee.

Mr. CONKLING. I rise to a point of order. I want to know what the gentleman means by saying that I got the floor by a trick, whether a very clever one or otherwise.

Mr. BLAINE. I meant to say that I yielded to the gentleman from Vermont, [Mr. MORRILL,] who asked the privilege of saying a word; and I understood that the gentleman would renew the motion. I never gave up the floor to the gentleman from New York.

Mr. CONKLING. That is a very roundabout answer to my question. My point is this: I arose to address the Chair, and was recognized. The point was made that——

Mr. BLAINE. I have not yielded the floor.

Mr. CONKLING. I rise to a point of order.

Mr. BLAINE. I call the gentleman from New York to order.

The CHAIRMAN. The gentleman from Maine is not in order; the gentleman from New York is recognized.

Mr. CONKLING. My point of order is, that I was recognized by the Chair.

The CHAIRMAN. The point was made by the gentleman from Pennsylvania, [Mr. STEVENS,] that the motion to strike out the enacting clause was not debatable. It was then announced that the motion was withdrawn, and

the Chair then recognized the gentleman from New York, [Mr. CONKLING.]

Mr. BLAINE. If the gentleman from New York was recognized, how could I withdraw the motion? I had not the floor in that case to withdraw it. The very purpose of withdrawing it was an admission that I was entitled to the floor and that I held it.

The CHAIRMAN. The gentleman from New York was in order as the Chair understood the gentleman from Maine moved to strike out the enacting clause, and the gentleman from New York rose and was recognized.

Mr. BLAINE. He was interrupting me within my time.

The CHAIRMAN. Let the Chair proceed without interruption. The gentleman from Pennsylvania [Mr. STEVENS] suggested that the motion was not debatable, and the Chair sustained the point. The gentleman from Maine then withdrew his motion; the gentleman from New York was recognized by the Chair. He has a right to proceed in order.

Mr. CONKLING. Now, if I may be allowed to make a remark, I will proceed with what I was going to say.

The CHAIRMAN. There is no amendment pending.

Mr. CONKLING. I move, then, to strike out the last word of the section or paragraph that we are considering.

Mr. SCHENCK. I have not yet withdrawn that "broom" of mine. [Laughter.] I will take it out now so as to give the gentleman an opportunity.

Mr. CONKLING. I renew that motion, and perhaps that is a logical way to enable me to say what I propose to say, for I am coming near to an agreement with the gentleman from Ohio. I suppose it is a very fair question, to say the least, whether, as this reciprocity treaty is expiring, and before it has expired, it is worth while at all for this Congress to adopt any legislation as a substitute. I am very frank to admit that with me it has been a very grave question all the time.

Undoubtedly the country did expect and this House did expect from the Committee of Ways and Means a proposition of some sort to take the place of this treaty. But gentlemen, and especially the distinguished gentleman from Pennsylvania, [Mr. STEVENS,] who is looking very sharply at me at this time, have quite mistaken some members of the committee at least if they suppose they are partisans for anything to take the place of the reciprocity treaty. On the contrary, speaking for myself alone, I admit that I have been very much inclined to the idea suggested by the gentleman from Ohio, that if this treaty should expire, a short time at least should elapse, to the end that we might try absolute free trade, we should all be the wiser, and the country would be the wiser, as to the substitute we ought to have.

I say, therefore, speaking not at all for the committee, but for myself alone, that if any member chooses to submit a motion either to strike out the enacting clause, or any other motion deciding the fate of this bill, I think the committee ought to vote upon it without considering it disrespectful to the Committee of Ways and Means or anybody else. If it is true that the better opinion, in the judgment of the House, is that we ought not to have, as the gentleman from Ohio says, any special tariff in regard to these Provinces, let the House say so at once. I think the Committee of Ways and Means should disclaim all feeling which would stand in the way of an expression of opinion on the part of the House on this subject. For one I am ready to vote upon such a motion, and I think the whole of the Committee of Ways and Means is, and I shall be very glad if the gentleman from Pennsylvania, [Mr. STEVENS,] or anybody else, will make any motion which will fairly test the sense of the House upon this bill; and if that sense is adverse to it, let us abandon it, because certainly we are not improving the bill as we go on, and it is not gathering strength.

Mr. MORRILL. Let me say that so far as I am concerned, I am entirely indifferent as to what the committee shall decide to do with this bill; but before the committee shall vote upon it, I desire to call the attention of the committee to the bill itself, for by the remarks of the gentleman from Ohio, [Mr. SCHENCK,] and by the remarks of my colleague on the Committee of Ways and Means, [Mr. CONKLING,] I perceive that there is a wide, a very wide difference of opinion as to the scope of the bill.

We have already passed upon the first section of the bill, and that, as I said before, when the bill was first under discussion, is the only portion of it which relates to any reciprocal legislation with Canada, except the last portion of the bill, where we obtain favors exclusively from them. All the rest of the bill is general legislation, applicable to the whole country.

And now, if we shall defeat this bill, I say to gentlemen they have got these same provisions item by item to go through with in the general tariff bill, and all the labor we have expended on this bill will be lost.

I appeal, therefore, to the committee that they shall not lose the labor already bestowed, and which we will inevitably have to go through with again when the same subject comes up. I do not object to any amount of duty which may be put on any article in this bill, as the duty has already been raised on many articles, and it applies as much to France, Germany, and South America as to the Provinces. It is an utter mistake to suppose that this bill is a reciprocity treaty, or is to take the place of that treaty. But it has become necessary to legislate upon this subject in consequence of the approaching termination of the treaty, which includes many articles which have been greatly neglected for the last ten years, and the provisions in regard to them will remain as they are unless we pass this bill.

For instance, until we can get up a tariff, all animals will come in free, and so will various other articles. The duty on lumber is anomalous, being as much on planed as on rough lumber. And yet when we come to the latter part of the bill we come to sections by which provision is made to give the Provinces the free navigation of Lake Michigan, provided we have in return the navigation of the St. Lawrence and their canals. We propose to let them transport their articles across our territory if they will let our western people take their products across Canadian territory. I conceive that these are important provisions, and I hope the committee will not ignore them in any caprice.

Mr. CONKLING. I withdraw my amendment to the amendment.

Mr. STEVENS. I renew the amendment to the amendment for the purpose of saying a word or two on this bill. I want to say, what has been better said by the gentleman from Ohio [Mr. SCHENCK] than I can say it, that I believe no special tariff ought ever to be enacted in this country. That which is for one country should be for all; that which is for one portion of this country should be for all portions of it.

Now, if we pass no bill of this kind at all, what will be the result? The general tariff which now exists, and which on account of the reciprocity treaty did not apply to Canada, will apply to all countries alike. We will not be left without a tariff, but the old reciprocity treaty will be supplied by our general tariff.

Now, this bill undertakes to reduce our general tariff in order that we may favor Canada. It is said if this bill is not passed their cattle will come in free. How long will it take the Committee of Ways and Means to prepare a tariff that will remedy that evil? It may take them a month we will say. In the mean time our friend from the Chicago district [Mr. WENTWORTH] has introduced a bill which passed, under which cattle cannot be introduced here from any country until we repeal that bill. No live stock can be brought in under that bill.

Mr. MORRILL. If my friend from Pennsylvania [Mr. STEVENS] will allow me, I will say that the Secretary of the Treasury has suspended the operations of that bill, and cattle are now admitted free from Canada.

Mr. STEVENS. How could he do that?

Mr. MORRILL. Under a second bill passed in the morning hour some days ago.

Mr. STEVENS. It must have been passed some morning quite early before I got here.

Mr. CONKLING. If I am not mistaken, the gentleman from Pennsylvania [Mr. STEVENS] himself voted for that bill.

Mr. STEVENS. Perhaps I did.

Mr. MORRILL. This bill as now amended gives, I believe, as high a tariff upon these articles, and upon most of them higher, than now exists.

Mr. STEVENS. Then why should we pass these special tariffs? Why should we have one for a town in Nova Scotia, another for a township in New Brunswick, and another for a place way down by Breakwater, I do not know where? What kind of statesmanship is that which would cut up into a hundred different bills what might be in one general tariff bill? A tariff which embraces Pennsylvania should be the same for the West, for New England as well as for the rest of the country.

I promised my friend on my left here [Mr. BLAINE] that I would renew his motion to strike out the enacting words of this bill, in order that this matter may be fairly tested. If this committee wishes a special tariff, then they can vote down that motion. If they want a general tariff, and are willing to wait until the gentleman from Vermont [Mr. MORRILL] and his committee can prepare one, then they will vote for the motion. The gentleman from Vermont says some of the last sections of this bill are very important, and if this bill is not passed they will be lost. Why, sir, if he will only take his scissors and cut them out and put them in another bill, they will not be lost. [Laughter.]

Upon the motion to strike out the enacting words of the bill, upon a division there were—ayes 56, noes 42.

Before the result was announced,

Mr. MORRILL demanded tellers.

Tellers were ordered; and Messrs. MORRILL and SPALDING were appointed.

The committee again divided; and the tellers reported—ayes 63, noes 37.

So the motion to strike out the enacting words of the bill was agreed to.

Mr. HILL moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. INGERSOLL reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and particularly House bill No. 337, regulating trade with the British North American possessions, and had directed him to recommend to the House to strike out the enacting words of the bill.

Mr. STEVENS. I call the previous question upon concurring in the recommendation of the Committee of the Whole.

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

Mr. MORRILL. I call for the yeas and nays upon striking out the enacting words.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 76, nays 52, not voting 55; as follows:

YEAS—Messrs. James M. Ashley, Bidwell, Bingham, Blaine, Brandegee, Broomall, Buckland, Bundy, Chanler, Coffroth, Darling, Dawson, Delano, Deming, Denison, Donnelly, Eldridge, Ferry, Hayes, Henderson, Higby, Hill, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell, Julian, Kelley, Kelso, Ketcham, Kuykendall, Latham, George V. Lawrence, William Lawrence, Le Blond, Loan, Longyear, McClurg, McRuer, Mercur, Miller, Moorhead, Moulton, Myers, Newell, Nicholson, Orth, Paine, Perham, Phelps, Plants, Price, Radford, Samuel J. Randall, Alexander H. Rice, Ritter, Rogers, Sawyer, Schenck, Shellabarger, Sitgreaves, Spalding, Starr, Stevens, Taber, Thayer, Francis Thomas, Trimble, Trowbridge, Van Aernam, Elihu B. Washburne, Welker, Wentworth, Stephen F. Wilson, Windom, and Winfield—76.

NAYS—Messrs. Alley, Allison, Ames, Ancona, Anderson, Baker, Baldwin, Banks, Baxter, Beaman, Bergen, Boutwell, Brooks, Cobb, Conkling, Cook, Cullom, Dawes, Defrees, Dixon, Eliot, Farnsworth, Garfield, Aaron Harding, Abner C. Harding, Harris, Hogan, Holmes, Hooper, Asahel W. Hubbard, Hulburd, Ingersoll, Jenckes, Laflin, Lynch, Marshall,

Marston, Marvin, Morrill, Morris, Pike, Ross, Rousseau, Shanklin, Sloan, Taylor, Thornton, Upson, Burt Van Horn, William B. Washburn, James F. Wilson, and Woodbridge—52.

NOT VOTING—Messrs. Delos R. Ashley, Barker, Benjamin, Blow, Boyer, Bromwell, Reader W. Clarke, Sidney Clarke, Culver, Davis, Driggs, Dumont, Eckley, Eggleston, Farquhar, Finck, Glossbrenner, Goodyear, Grider, Grinnell, Griswold, Hale, Hart, Hotchkiss, James R. Hubbell, James Humphrey, James M. Humphrey, Johnson, Jones, Kasson, Kerr, McCullough, McIndoe, McKee, Niblack, Noell, O'Neill, Patterson, Pomeroy, William H. Randall, Raymond, John H. Rice, Rollins, Scofield, Smith, Stilwell, Strouse, John L. Thomas, Robert T. Van Horn, Ward, Warner, Henry D. Washburn, Whaley, Williams, and Wright—55.

So the enacting clause of the bill was stricken out.

During the call of the roll,

Mr. MYERS stated that Mr. O'NEILL had paired with Mr. JONES.

Mr. SCOFIELD announced that he had paired with Mr. PATTERSON.

Mr. ANCONA stated that Mr. JOHNSON was detained from the House by sickness.

Mr. HILL announced that Mr. STILWELL was confined at home by sickness.

The result of the vote was announced as above stated.

Mr. STEVENS moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PRINTING OF TESTIMONY.

Mr. SCHENCK. I ask unanimous consent to submit the following resolution:

Resolved, That the Committee on Printing be instructed to inquire into the expediency of printing twenty thousand copies each of the reports and testimony taken by the select committee on reconstruction, and to report by resolution or otherwise.

Mr. ROSS. I object.

Mr. SCHENCK. I anticipated an objection. I move to suspend the rules to allow the introduction and reference of the resolution.

Mr. ROSS. I demand the regular order.

The SPEAKER. This being Monday, a motion to suspend the rules is in order when no other business is before the House.

Mr. LE BLOND. I demand the yeas and nays on the motion to suspend the rules.

The yeas and nays were ordered.

The question was taken; and there were—yeas 93, nays 27, not voting 63; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Baker, Baldwin, Banks, Beaman, Bidwell, Bingham, Blaine, Boutwell, Broomall, Buckland, Bundy, Cobb, Conkling, Cook, Cullom, Darling, Dawes, Delano, Deming, Dixon, Donnelly, Eliot, Farnsworth, Ferry, Garfield, Grinnell, Abner C. Harding, Harris, Hayes, Henderson, Higby, Hill, Holmes, Hooper, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Hulburd, Ingersoll, Jenckes, Julian, Kelley, Ketchum, Kuykendall, Laflin, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, Marvin, McClurg, McRuer, Mercur, Miller, Moorhead, Morrill, Morris, Moulton, Myers, Newell, Orth, Paine, Perham, Plants, Price, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Spalding, Starr, Stevens, Thayer, Francis Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Warner, Elihu B. Washburne, William B. Washburn, Welker, James F. Wilson, Windom, and Woodbridge—93.

NAYS—Messrs. Ancona, Bergen, Boyer, Brooks, Chanler, Coffroth, Dawson, Denison, Eldridge, Aaron Harding, Hogan, Edwin N. Hubbell, Latham, Le Blond, Marshall, Radford, Samuel J. Randall, Ritter, Rogers, Ross, Rousseau, Shanklin, Sitgreaves, Taber, Taylor, Trimble, and Winfield—27.

NOT VOTING—Messrs. Delos R. Ashley, James M. Ashley, Barker, Baxter, Benjamin, Blow, Brandegee, Bromwell, Reader W. Clarke, Sidney Clarke, Culver, Davis, Defrees, Driggs, Dumont, Eckley, Eggleston, Farquhar, Finck, Glossbrenner, Goodyear, Grider, Griswold, Hale, Hart, Hotchkiss, James R. Hubbell, James Humphrey, James M. Humphrey, Johnson, Jones, Kasson, Kelso, Kerr, McCullough, McIndoe, McKee, Niblack, Nicholson, Noell, O'Neill, Patterson, Phelps, Pike, Pomeroy, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Rollins, Smith, Stilwell, Strouse, John L. Thomas, Thornton, Robert T. Van Horn, Ward, Henry D. Washburn, Wentworth, Whaley, Williams, Stephen F. Wilson, and Wright—63.

So (two thirds voting in favor thereof) the rules were suspended; and the resolution was received and referred, under the rule, to the Committee on Printing.

During the call of the roll,

Mr. HILL said: My colleagues, Mr. WASHBURN, and Mr. NIBLACK, absent on leave, have paired on this and all other questions of a similar character.

Mr. THORNTON said: On questions of this character I have paired with Mr. BARKER until next Wednesday.

The result was announced as above stated.

Mr. SCHENCK moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

FORTIFICATION BILL.

Mr. STEVENS. I desire to have acted upon this evening House bill No. 225, making appropriations for the construction, preservation, and repairs of certain fortifications and other works of defense for the year ending June 30, 1867. I do not think it will take more than half an hour. Possibly the House will agree to consider it in the House under the five minutes' rule.

Mr. CHANLER. I object to that.

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

The motion was agreed to; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. WILSON, of Iowa, in the chair,) and proceeded to the consideration of the special order, being House bill No. 225, making appropriations for the construction, preservation, and repairs of certain fortifications and other works of defense for the year ending the 30th of June, 1867.

Mr. STEVENS moved that the first reading of the bill, for information, be dispensed with.

The motion was agreed to.

Mr. ROSS moved that the committee rise.

The motion was disagreed to.

The Clerk read, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and they are hereby, appropriated out of any money in the Treasury not otherwise appropriated, for the construction, preservation, and repairs of certain fortifications and other works of defense for the year ending the 30th of June, 1867:

For Fort Wayne, near Detroit, Michigan, $50,000.

Mr. FARNSWORTH. I move to reduce the appropriation to $25,000.

The committee will observe by looking through this bill that there are appropriations of $50,000 for different forts and fortifications, and other appropriations, some larger and some smaller. This is simply a transcript of the estimates of General Delafield. Now, I am not prepared to vote for all these items of appropriation unless some good reason be given for them. I believe one half will be sufficient, and as much as we ought to tax our constituents to pay. I think we can, as a general thing, reduce these about one half, without detriment to the public service and with advantage to the country.

Mr. STEVENS. I think we ought to consider well before we reduce the estimates. It will be recollected these fortifications are being put into condition to mount the new guns upon them. The old guns are being thrown away, and new guns are being put in their place. It may be those having charge of this matter have overestimated, but the Committee on Appropriations had no means of knowing that they have been extravagant. Therefore, having no means of knowing it, we had no means to report on it.

I will say these are appropriations said by the proper Department to be necessary for the ensuing year to put these fortifications into condition, such as I have stated. As I do not propose to occupy the time of the House hereafter, I have made this general statement.

Mr. BROOKS. I agree fully in the remarks of the gentleman from Illinois, [Mr. FARNSWORTH,] that in a time like this, when our taxes are so enormous we ought to hesitate a great deal before we go into a great expenditure for fortifications. I speak as a man from the seacoast, representing a large commercial district, more interested in having the coast fortified than those in the interior; but it does seem to me, looking at our heavy expenditures and taxes and the condition of the country, which at this time is not alarming, we ought not to go into these appropriations for fortifications unless they are necessary. The chairman of the Committee on Appropriations does not undertake to defend the bill from any knowledge of his own, but we have the mere assertion that such are the estimates from the proper Department.

Military men, it is well known, are in favor of large appropriations as the Treasury will admit, and oftentimes larger; and I do not wish to go further with these appropriations without some examination on the part of the Committee on Appropriations, and some evidence that they are necessary, more particularly, I repeat, taxed as we are and as we are likely to be. It is indispensable, if we have any regard for the suffering people in a time like this, to hesitate in our appropriations. The science of fortification is constantly changing, and we know changes are constantly taking place in reference to artillery. We do not know whether these are to be earthworks or stoneworks. As I understand these appropriations, they are for the construction, enlargement, or completion of granite or stone fortifications.

Mr. STEVENS. They are a mere change for the purpose of mounting the new artillery.

Mr. FARNSWORTH. I do not understand that new artillery is to be put upon them.

Mr. STEVENS. I have so understood. I understood they were mainly to be used for that purpose.

Mr. WASHBURNE, of Illinois. Mr. Chairman, it appears by the reading of the bill these appropriations are for the construction, preservation, and repair of certain fortifications, and not for mounting guns. Now, sir, I do not think there is any pressing necessity for pushing this work with any great rapidity at the present time.

The present high prices of material and labor, I think, should have their effect upon the House. We all hope the time will soon come when this work can be done for a much smaller sum than it would now cost. I agree fully with what has been said by my colleague [Mr. FARNSWORTH] and the gentleman from New York, [Mr. BROOKS,] that we should make as small appropriations as possible. I think we could get along with fifty per cent. of this amount, reducing the appropriation to that extent.

Mr. BROOKS. I wish the gentleman would make a proposition of that sort for, say five hundred thousand dollars or three hundred thousand dollars, to be appropriated for the maintenance and repair of fortifications generally, under the direction of the Secretary of War. I would not wish to have these fortifications go to ruin, or to have them neglected, only to be kept in order in their existing state.

Mr. STEVENS. The committee struck out $125,000 yesterday. If any gentleman chooses to make a motion, although not strictly in order, I think it would be entertained, that each of these appropriations should be reduced fifty per cent., he will find no objections from the Committee of Ways and Means.

Mr. BINGHAM. I make that motion.

Mr. WASHBURNE, of Illinois. I think the Committee of the Whole will agree to that.

Mr. BEAMAN. I have a single remark to make. I have no means of knowing precisely what is needed to be done nor how much money it may take to put this fort in proper condition, but I desire to call the attention of the committee to this fact, that this fort is within half a mile of what may very soon be an enemy's country. The relations between this country and England have been for some time on rather an unpleasant footing, and as we are in such close proximity with British territory I hope the committee will take this fact into consideration before they reduce the appropriation.

Mr. BIDWELL. I am in favor of every effort made here tending to economy in the expenditure of the public money, but I do hope whatever reduction may be made in this bill generally, that it will not be applied to the Pacific coast. You will all bear me out that that

is an important part of this Republic. We are separated from you by a space measuring thousands of miles. We have no roads across the continent to connect us with the Atlantic seaboard. We are liable every year, I might say every month, to become embroiled with foreign Powers, and should we get in difficulty with any of them it certainly will be with the grand maritime Powers that have vast navies. The safety of our coast depends upon finishing the fortifications already begun. I hope, therefore, in carrying out these principles of economy, which I so fully reciprocate, the Pacific coast will be remembered.

Mr. RANDALL, of Pennsylvania. I desire to suggest to the gentleman from Pennsylvania [Mr. STEVENS] such an amendment as this. In the aggregate I find the appropriations in this bill amount to about a million and a half dollars. Now, if the gentleman will move or accept an amendment appropriating in general $500,000, and leaving it discretionary with the War Department where that money shall be expended, it could then be used upon such forts as urgently require repairs. Some of these forts, I have reason to believe, now need no repairs, and will not in all probability need them for twelve months to come; so that we can have economy exercised in the appropriations, and at the same time none of the fortifications will suffer.

As to the probability of foreign war, I have only to say that I think the time has gone by when that argument should have any weight in this House.

Mr. TROWBRIDGE. I wish to say a word in opposition to the theory advanced by the gentleman from Pennsylvania, [Mr. RANDALL,] that these appropriations should be expended at the discretion of the Department. I think that is most highly objectionable. We then at once advertise to the large sea-board stations, which can immediately approach the Department with such influences as are generally successful in such cases, and the cities of Philadelphia, New York, Boston, and other places on the Atlantic coast get the money expended, while the West is neglected, because we cannot and will not make such representations in regard to our needs as can be made from other quarters.

With regard to this fortification, for which this particular appropriation is made, I believe it is the only one in the whole stretch of country from lake Ontario to Chicago. It is the only fort that protects that vast extent of river front at least over the whole border of Michigan; and it seems to me that in view of the troubles that are now agitating our neighbors across that border we should be careful to guard that locality. We do not know the extent of the Fenian organization that creates so much excitement there just now. It seems to me that if $50,000 were appropriated to that river at some point along the seventy or eighty miles where resistance can be made to an aggressive force, it would not be misappropriated.

I therefore oppose the motion to reduce the appropriation, especially in regard to this particular work, and it seems to me that the old maxim, "in peace prepare for war" is a good one, and one which we may well remember.

Mr. SPALDING. As a member of the Committee on Appropriations, I desire to say that I feel satisfied to reduce each one of these items fifty per cent., but I shall object to making the reduction in the matter of the appropriation for Detroit, unless it is to be followed by the same reduction in the other appropriations. I want all to be treated in the same way; and I can see no difficulty that would arise from this course. There have been appropriations made for the fort at Detroit before this, and there will be appropriations made for it after this. They cannot expend more than $25,000 probably to advantage during the next twelve months, and so with other fortifications.

Mr. WASHBURNE, of Illinois. Let us agree to reduce them all.

Mr. SPALDING. Let us agree to reduce all the appropriations fifty per cent. That will give them all they can probably use to advantage in one year, and we shall reduce the amount we have to pay at this time.

Mr. McRUER. I hope that will not be agreed to. It seems to me that it is very strange legislation to take up a bill of this character and reduce the amounts fifty per cent. upon everything.

Now, for instance, in this bill there are certain amounts appropriated for sea-walls, other sums are appropriated for repairs, and other sums are necessary for construction. I think it is wise to take up these various provisions and decide upon each one upon its own merits.

Now, I speak for the Pacific coast, and I see that in this bill there is about $200,000 appropriated to defend the harbor of San Francisco. That is the only fortification upon the two thousand miles of the Pacific coast; it is the only vulnerable point; and if we have a foreign war it will cut off at once communication with the Pacific, and then it may be very difficult to make these repairs; it may be very essential to send from the Atlantic materials in order to complete the fortifications already begun there.

Sir, I hope that an amendment to reduce the whole bill fifty per cent., without any regard to the necessities of each case, will not pass.

Mr. SCHENCK. I do not wish to interpose any very serious objection to what seems to be an almost foregone conclusion with members of the House, that the proper way to deal with a fortification bill is to cut down each item fifty per cent. I only wish to call the attention of the committee to the fact that nobody here knows any reason why fifty per cent. any more than sixty or twenty-five per cent., or any other percentage whatever, should be the measure of reduction.

Now, this bill comes to us from the Committee on Appropriations precisely as every other fortification bill has come to us in all former years. Gentlemen have complained that the Committee on Appropriations have not informed themselves in regard to the character of the work, whether it is granite, or brick, or earthwork, and what kind of guns are to be mounted.

Mr. SPALDING. The items in the bill are in accordance with the estimates sent in.

Mr. SCHENCK. I was about to speak of that. That is all the committee know about it, and all I know about it. I do not think my venerable friend from Pennsylvania [Mr. STEVENS] is exactly in a condition to go off, even if we were to adjourn over from Fridays to Mondays, to Florida and Georgia, to California and Michigan, and to different points in New York and Massachusetts and Maine, to inspect these works and make his own estimates; and it is not improbable that his engineering knowledge, having grown rusty while he has been legislating so wisely and so well for the country, might be at fault in making the necessary estimates for these several works. The truth is, as in every other case and in every former year, the War Department, through its proper officials charged with this duty, has made estimates for what is necessary for the continuation of these several works; and I may make this additional remark, that it has been thought advisable by the Government, through the persons representing the War Department, to ask for such appropriations as will put all the several works of this class, at all the different points of defense along our coasts, in such a condition as to be prepared for all possible contingencies.

Mr. WASHBURNE, of Illinois. I would ask the gentleman if in the last Congress the Senate did not cut down the appropriations in the fortification bill fifty per cent., and if the House did not concur in that action.

Mr. SCHENCK. I do not know whether they did or did not, but I suppose the gentleman does not give that as a reason for moving to cut down any appropriation. I merely wish to call the attention of the committee to the fact that they are disposed to go it blind; that in the face of the estimates made by the proper Department which is informed upon the subject, based upon reports in reference to the condition of each of these several points of defense, it is proposed to cut them all down by a certain scale of reduction.

Now, it may be wise, or it may be unwise, exceedingly unwise to do so. I can imagine where a fort may be in process of construction, and those in charge may be disposed by every motive of economy to hurry its completion, and to that end it may be wise to expend $25,000, or $50,000 or $60,000, more or less, in any one year. I can imagine where a fort may be in such a condition that to appropriate half the sum asked for and needed might put it in such a condition to undergo damage and dilapidation, that you would need as much more to bring it up to its former condition when the end of the year comes around.

I wish to call the attention of the committee to the fact that this bill is based upon estimates made by those who alone are bound to take all the responsibility, who alone have all the knowledge of the subject required. I admit this bill makes a large appropriation, but no larger appropriations than former ones did, and I do not know at this particular time, when we are just coming out of the struggle in which we have been engaged for the last four or five years, no matter how much we may desire economy, whether it may be wise to exercise it just here, when we know not what a year or less may bring forth in our relations to other countries, or even with our immediate neighbor.

According to the estimates of the Department, the whole amount of appropriations asked for in this bill was $1,635,000. The committee have cut off $225,000, not by reducing the appropriations asked for in any one case, because knowing nothing about the estimates the committee took them as they received them. But they have cut out altogether the appropriation recommended for the fort at Tortugas, another for a fort in Florida, and another for a fort in California. This made a reduction of some two or three hundred thousand dollars. And then, for some reason best known to themselves, they have added $100,000 to the amount asked for the survey of the northern lakes. The Department says that $50,000 is as much, with the facilities at their command, as they can expend in any one year for that purpose. Perhaps the committee thought it would be good policy, and I have no doubt it would be with us in the West and the Northwest, to add $100,000 to that appropriation, although it was not asked for by the Government, for the Government, represented by the War Department, say that $50,000 is all they can expend in one year to advantage. This difference, therefore, between the estimates made by the War Department and the appropriations in the bill presented here, are all contained in these four items: the addition to the lake survey appropriation, and the three items dropped out altogether, for reasons best known to the committee. The War Department protests against leaving out those items, for I have a communication here showing the great importance of at least two of those works, the one in California and the other at Tortugas. As to all the rest of the items, the committee did just what they felt themselves constrained to do; they took the estimates made by that branch of the Government which is responsible for them, and bound to take care of the appropriations made upon their estimates.

I have made these general remarks because, wisely or unwisely, I hold it to be not a very statesmanlike course of proceeding to take up an appropriation bill and determine that it shall be scaled down twenty or thirty or fifty per cent. in order to arrive at the right amount to be appropriated.

I will make one additional remark. This is no new principle of statesmanship. I remember (I will not say how many years ago, but twenty at least,) when the House of Representatives had a Committee of Ways and Means with a chairman who was noted for his peculiar idea of economy. That idea consisted in cutting down every estimate twenty per cent.;

and when he had done that upon each several items of appropriation based upon the estimates of the Government, he felt he had accomplished a great mark in the protection of the public Treasury. The result was that they came to understand his plan at the Executive Departments, and for some two or three years it was pretty generally ascertained that they made their estimates twenty per cent. beyond what they really wanted; and our chairman of the Committee of Ways and Means did what he felt to be his duty, cut down the appropriations twenty per cent., the Departments got what they wanted, and all parties were satisfied.

Mr. STEVENS. In regard to the appropriation for the survey of the northern lakes, I know it is printed in the bill $150,000; but I have it marked so that when the proper time arrives I shall move to strike out $100,000, and leave it according to the estimate.

I do not know that much more need be said upon this subject. As for a knowledge of all these things, it seems to be expected that the Committee on Appropriations will know all about them. We felt very well disposed to examine all of them, go over them all, working week days and on Sundays. But upon examination we found that we could not go around and examine into all of them, and we were therefore obliged to confine our examination to about half of them. As we have not had time to examine even those, we have to take the testimony of persons who have examined them. If, however, it is thought best to put off this whole business till next summer, it will give me great pleasure to visit all these places except the southern forts, which we have struck out, because we did not know whether any of us could get down there to examine them. [Laughter.]

For the purpose of closing general debate, I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. WILSON, of Iowa, reported that the Committee of the Whole on the state of the Union having had under consideration the Union generally, and particularly the bill (H. R. No. 255) making appropriations for the construction, preservation, and repairs of certain fortifications and other works of defense for the year ending June 30, 1867, had come to no resolution thereon.

Mr. STEVENS. I move that when the House again resolve into the Committee of the Whole on the state of the Union on this bill, all general debate terminate in one half minute.

The motion was agreed to.

Mr. STEVENS. I move that the House again resolve itself into the Committee of the Whole on the state of the Union, and resume the consideration of the fortification appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. WILSON, of Iowa, in the chair,) and resumed the consideration of the bill (H. R. No. 255) making appropriations for the construction, preservation, and repairs of certain fortifications and other works of defense for the year ending June 30, 1867.

Mr. FARNSWORTH. I move to amend the amendment by making it read $20,000.

I desire to say a word in reply to the criticism of the gentleman from Ohio [Mr. SCHENCK] in regard to the practice of reducing estimates. The truth is that the Committee of the Whole knows just as much about this matter as the Committee on Appropriations did. We had simply the estimates which were sent down to us from General Delafield, the head of the engineer department. General Delafield has not examined these fortifications personally; he has made up his estimates from the estimate of some subordinate, who has followed the report of some still lower subordinate.

Now, we find that in the case of Fort Wayne, Congress appropriated last year $75,000 for the purpose of putting it in repair. How much was appropriated the year before I do not know. We find, too, curiously enough, that the officers having charge of the expenditure of this money always managed to use up all these appropriations. It is a singular fact, also, that so large a number of these fortifications should each require the precise sum of $50,000 to put them in repair. You will find that the appropriation proposed for Fort Wayne is $50,000, for Fort Ontario, $50,000; for Fort Montgomery, $50,000; for Fort Georges, $50,000, &c. By examination, it will be seen that all the appropriations are in round, even numbers. Sir, it is evident that these estimates are simply guesswork on the part of the officers who propose them. They guess that they can use up $50,000 at each one of these forts; and if you appropriate the money, they will be sure to expend it.

Now, if the country were prosperous and our Treasury overflowing, it might be well enough to ornament these fortifications, to lay out elaborate walks, plant trees, &c.

Mr. STEVENS. If the gentleman will permit me to interrupt him, I will state that last year the estimates were $6,540,000; this year the estimates are $1,635,000.

Mr. FARNSWORTH. Yes, sir; but last year other fortifications were included. It will be found, too, that in several cases the estimates this year are largely increased. For Portsmouth the amount this year is $25,000 or more in excess of what it was last year. If any of the work has been battered down, if any part of the works have been destroyed by the natural wear and tear of the weather upon them, these appropriations are only asked to put them in sufficient repair for preservation.

[Here the hammer fell.]

Mr. LYNCH. I understand that most of these appropriations are not for the repair of fortifications, but for completing and remodeling them. I know such is the case with the fortification at Portsmouth. It is also true in reference to the fortification at Portland. One is a new fortification and the other is an old earthwork which is being rebuilt. The appropriations we have before the House now are not meant to complete the fortifications, as there will have to be other appropriations hereafter, but these amounts are necessary to carry on the work for the present year.

I agree with the gentleman from Ohio in this matter, that if we make small appropriations the money will be practically thrown away. If we make the appropriations so small as not to be sufficient for the entire year, the work will have to be abandoned when the appropriation has been exhausted, and the Government must necessarily suffer some loss by the consequent neglect. If we appropriate sufficient for the work during the year, we will have the advantage of all the work that is done.

I do not know what is the amount necessary for these fortifications, but I presume the Department does know, and that these estimates are made with that knowledge. We are told this is the amount which can be expended advantageously during the present year, and I hope they will be agreed to.

Mr. FARNSWORTH. I withdraw my amendment.

Mr. CHANLER. I renew it.

Mr. Chairman, it strikes me that the gentlemen who have supported the able chairman who presides over the Committee on Appropriations with such blind adherence in opposing the policy of the Administration, are doing a heedless thing in removing their support from him at this moment, however blind he may be, or however ignorant he may be in regard to this matter. It is the rule by which he has regulated the action of this House for the last two years. I cannot understand why this special fever of economy afflicts them now when they have followed his lead in forcing odious measures upon the South more disastrous to the country and more costly to the Treasury than any repairs of fortifications can be.

These fortifications are essential for our defense against a foreign enemy. If gentlemen anticipate war with the southern States still out of the Union, we must keep ourselves protected. I will say, without entering at large into the argument, that the people of the city of New York—and if these gentleman are ignorant of the fact they can soon learn it from the best military and naval authorities of the country—I say that the people of the city of New York know that the property of the country depends upon the defense of that city.

With the present vast improvements in offensive warfare, we are told that the Narrows can be forced, unless they are defended by improved and stronger fortifications. Such is the opinion of those who are capable of judging, and who have called upon the Administration to examine into this question. Now, if for the mere saving of a million and a half dollars we have to run the risk of being defenseless, even with the most remote possibility of a foreign war, we will not be true to our trust.

We are already trembling in the scales from the policy pursued not only at home but abroad. We may call down upon us at any time the arms of foreign Powers. I have no objection to the northern lakes being explored and surveyed. I am willing that $150,000 should be appropriated for that purpose; but it strikes me as a pigmy economy that gentlemen on the other side should withdraw their support from the able chairman of the Committee on Appropriations who amused them so much with his moon hoax on last Saturday. [Laughter.]

[Here the hammer fell.]

Mr. ROSS. I do not agree with my friend from New York that our safety against invasion from other countries depends upon our forts. It depends upon our capacity to defend ourselves. I think it is bad policy to be expending year after year millions of money on these fortifications. Experience during the last war has shown that forts can be thrown up in twenty-four hours sufficient for all purposes. We are continually taxing our constituents, placing heavy burdens on them to make appropriations for these forts, and I do not think they are necessary. I am willing to vote for all motions made to cut down these appropriations.

Sir, there is no danger of any Government attacking the United States. They all know the power and capacity of this Government to resist any attempt to infringe upon our rights. Year after year this same question comes up of appropriating from fifty to one hundred thousand dollars to keep these forts in repair. Millions of money have been expended for purposes of no utility to the people whatever.

We are to prepare for war in time of peace. According to the theory of the gentleman, we are to exhaust our resources and pile additional taxes and burdens upon the people for fear we are to get into war with somebody. Sir, there is no probability of any war. Who is going to attack the United States? What Power dare do it? It is a mere ruse for the purpose of getting money expended in particular vicinities. There is no necessity for it whatever, and I hope my colleague will continue cutting down these appropriations.

Mr. CHANLER. I withdraw the amendment.

Mr. BERGEN. I renew it. This warning, "In time of peace prepare for war," is a very proper one. Five years ago it was said there was no danger of secession or of rebellion, and the men who prophesied danger were scouted as false prophets or as men who could not read the times. Now gentlemen cry out, "There is no danger of foreign war." The gentleman who preceded me says that no nation dare attack us. Sir, there may be, and there is, danger of foreign war. Did not this House a few days ago vote in favor of a Mexican loan?

Several MEMBERS. No; not so.

Mr. BERGEN. It think it did, but whether it did or not we have Mexico on our borders,

and difficulties may occur with our neighbors at any time. And it has been the practice of all nations in time of peace to erect their fortifications and prepare for war. It is our policy and interest to do so now. Let us not therefore cut down these appropriations.

Mr. STEVENS. I believe I must rise to a question of order. Gentlemen should confine themselves to the merits of this particular amendment or we shall not get through till toward morning.

The CHAIRMAN. The Chair sustains the point of order. The gentleman will proceed in order.

Mr. BERGEN. I am speaking about all the fortifications. I say if the appropriations are not made the expenses will remain nearly the same. The engineers and other officers will have to be paid, and master laborers will be employed.

The CHAIRMAN. The gentleman must confine himself to the amendment to reduce the appropriation for Fort Wayne, near Detroit, from $25,000 to $20,000.

Mr. BERGEN. I was not aware that that was the exact position of the question or I would have put my argument in a different shape. I am really in favor of expending the whole amount which has been recommended by the committee.

Mr. WINFIELD. I am in favor of the amendment to reduce the appropriation for this particular fort. I do so under the impression that it is hardly fair to get these appropriation bills for large amounts through the House by appealing to the fears of the country in regard to the imminence of foreign war. I have no idea that the peace of the country is to be broken up or that we are to be involved in war with any nation at any point of time that renders action on appropriations such as this essential or important.

The CHAIRMAN. The gentleman will confine himself to the amendment now pending.

Mr. WINFIELD. It is said that we are assailable at this particular point, and that therefore it is essential that this amount should be appropriated to this particular fort. Now, I desire to say that neither at this point, nor at any other, in my judgment, is the peace of the country in danger at this time. And I have risen principally to dissent from the proposition that has been submitted by my colleague that we are in imminent danger of war in consequence of mismanagement in the administration of our foreign affairs. I enter my protest against that imputation. I claim that the extremest skill has been exercised in extricating the country from danger in that direction, which seemed some time since to threaten us. The management has not only been skillful, but it has been successful, and is continuing, in my judgment, to be so to this time. And if diplomatic skill in regard to our foreign affairs will save us from being embroiled in a foreign war, I think we may assure ourselves that we are entirely safe. I do not consider these large appropriations necessary on account of any want of skill in the management of our foreign relations. I therefore protest against the Treasury being depleted for any groundless fears which may be expressed or entertained in that regard.

The question was taken on the amendment offered by Mr. CHANLER, and it was disagreed to.

The question then recurring on the amendment of Mr. FARNSWORTH to strike out $50,000 and insert $25,000; no quorum voted.

Mr. SPALDING. I call for tellers.

Tellers were ordered; and the Chairman appointed Messrs. SPALDING, and WASHBURNE of Illinois.

The committee divided; and the tellers reported—ayes 29, noes 57, no quorum voting.

The roll was called, and the following members failed to answer to their names:

Messrs. Alley, Anderson, Delos R. Ashley, James M. Ashley, Baldwin, Barker, Benjamin, Bingham, Blow, Boutwell, Boyer, Brandegee, Bromwell, Buckland, Bundy, Reader W. Clarke, Cullom, Culver, Davis, Delano, Deming, Denison, Driggs, Dumont, Eckley, Eggleston, Farquhar, Finck, Garfield, Glossbrenner, Goodyear, Grider, Griswold, Hale, Aaron Harding, Harris, Hart, Hayes, Henderson, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, James R. Hubbell, Hulburd, James Humphrey, James M. Humphrey, Ingersoll, Johnson, Jones, Julian, Kasson, Kelley, Kerr, Knykendall, Latham, George V. Lawrence, William Lawrence, Marvin, McCullough, McIndoe, McKee, Miller, Moorhead, Moulton, Myers, Newell, Niblack, Nicholson, Nocll, O'Neill, Patterson, Pike, Plants, Pomeroy, William H. Randall, Raymond, John H. Rice, Ritter, Rogers, Rollins, Ross, Rousseau, Scofield, Shellabarger, Sitgreaves, Sloan, Smith, Stilwell, Strouse, Francis Thomas, John L. Thomas, Thornton, Van Aernam, Robert T. Van Horn, Ward, Henry D. Washburn, Whaley, Stephen F. Wilson, Windom, and Wright.

The committee then rose; and the Speaker having resumed the chair, Mr. WILSON, of Iowa, reported that the Committee of the Whole on the state of the Union had had under consideration the special order, being bill of the House No. 255, making appropriations for the construction, preservation, and repairs of certain fortifications and other works of defense for the year ending the 30th of June, 1867, and finding itself without a quorum, he had directed the roll to be called, and reported the names of the absentees to the House.

On motion of Mr. WASHBURNE, of Illinois, (at twenty minutes past ten o'clock p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to appropriate committees:

By Mr. ALLEY: The petition of the Amesbury and Salisbury Savings Bank, for reduction of taxes.

By Mr. ANCONA: The petition of Shaeffer & Co., manufacturers of agricultural implements, &c., at Fleetwood, Berks county, Pennsylvania, for relief from the excessive duplication of taxes on their manufactures.

Also, the memorial of A. Campbell & Co., with the names of their employés attached, for such legislation as will continue to said Campbell & Co., and other manufacturers, the enormous incomes they have enjoyed during the late war through class legislation, &c., and to the prejudice and at the expense of consumers generally.

By Mr. ASHLEY, of Ohio: The petition of the business men of Toledo, praying Congress for an appropriation for the improvement of the harbor at Toledo, Ohio.

Also, petitions from the business men and citizens of Huron and Ottawa counties and from northwestern Ohio, praying for the same improvement.

Also, the petition of the collector, postmaster, and business men of Toledo, Ohio, asking for an appropriation to complete and repair the custom-house at Toledo, Ohio.

By Mr. DELANO: The memorial of Archibald C. Crary, of Utica, New York, for relief and compensation as heir-at-law of revolutionary officer for revolutionary services.

Also, the petition of Isaac Stafford, and 80 others, citizens of Coshocton county, Ohio, praying Congress to increase the customs duty on foreign wools imported into the United States.

By Mr. DONNELLY: A memorial of the State of Minnesota, for a grant of lands to aid in the construction of the Hastings, Minnesota River, and Red River of the North railroad.

By Mr. ELIOT: The petition of the Fairhaven Institution for Savings, Massachusetts, praying for relief from certain taxes.

By Mr. FARNSWORTH: The petition of Thomas D. Robertson, and 65 others, business men of Rockford, Illinois, for the establishing a Bureau of Insurance.

By Mr. FERRY: The memorial of citizens of Antrim county, Michigan, praying that railroad grant lands reserved be restored to market.

By Mr. HENDERSON: Several petitions from the officers of the navy-yard at Mare Island, California, asking for an increase of pay.

By Mr. JENCKES: The petition of the People's Savings Bank, in Providence, Rhode Island, for amendment of internal revenue act.

By Mr. LAFLIN: The petition of 47 ladies, of Brochett's Bridge, Herkimer county, New York, in favor of universal suffrage.

Also, the petition of 74 citizens of Carthage, Jefferson county, New York, in favor of a reduction of taxes imposed by the internal revenue act and an increase of duties on imports.

By Mr. MERCUR: The petition of Thomas Beaver, and 15 others, citizens of Montour county, Pennsylvania, praying for such revision of the tariff laws as will protect domestic labor and invite the investment of capital in home manufactures.

By Mr. PAINE: The memorial of Chamber of Commerce of Milwaukee, relating to Niagara ship-canal.

By Mr. PIKE: The petition of N. T. Hill, and 150 others, of Bucksport, Maine, for such conditions to be put on the admission of the rebel States as shall punish treason with ineligibility to office, and reward loyalty with confidence and honor; and also for the abolition of all legal distinctions in those States on account of race or color.

By Mr. PLANTS: The petition of 360 citizens of Illinois, praying for such an amendment to the preamble to the Constitution of the United States as shall distinctly acknowledge "Almighty God as the source of all authority and power in civil governments, the Lord Jesus Christ, the Ruler among the nations, and His revealed will as the supreme authority therein."

By Mr. PRICE: The memorial of the Legislature of the State of Iowa, asking for the same aid in lands and Government bonds, to aid in the construction of the Iowa branch of the Pacific railroad and telegraph line as has been granted to the Kansas branch of said road.

Also, the petition of 78 Iowa soldiers, asking for an equalization of bounties.

By Mr. RICE, of Massachusetts: The petition of Roxanna Hastings, widow of Bernard Hastings, for a pension.

By Mr. SCHENCK: The petition of the central committee of the German Veteran Association of New York city, for the establishment of homes for sick and disabled soldiers.

Also, the petition of Ohio manufacturers, for a reduction of the tax on agricultural implements.

By Mr. SPALDING: The petition of many citizens of Ohio, for naval station at Cleveland, Ohio.

Also, the petition of G. H. Pleasance, and others, asking that licensed pilots on the lakes be relieved from certain onerous duties while in port.

By Mr. STEVENS: Petitions from C. Stouffer, A. H. Newman, and others, manufacturers of carriages, harvesters, &c., for a modification of the internal revenue law so as to relieve the excessive duplication of taxes which now bears so heavily upon that branch of industry.

By Mr. WELKER: The petition of Seth Goodwin, and 308 others, wool-growers of Hinckley, Sharon, and Litchfield townships, Medina county, Ohio, asking protection on wool.

By Mr. WINDOM: A memorial of the Legislature of the Territory of New Mexico, asking relief for Indian depredations committed in said Territory.

Also, a memorial of the Legislature of the State of Minnesota, for the establishment of a mail route from Wilton, in Wascca county, via Swan Lake, to Blue Earth City, in said State.

Also, the petition of W. S. McEwen, and 20 others, officers and soldiers of the State of Minnesota, asking that the soldiers who enlisted prior to the year 1865 shall receive the same bounties as those who enlisted during that year.

Also, a petition for the relief of Charles Werderwitsch, of Minnesota.

IN SENATE.

TUESDAY, *March* 13, 1866.

Prayer by Rev. ARTHUR BURTIS, D. D., of Buffalo, New York.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. SUMNER presented a petition of citizens of Massachusetts, praying for an amendment of the tariff so as to protect American labor to the extent of the difference of the cost of capital and labor here and abroad, with the addition of the taxes paid by our industrial products from which the foreign articles are free; which was referred to the Committee on Finance.

He also presented a petition signed by many authors and editors of the United States, praying for the passage of an international copyright law; which was referred to the Committee on Foreign Relations.

Mr. HENDERSON. I desire to present the proposition of Mr. Frederick Peck, who says that he has collected about two thousand plants in several States of the Union, and he proposes to donate the collection to the Government of the United States, to be deposited in the museum of the Department of Agriculture. It is a very valuable botanical collection, and should it be accepted it may form the nucleus, as he says, around which may be gathered in the future a botanical collection of all the plants of the United States. I present it, and ask that it be referred to the Committee on Agriculture.

It was so referred.

Mr. POMEROY presented a petition of citizens of western Kansas, praying for an appropriation to build a bridge over the Republican river, or for the abandonment of a portion of the Fort Riley reserve; which was referred to the Committee on Military Affairs and the Militia.

Mr. HARRIS presented the memorial of Salmon B. Colby, praying for compensation for wood destroyed near Forts Stevens and De Russy, by the fire of the Union troops in repelling the enemy during the rebel raid in July, 1864; which was referred to the Committee on Claims.

Mr. LANE, of Indiana, presented a memorial of the Indiana Soldiers' Association, in

favor of the enactment of a national militia law; which was referred to the Committee on Military Affairs and the Militia.

Mr. SHERMAN presented a petition of citizens of Guernsey county, Ohio, praying that a pension may be granted to Mrs. Amarilla Cook; which was referred to the Committee on Pensions.

Mr. KIRKWOOD presented a memorial of the Legislature of Iowa, in favor of a grant of lands to aid in the construction of the Iowa Central railroad; which was referred to the Committee on Public Lands.

Mr. MORRILL presented the memorial of Charles S. Ilsley, late a captain in the fifteenth Maine infantry, and subsequently a captain in the fifth New York heavy artillery, praying to be allowed the three months' pay proper authorized by the act of Congress, passed March 3, 1865; which was referred to the Committee on Claims.

REPORTS OF COMMITTEES.

Mr. DOOLITTLE, from the Committee on Foreign Relations, to whom was referred a bill (S. No. 68) to carry into effect the fourth article of the treaty of Washington, concluded between Great Britain and the United States on the 9th August, 1842, reported it without amendment, and submitted a report; which was ordered to be printed.

BILLS INTRODUCED.

Mr. WILLIAMS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 197) to amend an act entitled "An act for the admission of Oregon into the Union;" which was read twice by its title, referred to the Committee on Territories, and ordered to be printed.

Mr. SHERMAN asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 43) relating to legal-tender notes; which was read twice by its title.

Mr. SHERMAN. I ask that the resolution be read in full, and referred to the Committee on Finance.

The Secretary read it, as follows:

Resolved by the Senate and House of Representatives in Congress assembled, That the aggregate outstanding United States notes not bearing interest, including fractional currency, shall not be diminished below $420,000,000. That all surplus in the Treasury exceeding $40,000,000 in coin and $40,000,000 in currency shall be promptly applied to the payment of accruing indebtedness and to the purchase or payment of interest-bearing debt of the United States. But the amount of interest-bearing legal-tender notes shall not be diminished by payment or conversion at a rate exceeding $5,000,000 per month.

SEC. 2. *And be it further resolved*, That this joint resolution shall remain in force one year after its passage.

The joint resolution was referred to the Committee on Finance.

Mr. CONNESS. I hope that that resolution will be printed.

Mr. SHERMAN. I will ask that it be printed if any Senator desires it.

The PRESIDENT *pro tempore*. The order to print will be made if there be no objection.

PRINTING OF A BILL.

Mr. CRESWELL. A week or two ago, I introduced a bill (S. No. 178) to incorporate the Metropolitan Mining and Manufacturing Company. I omitted to ask for its printing, presuming it would be printed under the rules. It has not been printed, and I now move that it be printed.

The motion was agreed to.

AMENDMENTS TO THE CONSTITUTION.

Mr. LANE, of Kansas. I submit the following resolution:

Resolved, That the Committee on the Judiciary be instructed to report on or before Thursday next a resolution for the amendment of the Constitution, embracing the following provisions:

1. Predicating representation in the several States on males over the age of twenty-one.
2. Apportioning direct taxes among the several States on the actual value of real and personal estate therein.
3. Pledging the honor and faith of the country to the redemption of the loyal national debt, without in any way scaling or reducing its value.
4. Prohibiting the General Government or any State government from assuming or paying any portion of the confederate debt.
5. Prohibiting the General Government or any State government from paying for any slave property.

I ask the Senate to consider the resolution now, in order that it may go to the Committee on the Judiciary.

Mr. TRUMBULL. It is very manifest that a resolution of that kind cannot be considered and passed now. This is a resolution of positive instruction to a committee to report certain resolutions amending the Constitution. I reckon it would lead to a month's debate.

Mr. LANE, of Kansas. I thought we had debate upon them all.

Mr. TRUMBULL. And to report them by Thursday next! It would be, I think, a very unusual requirement of a committee to pass a resolution instructing it to report some five amendments to the Constitution of the United States within two days.

Mr. LANE, of Kansas. I desire to say that all these amendments have been discussed before the Senate and the House.

Mr. TRUMBULL. The Senator had better propose them at once, if he understands them.

The PRESIDENT *pro tempore*. Does the Senator from Kansas ask for the present consideration of the resolution?

Mr. LANE, of Kansas. No, sir.

The PRESIDENT *pro tempore*. Then it lies over under the rule.

BRONZE DOORS OF THE CAPITOL.

Mr. ANTHONY. I submit the following resolution, and ask for its present consideration:

Resolved, That the Committee on the Library be instructed to inquire what measures should be taken for the preservation of the bronze doors now at the entrance to the south extension of the Capitol.

There being no objection, the Senate proceeded to consider the resolution.

Mr. ANTHONY. I desire to call the attention of the Committee on the Library to those very beautiful works of art, the bronze doors, at the entrance to the south extension of the Capitol. If they had been purposely placed where they would be soonest destroyed, there could not have been a better place selected than the one where they now are, in a narrow passage where thousands of people are passing every day, rubbing their garments, canes, and umbrellas against the salient points, and a number of the small pieces of bronze, the swords, have disappeared from the figures. The features of many of the figures have been injured by this constant abrasion. If those doors remain there for a few years longer they will be utterly ruined. Moreover, they are in a very bad place to be exhibited, because they are folded in the inside of a passage, so that no person can look at them without standing in the passage-way and thus obstructing the passers-by. I may say that the Speaker of the House of Representatives, in whose department those doors are, is desirous that this resolution should be introduced, so that it will not be at all trenching on his prerogative.

Mr. HOWE. I understand that a similar resolution has been passed by the other House, directing the Committee on Public Buildings and Grounds to inquire into this matter, and they have the subject in their consideration. I do not know how the fact is. I have just been told so.

Mr. GRIMES. It belongs to them.

Mr. ANTHONY. I think there was a resolution of that kind introduced, and the committee reported that a man had been employed by the Commissioner of Public Buildings to attend at these doors and see that they were not injured. Five hundred men could not protect them, especially on festival occasions when the Capitol is crowded. The ornamentation of the Capitol, I believe, has been under the charge of the Committee on the Library, and this comes under that head. Either committee would be acceptable to me; but I think the Committee on the Library is the proper one.

Mr. JOHNSON. The Committee on the Library at the last session passed an order on the subject, according to my recollection, instructing the architect to remove them if he could find a proper place to put them. I was then a member of that committee.

Mr. ANTHONY. The order has not been obeyed. They had better be boxed up than kept where they are now. They will be utterly ruined in a year or two.

Mr. JOHNSON. The doors are being ruined as fast as such work can be ruined.

Mr. GRIMES. I think the Senator from Rhode Island is mistaken in saying that the whole ornamentation of the Capitol has been under the charge of the Committee on the Library. I know a portion of it was completed under the direction of the Committee on Public Buildings and Grounds. The Senator from Vermont, [Mr. FOOT,] who is now sick at home, was the acting representative of the Senate and of that committee. It seems to me this subject more properly belongs to the Committee on Public Buildings and Grounds than it does to the Committee on the Library. I believe such has been the action, at any rate during the last five or six years.

Mr. ANTHONY. I am entirely indifferent as to which committee it shall be referred. I only want to have the matter investigated. I accept the amendment if the Senator from Iowa proposes to insert the Committee on Public Buildings and Grounds. The resolution was drawn so in the first place, but I thought the matter belonged to the Committee on the Library. Let the Committee on Public Buildings and Grounds be inserted instead of the Committee on the Library.

The PRESIDENT *pro tempore*. The resolution will be so modified at the request of the mover.

The resolution, as modified, was adopted.

DICTIONARY OF CONGRESS.

Mr. ANTHONY. I ask the Senate to take up the resolution reported some time ago from the Committee on Printing for the publication of the Congressional Dictionary and dispose of it. It was objected to at the time.

The motion was agreed to; and the Senate proceeded to consider the following resolution:

Resolved, That there be printed for the use of the Senate the regular number of copies of the Dictionary of Congress, as revised and brought down to date, and that the same copyright be paid the compiler that was paid to him by resolution of this body adopted June 20, 1864.

Mr. GRIMES. I should like to inquire of the chairman of the Committee on Printing what is the "usual number" and how "usual" it is to print these books? What is meant by that?

Mr. ANTHONY. The resolution does not provide for the printing of the usual number; the language is the "regular number," the number printed before. I do not recollect exactly what that was, but I think about fifteen hundred. The "usual number" is a technical number; it is fifteen hundred and fifty, which gives one copy of a document to each member of Congress, head of a Department, and foreign minister, and a certain number to the Secretary, and a certain number to the document-room of each House. That is a technical term. This means the same number that was printed before.

Mr. GRIMES. On the passage of this resolution I desire to have the yeas and nays.

The yeas and nays were ordered.

Mr. SHERMAN. I should like to inquire what will be the price of this book. What will the gentleman who compiles this book get?

Mr. ANTHONY. He gets a dollar a copy.

Mr. SHERMAN. For his services?

Mr. ANTHONY. Yes, sir.

Mr. GRIMES. How much will it be altogether?

Mr. ANTHONY. Thirteen hundred and fifty dollars, I think.

Mr. CONNESS. I should like to inquire from some Senator—perhaps the Senator from Rhode Island, can give us the information or enlighten me—as to the benefit of this publication. I believe it purports to give something in the way of biographies of Congressmen and

Senators, in which the whole transactions of a Senator's life are put within about the space of half the length of your finger. I should like to know what is the use and what is the propriety of paying from the public Treasury for that. I think printing and publishing the biographies of Congressmen at the expense of the Treasury, and doing it by a resolution, is rather a questionable piece of legislation. Of course, I know nothing about the parties who have gotten this book up. I have seen some copies of it. I have been furnished with some. I cannot conceive what useful purpose it serves or why it should be continued. I believe, if my recollection serves me rightly, that last year there was considerable difficulty, particularly in the House of Representatives, before Congress authorized this publication; and I remember that a disputation got into the newspapers between the publisher and a distinguished member of Congress, in which it was undertaken to be shown that a member of Congress opposed it because a very lengthy biography of him which had been prepared with great care had not appeared; which of course he denied. I undertake to say nothing about the truth of it; but it seems to me of all the publications authorized by Congress for which the public money is spent, at a period when we have none to spare, when we are not paying the current expenses of the Government from the taxes collected, this is the most wasteful, unnecessary, unfounded, imprudent, and shameful.

Now, sir, there may be gentlemen who live for fame during their lives, and there may be others, and doubtless there are, who wish for posthumous fame. It does not appear to me that they will ever get either sort by this publication. If I were called upon to write the biography of the Senator from Rhode Island, I think I could do it very much better from my present knowledge of him than I find it in this book. If I knew who wrote the biography that appears of me in it, I think I should be his enemy for life, [laughter,] because it is simply a little collection of what is not the fact. But I care nothing about that. What appears, or does not appear about your humble servant, Mr. President, he is entirely careless about. But I cannot understand why the public money should be used now (and I do not speak these things to cultivate public sentiment) to authorize the annual publication of this book, or, to indorse the language that is used in this resolution, "the usual number" to be published of a book of this kind, which contains no useful information. I open this book at a biography in manuscript of Hon. Joseph R. Chandler, a former member of the House of Representatives. I find a great many corrections and annotations here. I think it would perhaps be well enough to refer this book to the Committee on the Library or to a special committee to examine it.

Mr. ANTHONY. Or the Committee on Mines and Mining.

Mr. CONNESS. Yes, sir. I think you might mine this book down to the bed rock and not find the color. This is the language of miners. That is what they say when they can find no gold, when there is nothing that they find that is worth looking for. I wish it were referred to that committee.

There is a great deal of manuscript here in the shape of corrections. Now, whether this is done by the assent of gentlemen or not, I do not know. I am sure I would have nothing to do with either making a statement of facts connected with my life, such as it has been, for publication or with correcting errors. I hope that not a cent will be appropriated for printing and continuing this book.

Mr. ANTHONY. This publication has been twice or three times printed by Congress, and there has always been a fight over it. The committee assumed from the decision that the Senate had come to heretofore that it would print it again. There has been a great deal of labor expended upon it. A great many corrections and a great many additions have been made to it, and if it is worth printing at all, it is better now than ever before.

Mr. GRIMES. In what year was it printed before?

Mr. ANTHONY. I do not remember, but it has been printed twice since I have been in Congress.

Mr. FESSENDEN. We purchased a certain number of copies.

Mr. ANTHONY. Very likely; that is the same thing.

Mr. RIDDLE. The Committee on Printing carefully considered this proposition and unanimously came to the conclusion, for reasons which I think will satisfy the Senate, that this book should be revised and reprinted. Whether it was right or wrong to print them in the first instance is another question. The argument of the Senator from California applies to that question. Every editor in the United States and every library has the last edition of this book. There are many inaccuracies in it. Personally, I know nothing of Mr. Lanman. I have seen him I think twice in my life. Senators have told me that there were inaccuracies in the present edition. It is not a book of eulogies, as the Senator from California intimated, but it is a book purporting to contain facts, and when a Senator or a man who has ever been in the Senate or in the other House dies, the editors throughout the country publish what is set forth in this book in regard to him. Now, all that I want is to have a correct history of the lives of our public men, so that when unfortunately a Senator or Governor or President or any man shall die, the editors and libraries of the country shall have an edition of this book, giving a true history of the deceased. What will it cost the Government? About fifteen hundred dollars. That is all that will be required to correct the errors which exist in the original book. No man could make a perfect book of this sort in the first instance, no matter what his resources, no matter what his instruction, no matter what his application. Let us now give him an opportunity to perfect it and give us the opportunity of having the facts of our lives (not eulogies upon them) published. You can do that now, to the satisfaction of your editors, your libraries, and your people for $1,500. I cannot see how there can be any objection whatever to the resolution.

Mr. McDOUGALL. Mr. President, to this publication I sent no word of advice as to who I was or what I had been; and when asked again for advice I have sent no word of advice. I do not advise in that way. What cannot be found out of and about me may go unrecorded. I think it well that a man should have a father who was well descended and a grandfather who was well descended and progenitors who were such. I think it gives great strength to those who come after us. It gives them a law of maintaining the right, and to be well descended to my great great grandchildren would be an honor. To be a Senator or Representative in the Federal Congress is a mark of the dignity of the nation, and for this it is sufficient to publish this book.

The question being taken by yeas and nays, resulted—yeas 22, nays 15; as follows:

YEAS—Messrs. Anthony, Buckalew, Creswell, Davis, Doolittle, Foster, Harris, Hendricks, Howe, Lane of Indiana, McDougall, Morgan, Morrill, Nesmith, Norton, Poland, Ramsey, Riddle, Sprague, Stewart, Stockton, and Van Winkle—22.

NAYS—Messrs. Chandler, Conness, Cragin, Fessenden, Grimes, Guthrie, Kirkwood, Lane of Kansas, Pomeroy, Saulsbury, Sumner, Trumbull, Wade, Willey, and Wilson—15.

ABSENT—Messrs. Brown, Clark, Cowan, Dixon, Foot, Henderson, Howard, Johnson, Nye, Sherman, Williams, Wright, and Yates—13.

So the resolution was adopted.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed a bill (H. R. No. 62) directing a district court to be held at the city of Erie, in the State of Pennsylvania, in which it requested the concurrence of the Senate.

The message further announced that the House of Representatives had agreed to the amendments of the Senate to the bill (H. R. No. 61) to establish certain post roads.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills; which were thereupon signed by the President *pro tempore:*

A bill (H. R. No. 61) to establish certain post roads; and

A bill (H. R. No. 135) to extend the time for the withdrawal of goods for consumption from public store and bonded warehouse, and for other purposes.

ADMISSION OF COLORADO.

Mr. RAMSEY. I move that the Senate now proceed to the consideration of the unfinished business of yesterday.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 74) for the admission of the State of Colorado into the Union, the pending question being on the amendment proposed by the Senator from Massachusetts [Mr. SUMNER] to insert at the end of section two the following proviso:

Provided, That this act shall not take effect except upon the fundamental condition that within the State there shall be no denial of the elective franchise or of any other rights on account of color or race, but all persons shall be equal before the law, and the people of the Territory shall, by a majority of the voters at public meetings to be convened by the Governor of the Territory, declare their assent to this fundamental condition, and the Governor shall transmit to the President of the United States an authentic statement of such assent whenever the same shall be given: upon the receipt whereof he shall, by proclamation, announce the fact; whereupon, without any further proceedings on the part of Congress, this act shall take effect.

Mr. POMEROY. Mr. President, at the close of the remarks made yesterday by the Senator fom Massachusetts, [Mr. SUMNER,] I desired to make a brief reply; but the Senate went into executive session, and the bill was laid over until to-day. I understand now the Senate are anxious to take a vote on the subject, and I do not care to make any extended remarks. Some of the objections urged by the Senator from Massachusetts, I have no doubt, force themselves upon the conviction of every Senator. It is a fact that this Territory of Colorado has not a large population, and that it did not come within the time prescribed by the enabling act. All those facts that the Senator related are for the most part true; but I desire to say a few words in alleviation of those facts.

In the first place, it must be borne in mind that the election under the enabling act, submitting to the people of Colorado the question whether they would have a State government or not, came off in September, 1864; and we ought to bear in mind what was the condition of Colorado and the country at that time. If they had been called to the polls at any other period, they would not only have polled a larger vote, but they would have undoubtedly polled a larger majority in favor of the constitution; but at that time their young men were almost all in the military service. No State volunteered as Colorado did, in proportion to its population. In the next place, a draft was being enforced upon the States at that time, and the people of Colorado who had volunteered so largely supposed if they formed a State organization at that time, in addition to their volunteering, there would be a draft enforced upon them; and that deterred a great many from voting for the State constitution at that election. I shall never forget the services Colorado rendered in the field, because one of her regiments was down on the border of my own State in that month under the command of General Curtis; and I was with them at the time of Price's invasion. More efficient service was never rendered anywhere to any State than those troops from Colorado rendered to my own State. They prevented that invasion, and saved the State. That regiment had then served out its full term of three years, and the men were entitled to be mustered out; but they would not be mustered out, because there was

a battle impending, and they staid in the service and fought through that battle.

I desire to say, furthermore, that when the election was held last year, it was held during a season of Indian difficulties that had been unsurpassed. Like the Senator from Massachusetts, I too have received letters from citizens of my own State now residing in Colorado, in which they state that they could not go to the polls at that election; they had to fortify and defend their own houses and would not go. One of them in writing to me details the difficulties of some of his neighbors who did go, and he tells me that one of them was killed by an Indian, and the gentleman who wrote the letter pulled out the arrow and sent it to me, and I now hold it in my hand. My informant did not go to the election himself but some of his neighbors did, and one of them lost his life. That is another reason why these people under these circumstances could not and did not poll a large vote.

But I wish to call the attention of the Senate for a moment to this question of population. The argument is not all on one side, as has been represented. That they have not taken a census since 1860 is not the fault of the people of Colorado. The States generally did it in 1865. The reason why a census has not been taken in the Territories is because Congress made no appropriation for it and there was no law for it. But it seems they did take one, though imperfectly, in 1860, and under that census it appears there were 18,223 adult males over twenty-one years of age. Now, it is a fact that the population in all Territories is composed almost exclusively of males, but they represent females and minors at the old homestead somewhere. You may go to-day in Vermont—and Vermont was admitted into the Union when she had but 55,000 inhabitants—and the population would be represented by less than 18,000 male adults; and the same is true with regard to any congressional district in the United States. The population will be five or six times greater than the number of male adults over twenty-one years of age. What the population of Colorado is at this time none of us know, nobody pretends to know. My own opinion is, from the amount of emigration I see going there from my own State and through the town where I live, that it must be quite large. I do not believe that it has decreased at any rate since the census of 1860 was taken.

Mr. STEWART. If the Senator will allow me I wish to make a statement at this point with regard to the last vote cast in Colorado which has not been stated. The last vote in Colorado for Governor was 7,457.

Mr. POMEROY. I will state one thing more. When my own State had a population of 106,000 we never polled, when we voted honestly, more than 18,000 votes. No people can exceed that proportion.

Now, as to the irregularity of this proceeding, this is not the first time that a State has come here irregularly. I have before me the remarks of both the Senators from Massachusetts and other gentlemen on that side of the Chamber when Kansas came here under the Topeka constitution as it was called, when we had not been two years a Territory, and those gentlemen not only espoused our cause with a population less than this, but the free States all over espoused it and sustained the views taken by leading Senators at that time. That constitution was as irregular as any constitution could be. It originated entirely with the people. We were endeavoring to throw off the tyranny of a territorial government, and we had the generous support and sympathy of the leading members of the Senate who were then here and who are here now. I wish to say to the Senator from Massachusetts [Mr. SUMNER] that the speech made by him on the 20th of May, 1856, which I have before me in the Appendix to the Congressional Globe, immortalized him, so far as the people of Kansas were concerned. He was, perhaps, sufficiently immortalized without it, but by that speech he endeared himself to our people. Although that effort to admit Kansas failed at the time, yet, I think, it committed those who were in favor of that irregular organization and small population to the support of any other people who should be thus struggling in the future.

I have but a word to say in reference to the amendment the Senator from Massachusetts offered yesterday. I confess that I should like to have had some such amendment adopted. I am only sorry that when the enabling act was before the Senate the Senator did not insert that amendment in it. The enabling act received the vote of the Senator from Massachusetts, and so did the organic act. We said in the enabling act that the laws then existing in the Territory might govern the election, and the laws then existing prohibited colored men from voting, and we reënacted that over again in the enabling act.

Mr. SUMNER. Will my friend allow me to make a remark just there?

Mr. POMEROY. Yes, sir.

Mr. SUMNER. The Senator says that when we passed the enabling act the laws of the Territory allowed the exclusion of colored voters. In one sense, the Senator is right; but in another sense, practically, he is wrong. The Senator perhaps is not aware that by the original statutes of the Territory colored voters were allowed, but that was changed by a law that bears date in the books of the Territory only twelve days before the passage of this enabling act; that is, before the enabling act was approved by the President. When the Senate acted on that enabling act, the laws of the Territory did recognize colored suffrage; when I voted for it the laws of the Territory recognized colored suffrage; and the language of the enabling act is, "That all persons qualified by law to vote for representatives to the General Assembly of said Territory at the date of the passage of this act shall be qualified as electors."

Mr. POMEROY. The Senator is right in that regard; but previous to the act to which he refers, there was no law on the subject of color with reference to voting. But the organic act that the Senator voted for, which was a copy of the organic act of my own State when it was a Territory, declared that all free white male citizens over the age of twenty-one years and persons who had declared their intention to become citizens should have the right to vote in the Territory. It did not require a day's residence; it did not require any local habitation; it was only necessary to be inside the boundary of the Territory and be a white male citizen over twenty-one years of age or a foreigner who had declared his intention to become a citizen, and he could declare his intentions on the morning of the day of election, and then vote. That was the qualification for voting that these people had to begin with. That was the way they were to organize the government, I am sorry to say, as approved by this Senate and by Congress.

Mr. McDOUGALL. I should like to ask a question. Under the Ordinance of 1787, which is claimed to be the enfranchisement of the Northwest, was a negro allowed to vote in any Territory or State? That is a question for the Senator from Massachusetts particularly.

Mr. POMEROY. If that question is asked of the Senator from Massachusetts particularly, I shall not answer it. I will close what I have to say, because I know the Senate are anxious to take a vote. I say the qualification for voting in this Territory was given them by Congress; that in the organic act they had permission to do what they have done, I am sorry to say, exclude colored citizens from the right of suffrage. In the enabling act the law of the Territory was made the law of suffrage. That question has got beyond our control. I am sorry that it has, for I should like to vote with the Senator from Massachusetts on that subject, but I cannot do it as applicable to this Territory.

I repeat, therefore, that no point can be made with reference to the irregularity of these proceedings. In reference to their want of population, all I can say is, that they approximate toward and are in the neighborhood at any rate of that number of population that we have always required. No specific number has ever been required. These people are now regularly organized. All parties in the Territory acquiesce in the State government. There is no party there, as far as I can learn, hostile to it. I know I have just received a letter from Judge Wilcox, a distinguished citizen who went there from my own State, in which he says there is not a public man there, unless he holds an office under the territorial government, opposed to it. I presume no question will be raised here as to the loyalty of the people of Colorado, because they volunteered largely, they helped us through the war, and they have sent here two of the most loyal, consistent, and earnest Republicans (if that is any test of loyalty) that they have in the Territory.

The Senator from Massachusetts made some allusions yesterday to some letters which he had received in reference to these gentlemen personally. I will offset that by saying that my own acquaintance with them extends many years back. One of these gentlemen was a distinguished citizen of my own State, who was always engaged with us in the free State cause. He was an anti-slavery man long before that. He has an open and bold record back as far as 1848, and I do not believe that we need go back beyond that to establish the loyalty or anti-slavery character of any man. These gentlemen have never deviated or changed their position. They have never assumed any other position than that of the most radical, loyal, devoted, and earnest men for the country and the Government. I state this simply and solely because the Senator from Massachusetts said that he had received some letters that reflected on their character. I do not believe any such letters. I intend to vote for this bill, and I hope we shall take the vote upon it and close the question.

Mr. SAULSBURY obtained the floor.

Mr. WILSON. Will the Senator from Delaware yield me the floor for an instant?

Mr. SAULSBURY. Certainly.

Mr. WILSON. I wish simply to say that the Army bill was assigned for one o'clock to-day. I have been pressed very strongly to allow the vote to be taken on this Colorado bill, and I will consent to let the Army bill go over informally, for a time at any rate, and let the debate go on on this bill.

Mr. SAULSBURY. I shall occupy the attention of the Senate but a moment. I wish simply to say that if I could vote for the admission of Colorado under the circumstances, I should do so with great pleasure; because I find one fact connected with the history and character of that people that commends itself to my most favorable consideration. I find that there are at least eight or nine sensible men in that Territory to one of a contrary character; because when the proposition to allow negro suffrage was submitted to the people of that Territory, there were 4,192, according to the statement laid on our tables, opposed to it, and only 476 lunatics in the whole Territory in favor of it. [Laughter.] That is a fact that commends itself to my most favorable consideration; and had Colorado, in my judgment, a sufficient number of inhabitants to be entitled to admission into the Union, I would most cheerfully vote for her admission, because I think she has presented in this vote the evidence of the good sense of her people.

Mr. President, the bill under consideration proposes to admit Colorado into the Union. The very statement of the proposition awakens some very serious thoughts for reflection. There are eleven States that I thought were in this Union, that I never knew were out of the Union, some of them original actors in the formation of this Government, and without whose action the Federal Union never would have been formed, whose representatives to-day are knocking at your doors for admission into this Hall and you reject them. You present a proposition to the Congress of the Uni-

ted States proposing to recognize them as members of the Federal Union upon certain terms and conditions. Then, sir, where is the Union into which you propose to admit Colorado? Is it into the Union formed by your fathers? No, sir; but you propose to admit her into a Union with some of the States, but not into a Union composed of all the States. I prefer that when Colorado shall be admitted into the Union, she shall be admitted into the Union as we have heretofore understood and known it to be, as our fathers intended it should be, and not into a partial Union with a certain limited number of States. I shall not detain the Senate by any argument on this subject. I shall content myself with voting against the bill.

Mr. GRIMES. Mr. President, there is probably no State in the Union more deeply interested in having a strong and prosperous State in the Territory now known as the Territory of Colorado than the State of which I am in part the representative. She is destined to be, when she becomes a State, one of our neighbors. We are intimately connected with her, and always will be. I presume that a larger portion of the population of Colorado emigrated from the State of Iowa than from any other State; and I apprehend we are now more intimately connected with her and the people of Iowa are more thoroughly acquainted with the history and condition of Colorado than the people of any other State. Hence, nothing would afford me greater pleasure, if I thought I could do so in justice to the other States and in justice to myself, than to vote for her admission into the Union. But, entertaining the opinions I do, believing that such a vote is calculated to lead to most disastrous consequences in the future, I am constrained, notwithstanding the interest which my constituents I am aware feel in the admission of Colorado, to vote in opposition to this bill.

I do not predicate my opposition to it upon the two reasons assigned by the Senator from Massachusetts. The simple objection that I have to the admission of Colorado as a State is the fact that she has not population enough, and that nothing in my conviction could possibly be more injurious to the people of Colorado themselves than to permit her to erect herself into a State with a population of only from 15,000 to 25,000. I have had about as much experience in territorial life as almost any one else. It has so happened to me that I have lived in three different Territories under three different territorial governments, although I have resided in the same town all the time.

The State of Iowa was admitted into the Union when she had a population of one hundred and thirty thousand. She came in upon the old theory, which it was supposed we were always going to adhere to, that no State should be admitted into the Union until she had the population required to send a Representative to Congress under the then existing representative ratio. She had some forty thousand more, if I recollect aright, when she was admitted than was required, for I think the ratio then was about ninety-two thousand five hundred. With a population of one hundred and thirty or one hundred and forty thousand, and after we had been in a territorial condition for twelve or fourteen years, with a vast amount of real estate owned by the State (for the land offices were opened there in 1838) and by non-residents, which was subject to taxation for the purpose of supporting the government, yet the very first thing that the people of the State of Iowa were compelled to do was to go into the money market of New York and borrow money at the enormous rate of ten per cent. in those days, for the purpose of defraying the necessary expenses of the government; and for ten or twelve years we were compelled to pay that interest and at the same time be constantly in debt, because we had not property sufficient to support the government; and why? Let me tell gentlemen who have not lived in a new State that they cannot conceive of the constant drain that is made upon everybody who emigrates to one of those States. Everything is new. Dwellings have to be built, farms have to be plowed and improved, school-houses have to be erected, churches must be built, roads must be constructed, and charitable institutions must be established. All these things have to be done, as well as the ordinary State, county, and township taxes paid; and the result is that the people in a new State like Colorado, with the population that there is in that State, and with comparatively no real estate to tax, nothing but personal property, will be oppressed with taxation. If I were a citizen of Colorado I would remonstrate and protest against the admission of the State under all circumstances until there were at least one hundred thousand people there to support the State government. I cannot conceive of anything that can be more oppressive, that can possibly be more injurious to the people of that Territory than to allow her, with her small population, to come into the Union and be compelled to pay her own expenses from this time forward.

Now, what is her population? I hold in my hand a certified statement from an executive officer of the Territory of Colorado, showing what was the population in 1861, and the vote cast in the different years, 1861, 1862, 1864, and 1865, from which we must deduce our conclusions as to what the present population is. In order that we may see what we are doing, and that we may have some criterion by which to be governed, when Nebraska, that has already formed her constitution with a population of twenty-six thousand, and when Montana and Idaho that are already attempting to form State constitutions, present themselves, I present this table to the Senate. It may be useful in the future to those who come after us:

COLORADO TERRITORY.

Census 1861, *taken under Organic Act.*

Adult males	18,223
Minors	2,622
Females	4,484
Aggregate population	25,329

First Election by Council Districts, August, 1861.

	1st district.	2d district.	3d district.	4th district.	5th district.	6th district.	7th district.	8th district.	Aggregate.
Total number of votes	584	966	1,019	1,168	1,645	1,419	1,529	2,250	10,580

Election by Counties for Delegate to Congress, State Constitution, and Negro Suffrage.

	Costilla.	Conejos.	Huerfano.	Pueblo.	Fremont.	El Paso.	Douglas.	Arapahoe.	Weld.	Larimer.	Boulder.	Jefferson.	Clear Creek.	Gilpin.	Parke.	Summit.	Lake.	Aggregate.
December, 1861. Delegate	369	306	141	129	378	154	73	2,646	167	38	301	534	404	2,267	737	403	307	9,354
October, 1862. Delegate	667	540	138	130	73	93	114	1,347	181	96	198	243	340	2,249	835	483	497	8,224
September, 1864. Delegate	536	464	325	136	55	92	99	1,032	22	109	205	265	149	1,806	171	198	105	5,769
Under Congressional Enabling Act, September, 1864.																		
Votes on adoption of constitution																		1,520
Votes on rejection of constitution																		4,672
Aggregate																		6,192
Majority against constitution																		3,152
Popular Movement.																		
September 5, 1865. For constitution	26	1	98	57	67	47	7	852	36	4	136	117	167	1,068	110	127	105	3,035
Against constitution	563	465	257	44	31	25	32	242	6	23	42	78	64	897	35	36	30	2,870
Aggregate	589	466	355	101	98	72	39	1,094	42	27	178	195	231	1,965	145	163	135	5,895
Majority for constitution																		155
September 5, 1865. Against suffrage	445	296	0	95	94	55	39	899	28	26	120	168	175	1,375	112	151	119	4,192
For suffrage	1	0	0	5	2	12	1	139	11	1	52	23	21	165	26	7	10	476
Majority against negro suffrage																		3,716

EXECUTIVE DEPARTMENT, COLORADO TERRITORY, DENVER, *December* 31, 1865.

I hereby certify that the within paper is correctly and accurately transcribed from the official record on file in this office, and that it correctly shows the aggregate population of the Territory under the census of 1861, and the whole number of votes cast in the several years named.

D. A. CHEVER, *Clerk Executive Department Colorado Territory.*

It appears from this statement that a census was taken in 1861, when there was a total population in Colorado of 25,329. Of these, the adult males were 18,233, minors 2,622, and females 4,484. In all the Territories there is a large preponderance of adult males, and especially is that so of Colorado; and although I am told by my fellow-citizens of Iowa who are in the habit of going to Montana, some of them almost monthly, that there has been a considerable increase of females in that Territory, yet there is a very large preponderance of adult males there yet. In 1861, when that enumeration was made, there was a vote taken and the correct aggregate vote was 10,580. Out of a population of 25,329 there were 10,850 voters. In 1862 there was another election. What was the number of voters then? Eight thousand two hundred and twenty-four. Again, in 1864, there was another election.

Mr. POMEROY. If the Senator will only reckon one half of those who volunteered and were then in the Army, he will see that it makes a much larger number.

Mr. GRIMES. I know all about that. The Senator need not direct my attention to those volunteers.

Mr. POMEROY. They were then in the service.

Mr. GRIMES. I know that; and who was the man that commanded them? A man from my own town, Colonel Backus. How came he there? Was he a citizen of Colorado? No; he was a citizen of Burlington, Iowa. I could go on and enumerate thirty or forty more from my own village not citizens of Colorado. I dissent entirely from the idea of their being claimed as citizens of Colorado. They were citizens of Iowa, although they were known as officers and men of the first Colorado cavalry, I believe it was, or one of the Colorado regiments.

In 1864, the vote of Colorado was 5,769. On the adoption of the constitution on the 12th of September, 1864, the total vote was 6,192. They had at that time a very exciting election. I was in correspondence with some of the gentlemen who were interested in that election. Every effort was made to bring out every possible voter that could be found within the limits of the Territory, and I suppose they were all brought out; and the total vote polled was 6,192. Now, just examine and see, if you please, what relation 6,192 voters bears to the total population of the State if the same ratio still exists between males and females as existed in 1861. Why, sir, you have got a population of somewhere in the neighborhood of from twelve to fifteen thousand, not more.

Then, again, on the 5th of September, 1865, there was another exciting election on the question of the adoption of a State constitution, and what was the result then? The total vote was 5,895, less than in 1864, and the majority in favor of the adoption of the State constitution was only 155. Now it is seriously proposed here that we shall admit a State into this Union which, in an exciting election over the question whether she shall come in at all or not, when all the office-seekers who expect to be Senators and Representatives and judges and Governors are arrayed on one side and are using all their influence to bring men to the polls, and when the tax-payers who were conscious that they are to be oppressed with the burdens of taxation if they come into the Union are arrayed on the other side, can only poll 5,895 votes, and that a mining State where there is a vast preponderance of males over females. I confess that it strikes me as the sublimity of impudence for the State to come here and ask to be admitted into the Union and be entitled to the same power and influence in this body as the State of Ohio or New York or Pennsylvania.

I only rose to briefly state the reasons why I shall vote against this proposition. If I vote to admit Colorado to-day, is there any reason why I shall not vote to admit Nebraska to-morrow with 26,000 people? She has formed a State constitution. Her real estate has been conveyed to the citizens, so that there is something of that kind to tax. She has got more population than Colorado. An enabling act has also been passed with regard to her. If I agree to admit these two Territories, is there any reason why I shall not the day after to-morrow admit another Territory, which I understand General Meagher is now organizing, the Territory of Montana? Let me ask Senators if they are prepared to let all the political power and influence of this country be carried up to these mountains to be wielded by a few miners and men who are of the most transitory description of population? I am not prepared to do it. I do not believe that it is the part of wisdom and statesmanship to do it, notwithstanding the local interests of my own State, which might possibly be advanced by admitting this Territory into the Union and by admitting the adjacent Territory of Nebraska also into the Union with 26,000 people.

I should like and would vote for the amendment of the Senator from Massachusetts with great pleasure if I thought it would accomplish any good, but I do not understand that it would. The second sentence of it is in these words:

"And the people of the Territory shall, by a majority of the voters, at public meetings to be convened by the Governor of the Territory, declare their assent to this fundamental condition."

I confess I do not exactly understand what the Senator means by "public meetings." We do not have township meetings in that country as they have in Massachusetts. This would be construed, as I understand it, to be a mere promiscuous assemblage of the people at which there might be possibly resolutions introduced pro and con, and a vote taken by a show of hands. But even if this amendment should be adopted, and if they should agree to strike out the word "white" from their constitution, still I am opposed to the admission of Colorado. She has not got the people sufficient for the support of a State government. She ought not to come in. We ought to go back to the old rule established and adhered to from the foundation of the Government until a few years ago, requiring each one of these Territories before they become a sister in the Union to have the population requisite to send one member of Congress to the House of Representatives.

Mr. HENDRICKS. I would not say a word upon this bill were it not that I feel it due to myself perhaps to exclude the conclusion that I vote against it for the reason assigned by the Senator from Massachusetts; I speak of his principal reason. Although I should regret to see a new State adopt a constitution allowing colored people to vote, yet I would not vote against the admission of the State for that reason, much less would I vote against admitting a State for the reason that they denied the right to vote to colored people.

I shall vote against this bill for the reason that a population of 12,000 or 14,000 ought not to have the voice in the legislation of this country that the 1,300,000 of the people of Indiana have. It seems to me to be so apparent as to require no argument. Indiana, with her population of 1,300,000, has two Senators upon this floor. It is proposed that 12,000 people in Colorado shall have two Senators and an equal voice in the legislation of the country in the Senate, she having that small population and Indiana having so large a population. The injustice is palpable. It ought not to be so.

At first I thought it possible that the Senate was bound to some extent, by the enabling act passed in March, 1864, to vote to admit Colorado; but the facts, I think, free us from any such obligation. The law passed in March, 1864, provided for the election of delegates to a convention, the mode of election, the qualification of the electors, and the time and place when and where the delegates should meet and form a constitution. I understand that that law was complied with in the election of delegates; that they met and formed a constitution; that it was submitted to the people; and that the people rejected it by a majority of 3,152. Now, it is very clear that the power of the people of the Territory was exhausted, so far as any power was conferred by that act of Congress, as soon as the constitution was formed by that convention and rejected by the people. There was no provision in that law for the holding of a second convention. As soon as the convention met and formed a constitution and adjourned, its office was done. I think, therefore, we are not bound in any way to admit this proposed State.

It comes here under very peculiar circumstances. After the constitution that had been adopted by the convention had been rejected by the people, there was no convention held pursuant to law; the Territorial Legislature did not authorize the holding of a convention; but the chairmen of the political parties in the Territory called a convention. They commenced their address to the people as follows:

"Whereas the executive committees of the several parties have been petitioned by a large and respectable portion of the people to issue a call for a territorial convention to take into consideration, first, the propriety of forming a State government and making application for admission into the Union at the earliest possible moment; and second, if it shall be deemed expedient, to frame a State constitution for Colorado, provide for its submission to the people, and if adopted, for the election of State officers and Representative in Congress: the several executive committees, in deference to this petition and other expositions of popular sentiment, unite in the following call."

The call is signed—

"By order of the Democratic central committee:
C. C. POST,
Secretary of the Anti-State Central Committee.
EBON SMITH,
Chairman of the Union Central Committee.
LOUDON MULLIN,
Chairman."

That is the call. It does not propose the election of delegates by the people. It proposes an extraordinary mode of selecting delegates, and I presume there was no election of delegates in the Territory, for the call provides:

"The people of every election precinct in each county of the Territory, without distinction as to party, will meet at the place of holding election in such precincts, at two o'clock p. m. on Thursday, the 17th instant, and choose one delegate from each precinct, and an additional delegate for every additional fifty votes cast in said precinct at the last congressional election.

"The delegates thus elected will meet at the county seat of their respective counties, on Saturday, the 29th instant, at two o'clock p. m., to appoint delegates to a territorial convention, which shall meet at some suitable hall in Denver, on Tuesday, August 8, for the purposes indicated in the above preamble."

It will be observed that this call did not contemplate an election, that there should be candidates voted for by the people, but it simply called such local conventions or assemblages of the people as were usual in providing for a political convention. It authorized the people to assemble without respect to political parties on the day named at the place of holding the elections, and they were to select delegates to a county convention, and that county convention when assembled at the time mentioned was to select delegates to the constitutional convention; and thus without any vote of the people in advance for delegates, in this most irregular and informal manner, delegates were selected to the constitutional convention.

Mr. McDOUGALL. I will ask the Senator from Indiana if that has not been done heretofore?

Mr. HENDRICKS. I know of no case in which it has been done heretofore.

Mr. McDOUGALL. It was so in the State of California.

Mr. HENDRICKS. I am not sufficiently familiar with the history of California at this time to say.

Mr. McDOUGALL. It was done in that way, and there was a great controversy about it.

Mr. HENDRICKS. I know there was a great controversy about the admission of California, but that was whether California should be admitted in the absence of the enabling act. Congress had not provided in advance for the formation of a State government, and it was denied at that time that the State ought to

be organized upon merely a popular movement.

Mr. McDOUGALL. It was done under the direction of General Taylor.

Mr. HENDRICKS. I am aware of that. It had its origin in the military government that existed there.

Mr. McDOUGALL. From the executive military government.

Mr. HENDRICKS. My recollection is that when the military authorities called for the election of delegates in California, the delegates were elected by the people. If the Senator knows to the contrary of that, he is right.

Mr. McDOUGALL. They were elected by the people.

Mr. HENDRICKS. The Senator says they were elected by the people. Then the interruption was not necessary. In California, I understand the Senator to say, the delegates were elected by the ballots of the people; but in Colorado there was no election of delegates to the constitutional convention. Then, in advance of the holding of the convention, there was no expression in any legitimate and regular mode of the will of the people in favor of forming a State constitution. It was formed by this irregular mode, such a mode as parties resort to in holding their conventions.

Then, sir, the convention held its session and formed a constitution. I do not choose to look into that constitution to say whether it ought to be accepted or not, whether it is republican in form or not, whether it is such a one as I would like or not; for whatever may be the character of the constitution, under the circumstances I think the State ought not to be admitted. When this constitution was submitted to the people it received in its favor 3,035 votes, and 2,870 votes were cast against it, leaving a popular expression of 155 in its favor. When did a State government ever present itself in such a shape as this to the Senate for admission, only 3,035 men voting for it and nearly as many voting against it? Nearly as many of the men of Colorado who voted on this question said they did not want a State government as said they did want it. Are Senators right sure to-day that Colorado wishes to come into the Union, when the vote is so nearly balanced, but a difference of 155? Where is the expression of the popular opinion of the people of Colorado in favor of this constitution that justifies us in admitting a State when 2,870 out of 5,895 voters say they do not want this constitution? Ought we to be in hot haste to admit the State when there was no authority of law for the convention; when there was no election; when there was a mere selection of delegates by county delegates, and when there was an aggregate vote of only 5,895?

But the Senator from Kansas says that from this vote we are justified in inferring that there is a very large population in Colorado. He says we have a right to multiply the number of votes cast by five, assuming that each voter represents five persons.

Mr. POMEROY. Oh, no, I did not.

Mr. HENDRICKS. I understood so.

Mr. POMEROY. I simply said that the number of males in the ordinary States of the Union would represent that amount of population.

Mr. HENDRICKS. I supposed the Senator referred to that as an argument to show that the population of Colorado was larger than the vote would seem to indicate. We all know that in the mining regions the population is composed nearly altogether of adult males. There are very few minors and very few females. According to the census taken in 1861, when the population of Colorado was evidently about twice as large as it is now, there were 18,223 adult males, and but 2,622 minors, and 4,484 females, not nearly so many minors and females together as there were voters.

Mr. POMEROY. If the Senator will add to the vote taken year by year since 1861, the number of volunteers who were outside of Colorado in the service, it will make the vote of each year equal to that of 1861.

Mr. HENDRICKS. The Senator from Kansas is determined to make a good case on the soldiers of Colorado who were in the service. I will leave him with the reply given to that by the Senator from Iowa. The Senator from Iowa says he knows nothing about where they came from.

Mr. POMEROY. It can hardly be supposed that citizens of a State where they paid bounties would go off to a Territory where they paid no bounties for the sake of enlisting. I never heard of such a thing before.

Mr. GRIMES. The State of Iowa furnished nearly the whole of the second regiment of Kansas troops without any bounty; I think six companies.

Mr. POMEROY. Very likely it did furnish some of the officers to organize one of these regiments, but I am talking about the men, and I submit to Senators whether it is supposable that men would leave a State where they paid bounties and where they were anxious to fill their quota in order to avoid a draft, and go to Colorado to enlist where they paid no bounties and where there was no draft.

Mr. GRIMES. In answer to that, all I have to say is, that the State of Iowa furnished, without any bounties, I think six companies to the second Kansas regiment.

Mr. POMEROY. I have not said anything about the second Kansas regiment.

Mr. GRIMES. If they could furnish as many men as that for the second Kansas regiment, I suppose they might furnish a few companies for Colorado.

Mr. POMEROY. I have not the facts before me; but I do not think the people of Iowa furnished six companies for the second Kansas regiment, and I should like to know the facts about it.

Mr. GRIMES. I can only say that I believe we are credited with them at the War Department. I know they were raised in the counties of Adams, Union, Montgomery, and the southwestern counties of the State of Iowa, and went into one of the Kansas regiments, I think the second.

Mr. POMEROY. The second Kansas was raised entirely without Iowa, and we got the entire credit for it at the War Department. I presume the Senator refers to some other regiment; I think the sixth.

Mr. LANE, of Kansas. The second Kansas regiment was organized by me. I think Iowa furnished about one hundred and fifty men to it.

Mr. GRIMES. It seems I was mistaken as to the number of the regiment. The Senator from Kansas says he raised the second Kansas regiment, and that Iowa only furnished one hundred and fifty men to it. The number of the regiment to which the six companies from Iowa went has escaped me at present.

The PRESIDENT *pro tempore*. The Senator from Indiana is entitled to the floor, and unless he yields it for the purpose, these interruptions are out of order.

Mr. HENDRICKS. Without reference to these troops to which the Senator from Kansas is so constantly referring, how does this case stand upon the strongest possible showing? The largest population that the papers show has ever been in Colorado was in 1861, and the census shows that the population then was 25,000. Twenty-five thousand is the largest population which it is possible for any Senator to show has ever been in Colorado.

Mr. McDOUGALL. I think it is more.

Mr. HENDRICKS. From any information before the Senate?

Mr. McDOUGALL. My information is otherwise.

Mr. HENDRICKS. The information that we have on these papers, so far as the Senate have any information on the subject, and the census, show it to have been 25,329. That is about one fifth of the number necessary to entitle the people of a congressional district to a Representative in the House of Representatives; one fifth of the number of those who live in one of the congressional districts of the States. In Indiana before we have a Representative in the House, in Iowa before they have a Representative in the House, it must appear that there are about 123,000 people in the district—I think that is about the proportion now—five times as many people as the census of 1861 shows there were in the Territory of Colorado. Now, is it possible that we propose to bring into the Union, with all the political power of a State, a Territory having a population but one fifth sufficient to entitle it to a Representative in the House of Representatives? There has been no such case before. When Oregon was admitted, it was claimed by her Delegate that she had a population of 60,000 or 70,000. When Nevada was admitted, I understand the vote was about 17,000, more than three times as large a vote as this in Colorado.

I did not intend to occupy the time of the Senate upon this question. I only intended to state the ground on which I oppose this bill. I agree with the Senator from Iowa in the opinion that it is not for the interest of a new Territory to come in as a State before it is sufficiently ripe, before it is grown and acquired sufficient strength easily to bear the burdens of a State government. This is a peculiar population in the Territory of Colorado. It is not such a population as settled in Iowa and Indiana. In Indiana and Iowa, when the people went there, they took their families with them, and every man represented perhaps five persons; they settled down there, made farms, established homes, and became a fixed and stable people. But in Colorado the main business is mining, and there are very few families there, as the census shows. They are a migratory people, going wherever the inducements carry them, seeking opportunities to pursue the business of mining. This people so unstable, so unfixed, and but 25,000 of them at the largest showing, ask the political power of one of the great States of this Union. I should be glad to admit any western State into the Union, and should vote cheerfully for it as soon as I thought they were prepared for it. I desire to see a strength grow up in the West. Our interests are in that direction. We hope eventually to see western interests well supported by these States that are at some time to be formed among and along the borders of the mountains; but I shall not vote to admit a State to the same political power that Indiana possesses, when it does not represent in point of population a fifth of the population of one of our congressional districts.

Mr. LANE, of Kansas. The argument of the Senator from Indiana is entirely consistent. He will find that every objection now urged by him was urged by Butler, Hunter, and Mason, in 1856, to the reception of Kansas, and was ably answered by the two Senators from Massachusetts now upon the floor, the Senator from Ohio, [Mr. WADE,] the Senator from Maine, [Mr. FESSENDEN,] and the Senator from Illinois, [Mr. TRUMBULL.] That was a constitution got up just as this was, by a political party, the Free State party of Kansas, and which received but 4,600 votes. Every argument now urged by the Senator from Indiana against the admission of Colorado was urged then against the admission of Kansas by the gentlemen I have named, and ably answered by the Senators to whom I have referred, headed by Mr. Collamer, of Vermont. I should like to ask the Senator from Iowa when this "old rule" of which he speaks prevailed in this country as to population. Florida was admitted without an enumeration, and ten years after her admission she had but 14,000 white settlers. California was admitted without an enumeration. The same objection that was made against Kansas, the same objection that the Senator now makes against Colorado, was made against California, on the score of her population, that there was no enumeration of her inhabitants, and that there was no enabling act. There was no enabling act, according to my recollection, for Florida. She was forced into the Union to stand off with Michigan, according to my recollection.

Mr. TRUMBULL. To balance off Iowa.

Mr. LANE, of Kansas. She was forced in by the slave power in this body to stand off with a free State, without any enumeration, and without an enabling act.

Mr. GRIMES. In the first place, the Senator will permit me to say that I think he is most egregiously mistaken in saying it was ever objected that California had not the requisite population for a State. Everybody knows she had.

Mr. McDOUGALL. She had at that time a population of about 45,000, and that was not equal to the ratio required for a Representative.

Mr. LANE, of Kansas. Does the Senator from Iowa pretend that there was an enumeration of the inhabitants of California prior to her admission?

Mr. GRIMES. I have not said whether there was an enumeration or not. I have said that that objection was not raised to California.

Mr. POMEROY. The first enumeration of California showed a population of 92,577.

Mr. GRIMES. When was that made?

Mr. POMEROY. Soon after the admission of the State.

Mr. GRIMES. State when it was.

Mr. POMEROY. I have not the exact date; but it was the first time a census was taken of the population of the State.

Mr. GRIMES. That was about the population of the State at the time she was admitted.

Mr. McDOUGALL. It was about 50,000 at that time.

Mr. GRIMES. In regard to Florida, it was claimed at that time, and of that Congress was satisfied, whether correctly or incorrectly, that she had the population that was necessary to entitle her to admission as a State in the Union under the rule that then prevailed, which was that there should be a population within the State sufficient to entitle it to a member of the House of Representatives.

Mr. McDOUGALL. If the Senator from Iowa will allow me a moment, that was never affirmed by any Representative or person who spoke on the admission of California.

Mr. GRIMES. Has the Senator examined the debates?

Mr. McDOUGALL. I have, intimately.

Mr. GRIMES. In regard to this other point, as to the admission of Kansas, had I been here as were the Senators to whom the Senator from Kansas has alluded, I might have been content to vote for the admission of Kansas, because thereby I would settle the vexed question of freedom and slavery in the Territory of Kansas. Whatever might have been the objections that might arise in consequence of the smallness of her population, for the sake of getting rid of that question that was then agitating the halls of Congress and the people of the country, I might have voted as they did. But there is no such agitation here, and there is no such reason, therefore, why we should vote for the admission of Colorado as doubtless influenced the minds of those gentlemen who voted for the admission of Kansas at that time.

Mr. LANE, of Kansas. Did not the Senator from Iowa vote for the enabling act for Colorado?

Mr. GRIMES. No, sir, I did not.

Mr. LANE, of Kansas. My recollection is that the enabling act for Colorado passed almost unanimously.

Mr. HENDRICKS. The yeas and nays were not taken upon it.

Mr. LANE, of Kansas. Then, of course, the Senator from Iowa must be counted as having voted for the enabling act. If he did not oppose it with sufficient zeal to call for the yeas and nays upon it, he must have voted for it.

Mr. GRIMES. The chairman of the Committee on Territories will bear me witness, I think, that I have opposed all these enabling acts. I have always told him and told everybody around me, that I thought nothing could be more deleterious to the interests of these Territories, and nothing more jeopardize the interests of the country than to hold out the idea that these Territories could be admitted as independent States into this Union, having the power of the largest States in this body, with a population of twenty or thirty thousand. Whether the yeas and nays were called on this enabling act or not, I cannot say; but I know I protested against the adoption of the proposition.

Mr. LANE, of Kansas. Would the Senator have voted for the admission of Kansas with 4,600 voters, with the knowledge that that constitution not only confined suffrage to the whites, but actually excluded blacks from the State? The same day that the people of Kansas voted for the constitution confining suffrage to the whites, they voted, by a vote of 4,000 to 400, to exclude blacks from the State; and the Senator from Massachusetts and the Senators to whom I have referred, and every Republican in both branches of Congress, indorsed that constitution, and the Republican party throughout the Union indorsed it.

Mr. GRIMES. Does the Senator want an answer?

Mr. LANE, of Kansas. Yes, sir.

Mr. GRIMES. I am willing to be catechised. I was not in Congress at that time, but if I had been here it is very likely I should have voted for its adoption for the reason that I have assigned, namely, to get the question out of the halls of Congress, to have the conflict that was then going on in Kansas and throughout the country and in Congress settled; but any vote that I might have given on the subject of the admission of Kansas I would not have regarded, and when I gave it I would have so declared, as a precedent for the government of my conduct respecting any other State. The reasons that existed with regard to Kansas do not exist in the remotest degree in regard to this Territory.

Mr. LANE, of Kansas. The Senator from Iowa, if I understood him aright, expressed the opinion that the State government upon the people of Iowa had been terrifically prejudicial to their interests with a population of one hundred and thirty thousand. When Kansas became a State she had from sixty to seventy thousand inhabitants to bear the burdens of a State government.

Mr. POMEROY. One hundred and six thousand.

Mr. LANE, of Kansas. Not when we were admitted. We gave fourteen thousand votes. We had from sixty to seventy thousand people, and there never has been an hour since that the people of Kansas have not felt that that State government was a blessing to them.

Mr. POMEROY. If my colleague will allow me to correct him in this regard, we were admitted into the Union in February, 1861, and the census of 1860 shows we had then a population of one hundred and six thousand.

Mr. LANE, of Kansas. At those elections we gave about fourteen thousand votes, but allowing that we had a population of one hundred and six thousand, that is twenty-four thousand less than the State of Iowa had when her State government was so prejudicial to her people, according to the statement of the Senator from Iowa.

Mr. GRIMES. Kansas has been somewhat differently situated from Iowa. In the first place, the whole treasury of the Indian Bureau has been poured out into the lap of Kansas. Perhaps the Senator has some knowledge on that subject. In the next place——

Mr. POMEROY. I never saw anything of the Indian Bureau in Kansas that Iowa had not.

Mr. GRIMES. What I mean to say is this: they have tribes of Indians settled all through Kansas, to whom very large payments of money have been made from year to year, which goes into the circulation and business of the State, and therefore furnishes prosperity to the people of the State. I mean to say further that no State in the Union, I think, has been able to secure such immense grants of land from the Government to the State and to individuals, thereby benefiting the State and the citizens of the State, as the State of Kansas, vastly more than the State of Iowa.

Mr. LANE, of Kansas. Always excepting the State of Iowa.

Mr. GRIMES. No, sir.

Mr. LANE, of Kansas. I venture to say—and the Senator from Iowa will concede it—that Kansas had within her borders the most destitute people within this Union.

Mr. GRIMES. Oh, no.

Mr. LANE, of Kansas. From 1855 till last spring they have been engaged in war. They have been robbed during this war. They have suffered the loss of $100,000 where Iowa has suffered the loss of one dollar. They were plundered by border ruffians in 1855, 1856, and 1857, and by the rebels during this war.

I desire to say that I shall vote for the State organization of Colorado, because her people have signified their willingness to bear the burdens of a State government. That is all the question we have a right to ask, and it is all the question we have ever asked: are the people asking for a State government ready and willing to take upon themselves the burden of a State government? No rule as to population has governed the reception of new States. Colorado has to-day more white inhabitants within her borders than Florida had when she was admitted. To-day, Colorado has almost as many souls within her border as Kansas had when every Republican in both branches of Congress voted for her reception.

Mr. President, we are building a world's thoroughfare across this continent. That thoroughfare in its construction and after it is constructed must be protected. The best and cheapest way to protect those engaged in the construction of that road, and to protect it after its construction, is by having a cordon of States to protect it. It is for that reason, as well as the reasons that induced me to ask for the reception of Kansas, that I shall vote for the reception of Colorado. I will cheerfully vote for the reception of Nebraska; I will heartily vote for the reception of New Mexico; and the only question I will ask will be, are you willing to relieve the General Government from the expense of a territorial government? Are you willing to take upon yourselves the expense and burden of a State government? I desire to say to the Senator from Iowa, that while we have Indians within our borders that most of the agents come from the State, he has the honor to represent, and if there are any stealings in that direction, they may be charged to the State of Iowa.

Mr. WADE. Mr. President, I was on the committee that reported this bill, and I remarked at the time I reported it that I felt it to be my duty to vote against it, and therefore I am not bound, I suppose, by what the committee did on that subject. It was with exceeding reluctance that I felt myself compelled to oppose the admission of this State. I had no objection to the gentlemen whom they have sent here to represent them; but for many reasons which have been given, much better than I should be able to give them, I felt it to be my duty to go against the admission of the State.

I ought to say, in justice to the committee that passed this enabling act two years ago, that the proof before us then convinced us that some very rich mines had lately been discovered in Colorado; that there was great excitement all over the country on the subject, and that people were flocking in there from all parts of the United States as they did in California when the precious metals were first discovered there; and we were assured by those who ought to know, that by the time we should get this State into the Union there would be the usual number of people there that Territories had ordinarily at the time of their admission; for as far as I know we have not been very particular as to the exact number of people that should be sufficient to constitute a State. The old rule was, (and it was a very good and intelligible one,) that there ought to be about as many as would furnish a Representative, whatever the ratio of apportionment should be at the time. That is a kind of gauge, but then

that is departed from frequently, according to circumstances. If it is a State that is not filling up very fast, and there is no reason to suppose that a large population will go into the Territory, that is a reason why we should require more when they are admitted, for certainly, in order to admit a State into the Union, there should be some criterion as to population.

Mr. LANE, of Kansas. Will the Senator permit me to ask him a question?

Mr. WADE. Certainly.

Mr. LANE, of Kansas. Will not the construction of the Pacific railroad through the entire length of the State, almost, supply any lack of population rapidly?

Mr. WADE. That may be in the future; and if the people were laboring under oppression from any source whatever; if they were laboring under any great disadvantage in consequence of being a Territory, that would be a strong reason in my mind for her admission as a State. But we all know that these Territories are the very pets of the Government, the most favored wards of the Government. They hardly ever ask anything that is not granted. We have always dealt with the Territories in the most generous manner, giving them land, furnishing them buildings to set up their governments upon, paying their officers, doing almost anything that they have asked of us. We have paid their jurors and done everything to enable them to carry on their administration at our expense and at their will. Indeed, the condition of a Territory under the guardianship of the United States is, in my judgment, better for the masses of the people than when they form a State government. There always is an ambition to be a State. It furnishes many honorable and high offices, and gentlemen are ambitious to hold them, and rightly, too. I do not blame them for that; but for that reason there is always a tendency to bring in Territories as States before perhaps the real interests of the people require it.

But as to this enabling act, I was endeavoring to show why it was that with so small a population we granted the enabling act, and I had explained that it was because we believed, or I as one member of the committee believed, from what we learned from the delegation from there, and from the best lights we could get, that the population was much greater than it appears now it was then, and we expected a most rapid increase of population. We have been disappointed in that. From the votes taken there it seems that the population since 1860 has rather been decreasing than otherwise. There do not seem to be so many inhabitants there now as there were when we passed that enabling act. Well, sir, they voted on the subject; they got up a constitution which in my judgment is a very good one, with one exception. We looked it all over, and there are no objections to it that I know of except that they inserted the word "white" in it. The people voted upon it. We enabled them to do so, and they got together and voted against it by an overwhelming majority, nearly three to one; and they were wise in doing so in my judgment, considering how few people there were there and how their interests were affected in carrying on a State government and for other reasons satisfactory to them. When a legal vote was taken under the enabling act, pursuing this purpose, they voted it down. We supposed that after that the enabling act was *functus officio*; that it was dead; that it had been operated under and defeated by the people.

The people themselves felt conscious of that because they applied to us last winter again for another enabling act; but the committee thought, I believe, that it was a little capricious in them to vote down the constitution made for them under the enabling act and then come here the very next year, without any very considerable change in their circumstances that we could see, and ask us over again to give them another. We would not do that. We thought that we would wait until something transpired there to change the condition of things, since they have expressed themselves so emphatically on this subject.

Mr. LANE, of Kansas. Have not the Indian wars upon the plains prevented that increase of population which would otherwise have taken place in Colorado? Is not that the reason?

Mr. WADE. It may have been one reason. I do not know what circumstances have led to this decrease of the population or any reason why the Territory has not grown faster than it has. I have sometimes thought it was because very rich mines of gold had been found in other neighboring Territories all along there, and had scattered off the gold seekers from this place, where they seemed to concentrate, to a great many other new discoveries. But whatever was the cause, the fact is so, that there has been a decrease in the population. Now, the whole Territory has not as great a population as almost any county in Ohio or any of the old settled States. There is an inequality about it that is shocking; an inequality in the distribution of political power. To say that a population of twenty-five or thirty thousand, which is the utmost extent of the population in this Territory now, shall have two Senators on this floor and a Representative in the other House is an inequality amounting to almost the old rotten-borough system of England.

Of course, among a homogeneous population it does not make so great a difference; for I suppose that the gentlemen who represent that Territory here, in their ideas of government and the interests of the people, are not very diverse from the residue of the Senate. But, nevertheless, when we come to consider that if we admit this Territory as a State, we give it a degree of political power ten or twelve times greater than that of most of the States represented upon this floor, it seems to me to be really a departure from the great American principle, that political power shall be distributed equally, or at all events as equally as convenience will admit.

Mr. HENDRICKS. It will give it about fifty times the power of Ohio.

Mr. WADE. I suppose so; and much more than that as compared with Pennsylvania or New York. It is a great departure from the principle that should govern us. Although, in the case of a western State which was filling up rapidly with a homogeneous population, I do not want to measure this very particularly, it does seem to me that the disparity here is greater than we have ever before admitted. I do not think in any instance it can be found that a Territory has been converted into a State with the meager population that seems to exist in Colorado at this time, and I fear that it will be setting a very dangerous example.

The Senator from Kansas has referred us to our votes upon the Kansas question. Why, sir, there was a principle involved in the admission of that State which, in the opinions of the gentlemen to whom he has referred, infinitely overruled any consideration as to population. There were reasons of the greatest magnitude in that case. We desired to settle a question then threatening the disruption of the Union, overriding everything else, and throwing entirely into the background any inquiries as to the population there.

Mr. LANE, of Kansas. The Senator from Ohio and other Senators answered the arguments made then, and which have been cited by the honorable Senator from Indiana to me. They said there was no fixed number of population required.

Mr. WADE. I do not say there is. I have already said there is no particular gauge. We have not been confined to that; but there has been a measure that we wanted to come pretty near to; and that was the amount of population necessary for a Representative in Congress. That has been the gauge. We have measured one way and the other of that, according to our idea that a Territory was filled up with great facility or very slowly, or where there were very strong and controlling reasons, as in the Kansas case. Why, sir, in order to settle that question of Kansas right, according to my ideas of right, I would have admitted her as a State with any population that would make it a free State, and settle that threatening question. I would not have stood a moment to inquire about it. I do not remember now what amount of population was said to be there. I know very well that Mr. Douglas, in arguing the question—and he was at the head of the Committee on Territories—said that it should be, as a general rule, the amount of population sufficient for a Representative in Congress.

Mr. LANE, of Kansas. But Mr. Douglas was on the other side. There were four thousand six hundred votes for that constitution, and here are seven thousand votes.

Mr. WADE. I am not measuring that, because, as I have told you, it does not form in my mind any gauge for action in this case. They are totally dissimilar.

Mr. LANE, of Kansas. I appreciate all that, but the Senator scouted the idea of population advanced by Mr. Douglas and advanced by Mr. Butler.

Mr. WADE. I say I did, under those circumstances. I have been endeavoring to show that in my judgment, under the circumstances in which Kansas was sought to be admitted, the amount of population, although important at other times, was entirely swamped and overridden by other paramount considerations. That is what I have been endeavoring to inculcate.

But, then, when all other things are out of the way, population is a question of very great consideration in my judgment, because we should not, I think, give to any portion of our population an immensely increased political power over others when there is no paramount necessity for it. These considerations actuated the Committee on Territories long before the rebellion. I remember very well—I was on that committee at the time—we organized some four or five Territories in the winter, I think, of 1861, and it was done by a kind of compromise here in order if possible to settle this terrible question that was agitated in the Territories with regard to slavery. The whole slavery question for several years turned on the fact as to what should be the *status* of that institution in the Territories, one party contending that they had a right to take all their slaves into any of the Territories to hold them there, and to make them slave Territories, and those of us who took a different view of it contending that they had no right to do that, and that they should be fenced out by what was called the Jefferson proviso. That was the question, and that terrible question led us to organize these Territories when there was scarcely any population in them. Mr. Green, of Missouri, was at the head of the committee at that time; I was on it with him; and we there made this compromise, that we would admit the Territories without saying one word about slavery one way or the other, both of us being anxious to get rid of it. We did so, and the Senate and the other House agreed to what we had done, and we organized those Territories when under other circumstances undoubtedly they would not have been organized.

Mr. CONNESS. Will my friend permit me to ask him a question here which is of interest to me?

Mr. WADE. Certainly.

Mr. CONNESS. I believe the Senator was here at the time of the organization of the Territories of Kansas and Nebraska?

Mr. WADE. Yes, sir.

Mr. CONNESS. I desire to ask the Senator if political considerations did not guide in the organization of those two Territories at that time rather than any necessity for territorial governments in the Territories.

Mr. WADE. Undoubtedly; that was my understanding of the subject. As I have said, all other considerations as to population and everything else were overridden by the paramount one of political considerations.

Now, Mr. President, in the committee I dis-

agreed with my fellow-members upon the admission of this State. As I said before, after voting down the first enabling act, the very next year they came and asked for another, notwithstanding two thirds, or nearly two thirds, of the population on a fair vote had voted down the State constitution and said they did not want to come in as a State—that was the loudest expression that we could get from them; gentlemen were here asking the Committee on Territories to give them another enabling act, and they had a bill referred to us; but we said "No, we do not see any necessity for it; your people do not want it; you have got the loudest expression of the people of Colorado, and that is, that they do not want to come into the Union yet. They have told you so in the strongest way they could speak to you, and now you say they want to come in. We cannot understand that; there has been no increase of population to speak of; there has been no change in the circumstances of that Territory that we are aware of from the time they voted down the first enabling act to the time you ask another enabling act a year afterward." We did not believe they wanted to come in.

Now, sir, how emphatically did the people of Colorado speak the next time on the subject? When we refused to grant these gentlemen another enabling act, they said, "We will go on without any; we will not ask you for any; we can do just as well without it, because Territories have been admitted without an enabling act." I grant that they have been, not without great controversy, but still it has been done. It was done in the case of California, which was another case where political considerations overrode those other minor considerations. There the great question of the balance of power between the free and the slave States was up. Certain States threatened to disrupt the Union if we should bring in California, and demanded that it should be a slave State. General Taylor, as President of the United States, wishing to settle the controversy, sent agents there favorable to bringing it in as a free State. There was a terrible controversy in Congress, but California was finally brought in as a free State, and scarcely anything was said about its population that I can recollect, and naturally there would not be. It was to settle a great question that was agitating the community and threatening the nation itself, and there was no time for an enabling act. We had just conquered the Territory. There it was under military rule; it was a great necessity that civil government should be instituted there. These were the reasons in that case.

In the case of Michigan—and that is the only case I recollect except California—she was admitted into this Union without an enabling act, but it brought on a long and fierce controversy whether it should come in without it or not. The Attorney General, I recollect, made a most elaborate report on that subject, finally coming to the conclusion that it would not be illegal to recognize the act of the people and confirm what they had done. It was said then it would be irregular. It was only an exception to a rule almost general, and it was admitted with great reluctance prompted, undoubtedly, by the strongest party feeling, for party feeling never ran higher than then.

Mr. LANE, of Kansas. How was it with Florida?

Mr. WADE. I do not remember about Florida. The gentleman spoke of Florida coming in without an enabling act. I do not recollect that it did. But in searching back the cases, and hearing this question argued so often here, I do not recollect that Florida has ever before been cited as an instance where a Territory has been admitted without an enabling act, though I do not pretend to say that it had an enabling act.

I know it is in the power of Congress, if they see fit, to ratify what these people have done; but if they do it they do it at the hazard of setting a precedent which will be attended with very great disadvantage in a great many ways. For instance, a Territory will be feverish and uneasy to get into the Union without any regard to its population, and without asking Congress whether it is proper they should come in or not. There is no question but that will be the case. They will make a constitution, they will elect all their officers, they will appear at the doors of your Capitol demanding to be admitted, and it will be a hardship to them if they are turned out of doors after all this expense incurred and have to go home empty. We are reluctant to do any such thing, but nevertheless, if you set this example, it will be all hap-hazard hereafter; they will form constitutions and demand admission under such circumstances that undoubtedly no judicious man would say they ought to come in. Then, they labor under the disadvantage of having been at the expense of getting up a constitution and voting upon it and sending members here for admission from remote parts of the Union, and staying here a great while at great expense in order to have the question tried, and with a case that Congress cannot sanction.

Sir, they ought not to come in without an enabling act. I will not say that circumstances may not transpire where it is proper to admit a State without an enabling act, but there should be some great and paramount reason for it when a people appear in that way. They certainly should not come here and ask for one and have it refused, and right over on top of that refusal come here and in defiance of the act of Congress claim that they ought to come in. I say that when they applied last winter and we refused to give them a new enabling act, it was as much as saying to that people, "In the judgment of Congress you are not in a condition to come into the Union;" and therefore these people cannot complain that it is any hardship that we do not admit them, because we did not tell them we would admit them; we did not tell them they could come in. On the other hand, we told them, "You cannot come in yet; in the judgment of Congress you are not in a condition to come in, and your own people, the last time we heard from them, decided that it was not for their interest to come in."

For these reasons and a great many more that I might detail, perhaps not as strongly and as cogently as they have been detailed by others, in my judgment this Territory is not in such a condition as that in justice to her own people and in justice to the other States of the Union, she should now be admitted into the Union.

As to this word "white" in the constitution, I have but one word to say. In my judgment that of itself constitutes a very great reason why she should not be admitted. It will not do to tell me that I have voted heretofore for the admission of States with the word "white" in their constitutions, excluding the colored population. I have no doubt that every Senator who has been here long has done it. Why, sir, the man who has made no progress upon the great subject of human rights within the last five or six years belongs to the fossil race; he must be clear down to the old red sandstone. [Laughter.] We are now demanding free suffrage everywhere. How long have we been doing so? How long is it that slavery has been abolished throughout this whole Union? How could a man five years ago stand upon this floor and claim that the black population should have the right of suffrage in every Territory admitted into this Union? We were contending then, not for the admission of the blacks to the right of voting in the Territories, but we were endeavoring to fence out slavery itself in the Territories. We were fighting in a death struggle to keep slavery out. It would have been preposterous then to talk about admitting one with the right of the colored people to vote, and the man that would have insisted upon it would have been an impractical man. A statesman should always take all the good that he can possibly get. My rule has always been to contend for all that pertains to human right and liberty that under the circumstances can be extorted from those who are reluctant to grant it, and if I can get an inch I will not forego the opportunity. I will ask what I can get; but in those days we could get nothing, and it was a great triumph if we could fence slavery out of any Territory.

Why, sir, the fiercest battles that were ever fought in this Senate were fought over the question whether there should be slavery all over the Territories and all over the States, and we thought ourselves happy if we could fence it from there.

My mind has undergone no change upon this subject. I knew what was right then just as well as I know it now. I knew that the colored man had the same right to political power that a white man had. Any man in any country that is responsible for maintaining that nation or State is entitled to vote, and it is nothing but oppression and tyranny to exclude him from it. The man who desires to exclude anybody, white or black, who has the burdens of the Government to bear, and will not let him participate in all the privileges, political and civil, that he himself enjoys, is a tyrant, and I would not trust him with my dog.

Mr. LANE, of Kansas. Will the gentleman allow me to settle the question that has been raised with regard to the admission of Florida?

Mr. WADE. Yes, sir.

Mr. LANE, of Kansas. In 1838 the people of Florida formed a State constitution without the previous assent of Congress.

Mr. WADE. I do not deny that. I said I had not seen it cited. It may be so, but nevertheless it is exceptional. I believe, then, I can count three cases, Michigan, California, and Florida, if the Senator is correct.

Mr. LANE, of Kansas. I have a faint recollection that Alabama was admitted in the same way.

Mr. WADE. I hardly think it was, but it may turn out to be so. I know that as often as that question has been up it has met with the strongest opposition here. The Senate has always demanded, as it ought to demand, that they should have the representative ratio, for fear of the consequences I have endeavored to delineate of permitting a people to come here demanding admission as a State without consulting Congress at all, on their own motion, tempted as they always are by the principal influential men who seek offices in these new States. It is a dangerous thing to permit them to do it. It is at least dangerous to this extent: they will incur expense and disappointment and be attended with a great many difficulties that ought not to exist. It is easy for them to consult Congress first, and if Congress judges they are in a condition to come in, the whole controversy ceases; they come here and everybody admits them to come in; everybody knows what they are about; the thing is all settled. That ought to be the rule, I have no doubt. It has not been the rule in this case. These people commenced right; we gave them all they asked. The people saw fit not to comply with our invitation, and I think they judged wisely. Then somebody came again, whether it was a movement of the people or not I do not know, and right upon the heel of that refusal asked to be admitted. I think it is unreasonable, when it cannot be shown that their circumstances have altered in favor of their admission.

This is all I wish to say on the subject. If the Senate comes to the conclusion that these gentlemen are entitled under these circumstances to be here with us, certainly I shall not complain of it. I have only discharged what I considered a duty to myself to explain the course I took, differing from the majority of the committee with whom I generally act. That is the only reason I have spoken at all.

Mr. McDOUGALL. Mr. President, there are considerations lying about this question which I have not yet heard presented to the Senate. It is a singular fact that we here hardly know anything that is west of us. East of the Alleghanies they know more about Europe, Asia, and Africa than they do about the Mississippi valley or the mountains on my own

coast. That has been an observation made by all men who have lived in western countries.

Again, Mr. President, we are developing in the West the virgin land of the world. That land, particularly in the mountains and among the minerals, gold and silver and the metals of the Rocky mountains and the Sierra Nevada, is not understood at all here. It has been of import to California that she was early recognized as a State to legislate in and about her own business and in and about the business of her population. Colorado cannot be legislated about here, nor can the accidental circumstances of a territorial administration answer her full purpose. It is another fact that I care to observe, that North Carolina and New Hampshire do not want the legislation that she wants. An appropriation of a naval storekeeper or something of that sort will suffice for them; but the new States as they grow up and spring into existence require legislation, and therefore representation. It was the practice of some of the old States formerly to invent ways against legislation, because they needed none, whereas the new States do need it. For that cause they need representation here. Colorado now, as I am informed, has a population much larger than many of the Territories that have been admitted as States into this Union. I do not remember a single State admitted into the Union that came up to the rule stated by the Senator from Ohio. His own State did not come up to it when she was admitted from the Territory of the Northwest; Indiana did not; Illinois did not; Iowa did not; Wisconsin did not. It has been regarded as a point of observation rather than a rule of conduct, I have no doubt that Colorado will be infinitely stronger maintaining herself as a State government than being a mere territorial dependent, just as California with forty-five thousand population became stronger, much stronger, not being a territorial dependent, but being a State of the Union.

Mr. TRUMBULL. Mr. President, if this were a new question as to whether Colorado should be admitted as a State, I should be inclined, and not only inclined, but be decided in my opinion that it ought not to be admitted with its present population. But, sir, it is not a new question. The Senator from Ohio who now opposes the admission of Colorado as a State has held out to the people of Colorado inducements to form a State government. Two years ago he brought into the Senate three bills authorizing the formation of State governments in the Territories of Nevada, Nebraska, and Colorado. I thought that those measures were premature. I thought there was not sufficient people in any of those Territories to form a State government. I was opposed to those bills and spoke against them. The population of those Territories according to the census of 1860, was, in Colorado, 34,231, Nebraska, 28,759, and Nevada, 6,812. That was the last enumeration of the population we had had; and when that was our last enumeration of population, the Senator from Ohio, from the Territorial Committee brought back into this body three bills authorizing each of those Territories to form State governments, and when it was objected upon this floor that they had not sufficient population to form State governments, when the same arguments were used which the Senator from Indiana and the Senator from Iowa have pressed to-day, they were all overruled. I remember that I made some remarks on the subject, and I find myself reported as saying something upon one of these bills. I think they all came in about the same time. When the one in reference to Nebraska came up I submitted to the Senator from Ohio an inquiry. I said this:

"I should like to inquire what was the population of Nebraska when the last census was taken, and whether there has probably been any increase of population since that time or not. I know that in these days it is regarded as a very small matter to make a State. It used to be considered a matter of some considerable importance; but now we can make a Territory into a State in the morning hour without anybody scarcely listening to the bill when it is read. I have not looked at the census with a view to this question this morning; but my recollection of the population of Nebraska is that there are some twenty or thirty thousand people there. If Congress think proper to admit every twenty or thirty thousand people they can find anywhere as a State, they will multiply States very rapidly."—*Congressional Globe, first session Thirty-Eighth Congress*, p. 1558.

I do not propose to read all that I said at that time. I have read enough to show that I took ground against the enabling act authorizing these State governments to be formed. I was voted down, however. And what did the Senator from Ohio say? When this Colorado enabling act was up the Senator from Vermont, now no more with us, Mr. Collamer, said:

"I wish to inquire of the chairman of the Committee on Territories whether he has any information as to the extent of the population of this Territory?

"Mr. WADE. Nothing that I can rely upon with a very great deal of confidence. I have taken some pains to ascertain the facts from the Delegate in the other House, and from Mr. Edmunds, of the Land Office, who has some information on that subject. I understand there must be now about 60,000 inhabitants in Colorado; some think a great deal more than that."—*Ibid*, p. 789.

That was in 1864. Now they prove she has not got 25,000. How many votes did she give in 1864? Five thousand seven hundred and sixty-nine.

Mr. STEWART. Nearly 7,500 at the last election.

Mr. TRUMBULL. Yes, sir, and now you have 7,400 and odd there. She had 60,000 in 1864, when the Senator from Ohio was pressing this bill through the Senate, telling the people of Colorado that they had people enough to form a State constitution.

Mr. WADE. We had, as I told the Senate, no exact estimate of the population. I did not know how many they had. I got the best evidence I could from the Delegates and from others, and they impressed it upon us that there was the amount of population there that I stated. I supposed there was, but it seems as though that was not the fact; that is what I told you before.

Mr. TRUMBULL. Their vote at that time was nearly two thousand less than it is now. It is very strange that the Senator from Ohio should have urged here the formation of State governments without knowing anything about the number of people there. I was opposed upon principle to the formation of State governments with so few inhabitants. I took ground against it, but under the lead of the Senator from Ohio, Congress decided differently.

Mr. WADE. The Senator says he took ground against it and believed it was altogether wrong. I want to know if he is of the same opinion now.

Mr. TRUMBULL. I was of that opinion then, and I should be of that opinion now, had not the Congress of the United States overruled my judgment in that respect. I put it to the Senator from Indiana, and ask him if we are not bound by our acts and if good faith does not require us now to carry out our acts? When the Congress of the United States says to the people of Nevada, says to the people of Nebraska, says to the people of Colorado, although you have less than thirty or forty thousand people, whatever the number may be, you are authorized to go on and form a State government, call your convention, and when you call that convention and form your constitution, without any further action of Congress you shall be a State? This act in regard to Colorado declares that it shall be the duty of the President of the United States to issue his proclamation declaring the State admitted into the Union on an equal footing with the original States, without any other action whatever on the part of Congress.

Mr. FESSENDEN. Allow me to ask the Senator a question.

Mr. TRUMBULL. Certainly.

Mr. FESSENDEN. I want to know whether I understood rightly that the people of Colorado acted under that enabling act and refused to avail themselves of it. Was it not so?

Mr. TRUMBULL. I will answer that. It was so. I understand they had one trial and rejected it.

Mr. FESSENDEN. That being so, why are they not as much bound by their default as we are by ours? If they took the liberty to change their minds can we not take the liberty of changing our minds too?

Mr. TRUMBULL. I will answer that. I do not think so.

Mr. FESSENDEN. Why?

Mr. TRUMBULL. I think that when the Congress of the United States has submitted to the people of a Territory whether they shall form a State constitution, and has authorized them to form it, if on one trial they do not do so they may go on to do so afterward. I do not think we have the same right to withdraw it after having held out this inducement to them.

Mr. FESSENDEN. Why not?

Mr. TRUMBULL. I will tell the Senator why, and I will try to illustrate it. We submitted some time ago to the people of the United States an amendment to the Constitution.

Mr. FESSENDEN. Once adopted, they could not take it back.

Mr. TRUMBULL. Well, we submitted to the various States of the Union whether they would abolish slavery or not. The State of New Jersey by its Legislature a year ago decided they would not. Now, does the Senator from Maine mean to say that the present Legislature, which has gone on and ratified the constitutional amendment, had no authority to do so?

Mr. FESSENDEN. That is a standing power.

Mr. TRUMBULL. So had Colorado a standing power. Congress has not withdrawn its enabling act; it has never repealed it; and they have gone on to act under the enabling act. As to their mode of action, I shall come to that by and by.

Mr. FESSENDEN. Did they apply at the last session of the last Congress for another enabling act?

Mr. TRUMBULL. Not at all. I am not informed that any such application was made by any authority. Some individual may have applied.

Mr. WADE. Here is the bill.

Mr. TRUMBULL. The Senator from Ohio may have offered a bill, but the recognized authorities of the Territory of Colorado, I am authorized to say, never made any such application.

Mr. GRIMES. They never do.

Mr. TRUMBULL. There has generally been such an application, I think.

Mr. GRIMES. No, sir. Will the Senator tell me that a territorial government ever does ask to be transferred into a State government?

Mr. TRUMBULL. I think they have often.

Mr. GRIMES. The territorial officers?

Mr. RAMSEY. Often.

Mr. TRUMBULL. The Territorial Legislature often do; I do not think it is an unusual thing at all. I am informed now that the Territorial Legislature of Colorado asked for the passage of this enabling act. After the Congress of the United States has passed an enabling act, encouraging the people to go on and form a State government, (assuming now that they have complied with the act,) I say it is bad faith on our part after they have formed their State government to say to them that they shall not have the benefit of the act we have passed. I do not think a Territory should be encouraged to go to all the trouble of holding a convention, adopting a constitution, submitting it to the people, and then come here and be refused admission. Congress put it out of its power to refuse them. It declared in this act that without any further action they should become one of the States of the Union on an equal footing with the original States. Now, sir, I think it is out of place.

Mr. FESSENDEN. Why did not the President issue his proclamation?

Mr. TRUMBULL. That involves another question, and I will come to that by and by.

I think it wholly out of place to go into this question of population now. The Senate is committed, Congress is committed, by its pre-

vious action, and the question of population has nothing to do, as it seems to me, with our votes on the present occasion; we are bound by our action on that question.

Mr. HENDRICKS. As the Senator appealed to me to know whether, in my judgment, Congress, under the circumstances, was not bound to admit Colorado as a State, I say most decidedly, in my judgment, that neither in law nor equity is Congress bound under the circumstances. If the people of the Territory had acted under the law, complied with its provisions, then, indeed, they would have been admitted, because it would have been the duty of the President to admit them. That law never contemplated that the case would again come before Congress, but that it should go to the President, and as an executive act that he should declare the admission. But instead of pursuing the course pointed out by the statute they rejected the constitution that was presented to the people in accordance with the law, and then they did not pretend any longer to act under the law, but the chairman of the central committees of the political parties of the Territory called a most irregular election, in no sense, neither in law nor in equity, in accordance with the statute. Would the Senator vote for a bill authorizing an election of delegates to a convention such as took place in Colorado? Would the Senator, by a bill of Congress, authorize the people of the Territory to select their delegates in the manner in which they did select them?

Mr. TRUMBULL. Mr. President, I will reply to all these suggestions. They involve another branch of the subject. I am now replying to the objection on the score of population. I say that on that subject Congress is committed; and having decided that they had population enough to form a State government, it is bad faith now to turn around and reject them because they have not population enough. That is my point; that is the point on which I appealed to the sense of justice of the Senator from Indiana. The question of population is the point that is made here; that is the point the Senator from Iowa made, and that is the point on which Senators are placing their opposition. I say that it is bad faith on that ground to reject Colorado.

Now, let us see if there is any other ground on which it is to be rejected. Did you reject Nevada? The enabling act for Nevada, under which the people of that Territory acted, was very similar to the one under which the people of Colorado have formed their State government, but if I recollect aright the first action in Nevada was to vote down their constitution. The first constitution made under the enabling act in Nevada was voted down by the people.

Mr. WADE. Not the constitution made under the enabling act.

Mr. STEWART. There was a convention called by the Legislature to form a constitution, and that constitution was voted down. Congress then passed an enabling act and another constitution was formed.

Mr. TRUMBULL. I knew there had been two elections, but one was before the enabling act, it seems. Now, let us inquire into the technical objections that were made to the admission of Colorado. I admit that the law has not been technically complied with. That is what the President says, in communicating this constitution to Congress. He says he will not issue the proclamation because the enabling act has not been technically complied with. Now, what was the enabling act? It required the vote to be taken some time in the spring of 1865. Instead of being taken in the spring of 1865, it was taken in the fall. Is there any importance in that? It directed the Governor to apportion representation throughout the Territory. Instead of the Governor apportioning the representation, it was done by the cooperation of all parties.

Mr. FESSENDEN. An outside thing.

Mr. TRUMBULL. Yes, an outside thing. The political parties, through their executive committees, got together and agreed upon it, and all the people submitted to it. Now, what is the substance of the thing? The substance of the thing is to know whether the people of Colorado have got together and formed a State constitution in accordance with this enabling act. If you will look at the State constitution you will find that all the requirements of the enabling act are complied with. Everything in regard to slavery, everything in regard to public lands, everything in regard to the toleration of religion, everything that was required as a condition by Congress on the part of the people of Colorado in the formation of their State constitution, the people of Colorado have literally complied with.

But, says the Senator from Indiana, the men were not properly elected to the convention; they were not elected in the right way, he thinks. Is it at all material how they were elected to the convention, if there was an acquiescence of the people—and does he doubt that—in the mode that was adopted? Above all, if their work was submitted to the people, and they approved it, would the Senator from Indiana, or would any of us, higgle for one moment as to the manner in which a constitution was formed, if the people adopted it by a direct vote of their own as their constitution?

Suppose that John Locke had written the constitution; or suppose that the people of Colorado were numerous enough to satisfy the Senator from Indiana; suppose he were satisfied there were two hundred thousand people there to-day, and instead of holding a convention, the organs of the two political parties, if you please, were to agree that they would adopt the constitution of Indiana as their constitution, simply changing the name of the State so as to make it applicable to the people of Colorado as their constitution, I ask if he would then reject their admission into the Union simply because they had not elected delegates properly to form the constitution? The substance of the thing is to ascertain whether it is the work of the people of Colorado. All the rest is machinery. What we want to know is the final wish of that people. That we ascertain by their votes; and this work was performed under these circumstances by representatives fairly chosen. They have presented a constitution republican in form, unexceptionable except so far as the Senator from Massachusetts excepts to it, because the word "white" is contained in it; and they were bound to have it in that way. They could not have it any other if they complied with the enabling act, because the enabling act provided that—

"All persons qualified by law to vote for representatives to the General Assembly of said Territory at the date of this act shall be qualified to be elected, and are hereby authorized to vote for and choose representatives to form a convention;"

and the law of the Territory at that time did not allow any but white persons to vote.

But, says the Senator from Massachusetts, when we passed that enabling act we did not know that everybody did not vote. I should like to ask the Senator from Massachusetts if when he voted for that enabling act, if he did vote for it, he had any information that negroes were allowed to vote. I understand that it is not true that negroes ever voted there.

Mr. SUMNER. I have evidence to the contrary which I will bring out very soon.

Mr. TRUMBULL. It was not understood that they ever voted there at any time, and in point of fact they never did vote. Now, in regard to the population of that Territory, I will say it is not a question to be considered here; but as to the statement of the vote, it is well enough to be accurate about it. The vote on the constitution was considerably less than the vote for State officers, for some reason, I know not why. That often happens. It is always so, some Senator remarks. At the election for State officers, the last election held in Colorado, more than seven thousand four hundred votes were polled. If it was right to pass the enabling act in 1864, and encourage the people of Colorado to form a State government, then I insist that it is right to admit them now if they have formed a State government in substantial compliance with the act. They have not complied in point of time; they have not pursued the precise manner; but substantially they have complied with the act. They had a delegated convention; they formed a republican constitution; they submitted it to the vote of the people; it is certified to by the officers of the Territory, and it appears that it was adopted by a majority of the people. Now, it does seem to me that good faith requires us to admit them; and it is on that ground alone that I shall cast my vote, for if no encouragement had been held out to the people of Colorado to form a State government, I agree that I should not vote in favor of an enabling act, nor would I vote to admit them as a State, with the population which I am induced to believe they have, for I think we should require a larger population. It seems to me, however, that Congress has committed itself by its own action, and it is too late to raise the question of population now.

Mr. SUMNER. The Senator from Ohio in his remarks said that the population of this Territory had gradually diminished from 1861 to the present time. In that he was right. In 1861 the voting population was upward of ten thousand.

Mr. RAMSEY. With the consent of the Senator from Massachusetts, I should like to know the evidence of the reduction of the population in the Territory of Colorado. There is no evidence of it. It is perpetually asserted here by speakers on this question, but there is no evidence of it. The presumption is a very strong one that the population has increased immensely since 1864, the date of the passage of the enabling act.

Mr. SUMNER. The Senator asks me for the evidence, and I am ready to give him the evidence I have, and the Senate shall judge of its weight. The evidence is a statement under his signature of Hon. Henry C. Leach, president of the Territorial Council of Colorado made to me last Sunday.

Mr. RAMSEY. What does Hon. Mr. Leach know about the population of Colorado? Has he had occasion to take a census of it?

Mr. SUMNER. He is a distinguished citizen of Colorado, in high official place.

Mr. TRUMBULL. He guesses at the population.

Mr. SUMNER. No, sir.

Mr. HENDRICKS. If the Senator from Massachusetts will allow me one moment I will add a very little to the evidence that he has suggested. In 1861 there was an election in the Territory of Colorado, and that Territory was then able to give a vote of 10,580. In November, 1865, upon the most important question that had ever been submitted to the people, that is, the question of forming a State government and adopting a constitution, they were able only to give a vote of 5,895, a little more than half the vote of 1861.

Mr. TRUMBULL. Will the Senator allow me to ask how many votes they gave at the same election for State officers?

Mr. HENDRICKS. At the State election, I understand, it was 7,400, or a falling off in a vote of 3,000 and more from 1861.

Mr. GRIMES. Will the Senator from Illinois suffer me to ask him how much larger a vote was given at Denver at the State election than was given at the preceding election two months before? And will he further tell me how many of those votes it was admitted on all hands were fraudulent at the State election?

Mr. TRUMBULL. I have no evidence on either point. I do not know how many were given at Denver at either time. The evidence I have is such as comes in an official form, and I have no knowledge about any frauds. If the Senator from Iowa has, that would present another question. I am not advised in reference to any.

Mr. SUMNER. I was observing that the population had been decreasing from 1861 to the present time, when I was interrupted and asked the evidence of that. I believe we have been a little at cross-purposes since. I may have said the population was ten thousand and

upward; I meant to say that the voters were ten thousand and upward, as the Senator from Indiana has reminded us. Very well, assume that in 1861 at an election there were ten thousand and upward of voters. This last year there were only five thousand and upward.

Mr. TRUMBULL. Seven thousand and upward.

Mr. SUMNER. Very well, but on the constitution five thousand and upward.

Mr. STEWART. At the last election seven thousand.

Mr. SUMNER. On the constitution, the most important act that the State could be called to vote upon, the vote was five thousand and upward—not six thousand voters. That is the evidence in the case; and therefore my friend from Ohio was perfectly right when he said that the population had been going down instead of going up.

Mr. TRUMBULL. The vote shows that the population was larger at the last election than it was when the Senator from Ohio urged the passage of the enabling act through the Senate in 1864.

Mr. SUMNER. Have I said anything on that question?

Mr. TRUMBULL. You quoted the Senator from Ohio.

Mr. SUMNER. Have I said anything on that question, I ask the Senator? I say I am presenting the difference between the population in 1861 and the present time; and the Senator reminds me of the difference between the population in 1864 and the present time. I make no question with the Senator on that.

Mr. TRUMBULL. The Senator quoted the Senator from Ohio as showing that the population had decreased.

Mr. SUMNER. Very well.

Mr. TRUMBULL. I thought it was a perfect answer to the authority of the Senator from Ohio to show that when he insisted on the enabling act the vote was less than it was last year. If the Senator from Massachusetts cannot understand that, I trust the Senate can.

Mr. RAMSEY. In the election of last September the Senator from Massachusetts says the vote was five thousand.

Mr. SUMNER. I said on the question of the adoption of the constitution.

Mr. RAMSEY. Then, on the 14th of November, of the same year, the vote was above seven thousand. Does he say that the population increased in that period of time in that proportion? By the rule which he adopts of ascertaining population, there must have been an immense increase in the period of three months.

Mr. GRIMES. There is a frequent increase in that same way.

Mr. SUMNER. There is a singular discrepancy in these facts, and the very fact that there is such a discrepancy is in itself an argument why we should not rush thus hastily to endow this community with the great functions of a State government. I therefore go back to the statement of my honorable friend before me, [Mr. WADE,] that according to the evidence the population from the beginning instead of increasing has decreased, because at the beginning the evidence is explicit that at an election there were more than ten thousand votes cast, while when the question was on the adoption of a State constitution there were only somewhat over five thousand votes cast. But unhappily this is not the only way in which this community has fallen—fallen in population, as my friend says; fallen, as I now shall proceed to show positively, in another particular much more important than population.

I have in my hand the special message of Governor Cummings communicated to the Legislature January 23, 1866, in which he sets forth how this community has fallen not in population only. He says:

"The organic act provided 'that every free white male citizen of the United States of the age of twenty-one years, including those recognized as citizens by the treaty with Mexico, should be entitled to vote at the first election; but the qualifications of voters at all subsequent elections shall be such as shall be prescribed by the Legislative Assembly.'"

The Legislative Assembly was to take this question of voters in hand and to prescribe the qualifications. To do that they were empowered by the organic act. What did they do? Now, listen to the words of the Governor:

"Under the authority conferred by the foregoing section, the Legislative Assembly at its first session, in a spirit of liberality that did them honor, passed a law regulating elections, approved November 6, 1861, providing that 'every male person of the age of twenty-one years or upward who shall have resided in the Territory for three months next preceding any election shall be deemed a qualified voter at such election.'"

My excellent friend from Kansas [Mr. POMEROY] says that there never was any law of the Territory on the subject. To his statement I oppose here the message of the territorial Governor setting forth *in totidem verbis*, the very text of that statute. The Governor then goes on to say:

"The Legislative Assembly of 1864 passed an act, approved March 11, 1864, amending the foregoing section by inserting after the word 'upward' the words 'not being a negro or mulatto' so as to make it read: 'Every male citizen of the age of twenty-one years and upward, not being a negro or mulatto, who shall have resided,' &c., 'shall be deemed a qualified voter.'"

There is the statement of the Governor of the Territory in the message which I hold in my hand. Mark now, if you please, the date of this territorial act, March 11, 1864. Down to March 11, 1864, the word "white" was not in the electoral laws of this Territory; it made its appearance on that day. But this enabling act at that time had already passed the Senate of the United States; it had already passed the committee presided over by my excellent friend, the Senator from Ohio, [Mr. WADE,] who doubtless had before him the legislation of the Territory excluding the word "white" from its electoral laws. Was not, then, this enabling act passed under a misapprehension? I do not say there was any purpose of deception. Did it not obtain the vote of my excellent friend from Ohio and my own vote under the idea that by the laws of this Territory colored persons were not excluded from suffrage? The enabling act, as I have already said, in reply to the Senator from Kansas, expressly declares that "all persons qualified by law to vote for representatives to the General Assembly of said Territory at the date of the passage of this act shall be qualified to be elected, and they are hereby authorized to vote for and choose representatives to form a convention." Between the introduction of the act and the date of its approval, the legislative body of this distant Territory undertook to make this fundamental change in its electoral law; and in that respect I say that people fell more than they fell in the fall of their population. Their population has diminished, but they certainly have deteriorated in political character, and they have not now the same noble elements of political life which they had when they first appeared as petitioners to be a State.

Sir, I might say something more on the question whether any power can be derived under this enabling act. I think, however, that has been enough discussed. All must see that whatever may have been its original character, whatever powers may have flown from it to the territorial government, those have all been exhausted, and that act has practically expired; it is *functus officio;* it is a dead act, and this community is no more authorized to proceed under it than any other Territory is authorized to proceed under it. It is not in any respect applicable. It has ceased to have any legislative potentiality. Therefore, sir, whatever this people have undertaken to do they have done without any legislative act; they are a voluntary body proceeding by voluntary action, without any previous sanction of Congress, and all that they may do is submitted to the judgment of Congress which is in no respect bound or compromised in the least by any previous proceeding. We approach the question now as a new question, precisely as if there had been no enabling act, as if the name of Colorado, a pleasant name I trust it may be hereafter in these Halls, had never before found an echo here. The whole question is absolutely new from beginning to end, and we must approach it under all the responsibilities of our position looking at it on the evidence, according to the facts, in order to determine whether now, at this moment, under these circumstances, we shall be justified in ceding to this community all these great powers.

But, sir, there was one argument from the Senator from Kansas [Mr. LANE] which was an appeal somewhat to us personally, to my excellent friend from Ohio, to my excellent colleague, and to other Senators who had been here in other days, when Kansas was in danger, and in that

"Well-foughten field,
We kept together in our chivalry."

Sir, it is one of the prides of my life that at that time I was able to do something for the State which the Senator now represents on this floor. I did it sincerely, honestly, believing it my duty, at the time, because I saw well that that distant community was in peril and it could only be saved by the intervention of Congress, the swift intervention of Congress, which would not brook delay. Therefore, sir, for the sake of peace, and as I would save a drowning man just sinking for the last time, I exerted myself in every way to invest Kansas with all the privileges and self-protecting powers of a State. The case was peculiar and exceptional; it was also historic. It is not a case which can be cited as a precedent on the present occasion. As well might you cite what you do to save a drowning man who is about to perish as a proper precedent for your conduct in daily life. The case of Colorado is one which is to be met on the facts; it is not an exceptional case, it is a simple case. Meet it, therefore, on the facts and on its simplicity.

Mr. DOOLITTLE. Mr. President, as this question is coming to a vote, I desire to say a few words by way of explanation of the vote that I shall feel constrained to give. I confess that my sympathies and my hopes have been with this young Territory, as it has always been with the new Territories and rising States of the West. I voted for the enabling act. I did so in the most perfect good faith, and in the belief, as was stated by the Senator from Ohio, that there were at that time from forty thousand to fifty thousand people, and that, in all human probability, by the time the enabling act would be carried into effect, and the government of the State organized, there would be a population almost sufficient to entitle it to elect a Representative to the other House. But, sir, I find, if the statements which appear in a paper laid upon our desks are correct, that I was under a mistake; that instead of there being forty or fifty thousand people in Colorado in 1864, when we passed the enabling act, there could not have been certainly to exceed twenty-five thousand. It would seem from a table of the votes which have been taken there, that in 1861 there were 10,580; in December, 1861, 9,354; in October, 1862, 8,224; in September, 1864, two years afterward, 5,769; and, then, at the election held under the enabling act, when votes were given for and against the constitution, there were 6,192 votes cast. Then the vote upon the present constitution, under what is denominated the popular movement, was but 5,895; and it is said that upon the last election when they elected officers under the State government, there were about 7,000 votes. These facts force upon my mind a conviction against my hopes, and I will say against my wish, that the population of Colorado is much less than I supposed it was when the enabling act was passed, and my conviction is that the population now is not to exceed twenty-five thousand in that Territory.

This conviction being forced upon my mind, the question arises, what under the circumstances is it my duty to do? It is urged upon the one side that inasmuch as we passed this enabling act and invited or allowed Colorado to form a constitution and submit it to their

people, we, in good faith, have become bound to the people of Colorado to accept the constitution which has been adopted by them, notwithstanding we are convinced that her population is too small to entitle her to the representation and the position of a State. That brings me to the consideration of the question whether we are in good faith bound to the people of that Territory.

Mr. POMEROY. Let me ask the Senator from Wisconsin if he does not know, having been there, and having traveled under military escort on account of Indian troubles, that it was altogether unsafe for the people to vote; whether he himself could have gone a rod without the military to protect him when he was there? Is a vote taken under such circumstances any test of the population of a State?

Mr. DOOLITTLE. In the Territory of Colorado undoubtedly there has been great disturbance in consequence of Indian difficulties. Undoubtedly these Indian difficulties have prevented that increase of the population in Colorado which was reasonably anticipated by the Committee on Territories when they brought in the enabling act. The Indian hostilities upon the plains have undoubtedly cut off immigration to Colorado. They have cut off also the supplies of Colorado. This made the price of provisions so high in Colorado that the miners could not go there to develop the mines. My belief is that after a time when peace is established and supplies are more easily carried over the plains, and especially when the railroad shall be constructed so that supplies can go cheaply to the mountains of Colorado, there will be a great rush of population there; and I do not believe it will be many years before there will be in Colorado a population of fifty, sixty, perhaps eighty thousand inhabitants, but they are not in that condition now. I am convinced, from the evidence before me, that there are not to exceed twenty-five thousand people in the present Territory of Colorado; and therefore, as I say, the question forces itself upon my mind, are we bound by what we have done in good faith to that people?

Now, what are the facts bearing upon that point? We passed the enabling act, and under that enabling act the question was submitted to that people, will you accept a constitution and form a State government, or will you not? Upon that question the people voted, and the vote upon that question was most decided that they would not accept it.

Mr. MORRILL. What year was that?

Mr. DOOLITTLE. In the fall of 1864. We passed the act in the spring of 1864; March 21, 1864, is the date of its approval. That act provided for the mode of calling the convention; it provided that the Governor of the Territory should, by proclamation, divide it into proper districts, and that the election should be held under the provisions of that act. They did elect a convention, and the convention, pursuant to that act, submitted the constitution to the people, and on that question the people cast 6,192 votes, of which 1,520 were for the State constitution, and 4,672 against it, leaving a majority of 3,152 against the constitution.

It seems to me that the question was fairly submitted to the people under this enabling act; and the provisions of the enabling act having been complied with, there is no further power under the enabling act for the Governor of Colorado or the people of Colorado to do anything at all. If you look into the act you will find that the first section provides—

"That the inhabitants of that portion of the Territory of Colorado included in the boundaries hereinafter designated, be, and they are hereby, authorized to form for themselves, out of said Territory, a State government, with the name aforesaid; which said State, when formed, shall be admitted into the Union upon an equal footing with the original States in all respects whatsoever."

"When formed." How formed? Formed under this act; and this act tells them how to do it, and says who shall be qualified to vote. To quote the language of the statute, it provides:

"The Governor of said Territory shall by proclamation, on or before the first Monday of May next, order an election of the representatives aforesaid, to be held on the first Monday of June thereafter, throughout the Territory; and such election shall be conducted in the same manner as is prescribed by the laws of said Territory regulating elections therein for members of the House of Representatives; and the number of members to said convention shall be the same as now constitute both branches of the Legislature of the aforesaid Territory."

That election was held; the convention formed a constitution, and pursuant to the fifth section of the act submitted the constitution to the people. That fifth section provided—

"That in case a constitution and State government shall be formed for the people of said Territory of Colorado, in compliance with the provisions of this act, said convention forming the same shall provide by ordinance for submitting said constitution to the people of said State for their ratification or rejection, at an election to be held on the second Tuesday of October, 1864, at such places," &c. * * * *

"And if a majority of legal votes shall be cast for said constitution in said proposed State, the said acting Governor shall certify the same to the President of the United States, together with a copy of said constitution and ordinances to that effect; whereupon it shall be the duty of the President of the United States to issue his proclamation declaring the State admitted into the Union on an equal footing with the original States, without any further action whatever on the part of Congress."

Now, as it seems to me, dealing in perfect good faith with the Territory of Colorado and with ourselves, in the belief that they had a population of forty or fifty thousand at the time, and in the belief that that population would increase, we authorized them to hold a convention, form a constitution, and submit the question to the people whether they would have a State government or not. All that was done and the people said no. As it seems to me, all power under this act was expended when that thing was accomplished; and now the question returns as an original proposition. I do not feel that we are bound by what we have done to close our eyes to the fact of the present condition of the people of Colorado, and that it does come before us substantially as a new and original proposition for us to consider whether in our opinion Colorado is this day now to assume the position and the responsibilities, and discharge the duties of a State in this Union. I come to this conclusion against my hopes and against my wishes in relation to Colorado, for I had hoped she would have the requisite population at this time. I wish for her growth and development. My sympathies are in that direction; yet I must confess that I am constrained to say upon my judgment that I cannot vote now for her admission as a State.

Mr. CRAGIN. Mr. President, it was not my purpose to say a single word on this subject; but the course of the discussion here, and the fact that I voted for this bill in committee, seem to impel me to say a few words, and only a few. The same reasons which influenced me to vote for this bill in committee will influence me to vote for it here. Coming into this body a new member and into this Committee on Territories, I found that Congress by an act passed in 1864 had authorized this Territory to form a State government, or, in other words, had passed an enabling act. I supposed that Congress were in earnest and meant what they said when they passed that act. I found that the people of this Territory had tried once under that enabling act and had voted down their constitution, and on a second trial had adopted a constitution and came here asking for admission into this Union. I say I supposed that Congress were in earnest when they invited them to do this thing in 1864. I believed that they did right; and therefore I voted for this bill. In the committee, Mr. President, if my recollection serves me, there was no discussion about the want of population; no discussion about any irregularity in arriving at this conclusion. Not a word was heard on that subject; I have heard that here to-day for the first time; and hence it is possible that if this argument had been presented there, I might have arrived at a different conclusion. But, sir, after all the discussion we have heard here to-day, I am convinced, and thoroughly convinced, that not a single reason exists to-day for refusing this Territory admission that did not exist when the enabling act was passed. I believe conscientiously that this Territory has more population to-day than it had in March, 1864. I believe, too, there is a wrong impression conveyed here on that subject. I am thoroughly convinced that the population of Colorado is equal to forty thousand at this moment. I am convinced of it from reasons that are satisfactory to me. First, I have a friend now residing in the city of Denver who has written me frequently in relation to matters in that Territory, and he has informed me, without any reference whatever to this question, that the population of that city alone is from seven to ten thousand inhabitants. And a gentleman who occupies a seat on this floor, one of the members-elect from Colorado as a Senator, informs me that the county of Gilpin where he resides has a population of from ten to twelve thousand.

Gentlemen have laid great stress upon this matter of voting. To me it is no evidence whatever of population, especially in a mining Territory. It is no evidence, because in many of our old settled States the mere number of voters is no indication of the population of those States.

I say, Mr. President, that I arrived at the conclusion in committee that the same reasons existed now for admitting this Territory that existed when the enabling act was passed. I have not been convinced to-day that any different reasons exist. I say again that I believe the population of this Territory is greater now than it ever was before. If the people of that Territory had happened to adopt their constitution in 1864, when they tried first, they would be here to-day represented by their Senators; they would have been admitted by the proclamation of the President; and if any great calamity had befallen this Republic in case that state of things had happened, it would have been attributable to those older members of the Senate who voted for the enabling act which allowed them to come in. I see no reason that exists to-day why they should not be admitted that did not exist when the enabling act was passed. The only objection that I had heard outside the Senate before to-day why this Territory should not be admitted is the fact that the word "white" is in the constitution. As I believed that they were acting substantially under the enabling act, that Congress had authorized them to form a constitution, I thought they should not be excluded on that account.

For these reasons, and others which might be given, I shall cast my vote for the admission of this Territory as a State of the Union.

Mr. RAMSEY. Mr. President, in the first section of the enabling act, of which we have heard considerable here to-day, Congress used this language:

"That the inhabitants of that portion of the Territory of Colorado included in the boundaries hereinafter designated, be, and they are hereby, authorized to form for themselves out of said Territory, a State government, with the name aforesaid."

If, as is alleged, this act was exhausted and dead after the first attempt upon this subject, why did not Congress on its part then repeal this law? Here you have had it standing from that day to this, from the 21st of March, 1864, until this time, a standing invitation to the people of Colorado to form a State constitution. You have twice put these people, who the Senator from Iowa told us are intensely poor, to the expense of forming a State constitution in obedience to the invitation of the first section of this act. I say that upon our part, at this time, to reject the admission of the State upon this ground would be a gross breach of faith to these people, who can very ill bear the expense of these two movements for admission into the Union.

But, Mr. President, in addition to these reasons there is great force in the argument of the honorable Senator from Kansas that this is a far outlying population on the way to the Pacific, a community of which we ought not to require the same population that we ought of a community conterminous to ourselves. It is six or seven hundred miles to the city of Denver,

after you reach the Missouri river. Then there is no reason why we should require of so distant a community as that the population we might require of a State quite adjacent to us. They are there; they are assisting us in carrying out our civilization and our progress westward to the Pacific. We ought to take them by the hand; we ought to encourage them instead of the action we have had here this day. I regret exceedingly the opposition of our friends on this side of the House to so reasonable a request as these people have made of us. No man can say what the population of Colorado is; it is an assumption for any Senator to say that it is 20,000 or 30,000 or 40,000. The probability is just as great that it is 50,000 or 60,000 as it is that it is 20,000 or 30,000. But after the invitation we have given, without repealing this act, we, I feel, would not be at all justified in rejecting this application. Upon the other hand it would be gross injustice to refuse the application, after having twice put them to the inconvenience and expense of making application for admission here.

Mr. GRIMES. The Senator from Minnesota inquires why Congress has not repealed the enabling act. It seems to me the question is a very simple one, and it has been answered here to-day a dozen times. The act has not been repealed because it expired by its own terms and limitation. The moment the people of the Territory of Colorado failed by their vote to accept the terms, that moment that act became *functus officio;* it was a dead act and had no effect whatever.

The Senator says I spoke of the people of Colorado as being poor. I did not say so; but I said that there was not property there upon which the requisite amount of taxes could be levied in order to support a State government. Mr. President, all of us who live on the frontier, as the Senator from Minnesota and I do, know that the population of these mountain Territories is almost nomadic; where there is a large population in one Territory to-day, the moment there is an outcry that a gold discovery has been made in a distant or an adjacent Territory, one half of the population flocks over to it. He knows, and so do I, that the population of Colorado at this moment is probably not near as large—I would not undertake to say by what percentage—as it was last year when these votes were taken.

Mr. RAMSEY. I should like to ask the authority of the honorable Senator for that.

Mr. GRIMES. I will tell the Senator the authority.

Mr. RAMSEY. Is there any official authority for that?

Mr. GRIMES. No, sir; I have no official authority. I have stated to the Senator that this knowledge is within his breast as well as mine. Let him go through Pennsylvania avenue and see the number of men who are here from Montana. All your public officers in that Territory are here, the men who are in business in those Territories are nearly all of them here. Why? Their merchants come here to buy goods in the winter, they avoid the inclemency of those mountains in the winter. In the summer they have a much larger population; it is so in all these Territories; but as I said before, it is very likely that they have a larger population by a few thousand than they had in 1864, as the Senator from Illinois says they have. Why was it decreased then? Simply because very few of the men there are bound to the soil. They have no interest in it except so far as they may successfully dig after gold, and the moment that it is proclaimed through the newspapers that there has been a valuable lead discovered in some distant Territory they immediately pull up their shanties and move to it, and that is the kind of population that it is proposed to make into a State, with a population as I believe, from the record evidence before us as to the votes that have been given in the last five years, not exceeding fifteen thousand.

Mr. President, the sum and substance of it all, is whether or not the Senate is prepared by its solemn vote to create a kind of rotten-borough State in the Rocky mountains, and give to that State the same representation and the same power on this floor as is given to the State of New York, Pennsylvania, and Ohio. That is the question, neither more nor less.

Mr. RAMSEY. How can the honorable Senator speak of a rotten-borough system in these new States and Territories of the West?

Mr. GRIMES. Perhaps the Senator does not know what rotten-borough is.

Mr. RAMSEY. Such a term cannot be applied to such live communities as our western Territories and States.

Mr. GRIMES. I mean by it that it is proposed to create a little insignificant State in the mountains, with only about 12,000 to 15,000 people, that a powerful, rich, and influential man can carry in his pocket, or which he can control by that which he does carry in his pocket. That is what I mean.

Mr. CONNESS. Mr. President, this question, while it has been considered in this body, has given me no little trouble and uneasiness. If I may be allowed to distinguish between the motives that govern men and those which affect myself, I may say that my feelings have all been toward the side and inclined to the admission of this Territory as a State, while as the discussion progressed, and time has passed on, my maturing judgment has been and is that it should not be so admitted. It is a matter of considerable pain to me, growing out of the facts which I shall state, that my vote will not be in accordance with my feelings.

In the first place, the proposed new State of Colorado is mainly a mining State, having a great leading industry identical with that of the State which I in part represent here. In the next place, as stated by the Senator from Minnesota, it is on the highway to the Pacific, and although not in close or contiguous neighborhood to the State of California, it yet ranks among the communities of the West, with which I and the State I represent are identified. Lastly, the gentlemen who have come here as Senators have been here so long that my acquaintance with them has become agreeable, and I should like to have them for associates in this body. For all these reasons it is somewhat painful to me to take the opposite side of the question, but I am constrained to do this, Mr. President, in view of not simply the existing condition of Colorado, but a conviction that I have had for many years of my life that the Congress of the United States, representing the Republic, has perhaps for a quarter of a century or more been creating States too rapidly. That has been my conviction. It appears as though a system of policy had been adopted in that respect which recognized the greatest possible good as achieved when for any and every cause a State was added to the Union. The flaming announcement that an additional star was added to the constellation was spoken of and received by the whole people with great joy. Long antecedent to the difficulties that came up connected with Kansas and Nebraska my own reflections went to this subject, and when the bill was introduced into the Congress of the United States, and urged by the lamented Senator from Illinois, now no more, for the organization of Kansas and Nebraska, I saw in it an additional difficulty, the creation of communities where there were no people. As the Senate will remember, I directed a question to the honorable Senator from Ohio to-day in this connection. I asked him, he having been here at that time, whether political considerations did not control the organization of Kansas and Nebraska, to which the Senator replied in the affirmative. There were no people in those Territories at that time; but it is true that immediately after their organization people flocked in that direction, and eventually one of those Territories became a battle ground where the different sections of the Union created civil war, and where a war was inaugurated which was but the precursor of the terrible civil war which is now so happily past.

Mr. President, I think the wiser policy on the part of the Congress of the United States would be to carry out a proposition which has been heretofore suggested, to pass an act providing that no Territory should be received into the Union as a State until it had population enough to elect a member to Congress under the then existing apportionment law of the United States.

We are told here, and it is said in behalf of the admission of this new State, that because we admitted Nevada we should therefore admit Colorado; and next, that because the Congress of the United States passed an enabling act for Colorado in 1864, Congress is bound by that act and should therefore admit this Territory as a State. It is known to many, if not to all of us, that pending the great war which has passed there was a very strong disposition on the part of a very large portion of Congress—I confess for one to have been influenced by that feeling—to create and admit loyal States. Disloyalty in the Union became so general and came so near disrupting and destroying the Union, and the problem whether we should have a country or not was brought so much and continued so much in question that the prospect of getting into the Union even a young State that was loyal became a desirable one to our minds; and in that view, as well as from other considerations, Nevada came in. Although Nevada is populated very largely by former citizens of California, I say here to-day that but for its contiguity to California, and but for the identity of interest with California and the constraint of admitting it because it was a known loyal State, I would not have given a vote for the admission of Nevada, and I would not have given a vote for the enabling act from my knowledge of Nevada at that time. So therefore I do not feel bound in voting upon this question by the precedent established in the case of Nevada.

Now, sir, a word on the question whether we should be governed by the enabling act, and as to the fact that Congress has, as the honorable Senator from New Hampshire says, committed itself by the passage of that act to the admission of this new State now. It can scarcely be held that Congress always acts wisely. I do not think the Congress of to-day would pass the fugitive slave act of 1850; nor need I go to that for an illustration. If in 1864, while the war was pending and when we desired to make an addition of loyal communities, not knowing at that time whether the power of the Government would be able to subdue the South, we had the desire to extend our system of government to these communities, believing them to be loyal, that necessity does not exist to-day, and we are not to be governed or controlled by it. I know very well, because I was here when the enabling act was passed, that the considerations to which I refer entered into the passage of the enabling act for both the State of Nevada and the Territory of Nebraska. Nobody will say to-day that the Territory of Nebraska is fit to enter this Union as a State. If any Senator will, let him join us and pay a visit some morning to the Committee on the Pacific Railroad when it sits considering the question whether a certain branch of the Pacific railroad shall be constructed so as to go into the Territory of Nebraska, and hear the statements made there involving the productiveness and the capacity of that country to sustain a community now fit to become a State.

Again, sir, New Mexico is to-day engaged, as we see by the journals of the day, in forming a State constitution. She is now taking the preliminary steps for that purpose. Suppose we admit Colorado on a statement that she has forty thousand inhabitants, what then? The honorable Senator from Minnesota says that it is an assumption to say that Colorado has even forty thousand inhabitants, and that she may as well be said to have fifty or sixty thousand. Admit, then, for the sake of the argument, that Colorado has fifty thousand inhabitants, shall we hold ourselves bound by admitting Colorado to-day because we passed an enabling act, when

she had less population in 1864, to admit New Mexico when she comes, whether or not she shall have in her constitution the word "white," which so offends the distinguished Senator from Massachusetts, and which it is charged therefore forms his only reason for opposing the passage of this bill? I have nothing to say about that. The honorable Senator has given his reasons at length to the Senate. But when New Mexico shall come here, as she will, for she is now taking the preliminary steps, what reason can we urge for the rejection of New Mexico? Simply because we did not pass an enabling act at any time. So far as that is concerned I think the answer made in regard to the question of an enabling act is entirely complete: the act served its purpose, was at an end. These acts are never repealed. They serve their purpose, and either are rejected or accepted, and that is the end of them. They remain a dead letter on your statute-books when not accepted.

Mr. President, I would gladly vote for the admission of Colorado if I could believe it was not a violation of a policy fundamental to the nation. There is another question that enters into the consideration of the admission of this Territory as a State. The Congress of the United States have as yet postponed and put off the policy of disposing of the public lands which form the Territory of Colorado and all the western Territories of the Union, because they are found to contain in part the precious metals, gold and silver. Thus we are called upon to admit a community that has scarcely any other than a mining interest, without any title to their lands, without any taxable property unless they tax their improvements.

Mr. STEWART. Will the Senator grant me permission to say a word or two on that point?

Mr. CONNESS. Certainly.

Mr. STEWART. I think the Senator is mistaken in regard to Colorado. At least one half of that Territory is agricultural. I understood when I was there last year that they were bringing into market large quantities of agricultural land. They are east of the Rocky mountains. There is agricultural land enough to form a large State, and there is no difficulty in segregating it from the mineral lands.

Mr. CONNESS. I trust for the sake of Colorado and for the sake of the Union that the statement made by the honorable Senator from Nevada is correct in this respect, and that Colorado has available agricultural territory, but there is no evidence here presented to the Senate and none ever came to my mind that an agricultural population have settled there. All that we hear about Colorado is that it is a mining community. All we hear is of its quartz veins and the transportation of machinery there to work them. My heart and my feelings go with them in their progress fully; but I do not believe that I should be performing my duty properly by voting for her admission now as a State.

Before I close (for all I have said is simply in explanation of my vote) I will allude to the statement made here in reference to California and the population California had at the time of its admission as a State into the Union. I was not then prepared to rise and make any statement on the subject, but I have sent to the Library and obtained the Tribune Almanac, which is the only statistical record that we have of the election returns, I believe. I find that in 1850 when California was admitted into the Union there are no returns of the census taken that year in California; but the estimate of its population is one hundred and sixty-five thousand. I was entirely convinced from my familiarity with California at that time that it exceeded what my colleague stated, forty-five thousand.

Mr. McDOUGALL. My colleague will allow me to inquire what almanac that is.

Mr. CONNESS. The Tribune Almanac.

Mr. McDOUGALL. Ah! it is incorrect.

Mr. CONNESS. I have great regard for my colleague's character for veracity always, and for his facts when he is sure of his facts; but he will pardon me at this time for taking the Tribune Almanac on a question of statistics in preference to himself.

Mr. McDOUGALL. Will my colleague allow me to ask him if at that time El Dorado, the county in which he resides, and San Francisco, were not the two principal counties in the State?

Mr. CONNESS. Not at all.

Mr. McDOUGALL. They were not the two principal counties in 1850?

Mr. CONNESS. Not at all.

Mr. McDOUGALL. What other counties then approached them in population?

Mr. CONNESS. I arrived in California early in the year of 1849, and at that time Sacramento had a very large population. It will be remembered that California did not get all its population from the United States; that as a State of the republic of Mexico it had a considerable population, many thousands; it had towns established and improvements, and that population reside with us now and form a very considerable part of our voting population. But my colleague is entirely in error in regard to the matter of San Francisco and El Dorado being the only counties that had any material population at that time.

Mr. McDOUGALL. No, I did not affirm that. I said they were the two most populous counties.

Mr. CONNESS. That might be.

Mr. McDOUGALL. And allow me to remark that there were fifteen thousand men in California of Mexican extraction.

Mr. CONNESS. My colleague simply affirms nothing when he says those two counties of which he spoke were the two leading counties in population. That might have been the case. The county of El Dorado, in which I have my residence, in 1852 polled a vote of over twelve thousand. The estimate made in the Tribune Almanac I have no doubt is a correct estimate from my knowledge of the State at that time.

Again, as has been stated, the case of California was a very remarkable case. I will not recount it; it has been sufficiently stated here. There were reasons for the formation of a State government good and sufficient; and it is the glory of this country that a State government was formed there, a free State government, that it was added to the Union; and although disgraceful conditions were proposed to be appended to its admission, yet it is the honor of the Union that the attempt made to disrupt and dissolve it since by a plan to give the southern confederacy an outlet to the Pacific ocean was hedged in and stopped by the free population that formed the State of California and made it a free State in the Union.

Mr. McDOUGALL. Mr. President, I do not rise except to enter a demurrer to an affirmation of a rule of law made by the Senator from Iowa, and which has been repeated by my colleague. An enabling act is a general act, not defeated and not rendered inoperative by any action until the people of the Territory act affirmatively. The contrariwise of that proposition cannot be maintained upon any legal principle ever advanced by any masters of the sciences or of law.

The PRESIDENT *pro tempore*. The question is upon the amendment of the Senator from Massachusetts.

Mr. BUCKALEW. I call for the yeas and nays on that amendment.

Mr. SUMNER. I desire for the present to withdraw the amendment, and I may offer it at another stage of the bill.

The PRESIDENT *pro tempore*. The amendment is withdrawn.

Mr. SUMNER. My idea is to have a vote on the general question first, and if the bill should be disposed of by a negative vote there will be no occasion for the amendment.

Mr. WILLIAMS. Mr. President, I have been impressed with the arguments that have been urged against the passage of this bill; and if the question was a new one I could adopt those arguments and act upon them so far as my vote was concerned. But I desire to say in explanation of the course that I intend to pursue, that I shall vote for this bill expressly on the ground that Congress has passed an enabling act authorizing the people of this Territory to form a State constitution. I know it has been said here, and there is force in the statement, that the enabling act has exhausted itself, and that the people had no right to proceed to form a State constitution not in accordance with the provisions of that act; but the main objection made to the passage of this bill is that the population of the Territory is insufficient. That, sir, was a legitimate argument to urge against the passage of the enabling act; and that argument was then adduced, or ought to have been adduced, to show that Congress should not authorize the people of the Territory to form a State constitution. But Congress at that time determined that question. Congress then decided that the population of the Territory was sufficient to authorize the people to form a State constitution; and I say that the people of the Territory had a right to expect that that question was settled by the action of Congress. And now when this application is made for admission, they ought not to be met and defeated upon the ground that the population of the Territory is not sufficient to authorize the formation of a State government.

The facts that existed at that time have not substantially changed as I understand the statements that have been made here, although reference has been made to a vote to show that a vote given since the enabling act was passed is not as large as one given prior to that time; but that vote is a very poor criterion as to the actual population of the Territory, for in these Territories votes are controlled by accidental circumstances, and a vote one year may be double what it may be another year, and all controlled by accidental circumstances. In a mining community, people under an excitement, as they often are in relation to mines, neglect to attend elections. Indian difficulties occur which render it dangerous to attend elections, and many circumstances of that kind occur which render it unsafe to rely upon a vote, in forming an opinion as to the number of the people.

Now, sir, if the question before Congress at this time was as to whether an enabling act should or should not be passed, I would vote against the passage of an enabling act upon the facts that have been submitted to the Senate. But it seems to me that this enabling act is a continuing invitation to the people of that Territory to form a State constitution. Congress has signified its readiness to accept this people as a State; it has decided that the Territory has sufficient population, and the mere failure to comply with the particular terms of the act is no substantial objection; it is an objection of a technical character or description. If the people were qualified in 1864 to form a State constitution, they are qualified at this time; and it seems to me that it would be treating this people unceremoniously at any rate, after this enabling act has been passed, and upon the faith of that decision they have proceeded to form a State constitution and organized a State government, now to meet them when they apply for admission, and say, "You shall not be received because your population is not sufficient;" and that is the chief objection which is made to this bill. I therefore (so that my vote hereafter may not be construed into a precedent in favor of the passage of enabling acts for Territories in the condition of this Territory) desire to say that my vote is put exclusively on that ground, and that if Congress will pass enabling acts under such circumstances they ought to be consistent and carry out the policy which they have adopted. When the people act upon the policy of Congress, Congress ought not then to turn about and reject the people who received and acted upon what Congress has done.

The bill was reported to the Senate without amendments.

Mr. SUMNER. Is the bill open to amendments still?

The PRESIDENT *pro tempore*. It is open to amendment now.

Mr. FESSENDEN. After the vote is taken on the engrossment it will not be.

The PRESIDENT *pro tempore*. The question now is, Shall the bill be ordered to be engrossed for a third reading? It is open to amendment until it shall be ordered to be engrossed and read the third time.

Mr. SUMNER. Mr. President——

Mr. RAMSEY. Just let the vote be taken.

Mr. GRIMES. Let us have a vote fair and square.

Mr. SUMNER. Very well. I ask for the yeas and nays on the question of engrossment.

Several SENATORS. Oh, no; on the passage.

Mr. SUMNER. I want the yeas and nays to be taken on one of the stages.

Mr. GRIMES. On the passage.

Mr. FESSENDEN. I think it better to call them on this vote.

Mr. SUMNER. Very well. I ask for the yeas and nays on this vote.

The yeas and nays were ordered.

The Secretary proceeded to call the roll.

Mr. WILLEY, (when his name was called.) The Senator from Delaware [Mr. SAULSBURY] having occasion to leave the Senate, I have paired off with him. If he had been here he would vote "nay," and I should vote "yea."

Mr. HENDERSON, (who had voted in the affirmative.) Before the vote is announced I desire to state that I agreed with the Senator from Maryland [Mr. JOHNSON] to pair off with him on this subject, and I voted without thinking of it at the time. I ask unanimous consent that I may withdraw my vote. I do not wish to violate the understanding.

The PRESIDENT *pro tempore*. The Senator from Missouri asks unanimous consent to have his vote withdrawn under the circumstances stated. Is it the pleasure of the Senate to grant that permission? It can only be done by unanimous consent. The Chair hears no objection.

The result was announced—yeas 14, nays 21; as follows:

YEAS—Messrs. Chandler, Cragin, Kirkwood, Lane of Indiana, Lane of Kansas, McDougall, Nesmith, Norton, Pomeroy, Ramsey, Sherman, Stewart, Trumbull, and Williams—14.

NAYS—Messrs. Buckalew, Conness, Creswell, Davis, Doolittle, Fessenden, Foster, Grimes, Guthrie, Harris, Hendricks, Morgan, Morrill, Poland, Riddle, Sprague, Stockton, Sumner, Van Winkle, Wade, and Wilson—21.

ABSENT—Messrs. Anthony, Brown, Clark, Cowan, Dixon, Foot, Henderson, Howard, Howe, Johnson, Nye, Saulsbury, Willey, Wright, and Yates—15.

So the bill was rejected.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House of Representatives had passed the following bills of the Senate, with amendments to each, in which it requested the concurrence of the Senate:

A bill (S. No. 54) to amend an act entitled "An act to incorporate a national military and naval asylum for the relief of the totally disabled officers and men of the volunteer forces of the United States;" and

A bill (S. No. 61) to protect all persons in their civil rights and furnish the means of their vindication.

CIVIL RIGHTS.

Mr. TRUMBULL. I move that the bill (S. No. 61) to protect all persons in their civil rights and furnish the means of their vindication, just returned from the House of Representatives with amendments, be printed with the amendments, and referred to the Committee on the Judiciary.

The motion was agreed to.

HOUSE BILL REFERRED.

The bill from the House of Representatives (H. R. No. 62) directing a district court to be held at the city of Erie, in the State of Pennsylvania, was read twice by its title, and referred to the Committee on the Judiciary.

MILITARY ESTABLISHMENT.

Mr. WILSON. I move that the Senate now take up the Army bill, (S. No. 138.)

Mr. RAMSEY. I move that the Senate do now adjourn.

The motion was not agreed to.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Massachusetts to take up Senate bill No. 138, to increase and fix the military peace establishment of the United States.

The motion was agreed to.

On motion of Mr. SHERMAN the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *March* 13, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

APPOINTMENT OF COMMITTEE.

The SPEAKER announced that he had appointed the following as the select committee ordered yesterday on the civil service of the United States: Messrs. THOMAS A. JENCKES, of Rhode Island; SAMUEL SHELLABARGER, of Ohio; JOHN HOGAN, of Missouri; JEHU BAKER, of Illinois; LEONARD MYERS, of Pennsylvania; SAMUEL MCKEE, of Kentucky, and JAMES M. HUMPHREY, of New York.

VACANCY ON A COMMITTEE.

The SPEAKER also announced that he had appointed Mr. BENJAMIN E. HARRIS, of Maryland, to fill a vacancy on the Committee on Private Land Claims.

RETENTION OF ILLINOIS VOLUNTEERS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War transmitting, in compliance with resolution of the House of the 9th instant, a report of the Adjutant General respecting the retention in the service of Illinois volunteers; which was laid upon the table and ordered to be printed.

COMMUTATION OF DRAFT.

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

Resolved, That the Committee on Military Affairs be and are hereby instructed to inquire into the expediency of reporting, by bill or otherwise, for the relief of such persons as were drafted and paid the commutation money or put in substitutes, and who were subsequently drafted a second time, paid commutation money, put in a substitute, or went into the service.

DUTY ON SAVINGS BANKS DEPOSITS.

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

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of so amending the internal revenue law as to remit the monthly duty upon the average deposits of savings banks, and to report by bill or otherwise.

MILITARY AND NAVAL ASYLUM.

Mr. SCHENCK. It will be some time yet before the Committee on Military Affairs can possibly be called, and I therefore ask the House to consider, this morning, bill of the Senate No. 54, to amend an act entitled "An act to incorporate a national military and naval asylum for the relief of the totally disabled officers and men of the volunteer forces of the United States."

I will state, in making this request, that there is a very considerable amount of property in the shape of donations to the Government for the use of disabled soldiers, those who have been wounded in the service, awaiting the passage of this bill. The Senate has already passed the bill. It has been before the Military Committee of the House, and they have prepared a substitute with very great care, making some amendments. That substitute was reported and recommitted some time since, and has been printed. I ask the consent of the House to report back the bill with the substitute now.

No objection was made, and the report was received.

Mr. BROOKS. I ask that the substitute be read for information.

Mr. SCHENCK. With the permission of the House, before the substitute is read, I think I can, by a little explanation, make this matter comprehensible to the members of this House.

The bill that passed the last Congress provided for one hundred corporators, including Governor Andrew of Massachusetts, General U. S. Grant of the Army, General W. T. Sherman of the Army, and others, scattered from the extreme north to the extreme south of the country. The consequence of that was that two or three ineffectual attempts were made to get a meeting of the corporators. I believe on one occasion eleven corporators were got together here in Washington; on another occasion thirteen, and there never was an organization in consequence of the inability to get together a sufficient number of corporators for that purpose.

In this state of facts the matter came up in the Senate, and they passed a bill to remedy the difficulty; but unfortunately they again adopted the system of one hundred corporators, varying the names somewhat, but still preserving that feature. The Senate bill came to this House, and was referred to the Committee on Military Affairs. And the only material change recommended by the committee, as set forth in the substitute, is to provide for twelve managers at once, of whom the President of the United States, the Secretary of War, and the Chief Justice of the Supreme Court of the United States shall be three, and nine others to be selected by Congress to serve six years, three of them to be elected every two years.

Mr. BROOKS. Elected how?

Mr. SCHENCK. By joint resolution of Congress; assimilating the organization somewhat to the organization of the Smithsonian Institute. If this plan be adopted, we can set the corporation at work immediately, as soon as the Senate and House shall agree upon the nine managers who are to serve with the three who are to be managers *ex officio*, and they can take charge of the asylum and all the property bestowed upon it. The bill contains no appropriation. The nine managers are to be selected by Congress, three every two years, to serve six years, and with the President of the United States, the Secretary of War, and the Chief Justice of the Supreme Court of the United States, they will constitute a board of managers, and this corporation will be enabled to go on without the intervention of one hundred corporators, who are placed nominally in the bill, but who, as has been found by experience, can never be got together for the purpose of organization.

The substitute was then read at length. The first section provides that the President of the United States, Secretary of War, Chief Justice of the United States, and such other persons as from time to time may be associated with them, according to the provisions of this act, are constituted and established a board of managers of an establishment for the care and relief of the disabled volunteers of the United States Army, to be known by the name and style of "The National Asylum for Disabled Volunteer Soldiers," and have perpetual succession, with powers to take, hold, and convey real and personal property, establish a common seal, and to sue and be sued in courts of law and equity; to make by-laws, rules, and regulations for carrying on the business and government of the asylum, and affix penalties thereto; provided that such by-laws, rules, and regulations are not inconsistent with the laws of the United States.

Section two provides that the business of said asylum shall be managed by a board of twelve managers, who shall elect from their own number a president, who shall be the chief executive officer of the board, two vice presidents,

and a secretary; and seven of the board, of whom the president or one of the vice presidents shall be one, shall form a quorum for the transaction of business at any meeting of the board.

Section three provides that the board of managers shall be composed of the President and Secretary of War and Chief Justice of the United States, *ex officio*, during their terms of office, together with nine other citizens of the United States, not members of Congress, no two of whom shall be residents of the same State, but who shall all be residents of States which furnished organized bodies of soldiers to aid in the late war for the suppression of the rebellion, (no person being ever eligible who gave aid or countenance to the rebellion,) to be selected by joint resolution of the Senate and House of Representatives immediately after the passage of this act; the term of office to be for six years, and until others are appointed in their places, after the first election, which shall be of three for six years, three for four years, and three for two years, to be determined by the order in which they shall be named in the resolution; new elections to be made by joint resolution of Congress, and vacancies by death, resignation, or otherwise, to be filled in like manner; no member of the board of managers shall receive any compensation as such member; but his traveling and other actual expenses while upon the business of the asylum may be paid; but any member of the board having other duties connected with the asylum may receive a reasonable compensation therefor, to be determined by the board.

Section four provides that the board of managers shall have authority to procure for early use, at suitable places, sites for military asylums for all persons serving in the Army of the United States at any time in the war of the rebellion not provided for by existing laws, who have been or may hereafter be disqualified for procuring their own maintenance and support by reason of wounds received or sickness contracted while in the line of their duty during the present rebellion, and to have the necessary buildings erected, having due regard to the health of location, facility of access, and capacity to accommodate the persons provided for in this act.

Section five provides that for the establishment and support of this asylum there shall be appropriated all stoppages or fines adjudged against such officers and soldiers by sentence of court-martial or military commission, over and above the amounts necessary for the reimbursement of the Government or of individuals; all forfeitures on account of desertion from such service; and all moneys due such deceased officers and soldiers, which now are or may be unclaimed for three years after the death of such officers and soldiers, to be repaid upon the demand of the heirs or legal representatives of such deceased officers or soldiers; and the said board of managers are hereby authorized to receive all donations of money or property made by any person or persons for the benefit of the asylum, and to hold or dispose of the same for its sole and exclusive use.

Section six provides that the officers of the asylum shall consist of a governor, a deputy governor, a secretary, and a treasurer, and such other officers as the board of managers may deem necessary, to be appointed from disabled officers serving as before mentioned, and they may be appointed and removed from time to time, as the interests of the institution may require, by the board of managers.

Section seven provides that the following persons only shall be entitled to the benefits of the asylum, and may be admitted thereto, upon the recommendation of three of the board of managers, namely: all officers and soldiers who served in the late war for the suppression of the rebellion, and not provided for by existing laws, who have been or may be disabled by wounds received or sickness contracted in the line of their duty; and such of these as have neither wife, child, nor parent dependent upon them, on becoming inmates of this asylum, or receiving relief therefrom, shall assign thereto their pensions when required by the board of managers, during the time they shall remain therein or receive its benefits.

Section eight provides that the board of managers shall make an annual report of the condition of the asylum to Congress on the first Monday of every January after the passage of this act; and it shall be the duty of the said board to examine and audit the accounts of the treasurer and visit the asylum quarterly.

Section nine provides that all inmates of the asylum shall be subject to the Rules and Articles of War, and be governed thereby in the same manner as if they were in the Army of the United States.

Section ten provides that the managers of the asylum shall have power and authority to aid persons who are entitled to its benefits by outdoor relief in such manner and to such extent as they may deem proper, provided such relief shall not exceed the average cost of maintaining an inmate of the asylum.

Section eleven provides that so much of the act to which this is an amendment as provides for the establishment of a naval in connection with a military asylum, and so much of said act as provides that all stoppages or fines adjudged against naval officers and seamen by sentence of courts-martial or military commission, all forfeitures on account of desertions from the naval service, and all moneys due to deceased naval officers and seamen which are or may be unclaimed for three years after the death of such officers or seamen, shall be appropriated for the establishment of the asylums contemplated and provided for by this act and the act of which it is amendatory, be, and the same is hereby repealed.

Section twelve provides that all the property of the United States now at Point Lookout, St. Mary's county, Maryland, shall be and become the property of the asylum so soon as a title to the satisfaction of the board of managers shall be made to the asylum of at least three hundred acres of land, including that on which said property of the United States is now built and maintained or held.

Section thirteen provides that Congress may at any time hereafter alter, amend, or repeal this act.

Certain verbal amendments were made in the substitute, and the substitute was then agreed to.

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

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

The latter motion was agreed to.

JOSÉ SERAFIN RAMIREZ.

On motion of Mr. BAKER, Senate bill No. 173, to confirm the title of José Serafin Ramirez to certain lands in New Mexico, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Private Land Claims.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

WITHDRAWAL OF BONDED GOODS.

Mr. MORRILL, from the Committee of Ways and Means, reported back House bill No. 135, to extend the time for the withdrawal of goods for consumption from public store or bonded warehouse, and for other purposes, and Senate amendments thereto, with a recommendation that the same be concurred in by the House.

The amendments of the Senate were to strike out the word "April" in line one, line thirteen, and line sixteen of section one, and insert the word "May" in lieu thereof.

The amendments of the Senate were concurred in.

Mr. MORRILL moved to reconsider the vote by which the amendments were concurred in; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

Mr. WASHBURNE, of Illinois. I call for the regular order of business.

The SPEAKER. The first business in order during the morning hour of this day is the call of committees for reports, beginning with the Committee on the Judiciary, where the call last rested.

RIGHTS OF CITIZENS.

Mr. WILSON, of Iowa, reported back from the Committee on the Judiciary, with amendments, the bill (S. No. 61) entitled "An act to protect all persons in the United States in their civil rights and furnish the means of their vindication."

The first amendment reported by the Committee on the Judiciary was read, as follows:

Strike out, in lines six, seven, eight, and nine of section one, the following words:

Without distinction of color, and there shall be no discrimination in civil rights or immunities among citizens of the United States in any State or Territory of the United States on account of race, color, or previous condition of slavery.

So that the section will read as follows:

That all persons born in the United States and not subject to any foreign Power, excluding Indians not taxed, are hereby declared to be citizens of the United States; and such citizens of every race and color, without regard to any previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall have the same right to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of person and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, and penalties, and to none other, any law, statute, ordinance, regulation, or custom to the contrary notwithstanding.

Mr. WILSON, of Iowa. I wish to make one inquiry as to the effect of the recommitment of the bill on the amendments adopted when the bill was pending before the House a few days since. I desire to know whether those amendments remain as part of the bill.

The SPEAKER. The amendments which were adopted remain of course in the bill. Those that were pending were recommitted with the bill for the action of the committee.

Mr. WILSON, of Iowa. Mr. Speaker, the amendment which has just been read proposes to strike out the general terms relating to civil rights. I do not think it materially changes the bill; but some gentlemen were apprehensive that the words we propose to strike out might give warrant for a latitudinarian construction not intended.

I demand the previous question on the amendment.

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

Mr. WILSON, of Iowa, moved to reconsider the vote by which the amendment was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The next amendment reported by the Committee on the Judiciary was read, as follows:

After the word "right," in the thirteenth line of the first section, insert the words "in every State and Territory of the United States."

Mr. WILSON, of Iowa. This is rendered necessary by the adoption of the other amendment.

The amendment was agreed to.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the amendment was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The next amendment reported by the Committee on the Judiciary was read, as follows:

In line seventeen of section three, insert after the word "thereof," the following: "or for refusing to do any act upon the ground that it would be inconsistent with this act."

Mr. WILSON, of Iowa. I will state that this amendment is intended to enable State officers, who shall refuse to enforce State laws discriminating in reference to these rights on account of race or color, to remove their cases to the United States courts when prosecuted for refusing to enforce those laws. I call for the previous question.

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

Mr. WILSON, of Iowa, moved to reconsider the vote by which the amendment was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The next amendment reported by the Committee on the Judiciary was read, as follows:

Insert after "1863" in section three the words "and all acts amendatory thereof."

Mr. WILSON, of Iowa. This amendment is offered for the purpose of extending the operation of this section to any future act amendatory of the *habeas corpus* act of 1863.

The amendment was agreed to.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the amendment was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. WILSON, of Iowa. I am instructed by the same committee to move to add the following as a new section:

And be it further enacted, That upon all questions of law arising in any case under the provisions of this act a final appeal may be taken to the Supreme Court of the United States.

Mr. BINGHAM. What is the number of that section?

Mr. WILSON, of Iowa. It is an additional section.

Mr. BINGHAM. What will be the number?

Mr. WILSON, of Iowa. Section eleven. I demand the previous question.

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

Mr. WILSON, of Iowa, moved to reconsider the vote by which the amendment was agreed to; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

Mr. WILSON, of Iowa. I now demand the previous question, on the engrossment of the bill.

Mr. BINGHAM. I hope not. Let the bill be ordered to be printed, and let us have an opportunity to look at it. I hope the gentleman from Iowa will consent to let it go over for a few days.

Mr. CONKLING. I ask at least that the bill may be read. I believe we ought to have the bill printed and postponed.

Mr. FARNSWORTH. I also hope the gentleman will allow the bill to be postponed.

Mr. WILSON, of Iowa. No amendment has been offered by the committee, except the last one, that has not been fully discussed while the bill was pending before the House on a former occasion.

Mr. HILL. What has become of the amendment the gentleman promised me to move, that nothing in this bill contained should be construed to affect or interfere with the right of suffrage in the several States?

Mr. WILSON, of Iowa. When the bill was up before I did offer such an amendment, that nothing in the bill contained should be construed to affect the rights of suffrage in the several States. I will explain. Some members of the House thought, in the general words of the first section in relation to civil rights, it might be held by the courts that the right of suffrage was included in those rights. To obviate that difficulty and the difficulty growing out of any other construction beyond the specific rights named in the section, our amendment strikes out all of those general terms and leaves the bill with the rights specified in the section. Therefore the amendment referred to by the gentleman is unnecessary.

Mr. HILL. If the gentleman will indulge me a moment. From the difficulty of obtaining copies of this bill I have been unable to know how it now stands. This is an important measure, and we should have an opportunity to understand its precise terms.

The bill was then read as amended.

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

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

Mr. WILSON, of Iowa, demanded the previous question on the passage of the bill.

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

Mr. HARRIS demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 111, nays 38, not voting 34; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, James M. Ashley, Baker, Baldwin, Banks, Baxter, Beaman, Bidwell, Blaine, Blow, Boutwell, Bromwell, Broomall, Buckland, Bundy, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Darling, Davis, Dawes, Delano, Deming, Dixon, Donnelly, Driggs, Dumont, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Abner C. Harding, Hart, Hayes, Higby, Hill, Holmes, Hooper, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Hulburd, James Humphrey, Ingersoll, Jenckes, Julian, Kelley, Kelso, Ketcham, Kuykendall, Laflin, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, Marvin, McClurg, McRuer, Mercur, Miller, Moorhead, Morrill, Morris, Moulton, Myers, Newell, O'Neill, Orth, Paine, Perham, Pike, Plants, Price, Alexander H. Rice, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Spalding, Starr, Stevens, Thayer, Francis Thomas, John L. Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Ward, Warner, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—111.

NAYS—Messrs. Ancona, Bergen, Bingham, Boyer, Brooks, Coffroth, Dawson, Denison, Glossbrenner, Goodyear, Grider, Aaron Harding, Harris, Hogan, Edwin N. Hubbell, Jones, Kerr, Latham, Le Blond, Marshall, McCullough, Nicholson, Phelps, Radford, Samuel J. Randall, William H. Randall, Ritter, Rogers, Ross, Rousseau, Shanklin, Sitgreaves, Smith, Taber, Taylor, Thornton, Trimble, and Winfield—38.

NOT VOTING—Messrs. Delos R. Ashley, Barker, Benjamin, Brandegee, Chanler, Reader W. Clarke, Culver, Defrees, Eckley, Eggleston, Eldridge, Finck, Griswold, Hale, Henderson, Hotchkiss, James R. Hubbell, James M. Humphrey, Johnson, Kasson, McIndoe, McKee, Niblack, Noell, Patterson, Pomeroy, Raymond, John H. Rice, Rollins, Stilwell, Strouse, Robert T. Van Horn, Henry D. Washburn, and Wright—34.

So the bill was passed.

During the roll-call,

Mr. BROOMALL stated that Mr. PATTERSON had paired with Mr. J. M. HUMPHREY.

Mr. THAYER stated that Mr. ECKLEY was absent by leave of the House.

Mr. LE BLOND stated that Mr. FINCK was absent, and he was authorized to say that if he was present he would have voted against the bill on its passage.

The result having been announced as above recorded,

Mr. WILSON, of Iowa, moved the previous question on the adoption of the title.

Mr. LE BLOND. I desire to move to amend the title of the bill by making it read, "A bill to abrogate the rights and break down the judicial system of the States."

[Cries of "Order!" "Order!"]

The SPEAKER. The previous question has been moved.

The previous question was seconded, and the main question ordered; and under the operation thereof the title was adopted.

Mr. WILSON, of Iowa. I move to reconsider the vote by which the bill was passed, and to lay that motion on the table.

The latter motion was agreed to.

SOLDIERS' CLAIMS.

On motion of Mr. WOODBRIDGE, by unanimous consent, the Committee on the Judiciary were discharged from the further consideration of Senate bill No. 88, to restrict the expenses of collecting soldiers' claims against the Government; and the same was referred to the Committee on Military Affairs.

Mr. WOODBRIDGE. I now enter a motion to reconsider.

HABEAS CORPUS.

Mr. LAWRENCE, of Ohio, by unanimous consent, from the Committee on the Judiciary, reported back House bill No. 130, to amend the act relating to *habeas corpus* and regulate judicial proceedings in certain cases, approved March 3, 1863; and the same was laid on the table.

Mr. LAWRENCE, of Ohio, stated that the place of this bill was supplied by another bill already reported.

PAYMENT FOR EMANCIPATED SLAVES.

Mr. LAWRENCE, of Ohio, from the Committee on the Judiciary, to which was referred House joint resolution No. 143, reported the same back, accompanied by a written report and with sundry amendments.

On motion of Mr. LAWRENCE, of Ohio, it was ordered that the report be printed.

Mr. LAWRENCE, of Ohio. I ask that the first and second amendments may be agreed to, and then I will make a motion as to the disposition of the bill.

The joint resolution was read. It provides that neither Congress nor any State shall ever authorize or provide for the payment of emancipated slaves.

The first amendment was to strike out the words "United States;" which was agreed to.

The next amendment was to strike out, in section two, the words "and be it further enacted, that;" which was agreed to.

The last amendment was to add at the end of section one the following:

Except as provided by statute in force prior to the 1st day of January, 1865.

The amendment was agreed to.

Mr. LAWRENCE, of Ohio. I now move that the joint resolution as amended be printed and recommitted to the Committee on the Judiciary, with the last pending amendment.

The motion was agreed to.

Mr. LAWRENCE, of Ohio. I now desire to enter a motion to reconsider the vote by which the joint resolution and pending amendment were recommitted.

The motion was entered accordingly.

DISTRICT COURT AT ERIE.

Mr. WILLIAMS, by unanimous consent, from the Committee on the Judiciary, reported back House bill No. 62, directing a district court to be held at the city of Erie, in the State of Pennsylvania, with an amendment.

The bill was read.

The amendment reported by the committee was as follows:

Strike out the words, "and that in addition to the compensation allowed by law to the said judge, he shall be paid the sum of $500 for his additional expenses and services."

Mr. WILLIAMS. I desire to put the bill upon its passage, and upon it I demand the previous question.

Mr. SCOFIELD. Will my colleague allow me a moment?

Mr. WILLIAMS. I withdraw the previous question temporarily, and yield to my colleague.

Mr. SCOFIELD. I move to amend the clause which the committee propose to strike out by striking out "$500" and inserting "$300" in lieu thereof.

I think that will be entirely satisfactory to the committee, and it is following the precedent which was set in the case of the judge from Maine. It is absolutely necessary that we shall have this court there since the passage of our internal revenue law, and considering the low salary that we are now paying to the judge, it is no more than fair that the small amount of $300 should be allowed him, as was done in the case of the Maine judge, for his additional compensation.

Mr. WILLIAMS. I now renew the demand for the previous question.

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

Mr. SCOFIELD's amendment was agreed to.

The amendment reported by the Committee on the Judiciary was disagreed to.

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

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

The latter motion was agreed to.

Mr. WILSON, of Iowa. I now yield the floor to my colleague on the committee from Illinois, [Mr. COOK.]

HABEAS CORPUS.

Mr. COOK, from the Committee on the Judiciary, reported back bill of the House No. 298, to amend an act entitled "An act relative to the *habeas corpus* and regulating judicial proceedings in certain cases," approved March 3, 1863, with an amendment in the nature of a substitute.

The Clerk proceeded to read the substitute, but during the reading the morning hour expired, and the bill went over.

PRINTING OF TESTIMONY.

Mr. LAFLIN. I am instructed by the Committee on Printing to offer the following resolution:

Resolved, That twenty-five thousand extra copies of each of the reports of testimony taken by the joint select committee on reconstruction, together with the accompanying documents, be printed without covers for the use of the House.

It is due to my colleague on the Committee on Printing, the gentleman from West Virginia, [Mr. LATHAM,] that I should state that while he consents to the offering of this report he dissents from the principle. I demand the previous question.

Mr. CONKLING. Does this relate to the testimony taken before the reconstruction committee?

Mr. LAFLIN. It does.

Mr. CONKLING. Will my colleague yield to me for a moment?

Mr. LAFLIN. I withdraw the previous question for that purpose.

Mr. CONKLING. I wish to make a statement in connection with this subject. I have seen it stated in newspapers that there is on the part of the joint committee of fifteen, or of some of its subdivisions, an intention to suppress or withhold evidence in its possession. This charge is utterly groundless. No evidence has been selected for publication, nor has any been selected to be suppressed or even to be postponed in its publication. Nothing of the sort has happened. One sub-committee has not as yet brought in any evidence whatever, and the delay arises in this way.

Senator HOWARD, who is at the head of the sub-committee referred to, has been absent for some time on account of a domestic bereavement, and because of his absence the testimony taken by that sub-committee has not been presented, although in substance it is ready. It was thought by his colleagues upon the committee that he being chairman, and being absent for such a reason, it would be no more than respectful to him not to move in his absence.

I repeat, therefore, for myself and for the whole of the joint committee, that there is no truth whatever in the allegation that any evidence has been suppressed, or even in any manner withheld, except as I have stated.

Mr. GRIDER. I desire to ask the gentleman from New York, [Mr. CONKLING,] one question.

Mr. CONKLING. Certainly.

Mr. GRIDER. The gentleman from New York speaks of sub-committees. I would ask him whether or not he knows that any sub-committee has reported to the general committee, except the sub-committee that took the testimony in relation to Tennessee?

Mr. CONKLING. I know—and perhaps that is a sufficient answer, as I would keep within the parliamentary rule rendering doings in committee inviolate—that the committee ordered all evidence taken to be brought forward as rapidly as might be, to be printed. If the gentleman from Kentucky [Mr. GRIDER] wants to know whether the technical process, or the manual act, has been to expose the testimony first to the whole committee, and then to bring it from the whole committee to the House, I will answer him that I believe the exact mode has been for each sub-committee to bring in its testimony directly to the House and hand it over to be printed, to the end that Congress and the country may have it all at an early period.

Mr. GRIDER. Did not the general committee decide not to publish any testimony except such as was reported by the sub-committees to the general committee?

Mr. STEVENS. I must object to this debate.

Mr. CONKLING. I will continue it so far as to say to the gentleman from Kentucky [Mr. GRIDER] that he is mistaken as to the action of the committee.

Mr. STEVENS. I do not like to hear this colloquy about what has taken place in the committee; it is all out of order.

Mr. GRIDER. The gentleman from New York [Mr. CONKLING] gave me leave to ask the question.

The SPEAKER. The rules of the House do not recognize debate in regard to what has occurred in a committee, except so far as the committee may have reported their action.

Mr. LE BLOND. What is the particular object of publishing this testimony? It does not seem to come in now in connection with any proposition upon which the House is called to act.

Mr. LAFLIN. I will answer the gentleman from Ohio [Mr. LE BLOND] by saying that this is intended for the information of the public and of the House. The importance of the subject, the interest that is felt in it, the high character of the testimony that has been presented, are sufficient reasons for this publication. I now call the previous question.

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

Mr. LE BLOND. I call for the yeas and nays on the passage of the resolution.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 107, nays 32, not voting 44; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, James M. Ashley, Baker, Baldwin, Banks, Baxter, Beaman, Bingham, Blaine, Blow, Boutwell, Bromwell, Broomall, Buckland, Bundy, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Darling, Dawes, Delano, Deming, Dixon, Donnelly, Driggs, Dumont, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Abner C. Harding, Hart, Hayes, Higby, Hill, Holmes, Hooper, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Hulburd, James Humphrey, Ingersoll, Jenckes, Kelley, Kelso, Ketcham, Kuykendall, Laflin, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, Marvin, McClurg, McRuer, Mercur, Miller, Moorhead, Morrill, Morris, Myers, O'Neill, Orth, Paine, Perham, Pike, Plants, Price, William H. Randall, Raymond, Alexander H. Rice, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Spalding, Starr, Stevens, Francis Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Ward, Warner, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—107.

NAYS—Messrs. Ancona, Bergen, Boyer, Brooks, Coffroth, Dawson, Denison, Glossbrenner, Goodyear, Grider, Aaron Harding, Harris, Hogan, Edwin N. Hubbell, Jones, Kerr, Latham, Le Blond, Marshall, McCullough Nicholson, Noell, Samuel J. Randall, Ritter, Rogers, Ross, Rousseau, Shanklin, Taber, Taylor, Trimble, and Winfield—32.

NOT VOTING—Messrs. Delos R. Ashley, Barker, Benjamin, Bidwell, Brandegee, Chanler, Reader W. Clarke, Culver, Davis, Defrees, Eckley, Eggleston, Eldridge, Finck, Griswold, Hale, Henderson, Hotchkiss, James R. Hubbell, James M. Humphrey, Johnson, Julian, Kasson, McIndoe, McKee, Moulton, Newell, Niblack, Patterson, Phelps, Pomeroy, Radford, John H. Rice, Rollins, Sitgreaves, Smith, Stilwell, Strouse, Thayer, John L. Thomas, Thornton, Robert T. Van Horn, Henry D. Washburn, and Wright—44.

So the motion was agreed to.

Mr. STEVENS moved to reconsider the vote by which the House agreed to the resolution; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ROLLS OF HONOR.

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

Resolved, That the Committee on Printing inquire into the expediency of printing for the use of the House five thousand copies of the rolls of honor and other lists of soldiers buried in the national cemeteries and on battle-fields, now being published under the direction of the Quartermaster General.

DISTRICT REFORM SCHOOL.

Mr. BALDWIN, by unanimous consent, reported from the Committee for the District of Columbia a bill to establish in the District of Columbia a reform school for boys; which was read a first and second time, ordered to be printed, and recommitted to the committee.

METROPOLITAN GAS COMPANY.

Mr. SLOAN, by unanimous consent, introduced a bill to incorporate the Metropolitan Gas Company; which was read a first and second time, and referred to the Committee for the District of Columbia.

ANN BURNET.

Mr. NICHOLSON, by unanimous consent, introduced a bill for the relief of Ann Burnet, widow of James Burnet, of Kent county, in the State of Delaware; which was read a first and second time, and referred to the Committee on Invalid Pensions.

FORTIFICATION BILL.

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

The motion was agreed to; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. WILSON, of Iowa, in the chair,) and resumed the consideration of the special order, being House bill No. 225, making appropriations for the construction, preservation, and repairs of certain fortifications and other works of defense for the year ending the 30th of June, 1867.

The pending question was upon the following amendment, offered by Mr. FARNSWORTH:

On page 1, line eight, strike out "fifty" and insert "twenty-five," so that the paragraph will read:
For Fort Wayne, near Detroit, Michigan, $25,000.

The CHAIRMAN. The Committee of the Whole, at its last sitting, found itself without a quorum, whereupon it rose and reported the fact to the House. The tellers—the gentleman from Illinois [Mr. WASHBURNE] and the gentleman from Ohio [Mr. SPALDING]—will please resume their places.

Mr. BEAMAN. I hope that before the vote is taken unanimous consent will be given for the reading of a communication from General Delafield, which I hold in my hand.

The CHAIRMAN. That cannot be done at the present time; the committee is dividing.

The committee divided; and the tellers reported—ayes 21, noes 74.

So the amendment was rejected.

The Clerk read the following clause:

For Fort Ontario, Oswego, New York, $50,000.

Mr. BROOKS. Mr. Chairman, I know that it is a melancholy task, and one which I am very reluctant to undertake, to suggest a reduction of these large appropriations, but still I must express my conviction that an appropriation of $50,000 at Oswego, or at the outlet of Lake Champlain, as provided in the next item, cannot be justified by any national necessity. These are appropriations for fortifications on the lakes. Now, sir, is anybody living in the lake country in the least afraid of invasion from Canada or elsewhere? Or if there be any such fear, are fortresses at these particular places good for anything except barracks for soldiers and for storage of artillery and arms? What is the defensive value of a few forts on that vast line of frontier, where men can at any time be marched around any particular point which it may be desirable to avoid? The chief defense of this country consists in its brave men, its trained and veteran soldiers, who can be called forth at a moment's warning.

Hence, to my judgment, all these appropriations, except for mere repairs, seem to be so

much money thrown away. But what is the use of my talking? Here is a bill containing appropriations amounting to more than a million and a half of dollars. There is something for everybody, and a very large slice for some of my constituents. Why should I not go in to secure for them a share of the general plunder? Our Treasury is rich! The Secretary of the Treasury has now at his disposal $200,000,000, which he does not know what to do with. Why not invest it in fortifications? Why not invest it in anything that will make money plentiful by a general diffusion of dollars throughout the whole country? Why not now, when labor is commanding $3 50 to five dollars per day, go to work and spend all the money we can possibly raise because wages are high, and by these expenditures we can give remunerative employment to large numbers of persons?

But I know, Mr. Chairman, that in objecting to these appropriations I am simply wasting my breath. I make this appeal as a matter of duty.

Mr. STEVENS. Although I could not hear distinctly the amendment of the gentleman from New York, [Mr. BROOKS]——

The CHAIRMAN. The gentleman did not offer an amendment.

Mr. STEVENS. What was he talking about, then? [Laughter.]

The CHAIRMAN. About the paragraph under consideration.

Mr. BROOKS. I know that the gentleman from Pennsylvania [Mr. STEVENS] wants to make a speech, and in order to give him the opportunity, I move to amend by striking out "fifty" and inserting "twenty-five;" so that the clause will read:

For Fort Ontario, Oswego, New York, $25,000.

Mr. STEVENS. Well, Mr. Chairman, in order to make a speech that shall be satisfactory, I agree to that amendment, as it is a New York work. [Laughter.]

Mr. HOLMES. I move to amend the amendment by striking out "twenty-five" and inserting "fifty-five," so that the amount of the appropriation will be $55,000.

Mr. Chairman, I hope the committee will bear with me for a few moments, while I say a few words on this subject. This fort is in the district I have the honor to represent; and the people in that portion of my district would feel I was neglecting my duty to them if I did not object to the adoption of the amendment moved by my colleague, [Mr. BROOKS.] For the purpose of saying a few words, I have offered the pending amendment.

This fort originally was an earth and wooden work. The wooden portion of it has entirely decayed. Some years ago an appropriation was made to rebuild the portion decayed with stone. It was commenced, and has been prosecuted from then up to the present time. There were no casemates in the fort, and they are now being built in a most substantial manner.

It was said yesterday, or last night, in the discussion of this question, that these estimates were mere guess-work of the engineer department; that the officer having charge of that department submits the matter to some subordinate officer, or clerk, who makes a guess of what will be required. I took the trouble to call at the engineer department this morning, where I learned that these estimates were originally much larger; that they were submitted to the revision of the Secretary of War; that on consultation with him, and against the better judgment of those having charge of the engineer department, the bill was reduced over one million dollars. For this work the department asked for an appropriation of $75,000, but with all others it was reduced at the suggestion of the Secretary of War more than one third. The officer in charge authorizes me to say that he knows the locations of these forts, and that the amounts which have been retained are necessary for the work which ought to be done.

I hope, sir, the scaling of these appropriations fifty per cent. will not prevail. There is no foundation for the statement that the estimates are mere guess-work. They have been made after actual examination of the men engaged in the work, and who have reported what is necessary and proper. Even if it were guess-work, I should prefer to have the guess-work of men who are acquainted with this business, who know these forts and who know their location, instead of that of members who get up here and without knowing anything of these works guess they are not necessary. I withdraw my amendment.

Mr. DAVIS. I renew it. Mr. Chairman, I agree in all my colleague has just said, and I wish to say something in addition. Oswego is one of the most important places upon Lake Ontario. It has an extensive commerce. It is situated nearly opposite Kingston, in Canada, with which it has had large commercial intercourse. Its shipping interest is very large. It has no protection, sir, except that furnished by this Fort Ontario, which year after year has been going into decay. If we are to keep upon our coast-line fortresses for use in time of war we must make appropriations for their preservation in times of peace. The British Government has, with quite as much wisdom as we can display, appropriated for a work opposite over a million dollars; and at Toronto it has made large expenditures in the same direction.

We have at Sackett's Harbor, which was an important point, nothing but field works; and we have nothing at Rochester. We have only a fort at Niagara, and one at Oswego. Oswego lies thirty-five miles north of Syracuse, the largest manufacture of salt in this country; and if in time of war Oswego be taken there will be no obstruction to the capture of the salt-works at Syracuse. I am therefore opposed to striking down this appropriation. It is not because it is in New York, I favor this, but because it is necessary to the protection of the country. In my action here, I am in favor of one section of the country as the other. I believe that to be the duty we owe to the American people. I withdraw my amendment.

Mr. BROOKS's amendment was rejected.

The Clerk read, as follows:

For sea-wall of Great Brewster's Island, Boston harbor, Massachusetts, $75,000.

For sea-walls on Deer and Lovell's Islands, Boston harbor, Massachusetts, $50,000.

For fort at entrance of New Bedford harbor, Massachusetts, $30,000.

Mr. BROOKS. I think those belong to the river and harbor bill, but I will not move to strike them out.

Mr. WASHBURNE, of Illinois. I move to strike out lines forty-five and forty-six:

For repairs of Fort Washington on Potomac river, $50,000.

I do not see what necessity there is for that fort at all when we have Fortress Monroe and the Rip Raps, with our iron-clads for the defense of all the adjacent parts.

Mr. SCHENCK. I can understand about the James river and Hampton Roads being covered by batteries at Fortress Monroe, but it is very possible for an enemy's fleet to get up the Chesapeake bay. This city is defended by Fort Washington, and if we have never had occasion during the war to test the advantage of having that defense, it is only because the rebels had no fleet with which to ascend the Potomac and reach the city of Washington.

Mr. STEVENS. I move to amend the amendment by inserting $20,000 instead of $50,000. I believe that is as much as is necessary for repairs. I am not quite sure that it is very important to increase it, hence it is that I am myself willing to vote for what I think is necessary for repairs simply.

The amendment to the amendment was disagreed to.

The motion of Mr. WASHBURNE, of Illinois, to strike out the item was also disagreed to.

Mr. SCHENCK. I have an amendment to offer, to insert after line fifty, as follows:

For Fort Jefferson, Garden Key, Tortugas, $100,000.

I offer this at the request of the War Department, as will appear from the following communication:

WAR DEPARTMENT,
WASHINGTON CITY, *February* 15, 1866.

SIR: I beg to inclose a communication from the chief Engineer, dated February 14, respecting the bill No. 255, making appropriations for fortifications, &c., for the consideration of the committee, and stating military reasons why the appropriations stricken out by the Committee on Appropriations should be reinstated.

Very respectfully, sir, your obedient servant,
EDWIN M. STANTON,
Secretary of War.

Hon. R. C. SCHENCK, *Chairman of the Committee on Military Affairs, House of Representatives.*

I will read a portion of the letter of the chief Engineer:

"An estimated sum of $100,000, asked for Fort Jefferson, Garden Key, Tortugas, is omitted altogether in the bill reported by the committee. The importance of this work is very similar to that of Key West, for which an appropriation is included in the bill. Fort Jefferson is in an advanced state of completion, has already received part of its armament, and additional heavy guns are being forwarded therefor. Its position and command of a safe, spacious, and secure harbor on the extreme western end of the Tortugas reef gives to this work much importance connected with our national defense. Cooperating with our fleets, and holding in its front a maritime enemy, and bearing upon our whole southern and western interests as the advanced and lookout station for all the commerce of our country with Spain, Mexico, and by the Panama communication with the Pacific coast, its continued progress and completion become equal in importance to those of any defenses connected with the strategic operations in the Gulf of Mexico. I apprehend from its designation, Fort Jefferson, Garden Key, that its locality was not understood."

I have very little to add to that communication. In regard to the location of the fort at Tortugas the committee were led into some little misapprehension. It is, I undertake to say, one of the most important defenses of our coast, occupying the key, as it were, to the Gulf approach to the Mississippi river. It is the furthest out of all of them; the outer sentinel, as it might be called. This fort they are now actually building. It will be left to go into dilapidation, and we shall suffer in consequence if we stop this work which is now progressing by refusing a liberal appropriation. The foundations and a very considerable proportion of the structure have been accomplished with great labor and at enormous expense. The appropriation here proposed relates to the progress and completion of the work.

Mr. STEVENS. The committee purposely omitted this recommendation. They thought the appropriations for that immediate coast were out of all proportion to any others that were asked for. For Fort Clinch, $50,000; Fort Taylor $100,000, upon which $200,000 were expended last year. Then came Fort Jefferson, guarding the immediate neighborhood, for which $100,000 were appropriated last year. The committee thought that even this large appropriation for this place might be spared for a year, especially as we gave some $200,000 for that immediate vicinity in the bill. It is for the House to say whether the committee were wrong or parsimonious. And in order to test it, I move to strike out $100,000 and insert $50,000.

Mr. SCHENCK. The only reply I have to make to the gentleman is, that if in particular localities more works are erected than at others and at larger expense, it happens to be because those particular localities are just the points that we defend, and we defend them because they cover the approaches to the whole country.

Now, it is not at all remarkable that forts should be required about the Gulf, and especially at an advanced position like this at the extremity of the Tortugas, covering the Gulf approaches of the Mississippi, while not a single fort is needed in the State of Ohio, and no appropriation for that purpose is proposed. Yet because I live in Ohio and we have not our share of the forts or the money expended for defensive purposes in our immediate neighborhood or district, I do not feel that I am going against the wishes of my constituents when I vote appropriations for forts at these exposed points, covering the places that must be defended, and meeting the dangers that threaten our common country.

As to the cutting down of these appropria-

tions from $100,000 to $50,000, and from $50,000 to $25,000, I have but this remark to make: gentlemen, as I said last night, when this bill was before under consideration, are going it blind and without information; they are unwilling to rely upon the information given by the responsible officers of the Government who have these works in charge and have made these estimates as engineers. If $200,000 had been asked, being twice as much as is necessary, it would have been thought a capital thing to cut it down to $100,000; or if it had been $100,000, to cut it down to $50,000; and there can be no more reason given by gentlemen why $50,000 should be required rather than $100,000. The truth is that, practically, gentlemen, like myself, know nothing about it, and have to rely on the persons in charge of these works. But inasmuch as it looks like economy to cut down one half now, it would look just as much like economy to cut it down one half if twice the amount had been asked. We are either to grope in the dark or to be guided by the light we have on the subject. I have, however, submitted to the House all the information I possess on the subject from the engineers, and it must commend itself to the general knowledge of every member of the House who knows anything on the subject when he remembers that this Tortugas key is the vulnerable part of the approaches to our country.

The question was taken on Mr. SCHENCK'S amendment, and it was agreed to.

Mr. DEMING. On line fifty-one, page 3, I move to strike out "seventy-five" and insert in lieu thereof "twenty-five," so that the clause will read:

For fort on Ship Island, coast of Mississippi, $25,000.

Ship Island is a mere sand strip in the Gulf of Mexico some seven miles long by one mile broad. It is twelve miles from the coast. It covers no approach to the mouth of the Mississippi and I cannot conceive of an emergency in the future when there will be any necessity for a fort on Ship Island, unless we are engaged in another war with the insurgent States of the Gulf, and even in that case a fort upon Ship Island will not be necessary so long as we hold the forts in Pensacola harbor, the fort in the Narrows, which connects the Gulf with Lake Pontchartrain, or the forts in the Mississippi, to wit, Fort Jackson and Fort Philip. In the last war with the rebellious States, when all the forts I have enumerated were in the possession of the enemy, it became necessary to adopt Ship Island as a depot of supplies and a rendezvous for the troops that were to operate against New Orleans. But it is the worst place in the world for a depot of supplies. As a rendezvous for troops it is exposed to three disadvantages, two of which are certainly most extraordinary; and it ought never to be used either as a depot of supplies or as a rendezvous of troops if any other dry land could be found in that neighborhood out of the reach of the enemy's cannon.

In the first place, in heavy storms in the Gulf of Mexico the waves of the Gulf of Mexico sweep entirely over the island, and the troops are liable at any time to be washed away. In the next place, they are liable to be starved if any transports bringing provisions from New York to Ship Island should be wrecked. And in the third place, the troops are liable to be driven off at any time by a gunboat of the enemy, and the fort at the extreme western extremity of the island would afford no possible protection.

Under these circumstances I do think that an appropriation is only necessary for the purpose of protecting the works already erected there. It is certainly not necessary to extend the works there any further, and I find that $75,000 was appropriated in the appropriation bill of last year for the repair of this fort on Ship Island. I hope, therefore, that my amendment will be agreed to, and the appropriation cut down from $75,000 to $25,000.

Mr. GRINNELL. I would ask the gentleman if the mosquitoes there are not sufficient and ample to keep off any foreign enemy. I believe he has had some experience there.

Mr. DEMING. The mosquitoes there were of very large size, and I should think the troops there would require armor to protect them from the mosquitoes.

Mr. GRINNELL. Then I am in favor of the $25,000.

Mr. PAINE. I move to strike out the last word of the amendment. I do so for the purpose of asking the gentleman from Connecticut [Mr. DEMING] whether he knows of any reason for retaining in this bill even the appropriation of $25,000.

Mr. DEMING. I certainly know of no reason whatever, unless it be for the purpose of keeping in repair the works already erected there.

Mr. PAINE. I wish to know from the gentleman whether he has any information respecting the works now on that island which would warrant us in making this appropriation for their preservation and repairs.

Mr. DEMING. I have only such general information as I obtained from Ship Island itself in my connection with that expedition. That information consists in this: that at the time the expedition first went to Ship Island, the fort on the western extremity was a mere brick-work entirely useless for purposes of defense or protection. I have been since informed that an engineer has been sent to Ship Island, and more substantial works have been in process of erection for the last two or three years. Therefore it was that I deemed that some appropriation was necessary for the purpose of protecting the works now in the process of being built.

Mr. PAINE. I will modify my amendment to the amendment so as to make the appropriation $10,000 instead of $25,000.

The amendment to the amendment was agreed to, and the amendment as amended was agreed to.

Mr. SCHENCK. I wish to offer another amendment at the request of the War Department. I move to insert after line fifty-two the following:

For Fort Clinch, Amelia Island, Florida, $50,000.

This is another of these sentinels along our coast, this fort upon Amelia Island. Although it was estimated for, the committee have for some reason thought proper not to report the appropriation. It is now occupied, although in an unfinished condition; the work, however, is going forward. It will be a formidable work when finished, and one which it is thought will be very much needed in the line of defense along our coast.

But I will take up no further time of the committee except by asking the Clerk to read a passage I have marked in the communication I had read from a short time ago.

The Clerk read, as follows:

"For Fort Clinch, Amelia Island, Florida, an appropriation of $50,000 was included in your annual report. This work is in an advanced state of completion. Preparations are now in progress for mounting the heavy armament of recent construction, and part of the armament for defense of the ditches is already in position. This work commands one of the few harbors along our southern Atlantic coast in which enemy's cruisers could find shelter and refuge. To leave it in its present unfinished condition, nearly ready to receive an armament of fifteen-inch and other guns to protect this roadstead, the Department could not justify itself. It has remained in our possession during the rebellion, and is of such present importance as to have induced the Lieutenant General to garrison it in its unfinished condition. I present these facts to be communicated to the committee, should you concur in my recommendation that the original estimated sum of $50,000 be included in the estimate."

The amendment was agreed to.

Mr. SCHENCK. I have one other amendment, and it is the last which I have been requested by the Department to offer. It is for one fort in California, and in the letter from the Department will be found all the explanation I deem it necessary to make. I move to amend by inserting after the amendment just adopted, the following:

For fort at Lime Point, California, $75,000.

I now ask that the communication to which I have referred be read.

The Clerk read, as follows:

"For Lime Point, California, an appropriation of $75,000 was asked in the estimates included in your annual report. It is omitted altogether in the bill reported by the committee. Lime Point is situated on the north side of the main channel leading into the harbor of San Francisco directly opposite to the works now in progress at Fort Point, adjoining the city of San Francisco. Under recent negotiations conducted by your Department we have made the purchase of this site and are now about coming into possession of over seventeen hundred acres at a cost, in legal tenders, very far below any previous demands therefor. Our operations on the San Francisco side of the channel are limited in their command of the channel and defense of San Francisco, the navy-yard, and entire gold region, without occupying Lime Point. Its importance is unquestioned, and I invite your attention to the omission of an appropriation therefor on the supposition that its relative position and existing purchase of the property may not have been brought to the notice of the committee."

Mr. SPALDING. There is a mistake there in some respect. That estimate was never sent to the committee at all.

Mr. SCHENCK. I will explain. In the estimates, it is called "additional defenses for San Francisco." It covers the entrance to the harbor.

Mr. SPALDING. That may be.

Mr. SCHENCK. That has misled the committee, I presume.

Mr. STEVENS. The committee could not understand this matter. They had never seen any such fort named; and those additional estimates we did not consider sufficiently specific, as they left everything to the discretion of the Department, contrary to our system.

Mr. HIGBY. In order that I may say a word, I move to amend so as to make the amount $100,000.

In the original estimate that came before the committee this third amount was to be appropriated at Simms's Point. I had no knowledge of any such place; and the committee omitted that item because no explanation was given. Of Lime Point I very well understood the location. It is on the north side of the entrance of the bay of San Francisco. Fort Point is upon the south side; and this is nearly opposite. It is desirable that the two forts should be able to operate together when necessary. There has long been an anxiety and nervousness among the people of the State of California at the delay on the part of the Government to erect some defensive structure upon the north side of the entrance of that harbor.

Mr. STEVENS. Is there any fort there now?

Mr. HIGBY. There is no fort there now unless there be an earth battery. I believe it is not contemplated to build a fort of the usual expensive character. Having said what I desired to say in explanation of this matter, I withdraw my amendment in favor of the amendment made by the gentleman from Ohio, [Mr. SCHENCK.]

On agreeing to the amendment there were—ayes 56, noes 37.

So the amendment was agreed to.

Mr. STEVENS. In line fifty-eight I move to strike out the words "one hundred and," so that the clause will read:

For survey of northern and northwestern lakes, including Lake Superior, $50,000.

There has been a mistake in copying or printing the bill. The amendment which I propose is in accordance with the estimates.

Mr. DRIGGS. Has the gentleman positive information that $50,000 is all that is required?

Mr. STEVENS. Here are the estimates; $50,000 is all that is asked for.

The amendment was agreed to.

Mr. DAVIS. I move to amend by striking out the word "of" where it occurs the second time in the sixty-second line, and inserting in lieu thereof the word "by," so that the clause will read "the approval of its expediency by the Secretary of War."

The amendment was agreed to.

Mr. STEVENS. I move that the committee rise.

Mr. BANKS. I hope the gentleman from Pennsylvania will withdraw that motion and

allow me to move that this bill be laid aside, and the next bill taken up. It is an appropriation bill.

Mr. STEVENS. If there be no objection, I am willing to do so.

Mr. WASHBURNE, of Illinois. I object, decidedly.

The motion of Mr. STEVENS was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. WILSON, of Iowa, reported that the Committee of the Whole on the state of the Union having had under consideration the special order, being bill of the House No. 255, making appropriations for the construction, preservation, and repairs of certain fortifications and other works of defense for the year ending the 30th of June, 1867, had directed him to report back the same with sundry amendments.

ENROLLED BILLS SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 61) to establish certain post roads; and

An act (H. R. No. 135) to extend the time for the withdrawal of goods for consumption from public store and bonded warehouse, and for other purposes.

FORTIFICATION BILL—AGAIN.

Mr. STEVENS. I demand the previous question on the fortification appropriation bill and the amendments reported from the Committee of the Whole on the state of the Union.

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

The amendments of the Committee of the Whole on the state of the Union were voted on in gross and adopted.

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

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

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

Mr. ROSS. I move that the bill be laid upon the table. I should like to have my vote recorded against this bill.

The motion was disagreed to.

The bill was then passed.

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

The latter motion was agreed to.

PARIS EXPOSITION.

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

The motion was agreed to; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. WILSON, of Iowa, in the chair,) and proceeded to the consideration of House joint resolution No. 52, to provide for the expenses attending the exhibition of the products of industry of the United States at the Exposition at Paris in 1867.

Mr. WASHBURNE, of Illinois. I move to lay that aside and take up an appropriation bill.

Mr. BANKS. I hope not. It is necessary this question should be settled.

The motion was disagreed to.

Mr. BANKS moved that, by unanimous consent, the first reading of the joint resolution for information be dispensed with.

Mr. WASHBURNE, of Illinois, objected.

The joint resolution was then read a first time for information.

Mr. BANKS. I move to amend the first section by the following, which was omitted by accident:

After line seven, section one, insert:

First, to provide necessary furniture and fixtures for the proper exhibition of the articles and products of the industry of the United States, according to the plan of the imperial commissioners, in that part of the building exclusively assigned to the use of the United States, $48,000.

Mr. Chairman, I suppose this amendment opens the whole subject for discussion.

The CHAIRMAN. General debate has not been closed.

Mr. BANKS. Mr. Chairman, the amendment I have offered embraces the material part of the sum appropriated in the first resolution, and is the point which controlled the judgment of the Committee on Foreign Affairs, to which this subject was referred, in asking the House to make an appropriation for this purpose.

It is proper to say, Mr. Chairman, that the Government of the United States has never made an appropriation for an object of this character; and until the Exhibition of 1867 was proposed, no Government has taken the initiative and assumed the responsibility of expenses incurred in exhibitions of this description. Industrial exhibitions in all ages have been popular, and not governmental, enterprises. Whenever the people have had wrongs to redress or rights to assert, their only means of appealing to public opinion and sympathy, except by violence, have been through the exhibition of the fruits of their industry. Thus it has ever been in Poland, Hungary, France, or England; wherever the people sought to influence the Government or stamp their ideas upon the public mind, they have, in exhibiting the fruits of their industry, given evidence of their claims upon the Government. This was true of our own Revolution as of other States. It was not until 1851 that industrial exhibitions engaged the universal attention of nations. The Exhibition of 1851 itself was only established upon the guarantee made by individual citizens who engaged that the Government should not be made responsible in any encouragement which it might afford. The Exhibitions at Paris in 1855, at London in 1862, and at Hamburg in 1863, proceeded on the same idea, that the enterprise was one of individual character, in which Governments participated, but for which they were not responsible, and which they did not assume to control. But at length, as with education, railways, and other popular organizations for the improvement of the condition of the people, industrial expositions now enjoy for the first time the reluctant but essential patronage and favor of Governments.

The Emperor of France has for the first time in the history of the world assumed the responsibility of collecting, classifying, and exhibiting its industry, and invites all nations to present evidences of their prosperity, progress, and power in industrial pursuits. His Government has appropriated 20,000,000 francs for its expenses. He pays 12,000,000 francs from the treasury of the empire, and trusts that the balance of eight millions may be obtained from admission fees and in other forms of contribution.

Belgium has appropriated 600,000 francs, or $120,000, for the same purpose. Every nation on the European continent will make its appropriations. Individuals, societies, corporations, cities, and departments of France will also be called upon for voluntary contributions. It is therefore an enterprise in which Governments and not individuals are to act, and if the United States desires to be represented in this exhibition of the world's wealth, it must be through their Government, and not, as heretofore, by individuals. It is for that reason, among others, that the Committee on Foreign Affairs has asked this appropriation of the House. Unless the Government takes the initiative and is represented there as a Government, the people of the United States interested in the report of our progress in industry will be without rights or privileges. It is important that we should consider the subject in view of this fact.

On the 15th of January last a resolution was approved by the President, which had passed both Houses of Congress, accepting the invitation of the Emperor of France to take part in the Exposition of 1867; and it now becomes our privilege and duty to say whether, by fit appropriations for this purpose, we will enable the people we represent to avail themselves of the advantages offered us in common with other nations. There can be no impropriety in saying that if we are to be represented at all we should be well represented, and that makes it necessary we should conform to the plan of the imperial commission. This plan has probably attracted the attention of gentlemen of the House, as it has been printed at length in No. 12 of the Executive Documents. Each Government is to be represented through its industrial agents. A part of the palace constructed for the proper exhibition of the varied products of human industry is assigned to each nation. The structure covers thirty-six acres of the Champ de Mars. It is elliptical in form. Each of the ten groups in which all branches are classified occupies one of the ten divisions running with the elliptical form of the structure into which it is divided, and each nation is assigned a section of the ground floor, running from the outside to the center; so that a spectator in moving round the building inspects all articles of any one class that the world produces; and in moving from the outside to the center by the transverse passage he will see everything that each nation produces. The industry of the world is thus so classified and arranged that a view of the whole, or of the part of each nation, is easily obtained. The United States ranks the eighth in the list of assignments of space. It has six times the space heretofore assigned in other exhibitions where it was the fourth in the rank of nations.

It is necessary that the portion assigned to us should be furnished for the proper exhibition of the fruits of our industry, according to the plan provided for all nations. The expenditure required for this purpose, according to the estimate of the American minister at Paris, for furniture and fixtures, will be $48,000. It is to provide for this sum that the amendment is offered which I have sent to the Chair, and which was omitted in the printed form by accident. I am authorized to say by the committee that it is their unanimous opinion that the acceptance of the invitation on the part of the Government makes it incumbent upon us to make this appropriation at least. I believe they were all united in that opinion. The committee hesitated long and carefully considered the subject in question in every point of view before they agreed to make the recommendation for the appropriation of $100,000.

The part of the building assigned for us contains thirty thousand square feet. It gives us twenty thousand feet for passage-ways and ten thousand feet net for exhibition. Every State in the Union has already made application for a portion of this space. The State of Illinois has applied for a very large share, and altogether the room already demanded will more than cover the space assigned to us. It is probable that a larger part of the building would have been assigned had the representative of the Government at Paris or the executive officers here been authorized to accept the invitations or specify what space would be required or how much would be used if assigned. But neither there nor here was any one able to specify what space would be wanted. The opinion was expressed that the American people would desire to be represented and that the largest space allowed would be wanted. It is to furnish appropriate furniture and fixtures for this space that the appropriation of $48,000 is proposed.

I will turn to the next section of the bill in order to explain other expenditures which are embraced in the $100,000 asked for. The next provision is—

For the compensation of four clerks in New York and four clerks in Paris, whose salaries shall be as follows: one at $1,600, one at $1,400, and two at $1,200 each.

These clerks are provided for at New York in the resolution which passed Congress and was approved by the President. This bill cuts down the salaries specified in the joint resolution passed, which was approved January 15,

from $1,600 to $1,400, or $200 for each clerk. So that it makes a reduction in the sum required to that extent. If we are to appear in Paris, if we are to expend $48,000 for fixtures and furniture, it is of course necessary that there should be some arrangement made by which the articles presented for exhibition should be so classified that we should not duplicate from each State, and from different parts of the same State, the same articles. It is therefore absolutely necessary that there should be some officers to regulate this. A general agent was appointed at New York by the Secretary of State, whose salary was not fixed. This appointment has been approved, and the appropriation is requested for himself and the clerk which he was authorized to appoint.

The next provision is—

For the compensation of professional and scientific commissioners, ten in number, at the rate of $1,000 each per annum, $10,000.

It may seem to some unnecessary that there should be ten scientific commissioners appointed to attend this Exposition; but if it be necessary, assuredly the compensation of $1,000, with the passage out and back, which is provided for in another section, will not be deemed extravagant. I think I may say with some degree of confidence that if the committee will look at the character of the Exposition and the plan upon which it is organized they will come to the conclusion that a scientific commission that shall attend for the purpose of examining and reporting upon the results of the industry of the world is absolutely essential to the full realization of its manifold advantages, and will far more than compensate for the amount of the expenditure incurred in this section.

The plan of the Exposition of 1867 is the grandest classification of the world's industry that the mind of man has ever conceived. There has never been presented, in the history of the world, such a comprehensive, systematic, and scientific grouping of the various branches of human industry of the world as this plan unfolds. All the pursuits and products of industry are classified in ten leading divisions, and subdivided into ninety-five classes. It is proposed by the commissioner acting for the Government, the American minister at Paris, that one scientific commissioner for each one of these groups shall be appointed by the Government. The groups are as follows:

1. Works of art.
2. Materials and application of labor to art.
3. Furniture and other household articles.
4. Clothing, including cloths and other wearing apparel.
5. Mining, and the rough products of mining.
6. Processes of mechanic arts.
7. Food, fresh and preserved, in its various states.
8. Leading agricultural products and specimens.
9. Natural horticultural products and specimens.
10. Objects especially exhibited for improving the physical and moral condition of the populations of the earth.

These ten groups embrace all the pursuits of man, all the products of industry, all the habits of life, all the relations of men to each other, to society, and to progressive civilization. It is of vast importance that this World's Exhibition should be so far studied by our people that we may be able to comprehend the advantages to be derived from it, and appropriate them to the instruction and benefit of the different sections of the country.

We have eminent scientific men in every part of the country who will be capable not only of illustrating our own relation to the industrial products of the earth, but combine in concise, comprehensive methods the results of their investigation, and to impart that information to our people.

In the eastern States we have Professor Agassiz, now in South America, whose investigations in natural science will electrify the world and give to the American name in the scientific world a higher prestige than any nation has enjoyed. Professor Agassiz believes that in a few years the sons of the noble families of every nation in Europe will be sent to the universities of this country to complete their studies, and that in the study of natural science we shall have advantages that are not enjoyed by any other nation or any other people on the face of the earth.

In the middle States they will be able to present some one who will understand what is necessary for the development of their industry and the promotion of the great public interests identified with and dependent upon the success of American industry.

And the valley of the Mississippi—a valley that is comparatively unknown to us—that is capable of supporting five hundred or one thousand million people, which will yield to our industry every product, every manufacture, every form of mineral, will be able to present a man who understands the resources of that vast section of our country, who will represent its power, who will make known the improvements that may be made, and the progress of industry elsewhere.

In regard to the mineral and commercial regions on the Pacific coast, let me say that it is of the greatest importance that some man of science and practical skill should be able to present to the people of the Old World the capacities and resources of that part of our country, and also make known to us in return what advantages may be derived from this Industrial Exhibition.

In this manner we shall be able to represent our material wealth.

And more than that, it is in our power to represent the social and political character of the country in such a way as to attract the attention of other nations. The education and the habits of the people; their habits in relation to their industrial pursuits; the food upon which they live; the clothing they wear; the customs of the society in which they move; everything pertaining to American civilization will be represented by us. We can show the log cabin where lived one of the earlier Presidents of the Union; the humble roof beneath which was born or dwelt the martyr President, whose name is known and beloved by the common people of all nations. We can show the habits of our people in their industrial pursuits, and also the advantages which they enjoy in respect to education and progress, and thus place before the world an enlarged view of the condition and the prospect of American civilization, that has not yet been presented, and that cannot be presented in any other way.

And I think the expenditure of $100,000 to represent us in these great aspects, the results of which will be reported through ten of the best informed, the most scientific and practical men of the country, will be a sum very well bestowed and very profitably expended.

The next section relates to an additional structure which possibly may become necessary for our accommodation. I have said that thirty thousand square feet of area in gross have been assigned to us by the French Government, placing us eighth in the list of nations. Beyond all question that will be insufficient. Applications have been made already that will fill the entire space. The State of Illinois alone has made application for a space sufficient to take nearly all that assigned to us. It may be necessary for us to provide an additional structure. In the Champ de Mars we can have as much space as we please, and therefore it is proposed, if it shall be requisite, that the Government of the United States shall appropriate $25,000 for the additional structure, upon condition that an equal sum shall be contributed by individuals for the same purpose. It may be found necessary, and it may not. I do not think the appropriation is an unreasonable one to request or an unreasonable one to grant.

The next section contains an appropriation for contingent expenses in Paris and New York, to be expended as the commissioners may direct, $5,000; being for rent, advertising, and incidental expenses already incurred in pursuance of the action of the Secretary of State, confirmed by the action of the two Houses of Congress, and approved by the President.

The next is a section to which I propose to offer an amendment when it shall be reached. It now provides that the Secretary of the Navy, at the request of the Secretary of State, shall be authorized to furnish one or more public vessels to transport the industrial products of this country to and from France. The sentiments of the Secretary of the Navy upon this subject, as indicated when the subject was up before, has led me, upon my own responsibility, to propose a modification. I shall therefore propose that the President of the United States shall be requested to furnish one or more public vessels for the transportation of the industrial products of this country to France, but not to return them; because it might be said, as the Exhibition will continue for six months, that to keep the vessels there for that time, or to subject them to another voyage out to bring the goods to this country would be perhaps an unreasonable addition to the expense. I therefore propose that we provide one or more public vessels for the transportation of our continental industry to the shores of France.

And I take occasion to say that the representations which have been made here when this subject has been up before in regard to the expense of this transportation have been greatly exaggerated. Gentlemen have said that the expense would be two or three hundred thousand dollars; and it has been stated to us that the Navy Department is responsible for such a statement. I say, Mr. Chairman, that no such expenditure will be incurred; that neither $100,000 nor $50,000 nor $20,000 nor $10,000 nor any other considerable sum will be incurred. The expense will be no more than that which pertains to the possession of the vessels which the Government now owns.

We ask in the first place nothing more than store-ships—sailing vessels—which are now at the disposal of the Navy Department, which are not engaged in any public service, and can be assigned to this duty without the cost of a dollar to the Government. The use of the vessels with the services of the officers and men now employed and paid by the Government will add nothing at all to the expenses of the Department; and I feel authorized to say on behalf of the committee that we will gratefully accept the meanest exhibition of the national flag which the Navy Department chooses to make for us in aid of this great national representation of our industry.

I am told by officers of the Navy Department that these store-ships, when they are not wanted for service, are not now even sold; that the prices which they bring are so insignificant that they are broken up for the sake of the material. It is only necessary therefore for us to say to the Navy Department, preserve one, two, three, or four of these vessels, as may be required; and this will give us all that we need for transporting the exhibitions of our industry to the shores of France. Within the present month I believe not less than twenty steamers have been sold in the city of Baltimore at an average of less than $6,000 each; more than half of them were sold for less than $4,000 each. Even if we should ask the use of steamers, which we do not, certainly the Government of the United States has the power to gratify the people of this country at a very slight cost and with very little trouble.

The reason for making this request upon the Navy Department is based upon a fact alike honorable to the service and the people of England. At the Exhibition of 1851 the Secretary of the Navy, without a request of Congress, authority of law, or unjustifiable expense, gave to the manufacturers, the artisans, the agriculturists, of this country the use of the war frigate St. Lawrence to carry to Southampton the products of their industry; and the arrival of the St. Lawrence at Southampton

is announced in the English histories of the Exhibition of 1851 as one of the most notable and gratifying incidents of that grand industrial exposition. The officers and men of that frigate were honored with an ovation at Southampton; and wherever they appeared within the realm of England they were recognized as the representatives of the flag of our country, the bearers of the contributions of American industry.

Now, sir, if that was the case in 1851, assuredly the flag of the United States will be welcomed in the grander Exhibition of 1867. We ask in this case only that the Government shall lend us the flag of our country to cover the industrial representations of all classes of its people from every part of its territory.

There is in the resolution a provision which authorized the commissioner at New York to charge the exhibitors one half of the current rate of freight to France, the proceeds of which were intended to be applied to the reduction of the general expenses of this exhibition on the part of our Government as provided for by the first resolution appropriating the sum of $100,000. It was that provision which led me to say in reply to a question of the gentleman from Illinois, [Mr. WASHBURNE,] when the subject was before the House some weeks since, that the expense would not in any event exceed $100,000, and probably would not exceed $50,000. But, upon reflection, I felt that it was not altogether an elevated proceeding for the Government of the United States, in the use of the vessels owned and paid for by the people, to charge half-price freight upon the articles to be exhibited in Paris next year for the purpose of illustrating the progress and greatness of our country, especially for the benefit of the Government and the people. And therefore I propose on my own responsibility to strike out that section, which stands as the third section in the printed resolution, leaving it as it stands in the second section, modifying it, however, so far as to call upon the President instead of the Secretary of the Navy to furnish the vessels.

And I do this, sir, for another reason which did not occur to me in its full strength at the time the committee reported this resolution. The products which we send to Paris will be to a great extent sold in that country. The American minister at Paris has expressed the opinion that nine tenths of the articles we send to that country will be sold there. They ought all to be sold. I think, therefore, there will be no necessity for specially providing for their return. I do not think there is any great generosity in charging them fifty per cent. for their transportation to France. For these reasons I shall submit the several amendments which I have indicated.

Mr. Chairman and gentlemen of the committee, allow me, and I do not know but I am trespassing too much on their attention——

Several MEMBERS. Go on; we want to hear you.

Mr. BANKS. Will gentlemen allow me to call attention to the results of previous unauthorized exhibitions of the world's industry in London, Paris, and Hamburg? Carefully as we study the history of this country, and especially of its industry, we know very little of its present power and nothing at all of its future. We did not know in 1851 when we sent to London unknown men, not unknown men merely in England but unknown men in America, who would electrify as well as instruct the people of the world, who were most interested in the prominent and industrial pursuits. When Mr. McCormick took his reaper there it was hardly recognized as a successful implement of agriculture here. It was only when the premium was awarded to it that general attention in this country was called to its great merits and wonderful success. When George Steers sent out the yacht America it attracted little attention. The London Times announced, after a careful examination of its model, that it was of a novel and not very promising style of architecture, of which we had no great reason to be proud; but when it entered the contest against the sailing vessels of the whole world, it so far won in that contest as to leave no flag second; and then every American heart bounded with joy, and a new light broke upon the minds of the people of all nations.

There were other like honorable examples. There went out an unknown obscure mechanic from the city of New York, a native, I believe, of Massachusetts. The English locksmiths had challenged the whole world for twenty years to open that most important as well as most ingenious invention of mechanism, the Bramah lock. A prize of two hundred guineas was offered to whoever could open it, and it had been tried by everybody, and no one had made an impression upon it. Mr. Hobbes, the American mechanic, gave it his attention. It was carefully guarded so that there could be no possible advantage taken by him, and then, to the astonishment of all the English mechanics, after a few hours' experiments, he unlocked, locked it again, and repeated the operation, without injury, as often as they pleased.

Sir, I need not refer to the most brilliant success of other American mechanics. Every one will agree with me in stating, so far as the Government was then represented in the Exhibition of 1851, it was not only a failure, but a disgraceful failure, and that it was only the marvelous and unexpected skill and power of our own citizens, our own unknown mechanics, that saved the United States from utter disgrace.

In 1862 the Exhibition was repeated in London on a grander scale. We were then engaged in a terrible war, and could not afford to expend money on any extraneous object. We allowed, however, ninety-five American citizens to go there at their own risk and cost to exhibit the industry of the United States. Eighty-three of those ninety-five American exhibitors received prizes in almost every branch of the pursuits of industry.

The London Times, in speaking of that Exhibition, said that after the mechanical department the United States department was the point of general attraction for the people of all nations. There was no representation of the Government there, no full representation of the industry, skill, genius, power, and wealth of our people; only a few unauthorized citizens had gone there at their own expense, and they alone, according to the London Times, constituted the second point of attraction to the people of all nations. And foremost among these, according to the representation of all the English journals, the great middle classes were the most constant and interested in their attendance upon the American department.

In the Exposition of 1863, at Hamburg, the Government was not represented, but some of our enterprising citizens were there; among others, a single representative from the State of Vermont went there of his own accord, without the slightest expectation of achieving any distinction for himself. He took with him, to represent one of the great staple interests of this country, twelve sheep. I do not suppose there is a man in this House, or that there was at that time a man in the United States, that would believe for a single moment that the American States were equal in sheep culture to those nations where it has been studied for two or three hundred years. In the Exposition at Hamburg, thirty-five different nations were represented. The crowned heads of Europe had their own finest specimens of the sheep culture of Europe and Asia there; the Emperor of the French was represented himself by his own choice specimens of stock. And this Vermont sheep raiser, Mr. Campbell—I ought to mention his name—who carried out at his own cost twelve sheep, was honored with an examination and received two first prizes, and a second prize, for the superiority of his stock. The award was not made by friends of this Government, not by men interested in our people, but by strangers; and when it was announced that an American had received two first prizes for the superiority of his stock, and the second prize also, everybody rejected it as fabulous, and when it was verified by the subsequent publication of the awards they disputed the integrity of the award; but Mr. Campbell, the Vermont man, challenged a second examination, which was not accepted.

I need not go further in the discussion of this matter, to show what we have done in the past. Let me say a word as to what we may do in the future.

Mr. Chairman, of the ten groups into which the imperial commission has classified the industry of the world, the United States, if it shall be properly represented, will be at least the equal if not the superior of other nations in six or seven. I need hardly recount them. In works of art, although we have a reputation not yet in the blossom, I am sure we shall stand in some respects the equals of the modern representatives of older nations. The illustrations of the grand features of American scenery by Church, Bierstadt, and others, and the marbles of Powers, Story, and Hosmer, and other sculptors yet unknown, and who will never be known except they shall have opportunity to compare their achievements with the art products of other countries, cannot fail to attract at least respectful attention.

In the great democratic exemplification of the art of wood engraving, the United States not only stands first, but it has achieved distinction by new processes wholly unknown to artists of the same profession in other parts of the world.

In materials and applications for the liberal arts, we cannot say much, because we do not know much. We have no knowledge of what this continent will produce in the way of the materials and applications of the liberal arts; but we need not be surprised if in this group, of the nature of which we know nothing at all, we stand as well as other nations.

In the fifth group of minerals, and the raw and wrought products of mining, certainly we may say that no part of the world is equal in its mineral wealth to the United States. The mines of Russia are far less important as sources of national wealth. While the mines of Russia are chiefly on the eastern slope of the Ural mountains, from three to five thousand miles from St. Petersburg, whose rivers run gently to the Arctic sea from the centers of population, costing in transportation the greater part of the value of the products, our exhaustless wealth lies on the lines of population, where our population is moving and our railroads are constructed or being constructed, so that we may say that our wealth in respect to California is the same to us, or will be, as if it lay at the threshold of the Mint at Philadelphia or the marts of New York.

I need not refer to our capacity in mechanical invention or other classes of industry in which we shall maintain a respectable if not superior position. But I want to allude briefly to one point of national interest where we will be expected to show our power, and where we shall have an influence upon domestic as well as foreign affairs by a full exemplification of what we can do.

We have passed through a war of great trials and great success. The attention of the world has been called to it. There will be nothing which the people of other countries will so desire to see and to comprehend as the *matériel* and organization of the American Army. The quartermaster's department proposes to send a baggage wagon, manufactured at Philadelphia, that followed McClellan through his Potomac campaign, Rosecrans in Tennessee, and Sherman in his great march from the mountains to the sea, and then again to Richmond and the surrender of Lee. A wagon with such a history cannot fail to attract the attention of all people. A pair of worn-out shoes, the dress of an American soldier, the shelter tent under which he slept, his bayonet, his musket, his knapsack, his cap, his rations, anything that belonged to him will attract more attention and draw greater crowds of people and hold them longer and closer than will the crown jewels of England.

We want to see also the Navy of our country represented, that Navy which ought to be willing to assist us in the slight demand we make upon it. We want the people of Europe to see of what our Navy is composed, our iron-clads and monitors, as novel in naval architecture as was the yacht America. We want them to see our twenty-inch guns and the thousand-pound projectiles we have fabricated. The naval authorities of our country, I am told, would not hesitate to challenge the navies of the whole world to discharge their batteries upon one of our unresisting and silent monitors sleeping on their waters like a turtle, if they will allow that monitor to return the fire of each by a single shot. We want the people of the world to see what our mechanics have done and what they may do; and we want, too, to impress upon the people of Europe and Asia that if there is a chance to make friends with the Americans it is better to do it than to make us enemies. We want to show them that we prefer peace, that the fruits of peace are our pride, but that if war be made by their rulers they must not count on an unresisting war, but on one that will carry havoc and devastation into their country as it has been carried into the country of our enemies. [Applause.] We want, too, that that most simple, that most pure, that most spotless hero of this or any age, Admiral Farragut, shall command in the waters of Europe our iron-clads and our monitors, and give the people an evidence of the simplicity of the man whose naval exploits are equal to the brilliant achievements of Duguay Trouin of France, of Van Tromp of Holland, or Nelson of the English navy. And that he may not stand alone, we want that our own gallant soldiers shall be represented by their leaders, Grant and Sherman and Sheridan, that we may show the world of what stuff our Army and Navy are made.

In the way of peace and for the purpose of averting war, there is and there can be no act of the American Government so important as this. I can scarcely doubt that the Emperor of France desires war with this country. One who sits upon a bayonet has a sharp seat and cannot rest quiet long. But Napoleon and the other rulers of Europe must satisfy the people of their respective Governments that they have an easy task and a sure end. While he has the power to represent America as he chooses, and France as he chooses, the people have no medium of instruction except through his representations. But in this industrial theater of nations, the voice of rulers will not be more potential than that of the people. The thin and deceptive veil of diplomacy which has been hanging between Governments and the people for centuries, and which is responsible for the injustice of nations, will be lifted, and the people of Europe will understand the people of America.

God, in His providence, in this the greatest of all providences, now gives to the democracy of America an opportunity to speak face to face with the democracy of Europe. The products of industry constitute the language of labor; it is a universal tongue; every man will comprehend it. And when they shall have seen for themselves the results of our war and capacity in peace they will make known to the rulers of the European world that the people of this country are to be preferred as friends rather than as enemies. Thus, in the mere matter of peace and war, in preserving our relations with the Governments of other nations upon a proper basis, and in the means of defending our rights, a just representation is the best possible appeal we can make.

But it is not in this view alone that such representation is important. This great industrial congress will constitute an era in our industrial history, as it will in the civilization of the world.

Let me recall a few of the leading features of our position and power almost unknown to us, and never contemplated by the people of other countries.

Our cereal products double in quantity every ten years. They are now more than the grain crops of France; and equal to the grain crops of England, and in ten years they will be larger than the crops of both empires. Lamartine, in his letter justifying the French occupation of Mexico, states distinctly that the North American continent is to become the granary of the world, and that France must control a portion of its territory or be subordinate to the Government and people of the United States.

The cotton crop gives employment to forty million Europeans. It has been cultivated in eight States, really in but five States. The utmost extent of this product has been five million bales a year. It can be successfully and profitably cultivated in twenty States, certainly in more than half of the States of the Union. And instead of being limited to five million bales a year as the extent of the most favorable crops, we will within a few years send to the markets of the world twenty million bales of cotton each year.

The grape is an indigenous product of this country. In the Mexican border States, on the Pacific coast, in the valley of the Mississippi, on the Ohio, and in other States, there is evidence abundant, plentiful, and undeniable, that in a few years we shall share at least in the profits of the wine manufacture. We already export wines, with other agricultural products, from the Pacific coast to South America, Australia, the Sandwich Islands, Japan, and other Asiatic ports.

The mineral wealth of this country is fabulous. No man would be believed for a single moment in the court of nations next year if he stated upon his own responsibility what is the possible, even the probable, development of the mineral wealth of this country. It is only when the Government shall make its statement that the people of the Old World will credit the relation. Our mineral regions extend over seventeen parallels of latitude and nearly an equal number of longitude, embracing two million square miles, the whole of which is plethoric and bursting with iron, lead, copper, asphaltum, quicksilver, silver, gold, and many other minerals.

Several years since I was impressed with the statement made to me by our minister to Belgium, Mr. Sanford, who said that Baron Von Humboldt had told him that in his judgment it was impossible that the mountains of Virginia should not yield diamonds; that the configuration and character of the country of Virginia indicated to Humboldt, who knew the physical world as other men know mankind, that the mountains of Virginia would ultimately be found a depository of this the richest and most rare of precious stones.

And in confirmation of this philosophic suggestion, made by a man who could read the indications of the surface of the earth, as an expert in natural science recognizes a fish by its bones or its scales—as if in exemplification and confirmation of this philosophic theory of Humboldt, we see it announced in the southern portion of the continent that diamonds and other precious stones have already been discovered. We know comparatively nothing of the mineral character, the mineral resources, the mineral wealth of our country; and it is only when we shall stand in the council of scientific men, representing all parts of the world, and thoroughly conversant with all its wondrous developments, our own resources fully and justly represented, that we shall be able to estimate the value of that we have by that which we have in our possession but do not yet comprehend and rightly value.

I need not speak of the petroleum discoveries in the view or with the spirit of speculation. I have no eyes for speculation. I never saw in my life a share of stock or scrip of any sort; and I have no care for such things. I have no doubt that, so far as petroleum is the subject of speculation, it will be an injury as all speculation is. But we must look at the developments of nature in whatever aspect they present themselves. Here in our own country, in our most populous States, we discover that Providence has given to us a form of wealth necessary to all nations and in all pursuits, and which is found in almost exhaustless quantities. It would seem as if precious oils flowed in the veins of the earth as does its water; that when it is exhausted in one place it appears in another, and when exhausted in the second fountain it reappears again in the first. So, making any ordinary and reasonable draft upon this most bounteous and most miraculous development of our wealth, we may well say that it is exhaustless. It extends from the Alleghanies to the Pacific coast, and may be found anywhere within an area of two million square miles, and no man can put his foot down or fix his stake at any point at which he may not penetrate the earth and receive wealth in this form.

Let me look at another point in which we have or ought to have some interest. It is the railway system. The railway is a new element of power. We have thirty-one thousand miles of railroad—four times as much as England—more than any other country. We can build as much as we want, and as soon as we desire. Other nations count the cost; but we have no cost; for to invest in a railway is to give value to that property which we possess in other forms. The construction of our railways has cost us $1,100,000,000; $800,000,000, as I stated the other day, were expended between 1850 and 1860. And I have no doubt that between 1870 and 1880, $1,000,000,000 more will be invested, so that we shall have a railway to every part of this country, connecting all the points of domestic wealth, whether the coal of Pennsylvania, the lead of Illinois, the copper of Michigan, or the gold and silver of the Pacific coast, with the commerce of the world.

[Here the hammer fell.]

Mr. ASHLEY, of Ohio. I move that, by unanimous consent, the gentleman from Massachusetts be allowed to conclude his remarks.

There was no objection.

Mr. BANKS. Again, sir, consider the question in another regard, which is moral and mental. Mr. Oliphant, a member of the British Parliament, said in a public speech the other day that in religious and secular education the United States are ahead of the whole world. It is well known that we appropriate more money in public education than all other States. In this Exhibition of 1867 education will be a material feature; and it would be a crime if the nations of the earth are to be represented in point of education, that the Government of the United States should not be properly represented.

And the same is true of the public press of the country—the American institution which gave in 1860 four thousand journals and a thousand million copies per annum, and now yields double the number of copies, or two a week for every person in the United States.

Now, sir, in the court of nations, these facts will make an impression upon the world in two respects in which we have much interest: first, in regard to our finances, and second, in regard to our population. Capital is proverbially heartless, and will go wherever it finds material for safe and profitable investment. European nations are insecure in their political relations. We are secure if we settle our domestic affairs, as I have no doubt we shall. We will show in our mineral development, in our increased cotton products, in the extension of our cereals, such an absolute serenity in reference to the payment of our public and private debts, as to deprive the capitalists of Europe of any, even the slightest, apprehension in making investments in our country.

I say, and I think without exaggeration—I know it is a strong statement that I am about to make—if the Government of the country should issue its scrip in small sums, paying seven, eight, nine, or ten per cent. interest, with a full and fair representation of our material wealth and the character of our people to the people, it would break every savings bank in Europe if the Governments did not interfere to stop subscriptions.

Look at our population, sir, and the great

area we occupy, as elements of wealth. The territory is equal to that of Europe. It is sufficient to support a thousand million people. The valley of the Mississippi alone, with its tributaries between the mountains, will support a thousand million people populated as England is, three hundred and thirty-three to a square mile. It will yield all the products of Europe and Asia. Tea and coffee will grow in the Southwest, and with grain grown in the Northwest, in ten or twenty years the whole world will look to America for food. Our population is keeping progress with our advance in material wealth. We had thirty millions of population in 1860.

Every thirty years we double our population as is very well known. France has increased thirty-seven per cent. in sixty years; Russia has grown one hundred and fifteen per cent., and England one hundred and thirty-one per cent. in the same time; while the increase of our population has been five hundred and ninety-three per cent. With freedom recognized as the condition of all, in 1876, a century from the Declaration of Independence, we shall have fifty millions of people, and at the close of the century a hundred millions. In 1950, not long distant, the population of the present territory of the United States will equal two hundred and fifty millions, nearly equal to the entire population of Europe. In the hands of such a people the wealth that appears now will be as nothing. They will have penetrated the earth in every direction, and brought to profitable investment and useful purposes many now hidden sources of future wealth.

We have, as the first element, emigration; and secondly, financial security. Emigration thus far in this country, though a prolific source of our strength, has not been altogether what it should be. The Secretary of State, as the Speaker of the House knows, sent to us a communication the other day, showing that criminals were liberated from imprisonment in the Old World on condition that they should come to the United States. It is a well-known fact that early emigration was of a character which would not be said, at the first blush, to be desirable; but in the providence of God it has been of the first advantage. We have never yet reached largely the middle class of Europe. The German States alone, with a population of fifty million, and an annual increase of six hundred thousand souls, can send us five hundred thousand people every year, mainly from the middle classes; men to occupy our land, men who are skilled in all human pursuits, in wine culture, in the mechanical arts, in the mysteries of mining. Skilled labor is the want of our country, and will furnish, if it can be obtained, an inappreciable increase of industrial power and product. We paid the revolutionary debt in forty-five years. We can pay the present debt in less time. Whether it be three or five or even ten thousand millions with such aid and increase of productive power our debt will be paid, every dollar of it, at the day it is due.

Mr. Chairman, a fact like that stated to the people of Europe opens the door for the emigration of the middle classes of people, who can neither buy land nor open the heavily closed ranks of privileged classes that exhaust the resources of the people and monopolize the wealth and honors of the country.

With such accessions to our numbers we shall be able to discharge our duty to our Government, relieve our people from their taxes, and make known to the world the value of the services of the illustrious men who have died in the defense of the country. It is in such a contest as this that men and nations win honors that give them immortality. War is but a trivial thing compared with the developments of peace, and if showing what we are capable of in war, we forbear to show to the world what we are capable of in peace, we shall bring upon us dishonor rather than an enduring fame.

The position of America is marvelous. When we group these facts that are known to every man they seem incredible. But the other day the Emperor of France stated to the French Chamber of Deputies, to recommend his Government to his people, that the constitution of France was not unlike that of the United States.

In the university at Cambridge a professorship has been proposed for instruction in the principles and history of the American Government. It is a duty we owe to other nations, as well as to ourselves, to show them what we are. Why, sir, there is many a man among the educated classes of England and France who does not know that we speak the English language.

In the elementary text-books, the United States is given an unimportant position, such as we accord to the South American republics, or other distant and comparatively unimportant parts of the American continent. It is only where the people are able to speak for themselves, that the Governments of Europe will understand what we are, and their people be able to comprehend our institutions and assert their rights.

I am sorry, Mr. Chairman, that I have trespassed so long upon your attention. But for the very earnest opposition, apparently, of the gentleman from Illinois, [Mr. WASHBURNE,] to this simple, harmless resolution, reported by the Committee on Foreign Affairs, I should not have ventured upon these remarks at all. It was not my intention when I rose to trespass long, and I conclude my remarks by one single suggestion: that whatever power we have in the field or in the workshop, the true power of the American Government and the American people is in ideas; that the lesson which the Old World has to learn of us, and the lesson which we have to learn ourselves, in order justly to appreciate our own importance and character, is, that in the economy of this world ideas are better than blows, and brains better than blows.

Mr. WASHBURNE, of Illinois, obtained the floor, but yielded to

Mr. SLOAN, who moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. WILSON, of Iowa, reported that the Committee of the Whole on the state of the Union, having had under consideration the Union generally, and particularly House bill No. 52, to provide for the expenses attending the exhibition of the products of industry of the United States at the Exposition at Paris in 1867, had come to no resolution thereon.

THANKS TO GENERAL W. S. HANCOCK.

Mr. PHELPS, by unanimous consent, introduced a joint resolution expressive of the thanks of Congress to Major General W. S. Hancock; which was read a first and second time, and referred to the Committee on Military Affairs.

BASIS OF REPRESENTATION.

Mr. ASHLEY, of Ohio, by unanimous consent, introduced a joint resolution proposing an amendment to the Constitution of the United States, concerning the basis of representation; which was read a first and second time, referred to the joint committee on reconstruction, and ordered to be printed.

ORDER OF BUSINESS.

Mr. WINDOM. I ask unanimous consent to take from the Speaker's table Senate bill No. 121 for reference to the Committee on Indian Affairs.

Mr. SPALDING. I object.

Mr. FARNSWORTH. I call for the regular order.

The SPEAKER. The regular order is the consideration of the loan bill, upon which the gentleman from New York [Mr. HULBURD] is entitled to the floor.

Mr. CONKLING. I hope my colleague [Mr. HULBURD] will not be compelled to go on this afternoon at this late hour.

Mr. HARDING, of Illinois. Is it in order to move that when the House adjourns this afternoon it be to twelve o'clock to-morrow?

The SPEAKER. The House has ordered a recess to be taken each day, except Saturday, from four and a half p. m. to seven and a half p. m., until it shall be otherwise ordered. A motion to adjourn, before the hour for taking a recess, will be in order, and if a majority shall vote in favor of it, the House will adjourn until to-morrow at twelve o'clock.

Mr. HARDING, of Illinois. I move that the House now adjourn.

The House divided; and there were—ayes ayes 69, noes 39.

Before the result was announced,

Mr. STEVENS called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 75, nays 47, not voting 61; as follows:

YEAS—Messrs. Alley, Ancona, Anderson, Baker, Beaman, Bidwell, Blow, Boyer, Bromwell, Brooks, Chanler, Cobb, Conkling, Cullom, Darling, Dawes, Donnelly, Driggs, Glossbrenner, Aaron Harding, Abner C. Harding, Harris, Hayes, Hill, Hogan, Chester D. Hubbard, John H. Hubbard, Ingersoll, Jones, Julian, Kelso, Kerr, Ketcham, Kuykendall, George V. Lawrence, Le Blond, Loan, Longyear, Lynch, Marshall, Marston, McCullough, Mercur, Myers, Newell, Nicholson, Noell, Paine, Phelps, Radford, Samuel J. Randall, William H. Randall, Raymond, Ritter, Ross, Shellabarger, Smith, Spalding, Starr, Taber, Thayer, John L. Thomas, Thornton, Trimble, Upson, Robert T. Van Horn, Ward, Elihu B. Washburne, Welker, Whaley, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Winfield—75.

NAYS—Messrs. Allison, Ames, James M. Ashley, Baldwin, Baxter, Bergen, Blaine, Boutwell, Broomall, Sidney Clarke, Coffroth, Cook, Dawson, Defrees, Dixon, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Hart, Higby, Holmes, Hooper, Asahel W. Hubbard, Jenckes, Laflin, William Lawrence, Marvin, McClurg, McRuer, Miller, Moorhead, O'Neill, Orth, Perham, Price, Alexander H. Rice, Sawyer, Sloan, Stevens, Taylor, Trowbridge, Warner, William B. Washburn, and Woodbridge—47.

NOT VOTING—Messrs. Delos R. Ashley, Banks, Barker, Benjamin, Bingham, Brandegee, Buckland, Bundy, Reader W. Clarke, Culver, Davis, Deiano, Deming, Denison, Dumont, Eckley, Eggleston, Eldridge, Finck, Goodyear, Grider, Griswold, Hale, Henderson, Hotchkiss, Demas Hubbard, Edwin N. Hubbell, James R. Hubbell, Hulburd, James Humphrey, James M. Humphrey, Johnson, Kasson, Kelley, Latham, McIndoe, McKee, Morrill, Morris, Moulton, Niblack, Patterson, Pike, Plants, Pomeroy, John H. Rice, Rogers, Rollins, Rousseau, Schenck, Scofield, Shanklin, Sitgreaves, Stilwell, Strouse, Francis Thomas, Van Aernam, Burt Van Horn, Henry D. Washburn, Wentworth, and Wright—61.

So the motion to adjourn was agreed to.

During the roll-call,

Mr. HOLMES said: My colleague, Mr. DAVIS, has been compelled to leave the Hall on account of sickness.

The hour of half past four p. m. having arrived before the reading of the list of yeas and nays had been completed,

Mr. FARNSWORTH said: The hour of half past four having arrived, must not the House, in pursuance of its order, take a recess until half past seven o'clock this evening?

The SPEAKER. As that question is one of some interest, the Chair will state that during the last session of Congress, when the House was acting under a resolution of the same kind, providing for a daily recess, the same point was raised while the yeas and nays were being taken. The Chair examined all the precedents upon the subject, and found the rulings of the Speaker to be uniform, that where a motion was made to adjourn before the hour for taking the recess had arrived and the yeas and nays were ordered to be taken upon the motion, the roll-call had to be completed and the result of the vote must be announced by the Chair, even though the roll-call was not completed until after the hour for taking the recess had expired; and if the question was decided in the affirmative, the House stood adjourned until the morrow. The constitutional expiration of Congress is the only thing that can arrest the call of the roll after it has been begun.

The result was announced as above.

And accordingly (at four o'clock and thirty-two minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to appropriate committees:

By Mr. BAXTER: The petition of H. R. Snyder, and others, of New York; of D. A. Smalley, and others, of Burlington, Vermont, asking an appropriation for breakwater at Burlington, Vermont.

By Mr. BUNDY: The petition of John W. Nichols, and 39 others, for a stage and mail route from Middleport, in Meigs county, to Hamden, in Vinton county, Ohio.

By Mr. CLARKE, of Kansas: The petition of John W. Sponable, E. Davis, and 40 others, citizens of Johnson county, Kansas, praying Congress to take measures to provide provisional civil governments for the late rebellious districts, and to exact irreversible guarantees for the security of the future.

By Mr. CONKLING: The petition of L. E. Elmer, and others, assistant assessors of the twenty-first district of New York, asking an increase of compensation.

By Mr. DAVIS: The petition of John I. Blair, and others, praying for an act declaring a bridge over the Mississippi river a highway and postal route of the United States.

By Mr. DAWES: The memorial of Holyoke Savings Bank, Shelburne Falls Savings Bank, and Westfield Savings Bank, each praying exemption from internal revenue tax upon deposits.

Also, a remonstrance of citizens of South Adams, Massachusetts, against the passage of a bill authorizing the Government to sell stamped envelopes at the price of the stamps.

By Mr. FERRY: The memorial of citizens of Mackinac, Michigan, respecting lands for railroad purposes.

By Mr. GARFIELD: The petition of J. H. Goddard, and 70 others, of Portage county, Ohio, praying for equalizing of bounties.

Also, the petition of Walter Chittenden, and 55 others, of Portage county, Ohio, praying for equalizing of bounties.

By Mr. HART: The memorial of Merrill Colvin, and others, in favor of granting suitable recompense to the female nurses who have served in military hospitals.

Also, the petition of plow-makers and manufacturers of other agricultural implements, asking for a reduction of taxes upon agricultural implements.

Also, the petition of assistant assessors of twenty-eighth collection district, New York, for increased pay.

Also, the petition of citizens of Rochester, New York, for pensions to surviving soldiers of the war of 1812.

By Mr. HOOPER, of Massachusetts: The petition of the savings bank in Cambridgeport, Massachusetts, for relief from taxation on their deposits.

By Mr. MERCUR: The petition of 36 citizens of Montour county, Pennsylvania, praying for such revision of the tariff laws as will protect domestic labor, and invite the investment of capital in home manufactures.

By Mr. NICHOLSON: The petition of Ann Burnet, widow of James Burnet, of Kent county, State of Delaware, praying for a pension.

By Mr. PERHAM: The petition of Mrs. J. Clements for pension.

By Mr. PIKE: The remonstrance of E. H. Wadsworth & Co., and 10 others, against the proposition to sell stamped envelopes at the same price as stamps.

Also, the remonstrance of N. T. Hill, and 150 others, against the renewal of the reciprocity treaty.

Also, the petition of E. E. Shed, of Eastford, Maine, for bonds in place of bonds burned.

By Mr. RANDALL, of Kentucky: The petition of H. R. Wilson, Elihu Payne, Tilford Messer, John D. Martin, Hiram Messer, and Blakely Logan, citizens of Knox county, Kentucky, praying for the confiscation of the property of leading rebels and the application of the proceeds thereof toward indemnifying petitioners and others, non-combatants, for outrages and sufferings inflicted on them in their arrest and long confinement in rebel prisons, for no cause except loyalty to the Government.

Also, the petition of James Sevier, of Clay county, Kentucky, for remuneration for services rendered in defense of the Government.

IN SENATE.

WEDNESDAY, *March* 14, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States transmitting a copy of two communications from the minister of the United States at Paris in regard to a proposed exhibition of fishery and water culture to be held at Archacon, near Bordeaux, in France, in July next; which was referred to the Committee on Foreign Relations, and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. WILLIAMS. I present a memorial of the Legislative Assembly of the State of Oregon, in which they represent that, in their opinion, the passage of any law by Congress imposing a tax upon mining claims, or the right of mining upon the public lands of the United States, other than upon gold bars, and the general income tax already in force, would be greatly detrimental to the interests of that portion of our countrymen who are engaged in developing the rich mineral resources of our country without resulting in any benefit to the General Government, and at the same time would work a manifest injustice to those hardy and enterprising prospectors and miners who deserve the encouragement and protection of the Government. They further represent that all the products of mining are already made to pay tribute to the income tax, and it would be contrary to the principles of justice to tax the ore both before and after it is separated from the earth in which it is found imbedded. They further represent that they do not think it right or expedient to tax the muscle of the hardy laborer for the simple right of working to better his own condition in this branch of industry, which so often rewards his long years of honest toil with dross, (instead of gold,) and rags, and poverty. I move that it be referred to the Committee on Mines and Mining.

The motion was agreed to.

Mr. NESMITH presented a memorial of the Legislature of Oregon, in favor of the annexation of the county of Walla Walla, in the Territory of Washington, to the State of Oregon; which was referred to the Committee on Territories, and ordered to be printed.

He also presented resolutions of the Legislature of Oregon, in favor of the establishment of a mail route between Dalle City, Oregon, and Boise City, in the Territory of Idaho; which were referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

He also presented resolutions of the Legislature of Oregon, in favor of including the city of Portland, in that State, in the port of entry at the mouth of the Columbia river, and in favor of the establishment of bonded warehouses at that place; which were referred to the Committee on Commerce, and ordered to be printed.

Mr. MORGAN presented a petition of the Adams Express Company, praying for the passage of an act authorizing the issuing of United States legal-tender notes in place of like notes destroyed by fire; which was referred to the Committee on Claims.

Mr. SPRAGUE. I ask leave to present the petition of Professor A. L. Fleury, of Pittsburg, Pennsylvania. This petition refers to a substitute for iron and wood. Circulars have heretofore been laid on the tables of Senators on the subject. The petitioner has an idea that it may be used successfully by the Navy Department. I ask that the petition be referred to the Committee on Naval Affairs.

It was so referred.

Mr. CHANDLER presented a petition of the Board of Trade of Detroit, Michigan, praying for an appropriation to defray expenses of transportation of articles from this country intended for exhibition at the Paris Exposition; which was referred to the Committee on Finance.

REPORTS OF COMMITTEES.

Mr. MORRILL, from the Committee on the District of Columbia, to whom was referred a bill (S. No. 177) to incorporate the National Safe Deposit Company, of Washington, reported it without amendment.

Mr. GRIMES, from the Committee on Naval Affairs, to whom was referred a bill (S. No. 174) to establish a hydrographic office in the Navy Department, reported it without amendment.

Mr. SUMNER, from the Committee on Foreign Relations, to whom the subject was referred, reported a joint resolution (S. No. 44) authorizing Commodore William Radford to accept the decoration of the equestrian order of St. Maurizes and Lazzaro from the King of Italy, with accompanying papers. The bill was read, and passed to a second reading, and the papers were ordered to be printed.

Mr. KIRKWOOD, from the Committee on Pensions, to whom was referred a bill (H. R. No. 217) for the relief of Robert Henne, reported it without amendment.

He also, from the same committee, to whom was referred the petition of Jane Harris, praying for a pension, reported a bill (S. No. 200) for the relief of Jane Harris; which was read, and passed to a second reading.

Mr. FESSENDEN, from the Committee on Finance, to whom was referred a bill (H. R. No. 86) making additional appropriations, and to supply deficiencies in the appropriations for sundry civil expenses of the Government for the fiscal year ending the 30th of June, 1866, and for other purposes, reported it with amendments.

SUFFERERS BY ARSENAL EXPLOSION.

Mr. MORRILL. The Committee on the District of Columbia, to whom was referred a joint resolution (H. R. No. 84) for the relief of the sufferers by the late explosion at the United States arsenal in the District of Columbia, have had it under consideration and have instructed me to report it back without amendment. I ask for its present consideration.

The PRESIDENT *pro tempore*. It requires unanimous consent to consider the resolution on the day it is reported.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. By the late explosion at the United States arsenal in the District of Columbia, ten persons were killed, who were not enlisted men, but were employés of the Government in the arsenal; and as those who were so killed left wives and children dependent upon them for support, most of whom are now in a destitute condition, the resolution therefore appropriates the sum of $2,500 to be placed by the Secretary of the Treasury in the hands of Colonel Benton, commandant of the arsenal, to be distributed by him among the sufferers by the explosion, according to the equity and necessities of their several cases; and the commandant is to report the details of the distribution to Congress, with the vouchers therefor.

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

PROTECTION OF CIVIL RIGHTS.

Mr. TRUMBULL. The Committee on the Judiciary, to whom was referred the bill (S. No. 61) to protect all persons in the United States in their civil rights, and furnish the means of their vindication, as returned from the House of Representatives with amendments, have instructed me to report it back to the Senate with a recommendation that the Senate concur in the amendments made by the House to the bill. I move, if there be no objection, that we proceed to the consideration of those amendments at this time. I will state that the report of the committee is unanimous on that subject.

The PRESIDENT *pro tempore*. The Senator from Illinois asks unanimous consent to consider the bill now reported by him from the Committee on the Judiciary. Is there any objection?

Mr. DAVIS. I hope that that bill will not be considered now.

The PRESIDENT *pro tempore*. It requires unanimous consent to consider it at this time.

Mr. DAVIS. I want a reasonable time to consider it. I object to its present consideration.

The PRESIDENT *pro tempore*. Objection being made, it lies over.

BILLS INTRODUCED.

Mr. CHANDLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 198) to extend the time for the reversion to the United States of the lands granted by Congress to aid in the construction of a railroad from Amboy, by Hillsdale, and Lansing, to some point on or near Traverse bay and for the completion of said road; which was read twice by its title, and referred to the Committee on Public Lands.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 199) to establish a collection district at Port Huron, and to extend the district of Puget sound; which was read twice by its title, and referred to the Committee on Commerce.

THOMAS F. WILSON.

Mr. CHANDLER. I ask that the bill (S. No. 146) for the relief of Thomas F. Wilson, late United States consul at Bahia, Brazil, may be taken up for the purpose of referring it to the Committee on Commerce. A similar motion was made by the Senator from Iowa [Mr. GRIMES] when it was last considered, and that motion is still pending. I ask that it may be taken up for reference.

The PRESIDENT *pro tempore*. The Senator from Michigan asks that Senate bill No. 146, now on the table, may be referred to the Committee on Commerce. No objection being made, that reference is ordered.

MILITARY ASYLUM.

The PRESIDENT *pro tempore* laid before the Senate the amendment of the House of Representatives to the bill (S. No. 54) to amend an act to incorporate the National Military and Naval Asylum for the relief of totally disabled officers and men of the volunteer forces of the United States; which was referred to the Committee on Military Affairs and the Militia.

CONDITION OF SOUTHERN STATES.

Mr. DAVIS. I offer the following resolution:

Resolved, That the joint committee to inquire into the condition of the States which formed the so-called confederate States of America, ought to take the testimony of a reasonable number of witnesses, whose names may be suggested to them by the several persons claiming to be Senators and Representatives from those States.

I ask that this resolution may be considered now.

Mr. McDOUGALL. I object.

The PRESIDENT *pro tempore*. Objection being made, it lies over.

EMMA J. HALL.

Mr. LANE, of Indiana. I move that all prior orders be postponed and that the Senate take up the bill (S. No. 181) for the relief of Emma J. Hall. It is a little pension bill and will not take two minutes.

The motion was agreed to; and the bill (S. No. 181) for the relief of Emma J. Hall was read the second time and considered as in Committee of the Whole. It directs the Commissioner of Pensions to place the name of Emma Jane Hall, widow of Rev. Perry Hall, deceased, late a chaplain in the seventy-ninth regiment Indiana volunteers, upon the pension roll of that office, at the rate now prescribed by law for officers of his rank.

Mr. LANE, of Indiana. There is a report accompanying the bill which will explain it. It is very short, and it can be read if any Senator desires it.

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

IMPORTATION OF AMERICAN LUMBER.

Mr. MORRILL. I desire to call up a bill reported by the Committee on Commerce a few days ago, and which it is necessary to pass at the present time on account of a provision in it providing that it shall go into effect on Saturday next. It will not occupy five minutes. It is a bill (H. R. No. 154) to further secure American citizens certain privileges under the treaty of Washington.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It provides that the produce of the forests of the State of Maine upon the St. John river and its tributaries, owned by American citizens, and sawed or hewed in the Province of New Brunswick by American citizens, (being unmanufactured in whole or in part,) which is now admitted into the ports of the United States free of duty, shall continue to be so admitted under such regulations as the Secretary of the Treasury shall from time to time direct. This bill is to take effect from and after the 17th of March, 1866.

Mr. GRIMES. I should like to know how you are going to identify logs?

Mr. MORRILL. Perhaps I ought to say a word in explanation of the bill, especially as my friend from Iowa makes an inquiry. The outlet for the lumber upon the upper waters of the St. John is entirely through the British Provinces from the rapids on the river, just after it enters the British Provinces. It becomes necessary that the lumber should be manufactured after it reaches the Provinces. The Grand Rapids in that river are just after it leaves the territory of Maine and enters the British Provinces. Under the treaty of Washington we have the right of highway upon those waters. It is therefore a question of allowing the citizens of Maine owning those lands to take their lumber down the natural and only highway to market, it being unmanufactured, and to bring it into our ports and in the same way as if it had not entered the British Provinces at all.

The Senator from Iowa asks me how we are to distinguish between the American and British lumber. That is a subject that was pretty fully considered by the committee. Some of the citizens of my own State who objected to the bill on that ground were before the committee. The information stated to the committee was that there would be no difficulty in doing it under such rules and regulations as could be established by the Treasury Department, to whom that question is referred; and I say to the honorable Senator who makes the inquiry, that the evidence before the committee was entirely satisfactory that there would be no serious difficulty in distinguishing between the lumber of American manufacture and that of British manufacture.

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

RAILROAD FROM PLACERVILLE.

Mr. CONNESS. I move to take up Senate bill No. 126 for consideration. I beg to say to the Senate, in making this motion, that this is a bill to accompany one passed by the Senate the other day, which we desire to send to the House of Representatives for consideration at the same time.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 126) granting lands to aid in the construction of a railroad and telegraph line from the city of Placerville, in the State of California, to the most feasible point of intersection with the Pacific railroad, in the State of Nevada.

The Committee on Public Lands reported the bill with various amendments. The first amendment was in section one, line three, after the word "company" to insert "a corporation existing under the laws of the State of California," so that the clause will read:

That the San Francisco and Washoe Railroad Company, a corporation existing under the laws of the State of California, is hereby authorized and empowered to lay out, locate, &c.

The amendment was agreed to.

The next amendment was at the end of section two, to strike out the words "and so forth."

Mr. CONNESS. That is merely a verbal amendment.

The PRESIDENT *pro tempore*. Those words will be stricken out if there be no objection.

The next amendment was in section three, line four, after the word "said" to insert the words "railroad and," so that it will read, "for the purpose of aiding in the construction of said railroad and telegraph line."

Mr. CONNESS. That is also a verbal amendment.

The PRESIDENT *pro tempore*. That amendment will be made without a vote, being verbal.

The next amendment was in the same section, in lines eight and twenty-three, to strike out the word "even" and insert "odd," so that the lands donated shall be designated by odd numbers.

The amendment was agreed to.

The next amendment was in section three, after the word "provided," in line twenty-four, to strike out the following words:

That all lands containing gold or silver be, and the same are hereby, excluded from the operations of this act, and in lieu thereof a like quantity of unoccupied agricultural lands, in odd numbered sections nearest to the line of said road, may be selected as above provided: *And provided further*.

So that the proviso will read:

Provided, That the said company shall be entitled to the timber upon sections excepted by reason of containing gold or silver

Mr. CONNESS. I will say so far as the exception in this place of mineral lands is concerned, it is found in another part of the bill.

The amendment was agreed to.

The next amendment was in section three, line thirty-eight, after the word "sections" to insert "or any less legal subdivision;" and in the thirty-ninth line, after the word "section" to insert the same words, so that the clause will read:

And provided further, That the actual settlers upon any of said quarter sections, who have settled and occupied for agricultural purposes upon said quarter sections, or any legal subdivision, shall be entitled to the timber upon the quarter section or any legal subdivision so actually occupied by them.

The amendment was agreed to.

The next amendment was in section four, to strike out the word "ten" wherever it occurs and insert the word "twenty."

Mr. STEWART. I hope that amendment will not be concurred in. I believe it was by mistake reported as an amendment by the committee. This road will run through a mountainous country, and whenever ten miles of the road is constructed the patents to this land should be granted. The committee, so far as I have conversed with them, are willing to let them have the benefit of that.

Mr. POMEROY. The report of the committee was to insert "ten" instead of "twenty."

Mr. CONNESS. It was an error in the printing. I hope the Chair will put the question on all the amendments in the section together, as it is to strike out the same word.

The PRESIDENT *pro tempore*. The proposed amendment is to strike out the word "ten" wherever it occurs and insert "twenty."

Mr. CONNESS. Let us vote that down.

The amendment was rejected.

Mr. STEWART. In order to make the section conform to the vote just taken, I move to strike out in the third line of the fourth section the word "twenty" and to insert the word "ten."

The PRESIDENT *pro tempore*. That change will be made to make the bill consistent.

The next amendment was in section six, line five, to strike out the word "even" and insert "odd."

Mr. CONNESS. That is merely a verbal amendment to make the bill correspond.

The amendment was agreed to.

The next amendment was to strike out the tenth section in the following words:

SEC. 10. *And be it further enacted*, That said San Francisco and Washoe railroad, or any part thereof, shall be a post route and military railroad, subject to the use of the United States for postal, military, naval, and all other Government service, and also subject to such regulations as Congress may impose restricting the charges for such Government transportation.

The amendment was agreed to.

The PRESIDENT *pro tempore*. Those are all the amendments reported by the committee.

Mr. CONNESS. I desire to make a verbal amendment in the fifth line of section two. After the word "telegraph" I move to insert the word "line."

The amendment was agreed to.

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

Mr. McDOUGALL. It was the accident of my opportunity to have been invited to the city of Placerville when the idea of building this road was first suggested. I went there at the invitation of the people of that part of the mountain country of my own land to maintain what I thought in my engineering science to be a true line of road, and I believe it was on my advice that the first survey was ever made on that line. I have always thought it the best line for communication between the bay of San Francisco and the East. I do not care to speak—that is not my fashion—without I have a pur-

pose to accomplish; but I believe this is a good bill, well drawn, well amended, and should be passed.

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

CASCADE RAILROAD COMPANY.

Mr. WILLIAMS. I move that the Senate proceed to the consideration of Senate bill No. 105.

Mr. GRIMES. Is that another railroad bill?

Mr. WILLIAMS. Yes, sir.

The PRESIDENT *pro tempore*. The Senator from Oregon moves to take up the bill (S. No. 105) to grant the right of way to the Cascade Railroad Company through a military reserve in Washington Territory.

Mr. WILSON. At one o'clock I shall have to call up the Army bill.

Mr. CONNESS. This will not occupy any time. It is merely to grant the right of way through a reserve.

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

The Cascade Railroad Company, a corporation duly created and organized under the laws of Washington Territory, has constructed and put in operation a railroad on the Cascade portage of the Columbia river, in that Territory, a portion of which road is constructed through a military reserve of the United States; and doubts have arisen as to the right to construct the road through the reserve and the validity of the charter of the company; the bill therefore proposes to grant to the Cascade Railroad Company a right of way of sixty feet in width along the line of the road as at present constructed, and along the changes of location hereafter made to straighten and render the road safe through the public lands of the United States, the military reserve, and the lands of private persons agreeing thereto, including all necessary grounds for stations, buildings, workshops, depots, machine shops, switches, side tracks, and wharves; and the charter of the company is adopted and declared to be valid.

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

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed a bill (H. R. No. 255) making appropriations for the construction, preservation, and repairs of certain fortifications and other works of defense for the year ending June 30, 1867, in which it requested the concurrence of the Senate.

The message further announced that the House of Representatives had passed, with an amendment, the bill of the Senate (S. No. 33) in relation to the Court of Claims, in which the concurrence of the Senate was requested.

MILITARY ESTABLISHMENT.

The PRESIDENT *pro tempore*. The morning hour having nearly expired, the Chair will call up the unfinished business of yesterday, which is Senate bill No. 138.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 138) to increase and fix the military peace establishment of the United States.

Mr. WILSON. I desire to make a very few amendments to the bill, mostly of a verbal and technical character. In the second section of the bill, in the seventh line, after the word "first" I move to insert the words "or second," so that the proviso will read:

Provided, That the regimental adjutants, quartermasters, and commissaries shall hereafter be extra first or second lieutenants.

That will allow a first or second lieutenant to be taken for that purpose.

The amendment was agreed to.

Mr. WILSON. In the sixteenth line of the third section I desire to make the same amendment; after the word "first" to insert "or second," so that the proviso will read:

Provided, That each cavalry regiment shall hereafter have but one hospital steward, and the regimental adjutants, quartermasters, and commissaries shall hereafter be extra first or second lieutenants.

The amendment was agreed to.

Mr. WILSON. In the eighth line of the fourth section after the word "in" I move to insert the words "each of." Those words were in the original bill, but they were omitted in the printing of the bill. The clause will then read:

And two thirds of the vacancies in each of the grades above that of first lieutenant shall be filled by selection from among the officers and soldiers of volunteer infantry or artillery, &c.

The PRESIDENT *pro tempore*. Those words will be added to correct the language as it is a clerical mistake.

Mr. WILSON. In section six, I propose to strike out the words "an extra first lieutenant" where they occur in lines four, five, and six; and in the fifth line, before the word "one," to insert the word "and," and then to insert after the word "quartermaster," in the same line, the words "who shall be extra first or second lieutenants," so that the section will read:

That each regiment of infantry provided for by this act shall have one colonel, one lieutenant colonel, two majors, one regimental commissary, one adjutant, and one regimental quartermaster, who shall be extra first or second lieutenants, ten captains, &c.

This will make the section in harmony with the other amendments that have been made. I will simply say to the Senator from Iowa that these are staff officers, and they may be taken from the class of first lieutenants and second lieutenants, according to the discretion of the Department, for this purpose. The suggestion comes from eminent Army officers, who think it would be best that these officers might be either first or second lieutenants.

Mr. KIRKWOOD. In the organization of our infantry regiments in the volunteer service we had an adjutant and a quartermaster; we had no commissary at all; and the adjutant and quartermaster had to be taken from the line officers of the regiment. My inquiry to the chairman of the committee is, why in time of peace we need a regimental commissary, when we did not need it in the field? Why should the regimental quartermaster be an extra lieutenant in time of peace, when we know that when the regiments were in the field that officer was taken from the line? In other words, why is it necessary to have more officers for the organization of a regiment in time of peace than in time of war?

Mr. WILSON. This is the organization now in the regular Army. This is simply following the regular Army organization; and it received the sanction of very eminent officers who have examined the subject.

Mr. KIRKWOOD. That was not our volunteer organization.

Mr. WILSON. No, but it is the organization of the regular Army.

The amendment was agreed to.

Mr. WILSON. On the seventh page, in section fourteen, line two, I move to insert after the word "storekeepers" the words "in the quartermaster's department," so that the section will read:

That the number of military storekeepers in the quartermaster's department shall hereafter be as many as shall be required, not exceeding sixteen, &c.

That is the number now in service.

Mr. POMEROY. I desire to call the attention of the Senator to a proposition that was submitted to the Senate at the last session in relation to those military storekeepers, and which was reported upon by the committee, but not acted upon. This section as it now stands provides "that the number of military storekeepers shall not exceed sixteen, with the same compensation as is now provided by law." The suggestion I make is, that inasmuch as there is some doubt as to what the law is, that in lieu of the words, "same compensation as is now provided by law," we insert the words "the rank, pay, and emoluments of a captain of cavalry." That is what it is now. That would not increase their pay. This bill does not state what their pay is, and there is some discrepancy in the law about it. Some seem to have more, and some less.

Mr. WILSON. I think the Senator is very much mistaken in regard to that. These very officers are now here and desire to have commissions in the service.

Mr. POMEROY. Is there any reason why they should not have them?

Mr. WILSON. This only keeps them just as they are; it does not increase them any. The insertion of the words that I have moved is simply to supply a real defect in the section, because it was intended to apply solely to the quartermaster's department. We have medical storekeepers also.

Mr. POMEROY. My attention has been called to a letter from General Meigs in which he recommends the very thing which I have proposed.

Mr. WILSON. We want to take up that very seriously for consideration. I doubt very much whether it is worth while to increase any more than we can help now.

Mr. POMEROY. I understand it does not increase the pay at all.

Mr. WILSON. I think we had better let the bill stand as it is and look into that matter hereafter.

Mr. GRIMES. It makes this difference: the officers that are to be appointed into the Army proper are generally young men, healthy men, men who can perform the duties of their position. These storekeepers are generally tolerably antiquated gentlemen; those that I have seen are, and in the course of two or three years they will go on the retired list, if you give them a commission, and we shall have to support them in that condition on the retired list, which we should not be compelled to do if they were regarded as civil officers.

Mr. POMEROY. I do not understand that they are regarded as civil officers now.

Mr. GRIMES. They are not military officers until they are commissioned as military officers under the authority of law.

Mr. WILSON. I hope the Senator from Kansas will let that proposition pass over for the present, and we will look into the recommendation of General Meigs in regard to that subject. There have been petitions and one thing and another sent here on the subject.

Mr. POMEROY. I had supposed that it was in the bill until this moment. I hope the Senate will take the question up and settle it. We had it up once or twice last year without disposing of it, and I would like to have it settled now in this bill.

The PRESIDENT *pro tempore*. The question is on the amendment proposed by the Senator from Massachusetts to insert the words "in the quartermaster's department" after the word "storekeepers," in the second line of the fourteenth section.

The amendment was agreed to.

Mr. WILSON. In section sixteen, line two, after the word "department" I move to amend by inserting the words "of the Army," so that it will read:

The subsistence department of the Army shall hereafter consist, &c.

The amendment was agreed to.

Mr. WILSON. I now move, in section eighteen, line fourteen, after the word "selection," to insert the words "upon competitive examination," so that it will read:

And two thirds of the vacancies hereby created in the grades of surgeon and assistant surgeon shall be selected upon competitive examination from among the persons who have served as staff and regimental surgeons, &c.

The amendment was agreed to.

Mr. WILSON. At the close of section eighteen I move to add these words:

And the Secretary of War be, and he is hereby, authorized to appoint from the enlisted men of the Army, or cause to be enlisted, as many competent hospital stewards as the service may require, to be permanently attached to the medical department.

under such regulations as may be prescribed by the Secretary of War.

Mr. McDOUGALL. I desire not to object, but only to state that the Secretary of War is a mere secretary, and a secretary is a clerk, and he cannot "prescribe" rules. That is all I care to say.

The amendment was agreed to.

Mr. WILSON. I move to amend the bill by inserting as a new section, after the twenty-ninth section, the following:

And be it further enacted, That the President of the United States is hereby authorized to employ in the Territories and Indian country a force of Indians, not to exceed one thousand, to act as scouts, who shall receive the pay and allowances of cavalry soldiers, and be discharged whenever the necessity for their further employment is abated, or at the discretion of the department commander.

I am not particular about putting this amendment on the present bill if there is any objection to it.

Mr. CONNESS. I should like to have it explained, if it is to be adopted.

Mr. WILSON. I have a letter from General Sherman strongly recommending it, and it is also indorsed very strongly by General Grant and the Secretary of War as a thing that would be of great advantage and a saving to the country. If any body objects to its going on the regular Army bill, I will withdraw it and bring it in as a separate proposition.

Mr. CONNESS. I have no objection to its being placed on this bill if it is to be adopted at all.

Mr. GRIMES. I would object to putting on a bill to increase and fix the military peace establishment of the United States a proposition authorizing the employment of Indians, which must certainly be tempory in its character, or I should trust so. Let it be brought in as a separate proposition.

Mr. CONNESS. The explanation given by the chairman of the committee that it is recommended by Generals Grant and Sherman and by the Secretary of War——

Mr. GRIMES. They do not recommend that it be placed upon this bill.

Mr. CONNESS. I will address myself to that in one instant. The Senator from Iowa must know that if it is a proposition that ought to be adopted there would be a great deal of difficulty in getting it through in a separate bill. Bills of that kind can scarcely ever be passed; and if it is a proposition that ought to be adopted, the value of it is in getting it adopted at once. I think if it is to be passed at all it may as well be added to this bill. Though it may sound incongruous, it is the only way you can get it. You could not pass it probably as a separate proposition.

Mr. McDOUGALL. Having had occasion to be among the Kiowas, the Arapahoes, the Camanches, the Oneidas, and other Indians, I can say this from my own observation: there are a body of Indians who are attached to this country; there are a great many Indians hostile to it; and the employment of a thousand Indians on the frontier by this Government would be a great economy. General Grant knows it; I know it.

The amendment was agreed to.

Mr. WILSON. I propose further to amend the bill by adding the following as an additional section:

And be it further enacted, That section thirty-five of the act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, prohibiting the payment of extra duty pay to enlisted men of the Army, be, and the same is hereby, repealed.

Mr. GRIMES. I move to amend the amendment by adding at the end of it:

And the provisions of the original act and the authority to grant extra pay are hereby extended to the enlisted men in the Navy of the United States.

Mr. HARRIS. How will the amendment of the Senator from Massachusetts read if it is amended in that way?

The Secretary read, as follows:

And be it further enacted, That section thirty-five of the act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, prohibiting the payment of extra duty pay to enlisted men of the Army, be, and the same is hereby, repealed; and the provisions of the original act and the authority to grant extra pay are hereby extended to the enlisted men in the Navy of the United States.

Mr. FESSENDEN. I should like to have some explanation of that. How much money will it probably take?

Mr. WILSON. By the thirty-fifth section of the act referred to in the amendment, soldiers were not allowed to receive any extra compensation for any extra duty they performed. By the old Rules and Regulation of the Army twenty-five cents per day was paid to enlisted men when they were assigned to extra duty. That duty was often very laborious, and sometimes very destructive to their clothing. This proposition will allow extra pay to the enlisted men of the Army who are detailed for certain purposes. It is said by Army officers that the men are very often detailed so that their clothing is worn out very fast, and it imposes a great burden upon them. They once received twenty-five cents a day when so detailed for this laborious kind of work. This bill proposes to repeal the section of the act of 1863 forbidding that allowance, so that if they are detailed for extra duty they may receive this compensation.

Mr. FESSENDEN. I should like to know if it is to be retrospective.

Mr. WILSON. No; it is to apply to the regular Army hereafter.

Mr. FESSENDEN. It does not apply to labor heretofore performed?

Mr. WILSON. Oh, no.

Mr. GRIMES. In addition to what the Senator from Massachusetts has said, I will state that I have known cases where troops have been sent out on the frontier to build a fort. There was no provision and no contract made by the Government for the erection of a fort, but the troops were required to build it, and they received this small compensation of twenty-five cents a day, or whatever was allowed, in addition to the compensation they were receiving monthly from the Government, which seemed to be fair, and I believe it was found to be an advantage to the Government that such a compensation should be allowed.

I had intended to offer the amendment I now propose, as a separate section to apply to a few cases that occur in the Navy. Take, for example, the Naval Academy. There are some one hundred and fifty or two hundred seamen there. Some of them are skillful mechanics, and they can be employed to advantage outside of the regular duties that they are required to perform as sailors, which only take up a portion of their time, in these various mechanical pursuits which are necessary to the Government to be performed, and which they would be required to hire outside persons to perform if they do not allow this small compensation. I have offered the amendment at the suggestion of Admiral Porter, who desired such a provision to be made.

Mr. NESMITH. The amendment offered by the Senator from Massachusetts is not only eminently just to the soldiers, but I think it will result in a very great saving to the Government. Where detachments of troops are sent to the frontier it often occurs that they are compelled to erect their own quarters and stables and perform other labor which does not legitimately belong to the duties of a soldier. In those places those men very readily volunteer to perform that service for a slight additional compensation, twenty-five cents a day, and it is performed in places where to hire citizens to do the labor would generally cost two, three, or five dollars a day. It will result in a very great saving to the Government in that way. Besides, the soldiers, being men accustomed to labor all their lives, prefer to be employed in erecting buildings or in some active employment of that kind. While so employed they are usually relieved from guard duty, and they are not paid this extra compensation unless they are employed, I think, for a month. When they are employed for a month or for a certain number of days—I am not able to state the exact number now—they get this extra-duty pay. While the compensation is very small it is satisfactory to them and remunerates them for the wear and tear of their clothing and for the tools for which they become responsible to the quartermaster's department while they are performing that duty. As to the application of it to the Navy I do not know much about that; but I dare say, as the Senator from Iowa states, there is necessity for it there. I hope the amendment of the Senator from Iowa will be adopted, and that then the original proposition as amended will become a part of this bill.

The amendment to the amendment was agreed to.

The amendment as amended was adopted.

Mr. WILSON. I believe I have no more amendments to offer at present.

Mr. NESMITH. I offer the following amendment, to come in at the end of the bill as an additional section:

And be it further enacted, That all officers who have served during the rebellion as volunteers in the armies of the United States, and who have been, or who hereafter may be honorably mustered out of the volunteer service, shall be entitled to bear the official title, and, upon occasions of ceremony, to wear the uniform of the highest grade they have held by brevet or other commission in the volunteer service; in the case of officers of the regular Army the volunteer rank shall be entered upon the Army Register: *Provided*, That these privileges shall not entitle any officer to command, pay, or emoluments.

The amendment was agreed to.

Mr. FESSENDEN. I have one or two amendments that I wish to propose to this bill if the Senator from Massachusetts is willing that they should be made. I propose in line six of section four to strike out the word "five" and insert "thirteen," and after the word "regiments" in the same line to insert the words "of which eight regiments shall be composed of colored men," and then to strike out all after the word "field" in the thirteenth line in the following words:

And eight regiments to be composed of colored men, to be officered by officers of colored troops, who have served two years during the war, and who have been distinguished for capacity and good conduct in the field: *Provided*, That promotions in the colored regiments hereby authorized shall be confined to the regiments of that corps.

So that the section will read:

That there shall be fifty regiments of infantry, to consist of the ten regiments of ten companies each now organized; the nine remaining regiments so distributed that each battalion, with the addition of two companies, shall constitute a regiment of ten companies, and thirteen additional regiments of which eight regiments shall be composed of colored men of ten companies each, and all the vacancies in the grades of first and second lieutenant, and two thirds of the vacancies in the grades above that of first lieutenant shall be filled by selection from among the officers and soldiers of volunteer infantry or artillery, and one third from officers and soldiers of the regular Army who have served two years during the war, and have been distinguished for capacity and good conduct in the field.

The effect of this amendment will simply be to make the same number of colored regiments, but to strike out the clause which requires that those colored regiments shall be officered by officers who have been officers of colored troops, leaving the whole list of officers to be selected from all the troops indiscriminately. The section as it now stands would make a very great inequality. Those who have commanded colored troops would stand three or four times the best chance to get a command, on account of the comparatively small number of colored troops. My amendment will throw the whole selection open to be made from the best officers wherever they may be found. I hope this amendment will be accepted.

Mr. POMEROY. I do not know that I want to object to this amendment, but I think the officers who commanded colored troops have been subjected to such peculiar hardships, many of them when taken prisoners being hardly allowed quarters, that there are some reasons perhaps why we should give them some advantages over those who have served as officers in white regiments. I do not like to insist upon it, but I think the bill was drawn with that idea.

Mr. FESSENDEN. That can be considered just as well by the Department as by us.

Mr. POMEROY. I am willing, of course, to leave anything to the discretion of the Secretary of War or the President, but I thought it was quite a good provision as it stood.

Mr. McDOUGALL. I desire to amend the amendment by striking out in line fourteen of the fourth section, in that part of the section which is proposed to be stricken out, the words "eight regiments to be composed of colored men, to be officered by officers of colored troops," so that the clause will read:

And who have served two years during the war, and who have been distinguished for capacity and good conduct in the field.

In offering this amendment, I am only expressing a thought. I do not know, as does the Senator from Ohio, [Mr. WADE,] who is gifted by God; I can only think; but I wish to express my thought that the people of my country are able to maintain themselves, and do not need to be maintained by an inferior race. When this is well thought about and carefully considered, it will be the judgment of us all. Soldiers are men of arms, as are their officers and commanders. They must belong to the ruling forces, and should not belong to the inferior forces. These are simple rules that all men who have read history should have learned, and where it has not been learned, there is ignorance. I do not care to say all I think, for it would be thought by some unkind, and I do not care to be unkind; I would rather be generous; but this undertaking to place a lower, inferior, different race upon a level with the white man's race, in arms, is against the laws that lie at the foundation of true republicanism. I ask for the yeas and nays upon the amendment to the amendment.

The yeas and nays were not ordered.

Mr. FESSENDEN. How will it read if it is amended in that way?

The SECRETARY. It is proposed to strike out in the fourteenth line of the fourth section the words, "eight regiments to be composed of colored men, to be officered by officers of colored troops," so that the clause will read:

Who have served two years during the war, and who have been distinguished for capacity and good conduct in the field.

Mr. FESSENDEN. That strikes out the colored troops altogether.

Mr. McDOUGALL. Yes, sir, it strikes out the negro proposition.

The PRESIDENT *pro tempore*. The question is on the amendment to the amendment.

Mr. McDOUGALL. I called for the yeas and nays, and I believe they were ordered.

The PRESIDENT *pro tempore*. The yeas and nays were refused by the Senate, the Chair decided. The Chair saw but three persons rise to second the call, and that was not one fifth of those present.

The amendment to the amendment was rejected.

Mr. HARRIS. I propose to amend the amendment of the Senator from Maine so as to retain the proviso at the end of the section.

Mr. FESSENDEN. I have no objection to that, if it is thought desirable. It struck me that it was hardly worth while to retain it.

The PRESIDENT *pro tempore*. The Senator from Maine accepts the amendment suggested by the Senator from New York, and it stands as a part of the proposed amendment.

The amendment as modified was agreed to.

Mr. GRIMES. I should like to know if the proviso is retained.

The PRESIDENT *pro tempore*. The Chair understood the Senator from Maine to accept that as a part of his amendment.

Mr. FESSENDEN. I have one more amendment to offer. It is to add the following additional proviso to the fourth section:

And provided further, That in the selection of officers as provided for in this section officers of the regular Army who have commanded volunteer troops may be accounted as officers of volunteers.

The amendment was agreed to.

Mr. GRIMES. I now move to strike out the proviso at the end of the fourth section that was not stricken out by the amendment of the Senator from Maine:

Provided, That promotions in the colored regiments hereby authorized shall be confined to the regiments of that corps.

I understand that the purpose of the Senator from Maine was to allow the officers in each of the different branches of the Army, the general volunteer service, the negro service, and the Reserve corps to stand upon a perfect equality; that the officers under this bill might be selected from any one of those different branches of the public service, provided, I suppose, that they pass the necessary examination and have performed the requisite service in the field heretofore. I do not know any good reason why we should specially say that the promotions in the colored regiments shall be confined solely to the men in those regiments. Is it intended, I will inquire of the chairman of the Committee on Military Affairs, that these promotions in the colored regiments shall continue above the rank of captain? Is it intended that the majors, lieutenant colonels, and colonels shall be promoted among the colored regiments as the officers of artillery are at this time promoted, or as officers in the cavalry service are? Why not let an officer, when he reaches the grade of major, if he is entitled to promotion and has heretofore been serving in a white regiment, take command of an African regiment; or if he has been serving in an African regiment and is entitled to promotion, why not let him be transferred to a white regiment? Is there any good reason for it? I have not heard of any, and I therefore propose to strike out the proviso.

Mr. WILSON. I have certainly no objection to striking out this proviso. The original bill provided that the officers to be appointed for these eight regiments should be selected from the colored regiments, but subsequently this proviso was added. We have now amended and extended it so that the officers may be selected from volunteer officers who have served in other regiments, and never served in colored regiments at all; and as we have opened it to everybody, I am willing to strike off this proviso, and put these regiments precisely on the same footing throughout.

Mr. HARRIS. I am not satisfied to have that proviso stricken out. I think it will be injurious to the Army. I have no objection to the amendment that has been proposed by the Senator from Maine; indeed I am in favor of it; but the effect of striking out this proviso, if I understand it, will be this: an officer, a captain, if you please, comes to be the senior captain, and is entitled to promotion to a majority. A vacancy occurs in a colored regiment. This proviso compels him to accept the office of major in a colored regiment against his will, it may be against his inclination. He is obliged to do that, or leave the service altogether. I am not in favor of compelling an officer to make the election either to resign or serve in a colored regiment. If I understand the effect of the amendment to strike out this proviso, it will be precisely that. It will drive officers to serve in colored regiments, if the vacancy happens to be there, or leave the service. I have no objection that any officer should serve in a colored regiment if he pleases to do so, but many feel disinclined to do that, and I do not feel disposed to drive them to the alternative of either doing that or leaving the Army.

Mr. GRIMES. The Senator and I are diametrically opposed to each other on that subject. I want to compel that officer, if he is receiving and has been receiving a salary from the Government of the United States during a series of years, and is entitled to promotion in the regular order of promotion, and is not willing to be transferred from the command of a white regiment to the command of a colored regiment, to leave the service. He has no business in the service. He is not a man to whom I would intrust the honor of the flag or the defense of the country. It is not for him to determine whether he shall command a black or a white regiment, or whether there shall be a colored regiment in the Army or not. That is a question for us to determine; and when he says he will not take command of a colored regiment, if we put him in charge of it, he is no longer fit to be an officer of the Army of the United States, and ought to be turned out. We have heard a great deal about "petrifying" in the Constitution a recognition of the existence of slavery or the existence of a distinction of color. I do not want to petrify into a law to fix and establish the regular Army of the United States such a discrimination as this is against colored men who serve in the Army. I say that a man is not fit to be an officer in the Army, who, when he has served through the various grades of lieutenant and captain and becomes entitled to promotion, is unwilling to take command of colored troops, when he is directed by the Secretary of War and by the laws of the United States to do so.

Mr. McDOUGALL. The Senator from Iowa and myself are of a very different opinion. It would not do for any one who bears my name, either of the masculine or feminine gender, to take command of negro troops. They have been fighting in this war. They fought in wars long before. I would not allow any one of my kindred over whom I have any portion of authority to do it. It is well for those who believe thus to say so; but look out for the long result.

The amendment was agreed to.

Mr. FESSENDEN. There is a little obscurity in the amendment that I offered a few moments ago as an additional proviso to the fourth section. My intention was not to oblige the Department to consider the regular officers who had served in the volunteers as volunteer officers, but to give them the choice, to take them either way. The amendment does not effect my purpose. I move to add to the end of that amendment the words "or as officers of the regular Army," so that it will read:

And provided further, That in the election of officers, as provided for in this section, officers of the regular Army who have commanded volunteer troops may be accounted as officers of volunteers, or as officers of the regular Army.

The PRESIDENT *pro tempore*. That modification of the amendment will be made if there be no objection.

Mr. WILSON. I desire to suggest an amendment in that section which may be made by unanimous consent. It is to insert the word "original" before the word "vacancies."

The PRESIDENT *pro tempore*. The word suggested by the Senator from Massachusetts will be inserted if there be no objection.

Mr. POMEROY. I am not entirely satisfied with the explanation given by the Senator from Massachusetts in reply to the suggestion I made a short time since in relation to military storekeepers. He said he would consider the subject, and perhaps report upon it hereafter. I do not think that is entirely satisfactory, because the multiplication of bills relating to the Army is not very desirable. When we have an Army bill before us we had better perfect it and insert in it all the provisions that we intend to make for the Army, rather than bring up the subject again in a new bill. In order to test the sense of the Senate I will move to strike out in the fourteenth section the words "the same compensation as is now provided by law," and to insert, "rank, pay, and emoluments of a captain of cavalry;" so that the section will read:

That the number of military storekeepers in the quartermaster's department shall hereafter be as many as shall be required, not exceeding sixteen, with the rank, pay, and emoluments of a captain of cavalry.

These storekeepers, as I have said, have the pay of a captain of cavalry now, but they do not have any rank. They cannot command anybody. If a squad of soldiers is sent to one of them to guard military or ordnance stores of any kind, he has no more control over them than any civilian would have. It has been frequently represented to me that it is a matter often detrimental to their service, because they cannot command even a lieutenant or anybody else.

The Senator from Iowa says they are old men, and if we give them commissions in the Army they may be put on the retired list at some time hereafter. I do not know how that is. I never had one appointed myself. I have no personal interest in the subject. I do not know an old man in the service who is a military storekeeper. There may be some. But be that as it may, these officers have large responsibilities. Millions of public stores are committed to them. They have to watch over them and be vigilant in the discharge of their duty. They now get the pay of captains, but they get no rank, no emoluments, and they have no standing. As this proposition does not increase their pay, I think we ought to give them at least the rank and standing in the Army of captains. I have seen a letter from General Meigs in which he recommends this proposition and says he would like to have it done. I know of no objection to it. If it increased their pay twenty-five cents a day I would not urge it. I notice that we have just added twenty-five cents a day to the pay of those who are doing extra service on detached duty. If this proposition would add that much to the pay of these storekeepers I would not urge it; but it does not do that. It gives them the rank of captains with the pay of captains, which they now have, and if they should be killed I suppose it would give pensions to their widows or heirs if they have any.

This subject was called up last year and the Military Committee gave their attention to it, and now when it has come up again the chairman of the committee says he will consider it hereafter. If it is to be considered at all, let it be considered now, and let the question be closed. I do not want to bring the subject to the attention of the Senate again. I therefore submit the amendment that I have indicated.

Mr. NESMITH. The proposition submitted by the Senator from Kansas, I believe, is no more than just. There are no officers who perform more responsible and more arduous duties than these military storekeepers. They are in charge of immense depots all over the country. They have to give very heavy bonds, and are responsible for the stores that are committed to their charge. They hold an amount of property that far exceeds the amount held by an ordinary captain in the quartermaster's department. I think it is no more than just, considering their responsibilities and the amount for which they are liable, that they should have the rank, pay, and emoluments of a captain of cavalry. This subject has been presented and urged upon the Senate by petitions for the last four years. I have had some occasion to look into the subject, and I think the proposition is eminently just, and I trust it will be adopted.

Mr. GRIMES. If this amendment is to be adopted I suggest that there ought to be a limit as to the number of these storekeepers that is to be created.

Mr. WILSON. This section limits it.

Mr. GRIMES. I understand the language is that the Secretary of War shall appoint as many as he supposes are required.

Mr. POMEROY. Not exceeding sixteen. It is limited to that number.

The amendment was agreed to.

Mr. SHERMAN. I will now submit an amendment to be inserted as additional sections before the last section of the bill. It is a proposition which has been before the Military Committee for some time, and I understand received its sanction:

And be it further enacted, That for the purpose of promoting knowledge of military science among the young men of the United States, the President may, upon the application of an established college or university in the United States with sufficient capacity to educate at one time not less than one hundred and fifty male students, detail an officer of the Army to act as president or superintendent of such college or university.

And be it further enacted, That the number of officers so detailed shall not exceed twenty at any one time, and shall be apportioned through the United States as nearly as practicable according to population, and shall be governed by general rules to be prescribed from time to time by the President.

I can only state that this proposition has received the sanction of quite a number of officers, and it will cost the Government nothing. There are always this number of officers whose services are not needed in active service, especially in time of peace. They will be under the direction of the President, and may be recalled at any time when their services may be needed. Officers of this kind might easily be detailed to aid in military education at the colleges and universities throughout the United States. For the purpose of limiting the number I have confined it to twenty, and in order that they might not be sent to inferior colleges I have limited it to colleges that have one hundred and fifty students. This is substantially a contribution by the United States of the expenses of a military professor, without any additional cost to the United States. The officers who would be selected for this purpose would be probably on detailed duty if no such proposition was adopted. The officers likely to be detailed for this service would be officers wounded in the service, who had been educated at the expense of the Government, who might in this way render their education available in promoting military education throughout the country. Another argument in favor of this proposition is, that it would promote uniformity. Military schools and colleges are springing up all over the United States. In the southern States before the war they existed in almost every State. I think this contribution might be fairly given by the United States to promote military education; indeed it seems to me it would be of more service to the people of the United States than the establishment of a militia, because it would educate thousands of young men throughout the United States, and give them at least a preliminary knowledge of military drill and science.

Mr. McDOUGALL. This is a subject that has occupied my thoughts for many years. I think the proposition of the Senator from Ohio is just and right. We undertook in some of our colleges and academies to educate young men to arms; but without the aid of the Government, who have the charge of arms, they have always failed except in the South prior to the rebellion. That is a fact as patent and known to all informed men. We have needed this instruction, and all men conversant with the business of the Government know that the Government can detail in time of peace officers for this purpose, who will not be any additional charge to the Government, because the Government is already obligated to support them. I was pleased to hear the amendment and I trust that it will be adopted.

Mr. GRIMES. I move to amend the amendment by inserting the words "or professor" after the word "superintendent," so that it will read, "president, superintendent, or professor."

Mr. SHERMAN. The reason why I did not insert the word "professor" in my proposition was that I did not think the United States ought to contribute in this way to the support of a military school unless the officer detailed should have sufficient power over it to give it a *quasi* military character. A mere professor would have no control over the institution. I have no objection to it except that I do not think these officers ought to be detailed for schools unless the schools are willing to give them some kind of supervision or control over their institutions, so as to give them a *quasi* military character. However, if the Senate think that an officer ought to be detailed to act as a mere professor, I have no objection to it. It will promote the object I have in view in either way; but I think when the United States furnishes an officer to an institution, it ought to give to that institution a military character. In the State of Ohio we have probably twenty or thirty colleges or universities that have more than one hundred students attending them, and I have no doubt one or two of these institutions would be glad to take an officer designated by the Government as a military superintendent or president, and thus give it a *quasi* military character, because a superintendent or president would give tone and character to the whole institution, and would naturally convert it into a *quasi* military institution, while a mere professor would have no power or control over the management of the institution.

Mr. McDOUGALL. I will inquire of the Senator whether he supposes that Harvard or Yale or any other of our high colleges would be willing to give the charge of their institution to an officer of the United States Army? They may be willing that a professor may be detailed there to educate their young men to arms, but they would not consent to make him president or superintendent of their institution. If you want to educate our young men in our best colleges to the use of arms, you must agree to allow the appointment of a professor and not of a president.

Mr. SHERMAN. I do not know what Harvard or any of these old established institutions would do, but I know that there are one or two institutions in Ohio who are very willing to have these officers who would be willing to comply with this requirement. But if the Senate are of opinion that we can afford to detail a professor for this purpose, I shall make no objection.

The PRESIDENT *pro tempore*. As an amendment to the amendment proposed by the Senator from Ohio, the Senator from Iowa moves to insert the words "or professor" after the word "superintendent."

Mr. WILSON. I suppose the object of this proposition is to scatter over the country military instruction to our young men. If the amendment proposed to it by the Senator from Iowa is adopted, I will vote for it; but if not, I shall feel constrained to vote against it.

Mr. SHERMAN. I am perfectly willing that it should be made.

Mr. WILSON. There may be very well-established colleges that may desire such a professor for a time to teach their young men, and I think it would be an advantage, without putting the whole institution under the control of such an officer. There may be some new, rising institutions that would like to have such a man at their head to make them to a great extent military schools. If the amendment to the amendment should be adopted, I am willing to agree to the amendment.

The PRESIDENT *pro tempore*. Does the Chair understand the Senator from Ohio to be willing to adopt the amendment proposed by the Senator from Iowa?

Mr. SHERMAN. The question may be put upon it. I am not in favor of it, but I shall not oppose it.

The amendment to the amendment was agreed to.

The amendment as amended was adopted.

Mr. WILSON. I desire to offer as an additional section to this bill a proposition that has been reported as a separate bill by the Committee on Military Affairs. It is to insert after section twenty-nine the following:

And be it further enacted, That so much of the act entitled "An act to define the pay and emoluments of certain officers of the Army, and for other purposes," approved July 17, 1862, as provided that the mileage of officers of the Army traveling upon duty should thereafter be six cents per mile, be, and the same is hereby, repealed, and the rate of mileage to be hereafter allowed to officers of the Army traveling upon public duty shall be ten cents per mile when transportation in kind is not furnished them by the Government.

Mr. CHANDLER. I understand that amendment restores the mileage to ten cents a mile instead of six, as now established by law. A great many thousand dollars have been saved to the Government by the change in that law.

Mr. FESSENDEN. And lost to the officers.

Mr. CHANDLER. I think six cents a mile pays very well. I would like to have the yeas and nays upon that amendment if it is to be passed.

Mr. WILSON. I have no doubt a great deal was saved by the passage of that bill, but I think it has saved it to some extent at the expense of the officers; and especially now at this time, to the few officers who will be detailed over the country to do certain duty, it throws a great burden upon them. During the

war, while movements were going on in the field, the Government had very often the control of the railroads as military roads, and furnished transportation to officers detailed for duty. There has been a change in that respect. I have no doubt myself that six cents does not pay the officers. I do not think the amount to be paid to them under this amendment would be very great now in time of peace.

Mr. CHANDLER. During the four years that the committee on the conduct of the war was in existence it brought a large number of officers here from great distances, and I know that the saving in the mileage even of the witnesses we summoned must have amounted to many thousands of dollars. I suppose the expense of traveling now is not more than three cents a mile on the average; taking steamboats, railroads, and the conveyances of the country, three cents a mile, I think, will cover the expense of traveling; and it seems to me, inasmuch as the present law has worked well and advantageously to the Treasury for the last four years and saved so many thousands of dollars, it is not the time now to restore the old rate. I certainly hope that amendment will not be adopted, and I will ask the yeas and nays upon it if it is to pass.

Mr. FESSENDEN. I am satisfied that this amendment ought to prevail. I believe all civil officers in the other departments of the Government are allowed ten cents a mile, as mileage, while traveling on the public service. I became satisfied in the experience and observation I had in the Treasury Department that that was little enough. If you take the expense of traveling on railroads, and the expenses of living at the same time—they must bear those expenses—the six cents a mile would not pay anybody the expenses they have to incur. I understood the Senator from Michigan to say that we allowed but six cents a mile to witnesses summoned by committees. I can only say that the committee on which I am now serving allows ten cents a mile, as mileage, to the witnesses summoned by us, and I am assured by our Sergeant-at-Arms that the ten cents a mile does not always pay the expenses of the witnesses.

Mr. CHANDLER. The witnesses before the committee on the conduct of the war were generally ordered here by the Secretary of War, and therefore drew the mileage allowed at the War Department. We did not send the Sergeant-at-Arms for them.

Mr. FESSENDEN. When an officer is allowed his transportation back and forward we do not allow anything; but when a witness is summoned and he pays his own expenses of traveling, six cents a mile does not pay him, nor anything near it. I became satisfied of that while I was connected with the Treasury Department. I reduced the mileage paid to certain officers there. Ten cents a mile had been allowed them, but I struck it down to six, and it stood at that sum while I remained in the Department; but I became satisfied that it was a very hard rule to apply to officers traveling in the public service. I only satisfied my mind in relation to keeping it at six cents by the belief that the fees given in other directions would make up the loss they sustained by their mileage. Therefore I allowed it to stand as it was, according to the rule that I made reducing it. I should be very much opposed to paying anything more for mileage than would meet the actual expenses of the officer, but I am satisfied that six cents a mile does not, and cannot, cover their actual traveling expenses.

Mr. GRIMES. The railroads are all reducing their charges.

Mr. FESSENDEN. You must add to that what the officer is compelled to pay for his meals and lodging.

Mr. GRIMES. This mileage is not given to them to cover those expenses. They receive rations and commutations also.

Mr. FESSENDEN. They have nothing of that sort when traveling in that way.

Mr. GRIMES. There is another fact to be taken into consideration, and that is, the expenses of traveling are not as great now as they have been at any time during the war. I know that the railroads in the section of country where I reside, and I think it is so generally, have reduced their rates from twenty to thirty per cent. Now, if these officers could get along during the war with a mileage of six cents, it seems to me they could now get along quite well. I think that the average rate charged upon railroads is about three and a half cents a mile, and where they travel any distance, the other two and a half cents would be quite ample, I think, to pay the officers for all the excess of expense that they might be at during their journey over and above the amount they would be compelled to pay to the railroad companies.

Mr. McDOUGALL. I only rise to express an opinion that is the result of my best thought. We do not pay our public servants enough. A judge of the Supreme Court cannot live in Washington upon his salary. To be able to go to his table, having a wife and no children, costs him about two thousand dollars more than his pay. It is a great disturbance now existing in our Republic, and must be corrected in some way, so that a man may be able, if he undertakes to maintain the Republic, to occupy office without being a thief or a robber. At present a man without a fortune cannot hold high office, either military or civil, upon what is paid him by the Government. I have been in camp when the young gentlemen officers who could draw on their parents had to support the other officers by paying part of their mess bills. I tried when I first came into public office to remedy that evil, and we did make some improvement. What is true about that is true about all officers. But few officers are paid well.

Mr. NESMITH. The Senator from Iowa, in discussing this question, alludes to the transportation on railroads. Many cases of the insufficiency of the mileage now allowed have come under my observation. I know that during the war officers who were compelled to travel even by the railroads suffered very greatly from the insufficiency of the mileage. The mileage allowed them of six cents a mile did not pay for their transportation and subsistence while traveling. But the travel of officers on duty is not confined to the region of country where there are railroads. We have immense Territories, Colorado, New Mexico, Arizona, and all the Territories of the Northwest, stretching across to the Pacific. A great deal of the travel of officers on duty is confined to those Territories, and perhaps most of it. In those Territories you cannot travel on ten cents a mile. The usual stage charge amounts to twenty cents a mile, without saying anything about subsistence, when traveling. An increase of the mileage to ten cents per mile, taking travel by railroad together with travel through that mountainous country, and beyond the confines of civilization, where there are no roads, I think will not on the average make it equal to the actual expense of traveling. I think where transportation is not furnished in kind they should have ten cents. I know it will not anything like pay the expenses of those who are compelled to travel over the immense deserts in the interior, where there are few accommodations, and where all the incidental connections with traveling are so enormously high. To be sure, if they were confined entirely to traveling by railroads, it might be a little in excess of what their actual expenses would be, but when you come to strike the average of the expense of traveling on railroads and on the frontiers, where these officers are principally confined to duty, where that duty naturally carries them, I do not think you will find the amount of ten cents at all adequate to meet the expenses which they are bound to incur in performing the duty assigned to them.

The amendment was agreed to.

Mr. HENDRICKS. I wish to inquire of the chairman of the committee whether in this bill any special provision has been made for the officers of the Veteran Reserve corps? It is difficult for a person not connected with the committee to understand all the provisions of this bill.

Mr. WILSON. I will say to the Senator that there is no provision for them in the bill.

Mr. HENDRICKS. Then I move to amend the bill by inserting after the word "field," in line thirteen of section four, the words, "and ten of said regiments shall be officered by officers to be selected from the Veteran Reserve corps." On this proposition I have but a word or two to submit to the Senate. The Government has induced these men to expect that they would be provided for. A corps was organized, intended originally, I believe, to consist of twenty regiments; and those men supposed that in that corps or some successor to that corps they would be provided for. They have lived upon that hope since the close of the war; and I think they ought not to be disappointed unless the necessities of the public service shall require it. I know of no authority of the Department or of any of the great commanders of the Army against the continuance of their services in the Army. I am not prepared to say what have been the precise recommendations in regard to them; but I have understood that the commanders of the Army have given the opinion that they can be well used; and it would seem quite reasonable to suppose that in an Army, to consist of from sixty to eighty thousand men, ten thousand of them may be commanded by men who have received wounds in the service. Some of the most successful and best officers of the Army have been wounded men. The fact that a man has a disabling wound does not take from him the ability to serve the country in a command. Some wounds would of course produce that result; but in the organization of this corps, which is now about to go out of existence by the passage of this law, I suppose selections were made with a view to the ability of the parties selected to render service. I am sure there is a great deal of service in the Army which can be rendered by these men.

They take a great deal of interest in the question; I have received letters from members of the corps from Indiana, and I sympathize with them in the interest that they express. Many of them who are competent now and able to command their companies, some of them regiments, are disabled from making a support for themselves and their families by the pursuits which they followed before they went into the Army. They are reluctant to go upon the pension list; they feel that that is a bounty, that it is a humiliating position; and they prefer making a support for themselves and their families by rendering service to the country. Now, if it is possible to provide for them consistently with the interests and safety of the country, we ought to do it. I know of no reason why we cannot do it. I thought that the bill brought before the body by the Committee on Military Affairs had provided for eight regiments to be officered by the officers of the Veteran Reserve corps; but I do not find that provision in this bill.

Mr. NESMITH. The original bill did make that provision.

Mr. HENDRICKS. I understand, then, the original bill did so provide; that was my recollection. Why has the committee changed its opinion upon that question? The opinion was very deliberately expressed by the committee when the first bill was brought before the body that these men could be serviceably used for the country; that they could be put upon active duty and make a support for themselves, honorable and gratifying to their professional pride, and keep them off the pension list. That was the judgment of the committee, for the committee reported to this body that it ought to be so. What has occurred since the report of that bill from the committee to change the judgment of the Senate upon that question? I propose to make the number ten regiments instead of eight. The Army will, under this bill, I suppose, be from sixty to eighty thousand men; it will depend upon the question whether the regiments are full or not.

Mr. NESMITH. The Senator will permit me to say that the proposition to which he alludes, I think, was contained in the original bill introduced into the Senate and referred to the committee. I do not think the committee ever sanctioned that; I think it was stricken out in the bill as reported back. That is my recollection; but the Senator speaks of it as having had the sanction of the committee, and of the committee having changed their minds on the subject.

Mr. HENDRICKS. I believe that bill came from the chairman of the committee, and I thought it was reported from the committee. I was not advised upon the particular facts. When we came to examine this bill to-day, I was disappointed in not finding that provision here, and I am sure these men will feel a very deep disappointment. It is a matter that I feel an interest in, because I know many of these men, and I know them to be qualified to render good service to the country, and they have a great sensitiveness about going on the pension list. If they can serve the country, we ought to give them the opportunity to do so. It is a profession which they have now pursued for five years, forbidding to some extent the other pursuits to which they were accustomed, disabled many of them from making a living in other pursuits, but competent to render valuable services in connection with the Army.

Mr. FESSENDEN. I deny the proposition with which the honorable Senator began, and that was that the Government gave these men to understand that they were to be permanently retained. There is not the slightest particle of foundation for that remark. The Veteran Reserve corps was organized merely for temporary purposes, to perform certain light duties that could be performed by men of that class, and which must be done by somebody, and thus increase the available number of able-bodied men, those who were able to do duty in the field. That was the single and simple object, and it had no reference to the future in any possible way. At the same time it afforded to a certain number of men, who had been disabled and injured, employment, and so long as their services could be of any value to the country it was very well to keep up the corps and let them perform that light duty.

Now, sir, what are the facts? The men in the Veteran Reserve corps form a very small portion of the wounded men of the volunteer army, probably not one in twenty. A great many officers were wounded, and not being able to recover within a certain time they were mustered out, dismissed, and went home. A certain other number, when this Veteran Reserve corps was organized, found employment in it, while nineteen out of twenty went home and went out of service wounded; and when they recovered, if not mustered out, they went back into the field and rendered service. A certain proportion of the wounded officers were retained in the service, got all the pay that men in active service received, had light duty with no danger in it, but have had all the pay and all the wages for two years, and at the end of the two years they come forward and say that they are a choice corps to be retained when all the rest who were wounded and who served as well as they did had to go out of service, and are not considered at all. Now, the Senator would have ten regiments officered by these men, when I undertake to say there are not enough officers altogether in the Veteran Reserve corps who are good for anything to officer ten regiments of the Veteran Reserve corps.

Now, sir, how do they stand under this bill? They have had all these advantages. They were selected for light duty when other wounded officers were mustered out of service, or if not mustered out of service went back into the field; and after having had for two years this advantage over their wounded comrades, so much more numerous than they are—in the proportion, I am told, of at least twenty to one—they come forward and say that because they have been in the Veteran Reserve corps, and because they have had this light duty all the time, when other officers have not, therefore they should be preferred, reserved, provided for, and all of them be sure of commissions, when many of the rest of the volunteer officers who have served during the war are to be excluded because there is no chance for them.

In my judgment the proposition that is made by these officers of the Veteran Reserve corps is certainly the most selfish one that I ever knew advanced on any occasion. Why, sir, in the first place most of them who got their appointments in the Veteran Reserve corps got vastly increased rank. I know of one man who served on somebody's staff as a captain, and I believe I could tell where he is from; he got the rheumatism and came here and got appointed into the Veteran Reserve corps, was taken into the office of the Provost Marshal General, or somebody else's, and there he rose regularly to the rank of colonel, and I believe was made a brevet brigadier general, and he never saw a day's service after he was captain. That is one of them. There is an officer from my own State whom I recommended for an appointment in the Veteran Reserve corps. He went into the field for awhile on the staff of a brigadier general, and served very well—a very fair officer; we have got many who are not quite as good as he is. Then he got command of a regiment and went down to Richmond, but his health entirely failed, he rendered no service at the head of his regiment, he came up here and went into the Veteran Reserve corps, becoming lieutenant colonel and afterward colonel, and he is to be provided for at all events, while many of the men who have served through the war and won high reputation are to be excluded because there is no place for them.

The officers of the Veteran Reserve corps stand as good a chance as other wounded officers under this bill; they ought not to stand any better. If there are fine officers among them, they take their chance of being selected. If they are so disabled that they cannot get a living at home on account of the state of their health they are not fit to be officers in active service, and the country had better give them the pensions to which they are entitled. That is the simple truth. In organizing the Army my notion is that we want men who can render service on the frontier and anywhere. If you make ten regiments of men on the assumption of the Senator from Indiana that they are not fit in reality, that is, that they are so disabled that they cannot get a living by labor, the result is that you get ten regiments of comparative incapables. If there are men in the Veteran Reserve corps who have not recovered and are not fit for service, and who will not be fit for service, they ought not to be made officers of the Army. If they have recovered and are good officers they stand a chance with all the other volunteer officers. Many of those other officers have been mustered out, and the officers of this corps have had the very great advantage of light duty and no danger, with full pay for two years, when other officers have been receiving nothing.

I see that in a communication which they have sent to me—and I suppose every other Senator has received it—they compare themselves to Napoleon's Old Guard; they call themselves the Old Guard—they who served awhile, were wounded, came home, recovered, and were then put on light duty with full pay. I had the idea that the Old Guard was selected from the strongest and hardiest and ablest men to do the very hardest work. I am not a military man, and perhaps I may be mistaken; but I do not think the Old Guard of Waterloo was composed of invalids; and yet that is what this corps compare themselves to in the document to which I allude. That there are good officers among them I have no doubt, very good officers; and they will stand their chance with all the others. They have served the requisite time, and if they have served with distinction their merits, I trust, will not be overlooked. But this attempt to take ten regiments and fill them up with that class of officers who have been in service all the time with this light duty, and received so much more from the Government than their wounded companions, seems to me to be grossly unjust to the rest of the Army, and I am very glad that that proposition was struck out of the bill by the committee.

Mr. WILSON. Mr. President, about twenty-five Veteran Reserve regiments were created, with more than six hundred officers. Many of these officers, in fact, so far as I know, all of them, are most excellent officers and excellent gentlemen; but they were organized for a special purpose, and they have performed that duty, I believe, well. Several of those officers are now employed specially by the Freedmen's Bureau, and have rendered and are rendering excellent service. When I introduced the original bill, it provided for eight regiments "to be composed of men who have been wounded or discharged from service on account of disease contracted in the line of duty, the officers of which shall be selected from the Veteran Reserve corps or other officers of volunteers who have been disabled in the service."

My idea was to organize seven or eight regiments of men who had been wounded, and that they should be officered by the officers of the Veteran Reserve corps or other wounded officers, because the country is full of other wounded officers who have not been in the Veteran Reserve corps, and who are entitled certainly to the same consideration as the officers of that corps; but all the generals who have been consulted in regard to this reorganization of the Army very strongly oppose any attempt to organize regiments composed of wounded or disabled men. They say that a large percentage of the men that are enlisted are always disabled men and will be in all the regiments; and that separate regiments ought not to be formed of men who are disabled. The duty generally assigned to the Veteran Reserve regiments about the hospitals and guard duty in the country is over by the end of the war, and now we have to send regiments into the field, especially into the mountains and on the frontier where the duty will be pretty heavy and pretty hard. The leading officers of the Army are very strong in opposition to organizing such regiments.

The officers of the Veteran Reserve corps, however, and the officers who have been wounded in the service will, under this bill, stand on the same footing as others; and I think that wherever the Government can take care of any of the wounded officers it ought to do so whether they have been in the Veteran Reserve corps or not. If I had to make a selection of officers under this bill, I should certainly be careful that the officers selected were abundantly qualified, and had the scars of battle upon them. I should endeavor as far as possible to put such officers into the public service. If, however, they are so wounded that they cannot perform their duties, the public service must always be cared for before individuals.

The committee after mature consideration reported the bill in its present form. There was, I may say, some division in the committee in regard to it; but the military men, the high officers of the Army, have been from the beginning very strenuous against organizing regiments of wounded or diseased men, or officering entire regiments with wounded men. They are all, however, so far as I know from their expressions, in favor, where they can do it, of putting men into the service who have been wounded in battle.

Mr. HENDRICKS. I am not attached to the form of the amendment which I have proposed. My object is to secure appointments for the men who have been disabled, technically speaking, who have received wounds, but are yet able to discharge military duty. We all know that there are such cases. The Senator from Maine speaks of these men as persons;

he says if they are wounded and disabled they cannot command; if they are not disabled they can make a living at home. Suppose the case, of which we see many instances, of a stiffened arm; a ball has passed through it, and the man is now in the camp. At home he cannot pursue his trade, and yet that difficulty is not in the way of the discharge of his duties as a military officer. He may well be a lieutenant or a captain of a company, or even the colonel of a regiment, if he has a stiffened arm, a stiffened knee, or a stiffened ankle from a wound received. We know there are many cases in which men can discharge military duties and yet are not fit to make a living by labor. The Senator from Maine knows that very well. He speaks about their slight service. Has the Senator from Maine not seen the statement of the services of the officers in the Veteran Reserve corps?

Mr. FESSENDEN. Yes, sir; I have seen it and read every word of it; and I can find out ten to one who have a very much stronger and a very much longer record in the Army, and have not been in the Veteran Reserve corps.

Mr. HENDRICKS. Very well; if the Senator can find outside of the Veteran Reserve corps persons who are meritorious, and who have better claims, let him amend the proposition so as to include them. Give them a hearing, too.

Mr. FESSENDEN. What I say is, that they are included now in this bill, just as the others are; and if they are fit for service and meritorious officers, they stand their chance with the rest of the wounded officers.

Mr. HENDRICKS. I want to see a clause in this bill which will secure to them a position in the Army. I do not want them left to depend upon political recommendations and the chances of appointment.

Mr. FESSENDEN. Why not they as much as others?

Mr. HENDRICKS. For the reason that they have a fixed claim; a claim rising above political considerations or any of those considerations that secure appointments in the Army and appointments to office.

Mr. FESSENDEN. I ask the Senator if they have any better claim than wounded officers who have never been in the Veteran Reserve corps but went back to active service notwithstanding their wounds.

Mr. HENDRICKS. I said before that I was not attached to the proposition I have made. I said that my purpose was to secure a position in the Army to men who had been disabled in the service and were yet capable of rendering military service to the country; I do not care whether they are in the corps or out of the corps. I selected the corps and mentioned it in the amendment for the reason that I supposed the Department had made the selection of the men who were most meritorious, who were best qualified to discharge the duty; but I am very well satisfied to take the clause proposed originally by the chairman of the committee and let it extend to all disabled men who are fit to command.

But, sir, I was asking the Senator from Maine if he had not read the statement of the services and the wounds of the men connected with the Veteran Reserve corps. He says he has. If he has read that, he has seen that the service of these men, in very many cases, has not been the light and trifling service which he is disposed this morning to describe it.

Mr. FESSENDEN. I spoke of their services after they went into the Reserve corps.

Mr. HENDRICKS. Many of these men bear one, two, three, and some four wounds upon their persons, and yet are able to discharge the duties of command. The facts are so reported. Now, the simple question is, whether we ought to make their position in the Army sure, or ought we to turn them over to the accidents and chances of appointments. I am willing to modify my amendment so as to include all who are disabled. I am willing to adopt the language of the Senator from Massachusetts, and I shall be obliged to him if he will send me the bill containing that provision, that I may copy it and offer it as an amendment to this bill. I expected this morning to find it in this bill.

Mr. WILSON. Allow me to say to the Senator that I hold in my hand a paper signed by General Sherman, General Meade, and General Thomas, in which they refer to this provision in the original bill, and say:

"The only essential change proposed in the Army bill is to omit the Veteran Reserve corps altogether."

This is the reason they give:

"In any army, no matter what pains be taken in selecting recruits, when we come to put them into service experience teaches that nearly thirty per cent. fail by reason of the ordinary imperfections of human nature. Now, if eight regiments of the fifty be taken from the invalids, or men of impaired strength, we add fifteen per cent., or in all forty-five per cent. of invalids, which is too large a proportion. In the end it is cheaper to provide directly, by way of pensions, for this class of soldiers. If the officers of the Veteran Reserves have a good record and restored health, they can be appointed just as other officers of the volunteer army."

This is the statement of these officers; and it was on the strength of this statement that the Committee on Military Affairs made this change in the provisions of the original bill.

Mr. POMEROY. I became somewhat reconciled to leaving the Veteran Reserve corps out of this bill from the fact that I supposed the meritorious officers of that corps who were wounded and were yet capable of doing service would not only stand as good a chance as others, but perhaps a little better, because there was perhaps an implied understanding that the Veteran Reserve corps was to be continued. I hope the Secretary of War, or whoever makes the appointments, will be particularly careful to give appointments to as many officers as possible of the Veteran Reserve corps who have the requisite qualifications named in the bill and are otherwise competent. I should feel very sorry, in mustering out the Veteran Reserve corps, to muster out all the officers so that they should not have places in the regular Army. This bill, however, must go to the House of Representatives yet, and the Veteran Reserve corps will very likely have more consideration there than in the Senate. I think they will be restored there.

Mr. HENDRICKS. I propose to modify the amendment which I offered, and I now put it in this shape:

At the end of line thirteen, section four, insert:

And ten of these regiments shall be officered by men who have been wounded or discharged from service on account of disease contracted in the line of duty, competent to discharge the duties of the positions.

The Senator from Maine has said that out of these disabled officers we could not get enough to officer ten regiments. Perhaps he meant to refer to the Veteran Reserve corps. If we cannot, if it shall be found that there are not enough qualified for the positions, then of course we cannot go further than the possibilities of the case will allow.

Mr. FESSENDEN. I was probably mistaken about that.

Mr. HENDRICKS. I think the Senator is probably mistaken. I think I am justified in saying that he is mistaken, from the fact that the Veteran Reserve corps was officered by men who had been discharged from the service on account of wounds or sickness, and there were twenty-five regiments of them. I do not know whether all those regiments were officered. I think that ten regiments can be well officered by them, and I do not believe it will be detrimental to the public service. The argument of the Senator that we cannot provide for all the men who have been wounded in the service and therefore we should provide for none, I think is not entitled to force or consideration, and I was surprised that the Senator made that argument. If we cannot consistently with the interest of the public service provide for all, we can, I think, provide for all the officers required to officer ten regiments, and that will be something. We can make the most meritorious selections, secure the best officers, and do an act of justice and humanity. I have done my duty upon this subject. I shall be very much gratified if the Senate will adopt this amendment and place these men securely, instead of leaving them to the accidents of appointments in the Department.

Mr. NESMITH. So far as it is intended to reward officers who have been wounded in the service, I would be glad to see them all placed in the Army if they desired it, and to give them such reward as it is in the power of the Government to give them; but I am opposed to the amendment offered by the Senator from Indiana, for a variety of reasons.

In the first place, as has been stated by the Senator from Maine, there was no particular inducement held out to the officers who went into the Veteran Reserve corps that they should be retained in the service at the close of the war. We all understand that while fighting was going on at the front it became necessary to have large guards for depots and hospitals in the rear. Officers, many of whom had rendered very meritorious service at the front, came home and preferred remaining in hospital to going back to the front and putting up with the hardships of camp life, and they were detailed or put in the Reserve corps. I do not believe the best officers of the Army went into the Reserve corps. While I have nothing to say against those officers, many of them gallant men, I do not believe they are in any way superior to those who, on recovering from their wounds, went back to the front and rejoined their regiments. There was an inducement to leave the active service and engage in the comparatively light duty assigned to the Reserve corps.

At the time this corps was organized without authority of law, it was an inducement to men to remain in the rear instead of going to the front. In providing for an increase of the Army, the original proposition of the Senator from Indiana gives all the offices in certain regiments to those men who from circumstances or accident happened to get positions in the Reserve corps and were withdrawn from active duty in the field. I protest that this is unfair to the officers who remained in the field, and who remained with their regiments, many of whom after having been most desperately wounded refused to take service in the rear, and went back to the front. A captain or lieutenant in the volunteers or the regular Army may have been—and there have been many such instances—desperately wounded at the front and after recovering and being fit to discharge his duties again returned to his regiment, while some subaltern officer who refused to perform that kind of duty got a place in the Veteran Reserve corps and became a major or a lieutenant colonel or a colonel. He jumped up from the lowest subaltern rank at once to the highest rank in a regiment. You take that man who acquired his rank in that way, and you place him over a captain or a lieutenant who rendered quite as meritorious service in the front and went back convalescing from wounds returned again to duty. It is an unfair discrimination. I do not think that one half of the officers provided for by this bill should be selected from any particular class or from any particular corps, and I should prefer not to vote for the amendment of the Senator from Indiana as he has modified it. I should prefer to leave that matter open to those who make the selection of the officers.

The spirit of this bill all the way through provides for the very condition of affairs he desires to provide for by his amendment. It provides that these officers shall be appointed from the volunteer service, and they shall be selected with reference to their gallant and meritorious conduct in the field. It does not always happen that a man who has been wounded in the field is the most gallant or the most meritorious or the most deserving, or is likely to make the best officer. The mere fact of wounds is a casualty, and an inferior officer is just as liable to be wounded as a superior officer. I do not think that in organizing regi-

ments and selecting officers to command them the mere casualties should be taken into consideration, and the men who have happened to be hit in action should be placed above those who did not happen to meet with such misfortunes. We can name many of the most distinguished officers in this war who were never touched by a ball, and we can name others not so distinguished or so deserving who under this amendment would be entitled to the highest rank within these ten regiments. I am in favor of leaving it to the discretion of the appointing power. If that power complies with the spirit of this bill, which provides that officers in every corps shall be selected with reference to the duties they have performed in the field and with reference to their gallant and meritorious conduct, the whole ground will be covered. If men who have been wounded either slightly or desperately are able to discharge duty, it will be incumbent upon the appointing power to select those men in preference to others who have not been.

This idea of providing that ten regiments shall be officered by men who happened to be wounded proceeds upon the assumption that a wound is a qualification. I do not so regard it. As I intimated before, a man may be very badly wounded and still be a very indifferent officer. Then, sir, there should be some scale of wounds. If a man has a leg shot off, that should enable him to become a colonel, an arm a major, and a finger a captain or lieutenant, and so on. If a man happens to have been touched by a saber, or musket ball, or bayonet during the war, the provision the Senator from Indiana proposes would make him eligible to a position in these ten regiments; it would compel his appointment, though he might not have suffered at all, or suffered very slightly. I think there should be some scale; it should be graduated; if wounds are to be taken as a qualification in filling up these regiments, you should determine what character of wound should entitle an officer to some particular rank, naming the different grades and ranks as provided for by this bill for the ten regiments that are proposed to be officered by those men who have suffered in the service.

I am opposed to the whole thing, and I hope that this amendment, either as it was originally presented or as it has been modified by him, will not be adopted. I think it will result injuriously to the Army. The paper which the chairman of the committee read, signed by Generals Thomas, Meade, and Sherman, demonstrates very clearly that in the selecting of officers we should have sound men. While I would not in the selection make a rule which would exclude those who have been wounded, but on the contrary would select them if they were capacitated to discharge the duties, I would not make a rule which would compel the selection of officers who were unfit for the discharge of their duties.

In reply to what the Senator said in relation to the bill as originally reported, let me tell him that the Military Committee never indorsed that provision; it never had the sanction of the committee. A provision was in the bill as introduced by the chairman that there should be some legislation in favor of these regiments; but the committee took that matter under consideration and partly upon the strength of a report made by those distinguished officers who had the matter under consideration, it was agreed to strike that provision out of the bill, and I hope the bill will not be modified or changed in that respect.

The amendment was rejected.

Mr. WADE. I propose to amend the bill by inserting after the word "regiments," in the third line of the third section, the words "two of which shall be composed of colored men," so as to make two of the regiments of cavalry colored troops. This provision was in the bill until lately, and I think it will be found that the colored troops have done as well in the cavalry as they have anywhere else, and there is a reason that is greatly in favor of them. I am informed that while we lose greatly by desertion all the time from the white regiments on the frontier, there is scarcely anything of the kind among the colored troops. When you get our regiments off among the gold regions or on the frontier, there is a great waste of white troops by desertion; but experience has shown us that there is scarcely anything of the kind among the colored troops. For this reason, and also because experience has shown that they are just as good troops as the whites, and because we want to make no distinction between the one kind and the other, I think there should be in each arm of service a certain portion of colored troops. I hope this amendment will be agreed to. The provision was reported in the original bill, and I do not know why it has been left out of this bill.

Mr. WILSON. I certainly do not think there is any objection to this proposition. It was in the original bill, as has been stated by the Senator from Ohio. I have no doubt that as a matter of economy, if upon no other consideration, it is worth while adopting it. Our cavalry regiments will be mostly our frontier regiments; and while we have desertions, and have had lately since the war has been over, to the extent of thirty or forty per cent. from our white regiments that go on the frontiers, there are no desertions from the colored regiments stationed in Arkansas and on the frontiers, and they are the best riders in America connected with our Army. We have some colored regiments west of the Mississippi that were raised in Kentucky, who understand the management of horses as well as any men in this country, admirable riders; and some of those regiments have been stationed in the same neighborhood with white regiments from which we have had twenty-five to thirty per cent. of desertions, and we have not had a solitary case of desertion in the colored regiments.

I think it is a great matter of economy to put some of these colored regiments into the field in the Indian country, in the mountains, and in sections of the country where white men desert largely and go to the mines where the temptation is very great. These men are much more under command and are far less likely to desert. I certainly have no objection to the amendment.

Mr. CONNESS. Do you propose to send your black men to us?

Mr. WILSON. They are so hard upon them in that section of the country that they will not run away, while white men will.

The amendment was agreed to.

The bill was reported to the Senate as amended.

Mr. SHERMAN. I should like to modify the phraseology of the amendment I offered by striking out the enacting clause of the second section, so that there shall be but one section, to make it more harmonious with the bill. I move to amend the amendment I offered so as to strike out the enacting words of the second section.

The PRESIDENT *pro tempore*. That is merely putting the two sections into one.

Mr. SHERMAN. Yes, sir.

The PRESIDENT *pro tempore*. That modification will be made if there be no objection.

The amendments made as in Committee of the Whole were concurred in.

Mr. KIRKWOOD. I move to amend section six, third line, by striking out the words "two majors" where they occur and inserting "one major." I really do not know why we should have in a regiment of infantry in time of peace two majors. It is suggested to me that we have hitherto had it so. Perhaps that may be a good reason or it may not. I know that in the volunteer service during the war we had to each regiment but one major. During the entire war that has just closed each one of our volunteer infantry regiments had a single major; they went through the war with one major; they did their work in the front in actual service with one; and why a regiment should have two majors in time of peace I cannot understand. Perhaps the members of the committee may inform me.

Mr. NESMITH. I may not be able to give a satisfactory answer to the Senator from Iowa in relation to the necessity for two majors. I might perhaps answer him by asking another question: what is the necessity for a colonel and a lieutenant colonel in a regiment, or the necessity for a captain and two lieutenants in a company? It has been found ever since we have had an Army, and in fact in foreign armies, that it was necessary to have two officers above the rank of captain and below the rank of lieutenant colonel in each regiment. I will not undertake to explain the formation of the regiment in the field and show the positions that those officers occupy. That is matter of detail which I do not propose to go into on this occasion; but it is understood to be an absolute necessity. Now, in relation to the volunteer regiments having but one major during the time of war, let me say those volunteer officers were always on duty with their regiment, or at least were supposed to be. During the time of peace, in addition to the services that are required at military posts in the way of commanding and discharging the duties of officers, regiments are generally broken up into detachments. It is found to be necessary to have some officer above the rank of captain where there is a battalion together. For instance, if a regiment is divided into two, three, or four detachments, there should be a field officer with each detachment. In addition to this we find that in time of peace there are constantly details made from the Army of officers for duty that perhaps does not directly or legitimately belong to the Army. There is the recruiting, and there are various public works, and we have to-day provided in this bill that twenty officers may be detailed to colleges. There have always been complaints in the Army in time of peace that the companies, and regiments, and battalions were destitute of officers in consequence of their being detailed to other duties not connected with their regiments or companies. Some of them are detailed as professors at West Point; others of them are detailed to superintend the construction of public works; others are detailed on recruiting service; and officers are being constantly taken from their commands and sent upon details. The chairman of the Committee on Military Affairs had a communication—I cannot lay my hand on it now—from General Sherman, General Thomas, and General Meade, in which they protested against provision being made in this bill for these special details as it was taking constantly officers from the Army; and they stated that in times of peace they always found at military posts and with armies upon the march that there was an insufficiency of officers to discharge the duties.

I trust that the amendment of the Senator from Iowa will not be adopted. I think that the reasons are ample, and if he will consult any military man or any officer of high rank I am satisfied he will be convinced of the necessity for two majors to each regiment. I trust the amendment will not be adopted.

Mr. KIRKWOOD. I must say that I am not convinced that more officers are needed to command a particular regiment in time of peace than in a time of war. I cannot understand it. It may be because I am not familiar with military affairs; but when a body of a thousand men are in the field in front of an enemy, it does seem to me as an unmilitary man that they need more men to take care of and command them than they do in time of peace when there is no fighting to be done. That looks to me to be reasonable. I know in regard to the volunteer service that details are made from our volunteer regiments to go home and recruit, and yet they had but a single major to each regiment during all the time.

Mr. NESMITH. I will ask the Senator from Iowa if those details that came home to recruit were not made when the regiments were very much depleted of men?

Mr. KIRKWOOD. Certainly they were depleted of men; and I apprehend if this bill passes we shall find that these regiments will be depleted regiments; they will be regiments of the minimum and not the maximum number of men. I think when we have our fifty regiments, if we get them, we shall find them to be fifty regiments of the minimum number and not of the maximum.

I must say, after looking over this bill, that it appears to me more like a bill to provide for officers than to provide for men. I must be allowed to say it. I cannot go home to my people and explain to them (although the Senator from Oregon may be able to do so to his constituents) why we need more officers to a regiment in time of peace than we did when they were in front of the enemy. We have details from regiments, I know, to do this duty, that duty, and the other duty, and we find them at a great many places other than where these men are. I am satisfied the amendment ought to be made.

Mr. SHERMAN. My attention has not been previously called to this provision regarding two majors to a regiment. It seems to me that it is the whole theory of our regimental and company organizations, to provide two substitutes for the commanding officer. Thus in a company we provide for a first and second lieutenant. The old plan of having two second lieutenants was abandoned long since. We provide two substitutes for the captain in the first and second lieutenants; so in a regiment we provide two substitutes for a colonel, a lieutenant colonel and a major. Three majors were provided for the three-battalion regiments for a very good reason; but it seems to me that when all the regiments are to be reduced down to six hundred or one thousand men, it is unnecessary to provide for more than two contingencies, a lieutenant colonel and a major. It seems to me very hard to answer the argument stated by the Senator from Iowa. You certainly do not want to provide for more officers in time of peace than you had during war. It may be said that officers are needed for details; but it should be remembered that the staff is very largely increased by this bill. The inspector's department, the quartermaster's department, the pay department, and all the staff departments are well provided for. I am therefore not disposed to add one major to all these various regiments, fifty or sixty of them, at this time.

Mr. WILSON. I will simply say that in the ten old infantry regiments there are two majors to each. We have simply in this respect followed what already existed. When we made the three-battalion regiments we had three majors; we have two majors for the two-battalion regiments. It has been the rule in the Army; whether founded on good reasons I cannot say to-day, but I have always found this, that the more I examined any matter connected with the Army, I found there was a reason for it. Sometimes I did not understand the reason at first, but when I came to look into it and got back of it I began to find that there was some particular reason for it.

Mr. SHERMAN. I only know this, that in the regiments with whose organization I have been familiar, the volunteer regiments, they have but one major. I did not know until this moment that in the regular Army there were two majors to a regiment. I cannot see any reason for it. I think it is one of those provisions that we might properly dispense with. We might change the organization of the regular Army to conform to the organization of the volunteer army. An army organized for war would probably contain as many officers as are necessary for actual service. I shall be disposed, therefore, as we are now organizing the Army, if this is a feature in the regular Army, to make it conform to the volunteer organization.

The amendment was agreed to.

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

Mr. GRIMES. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered; and being taken, resulted—yeas 27, nays 5; as follows:

YEAS—Messrs. Anthony, Buckalew, Chandler, Conness, Cragin, Fessenden, Foster, Guthrie, Johnson, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Nesmith, Norton, Poland, Pomeroy, Ramsey, Sherman, Sprague, Stockton, Sumner, Trumbull, Van Winkle, Wade, Williams, and Wilson—27.

NAYS—Messrs. Davis, Grimes, Harris, Kirkwood, and Riddle—5.

ABSENT—Messrs. Brown, Clark, Cowan, Creswell, Dixon, Doolittle, Foot, Henderson, Hendricks, Howard, Howe, McDougall, Nye, Saulsbury, Stewart, Willey, Wright, and Yates—18.

So the bill was passed.

HOUSE BILL REFERRED.

The bill (H. R. No. 255) making appropriations for the construction, preservation, and repairs of certain fortifications and other works of defense for the year ending June 30, 1867, was read twice by its title, and referred to the Committee on Finance.

ENROLLED BILL SIGNED.

A message from the House of Representatives by Mr. W. K. MEHAFFY, one of its Clerks, announced that the Speaker of the House of Representatives had signed an enrolled bill (H. R. No. 154) to further secure American citizens certain privileges under the treaty of Washington; and it was thereupon signed by the President *pro tempore*.

RECONSTRUCTION COMMITTEE'S REPORTS.

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

Resolved, That ten thousand copies of the reports of the joint committee on reconstruction, with the accompanying evidence, be printed for the use of the Senate.

ADMISSION OF COLORADO.

Mr. WILSON. I rise for the purpose of entering a motion to reconsider the vote by which the bill for the admission of Colorado was rejected. I do not wish to press the motion now.

The PRESIDENT *pro tempore*. The motion will be entered.

NAVAL APPROPRIATION BILL.

Mr. FESSENDEN. I desire to give notice to the Senate that if there be no particular objection I shall ask the Senate to-morrow at one o'clock to take up the naval appropriation bill. I shall not move to make it the special order for that hour, but simply give notice that I shall then ask the Senate to take it up.

COURT OF CLAIMS.

The PRESIDENT *pro tempore*. The bill (S. No. 33) in relation to the Court of Claims, has been returned from the House of Representatives with an amendment. It will be referred to the Committee on the Judiciary, if there be no objection.

Mr. TRUMBULL. It is not necessary to refer it. The amendment of the House simply directs the clerk of the Court of Claims to report their decisions to the executive officers of the Government. There can be no objection to it, I am sure. I move that we proceed to consider it at this time and that we agree to the amendment of the House.

Mr. JOHNSON. I ask to have that amendment read:

The Secretary read the amendment, which was to add to the bill—

SEC. 3. *And be it further enacted*, That at the end of every term of the Court of Claims the clerk of said court transmit a copy of the decisions thereof to the heads of Departments, to the Solicitor, Comptrollers, and Auditors of the Treasury, to the Commissioner of the General Land Office and of Indian Affairs, and the chiefs of bureaus, and to other officers charged with adjusting claims against the United States.

The amendment was concurred in.

BOUNDARIES OF NEVADA.

Mr. STEWART. I move to take up Senate bill No. 155. It is a bill in regard to the boundaries of the State of Nevada, reported from the Committee on Territories. It was passed at the last session in the same form, and failed in the House of Representatives for want of time. I desire to have it passed now.

The motion was agreed to; and the bill (S. No. 155) concerning the boundaries of the State of Nevada, was read the second time, and considered as in Committee of the Whole.

The first section declares that, as provided for and consented to in the constitution of the State of Nevada, all that territory and tract of land adjoining the present eastern boundary of that State, and lying between the thirty-seventh and the forty-second degrees of north latitude and west of the thirty-seventh degree of longitude west of Washington, is hereby added to and made part of the State of Nevada.

The second section proposes to add to and make a part of the State of Nevada all that extent of territory lying within the following boundaries: commencing on the thirty-seventh degree of north latitude, at the thirty-seventh degree of longitude west from Washington, and running thence south on that degree of longitude to the middle of the river Colorado of the West; thence down the middle of that river to the eastern boundary of the State of California; thence northwesterly along the boundary of California to the thirty-seventh degree of north latitude; and thence east along that degree of latitude to the point of beginning; but the territory mentioned in this section is not to become a part of the State of Nevada until that State shall, through its Legislature, consent thereto.

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

NATIONAL MILITIA.

Mr. WILSON. I move to take up Senate bill No. 111, to provide for the national defense by establishing a uniform militia and organizing an active volunteer militia force throughout the United States.

The motion was agreed to.

Mr. GRIMES. The Senator from Massachusetts has his bill now under consideration, and it will come up as the order to-morrow. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *March* 14, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

ORDER OF BUSINESS.

Mr. SPALDING. Mr. Speaker——

Mr. WASHBURNE, of Illinois. I demand the regular order of business.

Mr. SPALDING. I desire to occupy one moment with a personal explanation.

Mr. WASHBURNE, of Illinois. I have no objection to that.

Mr. WINDOM. I object.

Mr. WASHBURNE, of Illinois. Is it not a question of privilege which the gentleman from Ohio [Mr. SPALDING] wishes to present? If so, he has the right to bring it before the House.

Mr. SPALDING. It is very nearly a question of privilege.

The SPEAKER. A question of privilege is one affecting the right of a member to his seat.

Mr. SPALDING. I know that this is not technically a question of privilege; but if the gentleman from Minnesota knew what it is, I feel confident that he would not object.

The SPEAKER. Does the gentleman from Minnesota withdraw his objection?

Mr. WINDOM. No, sir.

The SPEAKER. The gentleman has the right to object.

The first business in order is the bill pending at the conclusion of the morning hour yester-

day, and which comes up now as the unfinished business—the bill (H. R. No. 298) to amend an act entitled "An act relative to the *habeas corpus* and regulating judicial proceedings in certain cases," approved March 3, 1863. On this question the gentleman from Illinois [Mr. COOK] is entitled to the floor.

Mr. COOK. I yield for a few moments to the chairman of the Judiciary Committee, [Mr. WILSON, of Iowa.]

COURT OF CLAIMS.

Mr. WILSON, of Iowa, by unanimous consent, reported back, from the Committee on the Judiciary, a bill (S. No. 33) entitled "An act in relation to the Court of Claims."

The bill, which was read at length, provides that the fourteenth section of an act approved March 3, 1863, entitled "An act to amend an act to establish a court for the investigation of claims against the United States," approved February 24, 1855, be repealed; and from the final judgment, or decree, in all cases heretofore decided by the Court of Claims, of the character mentioned in the fifth section of the act of March 3, 1863, an appeal shall be allowed to the Supreme Court of the United States, at any time within ninety days after the passage of this act, except in such cases where the amounts found due by the court have been paid at the Treasury.

The second section provides that the regular session of the Court of Claims shall hereafter commence on the first Monday of December in each year.

Mr. WILSON, of Iowa. I move to amend by adding the following as a new section:

That at the end of every term of the Court of Claims, the clerk of said court shall transmit a copy of the decisions thereof to the heads of Departments, to the Solicitor, Comptroller, and Auditors of the Treasury, and the Commissioners of the General Land Office and of Indian Affairs, to the chiefs of bureaus, and to other officers charged with adjusting claims against the United States.

The amendment was agreed to.

The bill, as amended, was ordered to a third reading, was read the third time, and passed.

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

The latter motion was agreed to.

PERSONAL EXPLANATION.

Mr. SPALDING. The gentleman from Illinois [Mr. COOK] yields to me for two minutes.

Mr. Speaker, I rise to a personal explanation. When I had the honor to offer a joint resolution on Monday last, touching the taxation of some portion of the national currency, nothing was further from my mind than to infringe upon the credit of the nation. Why, sir, I regard the bonds, the interest-bearing bonds of the United States, and the credit of the country as I regard the apple of my eye. I am the last man in the House who would infringe upon the credit of the Government. Yet I am charged in the reported discussion, by the respectable gentleman from Pennsylvania, [Mr. STEVENS,] who I know labored under a mistake, with having offered a resolution involving "rank repudiation." I allude to the remarks of the late chairman of the Committee of Ways and Means, and at present chairman of the Committee on Appropriations, which, I confess, I did not hear at the time. He says:

"I move to lay the whole subject on the table. It is rank repudiation and nothing else."

I wish to say I received on Saturday last a letter from an influential member of the General Assembly of Ohio, saying that the financial legislation of that State was about to be embarrassed by reason of the provision contained in the act of 30th June, 1864, which precludes States from taxing as money the notes of the United States commonly called "greenbacks," and my object was by the joint resolution to remove the prohibition upon the State Legislature. In some of the States—it is not so in all of them—I know it has been the habit in Ohio once a year to take an account of the money on hand belonging to its citizens and placing them on the list at a moderate rate of taxation. They propose to do it in the future. They propose to consider "greenbacks," the same as State bank notes, as money on hand; and my object was to bring that portion of the currency, the paper money of the country, under State taxation if they saw fit to place it under taxation. That is all.

I do not undertake to violate in any degree the credit of the country, and have never undertaken to do so. It is a darling object with me to preserve that credit at all times untarnished.

I make this explanation that the spirit of repudiation may not expect countenance and support from me.

Mr. STEVENS. Let me say one word, as the gentleman has referred to me. I regret the misunderstanding took place. When I characterized his resolution at the time I did not know who offered it, or I should have looked at it more critically. I thought it referred to our bonds and other obligations as well as money. My friend from Illinois, [Mr. WENTWORTH,] whose lead I always follow, thought as I did. When I inquired into the matter I found I was mistaken as to the class of obligations referred to. I believe it did embrace one item afterward stricken out. I perceive injustice has been done to my honorable friend from Ohio in the remark I made, and I can only say I regret it very much. Still, having the view of it I had at the time, not taxing money on hand in Pennsylvania, as I understand they do in Ohio, I could hardly help considering the taxing of "greenbacks" as less than some breach of the law under which we issued them.

MINNESOTA SOLDIERS' AND SAILORS' ASYLUM.

Mr. DONNELLY, by unanimous consent, introduced a bill granting lands to the State of Minnesota for the establishment of an asylum for the relief of disabled soldiers and sailors; which was read a first and second time, and referred to the Committee on Public Lands.

HABEAS CORPUS.

Mr. COOK called up bill of the House No. 298, to amend an act entitled "An act relative to the *habeas corpus* and regulating judicial proceedings in certain cases," approved March 3, 1863, which was reported from the Committee on the Judiciary with an amendment in the nature of a substitute.

Mr. COOK. Mr. Speaker, the object of the bill reported from the Committee on the Judiciary is twofold: first to relieve all officers and persons acting under military authority from responsibility, when sued for acts done during the late rebellion, when done by order of superior officers. It also provides that the question, whether acts complained of have been done under proper military authority, may be tried in the United States courts instead of in the State courts, if the party desires it.

The principle upon which the bill is founded was established in what is commonly known as the "force bill" of 1833, which was passed when South Carolina first claimed the right to nullify the laws of the United States. The same principle is embodied in the law of 1863, of which this bill is amendatory.

The law of 1863, sections four and five, reads as follows:

"SEC. 4. *And be it further enacted*, That any order of the President, or under his authority, made at any time during the existence of the present rebellion, shall be a defense in all courts to any action or prosecution, civil or criminal, pending or to be commenced, for any search, seizure, arrest, or imprisonment made, done, or committed, or acts omitted to be done, under and by virtue of such order, or under color of any law of Congress, and such defense may be made by special plea, or under the general issue.

"SEC. 5. *And be it further enacted*, That if any suit or prosecution, civil or criminal, has been or shall be commenced in any State court against any officer, civil or military, or against any other person for any arrest or imprisonment made, or other trespasses or wrongs done or committed, or any act omitted to be done at any time during the present rebellion, by virtue or under color of any authority derived from or exercised by or under the President of the United States, or any act of Congress, and the defendant shall, at the time of entering his appearance in such court, or, if such appearance shall have been entered before the passage of this act, then at the next session of the court in which such suit or prosecution is pending, file a petition stating the facts and verified by affidavit for the removal of the cause for trial at the next circuit court of the United States, to be holden in the district where the suit is pending, and offer good and sufficient surety for his filing in such court, on the first day of its session, copies of such process and other proceedings against him, and also for his appearing in such court and entering special bail in the cause, if special bail was orginally required therein. It shall then be the duty of the State court to accept the surety and proceed no further in the cause or prosecution, and the bail that shall have been originally taken shall be discharged."

The first section of this bill provides that an order from any military officer of the United States holding the command of the department, district, or place within which the act complained of shall have been done, shall be a defense.

This provision is rendered necessary from the fact which appears in evidence before the committee that the State courts in some of the border States have held, under section four of the act of which this is an amendment, that the order of the President of the United States is necessary to justify the party doing the act, and as it is scarcely possible for a party sued to produce an order from the President of the United States directing him to do the particular act complained of, the law became in many instances a dead letter. The principle that a Government shall relieve its officer from individual responsibility for any act done by the command of a military superior has been settled so long and so well that I do not propose to discuss it now. In order to make that principle operative in the act to which this is an amendment, the provision contained in the first section of this bill is indispensably necessary. Where the State courts hold that the order of the President of the United States himself must be produced to justify the impressment of a horse or seizure of forage or military supplies, the protection designed to be given by the act is taken entirely away. The spirit of the first act it is believed is met by the words of this amendment, which provides that a military order issued by any person having the command of the district, department, or place where the act complained of is done shall be a defense. The soldier or subordinate officer must at his peril obey without question the order of his superior, and that order should protect him from individual responsibility for acts done in pursuance of it.

The second section of the bill has reference merely to the character of the evidence of the existence of this order which shall be produced. It provides—

That when said order is in writing it shall be sufficient to produce in evidence the original with proof of its authenticity, or a certified copy of the same; or if sent by telegraph the production of the telegram purporting to emanate from such military officer shall be *prima facie* evidence of its authenticity; or if the original of such order or telegram is lost, or cannot be produced, secondary evidence thereof shall be admissible as in other cases.

The third section of the bill provides for the removal of the action from the State to the Federal courts at any time before the jury was impaneled to try the same. By the original act it was necessary that the motion for a change of venue should be filed at the term that the appearance of the defendant was entered. Evidence is before the committee tending to show that in the State of Kentucky alone fifteen hundred suits have been brought against citizens who acted or claimed to act in behalf of the United States, for acts done by command of military officers. In the vast majority of these cases the defendants were not aware that it was necessary that the motion to change the venue should be made at the appearance term. In some cases the suits were brought before the act became generally known, and in consequence thereof many are prevented from taking the change of venue to the Federal court which they desired to do.

I find by reference to the act of 1833, called the "force bill," precisely such a provision was inserted to meet the state of facts in South Carolina in nullification times. That act provides that the change of venue may be taken at any

time before trial. To meet this difficulty, and to secure to those who were intended to be protected by the law of 1863 the benefit of that protection, it is provided in the third section of this act that the change of venue may be made after the appearance of the defendant and before the impaneling of the jury to try the cause. That applies to suits pending as well as to suits to be commenced hereafter. The object of the section is to give relief to those men who have been sued there, and who, not understanding that it was necessary to file a petition for a change of venue at the appearance term, have suffered that term to pass. Section three provides for a state of fact like this: there was evidence before the committee tending to show that in some of the State courts of Kentucky the courts have refused to grant a change of venue after application has been made precisely in accordance with the terms of the act of 1863.

The reasons assigned, so far as I have heard them, are two. The first is that the act of 1863 is unconstitutional; and the second is that the court has a discretion which it may exercise to refuse to approve the security which is offered by the defendant that he will file the record in the United States court. The fourth section of this bill provides that—

If the State court shall, notwithstanding the performance of all things required for the removal of the case to the circuit court aforesaid, proceed further in said cause or prosecution, before said certificate is produced, then in that case all such further proceedings shall be void and of none effect; and all parties, judges, officers, and other persons, thenceforth proceeding thereunder, or by color thereof, shall be liable in damages therefor to the party aggrieved, to be recovered by action in a court of the State having proper jurisdiction, or in a circuit court of the United States for the district in which such further proceedings may have been had, or where the party, officer, or other person, so offending, shall be found; and upon a recovery of damages in either court, the party plaintiff shall be entitled to double costs.

There are such cases. The evidence is conclusive that there are cases in the State courts where parties have sought to have this question tried in the Federal court, and have performed every act specified in the act of 1863, and yet have not been able to have the venue changed after all. It was considered necessary by the committee that after the petition had been filed and verified as required by law, the State court should have no further jurisdiction of the case, and that its acts should be void in case it should assume to proceed further and assume jurisdiction to try the case.

The fifth section of the bill provides for cases which have occurred in which the clerks of the State courts have refused to give certified copies of the record to be filed in the United States courts, and to prevent the right to a change of venue being defeated by any default of the clerk of the State court. It provides that—

It shall be the duty of the clerk of the State court to furnish copies of the papers and files in the case to the party so petitioning for the removal; and upon the refusal or neglect of the clerk to furnish such copies, the said party may docket the case in the circuit court of the United States; and thereupon said circuit court shall have jurisdiction therein, and may, upon proof of such refusal or neglect of the clerk of the State court, and upon reasonable notice being given to the plaintiff, require him to file a declaration or petition therein; and upon his default, may order a nonsuit, and dismiss the case at the costs of the plaintiff; which dismissal shall be a bar to any further suit touching the matter in controversy.

There is another important provision of this bill which I failed to explain. The law of 1863 provides that at the time the defendant shall file his petition for a change of venue he shall give security, to be approved by the State court, conditioned that he will at the next term of the Federal court file a copy of the record in that court. There was evidence before the committee tending to show that the courts have exercised a discretion to refuse the security when tendered, for the purpose of embarrassing the defendant in securing this change of venue, and consequently it is required in this bill that "on the filing of the petition, verified as provided in said fifth section, the further proceedings in the State court shall cease, and not be resumed until a certificate under the seal of the circuit court of the United States, stating that the petitioner has failed to file copies in the said circuit court, at the next term, is produced."

The venue is not to be changed unless the party at the next term of the United States court files his copy of the order of the State court. There are but two principles embodied in this bill. Both principles are embodied in the bill of 1833, which received the sanction of Congress and the assent of President Jackson. The first principle is that the United States will protect its officers in executing its laws and maintaining its authority. And the second principle is, that in testing the question whether a man has been acting under the authority of the United States the question shall be tried in the courts of the United States. Those two principles, I conceive, cannot be surrendered without surrendering entirely the power to administer the Government and to execute the laws.

I now move to recommit this bill.

Mr. HARDING, of Kentucky. Mr. Speaker, I could give my hearty support and approval to a bill which was framed to secure to all parties full justice, without any special regard to either the defendant or the plaintiff. In regard to the bill now under consideration, it is possible that some member of the Committee on the Judiciary may be able to remove the objections which it seems to me pertain to the provisions of this bill. I think it needs much more explanation than it has yet received.

This bill is professedly for the purpose of amending the act of the 3d of March, 1863. But it goes far beyond the provisions of that act. At the time that act was passed, some very good lawyers thought there was no constitutional power in Congress to pass it; others gave a very reluctant assent to the provisions of that act. But it will be found, upon examination, that the act of 1863 is guarded in some respects; it does not wholly ignore the rights of the defendant. The main provision of that act makes it a substantial defense. in all cases where a party is sued for trespass in causing the arrest, seizure, or imprisonment of another, to show that that arrest or imprisonment was made under the order or authority of the President of the United States.

Now, sir, there was plausible ground to be taken in support of such a measure as that in times of rebellion. It was not supposed that the President of the United States would act indiscreetly or rashly; it was not supposed that the President would order the arrest and imprisonment of a citizen without at least some probable ground or cause for suspicion. And hence that extraordinary power was conferred upon the President; and it was made an absolute defense in all cases where the party defending could show that the act complained of was done under the authority or order of the President of the United States.

If that act is carefully examined, it will be found that there is no defense in favor of any party sued, unless he can justify the act by showing that the act complained of was done under the order or authority of the President of the United States. It is mainly the fourth section of the act of 1863 which this bill seeks to enlarge. That section provides—

"That any order of the President, or under his authority, made at any time during the existence of the present rebellion, shall be a defense in all courts to any action or prosecution, civil or criminal, pending, or to be commenced, for any search, seizure, arrest, or imprisonment, made, done, or committed, or acts omitted to be done, under and by virtue of such order."

The defense must necessarily show that the act was done under the order, the authority of the President of the United States. It will be found moreover that that act is guarded in other respects. The interest of the plaintiff was thought of as well as the interest of the defendant. It provides that the party availing himself of that defense must file his petition for the removal of the cause at the time he entered his appearance in the State court; he must give bond and good security that he will enter his appearance at the first term of the circuit court; and that he will himself procure and file a copy of the record, and give bail if bail was originally required in the State court.

Now I call the attention of this House to the first section of this bill, in order to show how recklessly the provisions of the act of 1863 are extended. That act can be construed in no other way than that it requires the special order of the President of the United States to justify a seizure, arrest, or imprisonment. But the bill under consideration goes far beyond that, and gives the party proceeded against a much more extended defense; it enables him to plead in justification the order of a corporal, or sergeant, or lieutenant. Ay, it goes even further than that. What is the first section of this bill? I will read it:

That any search, seizure, arrest, or imprisonment made, done, or committed, or any acts omitted to be done during the said rebellion, by any officer or person under and by virtue of any order, written or verbal, general or special, issued by any military officer of the United States, holding the command of the department, district, or place within which such seizure, search, arrest, or imprisonment was made, done, or committed, or any acts were so omitted to be done, either by the person or officer to whom the order is addressed, or by any other person aiding or assisting him therein, shall be held, and are hereby declared, to come within the purview of the act to which this is amendatory, and within the purview of the fourth, fifth, and sixth sections of said act, for all the purposes of defense, transfer, appeal, error, or limitation provided therein.

Under the original act, to make a valid defense required the special order or authority of the President of the United States. But by this bill any order, verbal or written, general or special, by any officer in command of any district, department, or place, any kind of order is made to justify the act complained of. Now, I beg that this feature of the bill will be noticed, and it will be seen that it is framed wholly in the interests of one of the parties litigant. Congress is asked to intervene between parties litigant after the suit has been commenced, and to act exclusively in favor of one of the parties, and ignore the rights of the other party altogether.

I learn now for the first time, by the gentleman's remark, that there was evidence before the committee. But what sort of evidence was it? Strictly and rigidly *ex parte* evidence—evidence in favor of the defendants in all cases, but not a word in favor of the plaintiff. The result is what might have been expected. The bill before us is strictly framed in the interest of the defendant, utterly ignoring the rights of the plaintiff.

Now, sir, is it not worth while to consider the fact that there may be cases in which the plaintiff is not exactly a criminal because he brings a suit, but may have a just cause of action? This bill seems to treat the act of suing in the State courts as but little less criminal than committing the original outrage. Every provision in this bill, from first to last, is manifestly framed in the interest of the defendant, to the utter exclusion of the rights of the plaintiff.

Sir, I would be willing to give my support to a bill which should fairly attempt to promote the ends of justice, without regard to the parties litigant. But look at this bill; compare it with the original act. That act requires a special order of the President. It is to be presumed that the President would not act rashly—would not order the arrest of a person without some evidence, or at least some reasonable ground of suspicion. But under the provisions of this bill, if it be passed, any mere law student can, I affirm, frame a defense and exonerate any defendant, though he may have committed robbery, murder, or other high crime; because the defendant is not required to state or to prove that there was any ground of suspicion, or any probable cause whatever for the seizure, arrest, or imprisonment complained of; the order of any officer in command at any place, either general or special, verbal or written, is made a full defense. But the gentleman from Illinois [Mr. COOK] says that there was evidence before the committee of the necessity of the bill.

Mr. ROGERS. The gentleman from Kentucky will permit me to say that, so far as my

knowledge extends, there was no testimony taken before the committee.

Mr. COOK. There was documentary evidence furnished by Representatives from Kentucky.

Mr. HARDING, of Kentucky. Well, sir, I pronounce that documentary evidence wholly *ex parte*. According to the gentleman's own statement there was no fair chance for the case to be represented before the committee.

Now, sir, to illustrate the manner in which this bill, if enacted, will operate, it is only necessary to refer to cases coming within my own knowledge; and I have no doubt that many other gentlemen have knowledge of similar cases. Take, sir, the case of a general order issued by the captain or lieutenant in command of some thirty or forty soldiers at a particular place. Suppose it be a general order to arrest guerrillas. Under such a general order, a corporal, or a soldier under his command, may, to vent his private malice, seize and imprison a peaceable citizen, against whom there is no reasonable ground of suspicion. Suppose he goes further, and in the act of arresting the man refuses quarter and shoots him down. A man may do that under a general order to arrest guerrillas; and an order of that sort is by this bill made a justification of an act of that kind.

An instance of this kind occurred in my own State. There were three poor laboring men living near the border of Tennessee who escaped into Kentucky to avoid conscription in the rebel army. They were Union men, and that was their only resort to avoid conscription in the rebel army. They were engaged for a time in performing day labor. Becoming anxious in regard to their families, they started on foot toward their former residence to hear from their families. When they were passing through the neighborhood of a certain town, where there were some thirty or forty soldiers under the command of a captain, some one gave information that three men had been seen walking alone, passing through the neighborhood. An order was issued by the officer in command of that squad for their arrest as guerrillas. Half a dozen drunken soldiers, under the command of a corporal or lieutenant, started off to find these men. They were overtaken. It happened that two or three respectable citizens were witnesses of the occurrence. These poor men were sitting down, pulling off their shoes to wade across the river. These drunken soldiers, as soon as they came near enough, fired four or five rounds upon the men without uttering a solitary word. Two of them were shot dead on the spot; the other, who was very severely wounded, was, in consequence of his appeals for mercy, taken into custody, and after weeks and months of suffering from his wounds he recovered, but he is disabled for life.

It turned out that the wounded man was a loyal Tennesseean. They were all loyal men who had escaped from confederate conscription; poor men who had no arms at all; good, honest, loyal men. These officers when they approached did not even say halt, but they shot two and wounded the other. Only one had his life spared through his cries for mercy. Now, suppose this survivor shall sue these reckless men. If he does, under this law, they will be exonerated. All they have to do is to show there was an order to arrest guerrillas.

This bill justifies those men and all others who may have committed like reckless acts. All they have to do to make their defense is to allege there was a general or special order to arrest guerrillas, and that they only omitted to give quarter, and that in arresting them they killed some and wounded the other. All these are cases which this bill justifies.

There is another case where the unfortunate victim was brought from Kentucky to this place and incarcerated under an order to arrest counterfeiters. He was seized, brought here, and confined in Carroll prison, and kept there for four months. He came from my district, and wrote to me. I found and consulted with him, and then I went to the President, and stated the case to him. The President expressed his astonishment that any man should be arrested in Kentucky and brought here for counterfeiting, and imprisoned for four months without examination. He gave me an order to the Secretary of War to exhibit the charges against the man. I was there informed that the protection of our currency against counterfeiters had been delegated to the Treasury Department. Going there I learned there was no evidence against him, and after a time I procured his discharge. He had been arrested and plunged into prison under an order of some official in his own town of Shepherdsville, without any reasonable cause of suspicion. Suppose he sues. All the defendant has to do is to plead that he made the arrest under the order of some captain or lieutenant or other officer in command at that place. He is not bound to show there was cause of suspicion. It can avail nothing for the plaintiff to show that the act on the part of the defendant was wholly malicious and without probable cause. The order alone is a full defense for the defendant.

Sir, it will be so in all cases where men, through malice and enmity and without any cause of suspicion at all, have been arrested and imprisoned at the instigation of commanding officers.

Take another case, in regard to interfering with elections. I will refer to a case in regard to which I was fully informed. During last summer, a man fifty or sixty years of age—a peaceable citizen, between whom and a certain officer there was some ill-feeling—made his appearance at the polls on the morning of the election and offered to vote; for doing this that citizen, under the verbal order of that officer, was arrested and imprisoned for some days. If he sues, this bill will present a perfect justification of the arrest and imprisonment. There were numerous general orders to shoot down or arrest guerrillas, to give them no quarter, and malicious soldiers and others, under those orders, shot down good and peaceable citizens, wounded, arrested, and imprisoned others. It is of no use for the plaintiff to show that these acts were wanton and malicious, and without probable cause. If the defendant can show any general or special order from any commanding officer, captain, lieutenant, corporal, verbal or written, no matter what number of soldiers he shall command, such order, by this bill, is made of itself a complete and unanswerable defense.

Let me show a little further how this bill has been framed. The law which this bill proposes to amend provides when a defendant shall desire to remove his case to the circuit court of the United States he shall file a petition at the time of entering his appearance in the State court, and give security for his appearance at the circuit court. This bill expressly says he may at any time after he has entered his appearance, and made defense in the State court, and before a jury is impaneled for trial, file his petition and remove the cause.

Mr. COOK. I would like to ask the gentleman whether there is any difference between this bill and the law of 1833 as to the time a change of venue could be taken. Did not the law of 1833 allow it at any time "before trial?"

Mr. HARDING. According to my recollection it is different. This bill is, at any rate, essentially different in all its provisions from the act to which it purports to be an amendment. By this bill the defendant is allowed to enter his appearance and file his defense in the State court, and after subjecting the plaintiff to all the vexatious delay he can, by continuances and otherwise, when at last he is about to be driven into trial, after perhaps a year or two of delay, then he may file his affidavit, and without security remove the cause to the circuit court. He is not required to give security at all to enter his appearance at the circuit court or that he will give bail there.

And that is not all. Another section of the bill expressly provides that it shall be the duty of the clerk in the State court, whether there is any security for the payment of fees or not, to make the record of the suit for removal.

Now, if a party is required to give security for the filing of the record himself, then the clerk will make it out because he gets his fee. But here is an express provision that it shall not be necessary for the defendant to give security for the filing of the record. And then he may go to the circuit court and have the case docketed without filing the papers at all, so that it will devolve upon the other party to file them. Look at that. The party who seeks the transfer is not required to give security, but upon the mere filing of his petition at the last moment, after he has delayed his adversary as long as he can, he has the right to go into the circuit court and enter the case on the docket. And then when the case comes up if the plaintiff fails to file a copy of the papers he is nonsuited with double costs, and that nonsuit is made a bar to any subsequent action.

Is this, sir, in accordance with the common course of legal proceedings, to make a mere nonsuit a bar to a cause of action?

Sir, suppose a poor man, living a hundred and fifty miles from where the circuit court of the United States is held, has brought his suit in the State court in his own neighborhood against a defendant for having arrested and imprisoned him maliciously and without justification. Now, this bill provides that the defendant, after resorting to all the delay he can in the State court, may on the simple filing of a petition for removal, without giving security, arrest all further proceedings in the State court and throw upon the plaintiff the necessity of either giving up his case, or of prosecuting it in a court a hundred and fifty miles distant, himself paying the expenses of copying and removing the papers.

Sir, in such a case every honest lawyer would advise the plaintiff to abandon his cause. For what has he to hope for? When he gets to the circuit court the defendant may not meet him. He has given no security for his appearance. And if he goes he has to pay the expense of filing the record, for this bill does not impose even that upon the defendant who removes the cause. It is manifestly, more than any bill I ever saw, framed exclusively in the interest of the defendant.

Now, I warn gentlemen that interested lawyers may have something to do with a case like this. Bring me a bill that treats the plaintiff and defendant alike, and I will sanction it. But a class of interested lawyers, perhaps having large contingent fees to secure the acquittal of certain men, may have their part to act in these cases. And why not? Here is a bill manufactured to their hands. Sir, I affirm that any law student just admitted into the profession, who with the aid of this bill could not succeed in the defense of his client, however guilty, would deserve to be excluded from the bar.

But, sir, there are perhaps more serious objections still. Here is an attempt to intervene between parties who have litigations now progressing in the courts, an attempt to interpose a defense which was no defense at the time the act was committed.

Now, I ask gentlemen to reflect whether that can be done. It is a bad rule which will not work both ways. Let us test it by looking to the interests of the plaintiff for a moment. Suppose a law should be passed, retroactive in its character, giving a plaintiff a right to recover heavy damages for an act which a year ago, at the time the act was committed, violated no law, and was, therefore, an innocent and justifiable act; can you do that? Can you intervene by a retroactive statute and declare that a certain act performed a year ago shall be considered criminal, when, at the time the act was performed, it was no violation of any law, and therefore was justifiable? Can that be done? And then, again, can you interfere in favor of the plaintiff when he has brought his suit in court, and declare that a certain act which was lawful when committed, shall be considered a trespass, and upon that he may

ground his action and recover damages? Can that be done? Will any lawyer say that it can be done?

Let us look at the matter for a moment. Does not this bill declare legal and valid that which was manifestly unlawful at the time the act was committed? The bill itself goes upon the ground that all these acts were done without law, without justification of any law, civil or military. If there was any justification for the act at the time it was committed, then this bill is unnecessary. It is upon the ground that they were unlawful acts that you are now called upon to intervene and make that a lawful act which was not so when committed. Can that be done? And yet that is the very thing that is done here. Is not that retroactive? Is it not manifestly an *ex post facto* law? If not, how can you define it? No gentleman would hesitate a moment to pronounce it so if the bill were framed in the interest of the plaintiff, giving him new cause of action that the law did not give him at the time the action was committed. But here you give the defendent a defense which there was no law for at the time the act was committed. At the time the act was committed the law then in force denounced the act as unlawful; and now you propose to pass a law, retroactive in its character, to declare that no damages shall be given for that act.

Mr. MOULTON. I would like to ask the gentleman a question, if he will allow me.

Mr. HARDING, of Kentucky. I yield to the gentleman.

Mr. MOULTON. Suppose that by an existing act of legislation a man has a cause of action, and subsequently that act is repealed, what becomes of his cause of action, and what remedy has he, if any?

Mr. HARDING, of Kentucky. I hold that no legislation can repeal my right of action. No legislative body has a right to repeal my right of action.

The SPEAKER. The morning hour has expired, and the bill goes over until to-morrow.

AMERICAN FISHERIES.

Mr. PIKE. I ask the unanimous consent of the House to offer the following resolution:

Whereas the Governors of several of the British Provinces have publicly warned our fishing fleets off the fishing grounds adjacent to their coasts, and thus indicated a design to renew the unreasonable claims made by them prior to the reciprocity treaty and to annoy our peaceable commerce: Therefore,

Resolved, That the Secretary of the Navy be requested to send sufficient naval force to the fishing grounds to protect our citizens in the enjoyment of their rights, as recognized by the treaty of 1783.

Mr. BANKS. I have no objection to the introduction of the resolution if it is to be referred.

Mr. PIKE. I wish the action of the House upon it.

Mr. ROSS. I object to the resolution.

Mr. BLAINE. I suggest to my colleague that he allow the resolution to be referred.

Mr. PIKE. No, I will offer it at another time.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had passed without amendment House bill No. 154, to further secure American citizens certain privileges under the treaty of Washington.

INTERNAL REVENUE.

The SPEAKER laid before the House a communication from the Secretary of the Treasury, transmitting a special report of the revenue commission upon the relation of foreign trade to domestic industry and internal revenue; also on proprietary and other medicines, perfumery, &c., as a source of national revenue; which was referred to the Committee of Ways and Means, and ordered to be printed.

TAX ON MINING CLAIMS.

The SPEAKER also laid before the House joint resolutions of the Legislature of the State of Oregon in relation to imposing taxes on mining claims; which were referred to the Committee on Mines and Mining, and ordered to be printed.

WALLA WALLA COUNTY.

The SPEAKER also laid before the House joint resolutions of the Legislature of the State of Oregon in relation to the annexation of Walla Walla county, Washington Territory, to Oregon; which were referred to the Committee on Territories, and ordered to be printed.

COLORED MUTUAL BUILDING ASSOCIATION.

Mr. JULIAN, by unanimous consent, introduced a bill to incorporate the Colored Mutual Building Association, of the city of Washington; which was read a first and second time, and referred to the Committee for the District of Columbia.

GOVERNMENT PRINTING OFFICE.

Mr. WHALEY. I ask unanimous consent to submit the following resolution for consideration at this time:

Resolved, That the Committee on Printing be requested to report a bill limiting the hours of labor for the employés in the Government Printing Office to eight hours a day.

Objection was made.

PARIS EXPOSITION.

Mr. BANKS moved that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. WILSON, of Iowa, in the chair,) and resumed the consideration of House joint resolution No. 52, to provide for the expenses attending the exhibition of the products of industry of the United States at the Exposition at Paris in 1867; upon which Mr. WASHBURNE, of Illinois, was entitled to the floor.

Mr. WASHBURNE, of Illinois. Mr. Chairman, I do not propose to occupy any very considerable portion of the time of the committee in replying to the oration delivered on yesterday by my distinguished friend from Massachusetts [Mr. BANKS] upon the joint resolution now under consideration. Indeed, I do not expect to obtain the attention of the committee to anything that I may say in reply to the remarks of that gentleman, for his eloquent accents have not yet died away upon our ears; and I presume that the committee is unprepared to consider any plain and stubborn facts that I may advance in opposition to this measure. But if I should have the good fortune to obtain the attention of the committee, I am certain it will not be from anything that I may say, but from the fact that the gentleman from Massachusetts paid me the distinguished honor to say that had it not been for the earnest opposition that I had indicated to this measure he would not have spoken at all. And hence the members of this committee are indebted to this supposed and humble opposition of mine for his very eloquent, elaborate, and well-prepared speech of yesterday, to which we all listened with so much pleasure and with so much profit.

Sir, the gentleman was not mistaken in his supposition that I am opposed to this measure. I am opposed to it. It is my fortune—whether good or ill fortune must be determined by others—to oppose almost all measures of this character, looking to appropriations of the public money for the benefit of particular and special interests, in which the masses of the people, who have to foot the bills, can have no participation. And no man knows better than I do the responsibility which any member of this House takes upon himself when he attempts here to thwart the projects of private individuals, of corporations, and of monopolies, who undertake through our legislation to get money out of the public Treasury. No man, as you know, Mr. Chairman, [Mr. WILSON, of Iowa,] can do this without being loaded with opprobrium and with denunciations for the position which he might deem it his duty to take on this question of appropriations. I am aware that I am generally in the minority. It is vastly easier to float with the current and let the money go than it is to hold resolutely to the purse-strings. But I can say, as my distinguished friend from New York [Mr. RAYMOND] said the other day when he found himself in a minority, that there is a luxury sometimes in being in a minority. If so, then I ought to thrive on that kind of luxury. [Laughter.]

I saw it stated in the papers not long ago that I was the only member of this House who voted against the proposition of my distinguished friend from Massachusetts, [Mr. BANKS,] which he brought in here sometime gone by, which involved the expenditure of some two hundred thousand dollars of the people's money, as I have been informed, for the benefit of a private telegraph company whose stock I am told is worth two hundred per cent. premium. Sir, I believe I was the only man that voted against it, and I shall vote against all such measures, whether I vote "solitary and alone" or in company with others. However, all this makes but little difference to me. Conscious of the rectitude of my motives I can stand a good deal. I think I can act independently and justly upon these questions which come before us, with no interest to subserve but the interests of that common country which, I trust, we all love so well, with no objects to obtain which are not consistent with the public good. Seeking no longer a continuance in public life when my constituents shall become willing or desirous to relieve me, it is a matter of no personal concern to me, successful or unsuccessful, triumphant or defeated, in my efforts to prevent unnecessary and improper appropriations, as long as I have the consciousness of a duty to my constituents and to the country faithfully discharged. Standing in that position, I think I can afford to do justice to the public and justice to the Government.

"Fiat justitia, ruat cœlum."

If there is anything that could awaken the attention of our constituents, of the constituents of all of us country members who sit on the back seats, it would be a measure of the character of the one now before us. And could they come here—the men who are behind us, the men from the field, the workshop, and the mart of business, the men who do the voting, the tax-paying, and the fighting as well—look down upon us from the galleries—for we put them in the galleries, and only let the lobby-members on the floor—they might ask us some questions in regard to this joint resolution, and what we as their trusted Representatives propose to do about it. They would tell us that when we sought their votes we had accents of economy upon our lips, but that when we got into our cushioned seats here we had extravagance and recklessness in our hearts and in our votes. Yes, Mr. Chairman, we were all for economy and retrenchment before the people; but after they have committed to us the charge of holding the purse-strings of the Treasury so as to reduce the burdens upon them, they find that we have "reasons as thick as blackberries" for voting outrageous and extravagant appropriations.

Sir, this bill proposes to open a new era in legislation, and no man can tell to what extent it may lead us in the future. Let me call attention to the fact that when exhibitions similar to this were held in London in 1851 and in Paris in 1855, when our Treasury was overflowing and our people prosperous, no man had the impudence to come into Congress and ask that an appropriation of the people's money should be made for the benefit of a few particularly interested individuals, who wanted to make a market for their patent rights and their gimcracks and exhibit themselves in the courts and palaces of Europe. But now, sir, with a debt of $3,000,000,000, when our constituents are groaning under such taxation as was scarcely ever before borne by any people; when the ingenuity of my distinguished friend from Vermont [Mr. MORRILL] has been taxed to the

uttermost to discover every little article that could bear taxation, we are asked by the gentleman from Massachusetts, [Mr. BANKS,] in words of glowing eloquence, in "thoughts that breathe and words that burn," to appropriate $400,000 of the people's money; and when he closed his speech last evening, and the committee rose, everybody seemed converted, and honorable members seemed impatient to get this amount of money out of the Treasury with the least possible expenditure of time.

Sir, I speak by the record when I say that the expense of this undertaking will be $400,000. And I ask gentlemen here who propose to vote for this measure, how they can justify to their constituents such a vote at this time when we have such a vast debt upon us, and such grinding taxation to pay the interest, when there are so many meritorious objects for which we could vote this money. If we have got this money to spare, let us vote it in the way of additional pensions to the widows and orphans of the heroes who gave up their lives to save the Republic. Let something be voted, if we have so much money to spare, to improve the dilapidated harbors of the country, to clear out and improve the channels of the magnificent rivers of the West, so that our commerce can float "unvexed to the sea." These are objects in which all the people are interested.

Why, sir, let me tell my friends from the Northwest, let me tell my friend from the Cleveland district of Ohio, [Mr. SPALDING,] who as I am surprised to see is a champion of this measure, that at the last Congress we could only appropriate $250,000 for all the harbors in the country, including those upon the beautiful lakes which lave our northwestern shores, and among others the harbor of his own beautiful city, which sits proudly like a queen on Lake Erie. Yet he is willing to come here and join in the clamor for this appropriation of $150,000 more than the whole sum we could afford to appropriate in the last Congress for all the harbors in the country for the benefit of the commerce of the country.

Now, sir, what is the necessity for the large expenditure now proposed? What reasons can gentlemen give for voting away money for such an object? As I have remarked, sir, we did not make any appropriations for the Exhibitions of 1851 and 1855 and 1862; yet, sir, I believe we got along very well. I had the honor to represent the State of Illinois in the Industrial Exhibition at Paris in 1855; and I paid my own expenses. I did nor ask any money from the State of Illinois; and the State of Illinois did not come begging to Congress to have me or anybody else paid.

Mr. ROSS. I desire to ask my colleague whether he did not vote yesterday for an appropriation of $25,000 to pay for printing a Republican campaign document.

Mr. WASHBURNE, of Illinois. I do not wish to be interrupted by any such impertinent question. I have not voted for printing any campaign document. If my colleague wants to justify himself for voting for this measure he may do so to his constituents. Gentlemen talk about the necessity of this appropriation in order to send forward the specimens of American ingenuity and American industry. No man feels prouder of these things than I do, but such specimens can and will be sent without a charge upon the national Treasury. Why, sir, in that Exhibition of 1855, one of the grandest specimens of American ingenuity, one of the most useful of inventions was the mowing and reaping machine of Manny, then of my district. That machine, which attracted as much attention as anything else there, was taken there by the public-spirited inventor, Mr. Manny, now no more, but whose memory deserves a monument for what he accomplished for the agricultural interest. He scorned to ask the Government for pecuniary aid in exhibiting his great and useful invention. On the other hand, by the exhibition of his machine there, he attracted the attention of all Europe to it, and found his return, not only in dollars and cents, but in the personal gratification he derived.

Let me say on behalf of Illinois, as the gentleman alluded to my State in his speech yesterday, that she does not come here and ask to put her hand into the Treasury in order to pay for the transportation of any property or persons that may desire to participate in that Exposition. Our Governor, as I see by a recent paper, has already appointed an agent on behalf of the State who will attend the Exposition of 1867, either at his own expense or at the expense of the State. Illinois has not come here and petitioned Congress to intervene in this behalf.

Now, sir, I desire to call attention to the particular provisions of this joint resolution. Let us see whether members know what it is they are proposing to vote for. My distinguished friend from Massachusetts, like a skillful military man, finding that his real position was weak, set up a tremendous cannonade along other parts of the line in order to divert attention from the weak point; and I do not know but that, amid the roar of artillery and the screaming of shells and the shouts of anticipated victory, the attention of the committee was somewhat diverted from the real provisions of his measure.

Sir, it reminded me of an incident of the battle of the Wilderness, on that terrible 6th of May, when so many of our brave sons laid down their lives on that blood-moistened battle-field that the nation might live. About eleven o'clock at night, when all was apparently quiet, in the lines of the rebel center a most terrific and prolonged yell was heard, which continued for a long time. No one in our lines was able to divine what it meant. No one could tell the reason of this prolonged and terrific rebel shout and hiss. It was only since the capture of Lee's army at Appomattox Court-House that I learned, in conversation with a distinguished rebel general, who was present on the ground, what it meant. I asked him what was the cause of it, and he replied, "Our right was very weak, and we feared you would attack us there; so we set up that yell in the center to call your attention from our weak point." So it is with the gentleman from Massachusetts. By his plausible and ingenious speech, talking about everything else except the proposition under discussion, he undertakes to divert our attention from the weak point in his line while he puts his bill through! [Laughter.]

Now, Mr. Chairman, I want candid, plain, country members to come and talk with me a little about this joint resolution on which we are now about to vote. The very first line of the very first section gives away $100,000. Now, $100,000 for what? "For the purpose herein specified." What is the purpose herein specified? It is, first, for the compensation of the principal agent of the Exhibition in the United States, whose salary for the period of his service shall be at the rate of $2,000 per annum.

Here is the first new office we make, and pay a salary of $2,000 per annum.

What else? Second, for other new offices and new compensation! Why, sir, it is for the compensation of four clerks in New York and four clerks in Paris, whose salaries shall be as follows: one at $1,600, one at $1,400, and two at $1,200 each.

Four clerks in New York city and four more in Paris, to be employed indefinitely at a given annual compensation; and to do what, all of these eight clerks? Can any man tell me how they are to be employed and what they will have to do except drawing their salary?

Then next we have, as number three, a provision for the compensation of professional and scientific commissioners, ten in number, to be appointed by the President, at the rate of $1,000 each per annum, $10,000.

Ten "professional and scientific commissioners" with salaries amounting in all to $10,000, and what are to be their peculiar functions, except drawing their salaries?

Now, Mr. Chairman, I hope my distinguished friend from Pennsylvania [Mr. STEVENS] will not take advantage of his great influence with the President to secure all these appointments. [Laughter and applause.]

Mr. STEVENS. Oh, no; I will only ask for two.

Mr. WASHBURNE, of Illinois. My friend says he will be satisfied with two of them, and that will leave eight for my honorable friend from Massachusetts. [Renewed laughter.]

Here, Mr. Chairman, are only nineteen new officers, whom we propose to pay out of the public Treasury, when we hear a clamor all over the House, on this side and the other, "No more new officers, no increase of salaries. This is the time for retrenchment and reform." Yet at one fell swoop we are asked to provide for the appointment of nineteen new officers and to pay them out of the public Treasury. For what? Why are we to tax our constituents? Why are we to tax the whole people of the United States? Why, sir, to pay these men who want to go abroad at the public expense, and have goods, wares, and merchandise of private individuals transported free of cost to foreign countries.

Mr. Chairman, it might be a good thing to have a representative at Paris during the time of this Exposition. If we could only appoint my distinguished friend from Massachusetts I would say, amen. I might then turn in and help his bill through, for he, with his intelligence, with his suavity of manner, with his splendid deportment, would do us infinite credit at the French court. [Laughter.] Why, sir, with a swallow-tail coat, a white choker, and tight breeches he would flourish in the *salons* of the Tuileries equal to any Frenchman in all Paris. [Renewed laughter.] It would, indeed, be a very grand thing to be there at the Government expense. After a comfortable stroll in the morning he could go and take his breakfast at the "Trois Frères Provencals," or at Dufour's, or at Very's in the Palais Royal, which property I believe they tell us once belonged to the rotten old Duke of Orleans, Philippe Egalité as he called himself in the Revolution; and he could dine, too, at the Maison Dorée on the Boulevard des Italiennes; and in the evening he could waltz with the little misses in their teens at the Château des Fleurs or the Jardin d'Hiver. [Laughter.] And from thence he could go to the Café Anglais and get a *petit souper*. [Laughter.]

Further than that, there are other and nobler things for a man to go to Paris to see, particularly at the public expense. He could go out to the galleries at Versailles and look at the magnificent paintings of all the greatest artists and which illustrate every great event in the history of France from the earliest days. He could go, sir, to the Place de la Concorde, formerly the Place de la Revolution, where the best blood of France ran in torrents during the Revolution. He could wander through the Boulevards. He could visit the Place de la Bastile. He could go to the Jardin des Plantes and to St. Cloud. In the evening he could pass out through the grand Arc de Triomphe and take a pleasant little airing in the Bois Boulogne. He could wander around and look at all the places famous in French history. He could enter the prison of the Conciergerie, where the Girondists, the most gifted and eloquent and generous men in all France, were incarcerated before they were brought to the revolutionary tribunal, and he could see where, after they were guillotined, their headless trunks were buried in pine boxes at a cost of twenty-two francs each to the republic! Sir, who would not go to France at the public expense?

Mr. THAYER. Will the gentleman allow me to ask him whether he thinks the chairman of the Committee on Foreign Affairs could do all that on $1,000 a year?

Mr. WASHBURNE, of Illinois. That would depend upon circumstances. I do not think my friend from Massachusetts is very extravagant. They can live very cheaply in Paris.

But, sir, to go on a little. Here is a provision in the bill that strikes me as most singular;

Fourth. For the erection of any additional struc-

ture which may become necessary for the proper exhibition of any of the material products of the United States, the sum of $50,000: *Provided*, That one half the cost of said structure shall be assessed upon the owners, proprietors, or exhibitors of the articles and products for the exhibition of which it is erected, and good and sufficient guarantees taken for the reimbursement thereof to the Treasury of the United States.

That is a most extraordinary provision. We are acting here, as I understood the gentleman from Massachusetts [Mr. BANKS] to say, under a polite invitation from the French Government, and it is a polite Government. Sir, you are invited to be present, as the guests in a measure, and in the presence, of the French nation and participate in this grand exhibition. And when we get there does the gentleman say that we are to be taxed rent for the room we occupy at the Exhibition? I do not believe that can be so, for it is not in character with the French people. Is that the way my distinguished friend from Massachusetts invites his neighbors and friends into his magnificent château in the good old town of Waltham? [Laughter.] Does he ask his guests to pay rent for the room they occupy when they visit him? And permit me to say to my friend, I have a great regard for Waltham. It is the birth-place of my maternal grandfather. [Renewed laughter.] And let me here remark in passing that this puts me in mind of an incident that happened the other day in a discussion, when the gentleman [Mr. BANKS] said I had taunted New England. Sir, that is not so. I never taunted New England. She is my mother, and I love her because she is my mother. And it is because I would see New England great and glorious, and reaching the position which she is entitled to in the face of all mankind, that I sometimes, as a New England man and proud of my own native State of Maine, venture to suggest that she is not always as liberal and just to other sections as she should be.

And the gentleman's colleague [Mr. ALLEY] took particular pains to tell the House and to tell New England that I was opposed to everything from that section. That was a strange statement to be made by that gentleman when he was using his official position in behalf of a gigantic New England interest, and if the spirit of his measure should be carried out it would crush a vital interest of eight million people in the Northwest. I mean the obstruction of the navigation of that great highway of commerce, the Mississippi river, by the building of bridges which interfere with the navigation, and then legalizing them by act of Congress, closing up the great natural channels of transit, and making all our people tributary to the railroads alone which are now devouring their substance.

Then for expenses at Paris and New York as the commissioners may direct $5,000 is appropriated. Sir, who are these commissioners, and how is this money to be expended, and for what particular purpose? Where is the responsibility? To whom do they make returns? We are voting away the public money with no guarantees from anybody.

And now I come to the amendment which the gentleman from Massachusetts [Mr. BANKS] proposes to introduce, and I ask the attention of the committee while I read it and they will see how $48,000 more is to go:

To provide necessary furniture and fixtures for the proper exhibition of articles and products of industry of the United States according to the plan of the imperial commissioners in that part of the building exclusively assigned to the use of the United States, $48,000.

This is in the same line I have referred to, paying by the Government the expenses of private individuals in furthering their own interests.

And now I come to that section in the original bill, the language of which the gentleman proposes somewhat to change, but not I think very materially. This section was too extraordinary even for the capacious demands of the chairman of the Committee on Foreign Affairs. It directed, at the request of the Secretary of State, that the Secretary of the Navy should furnish one or more public vessels for the transportation from New York to France, and return, of such articles as might be offered under the direction of the commissioners at New York for exhibition at Paris. And the Secretary of the Navy was authorized to transfer from the general naval appropriation to the account of the Exposition at Paris any expense necessarily incurred in preparing vessels assigned to this duty for receiving and transferring articles and products intended for exhibition. That, I say, was too much even for the capacious demand of the chairman of the Committee on Foreign Affairs; so he has qualified it to a very little extent, but not materially. According to the amendment which the gentleman proposes, the President of the United States, instead of the Secretary of the Navy, is authorized and requested to furnish one or more public vessels for the transportation from New York to France of such articles and products of industry of the United States. About all there is of it is the change from the Navy Department to the President.

I will here ask to have read a letter from the Secretary of the Navy in which he treats of this subject, and in which he says that in order to carry out the provisions of the original measure as proposed by the gentleman it would cost $300,000. That amount, added to the $100,000 directly appropriated, would make it, as I stated, $400,000.

The Clerk read, as follows:

NAVY DEPARTMENT, *February* 1, 1866.

SIR: I have the honor to acknowledge the receipt of your letter of the 26th ultimo, calling my attention to the second section of a joint resolution to provide for the expenses attending the exhibition of the products of industry of the United States at the Exposition in Paris in 1867, and respectfully submit the following replies to your several inquiries:

1. There are no vessels belonging to the Navy which are not dismantled now unemployed, or likely to be unemployed during the year 1866, adapted to the contemplated service.

2. Naval vessels are not adapted to the carrying of bulky freights. Every portion of a war vessel is specially arranged for that service and not for freight, and these arrangements cannot be interfered with without material changes and much discomfort to officers and men. The expense of converting a war vessel into a freighting ship would be very great, and then to restore her to her original condition as a naval vessel after such service was performed would involve as large or a greater amount. It would doubtless be more economical for the Government to charter a vessel requiring no alterations.

3. There is not a surplus of unemployed officers and men in the service, the number of each having been promptly reduced to the lowest peace standard when hostilities ceased. The Department cannot, therefore, perform the proposed irregular duty for which it has made no estimates and has no appropriation, without inconvenience and embarrassment.

4. There is no "general naval appropriation." All the appropriations for this Department are specific, and can only be used for the purposes specified in the act which authorizes them. The only appropriation of a general character is that for "contingent of the Navy," which amounts to $250,000. As the expenses of courts-martial, travel of officers, and the vast multitude of minor matters are paid from this appropriation, for which careful estimates are made, it will be apparent that no portion of that appropriation can be diverted for any such purposes as those proposed in the resolution, yet there is no other.

If Congress decides to embark in this Exhibition, I would suggest a special appropriation from the Treasury. Should the matter be devolved upon this Department, I should doubt if the service could be properly executed for a much less sum than $300,000.

The proposed expenditure is, however, in no sense a naval expenditure, has no connection with the naval service, is not under naval supervision or control, and the amount which the Paris Exhibition may cost the Government ought not to be drawn from any of the naval appropriations. The resolution is in conflict with law and usage, which requires that all naval appropriations shall be for specified purposes. Neither the Department nor any of its bureaus has made estimates for any such expenditure, nor should their estimates be thus interfered with.

It has not been usual in our past legislation for Congress, to direct that one Department of the Government should be subordinate or subservient to another Department, or to place the resources of one Department at the disposal of another. A true and correct exhibit of the expenses of the Navy Department will not go forth to the country if the naval appropriations are by resolution transferred to the State Department to be used for other than naval purposes.

I have the honor to be your obedient servant,

GIDEON WELLES,
Secretary of the Navy.

HON. J. W. GRIMES, *Chairman Committee on Naval Affairs, United States Senate.*

Mr. WASHBURNE, of Illinois. The reasons which are set forth in that letter in opposition to the section as originally reported apply with almost equal force to the section which is to be proposed as an amendment. And I desire to say here that although I have been compelled to differ with the Secretary of the Navy on many questions, I tender to him the tribute of my thanks for his efforts in attempting to prevent the subordination of his Department to private and corporate interests.

There is another section that I will now advert to. The gentleman in his committee-room made some provision about the return of the amount of freight, but as he warmed up in his speech and saw evidences of satisfaction all around him and an apparent eagerness to vote away the public money in this direction, he proposed to strike out that section in which it was provided that the Government should get a little money back, so that there would be nothing left of that, and nothing will come back to our empty coffers.

Now, sir, I am opposed to this measure for the reasons I have stated, and further on the ground of our relations with the Powers of Europe. Do not members of this committee know that we have been scorned, insulted, and spit upon by every nation of Europe except one during the long and bloody war through which we have passed?

Mr. SMITH. I would like to ask the gentleman a question just at this point. I understand this Exhibition is open to the world. I would like to know if the gentleman has any information, directly or indirectly, that the republic of Mexico has been invited to be present with her articles of exhibition.

Mr. WASHBURNE, of Illinois. Mr. Chairman, of course there has been no such invitation, for the iron heel of the military power of France has crushed out the life of the Mexican republic.

Now, sir, I have no prejudice against the French, for French blood flows in the veins of those nearest and dearest to me. I cannot forget the friendship of France, Bourbon France, to us in the days of the Revolution, when Benjamin Franklin, dressed in his shad-bellied coat, was kissed by the ladies of the court of Louis XVI. I cannot forget that France was the country of La Fayette and Rochambeau, of De Chastelleux and De Lauzun, and so many other noble Frenchmen who aided us in our revolutionary struggle. I cannot forget that French soldiers in the darkest trials of the Revolution marched with our own soldiers shoulder to shoulder, and elbow touching elbow, to achieve our independence. I do not and I cannot forget all these things. I love France for what she did for my country. But as for England, it is quite different. I feel toward that proud, haughty, and arrogant nation no single friendly emotion.

But speaking more particularly as regards France, in the face of events and of history, I cannot overlook the conduct of that empire toward us during our recent struggle for our national existence. How swiftly and with what indecent haste did she, as well as England, accord belligerent rights to those red-handed rebels who were attempting to destroy the fair fabric of our Government. How she failed to give us any sympathy, and how all her moral support was given to rebels and traitors, and the efforts she made to get other nations to join her in acknowledging the bogus confederate government. I cannot forget that in the darkest hours of our trial she stabbed us in the most vital part by planting her troops, as a continuing menace and an eternal defiance to us, in the neighboring republic of Mexico; and those troops she keeps there to-day. I cannot forget that she has placed upon the throne of that country an "Austrian adventurer." I cannot forget these things; I do not think we are called upon to forget them. And with these things fresh and deep in the hearts of our people, I say there is every reason why we should not be too forward in this matter.

There was one extraordinary remark made by the gentleman from Massachusetts in his speech of yesterday to which I wish to call the attention of the committee. It was one which struck me with surprise and astonishment. He said that "Napoleon desires a war with this

country." Sir, that may be true, but I doubt it. If France really does desire war with this country, let me tell the gentleman from Massachusetts that the people of this country will accommodate him in the very shortest space of time. France may not perhaps have acted as badly as England in our struggle. Pirates may not have come out of French ports as they have from the ports of Great Britain. I suppose if there was an Exhibition in London we should have proposed here another appropriation to go there, although she is a nation that has covered the seas with confederate pirates; a nation which has by that means almost entirely driven that commerce from the ocean which before the war had dotted over all the seas with whiteness. I suppose my distinguished friend from New York, [Mr. RAYMOND,] representing the great city of New York, with all its vast commerce, on the Committee on Foreign Affairs, would vote for an appropriation to go to an Exhibition in England. I would not, sir.

After getting up here and charging that Napoleon was desirous of getting into a war with us, what does my gallant and brave and distinguished friend from Massachusetts propose to do? He proposes to take his hat in his hand, go over to France, and making a low bow to Louis Napoleon, say to him that he is not at all offended at all he has done and proposes doing to our country. It reminds me of a little incident that occurred in the olden time of St. Louis. A distinguished citizen was in the habit of giving great parties there. There was a rollicking son of Erin who sometimes got invitations to those great parties, and who sometimes did not. To this party he did not happen to be invited, and when that became known it was a matter of considerable remark. But when the party came off, lo and behold! almost the first man present was this son of old Erin. He was saluted by his friends, and one of them said, "Why, Pat, how came you here? I thought you did not get an invitation." "An' sure," he replied, "I was not invited, but I just thought I would come to show I was not mad at not being asked." [Laughter.] That seems to be the idea upon which the gentleman from Massachusetts would act. He tells us that France wants war, and yet he proposes that we should make this appropriation, as a propitiation to her, no doubt, and to say to her, "Oh, don't; keep hands off; we are not mad; we are willing to do whatever is right."

The gentleman spoke yesterday about almost everything but this joint resolution. He spoke of the greatness and glory of this country, as if we did not appreciate those things as well as the gentleman from Massachusetts. I hope he will permit us country members to have some share with himself in the glory of our common country. I think we all feel the same pride in everything that belongs to our nation; in everything that belongs to her glory and her progress, and what I trust is our destiny, as the gentleman from Massachusetts feels. I think others share with him in the glory of the Navy, and in the glory of those distinguished naval heroes whose

> "March is on the mountain waves,
> Whose home is on the deep."

I think that others can share with him in the glory which is due to the old sea-dog, Farragut, who lashed himself to the rigging of the Hartford, and from there directed one of the greatest naval actions of our time. I think that others can feel equal pride in the glory due to gallant Porter for his bombardment of Grand Gulf, and for his capture of Fort Fisher in connection with the gallant son of Connecticut, General Terry. We share with him in the pride with which we revere the memory of another noble son of Connecticut—now, alas! no more—that brave and Christian gentleman, Admiral Foote. And he must permit us to share with him in the glory of our Army and the fame of the long and honored list of its commanders. He must permit me to share with him in the glory of that unrivaled and modest soldier from my own State who led our armies through the wilderness of civil war to a complete and final triumph, and who may yet, in the providence of God, lead on the loyal millions of this country to a victory in peace which will be no less renowned than a victory in war.

Sir, we all have an interest in these things as well as the gentleman from Massachusetts. Does he not suppose that those who may oppose his bill may not have as full an appreciation of the glory and grandeur of our country as himself? I trust, sir, we all have a common pride and a common love for our country.

Sir, as a sort of last resort, my distinguished friend from Massachusetts brought in a baggage-wagon in which to carry his bill through the committee. Sir, that baggage-wagon will perhaps become historical. I, too, have an interest in that baggage-wagon; but my interest is somewhat different from that of my friend from Massachusetts. If matters shall go on as they may, instead of sending that wagon to the Champ de Mars, it might become necessary to send it to the Halls of the Montezumas. And, sir, instead of sending our plain republican uniforms, blood-stained on many glorious battle-fields, to be sneered at by the flunkies of Europe, it might be necessary to put them on the backs of our noble soldiers, and let them follow the wagon, or rather let them go and not "wait for the wagon" in the same direction.

Sir, as an American, with an American heart and American feelings, I am opposed to this project. Let us occupy the independent position that belongs to a great and powerful Republic. Let us not cringe for the favor of the monarchies of the Old World. Self-respect forbids that we should so soon manifest so great an anxiety to get into the company of nations so recently our deadly enemies. Let the men of other nations come to us if they like. How long is it since the Americans were hissed at and reproached throughout every capital in Europe save, perhaps, one? Yet, while that spirit of hostility is still felt, though perhaps suppressed; while France keeps an army upon our borders as a menace, why should the American Congress propose to take the money of our constituents to do this thing? Sir, I say that we have no moral right if we have a constitutional right to do it. We have no right to vote away the money of all for the benefit of a few and get no return for it. And I trust that the American feeling will predominate here to-day and that we shall assert before all Christendom the position which it becomes us to occupy. Having put down the greatest rebellion known in history; having restored and regenerated the Union; having attained a *status* above all other nations, let us not lower our dignity and degrade our high position by passing a bill like this.

Mr. CHANLER. Mr. Chairman, I regret to obtrude upon the House any remarks of mine upon the question; and I should not do so but that I feel called upon to state the position which I occupy.

I am, as a general principle, in favor of all schemes of this character as calculated to develop that spirit of amity among nations which it is so desirable to maintain, as tending to advance the dignity of labor, as being a move in the right direction for the benefit of all men and especially the industrious and ingenious laboring classes.

I must state, however, that I have objections to the manner in which this proposition has been advanced and to some of the arguments which have been used in its advocacy. I regret the expense which the enterprise will entail upon the nation at a time when our financial resources are not so abundant as might be desired. But no consideration of this kind is sufficient to outweigh, in my judgment, the great importance and I might say necessity of the American people being becomingly represented at the great national Exhibition in Europe.

I regret, sir, that a personal element has been introduced into this debate by the gentleman who has just taken his seat. It is not my province to defend the honorable gentleman from Massachusetts against the ill-timed and irrelevant remarks of which he has been the subject. I am never disposed to raise my voice in favor of those who take part in enterprises of an extravagant or partial character; but it does seem to me that the assault which has been made upon the gentleman from Massachusetts was without reason and in the very worst taste. The gentleman from Illinois was evidently wounded in his personal pride by the want of attention paid to himself during his visit to the capital of France; and he gives us very reasonable ground for the inquiry how a gentleman who speaks such very bad French should show such intimacy with the very worst classes of French society. If, sir, he proposes to accompany this expedition at his own cost, it is to be hoped that the gentleman from Massachusetts, availing himself of the hints which have been thrown out here, will not be seen walking on boulevards in company with the gentleman from Illinois.

Sir, his remarkable egotism is shown in carrying himself back to France in debate here, under the pretext of the tie of blood. I doubt if France would ever have claimed the gentleman. There is scarcely a Frenchman who would have been guilty of the groundless discourtesy toward another of his own party on a pending measure of public interest.

The gentleman from Illinois has denominated American industry and American ingenuity, out of his personal antipathy to the gentleman from Massachusetts, with the debasing name of gimcracks. Such a thing is beneath the contempt of criticism, and damns the critic. I leave him to the public judgment. If there is anything distinguishing in the characteristic of American labor, it is in the practical utility of all their inventions. If there is one thing for which we have reason to boast over another, it is that we have a disposition toward utility, which the Old World, blessed with cheap labor and wrapped up in luxury, seems to overlook. The patents we have sent to Europe are laden with the poor man's blessings, bringing comfort to his home and saving him from mental and physical toil. Yet these are what the gentleman calls American gimcracks, which we ask to send to the World's Fair at Paris.

Mr. Chairman, the reason why I have undertaken to speak on this question at all arose from a deeper feeling than a mere personal one. I had no intention of taking part in the personal debate which has arisen on this proposition. I am not able nor am I willing to criticise the motives of the sagacious ruler of France in organizing for the first time, according to the chairman of the Committee on Foreign Affairs, a governmental Exhibition. As a guest to such a superb feast we have no reason to cavil at the form of the invitation. It is a noble tribute to the individual enterprise and ingenuity of the American people.

But, sir, this new plan of conducting the Exposition of Paris deserves at least a passing notice by this House. When the great Exhibition of London was first proposed, springing, as it did, from a local, private, scientific body, with the sagacity of a great lover of the human race and the dignity of a great statesman, Prince Albert seized the opportunity and made it a national enterprise. Parliament adopted this suggestion and appropriated money for it, and the Queen and her family added their private subscriptions; but it was all done in view of promoting the dignity of labor and of preserving the individual, popular character of the scheme. It was, in fact and theory, a display of the industry of the people of Europe in the broadest sense. The present exhibition of the ingenuity and industry of the laboring classes has been covered with the imperial mantle of the "nephew of his uncle." And there may be some show of propriety in thus appropriating the control and conduct of the Exhibition, for the idea of a great international fair is indeed due to France. It was the offspring of that son of Minerva, the great Napoleon. It was at his suggestion that the world was given this new system of industrial

free masonry. How significant is the humble imitation of his nephew.

Now, sir, that brings me to this point in regard to these international exhibitions: it has been most ably stated that those exhibitions which excluded foreign nations were rather for the gratification of national pride, while those to which all the world was invited were for the purpose of national improvement. The French Emperor has enlisted himself in the matter, and has invited the American Government to participate. As I have said, I do not propose to cavil at the form of the invitation; but let me say to the chairman of the Committee on Foreign Affairs that in his zeal for our manufacturing interest he seems to have lost sight of the great fundamental principle of our Government.

The recognition of the people of this Union in the form of invitation, they being the sovereign power, by the head of the French Government, would, it seems to me, have been at once courteous and consistent.

Sir, there is a broad and deep distinction which the honorable gentleman never has forgotten, though he may for the moment waive it, between the Governments of Europe and the Government of America; and that I may not be misunderstood, and that the motives with which I address the House may be fully appreciated, I would draw the honorable gentleman's attention to the admirable debate in the French Legislative Chamber in which M. Thiers took part. I do not know that it is our duty now or at any time to make declarations of our peculiar form of government, but I must make the contrast between the language of the gentleman from Massachusetts, who acts with the majority here as the representative of the sovereign power of the people, so meek, feeble, and melancholy, as compared with the high position of the noble Thiers, fighting in a hopeless minority against the great military despotism of France. I allude to his address upon the Emperor's speech, the speech of that Emperor of whom the gentleman from Massachusetts spoke in words of eulogy and in such flattering terms. I would that the honorable gentleman had said something of the French people; I would that he had dwelt upon those bonds of sympathy which exist, not from accident but from a deep-laid policy, between the people of America and the people of France, whether it be a Bourbon or a Napoleon who wields the destinies of that nation. Sir, in the Legislative Chamber of France on the 26th ultimo, M. Thiers, the eminent French historian and statesman, delivered a notable speech in which he makes these most noteworthy observations in opposition to the Emperor of France.

He said:

"Since 1852 we have lived in the hope, founded on what seemed to be an assurance, that the concentration of power in the hands of the Emperor would only be temporary. The general feeling has been that as soon as calm should return the institutions which the country had enjoyed at other times would be restored. This expectation was founded on the constitution itself, which can always be modified by the initiative of the Emperor, with the consent of the Senate. It resulted from the memorable declaration of the 14th January, 1852, that if liberty was not in the foundations of the edifice it would one day be its completion, and also from the decree of November 24, which reëstablished political discussion here. Encouraged by those acts and declarations, the nation looks wistfully for those institutions which the whole civilized world acknowledges alone capable of assuring liberty and security, and is naturally impatient to see them restored, now that the Government itself every year acknowledges that the calm has returned. Hitherto the restoration of liberty was only a question of time, not one of principle, which it now seems to have become. Last year, and again this, the speech from the throne represented those institutions as calculated to weaken the Government and replace it under the yoke of the Chambers. The question has ever been asked, why resume on the morrow what was rejected on the previous day? The Senate has commented on and developed the view of the matter, and the Emperor has replied. Why should the legislative body alone be mute? Why should it not respectfully, but frankly and calmly, assert the rights of France? Is it necessary for that to fall back on those rights which the French Revolution declared imprescriptible, as existing before all constitutions, without them, and, if necessary, in spite of them? [Approbation on the Opposition benches.] No; it will suffice to adhere to the existing written rights of France. The constitution of 1852 places two rights in presence, that of the dynasty and that of the nation. The former is not open to discussion, nor does any one wish for a moment to bring it into question. [Hear, hear.] The sole end we pursue is the reëstablishment of liberty in France."

Sir, I do not feel that it is a matter of much importance whether the Government of France issues this invitation or not in the manner it has; but I do demand that while we recognize that "imperial master," sitting upon his throne by force of arms, we shall at the same time recognize the industrial classes of France. As the Representative of a large mass of the industrial classes of my city, I cannot allow this measure to pass without a protest that no notice has been taken of the industrial classes of France in this joint resolution. Such a recognition would have been but a fitting tribute to those brave men who broke down the barriers of feudalism in the streets of Paris, and whose ingenuity and industry opened the locks of the Bastile and liberated the victims of royal power. I speak in sympathy with these men, and I believe the gentleman from Massachusetts shares that sympathy with me. He would not desire, I know, to let it go forth to France and to Europe that the Congress of the United States has ignored the laboring classes of France.

Now, sir, there is no more practical people than the French, excitable as they are. The gentleman is widely mistaken if he thinks that the countrymen of Voltaire and Rochefoucauld have forgotten the secret springs of human nature or will fail to see the motives of our action in a clear light. If he so thinks, he is most lamentably mistaken. But we know that in the heat of debate, in the pursuits of our objects here, we sometimes use expressions which are not always coherent or consistent. When we consider that this is an Industrial Exhibition involving the labor and industry of the masses and the ingenuity and enterprise of the whole people of the whole world, it does seem to me somewhat in the nature of bathos for the honorable gentleman to have made allusion to what he calls the "court of nations." Can it be that American citizens who are generally called abroad "blackguard bullies" and "ignorant demagogues" are invited into royal presence in the "court of nations?"

Sir, I do not wish to make verbal strictures, nor will I belittle this question by going too intimately into details. I wish simply to say that the honorable gentleman's very severe practice at the court of King Cotton, in my opinion, should have given him a more delicate appreciation of the peculiar habits and customs of courts where silk and satin prevail, and whose ideas upon the question of the centralization of capital and power and of hereditary privileges all combine to shock the sensibilities of the American people and keep us aloof, when we are not driven into actual contact, by the strict etiquette of their system.

Sir, it seems to me that the honorable chairman of the Committee on Foreign Affairs has shown too much zeal on this occasion to have us appear in this "court of nations." There is too little of republican simplicity, too much of the habits of "shoddy," too little of the example of Benjamin Franklin. I do not believe that the gentleman erred in this way intentionally, and the American people will pass it by lightly.

But, sir, let us not deceive ourselves. The object of this invitation to take part in this scheme, controlled as it is by the Government of France, was not to pay us a compliment. I have a reasonable right to conclude so from the manner of the invitation and from the practical results of such exhibitions as this heretofore. It is a moneyed speculation. It will bring to the capital of France the millions of money that will be spent there by those who visit its various resorts of pleasure and marts of trade. It will enable the French mechanics, under the peculiar system of vigilance and restriction which they know but we do not, to examine at their leisure every article of American ingenuity. They are welcome to it; but do not let us go there without a full knowledge of our position and without bearing in mind—I say this with great deference, for I do not know what the opinions are of the distinguished chairman of the Committee on Foreign Affairs on the subject of free trade—that we become the guests of the most restrictive of nations, which by its treaties forces its products on its allies. Let us not, then, be too zealous in accepting this flattering invitation.

Now, sir, if there is one thing which the French conceal with more adroitness than another, it is the spirit of economy. We know that the cry which the great Napoleon raised against England was that it was "a nation of shop-keepers." I hope the effect of this Industrial Exhibition will be to make France a nation of shop-keepers. I hope that its tendency will be to lessen its martial pride and to develop that individual industry for personal independence which will be a richer boon to that country than all its boasted victories and its magnificent armies.

Sir, I have another objection to this joint resolution—one which has been presented by the gentleman from Illinois [Mr. WASHBURNE]—and that is the ambiguity of the resolution. The gentleman from Massachusetts, [Mr. BANKS,] in his speech covered with a flood of eloquence, I will not say verbiage, but with a well-arranged display of elocution, perhaps made up of rather questionable facts and rather imaginative statements, the main proposition, the question of money. All the advantages which can accrue from this Exhibition will accrue to those who take part in it. The advantage which a study of the fruits of European ingenuity and industry will give them will be all their own. Why not allow them to pay for it? And let me draw the gentleman's attention to a manifest inconsistency. He proposes now that a large appropriation shall be devoted to a specific purpose, to transport across the ocean the ingenious devices and skillful fabrics of our people. But a few weeks since a most fatal attack was made upon the naval arm of our Government; and then the gentleman joined with the gentleman from Illinois [Mr. WASHBURNE] in assailing that most important branch of our Government. You see his zeal now in behalf of the "court of nations!" When it was proposed to dismantle the navy-yards of America the gentleman gave the proposition his voice and influence; and yet it is not unlikely that it will be by ships of the Navy that these ingenious devices and beautiful fabrics will be transported across the water. Could not the gentleman have been consistent? Could he not have anticipated the necessity of demanding this appropriation?

Let it be remembered, also, that under the policy of the gentleman's party, the States south of the Potomac are to have no share in the benefits of this appropriation. The products of the South find no place and no recognition in this resolution. Sir, this should not be. The great occasion now offered to the American people of appearing united in the development of our national resources, and achievement of our share in the work of universal civilization, should be taken advantage of by this Government. The industry and ingenuity of this whole Union should be fully and fairly represented to the European world at this International Fair at Paris. It will be a harbinger of our victory against all our foes, for it will prove that we have conquered ourselves, and are a nation at peace within itself.

These are the objections which I have to urge against this measure. Whether they will be fatal to it or not, we cannot tell. Having stated these objections, I stand here to-day as the advocate of this scheme.

Now, how does this question interest the American people? I have already alluded to the great characteristic of our industry, utility. That utility is the result of the necessities of those who are the descendants of men whom these Governments of Europe drove from their shores. I want those descendants to go back to Europe under the protection of the Government founded by those who were persecuted and banished from Europe. As Franklin stood before the court of France, the proud repre-

sentative of this then humble Republic, so now I would have the distinguished gentleman from Massachusetts, [Mr. BANKS,] with the simplicity of his great prototype, represent this Republic now in its vigor and strength in the court of nations. That would be a triumph greater and more noble than any victory of arms.

We are a democratic people, and "peace" is emblazoned upon our institutions. Our history fully illustrates that "peace has her victories as well as war." Peace is the corner-stone of all true industry, and by individual industry, by toil of brain and toil of hands, this nation lives, recognizing no idle class of careless nobles. Still, when necessary we have proved that we can become a warlike nation, to punish insult, oppression, or wrong. Sir, we are proud of the friendship of La Fayette, who gave his youth to our aid, and fought beside our own great exemplar, the illustrious Washington. We are proud of the French blood which was shed upon the sea and upon the land by distinguished sons of France in our cause, thereby establishing this Republic and affording a home and a refuge for the humble descendants of the Huguenots who are scattered all over this land, and I would have them, perhaps in the form of the distinguished gentleman from Illinois, [Mr. WASHBURNE,] revisit the land where under the Bourbons whom the gentleman so much admires their fathers were at one time protected, and at another time persecuted and banished. Sir, I am always ready and willing to extend courtesies to France, and I hail with pleasure this opportunity of accepting the hospitality of her Government. I do not wish that we shall stand back and remain at home from prejudice to the existing institutions of France.

The invitation of Napoleon as the head of the French people, the ancient allies of the American people, couched in whatever language it may be, cannot seriously offend us so as to disturb the sympathy between the two nations. Why, even should that astute politician, that shrewd leader, seek to give us offense, we can outlive and live down his incivility. Before this Exhibition takes place he may again be a refugee upon our shores as he was once before, and his great uncle once in vain hoped to be. The Emperor Napoleon brought face to face with the American people through their delegates to this Exposition would present a contrast which our people would be sure to appreciate. I would have our people go there from the remotest corners of our land; those who have been educated from the old horn-books of English prejudice, and imagine there is no language but their own. In the spirit of universal amelioration of the race which holds dominion in this land, I would have our educated men, our scientific men, and men of every class go over there and mingle in society with the skillful workmen, the scientific men, and the deeply learned men of other lands, and thus bring home with them a knowledge of what is best abroad, and a greater contentment with what they have at home that is free.

And I would have this done in a spirit of promoting immigration. And I must once more allude to the remarks of the gentleman from Massachusetts [Mr. BANKS] in regard to the peculiar way of inducing immigration which was adopted by him. Misled by a statement of the honorable gentleman who now represents us at Belgium, the gentleman from Massachusetts, I think, has been guilty of a slight confusion of ideas. I do not think he has fully stated the case. I have here a book which I think will corroborate to a certain extent, but more fully exemplify, what he said with regard to the wonderful region of the diamond mountains of Virginia. Every one in the House apparently listened with astonishment and very great interest to the gentleman from Massachusetts when he introduced the subject of the diamond mountains of Virginia. It reminded me, sir, of what I somewhere had read on the subject of diamond mountains, and in searching through this volume I found a full statement of that matter, and I wish to read it here to aid in clearing up the confusion of ideas which it is barely possible the statements of the distinguished gentleman may create in some minds as to where these diamond mountains are and who discovered them.

The author of the book I now hold in my hand was no less a person than the celebrated and learned Haroun al Raschid, who wrote many hundred years ago the adventures of that wonderful and renowned traveler, Sindbad the Sailor. I refer more particularly to that part descriptive of the thrilling adventure by which Sindbad, through the agency of a large bird, was enabled to examine and describe the riches of the Diamond mountains. And I think in that I can trace a connection between Haroun al Raschid and the gentleman from Massachusetts in the exercise of that brilliant imagination which they appear to possess in common. That which I now propose to read will enable the public the more fully to appreciate the ability of the gentleman when he undertook to depict to the emigrant in Europe the wonderful riches of this country:

"The place where it [the roc] left me was a very deep valley, encompassed on all sides with mountains, so high that they seemed to reach above the clouds, and so full of steep rocks that there was no possibility of getting out of the valley. This was a new perplexity; so that when I compared this place with the desert island from which the roc had brought me, I found that I had gained nothing by the change. As I walked through the valley I perceived it was strown with diamonds, some of which were of surprising bigness. I took a great pleasure to look upon them."

By the way, sir, this extraordinary mountain must have been the secret cause of the late civil war. The whole people were after the diamonds in Virginia.

But, sir, there is another point in connection with this highly imaginative description; and it is most remarkable in connection with the petroleum wells which the honorable gentleman from Massachusetts adroitly advertises in his remarks. Sindbad tells the same story in other words:

"What is most remarkable in this place is that the stones of the mountains are of crystals, rubies, and other precious stones. Here is also a sort of fountain of pitch or bitumen that runs into the sea."

Now, sir, I do hope that when the honorable gentleman sends to Europe the translation of his speech in French, German, and other languages, he will not forget to add this new incentive to American immigration.

Sir, it has been the proud boast of Virginia that her sons, like the Gracchi, were her jewels; and I think that it becomes us, in this hour of the Republic, to better sustain our dignity than by circulating stories which emanate from the countrymen of Baron Munchausen—incidents connected in no way with the development of our resources, and beneath the dignity of the subject.

But, sir, apart from this manner of stating the question, I am with the honorable gentleman in his effort to advance immigration. I believe it should be our grand object, imitating in some degree the crusades of old, to open up those regions heretofore almost unknown to and neglected by the white labor of the country on account of a prejudice which, however we may all deplore, we must reasonably admit did and does exist. I trust, sir, that notwithstanding the objections which have been stated this enterprise will go on. But, sir, while we are making appropriations of this kind, I think it should be the subject of our earliest effort to take care of the Navy and its officers, to equalize the pay of the two branches of the service, so that a post captain in the Navy will at least receive equal pay with his equal in rank in the Army. To-day, sir, owing to the spirit of contemptible economy which seeks upon this floor to defeat every measure which is not of such stupendous magnitude as to overcome the timid mind which usually opposes all small matters, the officers of our Navy receive no adequate compensation. By this spirit, I will not say of sectional prejudice, but of narrow-minded economy under the plea of the embarrassed condition of the country, the appropriations for our navy-yards at the South have been stricken out from the bill which should contain them.

Now, sir, I am willing to sustain this Administration in its effort to run the race of enterprise with the nations of the world. I am willing to give my vote for any appropriation which shall be necessary to put the American people on a footing with the proudest nation of the earth. But I trust, sir, that this spirit of half-way economy which neglects important home interests will cease to manifest itself here.

I hope, sir, that while we are voting salaries to those who are to be connected with the management of this Exposition at Paris, we shall exhibit a proper care for our Navy and Army officers at home.

In introducing this subject at the present time, I may perhaps be departing somewhat from the question before the House; but, sir, the subject was thrust upon my notice while I was on my way to the Capitol to-day, and I could not refrain from embracing this opportunity to bring it to the attention of the House.

Sir, if we are to be represented in the courts of Europe we should not go there with niggard hands. Let not the people of Europe turn upon you and say with derision, "How goes it with your officers at home?" I trust, sir, that the American Congress will not despise the just plea of the American officers of both branches of the service, especially of the Navy, for they are most meagerly paid.

Sir, let me close by appealing, as one of the minority here, that the American Congress shall extend to that brave minority in France a true and deep sympathy in their struggle for popular liberty, constitutional right, and national independence. Let me quote again from the language of that great model of modern statesmen who, speaking so well of America, deserves to be spoken of here by us:

"Which are the free nations? Which are those not free? We need not say. We must pain no one. Of the former, two may be mentioned as incontestably free, a monarchy and a republic: England and America. Yet in each of those countries there exist things which do not belong to liberty. Thus in America the protection of the law is often insufficient, but in spite of that America is free because nothing is done but what the nation desires. In England how many things seem opposed to liberty? Primogeniture, perpetual entail, and an intolerant national church exist, and yet England is free. And what greatness and devotedness to her cause. When all the Powers of Europe bowed before the modern giant, England alone resisted, because the nation determined and acted for itself in everything that was accomplished. Yes, gentlemen, whether a republic or a monarchy, a nation is free when it has the institutions I have already enumerated. Nations may be mistaken, but they err less than a man. The latter commits faults because, not being obliged to deliberate, he is hurried away by his passions. If he holds in his hands the destinies of a great nation he may plunge it in misfortunes. A free nation deliberates, discusses both sides of a question, and has the guarantee of reason against error. Thus, the real definition of a free nation is a being which is obliged to reflect before acting."

As a member of the Democratic party of this country, which through all the confusion and carnage of the late civil war has manfully opposed the bold encroachments of an overwhelming majority and withstood the oppression of central power through good report and evil report, I hail with profound interest the token of an independent spirit and wise statesmanship, displayed in the speech of the great French Opposition leader. To meet and extend the hand of fellowship to such heroic Frenchmen will be the noblest and most agreeable part of the duties of our representatives to the great World's Fair. And such sentiments as are uttered in the remarks I have just quoted have done much to reconcile me to vote for the appropriation, whereby we might accept the invitation of the Government in which such men, though numerically few, intellectually act a controlling part, and point to a glorious development of constitutional liberty for our allies, the French people.

Mr. GRINNELL. Mr. Chairman, my apology for asking the attention of the committee for a few moments is, that the Committee on Agriculture, of which I am a member, have passed a resolution to the effect that they desire the agricultural interest of the country shall be

represented at the approaching Exposition at Paris. I will detain the House but for a few minutes.

Let me premise by saying that I cannot follow the eloquent gentleman from Illinois [Mr. WASHBURNE] in his declaration of war against France because her people are in Mexico. That occasion has not arrived. But I do follow him with all my heart in his just efforts toward retrenchment and reform. I shall go with him to save the people's money when it can be done.

I confess, too, an admiration of that great captain of whom he spoke, and I honor him for his persistency in that long devotion to the greatest captain of the world for which he is distinguished. I hope with him that he is to be, if called by the country, the great leader, the future leader of the American people in time of peace, as he has been in perils of war.

Now, sir, I wish to say a word in regard to the invitation of the great French nation to the American people to exhibit the products of their industry.

Mr. SPALDING. Do you propose to second the nomination of Lieutenant General Grant made by the gentleman from Illinois [Mr. WASHBURNE] for the next Presidency?

Mr. GRINNELL. I will state, if the time ever comes that General Grant shall be nominated by the unconditional stand-fire portion of the country I will sustain the nomination, as I have no doubt the country will most heartily.

Mr. RADFORD. Does the gentleman from Iowa propose to discuss the bill before the committee, or does he propose to make a political speech?

Mr. GRINNELL. I have said that I should not follow the gentleman from Illinois in the discussion of any such matters. I was saying, when interrupted, that the invitation of the French nation was as considerate and hearty as could be asked. It is cordial, and is worthy of our attention. We should not forget our ancient friendship with France, the nation which sent us La Fayette, whose portrait, Mr. Speaker, is upon your left, while that of Washington, the Father of his Country, who loved him so much, is upon your right. They stand there in token of the long friendship of the Father of his Country for our great and tried friend, and of the union between the two nations. We have nothing but kind feelings for that country. In peace we are friends. Let it be remembered, too, that when the emperor opened the last Legislative Assembly he rejoiced that we were once more at peace; and he had a tear to shed in sympathy with us for the loss of our martyred President. It becomes us to accept his words as sincere, and I regard the invitation which has been sent to us as being well meant, and as one which ought to receive at our hands a prompt and cordial response.

Now, sir, in regard to this bill I wish to say, if I understand the chairman of the Committee on Foreign Affairs, the amendments which I will offer at the proper time will meet with his approval. I propose to amend so that there shall be a reduction of the number of scientific commissioners from ten to five, and that they shall be distributed throughout the country so that this may not be said to be a bill for Massachusetts or New York, or any city or section. I propose, further, that the States shall meet the expenses of these commissioners, if that is an objection, and that they shall not be imposed upon the General Government. I understand the gentleman to agree to my modifications.

I understand the gentleman from Illinois to assert this involves an expenditure of $400,000. I deny that; his figures are fictions. It involves an expense of ninety or a hundred thousand dollars. That certainly is a great sum, but it is not a quarter the sum we struck off from the appropriation bills for fortifications yesterday. It is a sum that, if distributed among the American people, would be three mills to each person. Why, sir, when you talk about expenditure, if one million people in this country who take their morning drinks or cigars would cut off one drink or one cigar, the amount saved in one day would pay this whole appropriation. Let them accept the alternative and buy one cigar less or one drink less for a single day, and we have $100,000 to be appropriated toward carrying out this great enterprise of meeting the nations of the earth in one of the grandest conventions for peace and improvement.

The gentleman from Illinois [Mr. WASHBURNE] cited the fact in regard to proprietors of American machines paying their own expenses. I thought it was a very unfortunate illustration. I can tell the gentleman's constituents, as I can tell mine, that it would have been better if they had gone to the Government for aid in paying their expenses.

Now, sir, I happen to have purchased mowing machines in my farming, and I believe that the expenses which the proprietor incurred properly belonged to the General Government, and yet he bore them himself, when if they had been borne equally by the great commercial cities of Boston, New York, Philadelphia, and others, the burden would have rested less heavily upon the farmers of the gentleman's constituents and mine. The world had the benefit of the invention, but undoubtedly many of them the least able paid for the exhibition.

Sir, I will not undertake to follow the gentleman from Massachusetts [Mr. BANKS] in his statements of what this country is likely to do at this Exhibition. I agree with him in all the facts. But I believe it will be shown that the United States can manufacture printing presses as no other nation of the earth can. I expect that we shall exhibit reapers and mowers, as we have hitherto, superior to any the world can produce. I believe that we shall convince the world that the great staple of this country, cotton, which they have been endeavoring to equal for the last five years throughout the globe, is beyond comparison the best in the world, showing conclusively that here the throne of King Cotton is to abide forever. It will also be shown that the American wool, which has clothed our soldiers, far surpasses, by the tests which have been made, the product of any other country in strength and durability, if not in susceptibility to finish. We shall also show that a single animal has been raised in our country which surpasses in value the twelve merinos of the same class raised here, which brought $5,000 in Europe after drawing the prizes at the Hamburg Exhibition. And is it nothing to surpass the princely shepherds of Europe?

Sir, it is no inconsiderable thing for this nation that we should have the opportunity of appearing in the presence of the world in all the greatness of our development in agriculture, arts, and manufactures—ay, sir, our manufactures, that now yield a gross product of more than two thousand million dollars annually, and never in so rapid a stage of development as now. A citizen of my colleague's district [Mr. HUBBARD] has just invented a glass mold-board plow which promises, by ease of draft and non-liability to rust, to supplant all others in the prairies, and it may do for use in the alluvial soils of Europe. Mr. Hoit is the inventor, and let it be seen by the world.

We should call to mind here a fact, while speaking of probable results, in regard to the World's Exhibition of 1851. At that Exhibition, had this nation been without a representative, what would have been her standard and position with the nations of the earth? Here is a sample of a notice in reference to ourselves that I find in the Year Book of Facts, a foreign publication. After speaking of other nations, none received a higher compliment than ourselves:

"A more notable arrival was that of the United States frigate St. Lawrence, with her freight of contributions from the mighty hemisphere of the West, 'the giant son of the queen of the seas.' This is an event of even historical importance, charged with high promise to the future destinies of the two great commercial empires of modern days, and proving the most marked advance toward the realization of that unity which first gave the exhibition scheme its enlightened comprehensiveness. 'Not a unity,' aptly enough said Prince Albert at the city of London banquet, 'which breaks down the limits and levels the peculiar characteristics of the different nations of the earth, but rather a unity the result and product of those very national and antagonistic qualities.'"

Sir, that was but a child's show compared to that which is to be made hereafter. We shall show the wide throats of our cannon with which we have conquered mightier enemies than European nations ever encountered. We shall show our resources, what they are in nature; we shall show our development that has no parallel in the history of any nation when engaged in war.

Now, sir, my apology for voting for a small appropriation as a western man, representing an agricultural district, is to be found in this statement: I believe nothing would so much promote immigration to this country as the exhibition of the industries and of arts and of the progress of nations when brought together and compared. You know, Mr. Chairman, as one of the Representatives from the State of Iowa, [Mr. WILSON,] that we are expecting one hundred thousand of our western people to get ready and soon start on their way to the gold mines. What has stimulated that emigration from our States? The gold hunters of Idaho and Montana and Colorado have returned and mingled with our people, and they have exhibited the rich products of those countries to them, and say, "Come back with us."

And when we exhibit what is produced here to inquiring millions, we shall invite millions to come to our shores. Our unoccupied lands, fertile, reached conveniently by railroads, and to be by those projected, accessible by rivers, are so wide that you might set down the whole of continental Europe upon them, and then you will have room for States besides. In other countries population and poverty are synonymous, but we want immigration to come here, population being wealth, to plow and reap those lands; to graze there the flocks. Our land is of but little value without immigration; population is wealth. We have now a half hundred million acres of land of little real value to the owners, and seemingly promotive of little else then profane swearing on the part of those who are obliged to pay the taxes on them. We want them occupied and cultivated. And these people will come and occupy them when they have before them what we are by the representations of our industry and our greatness.

This Exposition will mark an epoch in the history of nations when we appear there, as I believe we shall, triumphant and bearing off the premiums and prizes; standing erect, great dignified, honorable, mighty, coming out of a war such as no nation was ever engaged in before.

I am for the smallest appropriation that will suffice for this purpose, but I am not in favor of any penny-wise and pound-foolish policy. Let us appropriate only what is necessary to represent us there; let us appear there by our farmers, artisans, and scientific men. Let Agassiz be there present to represent us; Agassiz, who though foreign-born, is American enough to be able to say, when invited abroad at three times the salary he was receiving here, "No, I have no time to waste in making money." He preferred to be a dweller upon our soil, at a small salary, than to dwell with kings and associate with the potentates of the earth. Let us send full representations of our country's nobility—our farmers, our mechanics, our painters, our artisans—and I believe we shall be gainers in purse, and our future will be more truly honorable, and the nations of the earth will regard us with more esteem. Let those who want war look down the wide throat of our cannon. We have no weakness to expose to the nations of the world. We shall be, in the world's estimation, mightier in war as we shall be more noble in peace.

Mr. WOODBRIDGE. Mr. Chairman, I do not profess to be particularly economical in my personal affairs. But I certainly do feel when the Republic is burdened with so vast a debt, and the people are under the pressure of such unprecedented taxation, that we are under obligation to practice the strictest economy in the appropriation of the public money.

This is a practical question; it is not a question where we should discuss our relations with Europe one way or the other. Does the project have in itself virtue enough to justify us in making the appropriation which is asked? I believe it has, and therefore I shall vote for the joint resolution. I take the word of my friend from Massachusetts, [Mr. BANKS,] who assures the House that the appropriation of $100,000 will not all be needed; that only a portion of it will be required.

I confess I was somewhat surprised when the letter of the Secretary of the Navy was read, for it might seem to be a fair construction of that letter, that if one of your frigates is sent out it would cost $300,000 to put her in a condition to carry freight, and a large sum in addition to restore her to a proper condition for the use of the Navy. Now, if I supposed it was to cost us $600,000 or $700,000 to take part in this Exhibition, I should hesitate long before I voted for the appropriation. But I cannot believe that is so. I believe the gentleman from Massachusetts, [Mr. BANKS,] who has investigated the matter, is nearer the truth, and relying upon his assurance, I shall vote for the measure.

Sir, I was little astonished at the position of the gentleman from Illinois, [Mr. WASHBURNE,] who says that we should not make this appropriation because our fortifications and our navy-yards and everything connected with the Army and Navy are out of repair and require vast amounts of money. Yet, if I recollect aright, when the Army and the Navy appropriation bills were before the House the same distinguished gentleman persistently voted "no" upon the recommendations made by the Departments for appropriations required for the Army and Navy. And, sir, I have scarcely known him to exercise his generosity, except in one instance, when, for the sake of a friend, he proposed a new rank in the Army with a salary of more than thirty thousand dollars a year.

The gentleman says, "*Fiat justitia, ruat cœlum.*" I adopt the motto, sir; and I have no doubt that my friend, in his personal affairs, practices upon it. But, sir, when I have seen the poor widow and the needy orphan repulsed in tears from our doors without the bread which the nation owed them, because the gentleman from Illinois objected to entertaining their applications, I have felt that he cared more for the public purse than that justice of which he boasts.

Sir, I am in favor of this proposition, because I believe it to be just. I believe that it is just to the great industrial people of this country. I believe that it will be beneficial to the nation as one of the best promoters of a permanent peace between this country and all Europe. Why, sir, what have we been told within the last four or five years? England and all continental Europe, with the exception of Russia, in view of the immense number of our population that were taken from the field and the shop to fill our Army and our Navy, predicted that the industrial pursuits of the nation would languish; that the hammer would no longer sound upon the anvil; that the shuttle would no longer fly within the loom; that the steam and the water would no longer revolve the wheels of our factories; that the plow would rust in the furrow; that the scythe and the sickle would be hung upon the tree; that the vast prairies of the West, which heretofore in time of famine abroad have raised corn enough to feed every citizen of Britain from the Queen upon her throne to the lowest vagrant in the streets of Dublin, would grow up with briars and thistles, and that famine would follow in the footsteps of our Army. And even now they are astonished at the error of their prediction. They have seen two million men going from the farm and the shop, and the peaceful agriculturist and mechanic changed as it were in a day to the noblest and bravest soldiers that ever bore a musket. They have seen the little Navy which might hide itself in the smallest harbor on the Atlantic coast, springing as if in an instant to the most magnificent fleet that ever threw a banner to the breeze; and they have seen those soldiers and seamen better fed and paid and clad than the soldiers or seamen of any nation on the face of the earth. And during all this exhausting process the industrial interests have preserved their wonted activity. The looms of the country have quadrupled; the plow has extended its furrow; and the great prairies of the West have produced more wheat and corn and pork and beef than during any of the years prior to the war.

Sir, they have seen all this; and they have seen more. They have seen that a State can live without an emperor or a king. They have seen that a republican form of government based upon intelligence is progressive and indestructible. They have seen in spite of this terrible war that the flag of our Union still floats in triumph and protects four million people from whom the shackles have been broken; and they have seen that under the constitutional amendment the nation has the power through Congress to protect those people in all the natural civil rights which pertain to a citizen.

Now, sir, pass this bill, give dignity to this enterprise, and encouragement to the people; and what will be the effect? Why, sir, from my own State there will go more than one hundred sheep that will be purchased to improve the finest flocks of Germany, Spain, and France. The American plow and axe and shovel and hoe and spade will again bear off the palm. The reaper from the West, with its modern improvements, will again excite the envy, the admiration, and the wonder of Europe. And, sir, our machinery, with improvements made during the war, will convince Europe that we are not only greatest in war, but that even in the midst of war, we are still greater in the arts of peace. Sir, when American industry and the results of American genius are displayed, when the thin veil is lifted as it will be, and the democracy of Europe and the industry of Europe are brought in contact and in attrition with the democracy and industry of this country, the people will see our resources and power, and no crowned head in Europe will dare to trample upon the rights of the American people; and war will never come.

Why, sir, I am not afraid to meet my constituents on this appropriation. All gentlemen know there are no more frugal, no more industrious, no more careful, no more money saving, and I know, no more intelligent and patriotic people than I have in my own district. I admit that the expenses of my State government have increased tenfold during the war, and that the taxes have increased in like proportion, and yet my people pay those taxes as cheerfully as they do their work.

And now, sir, that sweet peace has come, and the angel of death has put back the arrows to the quiver, I know they will willingly contribute of their substance to promote the industrial interests and the inventive genius of the country.

The appropriation commends itself to my judgment, and I shall take the responsibility of voting for it.

Mr. RAYMOND. Mr. Chairman, I have no intention, at this late stage of the debate, to detain the committee by any extended remarks on the resolution now before it for its action. Indeed, I should feel it were an unjustifiable trespass upon the committee if I were to indulge any extended advocacy of the resolution after the full, complete, and eloquent presentation of the whole subject which was made to us yesterday by the distinguished chairman of the Committee on Foreign Affairs; but as I happen to be on that committee, I have thought it not inappropriate—and in that opinion the chairman concurs with me—to say a few words by way of reply to the objections urged against the passage of the resolution by the gentleman from Illinois. I am somewhat embarrassed, as every one must be in attempting to reply to the discursive and eloquent orations of that distinguished gentleman. It is very much like "taking up arms against a sea" of words; you scarcely know where to take hold of them, or to find in them any specific point of objection. It is much like arguing against a tempest or a hurricane.

I do not propose certainly to follow him in his description of the battle of the Wilderness, or in his imitation of the artillery heard on that terrible occasion. I have nothing to say about questions of the Presidency, the future of this country, or the general position he has here in regard to questions of expenditure. I think, sir, he did himself somewhat less than justice in that regard. It is true he does oppose, as we some of us think, somewhat recklessly and without regard to their intrinsic merits, all bills brought in here requiring the expenditure of money on any subject whatever. I think he depreciates himself unduly when he represents himself as having become the most unpopular man in Congress or the country on that account. Why, sir, it is the foundation as well as the superstructure of his fame. He objects to this bill on the same ground upon which he has objected to every bill I have heard him discuss in this House, because, namely, it involves an expenditure of money. That fact of itself is sufficient to enlist his hostility against any bill that may be presented. I must say, sir, after listening to a good deal of this discussion—I mean discussion of that character of hostility to bills of that kind on that particular ground—I think that as a general thing it betrays a most unwise depreciation of the intelligence, wisdom, and patriotism of the people of this country.

Sir, if the mere fact of expending money is to be made the ground of opposition to every measure produced here, why are we here at all? Can we carry on the Government without expending money? Can we uphold any of the great interests of the Government without money?

The bill is alleged to be extravagant because it involves the expenditure, as the gentleman from Illinois says, of from $300,000 to $500,000. I know no possible reason why he makes such a statement as this, or upon what ground he supposes it will involve the expenditure of more than the $100,000 especially devoted to this object. The gentleman, in order to show that it will be greatly exceeded, brought in a letter from the Secretary of the Navy showing that we have no vessels fit for the purpose; that men-of-war must be converted into freighting vessels and then reconverted into vessels-of-war; that this cannot be done without putting officers and men to considerable inconvenience; and as the last and crowning objection of all, that it is not proper, because the expenditure cannot be properly stated in his accounts, if we thus allow one Department of the Government to interfere with the doings of another.

Well, sir, perhaps the distinguished Secretary of the Navy might expend a little more time over his accounts, for the purpose of enabling the nation to be present with her products of industry at the Exposition. Possibly the officers and men of our Navy might submit with a better grace than he does to a little inconvenience being inflicted upon them by such a change, if that change is wanted or desired. Our officers in the Navy have never been particularly distinguished for an unwillingness to put themselves to a slight inconvenience for the welfare of the country. They have done it with good effect more than once, and they will do it again, either in war or in peace. But it is an entire mistake to suppose that the Navy Department, in furnishing a vessel-of-war, is to convert it into a freight vessel, and then reconvert it at the expense of the Government into a vessel-of-war. The resolution simply requests the President of the United States to furnish a vessel for the transportation to Europe of the products to be exhibited in that Exposition. There is nothing involved or implied like the conversion of a vessel-of-war into a freighting vessel. In the year 1851 a vessel was sent out loaded with the products of our industry for the World's Exhibition at London, and yet no expense was rendered necessary to convert

it into a freighting vessel to answer that purpose.

Moreover, if this expense was involved, the President would simply decline to furnish a vessel. There is no provision whatever for incurring any extra expense, and no probability that there will be any incurred.

The gentleman from Illinois [Mr. WASHBURNE] further objects to the appointment of ten scientific commissioners. What can be wanted of ten scientific commissioners it passes his comprehension to imagine. He gave us, to be sure, a graphic description of the duties of one commissioner, and was complimentary enough to the gentleman from Massachusetts [Mr. BANKS] to represent him as the very man to go and perform certain duties which the gentleman evidently supposes to be those of a scientific commissioner there; namely, to breakfast here, dine there, and sup somewhere else; to visit all the places of any distinction, and display himself as a specimen of American products to the evident astonishment of congregated Europe. The gentleman is much too modest in this matter. I am sure it was nothing but modesty that would prevent him from selecting another much more worthy exemplar to be sent to that Exposition for the purpose of representing this country. And if he will not make the nomination himself, I trust that some one who does represent American industry will at the proper time suggest that the gentleman himself volunteer to go there and make himself the great exemplar and model of what a Republic only seventy-five years of age has produced. I venture to say that if he will go, clothed in the full panopoly of his eloquence, wind the American flag around him as the signal to the world that he is there, and make there such a speech as he has made to us to-day, he will astonish Europe as it has never been astonished before. I do not know whether it will be fair to ask him to volunteer for that particular service, but I am sure we can find no scientific commissioner who can do so much justice, in this specific regard, to his extraordinary conception of the duties of a scientific commissioner, as he himself.

It has been asked, where is the necessity of ten of these commissioners? The reason is that there are ten groups of industry to be examined, and the object of having a scientific commission at all is to have one for each group, especially qualified by special knowledge to report upon it in a way to instruct and enlighten the people of the United States, so that they may reap the full benefit of the Exhibition.

Now, sir, I take it that any gentleman here understands that a man may be very well qualified to report scientifically and so as to instruct the American people in one particular department, like that of the fine arts, who would not be at all qualified to report on the department of clothing or that of furniture or that of mechanism. Each of these is a distinct branch of industry or art, and it is absolutely necessary that each should have its proper representation —should have some one thoroughly and scientifically familiar with all the details of the subject intrusted to his care.

I think it is universally agreed among scientific men that the classification of products and industry provided by the imperial commission of France, is the most perfect and complete classification ever made, and scientific reports from scientific men upon each one of these groups would exhaust the whole subject of products and industry and put the American people in the absolute possession of all that the Exposition can teach us or the rest of the world. This is to be done by sending ten scientific men to remain there only during the Exposition, at the expense of $1,000 a year. Now, it seems to me, with due deference to others, that it is scarcely worthy of our position, that it is ignoble for us to higgle over a few hundred dollars in the presence of so great an occasion, where such great advantages are to be reaped from attention to it.

The gentleman from Illinois complains that this measure will create nineteen new offices to be filled by appointment; the appointments to be made by the President. Well, sir, I am somewhat surprised, but greatly delighted that his horror of creating new offices has grown upon him so much within the last few weeks, and that he is prepared to take this ground hereafter.

I remember a time, not many weeks or many days since, when he was quite willing to create two or three thousand offices and put the appointment of them all into the hands of the President without the slightest hesitation. He made no objection then on the score of economy or on the score of creating swarms of offices to augment the patronage of the President. Here is a proposition to appoint ten scientific commissioners, the most innocent men, so far as politics are concerned, in the whole nation, to be selected for their scientific attainments and not, I trust, from any geographical distribution, as the gentleman from Iowa [Mr. GRINNELL] seems to contemplate. The ten men who can best do the particular duty are the ten men who should go there; and if we can get the services of such men for $1,000 a year, the nation ought to consider itself fortunate, and to rejoice that there are so many men of ability and position willing to serve the industry of the country at so low a rate.

There was another line of argument in which the gentleman from Illinois indulged, upon which I will bestow but a moment's notice. He reminded the House that this nation had been insulted, trampled on, and spit upon by all the nations of the earth, excluding one which he had not the kindness to name.

Now, I venture to say that any one who makes the assertion that this nation has been trampled upon or insulted or spit upon by any nation on the face of the earth, travels wide of the record, and makes an assertion which he cannot maintain. This nation is not in the habit of submitting to insults of that sort from any nation be she great or small. Different policies have been pursued; policies have been pursued by the nations of Europe that we consider inimical to our interests, but there is not one that has dared at any point in the great contest through which we have passed, to insult the flag of the United States, either upon the sea or upon the land, and the time is far distant when any one of them will venture to do it.

We have had differences with France and with England. Our complaints are on file against them. We have summoned them to correct the great injustice which we claim they have done us. That great controversy is still in progress. Nations do not settle their accounts in an hour.

Mr. HARDING, of Illinois. Will the gentleman allow me to ask him if this is to be understood as a waiver of our demands upon France? I so understand him.

Mr. RAYMOND. I should like to know how the gentleman could understand anything of that sort from anything I have said. I was simply replying to the gentleman from Illinois, [Mr. WASHBURNE,] who adduced the asserted fact that we had been insulted by France as a reason why we should not join in this exhibition of the industry of all nations. I simply replied to that, that we have not been insulted by France in any such sense as requires us to resent it by a paltry spite of this kind. As I was saying, when interrupted, that controversy is still going on. The action of France in planting her troops in Mexico, and placing an Austrian prince upon the throne of Mexico, has not passed unchallenged. And I venture to say that when the correspondence upon that subject, both recent and remote, comes before the American people, no man in this House or elsewhere will have any reason or motive or disposition to complain of the position our Government has taken upon that subject. And if the demands which are made, and which are reasonable and just, and are insisted upon, are not complied with, this nation knows very well how to enforce compliance with all our just demands without resorting to so paltry a mode of showing resentment as refusing to be present at such an Exhibition as this.

The gentleman from Illinois says that as Americans we ought to keep out of such an Exhibition. I say, as an American, that we ought to go into it and into every one of a similar kind that may be open to us. Whenever we are challenged to enter into competitions with other nations in any field, of war or peace, we should not for one instant hesitate or delay. Let them challenge us in war if they will, let them give us just cause of war, and we will bear ourselves under the challenge as becomes a powerful and self-respecting nation. And when they invite us to a contest of peace, shall we shrink therefrom?

The gentleman says we have a debt of $3,000,000,000, and that we should pay that before we incur this expenditure. I should like to see the American in Europe who, when asked why the place allotted to us in that Exhibition is vacant, would venture to say that the expense of our war to put down rebellion was so great that we could not possibly afford to send a few of our products to this Exhibition. Such an American would humiliate us more in the eyes of Europe and in the consciousness and self-respect of our own people, than any "insult" or injury which all the nations of the earth may be supposed to have inflicted upon us during our recent war.

There are two ideas which, in the conflict of ideas that has been going on all over the world for centuries past, are the progressive ideas of this epoch. One is the idea of democratic liberty; the other is the perfection of labor. They go together here and everywhere. We claim that this country is the special home of both. We claim that while liberty dignifies and enfranchises labor, labor is the bulwark of liberty and secures it to this continent forever. The same ideas are working themselves out in the same proportions and with the same results in every part of the continent of Europe. And when the challenge is made by France, or by England, or by Prussia, or by Germany, or by any other nation of the earth, to come and show what labor has done for the people, it does not become the Republic of the United States to hesitate one instant or, I was going to say, ask one solitary question as to the expense that may be thereby incurred.

We claim that labor in this country has achieved its proudest triumphs, because those who labor are those who govern; because here labor is free, and every man is left without governmental interference to work out whatever of energy, or industry, or enterprise God has gifted him with. We point the nations of the world to that as the crowning victory of free institutions on this continent.

The Emperor of France asks us to come there and compare the products of the industry of freedom with the products of industry of those who are under the imperial and monarchical Governments of the Old World. Have we any reason to shrink; have we any excuse for shrinking? I trust this resolution will pass. I wish it could pass, with the respect due to labor and to liberty alike, by the unanimous vote of this House and of the other branch of the national Legislature. I am sure it cannot fail, for this House, this Congress, is but the representative of labor, and it dare not prove wholly recreant to its trust.

Mr. BANKS. I move that the committee now rise for the purpose of closing debate on this joint resolution.

Mr. RICE, of Massachusetts. Will my colleague [Mr. BANKS] withdraw that motion, and yield the floor to me for a few moments?

Mr. BANKS. I will.

Mr. RICE, of Massachusetts. I do not rise for the purpose of debating this joint resolution. I intend to vote for it, because among other reasons I believe it will be an economical investment in behalf of the labor and the arts and the industry of our country; and because I believe it will be a great peace-making convention of the nations of the earth who shall

congregate at the time and place of this great Exhibition.

But, sir, I rose to say a word or two upon another point. During the progress of this discussion some criticisms have been offered by different gentlemen upon the action or disposition of the Navy Department in reference to this Exhibition. My colleague [Mr. BANKS] has very properly and justly changed the second section of the bill so as to provide for calling upon the President of the United States instead of the Secretary of the Navy to detail one or more vessels for the conveyance of the products of the industry of this country to France. I think, sir, that it is hardly a just criticism to say that because the Secretary of the Navy has hesitated to detail a vessel for this purpose, he has therefore traveled out of the line of his duty, or that he has necessarily manifested any disapprobation of the employment to which the vessel or vessels are to be appropriated. Gentlemen will remember that while it is the province of Congress to make appropriations of money for the establishment and maintenance of a Navy Department, and to make rules for the regulation of the Navy, yet the President of the United States is the Commander-in-Chief of the Army and the Navy after they have been constituted under the authority of Congress. I submit, therefore, that it is not within the province of Congress to direct the Secretary of the Navy to order a vessel to any particular service, whether naval or civil, because by the Constitution of the United States authority to do that is vested in the President as Commander-in-Chief of the Army and the Navy.

Mr. MORRILL. I desire to ask the chairman of the Committee on Naval Affairs [Mr. RICE, of Massachusetts]—and upon his reply my vote may depend—whether in his judgment any such expense as that named in the letter of the Secretary of the Navy, that is to say, the sum of $300,000, will attend the employment of a naval vessel for the service proposed.

Mr. RICE, of Massachusetts. Well, Mr. Chairman, I can only say in reply to that interrogatory that I do not know how many vessels would be required to perform this service; nor have I gone into an investigation of the probable cost of fitting out those vessels for this purpose. But I will say, speaking from my impressions and from my best judgment, that no such sum as $300,000 would be required to furnish the necessary transportation for the products of American industry designed for the Exhibition at Paris.

Mr. WHALEY. With the permission of the gentleman from Massachusetts I will say that, in my judgment, the most appropriate action on the part of the Navy Department would be to send fifty of the best gunboats that America can produce.

Mr. RICE, of Massachusetts. I was stating, Mr. Chairman, why, in my view, there is great propriety in the amendment made by my colleague, providing for requesting the President of the United States to detail these vessels, instead of directing the Secretary of the Navy to do it. There is one other consideration which I wish to suggest. The appropriations for the naval service are made for specific departments of that service; and it may be doubted whether money appropriated for a specific object can, by the authority of the Secretary of the Navy, be devoted to some other object for which it is not appropriated.

This much I desired to say in defense of the action of the Navy Department in reference to this matter. I cordially approve of the vessels being furnished for this service. I think that the President of the United States has full authority to furnish them. I hope that Congress will request him to furnish them; I trust that he will comply with this request; and I hope that such a contribution of American skill and industry will be sent across the water as shall reflect credit on the American nation, and excite, as I doubt not it will, the admiration of mankind.

Mr. BANKS obtained the floor.

Mr. WASHBURNE, of Illinois. I desire to address a single inquiry to the gentleman from Massachusetts, [Mr. RICE.]

The CHAIRMAN. Does the gentleman from Massachusetts [Mr. BANKS] yield to the gentleman from Illinois?

Mr. BANKS. No, sir. In order to terminate debate, I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. WILSON, of Iowa, reported that the Committee of the Whole on the state of the Union, having had under consideration the Union generally, and particularly House bill No. 52, to provide for the expenses attending the exhibition of the products of industry of the United States at the Exposition at Paris in 1867, had come to no resolution thereon.

Mr. BANKS. I move that when the House shall again resolve itself into the Committee of the Whole on this bill all general debate terminate in one minute.

The motion was agreed to.

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

The motion was agreed to; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. WILSON, of Iowa, in the chair,) and resumed the consideration of House joint resolution No. 52, to provide for the expenses attending the exhibition of the products of industry of the United States at the Exposition at Paris in 1867.

The CHAIRMAN. General debate by order of the House will terminate on the pending joint resolution in one minute.

Mr. BANKS. I ask that the vote may be taken on the amendment to the first section which I presented yesterday.

The Clerk read the amendment, as follows:

After line seven, section one, insert:

First, to provide necessary furniture and fixtures for the proper exhibition of the articles and products of the industry of the United States, according to the plan of the imperial commissioners, in that part of the building exclusively assigned to the use of the United States, $48,000.

Mr. BANKS. The words which I propose to insert were accidentally omitted from the joint resolution.

Mr. Chairman, it was the unanimous opinion of the committee that by the acceptance of the invitation of the French Government to participate in this Exhibition we were bound to make an appropriation to this extent at least. Those who were not in favor of accepting the invitation agreed that we were bound to make this appropriation, having accepted it.

With regard to the amount of the expenditure for this exhibition, according to the officers of the Government, it will amount to about one hundred thousand dollars, and not a dollar more than that. I will state that, according to the language of the resolution, no one will be authorized in expending more than that sum of money.

The pending amendment proposes to appropriate $48,000 to provide necessary furniture and fixtures for the same purpose for which appropriations will be made by every other Government that participates in this Exhibition. It is to provide tables and cases and other furniture necessary for the proper exhibition of the articles and products of the industry of the United States on the part of the people who will go there. Our Government will be, of course, subjected to some expense. We have six or eight times more room in the palace designed for the Exhibition than we have had in any previous Exhibition. We stand the eighth on the list. We could have had our own space if our Government had been authorized to accept the invitation when tendered. It was only from the delay that occurred that the space was cut down. I hope now that the committee will come to a vote on the pending proposition.

Mr. SPALDING. I desire to ask the mover of this resolution if he is willing to limit the appropriation to $100,000.

Mr. BANKS. I am perfectly willing to do so.

Mr. WASHBURNE, of Illinois. That does not include all the objects in reference to this Exhibition on which the Government will be compelled to expend money.

Mr. BANKS. We only ask for $100,000, and that is all that the bill proposes to appropriate.

Mr. SPALDING. I ask the gentleman from Massachusetts somewhere in the resolution to insert such a proviso.

Mr. BANKS. I am perfectly willing to do so.

The question was taken and the amendment was agreed to.

Mr. BLAINE. I desire to ask the gentleman a single question in regard to this appropriation.

The CHAIRMAN. Debate is not in order, as there is no amendment pending.

The Clerk read, as follows:

First. For the compensation of the principal agent of the Exhibition in the United States, whose salary for the period of his service shall be at the rate of $2,000 per annum.

Mr. BLAINE. For the purpose of asking a question I move to strike that paragraph out. I observe that most of this money is to be expended in Paris. Indeed, it is all to be expended in Paris except the little that it will cost for a few clerks in New York city. Now, is it understood that this appropriation is in currency or in gold?

Mr. BANKS. The appropriation is for $100,000 in the currency of the country.

Mr. BLAINE. I withdraw my amendment.

Mr. CONKLING. I move to add at the end of the paragraph which has just been read, after line eleven, the following words:

Provided, That the period of such service shall not exceed one year.

Mr. BANKS. I do not object to that amendment.

Mr. WASHBURNE, of Illinois. I move to amend by making it six months. That certainly is long enough.

The amendment to the amendment was disagreed to.

Mr. HARDING, of Illinois. I move to amend by making it three months.

Mr. Chairman, I submit this amendment to satisfy my sense of duty to my own constituents. I do not expect to enlighten the country by entering into a consideration of all the interests of our people. While I esteem as highly as any gentleman anything that will promote our happiness and prosperity, still I must be allowed to entertain my own view of this matter.

Sir, when I heard the gentleman from Massachusetts conclude his remarks by the significant announcement that we were to fight the battles of our country in relation to a policy which has burdened the conscience of every member of this House by the solemn declaration of fifty years; when I heard him say, in the conclusion of his brilliant speech, that we should fight these battles with our brains and not with our cannon——

Mr. BANKS. No, sir.

Mr. HARDING, of Illinois. Very nearly like it at all events. I say when I heard this, and when I heard the gentleman from New York [Mr. RAYMOND] say we should bring about peace by a visit to the great show at Paris, I thought I knew what it meant and what the country would understand it to mean. They will understand that the *entente cordiale* exists between us and France notwithstanding the apparent collision in relation to Mexico; that notwithstanding the Fenians have our sympathy, and Ireland is entering on a warfare for liberty, still we can meet and shake hands with the dignitaries of England at a show in the city of Paris. Gentlemen may go there if they choose. I will not. I concur with the sentiment of my friend from Illinois. I would send a baggage wagon in order to inform the soldiers who seek to be looked at by the representatives of the royal families of Europe that we would much prefer to see them in the long line of battle in Mexico.

You may talk about ignoble economy. Ay, talk about it when you have turned away hundreds of my constituents with their broken limbs and maimed bodies under the ignoble pretense that you had not the money to pay them.

[Here the hammer fell.]

Mr. BANKS. Mr. Chairman——

Mr. HARDING, of Illinois. Do not interrupt me for I do not write my speeches. [Laughter.]

The CHAIRMAN. The gentleman's time has expired.

Mr. BANKS. I am opposed to the amendment of the gentleman from Illinois. An agent at New York is absolutely necessary to make arrangements for the transportation of any articles that may be sent. I think a year's limitation of time is proper, but I do not think that three months is sufficient.

Mr. HARDING, of Illinois. I withdraw my amendment.

Mr. BANKS. Before I took any part in the consideration of this question, it occurred to me that it might be asked what effect it would have as to Mexico, and I applied to the leading friends of the republic of Mexico in this city and in New York to know what their opinion was as to the effect upon the interests of the republic of Mexico, and in every instance I received an unqualified answer that it was for their interest as it was for ours that our Government should be represented to the fullest extent in that Exhibition.

Mr. WASHBURNE, of Illinois. How is it with the Mexican minister?

Mr. BANKS. I have heard nothing from him, sir. I speak of the friends of the republic of Mexico. I undertake to say when the question between this country and France and this country and Mexico shall come before the House from the Committee on Foreign Affairs, neither the gentleman from Illinois nor any other member of the House will be left in doubt whether the committee will be disposed to maintain the rights of this country or not.

The CHAIRMAN. Debate is exhausted on the amendment.

Mr. SMITH. I move that the committee rise.

The motion was disagreed to.

The question being taken on the amendment to the amendment, it was disagreed to.

The question was then taken on the amendment of Mr. CONKLING, and it was adopted.

The Clerk read the following:

Second. For the compensation of four clerks in New York and four clerks in Paris, whose salaries shall be as follows: one at $1,600, one at $1,400, and two at $1,200 each.

Mr. WASHBURNE, of Illinois. I move to amend so that it shall not exceed six months. There is no reason why the four clerks in New York and Paris should be employed for an entire year.

Mr. BANKS. I do not object to a limitation for a year, but I do object to a limitation for six months. I hope the amendment will not prevail.

Mr. WASHBURNE, of Illinois. You appropriate money to pay these men for one year when they will only be employed for three months.

Mr. DARLING. I move *pro forma* to strike out "$1,200" and insert "$1,300."

This section does not say anything as to the time for which these clerks are to be employed. It seems to be the intention of the committee that these gentlemen shall receive the sums indicated whether they are employed for six months or one year. That seems to me to be improper. I withdraw my amendment.

Mr. BANKS. I move to amend the amendment by striking out "six months" and inserting "one year."

Mr. STEVENS. I think the gentleman from New York [Mr. DARLING] is right. There is nothing in this section as to the time for which these clerks are to be employed.

The hour of half past four o'clock having arrived, the Speaker resumed the chair; and the House, in pursuance of order, took a recess until half past seven o'clock p. m.

EVENING SESSION.

The House reassembled at half past seven o'clock p. m.

LEAVE OF ABSENCE.

Mr. MERCUR. I ask leave of absence for my colleague, Mr. KELLEY, until Saturday next.

There was no objection, and the leave of absence was granted.

Mr. ROSS. I ask leave of absence for Mr. DENISON, of Pennsylvania.

There was no objection, and the leave of absence was granted.

Mr. LONGYEAR. I ask leave of absence for myself for ten days.

There was no objection, and the leave of absence was granted.

WITHDRAWAL OF PAPERS.

On motion of Mr. MERCUR, leave was granted for the withdrawal from the files of the House of the papers in the case of Hancock and Foley.

MICHIGAN RAILROAD GRANT.

Mr. LONGYEAR, by unanimous consent, introduced a bill to extend the time for the reversion to the United States of the lands granted by Congress to aid in the construction of a railroad from Amboy, by Hillsdale and Lansing, to some point on or near Traverse bay, in the State of Michigan; which was read a first and second time, and referred to the Committee on Public Lands.

WINNEBAGO RESERVATION.

On motion of Mr. HUBBARD, of Iowa, the bill of the Senate No. 121, to provide for the enlargement of the Winnebago reservation, in the Territory of Nebraska, and for other purposes, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Indian Affairs.

ENROLLED BILL SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled an act (H. R. No. 154) to further secure American citizens certain privileges under the treaty of Washington; when the Speaker signed the same.

TAXES ON CARTMEN AND HACKMEN.

Mr. DARLING. I ask the unanimous consent of the House to offer the following resolution:

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of providing by law for the repayment of taxes paid in error by cartmen and hackmen under an erroneous construction of the internal revenue law.

Mr. STEVENS. I would inquire if the Department have not that power now?

Mr. DARLING. I believe not. I understand that they refuse to pay back this money. The people of this class are very poor, and this tax falls very heavily upon them.

Mr. STEVENS. I am inclined to think they have the power now.

Mr. DARLING. This is merely a resolution of inquiry.

Mr. STEVENS. I know they have recently repaid to the banks that which the courts in Pennsylvania decided that they had paid in error.

Mr. DARLING. They may be willing to pay back to rich banks, but I want them to pay back to these poor parties.

The resolution was received, and agreed to.

MILWAUKEE, WISCONSIN.

Mr. PAINE presented resolutions adopted by a meeting of the citizens of Milwaukee, Wisconsin, approving the course of Congress; which were referred to the joint committee on reconstruction.

TAX ON LEAF TOBACCO.

Mr. TRIMBLE presented the following joint resolutions of the General Assembly of the State of Kentucky, remonstrating against the tax on leaf tobacco; which were read, referred to the Committee of Ways and Means, and ordered to be printed.

1. *Resolved by the General Assembly of the Commonwealth of Kentucky*, That the effort now being made by certain manufacturers, dealers, and speculators in tobacco to induce Congress to remove the present tax on manufactured tobacco, and place it on the leaf in the hands of the producer, will, if successful, in the opinion of this General Assembly, be disastrous and ruinous in its effect upon the tobacco interest of the country, and will greatly lessen the production of this important staple in the State and elsewhere, thereby cutting off a prolific source of revenue, both State and Federal, and in many ways permanently injuring the production by planters of this most important source of national wealth.

2. That the General Assembly respectfully but earnestly remonstrate with Congress against the proposed tax on leaf tobacco, and our Senators and members of Congress are requested to use their influence and vote against any law of the kind that may be proposed.

3. That a copy of these resolutions be sent to each of our Senators and Representatives in Congress.

H. TAYLOR,
Speaker of the House of Representatives.
RICHARD T. JACOB,
Speaker of the Senate.

Approved January 24, 1866.

THOMAS E. BRAMLETTE,
Governor of Kentucky.

LEAVE OF ABSENCE.

Mr. J. L. THOMAS asked and obtained leave of absence for his colleague, Mr. PHELPS, for to-morrow.

Mr. LE BLOND. I desire to state that the gentleman from Wisconsin, Mr. ELDRIDGE, has been for two days past confined to his room by illness.

PRINTING OF TESTIMONY.

Mr. WASHBURNE, of Illinois, from the joint committee on reconstruction, reported additional testimony taken by that committee; which was laid upon the table, and ordered to be printed with the testimony heretofore reported by that committee.

KITTANNING BANK.

Mr. HUBBARD, of West Virginia, from the Committee on Banking and Currency, made an adverse report upon the petition of the Kittanning Bank of Kittanning, Pennsylvania, for conversion into a national bank or relief from taxation as a State bank; which was laid upon the table, and ordered to be printed.

B. BIBO.

On motion of Mr. PERHAM, the Committee on Invalid Pensions was discharged from the further consideration of the petition of B. Bibo; and the same was referred to the Committee on Military Affairs.

EQUALIZATION OF BOUNTIES.

On motion of Mr. PERHAM, the Committee on Invalid Pensions was discharged from the further consideration of the petition of soldiers of Erie county, New York, for equalization of bounties; and the same was referred to the Committee on Military Affairs.

Mr. PERHAM. The Committee on Invalid Pensions, to which was referred the petition of ten thousand citizens of the State of Indiana for bounties and increase of pensions, have instructed me to report that the committee have provided for so much of the subject of the petition as relates to increase of pensions by a bill which has been presented; and they have further instructed me to move that so much of the petition as relates to bounties be referred to the Committee on Military Affairs.

The motion was agreed to.

EXTRA PRINTING OF DOCUMENTS.

Mr. LAFLIN. I ask unanimous consent to submit the following resolution for action at this time:

Resolved, That the Committee on Printing be instructed to inqure into the expediency of the passage of a joint resolution providing that no resolution ordering the printing of extra copies of books, documents, reports, or any other thing to be printed at the public expense when the estimate cost shall exceed the sum of $10,000 shall be passed except by the action of both Houses of Congress.

Mr. SPALDING. I object.

T. KIRBY.

Mr. GRIDER, by unanimous consent, introduced a bill granting a pension to T. Kirby;

which was read a first and second time, and referred to the Committee on Invalid Pensions.

MRS. JULIA FRANCIS.

On motion of Mr. PAINE, the Committee on Invalid Pensions was discharged from the further consideration of the petition of Mrs. Julia Francis for a pension; the Committee on Pensions having decided since the petition was referred to the committee to grant her a pension.

QUARANTINE IN NEW YORK.

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

Resolved, That the Secretary of War be directed to communicate to this House what effect, in his opinion, will be produced on the navigable waters of New York harbor, by the erection of a quarantine station on the shoal known as West Bank in said harbor; and whether such location, owing to its exposed situation, will not render it impracticable to erect the docks and wharves required for such a station at which vessels may be safely moored.

FISHERY AND WATER CULTURE.

The SPEAKER laid before the House the following message from the President:

To the Senate and House of Representatives:

I transmit, for your consideration, a copy of a communication from the minister of the United States at Paris, in regard to a proposed exhibition of fishery and water culture to be held at Archacon, near Bordeaux, in France, in July next.

ANDREW JOHNSON.

WASHINGTON, *March* 12, 1866.

On motion of Mr. BANKS, the message and accompanying document were referred to the Committee on Foreign Affairs, and ordered to be printed.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had agreed to the amendment of the House to the bill (S. No. 33) in relation to the Court of Claims.

It also informed the House that the Senate had concurred in the joint resolutions (H. R. No. 84) for the relief of the sufferers by the late explosion at the United States arsenal in the District of Columbia.

It also announced that the Senate had passed bills of the following titles, in which the concurrence of the House was requested:

A bill (S. No. 126) entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the city of Placerville, in the State of California, to the most feasible point of intersection with the Pacific railroad in the State of Nevada.

A bill (S. No. 105) entitled "An act to grant the right of way to the Cascade Railroad Company through a military reserve in Washington Territory;"

A bill (S. No. 181) entitled "An act for the relief of Emma J. Hall;" and

A bill (S. No. 155) entitled "An act concerning the boundaries of the State of Nevada."

REV. P. R. VAN HONTON.

Mr. DELANO, by unanimous consent, submitted, from the Committee of Claims, an adverse report upon the memorial of Rev. P. R. Van Honton, of Tennessee, for compensation for property destroyed by the Union Army during the late war; which was laid on the table, and ordered to be printed.

JETHRO BONNEY.

Mr. DELANO, by unanimous consent, also submitted, from the Committee of Claims, an adverse report upon the petition of Jethro Bonney, of New York, for compensation for loss and destruction of property at the battle of Plattsburg in 1814; which was laid on the table and ordered to be printed.

FRANCIS A. GIBBONS.

Mr. DELANO, by unanimous consent, reported, from the Committee of Claims, a bill for the relief of Francis A. Gibbons, of Baltimore, Maryland; which was read a first and second time, ordered to be printed, and, on motion of Mr. DELANO, recommitted to the Committee of Claims.

PARIS EXPOSITION—AGAIN.

Mr. BANKS moved that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. WILSON, of Iowa, in the chair,) and resumed the consideration of House joint resolution No. 52, to provide for the expenses attending the exhibition of the products of industry of the United States at the Exposition at Paris in 1867.

The pending question was upon the amendment of Mr. BANKS to the amendment of Mr. WASHBURNE, of Illinois.

The amendment of Mr. WASHBURNE, of Illinois, was read, as follows:

Insert at the end of line fifteen on page 2, the following:

Provided, That the period of their services shall not exceed six months.

Mr. BANKS'S amendment to the amendment was read, as follows:

Amend the amendment by striking out "six months" and inserting "one year."

Mr. CONKLING. I think that the movers of these amendments will find, on examining the section, that neither of the amendments will accomplish the purpose contemplated.

The amendment to the amendment was rejected.

Mr. CONKLING. I move, as an amendment to the amendment, to insert after the words "as follows" in the section, the following words:

At the rate of $1,200 per annum: *Provided*, That the term of service and compensation of such clerks shall not exceed one year.

I wish to say that my colleague was right in suggesting that, as the bill stands, these clerks are to be paid $1,600 or $1,400 whether they work three days or three weeks or three months or three years—a proposition certainly unjust either to them or to the Government—unjust to them if their term of service should be longer than is anticipated; unjust to the Government if it should be shorter. I think, Mr. Chairman, that $1,200 a year for all these clerks, both those who are to remain in New York and those who are to make the tour of at least a part of the continent at the public expense, is sufficient compensation.

Mr. DARLING. Mr. Chairman, $1,200 may be enough for the clerks at Paris, but it is not enough for the clerks at New York city. The latter have not the attractions and the privileges which surround the former. We ought therefore to make a distinction between them, if there is to be a reduction of the salary fixed by the joint resolution. I do not regard the salary of $1,400 as too much for clerks at New York. The clerks at Paris will be enabled to enjoy all the attractions of the Exhibition at Paris, while the clerks at New York will have nothing but hard work. I therefore oppose the amendment of my colleague.

Mr. FARNSWORTH. What are the clerks in New York to do while the Exhibition is going on at Paris?

Mr. DARLING. I am not a member of the Committee on Foreign Affairs, and do not propose to go into a general discussion of the joint resolution. I can only give my mere opinion. I suppose the clerks in New York are to take an account of the names of the exhibitors and the goods and their character which may be sent to this French Exposition. It is necessary to have a clerical force there, and the provision is in entire harmony with the rest of the joint resolution.

Mr. BANKS. I desire to say a word. The clerks in this country will have to carry on a correspondence with all of the States of the Union, and with exhibitors applying for space for the exhibition of their goods. There is a large amount of clerical work to be done. They have to arrange in reference to the space, to keep a record of the goods and exhibitors, and other work. There will be abundance of work both for the clerks here as well as those in Paris.

The question was taken on Mr. CONKLING'S amendment, and it was agreed to.

Mr. O'NEILL. I move to amend by adding a proviso to the end of the fifteenth line of the first section, that the clerks to be appointed shall not be selected exclusively from the State of New York.

Mr. Chairman, I am in favor of the general details of this joint resolution, and believe the country will fully indorse its passage by Congress. We represent a people skilled in the mechanical arts, devoted to industrial pursuits, and very apt at invention, who do not fear to compete with the whole world. There will be great anxiety as the time for holding this International Exhibition draws near among many of our inventors, if the means are afforded them which the chairman of the Committee on Foreign Affairs designs shall be, to send abroad their inventions, who perhaps would not be able to do so unless the Government furnished vessels for transporting them. I am satisfied that men of science and taste and cultivation and those engaged in mechanical and agricultural pursuits are looking forward to the passage of the joint resolution, and I am sure that the expense to be incurred will be so small in comparison with the benefit to be derived that our favorable action to-day will be highly commended.

I will ask the Clerk to read the petition of the students of the Polytechnic College of the State of Pennsylvania, which has been sent to me. They are young gentlemen from many of the States of the Union, who, to a great extent, after having passed through a collegiate course, are now pursuing scientific studies and perfecting themselves in certain branches of the arts. Their petition covers the whole ground, and I ask for it the attention of the House.

The Clerk read, as follows:

To the honorable the Senate and House of Representatives of the United States of America in Congress assembled:

We, the undersigned, eighty students of the Polytechnic College of the State of Pennsylvania, at Philadelphia, coming from many States of the Union, and now pursuing here the study of practical science, respectfully represent:

That a full and general exhibition of the varied products of American industry at the Universal Exposition in Paris, in 1867, should be the earnest desire of every American citizen.

That as much damage has been done to the national credit by the misrepresentations in Europe of the state of our workshops and manufactories, our contributions should be such as to show to the world the enterprise and prosperity of American manufacturing communities.

That as a nation we are undoubtedly the first in inventive genius, and that the space appropriated to the United States by the French commissioner should, therefore, be filled with samples of our most improved implements in every department of manufacturing industry.

That our innumerable agricultural machines, in the perfection of which we are especially in advance of the European nations, should be well represented.

That our contributions of scientific and industrial interests, many of which will be finished in the most perfect manner, should be so transported that they will arrive without injury.

That if the cost of transporting objects from this country to France is to be added to that of making and preparing them for the Exposition, many American manufacturers will be deterred from exhibiting, and the skill and inventive genius of our country will not be properly represented; while, if public provision be at once made for the gratuitous conveyance across the ocean of the contributions of exhibitors, and information of the fact be published in season, a very large addition to the number and value of such contributions may be confidently expected.

Your petitioners therefore pray you that authority be given, without delay, to the honorable Secretary of the Navy to commission a national vessel of approved construction for the purpose of transporting the contributions of American citizens free of charge to the Universal Exposition of 1867.

And your petitioners will ever pray, &c.

Mr. O'NEILL. As there appears to be no desire upon the part of the gentlemen who have introduced this joint resolution to monopolize the offices to be filled, I will now withdraw my amendment.

The Clerk read, as follows:

Third. For the compensation of professional and scientific commissioners, ten in number, at the rate of $1,000 each per annum, $10,000.

Mr. CONKLING. I move to strike out "ten" and insert "three."

Mr. Chairman, having listened to this debate, and given some consideration to this subject, among all the parts of this complicated machinery, the necessity for which I do not see, is this proposition to send ten scientific commissioners to observe and report, as some gentlemen say, what takes place at this Exhibition.

I cannot stretch my credulity so far as to doubt that three men of science sufficiently diversified can be found in this country to go there and see, appreciate, and report properly everything noteworthy. If three cannot do it I feel very clear that ten will not be able to do it. Although I do not forget that the Exhibition has been marked off on paper into groups, I do not think it necessary to select a commissioner to view each group and then make a report on that.

Mr. BANKS. Upon the statement of the gentleman from New York I do not object to the amendment he proposes, but he misapprehended entirely the nature of this object. The first duty of these commissioners will be to represent the interests of this country. That is to be done by public lectures on every interest that can be presented affecting the prosperity or exhibiting the power and resources of this country. We want, therefore, men who are not only capable of making such an exposition of the general interest of the country, but men who know from practical acquaintance the resources of different sections of the country and in what manner they should best be presented. That view of the case alone is sufficient to justify the appointment of ten commissioners. We want commissioners to represent the interests of this country in a great variety of aspects which cannot be done by one, two, or three individuals.

In addition to that, it is the further duty of these commissioners to study carefully and report intelligently the results of this Exhibition to the people of this country. It will be done in a series of papers, occupying, as was the case in the London Exhibition of 1851, a report of two, three, or four hundred pages, making a brief and complete representation of the results of this exhibition of the industry of all nations, deducing therefrom advantages to be derived in the progress that may be made in our own country.

Mr. CONKLING. If, without trespassing, I could make a suggestion, I would like to ask if these scientific men are to perform a missionary service in France and Europe. In order that the Continent may be permeated with our ideas and made to comprehend the resources of the country, I think the best thing would be to strike out all after the enacting clause in this bill and insert in lieu thereof the speech of the distinguished gentleman from Massachusetts, [Mr. BANKS.] Such a motion, I think, would carry this committee. I believe that would convey to all these Frenchmen, and everybody else, an idea of the resources of this country, material and otherwise, better than is to be done by sending out ten scientific missionaries to propagate our gospel of resources, as is proposed by this bill.

The amendment to the amendment was withdrawn.

Mr. JENCKES. I move to amend by striking out the word proposed by the gentleman from New York and inserting "twelve." I understand that one of the purposes for which a number of scientific men are to be sent to the Exposition is to make a thorough investigation of the different subjects of human industry that are there exhibited. In the previous great Exhibitions in London and the Exposition in Paris, men from each country which presented a large quantity of articles for exhibition have been selected to serve on juries and investigate the different inventions and report upon the most meritorious and useful. These persons acquire information not only useful to themselves but to their countrymen, to be applied to the art which is the subject of investigation.

Now, instead of these persons being missionaries to advance knowledge which we choose to send to Europe, they are persons to acquire knowledge, to bring it home to us, by being employed in these investigations. And this small allowance which is made in this bill will partly pay the expenses of men of proper talent and education to go there and do this service. The number, it seems to me, should be increased rather than diminished, because the number of subjects to be investigated is much larger now than in 1851.

The report of the great Exhibition of 1851 in London is not contained in a single octavo volume, or two, or three, but in six large quarto volumes; and in this Exhibition, to be held in Paris, I expect to see reports of juries and descriptions of articles there exhibited which will fill twice the number of volumes.

These persons sent upon this mission, as the gentleman calls it, bear a letter of credit from their Government, as being of sufficient acquirement and talent to be selected to serve on the most important juries. They will acquire the best knowledge on the subject, and give it to their countrymen in the best aspect. It is for this purpose, as I conceive, that they are to be sent—for public benefit, and not for private interest.

Mr. BANKS. I rise to oppose the amendment. I am sure that if gentlemen will reflect in regard to the persons to be selected they will not ask to reduce the number. I will take Professor Agassiz. There is no man that can so well represent us, or with so much benefit to our industry. In New Jersey there is Professor Guiot, who has made a careful scientific study of the range of mountains in this country running from the northeast to the southwest. There are others who are familiar with the scientific capacities and resources of the Mississippi valley. There are others in the lake region. Then on the Pacific side there are persons that can be selected who will confer an everlasting benefit upon the people of this country if they are authorized to speak.

The expense is but trifling—$10,000 at the outset for the services of ten of the ablest men that the continent of America can afford.

Mr. STEVENS. Who are they?

Mr. BANKS. I have named such as have occurred to me.

Mr. STEVENS. I did not fully understand the object of this. I understand now it is that we are to send out school-masters to open schools and teach the French people. Why not make them pay tuition?

Mr. BANKS. It is not for any such purpose as the gentleman specifies. That is rather below the dignity of our Government.

Mr. JENCKES. I withdraw the amendment.

Mr. LE BLOND. I now offer an amendment to the amendment by adding one commissioner from each State. If we make that addition, then every member who votes for this bill will do it with the hope that he will be that fortunate person; and with that inducement I presume the joint resolution will pass.

Mr. SPALDING. Does the gentleman mean to include the lately rebellious States?

Mr. LE BLOND. Oh, yes.

Mr. SPALDING. That is right; send good specimens of the rebels.

Mr. LE BLOND. Of course.

Mr. SPALDING. I agree to that.

Mr. LE BLOND. I am not one of those who believe that they have no rights down South that the negroes ought to respect. I think they are American citizens entitled to all the privileges that the Constitution of the country guaranties to them.

But, sir, I am opposed to the whole theory of this joint resolution. It looks to me as though the only object of it is to enable the manufacturing interest of the East to go to Europe and there compare their articles of manufacture and machinery with those of the Old World, that they themselves may gain some intelligence by it. Now, sir, I believe it is their duty to go there, if they must, as a private enterprise, and not ask the Government to contribute their traveling expenses in a matter that concerns their own private and peculiar interest.

Who, sir, is to be benefited by this measure in the western States? We are agriculturists. That is our chief occupation, while those in the East make their living by manufacturing articles that they sell to the West. No information is necessary to be gathered upon the subject. Why then call upon the people of the West to contribute to it? Why draw out of the common public Treasury this large sum of money to defray their expenses?

It is suggested by a friend near me that it would be well to select these commissioners without regard to race or color. I believe this is about the only measure that we have had before us since Congress convened that did not have in it the popular phrase "without reference to race or color." If they will only add that to this joint resolution, I have no doubt it would be passed by a decided party vote. Now, it is said that the interests of the people of the United States are so involved that this joint resolution should pass. Yet it is surprising when gentlemen are claiming here that the country is greatly in debt, (and no man can doubt it, at least those who are called upon to pay taxes will not question the assertion,) that they are still calling upon us to vote money for a thing that ought to be carried out by private enterprise, without calling upon the Government to contribute the vessels of the country and the treasure of the country to take men there to exhibit their articles, in order to enable the people of the eastern States to obtain knowledge which will result to their special and personal benefit. I hope this joint resolution will not pass, but that it will be defeated.

Mr. HARDING, of Illinois. I desire to make a suggestion to the gentleman from Ohio, [Mr. LE BLOND.] I have understood that some preparations are being made for this journey to France, which may be unnecessary if this matter is properly understood, as I understand it. I suggest that an amendment be made that no member of Congress be appointed commissioner.

Mr. BANKS. That is the law now.

Mr. HARDING, of Illinois. I suppose this office would come within the constitutional provision which forbids a member of Congress from holding an office created or the emoluments of which have been increased by action of the Congress of which he is a member.

Mr. LE BLOND. Does the gentleman from Illinois [Mr. HARDING] propose that no member of Congress, "without regard to race or color," shall be appointed commissioner? [Laughter.] If so, I fully agree with the gentleman.

Mr. BANKS. I move that the committee now rise for the purpose of closing debate on this section.

Mr. SPALDING. We will vote on it now.

Mr. BANKS. If a vote can be taken now I will withdraw my motion.

Mr. LE BLOND. I withdraw my amendment to the amendment.

Mr. WHALEY. I renew the amendment to the amendment for the purpose of saying a few words. I desire to say to the honorable chairman of the Committee on Foreign Affairs [Mr. BANKS] that while this debate has been occupying our time for nearly or quite two days, there have been but few members on this side of the House who have had an opportunity to speak for even one minute. This is certainly a grave measure; it has been debated for two days, and I for one am at a loss to know why there should not be at least a few minutes allowed to this side of the House. I admit that a few gentleman here have had their minute to speak. But I understand the gentleman from Kentucky [Mr. SMITH] made every effort to get an opportunity to speak, but could

not succeed. But I do not wish to occupy the attention of the committee on this occasion; but I hope that on all occasions hereafter there will be a due degree of fairness shown to every side of the House. [Applause and laughter.]

I merely wish to say a word to the gentleman from Illinois, the gentleman from the Galena district, [Mr. WASHBURNE.] I indorse the most of his speech. I believe every patriot and every brave soldier from the rock-bound shores of the Atlantic to the blue waves of the distant Pacific will indorse his speech. [Renewed applause.] I believe that every brave sailor who goes forth upon the blue waves of the ocean to defend this great Republic will indorse his speech. [Applause and laughter.] I regret that I have not a few minutes to tell you what I think are the opinions of the soldiers of the great West, of the Northwest, sometimes called the inflammable West. They will speak in tones of thunder, when they come to the ballot-box, on all such questions as these.

I wish further merely to make a correction in a reply that I made to a question of a member on the other side. I said I would send fifty gunboats over there, when the gentleman asked how many vessels would be necessary to send on this expedition. I should have answered him in precisely these words: I would send fifty of the best iron-clads that America can produce. [Applause.] That is the best expedition you can send there. Just so long as the guns of France, upon the shores of the Rio Grande, are thundering as they are to-day at the very gates of this Republic, just so long will our brave soldiers and loyal people be unprepared to listen to any such proposition to vote away the money of the people on this occasion or at this time, unless you are prepared to appropriate an equal sum for the benefit of the Orphan's Asylum of the city of Washington. [Applause and laughter.]

I now withdraw the amendment to the amendment.

The question recurred upon the amendment of Mr. CONKLING to strike out the word "ten" before the word "commissioners," and insert the word "three."

Mr. CONKLING. At the suggestion of the gentleman who has charge of this measure, I will modify my amendment so as to make it "five" instead of "three."

On agreeing to the amendment there were—ayes 49, noes 51.

Mr. WASHBURNE, of Illinois, called for tellers.

Tellers were not ordered.

So the amendment was rejected.

Mr. GRINNELL. I move to amend by inserting after the word "number" the words "to be selected from different sections of the country."

Mr. BANKS. That is right; we will agree to that.

Mr. GRINNELL. The number now provided for is ten. I desire to obviate the objection which has been made that these men will all be selected from one portion of the country.

Mr. CONKLING. I oppose this amendment, and I desire to say that if there is one thing more certain than another to degrade this commission, to prevent it from realizing in its character the ideal of the gentleman from Massachusetts, it is the provision requiring the appointment of ten men. We know that it will be impossible to find ten men of the qualifications described by the gentlemen, who can all consent, for any such compensation as that provided, to leave this country and remain the requisite time abroad. And now, if you provide that these men must be selected as political candidates are sometimes selected in a State convention, according to the claims of localities, so that one must be taken here, another there, and a third somewhere else, merely for the sake of dispersing them geographically, it seems to me that thus, more than in any other way, you will insure the selection of unsuitable men.

I will suggest further for the consideration of the gentleman from Massachusetts, whether he does not know that if men are to be selected to serve in this capacity, to authorize the statements which are to be made to this country and the statements which are to be made abroad, the sending of ten men will so far diffuse and divide the responsibility that the work of the commission will be in a great degree everybody's business and therefore nobody's business. The work will not be done so well as if there were three or five men instead of ten.

I make this suggestion as a practical matter with a view of obviating the defects of the bill, for if the measure is to pass I trust that it will be made as efficient as possible, and will be relieved as far as may be of the excrescences with which, in my view, it is now marred.

Mr. STEVENS. I move to amend the amendment by inserting before the word "different" the word "in."

Now, sir, I confess that I do not understand this subject fully. Portugal last year inaugurated an Exposition at Oporto, and sent to this country an invitation to send a commissioner; and one was appointed. I had the honor of calling upon the Secretary of State in regard to the matter. He appointed a highly respectable gentleman from Philadelphia, a native of Portugal, but who had resided in this country forty years, a gentleman of wealth. I recollect that in the commission which was issued to that gentleman, and which it was my pleasure to deliver to him, it was expressly provided that all his services must be rendered at his own expense, and that he must never present any claim against the Government for anything done by him in connection with that matter. My friend accepted the commission on that condition, and he undertook and performed the duty with pleasure, not expecting to charge the Government for what he did in an honorable position of that kind.

Now, sir, I like the idea which has been expressed by some other gentleman. If the tools manufactured by us are the best in the world, why send them abroad as subjects for successful imitation? For instance, those manufactured by my friend from Massachusetts [Mr. AMES] are, I believe, the best of the kind in the world. Now, what folly it would be for him to send a specimen of his manufactures to this Exposition so that foreign artisans might find out the secret and imitate them, and thus secure for their tools in the markets of the world the place which his now occupy. If we should keep our best inventions at home, and provide for sending skillful and ingenious men abroad to this Exposition to study the best inventions there and bring back new ideas for our benefit, I could understand the propriety of the proceeding. There might not be as much glory in it as there is in the magnificent scheme of my friend from Massachusetts; but, in my view, there will be no greater glory to be acquired by the whole proceeding than he has acquired in describing that glory.

I hope that my friend from Iowa [Mr. GRINNELL] will accept my amendment. I see that he shakes his head; so I withdraw the amendment.

Mr. BANKS. Unless the committee agrees to take the question on this section I shall move that the committee rise.

Mr. SLOAN. I have an amendment to offer. I move that one commissioner from each State represented in Congress shall be appointed by the Governor of that State. If the object of this provision is to have the resources and the condition of the country represented at this Exhibition, it can be done more carefully and more justly by having one commissioner from each State represented in Congress than in any other way.

Now, sir, for myself, I do not believe it is very necessary to send commissioners to this Exhibition simply to talk up the great resources of this country. I do not think the greatness of the American people has been underrated in Europe. They give us full credit, and whatever may be said in reference to talking up the resources of the country, I do not think it will add much to that credit. My proposition of one commissioner from each State represented in Congress will afford an equal and just representation.

Mr. RAYMOND. Mr. Chairman, I desire to say one word in opposition to this amendment. As I endeavored to explain in my remarks this afternoon, these ten commissioners are to be appointed, if at all, for the express purpose of bringing their scientific and practical knowledge in the different duties intrusted to their care to bear upon the different groups of industry exhibited there, and report the results to the country.

I need not say to the House that scientific knowledge, mechanical knowledge, practical knowledge in every department, is absolutely requisite to qualify any man, in reporting from that Exhibition to the people of the country, to give them any instruction whatever.

Take the group of fine arts, or better still of mining, in regard to which more is known in Europe as to its practical details than we know here. We want qualified men to ascertain what has been accomplished, what has been brought to light, and to report that to the people of this country, so that they may practice it in their application to mining. If the Governor is to appoint men, instead of men with scientific knowledge we will have prominent politicians, who will bring us back nothing but the loss of the money they have taken for their salaries. If we are to have a practical result, let us take men qualified to go there and report to us. It is far better to send one man for each group. If we do not do that it is not necessary to send any at all. I want the House to vote on the practical necessity and not from political feeling or local jealousy.

Mr. SLOAN. Many of the States have already appointed commissioners.

Mr. RAYMOND. Well, let them be appointed in addition to these.

The question was taken on Mr. SLOAN'S amendment, and it was rejected.

Mr. BANKS. I hope the amendment of the gentleman from Iowa will be adopted.

The question was taken on Mr. GRINNELL'S amendment, and it was adopted.

The Clerk read, as follows:

Four. For the erection of any additional structure which may become necessary for the proper exhibition of any of the material products of the United States, the sum of $50,000: *Provided*, That one half the cost of said structure shall be assessed upon the owners, proprietors, or exhibitors of the articles and products for the exhibition of which it is erected, and good and sufficient guarantees taken for the reimbursement thereof to the Treasury of the United States.

Mr. BANKS. The object of this section is to enable us, if we require it, to obtain additional space.

Mr. WASHBURNE, of Illinois. What is the question before the House?

Mr. BANKS. I move to add at the close of that paragraph these words:

In such form and subject to such approval as the Secretary of the Treasury shall direct.

I offer this at the suggestion of the gentleman from Vermont. It is to make the security to be taken more satisfactory than it is as the section now stands.

The object of the section is this: in case more space is wanted than is assigned, it provides that an outside building shall be erected in the adjoining park. Belgium has appropriated money for a similar purpose.

It is further provided that the exhibitors shall pay one half and the Government the other half, and that the sum shall not exceed $50,000.

The question was taken on Mr. BANKS'S amendment, and it was agreed to.

Mr. WASHBURNE, of Illinois. I move to strike out that fourth paragraph providing for the appropriation of $25,000. I do not see why we should go over there and build buildings in order to make our exhibition.

Mr. PAINE. I move to amend the paragraph which the gentleman has moved to strike out, by adding thereto the following:

Provided also, That the proceeds of the sale of the said structure shall be paid into the Treasury of the United States.

Mr. BANKS. I have no objection to that.

The amendment was agreed to.

The motion of Mr. WASHBURNE, of Illinois, was not agreed to.

Mr. WASHBURNE, of Illinois. I propose to move another amendment which, I think, will meet with the unanimous approval of the committee. I propose to strike out in line twenty-three the words "one half," so that it will read:

That the cost of said structure shall be assessed upon the owners, &c.

Let those parties who have the benefit of the structure pay for it.

Mr. STEVENS. That would not amend it at all. It would leave the appropriation of $25,000 in. I think this whole section ought to be stricken out, or else let the exhibitors pay one half. As I understand the bill now it provides an appropriation of $125,000 altogether.

Mr. BANKS. No, sir; the $25,000 for the structure is included in the $100,000. The gentleman from Ohio [Mr. SPALDING] will propose an amendment limiting the expenditures under all circumstances to $100,000, to which I shall agree. The $25,000 is included in the $100,000.

Mr. STEVENS. I think it ought to be made more specific.

Mr. BANKS. An amendment such as I have indicated will be offered by the gentleman from Ohio, [Mr. SPALDING.]

Mr. SPALDING. I propose to offer that amendment at the proper time.

The question was taken on the amendment proposed by Mr. WASHBURNE, of Illinois, and it was not agreed to.

Mr. CONKLING. I move to amend the paragraph by inserting after the word "structure" the words "including such fish-ponds as may be necessary for the exhibition of American fishes."

Mr. BANKS. I rise to a question of order. That amendment is not applicable to the bill.

Mr. CONKLING. I do not see that the amendment is out of order. I submit to the Chair whether it is or is not. I do not see why we should not be permitted to carry our fish there.

Mr. BANKS. I think that is inapplicable to this section.

The CHAIRMAN. The Chair overrules the point of order.

Mr. CONKLING. My motive in offering this amendment is to call the attention of the committee and of the distinguished gentleman from Massachusetts [Mr. BANKS] to a message which has just come in from the President of the United States, and which I hold in my hand, dated March 12, 1866, transmitting a very voluminous correspondence, which I have not been able to read, showing the pressing necessity of our participating in an exposition of "fishery and water culture" which is to take place in July within one hour's ride by rail of Bordeaux. The package of papers accompanying the message is so imposing and elaborate, and so impressive in some of its statements, as almost to lead me to believe that this is the real Exposition and that the Parisian affair is rather a side show. [Laughter.]

Mr. BANKS. A discussion on this subject is not in order. That message has been referred to a committee of this House, and it cannot be debated or acted on at this time.

Mr. CONKLING. I do not propose to debate it.

The CHAIRMAN. The Chair supposes that the gentleman merely refers to it as a part of his argument.

Mr. CONKLING. Certainly; I merely use it as part of my remarks. I want especially that my remarks shall show what this paper recites, that "in view of the fact that the people of the United States are more extensively engaged in cod, whale, and oyster fishing than the people of any other nation," it is of prime importance to them that they participate in this Exposition.

As my time does not allow me to read all this document, and as the gentleman from Massachusetts does not like me to talk about it, I beg to assure the committee that I have examined it far enough to see that it holds out very tempting inducements indeed, so that I fear that the machinery so economically and properly devised in the resolution now before us will have to be duplicated in order to embrace the great and obvious benefits which appear in this proposition.

Now, I am not sure that it can be carried into this section by the amendment I offer providing for fish-ponds for the exhibition of products of this kind, but I hope the amendment may be of some avail at least in the way of suggestion, and that the inventive genius of the same gentlemen who have given us this measure will enable them to carry out the idea practically, so that we may embrace both objects at once.

Mr. STEVENS. What kind of fish does the gentleman mean?

Mr. CONKLING. Cod-fish and whale; especially whale. [Laughter.]

The CHAIRMAN. Does the gentleman from New York insist on his amendment?

Mr. CONKLING. No, I will withdraw it, unless some gentleman wishes to speak upon it.

Mr. LE BLOND. Does the gentleman from New York withdraw his amendment?

Mr. CONKLING. I said that whether I withdrew it or not would depend on whether any gentleman wanted to speak to it.

Mr. LE BLOND. I hope the gentleman will not withdraw it.

Mr. CONKLING. I will not if the gentleman wishes to oppose it.

Mr. LE BLOND. Oh, yes, sir; because I oppose the whole bill. I do not propose to debate it; but I hope the gentleman will insist on his amendment and let us take a vote upon it. I believe that one of the great arguments of the gentleman who introduced this joint resolution in its favor is that we shall exhibit to the Old World all the facilities we have here for making money and for easy and cheap living.

Well, certainly one of the greatest inducements we can offer to the people of the Old World to emigrate to this country—and we need laborers—is that they can live here cheaply because we have fish in abundance, and even frogs, and I hope the gentleman will provide also for a place in which to keep frogs, for there are certain portions of this country that produce them in great abundance.

Mr. THAYER. Say "and other reptiles."

Mr. LE BLOND. Yes, certainly other reptiles, and I suppose you would not have to go out of this Hall to find them. [Laughter.]

Mr. THAYER. Take "copperheads."

Mr. LE BLOND. Yes, and "niggerheads," and make proffer of them to the European people as an inducement to them to come and settle among us.

It is suggested to me by my friend from Illinois [Mr. ROSS] that the committee of fifteen should also be presented, and I believe that would be a very excellent thing to induce these people to come over here and learn the manner of our legislation, that things are done under cover, and that even testimony is taken and published for electioneering purposes.

Mr. STEVENS. The gentleman talks about things being done "under cover." Did the gentleman vote against publishing the evidence reported by the committee of fifteen?

The CHAIRMAN. Does the gentleman from Ohio [Mr. LE BLOND] yield to the gentleman from Pennsylvania, [Mr. STEVENS?]

Mr. LE BLOND. Not at all.

Mr. STEVENS. Then I will not ask him the question; otherwise I would.

Mr. LE BLOND. That committee is certainly a national curiosity. I believe that for many years nothing of this kind has ever been known in the politics of Great Britain; and if we can take something new of that kind in the shape of legislation there, it will certainly be a novelty that will induce the people of France and Germany to come here and take up their abode with the American people.

It is also suggested to me that we ought to take the Freedmen's Bureau bill there. Very well; that would bring all Africa here, the most desirable portion of the Old World. [Laughter.]

A MEMBER. How about the veto?

Mr. LE BLOND. I thank God for the veto! Perhaps it would not be liked there, so we will keep that back. But let us take all of these American curiosities over there, and I know that in a very short time our American vessels will all be filled with emigrants coming to this country.

Sir, I believe I have almost talked myself into a belief that this joint resolution ought to pass, and I do not know but that I shall vote for it, considering all the benefits that will result from it.

The question was taken on Mr. CONKLING'S amendment, and it was not agreed to.

The question recurred on the amendment proposed by Mr. WASHBURNE, of Illinois, and being put, it was not agreed to.

Mr. SPALDING. I move to add to the fifth paragraph the following:

Provided, That in no contingency shall any further or greater sum than $100,000 be paid from the national Treasury for the purposes contemplated by this joint resolution.

Mr. BANKS. I agree to that amendment.

Mr. WASHBURNE, of Illinois. I move to amend the amendment so that it will read:

The entire expense of this Exhibition shall not exceed $100,000 in currency, including the expense of sending national vessels to France.

The CHAIRMAN put the question on the amendment to the amendment, and announced that it appeared to be decided in the negative.

Mr. WASHBURNE, of Illinois. I demand a division on the question. The gentleman from Massachusetts [Mr. BANKS] said that all they wanted was $100,000.

Mr. BANKS. That is all we do want.

Mr. WASHBURNE, of Illinois. Why not vote for this amendment, then? I demand a division on the question.

The committee divided, and there were—ayes 22, noes 70.

So the amendment to the amendment was not agreed to.

The question recurred upon the amendment of Mr. SPALDING, which was modified to read as follows:

Provided, That in no contingency shall any further or greater sum than $100,000 in lawful money of the United States be paid from the national Treasury for the purposes contemplated by this joint resolution.

Mr. CONKLING. I move to amend the amendment by striking out the last word, in order that I may inquire of the mover whether or not he means the proviso he has offered to include the expense of loading ships.

Mr. SPALDING. I will answer the gentleman from New York [Mr. CONKLING] by saying that the mover intends just what the language expresses, and nothing more.

Mr. CONKLING. Will the mover be so kind as to afford us over here his construction of the language? [After a pause.] I want to understand, I think every one wants to understand, what this proposition really means. I think there surely can be no misunderstanding that the friends of this measure gave us to suppose that $100,000 in currency was to be the utmost limit of expense. And yet this committee, the friends of this measure leading off, votes down a proposition which says that in somewhat particular phrase. And the gentleman from Ohio [Mr. SPALDING] seems to decline to say that in his opinion the amendment which he has offered means that and no more.

Now, I think that without being captious I have a right to ask that this amendment shall be so modified as to conform to the understanding which we had all around here; that is, that the sum of $100,000 shall be applied, not to special expenses, but to the entire expenses of this proceeding. And if there be any doubt about it, as I judge there is, I will move to amend the amendment by adding the words, "including the chartering or sending of vessels."

Mr. BANKS. That amendment has just been disposed of.

Mr. CONKLING. I beg pardon; the amendment just voted down had a great deal more than this in it.

Mr. RAYMOND. I suppose my colleague [Mr. CONKLING] means by his amendment to limit the expense which the Government shall incur to $100,000. He does not mean, I suppose, to include in that sum the expenses which may be incurred by individuals or by States.

Mr. CONKLING. Certainly not. But I do not want hereafter to find that we are in this dilemma: that having said that $100,000 shall be the whole expense to the Government of this proceeding, then under the order of the President, or under the direction of the Secretary of the Navy any such sum as the Secretary speaks of in his letter has been expended in the transmutation of war vessels into freighting vessels and then back again. Therefore I desire to have the words included which I have suggested.

Mr. GARFIELD. I would suggest to the gentleman from New York, [Mr. CONKLING,] that what he proposes to add to the amendment of my colleague [Mr. SPALDING] will make it rather more ambiguous than it now is.

Mr. CONKLING. I think not. I ask that the amendment be read again.

The amendment was again read.

Mr. GARFIELD. If the words suggested by the gentleman from New York be added to the amendment, it will raise the entire question whether in the expense of chartering vessels and transporting goods from this country to Europe and back again, is meant to be included the cost of the rent of the vessel, and the money that shall be paid to the sailors and officers, and the general expense of the Navy in maintaining the establishment during that time. It seems to me that the words suggested legitimately raise all that question. Now, as I understand it, it is proposed that beside giving the use of our vessels we shall appropriate $100,000 in money for this purpose. I do not understand that the money hereby appropriated includes the pay of the sailors, the rent of the vessels, or any other expenses that would be incurred if these vessels were not in this specific service. It looks to me that the words suggested by the gentleman from New York raise that very question, and make it, to say the least, somewhat ambiguous.

Mr. CONKLING. Will the gentleman from Ohio [Mr. GARFIELD] be kind enough to inform us whether the amendment of his colleague, [Mr. SPALDING,] as it stood before my addition, avoids all question as to the matter of which he speaks; and if it does, will he tell us whether it does not expressly except vessels, either the chartering or the sending of them?

Mr. GARFIELD. I take it for granted, sir, that under the amendment of my colleague only $100,000 can be paid out of the Treasury for the expenses of this enterprise, not counting the ordinary expenses of maintaining those vessels in the service of the United States. I can see no room for any other construction. But if the exception suggested be added, it then opens the whole question whether we are not bound to pay out of this $100,000 the officers, the sailors, and all the ordinary expenses of those vessels, which I think ought not to be included.

Mr. SPALDING. Will my colleague yield to me for a moment?

Mr. GARFIELD. Certainly.

Mr. SPALDING. I did not answer the gentleman from New York [Mr. CONKLING] because I supposed that I had in my amendment made the matter as explicit as the English language would permit. I intended that no more money than $100,000 in currency should be paid out by our Government for the objects contemplated by this joint resolution. I did suppose that if we had national vessels that could be used in this business without drawing from the Treasury any more money to fit out and prepare them, they might be used, the expense forming no part of this amount of $100,000; but if one dollar extra should be drawn from the Treasury to fit those vessels for the purpose, that extra expenditure would be included in the $100,000, or it would not be paid at all. That is my idea.

Mr. STEVENS. It seems to me that the second section explictly authorizes the Secretary of the Navy to incur expense outside of the $100,000; for it authorizes him to transfer from the naval fund the expenses of fitting out these vessels. That section contains this provision:

And the Secretary of the Navy is hereby authorized to transfer from the general naval appropriation to the account of the Exposition at Paris any expenses necessarily incurred in preparing vessels assigned to this duty, for receiving and transporting articles and products intended for exhibition.

Mr. BANKS. That is to be struck out of the bill. I have given notice of an amendment striking out the second and third sections.

Mr. SPALDING. The bill will be amended to correspond with this proviso.

Mr. GARFIELD. I wish to say, Mr. Chairman, that I am very much surprised at the captious character, as it seems to me, of the objections which have been urged against this bill. This measure, in my view, is one of too much importance and has too wide an application to the diversified interests of this country to be treated as the bill has been treated by some of the gentlemen who oppose it. I most certainly hope that the members of this House will not allow so important a measure to be defeated in consequence of the comparatively small expenditure that will be required to effect the great object proposed to be accomplished.

[Here the hammer fell.]

Mr. BANKS. For the purpose of terminating debate on this section, I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. WILSON, of Iowa, reported that the Committee of the Whole on the state of the Union, having had under consideration the Union generally, and particularly House bill No. 52, to provide for the expenses attending the exhibition of the products of industry of the United States at the Exposition at Paris in 1867, had come to no resolution thereon.

Mr. BANKS. I move that when the Committee of the Whole on the state of the Union shall resume the consideration of this bill, debate on the pending section terminate in one minute.

The motion was agreed to.

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

The motion was agreed to; and the House accordingly resoved itself into the Committee of the Whole on the state of the Union, (Mr. WILSON, of Iowa, in the chair,) and resumed the consideration of House joint resolution No. 52, to provide for the expenses attending the exhibition of the products of industry of the United States at the Exposition at Paris in 1867.

The question was taken on Mr. CONKLING's amendment to the amendment, and it was disagreed to.

Mr. SPALDING's amendment was then agreed to.

Mr. WASHBURNE, of Illinois. I move to add to the end of the fifth paragraph the following:

And said commissioners shall report to Congress the manner in which this expenditure is made.

Mr. BANKS. I agree to that.

The amendment was adopted.

Mr. WASHBURNE, of Illinois. I move another amendment, that no part of the money hereby appropriated shall be expended until the French troops are withdrawn from Mexico. [Laughter and applause.]

The amendment was disagreed to.

The Clerk read, as follows:

SEC. 2. *And be it further resolved*, That the Secretary of the Navy be, and hereby is, authorized and directed to furnish, at the request of the Secretary of State, one or more public vessels for the transportation from New York to France and return of such articles and products of the United States as may be offered under the direction of the commissioner at New York, for exhibition at Paris; and the Secretary of the Navy is hereby authorized to transfer from the general naval appropriation to the account of the Exposition at Paris any expenses necessarily incurred in preparing vessels assigned to this duty, for receiving and transporting articles and products intended for exhibition.

Mr. BANKS. I move to strike out the section which has just been read, and to insert in lieu of it what I send to the Chair.

The Clerk read, as follows:

And be it further resolved, That the President be authorized and requested to furnish one or more public vessels for transportation from New York to France of such articles and products of the industry of the United States as may be offered and accepted by the general agent at New York for exhibition at Paris.

Mr. BANKS. I make this amendment striking out the Secretary of the Navy and inserting a provision that it may be made by the President of the United States at the suggestion of my colleague, [Mr. RICE,] the chairman of the Committee on Naval Affairs. I think it is a proper amendment and hope it will be adopted.

Mr. Chairman, I want to call the attention of the committee to the fact that there is no expense to be incurred in sending these vessels whatever except in possession of the vessels and employment of officers of the Government. The language is explicit and cannot be mistaken.

I do not know on what ground the Secretary of the Navy has written the letter read in the debates to-day, but I will say it has no application whatever to the proposition before the committee. If the President has not the vessels which can be properly appropriated for this purpose, without requiring them to be dismantled and without changing them from frigates to freight vessels, he will not comply with the request. If the Government have such vessels without changing their condition then the request will be granted.

The amendment was adopted.

The Clerk read, as follows:

SEC. 3. *And be it further resolved*, That the commissioners at New York and Paris be, and are hereby, authorized and directed to collect upon all articles to be transported for exhibition, or returned to the United States, a sum equal to one half the current rate of freight at the time and place of shipment; which sum, deducting the cost of collection, shall be appropriated, under the direction of the said commissioners, to defray, in part, the expenses of the exhibition herein provided for; and the commissioners are hereby authorized to furnish transportation to and from France by any Government vessel for the commissioners appointed by the President, and for one duly appointed commissioner for each State.

Mr. BANKS. I move to strike that section out.

Mr. WASHBURNE, of Illinois. I hope it will not be stricken out. It was reported by the gentleman from Massachusetts himself. It provides that those who shall take the benefit of these vessels shall pay one half of the freight. I am astonished my friend should propose to strike it out.

Mr. BANKS. I move to strike it out because I have changed the original purpose of the resolution in this regard. I only ask that vessels shall be sent out and not that goods shall be brought back, making a difference to the Government of considerable moment. I do not think it just to charge the exhibitors one half of the freight, but still if that is the opinion of the committee, I do not object.

Mr. PAINE. I offer the following amendment:

In section three strike out from the words "shall be appropriated," at the commencement of line seven, to the words "provided for," in line nine, inclusive, and insert in lieu thereof the words, "shall be applied in payment of the appropriations herein made."

It will be perceived that the words in the seventh, eighth, and ninth lines empower these commissioners to increase the expenditure here authorized by an amount equal to the freights

received on goods transported. The object of this amendment is to have an application of these freights, whatever they may be, to the payment of the appropriation made in the joint resolution.

Mr. BANKS. I am opposed to it for the reason that it does not change the original appropriation. The section as it originally stood required the application of any amount paid to discharge the expenses incurred for the transportation specified in the resolution, which in the gross were not to exceed $100,000. I propose now to strike out the section altogether, which I hope the gentleman will not object to.

The question being taken on the amendment of Mr. PAINE, it was disagreed to.

Mr. CONKLING. I move to strike out the last word for the purpose of making an inquiry. I wish to know whether there is any provision made for the transportation of commissioners.

Mr. BANKS. No provision is made for transportation either of the commissioners from the States or the commissioners from the General Government.

Mr. CONKLING. Then it seems to me that that is a very grave omission. As the joint resolution now stands, it gives at least passage transportation to the commissioners from the States. Now, I understand from my friend that his State, for example, has already appointed an accomplished geologist to visit this Exposition; and other States, I am told, have appointed agents. It seems to me if there is any value at all in these commissioners, any reason why they should be appointed and paid by the General Government, we ought at least to make some provision here in reference to those State commissioners (to whom nothing is to be paid and for whom nothing is to be paid) by which they shall be at least carried to and fro in these public vessels which are to be sent; and I suggest to the gentleman from Massachusetts whether there ought not to be an insertion in his proposition which shall give these men from the States at least so much of recognition as to enable them to have passage in a Government vessel. I withdraw my amendment.

The question was then taken on the motion of Mr. BANKS to strike out section three, and it was agreed to.

The Clerk read the last section, as follows:

SEC. 5. *And be it further resolved*, That so much of the joint resolution relating to the Industrial Exposition, approved January 15, 1866, as may be inconsistent wih the foregoing resolutions, is hereby repealed.

Mr. BANKS. This section repeals the resolution approved January 15. By that resolution the salaries of the clerks at New York were fixed at $1,800, $1,600, and $1,400, and therefore ought to be repealed. Of course there can be no objection to that.

I now move that the committee rise.

Mr. TAYLOR. I desire to move an amendment so as to say a few words.

Mr. BANKS. Very well, I withdraw the motion for that purpose.

Mr. TAYLOR. I move to strike out the last section.

Mr. Chairman, I am opposed to this measure. We have had from the commencement of this session petition after petition from the veterans of 1812, asking to be placed on the pension roll. We have had applications from loyal men who have lost their whole property during the rebellion. All these petitions have been refused for the reason of the enormous debt which the Government is laboring under, for which we are taxed almost beyond endurance.

We have the soldiers that enlisted in 1861 and 1862 asking for an equalization of bounty, but we have refused it upon the same ground. There are all these troops asking that they may be placed on the pension roll and receive a bounty from this Government, all of which is refused. It does seem to me inconsistent at this time that a proposition making so large an appropriation as this should be entertained for one moment by this House.

This bill will cause an expenditure of nearly half a million dollars. The chairman of the committee is endeavoring to figure it down, but taking the calculation made by the Secretary of the Navy, asking for something like three hundred thousand dollars, and then adding the other expenses it will in the end, I have no doubt, amount to $500,000. This seems to me to be inconsistent with our previous action, and I might say almost infamous. We have rejected all of the just claims for the purpose of making an appropriation, for what? It does seem to me that it is for no other purpose than for a grand advertisement of the manufacturers of this country, a class of persons who are better able to pay their own expenses for advertising than the General Government is at this time.

I trust, therefore, that when this joint resolution is finally submitted for a vote, upon these considerations, and others which have been forcibly urged by gentlemen on this floor, the joint resolution will be voted down.

I now withdraw my amendment.

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

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. WILSON, of Iowa, reported that the Committee of the Whole on the state of the Union, having had under consideration the Union generally, and particularly House bill No. 52, to provide for the expenses attending the exhibition of the products of industry of the United States at the Exposition at Paris in 1867, had directed him to report the same to the House, with sundry amendments, and with the recommendation that the bill do pass.

Mr. BANKS. I move the previous question.

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

The amendments reported from the Committee of the Whole on the state of the Union were agreed to in gross.

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

Mr. BANKS. I only desire to make one remark. Several gentlemen who have opposed the passage of this joint resolution have suggested that it is for the benefit of the manufacturers and not of the agriculturists of the country. I desire to say that the manufacturers of the country will not gain any direct advantage from this Exhibition at all. They cannot compete with the manufacturers of Europe; they cannot gain the trade of Europe. All the advantage to be derived from this Exhibition by the American people will be for the western portion of the country, in the development of the sources of our wealth and power. It is they and those that are identified with the future power of this country especially who will be benefited by this representation at the Exhibition.

I move the previous question.

The previous question was seconded, and the main question ordered, being upon the passage of the joint resolution.

Mr. WASHBURNE, of Illinois. I demand the yeas and nays on the passage of the joint resolution.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 70, nays 50, not voting 63; as follows:

YEAS—Messrs. Alley, Allison, Ames, Ancona, Anderson, James M. Ashley, Banks, Bidwell, Bingham, Boutwell, Boyer, Bundy, Chanler, Coffroth, Cullom, Darling, Dawes, Delano, Dixon, Donnelly, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Hart, Henderson, Higby, Hill, Holmes, Hooper, Chester D. Hubbard, Edwin N. Hubbell, Hulburd, James Humphrey, Ingersoll, Jenckes, Julian, Kuykendall, Laflin, Latham, Marshall, Marvin, McRuer, Miller, Morris, Myers, Nicholson, O'Neill, Orth, Perham, Plants, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Spalding, Starr, Taber, Thayer, Francis Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Warner, William B. Washburn, Windom, and Winfield—70.

NAYS—Messrs. Baker, Barker, Beaman, Bergen, Blaine, Bromwell, Broomall, Buckland, Reader W. Clarke, Cobb, Conkling, Cook, Deming, Glossbrenner, Goodyear, Grider, Aaron Harding, Abner C. Harding, Harris, Hayes, Asahel W. Hubbard, Demas Hubbard, James R. Hubbell, Jones, Kerr, Ketcham, George V. Lawrence, William Lawrence, Le Blond, Loan, McClurg, Paine, Pike, Price, Radford, Samuel J. Randall, Ritter, Ross, Sawyer, Shellabarger, Sitgreaves, Sloan, Stevens, Taylor, Thornton, Trimble, Elihu B. Washburne, Whaley, Williams, and James F. Wilson—50.

NOT VOTING—Messrs. Delos R. Ashley, Baldwin, Baxter, Benjamin, Blow, Brandegee, Brooks, Sidney Clarke, Culver, Davis, Dawson, Defrees, Denison, Driggs, Dumont, Eckley, Eggleston, Eldridge, Finck, Griswold, Hale, Hogan, Hotchkiss, John H. Hubbard, James M. Humphrey, Johnson, Kasson, Kelley, Kelso, Longyear, Lynch, Marston, McCullough, McIndoe, McKee, Mercur, Moorhead, Morrill, Moulton, Newell, Niblack, Noell, Patterson, Phelps, Pomeroy, Rogers, Rollins, Rousseau, Schenck Scofield, Shanklin, Smith, Stilwell, Strouse, John L. Thomas, Robert T. Van Horn, Ward, Henry D. Washburn, Welker, Wentworth, Stephen F. Wilson, Woodbridge, and Wright—63.

So the bill was passed.

During the roll-call,

Mr. MOORHEAD said: I am paired upon this question with my colleague, Mr. WILSON. I should vote ay; he would vote no.

Mr. J. L. THOMAS said: I am paired with my colleague, Mr. MCCULLOUGH. He would have voted no; I would have voted ay.

Mr. WHALEY said: I am requested to state that Mr. WARD is absent from the House on account of sickness.

The result of the vote having been announced as above recorded,

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

The latter motion was agreed to.

HOLDING EVENING SESSIONS

On motion of Mr. STEVENS, the order of the House that a recess be taken each day, except Saturday, from four and a half p. m. to seven and a half p. m., was suspended for to-morrow.

And then, on motion of Mr. STEVENS, (at twenty minutes to ten o'clock p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to appropriate committees:

By the SPEAKER: The petition of John Moores, David Hervey, William Rittenhouse, James Maxwell, and others, wool-growers of Ohio, asking for protection to their interests.

By Mr. ASHLEY, of Ohio: A petition from Messrs. Jackson & Co., and others, business men of Toledo, Ohio, remonstrating against the passage of the bill authorizing the Postmaster General to sell stamped envelopes at the same price of stamps.

Also, the petition of B. B. Van Court, Mary Ann Van Court, and over 500 others, citizens of Ohio, Indiana, Illinois, and Michigan, against the recognition of the late rebel States until said States shall secure impartial suffrage to all citizens of the United States, without regard to race or color.

By Mr. BAXTER: The petition of Asahel S. Hyde, and others, of Franklin, Vermont, asking additional duties on wool.

By Mr. BEAMAN: The petition of the Board of Trade of the city of Detroit, asking for a grant of land for the construction of a ship-canal to connect Lake Superior with Lac la Belle, for the purpose of furnishing a suitable harbor for shipping upon said Lake Superior.

By Mr. GARFIELD: The petition of 110 citizens of Randolph, Portage county, Ohio, praying for the equalization of bounties of soldiers for 1861, 1862, and 1863.

By Mr. GRIDER: The petition of Solomon Long, for a pension.

By Mr. LONGYEAR: The memorial of stockholders, and others, citizens of Michigan, in relation to the Amboy, Lansing and Traverse Bay railroad.

By Mr. MERCUR: The petition of 44 honorably discharged soldiers of Bradford county, Pennsylvania, praying that all soldiers who were enrolled previous to October 24, 1863, may be granted the same pay and bounties as were allowed to soldiers who enlisted after that date.

By Mr. O'NEILL: A petition of assistant assessors of internal revenue, asking for an increase of pay.

By Mr. SCHENCK: The petition of 119 soldiers of Preble county, Ohio, for equal bounties.

By Mr. VAN AERNAM: The petition of 33 citizens, prominent business men of Westfield, New York, praying Congress to enact just and equal laws for the regulations of inter-State insurance of all kinds.

Also, the petition of 48 citizens, prominent business men of Dunkirk, New York, for the same purpose.

Also, the petition of 33 citizens, prominent business men of Jamestown, New York, for the same purpose.

IN SENATE.

THURSDAY, *March* 15, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. FESSENDEN presented a petition of citizens of Portland, Maine, praying for the passage of the bill (H. R. No. 154) to further secure American citizens certain privileges under the treaty of Washington; which was ordered to lie on the table, that bill having been disposed of.

Mr. RAMSEY presented a petition of citizens of Minnesota, praying for the establishment of a mail route from Elk river, in Sherburne county, to Spencer Brook, in Isanti county, in that State; which was referred to the Committee on Post Offices and Post Roads.

REPORTS OF COMMITTEES.

Mr. HARRIS, from the Committee on Private Land Claims, to whom was referred a bill (S. No. 189) to confirm the grant of certain lands to José Domingues, in California, reported it without amendment.

Mr. LANE, of Indiana, from the Committee on Pensions, to whom was referred the petition of Ann Heth, widow of William Heth, who was killed by the confederate forces under the command of John Morgan, July 9, 1862, praying for a pension, submitted a report accompanied by a bill (S. No. 201) for the relief of Ann Heth, widow of William Heth, of Harrison county, Indiana. The bill was read, and passed to a second reading, and the report was ordered to be printed.

Mr. SUMNER, from the Committee on Foreign Relations, reported a joint resolution (S. R. No. 45) protesting against pardons by foreign Governments of persons convicted of infamous offenses on condition of emigration to the United States, accompanied by a communication from the State Department. The joint resolution was read, and passed to a second reading, and the accompanying papers were ordered to be printed.

Mr. POMEROY, from the Committee on Public Lands, to whom was referred a bill (S. No. 170) to amend an act passed March 3, 1865, entitled "An act in addition to certain acts granting bounty lands to officers and soldiers who have been engaged in the military service of the United States," asked to be discharged from its further consideration; which was agreed to.

Mr. CRAGIN, from the Committee on Naval Affairs, to whom was referred the petition of Elisha W. Dunn, a paymaster in the United States Navy, praying for the passage of an act authorizing the accounting officers of the Treasury to settle with him on those of his accounts, the proper vouchers of which were destroyed by fire at Mound City, Illinois, June 1, 1864, submitted a report, accompanied by a bill (S. No. 202) for the relief of Elisha W. Dunn, a paymaster in the United States Navy. The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. DOOLITTLE, from the Committee on Indian Affairs, to whom the subject was referred, reported a bill (S. No. 204) to provide for an annual inspection of Indian affairs, and for other purposes; which was read and passed to a second reading.

FIREMEN'S INSURANCE COMPANY.

Mr. WILLEY. The Committee on the District of Columbia, to whom was referred the bill (H. R. No. 368) to amend an act to extend the charter of the president and directors of the Firemen's Insurance Company of Washington and Georgetown, in the District of Columbia, have directed me to report it back to the Senate without amendment, and with a recommendation that it pass; and as it is a short bill, and will lead to no discussion I imagine, I ask the unanimous consent of the Senate to put it on its passage now.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to repeal the sixth, seventh, eighth, ninth, and tenth sections of the act to incorporate the president and directors of the Firemen's Insurance Company of Washington and Georgetown, in the District of Columbia, approved March 3, 1837, and which was extended by the act approved February 7, 1857; the fire companies which existed at the time of the passage of those acts, and upon which existence those sections were based, having ceased to exist. The stock of the Firemen's Insurance Company is to be issued, sold, transferred, and held in the same manner that it might have been issued, sold, transferred, and held had those sections never existed.

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

BILL INTRODUCED.

Mr. WADE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 203) to enable the New York and Montana Iron Mining and Manufacturing Company to purchase a certain amount of the public lands not now in market; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House of Representatives had passed a joint resolution (H. R. No. 52) to provide for the expenses attending the exhibition of the products of industry of the United States at the Exposition at Paris in 1867, in which it requested the concurrence of the Senate.

RECONSTRUCTION COMMITTEE'S REPORTS.

Mr. RIDDLE. The Committee on Printing, to whom was referred a resolution to print ten thousand copies of the reports of the joint committee on reconstruction, with the accompanying testimony, have had it under consideration, and have directed me to report it back with an amendment, striking out "ten thousand" and inserting "six thousand." I ask that the resolution may be put on its passage now.

The PRESIDENT *pro tempore*. Is there any objection to the present consideration of the resolution?

Mr. RIDDLE. I will state, if there be any objection, that this testimony is now in type, its printing having been ordered by the House of Representatives, and it will save a great deal of money if the Senate order the printing of the testimony now, if they intend to print it at all.

There being no objection, the Senate proceeded to consider the following resolution submitted yesterday by Mr. ANTHONY:

Resolved, That ten thousand copies of the reports of the joint committee on reconstruction, with the accompanying testimony, be printed for the use of the Senate.

The PRESIDENT *pro tempore*. The question is on the amendment reported by the Committee on Printing, to strike out "ten thousand" and insert "six thousand."

Mr. WADE. I hope that amendment will not be concurred in. It seems to me this is one of the most important documents that has been printed or will very soon be printed. It is calculated to give light on the great question now under consideration that has attracted so much attention, and it seems to me that this kind of information is precisely what the people want. I hope the amendment will not be concurred in.

Mr. RIDDLE. Does the Senator from Ohio know what this printing will cost?

Mr. WADE. The difference between the printing of ten thousand and six thousand is I believe the only question now involved, and I am for the larger quantity. That is the way I understand it.

Mr. RIDDLE. It will cost a dollar a copy at least.

Mr. DAVIS. Before I vote for the printing of these reports and the evidence, I should like to know upon what principle of justice and impartiality the evidence is taken. One of the first men of North Carolina and one of the truest and most honorable patriots in the land gave me this information in relation to the State of North Carolina, that the evidence of some men, and I think of a single individual, of the Freedmen's Bureau had been taken; he addressed a letter to a member of the committee requesting that witnesses whose names should be suggested by those claiming seats in the Senate and in the House should be allowed to give their evidence before the committee; and when I last conversed with him, he had received no such privilege as that.

Now, Mr. President, if a just and impartial and intelligent committee would seek for the truth, the whole truth, and nothing but the truth, in relation to this matter of inquiry, it would be a subject of deep interest to the country, and the results of their labors should be presented to the country; but if that committee proceeds upon the principle of suppressing evidence and suppressing the truth, and silencing, or at least refusing to hear, evidence on behalf of the gentlemen who claim seats in the two Houses as representatives from the eleven excluded States, I for one am indisposed to publish at the public expense the results of their labors.

Now, Mr. President, I do not believe—at least I have very little faith in the various letters of information read to the Senate by the honorable Senator from Massachusetts [Mr. SUMNER] and other gentlemen in this body. I have no confidence whatever, or very little, in the testimony which the men in the employment of the Freedmen's Bureau give in relation to the state of public sentiment in the southern States; and as a sample of the character of this kind of testimony, this sort of evidence, I will read from a speech made by one of the military commanders at the head of the Freedmen's Bureau in the States of Kentucky and Tennessee, and I will let the Senate judge of the weight and authority that should be given to evidence from such sources. General Fisk is at the head of the Freedmen's Bureau in Kentucky. He made a speech some three weeks ago in Cincinnati, and I will read an extract from it:

"Only the day before yesterday, in Lexington, thirteen discharged colored soldiers stood in the street, in full sight of Henry Clay's monument, with their bodies lacerated, their backs bleeding from the cruel lash, their heads cut to the scalp, and one or two of them with their eye put out; and what for, do you suppose? Simply for going to their former masters and asking for their wives and children. I appealed to the civil authorities in their behalf, but was told that there was no law in Kentucky to help them."

This General Clinton B. Fisk was in this city about two weeks ago, and I received from him his card to hold an interview with him in the Marble Room near this Chamber. I did so. He inquired of me if I had seen an extract from his speech made in the city of Cincinnati, and published in the Commercial newspaper of that city, which extract I have just read. I told him I had. He asked me what I thought of it. I remarked that so soon as the publication of that speech reached Frankfort, our Legislature being in session, they unanimously appointed a joint committee to inquire into its truth, and that I had seen a statement published in the principal paper in Lexington stating that the editors had made most diligent inquiry into the truth of the report as set forth in his speech of this cruelty to freedmen in Lexington, and I was satisfied that there was not a word of truth in what he had said upon that subject. He then asked me if I knew a Dr. Moore of my county; if I knew Judge Goodloe of Lexington, and if I knew a colleague of mine in the other House, Mr. MCKEE. I told him I was acquainted with all of them. He referred me to those men for information of the truth of the statement, which in his speech in Cincinnati he said he had ascertained by personal inspection. Judge Goodloe is one of the gentlemen to whom he referred me upon whose representation he had stated the facts set forth in his speech. I have in my hand a report of the

joint committee appointed by our Legislature to inquire into the truth of this slander, and it contains the evidence of Judge Goodloe, the whole of which I will read, as it is short. Judge Goodloe is an extreme radical; he has voted for all the radical candidates for office, Federal and State, for whom he has had the opportunity to vote; and there is no measure of the Administration, however extreme, that he has not been a decided and uncompromising supporter of. Here is the deposition of Judge Goodloe, as taken by the legislative committee:

"Witness being duly sworn, deposes and says: I am the judge of the Fayette circuit court; I have never seen the speech of Major General Fisk to which you allude or any extract from it until now; I have known of no outrages upon discharged negro soldiers of the United States Army in this vicinity and have heard of none; I made no communication upon the subject to General Fisk; I state that there is ample provision made by the laws of the State of Kentucky for the punishment of outrages upon negroes such as are alleged by General Fisk to have taken place here. Inhuman treatment of slaves by their owners or others is forbidden and punished by chapter ninety-three, article four, of the revised statutes. Outrages upon free negroes are punishable by the laws of the State precisely as are similar outrages upon white men, both civilly and criminally. I am a Union man and have been a supporter of the Administration. Our laws do not admit of negro testimony in proceedings to which a white man is a party.

"W. C. GOODLOE."

Then follows the testimony of Madison C. Johnson, one of the first lawyers and one of the first men in Kentucky for intelligence, for character, and for every virtue of truth and honor that can adorn a man. His deposition was taken by this committee; and he testifies:

"I am a lawyer of more than thirty years' standing, residing always in the city of Lexington. I have quite an extensive acquaintance with the people of the town and its vicinity. I have read the speech of Major General Fisk, just published in the Cincinnati Commercial of the 19th January, and have seen extracts from it frequently since that time. I have conversed with a great many white persons and with many intelligent negroes, and have engaged some of the latter to make inquiries among their friends, to ascertain whether there was any foundation whatever for the statements made by General Fisk as to the maltreatment of discharged negro soldiers in this town or vicinity. I know of no single case of any such outrage; have heard of none; and the persons whom I engaged to inquire into it have been unable to hear of any such case from any person, so far as I am informed or believe. Since I have resided in Lexington I do not believe that any such outrage could have occurred here without exciting much commotion and almost universal indignation. Some years since a negro man named Tibbs, who kept a negro school here, was taken by some rowdies at night and tarred and feathered. There was great excitement among the citizens in consequence. The next day a public meeting was held, and resolutions were passed condemning the outrage, and requesting me to prosecute the offenders. I did bring a suit for Tibbs, and recovered damages for him, which the defendants were compelled to pay. The meeting was a very large one, most of the citizens attending. I have all my life been in favor of emancipating the slaves of the State. I voted in that direction when the question was before the people in 1849, and have never changed my opinion on the subject. The free negroes in Lexington have always shown great confidence in me, and have been long in the habit of applying to me for advice and assistance. I have repeatedly assisted worthy slaves in paying for themselves in order to set them free. I am now, and have been for some years, president of the Northern Bank of Kentucky. In response to the question as to punishment of mayhem upon negroes, I refer to section one, article six, chapter twenty-eight, revised statutes, as follows: 'If any person shall unlawfully pull or put out an eye, cut or bite off or slit the tongue, ear, nose, or lip or any part thereof, or cut or bite off any other limb or member, by fighting or otherwise, of another person, except the same be done in self-defense or in doing some lawful act, he shall be confined in the penitentiary not less than one nor more than five years.' This statute is equally applicable to those guilty of outrages upon negroes as upon white persons." * * * * * * * * *

"M. C. JOHNSON."

I have sundry depositions here of the same character of the extreme radical Union men. There is S. S. Goodloe, another extreme radical man, who testifies:

"I have read the paper which purports to be an extract from a speech of Major General Fisk, and which is attached to the deposition of Madison C. Johnson, Esq. I am the judge of the Lexington city court. I have not heard of any such outrage as is detailed by General Fisk in that extract. I have heard the speech of General Fisk frequently alluded to. I have not heard any person say that he had ever heard of the outrages which General Fisk details as occurring in Lexington a few days before his speech was made. It would have been my duty, had such an outrage occurred in the city of Lexington, to have caused the arrest and punishment of its authors; and I would have discharged that duty had I been creditably informed of the commission of such acts. I have always been acting with the Union party. I am the master commissioner of the Fayette circuit court. I never had any conversation with General Fisk, and have not sold or offered for sale any slave in eighteen months past. I am informed that a slave was advertised to be sold a short time since by the master commissioner of the Woodford circuit court, and it is probably that sale to which General Fisk alludes.

"*Examined by Mr. Armstrong:* I inferred from reading General Fisk's speech, that the outrages to which he alludes occurred in Lexington or the county of Fayette. SPEED S. GOODLOE."

Then there is the deposition of Mr. Beard:

"I have resided in this vicinity all my life. I have a very extensive acquaintance in this and the surrounding counties. I have read the speech of General Fisk, reported in the Cincinnati Commercial on the 19th instant. I have taken much pains to inquire, from both white and black, whether any such outrages as are detailed by General Fisk have occurred in this vicinity. I have not been able to hear from any person of any such outrage. I am a member of the city council of Lexington. I have been, and am, a Union man." * * * * * *

"OLIVER P. BEARD."

I have also the deposition of W. W. Dowden:

"I am the high sheriff of Fayette county. I have read the speech of Major General Fisk, extracts of which are attached to the deposition of M. C. Johnson, Esq. I have no knowledge or information of any such outrages as he details, and do not believe it to be possible that they could have occurred here, or in this vicinity, without my knowledge. I have talked with many persons, white and black, upon the subject, and have not found one who knew or had heard of any such occurrence." * * * *

"W. W. DOWDEN."

Sir, a more wanton and unfounded slander was never uttered by a man. When a major general in the Army of the United States at the head of the Freedmen's Bureau can make such a speech as this in the city of Cincinnati, in which the most cruel and brutal outrages upon discharged negro soldiers are alleged in the most specific terms, and upon full inquiry not one word of it turns out to be true, what sort of confidence, what amount of trust is to be placed in letters that are written by persons connected with the Freedmen's Bureau to gentlemen in the Senate?

I informed Major General Fisk that instead of being here he had better confront that committee and make good the serious charges that he had made against the people of Lexington in relation to the maltreatment of negro soldiers. He was telegraphed to this city by a radical friend upon the committee that the committee had been raised, and advising him when it would sit in Lexington for the purpose of investigating the matter. I advised him myself that this committee was about to hold its session in a few days, and urged upon him to appear in Lexington before the committee and prove his charges. He passed on through Lexington, did not stop, but passed on with General Thomas to Tennessee, and left the committee to conduct its investigation without appearing before it. He telegraphed to the committee, giving an excuse for not having appeared before it; but the Legislature were determined to accommodate him, and it has adjourned its session until January next, and it has authorized this committee to sit in its vacation, and to hear General Fisk and any testimony he may bring before it at any time between now and the meeting of the Legislature.

Perhaps it would be more satisfactory in this connection to read the report of the committee appointed by the Legislature:

The undersigned, a joint committee of the two Houses of the General Assembly of Kentucky, appointed to investigate the truth of certain statements made by Brevet Major General Clinton B. Fisk, Assistant Superintendent of the Freedmen's Bureau for Tennessee and Kentucky, respecting the maltreatment of certain negro soldiers of the United States Army in the vicinity of Lexington, beg leave to submit the following report:

In obedience to the resolution of the General Assembly, and on Tuesday, the 30th January, they addressed to Major General Fisk, at Louisville, the letter, of which a copy, marked (A) is hereto appended, and placed the same in the post office of this city.

A copy of the resolutions of the General Assembly, which were inclosed in that letter, is also appended, marked (B.)

On Saturday, February 3, they met at the county clerk's office in Lexington, according to the notification contained in their letter to General Fisk. A telegraphic dispatch was here received by Mr. Armstrong, of the committee, informing him that General Fisk was in Washington, and desiring him to postpone the investigation until the General's return, on the following Tuesday or Wednesday. The majority of your committee, however, were of opinion that they ought to proceed with the examination of such witnesses as might be in attendance, and then adjourn to another day, in order to allow him to cross-examine or produce other testimony, should he desire to do so.

Accordingly, your committee, after examining the witnesses before them, did adjourn, to meet again on Thursday, the 8th instant, on which day the letter marked (C) was received by Mr. Armstrong, and simultaneously appeared in the columns of the Louisville Journal. Inasmuch as the time fixed by General Fisk in that letter for his probable return—the 20th or 25th proximo—is beyond the time publicly proclaimed for the adjournment of the General Assembly, your committee were not at liberty to accede to his demand for a further postponement, and can but regard it as trifling with them in the discharge of their duty.

They therefore proceed to state the result of their investigations.

On the morning of their assemblage in Lexington, they had caused to be published in the Observer and Reporter, (the newspaper having the largest circulation in the town and county) the notice marked (D,) inviting all persons who could give them any information on the subject of their inquiry to attend and communicate with the committee. They had also caused to be summoned before them a number of persons, of all political parties, who might be presumed to know something of the outrages detailed by General Fisk, if any such had been witnessed in Lexington. The sworn statements of these witnesses are appended, marked (E,) and upon them your committee submit the following observations:

The judge of the circuit court, the judge of the county court, the judge of the city court, the high sheriff of the county, the mayor and one of the councilmen of the city of Lexington, were among the witnesses. Not one of these witnesses had the slightest information of the commission of a single outrage of the character described by General Fisk, and all of the judges concurred in the statement that the laws of Kentucky were ample for the punishment of any such outrage, while each said that he would have promptly arrested and punished the offender, had any information of the commission of such an offense been communicated to him in reliable form.

Madison C. Johnson, Esq., one of the most distinguished lawyers of the State, and a life-long emancipationist, testified that he had personally made inquiries of both white and black to ascertain whether there was any foundation for General's Fisk's statements; and that he had directed similar inquiries to be made by others, both white and black; and that neither he nor any of those who were acting under his direction were able to hear of any one who had witnessed or could give any information whatever concerning such wrongs. He adds, "I do not believe that any such outrages could have occurred here without exciting much commotion and general indignation;" and he details an instance, occurring many years ago, where a much less flagrant wrong upon a free negro had aroused the sympathies of the whole town, and its perpetrators had been prosecuted by himself at the instance of a public meeting, and had been properly punished by the courts. Mr. Johnson embodies in his deposition the laws of the State of Kentucky for the punishment of mayhem, and very correctly adds, that the punishment is the same, whether the crime be committed upon a free negro or a white man.

Mr. Hawes, (who has been resident in Lexington, as citizen and officer of the Army, since April, 1864,) David S. Goodloe, (United States district assessor,) and John B. Wilgus are the only witnesses who testified to the commission of any wrong upon the negro. Hawes details three cases:

1. A negro, in United States uniform, stated to him that he had been beaten by a party of unknown men, who met him in the road at night, in Nicholas county, for admitting that he had a pistol at home.

2. A negro, dressed in citizen's clothes, said he had been beaten and shot at by a white man, because he had applied for payment of a debt due him. No marks of violence were observed upon the person of the negro.

3. A negro woman told him she had been driven off by her master, and her life threatened if she attempted to remove her children.

Mr. Goodloe also details three cases:

Some three colored negroes, reporting themselves as attached to the Army in some capacity, applied to him. Two of them had their eye nearly put out, bloodshot and swollen; one of them looked to me like it would go out. One of them, who claimed to be driving a wagon or working somewhere about Camp Nelson, showed me his master's pass, authorizing him to work for himself, and said his master had beaten him for declining to pay over a portion of his earnings.

Another in soldier's clothing said he was engaged to put up ice with some white men, but they would not permit him to work with them; they then ducked his son in the pond till they nearly drowned him, and kicked and cuffed around himself for coming to the boy's rescue. The nature of the wrong to the third negro is not stated.

Mr. Wilgus states two cases:

1. One of them, a negro, who was "kicked in the stern" by a man dressed in a roundabout, with his breeches stuffed in his boots.

2. Another, who was told by some boy, in profane and abusive language, to get out of the way. But it is worthy of notice, that neither of these witnesses could give the committee the least information as to

first, the names or residence of the persons beaten; second, the names or residence of the persons who beat them; third, the locality in which they were beaten; nor, fourth, could they give the names or residence of any person by whom their statements could be verified; nor, fifth, did either of these distinguished humanitarians think it necessary to give the civil authorities any information of the enormous wrongs which had thus fallen under their own observation. Such testimony your committee cannot regard as worthy of serious consideration.

If it had been true in every particular, it would have been far from justifying the statement of General Fisk, that "on the day before yesterday, in Lexington, thirteen discharged colored soldiers stood in the street, in full sight of Henry Clay's monument, with their bodies lacerated, their backs bleeding from the cruel lash, their heads cut to the scalp, and one or two of them with their eye put out," "for going to their former masters and asking for their wives and children;" for not one instance is reported where a negro soldier was cut with the lash; not one where the eye of a negro soldier was put out; not one where a negro soldier was in any way maltreated for asking for his wife and children. On the other hand, the uniform tenor of the remaining depositions clearly establishes the kind and indulgent treatment of the negro, whether slave or free, in that locality.

Your committee call attention to the political character of the witnesses. There were more radical Union men among them than conservatives or Democrats—one of them a Federal official; another, (the witness Hawes,) specially employed by "a gentleman in the military service of the United States," whose name he declined to furnish, to hunt up testimony to sustain the statements of General Fisk. And this is all they have been able to collect: seven cases of more or less aggravated assault, and one of abusive language. Your committee ventures the statement, that in any region of the United States having a population and extent equal to that over which these inquiries have ranged, the same number of intelligent witnesses could be found, able to procure information of a larger number of grosser outrages upon white men than these witnesses have detailed as inflicted upon negroes. It must also be remembered that the statements of the witnesses as to all the serious cases purport to be made from the information of others, who were not present, and whose veracity could not therefore be tested.

The witness Hawes having stated that Dr. Pinkerton (the agent for the Freedmen's Bureau in Lexington) was reported to have information of another case of assault upon a negro, the committee directed him to be summoned, but the sheriff made return that the doctor, though in his office, stated that he was too unwell to wait upon the committee. So soon as the other witnesses were examined the committee proceeded in person to the doctor's office; but he had left and locked up the premises before their arrival, without leaving any indication as to where he might be found.

The committee ought not to close their comments on the case without calling attention to the remarkable difference in the charge made in his published speech and that made in his letter to Mr. Armstrong. For convenience of comparison, they annex extracts from each in parallel columns:

From the speech.	*From the letter.*
"Only the day before yesterday, in Lexington, thirteen discharged colored soldiers stood in the street, in full sight of Henry Clay's monument, with their bodies larcerated, their backs bleeding from the cruel lash, their heads cut to the scalp, and one or two of them with their eye put out; and what for, do you suppose? Simply for going to their former masters and asking for their wives and children. I appealed to the civil authorities in their behalf, but was told that there was no law in Kentucky to help them."	"I was at Lexington on the 15th and 16th ultimo. I saw thirteen colored men, who had been soldiers in the Army, all of whom stated that they had been maltreated by their former owners when they had returned to their old homes to ask for their wives and children. Some of them, from Garrard county, I think, with their bruised heads and swollen eyes gave evidence of severe treatment; others stated that they had been cruelly beaten and threatened with shooting. Bourbon, Woodford, Madison, Montgomery, and Garrard counties were represented at Lexington. These men were intelligent. They appeared honest, and bore the evidence of maltreatment upon their persons. I assure you I thought, from their statements and appearance, that they had been brutally treated. "I was informed by a gentleman in whom I had great confidence that the civil authorities gave no attention to these outrages."

The "bodies lacerated, backs bleeding from the cruel lash, heads cut to the scalp, and one or two of them with their eye put out," have dwindled into "several bruised heads and swollen eyes," while the personal appeal to the civil authorities with its rejection, is changed into information by "a gentleman in whom I had great confidence that the civil authorities gave no attention to these outrages," and the venue clearly fixed by the speech at Lexington is in the letter indefinitely located in five counties lying at from ten to thirty miles from that city.

General Fisk's statement as to the sale of a negro girl by the commissioner has a little more of the color of truth about it. There was no sale advertised by the commissioner at Lexington, but the commissioner of the neighboring county of Woodford, who is notoriously a radical Union man, did advertise a negro man for sale in January, under a judgment of the court rendered before the passage of the constitutional amendment. Whether the commissioner was really actuated by a sense of duty in making such an advertisement, or whether his conduct was prompted by that morbid craving for notoriety now so prevalent, the committee do not undertake to determine. It is sufficient to know that the advertisement was absurd, and must have been known to be so by the parties who got it up.

Your committee do not doubt that the General Assembly, on reading the proof annexed, will come to the same conclusion at which they have arrived, namely, that the charges made by General Fisk in reference to the maltreatment of negro soldiers in the vicinity of Lexington and the conduct of the civil authorities of the State toward offenders of that class are false and slanderous. They are but a continuation of the system of misrepresentation to which the people of this State have been exposed for several years—a system introduced and persevered in by office-holders of the General Government in order to extend and continue their own profits and powers; and but too much encouraged by certain citizens of the State itself, in the hope of recommending themselves thereby to the patronage of the party in power at Washington.

W. A. DUDLEY,
B. F. BUCKNER.

The foregoing report was prepared and ready for submission, as required by the order of the Senate, on Saturday last, but Mr. Armstrong having declined to concur in it, and insisting that General Fisk was then in Indianapolis, on his way to Frankfort, the undersigned concluded to withhold the report, in order to afford him still further opportunity of appearing before them. They now learn from the newspapers that General Fisk has passed through Louisville, on his way to Nashville; and as it is now evident that he does not intend making his appearance before the adjournment of the General Assembly, they deem it improper longer to withhold the report, and they return it as the report of the majority of the committee.

W. A. DUDLEY,
B. F. BUCKNER.

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(A.)

FRANKFORT, KENTUCKY, *January* 30, 1866.

SIR: In compliance with the inclosed resolution, the undersigned have been appointed a committee to investigate the matters therein referred to.

In the discharge of our duties, we shall visit Lexington on Saturday next, the 3d proximo, and will attend at the county court clerk's office at eleven a. m. on that day, there to hear such evidence as may be produced before us.

Should you desire to communicate to us the names of the persons by whom the truth of your statements can be established, and the name of the civil officer by whom the opinion mentioned by you was given, we shall be pleased to receive the information, or should you desire to appear before us at the time and place named, you are, of course, at liberty to do so.

W. A. DUDLEY, Senate.
B. F. BUCKNER, House.

Major General CLINTON B. FISK.

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(B.)

Whereas it is represented in the public journals that Major General Clinton B. Fisk, the head of the Freedmen's Bureau in Kentucky, did, on the 18th instant, deliver an address in the city of Cincinnati, Ohio, in which he made, among others, these statements: "Only the day before yesterday, in Lexington, thirteen discharged colored soldiers stood in the street, in full sight of Henry Clay's monument, with their bodies larcerated, their backs bleeding from the cruel lash, their heads cut to the scalp, and one or two of them with their eye put out. And what for, do you suppose? Simply for going to their former masters and asking for their wives and children. I appealed to the civil authorities in their behalf, but was told that there was no law in Kentucky to help them. I heard there of a slave to be sold on a certain day; I made an arrangement with the master commissioner to buy him myself, *as the last slave to be sold in Kentucky!*" And whereas it is believed that those statements have no foundation in fact, and are calculated to place the people of Kentucky in a false light before the country: Therefore,

Be it resolved by the General Assembly of the Commonwealth of Kentucky, That a committee of two from the House and one from the Senate be appointed, whose duty it shall be to proceed immediately to the city of Lexington, and ascertain the truth or falsity of the statements alleged to have been made by said Fisk, and that said committee notify General Fisk by mail of their appointment, in order that he may appear before the committee, if he so desires, and communicate to them the name of the person by whom the truth of the statement made by him can be established, and the name of the civil officer by whom the opinion mentioned by him was given, and report to this General Assembly.

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(C.)

Letter from Brevet Major General C. B. Fisk.

WASHINGTON, D. C., *February* 2, 1866.

DEAR SIR: I have the honor to acknowledge the receipt of your telegram of this date, giving me notice of a meeting of your legislative committee at Lexington, Kentucky, on the 3d instant. I have responded, asking that the investigation be delayed until my return to Kentucky. My duties will detain me in Washington for several days. I hope to be at Frankfort by the 20th or 25th instant, and will then be pleased to meet your committee and aid you in investigating not only the cases to which I referred in my Cincinnati speech, but many others of similar character of which complaints are made in different sections of the State.

I trust that great good will result from this investigation. Let us go down to the "hard-pan," and ascertain the exact condition of the freedmen of Kentucky, and the disposition of your people toward them.

Reports of outrages upon returned colored soldiers especially are continually reaching me from the "blue-grass" and tobacco-producing sections of your State. It is charged that in some localities the civil authorities utterly neglect to protect the freedmen; that in other sections they refuse to do so, and in a few places that they are powerless in the presence of outlaws, who pursue with wrath and vengeance our mustered-out soldiers, without distinction of color.

I know from my own observation that there is some truth in these reports. I was at Lexington on the 15th and 16th ultimo. I had been expected there for many days, and a number of freedmen from the surrounding counties had congregated at that point to meet me and make known their complaints. I saw thirteen colored men who had been soldiers in the Army, all of whom stated that they had been maltreated by their former owners when they had returned to their old homes to ask for their wives and children. Some of them, from Garrard county, I think, with their bruised heads and swollen eyes, gave evidence of severe treatment. Others stated that they had been cruelly beaten and threatened with shooting. Bourbon, Woodford, Madison, Montgomery, and Garrard counties were represented at Lexington. These men were intelligent. They appeared honest, and bore the evidence of maltreatment upon their persons. I assure you I thought, from their statements and appearance, that they had been brutally treated. I referred them to the proper parties that their complaints might be duly investigated and their wrongs redressed.

I was informed by gentlemen in whom I had great confidence, that the civil authorities gave no attention to these outrages, and I left Lexington with the conviction that the freedmen of the blue-grass section ought to have more protection than the civil authorities could or would afford.

Communications from reliable citizens of Kentucky, through the War Department at Washington, had been referred to myself for action, in which similar complaints were made, and the Government's protection invoked. I made strong statements at Cincinnati. I was speaking at the anniversary of the Western Freedmen's Aid Commission, an organization which has expended many thousands of dollars contributed by benevolent people in both Europe and America for the personal relief and education of the freedmen. I desired to represent the true condition of the people over whom I had supervision. I had met persons in Cincinnati who charged that all Kentucky was in resistance to freedom and justice. I denied the charge, and stated that by far the greater portion of your people, while they protested that the abolition of slavery was a great wrong, accepted the fact that slavery was abolished, and were treating the freedmen with justice and generosity. I stated that cases of brutal treatment were exceptional. I also stated that the Kentucky law-makers would be reluctant to enact laws that would secure impartial justice to her freedmen, and I certainly reached that conclusion when I was at Frankfort. I hope I was mistaken in that particular. I spoke in most complimentary terms of the action of your State Agricultural Convention, which convened at Frankfort on the 11th ultimo. I assure you that I did not intend anything to extenuate or aught set down in malice; and if upon investigation, strict and thorough, it shall appear that I have in the least misrepresented your people, I will make honorable amends by retraction before the world. * * * * *

I am, sir, with great respect,

CLINTON B. FISK,
Brevet Major General and Assistant Commissioner.

Hon. J. M. ARMSTRONG, *Frankfort, Kentucky.*

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(D.)

We are authorized to state that the committee appointed by the Legislature to investigate the statements of Major General Fisk in reference to the maltreatment of negro soldiers in our city, will meet at the county clerk's office at eleven o'clock this day. All persons who can give them any information on the subject of their inquiries are invited to attend and communicate with the committee.

Sir, the charge made by General Fisk in his speech is proved to be absolutely calumnious and false. No man can read this official report and the evidence of his political friends, the extremest that can be found in Lexington and in the State of Kentucky, all disproving the possibility of the truth of these charges, and come to any other conclusion than that they were base fabrications.

There is another high military dignitary there, called General Palmer, who has committed every outrage upon the State of Kentucky, upon her constitution and her laws and her courts, upon her citizens and their property, for which he ought to be brought to speedy and condign punishment. He made a speech in Louisville, in which he reiterated about the same charges. A joint committee was appointed unanimously by the Legislature, consisting of both parties of

that Legislature, Conservatives and Radicals, as they are termed; and they were instructed to wait upon him, and to learn from him the sources and the persons from whom he had obtained the information upon which he made such serious charges against the people of my State. They addressed him a letter officially. He replied to it that such were the terms in which the resolution had been couched that he would not hold official intercourse with them. That is the substance of it; I do not recollect the exact language; but at the same time he said if they would come before him as private individuals he would lay his information before them.

This General Palmer is a man of capacity. He understands the etiquette of such matters, and he knew that this committee appointed by a joint order of the Legislature of Kentucky would never consent that he should unstrip them of their authority and their official position, and make them go as it were by grace and favor to inspect as private individuals some such communications probably as the honorable Senator from Massachusetts has received from the South from so many persons whose names he has withheld. But at any rate I know the people of Kentucky; I know the slaves of Kentucky, and the manner in which they have always been treated; I know that the negro, free or slave, in the State of Kentucky never had his person outraged that there was not a law for inflicting punishment upon the party who perpetrated the outrage; and I know that there never was a court indisposed to hear, nor a lawyer that would refuse to advocate, the cause of such a negro, free or slave. I know that no people on the earth ever received more of sympathy and kindness and justice according to the laws of the land and the great principles of justice that would protect a weak and a humble race than the negroes of Kentucky have received in that Commonwealth; and these charges of General Palmer I have no doubt are false, because in all my residence at home I never have known or heard of a solitary outrage or act of cruelty on the part of white men toward slaves. I have known of acts of that kind committed by slaves and negro soldiers upon white men.

But, sir, I knew that these charges upon the white men of the State of Kentucky were false for this reason: in the first place, it is not in their nature or disposition to do such things; they are not capable of that sort of maltreatment of the negroes: and if there had been wretches, base, degraded, and miscreant enough so to have treated them, I knew there were soldiers, white and black, stationed all through the land, commanded by willing myrmidons of power, who would be ready to seize upon white men thus maltreating slaves and to hurry them off to military courts or prisons for punishment.

The gentleman from North Carolina who communicated the fact to me which I stated in regard to the committee of fifteen, told me that he had an idea of publishing his request to the country, and I advised him to do so. Sir, the idea of referring the question of the rights of gentlemen elected by sovereign States to represent them in this body and of other gentlemen elected by the people of congressional districts to represent them in the House of Representatives, and the right of their States to be represented in the Congress of the United States, to an unconstitutional, illegal, and irresponsible cabal, and that cabal to hold its sittings in secret, and to pick out and select here and there men connected with the Freedmen's Bureau, men who are interested, men whose employment and salaries, and probably whose bread depend upon continuing the false impressions upon Congress and the country necessary to protract the existence of that bureau and their employment, to give evidence against such a man as Graham and other men whose names I could mention from the South, and they not to be notified by this secret cabal and have no opportunity of summoning men of character and truth who would depose to what is true and nothing else before that committee, to vindicate the state of public sentiment and the behavior of the people and the governments of their States, is an outrage and a shame upon all justice and all legislative proceedings.

Before I vote for the printing of such evidence, I must know that these men who claim their seats here have had a fair opportunity to be heard. Let them be heard. Let men of character and truth, whom they will name, speak for their own loyalty and for the loyalty of the authorities that elected them and of their States. Let their testimony be heard. Let a fair, full, and impartial inquiry be made by the cabal with a view to truth and justice to every party and every man, and whatever may be the result of such an inquiry, I shall then be willing to give it to the public, that the public judgment may be passed upon it. But until they are allowed that chance of justice by fair, impartial, and full investigation, I for one will not vote for the publication of this evidence.

Mr. WILSON. Mr. President, since the Senator from Kentucky rose, I have cut out of a paper a portion of a speech made by Colonel W. P. Thomasson, now at the head of the Freedmen's Bureau, in Louisville, Kentucky. He was formerly, I believe, a member of the House of Representatives from Kentucky. Colonel Thomasson says in his speech:

"It is said that there is no necessity for the bureau in Kentucky. Our Senators in Congress have asserted that all the rights of the freedmen are protected by the State laws. Now, my position enables me to know that neither General Palmer's letter to the Journal, nor General Fisk's speech in Cincinnati, has told more than a fraction of what is true on that subject, and that our statute laws do not protect colored people."

Now, Mr. President, I have simply to say in regard to General Fisk, that he is a gentleman of talent and character; a Christian man, whose word will go further in this nation than the assertions of every rebel sympathizer in Kentucky. As to General Palmer, the country knows that he is an eminent citizen of Illinois, a native of Kentucky, a man of capacity and of high character, a man who knows what is going on in that State.

Sir, there is one thing that cannot be argued down, and that is the testimony taken by the military tribunals in Kentucky during the past three years. The evidence given in those tribunals would shock the humanity of this nation if presented to the people. Hundreds of cases of the grossest and wickedest outrages perpetrated upon colored men in Kentucky during the last three years have been passed upon before those military tribunals, the testimony taken and the verdict of those tribunals rendered and many a man in Kentucky has been punished by those courts for those outrages. I have personally conversed with General Palmer, General Fisk, General Burbridge, and General Brisbin, and with other officers serving in Kentucky in regard to these outrages perpetrated upon men, and upon women, too, in that State. The Senate certainly cannot have forgotten the statement made by the Senator from Ohio [Mr. WADE] a few months ago in this body of what he himself saw in Kentucky of the outrages perpetrated upon men, women, and children there; nor can they have forgotten the statement made the other day by one of the Representatives of Kentucky in regard to some of the recent transactions in that State. I am not one of those who would arraign the whole people of the State for these offenses. I do not say that they have not laws which, if executed, would protect the colored people; but returned rebel soldiers, and men in that State at any rate who prove by their conduct that they are ready to commit any outrage of cruelty and offense, have been engaged in these acts; they have been frequently arrested and tried, and often punished. I venture to say that many men are under arrest to-day in Kentucky for these crimes, and murders and outrages innumerable have been committed there, as have been committed in all that region of country.

Mr. GRIMES. I dislike to say anything with regard to the charges that have been made by the Senator from Kentucky, but I think I ought to do so in justice to myself at any rate. I suppose it is known to the members of this body, and I may as well state it here, that I have been a member of a sub-committee that has had charge of the investigation in regard to one of the rebel States. Now, I desire to say to the Senator from Kentucky, and to everybody else in the Senate and out of it, that there has not been a single person's name suggested to that sub-committee by any one claiming a seat either in this body or in the House of Representatives that has not been immediately summoned and examined at length before that committee. The committee have taken the testimony of both the gentlemen who claim seats in this body from Tennessee. They have taken the statement without any cross-interrogatories at all, prepared by the persons who claim to be elected to seats in the House of Representatives from that State. Not a single person has been suggested to us by any one of those members—and it was at my instance, for I positively asked them several times whether they desired anybody else to be subpœnaed and called before us or not—that we have not called and examined.

I am not prepared to speak in regard to the other States, but I have no reason to believe that the course pursued has not been precisely the same in regard to the other States that it has been in regard to Tennessee. I only state what the record shows. You find the testimony and statements of each one of the gentlemen whom I have designated as being persons who claimed seats in this body and in the House of Representatives.

In regard to General Fisk I have nothing further to say, except that he did not come here voluntarily to testify. The committee requested the Secretary of War to order him here, and he came here. As soon as he was discharged by the committee he returned to his post of duty. In addition to that, I desire to say that his administration of the Freedmen's Bureau was wholly and completely indorsed by Major General Thomas, commanding that department. That is all I have to say.

Mr. SAULSBURY. Mr. President——

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday, which is Senate bill No. 111, to provide for the national defense by establishing a uniform militia and organizing an active militia force throughout the United States.

Mr. FESSENDEN. We may as well dispose of this question; and then I desire to take up an appropriation bill. I suppose there will be no more debate on this matter.

Mr. TRUMBULL. I saw the Senator from Delaware had risen, as if to debate the question under consideration.

The PRESIDENT *pro tempore*. The Chair recognized the Senator from Delaware; but the morning hour has expired.

Mr. SAULSBURY. I rose simply to offer an amendment.

Mr. TRUMBULL. Let us vote on the resolution.

Mr. FESSENDEN. Before the vote is taken, I wish to say, in reply to an intimation of the Senator from Kentucky, that so far as I know there has not been an application to take testimony made by any gentleman claiming a seat here that has not been granted. I have had but one application made to me personally, and that was by a gentleman claiming a seat as a Senator. By letter he asked me if he could be permitted to introduce testimony before the committee. I replied that he could, and to bring it along. That is the extent of my personal knowledge. I have not been engaged in taking testimony; but I understand that no application of that sort has been denied.

Mr. JOHNSON. They have all been granted.

Mr. FESSENDEN. They have all been granted, the Senator from Maryland says, every one; and the intimation in regard to the committee refusing is, let me say, entirely a misapprehension on the part of the Senator from Kentucky.

Mr. RIDDLE. I will state to the Senate, as

the other members of the Committee on Printing are not present, that they proposed first to wait for the publication of the whole of these documents, and they reduced the number at my instance. As they are not present I think common courtesy would dictate that the matter should go over. They may be here to-morrow.

Mr. FESSENDEN. I thing it best to settle the question whether the document shall be printed or not. The number is not material.

Mr. HENDRICKS. The rest of the committee, the Senator from Delaware says, are satisfied with the number he has reported. I do not see the necessity for postponing it.

Mr. TRUMBULL. There is a reason for settling it now. I understand the type is now upon the press, and it will be distributed soon; it is inconvenient to keep it; and if we are going to order the printing, the order had better be made now, because if it is delayed it will involve setting up the type again.

Mr. WILLIAMS. I am one of a sub-committee to which was referred the consideration of the condition of the States of Louisiana, Texas, and Florida; and it is due to truth and justice that I should say that the imputations of the Senator from Kentucky, so far as that sub-committee is concerned, are entirely unfounded in fact. I have to say that no application has been made to that sub-committee for the examination of any witnesses which has been rejected, but, on the contrary, every person who has been suggested as a witness, has been subpœnaed and examined without any reference to the party by whom the suggestion was made. Governor Marvin, who is here claiming to be admitted as a Senator from the State of Florida, was brought before that committee for examination, and was partly examined, but he was called away and his examination was not concluded; it will be resumed when he returns, if he desires it.

I suppose it is known to the honorable Senator that General Lee, Governor Sharkey, and other men, have been brought before this committee and examined; but it is not true in any respect that any persons who were competent to testify in reference to the condition of affairs in the southern States have been excluded because they were supposed to be favorable or unfavorable to one side or the other; and I have to say now to the honorable Senator that so far as the sub-committee is concerned of which I have the honor to be the chairman, if he knows of any man in this city or elsewhere who would be a competent witness as to the state of affairs in Louisiana, Texas, or Florida, I am willing to have him subpœnaed, and perfectly willing to examine him so that all the facts may be brought to light and the country may be fully advised as to the condition of these States.

I supposed that these facts were known to the honorable Senator, and certainly it seems to me that before he indulges in such wholesale denunciations of a committee he should take some pains to advise himself of the facts; and the assumption that this committee, so far as I know its proceedings, has declined to examine anybody, is an assumption that is not founded in fact.

Mr. DAVIS. A gentleman who would stand with the honorable Senator who took his seat last, or any Senator, or any man in this nation, gave me this information, that he directed a letter to a member of the committee suggesting his desire to have witnesses called before the committee for examination, and inquiring whether he would be allowed that privilege, and he told me he had received a letter from a Senator informing him that the committee were supposed to be impartial, and that they would make the necessary and full and impartial examination, but whether he would be allowed to introduce witnesses or not the gentleman who wrote to him in reply said that he was not informed. That is the information which came to me, and I presume it will appear before long in the papers. How this correspondence is I know not, except upon this statement of a man of as much truth and rectitude as breathes the breath of life.

Mr. CONNESS. I desire to ask the Senator a question in order simply to understand him. Do I understand him to have stated that this gentleman of whom he has spoken expressed a desire to bring witnesses before the committee; that he might select witnesses that should go before the committee? Do I understand him correctly?

Mr. DAVIS. Yes, sir; he told me that he had expressed his desire to that effect in his letter to a member of the committee, and he had at his room that evening an ex-Governor of the State of North Carolina, Governor Swayne.

In relation to the general charges made by the Senator from Massachusetts of cruel and inhuman treatment of the negro soldiers in Kentucky, I do not believe one word of them. That Senator is misinformed. Here is the plain charge of General Fisk in a very few and simple words in his speech at Cincinnati a few weeks ago:

"Only the day before yesterday, in Lexington, thirteen discharged colored soldiers stood in the street, in full sight of Henry Clay's monument, with their bodies lacerated, their backs bleeding from the cruel lash, their heads cut to the scalp, and one or two of them with their eye put out; and what for, do you suppose? Simply for going to their former masters and asking for their wives and children. I appealed to the civil authorities in their behalf, but was told that there was no law in Kentucky to help them."

Who can believe that statement after hearing the proof which I have read? I believe all of the witnesses whose statements I have read except Mr. Johnson are radicals of the extremest kind. Here is this General Fisk detailing facts—facts of great enormity, of the extremest cruelty, and of very considerable effects upon the persons of these abused soldiers; and when this committee upon its official examination, resorting to all the radicals in Lexington to give statements in relation to these charges, certify that they never heard of them and they believe that they could not have happened without their knowing of the facts, it is impossible that any fair-minded man can give the least credit to any such charges.

Sir, whenever a negro makes complaint to the civil authorities of Kentucky of having suffered such outrages as these, and the civil authorities and the civil law do not give him immediate and ample redress, I shall denounce my own native State and those who are employed and trusted to execute its laws; but no such transactions as these ever happened in the State of Kentucky, and I defy the Senator from Massachusetts to give the parties, the time, place, and circumstance. There may have been a *mêlée*, a military conflict there, and there may have been some raids in which there was a collision between whites and blacks, where outrages were perpetrated; but for an outrage to be deliberately perpetrated upon a negro by a white man, in as atrocious a manner as is here charged by General Fisk, and for the civil authorities to inform him that the laws of the land afforded no redress for such wrongs, is as basely false as it is possible for anything to be.

Mr. JOHNSON. I rise, Mr. President, being a member of the committee of fifteen, to say that with very good opportunities furnished from day to day of witnessing the conduct of that committee, both in the aggregate and in the subdivisions, I have never seen the slightest reason to doubt their perfect impartiality; and I have some reason in relation to some of the committee actually to know that there never has been an instance in which an application has been made by anybody who had any claim to confidence, that subpœnas might be issued for persons to appear before such committee, that it has not been cheerfully granted. In the committee that was investigating the condition of the State of Tennessee, the Senator will find in the paper printed containing the memorial of citizens of Tennessee that there were fifteen witnesses examined, and I know by an authority which I am sure may be relied upon that of those fifteen thirteen were requested to be summoned by the members or those claiming to be members from the State of Tennessee or were the members themselves.

The Senate are not to be told that in relation to some of the proceedings of the committee, as far as they have been disclosed to the Senate, it has been my misfortune or my good fortune, as the result may prove, to have differed from them; but it is due to truth, it is due to them as gentlemen, it is due to them as officers of the Senate as well as officers of the House, to say that although I have differed with them and may perhaps differ with them again, I have never seen the slightest reason even to suspect that they designed anything that was not perfectly just and fair. Certainly there never has been, in my presence, the least indication that they intended anything that was not perfectly fair. No partiality, I am sure, was at any time thought of or dreamed of. Whether they are right in what they have done as far as the measures which they have so far devised are concerned, or whether they will be right in the future, is a matter upon which there may be differences of opinion; but as far as intent is concerned it gives me great pleasure to bear testimony to the high character which they have throughout sustained.

Mr. CONNESS. The complaint made by the honorable Senator from Kentucky is of a peculiar character; at least it so appears to me. A certain party complains that he had not a right to select witnesses to thrust before the committee when he chose and whom he chose.

Mr. DAVIS. Will the honorable Senator permit me to correct him?

Mr. CONNESS. Certainly.

Mr. DAVIS. The gentleman who made that statement to me did not make it in the form of a complaint; he just stated it as a fact.

Mr. CONNESS. Well, Mr. President, we will not debate about that. I used the word "complaint" in a sense different from that in which the Senator understands it. I was about to say that that was a very different proposition from that presented by a responsible citizen stating to the committee that he had information which would throw light upon public affairs and asking to be summoned before them. I can easily conceive how a committee would not permit a citizen to select witnesses for them to examine, and how if they did their investigations might be prolonged through the entire session, and they be unable to report at all.

I did not rise for the purpose, as the Senator may very well understand, to make any personal issue with him here. I have great respect personally for the honorable Senator. I believe in his individual kindness of heart; but I think the Senator goes too far when he puts his opinion of the humanity of the people of Kentucky against the positive testimony of responsible witnesses. The Senator, it will be remembered, has been rather unfortunate in always having had since this war began—certainly during that part of it that has been conducted since I have had the honor of being here and the pleasure of being the Senator's associate—Government officers, military officers, in Kentucky who were eternally engaged in committing "fiendish outrages." There has been no military administration that I know of in Kentucky by the United States authorities that has met the approbation of the honorable Senator. If the honorable Senator's speeches could be collected and put together which consisted of attacks upon military men holding commissions under the United States in Kentucky, they would make quite a large book. We cannot forget—I shall not, for I had the pleasure of immediate neighborhood with the honorable Senator at that time—his description of the administration of General Palmer in Kentucky, how he invaded personal rights and rights of property, and drove off flocks of hogs.

Mr. DAVIS. General Burbridge.

Mr. CONNESS. General Burbridge it was who took the hogs. Well, sir, it only adds another officer to the number who offended against the honorable Senator and the State that he represents here. I am of the opinion, and I think the honorable Senator should be of the opinion by this time, that military administration in Kentucky by the Government

of the United States cannot and perhaps will not be conducted to suit the Senator. If it had been so conducted during the war, I beg to say, and I say it with all consideration for the Senator, that I think it would not have been half as effective against the enemies of the country as it has been.

And as to this investigation being conducted now by the Senate into the condition of the rebel States, I do not think it will be conducted to suit the honorable Senator; it evidently has not been thus far; and if he would only wait until the Senate can be constructed as he invoked the President the other day to construct it, out of twenty-two rebel Senators with the honorable Senator himself and his political associates in this body, and a few of our—shall I say friends, or former friends; I leave that to be settled by the gentlemen themselves—then I think the honorable Senator could get up a committee that would investigate the condition of the rebel States to his liking.

But, Mr. President, the country, as I understand it at the present time and as I think I see it, and as we all see it, is in no humor for such an investigation as the honorable Senator might have made under these circumstances. They desire a knowledge of the condition of affairs obtained through other channels; and they are satisfied with the integrity of Congress, with the integrity of the committee through whom Congress is making the inquiry, and I think they are rather determined that neither the Senate projected by the honorable Senator in his speech the other day nor any investigation to be made by it shall ever occur.

That is all I have to say; it is simply that there is no satisfying my honorable friend from Kentucky. There appears to be a radical difference between him in the very constitution of his mind, for he is certainly honest and earnest, and other minds here. The war was not conducted according to his plan; it was conducted according to ours. It was a success and is a success; it would not have been a success in my humble judgment on the plan of the honorable Senator from Kentucky. I have the same opinion as to investigations; and the committee certainly stand in no fear of their credit being affected by any charge made here by the honorable Senator founded upon a complaint—I use the term again in the sense that I first used it—made by a citizen known to the Senator from Kentucky, and whom he indorses here for not having had the privilege of bringing whom he pleased, and I suppose when he pleased, before that committee to give testimony.

A word to the question before the body. I am against the amendment proposed by the Committee on Printing, and in favor of printing the largest number, and I would sooner increase than decrease the number. There is nothing that is of more consequence than that the greatest number of the people should understand the exact condition of the rebel States. If they are in such a condition as to entitle them to representation here and to participation in all the branches of the Government, they should be admitted to it. If they are not, they should not be. At any rate, all the facts should appear. That subject should be thrown among the real leaders of popular opinion, the people of the United States.

As to the denial set up by the honorable Senator from Kentucky, I am sure but a small number of persons will agree with him that the statements or assertions of any one can be put against the absolute testimony of prominent men of established character. I doubt not that the honorable Senator would not stand by and permit, if he knew it, outrages such as are described against negroes. Though he does not profess to have any love for them, there are those manly instincts that I know the Senator has which would not permit him to be quiet or silent, nay, which would drive him to the side of the sufferer, and make him an active agent in his behalf and for his delivery, if he was cognizant of the fact. But the difficulty with the honorable Senator, as it appears to me, is that his confidences have been given and are still given in favor of a class of men whose humanity cannot be measured as generously as that of the honorable Senator from Kentucky himself.

To hear the honorable Senator speak of Kentucky and of the South generally, one would suppose that there were not any negro haters; one would suppose that a negro in the South had never been hunted down into the swamps and jungles by bloodhounds; one would suppose that in no part of this country had the auction-block been made the medium of separating and scattering and dividing members of the same family. That beastly and brutal system in its theory and structure has passed away; the scattered and mangled and disgusting fragments of it still lie around in the country; society is still to be purged from the miserable miasm that has grown up from those putrid fragments. The people are determined that that work shall be done; and permit me to say to the honorable Senator from Kentucky, that his efforts in the way of that work being accomplished are as idle as the passing wind. There is a sentiment of justice innate and instinctive in the American mind, now brought up, thank God, to the highest condition of energy and action, that, depend upon it, will see that the work shall be completely done.

Now, Mr. President, that evidence of the facts as they exist shall go abroad among the people should be the first purpose, and therefore I am in favor of scattering the evidence that this distinguished and able committee have taken as broadcast as possible among the people.

Mr. DAVIS and Mr. TRUMBULL rose.

The PRESIDENT *pro tempore* recognized the Senator from Illinois.

Mr. TRUMBULL. I was in hopes that we could get rid of this question, but it seems that it is to be discussed all day. I must therefore now interpose a motion to postpone this and all other business and take up——

Mr. FESSENDEN. Let us finish this.

Mr. TRUMBULL. I should be for finishing this, but the Senator must see that the Senator from Kentucky rises to take the floor and there is no telling when he will take his seat. [Laughter.] If there were any probability that we could have a vote in half an hour I should not think of making the motion.

Mr. DAVIS. The Senator from Illinois bases his remark, I suppose, upon the extent of the provocation that has been offered to me; but I promise him that I shall occupy but a few minutes.

Mr. TRUMBULL. If the Senator will get through in a few minutes, I shall not now make my motion.

Mr. DAVIS. The honorable Senator from California says there is a difference between myself and other Senators. There is; and that difference is mainly that in this war and in all of its operations I have stood steadily by the Constitution of my country. I wanted the policy of the Government in conducting the war to be shaped by the Constitution; and I have always voted and I always will vote against all measures that are infractions of the Constitution.

The honorable Senator says I have spoken enough to make a small volume upon the military administration of Kentucky. I assure the honorable Senator that I have not spoken one tenth of the truth, and of the enormous truth in regard to the military administration of Kentucky; and if in his magnanimity and his consciousness of personal and party strength he would give me a fair committee, of which I do not desire to be a member, to investigate the military administration of Kentucky, if I do not by the most irrefragable proof and by the judgment of impartial men establish the conclusion that the amount and the enormity of maladministration in that State exceeds tenfold everything that I have charged, I shall then withdraw the charges.

Now, Mr. President, I will advert to a single item of military maladministration in that State to which the honorable Senator has referred. There are sold annually in the State of Kentucky either to the Cincinnati or Louisville markets about five hundred thousand fat hogs. During the winter before last the market price at Cincinnati was ruling from twelve to fourteen dollars, according to quality. The military authorities got together and made regulations that no hog should be driven or exported out of the State; that every owner of hogs should sell them at from seven and a half to eight dollars to the military agents; if they refused to sell they would go to their pens, pull down their pens, and drive the hogs to a slaughter-house which they had opened for the purpose of killing all the hogs of the State, and they made orders prohibiting all other slaughter-houses from operating, and prohibiting all transportation of hogs either to Louisville or Cincinnati. These monopolizers by arbitrary military power, by military maladministration, which the honorable Senator from California not only excuses but justifies, made a swindling arrangement, based upon force and military power, by which they would rob the feeders of the hogs of that State of one half of the proceeds of those hogs in market.

This abuse was complained of to the then President, and he directed it to be corrected, but before it was corrected those who engaged in it had plundered the farmers and feeders of Kentucky of several hundred thousand dollars. I am not going to refer to any other instance of military maladministration. I have given a specimen of it, and it is but one of many specimens. The honorable Senator from California dare not—I defy him, and I challenge him and those who are associated with him on this floor to raise a fair and impartial committee to investigate the military maladministration in Kentucky. It would disclose iniquity, enormity, oppression, and crime enough to damn any political party that ever had existence. But, sir, I shall say no more.

Mr. HENDRICKS. I do not think it is profitable to protract this debate, and therefore I shall not occupy the time of the Senate at any length. I rise simply to say that I think the Senate ought to pay some attention to economy in the public printing. It has gone up from a few hundred thousand dollars to about two millions per annum now. Whether this is the result of extravagant orders on the part of Congress, or of the mismanagement of the public printing by the officers having it in charge, I cannot say; but certainly in these times we ought to introduce some economy. As, however, this proposition does not involve any considerable expenditure, and as it is to present to the country the labors of a very important, although I think an unnecessary, committee of this and the other body, I shall vote for the resolution as reported by the Senator from Delaware.

On the subject that has been debated I have just a word to say. Every patriot must feel that the restoration of social and political relations between the distracted portions of this country is of the highest importance, that commerce and trade may return to their ancient channels, that prosperity, contentment, and happiness may spring up in every portion of the country; and in view of this fact I do not know any wickedness so great, any act so atrocious, as a misrepresentation of the feelings and conduct of one section of the country to the people of the other section of the country. If I were speaking to one section of this country of the condition of another section in the present state of affairs, I should regard myself as put upon the highest honor that a patriot can owe to his country to speak the truth and nothing but the truth; and there is no party on earth or in heaven, in my judgment, whether an officer of the Freedmen's Bureau, or a general in command, or a private citizen, or the highest official, who can be excused if he misrepresents the facts as to the conduct and sentiments of the people of one portion of the country to the people of another portion.

I have thought it unfortunate that this com-

mittee was raised, for I knew as a necessity that men who would desire to produce a particular impression would seek to be heard by the committee. I cannot believe and I do not believe that honorable Senators would select witnesses with a view to producing a particular impression on the public mind, but that men who have a purpose not consistent with the good, the prosperity, and the greatness of the country will seek to be heard by such a committee cannot be questioned, and although I shall not think that by the testimony the committee may be able to get after the most careful and faithful search into facts, the condition of the country will be truly represented, yet as I believe that committee will labor to do its best, I shall vote for this reasonable publication of its investigations. My judgment is not going to be controlled in voting on the admission of these States by what facts the committee shall find. I believe I understand what is the condition of the country. I have tried to do so; I have tried honestly to do so, not by what one man says to me, but I judge from what the people have done. The President proposed terms that many in the South thought were humiliating to them, but they have accepted them, they have reorganized or reformed their State governments and ask admission, and upon their conduct through their officials I am willing to accept them.

Right here I wish to correct one error. In the course of the debates it is over and over again asked, shall we admit rebels into the Senate, shall we admit men to the Senate whose garments are dripping with the blood of northern soldiers? That is not the question. It is not proposed here, nor has it been proposed during this session, to repeal the law requiring an oath of him who presents himself as a Senator of a State that he has had no voluntary connection with the rebellion. That stands as the law and the rule of the Senate, that he who comes here and asks admission as a Senator must take an oath that he has had no voluntary connection with the rebellion; he must show by his oath that he has been loyal throughout the whole unfortunate controversy. Then the question is not whether rebels, guilty parties, shall be admitted to the deliberations of the Senate, but whether loyal men, men who can take the oath, shall be admitted; and when a man coming here entirely free from the rebellion, having had no connection with it either in its political or in its military organization—when such a man comes here representing a State of the Union under the Constitution, and asks admission, I will not turn to the evidence that the committee shall have taken. But although that will not guide my judgment, and I shall be guided by the evidence the country has now before it in such a public manner that it cannot be misunderstood, and by the law upon the subject, still I think it proper that the evidence taken by the committee shall go to the country.

The PRESIDENT *pro tempore*. The question is on the amendment reported by the committee to strike out "ten thousand" and insert "six thousand."

The amendment was rejected; there being, on a division—ayes 12, noes 18.

The PRESIDENT *pro tempore*. The question is on the resolution.

Mr. McDOUGALL. Before casting my vote I desire to say that there was a committee of somewhat similar character, the committee on the conduct of the war. I had occasion to be invited to go before that committee because it was assumed by the persons of that committee—not Senators, but members of the other House—that I would deliver a judgment against gentlemen in the service connected with the Army, because they were hostile to me in politics. They wanted to hear me say that I thought thus; and they asked me what my opinion was. I asked "for what?" "We think you think so; we want you before the committee on the conduct of the war." "Well," said I, "if I go before that committee I will render my best judgment." Those persons thought I would express a conclusion of hostility, and they did not want my testimony. Thus it is with these committees. I vote for the publication of these things; at the same time I do not believe that they reveal the truth.

The resolution was agreed to.

HOUSE BILL REFERRED.

The joint resolution (H. R. No. 52) to provide for the expenses attending the exhibition of the products of the industry of the United States at the Exposition in Paris in 1867, was read twice by its title, and referred to the Committee on Foreign Relations.

PROTECTION OF CIVIL RIGHTS.

Mr. TRUMBULL. I now move to postpone the other orders, and proceed to the consideration of Senate bill No. 61, which has been returned from the House of Representatives with amendments.

The motion was agreed to; and the Senate proceeded to consider the amendments of the House of Representatives to the bill (S. No. 61) to protect all persons in the United States in their civil rights and furnish the means of their vindication.

Mr. TRUMBULL. These amendments were referred to the Committee on the Judiciary, and the committee have recommended that the Senate concur in the amendments of the House of Representatives. I suppose the question is on concurring in those amendments.

The PRESIDENT *pro tempore*. The proposed amendments will be read.

The Secretary read the first amendment, which was in section one, line five, after the words "United States," to strike out—

> Without distinction of color, and there shall be no discrimination in civil rights or immunities among the inhabitants of any State or Territory of the United States on account of race, color, or previous condition of slavery; but the inhabitants.

And in lieu thereof to insert "and such citizens;" so as to make the section read:

> That all persons born in the United States and not subject to any foreign Power, excluding Indians not taxed, are hereby declared to be citizens of the United States; and such citizens of every race and color, without regard to any previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall have the same right, &c.

The PRESIDENT *pro tempore*. The question will be on concurring in this amendment of the House of Representatives.

Mr. TRUMBULL. I presume the pending question will be on concurring in all the amendments of the House of Representatives. That is the report of the committee.

The PRESIDENT *pro tempore*. It will be so, but the question will be taken on the amendments separately. The Senate may concur in some and non-concur in others.

Mr. TRUMBULL. It is one report, and the question is on concurring in the amendments made by the House of Representatives, I apprehend, unless some Senator calls for a division.

The PRESIDENT *pro tempore*. The question may be taken on all the amendments collectively unless there be a call for a division.

Mr. DAVIS. I have two amendments to offer to the amendments of the House, and I therefore desire that they may be considered separately.

The PRESIDENT *pro tempore*. The Senator from Kentucky asks that the question be taken on the amendments separately. The first amendment made by the House of Representatives to this bill has been read, and the question is, Will the Senate concur in the amendment of the House?

The amendment was concurred in.

The next amendment of the House of Representatives was in section one, line thirteen, after the word "right," to insert the words "in every State and Territory in the United States;" so that the clause will read:

> And such citizens of every race and color, without regard to any previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall have the same right in every State and Territory in the United States to make and enforce contracts, to sue, be parties and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of person and property.

The amendment was concurred in.

The next amendment was in section one, line seventeen, after the word "property," to insert the words "as is enjoyed by white citizens."

Mr. VAN WINKLE. There seems to be an incongruity in this language to which I wish to call the attention of the chairman of the committee. The clause commences with the words "and such citizens." As I understand those words they include all persons who are or can be citizens, white persons and all others. The clause then goes on to provide that "such citizens of every race and color, without regard to any previous condition of slavery or involuntary servitude, shall have the same right to make and enforce contracts," &c., "as is enjoyed by white citizens." It seems to me these words are superfluous. The idea is that the rights of all persons shall be equal; and I think the clause, leaving out these words, would attain the object. This is merely a verbal criticism. I think the bill is incongruous in expression as it stands.

Mr. TRUMBULL. I quite agree with the Senator from West Virginia that these words are superfluous. I do not think they alter the bill. I think the bill would be better without them, but they have been adopted by the House of Representatives. We did not think they altered the meaning of the bill; and we did not think it worth while to send the bill back just because these words were inserted by the House. They thought there was some importance in them and have inserted them; and as in the opinion of the committee which examined this matter they did not alter the meaning of the bill, the committee thought proper to recommend a concurrence, and I hope the Senate will concur in it.

Mr. VAN WINKLE. It is a mere verbal correction that I suggested, and I am not at all strenuous about it; nor perhaps should I have made it had I been aware that the attention of the committee had been called to it.

The amendment was concurred in.

The next amendment was in section three, line twelve, after the word "person" to insert the words "for any cause whatsoever;" so that the clause will read:

> And if any suit or prosecution, civil or criminal, has been or shall be commenced in any State court against any such person for any cause whatsoever, or against any officer, civil or military, or other person, for any arrest or imprisonment, trespasses or wrongs done or committed by virtue or under color of authority derived from this act or the act to enlarge the powers of the Freedmen's Bureau, &c.

Mr. McDOUGALL. On that amendment I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. BUCKALEW. I do not see that those words mean anything at all. It seems to me they leave the text as it stood originally, and I do not know why we should be called upon to vote upon them.

Mr. TRUMBULL. I do not think there is any importance in them myself, but the House has inserted them.

The question being taken by yeas and nays, resulted—yeas 31, nays 7; as follows:

YEAS—Messrs. Chandler, Clark, Conness, Cragin, Creswell, Doolittle, Fessenden, Foster, Grimes, Harris, Howe, Kirkwood, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Norton, Nye, Pomeroy, Ramsey, Sherman, Sprague, Stewart, Sumner, Trumbull, Van Winkle, Wade, Willey, Williams, Wilson, and Yates—31.

NAYS—Messrs. Buckalew, Davis, Guthrie, Hendricks, McDougall, Saulsbury, and Stockton—7.

ABSENT—Messrs. Anthony, Brown, Cowan, Dixon, Foot, Henderson, Howard, Johnson, Nesmith, Poland, Riddle, and Wright—12.

So the amendment was concurred in.

The next amendment was in section three, lines fifteen and sixteen, to strike out the words "to enlarge the powers of the Freedmen's Bureau" and to insert:

> Establishing a Bureau for the Relief of Freedmen and Refugees, and all acts amendatory thereof, or for refusing to do any act upon the ground that it would be inconsistent with this act.

The amendment was concurred in.

The next amendment was in section three, line twenty, after the word "sixty-three" to insert the words "and all acts amendatory thereof;" so that the clause will read:

Such defendant shall have the right to remove such cause for trial to the proper district or circuit court in the manner prescribed by the act relating to *habeas corpus* and regulating judicial proceedings in certain cases, approved March 3, 1863, and all acts amendatory thereof.

The amendment was concurred in.

The next amendment was to add at the end of section four the following:

And such commissioners are hereby authorized and required to exercise and discharge all the powers and duties conferred on them by this act, and the same duties with regard to offenses created by this act, as they are authorized by law to exercise with regard to other offenses against the laws of the United States.

Mr. DAVIS. I propose to amend the amendment of the House of Representatives by adding at the end of it the following proviso:

Provided, That the operation and effect of this act shall be limited to the execution of this provision of the Constitution: "The citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States."

The amendment to the amendment was rejected.

The amendment was concurred in.

The next amendment was to strike out the fifth section of the bill, in the following words:

SEC. 5. *And be it further enacted*, That said commissioners shall have concurrent jurisdiction with the judges of the circuit and district courts of the United States, and the judges of the superior courts of the Territories, severally and collectively, in term time and vacation, upon satisfactory proof being made, to issue warrants and precepts for arresting and bringing before them all offenders against the provisions of this act, and on examination to discharge, admit to bail, or commit them for trial, as the facts may warrant.

The amendment was concurred in.

The next amendment was to add at the end of the bill the following:

SEC. —. *And be it further enacted*, That upon all questions of law arising in any case under the provisions of this act a final appeal may be taken to the Supreme Court of the United States.

Mr. DAVIS. I move to amend the amendment by striking out all the enacting clause of the section and inserting in lieu thereof the following:

That after the judgment of the court upon all questions of law arising in any case, civil or penal, under this act, without regard to the amount in contest, an appeal or writ of error may be prosecuted by either party, first, from the judgment of the district to the circuit court, and then from the judgment of the circuit to the Supreme Court, according to the forms and mode of prosecuting appeals and writs of error in said courts respectively; and upon the party taking such appeal or writ of error, entering into bonds with sufficient security in the court from whence it is taken, to abide by and perform the final judgment that may be rendered in such case, all further proceedings thereon in said court shall be suspended.

I will inquire if after the question has been taken upon this amendment it will be in order for me to move to lay all the amendments upon the table.

The PRESIDENT *pro tempore*. A motion to lay a bill on the table carries the amendments with it. A motion to lay an amendment on the table by itself cannot be entertained, because an amendment is but the incident of a bill.

The amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question now is on concurring in the amendment made by the House of Representatives.

Mr. DAVIS. I now move to lay the bill upon the table, and, Mr. President——

The PRESIDENT *pro tempore*. The motion to lay on the table is not debatable.

Mr. DAVIS. Then I move to postpone it until the first Monday in December next.

The PRESIDENT *pro tempore*. The motion to lay on the table is withdrawn, and the motion now is to postpone the further consideration of this bill until the first Monday in December next.

Mr. DAVIS. Is that a debatable motion?

The PRESIDENT *pro tempore*. It does not open the merits of the bill. It is open for debate so far forth as may be necessary to show that the bill should be postponed.

Mr. DAVIS. Mr. President, I intend to make my protest against the passage of this bill. I would like the honorable chairman of the committee who reported it, or any other of its friends, to read to the Senate the authority upon which they propose to pass the bill. I maintain that Congress has no power whatever to pass this bill. I propound this question to the honorable Senator: suppose amid the cloud of amendments to the Constitution that has darkened the congressional atmosphere it was now proposed as an amendment that Congress should be invested with the power to establish a civil and penal code for all the States of the Union, would such an amendment receive a solitary vote? I presume not. And yet Congress by this bill are assuming precisely the power that such an amendment to the Constitution would give them. The principles involved in this bill, if they are legitimate and constitutional, would authorize Congress to pass a civil and criminal code for every State in the Union. I have assumed that gentlemen would not vote for such a proposition if it was made in the form of a proposed amendment to the Constitution. If they would not vote for such an addition to their powers in an amendment to the Constitution, how much more illegitimate and inexcusable is it for them to vote to assume that power under the Constitution as it exists. I intend to read two or three sections of this bill.

Mr. TRUMBULL. I rise to a question of order, and it is this: the bill is not before the Senate for discussion. It passed the Senate and has passed the House of Representatives with certain amendments. The question in the Senate is on concurring with the House in its amendments. We cannot vote upon the bill again, but only on these amendments; and of course we cannot discuss a question on which we cannot vote. All the amendments have been adopted except the last one, which is now pending. The Senator from Kentucky moves to postpone this subject until next December. That does not bring out a discussion on the merits of the bill, which the Senator proposes to read, because we cannot vote on the bill; it has passed from us; and I insist, as he is proposing to read the bill and discuss it, that it is out of order to read and discuss a bill upon which the Senate cannot vote.

The PRESIDENT *pro tempore*. In the opinion of the Chair the merits of the bill, as the Chair before stated, are not open to a general discussion on a motion to postpone. On a motion where the order of business only is concerned, reasons may be given for the postponement and against the postponement, not entering into the general merits of the question. It is sometimes difficult to define the line accurately; but the Chair thinks that reading the bill and discussing its general merits would be an infringement of the rule.

Mr. DAVIS. Upon this question is it or is it not proper to debate the point that Congress has no power to act on the subject at all? That is the point that I propose to debate. I am no parliamentarian, but it seems to me, in the course of my experience in Congress, that when amendments were pending between the two Houses, a motion to lay the bill itself or the amendments that were pending between the two Houses upon the table was always a motion in order and always gave an opportunity to debate the merits of the bill. But my purpose now is more limited than that. My purpose is simply to debate the proposition that Congress has no constitutional power whatever to take cognizance of or to pass any action at this time upon these amendments.

The PRESIDENT *pro tempore*. In the opinion of the Chair the only question for discussion is the amendment which has not yet been decided by the Senate. Whether that should or should not be made to the bill is a proper matter for discussion; but that question, even, is not now before the Senate. The question now is, shall the further consideration of the bill (and of course the amendments, for the bill carries the amendments along with it) be postponed until the first Monday of December next? and in the opinion of the Chair that does not authorize an investigation of the question whether the bill should be passed by Congress or not.

Mr. DAVIS. My object is simply to make a short (if the honorable Senator from Illinois will excuse me) protest against the passage of this bill. I ask the Chair, for information, if a motion to postpone the bill and amendments indefinitely would allow me to enter upon that debate?

The PRESIDENT *pro tempore*. So far as it goes to show that the bill ought to be postponed, the Chair thinks it would; so far as it goes into the general merits of the bill, the Chair thinks it would not.

Mr. DAVIS. As that would probably give me a wider field of debate than the immediate pending question, I withdraw the pending motion, and ask leave to present it in the form I have indicated.

The PRESIDENT *pro tempore*. The Chair understands the Senator to withdraw his motion to postpone the further consideration of the bill until next December.

Mr. DAVIS. Yes, sir; and to move the indefinite postponement of the bill and the amendments.

The PRESIDENT *pro tempore*. That motion is in order; but in the opinion of the Chair the same rules of order would apply to the motion, although the Chair is not asked to decide that question now. The Chair will put that motion, however, if the Senator withdraws the present one.

Mr. DAVIS. If the Chair is of opinion that the same rules of debate will apply, I will make another inquiry and modify my proposition.

The PRESIDENT *pro tempore*. The motion to postpone indefinitely, in the opinion of the Chair, would really not widen the debate beyond a motion to postpone until next December.

Mr. DAVIS. Then I withdraw that motion and insist on the other motion that I made. I now propose, I tell the honorable Senator from Illinois, to debate the proposition that Congress has no constitutional power to take cognizance of this bill or of the amendments that have been made to it by the House of Representatives.

Mr. TRUMBULL. The only question that is now before the Senate for its consideration is the amendment of the House to add the following section to the bill:

SEC. —. *And be it further enacted*, That upon all questions of law arising in any cause under the provisions of this act a final appeal may be taken to the Supreme Court of the United States.

If the Senator from Kentucky can show that that is unconstitutional, I shall not object to his showing that; but he cannot, I apprehend, go into a discussion of the bill, upon which both Houses have passed, and which is not before us. We cannot amend the bill; we can amend nothing but this clause which I have just read.

Mr. DAVIS. Mr. President, the amendment that is under consideration is in these words:

And be it further enacted, That upon all questions of law arising in any cause under the provisions of this act a final appeal may be taken to the Supreme Court of the United States.

Now, sir, I propose to debate this proposition: that all questions of law arising and decided under this act are a nullity; that the tribunals intended by this bill to decide those questions would have no power over them; and therefore that this section authorizing an appeal to the Supreme Court from cases that were *coram non judice*, from cases before tribunals that had no proper judicial authority or jurisdiction whatever to adjudge them would be a mere nullity, and therefore this amendment ought not to be adopted by the Senate. I will proceed to enter upon the debate of that proposition. I suppose I would have been about half through by this time but for the consumption of time on this point of order.

The honorable Senator from Illinois has not

responded to the question which I put directly to him, and that was, that he should read to the Senate for my information, if not for the information of the Senate, the clause of the Constitution that authorizes Congress to pass this bill. If Congress has no legal, constitutional right to pass it, of course Congress has no power to pass a section of the bill that will authorize an appeal to the Supreme Court from any of the spurious judgments that are proposed to be rendered under it.

I asked the honorable Senator, and I again repeat the question, if it was now proposed by some wiseacre who wanted the Constitution amended, to add this as an additional clause to the Constitution—"Congress shall have power to enact and establish for each State a civil and penal code for such State"—would any member of the Senate vote for such a proposed amendment? I have assumed that this bill proposes that Congress shall do precisely the thing in the passage of this bill that such a proposed amendment of the Constitution would authorize Congress to do; and I have appealed to gentlemen to know, if in the absence of a provision of the Constitution to that effect, a proposition was made so to amend it they would vote for it; and now being made, I have assumed that they would all vote against it.

The first section of the bill is in these words:

That all persons born in the United States and not subject to any foreign Power, excluding Indians not taxed, are hereby declared to be citizens of the United States, and such citizens of every race and color, without regard to any previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall have the same right in every State and Territory in the United States to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of person and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, and penalties, and to none other, any law, statute, ordinance, regulation, or custom, to the contrary notwithstanding.

Here are embodied the two principal features of this bill, which the honorable Senator from Illinois said, when it was before the Senate some weeks ago, was of so much importance. It is of vast moment. It is a greater stride toward the consolidation of all power by Congress than has ever before been taken or conceived. It declares that all the acts of the various State Legislatures relating to the subjects of civil rights that are specified in the bill shall be common and uniform in their application to the people of each State, without regard to race or color; and furthermore, that all laws defining crimes and misdemeanors and declaring punishments shall be the same and uniform in their application to the black and white races of each State. I again challenge the honorable Senator from Illinois, or any advocate of this bill, to read me the provision of the Constitution which authorizes Congress to pass such a measure. We have laws in the State of Kentucky that discriminate between the punishment of the whites and blacks. Those laws we expect to continue in operation, and we expect to execute them in the future. What power has Congress to pass a law to harmonize the criminal and penal laws of the State of Kentucky, and command and coerce the same punishments which are inflicted upon her white citizens, and none other, shall be administered to her negro population? What authority has Congress to command the government and the people of Kentucky, or any State to confer on the negro portion of its population the same civil rights with which the laws invest white citizens? Gentlemen need not tell me that this bill does not assume such power. It assumes the principle, the general power that would as well enable Congress to occupy both of those vast fields of State and domestic legislation which regulate the civil rights, and the pains, penalties, and punishments inflicted upon the people of the respective States which were not delegated to the Government of the United States, but were reserved to the States respectively and to the people, as to them the most important and interesting portion of their original sovereignty.

I will give an example that I gave a few days ago. We have a law in Kentucky that punishes rape, when committed by a negro upon a white woman, with death. This punishment for that crime is not inflicted upon a white man. Now, what does this bill propose? To abrogate the distinction between the punishment of a white and black man in the State of Kentucky for the commission of that crime. Will any Senator tell me where Congress derives the power to break down that difference? There are some other differences of punishment between white and black people there for the commission of other crimes. The language of this bill provides that all differences of punishment between the white and the black races for that or any other crime shall cease, and that they shall be subject to the same punishments for all offenses. I am not surprised that the honorable Senator from Illinois, able lawyer though he be, has retreated from the task of answering the question, whence does Congress derive the power to pass this law? Congress has not an iota of power but what is conferred by the Constitution, and if it were invested with one so important, the provision embodying it would surely be quoted.

The same general remark might apply in relation to the classes of civil rights that are set forth in this bill, and which are assured by it to negroes in the same fullness that the laws of the States guaranty them to white citizens. Some of the States make a difference between the civil rights of white and black people. Here intervenes this congressional bill declaring that all those differences shall cease, and that all the people of every State, black and white, shall have the same civil rights *eo nomine*. Thus this bill proposes to modify and harmonize the code of laws of each State so far as they establish any distinctions in the civil rights, and pains, penalities, and punishments of their people of different races. Are Senators ready to concede this principle? If Congress has the power to break down this difference in the laws of Kentucky in the respects to which I have adverted, has it not the power to occupy the whole domain of local and State legislation? Some of the States deny to negroes the right to hold lands. In relation to free negroes it is not so in my State and never has been, but such is the law in some of them.

Now, sir, I hold that under our Constitution and system of government both of these subjects, the regulation of the civil rights of the people of a State, and the laws by which they are subjected to penalties and punishment, belong exclusively to the government and people of each State, and that Congress has no authority or jurisdiction whatever over either of these general subjects of legislation. I have called upon the honorable Senator to produce his authority, but to that call there is no response. He is voiceless, and well may he be, because there is no clause in the Constitution which confers upon Congress the power to wrest any such subjects of legislation from the States. If you concede the principle for one subject, for one civil right, or for one class of punishments, it exists for all. If Congress have the right to abolish the capital punishment of a slave in the State of Kentucky, they have the right to regulate the whole subject of the punishment of our people. There is no escaping from that conclusion. If this congressional power exists to the extent that it is attempted to be exercised in this bill, it is without limit except by congressional discretion and forbearance.

Sir, Congress goes into my State, your State, all the States, and declares by its legislation that all races of their people shall enjoy a community of civil rights, and that they shall be subjected to the same punishment, and where there are differences in those respects it proceeds by penal enactments to abolish those differences. Does not that consummate the consolidation of all legislative power in Congress? Congress may if it will go into each State and strike down the penal and criminal codes of all the States wholly and organize new bodies of laws for them. A few years ago there was a provision in the constitution of New Hampshire, and I believe it has not been changed, if it has it has escaped my attention, that persons professing the Roman Catholic religion should not be eligible to office in that State. If the people of the State of New Hampshire have a right to introduce that provision into their constitution they have a right to subject Roman Catholics to civil as well as political disability. I admit the flagrant injustice of such an exclusion by the constitution of New Hampshire; but who from the State of New Hampshire would concede that Congress has the power by its legislation to go into that State and to abrogate that distinction of political rights among her citizens?

The question I am debating is not the abstract justice or policy of this bill, but simply the constitutional power of Congress to pass it. If now in open session one Senator, without provocation, were to murder another one, the Senate would proceed with appropriate power to punish the criminal by expulsion; but if it were to inflict upon him the punishment for murder, by hanging, Senators themselves would become murderers, and be subject to be punished as such. The enactment of all laws, State and Federal, and their administration are confided to the appropriate governments, departments, and officers; and all other persons who presume to do such acts are usurpers, trespassers, and wrong-doers, who ought to be punished as such. Government, order, and law could not exist upon any other principles.

If Congress has the power to regulate the subjects which this bill assumes to regulate, it is but the beginning of a new and most important era of its legislation. There will, indeed, be a development of our system of government of which the fathers never spoke or wrote, or which their sons never dreamed until the acme of the present great national frenzy.

There is one other feature of this bill to which I will advert, and I will then take my seat. If it should become a law the people of the States will be subject to two codes of laws: the black man being governed by one, and the white man being subject to the other. Here are the State constitution and laws which every State officer takes an oath to enforce. The judges, marshals, and executive officers of a State all take an oath to execute the State laws. What does this bill make the consequence of the attempt of these State officers to execute these State laws? It declares that they become guilty of a high misdemeanor, and that they shall be subject to a fine not exceeding $1,000, or twelve months' imprisonment, or both, at the discretion of the court. What kind of a spectacle is it which the Senate of the United States now exhibits in passing a bill of this character, denouncing the observance of the laws of the States by their different officers, whose official oaths require them to carry those laws into execution, as a crime against the United States, and providing for the punishment of the commission of such a crime by these high penalties? Is not the very proposition monstrous and absurd? Suppose that a Roman Catholic is a candidate for the Legislature or for Congress in the State of New Hampshire. In obedience to the constitution of that State, if it still reads as it did formerly, the officers of the election refuse to open a poll for him, on the ground that he is by the constitution of the State ineligible to the office.

Congress passes a law declaring that among the citizens of the State of New Hampshire all shall be equally eligible to office. The constitution and laws of that State remain unchanged, and the officers of their election conform to them and disregard the law of Congress. According to the principle in this bill, they would commit a crime against the Government of the United States for which they would be subject to be indicted in the United States courts, and to be fined $1,000 each, and imprisoned for twelve months, or both. The constitution and laws of New Hampshire would be unjust and absurd; but Congress would not have the power to apply that or any other corrective. It would

be a matter with which Congress had nothing to do.

Mr. President, I think this bill originates in a mistaken policy, to use the mildest phrase with which it can be characterized. If it is intended to pacify the country, to give peace to it, and to reconcile the different races of which that country is constituted to each other, it is a most mistaken policy to enact any such law as this. There are in all the old slave States men whose business and whose ownership of lands will require them to employ the negroes who were lately slaves as laborers; but much the larger proportion of the white people will have no such demand for negro labor. A great portion of the white people who do not own lands will be competitors with the negroes for employment in the service of those men who may need the labor of both or of either. What state of things will this bill introduce among this population? We all know, you know, sir, and every man knows, that there will be a competition between the white and the black laborers for employment, for wages; and this competition on the part of the white men will be limited to the poorer classes, who do not wish to employ labor themselves, and whose vocation and living is to be employed as laborers.

The passage of such a bill as this is calculated to produce interference between, and a disturbance of, the relations of the black laborer and his white employer, to get up feuds and quarrels and contentions between them by interested and sinister persons, to alienate the white employer from the black laborer, and consequently by such vexations, to induce the employer to resort to the white instead of the black laborer to cultivate his fields, and perform his other work. If this bill is passed, it will promote feud and enmity between the white employer and the black laborer. It is inevitable. The way to avoid that feud, at least to as large a degree as is practicable, is to leave the relation to itself and the parties to it, and to the laws and policy of the States. The people there and the governments of the States are most interested in harmonizing the relations between the black laborer and the white employer; and it is their interest that perfectly friendly, confidential, and just relations shall exist between those classes of their population. This result will be promoted by leaving the entire matter to the parties interested, and to State legislation and policy, by keeping the officious and interested and corrupt agents of the General Government entirely out of the field of relations and regulations between the two classes of society.

I had intended to show that the appeal held out in the last amendment of the House is delusive, but a false pretense; that on questions of law it could be never taken unless there was a certificate of a division of opinion of the district and circuit judges. Upon the facts and merits of a case an appeal would not lie unless the amount was $2,000, and that it was wholly unavailable because of the vague poverty of that section in providing for and to regulate the appeal. But I forbear.

I therefore, on the grounds that I have stated, oppose this bill. I know that they weigh nothing with the dominant power here. What care I for that? What care I for the manner in which my suggestions may be received by the majority? Nothing; less than nothing, if possible. I am performing my duty according to my sense of that duty; and in despite of all opposition, of frowns or scoffs or of any other opposition, come in what form it may, I will stand up to the last hour of my service in this Chamber, and will endeavor, as best I can, to perform my duty whatever may betide me.

The PRESIDENT *pro tempore*. The question is on concurring in the amendment of the House of Representatives to add an additional section to the bill which has been read.

The amendment was concurred in.

The PRESIDENT *pro tempore*. That disposes of the amendments of the House of Representatives.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the Speaker had signed the following enrolled bill and joint resolution, which thereupon received the signature of the President *pro tempore* of the Senate:

A bill (S. No. 33) in relation to the Court of Claims; and

A joint resolution (H. R. No. 84) for the relief of the sufferers by the late explosion at the United States arsenal in the District of Columbia.

SENATOR FROM NEW JERSEY.

Mr. TRUMBULL. I wish to give notice to the Senate that on Monday next I shall move to take up for consideration the case of the Senator from New Jersey, [Mr. STOCKTON,] whose right to a seat has been questioned. I wish to give this notice now, in order that it may be understood that we will take up that case on Monday.

DEFICIENCY CIVIL BILL.

Mr. FESSENDEN. I move to postpone all prior orders with a view to take up House bill No. 86, the deficiency bill. The necessity for it is very pressing. There is a great want of the money.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 86) making additional appropriations, and to supply deficiencies in the appropriations, for sundry civil expenses of the Government for the fiscal year ending the 30th of June, 1866, and for other purposes.

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

Mr. FESSENDEN. I move that the ordinary course of reading bills be dispensed with, and that we act upon the amendments that are proposed by the committee as we come to them on the first reading of the bill, instead of having the bill read over twice. It is a long bill and has been pretty thoroughly examined, and I think there is no occasion for spending so much time in the reading of it.

The PRESIDENT *pro tempore*. That course will be adopted unless objection be made. The reading of the bill will be proceeded with until an amendment reported from the Committee on Finance to the text of the bill is reached, and the question will be taken upon the amendments of the Committee as they are reached in the reading of the bill. The reading will proceed with that understanding.

The Secretary proceeded to read the bill, and read to the following clause, under the head of "light-house establishment:"

For commissions, at two and a half per cent., to such superintendents as are entitled to the same, under the proviso to act 3d March, 1851, on the amount that may be disbursed by them, $5,000.

Mr. FESSENDEN. I move to strike out that clause. It was accidentally omitted to be considered in the committee, and I do not find it in the estimates for this year. I think it would be well to strike it out, and if the House can persuade us that it is best to keep it, very well.

The amendment was agreed to.

The first amendment reported by the Committee on Finance was on page 5, section one, after line ninety-eight, to strike out the following clause:

For survey of and for buoying out Seekonk river from Pawtucket to India Point, in Providence, Rhode Island, $1,000.

Mr. FESSENDEN. We could not find any estimate for that in the papers.

The amendment was agreed to.

The next amendment was on page 7, section one, line one hundred and forty-one, to strike out "twenty" and insert "ten;" so that the clause will read:

For rebuilding outer-range light at Cedar Point, Sandusky bay, Ohio, $10,000, or so much thereof as may be necessary.

The amendment was agreed to.

The next amendment was on page 11, section one, line two hundred and fifty, to strike out the word "five" and insert "six," and after the word "thousand" to insert "five hundred;" so that the clause will read:

For fitting up rooms in basement, under the court-room of the Supreme Court, for a consultation room for the court, $6,500.

The amendment was agreed to.

The next amendment was on page 11, section one, after line two hundred and fifty, to strike out the following clause:

For removing the unsightly double railing or fence erected across the old Hall of Representatives, (and all stands for the sale or display of any articles whatever in any of the entrances to the House on the main floor,) in the Capitol, ten dollars.

The amendment was agreed to.

The next amendment was on page 11, section one, after line two hundred and fifty-five, to strike out the following clause:

For sewer in Four-and-a-half street, in front of reservation between Missouri avenue and the canal, under act of May 15, 1820, $1,000.

And to insert in lieu thereof:

To enable the Commissioner of Public Buildings to pay for sewers and paving in front of Government property constructed under the act of May 5, 1864, $32,070.

The amendment was agreed to.

The next amendment was on page 12, section one, after line two hundred and sixty-three, to insert the following clause:

To enable the Commissioner of Public Buildings to pay for sewers and paving in front of Government property constructed by the city of Washington under the act of May 15, 1820, and for cleaning Pennsylvania avenue, May 22 and 23, 1865, $37,920 61.

Mr. FESSENDEN. That should be reduced $510. I move, in line two hundred and sixty-nine to strike out "nine," and insert "four;" and also to strike out the word "twenty" at the end of that line, and insert "ten;" so that it will read, "$37,410 61." It is an error in the amount.

The amendment to the amendment was agreed to.

The amendment as amended was adopted.

The next amendment was to strike out from lines two hundred and eighty-two to two hundred and eighty-five of section one, in the following words:

For lighting the Capitol and President's House, the public grounds around them, and around the executive offices, and Pennsylvania avenue, Four-and-a-half street, $50,000.

And in lieu of these words to insert:

For lighting the Capitol and President's House, the public grounds around them, and around the executive offices, and Pennsylvania avenue, Bridge and High streets in Georgetown, Four-and-a-half street, Seventh and Twelfth streets across the Mall, and Maryland avenue west, and Sixth street south, $85,000.

The amendment was agreed to.

Mr. HOWE. I see that the Senate is acting on the amendments reported by the Finance Committee. I desire to ask whether it suits the convenience of the Senator from Maine that other amendments should be proposed now?

Mr. FESSENDEN. Not until we get through with the amendments of the committee. That is the usual way.

The Secretary continued the reading of the bill till he reached the next amendment of the Finance Committee, which was to strike out lines three hundred and thirty-two and three hundred and thirty-three of section one, in these words:

For the protection and improvement of Franklin square, $1,720.

And to insert in lieu thereof:

For the protection and improvement of Franklin square, and for lighting Thirteenth and Fourteenth streets, in front of said square, $5,000, to be expended under the direction and superintendence of William Saunders, superintendent of the propagating garden.

The amendment was agreed to.

The next amendment was in section one, to strike out lines three hundred and sixty-one, three hundred and sixty-two, and three hundred and sixty-three, as follows:

For building sewer on Pennsylvania avenue, from Seventeenth street to Twentieth street, $27,500.

The amendment was agreed to.

The next amendment was in section one,

after line three hundred and eighty-one, to insert:

Office of Secretary of State:
For publication of the laws, $8,000.
For extra clerk hire, $3,000.

The amendment was agreed to.

The next amendment was in section one, line three hundred and ninety, to strike out "one thousand five hundred," and insert "three thousand five hundred," so as to read, in the items of appropriation for the office of the Attorney General—

For deficiency in appropriation for contingent expenses, $3,500.

The amendment was agreed to.

The next amendment was in section one, after line three hundred and ninety-three, to add—

For stationery, furniture, and other contingencies, and for books and maps for the library of the Interior Department, $3,000.

The amendment was agreed to.

The next amendment was in section one, line four hundred and twenty-two, to strike out the following proviso:

Provided, That in the purchase of carpets for any of the public buildings or offices under any appropriations herein provided, they shall be of domestic manufacture.

The amendment was agreed to.

The next amendment was in section one, in lines four hundred and thirty-one and four hundred and thirty-two, to strike out the words "see letter of Commissioner dated October 31, 1865," so that the clause will read:

For making good the aggregate difference between the original rates of salaries paid the clerks and employés of the Census Office, before they were assigned to the General Land Office, from June 1 to December 31, 1865, $2,450 31.

The amendment was agreed to.

Mr. HENDRICKS. I wish to inquire of the chairman if the appropriations for the surveys of the public lands are the amounts asked by the Commissioner. They seem to me very small for the Territories of Arizona, Dakota, Colorado, &c.

Mr. FESSENDEN. We took them as they came from the House. By turning to the estimates for 1864 the Senator can ascertain.

Mr. POMEROY. There will be another appropriation bill this year for these purposes.

The next amendment was in section one to strike out from line five hundred and four to five hundred and nine, as follows:

To enable the Commissioner of the General Land Office to continue the investigations which he has instituted in relation to the mineral resources of the United States and the minerals, their extent and locality in the public domain, who shall report his doings as by law required in relation to other business of the General Land Office, $5,000.

Mr. JOHNSON. I ask the chairman of the committee why that clause is proposed to be stricken out?

Mr. FESSENDEN. That is a matter that has grown up in the Land Office; without any authority of law the Commissioner has undertaken to examine the matter of minerals; and we thought this legislation would only be the beginning of a Mineral Bureau, and if we are going to establish one we had better have it established regularly.

Mr. JOHNSON. There is no law now for this?

Mr. FESSENDEN. There is no law authorizing it.

Mr. HENDRICKS. The purpose of this investigation, as I understand, is rather to secure to the Commissioner such information as will enable him to decide what lands are mineral and what not. Under the existing laws and practice he cannot bring into market mineral lands. It is very important that the Commissioner of the General Land Office should be allowed to sell such lands as are agricultural, and he should have some means of determining this fact. I am not sure but that this is an important appropriation.

Mr. CONNESS. Let me say to the honorable Senator that this appropriation cannot be applied to the purpose he supposes. The manner in which the General Land Office determines whether a given amount of land which it is proposed to sell or bring into market, is mineral or agricultural, is through the local land office, and it forms a part of the duties of that office. The General Land Office will do nothing on the subject of segregating the mineral lands from the agricultural land until they get the information furnished from the local land office as their data. This class of appropriation which is now under consideration is one, as the chairman of the Finance Committee has said, that has grown up incidentally, and under it the Commissioner of the General Land Office, as I have understood, has deputed persons from time to time, given them free commissions, to go to Arizona, or to New Mexico, or somewhere else, to look after mineral lands. I am not aware that any good has ever come out of it, and I agree entirely with the suggestion made by the honorable chairman of the Finance Committee, that the whole matter had better be left to the organization of a bureau who shall direct in some manner, I hope wisely, such investigations as shall be made in that direction.

Mr. HENDRICKS. I do not know that I am in favor of any Mineral Bureau—we have about bureaus enough; but it is important that the Commissioner of the General Land Office should be able to decide what lands are mineral and what are not.

Mr. CONNESS. He cannot do it by this appropriation.

Mr. HENDRICKS. It is of very great importance, because on the supposition that a section of country is mineral, very large amounts of agricultural lands are kept out of market to the prejudice of the country, to the inconvenience of persons seeking homes; but as the Senator from California is much more interested in it than any other Senator, except perhaps the Senator from Nevada, I shall not urge it.

Mr. STEWART. I do not think an appropriation of this kind without having the manner of expending it provided by law would do us much good. I think a small amount of money might be well applied to obtaining information as to what is mineral land and what is not mineral land, and also as to the mineral resources of the country; but we should direct by law what information shall be obtained and how it shall be obtained, so that it may have some authentic character. But $5,000 expended in sending persons through the country to pick up information will do very little good. There is a bill now before the Committee on Mines for the organization of a Mining Bureau, and in connection with that bill the whole matter can be discussed. Whether an independent bureau is necessary or not, I shall not now say; but I am sure that something should be done, either by an independent bureau, or in connection with the Land Office. A system should be devised whereby a segregation can be made of the mineral lands from the others, so as to introduce farming lands into the market and also to give us definite information as to the mines to enable us to legislate hereafter. There is no doubt that something of this kind is important, and will be considered before the adjournment of Congress; but a stray appropriation like the one proposed here will not be of any use in my opinion, and I have no objection to its being stricken out.

Mr. POMEROY. If this is to be stricken out with a view of getting up a Mining Bureau I shall not vote to strike it out. I do not believe a few thousand dollars can be used any better than in the hands of the Commissioner of the General Land Office for this purpose. His office is so organized that without any additional expense he can send to every land district in the United States to get information; but if you organize an independent bureau it has to organize its machinery before it can do anything. Five thousand dollars in the hands of the Commissioner of the General Land Office, who has an organization already in existence, is worth $25,000 in the hands of a new bureau which has to organize its whole machinery. If the object of striking out this clause is to establish a new bureau I shall vote to retain it.

Mr. STEWART. It means this: that we can see no good in appropriating $5,000 or any other sum of money unless the mode of expending it is definitely pointed out. I do not say that any new machinery is necessary; we have officers now who can do the business that is necessary to be done; but I believe that their duties should be prescribed by law, and then some good may be derived from an appropriation of money to be expended by them. I do not think this appropriation of $5,000 in these general terms will do us any good.

Mr. POMEROY. As we progress in our surveys west it becomes a matter of more and more interest every year to know what proportion of our public lands are mineral and what are agricultural. Formerly our surveys were carried on in the prairies where there were no minerals, and the attention of the surveyor general and of the Commissioner of the General Land Office of necessity was not directed to the question of minerals; but now our work has been prosecuted so far into the mountains that it becomes a matter of great importance for the reason that we frequently find whole districts of country declared by the surveyor general to be mineral, and thereby taken out of the market, so that settlers under the homestead and preëmption laws cannot settle on it, when there is not an acre in a thousand that is really mineral. The Commissioner of the General Land Office ought to have some means of ascertaining and deciding that fact. He has got the machinery all organized; he has a register and receiver in every district; he has in his employment persons who can furnish him with this information at very little expense. If you get up an independent machinery for this purpose it will cost thirty times as much to get this information as it will cost to get it through the General Land Office, a bureau already organized.

I think it is a matter of very great importance in all the new States that some definite information be had there as to what land is mineral and what agricultural. I have traveled for a whole day over a country called mineral, although there was not an acre of mineral in it. We cannot settle it; it is shut out from market. Public enterprises for which grants of land had been made going through those sections can get nothing, because some man ran over the country a few years before, and said it was all mineral, and so reported to the General Land Office, and that man happened to be surveyor general.

This has worked enormous evil in the new States. There should be some means of ascertaining and some means of deciding the question rather than leave it to a surveyor general who never, perhaps, goes out of his office, but sub-lets the whole work, and somebody says that tract embracing a hundred miles is mineral. On such indefinite information as that we have been going on year after year declaring sections of our new States mineral to the great injury of the settlements, to the great injury of the community, and doing no good to the Government.

Mr. STEWART. That is the very reason why I do not want this appropriation to pass.

Mr. POMEROY. That is the very reason I want it to pass.

Mr. STEWART. I want first to know what is going to be done, and to have such legislation passed as is necessary to secure the purpose we desire to accomplish. We want to know first what the Commissioner of the General Land Office is to do, through whom he is to do it, and then we shall be in a condition to appropriate money to effect the object. I know an appropriation is necessary, but it should not be made without our directing how it shall be applied, how it is to be ascertained what is mineral and what is not mineral, and to what agents this important business is to be intrusted. I do not want a general appropriation leaving the matter to the Commissioner of the General

Land Office in Washington to be determined how he is going to segregate the mineral lands from the agricultural lands. When that segregation is made I want it made in such a manner that the community there shall know in advance what is proposed to be sold as agricultural land and what is to be reserved as mineral land. The community should be thoroughly advised and know exactly what is going to be done, so that we can have a fair segregation.

That there should be something done to bring into market these mineral lands we all agree; but what is $5,000 thrown out to accomplish these results? If you are to make a proper examination for the purpose of segregation in a single county it might require that much money. This appropriation will do nothing toward a work of that kind. It must be the work of years, and it must be done on a system. I have conversed with the Commissioner of the General Land Office, and his ideas are very good; but, still, before he proceeds in a business of this importance, to determine what lands shall be brought into market as agricultural lands and what shall not, I want Congress to act and fix a system. I want the act that appropriates the money to direct for what purpose it shall be applied. Here is a general appropriation of $5,000 to be expended for getting information. Is it for the purpose of segregating the lands? What is it for? Is it to send somebody out there? I have not seen the beneficial results of appropriations of this kind. There was no appropriation last year, and this year the Commissioner of the General Land Office has made a better report than he ever made before.

Mr. FESSENDEN. The bill failed last year.

Mr. POMEROY. This is the bill that failed then.

Mr. CONNESS. This appropriation was stricken out before it failed.

Mr. STEWART. The year previous he had an appropriation of $15,000. For two years past he has had no money for this purpose, and he has improved in his reports immensely. The last report of the Commissioner of the General Land Office was a very good report. If he is to have this $5,000 I should like to know how it is to be expended.

Mr. HENDRICKS. I am more satisfied now that this appropriation ought not to be stricken out. I can understand the interest of these Senators representing the mineral States in the establishment of a Mineral Bureau with a view to the minerals of the country; but this little appropriation of $5,000 is with a view of ascertaining the agricultural lands, and of separating them, if it be possible, from the mineral lands. The practical difficulty that the Commissioner of the General Land Office has upon this question is just this: he directs the surveyor general of a particular department to make the surveys in advance of the settlement; the surveyor general cannot himself go out and see what lands are mineral or are agricultural; he has no means of ascertaining that fact; but if he had a thousand or two thousand dollars at his command he would select some suitable person in advance of making his contracts and send that man up among the mountains to see what valleys ought to be surveyed, come back, and upon that report the surveyor general would be enabled to make his contracts. It is a little matter; it is for the benefit of the surveys, to enable surveys to be made of the agricultural lands in the neighborhood of the mineral lands. In that regard it is very useful. Then when we come to the Mineral Bureau we can consider that as a separate question.

Mr. HOWE. I want to add what little weight there is in my opinion to the testimony of the Senator from Kansas and the Senator from Indiana. Instead of this appropriation which it is intended to strike out being the ante-room to a Bureau on Mining, it strikes me that it is some slight erection that is to be taken down for the purpose of getting a Bureau on Mining. If a Bureau on Mining is necessary, I have not the slightest objection to its being erected; but my private opinion is—I mention it here in the hope that it will not be repeated—that this $5,000 in the hands of the present Commissioner of the General Land Office is worth as much to the United States as any sum that you will ever appropriate to a Bureau on Mining, and will accomplish as much. I can very well understand how this amount of money in the hands of an ambitious and enterprising and honest Commissioner of the General Land Office, to be used while he is making his surveys, which surveys always precede the observation of the public, to be used in gathering specimens of the mineral lands and forwarding them here to Washington, can be used to great advantage, and will enable the Commissioner to procure a vast amount of information and enable him really and actually, uninfluenced by any community or any interested parties, to determine very accurately what are mineral and what are agricultural lands.

But if you appropriate moneys to enable the Commissioner of the General Land Office to make surveys as you now do; and when he has made the surveys, and the surveyors' reports have pointed out the general characteristics of the country, and put the local populations on the lookout to get them to snuffing the mineral lands, then call upon your Bureau on Mining to determine what is agricultural and what are mineral lands, I should be very much afraid that the mineral lands would shrink a good deal. I do not know that there is any such danger. At all events I do believe that this amount of money would be expended by the present Commissioner, and I think by any Commissioner who is competent to discharge the duties of that office, to the great advantage of the United States.

Mr. CONNESS. Permit me in part, at least, to relieve the Senator from Wisconsin from the impression that the object of taking this small appropriation of $5,000 out this bill has any connection—it has none in my mind at least—with the projected establishment of the Bureau on Mines. In the first place, that is not the way that I operate; and in the next place, I have never yet been fully convinced that the establishment of a Bureau on Mines, conducted as our Bureau on Agriculture is conducted, would be of any advantage to the mining communities or to the Government. In saying this I mean no reflection on the present head of the Agricultural Bureau; I speak simply of its workings and the benefit the country derives from the amount of its public expenditure.

But as to this small appropriation being intended in any respect whatever for the purposes of segregation, that is out of the question. It is not intended to be applied in that way. Again, if it were, it would be utterly futile to talk of a segregation of the mineral from the agricultural lands of the country to any extent whatever by such an appropriation, or by such an examination as a single individual could make. It has been stated, and stated correctly, that heretofore considerable expenditures have grown up in the Land Office incidentally without the authority of law, except as it was found in connection with the mineral lands annually. Fifteen thousand dollars was the usual annual appropriation; as the honorable Senator from Nevada has said, the appropriation failed a year ago, and I take his statement to be correct, for I suppose he is a judge on that point, that the failure has resulted in the production of the best report ever made from the General Land Office in connection with mining. I have examined that portion of that report which relates to miners; it is very limited, indeed; and I have no such encomium to bestow upon it. It contains some more healthful suggestions than have been made heretofore from that department; but they are exceedingly limited, such as they are; and if it be true that good goods come in small parcels, this is certainly a complete exemplification of it, for there is very little of it.

Mr. President, I have as much confidence in the present head of the General Land Office as any Senator in this body has; but I think this amount of money may just as well be saved as not. If the Commissioner of the General Land Office will point out to the Senate or to me individually what useful purpose he wants to serve by spending this money, I will vote him $5,000 or $10,000; but that has not been stated.

Mr. HENDRICKS. I wish to ask the Senator from California one question. Does he ever expect as a practical question that Congress will direct the Commissioner of the General Land Office how to separate the mineral from the agricultural lands? Is not that an administrative question that must of necessity be left to the department?

Mr. CONNESS. I beg to give the honorable Senator the answer to that question by reiterating the statement that I have made, that this appropriation is not made for the purpose of segregation at all.

Mr. HENDRICKS. The Senator assumes that. It is an appropriation for a particular purpose, and the only legitimate purpose the Land Office can make of it is the one I have suggested. I take it for granted that the head of that office will use the money for the only legitimate purpose to which he can apply it. Therefore I think the Senator, in the absence of a report from the Commissioner, is not justified in assuming that he will use it for any other than the legitimate purpose.

Mr. CONNESS. The honorable Senator is ingenious; but he has forgotten that in the absence of any statement by the Commissioner of the General Land Office to show how he proposes to apply this money, the honorable Senator is merely guessing at how the Commissioner is going to apply it. Now, then, I should like to know whether that is a very good way to make an appropriation, and guess that the Commissioner of the General Land Office will apply it to segregation. If you want to apply it that way, let the appropriation say so; say, "for segregating mineral from agricultural lands in the public domain, $5,000." It would be a very laughable appropriation in that shape; but the fact is, that it is an expenditure that may as well not be made as to make it.

The amendment was agreed to.

Mr. POMEROY. We can call the yeas and nays on it in Senate.

The next amendment was in section one, to strike out lines five hundred and ten to five hundred and thirteen inclusive, in the following words:

For publishing the annual report of the National Academy of Sciences, made to Congress under the act approved March 3, 1863, $6,000.

Mr. WILSON. I should like to know of the committee why they propose to strike this out. It does seem to me to be a matter of considerable importance to the Government and the country.

Mr. FESSENDEN, There should rather be some reason stated why the book should be published. A bill was brought in here to incorporate certain gentlemen as an Academy of Sciences. It would not cost the Government anything, it was said: it was merely to incorporate these gentlemen in this District to be an Academy of Sciences. We accommodated them by giving them a charter, and the first thing we get is a $6,000 appropriation to publish their proceedings. If Congress is going to take this Academy under its care, and publish their proceedings in that way, there will be no end to it. We saw no reason for making the appropriation.

Mr. SUMNER. I really hope, as this clause has the sanction of the House, that it will not fail here. By the charter of the Academy the Government of the United States is expressly authorized to call upon the Academy for opinions on such questions as may be submitted of a practical character and coming within the studies and attainments of the Academy. In point of fact several such questions have been submitted to the Academy and they have given their opinions to the Government. I do not undertake to say what the value of those opinions was, but they gave their opinions in con-

formity with the statute obligations of their charter.

Mr. GRIMES. These gentlemen were called on just as they had been called on before. This Academy of Sciences, I think, referred all the questions of science as to which their opinion was asked by the Government to the men to whom such questions had been hitherto referred by the Government, Professor Bache, Professor Henry, and Commodore Davis. They were all in our employ and drawing salaries from us before.

Mr. SUMNER. These three gentlemen we all know are in our employ, one of them now being abroad an invalid. I hope, sir, that this will not be stricken out. The amount is not large; and under the circumstances, considering the connection between the Government and the Academy, the statute ligament, if I may so express myself, that there is, the smallness of the sum, the character of this association of gentlemen, the value of their services, the importance that the association should be encouraged, that it should not be allowed to fail, and as Senators are aware also of the comparative want of means on the part of scientific gentlemen to make these publications themselves—under these circumstances, I submit that the Senate should not set itself against the conclusion already adopted by the House of Representatives in favor of this appropriation. I hope it will be allowed to remain in the bill.

Mr. FESSENDEN. I cannot see the slightest authority we have to do any such thing as to establish an Academy of Sciences and pay for their publications. It was expressly specified that this was to cost the Government nothing; they only wanted a charter; they wanted a name to be given them by Congress, to be called the National Academy of Sciences. That was the argument, and they were incorporated by Congress; and now, though it was not to be any expense whatever, the first thing we have is a call made on us to publish their reports; and we must go on, if we begin, publishing scientific reports year after year when we have tried to put a stop to publishing these outside matters. It is not the appropriate business of Congress, and I do not see that there is any propriety in it. I have great respect for these gentlemen; but if they want us to publish their reports now, when they asked to be incorporated by Congress at any rate they should have given us fair notice of what they wanted us to do. The thing will grow, and by and by we shall have a Bureau of Science and then a Department of Science, and the head of it will claim to be one of the Cabinet, as the Bureau of Agriculture has grown up. People said that was to cost nothing; they did not ask anything, only a man to represent the farmers; they did not want any increase of expenditure. But what was the result? It doubled the first year and quadrupled the second, and is now going on at that rate. The result will be the same in this case. Although I am, as every tolerably educated gentleman ought to be, in favor of the increase of knowledge among men, I apprehend that that is not our business.

Mr. SUMNER. One word more, if you please, Mr. President. I am not aware that there was any such statement as I hear now for the first time——

Mr. FESSENDEN. Ask your colleague.

Mr. SUMNER. I did ask him now, and I got no answer affirming the statement of the Senator from Maine.

Mr. FESSENDEN. I remember it distinctly.

Mr. SUMNER. I am not aware, at any rate, that any such statement was made, and even if it was I do not know that I would consider it very important; but I have no recollection of it. Now, as to the suggestion of the Senator from Maine that if we vote this it opens the way to something vast and infinite and magnificent in the future in regard to science, that does not make me tremble. I am not frightened at that, even though it may involve some expense, perhaps, in the next generation, for I do not think that we shall arrive at anything so vast and magnificent short of a generation. The simple question now is on the proposition before us, and I beg Senators not to involve that proposition with the larger question which the Senator from Maine so ingeniously opens in some distant futurity, as to whether we may not be called to sustain a Bureau and then a Department of Science, the head of which may claim a seat in the Cabinet. I do not know that that would not be a happy event. I certainly will not venture now to take ground against it. One of the most important cabinet ministers, as we all know, of one of the most civilized Governments of the age, goes under the name of the Minister of Public Instruction—I refer to France—and that place has been filled by some of the most eminent personages in France, who have illustrated the history of this age. Sir, I do not know that we should suffer if we had something like that in our country now. But there is no such proposition before the Senate. I beg therefore to eliminate it. I merely refer to it simply because it has been introduced by the Senator in order to divert attention from the simple proposition before us. The proposition before us involves no such thing as he opens to the view. It is, will you pay a very small sum for the publication of the proceedings of an eminent association of gentlemen incorporated under your auspices, and by your very statute of incorporation placing themselves and their labors at the disposal of the Government? By that statute, and by the obligations this association have assumed to the Government, I submit that their position is exceptional. They are not, if I may so express it, outsiders. They bear a certain relation to the Government, and I should be glad to recognize it in the very humble way which is now proposed by this clause.

Mr. HOWE. I wish to ask the Senator from Massachusetts if he has looked over the annual proceedings of this association.

Mr. SUMNER. Yes, I have.

Mr. HOWE. Will the Senator be good enough to state what he found in those annual proceedings that he thinks are of national interest to the public?

Mr. SUMNER. They are proceedings that bear on important questions of science; and I submit to my excellent friend that there is no question of science at this moment that is not important to the country.

The amendment was agreed to—ayes twenty, noes not counted.

The next amendment was to insert after line five hundred and thirteen of section one the following:

To supply a deficiency in the fund for the relief of sick and disabled seamen, $175,000.

The amendment was agreed to.

The next amendment was in line five hundred and thirty-three of section one, to strike out "one hundred" and insert "fifty;" so that the clause will read:

For expenses in detecting and bringing to trial and punishment persons engaged in counterfeiting Treasury notes, bonds, and other securities of the United States, as well as the coins of the United States, $50,000.

The amendment was agreed to.

The next amendment was in section one, to strike out from line five hundred and forty-three to five hundred and forty-seven inclusive, as follows:

For compensation to Charles B. Stuart, for services as engineer, under appointment by the President, in examining, revising, and reporting upon the survey and estimates for the several proposed gunboat canals, $2,500.

The amendment was agreed to.

The next amendment was in section one, line five hundred and fifty two, to strike out "twenty" and insert "thirty," so that the proviso to the appropriation for the Portland custom-house will read:

Provided, That the Secretary of the Treasury may, if he thinks it advisable, expend a sum, not exceeding $35,000, in the purchase of ground adjoining the site of the old custom-house on Fore street, now owned by the United States.

The amendment was agreed to.

The next amendment was to strike out from section one, lines five hundred and sixty-seven, five hundred and sixty-eight, five hundred and sixty-nine, and five hundred and seventy, as follows:

For expenses of the census of Arizona Territory, taken in the year 1864, to be audited and paid under the supervision of the Secretary of the Interior, $4,160.

The amendment was agreed to.

The next amendment was in section one, to strike out from line five hundred and eighty-eight to five hundred and ninety-one inclusive, as follows:

To enable the Secretary of the Treasury to pay to William Handy, of the Treasury Department, for extra clerical services, such sum as may be found due, not exceeding $500.

The amendment was agreed to.

The next amendment was to strike out of section one, lines five hundred and ninety-two and five hundred and ninety-three, as follows:

For compensation to John Hopley, for services in indexing the national currency act, $100.

The amendment was agreed to.

The next amendment was to strike out in line five hundred and ninety-nine, section one, the following proviso:

Provided, That no part of the sums appropriated by the provisions of this act shall be expended in violation of the provisions of the act entitled "An act to prescribe an oath of office, and for other purposes," approved July 2, 1862.

The amendment was agreed to.

The next amendment was in section ten, after line twenty-two, to insert among the appropriations for contingent expenses of the House of Representatives:

For folding documents, including materials, $25,000.
For miscellaneous items, $10,000.

Mr. FESSENDEN. I will say by way of explanation that it is not customary to put in appropriations to make up deficiencies of the House, in the Senate; but these items were omitted there accidentally, and by the request of the chairman the estimate was sent to us that we might put it in here.

The amendment was agreed to.

The next amendment was to insert in section ten the following:

Contingent expenses of the Senate, namely:
For stationery, $15,000.
For clerks, pages, horses, carryalls, &c., $27,000.
For miscellaneous items, $5,000.
For fuel and repairs of heating and ventilating apparatus, to be provided under the charge of the Sergeant-at-Arms, $16,250.
For furniture purchased and repairs done by the Sergeant-at-Arms, under the direction of the Committee to Audit and Control the Contingent Expenses of the Senate, $23,500.
For additional labor in the folding-room and around Senate Chamber, $5,000.
To supply a deficiency in the appropriation for the Capitol police under the act of April 22, 1854, to be paid to the widow of David Vose, late a policeman in the crypt, being twenty per cent. on his salary from December 4, 1861, to July 8, 1864, $532, to be expended under the direction of the Commissioner of Public Buildings.

The amendment was agreed to.

The next amendment was in section eleven, line four, to strike out "Theophilus H. Gladwin;" in line nine to strike out "C." and insert "W.," so as to read "J. W. Morehead;" to strike out "T." and insert "S.," so as to read "S. P. Lee;" strike out "H. W." and insert "W. H.," so as to read "W. H. Salter;" in line eleven to strike out "T." and insert "S.," so as to read "S. S. Baker;" in line thirteen to strike out "T." and insert "S.," so as to read "E. S. Brossius;" in line fourteen to strike out "D." and insert "B.," so as to read "R. B. Guillien;" in line fifteen to strike out "Gohun" and insert "Goheen," so as to read "Charles Goheen;" in line seventeen to strike out "Overend" and insert "Ourand," so as to read "W. H. E. Ourand;" to strike out "S. B." and insert "L. P.," so as to read "L. P. Porter;" in line eighteen to strike out "Bowland" and insert "Rowland," so as to read "J. L. Rowland;" in line nineteen to strike out "F." and insert "T.," so

as to read "T. J. Schea;" and in line twenty-one to insert "J. C. Green and Lewis E. Rauterburg," so that the section if thus amended would read:

That the proper accounting officers of the Treasury Department be, and they are hereby, authorized to pay A. D. Collingsworth, O. H. Vedder, Edward R. Sherman, Charles C. Adams, Samuel W. Tucker, J. G. Adams, A. Bengiral, J. C. Parker, J. A. Odell, V. Barnes, T. Gladman, R. A. Cronin, T. N. Adams, J. C. Cleary, W. D. Lindsay, A. Jewett, jr., F. Cochin, B. C. Farless, J. P. Townsend, C. W. Odell, J. W. Morehead, S. P. Lee, W. H. Salter, James Cross, J. R. Creed, H. B. Rourke, E. A. Lipscomb, George Cottenham, C. A. Perkins, W. B. Cudlipp, S. S. Baker, J. M. Conroy, O. W. Boyden, J. O. Armes, J. Bellows, E. S. Brossius, J. J. Calvert, F. G. Calvert, G. D. Curtis, W. B. Dyer, D. A. Fish, A. H. Gillespie, R. B. Guillien, Charles Goheen, H. Holmes, G. C. Holliday, B. E. Messer, E. C. Messer, F. Madden, W. McKee, W. H. E. Ourand, L. P. Porter, P. W. Pearson, J. L. Rowland, C. V. Rotterden, E. J. Schale, E. J. Sweet, T. J. Schea, J. C. Williams, J. G. Wilson, L. K. Brown, J. H. Gunn, H. A. Dobson, J. A. McIntire, V. B. Munson, J. J. Dickens, W. E. Armes, J. C. Green, Lewis E. Rauterburg, and B. W. Parsons, employed by the deputy provost marshal of the District of Columbia in the enrolling office of said marshal for night work and special service performed in pursuance of a contract between said clerks and said provost marshal, such accounts being properly certified upon the rolls, or by said deputy provost marshal, and the amount necessary therefor is hereby appropriated out of any money in the Treasury not otherwise appropriated.

The amendment was agreed to.

The next amendment was in section eleven, line twenty-eight, to strike out "amount necessary therefor" and to insert "and the sum of $3,360, or so much thereof as may be necessary," so that the clause will read:

In pursuance of a contract between said clerks and said provost marshal, such accounts being properly certified upon the rolls, or by said deputy provost marshal, and the sum of $3,360, or so much thereof as may be necessary, is hereby appropriated out of any money in the Treasury not otherwise appropriated.

Mr. WILSON. I do not understand this proposition. It seems to me that in this little District this is a pretty large sum to pay for extra work. It may be all right; but I doubt whether there is a congressional district in the country where any such sum as this was paid for night work. I do not believe this District furnished a great many men for the war. I feel constrained to vote against this proposition. It looks to me like a job.

Mr. GRIMES. I should really like to know how much this number of clerks is in excess of the number of men this District furnished to the Army? [Laughter.]

Mr. FESSENDEN. The Senate will notice that the amount to be paid to each is very small, and there are a very large number of them. One was employed for instance one or two nights; another for special service to take care of the concern, &c. I will state to the Senate that the matter was very carefully examined by the House of Representatives, and then it was brought up to us, and the rolls were very carefully scrutinized and found to be correct, and the allowances not unreasonable.

Mr. WILSON. If the Senator from Maine has examined this matter and is satisfied with it, I do not object, but it seems very extraordinary.

Mr. GRIMES. Why do they stand on a different basis from any other district?

Mr. FESSENDEN. I suppose the other districts where the same work was performed would be entitled to the same allowance.

Mr. GRIMES. Why the necessity for this kind of work being done here more than in any other district?

Mr. FESSENDEN. That was explained to the satisfaction of the committee.

Mr. GRIMES. Now, let the committee explain it to our satisfaction.

Mr. FESSENDEN. The papers are here, and if gentlemen deem it important to make a point upon this matter, they can be read.

Mr. GRIMES. It is an appropriation of nearly four thousand dollars, and that is important.

Mr. FESSENDEN. If the Senator will have patience, I will find the papers in this bundle.

Mr. CONNESS. I hope the Senator from Iowa does not want all those documents read.

Mr. FESSENDEN. Here is a letter from the provost marshal to General Fry:

OFFICE OF PROVOST MARSHAL AND
BOARD OF ENROLLMENT OF THE
DISTRICT OF COLUMBIA,
WASHINGTON, D. C., *October* 17, 1864.

GENERAL: Thinking I may not have stated all the facts in the matter of payment of employés in this office for night work, and that after knowing this you might modify your decision, I beg leave to make the following statement:

I found on taking charge of this office that the enrolling clerks were at work evenings in the office until eleven and twelve o'clock, under the promise of Captain Sheetz of extra pay for such night work, also that some of the enrolling officers after working all day enrolling in the different sub-districts came to the office in the evenings and copied sheets. I was told that the extra pay for night work was allowed and paid last year, and supposed that Captain Sheetz knew that it would be paid this year, or he would not have employed them. I did not inquire into the matter further, but employed others with the same understanding and supposed that it would all be paid, until I returned to the office the latter part of August, when I learned that it had been refused.

Most of the time of this night work I had as many men employed on the rolls as could work to advantage at once, and if the men had not been employed in the evenings it would have taken as many more days. The clerks could do more work in the evenings because the office was quiet. During the month of June I had not room enough for the clerks in the day time, and could not hire a room in the vicinity, and borrowed Lieutenant Colonel E. M. Greene's office to work in evenings. A great many of these clerks would not have worked at three dollars per day if they supposed they would be required to work evenings, as they could have done better elsewhere.

Another consideration is, this was only temporary employment with no certainty how long it would last, and no claim is made by the regular clerks,

Most of these clerks are poor, and depended on the extra pay, that is, while they were at work they thought they were earning it and spent it accordingly, and now after it is done they do not receive it; therefore a great many of them find themselves so much in debt.

I do not think that these men should suffer for my ignorance, or carelessness on my part; and the only excuse I can offer is the precedent of last year and the apparent justness of the claim.

Hoping, General, to receive your favorable decision soon, as these men apply to me daily for this money,

I remain very respectfully your obedient servant,

J. C. PUTNAM,
Captain First Regiment Veteran Reserve corps, and Provost Marshal District of Columbia.

Brigadier General JAMES B. FRY,
Provost Marshal General.

That is the statement of the provost marshal. I have here a petition stating all the facts. There is no doubt about the employment of these parties and the fact that they performed the labor and that the sum allowed is reasonable.

Mr. HOWE. Will the chairman state whether the Provost Marshal General had not under the law in these offices the authority to allow to every one of his deputy provost marshals just such amount for clerk hire and other assistance as he found to be necessary?

Mr. FESSENDEN. It seems that he did not do so in this case.

Mr. HOWE. Well, that is my objection to voting for this appropriation. The law empowered the Provost Marshal General, as I recollect, to authorize the employment of just as many clerks as he thought necessary. He knew the work to be done in these offices; they were constantly in communication with him. When they wanted another clerk, I know it was the custom in such districts as I knew anything of the law in to make an application; I never knew that he was meager or penurious in making these allowances. I suppose there is not a congressional district in the United States that had not more work to be done than was necessary to be done in this district, simply because there is a larger population in every congressional district than there is in this. This is the most compact provost marshal's district that there is. If such a claim as this can be substantiated here, it must be substantiated more easily and more conclusively in every other district of the United States.

Mr. MORRILL. I should like to inquire whether this is for extra compensation to clerks employed in the different Departments.

Mr. FESSENDEN. No; not clerks in other Departments.

Mr. MORRILL. I notice one name here that I have reason to suppose is that of a clerk in the Treasury Department.

Mr. FESSENDEN. Which is that?

Mr. MORRILL. J. G. Adams.

Mr. FESSENDEN. It is for night work and special service.

Mr. MORRILL. If it is for extra service, I am opposed to it for the reason that I am satisfied the clerks here are not overworked. I had occasion yesterday to be called into one portion of the city to inspect the condition of the colored people, and a gentleman whose name was J. G. Adams——

Mr. FESSENDEN. If the "negro" is getting into it, I will give it up.

Mr. MORRILL. He is getting into the negroes; that is the trouble. [Laughter.] He maintains a row called the Adams row—I can only describe it as a pen hardly suitable for dogs or animals of any description—into which have been crowded some six hundred people in the most filthy and offensive condition it is possible to conceive. He maintains a nuisance within the limits of this city, and has plenty of time to look after it and to collect personally, as I understand he does, from these poor creatures four or five dollars each per month for a little miserable tenament.

Mr. FESSENDEN. I have not the slightest objection to striking out the whole section if the Senate think fit.

Mr. MORRILL. I have no particular feeling toward the individual, but I only referred to it to show that these people have plenty of time.

Mr. CONNESS. This seems to be a very small appropriation, and when you subdivide it by the number of names it becomes smaller still. I have often had occasion to observe the amount of work running through a portion of this period that certain clerks were required to perform, and I think if it had secured general observation there would not be so much objection to this proposition. I think that while we swallow camels as often as we do it is hardly worth while to strain at a gnat of this kind. Of course I concede, as I have no right to do otherwise, that every proposed appropriation of public money is exposed to scrutiny; but I beg Senators to remember that the parties to this appropriation are poor; that they are not that class who are affluent, but that they are of that class who have needs. It is a small matter.

Mr. GRIMES. I suppose there is not a district in the United States where there will not be claims presented, and on just as substantial a basis as this, the moment it is known that we have adopted this provision. I think my colleague, who was Governor of our State during a considerable portion of the war, and who was familiar with the condition of things there, will bear testimony that the clerks of the provost marshals there were in the habit of writing till eleven or twelve o'clock at night, and never thought of making an application to Congress for extra pay. Let it be known there that they get extra pay here in this District, and they will certainly make a claim. It is not so small a matter as the Senator from California seems to suppose. It is the entering wedge by which we are going to vote vast sums of money out of the Treasury, and I am satisfied it ought not to be adopted.

Mr. CONNESS. If it were that I should vote against it, but I would not like to do these men an injury, simply from fear that should be the case.

Mr. JOHNSON. I shall not vote to strike out this appropriation. I take the fact to be as it is stated on the face of the bill itself, that there was a contract between the provost marshal and these clerks that they were to be paid, and from General Fry's character I take it for granted.

Mr. GRIMES. General Fry has refused the claim.

Mr. JOHNSON. He has rejected it simply because he had no authority to pass it. I speak of the bill; all I know of the facts is what I

collect from the bill. It says, after mentioning the names, "employed by the deputy provost marshal of the District of Columbia, in the enrolling office of said marshal, for night work and special service performed in pursuance of a contract between said clerks and said provost marshal." It does seem to be hard that these men should be working in that way, under a promise that they were to be paid, and that we should not carry out the promise.

Mr. GRIMES. Is it not in order to move to strike out the whole section?

The PRESIDING OFFICER, (Mr. CLARK in the chair.) The amendment of the committee is first in order.

The amendment was agreed to.

Mr. GRIMES. Now I move to strike out the whole section.

Mr. HOWE. As I mean to vote for the amendment, I will suggest in reply to the Senator from Maryland that, as I remember, these deputy provost marshals were directed to report their accounts to the Provost Marshal General once a month. If the deputy provost marshal contracted to pay these men, he ought to have reported their accounts at the end of the first month, and at the end of the first month he must have known whether this sort of claim would be allowed.

The motion to strike out the section was agreed to.

The next amendment of the Committee on Finance was in section twelve, line sixteen, to strike out "$323,234," and insert "$250,000," as the appropriation for plates, engraving, printing, and paper for national currency notes, and to strike out the following proviso, commencing in line seventeen:

Provided, That hereafter no portrait or likeness of any living person shall be engraved or placed upon any of the bonds, securities, notes, or postal currency of the United States.

So as to make the clause read:

For plates, engraving, printing, and paper for national currency notes, $250,000.

Mr. SUMNER. I should like to inquire about striking out that proviso. Is it expedient?

Mr. FESSENDEN. The reason is simply this: I am informed that it is regarded at the Treasury as a security against counterfeiting to put the likenesses of living persons on some of these notes.

The amendment was agreed to.

The next amendment was in section twelve, to strike out from line twenty-one to twenty-seven inclusive, in the following words:

For lighting the Capitol and President's House, and public grounds around them, around the executive offices, and Pennsylvania avenue, Bridge and High streets, Georgetown, Four-and-a-half, Seventh, and Twelth streets, across the Mall, and Maryland avenue west, and Sixth street south, per act of March 3, 1863, $13,000.

The amendment was agreed to.

The next amendment was in section twelve, to strike out from line thirty-three to line forty, inclusive, in the following words:

To pay H. A. Klopfer for ten months' services as a laborer in the office of the Attorney General, at forty dollars per month, $400: *Provided*, That no money shall be paid under the provisions of this bill to reimburse Brigham Young for money advanced while Governor and *ex officio* superintendent of Indian affairs of the Territory of Utah until the same shall be thoroughly investigated by some of the standing committees of Congress.

The amendment was agreed to.

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

SEC. 13. *And be it further enacted*, That such sum as may be required to pay the additional compensation provided by section three of an act making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1865, and for other purposes, approved June 25, 1864, up to and including the 30th day of June, 1866, be, and the same is hereby, appropriated.

The amendment was agreed to.

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

SEC. 14. *And be it further enacted*, That from and after the 1st day of April, 1866, there shall be paid, instead of the yearly salaries at present authorized, to the Director of the Mint at Philadelphia, $4,000; to the treasurer, $3,500, and $1,500 for additional compensation as Assistant Treasurer of the United States; to the melter and refiner, $3,000; to the assayer, $3,000; to the assistant to the assayer, $2,000; to the chief coiner, $3,000; to the engineer, $3,000; to one clerk, $2,500; to two clerks, $2,000 each; to four clerks, $1,500 each; to the treasurer of the branch mint at San Francisco, for salary as Assistant Treasurer of the United States, in addition to his salary as treasurer of said mint, $1,500; to the Assistant Treasurer of the United States at New York, $8,000; to the Assistant Treasurer of the United States at Boston, $5,000; to the Assistant Treasurer of the United States at St. Louis, $5,000. And the amount necessary to carry these provisions into effect, for the fiscal year ending June 30, 1866, is hereby appropriated.

The amendment was agreed to.

The PRESIDING OFFICER. These are all the amendments of the committee.

Mr. FESSENDEN. I do not know but that it may be necessary in the last section to insert the words "per annum" after each salary there mentioned. Let that alteration be made.

The PRESIDING OFFICER. That will be done.

Mr. HOWE. I move the following amendment, to come in at the end of line four hundred and sixty-six of section one. I am instructed to offer it by the Joint Committee on the Library:

For the purchase and removal of materials and for erecting four green-houses in the Botanic Garden, to be expended under the direction of Joint Committee on the Library, $2,500.

The amendment was agreed to.

Mr. HOWE. I wish to ask the chairman of the committee what "garden" it is that is referred to in the two hundred and seventy-seventh line of section one, on page 12.

Mr. FESSENDEN. Perhaps that should be made more definite. My impression is that it is the garden connected with the Agricultural Bureau. I will look into it.

Mr. LANE, of Indiana. I am instructed by the Committee on Pensions to move to insert after line three hundred and ninety-six, section one, the following amendment:

For compensation for temporary clerks in the Pension Bureau for the current fiscal year, $20,000.

I have here the letter of the Secretary of the Interior recommending it, and the letter of the Commissioner of Pensions requesting it, and the report of the committee in favor of it.

Mr. FESSENDEN. I should like to have an explanation.

Mr. LANE, of Indiana. Let the letters be read. They explain it.

The Secretary read the following letters:

DEPARTMENT OF THE INTERIOR,
PENSION OFFICE, *December* 18, 1865.

SIR: In order to meet the demands upon this office, now greater than at any former period since the passage of the pension act of July 14, 1862, I would earnestly request that an additional appropriation for the payment of temporary clerks during the current fiscal year, to the amount of $20,000, be at once asked from Congress. If practicable it is hoped that this subject will receive attention before the holidays.

I have the honor to be, very respectfully, yours,
J. H. BARRETT, *Commissioner.*

Hon. JAMES HARLAN, *Secretary of the Interior.*

DEPARTMENT OF THE INTERIOR,
WASHINGTON, D. C., *December* 21, 1865.

SIR: I have the honor to inclose a copy of a letter of the Commissioner of Pensions, dated 18th instant, requesting an additional appropriation of $20,000 for the payment of temporary clerks in his office during the current fiscal year, and, if practicable, would recommend its immediate passage by Congress.

I am, sir, very respectfully, your obedient servant,
JAMES HARLAN, *Secretary.*

Hon. HENRY S. LANE, *Chairman Committee on Pensions, Senate United States.*

The amendment was agreed to.

Mr. SUMNER. I am directed by the Committee on Foreign Relations to offer an amendment to come in under the head of "office of the Secretary of State," after line three hundred and eighty-four of section one:

For the pay of the United States commissioner, and for the pay of the United States surveyor, and for incidental expenses in the execution of the duty assigned to the joint commission appointed under the first article of the reciprocity treaty between the United States and Great Britain of the 5th of June, 1854, from November 1, 1865, to March, 1866, $3,600.

For drafting and compilation of the final chart showing the places reserved from the common liberty of fishing, their limits, and descriptions, $800.

I have in my hand a letter from the Secretary of State, in which he communicates to me these estimates, and says, "I have the honor to recommend that provision be made therefor in the deficiency bill." I will add that on my motion these very estimates were introduced into the miscellaneous bill which was lost the last night of last session.

The amendment was agreed to.

Mr. SUMNER. There is another amendment, which on my motion and on the recommendation of the Committee on Foreign Relations was introduced into the miscellaneous appropriation bill at the last session, and I am now instructed again to move it, to come in immediately after the amendment just adopted:

For services of James G. Clark as acting chargé de affaires at Brussels from June 11, 1857, to September 27, 1858, $6,483

Mr. FESSENDEN. That is an old affair. I object to it entirely. It is a private claim if anything can be.

Mr. SUMNER. The Senator says it is an old affair. It never was in this Chamber until the last night of the last session. It was carefully considered then, and by a vote of two to one was adopted after a debate of more than an hour, during which it was thoroughly canvassed. Every possible objection was brought against it, and I am satisfied that never was a question of that character discussed in the Chamber with regard to which there was so large a proportion of the Senate that were perfectly united in favor of it. I do not wish at this late hour now to go into any minute explanation of it. I am not here as an advocate of anybody; I am here in the discharge of the public duty confided to me by the Senate. The petition relating to this case was presented by the Senator from Kansas [Mr. POMEROY] and referred to the committee with which I am connected. It has been considered by them at this session; it was very carefully considered at the last session; and the case is precisely this: in 1857 the chargé d'affaires of the United States returned home, and acting under instructions from Washington, he selected a citizen then in Brussels and who for some time had been acting as an unpaid attaché, and devolved upon him the duties of the legation. This gentleman finding himself unexpectedly acting chargé d'affaires representing the country, rented the house vacated by the retiring minister; he occupied it all the time he was there. He was presented to the Belgian Government as minister. He was recognized as such on our side of the water by Mr. Marcy and by General Cass, and was so addressed. By and by the chargé d'affaires, who had returned home, resigned, leaving a positive vacancy there, which was filled from the date mentioned in the proposition I have sent to the Chair by Mr. Clark.

During this time he was addressed as chargé d'affaires by the Government; and though there was no important negotiation devolved upon him, and I do not know that there was any very very important business transacted by him, he was there on the spot residing as the representative of his country, incurring very considerable expenses on that account, living in a way in which he would not otherwise have lived. For that he never was paid.

Mr. CONNESS. He had the honor, had he not?

Mr. SUMNER. But I need not remind my excellent friend that we are told that honor will not mend a leg, nor will it give a dinner. He came here a modest gentleman; his case was presented at the Department of State, and the value of his services was recognized. I have a letter here from General Cass on the subject; I have two from Mr. Seward. His papers were first put in the hands of Mr. Mason by him; they were neglected; nothing was done about it; at last during the last session of Congress they were again presented and came under the eyes of the committee with which I am connected. I have already told you that after a careful consideration of the case they were obliged to come to the conclusion that our country was his debtor to this amount; that on any principle of law, of *quantum meruit*, or of any usage of this Government, we were his

debtors, and the committee instructed me to move it on a proper bill when occasion should present. I did at the last session, and after ample discussion it was adopted.

Mr. FESSENDEN. I raise the point of order upon it that it is a private claim.

Mr. SUMNER. That point was acted upon at the last session.

Mr. FESSENDEN. That does not make any difference; I raise the point of order now.

Mr. SUMNER. This is a claim arising under the laws of the country for services rendered as chargé d'affaires.

The PRESIDING OFFICER, (Mr. CLARK.) The Chair will suggest to the Senator from Massachusetts that a point of order raised is not debatable. The Chair will take the sense of the Senate on the question whether the amendment is to provide for a private claim or not.

Mr. SUMNER. Is that debatable?

The PRESIDING OFFICER. It is not. Senators who are of the opinion that the amendment provides for a private claim will say ay; those opposed will say no.

Mr. FESSENDEN. I ask the Chair if it is so, that a question whether an amendment provides for a private claim or not is not debatable. I never heard before that that question, being a point of order, might not be debated.

The PRESIDING OFFICER. It involves the point of order raised.

Mr. FESSENDEN. I raised the point of order; but is not the point of order debatable?

The PRESIDING OFFICER. It is not.

Mr. FESSENDEN. Then is not this question debatable?

The PRESIDING OFFICER. A point of order cannot be debated, but an appeal from the decision of the Chair may be debated. If, however, Senators desire to debate this matter, the Chair will relax the rule.

Mr. FESSENDEN. If the Chair decided it, it would not be debatable; but the Chair did not decide.

The PRESIDING OFFICER. The Chair put the question to the Senate because it was put to the Senate last year as the Chair remembered.

Mr. DOOLITTLE. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *March* 15, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

PACIFIC RAILROAD.

Mr. HIGBY. I ask unanimous consent of the House to have taken from the Speaker's table two Senate bills, No. 125 and No. 126, for reference to the Committee on the Pacific Railroad.

Mr. WASHBURNE, of Illinois. I will not object to that, if it is understood that they are not to be brought back by motions to reconsider.

Mr. HIGBY. I have no objection to that understanding.

No objection was made; and the following bills were taken from the Speaker's table, read a first and second time, and referred to the Committee on the Pacific Railroad:

Senate bill (No. 125) granting land in aid of the construction of a railroad and telegraph line from the town of Folsom to the town of Placerville, in the State of California; and

Senate bill (No. 126) granting land to aid in the construction of a railroad and telegraph line from the city of Placerville, in the State of California, to the most feasible point of intersection with the Pacific railroad in the State of Nevada.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had agreed to the amendments of the House to Senate bill No. 61, to protect all persons in the United States in their civil rights and to furnish the means of their vindication.

PERSONAL EXPLANATION.

Mr. SMITH. I ask consent of the House to make a personal explanation.

There was no objection.

Mr. BINGHAM. Will the gentleman from Kentucky [Mr. SMITH] yield to me for a moment, that I may ask leave to withdraw some papers from the files?

Mr. SMITH. No, sir; I will not yield. The gentleman from Ohio [Mr. BINGHAM] refused to yield to me the other day, and I have now the opportunity to retaliate. We are now even, and I will yield the next time.

Mr. Speaker, in December, 1865, I introduced a resolution in this House asking that the privileges of the floor be extended to Colonel Johnson, of Arkansas, who claims a seat upon this floor as a member-elect from that State. There was objection made to that resolution at the time, and it went over under the rule; and it was not called up until some time in February. When that resolution was called up the morning hour had almost expired, and I had the opportunity to say but a few words in regard to the character of Colonel Johnson and the position which he occupied at home. That resolution was voted down by the House—yeas 79, nays 70.

Subsequent to that time, a paper was handed to me containing an article purporting to have been written from the city of Washington, which reflected not only upon that gentleman but indirectly upon myself and those who had voted for his admission to the privileges of this floor during the pendency of his claim.

Another subject was introduced into the House which created considerable excitement and debate, with some filibustering. And I then attempted on two occasions, I believe, to obtain the consent of the House to make this explanation. It was thought, I suppose, that I was engaged in the process of filibustering, and I was not allowed to make the explanation. But that was not my object; I have never done any such thing, and I never will, for I am always willing to meet every question fairly and squarely.

Mr. Speaker, I desire, before I go further, to have read by the Clerk an article from the Pittsburg Gazette, which I have marked, and which will indicate the basis upon which I intend to place my remarks on this occasion. Before it is read, however, I will say that I do not know the author of that article. I do not know what promptings there were to induce him to write it. I have no specific charges to make against him at this time. But when the article shall have been read, I wish to comment upon it to some extent, in vindication of the character of Colonel Johnson, a Union man and a soldier, who was born in the South. I ask the Clerk to read the article I send up.

Mr. STEVENS. I am really unwilling to interfere; but I do not see that this is at all a personal explanation. I understand that the gentleman undertakes to defend, not himself, but somebody else. Now I am unwilling that our time shall be expended to defend some one not connected with this House.

Mr. SMITH. Mr. Speaker, I have no doubt that the gentleman from Pennsylvania thinks this is a rather curious question so far as he is concerned; but I wish to let him understand distinctly that I stand here willing and able and determined to defend a soldier of the Union, let him be attacked from any quarter.

Mr. STEVENS. Well, Mr. Speaker, I object to any defense of a soldier of the Union by the gentleman at this time, unless that soldier is himself. His remarks are not pertinent to himself, are not in the nature of a personal explanation. Therefore, I say his remarks are not in order.

The SPEAKER. The Chair will decide the point of order.

The gentleman from Kentucky asked consent to make a personal explanation. The Chair stated the question twice to the House, and no objection was made, and no limitation was imposed. But when a gentleman obtains consent to make a personal explanation he must bring himself within the purview of a personal explanation; it does not open an unlimited range of debate in regard to all other questions and persons. He has the right to explain in reference to anything relating to or concerning himself. That is the proper limit of a personal explanation, in the opinion of the Chair.

Mr. SMITH. Mr. Speaker, this question is entirely pertinent, so far as I am concerned, because I introduced the resolution in regard to Colonel Johnson, to whom that article which I propose to have read refers directly and immediately. I ask the Clerk now to read that article.

The Clerk read, as follows:

"The great question, gentlemen, waxes more and more interesting. We need not, as I see, spend much ink on the abstractions of '*in*' or '*out*' of the Union. It is much like the old legal wrangle about 'contingent remainders.' So the true heir comes to the estate, who cares to discuss the '*in nubibus*' theory of hair-splitting schoolmen. Let us clutch the practical question.

"There stand at your doors a horde of red-handed traitors, fresh from the battle-field, where they have sought to trample your national flag in the dust. They curse; they clamor; they make use of every channel at their command to pour upon your House of Representatives their malignity; they live and move in our midst; with heads erect, as if they were lords in the land, they despise and seek to destroy; their constituency lay violent hands upon any patriot who dares venture among them; every man who has been prominent as a hater and opponent of the war is now a lover and a friend of these rebel Representatives. Shall they be admitted to make again the laws which they have so long trampled under foot? Do you desire your Representatives to sit in consultation with the murderers of your sons and brothers, or the apologists and defenders of such? Do you desire to transfer to them and their friends in the House—who already long for their embrace—the law-making power of the land?

"If you do, then say so. Let the press say so. Let the people say so. Let us have no more weak essays about 'in' or 'out' Let us have no whinings about constitutional amendments, and no Pharisaic maunderings about the sacredness of the Union which these traitors so hate. Do you want Aleck Stephens in the Senate from Georgia? Do you want the Representative of Lawrence county—Lawrence himself—to vote for the admission of Arkansas members to seats on the floor, with their 'tooth-picks' sharpened on the skulls of your dead! Very well. Instruct him to do so again as he did the other day."

Mr. MORRILL. I rise to a question of order. I would be the last man to object to the gentleman from Kentucky proceeding in this matter if the article which has been read contained anything relating to himself. But I see that if the gentleman from Kentucky shall be allowed to go on with remarks of this nature under the plea that they constitute a personal explanation it will be in the power of any gentleman to discuss any subject he pleases by obtaining leave to make a personal explanation.

The SPEAKER. The gentleman from Kentucky has had read at the Clerk's desk a newspaper article which he states is intended to reflect upon him for having offered a resolution for admitting to the floor of this House a gentleman claiming a seat as a Representative from Arkansas. As the Chair understands, the gentleman from Kentucky desires to vindicate himself against remarks embraced in that article. In the opinion of the Chair his remarks come within the purview of a personal explanation.

Mr. BANKS. In support of the decision of the Chair I desire to say that it has always been understood here, so far as I know, that when the House gives its unanimous consent to a member to make a personal explanation, it waives all its rules and restrictions, and he is the only judge of that which is necessary to explain his own personal position. That has been the uniform decision, and it has been made in order to warn the House against giving such consent. I believe that personal explanations have not very generally been favored, sir, by gentlemen who have occupied your chair; and for that reason, in order to warn the House against giving consent in such cases, it has been held that when the consent of the House is

unanimously given for a personal explanation, the member obtaining such consent cannot be restrained from speaking respectfully upon any matter which in his judgment may be necessary for his personal explanation.

Mr. WASHBURNE, of Illinois. I fully concur with the gentleman from Massachusetts [Mr. BANKS] in his understanding of the usage of the House on this subject. When a gentleman obtains leave to make a personal explanation he can, according to my view, occupy his hour with such remarks as he deems proper, in spite of everybody.

The SPEAKER. The Chair will state, as the gentleman from Massachusetts has alluded to this subject, that the present occupant of the chair, since he has filled the position, has always held that in a personal explanation a gentleman may state any ground on which he considers himself aggrieved, connecting his remarks in some way with that subject, directly or indirectly. The Chair thinks that the gentleman from Kentucky, in vindicating himself against what he deems an unjust attack upon him in a newspaper article, for having introduced a resolution to admit upon this floor a gentleman claiming a seat as a Representative, has the right to vindicate himself by reference both to the gentleman to whom the resolution referred and also to his own position.

Mr. SMITH. Mr. Speaker, I did not intend when I rose to make a single remark that would be inconsistent with the very highest and purest motives and opinions of any gentleman upon this floor in regard to the Union and its perpetuity. I rose, sir, to defend a man who, with others upon this floor, had gone in the beginning to defend the Government, the Constitution, and the Union. I did it because I had introduced a resolution, and in introducing that resolution I felt I had the grounds to base it upon which were sure, and broad, and complete, and against which no man in this House could take exception.

I understand well why this attack has been made indirectly upon me, and indirectly upon seventy members upon this floor who voted for that resolution. It was because of that infamous, that contemptible, that untenable, and that damnable doctrine which has been uttered here, that these States are out of the Union, and that Representatives from there ought not to be recognized——

Mr. BROOMALL. I call the gentleman to order. He has departed from the very liberal scope which the decision of the Chair gave him, in discussing whether certain States are in or out of the Union.

The SPEAKER. The Chair thinks it is not going beyond the range. The gentleman from Kentucky, as the gentleman from Pennsylvania is aware, introduced a resolution to allow a certain person the privilege of the floor, a claimant for a seat from the State of Arkansas, and that involves the question whether Arkansas is a State or not in the Union.

Mr. BROOMALL. I submit, so far as that is concerned, it is not a personal question.

The SPEAKER. The Chair thinks debate must be allowed to that extent. He agrees with the gentleman from Massachusetts and the gentleman from Illinois in reference to the latitude which has heretofore been allowed in personal explanations, and the only limitation that has ever been put on it is the one the Chair has alluded to. While the gentleman could not discuss European politics or the relations of the Czar of Russia and the Emperor of France in his comments on the extract of which he complains, he insists that the extract which has been read is personal to himself, and he has a right within a wide range to discuss that question.

Mr. BROOMALL. I rise to another point of order. I have the right to have read the language of the gentleman in pronouncing the opinions and decisions of this House damnable heresies.

Mr. SMITH. I appeal to this House that I said the opinion entertained in this House so far as that doctrine was concerned was damnable, and I repeat it. I say to this House and the country, so far as the Union is concerned——

The SPEAKER. The Chair sustains the point of order. The gentleman from Kentucky has no right to reflect upon the decisions of the House.

Mr. SMITH. I did not reflect upon the decisions of the House.

Mr. BANKS. The question arises whether the gentleman shall proceed.

Mr. STEVENS. I object. We have had enough of this.

Mr. SMITH. But you have not got as much as you will get.

The SPEAKER. The gentleman must take his seat, under the following rule:

"61. If any member, in speaking or otherwise, transgress the rules of the House, the Speaker shall, or any member may, call to order; in which case the member so called to order shall immediately sit down, unless permitted to explain; and the House shall, if appealed to, decide on the case, but without debate: if there be no appeal, the decision of the Chair shall be submitted to. If the decision be in favor of the member called to order, he shall be at liberty to proceed; *if otherwise, he shall not be permitted to proceed, in case any member object, without leave of the House;* and if the case require it, he shall be liable to the censure of the House."

Mr. BROOMALL. I demand the enforcement of the rule.

The SPEAKER. The question is, Shall the gentleman be allowed to proceed?

Mr. HARRIS demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 55, nays 70, not voting 58; as follows:

YEAS—Messrs. Ancona, Barker, Bergen, Boyer, Bromwell, Brooks, Coffroth, Darling, Dawes, Dawson, Dumont, Glossbrenner, Goodyear, Aaron Harding, Harris, Hill, Hogan, Edwin N. Hubbell, James Humphrey, James M. Humphrey, Ingersoll, Jones, Kasson, Kerr, Ketcham, Kuykendall, Laflin, George V. Lawrence, Le Blond, Loan, Marvin, McCullough, McRuer, Moorhead, Morris, Myers, Newell, Nicholson, Noell, O'Neill, Radford, Samuel J. Randall, William H. Randall, Raymond, John H. Rice, Ritter, Rogers, Ross, Sitgreaves, Taber, Taylor, Thornton, Trimble, Robert T. Van Horn, and Winfield—55.

NAYS—Messrs. Alley, Allison, Ames, James M. Ashley, Baker, Baldwin, Banks, Beaman, Bidwell, Bingham, Boutwell, Broomall, Reader W. Clarke, Cobb, Conkling, Cook, Deming, Dixon, Donnelly, Driggs, Eliot, Farnsworth, Farquhar, Garfield, Grinnell, Abner C. Harding, Hayes, Henderson, Higby, Holmes, Hooper, Asahel W. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbell, Hulburd, Jenckes, Kelso, William Lawrence, McClurg, Mercur, Miller, Morrill, Moulton, Orth, Paine, Perham, Pike, Price, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Spalding, Starr, Stevens, Thayer, Trowbridge, Upson, Burt Van Horn, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—70.

NOT VOTING—Messrs. Anderson, Delos R. Ashley, Baxter, Benjamin, Blaine, Blow, Brandegee, Buckland, Bundy, Chanler, Sidney Clarke, Cullom, Culver, Davis, Defrees, Delano, Denison, Eckley, Eggleston, Eldridge, Ferry, Finck, Grider, Griswold, Hale, Hart, Hotchkiss, Chester D. Hubbard, Johnson, Julian, Kelley, Latham, Longyear, Lynch, Marshall, Marston, McIndoe, McKee, Niblack, Patterson, Phelps, Plants, Pomeroy, Alexander H. Rice, Rollins, Rousseau, Shanklin, Smith, Stilwell, Strouse, Francis Thomas, John L. Thomas, Van Aernam, Ward, Warner, Henry D. Washburn, Whaley, and Wright—58.

So the House refused to allow the gentleman to proceed.

During the roll-call,

Mr. LE BLOND said: I desire to state that my colleague, Mr. ELDRIDGE, is still confined to his room by illness, and I believe he would vote here in favor of the freedom of speech.

Mr. BOYER. I wish to state that my colleague, Mr. JOHNSON, is detained at his house by illness.

The result having been announced as above recorded,

Mr. SMITH said: I rise to a personal explanation.

The SPEAKER. Is there objection?

Mr. MORRILL. I object. I demand the regular order of business.

Mr. SMITH. I think the gentleman from Vermont [Mr. MORRILL] said a little while ago that he did not object to a thing of this kind. I wish to put myself right before the House.

Mr. STEVENS. I ask the gentleman from Vermont [Mr. MORRILL] to allow me to report an appropriation bill.

Mr. SMITH. I appeal to the Speaker to ask the gentleman from Vermont to respond to my request.

The SPEAKER. He has a right to object.

Mr. MORRILL. Almost an hour has been consumed already, and I am anxious to have important public business attended to. I will yield, however, if the gentleman will confine himself to five minutes.

Mr. SMITH. I do not want five minutes.

The SPEAKER. Is there objection? The Chair hears none.

Mr. SMITH. I am very much obliged to the gentleman from Vermont [Mr. MORRILL] for this favor.

Mr. Speaker, I understand that in consequence of some remark which I made a few moments ago, the privilege of the floor for continuing my remarks was not granted to me. That remark was this: that "I will give you more of it." I did make that remark to the gentleman from Pennsylvania, [Mr. STEVENS,] and it was intended as entirely personal to him, not to the House, because he had seen proper to say something to this effect, as I understood it: that he had had enough of what I had said. In reply to that I said—at least this was my idea—"May be you have, but I will give you more of it." My object was to be personal to him, and not to the House of Representatives. This I think is due to the House, so far as I am concerned. For this House I have the highest regard, but for the opinions of the gentleman from Pennsylvania [Mr. STEVENS] I have not that regard.

Now, sir, when I rose to make my address I rose as a Union man. For I am a Union man, as true, as full, as complete, as willing, as earnest, as devoted as the gentleman from Massachusetts, [Mr. BANKS,] the gentleman from Pennsylvania, [Mr. STEVENS,] the gentleman from Vermont, [Mr. MORRILL,] the gentleman from Ohio, [Mr. GARFIELD,] or his colleague, [Mr. BINGHAM,] or anybody else on this floor. But I believe it was my duty, so far as that remark was concerned, to say that I did not intend it for the House, but for the gentleman from Pennsylvania, [Mr. STEVENS.] And I reiterate that I do not believe the doctrine of secession, but I am its sworn enemy, to fight against it now and forever.

INDIAN APPROPRIATION BILL.

Mr. STEVENS. I do not rise to answer what the gentleman has said personal to myself. I have before this said that what no gentleman would utter no gentleman could answer. I rise to introduce a bill making appropriations for the current and contingent expenses of the Indian department and for fulfilling treaty stipulations with the various Indian tribes for the year ending June 30, 1867.

The bill was read a first and second time, ordered to be printed, referred to the Committee of the Whole, and made the special order for Thursday, March 22, and from day to day thereafter until disposed of.

BALTIMORE AND POTOMAC RAILROAD.

Mr. McCULLOUGH, by unanimous consent, introduced a bill authorizing the extension, construction, and use of a lateral branch of the Baltimore and Potomac railroad into and within the District of Columbia; which was read a first and second time, ordered to be printed, and referred to the Committee for the District of Columbia.

HABEAS CORPUS.

The morning hour having commenced, the House resumed the consideration of House bill No. 298, to amend an act entitled "An act relative to the *habeas corpus* and regulating judicial proceedings in certain cases," on which Mr. HARDING, of Kentucky, was entitled to the floor.

Mr. HARDING, of Kentucky. I feel a little disconcerted, Mr. Speaker, this morning in consequence of a little storm that has arisen here. It is always painful to me to see old friends disagree. Without attempting any explanation for my colleague, [Mr. SMITH,] I cannot but

regret that he and his old political friends and associates who have heretofore harmonized so pleasantly should have any misunderstanding at all; and I hope a little calm reflection on the part of gentlemen will at least restore that amity of feeling, if not of political action, which has heretofore existed. My colleague has always been considered a loyal man, but if things go on in this way I suppose he will by and by be charged with using disloyal words by his old political friends. I trust this excitement will pass away and that calmness will be restored.

Mr. Speaker, when the morning hour expired yesterday and my remarks were suspended in consequence of it, I was proceeding to argue that the bill now under consideration was retroactive in its character, and I inquired of the gentleman, and I now inquire of him, whether, in his judgment, there is constitutional power to pass a retroactive statute that shall operate upon acts which took place a year ago. Does the gentleman think that we can pass an act now that shall defeat the plaintiff's cause of action and that shall arm the defendant with a new defense unknown to the law at the time the act was committed? What would be the result? A plaintiff who came into court a year ago, for example, having a legal cause of action, complaining of a wrong which was in violation of all laws then existing, is met by this statute, by which his cause of action, then legal, is destroyed, and by which his adversary, the defendant, is armed with a new defense not known at the time the act was committed. The result is, that having come legally into court with a rightful and legal cause of action, by this statute he will be turned out of court with costs.

Is not that plainly an *ex post facto* law, such as the Constitution in express terms declares shall not be passed?

Now, sir, there is no reason that I can imagine at all for the passage of this act unless the object be, not to promote, but to embarrass and defeat the ends of justice. There can, so far as I can see, be no reason for the passage of this act unless the object is to enable guilty offenders to escape merited punishment. It is well known that the common law prevails in all the courts of Kentucky, and under the common law any officer or soldier—nay, any private citizen, may justify an arrest or imprisonment provided he can show reasonable and probable cause for the arrest or imprisonment complained of. That is the law now. I would not hold any officer or any person acting under his authority responsible for an innocent mistake, nor does the law hold him responsible for an innocent mistake. If an officer, in executing a general order to arrest guerrillas, should by mistake and without malice arrest an innocent citizen, the law does not hold him responsible for it, nor would I. All that is necessary now for any officer or any person acting under his authority is to plead and prove in his defense that there was reasonable and probable cause, and there being probable cause for the arrest or imprisonment the law presumes that it was done in good faith and without malice. But in the absence of reasonable and probable cause the law presumes that the act was done maliciously.

Now, it is plain that if the acts here referred to were justified by any law, by military law, by the common law, or by civil law, then the man is armed with a full and complete defense. But the object of this bill is to afford a defense for men who acted in violation of all law.

Now, I want the attention of the gentleman; if I am wrong, he will correct me. I affirm that under the provisions of this bill, if I am sued as defendant for any outrage whatever, any trespass, assault, battery, or other tort, either to the person or to the property of the plaintiff, I can go into court and acknowledge that I have been guilty maliciously of the whole charge; I can hold up my head, having been armed with this statute, and say that the charge is true; that I did arrest an innocent citizen, one whom I knew was guilty of no offense; but there was an old controversy between him and myself, an old account to be settled; that I knew all the time he was guilty of no offense, that he was a peaceable citizen; that knowing all this, having an old account to settle, I made the search and the seizure of his goods and chattels, and arrested his person and threw him into prison. I may acknowledge all this, and then defy the power of the court; for here is the order under which I acted.

Mr. COOK. Will the gentleman allow me to say a word?

Mr. HARDING, of Kentucky. Certainly.

Mr. COOK. I do not understand that such is the object or scope of this bill in any way. If a man acts under a military order which he is bound at his peril to obey, that military order justifies him. If he exceeds the authority of that order, of course for that excess the order will not justify him. It is like a writ, valid upon its face, which must be executed by the officer of the law, he having no authority to inquire into its rightfulness.

Mr. HARDING, of Kentucky. What I am contending for is that the order itself is made a complete justification. The gentleman cannot gainsay that. The order is of itself a justification for all acts; the order of any officer, verbal or written, general or special, is of itself made a complete justification, however villainous or criminal the act may have been.

The gentleman has amended the bill a little, as he has informed me, and I will read it as he intends to have it stand. It is made worse in some respects. It places a corporal or sergeant or lieutenant on exactly the same ground with the President of the United States or the Secretary of War; a sort of association which seems to me to be a little immodest, to say the least of it. Here is what the bill says, and I defy any gentleman to show that I construe it too harshly or too rigidly:

That any search, seizure, arrest, or imprisonment made, done, or committed, or any acts done—

No matter what they may be, involving murder even—

or omitted to be done, during the said rebellion, by any officer or person under and by virtue of any order, written or verbal, general or special, issued by the President of the United States or the Secretary of War, or by any military officer of the United States, holding the command of the department, district, or place, &c.

Now, you will perceive that the order itself, issued by any military officer, though he be but a corporal or a sergeant, in command of a little squad of soldiers in any town, is a complete justification. Gentlemen smile as I mention these officers; but if they were Kentuckians, they would not smile. The truth is, that all over Kentucky, in every little town or village, and in almost every neighborhood, there was a little squad of soldiers, sometimes left under the command of a captain, sometimes under the command of a lieutenant, sometimes under a corporal or sergeant. Now, all the acts of all those swarms of officers are placed on exactly the same ground as the acts of the President of the United States.

Then, I repeat, the defendant, if you pass this bill, will be armed with the law exactly to suit his defense. He may acknowledge that at the time when he made the search of the man's goods and effects there was no ground for suspicion against him; he knew that he was an innocent, law-abiding citizen, guilty of no offense. But there was an old account to settle. This man, the plaintiff, had once, years before, insulted him; and for this, with the full knowledge of his innocence, he searched his effects, seized his property, arrested and threw him into prison. Yet, notwithstanding all this, he is able to defy the retributive justice of the law, because he acted under an order issued by some captain or sergeant or any other officer. That is a full defense and answer.

Observe, too, how convenient it is to sustain this defense. How charitable the provisions of this bill are to the defendant! He is told that if he cannot produce the original order he may produce a copy; or if that is a little hazardous, if its genuineness is likely to be called in question, he may resort to a telegram; or if that cannot be produced, he may give parol evidence that there was a telegram. If he thinks that there is any danger in attempting this, all he has to do is to resort to another provision of this bill, and defend himself on the ground of a verbal or parol order.

There certainly can be no danger in that. Any lawyer in his defense will take the hint. In Kentucky, for instance, there were swarms of officers posted in every neighborhood, at every town and village. They have now gone to their homes in Ohio, Pennsylvania, and other States, and all the defendant has to do is to claim that some lieutenant from the State of Ohio or elsewhere told him to make the arrest, and he may call one of his co-conspirators to prove that such an order was given. The officer himself cannot be produced, and hence there is a full defense. Will any gentleman say that this does not come plainly within the scope of the provisions of this bill? I affirm that it does, for the bill provides that the order, parol or written, of any officer to do any act whatever shall be a justification of the act.

The gentleman from Illinois says that a soldier is bound to obey the order of his commanding officer. Now, sir, I suppose that there is some limitation or restriction in reference to that. I ask the gentleman this question: when a commanding officer orders his subordinate to go and commit murder, to shoot down an innocent citizen, is the subordinate bound to obey that order? No, sir. When the commanding officer transcends all proper authority, when he issues an order in defiance of all law, civil and military, when he takes his stand above constitutions and laws, and issues an order for the commission of murder, or any other crime, both he who issues the order and he who executes it incurs the guilt of that crime, and are liable to the punishment denounced against it.

But, sir, this bill goes still further. It proposes to go back and operate upon past acts. It gives to a man a defense which he had not when the suit was brought. It is retroactive in its provisions. It attempts to destroy a legal right of action. It is *ex post facto*, and therefore contrary to the Constitution.

There is another provision which deserves attention. The judge of a State court may entertain grave doubts, may believe that such a law as this is unconstitutional—indeed, I cannot see how he could regard it otherwise—and may refuse to proceed under it. One section of this bill provides that a judge thus acting shall be deemed guilty of an offense and shall be punished.

In regard to this provision of the bill, I might call to my aid the gentleman from Ohio, [Mr. BINGHAM.] The other day, when the bill in reference to civil rights was under consideration, that gentleman denounced a section in that bill containing a similar but less objectionable provision. This bill contains a provision that if a judge, sworn to administer the law as he understands it, with due regard to the Constitution, shall not, immediately on the filing of the petition, suspend all further proceedings—if he shall take another step in the litigation—he shall be subjected to a suit for damages, with double costs. In other words, if he is an honest man, if he honestly believes the law to be unconstitutional, he must commit perjury, or else, if he observes his oath, he must submit to costs and damages.

The gentleman called my attention on yesterday to what he called the force bill of 1833, a bill which was passed for the purpose of securing the collection of the revenues from imports. I will say, and the gentleman will not controvert it, that that bill has not a single solitary retroactive provision in it; that it is wholly prospective; entirely free from the objections which I am now urging against the pending proposition. There is no attempt there to legislate upon anything that is past. It is wholly free from any such objection.

I ask the attention of the gentleman again. Here is a bill which provides that the circuit

courts of the United States shall have jurisdiction of nearly every form of trespass, seizure, arrest, imprisonment, involving not only all torts but all trespasses upon person and property. I repeat, this bill involves all arrests, searches, seizures, imprisonments, and other acts done, and the parties sued are allowed to transfer their cases from the State courts to the United States circuit courts. It involves nearly every imaginable tort and trespass upon person and property. It provides that these cases may be transferred to the circuit court of the United States, and consequently gives jurisdiction to that court in all these cases.

Now, the question I have to ask the chairman of the Committee on the Judiciary or the honorable gentleman who reported this bill is, whether in his judgment there is constitutional power to confer upon that court jurisdiction in this class of cases? I ask the gentleman from Illinois whether he considers there is constitutional power to clothe the circuit court of the United States with such a jurisdiction?

Mr. COOK. I desire to say that the authority with which the Federal courts are clothed is given by the act of 1863. It is that act which provides for the change of venue to the courts of the United States from the State courts.

Mr. HARDING, of Kentucky. I understand in regard to that.

Mr. COOK. I hold it is constitutional to clothe the Federal courts with power to try cases where belligerent rights are involved.

Mr. HARDING, of Kentucky. If I understand the gentleman, he holds there is constitutional power to clothe the circuit courts of the United States with judicial authority to determine such cases as are presented in this bill. My next question is this: will he be kind enough to inform me what clause of the Constitution gives the power he claims? I am a learner myself, and I do not belong to the Committee on the Judiciary.

Mr. COOK. Of course I cannot stand here and answer questions without time for reference. There is certainly a power conferred upon the Government to suppress insurrection, and of course all the necessary power to carry that into effect.

Mr. HARDING, of Kentucky. But not the power lawlessly to trespass upon peaceful noncombatants. The power claimed by the gentleman is the power to make war upon our enemies and not upon our friends. If there is any such power it must be found in that part of the Constitution which relates to the judicial power of the United States. I take the ground, so far as I understand the Constitution, that there is no power to confer such jurisdiction upon the circuit courts of the United States. The Constitution declares, article three, section one, that the judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish.

Mr. COOK. Allow me.

Mr. HARDING, of Kentucky. Not now. I would like to have an answer, and you say you do not know the clause under which this power is attempted to be exercised.

The SPEAKER. The gentleman's hour has expired.

Mr. HARDING, of Kentucky. I ask leave to conclude my remarks.

Mr. CONKLING obtained the floor.

Mr. HARDING, of Kentucky. I would like to finish my remarks.

Mr. CONKLING. How much more time does the gentleman desire?

Mr. HARDING, of Kentucky. Not more than ten or fifteen minutes.

Mr. CONKLING. Say ten minutes.

Mr. HARDING, of Kentucky. Very well. Now, sir, the next clause of the Constitution declares that the—

"Judicial power shall extend to all cases in law and equity arising under the Constitution and laws of the United States;" * * * * "to all cases affecting embassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States; between a State and citizens of another State; between citizens of different States; between citizens of the same State claiming lands under grants of different States," &c.

Now, there is the limitation of the judicial power to be exercised by the courts of the United States. The only exception to be found in the Constitution relates to citizens of the same State claiming land under grants from different States. In no other case can the courts of the United States take jurisdiction in controversies between citizens of the same State. But here you propose to confer jurisdiction upon the circuit courts of the United States in regard to all matters of tort and trespass between citizens of the same State, in regard to all actions relating to the rights of person and property that can arise between citizens of the same State; while under the Constitution the only exceptional case where the Federal courts have jurisdiction in controversies between citizens of the same State is the solitary instance where citizens of the same State claim lands under grants from different States.

But I will call attention to some remarks made by the gentleman from Illinois [Mr. COOK] yesterday on this subject. He says:

"There are but two principles embodied in this bill. Both principles are embodied in the bill of 1833, which received the sanction of Congress and the assent of President Jackson."

Now, in regard to the act of 1833 there is nothing retroactive in its provisions. Moreover, in regard to that force bill of course there would be jurisdiction in the Federal courts under it, because it was a law of Congress for the collection of revenue on imports, and all officers and others engaged in executing it would be acting under the authority of the United States. It is not at all like this case.

The gentleman says further:

"The first principle is that the United States will protect its officers in executing its laws and maintaining its authority."

That I deem a sound principle. The United States will protect its officers in the administration of its laws and the execution of its authority. I do not gainsay that. But what is the case here? This bill is framed on the express ground, conceded on its very face, that these orders relied on were issued by officers without authority of law, either civil or military; and yet they are made a valid defense. The language of the bill is, "any order from any officer shall be of itself a complete defense," although that order may be in utter violation of all law. Now, the difficulty is this, that there is no more authority for the order than for the act done under it. Both are equally violations of law.

In addition to the cases I mentioned yesterday, I will mention one or two others. A great many officers of the United States have been in our State, some of them very good men, others very bad, like all other men in that respect. But this bill places the authority of every officer from the highest to the lowest exactly on a par with the authority of the President of the United States, so that every one of the three or four hundred officers in Kentucky is armed with the law-making power. It matters not whether the order is in the very teeth of all law, military or civil, if it is made it justifies the act.

In other words, every military commander of every grade is made an absolute despot. Whatever order he issues is law, rising above all other laws. An order of a sergeant or corporal is made to justify the act.

What I complain of is an attempt to clothe those orders, manifestly lawless and unjustifiable, with the power of defeating a man's just cause of action. A man is arraigned for the murder of an innocent citizen, and he puts in as a defense the order of a sergeant or corporal to shoot down that citizen. Such is the character of this bill.

But I will appeal to known instances. In some cases guerrillas were shot without trial. In other cases, though they were known to be guilty, they were allowed to escape by the connivance of those in charge of them. In other cases, good and honest citizens were arrested and imprisoned.

In the session of 1864-65 of the Legislature of Kentucky, one of my colleagues, now a member of this House, [Mr. SHANKLIN,] declared on the floor of the House of Representatives that there were numerous orders issued and placed in the hands of the provost marshal—issued by military commanders in Kentucky—of this character:

"Arrest ten or twelve of the most influential and wealthy men of your county, and report or send them to headquarters."

That, sir, is a copy of one of those orders, and it was declared by my colleague that in many instances those orders had been executed; that in other cases, the provost marshal being an honest man, refused to execute them; and that under those orders numerous good citizens of high respectability had been incarcerated, some of them for months, and then turned out without specified charge, and without trial. Others, however, who were more wealthy, and who were able to procure the aid of a set of lawyers that hung about these prisons and headquarters, were very soon released, paying for the services of these men a fee ranging from five hundred to five thousand dollars.

The same member also declared that there were honorable members then present on the floor, whose high character and veracity no man dare question, who were ready to prove these facts if controverted, and challenged a denial of them.

And now I will call attention to another case, where a guerrilla was allowed to escape. The circumstances were these: he had been taken, and without trial was sentenced to be shot. He was in irons and on his way to the place of execution. Some friends of the family interposed and he was sent back to Lexington to be tried. While undergoing a trial there, he succeeded in making his escape. But not at all alarmed, he went right back into the same region where he was before, gathered some marauders, and commenced robbing and plundering. After a few weeks or months he was arrested a second time. Meanwhile his guilt had become manifest and the evidence was overwhelming. He was taken this time to Louisville. There was no question in regard to his guilt. He had escaped prison once and had gone right back into the same work, robbing and plundering.

Well, after a time we were informed that that man was sent off South with the simple injunction that he was to remain there and not return any more to Kentucky; sent off without any trial or investigation. He had, in his marauding operations, doubtless accumulated a large amount of money; whether that had anything to do with the mild and merciful administration of military law in his case I know not. Other men, however, who were innocent were imprisoned, and purchased their release at the expense of their pockets, by means of a set of sharks and unprincipled lawyers, who doubtless procured their arrest for the simple purpose of extorting heavy fees to procure their release. This bill comes up, and it is now proposed by an *ex post facto*, retroactive statute, to destroy all right of action in all such cases.

As I have already trespassed so much upon the time of the House, I will say but little more. But I do insist that this is an important and a grave matter; it is a bill evidently in the interest of a set of unprincipled lawyers. They may not show themselves here in person; but any one living where I live, and knowing as I do the operations that have gone on there, would be satisfied that whether they make their appearance directly or indirectly before the Judiciary Committee, this bill is framed in the interest of unprincipled lawyers who want to secure large fees.

Mr. CONKLING. I would ask the gentleman from Kentucky [Mr. HARDING] whom he considers the most dangerous, the guerrillas or the lawyers.

Mr. HARDING, of Kentucky. The guerrillas are an open enemy. Give me an open

enemy rather than a secret foe. A secret and disguised foe is the most contemptible one on earth. A man playing the hypocrite, professing loyalty to the Government; unprincipled scoundrels like these, procuring the arrests of loyal men in order to obtain large fees for their influence to get them released; they are despicable, contemptible miscreants, and must be despised.

Now, I would ask gentlemen who are lawyers to look at this bill. It is manifest, at first blush, that it is framed wholly for the purpose of exonerating lawless men who have committed crimes; it cannot be explained in any other way.

Mr. CONKLING obtained the floor.

Mr. COOK. Will the gentleman from New York [Mr. CONKLING] yield to me for a few moments?

Mr. CONKLING. Will the gentleman state for what purpose he desires me to yield?

Mr. COOK. I desire to move some verbal amendments to this first section.

Mr. CONKLING. I will yield for that purpose.

The SPEAKER. The motion to recommit is now pending.

Mr. COOK. I withdraw the motion to recommit for the purpose of offering some amendments to the first section of this bill. I move to amend by striking out the words which have been interlined in the third line, namely, "or other trespasses or wrongs." Also to insert in line four, after the word "acts," the words "done or," so that it will read, "or any acts done or omitted to be done," &c. In the sixth line after the word "by" insert the words "the President or Secretary of War, or by," so that it will then read, "issued by the President or Secretary of War, or by any military officer of the United States," &c. The section if so amended will read:

That any search, seizure, arrest, or imprisonment made, done, or committed, or any acts done or omitted to be done during the said rebellion, by any officer or person under and by virtue of any order, written or verbal, general or special, issued by the President or Secretary of War, or by any military officer of the United States, holding the command of the department, district, or place within which such seizure, search, arrest, or imprisonment was made, done, or committed, or any acts were so omitted to be done, either by the person or officer to whom the order is addressed, or by any other person aiding or assisting him therein, shall be held, and are hereby declared, to come within the purview of the act to which this is amendatory, and within the purview of the fourth, fifth, and sixth sections of said act, for all the purposes of defense, transfer, appeal, error, or limitation provided therein.

The amendments were agreed to.

Mr. COOK. I now renew the motion to recommit this bill.

Mr. CONKLING. Mr. Speaker, in performing the great task which the rebellion devolved upon him, and which he has performed so ably and so well, the Secretary of War has incurred very grave personal responsibilities, and exposed himself to litigations, if not to liabilities, for the acts which he has been compelled to do. Acting in good faith, acting upon high considerations connected with the public good, he has been compelled to direct and to do those acts for which possibly he may not in all cases have that technical warrant which will exempt him from litigation, even though in the end he can defend himself successfully against claims which may be made.

And I wish to suggest to the gentleman of the Judiciary Committee who has this bill in charge, [Mr. COOK,] and who I think has improved it by the amendments which he has just offered, that it would be well still further to amend in the behalf which I suggest, unless the Judiciary Committee propose by a separate bill to give the indemnity to which I refer.

Mr. WILSON, of Iowa. I will state to the gentleman from New York that the Committee on the Judiciary are now considering a bill designed to provide the indemnity to which the gentleman refers. That bill, we hope, will afford complete indemnity.

Mr. CONKLING. I am glad to hear that; and it obviates the necessity of my detaining the House upon this question, because I rose to speak only upon this special point. I will, however, before taking my seat, suggest to the distinguished chairman of the Judiciary Committee, as well as to the gentleman who has this bill in charge, that the amendment just proposed does not at all obviate the necessity, which I am glad to know the Judiciary Committee feels, for reporting such a bill, because, although the amendment extends to orders, written or verbal, general or special, issued by the President of the United States; yet, even that, as I understand, does not in any way indemnify the Secretary of War.

Mr. WILSON, of Iowa. This amendment is not introduced for that purpose; we were entirely aware that this amendment would not accomplish that object.

Mr. CONKLING. I have no doubt that the gentleman is aware of that; yet at the same time I call attention to it, and to the fact that although the Secretary of War, in what he does, acts, as has repeatedly been judicially declared, as an arm of the President, acts constructively for the President, nevertheless that rests so far upon the doctrine of general agency that it would not be covered at all by this language confining the indemnity to what is done under the order, general or special, verbal or written, of the President of the United States.

But, Mr. Speaker, as I have said, the announcement of the chairman of the Judiciary Committee renders it unnecessary and, indeed, improper that I should say anything more on this point. I am glad to know that the subject is before the committee, and I, for one, shall be very happy to vote for a judicious bill to accomplish the object suggested.

Mr. SHELLABARGER. I wish to inquire of some member of the Judiciary Committee whether they intend by this bill, or any other which they may have in preparation, to provide for such cases as one which I am about to describe, a case which came to my knowledge about the time of the convening of this Congress, and which I now state in order to attract to it the attention of the committee, as it is one of a very large class of similar cases.

In Grant county, I believe, in the State of Kentucky, a provost marshal of the United States ordered certain citizens to take to the jail of that county two persons who were arrested and held as notorious guerrillas. While executing this order the persons in charge of those guerrillas, in order to prevent their attempted escape, were obliged to fire at them; and by that volley one of the guerrillas was killed and the other wounded. The persons who took part in that transaction have been indicted by the grand jury of the county for murder in the first degree; and one or two of them, in order to avoid trial and the conviction which they regarded as inevitable in that county, have been compelled to escape from the State.

Mr. COOK. What county is that?

Mr. SHELLABARGER. Grant county, I think. The papers relating to the case are at my room. If I had them here I might speak with more precision.

Now, sir, that act was done in pursuance of the direct, express order of an officer of the United States; it was done in carrying to jail guerrillas. For that the persons concerned have been indicted and are to be tried and executed under the laws of Kentucky. I wish to know whether this bill, or any bill which the committee propose to report, contains a provision that will meet such a case. If this bill now stands in the same form as the printed copy upon my desk, it will not, according to my understanding, reach such a case.

Mr. HARDING, of Kentucky. Will the gentleman from Ohio [Mr. SHELLABARGER] allow me a word?

Mr. SHELLABARGER. Certainly.

Mr. HARDING, of Kentucky. I desire to ask the gentleman what authority he has for stating that those persons will certainly be condemned and executed.

Mr. SHELLABARGER. I have the authority, first, of the indictment by a grand jury; secondly, the statement of citizens of Grant county (if that be the county) who saw me upon the subject, and who based their statement upon what they regarded as the state of the public opinion in that county. I have no other authority.

Mr. HARDING, of Kentucky. Does not the gentleman know very well that more than three fourths of the men indicted under the laws of Kentucky are not convicted? Does he not know if the party has any ground of objection to being tried in Grant county he can obtain a change of venue to another county? Let me say that the law of Kentucky secures to each and every man, if there is excitement in one county, the right to remove his case to another county where there is no excitement. It has not been denied in any case that I know of.

There is no danger in the case cited if there was good cause to suppose these were guerrillas. If there was probable cause for their arrest, if there was good cause for shooting them down, these men need have no fears in Kentucky. What I complain of in this bill is, that it justifies arrest and imprisonment where there was no probable cause for suspicion. If, as the gentleman has said, these were notorious guerrillas, then I say there is no need, in this way, to protect those who arrested them. Any private citizen, under the common law, has the right to arrest notorious outlaws.

Mr. SHELLABARGER. The facts were stated to me by what seemed to be very respectable, truthful, and certainly loyal citizens of Kentucky, one of whom was himself one of the parties indicted. If I have fallen into an error in regard to Grant county I should be glad to hear the facts.

I only rose to bring that as a specimen case to the attention of the Judiciary Committee. I wanted to know whether the bill provides for such cases. As now drawn I think it does not.

Mr. COOK. I would like to state, in reply to the gentleman from Ohio, that when the bill was framed it was supposed a provost marshal was a military officer, and that his order was like the order of any other military officer. This case does not stand alone, as there were several cases of the same sort brought to the attention of the Committee on the Judiciary. It may be the phraseology of the bill may be amended to meet more fully such cases.

Mr. SHELLABARGER. The first section reads as follows:

That any search, seizure, arrest, or imprisonment made, done, or committed, during the said rebellion, by any officer or person under and by virtue of any order, written or verbal, general or special, issued by any military officer of the United States, holding the command of the department, district, or place within which such seizure, search, arrest, or imprisonment was made, done, or committed, or any acts were so omitted to be done, either by the person or officer to whom the order is addressed, or by any other person aiding or assisting him therein, shall be held, and are hereby declared, to come within the purview of the act to which this is amendatory, and within the purview of the fourth, fifth, and sixth sections of said act, for all the purposes of defense, transfer, appeal, error, or limitation provided therein.

Mr. COOK. The words have been inserted "or acts omitted to be done."

Mr. ROGERS obtained the floor.

The SPEAKER stated that the morning hour had expired.

ENROLLED BILLS SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill and joint resolution of the following titles; when the Speaker signed the same:

An act (S. No. 33) in relation to the Court of Claims; and

Joint resolution (H. R. No. 84) for the relief of the sufferers by the late explosion at the United States arsenal in the District of Columbia.

The SPEAKER, by unanimous consent, as Mr. COBB, chairman of the committee, was about to be absent for some time, appointed Mr. TROWBRIDGE as a third member of the Committee on Enrolled Bills.

AUGUSTUS H. PLUMMER.

On motion of Mr. BINGHAM, by unanimous consent, leave was granted for the withdrawal from the files of the House of the papers of Augustus H. Plummer, United States Army, praying relief from liabilities for certain drafts; and the same were referred to the Committee on Military Affairs.

LOAN BILL.

The House then proceeded to the consideration of the special order, House bill No. 207, to amend an act entitled "An act to provide ways and means to support the Government," approved March 3, 1865.

Mr. MORRILL moved to strike out the following words:

Provided, That the bonds which may be disposed of elsewhere than in the United States may be made payable, both principal and interest, in the coin or currency of the country in which they are made payable, but shall not bear a rate of interest exceeding five per cent. per annum.

Mr. HULBURD. The national public debt on the 1st day of March, 1866, was officially declared to be $2,827,868,959; the portion of it funded was $1,181,861,291; the portion of it not funded, bearing interest, was $1,181,434,980; the portion not funded and not bearing interest was $464,572,683. The last item includes the matured debt not presented for payment, $985,979, and $423,435,573 legal tenders. At that date there was reported by the Secretary in the Treasury coin and currency to the amount of $116,018,959.

I do not see the chairman of the Committee on Banking and Currency here, but I see a distinguished member of that committee, the gentleman from Massachusetts, [Mr. HOOPER,] and I will yield the floor to him to make an explanation, if he will do it, in reference to the varying statements of the amount of public money in the Treasury of the United States.

Mr. HOOPER, of Massachusetts. Mr. Speaker, in the statement made by the Secretary of the Treasury on the 1st of March, he represents the amount of coin in the Treasury at that time at $55,736,192 12, and of currency $60,282,767 12, making together a total of $116,018,959 24. The letter to which the gentleman from New York refers states that this is inexcusably erroneous, and goes on to state that the Secretary had omitted, among other items, the amount of money deposited in the national banks, which, the letter says, was $28,000,000. The Committee of Ways and Means, having seen this letter, deemed it expedient to appoint a sub-committee to ascertain whether there was any foundation for this statement. That committee ascertained that the amount of money in the national banks was included in and made a part of the $116,000,000, as reported by the Secretary of the Treasury on the 1st of March. The statement of the Comptroller has been reported to have been that instead of $116,000,000 there was $170,000,000 in the Treasury. In his explanation contained in the letter referred to by the gentleman from New York, in regard to that discrepancy, and as evidence of it, he counts in $28,000,000 in the national banks, which he says was omitted in the Secretary's report, in which I think he is entirely mistaken, as I am satisfied that was included in the balance of $116,000,000. He then goes on to state that the amount of United States notes and compound-interest notes which had been retired, and which in his opinion ought not to have been retired, should be in the Treasury; but the fact is that the Secretary, whether he had authority or not, did retire them, and therefore that amount was not in the Treasury. He then has another sum of $1,300,000 for the difference between the amount of seven-thirties purchased and the amount of the five-twenty bonds sold, and he says that money ought also to have been in the Treasury, because the Secretary was not authorized to make that disposition of the bonds. But the fact is that that disposition had been made, and therefore that amount could not be in the Treasury.

He then adds $15,000,000 for the premium which might have been obtained if the Secretary had undertaken to sell the coin in the Treasury. Now, the fact is that the coin had not been sold, and therefore the premium had not been received and could not be in the Treasury.

I do not see, therefore, that there is any reason to suppose that the statement of the Secretary is not entirely correct. The amount of deposits in the national banks is included in the Secretary's estimate; the gold was not sold, and therefore nothing had gone into the Treasury or could go into the Treasury for premium upon it.

The result of the investigation made by the committee was that $116,018,959 24 was the correct amount, and that there was no foundation for the statement in the letter referred to that it was inexcusably erroneous.

Mr. HULBURD. Whatever the amount may be, it is subject to draft as follows:

At sight, amount of gold certificates	$12,627,600
On ten days' notice after thirty days, temporary loan	118,577,939
One year from date, certificates of indebtedness	62,264,000
One, two, and three-year five per cent. and compound-interest notes	182,549,041
Three-year seven-thirty notes mature in the years 1867 and 1868 to the amount of	818,044,000
In the same years six per cent. bonds mature to the amount of	18,323,591

It thus appears there is now due at the Treasury, and falling due in the next ensuing two years, interest-bearing and otherwise, liabilities to the amount of $1,676,958,854. Amount in the Treasury deducted leaves $1,560,939,895 to be provided for. Deducting $450,959,107 fractional currency and legal tenders not bearing interest, and the large amount of $1,109,980,788 remains to be provided for.

It may be worth noticing that in the year 1867 the options of the first issue of six per cent. five-twenty bonds become available. If the Treasury should then be in funds to retire them or place them at a lower rate of interest, it can thus find legitimate employment for all its spare means.

With such heavy interest-bearing liabilities constantly and rapidly maturing, why should the power be asked to call in and pay or fund the non-interest-bearing notes? A species of currency everywhere popular and satisfactory surely might be left out until the interest-bearing unfunded liabilities of Government have been retired or provided for. Or is the retirement of some $1,200,000,000 of such expected to be of so easy accomplishment that more absorbent power and capacity should be asked?

Let us look a moment for and at the means wherewith such results are to be achieved. Should the system of customs and of internal revenue, ably and perspicuously set forth in the report of the revenue commission appointed by the Treasury Department, be substantially adopted—as I trust it will be, and realize when in operation all expectations—for some years it is estimated to yield only some $367,000,000 per annum. Allowing only an excess of expenditures of $16,000,000 over estimates, and there will be left, after paying interest and defraying current expenses of Government, to be applied to the liquidation of the principal of the public debt, all told, the yearly sum of about $67,000,000. Double this estimate, and still Government accruing liabilities are stupendously in excess of all imaginable receipts from all conceivable sources. What, then, shall be done? Does any one say more and heavier taxation?

While taxation is conceded to be the true touchstone of sound finance, no sane person familiar with the ubiquitous ramifications of our present tax system will think of adding very much thereto or of being able to hunt up new objects of taxation. The school, highway, and district taxes, the ordinary municipal, town, county, and State taxes, the extraordinary undertakings and assessments by reason of bounties and other local war expenditures, though for the most part voluntarily incurred, nevertheless now constitute grievous burdens. Superadd to all these the multiform direct and indirect taxes which the United States assessor and collector and stamp purveyor exacts, and it will be acknowledged that it is probable, for the present, endurable taxation has about reached a maximum.

How, then, are the existing and maturing obligations of the Government to be taken care of? Individuals embarrassed with heavy indebtedness usually ask time—time to adjust, time to economize and make provision, and, if solvent, in time, pay. Is not the principle that governs private interests in this particular broad and potent enough for public availability? This is the originating idea and the basis of a funding system. In bringing in the bill under discussion, it is obvious the committee do not believe the national funding system a failure, or that the bottom of the national loan bag has been reached; nay, the bill proposes to enlarge its capacities.

The act of March 3, 1865, which this bill supplements and extends in very broad terms, conferred the funding power upon the Secretary of the Treasury. The first section authorized him to issue bonds payable at any period, not less than five nor more than forty years from date, as he might deem expedient, and concluded with these words:

"And any Treasury notes, or other obligations, bearing interest, issued under any act of Congress, may, at the discretion of the Secretary of the Treasury, and with the consent of the holders, be converted into any description of bonds authorized by this act; and no bonds so authorized shall be considered a part of the amount of six hundred millions hereinbefore authorized."

The second section authorized the Secretary to dispose of any bonds or other obligations issued under this act, either in the United States or elsewhere, in such manner and at such rates and under such conditions as he may think advisable, for coin or for other lawful money of the United States, or for any Treasury notes or other representatives of value which have been or may be issued under any act of Congress. A clause in the second section declares that the loan act of June 30, 1864, shall be so construed as to authorize the issue of bonds of any description authorized by this act, (March 3, 1865.)

The first section of the June act, so referred to and enlarged, authorizes the Secretary to dispose of any bonds, commonly known as five-twenties, remaining unsold in the United States, or, if he shall find it expedient, in Europe, at any time, on such terms as he may deem advisable for lawful money of the United States, at his discretion, for Treasury notes, &c., issued under any act of Congress.

Now, under these two acts—June, 1864, and March, 1865—can there be a doubt as to the power the Secretary has had and yet has to issue and sell, at home or abroad, and on such terms and time as by him thought advisable, six per cent. five-twenty coin bonds, to any amount, limited only by the consent of the holder of Treasury notes, certificates of indebtedness, certificates of deposit, or other representatives of value issued under any act of Congress, or of coin or lawful money of the United States, within the compass of his negotiation and control. In those acts there yet remains the unexhausted power conferred upon the Secretary, without additional legislation, to call in, if he so elects, every dollar of legal tenders in circulation, convert them into interest-bearing notes, and then fund them at his discretion. Broad and unquestioned as this somewhat latent authorization is, the committee now propose that he shall have the direct power, to be exercised at his discretion, to retire from circulation any Treasury notes or obligations, whether bearing interest or not, in exchange for any description of bonds authorized by these acts, and to dispose of the same in such manner and at such rates as he may think advisable for lawful money of the United States, &c. In other words, the power is asked, not only to retire by conversion or purchase the hundreds of millions of short obligations before enumerated, but in direct words to grant the additional power, to be exercised at his sole discretion,

to withdraw from business uses and general circulation, in part or in whole, $27,523,734 of fractional currency and $423,435,373 legal tenders, and to exchange or sell five-twenty bonds to that vast aggregated amount, checked, limited, restrained in no sense or manner save by his discretion and the harmless enunciation that the proceeds thereof are only to be used for retiring Treasury notes or obligations. Now, while I yield to no one in respect for the financial tact, confidence in the ability, personal and official integrity of the present able and most acceptable Secretary of the Treasury, I submit, sir, is it the part of wisdom, in time of peace, unnecessarily to devolve the exercise of such power upon the discretion of any one officer of the Government? Under this bill his absolute control of the currency, and of course of the business and the fortunes of men and of the country, is perfectly tremendous.

Necker, upon whose successful administration of the public finances in the antecedent convulsions of the French Revolution suspended the fate of the King and of the empire, wielded no such powers as are couchant in this bill of the committee. Pitt, who, as First Lord of the Treasury, for nineteen years ruled Parliament and sovereign with an unquestioned sway,

"When Europe paled before the maddened Gaul,"

never asked nor exercised such vast discretion and power over the business of men, over the prosperity and honor of a realm, as this bill proposes to bestow upon the Secretary of the Treasury, whoever may chance to be that officer. I repeat, this is not a personal but an official trust, and as such is exposed to all the mutations of life and of office. As a principle and a precedent, it is not merely questionable, it is dangerous, except established under the duress of direst necessity. No such a necessity has been or will be pretended.

Again, suppose, under this bill, large amounts of these bonds are sold for coin or lawful money of the United States, and the Secretary fails, or for any reason finds it inexpedient, to purchase in any of these outstanding obligations, is it desirable the Secretary or the Government should hold large sums of money carrying no interest? With heavy outstanding liabilities in the way of requisitions, temporary loans, special deposits, &c., I admit the Treasury should be kept strong and the Secretary should have funds "well in hand" at all times, but is there not, or should there not be, a limit to this unproductive accumulation? The payment of the temporary loan at once and the discontinuance of that species of indebtedness, or if continued on, only at a very low rate of interest, certainly would meet the approbation of the best business men and financiers in all our commercial centers. But, leaving this consideration, can it be the wish and the intention of the committee to place the whole Government currency of the country and the $1,200,000,000 of Government obligations at the beck, not, be it remembered, of Hugh McCulloch, but of a Secretary of the Treasury? The bill undeniably does this. It may turn out well if enacted into a law; and all is well that ends well. Nevertheless, it is a dangerous experiment; would be as a war expedient; as a peace measure, can it be justified in view of any existing or probable apprehended exigency?

The committee's bill contains yet another anomaly—at least it is such in our past financial policy. It has a proviso declaring "that the bonds which may be disposed of elsewhere than in the United States, may be made payable, both principal and interest, in the coin or currency," and territory of a foreign country. Surely such an innovation is entitled to careful examination and consideration before it is adopted.

Four years we have waged a terrific and costly war, the theater of which was spread over many degrees of latitude and longitude. During its continuance we brought into the field from the nineteen loyal States east of the Rocky mountains, including the soldiers of West Virginia and the District of Columbia, 2,610,677 men. Doubtless the eight Federal Territories and the remaining fifteen States, "as was and as is," would swell the Federal forces full up to 3,000,000 men. These troops were better appointed, better supplied in all the departments and branches of the service, than those of any other nation or time whereof history has made a record. We built and equipped and manned such a navy as never floated before. We promised and we paid soldiers and sailors larger bounties and higher wages; while in hospital and camp and active service we fed and clothed and cared for them better; and when peace came we paid off and mustered out our vast levies quicker than was ever before attempted; and all, all, without going abroad to make a loan of a dollar. Why must the expedient now be resorted to, now when large war expenditures have ceased, when we are no longer in the attitude of a necessitous borrower, when anxiety and foreboding have given place to stability and assurance? Is there a necessity sufficiently urgent and imminent to justify so grave a departure from our past policy or present self-consideration, not to say the proprieties of our national pride and honor? If there is, let it be pointed out. We shall be told, as such bonds are only to carry five per cent. interest, there will be a saving of one per cent. interest to the Treasury. Grant it. Is that modicum a sufficient expiation for the violation of that American sentiment, familiar round all our hearth-stones, "Millions for defense, not a cent for tribute?"

We cannot be oblivious of the fact that such change in our bonds is to be made, if made, to induce foreign capitalists to invest in them; the very capitalists, perchance, that but yesterday watched for our halting and hoped our overthrow.

But aside from such a general, perhaps too purely, patriotic consideration, how much will the saving be? The last foreign advices put United States five-twenties in the London market at 71 and a fraction. Continental prices did not very much differ. Interest in coin semi-annually, on the full face of the bond, ultimate payment of the full face in coin, make a pretty dear, I should say, expensive loan. If kept at home, and our own country and citizens have the benefit and profits, we can see, and, I think bear, the operation with a better grace.

Permit me in this connection to read a brief extract from a letter addressed to me last month. It emanates from one of the able men and sound thinkers of a past generation. Enjoying "a green old age," with natural force unabated, though by irreparable misfortune there is no longer speculation in his gaze upon outward objects, yet within that head of a god there still dwells a mind unimpaired, keen and bright as Ithuriel's spear, observant and watchful of all that pertains to the welfare and prosperity of his country:

"By a just and equitable system of taxation, secure the prompt payment of the interest in gold and silver in New York, and as much of your stock will go abroad as is desirable. It is better for the people of this country who are to be heavily taxed for the next half century, to pay six or even seven per cent. on the bonds in the hands of our own people, than to crowd our debt into the hands of foreigners by any financial contrivance, to be returned upon us at every panic."

Mr. CONKLING. If my colleague has no objection, I would like to know the name of the writer of that letter.

Mr. HULBURD. The name of the writer was familiar to all New York once. It is Azariah C. Flagg, once comptroller of the State of New York.

What with fiscal agencies established abroad to negotiate loans, to keep transfer books, insurance, freight, commissions, coin brought back, coin remitted, or purchase of bills of exchange to pay interest, &c., how much will be left of the one per cent. margin difference of interest? Scarce enough, we may be sure, to lacquer over the humiliation of a great nation going abroad and crying to its commercial compeers and rivals, "Help me, Cassius, or I sink!"

How often have we been vauntingly told that we are a great, independent people, destined ere long to be the nation of the world? What with our telegraph wires and our railroads, stretching across the continent; our steamships bringing home "the wealth of Ormuz and of Ind" from every soil and clime, for use and merchandise, we have verily believed that our emporium cities were to be the marts of trade, that here were to be the clearing-house and money exchanges of the commerce of the world.

Waiving, however, the propriety of all such considerations and even expectations, is it quite certain that our hat-in-hand application will be successful? Would a five per cent. loan now probably be well received? While at present I attach no especial importance to the reported discoveries of our consul general at Montreal, that such an *animus* exists as would gladly concoct and carry out such a scheme, and perhaps now only awaits a fitting opportunity to vent itself, I can easily conceive as quite probable.

But from a mere financial stand-point, what is the prospect? In England the bank rate of interest last month was sharp eight per cent., and our five-twenties were quoted at 66 to 67. The first day of this month the interest rate was lowered to seven, and Federal five-twenties advanced to 71 and a fraction. Something of this advance, no doubt, is due to our financial exhibits, more to a distrust of the stability of the English funds, caused by the Fenian excitement. Even with this adventitious and at best, temporary aid, granting that our monthly statements continue, as we expect they will, favorable, can we reasonably anticipate success for a five per cent. foreign loan? We now have such a loan; and it is, and has always been, far below par; indeed, "a heavy flat" upon the market. If foreigners can send their capital here and get six per cent. for its use, and the one per cent. of difference is not absorbed in commissions, transmissions, &c., assuredly they will find it out, and do it as quickly and as economically as our Treasury agents. But suppose it is authorized and tried—and if it is not to be tried it should not be authorized; for, in my judgment, the less we have of needless, contingent, uncertain, discretionary grants of power, the better—suppose, I say, the loan should be put upon the market, and neglected? We have hawked our credit in vain. Or suppose, contrary to probabilities, any appreciable quantity of it should be taken to that extent, have we not multiplied and supplied bands and withes in hands that in the future as in the past will not be slow to make use thereof to cripple and to bind us?

Instead of legislating to increase the acceptability of our bonds abroad, we may yet see a day when we shall regret inducements had not been stronger and more prevalent to keep them at home. In this connection, perhaps, an item in the financial history of the State of New York may not be unworthy of consideration. Between the years 1825 and 1835, when that State for those times was creating and carrying a large canal debt, the commissioners having its management in charge were repeatedly importuned to make the interest on the State loans payable specifically abroad. They steadily refused. What followed? Depreciation? Neglect? Embarrassment? Not at all. In January, 1833, the redemption of the canal debt was commenced by paying a premium of nine per cent. on the six per cent. stocks due in July, 1837; eighteen per cent. premium was paid on five per cent. stocks due in 1845, and twenty-two to twenty-four per cent. premium was finally paid to anticipate by ten years the payment of six per cents due in 1845.

Did foreigners neglect these stocks because principal and interest were made payable at home? In 1834 it appeared of $5,522,659 of one species of stock outstanding, foreigners held $4,102,975.

Neither the time, nor the instincts of men, nor the channels of trade and of exchanges, are so widely divergent from the past that spe-

cial legislation is requisite to shape and direct and beacon the courses and thoroughfares of enterprise and thrift and interest. Large amounts of our national securities have already gone abroad. Some estimate the amount at $350,000,000; some place the figures as high as $500,000,000. Increased, whatever it may be, no doubt by every steamer that leaves our ports for Europe, the lower figures may be found inconveniently large if a panic or crisis should ensue of magnitude and intensity potent enough to touch to the quick the sensibilities of the Old Lady in Threadneedle street. Would she not in such event clutch and hurl back upon us, reckless of sacrifice, any quantity of our bonds? Suppose such an occurrence should happen when we were in the throes of a financial, commercial, belligerent, or even political crisis. The consequences need not be depicted; they can be foreseen without a prophet's eye.

I have never been able to see a national blessing in a national debt. But I am aware the large public debt of Great Britain has sometimes been held up in that light. Beyond question it is true that it has not been as burdensome as under some circumstances it might have been. Owed and kept at home, the interest has been disbursed and employed among and by the subjects of the realm. The Government scrip or consols, widely and generally held by the well to do of all classes and grades, have everywhere constituted large numbers of citizens, by direct interest, firm Government supporters. This consideration may weigh little with us, yet I apprehend the announcement that a few hundred million Federal securities are now of choice held in the insurgent States by those who whilom were rebels would be hailed as a most auspicious omen.

But, it is urged, some operation is needed to clear out of the way our floating debt and obtain specie to enable us to resume. Without stopping to consider all these suggestions involve, let me ask, do the people, mechanics, merchants, manufacturers, men of means, burdened as they all are by taxes, direct or indirect, wish such a sacrificial preparation made to resume specie payments? The present inflated, high-priced condition of nearly every staple article that enters into the use and consumption of families bears hardest upon men of small means, small incomes, small salaries. And yet I do not believe such persons, even, desire Government to incur such sacrifices and perils as indicated to obtain coin to prepare to get back to the normal condition of gold valuations. I do not say old low prices; that condition we are not again to see while all the commodities of production are burdened and their prices enhanced by heavy taxation. No, sir, we cannot expect soon again to see those times unless called to behold wide-spread bankruptcy, suffering, ruination. Shall I be told, importation of coin through the medium of a foreign loan is a necessary preliminary step preparatory to a resumption of specie payments? No one can be more desirous, anxious, to hasten that period, by all and every proper means, than myself. I believe, too, the people desire and expect that Congress, in concert with the Secretary, will adopt measures tending to an early adjustment of prices, business, and trade, to the constitutional basis of values—the coin standard. And well I know that specie payments inevitably must be temporary and spasmodic, while large amounts of call loans or short obligations are or can be precipitated upon the market. No sane person ought to expect a resumption unless the banks and Government usher the way. The banks cannot resume until Government leads, and if the half of them are then able to do it and maintain resumption, great relief will be felt in more senses and quarters than one, and a most agreeable surprise will be generally experienced. The connection of Government with the national banks is very intimate, if not inseparable, borrowing as it has their capital and giving as security and in lieu its obligations. These institutions, generally, really have no money means wherewith to make specie payments. If they should attempt it in the present posture of things they could not stand a single business hour without throwing a mass of Government bonds upon the market. It is said on the 1st day of last January they held in their own right over $440,000,000 of United States stocks. Probably at the same date they held of Government short obligations full $200,000,000. With such an impending avalanche of some $650,000,000, potential as Government is, it could not resume and stand the specie call ten consecutive days.

It follows, then, if we are to have a permanent resumption, it must be by the joint and simultaneous action of the banks and Government. As this is impossible in the midst of a floating mass which at any time may impinge and whelm, that mass must be put one side or for a term of years be merged. Admitting, as I do, the full force of all this, I fail to see in this necessity a necessity that only long bonds payable and sold abroad can be employed for such relieving and funding purpose. It is not believed, it is not supposed, that a dollar of these short obligations is now held abroad. On the contrary, every dollar is now held in this country, somewhere, by somebody, association, company, or corporation. On the first Monday of October, 1865, the national banks alone held nearly one sixth of the floating liabilities, ($192,094,365.) Is it not just possible, nay probable, that other holders now carrying some of these short obligations would be able and willing to carry in place of them longer, and, of course, more valuable Government securities—especially if made payable in coin at a fixed and comparatively distant future period—provided the opportunity was presented to them? Once only, I believe, and that within the last six months, has the Secretary, by public notice, tested in this direction the public estimation and ability. He offered $50,000,000 of five-twenties in exchange for five per cent. compound notes and certificates of indebtedness. The whole amount was taken inside the prescribed time, and five-twenty bonds at a premium of three per cent. received therefor. Did not the quickness with which this proposal was filled, notwithstanding the premium, indicate what might be expected, if the bonds in exchange had been offered at par?

Am I to be told the operation produced a stringency in the money market, and therefore it was inexpedient to follow it up? There can never be resumption of specie payments without contraction, and there can never be contraction without a stringency, a pinch somewhere. But in this instance no intelligent observer believes the withdrawment of so small an amount of such representatives of value from business influences could be perceptibly felt or perceived in the effervescing eddies of Wall street. A stringency, no doubt, did exist simultaneous with the Secretary's operation, caused, however, by large calls for currency, to be used in various ways at the South, and in moving western products, the high prices of which required more money than usual to handle them. Judging by that transaction, holders of Government short obligations would gladly exchange them for the common five-twenties if opportunity had been given. Why that operation was not continued, if there existed, as I believe, a desire and a purpose to get ready to resume specie payments, I know not. Certainly the power, under the respective acts of June and March, to issue bonds and to convert these floating liabilities, was not exhausted, nor is it believed to be now. It has been exercised by the Secretary within the last month. Certainly the exercise of the power was not intermitted because there was a difficulty in finding a home demand for the bonds.

Will it be seriously urged that by sale abroad, with the proceeds, the Secretary can buy and bring home gold and thus more easily and speedily resume? Nearly every such attempt to force exchanges, to obstruct and divert the natural courses of trade by unusual efforts, purchasing and importing coin wherewith to resume specie payments, has resulted disastrously. The old United States Bank made the experiment on a large scale by buying up the cotton crop to ship and sell abroad to buy and bring back gold to enable it to resume and maintain specie payments. The attempt hopelessly wrecked that institution. Are not the beacon-lights of experience as safe and as useful for Governments as for corporations or individuals?

If Government when so large a debtor essays in eager haste to overleap the usual barriers of trade or endeavors to obstruct or divert the established channels and courses of exchange, we may be sure a reaction ere long will follow. Sluices will be opened, dikes will be pierced, and the tidal ebb and flow will restore a commercial equilibrium irrespective of what or who is stranded. The Bank of England, the Bank of France, the Germanic banks, observing such a scheme inaugurated, at once would be stimulated to gather up our securities and force them back upon our market in such quantities as to stop the sale abroad by depreciating the home price, and, of course, deranging our own home traffic in them.

No, no, this extraneous method will be found a most untoward, perilous, and futile way to travel toward a healthy permanent resumption.

If we are to resume and maintain specie payments we must take legitimate steps; we must get out of the way our short obligations; we must prepare for other liabilities as they fall due; we must contract our paper circulation, certainly cease enlarging it, whether denominated United States legal tenders or national bank currency; we must produce and sell, and manufacture and sell, buy and consume less until the balance of production and of manufacture, of trade and of commerce, and of exchange is in favor of families, communities, States, and the nation itself, and then, virtually, resumption of specie payments will be nigh at if not in hand. It ought not to be overlooked that after the 1st of next July the State bank circulation will be rapidly retired under the operation of the tax to be imposed upon its subsequent reissue. As thereafter nothing but greenbacks and national bank notes will circulate, is it not possible this new condition of things may constitute an auxiliary contraction, which, added to the Secretary's policy in the same direction, will produce all the stringency and all the reduction in issues that the Secretary or any discret business man will care to see in the country, on 'change, or in commercial circles? Money is plenty now and everything is easy. A month or a week even may present a reverse phase, and instead of being complacent spectators or content actors we may be struggling in the depths piteously asking help or forbearance.

But I must not forget that I am discussing not so much the probabilities and the instrumentalities of resumption as the loan bill. Not to prolong further the consideration of its foreign feature, I have but to add that, in this very particular, I stand with the able and patriotic Secretary of the Treasury. He commences the second paragraph, on page 18 of his annual report, December, 1865, with these positive words:

"The debt is large, but if kept at home, as it is desirable it should be, with a judicious system of taxation, it need not be oppressive. It is, however, a debt," &c.

Again, page 29, he says:

"Although it is not desirable that our securities should be held out of the United States, it is desirable that they should be of good credit in foreign markets on account of the influence which these markets exert upon our own."

If, as I believe, this foreign and home view of the question is financially correct and sound, then it is worthy of our consideration, although it disposes at once of the committee's proviso. As seen, the Secretary has declared the undesirableness of our stocks being held abroad. The thermometer of Wall street, on the first promulgation of a purpose here to legislatively superinduce an exotic demand, indicated the domestic effect.

I chanced to be in New York the very day

the committee reported the bill. Gold did indeed drop—a little; so did, more, the Federal five-twenties. In a banking-house where I was sitting a gentleman hurried in to inquire if the telegraphic report of the introduction of the bill with the foreign feature was to be believed, declaring, if he thought it would become a law he would that day sell every Government bond he owned. And that man is no stock gambler, but is said to be the heaviest holder of Government securities in New York, if not in the United States.

Another objection of a different character remains to be noticed. The committee's bill prolongs, if it does not augment, some of the most insolvable uncertainties which more or less during the war have attached to and affected all large business engagements and transactions. Under it, at any moment, unannounced, a process of contraction or of expansion may be in operation, materially modifying time contracts or the movements of property. In a condition of peace does a paramount necessity exist for vast occult Government financial operations? Have capitalists, bankers, brokers, during any of the many emergencies Government has passed through in the last four years, in a single instance evinced a disposition to drive a Shylock bargain with it? Outrageous commissions, exorbitant rates, enormous prices have, indeed, been exacted and paid in one if not more of the departmental branches of the Government. If the Treasury Department has been thus victimized, it is not known. On the contrary, I am assured the Secretary has never asked and not been aided. Why should not the same coöperative influences continue in carrying the Government through? Why should additional power be given; or rather why should the Secretary's war discretion and war powers now be enlarged?

Trained myself in a political school, one of whose cardinal principles of faith and practice was, Government should never unnecessarily engage in or interfere with private enterprises or business operations, I am frank to avow the belief that the sooner Government now dissolves, and separates itself from, all connections and interpellations with individual transactions, refrains from endeavoring to influence them, the sooner will a sound, healthy equilibrium be restored in all the conduits and pools and great expanses of trade and commerce and exchange.

The accumulation of a large surplus of coin, with power to sell at his discretion; the authorization, and the exercise of it, to receive *ad libitum* temporary loans, to issue certificates of indebtedness in indefinite quantities, if continued in, assuredly makes him sufficiently potential to disregard the pranks or the combinations of a herd of stamping "bears" or tossing "bulls."

The bill authorizes the Secretary to call in and fund all or any of the outstanding liabilities of the Government, whether interest-bearing or not; it may be fifty, five hundred, one thousand, fifteen hundred millions even, will be within his scope and reach; he may exchange five-twenty bonds for the amount, whatever it may be. It authorizes him to go without proposals upon the market and sell bonds at his own discretion, to raise money wherewith to pay off any or all of these varied and vast amounts. In Scripture phrase, it is this "hiding of his power," which may be bared and exercised at any moment, that constitutes the impolicy and the objection of its bestowment. Sir, the gamblers in Wall street will hold high revel in the glorious uncertainties continued and created by this bill. They can discount the probabilities and the phases with every fluctuation of politics, prices, prospects, and vicissitudes of the seasons.

Is such a feverish, speculative condition of things desirable or necessary? If not, the correction is in our hands. The unexhausted acts of June, 1864, and March, 1865, give all needed authority to the Secretary to issue six per cent. bonds, payable at his discretion, not less than five and within forty years from date, to fund the interest-bearing obligations of the Government. Authorize him to give public notice, and require him to be in readiness, according to notice, to issue bonds running a fixed term of years in exchange for these unfunded obligations, specifying the kind, the amount, the priority, and the time of presentation. If it is found Government bonds can be advantageously placed in larger amounts than the interest-bearing liabilities, then, and not until then, let the non-interest-bearing legal tenders be taken in hand by the Secretary, due public notice being given of the intention. Such a course would enable every business man to know what Government contemplated, and to arrange his business and engagements accordingly. Public notice dissipates much of the uncertainty and consequent speculation attending Government stock transactions, engendered and fostered by stealthy precipitancy. There would be no new loan on the market, no apprehension of one; no inexplicable fluctuation of Government securities. Trade would adjust itself to a defined policy. Every man would have the same facilities of information, and of course an equal chance in the marts and thoroughfares of venture and adventure.

Would such an open financial programme be successful? To a very considerable extent I believe it would—dependent of course upon an easy money market, without which under no circumstances can the five-twenties be floated at par. If for any reason, extraneous or indigenous, this expectation should be disappointed no disasters could ensue, no bankruptcy could befall the Government before the reassembling of Congress.

On the whole, are not the mischiefs and abuses and dangers so palpable on the one hand, and the probabilities, the inducements, and the seeming advantages so manifest on the other as to determine and justify the rejection of the committee's bill?

For myself, I do not believe any present legislation of the kind is needed; I believe the Secretary has all necessary power now to retire and fund the obligations of the Government. But if some bill must pass, then the supplement or amended bill of the gentleman from Pennsylvania [Mr. STEVENS] striking out the foreign proviso, the simultaneous right to fund non-interest-bearing with interest-bearing notes, or to issue and sell bonds below par, is by far preferable to the original bill reported by the committee.

If there were time, I should be glad to call attention to an anomaly in our existing financial system, which if any bill is to pass, might, as it seems to me, very properly be the subject of an amendment. In the incipiency of our gigantic loan operations the customs receipts were required to be paid in coin. These receipts were solemnly set apart and pledged for two specific objects—payment of the interest on the public debt, and the creation of a sinking fund for the ultimate extinction of the principal of the public debt. The interest has been promptly paid, and not infrequently anticipated.

The last Congress authorized the Secretary of the Treasury to sell, from time to time, any surplus coin in the Treasury not needed to pay interest, due regard being had to previous provisions pertaining to a sinking fund. By reason of such surplus and such authorization, sales of coin have from time to time been made; the amount and the rates we have no means of knowing. But this we do know; thus far the sinking fund, notwithstanding the pledge and its subsequent recognition, is yet a legislative ideal, a mere myth, that may or may not hereafter have a veritable, tangible Avatar. I do not care to characterize this withholding as bad faith with the public creditor, for thus far the Government has met its pecuniary obligations with comparative punctuality. I do not care to characterize the omission as *quasi*, oblique repudiation; for in the future, as in all the troublous past, the Government may be able to pay "the uttermost farthing." It may be, in the midst of a war requiring immense expenditures, necessitating, after the absorption of every species of revenue, large and numerous loans, the propriety and the economy might be questioned of setting apart borrowed money, or what in effect would be the same thing, diverting other needed funds from common use for the purpose of establishing such a fund. I know elaborate calculations have often been made, and surprising results have been attained, in figures, showing the wondrous fecundity of small sums, the potentiality they possess over vast amounts, when such sums are sacredly placed and the yearly interest is compounded and consecrated to accumulation. Nevertheless, does not the practicability and the economics of such a hypothesis, in the midst of heavy expenditures and loans, remain to be demonstrated by actuality?

But now, emerging as we are from a condition, comparatively, of consumption and of non-production; no longer in the attitude of a needy borrower, expecting that henceforth revenue taxes and reduction will more than balance expenditures, is it not possible, is it not expedient, to "return to the old ways and walk therein," pay as we go, and make provision for the coming future? If gold accumulates in the Treasury in excess of interest demands, does not correct principle as well as solemn pledge obligate us to see the surplus goes, if not to create a sinking fund, at least in positive curtailment of the national indebtedness?

Perhaps in this particular we need not be much exercised. Should the Secretary be at all successful in funding, at no remote day, the coin-interest bonds will be so included that it is not likely the Treasury very long or very soon will be burdened with a specie plethora.

But if such surplus is probable hereafter, may not the mode of disposing of it be improved and made more satisfactory? In the best condition of the market the present attainment of gold is difficult and expensive, cheerfully submitted to, it is true, while the exigencies of Government needed and demanded it to maintain its credit and enable it to make loans. When thus hardly obtained, its sale for currency to go to the commonest uses of Government forces the consideration upon the minds of business men whether the extortion, as it were, of coin thus and the sale of it in part for such a purpose is necessary, economic, desirable, or even just. Would not the commercial interests and business of the country generally, and the credit of the Government in particular, be subserved, with no detriment to any interest, if the Secretary was authorized to sell any excess of gold over interest requirements for legal tenders and cause the cancellation of the same without substituting or issuing other notes or representatives of indebtedness in lieu or in place of those thus withdrawn from circulation?

This would be reduction of the public debt, in a small way indeed, but in the way and by the very instrumentality, if not in the very mode, solemnly covenanted and pledged to be done in and by former legislation. I have no doubt the announcement of such an authorization and requirement would be gladly hailed by all who desire to have the Government keep faith in all its implied as well as its specific obligations. I can conceive of a simple method of treating and disposing of this surplus coin question, which, if it did not, as some think, operate an indirect reduction of the customs imposts upon importations, to my mind would be "a more excellent way." Let the Secretary be authorized on all customs payments of $100 and over to receive, say ten per cent. of the duties in United States non-interest-bearing legal-tender notes, and cancel the same, with no issuance of notes or other representative of indebtedness in place of those retired. I will not pause to particularize the obvious effects and advantages of this disseverance of the Government from gold speculations; its considerateness of the importer's difficulties in gleaning coin for the customs; its direct appreciation of its own paper in its receipt for its dues. Legal tenders thereupon would begin to approximate in business estimation, perhaps, I might better say,

gravitate at once toward our only constitutional standard of value, the specie basis. Persistence in this small percentage of retirement in time would bring an insensible proximity of specie payments to as well as by Government. Is it not worth the trial? irrespective of being, as it would be, a *quasi* restoration or use of any surplus beyond immediate wants, to the purpose and object fixed and pledged by former legislation. Certainly, if not an adjunct, it would be no impediment to the Secretary's constant and most commendable effort to contract, to retire, and to prepare to resume.

But I must not enlarge. I am hopeful that with economic habits and industrial pursuits in private life; with carefulness in expenditures and appropriations; with such increase of internal revenue as we have a right to expect in a condition of tranquillity and assurance throughout all our borders; with a continuance of the propitious agricultural seasons a beneficent Providence has generally heretofore vouchsafed unto us; with the rapid disembowceling of those vast and varied accretions of mineral wealth of old hid away in such wondrous profusion in the matrix of mountain ranges stretching through many parallels of latitude, by the inevitable sequence and revolution of events we shall ere long be in the very midst of that age of gold, foretold, indeed, in old song and story, but awaiting its fullest realization here, here in the birth-land and home of the Great Republic of the Ages.

Mr. WENTWORTH. If the people were asked what, next after the sufferings of the battle-field, had been the source of their greatest grievances during the war, they would unanimously respond that they were those from an irredeemable paper currency. Second only to war is the calamity of losing the reliable standard of values. No sooner was it announced that the rebel armies had surrendered than all classes, conditions, and sexes of people asked how long before weights, measures, and values would return to a fixed standard. The toiling masses who had fought our battles, as they were scattering to their various civic pursuits, wanted to know how much labor they were to give for a dollar and how much a dollar would buy. In fine, they wanted to know what was to be the national standard of a dollar; I mean its fixed standard. They wanted to know if the dollar upon which they made their labor contracts was to be the dollar when their contracts were completed. They wanted to know if the wages upon which they fed themselves and families one week would not starve them the next. The speculator who had bought at high prices, the Government contractor already made rich by Government plunder but yet with considerable stock on hand, attempted to stifle these cries of patriotic penury by raising the question whether the Government was not so near bankruptcy that it would require a great many years of depreciated paper currency before it could pay its debts at par or before the people could realize their legitimate standard of values. While the people were thus agitated between their hopes of justice from a Government for which they had sacrificed so much blood and treasure, and their fears of cowardly speculators who were boring holes in the bottom of the ship of state while their braver southern allies were fighting upon the quarter-deck, the Secretary of the Treasury, at Fort Wayne, Indiana, made a speech which indicated that the policy of the Government was to be frugality and honesty, and that all salutary measures would be resorted to in order to glorify peace with stability in prices. I have only time to make one quotation:

"I have no faith, sir, in a prosperity which is the effect of a depreciated currency, nor can I see any safe path for us to tread but that which leads to specie payment. The extreme high prices which now prevail in the United States are an unerring indication that the business of the country is in an unhealthy condition. We are measuring values by a false standard. We have a circulating medium altogether larger than is needed for legitimate business: the excess is used in speculations. The United States are to-day the best market in the world for foreigners to sell in, and among the poorest to buy in. The consequence is that Europe is selling us more than she buys of us, (including our securities, which ought not to go abroad,) and there is a debt rolling up against us that must be settled in part at least with coin. The longer the inflation continues the more difficult will it be for us to get back to the solid ground of specie payments, to which we must return sooner or later. If Congress shall early in the approaching session authorize the funding of legal tenders, and the work of reduction is commenced and carried on resolutely, but carefully and prudently, we shall reach it probably without serious embarrassment to legitimate business; if not, we shall have a brief period of hollow and seductive prosperity, resulting in wide-spread bankruptcy and disaster.

"There are other objections to the present inflation. It is, I fear, corrupting the public morals. It is converting the business of the country into gambling and seriously diminishing the labor of the country. This is always the effect of excessive circulation. The kind of gambling which it produces is not confined to the stock and produce boards, where the very terms which are used by the operators indicate the nature of the transactions, but it is spreading through our towns and into the rural districts. Men are apparently getting rich, while morality languishes and the productive industry of the country is being diminished. Good morals in business, and sober, persevering industry, if not at a discount, are considered too old fogyish for the present times."

The sentiments of this speech were at once telegraphed and everywhere placed upon bulletin boards in advance of the newspapers as containing the most gladdening news since the surrender of rebeldom. The Chicago Board of Trade lost no time in unanimously indorsing them. Other public bodies all over the country did the same. That they were condemned by reckless speculators I have no doubt, and for the same reason that—

"No rogue e'er felt the halter draw,
With good opinion of the law."

But, amid the overwhelming preponderance of favorable public opinion, their condemnation was as quiet as the captured traitor inside a Union prison.

Gold had been as high as 287. In other words, it had taken two hundred and eighty-seven cents to make a dollar. It has been as low as 129, or one hundred and twenty-nine cents to the dollar. Meanwhile the consumers and the producers were making all their calculations upon one hundred cents to the dollar. The farmer was in his field, the mechanic in his shop, and the mere operative wherever he could find labor. But all were distant from the telegraph. Now and then one could afford to take a daily paper; but then he could only find time to read it in the evening. Some could afford to take a weekly paper; but most took none, and only got news as reported from one to another. So they knew but little of prices, except as they wanted to buy or sell. But the men who were speculating upon their necessities were near the telegraph and took the daily papers. Thus, while pocketing their profits, they had time to shuffle off their losses upon their ill-informed neighbors. This speech indicated a speedy termination of such a condition of things, and brought to the few surviving soldiers of the Revolution a reasonable hope that they might live to see the day when the Government founded upon their valor would cease to pay them in depreciated paper whose value from time to time they had no means of knowing.

Those who feared that the sentiments of that speech were not official in their character soon found relief in the annual message of the President of the United States, who spoke as follows:

"It is our first duty to prepare in earnest for our recovery from the ever-increasing evils of an irredeemable currency without a sudden revulsion, and yet without untimely procrastination. For that end we must, each in our respective positions, prepare the way. I hold it the duty of the Executive to insist upon frugality in the expenditures; and a sparing economy is itself a great national resource. Of the banks to which authority has been given to issue notes secured by the bonds of the United States we may require the greatest moderation and prudence, and the law must be rigidly enforced when its limits are exceeded. We may, each one of us, counsel our active and enterprising countrymen to be constantly on their guard to liquidate debts contracted in a paper currency, and by conducting business as nearly as possible on a system of cash payments or short credits to hold themselves prepared to return to the standard of gold and silver. To aid our fellow-citizens in the prudent management of their monetary affairs the duty devolves on us to diminish by law the amount of paper money now in circulation. Five years ago the bank-note circulation of the country amounted to not more than two hundred millions; now the circulation, bank and national, exceeds seven hundred millions. The simple statement of the fact recommends more strongly than any words of mine could do the necessity of our restraining this expansion. The gradual reduction of the currency is the only measure that can save the business of the country from disastrous calamities; and this can be almost imperceptibly accomplished by gradually funding the national circulation in securities that may be made redeemable at the pleasure of the Government."

Such sentinels as these are worthy the successor of Jackson, whose valor at New Orleans may have been equaled in the late war, but whose superior valor in the Cabinet against a corrupt internal enemy in the shape of a defiant combination of irredeemable paper money advocates has yet to be equaled. It stands out as an example to us, who are members of this Congress, where we see the same class of men who always bullied and often cornered us in the late war striving to perpetuate their power. If southern traitors are not to be forgiven, what is to be done with the worse than traitors of the North who speculated upon our calamities, monopolized all the necessaries of life, and did their best to ruin the credit of the country? You passed laws against certain men at the South. They resisted them. You chastised them into submission; and, repentant, they are now thronging this city for pardons. You passed a law against the gamblers in gold. Like Napoleon, when he sent Maximilian to Mexico, these gamblers knew that you could not carry on more than one war at once; so they nullified your law and defied you. What Jeff. Davis could not do these gold gamblers did. You passed your law on the 17th of June. They made you repeal it on the 2d of July; and you never crossed their track again, although at times you seriously doubted whether the best interests of the country did not require that you should reverse your guns and fire upon those who were laboring to destroy your financial system.

The annual report of the Secretary of the Treasury accorded with the President's message, and was a reflex of the Fort Wayne speech. Once again he sent a thrill of joy throughout the nation, and the sons of toil thought they could number the days of depreciated paper money. He says:

"The rapidity with which the Government notes can be withdrawn will depend upon the ability of the Secretary to dispose of securities. The influences of funding upon the money market will sufficiently prevent their too rapid withdrawal. The Secretary, however, believes that a decided movement toward a contraction of the currency is not only a public necessity, but that it will speedily dissipate the apprehension which very generally exists, that the effect of such a policy must necessarily be to make money scarce and to diminish the prosperity of the country."

Since the earliest days of General Jackson's administration I have carefully read the annual report of every Secretary of the Treasury, and noticed its effect upon the public mind. I never was so pleased with a report of the kind, and I never knew a report that so universally met with public approbation. After that report had been published long enough to be appreciated in the most distant parts of the Republic, this House took action. It was upon the 18th of December, a memorable day, that the members of the House of Representatives almost unanimously assured the people that upon the currency, as well as upon the preservation of the Union, its members were disciples of Andrew Jackson. The vote was not a mere general indorsement of the Secretary's report, which might be construed to mean everything else but the very thing it did mean. It was specific. It hit the nail directly upon the head. It could have hit it nowhere else but where it did and have been of any service to the people. This House did not give a mere general indorsement of a resumption of specie payments, but it indorsed "a contraction of the currency" as a means thereto. And there is no other way in which you can bring about a resumption. For whenever more paper money circulates than is wanted by the regular demands of business the market is excited, speculation is encouraged, a panic follows, banks suspend, and gamblers revel in the calamities of the people who have lost every standard of value. Every member of this House present

but six, on the 18th of December, voted for the following resolution. And it must be remembered that we were then fresh from our constituents, and sympathized with them. Shoddy had not then sent on its lobby.

"Mr. ALLEY (the rules having been suspended for that purpose) submitted the following resolution, namely:

"*Resolved*, That this House cordially concurs in the views of the Secretary of the Treasury in relation to the necessity of a contraction of the currency, with a view to as early a resumption of specie payments as the business interests of the country will permit; and we hereby pledge coöperative action to this end as speedily as practicable.

"The same having been read,

"Mr. ALLEY demanded the previous question; which was seconded, and the main question ordered and put, namely, Will the House agree to the resolution?

"And it was decided in the affirmative—yeas 144, nays 6, not voting 30.

"The yeas and nays being desired by one fifth of the members present,

"Those who voted in the affirmative are:

Mr. John B. Alley,	Mr. And'w J. Kuykendall,
William B. Allison,	Addison H. Laflin,
Oakes Ames,	George R. Latham,
Sydenham E. Ancona,	George V. Lawrence,
George W. Anderson,	William Lawrence,
James M. Ashley,	John W. Longyear,
John D. Baldwin,	Samuel S. Marshall,
Nathaniel P. Banks,	Gilman Marston,
Abraham A. Barker,	James M. Marvin,
Portus Baxter,	Joseph W. McClurg,
Fernando C. Beaman,	Walter D. McIndoe,
Teunis G. Bergen,	Samuel McKee,
John Bidwell,	Donald C. McRuer,
John A. Bingham,	Ulysses Mercur,
Henry T. Blow,	George F. Miller,
George S. Boutwell,	James K. Moorhead,
Benjamin M. Boyer,	Justin S. Morrill,
Augustus Brandegee,	Samuel W. Moulton,
James Brooks,	Leonard Myers,
John M. Broomall,	William E. Niblack,
Hezekiah S. Bundy,	John A. Nicholson,
Reader W. Clarke,	Thomas E. Noell,
Sidney Clarke,	Charles O'Neill,
Roscoe Conkling,	Godlove S. Orth,
Burton C. Cook,	Halbert E. Paine,
Shelby M. Cullom,	James W. Patterson,
William A. Darling,	Sidney Perham,
Henry L. Dawes,	Charles E. Phelps,
John L. Dawson,	Frederick A. Pike,
Joseph H. Defrees,	Tobias A. Plants,
Columbus Delano,	Hiram Price,
Henry C. Deming,	William Radford,
Charles Denison,	Samuel J. Randall,
Nathan F. Dixon,	William H. Randall,
John F. Driggs,	Henry J. Raymond,
Charles A. Eldridge,	Alexander H. Rice,
Thomas D. Eliot,	John H. Rice,
John H. Farquhar,	Burwell C. Ritter,
Thomas W. Ferry,	Edward H. Rollins,
William E. Finck,	Lewis W. Ross,
James A. Garfield,	Lovell H. Rousseau,
Henry Grider,	Philetus Sawyer,
John A. Griswold,	Glenni W. Scofield,
Robert S. Hale,	George S. Shanklin,
Aaron Harding,	Samuel Shellabarger,
Abner C. Harding,	Charles Sitgreaves,
Roswell Hart,	Ithamar C. Sloan,
Rutherford B. Hayes,	Rufus P. Spalding,
James H. D. Henderson,	John F. Starr,
William Higby,	Thomas M. Stilwell,
Ralph Hill,	Myer Strouse,
John Hogan,	Stephen Taber,
Sidney T. Holmes,	Nelson Taylor,
Samuel Hooper,	Anthony Thornton,
Giles W. Hotchkiss,	Lawrence S. Trimble,
Asahel W. Hubbard,	Row'd E. Trowbridge,
Chester D. Hubbard,	Charles Upson,
Demas Hubbard,	Henry Van Aernam,
John H. Hubbard,	Burt Van Horn,
Edwin N. Hubbell,	Robert T. Van Horn,
James R. Hubbell,	Daniel W. Voorhees,
Calvin T. Hulburd,	Hamilton Ward,
James Humphrey,	Samuel L. Warner,
Ebon C. Ingersoll,	Elihu B. Washburne,
Thomas A. Jenckes,	William B. Washburn,
Philip Johnson,	Martin Welker,
George W. Julian,	John Wentworth,
John A. Kasson,	Kellian V. Whaley,
William D. Kelley,	Thomas Williams,
John R. Kelso,	James F. Wilson,
Michael C. Kerr,	Stephen F. Wilson,
John H. Ketcham,	Edwin R. V. Wright.

"Those who voted in the negative are:

Mr. John Baker,	Mr. Benjamin G. Harris,
Amasa Cobb,	Green Clay Smith,
Ephraim R. Eckley,	M. Russell Thayer."

I leave it for every man to make his own record in this House, and I believe when a man comes fresh from home he makes his best record. I have been ordinarily successful in public life; and if I was asked in my dying hour to say how it was I had been so successful, so far as I have been successful, I would say to the young men of this Republic that I owe it to nothing but my fidelity to my constituents. And when members come here fresh from their constituents, knowing their feelings, knowing their wants, and place themselves upon record, it is not for them to rise here and explain how they came to give such votes. Their explanations are due to their constituents. No power on God's earth can step in between me and those men, whatever you see fit to call them, who went up to the polls and cast their ballots in my favor.

The veto of the United States Bank bill by General Jackson did not fall upon the speculators of this country with more crushing force than did this resolution, appalling enough to them in itself, but perfectly crucifying with its immense majority. When the gold gamblers made their raid upon this House two years ago, they had but fourteen majority to overcome. The vote stood 76 to 62. Besides, the attention of Congress was engrossed in the war. But now there is no war, and the majority to overcome is one hundred and thirty-eight. Then they had the prestige of the high price of gold. They predicted that the fall would be calamitous; that it would ruin every one. But now, we have the prestige of its comparatively low price. It has fallen. It has fallen three times as far as it has got to fall; and the injurious effects cannot be individualized, while on every side the advantages are perceptible. Again, our banks will have a gold dividend in July and another in January next, and many have gold-bearing bonds in excess of their circulation, and they can buy back their own gold for less than one quarter of the price at which they sold it. Besides, the banks have an advantage from distant and diverse circulation, such as was never enjoyed by banking institutions of any age or country. What large business man does not daily receive bills upon banks in almost every State in the Union? I mention all these things to show under what great disadvantages our alarmists are laboring. It is up-hill work for them to frighten any one after the progress we have made toward resumption, over three quarters of the distance having been traveled. The passage of this resolution so unanimously has been a notice to all men of the policy of the Government; and if they have been prudent, they have prepared themselves for a gradual return to a fixed standard.

But the policy of the Government was proclaimed even earlier than the Fort Wayne speech. For on the 9th of March, five days after the inauguration, the Secretary of the Treasury made a speech to the heads of bureaus, in which he said:

"My chief aim will of course be to provide the means to discharge the claims upon the Treasury at the earliest day practicable, and to institute measures to bring the business of the country gradually back to the specie standard, a departure from which, although for the time being a necessity, is no less damaging and demoralizing to the people than expensive to the Government."

After this speech, I think all heads of bureaus not concurring with it should have resigned their places. The moral rule is that a subordinate remaining under his chief one moment after he believes him to be in the wrong, becomes a *particeps criminis*. After that speech there should have been no pulling at both ends of the rope at the Treasury Department. The national Treasury should not be a house divided against itself. Some people have a great deal to say about Moses in the White House about these days; but I wish there was less mosaic in the Treasury Department. I do not like to see the responsible head of the Treasury Department send a recommendation in at one door of this House while irresponsible heads of bureaus enter at another to oppose it. In sporting-fields it is customary to give the hare a little the start of the hounds; but I thought one day here that the hounds in their impatience had got the start.

In accordance with this address so early made, in accordance with the Fort Wayne speech so universally approved, in accordance with the message of our President, reflecting the views of General Jackson, in accordance with the annual report of the Secretary of the Treasury, which no man in this House has yet dared to assail, in accordance with the almost unanimous vote of this House, the Committee of Ways and Means have reported a bill. The intention of that bill is to make the Secretary of the Treasury master of the situation. He is more interested than any other man can be in bringing the paper of the Government to par. He has contracts to make, debts to pay, and loans to negotiate. He wants a stable market. He cannot rely upon even his own estimates, when it is in the power of a few men to inflate prices in view of his necessities. His personal pride and his official interest alike favor the smallest possible margin between specie and paper, while speculators, stock jobbers, and all kinds of gamblers fatten upon the largest margins. Such persons stand upon a par with sound business men and the laboring masses in a natural condition of things. But the moment you depart from that condition the chances are all in their favor. Sound business men and operatives are lost in fictitious values, while the further you depart from them the more speculators, stock jobbers, and gamblers are at home. They want to crowd down the value of paper to buy, and then they want to crowd it up to sell. They combine to prevent competition, and hope to control the market. If the Secretary wants a loan, they want him to negotiate with them; and the same with States, counties, and individuals. They say it would ruin the country to resume specie payments. They would say the same if you should propose to fix the value of Government paper at what it now is. You could not name a value that would suit them. Stability is their natural enemy. Stability is the friend of the Government at large, and of the people individually. Such persons fear no one but the Secretary of the Treasury. Within the last few days they have combined to run gold up to 140, and many of them are paying large daily interest for carrying gold until this loan bill can be defeated, when they hope to force it up even above 140. New York papers charge that the Secretary of the Treasury has been obliged to sell gold in large quantities to break up such combinations. He has not sold near as much as is attributed to him; but so long as he has the power to do it, it is all the same to them. They ask us to tie the hands of the Secretary of the Treasury, so that they can gamble in gold as recklessly as they did during the war. They object to the bill of the committee because it gives him too much power; and the opponents of the bill in this House, while pretending to be for restoring the people their lost standard of value, place themselves in the attitude of certain northern men who professed to be for the late war, but were opposed to every measure for carrying it on. These men profess to be opposed to a suspension of specie payments, but you cannot get them to support any bill which leads to resumption.

Now, when I have an object to accomplish I must use all honest appliances necessary therefor. If we expect the Secretary of the Treasury to compete successfully with the most desperate body of men in the world, we must confer upon him all the necessary powers. This bill was reported for that purpose, and is objected to because it will accomplish it. Give me a bill that will more effectually attain the same object and I will favor it. Show me another man more capable of doing the work than the present Secretary of the Treasury and I will follow him. I hear of but one other man connected with the finances of this country who has a plan in opposition to that of the President, of the Secretary of the Treasury, and of this House. And that I hear only from common report and the newspapers. I refer to that of the Comptroller of the Currency, which is said to be identical with that so unceremoniously kicked out of this House on Monday, the 5th. Out of respect to the poor soldiers who were numerous that day in the galleries, I was glad to see any proposition which indirectly tended to reduce their pay and pensions by diluting the currency met at the threshold. The question was raised on its reception, and when we consider what questionable propositions this House has received at this session, the rejection of a bill by 114 to 17 must be a very withering rebuke; and

some of the seventeen must have voted as they did out of regard to the very commendable principle of giving every proposition a hearing. That plan was the one often resorted to by dishonest dealers who increase the quantity of their liquors by adding water or of their sugar by adding sand. It may be better compared to that of the quack doctor, who, after you have taken bottle after bottle of his medicine, advises you to "keep taking."

Mr. PRICE. I would ask the gentleman from Illinois [Mr. WENTWORTH] whether, in his opinion, adding water to liquor injures it?

Mr. WENTWORTH. If you sell it all as water, I have nothing to say. [Laughter.] But if you sell it to the boys as all whisky, adding water to it is another thing.

If it be true that the Comptroller of the Currency is engaged in thwarting the efforts of the Administration to bring about the earliest practicable return to par values, then I recommend an appropriation be made to furnish his room with the History of the French Assignats and also of John Law's "South Sea Bubble."

Mr. PRICE. I would ask the gentleman if we are to understand that he charges the Comptroller of the Currency with an attempt to thwart a return to specie payment or to dilute the currency, to use his own words.

Mr. WENTWORTH. I wish to say that day after day I have seen the Comptroller of the Currency in this House; I have seen him talking with members; I have seen him talking with the lobby, when my own constituents, who have come on here at great expense to see him on official business, could not get him to attend to it, because he was here, not at his desk.

Mr. PRICE. If the gentleman will allow me, that does not answer my question. I insist that the gentleman shall answer the question whether he charges the Comptroller of the Currency with an attempt to dilute the currency—that is his language—or to thwart the return to specie payments? It is due to the Comptroller of the Currency that that question should be answered directly.

Mr. WENTWORTH. I will say that I have a resolution partly written calling for a select committee to examine into this matter; and I pledge myself to the gentleman from Iowa [Mr. PRICE] that if he will not offer such a resolution, I will offer one which will bring the Comptroller of the Currency before a committee to testify in this matter.

Mr. PRICE. Until that time I submit to the gentleman from Illinois that it would be more in accordance with propriety and strict justice not to make a wholesale charge against a public officer who stands high in the estimation of the people, until the matter can be fully examined.

Mr. WENTWORTH. All I have to say to the gentleman is this: that when a man holds an office as a subordinate, and will not resign when he knows he differs from his chief, then I do not think he is doing right. I think that while I know the opinions of the chief, I know the opinions of those on the other side.

Mr. PRICE. Then the House is to understand that the gentleman from Illinois does not make any charge against the Comptroller of the Currency.

Mr. WENTWORTH. I will tell you what——

[Here the hammer fell.]

Mr. PIKE obtained the floor.

Mr. ASHLEY, of Ohio. Will the gentleman from Maine [Mr. PIKE] yield in order to enable me to move that the time of the gentleman from Illinois be extended?

Mr. PIKE. Certainly.

Mr. ASHLEY, of Ohio. Then I move that the time of the gentleman from Illinois [Mr. WENTWORTH] be extended to enable him to conclude his remarks.

No objection was made.

Mr. WENTWORTH. I am obliged to the House for this courtesy, and I will try and not trespass upon it too long.

To the gentleman from Iowa [Mr. PRICE] I will say that day after day I have been in this House, and have seen the Comptroller of the Currency here. His relations and mine are so friendly that I know that if he does not agree with what I say he will speak to me about the matter. And I hope that my friend from Iowa, who is so sensitive upon this subject—whether his sensitiveness is of the Pickwickian kind or some other I cannot tell—if he will be writing a resolution calling for the appointment of a select committee to investigate this matter, while I go on with my speech, I will offer it for him when I get through.

Mr. PRICE. In reply, I must say one word. My remarks were not Pickwickian. I only said what I did because the gentleman whom my friend from Illinois has assailed is not here and cannot be heard.

Mr. WENTWORTH. What! is he not here? Where has he gone? He was here a few moments ago. [Laughter.]

Mr. PRICE. Well, sir, whether he is here or not, every one knows that he cannot be heard here in his own defense. If the gentleman from Illinois has any proof to present of either of the two charges which his remarks would imply, I have not another word to say.

Mr. WENTWORTH. I am not the man to attack another behind his back; and if the Comptroller of the Currency had not attacked Secretary McCulloch while the latter was where he ought to be, at his desk, I would not have said what I have said, although the Comptroller did come to the same conclusion as the New York gamblers.

I was recommending, when interrupted, an appropriation to furnish the room of the Comptroller with the History of the French Assignats, and also of John Law's "South Sea Bubble."

It might be well, also, to add a history of the paper-money system of the late southern confederacy, where the secretary of the treasury cured all financial diseases with the hair of the same dog and advised all his patients to "keep taking." Resumption by expansion is the old story of the frog who was to get out of the well by jumping up two feet every day and falling back three every night.

The question is asked if it is sound policy to take up legal tenders that bear no interest, and replace them with bonds bearing interest; to which I answer promptly, no, if you can keep your legal tenders at par. But this is not the real question. It is only asked in order to throw dust in the eyes of the people. It is a Wall-street argument, and the people should so regard it. The real question before the country is this: shall our Government, now that the war is over, continue to pay the pensioners of the Revolution, of the war of 1812, of the war of the rebellion, all its employés and all its creditors in depreciated paper, when by borrowing a little money at six per cent. it can bring its paper to par? Who in the Government service anywhere, from highest to lowest, has not an application before us for increase of pay? And when you look at such petitions you find they are all based upon causes originating in the depreciation of Government paper, and that the object of their petition can be fully attained by its appreciation. Suppose A to be a very wealthy man in his locality, and to have a very large number of employés. It is all right for him to give them as many of his demand notes without interest as they please to take. At length he has driven out all other kinds of currency; and his employés, having use for currency abroad, find they cannot use his notes at par. They tell him he has got too many out, more than the demands of the locality require. They ask him to contract his issues so as to keep his notes at par all the time. Now, is this man to inquire whether it is policy for him to be honest? Or is it not his duty to go and borrow money upon interest sufficient to make his paper good wherever it has found its way?

Originally I would have favored Government's putting out all the non-paying interest notes that it could keep at par; but I am not responsible for the condition of our financial affairs, nor is the present Secretary of the Treasury, nor is any one else except the rebels who got up the war, and that class of northern financiers who were trying to embarrass their country all through its existence. Had we known at its outbreak of its extent and expense we might have had a system of finance more uniform. As it is we have all sorts of systems; and there is no member of this House who can carry them all in his head. And the Secretary of the Treasury is like the superintendent of a long line of railroad. He cannot change his connections at any one point without first studying to avoid collisions at all the others. He has specie for imports and paper for excises. Some interest and some principal is payable in specie, and some in paper. Some bonds are registered and some have coupons. Some are due at once and some at different times for forty years. Some bear no interest and some bear all rates, simple and compound, up to seven and three tenths, and this interest is payable in nearly all the months of the year. The same necessity that drove the General Government to borrow money also drove the States, counties, cities, and towns to the same thing. And the Secretary has to compete with them all in addition to his other embarrassments. But his greatest trouble arises from our anomalous system of banking, which originated in our unavoidable difficulties, and for which no one is to blame except as above. Our banks can neither suspend nor resume. They are prohibited by law from suspending, and yet they are virtually in suspense; and you cannot make them resume while legal tenders are less than par. It is too late to change this system now, nor would it be fair to blame any one for it. We must take it exactly as we find it. It would be difficult to bring about a resumption of specie payments without the coöperation of the banks, and that coöperation cannot be secured without giving power to the Secretary of the Treasury to take up such an amount of legal tenders as will leave the balance at par. I do not expect this can be done all at once, nor even in a year; but I do believe that we can approximate resumption by such sure degrees that an afflicted people can feel certain that the days of the India-rubber yard-stick are numbered. I am one of those who believe it policy for Government to withdraw legal tenders to such an amount as to make the banks pay par money when they have legal tenders. But I make not the issue upon this policy, except upon the understanding that honesty is the best policy. I ask if it is honest in the Government to pay its creditors in depreciated paper when it can get money at six per cent.? And there cannot be any war between sound Government banks and the Secretary of the Treasury, because they hold his legal tenders for the redemption of their notes; and when he brings his legal tenders up to par, their notes are consequently at par. So I look upon it that all national banks that are solvent and wish to continue so are the natural allies of the Secretary of the Treasury. One of the oldest and wealthiest bankers in the United States thus writes me:

"Pay no attention to outside pressure, so far as the national banks are concerned. We have paid for no pamphlets, no money articles in newspapers, and no lobby. It is the speculators, the shoddics, the lame ducks, that are belaboring Congress. The national banks will be ready for specie payments as soon as the Secretary of the Treasury is. Give him a good, strong bill, and have no fears. He cannot afford to quarrel with solvent banks, nor they with him. There is no way to separate their legitimate interests."

The principal argument against the pending proposition is the old one—the *dernier ressort* of speculators nailed to the wall, namely, ruin. "It will ruin the country," is the climax of their arguments. O Ruin! where are the charms that brokers have seen in thy face? O Ruin! where have you been since General Jackson died? I was accustomed to hear a great deal of you from 1832 to 1840. O Ruin! where were you when gold fell from 287? Why do you come to haunt us just at this time? Cannot you stay away until we get gold down to 125, for the sake of more even change? The tax upon labor and capital for irredeemable

paper will then be very convenient to reckon. It will be exactly twenty-five per cent. Before members of Congress pay much attention to this stale cry of ruin, let them read the debates of Congress all through the memorable contest between the people, headed by General Jackson, on one side, and the irresponsible bankers, headed by Nicholas Biddle, on the other. By the way, I could, if I had the time, convict some of these ruin manufacturers, whose pamphlets have been placed upon our desks, of plagiarism. Neither their language nor ideas are new upon the subject of ruin. They are rather antiquarian. Mr. Biddle was not only a very able man himself, but he had in his aid some of the ablest lawyers and ablest writers in the country, (and some of them appear to be writing now;) and their gigantic efforts to alarm by prophesying ruin had so little effect upon the masses of the people then that even the old women have no fears from it now. I feel very confident that if the oldest of the widows of our revolutionary soldiers should get her next payment in par money, she would not be at all frightened even if she should read all these circulars and pamphlets upon ruin that have been sent to us, or if she should hear all the evil predictions of that immense lobby that so thronged this Hall for several days that my colleague [Mr. Ross] had to make repeated calls upon the Speaker to enforce the rules which cast them out of this temple of liberty as our Saviour cast their fathers out of His temple.

There has been one class of men here lobbying against specie payments that surprised me very much. I allude to the importers. As they paid for their goods in foreign exchange and for their duties in gold and silver, I supposed they would rejoice in having the paper of their Government brought to par. But they know that irredeemable paper begets extravagance, and that men who become suddenly rich by speculating upon other people's necessities at once outgrow the plainness of American manufactures. The suddenly rich, especially if they are illiterate, are the best patrons of importers. Such persons rejoice in diamonds and laces; can drink no liquors without a certificate of their importation, and always travel in their best clothes, fresh from a foreign market. These importers think that a bloated currency bloats the fashions. They know that the golden eagle of this Republic is at war with monarchical diamonds. The importers are very few in numbers, and as a class are very rich, and Government expends millions annually for their protection on the seas. Where ever their commerce floats there go our ships of war for their defense, yet repeatedly have we seen these millionaires about this Hall lobbying for the debasement of our currency and the privilege of paying the guardians of their property over the dangers of the ocean in money under par. It would offend these gentlemen much to be compared to ordinary stock gamblers, yet in their present vocation I do not see how they are to claim exemption from the old rule, that a man is known by the company he keeps. There is one class of men opposing this bill with whose misfortunes I have much sympathy. I allude to those who bought large stocks at speculative prices. But I fear that their condition is so helpless that I cannot aid them in any other way than by supporting the bill of the gentleman from Rhode Island. I allude to the bankrupt bill. It is, however, too expensive as it now is. A bankrupt law should be in every sense the poor man's law. It should be for the man who has lost his all by sickness, by fire, by indorsement, or any unavoidable calamity, as well as for the speculator who has saved assets enough to pay enormous expenses. The advantages of such a law should come to the poor without price. The vilest criminal always has gratuitous counsel assigned him when he is destitute of means, and why hold honest destitution at the mercy of its creditors because it has nothing for the fees of judges, clerks, and attorneys? The old law was wiped from the statute-books in indignation on account of its expenses. Men have been speculating in everything. They have undertaken to form such combinations as would control all markets. They have been especially cruel in their attempts to monopolize all the necessaries of life. They bought at high prices. They bought when gold was at nearly 300, and they hoped that such a calamity would befall our soldiers in the field as would inflict a still greater one upon their families at home by forcing prices still further beyond their reach. God bless our soldiers for crushing the traitors at the South and for bringing Government credit so near to par in spite of northern speculators, who were fattening upon their country's calamities! Let those soldiers now see to it that when they get their pensions they get par money. A man learns much from little children, who at play throw their balls in the air and cry:

"What goes up must come down
Upon your head or on the ground."

Gold has gone up, and with it the prices of all the necessaries of life. It has now fallen over three quarters of the distance it has got to fall. Every one knew it would fall from some point; and when it commenced falling it was the duty of people to get their heads out of the way so far as they could. If a person has been rendered bankrupt by the fall so far, there is nothing that Congress can do for him except to pass a bankrupt law. He must wipe out and begin anew. If a person has not been injured by the fall to this date, (and very few have,) he need have no fears. Let him only be prudent and he will reach bottom in perfect safety. The Secretary of the Treasury has proven himself a cautious man. He would not be precipitate if he could, and he could not if he would. It is because I have this confidence in him that I favor this bill. For the same reason that Congress gave full powers to General Grant when he went out to raise our flag in the rebel States, I am for giving Secretary McCulloch full powers when he goes out to raise our credit. I was not in favor of General Grant's conducting his war upon peace principles, nor am I in favor of the Secretary's doing the same thing. The people are in favor of the earliest restoration of their standard of values, and how not to do this, while pretending to be for it, is not the question with me. If it were, I would vote for striking the legal-tender clause out of this bill; and I would expatiate upon the folly of paying interest upon money in order to redeem our depreciated paper. But "how to do it" is my question; and as there is no other plan before Congress for doing it, and as the present Secretary of the Treasury has my implicit confidence, I should be false to my own convictions of right if I did not strengthen his hands in every possible way.

Mr. KASSON. Will the gentleman allow me to read, in support of his views, a brief extract from a letter from an eminent merchant of New York?

Mr. WENTWORTH. I am occupying the floor by the courtesy of the House. I have no objection to yielding to the gentleman if it be the pleasure of the House.

The SPEAKER. The gentleman has the right to yield if he desires to do so.

Mr. WENTWORTH. I yield to the gentleman.

Mr. KASSON. My object is to show that the industrial and mercantile interests of the country are with the Secretary of the Treasury on this question, and are even in advance of the Government.

This gentleman says:

"Since seeing you I have made further inquiries in relation to the transactions in merchandise based upon gold, and I find my opinion confirmed.

"Teas, both from first and second hands, (until in fact it reaches the smaller grocers and jobbers,) are almost invariably sold for gold. The imports from the East Indies, gunny-cloth, bags, linseed, &c., are also usually sold for gold. Coffee is usually likewise on a gold basis. Dry goods, the imports from England and the Continent, are on the contrary very generally sold for currency, as are also iron, raw silk, and other European articles of import.

"From figures you no doubt possess, you can see that the transactions in articles having gold for a basis are immense; and it shows to my mind that the merchants are preparing for a return to a specie basis whenever the Government considers it judicious itself to return to the 'hard-pan system.'"

I read this for the purpose of showing that the people are already moving, even in advance of the Government, for a return to a specie basis in their business transactions.

Mr. WENTWORTH. I am much obliged to the gentleman from Iowa for his suggestion, and will now proceed with the remarks which I was submitting.

Many of the most experienced business men, after doubling their capital by the rise in gold, preferred to retire rather than replenish their stocks at high prices and run the risk of a fall in gold. Their personal enterprise as well as their pecuniary capital have been dormant ever since, awaiting with impatience for a time when business can be resumed upon a reliable foundation. There are hundreds of the most enterprising captalists with their millions of money in this situation, and we want some of it in the manufacturing business at the West. There are also thousands upon thousands of the most honorable young men who lost their old business relations by going to the war, who wish to form new ones as soon as they can safely do so, but they are too well informed to open shop upon a falling market. They have read the parable of the man who built his house upon the sand. They want to build upon the rock of a stable currency, where honest industry and skill can calculate upon reliable profits. The best measure of the wealth of a country is its productive industry. What every nation wants is to have everybody producing something. One man's judgment is about as good as another's as to the proportion between those who live by their wits and those who live by their work. I estimate that not more than half of the able-bodied men are producing anything, that is, adding anything to their country's wealth. I say it with shame for my country, that about one half of its able-bodied men are mere drones; or to be more explicit, I say that the wealth of the country has not been increased at all by the industry of one half of its able-bodied men. Hence, I argue that he is a public benefactor who sets any idle man at work. You can set thousands of men now idle at work by giving them reliable landmarks.

Take the case of office-seekers. I estimate that there are one hundred office-seekers for every office in the country. I do not refer to the industrial classes who would take office if offered them, but who nevertheless continue in their industrial pursuits; but I refer to those who earn nothing, do nothing, add nothing to their country's wealth. The country has no conception of the manner in which members of Congress are annoyed upon this subject. One half of our time is employed in home correspondence in relation to it. The other half ought to be devoted to public business. But it is impossible. Why so? Because we are awakened in the morning early and kept up late at night by men of former position, of actual wealth, of evident qualification, and of apparent honesty. We find such all over this city in the greatest abundance. And when we ask them why they do not go into business, what do they say? Their answer invariably is, we intend to do so; but we want something to support us until business gets settled down upon a reliable basis. Now, this reliable basis has got to be furnished by the Secretary of the Treasury. He must set our people at work; he must set them at producing something. We cannot all be office-holders. We cannot all be non-producers. We must be earning something; and to do this we must invest either our capital or our labor, and it is unsafe to do this when a man knows not whether the dollar of to-day will be a dollar to-morrow. The Secretary of the Treasury, I honestly believe, can restore values to actual reliability, and transform hundreds of thousands of idlers to producers of wealth, if the members of this Congress will not turn their backs upon their own constitu-

ents to gratify the conceited wealth of greedy importers and the corrupt plans of desperate stock-jobbers.

If we adopt the policy of the Secretary of the Treasury, we shall wake up some morning and find the paper of our country at par. Every bank which has a legal tender will have the equivalent of so much in gold. Then we shall see Hamlet played with the part of Hamlet omitted. Then will ruin have come and nobody be hurt. I shall rejoice; but others will feel like fiends in pandemonium at the conversion of sinners.

I answer the objection to the Secretary's selling his bonds abroad by stating that, in his Fort Wayne speech, he himself says, "Our securities ought not to go abroad." And I have no hesitation in asserting that it will not be his fault if the bonds of our own people are not owned here at home by our own people. But supposing American money operators combine against him, is he to submit? Such combinations have existed, and there is but one way to prevent them, and that is to give him the entire world in which to negotiate. American brokerage is not that kind of American industry that particularly needs protection from foreign competition. Our bonds, however, were going abroad all through the darkest hours of the war, and are now going abroad, and will continue to go abroad.

With cotton restored to loyalty and our currency restored to honesty, worse calamities might befall our country than negotiating its bonds abroad, and especially if it could be done at five per cent. One per cent. will be worth saving from our interest account when our large importations shall be curtailed by the policy of the Government, and we shall have large balances from the sale of cotton. Complaints are reaching us from all quarters that Government bonds are not taxable for State, county, and municipal purposes. The same necessity that compelled the General Government to issue bonds compelled our States, counties, cities, and towns to do the same thing. And the bonds of the latter cannot be negotiated upon fair terms while the bonds of the General Government are in competition with them. The agricultural interest, which has suffered the most from the war, not only has to pay its usual proportion of the local taxes, but also that proportion which would fall to their wealthier neighbors if they had not invested all their means in the securities of the General Government.

Even the poor soldier who tills the soil is taxed, while the rich man who not only remained at home, but often opposed the war, is in this way exempted. Now, if one million of exempted bonds go abroad do they not leave room for one million of taxable bonds or their equivalent in other taxable property? To make this plain I will suppose, Mr. Speaker, that your property consisted last year of $1,000,000 in United States bonds. Your State, your county, your beautiful South Bend derived no advantages from you. But you have since sold them and invested the proceeds in Indiana bonds or other taxable property. Then the State, county, and municipal taxes of every man would be reduced in proportion to your increased taxation. And, supposing your bonds were sent out of the country, do you suppose that the real estate holders of Indiana, whose taxes were reduced thereby, would think any the less of you therefor? The people of that country are the happiest whose wealth is most equally diffused, where none are poor and none are rich. Competence, when attended by health and intelligence, is the best standard of happiness. Differences will arise under any forms of government in the means of men. But those differences should not be created by the Government itself. Especially should it not discriminate against the tillers and defenders of the soil.

"Princes and lords may flourish, or may fade,
A breath unmakes them as a breath has made;
But a bold peasantry, their country's pride,
When once destroyed, can never be supplied."

You may cry, "Shame upon a country that sells its bonds abroad!" but you cannot keep issuing non-taxable bonds without that cry being hushed to silence by the reactionary cry from every ballot-box in the land of "Shame, shame, eternal shame upon that country whose tax-gatherer passes by the palaces of the rich United States bond-holder to reach the sweat-bedewed crops of the cultivator of the soil!" You may rely upon the life tenure of the judges of the Supreme Court to resist the ultimate consequences of this cry. So once relied the men who bred God's image for the shambles. But God made vacancies where the black man had no rights which the white man was bound to respect; and God gave us Abraham Lincoln to fill them. The people of the United States will endure all and will suffer all that the necessities of the late war required; but now that the war is over, I believe that a great many very good men, feeling themselves oppressed by the non-taxation provision, desire to have their sale abroad encouraged; and in default of this, I believe they would struggle for a legal revolution in our United States courts if the policy of issuing bonds is to be continued. And I believe that there are a great many very bad men who are looking forward to the agitation of the injustice of this non-taxation provision in our Government bonds as a means of destroying the Government. It is only necessary for one State to insist upon the right to tax, and then for others to deny the right of the General Government to coerce a State, and you have another war upon a northern issue. Thus do disloyal men North and South hope again to have a pretext to shock civilization with their Alabama and Shenandoah piracies, with their Andersonville and Libby prisons, with their massacres at Fort Pillow and Lawrence, with their infamous vaccine matter, with their conflagrations of New York hotels and robbery of Vermont banks, with their attempts to spread the yellow fever and to burn Chicago, with their presidential assassinations, and with all those other barbarous acts that marked the pathway of slavery to its final damnation. Any attempt to tax our present bonds for any other than national purposes would be repudiation. Repudiation is only another name for nullification. Nullification was the first name of secession. Secession is treason. And the rope that ought to hang the last traitor should hang the first repudiator.

I think we should deal more frankly with the people touching the power to tax the securities of the United States. The rulings of the Supreme Court to this day have been all one way upon this subject. There never has been a dissenting opinion. In 1819 Chief Justice Marshall delivered the unanimous opinion of the court that the State of Maryland could not tax the branch of the United States Bank located within its dominions, because—

"It was an instrument employed by the Government of the Union to carry its powers into execution."

He said:

"If the States may tax one instrument employed by the Government in the execution of its powers, they may tax any and every other instrument. They may tax the mail; they may tax the mint; they may tax patent rights; they may tax the papers of the custom-house; they may tax judicial process; they may tax all the means employed by the Government to an excess which would defeat all the ends of Government. This was not intended by the American people. They did not design to make their Government dependent on the States."

Our bonds could not be taxed if the non-taxation clause was omitted from the face of them. Nor could they be taxed if the permission to tax was given by Congress. He who votes for a national custom-house, court-house, post-office, arsenal, or a United States bond, or other evidence of indebtedness of any kind, votes for something that cannot be taxed. Our lands are not taxable until Government parts with its title; and if Government ever buys back its own land, the right to tax at once ceases. Concede the power of a State or any municipal government to tax national property or indebtedness, and what would not have been done during the late war in States where the preponderance of power had been hostile to Mr. Lincoln's administration! Disguise it as you may, there is but one way to avoid this inequality of taxation, and that is to avoid running in debt. Evil, be thou my good! And until our already contracted debt is paid, it will be a temporary relief to send more of these bonds abroad while we are preparing for their gradual liquidation. For it is useless to think of leaving them for posterity to pay, as the non-taxation provision will force their payment within a single generation or work a revolution in the United States court. We should issue no more except for liabilities contracted prior to the 1st of July next. After that, we should pay as we go, and should try the experiment of paying all our expenses except those for interest from duties upon imports. Our interest alone should be paid by the internal revenue taxes; and the annual reduction of these very unpopular taxes, added to the unpopular non-taxation provision in the bonds, will be an unceasing stimulus to their extinguishment.

Now, I come to the liquidation of the principal of our indebtedness, which can be accomplished in one generation without adding a dollar to our taxes. Not a dollar. My first step would be the completion of the Pacific railroad, which has already been provided for, as a means of developing the mines. Where there is now one man in the mineral regions there would then be thousands. I would then set apart their almost inexhaustible proceeds exclusively for the extinguishment of the principal of our indebtedness. This will do the work, and our country, now free from slavery, in twenty years can rejoice in freedom from debt, and from all taxation save that indirectly raised by the tariff. To inaugurate such a policy let us strengthen the Secretary of the Treasury in his efforts to deliver us from a depreciated currency, from uncertain wages, and fictitious values.

Mr. PIKE resumed the floor.

Mr. J. L. THOMAS. If the gentleman will yield to me, I will move to adjourn.

Mr. PIKE. I have no objection to that.

Mr. J. L. THOMAS. I move that the House adjourn.

The motion was agreed to; and thereupon the House (at five o'clock and ten minutes p. m.) adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to appropriate committees:

By Mr. AMES: The petition of Robert Curtis, and others, for an increase of duties on imports.

Also, the petition of George A. Wright, and others, for the same object.

By Mr. BANKS: The petition of Josiah Copeland, of Massachusetts, for extension of patent for improvement in boot-crimps.

Also, the petition of S. P. Ruggles, for extension of patent for improvements in hand-stamps.

By Mr. DARLING: The petition of brewers in the city of New York, for reduction of duty on barley.

By Mr. EGGLESTON: The memorial of J. P. Spencer, D. A. Mitchel, and J. W. Barber, a committee appointed by the tobacco-cutters of Cincinnati, Ohio, praying for a reduction of revenue tax on smoking and manufactured tobacco.

By Mr. ELIOT: The petition of George F. Hatch, and others, citizens of Massachusetts, praying that certain conditions may be imposed upon rebel States.

Also, the petition of Julius Cushman, and others, citizens of Massachusetts, praying for amendment of the Constitution of the United States providing for election of President and Vice President by direct vote, and conferring power on Congress to prescribe qualifications for voters for President, Vice President, and Representatives in Congress.

By Mr. HOOPER, of Massachusetts: The memorial of Duff Green, in favor of an issue of four per cent. convertible bonds, and making them the basis for an issue of national bank notes.

By Mr. HUBBARD, of Iowa: The petition of Warner H. Curtis, and others, citizens of Waterloo, Iowa, asking for the enactment of such just and equal laws for the regulation of inter-State insurances of all kinds as may be effectual in establishing the greatest security for the interests protected by policies, &c.

By Mr. JULIAN: The petition of Lieutenant George L. Heart, praying additional compensation for his services in the war for the Union.

By Mr. LAWRENCE, of Ohio: The petition of William Townsend, of Darke county, Ohio, asking that $300 commutation money be refunded to him.

By Mr. LYNCH: The petition of E. B. Allen, and 165 others, in favor of a law making eight hours a legal day's labor.

By Mr. MARVIN: The petition of Daniel Spraker, jr., and 31 others, of Montgomery county, New York, asking for a law regulating inter-State insurance.

Also, the petition of Mrs. J. H. Gross, and 41 others,

ladies of Johnstown, New York, praying for universal suffrage.

By Mr. MERCUR: The petition of 39 citizens of Montour county, Pennsylvania, praying for such revision of the tariff laws as will protect domestic labor and invite the investment of capital in home manufactures.

By Mr. PERHAM: The memorial of E. K. Harding, president of City Bank, Bath, Maine, and 30 others, presidents and directors of banks, and citizens, for the repeal of the law taxing State banks ten per cent. on their issue.

By Mr. RAYMOND: The petition of Ogden & Cohalon, of New York, praying for a reduction of the duty on barley imported from the British Provinces.

Also, a petition of the Adams Express Company praying for the passage of an act authorizing the issue to it of legal-tender notes in place of like notes destroyed by fire.

By Mr. WALKER: The petition of Colonel H. G. Blake, and 12 others, citizens of Medina county, Ohio, asking protection to American labor.

By Mr. WILSON, of Iowa: The petition of Thomas Meley, and 38 others, citizens of Jefferson county, Iowa, relative to the reconstruction of the rebel States.

IN SENATE.

FRIDAY, *March* 16, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a letter of the Treasurer of the United States transmitting accounts of receipts and expenditures for the service of the Post Office Department for the fiscal year ending June 30, 1865; which was ordered to lie on the table.

He also laid before the Senate a message from the President of the United States communicating, in compliance with a resolution of the 5th instant, information upon the subject of the supposed kidnapping of colored persons in the southern States for the purpose of selling them as slaves in Cuba; which was ordered to lie on the table, and be printed.

PETITIONS AND MEMORIALS.

Mr. SUMNER. I offer the petition of dressmakers in the cities of New York and Brooklyn, together representing over twenty thousand dress-makers in the United States, setting forth the destructive exactions of the present revenue law on dress-makers as one of the most severe and unjust applications of tax law ever witnessed. They do not charge that the unequal and unjust exactions of the law on dress-makers were designed by our legislators, but they presume the nature of the business was not fully understood by them, and they ask very earnestly for relief from Congress. I ask the reference of this petition to the Committee on Finance.

It was so referred.

Mr. SUMNER presented a petition of citizens of Peru, New York, praying Congress to impose such conditions upon the rebel States as shall punish treason at least with ineligibility to office and loss of power, and reward loyalty with confidence and honor, and which shall demand as an evidence of sincere loyalty and good faith on the part of those States the abolition of all distinctions in their constitutions and laws on account of color or race; which was referred to the joint committee on reconstruction.

He also presented a petition of citizens of New York, praying that amendments to the Constitution of the United States may be proposed providing for the election of President and Vice President by direct vote, and also authorizing Congress to prescribe by law the qualifications of voters for President, Vice President, and Representatives in Congress; which was referred to the joint committee on reconstruction.

Mr. WADE. I present a petition, numerously signed by citizens of Ohio, praying Congress—

I. Not to restore any State that has rebelled and warred against the United States to its place in power as a governing partner in the Union till adequate security has been obtained against its renewing the attempt to secede.

II. Not to allow any distinction on account of color or descent in the laws or municipal regulations of the District of Columbia.

III. To propose for ratification by the several States amendments to the Constitution, substantially as follows:

1. The Union of the United States of America shall be perpetual.

2. If, by the constitution or laws of any State, persons are denied on account of their race or color the right of voting equally with others, then those inhabitants of that race or color shall not be counted in determining its number of Representatives in Congress.

3. That the national faith of the Union shall be forever sacred, and any State which shall be hereafter admitted or restored to this Union shall thereby, as it becomes a partner in the national power and treasure, to assume its proportionate share of the national responsibilities.

4. That no State which shall hereafter be admitted into this Union, or which may have attempted to withdraw from it, shall make any distinction in its constitution, laws, or municipal regulations on account of color or descent, or any payments, either by the State or the United States, for emancipated slaves.

5. Congress shall have power to enforce these articles by appropriate legislation.

I move that this petition be referred to the committee on reconstruction.

The motion was agreed to.

Mr. GUTHRIE. When General G. W. Morgan was in command of the Cumberland Gap, being pressed by the confederate forces, he called out, under Colonel James S. Fish, five companies of the home guards in Rockcastle and Lincoln counties. They went into the service and served for two months. On an application to settle the accounts for this service the parties were advised that the law was not sufficient to authorize the accounting officers to settle them. I now hold in my hand their petition, praying that Congress will take the subject into consideration and authorize the settlement of their accounts. I ask that it be received and referred to the Committee on Military Affairs and the Militia.

It was so referred.

Mr. NORTON presented a memorial of the Winona and St. Peter Railway Company, of Minnesota, praying that certain additional duties paid by them on railroad iron imported into this country may be refunded; which was referred to the Committee on Commerce.

Mr. RAMSEY presented resolutions of the Legislature of Minnesota, asking for a grant of land to aid in the construction of a ship-canal connecting Lakes Superior and Portage; which were referred to the Committee on Public Lands.

Mr. KIRKWOOD presented a memorial of the Wapsenonoc monthly meeting of Friends, held near West Liberty, Iowa, on the 3d of March, 1866, praying that all persons may be made equal before the law, without regard to caste or color; which was referred to the joint committee on reconstruction.

He also presented a memorial of the Council Bluffs Board of Trade, of Iowa, praying that Council Bluffs may be made a port of entry; which was referred to the Committee on Commerce.

Mr. HOWE presented the petition of James S. Baker, and others, citizens of Green Bay, Wisconsin, praying for the enactment of such just and equal laws for the regulation of inter-State insurances of all kinds as may be effectual in establishing the greatest security for the interests protected by policies and promotive of the greatest good and convenience to all concerned in such transactions; which was referred to the Committee on Commerce.

Mr. MORRILL presented the petition of Charles R. Whidden, and others, citizens of Calais, Maine, praying for the passage of a law permitting the products of the forests of the State of Maine, upon the St. Croix river and its tributaries, owned by American citizens, and sawed or hewed in the Province of New Brunswick by American citizens, the same being manufactured in whole or part, to be admitted into the ports of the United States free of duty; which was referred to the Committee on Commerce.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. WILLEY, it was

Ordered, That the petition and other papers in the case of Otway H. Berryman, praying to be allowed an amount equal to the balance found against him on the settlement of his accounts as acting purser, on the files of the Senate, be referred to the Committee on Naval Affairs.

REPORTS OF COMMITTEES.

Mr. POMEROY, from the Committee on Public Lands, to whom was referred a bill (S. No. 168) to provide for the disposal of certain lands therein named, reported it with amendments.

Mr. RAMSEY, from the Committee on Revolutionary Claims, to whom was referred the petition of Sarah L. Spring and Harriet Spring, praying that they may be allowed the pension due their grandfather, William Barker, and also that they be allowed the half pay to which he was entitled under the resolution of Congress of October 21, 1780, granting half pay to the surviving officers of the Revolution, submitted an adverse report; which was ordered to be printed.

Mr. GRIMES, from the Committee on Naval Affairs, to whom was referred the memorial of E. Brown, jr., of the city of New York, praying additional compensation for services rendered as an artist with the naval expedition under Commodore Perry to Japan, asked to be discharged from its further consideration and that it be referred to the Committee on Claims; which was agreed to.

Mr. MORRILL, from the Committee on Commerce, to whom was recommitted a bill (S. No. 146) for the relief of Thomas F. Wilson, late United States consul at Bahia, Brazil, reported it with an amendment.

He also, from the Committee on the District of Columbia, to whom was referred a bill (H. R. No. 223) to amend an act to incorporate the Mutual Fire Insurance Company of the District of Columbia, reported it with an amendment.

Mr. HOWE, from the Committee on Commerce, to whom was referred a bill (S. No. 199) to establish the collection district of Port Huron, and to extend the district of Puget Sound, reported it with an amendment.

He also, from the Committee on Claims, to whom was referred the petition of Cyrus M. Harmon, praying for compensation for the destruction of the presses, stock, type, furniture, and material of his printing establishment at Ravenswood, Jackson county, West Virginia, by the rebel authorities in September, 1862, submitted an adverse report thereon.

Mr. CHANDLER, from the Committee on Commerce, to whom was referred a bill (S. No. 193) to amend an act entitled "An act granting lands to the State of Michigan, to aid in building a harbor and ship-canal at Portage Lake, Keewenaw Point, Lake Superior," approved March 3, 1865, reported it without amendment.

Mr. HARRIS, from the Committee on the Judiciary, to whom was referred a bill (S. No. 103) to reorganize the judiciary of the United States, reported it with amendments.

Mr. HARRIS. The same committee, to whom were referred a bill (S. No. 8) to reorganize the judiciary of the United States; a bill (S. No. 12) to define the jurisdiction of the district and circuit courts of the United States for the districts of California, Oregon, and Nevada; a bill (S. No. 45) concerning the judicial courts of the United States; and a bill (S. No. 134) in addition to the several acts to establish and amend the judicial system of the United States, have had them under consideration; and the provisions of these bills being provided for in the bill just reported, I move that the committee be discharged from the further consideration of these bills.

The motion was agreed to.

Mr. TRUMBULL. I suggest to the Senator from New York that I suppose simply discharging the committee will put all these bills upon the Calendar. As they all relate to the same subject and the committee have reported a bill to carry out the object of all these bills—they are all on one question of the reorganization of the judiciary—I suggest whether it would not be better to move to postpone them all indefinitely so as to take them off the Calendar.

Mr. HARRIS. I am satisfied with that course, and I make that motion.

The motion was agreed to.

BILLS INTRODUCED.

Mr. POLAND asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 205) fixing the salaries of the district judges of the United States; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 46) removing the restriction upon the payment of pensions to certain persons while in the service of the United States; which was read twice by its title, and referred to the Committee on Pensions.

He also asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 47) to provide for the publication of the medical and surgical history of the war of the rebellion; which was read twice by its title, and referred to the Committee on Printing.

COMMITTEE ON COMMERCE.

Mr. CHANDLER. I desire to ask the Senate to assign some day next week for the consideration of the business of the Committee on Commerce. There are several very important bills before this body from that committee, and I move that Monday next be set apart for the consideration of bills reported from the Committee on Commerce.

Mr. WADE. The chairman of the Committee on the Judiciary notified us yesterday that on Monday next he would move to take up the case of the Senator from New Jersey, [Mr. STOCKTON.]

Mr. CHANDLER. I will say Tuesday, then. I move that Tuesday next be set apart for the consideration of bills and reports from the Committee on Commerce.

The motion was agreed to.

REPRESENTATION OF SOUTHERN STATES.

Mr. STEWART. I ask leave to introduce a joint resolution. I should like to have the whole of it read, and I ask the privilege of explaining it after it is read.

The Secretary read it, as follows:

A joint resolution (S. R. No. 48) setting forth certain conditions upon which the States, the people of which have been lately in rebellion against the United States, shall be restored to their representation in Congress.

Whereas in the present distracted condition of the country it is eminently proper and necessary that all just and constitutional means should be employed for the quieting of popular excitement, the removal of unreasonable prejudices, and the obliteration of all hostile feeling growing out of the late unhappy civil war; and whereas one of the most prolific sources of unfriendly sentiment is the conflict of opinion existing on the subject of negro suffrage; and whereas it is now most evident that there is no probability whatever that Senators and Representatives in Congress from the States whose people were lately in insurrection will be allowed to occupy the seats to which they have been elected until said States shall have complied with certain fundamental conditions, a portion of which are hereinafter recited; and whereas it is unreasonable to expect the reëstablishment of harmony and good feeling so long as the eleven southern States whose people were recently in insurrection are prevented from resuming their ancient relations to this Government: Therefore,

Be it resolved by the Senate and House of Representatives of the United States in Congress assembled, 1. That each of said States, whose people were lately in insurrection, as aforesaid, shall be recognized as having fully and validly resumed its former relations with this Government, and its chosen representatives shall be admitted into the two Houses of the national Legislature whenever said State shall have so amended its constitution as, first, to do away all existing distinctions as to civil rights and disabilities among the various classes of its population by reason either of race or color, or previous condition of servitude; second, to repudiate all pecuniary indebtedness which said State may have heretofore contracted, incurred, or assumed in connection with the late unnatural and treasonable war; third, to yield all claim to compensation on account of the liberation of its slaves; and fourth, to provide for the extension of the elective franchise to all persons upon the same terms and conditions, making no discrimination on account of race, color, or previous condition of servitude: *Provided*, That those who were qualified to vote in the year 1860 by the laws of their respective States shall not be disfranchised by reason of any new tests or conditions which have been or may be prescribed since that year.

2. *Resolved*, That after the aforesaid conditions shall have been complied with and the same shall have been ratified by a majority of the present voting population of the State, including all those qualified to vote under the laws thereof as they existed in 1860, a general amnesty shall be proclaimed in regard to all persons in such State who were in any way connected with armed opposition to the Government of the United States, wholly exonerating them from all pains, penalties, or disabilities to which they may have become liable by reason of their connection with the rebellion.

3. *Resolved*, That in view of the importance of the thorough assimilation of the basis of suffrage in the various States of the Union, all other States not above specified be respectfully requested to incorporate an amendment in their State constitutions respectively, corresponding with the one above described.

4. *Resolved*, That in the adoption of the aforesaid resolutions it is not intended to assert a coercive power on the part of Congress in regard to the regulation of the right of suffrage in the different States of the Union, but only to make a respectful and earnest appeal to their own good sense and love of country, with a view to the prevention of serious evils now threatened, and to the peaceful perpetuation of the repose, the happiness, and true glory of the whole American people.

The PRESIDENT *pro tempore*. Does the Senator from Nevada ask for the present consideration of the resolution?

Mr. STEWART. I ask leave to say a few words in explanation. I want the joint resolution printed and referred to the committee on reconstruction, but before that question is put I ask unanimous consent to say a few words in explanation. I have been a careful observer of the current of events since Congress assembled, and I have come to the conclusion that a proposition of this kind corresponds with the prevailing sentiment in Congress and also in the country as indicated by the public press. I do not mean to express any opinion as to the propriety or impropriety of negro suffrage, which I have studiously avoided doing on all occasions during this session.

Mr. POMEROY. What about that "white man's Government?"

Mr. STEWART. About the white man's Government I said that the idea should not be scoffed at; that it was a prejudice in the country that no man had a right to disregard; and I still say so. But I was going on to explain that having come to the conclusion that this is the present attitude of Congress and of the country, and not having heard from the southern States upon the proposition, I think it but fair and just that the best terms Congress is willing to grant at this session should be submitted to the South for them to adopt voluntarily or to reject. This proposition avoids all the odious provisions which were attached to the other propositions that have been brought forward, in my estimation which appeared like coercion. It also avoids the long road of a constitutional amendment which must be contested upon northern battle-fields before the South will have an opportunity to be heard upon it.

This, or something of this character, is the only proposition that can be heard in the South upon which they can pass during this session of Congress. I do not pretend to be wedded to the particular provisions, but simply to the general proposition. I want it to conform exactly to the sentiment of Congress. I want the South to have an opportunity to vote upon it without embodying in it any of the provisions which they regard as odious or coercive. After the proposition has been discussed, if they refuse to adopt it it will be time enough to consider other propositions; but until they do refuse I think it is unjust to take from them the right to decide for themselves. I will say furthermore, in presenting this proposition, that I find it to be in accord with the telegram sent by the President of the United States to Judge Sharkey, which I am authorized to say Judge Sharkey informs me is genuine. It corresponds in spirit with that dispatch, and I have no reason to believe, from what the President of the United States has said heretofore, that he at all objects to it. I beg leave to read the dispatch referred to:

EXECUTIVE MANSION,
WASHINGTON, D. C., *August* 15, 1865.

Governor WILLIAM L. SHARKEY, *Jackson, Mississippi:*

I am gratified to see that you have organized your convention without difficulty. I hope that without delay your convention will amend your State constitution, abolishing slavery and denying to all future Legislatures the power to legislate that there is property in man. Also, that they will adopt the amendment to the Constitution of the United States abolishing slavery. If you could extend the elective franchise to all persons of color who can read the Constitution of the United States in English and write their names, and to all persons of color who own real estate valued at not less than $250, and pay taxes thereon, you would completely disarm the adversary and set an example the other States would follow. This you can do with perfect safety, and you thus place the southern States, in reference to free persons of color, upon the same basis with the free States. I hope and trust your convention will do this, and, as a consequence, the radicals, who are wild upon negro franchise, will be completely foiled in their attempts to keep the southern States from renewing their relations to the Union by not accepting their Senators and Representatives.

ANDREW JOHNSON,
President United States.

I will state that this letter was not sent to the convention for the reason that, as Judge Sharkey understood, the convention had refused to receive communications from him upon such subjects, so that the question never was presented to the people of that State or any other State. The President it appears did not feel himself authorized to submit the question to the people, or to demand it as a condition, because it was not one of the issues made in the war. He confined himself to those issues. This was a question outside on which the people of the South have had no chance of passing. The resolution, it will be perceived, in terms proposes to confer equal suffrage upon all persons; that the same tests shall apply to all persons with one exception; that is, that persons who were entitled to vote in 1860 under the laws of their respective States shall not under any circumstances be disfranchised. It leaves the States at liberty to fix any educational or property test that they may desire as regards other persons. That would apply to the young white population under twenty-seven years of age as well as the colored population. Both would be placed precisely upon the same footing as to educational tests. It would be unfair now, I think, to impose an educational test upon a man who had passed those years at which persons can with facility learn to read and write. This would place the young white men of the country as far as tests are concerned upon the same footing with the colored people for all future time. If the States desire to establish an educational test, it would only apply to young white men who are now under the age of twenty-seven, an age at which people can readily learn to read and write. A test of that kind cannot be applied under this resolution, thus excluding that mass of ignorance which all must confess would embarrass the operations of Government. At the same time it holds out the opportunity which appears to be desired on the part of the majority of Congress that the negro may have an opportunity ultimately to be enfranchised. At all events it submits the whole question to the South for them to determine, and we disclaim by the resolution any desire to coerce them in so doing.

The resolution also places before them distinctly the other questions that are not wholly settled as to the rebel debt, and as to any claim or compensation for the emancipation of their slaves. Let them pass upon these questions fairly.

The resolution calls upon the rebels to vote upon these propositions. I am of opinion that the South cannot be governed except by a majority of its people. I do not believe that one tenth can govern the rest of the people. In order to govern them they must necessarily resort to such arbitrary means as will destroy free government in the South. The majority must govern, and I think it but fair that we should give the rebels an opportunity to assent to this proposition, because I believe that this is about the sense of the country. If they reject it, it will then be time enough for us to adopt further provisions and take another course. The road will then be pointed out to us; we shall then know the disposition of the South. It may be that the South would rather make the rising generation stand upon an educational test with

the colored population, if thereby the present generation could be excluded from disabilities and enabled to become citizens, to be Americans again. It may be that the South will hail this proposition with joy. If so I am confident that the North would gladly accept it. If the South adopt it, it will prevent all further agitation of this most embarrassing question; but if you force it without the consent of the people, if there is an attempt by faction to rule in the matter, it may prove disastrous. If there is no middle ground of pacification it seems to me that civil war is almost inevitable before the whole matter shall be closed up. Before we resort to any coercive means, to anything that may drench this country again in fraternal blood, I am desirous that this proposition, which I believe to embody the opinion of a majority of Congress, shall go to the southern States and be ratified or rejected by them. The proposition to them is certainly a very liberal one. It proposes to relieve them of all the pains and penalties incurred by them in consequence of their treason, and if they cheerfully adopt it, they can regulate their elective franchise so as not to impair their free institutions. I have assurances from which I believe the South will adopt it. I find it is in accord with the repeated sentiments of the press of the North. I read an extract from Mr. Greeley's paper, the Tribune, the other day. I will again read it:

"Let it be distinctly understood if the whites of the South are not represented in Congress it is because they deny the right of representation or power of self-protection to the blacks."

I say they have not had an opportunity to say whether they would or would not deny those rights; that the opportunity has never been extended to them; that the letter of the President which proposed substantially these terms did not reach them; that the people have never had an opportunity to vote upon them. The Tribune goes on:

"Show us a single State which admits her blacks to vote on a like intellectual, educational, moral, and pecuniary basis with the whites, and we will urge the instant admission of the chosen Representatives of that State, though they be all ex-rebel generals of the most obnoxious type."

With this explanation, stating again that I do not attempt to give any opinion or commit myself at all on the question of negro suffrage, introducing this resolution simply to submit what I believe to be the opinion of the majority of Congress voluntarily to the South, disclaiming in the resolution itself any idea of coercion, but simply wishing to submit it in order to avoid angry discussion here, and then to wait until there has been action there upon it; simply offering it for such a purpose, I move its reference to the committee on reconstruction.

Mr. WILLIAMS. With the permission of the Senator I would like to ask him whether, if the committee of fifteen should report a plan of reconstruction embodying the proposition contained in this resolution, he would support and vote for that plan, and if he proposes to oppose any representation by the rebel States in Congress until that plan is adopted by those States, in case it should be submitted by Congress.

Mr. STEWART. I propose to pass it and submit it to the States, and neither to oppose nor to ask representation for them, leaving the matter to stand until they have had an opportunity to vote on it. I propose to vote for it myself. I never offer a proposition that I do not propose to support. I propose to vote for the proposition, and then await the action of the South.

Mr. CONNESS. I rise to inquire whether it is not a stretch of liberality on the part of the honorable Senator from Nevada to expect the committee of fifteen to sustain his proposition when he refuses to sustain any proposition that comes from the committee of fifteen.

Mr. STEWART. May I reply to that?

Mr. CONNESS. I ask the question.

Mr. STEWART. It may be a stretch of liberality on the part of any gentleman to have views of his own; but if that be the case I shall always stretch my liberality. I simply submit this proposition. If Congress do not adopt it I shall not feel that I am particularly responsible for their action; I simply submit it to them. Other gentlemen have sent propositions to that committee, and it has not been inquired whether it was a stretch of liberality or not. I supposed it was a privilege we had, to submit our propositions and compare ideas. Of course I only submit it as a proposition to Congress, believing it to be the reflex of the sentiment that has already been expressed.

Mr. SUMNER. I merely wish to make one remark. I welcome in the Senator from Nevada a new convert to the necessity of colored suffrage. Already repeatedly on this floor during the present session I have said that colored suffrage was the only guarantee of future peace and security in this country. I have insisted that it was a necessity; that without it your national debt is in peril; without it your freedmen will be in constant peril and this Republic cannot enjoy permanent peace. Sir, I welcome with open arms the Senator from Nevada.

Leave was granted to introduce the joint resolution, and it was read twice by its title.

Mr. SAULSBURY. Believing that this is a proposition which no State ought to accept or will accept, I move to lay it upon the table.

The motion was not agreed to.

Mr. WILSON. I desire simply to say that I thank the Senator from Nevada for offering this proposition. I have no doubt it will receive the serious consideration of the committee to which he proposes to refer it, of the Senate, and of the country. I am for one, and I believe the country are, willing to settle this whole question on the basis of universal liberty, universal justice, universal suffrage, and universal amnesty.

Mr. STEWART. I would like to have the resolution printed before it is referred.

Mr. HENDERSON. I am under some obligations to the Senator from Nevada also, and I desire to express them. The Senator from Nevada reads a telegraphic communication from the President, dated last August, to Governor Sharkey of Mississippi, urging upon him to have the Mississippi convention adopt or to ingraft upon the constitution of Mississippi the principle of negro suffrage. I will state that last October, when I was in this city, the communication was laid before me by the President, and I was authorized by the President to say in a public speech before the people of Missouri that such were his views. I was not authorized to publish the telegram itself as directed to Governor Sharkey. I did not do so, but I did state that the President in a private conversation with me, and that I was authorized so to say, expressed himself in favor of negro suffrage, and in a speech at my town in Missouri I stated the precise views of the President as they are now stated before the Senate this morning. The newspaper press all over the country has denounced that statement to be false. The press of my State not agreeing with me in sentiment has been very free in its abuse and declarations of the falsehood of that statement; that the President was not in favor of negro suffrage; that he had never so expressed himself. Now, I suppose that the Senator from Nevada has it from the President himself.

Mr. STEWART. From Governor Sharkey.

Mr. HENDERSON. I am under very great obligations to the Senator from Nevada for putting before the country a corroboration of what I have said. I have been left almost without proof of the fact until this morning. It is now established that this is a genuine document, and that the President, even as early as last August, was in favor of negro suffrage; and I presume that he is yet in favor of negro suffrage. If I am a radical for being in favor of negro suffrage, the President is equally a radical; and I presume that the President will not see fit to change his opinion. I desire that it shall be distinctly known to the country that if the majority in this body and in the lower House are to be denounced as radicals and as Jacobins throughout the country, the President should be placed in the same category; that if it be radicalism to be in favor of negro suffrage, the President is the first and original radical upon the subject of negro suffrage in his reconstruction. He urged it upon his own governors and upon the States.

Mr. YATES. I simply wish to say that I am not surprised that any gentleman should find out that free citizens in this country are entitled to suffrage. They will find it out very soon.

The joint resolution was referred to the committee on reconstruction, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed the bill of the Senate (S. No. 36) quieting doubts in relation to the validity of certain locations of lands in the State of Missouri, made by virtue of certificates issued under the act of Congress of February 17, 1815, with an amendment, in which it requested the concurrence of the Senate.

The message further announced that the House of Representatives had passed the following bills and joint resolution, in which it requested the concurrence of the Senate:

A bill (H. R. No. 15) authorizing documentary evidence of titles to be furnished to the owners of certain lands in the city of St. Louis;

A bill (H. R. No. 145) granting land to A. M. Jess, of Josephine county, Oregon;

A bill (H. R. No. 150) for the relief of the administrators and securities of Almon W. Babbitt, late secretary of Utah;

A bill (H. R. No. 364) to confirm unto Augustin Amiot, his legal assigns and representatives, a certain lot of ground in the city of St. Louis, in the State of Missouri; and

A joint resolution (H. R. No. 67) providing for the reappraisement of the lands described in an act for the relief of William Sawyer and others, of Ohio.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following bills; which thereupon received the signature of the President *pro tempore:*

A bill (S. No. 61) to protect all persons in the United States in their civil rights and furnish the means of their vindication; and

A bill (H. R. No. 358) to amend an act to extend the charter of the president and directors of the Firemen's Insurance Company of Washington and Georgetown, in the District of Columbia.

LIST OF PRIVATE CLAIMS.

Mr. WADE. I submit the following resolution, and ask for its present consideration:

Resolved, That the Secretary of the Senate be directed to cause the alphabetical list of private claims extending to the end of the Thirtieth Congress to be continued down to the close of the last Congress, and printed for the use of the Senate.

There being no objection, the Senate proceeded to consider the resolution.

Mr. WADE. I have offered this resolution, because while I served on the Committee on Claims for several years, in consequence of this index not being continued I recollect it happened in two instances that claims that had been settled and adjusted years before came again before Congress. In one case a bill passed Congress giving something like $25,000 to the administrators and representatives of a man who had long before that received his pay; and we just found it out in time to repeal the law. It is difficult to ascertain whether a claim has been adjusted or not unless you have some index or some landmark to which you can resort to ascertain; and it occurred to me that it would cost but little to continue this index; and it ought to be brought up. It was the policy of the Government up to 1849, I believe, when it was discontinued. That is all I have to say.

Mr. CLARK. I desire to say to the Senate that I think what is proposed by the resolution will be very useful to the Senate and to the Committee on Claims. We have found the index which comes down to 1849 to be very serviceable in regard to ascertaining what was done with claims up to that time; but after 1849 we have no index; and oftentimes there will be a petition presented for a claim twice over. A man having his claim partially allowed once, will present it again; and it is sometimes very desirable to have an easy method of reference so as to know what has been done upon a claim; and this proposed index will facilitate that reference.

The resolution was adopted.

JUDICIAL SALARIES IN THE DISTRICT.

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

Resolved, That the Committee on the District of Columbia be instructed to inquire as to the expediency and necessity of increasing the salaries of the judges of the supreme court of said District.

DEFICIENCY CIVIL BILL.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the special order, which is the unfinished business of yesterday, being the bill (H. R. No. 86) making additional appropriations, and to supply deficiencies in the appropriations for sundry civil expenses of the Government for the fiscal year ending the 30th June, 1866, and for other purposes.

The Senate, as in Committee of the Whole, resumed the consideration of the bill.

Mr. FESSENDEN. Before proceeding to consider the amendment that was under discussion last evening, if the honorable Senator from Massachusetts will allow me, I would like to amend section fourteen, the last section which has been adopted. I do not know that it will be necessary to reconsider it. I move, after the word "paid," in line three, to insert the word "annually," so that the clause will read, "that from and after the 1st day of April, 1866, there shall be paid annually, instead of the yearly salaries at present authorized, to the Director of the Mint at Philadelphia, $4,000," &c.

The PRESIDENT *pro tempore*. That amendment will be made if there be no objection.

Mr. FESSENDEN. In line eleven of the same section after the word "dollars" I move to insert the words "to the assistant to the chief coiner, $2,000." That was accidentally omitted. The clause preceding is "to the chief coiner, $3,000."

The PRESIDENT *pro tempore*. That amendment will be made if there be no objection.

Mr. FESSENDEN. The word "engineer," in the same line should be "engraver" so that it will read, "to the engraver, $3,000."

The PRESIDENT *pro tempore*. That amendment will be made if there be no objection.

Mr. FESSENDEN. Now the amendment proposed by the Senator from Massachusetts can be taken up.

The PRESIDING OFFICER, (Mr. CLARK in the chair.) The question now is on the amendment offered last evening by the Senator from Massachusetts. The Chair had submitted to the Senate the question whether it was a private claim or not.

Mr. SUMNER. Is that debatable?

The PRESIDING OFFICER. It is not debatable in the opinion of the Chair.

Mr. SUMNER. Then no explanation can be made.

The PRESIDING OFFICER. Not except by unanimous consent. If there be no objection, the Chair will entertain debate.

Mr. FESSENDEN. I should like to have that matter settled. It is settled that on an appeal from the decision of the Chair there may be debate. There is a decision, and debate is allowed if any question is raised; but where the Chair will not decide but leaves the matter to the Senate, and he says it cannot be debated, it would forbid debate such as is ordinarily allowed on questions of order. I submit, therefore, that where the Chair submits to the Senate a question of order without deciding it one way or the other, there should be debate allowed upon it. Otherwise no explanation could be given.

The PRESIDING OFFICER. The Chair will state to the Senate that the Chair held yesterday that no debate could be allowed on this question of order. After holding so, the occupant of the chair was somewhat in doubt whether he had held right, but upon conference with the President *pro tempore* of the Senate, the President *pro tempore* of the Senate was of the opinion that the occupant of the chair was right on that point, and the Chair does not feel inclined to overrule his own decision against the opinion of the President *pro tempore*; but if there be no objection, the Chair will allow the debate to proceed upon it.

Mr. FESSENDEN. All I wish to say with regard to it is this: I have been reading this morning the debate which took place last year on this same subject when a similar proposition was proposed. I find that the matter was very sharply contested, although by a very small vote, 16 to 9, I think, just a quorum——

Mr. SUMNER. Seventeen.

Mr. FESSENDEN. Seventeen to nine it was decided to allow the amendment to be made.

Mr. SUMNER. Then let me remind the Senator it came up again at the next stage, and it was again affirmed.

Mr. FESSENDEN. I suppose the same position was affirmed. With regard to the merits of the claim, it seemed there was a very considerable difference of opinion. But aside from that, I wish to make a suggestion to Senators if they will listen to me a moment and suspend their writing. I think the matter is important on account of the principle to be settled by the Senate in regard to these bills which appropriate millions of dollars. Senators, however, do not seem to care anything about them, one way or another, how it is decided, or what goes on or what is kept off.

Mr. BUCKALEW. What is the amendment?

Mr. FESSENDEN. I ask the Secretary to read the amendment.

The Secretary read the amendment, which was to insert after line three hundred and eighty-four of section one the following:

For services of James G. Clarke, as acting chargé d'affaires at Brussels from June 11, 1857, to September 27, 1858, $6,483.

Mr. FESSENDEN. I find, on reading the debate of last year, that the chargé d'affaires at Brussels at that time came home on leave, and this gentleman, who was with him as a sort of voluntary secretary under no pay, was by him, when he came home, put in charge of the legation, and incurred some expense, and was recognized by correspondence with the Department as acting chargé d'affaires. He had no appointment, no commission, or anything of the kind, but continued there to discharge the duties. He was not, therefore, appointed an officer. There was no law under which he acted. We were paying the salary at the same time to the person who came home, as we always do in such cases. Perhaps it is not an unfrequent case, but I do not deem it to be a proper one. It is conceded that there was no appointment made, and consequently, there being no appointment made, there was no law under which he could be paid. He continued there at the request of the person who came home, and having continued there a given length of time, at the end of five or six years for the first time—because, as was said in debate, he is a very modest man—he makes his claim, presents it to Congress, and it is recommended to be paid by the Department on the ground that he having performed the duty there it was a debt that the Government ought to pay, because he performed those duties. I inferred from the debate that he was a gentleman of fortune and did not care much about it; and it was stated in the debate that finally his friends urged him to make the claim while he was here in this city, and he made it. He is a very worthy gentleman, no doubt, but there was no law under which he was appointed and no law under which he could be paid, and on that ground the claim was put upon the appropriation bill.

The rule of the Senate is a clear one that no private claim shall be put upon an appropriation bill, and the question was first left to the Senate whether it was a private claim, and they decided that it was not, as they do in a great many other cases directly contrary to the whole fact, because they thought it ought to be paid. If the rule of the Senate is a rule of any value, and I think it is of great value, in protecting the appropriation bills, it ought to be adhered to. Acting upon that rule, the Committee on Finance invariably strike off all these private claims that are put upon the appropriation bills. There were half a dozen of them in this bill, very meritorious claims probably. I know nothing to the contrary. In fact I know one of them to be so—the claim of William Handy, a very admirable clerk in the Treasury Department, for work done some six or seven years ago, for $500. That was put on by the House of Representatives. Then there was another claim for $100, for extra work of some kind, which was also stricken out by the committee, and also a claim of a laborer for work for a year and a half, all without any law. I should be glad to have them paid; they ought to be paid, probably; but we struck them off because they were private claims. Now, there is no reason in the world why the claim of this gentleman for $6,000, whatever may be the justice of it, should be put on this bill by the Senator from Massachusetts, or anybody else, because he is a gentleman and man of fortune and an acting chargé, when you strike off all the claims of these men, clerk and others, who performed services precisely in the same way, on the ground of our stringent rule that it is necessary to protect the appropriation bills against these private claims.

I do not feel inclined to discuss the merits of this claim. I am perfectly willing, for the sake of the argument, to allow that it is meritorious, although it struck me on reading the debate that this gentleman did not mean at first to make any such claim. He allowed it to lie dormant for six years, and then presented it because his friends urged him to do so, and said he could get it. That seemed to be the amount of it. There is no law to authorize it. The Senator from Massachusetts in the debate last year said the reason why it was here was because there was no law to authorize it. I do hope that the Senate will adhere to its rule and keep these private claims off the appropriation bills.

Mr. HOWE. I wish the Senator would state how he distinguishes between the character of this claim and the character of the appropriation proposed for Handy and the appropriation that was struck out yesterday for the employés in the provost marshal's office here.

Mr. FESSENDEN. That came under a law authorizing the appointment of clerks. They were regularly employed.

Mr. HOWE. If there was a law authorizing their appointment they would have been paid.

Mr. FESSENDEN. It was for the want of an appropriation that it was put on, I suppose; but as there seemed to be some doubt about it, I did not strenuously resist striking it out. I said that I cared nothing about it, and that it might be struck out because I had some doubt about it.

Mr. HOWE. How long does this man charge for?

Mr. SUMNER. Fifteen months. I will explain it.

Mr. FESSENDEN. If it is a private claim I want it struck off. If it is not, I am perfectly willing that the Senate should act on it on its merits.

Mr. SUMNER. If I can have the attention of the Senate for one moment, I think I can make this case clear, although I must say it is

not very flattering when I see the little interest the Senate take in the discussion. The Senator from Maine, however, has already reminded you of that.

In considering this question you will not forget that in two respects it has already been passed upon by the Senate. In the first place, the Senate have recognized it as a claim proper to be put upon an appropriation bill, and not excluded by the rule of the Senate; and in the second place they have recognized it as a claim that ought to be paid; in other words, as a meritorious claim. In considering the question, therefore, I think all will agree that I approach it with that advantage—two different determinations of the Senate on two different points essential to your conclusion. That is all I have to say on that head.

Now, as to the character of the claim itself, the Senator from Maine has not stated it with perfect precision. Naturally, he was not as familiar with it as it has been my duty to be. Our representative at Brussels, I think, was what is called a minister resident, and not a chargé d'affaires. He had with him at the time a young gentleman acting under the name of an unpaid attaché. Concluding to return home on a visit, as it seemed for the moment, and following the instructions of the Department, he selected this gentleman as the representative of the Government in his absence, and according to usage in such cases, presented him to the Secretary for Foreign Affairs of the Government to which he was accredited as chargé d'affaires *ad interim*. In doing so, he followed the usage under the law of nations, and also the usage of our own Government; and I may add, also, he followed the instructions from the Department of State at Washington.

Mr. HOWE. What were they?

Mr. SUMNER. The Senator from Wisconsin asks me what those instructions were. They were in conformity with the law of nations, when the minister goes home to leave his papers in the custody of the secretary of legation whom he shall present to the Minister of Foreign Affairs as chargé d'affaires *ad interim*; but if there be no——

Mr. FESSENDEN. I should really like to know in what author the Senator finds that part of the law of nations.

Mr. SUMNER. I think the Senator will find it in all. The Senator will find that it is the fixed usage of diplomatic law.

Mr. FESSENDEN. It may be the custom among diplomatic men, but it certainly never met my eye in any book on the law of nations.

Mr. SUMNER. The Senator is mistaken. He has read it twenty times, but has forgotten it; and he has read it unquestionably, too, in the instructions of the Department of State. I cannot be mistaken on that point.

Then, sir, if there be no secretary of legation, as was the case here, what is the minister of the United States to do? Is he to leave his papers and his seal loose in some obscure custody where they may be seized? No. He is particularly charged by the Government to select a competent citizen of the United States in whose hands he is to place this trust. If the person is of his legislation he presents him as chargé d'affaires *ad interim*. That was actually done in this case. Meanwhile, the minister, who was Mr. Seibels, of Alabama, after his return home, sent in his resignation, which took effect, I think, from the 11th of June, 1857; he came home several months before. Then it was that Mr. Clarke became not only the substitute for Mr. Seibels, but the representative *de facto* of the Government of the United States. He had already been accredited by Mr. Seibels as chargé d'affaires *ad interim*; but by the resignation of Mr. Seibels and the actual vacation of his office, he from that time forward, until the office was filled by appointment here at Washington, was the *de facto* representative of the United States.

Now, sir, that is the case. During that time he occupied a house larger than a gentleman in his circumstances and of his age would have thought of occupying, having indeed succeeded to the very house of the American minister himself. He continued there, subject to those extraordinary expenses which I need not remind the Senate are necessarily incident to diplomatic life. During all this time he was in relations with the Government to which he was accredited, and he corresponded with our Government here at home, and he also received communications from the Government here at home, so that in point of fact, *de facto*, he was the representative of our country. I am speaking now of the time indicated between the two dates mentioned in the amendment that I have offered, between the date of the resignation of Mr. Seibels and the actual appointment of his successor. It is for services rendered during that time that the amendment now before you proposes to pay him.

Now, sir, those services may be seen, as I intimated yesterday, in two lights: one as services rendered, and you pay, to use a professional term, for the *quantum meruit;* another is for services rendered by the implied sanction of the Government, the Government all the while here in Washington knowing that he was there and discharging those services; rendered, too, according to usage both of our own Government and the general usage of diplomatic life. I submit, therefore, that the claim is a good one.

Then I am reminded by the Senator that it is tardily presented. On that head I have something explicit to read. I have a letter from Mr. Clarke, addressed to myself, from which I will read a passage. This letter is dated March 7, 1866:

"In reading the discussion in the Senate on my claim for diplomatic salary, (March 3, 1865,) I find that two considerations excited most of the opposition expressed.

"The first was that the claim was first presented after a lapse of several years.

"But the letter of the minister, Mr. Seibels, to Secretary Cass, (a copy of which you have")—

That letter was referred to in this debate at the last session—

"shows that I presented it on my arrival in Washington in January, 1859. The State Department referred me to Congress, and my petition reached the hands of Mr. Mason, the chairman of the Committee on Foreign Relations, where I left it on returning to Europe in May, 1859. Mr. Mason's neglect will explain the delay which has ensued."

I think I may well ask whether a faithful and patriotic public servant should suffer from the negligence of a person who at the very moment that he was guilty of this negligence was undoubtedly giving his time and his thoughts to treason rather than to his public duties. This gentleman suffered from those proclivities of the man who at that time represented this part of the business of the Senate on this floor. Mr. Clarke calls my attention also to another consideration. He says:

"The second consideration most marked in the discussion, is that payment is now asked for a period during which the minister, Mr. Seibels, received pay. (See Mr. Harlan's remarks.)

"Attention to the dates will show that my present claim is for the fifteen months which succeeded Mr. Seibels's resignation, and consequently after his salary ceased.

"Thus to reject my claim would be to leave to a private citizen, without compensation, not only the services, but the expenses incurred by the United States legation in Belgium from the 11th of June, 1857, (the period of Mr. Seibels's resignation,) to the 27th September, 1858, (the period when I was relieved by his successor, General Fair, of Alabama.)"

I do not see how in conscience we can refuse the payment of this claim. We have had the services. We have allowed him to go and spend his money for our sake, and yet he has received nothing; and now he is met by saying this is a private claim, and that we ought not to pay it on an appropriation bill. It is a claim for services rendered abroad as a diplomatic agent of the country; and though he was not in advance appointed and confirmed by the Senate, he had practically entered into those relations with the Government of the United States which I think justify him in looking to us for compensation; and the compensation ought to be given to him directly and not tardily. It ought not be postponed. He ought not to be treated as a common claimant; but his services should be recognized as something which we in duty are bound to pay at once.

Mr. HENDRICKS. It would be very pleasant to recognize this claim and pay it; but that it is a private claim is almost a matter of demonstration in my mind. If we intend to stand by the rules of the Senate, we might as well do it on this case as any other. It is proposed to pay a man for services that he cannot get the money for under any existing law. That certainly makes it a private claim.

Mr. GUTHRIE. I have not considered this claim as a private claim, and it will be very inconvenient if gentlemen shall come to consider such claims as this private claims. The Senator from Massachusetts states the practice right, according to my understanding, in the appointment of citizens abroad when a minister leaves his post; and that is just as regular an appointment as if he was appointed and nominated by the President and confirmed by the Senate, and under the usage we are just as much bound to pay for that service as if the person had had a regular appointment. If the authorities had the money in the Treasury, under that usage, appropriated for this subject, he would have been paid.

Mr. FESSENDEN. The Senator from Massachusetts says that the reason why they did not pay him was that there was no law for his appointment.

Mr. GUTHRIE. I do not understand it so. I understand that there is a law for his appointment, and he comes just as regularly under the usage as a chargé d'affaires as any other man who represents the Government abroad. We could not deny that he was our agent and minister at that court after he had come in under those usages. That is my position; and hence I assert that this is a public claim. It is not the policy of this Government that we should make difficulties with our foreign ministers in paying their appointees, because in the emergencies that may take place we shall want those appointees in almost every country, and we do require them every year or two. I think it ought to be considered a public claim, and that this ought to be considered as an appropriation to pay a deficiency not provided for by our laws. I would not put a man appointed under the circumstances that this gentleman was appointed, and who performed the duties that this gentleman performed, upon the footing of a private claimant, and let him go through Congress, particularly at this time when no private claims are paid, especially if they come from the South. If a man's property has been taken there, even though no question can be raised in relation to his loyalty, he cannot get his claim, because under a resolution passed the other day by the House of Representatives they have determined not to consider any such claims at all. Acting upon that resolution they rejected a claim where, according to the evidence that I saw, a man's cotton had been taken, carried to Cairo, libeled in Illinois, and the person that took it acknowledged he would have given it to the claimant if the agent had followed him. There was no pretense for confiscation; and yet, under the general rule which they have adopted to reject all private claims, it was rejected in the other House; and the proceeds of that cotton, that belonged to a man who had done no act to forfeit it, are actually in your Treasury! This is a pretty strong case, and there are a great many of them.

Mr. FESSENDEN. They did not attempt to put that on an appropriation bill.

Mr. GUTHRIE. No; it was introduced as a private claim. I only mention that as an illustration of the way men who have private claims are treated in Congress. I contend that this is a private claim, and it has not been paid because you had not appropriations enough to pay it. I say it is not your policy that claims of this sort for services done in foreign countries should have to run the route of private claims between these two Houses of Congress

session after session. If you set a few examples of this kind, you will get no persons to spend their time and money abroad in your service; at least none that are worth getting.

Mr. HENDRICKS. Will the Senator allow me to ask him one question?

Mr. GUTHRIE. Certainly.

Mr. HENDRICKS. I am not informed on this subject, and I wish to know whether he was such a public officer under existing laws as that he could draw his money when he returned to the United States, and whether the only difficulty in his way was the length of time that had elapsed, so that the appropriation for it had gone back into the Treasury.

Mr. GUTHRIE. I must leave the answer to that question to the Senator who has charge of this claim. I accidentally happened to become acquainted with this gentleman. He is a very intelligent gentleman; and in the course of conversation, he stated to me the facts that the Senator from Massachusetts has detailed in relation to his services. He is not exactly of the political tinge in all respects that I am myself; for I was one of those men who believed that the Constitution was sufficient to carry on a foreign war, without violating it, and to suppress insurrection, without violating it; and I still believe it notwithstanding all the examples that we have had, and all we have heard on the subject. I have believed, and still believe, that the Constitution that was made by our fathers was sufficient for peace, sufficient for war, sufficient for insurrection and civil war, if we had adhered to it and carried it out as we ought to have done.

Mr. FESSENDEN. The Senator from Massachusetts brought in Mr. Mason's connection with the rebellion as one argument why this amendment should be made; my friend from Kentucky has brought in the cotton contracts; and it only remains to bring in the negro, and then I think we shall have all the subjects on this question of order, [laughter,] and whether I shall give it up or not, I do not know.

Mr. GUTHRIE. I hope I shall never bring the negro into this Chamber.

Mr. FESSENDEN. I said the Senator brought in the cotton contracts.

Mr. GUTHRIE. Not the cotton contracts, but the cotton robberies.

Mr. FESSENDEN. Well, the cotton robberies and the Constitution. Now, Mr. President, I think we may as well leave those subjects out of the debate, on a mere point of order, and we may also leave out on a mere point of order the remarks made by the honorable Senator from Massachusetts on the merits of the claim. I am very much of the opinion that on the statement made by him I would vote for the claim if presented here as a separate proposition without any hesitation, because if the facts are as he stated I think this gentleman ought to be paid; although, allow me to say, that in all the Departments of this Government, so far as I know, it is getting to be too much, and has been for some time, the practice to do things without authority, because they are judged to be necessary, and then call on Congress to make an appropriation for the deficiency. Sometimes they are necessary, but in a great many cases they are not. I do not say that I expect it, but I hope to see the time when we shall get back to the old practice and reject some of these bills that are incurred without authority of law.

However meritorious this claim may be, the question is whether or not we shall protect the rules and the practice of the Senate, to keep these private claims off the appropriation bills. Every Senator who has had any experience here will bear me out in the assertion that this practice of putting private claims of this description on appropriation bills has led to very great abuses. They are put on in the heat of passing the bills themselves when they cannot be well investigated, and the Treasury has in times past been defrauded of a great deal of money in that way. Hence arose the rule; and although this may be very meritorious, and I am very much inclined to believe it is, and that this money ought to be paid this gentleman, there is no more reason for paying a chargé d'affaires than the humblest clerk about your Departments or Capitol, and not so much, for probably he is better able to wait for his money; and because this gentleman happened to render these services without any authority of law to pay him, that is the difficulty; there is no putting out of sight that there was no law to justify his payment out of any appropriation that might be made for those expenses; because that happened to be the case, and he is a meritorious gentleman and has rendered meritorious services, it does not change the rule or the reason of the rule, or the necessity of adhering as strictly as possible to what that rule is. It was founded in good sense; it was intended to protect the Government; and if, according to our fancy, we vary from it in one case and another, it will soon get to be a common practice, and every barrier and safeguard will be broken down and taken away. I hope, therefore, gentlemen will settle this question as they mean to stand by it, and not with reference to their feelings in any individual case.

Mr. POMEROY. I would not have said a word in reference to this matter but for the fact that the Senator from Maine spoke of this gentleman as being a gentleman of fortune. I do not know how that may be——

Mr. FESSENDEN. I inferred so from the debate that took place at the last session.

Mr. POMEROY. My acquaintance with this gentleman arose in this way: having been telegraphed at the time of the battle of the Wilderness to recover the person of General Bartlett, who had been dangerously wounded, I went down there and found this gentleman there acting as a volunteer nurse.

Mr. FESSENDEN. That has nothing to do with the question at all.

Mr. POMEROY. I thought if he was a man of fortune he would hardly be there acting as a volunteer nurse and taking care of our soldiers.

Mr. FESSENDEN. Many persons of fortune not only devoted their time, but their fortunes to that work.

Mr. POMEROY. If he is a gentleman of fortune, I am very glad to hear it. I do not think he is. He endeared himself to me very much in his voluntary labors there.

Mr. GRIMES. I know this gentleman quite well, and knew his parents before him. I would like to vote for this claim; I believe it to be just; but at the same time I concur with the Senator from Maine in the belief that it is a private claim, and if we can put it on this bill, we can put almost any other bill that can be conceived of or introduced here and referred to the Committee on Claims on a general appropriation bill. If the Senator from Massachusetts will introduce this claim as a separate and distinct measure, I will vote for it and do anything I can to secure its passage through this body and the House of Representatives; but, notwithstanding my friendship for this gentleman, and my desire to see this money repaid to him, I am not prepared to violate what I understand to be one of the settled rules of this body. There has only been one case in the eight sessions that I have been here that is analogous to this case, and that was the case of a consul to Havana by the name of Helm, from Kentucky, to whom an allowance was made under somewhat similar circumstances on an appropriation bill by the casting vote, I think. I think the vote was one majority. I believe he afterward went into the rebellion; I am not certain about that. That was considered as an exceptional case, and every other similar case has been rejected when it has been presented.

Mr. CONNESS. There has been much said, and I presume will be again, upon the question of the difference between public and private claims. If the distinction made by the honorable Senator from Indiana [Mr. HENDRICKS] is the true one as between a public and private claim, then we can understand just where to apply that rule, both to this case and all other cases, namely, that where the existing law authorizes certain services to be performed, and there is a failure on the part of the party to receive his compensation because of a want of appropriation in the public Treasury, that becomes and is a public claim, and may be supplied by an amendment to an appropriation bill. If, on the other hand, services have been rendered without authority of law by a citizen or person, then it becomes a private claim, and is to be brought before Congress for examination, he trusting to the equity of his case before Congress. If that is to be the distinction, then it is clear that this is a private claim, and the line between private and public claims may be easily drawn. Therefore there is no hesitation in my mind as to how to vote on the subject. I will add that, after the statement of the Senator from Massachusetts, if he will introduce a bill to pay Mr. Clarke for these services I will vote for it; but there ought to be a rule and a line of distinction somewhere, and if the one made by the honorable Senator from Indiana, if I have apprehended it correctly, is the true one, I think it is a clear one, and one easily to be understood.

Mr. SUMNER. The Senator from California assumes that the line indicated by the Senator from Indiana is a correct one.

Mr. CONNESS. I say if it is.

Mr. SUMNER. The Senator says it is.

Mr. CONNESS. I say if it is.

Mr. SUMNER. The Senator says "if it is." I understand the Senator assumes that it is.

Mr. CONNESS. It appears to be.

Mr. SUMNER. Very well. It appears to be. I try to state the Senator correctly. Now, sir, there are many instances to the contrary; only one has been referred to: that of Mr. Helm. I have not troubled myself this morning to look at the former precedents, but I think there are at least two where marshals in China have been paid on appropriation bills for services having no precise sanction in the existing law. Such services were contemplated, but at the time they rendered them these parties were not technically in the condition to receive payment under the existing laws, and nevertheless they have been paid on appropriation bills which have passed this body.

Mr. FESSENDEN. There are numerous cases where private claims have got on appropriation bills. We try to keep them off, but sometimes we cannot.

Mr. SUMNER. The Senator from Maine reminds me that there are numerous cases where private claims have got on appropriation bills. All I want the Senate to do is, to act on this claim, not as a great precedent for the future, nothing that is to make a precedent to bind you in the great hereafter and as going to determine an absolute rule of law. Meet this case on its merits and its peculiar circumstances. It is only rarely that such a case can occur, that a person can enter upon duties like these under such circumstances, can perform them so long, and the country become so completely and substantially his debtor. Such a case must be of very rare occurrence.

Now, sir, technically, and only technically, this person could not look to the Department for compensation, because he had not been appointed and confirmed by the Senate; but in equity, I say, he could look to the Department of State and to his country for payment; and I do submit, without any view of trenching upon the rule of the Senate, that a case like this may properly be placed upon the appropriation bill. There will be no sacrifice. Your bills will not be embarrassed.

Mr. FESSENDEN. Just as much by this as anything else.

Mr. SUMNER. I submit the precedent will not be a dangerous one; at any rate that is the way I view it. I cannot see it otherwise. It seems to me it comes so closely to an obligation of the country under precise law that you cannot err if you place it on this appropriation bill.

Mr. HENDRICKS. I think it is not of much consequence whether we pay this claim

or not; that is a small matter in my judgment; but it is a very great matter whether we stand by the rule which forbids the tacking of private claims to a general appropriation bill, because each proposition ought to stand upon its own merits; and this thing of carrying through a private claim by the weight of a general appropriation bill, and compelling Senators either to vote against an appropriation bill or for an unjust private claim, works corruption in legislation in my judgment; and therefore I think the principle is a very important one. I cannot see any other rule than the one I suggested. If a man does service for the Government under existing law, the only question is, is there money in the Treasury appropriated out of which he can be paid? If there be, he goes and gets his money. If there be not, it only awaits an appropriation for him to get the money. Therefore I think the rule is a good one.

Mr. HOWE. I would not have paid any attention to this subject if I had not been expressly ordered to do so both by the chairman of the Finance Committee and the chairman of the Committee on Foreign Relations. I was engaged in writing, but upon their requisition I did pay some attention to the debate; and as I do not happen to agree with either of them, I want to state what ails me. [Laughter.] Now, when it is alleged that it is the rule of the Senate to restrict these appropriation bills to making appropriations for services rendered under existing laws, why I feel that I am authorized to plead *nul tiel record*. I do not believe any such rule can be established. On the contrary, I believe your appropriation bills are habitually employed to make appropriations not only for that class of services, but to make appropriations in a great many cases for services which have been rendered without any provision of law authorizing them, and also to make appropriations for expenses of any kind, sort, or description that Congress sees fit to make, entirely irrespective of the question whether they are claims or not. You make appropriations for light-houses, for harbors, for a variety of subjects. I had occasion to look over the constitution of your Library and the constitution of your botanic gardens here the other day, and those institutions, if they are to be called institutions, exist almost exclusively in virtue of a series of appropriations made to them in these appropriation bills.

Mr. GRIMES. That is not the question here. The question is as to an appropriation to an individual.

Mr. HOWE. I do not understand how that alters the principle of the bill. If it is dangerous to make an appropriation for an individual on a bill like this, is it not much more dangerous to make an appropriation to improve a harbor or improve a light-house, or to purchase a book?

Mr. FESSENDEN. The rule is that a private claim shall not be added to an appropriation bill. There is no rule that other things shall not be added to it. There is the difference. It is the rule of the Senate.

Mr. HOWE. I am denying the existence of a rule.

Mr. FESSENDEN. The rule can be read.

Mr. HOWE. Very well. You find it on the books, but not in the practice of the Senate. That is the difficulty. Now, then, if there is any reason why this Government should pay this individual $6,000 or any other sum, and he asks the Government to do it, I do not see why it is not in the province of the Senate or of the House, whichever body the claim is presented to, just as well to refer that claim to the Committee on Foreign Relations, the Committee on Commerce, or any other committee as to the Committee on Claims, if they prefer to trust one of their other committees. It is the usage, undoubtedly, to refer these claims generally to the Committee on Claims. We have a committee for that express business; but I do not understand that there is any law which obliges you to make that reference. It seems that the Senate did refer this claim to the Committee on Foreign Relations. Now, if I could see any good reason for paying the claim, I do not see any substantial reason for not putting it into this appropriation bill; but I must differ with those Senators who say this does appear to be a meritorious and just claim. I agree with the Senator from Indiana that it is not a very important matter whether we pay $6,000 or not to Mr. Clarke; but I do think it is a very serious matter whether we should sanction the usage, if any such usage exists, of allowing the Government to employ in their service diplomatic agents and officers without the consent of the Senate, without the authority of law, and recognize our obligation to pay for their services. I supposed there was a substantial reason for requiring that officers employed in the discharge of these duties should be appointed by the President and confirmed by the Senate, but if it be so, that when one minister has been appointed and confirmed by the Senate, he can leave his post or resign his post, and that the President or the Secretary of State may go on at his pleasure and transfer the duties to some other individual, and the Government still be bound to pay him for those services—in this case it is only to pay one, as I understand.

Mr. SUMNER. Only one.

Mr. HOWE. Still if we are compelled to pay for these services, then the law which requires the appointment to be confirmed by the Senate is effectually evaded. I can see no other way of putting a stop to that usage, if it is a wrong one, as I think it is a wrong one, but for us simply to say we will not pay for such services. Whatever the question is, therefore, that is submitted to the Senate, I shall vote in that way upon it which will tend most certainly to prevent the payment of this claim. I should vote against putting it on here, if that was the question, not because I would not as lief pay it here as in any other place, but because I do not believe it is safe to recognize the obligations of such claims.

The PRESIDING OFFICER. The question to be submitted to the Senate is, Is this a private claim?

The question being put, it was decided in the affirmative, there being, on a division—ayes eighteen, noes not counted.

Mr. FESSENDEN. There was one amendment put on the bill last night, without my making any objection, by the honorable Senator from Massachusetts. My mind is not satisfied about it, and I wish to call his attention to it. I should like it very much better if he could state whether the service indicated in it has been performed.

Mr. SUMNER. I have no information on that head beyond what was communicated to me by the Department of State. The items which I sent to the Chair, and which have been put upon the appropriation bill, were furnished by the Department of State. As the Senate will remember, the first of them was—

For the pay of the United States commissioner, and for the pay of the United States surveyor, and for incidental expenses in the execution of the duty assigned to the joint commission appointed under the first article of the reciprocity treaty between the United States and Great Britain of the 5th of June, 1854, from November 4, 1865, to March, 1866, $3,600.

That is the first item. Now, as we are actually in the month of March, 1866, it would seem as if those services must have been performed. Then the next item is:

For drafting and compilation of the final chart showing the places reserved from the common liberty of fishing, their limits, and description, $800.

The sum total is $4,400. On this Mr. Seward says:

"I have the honor to recommend that provision be made therefor in the deficiency bill."

I laid this before the committee which I represent on this floor, and they directed me to move it on an appropriation bill, and I have made the motion accordingly. I have no information with regard to it beyond that furnished by this letter, except that I may say I understand that one of the gentlemen, the surveyor, I think it is, or some of the officers engaged in this service, has called at the committee-room and has seen the clerk of the committee once or twice and has made some explanation to him with regard to it.

Mr. FESSENDEN. I suppose this debate is out of order as there is no motion pending, and if the Senator from Massachusetts has no objection, I will move to reconsider the vote by which that amendment was agreed to.

The motion to reconsider was agreed to.

The PRESIDING OFFICER. The question now is on the amendment offered by the Senator from Massachusetts.

Mr. FESSENDEN. The commissioner alluded to in this amendment is a friend of mine, for whom I have a great regard, living in my State; but really I do not understand the amendment. Two years ago it was proposed to me on the committee to make an appropriation to finish up this line. The treaty arrangement endured for ten years. It expires to-day or to-morrow, I think.

Mr. SUMNER. To-morrow.

Mr. FESSENDEN. Now, this joint commission have been engaged during the last ten years in making that line and defining the boundary. It has been the most remarkable specimen of a drizzle that I ever knew in my life. The salaries of the surveyor and commissioner have gone on from year to year, and for the last five years the annual appropriations have been made to finish this work. Two years ago, when the proposition was made to me, as a member of the Committee on Finance, to make another appropriation, I refused to do it. The treaty was about to expire, and I knew it would not be renewed, and I refused to have anything to do with it. It seems that last year the honorable Senator from Massachusetts moved an appropriation, which was inserted in the miscellaneous bill which was lost, in the same terms with this one, I believe, and appropriating the same amount. That was an estimate of what it would take to finish up the work, and it was put on that bill. The service had not then been performed, but that went into the appropriation bill, and the appropriation bill was lost. Now, it seems that on the strength of that, although there was no law for it and no absolute necessity for it, the commissioner and surveyor, under the direction of the Department, went on and performed services, of which we have no details, for four months. The whole salary for a commissioner for a year, I think, was only $3,000, and the surveyor received, I do not know how much, perhaps half that sum. But without any law or any appropriation, it seems they performed services for the four months from November 1, 1865, to March, 1866; and here is an item of $3,600 for the pay of the commissioner and surveyor, and contingencies. What the "contingencies" are, I do not know. The commissioner, to my certain knowledge, has been for a great part of the time during the last winter here in Washington. If they are allowed travel at ten cents a mile from the fishing towns in Nova Scotia, where neither of them live, and make it up in that way, I should like to know it. I want to have the details of this proposed appropriation. I am not willing to insert on this bill an appropriation of this amount to pay these gentlemen for months' services when I know that the salaries cannot amount to more proportionally than one third of the sum, and the rest under the head of "contingencies," without knowing what they are, on the statement of the Secretary that he recommended it and $800 more for maps. It is not explained to my satisfaction. If the honorable Senator from Massachusetts could only tell us what they are, and say that they are right, I am in hopes that I may be able to agree to it on account of my friend, who is the commissioner down there; but really it does not look to me to be right. In the first place, there was no appropriation to have this thing done; and if it has been done and finished up, there is no explanation of it, except the gross charge for so much for salaries and contingencies, all lumped together. Perhaps the map may be a

good thing. It will show future ages what these fishing boundaries were; but they will never probably be established precisely in the same way, and if they are, it will be some time to come, I imagine. At any rate, if we are not to have a new treaty the whole thing is useless, all the expenditure is good for nothing, and the map is of no consequence. It only shows what was, and not what is.

Now, I prefer that this amendment should not be adopted here, and that in the mean time the honorable Senator look into it and get the details of this bill and let us see what it does mean in reality, and then it may be put on some other bill. There will be another deficiency bill here, undoubtedly, during the session; and I would rather have more information before I agree to it, or before I will advise the Senate to agree to it.

Mr. SUMNER. I certainly do not wish to have any question with the Senator on this point, but he knows from his own position on his committee that we have not our choice of duties always. He represents his committee, and I, in my humble way, represent that with which I am connected. This question came before the committee in the ordinary course of business on a communication from the Department of State. I am free to say that I did not go behind that communication. It seemed so explicit, so entirely to the point, as to supersede inquiry. I accepted it on its face; the committee accepted it on its face, and directed me to make the motion which I have made. Now, I ask the Senator from Maine whether, under the circumstances, he thinks it advisable for us to go behind the positive statement of the Secretary of State on this subject. That is the first inquiry I will address to him.

Mr. FESSENDEN. I will answer that directly. It is my invariable practice, if I do not understand fully a proposed appropriation, or I am not satisfied with its details, I get the information before I agree to it; I call for further information and explanation.

Mr. SUMNER. I hope the Senator will pardon me if I ask him again what details are needed.

Mr. FESSENDEN. I want to know how they make out this sum of $3,600. I cannot see how they make it out.

Mr. CONNESS. What is it for?

Mr. SUMNER. It is stated what it is for; I will read again for the benefit of the Senator:

For pay of United States commissioner——

Mr. CONNESS. What does he do?

Mr. FESSENDEN. It is the fishing boundary commission.

Mr. SUMNER. I will finish it—

and for pay of the United States surveyor, and for incidental expenses in the execution of the duty assigned to the joint commission appointed under the first article of the reciprocity treaty between the United States and Great Britain of the 5th June, 1854, from November 1, 1865, to March, 1866.

Mr. CONNESS. Who get it?

Mr. SUMNER. The Senator asks me who get it. The commissioner and United States surveyor get it.

Mr. CONNESS. What did they do, and when was it done?

Mr. SUMNER. I will answer both questions: what did they do, and when was it done? They did the duties of commissioner and United States surveyor, and they did them from November 1, 1865, to March, 1866.

Mr. CONNESS. What are the duties? What did they do?

Mr. SUMNER. The duties of a United States commissioner and surveyor under the joint commission appointed under the first article of the reciprocity treaty. If the Senator asks me the details of their duties, I cannot give them.

Mr. FESSENDEN. I can tell the Senator from California, if he really wants to know.

Mr. CONNESS. I do.

Mr. FESSENDEN. The treaty made certain provisions relative to fishing boundaries; that is, how near our fishermen should be allowed to go to the British coast, and a commission was provided for to run that line and establish it permanently, so that it might be known how near the British coast we had a right to go, and where they had a right to come on our coast also.

Mr. CONNESS. Are they running that line yet?

Mr. FESSENDEN. It seems that it is now finished, and part of this appropriation is for a map designating where the line is.

Mr. SUMNER. Then to come to another point of the Senator from Maine, I understood him to ask what is to be the use of all this. If the service is rendered, that is hardly a fair question to ask. If these people have gone on under the direction of the Government of the United States, and have made a map and have run these lines, I think the question is entirely out of place, what is to be the use of it; but still I am ready to go a little further and say what is the use. The Senate will observe the dates, from November 1, 1865, to March, 1866. Now, it is said by the Senator from Maine that the treaty has expired, and therefore this can be of no use. But, sir, when this service was ordered, who could say that out of this treaty which was to expire on the 17th day of this month another treaty would not arise? I take it there are very few Senators who, a year ago, when the notice was given to Great Britain, did not suppose that that treaty in some form or other, by amendment and through further negotiation, would in some way be renewed. Circumstances have occurred, to which I only allude, but which I do not wish to discuss, which have prevented the revival or the continuance of that treaty. The treaty falls, at least for the present; but unquestionably the proper Department of our Government felt it its duty to go on and complete this information, and therefore to complete this map with regard to these fishing lines under the treaty. It seems to me they would have been open to criticism had they not gone on to complete that map, and to do what I understand they have done under the treaty.

Now, sir, I do not wish to press this claim if the Senate do not think, on the communication of the Department of State, that the claim is sufficiently sustained; if the Senate do not believe this positive averment of the Secretary with regard to something which must have taken place. It is not anything prospective, but something that must have taken place, because the service is from November 1, 1865, to March, 1866, for services done under the direction of the Department of State, and here is the estimate. I do not know what more you could have. The Senator would like to have further details. If the Senate think it worth while that the claim should go over in order to ascertain all these details I shall endeavor to obtain them; but I must say I think, all things considered, the estimates ought to be recognized.

Mr. FESSENDEN. This map was made by the surveyor, and why he should be paid for that in addition to his salary I do not understand.

The amendment was not agreed to.

Mr. GRIMES. On page 34, section twelve, after line thirty-four I move to insert the following:

To supply a deficiency in the appropriation for the Naval Academy for the fiscal year ending June 30, 1866, $178,064.

The amendment was agreed to.

Mr. HENDRICKS. I ask the attention of the chairman of the committee to an amendment which I desire to offer. I presume he will not object to it. It is on page 22, line five hundred and eighteen of section one. I propose to increase the appropriation made in that paragraph by $3,000. The appropriation is now $5,000. I propose to make it $8,000; so that the clause will read:

For the fencing in, repair, and completion of the United States court-house and post office at Indianapolis, Indiana, and paving the sidewalks in front of the same, the sum of $8,000, or such part thereof as may be necessary, to be expended under the Secretary of the Interior.

Mr. FESSENDEN. I should like to have the amendment explained.

Mr. HENDRICKS. The purpose of the amendment is to get enough to do the work. Five thousand dollars is not enough. The importance of it is shown in every way possible. I know it personally myself. This court-house building is within a few doors of my law office, and I know the necessity of this work being completed. The district judge has also recommended it earnestly to the Interior Department. The marshal, the clerk, and the district attorney have all urged upon the Department to make a recommendation, and the Department has made a recommendation, and says it is very important to complete this building and the fencing of the lot and to make a pavement. This building is in the center of Indianapolis, and in a very elegantly built-up part of the city, and it is very proper and right that it should be finished. The Secretary says:

"My attention has been called to the subject by the Post Office Department, and on repeated occasions by the marshal of the district of Indiana; but I have no fund under my control applicable to the required improvement. Eight thousand dollars will be needed for that, and I recommend to the Committee of Ways and Means the appropriation of that amount. I submit a draft of a section," &c.

This is the recommendation, and the present Secretary has repeated it in a letter to myself, inclosing this to me.

Mr. FESSENDEN. What was the original estimate?

Mr. HENDRICKS. I do not know.

Mr. FESSENDEN. Is that letter from the Secretary of the Interior?

Mr. HENDRICKS. Yes, sir, from the former Secretary of the Interior and indorsed by the present Secretary. Eight thousand dollars is necessary to do the work.

The amendment was agreed to.

Mr. CONNESS. I am directed by the Committee on the Pacific Railroad to offer the following amendment to come in on page 19, section one, after line four hundred and forty-seven:

Appropriations required to meet deficiencies for the fiscal year commencing 1st day of July, 1865, and terminating 30th day of June, 1866, on account of Engineer office, Department of the Interior, having the supervision of the Pacific railroad and branches, the land-grant railroads, the wagon roads, &c.:

For compensation of one Government commissioner, Central Pacific railroad, appointed agreeably to act of July 1, 1862, and amended act of July 2, 1864, and instructed by the Secretary of the Interior to attend meeting of board of Government directors, commissioners, and engineer at Washington, District of Columbia, January 10, 1866, for purpose of fixing standard of railroad to which the Pacific railroad and branches shall conform, seventy-five days, at eight dollars per day, $600.

For mileage of said commisioners from San Francisco to Washington, six thousand five hundred and sixty-nine miles, and back, at ten cents per mile, $1,313 80.

For compensation of five Government directors while attending meeting of board of Government directors, commissioners, and engineer, for purposes above stated, ten days, at eight dollars per day each, $400.

For mileage of do. from their residences to Washington and back, $700.

For mileage of Government engineer from Cincinnati, Ohio, to Omaha, Nebraska, and thence to Washington, in July, 1865, directed by the President of the United States to examine and report upon Union Pacific railroad routes west from Omaha, two thousand nine hundred and two miles, at ten cents per mile, $290 20.

For mileage of do. from Washington to New York and back, in August, 1865, on account of Union Pacific railway, two hundred and twenty-five miles each way, at ten cents per mile, forty-five dollars.

For compensation of three Government commissioners appointed by the President of the United States, agreeably to act of July 1, 1862, to examine forty miles of Union Pacific railroad, eastern division, (Kansas branch,) in May, 1865, fourteen days, at eight dollars per day each, $336.

For mileage of do., at ten cents per mile, $200.

For compensation of two Government commissioners appointed by the President of the United States to reëxamine forty miles Union Pacific railroad, eastern division, in October, 1865, thirty-one days, at eight dollars each per day, $496.

For mileage, at ten cents per mile, $500.

For compensation and mileage of one commissioner of Union Pacific railroad and one commissioner of Union Pacific railroad, eastern division, appointed by the President agreeably to the act of July 1, 1862, and amended act of July 2, 1864, during three examinations of railroad before the close of the fiscal year, twenty days each, at $450 each examination for each road, in all six examinations, $2,700.

For compensation and mileage of three commis-

sioners of Central Pacific railroad, appointed by the President agreeably to act of July 1, 1862, and amended act of July 2, 1864, during three examinations of road before the close of the fiscal year, at $1,050 each examination, $3,150.

For compensation and mileage of commissioners to examine portions of railroads reported completed according to law, to which grants of land inure, $2,500.

For pay, subsistence, and transportation of surveying party required by act approved July 1, 1862, to make the surveys to enable the President of the United States to fix the point on the one hundredth meridian of longitude between the south margin of the valley of the Republican river and the north margin of the valley of the Platte river, at which the several branch roads shall converge and meet the Union Pacific railroad, $20,000.

For drawing instruments, mapping material, stationery, &c., $150.

Cost of completing bridge over Big Sioux, Vermillion, and Dakota rivers, and Government wagon road from Sioux City, Iowa, to Fort Randall, to Dakota Territory, $20,000.

For commutation of quarters and fuel to officer of corps of engineers, United States Army, in charge of engineer officers, Department of the Interior, agreeably to Army regulations 1st August, 1865, to June 30, 1866, to be paid by the Department of the Interior agreeably to Army regulations, $1,137 64.

For contingencies, $3,000.

I will say, in reference to this appropriation, that it is not all for the Pacific railroad; a very considerable part of it occurs under another law. There is an item of $20,000 for the construction of bridges over the Big Sioux and Vermillion rivers, authorized by an act of Congress for the construction of a military road in Dakota; and the appropriation coming from the Interior Department, and being absolutely necessary, is combined with those required for the Pacific railroad; and it appears to swell the whole amount. Another very large item of the appropriation—both of those together making the greatest part of it, nearly three fourths of it—is $20,000 for establishing the one hundredth meridian between the Platte and Republican rivers, as provided by the Pacific railroad act. That was a very expensive service, and has been performed.

The other items of appropriations have arisen thus: the acts for the construction of the Pacific railroad provided for the appointment of commissioners to examine the divisions of roads which should be constructed when constructed, and to report to the President of the United States; but although the law provided for their appointment by the President, and for their report being made to him, there was no provision made by law for their payment, either by the companies or by the Government. With considerable experience now on the part of the Interior Department, they believe that it is even profitable and proper for the Government to pay these commissioners, so as to make them independent of the companies whose roads they examined, because it will be remembered that very large amounts of Government subsidy in bonds and lands at once go to the companies from the Government of the United States upon the report of these commissioners. It is important, therefore, to keep these commissioners within the influence and reach and power of the Government of the United States.

The various branches of the Pacific railroad on the eastern side of the continent gave rise to a great deal of trouble, both as regards the establishment of the routes they should take, questions coming up between the different companies, and also in regard to the quality of the work performed. The first work performed by some of the companies—reports being made by commissioners appointed by the President, of the completion of twenty miles of road—was found to be totally insufficient as to the manner of its construction, and further examination was necessary to be made that the public interest might be protected and preserved, under the direction of the President of the United States.

In this connection it was soon discovered by the Interior Department that it was necessary to give this work the close inspection of that Department, and the present head of the Department, soon after coming into office, found this to be absolutely necessary. The first step that he took was to ask from the President the detail of an Army engineer officer to the Interior Department who should erect, not a bureau there, but a desk, to which all these reports should come, and from which a superintending and close vigilance should be exercised until at least the whole work was properly started. That has been accomplished. The engineer leaves here this day to join in making the sixth examination on this side, the companies being now vigorously engaged in making the railroad and pressing their work forward with great energy.

The charges that have accrued for all the work done connected with the Pacific railroad on both sides of the continent, in California and here, amount to about $17,000. The two great items of expenditure, as I before observed, the one for establishing the one hundredth meridian and the one for the construction under another law of Congress of bridges over the Big Sioux and Vermillion rivers, form the main items of this appropriation. That part of the appropriation which relates to the Pacific railroad is very slight indeed, as will be observed by examination. It costs the Government very little. But I will say in regard to that, that on examination I found an item amounting to $1,000 that was not necessary, and it has been stricken out. The company there was perfectly willing to pay the commissioners, and did pay them for the first two examinations made; but it was found that there was something very like an attempt by one of the commissioners to obtain extra compensation from the company, and the Interior Department very promptly displaced that commissioner and came to the conclusion, from the investigation of that case, that it was necessary and profitable to the Government to pay a direct compensation to the commissioners. I only say this in behalf of that end of the line to show that there is no attempt to obtain money from the Treasury from that quarter. But a very small portion of this appropriation goes in that direction. I have no doubt, for I have kept a pretty close eye upon all the work that has been done in this connection, that the Interior Department has conferred a great service upon the country in connection with the construction of the Pacific railroad by the close rein it has held upon the companies by the establishment at the beginning of a system of organization and by producing complete order, which now exists, out of disorder, which did exist, and that it has pursued both the line of economy and of the strictest public duty in this connection.

Mr. FESSENDEN. I suggest to the Senator to strike out the introduction to his amendment because it is unnecessary to say anything about the Engineer office of the Interior Department.

Mr. CONNESS. I have no objection to that; and I will say further to the honorable chairman of the Finance Committee that the last item in the amendment is $3,000 for contingencies. All the other items, it will be seen, are specific appropriations within which there is no margin; and it will be for the honorable chairman of that committee and for the Senate to determine whether that Department shall be left without a dollar for contingencies or not. That amount may be cut down or allowed to remain or struck out entirely without affecting, of course, the work done; but I have the greatest confidence that there need be no alarm felt with that Department, nor with the engineer who is detailed there lest a misappropriation of that small amount should be made. I have not the slightest; but I submit that matter to the chairman.

Mr. FESSENDEN. I find these items in the original estimate sent to Congress from the Secretary of the Interior. They were not put in this bill by the House of Representatives, and since then they came before the Committee on Finance, but they came so late that we were unable to investigate them before reporting the bill, and therefore deferred them. The engineer was before us and gave explanation of all the items. Since then they have been reëxamined and rewritten by the engineer, finding some mistakes in the original estimates; and at my request the honorable Senator from California has been good enough to give his close attention to them, and there have been some other amendments made.

The only question that strikes me is one for the Senate to decide, and it is a matter upon which I can have no definite opinion of my own, so many other gentlemen are better acquainted with it than I am. The original Pacific railroad bill, as I understand, made no provision for the payment of these officers, who are undoubtedly necessary. I supposed when I first looked at it that the omission was accidental. I have since been told, however, that it was thought better at the time that these officers to discharge these duties should be paid by the Government in order to protect the Government, and not have them paid by the railroad company. The Senator knows better than I do whether that was the view presented at that time.

Mr. CONNESS. I believe it was.

Mr. FESSENDEN. And I understand from him that the Secretary of the Interior is of opinion that that is a wise provision, and that they ought to be paid by the Government. That these estimates are correct, having undergone the very thorough revision they have from so many quarters, I am not prepared to dispute. I presume they are correct; and if the Government ought to pay these bills, there being no provision whatever with regard to it, then this appropriation ought to be made. My own impression was that the whole expense of the road ought to be paid by the companies. The appointment of these commissioners to ascertain these facts is a necessary part of the expense, and I thought the Government should not be made to bear these contingent expenses of different kinds; we already see that they amount to quite a considerable sum.

Mr. CONNESS. I will state in that connection to the honorable Senator that there is a greater proportion of expenditures now than there will be hereafter.

Mr. FESSENDEN. Still I suppose we must expect to pay something every year while the road is going on.

Mr. CONNESS. A small sum, no doubt.

Mr. FESSENDEN. My own opinion was the other way, and I suggested a remedy, and that was to refuse to issue bonds until these bills were paid and the Government relieved; but I find so many opinions against me of gentlemen whose views I have a respect for with regard to what would be the safe and finally the economical course for the Government to take, that I do not feel disposed to combat the matter, but to leave it to the Senate to decide whether it is best to put on these items or not.

Mr. CONNESS. I will repeat to the Senator again that so far as the company in California are concerned they did pay the commissioners, and they are willing to go on and pay them. They care but little or nothing about the amount required for that purpose. They have no wish in the premises. But the Interior Department, and myself in connection with them, have discovered that in regard to that service, the Government would be best served by a small amount being paid directly from the Treasury, and thus making these officers independent of the company.

The amendment was agreed to.

The bill was reported to the Senate as amended.

The PRESIDING OFFICER. The Chair will put the question on concurring in all the amendments made as in Committee of the Whole together, unless some Senator desires a separate vote on some amendment.

Mr. SPRAGUE. I desire a separate vote on the amendment striking out the clause after the ninety-eighth line of the first section for the survey of the Seekonk river.

The PRESIDING OFFICER. That amendment will be excepted.

Mr. SPRAGUE. I desire also to have a separate vote on the amendment striking out the proviso in the four hundred and twenty-second line of the first section in relation to the purchase of carpets.

The PRESIDING OFFICER. That amendment will also be excepted. If no other amendments be excepted, the Chair will put the ques-

tion on concurring in the balance of the amendments together.

The remainder of the amendments were concurred in.

The PRESIDING OFFICER. The question now is on concurring in the first excepted amendment, to strike out, after line ninety-eight of the first section, the following clause:

For survey of and for buoying out Seekonk river, from Pawtucket to India Point, in Providence, Rhode Island, $1,000.

Mr. SPRAGUE. This appropriation appeared on the miscellaneous bill of the last session, and was obtained by my colleague in the other House. It was obtained by his personal representations of the case from his own knowledge of the importance of the appropriation. In reference to the buoys, he said:

"They have become greatly damaged from neglect, and in the last Congress I furnished evidence that it would take $1,000 to replace them, and that sum was inserted in the miscellaneous appropriation bill which was lost in the close of the last Congress. Our Committee on Appropriations inserted the same amount in this bill now before Congress. The appropriation has become a matter of necessity, and if not made now, a much larger sum will be required at some future day."

Mr. FESSENDEN. Who is that from?

Mr. SPRAGUE. Mr. JENCKES, of the other House. He obtained the appropriation on the miscellaneous appropriation bill of last session. He made representations of a character that induced the House to put it upon that bill, and the same representations were made to the committee of the House at this session.

Mr. FESSENDEN. All I can say about it is, there was no evidence whatever that we could find anywhere; there was none among the papers that came up from the Committee on Appropriations of the House, and there was no recommendation of it in the estimates. There is nothing stated in what the Senator has read, as I understand it, except that the honorable member of the House alluded to by the honorable Senator states that he satisfied the committee there that it was necessary, and they put it in the appropriation bill. That is hardly enough to satisfy the Senate. We ought to be satisfied also about it. The Committee on Finance struck it out simply because there was a want of information on the subject from the Department. There does not seem to be anything to found it on except the statement of the honorable member from Rhode Island, that in his opinion it is necessary to be done. The customary mode here has been ordinarily in these cases to obtain a recommendation from the Department; in the first instance to satisfy the Department having charge of the subject, and if they become satisfied of its necessity then it may be done. I think it would be better to strike it out of this bill and put it on the miscellaneous appropriation bill for this year. It is not a deficiency because the work has not been done, and there will be a miscellaneous bill before us by and by, and if then we become satisfied of its necessity there will be no objection to it.

The PRESIDENT *pro tempore*. The question will be on concurring in the amendment made as in Committee of the Whole.

The amendment was concurred in.

The next excepted amendment was on page 8, line four hundred and twenty-two, section one, to strike out the following proviso:

Provided, That in the purchase of carpets for any of the public buildings or offices under any appropriations herein provided, they shall be of domestic manufacture.

Mr. FESSENDEN. The committee went upon the principle that it is best to buy carpets where you can buy them to the best advantage. There is a great deal done in that way in regard to these matters. Of course all our feelings are in favor of domestic industry where we have carpets at home, but as an economical committee, a committee looking to the finances and expenditures, we thought it best to leave that matter to the discretion of the purchasing agents to buy such carpets as they could buy to the best advantage, instead of making it absolutely necessary that they should buy at home. I believe there are some three or four carpet factories in the United States, and putting in these provisions has a tendency to raise prices and to give advantages which we think ought not to be put upon appropriation bills at any rate.

Mr. SPRAGUE. It was not the amount of the appropriation that I had in view in submitting the motion I did. I desired a recognition on the part of the Senate favorable to domestic interests. I thought as the members of the other House, the most numerous branch of Congress, who are supposed to come nearer the people, perhaps, than the members of the Senate, had recognized the importance of this great interest, the Senate should also unite with them. The probability is that the amount of carpets to be furnished to the Government would hardly employ the time of any considerable manufacturer one day; but I desired that the domestic interest might be recognized by the Senate. It has done so in previous legislation without any detriment, I believe, to the Government. All I desire is the simple recognition of our own industry.

The amendment was non-concurred in.

Mr. POMEROY. I call the attention of the chairman of the Committee on Finance to an amendment that was concurred in while we were in Committee of the Whole, on page 24 of the bill in line five hundred and sixty-seven of section one. The House of Representatives inserted a provision to pay the expenses of taking the census in Arizona; but it was stricken out by the Committee on Finance under the apprehension that there was no law for taking that census. I find upon referring to the organic act of Arizona, that instead of giving them a new act and prescribing definitely what the duties of the marshal and Governor and the territorial officers should be, we reënacted the old statute that organized them into the Territory of New Mexico, and provided that the same officers, discharging the same duties, should apply to Arizona that applied to New Mexico. By going back to the law of 1850, organizing the Territory of New Mexico, I find it was made the duty of the Governor, before he called the Legislative Assembly together, to take a census and to apportion the members of the Legislative Assembly among the people after the census was adopted. As we reënacted that law in the organic act of the Territory of Arizona, it becomes the law of Arizona. The Governor did order the census to be taken. The marshal, Mr. Duffield, to my knowledge, for I have letters from him on that subject, did take the census, but he has never received any pay for it. It was taken according to law, and I know of no reason why he should not be paid. Therefore, I move that the Senate do not concur in that amendment made as in Committee of the Whole.

Mr. CONNESS. I shall not occupy the time of the Senate except to say that I have looked into this matter to some extent, sufficiently to satisfy me that what the Senator states is entirely correct, that it was authorized by law, and this gentleman has not been paid. He was here last year to get his pay, and the reason he did not receive it was because there was no appropriation. He is a very good man; there cannot be any better; he is one of that class of men who would not prefer a claim against the Treasury unless it was a valid and just one.

Mr. FESSENDEN. The sole ground upon which we struck out the item was that we did not know that there was a law for taking the census. If there was a law for it, I have no objection to the clause being allowed to remain in the bill.

The PRESIDING OFFICER. The Senator from Kansas moves to reconsider the vote by which this clause was stricken out.

The motion was agreed to.

The PRESIDING OFFICER. The question now is on concurring in the Senate in the amendment striking out this clause.

The amendment was not concurred in.

Mr. SUMNER. In pursuance of the suggestion from the Senator from Maine, I have sent to the State Department for the precise information with regard to the item to which he objected. I have not yet received an answer but am expecting it every minute. Three minutes ago I was called to the door by a gentleman who I think is either the surveyor or commissioner, and who is at this moment in the office of the Secretary of the Senate engaged in making out a list of the items that compose the amounts in the estimates which I sent to the desk.

Mr. FESSENDEN. I will move, then, for the accommodation of the Senator, in order that the matter may be fully explained, that this bill be laid over, and we can go on with the naval appropriation bill.

The PRESIDING OFFICER. This bill will be laid aside informally. The Senator from Maine can call it up at any time.

Mr. FESSENDEN. I should like to have the bill disposed of to-day, but in the mean time I propose to take up the naval appropriation bill.

ROBERT HENNE.

Mr. KIRKWOOD. I move to take up House bill No. 217.

Mr. FESSENDEN. I should like to take up the naval appropriation bill.

Mr. KIRKWOOD. This will not take two minutes.

Mr. FESSENDEN. If it will not take any time, I will not object.

Mr. KIRKWOOD. It will not take but very little time I think.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 217) for the relief of Robert Henne. It directs the Secretary of the Interior to increase the pension of Robert Henne, late of company I, twelfth Missouri infantry, from seventeen dollars per month to twenty-five dollars per month, and to pay him such increased pension from the passage of this bill.

Mr. FESSENDEN. There ought to be some explanation of the bill.

Mr. KIRKWOOD. There is a report of the House committee, which is concurred in by the Senate committee, accompanying the bill. I know the facts myself, and can state them in less time than the reading of the report would take. This person is from Iowa. When the war broke out he desired to go in the first Iowa regiment, but could not get in. He went voluntarily, however, and accompanied the regiment, and was afterward transferred to a Missouri regiment, served there, lost a leg and arm, and had his other arm crippled; so that he has lost one arm and one leg, and has his other arm crippled. He is almost entirely helpless. We propose to increase his pension on that account, in the same way that we have increased the pensions of others similarly afflicted.

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

NAVAL APPROPRIATION BILL.

Mr. FESSENDEN. I move now to take up the naval appropriation bill.

The motion was agreed to; and the bill (H. R. No. 122) making appropriations for the naval service for the year ending 30th June, 1867, was considered as in Committee of the Whole.

The bill was read; and the amendments reported by the Committee on Finance were acted on in their order. The first amendment was to strike out the following proviso at the close of the appropriations for the Bureau of Yards and Docks:

Provided, That there be transferred from appropriations for fuel to the contingent expenses of the Bureau of Equipment and Recruiting, $800,000.

And in lieu thereof to insert:

Bureau of Equipment and Recruiting:

For expenses that may accrue for the following purposes, namely: expenses of recruiting, traveling expenses of officers, transportation of men, printing and stationery, advertising in public newspapers, postage on public letters, wharfage and demurrage,

apprehension of deserters, pilotage and towage of vessels, and assistance to vessels in distress, $800,000.

The amendment was agreed to.

The next amendment was to add the following item to the appropriations for the Boston navy-yard:

For purchase of Oakman & Eldridge's wharf, $135,000: *Provided*, That this sum shall cover the whole cost of the property, and that it can be acquired on terms satisfactory to the Secretary of the Navy.

Mr. SUMNER. This is an old affair; it was considered here a few years ago. It is to me a very embarrassing question; I am very sorry it is here; I am very sorry that I have to say anything about it. It is a proposition to pay $135,000 for the purchase of a wharf in Charlestown. If the wharf is needed by the Government, I do not see that there can be any good reason why it should not be taken, even though the city authorities of Charlestown object to it very much. They consider it important to keep that wharf for the commercial purposes of the town; they think it ought not to be surrendered to the navy-yard. Besides that, they represent that the sum proposed to be paid is about double its value; on that I can have no opinion, I am no judge. I know the situation very well; I have been more or less familiar with it from my childhood, but I can have no opinion on its value. Under the circumstances I am much embarrassed, because the city authorities of Charlestown, within whose jurisdiction this wharf lies, object to the purchase. I have in my hands a letter which has been addressed to me by the mayor, and as it is an official document I cannot disregard it; at least I ought to bring it to the attention of the Senate.

Mr. FESSENDEN. You had another last year.

Mr. SUMNER. The Senator says I had another from him last year. The Senator is mistaken. Last year I had none. I will read this communication:

CITY OF CHARLESTOWN, MASSACHUSETTS,
MAYOR'S OFFICE, *March* 1, 1866.

DEAR SIR: It appears that the Finance Committee have reported in favor of the purchase of the Oakman & Eldridge wharf.

You are aware that our city and citizens are opposed to the project, as the measure, if consummated, will withdraw so much wharf property from commercial uses and municipal taxation. But this opposition would at once cease if it was really apparent that the necessity of the Government was such as to require the proposed extension. Our people are as patriotic as those of any other city, and are just as ready to sacrifice their private interests for the public good.

The opinion is quite general here that there is ample space within the present limits of the navy-yard for additional wharf accommodations. And it would appear to be no more than just to our city that the Government should extend its wharves to deep water before taking more of our territory.

What confirms our people more thoroughly in the opinion that this wharf is not required is the fact that its owners are so strenuous to sell, notwithstanding their assertion to the contrary, Mr. Oakman being a frequent attendant at the Capitol when this subject is under consideration; and also the further fact that the property is not worth over $60,000, although it is proposed to appropriate $135,000 for its purchase. The sum of $75,000 furnishes a powerful leverage with which to change a piece of property from private to public uses.

I believe that the position taken by the city is fully sustained by the affidavits now on file in the room of the Finance Committee, to which I refer you. Several of them, but not the most important, were published in the Globe of April 12, 1864.

If Congress would pass a general law by which lands could be taken and their value be determined by a jury, the whole difficulty would be removed. It would, I believe, be impossible to find a Massachusetts jury who would award as much as $75,000 for this property. The chances of speculation being removed, owners of land or speculators would have no inducement to manufacture a necessity which they experienced before it was realized by the Government. Government would obtain land at fair prices, and municipalities would not be compelled to defend their rights.

I respectfully request your attention to this subject. The city desires nothing but what is right, fair, and honorable.

Inclosed herewith I send copies of votes.

Yours respectfully,

CHARLES ROBINSON, jr., *Mayor*.

Hon. CHARLES SUMNER.

The votes inclosed are as follows:

CITY OF CHARLESTOWN,
IN BOARD OF MAYOR AND ALDERMEN,
January 30, 1865.

Ordered, (the Common Council concurring,) That his honor the mayor and the board of aldermen be authorized to take such steps as they may deem expedient and necessary for the protection of the interests of the city in the matter now again agitated in Congress by which it is proposed to extend the limits of the navy-yard in Charlestown, and to take from the city its taxable property for that purpose.

A true copy.
Attest: DANIEL WILLIAMS, *City Clerk*.

IN BOARD OF MAYOR AND ALDERMEN,
January 30, 1865.

Voted, That his honor the mayor be authorized and requested to act in behalf of the board, in the matter of the above order, in such manner as he shall deem expedient and necessary.

A true copy.
Attest: DANIEL WILLIAMS, *City Clerk*.

CITY OF CHARLESTOWN,
IN BOARD OF MAYOR AND ALDERMEN,
January 22, 1866.

Whereas it is deemed highly detrimental to the interests of the city, that any additional territory of the city should be taken for the enlargement of the navy-yard: Therefore,

Ordered, That his honor the mayor be authorized to adopt such measures and take such action as he may deem advisable to oppose the enlargement of the navy-yard by the taking or purchase of land within the limits of the city.

DANIEL WILLIAMS, *City Clerk*.

IN COMMON COUNCIL, *January* 22, 1866.

Concurred. JOHN T. PRIEST, *Clerk*.

A true copy.
Attest: DANIEL WILLIAMS, *City Clerk*.

It was in pursuance of these votes that the mayor visited Washington, called upon me personally, and made his protest against this transaction. I state these facts that the Senate may know how this case stands. I have no feeling about it; I certainly have no interest in it; and personally I should rather see the Government absolutely have their way; and yet I think Senators will perhaps appreciate my feelings when the authorities of the town of Charlestown, a town adjoining that in which I live, in this formal manner protest against the transaction. I confess I am somewhat embarrassed. When they distinctly say that this land is not worth more than $60,000, and by our appropriation we are to give $135,000 for it, I am mystified; I do not know how to explain it.

I ask whether it would not be practicable to provide that this land should be taken in pursuance of an estimate by a jury. On that point I have drawn up some words to which I will call the attention of the Senator from Maine. I do not know that it is practicable; and yet, in my desire to find some solution of this question to prevent it coming to the Senate again, and in my desire to do my duty toward the authorities of a considerable town in my State, I have thought it would be well to submit the question of value to a jury. The proposition of the committee is:

For purchase of Oakman & Eldridge's wharf, $135,000: *Provided*, That this sum shall cover the whole cost of the property, and that it can be acquired on terms satisfactory to the Secretary of the Navy.

What I would propose now—I merely throw it out as a suggestion—is to strike out the words "and that it can be acquired on terms satisfactory to the Secretary of the Navy" and in lieu of them to insert "and that its price shall be determined by a jury of six persons selected from the neighborhood by the marshal of the district." Is not that practicable? Senators say I cannot make it good legally. Bear in mind there is no effort to make it good legally in one sense, that is, to force it upon the parties; it would be a voluntary transaction. But here is a particular case where there is this great discrepancy in the testimony as to the value, and for the protection of the Government and for the protection of the local interests there I wish to find some means of ascertaining the value which shall be acceptable to all, and which shall foreclose all opposition, all question, all scruple. What is to hinder our saying that it shall be taken at a price to be determined by a jury called together by the marshal?

Mr. FESSENDEN. But suppose the owners should not be willing to accept their valuation?

Mr. SUMNER. Then it would fall to the ground. I do not say you can impose this upon the parties. I only suggest this now as a sort of compromise, a sort of middle term, as an arrangement which I think may not be absolutely impracticable, and which, if adopted, will be the solution of the question. It is a small affair, however, to occupy so much time and to come up here year after year.

Mr. FESSENDEN. The proposition of the honorable Senator from Massachusetts, if adopted, would certainly defeat the measure. These individuals own this property; they are willing to sell it for a certain price, and not for any sum less than that which they demand for it. Putting in the provision now suggested would simply amount to this: if a jury should find that the property was worth the amount asked for, the purchase would be made; if they should say it was worth more, the Government would lose; if they should say it was worth less, the owners would not let us have it; so that the whole thing would be defeated unless in the contingency of the jury finding the exact sum named.

All I can say about this matter is that the Committee on Finance have examined it several times. In the first place, it has been recommended over and over again by the head of the Department and by the officer at the head of the Bureau of Yards and Docks. I believe no one can doubt the perfect integrity of Admiral Smith, who is at the head of that bureau. It has been recommended by all the superintendents in charge of the Charlestown navy-yard.

Now, as to the amount of the sum named in the amendment, it cannot be very far out of the way.

If I am not very much misinformed this very city of Charlestown, for purposes of assessment, assessed this property about as high as the price asked for it, although they say now it is not worth more than $60,000. I may be in error on this point, but my impression is as I state. The real difficulty made about the price is not by anybody who felt that the Government was about to be defrauded, but by people living in Charlestown who wish to defeat the object. They are very much in trouble for fear the Government will be imposed upon as to the price. The whole secret of the opposition that has been made hitherto by the people of Charlestown has arisen from the fact that they wish to compel the naval authorities to build at the other extremity of the yard, away from the workshops, to carry out the wharves into deep water at a great expense to the Government, and where, after all, it is difficult to find deep water, for it is filling up there continually.

The Government is put to great expense every year there for want of a place in which to store its coal. It pays a great deal more for hauling every year than the interest on this money; and the Government is obliged to pay an additional sum for wharfage and demurrage. The Government now occupy this property. They took possession of it from necessity, and have ever since held it against the will of the owners because it is absolutely necessary to the operations of the yard. There is no place there to lay vessels; we are obliged to put them off in the stream with very great difficulty and at great expense. The matter has been looked into repeatedly, and I believe the measure has never failed to pass the Committee of Ways and Means of the other House, and the Committee on Finance of the Senate, who have examined it time and again. The only thing that has defeated it has been the opposition of the people in Charlestown who desire that the operations of the yard should be carried further over toward certain property belonging to the mayor and other prominent individuals there. That is the secret of the whole thing, in my judgment.

There was some contradictory testimony as to the value of the property. Some persons testified that it was not worth so much as this by considerable, and others testified that it is a fair price on the whole; at any rate it is not very far out of the way, and you cannot get it for less, and it is absolutely essential, in my judgment, that the Government should have it.

I have been surprised a little that the Senators from Massachusetts did not take more interest in this matter; but the honorable Senator who addressed the Senate just now [Mr. SUMNER] has given his reasons. He has been embarrassed by the continual representations of the people of Charlestown. I do not know what opinion my friend [Mr. WILSON] has on the subject; I believe he has not expressed any up to this time. I hope he will now, for I say that if the Senators from Massachusetts mean to oppose these proceedings, which are intended for the benefit of that great navy-yard lying directly at their own doors, it is useless for others to press the matter, and I do not mean to contend much about it, but I am of opinion that the sooner we buy this property the better.

Mr. WILSON. At the last session of Congress various representations were made in regard to this proposed purchase of land by persons connected with the government of the city of Charlestown and by others, and I was very much embarrassed by those representations. Of course, I was desirous that the Government should have whatever it needed to complete its works there, and at the lowest possible rate. I am satisfied, however, on inquiry and further reflection, that the proposed purchase is needed by the Government and that the Government ought to have it. If the navy-yard is to be continued at Charlestown they must have what land may be necessary for the public work. If not I suppose they are at liberty to take the navy-yard away from Charlestown. I suppose the people of that city must so understand it. As to the price, I do not know whether the owners ask too much or not, but it is left at the discretion of the Secretary of the Navy, and I have full confidence that he will take care of the interests of the country. Therefore I shall vote with the committee for this proposition. I will say, however, that I suppose there are some public considerations that influenced the authorities of Charlestown. This is a very excellent position for deep water, and of great commercial account to the city. I suppose it would be for the interests of the city if the Federal Government could extend its yard in the other direction, but I do not think it will be for the interest of the Federal Government to undertake that. I do not suppose the people there are actuated by other than what they regard as the interests of their city, but as a Senator I think my duty is to take care of the interests of the Federal Government, and I shall vote for this proposition.

Mr. SUMNER. I shall not make any further resistance to this proposition, and, indeed, Senators will bear witness that I have hardly made resistance now. I have performed a duty; it is not a pleasant duty when I am called to differ from associates about me, but I think Senators will appreciate the position of a Senator of Massachusetts who was addressed as I have been by the municipal authorities of Charlestown. I think that they may enter into the feelings, perhaps, of those authorities. Surely they might be pardoned if they saw with regret this property passing from the reach of their taxation; passing from the reach of those influences which would enter, as they supposed, into the prosperity of the city, and coming within the inclosure of the United States. Coming within that inclosure may add to the strength of the navy-yard and contribute to our pride, but it does take something essential from this town. It is not a large town; the Senator from Maine knows well in point of acres it is one of the smallest towns, probably, in the whole country. I believe it does not contain more than six hundred acres all told; but it is a historic town, and the people there naturally feel an interest in keeping what remains to them of their territory within their own proper jurisdiction, and not seeing it pass out of their hands and coming under the jurisdiction of the United States. I think I can enter into their feelings. It is not without a pang, probably, that the municipal authorities there will hear that such a disposition has been made of this property as will take it from their jurisdiction. But, sir, the committee assure us that it is needed by the Government. If it is needed by the Government, that is enough; I cannot oppose it; but this discussion, perhaps, may at least put the Government on its guard with regard to the price. It may induce it at least to inquire whether the mayor and other municipal authorities of Charlestown are right when they say that the value of the land is only about sixty thousand dollars, when the owners put it at $135,000. I ask, therefore, the Secretary of the Navy to be good enough to take notice that there is this discrepancy with regard to the price, and I hope he will be particularly watchful and see that the public interests do not suffer.

Mr. GUTHRIE. I recollect that the mayor of Charlestown was before the Committee on Finance. We heard his statement and we had the maps before us. After a full investigation we concluded that it was absolutely necessary to the Government that it should have this addition to the navy-yard. I believe that the Government needs it; it is an absolute necessity, if we are to enjoy the present navy-yard property beneficially. The objection of the city seems to be that it will draw that much private property from taxation. The mayor suggested that a place could be made by filling up another part of the public grounds; but that would not be convenient and would cost a great amount of money. I satisfied myself that that would involve a much greater expense than the purchase of this ground. The mayor did say something about this being a high price for the property; before it was known that the United States wanted it he thought it could be got for less, and that they were pocketing a good deal of money; but on the question being put "Could it be got for less," I think he replied, "Not now; not while the Government is in the market." According to my understanding, it is wanted for a coal depot. There is now no depot convenient to the navy-yard; and it costs a great deal of money to haul the coal. On that ground, and because of the great importance of the navy-yard, I concluded with the committee that it was necessary to make this purchase. I am still of that opinion, and I shall vote for the amendment which leaves the matter to the discretion of the Secretary of the Navy.

The amendment was agreed to.

The next amendment of the Committee on Finance was in section one, to add after line one hundred and fifty-six the following item for the New York navy-yard:

For quay-wall extension at sewer, $100,000.

The amendment was agreed to.

The next amendment was after line one hundred and ninety-four of section one, to add the following items for the Norfolk navy-yard:

For ship-joiners' shop and timber shed No. 12, $45,000.

For storehouse No. 14, $46,000.

The amendment was agreed to.

The next amendment was in line two hundred and eight of section one, to strike out after the words "navy-yard" the words "or so much thereof as may be necessary, twenty," and to insert "and for repairs of all kinds, fifty;" so that the clause will read:

For the preservation of the property of the United States at the Pensacola navy-yard, and for repairs of all kinds, $50,000.

The amendment was agreed to.

The next amendment was in section two, line three, to strike out "July" and insert "May;" so that the clause will read:

That so much of the first section of the act making appropriations for the naval service, approved May 21, 1864, as appropriates $250,000 for bounties for destruction of enemies' vessels, &c.

The amendment was agreed to.

Mr. GRIMES. In line two hundred and seventy-eight of section one, I move to strike out "twenty-five" and insert "fifteen;" so that the clause will read:

For preparing for publication the American Nautical Almanac, $15,850.

I propose to reduce it to that amount.

The amendment was agreed to.

Mr. GRIMES. In section one, after line one hundred and fifty-eight, I move to insert:

For continuing the work on the new machine and boiler-shop, $100,000.

That is to supply an omission on the part of the Committee on Finance to report an amendment for the carrying on of the work already begun at the navy-yard in New York, where the foundation has been laid and the building partly erected.

Mr. FESSENDEN. I think the appropriation ought to be made.

The amendment was agreed to.

Mr. GRIMES. I propose to insert in section one, after line two hundred and sixty-eight, the following:

For the purchase of the grounds adjoining the Naval Academy at Annapolis, belonging to the State of Maryland, and known as the Governor's house and grounds, $25,000.

For the purchase of other grounds at Annapolis for the use of the Naval Academy, $25,000.

Mr. FESSENDEN. I should like to have that explained.

Mr. GRIMES. The Committee on Naval Affairs propose to extend the grounds of the Naval Academy. Adjacent to those grounds there is a tract of land belonging to the State of Maryland, embracing about four and seventy-three hundredths acres, with a water front, which, if the line be carried out so as to correspond with our present water wall, will give us about six or seven acres of land. Upon that is a very substantial house known as the Governor's house, belonging to the State of Maryland. I suppose a great many members here are familiar with that house. It is proposed to buy that house and the grounds for the use of the Naval Academy, and also to purchase either a lot south of that or a piece of land at the other end of the yard for the remaining $25,000 that is proposed to be expended by this amendment.

Mr. JOHNSON. Has the Senator ascertained whether the house which belongs to the State can be purchased for $25,000?

Mr. GRIMES. Yes, sir.

Mr. FESSENDEN. Has my friend from Iowa examined the matter personally, and is he satisfied in regard to it?

Mr. GRIMES. I have examined it thoroughly, and I am satisfied that the property for which we propose to pay the State of Maryland $25,000, is intrinsically worth twice that sum.

Mr. JOHNSON. It is worth a great deal more.

Mr. FESSENDEN. Is the Department in favor of making this purchase?

Mr. GRIMES. Yes, sir; the Department is in favor of making the purchase, provided we do not adopt the theory of the Department and send the Academy away down into Virginia.

The amendment was agreed to.

Mr. GRIMES. I offer this amendment to come in after the one just adopted:

For the erection of a building suitable for the accommodation of the third and fourth classes in the Naval Academy, $100,000.

I think that the propriety of making this amendment will suggest itself to the mind of every person who has been at the Naval Academy. It is moved upon the recommendation of the Department, upon the recommendation of the Superintendent of the Naval Academy, upon the recommendation of all the officers of the Academy, and upon the strong recommendation of everybody who has a son or a friend at the Academy. The young men in the third and fourth classes are now kept on board of frigates where they are obliged to sleep, to eat, and to study. The result is that they are in an unhealthy condition, and must necessarily be so as long as they are compelled to remain for two successive years in that condition. That it results from confinement on ship-board is sufficiently evinced by the sick-lists of those classes as compared with the two classes that are on land.

Mr. FESSENDEN. I do not consider it my duty as chairman of the Committee on Finance to oppose every amendment that is proposed which addresses itself to my own

judgment. I have not any particular opinion in regard to this matter, for I know very little about it. I do know, however, that there has been very considerable complaint in regard to the health of the young men there on account of the want of accommodations; and as I have very great confidence in the honorable Senator from Iowa, with reference to naval affairs particularly, and he and that committee have investigated it and recommended it, in concurrence with the proper Department and those connected with the School, I do not feel that I am at liberty to oppose the proposition.

The amendment was agreed to.

Mr. GRIMES. I move this amendment to follow the one just adopted:

For the extension and enlargement of the chapel at the Naval Academy, $2,000.

I desire to say that the chapel of the Naval Academy was built at a time when there were only about a hundred students at the institution. We are now by law authorized to have five hundred and forty-two. When to them you add the families of the professors and officers attached to the Academy, the chapel is not sufficient to accommodate more than half of them. It is merely proposed, not to erect a new chapel, but to take out one end of the present building and make it a little larger.

Mr. WILSON. Will this amount do it?

Mr. GRIMES. I think so.

The amendment was agreed to.

Mr. GRIMES. I offer this amendment as an additional section:

And be it further enacted, That the second section of an act entitled "An act to regulate the pay of the Navy of the United States," approved March 3, 1835, and all acts or parts of acts authorizing the appointment of Navy agents be, and the same are hereby, repealed.

Mr. TRUMBULL. What is the effect of that? It seems to be a general provision of law which has nothing to do with an appropriation bill. I do not understand it. It seems to be a repeal of the laws authorizing the appointment of Navy agents.

Mr. GRIMES. That is it.

Mr. FESSENDEN. They have been dispensed with already.

Mr. TRUMBULL. How? By law?

Mr. CONNESS. By the action of the Department.

The amendment was agreed to.

Mr. GRIMES. I offer this amendment to come in after the appropriations for the Naval Academy:

For the erection of a foundery and machine-shop at the Naval Academy, $20,000.

Mr. FESSENDEN. I should like to have that explained.

Mr. GRIMES. I can explain it. The Department has adopted the practice which was initiated by the French navy a few years ago of making every midshipman as familiar as he can be made during the time he is being educated at the Academy with naval engineering. The time has gone by when seamanship is to be the sole or even the chief qualification of an officer; but he must understand all the means by which vessels are propelled, so that when he becomes the commander of a vessel he may not be compelled to rely entirely on his engineer as to what may be the defect of his engine, or how long it will take to be repaired, and how it is to be repaired, but that he should have some knowledge on that subject himself. For that reason, for the last year several engineers have been detailed to the Academy, and have been instructing the youth with admirable success. They want an engine-shop.

Mr. FESSENDEN. The amendment is for a foundery and machine-shop.

Mr. GRIMES. That is what it is, so that they may work with their own hands. These young men are sent on board of the practice-ship, and they begin as coal-heavers, and then are made first-class firemen, and finally work their way up until they can run engines themselves. In order to familiarize them with the duties that pertain to the office of an engineer, and to make them practical engineers as well as theoretical engineers, they want this smith's shop in which they can work with their own hands.

Mr. FESSENDEN. I hardly think it worth while to establish a foundery and machine-shop at the Naval Academy. I think the Senator is going a little too fast.

Mr. GRIMES. I can only say that the policy has been established. I have a letter here from the Secretary of the Navy requesting this appropriation to be made. I think it will do these young officers no harm to have a little manly exercise and be trained to engineering.

Mr. FESSENDEN. There is no telling how far it will go if we commence to establish founderies and machine-shops at the Naval Academy.

Mr. TRUMBULL. We shall next want an armory at West Point.

Mr. FESSENDEN. I hope the amendment will not be adopted.

The amendment was agreed to—ayes fifteen, noes not counted.

Mr. GRIMES. I offer the following amendment to come in after line two hundred and thirty of section one:

For enlarged accommodations for the naval laboratory at New York, $80,000.

I have received from the Navy Department these communications:

NAVY DEPARTMENT,
BUREAU OF MEDICINE AND SURGERY,
January 18, 1866.

SIR: Since the date of my report to the honorable Secretary of the Navy, the attention of the bureau has been again called to the absolute necessity for erecting a suitable building in which to conduct the business of the naval laboratory.

The director of the laboratory sets forth so strongly the wants of the medical department in this respect, that I cannot do better than inclose Surgeon Bache's recent letter on the subject.

It may be well to repeat that "the whole duties of the establishment are carried on in an unoccupied wing of the naval hospital, New York.

"In it the machinery, apparatus, manufacturing department, store-rooms, packing and dispensing-rooms are all crowded, and the whole work of providing the medical outfits of vessels is carried on in this place. The demands of the service are such that it is absolutely necessary to keep on hand a large stock of medical stores and appliances to supply calls, and it is found well-nigh impossible to conduct properly the daily operations of the establishment within its present contracted limits."

A suitable laboratory can be erected for the sum of $80,000, and I beg to urge upon the Department the propriety of asking Congress to make the requisite appropriation wherewith to construct the building.

Very respectfully, your obedient servant,

P. J. HORWITZ,
Chief of Bureau.

Hon. GIDEON WELLES, *Secretary of the Navy.*

UNITED STATES NAVAL LABORATORY,
NEW YORK, *December* 14, 1865.

SIR: I beg to call your special attention to the insufficiency of room in the laboratory. Every part available for apparatus is occupied; no space is left for new work, and in case of any of the accidents which may occur in machines as much overworked as these have been processes have to be suspended, sometimes with loss of material involved, until repairs can be effected.

The store-rooms are even more inadequate; after filling the lofts and the halls it has been necessary to borrow a building of considerable size, which is now filled to its capacity with returned stores, and still sixty-four cases of stores are necessarily left out of doors from want of space to store them under shelter. Such is our present embarrassment for room that we are unable to complete the three outfits now ordered, namely, for the Rhode Island, Florida, and Sassacus, until space is made for that purpose by the removal of some of the returned stores on hand.

We really need, to enable us to work efficiently, at least double the room we now have.

Very respectfully, your obedient servant,

B. F. BACHE,
Director Laboratory.

Surgeon P. J. HORWITZ, *Chief of Bureau Medicine and Surgery, Washington, D. C.*

Dr. Bache has been at the head of the laboratory for many years.

Mr. FESSENDEN. Do we own any laboratory there?

Mr. GRIMES. For a great many years it has been the practice of the Navy Department to buy all its drugs in a crude state, and to manipulate those drugs so as to prepare them for use, and put them on board of ships in such condition that they are able to endure any climate. The War Department has adopted this plan of having a laboratory recently, within the last year or two; but until that time probably the only pure, unadulterated medicines that could be found were those furnished to the men in the Navy from this medical laboratory, which is under the charge of Dr. Bache.

Mr. FESSENDEN. Do we own the building?

Mr. GRIMES. We own the buildings; they are all in the navy-yard at New York; but we have not a building for this specific purpose. They occupy store-rooms that have been loaned to them belonging to some other department there.

Mr. FESSENDEN. I think we can wait another year for this.

The amendment was agreed to.

Mr. GRIMES. I offer another amendment after line two hundred and sixty-four, section one, to insert the following:

And the pay of the clerk of the yard, and the first clerk to the navy store-keeper at each of the navy-yards at Portsmouth, New Hampshire, and Philadelphia, shall be $1,200 per annum, the same as those officers receive at Boston, New York, and Washington.

The clerks of those two yards, at Philadelphia and Portsmouth, receive now only $900, while officers performing precisely similar duties at the other yards named receive $1,200. This is recommended by the chief of the bureau.

The amendment was agreed to.

Mr. GRIMES. I propose to insert on page 6, at the end of line one hundred and thirty-three, section one, after the appropriation for the purchase of Seavey's Island for the Portsmouth navy-yard, this proviso:

Provided further, That in case the owners of the lots and improvements on said island shall not agree to receive the said sum for the whole island and the privileges and improvements thereunto belonging, the Secretary of the Navy is hereby directed to discontinue communication from said island through said navy-yard, to take effect on the 1st day of February, 1867.

The amendment was agreed to.

Mr. GRIMES. I offer the following as an additional section:

And be it further enacted, That the examination of candidates for admission to the Naval Academy shall be held at such stated times as the Secretary of the Navy may direct.

Mr. JOHNSON. What is the purpose of that?

Mr. GRIMES. Unfortunately the law as it now stands requires that the examination shall take place at a particular time, in the month of July, whereas it may become important one year to have the examination take place in the latter part of May, and in another year in the latter part of June, depending somewhat on circumstances. This amendment is to give the Department the discretion to fix the time according to circumstances.

The amendment was agreed to.

Mr. GRIMES. I have one more amendment to offer, and I am glad it is my last, to come in after the appropriations for the Naval Academy:

For the increase of the library at the Naval Academy, $5,000.

Mr. FESSENDEN. What necessity is there for that?

Mr. GRIMES. We were in the habit of making annual appropriations for the library of the Naval Academy, but during the last five years we have made none.

Mr. FESSENDEN. How much was the usual appropriation?

Mr. GRIMES. I cannot say, but I think two or three thousand dollars. During the time the Academy was at Newport no appropriations were made, and during a considerable portion of that time the library was boxed up and was not within reach of the midshipmen.

Mr. FESSENDEN. I think $5,000 is too much to spend in any one year for a library.

Mr. GRIMES. I shall not object to the amount being reduced reasonably.

Mr. JOHNSON. Say $2,500.

Mr. FESSENDEN. I think it ought to be less. I think $1,000 a year was the former usual appropriation.

Mr. GRIMES. I think it was $2,000.

Mr. FESSENDEN. I object to $2,000.

Mr. GRIMES. But there has been a lapse of years without any appropriation.

Mr. FESSENDEN. We cannot make it all up at once.

Mr. GRIMES. I modify my amendment by making it $2,000.

The amendment as modified was agreed to.

The bill was reported to the Senate as amended.

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) The question is on concurring in the amendments made as in Committee of the Whole.

Mr. FESSENDEN. The vote may be taken on all the amendments together, except the one for building a laboratory at New York.

The PRESIDING OFFICER. The question will be taken on concurring in all the amendments except the one indicated by the Senator from Maine.

The amendments were concurred in.

The PRESIDING OFFICER. The question now is on concurring in the amendment to insert after line two hundred and thirty of section one:

For enlarged accommodations for the naval laboratory at New York, $80,000.

Mr. FESSENDEN. I hope the Senator from Iowa will abandon that amendment. He has succeeded pretty well with all his propositions.

Mr. GRIMES. I shall not press it against the remonstrances of the chairman of the Committee on Finance. The Senate know what the requirements of the public service are. I have laid before them my information on the subject, and the responsibility is with them.

The amendment was not concurred in.

Mr. FESSENDEN. I did not design to carry this bill any further to-day than to get through with the amendments, and then I proposed to let it lie over before taking the vote on ordering it to a third reading. If there are no other amendments to the bill it may be laid aside.

The PRESIDING OFFICER. The bill will be laid aside for the present.

DEFICIENCY CIVIL BILL.

Mr. FESSENDEN. I now move to resume the consideration of the deficiency bill.

The motion was agreed to; and the Senate resumed the consideration of the bill (H. R. No. 86) making additional appropriations, and to supply deficiencies in the appropriations for sundry civil expenses of the Government for the fiscal year ending the 30th of June, 1866, and for other purposes.

Mr. SUMNER. I now renew the proposition which I offered in committee, with an alteration—to insert after line three hundred and eighty-four of the first section:

For the pay of the United States commissioner, and for the pay of the United States surveyor, and for incidental expenses in the execution of the duty assigned to the joint commission appointed under the first article of the reciprocity treaty between the United States and Great Britain of the 5th of June, 1854, from November 1, 1865, to March, 1866, for drafting and compilation of the final chart showing the places reserved from the common liberty of fishing, their limits and description, $1,500, or so much thereof as shall be necessary.

The Senator from Maine is aware, I think, of the circumstances which have occurred since he made his objection. I have had a communication with the Department of State and received some documents from there, and I have also seen one of the gentlemen particularly connected with this work, and I have been induced to modify the proposition and put it in this form. I understand that the Senator from Maine does not object to it.

The amendment was agreed to.

Mr. TRUMBULL. I notice on page 33 of this bill that the committee recommended the striking out of this proviso:

Provided, That hereafter no portrait or likeness of any living person shall be engraved or placed upon any of the bonds, securities, notes, or postal currency of the United States.

It is not a matter of any great importance, but I do not see why it should be stricken out.

Mr. FESSENDEN. I explained that yesterday; the question was raised then.

Mr. TRUMBULL. I was not in then.

Mr. FESSENDEN. They say at the Department that the putting of these heads on is a great protection against counterfeiting; at any rate, it enables the agents of the Department more readily to detect counterfeits when presented to them. To this purpose it is more important to have the heads of living persons than others. In reality the proviso was put in as a personal matter, aimed at a particular individual. I am satisfied that the better way is to strike it out.

Mr. TRUMBULL. So far as anything personal is concerned I have nothing to say. I do not aim it at a particular person, but it seems to me that the practice which this proviso seeks to stop is a very bad one.

Mr. FESSENDEN. They consider it important at the Department.

Mr. TRUMBULL. I cannot see for my life why the portrait of a living person should be any better on these notes to prevent counterfeiting than that of a person who is dead. Those portraits were taken from life. The people who see the likenesses may have never seen the living person, and if they had, that would not be a means of detecting the counterfeit. I ask Senators to reflect for a moment on this subject. President Lincoln's likeness is upon many of the bills. Will anybody say he cannot detect a counterfeit with Mr. Lincoln's likeness upon it just as quickly as he could a bill with the likeness of Mr. Johnson upon it?

Mr. FESSENDEN. Mr. Lincoln was a living person at the time he was put on—a mortal person.

Mr. TRUMBULL. There are mortal persons enough who have died whose likenesses we could put on if necessary. What may be the consequences of such a practice? We have had a rebellion in this country within a few years; before it there were persons at the head of this Government whose faces are obnoxious to the great mass of the loyal people of this country, and whose portraits we should not like to have upon the currency of the country. So far as it is aimed at any particular person I am opposed to it. I have no feeling in reference to any individual in regard to this matter, but it strikes me the proviso is a very proper one. It is not, perhaps, a matter of any great importance, but as the proviso is here in the bill as it comes from the other House, I think we may as well retain it.

Mr. FESSENDEN. All I have to say is, that experts consider it of some importance, and they know more about it than we can.

Mr. TRUMBULL. Is it too late to make a motion in regard to this proviso?

The PRESIDING OFFICER. The amendment striking out the proviso has been concurred in by the Senate.

Mr. FESSENDEN. The committee satisfied themselves about it.

Mr. TRUMBULL. If the Senator would give any reason in the world why the proviso should be stricken out I should not insist on retaining it, but he simply says that somebody has expressed an opinion that this is a matter of importance. I ask the Senator from Maine if he really believes so.

Mr. FESSENDEN. I do; because I have it from the best authority that it is considered by experts a very important protection.

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

HOUSE BILLS REFERRED.

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

A bill (H. R. No. 15) authorizing documentary evidence of titles to be furnished to the owners of certain lands in the city of St. Louis—to the Committee on Private Land Claims.

A bill (H. R. No. 155) granting land to A. M. Jess of Josephine county, Oregon—to the Committee on Private Land Claims.

A bill (H. R. No. 150) for the relief of the administrators and securities of Almon W. Babbitt, late secretary of Utah—to the Committee on Indian Affairs.

A bill (H. R. No. 364) to confirm unto Augustin Amiot, his legal assigns and representatives, a certain lot of ground in the city of St. Louis, in the State of Missouri—to the Committee on Private Land Claims.

A joint resolution (H. R. No. 67) providing for the reappraisement of the lands described in an act for the relief of William Sawyer and others, of Ohio—to the Committee on Indian Affairs.

LAND LOCATIONS IN MISSOURI.

The PRESIDENT *pro tempore* laid before the Senate the amendment of the House of Representatives to the bill (S. No. 36) quieting doubts in relation to the validity of certain locations of lands in the State of Missouri, made by virtue of certificates issued under the act of Congress of February 17, 1815.

The amendment was read. It is to insert after the word "shall," in line twenty-one of section two, the words "be so construed as to invalidate or impair any patent heretofore issued by the United States, or shall;" so as to make the proviso read:

And provided further, That nothing in this act shall be so construed as to invalidate or impair any patent heretofore issued by the United States, or shall in any manner abridge, divest, impair, injure, or prejudice any valid adverse title or interest of any person or persons, &c.

Mr. HARRIS. I have examined the amendment just read and am satisfied that it does not change the legal effect of the bill. I move, therefore, that the Senate concur in it.

The motion was agreed to.

ADJOURNMENT TO MONDAY.

On motion of Mr. GRIMES, it was

Ordered, That when the Senate adjourns to-day it be to meet on Monday next.

INDIAN AFFAIRS.

Mr. DOOLITTLE. I move to take up Senate bill No. 204, which I reported yesterday.

The motion was agreed to; and the bill (S. No. 204) to provide for an annual inspection into Indian affairs, and for other purposes, was read the second time, and considered as in Committee of the Whole.

The bill proposes that there shall be established five inspection districts of Indian affairs: one to embrace the States of California and Nevada and the Territory of Arizona; one to embrace the State of Oregon and the Territories of Washington and Idaho; one to embrace the Territories of Colorado, Utah, and New Mexico; one to embrace the State of Kansas, the Indian Territory, Nebraska, and southern Dakota; and one to embrace the State of Minnesota and that part of the Territory of Dakota north of Nebraska, and the Territory of Montana; but the Secretary of the Interior, under the direction of the President, may from time to time change the boundaries of those districts; and it creates five boards of inspection of Indian affairs, each to consist of three members, one chief inspector, to be appointed by the President, by and with the advice and consent of the Senate, who is to hold his office for the term of four years; one inspector, to be an officer of the regular Army, who is to be annually detailed by the Secretary of War for that purpose; and one, to be annually appointed by the President, by and with the advice and consent of the Senate, from among such persons as may be recommended by the annual meetings or conventions of the religious societies or denominations of the United States as suitable persons to act upon those boards; or, in case of their failure to make such recommendation, from such persons as he shall deem proper. Each of the inspectors appointed by the President is to receive a salary of $4,000 per annum, and the officer detailed to act as inspector is to serve without additional pay or allowance as such.

These boards of inspection are to visit all the Indian tribes within their respective districts at least once in each year; to examine into their condition, and into the condition of their

farms and schools; to hear their complaints; to ascertain whether all the stipulations of treaties are kept, and whether all moneys, goods, and supplies are faithfully and justly applied and distributed; to examine into the books, accounts, and manner of doing business of the superintendents and agents within their respective districts; to make diligent inquiry into the conduct of the officers and employés of the Indian department, and into the conduct of the military forces toward the Indians, with power to summon witnesses, and by the aid of the military to compel their attendance; each member of the board being authorized to administer oaths; and the board is to be authorized to suspend for cause any officer or employé of the Indian department in their respective districts, subject to the approval of the President. The board is to report annually, or as often as may be required, to the Commissioner of Indian Affairs, and in all cases of suspension from office, by the board, of any officer or employé of the Indian department, the board is to make immediate report thereon in writing, stating the cause thereof, for the action of the President. All superintendents of Indian affairs, all Indian agents, and these chief inspectors, in addition to the powers conferred by law, are also to possess all the powers and perform all the duties now conferred by law upon circuit court commissioners or court commissioners in all cases or matters wherein any Indian tribe, or any member of any Indian tribe, shall be concerned or be a party. In all matters or proceedings wherein any Indian tribe, or member of an Indian tribe, shall be concerned or be a party, the testimony of Indian witnesses is to be received in all courts and before all officers of the United States. The salaries of all Indian agents who reside in the Indian country upon reservations or among the Indians of their agency are hereafter to be fixed at the sum of $1,800 per annum. No member of these boards of inspectors, during his continuance in office, is in any manner whatever to become engaged in any business connected with trade or intercourse with Indian tribes, or with any member of any Indian tribe, or become in any manner interested therein; and upon entering upon the discharge of their official duties they are to take the oath of office now prescribed by law.

Mr. RAMSEY. I hope the Senator from Wisconsin will allow me to make a motion to adjourn.

Mr. DOOLITTLE. I desire first to make an amendment in the second section, so as to make the bill more definite in relation to the military officer detailed as inspector. The closing words of that section now are, "the officer detailed to act as inspector shall serve without additional pay or allowance as such." I move to add these words: "inspector, but shall be entitled to the same pay, mileage, and allowances as when employed in the military service."

Mr. CONNESS. This is an important amendment, and the bill is really an important bill. I do not know that I can vote for it. It deserves a great deal of consideration.

Mr. FESSENDEN. Evidently the Senate is in no condition to consider a bill of this kind to-night, and as there is a necessity for a short executive session, I move that the Senate do now proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *March* 16, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

EXTRA PAY OF OFFICERS.

Mr. HAYES, by unanimous consent, introduced a joint resolution extending the operation of section four of an act making appropriations for the support of the Army for the year ending June 30, 1866, passed March 3, 1865; which was read a first and second time, and referred to the Committee on Military Affairs.

COMPTROLLER OF THE CURRENCY.

Mr. PRICE. I ask unanimous consent to offer the following resolution:

Whereas a difference of opinion and a conflict of views exist between the Secretary of the Treasury and the Comptroller of the Currency, which have assumed a shape calculated to injure the financial interests of the country: Therefore,

Be it resolved, That a committee of three members of this House be appointed to investigate the cause of the difference, and report to the House.

Mr. ROSS. I object. I think that it ought to be referred to the Finance Committee.

Mr. PRICE. The gentleman's colleague yesterday requested me to introduce such a resolution, and I have done so.

Mr. ROSS. I must insist on my objection.

STEAMERS FROM CHARLESTON TO LIVERPOOL.

Mr. KELSO, by unanimous consent, introduced a bill to authorize the establishment of ocean mail steamship service between the ports of Charleston, South Carolina, and Liverpool, by the way of Kingston, Great Britain; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill was referred to the Committee on the Post Office and Post Roads; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

PURCHASE OF STEAMSHIP ILLINOIS.

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

Resolved, That the Secretary of War be requested to report to this House the facts in relation to the purchase of the steamship Illinois; also, the names of the appraisers appointed by the Quartermaster General and the Secretary of War.

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

The latter motion was agreed to.

ANNALS OF CONGRESS.

Mr. STEVENS. I ask unanimous consent to introduce the following resolution:

Resolved, That the Committee of Claims be instructed to inquire what disposition should be made of the publications called Annals of Congress, deposited by Gales & Seaton under an alleged contract with the House, and determine whether the same or any part of them should be returned; and if any portion of them should be retained, to state at what price, and report thereon.

Mr. WILSON, of Iowa. I object.

LEAVE OF ABSENCE GRANTED.

On motion of Mr. TRIMBLE, leave of absence was granted to Mr. SHANKLIN.

FULLER VERSUS DAWSON.

Mr. DAWES presented papers in the Pennsylvania contested-election case of Fuller *vs.* Dawson; which were referred to the Commitee of Elections.

SIOUX INDIANS.

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

Resolved, That the Committee on Indian Affairs be instructed to inquire into the expediency of concentrating the different bands of Dakota or Sioux Indians upon one reservation, there either partially or wholly to be governed by municipal laws suited to their condition, and furnished with partial subsistence until by cultivating the soil and raising stock said Indians shall become self-sustaining.

POST ROUTE IN IDAHO.

Mr. HOLBROOK, by unanimous consent, introduced a bill to establish a post route from Idaho City to Rocky Bar, in the Territory of Idaho; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

SURVEYOR GENERAL, IDAHO.

Mr. HOLBROOK, by unanimous consent, also introduced a bill to create the office of surveyor general in Idaho Territory; which was read a first and second time, and referred to the Committee on Public Lands.

COLORADO LAND DISTRICT.

Mr. BRADFORD, by unanimous consent, introduced a bill in relation to the Colorado land district; which was read a first and second time, and referred to the Committee on Territories.

JOINT RESOLUTIONS OF OREGON.

Mr. HENDERSON, by unanimous consent, submitted the following joint resolutions of the Legislature of Oregon; which were ordered to be printed, and referred as indicated below:

Joint resolution in relation to the establishment of a port of entry at Portland, Oregon—to the Committee on Commerce.

Joint resolution in relation to the provisional government debt—to the Committee of Claims.

Joint resolution in relation to a daily mail route to the Territory of Idaho—to the Committee on the Post Office and Post Roads.

WILLIAM TOWNSEND.

Mr. LAWRENCE, of Ohio, by unanimous consent, introduced a bill for the relief of William Townsend; which was read a first and second time, and referred to the Committee of Claims.

CHARLES P. COOK, AND OTHERS.

Mr. JULIAN, from the Committee on Public Lands, made an adverse report on the case of Charles P. Cook, and others; which was laid upon the table, and ordered to be printed.

LOCATION OF LANDS IN MISSOURI.

Mr. THAYER, from the Committee on Private Land Claims, reported back Senate bill No. 36, quieting doubts in relation to the validity of certain locations of lands in the State of Missouri, made by virtue of certificates issued under the act of Congress of February 17, 1815, with amendments.

The bill, which was read, provides that all locations of lands in the State of Missouri, purporting to have been made by virtue of certificates issued under the act of Congress, approved February 17, 1815, entitled "An act for the relief of the inhabitants of the late county of New Madrid, in the Missouri Territory, who suffered by earthquakes," which are invalid in consequence of having been made or located after the expiration of the time specified by law for making said locations, shall be, and the same are hereby declared to be, as valid and as binding as if the said locations had been made and fully completed within the time prescribed by law, provided said locations shall be according to law in all other respects; but the foregoing provisions are not to apply to, comprehend, include, or extend to any land within township forty-five, north of the base line, in range seven, east of the fifth principal meridian line in said State of Missouri.

It further provides that the United States do grant, relinquish, and convey, in fee-simple, and in full property, to James Y. O'Carroll, or his legal representatives, all of the right, title, and interest of the United States in and to all of the land within survey No. 2498, in township forty-five, north of the base line in range seven, east of the fifth principal meridian line, in the State of Missouri, being the same land that was located by virtue of certificate No. 150, issued to the said James Y. O'Carroll, or his legal representatives, under the act of Congress approved February 17, 1815, entitled "An act for the relief of the inhabitants of the late county of New Madrid, in the Missouri Territory, who suffered by earthquakes;" provided, however, that nothing in this section shall grant, relinquish, or convey the whole or any part of any lot, tract, piece, or parcel of land in said township, which has been heretofore confirmed by the United States to any person or persons, or to the legal representatives of any person of persons; and provided further, that nothing in this section shall in any manner abridge, divest, impair, injure, or prejudice any valid adverse right,

title, or interest of any person or persons in or to any portion or part of the aforesaid land which is granted, relinquished, and conveyed by this section.

Mr. THAYER. I will make a brief statement in reference to this bill for the information of the House. By the act of February 17, 1815, Congress authorized persons whose lands had been injured by earthquakes in the county of New Madrid, in the State of Missouri, to locate the same quantity of lands thus injured upon other public lands of the United States. By an act passed on the 9th of April, 1818, these claims were required to be presented on or before the 1st of January, 1819. By a subsequent act, passed on the 26th of April, 1822, it was required that the warrants for these lands should be located within one year of the passage of that act; that is, prior to the 26th of April, 1823. There were a number of these cases in which the initiatory steps for the locations were taken within the period prescribed by the act of 1822, but in which it happened that the surveys were not returned until after the period had elapsed within which it was required by the act of 1822 that the warrants should be located, and it was held by the Supreme Court of the United States, in the case of Bagnell *vs.* Broderick, (14 Peters, Supreme Court Reports, page 448,) that the United States never had deemed the lands to be appropriated until the survey was returned. So that in the case I have referred to, although all the previous steps had been taken, the title of those who had taken those lands under the act of Congress passed for their relief was rendered imperfect by the fact that the survey had not been returned within the period prescribed by law. The object of this bill is simply to cure that defect. I believe that is all the explanation that is required.

Before the bill is put on its passage I wish to have an amendment made, as follows:

In section two, line twenty-one, after the word "shall" insert the words "be so construed as to invalidate or impair any patent heretofore issued by the United States, or shall."

I demand the previous question on this amendment.

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

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

Mr. THAYER. I move to reconsider the vote by which the bill was passed, and to lay that motion on the table.

The latter motion was agreed to.

LANDS IN THE CITY OF ST. LOUIS.

Mr. THAYER, from the Committee on Private Land Claims, reported back House bill No. 15, authorizing documentary evidence of titles to be furnished to the owners of certain lands in the city of St. Louis, with an accompanying report, and with a recommendation that the bill pass.

The bill and report were read.

Mr. THAYER. The report which has been read contains such a full statement of the facts and reasons which call for the proposed legislation that I deem it entirely unnecessary to take the time of the House with any remarks on the subject. Unless, therefore, some gentleman requires further explanation, I will offer the amendment which I have been instructed to offer by the committee.

I move to amend by striking out section eight and inserting in lieu thereof the following:

And be it further enacted, That in case of any difference of opinion between the judges of the State and circuit court upon any question arising in any such cause, the same may be certified to the Supreme Court of the United States for its decision thereon as in other cases.

I demand the previous question on the adoption of that amendment.

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

Mr. THAYER. I move the following amendment, and upon it I demand the previous question:

In section nine, line three, strike out the words "lands within each, every, and all the rivers."

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

Mr. THAYER. I now move to amend by adding to section nine the following proviso:

Provided, however, That no individual rights or titles acquired previously shall be in any manner impaired or prejudiced hereby.

The question being taken on the amendment it was agreed to.

Mr. THAYER. I now demand the previous question on the engrossment and third reading of the bill.

The previous question was seconded and the main question ordered.

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

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

The latter motion was agreed to.

Mr. THAYER. I move to amend the preamble by striking out in the seventh line the words "a few" and inserting in lieu thereof the word "some."

The amendment was agreed to.

Mr. THAYER. I move further to amend the preamble by striking out the words:

Which make it necessary for the United States to furnish the parties documentary evidence of title thereto by releasing to the proper owners all the right, title, and interest of the United States in and to their respective lands.

The amendment was agreed to.

Mr. THAYER moved to reconsider the votes by which the amendments to the preamble were agreed to; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

AUGUSTIN AMIOT.

Mr. THAYER, from the Committee on Private Land Claims, reported back, with the recommendation that it do pass, bill of the House No. 364, to confirm to Augustin Amiot, his legal assigns and representatives, a certain lot of ground in the city of St. Louis, in the State of Missouri.

The bill was read.

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

Mr. THAYER. By an act of Congress approved June 22, 1860, entitled "An act for the final adjustment of private land claims in Florida, Louisiana, and Missouri, and for other purposes," authority was given for the settlement of private land claims, in which the titles were derived from the Governments of France and Spain. By that act a commissioner was appointed to investigate all such claims which might be presented of land titles at St. Louis, and to report the result of his investigation to the Commissioner of the General Land Office, and the Commissioner of the General Land Office was required to make a report to Congress.

In the case now before the House the claim is that of the representatives of a certain Augustin Amiot. The claimant pursued the directions of the act of Congress, and the recorder of land titles in St. Louis made a report favorable to his claim to the Commissioner of the General Land Office. The Commissioner reported to the appropriate authorities the decision of the recorder of land titles in St. Louis, and that it was one of those claims which, under the act, ought to be confirmed by Congress.

I may state for the information of the House that the claimant showed satisfactorily, in the investigation of his case before the recorder of land titles in St. Louis, that he and the persons under whom he claims have been in possession of this lot of ground from the year 1780 down to the present time; and he shows, also, a continuous possession. So far as the committee knows there is no dispute in regard to that, and as the case falls directly within the provisions of the act of 1860, the committee are of the opinion that his title ought to be confirmed, and they have accordingly reported the bill now before the House. Unless some gentleman wishes to say anything on this subject I now demand the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the bill was passed.

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

The latter motion was agreed to.

A. M. JESS.

Mr. KERR, from the Committee on Private Land Claims, reported back House bill No. 145, granting land to A. M. Jess, of Josephine county, Oregon, with an amendment in the nature of a substitute.

The substitute was read. It authorizes A. M. Jess to locate and settle upon three hundred and twenty acres of the public lands of the United States, in accordance with the provisions and requirements of the homestead law, in lieu of three hundred and twenty acres of land previously located by him upon Applegate river, in the State of Oregon, but rendered valueless by a change in the course of said river.

The report of the committee was read.

Mr. KERR. I now call the previous question.

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

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

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

The latter motion was agreed to.

WILLIAM SAWYER ET AL. OF OHIO.

Mr. GOODYEAR. I am instructed by the Committee on Private Land Claims to report back House joint resolution No. 67, providing for the reappraisement of the lands described in the act for the relief of William Sawyer and others, of Ohio, with a recommendation that it pass, and upon that I call the previous question.

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

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

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

The latter motion was agreed to.

ALMON W. BABBITT.

Mr. HUBBARD, of Iowa, from the Committee on Indian Affairs, reported back House bill No. 150, for the relief of the administrators of the estate of the late Almon W. Babbitt, secretary of Utah, with an amendment in the nature of a substitute.

The substitute was read. It sets forth that the late Almon W. Babbitt, while secretary of the Territory of Utah, received from the Treasury of the United States the sum of $26,500, money appropriated by Congress for the Territory; that he expended a portion of the sum in the purchase of stationery and other articles for the use of the Territory, and oxen and wagons for its transportation; that he and nearly all the party were killed by the Indians when near Fort Kearney and the property stolen or destroyed, and the bill provides that the administrators of his estate shall be released from the payment of the balance against him on the

books of the Treasury Department, amounting to over twelve thousand dollars.

The question was upon agreeing to the substitute.

Mr. FARNSWORTH. If there is any report I would like to hear it read.

Mr. HUBBARD, of Iowa. The facts upon which this bill is based are fully set forth in the report.

The report was read.

Mr. HUBBARD, of Iowa. From the best information we have been able to obtain from the testimony before us, we are satisfied that the property returned to the Government amounts to nearly, if not quite, the sum charged against the estate of Mr. Babbitt upon the books of the Treasury. Since Mr. Babbitt was killed, his widow has died, leaving five orphan children. If this balance is not remitted it must be collected from the estate. Under all these circumstances, the committee are unanimously of the opinion that the substitute which they have reported should be passed.

I now call the previous question.

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

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

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

The latter motion was agreed to.

E. W. EDDY.

Mr. ANCONA, from the Committee on Military Affairs, reported a bill for the relief of E. W. Eddy, late paymaster of the United States Army.

The bill was read a first and second time.

It directs the Treasury Department to credit the estate of E. W. Eddy, late paymaster of the United States Army, with the amount of $200,000, that being the amount in his charge and lost by the wreck of the steamer Brother Jonathan, off the coast of California, on the 30th of July, 1865.

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

Mr. FARNSWORTH. I do not think we should pass this bill without some explanation of its necessity or propriety.

Mr. ASHLEY, of Ohio. I desire to ask the gentleman from Pennsylvania a question. When I was in California I learned from gentlemen there that a part of the bonds belonging to the Government, and which were in the same safe with the money purporting to have been lost on this steamer, had been offered for sale in California. I want to ask the gentleman whether the committee have had any evidence of that kind before them.

Mr. ANCONA. Nothing of that kind was stated before the committee. The evidence is directly to the contrary.

Mr. ASHLEY, of Ohio. I beg pardon. I find that I am confounding this case with another case in which a steamer was lost.

Mr. ANCONA. I ask that the report be read.

The SPEAKER. The morning hour has just expired. This bill goes over until next Friday.

BREVET MAJOR T. C. BOWLES.

Mr. HUBBELL, of Ohio, by unanimous consent, introduced a bill for the relief of Brevet Major Theodore C. Bowles, assistant quartermaster United States volunteers; which was read a first and second time, and referred to the Committee on Military Affairs.

CONFIRMATION OF LAND ENTRIES.

Mr. HOGAN, by unanimous consent, introduced a bill to confirm certain entries of lands therein named; which was read a first and second time, and referred to the Committee on Public Lands.

ACCOUNTS OF POST OFFICE DEPARTMENT.

The SPEAKER, by unanimous consent, laid before the House a communication from the Treasurer of the United States, transmitting an account of receipts and expenditures for the service of the Post Office Department for the year ending June 30, 1865; which was laid on the table, and ordered to be printed.

ENROLLED BILL SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill (H. R. No. 358) entitled "An act to amend an act to extend the charter of the president and directors of the Firemen's Insurance Company of Washington and Georgetown, in the District of Columbia;" whereupon the Speaker signed the same.

Mr. WASHBURNE, of Illinois. I call for the regular order of business.

Mr. KASSON. I trust the gentleman will withdraw the call, that I may introduce a bill.

Mr. WASHBURNE, of Illinois. I have no objection to the introduction of a bill, if it be simply referred, with the understanding that it shall not be brought back by a motion to reconsider.

Mr. KASSON. I have no objection to that.

COINAGE OF FIVE-CENT PIECES.

Mr. KASSON, by unanimous consent, introduced a bill to authorize the coinage of five-cent pieces, and for other purposes; which was read a first and second time.

The SPEAKER. The bill will be referred to the Committee on Coinage, Weights, and Measures, with the understanding that it shall not be brought back by a motion to reconsider.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, notifying the House that that body had passed bills of the House of the following titles, namely:

An act (H. R. No. 36) quieting doubts in relation to the validity of certain locations of lands in the State of Missouri, made by virtue of certificates issued under the act of Congress of February 17, 1815; and

An act (H. R. No. 217) for the relief of Robert Henne.

ENROLLED BILL SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill of the following title: "An act to protect all persons in the United States in their civil rights and furnish the means of their vindication."

LOAN BILL.

The House resumed the consideration of the special order, House bill No. 297, to amend an act entitled "An act to provide ways and means to support the Government," approved March 3, 1865.

The pending question was upon the motion of Mr. MORRILL to strike out the following words:

Provided, That the bonds which may be disposed of elsewhere than in the United States may be made payable, both principal and interest, in the coin or currency of the country in which they are made payable, but shall not bear a rate of interest exceeding five per cent. per annum.

The SPEAKER. On this bill the gentleman from Maine [Mr. PIKE] is entitled to the floor.

Mr. MORRILL. With the consent of the gentleman from Maine, I desire to state that it is the purpose of the Committee of Ways and Means to ask for decisive action upon this bill to-day; and unless the discussion should previously be exhausted, I shall ask the previous question either this afternoon or this evening.

Mr. WASHBURNE, of Illinois. I hope that we shall agree to take the vote this afternoon, so as to avoid the necessity for an evening session.

The SPEAKER. Will the gentleman from Vermont state at what time he intends to claim the floor to ask the previous question?

Mr. MORRILL. I think about quarter past four o'clock this afternoon.

Mr. PIKE. I hold in my hand an amendment, which, if it be not now in order, I will offer at a proper time. It is to add to the bill the following additional proviso:

Provided further, That except for the purpose of discharging existing legal obligations, all bonds issued under and by virtue of this act, or of the act approved March 3, 1865, to which this is additional, shall be subject to the same State and municipal taxation as other property of like value.

The SPEAKER. That amendment is not in order at present. An amendment offered yesterday by the gentleman from Vermont [Mr. MORRILL] is now pending. Any other amendment, to be in order now, must be in the shape of an amendment to an amendment, and must be germane to the pending amendment.

Mr. PIKE. Mr. Speaker, in common with the rest of the House, I enjoyed exceedingly on yesterday the strong popular breeze from the Chicago district. The gentleman from Illinois [Mr. WENTWORTH] gave us in graphic terms and in most emphatic manner the opinions of his constituency upon the pending measures of finance, and urged upon us all the absolute necessity of sticking to our constituencies under any and all circumstances. I hail the distinguished gentleman as a most efficient coworker.

Mr. WENTWORTH. I spoke for myself, and not for anybody else.

Mr. PIKE. The gentleman, I presumed, spoke also for his constituency; but if his constituents do not agree with him it is his concern and not mine.

The only objection I have ever heard to the amendment I propose is that it smacks too much of the constituency. It is said, incorrectly I think, to place the interests of the constituency above the interests of the General Government—if it be possible to separate the two—and that it contravenes the doctrine that on all occasions it is proper to subordinate the interests of the part to the interests of the whole, and for that reason is objectionable. But the doctrine of the gentleman from Illinois overrides all such objections at once and makes an answer unnecessary. I count upon him with confidence in support of my amendment.

And with equal assurance I reckon upon his support, upon the same principle, of the people's paper now afloat. I know that his constituency, like mine, are satisfied with the "greenback" circulation. They have no desire for change. They do not wish to swap it off for any bank paper, however good. There is not a man in this country, in the Chicago district or in mine, or in any other, that prefers the bank note to the "greenback." All of them, "without regard to race or color," are content with the money to which they have become accustomed and which costs the Government nothing but the expense of making. They do not believe in the thrift of the bargain which would exchange this paper for an inferior one, and the only boot to be got is the luxury of paying interest! Certainly the gentleman from Illinois [Mr. WENTWORTH] cannot countenance such a scheme as that. He will not desert his constituency in a matter of such importance.

Mr. WENTWORTH. Does the gentleman think it is right to pay our soldiers in money below par when the Government can borrow money at six per cent. interest?

Mr. PIKE. No. I would have them paid in the best money in the world, the "greenbacks." I have no idea of paying them in bank currency when we can give them Government notes. I make no attempt to follow the distinguished gentleman in his argument. I have no quarrel with him on the score of the evils of a depreciated currency. Congress entered upon the sea of irredeemable paper knowing the danger of the voyage it was about to take. It was fully warned by gentlemen on the other side of the House, as well as on ours. Vallandigham and his associates exhibited the most intense zeal. We heard then, as yesterday, a full description of John Law and the French assignats and mandats, and the Russian roubles, and all other paper that

ever went under par. And predictions were freely made that the paper would become as worthless as the old continental, when a hundred dollars were freely given for a breakfast. And still Congress tried the experiment. I recollect that the first speech I ever had the honor of making in Congress was in advocacy of the legal-tender clause of the loan bill of 1862. Great evils have undoubtedly come of that action. Some of them were described yesterday by the gentleman from Illinois. But greater evils were avoided. When the historian shall calmly strike the balance he will say the action of Congress was wise. For one, although no financier, I am satisfied with it. My constituency is satisfied with it. The country at large has given no evidence that it does not deem our action praiseworthy.

Whatever may be done hereafter, it is quite sure that the paper issued by the Government and made a legal tender will always be considered one of the efficient agencies in carrying on the war. It is entitled to the gratitude of the Republic for the good it has accomplished.

Nor have I anything to say in reply to the attack on gold brokers and gamblers. The gentleman from Illinois represents a large and thriving city. Such people abound in cities. I presume he knows much more about them than I do. There are none in my district, and I know nothing of their interests in this bill, whether for it or against it. But this I do know. If we attempt to legislate either for or against the interests of that class of people, except to tax them, Congress will be engaged in a very thriftless pursuit. There are as many of them interested in a fall of gold as in a rise. One set of men bets on a fall of gold, and of course the other set bets on an advance. And so it goes on from day to day, and hour to hour. Instead of watching the fluctuations of the market and attempting to adapt legislation to the interests of one class or the other, I choose rather to follow the teachings of the gentleman and legislate for my constituents.

Sir, the problem to be solved by the bill before the House is the proper method of returning most expeditiously to specie payments. True policy—such policy as was approved by the House by its resolution of the 18th of December—would lead the country back to gold and silver by the shortest practicable road. The Committee of Ways and Means present this bill as their method of compassing the desired end.

It provides that the Secretary of the Treasury shall have full control of the currency of the country, and by direct inference of the market values of every description of property. Invested with the powers conferred by this bill he may lessen the volume of currency when he pleases and how. He may sell between seven or eight hundred millions of bonds at such price and time and on such terms as he will. The money he receives for them he may hold in such quantities as he chooses, or he may issue it again. If he does not get back to specie payment speedily, it will not be for lack of authority.

The Secretary of State said of the Freedmen's Bureau in his address to the people of New York that its powers were tendered to the President "too hastily by a too confiding Congress." Those were powers over the Army for the pacification of a large section of the Union and the protection of the right of labor. The power conferred by this bill is still greater in its way over the monetary affairs of the country. The London Times said of the able report of the Secretary of the Treasury at the commencement of the session, that it was remarkable for the confidence it invited Congress to place in the Executive. This bill is drawn in accordance with that idea.

During the war the Secretary was necessarily invested with large powers, and now it is proposed in the first bill presented since the return of peace to continue the same authority.

I do not know that I should object to the bill simply on that account. I have great confidence in the integrity of the Secretary and his ability in the management of financial matters. Whether in the whirl of political affairs he will remain in his present position, or whether he will be succeeded by some one whose fitness for the place is less apparent, who can say? He is subject to all the accidents of political life, and they are not few. I confess I should rest easier under the passage of this bill if I had some guarantee of the Secretary's tenure of office. Still, if the object to be obtained is worth the risk, I shall not be found objecting. How is it?

The bill proceeds upon the assumption that it is absolutely necessary to force the contraction of the currency. But is this beyond question? The ordinary course of business transactions tends rapidly in that direction. Is it clear that they are not sufficiently urgent and effective? There has been nervousness in the country at the slow progress made toward specie, and without thought people urge the contraction of the currency as the only remedy.

But such persons should consider that we now have in the country as much currency authorized by law as we have ever had, and still we have gone a long way toward resumption of specie payments. Without by legislation contracting the currency a single dollar we have run gold down from 287 to 130. In this we follow the example of England, where it is well known that specie payments were resumed, after their long suspension during the Napoleonic wars, without material contraction of the currency.

The last returns of the national banks give an increased authorized circulation. This added to the United States currency, no part of which has been withdrawn, gives the amount now permitted by law as greater to-day than ever before, and still gold is declining.

How can it be said, when more than three quarters of the journey toward specie has been made under such circumstances, that it is impossible to do the rest of it?

If then it is not absolutely necessary by law to lessen the quantity of paper afloat in order to compass this desirable end, is it wise to make the attempt by legal coercion? Is there not danger that more harm shall come to the business interests of the country by legislative interference than good to the currency? There would be no difficulty in causing distress and making great disturbance in the business world, but having done that shall we have accomplished a good thing? Without special legislation to that end, and in the ordinary course of Treasury receipts and disbursements, we are approaching specie payments, perhaps rapidly enough. Time should be reckoned an element of reform in the currency as well as in the body-politic, and it may be that we get on as fast in this moderation of action as if we took more violent measures to attain our end. Suppose the Secretary, acting under our authority, should make a violent contraction of the currency, would not the clamor of the mercantile world drive him back from his purpose? And an attempt made and failing would probably discourage the next, and thus we should be thrown back of the starting-point. We see now there is great caution manifested in entering upon new schemes; very much more than a year ago. The country realizes the fact that sooner or later we shall come to specie payments. When that time does come there will be a large decline in prices. Business men "discount" this knowledge. Thus, in the natural course of trade the end approaches. Is it not probable that in this way we shall get what we wish sooner than by constraint and legislative coercion?

The Comptroller of the Currency, in his report, sums up the authorized currency of the country and then attempts to reckon the amount in actual use. The two footings differ very greatly. He says:

"This favorable exhibit of the amount of paper in circulation is owing in a great degree to the accumulation of currency in the hands of the banks in the absence of the great demands of the Government for currency since the close of the war."

We should do well to recollect this. It states a fact of importance. The banks hold an abundance of currency that is not called for. In other words, trade knows its own needs. It was so before the war. Legislation did not fix the amount of circulation. There was no difficulty in obtaining from State Legislatures authority to issue bills. Charters could be got anywhere for the asking. But men who dealt in money found they needed something more than legislative authority. They were constantly brought to the test of being able to pay the notes they put out, and this kept them in check. So now we still act with reference to the laws of trade, even under suspension of specie payments. Those laws are steadily bringing us back to specie. The question is whether we shall be a little patient pending their action. Meantime we have one fact of some little moment to reconcile us to the present condition of affairs: corporate debts are being discharged in the depreciated currency in which they were contracted. This is of consequence to debtors, and I do not know but they are entitled to some little consideration at the hands of the Government. The Government forced our people to contract municipal debts to a large amount in order to comply with the demands made upon them to assist the Republic in the time of its distress, and for one I shall not regret if one of the consequences of postponement of specie payment shall be that by heavy municipal taxation they free themselves from those enforced obligations in the depreciated currency they received. By general consent they seem everywhere to be making the attempt. And, notwithstanding what has been said so positively, it may be found after some delay that the currency of the country in actual use is not in excess of business wants. It may be that the business of the country knows better than we think what are its own needs.

I read the opinions of well-established authority in finance with great interest; but the shrewdest have been so much mistaken that they ought not to expect public confidence without some discount. When we entered the war they all predicted financial ruin, but it did not come; and when the war closed they were equally certain that lassitude and business stagnation must follow, but they blundered again. These blunders of professional men give the rest of us a right to entertain and express our views, or at least to hold them with some little confidence. The worst that can happen to us is that we shall be mistaken as others have been.

In reckoning the absolute amount of currency needed we should bear in mind that the Secretary then demonstrated in one of his reports that gold was "demonetized" by congressional action and should be thrown out of account. He maintained that gold and silver should not be considered in the circulation until specie payments are resumed. This necessitates increased paper.

In addition to this is the enlarged volume of trade everywhere. The agricultural productions of the country, as a whole, are greater than ever before. Manufactures have swollen beyond any previous figures. Wholly new sources of natural wealth are developed. Population increases. Larger capacity of transportation by water and by land is demanded. All this requires more money.

Nor will it do to ignore the changes made within a few years in the methods of trade. The uncertainty of the currency, while doing much injury, effected the good result of prompter payments. Men carry their money now in their pocket-books and pay for what they buy. Formerly they purchased on credit, and their credits in the shape of notes of themselves furnished a sort of currency of the meanest kind. This change calls for still more paper.

And how much currency have we now afloat? This would seem to be a simple matter of arithmetic. But authoritative opinions differ.

The President in the annual message says:

"Five years ago the bank-note circulation of the country amounted to not much more than two hun-

dred millions; now the circulation, bank and national, exceeds seven hundred millions. The simple statement of the fact recommends, more strongly than any words of mine could do, the necessity of our restraining this expansion."

The Secretary of the Treasury gives the figures as follows:

"The paper circulation of the United States on the 31st of October last was substantially as follows:

1. United States notes and fractional currency	$454,218,038 20
2. Notes of the national banks	185,000,000 00
3. Notes of State banks, including outstanding issues of State banks converted into national banks	65,000,000 00
	$704,218,038 20

"The amount of notes furnished to the national banks up to and including the 31st of October was a little over $205,000,000, but it is estimated that $20,000,000 of these had not then been put into circulation.

"In addition to the United States notes, there were also outstanding $52,536,900 five per cent. Treasury notes and $173,012,140 compound-interest notes, of which it would doubtless be safe to estimate that $30,000,000 were in circulation as currency.

"From this statement it appears that, without including seven and three-tenths notes, many of the small denominations of which were in circulation as money, and all of which tend in some measure to swell the inflation, the paper money of the country amounted, on the 31st of October, to the sum of $734,218,038 20, which has been daily increased by the notes since furnished to the national banks, and is likely to be still further increased by those to which they are entitled, until the amount authorized by law ($300,000,000) shall have been reached, subject to such reduction as may be made by the withdrawal of the notes of the State banks."

The Comptroller of the Currency hugs the detail of the case a little closer. He gives the actual situation thus:

The amount of national bank notes in actual circulation on the 1st day of October last was		$171,321,903
The amount of State bank notes in circulation at the same date, as appears by returns to the Commissioner of Internal Revenue, was		78,867,575
Making the bank circulation on the 1st day of October last		250,189,478
The amount of legal-tender notes and fractional currency issued and outstanding on the 1st of October, 1865, was		704,584,658
National bank notes in the hands of banks not yet issued		19,525,152
National currency yet to be issued to banks		109,152,945
Making the aggregate amount of legal-tender and bank notes in circulation as authorized to be issued to and by the banks		1,083,452,233
From which sum should be deducted, State bank circulation now outstanding that will be retired about as fast as national currency is issued to converted banks	$78,867,575	
Also the amount of "compound-interest notes" converted into five-twenty bonds since the 1st of October last	44,417,329	
		123,284,904
The amount then left as the available currency of the country is		960,167,329
In order to ascertain the amount of actual active circulation on the 1st day of October last, there should be deducted from the last mentioned sum—		
The amount of national currency delivered to banks, and not then in circulation	$19,525,152	
National circulation not delivered to banks	109,152,945	
Amount of legal-tender notes held by banks, including $74,261,847 compound-interest notes	193,094,365	
Compound-interest notes, other than those held by banks, mostly held as investments by insurance and trust companies and savings banks, less say $10,000,000 in actual circulation	121,314,195	
Currency in the Treasury of the United States	56,236,440	
		499,323,097
Showing the actual circulation to be		$460,844,232

I do not cite these differences simply because of the variance of the results. If that were all, I should take the figures of the Secretary as the head of the Department and a gentleman in whom I have entire confidence. But that is not all. The mode of getting at the circulation is what I call attention to. In the one case it is the authorized circulation, and in the other the actual circulation. And in this particular it is not unlike the different modes of calculating the expenditures of the Government during the war. The opponents of the war took the total of the gross appropriations. They paraded these, and told the country to look at the enormous figures. It was an ingenious method of stating facts. So now, when we speak of inflation, we must not confound the two. The Secretary is right, and the Comptroller is right. But it is with the "actual circulation" we have to do, because it is that which affects the country.

The country offers to the business men of the country nearly eight hundred millions of currency. Business does not need so much, and takes but five hundred millions. Is it not somewhat arrogant for Congress to say that it knows very much better than business what it needs? And can anybody demonstrate that the actual circulation of the country, as given by the Comptroller, is in excess? Compare it with the former circulation, and take into account the circumstances I have enumerated, and say whether the proposition that we have too large a volume of currency in actual use is a clear one; or compare with the amount in circulation in Great Britain and France. Mr. Carey gives the amount in circulation in France as $1,070,000,000, or nearly thirty dollars per head; and in Great Britain as $700,000,000, or about twenty-five dollars per head. There are many reasons why our circulating medium should be as great as that of either of these countries.

The fullness of price for merchandise is generally deemed positive proof of excessive currency. But how much is due to that, and how much to the waste of war, to accidental short supply or excessive demand or large taxation, is not well settled. Corn is at the old gold price; wheat is above it. There is a full stock of one and not of the other. Foreign goods run high and cannot be cheap on gold so long as the present tariff holds. As we go toward specie some articles recede rapidly in price and some do not. I presume nobody expects under the great influx of gold and taxation to see the whole list of prices average as low as it was before the war. If they do they will be disappointed. The present generation will live its life out on high prices.

It seems to me, sir, that the great demand for legislation upon this subject arises out of apprehension of future trouble. It is supposed that the trade of the country will become deranged. But the country has survived many apprehended crises, even during my day, and while I would not shut my eyes to real evils that were impending and might be avoided, I would try hard not to be too greatly disturbed by fancied ones. Almost every gentleman on the floor knows that his constituents up to this time have been unusually prosperous. How long this state of things will continue who knows? And although it is said with much earnestness that this apparent prosperity is unreal and delusive, yet I know that all over the country people would be very glad to make the delusion perpetual, and seriously, is it worth while in the present condition of affairs, when the tendency of things is all right, to interpose, and for the purpose of avoiding a supposed catastrophe run the risk of hurrying the country into commercial difficulties that may be serious? I know the theories that prevail on the subject. It is theoretically impossible that the present state of things should continue. But I know, also, that it was theoretically impossible that it should exist now; and it may be in this day of strange things that financial wonders may follow in close company with the political oddities that abound. I am quite disposed to try it. We all know the man who, upon demonstrating his theory, was told the facts were against him. "So much the worse for the facts," said he. It will hardly do to follow his example in finance. I am willing to let theories slide and stick to facts.

But supposing it to be necessary to reduce the volume of currency, when shall we begin? Take the resolution of December 18 and construe it to mean contraction of the currency irrespective of everything else, and what then? The gentleman from Illinois yesterday paraded that resolution at large as if he had the House in a trap and took great satisfaction in springing it. But the most he can make of the resolution is "contraction of the currency." Properly construed it means that the House approve such speedy contraction as business interests will permit. But if it be absolute and immediate contraction, how shall we proceed? We have now three currencies in the country, and they are, as authorized by law, nearly as follows:

United States currency, consisting of greenbacks and postage	$450,959,107
National bank circulation	257,072,910
State bank circulation, about	60,000,000
Total	$768,032,017

By general consent the State bank circulation is to be counted out. These worthy institutions are done. They have been destroyed for the benefit of this great brood of national banks. And the important question before the House is whether when the currency is lessened it shall be by cutting off national bank notes or by withdrawing "greenbacks." Is there anything in the resolution that settles this point?

The evident design of this bill is to strike at the greenback currency and leave the other in full volume. Why? Is the bank circulation any better or more convenient than the "greenback?" Surely nobody will say that so long as its only legal value consists in its convertibility on demand into "greenbacks." Will the withdrawal of a hundred million "greenbacks" hasten specie payments any more rapidly than retiring an equal amount of bank currency? To say this is to say that it will take more specie to redeem a given amount of "greenbacks" than it will to redeem the same amount of bank currency, for specie payments are not resumed until complete convertibility is established for all kinds of currency. If we could strike out of existence the $317,072,910 of bank circulation it would be just as easy a task to make the remaining "greenbacks" convertible as it would to make the banks specie paying if so many United States notes had been withdrawn. It would be easier. The country never had a currency with which it was so well satisfied as with this. And when the day comes for the announcement that the Government is ready to pay gold and silver for its notes there will be no rush to make the exchange. There will be no element of distrust as to ultimate payment from which banks suffer in time of panic, and no individual will take the trouble to exchange convenient paper for inconvenient gold unless he be engaged in foreign trade or wishes it for special purpose.

Of course there can be but one way to "resume specie payments." Those whose notes are out must strengthen themselves with specie, so as to pay such as are presented for payment. The national banks now have a large circulation, with very little specie. Out of the large cities, the first thing a State bank does when it becomes national is to sell its specie. The Government has about one dollar of specie for every ten of circulation. Of course if the Government sets itself steadily at work accumulating specie, and at the same time represses bank circulation, it would not be a great while before it would be in a state to make the announcement that it was ready to pay specie on demand.

The Secretary seems now to be engaged in selling gold largely, for the double purpose of obtaining the premium and depressing the price of gold. I hope he may succeed in his experiment. If he does not he can take the opposite course and hoard gold, with the avowed purpose of continuing to do so until he has enough on hand to warrant a resumption. This course, if persisted in, will accomplish the purpose, and meantime the banks will take notice of his movements and withdraw their own circulation for the purpose of preparing themselves for the demands that will be made upon them. Thus all parties would work together to hasten the advent of specie payments. But before that time the course of business and good manage-

ment of public affairs must have established full confidence in the public mind that the permanent revenue of the country will meet the permanent expenditure and leave a small margin for lessening the principal year by year. When there is no doubt of the continuance of this state of things specie will have lost its peculiar value. Of course confidence will come. Sooner or later we are to pay specie to every man who wants it in exchange for the Government note he holds. But the conditions must first be fulfilled. We shall have no such result as this without having gone through the proper preparation. This fruit will not be gathered without the precedent cultivation. Why, then, make discrimination against the Government note and in favor of the bank note? Ought we to do it out of special favor to the banks?

I have sometimes feared that these national banks were pet creations, to be favored at the expense of the public interest. They frequently pay large dividends from public deposits. They are ingenious enough to hold interest-bearing legal tenders and thus make the Government pay interest for the money it places in their custody. It is a business more profitable to the banks than to the Government. And although national bank stock rules high, and large dividends are made in all quarters of the country, still the stockholders in these patriotic institutions are resisting taxation, and combine in the endeavor to extort from the Supreme Court a decision that their stock shall be exempt from the burdens of taxation which oppress the property of every man in the country. And having obtained that, if they could also compass a monopoly of the banking business of the country, their greed would be in a fair way of satisfaction. An avaricious man, even, might be well satisfied with banking property exempt from both taxation and competition. I can but hope that the able committee having the matter in charge will disappoint expectations founded upon such a state of things. If anything can render the banking system of the country completely odious it will be to make it a monopoly.

It is obvious that besides the reasons I have given for not withdrawing the greenback circulation, the loss of interest which would attend such a course would be a matter of serious moment. The $27,000,000 interest money saved annually by the circulation of Government notes must, in case of their withdrawal, be added to our taxation, and the labor of the country be made to pay so much more for the benefit of the stockholders of the banks whose notes would take the place of those withdrawn. I say labor, for shift the burden as we will, the larger end of national taxation will always be borne by labor. This is a very considerable sum, and if it can be saved year by year it is our duty to do it. When we shall have resumed specie payments, the burden of raising even $300,000,000 a year will be found quite sufficient for the comfort of tax-payers.

For these reasons I prefer to save the Government paper at the expense of the circulation of the banks. I have heretofore urged that Government should take to itself the paper circulation of the country. Let it do so now. Tax the bank circulation. That belongs to but few. Preserve the notes of the Government, because they belong to all.

But further. This bill proposes to take money now subject to taxation and place it without the reach of State or municipal assessment. Now it is subject of taxation everywhere. I do not suppose it is generally taxed, but it probably does not altogether escape the assessor, while a very considerable fraction of it is found in the deposits of the banks which are subject to national taxation. We have already issued over eleven hundred millions of gold bonds, which, by the law authorizing them, are specially exempt from State and municipal taxation. In other words, the present funded debt of the country is entirely exempt from State assessment. We cannot now have it otherwise if we would. It is part of the contract, and the faith of the nation must be observed.

But what shall be done in the future? Shall we extend the same favor to the holders of the remainder of our debt? It is a grave question. At present nearly $2,000,000,000 of the public debt are exempt from taxation. The items consist of—

Gold-bearing bonds	$1,177,867,291
Treasury notes called seven-thirties	818,000,000
Total	$1,995,867,291

The remainder of the public debt, over $700,000,000, is either now subject to municipal taxation or may be made so by Congress without breach of public faith.

This bill proposes to permit the Secretary to fund these $700,000,000 on the same condition as the present funded debt, and that is, entire exemption from municipal taxation. The country tolerated the non-taxation of bonds issued during the war on the plea of necessity. We were engaged in a struggle of which the issue was felt by many to be doubtful. Capital is proverbially timid. It feared loss, and in order to obtain its assistance the provision was inserted that all the extraordinary taxation which would be necessitated by the war should seek other objects, and in no case should its burdens fall upon the bonds of the United States. It was a hard bargain. I thought it unnecessarily hard, and voted accordingly. But it was made and must be kept. But what excuse have we now for renewing it? It may be said that our bonds cannot be placed on as good terms without this exemption. Very true. But let us suffer the discount. Better do that than place the Government in the position of doing an injustice.

It is matter of no small moment. The people of the country are much more oppressed by local than by national taxation. In many parts of the country taxation on land amounts to large rent. In my State the State taxation last year for State purposes was one and a half per cent. of a fair valuation. In addition to this was the county and town taxation, and the three put together could hardly have amounted to less than four per cent. on the average; and this on a full valuation.

Mr. Hayes, one of the revenue commissioners appointed by the Secretary under authority of Congress, says of this taxation, after full examination of the subject:

"The additional local taxes which are levied everywhere are for State, county, or township, road, and school purposes. These, with special war taxes, to pay for moneys expended in recruiting and bounties to soldiers, are as high as five per cent. in a number of counties; leaving the special taxes out of view, they will probably average nearly one per cent. We have seen that in New York they are ninety-nine and a half of one per cent. If they were only sixty-six and two thirds of one per cent., the average of all taxes under State authority, including municipal, would be just one per cent., and that figure may be taken as a fair equation of all the taxes by or under State authority. At that estimate the local revenues would be $150,000,000.

"The only tax paid for any purpose by those whose property is all in the Government securities, except the tax paid on articles of consumption, which is nearly as large, and a thousand times more onerous on the laborer than on the millionaire, is the tax on incomes. This tax is more easily evaded by the bondholder than by any one else. When the local assessor calls he can show his bonds, and the business of the assessor is at an end with him. When the assessor of the General Government calls, his bonds may be held on foreign account—at all events, he alone knows the amount. Whether honest or dishonest, he has no tax to pay if he hold but $10,000 in gold six per cents. His neighbors are taxed to pay bounties for the substitutes for his sons when the country claimed their services in the field. They are taxed to pave and light the streets and adorn the parks in which he takes the air, to afford schools for his children, to provide courts and juries and policemen for the protection of his person and to preserve from the robber or the burglar the very bonds in question. From all these reasonable taxes he is exempt.

"The fact of this exemption with no equivalent taxation is known, and is causing irritation all over the land. It is felt as a hard and unjust discrimination against those who have tied themselves to the country by becoming owners of the soil, and who are using their means in adding to the wealth of the nation by fair and honest industry."

Mr. Hayes proposes a general taxation of bonds by the Government as a substitute for local taxation. He suggests one per cent. to be deducted when coupons are paid. He gives the statements of some of the wealthiest men in New York who acquiesce in the propriety of his views. But I confess the plan does not strike me favorably. It is simply scaling down the interest. When the English Government cut down the interest of its debt, they accompanied it with an offer to pay the principal. We could fairly do no less.

I prefer to see the experiment tried of issuing bonds which shall take the same chance as other property of like value. Let them be sold at their market value, and taxed fairly. I do not believe the serious results apprehended would follow.

State bonds are taxable, and still they rule on the average as high as national bonds, and in many cases higher. Why is this? If it be because there is after all a feeling of distrust in the public mind and apprehension that the nation may grow weary and throw off its burdens; if this feeling of distrust permeates the financial mind and makes it falter when it puts up its money for the national securities, may it not be removed, partially at least, by removing one of the great causes of public uneasiness?

It has been easy to exhibit the strength of the security of the public debt by statistics; abundance of property, great income and increasing, as the daily returns attest; resources available and sufficient to pay principal and interest within the lifetime of many of this generation. And still United States sixes are selling in London at 70, while British consols bearing three per cent. interest bring 87.

Our national debt has been attacked North and South. In the North the only salient point of attack has been its non-taxable qualities. The South, of course, objects to it because it was the great engine for their subjection. The northern objection we can obviate. The southern we must continue to conquer.

Thus, it may be that, after a little, the taxation which stocks will undergo if my amendment is adopted, may enhance their market value.

In furtherance of this view it must be recollected that the price of our stocks here is much influenced if not absolutely controlled by the price they bring abroad. Nearly one third of our funded debt is owned in Europe. Of course it makes no difference in the London market whether the bond sold there would or would not be taxed in New York if held there at the time of the annual assessment. The price there is governed by the views they take of the general posture of affairs here, and they follow considerations entirely outside of questions of taxation. And for one I see no reason why the Secretary should not be allowed to sell bonds abroad if he can get a better price for them than at home. Bonds will of course go abroad if the market price calls them there. And if holders can without expense of brokerage receive their dividends in some convenient place in Europe, our bonds would undoubtedly appreciate, and as they enhance in value the price of gold on this side declines, and we approach specie payments. Any one who has interested himself in such matters for the last six months cannot but have noticed that gold declines in New York with the advance of bonds in London, and advances when they decline there. Thus, the sale of bonds abroad, at enhanced prices, will help us on the road toward specie.

With these views I cannot vote for the bill before the House. I doubt the necessity of enforced contraction of the currency. But if it is to be contracted by law let the bank circulation go first. Tax that out of existence, if necessary. I will go as far as the man who will go farthest in this direction. When that has been done retire so many "greenbacks" as may be necessary. Once on a specie basis let the business of the country regulate itself. Doubtless many of us will live to see the day when, in the abundance of gold, we shall have a currency more nearly metallic than ever before. But so long as we use paper let it be the best possible, and that is certainly the "greenback."

Mr. PRICE. I ask the gentleman to yield to me.

Mr. PIKE. I yield to the gentleman the remaining portion of my hour.

Mr. PRICE. I yield to the gentleman from Ohio for a moment.

REORGANIZATION OF THE ARMY.

Mr. SCHENCK. Mr. Speaker, the Committee on Military Affairs reported to the House some days ago House bill No. 361, to reorganize and establish the Army of the United States. There are a great many applications for copies of that bill, but the first print of it is entirely exhausted. The committee have to some small extent revised the bill, making some verbal amendments and adding some sections. I ask leave to report back the bill in its present shape as a substitute for the other, and move that it be recommitted and ordered to be printed.

There was no objection, and it was ordered accordingly.

Mr. SPALDING. Has not the Army bill passed the Senate?

Mr. SCHENCK. One Army bill has.

Mr. SPALDING. Had you not better also include a motion to print that bill?

Mr. SCHENCK. I will ask that that be printed after awhile.

I now move that five hundred extra copies of the House bill be printed for the use of the members of the House.

The motion to print extra copies, under the law, was referred to the Committee on Printing.

Mr. SCHENCK. I now move to take from the Speaker's table, Senate bill No. 138, to increase and fix the military peace establishment of the United States, and that it be referred to the Committee on Military Affairs, and ordered to be printed.

The motion was agreed to.

LOAN BILL—AGAIN.

Mr. PRICE. Mr. Speaker, when we come to a vote upon the bill now under consideration and I shall be required, with other members of the House, to say ay or no to its passage, my convictions of duty will require me to vote against it.

I shall do this reluctantly, because in so doing I shall differ from the chairman of the Committee of Ways and Means, in whose judgment I have much confidence, and whose fidelity to the best interests of the country no man doubts, and I suppose I shall also differ from the Secretary of the Treasury, to whose judgment in financial matters I have been accustomed to defer. But, sir, this bill presents to my mind such plain and palpable objections that I feel certain it cannot be for the interest of the country to pass it.

The same general rules which apply to the management of the financial affairs of an individual will hold good when applied to that of the nation—there is no difference in kind, they differ only in degree. When a prudent business man finds himself from necessity, or any other cause, financially embarrassed, he goes to work with energy and system to ascertain, not only the nature, extent, and amount of his indebtedness, but also his present and prospective ability to meet the same. If in that investigation he finds that there is no probability of any increase of the amount of claims against him, and that his receipts are in excess of his proper and legitimate expenses, there is but one other matter of importance for him to attend to, and that is to secure such an extension of time as will enable him to use this excess of receipts in liquidation of the claims against him. And I risk nothing in asserting that any man thus financially circumstanced would be considered as perfectly safe, and would need no enactments of any legislative body to relieve him from embarrassment.

This is a very plain proposition, so plain, indeed, that the most moderate intellect can comprehend it perfectly. And if I may be allowed, Mr. Speaker, I will say in this connection that the mystery which is supposed by many to surround, and to a certain extent to enshroud, what is commonly called great financial ability, skill, &c., is simply, in my opinion, great nonsense, a very great humbug. I am not referring now, sir, to such financiering as was practiced by Ketchum and men of that class. That kind, I am willing to admit, requires, in order to insure success, very extraordinary and very peculiar ability. But the kind of financiering of which I speak, and which the nation requires at this time, is simply an exercise of common care and common honesty, led and governed by common sense.

The bill before us is of course intended to relieve the nation of some real or supposed financial embarrassment, and for that purpose clothes the Secretary with extraordinary powers.

The first question which presents itself for our decision is this: is there any necessity for it? We know the nation is in debt; we have borrowed money to preserve our national existence. But are our creditors pressing us? Can we or can we not have such an extension of time as will enable us, by a judicious use of the means at our command, to meet all the claims against us? If our creditors are clamorous, and we cannot have an extension of time, then we must resort to all the means within our reach, ordinary and extraordinary, and make any and all sacrifices necessary to preserve our national faith and national honor, just as an individual under similar circumstances should do.

How do the figures stand upon our balance-sheet? And how do our assets and liabilities compare? I know of no other way to get at the truth on this subject; and though there may not be much oratory in a column of figures, there is considerable eloquence, particularly when we find a handsome balance on the credit side of our ledger account.

At the commencement of this session I made up from the reports of the different heads of Departments a statement of the financial condition of the country, and on referring to it now I find the following state of facts existed then, and are substantially the same now. Our indebtedness is as follows, to wit:

$1,164,011,652 bonds at 6 per cent., making in interest	$69,840,699 00
$830,000,000 bonds at 7 3-10 per cent., making in interest	60,590,000 00
$205,307,000 bonds at 5 per cent., making in interest	10,265,350 00
$155,012,745 bonds at 5½ per cent., making in interest	8,525,700 00
Total of interest for the year	139,221,749 00
Then we have in addition to this, estimated expenses for the year, as follows:	
For the Army	$33,814,461 83
For the Navy	51,000,000 00
For civil expenses	42,000,000 00
For pensions	10,000,000 00
	136,814,461 83
Which, added to the amount of interest falling due annually upon all kinds of our national debt, gives us a sum total of	$286,036,210 83

If we have this amount of money we shall be able to pay cash for all purchases necessary to be made, and meet every obligation as it falls due. I may state, in this connection, that we have about $450,000,000 of indebtedness in the shape of legal-tender notes; but these bear no interest, and are payable at no fixed time.

Having thus ascertained our liabilities, we have one side of the account; and now the next question which presses for an answer is, what are our resources? How can we pay? I find, on referring again to my compilation of figures, the estimated receipts for the year from internal revenue, tariff, and all other sources, to be $472,000,000, leaving a clear balance in the Treasury at the end of the fiscal year of $185,963,789 17.

But it may be said that these receipts are only estimated, and therefore may not be correct. I grant this, but I find that in the three months which have transpired since these figures were made the actual receipts have exceeded the estimates to such an extent as to justify the honorable gentleman from Massachusetts, [Mr. HOOPER,] who is on the Committee of Ways and Means, in placing the receipts at $500,000,000 instead of $472,000,000, which would leave us a balance in the Treasury at the end of the year of over $200,000,000.

Now, Mr. Speaker, when we take these facts and figures, in connection with the other important fact that we may safely and certainly calculate on a decrease of these expenses and an increase of our income from increased population and a continuance of the development of the resources of the country, I ask what there is to frighten us from the ground of safety which we now occupy. If it is asked how we are to reduce our expenses, I reply by referring to one item in the figures from which this calculation is made. It will be observed that the estimate for the Navy is placed at $51,000,000, while the actual amount named in the bill passed for that purpose a few days since fell below half that amount.

Notwithstanding, then, the immense strain to which the nation has been subjected in the last four years in her finances, we find that upon posting the books and taking an account of stock we are in a sound and healthy condition.

Our surplus will enable us safely to repeal some of the petty and annoying features of the income tax law, so as not to compel farmers and mechanics to give an account of every pound of butter and dozen of eggs sold, and of every dollar's worth of every article manufactured.

A very small, almost insignificant part of our debt is payable on demand, and the balance runs from fifteen to forty years, at the expiration of which time we shall, if republican ideas and principles prevail, be the richest and most powerful nation on the globe. The feature of this bill, which provides that the $450,000,000 of legal-tender notes, which bear no interest, and which are redeemable at no definite time, may be funded in six per cent. gold-bearing bonds, is to me so strange and unaccountable that I am astonished to find it presented to the House for consideration. This feature of the bill, if adopted, would involve an additional annual expenditure of $27,000,000 in gold, for which the people of the country must necessarily pay an additional tax. Would any prudent and sensible business man, who had given his note payable at his own option, and without interest, be likely to take up that note and give another for the same amount payable at a certain time, with interest at six per cent., payable semi-annually in gold?

Why, sir, the bare mention of such a transaction provokes a smile of incredulity, and yet this is precisely one of the features of this bill. The Government owes $450,000,000 on which we pay no interest, and which is redeemable whenever it suits the convenience of the Government; and yet if this bill becomes a law this $450,000,000 may be funded in bonds bearing six per cent. in gold.

It may be said, sir, that these legal-tender notes are depreciated, and therefore ought to be retired. A sufficient answer to this is found in the fact that legal-tender notes are to-day about as good as six per cent. bonds, and would, in my opinion, be much better if the bonded indebtedness of the Government was increased by the addition of this $450,000,000.

Mr. SCOFIELD. I desire to ask the gentleman a question.

The SPEAKER. The hour of the gentleman from Maine [Mr. PIKE] has expired.

Mr. ALLISON obtained the floor.

Mr. ASHLEY, of Ohio. I move the gentleman from Iowa be allowed to conclude his remarks.

Mr. SMITH. I object.

Mr. ALLISON. I will yield to my colleague a portion of my time.

Mr. SCOFIELD. Now, let me ask my question. Are not the notes proposed to be funded already due? If you look upon the face of these notes you will observe they are payable on demand at the sub-Treasury at New York; and if you go there, as I did, they look to see whether you are a fool or a crazy man, in expecting that the United States is going to comply with that printed promise.

Mr. PRICE. Mr. Speaker, the gentleman from Pennsylvania is too good a lawyer not to know that it requires occasionally, at long intervals, an exception to prove the rule. He has given the exception; it proves the rule that there are few men who ask that these notes be redeemed, for the reason that legal-tender notes are admitted on all hands to be as good paper money as we can have.

Mr. SCOFIELD. The reason they are not presented is because the people know they will not be paid while gold is at a premium.

Mr. PRICE. My friend knows they are made payable in other notes.

I should like to have time to answer all the questions which may be put to me. I have only a few minutes, and I have some figures I wish to put upon record.

I only need to refer to the price-current of New York to prove that the six per cent. gold-bearing bonds are only one per cent. above "greenbacks."

It would certainly, then, be very bad policy to fund these notes, and thus make ourselves liable to pay $27,000,000 per annum for what we are now getting, and can continue to get, honestly for nothing. In this connection, Mr. Speaker, I wish to call the attention of the House to a fact, well known to all bankers, which is, that we may safely calculate that at least five per cent. of this $450,000,000 will never come back for redemption, on account of being worn out, lost, and destroyed in various ways, thereby saving to the Government $22,500,000 in addition to $27,000,000 annum.

The six per cent. bonds of 1881, and the five-twenties and ten-forties need no change, The seven-thirties are fundable by the terms of their issue, or if not, power should be given for that purpose, leaving only the compound-interest notes to be provided for by law, which I think the Secretary of the Treasury should have power to do. My judgment in this matter, sir, is that we ought to allow as little legislative tinkering with the law regulating our financial matters as possible, studying the most rigid economy in all our expenses and applying the excess of receipts over expenditures each year to paying off and canceling an amount of indebtedness equal to such excess. By this means we shall at once be enabled to enter upon a reduction of taxes and a reduction of indebtedness, bringing the nation every month and every day, by safe and easy approaches, nearer to a permanent resumption of specie payments.

Mr. Speaker, the ideas which I have attempted to embody in these few remarks are so plain as to require no elaboration.

The great lesson, sir, which we as a nation need to learn, is more dependence upon ourselves and less upon other nations. Self-reliance is the great secret of success, in nations as well as individuals. When we shall have learned to appropriate the proceeds of our own labor, we shall be richer and more independent than ever before. When we shall have brought the spindle and the loom closer to the consumer of manufactured articles, we shall have done much for the toiling millions. When we shall have freed ourselves from the absurd idea and practice of sending our cotton three thousand miles to find a spindle and a loom, with a hope that we may be able to send a barrel of flour after it to feed the spinner and the weaver, and in the operation taxing the labor which produced both the cotton and the wheat to pay freights and charges; I say, sir, when we shall have abandoned these absurd practices we will have lifted a burden from the shoulders of hard-handed labor which cannot be done in any other way.

A speedy return to specie payments is what every true friend of the Government must work for; but the idea of immediate resumption is Utopian in the extreme. No sane man standing upon the top of Bunker Hill monument would think of descending by a leap to the ground, but would choose the more rational and prudent course of coming down step by step.

In the opinion of some men all of our financial ills are to be cured by immediate resumption of specie payments, and all our political evils by an immediate admission of the States recently in rebellion. No man, Mr. Speaker, desires more earnestly and sincerely than I do the accomplishment of these objects. But my judgment compels me to believe that it is the part of wisdom to "make haste slowly" in both cases.

Let the work rather be slow and permanent than hasty and insecure.

Let both be laid upon foundations so broad and so deep that no financial or political earthquake can ever move them.

Now, sir, I will reply to the argument made yesterday by the gentleman from Illinois, [Mr. WENTWORTH.] I am only sorry he is not here. If there are any gentlemen here who hold the same view I will say it for their benefit. He compared the "greenbacks" of this country to the assignats of France. I wanted to ask then, and I will do so now, whether there is any parallel between the two kinds of currency; whether he does not know, as well as he knows of his own existence, that the French assignats had no foundation for their redemption compared with ours?

When a man who claims to be an American citizen, in the Halls of Congress or anywhere else, undertakes to compare the currency of this country, which is as good as was ever issued by any bank of the United States, with the rotten system of assignats in France, I assert that he is lacking in one of two things, namely, either a want of proper information on the subject or a want of a disposition to do justice to the currency of the country. And these, sir, are as mild terms as I can possibly use in reference to it.

Mr. GARFIELD. I would ask the gentleman, when he speaks of the assignats of France, whether he is aware that they were founded on the most reliable property in the realm, namely, real estate that was believed by everybody to be worth fully the sum of £80,000,000 sterling.

Mr. PRICE. I said as compared with ours that was a rotten basis. And the gentleman from Ohio [Mr. GARFIELD] is too well versed in the history of that matter not to know that what he calls the security of £80,000,000 based upon the most reliable resources of the country was confiscated property of the church. Is that, sir, to be compared with the security upon which our legal tenders is based—the hard-handed labor, the integrity, the wealth, and the resources of this whole Republic, where every man, woman, and child is bound for the payment of the debt to the extent of their last dollar and last day's labor, and to which may be added our vast agricultural and mineral resources? And will the gentleman from Ohio [Mr. GARFIELD] stand here and make such a comparison as that to go forth to the world?

Sir, I had hoped that the day had gone by when a gentleman would stand up before the American people and make such a comparison. The reason why the system of assignats was rotten was because the foundation for their redemption was insufficient and insecure. But will any man on this floor dare to say that the foundation of the security for our legal tenders and Treasury notes is insecure and insufficient? No man with an American heart in his bosom dare make use of any such language in this Hall. No one will say it unless he belongs to that class who during the last four years of the nation's trial has by unfair means and unjust comparisons tried to depreciate our currency and thus embarrass our operations.

Mr. HOOPER, of Massachusetts. I want to ask the gentleman a question. He says that when a man is in such a financial condition that he cannot meet his payments he asks for an extension of time, and that the Government is now precisely in that position—that it wants an extension of time. Now, I desire to know what there is in this bill beyond that—a mere extension of time. It does not authorize any increase of debt. It does not authorize money to be borrowed. It merely authorizes the bonds, at long time, to be issued in place of those that are immediately or soon to be redeemed.

Mr. PRICE. In the first place, I did not say we wanted an extension of time. I said that if a man was in that condition he would ask for an extension of time. But to answer that in a sentence, I have only to say that the gentleman from Massachusetts [Mr. HOOPER] himself told me yesterday that the receipts of this Government were every day more than its expenditures, and a man in that condition does not want an extension of time. A man who is receiving more than he pays out is in a sound and healthy financial condition. When this Government comes to the condition that it has a debt to pay without any means upon which to draw to pay it, then I will admit that we must have an extension of time. But the country is not in that condition, and I want that living fact to go to the country. We are in a sound and healthy financial condition, with an income exceeding our expenses and a credit never before equaled by any nation on the globe when just emerging from a gigantic and wasting war.

Mr. ALLISON. Mr. Speaker, I do not propose to occupy the time of the House long in the discussion of this measure. It seems to me that thus far the arguments against this bill have been, in the main, arguments in favor of or against the particular policy that should be pursued by the Secretary of the Treasury in its administration. Now, unfortunately for us, we cannot all be Secretaries of the Treasury. It is for us to make the law and to give the Secretary of the Treasury the power to administer it in accordance with the discretion placed in his hands; and the only question, it seems to me, that is proper for discussion is what discretion should be conferred upon the Secretary of the Treasury.

Now, sir, we all agree that it would be well to reduce the price of gold. We all agree that sooner or later this great nation of ours must come back to specie payment; that sooner or later, as a nation and as individuals, we must pay our debts in coin that is current all over the world. Therefore the only question that seems to have attracted the attention of gentlemen here is, when shall that time come? Shall it be to-day, to-morrow, or two or five years hence?

Now, I assert that it is a question that must devolve upon the Secretary of the Treasury, controlled and directed by the inevitable laws of trade and finance that cannot be controlled one way or the other by legislation.

Now, what does this bill propose? Is it a proposition to come back to specie payments at a particular period of time, or to postpone specie payment until a particular period of time? It is neither. I maintain that there are but two things authorized in this bill which the Secretary cannot do now under the authority of the several acts of Congress. The one is that he is enabled directly to sell the bonds of the United States upon such terms as is within his own discretion for United States notes or legal-tender currency; and the other is that he may sell those bonds for a sum less than par. That gives him a discretion which he has not now directly, but which he has indirectly under the existing law.

Gentlemen seem to be very much exercised lest the Secretary of the Treasury should withdraw the "greenback" circulation of the country. I assert here that under the existing law the Secretary of the Treasury has the power to withdraw from circulation every dollar of the greenback circulation in existence. He has that power already by existing law. By the act of June 30, 1864, the Secretary is authorized to convert Treasury notes and United States notes into the kind of bonds authorized by that law, to wit, bonds payable not less than five years nor more than forty years—five-twenties or ten-forties. He has the power to convert that class of securities into long bonds, by first converting them into either seven-thirty Treasury notes or compound-interest notes; he can do either.

And then, by the act of March 3, 1865, which is supplementary to that act, he can convert those seven-thirty notes and those compound-interest notes into bonds, either five-twenties or ten-forties, at his discretion; so that every dollar of the greenback circulation of the country can be converted, sooner or later, into long bonds without any additional legislation.

Now, sir, the proposition of the committee is that the Secretary of the Treasury shall be authorized to do directly that which he can now do indirectly under the act of June 30, 1864, and under the act of March 3, 1865; because, under the latter act, he can convert, with the consent of the holders, any species of indebtedness existing under any act of Congress into gold-interest-bearing bonds. Under the act of June 30, 1864, he can convert United States notes into Treasury notes bearing interest, and can convert any interest-bearing notes into long bonds, at his discretion.

Now, a majority of the committee think that it is desirable to give the Secretary of the Treasury directly that authority which he has indirectly, to so convert this indebtedness into long bonds. My friend and colleague [Mr. PRICE] says that if we have a debt maturing we should pay it with our current receipts. That would be all very well if we had the power to do it; but we must remember that within the next three years there will be due nearly twelve hundred million dollars of this indebtedness. Now, that indebtedness must be provided for within two years and eight months, I believe. A prudent man would not wait until his debts matured before providing for their payment, if possible. He will by some means endeavor to secure the necessary means to meet those obligations before they mature.

Mr. WILSON, of Iowa. I would ask my colleague [Mr. ALLISON] whether the Secretary of the Treasury has not been engaged already in funding seven-thirty notes in gold-bearing bonds under existing law?

Mr. ALLISON. Undoubtedly; by the last monthly statement I see that he has funded $12,000,000 of seven-thirty notes into long bonds, five-twenties I presume; at least it is so stated in the newspapers. Of course he has had power to convert seven-thirty interest-bearing Treasury notes into long bonds, provided, however, that the consent of the holder is always obtained to that conversion. In other words, if I hold a seven-thirty interest-bearing note, I can go to the Secretary of the Treasury and convert it into a five-twenty bond, but if I do not desire that conversion, the Secretary of the Treasury has not the power to sell five-twenty bonds in order to procure money to pay me for the seven-thirty bond which I hold.

Mr. WILSON, of Iowa. I would also ask my colleague whether the Secretary of the Treasuary cannot under existing law sell his five-twenty bonds for compound-interest notes, and then reissue compound-interest notes for the purpose of paying off the seven-thirty interest-bearing notes?

Mr. ALLISON. The Secretary of the Treasuary, as a matter of course, can receive compound-interest notes in payment of long bonds, and under the existing law he can reissue compound-interest notes. But that may not be desirable; it may be desirable that he should have some power conferred upon him by which he can sell his long bonds directly for greenback currency with which to pay off seven-thirty and compound-interest-bearing notes, both of which I believe it desirable to pay off at the earliest possible moment.

Now, sir, the compound-interest notes and the temporary loan which my colleague [Mr. PRICE] says will cost us nothing, I regard as the most obnoxious loan now in existence; I regard that loan as the most expensive loan which we now have; and for the reason that it now amounts to $119,000,000, and the Secretary of the Treasury is compelled to keep in his vaults a large amount of money for its redemption. He has to-day in the Treasury of the United States the sum of $23,000,000, and perhaps more, of greenbacks, for the express purpose of paying this temporary loan as it may be presented. And besides, the way in which this temporary loan is managed, is, I think, obnoxious and injurious to the public interest. How is it managed? By giving the New York association of banks $25,000,000, the Boston association of banks $10,000,000, and the Philadelphia association of banks $5,000,000 or $10,000,000 more, which sums are payable upon the presentation of the certificates. The Secretary of the Treasury is therefore compelled to keep constantly on hand a large amount of greenbacks in order to pay this temporary loan whenever presented. And he will always be compelled to pay that temporary loan at the very time when it ought not to be paid; that is, when there is a scarcity of currency in the country. Thus he is paying a large interest for a loan that is of little practical value to the Treasury.

Now, sir, as I have said, I know of no power that is directly given by this bill, except the power to sell those bonds at less than par should such a necessity arise. For one, I am not in favor of permitting the evidences of the indebtedness of the United States to be sold for less than par. I believe that since the beginning of this war we have not at any time sold our evidences of indebtedness for less than par in notes of the United States. But it may be for the accommodation of the bankers and brokers, who seem to me to be the terror of my friend from Illinois, [Mr. WENTWORTH,] that those bonds should be reduced a little below par. If that should be done, will any one say that the wheels of this Government would be stopped, because for a time we were compelled to sell United States bonds for less than par? Sir, the inevitable interests of the banks and capitalists of this country holding these securities, will have a tendency to keep them at par. The national banks alone hold $500,000,000 of them. Now, the very moment the Secretary of the Treasury issues any of his bonds at less than par, that moment the other bonds of the United States will be reduced to the price for which he sells his. Therefore it is that I believe the inevitable laws of trade and finance will keep these bonds at par.

One single remark further in reference to this greenback circulation. The Secretary of the Treasury does not, in his annual report, propose an immediate return to specie payments. I believe that the state of the country is now much more satisfactory than he believed it to be when that report was written, because at that time prices were ruling high, and gold was at a premium of forty-seven per cent., while the premium is now but thirty per cent. —a reduction of seventeen per cent. But the Secretary of the Treasury, in his report, states that the reduction of the greenbacks or United States notes by $100,000,000 will probably secure what we all desire, the resumption of specie payments.

Now, sir, my friend from Illinois, [Mr. WENTWORTH,] my colleague upon the Committee of Ways and Means, has great anxiety with reference to a class of men in this country, who, he apprehends, are seeking to destroy the public credit. I have no such fears. I believe that the interests of the moneyed men of this country are all upon the side of keeping our securities at par. And I believe that it is to our interest as a people, as a nation, to keep as many of these securities as possible within our own country, so that the interest and the principal may finally be distributed among our own citizens. Therefore it is that I am desirous that the clause with reference to the dispositions of these bonds abroad shall be stricken out.

It is true that the Secretary of the Treasury may under existing law and by this bill, if he believes that it will be good policy, negotiate a loan abroad. He may negotiate a loan outside of the United States; but the interest and principal must be payable in the United States. I can see but very little difference, whether the Secretary of the Treasury authorizes an agent to sell these bonds abroad, or whether he permits New York bankers and foreign agents to purchase them and send them abroad.

But this bill limits the power of the Secretary to increase the national debt under existing law; he can if he chooses increase the public debt to a large amount, and the people are anxious to know where that limit shall be; and this bill proposes that there shall be no further increase, which is an important limitation upon existing power vested in him.

Mr. Speaker, I yield the remainder of my time to my colleague on the committee, the gentleman from New York, [Mr. CONKLING.]

Mr. CONKLING. I yield to the gentleman from Massachusetts, [Mr. BOUTWELL.]

Mr. BOUTWELL. Mr. Speaker, there are two facts connected with our financial experience which have not, so far as I have observed, been noticed, and which seem to me to contain all that is necessary for the solution of our difficulties.

I am free to say that, if I were to follow in this matter the dictates of my own judgment, I should not incline to any legislation further than to remove from the mind of the Secretary of the Treasury the doubt which he entertains with reference to the authority conferred upon him by the last clause of the act of March 3, 1865, by which he is authorized to convert outstanding interest-bearing obligations into new interest-bearing bonds. I would, by law, so construe that language as to allow him to sell new bonds and with the proceeds redeem the outstanding interest-bearing obligations such as compound-interest Treasury notes.

Mr. WILSON, of Iowa. With the permission of the gentleman from Massachusetts I desire to make a single inquiry.

I understand that the Secretary of the Treasury has been engaged for some time in converting the outstanding interest-bearing indebtedness of the United States of various kinds into long bonds bearing gold interest. Does the gentleman desire to be understood as saying that the Secretary of the Treasury doubts his power to do that which he has been doing for months and is still doing?

Mr. BOUTWELL. I am not able to speak from authority, and what I have heard may not be authentic. But I have heard that the Secretary of the Treasury had converted fifty millions, and after that conversion doubts arose in his mind. For myself, I think that the course which he pursued is entirely justified by the law, and that he would be justified in proceeding further in the same course. But if any doubt exists in his mind or in the mind of any other intelligent person, I think it proper that such doubt should be removed by legislation. But, inasmuch as the Committee of Ways and Means have thought proper to report a bill which goes further, I am for myself content to try the experiment, thinking it to be an experiment, of converting the interest-bearing obligations of the country into long bonds; but I am not disposed to go further.

The first fact is that while there has been no reduction in the amount of the currency, the circulating medium of the country, since the close of active hostilities there has been a considerable diminution in the market price of gold.

The second fact which I think worthy of observation is this, that the merchandise of the country—by that I mean the portable property of the country—is to-day in gold worth more than the same articles of merchandise were in 1859 and 1860. The suspension of specie payments seems to me to result from one of two, or by the combination of two causes, a panic, or a panic followed by a decrease in the convertible property of the country. That is a process of industrial exhaustion which finally results in a disproportion in the material, portable wealth in one country as compared with the portable convertible wealth of other countries.

It is worthy of consideration, after the Napoleonic war, although Great Britain persistently, by legislation, attempted to effect a res-

toration of specie payments, it was not until after many years that she was able to accomplish that desirable result. I apprehend that our country is at the present time in an analogous condition. I attribute our inability to resume specie payments at the present time to this, that as the result of war and the diversion of a large amount of industrial force from the peaceful labors of life we have to-day less of convertible property than we had when the war commenced. Let me illustrate our condition by a single statement. If I owe my friend from New York [Mr. CONKLING] $100 and have not the money or property with which to pay it, it is entirely useless for Congress to declare by law I shall pay it unless I am furnished with the means to do so; but if time be given, and I employ my capacities in some productive way and earn $100, if disposed, I can pay that $100 without the interposition of Congress. That is the condition of this country at the present time. We have less of iron, less of cotton, less of all the other results of productive industry than other nations have with which we are in commercial relation. We must wait until, by the application of productive power, the results of our industry agree with the results of the industry of other countries, and then our paper will come to be as valuable as gold; and if by legislation you then command the resumption of specie payments, it will be done without financial disturbance.

I think it is the policy of the country to allow things to go on without active interference. In the natural development of events we shall resume specie payments as early as is consistent with the business interests of the country. I believe, myself, while we should not increase our circulation, that we should wait until another harvest has been gathered in, and until the results of that harvest have been made a part of the convertible property of the country, before we attempt any legislation in the way of enforcing specie payments.

I do not know that I wish to extend my remarks. I have stated, very generally to be sure, the views I entertain. Just convert those bonds which will mature within the next two years into other bonds for a longer time, and also the interest-bearing Treasury notes now in the banks, leaving the $450,000,000 of currency circulation. That amount I believe to be necessary for the wants of the country. Perhaps we have not considered that the operations of the internal revenue department alone require from fifty to one hundred millions to enable it to go on, collecting as it does three or four hundred millions a year. Then we have to consider that we have added four million people, I mean the colored people, to the trading and consuming population of the country. This new element creates a demand for a large amount of currency. We have also to consider that such has been the increase of the products of the mines of the world since 1860 that we can never expect a return to the old prices, and therefore it will require more of the circulating medium to transact business.

The advance in prices in England and upon the continent of Europe since 1860 is from fifteen to twenty-five per cent. of all kinds of merchandise, while the advance in land is considerable, indicating that the advance in this country of which complaint is made is due in part to a financial change which affects the entire commercial world.

I will add in conclusion that I will vote for the amendment proposed by the gentleman from Pennsylvania, [Mr. STEVENS.]

Mr. SLOAN. I propose to amend the amendment of the gentleman from Vermont by striking out the following proviso:

Provided, That the bonds which may be disposed of elsewhere than in the United States may be made payable, both principal and interest, in the coin or currency of the country in which they are made payable, but shall not bear a rate of interest exceeding five per cent. per annum.

And inserting in lieu thereof the following:

Provided, That all bonds or other obligations of the United States hereafter issued shall be made payable, principal and interest, in lawful money of the United States; and all acts or parts of acts which authorize the Secretary of the Treasury to retire permanently from circulation United States notes not bearing interest are hereby repealed.

Mr. MORRILL. I raise a question of order. The proposed amendment is not germane to the matter proposed to be stricken out; and there being already two amendmends pending, it is not in order to propose a third unless it is in the nature of a substitute.

The SPEAKER. There is a substitute pending, offered by the gentleman from Pennsylvania, [Mr. STEVENS.] The amendment of the gentleman from Vermont [Mr. MORRILL] has reference to the original bill, and the question will be taken on that before it is taken on the substitute. The amendment of the gentleman from Wisconsin [Mr. SLOAN] is an amendment to the amendment of the gentleman from Vermont.

Mr. STEVENS. Mr. Speaker, this is a tremendous bill. It proposes to confer, in my judgment, more power upon a single man than was ever before conferred upon any one man in a Government claiming to have a Constitution.

In the remarks I have to make upon this subject, I beg to say that while I would repose just as much confidence in the present incumbent as in any other man, yet our consideration as statesmen, it seems to me, should have no regard to the individual who occupies the place. We are called upon to grant to one man a power which no wise Legislature would grant; and although we may expect that he will wisely exercise it, yet we ought not to grant it, because a contingency may arise which will render it pernicious.

But there is another reason. Wherever there is a vast power the extent of which is hardly limited at all, and it is uncertain how it will be exercised, there is no business community that ever feel safe; there is no business man that will not fear to embark his money in any enterprise which requires much capital. And I think I for one can see already that the very pendency of this bill has tended to throw a damper upon the business of the country, so far as I know anything about it, which I have never before felt or seen from the mere introduction of a bill.

I know that two cotton factories that had commenced and were nearly under roof when this bill was introduced, have been suspended, and will be entirely abandoned never to be resumed, if this bill granting this mighty power should become a law. And I venture to say that there is scarcely any branch of business in the country, whether in cities or in rural districts, that will not be immediately so cramped as to reduce all the industrial enterprises of the country and all the great interests of the nation in the revenue-paying department.

Let us for a single moment see whether the provisions of the bill do not bear out my assertion that it proposes to confer a tremendous power. There is no power more terrible if exercised perniciously than that to extend or contract the currency. It is a terrible engine. I remember, when the fight was carried on between President Jackson and the United States Bank, although the bank had but $35,000,000 at its command, that whenever it found it necessary to carry a State the bank either extended or contracted to execute its purpose. I have seen crash after crash, and house after house of the most flourishing men in the city of Philadelphia and elsewhere go down under the merciless operation of that warfare which was thus carried on between them. Now, I venture to say that that power was not one fiftieth part of the power which this bill proposes to give to the Secretary of the Treasury. What does it propose to give to him?

The bill provides that the act of March, 1865, shall be extended and construed to authorize the Secretary of the Treasury at his discretion, unlimited by any law, to receive Treasury notes or other obligations issued under any act of Congress, whether bearing interest or not, in exchange for any description of bonds authorized by the act to which this is an amendment; and also to dispose of any description of bonds authorized by said act, either in the United States or elsewhere, to such an amount and in such manner and at such rates as he may think advisable.

Now, I ask whether the legislation of this House in the hardest times of the war, whether the legislation of any other nation on the face of the earth, ever confided such discretion in a single man. The law-making power has always taken care to guard by proper limitations the acts of its executive officers. And although in the executive department some discretion has been granted, yet the discretion to borrow just as much as a man pleases, to borrow it wherever he pleases, to borrow it at any rate which he pleases, seems to me to be a power which no wise body of men would ever confide to the purest and ablest man that ever lived.

And for what is this tremendous power conferred? By the acts of 1864 and 1865 no man can doubt but that the Secretary of the Treasury has now the power to convert all the interest-bearing obligations of the United States of every kind into any kind of bonds which he now proposes to sell. The second section of that act is as follows:

"SEC. 2. *And be it further enacted*, That the Secretary of the Treasury may dispose of any of the bonds or other obligations issued under this act, either in the United States or elsewhere, in such manner, and at such rates, and under such conditions, as he may think advisable, for coin, or for other lawful money of the United States, or for any Treasury notes, certificates of indebtedness, or certificates of deposit, or other representatives of value, which have been or may be issued under any act of Congress; and may, at his discretion, issue bonds or Treasury notes authorized by this act, in payment for any requisitions for materials or supplies which shall have been made by the appropriate Department or offices upon the Treasury of the United States, on receiving notice in writing through the Department or office making the requisition, that the owner of the claim for which the requisition is issued desires to subscribe for an amount of loan that will cover said requisition, or any part thereof; and all bonds or other obligations issued under this act shall be exempt from taxation by or under State or municipal authority."

And the proviso of the first section is as follows:

"*And provided further*, That the act entitled 'An act to provide ways and means for the support of the Government, and for other purposes,' approved June 30, 1864, shall be so construed as to authorize the issue of bonds of any description authorized by this act. And any Treasury notes or other obligations bearing interest, issued under any act of Congress, may, at the discretion of the Secretary of the Treasury, and with the consent of the holder, be converted into any description of bonds authorized by this act: and no bonds so authorized shall be considered a part of the amount of $600,000,000 hereinbefore authorized."

Is there anything plainer, anything clearer than that?

Mr. CONKLING. By the permission of the gentleman, I would like to suggest at this point what is the difficulty in the mind of the Secretary of the Treasury, because I should be glad to hear the gentleman from Pennsylvania [Mr. STEVENS] on the subject. It has been suggested that the word "converted" in the proviso just read confines the operation to the right to exchange one description of obligation for the other, as contradistinguished from the right to put bonds on the market, and to sell them for money, and with that money to retire the securities which he would take up. It is that which has created a doubt in the mind of the Secretary of the Treasury. I would like to hear the gentleman on that question.

Mr. STEVENS. I believe the Secretary of the Treasury has followed the other course. I do not know the fact.

Mr. CONKLING. I understand that the other course has been pursued to the amount of $50,000,000, pending which operation, or following it, the Secretary came to believe that he was acting under a power possibly doubtful, (I measure my expression when I say possibly doubtful,) as the law now stands. Therefore for abundant caution he wants to have a statute unmistakable in that respect.

Mr. STEVENS. In answer to the gentleman I have no hesitation in saying that the doubts which the Secretary of the Treasury came to when he had converted $50,000,000

were solid doubts that he had no power to sell and buy, while he had power to exchange with anybody that chose to exchange and convert the one for the other. And it is for the purpose of doing away with those doubts that my substitute has been introduced. I propose by that to give him the power which he has been exercising all along, and not to confine it to that single operation. I am therefore solving his doubt and providing the very power he wishes. Now, sir, for what purpose does he ask any further power? Not to solve a doubt. If that were all, he should have a bill so far as I am concerned; and I propose by my substitute to give him that. But he asks a vast deal more; that is a very small part of it. I do not believe he violated the laws consciously; but I do not think he had the power to sell bonds; the power given was one of conversion merely.

Now, sir, for what more does he ask? The original bill, to which this is an amendment, gave him the power to convert all these amounts of money which are therein recited from these descriptions of bonds into five-twenty bonds bearing gold interest. Now, let us look at it for a moment, and see how much power he has under that bill if he should get no more. He has the four, five, and six per cent. temporary loan of $114,000,000; certificates of indebtedness, $60,000,000; one and two year five per cent. bonds, $8,000,000; three year compound-interest legal-tender notes, $180,000,000; three year seven-thirty Treasury notes, $830,000,000; except the United States notes, $420,000,000; making $1,600,000,000, deducting the $420,000,000. All that he now has the power to retire under the law which already exists; or if he has a doubt that he can exchange without selling bonds, he will have the power under the amendment which I propose. Is not that enough? He has now the power to convert $1,600,000,000 of our obligations from seven-thirty notes, from compound-interest notes payable in currency, into five-twenty bonds payable in gold, so far as the interest is concerned. That is a power which no man ought ever to have had granted to him. It is increasing beyond all extent ever heard of the interest upon the exchange; for while the one bears interest at the rate of seven and three tenths in currency at the highest, the other bears an interest which at the present rate of gold gives more than eight per cent. of currency.

But suppose he has a desire to only withdraw the circulation, why not be content for another year with withdrawing a circulation of $180,000,000?

Inasmuch as these compound-interest notes are a legal tender for their face, and inasmuch as he has the power under the law as it now stands, or will have at any rate under my amendment, to withdraw this very year the amount of $180,000,000 of the currency of the country by exchanging them for long bonds, ought not that to be satisfactory? But that is not satisfactory to the Secretary of the Treasury. In his report I see that he thinks that in addition to the $180,000,000 he would probably not exercise the power, if it were given him, beyond $200,000,000 of greenbacks; making a contraction of the currency, according to his own theory and desire, of $380,000,000 in one year.

Now, gentlemen, if you have ever been upon the rack. (I hope none of you have,) pass this law, and you will have a worse rack than any you ever were on. I do not believe there is a branch of business in this country that would survive it. You say that perhaps he will not exercise the power. But perhaps he will; there is the difficulty. Give him the power, and he may do one thing or the other. But as he may do it, every man in the country who has any regard to his own interest will be cautious how he will put himself into a position to be thus broken, bone and flesh, by this terrible engine of power which it is proposed to give the Secretary of the Treasury.

But the Secretary of the Treasury says he has another object in view. He wishes to convert these currency bonds into gold bonds. They are now payable in currency; the interest will then be payable in gold. How would that help us? I cannot understand, unless I hold the bonds; then I might have some little idea about it. But how would it help the country, to increase your rate of interest from six per cent. to eight and a quarter per cent. and more? Why convert them into gold-bearing bonds?

By the law as it now stands, we have a right to pay for these five-twenties in currency at the end of five years from their date. We pay the interest in gold, but we may pay the principal in currency. Now, would it not be wiser to sell these bonds for currency, and pay the five-twenty bonds that are outstanding, and thus take away the demand for gold which raises it to 130. Would it not be wiser, instead of adding to the gold-bearing list, to withdraw from the gold-bearing list just the amount of whatever we can sell and pay the balance in United States money? But no; the Secretary of the Treasury insists upon putting it into gold-bearing bonds. A gentleman near me suggests that the object is to make the interest less. Well, I dare say that the Secretary of the Treasury has so figured it; but I cannot make it out that six per cent. in gold is less interest than six per cent. in United States money. If we had reached the period of specie payments, then I admit it would not make any difference in what sort of money payment was made.

But, sir, the most extraordinary of all the recommendations of the Secretary of the Treasury is that we should pass an act declaring that all these five-twenties, not only the interest, but the principal, shall be paid in coin. This, he says, would be a great advantage in Europe. An advantage to whom? To the Government? The Government has not a dollar of these loans to sell. There is no loan authorized by law that has not been already exhausted; and the Secretary does not call for any other loan except as a substitute for those outstanding. For whose benefit, then, are you to declare these five-twenties payable in coin, thus increasing their value thirty per cent.? Who hold these bonds? European capitalists. Those men abroad holding now $600,000,000 of our national loan are, if we adopt the recommendation of the Secretary of the Treasury, to have thirty per cent. added to the value of their bonds by a single act of legislation. The Government has no further concern in those bonds except to pay the interest as it accrues and the principal at maturity. Those bonds were purchased, many of them, by European capitalists when gold with us was at 250. In other words, they bought those bonds at sixty per cent. discount. It is evident that if those bonds should now, in accordance with the recommendation of the Secretary of the Treasury, be made payable in gold the holders of the bonds would obtain $100 for every forty dollars which they paid.

Sir, I cannot understand the philosophy of such a system of finance. I dare say that it is because, residing in a country place where money circulates only in small amounts, I am not able to comprehend financial calculations as this banker is, but the idea that the nation is to be benefited by such a proceeding as that proposed, whether the bonds be held in Europe or America, is beyond my comprehension. Doubtless, if I had my pocket full of five-twenties, I could realize the propriety of making the principal as well as the interest payable in gold after it has been understood for five years that that principal should be payable in currency. Any gentleman thus comfortably situated will doubtless find it difficult to vote with an unbiased conscience. There may be wisdom in this project of the Secretary of the Treasury, but I confess that to my poor intellect it is inscrutable and past finding out.

Mr. RAYMOND. Will the gentleman from Pennsylvania allow me to ask him a question?

Mr. STEVENS. Certainly.

Mr. RAYMOND. If I understand the gentleman, his reasoning upon this point proceeds on the assumption that the new bonds to be issued to replace the five-twenties which are to be exchanged, are to bear the same rate of interest as the five-twenties thus retired; and inasmuch as they are to be paid in coin instead of currency, therefore, as he says, the rate of interest will be increased from six to eight, or a little over eight, per cent.

Mr. STEVENS. The gentleman perhaps does not understand me. The obligations to be retired under this bill are those that do not bear gold interest; not the five-twenties.

Mr. RAYMOND. Precisely; those payable in currency. Now, is not the very object of thus changing the mode of payment from currency to gold, to reduce the rate of interest at which the new bonds are to be taken? That is to say, if they are now payable in currency at six per cent., is it not reasonable to suppose that when made payable in coin they will be taken at four per cent., or a little less?

Mr. STEVENS. The bonds which are to be used are precisely like those in that law, six per cent. bonds payable in coin, and seven and three-tenths bonds payable in currency. The seven and three-tenths bonds have all been exhausted, all been used, but by the terms of the act they are convertible into six per cent. gold-bearing bonds under the discretion of the Secretary of the Treasury, for which no law is required. It is true, last year when we were about to pass a loan bill—and as a matter of history I mention it—I introduced a bill that they should all be paid in currency.

Mr. MORRILL. I know the gentleman does not desire to mislead the House. There are two statements he made here to which I desire to call his attention as well as the attention of members of the House, to see whether I understood him. One was, that the bill proposed by the Committee of Ways and Means gave power to the Secretary of the Treasury to issue bonds without any limit. Now, as I understand the bill, it is limited to the amount of our present indebtedness, interest bearing and non-interest bearing.

Mr. STEVENS. I did not mean to say he had no power to go beyond the $300,000,000.

Mr. MORRILL. The gentleman does not mean to controvert the position that he has no more power than merely to exchange for these bonds and notes now outstanding.

Mr. STEVENS. I mean to say, certainly, he is to apply it to our indebtedness as it is now. It was to convert all those except the legal tenders. He has the power to convert them, if he sees fit, except the legal tenders.

Mr. MORRILL. I desire to call his attention to another statement; that is, that the Secretary of the Treasury proposes in his report to reduce the legal tenders by the amount of $200,000,000 annually.

Mr. STEVENS. No, sir; that he said that he thought it would not be necessary to go beyond $200,000,000.

Mr. MORRILL. My recollection does not agree with that of the gentleman.

Mr. STEVENS. I think I can find it. Here it is:

"It is the opinion of the Secretary, as has been already stated, that the process of contraction cannot be injuriously rapid; and that it will not be necessary to retire more than one hundred, or at most two hundred millions of United States notes, in addition to the compound notes, before the desired result will be attained."

Then, sir, what more does he ask? He asks the power not only to convert interest-bearing notes into interest-bearing gold bonds, but the right to convert "greenbacks" and legal tenders bearing no interest into five-twenties bearing interest in gold.

Mr. ALLISON. I understand the five-twenty bonds the act of 1864 has made payable, principal and interest, in gold, whereas the interest is only payable in gold now. I desire to ask whether, under the proviso of the first section of the act of March 3, 1865, the balance of the five-twenty bonds so payable he can return and receive in exchange such bonds as are authorized by that act, to wit, interest and principal payable in gold.

Mr. STEVENS. No such power now exists.

I say that is power enough for any one man to have, and he ought not to have any more.

Let me come to what I deem another very objectionable feature. He asks to withdraw $450,000,000 of our circulation bearing no interest and to substitute bonds bearing six per cent. I have a serious objection to that. In the first place, I do not understand why it is, when we have a circulation bearing no interest, when we have $450,000,000 bearing no interest and which need not bear any interest, why it is that is to be taken up and put into five-twenty bonds bearing six per cent. interest.

Mr. WILSON, of Iowa. I wish to state merely one fact in connection with what the gentleman is now saying, to show that the theory of the report of the Secretary is the best. He has retired from circulation $467,000 of the United States notes.

Mr. STEVENS. Well, there is no authority given to withdraw from the circulation of the country the legal-tender money of the country.

Mr. ALLISON. I would ask the gentleman if the act of June 30, 1864, does not say that the Secretary of the Treasury may redeem and cause to be canceled and destroyed any Treasury notes or United States notes heretofore issued under authority of previous acts of Congress, and substitute in lieu thereof an equal amount of Treasury notes, such as are authorized by this act.

Mr. STEVENS. That has always been construed to apply to the four million act, and nothing else. Nobody has pretended that the Secretary of the Treasury could fund our greenbacks and put them on eight or nine per cent.

Mr. GARFIELD. I would ask the gentleman from Pennsylvania if nearly all the greenbacks were not issued under the very act to which the gentleman from Iowa has referred? Therefore the Secretary had no right to cancel the greenbacks.

Mr. STEVENS. Will the gentleman tell me what the Secretary comes here to ask? What does he come here to ask if he had this power before?

Mr. ALLISON. I can only answer by saying that the law authorized the Secretary of the Treasury to receive greenbacks for long bonds, instead of first converting them into Treasury notes.

Mr. STEVENS. Then it was to save paper, and that was all. It does not amount to anything else. I deny that he has that power. He comes here now to ask it. In my judgment, it is unwise to give him any more power to contract the currency of this country upon which the life of the country depends, and upon which the manufactures, the agriculture, and the commerce of the country depend. You propose to put it all into the hands of one man, and the very fact he has this power is enough to appal every business man in the community.

But after having got that power of converting these notes into gold-bearing bonds, what then? The gentleman says that then we have to return to specie payment. How are we to return to specie payment? How are you to get it at present? If you would pass a tariff that would keep out British goods, and prevent the creation of debts abroad, which require to be paid in gold; if you would convert your gold-bearing bonds into currency, you would not have much trouble in resuming specie payment in a few years.

Mr. WENTWORTH. The gentleman from Pennsylvania is one of the leaders of a great political party, and I wish to ask him whether he combats the policy of the Secretary of the Treasury upon the ground that the policy which he himself advocates will lead to specie payment sooner than the policy of the Secretary of the Treasury; or whether he, and the men who go with him, intend to keep this country from a resumption of specie payment?

Mr. STEVENS. It gives me great pleasure to answer the gentleman, for I know he only asks for information, and I am sorry that I have not more to give him.

Mr. WENTWORTH. I want to know what you are driving at.

Mr. STEVENS. I am for specie payments when we can arrive at them without crushing the community to death. I am for arriving at specie payments and still allowing the business of the country to go on and thrive, and the people engaged in business to pay the taxes which you impose on them. I say that there is not a man in the community who would not as soon have one dollar in greenbacks as one dollar in gold. No one expects to be paid in gold until a general resumption by the banks of specie payment; nobody now knows any other currency than greenbacks, and therefore I am in favor of keeping that currency. In my judgment, we have not more circulation now than the expanded business of the country requires.

This war has given an immense impulse to everything. Whence this precipitation? We have barely got out of the war against the rebels before we have a war made upon the business community, upon the manufacturing interests, and upon all others.

Sir, I am no prophet, but pass this bill, and instead of $500,000,000 of internal taxes, I venture to say that you will not have $250,000,000 of internal revenue. The people cannot pay it. They will not do it, and your revenue system will not produce next year half what it produced last year.

Mr. WENTWORTH. I think I have followed my honorable friend from Pennsylvania all through this session closer than any other man has followed him. [Laughter.] I think there is no other member of this House who has voted so generally with him as I have. But when this great Republican party was made up, we, who were originally Democrats, took up a cross, and it was a great cross. [Laughter.] We were told that if we went into that thing we should have to lay down at the feet of the irresponsible paper-money men. Now, I want to know of the gentleman distinctly whether, if he could, he would resume specie payment to-morrow.

Mr. STEVENS. I do not know anybody more able to carry that cross than my friend from Illinois. [Laughter.]

Mr. WENTWORTH. Would you have specie payment to-morrow, if you could?

Mr. STEVENS. If I could have specie payment to-morrow without deranging the business of the country, I would. If it would derange the business of the country to return to specie payment at once, I would postpone it a little. I voted for the legal-tender bill, and I am glad I did so, for the country would not have survived without it. I know my friend behind me [Mr. MORRILL] thought differently then, and thinks so now.

Mr. WENTWORTH. Would you compromise on a year?

Mr. STEVENS. No, sir, nor on two years.

Mr. WENTWORTH. No, nor on ten. [Laughter.]

Mr. STEVENS. England did not resume specie payment the year after the wars with France. The Bank of England issued paper money, but the Government had £14,000,000 in the stock of that bank to give it security, and the Government prevented it from resuming specie payment until it thought it best. Now, when that great war of twenty-five years was over, did England attempt in 1814 and 1815 to return to specie payment? They had afloat but £20,000,000 or $100,000,000, and they began with their one pound notes; in a few years they took their two pound notes; afterwards they took their five pound notes. But they never resumed full specie payment until the latter part of the year 1822. Does my friend from Illinois expect me to be wiser than the great men of England?

Mr. GARFIELD. Does my friend from Pennsylvania [Mr. STEVENS] deny that in 1819 the law for resuming specie payment was passed, to go into effect gradually at first, and completely in 1823, and that the full resumption of specie payment actually took place early in the spring of 1821, only about a year and three quarters from the passage of the law?

Mr. STEVENS. Yes, except in very large sums. The law authorized them to go on until the 1st of January, 1823.

Mr. GARFIELD. But they resumed in 1821, about a year and three quarters earlier.

Mr. STEVENS. About a year earlier. But the law did not pass until four years after the war. Do gentlemen here expect, when England, with almost all the commerce of the world at her command, was unable to resume specie payments for eight years after the conclusion of her wars, and then did it by such gradual legislation that there should be no shock to the business of the country; do gentlemen expect that we are to put it into the power of one man to compel the resumption of specie payments in a single year? But that will not be so. Pass this law, and in my judgment the day of specie payments will be far distant indeed.

Mr. WENTWORTH. The gentlemen from Pennsylvania and I are acting together.

Mr. STEVENS. Not in this. [Laughter.]

Mr. WENTWORTH. Never mind that. I think he is honest; I mean to be.

Mr. STEVENS. I will indorse you.

Mr. WENTWORTH. The question is, how far can we travel together? I want to know if the power and the patronage and the influence of the great Republican party, so called, is to be used to deprive us of our natural standard of value. Now, I wish while we go together to be perfectly honest. Nobody respects the talents of my friend from Pennsylvania [Mr. STEVENS] more than I do. He knows more than all of us put together. [Laughter.] I want him to state to the House fairly and candidly whether, if we follow him, he will lead us to specie payment; or whether, if he could, he would. Let him say fair.

Mr. STEVENS. I will say to my friend that in this case I do not act as a member of the Republican party.

Mr. WENTWORTH. I have followed the gentleman because I supposed him to be a Republican leader.

Mr. STEVENS. If I believed that we could resume specie payments in a month without crushing the interests of the country, without injuring the laborer, without breaking down the manufacturer, without oppressing the people, without decreasing the revenues of the Government; if I had the power I would order every bank in the country, State and national, and the Government also, to resume specie payment.

Mr. WENTWORTH. Suppose McCulloch could do that, and give all our boys their money at par.

Mr. STEVENS. If he could do it I should give him great credit.

Mr. WENTWORTH. I believe he can.

Mr. STEVENS. My friend is large, and has faith like two grains of mustard seed. [Laughter.]

Mr. WENTWORTH. I followed you on the slavery question. [Roars of laughter.]

Mr. STEVENS. I would be very glad to answer the gentleman's question——

Mr. WENTWORTH. Will you go for specie payments? [Laughter.]

Mr. STEVENS. I will go for specie payment just as soon as I think the country will bear it. But I am not willing to bestow the power proposed in this bill upon any man, be he saint or sinner. I would hardly trust my friend himself with such power.

Mr. WENTWORTH. I trusted the gentleman on negro suffrage, and I want him to trust me on finance. Let him play fair. [Laughter.]

Mr. STEVENS. Mr. Speaker, how much time have I remaining?

The SPEAKER. Two minutes.

Mr. STEVENS. Well, I yield the remainder of my time to any other gentleman who may wish to continue the discussion.

Mr. DARLING obtained the floor.

Mr. MORRILL. With the consent of the gentleman from New York [Mr. DARLING] I desire to say, as a number of gentlemen are leaving the Hall, that there is to be a session of the House this evening, and this bill is to be disposed of, I trust, to-night.

Mr. SCOFIELD. Has a session been ordered for this evening?

The SPEAKER. There will be a session this evening unless otherwise ordered by the House, which can only be done by adopting a motion to adjourn before the hour for the recess arrives.

Mr. ROSS. I move, then, that the House adjourn.

The SPEAKER. The gentleman cannot make that motion without the consent of the gentleman from New York, [Mr. DARLING,] who is entitled to the floor.

Mr. DARLING. Mr. Speaker, the question of reconstruction and other kindred topics has absorbed nearly the entire thought and action of Congress up to the present time; prolonged and comprehensive debate has exhausted the subject, and we have now arrived at a point where its further discussion would seem to be without profit to ourselves or of much interest to the country; it is therefore, in my judgment, fit and proper that we should enter upon the consideration of other matters of equally grave importance; supreme among which I regard the question of the financial policy of the Government, with its collateral subjects of taxation, tariff, and currency, with a view to the safe and speedy return to specie payments—"a consummation devoutly to be wished for"—as of the most momentous consequence. The doubt and uncertainty that now pervade the public mind are not without their effect upon the people and all the industrial and business pursuits of the country; in fact this important question enters into the daily concerns of us all. In the absence of a clearly defined policy, as enunciated by Congress, distrust and despondency are taking the place of confidence and hope, which each day's delay on our part serves only to intensify and augment.

The subject of our finances has been the theme of countless essayists throughout the land. Numberless articles have appeared in the public prints and in pamphlet form, which have had a wide and general circulation among the people, all calculated to have their effect upon their Representatives in forming their judgment as to the wisest, best, and only safe and true policy to be adopted in order to insure the stability of the public credit, to retain the confidence of the people in the ability of the Government to meet all its obligations, and to gradually return to our normal condition of a specie basis without at all affecting their prosperity or happiness. This is our duty, and I for one approach the subject with some doubt as to what is the wisest and the best course to pursue. It is not saying too much, I think, Mr. Speaker, when I assert that the people have the fullest confidence in the patriotism, integrity, and financial ability of the Secretary, and that in some way best calculated to promote their interests and that of the whole country he will solve this financial problem and place the moneyed interests of the Government upon a sure and stable foundation. Let us, therefore, come up to this great work with all the light and knowledge we possess. Let us place on high a beacon whose light shall be so steady and strong that all classes of our people can steer their bark upon this perilous sea of financial difficulties to a haven of quiet and safety.

To my mind the most important work of all is the funding of the seven-thirty notes which mature within thirty months. This is the first work to be done, and to the accomplishment of that object all the efforts and energies of the Secretary should at once and continuously be given, until the whole amount of $830,000,000 is funded. Now, it is obvious that in order to induce the holders to part with an investment so lucrative and convenient, and which it must be borne in mind is payable in legal-tender notes, that we must offer them another investment in exchange equally, if not more, desirable. Are the five-twenty bonds, with interest at six per cent., payable in gold, such an investment? I answer, yes, at this time, and it should be our policy, as I believe it is the intention of the Secretary, to preserve the preponderance in favor of the five-twenty bonds, or what, in my judgment, would be still better, to create a bond having thirty years to run, at six per cent. interest, payable, principal and interest, in coin, any time after thirty years, at the option of the Government. This bond would absorb rapidly by conversion the seven-thirty loan and such other short loans as it might be necessary to provide for. No resumption of specie payments can take place until these notes are funded; that done the Government has nothing to fear, and what now appears so remote that "distance lends enchantment to the view" will be within our reach and control.

The compound-interest notes (legal tenders) now held principally by the banks and other corporations, amounting, if I am correct, to about one hundred and eighty millions, should be gradually extinguished and paid off out of the surplus revenues of the country, thus reducing the debt. This could be effected by receiving ten or fifteen per cent. of the custom duties in these notes, to be canceled as fast as received, and provide by law for the payment of the whole amount within five years at farthest, in equal annual installments, interest to be stamped paid when due on the face of the notes, and permitted to float until paid off as before stated and required. These notes, although inert, still must be regarded as currency, and their withdrawal by payment or conversion is practically a contraction of the currency, as the banks will be compelled to supply their place with non-interest legal-tender notes. Thus having funded the seven-thirty notes and certificates of indebtedness and provided for the gradual withdrawal of the compound-interest notes, the return to specie payments can be assured without disturbing the business interests of the country, or creating any sudden revulsions in trade. Prices will gradually adapt themselves to the anticipated change in our financial condition, the confidence of the people will be secured and held, and their faith will make the greenback worth its face in coin.

The only provision in the bill now under consideration that I object to—now the section is stricken out providing for a foreign loan, and which would be repugnant to the sentiments of the American people—is the power given to the Secretary to fund the non-interest legal-tender notes. I am not afraid to trust the Secretary with large, and what might be considered in some cases dangerous power. The condition of our finances would seem to demand that he who drives the team should hold the reins and have authority to put on the brake when the vehicle is going down hill. It seems to me unwise and unnecessary to exchange a loan which has gone into all the avenues of trade, and bears no interest, for one that does. It does not appear either that there is at present any great redundancy of the currency. The value of the United States notes is slowly but surely appreciating to the gold standard. Before the war the whole amount of paper currency was, I believe, about two hundred millions; but then the deficiency in the currency was supplied by credits, notes of hand, and other evidences of indebtedness, issued by firms and individuals, resting upon personal responsibility and liable to misfortune and loss. Currency now, in a great measure, takes the place of credits, and the business of the country in the exchange of commodities is done for Uncle Sam's promises to pay instead of those of John Doe and Richard Roe. Can anything be better, be safer as a circulating medium for the people, or less likely to bring loss upon the holder, than an obligation that rests on the property of the whole country, and has for its security the faith and patriotism of the greatest and freest people on the face of the globe? I will here read an extract from an article on national currency which appeared in the North American Review, and seems appropriate in this connection:

"The Government issued its own notes, four hundred millions of them, payable at no definite period, receivable for all loans made to the United States, and a legal tender for all debts, public and private, except interest on these loans and duties on imports. These provisions give an actual value to the notes superior to that of bank notes, so that, being preferred by the people, they may take the place of the latter and thus become a national currency. They are issued by a sovereign Power which receives them in payment for debts due to it, and obliges individuals to receive them in like manner. They are issued on the credit of the nation, not on that of a private corporation. A vast domain, the richest in the world in gold and silver, in coal and iron, in cotton and tobacco, in wheat and corn, in stone and timber, in flocks and herds, is mortgaged to secure them. Thirty million people of the most industrious, energetic, and enterprising race on earth have indorsed them. If thus supported they are the best currency that ever a nation had—better than gold and siver; such a currency as was never dreamed of in the philosophy of the framers of the Constitution."

Now, Mr. Speaker, I think it will be unnecessary for me to show any further the value of this currency and its importance to the people, and, in view of their appreciation and almost controlling absorption of it throughout the country, how little it will affect the question of the resumption of specie payments, when the great and only peril to our finance is averted by the conversion of our interest-bearing notes and short loans in the long bonds of the Government. That done and it can resume to-morrow. With the amount of gold now in the Treasury and being constantly received, there could at no time be concentrated an amount of currency for redemption that the Government could not promptly pay in coin. Let this policy be established—let it be known to the people that the Government, under the condition of things enumerated, can and will at some day not far distant redeem its legal tenders in coin at any place and at any time, and you will see the premium on gold rapidly fall; and when the notes are of the value of coin no one will (except for extraordinary purposes) want coin for them, and so forth from the hidden recesses of the country will come the hoarded stores of gold and silver that have lain dormant and useless throughout the last five years.

The national bank currency amounting on the 1st of March to $257,000,000, resting upon the legal tender and secured by the bonds of the Government, can be always redeemed in legal tenders, which being redeemable themselves in gold and silver will answer the purpose and perform the duty of coin itself.

And now, sir, before I close these remarks, which have already extended over more space and occupied more time than I intended, let me say what I think we should do in the matter of taxation and tariff.

In the first place the tariff should be so adjusted as to afford the fullest protection to our home industry; labor, the dignity, wealth, and power of the nation, must be protected against foreign competition; the extravagance of the people should be checked, by controlling and prohibiting excessive importations; our manufacturers, whose products are brought in direct competition with those of foreign countries, and who are obliged to pay a large revenue tax, should be placed on a par at least with the sellers of foreign goods, by the imposition of a revenue tax on all sales of foreign goods equal in amount to the tax imposed upon our own manufactured articles. I would release from taxation all incomes below $2,000, and make the rate of tax uniform above that amount. Persons living upon salaries and moderate fixed incomes find the tax on incomes as at present oppressive.

I would abolish all taxes upon many of the actual necessaries of life, and wherever and whenever I could discriminate in favor of the poor, place a tax on the three great leading articles of cotton, tobacco, and distilled spirits sufficient to meet any deficiency caused by deduction on other things, and inaugurate and pursue a course of wise and judicious economy in all public expenditures, at the same time preserving the character and power of the nation, not forgetting to reward by the payment of bounties our brave men who stood by the flag of the Union in the hour of its direst need; encourage and stimulate the immigration of the honest and sturdy labor of Europe to our shores, to settle on our broad and fertile plains, develop the hidden wealth of gold and silver

that lies buried in inexhaustible fields in the metalliferous regions of Idaho, Montana, Nevada, and of the western continent, and you can dismiss all apprehension for the future or fears for the ultimate payment of a debt created by the exigencies of the war, and which under God enabled us to subdue the rebellion and preserve our national unity. With the restoration of the Union our debt and our currency will be safe, and posterity, blessed by our sacrifices and sufferings, will accept the legacy as a sacred trust, and the honor and patriotism of the American people will insure the payment of the last dollar.

I yield the remainder of my time to the gentleman from Iowa, [Mr. ALLISON.]

Mr. ALLISON. Mr. Speaker, I only desire to refer to the particular clause which I read in the first section of the act of June 30, 1864, the substitution clause. That is a loan act, authorizing the Secretary of the Treasury to borrow $400,000,000, and to issue five-twenty or ten-forty bonds, or in lieu thereof seven-thirties or compound-interest notes. The clause I referred to in that act authorizes the Secretary of the Treasury to convert United States notes into Treasury notes; not the United States notes authorized to be issued by the act, as claimed by the gentleman from Pennsylvania, [Mr. STEVENS,] because this act does not authorize the issuing of United States notes except in the clause which I read; which United States notes may be taken up and Treasury notes substituted therefor: and all of the United States notes that had heretofore been issued under previous acts of Congress may be so converted, and this includes all of the United States notes. It was for this reason that I said in my previous remarks that the Secretary of the Treasury now has the power to retire from circulation the greenback currency of this country and substitute for it Treasury notes, payable in three years with compound interest or with semi-annual interest. I think that this is the clear construction of this act, and that it will admit of no other.

Mr. Speaker, I yield the floor to the gentleman from New York, [Mr. CONKLING.]

Mr. CONKLING. I wish to say that, for one, I entirely concur in the statement which has been made by the gentleman from Iowa, [Mr. ALLISON,] that the very power which the gentleman from Pennsylvania [Mr. STEVENS] says would appal the country now exists. In the first place, the Secretary of the Treasury has now the power, under the act of March 3, 1865, to exchange any securities of the Government which bear interest for any other securities which bear interest. In the second place, he has the power to call in, to cancel, to annihilate, so that it never again shall go out, every particle of the currency of this country which is made up of what we call legal-tender notes issued prior to June 30, 1864; and the truth is that substantially, if not literally, the whole of that currency was issued previous to that time. So that in point of fact for practical purposes the Secretary of the Treasury has now the power to call in and cancel the legal-tender currency of the country. Only one single power remains to be conferred upon him; and that is the power to put his bonds upon the market where he pleases, when he pleases, and as he pleases, sell them for money, and with that money purchase the outstanding obligations of the Government. That is the only power, in addition to the power he now possesses, that can be conferred upon him by this or any other bill.

Mr. ROSS. Will the gentleman from New York [Mr. CONKLING] give way for a motion to adjourn?

Mr. CONKLING. No, sir. I believe that one object in giving the floor to me was to have me talk out the time till the recess, so that no gentleman could make a motion to adjourn. I shall be very happy to do that, saying for that purpose almost anything that is true. [Laughter.]

The SPEAKER. The hour of half past four o'clock having arrived, the House now takes a recess till half past seven this evening.

EVENING SESSION.

The House at half past seven o'clock p. m. resumed its session.

PRINTING ORDERED.

Mr. LAFLIN, from the Committee on Printing, to which was referred a motion in reference to the printing of five hundred extra copies of House bill No. 361, to reorganize and establish the Army of the United States, reported the following resolution:

Resolved, That one thousand extra copies of House bill No. 361, to reorganize and establish the Army of the United States, be printed for the House in pamphlet form.

Mr. WASHBURNE, of Illinois. I desire to call the gentleman's attention to one thing. There is a House bill and a Senate bill, both of which are now before the House, and I would like to see both bills printed, so that members may be able to compare them and determine which is the best. I move to amend so that five hundred of each bill shall be printed. I think that is enough.

Mr. CONKLING. Do not Senate bills come to the House in the large type and broad lines, and go upon our files?

The SPEAKER. Only when ordered to be printed by the House. The Senate bill was ordered to be printed by the House to-day, but no extra copies were ordered to be printed.

Mr. CONKLING. I understand that the chairman of the Committee on Military Affairs announced to-day that the copies of the House bill were exhausted, and he was allowed to report another revised bill of which he asked extra copies to be ordered.

The SPEAKER. That is correct as far as it goes. The gentleman from Ohio [Mr. SCHENCK] then moved that the Senate bill be taken from the Speaker's table, referred to the Committee on Military Affairs, and ordered to be printed; which motion was agreed to.

Mr. CONKLING. What is the proposition now?

The SPEAKER. To print extra copies of the House bill.

Mr. LAFLIN. I will say in reference to that, that the cost of printing this bill is comparatively small. It will not cost to exceed from two to three cents per copy. Five hundred copies would give two and a half to each member. Being a bill in universal demand by those who have been in the Army, it was thought proper to give each member five copies, as the expense will not exceed ten or twelve dollars. I hope there will be no objection to it.

Mr. BLAINE. Does the gentleman propose to print one thousand of each?

Mr. LAFLIN. The resolution only provides for the printing of one thousand copies of the House bill.

Mr. WASHBURNE, of Illinois. In accordance with the suggestion the gentleman has made, I move that one thousand extra copies of each be provided.

The amendment was agreed to.

The resolution as amended was adopted.

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

The latter motion was agreed to.

On motion of Mr. LAFLIN, the Committee on Printing was discharged from the further consideration of the resolution requesting it to consider the expediency of printing for the use of the House five thousand copies of rolls of honor and other lists of soldiers' burials in the national cemeteries and on battle-fields, now being published under the direction of the Quartermaster General, and that the same be laid upon the table.

Mr. LAFLIN. I will state for the information of the House that some days since the House passed a resolution on the report of the committee, ordering the printing of one thousand extra copies of the report of the commissioner appointed to make a revision of the revenue laws, pursuant to the act of 1865, for the Treasury Department. Prior to that the House had already passed a resolution calling for the printing of twenty thousand extra copies for the use of the House. It has been ascertained, on examination, that the type has been distributed from which the twenty thousand have been printed. Unless some objection be made, the committee will direct one thousand copies shall be delivered out of the twenty thousand copies to the Secretary of the Treasury.

There was no objection, and it was ordered accordingly.

DESTRUCTION OF MONOCACY BRIDGE.

On motion of Mr. DEMING, the Committee on Military Affairs was discharged from the further consideration of the county commissioners of Frederick county, Maryland, praying for an appropriation to rebuild the bridge over the Monocacy river, destroyed by Major General Lewis Wallace, United States volunteers, and that the same be referred to the Committee of Claims.

ADVERSE REPORTS.

Mr. WASHBURNE, of Illinois, from the Committee on Commerce, reported back House bill No. 40, making an appropriation for a custom-house and warehouse at Jersey City, State of New Jersey, and House bill No. 233, to provide for the construction of a custom-house, post office, and court-house at the city of Cairo, Illinois, and moved that the bills be laid upon the table, and the report accompanying them be ordered to be printed.

The motion was agreed to.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

WITHDRAWAL OF PAPERS.

Mr. LOAN asked and obtained leave to withdraw from the Committee of Claims the petition and accompanying papers of George Mack and others.

LOAN BILL.

Mr. HARDING, of Illinois, called for the regular order.

The House accordingly proceeded to the consideration of the special order, House bill No. 207, to amend an act entitled "An act to provide ways and means to support the Government," approved March 3, 1865.

Mr. GARFIELD and Mr. LYNCH addressed the House. [Their speeches will be published in the Appendix.]

Mr. BAKER. Mr. Speaker, I had intended to content myself with a silent vote against this bill, and now I am only prompted to the brief remarks I shall make by my very strong impression that the proposed measure will be mischievous instead of beneficial to the country. I admit there are several subjects with which I am more familiar than I am with questions of finance; but then I have observed that there are some threads of truth so long that they run through all subjects, showing the kinship of all things; and these threads of truth, or general principles as I might better say, are open to the common observation of mankind. Diffidently, therefore, yet not wholly without a sense of sure footing, I will venture a few brief and general observations on the question before the House.

In the first place I will say that, in my opinion, there are elements in the question before us which are not amenable to mathematical estimation, nor soluble by any exact reckonings of past experience; large general facts, lying broadly on the face of things as they now are and are becoming. These elements, addressing themselves as they do more to the intuitive judgment than to empirical experience, ought by all means to be duly considered. Let us glance at some of them.

1. As to the quantity of circulating medium which we really need for the healthy business uses of the country, I will venture to affirm that

that quantity ought to bear a just proportion not only to the amount of our business and the number of our people, but also to the magnitude of our territory and the average sparseness of our population. I stop not to explain. The general reason is that a circulating medium moving in long circuits and with the same speed will not touch the same point so often as if the circuit be shorter. The telegraph and exchange lessen but do not by any means obliterate this element. Hence inferences from compact populations like those of France and Great Britain will not accurately apply to a similar industrial population spread over the immense area of this Republic, extending from the eastern to the western sea, and from the northern line to the Keys of Florida. We need relatively more money.

2. There are eight or ten millions of our people left by the exhaustion of the rebellion with very little money—I allude, of course, to the southern States. The people of these States, white and black, have not nearly the requisite amount of money. When this great vacuum shall be supplied, as I hope it speedily may be, the tendency will be to relieve any plethora existing in the North.

3. The emancipated career upon which the Republic now enters, the larger liberty and the consequent greater vitality of every branch of industry, will lead to the ready and healthy appropriation of much more money than we needed heretofore.

4. I understand it to be a fact, considering all markets and looking over the country comprehensively, that prices during the year now past have gradually lowered.

5. I understand it to be a fact that gold, during the year now past, has gradually come down, or, in other words, that greenbacks have gradually risen in value.

6. I understand it to be a fact that there is no money in the West that cannot be readily loaned at ten per cent., showing, or at least tending to show, that the supply is not superabundant.

These are some of the general elements of the question before us; and every gentleman will appreciate their bearing without one word of comment.

But, sir, if contraction is necessary, do so either by commencing with the national banks or by applying a portion of our surplus revenue to retiring the greenbacks. I cannot and will not, as at present advised, consent to the taking up of the greenbacks and the substitution of interest-paying bonds in their stead, thus adding largely to our interest-bearing debt, and consequently adding to the taxation levied on the labor of the country. Sir, the labor of this country, in the last analysis and when you get to the bottom of the matter, is charged with the payment of our great national debt. The capitalist hands over to the tax-gatherer money that was first made and placed in his coffers by the hard hand of labor. I repeat it, the labor of the country carries the burden of the national debt; and I will not on this occasion add to that burden by increasing the tax-paying debt of the people while taking from them a better money to make room for a worse one. Sir, I very determinedly vote against the bill.

Mr. MORRILL. I do not propose to occupy much of the time of the House at this late period. I will directly move the previous question. I yield now five minutes to the gentleman from Ohio.

Mr. LAWRENCE, of Ohio. Mr. Speaker, at this late hour I do not propose to discuss in detail the bill now before the House. During the few minutes allotted to me I will only state the points of objection which I have to this measure.

It proposes to carry out an avowed policy of converting "the lawful money of the United States"—the "greenbacks"—into national bonds.

The effect of this will be—

1. To convert a debt on which the Government pays no interest into a debt bearing interest at an unnecessary annual expense to the nation of $27,000,000 for interest.

2. It will reduce the price of labor and of all property by diminishing the amount of our circulating medium. This will increase the burden of the tax-payers by requiring a larger amount of property and labor to pay the taxes of the country than will be required if no such reduction takes place. In other words, it will increase the burdens and diminish the resources of the people; it will diminish all but the public debt.

3. It will be productive of the injustice of requiring the people to pay with labor and property at low prices a national debt contracted in part for supplies at high prices. I am opposed to the bill because I am opposed to these results, and because—

1. The bill is unnecessary as shown by the laws in force and by a statement of the public debt, no material part of which will become due until in December, 1867, and July, 1868. It will be time enough to legislate on the subject a year hence, when circumstances may have so changed as to render a different kind of legislation necessary, and when the whole subject of finances, taxation, &c., will be better understood in their relations to the business and interests of the country.

I submit to the House the following:

Statement of the public debt of the United States on the 1st of February, 1866.

Debt bearing coin interest:		
Six per cent. bonds, December 31, 1867, and July 1, 1868		$18,323,591 80
Five per cent. bonds, January 1, 1874		20,000,000 00
Five per cent. bonds, January 1, 1871		7,022,000 00
Six per cent. bonds, December 31, 1880, and June 30, 1881		282,648,250 00
Six per cent. 5-20 bonds, May 1, 1867, or May 1, 1882		514,780,500 00
Six per cent, 5-20 bonds, November 1, 1869, or November 1, 1884		100,000,000 00
Six per cent. 5-20 bonds, November 1, 1870, or November 1, 1882		50,590,300 00
Five per cent. 10-40 bonds March 1, 1874, or March 1, 1904		172,769,100 00
Six per cent. bonds, Oregon war, July 1, 1881		1,016,000 00
		1,167,149,741 80
Debt bearing currency interest:		
Six per cent. bonds, U. P. R. R. Co., November 1, 1895	$992,000 00	
Six per cent. bonds, C. P. R. R. Co., January 16, 1895	2,362,000 00	
Four, five, and six per cent. temporary loan, ten days' notice after thirty days	114,755,840 06	
Certificates of indebtedness, one year from date	60,637,000 00	
One and two year five per cent. notes, one and two years from date	8,536,900 00	
[Legal tender] three year compound-interest notes, three years from date	180,012,141 00	
Three year 7-30 Treasury notes, three years from date	830,000,000 00	
		1,197,295,881 06
Matured debt not presented for payment:		
Texas indemnity bonds	$665,000 00	
Three year 7-30 Treasury notes	233,500 00	
Bonds	81,268 68	
Treasury notes	118,361 64	
Temporary loan, coin	1,200 00	
		1,099,330 32
Debt bearing no interest:		
[Legal tender] United States notes, (constituting our currency called "greenbacks")	$423,902,223 00	
Fractional currency	26,553,244 52	
Gold certificates of deposit	8,391,080 00	
		458,846,547 52
Total debt		2,824,391,500 70
Amount in Treasury:		
Coin	$51,443,161 84	
Currency	56,050,186 23	
		107,493,348 07
Amount of debt, less cash in Treasury		$2,716,898,152 63

The foregoing is a correct statement of the public debt, as appears from the books and Treasurer's returns in the Department, on the 1st of February, 1866.

HUGH McCULLOCH,
Secretary of the Treasury.

The following letter was written by the Comptroller of the Currency in reply to an inquiry asking his opinion of the loan bill:

TREASURY DEPARTMENT,
OFFICE OF THE COMPTROLLER OF THE CURRENCY,
February 24, 1866.

MY DEAR SIR: Your letter of to-day is received, and in reply I have to say that I am decidedly opposed to the loan bill for the following reasons:

By the act of June 30, 1864 United States notes can be converted into compound-interest notes; and by the act of March 3, 1865, certificates of indebtedness, compound-interest notes, five per cent. legal-tender notes, and seven-thirty Treasury notes can be converted into five-twenty bonds; and that portion of the temporary loan that it is desirable should be paid, can be paid from money now in the Treasury, which I suppose must be at this time, including deposits in national banks, at least one hundred and fifty million dollars, and the amount that it would be expedient to pay would not be more than the amount of the increase of the deposit for the last few weeks, and which the Government has not had any occasion to use. We have, therefore, full powers to fund every dollar of the floating debt without any further legislation on the subject, and no occasion for making any loan for any purpose whatever. All can be done by simply exchanging one security for another, and can be quietly done without essentially disturbing the money market or the business of the country, the Secretary of the Treasury being the judge as to how far and how rapid the movements in reference to conversion should proceed.

I think there is no doubt about the willingness of the holders of the floating debt to convert into five-twenty bonds to the extent that is desirable, if the credit of our securities is sustained, but if authority is given to put bonds upon the market to an almost unlimited amount, and to sell at any price, as provided in the bill, would, in my view, cause such uncertainty in the public mind as to render it impossible to keep up the price of the Government securities I do not think a loan of $50,000,000 could be negotiated without sinking the price of five-twenty bonds below par, as the public would not know how soon another $50,000,000, $500,000,000 or $1,000,000,000 might be put upon the market.

As to the provision in reference to a foreign loan, it would, in my view, if carried into effect, be almost suicidal. If bonds are sold abroad the price would be based, of course, upon the present currency rate of exchange, consequently the Government would receive about sixty dollars in gold for each $100 in bonds, payable in gold, with semi-annual interest also payable in gold; in addition to exchange, commissions, &c. And in addition, if the Government should sell its bonds abroad to the extent to affect the price of gold, say twenty per cent., it would lessen to just that extent the net proceeds of the bonds, and instead of sixty realize only forty dollars for each $100 of bonds.

Yours, truly, FREEMAN CLARKE.

Instead of legislation authorizing a reduction of the United States legal-tender notes we need a limitation on existing laws to prevent any reduction of the currency beyond that which will result from funding the legal-tender compound-interest notes, which will be a sufficient and more than sufficient reduction during the coming year.

By existing law the Secretary of the Treasury can fund the compound-interest notes over one hundred and eighty million dollars.

This is a part of the currency of the country. If all this should be suddenly funded the spindles of New England, the furnaces and forges of Pennsylvania, and all the great industrial pursuits of the great West and of the whole country would receive a shock from which they could not recover without wide-spread bankruptcy and ruin.

But this bill proposes to give authority to withdraw from circulation not only all this currency but untold millions more. Let the compound-interest notes be funded first and gradually, and then if it shall be found practicable a further reduction can be gradually made. Time and circumstances will determine our policy as to this.

2. It is a mistake to suppose that there is a great redundancy of currency in circulation. This is proved by a comparison of the amount of money in circulation in this and other countries, and an examination of our resources and business.

"France has a circulating medium, mostly specie, of about one thousand million dollars. England has some six or seven hundred million dollars."

Yet the population of England and France each is not materially different in numbers from that of the United States.

3. A reduction of the currency will be followed by high rates of interest among the people, and, as a consequence, a depreciation of the value of national bonds, and of property

generally. The rate of interest has never been so low as during the war and now with an adequate currency.

4. This bill proposes to intrust unnecessary and dangerous powers to the Secretary of the Treasury. I do not doubt or disparage his integrity, sagacity, or financial skill, but all these combined do not render it necessary to surrender powers which the people, in the exercise of their judgment, have a right to control.

The financial interests and condition of a nation should not depend on the judgment of any one man.

The effect of this uncertainty is already shown in the following statement from the New York Mercantile Journal of February 8:

"This bill, which is likely to be adopted by Congress, is sufficiently vague to excite some uneasiness in Wall street, where it is regarded as investing the Secretary of the Treasury with a supplenary power that will place the market entirely at his disposal. It is objected, and with considerable reason, that the usual laws of trade which may be understood and anticipated by ordinary sagacity, will be constantly liable to the disturbing influences of the Treasury Department which it is often impossible to foresee. There is much force in this view, which has undoubtedly caused a feeling of apprehension among capitalists. But it should be remembered that the Secretary of the Treasury must, in no slight degree, be governed or controlled by well-known commercial laws, and as the wants of the Government are generally sufficiently understood, the action of the Treasury Department may be foreseen or anticipated. There is something in this view, as the Secretary's policy of contraction, though not yet formally commenced, is already being discounted in Wall street. The greatest caution is now observed; credits are being restricted; new obligations and enterprises of almost every kind are scarcely touched. This course will greatly modify the force of the inevitable shock when the contraction of the currency really commences, but its effects already begin to tell seriously upon legitimate business operations."

5. The bill proposes in a time of peace what was unnecessary in war, to send our national bonds abroad to be held by the capitalists of Europe, thereby annually draining the country of its gold to cripple our resources and render us subject to a foreign money power.

6. A return to specie payment is desirable just when and only when public and private interests will be promoted by it. This will not be rendered practicable by increasing the rates of interest and by crippling the industrial pursuits of the people, but will be secured by fostering and encouraging them by an adequate currency and by a proper internal revenue system, so framed as not to embarrass, but rather encourage, productive labor, and by an equitable system of duties on foreign imports.

I am greatly obliged to the distinguished chairman of the Committee of Ways and Means [Mr. MORRILL] for his kindness in according to me the privilege of thus briefly stating some of the objections which seem to me to be well taken against this bill in the shape in which it now stands.

Mr. STEVENS. I offer the following modification of my amendment, to come in as an additional section:

All laws or parts of laws which authorize the Secretary of the Treasury to fund or withdraw from circulation any United States legal-tender notes not bearing interest be and the same are hereby repealed.

Mr. SPALDING. I ask the gentleman from Vermont to allow me a very few minutes.

Mr. MORRILL. I will do so.

Mr. SPALDING. I am not skilled in the science of finance; hence I have felt much embarrassment in coming to a conclusion in regard to the vote I shall give on the question now pending. On ordinary occasions I should follow the lead of the distinguished member from Pennsylvania, [Mr. STEVENS,] who has this day made an elaborate argument in opposition to this measure. But, sir, when I turn to that gentleman I cannot forget that in the last Congress he led me into an *ignis fatuus* chase after the traffickers in gold, and I assisted him in the passage of a bill which remained in force about three days, I believe, during which time gold went up faster than at any time previous, so that we were forced to retrace our steps and repeal the bill, when gold began to come down again.

Now, that short experience admonishes me not to be too confident in following the financial recommendations of the member from Pennsylvania, [Mr. STEVENS,] and I have concluded, therefore, to make my own limited experience available for this emergency. I have concluded to give my vote in favor of the passage of this bill.

I cannot mistake two prominent facts. At the breaking out of the late rebellion the circulating medium of the United States was somewhere about $200,000,000; now, sir, it is more than three times as much. At the lowest estimate it is $750,000,000.

Now, sir, do we not all realize the fact that the price of living has materially increased during the last four or five years? Is it not a fact that a man who has now a fixed income, say of $2,500 a year, finds it difficult to make both ends meet, whereas when we had a specie-paying currency a man with that income was enabled to live in a somewhat genteel style.

I feel as if it is an established fact that our currency, at this time, is redundant. Why it is so has been very well explained by gentlemen who have spoken on the subject. Our object is, or ought to be, to come back as speedily as possible to a specie basis, having due regard to the business relations of the country. I undertake to say that at this time we are laboring somewhat under a strain upon our Constitution when we hold that four hundred and fifty million paper dollars shall be treated as legal tenders in payment of debts. If it had not been for the perils of the rebellion from which we have recently emerged, what man in this House, having any pretension to the name of a constitutional lawyer, would have admitted that under our Constitution this paper currency could have been made a legal tender in place of gold and silver?

But, sir, in this, as in many other things, we were very liberal in construing the Constitution in consequence of the pressure of the rebellion, and for no other reason in the world.

I say that we must speedily correct this evil, and do away with this paper legal tender, if we would preserve the principles of our Constitution as handed down to us by the fathers. And I say further, that this redundant currency has engendered in the land a spirit of mad speculation that has not only deranged business in all its relations, but is demoralizing society itself.

Now, sir, this policy of the Secretary of the Treasury is no novel idea thrown before the country. It was first indicated in his speech made in Indiana last summer. That speech I think was received with general approbation throughout the country. It was indicated more pointedly by his report to this Congress, and then the House of Representatives early in the session responded in accordance with the views and wishes of the people and said the Secretary should receive our support Support him in what? In the very policy indicated by the very bill now under consideration.

Mr. Speaker, I believe that high prices in the country, the expenses of living to the masses of the people, are greatly enhanced, fourfold, in consequence of this redundant currency, which gentlemen are now seeking to keep up, and many of the gentlemen with whom I have conversed to-day differ with me so diametrically in this whole matter, that methinks they would gladly add some thousand millions to the circulation if they had the power at this moment. They could do that with as much propriety as to claim that $450,000,000 has no effect upon the prices of living in this country.

I am satisfied that the policy of the Secretary of the Treasury, if supported by Congress, will apply a speedy corrective to the evils I thus cursorily enumerate.

Believing this, and feeling that we must repose confidence somewhere, and, if so, that no more trustworthy man can be found than the present able head of the Treasury, I am disposed to give up the doubts which have, to some extent, held me back, and to vote for the bill. In the issue of new bonds I shall be glad if a rate of interest can be allowed that will enable us to concede to the State and municipal authorities the right of taxation; but of that I leave the Committee of Ways and Means to judge.

I will vote for the bill.

Mr. MORRILL. I do not know but I better call the previous question before I make the remarks I desire to make.

The SPEAKER. The gentleman from Vermont [Mr. MORRILL] has thirty-five minutes of his hour remaining. He can call the previous question, and if it is seconded, he can then make his remarks.

Mr. MORRILL. Then I call the previous question on the bill and pending amendments.

The previous question was seconded.

Mr. PIKE. I submitted an amendment this morning, or had one read, which I desire to have a chance to offer.

The SPEAKER. The Chair stated to the gentleman from Maine that his amendment could not be received in the form in which he proposed it. The amendment of the gentleman from Vermont, [Mr. MORRILL,] was to strike out a certain part of the bill. The amendment of the gentleman from Maine was to add certain words to the bill, and was not in order.

Mr. PIKE. I hope the House will not second the previous question.

The SPEAKER. The previous question has been already seconded. The question is now, Shall the main question be put? upon which the gentleman from Maine can call a division if he desires it.

Mr. PIKE. I move to reconsider the vote by which the previous question was seconded.

The motion to reconsider was not agreed to.

The main question was then ordered.

Mr. MORRILL. Mr. Speaker, perhaps there has been and there may not be any more important measure before this Congress than the one now under consideration. When the Secretary of the Treasury, at the commencement of this session, announced his purpose not only to prepare at once for paying off the public debt, but to retire in due time the immense amount of legal tenders afloat, it made the country proud of our financial condition, electrified our friends abroad, and astonished our enemies. It awakened Europe to the American idea of doing things—that is to say, of doing great things in the shortest time—not to wait for the slow action of centuries before the nation can be relieved of public debt and the miseries of an exclusively paper currency.

The gentleman from Pennsylvania [Mr. STEVENS] in the course of the debate this afternoon undertook to inform the House that it was the purpose of the Secretary of the Treasury to retire, as I understood him to say, $200,000,000 of the legal-tender currency annually. That statement was calculated to very much mislead the House. I propose to read exactly what the plan of the Secretary of the Treasury was on the 1st of December and what it is to-day. I read from his annual report:

"If the business of the country rested upon a stable basis, or if credits could be kept from being still further increased, there would be less occasion for solicitude on this subject. But such is not the fact. Business is not in a healthy condition; it is speculative, feverish, uncertain. Every day that contraction is deferred increases the difficulty of preventing a financial collapse. Prices and credits will not remain as they are. The tide will either recede or advance: and it will not recede without the exercise of the controlling power of Congress."

The Secretary then states the following propositions as the substance of his policy:

"1. That Congress declare that the compound-interest notes shall cease to be a legal tender from the day of their maturity.

"2. That the Secretary be authorized, in his discretion, to sell bonds of the United States, bearing interest at a rate not exceeding six per cent., and redeemable and payable at such periods as may be conducive to the interests of the country, for the purpose of retiring not only compound-interest notes, but the United States notes."

And this policy so earnestly recommended by the Secretary is embodied in our bill now before the House.

The Secretary goes on to say:

"It is the opinion of the Secretary, as has been already stated, that the process of contraction cannot be injuriously rapid, and that it will not be necessary

to retire more than one hundred, or at most two hundred millions of United States notes, in addition to the compound notes, before the desired result will be attained. But neither the amount of reduction, nor the time that will be required to bring up the currency to the specie standard, can now be estimated with any degree of accuracy."

That last portion of the statement was wholly omitted by the gentleman from Pennsylvania, and the idea which he would attempt to fasten upon the House was entirely without foundation. The Secretary had not any such purpose as charged. The Secretary goes on to say:

"The first thing to be done is to establish the policy of contraction."

And that is the purpose of the present bill. It is to establish a policy and say to the world that resumption of specie payments shall not be indefinitely postponed. Nobody expects that the Secretary of the Treasury is going to retire immediately any considerable amount of the legal-tender currency. It cannot and will not be done for years. But it is necessary that he should have the power in order to facilitate the transaction of the remaining part of the business. The interest-bearing obligations must be first taken care of. And I warn gentlemen that if this House shall take the responsibility of reversing what may be considered to have been hitherto the national policy, the policy enunciated by the Secretary of the Treasury, and which received the indorsement, as my colleague on the Committee of Ways and Means [Mr. WENTWORTH] stated in his speech, of all but six members of this House in the early part of this session—if the House shall do that, it will, in my opinion, be utterly impossible for the Secretary of the Treasury to maintain the price of gold even where it now is, and consequently the prices of all the articles of merchandise and all productions which enter into the cost of living will be increased. Consumers have some rights, the right at least to hope in the future. And I warn gentlemen further, that as a matter of policy we cannot afford to make the issue of continuing these high and extravagant prices in the way of living any longer than may be absolutely necessary. And I say to them further, that as a matter of political policy we cannot afford it. We cannot afford to throw the financial questions of the day into the vortex of politics. I was happy to hear the gentleman from Pennsylvania announce the idea that there was to be no politics in questions of this kind; that each man should vote for himself. That certainly is my idea as to the policy of Congress, and the true policy of the party to which I am proud to belong.

Mr. Speaker, the finances of the country are not yet beyond peril. The time when we may look with the most apprehension in relation to our financial affairs is yet to come. The process of generating an inflated paper currency gives some pleasure, but to be safely delivered of it is generally attended by grief. If gentlemen will look back to the times of our financial disasters they will see that they have always occurred in times of the greatest inflation of the currency. Take the financial disaster of 1837; we had then increased our bank currency to an enormous extent. In 1830 the currency of the country was but $61,000,000; in 1837 it had been increased to $149,000,000, and then occurred that tremendous convulsion that was felt from the center to the circumference of our land. It fell to $58,000,000 in 1843. In 1857 it had again increased to $214,000,000, and then occurred, as gentlemen will remember, another great convulsion.

Now, gentlemen may say that we have not got a redundant currency. I should like to have time to investigate that fact, and to trample it under foot as I feel, humble as I am, fully competent to do.

The amount of currency that this country requires in the ordinary normal condition of affairs has usually been not more than from five to seven or eight dollars *per capita*. That is as much as has been required to do the business of the country when it was in a healthy state. From 1839 to 1853, inclusive, a period of fifteen years, Dr. Elder states that the average circulation of bank currency did not vary more than twenty-six cents *per capita*, standing very uniformly at about $5 20.

Now, what is the amount of the currency? Gentlemen undertake to say that the gold of the country has gone abroad, and we are to take from the amount of the circulating medium of the country the amount of gold that was formerly in use. That is not true. I have a statement here showing precisely how that matter stands; showing that during the last four years we have not exported more than twelve million dollars over the amount we exported in the four previous years, and not over the amount of our annual production:

Specie and bullion exported.

1858	$52,633,147	1862	$36,887,640
1859	63,887,411	1863	63,392,036
1860	66,546,239	1864	69,390,485
1861	28,164,835	1865	54,448,184
	$211,431,632		224,118,345
			211,431,632
			$12,686,713

I suppose there is not a man in this House who does not know that the production of gold and silver in this country has largely increased during the last four years in spite of the war.

Now, what is the amount of circulation, saying nothing about the gold and silver coin, of which it is proven there is as much in the country to-day as at any previous time? It is conceded by the gentleman from Maine [Mr. PIKE] that of State bank currency there is now $60,000,000; of national bank currency $260,000,000; of legal tenders and fractional notes $450,000,000. And then, in addition to that, we have compound-interest notes amounting to $174,000,000, making a total of $944,000,000, amounting to thirty dollars per capita. Will any man undertake to say that that is not too much for the business of the country? To require so much it would be necessary to show that the business of the country had more than quadrupled.

I should argue that we did not need as much currency now as we generally do; for the reason that more personal debts have been liquidated within the last four years than within any four years in the history of our country. I believe that the "great West," as the gentleman from Illinois [Mr. WASHBURNE] delights in calling his part of the country, is at least $200,000,000 less in debt to-day than it was four years ago. And that is the condition, more or less, throughout the country. There is less need of bank accommodation on account of personal indebtedness than usual. In point of fact the Government itself is the largest and most profitable customer of the banks. When the Government retires, the means of the banks will be ample to supply the legitimate wants of the people.

Another statement was made by the gentleman from Massachusetts [Mr. BOUTWELL] which I desire to controvert: that was that there was less personal property in this country now than before the war. I will admit at once that there are fewer horses and mules, and possibly some less merchandise, or there was less six months ago, though stocks have recently accumulated. But I say that while the Government is poorer, the people of the loyal States, at least, are richer and possess more personal wealth to-day than previous to the war.

Mr. Speaker, the Government securities are as much property to individuals as stocks in railroads or stocks in banks. But if the statement of the gentleman from Massachusetts were to be accepted that there is to-day less of personal property in the country than prior to the war, it would show only that less currency would be needed to carry on the business of the country, as there would be less merchandise and less produce to be sold or exchanged.

But, Mr. Speaker, the Secretary of the Treasury is a master of his special subject. I believe it will be conceded here, and I may almost say throughout the world, that he is an able financier. No man ventures to impeach his integrity. Now, if he should have this power conferred upon him, as we propose, (and when gentlemen say that we do not know how long he may be our Secretary, I answer that the best way for us to secure to him a long tenure of office is for us not to distrust him in his financial capacity, not to make it impossible that he should succeed, not to take the business out of his hands and thus drive a high-spirited man out of office,) if he should have this power conferred upon him, no one expects that he will at once, if at all, fund any considerable quantity of the legal-tender notes. Why? Because in order to facilitate the greater transactions of exchanging our present indebtedness, our seven-thirties, our compound-interest notes, our temporary loans, he must make it an object for every man to accept United States bonds; and unless he can make the bonds better than any other obligations of the Government, including legal tenders, it will be impossible for him to make the exchange. Therefore there need not be the slightest apprehension that the legal-tender notes will not be the last obligations to be funded. It may be that occasionally he will receive in payment these legal-tender notes; but if he does, he will be very likely at once to pay them out again.

To show, Mr. Speaker, that there is a redundant currency it is only necessary to look at the large amount of private deposits in our banks in addition to the immense amount of compound-interest notes which they keep (it being more profitable to hold than non-interest-bearing legal tenders) as a part of their reserve in order to redeem their own issues. They have, I believe, on deposit from four to five hundred million dollars belonging to the people. In addition to that the Government itself has $60,000,000 of currency on hand. If these sums were to be unlocked and go into circulation in any form, in whole or in part, as is likely to be the case if the project of the gentleman from Pennsylvania should succeed, that is to say, if we should leave the Secretary of the Treasury with simply the power he now has, the result will be that the currency will be practically increased to some extent. Otherwise the deposits would be most likely to be absorbed by being exchanged for United States bonds.

Mr. Speaker, let me say one word more. There has never been any country that could export grain, manufactures, or anything else, with an inflated currency, except in extraordinary emergencies. It did occur at the time of the famine in Ireland, it did occur at the time of the Crimean war, but those were exceptional instances. The manufacturers of this country—I am sorry to disagree on this point with some gentlemen here and elsewhere—the manufacturers of the country, as well as all the rest of the country, have an interest in having this question settled, so that they can make their contracts at least for six months ahead. If the policy of the Secretary of the Treasury can be steadily pursued we shall avoid frequent changes in the money market, the bane of all business transactions, and every one will know how to make his arrangements accordingly. It cannot be for the interest of any class of our people to keep our currency below the value of other nations with whom we trade.

The gentleman from Pennsylvania has characterized this as an "enormous bill," because, as he claims, it will confer extravagant power upon the Secretary of the Treasury. Why, sir, he has now all the power so much dreaded by the gentleman from Pennsylvania, and if he were a demon, minister of evil, no doubt he could exercise that power to the injury of the country. But does anybody believe that he would willingly, with malice aforethought, bring about a commercial revulsion in this country, prostrate our business, bankrupt the Treasury, sink the credit of the Government, and destroy his own reputation? I must say that, in my judgment, these are idle fears and unworthy to be lodged in the brain of any man.

Now, Mr. Speaker, if gentlemen will look at the laws we have passed, they will see that even

in relation to the terms on which these loans shall be negotiated, this bill proposes to confer no greater powers than the Secretary of the Treasury already possesses. Some gentlemen desire that we shall insert in the bill a provision that these bonds shall be disposed of at not less than par. Why, sir, if such a provision should be inserted, and if the brokers of New York should make a combination, as they might at any time, to reduce the price of these bonds even one tenth of one per cent. below par, the Secretary of the Treasury would be bound hand and foot; he would be utterly incapable of moving, and could not fund a dollar. Again, if he desired to employ, as agent to dispose of this loan, Jay Cooke, who has heretofore managed so successfully the sale of our bonds and notes, and should desire to pay him a quarter of one per cent., or three eighths, or any other percentage that might be agreed upon, he would be precluded from doing so. Conversion, exchange or sale, would stop.

By an examination of our former acts of this kind, it will be found that they contained similar provisions on this subject. In the law of 1861 the language was, "on the most favorable terms." In 1863 we said, "upon such terms as he may deem most advisable." In the act of March, 1864, and the act of January, 1865, the same language was used. In the act of March, 1865, the words were, "at such rates and under such conditions as he may think advisable."

Again, sir, objection is made to the provision of this bill because it proposes to authorize the Secretary of the Treasury to negotiate loans in any foreign country. The bill, as it will be left if the amendment I propose be adopted, will still leave power to negotiate these bonds "in the United States or elsewhere." Of course he does not intend, after the emphatic condemnation of the policy in his report, to negotiate any bonds abroad, but the power may be useful in order that he may obtain the best possible terms here at home.

As it is getting late, I do not propose to occupy any more of the time of the House. I do appeal to the House to let this bill stand as we have it, except so far as the amendment which I have proposed under the instructions of the Committee of Ways and Means. I hope there is enough of good sense and patriotism in this House to sustain the bill. If we do, I cannot think we shall have any reason to regret it. I do fear we may have much for regret if the House undertakes to manage the finances of the country. For one, I prefer the responsibility shall be with the executive department.

The question recurred on Mr. SLOAN's motion to insert the following in place of what Mr. MORRILL moved to strike out:

That all bonds or other obligations of the United States hereafter issued shall be made payable, principal and interest, in lawful money of the United States, and all acts or parts of acts which authorize the Secretary of the Treasury to retire permanently from circulation United States notes not bearing interest are hereby repealed.

Mr. HARDING, of Illinois. I demand the yeas and nays. If I cannot speak I want to vote.

The yeas and nays were not ordered.

The amendment was disagreed to.

The question then recurred on Mr. MORRILL's motion to strike out the following:

Provided, That the bonds which may be disposed of elsewhere than in the United States may be made payable, both principal and interest, in the coin or currency of the country in which they are made payable, but shall not bear a rate of interest exceeding five per cent. per annum.

The motion was agreed to.

The question then recurred on Mr. STEVENS's substitute for the bill, as follows:

That the act entitled "An act to provide ways and means to support the Government," approved March 3, 1865, shall be extended and construed to authorize the Secretary of the Treasury to dispose of any description of bonds authorized by said act to such an amount, in such manner, and at such rates not less than par, as he may think advisable, for lawful money of the United States, or for any Treasury notes, certificates of indebtedness, or certificates of deposits or other representatives of value, which have been or which may be issued, under any act of Congress; and the proceeds thereof shall be used only for retiring Treasury notes or other obligations bearing interest, issued under any act of Congress; but nothing herein contained shall be construed to authorize any increase of the public debt.

SEC. 2. And all laws and parts of laws which authorize the Secretary of the Treasury to fund or withdraw from circulation any United States legal-tender notes not bearing interest be, and the same are hereby, repealed.

Mr. CONKLING. Is that divisible?

The SPEAKER. The Chair thinks not, as it has been offered for the whole bill.

Mr. STEVENS. I withdraw the second section of my substitute.

Mr. WENTWORTH. I object. While I would do anything to oblige my friend, I want our soldiers paid in money at par.

Mr. STEVENS. I move that the bill be laid upon the table; and demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 37, nays 98, not voting 48; as follows:

YEAS—Messrs. Anderson, Baker, Beaman, Bingham, Blow, Bundy, Cobb, Eggleston, Ferry, Abner C. Harding, Hayes, Higby, Demas Hubbard, James R. Hubbell, Hulburd, Kelso, Kuykendall, William Lawrence, Loan, McClurg, Mercur, Miller, Myers, O'Neill, Paine, Pike, Price, Sloan, Starr, Stevens, Francis Thomas, Trowbridge, Welker, Williams, James F. Wilson, Stephen F. Wilson, and Windom—37.

NAYS—Messrs. Allison, Ames, Ancona, Baldwin, Banks, Barker, Baxter, Bidwell, Blaine, Boutwell, Boyer, Brandegee, Bromwell, Brooks, Broomall, Buckland, Chanler, Reader W. Clarke, Coffroth, Conkling, Cullom, Darling, Dawes, Dawson, Delano, Deming, Denison, Dixon, Donnelly, Eliot, Farquhar, Garfield, Goodyear, Grider, Grinnell, Aaron Harding, Hart, Hill, Hogan, Holmes, Hooper, Asahel W. Hubbard, John H. Hubbard, Edwin N. Hubbell, James Humphrey, James M. Humphrey, Ingersoll, Jones, Julian, Kasson, Kerr, Ketcham, Laflin, Latham, George V. Lawrence, Le Blond, Marshall, Marston, Marvin, McRuer, Moorhead, Morrill, Morris, Moulton, Nicholson, Noell, Orth, Perham, Phelps, Plants, Samuel J. Randall, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Ritter, Rogers, Ross, Sawyer, Scofield, Shellabarger, Spalding, Stilwell, Taber, Taylor, Thornton, Trimble, Upson, Burt Van Horn, Robert T. Van Horn, Ward, Warner, Elihu B. Washburne, William B. Washburn, Wentworth, Whaley, Winfield, and Woodbridge—98.

NOT VOTING—Messrs. Alley, Delos R. Ashley, James M. Ashley, Benjamin, Bergen, Sidney Clarke, Cook, Culver, Davis, Defrees, Driggs, Dumont, Eckley, Eldridge, Farnsworth, Finck, Glossbrenner, Griswold, Hale, Harris, Henderson, Hotchkiss, Chester D. Hubbard, Jenckes, Johnson, Kelley, Longyear, Lynch, McCullough, McIndoe, McKee, Newell, Niblack, Patterson, Pomeroy, Radford, Rollins, Rousseau, Schenck, Shanklin, Sitgreaves, Smith, Strouse, Thayer, John L. Thomas, Van Aernam, Henry D. Washburn, and Wright—48.

So the House refused to lay the bill upon the table.

During the vote,

Mr. RICE, of Massachusetts, stated that his colleague, Mr. ALLEY, was paired with Mr. HARRIS.

Mr. LAFLIN stated Mr. CLARKE, of Kansas, was absent on account of illness.

Mr. THAYER said he was paired with Mr. GLOSSBRENNER, who was unavoidably absent.

Mr. VAN HORN, of New York, stated that Mr. VAN AERNAM was detained from the House by illness.

Mr. LE BLOND stated that Mr. ELDRIDGE was still detained at home by sickness.

Mr. RANDALL, of Pennsylvania, made a similar statement in reference to his colleague, Mr. JOHNSON.

The vote was then announced as above recorded.

The question then recurred on agreeing to the substitute of Mr. STEVENS.

Mr. EGGLESTON. On that I demand the yeas and nays.

Mr. LAWRENCE, of Ohio. I desire to move to reconsider the vote by which the main question was ordered with a view of striking out the second section.

The SPEAKER. That cannot be done until the previous question is exhausted.

The yeas and nays were ordered.

The question was then taken on agreeing to the substitute offered by Mr. STEVENS; and it was decided in the negative—yeas 61, nays 75, not voting 47; as follows:

YEAS—Messrs. Anderson, Baker, Beaman, Bingham, Blow, Boutwell, Bromwell, Buckland, Bundy, Reader W. Clarke, Cobb, Cook, Darling, Dixon, Donnelly, Eggleston, Eliot, Farquhar, Ferry, Goodyear, Abner C. Harding, Hart, Hayes, Higby, Hill, Holmes, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, Edwin N. Hubbell, James R. Hubbell, Hulburd, Julian, Kelso, Kuykendall, William Lawrence, Loan, Lynch, McClurg, Miller, Moorhead, Morris, Myers, O'Neill, Orth, Pike, Plants, Price, Alexander H. Rice, John H. Rice, Sloan, Starr, Stevens, Stilwell, Francis Thomas, Trowbridge, Welker, Williams, James F. Wilson, Stephen F. Wilson, and Windom—61.

NAYS—Messrs. Allison, Ames, Ancona, Baldwin, Banks, Barker, Baxter, Bidwell, Blaine, Boyer, Brandegee, Brooks, Broomall, Chanler, Coffroth, Conkling, Cullom, Dawes, Dawson, Delano, Deming, Denison, Garfield, Grider, Aaron Harding, Hogan, John H. Hubbard, James Humphrey, James M. Humphrey, Ingersoll, Jones, Kasson, Kerr, Ketcham, Laflin, Latham, George V. Lawrence, Le Blond, Marshall, Marston, Marvin, McRuer, Mercur, Morrill, Moulton, Nicholson, Noell, Paine, Perham, Phelps, Samuel J. Randall, William H. Randall, Raymond, Ritter, Rogers, Ross, Sawyer, Scofield, Shellabarger, Spalding, Taber, Taylor, Thornton, Trimble, Upson, Burt Van Horn, Robert T. Van Horn, Ward, Warner, Elihu B. Washburne, William B. Washburn, Wentworth, Whaley, Winfield, and Woodbridge—75.

NOT VOTING—Messrs. Alley, Delos R. Ashley, James M. Ashley, Benjamin, Bergen, Sidney Clarke, Culver, Davis, Defrees, Driggs, Dumont, Eckley, Eldridge, Farnsworth, Finck, Glossbrenner, Grinnell, Griswold, Hale, Harris, Henderson, Hooper, Hotchkiss, Jenckes, Johnson, Kelley, Longyear, McCullough, McIndoe, McKee, Newell, Niblack, Patterson, Pomeroy, Radford, Rollins, Rousseau, Schenck, Shanklin, Sitgreaves, Smith, Strouse, Thayer, John L. Thomas, Van Aernam, Henry D. Washburn, and Wright—47.

So the substitute was disagreed to.

Mr. LAWRENCE, of Ohio. I now desire to make the motion to reconsider the vote ordering the main question.

The SPEAKER. It is not in order.

Mr. LAWRENCE, of Ohio. Then I desire to make a statement.

Mr. RANDALL, of Pennsylvania. I object.

The question recurred on ordering the bill to be engrossed.

Mr. STEVENS. I demand the yeas and nays on the engrossment.

The yeas and nays were not ordered.

Mr. STEVENS. I demand tellers.

Tellers were not ordered.

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

Mr. WILSON, of Iowa. I demand the reading of the engrossed bill.

The SPEAKER. The Chair is informed that the bill is not yet engrossed.

Mr. MORRILL. I move to adjourn, for the purpose of giving time to have the bill engrossed.

Mr. GARFIELD. I ask the gentleman to withdraw it, so as to move to take a recess of ten minutes.

Mr. MORRILL. I withdraw the motion to adjourn.

Mr. GARFIELD. I move that the House take a recess of ten minutes.

The SPEAKER. The Chair doubts whether, under the operation of the previous question, a recess can be ordered without unanimous consent.

Mr. MORRILL. I then renew the motion to adjourn and call the yeas and nays on the question. But if the gentleman will withdraw the objection I will withdraw my motion.

The yeas and nays were ordered.

Mr. WILSON, of Iowa. Is it in order now to move to reconsider the vote by which the main question was ordered?

The SPEAKER. It is not.

Mr. WILSON, of Iowa. In order to get at that I will withdraw the demand for the reading of the engrossed bill.

Mr. MORRILL. I withdraw the motion to adjourn.

Mr. STEVENS. I demand the reading of the engrossed bill.

Mr. GARFIELD. I renew the motion to adjourn, and demand the yeas and nays upon it.

The yeas and nays were ordered.

The question being taken on the motion to adjourn, it was decided in the negative—yeas 48, nays 80, not voting 55; as follows:

YEAS—Messrs. Ames, Anderson, Baker, Bingham, Boutwell, Brandegee, Bromwell, Buckland, Bundy, Cobb, Cook, Cullom, Dixon, Donnelly, Eggleston, Farquhar, Ferry, Grinnell, Abner C. Harding, Hart, Hayes, Higby, Hill, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Edwin

N. Hubbell, James R. Hubbell, Hulburd, Ingersoll, Julian, Kelso, William Lawrence, Loan, McClurg, Meorhead, Morris, Plants, Sloan, Stevens, Stilwell, Francis Thomas, Trowbridge, Welker, Wentworth, Williams, and Windom—48.

NAYS—Messrs. Allison, Ancona, Baldwin, Banks, Baxter, Beaman, Bidwell, Blaine, Boyer, Brooks, Chanler, Reader W. Clarke, Coffroth, Darling, Dawes, Dawson, Delano, Denison, Eliot, Garfield, Grider, Aaron Harding, Hogan, James Humphrey, James M. Humphrey, Jones, Kasson, Kerr, Ketcham, Kuykendall, Laflin, Latham, George V. Lawrence, Le Blond, Marshall, Marston, Marvin, McRuer, Mercur, Miller, Morrill, Myers, Nicholson, Noell, O'Neill, Orth, Paine, Perham, Phelps, Pike, Price, Samuel J. Randall, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Ritter, Rogers, Ross, Sawyer, Scofield, Shellabarger, Spalding, Starr, Taber, Taylor, Thornton, Trimble, Upson, Burt Van Horn, Robert T. Van Horn, Ward, Warner, Elihu B. Washburne, William B. Washburn, Whaley, James F. Wilson, Stephen F. Wilson, Winfield, and Woodbridge—80.

NOT VOTING—Messrs. Alley, Delos R. Ashley, James M. Ashley, Barker, Benjamin, Bergen, Blow, Broomall, Sidney Clarke, Conkling, Culver, Davis, Defrees, Deming, Driggs, Dumont, Eckley, Eldridge, Farnsworth, Finck, Glossbrenner, Goodyear, Griswold, Hale, Harris, Henderson, Holmes, Hooper, Hotchkiss, Jenckes, Johnson, Kelley, Longyear, Lynch, McCullough, McIndoe, McKee, Moulton, Newell, Niblack, Patterson, Pomeroy, Radford, Rollins, Rousseau, Schenck, Shanklin, Sitgreaves, Smith, Strouse, Thayer, John L. Thomas, Van Aernam, Henry D. Washburn, and Wright—55.

So the motion to adjourn was disagreed to.

During the roll-call,

Mr. WINFIELD stated that his colleague, Mr. RADFORD, was unavoidably absent.

The bill being now engrossed, it was read the third time.

Mr. MORRILL moved to reconsider the vote by which the bill was ordered to be engrossed and read a third time; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

Mr. MORRILL. I demand the previous question on the passage of the bill.

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

Mr. WILSON, of Iowa. I demand the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 64, nays 70, not voting 49; as follows:

YEAS—Messrs. Allison, Ancona, Baldwin, Banks, Baxter, Bidwell, Blaine, Boyer, Brandegee, Brooks, Chanler, Coffroth, Conkling, Darling, Dawes, Dawson, Delano, Deming, Denison, Grider, Aaron Harding, Hogan, Hooper, John H. Hubbard, James Humphrey, James M. Humphrey, Jones, Kasson, Kerr, Ketcham, Laflin, Latham, George V. Lawrence, Le Blond, Marshall, Marston, Marvin, McRuer, Morrill, Nicholson, Noell, Perham, Phelps, Samuel J. Randall, William H. Randall, Raymond, Ritter, Rogers, Ross, Sawyer, Scofield, Spalding, Taber, Taylor, Thornton, Burt Van Horn, Robert T. Van Horn, Ward, Warner, Elihu B. Washburne, William B. Washburn, Wentworth, Whaley, Winfield, and Woodbridge—65.

NAYS—Messrs. Anderson, Baker, Barker, Beaman, Bingham, Blow, Boutwell, Bromwell, Broomall, Buckland, Bundy, Reader W. Clarke, Cobb, Cook, Cullom, Dixon, Donnelly, Eggleston, Eliot, Farquhar, Ferry, Garfield, Grinnell, Abner C. Harding, Hart, Hayes, Higby, Hill, Holmes, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, Edwin N. Hubbell, James R. Hubbell, Hulburd, Ingersoll, Julian, Kelso, Kuykendall, William Lawrence, Loan, Lynch, McClurg, Mercur, Miller, Moorhead, Morris, Moulton, Myers, O'Neill, Orth, Paine, Pike, Plants, Price, Alexander H. Rice, John H. Rice, Shellabarger, Sloan, Starr, Stevens, Stilwell, Francis Thomas, Trowbridge, Upson, Welker, Williams, James F. Wilson, Stephen F. Wilson, and Windom—70.

NOT VOTING—Messrs. Alley, Ames, Delos R. Ashley, James M. Ashley, Benjamin, Bergen, Sidney Clarke, Culver, Davis, Defrees, Driggs, Dumont, Eckley, Eldridge, Farnsworth, Finck, Glossbrenner, Goodyear, Griswold, Hale, Harris, Henderson, Hooper, Hotchkiss, Jenckes, Johnson, Kelley, Longyear, McCullough, McIndoe, McKee, Newell, Niblack, Patterson, Pomeroy, Radford, Rollins, Rousseau, Schenck, Shanklin, Sitgreaves, Smith, Strouse, Thayer, John L. Thomas, Trimble, Van Aernam, Henry D. Washburn, and Wright—49.

So the bill was rejected.

During the roll-call,

Mr. ANCONA said: My colleague, Mr. JOHNSON, is still detained from the House by indisposition.

The result of the vote having been announced as above recorded,

Mr. GARFIELD said: I changed my vote and voted in the negative for the purpose of moving a reconsideration. I now move to reconsider the vote by which the bill was rejected.

Mr. BEAMAN. I move to lay the motion to reconsider upon the table.

Mr. WASHBURNE, of Illinois. I move that when the House adjourns it adjourn to meet on Monday next.

Mr. STEVENS. I hope the gentleman will not insist on that motion. I think we had better have a session for debate.

Mr. WASHBURNE, of Illinois. I withdraw the motion.

Mr. STEVENS. I ask that by unanimous consent the session of to-morrow be set apart for the consideration, as in Committee of the Whole on the state of the Union, of the President's annual message, and for debate only.

No objection was made.

And then, on motion of Mr. MORRILL, (at fifteen minutes past eleven o'clock p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to appropriate committees:

By Mr. BOUTWELL: The petition of the Lowell city Institutions for Savings; of the Middlesex Institutions for Savings, and of the Newton Institutions for Savings, severally asking for a reduction of the tax on savings banks.

By Mr. RADFORD: The memorial of the Legislature of Colorado in relation to the Pacific railroad.

Also, the petition of Lieutenant Barrett, and others, late officers and soldiers in the United States Army, against the sale of mineral lands of the United States.

By Mr. CLARKE, of Ohio: The petition of John Carter, and 7 others, soldiers of the war of 1812, residents of Clermont county, Ohio, asking for pensions.

By Mr. COOK: The petition of 62 citizens of Will county, Illinois, praying for the enactment of laws for the regulation of inter-State insurances of all kinds.

By Mr. FERRY: The memorial of insurance agents of Muskegon, Michigan, praying for the passage of a law regulating inter-State insurances of all kinds.

By Mr. GOODWIN: The memorial of the Legislative Assembly of the Territory of Arizona, asking Congress to donate certain lands to build a railroad in said Territory.

Also, the petition of R. C. McCormick, and others, in aid of same.

Also, a memorial of the Legislative Assembly of the Territory of Arizona, asking for an appropriation to improve the navigation of the Colorado river.

Also, joint resolution of the Legislative Assembly, asking that the boundary lines of Arizona be fixed.

Also, the memorial of the Legislative Assembly of Arizona, asking that the tract of land in the bend of the Colorado river, opposite Fort Yuma, be attached to Arizona.

Also, the memorial of the Legislative Assembly of Arizona, asking that a reservation for the Yavapai, Pah Utes, and Hualapais Indians, and for the friendly Apache Indians, be fixed upon the Lower Gila.

Also, the memorial of the Legislative Assembly of Arizona, asking that the Territory of Arizona be set apart as a separate land district.

Also, the memorial of the Legislative Assembly of Arizona, asking Congress to extend to the Territories the benefit of the act of July 2, 1862, regarding agricultural colleges.

By Mr. KASSON: The memorial of Thomas D. Woolsey, D. D., president of Yale College, H. A. Newton, professor of mathematics, and 30 others, professors and instructors of Yale College, praying that the "metrical-decimal system of weights and measures" may be legalized in the United States.

Also, the memorial of the faculty of Trinity College, in Connecticut, in favor of the same.

Also, the memorial of Professor James Torrey, and others, of the faculty of the University of Vermont, in favor of the same.

Also, the memorial of Council Bluffs Board of Trade, praying that Council Bluffs be declared a port of entry.

By Mr. LAFLIN: The petition of citizens of Lewis and Jefferson counties, New York, for the establishment of a mail route from Lyon's Falls, Lewis county, to Carthage, Jefferson county.

By Mr. MERCUR: The petition of 27 honorably discharged soldiers of Bradford county, Pennsylvania, praying that the same pay and bounties may be granted to all soldiers who were enrolled previous to October 24, 1863, as were allowed to soldiers who enlisted after that date.

By Mr. MORRILL: The petition of John B. Buck, and 26 others, citizens of Ludlow, Vermont, praying Congress to amend the tariff so as to protect American labor to the extent of the difference of the cost of capital and labor here and abroad, with the addition of internal duties on American industrial products from which the foreign are free.

By Mr. PRICE: The petition of the monthly meeting of the Society of Friends, West Liberty, Iowa, asking for "perfect equality" before the law for all, without regard to race or color.

By Mr. RAYMOND: A memorial of Miss Estelle Carr, Mrs. Hall, and others, dress-makers of the cities of New York and Brooklyn, praying for a repeal or reduction of the internal revenue tax on their business.

By Mr. ROGERS: The petition of United States assistant assessors of the fourth district of New Jersey, for an increase of pay.

By Mr. SCOFIELD: Two petitions from citizens of Indiana county, Pennsylvania, asking for an amendment of the Constitution prohibiting distinctions in civil rights among citizens of the United States.

Also, a petition of United States deputy assessors of the nineteenth congressional district of Pennsylvania, asking an increase of pay.

By Mr. TAYLOR: A petition asking to have the name of Mrs. Mary A. Patrick, widow of Captain Matthew Patrick, late of the first artillery, placed upon the pension roll.

By Mr. VAN HORN, of New York: A memorial of brewers of the United States, asking for a light duty on barley.

HOUSE OF REPRESENTATIVES.

SATURDAY, *March* 17, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

LEAVE OF ABSENCE.

Mr. HILL asked and obtained leave of absence for his colleague, Mr. DEFREES, for the next week.

The House resumed, as in Committee of the Whole on the state of the Union, the consideration of the President's annual message.

RECONSTRUCTION.

Mr. HILL. Mr. Speaker, I thank God, sir, that the Thirty-Ninth Congress of the United States of America has been permitted to assemble in this magnificent temple of liberty, and under the broad folds of that sacred banner of American nationality, now a thousand times more hallowed by its baptism in the blood of American freemen fallen in the dread struggle for national existence. I thank God, sir, that, despite the gigantic efforts of the vast horde of parricidal hands and traitorous hearts that have sought the destruction of this great fabric reared by the immortal of our land and race, the nation's ensign still proudly floats, not only above us, but over every portion of the nation's domain, and commands a new respect from every nation on this earth. When, in sorrowful retrospect, I recall the scenes enacted in this Hall but five short years ago, when treason stalked triumphant and insulting, and loyal men, with bated breath and their faces in the dust, begged as a boon that traitors would but name some terms on which they would consent to spare the nation's life, until, spurned with indignity and contempt in their low disgrace, the vast loyal North rose in its manhood and stood erect, with the blood of every free loyal heart pledged to wipe out this foul stain; and when I remember the deep maledictions which were heaped on the heads of those who dared to raise a hand to repel the blow aimed at the nation's heart, even by those, I am pained to say, who held seats here by choice of the constituencies of the free North; and these failing, the funereal wails chanted from these seats over the fancied grave of this great Republic, where the wish of the singer was but father to the thought he sang; and when, sir, I behold the integrity and perpetuity of the Republic, as I fondly hope, vindicated by the blood and valor of a million loyal hearts, its strength made terrible to all foreign foes, the last traitor disarmed, and those lately so defiant and insulting now begging permission to return here, whence they so scoffingly retired, again, sir, I thank God and take courage.

I need not say to you, sir, nor to the members of this House, that upon this Congress is devolved responsibilities the most weighty that have ever fallen upon any deliberative assembly. It was for the Congress of 1776 to plant the seed of free government upon this continent. It was for the Convention of 1787 to nurture into proper shape the growing twig, and, sir, it is ours to bind up the ravages of storm, and see that no sound limb be severed from its fair proportions and that no worm or rottenness shall gnaw away its heart. Thirty millions of people, directly interested in each day's word and act of ours, are intently watching the progress we may make; and from across the sea are turned toward us the anxious eyes of millions upon millions more, whose hearts are trem-

bling between hope and fear as our hands are shaping the new life of the Republic. The smoke and thunder of the contest have passed by. The honored soldier of the Republic, crowned with the laurels of a grateful country, and none were ever brighter, rests from the toilsome march and deadly strife and mingles his tears with the nation's upon the grave of his buried comrade. The hour of the statesman has come; and fearful will be the responsibility of him who, blinded by party zeal or personal ambition or hate, shall be found wanting in this his country's most important crisis. I cannot hope, even, sir, that no error will be committed, but I can confidently expect that every true patriot will, with the utmost honesty of intention and singleness of purpose, so shape all efforts here that they shall tend to the restoration of a free republican government over all the vast heritage bequeathed us by the fathers of the nation.

The great curse and crime of our age exists no more. Slavery was the most damning stain that ever blotted the fair escutcheon of free government. It was an excrescence, a parasite, that fastened upon the Government and fed upon its vitals. It was the poisonous Upas, whose breath infected everything within its reach. It was rank and fulsome in the halls of legislation, and molded and shaped laws for the government of the Republic favorable to the most absolute and shameless despotism. Statesmen of intellect most gigantic were subsidized by its omnipotent power, and basely prostituted the great abilities which God had given them to foster and protect an incubus that pressed with mountain weight upon the noblest impulses of the human soul. It coiled its slimy length upon the bench where jurists sat, in courts where the weak sought protection from the strong, where justice was symboled with scales of even hand, and with serpent guile it hissed forth decrees and judgments which will eternally disgrace the jurisprudence of the age, and which shattered the confidence of mankind in the integrity of all human tribunals. It was rife in the political arena, and with every conceivable appliance wrought upon the ultimate arbiter of contending political factions, the ballot-box. Nay, it even invaded the sacred desk, and if the lips of its occupant were touched with a live coal from the altar of the living God, and burning words swelled in his breast in behalf of a downtrodden race, for whom the blood of the Son of God had been shed, its damp breath quenched the kindling flame and turned to smoldering ashes the heaven-born impulses of his heart. Success but increased its arrogance, and while at first it asked but to be permitted to live, it grew to claim that nothing that opposed it should survive, until at last it seized the nation by the throat, and like the fabled adder turned to pierce the benefactor that had warmed it into life; and in that struggle it has died, and I now here but speak the epitaph I would write upon its infamous and eternal grave over which we are to reconstruct the fabric of free government.

In the discussion of the momentous questions that are now presented for our solution, it has been contended by some gentlemen that the States lately in rebellion, and in and by authority of the people by which war was waged against the Government of the United States, were out of the Union to all practical intents and purposes, or that they were "dead carcasses lying within the Union." This, sir, I regard as the expression of the most extreme views of gentlemen on this side of the House. The views of gentlemen on the other side, as expressed by the general tenor of their argument, are quite on the opposite extreme. They strenuously insist that those States are in the Union, with full right of representation, and in all respects upon an equal footing with all the other States. In support of these extreme views, and in all the varying shades of opinion that have been expressed in this wide discussion, I think all possible changes have been rung upon the phrases "States in the Union" and "States out of the Union." Now, sir, I am not sure that the country would not have been more benefited by the vast ability and learning that have been displayed in these discussions, had the effort been directed to existing facts which all admit, and to the invention and application of a remedy for evils so great and manifest, which none deny, rather than to the establishment of preconceived theories, which I apprehend would lead to some consequences on either hand not acceptable to their advocates.

If that anomaly, scarcely supposable in the physical world, can exist in the political, of being neither in or out, I think we have its illustration in the existing condition of these States.

What is a State? I go not back to Cicero, nor Solon, nor other eminent statesmen of antiquity for my answer. Highly as I esteem the eminent abilities of Grotius, and Puffendorf, and other great writers upon the law of nations, I think the light which they shed upon this practical question of to-day will be found to be but feeble. Scarcely a resemblance exists between the States of Europe, upon the constitutions of which they displayed their vast learning, and the American States, whose condition should absorb the attention of the American statesman now. They wrote of kingdoms, and empires, and of the relations of independent sovereign Powers to each other. We have to do with republican governments, each to some extent supreme within its own territorial limits, associated together under a common superior Government, and together forming a nation among the nations of the earth. A State, in the American meaning of that term, conveys the idea of a political power, existing within certain boundaries, having certain powers of local legislation, having certain rights in the General Government, and holding constitutional relations to that Government. Each State, in the full sense of that term, and in the full exercise of its prerogatives, has among other rights the right of representation in Congress, the right to elect its own Governor and Legislature, the right to make, alter, and amend its constitution, prescribe the qualifications of those who shall make its laws, and to legislate in whatsoever manner it may please, so that it violate no provision of the superior law—the Constitution of the United States. But the genius of our Government knows no such thing as a State, within the territorial limits of the United States, foreign to or independent of the Government of the United States. Hence to be a State in the Union, in the popular and legal sense of that term, implies the possession of all the rights which characterize a State, and their full exercise and enjoyment; and to be a State out of the Union would imply the full exercise and enjoyment of all privileges and powers characterizing a State independent of and foreign to the Constitution and Government of the United States.

Now, sir, let us look at the historical facts of the case we are considering. It may be well to pause in the heated discussion, which the rapid recurrence of startling events naturally engenders, and take our bearings, and see clearly where is our latitude, what our longitude, and whither we are drifting. I shall not detain this House by an elaborate rehearsal of details, or a reiteration of transactions, which, alas! are already too vividly impressed upon the minds of all. In 1860 and 1861, eleven States, through the exercise of the ordinary machinery of their then existing State governments, and to the utmost extent that State authority could, by legislative, executive, and conventional enactment, attempted to abrogate all the relations existing between those States and the Government of the United States. Their Representatives and Senators in these Halls, while on their consciences were resting oaths most solemn, stopped at no perjury, but with souls as black as violated vows could paint them, with haughty insolence strode hence to treason's camp, there to fan the kindling flame, to goad on those most daring to greater desperation, to override the hesitating, and to crush out by brutal force the few who dared to raise a voice or hand to resist the infernal schemes they were then concocting against no wrong to them or theirs, but against a Government whose sole fault was that it had ever been too prodigal of its indulgence to their outrages and oppression. They confederated together as States, and with all the form and solemnity of a pretended government created by such confederation, they arrayed an almost resistless force against the power of this Government.

Sir, I pause before the awful facts which paint the history of the dread conflict which succeeded—facts which mark the four years of the Administration of our lamented, martyred, and immortalized Chief Magistrate as *the* era of the world's great actions; which in sublime grandeur stand alone in the world's great record the evidence of what free men can do and dare for the existence of a Government where man alone is sovereign; and also other facts, which, in like solitude, stand the evidence of the deep degradation of infamy to which treason could descend to found a nation in this age whose corner-stone should be a despotism at which Russia blushes, and at which people, whom these men call barbarous, stand aghast.

Now, sir, while the tread of hostile armies shook the nation from the Potomac to the Rio Grande, while day after day forces which treason had assembled, which these confederated States, acting through State machinery, had called into the field, were marching against and meeting in deadly conflict the hosts of loyal men which the sole purpose of preserving the Government of their fathers had called from the workshop, the counting-room, and the plow; while loyal blood, shed by traitors' hands, was flowing like water all over the land which treason had polluted, will it be pretended by any man, on this floor or elsewhere, that these rebellious States were entitled to—nay, were but enjoying—their rights as States in the American Union? Will this other proposition, legitimately following as it seems to me, be claimed as sound, that in the exercise of their legitimate State rights, as citizens of the States rebelling, these rebel soldiers who were but acting in obedience to the sovereign authority of confederate State power, might have held an election for members of this House while their hands so reeked with the blood of your slaughtered soldiers that they crimsoned the ballot which elected their Representatives who should control your legislation here? That the vanquished army of General Lee, retreating from the field of Antietam, might have retrieved its fallen fortunes by holding an election, pursuant to State authority, and sending men upon this floor who should have withheld supplies from your pursuing force?

Sir, without pursuing further inquiries which can tend to but one result in all candid minds, I take it as an established proposition that at some time, and to some extent, the rights and powers of the States in rebellion have been impaired. Have those rights and powers been fully restored? If so, when, and how? These, sir, are grave inquiries, and it would be high presumption in me to assume that I possessed the ability to give the unquestionably correct answer. But, sir, with all their gravity, they are questions which we must meet. They are upon us; and it will have been the performance of the whole duty of the men who compose this Congress if, with the single purpose of preserving by legislation the fruits gathered by unequaled heroism, blind to all party prejudices, and ignoring all personal ambition, we shall have given them the consideration of the combined ability of those who must decide. It is in this spirit that I propose to meet them, and with the humblest deference to those with whose opinions I may seem to differ, I but discharge a duty which I feel incumbent upon me if any feeble word of mine can assist to a right decision.

Sir, it has been contended by some that the very fact of the surrender of the armed forces of the rebellion to the forces of the Government, of itself restored the States engaged in

rebellion to their full rights in the government of the country, that those who but yesterday had for four years stood in armed array, hostile to the power of the nation that was seeking to subdue them, might, by the mere act of surrendering to the power which they could no longer resist, resume all rights which those against whom they had been contending possessed, and to-day, though prisoners of war, stand as equals with the victors at the ballot-box and in the councils of the nation. That this is not true, if what I have said in regard to their rights while in a state of hostilty is correct, is too palpable to require argument, because, if they could not legimately exercise these rights while in a state of armed hostility, it was because of some legal objection which could not be removed by simply overpowering them, but required some other action for that purpose. But to illustrate further, if it be true that the cessation of hostilities restored their full rights as States, then it would necessarily follow that if, finding fortune going against them in the field, they should ascertain that enough would be found in the Senate and House of Representatives to unite with them in support of their policy to render its success certain—a supposition which all gentlemen upon this floor know is entirely absurd in fact, but which will serve me as an illustration—what should be more natural than that in the exercise of their hypothetical rights in these Halls, they should, through their State machinery, send their Senators and Representatives here, and through their action they should obtain a reversal of the arbitrament of arms, and thus, not being able to commit murder upon the nation, should accomplish its suicide.

It is contended that the individual alone is liable to punishment, and that the rights of the States are not affected. How is this individual liability to be enforced? We are told, and all will agree, that it can only be done through the judicial tribunals of the country, that a charge must be preferred against the individual in a manner known to the law and consistent with the Constitution, upon which he must be put upon his trial, and if found guilty he must be punished. Now, sir, upon this hypothesis, until such trial and conviction should be had, followed by a judgment thereon, no civil or other right of the accused is affected. The presumption of innocence, indulged by the courts of all civilized countries in favor of the accused prior to conviction, leaves him standing precisely as if no accusation had been made, except the simple liability to arrest upon the charge. If, then, the rebellion is to operate only upon individuals, the surrender of the armed forces had no effect whatever upon their *status*, because the state of armed hostility only made the individual liable to the treatment of military authorities, for military conduct, pursuant to the laws of war, in addition to his liability for violating the civil law; and the punishment of the individual for such violation during the war was only made more difficult by the impracticability of his arrest, and the exercise of his civil and political rights only less convenient by the embarrassment of Federal bayonets.

But, sir, why discuss a proposition so specious in theory, yet so absurd in practice? If a crime has been committed by the individual, that crime is treason, and the penalty is death. Have those gentlemen who upon this floor have advocated this theory of individual liability looked forward to the consequences thereof, and with the purpose of carrying it to its legitimate conclusion? Do they honestly intend to cover the South with gibbets, and for every life lost in the noble Army of the Republic, compel the South to answer at the scaffold with a son? Who shall respond for all the starved and tortured thousands whose bones now molder in unmarked graves, around the prison-pens of Andersonville and Columbia, and upon the hearts of whose fathers, mothers, and widows, the long years of patient, hopeful waiting, are slowly settling down to the blackness of despair. Sir, the savage murders his victim. In cold blood, he laughs with fiendish glee as he sees him writhe in death's agony under the gashing tomahawk; or in the keener anguish of consuming flames. But from the more fiendish practices of southern chivalry, let him take a lesson in torture. Let him learn that refined cruelty which confines prisoners of war in loathsome, filthy dens, from whose horrors all human sense and feeling recoil, and by the slow process of systematic starvation, let him see their wasting frames reduced from noble, manly forms to emaciated skeletons; and as the gnawing demon slowly racks them, and reason totters on its throne, and he listens to their maniac ravings or idiotic gibberish, let him laugh with a keener relish, as he knows that for all these horrors he has the sanction of the superior refinement which slavery can produce. For all these horrors, which no language can describe or characterize, again I ask, sir, where are the individuals to answer?

No, sir. There are some crimes which individuals cannot commit. We look back from the demon Wirz through the long black catalogue of individuals immortalized in infamy by being instruments to inflict this dread torture, but we must fix the ultimate responsibility upon the formal withdrawal of the States from the exercise of their rights here, the declaration of their independence of this Government, their confederation together, and their raising, by authority of such confederation, of an immense armed force to sustain that declaration which made such horrors possible, and in the interest of which they were perpetrated.

But, sir, I need hardly argue this proposition further. The conduct of the Executive, so fully indorsed by the gentlemen on the other side of the House, was entirely repugnant to the idea that any political rights remained in these States. Then, sir, I say that as you cannot look to the individual liability of each man engaged in the rebellion for responsibility and punishment, but must look to the stupendous facts of this organized resistance to your authority, it cannot follow that as soon as each individual laid down his arms the States sprang into the full possession of all their former powers.

Again, it is contended that by the action of executive power, and through the machinery made use of by the President, these States have been fully restored to their former condition, and hence their Representatives are entitled to admission in these Halls. Sir, in the present condition of the country there is little of law or precedent to guide us. If the framers of the Constitution contemplated the possibility of such an event as the great rebellion, they have left on record but little evidence of their intention with regard to the manner in which the civil authority shall be restored. They have created the office of Executive, and defined his general powers. Those powers, so far as they are pertinent to the subject under consideration, are to be found in the first clause of article two of the Constitution, which provides that:

"The President shall be Commander-in-Chief of the Army and Navy of the United States, and of the militia of the several States, when called into the actual service of the United States."

And also:

"He shall from time to time give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both Houses, or either of them, and in case of disagreement between them with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive embassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States."

Now, sir, with the power of the Executive thus before us, let us look at the facts. The armed forces of the rebellion surrendered to the forces of the Government in May last. At the time of that surrender the constitutions of nearly all the States in rebellion remained as when the rebellion commenced. But as I have already attempted to show, and as a moment's reflection upon the condition of affairs in each of those States will conclusively establish, the State governments were practically abdicated. Their Governors and members of their Legislatures were either prisoners of war in the hands of Federal forces, or fleeing and skulking from the pursuit of no foreign Power, but of the armed soldiers of the United States. The entire administration of State machinery emanated from a source hostile to this Government. Under these circumstances I shall raise no question as to the right or power of the President to appoint provisional governors for those States. For the purpose of my argument, at least, sir, I shall concede, nay, insist, that it was right and proper. But it was the exercise of no civil power. It will not be pretended that any state of affairs has ever yet existed which would have justified the President in appointing a Governor for the State of Indiana or any other loyal State. But the power thus exercised was essentially a war power. The war did not cease the moment the last rebel was disarmed. We have the authority of the Executive himself that it is still existing, at least for certain purposes. Major General Howard, Commissioner of Freedmen, in an official communication of the 23d of February last, uses the following language:

"The President has assured the Commissioner that he regards the present law as continuing the existence of the bureau at least a year from now."

This can only be by virtue of the following provision of the act creating the Freedmen's Bureau, namely:

"*Be it enacted, &c.*, That there is hereby established in the War Department, to continue during the present war of rebellion, and one year thereafter, a Bureau of Refugees, Freedmen, and Abandoned Lands," *&c.*

Like the exchange of prisoners, and the recognition of other belligerent rights as belonging to the rebels, the appointment of provisional governors was in the interest of humanity, to prevent that state of anarchy and civil chaos that would have followed without it. But as the stream cannot rise higher than the fountain, as in our form of Government the military is not the ordinary form, nor the supreme power as contrasted with the civil, so I insist, sir, that no machinery emanating solely from the war power of the General Government can restore, control, or permanently affect the civil relations between the States and the General Government. I can scarcely believe that it will be seriously contended, that if the armed resistance to the Government had ceased during a session of Congress, that body would have had no right to a voice in restoring the civil authority of the Government, and the civil relations of the States. Yet the purely fortuitous circumstance of its happening during a recess of Congress can have no effect upon the principle, because the termination of so terrible a conflict as that in which the Government was for four years engaged was certainly such an extraordinary occasion as would have fully justified the convening of Congress. Without pursuing this inquiry further, I think I have sufficiently shown that no legitimate executive action merely, either under civil or military authority, has been or can be had by or as the result of which Congress is compelled, without inquiry, to accept these States as fully reconstructed at the Presidential hand, and recognize as existing, without control or sanction of this body, the full and active possession of all State powers and rights.

Now, sir, having said this much upon this branch of the subject, more by far than I had originally intended, yet immensely less than these momentous questions require, I pass to the consideration of questions of even more practical importance to us and to the nation now, namely, by whom and how shall these States be restored to their proper relations? The genius of American government is republican. The people are the sovereigns, and the law-making power is peculiarly their representative. It is the marked characteristic of the Anglo-Saxon race to be jealous of individual power. Since the great charter of English liberty was wrested from King John, down through our struggle for independence to the present time, the steady tendency has been toward the

diffusion of power among the masses, rather than its centralization in an individual. Hence I insist that the law-making power of this Government, composed of the President, the Senate, and the House of Representatives, is the power that must do whatever shall be done toward the accomplishment of this most desirable object; and that to devolve it upon any other power would be to turn back upon itself this liberal and progressive spirit. How shall Congress proceed in this work of restoration? Satisfactorily to answer this question it may be proper, to some extent, to investigate another, namely, who are interested in this great work of reconstruction? Are those alone who have failed utterly to destroy the Government, by no lack of effort of theirs, but by the superior power of your brave Army? In our action upon this subject shall we bear alone in mind the importunate requests, or the haughty and imperious demands, of the lately disarmed traitor?

Is it true now, sir, as it was before this war, that the interests of the South alone are the objects of the solicitude of legislators here, and that the toiling millions of the North must stand aside while those from sunnier skies receive attention? Nay, sir, in gathering the fruits of this most desperate and gigantic struggle the world has ever witnessed, is it the justice you will here administer that the legal rights, as they would unquestionably have existed before the war, of those who have spread death and devastation all over the land, whose horrid deeds have desolated hearth-stones, and filled the land with broken hearts and inconsolable mourners over the graves of the noblest of our youth, and left to a blighted life the maimed and mutilated victims of their mad effort for our common destruction, must be most speedily and carefully restored, with punctilious regard for the impetuosity of their fiery nature, while the widow, whose tears have not yet dried for the noble husband so freely given for her country's life; the orphan child, whose piteous cries for bread were not heard until the father, leaving his sweet babe to God and to his country's call, rushed to the front of battling hosts and went down to death, are told to wait until those who made them the widow and the orphan shall be called in to aid, in our deliberations here, in granting them the but pitiable compensation for their incalculable losses, to which the nation's honor is most solemnly pledged?

Sir, he who stands upon nice quibbles and technical interpretations of the great principles of our Constitution, who argues of the great events through which we have been and still are passing, from the stand-point of an experienced advocate before an inferior court, should come up higher, and see that a mighty revolution, whose force is not yet all spent, has been sweeping over us, and that in that revolution it has been developed that there is a great free North, with twenty millions of warm and loyal hearts, who have an interest in this Government, which must not be ignored. He should remember that for years preceding this rebellion, to the earnest anti-slavery men of the North the southern States had been more forbidden ground than the empire of Japan, and that there, for them, awaited the coat of tar and feathers, or the gibbet upon the nearest tree. He should further remember that the Constitution was ordained to "form a more perfect Union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity," and that the interests of those who have sacrificed so much for the preservation of the Government must not now be postponed for the gratification of those who have sought its destruction.

We are told that there is but one condition that should be made a prerequisite to representation from those late rebellious States, and that is that the claimant of the seat should be a loyal man. Let us look at the practical workings of this theory. What is loyalty? No law defines it, and even the oath prescribed by Congress as a test for admission here is now openly declared by those who most strenuously insist upon the admission of these representatives as unconstitutional and void. How will you apply the test? Will this House sit in judgment upon each particular claimant, and by evidence pro and con determine his standing in this respect? Will it inquire into his private as well as public utterances, review his minute as well as prominent acts, for the purpose of ascertaining what may be his secret opinions? For it is the intentions of the heart, and not merely the language of the mouth, that must fix his character. And when all evidence is heard, it is at last but the majority that must decide, and the test of individual loyalty would come to be but a plank in a political platform. And if this condition is to be applied, shall it be alone applicable to representatives from the rebellious States, or be made alike applicable to all? And shall it be a condition-precedent only, or may it not be a condition-subsequent as well; and may not the test be applied to determine whether we, who now sit here, shall be permitted longer to remain, with quite as much propriety as to determine whether those now out shall be permitted to come in? And if applicable to all, when will its application cease? Will the principle have spent its force with the present Congress? Even if it should, I very much fear me that with the full representation of the southern States on this floor, the further term of service of the venerable gentleman from Pennsylvania, at least, would be short indeed. I cannot but regard this principle, though specious and plausible in theory, as most mischievous, indeed ruinous, in practice.

But it is said that taxation and representation go hand in hand, and that without representation here the Government has no constitutional authority to tax the southern people. I can now call to mind no one who has had the boldness yet, upon this floor, to claim that the entire people of the rebellious States should be admitted at once to the full exercise of the elective franchise to the same extent as if no rebellion had taken place, or that the same freedom to select whom they may please to represent them here exists now as then. Whatever may be the fact, it has not yet been publicly stated that Jefferson Davis or John C. Breckinridge would be welcomed as Representatives upon this floor. But, sir, what is representation in the sense in which these gentlemen apply it thus? Is it the choice by the few, who might be able to truthfully swear that they had not borne arms against the Government, of men to fill these vacant seats? Or is it the selection of men, under executive or other dictation, whose particular principles the voter loathes? And is it for this empty shadow of representation that those disfranchised are to barter to you the right to impose taxation, and with this are they to be told that they are receiving full constitutional rights of the citizens of States possessing their full power? Who are the men to-day that represent the true sentiment and feeling of these States? Are they those who fought for, or against, the Government of your country? Why, sir, the old times seem to be coming back upon us when in the other end of the Capitol we can hear language like the following even from the Senator of a State which did not succeed in getting fully into the rebellion:

"Senators seem to think that they have the whole power over this matter; but they are mistaken. The power rests elsewhere; and I announce that this whole matter can be legally and constitutionally settled in ten days, ay, in one day. The third section of the second article of the Constitution provides that the President shall, from time to time, give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary or expedient. Here, sir, is a provision in the Constitution which requires the President to communicate to the two Houses of Congress information as to the state of the Union, and to recommend to them such measures as he shall deem proper and expedient. What does this require him to do? He has to ascertain who composes the two Houses of Congress. It is his right. It is his constitutional function to ascertain who constitute the two Houses of Congress. The members of the Senate who are in favor of the admission of the southern Senators could get into a conclave with those southern Senators any day; and they would constitute a majority of the Senate. The President of the United States has the constitutional option—it is his function; it is his power; it is his right; and I would advise him to exercise it—he has the right at any day to ascertain, where there are different bodies, members of the Senate contending, which is the true Senate. If the southern members and those who are for admitting them constitute a majority of the whole Senate, the President has a right—and, by the Eternal, he ought to exercise that right forthwith, to-morrow, or any other day—to recognize the Opposition here and the southern members as a majority of the Senate."

The crack of the slave-driver's whip is distinctly perceptible here, and its echo is heard all over the South, and among those who in the North have been spies in your camp during all this war, but one utterance of which, from the Chicago Times, I will obtrude upon the notice of this House. It says:

"If the Rump Congress shall not speedily abandon its seditious, revolutionary, and lawless practices; if it shall persist in excluding the representatives of eleven States from their rightful seats, and in exercising the powers of the Congress of the United States, we do not hesitate to declare that it will become the solemn duty of President Johnson to constitute himself the Cromwell of the time, and dissolve the Rump by military power."

To-day, sir, men are fleeing from the South for their lives, for no other crime than that they have been true to your Government; and to-day, through large portions of those States, the most hated banner that floats upon the breeze under the whole heavens is the starry emblem that hangs above your head. Sir, shall we give representation here to this prevalent sentiment of disloyalty as the basis of our right to impose taxation? Taxation for what? To what purpose would these men lay taxes upon your property and their own? Would it be to pay your debt incurred in their subjugation? Would it be to pay pensions to those whom their own hands had made widows? Or, sir, would it not rather be to pay their own debt incurred in their treasonable but vain attempt at the destruction of your Government? I warn, I beseech gentlemen upon this floor to beware how they yield to this insidious doctrine. It is but the wily voice of the serpent in your Eden, which, under the flattering promise of good, can bring you only evil. The whole current history of affairs in those States shows that the same spirit of hostility is rife there now as existed during the conflict of arms. If the principle, that the right of taxation can only exist by virtue of representation, is applicable to the condition of those States, then the distinction between treason and loyalty ceases to exist, and your Government becomes but another name for anarchy. Instead of having subdued the rebellion you have but surrendered to it, and transferred the conflict from the field to these Halls, with fearful disadvantage to yourselves.

Sir, I would not delay the return of representatives from those States one hour beyond the period when they can be admitted here with safety to the Government. They would not more gladly than myself hail the auspicious moment when they should be received as members of this body could I be assured that in that act no danger was foreboded to the Republic. I look, sir, to no partisan aggrandizement, and shape my course on these great issues with no reference to mere partisan success. I stand upon the vastly higher ground that the welfare of the Government is superior to all party considerations. To us that welfare is intrusted, and we shall be unworthy of that high trust if clamor from any quarter against our action or inaction here shall swerve us from the steady course which statesmen should pursue. We are told that three months and more of this session have now passed and we have brought forth no plan of restoration. Sir, for thirty years the plot of the destruction of the Government was maturing. For four dark and terrible years all the horrid enginery of war was called in aid of the execution of that plot; and since that has failed nearly one year of *quasi* government and semi-anarchy has complicated rather than elucidated the questions we are to decide. Is it just that we shall be reproached with inactivity because in three short months we have not solved problems more intricate than were ever before presented for solution to any human assembly? And that, too, when

each day's history was but developing some new phase of those problems and adding to them more complications and embarrassments. Sir, whatever may be the desire of others, the loyal American people desire no haste in this matter. With infinite joy they would hail, from any source, a plan which should so restore political rights to those States as to insure domestic tranquillity and promote the general welfare. As yet, sir, they have seen no such plan. The practical workings of the course pursued since the surrender of the armies of the rebellion, unexpectedly and unforeseen as I most earnestly insist, unfortunately has been but to encourage and develop hostility to the Government. In sorrow, sir, I utter it, but my unwilling conviction is that the experiment has failed. On the 3d of the present month the Governor of Tennessee, the State most favorably regarded in this House and by the country, was compelled, by revolutionary action of members of the Legislature of that State, hostile to this Government as well as to its own loyal people, to issue a proclamation, from which I beg permission to have read the following extracts.

The Clerk read, as follows:

"It is my painful duty to announce that civil government is again imperiled in the State of Tennessee. The events of the last three weeks give rise to serious apprehensions that a large portion of our people have not sufficiently recovered from the demoralizing effects of the late rebellion to enable them to appreciate the blessings of peace; that their passions have not sufficiently cooled to enable them to avoid a relapse into anarchy or military rule.

"A small minority of twenty-one members of the House of Representatives, by factious and revolutionary proceedings, have succeeded in breaking up the Legislature and paralyzing the State government. I characterize this conduct as revolutionary because it was violative of the spirit of the constitution and laws, and arrested the machinery of the State government as effectually as if the same had been done by force of arms.

"They have been able, under the construction of parliamentary law which prevailed in the House, to reduce it below what was held to be a quorum for the transaction of business, and the great body of the members of both Houses have gone to their homes, and legislation has entirely ceased.

"When an important measure of State policy was proposed, a measure referred to and a duty imposed upon this Legislature by the amended constitution, they either withdrew from their seats or remained and refused to answer to their names when called, the Speaker holding that a member in his seat refusing to answer was not present so as to be counted as part of a quorum. After worrying the majority in this way for several weeks, and after the consultations of the convention of the 22d February, they have publicly announced their secession from the Legislature, through the newspapers, in a document that will not fail to remind its readers of the address of the Legislature of 1861, who transferred the State to the southern confederacy.

"The pretext for this legislative rebellion was a proposition to discharge the duty imposed upon the Legislature by the ninth section of the schedule to the amended constitution, which provides for 'the limitation of the elective franchise' by this Legislature. There was nothing new or startling in this measure. From the earliest inception of the idea of reorganizing a State government upon the ruins of the rebellion, the policy of disfranchising those who had lately destroyed the State government, and attempted to destroy the national Government, was deemed a necessity, and was adopted and rigidly executed. In the election held on the 22d of February, 1865, upon the adoption of the amended constitution, rebels were all disfranchised by an oath which required every voter to swear that he was 'an enemy of the so-called confederate States.'

"This same course was pursued in the election for Governor and members of the General Assembly in March, 1865. The military governor naturally believed that those who had wantonly destroyed the government were not the proper persons to rebuild it, or to administer it when reëstablished. This policy and principle of disfranchisement was a feature of the amended constitution approved by the qualified voters of the State. No subject has been more thoroughly discussed and understood by all classes for the last year than this subject of disfranchising the disloyal. Several of the seceding members were also members of the convention which adopted it into the schedule, and sustained it before the people, and accepted office under it, and are therefore estopped from denying its binding force. All of them had been elected under a law or proclamation disfranchising rebels. The pretense that the measure was sprung upon them suddenly is therefore most manifestly a subterfuge to cover up the attempt at disorganization.

"The resigning members appeal to their constituents to sustain them, and most of them are announced as candidates for reëlection to the places they have just made vacant under a pledge, of course, again to withdraw from their seats, and again to break up the Legislature. This discloses the whole plan of the conspiracy. They ask their constituents to approve their act, and to send them back to repeat it. This will place their constituents in the attitude of disorganizers, commit them to a rebellion against the State government, and render futile any attempt to fill the vacancies by writs of election, as the same routine would be repeated. The danger to the State is therefore imminent. Should the civil government fail, the military authorities will take the control of the State, and it is not likely that the General Government will, at an early day, permit a people who will have displayed such incapacity for self-government to attempt another State organization. Nor is it likely, if the effort should be permitted, that the different divisions of the State will agree upon a new constitution, and discord and a separation may follow."

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"Our political prospects, too, are severely injured. By the acts of a rebellious population we have lost our representation in the council of the nation. Our Senators and Representatives are in Washington asking admission to seats in Congress. That body is watching all our movements with a view of determining whether we have an established government or not, and whether those Senators have been sent there by a government capable of maintaining its existence and authority. They may now conclude that our people are not in a temper for self-government. Certainly the opponents of our representation will be furnished by our present condition with an argument against our admission.

"Nor is the moral effect upon the reputation of our State and people less to be deplored. A large portion of our people, just out of rebellion, are professing reconstructed loyalty, while a portion of their representatives display not only a rebellious spirit, but a disregard for the solemn obligations of legislators, and are unmindful of that dignity and sense of honor which should always characterize the statesman."

Mr. HILL. Sir, if this is reconstructed loyalty, may Heaven save this nation from its further exhibition.

Sir, as I have already said, it has been alleged that no plan of restoration has been brought forward. I shall not display the impudence of presenting one myself. I have already indicated what, in my opinion, ought not to be done, and the general principles which ought to control in presenting measures for the purpose of restoration.

Notwithstanding the three months and more already consumed in this session, I think developments are not yet sufficient to indicate what should be the details. To the committee in whose hands the Senate and this House have confided this subject I look not entirely without hope. I see upon it men who in the darkest hours of the late struggle stood immovably by the Government. They may have turned traitors now, but I shall need further evidence before I can yield to that conviction.

Sir, if the four years of desolating war were all in vain; if the resistance to armed rebellion was all one grand mistake; if the achievements of your gallant soldiers, more glorious than any history had hitherto recorded, were all without a purpose or an object; if the brave thousands for whom widows and mothers still weep in unavailing woe went down to dishonored graves; if, as the sole fruit of all this mighty revolution, it is developed at last that your boasted republican Government is but a farce, and that in its administration no distinction exists between those who point the dagger at its vitals, and those who lay their lives upon its altar, then open wide these doors, and welcome with warm embrace those now clamoring for admission here. Start not back from the grasp of their stained hands, though they drip with your brother's blood; for know that they but assert their rights, and that it was your folly that your brother's blood was shed.

But if, on the other hand, your appeal to the brave and patriotic millions to array themselves in serried ranks, and march to almost certain death to save from destruction mankind's last hope for free government, was not one stupendous lie; if you would not turn to eternal shame the deeds of valor which are now your highest glory; if you would not cover with infamy the graves, yet sacred, where the flesh of your fallen kindred has scarcely yet moldered back to its mother earth; if you would not stamp the fratricidal mark of Cain upon the maimed and scarred survivors, then, in the name of the martyred dead and mutilated living; in the name of the great loyal North, whose blood and treasure were poured out like water in the nation's cause; in the name of the millions struggling upward all over this green earth, whose fervent prayers went up to heaven through all the dread struggle that your armies might succeed, I implore the members of this House that in this last grand act, of this great drama, they so shape this work of reconstruction that the valor of our Army shall not have all been wasted, and that the nation shall not lose by legislation here, all that it so gloriously achieved by its armies in the field; but,

"With malice toward none; with charity for all; with firmness in the right as God gives us to see the right, let us strive to finish the work we are in; to bind up the nation's wounds; to care for him who shall have borne the battle, and for his widow, and for his orphan, to do all which may achieve and cherish a just and lasting peace among ourselves, and with all nations."

Mr. DUMONT. Mr. Speaker, as many suppose that the powers of Congress to deal with the rebel States according to their demerits, and the deeds done in the body depend upon the question whether a State can go out of the Union or forfeit by crime the rights appertaining to a loyal State, I propose at the beginning of my remarks to occupy a brief period with these inquiries. It is quite clear that South Carolina, for example, since her rebellion has not been in the Union in the sense that Indiana is in the Union, or out of the Union in the sense that Yucatan or Ecuador is. Whether her condition has been and is territorial, colonial, provincial, or what not, is immaterial, provided any of these conditions would place her under the jurisdiction and control of Congress until again invested with the rights she has forfeited. When so reinstated, Congress of course has no powers except such as she has over loyal States under the Constitution.

Under the Constitution powers not delegated to the Government are reserved to the States, and that is why a hostile and rebellious State has no business to participate in the Government of the Union. As well might we confide our blessed religion and the sacred Book upon which it is founded, the Christian's guide and compass, bulwark and hope, to the keeping of a set of shameless and blatant infidels. We do not confide the lamb to the wolf. I have heard the question asked: is not a State and a State organization one and the same thing as truly as man's body and his physical organization are one and the same, so that the State organization being destroyed the State itself is destroyed? Those who entertain this theory call it being out of the Union, though the territory of the State and the people are still subject to the jurisdiction of the Federal Government.

When the principles of life depart we say the man is dead, and when dead we say he has gone to another world, though the body is still present with us; and why may we not say of a State, when its government has been overthrown, its living principles subverted, gone to flinders and broken to fragments, that it is out of the Union? We may not say it, we are told, because the soil of the State is still here, the people are still here, and the two constitute the State. Might it not as well be said that the man has not gone to another world because his body is still here and he has left his farm and his children behind him? Who can name the author that has laid down the doctrine of the perpetuity of a State like that of the immortality of the soul? Does not the history of the world prove such a doctrine is false? Do not the experience of man and all that has been said and written teach a different lesson?

"The cloud-capped towers, the gorgeous palaces,
The solemn temples, the great globe itself,
Yea, all which it inherit, shall dissolve,
And, like this insubstantial pageant faded,
Leave not a wreck behind."

"The grass withers and the flowers fade, the word of our God alone endureth forever." The republic of to-day is the despotism of to-morrow. The pages of history are rife with the rise, decline, and fall of States and empires, fabrics which have crumbled before the corroding tooth of time. The formation of a State is of man; all that is of man is perishable. Within my short recollection one of the rebel States has passed through various mutations. It was first one of the States of the republic of Mexico, then by a successful revolution it became itself an independent republic; then

by treaty of annexation it became one of the United States of America; and running its pedigree back and tracing its lineage the other way, in the ascending line, we find it was once a part of Spain; and before the Spanish conquest, and in the days of the Montezumas, a part, perhaps, of the Aztec republic. I think it belonged once to France and was part of Louisiana, purchased by the United States with that territory and again traded off to Spain, and what it is now God only knows. I once saw a couplet, supposed to be written by an emigrant to those parts:

"When every other land rejects us,
We pack our kit and go to Texas."

I presume if the author of this piece of sublimity has not been hung, or met some such untimely fate, he might be able to solve the question. I think, in the case of Texas at least, we must hold that a State cannot go out, at least cannot go out for good, and bid us a final and everlasting farewell, though it may be audacious enough to go a whoring after strange gods for a time. We cannot afford to lose Texas; it cost too much money. It cost us $10,000,000 at the beginning, not counting the cost of the Mexican war nor the money and blood expended in whipping her out of her recent rebellion. They are a jolly set of boys down in Texas; at least they were a few years ago, when I was among them on a temporary visit. To illustrate: I was at a hotel in the town of Gonzales; I think it was in the year of grace, that is, A. D. 1860. It was at a time when wonderful tales were told in regard to Indian barbarities. While there a well-dressed and good-looking gentleman, who was called captain, came in and said that twenty white families, men, women, and children, had been murdered, a day or two before, at a point some forty or fifty miles distant, by the Camanche Indians, and that he was raising a company of brave and determined men to go in pursuit. There was at the time quite a crowd in the room to whom he related what I have repeated.

"Now," says one of the group, using a good deal of profanity that I will not repeat, lest it should grate harshly on ears polite, "you don't come that giraffe over this crowd. Don't we know what you're after? It's plunder, horses, anything that you can steal and confiscate. I think we'll all join your company and go snooks; yes, we're all in, every last one of us. To the victors belong the spiles. We'll name our company 'the Forty Thieves.' I think I see us all a comin back to the white settlements, every feller a leadin of a hoss and breaking down with plunder, but nary Injun scalp. John A. Murrill, that old thief and counterfeiter, is dead. He used to kidnap niggers; and now the devil has kidnapped him. If he had not gone up the spout, he should be our chaplain; we'll be mighty apt to need praying for afore we get back. We must hunt up a chaplain; a company of brave and determined men without one might become demoralized." At this point the laugh came in, in which the whole crowd, the captain included, participated; but I noticed that he was stung, that the arrow had sped to its object, that he at least did not relish the joke; but I heard no more of the expedition. The massacre was of course all a fabrication—all a humbug; the Indians had killed nobody.

I thought this a good piece of badinage, bating the profanity and levity. It broke up an expedition that had, I apprehend, but little relish of salvation in it, and I was therefore inclined to make some allowance for the hard words. Uncle Toby, you recollect, Mr. Speaker, swore too, and yet we are told by the pious and exemplary Sterne that because it was in a good cause and with good intentions, on a fit occasion, and under sufficient provocation, that the accusing spirit that flew up to heaven's chancery with the oath blushed as he gave it in; and that the recording angel, as he wrote it down, dropped a tear upon the word and blotted it out forever.

We must hold on to Texas, I think, Mr. Speaker. They were, at the time of which I speak, a set of free and easy, gay and festive boys, I confess; still, I kind o' liked them, and think that under the benign and chastening influences of free institutions, free schools, free Bibles, and freedom, they will be good and useful citizens after awhile. We must, by all means, hold on to them in a kind of probationary state for a time, and take them in as full members when the signs in the zodiac are right.

It is a poor plan, Mr. Speaker, to digress from an argument to tell a story. It breaks the thread of a discourse. I have almost forgotten at what point of my argument I stepped aside for that foolish purpose. I believe I was talking about States going out, and saying that some say it can be done, some that it cannot, while still others say that while we are not compelled to treat a rebel State as out of the Union, yet we are at liberty to do so by the right of conquest if we see proper, keep them out as long as we please, and readmit them as soon as we please. On these various points I heard an argument the other day between gentlemen of conflicting political tenets, and as it lets in a little daylight on the subject I will repeat it. It ran thus: says one, "The South said they had gone out. You said they had not and could not, and now you say they did, and cannot come in." The other replied, "You said that war was disunion. The war came, the most terrible and bloody on record. You passed ordinances of secession, struck down the flag, trampled it under foot, and now you say there has been no disunion. We did not say you could not go out—that would have been foolish—we said you could not legally go out; nor do we say you cannot come back, but we do say that as you went out contrary to law, in violation of your allegiance, and for the most wicked purposes, stamping the dust from your feet as you left, and have put the Union to the painful necessity of whipping treason out of you, you cannot come in until you are invited, and you will not be invited until Congress is satisfied that the hostility that prompted you to the deed of wickedness has been eradicated. The Union will not trifle about the thing. Going out and coming in costs too much. If we keep you out in the cold awhile it may teach you sense enough to stay in when you get in, and conduct yourselves decently and civilly when in."

Mr. Speaker, many suppose this question so profound that it is somewhat presumptuous for the small fry to pitch in. I propose to live up to my privileges. I have heard our minister say that is what all good Christians ought to do, and if so, it will not hurt a sinner. It may be that the question is deeper than plummet ever sounded, but I do not believe it. It does not seem so to me.

Yet I may be in the condition of the lunatic. I may be the one who is laboring under the delusion and not those who regard the subject as so profound. And for aught I know they may have the majority on me. "What are you doing here?" said a visitor to a lunatic. "I thought," replied he, "everybody mad; everybody thought me mad; they had the majority on me, and here I am confined in a mad-house."

It seems to me that disunion is to be disunited; the ligaments that bind together broken, and I am not prepared to say that in point of fact it may not be done, though it be contrary to law. Let us not confound the right with the fact, and conclude that because a man has not the right to do a thing he cannot in fact do it. Would to God it were so; crime would be wiped out and our wicked and sinful world would become a paradise. But we know it is not so; that the legal prohibition does not always prevent the crime. Keep these ideas, the right and the fact, separate and there is no confusion. Nor does it follow that because a ligament may be broken it cannot be mended; because it may be cut asunder it cannot be reunited. It may be mended, and I hold it the duty of Congress to hasten slowly and unite the dissevered ties—to do it as soon as it may be done with prudence and safety—but I want no rush or indecent haste in the matter.

"Fools rush in where angels fear to tread."

It is easy to manifest more mock magnanimity than wisdom; to exhibit more courage than conduct. Prudence is sometimes the better part of valor. It is of prime importance that what we do in the premises may be done in such way that it will stand the test of time, redound to the welfare and happiness of man, the perpetuity of our blessed Union, and the glory of God.

But I am not quite through with this knotty point about which I have been talking. I do not want to run it into the ground, but would pursue it yet a little further. It is certainly geographically true that South Carolina, after she went out of the Union, so to speak, was precisely where she was before she went out; and after she came back into the Union, was precisely where she was before she came back. She is where she always was; that is to say, when she went out of the Union she did not pick herself up bodyaceously, walk off, and locate in some distant part of the earth or in some other hemisphere.

In seeking for South Carolina at any time, during the war or since, you would find her located just where she was before the war, between the very same parallels of latitude and longitude. The soil of South Carolina was within the exterior lines of the Union before the war, and as there has been no land-slide down in that region, and as a State cannot pick itself up and walk off like a land terrapin, nor be located like a land-warrant on the best vacant land that can be found, I presume South Carolina is still within the limits of the Union, and has never been out. In this respect, then, it is certainly true that a State cannot go out of the Union. It is also manifestly true that a State cannot go out of the Union in such way as to release herself from her duties and obligations. There is no such thing as legal secession any more than there is such a thing as legal larceny or pious villainy. An individual may forfeit the rights belonging to an honest man by crime, but I apprehend he cannot sanctify crime by committing it, release himself from his duties and obligations, nor discharge himself from liability to punishment; and so a State may by rebellion forfeit the rights appertaining to a loyal State, but cannot by crime release herself at her own option from her duties and obligations, nor avoid the penalties that follow the footsteps of the transgressor. The rule that the way of the transgressor is hard is God's law of the universe, as inexorable as the decrees of fate, and as steadfast as the everlasting hills. It applies to States and individuals. None is above or below it. It is, I repeat, strictly true that a State cannot go out of the Union in such way as to release herself from her duties and obligations, provided the Government sees proper to enforce them. It is the rights of the Government that remain unimpaired, not the rights of the rebelling States; their rights are not rights at all; only such privileges as the conqueror may see proper to accord as a boon.

The saying that a State rebelling is released from none of her duties or obligations, is a very different thing from saying that a State by rebelling incurs no disabilities. A State does incur disabilities; they cannot be enumerated; they are coextensive with all the rights she possessed before her fall. She ceases by her crime to be a body-politic, and will be utterly unable to resume her lost functions until her conqueror sees proper to breathe into her the breath of life.

Before these States rebelled they were a part of the Government, but the moment they raise their parricidal hand against it they of course cease to be any part of it. It is absurd to say that a Government will or can resist itself and be its own antagonist. A State must keep step to the music of the Union, or it is, as Mr. Lincoln said, "out of practical relations to the Union," and in a governing sense no part of the Union. The hand that is raised against it is alien to it. The elements of a Government must be in harmony, but antagonisms do not harmonize. In a Government of the people the

State that would ruin, destroy, and pull down the rest, and is guilty of the attempt, ceases *ipso facto* with the hostile act to be any part of the governing element. It may have been one of the sovereigns, but is, when it lifts a hostile hand, but a malefactor. Did you ever hear of a Government sending its emissaries to foreign Governments to intrigue for its own subversion? That is what the United States did, provided the confederate States were part of our Government after they attempted to secede; but I say that at that very instant they ceased to have any right to participate in the government of the country and were no part of it.

If it is not so, we surely have within ourselves the seeds of dissolution; if it is not so, the Union is already gone, the death-rattle already in her throat. It will not be long before a Government hostile to itself, composed of antagonisms, becomes a *felo de se*. A despotism would be a better government, for a despotism is a unit, and is not guilty of self-destruction. And when, pray, does a State whose power has thus departed again become part of the Government? As soon as she ceases to strike, or at such time thereafter as the parent Government may deem it safe to permit? Not as soon as she ceases to strike, for she may still be hostile; not at her own option, for she may desire to become again part of the Government in order to destroy it, to accomplish by insidious and stealthy means what she failed to accomplish by arms. I think the only answer is, "At such time as the Government deems it safe to permit, and by legislation so declare," and not before. Any other conclusion would lead to the absurdity that a State may fight the Federal Government to-day, be a part of the Federal Government to-morrow, and allied and consorting with its enemies, striking at its vitals, and doing all in its power to overturn and subvert it the next day.

What name but anarchy, rampant and flagrant anarchy, over which the fallen spirits and incarnate devils might hold a jubilee, would you give to such a state of affairs as this? A little hell in the family all the time! Oh, what a glorious Government that would be! Freedom's soil beneath our feet! And freedom's banner streaming o'er us! The home of the free, and the hope of the brave!

Mexico, poor, distracted, unfortunate Mexico, might gaze upon us and consider herself in a happy condition! But this is a digression. It is plain to my mind that there is not as much real as seeming difference between those who assert that a State cannot go out of the Union and those who contend that a State can. The one sees plainly enough that a State cannot legally go, ought not to go, ought not by her own crimes to release and discharge herself from the duties and obligations due to the Federal Government, and that she does not and cannot do it by an unsuccessful rebellion, and that the General Government loses no hold that she may see proper to enforce; and he is keen to swear that a State cannot go out of the Union. The other sees that while a State cannot discharge herself from duty or release herself from her obligations, or escape the punishment due to crime, or break the links that bind her to the parent Government so that they may not be welded, that still she may incur disabilities and forfeitures so great that she ceases to be part of the Government, and is only a part of the governed; he sees that such a State is like a corporation that has forfeited its charter, lost its franchises, and is dead until touched by a recreating hand, until the breath of life is again imparted, until the forfeiture is remitted, and the franchise restored; and seeing this, his opinion is that a State can go out of the Union, and he is willing to bet his bottom dollar on his judgment. Still, he does not mean that the hills or the valleys have been disturbed or jostled out of their ancient moorings, or that the rivers have ceased to flow in their accustomed channels, or that the State has gone off in a tangent and alighted beyond humanity's reach, on the distant margin of the universe, nor that the General Government has lost any rights that she may see proper to assert and be able to maintain against the State. He holds that the State has no rights as a member of the Union or against the Federal Government, has ceased to be any part of the Government, and is only a part of the governed. That is what he calls being out of the Union, though it is true that those who have no right to participate in the Government, and are but a part of the governed, may be and are in the territorial limits of the United States. Such have a name to live while dead in trespasses and sins. If in the Union their manhood has departed; they are emasculated and but political eunuchs. Their duty is to obey and not direct, to submit and not control, and Congress alone has the power to speak their sins forgiven and set their captive souls at liberty; that is, admit them into the Union. Who will dare question the power of Congress to inquire before admitting the rebel States into Congress whether they are proper custodians of the civil rights of the people, and fit to be trusted as part of the governing power of the country — not only fit to govern themselves, but to help govern the rest of the nation; whether communities yet turbulent, yet wedded to inequality and wrong, injustice and oppression, shall be admitted to equal participation on the floors of Congress, or kept in a state of probation, for the benefit of their education, until they are, in some degree at least, toned down and mollified?

If their object in getting into Congress is not to preserve and perpetuate the Union, but to disrupt and destroy it, to play into the hands of some hostile Power, is it not the duty of Congress to keep them out? Would they in that case be fit to help us govern the nation and rule the land? Would it not be confiding the lamb to the tender mercies of the wolf? We are told that when the wicked rule the nations mourn. How long will a Government stand ruled by those hostile to its principles, and who would rejoice to see it subverted? Do we intrust the navigation of a ship to those who would gladly excite the crew to mutiny or scuttle the vessel? And if it is not certainly known whether that is their disposition or not, is it not wise to wait and see? We know that such were at one time their feelings. Let us be sure they are not still before we give them the helm. It is said that they have laid down their arms, submitted to the Government, and relying alone upon their prayers and their tears, now humbly and penitently beg to be permitted to resume their allegiance, come back into the Union, and be good citizens.

That is one way of stating it, but let it be borne in mind and never forgotten, that in a Government like ours a State in the Union is part of the ruling and governing principle. When that is kept in mind it will appear that the request is not so humble after all; that it is a demand to come in and help us rule and govern the nation, to come in and aid in making the laws; to come and take their seats on the supreme bench and participate in expounding the laws they hate and detest; to go into the Cabinet and aid in executing the laws that they but yesterday set at defiance and trampled under foot; to help us safely keep our treasure, which they would be glad to see applied to the payment of the confederate debt or sunk in the bottom of the ocean; to help possess our forts, dock-yards, and arsenals, and navigate our Navy, all of which they would be glad to see enveloped in flames and reduced to ashes; and above all help command our Army that has so recently given them such a terrible flogging; in short, to be clothed with all the privileges and powers they lost by their rebellion. There is not, I tell you, so much sackcloth and ashes about this thing, nor as great a flood of penitential tears as might at first blush appear. Admitting them back into the Union, it is plain, is conferring upon them power, putting weapons, and deadly weapons at that, into their hands, and they know it.

Why not gratify them at once? At what more auspicious time could they be reinstated on the supreme bench than when their leader is being tried, or ought to be tried, for treason, the validity of confiscation laws adjudicated, the new condition of our freedmen settled, and prize cases under the blockade determined? A rogue feels secure when the judge who tries him is one of his gang and a good share of the jury his accomplices. Would it not be a nice thing just at this time to dilute, adulterate, and debauch our Supreme Court by such an accession; and above all, would it not be perfectly charming to invite these people to send their Senators and Representatives to Congress to unite with their northern allies in involving us in a foreign war, in repudiating the national debt, or adding the confederate debt to it, in repealing the laws granting pensions to our living disabled soldiers, and to the widows and orphan children of those who are dead, and perchance to insert the names of their own traitors on our pension rolls, and tax our people to pay them? How wrong it is not to admit South Carolina at once in order that the constitutional amendments now pending may be defeated! If admitted she would aid in their defeat in two ways. First, she would vote against them; and second, she must be counted as one of the States, and the amendment must be ratified by three fourths of the States, counting her in as one.

Do not we know that the national debt incurred to put down the rebellion is a stench in the nostrils of a reconstructed rebel and his northern allies?

How long had Peirpoint inhaled the atmosphere of Richmond before he had the assurance to come to Washington and declare in profane and indecent language that the South would never consent to be taxed to aid in the payment of the national debt? I would not do him injustice, but such is the report. If Mr. Clarke, our able Comptroller of the Currency, could with difficulty silence his clamor, may we not expect to hear a great deal of that kind of talk when the Senate and House are full of reconstructed rebels and their northern allies? Do we want to make such slang potential and give it vitality and power so that it may bud and blossom and ripen into legislation, so that our victories may prove like Billy's cake, which was sweet in the mouth but bitter in the belly? I do not, I freely confess, and I shall vote against it until I am satisfied that the apprehended dangers have passed away or been provided against by adequate guarantees.

It is said that we must not be too distrustful, that a word of a sort is enough among gentlemen; that we must take these folks at their word, must take their promises to be faithful to the Union without any other guarantees. It seems to me to be too slender a reliance. What if they break their promises? Who will be in danger then? It is easy to leap into a pit, but to get out, there's the rub.

"In this the task, the mighty labor lies."

There is a bear story that touches remotely on the folly of incurring too much risk. The story is nothing, but the lesson it teaches is good. This is the story: two American citizens of African descent, named Cato and Sambo, started on a bear hunt. Who ever saw a negro who did not worship with the ardor of a lover at the shrine of Nimrod? It is all preteuse, it is plain, but to get a gun on his shoulder is his style of apeing the gentleman; cause why? Slaves are not permitted to bear arms. A gun proves that he is no longer a slave. They got upon the trail of a bear and followed her back track until they saw that she had emerged from the trunk of a hollow and prostrate tree. They concluded at once that her cubs were probably in the tree, and it was agreed that Cato should go in and bring them out, that Sambo should stand sentinel to keep the old bear at bay in case she made her appearance. Very soon after Cato had gone in the old bear did come, and outflanking the sentinel darted into the hole. Sambo seeing there was mischief ahead unless something was done quickly, seized her by the tail

with a terrible grip, and braced himself back at an angle of forty-five degrees. Cato, apprehensive that something was wrong, but not knowing what, called out, "Hello, Sambo! What darky the hole?" I call attention to the sublime reply given by this unlettered African, this dark-skinned child of a downtrodden race. Words are powerless to express the thing better: "If tail holt break, Cato, you'll very soon find out what darky the hole."

I leave the lesson taught by this story to those who have wit enough to divine it, and hasten on, as my time is limited.

What harm can the rebel States do, provided their people are still hostile to the Union, if they should now be released from all restraint and taken back into full fellowship? What control have we of them now that would in that case be lost? What conditions-precedent can we now demand and exact that we could not then? What securities and guarantees is it now in our power to obtain that would in that case be beyond our reach? Under the Constitution all powers not delegated to the Federal Government are reserved to the States. With the reserved power belonging to a State the Federal Government has no right to intermeddle. In these regards a State that has remained loyal and forfeited none of her franchises may claim immunity from interference, and if her rights are invaded may politely tell the parent Government to attend to her own business; people sometimes get rich by it. It is not so with the Territories. Congress has legislated and may legislate for them, or may grant legislative powers to the people, in which case their legislation may immediately go into effect, or may be made to depend for its validity upon the consent and sanction of Congress. Congress has frequently annulled the acts of Territorial Assemblies. Congress has frequently legislated and may legislate directly for a Territory without the intervention of any Territorial Assembly at all.

Congress has almost uniformly specified the conditions upon which a Territory might become a State and be admitted into the Union. Congress has always taken upon itself the privilege to scan closely the constitution of a State applying for admission, to determine whether its provisions were republican, to the end if they were found not to be the State might be rejected. The Governor, secretary of state, judges, and many of the officers of a Territory are appointed by the President; but he has no such power in a State. It is easy to see that the powers of the President and of Congress are almost unlimited in a Territory up to the time when it becomes a State of the Union, and that then they are confined within very narrow bounds. If it is desirable that Congress or the President should exercise authority, impose terms, annex conditions, or take jurisdiction, it is as important that it should be done while it constitutionally may be done, as to strike when the iron is hot or to make hay while the sun shines. He who fails to control his child when he legally may will not be apt to control him when he legally may not. He who parts with his property without taking security at the time he may demand it, will not be likely to get security after the property has passed beyond his reach and the purchaser become insolvent. To wait till a State is admitted before demanding guarantees, that she may set us at defiance, is worse folly than locking the stable after the horse is gone, or sending for the doctor after the patient is dead. But it is said that the rebel States are not Territories. Well, they may not be, but do they not bear a nearer resemblance to a Territory than to a State of the Union? We shall see in the sequel, when the manner in which our President has dealt with them is brought up in martial array; and it may be well here to say that though a Territory is not a State yet it is in the United States of America, within the jurisdiction of the Government and part of the governed. And is not that the *status* of these rebellious communities, and will they not continue to remain in that *status* until readmitted by Congress?

In this connection it will be borne in mind that our President is a Democrat, a strict constructionist, a State-rights man in the just and reasonable interpretation of that term, and would be guilty of no usurpation of power. The law-making power is the highest and most sacred attribute of a State. A State that cannot make and unmake its own laws within constitutional limits without the interference of outsiders is no State at all. A law of one of the States of the Union not in conflict with the Constitution can only be annulled or repealed by the power that made it, and President Johnson would sooner cut off his right arm than to issue a proclamation declaring Indiana or Pennsylvania to be in a state of dissolution, without constitution or laws, and commanding the people to meet in convention, make a new constitution, and reinaugurate civil government. "That's his style" of giving the rebel States a bit of his mind, and letting them know his opinion and telling them what he wants them to do. Look at his North Carolina proclamation, wherein he tells the people they are deprived of all civil government, and goes on and intimates to them what to do. It is as the gentleman from Ohio [Mr. SHELLABARGER] said, a carefully prepared state paper, issued under the attest of the Secretary of State, and the language of which has been seven times repeated in that many different proclamations, as applied to that many different States.

I will not read the body of these proclamations, but this is the preamble:

"Whereas the rebellion which has been waged by a portion of the people of the United States against the properly constituted authorities of the Government thereof, in the most violent and revolting form, but whose organized and armed forces have now been almost entirely overcome, has, in its revolutionary progress, deprived the people of the State of North Carolina of all civil government."

Is this the stuff the Union is made of? States deprived of all civil government! States without government! I thought a State, to be in the Union must not only have a government, but a republican government, at that. That is my reading of the Constitution. Have I read it to so little purpose as to be mistaken? Is not the Federal Union bound to guaranty to all the States a republican government? If so, how can a State without any kind of government be a part of the Federal Union? It is a solecism I am ashamed to combat in the hearing of reasoning men.

Under the Constitution, the States of the Union, elect their own Governors. There is no such thing in that instrument as a provisional governor; the term cannot be found, much less the power. Still I am not doubting the war power in a revolted State. But would not a President have a happy time in appointing a Governor for Pennsylvania or Indiana? And why may he not appoint a Governor for Indiana as well as for South Carolina or Mississippi? Because the Constitution is in force in the former, and has been overthrown in the latter; the former is a State of the Union, the latter disorganized communities within the territorial limits of the United States. The powers that appropriately belong to a State of the Union are no boon; they are absolute rights, subject only to forfeiture for crime. Within the powers that pertain to States of the Union, they legislate according to their own will and pleasure.

The history of our Government from its foundation affords not a single instance of outside dictation. It is sacred and hallowed ground, subject to no profanation from the President down to the humblest citizen. There never was a moment when the people would not have regarded such a thing, if submitted to, as the death-knell of liberty. If attempted to-day a storm of indignation would sweep the land before which no mortal man could stand. And yet our God-fearing, law-abiding, and power-distrusting President quietly goes down, so to speak, into Dixie, and says to this gallant and noble race of men, these lords of creation, who bow the knee to none but God, and whose motto he knows to be, death before dishonor, that they have by the war been deprived of all civil government; that their laws and constitutions have all been overthrown, are null and void and of no effect, and that they have no government. He tells the Governors elected by the people to stand aside, that a Governor cannot live longer than the government, and he hurls them aside as unceremoniously as a boy slings a hen from her nest that attempts to sit without eggs, and without half as much resistance. And he appoints what have been called, appropriately enough, provisional governors, and having thus disposed of their Governors and appointed his own, instructs them to disregard all existing State laws and constitutions and to begin *de novo*, call conventions and make new ones; reconstruct from the ground up.

Nay, I am proud to say that he does not stop at that, that he does not hesitate to tell them in unmistakable language what laws and ordinances it would be agreeable to him if they would adopt; it would increase their chances of being admitted into Congress, and of being permitted to take their places in the Government of the country. The very recital of the conditions-precedent by him at various times laid down—and he never laid down one that was not right in the sight of God and man—gladdens the heart, and is enough to make an honest man, a patriot, fatten on the short ribs, though they would in the palmy days of the chivalry of the land have evoked a tempest. "They must repeal their ordinances of secession; they must repudiate the confederate debt; they must adopt a consititution of freedom and ratify the constitutional amendment abolishing slavery; they must secure the freedom of the slave by just laws, permit him to testify as a witness, and when wronged or doing wrong to sue and be sued." And when all this and perhaps more that I do not recollect is done, they then may stand some chance of getting into the Union. Far be it from me to complain of this dictation, as the Democrats used to style it. I think it was all right. If there is any complaint to be made against the President it is that he did not go quite far enough; but God bless him for what he did do, and lead him onward in the pathway of wisdom and justice. Let us not be acrimonious or speak as though we had slaked our thirst at the fountains of bitterness. He has been faithful in the past, and he will not, I feel sure, be faithless now.

In this way the President has accomplished much that may be happily consummated by Congress; but, disguise it as you may, it was because these States had not the control of their own affairs that he has been enabled to accomplish any of these things. But for this he would have had no propelling power. They would have snapped their fingers in his teeth and laughed him to scorn. As it is, they have submitted to the drawing of eye-teeth, but have still been unable to stifle the agonized groans. The good we have already accomplished could not have been attained, would have been utterly beyond our reach, had these States before that time been admitted back into the Union in such way as to stand as if they had never rebelled. All the world knows that in that case they would have made no concessions. Our strength and their weakness lay in the fact that they had forfeited their rights as members of the Union, and that that forfeiture had not yet been remitted. But for that we would have been scornfully told that they had no favors to ask at our hands. We are indebted to this "forfeiture," hanging over them as a rod of terror, for every inch of ground we have gained, and I would still keep them out awhile in the belief that they may possibly be stimulated to do right by the hope of thereby getting in. Much good has been accomplished, but as I think much that is desirable yet remains unaccomplished, I for one am not willing yet to let up. It would be but to slumber in the lap of Delilah to wake up shorn

of our strength, and to find ourselves bound hand and foot and in the hands of the Philistines.

If these States were back in the Union, or under no disabilities, how could we put them upon terms? Is it within the province of Congress or the Executive to search the legislation of the loyal States, and if anything shall be found that is wrong, not fit to be there, to coerce its repeal? What manner of coercion could be resorted to? Who is wise enough to tell how the thing could be accomplished? We all know that it could not be accomplished, and that any such attempt would be justly regarded as an act of usurpation. Why? Because these States are in the Union. They have incurred no forfeitures; they are under no disabilities; they are in no sense in a territorial condition; and within their appropriate sphere they are wholly independent of Congress and the Executive. Is it to be wondered that the rebel States want to place themselves in a condition wherein they will be equally independent of control, and in the mean time to make as few concessions as possible, so that when reinstated and in a condition to defy the Government they will not find that they are bereft of power? And is it to be wondered that those who know what it has cost to put down this rebellion demur and think that this thing should not be hastily done; that the world was not made in a day; that there is luck in leisure, and that we should plod our way carefully, hasten slowly, and know of a truth before any rebel State is rebaptized into the Union that the seeds of treason have been fully eradicated, and that she has given all reasonable and necessary guarantees for her future good behavior?

Some gentlemen seem to be anxious to hear within this Hall the crack of the plantation whip and to have a manifestation of plantation manners as in days of other years; and as sure as God lives they will be abundantly gratified if the policy of letting in the rebel States without guarantees shall prevail. I am opposed to it. It will prove unwise, ruinous, and disastrous; and I stand here to raise my voice against it. What we may do cannot be undone; let us not, therefore, be guilty of the folly of him who marries in a hurry and repents at leisure. A mistake in the matter is fatal; let, therefore, what we have suffered in the past illuminate our pathway in the present. I entertain no feeling of revenge against this deluded people. I would exact nothing with a mere view to humiliation. I would do nothing that is merely vexatious. I would exact no condition precedent that I did not regard vital to the full fruition of our victory and the future safety of the Union. Vengeance belongs not to man. In the hands of Him to whom alone it belongs let it be left.

Related to these questions and connected with these inquiries is another, whether a person may renounce and abjure his citizenship, though it may not be in the power of a State to "go out." Men are now knocking at the doors of Congress for admission as members of this body who not only renounced and abjured all allegiance and fidelity to the Government of the United States, but who took an oath of allegiance to a hostile power and united with that hostile government to overthrow the Union, and whose hands are still crimson and whose garments are still soaking and reeking with the blood shed in the wicked attempt, and we are told that Congress is acting badly and violating the Constitution in keeping them out, and telling them to wait yet a little while. Of course these remarks do not apply to all who now demand admission. I am happy to say that Tennessee has sent a different class of men, and it may be that there is here and there one from some other State who comes here with clean hands. I am for admitting Tennessee on reasonable terms of compliance, and shall be for admitting other States from time to time who can come with as equitable a claim as Tennessee, and which, if they do not come up to the full standard at the time of applying, will submit to reasonable terms. I am for letting every tub stand on its own bottom, every State on its own merits, and do not hold to the belief at all that the admission of a State that comes with just claims is any concession to a State still remaining contumacious. The States come in separately; they bade us good-by separately and must come back separately. I am not only for discriminating between the States, but between the men who come here for admission.

If a State is simple enough to send a man here who cannot take the iron-clad oath that you and I and all of us had to take, Mr. Speaker, he shall not come in by my vote, no matter what State he comes from. The Tennessee members can, I am informed, take that oath. It is my happiness to be personally acquainted with three of them, and to know that to Andrew Johnson and to such as them—to their lasting honor be it spoken—are we indebted for what we find commendable in the State of Tennessee. Steadfast and true they and he stood by the Union in its darkest hour. These men took me by the hand and stood by me when I marched into Tennessee, when I had command of their capital, and I am glad that Tennessee stands in such an attitude that I can now take them by the hand.

How different the claim of those who so recently renounced and abjured all allegiance to the Union. The Constitution of the United States declares that no person shall be a Representative who has not been seven years, and no person a Senator who has not been nine years, a citizen of the United States. These words do not mean at some time in their lives a citizen of the United States for the length of time indicated, but they mean a citizen of the United States for that length of time immediately preceding and up to the time the seat is claimed. What could mortal man do to renounce his citizenship that these men have not done? In what way could they incur that forfeiture if the way adopted is inadequate? We are bringing men into our court-houses daily and permitting them by oath to renounce allegiance to the Government wherein they were born. Can allegiance be renounced, or is this all mockery?

And when we admit these foreigners to the rights of citizenship, on taking the oath of allegiance to us and renouncing it as to all other potentates and Powers, and especially the potentate and Power that claimed his allegiance, we do not institute any inquiry whether the particular Government renounced was legitimate or illegitimate—a Government in law or only a Government in fact—before accepting the oath and opening our doors, but we take the more sensible view, that if the applicant for the rights of citizenship has rendered tribute to and thought himself a citizen of another Government, *de jure* or *de facto*, that is enough to justify us in requiring the oath, and as little security as any Government, no matter how liberal, ought to demand. We have been pursuing this policy for seventy or eighty years. It is rather late in the day to say now that a citizen cannot expatriate himself. If he cannot we have been plundering other nations of their subjects in a remorseless manner during all this time, and have a mountain of guilt upon our shoulders.

The reason of a law is its life-blood, as well as a clue to its interpretation. Why were the clauses to which I have referred inserted in the Constitution? Was it that foreign, unfriendly, and hostile elements might be kept out of our legislative halls, and the law-making business confined to friends? Was it that we preferred the genuine to the spurious and bogus? Was that the object in requiring the seven and the nine-year citizenship? Who can see any other? And are we not violating the spirit, intent, and meaning of these clauses by admitting those who have so lately given every evidence of the most deadly hostility and undying hate?

We are taught that some who persecuted the Christians, stoned the prophets, and drank the blood of the saints, afterward became flaming evangelists; but we have no such miraculous conversions nowadays, and the atoning grace of the blessed Redeemer furnishes the only exception to the general rule, that we may judge what a man is by what he recently was; and if so, what signifies the oath as to what these men will do or will not do in the future? Do we turn transgressors loose upon the community upon oaths for the future, or do we punish them for the past? Our fathers framed these clauses prescribing the length of citizenship, to give Congress the right to look to the antecedents of an applicant as to citizenship, because they believed that the best test of friendship; not that it was by any means infallible, but the best general rule that could be adopted to secure the purity of the body and the safety of the Commonwealth. It was for that reason that time was made as of the essence of the contract, as the lawyers would phrase it. Seven years a citizen at any time will not fill the bill, will not come up to the requirements of the Constitution. It must be immediately preceding and up to the time when admission is demanded. If he is not at that time a citizen, and been such continuously without a moment's intermission, he is but an intruder. He who for an instant ceases to be a citizen is as if he never had been a citizen. He is again at the starting point. All will know, of course, that the Constitution in using the term citizen uses it in its legal meaning, and not as synonymous with inhabitant or resident. He who becomes a citizen and lives seven years thereafter in the United States, then goes to another Government, and whether a Government in law or only in fact is immaterial, and there on oath renounces his allegiance to us and swears fealty to his new sovereign, is not upon afterward returning to the United States a citizen thereof, nor eligible to a seat in Congress, though he has, in point of fact, at some time in his life been for seven years a citizen of the United States. And yet everybody knows that it would be safer to take him in *eo instanti* than a bloody-handed traitor. Now, if I am right, how long have these candidates from South Carolina, for instance, been citizens of the United States? Seven years? Nay, hardly that many weeks. And as all the clauses in the Constitution are to me alike sacred until amended or repealed, I must say to these States that before they can get into Congress by my consent they must not only as States come up to all reasonable requirements, but must send men here who are loyal, can take the iron-clad oath, and on the score of citizenship come up to the constitutional standard. I am done.

CONDITION OF THE TREASURY.

The SPEAKER laid before the House a communication from the Secretary of the Treasury of the United States, transmitting a statement of the amounts now in the United States Treasury, including the sums in the hands of the Assistant Treasurers, national banks, and all other depositaries, in answer to a resolution of the House of the 5th instant; which was laid on the table, and ordered to be printed.

RECONSTRUCTION.

Mr. ANDERSON. Mr. Speaker, I have frequently of late asked myself the question, is reconstruction an insoluble problem? I have noticed so many different propositions for its solution, and find so much of difficulty in the acceptance of any of them, owing to the differences between the President and Congress, that I have almost despaired of the hope that anything can or will be done at this session of Congress toward the accomplishment of the much-desired end. These differences between Congress and the President I trust are not irreconcilable. My hope, sir, is that all may yet be well, that passion and prejudice may yield to wisdom and patriotism; that party spirit or ambition may not be allowed to interfere with a complete, final, irreversible policy of reconstruction based upon just and humane principles.

Sir, I do not doubt but that it is the earnest desire of the people of the loyal States to have

this question settled at the earliest moment practicable, but when it is settled they want "security for the future" if they cannot obtain "indemnity for the past." How to obtain that security is the question of the hour, and it is, considering all things, the most grand and serious and vitally important question ever up for settlement in an American Congress. It cannot be settled by crimination and recrimination; it cannot safely be adjusted by appeals to the passions and prejudices of the people; nor yet can it be reached by returning power and influence to those so recently engaged in the mad attempt by force of arms to destroy the Government.

Now, in regard to the proper policy to be pursued in regard to these States, I will consider some of the theories which have been advanced. Looking at the proclamation of Mr. Lincoln, when President of the United States; the acts of Congress and orders emanating from the State and War Departments of the Government; the action of the Baltimore convention, which nominated Mr. Lincoln and Mr. Johnson as candidates for President and Vice President of the Union party of the country, I must consider that throughout this rebellion these States have been regarded as States, and they must be treated as such. While I differ with the position of the gentleman from Pennsylvania, [Mr. STEVENS,] I can find in his doctrine a more convenient policy to be pursued upon this great question than in recognizing them as States. But we are living under a written Constitution; the whole of the war was to overthrow the organized rebellion of the southern States against the authority and Constitution of the United States. We suppressed the rebellion upon the idea that the doctrine of secession was a heresy unwarranted by the Constitution of this country. We claimed that these States owed allegiance as States to the Federal Government; that they have no right to break up their relations with the Federal Government; that by revolution, and in no other way than by the success of armies in the field, could they accomplish the establishment of a Government *de jure*.

I have said that the theory of the gentleman from Pennsylvania was a more convenient theory upon the practical question of reconstruction, to make it safe in the future, than the theory of recognizing them as States. We all appreciate the difficulties connected with this question. At every step of our progress we are met with the odious and infamous doctrine out of which this rebellion grew—the doctrine of State rights. Sir, I am not of those who deny to the States certain rights. But I am of those who deny the right of these States to secede or to control the question of reconstruction by simply laying down their arms and presenting themselves at the doors of Congress for admission. I deny their right to admission until Congress shall settle the terms upon which their members shall be admitted.

I think that practically the question as to whether these States are in or out of the Union does not figure here; I think but little importance attaches to it. But whatever may be said with regard to that, I think I can say that the loyal people of this country will see the difference between the policy of the President and the policy of Congress. If I understand correctly the policy of the President it is this: that whenever a loyal man presents himself as regularly elected a member of Congress from any district in the South, it is the duty of Congress at once to admit him.

I understand the policy of Congress to be, that while they would be perfectly willing to admit to the floor of this House, to the privileges of a member, a loyal man, they desire to be well satisfied in their own minds that such a man can be returned from that district after the military power of the United States shall be removed from those States. In other words, they want to be satisfied that in a free and fair election in the southern States of this Union loyalty will be in the ascendency, and that loyal men can be returned to Congress from those States.

Now take the State of Tennessee: I believe that before this Congress adjourns the members from that State will be admitted here as members of Congress. I believe that this Congress desires the restoration of these States so far as their representation in Congress is concerned. And all the clamor raised by the partisan press of this country, that Congress is endeavoring to keep these States unrepresented, is false. The desire of members in Congress is that these States shall be restored at the earliest practicable moment; but they demand guarantees for the future peace and quiet and prosperity and loyalty of these States before they are admitted to representation.

Mr. WHALEY. I wish to ask the gentleman from Missouri whether he expects that they are to come in under the "dead State" theory or not? That is a question which has been ingeniously dodged by every speaker heretofore. Are they to be States in this Union, represented as States? Under the "dead State" theory there are at least seventeen members upon this floor who have done a great deal from the earliest period of the rebellion for the restoration of the Government, who have no standing here in accordance with the "dead State" theory, in accordance with the doctrine set forth by the gentleman from Pennsylvania, [Mr. STEVENS,] so well known to the country.

Mr. ANDERSON. More than once the gentleman from Pennsylvania has himself denied that he ever uttered the sentiment which the member from West Virginia attributes to him. How far is it necessary for a gentleman to deny such a thing before a gentleman of the Democratic faith ceases to fasten upon him sentiments which he has denied over and over again?

Mr. WHALEY. The gentleman refers to me as of the Democratic faith. Sir, in my earliest manhood I was a Democrat, and I have not the slightest desire to conceal my political principles. I was a Democrat; but I went with the Douglas party; and it is but justice that I should say that it was the Douglas party that saved West Virginia to the Union. There is not, to my knowledge, a leading Douglas Democrat in West Virginia who has not stood true to the Union. Sir, I am not ashamed of my Democracy.

Mr. ANDERSON. I did not yield to the member from West Virginia for a speech.

Mr. WHALEY. I have no desire to make a speech, but simply that my Democracy should be understood as not of a disloyal character.

Mr. ANDERSON. If the gentleman had waited a few moments he would have seen that I intended to pass a personal eulogy upon himself. [Laughter.]

Mr. WHALEY. I have no need of that.

Mr. ANDERSON. I do not think I have said anything about the Democratic party, or about the gentleman's associations with that party, to suggest the idea that I intend to disparage its claims upon the people. I was born a Democrat myself; I was reared in that school of politics; and if your Democracy needs any defense, I am willing to do all I can to bolster it up, although it is getting very shaky. [Laughter.]

Mr. WHALEY. There were thirty-one thousand Democrats in West Virginia who stood true to the Union.

Mr. ANDERSON. I admit that there were that number. I have great respect for that party; but in discussing this question of reconstruction there is no necessity for party spirit to enter into it. All I ask of the member from West Virginia is, that upon this question of reconstruction he shall stand upon the same platform upon which he stood while fighting the enemies of his country. If he will do that all will be well.

Mr. WHALEY. I have been doing that for five years upon this floor.

Mr. ANDERSON. Well, it may take five years more of steadfast fighting to secure the end for which the war was waged; and he who falters now is untrue to the Government.

Mr. Speaker, the ordinances of secession were null, but they were effective to such an extent as to dissolve the practical relations of the States adopting them with the Union. Now, are these practical relations to be restored upon their caprice alone? The President imposed conditions upon those States. He required them to accept the constitutional amendment as a condition-precedent. Congress made war, and is the war-making power. Congress makes peace, and is the peace-making power.

Over and over again, in his correspondence with the provisional governors, the President reiterates the doctrine that they must adopt the constitutional amendment prohibiting slavery or that their governments cannot be restored. If he had the power to impose this restriction upon the rebellious States, why is it that the Congress of the nation, representing the loyal sentiment of the country, has not the power to impose additional restrictions? Sir, it will not do to say that this thing was done at the suggestion of the President; for, occupying the position that he did, his suggestion amounted to an absolute command to those States to adopt the constitutional amendment. The President has more than once declared the right of Congress to exercise control over this whole question of reconstruction. He says in his annual message to Congress:

"Fellow-citizens of the Senate and House of Representatives, you are the judges of the qualifications, elections, and returns of your own members."

It is not, sir, the first time that the President uttered that declaration. I find in a message of the President of the United States, communicating, in compliance with a resolution of the Senate, information in regard to provisional governments, the following:

[Telegram—Received 7.20 p.m.]

COLUMBIA, SOUTH CAROLINA, *November* 27, 1865.

PRESIDENT JOHNSON: Will you please inform me whether the South Carolina members of Congress should be in Washington at the organization of the House? Will the Clerk of the House call their names if their credentials are presented to him? Will the test oath be required, or will it be refused by Congress? If the members are not allowed to take their seats they do not wish to incur the trouble and expense of going on, and the mortification of being rejected. Do give your views and wishes.

B. F. PERRY, *Provisional Governor.*

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[Telegram.]

EXECUTIVE OFFICE,
WASHINGTON, D. C., *November* 27, 1865.

B. F. PERRY, *Provisional Governor, Columbia, S. C.:*

I do not think it necessary for the members-elect from South Carolina to be present at the organization of Congress. On the contrary, it will be better policy to present their certificates of election after the two Houses are organized, and then it will be a simple question under the Constitution of the members taking their seats. Each House must judge for itself the election, returns, and qualifications of its own members. As to what the two Houses will do in reference to the oath now required to be taken before the members can take their seats is unknown to me, and I do not like to predict; but, upon the whole, I am of opinion that it would be better for the question to come up and be disposed of after the two Houses have been organized.

I hope that your Legislature will adopt a code in reference to free persons of color that will be acceptable to the country, at the same time doing justice to the white and colored population.

ANDREW JOHNSON,
President of the United States.

Sir, he reiterates that position in his annual message to Congress, and declares that each House of Congress must judge for itself of the qualifications, elections, and returns of its own members. And now, sir, what do we hear? We hear of Congress delaying the matter of reconstruction, and we hear throughout the partisan press of the country who are looking to the action of Congress declarations that this delay is made for the purpose of creating disaffection and discontent throughout the land.

What delay has occurred upon the part of Congress? On the very first day of the session the gentleman from Pennsylvania [Mr. STEVENS] introduced a joint resolution creating a committee on reconstruction.

Perhaps no joint committee ever raised by Congress has been so much and so wrongfully abused as this joint committee on reconstruction. The committee has been charged with delay, and yet, Mr. Speaker, the resolution of this House passed on the 12th of January last, calling upon the President, "if not incompatible with the public interest, to communicate to it copies of all messages, proclamations, and other documents issued by the provisional governors of any States that may have been proclaimed at any time to be in rebellion; of all acts, ordinances, resolutions, and proceedings of conventions, or of Legislatures held in such States, under the authority or at the call of said provisional governors; of all returns of elections for said members of such conventions and Legislatures, together with the qualifications required for voters at such elections, and for members when elected; together with such other information concerning the public actions of such States tending to throw light upon their political condition as might be in his possession; and to communicate, further, copies of all proclamations issued by the President or his immediate predecessor, relating to the subject, whether issued by him or the Secretary of State, and the papers accompanying the same," received no response until the 6th instant, nearly nine weeks after its adoption.

The country knows that during the administration of the provisional governors of these States conventions were called therein, that they convened, and that official accounts of the action of said conventions were sent to Washington. Copies of the laws passed by the Legislatures of these States subsequently assembled were also sent here. Official orders to military governors and official papers from the military headquarters in all the eleven rebellious States were also here. Congress asked that these papers should be placed at the disposal of the committee on reconstruction at an early day of the session, and had absolutely to repeat the request before an answer was obtained. The work of the committee was thus delayed, not by Congress, but by the President. The information asked for was most important, and was of that description that certainly those favoring the immediate admission of their delegates to Congress are estopped from objecting to. Failing to obtain the desired information the committee goes to work in search of facts from other quarters. Witnesses have been summoned from all parts of the South and a large amount of testimony has been gathered up, and now that it has been obtained the wisdom of Congress in raising this committee has been fully shown. We do not hear as much nowadays about the "directory" as we were wont to hear. Our Democratic friends so much opposed to raising said committee, so loud in their complaints of the tardiness of its action, find that it has performed an important work at great labor, and a work, too, absolutely necessary in order that Congress may act understandingly upon this most important question.

I do not charge that the President has been remiss in this matter, because the communication of the Secretary of State shows that if blame is to be placed anywhere it is to be placed upon his shoulders. But, sir, I call the attention of the country to these facts to show that Congress has been doing its utmost to advance in the solution of this question of reconstruction, so as to act advisedly and understandingly. It is a question of such magnitude and importance that it demands the careful consideration of Congress. Congress has gone forward and collected testimony and published it to the country. The action of Congress in raising the committee has received vindication from the public; and the testimony taken by that committee will be weighed by the American people, or at least by those who have been truly loyal to the Government pending the terrible conflict through which we have passed.

The President, in his annual message, expressed a desire to secure all men in their rights and to protect the freedmen in all the privileges guarantied to them under the emancipation proclamation. A large majority of both branches of Congress, responding to what were understood to be the wishes of the Executive, gave to him for his approval what is known as the Freedmen's Bureau bill. It was not an original measure. It was an amendment to the law under which the Freedmen's Bureau has been and is now acting, and which is sanctioned by the President himself. It was a bill subject to repeal, as other laws are, and intended to operate only so long as the necessity for its operation existed. It was not a bill expensive to the Government, for the reason that under the present law millions of dollars have indirectly been saved which otherwise would have been lost. It was intended to assist the freedmen to make a living for themselves. It was not a measure designed exclusively for the negroes, for under the operation of the present laws more whites, in some sections and in many instances, have been benefited by it than blacks. Under the recommendation of General Grant the bureau was to be made a part of the War Department, so that the bill, instead of establishing military jurisdiction over all parts of the United States containing refugees, freedmen, and negroes, simply extends it over the officers and employés of the bureau. It was not contemplated to appoint agents and other officers in every county or parish unless the President himself thought it necessary and advisable to do so. The arbitrary powers conferred upon the officers of the bureau go no further than the President himself and the officers under him have already gone, and certainly Congress has power to provide the rules and regulations for the government of the Army and Navy. All, from Commander-in-Chief to the humblest soldier, are subject to such rules and regulations.

The war power is still being exercised by the President in suspending the writ of *habeas corpus* contrary to the Constitution, which expressly states that it shall only be suspended in case of invasion or rebellion. As we certainly have no invasion the President must think there is rebellion. The report of General Howard shows that at no time have more than one hundred and forty-seven thousand persons been under care of the bureau, and of these fifty-seven thousand were white refugees. When it is recollected that there are four million negroes in the southern States, and when we consider the ravages of war in those States, the number of persons assisted by the bureau is small indeed. From the sworn statements of General Fisk before the reconstruction committee it appears that out of the twenty-five thousand persons fed by the bureau in Tennessee seventeen thousand five hundred were white refugees. The infamous and oppressive black codes adopted in nearly all of the rebellious States made it necessary to extend to the negroes the protection of the strong arm of the Government.

Now, has Congress done its duty in passing this bill?

I have said before that if the people of the southern States of this Union would consider matters as they are, if they would see things as they really exist, if they would understand the legitimate results of the war through which we have passed, there would be no difficulty on this question of reconstruction. Sir, if they had known the disastrous consequences which were to overwhelm them in this conflict with the Government they never would have gone into the rebellion. It is strange, strange that they did not contemplate the probable results of this war. Did they suppose that the loyal people of this country, who, by act of Congress, called into service and placed in the Army the black men of the South, and declared them freemen, intended to abandon them at the very moment when they most needed protection, especially when every account that comes to us from the southern States shows that the southern people are treating the colored race very much in the same spirit in which they carried on the war against the Government of their fathers—an inhuman and cruel treatment—and for no earthly reason but that in their contest with the Government of the United States they have been overthrown and made to submit to its authority?

Sir, if the Congress of the United States fails to do its duty to these men, women, and children of the black race, if it fails to make effectual the provision recently incorporated in the Constitution of this country for their protection, then, sir, we must give over into the hands of traitors the last relic of the freedom we promised to the black men of the South.

Sir, I never will yield my assent to the doctrine that these people are not entitled to the best protection we can afford them. I believe to-day that they are citizens of the United States. We are to-day interpreting the Constitution from a freedom and not from a slavery stand-point. The old interpretation of the Constitution was from a slavery stand-point. We called upon these people in the midst of a struggle for the existence of the nation to aid and assist us in preventing traitors from tearing down the emblem of our nationality. Shall we now turn the cold shoulder upon them, and say, "Though you have assisted us and done all that men could do to preserve the integrity and nationality of the Government, yet, now that the battle is won and the victory sure, you have 'no rights that a white man is bound to respect?'"

I well remember, Mr. Speaker, the position of the Democratic party of this country throughout this war. I remember distinctly what it was in my own State; I remember distinctly what it was in the other States of the Republic. I notice, however, that they are making some progress; for the other day, in your own State of Indiana, they absolutely declared that secession is a heresy, and that the thanks of the country are due to the Army and Navy of the Union for their success in suppressing the rebellion. That is some progress for our Democratic friends to have made.

I remember, Mr. Speaker, the opposition of the Democracy to the whole progress of the war party of the nation upon this question of slavery. When the President of the United States issued his proclamation of freedom our Democratic friends declared that it would ruin the country, that it would place the negro upon an equality with the white man. The car of progress moved on. The proclamation was issued. The negro was made free by its operation.

Then the proposition was made to put the negro into the Army of the Government and permit him to fight for the liberties of his own race, for the maintenance of the Union of these States, and the preservation of the Constitution and the Government. Our Democratic friends lifted their hands still higher, rolled back the whites of their eyes, and in piteous tones proclaimed that the final stab had been given to the white man, and that the negro was certainly now his equal. Loyal men of the country stood up for the policy of the nation. The negro was put into the Army, and on many a well-fought battle-field he showed his valor, his ability to handle the rifle and the bayonet, and to assist the white man in preserving free institutions upon this continent.

Then came the contest in many of the States with reference to admitting negroes to the right to testify, to sue and be sued, to contract and be contracted with, and to all the civil rights that white men enjoy in the States. I well remember how that political party in my own State bitterly opposed any such law as that. They declared that to allow a negro to testify in the courts was certainly equivalent to pla-

cing him on an absolute equality with the white man. But, sir, the car of progress moved on, and in nearly all the States of this Union today the negro has the right to testify, the right to sue and be sued, the right to contract and be contracted with, and in all the loyal States of this Union he enjoys the civil rights of an American citizen.

Sir, rays of light are always cheering, and especially so when they come from an unexpected quarter. I want to read—because I prefer to read from those who will have influence with the anti-progressive party in this nation—an extract from a speech recently delivered before the Georgia Legislature by the man who held the second rank in the collapsed rebel confederacy—I mean Alexander H. Stephens. I read from him not because I admire the man, but because I know that what he says will impress that portion of the people of this country who need to be impressed upon this great question of doing "equal and exact justice to all men." Here is what Alexander H. Stephens says in reference to the rights of the freedmen:

"All obstacles, if there be any, should be removed which can possibly hinder or retard the improvement of the blacks to the extent of their capacity. All proper aid should be given to their own efforts. Channels of education should be opened up to them. Schools and the usual means of moral and intellectual training should be encouraged among them. This is the dictate not only of what is right and proper and just in itself, but it is also the prompting of the highest considerations of interest. It is difficult to conceive a greater evil or curse than it now is, than for so large a portion of its population as this class will quite probably constitute among us hereafter to be reared in ignorance, depravity, and vice. In view of such a state of things, well might the prudent, even now, look to its abandonment. Let us not, however, indulge in such thoughts of the future. Nor let us without an effort say the system cannot be worked. Let us not, standing still, hesitatingly ask, 'Can there be any good thing come out of Nazareth?' But let us rather say, as Gamaliel did, 'If this counsel or this work be of men, it will come to naught; but if it be of God, ye cannot overthrow it, lest haply ye be found to fight against God.'

"The most vexed questions of the age are social problems. These we have heretofore had but little to do with; we were relieved of them by our peculiar institutions. Emancipation of the blacks with its consequences was ever considered by me with more interest as a social question, one relating to the proper *status* of the different elements of society and their relations to each other, looking to the best interests of all, than in any other light. The pecuniary aspect of it, the considerations of labor and capital, in a politico-economic view, sunk into insignificance in comparison to this. This problem, as one of the results of the war, is now upon us, presenting one of the most perplexing questions of the sort that any people ever had to deal with. Let us resolve to do the best we can with it from all the lights we have or can get from any quarter."

I commend this language of the distinguished gentleman from Georgia, the late vice president of the rebel confederacy, to those in the northern States who cry out against the Congress of the nation and against its efforts to restore to these people the rights that they ought to enjoy under the Constitution of the country. It is a problem that we have to solve. We cannot suffer four millions of the people of this continent to remain in ignorance, to become degraded and vicious. It is our duty to elevate them in the scale of society, to make them useful citizens, so that they with us may contribute to the wealth, the prosperity, and greatness of our common country.

Why, sir, the policy is a policy to commend to the American people. It is the only policy which will give safety and perpetuity to the union of these States.

Let me mention another encouraging sign. I noticed the other day that the distinguished Senator from Nevada, [Mr. STEWART,] heretofore acting with the President of the United States in opposition to the policy of Congress, has declared, in resolutions submitted by him, for universal amnesty and universal suffrage. Sir, this but shows the progress of the hour; it but shows the stern, earnest, reliable, loyal, sentiment of this Union is right in vindicating the principles of justice and humanity, and as sure as God reigns in heaven, they will ultimately triumph over the wrongs and injustice that the party opposed to the war power and the war party of the Union have been promulgating during this contest, and now seek to impose on this question of reconstruction.

Sir, I do not feel like pursuing the harsh policy toward helpless States. I do not feel like asking (though it would be just to ask) indemnity for the past, but I must demand security for the future. I am standing, so far as I am concerned, in favor of limited negro suffrage in the southern States. On the negro suffrage bill in the District of Columbia I was in favor of restricted suffrage. I am to-day in favor of restricted negro suffrage in the States. I not only want it for the purpose of balance against the rebels in those States, but I want it for the protection of the negro himself. I am not of those who believe that the Freedmen's Bureau bill is broad enough to build a political platform upon, nor yet do I think our Democratic friends can make a successful race upon the President's veto message. Both platforms are too narrow for the American people to stand upon. The great, the living, the vital question of the hour is the extension of suffrage to the negro in the southern States with a view to his own protection and the maintenance of loyal supremacy in the Union.

But, sir, in occupying this position, I do not differ with the President of the United States. In a conversation with Mr. Stearns and with the Senator from Missouri, [Mr. HENDERSON,] and again in a letter addressed to the provisional governor of Mississippi, which I will read, he declared himself in favor of negro suffrage.

The SPEAKER. The gentleman's hour has expired.

Mr. MOULTON obtained the floor.

Mr. MYERS. I move that the gentleman from Missouri be allowed to conclude his remarks.

There was no objection, and it was ordered accordingly.

Mr. ANDERSON. I thank the House for the extension accorded to me.

As I was saying, the President of the United States addressed a letter to the provisional governor of Mississippi, which I will read:

EXECUTIVE MANSION,
WASHINGTON, D. C., *August* 15, 1865.

Governor WILLIAM L. SHARKEY, *Jackson, Mississippi:*

I am gratified to see that you have organized your convention without difficulty. I hope that without delay your convention will amend your State constitution, abolishing slavery and denying to all future Legislatures the power to legislate that there is property in man. Also, that they will adopt the amendment to the Constitution of the United States abolishing slavery. If you could extend the elective franchise to all persons of color who can read the Constitution of the United States in English and write their names, and to all persons of color who own real estate valued at not less than $250, and pay taxes thereon, you would completely disarm the adversary and set an example the other States would follow. This you can do with perfect safety, and you thus place the southern States, in reference to free persons of color, upon the same basis with the free States. I hope and trust your convention will do this, and, as a consequence, the radicals, who are wild upon negro franchise, will be completely foiled in their attempts to keep the southern States from renewing their relations to the Union by not accepting their Senators and Representatives.

ANDREW JOHNSON,
President United States.

Here, sir, it will be seen the demands of the wild radicals of the country were considered potent, and the President of the United States, in order to bring about a restoration of these States to the Union, was willing to accede to it and urge Governor Sharkey that he should have the State of Mississippi incorporate into her constitution the right of franchise to these negroes. Mr. Lincoln, the martyr President, in his letter to Governor Hahn, of Louisiana, advocated the same policy. The loyal men of this Union look to it as a necessity, not only for the preservation of the supremacy of loyalty in the councils of the nation, but as the means of protection to the negro himself.

But, sir, there is another duty we owe: we owe something to the loyal sentiment in the southern States of the Union. It is said they want immediate admission here. Has Brownlow said so? Has Maynard, has Stokes said so? Have these men, known to be in the forefront of the fight during the rebellion, said so? No, sir. They are here presenting credentials and asking for admission into Congress; but they do not ask it if the military power of the Union is to be withdrawn from those States, and they are to be left at the mercy of the traitors there.

"Colonel W. B. Stokes, elected Representative in Congress, was presented in Nashville a gold-headed cane on the 8th instant, prior to his departure for Washington. The presentation took place in the Senate chamber of the capitol, Governor Brownlow, Generals Thomas, Fisk, Milroy, &c., being present. In referring to the presentation address by W. B. Shane, Esq., he said:

"I am again on my way to Washington to help the Union men to restore law and order! I am regardless who deviates to the right or to the left. If some men choose to go astray, even if they be high in authority, I have taken no oath to follow any man. *Your friends in Washington are the Union men in Congress.* Sometimes they are termed radicals. I don't care what name you call them. I can be called a radical as easily as I was called a Lincolnite and abolitionist in 1861. The radicals are your friends, I repeat. Some of them are a little extreme in some of their views, but still you must remember that these Union men are the ones who saved our Government in 1861, when it required all the energy and courage of man to meet the dreadful crisis. Are they not the men whom you should trust now with the reins of Government?"

And, sir, that man utters to-day the loyal sentiment of the States to be reconstructed. They do not desire to be turned over bound hand and foot to the traitors of the South. So far as the settlement of this question is concerned they stand waiting patiently the action of Congress, well satisfied that its action will be in the interest of the oppressed loyalists of the South. And, sir, that action will be satisfactory. This Congress will do its duty and its whole duty before it adjourns. Time is a renovator of wrong, a corrector of evil. I feel assured that the loyal men of the South will be protected by this Congress, and that it is the intention of this Congress to preserve their rights in the States lately in rebellion. And in that policy it will be sustained by the loyal people of the entire country.

Already, sir, the answer comes up from the loyal hearts of the men of the old Granite State. In thunder tones they tell us, "We stand by the Congress of the nation; we mean to protect the loyal men of the South, both white and black."

And to that policy the President of the United States was thoroughly committed. But if perchance he shall pursue such a line of policy as to consolidate the South, then it will be the old contest over again, in which Lincoln triumphed over Douglas, Breckinridge, and Bell—a consolidated North against a consolidated South. And who will question the result? Who will doubt where the victory will lie?

Mr. WHALEY. I wish to make a brief reply to a remark of the gentleman from Missouri, [Mr. ANDERSON,] which seemed to have a personal reference to my early political faith as a Douglas Democrat. I only wish to occupy a moment or two, and not to tire the patience of the House.

I desire to say that three different times I have met the Union members of Congress in caucus, and coöperated with them in the election of their most important officers, and it is not for any gentleman at this late day to come in and throw suspicion upon an old Douglas Democrat. I am not sensitive upon this subject, nor do I wish to make a speech at this late hour in the evening; but were I ever so much inclined to address the House, I would scarcely be able to find the opportunity to do so, unless I submitted to the tedious process of registering my name a month in advance of the time of delivery; for when and how, I would like to know, can the occasion be secured to a member here who does not pursue the plan I have mentioned? My speeches, if made at all, are off-hand in their character, and I never expect to deliver one like that of the gentleman from Indiana, [Mr. DUMONT,] who, although absent from his seat throughout the past two months, has delivered, this afternoon, an elaborate and carefully-written speech. I have sought several weeks in succession for an opportunity to be heard in my way, but without success.

Mr. GRINNELL. I would ask the gentleman whether he does not know that the gentleman from Indiana [Mr. DUMONT] has been sick and confined to his room the greater part of the winter. It seems to me very unkind to allude to him in that way.

Mr. WHALEY. It was not in any unkindness that I alluded to that gentleman; but I ask the gentleman from Iowa [Mr. GRINNELL] to tell me in what way a member can get the floor and secure an opportunity to speak. I have only been able to do it by asking gentlemen to yield to me for a monent, when I manage to get in a remark or so. My constituents are expecting it, and yet, after months of time spent here, I fail to get the opportunity I have sought.

Mr. GRINNELL. I do not want to interrupt the gentleman, but I thought he was not aware that the gentleman from Indiana, [Mr. DUMONT,] was a valuable officer in the Army and lost his health in the service of his country.

Mr. WHALEY. I am aware of that, and I appreciate it fully. But to come to what I intended to say. I am not ashamed of having been a Democrat, nor a Douglas Democrat. Some gentlemen seem to think in these days that it has become a disgrace for a man to have ever been a Democrat. It was not so when I first came here in 1861. Then, and for two years succeeding, I heard nothing disparaging to that class of men. Sir, is the Union party of to-day to become either a Whig party or a Democratic party? I think not. But I will do full justice to the patriotic men of all parties—Whigs, Republicans, and Douglas Democrats—who united in a solid phalanx against the Breckinridge Democracy in my State. The people of my State do not want any party but that of the Union.

Sir, I hope that some time or other I shall have an opportunity to speak for a few minutes. For the present I can only say, that so long as the escutcheons of these States are engraven on the ceiling of this Hall, just so long as the stars, emblematic of the number of these States, shall remain on the flag that now decorates your Speaker's stand, we should regard them all as in the Union.

Sir, the gulf between Congress and the President is not so wide that it cannot be bridged. So far as I am concerned, I can see no difficulty in our coming together. If we do not bridge this gulf, let gentlemen beware of the next congressional election when they will have to meet the people and when this question will be decided.

Mr. MOULTON obtained the floor.

Mr. HOGAN. The gentleman from Illinois is not solicitous to go on this afternoon, and I presume the members of the House are not solicitous to have him go on. With his consent, I move that the House do now adjourn.

The motion was agreed to; and thereupon (at four o'clock p. m.) the House adjourned until Monday.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to appropriate committees:

By Mr. ASHLEY, of Ohio: Petitions from the business men of Toledo, Ohio; Williams county, Ohio; Archibald, Ohio; Petersville, Ohio; Oakland, Ohio; Whitehouse, Ohio; and Washington, Ohio, praying Congress for an appropriation to improve the navigation of the Maumee bay and the harbor of Toledo, Ohio.

Also, from the business men of La Fayette, Indiana; West Point, Indiana; Fort Wayne, Indiana; Peru, Indiana; Williamsport, Indiana; Lawrence, Indiana; Butler, Indiana; Waterloo City, Indiana; Roanoke, Indiana; West Lebanon, Indiana; Wabash, Indiana, and Huntington, Indiana, praying for an appropriation for the same purpose.

Also, from the business men of Decatur, Illinois; Naples, Illinois; Jacksonville, Illinois; Niantic, Illinois; Clayton, Illinois; Mound City, Illinois; Bement, Illinois; and Alexander, Illinois, praying for an appropriation for the same purpose.

By Mr. BEAMAN: The petition of Horace R. Gardner, and 69 others, citizens of Hillsdale county, Michigan, asking the extension of the land grant to the Amboy, Lansing, and Traverse Bay Railroad Company, in the State of Michigan.

By Mr. SPALDING: The petition of Joseph G. Hussey, and others, citizens of Cleveland, Ohio, for an increased tariff on copper.

IN SENATE.

MONDAY, *March* 19, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY.

The Journal of Friday last was read and approved.

PETITIONS AND MEMORIALS.

Mr. SUMNER presented the petition of citizens of New York, praying that no State may be admitted as a governing partner in the Union without adequate security being obtained against any renewed attempt to secede, &c.; which was referred to the joint committee on reconstruction.

He also presented a petition of citizens of Jefferson county, Pennsylvania, praying for the adoption of such an amendment to the Constitution as will forever prevent any State from making any distinction in civil rights and privileges among the naturalized citizens of the United States residing within its limits, or among persons born on its soil, on account of race, color, or descent; which was referred to the joint committee on reconstruction.

He also presented a petition of citizens of the United States residing in Richmond, Virginia, Raleigh, North Carolina, Mobile and Huntsville, Alabama, journalists, editors, and publishers, praying for the adoption of an international copyright law by this Government and that of Great Britain; which was referred to the Committee on Foreign Relations.

He also presented a similar petition from citizens of Massachusetts, New Hampshire, and New York; which was referred to the Committee on Foreign Relations.

Mr. WADE presented five petitions of citizens of Ohio, representing that the wool-growers in Ohio are not sufficiently protected against foreign importations of wool, and praying for an increase of duties on imported wool; which were referred to the Committee on Finance.

Mr. NESMITH presented three petitions of citizens of Oregon, praying for the establishment of a mail route between Dalles, Wasco county, Oregon, and Boise City, in the Territory of Idaho; which were referred to the Committee on Post Offices and Post Roads.

Mr. RAMSEY presented a petition of citizens of Pierce county, Wisconsin, praying for the establishment of a mail route from Red Wing, Minnesota, to River Falls, Wisconsin; which was referred to the Committee on Post Offices and Post Roads.

Mr. KIRKWOOD presented resolutions of the Legislature of Iowa, in favor of granting to the Iowa branch of the Union Pacific railroad the same aid, under like restrictions and limitations, as has been granted to the Kansas branch of that railroad; which were referred to the Committee on the Pacific Railroad.

He also presented resolutions of the Legislature of Iowa, in favor of the establishment of a national Bureau of Education; which were ordered to lie on the table.

Mr. WILSON presented a petition of officers of the United States Army, praying for an increase of pay; which was referred to the Committee on Military Affairs and the Militia.

He also presented the petition of Austin Bingham, and others, late slaves belonging to the estate of the late G. W. P. Custis, deceased, who by his will were to receive from the estate a comfortable subsistence during their lives, praying to be allowed a title of ten acres of land each on the Arlington estate so called, in consideration of the terms of the will; which was referred to the Committee on the Judiciary.

Mr. VAN WINKLE presented the petition of D. B. Allen, agent of the Ocean Steamship Line running between New York and San Francisco, via Panama, praying for compensation for services rendered to the Post Office Department by that line in the transportation of the United States mail during the years 1864 and 1865; which was referred to the Committee on Post Offices and Post Roads.

He also presented a petition of citizens of West Virginia praying for the establishment of semi-annual terms of the United States district court in the city of Parkersburg, in that State; which was referred to the Committee on the Judiciary.

Mr. WILLIAMS presented two petitions of citizens of Oregon, praying for the establishment of a mail route from Portland to Silverton, in that State; which were referred to the Committee on Post Offices and Post Roads.

Mr. CRESWELL presented the petition of Messrs. Schley and Emery, of Baltimore, Maryland, praying that a pension may be granted to Mrs. Agnes W. Laughlin, widow of William Laughlin, late of company C, third Maryland cavalry, who was drowned by the sinking of the United States steamer North America, in the month of December, 1864, while absent from his regiment on a furlough on account of sickness contracted in the service; which was referred to the Committee on Pensions.

He also presented the petition of George P. Remsberg, praying for an appropriation for the support and education of his son, Charles Remsberg, who lost his right arm by a volley fired by the provost guard in the public street in the city of Frederick, Maryland, on the 13th of April, 1865; which was referred to the Committee on Claims.

Mr. SHERMAN. I present five petitions from persons engaged in mining, manufactures, commerce, agriculture, and the mechanic arts, in which they relate that the excise tax is disproportionate to the customs duties on many similar European products, so as not only to strip American products of the protection intended to be given to them, but to offer direct and large premiums upon the importation of foreign articles—a result not contemplated when the existing revenue laws were framed. They complain that many branches of industry have been suspended by this state of affairs, and they remonstrate against any alteration in the present rates of duties on imports which shall lead to large importations of the products of foreign manufactories. They claim that many of the internal duties are much larger than the corresponding duties on imported articles, and that alterations should be made to put them at least on an equality with the labor of foreign countries. They complain also that the fluctuation and variation in the amount of the circulating medium is so great, there being no law fixing it, tends to derange all their business calculations, so that they cannot enter into any business with the certainty that their values will not be suddenly changed by this fluctuating financial policy. I ask the reference of these petitions to the Committee on Finance.

They were so referred.

Mr. SPRAGUE presented the following petitions, which were severally referred to the Committee on Finance: the petition of W. R. Potts, treasurer of the American Optical Company of the city of New York, praying for an increase of the duties on all kinds of imported optical instruments; the petition of Willard & Co., manufacturers of camera tubes and lenses, praying for an increase of thirty per cent. on the duties on imported tubes and lenses for photographing; the petition of Wirth and Miller, manufacturers of cameras, praying for an increase of forty per cent. on the duties on imported photograph cameras; the petition of Chapman & Wilcox, manufacturers of cameras, praying for an increase of thirty per cent. on the duties on imported cameras for photographic use; the petition of Perry & Chambers, opticians, praying for an increase of fifty per cent. on the duties on imported cameras and lenses; the petition of Henry G. Fitz, telescope maker, praying for an increase of the duties on imported photographic and optical instruments; the petition of Prosch & Meyer, praying for an increase of the duties on imported optical instruments and photographic tubes; the petition of Julius Grunow, praying for an increase of forty per cent. on the duties on imported optical instruments; the petition of Bryant & Smith, praying for an increase of thirty per cent. on the duties on lenses imported for photographic use; and the petition of G. Wesom

& Co., praying for an increase of thirty per cent. on the duties on tubes and lenses imported for cameras.

REPORTS OF COMMITTEES.

Mr. HOWE, from the Committee on Claims, to whom was referred the petition of Rebecca S. Minor, praying for compensation for property taken and used by the United States Army in the years 1863 and 1864, in Natchez, Mississippi, reported adversely thereon, and that the petitioner have leave to withdraw her petition and other papers. The report was ordered to be printed, and leave was granted to withdraw the papers.

Mr. HOWE, from the Committee on Claims, to whom was referred the petition of Ephraim Hunt, praying for compensation for his services as a soldier in the late war with Great Britain, submitted an adverse report; which was ordered to be printed.

Mr. WILLIAMS, from the Committee on Claims, to whom was referred the petition of the executors of the estate of the late Colonel D. D. Tompkins, praying that the accounting officers of the Treasury may be authorized to audit and settle his accounts upon principles of equity and justice, submitted an adverse report; which was ordered to be printed.

SOLDIERS' ASYLUM.

Mr. WILSON. I am directed by the Committee on Military Affairs and the Militia, to whom was referred the amendment of the House of Representatives to the bill (S. No. 54) to amend an act entitled "An act to incorporate a national military and naval asylum for the relief of the totally disabled officers and men of the volunteer forces of the United States," to report it back to the Senate with a recommendation that the Senate concur in the amendment of the House of Representatives. If there be no objection, I should like to have it acted upon now.

There being no objection, the Senate proceeded to consider the amendment.

Mr. WILSON. I will state that the first three sections of the proposed amendment differ from the first three sections of the Senate bill. The other sections are similar to the remaining sections of the Senate bill, and I suggest that it is not necessary to read them in order to have an understanding of the House proposition.

The PRESIDENT *pro tempore*. The first three sections only of the amendment will be read unless some Senator desires the other sections to be read.

The Secretary read, as follows:

IN THE HOUSE OF REPRESENTATIVES,
March 13, 1866.

Resolved, That the bill from the Senate (No. 54) entitled "An act to amend an act entitled 'An act to incorporate a national military and naval asylum for the relief of the totally disabled officers and men of the volunteer forces of the United States,'" do pass with the following amendment:

Strike out all after the enacting clause and insert the following:

That the President of the United States, Secretary of War, Chief Justice of the United States, and such other persons as from time to time may hereafter be associated with them, according to the provisions of this act, are hereby constituted and established a board of managers of an establishment for the care and relief of the disabled volunteers of the United States Army to be known by the name and style of "The National Asylum for Disabled Volunteer Soldiers," and have perpetual succession, with powers to take, hold, and convey real and personal property, establish a common seal and to sue and be sued in courts of law and equity; and to make by-laws, rules, and regulations for carrying on the business and government of the asylum, and affix penalties thereto: *Provided*, That such by-laws, rules, and regulations are not inconsistent with the laws of the United States.

SEC. 2. *And be it further enacted*, That the business of said asylum shall be managed by a board of twelve managers, who shall elect from their own number a president, who shall be the chief executive officer of the board, two vice presidents, and a secretary; and seven of the board, of whom the president or one of the vice presidents shall be one, shall form a quorum for the transaction of business at any meeting of the board.

SEC. 3. *And be it further enacted*, That the board of managers shall be composed of the President and Secretary of War and Chief Justice of the United States, *ex officio*, during their terms of office, together with nine other citizens of the United States, not members of Congress, no two of whom shall be residents of the same State, but who shall all be residents of States which furnished organized bodies of soldiers to aid in the late war for the suppression of the rebellion, (no person being ever eligible who gave aid or countenance to the rebellion,) to be selected by joint resolution of the Senate and House of Representatives immediately after the passage of this act. The term of office shall be for six years, and until others are appointed in their places, after the first selection, which shall be three for six years, three for four years, and three for two years, to be determined by the order in which they shall be named in the resolution. New elections shall be made by joint resolution of Congress, and vacancies by death, resignation, or otherwise, to be filled in like manner. No member of the board of managers shall receive compensation as such member; but his traveling and other actual expenses while upon the business of the asylum may be paid. But any member of the board having other duties connected with the asylum may receive a reasonable compensation therefor, to be determined by the board.

The PRESIDENT *pro tempore*. That completes the three sections of the House amendment stated by the Senator from Massachusetts to differ somewhat from the three sections in the Senate bill. The residue of the amendment of the House is the same as the Senate bill, but will be read if any Senator demands it.

Mr. GRIMES. I desire to inquire of the chairman of the Committee on Military Affairs whether, as the bill will stand if the Senate adopt the amendment of the House, the law passed at the last Congress upon this same subject will be repealed by its provisions.

Mr. WILSON. I think it is so. It was intended to repeal that act, and substitute another. I think you will find the last section repeals it.

The PRESIDENT *pro tempore*. The question is, Will the Senate concur in the amendment made to this bill by the House of Representatives?

The amendment was concurred in.

PERSONAL EXPLANATION.

Mr. FESSENDEN. I find it necessary, I believe for the first time since I have been a member of the Senate, to ask leave to make a personal explanation. I find in the National Intelligencer of March 17, 1866, a communication from Mr. William A. Graham, whose credentials as a Senator from the State of North Carolina have been laid upon the table. He prints, and makes a part of his communication, a letter written by him to me, and my reply to it, and the rejoinder on his part. The Senate will recollect that a few days since the honorable Senator from Kentucky [Mr. DAVIS] brought the matter to the consideration of the Senate, and made some pretty sweeping charges against the committee of fifteen of unfairness in their proceedings. The honorable Senator from Iowa [Mr. GRIMES] made an explanation of the course that was taken in his branch of the committee, to whom was referred all matters relating to the State of Tennessee. The Senator from Maryland [Mr. JOHNSON] also certified to the course that had been taken by the committee; and I stated that, so far as I knew and believed, there had been no application to the committee or any of the sub-committees on the part of representatives from the States in question which had not been granted; that but one application had been made to me, and that was by a letter of a gentleman whose credentials had been presented as a Senator, and that I replied to him, stating that he could introduce testimony. I did not pretend to give the language that was in the letter because I kept no copy of it, and it was not before me. I stated the general idea that I had in my mind as to the substance of my reply, which was that the committee was ready to receive testimony when offered to any reasonable extent. The letters are published, and Mr. Graham states that he publishes the correspondence and his communication in consequence of the debate that took place in the Senate. The letter which he wrote me made two requests, or might be considered as a request with two branches. One was that those claiming to represent these States might be allowed to be present and cross-examine all witnesses who were produced, and also that they might be allowed to introduce testimony themselves on the subject. The letter which I wrote in reply to both points is very short, and I will read it:

"WASHINGTON, *January* 24, 1866.

"DEAR SIR: It is not customary to allow a cross-examination of witnesses before a committee appointed to report on a subject not involving individuals. The committee is supposed to be desirous to ascertain the truth, and capable of making all the examination necessary.

"The committee is quite willing, however, to examine any witnesses who may be produced, having a knowledge of the subject-matter, to any reasonable extent."

I think that bears me out in the statement that I made, which, in fact, he does not undertake to dispute, that I answered him that he would be allowed to introduce testimony. Then I stated in addition:

"The credentials of gentlemen claiming to be Senators have not been referred to this committee, and there is no probability that they will be."

I added that to dispose of what seemed, from his letter, to be an impression on his mind that the whole question of their right to seats, involving credentials, &c., was before our committee, which it was not. Before writing this letter, in the morning, at a meeting of the committee, having had no sort of experience myself on committees of this kind, I stated the fact that I had received the letter, and inquired as to what the practice was. It was stated to me, by whom I do not know, and generally conceded, that it was not the practice where a committee of investigation was appointed not involving individuals, on a general subject, to allow persons to be present to make cross-examinations of witnesses; but that there was no objection whatever to Mr. Graham or anybody else introducing such testimony as he saw fit to introduce. Those ideas I communicated to him. The language of my answer is not precisely the same as that which I stated here. I stated it in the ordinary course of debate, without particularly attending to the words, but the idea is precisely the same, and that is that he would be permitted to introduce testimony if he saw fit. To that there was a reply in which the matter was again urged somewhat. It is not necessary that I should read it, but his idea seemed to be that the committee should furnish him and all other gentlemen who are claimants for seats here notice of the points on which evidence is desired, or prejudicial testimony which it is necessary to meet, in order that they might come and meet it or produce testimony on the other side. To that letter I made no reply, for I considered the matter settled, and I was not disposed to continue the correspondence.

Now, sir, I have only to say that Mr. Graham seems to be laboring under a misapprehension with regard to the matter. In the first place, his idea of what a committee of investigation upon a general subject is to do is not my idea, or the idea of the committee. I repeat what I stated in my letter, that a committee of investigation is rather a judicial office than otherwise. I did not consider myself, when I went to that committee, as being placed in an adversary position to these States, or to any individual who had been selected as a Senator or Representative from any of these States. I considered—and that was the view of the committee, and I suppose it is the common view, from what I can learn—that the position was rather judicial; that we were to investigate fairly and thoroughly, to our satisfaction, the whole subject, and from our appointment I supposed the Senate and House of Representatives were willing to trust the matter in our hands. The idea that we should consider ourselves in an adversary light as accusers of these States, and notify somebody from those States of the points we expected to make against them, and have counsel on the other side to cross-examine witnesses, and have a judicial trial, seemed to me to be very much out of the ordinary course, one that would prolong the proceedings, and give to them a character which they ought not to be considered as bearing. In that point of view I concurred with the advice that I had received, and that was, that it was not customary to have a cross-examination of

witnesses before a committee, because it could not well be done. The immense extent of country we were to examine into the condition of, the great number of witnesses to be examined, the necessity of dividing the work to be done among different members of the committee, the fact that we could not ourselves tell what the points were until the testimony taken developed those points, would all go to show the impropriety and inexpediency of any such proceeding. The expectation which Mr. Graham seems to have indulged in on that point is not one in which I concur at all; it is not one necessary, in my judgment, in such a case, to eliminate the truth; because, I repeat, that, in my judgment, from the very nature of a congressional committee appointed upon a general subject, they are supposed to be competent to ascertain the truth, and to be disposed to make a fair examination. So much with regard to that point.

In regard to the other point which he states, and that is, that the testimony is closed, he is entirely mistaken. He takes it for granted that as the testimony has been ordered to be published, therefore no more is to be taken. If the testimony had been closed, the order for publication would have been attended with a report made by the committee. It is not closed yet, except in the single case of the State of Tennessee. It was thought advisable by the committee, as there was great uneasiness in the mind of the country, and a great misunderstanding of what the facts were, and inasmuch as, to state a fact which is less in consideration, we were notified that there was very little to do at the Government Printing Office, and they would like to have something to do, and we had a large mass of papers on hand, to begin to print the testimony; and we got leave, therefore, from the House of Representatives, to have printed such parts of the testimony as were ready to go to the printer, without closing the testimony at all; and in fact it is still going on; and I will state that we are ready at any time, and the committee have always been ready, precisely as stated before, to receive and examine such witnesses as Mr. Graham or any other gentleman claiming a seat might think fit to produce in the fullest manner that we are capable of doing.

I will state further that none of the testimony with regard to North Carolina has been printed. Mr. Graham alludes in his communication to the Intelligencer to one deposition in relation to affairs in that State. How that got in there I do not know. I presume it was taken by some other than the sub-committee to whom that subject was referred. The State of North Carolina, if I recollect aright, is under the charge of the sub-committee of which Senator HOWARD is chairman. None of that testimony has been published, for the simple reason that at the time the order of publication was made, Senator HOWARD was away, being called home by a domestic calamity. The testimony was all in his possession. He was not here, and we have been deferring that particular portion until he returned, in order that it might be published under his supervision. The publication was left to the chairmen of the several sub-committees. He will be back in a day or two. I received a letter from him this morning. I think the States of Virginia, North Carolina, and South Carolina are all committed to the sub-committee of which he is chairman, and the testimony is all in his possession, and none of it, as I understand, has yet been printed; so that Mr. Graham is laboring under a very great error in supposing that this is a judicial proceeding in that particular; that is to say, that it is conducted according to the rules of a court in equity or in other cases, taking all the testimony before you order the publication. He infers that because the publication has commenced, therefore it is all closed, and no more is to be taken. That is not so. The subject is still open for his examination if he desires it. If we were to agree to his idea that notice should be given to him of the points that will be in our mind, and that he should be called upon to explain them, and appear as counsel and cross-examine every witness, and all the other gentlemen from these other States should do the same thing, it would protract the investigation indefinitely. We did not suppose it necessary, and we were informed that it was not customary in such cases, and therefore my reply was as it reads. I have only to state that Mr. Graham is at perfect liberty now, as he has been all along if he saw fit, and I took it for granted he would, after receiving my letter, send his witnesses here or come up with them to have them examined. As he did not do so, I thought very little more of it one way or the other, because it so happened as the business was divided on the committee I was not on any one of the sub-committees engaged in taking testimony.

I make this explanation in order to disabuse the public mind of any idea that anything has been denied to any of these gentlemen except to come up to what Mr. Graham, in his communication, seems to suppose ought to have been done. I differ with him entirely. I differ with him on the subject of practice, and I differ with him as to the question of expediency. I am not willing to admit, when I go on a committee of this kind, that I go there as counsel to convict anybody, or go there to make a case against anybody in any shape or form. I take it for granted if I am ordered to investigate a subject that I am counsel on both sides and judge, and under every obligation to make that examination fairly and honestly, and present the facts as they exist, and not as they might be made out by a particular person or set of persons. That is not my notion, or according to my ideas, of duty in such a case.

Mr. DAVIS. When this subject was up before the Senate on the question of printing the testimony the position that I took was, that from information I had received I did not believe the committee were making a full and fair examination in relation to the condition of the southern States, whose condition they were investigating. I admit that imputation rested mainly upon a conversation I had held with Mr. Graham. I ask leave to read the correspondence between the honorable Senator, whose remarks in relation to his sense of the duty that he is to perform on this investigation we have just heard, and Mr. Graham, in justice to Mr. Graham. Here is Mr. Graham's letter:

HILLSBOROUGH, NORTH CAROLINA,
January 17, 1866,

SIR: Observing that you are first named in the Senate's branch of the committee upon the admission into Congress of members from the southern States, and having forwarded to the President of the Senate, to be laid before that body, my commission as a Senator from North Carolina; perceiving, also, that the committee has been authorized to take evidence in the matters submitted to it by sending for persons and papers, I take the liberty of respectfully suggesting through you to the committee that it will be but justice, in the conduct of its proceedings in the premises, to permit the delegation elected from each State to be present at the reception of all evidence touching such State or any of its members, with the privilege of cross-examining witnesses and of introducing counter evidence if they shall deem it proper.

And for myself and my colleagues, I with deference request the exercise of this privilege in relation to all evidence having reference to the State of North Carolina or any of her members elect.

I am, with the highest respect, your obedient servant,
W. A. GRAHAM.

Hon. WILLIAM P. FESSENDEN, *Senate United States.*

It does not occur to me that there was anything improper in the request made by Mr. Graham in this letter. If no Senator or Representative from these eleven excluded States had come up to Congress at the present session asking to be admitted into the respective Houses, this proceeding would not have been instituted. It is in substance a proceeding to determine whether it is proper to admit or to exclude these gentlemen that claim to be representatives in the two Houses from those States. It is so treated by Mr. Graham, and it will be so treated by the common sense of the country.

Now, sir, in an issue of that kind, when a matter is to be decided in relation to each of the members who claim seats, and concerning Mr. Graham particularly, whether he shall be received as a Senator-elect from the State of North Carolina to this body or not, when that question is undergoing a *quasi* judicial investigation by a committee of the two Houses of Congress, what would seem to be more obviously proper than that the gentlemen concerned in that investigation should know that the committee were sitting upon the subject and that they should have the privilege of being present during the whole investigation, of hearing evidence that might be adduced against them, of cross-examining the witnesses, and if they deemed proper, of introducing other witnesses to explain or to contradict what might be proven against them. The honorable Senator from Maine replied in a very courteous letter, to the terms and manner of which I make no complaint. Mr. Graham added to his first letter this sentence:

"My residence here is within twenty-four hours journey of the Capitol, and I will attend there at any time on notice from the committee."

That was in substance and fact simply an inquiry whether he and the gentlemen who occupied a similar position to himself in relation to seats in the two Houses, would be permitted to be present upon the investigation of a matter in relation to their respective States, to hear the evidence against them, to cross-examine witnesses, and if they thought proper to introduce counter testimony. The reply of the honorable Senator is in these words:

WASHINGTON, *January* 24, 1866.

DEAR SIR: It is not customary to allow a cross-examination of witnesses before a committee appointed to report on a subject not involving individuals. The committee is supposed to be desirous to ascertain the truth, and capable of making all the examination necessary.

The committee is quite willing, however, to examine any witnesses who may be produced, having a knowledge of the subject-matter, to any reasonable extent.

The credentials of gentlemen claiming to be Senators have not been referred to this committee, and there is no probability that they will be.

Yours, very respectfully,
W. P. FESSENDEN.

Hon. W. A. GRAHAM.

Mr. Graham replied to that, as follows:

HILLSBOROUGH, NORTH CAROLINA,
January 29, 1866.

DEAR SIR: I am much obliged by yours of the 24th instant. I had supposed the province of your committee to embrace that of a committee of elections and privileges, before which I take the rule to be without exception that persons claiming to be members are permitted to hear what may be adduced against their claims, and to bring forward countervailing evidence. If this supposition be not correct, by reason of the fact stated by you, that the credentials of gentlemen claiming to be Senators have not been referred, the question will recur, whether the right of a State to representation is not entitled to an equal privilege of defense by those whom she has chosen for that office.

I know not what, if anything, may be alleged against the right in question on the part of the State of North Carolina. I am satisfied that nothing can be alleged that ought to prevail; but until the objections and proofs are known, it is not possible to canvass them or to offer contradictory evidence. My sole purpose is to aid the committee, so far as this State is concerned, in the ascertainment of truth, and to guard against *ex parte* testimony from unknown or irresponsible sources. If, therefore, the committee will at any time furnish notice of the points on which evidence is desired, or of prejudicial testimony which it is necessary to meet, my colleagues and myself will gladly avail ourselves of its permission to offer such relevant proof as may be in our power.

I am, very respectfully, yours,
W. A. GRAHAM.

Hon. WILLIAM P. FESSENDEN, *Senate United States.*

Now, sir, my own conception was that this investigation involved the two matters, the one personal to Mr. Graham and the other gentlemen who claim seats in the two Houses, and the other relating to the States of which they were the selected representatives. Mr. Graham was certainly involved in this inquiry personally. His State was involved in it, inasmuch as that State had a right to be represented on the floor of the Senate. The committee were sitting judicially, as it strikes me, in relation to both those issues; and it seems to me, it was the obvious duty of the committee to have informed at the threshold each and every gentleman who was claiming a seat in the Senate of the fact of their appointment and of their duty to investigate his case and the case of his State, and to have invited or at least to have informed

Mr. Graham, that the committee at all of its sessions would be ready and willing to allow him to be present before the committee, to hear the evidence that might be taken, to cross-examine the witnesses, and to suggest, to a reasonable extent, any countervailing proof that he might see fit to produce before the committee. How else can a committee proceed judicially? Does a court or a *quasi* court proceed to hear charges and proof against any individual, leaving that individual in utter ignorance both of the charges and proof, at a distant point from the scene of investigation, and never apprise him at all that the investigation was proceeding, much less authorize him to be present, and to take such part in it as every person who is a party to a judicial investigation or a *quasi* judicial investigation by universal usage and by common right is entitled to take in it? I make this as a mere suggestion, without any reflection upon the honorable Senator from Maine. I suppose that he read this reply of Mr. Graham to the committee. If he did, it seems to me the committee ought to have at once entered upon the journal of its proceedings an order that Mr. Graham be informed that the committee will always be ready to permit him to be present when it is proceeding in the case of North Carolina, to hear and to cross-examine all witnesses involving the State of North Carolina and his own personal privilege and rights as a Senator from that State, and also to cause to be brought before it any witnesses that he, to a reasonable extent, might desire to bring before it. But Mr. Graham, as I understand, received no reply from any source whatever to this letter rejoining to the answer of the Senator from Maine. All that he knows in relation to the matter he learns from the public prints and from the publication of testimony taken by that committee and which the Senate ordered to be published.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of Friday.

Mr. DAVIS. It will take me but a minute to conclude on this subject, and I do not desire to trouble the Senate again upon it.

The PRESIDENT *pro tempore*. The Senator can proceed by common consent only. Is there any objection to the Senator from Kentucky proceeding?

Mr. DOOLITTLE. I have no objection if the unfinished business will not thereby lose its place on the Calendar.

Mr. SUMNER. What is it?

Mr. DOOLITTLE. It is the bill which was taken up at the close of the session on Friday providing for an annual inspection into Indian affairs. I desire to dispose of that bill to-day. I presume it will not take over half an hour to pass it.

Mr. CONNESS. The introduction of bills and joint resolutions has not been reached yet in the morning hour. It is very evident this question is pretty well understood now.

Mr. FESSENDEN. Let the Senator from Kentucky finish his remarks.

Mr. CONNESS. Well, I hope he will not consume much time on us this morning.

The PRESIDENT *pro tempore*. The Senator from Kentucky will proceed, no objection being interposed.

Mr. DAVIS. I have already said I would not occupy much time. I was remarking that Mr. Graham had received no letter and no response to the suggestions that he made in his letter of rejoinder to the honorable Senator from Maine. After what took place in the Senate a few days ago Mr. Graham published the correspondence and a very short comment upon it, which I will read and then take my seat. He says:

"The debate in the Senate on yesterday, upon the order to print ten thousand copies of the report of the joint committee on reconstruction, detailing the evidence taken before that committee as to the condition of political sentiment in the several States of the South, and their fitness for representation in Congress, in which allusion was made to the course pursued by the committee in reference to the State of North Carolina, and on application submitted by me that her members-elect should be permitted to hear what might be alleged to her prejudice, and, if they deemed it proper, to cross-examine the witnesses against her, if any, and to adduce other testimony, renders it necessary that I ask of you the favor to publish the following correspondence. It was instituted solely for the attainment of truth, and thereby, as I trusted, to protect the character and rights of the State and people I was deputed in part to represent. The President of the Senate, at my request, had done me the honor to present my commission as a Senator-elect. Though it was laid on the table in conformity to precedents in other cases, and I was not admitted to the exercise of the functions it contemplated, it still, in my conception, devolved on me the duty, in conjunction with my respected colleagues elected to both Houses, to observe the proceedings of the public authorities, and when occasion might seem to invite or justify it, to intervene for explanation, so far as it might be allowed, in defense of the interest and honor of our State and the fair fame of her people. Seeing that an order to authorize the committee to send for persons and papers had passed the Senate, on motion of its chairman in that body, [Mr. FESSENDEN, of Maine,] a proceeding understood to imply that evidence is to be taken, and a searching and thorough investigation to be had, I applied for leave to be present at the examinations pertaining to the State of North Carolina, as will be seen in the letters following."

Then followed the letters, and here is a single word of comment upon them. He says:

"To prevent misconception, I esteem it proper to remark that in giving these letters to the public, no reflection is intended on the motives of the committee, much less on those of its honorable chairman in the Senate, a gentleman with whom, through a personal acquaintance of many years, I have ever maintained the kindest and most respectful personal relations. But it is obvious that, from inadvertence, or a different view of the subject on the part of the committee, or from misapprehension on my part, I have been disappointed in the expectation of being allowed to hear what was imputed to my State as demerit, and of counteracting it, if I could—a mistake from which some injustice has resulted. My inference, from the correspondence, certainly was that the committee, when they should reach the matters touching North Carolina, would notify us of the points on which evidence was desired, and would afford an opportunity to apply to adverse testimony the ordinary tests of truth, as well as of combatting it, if in our judgment proper to be done, by witnesses called by ourselves.

"I was therefore surprised, a few days since, to learn that the committee had made report of the evidence taken by them, and obtained an order for its publication—a proceeding which, in a legislative body, as in a court of chancery, I presume, implies that all the evidence has been taken that it is designed to receive. This inference is confirmed by the application for and adoption of the additional order to print ten thousand extra copies. It imports that the case, as to the facts, is fully made up, and that upon these it is to be submitted to the judgment of the two Houses of Congress, and the still higher arbitrament of public opinion. Now, I most respectfully protest that if, upon anything contained in all this evidence, the people of the State of North Carolina shall be condemned, or kept in a state of condemnation, it will be a condemnation without a hearing when she was entitled to be heard.

"Of all the testimony received by the committee, there is not a single affidavit having any specific reference to her; and there is room for hope that, from the absence of other evidence, she was not considered involved in any great degree of demerit or criminality, and it was not deemed necessary to prosecute the investigation any further on that account. But it cannot escape observation, that in a State of a million inhabitants, the only witness called to speak of her condition, the sentiments and ruling motives of her people, should be Lieutenant Colonel Dexter H. Clapp, from one of the eastern States, an officer of the Freedmen's Bureau at Raleigh, who states that he is conversant with the people in some twenty counties out of eighty-seven—a sojourner filling an office for which there will be no necessity in a short time to come, unless upon the theory that the government of the State will not do justice to its negro population in their new condition of freedom.

"I do not design to impeach the integrity of this gentleman. He is spoken of in terms of high respect by persons of our common acquaintance. It has so happened that I have not met him. But surely his opinions, loosely expressed, as they are in his affidavit—and nothing more fully illustrates the importance of cross-examination than the want of precision in the language of his statement—formed by intercourse, as he admits, among less than one fourth of the people of the State; his vague statement of a design to repudiate the rebel debt, (what is meant by this I do not comprehend;) his sweeping assertion that 'Union men and freedmen stand a poor chance for justice in the State courts,' (an aspersion upon the judicial officers of the State recently chosen by a Legislature elected under the restricted system of suffrage ordained by the proclamations of the President and provisional governor, as well as an injustice to the general sentiment of the people,) are all too indefinite and unsupported to serve as the foundation for any action or course of policy on the part of the Government toward the people of an entire State. Had I been so fortunate as to have had the attention of the committee, even after this affidavit was taken, I think I could at once have more than neutralized all the disparaging testimony of Colonel Clapp, by requesting that there might be summoned another officer of the Freedmen's Bureau, some time on duty at Fayetteville, North Carolina, who had equal opportunities of observation, and I judge as much capacity for improving them. This is Major Lawrence, of Illinois, (I am told a brother of the chief justice of that State,) whose letter recently published on these topics I hope to append to these remarks, as well as the statement of Colonel Clapp.

"I had no design or wish to be examined as a witness myself. I should have considered myself rather as occupying the place of counsel or advocate of the State. And if the committee had intimated a wish for such information, would have taken pleasure in furnishing them the address of gentlemen in every section of the State whose acquaintance, whose integrity, whose intelligence, whose loyalty, and interests, and identification with the country qualified them to speak of the condition of affairs and the state of feeling and opinion towards the Government of the United States with full knowledge; men whose ambition has been chastened by the fires of adversity, whose afflictions and sacrifices would satiate a generous foe, whose desire is to reëstablish the constitutional relations of all the States with the Federal Union, and, as preparatory to this, to disarm the spirit of revenge and the remorseless passions engendered in a great revolution, which, by reason of its want of success, many are unable to distinguish from a petty rebellion.

"And before Congress and the people, to which this evidence is submitted for their verdict and judgment, I respectfully claim that the State of which I am a citizen and a servant is not to be affected injuriously by any evidence received by this committee. She has in good faith submitted herself to all the requirements in that scheme of policy prescribed by the President from the Potomac to the Rio Grande; is obedient to every law of the Union; is with heavy sacrifices paying the arrearages of taxes of former years to the United States as well as present levies, and not arrogantly, but confidently, appeals to that sense of justice and those remembrances of ancient friendships which shall restore to her the full fruition of her rights as a State of the American Union.

"W. A. GRAHAM.

"EBBITT HOUSE, WASHINGTON, *March* 16, 1866."

"The following, referred to above, is from the abstract of the testimony taken by the reconstruction committee, as published in the newspapers:

"'Lieutenant Colonel Dexter H. Clapp, on duty for the Freedmen's Bureau in North Carolina, testifies that he had knowledge of twenty counties. The secessionists had no inclination to oppose the Government by open war any further, but he thought they have no more love for the Government now than they had at any time during the rebellion, and only submit to it as a necessity. The most sensible of them intend to make the best they can of it. He heard regrets expressed of the results of the fight among a large portion of the citizens. There is a great desire to get back fully into the Union. He was well satisfied that it is now their intention, when they get back, to unite with whatever parties at the North they can to repudiate the rebel debt. He could not say there was a settled conspiracy for the purpose, but it was a sort of common understanding—an expected thing. Some of the most sensible and shrewdest men in the State told him so. Freedmen and Union men do not stand much chance for justice in the State courts. He thought the secessionists of North Carolina would adopt any course giving them any reasonable hope of obtaining their independence, but he thought they had no idea of fighting. He believed a large portion of them would join the common enemy if they thought there was any reasonable prospect of success; but he was clear in the idea they would not fight the North any more, as they are now satisfied with the experiment.'"

Appended to this is an extract of a letter from Major Henry C. Lawrence, acting quartermaster and agent of the Freedmen's Bureau, at Fayetteville, North Carolina, and as it is very short I will read it:

"FAYETTEVILLE, NORTH CAROLINA,
"*February* 14, 1866.

"I confess I am tired out and half worn out with the annoyances of my position, and need rest; and am so far from having any sympathy with the views that seem to prevail in Congress, that I am unwilling to be even an humble instrument in aiding to carry them out. While there was, and could be, no law but military law, or rather authority, the bureau was a necessity to some extent. But to continue it after the States shall have given the blacks their civil rights seems to be the very reverse of sound policy, considered simply with reference to that. It will engender hatred toward the blacks on the part of the whites, as a favored class to whom extra legal protection is given by the Federal Government—hatred toward the Government itself, which, by this system, pronounces the people regardless of justice, and brands courts and bar and juries, in advance, as ready perjurers. It substitutes for men learned in law, and soon to administer it, for trial by jury and right of appeal the decision of men who, in many cases, if not most, will know nothing of law; who will often be prejudiced, and some, judging from the past, will be corrupt. It will incite in the blacks, to some extent, a sense of independence of the local laws; sanction their distrust of them, the courts, and people, and certainly cannot tend to educate them in the duties of citizens."

Mr. CHANDLER. I call the Senator from Kentucky to order. There is no question before the Senate.

Mr. DAVIS. I have just had permission of the Senate to read this document. I have but a sentence or two more to read.

Mr. FESSENDEN. The Senator asked permission to read Mr. Graham's communication, but I believe he has been for some time reading the editorial of the Intelligencer.

Mr. DAVIS. No, sir.

Mr. FESSENDEN. Are you reading Mr. Graham's communication now?

Mr. DAVIS. I am reading the statement of Major Lawrence, which Mr. Graham appends as a part of his communication, and I have but a sentence of it to read.

Mr. FESSENDEN. Very well; I thought it was something else.

Mr. DAVIS. This letter continues:

"Instead of allaying, it will beget, jealousy and ill will between the races to a greater degree than now exists, and finally produce the very evils it is intended to guard against. And how such a system can be exercised, except as a temporary military necessity in a conquered country, I cannot conceive. It is liable to all our old objections to the 'fugitive slave law,' and, unlike that, will be an ever-present, ever-acting evil; and its provisions are very incomplete for the end proposed, unless it is assumed that military authority is to remain paramount. For instance, I can fine a man fifty dollars and imprison him thirty days; but in case of murder of a black, the district or department military commander must order trial by court-martial. Upon conviction the case may, of course, go to the Secretary of War for review. Such a trial is in progress now in Raleigh. If this system is to be retained after the States shall be reconstructed —whatever that may be—and if this is republicanism or self-government, I shall despair of ever being able to comprehend the first principles of political science. But if a *State* should establish such a judicial system, I think the Federal Government might well be called upon to enforce its guarantee of republican government to the people of that State. I think it would be a less outrage upon the principles of self-government and upon the Constitution to treat the South as conquered territory, and govern it by our territorial system, than to do what is proposed to be done; and in that case Mr. SUMNER might secure juries composed equally of white and black men. I felt ashamed for myself as an American and for my Government when a few days ago, Judge Buxton, of the supreme court of this State, called at my office to inquire as to the extent of the jurisdiction he would be permitted to exercise in a term he was about to hold."

I rest the case upon this.

Mr. FESSENDEN. I do not wish to make any further explanation. I will say, however, that if Mr. Graham really desires to introduce testimony, instead of merely wishing to make a point on the committee or Congress in relation to the matter, the testimony will soon be published and he can read it and see what testimony he may desire to introduce, and I presume there will be no sort of objection to his doing it. I am content to leave the matter as I have explained it. I understand from gentlemen around me that it has never been the practice, except where the investigation related particularly to individuals, to permit a counsel to be present in a committee when a deposition is taken or a witness examined, and to cross-examine the witness. The committee is content with its action, and I am willing to leave the matter where it stands.

Mr. DOOLITTLE. Now, sir, I call up the unfinished business of Friday.

The PRESIDENT *pro tempore*. The Senate bill No. 204 is before the Senate.

Mr. CONNESS. I hope time will be given to go through the ordinary routine of the morning business, the introduction of resolutions and bills, before we enter on the special order.

Mr. DOOLITTLE. If the special order will not lose its place on the Calendar, I have no objection to the introduction of bills and resolutions.

Mr. CONNESS. I think the morning business has preference.

The PRESIDENT *pro tempore*. The unfinished business of Friday can be laid aside by common consent, if that be the will of the Senate. The Chair hears no objection.

BILLS INTRODUCED.

Mr. CONNESS. I ask the unanimous consent of the Senate to introduce a bill without previous notice, and I wish to say, in presenting it, that it is a correction of a bill introduced a week ago on a subject of great consequence to the people of my State. I desire to have it read a first and second time, referred to the Committee on Public Lands, and printed.

There being no objection, leave was granted to introduce a bill (S. No. 206) to quiet land titles in California; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. MORRILL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 208) to protect American citizens engaged in lumbering on the St. Croix river, in the State of Maine; which was read twice by its title, and referred to the Committee on Commerce.

EQUALIZATION OF BOUNTIES.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 207) to provide for the equalization of the bounties to soldiers in the late war of rebellion; which was read twice by its title.

Mr. WILSON. I move that the bill be referred to the Committee on Military Affairs, and printed.

Mr. CONNESS. It occurs to me—I only throw out the suggestion at this time—that that bill, at least before it be considered by the Senate, should be referred to the Committee on Finance. If I understand it, it is a bill that contemplates more expenditure from the national Treasury than any that has been or will be presented to this body during this session. If the understanding is that it shall go to the Committee on Military Affairs, from the chairman of which it now comes, be considered by them, and then subsequently referred to the Committee on Finance, of course I have no objection to that; but it appears to me to be a question of finance and appropriation rather than a question for the Committee on Military Affairs. It does not provide for making war; it does not provide for organizing the means of war; it is not intended as a measure of public defense; but it is a bill for the equalization of bounties, that is, for additional appropriations of the public funds in some shape to persons who have served in the armies of the United States. Because the beneficiaries were soldiers does not necessarily make it a legitimate subject of consideration for the Committee on Military Affairs.

Mr. WILSON. I will simply say that there has been a great number of petitions presented on this subject, and the Senate has for three months passed referred those petitions to the Committee on Military Affairs; but I am not at all particular about the question of reference. Those petitions, as I supposed, were referred to the Millitary Committee for the consideration of that committee. If the Senator desires to refer the subject to any other committee I am perfectly willing to agree to it, and we will report back the petitions we have on the subject and refer them to the same committee.

Mr. CONNESS. I have noticed that these petitions have been continually referred to the Committee on Military Affairs. Of course the honorable chairman and members of that committee will understand that I have as much confidence in them as in any other committee of this body; but they will also, I think, understand the importance and the legitimacy of the suggestion that I make. As I have said, this bill probably involves a larger appropriation of the public moneys and will affect the public credit and finances more deeply than any other measure that has been or will be presented during this session of Congress. I have no objection that it shall now go to the Committee on Military Affairs, so that, after being considered by them, they may report it with all the petitions on the subject and then refer them to the Committee on Finance, where I think the subject properly belongs.

The bill was referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House of Representatives had passed the following resolution, in which it requested the concurrence of the Senate:

Resolved, (the Senate concurring,) That the President of the Senate and the Speaker of the House of Representatives adjourn their respective Houses for the present session on Thursday the — day of May, at twelve o'clock meridian.

ENROLLED BILLS SIGNED.

The message from the House of Representatives announced that the Speaker of the House of Representatives had signed an enrolled bill (H. R. No. 217) for the relief of Robert Henne; and a bill (S. No. 86) quieting doubts in relation to the validity of certain locations of lands in the State of Wisconsin, made by virtue of certificates issued under act of Congress of February 17, 1815; which were thereupon signed by the President *pro tempore*.

REVENUE COMMISSION REPORTS.

Mr. SPRAGUE. I offer the following resolution:

Resolved, That there be printed for the use of the Senate five thousand extra copies of the following special reports of the United States revenue commission, of which extra copies have not heretofore been ordered: report on distilled spirits, (No. 5;) petroleum, (No. 7;) proprietary medicines, &c., (No. 8;) appendix to cotton report, (No. 3;) on the relations of foreign trade to domestic industry and the internal revenue, (No. 10;) on the influence of the duplication of taxes on industry, (No. 9;) and the report made to the commissioner on the taxation and manufacture of malt liquors in Europe.

It was thought that under a former resolution of the Senate the different branches of the report of the revenue commission were ordered to be printed. It has been since ascertained that some of the branches of that report have not been so ordered, and I trust the Committee on Printing will take the subject into consideration, and report at an early day.

The PRESIDENT *pro tempore*. Under the rule of the Senate, the resolution will be referred to the Committee on Printing.

INTER-OCEANIC COMMUNICATION.

Mr. CONNESS. I offer the following resolution, and ask for its present consideration:

Resolved, That the Secretary of the Navy furnish, through a report of the Superintendent of the Naval Observatory, the summit levels and distances, by surveys of the various proposed lines for inter-oceanic canals and railroads between the waters of the Atlantic and Pacific oceans; as also their relative merits as practicable lines for the construction of a ship-canal, and especially as relates to Honduras, Tehuantepec, Nicaragua, Panama, and Atrato lines; and also whether, in the opinion of the Superintendent, the Isthmus of Darien has been satisfactorily explored, and if so, furnish in detail charts, plans, lines of levels, and all information connected therewith, and upon what authorities they are based.

There being no objection, the Senate proceeded to consider the resolution.

Mr. CONNESS. I wish briefly to call the attention of the Senate and the country to the purport of this resolution. As will be understood by its reading, it calls for information already acquired and in the possession of the Government touching the most practicable means of commercial inter-communication between the two oceans over the Isthmuses of Darien, Panama, and Tehuantepec. The only means for the transmission of merchandise, freight, and passengers that now exists, if we except what is called the American Transit Company, otherwise the Nicaragua route, is the Panama railroad. The Panama railroad has now been in operation for many years. It yields the largest revenue probably to its stockholders of any corporation in the world. I am informed from reliable sources that the entire trade, including passengers and freight, between the Atlantic States and the American possessions on the Pacific coast makes up only about one tenth part of its business. When I state that our steamships now running three times a month from New York to Aspinwall, and from Panama to San Francisco, each carry from eight to fifteen hundred tons of freight, it will give some idea of the immense commerce that passes over the Panama railroad. When I state in addition that twenty-five dollars is exacted by the company from every human being who passes over that road, which is but forty-seven miles in length, and the transit occupies a period of from two to three hours at a slow rate of speed, I give some idea of the exactions that that corporation make of the commerce of our country and of all civilized nations. It is at present the only practicable route, and the one

generally traveled and used, as I before observed, between the Atlantic and Pacific oceans by Americans.

Many efforts have been made by the Pacific Mail Steamship Company, who are disposed to act in a spirit of extreme liberality toward the commerce of the people of the Pacific States, to obtain a reduction of these immense charges and exactions on the part of the Panama railroad, and thus facilitate the population of our Pacific possessions; but thus far every effort has been in vain. The stockholders of that corporation think only of their immense returns and dividends. The gentleman who is president of that company, with whom I have not the honor or pleasure of a personal acquaintance, I am told is an intelligent, liberal, and elevated man, and if left to himself would not so conduct the affairs of that corporation; but he, too, is overborne in the management, and the Panama railroad, the construction and erection of which was hailed by the whole country as one of the great works of the age, stands to-day as a toll-gate between the great Atlantic and Pacific oceans upon Americans and upon American commerce of the most extreme exactions and extortions that were ever allowed by civilized nations to be erected. It is in modern times asking more than the tolls demanded and exacted and collected so long in northern Europe, and which we were compelled only recently, under the advice of the honorable chairman of the Committee on Foreign Relations, to capitalize; I mean the Sound dues and others of that character. That this Republic will allow this company to exist and thus pursue its exactions after it is brought to the direct attention of the law-making power, seems almost incredible.

The resolution that I have had the honor to present is simply asking from the Secretary of the Navy, through the Superintendent of the Observatory, for the data in his possession touching the other practicable means of crossing over the Isthmus that I have named and that are named in the resolution. I make this explanation of the resolution so that it may claim the attention of the country and the attention of the Senate; and I hope the resolution will pass.

The resolution was adopted.

SENATOR FROM NEW JERSEY.

Mr. TRUMBULL. I gave notice last week that I should call up to-day the case of the Senator from New Jersey, [Mr. STOCKTON,] whose right to a seat in this body is contested; but several Senators who desire to be present when that case is considered are not in the Senate now, and I shall therefore let the matter go over, giving notice, however, that I shall call it up at an early day when the Senate is full.

Mr. SUMNER. Why not say to-morrow?

Mr. TRUMBULL. I am not sure whether the Senator from New Hampshire, [Mr. CLARK,] or the Senator from Maryland, [Mr. JOHNSON,] will be here to-morrow, and the Senator from Michigan [Mr. CHANDLER] has had set down for to-morrow some business from the Committee on Commerce. I think we might take it up on Wednesday, and I give notice that I will call it up on Wednesday, unless there is some reason to prevent it.

FINAL ADJOURNMENT OF CONGRESS.

The PRESIDENT *pro tempore* laid before the Senate the following resolution from the House of Representatives:

IN THE HOUSE OF REPRESENTATIVES,
March 19, 1866.

Resolved, (the Senate concurring,) That the President of the Senate and the Speaker of the House of Representatives adjourn their respective Houses for the present session on Thursday the — day of May, at twelve o'clock meridian.

On motion of Mr. SHERMAN, the resolution was referred to the Committee on Finance.

INDIAN AFFAIRS

Mr. DOOLITTLE. I now call for the order of business.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 204) to provide for an annual inspection into Indian affairs, and for other purposes, the pending question being on the amendment of Mr. DOOLITTLE to add at the end of the second section the words, "inspector, but shall be entitled to the same pay, mileage, and allowances as when employed in the military service;" so that the clause will read:

Each of said inspectors appointed by the President shall receive a salary of $4,000 per annum, and the officer detailed to act as inspector shall serve without additional pay or allowance as such inspector, but shall be entitled to the same pay, mileage, and allowances as when employed in the military service.

The amendment was agreed to.

Mr. GRIMES. I should like to have the Senator from Wisconsin explain the amendment which has just been adopted.

Mr. DOOLITTLE. The amendment just adopted is for the purpose of making clear what shall be the compensation of the officer of the regular Army who shall be detailed to act as inspector.

Mr. GRIMES. It only applies to one case.

Mr. DOOLITTLE. It only applies to the officer who is detailed. As the bill stood originally it read: "And the officer detailed to act as inspector shall serve without additional pay or allowance as such," leaving it doubtful whether he would be entitled to receive the pay which he has as an officer in the military service when detailed, and therefore in order to avoid any ambiguity the words that have been read have been added.

I will state to the Senate very briefly the purpose of this bill. It is to provide boards of inspection of Indian affairs in five inspection districts. The districts are specified in the first section. The first district embraces the States of California and Nevada and the Territory of Arizona; the second embraces the State of Oregon and the Territories of Washington and Idaho; the third embraces the Territories of Colorado, Utah, and New Mexico; the fourth embraces the State of Kansas, the Indian Territory, Nebraska, and southern Dakota; and the fifth embraces the State of Minnesota, with that part of the Territory of Dakota which lies north of Nebraska, and the Territory of Montana. There is a provision in the first section that the Secretary of the Interior, under the direction of the President, may from time to time change the boundaries of these inspection districts.

Mr. NYE. If the chairman will permit me a moment, I think we had better put the States of California and Nevada and the Territory of Utah together in one district. New Mexico and Arizona are easier reached from Colorado than Utah would be.

Mr. DOOLITTLE. The committee had the map before them, and the whole subject was fully considered. This bill was first considered in the joint committee of the two Houses, and Mr. HIGBY, of California, and the Senator from Oregon, [Mr. NESMITH,] from the western coast, were two of the committee. On looking over the map, we thought this was the best division of our territory that could be made. Arizona is put with California and Nevada. Arizona is more approachable from California than it is from the other Territory, and Nevada lying directly east of California, it was supposed that they could be put with California without inconvenience, and those three together should constitute one district. Utah, it is true, if we could leave off Arizona altogether, could be better attached to Nevada and California, perhaps, than to Colorado and New Mexico; but inasmuch as Arizona must be placed in one of these districts the committee thought it was best to make that subdivision. However, the power is given in the first section of the bill to the Secretary of the Interior, under the direction of the President, to change these boundaries, if, in fact, it shall be found to be more practicable to have the boundaries embrace other and different Territories.

Mr. NYE. You will find that the Territory of Arizona is much easier reached by the way of New Mexico and Colorado than it is through California or Nevada. If you go to Arizona through California and Nevada, you have to go through an entirely uninhabited country; and lying west and on both sides of Nevada you will have to pass what is called an impassable desert. The only way for a person to get to Arizona would be to go down the coast, and up the Gulf of California, and up the river Colorado.

Mr. DOOLITTLE. I suppose that is the most approachable way to Arizona, to go down the coast, and up the California Gulf, and up the river Colorado.

Mr. NYE. When your agent is in New Mexico, his access to Arizona is very easy.

Mr. DOOLITTLE. I hope, however, my honorable friend will not move an amendment, because the power is given to the Secretary of the Interior, under the direction of the President, to arrange these boundaries otherwise, if it is thought better to arrange them otherwise.

I was going on to say that in the second section there has been an effort to establish these inspection boards, and, if possible, not to have them political in their organization. There is to be one chief inspector, to be nominated by the President, for each district. Then there is to be an officer detailed by the Secretary of War from the regular Army, to constitute one of the board, and one to be nominated by the President from among such persons as may be recommended by the annual meetings or conventions of the religious societies or denominations of the United States; but if they fail to make such a recommendation, the President is to appoint him from such persons as he shall deem proper. There was some question in the mind of the committee in relation to this portion of the section.

Mr. FESSENDEN. They do not meet together and how can they recommend anybody?

Mr. DOOLITTLE. It is suggested that it would be impracticable because there are various denominations, but I think it will not prove impracticable. There are five of these boards to be nominated each year, and from the persons recommended by the religious bodies of the country, and for whom they will stand responsible as proper persons to examine and look into Indian affairs, the President is to make his selection of one person for each board. They will go as annual visitors; and it seems to me there is no more impracticability about it than there would be if in establishing a board to examine into the cholera, we should direct the President to appoint eminent surgeons; or if it was some great question of law, that we should direct the President to select from among the eminent jurists of the country. The Quakers, Baptists, Presbyterians, Episcopalians, and other religious bodies have their annual conventions in the United States, and it is simply proposed that they shall each name a man for whose character they will be responsible, for this service, and from among those men a selection is to be made by the President. This is the view which prevailed with the committee on that subject, although we are told that some objection, perhaps, is made to it. The idea certainly is very desirable that this board, if possible, shall not be a political one. There is another reason connected with this selection of persons who may be named by religious bodies, and that is the fact that there is a great desire on the part of the whole people of the United States to look into the condition of these Indians, in reference to their schools, and in reference to their religious instruction. I do not think any difficulty would grow out of that provision. If they fail to make a recommendation, the President will select from other persons. I have presented all there is in that section.

Now, then, the main question is as to the powers which these boards shall exercise, and they are specified in the third section, which provides:

That it shall be the duty of said boards of inspection to visit all the Indian tribes within their respective districts at least once in each year; to examine into the condition of their farms and schools; to hear their complaints; to ascertain whether all the stipu-

lations of treaties are kept; and whether all moneys, goods, and supplies are faithfully and justly applied and distributed; to examine into the books, accounts, and manner of doing business of the superintendents and agents within their respective districts; to make diligent inquiry into the conduct of the officers and employés of the Indian department, and into the conduct of the military forces toward the Indians, with power to summon witnesses, and, by the aid of the military, who are hereby directed to aid them, to compel their attendance; each member of said board being authorized to administer oaths; and said board—

This is perhaps one of the principal points in it—

and said board shall be authorized to suspend for cause any officer or employé of the Indian department in their respective districts, subject to the approval of the President.

The board are required to report annually, and in case of a suspension from office to make an immediate report in writing for the action of the President.

The fourth section confers upon the chief inspector appointed under this bill, and upon all superintendents of Indian affairs and all Indian agents, the powers which are now conferred by law upon court commissioners, to be exercised in all cases or matters wherein any Indian tribe or any member of an Indian tribe shall be concerned or be a party, giving these officers the power in case of offenses against the United States to make a preliminary examination and bind them over for trial, substantially giving them the powers of a justice of the peace of the United States in cases where Indians themselves or their tribes are parties. Then it contains this further provision:

And that in all matters or proceedings wherein any Indian tribe, or member of an Indian tribe, shall be concerned or be a party, the testimony of Indian witnesses shall be received in all courts and before all officers of the United States.

Then in the fifth section there is a provision which raises the salaries of Indian agents who reside in the Indian country on reservations, or among the Indians of their agency, to the sum of $1,800 per annum.

Mr. FESSENDEN. What do they get now?

Mr. DOOLITTLE. Fifteen hundred dollars in most cases now; but it is the universal opinion and conviction of the committee, and all who have considered the subject, that the compensation to the Indian agents is not sufficient, and therefore we have made this slight addition to the usual compensation of $1,500.

Mr. GRIMES. Does he not reside on the agency farm?

Mr. DOOLITTLE. The Indian agent usually resides upon the agency farm; but let me say to Senators, if we wish to employ a capable and efficient agent, and send him away generally from civilization, to live among the Indians, and upon the reservation, we must pay him something more than what is absolutely necessary to enable him to live; otherwise, we present before these men whom we send off into the wilderness a temptation too strong for human nature. The committee believe that these boards of inspection, by going over the whole of these Territories, visiting all the tribes, with power to remove these agents for the time being from office, to look into their books, and the administration of Indian affairs, will have a salutary change in the administration of the Indian affairs of the country.

I have thus briefly stated the purpose of the bill.

Mr. POMEROY. If I understand the bill, it is a proposition inaugurating a permanent system to run on forever. If it provided simply for a temporary inspection, I would not have any objection to it; but it looks to me as if it would require the expenditure of $60,000 annually.

Mr. CONNESS. More than that.

Mr. POMEROY. Perhaps more than that, but at least that much, and it proposes to organize a permanent system, which may be necessary or may not. I think not. The various religious bodies of the country are all represented now in every one of these tribes where they have a mission; they have a missionary there; and if there are any proceedings going on there that ought to be reported to the public, every one of them has one or more men there. We have an agent living in every tribe. Then there is a superintendent who is over the agents, and whose business it is to go around and inspect the proceedings of the agents as often as he thinks the public interest may require. I know they are directed by the Secretary of the Interior to make inspections and to perform the very service indicated in this bill. They do it in my State. I do not know how it is in the remote Territories. It may be that in some of the Territories there is a need of a permanent board of this kind, but I have never seen any need of it. The Senator from Wisconsin himself last year, I was very glad to see, made an inspection. I think it is very well to organize a temporary board of inspection once in a while; but I think it a very doubtful policy to inaugurate a new system, making four or five permanent boards, costing as much money as this bill will. I know there are instances where they might perhaps save the Government a great deal of money and do a great deal of good; but I think we ought to be more vigilant in regard to our agents and superintendents and select the best men for those positions and not multiply offices. This bill, it seems to me, is a sort of imperfection against the men we have already got, that they are not honest. It provides for the appointment of a board to watch them. It occurs to me, if there is any reason in this thing, that we had better be more cautious in the selection of agents instead of multiplying officers. These are my views on the subject. I shall vote for this bill very reluctantly if I vote for it at all.

Mr. CONNESS. I am sorry to differ on any subject connected with Indian affairs with the honorable chairman of the Committee on Indian Affairs, but I take very nearly the same view of this subject that the honorable Senator from Kansas does. I have taken some interest, let me say, in the administration of Indian affairs in California for some time past. I will speak of that State because I know most about it, and it will illustrate perhaps the operations of this bill as well as its necessity. The reservation system has been in operation in that State for a great many years. Large appropriations have annually been made for the support of the Indians. The general system carried out in that State has been to have either one or two superintendents. For many years, the State was divided into two superintendencies; one was denominated the northern and the other the southern superintendency. Then at each reservation there were what were denominated Indian agents. In addition to that, there was a corps of special agents. The law never designated how many employés there should be, or how many officials there should be. It was left a great deal to the discretion of the superintendents in the State and the local Indian agents. They would employ special agents to travel into different counties under the pretense of collecting the Indians together, resulting invariably in large charges against the Treasury, to come in afterward as extras and be paid by the Government. I wish to say here now, that the whole reservation system up to the present period of time, dating a year back, in California, has been a complete and perfect failure, consuming hundreds upon hundreds of thousands of the public money, far from preserving peace between the Indians and the whites, and far from feeding and satisfying the hunger of the Indians or covering their nakedness.

At the present time, the State of California is one superintendency, under a law of Congress passed two years since. In my opinion, the superintendent of that State is as honest a man as ever existed, and the result of his integrity is being felt immediately in the administration of affairs. The local Indian agents reside upon the reservations. I can only speak for three of them because, although there are I think four reservations, one has no permanent agent yet appointed. But the agents for the other reservations have been selected with reference to their capacity to superintend a farm on a large scale, and to produce the largest product from that farm, to take care of the Indians, and apply the labor of the Indians, and their superintendence and attention with the greatest possible benefit. The superintendent is required to visit those reservations at least once a year. He does so. And now, as the honorable Senator from Kansas says, you are going to organize a board to embrace the State of California, the State of Nevada, and the Territory of Arizona, of three inspectors, two of whom shall receive $4,000 a year—$8,000—to watch the superintendents and the agents. The third member of the board is to be an Army officer, and of course he is to have his transportation or mileage; but if you suppose there will not be incidental expenses, I think you are mistaken.

I know and concede that the honorable chairman of this committee gives his whole mind and heart to this business of Indian affairs and does his best. I am entirely satisfied upon that proposition; but I wish to say to him and to the Senate, what they must appreciate at once, that the character of the administration of Indian affairs depends upon the individual, moral, and intellectual character of the superintendents appointed. If you select those superintendents from poor, wasted creatures who merely want an office, you may send a hundred boards to watch them, and the superintendents or agents will watch the boards and cheat the Government. I might call attention to several cases that have come within my experience, but where the cases have passed, I forego that, not wishing to draw a picture disagreeable or disgraceful to the service. I find, by multiplying, that we are to appropriate under this bill $40,000 in salaries for five boards of commissioners. That is simply the groundwork. There is to be a large addition to that. Before a system of this kind is added to the present system, and you pile one upon another, which gives you no guarantee, in my opinion, of pure administration, I think it is a pretty serious question as to whether the whole Indian department should not be handed over to the War Department of the Government, and thus the immense expenditure that is now made in payment of civilians saved to the Government, and all the expenditures for Indian affairs reduced and retrenched. I do not know of any branch of public affairs that requires more attention than this does.

I need not say here that I have great confidence in the integrity of the present head of the Interior Department—no Senator has more; and in the present Commissioner of Indian Affairs no person has more; but it becomes a serious question, whether the whole subject of Indian affairs should not be turned over to the War Department. We appointed a congressional committee last year to go out and examine into the various branches of Indian service. I do not know what they did. I know what some of them did. I do not know what they did in my State. I do not think they changed the condition of affairs there at all. In that State, they are going on very well now, and you might as well take $8,000 and drop it into the sea as to give that sum to a board to watch Mr. Maltby, the present superintendent. It would be simply a cruel insult to him, for he is exercising, not only the manly qualities he possesses, but the fatherly care of a kind-hearted man over his charge, and care in the selection of these agents. That is the only way to improve the Indian service under the present system; but it is a serious question, I think, whether you should not, in lieu of this bill, make a complete turn-over of the service, under proper regulations, to the War Department of the Government.

Mr. GRIMES. I do not rise either to advocate or oppose this bill. At the last Congress I believe the two Houses united in appointing a committee of the two bodies to look into the condition of these Indians, and if my memory serves me correctly, the distinguished chairman of the Committee on Indian Affairs, as well as the Presiding Officer of this body, were

members of that committee. I have heard of some part of the investigations and occurrences that happened to that committee, and I have looked with a great deal of impatience during the last four months to see their report, but I have not seen it.

Mr. DOOLITTLE. I will state to my honorable friend that the testimony which was taken by that committee is now being published. It is in type and will be before a great while submitted to his examination.

Mr. GRIMES. I was not so anxious to obtain the testimony; but I desired to ascertain what the Senator learned from his interviews with the Indians.

Mr. DOOLITTLE. We had several interviews with the Apaches and the Navajoes, of New Mexico; and I will state to my honorable friend that my experience in that country impressed upon my mind the absolute necessity of having these boards of inspection. I care not how they are made. If you choose to have committees from Congress go and make these examinations annually, I have no objection to that; but I supposed that Congress would not be willing to consent to that. I am perfectly satisfied, however, that there should be an annual and constant supervision and inspection of Indian affairs more efficient than we now have.

I will state to my honorable friend from Iowa one thing that did occur when we were upon our way through Kansas and New Mexico. When we arrived at the upper bend of the Arkansas we found that the general there in command was about ready to start with fifteen hundred troops to cross the Arkansas river to wage war among the Comanches. We happened to be there just in time to bring our influence to bear upon him not to do it. His orders had already been given, and the troops were coming in and concentrating to march across the Arkansas and carry on a war with the Comanches, the most powerful tribe of Indians in the southwestern country. We prevailed on him not to do it. It was suspended, and I have no doubt that by the suspension of the invasion of that Indian Territory by these troops, our presence saved to the Government a long and expensive Indian war with the Comanches on the south side of the Arkansas. There are from six thousand to eight thousand of these Comanche warriors, well mounted, and if fifteen hundred of our men had advanced there, they would not have accomplished any great results or victories over the Comanches, who, living upon the plains, would have fled from them until they were compelled to retire. This would have called for more troops, and an Indian war would have been inaugurated with the Comanches which might have cost the Government ten, fifteen, or twenty million dollars.

I only refer to that as one incident. I say there should be some persons authorized by the Government to look after these matters, and to look after the military officers as well the Indian agents. How did the Sioux war arise in 1852? There was a Mormon on his way to Utah driving along his cattle, and one of the Sioux Indians killed one of his cattle. This occurred not far from Fort Laramie. A young lieutenant was ordered to go to the tribe and demand the surrender of the Indian who had killed this ox or cow. The Indians refused to deliver him up, but they said they would pay in buffalo skins the value of the cow. Buffalo skins would not be accepted; and the lieutenant received positive orders to demand the surrender of that Indian on pain of firing upon their camp. He took out his watch, holding it in his hand ten or fifteen minutes, and gave them so long a time in which to surrender that Indian. The Indian was not surrendered. He ordered his men to fire. There were twenty of them; and in thirty minutes he and all his men were killed and scalped. That is the way the Sioux war began in 1852, by a miserable blunder. Up to that time white men and Indians had hunted buffalo together all over the plains, and white men had traveled all over the plains without being disturbed by the Indians.

While I agree with my honorable friend from California that the proper management of Indian affairs depends a great deal upon the *personnel* of the men who come in contact with the Indians, the agents and the superintendents, a great deal also depends upon the *personnel* of the men who command the troops that are in the vicinity of the Indians. We learned in our investigations in reference to the war with the Navajoes, that so long as a certain officer —and I speak it to his honor—Major Hendricks, now, I believe, at West Point, was in command of the Navajo country, there was no difficulty between the Navajoes and the Mexicans. While he was there with them he had the sagacity, the prudence, and the good judgment to preserve peace between them and the whites. But subsequently another officer took command in the Navajo country. An Indian coming within the fortifications, receiving some slight or insult from a negro boy that belonged to the wife of the officer who was in command of the fort, let slip an arrow and killed him on the spot. A demand was made for him on pain of making war on the Navajo tribe of Indians. The Indians refused to deliver him up. They offered, as I learned from testimony there, to give five thousand sheep by way of indemnity, but as the man belonged to some of the principal families of the tribe they refused to deliver him up. The officer in command said, "No, we must have this man surrendered or we make war." They refused to surrender him, and war was made, and we made two or three campaigns against those Navajoes, and we got beaten.

Mr. CONNESS. Oh, no; we captured them all.

Mr. DOOLITTLE. Not in that year. I say we made two or three campaigns against them. We made a campaign against them under Bonneville. The Indians took to their great fortification, which was in the valley of the Chelly, as it is called, a mountain fortress where the perpendicular side of the mountains rises up a thousand feet. They lived on the side of the mountains, and threw down stones on the heads of our troops and drove them out of the valley. General Canby also entered that valley with his troops, but he remained there only one night; he had to retire. They never were subdued until Kit Carson, in the last campaign under General Carleton, succeeded in capturing these Navajoes. Those Navajo wars have cost this Government twenty, and probably thirty, million dollars. It is one of the most extravagant things in our whole administration of government that a simple lieutenant in command of troops away off on the border, in the neighborhood of Indians may, on his own motion, without any orders perhaps from headquarters, begin an Indian war and carry it on for a long time and involve this Government in millions upon millions of expense, and we do not know much if anything about it until it is all over, and then comes in a large appropriation bill, so much for transportation and so much for commissary supplies, all in one grand sum of millions upon millions.

Mr. President, what I desire to accomplish is to have a board, not political in its character, which can watch the agents, watch the superintendents, and watch the military forces too, and see how the whole business of Indian affairs is administered. I think if we had our territory divided into these five districts, and there was a board in each one of these districts whose whole business it should be to look after these things, to do what the third section of this bill requires them to do, to visit all the Indian tribes every year, to examine into their condition and the condition of their farms and schools, hear their complaints, ascertain whether our treaty stipulations are kept, whether the goods are properly applied, examine into the books and accounts of the agent, and see how the business is transacted, it would be a great saving of money to the Government, and a thing of great economy, although it is true that the real expense which this bill would involve would be about $50,000 per annum; $4,000 each for each inspector, ten in number, would be $40,000. That $40,000 per annum was intended by the committee to cover their salary, their mileage, and expenses.

If there is any doubt about it, it can be made plain by adding after the words "$4,000 per annum," the words "which is to include all mileage and traveling expenses." That will make it clear. The officer of the Army who is to be appointed is to receive no additional pay. He is to receive his pay proper, and we allow to that his mileage, just as if he were in the military service; so that there is that additional expense that the Government would be put to. I suppose $50,000 would cover the entire expenses to be incurred by this bill. I have no doubt whatever that the existence of such a board, with the power that we propose to confer upon it, possessing the power to suspend these agents from office, the power to examine into their transactions, the power to see whether the treaty stipulations are carried out and the goods properly distributed among the Indians, would of itself have a very beneficial effect over the whole administration of Indian affairs in those Territories. That is the purpose and the desire of the committee.

I will state furthermore that over consultation with the members of the joint committee appointed at the last session, they were unanimously in favor of the idea contained in the bill. It was thus submitted to the Committee on Indian Affairs, and I believe received the unanimous approval of the committee. There may have been some little disagreement about the details of the bill, the salaries, or something of that sort, but the bill as a whole was unanimously concurred in. I do not wish to take up the time of the Senate upon it. I have expressed briefly my views upon it.

Mr. TRUMBULL. I am a member of the Committee on Indian Affairs, and was present when this bill was considered, and I gave it my assent upon this consideration: I have always heard it charged since I have had any connection with public affairs, that the Indians of the country were wronged and cheated by traders and those who had to deal with them. Ever since I have been a member of Congress, I have heard imputations against the Commissioners of Indian Affairs. I do not speak of any particular one, but general imputations against the Commissioner, sometimes even reaching as high as the Secretary of the Interior, and against the superintendents and the Indian agents all over the country, until it has come to be almost a reflection on the character of any man the moment he accepts an Indian agency. An honest man, it would seem, could not accept the position of Indian agent without being suspected at once of having some design of defrauding or cheating the Government or the Indians. I do not know how much truth there is in this. I think such suspicions ought not to exist. They are very unjust to honest men, and if they are true, the perpetrators of these wrongs and outrages ought to be fereted out.

It has been said that we had no means of knowing whether these Indian agents were honest or dishonest; that they acted in fact for both parties, for the Government of the United States, and for the Indians with whom they dwelt; that they furnished them supplies; and they were often in company, it was said, with licensed traders, and made fortunes in that way. The Indians had no way of knowing whether they got what they were entitled to when supplies were furnished them—flour, meat, or anything else, whatever it might be. They were cheated in the weight and never knew it. If goods were furnished, they were deceived as to the quantity or the quality of the goods. They did not know that they were deceived, and if they did know that they were deceived, they had no means of communicating with the Government except through the very persons who had practiced the fraud upon them.

I hope, for the credit of the country and of the officers, that these various imputations are not true. I do not know that any of them are true. I have not been sufficiently familiar with the transactions of the Indian Bureau to know the facts in regard to these various charges that I have heard ever since I have been connected with public life; but I suppose, having heard so much, there must be something in this; and whether there is or not, I think it important that we should have some check upon the parties who disburse our money. We have these checks in all the other departments of Governments, so that if a dishonest man obtains a position, his accounts are overlooked by somebody else. The object of these checks is to make it difficult for a dishonest man to practice his dishonesty without detection. We do not seem to have any such system of checks in our conduct of Indian affairs.

Mr. President, it is one of the very difficult problems to know how to deal with these Indian tribes. The Government of the United States has been disposed to treat them as wards, as children dependent upon it, and we have undertaken to provide for them, and to preserve peace among them. We have not been very fortunate in this, and I question very much whether our whole policy in regard to the Indians in making what we call treaties with them is not wrong, and whether we ought not to take them under our care, and by legislation, without attempting to get up treaties in any shape, bring them within our jurisdiction, and extend our laws over them. However, that is not the policy of the Government, and unless we change the policy, it is desirable to perfect it, and have the Indian laws fairly administered.

Here was a proposition to have five supervising boards in no way connected with the Indian Bureau. I insisted upon it in committee that these boards should not be dependent at all upon the Indian Bureau; should have no connection with the Commissioner of Indian Affairs, or the superintendents or the agents, but they should go out independent, handle no money, simply seeing whether the laws of the United States relating to the Indians are executed, whether the agents do their duty, whether the superintendents do their duty, whether the Indians get what the Government proposes to give them, whether in money or in supplies of any kind, farming utensils, or whatever else we agree to furnish the Indians with.

It involves some expense; $50,000, it is said, will be the annual expense. Suppose it to be $50,000 or $60,000; we pay out millions to these people, and if a tithe of the rumors which are in circulation in regard to the squandering of the money appropriated by the Government for the benefit of the Indians be true, we shall save more than it all the very first year. I thought, in consideration of these constant complaints in regard to the administration of this branch of the public service that it was desirable to inaugurate some system that would relieve the officers charged with the execution of these laws from these imputations if they were honest, and would remove and bring to justice those who were dishonest. Therefore I gave my assent to the bill.

There were some of the features of the bill that did not entirely meet my approbation. I have, however, no special objection to them. I thought it might be difficult to carry some of them into practical effect; but I favored the design of the bill. I allude now particularly to the provision that one of these inspectors shall be selected from the number to be recommended by the various religious denominations. The idea is a good one, and if it can be carried out it is very desirable. You would then have a person appointed, not by reason of his belonging to any particular party, or as a reward for political service, but a person who should be selected by some of the religious denominations. If it can be carried into effect I think it a very good provision. If these religious associations which meet annually in the United States would designate some suitable person among their number as a fit person to go among the Indians, who are really the subjects of our bounty, whom we are trying to civilize and Christianize as well as to protect, I have no doubt he might accomplish much good. I shall, therefore, make no objection to that provision in the bill. I am in favor of it if it can be made practicable, and I do not know but that it can be; a majority of the committee thought it could.

Mr. RAMSEY. Years since the administration of Indian affairs was in the hands of the War Office, and I am convinced that it is the interest of the Government to return to that system so soon as can be done, and in this I mean no reflection upon the administration on the part of the honorable Secretary of the Interior or the Commissioner of Indian Affairs, both honorable and most excellent officers; but the difficulties that all complain of are inherent in the present system.

I think that in this bill we should take a step in the right direction—toward the better system for the government of Indian affairs. I would, then, sir, suggest to the honorable chairman of the Committee on Indian Affairs, for I do not desire to interfere with his bill, but I would suggest whether these boards consisting of three members should not be composed in whole of officers of the Army detailed for this service.

By reason of the conclusion of the war a large number of intelligent, honest, and efficient officers can be spared from the service, and they should be used in this.

The presence of military men, their prestige, their very uniforms, would inspire confidence among the Indians and assure them that their rights would be protected, while upon the other hand the high sense of honor that governs our military gives the assurance that the interests of the Government and people will be cared for.

Mr. DOOLITTLE. My honorable friend from Minnesota will remember that one of these inspectors is to be an officer of the regular Army detailed for the purpose. The Army is represented in this board; but, sir, the Army in their dealing with the Indians need to be looked after just as much as the agents. Some of these lieutenants and captains in command in the Indian country are excellent, prudent, wise, sagacious young men. Sometimes, however, they are of a different character. They need a board to look after and report upon them; and I think it is desirable to have not only the Army represented in the board inspecting what the Indian agents may do, but to have some one not connected with the Army inspecting what the Army officers do. I wish to have an inspection upon them both, both by Army officers and by civilians, and I desire to embrace the good of both. I think there is good in both.

Mr. President, the question of transferring this Indian Bureau to the War Department is not involved in this bill. That is a question which has been up for consideration both in the joint committee on Indian affairs and in our committee of the Senate, and it is a question upon which the committee have not yet reported, nor come to a final determination as to how they will report; but the question whether the bureau shall subsequently be put into the War Department or retained in the Interior Department is not at all involved in the bill now pending before the Senate. I hope that the bill may pass in its present shape.

Mr. SHERMAN. The objection that I have to the bill is not so much to the expense that is involved in it—that is at most but $60,000 for the pay of the officers provided for by the bill—but the bill itself provides for machinery which will involve many times the expenditure of the mere salaries mentioned in it. The bill authorizes these commissioners to summon witnesses. Who is to summon them? As a matter of course, marshals and constables, or some officers of that kind. No provision is made for them. How are those witnesses to be examined? Where are they to appear? At what places and times are these commissioners to hold courts where complaints are to be heard? This is the beginning of a system to extend over the Indians a *quasi* judicial authority. There are no times specified for courts to be held, no places, and no officers to examine witnesses. When these witnesses are summoned they must be paid for their time and paid mileage. You have the judges of courts without the machinery of courts. You propose to pay these judges a higher salary than is paid to district judges of the courts of the United States. It is well known that the courts of the United States cost about one million dollars a year, while the entire salary of the judges probably is not one hundred thousand. If these are to be *quasi* judicial tribunals, as it seems they are, these things should be provided for in the bill; if they are not, then what is the use of them?

There are two complaints made about our Indian system, and I have heard them ever since I have been a member of Congress. One is, that our treaty-making system is a farce; the other is, that these agents have no one to watch over them and control them. A white man is appointed an Indian agent in a remote section of the country. There are no courts to supervise his action; no one to protect the Indians from his action, and he is master of all he surveys. If he can make terms with the chiefs, as a matter of course he controls the Indians. The annuities are paid over to a few; and there is no control over the Indian agents provided for by this bill except the power of suspension. What does an Indian agent care for that power of suspension? There are no criminal penalties provided in this bill for the punishment of Indian agents. If there were, how are they to be executed and enforced? There are no courts out there, and consequently they cannot be enforced by courts. If you propose to make now a board of officers at high compensation to superintend these mattters, why not give them criminal jurisdiction? Why not provide that if an agent cheats the Indians he shall be punished by imprisonment? You do not empower this board to inflict punishments. It seems to me, therefore, the provisions of the bill, if intended to exercise a *quasi* judicial authority over the tribes, is not a perfect one.

After all it seems to me the truly radical objection to our system of treating the Indians is the attempt to treat them as foreign nations, making treaties with them precisely as we do with England, France, and other foreign nations. Until that idea is abandoned, you cannot make any regular system for these Indian tribes. I do not wish to commit myself against voting for this bill because I have desired to be liberal in providing for the Indians, but it seems to me this bill does not go far enough.

I would also say as a verbal criticism that in limiting the salary it ought to be provided that the salary shall cover all expenses and mileage, so that there shall be no claim for expenses of traveling. Four thousand dollars a year for an agent of this kind, unless it is intended to cover all his expenses, would be out of proportion to other officers of this character. That can, however, be amended.

Mr. DOOLITTLE. It is not intended by the bill to give this board a judical power over the Indian tribes. It authorizes them to summon witnesses and to swear them by way of investigating the conduct of Indian affairs.

Mr. CRESWELL. I desire to put a question to the chairman of the committee, and as he now has the floor he can answer it probably together with the points that the Senator from Ohio has made. I see in the second section of the bill there is a direction that the third member of the board of inspection is "to be annually appointed by the President, by and with the advice and consent of the Senate, from among such persons as may be recommended by the annual meetings or conventions of the religious societies or denominations of the United States as suitable persons to act upon said boards." Although I have the highest opinion for the recommendations that these associations

or meetings or conventions would make, I would ask the chairman of the committee whether it is not a limitation upon the appointing power of the President as given in the second paragraph of the second section of the second article of the Constitution? It seems to me that if these meetings were to take the matter in hand by nominating just the number of persons who should be appointed as the third commissioner on these boards, they might assume the whole appointing power, and the President would be bound to appoint the persons whom they selected. I do not know what has been the practice in regard to the suggestion of names in this way to the President; but it seems to me that it is a limitation upon the appointing power of the President which is not in accordance with the spirit of the Constitution. I should be glad to hear the gentleman on that point.

Mr. DOOLITTLE. It is analogous to some of the laws which we pass from time to time stating that persons shall be appointed to the Army, for instance, after passing through a certain examination. All such provisions are to a certain extent limitations on the power of the President.

Mr. CRESWELL. I think that is a different question. That is only requiring that the proper precaution should be taken to secure competent persons.

Mr. DOOLITTLE. This is only another way of arriving at the same thing. When you come to the question of absolute power, what the Supreme Court will decide upon the constitutionality of many of these laws I cannot say. From time to time we have said that before a person shall be appointed into the Army he shall undergo a certain examination, and certain gentlemen shall report on his case and find him qualified to accept that office. Whether that would be decided to be constitutional or not, if the question were pressed, I do not undertake to say. It is enough, I think, that the legislative power expresses its opinion on that subject to guide the action of the Executive in making these appointments. That is, it seems to me, a sufficient answer. I will not say that I am perfectly clear in my judgment whether, even with this clause in the bill, the President would be absolutely bound by the recommendation of those persons; but it is a legislative expression that we desire that these appointments shall not be political; that we do desire to have reference to these great religious bodies in the country who feel an interest in the condition of the Indians. We can say that in this enactment, and it expresses our view in relation to it. Whether absolutely and positively the President would be constitutionally bound to make a nomination from those thus recommended, I will not now undertake to say.

A word now in reply to my honorable friend from Ohio, who seems to see in this the beginning of a judicial system. It seems to me there is nothing of that kind in it. It is true it does authorize these persons to examine into Indian affairs; and in order to examine into them, when they go into these Territories, it clothes them with the power of summoning a witness and swearing him. That is all there is of it. That would not be attended with any considerable expense.

Mr. SHERMAN. They are authorized to compel the attendance of witnesses. How can they do that except they pay for sending out marshals?

Mr. DOOLITTLE. The military are directed to aid in compelling their attendance, for in these far distant regions where they are beyond the reach of civilization and where what authority we have is a good deal under military control, if these agents find a matter to be investigated into they can call on the military to require persons to appear before them, and they have power then to swear them and take their testimony. The witnesses will be in the immediate neighborhood where they want to examine a transaction, because they go themselves all over these districts for the purpose of making this very examination. That is all the judicial power there is confered in the fourth section, and that is not judicial. It is giving the powers of court commissioners to Indian agents and these chief inspectors, so that they may bind over a man for trial for an offense against the United States; but there is no appropriation involved in that, and no expense connected with it at all.

The suggestion made by the honorable Senator from Ohio in relation to the salary of these inspectors was perhaps a just one. It was the intention of the committee that this $4,000 should cover the mileage and traveling expenses of these officers, and in order to make it perfectly clear I will move to insert after the words "$4,000 per annum," in line sixteen of the second section, the words "which is to include all mileage and traveling expenses."

Mr. TRUMBULL. Why not say "in full for all expenses?"

Mr. DOOLITTLE. I have no objection to the form of the words. If those are more satisfactory I will say "in full of all mileage and other expenses."

Mr. SHERMAN. Why not say "in full for for their services, mileage, and all other expenses?"

Mr. DOOLITTLE. I will accept that.

Mr. SPRAGUE. I will ask the Senator from Wisconsin whether the bill does not provide for an increase of pay to the Indian agents, and if so, how much.

Mr. DOOLITTLE. Yes, sir; it increases their pay $300 per annum to the Indian agents who reside with the Indians on the reservations or among the Indians of their agency, giving them $1,800 per annum. I think that is but just. It was the unanimous opinion of the committee that that should be done.

Mr. POMEROY. I will inquire of the Senator from Wisconsin whether there are any Indian agents who do not live on the Indian reservations and with the various Indian tribes of their agency.

Mr. DOOLITTLE. I believe there are some in some Territories, who are agents for some of the wilder tribes of Indians, who have not got reservations on which to make a home. They live outside.

Mr. POMEROY. I remember that we passed a law requiring all agents to live on the reservations, and I supposed they all did.

Mr. GUTHRIE. This whole measure seems to me perfectly useless for any good results. We now have a Secretary at the head of the Interior Department, and he has charge of Indian affairs; the administration of Indian affairs is one of the branches of his office. This bill does not propose to deprive him of that duty or to take it away from him, but we leave him there as the trusted organ of the Government to carry out the legislation of the nation in relation to the Indians; and now you propose to appoint a board of supervising inspectors. Is it to see how he discharges his duty? On that principle, you would want a board over the Secretary of State, and another over the Secretary of the Treasury, another over the Postmaster General, and probably one over the Attorney General of the United States. We cannot tell how far this thing is to go.

If our legislation in regard to the Indians is not right, amend it, get the legislation right, and then let the Secretary of the Interior carry out the laws. I do not know what is to be gained by these commissioners and superintendents; but I know that an ounce of common practical sense is just exactly what we want, and what we ought to have in the head of the Department and the agents he employs, and if we do not get it there our Government is a failure and we shall never get it by these supervisors, paid to travel over the country and make a book against the management of the Secretary of the Interior and his agents and bring interminable quarrels into Congress.

My judgment is against the whole bill. In point of fact, it is not the right course to set overseers over one of your bureau officers or over one of the Secretaries of the President. The Secretary is the man to select the proper agents to go among the Indians and carry out the laws; he can do it better than anybody else. Suppose he does not make the soundest and the wisest selections in all cases, he will make a better and a more consistent one than you will make by these supervising inspectors. The Senator from Illinois has heard a great deal about stealings and the great fortunes that have been made in dealings and contracts with the Indians. I do not know how that is. There is not a single thing done under this Government that has not been from the beginning charged more or less with indirection and improper conduct; and no inspectors or supervisors or spies or detectives that you have had or ever will have, have given you a remedy or ever will, in my judgment, and then the expense is totally out of proportion to any possible good that can result from it.

My judgment is against the whole bill. If there is any revision of the system needed, and the judgment of Congress is that it is wrong, let us take a new direction. If we have not a proper man as Secretary of the Interior, let us hold the appointing power responsible. He is the man selected to carry out the laws of this Government in relation to the Indians. We can have or ought to have but one head to that Department who is administering it by consultation and by advice with the President of the United States, whose duty it is to see that all the laws are executed properly and carried out in a just and proper spirit for the safety and prosperity of all.

I intend to vote against this bill, because I think it is unnecessary, because I think no good can come from it, and I think the money you are giving to these men will be an utter waste.

Mr. NESMITH. I think the Senator from Kentucky misapprehends the scope and intention of this bill. There is nothing in the bill that I can observe which makes it liable to the imputation and the charge the Senator from Kentucky makes, that this is a board to watch the Secretary of the Interior. It is simply a board to go into the interior of the country and among the Indians to examine, inspect, and report upon the details.

You may have the best man in the world as Secretary of the Interior, but it is impossible for him to control, direct, and inspect and supervise the management of Indian tribes and the agents in remote Territories. This is not entirely anomalous legislation. The armies have inspectors general, who are sent out annually to inspect every military post in the United States, and they make reports on the administration and on the discipline and conduct of the troops, in relation to the country, its citizens, and the accountability of the officers, precisely as it is proposed now to inaugurate a board to inspect the Indian department, and to meet and either to refute or to prevent these charges which are being made constantly of mismanagement of the Indian department. If they are true it will be in the power of this board to ferret out those wrongs and to report them, and to suggest some remedy. If they are false it will be within the power of this board to deny them. If, by the practical operations of these boards, we find them unnecessary, and that their deliberations are not likely to result in an amount commensurate with their cost, it will be an easy matter for us to abolish them.

It will be recollected that the last Congress authorized a joint committee of the two Houses to visit the Indian tribes in the various States and Territories. The short period of time allowed for that duty, and the vast country they were compelled to travel over precluded their visiting all the tribes. That committee performed a good deal of labor. The report is not yet prepared; but I apprehend that that report will demonstrate that they performed great labor, and, in my opinion, saved the country vast amounts of expenditure. It is proposed that this board shall have more power than that. It is proposed to make it a permanent board, that is, unless Congress shall see proper

to change it. It will not be permanent beyond the power of Congress; but it is proposed to make it permanent for the purpose of being constantly in the Indian country, and to see that the laws made by Congress for the regulation and intercourse with the Indian tribes are properly preserved; to see that the agents themselves perform their duties properly; to see that the vast appropriations which Congress makes are properly expended; and to see that the intercourse between the whites and the Indians is regulated by the provisions of the treaties which we have made and ratified with them.

I say that this bill is the partial result of the deliberations of that congressional committee of investigation. I do not think there is a member of that committee who traveled among the Indian tribes but what became convinced of the necessity of some action of this kind. Neither do I think there is a member of that committee who is not satisfied that the small appropriation last year was more than ten times saved to the Government by the supervision that that committee exercised over the Indian tribes, and over the disbursements of money, and over the operations of military officers.

Now, sir, the objection of the Senator from Ohio, also, I think, is founded in misconception. This bill does not propose to organize any machinery of courts. It does not propose to give any sort of jurisdiction except that given to court commissioners. In the present condition of affairs there is no means for the prevention of crime, no means for the arrest and summary examination of offenders in the Indian country. The agencies among the tribes are remotely situated from places where there are courts, and it is necessary that there should be somebody who has additional authority to arrest offenders and make a preliminary examination, and bind over the parties who are guilty of infringing the treaties or of trespassing upon the rights of the Indians. I apprehend, if the power is conferred which is proposed to be conferred by this bill on the agents and commissioners, it will be in the power of the agents and these commissioners, in exercising this very slight judicial authority which is vested in them as court commissioners, to prevent outrages, and to summarily arrest persons who are guilty of depredating upon the Indians, and thus inaugurating those causes out of which Indian wars grow. I believe we have organized territorial governments over every foot of our vast domain.

It is merely proposed that these commissioners shall have power to arrest and make a preliminary examination and bind over parties to appear at the nearest courts within the Territories. The United States has district courts within all its Territories now. Many of these tribes are remote from places where courts are holden, and this bill merely gives that sort of jurisdiction which will enable an Indian agent or one of these commissioners to pick up a depredator in the Indian country one hundred, two hundred, or three hundred miles from the courts, and to have the military compel his attendance. They can examine the case, and if they find there is sufficient cause, they can bind him over for his appearance at a court within the Territory, where he can be indicted and tried according to the provisions of the laws of the United States, and punished for whatever offenses he may have committed.

Many of our Indian wars grow out of depredations on the part of the Indians, stealing, robbing, and plundering the whites, and occasionally committing murder. In the way the territorial governments and the courts are organized at this time, there are no officers clothed with the power with which we propose to clothe these officers, who can arrest those sort of criminals and have them brought to speedy justice. I am satisfied that if this slight jurisdiction which it is proposed to confer on these parties be conferred it will never in any way increase the expenditure of the courts. The Senator from Ohio must be aware that whatever business grows out of the arrests, these preliminary examinations cannot in any great degree increase the legitimate expenses of the courts. They have their judges, their marshals, and their grand and petit juries who are paid by the United States. This will merely facilitate the transfer of criminals from remote districts to the district court of the United States, where they can be tried by the court in session, and where all the expenses are now paid by the Government.

There cannot by any possibility be any very great increase of expenditure, and if the expenditure should be increased a few thousand dollars I apprehend the restraint which would be imposed upon the class of people who are found in the Indian country would more than compensate the Government for any appropriations that might be necessary for arresting and sending these criminals to courts for trial. It is understood that there is great laxity of law in the Indian country, and men go there with impunity, and often for the purpose of committing depredations. If it is understood that there are officers on the spot, that there are commissioners and Indian agents there fully authorized to have them arrested, and to call on the military for that purpose, and to have preliminary examinations and bind them over for trial to the district court of the United States, I think it will have a salutary influence in controlling that class of people who go into the Indian country for evil purposes. I trust that the bill will pass. I did not propose to argue it at any length. It has been already sufficiently explained by members of the committee. I simply rose to meet some of the objections which have been presented by honorable Senators.

Mr. POMEROY. I desire to add to the remarks that I have made on this bill that I believe this fourth section to be a good section. If there was nothing else but that in the bill, I think it ought to pass. This fourth section does provide for Indian agents and Indian superintendents to have some judicial power. The only fault I see in it is that it does not provide for anybody to execute their processes, but it does give them power to hear and determine certain cases.

Mr. NESMITH. They have power to call on the military commander.

Mr. POMEROY. In all the intercourse I have had with the Indians I have seen the necessity for some power of this kind. A difficulty arises among the members of a tribe; they come to the agent with it; the agent says he has no power to hear it; he cannot determine anything. Then when the agent turns him away, the Indian undertakes to attend to it himself, and it becomes his duty according to their law, if he be near akin to the person injured or killed, to go and avenge it with his own hand. He is expected to do so, and their law sustains him in it, requires it of him. This section is desirable; it is a great want; it has always been felt by those who had intercourse with the Indian tribes, that the law was deficient because no one was authorized to hear and determine cases among Indians. I think this section of the bill should certainly commend itself to every one.

The PRESIDING OFFICER, (Mr. HENDRICKS in the chair.) The question is on the amendment proposed by the Senator from Wisconsin to the second section of the bill.

The amendment was agreed to.

Mr. TRUMBULL. I move to amend the bill by inserting in section three, after the word "applied" in line eight, the word "purchased," so as to make it the duty of the inspectors to ascertain "whether all moneys, goods, and supplies are faithfully and justly applied, purchased, and distributed." It has been suggested to me that there is often as much fraud in the purchase of the articles which are given to the Indians as there is in their distribution, that oftentimes contracts are entered into to make the purchases at particular places and then the profits are divided. I do not know as to the truth of these things, but it can do no harm to put in the word "purchased" so that it shall be the duty of this board to inquire as well into the purchase of the articles as their distribution.

The amendment was agreed to.

Mr. CONNESS. I do not understand the nature of the amendment moved by the Senator from Illinois a few moments ago; and there was an amendment adopted just before that; was it not on the motion of the honorable Senator from Kansas?

The PRESIDING OFFICER. The amendment referred to was proposed by the Senator from Wisconsin.

Mr. CONNESS. I wish to say a few more words on the subject of this bill, but I suppose they had better be reserved until its friends have amended it as they see fit to do. I suggest now, however, to the honorable chairman of the Committee on Indian Affairs that all his arguments, if they are good, for an increase of the salary of Indian agents to $1,800, apply for a comparative increase to those living beyond the region of the Sierra Nevada mountains. That distinction has been heretofore kept up, now exists, and is necessary. A salary of $1,800 per annum there is scarcely sufficient for the subsistence of any man. It will be remembered that when the bill reorganizing Indian affairs in California was passed I called the attention of the Senate to it, and the highest sum they would agree to allow then was $1,800 per annum, which is there a very inconsiderable sum. I only make the suggestion to the chairman while he is amending his bill; I suggest that he may make the salary $2,000.

Mr. TRUMBULL. Let them all be the same.

Mr. GRIMES. Every one of them has a house and farm.

Mr. CONNESS. No, they have not; there is not one in our State that has.

Mr. POMEROY. I suggest to the Senator from Wisconsin whether the provision in regard to religious denominations making recommendations ought not to be confined to those denominations that support missionaries among the Indians. I do not care what denomination does it, but there are some denominations who support missionaries and take an interest in Indian affairs, and some do not.

Mr. TRUMBULL. Those that do not will not recommend.

Mr. DOOLITTLE. I think we had better leave it general, as it stands.

Mr. SPRAGUE. I should like to know how the different denominations are to unite upon a candidate.

The bill was reported to the Senate as amended, and the question was stated to be on concurring in the amendments made as in Committee of the Whole.

Mr. BUCKALEW. I ask for a separate vote on the amendment of the Senator from Minnesota; I think it was understood that should be voted on separately.

Mr. DOOLITTLE. I do not understand that there was a vote taken on the suggestion of the Senator from Minnesota to change the first section of the bill; it was a mere suggestion not put in the form of an amendment.

The PRESIDING OFFICER. Unless otherwise ordered, the question will be taken separately on concurring on each amendment made as in Committee of the Whole.

The Secretary read the first amendment, which was after the words "per annum" in the sixteenth line of the second section to insert the words "in full for services, mileage, and all other expenses."

The amendment was concurred in.

The next amendment was to insert at the end of the second section the words "inspector, but shall be entitled to the same pay, mileage, and allowances as when employed in the military service."

The amendment was concurred in.

The next amendment was after the word "applied," in line eight of section three, to insert "purchased."

The amendment was concurred in.

Mr. CONNESS. I move to recommit the bill with instructions, and I call the attention of the Senate to the instructions I propose. The instructions are to have annual inspections in each district by a military officer to be detailed by the Secretary of War, who shall be paid his necessary transportation and subsistence.

Mr. DOOLITTLE. I hope the bill will not be recommitted, because that question has been discussed here in the Senate, and the Senate fully understands what the views of the committee are on that subject; and the committee have considered that question as to how an inspection should be made, and have made the best report they are capable of making.

While upon the floor I desire to say one word by way of reply to the honorable Senator from Kentucky, [Mr. GUTHRIE.] He seemed to assume that the purpose of this bill was to appoint a board of inspection above the heads of the Departments of the Government. I do not understand it so. The heads of Departments with whom the responsibility rests of necessity are located here in Washington, and this inspection board is but an agency to be employed by the President and by the heads of Departments to ascertain facts in relation to the administration of Indian affairs in the far interior, just as in the War Department we have actually inspectors general who are used for this very purpose of inspecting into the transactions of the military forces, to inspect the arms, to inspect the quartermasters, and to inspect the commissaries in the distribution of clothing and supplies to the Army, and to report generally on the condition of the Army to the heads of the Army, in order that correctives may be applied. The truth is that our Indian administration is a kind of mixed administration, partly civil and partly military. There are some Territories and some States where Indian tribes are located on reservations where no military forces are required at all, and where the administration of Indian affairs is purely civil. There are other Territories where the Indians are yet in such a wild state that almost the entire administration of Indian affairs must be under the control of the military. There are other sections and tribes where it is mixed, semi-civil and semi-military. To cover all the cases our purpose was to have a board of inspection which would look closely after the civil administration and the military administration of Indian affairs, and we did hope to incorporate into it also what in the administration of Indian affairs in all the British Provinces is one of the greatest points in their policy and most cherished, and that is in relation to their schools, their missions, and their religious instruction. We desire to have all these three things looked into by the organization of this board—the civil administration, the military administration, and, if you please, the moral or spiritual administration of Indian affairs. That was the purpose; so that instead of this being a board set over the heads of Departments, either over the Secretary of War or the Secretary of the Interior, it is to be organized in subordination to the President, for the purpose of aiding in the administration of affairs, both civil and military, as far as the Indians are concerned.

Mr. CONNESS. My only object was to get a vote upon the proposition as between an inspection to be made by one officer to be detailed by a Department of the Government and this board of three. I am loath to interfere with what seems to have been considered with considerable care by the Committee on Indian Affairs, and yet I am entirely satisfied, using all the experience and knowledge I have, that this is simply adding a useless and profitless incumbrance to the present management of Indian affairs. And when I come to think of the motion that I have made to give a superintendency under the direction of the War Department over business that is properly chargeable to the Interior Department, there is an impropriety in it that of course would induce me to withdraw the proposition. Whenever the head of the Interior Department, a member of the Cabinet, a high officer of the Government, is not competent to appoint an inspector to make this annual inspection, (if you wish inspections added to your present system,) it is time, as the Senator from Kentucky has observed, that some other citizen should be chosen and put at the head of that Department. This whole scheme will, in my opinion, be a costly incumbrance. I withdraw my motion to recommit.

Mr. GUTHRIE. I am the more convinced from all that has been said that I am right in the objection I have made to this measure, and that it will be a useless incumbrance. The head of the Department here ought to have his own agents under his order, and he should have a report to him of how everything is done. The law is sufficient as it stands to enable him to know how every agent discharges his duties. At our great commercial emporium, New York, two thirds of the revenue from duties on imports are collected: does any man suppose that the Secretary of the Treasury has not an outside agent there watching, reporting upon every transaction, and seeing that the laws are enforced? Does any man suppose that under your internal revenue system the Secretary of the Treasury has not his agents to inform him how every officer keeps his books, and makes his entries, and executes the law? Is it not all reported to him so that he can apply a remedy where wrong exists? So the Secretary of the Interior is the proper officer to see and to know how the laws of his Department are executed by his agents, and to apply a remedy where there is anything needing correction. These inspectors will be of no service to him in that respect. If they make a report it will be a report that will lead to a quarrel between him and his agents. If we have a Government we must have a Government that our own officers execute without having outsiders to watch them as spies and detectives upon them. You should have at the head of each Department a man of character, a man of standing, a man whose reputation is at stake in the due execution of the duties of his office, and he must see that the business confided to his Department is faithfully executed.

The Secretary of the Interior has power now to do all that is sought to be accomplished by this bill, as I understand. The Senator from Wisconsin says there are boards of inspection in the Army to inspect the fortifications, arsenals, &c. But it is the duty of the officers at those establishments every year to put the head of the Department in possession of all the facts in relation to the armories, the fortifications, the arms, the ammunition, &c. The Army regulations provide for all that information being furnished to the Department annually; and what is the consequence? Your committees can know from the head of the Department how everything is, and can be shown the last reports. My idea is that you cannot administer Indian affairs except through the head of the Department to whom they are committed, and that you cannot put this board of inspectors into the system without injury to the service. You cannot get men of character and reputation to fill this high office if they are to be surrounded by spies and detectives who are to watch all they do and make reports to Congress. I am against the bill.

Mr. NESMITH. The bill provides in the third section, "and said board shall report annually, or as often as may by required, to the Commissioner of Indian Affairs." I propose to meet the objection of the Senator from Kentucky by so amending the bill as to require them to report to the Secretary of the Interior. It never was intended that this board should be placed over the Secretary of the Interior. The object of the organization of the board is to get desirable information and to meet the evils which have been complained of. I move to amend the bill by striking out in line twenty-one of section three the words "Commissioner of Indian Affairs" and inserting "Secretary of the Interior," so as to require the reports to be made to the Secretary. That, I think, will meet the objection of the Senator from Kentucky.

The amendment was agreed to.

Mr. GRIMES. One of the great sources of corruption in our intercourse with the Indians is the fact that there is nothing like free trade permitted with them. The trader of the Indian is always designated by the Indian agent, and I think I am safe in saying that in nineteen cases out of twenty he is a partner with the agent and is interested with him in the sales that he may be able to effect, or in the traffic that he may be able to carry on with the Indians. I propose to remedy that by offering to the Senate for its adoption an amendment in the form of an independent section, to be added to this bill, in these words:

And be it further enacted, That any loyal citizen of the United States of good moral character shall be permitted to trade with any Indian tribe: *Provided*, He shall execute the bond required by law, and complies with the regulations prescribed for carrying on intercourse with Indian tribes.

I happen to know, Mr. President, that this is what is desired by the Indians themselves. In an interview that I had a short time ago with one of my colleagues in the House of Representatives, who was a member of the joint committee to investigate the subject of Indian transactions with the chairman of the Committee on Indian Affairs last summer, he told me of a speech that was made to him by one of the most sensible Indians (and if I could only repeat it as he did I think the Senate would say one of the most sensible men) he had ever met, on this very subject. I think I am also justified in saying that I have known—not of my own knowledge, but it comes to me in such a way that I have every reason to believe it—that within a very short time, within a few months, an Indian trader has paid to an Indian agent the sum of $12,000 for the purpose of being selected as an Indian trader. I propose to do away with all that and let every man that chooses trade with the Indians, provided he is a man of good moral character, and will give bond and will strictly comply with the regulations presented for intercourse with Indians.

Mr. LANE, of Kansas. I have been a member of the Committee on Indian Affairs for two years, and have tried to get at the evil to which the Senator from Iowa refers. The difficulty we have in reaching it is that the different Indian tribes are paid but once or twice a year, and the argument is that unless the trader is licensed the Indians cannot be furnished with their goods. The agent gives orders upon the merchant, and the merchant is obliged to fill the orders in advance of the payment. Another objection to the plan proposed by the Senator from Iowa is that it introduces into the Indian tribes as traders mischievous persons who will sell to them ardent spirits; and they cannot, as I understand from the agents, so far as my own State is concerned, control the traffic in liquor except by and through licensing a particular trader. That is the objection I have met with in my efforts to do away with the evil. There are two or three Indian tribes living adjoining the town where I reside; our merchants are very anxious to sell to those Indians, but they cannot sell to them for the reason that if they were allowed to do so the result would be to introduce spirituous liquors into the tribes. For a time in Kansas the trade was thrown open in the mode suggested in this amendment, but after experience of that system the present system was adopted. The trader is appointed on the recommendation of the agent by the Secretary of the Interior. I think the Senator from Iowa will find that if he adopts his system now by law, he will be compelled at the next session to repeal this law.

Mr. GRIMES. The Senator's experience with Indians is more recent than mine, but I apprehend that I have had about as much experience with them as he has had. I know that free trade has been tried and tried successfully. Does it not strike every sensible man as a most extraordinary thing that in the case the Senator put in Kansas, where there

are two tribes living adjacent to a town, nobody shall be permitted to sell anything to those Indians, or to barter or trade with them, except one particular man, at his own price or at a price regulated by the Indian agent?

Mr. LANE, of Kansas. They do not buy all of their goods from that merchant, they only buy such as they choose. They can take their money and go into the town and purchase of any one; but it will not do to let the merchants go into the tribe.

Mr. GRIMES. They can take their money and go into the town and purchase, provided they can get the agent, who is in partnership with the trader, to pay them the money, which he will refuse to do. He will in every instance hold it in his hand until the payment comes, and then he will set it off to the Indian trader first, before anything is paid to the Indian. I appeal to the Senator's colleague if that is not the history in connection with all these Indian transactions? I know it, and I think the Senator from Kansas knows it. I have seen it done and I know it is done everywhere. The only way to remedy this is to allow the Indians to trade with just whomsoever they please.

The Senator says the objection is that if you allow them to trade with these other persons liquor will be introduced. Cannot liquor just as well be introduced now as if you allow half a dozen persons to trade or if you allow anybody to trade?

Mr. LANE, of Kansas. They do not allow more than one to enter the reserve.

Mr. GRIMES. Just as many persons will go there to trade as find it to their interest to go. If five or six merchants can be supported by the trade with a tribe of Indians, then five or six men will engage in that trade, neither more nor less; and if any of them violate the rules and regulations prescribed by Congress or by the head of the Interior Department to regulate intercourse with the Indian tribes, that moment, under the provision which I have submitted to the Senate, his license to trade is revoked, the penalty of his bond can be enforced against him. Now, do you have any greater advantage in the case of one trader than you have in the case of six traders? Can you enforce it against one any more than you can against any one of the six? Are you unwilling that these poor Indians shall be permitted to trade where they can trade the cheapest? I tell you, Mr. President, that one of the great sources of corruption in connection with this whole subject is your present system of allowing the Indian agent to select the Indian trader.

Mr. CONNESS. I wish to remind the Senator from Iowa that in this amendment he does not, as I understand it, repeal the present provision which provides for the appointment of a special trader. That still remains, but he provides for additional traders. Why not provide that there shall be no special trader?

Mr. GRIMES. I think this will cover it.

The amendment was agreed to.

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

Mr. CONNESS. On the passage of the bill I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 19, nays 16; as follows:

YEAS—Messrs. Buckalew, Cragin, Doolittle, Foster, Grimes, Howe, Kirkwood, Lane of Kansas, Morgan, Nesmith, Norton, Nye, Stewart, Sumner, Trumbull, Van Winkle, Willey, Wilson, and Yates—19.

NAYS—Messrs. Chandler, Conness, Creswell, Davis, Fessenden, Guthrie, Harris, Hendricks, Johnson, Poland, Pomeroy, Ramsey, Saulsbury, Sherman, Sprague, and Williams—16.

ABSENT—Messrs. Anthony, Brown, Clark, Cowan, Dixon, Foot, Henderson, Howard, Lane of Indiana, McDougall, Morrill, Riddle, Stockton, Wade, and Wright—15.

So the bill was passed.

JOSÉ DOMINGUES.

Mr. CONNESS. I move to proceed to the consideration of Senate bill No. 189, reported a few days since by the honorable chairman of the Committee on Private Land Claims. It is a bill which will excite no discussion.

The motion was agreed to; and the bill (S. No. 189) to confirm the grant of certain lands to José Domingues, in California, was considered as in Committee of the Whole. Its purpose is to confirm the grant to José Domingues of the land known as Los Prietos y Najalayegua, in the county of Santa Barbara, granted to him at Los Angeles, September 24, 1845, by Governor Pio Pico, and approved by the departmental assembly of Alta California June 3, 1846. The surveyor general of California is to proceed and survey the lands in accordance with the original title papers on file in his office, and when the survey shall have been approved by the Commissioner of the General Land Office a patent is to be issued to Domingues or the parties holding under him by inheritance or otherwise. This confirmation is only to be construed as a relinquishment on the part of the United States, and is not to affect the adverse right of any person whomsoever.

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

IMMIGRATION OF FOREIGN CRIMINALS.

On motion of Mr. SUMNER, the joint resolution (S. No. 45) protesting against pardons by foreign Governments of persons convicted of infamous offenses, on condition of emigrating to the United States, was considered as in Committee of the Whole.

The preamble to the resolution recites, it appears from official correspondence that the authorities of Basleland, a canton in Switzerland, have recently undertaken to pardon a person convicted of murder on the condition that he would emigrate to America, meaning thereby the United States; and that there is reason to believe that similar pardons of persons convicted of infamous offenses have been granted in other countries. It is therefore proposed to resolve that the Congress of the United States protests against such acts as unfriendly and inconsistent with the comity of nations, and requests the President of the United States to cause a copy of this protest to be communicated to the representatives of the United States in foreign countries, with instructions to present it to the Governments where they are accredited respectively, and to insist that no such acts shall, under any circumstances, be repeated.

The joint resolution was reported to the Senate without amendment.

Mr. SUMNER. Before the Senate vote on the resolution I will make a brief explanation. The preamble sets forth certain facts, to wit, that there is an official correspondence showing that the authorities of Basleland, in Switzerland, have recently undertaken to pardon a person convicted of murder on the condition that he would emigrate to America, meaning thereby the United States. That official correspondence has been printed and is now on your tables. There is also a further correspondence, which I have in my hand, which has been communicated to me by the Department of State since this resolution was reported from the committee, showing, I am sorry to say, that such acts have taken place under the Government of Great Britain; that especially has it been the habit in the island of Newfoundland to pardon persons convicted of infamous offenses on condition that they would come to the United States; and there are several very recent instances of pardons in the kingdom of Hanover in Germany. For instance, I have here a copy of two scraps from a German newspaper. One is from the Luneburg Advertiser of September 10, 1865, Luneburg being a town of the kingdom of Hanover:

"Within the last few months our chief justice has pardoned three of the greatest criminals in the kingdom on condition they emigrate to the United States. Henry Gieske for theft, J. Sander for arson, and John Winter for robbery. The two former are already on their way to New York from Hamburg."

Then there is another scrap from the same newspaper of the date of November 12, 1865:

"The culprit Camman, who was condemned to death for highway robbery and murder, has had his punishment commuted to emigration to America."

Besides this, within a few days, since this joint resolution was reported, I have seen a gentleman who narrated to me an incident that occurred to him in one of the prisons of Baden Baden during the last year. Visiting that prison he heard himself the jailor or an officer of the prison make a proposition to a criminal to the effect that he should be pardoned on the condition that he would emigrate to the United States.

The Committee on Foreign Relations had this subject under consideration, and they gave some attention to the point whether we could adopt any legislation to counteract this. If Senators will reflect on that they will find great difficulty in meeting it by legislation. For instance, suppose we should undertake to require passports or a system of surveillance of all persons who arrive from Europe, there you impose upon the innocent as well as the guilty a great deal of trouble. A system of passports has not been in use with us except during a very brief period of our recent war. It was thought that the case, perhaps, would hardly justify that.

Another proceeding, perhaps, might be to subject vessels to certain penalties, provided they should import such persons, if you could bring home to the master of the vessel any knowledge of the character of the persons. But there, again, Senators will see the difficulty of bringing home that knowledge. For the present, the committee thought that they would content themselves with the joint resolution which I have reported, which will put on record the sentiments of Congress on this subject, and will reënforce the action of the Executive. I understand that our representatives in different parts of the world have, wherever they have known of these offensive incidents, earnestly entered their protest; but I desire, for one, that in entering that protest hereafter they should feel that they are supported by the solemn judgment of Congress on this question.

Mr. CONNESS. I should like to inquire of the honorable Senator, the chairman of the Committee on Foreign Relations, whether the mere expression of an opinion, which must be taken in advance to be the opinion of the people of the United States and the Government of the United States, is in any respect such a remedy as should be applied to so grave an offense as pardoning criminals upon the condition that they shall come to this country. And further, if it would not be better to instruct by this resolution the executive Government to give the notice contemplated, and then provide that if such an act was repeated by that Government, it would become the duty of this Government, and the President would be instructed to do it, to cease communication with that Government, to withdraw our representative, and to refuse to allow theirs to remain longer in this country.

While upon this subject I desire to call attention to a very offensive course, involving this same principle, or nearly the same, which is pursued by States of the Union against each other. It is a somewhat common practice for the Governors of States to pardon their offenders and criminals and release them from the State penitentiaries upon condition that they leave the State. Then they are at liberty to go into any foreign country or go into any other State of the Union. I believe it is a common practice, and I suggest whether it should not also call for legislation, although it does not relate to foreign affairs. I believe it is a common practice and one certainly that deserves to be suppressed, for it is a very poor donation to make to any State to send criminals of another to it.

But it appears to me that this resolution does not meet the case at all. It simply undertakes to declare by form of law what the whole world must know to be the opinion of Congress without declaring it; but if the resolution provided that after the notification we should cease intercourse with any nation that should undertake to perpetrate such an offense against this, then it would provide for the application of a remedy.

Mr. SUMNER. I think the Senator is a

little mistaken in supposing that the resolution is quite as weak as he suggests.

Mr. CONNESS. Read it.

Mr. SUMNER. Read it, he says:

"The Congress of the United States protests against such acts as unfriendly and inconsistent with the comity of nations"—

I would remark that that is very strong language to use with reference to a foreign nation; it is the strongest language almost that can be employed without going to the strongest possible—

"and hereby requests the President of the United States to cause a copy of this protest to be communicated to the representatives of the United States in foreign countries, with instructions to present it to the Governments where they are accredited respectively, and to insist that no such acts shall, under any circumstances, be repeated."

It seems to me that that language is strong enough, and that it is better than if we should go further and point out what we should do in the event of these acts being repeated. I think that had better be left to the future. I trust they never will be repeated, and that there will be no occasion for any further action on the subject. I think that such a protest from Congress will be a proper back ground to the Executive in making its protest thoroughly efficacious. On this subject, I have conferred with the proper Department, and I find that they enter very cordially into this view of the case.

Mr. TRUMBULL. I should like to inquire of the Senator from Massachusetts whether the executive department has taken any action in reference to this subject, or whether it is submitted to Congress to act in the first instance. It seems to me that the conduct of our foreign affairs primarily belongs to the Executive; and if anything of this kind has occurred, I should like to know whether the Executive has made known to those Governments that the practice was obnoxious.

Mr. SUMNER. I am very glad to inform the Senator that the subject was brought to the notice of the Committee on Foreign Relations by a communication from the Secretary of State, calling our attention to it, and covering the correspondence of the United States consul at Basle, setting forth the recent incident to which I have already referred. In the course of this correspondence it appears explicitly that protest has been made by our consul on the spot.

Mr. TRUMBULL. What is the answer to his protest?

Mr. SUMNER. There is no answer to it. We have here nothing but his letters.

Mr. TRUMBULL. What I wanted to know was whether the State Department, whether the executive Government of the United States had done anything, or whether the Congress of the United States was called upon to act here because some consul in some distant country had upon his own responsibility objected to the action of that Government where he happens to be consul; whether, then, the matter is submitted for us to take the initiatory steps.

Mr. SUMNER. I have already stated to the Senate that the executive department has acted on the question, but it deemed the question of so much importance as to lay it before Congress for such action as Congress might choose to take; and the committee having it under consideration thought, as a first step, that it would reënforce the action of the Executive by this solemn protest against what seemed to be (I was going to use a very strong expression) an outrage. The case, after examination, seemed to be clear, at least to the extent of this proposition. The committee were not at present prepared to go further, but on this proposition they were agreed.

Mr. TRUMBULL. I think the committee have gone far enough; I am not objecting to the action of the committeee that it has not gone far enough; but what strikes me as remarkable is that there is submitted to the Congress of the United States a difficulty with a foreign nation before the Executive has exhausted his powers.

Mr. SUMNER. I beg the Senator's pardon——

Mr. TRUMBULL. Wait a moment. When a case of difficulty is about to arise between this country and some other, the executive department of our Government manages that affair until it is unable to obtain redress, and its communication to Congress is after all its powers are exhausted, and recommending perhaps a declaration of war. I do not know whether this communication was made to Congress with a view that the Committee on Foreign Relations should report a declaration of war upon this representation of a consul.

I think it is very objectionable that persons guilty of infamous crimes in foreign countries should be pardoned on condition of their coming to the United States; but it would seem to me that the proper department of this Government to object to it is the executive department, and that it is not a matter for legislation here until the Executive has exhausted his powers and the matter has assumed that serious phase when it is necessary for the nation to take it up in Congress and unless it is stopped make the last resort—an appeal to arms. Really I should, from what appears here, imagine that all that it would be necessary to do would be for the State Department to inform the Government of Switzerland that this thing must not be repeated; but it does not seem that any communication has ever been made by the State Department, but some consul has complained of what the Senator denominates an outrage, and thereupon the matter is referred to Congress for our action.

Mr. SUMNER. I have no reason to believe that the State Department has not acted; but the State Department did think that under the peculiar circumstances it ought to communicate these facts to Congress, and I think that the State Department was not wrong. I called these incidents outrages. Perhaps the very facts that we now discuss them, and if we should pass this resolution, that the resolution will go before the world, will do more to prevent a repetition of the outrages than any dispatches that might go from the Department of State. I wish to speak with all possible respect of those dispatches, but I believe the publicity that will be given now to this act by this proposition in Congress will of itself be more efficacious to prevent its repetition perhaps than anything that could be done by any other branch of the Government. At any rate, Congress simply coöperates with the Executive on this occasion; it does not act adverse to it, but simply in harmony with it, and I believe in harmony with public sentiment. I think that the public sentiment of this country must feel wronged when it hears that foreign Powers have undertaken to do such things, to treat our country as a Botany Bay. We solemnly insist that that shall not be done.

Mr. CONNESS. What seems strange to me in this matter is the allotment of business. For instance, upon the subject of Mexican affairs the executive department, I understand, claims the exclusive control and jurisdiction. Upon the subject of the importation of criminals, it gives the jurisdiction to Congress of expressing opinions. I do not understand this allotment of business; and if the honorable chairman can reconcile it, he can do more than I am able to do.

Mr. SUMNER. As to the allotment of business, so far as I am concerned, representing my committee, I am willing to resign what is not strictly appropriate to it to any other committee.

Mr. CONNESS. The Senator does not understand me. I say I do not understand the allotment of business, not referring to the committee. Upon the subject of Mexican affairs, I understand it to have been claimed by the executive department that they have exclusive primary jurisdiction. Upon the subject of the importation of criminals, they extend that jurisdiction to Congress. This allotment of business—I do not know where it originated—does not appear to me to be just exactly right.

Mr. CHANDLER. If the Senator from Massachusetts would put into his resolution anything that was effective, I should not object to it; as, for instance, if he would declare that a repetition of these acts would be a just cause of war, or that we would retaliate, or something more than a simple protest by Congress. Sir, if the Secretary of State has entered his protest, I should think that was enough; if he has not done that, he has not done his duty. But for Congress to say that we, the law-making power, the war power, enter our protest against foreign countries sending their murderers here, is beneath the dignity of this body. That will do for the Secretary of State; it will do for one of the servants of this Government; but it is beneath the dignity of this body to pass such a resolution. I move to lay it on the table.

The motion was not agreed to.

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

Mr. CHANDLER. I ask for the yeas and nays on the passage of the resolution.

Mr. GRIMES. I should like to inquire of some of the Senators who seem to be so bitterly opposed to the passage of this measure what objection they have to it. I have not heard any. It is said to be beneath the dignity of this body to protest against what we all know has been going on for a great many years—the exportation to this country of criminals abroad. This is only a solitary instance that has been brought to our attention, and whether the Secretary of State has been doing his duty or not in protesting against it has nothing to do with what our duty is when our attention is once brought to the subject. I know Mr. Wolff, the consul at Basle; he is a most estimable gentleman and a constituent of mine, and he knows generally whereof he speaks. I am as conscious as I can be of a fact that is not within my own personal knowledge that the exportation of criminals from Germany to this country has been going on for years. Last year I saw a gentleman, a citizen of my town, who visited his fatherland, and when he came back told me that he came in company with a detective, who brought several criminals to New York and turned them loose there. The Government of one of the little German principalities paid all the expenses of the transportation of those criminals and of the detective who brought them over in charge, and when they landed here gave them a certain sum of money with which to start, and probably within a short time they were in Sing Sing. I think this subject being brought here by the Secretary of State, no matter whether it is brought here properly or not, there is no way but for us to enter our protest against this kind of importation going on any longer.

Mr. TRUMBULL. The Senator from Iowa has not heard any objection to this measure. Everybody agrees that we do not wish that class of persons to come to this country, but the objection to the thing is that it has no business here. The objection to it is that it belongs to another department of the Government, and I cannot for the life of me account for its being here except upon the principle that it must have been a desire on the part of some gentleman who made a speech a few days ago in the city of New York rather denying the power of Congress, to show that he was willing to defer to Congress, and so he submitted this. [Laughter.] It was not before the New York speech was made, I think. It is probably in consequence of that; and on the whole, it being intended doubtless to show the deference of the State Department to the Congress of the United States and to take its advice in reference to this case, I do not know that there is any objection.

Mr. NYE. Allow me simply to remind you that this is a day of speedy conversions, [laughter,] and I insist upon it we ought to take no exception here.

Mr. GRIMES. It may be all true that it has come here improperly; the Secretary of State may have acted unwisely; but shall we hold out

to the nations of Europe the idea that when this thing is here once before us, we are so indifferent to it that we kick it out and will not declare in favor of the passage of this protesting resolution? I am not prepared to do that.

Mr. WILSON. It seems to me that this question is very properly here. I am glad that it is here. I am glad the Committee on Foreign Relations has reported the resolution, and I shall vote for it very cheerfully. I am confident that when it is adopted the executive branch of the Government will feel strengthened in making the proper protest. I think the very fact that the Congress of the United States has acted on the subject will have its influence the world over, and let these Governments understand that if they send their criminals here with detectives the time may soon come when we will send a powerful detective to them.

As to the suggestion that the Department ought not to have sent it here I have only to say that I hope the Congress of the United States, that during the last five years has been very liberal in granting powers to the executive branches of the Government during the war, as I think it ought to have done, will consent now to resume its own power and its own position, and that the Congress of the United States, uninfluenced by what anybody may say in the city of New York, or the city of Washington, or anywhere else, will be the Congress of the United States; that the Senate will be the Senate, and the House of Representatives will be the House of Representatives; and that we shall be very careful in the powers we now grant to the executive branch of this Government, and shall come back as far as we can to the ancient condition of things before we were involved in this war, when we used to grant great powers to the executive department to put down the rebellion. I hope all sides in this Chamber will concur in this course. I remember that during the war we heard from the other side of the Chamber daily complaint because we were granting great powers to the Executive; and when we spoke of the Administration as the Government we were told that we had set up a new standard of Government here. Now, we have got through the war, blood is not dependent on our action, and I hope we shall consent on both sides to maintain the power and the dignity of the Congress of the United States.

Mr. CHANDLER. I perceive new light, sir. The Senator from Illinois has given an idea that is entirely new to me; and that is, that the Secretary of State now desires to show his deference to Congress, not only in great matters, but even matters infinitesimally small. I therefore withdraw my call for the yeas and nays.

Mr. HOWE. The demand for the yeas and nays being withdrawn, I am inclined to think the resolution will pass; but I am not disposed to allow it to pass without entering a protest of my own; and that is against the treatment that this proposition has received. I do not think that it ought to be regarded as a matter infinitesimally small. I do not know myself whether the matter pointed out by the Committee on Foreign Relations is the best or the only one that could be adopted. It is the only one we have before us; and I am willing to adopt that for the present. As to the evil itself, I have a very lively sense of its magnitude. Upon principle, I cannot distinguish between it and an act of piracy. I do not care whether a foreign Government fits out a privateer to prey upon our commerce, or commissions her felons to prey upon our society; it is an act utterly indefensible. I presume the protest will have its effect, and that this conduct will not be repeated; but if it is repeated, I desire to adopt the sentiment of the Senator from Massachusetts, [Mr. WILSON,] and say that if any Government short of the divine shall persist in fitting out its felons, whom it cannot tolerate in its own society, and send them abroad to other and foreign societies, it is an act which justifies war; and if such men are habitually sent to America, all America, comprising both its continents, ought to make it an occasion for war; and if they are sent to the United States alone, the United States ought to resent it alone against the world, and I believe will do it.

The joint resolution was passed.

Mr. GRIMES. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *March* 19, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of Saturday last was read and approved.

The SPEAKER proceeded, as the regular order of business, to call the States and Territories for bills and joint resolutions to be referred to the appropriate committees without debate and not to be brought back by motions to reconsider, resuming the call with the State of Ohio.

PENSION BILL.

Mr. BUNDY introduced a bill to amend the act entitled "An act to grant pensions," approved July 14, 1862; which was read a first and second time, and referred to the Committee on Invalid Pensions.

CLAIMS FOR ARMY SUPPLIES.

Mr. RANDALL, of Kentucky, introduced a bill further to provide for the payment of certain claims for quartermasters' stores, subsistence supplies, &c., furnished to the Army of the United States; which was read a first and second time, and referred to the Committee of Claims.

CONSTITUTIONAL AMENDMENT.

Mr. BAKER introduced a joint resolution proposing an amendment to the Constitution of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

LOYAL SETTLERS ON THE PUBLIC DOMAIN.

Mr. VAN HORN, of Missouri, introduced a bill for the relief of loyal settlers on the public domain, and for other purposes; which was read a first and second time, and referred to the Committee on Public Lands.

PACIFIC RAILROAD.

Mr. KASSON introduced a bill to amend an act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes, approved July 1, 1862; which was read a first and second time, and referred to the Committee on the Pacific Railroad.

NANCY J. KELLY.

Mr. KASSON also introduced a bill granting a pension to Nancy J. Kelly, widow of Dr. Alfred Kelly; which was read a first and second time, and referred to the Committee on Invalid Pensions.

RECLAMATION OF CALIFORNIA LANDS.

Mr. BIDWELL introduced a bill for an act to enable the State of California to reclaim the dry and sterile lands within the limits of said State; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

INDIAN AFFAIRS IN UTAH.

Mr. WINDOM introduced a joint resolution authorizing the Secretary of the Interior to pay certain claims out of the balance of an appropriation for the payment of necessary expenditures in the service of the United States for Indian affairs in the Territory of Utah; which was read a first and second time, and referred to the Committee on Indian Affairs.

GUARDIAN SOCIETY.

Mr. LATHAM introduced a bill to amend an act entitled "An act to incorporate the Guardian Society, and provide for the reforming of juvenile offenders in the District of Columbia," and also an act entitled "An act granting certain privileges to the Guardian Society of the District of Columbia;" which was read a first and second time, and referred to the Committee for the District of Columbia.

SURVEY OF ROCK RIVER.

Mr. FARNSWORTH introduced a joint resolution for the survey of Rock river, with reference to water communication between the Mississippi river and the great lakes. It appropriates $20,000, to be expended under the direction of the Secretary of War, in making an examination and survey of Rock river, in the States of Illinois and Wisconsin, in reference to making the same navigable, and such further survey as will test the feasibility of connecting by canal the waters of said river with those of the great lakes. The joint resolution was read a first and second time, and referred to the Committee on Commerce.

UNITED STATES CURRENCY.

Mr. HOOPER, of Massachusetts, introduced a bill to amend an act to provide ways and means to support the Government.

The bill provides that the act entitled "An act to provide ways and means to support the Government," approved March 3, 1865, shall be extended and construed to empower the Secretary of the Treasury to sell any description of bonds authorized by said act at such rates not less than par as he may think advisable for lawful money of the United States, or to receive in payment any Treasury notes, compound-interest notes, certificates of indebtedness or of deposit, with the interest accruing thereon, which have been or which may be issued under any act of Congress.

The bill further provides that it shall be the duty of the Secretary of the Treasury to retire and cancel an amount of Treasury notes, certificates, or other obligations bearing interest, equal in amount to the bonds disposed of, and the public debt shall not be hereafter increased by authority of this or any previous act of Congress, and that from and after the 1st day of July next the interest on certificates of deposit for temporary loans shall not exceed the annual rate of five per cent.

Mr. MORRILL. I desire to know how that bill gets in.

The SPEAKER. Under the regular call of the States for bills and joint resolutions to be referred to the appropriate committees and not to be brought back by motions to reconsider.

Mr. HOOPER, of Massachusetts. I wish to say, if the House will allow me, that if the bill of last week is lost, I wish to have this bill, which I think, judging from the discussion, carries out the wishes of a large majority of the House, referred to the Committee of Ways and Means. I have endeavored to make the bill conform to what I believe to be the expressed wish of the House.

The bill was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

SETTLEMENT OF ACCOUNTS OF OFFICERS.

Mr. ELIOT introduced a bill to provide for the settlement of accounts of certain public officers; which was read a first and second time, and referred to the Committee on the Judiciary.

UNITED STATES CURRENCY.

Mr. KELLEY introduced a bill relating to the currency of the United States, which he asked to have read at length.

The bill was read. The first section authorizes and directs the Secretary of the Treasury to pay and fully liquidate the principal and interest of all the compound-interest notes of the United States when the same may become due, and to issue legal-tender notes, bearing no interest, for the purpose of paying and liquidating such compound-interest notes, provided

that the amount of legal-tender notes to be so issued shall not exceed the amount of compound-interest notes paid and liquidated.

The second section provides that from and after the passage of this act it shall not be lawful for the Secretary of the Treasury to increase the amount of legal-tender currency or national bank currency of the United States, except as provided in the first section of this act; or to diminish the amount to less than $900,000,000.

Section three provides that from and after the passage of this act it shall not be lawful for the Secretary of the Treasury to sell or dispose of any gold coin or gold certificates of the United States at a less price than one hundred and thirty cents in the currency of the United States for one dollar in coin or gold certificates of the United States until the 1st day of July next; and after that time it shall not be lawful for him to diminish the price of gold more than one per cent. in any month below the price of the preceding month.

Section four provides that all acts and parts of acts inconsistent with this act shall be repealed.

The bill was read a first and second time, and referred to the Committee of Ways and Means.

ELIGIBILITY TO OFFICE.

Mr. CULLOM introduced a joint resolution proposing an amendment to the Constitution of the United States, which he asked to have read.

The joint resolution was read. It proposes the adoption of the following amendment:

No person, except a citizen of the United States who has at all times borne true allegiance thereto, shall ever hold office under the United States; and Congress shall pass the necessary laws to prevent a violation of this article.

The joint resolution was read a first and second time, and referred to the Committee on the Judiciary.

RECONSTRUCTION.

Mr. McCLURG introduced a joint resolution to provide for the representation in Congress of the States lately in rebellion, and for the resumption of the practical relations of the said States to the United States; which was read a first and second time, and referred to the joint committee on reconstruction.

FIFTEENTH AND SIXTEENTH MISSOURI CAVALRY.

Mr. KELSO introduced a bill to extend the provisions of an act to authorize the employment of volunteers to aid in enforcing the laws and protecting public property to the fifteenth and sixteenth regiments of Missouri volunteer cavalry; which was read a first and second time, and referred to the Committee on Military Affairs.

CALL OF STATES AND TERRITORIES.

The SPEAKER. The call of States and Territories for the introduction of bills and joint resolutions on leave to be referred to their appropriate committees, having been concluded, the next business in order is the call of the States and Territories for resolutions, the call to be made in an inverted order, commencing with the State of Ohio, where the call last rested. On last Monday, at the expiration of the morning hour, a resolution was pending, offered by the gentleman from Ohio, [Mr. SCHENCK,] in regard to printing extra copies of the evidence taken by the committee on reconstruction. Afterward, on the evening of the same day, a similar resolution was passed under a suspension of the rules. If there is no objection the pending resolution will be laid on the table.

No objection was made.

EXPLORATION FROM UTAH TO SAN FRANCISCO.

Mr. GARFIELD submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Printing be directed to inquire into the expediency of publishing the report of explorations across the Great Basin of Utah to San Francisco, in 1859, by Captain J. H. Simpson, of the corps of Engineers.

BOUNTY, BACK PAY, AND PENSIONS.

Mr. BUNDY submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Pensions be required to report on the expediency and justice of providing by law that when any officer or soldier, serving faithfully in the Army or Navy of the United States during the late rebellion, shall have disappeared in such manner as to warrant the presumption that he was murdered by the rebels and so disposed of as that his fate is not known to any officer of the Army or the Government, or to the friends of such officer or soldier who have made diligent search therefor, and whose fate shall remain unknown to all such for the period of two years after hostilities in the field shall have ceased, such officer or soldier shall be deemed and held as having died in the service; and the widow and children of such deceased officer or soldier shall be entitled to receive the bounty and back pay due him, together with the pension provided for in the act of July 14, 1862, upon application and proof as required in said act relating to pensions and the amendments thereto.

J. M. BROOME AND OTHERS.

Mr. BUNDY also submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee of Claims be instructed to inquire into the expediency of providing by special act for the payment of John M. Broome and others, members of the regimental band of the twelfth Kentucky infantry, from January 3, 1862, to September 10, 1862, and report by bill or otherwise.

GUARANTEE OF MEXICAN BONDS.

Mr. DAWSON submitted the following resolutions, on which he demanded the previous question:

Resolved, That the United States cannot guaranty the bonds of the Mexican or any other Government without impairing her own credit and imposing new burdens upon her people.

Resolved, That the sacred faith of the American people is pledged to the payment of our public debt, and that it is unwise to complicate our financial affairs by the assumption of the obligations of other countries.

Resolved, That the true policy of the United States is, in the language of Mr. Jefferson, "peace, commerce, and honest friendship with all nations; entangling alliances with none."

Mr. BROOKS. I rise to ask for a division of the question upon these resolutions. I have no objection to the second resolution. Upon the first I should like to be as silent as possible under existing circumstances.

The SPEAKER. A division being demanded, the resolutions will be voted upon separately. The gentleman from Pennsylvania [Mr. DAWSON] demands the previous question upon the series.

Mr. WASHBURNE, of Illinois. I think that these resolutions ought to be discussed thoroughly before they are acted upon.

On seconding the demand for the previous question, there were—ayes 21; noes 73.

Mr. DAWSON. I call for tellers.

Tellers were ordered; and Mr. DAWSON, and Mr. ASHLEY of Ohio, were appointed.

The House divided; and the tellers reported —ayes 28, noes 66.

So the call for the previous question was not seconded.

Mr. ASHLEY, of Ohio. I move that the resolutions be referred to the Committee on Foreign Affairs.

Mr. WASHBURNE, of Illinois. I rise to debate the resolutions.

The SPEAKER. The gentleman from Illinois rises to debate the resolutions, and they go over under the rule.

AGRICULTURAL REPORTS OF 1864.

Mr. MILLER submitted the following resolution:

Whereas it is alleged that twenty-five thousand less copies of the Agricultural Reports of 1864 have been printed than those of previous years; and whereas the type has not yet been distributed: Therefore,

Resolved, That the Committee on Printing be, and are hereby, authorized and required to inquire into the expediency of ordering twenty-five thousand copies of the Agricultural Reports of 1864, and report accordingly.

Mr. WASHBURNE, of Illinois. I rise to discuss that resolution. I wish to exhibit some facts in reference to this matter of printing.

The SPEAKER. The gentleman from Illinois rises to debate the resolution, and it goes over under the rule.

QUARTERMASTER GENERAL.

Mr. BROOMALL submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of providing by legislation that the tenth section of the act of Congress of March 3, 1865, entitled "An act to amend the several acts heretofore passed to provide for the enrolling and calling out the national forces, and for other purposes," shall not be construed to apply to the Quartermaster General of the United States, and to report by bill or otherwise.

ADJOURNMENT OF CONGRESS.

Mr. ANCONA submitted the following resolution, on which he demanded the previous question:

Resolved, (the Senate concurring,) That the President of the Senate and the Speaker of the House of Representatives adjourn their respective Houses for the present session on Thursday, the — day of May, at twelve o'clock m.

On seconding the demand for the previous question, there were—ayes 55, noes 29; no quorum voting.

The SPEAKER, under the rules, ordered tellers; and appointed Messrs. ANCONA and FARNSWORTH.

The House divided; and the tellers reported —ayes eighty-two, noes not counted.

So the previous question was seconded.

The main question was ordered.

On agreeing to the resolution,

Mr. MORRILL called for the yeas and nays.

The yeas and nays were ordered.

Mr. WASHBURNE, of Illinois. Would it be in order to move to fill the blank in the resolution so as to read, "the last Thursday in May?"

The SPEAKER. It would not be except by unanimous consent.

Mr. JENCKES. I object.

The question was taken; and it was decided in the affirmative—yeas 80, nays 63, not voting 40; as follows:

YEAS—Messrs. Ames, Ancona, Anderson, Bergen, Bidwell, Blow, Boyer, Brandegee, Bundy, Chanler, Reader W. Clarke, Coffroth, Dawson, Delano, Deming, Denison, Dumont, Eggleston, Eldridge, Farquhar, Ferry, Glossbrenner, Goodyear, Grider, Grinnell, Hale, Aaron Harding, Abner C. Harding, Hart, Hayes, Henderson, Hogan, Asahel W. Hubbard, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell, James R. Hubbell, Hulburd, James M. Humphrey, Jones, Julian, Kelso, Kerr, Latham, George V. Lawrence, William Lawrence, Le Blond, Marshall, Marvin, McCullough, Morris, Nicholson, Phelps, Plants, Price, Samuel J. Randall, William H. Randall, Raymond, Ritter, Rogers, Ross, Rousseau, Sitgreaves, Smith, Spalding, Stilwell, Strouse, Taber, Taylor, Thornton, Trimble, Trowbridge, Robert T. Van Horn, Warner, Elihu B. Washburne, William B. Washburn, Welker, James F. Wilson, Stephen F. Wilson, and Winfield—80.

NAYS—Messrs. Alley, Allison, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Baxter, Beaman, Boutwell, Bromwell, Brooks, Broomall, Buckland, Cobb, Cook, Cullom, Dixon, Eliot, Farnsworth, Garfield, Higby, Hill, Holmes, Hooper, Chester D. Hubbard, Ingersoll, Jenckes, Kasson, Kelley, Ketcham, Kuykendall, Laflin, Loan, Lynch, Marston, McClurg, McRuer, Miller, Moorhead, Morrill, Moulton, Myers, O'Neill, Paine, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Scofield, Shellabarger, Sloan, Stevens, Thayer, Francis Thomas, John L. Thomas, Upson, Van Aernam, Ward, Wentworth, Williams, Windom, and Woodbridge—63.

NOT VOTING—Messrs. Barker, Benjamin, Bingham, Blaine, Sidney Clarke, Conkling, Culver, Darling, Davis, Dawes, Defrees, Donnelly, Driggs, Eckley, Finck, Griswold, Harris, Hotchkiss, James Humphrey, Johnson, Longyear, McIndoe, McKee, Mercur, Newell, Niblack, Noell, Orth, Patterson, Perham, Pike, Pomeroy, Radford, Schenck, Shanklin, Starr, Burt Van Horn, Henry D. Washburn, Whaley, and Wright—40.

So the resolution was adopted.

During the vote,

Mr. BEAMAN stated that his colleague, Mr. DRIGGS, was detained from the House by illness.

The vote was then announced as above recorded.

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

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, their Secretary, notifying the House that that body had passed House bill

No. 86, making additional appropriations, and to supply deficiencies in the appropriations for sundry civil expenses of the Government for the fiscal year ending the 30th of June, 1866, and for other purposes, with sundry amendments, in which he was directed to ask the concurrence of the House.

ENROLLED BILL SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (H. R. No. 217) for the relief of Robert Henne.

LEAVE OF ABSENCE.

On motion of Mr. GARFIELD, leave of absence was granted to Mr. SCHENCK for one week.

EQUALIZATION OF BOUNTIES.

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

Resolved, That the Committee on Military Affairs be, and is hereby, instructed to report at an early day a bill to equalize the bounties of all the soldiers and sailors who were mustered into the service of the United States.

LOYAL REPRESENTATIVES.

Mr. RANDALL, of Pennsylvania. I ask leave to submit the following resolution:

Resolved, In the opinion of this House, Representatives from the late rebellious States who can take the required oath under the existing law, are entitled to seats and should be admitted as members of this House.

The SPEAKER. The resolution under the rules goes to the committee on reconstruction.

Mr. RANDALL, of Pennsylvania. I move to suspend the rules.

The SPEAKER. That cannot be done until after the morning hour.

Mr. RANDALL, of Pennsylvania. I withdraw the resolution.

QUARTERMASTER GENERAL'S DEPARTMENT.

Mr. McCULLOUGH. I offer the following resolution:

Resolved, That the Secretary of War be directed to furnish this House with a list of the officers, volunteer and regular, employed in the Quartermaster General's department in this city; also their rank, the particular duties performed by them, and the number of clerks serving in each bureau under them. Also, by what tenure the Secretary of War holds the "Corcoran Art Building," what amount of rent is paid for it per annum, and if a less expensive and equally commodious and suitable building for the headquarters of the Quartermaster General cannot be procured, and thereby a large saving to the country be made.

The SPEAKER. That being a call for executive information, requires unanimous consent.

Mr. ASHLEY, of Ohio. I object.

The resolution then went over under the rules.

DICTIONARY OF CONGRESS.

Mr. COFFROTH. I ask leave to submit the following resolution:

Resolved, That there be printed for the use of the members of this House a sufficient number of copies of the Dictionary of Congress, as revised and brought down to date, to make the quota of the House equal to that heretofore ordered by the Senate; and that the Clerk shall pay to the compiler the same rate of copyright which has hitherto been allowed by the two Houses of Congress.

Mr. WASHBURNE, of Illinois. I object.

CONFEDERATE DEBT.

Mr. ROGERS submitted the following resolutions, and demanded the previous question:

Resolved, That the Federal Government has no constitutional right to assume or pay the debt of the so-called confederate government of the insurgent States or the rebel debt of any of said States, and that it would be an outrage even to attempt to do so.

Resolved, That the honor of the Federal Government, and every principle of justice, demand that the Federal debt should be paid to the utmost farthing; that repudiation should be discountenanced, and the plighted faith of the country sacredly preserved.

Resolved, That equal taxation is just and right, and that every person in this country should bear his equal share of the Federal and State taxes, and that there should be no privileged class.

The House divided; and there were—ayes 27, noes 13; no quorum voting.

The SPEAKER ordered tellers; and appointed Messrs. ROGERS and GRINNELL.

The House again divided; and the tellers reported—ayes 48, noes 50.

So the previous question was not seconded.

Mr. WILSON, of Iowa. Has the morning hour expired?

The SPEAKER. It has.

The resolution then went over until next Monday.

LOAN BILL.

The House next proceeded to the consideration of Mr. BEAMAN'S motion to lay upon the table Mr. GARFIELD'S motion to reconsider the vote by which the loan bill was rejected.

Mr. BEAMAN demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 70, nays 78, not voting 55; as follows:

YEAS—Messrs. Anderson, Baker, Barker, Beaman, Bingham, Blow, Boutwell, Bromwell, Buckland, Bundy, Reader W. Clarke, Cobb, Cook, Dixon, Eggleston, Eliot, Ferry, Goodyear, Grinnell, Abner C. Harding, Hart, Hayes, Higby, Hill, Holmes Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, Edwin N. Hubbell, James R. Hubbell, Hulburd, Ingersoll, Jenckes, Julian, Kelley, Kelso, Kuykendall, George V. Lawrence, William Lawrence, Loan, Lynch, McClurg, Miller, Moorhead, Morris, Moulton, Myers, O'Neill, Orth, Paine, Pike, Plants, Price, Alexander H. Rice, John H. Rice, Shellabarger, Sloan, Smith, Stevens, Thayer, Francis Thomas, Trimble, Trowbridge, Upson, Van Aernam, Welker, Williams, James F. Wilson, Stephen F. Wilson, and Windom—70.

NAYS—Messrs. Alley, Allison, Ames, Ancona, James M. Ashley, Baldwin, Banks, Baxter Bergen, Bidwell, Blaine, Boyer, Brandegee, Brooks, Broomall, Chanler, Coffroth, Conkling, Cullom, Dawes, Dawson, Delano, Denison, Donnelly, Dumont, Eldridge, Farnsworth, Farquhar, Garfield, Grider, Hale, Aaron Harding, Henderson, Hogan, Hooper, John H. Hubbard, James M. Humphrey, Jones, Kasson, Kerr, Ketcham, Laflin, Latham, Le Blond, Marshall, Marston, Marvin, McCullough, McRuer, Morrill, Nicholson, Perham, Samuel J. Randall, William H. Randall, Raymond, Ritter, Rogers, Rollins, Ross, Rousseau, Sawyer, Scofield, Sitgreaves, Spalding, Stilwell, Strouse, Taber, Taylor, John L. Thomas, Thornton, Robert T. Van Horn, Ward, Warner, Elihu B. Washburne, William B. Washburn, Wentworth, Winfield, and Woodbridge—78.

NOT VOTING—Messrs. Delos R. Ashley, Benjamin, Sidney Clarke, Culver, Darling, Davis, Defrees, Deming, Driggs, Eckley, Finck, Glossbrenner, Griswold, Harris, Hotchkiss, James Humphrey, Johnson, Longyear, McIndoe, McKee, Mercur, Newell, Niblack, Noell, Patterson, Phelps, Pomeroy, Radford, Schenck, Shanklin, Starr, Burt Van Horn, Henry D. Washburn, Whaley, and Wright—55.

So the House refused to lay the motion to reconsider upon the table.

During the roll-call,

Mr. DEMING stated that he had paired with Mr. HARRIS.

The result having been announced as above recorded,

The question recurred on the motion of Mr. GARFIELD to reconsider the vote by which the bill was rejected.

Mr. GARFIELD. I believe, by the usage of the House, I am entitled to the usual time. I have promised to give a part of it to some gentlemen who desire to express their views on the subject.

Mr. HARDING, of Illinois. Is the gentleman entitled to the floor by right, or by courtesy?

The SPEAKER. The gentleman is entitled by right; the previous question has exhausted itself on the rejection of the bill.

Mr. GARFIELD. I will give thirty minutes of my time to the gentleman from Pennsylvania, [Mr. BROOMALL,] after which I shall claim the floor again.

Mr. BROOMALL. Mr. Speaker, it was with extreme reluctance that I voted against the bill under consideration on Friday last, not so much on account of any merit I could see in the bill itself, as because it was looked upon by the country and urged upon the House by its advocates as the commencement of the contraction of our currency. The views of the Secretary of the Treasury on this subject, known and approved by the country at the time of his appointment, set forth in his speech at Fort Wayne and in his recent report, justified the people in looking for a return to specie payments at no distant day. The indorsement of those views by the House of Representatives at an early period of the session by a vote lacking only six of being unanimous, strengthened the hopes of the people and was received with rejoicing by all classes except speculators and gamblers in the public funds who thrive upon inflation, instability of prices, and uncertainty about public policy. It was therefore a thing by no means to be desired that Congress should even seem to have backed down from its position, to have repudiated its indorsement of the Secretary, and undertaken to thwart him in his efforts to put the country upon the road toward specie payments.

But by thus defeating the first measure of the Department presented here through the appropriate committee for the avowed purpose of commencing the policy which has received the indorsement of this body and of the country, I do not believe that the majority of this House intended to repudiate that policy. I rather believe that those who voted with me against the bill did so for the same reason which governed me: from a conscientious opposition to the details of the bill, and the extent of the powers conferred by it, and not hostility to the avowed object of it. And it is with the view of getting a bill giving all the necessary powers, without containing the objectionable features of this one, that I now advocate the reconsideration, which I would have moved if the gentleman from Ohio [Mr. GARFIELD] had not anticipated me.

The discussion which has taken place, and the several votes by which this bill was defeated, must have shown the Committee of Ways and Means that while they cannot get this legislation, unless as a Democratic measure, they can obtain from the Union majority of this body all the powers which ought to be conferred upon the Secretary of the Treasury in the premises at this time. I therefore entreat the committee to consent to a recommitment of the bill, with or without instructions, as they may elect.

Personally I owe the Secretary no more than good will, if that much. I entertain a profound dislike of his political opinions, as far as I understand them, and I have, if possible, still less confidence in his knowledge of human nature. But I believe him to be quite as competent for the difficult and embarrassing situation he holds as any other financier in the country. And I am anxious to give him all the power he thinks necessary to carry out his policy, subject to all the safeguards we believe to be required for the good of the country.

Is there any doubt about the necessity of legislation? Is there any question about the currency being redundant? One might think so from some of the arguments presented here within the last few days. If it were worth while to debate such a question, I would ask, why otherwise are prices generally inflated? Currency, like everything else transferable, is subject to the law of supply and demand. Its price is measured in all other commodities just as the prices of all other commodities are measured in it. Now, when thus measured, where currency is apparently cheap and everything else is apparently dear, and when the question arises which of these appearances is the reality, it is natural to look at the point where the smallest or slightest cause will produce the effect. It is natural to suspect that the single article, currency, has fallen in actual value rather than that all the thousands of other things have simultaneously risen.

But we are not left to this inference alone. When a commodity becomes too cheap compared with all others, it is because it has become too plentiful; because the supply is greater than the demand. There is no other regular and permanent cause of a fall of price in a single article than an over supply of it. Before 1860 the currency of the United States, including the precious metals, never exceeded $300,000,000; now it exceeds $900,000,000. Formerly eight dollars *per capita* of the population answered the purposes of the country; now we have thirty dollars. This would look very much like an over supply of the article, and would quite significantly suggest the idea of depreciation.

I do not look upon this enormous increase, however, as positive proof of redundancy. Nothing but the experiment will solve the problem, how much currency any given people require. So much depends upon the habits of the people, whether trading or otherwise, whether inclining to mutual confidence or otherwise, whether ingenious in substitutes for currency or otherwise, that all estimates and all calculations are at fault. As a rule a sparse population requires less currency than a dense one of the same numbers. It is true the latter is more ingenious in contriving modes of dealing without currency, and therefore is enabled to make the same number and amount of exchanges with less currency, yet contiguity so largely increases the number and amount of exchanges as to counterbalance this many times over.

Strong as these inferences are of a redundancy of the currency, the problem is not left to rest solely upon them. There is one fact that has the merit of affording positive proof of that proposition. The currency is not worth its nominal value when measured by the standard of the commercial world, and therefore the supply is in excess of the demand. Gold being used for the same purpose by all nations, flowing freely like water from places of accidental superabundance to fill places of accidental displacement, keeps a more uniform actual value than any other commodity. It is therefore the best measure of value, and where ever it is driven out of use, it is because the people have found something cheaper, something that will measure their commodities to better advantage, just as the three-foot yardstick would give place to one two feet and a half long if the venders of fabric were left to their choice.

It is argued in certain quarters that there is no superabundance of currency because there is at certain times and in certain places an actual scarcity of it, not enough to answer the purposes of the community. Now, the alleged fact may be admitted, but the inference attempted to be drawn from it is by no means a logical one. When it is said that a currency is redundant, it is not meant that there is too much of it at the price at which it passes. That would be impossible. It is the quantity compared with the demand for it that fixes that price. If the quantity was less, the price would be higher; if the quantity was greater, the price would be lower, always supposing the demand to remain constant.

What is meant by a redundant currency is that there is too much of it to pass at its nominal value. In our case there is too much to pass at a higher rate than about seventy cents to the dollar, but just enough to pass at that rate.

When a currency has once had its proper value assigned to it under the operation of the laws of supply and demand, a temporary or local scarcity may occur just as readily when that price is ten cents to the dollar as when it is a hundred. Nobody pretends that there is too much currency for the wants of the community. The proposition is that there is too much of it to pass at par, and that therefore the price has gone down until it has reached a point at which there is no longer too much for the purposes of the community.

It is this depreciation, with the long train of evil consequences arising out of it, that is proposed to be remedied. No one ought to doubt the necessity of legislation; but what shall that legislation be? It is proposed by some to debase the coin, to cut the dollar down to about seventy cents, and thus to jump at once to specie payments. This is an old remedy, and a sure one. It is cutting the Gordian knot with a vengeance. But it may be greatly questioned whether the remedy is not worse than the disease, like amputating the leg to cure corns.

Are we ready to repudiate thirty cents to the dollar of the public debt? Why not, then, repudiate the whole of it? If we are to incur the scorn and condemnation of the civilized world, let us not do it for the mere "thirty pieces." If we must come out with loss of character, let us at least come out clear of debt. It may be said that repudiating our debt is no worse than breaking our faith so often pledged to the loyal men of the South. This may be true; but both would be worse than either alone; and if we must desert our allies and sacrifice our friends, let us at least be as good as common gamblers, pecuniarily honest.

Will it be said that this proposed debasement of the coin shall not affect the public debt, but only transactions between individuals? I will never consent that the widow's dower and the orphan's portion shall be cut down one third, while the public creditor shall be paid in full in gold, even though his bond cost him in gold but forty cents to the dollar. I will never consent that the national banks shall receive full payment from the Government, and yet shall pay their own depositors but seventy cents to the dollar. But the day for debasing the coin has gone by some centuries, and Americans are jealous enough of their national honor to prevent the practice being revived in our country.

It is proposed by some that the currency should remain at its present volume, and that the country should be suffered to grow up to it. This would require about thirty-four years, if we suppose that the amount of currency *per capita* needed before the war should become and continue that required after the disturbing causes arising out of the rebellion shall have ceased to operate. But by increasing, the population will become more dense, and therefore, as I have already said, will require more currency *per capita*. Taking everything into consideration, it may be estimated with some probable approach toward accuracy, that in 1890 the population of the United States will need the present amount of currency at the gold standard, that is to say, $900,000,000.

At first view this remedy would seem to be an easy one. But it must be borne in mind that during all these long years we will be laboring under all the effects of a gradual contraction of the currency. The healthy performance of all the functions of society, of all the operations of business, requires that the volume of currency should increase with the increase of population; and there is no difference in effect between a constant currency with an increasing population, and a decreasing currency with a constant population. All the evils of a return to specie payment will have to be borne whether the currency shall be reduced to suit the community, or the community grow up to suit the currency. The difference is that in the latter case the evils will be extended over a greater period of time. Some men might prefer that the process of tooth-drawing should be protracted throughout the entire day that the pain may be less intense at any given moment.

Let no man delude himself with the belief that the road toward specie payments is an easy one. Upon that road every one who undertakes to pay money will have to pay in effect more than he bargained for. Every one who buys property will find it depreciating in price upon his hands. The manufacturer will often sell his goods for less than the raw material cost him, and the poor laborer will find his wages cut down to the point at which the most fortunate of his class can barely live. But the road must be traveled. The evils must be borne. We may protract them throughout a greater period of time, and thereby soften the intensity, but we cannot escape them.

I know it is said that we have been traveling upon this road for a considerable time, and have actually progressed from the point at which gold commanded a premium of one hundred and eighty-five per cent. to that at which it commands only thirty. It is argued that as we have gone this distance without serious inconvenience, the rest of the way may be looked upon as a very small matter.

This is plausible, but unfortunately it is exceedingly unsound. Gold is not the sole and absolute measure of value. It is only the best one. Like all other commodities, it is subject to fluctuations wholly independent of the value of the instrument by which it is measured. It never was 285 by reason of the depreciation of the currency alone, and it is very doubtful whether the low price at which it sells now is not the result of mere oscillation. Let us examine this. Every commodity is subject to fluctuation in value on account of an over or under supply. Now, if we could combine the measured value of a sufficient number of commodities to balance these fluctuations, and exterminate the errors arising from them, we could thereby obtain a measure of value more certain than gold itself, a measure by which the fluctuations in value of even gold might be tested.

In order to approximate to this measure of value and apply it, I have taken twenty commodities in most common use, embracing those least likely to be affected by the extraordinary demands of war—wheat, flour, corn, oats, beef, pork, mackeral, tea, coffee, sugar, molasses, raisins, cheese, salt, tallow, wool, hops, soap, iron, leather, and coal. I have taken three periods of time and combined and averaged the prices of those commodities at each of them. The first period extends from 1856 to 1860, when gold was at par; the second is July 1, 1864; and the third, February 15, 1866. From the first period to the second the prices of those commodities had risen one hundred and two per cent., while gold had risen one hundred and eighty-five. From the second period to the third these prices had fallen to fifty-seven per cent., while gold had fallen to thirty-nine. The inference is strong, though not irresistible, that gold at 285 was higher than the volume of the currency would warrant, and that it is now lower.

If it should be asked why gold rose in price so much more than other commodities, the answer is easy. There was an extraordinary demand at that time from two classes of people, one those who desired to get their property out of the country by reason of their doubts about the stability of our institutions, and the other the merchants who desired to be ready to pay future duties and who feared that the contest between Congress and the gold gamblers, which was then lively, would soon render it impossible to obtain the commodity at any price. Of course the gamblers operated upon both these doubts, and thereby inflated the price still higher than it would otherwise have been. This view is strengthened by the fact that one month previously the premium on gold was only eighty-nine, and in three months subsequently it had again fallen to the same figures, while the volume of currency and the prices of other commodities remained about the same during that period of four months.

From this criterion alone we would infer that we had traveled upon the road toward specie payment from one hundred and two to fifty-seven. But it will not do to assume even this. All the commodities from which I have deduced the measure of value had risen in price at the second of these periods by reason of the extraordinary demand arising from the war to a point above what they would have stood at but for the war; and that demand having ceased, all those commodities fell in price to a point below what they would have stood at but for the war. Now, how much of the difference between the second and third periods is owing to this? I think all of it. In other words, I think if no other cause operated upon the price of gold than the redundancy of the currency, it would be quite as high now as ever it has been.

I believe we have not yet even started upon the road toward specie payments. More than this, I believe we are not yet at the height of the inflation unless speedy measures are taken to reduce the volume of currency, and therefore it is that I am unwilling to adopt the policy of keeping up the present volume of the currency and suffering the community to grow up to it. If there is yet time to avoid some of the

evil consequences of the inflation, why not do so? Why not cut off the top of the mountain which we would otherwise have to climb over?

This is an important consideration. If we have not yet reached the height of the inflation nobody will doubt the propriety of reducing the currency at once in order to prevent further evil consequences. Let us therefore look at this question. There is no principle plainer or better settled than that doubling the currency of a community will double prices in the absence of any counteracting element. This result will not be produced at once. It requires time for the new standard of value to enter into the prices of all commodities. It may require years. The first effect is to stimulate trade unnaturally. This for the time employs part of the excess of currency and prevents it entering into the prices of commodities. The ease with which debts may be paid off with the new currency also gives temporary employment to the excess. But these and other disturbances will disappear sooner or later, and the doubled currency will have ultimately doubled prices, or, to speak more critically accurate, will have depreciated to one half its original value. So plain a proposition needs no demonstration.

Now, our currency has been increased threefold since 1860, while prices have as yet advanced only once and a half. Are there any other than temporary causes operating here to prevent the increase of currency from acting to its full extent upon prices? I see none. Some of the excess was employed in the business of war, which was to a large extent a cash business. But this retarding element has disappeared. There was the usual unhealthy stimulus to trade and speculation. There was also the rapid payment of old debts, both employing large quantities of the excess. But these are rapidly passing away. There was also a temporary disuse of the ordinary expedients to deal without currency. But society is rapidly settling down into its old habits. Already credit in its various shapes is taking the place of currency, and in a short time there will be nothing to prevent the expansion from imposing its full measure upon prices. A year or so may elapse in the mean time, but when this process shall be fully completed, if the currency shall remain as it is, gold will sell at 250, and other commodities at corresponding prices.

I ought to qualify this assertion by admitting the possibility of a panic in the mean time, which, if sufficiently extensive, would crush half the trading community and bring gold to par. I know no means of foretelling when a mercantile people will become so distrustful, so alarmed as to destroy one another in their efforts to escape some real or imaginary evil. All we know is that panics follow inflations, and usually terminate them.

By far the greatest proportion of the evils of contraction result from the panics that are caused by it. If these could be avoided the process of returning to specie payments would be no very serious matter; but I know no way to avoid them. An opinion is prevalent, and I believe is entertained by the Secretary of the Treasury, that a contraction sufficiently gradual will cause no panic. I think this is a mistake. Bringing prices down by retiring the currency is like pulling a heavy weight on the ground with a long elastic rope. No matter how slowly and gradually you pull, the weight comes at last with a jump and a jerk. In like manner a slow and gradual contraction of the currency has no effect whatever upon prices for a time. As it continues money slowly becomes scarcer, rates of interest go up, but still men pay those rates, hoping the stringency is temporary. Occasionally a small dealer goes by the board, but this alarms nobody. Money becomes still scarcer, rates of interest higher; but prices remain substantially the same until large dealers can stand no longer. Then the crash begins, each failure causing others. Then everybody wants everybody else to pay up; the demand for money becomes enormous. Prices come down with a run, because debtors to save themselves try to convert their commodities into cash at any price. Nobody trusts anybody else, and the community is in the midst of a panic just as disastrous as if the contraction had been sudden.

I have said that I know no way to prevent this. Possibly if the community were informed from week to week of the amount of currency retired, and could be made to consider the ultimate result of it, the evil might be ameliorated.

If I am right in all this, why not commence the business of contraction? Why not prevent the evil from becoming still greater? I am not asking that the price of gold should be reduced below its present point (130) at once. I would be quite content to keep it there for a year to come; but the people have a right to require at the hands of the Government that the price be not enhanced.

I am willing to empower the Secretary of the Treasury to sell bonds at not less than par, and with the proceeds to retire and cancel the interest-bearing legal tenders. This is substantially the proposition of the gentleman from Massachusetts, [Mr. HOOPER,] a proposition which, I trust, will be adopted. The prohibition to sell bonds at less than par for the purpose is quite a sufficient guard against undue contraction, because the first symptom of undue contraction will be a stringency in the money market, and this will at once stay the proceeding by preventing the bonds from selling at par. Thus guarded, the power ought to be sufficient to enable the Secretary to prevent a rise in the price of gold. If it should prove insufficient, I am quite willing to increase it.

The mere fact of the passage of a bill looking toward specie payments will go far to prevent the future evil consequences of the expansion. It will make men cautious about incurring liabilities. It will cause them to hesitate before embarking in doubtful and hazardous enterprises, and thereby enable them the better to withstand the effect of a panic when that shall happen. If anything could make the road toward specie payments easy it would be a general preparation beforehand, a full understanding of the nature of the road and complete consciousness that we are upon it.

To conclude, I voted with the friends of the bill with the hope of getting that of the gentleman from Massachusetts [Mr. HOOPER] substituted for it. If this shall fail, I must vote against the bill. I am unwilling to confer upon any department of the Government the power contained in this bill. I look upon the power to control the currency of a country like ours as greater for evil or good than that of any European monarch. That power belongs to Congress, and that body would be false to every duty to the country in conferring it now without restrictions upon any other department.

Mr. GARFIELD. I yield ten minutes to the gentleman from Massachusetts. [Mr. BOUTWELL.]

Mr. BOUTWELL. Mr. Speaker, nobody can be more reluctant than I am to oppose a measure of a committee of this House or any department of the Government. But I am inclined to maintain the position that under no circumstances ought this House to confide to any agent of the Government authority to diminish the non-interest-bearing legal-tender notes. I am altogether opposed to endowing an agent to do that which we think ought not to be done.

If this House will look at the condition of the country with reference to its finances, it seems to me it can reach but one conclusion, and that is, that the bill submitted by my colleague [Mr. HOOPER] is one which ought to receive the support of this House and of the country.

And I have an observation to make to the gentlemen on this side of the House. After having passed through four years of the greatest peril, both in a military and financial point of view, I submit that now is not the time to accept gifts from the Greeks, and that it is now a matter of honor as well as of right that those who sit on this side of the House and represent a majority of the loyal people of this country, should define and limit the financial policy of the Administration.

We have $450,000,000 of non-bearing-interest currency. We have $260,000,000 of national bank currency, which may reach the maximum of $300,000,000, making $750,000,000 in all. We have in addition to that $180,000,000 of legal-tender notes bearing interest, which added to the currency amounts to something more than nine hundred million dollars. Under this condition of things gold is to-day quoted at 128⅘. Last Friday it was 130⅘.

It is proposed on this side of the House, by those who object to the measure of the Committee of Ways and Means, that the currency of the country shall be reduced, between now and the 1st day of December next, at the discretion of the Secretary of the Treasury, $180,000,000, or about twenty per cent. of the existing currency of the country. And if, as gentlemen contend—a proposition which I do not admit—the price of gold follows the volume of the currency of the country. then gold should stand, with that reduction, at 105 when Congress reassembles in December next.

That, sir, is as much as the business of the country can bear. But if in addition to that a further reduction is made of $100,000,000, as is proposed, three quarters of the manufactories of the central and northern portions of the country will be suspended.

Sir, it is not a question whether laborers shall be able to earn a dollar and a half or a dollar a day, but it is a question of work and subsistence for eight thousand people that I represent in one of the cities of Massachusetts. Therefore I should be false to my trust if I hesitated to say that a limit should be fixed beyond which the Secretary of the Treasury shall not go in this condition of public affairs.

We offer to fix it at $450,000,000 non-bearing-interest legal tender; $300,000,000 national bank currency, and if that reduction be made, specie will approximate to par with paper next December.

The authority to reduce the currency without limit is a vast authority to confide to any man. It gives the Secretary the power to make every man in the country, between the Rio Grande and the St. John, weep or laugh, any day at pleasure. I, for one, can consent to no such proposition, and yet I feel bound to say that there is no man whose general financial policy I would more heartily support than that of the Secretary of the Treasury, and I should look upon it as a calamity if his place should be occupied by any other man whom it is my fortune to know. But notwithstanding this feeling, and although we are all aware that this power is not to be exercised, yet by confiding it to him you give the people reason to apprehend that at some time the power may be exercised by him or by his successor, whoever he may be, and that apprehension will be constant weight upon the business interests of the country.

I appeal to the chairman of the Committee of Ways and Means to allow this bill to be recommitted to his committee without instructions and take their judgment after this debate. If he will agree to allow the motion to recommit to be made, I think I may say that we will not object to the reconsideration; but if the committee insist that there shall be no recommitment of the bill, then there is no course for us but to vote against the motion to reconsider the vote of Friday last.

Mr. GARFIELD. Mr. Speaker, every gentleman in this House must admit that during the short time given to the committee this morning a full hearing has been given to two of the ablest gentlemen who oppose this measure, and I presume their views could not have been more strongly stated in the same length of time than they have just been stated by the gentleman from Massachusetts, [Mr. BOUTWELL.] But I wish to call his attention and that of this House to the fact that in the dis-

cussion of the bill he has raised an issue aside from the question. He has undertaken to antagonize the policy of the Secretary of the Treasury with the business interests of the country, and has told us that we are putting in the hands of the Secretary a power which may be used against the industry and honest labor of the country.

We propose, sir, to put power into his hands to be used against the gamblers of the country who would break down the public credit, and thus injure the most important interests of the country. I would be the last man to cast a vote that could oppress the manufacturer or any other producer of wealth, and I believe that the honorable Secretary asks for power, not to oppress, but to encourage industry. But I ask gentlemen whether they have considered where he will be left in case we do not give him the power he now asks. Why does he ask it? The President of the United States declared a financial policy which has been more fully elaborated by the Secretary, and we are now asked to give him power to carry out that policy, but gentlemen hesitate because it may bring a temporary pressure upon the business of the country.

The gentleman has stated the amount of currency that might be withdrawn under the provisions of this bill, and says if the whole were withdrawn it would cause a disastrous collapse. He has forgotten that there are nearly $300,000,000 of gold and silver in this country which will flow into the circulation as the greenback currency is retired.

He has also forgotten that we are now producing over $100,000,000 in gold and silver every year from our mines. He has omitted these very considerable sums, which change entirely the conditions of the problem before us.

Mr. STEVENS. From what data does the gentleman undertake to say that there is $300,000,000 in gold now in this country ready for circulation?

Mr. GARFIELD. I base my estimate on the opinion of those who have given the subject careful attention, and also from the condition of our foreign exchanges. The gentleman is aware that exchange for gold with all nations is now in our favor, and that cannot be unless we have a very considerable quantity of gold in the country.

Mr. STEVENS. I have seen no record of over $70,000,000.

Mr. GARFIELD. There are $55,000,000 in the Treasury now, besides what is deposited in banks and in private coffers. Beside this, it must be remembered that gold is now the currency of the Pacific States. But the fact that foreign exchange is in our favor is an indubitable proof that we have a large supply of specie.

Mr. KELLEY. Will the gentleman permit a single brief question? Is not the inflowing volume of gold a return for bonds rather than for produce of any kind, raw or manufactured?

Mr. GARFIELD. That does not alter the fact. By whatever means it comes, we have the gold, and the supply is increasing and will increase so long as we pursue the policy of resumption.

And now, once for all, I desire to say before leaving this subject, that neither the Secretary of the Treasury, nor the Committee of Ways and Means intend or desire that there shall be a rapid contraction of the currency; there is no purpose of that kind. Already in anticipation of the measure now under discussion, gold is falling even more rapidly than is desirable. I am sorry to see it move downward so fast as it does. And the Secretary of the Treasury, if he could, would make its decline more gradual.

Mr. Speaker, the question is, will you give the Secretary of the Treasury the power to initiate the policy of contraction of the currency, as the House indicated so decisively on the 18th of December last? What other policy has been suggested? A policy has been suggested by the gentleman from Pennsylvania [Mr. KELLEY] in a bill he introduced this morning. That bill authorizes the Secretary of the Treasury to take up short bonds as they mature and issue greenbacks in payment. If it should be adopted, $1,000,000,000 of greenbacks would be issued in the next eighteen months.

I have upon my desk a pamphlet written by a citizen of Pennsylvania signing himself "Patriot," who recommends the immediate issue of $1,000,000,000 of greenbacks, and believes it would put the country in a healthy condition for business! This enthusiastic pamphleteer rises to the sublime, if not to the blasphemous, and declares as the sum of his financial wisdom that next to the immortal God, paper money is the greatest and most beneficent power on this earth. This "Patriot" will be delighted with the bill of his distinguished Representative——

Mr. KELLEY. Mr. Speaker——

Mr. GARFIELD. I cannot be interrupted at present. This very morning the gentleman's proposition was introduced to show us a better way to meet our difficulties, by flooding the country with a new deluge of paper money, and thus plunge business and industry deeper and deeper into uncertainty and dishonesty.

Mr. KELLEY. Mr. Speaker——

Mr. GARFIELD. I decline to yield. Mr. Speaker, there is no leading financier, no leading statesman now living, or one who has lived within the last half century, in whose opinion the gentleman can find any support. They all declare, as the Secretary of the Treasury declares, that the only honest basis of value is a currency redeemable in specie at the will of the holder. I am an advocate of paper money, but that paper money must represent what it professes on its face. I do not wish to hold in my hands the printed lies of the Government; I want its promise to pay, signed by the high officers of the Government, sacredly kept in the exact meaning of the words of the promise. Let us not continue this conjurer's art by which sixty cents shall discharge a debt of one hundred cents. I do not want industry everywhere to be thus crippled and wounded and its wounds plastered over with legally authorized lies.

A bill was introduced into the House expressing the wishes of the Secretary of the Treasury. The Committee of Ways and Means reduced its proportions, struck out several provisions that they believed could safely be spared. They struck out the foreign loan clause and restricted the power conferred by it till the Secretary declares that with any less power he will be unable to fund our indebtedness and manage our finances.

Mr. WILSON, of Iowa. Will the gentleman allow me to ask him a question?

Mr. GARFIELD. I will yield for a question.

Mr. WILSON, of Iowa. I understand the gentleman from Ohio [Mr. GARFIELD] to say that the Committee of Ways and Means have taken out of the bill the foreign loan clause. I do not so understand it; I think that clause is still in the bill.

Mr. GARFIELD. Mr. Speaker, by an express vote of the House, on motion of the chairman of the Committee of Ways and Means——

Mr. WILSON, of Iowa. That was only a proviso in relation to the time, mode, and place of payment.

Mr. GARFIELD. The power to negotiate a loan to be paid abroad and paid in foreign coin or foreign currency was stricken out; and the bill now stands just as all our bills on this subject have stood for the last two years.

I propose, sir, to let the House take the responsibility of adopting or rejecting this measure. On the one side it is proposed to return to solid and honest values; on the other, to float in the boundless and shoreless sea of paper money, with all its dishonesty and broken pledges. We leave it to the House to decide which alternative it will choose. Choose the one, and you float away into an unknown sea of paper money that shall know no decrease until you take just such a measure as is now proposed to bring us back again to solid values. Delay the measure, and it will cost the country dear. Adopt it now, and with a little depression in business and a little stringency in the money market, the worst will be over, and we shall have reached the solid earth. Sooner or later such a measure must be adopted. Go on as you are now going on, and a financial crisis worse than that of 1837 will bring us to the bottom. I for one am unwilling that my name shall be linked to the fate of a paper currency. I believe that any party which commits itself to paper money will go down amid the general disaster, covered with the curses of a ruined people.

Mr. Speaker, I remember that on the monument of Queen Elizabeth, where her glories were recited and her honors summed up, among the last and the highest, recorded as the climax of her honors, was this—that she had had restored the money of her kingdom to its just value. And when this House shall have done its work, when it shall have brought back values to their proper standard, it will deserve a monument.

Mr. Speaker, I call the previous question.

Mr. CONKLING. I would like to ask my colleague on the committee a question.

Mr. GARFIELD. I yield for a question only.

Mr. CONKLING. I wish to ask of my colleague, who has charge now at least of the motion to reconsider, whether, if that prevails, he will allow a motion to be made to recommit this bill to the Committee of Ways and Means, or whether he will demand the previous question and insist upon a vote on the bill as it now stands.

Mr. GARFIELD. The Committee of Ways and Means have taken action on this bill, have reported it, have expressed their opinions upon it, and I do not see that that committee can do anything that would so advance the interests of the country as to pass this bill. I therefore desire that the sense of the House shall be taken, that the bill shall meet its fate, and I decline to entertain the gentleman's proposition.

Mr. CONKLING. Then I desire to make an inquiry of the Chair. If the vote on the passage of the bill be reconsidered and the demand for the previous question be not sustained, will a motion to recommit be in order?

The SPEAKER. If the motion to reconsider should prevail, the question will recur on the passage of the bill. If then the previous question should be demanded and sustained, the House will have to vote on the passage of the bill. If the previous question should not be sustained, a motion to recommit could be made.

Mr. CONKLING. Then, if the previous question should not be sustained, I will, if able to get the floor, move that the bill be recommitted.

Mr. STEVENS. I desire to ask the gentleman from Ohio [Mr. GARFIELD] one question. If the vote on the passage of the bill be reconsidered, will the gentleman allow a motion to be made to recommit the bill with instructions to the committee to adopt the bill introduced this morning by the gentleman from Massachusetts, [Mr. HOOPER,] so as to test the sense of the House upon that bill?

Mr. GARFIELD. I have examined that bill, and it contains one clause which I believe (and I think that most of the members of the committee concur with me in the opinion) will render it almost valueless, because it ties the hands of the Secretary of the Treasury. I cannot allow the motion to be made.

Mr. KELLEY. I desire to ask the gentleman whether I understood him correctly when I understood him to say that I had introduced a bill for redeeming the bonds of the country in greenbacks.

Mr. GARFIELD. As I understood the bill offered by the gentleman from Pennsylvania, that was the purport of it. I went to his seat to get a copy of it and failed. I was told by several gentlemen that such was the character of the bill.

Mr. KELLEY. I have only to say I have never introduced such a bill.

The SPEAKER stated that the previous question would exhaust itself on the motion to reconsider.

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

Mr. GARFIELD demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 81, nays 67, not voting 35; as follows:

YEAS—Messrs. Alley, Allison, Ames, James M. Ashley, Baldwin, Banks, Baxter, Bergen, Bidwell, Blaine, Boyer, Brandegee, Brooks, Broomall, Chanler, Coffroth, Conkling, Cullom, Dawes, Dawson, Delano, Denison, Donnelly, Dumont, Eldridge, Farnsworth, Farquhar, Garfield, Glossbrenner, Grider, Hale, Aaron Harding, Hogan, John H. Hubbard, James M. Humphrey, Jones, Kasson, Kerr, Ketcham, Laflin, Latham, George V. Lawrence, Le Blond, Marshall, Marston, Marvin, McCullough, McRuer, Morrill, Moulton, Nicholson, Noell, Perham, Samuel J. Randall, William H. Randall, Raymond, Ritter, Rogers, Rollins, Ross, Rousseau, Sawyer, Scofield, Sitgreaves, Smith, Spalding, Stilwell, Strouse, Taber, Taylor, John L. Thomas, Thornton, Robert T. Van Horn, Ward, Warner, Elihu B. Washburne, William B. Washburn, Wentworth, Whaley, Winfield, and Woodbridge—81.

NAYS—Messrs. Anderson, Baker, Barker, Beaman, Bingham, Blow, Boutwell, Bromwell, Buckland, Bundy, Reader W. Clarke, Cobb, Cook, Dixon, Eggleston, Eliot, Ferry, Goodyear, Grinnell, Abner C. Harding, Hart, Hayes, Henderson, Higby, Hill, Holmes, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, Edwin N. Hubbell, James R. Hubbell, Hulburd, Ingersoll, Jenckes, Julian, Kelley, Kelso, Kuykendall, William Lawrence, Loan, Lynch, McClurg, Mercur, Miller, Myers, O'Neill, Paine, Pike, Plants, Price, Alexander H. Rice, John H. Rice, Shellabarger, Sloan, Stevens, Thayer, Trimble, Trowbridge, Upson, Van Aernam, Burt Van Horn, Welker, Williams, James F. Wilson, Stephen F. Wilson, and Windom—67.

NOT VOTING—Messrs. Ancona, Delos R. Ashley, Benjamin, Sidney Clarke, Culver, Darling, Davis, Defrees, Deming, Driggs, Eckley, Finck, Griswold, Harris, Hooper, Hotchkiss, James Humphrey, Johnson, Longyear, McIndoe, McKee, Moorhead, Morris, Newell, Niblack, Orth, Patterson, Phelps, Pomeroy, Radford, Schenck, Shanklin, Starr, Francis Thomas, Henry D. Washburn, and Wright—35.

So the motion to reconsider was agreed to.

During the vote,

Mr. PHELPS stated he was paired with Mr. F. THOMAS, who would vote against, while he would vote for, the motion.

Mr. DEMING stated he was paired with Mr. HARRIS.

Mr. LAFLIN stated that he was requested by Mr. CLARKE, of Kansas, to say, if he were well enough to be present, he would vote against the pending motion.

The vote was then announced as above recorded.

The question then recurred on the passage of the bill.

Mr. GARFIELD demanded the previous question.

Mr. CONKLING. I appeal to the gentleman to let me make a motion to recommit. [Cries of "No!" "No!"] Then I shall demand the yeas and nays on ordering the main question.

The House divided on seconding the call for the previous question; and there were—ayes 53, noes 69.

Mr. GARFIELD demanded tellers.

Tellers were ordered; and Messrs. GARFIELD and CONKLING were appointed.

The House was again divided; and the tellers reported—ayes 64, noes 80.

So the previous question was not seconded.

The question recurred on the passage of the bill.

Mr. CONKLING. Mr. Speaker, before making the motion for which a majority have already virtually pronounced I ask the attention of the House for a few moments, feeling the more at liberty to do so because, although a member of the committee by which the pending measure was reported, I have thus far had little part in the debate.

I wish to relieve not myself, because I have steadily voted for the bill, but those with whom I have differed in these votes, from the imputation, if imputation it be, from the construction at least which may be put upon their opposition to a measure looking to a resumption of specie payments. It has been intimated in the debate, and already an effort is visible in certain quarters, to spread abroad the impression that all those who have withheld their votes from the bill are opposed to a return to specie payments, and that the lesson of the hour is that a majority of the Union party in this House is wedded to paper currency as a permanent financial policy for the country. No impression could be more false, few more pernicious. The divided front we have seen arises from differences in detail as to the wisest measure to adopt in order to bring about what nearly all discreet and patriotic men desire.

The country is in an unhealthy condition. Values are afloat, prices are wild, labor is burdened, finances are disturbed and disordered. War, taxation, paper money, inflation, these are the causes. Their presence is our misfortune; our necessity, perhaps. The issue of paper money was an expedient; a passing, temporary expedient in an hour of urgent and sudden need.

The authors of the expedient believed it a necessity; they admitted it to be a necessity, and they advocated it only upon the ground that it would be but a passing, ephemeral device. No man dared to argue for it in any other way. It would never have been accepted when it was or as it was but for this qualification and apology. Congress knew, the nation knew then as well as everybody knows now, that paper is not a true standard of value, nor, indeed, any standard at all. Gold and silver are the measures and standards of value; the honest standards, the world's standards, the real standards. Why? Because they are money. Is that the only reason? Not at all. And here I differ with the gentleman from Pennsylvania, [Mr. BROOMALL.] Coin is the true standard of value in the commercial world because it represents the cost of production. That is the difference between a metallic and a paper currency. Its value is not alone in its being stamped or called "money"—

"The rank is but the guinea's stamp."

A silver dollar or a gold eagle represents the cost of producing it, with a trifling difference, perhaps, arising from the expense of coinage, and the alloy which hardens it against attrition and keeps it out of the crucibles of other nations.

What does paper represent? If redeemable in coin, it represents the metallic value behind it, if irredeemable it represents nothing in itself, it simply is evidence of a promise to pay.

The "legal-tender policy," as it is called, the policy of licensing by law a suspension of specie payments, was not inaugurated by the American Congress in ignorance of all this.

The vote on Friday, by which the pending bill was for the moment lost, was not given in ignorance or forgetfulness of this, nor by those who deny the maxims of sound political economy—far from it.

The Secretary of the Treasury, at Fort Wayne, and in his able annual report, and the President of the United States in the clear and cogent passage of his annual message in which he set forth the financial topic, did but echo the universal, well-considered sentiment of the nation when they said that the present condition is unnatural and that we are to return at the earliest practicable moment to the old-fashioned, safe, and honest basis—the hard-money standard.

This is the sentiment, as far as I can gather it, universally among Union members here. The question, when we can resume, exactly how soon, and precisely how resumption is to be brought about and forced about, is a point upon which the warmest advocates of early resumption doubt and differ to some extent. But the main idea we all hold to. The gentleman from Illinois, [Mr. WENTWORTH,] who even now attracts attention by the uneasy zeal with which he supports the bill, need not, I think, instruct his colleagues on this subject. Certainly I do not need it.

I was here when the "legal-tender" policy was launched. I remember the contest well. The financial question was then, even more than now, the overmastering public question. It was the only rock on which we could split, and we all examined ourselves to see that we made no blunder which consideration could avoid. I gave my vote and my voice against taking the first step toward driving coin from circulation. I believed then, I believe now, that the hour had not yet come when it was impossible longer to postpone suspension. I believed we might wait yet awhile; that we might try other and lesser remedies first, and thus in the end mitigate the evil after it should come. Therefore I resisted the first motion to suspend specie payments, and I say to the gentleman that those who stood then for the old and approved ways will be able to stand now, and to go as far and as fast as sound discretion will permit in the path which leads to frugality and solvency.

Mr. WENTWORTH. I desire to state to the gentleman that I was not here at that time.

Mr. CONKLING. No, Mr. Speaker, the gentleman has been here many times when he was useful, but just then he was away.

This, however, candor compels me to say, that the event has been far better than the expectation. Opposed as I was to the experiment of paper being resorted to at the time, dreading as I did, more than I have ever dreaded any final result threatened by the war, the effect of a paper policy, I admit and assert that we have escaped, as we had no right to expect, the consequences and disasters of the measure. I say that it is something to be thankful for, and something which proves the wise administration of the finances, and the efficacy of the legislation of Congress as it stands now, that gold has been rapidly falling for weeks and months, that it has fallen two per cent. since Friday, and that a dispatch just put into my hand announces that it is selling in New York at this moment for 128⅝.

I wish we were safely, not only almost but altogether, back to par; but all things are not possible in the twinkling of an eye in finance any more than in other things. So gentlemen think; and I have no quarrel with them for that; the Committee of Ways and Means has no quarrel with them for that; the Secretary of the Treasury has no quarrel with them for that. He could not if he would, and he would not if he could, make sudden and violent reductions. When the Secretary said at Fort Wayne that at the earliest practicable moment we ought to come back to specie payments, he did not mean a crash; he did not mean a shock, a panic; he did not mean to seize the currency and by a single grasp to crush values, to paralyze transactions, or to shrivel and benumb. The President of the United States, by the well-chosen words in which he recommended a financial policy, meant no such thing. Not only would disaster follow violence and haste in this respect, but such an immediate contraction of the currency as would carry it instantly to par, if it could be effected at all, could be effected only by withdrawing obligations of the Government which bear no interest whatever, and issuing in their stead obligations bearing interest. Such a proceeding, beside the interest account it would assume, beside the destructive mutations it involves, would so contract the market that bonds could not be sold at par either for the present or in future to redeem the compound-interest notes and seven and three-tenth notes which must be met in such enormous sums within the next two years. Every holder of a Government obligation soon to mature has an option to demand payment in money if he will. Should our bonds be at par or above, we can fund by mere exchange; but if below par, of course we must sell for what we can get, and pay in cash. Looking, therefore, merely to the engagements the Government itself must meet, and saying nothing of the affairs of the people, we cannot afford to cramp or convulse the money market by spasmodic action. However rapidly we approach resumption, the approach must be gradual.

Sir, it is a good omen that the House is about to accept a motion to recommit this subject to the appropriate committee. We shall, I trust, be able to bring forward a measure adequate to the occasion, and acceptable alike to the Secretary of the Treasury and to both Houses of Congress. This is the true solution,

and the Committee of Ways and Means will, I am sure, willingly profit by the debate and the expression of the House.

No matter how well considered the measure may be, I do not, without an effort to improve it, want it to pass against the sentiment of a majority of our friends. It is not fit that the committee or the country should accept the necessity of carrying on the business of this Congress by an alliance between a minority of this side of the House and the whole body of the Opposition. It is not fit that an accidental and subordinate difference of opinion about the minor provisions of a bill should be made to look as if any considerable portion of the Union party withheld its support either from a sound financial policy or from an administration measure. The country is not yet reduced to the necessity of depending upon its enemies for support against its friends.

It is not necessary to seek aid from those who, when the vessel was drifting on the rock, stood idle, if not hostile spectators on the shore. Until a spirit and disposition is discoverable which has not appeared yet, it is safe to assume that the people expect those who act together as a majority here to stand together and to originate and pass proper measures, and if these measures command the assent of political opponents so much the better. It will, I think, be found that that majority is quite competent to the task, and can afford to wait the final verdict to be pronounced upon us. At any rate we will try—we will try to do our duty, and to be united too.

That great difference of opinion should prevail as to the necessity and propriety of some of the provisions of the bill as it stands, is quite natural. These differences grow very largely out of existing acts. I shall not at this time stop to review them, but when reviewed it will be found that great powers sleep in them, powers which whenever brought into requisition will subject the currency to the control of the Treasury Department to an extent which for the present would satisfy the most enthusiastic advocate of immediate contraction.

In my view of the existing law, the bill before us gives but one new power, and it takes away one which now exists. We will see hereafter how this is, and if we can all understand it alike, I think we can go together for a sound policy looking to early resumption. Should this come to pass, it will be well for all save those who now, as heretofore, are "taking the chances," and operating upon the necessities, political and otherwise, of their country.

Mr. RANDALL, of Pennsylvania. Will the gentleman allow me to ask him a question?

Mr. CONKLING. Willingly.

Mr. RANDALL, of Pennsylvania. I would ask the gentleman who he voted with—with which side of the House—when he voted against making paper money legal tender.

Mr. CONKLING. Which side of the House?

Mr. RANDALL, of Pennsylvania. Yes, sir.

Mr. CONKLING. If the gentleman had been here, he would know that there was no "which side of the House" about it, politically speaking.

Mr. RANDALL, of Pennsylvania. On the contrary I understand that the gentleman voted with the Democrats then in the House.

Mr. CONKLING. The gentleman understands what was not the fact, if he supposes that it was a party question. It was not. One member of the Committee of Ways and Means was absent, and the committee was left composed of eight members only; four of the committee were for the legal-tender policy and four against it. The House also divided much after the same fashion; most of the Democrats no doubt opposed the bill, and it passed against the will of exactly half the Committee of Ways and Means.

Mr. ELDRIDGE. I desire to ask the gentleman if this is now a party question. Why is it more a party question now than it was then?

Mr. CONKLING. The gentleman does not want to make that inquiry seriously. He knows better than he thinks we do, or the country does, the parade that is making by his party of its willingness to patronize the Administration. It will not amount to much, because everybody understands it.

Mr. BROOKS. Will my colleague allow me to ask him a question?

Mr. CONKLING. Certainly.

Mr. BROOKS. I am puzzled how to vote on the motion of my colleague, and I wish an opinion from him upon the subject. If some thirty gentlemen over here vote now for his motion to recommit, will the other side of the House vote against it? [Laughter.]

Mr. CONKLING. If I knew how to help my colleague I would. His question being to divert attention from things not funny to things that are, perhaps I shall most assist him by no answer at all.

Mr. BROOKS. I have tried to support the Administration on this measure. I have gone with him. The President recommended the course of policy we have been pursuing. The Secretary of the Treasury recommends the course of policy that we have been pursuing. The Committee of Ways and Means recommend the course of policy that we have been pursuing. And the majority of this House have voted that way. Now, are they going to turn back on themselves because some thirty men upon this side of the House have helped them? I wish an answer to my question, that I may know how to vote on his motion.

Mr. CONKLING. I will endeavor to answer my colleague, and the vote of the House will show him presently that the fate of the motion will not be affected by the action of himself or his friends.

The gentleman may assume that everybody understands pretty well how he "tries to support the Administration," and why we hear such unctuous indorsements of the President of late from those who have blocked the wheels of the Administration for the last four years. The gentleman and his friends vote where the chances of party advantage lead them. If a bill comes in to give suffrage to the negroes in the District of Columbia, they will vote with the extreme men and labor to advance the extreme view. They will go solid against every proposition for restricted or qualified negro suffrage, and insist upon the most unguarded and indiscriminate enactment, and yet they try to support the Administration, which means that the object and mission of the gentlemen and his friends is to improve little party opportunities—that is all.

So now, as a mere political maneuver, they vote for this measure. [Laughter.] The gentleman understands that. It is not necessary to explain it. It explains itself as it goes along.

I was going, when the interruptions began, to remind the House that recommittals work well usually after a debate has failed to concentrate sentiment. During this session we have saved time and improved measures in this way.

When the constitutional amendment came up, the House rioted in discussion and amendments; everybody was against it, or so much for something else that he could not go with anybody else or get his neighbor to go with him. The subject was recommitted, and being reported back to the House was ratified with the effort of the committee, although no substantial change was made, and the amendment passed by the entire Union vote, with but three or four exceptions.

Mr. ROGERS. I suppose the gentleman does not mean the constitutional amendment.

Mr. CONKLING. I think I do.

Mr. ROGERS. The constitutional amendment was not recommitted, I believe.

Mr. CONKLING. I have a vague, misty recollection that the constitutional amendment was recommitted.

Mr. BROOKS. I rise to a point of order. The question of negro suffrage or any other constitutional amendment has nothing to do with the subject under consideration, which is a money question.

The SPEAKER. The Chair understands the gentleman from New York [Mr. CONKLING] is stating what has been the effect of recommitment in other cases, in support of his motion to recommit this bill.

Mr. BROOKS. Well, I will withdraw my point of order.

Mr. CONKLING. We did recommit the constitutional amendment in regard to the basis of representation. It came back the next day, and was passed, nobody dissenting on this side of the House except three or four members.

The same thing happened in the case of the civil rights bill. There was some objection to it; I had some objections to it myself; it was recommitted to the Committee on the Judiciary; the committee revised it, made some alterations satisfactory to the House, and it passed, I believe, by all the Union votes of the House save those which were not given either way. In the present instance, perhaps, the revision of the committee will be equally beneficial; let us try.

Mr. ROSS. Then I suppose if we over here vote for the proposition of the gentleman others over there will be induced to vote against it.

Mr. CONKLING. That was not a very luminous suggestion the first time it was made by my colleague, [Mr. BROOKS.] [Laughter.] We get the full force of it over here now it is made again, and we will admit the entire effect of it now, just the same as if some gentleman should again repeat it. [Laughter.]

We shall not vote for or against any proposition because it is supported or opposed on the other side. Nor will we be wheedled into any position which will deprive the majority of the House of a fair, deliberate opportunity of doing what it means always to do, and that is to strive earnestly to find out what is best and then stand by it.

I now move that the bill be recommitted without instructions to the Committee of Ways and Means, and upon that motion I demand the previous question.

Mr. STEVENS. Will the gentleman withdraw his demand for the previous question for a moment?

Mr. WENTWORTH. I hope the gentleman will do so, and allow me to say a few words, as I am on the same committee with him.

Mr. CONKLING. I am reluctant to withdraw. Several gentlemen are appealing to me for the floor beside the two who address the Chair, and I cannot oblige one and refuse another; if all are heard we shall be at sea again. I think, therefore, we better sustain the previous question, and then if we are to have debate it will be within narrow bounds. I insist upon the demand for the previous question.

Mr. STEVENS. I would inquire of the Chair whether if the demand for the previous question is voted down, the bill will then be open to amendment?

The SPEAKER. If the demand for the previous question is not sustained, the motion to recommit will be open to amendment. But the bill will not be open to amendment without reconsidering the third reading.

Mr. WENTWORTH. I ask the gentleman from New York, [Mr. CONKLING,] as he is on the same committee with myself, whether he will allow me, upon the pledge to renew the call for the previous question, to take the floor, and agree to allow our opponents some of my time?

Mr. CONKLING. For what purpose does the gentleman seek the floor?

Mr. WENTWORTH. I will limit myself to any number of minutes for the purpose of debating what should be debated. I want to show to the House that there is another party here who go with the gentleman, although differing as widely from the gentleman as do those over the way.

Mr. CONKLING. I propose to compromise by admitting what the gentleman says, and then to have the previous question. [Laughter.]

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

Mr. MORRILL. I hope that the motion to

recommit will be assented to unanimously, as a majority of the House are evidently in favor of that motion.

On agreeing to the motion to recommit, there were—ayes ninety-seven, noes not counted.

So the motion to recommit was agreed to.

Mr. CONKLING moved to reconsider the vote by which the bill was recommitted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLED BILL SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (H. R. No. 36) quieting doubts in relation to the validity of certain locations of lands in the State of Missouri, made by virtue of certificates issued under the act of Congress of February 17, 1815.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had concurred in the amendments of the House to the bill (S. No. 54) to amend an act entitled "An act to incorporate the national military and naval asylum for the relief of the totally disabled officers and men of the volunteer forces of the United States."

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the special order, the bill (H. R. No. 213) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1867.

The motion was agreed to; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. CONKLING in the chair,) and proceeded to the consideration of the special order, the bill (H. R. No. 213) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1867.

Mr. STEVENS. I move that the first reading of the bill be dispensed with; and that the bill be read by paragraphs for amendment.

The CHAIRMAN. If there be no objection that will be done.

There was no objection; and the Clerk proceeded to read the bill.

Mr. WINDOM. In line one hundred and fifty-four, embracing the appropriation for stationery for the Senate, I move to amend by striking out "eighteen" and inserting "seventeen," so that the line will read:

For stationery, $17,000.

Mr. Chairman, I move this amendment simply for the purpose of calling attention to the fact that $17,000 is appropriated for stationery for the other end of the Capitol, while $18,000 is the amount proposed for us. As there are about fifty members of the Senate while there are two hundred members of this House, I cannot see why we need $1,000 more for stationery than those fifty Senators. I withdraw the amendment.

Mr. MORRILL. I move to amend, as follows:

After line one hundred and seventy-seven, on page 8, insert the following:

To enable the Secretary of the Interior to purchase of Messrs. Little, Brown & Co., two thousand copies of the thirteenth volume of the United States Statutes-at-Large, for distribution agreeably to the acts of Congress directing the distribution of the other volumes, $7,000.

This is merely the usual number of copies. I think this item has been omitted by accident.

Mr. STEVENS. That is a very proper amendment. It proposes simply the usual number. The item was, as the gentleman supposes, omitted by accident.

The amendment was agreed to.

The Clerk read lines three hundred and thirty-eight to three hundred and fifty-four, as follows:

For compensation of temporary clerks in the Treasury Department, and for additional compensation to clerks in the same Department, $160,000: *Provided*, That the temporary clerks herein provided for may be classified according to the character of their services: *And provided further*, That so much of the appropriation of $250,000 granted by the act of March 2, 1865, for compensation to temporary clerks in the Treasury Department, and for additional compensation to clerks in the same Department, as remains unexpended, shall be divided as follows, to wit: $100 shall be paid to each of the employés in said Department whose pay amounts to less than $1,000 per annum, and the residue thereof shall be divided *per capita* to and among all the clerks in said Department of the first and second classes.

Mr. STEVENS. I move the following amendment:

In line three hundred and fifty strike out "employés" and insert "appointees."

The amendment was agreed to.

Mr. BUNDY. I move to amend, as follows:

In line three hundred and fifty-three, page 15, strike out after the word "first" the word "and."

In the same line, insert after the word "second" the words, "and third."

In the same line, insert after the word "classes" the following words:

Who have not heretofore received any part of the aforesaid sum of $250,000.

I understand, Mr. Chairman, that the original appropriation was made for the purpose of giving additional pay to all the clerks in the Department, but by some means the distribution has been made to only the clerks of the fourth class, the highest grade of clerks. This bill, as it now stands, provides that the residue of this appropriation shall be apportioned among the clerks of the first and second classes, omitting the third class entirely. My amendment proposes that those who have not received any part of that appropriation shall receive *pro rata* their proportion of it.

Mr. STEVENS. I must object to this amendment. The amount appropriated by Congress at the last session was ordered to be distributed among the clerks and others in the Treasury Department under the direction of the Secretary of the Treasury. He distributed a portion, as he tells us in his report, among the clerks of the highest class and some heads of bureaus. He has very properly referred to Congress the further distribution of this extra compensation. The Committee of Ways and Means, in accordance with this suggestion, have undertaken the division of the remainder of this fund. After ascertaining the number of employés in the Department receiving less than $1,000, including the women, we decided to appropriate to them $100 apiece; and we found that if the remainder of the money were divided among the clerks of the first and second class, each would receive about one hundred and fifty dollars. We thought it was better to go no further. Those who have had $1,600 all along will be much better off than those who have had only $1,200 and $1,400, and it was the opinion of the committee that this ought to be given to the clerks of smaller salary. It costs as much for them to live as it does the $1,600 clerks. It does not bring up the lower clerks to $1,600, but only gives them something for a single year out of this fund. Therefore I hope the amendment of my friend will not be adopted.

Mr. WILSON, of Iowa. Do I understand the gentleman to say none has been paid to the first and second-class clerks?

Mr. STEVENS. None has gone to the first and second-class clerks. Some has been paid to the third-class clerks, but none to the first and second class.

Mr. WILSON, of Iowa. I understood some had been paid to the second-class clerks.

Mr. STEVENS. I hope the provision will be allowed to stand as reported.

Mr. BUNDY. I understand there is quite a number of third-class clerks who have only recently been promoted, and who have had no benefit of any of this increase of salary. They have been here during the rebellion, are deserving men, and are as equitably entitled to this as any one of the first and second-class clerks. I think my amendment is right, that the residue shall be apportioned *pro rata* among those who have not already received any part of this fund. I do not see why all of the clerks did not receive a small part of this fund, but by some management or mismanagement only the heads of bureaus and the higher class of clerks received any part of it. I now propose to give the residue *pro rata* among the lower class of clerks, and those who have received none. I think my amendment is a just one and hope it will be agreed to.

Mr. BUNDY's amendment was disagreed to.

The Clerk read, as follows:

For compensation of the surveyor general of Wisconsin and Iowa, and clerks for completing and winding up the business in his office, $4,800.

Mr. WASHBURNE, of Illinois. I move to add to that the following:

And such office is hereby abolished.

Mr. Chairman, I supposed that that office had been abolished long ago. I know we have made several efforts to do it. There are no public lands in those States, and there is no necessity to make this appropriation.

Mr. STEVENS. I thought we had abolished it at the last session of Congress.

Mr. ALLISON. I desire to say that the business there is now being wound up. The surveys are entirely completed, or will be during this fiscal year; but there are held notes and other valuable records belonging to this office which ought to be transferred to the States of Iowa and Wisconsin. If wound up now they will have to be transferred to Dakota or St. Paul, Minnesota, at a cost to the Government greater than this appropriation.

Mr. STEVENS. Let the appropriation stand, and let it be provided that when exhausted the office shall be abolished.

Mr. WASHBURNE, of Illinois. I accept that as a modification of my amendment.

Mr. ALLISON. I have no objection to that; but there ought to be some provision for the transfer of these field-notes and other records.

Mr. WASHBURNE, of Illinois. That can be left to the discretion of the Commissioner of the General Land Office.

Mr. KASSON. I believe there is existing authority to make that transfer at the discretion of the Commissioner of the General Land Office when the States are ready to receive the records. I made some reference to Missouri, and found the Commissioner was waiting to get some officer in Missouri to take custody of them.

The amendment was agreed to.

The Clerk read, as follows:

For compensation of the surveyor general of the Territories of Dakota and Montana, and the clerks in his office, $6,300.

Mr. ASHLEY, of Ohio. I move to amend by increasing the appropriation to $8,000, and to provide that one half shall be expended in Montana Territory. I will say a bill is before the Committee on Territories which will be reported after awhile to locate the office of a surveyor general of Montana Territory. I will say further there is not an acre of land yet surveyed there. A large population has gone into that Territory last year. I am satisfied this is necessary.

Mr. WILSON, of Iowa. I think the amendment should not prevail. It seems there is very little work for a surveyor general in Dakota, as I understand he has been here most of the winter, and that the clerk has also been absent.

Mr. BURLEIGH. I desire to suggest that if the surveyor of Dakota neglects his duty——

Mr. WILSON, of Iowa. I did not intend to make such a charge.

Mr. BURLEIGH. If he has not discharged his duty, and the public interest is suffering, he should be removed and another man should be put there who will do his duty.

Mr. WILSON, of Iowa. I did not intend to charge that he had refused to perform his duty, only to state the fact that he was absent.

Mr. ASHLEY, of Ohio. My friend from Iowa [Mr. WILSON] ought to be well enough acquainted with that country to know that no man can do surveying in the winter time.

Mr. WILSON, of Iowa. The same remark will apply to the fall and summer. Therefore there must be very little duty to perform. The most of that money must be applied to the office of surveyor in Montana.

Mr. BURLEIGH. I was about to remark when I was interrupted by the gentleman from Iowa that there are about ten million acres of public lands unsurveyed in Dakota. It has been remarked that it is bad land. I know that some of it is, but not a greater proportionate amount than we find in most of the western States and Territories.

But I want to state this fact: that while the public lands of all the western States have passed into the hands of speculators, and are held at prices so high that men of moderate means, who have only a few hundred dollars to locate lands with and provide for their families, are unable to purchase them, the public lands of Dakota are the only good lands that are within reach of these poor men emigrating westward. I want that distinctly understood. And we ask that these lands may be surveyed and kept open for homesteads for the poor people of the country who are flocking westward by tens of thousands in pursuit of homes for themselves and their families.

It is a great mistake to suppose that Dakota has no good land. There is no richer territory on the face of the earth. There are portions of it troubled with drought, but it is so with Minnesota, Kansas, and Nebraska, and almost all our northwestern States and Territories. Dakota is capable of sustaining an agricultural population of a million, and they will go in there, and no legislation of the Territory or of any State in the West can prevent emigration to that Territory. It has started and it will go. The people of the country who are pushing westward for homes and habitations will certainly go and settle there, and before you are aware of it, that Territory, poor as it now is, will be knocking for admission here.

Mr. WILSON, of Iowa. I desire to state that I have been informed by those who have visited that Territory that the drought has been so great in the last four years that there has been almost a total failure of crops for three of those years, and that these droughts are very common in the Territory. Now it may be true that the country will support a million inhabitants, as the gentleman from Dakota [Mr. BURLEIGH] says, but from all the information that I have had thus far, the declaration will hardly be borne out.

Mr. STEVENS. I do not think it makes much difference whether the soil of Dakota is rich or poor, except to the holders of it. I believe there is a quantity of very rich land there, and it is pretty much owned by the very clever people who went there first. Now, if the rest is rough and poor, it will cost so much more to survey it. Hence I see no reason for reducing the estimate.

But I never yet knew a Department make an estimate too low. The great difficulty is keeping them down. Now, sir, we have here given everything the Department calls for; precisely what the office called upon the Department for. I hope the amendment will not prevail.

Mr. HENDERSON. Mr. Chairman, the policy in regard to the public lands on the western coast will have to be changed. I am under the impression that we are very much in the dark in regard to the necessities of the Territories on the Pacific side of the Rocky mountains, and we shall be compelled to change our policy. That country is filling up very rapidly, and unless the public lands are surveyed and titles given there will be very great inconvenience and suffering. I have no doubt there should be a surveyor general's office established there, and that the Government, instead of losing by an appropriation to sustain such an office, would make money by it. For the titles of land would be the more readily determined, and settlers would begin to pay taxes on the land, while those locating on uncertain land, the title not being conveyed to them, cannot pay taxes, and a great deal of contention will arise, which will lead to extreme perplexity and great loss to the General Government.

I have no doubt that the Commissioner of the General Land Office thinks that he is acting liberally in this matter; but if he had the acquaintance with that section of country which some of us have, he would at once see the propriety of being more liberal in regard to surveys.

A few days ago I introduced a bill here for the purpose of authorizing the surveyor general to change the mode of surveying so that the small valleys and other sections of the country may be surveyed separately and apart from the general surveys.

That bill will come up, and let me say here that I hope it will pass. The necessities of that country and the interests of the General Government require that that shall be done in order that the lands may be surveyed at as early a period as possible, and settlers may get their right to their lands and begin to pay something into the Treasury as tax-payers. Hence I sustain the amendment of the gentleman asking a larger appropriation, on the ground that the necessities of that country are rapidly undergoing a change. If we pursue the same policy that has been pursued heretofore, when there was little or no emigration to that country, it is a policy that cannot subserve the public interests nor the welfare of the inhabitants.

There is one point which I would wish to impress upon the minds of the committee, and that is, that the policy in regard to these lands will have to be changed soon, or there will be a loss to the Government.

Mr. ASHLEY, of Ohio. I withdraw my amendment.

Mr. HUBBARD, of Iowa. I renew the amendment for the purpose of making a single remark. I presume that the office of surveyor general of Dakota cannot be sustained without the amount provided for in this bill. I suppose that six thousand and odd dollars is needed for the purpose of keeping up that single office. I am in favor of creating a surveyor general's district in Montana, but even if that is done, provision can be made in that bill for the purpose of maintaining the office in that department, and I can see no necessity for either diminishing or increasing this appropriation. I withdraw my amendment.

Mr. ASHLEY, of Ohio. It was for that reason that I withdrew my amendment.

Mr. HENDERSON. I move to amend the bill by striking out in line five hundred and nineteen the word "ten" and inserting "fifteen" in lieu thereof; so that the clause will read:

For rent of surveyor general's office in Oregon, fuel, books, stationery, and other incidental expenses, including pay of messenger, $1,500.

I have only a word or two to say in regard to that amendment. I am well acquainted with this office, and I know that heretofore the appropriation has been so scanty and meager that the office has had to be kept in a house of most unsuitable character. The sum of $1,500 would be very properly and righteously expended in securing a good house and proper furniture for that office. We all know that $1,000 would be barely sufficient to employ a messenger, much less to provide for house rent, fuel, stationery, and all those items.

It is very likely that the Commissioner thinks this sum enough, but if you could see the scanty and mean accommodations at this office, you would not think for one moment that that sum would suffice for office rent, fuel, stationery, the pay of a messenger, and all these things.

I should have asked for $2,000 if the gentleman had not said that this is the recommendation of the Commissioner. In view of that fact, I will only ask that the amount be increased to $1,500.

Mr. STEVENS. I should be very glad to give to Oregon all that we can. But last year we only appropriated $700 for this purpose. This year the Department asks for an increase of $300 and we have allowed that. I hope our friend from Oregon will not press the good nature of the House too far.

Mr. HENDERSON. I have said that the amount of the appropriation heretofore has been very meager, and the accommodations at this office very miserable. I am well satisfied that if you could look at this office and see the poverty and inconvenience of the accommodations there you would not for one moment think of cutting the appropriation down to $1,000. Heretofore the people, in their patriotism, have submitted to be screwed down, and have not wished to worry the Government; they have done as well as they could. But let me add that the increase of business in that office has been very great. That country is settling up very rapidly; a great deal more surveying will have to be done, and a great deal more labor is necessary. I hope the committee will grant the small advance on this appropriation which I ask.

Mr. STEVENS. We have not cut down this appropriation at all; we have rather raised it. But the poverty of the gentleman's constituency has been presented by him with so much force that I am almost persuaded to vote for his amendment myself. [Laughter.]

Mr. GRINNELL. Let us vote it in.

Mr. STEVENS. Very well; we will be all the better-natured for it for the rest of the session. [Laughter.]

Mr. BIDWELL. I hope the amendment will be adopted.

Several MEMBERS. Agreed.

The amendment was agreed to.

Mr. STEVENS. I ask unanimous consent of the committee to go back to a paragraph in which there should be an amendment. The paragraph is as follows:

For defraying the expenses of the Supreme Court and district courts of the United States, including the District of Columbia, and also for jurors and witnesses, in aid of funds arising from fines, penalties, and forfeitures, in the fiscal year ending June 30, 1867, and previous years, and likewise for defraying the expenses of suits in which the United States are concerned, and of prosecutions for offenses committed against the United States, and for the safe-keeping of prisoners, in addition to the unexpended balances of appropriations to the credit of the judiciary fund on June 30, 1866, required to meet the expenses of the courts being reëstablished in the southern States, so much of the act of March 2, 1865, Laws, page 452, carrying said unexpended balances of appropriations into the Treasury being, and the same is hereby, repealed.

I move to amend by adding "$300,000." The appropriation is not carried out in the paragraph as printed in the bill. My amendment is for that purpose only.

The amendment was agreed to.

Mr. KASSON. There is a similar error in one of the clauses of the paragraph relating to the Court of Claims. I had made a note of it in the bill I have, but it was read when I was absent from my seat. The clause is as follows:

For payment of judgments which may be rendered by the court in favor of claimants, $300,000.

I move to amend by inserting after the word "claimants" the words "in addition to the unexpended balance of the appropriation for the fiscal year ending June 30, 1865."

The amendment was agreed to.

Mr. SPALDING. There is also a mistake in one of the paragraphs on page 15 of the bill, relating to the contingent expenses of the Treasury Department. I did not happen to be in my seat when that paragraph was read. The paragraph is as follows:

For compensation of temporary clerks in the Treasury Department, and for additional compensation to clerks in same Department, $160,000: *Provided*, That the temporary clerks herein provided for may be classified according to the character of their services: *And provided further*, That so much of the appropriation of $250,000 granted by the act of March 2, 1865, for compensation to temporary clerks in the Treasury Department, and for additional compensation to clerks in same Department, as remains unexpended shall be divided as follows, to wit: $100 shall be paid to each of the employés in said Department whose pay amounts to less than $1,000 per annum, and the residue thereof shall be divided *per capita* to and among all the clerks in said Department of the first and second classes.

The words "one thousand" should be stricken out, and the words "twelve hundred" inserted in their place. We had agreed upon that in the committee, but by mistake it was not in-

serted in the bill. The lowest class clerks receive $1,200 a year.

The amendment was agreed to.

The Clerk resumed the reading of the bill, and read the following paragraph:

For purchase of cereal, vegetable, and flower seeds, and for labor in putting up seeds, seed bags, and miscellaneous items, $60,000.

Mr. HUBBARD, of Iowa. I move to amend by striking out "$60,000," and inserting "$30,000." I do this mainly for the purpose of obtaining some information from the Agricultural Committee as to the necessity of this very large appropriation for the purposes named. I am aware that we get quite a quantity of seeds; but a large proportion of those which I obtain from the Agricultural Bureau are of very inferior quality, and I am pretty confident that a large sum of money is unnecessarily expended in the purchase of seeds; that the benefits to the country derived from that appropriation are not what they should be. I hope that the Committee on Agriculture will be able to give us some information on that subject; or if they cannot, I trust we shall obtain it from the Committee on Appropriations.

NIGHT SESSIONS.

Mr. WASHBURNE, of Illinois. I do not rise to discuss the amendment of the gentleman from Iowa, [Mr. HUBBARD,] but to make a suggestion to my friend from Pennsylvania, [Mr. STEVENS.] By an order of the House, if we go on till half past four o'clock, without some special action on the subject, we must have a night session. I would suggest to him to consent that the committee now rise, suspend that order for to-day, and then, by sitting here till five or half past five o'clock, we can get through this bill in Committee of the Whole, and that will be much better than coming back here again to-night. If that suggestion meets with the concurrence of my friend from Pennsylvania, I will move that the committee now rise for the purpose of suspending the order for night sessions for to-day.

Mr. STEVENS. If the committee will agree to it I have no objection.

Mr. WASHBURNE, of Illinois. I now move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. CONKLING reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and particularly the special order, being House bill No. 213, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1867, and had come to no resolution thereon.

Mr. WASHBURNE, of Illinois. I now move that the order directing a recess to be taken by the House from half past four to half past seven p. m. be suspended for to-day.

The motion was agreed to.

LEAVE OF ABSENCE.

Mr. RAYMOND asked and obtained indefinite leave of absence for his colleague, Mr. DARLING.

LEGISLATIVE APPROPRIATION BILL—AGAIN.

Mr. WASHBURNE, of Illinois. I now move that the rules be suspended, and the House resolve itself into Committee of the Whole on the special order.

Mr. ROSS moved that the House adjourn.

The question was taken; and upon a division there were—ayes 24, noes 68.

So the motion to adjourn was not agreed to.

The motion of Mr. WASHBURNE, of Illinois, was then agreed to.

So the rules were suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. CONKLING in the chair,) and resumed the consideration of House bill No. 213, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1867.

The pending question was upon the following amendment of Mr. HUBBARD, of Iowa:

Strike out in line seven hundred and seventy-five the word "sixty" and insert in lieu thereof "thirty," so that the paragraph will read:

For purchase of cereal, vegetable, and flower seeds, and for labor in putting up seeds, seed bags, and miscellaneous items, $30,000.

On agreeing to the amendment there were—ayes twenty-five, noes not counted.

So the amendment was not agreed to.

Mr. PRICE. We reserve the right to have a vote on that in the House; otherwise we would insist on a count now.

Mr. FARNSWORTH. I move to amend as follows:

Strike out in line seven hundred and seventy-three the words "and flower," and insert after the word "cereal" the word "and;" so that the clause will read:

For purchase of cereal and vegetable seeds, and for labor in putting up seeds, seed bags, and miscellaneous items, $60,000.

Mr. Chairman, I think the country will not suffer at all if these words be stricken out, so that the Commissioner of Agriculture shall be allowed no discretion to purchase flower seeds. I am sure my constituents will not suffer, and I do not think those of any other gentleman will.

Mr. LAWRENCE, of Pennsylvania. I desire to state to my friend from Illinois and to the House that I propose to offer, under the instruction of the Committee on Agriculture, an amendment to this section, which I desire the Clerk to read now, that gentlemen may understand the object.

The CHAIRMAN. The amendment will be read for information.

The Clerk read, as follows:

At the end of line seven hundred and seventy-five add the following proviso:

Provided, That the Commissioner of Agriculture shall only purchase and distribute, with the fund herein appropriated for that purpose, such seeds as are rare and uncommon to the country, or such as can be made more profitable by frequent changes from one part of our own country to another.

Mr. FARNSWORTH. I do not think that will help the matter much, for it still leaves it in the discretion of the Commissioner to determine whether seeds will be more profitable by transmitting them from one part of the country to another.

Mr. LAWRENCE, of Pennsylvania. Well, he knows.

Mr. FARNSWORTH. He may determine that seeds raised in the vicinity of Philadelphia will be of great advantage to the people of Illinois, and may purchase them at ten or twenty dollars per bushel to distribute, when we have seeds equally good at home.

I insist on my amendment to strike out the flower seeds. The country will not suffer much if we put an end to the distribution of sunflowers, mignouettes, hollyhocks, sweet-williams, &c.; and certainly members of Congress will be relieved from a great deal of trouble which they now experience in putting these seeds into envelopes and sending them to their homes. For my part I think that I never sent to the State of Illinois a flower seed that grew, either on account of the quality of the soil or the quality of the seed; and as the soil is generally regarded as good by the people who live there, I think the difficulty must be with the seed.

The bill appropriates about $150,000 for the support of this Agricultural Bureau; and in my opinion it is, with one or two exceptions, the greatest stealing bureau in this Government. I believe that, as it is at present conducted, the country receives less benefit from it in proportion to the amount of money expended than it does from any other bureau under the Government. It seems to me a waste of money for us to appropriate year after year these vast sums to maintain this Bureau of Agriculture which is so utterly useless and unprofitable to the Government.

Mr. STEVENS. If this bureau is utterly useless, why not bring in a bill to abolish it? Why not test in that way before the House and the country the question whether or not an Agricultural Bureau should exist in this great nation? Every year we hear this attack made upon the Bureau of Agriculture. Sometimes members do not like one man who is in that Department and sometimes they do not like another. Sometimes the Commissioner will not appoint my friend; sometimes he will not appoint another member's friend. I do not like it, because he has not appointed anybody that I wanted there. [Laughter.]

But if you abolish this bureau, you abolish what the people care more for than for all the other bureaus in this Government. My constituents care more about the Agricultural Bureau than they do for all the other bureaus put together; and all the publications emanating from that bureau they read with more pleasure than anything else except the Bible. But, sir, the demand for the Agricultural Reports in my district is immense. I cannot get half enough of them, even with what I can borrow from my friends who, like the gentleman from Illinois, do not read them. [Laughter.]

As to this particular item of flowers, I know up in his country nature has given them so many flowers they do not ask or care for any from us. They have them the brightest in the world, and they do not care for any from any other quarter. It is not the same with most of us. It is not the same, I know, with my friend from Maine.

Mr. BLAINE. I will say, of all the seeds distributed the flower seeds alone are acceptable to me.

Mr. STEVENS. The gentleman understands what the sexes want—not merely the rougher sex. [Laughter.] There is a rough country where the people care for nothing but rough things; but flower seeds are more to be relied upon by those who desire to come back here. It is the best thing they can send for that purpose. I think we had better do as we always have done, stand by the Agricultural Bureau and vote the appropriation, or abolish the whole thing.

Mr. DAWES. The gentleman has no doubt made the calculation, and I should like him to tell us how much it costs for each one of us for the seeds that we get?

Mr. STEVENS. I think it costs about four cents. [Laughter.]

Mr. DAWES. According to my arithmetic, the seeds each one of us gets cost, according to the appropriations, about four hundred dollars.

Mr. STEVENS. Does the gentleman include wheat in that?

Mr. DAWES. All seeds.

Mr. STEVENS. I admit where no wheat grows they do not get their full share. [Laughter.] In our country we secure the full benefit of that sent to us.

Mr. FARNSWORTH. What kind of wheat has been introduced that we did not have before?

Mr. STEVENS. Every year a new kind of wheat is sent into my district, and there is nothing the farmers of Lancaster county so much value as these seeds. It enables them to change their seed. You know that breeding in and in makes fools. [Laughter.]

Mr. BIDWELL. Mr. Chairman, I wish to state that the Committee on Agriculture have given this subject such attention as it was in their power to do to ascertain whether the amount of money asked to be appropriated for the distribution of seeds was too great, and the result of their investigation was, if the appropriation was not for the purchase and distribution of such seeds as we have now in all the seed stores of the country, the amount would not be too much. We took into consideration the fact that there were many loyal people in the southern States who wanted seed, and that it would be promoting the agricultural interest of the country to distribute it to them. Therefore, this additional appropriation asked for, amounting to $9,000, in view of all these circumstances, we believed would not be too much.

In regard to abolishing the Agricultural Department, I beg leave to enter my protest. Agriculture is the foundation of this Govern-

ment. Deprive this nation of that resource and we at once begin a downward tendency; but keep the agricultural interest advancing and we continue on the high road to prosperity. The distribution of seeds procured from different parts of the world must of necessity result advantageously to this country. It may be when they are sent to one portion of the country they are not so advantageous as when sent to another portion. But a better system of distribution, which can be carried on in no other way than by departments, I say must result advantageously to this country.

I hope there will be no effort made to abolish this Department. On the contrary, I hope the appropriation will be considered necessary. If we have not a suitable head for that Department already, one should be placed there, and its means should be made adequate to the agricultural wants of the country. It should be a great emporium where should be collected rare and valuable seeds for dissemination, and from which agricultural information should be published.

I will say further, that the Committee on Agriculture have in charge a resolution instructing them to send for persons and papers and to investigate the accounts of the Department of Agriculture. The matter is discretionary with the committee to make the inquiry; and if they deem it necessary they will prosecute it.

I make no charges against that Department. I have heard complaints. I have listened to many, but I have made no charges. Nor do I feel warranted until investigations have been made in making any. But I do insist that this Government, with all its varied interests, will not consider the agricultural interest as an inferior one. For I do assure the House that if there is one interest greater than another it is the agricultural interest. All the mines of the West and of the Pacific slope, great and incalculably rich as they must be, pale in the presence of the agricultural interest of this country.

I hope, therefore, that the appropriation will not be diminished, nor that any steps will be taken to abolish that Department.

Mr. GRINNELL. Mr. Chairman, my colleague on the Committee on Agriculture has presented a resolution which was adopted by the committee, and I hope that it will be adopted by the House.

The CHAIRMAN. The Chair would inform the gentleman that the amendment referred to is not yet offered. It was read merely for information. It is not germane as an amendment to the pending amendment of the gentleman from Illinois, [Mr. FARNSWORTH,] which is to strike out the words "and flower seeds."

Mr. GRINNELL. What I wish to say is, I hope it may be adopted. I hope we shall not continue circulating and distributing such very common seeds as cucumber, squash, carrot, and seeds of that kind. I have here the report of the Commissioner of Agriculture in which he says the purchase of seeds will require $32,000, and the labor for putting up the seeds will cost $38,000, making in all $70,000. Now, it seems to me the expense of putting them up is entirely disproportionate, and I think it is not becoming the House to sanction such an expenditure as that in putting up these seeds. I would rather the money should be appropriated in procuring and disseminating information among the agriculturists of the country, getting up specimens, and enlightening them in regard to their own interests. I state this because I think it is the universal sentiment. I have not heard any gentleman express himself in favor of continuing the distribution of these very common seeds. I hope therefore this amendment will be adopted.

The question being taken on the amendment of Mr. FARNSWORTH, it was not agreed to.

Mr. LAWRENCE, of Pennsylvania. I move to insert at the end of line seven hundred and seventy-five the following:

Provided, That the Commissioner of Agriculture shall only purchase and distribute with the fund herein appropriated for that purchase, such seeds as are rare and uncommon to the country or such as can be made more profitable by frequent changes from one part of our own country to another.

The amendment was agreed to.

Mr. HUBBARD, of Iowa. I move in line seven hundred and eighty-five to strike out "eight" and insert "four;" so that the appropriation will read:

For experimental garden in reservation No. 2, $4,800.

I am not disposed to make any general assault upon the Agricultural Bureau. The people of the country obtain a great deal of valuable information from the reports which come from that bureau. But, sir, in relation to this particular item of expenditure, I am led to believe that there is a degree of extravagance which ought not for a single moment to be tolerated by this House. I find on examination of the report which has been submitted to the House by the Commissioner of Agriculture that during the year 1865, for the single item of keeping horses, in connection with this little experimental garden, he expended no less than $1,180. He also paid during the same year for horse hire about $300, for stable rent $224, and for plowing forty dollars, making the expenditures in connection with this experimental garden something over $2,000, an amount sufficient to carry on one of the largest farms in the State of Illinois. I want to know from the Committee on Appropriations or from the Committee on Agriculture whether these expenditures are to be tolerated in connection with this experimental garden. These items of expenditure that I have referred to are found in his report.

Mr. FARNSWORTH. Will the gentleman tell us what is raised in that experimental garden?

Mr. HUBBARD, of Iowa. I do not know anything about that. A very large sum of money has been expended in connection with that garden, and I presume the products raised there must have been of immense value.

Mr. BERGEN. Can the gentleman state the size of the garden?

Mr. HUBBARD, of Iowa. About eight acres.

Mr. BERGEN. I understand there is a large plot of ground in addition to that which is cultivated.

Mr. HUBBARD, of Iowa. I do not know but that there may be twenty of these experimental gardens. I think the amount of money expended is sufficient to carry on that number.

Mr. THAYER. What have been the results of the experiments?

Mr. HUBBARD, of Iowa. I do not know that it has yielded anything. I do not find that it has returned anything to the Treasury. And I find in addition to the expenses to which I have referred, that Isaac Newton himself has received, during the last year, for horse hire, the sum of $370, in addition to the items I have named. Now, I wish to know from the Committee on Agriculture, or from the Committee on Appropriations, why it is that these large expenditures are made?

Mr. WHALEY. Mr. Chairman, I wish to say a few words only in reply to the gentleman. During the four years that I have been here, no appropriation has come up at any time, or in any bill, designed to sustain the agricultural interests of the country, that has failed to bring some gentlemen to their feet to oppose it. The Commissioner of Agriculture, it seems, has kept himself, in this instance, within the limit of a few hundred dollars. We can vote millions on millions for other purposes, but when it comes to a few hundreds for agricultural purposes we hear this clamor. I have full confidence in the chairman of the Committee on Appropriations, as well as in the committee. They have looked into this matter carefully, and for one, I am tired of these assaults upon the agricultural interests of the country.

Mr. STEVENS. Let me say to the gentleman that the Committee on Appropriations cut down the estimates sent to us by the Department $20,000.

Mr. WHALEY. The gentleman from Iowa admits that this appropriation only involves a few hundred dollars. The men of the Northwest have supported you when you have brought up bills here for the benefit of the industry of the East, and have voted millions away. Sir, I hope that this opposition to the agricultural interest will cease, and that every man upon this floor will come to the conclusion that it is necessary to support the great agricultural interests of the country, let who will be at the head of the Department of Agriculture. If the head of the Department is not competent, if that is the objection, exercise your influence in another way, and correct the evil. [Cries of "Good!" "Good!"]

Mr. HUBBARD, of Iowa. I wish to make but a single remark in reply to the gentleman from West Virginia. He says he is tired of this thing. I should think he would be tired of it, and I should think the Commissioner of Agriculture would be far more tired of it than the gentleman from West Virginia. I find, on looking over his report, which ought to receive the careful attention of every member here, that Mr. *Et al.* figures very extensively in the expenditures. [Laughter.]

Mr. WHALEY. I was not debating the report.

Mr. HUBBARD, of Iowa. I find that Mr. *Et al.* is one of the most popular men, and has received more money than any other person, according to this report. I do not know who he is. I presume he is some gentleman with whom the Commissioner of Agriculture is familiar, some friend of his, or of the gentleman from West Virginia. [Laughter.]

Mr. WHALEY. You will excuse me if I reply now.

Mr. HUBBARD, of Iowa. I cannot yield just now.

Mr. WHALEY. Just a moment. I want to make an explanation.

Mr. HUBBARD, of Iowa. Well, I will give the gentleman a moment.

Mr. WHALEY. I ask the gentleman's pardon, and that of the Chair, for saying a moment since that I was not debating the report. I had forgotten I had not the floor. [Laughter.]

Mr. HUBBARD, of Iowa. Let me make a single additional remark. I do not make this motion for the purpose of assailing the Commissioner of Agriculture, or of making any attack whatever upon that bureau. I regard that bureau as of very great value and importance to the country, provided it is properly managed and conducted; but in my estimation there is most unpardonable extravagance in connection with this experimental garden that ought not to be tolerated. The report to which I have alluded shows it, and for that reason I have made my motion in regard to the particular items I have named. I believe that the sum of $4,000, if managed with proper economy, is amply sufficient to carry on the business of that garden.

Mr. BIDWELL. I wish to say that by a resolution of the House information was called for from the Commissioner of Agriculture; and that information was sent to the House and ordered to be printed and referred to the Committee on Agriculture. That committee was also instructed to investigate the subject, to send for persons and papers if necessary, and to ascertain whether the report made by the Commissioner of Agriculture was correct and proper.

But I do not think it right to attack the Commissioner of Agriculture by simple assertion without one particle of proof. The committee are willing to investigate and report to the House, whether the result be favorable or unfavorable to the Commissioner. But until his report has been shown to be wrong, and his expenditures extravagant, I do not think it right to attack him here.

Mr. WHALEY. I hope the committee will indulge me for a moment, for, as every member will bear witness, I have occupied but very little of the time of the House during the present session.

Several MEMBERS. Go on.

Mr. WHALEY, I desire to say a word in reply to the gentleman from Iowa [Mr. HUBBARD] about the person who he says has received so much money. [Laughter.] He seemed to convey the idea that that person had got his place there through my recommendation. [Great laughter.] Now, I will say one thing here, which I wish to be distinctly understood: the only persons I have recommended have been the wives and daughters of our brave soldiers. Time and time again I have gone to the honorable chairman of the Committee on Agriculture, and asked him to sign the recommendations to the Commissioner of Agriculture. I think if there is any class of persons that we should take care of, that should be taken care of by the different Departments of the Government, and by anybody else, they are the wives and daughters of our brave soldiers. Outside of them I have written no recommendation, so have made none.

Mr. GRINNELL. Then we are to understand that the gentleman from West Virginia [Mr. WHALEY] did not get this Mr. *Et al.* his place in the Agricultural Bureau.

Mr. WHALEY. I deny the charge that I recommended any one but the wives and daughters of our brave soldiers. [Laughter.]

The amendment was not agreed to.

The Clerk read the following paragraph in relation to the Mint at Philadelphia:

For salaries of the Director, treasurer, assayer, melter and refiner, chief coiner, and engraver, assistant assayer, and seven clerks, $26,400. And from and after the close of the present fiscal year the annual salary of the Director of the Mint shall be $4,000; and the annual salaries of the treasurer, assayer, melter and refiner, chief coiner, and engraver, shall be $2,500 each; the annual salary of the assistant assayer shall be $2,250; and the annual salaries of the clerks now receiving $1,800 shall be $2,250, and the annual salaries of the clerks now receiving $1,500 shall be $1,800 each.

Mr. WASHBURNE, of Illinois. I move to strike out all of this paragraph after "$26,400." If members will examine this paragraph they will find that it simply proposes to raise the salaries in certain specified cases. I hope we will not undertake to raise salaries anywhere; particularly in cases of this kind.

The question was taken; and there were, upon a division—ayes thirty-two.

Mr. WASHBURNE, of Illinois. If the gentleman from Pennsylvania [Mr. STEVENS] will consent that a vote may be taken upon this amendment in the House I will not call for a vote on the other side, as I do not want to break up the committee by showing the want of a quorum.

Mr. STEVENS. I have no objection to that.

So the amendment was declared to be rejected.

Mr. STEVENS. I move to amend this paragraph by striking out "$26,400" and inserting "$32,700." That is necessary to perfect the paragraph.

The amendment was agreed to.

The Clerk read the following:

For salaries of clerks and messengers in the office of Assistant Treasurer at Boston, $8,100.

For salaries of additional clerks in the office of the Assistant Treasurer at Boston, $19,000.

Mr. HOOPER, of Massachusetts. I move to amend by striking out all after the word "Boston" in the first paragraph to the close of the second paragraph, and inserting in lieu therefor the following:

$25,200: *Provided*, That in lieu of the clerks heretofore authorized, the Assistant Treasurer of the United States at Boston is hereby authorized to appoint, with the approbation of the Secretary of the Treasury, one chief clerk at a salary of $3,000 per annum; one clerk at a salary of $2,500 per annum; one clerk at a salary of $2,000; two clerks at a salary of $1,800 per annum each; two clerks at a salary of $1,500 per annum each; six clerks at a salary of $1,200 per annum each; one clerk at a salary of $1,000 per annum; two clerks at a salary of $800 per annum each; one porter at a salary of $700 per annum, and one watchman at a salary of $600 per annum.

Mr. WASHBURNE, of Illinois. Are there any other persons in Boston not provided for by the gentleman's amendment? [Laughter.]

Mr. HOOPER, of Massachusetts. My amendment does not add anything to the appropriation; it merely gives the present organization of the office. The amount proposed to be appropriated by the bill as it now stands in this respect is $27,100; my amendment involves the appropriation of only $25,200, or $1,900 less. My amendment is intended merely to make the law conform to the present organization.

Mr. WASHBURNE, of Illinois. Are there any additional officers created or salaries raised by the amendment proposed by the gentleman from Massachusetts, [Mr. HOOPER?]

Mr. HOOPER, of Massachusetts. Not at all. It merely proposes to establish by law the present organization of the office, at a less expense by nearly two thousand dollars than the bill proposes as it now stands.

The amendment was agreed to.

Mr. GRINNELL. I move to amend by striking out in the appropriations for the Territory of Utah, lines nine hundred and eleven and nine hundred and twelve, reading as follows:

For salaries of Governor, chief justice, two associate judges, and secretary, $12,000.

I simply wish that appropriations for this Territory shall be deferred until some action shall be taken by Congress in reference to the subject of polygamy. A bill on that subject is, I understand, about to be reported by the Committee on the Judiciary. No money shall, with my consent, be appropriated to those people at present.

Mr. STEVENS. This is not giving it to "those people." It is giving it to the Gentiles, whom the Government sends there to hold the offices.

Mr. GRINNELL. As I understand, they are some others than Gentiles.

The amendment was not agreed to.

Mr. GRINNELL. I move to amend by striking out lines nine hundred and fifteen, nine hundred and sixteen, and nine hundred and seventeen, as follows:

For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly, $18,000.

It is not denied that the members of this Assembly are Mormons, living in flagrant violation of the cardinal principles of morality and decency. They are transgressing all the laws of civilization. I will not vote anything for them.

The amendment was not agreed to.

Mr. STEVENS. I move to amend by inserting after the word "additional" in line nine hundred and eighty-five, the word "temporary," so that the paragraph will read:

For two additional temporary clerks of class one, $2,400.

The amendment was agreed to.

Mr. McRUER. I move to amend by striking out in line nine hundred and ninety-five, the word "ten," and inserting in lieu thereof the word "five;" so that the paragraph will read:

For legal assistance and other necessary special and extraordinary expenditures in the disposal of private land claims in California, $5,000.

The amendment was agreed to.

Mr. STEVENS. I move to amend by striking out in line ten hundred and thirty-five the word "four" and inserting in lieu thereof the word "five," so that the paragraph will read:

For compensation to the laborer in charge of the water closets in the Capitol, $538.

The amendment was agreed to.

Mr. WASHBURNE, of Illinois. I move to amend by striking out lines ten hundred and ninety-two and ten hundred and ninety-three, as follows:

For the construction of a police telegraph, $15,000.

Mr. STEVENS. The committee do not know much about that.

Mr. KASSON. I desire to say that the committee, in passing upon this subject, had before them, as the chairman of the committee may remember, a communication from the department of the Metropolitan Police, in which, after a statement of the estimates for the pay of operators, superintendents, &c., of the police telegraph, it is stated:

"In addition to the above, $15,000 is necessary to pay for the police telegraph, which has been erected and in use for over twelve months."

Mr. WASHBURNE, of Illinois. Well, let the cities of Washington and Georgetown pay for it.

The amendment was agreed to.

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

The motion was agreed to.

So the committe rose; and the Speaker having resumed the chair, Mr. CONKLING reported that the Committee of the Whole on the state of the Union having had under consideration the bill (H. R. No. 213) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1867, had directed him to report the same with sundry amendments, and a recommendation that the bill pass.

Mr. STEVENS. I do not desire that this bill shall be acted on finally this evening. If the House should adjourn now, the bill will come up in the morning as the unfinished business.

CATTLE DISEASE.

Mr. BIDWELL. Mr. Speaker, I hold in my hand a communication addressed to me by the Secretary of State, relating to the cattle disease in Europe. An eminent agriculturist there, having successfully treated this disease, sends his experience to the Secretary of State, who has transmitted the communication to me as chairman of the Committee on Agriculture. I ask unanimous consent to present this communication to the House, that it may be referred to the Committee on Agriculture, and ordered to be printed.

There was no objection; and the communication of the Secretary of State was read, as follows:

DEPARTMENT OF STATE,
WASHINGTON, *March* 17, 1866.

SIR: I have the honor to inclose herewith for your information a copy of the communication which was addressed to the Department on the 21st ultimo, by Mr. Etrienne R. Veron, of Brussels, upon the subject of the cattle plague.

I have the honor to be your obedient servant,
WILLIAM H. SEWARD,
Secretary of State.

Hon. JOHN BIDWELL,
Chairman of the Committee on Agriculture.

The SPEAKER. If there be no objection, this communication will be referred to the Committee on Agriculture, and ordered to be printed.

There was no objection.

EMIGRATION.

Mr. WASHBURNE, of Illinois, by unanimous consent, introduced a bill to amend an act entitled "An act to encourage emigration," approved July 4, 1864, and an act entitled "An act to regulate the carriage of passengers in steamships and other vessels," approved March 3, 1865, and for other purposes; which was read a first and second time, and referred to the Committee on Commerce.

MAJOR GENERAL POPE'S REPORT.

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

Resolved, That the Secretary of War be directed to communicate to this House the report of Major General Pope in regard to the condition and necessities of emigrants west of Missouri.

DEFICIENCY BILL.

On motion of Mr. STEVENS the amendments of the Senate to the deficiency appropriation bill were taken from the Speaker's table, and referred to the Committee on Appropriations.

THEODORE G. EISWALD.

On motion of Mr. JENCKES, Senate bill No. 150, for the relief of Theodore G. Eiswald, was taken from the Speaker's table, read a first and second time, and referred to the Committee of Claims.

And then, on motion of Mr. WASHBURNE,

of Illinois, (at five o'clock and fifteen minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. ALLEY: The petition of D. B. Allen for compensation for carrying the mails to California.

By Mr. BALDWIN: A petition of the trustees of the Worcester County Free Institute of Industrial Science, Massachusetts, for a change of the law taxing land transferred by deed of gift, or for such legislation as will enable them to accept a deed of certain lands without paying as a tax six per cent. of its value.

Also, a petition of the assistant assessors of internal revenue in the eighth Massachusetts district, for an increase of their pay.

By Mr. BOYER: The petition of James B. Winpenny, and 52 others, proprietors, mechanics, and laborers, from James B. Winpenny's mill, Manayunk, Pennsylvania, praying for the amendment of the tariff so as to protect labor to the extent of the difference of the cost of capital and labor here and abroad with the addition of the taxes paid by American industrial products from which the foreign are free.

By Mr. BROMWELL: The petition of 23 discharged soldiers of the late war, praying for equalization of bounties.

By Mr. CHANLER: The memorial of William B. Miles, 59 Chrystie street; Thomas T. Read, 202 Two-hundred-and-thirteenth street, New York city, to adjust the duty on barley, that it may not exceed the sum of five cents per bushel.

By Mr. COBB: The petition of A. R. Tyler, and others, of Muscoda, Wisconsin, in relation to the law of insurance in the several States.

By Mr. CONKLING: The petition of Michael McQuade, Charles Hutton, and others, asking that no impost exceeding five cents a bushel be laid on barley coming from the British Provinces.

Also, the petition of J. M. Alvord, and others, asking the prompt passage of such a tariff as will more effectually protect American industry.

By Mr. COOK: The petition of citizens of Will county, Illinois, praying for the enactment of laws for the regulation of inter-State insurances of all kinds.

Also, the petition of of Stewart & Marsh, of Kendall county, Illinois, praying that the internal revenue law be amended so as to allow manufacturers of agricultural implements in making returns of their manufactures to deduct the value of any parts of such machinery which have already paid a tax.

By Mr. ELDRIDGE: Two petitions of citizens of Ripon, in the State of Wisconsin, for the enactment of law regulating inter-State insurance, &c.

By Mr. ELIOT: The petition of Wareham Savings Bank, Massachusetts, praying for relief from certain taxation.

By Mr. FARNSWORTH: The petition of George H. Daniels, and 65 others, citizens of Elgin, Illinois, for the establishing of a Bureau of Insurance.

By Mr. GARFIELD: The petition of David Himrod, and 100 others, citizens of Youngstown, Mahoning county, Ohio, praying for an increase of the tariff on imports so as to afford protection to American labor.

Also, the petition of A. B. Cornell, and 16 others, citizens of Youngstown, Mahoning county, Ohio, for such a modification of the excise laws as will afford relief to the American laborer.

By Mr. GLOSSBRENNER: The petition of Lewis Bean, Joseph Lawton, James Wright, and 105 others, citizens of Manayunk, Philadelphia, praying an increase of the tax upon imports.

By Mr. HART: The petition of citizens of Rochester, asking for the establishment of a national Bureau of Insurance.

Also, the petition of citizens of Monroe county, New York, asking that pensions be granted to the surviving soldiers of the war of 1812.

By Mr. HOLMES: The petition of Stuart Alexander, for American register to schooner Linnie Powell.

Also, the petition of W. Newkirk, and 31 others, citizens of Oswego, New York, for establishment of Bureau of National Insurance.

By Mr. HULBURD: The petition of sundry citizens of Rossie, St. Lawrence county, New York, asking an increase of tariff, &c.

By Mr. JONES: The petition of the assistant assessors of the fourth district, State of New York, asking for an increase of compensation.

By Mr. KASSON: The memorial of Nancy J. Kelly, widow of Dr. Alfred Kelly, for a pension.

By Mr. LAFLIN: The petition of Livingston & Scobel, of Cape Vincent, Jefferson county, New York, in favor of the importation of free barley from Canada.

By Mr. MARVIN: The petition of 124 citizens of Fulton county, New York, asking an increased duty on foreign wool.

By Mr. MOORHEAD: Two petitions from citizens of Pittsburg, Pennsylvania, praying for the passage of an act regulating inter-State insurance companies.

By Mr. MORRIS: The petition of Denton Bostwick, Esq., and 120 others, of Yates county, New York, asking for an increase of duty on imported wool.

By Mr. MYERS: The petition of mechanics and laborers in manufacturing establishments at Philadelphia, for such amendment to the tariff as will protect their labor.

Also, the petition of citizens of Philadelphia, engaged in manufactures, commerce, and the mechanic arts, for increased duties and imposts.

By Mr. PHELPS: The petition of Mrs. Margaret R. Coloney, widow of the late Major Josiah B. Coloney, of the first Maryland Veteran volunteer infantry, praying for an increase of pension.

By Mr. PRICE: The petition of citizens of Linn and Buchanan counties, Iowa, asking for the establishment of a mail route from Marion, Linn county, to Winthrop in Buchanan county.

By Mr. RAYMOND: The petition of Henry Coleman, late seaman on board of United States transport McClellan, for an invalid pension.

Also, the petition of John Buttin, and others, manufacturers of agricultural implements, in the State of New York, praying for an amendment and equalization of the tax laws in relation to their business.

By Mr. SPALDING: The petition of N. B. Sherwin, Madison Kelley, and others, assistant assessors in the eighteenth district of Ohio, asking for an increase of compensation.

By Mr. VAN AERNAM: The petition of 123 citizens, prominent business men of Chautauqua county, New York, praying Congress to enact just and equal laws regulating inter-State insurance.

Also, the resolutions of the Legislature of the State of New York relative to the construction of a ship-canal across Keweenaw Point, Lake Superior.

Also, the resolutions adopted at a meeting of the soldiers, seamen, and marines held in the city of Philadelphia, Pennsylvania, on the 10th day of February, 1866, calling upon Congress for the passage of an act equalizing bounties.

By Mr. WELKER: The petition of William Belnap, R. P. Redick, and 1,117 others, citizens of Wayne county, Ohio, asking protection to wool-growers against foreign competition, and that a duty of not less than ten cents per pound specific duty, and ten per cent. *ad valorem* be levied for that purpose upon all foreign wools competing with home production.

By Mr. WILSON, of Iowa: The petition of the assistant assessors of the first district of Iowa, praying for an increase of compensation.

IN SENATE.

TUESDAY, *March* 20, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. POMEROY presented the petition of George Mack, and twenty-four others, enlisted men of company G, eighth regiment of United States Veteran volunteers, praying for the payment of bounty belonging to them which was lost through the carelessness or fraud of a recruiting officer; which was referred to the Committee on Claims.

Mr. HOWE presented a resolution of the Legislature of Wisconsin, in favor of such a change of the law assessing a tax upon cigars as shall levy the tax *ad valorem;* which was referred to the Committee on Finance.

Mr. KIRKWOOD presented the petition of John H. Crowell, captain and assistant quartermaster of volunteers, praying that the accounting officers of the Treasury may be authorized to allow him a credit in the settlement of his accounts for money paid to enlisted men of the fourteenth Maine volunteers employed as cooks and nurses at the regimental hospital at Baton Rouge, Louisiana, in the months of April, May, and June, 1862; which was referred to the Committee on Claims.

Mr. MORRILL presented a memorial of the mayor, recorder, aldermen, and common council of Georgetown, District of Columbia, praying that the aqueduct may be allowed to remain as a bridge, and that a suitable draw may be constructed in it so as to admit the passage of vessels; which was referred to the Committee on the District of Columbia.

Mr. SHERMAN presented the petition of Mrs. Margaret Kaetzel, praying for an appropriation for the support of herself and family, her husband having been killed on the 5th of April, 1865, by the premature discharge of a cannon which was being used in firing a salute, by order of the Secretary of War, in honor of the capture of Richmond; which was referred to the Committee on Claims.

Mr. GRIMES presented a memorial of citizens of the United States, remonstrating against the restoration of any State lately in rebellion until adequate security has been obtained against a renewed attempt to secede, against any representation in Congress beyond a just proportion of voting population, and against any distinction on account of color or descent, and praying for the adoption of such amendments to the Constitution as will enforce the foregoing provisions; which was referred to the joint committee on reconstruction.

REPORTS OF COMMITTEES.

Mr. FESSENDEN, from the Committee on Finance, to whom was referred a bill (H. R. No. 37) making appropriations for the support of the Military Academy for the year ending the 30th of June, 1867, reported it with amendments.

Mr. BROWN submitted informally an amendment which he proposes to offer as a substitute for the bill (S. No. 38) to authorize the construction of a bridge across the Mississippi river, at the city of St. Louis, State of Missouri, and at the city of East St. Louis, State of Illinois; which was ordered to be printed.

RELIEF OF DESTITUTE COLORED PEOPLE.

Mr. MORRILL. I am directed by the Committee on the District of Columbia to report a joint resolution (S. R. No. 49) for the temporary relief of destitute colored people in the District of Columbia, and I ask for its present consideration.

The joint resolution was read a first time by its title, and passed to a second reading.

Mr. SAULSBURY. I wish to offer an amendment to the resolution, to make an appropriation for the destitute white people of the District of Columbia.

The PRESIDENT *pro tempore.* It is not yet in a condition to be amended. The Senator from Maine asks for the present consideration of the resolution. The first question is, Is there any objection to the consideration of the resolution?

Mr. SAULSBURY. Yes, sir.

Mr. MORRILL. I hope the Senator will allow us to consider it, and then he can offer his amendment.

Mr. SAULSBURY. Very well.

Mr. MORRILL. I understand the objection is withdrawn.

The PRESIDENT *pro tempore.* No objection being made, the joint resolution will now be read a second time.

The joint resolution was read the second time by its title, and considered as in Committee of the Whole. It appropriates $25,000 for the relief of the destitute colored population in the District of Columbia, to be expended under the direction of the Commissioner of the Freedmen's Bureau.

Mr. MORRILL. I ought in justice to the Senate, I suppose, to state the condition of the people for whose relief this resolution is introduced. It is the result of an inquiry made by the Committee on the District of Columbia into the condition of these colored people. There are some ten or fifteen thousand of these people that have been thrown into this city from the adjoining States, and they are existing here in a state of almost utter destitution, inconceivable suffering, and want. The committee have made their condition the subject of personal inspection, and have come to the conclusion that as an act of humanity to these people, as well as a matter of security to the public health, it is absolutely indispensable that some immediate relief should be had for these people. They are now gathered in colonies on the skirts of the city, in some instances close upon the thickly settled parts of the city, and they are literally breeding disease and death. As a matter of security, as well as a matter of humanity, I am satisfied that this temporary relief ought to be granted. I will send to the Clerk the report of the superintendent of the Metropolitan Police, whose attention was brought to this subject, and who was requested to make an inspection of the condition of these people, and I ask that it may be read.

The PRESIDENT *pro tempore.* The paper will be read if there be no objection.

The Secretary read it, as follows:

DEPARTMENT OF METROPOLITAN POLICE,
OFFICE OF SUPERINTENDENT,
No. 483 TENTH STREET WEST,
WASHINGTON, *March* 6, 1866.

GENTLEMEN: I have the honor at this time to submit a report, based mainly upon personal inspection, of the sanitary condition of certain localities in the city of Washington inhabited by colored people, mostly known as "contrabands," together with certain other facts connected with the condition of these people.

The first locality visited is known as "Murder Bay," and is situated between Thirteenth and Fifteenth streets west, below Ohio avenue, and bordering on

the Washington canal. Here crime, filth, and poverty seem to vie with each other in a career of degradation and death. Whole families, consisting of fathers, mothers, children, uncles, and aunts, according to their own statements, are crowded into mere apologies for shanties, which are without light or ventilation. During storms of rain or snow their roofs afford but slight protection; while from beneath a few rough boards used for floors, the miasmatic effluvia from the most disgustingly filthy and stagnant water, mingled with the exhalations from the uncleansed bodies of numerous inmates, renders the atmosphere within these hovels stifling and sickening in the extreme. Their rooms are usually not more than six or eight feet square, with not a window or even an opening (except a door) for the admission of light. Some of the rooms are entirely surrounded by other rooms, so that no light at all reaches where persons live and spend their days and nights. In a space about fifty yards square, I found about one hundred families, composed of from three to ten persons each, living in shanties one story in height, except in a few instances where tenements are actually built on the tops of others. There is a distance of only three or four feet separating these buildings from each other—not even as convenient as an ordinary three-foot alley. These openings lead in so devious a course that one with difficulty finds his way out again. Thus pent up, not even these paths are purified by currents of fresh air. In one building visited, seventeen families were found upon the ground floor, consisting of from two to seven persons each, one restaurant and one boarding house. The second story is a large dance-hall, where these people nightly congregate for amusement.

Nearly all of these people came from Virginia during the rebellion, and some of them propose to return whenever they are assured that they can get work to do there, and will be well treated. It was found that from five to eight dollars per month are paid for the rent of these miserable shanties, except in some instances where a ground rent of three dollars per month is paid for a little spot covering a few square feet—there some of the more enterprising have erected cabins of their own. These also are in equally close proximity to each other, so that it is with difficulty that one can crowd between them.

On the west side of Fourteenth street near the same locality are a large number of small buildings which however are kept in a somewhat more cleanly condition, and are opened to light and ventilation. Here some of the occupants of houses boast of small back yards, but so low and wet are their surfaces, that they are a curse rather than a benefit. Filthy water here accumulates, from which, with the advent of warm weather, the seeds of disease must spread among and destroy the wretched people.

In each of these localities there are no proper privy accommodations, and those that exist are in a leaky and filthy condition generally, Nor can the sanitary laws be properly enforced against delinquents, for they have no means wherewith to pay fines, and a commitment to the work-house is no punishment. I can see no efficient mode of remedying this evil except that scavengers be employed at the public expense, to visit these localities; though by far the best remedy would be to require that these buildings be razed to the ground.

Under the best sanitary laws that can be enacted, stringently enforced, these places can be considered as nothing better than propagating grounds of crime, disease, and death; and in the case of a prevailing epidemic, the condition of these localities would be horrible to contemplate.

A similarly crowded lot of shanties exists on Rhode Island avenue, between Tenth and Eleventh streets, though as to fresh air and cleanliness a somewhat better condition of things exists. Here in a space some two hundred feet square, two hundred and thirteen persons reside, mostly known as "contrabands." There are several other places equally crowded, within the city limits, which I have not yet had time to visit and inspect personally; for which purpose I respectfully ask for further time.

A. C. RICHARDS,
Superintendent.

To the BOARD OF POLICE.

Mr. SAULSBURY. I propose to amend the joint resolution by adding the following:

And that a like sum is hereby appropriated for the temporary relief of the destitute white people residing in said District, to be expended under the direction of the mayor of the city of Washington.

Mr. MORRILL. I think if the honorable Senator from Delaware understood the condition of these people, he would not object to this resolution, and he would see an obvious distinction between granting relief to them and the contemplated relief for the poor white people, if there be any, in the District. These colored people came here homeless, houseless, destitute, without shelter, and without protection of any kind whatever, and were thrown upon this city with no obligation to provide for them whatever. They are destitute, and their condition is one of peculiar hardship and suffering to themselves, and of very great hardship to the city. The city does not feel that it is its duty particularly to provide for these people as their own. The hardship of their condition is increased by the fact that the city does not feel under the slightest obligation whatever to provide for them. There are no poor white people in this city in that condition. The cases are not parallel. It does not follow because the Government feels under some obligation, as I trust they do, and know they ought, in this case to provide for this class of destitute and unfortunate people, who are thrown upon this community, that the poor white people of the District need something from the Treasury of the United States; and I suggest to my honorable friend that he pays but a poor compliment to the white people of the District by his amendment. No appeal has been made to the committee in behalf of poor white people; and I suggest that it is a very poor compliment indeed that the honorable Senator should think it worth while to couple with a resolution making a provision for people who are known to be destitute, and whose circumstances are peculiar, an equal appropriation for white people, for the presumption ought to be that they can either take care of themselves, or the community to whom they belong have sufficient capability and sufficient interest in them to provide for them. I hope my honorable friend on reflection will withdraw this amendment.

Mr. SAULSBURY. In offering this amendment, my object was not to pay compliments to any person, whether white or black. I do not doubt that what the honorable Senator states is perfectly correct, that there are many hundreds and thousands of the negro population now residing in this District who are in poor and destitute circumstances, and I have no doubt they need relief; but, sir, I cannot walk Pennsylvania avenue or any other street in Washington without having appeals for aid made to me by little white boys and girls, barefooted, without enough clothes to protect them from the inclemency of the weather. The honorable Senator thinks it is no compliment to the white population of the District to ask for aid for these indigent white people; and yet, sir, we cannot close our eyes to the fact that there are hundreds and thousands of white people in this city who do not know what it is to have meat upon their tables, and who when they have provided themselves with one meal do not know where the next is to come from.

Sir, I did nothing to cause the influx of this negro population into this District. It was told to us here when you were abolishing slavery in this District that the District would be a paradise for the free negroes. That paradise, with all its blessings and all its comforts, has been described to you very accurately this morning by the honorable Senator from Maine. Sir, let not your charity be confined to the negro population of this District if you have just cause for believing that there is an equal number or any number of destitute white people.

I cannot see the evidence of such destitution in the midst of this black population that some people see. I cannot look around at any time in these galleries but what I see young, hale, stout negro men witnessing day after day, week after week, and month after month, the deliberations of your Chamber, when there are hundreds and thousands of poor young white men in this country who cannot afford to take one single day to listen to your debates. Your Freedmen's Bureau has this class of negro population under their particular charge. There is no bureau to take under their charge the white population of this District or of this country. When you proposed to appropriate out of the public Treasury the sum of $25,000 (which you have no constitutional right to appropriate) for the relief of these people, all I ask of you is to be just as humane and just as charitable to your own race as you are to the negro population. I therefore cannot withdraw my amendment.

Mr. WILLEY. I believe it is in order before taking the vote on the amendment of the Senator from Delaware to perfect the original proposition.

The PRESIDENT *pro tempore*. The question will first be on the amendment of the Senator from Delaware.

Mr. WILLEY. I suggest to the Senator from Delaware that his object would be accomplished by simply striking out the word "colored" from the original proposition, so as to leave simply an appropriation of $25,000 to be applied under the direction of the officer of the Freedmen's Bureau designated for the relief of the destitute population of this city, leaving it to his discretion to apply it either to the white or black population as the exigencies of the case might indicate as proper. The proposition of the Senator from Delaware is to make an additional appropriation of $25,000, which, added to the appropriation in the original resolution, would make the aggregate sum of $50,000. I think the necessities of the case do not demand so large an appropriation, and that by striking out the word "colored" in the original proposition, so as to leave simply an appropriation of $25,000 to be expended for the relief of the destitute population of the city, including both black and white, it would accomplish the object proposed by the resolution in its original form, and accomplish what seems to be the purpose of the Senator from Delaware also. I make that suggestion to him. I shall feel under the necessity of voting against the amendment of the Senator from Delaware, if it is pressed, with the understanding, however, that if it fails, I shall then move to strike out the word "colored" from the original proposition.

Mr. SAULSBURY. I feel under great obligations to the honorable Senator from West Virginia for his suggestion; but, sir, I cannot accept it, and for this simple reason: the resolution as it stands leaves the distribution of this aid to the Freedmen's Bureau. If you pass the resolution and strike out the word "colored," but leaving the distribution of your alms to be made by the Freedmen's Bureau, we know very well who are to be the recipients of your favor. No destitute white person is to be the recipient of your bounty, but the Freedmen's Bureau will distribute it all among the negro population. For that reason I cannot consent to any such proposition. If it was proposed to appropriate $25,000 for the relief of the destitute people of the District of Columbia, to be distributed by the mayor of the city of Washington, I would have no objection to that; but while you keep it for distribution in the hands of the Freedmen's Bureau I cannot consent to accept the amendment.

Mr. WILLEY. Where the Freedmen's Bureau is in operation, I believe the bounties of that organization are extended to the destitute of both colors alike. I do not see any impropriety in selecting that agent to distribute this bounty to the negroes.

Now, sir, this question goes further than merely the relief of these destitute poor; it affects ourselves; and I am satisfied that unless this relief is afforded and the thing contemplated by the resolution is accomplished in some way or other, in the event the cholera should reach this city early in the season, the deliberations of Congress must necessarily be interrupted. My information is such—and I have taken pains to be well informed on the subject—that these dens of poor creatures will be the very fountain-heads and seat of contagion, disease, and death; that if pestilence reaches this city it will fester there, and it will spread, and not merely this destitute population will fall victims to it, but the whole population of the city must necessarily be affected. As an indispensable sanitary regulation, this appropriation is necessary in order that we may remove the sources and causes of contagion and disorder in this city.

I trust the Senator from Delaware will not interpose an objection, but will allow the agent of the Freedmen's Bureau, who will no doubt be a very competent and benevolent gentleman, to distribute these funds, if the appropriation should be made, both to the whites and the blacks of this city as the necessity of the case may appear to him to demand. I have no particular choice in the selection of the agent. If some other agent could be selected who is qualified to execute the duty imposed upon him,

I would have no objection, but it must be obvious to the Senator from Delaware that the principal portion of the destitute of this city consists in the black population, and therefore there is an obvious necessity for selecting the agent indicated.

The PRESIDENT *pro tempore*. Is the Senate ready for the question on the amendment proposed by the Senator from Delaware?

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

The yeas and nays were ordered.

Mr. ANTHONY. I should like to have the amendment reported again.

The Secretary read the amendment, to add at the end of the resolution the following:

And that a like sum is hereby appropriated for the temporary relief of destitute white people in said District, to be expended under the direction of the mayor of the city of Washington.

The question being taken by yeas and nays, resulted—yeas 3, nays 32; as follows:

YEAS—Messrs. Davis, Riddle, and Saulsbury—3.
NAYS—Messrs. Anthony, Buckalew, Chandler, Conness, Cowan, Cragin, Doolittle, Fessenden, Foster, Grimes, Guthrie, Harris, Henderson, Howe, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Nesmith, Norton, Nye, Poland, Pomeroy, Sherman, Stewart, Sumner, Trumbull, Van Winkle, Wade, Willey, Wilson, and Yates—32.
ABSENT—Messrs. Brown, Clark, Creswell, Dixon, Foot, Hendricks, Howard, Johnson, Kirkwood, McDougall, Ramsey, Sprague, Stockton, Williams, and Wright—15.

So the amendment was rejected.

Mr. WILLEY. I now propose to amend the resolution by striking out the word "colored" before the word "population."

Mr. MORRILL. I have no objection to that amendment, and will accept it and modify the resolution accordingly, if I have the power to do so.

The PRESIDENT *pro tempore*. Where a bill or joint resolution is reported from a committee, unless the committee recommend an amendment, the Chair is of the opinion that the chairman of the committee cannot, technically, accept an amendment.

Mr. MORRILL. Very well.

The PRESIDENT *pro tempore*. The question is on the amendment proposed by the Senator from West Virginia.

The amendment was agreed to.

Mr. DAVIS. I offer an amendment, to insert as an additional section the following:

And be it further resolved, That the corporate authorities of this District be, and they are hereby, authorized to find proper service and employment for all able-bodied black or colored people in this District, either in or out of the District; and that $5,000 be, and is hereby, appropriated to pay the attending expenses.

Mr. MORRILL. There is no necessity for that, and I hope the amendment will not be agreed to.

Mr. KIRKWOOD. I move to amend the amendment by striking out the words "black or colored." I do not see why a white man should not work as well as a black man.

Mr. DAVIS. On that I ask the yeas and nays.

The yeas and nays were not ordered.

The amendment to the amendment was agreed to.

Mr. SHERMAN. Now, I should like to have the amendment, as amended, read.

The Secretary read it, as follows:

And be it further resolved, That the corporate authorities of this District be, and they are hereby, authorized to find proper service and employment for all able-bodied people in this District, either in or out of the District; and that $5,000 be, and is hereby, appropriated to pay the attending expenses.

Mr. GRIMES. I call for the yeas and nays on the amendment as amended.

The yeas and nays were ordered.

Mr. CONNESS. I move to amend the amendment by inserting after the word "authorized" the words "and required." ["Oh, no!"] There appears to be a general request to withdraw the amendment to the amendment and I withdraw it.

Mr. NESMITH. I move to amend the amendment by inserting after the words "able-bodied people" the words "excluding members of Congress." [Laughter.]

The amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question now is on the amendment proposed by the Senator from Kentucky as amended.

The question being taken by yeas and nays, resulted—yeas 5, nays 33; as follows:

YEAS—Messrs. Anthony, Davis, Guthrie, Kirkwood, and Riddle—5.
NAYS—Messrs. Buckalew, Chandler, Conness, Cowan, Cragin, Creswell, Doolittle, Fessenden, Foster, Grimes, Harris, Henderson, Howe, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Nesmith, Nye, Poland, Pomeroy, Ramsey, Saulsbury, Sherman, Sprague, Stewart, Sumner, Trumbull, Van Winkle, Wade, Willey, Wilson, and Yates—33.
ABSENT—Messrs. Brown, Clark, Dixon, Foot, Hendricks, Howard, Johnson, McDougall, Norton, Stockton, Williams, and Wright—12.

So the amendment was rejected.

Mr. SAULSBURY. I move to strike out the words "Commissioner of the Freedmen's Bureau" and to insert "mayor of the city of Washington," so as to leave the expenditure of this money under the direction of the mayor of the city of Washington instead of the Commissioner of the Freedmen's Bureau.

The amendment was rejected.

The joint resolution was reported to the Senate as amended, and the amendment made as in Committee of the Whole was concurred in.

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

Mr. SAULSBURY. I ask for the yeas and nays on the passage of the joint resolution.

The yeas and nays were ordered; and being taken, resulted—yeas 33, nays 5; as follows:

YEAS—Messrs. Anthony, Chandler, Conness, Cowan, Cragin, Creswell, Doolittle, Fessenden, Foster, Grimes, Harris, Howe, Kirkwood, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Nesmith, Norton, Nye, Poland, Pomeroy, Ramsey, Sherman, Sprague, Stewart, Stockton, Sumner, Trumbull, Van Winkle, Wade, Willey, and Wilson—33.
NAYS—Messrs. Buckalew, Davis, Guthrie, Riddle, and Saulsbury—5.
ABSENT—Messrs. Brown, Clark, Dixon, Foot, Henderson, Hendricks, Howard, Johnson, McDougall, Williams, Wright, and Yates—12.

So the joint resolution was passed.

Mr. MORRILL. The title should be amended to correspond with the resolution by striking out the word "colored."

The PRESIDENT *pro tempore*. It will be so amended to correspond with the character of the resolution.

ORDER OF BUSINESS.

Mr. FESSENDEN. With the leave of the Senate, I desire now to take up and finish the naval appropriation bill, which was nearly finished on Friday last. I presume it will take but a very short time to dispose of it. All the amendments proposed by the Committee on Finance and by outside committees were acted upon, and the further consideration of the bill was deferred for the purpose of giving the Senator from Rhode Island [Mr. ANTHONY] an opportunity to offer an amendment. I should like to dispose of that bill to-day.

Mr. NYE. I hope the Senator from Maine will allow me to pass a little bill which will take but a moment and lead to no debate.

Mr. FESSENDEN. If I were to give way to the Senator from Nevada, I should lose my chance. If the naval appropriation bill is taken up, I shall not object to its being laid aside informally to enable the Senator to take up his bill, if it will lead to no debate.

Mr. CHANDLER. The Senator from Maine has not more than ten seconds of a chance. There is a special order for one o'clock, which will put his chance aside.

Mr. FESSENDEN. What is that?

Mr. CHANDLER. This day has been assigned to the Committee on Commerce for the consideration of the bills reported by that committee.

Mr. FESSENDEN. If it is not very important that the Committee on Commerce should go on with their business immediately, I should like to finish the naval appropriation bill in order that it may be sent back to the House. I think it will take but a short time.

Mr. CHANDLER. If it will not occupy much time I will not object.

Mr. FESSENDEN. I do not know of any amendment to be proposed to it except one by the honorable Senator from Rhode Island, [Mr. ANTHONY,] and my friend from Iowa [Mr. GRIMES] informs me that he has an amendment to which probably there will be no objection. I cannot tell how long it will take, but we finished the bill substantially the other day.

Mr. CHANDLER. Then I will move to take up the special order for to-day; and when it has been taken up, it may be laid aside informally. I move to take up House bill No. 184.

The PRESIDENT *pro tempore*. Does the Senator from Maine withdraw the motion made by him?

Mr. FESSENDEN. I will not interfere with the honorable Senator from Michigan without his consent if to-day was assigned for the consideration of his business. I do not propose to meddle with the order of business unless he agrees to it.

Mr. CHANDLER. I only want my business taken up and then let it be laid aside informally for the purpose of taking up the appropriation bill referred to by the Senator from Maine. I move to take up bill H. R. No. 184, to authorize the sale of marine hospitals and revenue cutters.

The motion was agreed to.

Mr. CHANDLER. Now, let it be laid aside informally to accommodate the Senator from Maine.

The PRESIDENT *pro tempore*. That can be done by the unanimous consent of the Senate. The Chair hears no objection.

NAVAL APPROPRIATION BILL.

Mr. FESSENDEN. I move to take up the Navy appropriation bill.

The motion was agreed to; and the Senate resumed the consideration of the bill (H. R. No. 122) making appropriations for the naval service for the year ending 30th June, 1867.

Mr. ANTHONY. I offer the following amendment as a new section:

And be it further enacted, That the Secretary of the Navy shall appoint a board of five naval officers, of which Admiral Porter, the present Superintendent, and Commodore Blake, past Superintendent, of the Naval Academy, shall be members, to examine and report upon the most suitable place for the permanent location of the Naval Academy, and that none of the moneys appropriated in this act for the enlargement and improvement of the present location be expended until the report shall have been made.

I will read two or three sentences from the annual report of the Secretary of the Navy, which will explain the reason why I offer this amendment:

The Secretary says:

"The academic grounds belonging to the Government at Annapolis include only twenty-one acres, and are wholly insufficient for the School. Their situation, in the heart of a city, also subjects the youths to temptations, from which at that period of life it is desirable they should be removed. When the School was originally established at Fort Severn the inconveniences and objections that now present themselves may not have been experienced; but in the present and prospective condition of our naval power the idea of permanently establishing a national institution of this character on these restricted grounds, where large expenditures must be made in public edifices and buildings and various improvements, cannot be seriously entertained by any one who shall give the subject candid and deliberate consideration."

The Secretary goes on to state that the School was originally designed for one hundred and eighty midshipmen, with the necessary officers, professors, and instructors. The number now authorized by law is five hundred and sixty-six, with a corresponding increase of the academic staff.

"There are but ninety-six rooms in the present quarters of the midshipmen, and each room is intended for two occupants. The buildings are defective in many respects, and were originally hastily and imperfectly constructed.

"Commodore Blake, the late intelligent Superintendent, in a carefully prepared statement, estimates the cost of the buildings and improvements which will be required at Annapolis, in order to make the institution acceptable and worthy of the country, at $800,000. I do not question that this amount, and even a much larger sum, must be ultimately appropriated for the Academy; but it cannot be considered wise or expedient to make this investment within the narrow and confined area which the Government

possesses at Annapolis. No amount of money which Congress may expend in buildings and improvements to that location will be satisfactory, and at no distant day a different and better site will be procured. This should not be delayed. True economy and the best interests of the Government prompt an immediate selection of the best position that can be obtained, before any greater expense shall have been incurred in large and costly edifices, and other substantial improvements."

The Secretary goes on to recommend that the Department be authorized to select a site. I understand that the bill before us by an amendment heretofore adopted authorizes the purchase of four and a half acres to be added to these grounds, making them twenty-five and a half acres in all. The Secretary says that the grounds of the Naval Academy should be as large as those of the Military Academy which are more than a thousand acres, and the bill proposes to expend permanently I think about two hundred thousand dollars, or something more, for the improvement and extension of the Academy. The Secretary of the Navy says that $800,000 is an under-estimate of the sum that will be necessary to make the Academy at all worthy of the country. He strongly advises that we shall not locate it permanently at that place. I am not prepared to say that Annapolis is or is not the best place for the Naval Academy. The Secretary of the Navy thinks it is not, and thinks that whole city would hardly furnish accommodations enough for the institution; but I desire to have the best possible information on the subject so that before this Academy is permanently located, before we expend a million and a half of money upon it, we shall be sure it is in the best place, and therefore I have offered this amendment, that a board of five naval officers, one of whom shall be the present Superintendent of the Academy, Admiral Porter, and another the late Superintendent who has served in that capacity a double term, one term at Annapolis and one term at Newport, shall report upon the best location for it. I hope the Senate will not appropriate this very large sum of money and the immensely large sum that will be necessary to render the present appropriations available, before it is rendered certain that we have obtained the best place for the Academy.

Mr. SHERMAN. I merely rise to suggest to the Senator whether he had not better add a clause providing that the money shall not be expended at Annapolis unless the report be favorable to that location. It provides that the money shall not be expended until the report shall have been made; let him add, "and shall not be expended at Annapolis unless the report should be in favor of that place," or words to that effect.

Mr. ANTHONY. I supposed that would follow as a matter of course.

Mr. SHERMAN. I do not know about that.

Mr. ANTHONY. I will alter the amendment at the suggestion of the Senator from Ohio, by adding the words "nor until the board shall recommend the present location."

Mr. GRIMES. I will not say that I am surprised at the amendment that is offered by the Senator from Rhode Island, because I was informed by him in advance that he would offer such a proposition; but it would strike me as rather strange that any Senator, unless it be a Senator from Rhode Island where the Academy for awhile was temporarily located, should offer a proposition of this kind. It is very true that the Secretary of the Navy has proposed to change the location of the Academy. It is also true that he is anxious to take it down on to the waters of James river, into the vicinity of Newport News, to which I have told him that I was unalterably opposed. I have told him also that I was satisfied that a large majority, almost the unanimous voice of the Senate, was against it. He, of course, in his effort to carry out his views, to get the Academy transferred to Newport News, where he proposed to buy from a thousand to fifteen hundred acres of land, has assigned various reasons why it ought not to be continued at the present place. I believe that nearly every one of those reasons is fallacious.

In the first place, I am convinced that there is nearly as much land at Annapolis, or will be when we make the additions which we have made the appropriations to purchase, as there is at West Point; I mean land that is available. I know that the Government owns large tracts of land at West Point of an almost mountainous character, that even a goat or a chamois can hardly travel over; but I am speaking of that portion of the ground that is susceptible of use by the cadets. In the second place, we do not need half the ground at the Naval Academy that is needed at the Military Academy. We do not have any cavalry exercises; we do not teach our boys horsemanship, or anything of that kind.

Mr. ANTHONY. Yes, they do.

Mr. GRIMES. Horsemanship! No; I beg the Senator's pardon, we do not. We try to teach them to be sea-horses themselves. [Laughter.] Their business is to learn to navigate ships, and not to manage horses. I know, Mr. President, very well, that there are some objections in the minds of some people to having the Academy so near a town. I do not think that it is so very objectionable. These young men cannot pass from the Academy grounds into the town without passing by a sentinel. It is competent for the Superintendent of the Academy to establish his own regulations as to the terms and the times when they shall be permitted to go outside of the Academy; and he establishes those rules. I do not think that the Secretary has exhibited his usual good judgment in proposing to take the Academy away from Annapolis and carry it down into a country where there is nobody, remote from all civilization, where there is not a village within thirty miles, I believe; to isolate them entirely from all civilization; and I have had no hesitation in saying so; and although I am in the habit, as a general thing, of concurring with him, for I think that his judgment on most things is correct, yet upon this subject I have no hesitation in saying that I am convinced that he is most decidedly in error.

Now, what is it that is proposed by the Senator from Rhode Island? That we shall let things remain exactly as they are at Annapolis until after a commission shall be appointed, two of whom he selects, one of whom, I presume, he supposes to be in favor of taking the Academy to Newport or some of the islands of Narragansett bay—I infer that, at least, and I think it is a legitimate inference. Perhaps he judges that both of them are in favor of it——

Mr. ANTHONY. I think they are very sensible men, and therefore would be likely to be.

Mr. GRIMES. He proposes that everything shall remain *in statu quo* at Annapolis; that the young boys now sickly because they are confined on board vessels where they live almost the whole time, except on Sundays or when they go out to take a little military exercise, shall remain there for an indefinite period until this board shall have had an opportunity to go up and down the whole coast and shall have agreed upon a place to which the Academy shall be removed, and that action of the board shall have been ratified by the Secretary of the Navy and buildings of a proper description shall have been erected to which they can be transferred. I do not think the Senate is prepared to adopt any such proposition.

Mr. President, I have no sort of partiality for Annapolis; I have no great regard for Maryland; I think I am capable of looking at this question of the location of the Naval Academy with great disinterestedness. I believe that it is now located where it ought to be. The grounds are not quite as capacious as they ought to be, but we have made provision in the bill now under consideration, by an amendment which was adopted with great unanimity by the Senate, to enlarge them to an extent to which I believe it is necessary they should be enlarged. I think the climate, the location, everything connected with the present site, with the exception of the spaciousness of the grounds, speaks in favor of Annapolis, and I have no question that with the $50,000 we have appropriated to enlarge the grounds we shall acquire all the territory that we desire.

I trust this amendment will not receive the concurrence of the Senate, and I have no idea that it will.

Mr. ANTHONY. I have very great respect for the opinion of the Senator from Iowa upon naval affairs, and I have very great respect for the opinion of the Secretary of the Navy upon naval affairs. They are diametrically opposite upon this point. As I do not wish to decide and do not wish the Senate to injure the feelings of either of them by deciding against him, I propose that we refer this matter to men who know more about it than either of them can know. I propose that we refer it to a board of naval officers in whose ability and impartiality the country will have the highest confidence.

I ask the chairman of the Committee on Finance if he wishes to have an appropriation of $200,000 now, which, in the opinion of the Secretary of the Navy, must be increased to a great deal more than $800,000, to be expended upon a place where, in the judgment of the Secretary of the Navy, the Academy ought not to be.

Mr. GRIMES. The Senator will allow me to say just at this point that I have letters in my desk from the Secretary of the Navy asking for every one of the appropriations the Senator objects to. He may set off one against the other.

Mr. ANTHONY. One is not a set-off against the other, for undoubtedly if the Academy is to be kept at Annapolis these appropriations are proper, and I should vote for them if it is to be kept there. Wherever the Academy is, it is necessary to expend a great deal more than $800,000; so says the Secretary. I have made no estimate myself and I am not capable of making estimates on such a subject; that is the information he sends to us, and he undoubtedly has arrived at that judgment from consultation with naval officers.

Two years ago when, on the motion of the Senator from Iowa, we inserted an amendment in the naval appropriation bill directing the Academy to be removed from Newport to Annapolis, I said that the expense of erecting suitable accommodations for the Academy would be so great, either at Annapolis or Newport, or anywhere else, that the buildings already erected at Annapolis could not be taken into the account except as to the expense of tearing them down; and then the Senator from Iowa told me the whole expense would be but $20,000, and yet now he brings in amendments on this bill for an expenditure of $200,000. This shows that he, as well as the Secretary of the Navy, may be mistaken upon naval matters. Is it not fair and proper that in selecting the location of the institution which is to become the nursery for the naval officers of the country for all time, we should be sure that we have the best place? What is the harm of this commission? If the commission decides that Annapolis is the best place I shall submit to it; if it decides that Annapolis is not the best place every Senator here, including the Senator from Iowa himself, would yield to such an authority, and would be in favor of putting it elsewhere. I hope that so large a sum of money will not be expended upon any doubtful location.

Mr. FESSENDEN. As the Senator from Rhode Island has appealed to me, I will say that I do not follow every great idea that the Secretary may have in his mind. If I have been rightly informed, the first idea of the Secretary of the Navy, when he proposed to remove the Academy, was to take it down to Newport News.

Mr. ANTHONY. He does not state so.

Mr. FESSENDEN. He does not say so in the report before the Senator; he may have abandoned that idea. I am satisfied myself that Annapolis is a very fit and proper place for it. It has been there heretofore, and with the purchases that are proposed by the amendments made to this bill, the present location will be sufficient. I think it of consequence to have

this matter settled, and not to have a wandering commission of naval officers to go around to see if they cannot find some place where we can spend a great deal more money. I think it best to settle the matter, to make these appropriations, and have no more to say about the location of the Academy. That is my deliberate judgment.

Mr. ANTHONY. One word in regard to the time to be consumed. It seems to be assumed that this commission is going to occupy a good deal of time. I think the time would be very well spent if it did; but the whole thing can be done in two months; and as the annual cruise commences about the 1st of June, the buildings can be done as soon as they are required after the report of this commission.

Mr. FESSENDEN. They cannot be finished in one year.

Mr. ANTHONY. If we are to lay out a great deal more than eight hundred thousand dollars, and the Secretary of the Navy is in favor of one plan, and the chairman of the Committee on Naval Affairs is in favor of another plan, I think we had better appoint umpires of the highest capacity to decide between them before the money is laid out.

Mr. GRIMES. The plan proposed by the Senator from Rhode Island is not the Secretary's plan. The Secretary proposes that it be left to the Department to select a site. It may be true that he desires to expend $800,000. I do not propose to do any such thing. I have suggested to the Senate what I believe is the most economical way of disposing of this question. I have proposed that we add $100,000 for the erection of a new building which it seems Commodore Blake thought would cost $800,000.

Mr. ANTHONY. Oh, no.

Mr. GRIMES. What was it that he made the estimate about?

Mr. ANTHONY. He thought that the whole expenditure to make it worthy of the country would be $800,000, and my friend from Iowa thought it would be $20,000, and yet he now asks for $200,000.

Mr. GRIMES. Oh, no, Mr. President. I can only account for the gentleman's statements by the zeal he manifests.

Mr. ANTHONY. I have it here in the Congressional Globe.

Mr. GRIMES. I stated that it would cost $20,000 perhaps to remove the Academy back to Annapolis. The Senator has a reference to what I said in the Globe before him; let him read it. I said it would cost that much to bring the Academy back, that that would be the expense of transportation. I do not think I could have said anything else than that. The Senator can see for himself; he has the Globe before him.

Mr. ANTHONY. I was trying to find the debate.

Mr. GRIMES. I will assume that that was what I did say, that it would cost $20,000 for transportation to bring the materials we had at Newport back to Annapolis. I never said it would not cost $20,000 to fit up the buildings that had been occupied by the Army as hospitals and after the partitions had been thrown down in order to give a free circulation of air. I did not know what that would cost, and I would not be foolish enough to make a statement in the presence of the Senate that any particular sum would be the exact amount that would be required.

Now, sir, I propose to retain this Academy at Annapolis because, as I said before, I believe it is in the proper climate, it is in the right location, central to our country, and near the seat of Government; and we have already expended in the purchase of the grounds at Annapolis and in the construction of buildings there more than nine hundred thousand dollars. I do not propose, I do not think it is the dictate of economy, to throw away all the money that has been expended there and appoint a roving commission to travel around over the country to see if they cannot find a place where they can again expend a similar sum for the same purpose.

Mr. ANTHONY. I ask for the yeas and nays on my amendment.

The yeas and nays were ordered; and being taken, resulted—yeas 5, nays 32; as follows:

YEAS—Messrs. Anthony, Howe, Sherman, Sprague, and Sumner—5.

NAYS—Messrs. Brown, Buckalew, Chandler, Cowan, Cragin, Creswell, Davis, Doolittle, Fessenden, Foster, Grimes, Guthrie, Harris, Johnson, Kirkwood, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Nesmith, Norton, Nye, Poland, Pomeroy, Ramsey, Riddle, Saulsbury, Stewart, Van Winkle, Wade, Willey, and Yates—32.

ABSENT—Messrs. Clark, Conness, Dixon, Foot, Henderson, Hendricks, Howard, McDougall, Stockton, Trumbull, Williams, Wilson, and Wright—13.

So the amendment was rejected.

Mr. GRIMES. I have a few more amendments to offer in addition to those which I submitted the other day. The first amendment which I offer now is to insert after line two hundred and ninety-one:

For the construction of a levee on the river front of the Government property at Mound City, Illinois, $7,000.

During the war the Government acquired title to some property at Mound City, in the State of Illinois, and it is still continued as a depot for naval purposes. It is probably known to my friend from Illinois [Mr. TRUMBULL] that they sometimes have tolerably high water there, as I undertook to prove to him on a former occasion. The city has constructed a levee, according to the plan which I have before me, around the whole town, in the rear of it and in front of it, leaving, however, a vacant space in front of the naval depot. Their levee, which they have expended between seventy and eighty thousand dollars to construct, is useless to them unless we make a levee along our water front. This amendment is moved in accordance with a letter from the commandant there, Commodore Schenck, and a letter from the head of the Bureau of Yards and Docks; and it is simply to authorize the Navy Department to build a levee along, abreast of, and in front of our property.

Mr. FESSENDEN. Will $7,000 do it?

Mr. GRIMES. Seven thousand dollars is the estimate.

The amendment was agreed to.

Mr. GRIMES. I offer another amendment as a new section:

And be it further enacted, That the office of assistant in the Bureau of Ordnance be, and the same is hereby, abolished.

The amendment was agreed to.

Mr. GRIMES. I offer this amendment to come in after line two hundred and ninety-one:

To pay mileage of Visitors to the Naval Academy, $1,000.

I have a letter before me from the chief of the Bureau of Navigation, Commodore Jenkins, saying that by an oversight this item had been left out of the estimates.

The amendment was agreed to.

Mr. GRIMES. On Friday when this bill was under consideration an amendment was adopted appropriating $2,000 for the extension of the chapel at the Naval Academy. I offer this now as a substitute for that proposition——

Mr. FESSENDEN. You will first have to reconsider the vote adopting that.

Mr. GRIMES. Well, I offer this amendment to take the place of that:

For the enlargement of the chapel at the Naval Academy and for the erection of mural tablets therein to commemorate the memory of naval officers who have sacrificed their lives in the service of the country, $7,000.

Mr. FESSENDEN. Why is the sum changed? The Senator got all he desired the other day, I thought.

Mr. GRIMES. I did; but I have a letter from the chaplain and from the admiral in charge, received on Sunday, after the appropriation referred to had been adopted and after it was known what it was at the Academy, asking that we should appropriate $20,000 for the purpose of building a new chapel. I have been there and examined the chapel, and I have done some building in my time, and I do not believe that it is necessary to build a new chapel at the Academy, and I believe that $7,000 will not only enlarge the chapel to a sufficient capacity but will enable in addition these mural tablets or monuments to be made, prepared, and erected in this extension, and hereafter, when a new chapel shall become necessary, they can be taken out and put into the new chapel. They think that an appropriation much larger than that which I have proposed, just about three times as large, should be made, but I shall ask for only the amount named in this amendment.

The PRESIDENT *pro tempore*. Does the Senator ask that the former amendment shall be reconsidered?

Mr. GRIMES. Yes sir.

Mr. FESSENDEN. Then it is a question for the Senate to decide whether they think it proper to appropriate $5,000 for the sake of making the mural tablets that are proposed.

Mr. GRIMES. So far as the House of Representatives are concerned, that system has been established in the military bill sent to us from that body.

Mr. FESSENDEN. Where is it to be done?

Mr. GRIMES. In the chapel at West Point.

Mr. FESSENDEN. I reported the West Point bill this morning. I will see whether there is any thing of that kind there. I think the Senator is mistaken about it.

Mr. GRIMES. Even if I be mistaken I think it would be most proper in every respect that the Government should do it as an incentive to the young men who are to sit in that chapel during the religious services in the four years of their probationary course there, to see some commemoration of the virtues of those men who have fallen in defense of their country; but I am satisfied that it was adopted by the House for I remember reading it.

The PRESIDENT *pro tempore*. It is moved that the Senate reconsider the vote by which they concurred in the amendment made as in Committee of the Whole, appropriating $2,000 for the enlargement and extension of the chapel at the Naval Academy.

Mr. FESSENDEN. I am willing to take the sense of the Senate.

The motion to reconsider was agreed to.

The PRESIDENT *pro tempore*. The question now is on that amendment.

The amendment was not concurred in.

The PRESIDENT *pro tempore*. The question is on the amendment now offered by the Senator from Iowa.

The amendment was agreed to.

Mr. GRIMES. I offer the following amendment as a new section:

And be it further enacted, That for the purpose of settling the accounts of disbursing officers of the Navy where payments for contingent expenses have been made from the appropriation for the pay of the Navy prior to the passage of the act making appropriations for the fiscal year ending June 30, 1864, the Secretary of the Treasury be, and he is hereby, authorized to transfer from the appropriation for the pay of the Navy to the appropriation for contingencies, the sum of $245,904 12.

The amendment was agreed to.

Mr. GRIMES. I offer the following:

And be it further enacted, That the act approved August 31, 1852, for surveys and reconnoissances for naval and commercial purposes, of such parts of Behring strait of the North Pacific ocean, and of the China seas as are frequented by American whaleships and by trading vessels in their routes between the United States and China, be, and the same is hereby, revived; and the Secretary of the Navy is hereby authorized and required to recommence and continue surveys and reconnoissances in the Pacific ocean, not yet fully examined, by using such vessels, officers, crews, outfits and supplies of the Navy as may be necessary and available for that service.

Mr. FESSENDEN. I am in some doubt about that. I should like to know why the former act was repealed. The Senator from Iowa, I suppose, knows the history of it; it is a new subject entirely to me. I do not know but that it is all right, but I should like an explanation from the Senator.

Mr. GRIMES. I did not suppose it would be necessary for me to enter into a very minute

explanation of this proposition, because I am not so familiar with the commercial service as the Senator himself, or as are most of the members of the body. The amendment was handed to me by the chief of the Bureau of Navigation, Commodore Jenkins, with the map before us, showing the large number of dangers that are known to exist, but which have not been surveyed, in the China waters; and he adds, in a note, that about two hundred reported additional dangers are to be added in the next edition of this map. This Government a few years ago sent out an expedition under Commodore Ringgold and Commodore Rodgers, who surveyed a portion of this ocean, the part that has no dangers marked on it on this map, so that very accurate maps have been made of it, and very few accidents happen to the commercial service that navigate those waters; but the large expanse of water where these several hundred dangers are marked as shoals, &c., has never been surveyed. I understand that this proposition will not add a dollar to the expenses of the Government. It authorizes the Secretary of the Navy to employ such vessels as he now has in his employ, and I suppose it will be no disadvantage to the Government in any regard; certainly it will not be to the Navy to allow one or two of the smaller vessels that are employed in the China seas or in the Pacific squadron to make surveys, one above and one below.

Mr. FESSENDEN. If it is to cost nothing I have no objection to it.

The amendment was agreed to.

Mr. GRIMES. I offer one more amendment:

And be it further enacted, That hereafter no vacancy in the grade of professor of mathematics in the Navy shall be filled, but in lieu thereof the Secretary of the Navy may, and he is hereby authorized and required to, employ such persons skilled in the respective scientific branches and callings to perform the duties of professors and assistant professors in the branches of mathematics, natural philosophy, French, Spanish, and drawing at the Naval Academy, such astronomers, assistant astronomers, and aids at the Naval Observatory, and such computers and assistants for the Nautical Almanac as the exigencies of the public service may from time to time require.

Mr. FESSENDEN. That is rather a broad power.

Mr. SAULSBURY. May I ask the Senator from Iowa what is the object of that amendment?

Mr. GRIMES. I will explain it. By law there are now twelve professors of mathematics on the active list and three on the retired list. The purpose of this amendment is to do away with professors of mathematics in the Navy entirely; to let the duties of a professor of mathematics, for example at the Naval Observatory, be performed by a naval officer instead of giving a commission to a professor of mathematics who shall always be in the public service, and who, when he reaches a certain age or a certain degree of infirmity, shall go on the retired list and there remain a public expense, and perhaps, in the estimation of the country, a public burden upon the Government. It does not interfere with the professors now in existence; it merely says that from this time forward professors shall not be appointed as professors have heretofore been, and commissioned, but that the Secretary shall be authorized to do precisely as he is now doing when it becomes necessary, employ a civilian to instruct in mathematics at the Naval Academy or at the Observatory. He is doing that now and has been doing it for years. This gives him no new power in that regard; and hence it was unnecessary that the latter clause should have been added to the amendment. Instead of being compelled to keep these men always, it is proposed that if we become satisfied that instead of a man being a good mathematician and a good instructor, he is not a good instructor, is not capable of managing the boys or imparting the instruction that is needed, then the Government may do precisely as the trustees of an academy or college can do, turn him off and get a competent man.

Mr. SAULSBURY. Let me ask, has the Secretary of the Navy not the power, if he find a mathematical professor is not competent, to appoint some one else?

Mr. GRIMES. I think not. He is a commissioned officer, he has a life estate in his office. When they are incompetent they are put on the retired list, and we pay them several hundred dollars a year for doing nothing.

Mr. FESSENDEN. There is no objection to the first part of the amendment if the Committee on Naval Affairs recommend it, but the last part gives the Secretary the power to employ at all these establishments, the Naval Observatory, the Nautical Almanac, and the Naval Academy just the number of civilians as instructors and teachers in the different branches that he sees fit. It does not confine his choice to those already in the Navy, but provides for vacancies being filled, and gives a broad power to employ anybody that he pleases and to any extent that he pleases. That is the amount of it. It is an authority that we do not confer on any of our institutions to my knowledge. If the Secretary will read the amendment again the Senate will see that at all these places the power is given indefinitely and unlimitedly to employ any number of teachers in any of these branches at the Naval Academy, at the Observatory here in Washington, and upon the Nautical Almanac, and in French and in drawing, &c. That is a very extensive power. If they want additional instructors a regular application should be made, and then we could act on an appropriation to meet it. That is the way they do at West Point. This provision is unlimited as it stands.

Mr. GRIMES. I assent to the proposition of the Senator from Maine to strike off the latter part of the amendment.

Mr. FESSENDEN. Strike out all except the provision against filling vacancies.

Mr. GRIMES. I want to say, however, that he is mistaken in regard to the law.

Mr. FESSENDEN. I am not speaking about the law, but of the power given in this amendment.

Mr. GRIMES. What I propose to say is, that the Senator is mistaken as to the power already existing, and that is the reason why I am content to strike off the latter part of the section. If he will turn to page 96 of the Naval Register he will see that this very power has been exercised all along.

Mr. FESSENDEN. That does not prove that there is a law for it.

Mr. GRIMES. But there is a law for it, because I know it.

The amendment, as modified, was agreed to, as follows:

And be it further enacted, That hereafter no vacancy in the grade of professor of mathematics in the Navy shall be filled.

Mr. SPRAGUE. I ask leave to propose an amendment to come in after the word "dollars" in line ninety-nine:

Provided, That in the purchase of carpets and furniture provided for in this act, they shall be of domestic manufacture.

Mr. GRIMES. That is in the other bill.

Mr. SPRAGUE. I want it in this bill. It is a mere recognition.

The amendment was agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time. The bill was read the third time and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed a joint resolution (H. R. No. 96) in relation to the public lands appertaining to the armory at Springfield, in which it requested the concurrence of the Senate.

ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House of Representatives had signed an enrolled bill (S. No. 54) to amend an act entitled "An act to incorporate a national military and naval asylum for the relief of the totally disabled officers and men of the volunteer forces of the United States;" and it was thereupon signed by the President *pro tempore*.

HUMBOLDT CANAL COMPANY.

Mr. NYE. With the consent of the chairman of the Committee on Commerce, who yields to me for that purpose, I move to take up Senate bill No. 140.

The motion was agreed to; and the bill (S. No. 140) to grant the right of way to the Humboldt Canal Company through the public lands of the United States was considered as in Committee of the Whole. By its provisions the right of way for a canal through the public lands of the United States lying in Humboldt county, State of Nevada, and the use of the land for tow-paths, cuttings, and embankments, to the extent of fifty feet on each side of the center of the canal, is to be granted to the Humboldt Canal Company; and in cases where deep excavation or heavy embankment is required, such greater width, not exceeding two hundred feet, may be taken by the company as may be necessary. In order to create a reservoir for the company sufficient to feed the canal in all seasons, the company may, by a dam across the Humboldt river, at such point at or near the gap in the Fremont range of mountains through which the river passes, flow so much of the public lands above the dam as may be required for the purposes of the reservoir.

It is also proposed to grant to the company the necessary sites along the canal for waste-gates, mill-sites, depots, and other uses of the canal, so far as places convenient for the same fall upon the public lands, and also the privilege of discharging the waste waters of the canal over any public lands into the Humboldt river, at such places as may be suitable for that purpose; but the proper officers of the company are to transmit to the Commissioner of the General Land Office a correct plot of the survey and location of the canal, and of the sites needed for mills, depots, waste-gates, and other uses, before the appropriation thereof for those uses shall become operative. Unless thirty miles of the canal shall be excavated within one year, and the whole within three years from the passage of the act, all these grants are to cease and determine; and if the canal shall at any time after its completion be discontinued or abandoned by the company, the grants shall cease and determine, and the lands shall revert to the United States. Nothing in the act is to be so construed as to interfere with any grant of the right of way and of public lands heretofore made to any railroad company.

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

HOUSE BILL REFERRED.

The joint resolution from the House of Representatives (H. R. No. 96) in relation to the public lands appertaining to the armory at Springfield, was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

PRESIDENTIAL APPROVAL OF A BILL.

A message from the President of the United States, by Mr. WILLIAM G. MOORE, his Secretary, announced that the President of the United States had approved and signed, on the 17th instant, an act (S. No. 33) in relation to the Court of Claims.

APPRAISEMENT OF IMPORTS.

Mr. CHANDLER. The Senator from Maine, [Mr. FESSENDEN,] who has been called out of the Chamber, desires to be present when House bill No. 184, which was taken up on my motion, is considered. I move, therefore, that that bill be laid aside informally, and I ask the Senate to take up Senate bill No. 39.

The PRESIDENT *pro tempore*. That course will be pursued, no objection being made.

The Senate proceeded, as in Committee of the Whole, to consider the bill (S. No. 39) to amend the acts relating to officers employed in the

examination of imported merchandise in the district of New York.

The bill was originally introduced by Mr. MORGAN. In lieu of the appraisers now authorized by law for the appraisement of goods, wares, and merchandise at the port of New York, it proposes to empower the President, by and with the advice and consent of the Senate, to appoint for that port one appraiser, who shall be practically acquainted with the quality and value of some one or more of the chief articles of importation subject to appraisement, and who, before he enters upon the duties of his office, shall take and subscribe an oath faithfully to direct and supervise the examination, inspection, and appraisement, according to law, of such goods, wares, and merchandise as the collector may direct, and to cause to be duly reported to the collector the true value thereof as required by law. The appraiser, in cases of his necessary and occasional absence, may perform his functions, *ad interim*, by deputy, designated by him in writing, from the assistant appraisers to be appointed under the provisions of the act.

By the second section, in lieu of the assistant appraisers now authorized by law for the port of New York, the Secretary of the Treasury may appoint not exceeding ten assistant appraisers for that port, who shall be practically acquainted with the quality and value of some one or more of the chief articles of importation subject to appraisement, and included among the goods, wares, or merchandise, to the examination and appraisement of which they are respectively to be assigned, and who shall be employed in appraising goods, according to law, under the direction and supervision of the appraiser; and each of whom shall, before entering upon the duties of his office, take and subscribe an oath diligently and faithfully to examine and inspect such goods, wares, and merchandise as the appraiser may direct, and truly to report to him the true value thereof, according to law; such report to be subject to revision and correction by the appraiser, and when approved by him to be transmitted to the collector, and to be deemed and taken to be the appraisement by the United States local appraiser of the district of such goods, wares, or merchandise required by law.

The third section made it the duty of one of the assistant appraisers to be appointed by virtue of the act with special reference to his qualifications for the duties in this section set forth, in addition to the duties required of him by the appraiser to perform the duties and act in the place and stead of the special examiner of drugs, medicines, chemicals, &c., at the port of New York, as provided by the act of June 26, 1848, chapter seventy, and one of the assistant appraisers to be appointed by virtue of the act is to be detailed by the appraiser for the supervision of the department for the examination of merchandise damaged on the voyage of importation, and as far as practicable to make examinations and appraisals of such or any other merchandise as the appraiser may direct, and in all cases truly to report to him the extent of such damage, or the true value of the merchandise appraised, as the case may be, according to law, such report to to be subject to the same revision, correction, and approval by the appraiser, as prescribed in the second section of this act, and to be in like manner, and for the same purpose, transmitted to the collector.

It was provided in the fourth section that in lieu of the clerks now employed in the examination, inspection, and appraisement of goods, wares, and merchandise, at the port of New York, the Secretary of the Treasury may, on the nomination of the appraiser, appoint such number of examiners as said Secretary may deem necessary, their compensation to be limited and fixed by him, to aid each of the assistant appraisers in the examination, inspection, and appraisement of goods, wares, and merchandise, according to law; and no person shall be appointed such examiner who is not, at the time of his appointment, practically and thoroughly acquainted with the character, quality, and value of the article or articles in the examination and appraisement of which he is to be employed; nor shall any such examiner enter upon the discharge of his duties until he shall have taken and subscribed an oath faithfully and diligently to discharge such duties according to law; and the Secretary of the Treasury shall also appoint, on the nomination of the appraiser, the clerks and messengers employed in the appraiser's office, or in any of the departments thereof, and limit and fix their number and compensation.

The fifth section made it unlawful for the appraiser, the assistant appraisers, examiners, clerks, verifiers, samplers, messengers, or other persons employed in the departments of appraisal, or any of them, to engage or be employed in any commercial or mercantile business, or act as agent for any person engaged in such business, during the term of their appointment.

Under the sixth section the appraiser was to receive a compensation of $5,000 per annum, and the assistant appraisers each $3,000 per annum, to be paid out of the proceeds of the customs.

By the seventh section, the compensation allowed to the appraiser and the assistant appraisers was to be paid monthly, and in due proportion for any period less than one month for the time they may actually serve.

The eighth section repealed all acts and parts of acts inconsistent with the provisions of this act; and provided that all provisions of existing acts relating to the duties of the appraisers now provided for by law, or to any proceedings consequent or dependent upon the action of such appraisers, and not inconsistent with the provisions of this act, shall be construed to apply to the appraiser and the assistant appraisers provided for by this act, and shall be continued in full force, and that this act shall take effect on and after the 1st day of February, 1866.

The bill having been referred to the Committee on Commerce, was reported with amendments, the first of which was after the word "direct" in line thirteen of section one to insert "and as is hereinafter provided for."

The amendment was agreed to.

The next amendment was after the word "law" in line sixteen of section one, to insert:

Provided, That the collector shall not, under any circumstances, direct to be sent for examination and appraisement less than one package of every invoice, and one package at least out of every ten packages of goods, wares, and merchandise, and a greater number should he, or the appraiser, or any assistant appraiser deem it necessary: *Provided, nevertheless*, That when from the character and description of the goods, wares, and merchandise, or from any other cause, the Secretary of the Treasury may be of the opinion that the examination of a less proportion of packages will amply protect the revenue, he may, by special or general regulation, direct a less number of packages to be examined.

The amendment was agreed to.

The next amendment was after the word "appraiser" in line twenty-eight of section one to insert "created by this act."

The amendment was agreed to.

The next amendment was to insert the words "verifiers, samplers, openers, packers" after "clerks" in line nineteen of section four; so as to make the section read:

And the Secretary of the Treasury shall also appoint, on the nomination of the appraiser, the clerks, verifiers, samplers, openers, packers, and messengers employed in the appraiser's office, or in any of the departments thereof, and shall limit and fix their number and compensation.

The amendment was agreed to.

The next amendment was in section six, line three, to strike out "five" and insert "six;" in line five to strike out "three" and insert "four;" and in line six to strike out "proceeds of the customs" and insert "appropriations for defraying the expenses of collecting the revenue;" so as to make the section read:

SEC. 6. *And be it further enacted*, That the appraiser who may be appointed under the provisions of this act shall receive a compensation of $6,000 per annum, and the assistant appraisers shall each receive a compensation of $4,000 per annum, to be paid out of the appropriations for defraying the expenses of collecting the revenue.

The amendment was agreed to.

The next amendment was in section eight, line ten, to strike out "February" and insert "March."

Mr. CHANDLER. This bill was prepared in February, but as we are already in the month of March we must fix a later day for the act going into effect. I move to amend the amendment by striking out "March" and inserting "April."

Mr. HARRIS. I suggest to the Senator from Michigan that he had better name May; the bill is yet to go through the other House.

Mr. CHANDLER. Very well; I will say May.

The amendment to the amendment was adopted; and the amendment as amended was agreed to.

The next amendment was to add the following, as an additional section:

SEC. 9. *And be it further enacted*, That if at any time, from an increase of importations, or from any other cause, there shall be found upon the floors of the public stores in the city of New York an accumulation of merchandise awaiting appraisement, it shall be the duty of the appraiser, under regulations established by the Secretary of the Treasury, to direct the assistant appraisers, and others associated with them in this branch of the public business, to devote time beyond the usual business hours, in each day, during daylight, to their respective duties, to the end that the business of appraisement may be faithfully and more promptly dispatched.

Mr. FESSENDEN. I should like to have an explanation of one clause in the first section, and it is also in the second section. The first section provides for the appointment of an appraiser, "who shall be practically acquainted with the quality and value of some one or more of the chief articles of importation subject to appraisement;" and I notice the same language in the second section in regard to the assistant appraisers. It strikes me that this provision will be productive of difficulty. What is the use of it, anyhow?

Mr. CHANDLER. The object is to have practical men employed in the appraisement, and to let each one attend to his own specialty. If one man is conversant with dry goods, or with a particular kind of dry goods, let him appraise those goods; let another, whose specialty is drugs, appraise drugs, and so on. Let each appraiser be practically acquainted with the branch of merchandise which he is called upon to appraise.

Mr. FESSENDEN. I presumed that was the object, and it seems to me that in that it will fail, and it may do injury in some cases. My attention has been called to this point, not by any person, but perhaps on account of the interest I take in one person who is connected with the appraiser's office in the city of New York. This language, I suppose, will be construed to mean an individual who has been a dealer in these articles, and familiar with them; a purchaser or seller, or something of that kind.

Mr. CHANDLER. No; it is sufficient if he has had experience as an appraiser.

Mr. FESSENDEN. But an appraiser of some one article.

Mr. CHANDLER. Certainly.

Mr. FESSENDEN. Let me give a case. When I was Secretary of the Treasury, I appointed as appraiser a man who had been in the custom-house for some time and was acquainted with business there. I appointed him because I knew him and had known him for a great many years, from his boyhood in fact, and knew him to be a perfectly upright, honest man, and a man of great industry and care. I am told that he has made an admirable officer, and has been of very great use to the office. He never was a dealer in anything. He was a lawyer originally. I believe there is not a word said against him. On the contrary, every one thinks he is a good officer. Will not this provision remove him?

Mr. CHANDLER. Not at all. If that man has had two or three years' experience he may be the very best appraiser that can be got in the whole United States.

Mr. FESSENDEN. Why use the word "practically?"

Mr. CHANDLER. But he has obtained practical knowledge by his experience in the office; and in future we do not intend that men shall be appointed who are not at the time of their appointment practically acquainted with the quality and value of the articles they are to appraise.

Mr. FESSENDEN. But this bill strikes out the existing officers, and new appointments are to be made.

Mr. CHANDLER. Precisely.

Mr. FESSENDEN. Therefore this bill would apply to that man or to any other man situated like him. The question with me is, what does this "practical acquaintance" mean? He is an appraiser; does that fact give him a "practical acquaintance" in the sense of the bill?

Mr. CHANDLER. The most practical of all kinds of acquaintance is obtained in that way.

Mr. FESSENDEN. I fear it will not be so construed.

Mr. CHANDLER. Certainly it will, because the appraiser is continually, all the time, examining the special article which he is called upon to appraise, and after one or two years' experience he is the best man that could be selected.

Mr. FESSENDEN. I think it is better to strike out the clause; it will embarrass appointments.

Mr. CHANDLER. I am willing to put in words excepting men who have had a given amount of experience in the appraiser's office, say a year or two years. I would accept an amendment of that kind; but I think that for the future it is very important that no man be appointed as appraiser who has not practical knowledge; and if a man has acquired that practical knowledge in the appraiser's office, I would rather continue him in that office than put in a new man. It is a matter of education; and it requires months, perhaps years, to acquire that practical experience. I do not think the objection of the Senator from Maine is well taken; still, I am willing to accept an amendment such as I have suggested.

Mr. FESSENDEN. I think it had better be left to the appointing power in all cases to select the men. This clause, as to "practical" men would only cause confusion when the appointing power came to act.

Mr. CHANDLER. My object, I confess, is to have none but men of practical experience appointed; and I think it a very important provision.

Mr. FESSENDEN. I will move to amend the bill by inserting after the word "who," in the seventh line of the first section, the words "has had experience as an appraiser, or who;" so that it will read:

That the President of the United States shall, by and with the advice and consent of the Senate, appoint for said port one appraiser, who has had experience as an appraiser, or who shall be practically acquainted with the quality and value of some one or more of the chief articles of importation subject to appraisement, &c.

Mr. CHANDLER. That will do.

Mr. FESSENDEN. And then I shall also move the same amendment in the second section, by inserting after the word "who," in the fourth line, the words "have had experience as appraisers, or who;" so that it will read:

That in lieu of the assistant appraisers now authorized by law for the port of New York, the Secretary of the Treasury may appoint not exceeding ten assistant appraisers for said port, who have had experience as appraisers, or who shall be practically acquainted with the quality and value of some one or more of the chief articles of importation subject to appraisement, &c.

Mr. CHANDLER. That covers the ground.

Mr. FESSENDEN. I suggest to the Senator whether he has not some apprehension, even if the bill should be amended as I now propose, if it is proposed that one man shall be appointed specially for dry goods, and another man specially for liquors, &c., it will not give rise to an effort on the part of all those who deal in those particular articles to get in a particular man; whether they will not use their influence to have somebody appointed who is acceptable to them; and whether in that way more harm is not likely to come to the revenue than good. My impression is that that would be the effect of it.

Mr. CHANDLER. Undoubtedly the attempt has been made heretofore, and will be made in the future, to have appointed corrupt or ignorant men who can be influenced; but I think the only safeguard we can have against the appointment of corrupt or ignorant men is in this provision.

Mr. FESSENDEN. It would not be known until after the appointment was made what sort of a man was appointed.

Mr. CHANDLER. As a rule, I think the importers desire to have honest, capable, and faithful men as appraisers; but there are, as is well known, dishonest men, who desire to defraud the revenue in importation, and who would wish to have ignorant and dishonest men appointed as appraisers; but I think our best protection against that is in this provision.

Mr. FESSENDEN. I hate to allude to my own experience in the Treasury Department, because it was so short, but when I was there I gave special attention to these appraisers, both in New York and Boston. I thought they were in a bad condition, and I took special pains to find out what was best to be done, and what sort of men it was best to appoint, to see if I could not reform the administration in both those instances, and I came to the conclusion that the best way to make appointments was precisely to study and ascertain the character of the men who were recommended, without reference to their original pursuits. Men were recommended for the position, as I suspected, for particular purposes. I think the Secretary of the Treasury, if he takes pains, can exercise a great deal better judgment if we leave the whole selection to him than by tying him down to select from any particular class of men. I do not wish to interfere too much with business that does not seem to belong to my own committee, or to oppose the opinions of the Committee on Commerce; but my judgment would be that the Senate, by keeping this clause in, would be much more likely to do harm than by striking it out.

Mr. CHANDLER. I might instance a case in point. A business house is selecting a purchaser of tea, for example. The house selects an expert in tea for a purchaser. Take the line of business in which I have been engaged. I said to one of my juniors last fall, who proposed to take in a new purchaser, "It will cost you $25,000 to educate a new purchaser; he will make mistakes enough to cost you $25,000 before he becomes an expert." That is applicable to your appraisers in the same way. No business man selects a person as his purchaser who is not an expert, unless he expects to submit to the losses occasioned by the mistakes of one who is not an expert. The object of this bill is to have none but experts as appraisers, and that the Government shall not pay for the education of experts. I think if it is honestly and faithfully carried out, it will be a very important thing for the Government. I think the Senator's amendment covers all the objections he can have to it.

Mr. FESSENDEN. It meets my own particular wish about it.

Mr. CHANDLER. As a business man, I think this is one of the most important provisions in the bill.

The PRESIDENT *pro tempore*. The question is on the amendment proposed by the Senator from Maine, in section one, line seven, after the word "who" to insert the words "has had experience as an appraiser or who;" so that it will read:

The President of the United States shall, by and with the advice and consent of the Senate, appoint for said port one appraiser who has had experience as an appraiser, or who shall be practically acquainted, &c.

The amendment was agreed to.

Mr. FESSENDEN. I move the same amendment in line four of section two, to insert after the word "who" the words "have had experience as appraisers or who;" so that the section will read:

That in lieu of the assistant appraisers now authorized by law for the port of New York, the Secretary of the Treasury may appoint not exceeding ten assistant appraisers for said port, who have had experience as appraisers, or who shall be practically acquainted with the quality and value of some one or more of the chief articles of importation subject to appraisement, &c.

The amendment was agreed to.

Mr. FESSENDEN. I think the salaries have been placed too high in the sixth section. Has the amendment of the committee in that section striking out "five" and inserting "six," so as to make the salary of the chief appraiser $6,000, been adopted?

Mr. CHANDLER. Yes, sir. We took considerable pains to ascertain the necessity for this increase of salary over that named in the original bill. The reasons assigned at the Treasury Department were that they must have first-class men; they must have men who could command high salaries out of the Department; and they must pay as well as private firms, or they cannot obtain those persons.

Mr. FESSENDEN. The bill as originally introduced, fixed the salary of the chief appraiser at $5,000, and of the assistants at $3,000. The committee have changed that to $6,000 and $4,000. I think that is altogether too high. I would prefer to make them $4,000 and $3,000 respectively. However, I will not offer any amendment now, but will wait until the bill is reported to the Senate, if the Senator prefers that course.

Mr. CHANDLER. Certainly.

The bill was reported to the Senate as amended.

The PRESIDENT *pro tempore*. The question is on concurring in the amendments made as in Committee of the Whole; and the Chair will put the question on all the amendments collectively except those upon which any Senator may desire a separate vote.

Mr. FESSENDEN. I wish to have reserved the two amendments in the sixth section increasing the compensation of the appraisers and assistant appraisers.

The PRESIDENT *pro tempore*. Those amendments will be excepted.

Mr. SPRAGUE. I desire a separate vote on the amendment of the committee inserting the proviso in section one from line sixteen to line twenty-seven inclusive, authorizing the collector, by direction of the Secretary of the Treasury, to examine a less amount of the goods than the actual amount of the invoice called for.

The PRESIDENT *pro tempore*. The amendment will be excepted at the request of the Senator.

Mr. CHANDLER. Perhaps I can explain to the Senator in one word the reason for that proviso. For example, where there is an importation of resin, tar, pitch, turpentine, iron, and such articles that are well known to be of the same description and character, it is left to the discretion of the Secretary of the Treasury to direct that the appraisers need not examine one in ten of the barrels or packages. That is the only object in making that proviso.

Mr. SPRAGUE. Mr. President——

The PRESIDENT *pro tempore*. The Chair will suggest that the question is not now upon that amendment. The Senator merely asked that it be excepted, and it will be excepted as a matter of course.

Mr. SPRAGUE. I desire to say a single word upon it at the proper time.

The PRESIDENT *pro tempore*. The question will arise at the proper time. If there be no other amendments excepted, the question will be put on concurring in the residue of the amendments made as in Committee of the Whole.

The remainder of the amendments were concurred in.

The first excepted amendment was in section one, line sixteen, after the word "law" to insert the following proviso:

Provided, That the collector shall not, under any

circumstances, direct to be sent for examination and appraisement less than one package of every invoice, and one package at least out of every ten packages of goods, wares, and merchandise, and a greater number should he, or the appraiser, or any assistant appraiser deem it necessary: *Provided, nevertheless,* That when from the character and description of the goods, wares, and merchandise, or from any other cause, the Secretary of the Treasury may be of the opinion that the examination of a less proportion of packages will amply protect the revenue, he may, by special or general regulation, direct a less number of packages to be examined.

The PRESIDENT *pro tempore.* The question is, Will the Senate concur in this amendment?

Mr. SPRAGUE. I had hoped that we should receive some explanation of the necessity for this bill. I find that it provides for eleven appraisers, with a cost to the Government of $50,000 per annum; and I find, also, that in the amendments the committee propose their duties are to be restricted; that you are to increase the number of inspectors and to lessen the work that they are to do. I have been told by the members of the revenue commission that there is an annual loss to the Government of twenty-five millions of revenue from some cause or other, from under-valuation, or from packages introduced of a different character from what the invoice declared them to be. Here is a bill that provides that the Secretary of the Treasury may release from examination certain packages for the causes enumerated:

That when from the character and description of the goods, wares, and merchandise, or from any other cause, the Secretary of the Treasury may be of the opinion that the examination of a less proportion of packages will amply protect the revenue, he may, by special or general regulation, direct a less number of packages to be examined.

Sir, I do not believe in this constant release or relief that is granted upon this and similar bills to Government agents from doing all the duty they should do in the examination of goods imported into this country. I should like to know the necessity for an annual appropriation of $50,000 for this purpose. What is the necessity for it this year over other years? If we keep on this way the cost of collecting the revenues from customs will soon be as great as the amount you receive from them. I had hoped that there would be some explanation of this bill, and I really hope that this proviso will not pass. It opens out such an opportunity for fraud and for cheating of all kinds that there will be no end to it, and the loss will not be easily calculated. That is my impression and belief.

Mr. CHANDLER. I have no doubt the Senator has been correctly informed as to the frauds that have heretofore been perpetrated upon the revenue. The sole object of this bill is to correct those frauds. The Senator takes exception to this proviso permitting the Secretary at his discretion to order a less number of packages than one in ten to be examined. Every bar of railroad iron is a package. If a shipload of railroad iron is received in New York would the Senator prohibit the Secretary of the Treasury from allowing the appraisers to inspect less than one in ten of those bars? Suppose it is a cargo of resin, or a cargo of oranges, or a cargo of lemons; they are all one thing, and they are all in the same boxes. It is that class of goods that are well known, where there is no chance of fraud, that are, at the discretion of the Secretary of the Treasury, to be exempted from this close inspection. This clause of the bill was drawn with some care at the Treasury Department. I believe that the bill itself is as near a perfect bill as the highest mercantile experience can make it. It is intended to stop these frauds, to have an honest appraisement, and to have competent men to execute the laws. Certainly I see no objection that can be taken to this particular clause.

Mr. SPRAGUE. The statement of the honorable chairman of the Committee on Commerce is all very well as far as it goes. The Secretary of the Treasury may exempt from examination the articles that the Senator suggests for the causes that he suggests, and also for "any other cause." What does for "any other cause" mean? There may be some "other cause" that will be pertinent to the appraisers, and under the regulation of the Secretary of the Treasury they may seek pertinent causes to introduce these goods without examination.

Mr. CHANDLER. Where the Secretary of the Treasury is satisfied that it is not requisite. Of course you will leave that discretion in his hands. You must do so, in any case.

Mr. SPRAGUE. The Secretary of the Treasury cannot examine these goods. He must leave it to the appraisers.

Mr. CHANDLER. I know, but they have to satisfy him that an examination is not necessary before he will issue an order of that kind.

Mr. GUTHRIE. Unless the laws have been repealed, there is authority for the Secretary of the Treasury to direct so many packages of an article imported to be sent to the appraiser's store, ten, fifteen, twenty, or twenty-four. They are all exposed to the same inspection, and they are taken indiscriminately by numbers. They go to the appraiser's store, and there they are opened and examined by the appraiser. The whole shipment is appraised in that way by the selected samples. In the regulations that I introduced when I was Secretary of the Treasury there were directions about the whole matter. If there are any circumstances to induce suspicion the collector has authority to examine the whole lot, or to direct other samples to be drawn. There is sometimes cheating practiced in the samples. I recollect the case of a large importation of Spanish cigars, and by some collusion between the entry clerk and the importer the samples were all drawn of an inferior quality of cigars, which were put up in Havana for that purpose. By some means or other communication was made to the Treasury Department that that mode of evading the duty upon the best cigars had been adopted at San Francisco. Immediately steps were taken to prevent the attempted fraud. The samples as drawn were all correct, but from the information that went from the Treasury Department here the custom-house officers there were enabled to seize and condemn the whole lot.

It has never been the practice in our custom-houses to examine every package. Enough of them are examined to show that they are all of the same quality of goods. The mode of cheating in that way is to put inferior goods on the top and superior goods at the bottom. The packages are examined by the examiners who test the quality of the goods and ascertain whether they are all alike in the different packages. There must be a sufficient number of packages sent to the appraiser's store to give a fair sample of the whole importations. Then if the examiners do their duty, and the appraisers theirs, there is very little chance of imposition in that respect. It would be an endless story to detail all the modes that are resorted to to import goods cheap. My conviction, from the little experience that I had in the Treasury Department, was that the American importing merchants were generally and almost without exception honest, and the frauds that were committed were mostly committed by men who owed no allegiance to this Government and who came here to make money and then return to their own country. They were sometimes dealt with pretty harshly, because we encouraged the seizure of their goods whenever there was an appearance of fraud. I think this discretion about the number of packages to be examined is with the Secretary of the Treasury and ought to be with him, with the right to the collector of the port, if he sees anything suspicious, to order either the whole to be seized or additional packages to be drawn for examination.

The amendment was concurred in.

The next excepted amendment was in section six, line three, to strike out "five" and insert "six;" so that it will read:

That the appraiser who may be appointed under the provisions of this act shall receive a compensation of $6,000 per annum.

Mr. FESSENDEN. I hope that amendment will not be concurred in. I am satisfied that $6,000 is altogether too large a sum to pay to this appraiser. It is giving the principal appraiser at the port of New York, who has no pecuniary responsibility whatever, $1,000 a year more than we give the Treasurer of the United States. The bill that was brought in two years ago, I think it was, put the salary of the principal appraiser at $4,000, and of the other appraisers at $3,000. I think that is large enough. At any rate, the sum indicated in this amendment is altogether too large, and I do not see the necessity for it. Many very good officers in New York get only $3,000 a year. Twenty-five hundred dollars is all the assistant collectors get. Three thousand dollars is all that the inspector gets who is stationed there all the time and is all the time at work. While I am willing to give the principal appraiser $4,000 per annum, I think the others ought not to have more than $3,000, which was the sum fixed in the bill originally. The difference between $3,000 and $5,000 is altogether too great. There is no reason why the principle appraiser should receive $2,000 more than an assistant appraiser. He has a little more dignity of office and responsibility perhaps, but it costs him no more to live.

Mr. CHANDLER. If I understand the Senator, he proposes to give the principal appraiser $5,000, and let the others stand at $4,000.

Mr. FESSENDEN. No; to give the principal appraiser $4,000, and the others $3,000.

Mr. CHANDLER. I am afraid you cannot get good men for that.

Mr. FESSENDEN. I think $4,000 is enough to give the principal appraiser. He has no pecuniary responsibility, not the slightest in the world. Those men whose salaries we have been obliged to increase were men who had had great pecuniary responsibilities. You can get plenty of men competent for this work, in my judgment, for the sums I have indicated. All that the assistant appraisers there have been receiving is $2,500, and most of them (all but one or two) are very competent men. Twenty-five hundred dollars is all that the deputy collectors get, and we have refused to increase them. Six thousand dollars is altogether too large a salary to give the principal appraiser. I hope we shall not concur in that, at any rate.

Mr. CHANDLER. I should be willing to pay the chief appraiser $10,000 if I could get a man worth $10,000. The great trouble heretofore has been that we have not had competent and efficient men. We want a man as chief appraiser in New York who has all the ability of the ablest merchant in the city of New York, a man with as much practical experience and business qualifications as A. T. Stewart, or as fifty other men whom I could name, who are making fifty or one hundred thousand dollars a year in their business. Perhaps we could not get them; but we can get first-class men if we pay first-class prices; but we cannot do it otherwise. If you want second-class men, you may get plenty of them for $3,000 a year. There is not a large business house in New York that does not pay $3,000 a year for its first-class book-keeper. A first-class book-keeper demands $3,000 a year. We want a better class of men if we can get them. Then it will depend on the Secretary of the Treasury whether we get them or not. The Secretary thinks he cannot get them for this price. If he cannot, and it requires $4,000, I say it is penny wise and pound foolish to employ second-class men when you require first-class men. I have no doubt that the Senator from Rhode Island is perfectly right, and that we have lost $25,000,000 a year for the last five years from the incompetency or inefficiency of these officers. If, by the expenditure of forty or fifty thousand dollars, we can save millions, is it not economy to save it? I think it is. If you place the salary of the assistant appraisers at $3,000 per annum, I do not think you will get the grade of men that you require. Still, it is for the Senate to decide.

Mr. SPRAGUE. Nobody supposes that you are going to get experts for this business.

Everybody knows very well how appointments are made, and the character of the men that occupy positions under the Government. I know the Senator from Michigan is desirous to fill these positions with eminent men, well qualified to occupy any position under the Government; but he knows very well, if he reflects upon it, that we will not get that class of men. He will get very ordinary men. He will get men whose qualifications are of an entirely different kind from those that he desires them to have. I need not say what those qualifications are.

Mr. CHANDLER. It is perfectly well known that every successful business house in the United States employs a competent man to manage that business. I will venture to say that the Senator from Rhode Island pays to the designer for his prints more than ten thousand dollars a year, and I would not be surprised if he paid him $25,000 a year. The designers in the large print-works receive from $10,000 to $25,000 a year. What would the Senator think of a law that would limit him to $3,000 a year for designers for his manufactories? He would fail in two years.

Mr. SPRAGUE. He gets just $120 a month, no more, no less.

Mr. CHANDLER. The chief designer?

Mr. SPRAGUE. Yes, sir.

Mr. CHANDLER. Well, that is a hard case. [Laughter.] I knew another concern that did pay $10,000 a year; but I stand corrected with regard to the Senator.

Mr. SPRAGUE. My friend from Illinois [Mr. YATES] suggests to me that the Senator from Michigan himself obtains from the Government but $3,000 a year, and I consider that he is a first-class man, and so do his associates. I do not think that these gentlemen are entitled to any more pay than a Senator of the United States.

The PRESIDENT *pro tempore*. The question is on concurring in the amendment striking out the word "five," and inserting in lieu thereof "six." Does the Chair understand the Senator from Maine to move to amend the amendment?

Mr. FESSENDEN. No, sir. If that amendment is not concurred in I shall then move to strike out "five" and insert "four."

The amendment was not concurred in.

Mr. FESSENDEN. I now move to strike out "five" and insert "four," so as to make the salary of the appraiser $4,000.

Mr. SPRAGUE. I will move further to amend it by striking out "four" and inserting "three."

Mr. FESSENDEN. Three thousand is for the assistants.

Mr. SPRAGUE. I propose to make the pay of the assistants $2,500. I think that is enough for them.

Mr. FESSENDEN. I think we had better have the pay of the appraiser at $4,000.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Rhode Island to the amendment of the Senator from Maine, to strike out "four" and insert "three," so as to make it read "$3,000."

The amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Maine striking out "five" and inserting "four;" so as to make the amount $4,000.

The amendment was agreed to.

The next excepted amendment was in section six, line five, to strike out "three" and insert "four;" so that it will read:

And the assistant appraisers shall each receive a compensation of $4,000 per annum.

Mr. FESSENDEN. I hope that amendment will not be concurred in, and that will leave their pay at $3,000, as it stood in the bill originally.

The amendment was non-concurred in.

Mr. SPRAGUE. I now move to strike out "$3,000" and to insert "$2,500."

Mr. FESSENDEN. They now receive $2,500, and it ought to be increased a little. I think it stands right now.

Mr. SPRAGUE. I withdraw the amendment.

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

COLLECTION DISTRICTS.

On motion of Mr. CHANDLER, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 199) to establish the collection district of Port Huron, and to extend the district of Puget Sound.

The PRESIDENT *pro tempore*. The Committee on Commerce have reported the bill with an amendment striking out all of the original bill and inserting in lieu thereof a substitute. The substitute alone will be read, unless some Senator calls for the reading of the original bill.

The Secretary read the amendment, to strike out all of the bill after the enacting clause and to insert in lieu thereof the following:

That a new collection district, to be called the district of Port Huron, be, and the same is hereby, established in the State of Michigan, which shall embrace the mouth and entire shore of the St. Clair river, and the counties of St. Clair, Lapeer, Tuscola, and Saginaw, and all the territory and waters of the State of Michigan lying north of said counties and east of the principal meridian; and a collector shall be appointed to reside at Port Huron, which shall be the sole port of entry for said district. And the said collector shall receive the same compensation provided for the collectors of Pembina, Chicago, and certain other ports, by the second section of the act entitled "An act to regulate the foreign coasting trade on the northern, northeastern, and northwestern frontiers of the United States, and for other purposes," approved June 17, 1864. And all the territory and waters of the said State of Michigan lying west of the said principal meridian and not included in the district of Michilimackinac, are hereby made a separate district, to be called the district of Michigan, for which a collector, with the same compensation as above provided for the collector of Port Huron, shall be appointed to reside at Grand Haven, which shall be the sole port of entry for said district of Michigan.

SEC. 2. *And be it further enacted*, That the collection district of Puget Sound be, and the same is hereby, extended so as to embrace all the territory and waters east of said district to the head waters of the Mississippi river.

The amendment was agreed to.

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

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

Mr. CHANDLER. The title of the bill should be amended to make it conform to the amended provisions of the bill. I ask that the title may be amended so as to read, "A bill to establish the collection district of Port Huron and the collection district of Michigan, and to extend the district of Puget Sound."

The PRESIDENT *pro tempore*. The title of the bill will be so amended if there be no objection.

MARINE HOSPITALS AND REVENUE CUTTERS.

On motion of Mr. CHANDLER, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 184) to authorize the sale of marine hospitals and of revenue cutters. It authorizes the Secretary of the Treasury to lease, or to sell at public auction, to the highest and best bidder, for cash, after due notice in the public newspapers, such marine-hospital buildings and lands appertaining thereto as he may deem advisable, and he is empowered to make, execute, and deliver all needful conveyances to the lessees or purchasers respectively; and the proceeds of the leases and sales are to be appropriated for the marine hospital establishment; but no one of the marine hospitals is to be exposed to sale or lease where the relief furnished to sick marines shows an extent of relief equal to twenty cases per diem, on an average, for the last preceding four years, or where no other suitable and sufficient hospital accommodations can be procured upon reasonable terms for the comfort and convenience of the patients.

It also authorizes the Secretary of the Treasury, in his discretion, to sell at public auction, to the highest and best bidder, for cash, after due notice in the public newspapers, such of the revenue cutters as he shall find to be ill adapted to the purposes of the revenue service, and to expend the proceeds of the sales in the purchase or construction of other vessels better suited to the wants of the service.

Mr. FESSENDEN. I move to amend the first section of the bill by striking out the word "such" in line six, and inserting the word "the;" and then after the word "thereto" in line seven to insert the following:

At the places following, namely: at Burlington, in the State of Vermont; Cleveland, in the State of Ohio; Pittsburg, in the State of Pennsylvania; Galena, in the State of Illinois; Burlington, in the State of Iowa; St. Louis, in the State of Missouri; Cincinnati, in the State of Ohio; Louisville, in the State of Kentucky; Evansville, in the State of Indiana; and Paducah, in the State of Kentucky.

So that it will read:

That the Secretary of the Treasury be, and he is hereby, authorized to lease, or to sell at public auction, to the highest and best bidder, for cash, after due notice in the public newspapers, the marine-hospital buildings and lands appertaining thereto, at the places following, namely, at Burlington, in the State of Vermont, &c.

I offer this amendment in order to make the bill conform to what is really intended by it. This bill was founded upon a report made by Mr. Atlee, who examined these hospitals very carefully during the past season, and made a report, in which he recommends that these particular hospitals, for reasons which he gives, be sold or leased; and I suppose the object of the bill is to reach that, to authorize their sale or lease. I think it better to insert this amendment for the simple reason that, as the bill is drawn, it gives leave to sell other hospitals at the discretion of the Secretary of the Treasury, and I think all this matter ought to come before Congress and be acted upon specifically by Congress. Now, as this has been recommended, it may be well to give him authority to sell or lease these buildings, if he thinks it advisable, but I think it better that the bill should be made specific, simply to carry out what was intended. This does not oblige him to sell any of them, but it gives him leave to sell them, according to the recommendation of the inspector, who made a thorough examination of them. I hope this amendment will be acceptable to the chairman of the Committee on Commerce.

Mr. CHANDLER. It is undoubtedly acceptable to me as far as it goes, but I will inform the Senator from Maine that the inspection is not yet completed on the part of the Treasury Department, and there may be other hospitals yet to be examined which it may be deemed advisable for the interests of the Government to sell.

Mr. FESSENDEN. If that should turn out to be so, let him come to Congress, and we will agree to let him sell or lease them.

Mr. CHANDLER. I have no particular objection to the amendment of the Senator. It covers precisely what was intended by the bill, to allow the Secretary to sell the buildings that have been recommended to be sold, but the committee proposed to leave it to the discretion of the Secretary to sell any others that might be reported.

Mr. FESSENDEN. I am unwilling to give him a general discretion.

Mr. CHANDLER. Very well.

The amendment was agreed to.

Mr. FESSENDEN. I think that the word "marines," in the thirteenth line, should be "seamen." It now reads:

That no one of the marine hospitals shall be exposed to sale or lease where the relief furnished to sick marines shall show, &c.

There is a distinction between marines and seamen.

Mr. CHANDLER. It should be "mariners." It is a misprint.

Mr. FESSENDEN. "Seamen" will do as well.

Mr. CHANDLER. It will do just as well, and I have no objection to that change.

Mr. FESSENDEN. I think the bill should

be amended by striking out that part of the proviso. It now reads:

Provided, That no one of the marine hospitals shall be exposed to sale or lease where the relief furnished to sick marines shall show an extent of relief equal to twenty cases per diem, on an average, for the last preceding four years, or where no other suitable and sufficient hospital accommodations can be procured upon reasonable terms for the comfort and convenience of the patients.

That would be granting him leave to sell three of the hospitals, when we have just said he shall not sell them.

Mr. CHANDLER. It should be stricken out now in order to make the bill conform with the amendment just made.

Mr. FESSENDEN. I move to amend that proviso by striking out the word "such" at the end of the eleventh line, and to insert the word "the," and after the word "lease" in the twelfth line, to strike out the words, "where the relief furnished to sick mariners shall show an extent of relief equal to twenty cases per diem, on an average, for the last preceding four years, or;" so that it will read:

Provided, That no one of the marine hospitals shall be exposed to sale or lease where no other suitable and sufficient hospital accommodations can be procured upon reasonable terms for the comfort and convenience of the patients.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in and ordered to be engrossed, and the bill to be read a third time. It was read the third time and passed.

LAKE PORTAGE SHIP-CANAL.

On motion of Mr. CHANDLER, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 193) to amend an act entitled "An act granting land to the State of Michigan, to aid in building a harbor and ship-canal at Portage Lake, Keweenaw Point, Lake Superior," approved March 3, 1865. It proposes to amend the second section of the act mentioned in its title by striking out the word "two" before the word "hundred" and inserting the word "four;" and the fifth section by striking out the word "two" before the word "years" and inserting the word "five;" but the land granted by this bill, and by the act to which it is an amendment, is to be selected from alternate even-numbered sections belonging to the United States in the upper peninsula of the State of Michigan, and from land to which the right of homestead or preëmption has not attached; and the grant is to inure for the benefit and use of the Portage Lake and Lake Superior Ship-Canal Company, in accordance with an act of the Legislature of the State of Michigan conferring the land granted to the State, by the act of March 3, 1865, on that company.

Mr. GRIMES. I move to recommit the bill to the Committee on Commerce, in order that they may put it in shape.

Mr. CHANDLER. For what purpose?

Mr. GRIMES. Because I do not think we ought to pass a bill that merely says that such an act of Congress, passed some previous year, shall be amended by striking out the word "two" and inserting the word "four" in such a line.

Mr. CHANDLER. Last year Congress passed an act donating two hundred thousand acres of land to build a canal across Keweenaw Point.

Mr. GRIMES. I understand all that; I know what the purpose of it is.

Mr. CHANDLER. The only effect of this bill is to grant four hundred thousand instead of two hundred thousand acres of land. If it is sent back to the committee it cannot be improved. Every member of this Senate understands precisely what is to be accomplished by it. It is to strike out two hundred thousand and insert four hundred thousand acres of land.

Mr. POMEROY. From the reading of the bill, I judge it appropriates the even-numbered sections of land. All appropriations of land made by Congress have been for the odd sections, because sections sixteen and thirty-six are school sections, and we have never appropriated the even sections. No bill has ever passed the Committee on Public Lands, at any rate, that had such a provision in it. I think this bill ought to be made to conform to our legislation in that respect before it is passed.

The PRESIDENT *pro tempore*. The motion is to recommit the bill to the Committee on Commerce.

Mr. GRIMES. I beg to call the attention of the Senate to this bill, and I ask any Senator whether he could tell from the language of the bill, whether four hundred thousand acres of land were to be appropriated in place of two hundred thousand, or whether it was four millions, or whether it was four acres in place of two. It reads thus:

Be it enacted, &c., That the second section of the act aforesaid be, and the same is hereby, amended by striking out the word "two" before the word "hundred," and inserting the word "four."

That is all of that branch of the paragraph.

And that the fifth section be, and the same is hereby, amended by striking out the word "two" before the word years and inserting the word "five:" *Provided*, That the land granted by this act, and by the act to which this is an amendment, shall be selected from alternate even-numbered sections belonging to the United States in the upper peninsula of the State of Michigan, &c.

A bill, when it comes from a committee, ought to be drawn in such a way as to state specifically what it proposes to do, in order that every Senator can see exactly what the effect of it is.

Mr. CHANDLER. The Committee on Commerce went upon the assumption that all Senators could read. That may be a violent assumption. We supposed, at least, that the chairman of the Committee on Naval Affairs would be able to read, and therefore he would understand that this amendatory bill gave them four hundred thousand instead of two hundred thousand acres of land. I do not see how he can desire anything plainer or more specific than that. The act of last year gave them two years within which to complete this work. It has been ascertained that it cannot be completed in two years, but can be in five years. This bill is as plain as the English language can make it. It refers to a specific bill and makes specific changes in that bill. It strikes out two hundred thousand and inserts four hundred thousand. This land was donated last year to the State of Michigan. The Legislature of the State of Michigan granted a charter to a company and placed the work under the charge of the Governor. The Governor ascertained that it could not be done for that amount of land and within the time specified, and then the Legislatures of New York, Wisconsin, Illinois, Michigan, and of several States and the boards of trade of all the principal commercial cities sent petitions here asking for this increase.

This bill is based upon a resolution of the Legislature of the State of New York. While this canal is in the State of Michigan, the State of New York has ten times the interest in the building of it that the State of Michigan has, and the State of Pennsylvania has ten times the interest of Michigan in it. It is not for the interest of Michigan any more than it is for the interest of every State connected with the commerce of the great lakes. The building of this canal will save a dangerous navigation of some one hundred and seventy miles, by simply cutting a canal for a mile and a half or two miles across a low neck of land. The whole commerce of that region would be greatly benefited by the construction of that canal. It cannot be built for two hundred thousand acres of land, but we are assured that it can be for four hundred thousand. The Legislature of the State of New York deemed this subject of sufficient importance to pass a concurrent resolution asking this appropriation from Congress; and, in accordance with the requests from the State Legislatures and boards of trade and the commercial interests of the country, the Committee on Commerce have recommended the passage of this bill. As is well known, the lands in that region are not valuable; they are very poor, very rough, not desirable for agricultural purposes, not in demand. If for four hundred thousand acres of those lands we can have commerce benefited to the extent that it will be by the construction of this canal, I certainly think there is not a member of this body who will be opposed to it.

Mr. GRIMES. I ask leave to modify my motion so as to refer this bill to the Committee on Public Lands, where it properly belongs. I do not know how it got before the Committee on Commerce.

Mr. MORRILL. The bill may be open to the criticism of the Senator from Iowa in some respects, though I am inclined to think it is a little severe. There is no difficulty in understanding what the bill is. That is carrying the joke a little too far. It refers to an act passed here last year, and by a reference to that act it can be made certain precisely what it is. Therefore it is not bad for want of certainty. The laws of last year are as certain as the laws of this year. That law is just as certain now as it would be if it were altered. Therefore, the criticism falls substantially, for if it is certain to a general intent, for if it is certain to a dead certainty, then the objection which the Senator raises is invalid. But I agree with him perfectly that it is always advisable that each bill should show on its face precisely what it is. I think that is the better form. But I do not see any reason for referring this bill to the Committee on Public Lands.

Mr. LANE, of Indiana. The sixteenth and thirty-sixth sections of the public lands are always given to schools, and yet this bill proposes to give the even-numbered sections to this company.

Mr. MORRILL. Perhaps the objection to granting the even-numbered sections is a valid objection. I cannot say as to that. Perhaps the bill ought to be amended in that regard, but if so, it can be amended on the spot, I suppose.

Mr. CHANDLER. So far as that is concerned, I presume there will be no objection to an amendment in regard to that.

The PRESIDENT *pro tempore*. The question is on the motion to refer this bill to the Committee on Public Lands.

The motion was agreed to.

SHIP ART UNION.

On motion of Mr. CHANDLER, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 45) to change the name of the ship Art Union to the name of George M. Barnard. It authorizes the Secretary of the Treasury to change the name of the ship Art Union, owned by the State of Massachusetts, and used as quarters for the nautical branch of the Reform School of that State, to the name George M. Barnard, and to grant the ship a register in the latter name.

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

REGISTERS TO VESSELS.

On motion of Mr. CHANDLER, the bill (S. No. 89) to issue American registers to the steam vessels Michigan and Dispatch, was read a second time and considered as in Committee of the Whole. It directs the Secretary of the Treasury to issue American registers to the Canadian-built steamers Michigan and Dispatch, of the collection district of Detroit.

Mr. CHANDLER. I move to insert after the word "Dispatch," in the fifth line, the words, "and the American-built steamer W. K. Muir."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

On motion of Mr. CHANDLER, the title of the bill was amended so as to read, "A bill to

issue American registers to the steam vessels Michigan and Dispatch and W. K. Muir."

INTERNATIONAL OCEAN TELEGRAPH.

On motion of Mr. CHANDLER, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 26) granting to the International Ocean Telegraphic Company the right and privilege to establish telegraphic communication between the city of New York and the West India islands.

The PRESIDENT *pro tempore*. This bill was recommitted to the Committee on Public Lands, and they have reported it with an amendment in the nature of a substitute. The substitute only will be read, unless some Senator shall call for the reading of the original bill.

The Secretary read the amendment, which was to strike out all of the original bill and to insert in lieu thereof the following:

Whereas James A. Scrymser, Alfred Pell, jr., Alexander Hamilton, jr., Oliver K. King, Maturin L. Delafield, William F. Smith, and James M. Digges, their associates, successors, and assigns, persons composing the International Ocean Telegraph Company, an incorporated company chartered by the State of New York, are desirous of establishing a line of submarine telegraphic communication between the United States of America and the West India islands and the Bahamas: Now, therefore, in order to facilitate the said enterprise,

Be it enacted, &c., That the said International Ocean Telegraph Company, incorporated under the laws of the State of New York, their successors and assigns, shall have the sole privilege, for a period of fourteen years, to lay, construct, land, maintain, and operate telegraphic or magnetic lines or cables in and over the waters, reefs, islands, shores, and lands over which the United States have jurisdiction, from the shores of the State of Florida, in the said United States, to the island of Cuba and the Bahamas, either or both, and other West India islands.

SEC. 2. *And be it further enacted*, That the said International Ocean Telegraph Company shall, at all times during a state of war, give the United States the free use of said cable or cables, to a telegraphic operator of its own selection, to transmit any messages to and from its military, naval, and diplomatic agents: *Provided*, That the said International Ocean Telegraph Company shall, within the period of five years from the passage of this act, cause the said submarine telegraphic cable or cables to be laid down, and that the said cable or cables shall be in successful operation for the transmission of messages within the said period of five years; otherwise, this grant to be null and void.

SEC. 3. *And be it further enacted*, That Congress shall have power, at any time, to alter or repeal the foregoing act.

Mr. GRIMES. I move to amend the amendment in the sixth line of the first section by inserting after the word "years" the words, "from the approval of this act;" so that it will read:

Shall have the exclusive privilege for a period of fourteen years from the approval of this act to lay, construct, &c.

Mr. CHANDLER. I have no objection to that.

The amendment to the amendment was agreed to.

Mr. SHERMAN. I will ask if this is the same bill that we had up the other day on this subject.

Mr. MORRILL. It is a substitute for the same bill.

Mr. SHERMAN. I do not wish to oppose anything that comes from the Committee on Commerce, but I dislike very much granting this exclusive privilege for fourteen years over all telegraph lines to South America and the West India islands, which is perhaps the only proper way for a telegraph to cross the ocean. It is now seriously considered, and by some supposed to be the best mode of conveying telegraphic communications by the French coast and the continent of Europe, and then along a series of islands including the Madeira islands to the West India islands. I should be perfectly willing to give these gentlemen the privilege of landing anywhere on the coast of Florida, and all the facilities that are necessary, including the right to import their iron duty free. I shall be perfectly willing to do that, because they can do it by landing it at Cuba. I am told that a Spanish company have the sole and exclusive power to land a cable in Cuba, and we are now about to grant the sole and exclusive power to an American company to land in America. The consequence will be that unless these two companies can agree no line will be built. As was stated here the other day when the bill was under consideration before, the two countries may thus tie up the hands of their people from building a line of telegraph between South America and the United States, unless it should be conveyed around through Mexico, an impossible condition. It seems to me that the word "sole," which is the only objectionable features in the bill, ought to be stricken out. I cannot see, and have not yet heard, any good reason why it should be retained.

If this company build their line and are in successful operation, it is not likely that anybody else will attempt to build one. If it should be a very profitable company, making extravagant and exorbitant charges, it may be proper to invite competition. There is no limitation in the bill as to the price. They may charge without limitation the citizens of the United States for the transmission of ordinary messages, and I believe there is no limitation as to the price of messages for the Government.

It seems to me we ought not to grant a privilege of this kind. I do not wish to put my opinion against the opinion of the committee who have examined the subject. I conversed with some gentlemen who were engaged in the enterprise, and they gave me no good reason why they could not go on with the ordinary privilege granted to them to land on our shores without giving them the exclusive privilege. The only pretense of a reason they gave was, that as the Spanish company had exclusive privilege to land at Cuba, therefore they must have the exclusive privilege to land at this country in order to negotiate with them. It was not a satisfactory reason to me.

Mr. FESSENDEN. Move to strike out the word "sole."

Mr. SHERMAN. I should like to hear whether there are any good reasons for retaining it.

Mr. CHANDLER. These telegraphic cables are laid at great expense and at great risk. No attempt has ever yet been made to lay a submarine telegraphic cable to any of the West India islands. Some security must be given or some inducement held out to capitalists to invest their money in this hazardous and expensive undertaking. We do not know whether the cable will stand upon the Florida coral reefs a week, a month, a year, or ten years. It may be cut the very day it is laid. Unless you offer some inducement to capitalists to invest their money in this undertaking they will not do it. If a company should go on and experiment for two or three years and expend four or five hundred thousand dollars, and finally arrive at some point where their undertaking was a success, others will take the advantage of their experience and of their losses (if you do not give them some security) and will lay a cable right beside theirs, which of course would destroy them.

Sir, it has been the policy of every Government on earth except this to extend facilities to its commerce. England has lines of steamships, subsidized by her Government, surrounding the earth; and she has almost surrounded the earth with telegraphic wires. Where she could not by subsidizing lines (and she has subsidized them to an enormous extent) induce capitalists to take hold and build them, she has laid them at the expense of her treasury; and by this system of quick, rapid, and sure communication she to-day commands the trade of the world. She has come upon this continent and actually monopolized the trade of this continent by her subsidized steamship lines and by her regular communications. You will find a British line of mail steamships sailing once a fortnight touching at every one of the West India islands and touching at every port on the South American coast on this side and on the other.

Mr. WILSON. Carrying our ministers.

Mr. CHANDLER. Yes, sir, carrying our ministers; our ministers to-day are compelled, in order to reach their destination, to ride upon subsidized British ships because we have no regular lines.

Now, sir, I am willing not only to use the word "sole" in giving privileges to this line, but to pay a subsidy of $25,000 a year for fourteen years to secure the benefits commercially that will accrue to this nation from the laying of this wire. We must get over the narrow spirit that has controlled the action of the Congress of the United States during the last fifteen years in regard to our commercial relations. We must not be afraid that somebody will make a dollar or two by investing immense amounts of capital for the benefit of our commerce. If we propose to take our position among the commercial nations of the earth, we must use the same means that they employ to secure their commercial relations. It will not do for us to sit here and say that somebody may make a little money by this, when millions and tens of millions of dollars will be rolling annually into our Treasury from the commerce we shall thus draw to our shores. During the last fifteen years it is well known that the management of our commercial relations has not been in the hands of commercial men. They have been controlled by men who were opposed to the commerce of this nation. During the past four years, if I could get half an hour of the time of the Senate for the consideration and passage of any bill from the Committee on Commerce, I thanked God for it, because the Senator from Maine with his financial bills, and the Senator from Iowa with his Navy bills, and the Senator from Massachusetts with his Army bills, crowded me out, and commerce was thrown aside. Now, I propose to crowd them out, and have something to say about the commercial relations of this great nation. I propose now, as we are at peace with all the world, that we take care of our commerce, and that we prepare to compete, not only with Great Britain but with the rest of the world, for the commercial supremacy of the world.

Mr. President, I hope this bill will pass. It is so plain, so self-evident a necessity, the benefits of it are so tremendous, that I cannot think there is a man in this body who will vote against it. I do not believe there is a man who will vote against it. If there is, I want to hear him so vote. That is all.

Mr. SHERMAN. I am very glad on this sleepy day to have waked up my honorable friend from Michigan to a little zeal in the interests of commerce; but I suppose that commerce ought to be always free, and here he proposes to grant a monopoly to affect the commerce of this country with South America, with the West India islands, with Panama, and all the regions south, and place it in the hands of an exclusive company. I believe we have enough trouble now growing out of exclusive monopolies; and I supposed one of the subjects the Senator from Michigan was so anxious about when he asked us to allow him this day for bills reported by his committee was an exclusive monopoly in railroad grants between this city and the city of New York. I desire to avoid all monopolies. The other day, having occasion to go to New York, I felt the inconvenience of that monopoly. I believe that the Government of the United States ought to see to it that commerce between the States and commerce between the nations is free, and ought to encourage our commercial relations with all nations; but it seems to me that the way to do that is not to grant to incorporated companies exclusive privileges. I have no doubt that within twenty years from this time there will be twenty telegraph lines between this country and Havana.

The system of telegraphic communication is but in its infancy. Suppose three or four years ago, when it seemed to be an improbable thing that a wire would be stretched across this continent to San Francisco, we had then granted an exclusive monopoly for ten years to the Pacific Company. We grant them now a bounty of $40,000 a year, when that stock is among

the most profitable known in this country. We gave them money when it was not necessary to give them money. If we had simply allowed them the right of way over our territory, they would have made a very large fortune; and now new lines are being constructed without bounty, and I have no doubt that before ten years from the passage of the original act authorizing the telegraph line to California, there will be twenty wires stretched between this and San Francisco.

Mr. BROWN. I beg leave to correct the Senator on one point: he says he has no doubt there will be twenty wires to the Pacific. That would be the case if there were no monopoly; but as it now stands the whole telegraphic system of the United States is consolidated into one giant monopoly, and they will never have but one, and they will charge what they please.

Mr. SHERMAN. That is true; but I happen to know that there are new companies organizing with a view to compete with this monopoly. I heartily sympathize with the Senator from Missouri in trying to break down the self-associated and self-constituted monopoly now of the telegraph companies.

Here you make a legal monopoly, not merely a monopoly growing out of the association of capital combining together to construct lines, driving away all competition, breaking down new lines—a self-associated monopoly—but here we organize by law a monopoly for fourteen years, which has the exclusive power over the chain of communication that may be as important to our foreign commerce as the line between here and San Francisco is to our internal commerce.

Now, to say that this will cost something, and that these men will not invest their money in the project unless we give them this exclusive monopoly, it seems to me, is an imputation upon the enterprise and energy of the American people. There are but one hundred miles of water communication, if I understand the distances, between the capes of Florida and the nearest point on the island of Cuba. The cable need not be over one hundred miles long. Telegraphic communication would rapidly be opened up to Florida. Here is an exclusive monopoly, not merely from a particular point in Florida, but from the whole coast of Florida, some two or three hundred miles long, so that no other telegraph cable can touch the American shore connecting with the West India islands, or with South America, without the consent of this company, a private company organized by the State of New York.

What reason is given for this? None whatever, except that the Queen of Spain, probably for an enormous bounty paid to her or the Government of Spain, has granted a similar monopoly so far as the island of Cuba is concerned. That is the only pretense and the only reason given why we should grant an exclusive monopoly to this company. As a matter of course if these persons without this special grant lay their cable successfully, they will substantially have a monopoly for a time, because new enterprises will not desire to compete with them; but when the time comes that new lines are required, the competition ought to be free and open; and there is no more reason now for granting an exclusive monopoly to this company than there was in granting an exclusive monopoly to the Pacific Telegraph Company when that line was first built.

I trust, therefore, that we may give to this company ample facilities to build the line; I am perfectly willing to go beyond what the bill, as I understand, does now in that respect, and to give them the right to import their wire free of duty, simply because I am told the wire used for submarine telegraph cables is not yet made in this country and cannot be made here. I am willing to facilitate the building of the telegraph line; but I do not think we ought to tie up our hands for fourteen years and prevent the Government of the United States, if necessary, from building a similar line, or any other citizen from doing it, or preventing the State of Florida from doing it.

There is another very serious question. Florida is a State or will be a State in the Union at some time. For fourteen years it is not expected that Florida will be kept in its present condition. No one anticipates such a result. Have we the power to give an exclusive right to this company to land on the coast of Florida? What right have we to withdraw the whole of that State from the jurisdiction of the State authorities? What will prevent the State of Florida from authorizing the construction of lines there? Is not this the invitation of a legal controversy to grow out of this matter? Does not the United States here assume to give a private company in the State of New York a power which perhaps only the State of Florida can exercise? Senators may say that that is a question for the courts; but here is an attempt to exercise power of this kind and to tie up the industry and commerce and enterprise of our people for a long time.

The more I think of it, the more I reflect upon it, the more I am convinced that we ought not to make this privilege exclusive. Let us give a liberal grant to the company so as to induce them to construct this line; give such reasonable facilities as are necessary. The Senator from Iowa says they do not need it. I heard as a matter of news—I will not vouch for this—that the company who obtained the Spanish grant paid a very large sum of money for it; that is, they regarded the privilege as extremely valuable; and I have no doubt if we grant this exclusive privilege to this company, the exclusive privileges granted by the two nations to the two companies will be worth—I do not know how much money—perhaps $1,000,000.

It is said we ought not to object to such companies making money. I do not. I like to see them make money; it induces enterprise and energy; but I do not want to see them make money at the expense of the whole people of the United States. I do not want them to control and hold all the avenues of communication between this country and South America and the West India islands and Panama. Our commerce with the Pacific flows around on the very line they propose to take. Nearly all of it comes by Panama. It will be years before the Pacific railroad is constructed, and in the mean time the Panama railroad and our communications by way of the isthmuses will be our chief means of communication with California. The necessity of communicating with our commerce in all the southern seas, very much enlarged and increased by the necessity of going around by Panama for our California trade, will make this line extremely valuable. The difficulties in the way of its construction are not so serious as should induce us to give any such privileges. There are only one hundred miles of sea to be traversed by a submarine cable, and there are works of that kind already constructed. I think in Asia they have one across the Black sea. I am not now fully informed as to the submarine cables that have been laid, but I think one of them is laid for over three hundred miles.

Mr. BROWN. There are a half dozen in the Mediterranean, I think.

Mr. SHERMAN. I think there is one either in the Mediterranean or the Black sea that is over three hundred and fifty miles long, and has been an entire success. If that is so, there is no necessity for granting these liberal inducements here. I trust as the matter has been discussed, that we may just give these gentlemen the ordinary privileges, all the power we can give them, and then let the matter be open for future competition.

Mr. CHANDLER. This constitutional objection which is suggested seems to me to be very puerile. The Constitution confers on Congress power "to regulate commerce with foreign nations, and among the several States and with the Indian tribes." I should like to know how we can better exercise the power to regulate commerce than by regulating our telegraphic lines with foreign nations. Certainly, if that clause does not give us full power to exercise this right, it has not any place in the book; it ought not to have been put in the Constitution.

The Senator from Ohio says that trade should be free, and he is opposed to monopolies; so am I. I am opposed to patent monopolies and every other kind of monopoly; but we drew this bill in exact accordance with your rule in granting patents. If a man invents a wash-tub you give him a monopoly of it for fourteen years.

Mr. SHERMAN. These people do not invent anything.

Mr. CHANDLER. They first conceived the idea of laying this cable, and are willing to put their money into it, and you must offer them some inducement to do it. We have been waiting twenty-one years; it is more than twenty-one years since the first wire was laid, and nobody ever proposed to lay a wire to the island of Cuba, and to the West India islands until these parties came forward and made the proposition. I must say that I was surprised they did not do as others have done, ask a subsidy in addition to the right and the exclusive right.

The Senator spoke of the line to California, and says we granted it $40,000 a year. Yes, sir, and we promised to pay $70,000 per annum to the Ocean Telegraph Company if its line was a success between Ireland and Newfoundland; and if that were to become a success today we should pay $70,000; and the promise of this nation and of Great Britain to subsidize that line has induced them to squander some four or five million dollars, more or less, and I do not know but that I should say "pounds sterling" instead of "millions of dollars" in an experiment to lay a line across the Atlantic. Here a company comes and offers to build a line for you without money and without price, and all they ask is the benefit of their own enterprise and the enjoyment of it so long as you grant an exclusive monopoly for a wash-tub, and you say, "We will not grant it." We have drawn this bill so as to grant these privileges for fourteen years; why? Because you give the inventor of a wash-tub the enjoyment of his invention for fourteen years, and we did not suppose any man on this floor would object to a grant for fourteen years. This is the invention of these parties substantially; they were the first men to conceive the idea of laying this line; they were the first men who saw the commercial importance and perhaps the money returns of it. I hope they will have rich returns if this line be laid. They first asked us to give them a grant for fifty years. That the Committee on Commerce refused to do, but they did recommend that they should have twenty-five years. Objection was made to twenty-five years, and now we propose to make it fourteen years—the same time that you give for the exclusive enjoyment by the patentee of every patent that is issued from your Patent Office; and you say strike out "sole;" in other words, "We will give you nothing."

Mr. President, I hope the Senate will not take the same view that the Senator from Ohio does; I hope that the Senate will appreciate the commercial importance of having this wire laid. Although the parties who constructed the California line may make money, was it not for the interest of this Government to pay them $40,000 a year rather than not have that line laid; and how do you know it would have been laid until to-day if you had not by your subsidy inaugurated the first success? How long would it have been before your Pacific railroad would be built if you had not subsidized a road to build the first line? How long will it be before this wire will be laid if you do not grant some protection to the men who lay it? Sir, you will not see this wire laid in half a century if you do not grant some protection or some subsidy to the parties who lay the first line. After it is a success, after, as in the case of the English wire across the Atlantic, millions upon millions of pounds sterling have been sunk and they have learned how to lay a wire, then perhaps some other company will come in and the wire will prove a success. In the case of the

Atlantic cable, the projectors will have sunk their millions and have nothing to show for them; but they have the promise of a subsidy and an exclusive privilege for a given number of years, and therefore they have gone on and squandered these untold millions. This company, I trust, will not be as unfortunate as the English company has been. If they are it will be their misfortune; it will be our fault if we do not offer them every inducement in our power to inaugurate the undertaking.

Mr. DOOLITTLE. I suggest to my honorable friend from Michigan that if he would change the third section of the bill which authorizes Congress "at any time to alter or repeal the foregoing act," and give to Congress the power from time to time to fix the rates which should be charged for messages to be transmitted over this line, it would avoid the great objection which is made by the Senator from Ohio. If Congress held in its hands and notified the company in advance that it held the power in case they charge exorbitant prices for messages to reduce the rates and fix them at a reasonable sum, I could see nothing objectionable in this bill, and I should think it very wise on our part to grant to the company some exclusive privilege if we want to secure the line.

Mr. MORRILL. Allow me to suggest to the Senator that that power is already embraced in the section.

Mr. DOOLITTLE. Perhaps it is embraced, but it is only the usual clause which is thrown into such bills, reserving the right to repeal and alter.

Mr. BROWN. The objection is that there can be no competition on the part of other companies.

Mr. DOOLITTLE. The purpose of having competition on the part of other companies is to prevent a company from being exorbitant in its charges. Now, I will venture to say it is better that one company should undertake to build this line of telegraphic wire than for two, or half a dozen. It is a necessity that one company should lead, and that one company should lead under such circumstances that they can command the capital to do the work. If the power is expressly reserved to Congress, and put into the bill, that at any time the company charge an unreasonable rate for the transmission of messages, Congress can reduce the price and make it reasonable, I do not see anything wrong in the bill.

Besides, if I am informed correctly as to the exclusive grant to lay a wire upon the coast of Cuba given by Spain, unless you give the company you organize an exclusive power to lay the wire on our coast, that company in Cuba will have this company and any other company completely in their power. There is no way to meet the grant of Spain but by a similar grant on our part; but at the same time I would provide in the bill that the company we create shall not be exorbitant in their charges. I then think it is a wise measure.

Mr. MORRILL. The Senator from Ohio [Mr. SHERMAN] gives this bill a character which I am not willing it shall remain subject to. The idea of this bill being a monopoly is a thing which if my honorable friend had reflected on it a little before he began to speak he would not probably have suggested. It has not the first element of anything of that character in it, or which can be construed into it, except that word "sole," which is limited and qualified by the other provisions of the bill, so that it does not approximate at all to the idea of a monopoly. As against everybody but Congress this company will have the exclusive right. This grant which we give to them may be altered, amended, or repealed at any moment by Congress. That is an express reservation.

Mr. FESSENDEN. I ask my colleague what is the use of this bill anyhow. What is to prevent this New York company, organized under the laws of the State of New York, from going to Florida and buying a piece of land convenient for them to land on and establishing this end of their wire there without any grant from Congress? In other words, is there anything more or less in this bill than simply the exercise of the power of Congress or its attempted exercise, (I doubt how far it goes,) to give them the sole privilege? Is not that the only reason for their coming here? Do they gain anything else except after they have got their company incorporated in New York they call on us to give them what they cannot get possibly in any other way, an exclusive privilege? Is there any other necessity? Why cannot they go and buy a piece of land and get along without this bill?

Mr. MORRILL. The committee considered that subject, and in this light: we think Congress has the power to give the exclusive privilege under the power to regulate commerce.

Mr. FESSENDEN. Is not that the only reason why they come here?

Mr. MORRILL. Doubtless it is. It is exterior; it is a communication in the nature of commerce. Commerce includes traffic and intercourse. This provides for intercourse, foreign intercourse, and therefore it comes within that provision of the Constitution. My colleague asks why can they not purchase a piece of land in Florida and build this telegraph, but that involves the necessity of a charter from Florida of course.

Mr. FESSENDEN. We cannot given them a charter in Florida.

Mr. MORRILL. But we can give them a charter here, and it is exactly within our province to give them a charter here if it is commerce; and why, I ask my colleague, should we refer them to Florida? If it is an object worthy of the consideration of the country, if it is that kind of enterprise which commends itself to Congress, why should Congress decline giving them a charter to enable them to complete this enterprise, simply because by possibility they might obtain it of Florida? I submit, therefore, that the same thing might possibly be done by a charter from Florida is no answer to this bill.

Mr. FESSENDEN. Will my colleague tell me why they need a charter from Florida? What is to prevent an individual, if he has money enough, from buying a piece of land in Florida and there setting up a telegraph? What does he want a charter for?

Mr. MORRILL. I did not suppose that, unauthorized by the power of the State, an individual could set up a telegraph through the country where he chose.

Mr. FESSENDEN. Perhaps he could not get the land. We cannot give him authority all over the country; we only give the mere power to land on the coast; but as to the rest, he must get it from Florida; we cannot give it to him.

Mr. MORRILL. Does my colleague suppose this company would have a right to go to Florida without the consent of Florida, and against the consent of Florida, if you please, and exercise the privilege of setting up upon its shore, within its jurisdiction, and laying down upon its coast, within its jurisdiction, a telegraph wire?

Mr. FESSENDEN. Certainly; if they owned the land they could.

Mr. MORRILL. If they could, they have a power which I did not suppose they could exercise without the consent of the State. Certainly they could not connect the lines; certainly they could not make it of any use to them whatever. At any rate, the State would have a right to prevent it.

But I rose to reply to the objection raised by the honorable Senator from Ohio that this was a monopoly. He says it is a monopoly, first, because of the extent of its powers. He says we are going to give to this company the exclusive right of telegraphic communication between this country and South America. There is no such power in this bill. My honorable friend has overlooked it entirely. It does not authorize the line to go to South America or to Panama, nor does it allow this company to interfere with free intercourse in any way whatever, except from the Florida coast to Cuba or the Bahamas. It confines it simply to that point; and all the rest of America is open to anybody and everybody.

Mr. CONNESS. Will the Senator from Maine permit me to make a suggestion just at this point?

Mr. MORRILL. Certainly.

Mr. CONNESS. As I understand it, the monopoly contained in this sole privilege consists in prohibiting the establishment of any other line from the coast of Florida.

Mr. MORRILL. So I understand.

Mr. CONNESS. Consequently, if this privilege is granted, no other lines can connect the West India islands or South America with Florida. That I understand to be its exclusive character.

Mr. MORRILL. I am much obliged to the Senator, but I supposed I understood that before.

Mr. CONNESS. Well, I desired it to be understood, too.

Mr. MORRILL. The point which I was arguing and the point which I understood to labor with the honorable Senator from Ohio was as to the extent of this monopoly, that it was a monopoly in the hands of this company for all South America and Panama; but, in fact, it touches no point abroad except Cuba and the Bahamas; none at all.

Mr. CONNESS. It is exclusive so far as the Florida coast is concerned.

Mr. MORRILL. That is the extent of it.

Mr. SHERMAN. I suppose from the geography of the country, well known to us, that there is no possible way of reaching from the United States of America to Panama by telegraph except either through Mexico or by touching at the West India islands at point after point until you reach the Central American States; and as we have the control of this end only, and the geographical position of Florida is such that that State projects into the Gulf of Mexico over three hundred miles, the exclusive privilege of landing in Florida is substantially an exclusive privilege of landing in the United States. Of course it is possible to go by way of Mexico to Panama, but as these telegraph wires must go to Cuba and the West India islands, this amounts to an exclusive privilege, the only privilege we can grant in the United States, for a telegraph to any portion of South America.

Mr. MORRILL. Mr. President, if you look at this bill you will see that it is confined simply to the two points I have named, and it reserves to the Government during war the free use of this line; and in addition to that, to put it out of the power of these parties to make it a monopoly in the sense which is odious or in which monopoly was ever odious, and that is giving a power to make unreasonable charges, Congress reserves to itself the right to alter or amend this charter in any manner it sees fit. It keeps the whole thing within its control and within its power; and if it is found to be a monopoly operating to the injury of the public it can repeal it to-morrow or repeal it the very next day or the very next year after the line is laid down. Now, I ask if that comes within the sense of a monopoly which is obnoxious.

What is proposed? The enterprise, I suppose, is commendable in itself. I suppose Congress would not object to this company opening communications between Cuba and our own coast. That I take it is commendable. Now, on what terms ought it to be done? On the most liberal terms that you could expect to have it done. Is it reasonable to expect that any company will undertake to do it upon more reasonable terms? It is impossible to conceive that any company could be required to do it upon more reasonable terms. The word "sole" being limited, as I have said, by the power of the Government over it, it ceases to be a monopoly in any sense whatever.

I hope, Mr. President, that this bill will not be held up here as obnoxious to the charge of monopoly. My honorable friend, the chairman of the Committee on Commerce, has suggested that it is only similar in its provisions to the grants which we make every day to every

patentee of any improvement whatever. We give him the exclusive privilege of it, and why? Because his brain has invented it simply. Is it a premium on the brain or the genius of the man? No sir. It is to encourage similar inventions. This is precisely in that line. We do these things, give these privileges to encourage enterprises, and enterprises which are beneficial to the public. Nobody will doubt that this enterprise is beneficial. It ought not to be forgotten that these people do not ask any subsidy. Not long since we granted a privilege to build a line of telegraph across the continent to the Pacific, and my recollection is that we gave to that line $40,000 a year subsidy for ten years.

Mr. BROWN. I do not think the Senator presents the question exactly fair. These parties do not ask a subsidy of so many thousand dollars from the Government, but they do ask the right to levy their subsidy *ad libitum* upon the public in the shape of their charges, and that without competition; and that is the heaviest subsidy that could be given them. I would infinitely rather give them a subsidy of any number of thousands of dollars than give it to them in this shape.

Mr. MORRILL. My reply to that is that my honorable friend is not quite accurate when he says they have a subsidy in the right to make their charges *ad libitum*, because their charges are within the power and control of Congress.

Mr. BROWN. There is nothing specific to that effect in the bill.

Mr. DOOLITTLE. The Senator from Maine will allow me to suggest that there was in the Pacific telegraph bill a limitation put upon the charges when we granted the right to build a telegraph line to San Francisco, and agreed that we would ourselves pay $40,000 for the Government use of the line, and I have no doubt that the Government use of the line has been much more than $40,000 a year every year since it was built. There was put into the bill itself a limitation upon the price of messages; I am confident of that. Such is my recollection of that statute.

Mr. CONNESS. I should like to inquire if the Senator from Maine has yielded the floor.

Mr. MORRILL. Yes, sir.

Mr. CONNESS. I only wish to say a very few words on this subject. I was expecting to hear from the Senator from Maine, who is a member of the Committee on Commerce, something in reply to what was stated by the Senator from Ohio upon the question of the sole right given to this company; but, as the Senator from Missouri stated, no sufficient reply has been made to what was said by the Senator from Ohio. This is certainly in the nature of a monopoly exclusive in its character. Suppose when Congress granted a subsidy to the overland line of telegraph that in lieu of granting a subsidy the exclusive right to telegraph between the Atlantic and Pacific had been granted for a given number of years would you have any competing line at all? Could they not have charged just what they pleased? Could they not have excluded the construction of any other line?

That is exactly what this bill contemplates. The language of it is that from Florida no other party can construct a line to any other part of the world within a given number of years. Suppose we go on and increase this system, go industriously at work to examine the coast of the United States of America and grant to another company the exclusive privilege from another part of our coast to a certain other part of the earth, and so on around; shall we not belt our entire coast by exclusive privileges? I think it is a class of legislation that is very questionable indeed.

Granting a subsidy is entirely another thing. I would sooner vote to-day to grant any reasonable amount of money that might be asked to this company to aid them in establishing a line in the direction spoken of and in making it profitable to them, than to grant them the exclusive jurisdiction for any number of years. Granting a subsidy is one thing; granting an exclusive right to A, B, and C to control a particular means of communication is entirely another. I think myself that the Congress of the United States have been stingy and scarcely as liberal as they should have been in encouraging commercial relations by grants. However, that is not under consideration now; but it is a pretty serious proposition to grant an exclusive right to any company.

I was visited by some of the gentlemen interested in this measure, after the last discussion that transpired in the Senate, and they laid before me the fact that the Spanish Government had granted an exclusive right to certain Spaniards forever. Suppose they have; shall we imitate Spain in that? I think it is hardly in accordance with our policy.

Mr. DOOLITTLE. I ask the honorable Senator from California how we are to get on to the island of Cuba with a telegraph wire.

Mr. CONNESS. How will you get on if you grant the exclusive right to this company on your own coast for a number of years? Will that aid you in getting on the island of Cuba?

Mr. DOOLITTLE. Florida is the only land where that wire can be put in the United States. If we say our company shall have the sole and exclusive privilege of putting a telegraph wire on our land, then the two companies have to meet each other face to face and come to a compromise. It is the only way to overcome the Spanish monopoly.

Mr. CONNESS. This seems to be simply an ingenious argument on the part of the parties who have this matter in hand. If the Spanish Government have granted an exclusive jurisdiction to a certain company of their own, then to hinder them from enjoying it we must grant—and there is no other means within our power than to grant—exclusive control within our own territory.

Mr. DOOLITTLE. I hope my friend from California, in the remark he made that this was an ingenious argument of the parties having it in hand, did not regard me as any party in this matter.

Mr. CONNESS. Not at all.

Mr. DOOLITTLE. I never knew anything about the matter before it came up here.

Mr. CONNESS. The Senator will pardon me; I meant the company having it in hand. Of course it is very far from me to regard any Senator as having this in hand except as a public measure. I know too well the honorable Senators who are urging it here and their public spirit and motives and patriotism. That is entirely foreign to the whole question. I should like to agree with the honorable Senator from Maine and the honorable Senator from Michigan, and would like to vote for their bill, but it does seem to me to be a bill fraught with difficulty and danger. I will join them in any liberal appropriation of money, if it can be demonstrated that there can be a public good in return.

Mr. SUMNER. I wish to suggest a verbal amendment in the second section of the amendment of the committee in the sixth line, to strike out "diplomatic" and insert "consular." There are no diplomatic agents of ours in the West India islands.

Mr. FESSENDEN. Our representation there may be extended hereafter.

Mr. CONNESS. We have diplomatic intercourse with Hayti.

Mr. SUMNER. Let it read "diplomatic or consular." That would cover both.

The amendment to the amendment was agreed to.

Mr. HOWE. I was not able to agree with the majority of the committee which reported this bill, and the ground of my dissent was one of two reasons, I do not exactly know which, [laughter,] and I was a good deal divided on that point in the committee; but I know to a dead certainty that I objected to the bill.

One of its provisions undertakes to grant to this company the sole right to maintain telegraphic communications with these islands for a given number of years, and another clause of the bill says that there is no sole right at all given for these years, nor any right given for these years, but the power is reserved to the Congress of the United States to repeal the exclusive privilege and repeal the whole privilege whenever Congress shall see fit to do so. It is either a bad thing or a good thing misnamed; I am not satisfied with it, let which will be the case. If it is an attempt to grant the exclusive privilege to this company or any company to maintain telegraphic communications with these islands for a given number of years I think we ought to discountenance it. I am not unmindful of the fact that the whole nation now is groaning under the restrictions of a monopoly granted many years ago, the arguments for which were just as strong and stronger by far than can be adduced in favor of this grant, by the State of New Jersey, and we have been exhausting ourselves in the effort to find relief to the nation against the effects of that monopoly; and while we are setting our faces against that, I do not think we ought to sanction the same principle.

It does seem to me very certain that no necessity exists for granting an exclusive privilege here that does not exist or at least may not be urged on behalf of any telegraph line that ever was built or ever may be, or any railroad, or any canal project that ever was started. There is nothing experimental about it. Just these two considerations seem to me to be manifest: either this will not be a paying enterprise, and therefore the company never will be endangered by any competition, or it will be a liberal-paying enterprise and the community will demand and will need other facilities of the same kind. If they do need other facilities, I am unwilling to give my assent to a measure which shall exclude them from having those additional facilities. There is nothing experimental about this. The fact that telegraphic communication may be had by this means is well established. There is nothing doubtful about the practicability of laying a line to these islands, or, as the Senator from Missouri [Mr. BROWN] suggests, about the profit of it. As for myself I cannot speak confidently as to the profit of it. I suppose these gentlemen understand that. If they are willing to put their money in it, if they are the only ones who understand it, no other company will ever compete with them. It will not be any more certain if one wire is laid between the Floridas and the islands that another wire can be laid than it is now that a dozen wires can be laid and successfully laid. It may be doubtful how far it will pay. It is doubtful to me; it may not be to them. It bears no sort of analogy, in my judgment, to those monopolies we give to great discoveries. There they introduce to human society something new, inventions of their own, something that did not before exist. They are creators, so to speak; or if they create no new principle, they bring to bear upon human affairs and human business the new application of principles; and to such it is perfectly just; it stimulates discovery. We granted a monopoly to the man who discovered this mode of telegraphing; but the application of a well-known mode of communicating with these islands by this particular route, I cannot conceive demands the recognition of any such principle.

For these reasons I was not able to agree with the committee in reporting the bill, and I shall not be able to vote for it. I do not think it is particularly dangerous, because of the third section which reserves to Congress the right to repeal it. Still, if it is not an exclusive privilege, you ought not to call it so.

Mr. SHERMAN. I believe I submitted an amendment to strike out the word "sole." If I did not, I will do so now. That really involves the whole bill. I would as soon take the vote on that as on any other question.

The PRESIDING OFFICER, (Mr. ANTHONY.) It is proposed to amend the amendment by striking out of line five of section one the word "sole."

Mr. CHANDLER. The Senator might as

well move to postpone the bill indefinitely. The adoption of the amendment is the end of it.

Mr. SHERMAN. Let the question, then, be taken by yeas and nays. It is really the whole purpose of the bill to give an exclusive privilege. I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 14, nays 16; as follows:

YEAS—Messrs. Anthony, Brown, Buckalew, Conness, Fessenden, Foster, Grimes, Henderson, Howe, Norton, Sherman, Sprague, Trumbull, and Van Winkle—14.

NAYS—Messrs. Chandler, Cragin, Creswell, Doolittle, Guthrie, Harris, Kirkwood, Morgan, Morrill, Pomeroy, Ramsey, Stewart, Sumner, Wade, Willey, and Wilson—16.

ABSENT—Messrs. Clark, Cowan, Davis, Dixon, Foot, Hendricks, Howard, Johnson, Lane of Indiana, Lane of Kansas, McDougall, Nesmith, Nye, Poland, Riddle, Saulsbury, Stockton, Williams, Wright, and Yates—20.

So the amendment to the amendment was rejected.

The amendment of the Committee on Commerce, as amended, was agreed to.

Mr. DOOLITTLE. I suggested an amendment to put in words declaring that Congress shall have power, not only to repeal and alter the act, but to fix the rates to be charged; but gentlemen all around me say that that power is necessarily involved and implied in the words giving Congress power at any time to repeal and amend the charter. Deferring to the opinions of Senators around me, and with the express understanding on my part that the power is now contained in the bill, and the further understanding that if this company should ever get its line in operation, and its charges should be enormous, the power will be exercised, I will not offer the amendment.

Mr. WILLEY. Are the rates fixed in the bill?

Mr. DOOLITTLE. No, sir.

Mr. WILLEY. I suggest, then, to the honorable Senator from Wisconsin whether the interpretation that he speaks of is a just one. The power to alter or amend a charter does not affect the rates charged by the company.

Mr. DOOLITTLE. By way of reply to the Senator from West Virginia, let me ask whether the power to amend the charter would not authorize Congress to put in a new provision declaring what the rates should be for the transmission of messages. I so understand it.

Mr. FESSENDEN. I move that the Senate adjourn.

Mr. CHANDLER. Oh, no; let us take a vote on the bill.

Mr. FESSENDEN. The Senate is too thin to vote on so important a question. That is the very reason I make the motion; the vote just taken is so close and the Senate is so thin that it does not seem to be right to press a final vote now.

Mr. CHANDLER. Let me take up another bill.

Several SENATORS. It is too late.

The PRESIDING OFFICER. The question is on the motion to adjourn

The motion was not agreed to; there being, on a division—ayes 14, noes 14.

Mr. BROWN. I think this bill carries with it something more than the question that was determined on the last amendment striking out the word "sole." I think it carries with it the question of the right to pass such a bill and to grant such exclusive rights on the coast of Florida, and as I believe the bill to be wrong in its principle and very detrimental in the precedent which it sets, I shall ask for the yeas and nays on the passage of the bill.

The bill was reported to the Senate as amended, and the amendment made as in Committee of the Whole was concurred in.

Mr. FESSENDEN. I renew my motion to adjourn. I think the bill ought not to be acted upon in so thin a Senate.

The question being put, there were, on a division—ayes 13, noes 14.

So the motion to adjourn was not agreed to.

Mr. SHERMAN. I believe the bill has not yet been ordered to a third reading. I move, in order to avoid all question on that point, at the end of the third section to insert "and Congress may alter the rates of charge."

Mr. DOOLITTLE. I suggest these words as I drew them, and I think they will cover it: after the words "at any time" in section three to insert "to fix and alter the rates for the transmission of messages and;" so that the clause will read:

That Congress shall have power at any time to fix and alter the rates for the transmission of messages, and to alter or repeal the foregoing act.

Mr. SHERMAN. Any words to carry out the idea. I doubt whether the power will be included by the simple reservation of the right to repeal or amend the charter.

Mr. CHANDLER. The Senator from Maine [Mr. FESSENDEN], desires to have a fuller Senate when the vote is taken. If he will name an hour to-morrow when the vote can be taken, I shall not object to an adjournment. I do not desire to be factious.

Mr. FESSENDEN. Any time to-morrow when the Senate is full.

Mr. CHANDLER. If it is agreed that the vote shall be taken at one o'clock and that discussion is ended——

Mr. FESSENDEN. I have no objection. Any time to-morrow that there is a full Senate.

Mr. CHANDLER. Well, let it be understood that the vote shall be taken at one o'clock.

Mr. FESSENDEN. It will be open to discussion, of course.

Mr. CHANDLER. Of course.

The PRESIDING OFFICER. It is moved that the further consideration of this bill be postponed until to-morrow at one o'clock, and be made the special order at that time.

The motion was agreed to.

Mr. FESSENDEN. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *March* 20, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

SPRINGFIELD ARMORY.

Mr. DAWES. I ask unanimous consent to introduce a joint resolution in relation to the public lands appertaining to the armory at Springfield, and to put it on its passage.

Mr. WASHBURNE, of Illinois. Let us hear what it is.

Mr. DAWES. If there be the slightest objection to it, I will not press it.

The joint resolution was then read.

Mr. DAWES. I will explain it in a few words. In laying out the grounds at the Springfield armory it becomes necessary to make an exchange of two strips of land, the Government securing for what it gives an equivalent value. The title deeds were prepared for the Secretary of War to execute under the following law:

"That the Secretary of War be, and he is hereby, authorized to alter, establish, and settle the boundary lines between the United States lands at the Springfield armory and the contiguous lands belonging to the town of Springfield, in the State of Massachusetts, and to individual citizens, in such a way as may be best calculated to allow the laying out and altering of streets and highways for the mutual convenience and advantage of all parties; and for this purpose he is further authorized to exchange and convey and to receive from the corporate authorities of Springfield, or to and from individual proprietors, such fractional parts of land as may be necessary for the accommodation and convenience of the town of Springfield in running its public streets and highways, and of the armory in securing the safety of and free access to its workshops, arsenals, and other public buildings; and to grant, on the part of the United States, and receive from the corporation authorities of Springfield, or from individual proprietors, deeds and titles for the land so exchanged and disposed of to establish convenient boundaries."

After these title deeds were prepared for execution by the Secretary of War, it was the opinion of the Solicitor of the War Department that this resolution had expired and was not now in force. It is simply to revive this section I offer this joint resolution, so that these deeds may be executed.

I will say further, the matter was fully explained to the satisfaction of the chairman of the Committee on Military Affairs, and that if he were here it would probably have been offered by him.

There was no objection, and the joint resolution was read a first and second time, ordered to be engrossed and read a third time, and being engrossed, it was accordingly read the third time and passed.

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

The latter motion was agreed to.

THANKS OF CONGRESS.

Mr. SMITH, by unanimous consent, introduced a joint resolution tendering the thanks of Congress to Major Generals Gordon Granger and James A. Garfield, and through them to the officers and men who fought under their commands, for their gallantry and heroic conduct in saving the army of the Cumberland at the battle of Chickamauga; which was read a first and second time.

Mr. UPSON moved that the joint resolution be referred to the Committee on Military Affairs.

The motion was agreed to.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. WASHBURNE, of Illinois. I demand the regular order.

The House accordingly resumed the consideration of the unfinished business of yesterday, being the bill (H. R. No. 213) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1867, reported from the Committee of the Whole on the state of the Union with sundry amendments.

The amendments reported from the Committee of the Whole on the state of the Union were agreed to.

The question recurred upon agreeing to the amendment offered yesterday in the House by Mr. WASHBURNE, of Illinois, to strike out the following:

And from and after the close of the present fiscal year the annual salary of the Director of the Mint shall be $4,000; and the annual salaries of the treasurer, assayer, melter and refiner, chief coiner, and engraver shall be $2,500 each; the annual salary of the assistant assayer shall be $2,250; and the annual salaries of the clerks now receiving $1,800 shall be $2,250 each: and the annual salaries of the clerks now receiving $1,500 shall be $1,800 each.

Mr. WASHBURNE, of Illinois. I demand the previous question on the bill and amendment.

Mr. BUNDY. I hope the gentleman will suspend a moment until I can offer an amendment.

Mr. WASHBURNE, of Illinois. I can only take care of my own amendment.

The SPEAKER. The only amendment now in order would be to amend the amendment of the gentleman from Illinois.

Mr. BUNDY. I shall not get it in in that way.

The SPEAKER. It should have been offered in Committee of the Whole.

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

The question being taken on the amendment of Mr. WASHBURNE, of Illinois, no quorum voted.

Mr. WASHBURNE, of Illinois. I demand the yeas and nays.

Mr. ASHLEY, of Ohio. I would like to have the gentleman from Pennsylvania state the amount now paid and the amount of increase proposed.

Mr. WASHBURNE, of Illinois. Is discussion in order?

The SPEAKER. It is not.

Mr. RANDALL, of Pennsylvania. Is it in order to say that I do not wish to have it stricken out?

The SPEAKER. It is not in order.

The question being taken on the amendment of Mr. WASHBURNE, of Illinois, it was decided in the affirmative—yeas 88, nays 46, not voting 59; as follows:

YEAS—Messrs. Alley, Allison, Ames, Ancona, Anderson, Delos R. Ashley, Baker, Baldwin, Baxter, Beaman, Boutwell, Boyer, Bromwell, Buckland, Bundy, Reader W. Clarke, Cook, Cullom, Dawson, Delano, Deming, Dumont, Eggleston, Eldridge, Farnsworth, Farquhar, Ferry, Glossbrenner, Grider, Hale, Aaron Harding, Abner C. Harding, Hart, Hayes, Henderson, Hill, Holmes, Chester D. Hubbard, Demas Hubbard, James R. Hubbell, Hulburd, Ingersoll, Julian, Ketcham, Kuykendall, Laflin, Latham, George V. Lawrence, William Lawrence, Le Blond, McCullough, Moorhead, Morris, Moulton, Newell, Noell, Orth, Paine, Perham, Plants, Price, John H. Rice, Ritter, Rogers, Rollins, Ross, Sawyer, Scofield, Shellabarger, Sloan, Stilwell, Taber, Taylor, Thornton, Trimble, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Williams, James F. Wilson, and Windom—88.

NAYS—Messrs. James M. Ashley, Bergen, Bidwell, Bingham, Blaine, Blow, Brooks, Broomall, Chanler, Coffroth, Dixon, Eliot, Goodyear, Grinnell, Higby, Hogan, Hooper, Asahel W. Hubbard, John H. Hubbard, Edwin N. Hubbell, James Humphrey, James M. Humphrey, Jenckes, Jones, Kasson, Kelley, Kelso, Kerr, McKee, McRuer, Miller, Myers, Nicholson, O'Neill, Samuel J. Randall, Raymond, Alexander H. Rice, Spalding, Stevens, Strouse, Thayer, Francis Thomas, John L. Thomas, Warner, Whaley, and Winfield—46.

NOT VOTING—Messrs. Banks, Barker, Benjamin, Brandegee, Sidney Clarke, Cobb, Conkling, Culver, Darling, Davis, Dawes, Defrees, Denison, Donnelly, Driggs, Eckley, Finck, Garfield, Griswold, Harris, Hotchkiss, Johnson, Loan, Longyear, Lynch, Marshall, Marston, Marvin, McClurg, McIndoe, Mercur, Morrill, Niblack, Patterson, Phelps, Pike, Pomeroy, Radford, William H. Randall, Rousseau, Schenck, Shanklin, Sitgreaves, Smith, Starr, Henry D. Washburn, Stephen F. Wilson, Woodbridge, and Wright—59.

So the amendment was not agreed to.

Mr. WASHBURNE, of Illinois. I move to reconsider the vote by which the amendments were adopted, and to lay that motion on the table.

The latter motion was agreed to.

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

Mr. KASSON. I move to reconsider the vote by which the bill was passed, and to lay that motion on the table.

The latter motion was agreed to.

Mr. WASHBURNE, of Illinois. I demand the regular order of business.

The SPEAKER. The regular order of business is the consideration of a bill (H. R. No. 238) to amend an act entitled "An act relating to *habeas corpus* and regulating judicial proceedings in certain cases," approved March 3, 1863, upon which the gentleman from New Jersey [Mr. ROGERS] is entitled to the floor.

Mr. ROGERS. I yield for a moment to the gentleman from Ohio, [Mr. LAWRENCE.]

BATTLE-FIELDS OF THE REBELLION.

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

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of providing by law for the publication of a work which shall give—

1. A topographical map of the battle-fields of the rebellion, with roads, ravines, special localities, surroundings, &c.
2. The plan of battle, disposition of troops, artillery, cavalry, fortifications, defenses, &c.
3. A landscape view of each battle-field.
4. The plan of the forts, earthworks, &c., held by military forces during the war.

CORRECTION OF THE JOURNAL.

Mr. GLOSSBRENNER. I desire to have the Journal corrected. Upon the vote on the motion to lay on the table the motion of the gentleman from Ohio [Mr. GARFIELD] to reconsider the vote by which the loan bill was rejected, I am recorded as not voting. I voted in the negative on that question, and am recorded as not voting. I ask that the Journal be corrected.

The SPEAKER. The Journal will be corrected accordingly.

Mr. CONKLING. I would like to say on that same point that there has been some mistake, apparently, in the record of the yeas and nays on that question in the Associated Press. Several gentlemen who were not here are recorded as voting. Mr. HOTCHKISS, for example, who has not been here for some time; and several of those who were here, and who voted, are omitted. I happen to be one of those omitted. I merely want to say that the list telegraphed to the Associated Press is incorrect.

Mr. WASHBURNE, of Illinois. In this connection let me say that my name is not recorded in the Associated Press as voting on the loan bill. I was present, and voted on the loan bill, as I have voted upon every measure during this session.

The SPEAKER. The gentleman from New York [Mr. HOTCHKISS] is not recorded on the Journal as having voted.

J. STOUT PARKER.

Mr. ROGERS. I will now yield for a moment to the gentleman from Ohio, [Mr. DELANO.]

Mr. DELANO, by unanimous consent, from the Committee of Claims, moved that the Committee of Claims be discharged from the further consideration of bill of the House No. 229, for the relief of J. Stout Parker; and also moved that the claim of J. Stout Parker, growing out of the loss of the schooner Twilight, which was sunk in a collision with the United States steamer Iroquois, be referred to the Court of Claims for hearing and decision.

The motion was agreed to.

Mr. ROGERS. I will yield now to the gentleman from Wisconsin, [Mr. ELDRIDGE.]

Mr. COOK. I object to any further yielding.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had passed the following bills, in which he was directed to request the concurrence of the House, namely:

A joint resolution (S. R. No. 45) protesting against pardons by foreign Governments of persons convicted of infamous offenses on condition of emigration to the United States;

An act (S. No. 189) to confirm the grant of certain lands to José Domingues, in California; and

An act (S. No. 204) to provide for the annual inspection into Indian affairs, and for other purposes.

HABEAS CORPUS.

The House then resumed the consideration of House bill No. 238, to amend an act entitled "An act relating to *habeas corpus* and regulating judicial proceedings in certain cases," approved March 3, 1863.

The pending question was upon the motion of Mr. COOK to recommit the bill to the Committee on the Judiciary; upon which Mr. ROGERS was entitled to the floor.

Mr. COOK. I desire to give notice that at the conclusion of the remarks of the gentleman from New Jersey [Mr. ROGERS] I shall call for the previous question.

Mr. ROGERS. In the remarks which I intend to submit to this House upon this bill, I shall endeavor to confine myself strictly to the questions of legality and policy involved in its provisions.

And let me say for myself at least, and I believe for the other members upon this side of the House, that the probability is no Democrat will vote to sustain and support this bill, and if they do not, then, according to the theory which was advocated on yesterday by the honorable gentleman from New York, [Mr. CONKLING,] they must be actuated, in the policy which they may pursue in regard to this bill, by motives of unfairness, uncharitableness, and unkindness, and with a disposition to thwart the wise and just policy laid down by those who are at the head of governmental affairs. Now, I take it upon me to say to the honorable gentleman that in the vote which members upon this side may cast upon this or any other bill, they are actuated by high and conscientious convictions.

I am not here to make charges against the other side of the House of being moved or controlled by party prejudices. I have too much charity to believe that any man upon that side of the House, whatever his views may be upon any measure, is moved by any considerations but regard for the best interests of the country. But I think it is a most unwise, uncharitable, and unchristian course of policy to be pursued toward the Democratic side of the House to charge them with disloyalty merely because they happen to disagree with the large majority upon the other side of the House. I think the members upon the other side ought to be content with the immense and overwhelming majority which they have without attempting to impute false motives to those upon this side who happen to disagree with them upon the great questions now agitating this Congress and this country.

I am willing to accord to gentlemen upon the other side every privilege that I claim for myself. But I say to Congress and to the country that in devotion to principle and in love of country the Democratic members of this House yield to no class of men upon this earth, and I think that the proud record of the Democratic party of this country for the last seventy-five years will vindicate me in saying that if their policy had been adhered to this ruinous war which for five years past has swept over the country like a raging tempest of death and destruction, filling the land with misery, mourning, lamentation, and woe, would never have come upon us. We urged you before the war to adopt the policy which we are now advocating upon this floor. You heeded us not then; you laughed us to scorn; and the result was that the war came upon you like a clap of thunder in the clear sky of heaven; until it has sent the hearses moving through the valleys and cities of our land, carrying the remains of our fathers and children, and filling the cities and country with weeping, wailing, anguish, woe, and desolation from one end of the country to the other; and now because men who belong to the great Democratic party, a party which gave eighteen hundred thousand votes in 1864 for their gallant standard-bearer, George B. McClellan, disagree with you upon those principles which you enunciated during the war—I mean those principles of despotism and tyranny which came near sapping the very foundations of liberty in this country, we ought not now to be charged with disloyalty in any course we may pursue upon this side of the House.

Mr. WASHBURNE, of Illinois. The gentleman from New Jersey [Mr. ROGERS] refers to the standard-bearer of his party in 1864, George B. McClellan. I would ask the gentleman if he indorses his action, especially in the matter of the arbitrary arrest of the Maryland Legislature?

Mr. ROGERS. No, sir; nor do I sustain him, or anybody else, in committing malicious arrests. I will come to that directly, when I come to discuss the merits of this bill. I am here to perform a duty which I believe I owe to the great masses of the Democratic party. The time has gone by when party strife and passion should rule the hour; that we should revert to higher principles and motives, to nobler and more lofty ambitions than to charge upon men who happen to disagree with us with intending to destroy their country.

Now, sir, I think the truth of history demonstrates that when the party which I happen to represent was in power, public liberty was secure, and no legislation like that contemplated by this bill would have been tolerated or even seriously entertained. During that period every man's house was his castle; the courts were open to all; every citizen was secure under the protection of the law. When that party was in power no passport was necessary to enable a man to travel unmolested; no secret police was organized; no system of spies and informers was instituted; no bastiles were maintained for the incarceration of citizens, untried and unaccused. When that party was in power, the right of petition, the liberty of conscience, the freedom of the ballot and of the press were untram-

meled. It was only during the last five years that the American people have been called upon to tolerate and approve the most diabolical outrages upon the rights and liberties of the people, offenses outrivaling in enormity the darkest deeds of ancient barbarism.

Sir, I affirm—and I feel that I can do so without fear of successful contradiction—that the provisions of this bill are contrary to the fundamental principles of our Government; and without regard to any express prohibitions of the Constitution, they are violative of those great rights of property, liberty, and life which the Government was founded to secure. When this Congress undertakes to trample upon and override the elementary principles of society, it saps the foundation-principles of our Government; and it requires no express restraining clause of the Constitution to forbid such an outrage. The provisions of this bill are inimical to those great doctrines of republican liberty which give vitality to the Constitution of the United States, and which our revolutionary fathers intended to hand down unimpaired as a priceless jewel to their posterity.

Sir, the act of March 3, 1863, to which this purports to be a supplement, made "any order issued by the President or under his authority a complete defense for any search, seizure, arrest, or imprisonment made, done, or committed, or act omitted to be done." This bill goes much further than that act. It not only dispenses with the kind of proof which was required by that act, but it substitutes a new species of proof. It authorizes the commission of trespasses that were not authorized by the act of March 3, 1863. This bill proposes to legalize "any search, seizure, arrest, or imprisonment made, done, or committed, or any acts omitted to be done during the said rebellion, by any officer or person under and by virtue of any order, written or verbal, general or special, issued by any military officer of the United States, holding the command of the department, district, or place within which such seizure, search, arrest, or imprisonment was made, done, or committed, or any acts were so omitted to be done, either by the person or officer to whom the order is addressed, or by any other person aiding or assisting him therein."

The act of March 3, 1863, was confined to searches, seizures, arrests, and imprisonments made by men claiming to have military authority and by virtue of the order of the President. This bill goes further, and protects from punishment any act done under "any order, written or verbal, general or special, issued by any military officer of the United States holding command of the department, district, or place." Under this bill the military officer commanding any town, though he be only a corporal, will be protected from punishment, though he may without authority have torn the wife from her husband and plunged to her heart the deadly knife of the assassin. If a man can show an order from any military authority, that order exempts him from all responsibility for any outrage, however heinous, which he may have committed. A private soldier can justify himself for rape, arson, murder, or any other outrage if he can produce the order of his superior officer.

In addition to that, sir, this bill proposes to legalize as proof that which is unknown to the laws of evidence sanctioned by the common law. A simple telegraphic dispatch, without any proof of its authenticity, is to be received as a defense against any charge. Is that the way in which the liberties of the citizen were intended to be secured by the Constitution? Was it ever contemplated by the framers of that instrument that such evidence should be accepted to screen and protect the midnight assassin from punishment for the gravest crimes of which humanity can be guilty?

Sir, the act of 1863 requires sureties in the State court for filing copies of the process and other proceedings against the defendant, and for his appearance and entering special bail in the cause, if special bail was originally required. This bill requires no surety in the State courts for filing copies of removal or entering special bail. The old act provides that the bail taken in the State court shall be discharged when the defendant's appearance is perfected. Therefore you deprive a man not only of proper remedy against those who undertake to inflict unlawful injury upon him, but you deprive him of that security which, under the law, has been handed down from the most ancient times. No special bail, nothing of the kind is required here, and the defendant gets clear of all bail. It does not require of him the bail that is required of all others in like cases. When a judgment is obtained against him all he has to do is to leave the jurisdiction of the court and no process can touch him.

Let me say, when the act of 1863 was passed it created great excitement in the country. There were men on this side of the House then, as now, who loved constitutional liberty, and who stood up and combatted the outrageous doctrine laid down in that act of Congress. But, sir, that act is tame in comparison to the bill which is now under consideration. If the fundamental principles of this Government will allow acts of this kind to be passed by Congress; if Congress has the constitutional power to take away the rights from our citizens to life, liberty, and property, without due process of law, then I say liberty will have flown from the luminous sphere of American freedom, never more to see its light again in this country; then the people will have closed their eyes to the teachings of ages, and only wait for shackles and chains to let them know that their slavery has begun. I, for one, am not willing to allow the vultures of despotism to crucify liberty afresh, and prey upon the bleeding vitals of a once free people, without protesting against it.

I lay down this broad proposition, and to that proposition I deny there can be any successful objection, that the Legislature of a State or of the United States is not omnipotent, absolute, and without control, although its authority should not be restrained by the Constitution or fundamental law. The people, according to the preamble of the Constitution, ordained that instrument to establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to them and their posterity forever. Now, the purposes for which the people enter into society determine the nature and terms of the social compact. This fundamental principle flows from the very nature of our free republican Government.

An act of Congress contrary to the first great principles of the social compact cannot be considered a rightful exercise of legislative power. The obligation of a law in Governments established on express compact and on republican principles must be determined by the nature of the power on which it is founded. It is against all reason and justice for a people to intrust a Legislature with such powers as contained in this bill, and therefore it cannot be presumed that they have done it. The genius, the nature, and the spirit of our Government amount to a prohibition of such an act of legislation as this, and the general principles of law and reason forbid it.

A law that punishes a citizen for an innocent action, or for an act which when done was in violation of no existing law; a law that destroys or impairs the private contracts of citizens; a law that makes a man a judge in his own case; a law that takes property from A and gives it to B; a law that authorizes the murder of innocent women, men, or children, the committing of rape, arson, robbery, or theft, or one that attempts to legalize such acts when done, is in violation of the social compact and the republican principles upon which the Government is founded, and is void, without any restraint in the organic law. *Ex post facto* law literally is a law passed concerning and after the fact or thing done or action committed. The prohibition in the letter is not to pass any law concerning and after the fact; but the meaning and intention, as construed by the courts, are that no law shall be passed after a fact done by a subject or citizen which shall have relation to such fact, and shall punish him for having done it. The following are *ex post facto* laws:

1. An act which was innocent when committed, and afterward made criminal.
2. One that aggravates the crime.
3. One that changes the punishment.
4. One that alters the rules of evidence.

I do not say that this is technically an *ex post facto* law under the constructions given to those words by the courts. Yet to declare that an act which was murder when committed was no offense at all, would appear to be *ex post facto* within the intent of those words.

The power to pass such laws under the denomination of bills of attainder and bills of pains and penalties was exercised and carried into effect by the British Parliament. They were legislative judgments and an exercise of judicial power. The advocates of such laws were stimulated by ambition, personal resentment, and vindictive malice. To prevent such and similar acts, bills of attainder and *ex post facto* laws were forbidden in our Constitution because the Parliament undertook to violate the fundamental principles of liberty. Although there was no written constitution to prohibit it the people of England saw that it was contrary to the fundamental principles of their unwritten constitution, and hence arose the rebellion of 1688 and the era of English liberty.

Since the memorable rebellion in 1069 against William the Conqueror, England has had forty-one rebellions, all growing out of the idea that the Parliament of England could exercise powers despotic, omnipotent, unlimited, and uncontrolled, merely because there was no written constitution which prevented it from carrying into effect the most despotic and outrageous acts of which it was susceptible; and any man who knows the history of England will bear me witness that because King John refused the great principles of the Magna Charta which guarantied to every man the right to life, liberty, and property, the British people assembled on the plains of Runnymede more than six hundred years ago and wrested from him the Great Charter from which our bill of rights is taken.

It is not necessary for me now to argue whether this is technically an *ex post facto* law, because there are certain fundamental principles laid down in the Constitution, one of which is that no man shall be deprived of life, liberty, and property without due process of law, which forbid the passage of this bill. Due process of law means judicial process; that there shall be an affidavit filed against the defendant; a warrant issued setting up the cause and accusation, and an indictment by the grand jury; a trial by a petit jury of his own district or neighborhood; the privilege of calling witnesses and cross-examining those that are brought against him; and the privilege of counsel for his defense.

These are the great principles which constitute due process of law, as laid down in the Constitution of the United States. Not one of these principles is guarantied or authorized to be exercised by any of the people on whom injury has been inflicted by the military authorities who have ridden over the people for the last four and a half years.

I will now refer to the case of Calder and wife *vs.* Bull and wife, 3 Dallas, United States Supreme Court Report, pages 388 and 397. In this case there is no dissenting voice. The opinion was given as early as 1798, only a very short time after the formation of the fundamental law:

"There are acts which the Federal or State Legislature cannot do without exceeding their authority. There are certain vital principles in our free republican Governments which will determine and overrule an apparent and flagrant abuse of legislative power, as to authorize manifest injustice by positive law, or to take away that security for personal liberty or private property for the protection whereof the Government was established."

Sir, will any man upon the other side of the House dare say to me that this bill does not protect those who have taken away the personal liberty and private property of citizens

of the United States, which, according to the decision of the Supreme Court of the United States, in 1798, the Government was organized to protect? The court further say:

"The Legislature may enjoin, permit, forbid, and punish; they may declare new crimes; and establish rules of conduct for all its citizens in future cases; they may command what is right, and prohibit what is wrong; but they cannot change innocence into guilt, or punish innocence as a crime, or violate the right of an antecedent lawful private contract, or the right of private property. To maintain that our Federal or State Legislature possesses such powers, if they had not been expressly restrained, would, in my opinion, be a political heresy altogether inadmissible in our free republican Governments."

The court say further:

"There is neither policy nor safety in such laws; and therefore I have always had a strong aversion against them. It may, in general, be truly observed of retrospective laws of every description, that they neither accord with sound legislation, nor the fundamental principles of the social compact."

It cannot be denied that this law is retrospective and retroactive. I put this question to the other side of the House. Could Congress, under the Constitution of the United States, pass a law that would authorize any military officer to enter the domain of a State, where her courts were in full operation and where the laws were in full force, and there, by virtue of any orders to be issued by him, order any citizen of that State to enter the home, the fireside, the domicile of a quiet and peaceable citizen and take him away, if you please, in the dead hours of the night, without any process of law, carry him to some prison, dungeon, or cell, and there incarcerate him to such an extent as some satrap who held a governmental office might see fit? It could not be done for this reason, that the Constitution says that no man shall be deprived of life, liberty, or property without "due process of law." Due process of law, as I before said, means judicial process.

And when by congressional action we authorize military men to enter the domain of a State and the domicile of a citizen and drag him from his wife and family under a mere military order, it is not a judicial process; it is depriving him of life, liberty, and property without due process of law. I appeal to lawyers upon the other side of the House, men whom I know to be men of sense, of integrity, and of judgment, honorable men, men for whom I have as high a respect as for any men upon this side of the House, would it be judicial process to deprive a man of the safeguards of life, liberty, and property, as laid down by our fathers, without the privileges of a hearing and trial according to law? Those safeguards of civil liberty are the heritages descending from the blood and valor of the fathers of the Revolution. They handed down to us the bright heritage of human liberty which I, in the fear of God, will stand here and sustain as long as the power of my voice will allow. Government was established for the protection of society, and it is not the business of Government to fashion and form society. When the Legislature of a State or of the United States undertakes to interfere with the elementary foundations of society, it is despotism and tyranny that ought to be resisted by the people and by the States with all the constitutional means in their power.

I cannot believe that there is any authority to pass such a bill as this. There is no power to authorize a man, merely because he wears shoulder-straps, to enter the domicile of a man in New Jersey or in the city of New York or in Harrisburg and arrest him in violation of the great rights laid down in the Constitution of the United States, and handed down to us by Magna Charta.

Now, in regard to the constitutionality of this bill, it has been decided by the courts of the different States, as I have opinions here to show, and as was shown by that learned lawyer, the gentleman from Ohio, [Mr. BINGHAM,] who had too much respect for the Constitution and law to vote for the civil-rights bill, that the civil rights mentioned in our bill of rights had no application to States, but only to the action of the Federal Government. This bill is based upon the action of the Federal Government in allowing officers who claim to be Federal officers to be protected by the production of the order under which they enter into a State and arrest such persons as in their judgment they may see fit.

I am in favor of and will vote for a bill protecting officers in the authority which they may exercise under the Government of the United States so far as it comes within the letter and spirit of the organic law of the land. I will lend a helping hand to the framing of any law by Congress, which is authorized by the Constitution, which may be necessary to give full effect to their acts properly done under the Federal Government. But when you say that persons may be imprisoned without due process of law, and held without any indictment, process, or affidavit, in places where the courts are open and the laws unobstructed, and outside of the land and naval forces, and without any right to be heard, even denying them that which two thousand years ago was the birthright of every Roman citizen, the right to know the nature of the offense with which he was charged, then, with all courtesy toward gentlemen on the other side, I must refuse to give my acquiescence or consent.

Let me present another argument to lawyers upon the other side of the House. The first amendment to the Constitution provides that "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof." Now, can Congress make a law respecting the establishment of religion? If not, can it authorize any Federal officer, by virtue of any order of a military commander, verbal or written, to proscribe any person in any part of the dominions of this country for his religious creed? Can any officer be authorized to refuse to allow any man to exercise the right given him by his Creator to worship Almighty God according to the dictates of his own conscience? That could not be done, because the Constitution says that "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof."

The Constitution also says that "the right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized." And in another place it says, "Nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall he be compelled in any criminal case to be a witness against himself; nor shall private property be taken for public use without just compensation."

Under this bill it is proposed to give indemnity to officers in Kentucky and in New Jersey and in other States, where the courts were open, and where all the avenues of litigation were free to every citizen, in their violation of every one of the principles which I have referred to as being embraced in the guarantees of the organic law, and which have existed in England more than six hundred years. This bill goes so far as to allow murder, rape, arson, and all the abominable crimes in the long category of crimes of ancient times. Sir, pass such a bill as this, and the enemies of freedom can exult over the downfall of those principles of liberty which our fathers have rendered venerable and valuable. Pass this bill, and we shall depart from all the principles of jurisprudence as initiated in this country more than eighty years ago; we shall overthrow the bulwarks of truth and justice, and invite the barbarism of former days to thunder at the gates of American liberty.

Sir, I am willing to protect men in all their lawful acts. But when you come to inflicting punishment upon private individuals; men who have done no wrong; men who happened simply to disagree with you upon the great questions which have agitated the country for four and a half years, I cannot give my sanction to it. If you will bring these individuals before courts, indict them, and convict them according to law, I will stand by the law. But I am opposed to the exercise of such arbitrary, unlimited, despotic, supreme, and omnipotent power as is given by this bill.

Why, sir, my own little State of New Jersey—a State that freely furnished her sons for the defense of the Union, and whose citizens have been foremost in the ranks; a State whose soldiers saved the capital of the neighboring State of Pennsylvania from capture by the rebel forces; a State whose citizens have always rallied for the defense of the Constitution; a State who sent her soldiers to lay down their lives on the plains of Virginia in order to protect the the Constitution and the Government—has had her borders entered by military men under the mere tap of a bell controlled by an official exercising here at Washington the power of a tyrant and a despot, who, exulting in lawless power, asked the British minister whether the Queen of England could wield such tyrannical sway over the liberties of her subjects. No, sir, the Queen of England could not exercise such power as this bill proposes to legalize. The common law of England protects the British subject against any such arbitrary power. In view of the liberty-defending principles of the British unwritten constitution, the cottage of the poor peasant is his castle. It may be mean and humble, and insufficient for his shelter against the storms; the wind and the rain may enter there; but the King of England dare not enter, because that obscure subject is under the protection of the law. If the tenement of the poorest man in England should be entered by the King himself without due process of law, the Parliament of that kingdom would rise in indignation, and the offender would meet a fate similar to that of Charles I, whose head was brought to the block.

Sir, peace has come; the war has ended, and I want tranquillity and happiness to pervade this whole land. "Let the dead past bury its dead." Let the transactions of the last five years be buried in oblivion. Let us begin an era of magnanimity and brotherly feeling; and let us all do what we can for the protection of the glorious flag of the Republic. Why should we seek to deny to men who have been incarcerated without authority of law that redress which any man subjected to such treatment would desire to have? Sir, an American citizen values nothing so much as his liberty; he feels that this is too sacred to be infringed without due process of law. The people of Kentucky and other States, where a system of cruel and wicked despotism has prevailed, desire that they shall have the right to obtain redress for their wrongs in a court of law, with an important judge and jury. Or, if you please, authorize the case to be carried, as this bill does, to the circuit or the district court of the United States, where there can be no prejudice or local feeling against the defendant. But, in the name of the Constitution, in the name of liberty, in the name of humanity, I ask you to allow to the man who feels himself aggrieved the right to have a suitable tribunal decide in a legal way whether his rights have been invaded.

Sir, shall men whose outrageous crimes are such that the enormities of Nero and Caligula become mild in comparison; men who have violated the dearest right of life, liberty, and property without even the sanction of a court-martial, be permitted to set at defiance the retributive justice of the law?

Why, sir, the laws of nature, irrespective of any human enactment, give a man the right to protect himself from the invasion of his personal liberty. By a law of nature handed down to us by the Ruler of the universe, if one man undertakes to violate the personal liberty of another that other has the right to defend himself.

Sir, this bill proposes to legalize and exempt from punishment acts which were crimes at the time when they were committed. The acts of trespass and robbery and false imprisonment

which this bill proposes to legalize were at the time of their commission offenses against the law and the Constitution.

Mr. Speaker, I yield to the gentleman from Illinois, [Mr. COOK.]

Mr. COOK. I demand the previous question.

Mr. TRIMBLE. I hope that the gentleman will not insist on that.

Mr. COOK. I must insist.

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

ENROLLED BILL SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

A bill (S. No. 54) to amend an act entitled "An act to incorporate the national military and naval asylum for the relief of the totally disabled officers and men of the volunteer forces of the United States."

EXCISE TAX ON CIGARS.

Mr. PAINE, by unanimous consent, presented a joint resolution of the Legislature of Wisconsin in reference to a modification of the excise tax upon cigars; which was referred to the Committee of Ways and Means.

FREEDMEN'S BUREAU.

The SPEAKER laid before the House a communication from the Secretary of War, transmitting, in compliance with a resolution of the House, report of the Commissioner of the Freedmen's Bureau of all orders, &c., from that bureau; which was referred to the committee on freedmen, and ordered to be printed.

HABEAS CORPUS—AGAIN.

Mr. COOK. I yield to the gentleman from Kentucky [Mr. McKEE] twenty minutes of the hour to which I am entitled, under the rules, to close the debate.

Mr. McKEE. Mr. Speaker, I only desire to make a few remarks on this bill because it is one which peculiarly affects the interests of my own people, those who during the war of the rebellion stood up in behalf of the United States.

Now, sir, I admire the coolness and sincerity with which the gentleman from New Jersey [Mr. ROGERS] who sits in my rear, pledges to this House the support of the Democratic party to all measures necessary to secure all the rights and privileges of the soldiers. I am glad to hear that declaration made that the Democratic party are willing in all time to come to pass all laws deemed necessary for the protection of those who engaged in the defense of the country. But the great difficulty lies right here. Since the beginning of the war the Democratic party has never decided anything was necessary to procure and guaranty protection for those engaged in crushing out treason.

What does this bill propose? Merely to allow those men who during the war have acted under orders from superior officers, from the President of the United States down to department commanders, and who have committed any acts which could be recognized under the laws of a State as illegal, to be protected in the performance of a duty which they were required to perform under their oath mustering them into the Federal Army. The question is whether we shall protect them from malicious persecution insituted and carried on in the several States by those who never had the interest of the country at heart, and who have taken every opportunity to assail, annoy, and trouble the soldiers of the Federal Army. It is a bill, sir, to give them that protection which the Government owes to them. I say that the Government is worthless unless it protects those men to whom it intrusted its own protection, and who saved it from the deadly stroke of treason. This simply protects them in the courts of the United States because the State courts have refused and do refuse to give that protection to these men. I contend, sir, that it is the peculiar province of the Government of the United States in its own courts to guaranty that protection to the officers and soldiers who served in any capacity in its service during the rebellion. There is where they are most likely to have their rights protected. There is where local prejudices are frowned down.

Mr. Speaker, in my own State law do we find the case existing to-day. And the same rule which applies to that State applies all over the country where the theater of war has been, or will as soon as martial law is removed. There to-day we have upon the records of the State courts the enormous amount of thirty-five hundred suits against Federal officers and soldiers upon the civil and criminal dockets, brought by the men who, during the late war, stood arrayed against the Government. They are harassing, annoying, and even driving out of the State the men who stood true to the flag by suits under the legislation and judiciary rulings of Kentucky. There no protection is guarantied to a Federal soldier. I hold in my hand a letter received this morning, one of forty on the same subject, in which it is stated suit has been brought against an officer for pressing a horse under the order of the department commander, and that he has been convicted, the judge instructing the jury that even the President could not protect him from liability to the owner of the horse for its value.

In the same court, and within the same week, in the cases brought there against a man who had been an officer in the rebel army, who had gone through the same country with these raiding bands of John Morgan, and had taken ten horses, the same judge instructed the jury that being a belligerent, and waging war against the United States, they could not find against him, that he had a right to do this act under the war power.

That is the rule in Kentucky, except in one solitary district, and the Legislature at its last session inaugurated means of removing that judge, simply because he dared to carry out this act of the Federal Congress.

This is the state of the case in my own State. It is all very well for gentlemen to talk about letting by-gones to be by-gones, allowing all these things to pass, and letting the dead bury their dead. Sir, we want none of these bitter and malicious feelings that have been brought on our country for the last four years to be stirred up anew. It is a very beautiful theory to say, "Let it all pass; let us forget every act that has been done." It will do very well for men that have been waging war against the country to destroy our institutions to ask that all their acts be forgotten. But the disloyal people are not willing to forget what the soldiers of the Federal Army have done even to sustain the flag and the honor of the country.

In my own State they preach the doctrine of forgetting all the past; and yet the moment a man returns to Kentucky from the southern confederacy, which has been crushed out, he at once seizes upon the first opportunity to harass in the courts of the State those who during the war have been engaged in defending the flag against the enemies of the country.

Now, sir, the act to which this is an amendment is called an act to suspend the writ of *habeas corpus* guarantying indemnity in certain cases to officers of the Army of the United States. The first section of this act, which the gentleman from New Jersey [Mr. ROGERS] characterizes in so odious language, is simply a reiteration of a section in the original act. It simply provides:

> That any search, seizure, arrest, or imprisonment made, done, or committed, or any acts omitted to be done during said rebellion by an officer or person under and by virtue of any order, written or verbal, general or special, issued by any military officer of the United States holding the command of the department, district, or place within which such seizure, search, arrest, or imprisonment was made, done, or committed, or any acts were so omitted to be done, either by the person or officer to whom the order is addressed, or by any other person aiding or assisting him therein, &c.

It only extends it to that class who are aiding and assisting. And the original act was passed by a vote of 90 to 30. I do not know how these gentlemen who now sit here on this side voted then, but I have no doubt that then they were, as now, willing to extend all the protection they deemed necessary, and that they did not deem that there was any necessity to have protection extended.

Now, sir, no man who has served in the Federal Army, or who has executed an order from a department commander, or even from the President of the United States, or at the command of the "tinkling bell" that the gentleman from New Jersey talks about, is protected or can be protected in the State of Kentucky. No matter who issues that order, even the President of the United States, the State courts have universally held that it is no protection to him; while at the same time they hold, as I have already stated, that those who made war against this Government are protected against prosecution for whatever acts they have done while marching under treason's banner.

These are the facts, and it is the duty of the Government to provide this remedy. If the State courts will not give protection, then it is incumbent on the Congress of the United States to provide it in the courts of the United States.

This bill allows appeals to be taken from the State to the Federal courts. The gentleman on the other side says this is all wrong, to strip the State courts of the right that properly belongs to them. The State courts of Kentucky have decided this act unconstitutional. They have allowed no appeal to be taken. Therefore we propose by this bill that appeals may be taken independent of that fact. My own State Legislature, at its recent session, passed an act which provided that an appeal might be taken from the decision of any court which authorized a transfer of a case from a State to a Federal court, thus overriding the jurisdiction of the courts of the United States by simple legislative enactment of a State.

A man who has been a soldier in the Federal Army returns to my own State under an order from the Secretary of War, sanctioned and ratified by the President of the United States. He is allowed to carry back with him, if he chooses, those arms that he has borne in defense of his country; and upon the information of any man there, he is brought up before a justice of the peace and fined five dollars, and the gun which he has paid for and has carried through the war is taken from him and confiscated. That is part of the law of Kentucky to-day, and it is against such evils as this, against such acts on the part of the Legislature, discriminating in favor of treason and against loyalty, that this act is intended to provide. We ask it as a protection to those men who periled their all in defense of the rights of our country. We ask it in favor of that gallant band of heroes who, all through these border States, left their homes and sacrificed everything they had in order to save this country, and now at the end of the struggle they are told there is no protection for them. Is this the part this great Government intends to play? Is this the way she intends to reward her scarred and war-worn veterans; at the end of the struggle turn them over to the tender mercies of those who sought the life of the nation?

Mr. SMITH. I would ask my colleague, as I am suffering a great deal from my lungs, and cannot well speak, if he remembers the case of Reid and Lenan, at Alexandria, in my district, and the circumstances under which those two Federal officers were put in jail, to refer to that case and give the facts.

Mr. McKEE. I am obliged to my colleague for the reference. I wanted to refer to that case, and it comes in here very appropriately. The gentleman from New Jersey [Mr. ROGERS] has talked about arrests and imprisonments without warrant of law. To-day the only two men in the State of Kentucky who are confined for offenses committed during the war are soldiers who served the Federal Government from the time the first gun was fired until the close of the rebellion. They are shut up under an indictment found by a grand jury composed of

men who during the war were engaged in treason, and a part of whom were confined at Camp Chase, in Ohio. They are shut up in jail for carrying out the orders of the department commander of the State of Kentucky. That is the only case in which men are imprisoned to-day in the State of Kentucky for offenses committed during the war.

Mr. HARDING, of Kentucky. Do I understand my colleague to say that those are the only two Federal officers who have been confined?

Mr. McKEE. I say they are the only two men who were in either the Federal Army or the rebel army who are now in prison.

Mr. HARDING, of Kentucky. Does not the gentleman recollect the cases of Colonel Woolford, one of the most loyal men in the State of Kentucky, an original Union man, who raised the first troops for the defense of the Federal Government, and of Lieutenant Colonel Jacobs?

Mr. McKEE. I answer my colleague that I remember those cases well. Colonel Woolford was shut up in prison for a violation of one of the Articles of War laid down and sanctioned by this body. He was arrested on that charge by order of the President.

I remember, also, the case of Lieutenant Colonel Jacobs, who was arrested while war was flagrant, because he had made declarations in a public speech which the commander of that department deemed and believed had a tendency to excite to rebellion. My statement is that to-day, when the war has ceased and gentlemen are saying here that there is not an armed rebel in the whole country, the only two men in prison in the State of Kentucky for offenses committed during the war are men who served in the Federal Army.

Mr. HARDING, of Kentucky. Will my colleague state for what offenses Colonel Woolford and Lieutenant Colonel Jacobs were imprisoned?

Mr. McKEE. The one for violating one of the Rules and Articles of War, and the other for uttering in a public speech language which the commander of the department deemed disloyal.

Mr. HARDING, of Kentucky. In regard to Colonel Woolford, what Article of War did he violate?

Mr. McKEE. That which forbids speaking disrespectfully of the President of the United States.

Mr. HARDING, of Kentucky. The President himself did not so regard it, and ordered his release.

Mr. McKEE. We all know that the late President of the United States was a very good-hearted man. I might state a little bit of history here. I went to the prison in the city of Lexington, where Colonel Woolford was, and saw him, and he said that he was sorry if he had done any wrong and that he desired to be loyal and true to his country, and meant no wrong. I went one hour from that time to the commander of the department and he released him without any order from the President. His release was a matter left to the discretion of the department commander, through the provost marshal general of said department.

Mr. HARDING, of Kentucky. Let me say a word on that point.

Mr. McKEE. My colleague will excuse me. We are not discussing the past. We are discussing the remedy for the present. My statement applies to to-day, when war has ceased, and not to men who were shut up when war was flagrant.

The SPEAKER. The gentleman's twenty minutes have expired.

Mr. CONKLING. Has the morning hour expired?

The SPEAKER. It has; but the House is executing the order that the main question be now put.

Mr. COOK. I will now yield to the gentleman from Ohio [Mr. GARFIELD] for a moment or two.

Mr. GARFIELD. I wish to state in confirmation of what the gentleman who just addressed the House [Mr. McKEE] has declared, that a case has lately come under my notice from his district of a soldier who served under me in that very district in 1861 and 1862, and who, under my orders, assisted in capturing a band of guerrillas and taking a body of rebels with arms in their hands and mounted on horses with the brand of the confederate States on their sides. That man is now indicted before the court, and held to answer for taking the property of these rebels by command of the officers of the United States. He is waiting to have his case tried, and if he should be taken before judges who were in sympathy with the rebellion, as many of them are, he will no doubt be, by the laws and rules of that court, punished for his obedience to orders in assisting in capturing the property of rebels with arms in their hands. And there are innumerable cases like that arising in that country. Now, one thing more, and I have done.

Mr. HARDING, of Kentucky. Will the gentleman yield to me for a question?

Mr. GARFIELD. I cannot yield even for a question, for I hold the floor, merely to make a statement, by the courtesy of the gentleman from Illinois, [Mr. COOK.]

Now let me say one thing further. Let me quote the remark of that distinguished man, late a Senator of the United States, now dead—Mr. Collamer—made by him at the Baltimore convention. When he was asked to introduce some resolution expressive of the right of the people to be tried by the civil courts, and not by the military, he replied, "Let us as soon as possible try to take some course that shall not make many things which have been done during the war precedents for the future." I have no doubt that many things were done, many trials were had, which could not be sustained in the courts of the United States. And here is the place to pass an act of indemnity to cover all the action of the officers of the Government which were done for the general good, and by authority or order of the President of the United States.

I am very glad that the distinguished gentleman from Kentucky [Mr. McKEE] has the courage to ask that this principle shall be applied to his State, and that we shall apply it to all the States of the Union, in order to shield every man who in the hour of our danger took some steps which perhaps the Constitution did not exactly warrant. I hope this bill will pass.

Mr. COOK. I yield now to the gentleman from Kentucky, [Mr. SMITH.]

Mr. SMITH. Mr. Speaker——

Mr. HARDING, of Kentucky. Will my colleague [Mr. SMITH] yield to me to ask a question in order to bring out the facts of the case referred to by the gentleman from Ohio, [Mr. GARFIELD?]

Mr. SMITH. I will yield, for I am always in favor of letting the truth come out.

Mr. HARDING, of Kentucky. Will the gentleman from Ohio state the name of the man he says is now indicted?

Mr. GARFIELD. I respect the brave man too much to do anything which will set the blood-hounds of secession on his track.

Mr. HARDING, of Kentucky. Will the gentleman state the court where the indictment has been found?

Mr. GARFIELD. I shall give the gentleman and his friends no clue by which they can put in jeopardy the life and security of my friend.

Mr. HARDING, of Kentucky. One other question.

Mr. SMITH. I can yield no further; I will now resume the floor. I had intended a few days ago to occupy some of the time of this House upon this subject; but I am not now in a condition to do so. I cannot, however, allow the occasion to pass without making one or two remarks in regard to what some men whom I know have suffered in Kentucky.

I wish to state *en passant* that the two men who were arrested and tried at the Alexandria court in the sixth district of Kentucky, were arrested for obeying an order issued by General Palmer, in the latter part of September, 1865. That order was that those two men, officers of the Union army, should go into the county of Campbell, and while preserving the peace and the dignity of the election, they should prevent any man who had been expatriated by the Legislature of Kentucky from exercising the elective franchise. It was provided by a law of Kentucky, in force at that time, that those who had given aid and comfort to the rebellion, and who refused to return to their allegiance within sixty days after the passage of that bill, should not be allowed to vote. That law was in force until last winter. That class of men had threatened to take possession of the polls and defeat the Union candidates, in order that they might control the destinies of the Commonwealth of Kentucky.

The war was over, and thousands of those men had returned, under the terms of surrender granted by General Grant to General Lee, and with the permission of the President of the United States. I remember distinctly on one occasion when I was addressing the people in my own district, that twenty-five of these men with their arms were present, and they swore that on the day of election no Abolitionist and no Republican should vote for me.

When these Union officers were arrested and carried before the court at Alexandria, they pleaded that they were only obeying orders emanating from the President of the United States and officers in command over them. That the court overruled. The second plea they made was that an appeal should be taken to the Federal court. The judge ruled that there was but one appeal known in the Commonwealth of Kentucky, and that was to the supreme court of that State. They were therefore tried in that court. The jury, all of them secessionists, all of them rebels, some of them having been in the rebel army, fined those men $4,000 apiece; and one of them was fined $2,000 for arresting a man who had been charged with being a guerrilla, carrying him in a carriage fifteen miles to Newport, and keeping him at his house twelve hours, when he was released, the evidence not sustaining the charge. Those men refused to pay the fines, were carried to jail, but they went there as they had gone through four years of war under the flag of the country and with their comrades around them. Those who had charge of them dare not put them in a cell, but gave them a comfortable upper chamber, where they were visited by their friends, ladies and gentlemen, and where they were fed well. At last, under a writ of *habeas corpus*, they were taken to Louisville and released on bail.

Now, sir, it is for the protection of such men that this bill should be passed. If Kentucky prefers to give protection to rebels the United States should give protection to the Union people of the country. Sir, I know that in another county of that State the grand jury indicted every Union judge, sheriff, and clerk of the election of August, 1865. In addition to that every loyal man who had been in the Army and had, under the order of his superior officer, taken a horse, was indicted. On the other hand, in cases where Union men made charges and offered their witnesses, not a single case was called, not a single indictment was found.

Sir, let me mention another fact, because, probably, this is the only way in which the truth of history can be exhibited. The last Legislature of Kentucky turned out a Senator from my district, a gentleman who had been elected by 1,150 majority in two counties. But he was not expelled till the expatriation law had been repealed and the rights of citizenship fully and completely restored to all the returned rebels of the State. When he returned home he began to canvass his district. A meeting was called to be held in the evening at a prominent school-house in that county. He was met upon the threshhold by forty or fifty men, one of whom took him by the hand. That man, it was accidentally discovered, held under his coat a bowie-knife with which he was about to stab that gentleman, Senator T.

R. Baker, who would have been assassinated but for the fortunate interposition of a friend who knocked down the miscreant as he was about to draw his knife. That assassin was carried to jail and tried; but in spite of the testimony of fifteen or twenty witnesses, the jury did not find a verdict against him. This circumstance was related to me by Senator Baker himself in this city night before last; and no one will dare to impugn the integrity of T. R. Baker.

Sir, I have said to those in Kentucky who have been disloyal and taken part in the rebellion, "Behave yourselves; show that you desire to be honest and just and law-abiding, and I have nothing to say or do against you. I will treat you properly. I will go as far as any man in the way of forgiveness. But when you raise the stiletto against a man like Baker; when you incarcerate good Union men and allow rebels to go free; then I wish you to understand I am in the ranks again, as I was before, with the 'red, white, and blue,' to whip you out and make you behave yourselves."

There is no nobler class of men in the world than the Union men of Kentucky. They have treated with the utmost forbearance and magnanimity the returned rebels, who have been allowed to come back to their homes and enjoy the privileges of citizens. But if these rebels want more blood and will have it, let them have it. No Union soldier from Kentucky has ever yet turned his back on the enemy.

Now, sir, I know the temperament of that people. I know it well, I know it thoroughly, and I believe this is the only remedy we have. We have no martial law in Kentucky. We will be satisfied when we can have this remedy, when we can have our appeal to the Federal courts and can go among men who will respect us and accord to us justice.

Sir, let me say, while these men were carried through Alexandria, Mr. Caldwell, a notorious guerrilla in Kentucky, charged with killing, not only men, but women, and with stealing more than twenty horses, stood on the corner of the street, with his hands in his pantaloons pockets, exulting over the defeat of these Union men. I am tired of that. Our Union people are tired of it. We say we will bury the hatchet if you will agree to do so; but if you will not, we will throw the scabbard behind us, and then

"Lay on, Macduff;
And damned be him that first cries Hold, enough!"

Mr. COOK. I now yield half of my remaining time to my colleague, [Mr. Ross.]

Mr. ROSS. How much time has my colleague left?

The SPEAKER. Twenty-two minutes.

Mr. ROSS. My colleague promised me three days ago to give me twenty minutes.

Mr. COOK. Very well, then; but that will give me no time for reply.

Mr. HARDING, of Kentucky. I ask the gentleman to let me introduce some evidence.

Mr. ROSS. I decline to yield.

Mr. Speaker, through the courtesy of my colleague I am permitted to occupy the attention of the House on this question for a few moments. I take no part in the Kentucky fight. I look upon the law in reference to its application to other parts of the country. If I understand it, it does in two important and material respects enlarge the act of 1863. First, it enlarges the provisions of that act so as to extend this law over every portion of the country; for if I am not mistaken in relation to the provisions of that act of 1863, they are confined to the places where the writ of *habeas corpus* has been suspended, and do not apply to other places in the Union. But according to the provisions of this act reported by the Judiciary Committee, they extend the provisions and operations of that law over every portion of the United States. That, sir, is one objection I have to it.

And secondly, it makes a material change in the provision of the act of 1863, which made it a defense in the courts of the country to have an order of the President of the United States. Why, sir, that act itself was an act which ought never to have been put upon the statute-books of the country, giving any man, be he President or any other individual, the right by his simple order to provide for any man's defense, an order by which any man should be exonerated.

Now, what is the proposition we have submitted in the provisions of this bill? Why, to extend that power to every officer in the United States without regard to his position or his rights. If this bill becomes a law of the land, why, then, sir, from the President of the United States down to the lowest officer, provost marshals, and even Government detectives, I suppose, are to have authority by their orders to exonerate any individual in the commission of any crime, however heinous, against the rights and liberties of the country. I know the disposition of this House is to enlarge the powers of military authorities, while it limits and curtails the rights of private citizens. Against that I enter my solemn protest.

It will be seen, sir, by reference to this bill, all the power which was conferred upon the President of the United States under the original bill is now conferred upon any officer of the United States; so that any provost marshal or corporal, or any subordinate whatever, may infringe upon the rights of any citizen, and the citizen is to be remediless. According to the provisions of this bill, the citizen is to have no remedy at all. Such is the plain, simple provision of the bill, as introduced by the Judiciary Committee, and attempted to be forced upon the consideration of this House.

Gentlemen have spoken of hardships. Distinguished gentlemen from Kentucky say that the officers must be protected. Sir, I have thought it was the duty of a Representative of the people to give a little attention to the protection of the rights of his constituency, however humble they may be. I supposed it was our duty to see that every citizen of the country received a fair trial by jury, and to see when his rights were invaded by any person, however high he may be, that he should be protected. But the officer is to be protected; and the man who has been run over and trampled upon with impunity has no rights to be respected, according to the judgment of this House.

But the gentleman from Kentucky [Mr. McKee] says that the courts disregard the law of 1863. Why, sir, under the old practice we used to have different remedies from what are provided in this bill. We used to think when a judge decided against us that the true remedy was by writ of error or an appeal to some other court for the purpose of having the case reviewed. But in these latter days new light has broken upon the country. This bill proposes that if a judge decides against the constitutionality of this law he is to be tried and fined, and he is to have double costs assessed against him. Instead of taking an appeal, or by writ of error carrying the case into some other court, the judge who under the solemnity of his oath has declared the law unconstitutional is to be tried and fined.

This is a very summary way of disposing of cases of this kind. Why, sir, we need only the addition of the Freedmen's Bureau bill to make this perfect. With that added it would work admirably. According to that negroes were entitled to be among the military officers who were to try white men; so that under the operation of the two bills together a negro might sit upon the rights of these judges, might take a judge from the bench, try him, fine him $1,000, and incarcerate him.

Sir, the State of Illinois has not been exempt from these encroachments upon the rights of its citizens. A short time ago, in the district of one of my colleagues, one of the ablest, purest, and most distinguished judges of the supreme court of the State was taken by force by a file of soldiers, because he gave a decision that was disapproved by a military gentleman.

And as gentlemen have alluded to cases of this sort, I will give one or two that have occurred within my own knowledge. A year or two ago, three honest, quiet, law-abiding citizens, in the county of Macdonough, in Illinois, were taken one night by some of these petty officers to St. Louis and put in prison. The people had to send and apply to a distinguished citizen before they could get the men released. And when the facts came to be made known it was ascertained that one of these men swore against one of the provost marshals that he had been guilty of stealing something a year or two before, and so the provost marshal took this method of visiting his private vengeance upon these honest, law-abiding citizens by taking them out of the State.

Mr. SMITH. I would ask the gentleman if in 1861 and 1862 he heard of a distinguished loyal man in the city of Charleston by the name of Pettigru, who was taken to jail——

Mr. ROSS. I decline to yield.

Mr. SMITH. And there permitted to linger and die; and when he was asked whether he would swear allegiance to the southern confederacy, said no, he would support the Constitution of the United States and die like a man?

Mr. ROSS. I did not give way for the gentleman for any such statement.

And now I will give another case. There was a sick soldier in my county who came home on leave of absence. On reaching home he found that one of these provost marshals had been paying rather too much attention to the soldier's wife, and took exception to it. Well, the provost marshal became indignant, rallied his forces and had the soldier arrested, intending to send him down to the front in order to get him out of the way while he continued to pay his addresses to the soldier's wife. But unfortunately he shot and crippled the man. Now, should he have no remedy? Sir, an honest jury in my own county, with an honest prosecuting attorney and an honest judge, sent that provost marshal to the penitentiary. That, sir, is the proper remedy in such a case.

But another case. A soldier came home to Mason county with a discharge on account of disability. A short time before the November election the provost marshal in that district concluded it was better to have this man out of the way as he was likely to vote the Democratic ticket. So he arrested him and examined him and decided that his discharge was not according to the regulations. Well, after keeping him a week or two and taking him to Springfield he came in collision with an officer who had more brains than himself, who declared that the discharge was regular and proper. And when I left home there was a case pending in one of the courts against that provost marshal for false arrest and imprisonment.

Now, according to this law, you wipe out the complaint or cause of action, remove it entirely, and leave no remedy, and the illegal acts of these petty officers are to be sustained by act of Congress, while individual rights are to be trampled under foot. Sir, I shall give my sanction to no such provision as this.

But the gentleman from Kentucky says that some of his constituents have been robbed of their horses, and they want pay for them; and he wants Congress to interpose and prevent people from stealing horses. Why, sir, according to this bill it is only necessary to have an order from some officer to do anything you please. Suppose one of his constituents should steal a horse, all he has to do is to get the provost marshal to certify that he ordered him to do it, and according to the provisions of this bill he has a perfect defense.

But, sir, it is not confined to an order in proper form. A certified copy of an order, furnished by the provost marshal, authorizing a person to commit a most egregious offense stands as a defense between the man arraigned and justice. I ask if this is to be tolerated in a free country, if we will submit to things like these.

But it even goes further; it does not even require a copy of an order—a telegram is sufficient, and if it has been lost, evidence of the loss is sufficient. Now, these provost marshals, scattered as they are through the country, can

telegraph from one county to another to do this act or that, and the offense is all wiped out by this law.

Having thus called the attention of this House to the provisions of this bill, I propose to say no more. I have not intended to elaborate them. I expected as a matter of course that the gentlemen on the opposite side would vote for the bill or against it on the principle enunciated by the gentleman from New York [Mr. CONKLING] yesterday, namely, that they would vote against everything that we on this side voted for, because they did not want to be found acting with us. I am not surprised that that speech does not appear in the Globe, and that the gentleman proposes to revise it before it goes to his constituents.

Having said this much, I yield the remainder of the time to my colleague, [Mr. COOK.]

Mr. COOK. I shall proceed very briefly to reply to the various points made by gentlemen who have opposed this bill. If I had ever doubted whether the bill ought to pass, all such doubts are entirely removed when I see how weak are the assaults that able men have been able to make upon it. Let us look for a moment at the evil that is sought to be remedied. In the State of Kentucky the popular sentiment was greatly divided during the great rebellion. A very large number of the citizens of that State, after exerting their utmost influence to carry the State into the confederacy, did join the rebel military organizations. The citizens of Kentucky were represented both in the Congress of the Union and the rebel congress, and fought each other on her soil, the one side for the Union and the other for the confederacy. It must be apparent to every one that such a contest must have been one of exceeding bitterness. All the passion of which our nature is capable was aroused and excited, and a fury was added to the strife, such as only arises when a man's foes are those "of his own household;" and after the war had continued with varied success upon Kentucky soil for four years, and when the rebels were forced to submit, the feelings of bitterness and hate which had been increasing and becoming intensified during the long and deadly strife were neither eradicated or subdued. In many portions of the State the majority of the people had sympathized with and given aid and comfort to the rebellion, and when the actual war was over the feelings of hatred with which they regarded the Union soldiers and officers yet remained. In the rapid march of the armies, both national and rebel, across the State of Kentucky, it was necessary that horses should be impressed, that forage should be gathered, and army supplies taken wherever they could most readily be found. Had not these means been resorted to at the time Bragg's army invaded that State, and on other similar emergencies, the result of the contest in that State might have been greatly different from what it was. Now, the simple question raised by this bill is, shall the officers and soldiers who, acting under the authority of their commanding officers, arrested guerrillas and seized horses and supplies for the use of the Army, be protected from individual responsibility therefor? This bill proposes to protect not the commanding officers who issued the orders, but the subordinate officers and soldiers who executed them, and who were bound to execute them.

The gentleman from Kentucky [Mr. HARDING] insists that a soldier is not always bound to obey military orders; which means, I suppose, that he may, after the order is given, have time given him to reflect and debate upon it, and then, if in his judgment it is not a proper order, he may refuse to obey. My opinion is that in time of actual war when the safety of an entire army depends upon prompt obedience, that time for discussion and deliberation on the part of the private soldier would be very brief. The question comes back, will we protect the men who executed the orders of the Government or will we suffer them now to be ruined because they have stood by the Government in this crisis? The entire point of the argument of the gentleman from Kentucky was that the State authorities would afford to these men proper protection. Why, sir, it is palpable that in some portions of the State of Kentucky, where the rebel element preponderated, the feeling of the majority of the people toward active Union men who have borne arms in defense of the country is such as would disqualify them from sitting as jurors in cases affecting such Union men, especially in cases into which political questions must necessarily enter. But the great principle for which I contend is, that the Government should protect its officers in executing its laws; to abandon them is wrong and weak. It is not a question affecting Kentucky only or mainly; when the military control shall be withdrawn in every southern State, the same questions will arise. No Union man who has served his country can live in those communities unless protected by his Government. All such suits are promptly disposed of by the military in those States now. But the magnitude of the question may be understood from the fact that in Kentucky, where the military cannot interfere with the courts because the State government has not been overthrown by the rebellion, fifteen hundred suits——

Mr. McKEE. Thirty-five hundred suits.

Mr. COOK. The gentleman from Kentucky says thirty-five hundred suits have been brought against men for acts done under military orders, and whatever may be said about the duty and power of the State courts to protect them, it is simply a fact that they are not protected, and it is this fact with which we have to deal. It is not safe to intrust the question whether Union men shall be protected from punishment for acts done by authority of the Government to State courts and juries in those States where the masses of the people were engaged in rebellion. The power is only wanting, not the will, to punish these Union officers and soldiers for their action during the war. Shall we give them the power?

[Here the hammer fell.]

Mr. BAKER. As my colleague has surrendered nearly all his time to gentlemen from Kentucky, I move his time be extended ten minutes.

Mr. HARDING, of Kentucky. I will not object to the extension of time if the gentleman will allow me to introduce a little documentary evidence and make some little explanation in regard to it.

Mr. COOK. I would like to have ten minutes' further time, but I have no bargains to make. I withdraw the motion to recommit.

Mr. HARDING, of Kentucky. I should like to introduce some documentary evidence, but I will not object to the extension of time asked.

Mr. COOK. The gentleman from Kentucky says that the proposition is unconstitutional, and he called upon me for the clause in the Constitution upon which I placed the authority to pass this bill. I now cite it for the gentleman. The eighth section of the first article of the Constitution provides that Congress shall have power to provide for calling out the militia to execute the laws of the Union and to suppress insurrection, and section two of article three provides that the judicial power shall extend to all cases arising under the Constitution and laws of the United States.

It was Democratic in 1833 to enact that all revenue officers and all persons aiding and assisting them in the execution of the duties of their office should be entitled to a trial in the United States courts when charged with injuring citizens of a State in the execution of the revenue laws. That law was passed by a Democratic Congress and approved by President Jackson. It is exceedingly strange that what was constitutional and Democratic then should be unconstitutional and anti-Democratic now. But says the gentleman from Kentucky the law of 1833 related to the collection of the revenue. But will he seriously contend that it is constitutional to give the Federal courts jurisdiction to try men for acts done under the revenue laws of the United States and unconstitutional to give the Federal courts jurisdiction to try men for acts done under the laws which were enacted to suppress the rebellion? That question has been passed upon; the law of 1863 gives the jurisdiction. This bill gives no new jurisdiction; but if it did, the acts of 1833 and 1863 are both undeniably constitutional. The wonder is this, that the question should be raised by men who claim to be the representatives of the men who enacted the law of 1833—Jackson men condemning one of the leading measures of General Jackson's administration.

But it is said that this is an *ex post facto* law. I always supposed that an *ex post facto* law was one that imposed a new punishment for an offense committed before the passage of the law, and that it did not apply to remedies, and that it was clearly competent for the Legislature to change the remedy in any case, and to take away the remedy entirely, except in cases where such repeal of the remedy would impair the obligation of a contract. This I understand to be the law. But the question whether this bill is retroactive does not arise fairly. Upon its face this act is precisely like the acts of 1833 and 1863. Both laws provided for cases that had occurred before as well as for those that should occur after the passage of the bill. If this bill is retroactive, those acts are. But this is all aside from the real question. The act of 1863 and this act are merely designed to regulate and define the evidence. It is admitted that any act done under the authority of the Government of the United States in suppressing the rebellion does not subject any man to personal liability. This principle is distinctly stated by the gentleman from Kentucky. Now, this bill and the act of 1863 only provide that the order of a commanding officer commanding an act to be done shall be conclusive evidence that the act was done under the authority of the United States, a principle as old as the courts. A writ fair on its face was always a full justification to the officer executing it, however improvidently issued, and a man should be protected from personal liability for acts which he was compelled to perform by military order. The cases cited by the gentleman from Kentucky of men who had been killed wantonly and unnecessarily by men who were ordered simply to make an arrest have no application. The military order justifies only the act which is ordered to be done, not an excess of force. In the case stated an arrest could be justified, but not an unnecessary killing.

It is said that this bill greatly extends the act of 1863. That the order of the President should be a justification, but not the order of a commanding officer; or, in other words, that the general who has the order of the President shall be protected, but the subaltern or private who acts and must act under the order of his military superior shall not be protected. If this be so, it is wrong. We should afford the same protection to the subordinate officer or the private soldier in executing the orders of his commanding officer as is given to the general who is executing the direct order of the President.

Upon what principle of equity is it that we protect the man who is able to protect himself and leave thousands of poor men who have fought for the Union, and whose property has been wasted, and whose homes destroyed by rebels, defenseless in the power of men who are as much their enemies now as when they stood opposed in the strife of war?

Mr. LE BLOND. Will the gentleman from Illinois permit me to ask him a question?

Mr. COOK. I have no time to answer questions.

Mr. LE BLOND. I simply wish to call attention to the ninth Article of War.

Mr. COOK. But I have no time to respond, and must hasten with what I desire to say. Sir, thousands of subaltern officers and private soldiers who, living in the southern States, have stood by the old flag executing the military orders of the Government in hostile communities, have been prosecuted in the courts, and are now threatened with punishment under legal sentence. I repeat, as I said in the outset, that the only question involved in this bill is whether

the Government of the United States will protect the men who were engaged in executing its laws during the rebellion; and whether jurisdiction will be given to courts where such protection can be made effective. And thousands of Union men in the South who have fought for the Union are anxiously awaiting the answer.

The question then recurred on the substitute reported by the committee, and it was agreed to.

The bill as amended was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

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

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

Mr. HARDING, of Kentucky, demanded the reading of the bill.

The bill was read.

Mr. ROGERS called for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 112, nays 31, not voting 40; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Barker, Baxter, Beaman, Bidwell, Bingham, Blaine, Blow, Boutwell, Bromwell, Broomall, Buckland, Bundy, Reader W. Clarke, Conkling, Cook, Cullom, Delano, Deming, Dixon, Driggs, Dumont, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Abner C. Harding, Hart, Hayes, Henderson, Hill, Holmes, Hooper, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbell, Hulburd, Ingersoll, Jenckes, Kasson, Kelley, Kelso, Ketcham, Kuykendall, Laflin, Latham, George V. Lawrence, William Lawrence, Loan, Lynch, Marston, Marvin, McClurg, McKee, McRuer, Miller, Moorhead, Morrill, Morris, Moulton, Myers, Newell, Noell, O'Neill, Orth, Paine, Perham, Phelps, Pike, Plants, Price, William H. Randall, Raymond, John H. Rice, Rollins, Rousseau, Sawyer, Scofield, Shellabarger, Sloan, Smith, Stevens, Stilwell, Thayer, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Warner, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Williams, James F. Wilson, Windom, and Woodbridge—112.

NAYS—Messrs. Ancona, Bergen, Boyer, Brooks, Chanler, Coffroth, Dawson, Eldridge, Glossbrenner, Grider, Hale, Aaron Harding, Hogan, Edwin N. Hubbell, James M. Humphrey, Jones, Kerr, Le Blond, Marshall, McCullough, Nicholson, Samuel J. Randall, Ritter, Rogers, Ross, Sitgreaves, Strouse, Taber, Thornton, Trimble, and Winfield—31.

NOT VOTING—Messrs. Benjamin, Brandegee, Sidney Clarke, Cobb, Culver, Darling, Davis, Dawes, Defrees, Denison, Donnelly, Eckley, Finck, Goodyear, Griswold, Harris, Higby, Hotchkiss, James Humphrey, Johnson, Julian, Longyear, McIndoe, Mercur, Niblack, Patterson, Pomeroy, Radford, Alexander H. Rice, Schenck, Shanklin, Spalding, Starr, Taylor, Francis Thomas, John L. Thomas, Henry D. Washburn, Whaley, Stephen F. Wilson, and Wright—49.

So the bill was passed.

During the vote,

Mr. HILL stated that his colleague, Mr. DEFREES, was paired on this and all similar subjects with Mr. SHANKLIN.

The vote was then announced as above recorded.

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

The latter motion was agreed to.

MESSAGE FROM THE PRESIDENT.

A message in writing was received from the President of the United States, by Mr. W. G. MOORE, his Secretary.

The SPEAKER laid before the House a message from the President of the United States transmitting, in compliance with the resolution of the House, a report from the Secretary of War as to the number of men in the regular and volunteer service; which was referred to the Committee on Military Affairs, and ordered to be printed.

TAXING "MONEY ON HAND."

Mr. CONKLING. I am directed by the Committee of Ways and Means to report a bill declaring money on hand not exempt from taxation.

The bill was read a first and second time.

The bill provides that no exemption from liability to State or municipal taxation shall by virtue of any act of Congress be held to extend to money on hand.

Mr. CONKLING. Mr. Speaker, a resolution on this subject introduced by the gentleman from Ohio [Mr. SPALDING] was referred to the Committee of Ways and Means, and this bill is the committee's response. The necessity for the resolution and for the bill is supposed to arise under the phraseology of existing acts of Congress and particularly that of June 30, 1864. I call the attention of the House to the language of that act. Section one provides that all bonds, Treasury notes, and other obligations of the United States shall be exempt from taxation by or under State or municipal authority, and section thirteen in defining those words declares that the words "obligations or other securities of the United States" used in this act shall be held to include and mean all bonds, coupons, national currency, United States notes, Treasury notes, fractional notes, checks for money of authorized officers of the United States, certificates of indebtedness, certificates of deposit, stamps and other representatives of value, of whatever denomination, which have been or may be issued under any act of Congress. Notes of national banks, and United States notes, "legal-tender notes," so called, held as money, may be considered embraced within this exemption.

The allegation is that the statutes of Ohio and of other States which authorize the assessment and taxation of "money on hand" are defeated by these provisions, because they allow a tax-payer to put his "money on hand," deposits in banks or the like, in the form of United States notes or notes of national banks, and thus bring it technically within the exemption I have referred to.

The purpose of the present bill is of course not to affect existing securities held as such, but to leave them as they are, exempt from taxation, thus maintaining inviolate the public faith, but to reach "money on hand." It not having been the design or understanding that money as such should be withdrawn from taxation by the States, by the action of Congress, it is deemed warrantable and right to remove a pretext for shunning liability to respond to the requisitions of local authority. Unless further information or explanation is required I will demand the previous question.

Mr. STEVENS. I desire to ask the gentleman a question.

Mr. CONKLING. I withdraw the previous question to hear it.

Mr. STEVENS. At the time we issued the legal-tender notes by the law the man who received legal-tender notes was entitled to hold them free from taxation if I understand the law. Now, the only difficulty in my mind is whether it is competent for or fair in Congress to alter the law in regard to our obligations.

Mr. CONKLING. That is a very fair and very cogent criticism, because it goes to the question whether we are not violating the public faith in passing such a bill as this. The answer to it is this: the true intent and meaning of Congress was not to exempt money, but, on the contrary, to confine the exemption to the securities of the United States—securities which were bought and held as investments—not to extend it to circulating medium passed and used solely as currency. In most of the States, or at any rate in several, no claim has ever been set up that the exemption did extend to money, although it might be in the form of national currency or United States notes; on the contrary, the assessors have proceeded, nobody objecting, to assess money, if it was money, no matter in what form. But the gentleman from Ohio [Mr. SPALDING] says that in his State such a construction is put upon the acts of Congress that they are held to mean, not only that United States notes held as money, but notes of national banks are above and beyond State taxation, so that the tax-payer has only to exchange his money or property into notes of the national banks or Federal money and all taxation is evaded.

No such thing was meant; no such thing was believed or relied upon by any one; no such idea was acted on by the commercial community; it is a mere accident; and the bill which we propose is simply to define and render certain what was, beyond all question, the original meaning and the whole of it.

Let me remind the House what the object was in declaring in its acts the immunity from taxation of Federal securities originally. Whether an act of Congress making such a declaration or omitting it alters the case one way or the other is not the question, so I say nothing about that. But whether the immunity inheres by virtue of the Constitution or is derived from the action of Congress, it is one of the incidents, one of the unfortunate consequences of raising money upon the obligations of the United States.

In order to float our bonds they must be favored; they must be free from burden by the States; thus they are rendered valuable and salable; thus buyers are attracted and induced to advance their money. This was and is the argument. Does this argument in law or reason apply to money, to currency which is only received in payment and uttered in payment? Does it apply to money more in the shape of lawful paper money than of lawful metallic money? Why "greenbacks" more than other money? Their exemption, their immunity, their special value consisted in the fact that they were made like gold and silver a legal tender in the discharge of every pecuniary obligation. It was this special quality and virtue, and this alone, that characterized them and made them the petted creatures of the statute, and the idea of clothing them with the insidious facility of passing from hand to hand and carrying with them a cloak with which to cover up other property from the jurisdiction of the States, never entered into the intention of Congress as expressed——

Mr. LE BLOND. If the gentleman will permit me, I desire to ask him a question.

Mr. CONKLING. With great pleasure.

Mr. LE BLOND. We desire upon this side of the House to go for the gentleman's proposition. We believe it to be right. But we are desirous of knowing whether in the event the Democrats upon this side of the House vote for his proposition, he will do as he did upon the loan bill, turn round and defeat it because the Democratic party are in favor of it?

Mr. CONKLING. Will the gentleman tell me how good a joke must be to bear repeating three times in two days? If I knew the value of a joke which one lends to another after it has been twice cracked, I might answer the question, but without that information I am loath to attempt a response.

Mr. LE BLOND. The gentleman did not answer my question yesterday. We want him to answer it to-day.

Mr. SPALDING. Will the gentleman from New York yield to me for a moment?

Mr. CONKLING. I yield to the gentleman from Ohio, holding the floor, however, for the purpose of demanding the previous question.

Mr. SPALDING. I am satisfied with the modified form in which the Committee of Ways and Means have attempted to carry out what I asked the House to consider on a former occasion. I am satisfied with the bill as it stands, and I think it ought to become a law.

I desire to say that the practice has been in my State for many years, some time during the month of April probably, to send round assessors and take lists of the taxable property, and one of the items is money on hand, money in pocket, or money in bank subject to check.

Now, this practice has never been interrupted as yet, but members of our Legislature, which is now in session, hearing that we had passed a law last year that would interfere with this practice of taxing money on hand in the shape of United States notes, desired me to introduce some measure here that would call for legislation explanatory of the subject and providing that they may have the same right which has existed heretofore of taxing money on hand.

This measure accomplishes all they desire and all I had in view the other day.

I wish to say, in addition, that I can see no reason why any member on this floor should object to the passage of this bill. The public faith has never been pledged to any man or set of men to exempt from taxation money on hand. Now, if a man's horse is subject to taxation in one of the States, and that horse is sold, and the value taken in greenbacks, should not the greenbacks be subject to taxation as well as the property that has been converted into money? Greenbacks never passed into the hands of any one with the idea that they would be exempted from taxation. They were taken merely as currency of the country. Not so with our bonds and with the other securities of the Government. Their money had been parted with and invested in securities on the faith that they should not be taxed, and that was an inducement whereby they were led to part with their money.

Now, we seek to let the States, whatever they may make it their policy to tax, have the privilege of taxing greenbacks, as they have been accustomed to tax the notes of the State banks in hand, in the pocket, or in the vaults of a bank subject to check. That is all.

Mr. HULBURD. Will my colleague yield to me for a moment?

Mr. CONKLING. I will, for a moment.

Mr. HULBURD. I rise to make a statement that is personal to myself; and as I have not very often trespassed on the time of the House, I hope I shall be indulged for a moment.

Last week I made some remarks on the subject of the loan bill, and in opposition to it. In consequence of that one of the New York papers, the Tribune, has thought proper to publish an article in respect to me; and as the article is short, and as they have selected me as an unworthy representative of those who oppose that bill, I ask the indulgence of the House while I read the article.

The SPEAKER. Is there objection to the gentleman proceeding?

No objection was made.

Mr. HULBURD. The article is as follows:

"MR. HULBURD ON FINANCE.—We take all reasonable precautions against astonishment, and yet Mr. HULBURD'S speech on the finances has amazed us—not that such a speech should be made—there are several members from whom we could have heard of such a speech without surprise, but not from CALVIN T. HULBURD, whom we have always tied to as a champion of honesty and solvency in finance. Just consider this passage."

The passage in my speech to which he refers is the following:

"Authorize him to give public notice, and require him to be in readiness, according to notice, to issue bonds running a fixed term of years in exchange for these unfunded obligations, specifying the kind, the amount, the priority, and the time of presentation. If it is found Government bonds can be advantageously placed in larger amounts than the interest-bearing liabilities, then, and not until then, let the non-interest-bearing legal tenders be taken in hand by the Secretary, due public notice being given of the intention. Such a course would enable every business man to know what Government contemplated, and to arrange his business and engagements accordingly."

He then goes on to say:

"Does Mr. HULBURD take the Secretary of the Treasury for a born idiot? If not, how can he imagine that that officer will begin by contracting the currency, thus creating a stringency in the money market, and so rendering it impossible to place new bonds, just when he is attempting to convert nearly one billion of short-time, interest-bearing obligations into long bonds? If not, what can he mean by talking as above? Why not propose that the Secretary shall not have power to take all the long bonds himself at ten per cent. above their market value?

"Hear him again:

"'He objected that the bill continued in peace the vast war powers of the Secretary over the currency and the business of the country. He thought the Secretary should give public notice of the kind and amount and the priority of presentation of the liabilities to be retired.'

"That is to say: the Secretary should always redeem the dearest instead of the cheapest securities in market, and should so act as to run up the price of any description of the national debt that he wishes to redeem and cancel. We defy any man who knows even the A B Cs of finance to say that this would not be the precise and necessary effect of the Secretary's giving such 'public notice' as is here demanded. If Mr. McCulloch were to-morrow to give notice that he would proceed next month to purchase and cancel the interest-bearing Treasury notes, or the certificates of indebtedness, or any one description of the public debt, that description would inevitably be rendered dearer and more difficult to purchase by that notice. To adopt Mr. HULBURD'S suggestion on this point would thus cost the country many millions of dollars. And for what?

"As to the Secretary's 'vast war powers' they will cease when our debt is funded and specie payments resumed. We had counted confidently on Mr. HULBURD'S aid in effecting that most righteous consummation. That we are to encounter instead his opposition is a painful surprise that we receive 'more in sorrow than in anger.'"

Now, Mr. Speaker, I rather like Mr. Greeley's verdancy, as well as his vigor of attack. I do not think it is particularly unpleasant. I admire him as the champion of American interests. But when he says, as he did in the issue of his paper on yesterday, that this House are now taking steps to resume specie payments forthwith, and that we might have done so last July with safety if we had only been willing to do so, I think he goes a little too fast.

If he wishes to jump on a horse before it is saddled and bridled, or even before it has had any training, and ride at once to specie payments, I can only say that it will not be the first ride he has taken when he came to grief, with those who followed him. I recollect one celebrated ride taken by a person on the other side of the Atlantic, and which has been celebrated by Cowper in immortal verse. We all recollect the cry of "On to Richmond;" we all know how disastrous that was, and the effects of it have hardly yet died away. Are we now to hear another cry of "On to specie payments," irrespective of the results that may follow that course? Sir, the hum of your millions of spindles in New England will cease, and my friends from Pennsylvania may not merely bank up their furnace fires, but they may put them out if we go on in the rapid way urged by Mr. Greeley. The commercial interests of the city of New York are threatened with destruction, and all our interests are staggering under the present condition of things, and yet this editor charges men with being idiots because they are not willing to ride as recklessly toward specie payment as he wishes.

I recollect being in New York, in a crowd that stood around the Tribune office, at the time the editor was elected to Congress. When the crowd got around that famous corner on Nassau street, some one asked Mr. Greeley, "How about the election?" He made this significant remark: "I believe it is all right in reference to me." Instead of saying how the city had gone, or how the State had gone, it was more important in his estimation to say that it was all right in reference to him. And so I suppose in reference to the resumption of specie payments, it will be all right in reference to him.

There is such a thing as a man going too fast. Mr. Greeley once took a ride on the Pacific coast, and was then pretty much in a hurry, as he seems to be now. I do not see my friend from Ohio [Mr. ASHLEY] here now, the one with the huge mass of capillary adornment on his head, covering a large brain and a stout heart. I would ask him about that ride, if he was here, as he has been over the same ground.

I do not know that the Speaker of this House can write poetry; I have never been told that he is addicted to writing poetry. But he has been over the same ground where Mr. Greeley took that wonderful ride, and I think when he hears the piece read, which I ask the Clerk to read, descriptive of that ride, he will at least feel some poetical sensations.

I ask that the piece which I send to the Clerk's desk be read as a pleasant illustration of the effect of too fast riding; not out of any malice toward Mr. Greeley, for I entertain no such feeling toward him.

Mr. GARFIELD. All this may be exceedingly pleasant, but I would ask if it is in order, under the plea of making a personal explanation, for a member to make an attack on a man in no way connected with this House?

The SPEAKER. The gentleman from New York [Mr. HULBURD] asked his colleague [Mr. CONKLING] to allow him a portion of his time to reply to an attack made upon him, as he stated, in the New York Tribune. The Chair stated the question distinctly to the House, and there was no objection made.

Mr. GARFIELD. Does this come out of the time of the gentleman from New York, [Mr. CONKLING?]

The SPEAKER. It does.

Mr. HULBURD. I merely ask to have the piece read.

Mr. WENTWORTH. There is an article in the New York Tribune about me which I should like to have read. [Laughter.]

Mr. HULBURD. Let the Clerk read what I have sent up.

The Clerk read the following piece, being frequently interrupted by the laughter of members:

HORACE GREELEY'S RIDE TO PLACERVILLE.

When Mr. Greeley was in California, ovations awaited him at every town. He had written powerful leaders in the Tribune in favor of the Pacific railroad, which had greatly endeared him to the citizens of the Golden State. And therefore they made much of him when he went to see them.

At one town the enthusiastic populace tore his celebrated white coat to pieces, and carried the pieces home to remember him by.

The citizens of Placerville prepared to fête the great journalist, and an extra coach, with relays of horses, was chartered of the California Stage Company to carry him from Folsom to Placerville—distance forty miles. The extra was in some way delayed, and did not leave Folsom until late in the afternoon. Mr. Greeley was to be fêted at seven o'clock that evening by the citizens of Placerville, and it was altogether necessary that he should be there by that hour. So the Stage Company said to Henry Monk, the driver of the extra, "Henry, this man must be there by seven o'clock to-night." And he answered, "The great man shall be there."

The roads were in an awful state, and during the first few miles out of Folsom slow progress was made.

"Sir," said Mr Greeley, "are you aware that I *must* be at Placerville at seven o'clock to-night?"

"I've got my orders," laconically returned Henry Monk.

Still the coach dragged slowly forward,

"Sir," said Mr. Greeley, "this is not a trifling matter. I *must* be there at seven."

Again came the answer, "I've got my orders."

But the speed was not increased, and Mr. Greeley chafed away another half hour; then as he was again about to remonstrate with the driver, the horses started into a furious run, and all sorts of encouraging yells filled the air from the throat of Henry Monk.

"That's right, my good fellow!" said Mr. Greeley. "I'll give you ten dollars when we arrive at Placerville. Now we are going!"

They were indeed, and at a terrible speed.

Crack! crack! went the whip, and again that voice split the air: "Git up! Hi, yi! G'long! Yip—yip!"

And on they tore, over stones and ruts, up hill and down, at a rate never before achieved by stage horses.

Mr. Greeley, who had been bouncing from one end of the coach to the other like an India-rubber ball, managed to get his head out of the window, when he said:

"Don't-on't-on't you think we-e-e shall get there by seven if we don't-on't go so fast?"

"I've got my orders!" That was all Henry Monk said. And on tore the coach.

It was becoming serious. Already the journalist was severely sore from the terrible jolting, and again his head might have been seen at the window.

"Sir," he said, "I don't care-care-are if you don't get there at seven!"

"I have got my orders!" Fresh horses. Forward again, faster than before. Over rocks and stumps, on one of which the coach narrowly escaped turning a summerset.

"See here!" shrieked Mr. Greeley, "I don't care if we don't get there at all!"

"I've got my orders! I work for the California Stage Company, I do. That's what I work for; they said, 'Get this man through by seving.' An' this man's goin' through. You bet! Gerlong! Whoocp!"

Another frightful jolt, and Mr. Greeley's bald head suddenly found its way through the roof of the coach, amidst the crash of small timbers and the ripping of strong canvas.

"Stop, you —— maniac!" he roared.

"I've got my orders. *Keep your seat, Horace!*"

At Mudd Springs, a village a few miles from Placerville, they met a large delegation of the citizens of Placerville, who had come on to meet the celebrated editor to escort him to town. There was a military company, a brass band, a six-horse wagon-load of beautiful damsels in milk-white dresses, representing all the States in the Union. It was nearly dark now, but the delegation were amply provided with torches, and bonfires all along the road to Placerville.

The citizens met the coach in the outskirts of Mudd Springs, and Mr. Monk reined in his foaming steeds.

"Is Mr. Greeley on board?" asked the chairman of the committee.

"He was a few miles back," said Mr. Monk. "Yes," he added, looking down through the hole which the fearful jolting had made in the coach roof. "Yes, I can see him! He is there!"

"Mr. Greeley," said the chairman of the committee, presenting himself at the window of the coach. "Mr. Greeley, sir! We have come to most cordially

welcome you—why, God bless me, sir, you are bleeding at the nose!"

"I've got my orders," cried Mr. Monk. "My orders is as follers: 'Git him there by seving.' It wants a quarter of seving. Stand out of the way."

"But, sir!" exclaimed the committee-man, seizing the off leader by the reins, "Mr. Monk, we are come to escort him to town. Look at the procession, sir; and the brass band, and the people, and the young women, sir!"

"I've got my orders," screamed Mr. Monk. "My orders don't say nothin' about brass band and young women. My orders say, 'Git him there by seving.' Let go them lines. Clear the way there. Whoo-ep! Keep your seat, Horace!" and the coach dashed away wildly through the procession, upsetting a portion of the brass band, and violently grazing the wagon containing the beautiful women in white.

Years hence, gray-haired men, who were little boys in this procession, will tell their grandchildren how this stage tore through Mudd Springs, and how Horace Greeley's bald head ever and anon showed itself, like a wild apparition, above the coach roof.

Mr. STEVENS. Will the gentleman from New York [Mr. CONKLING] yield to me for a few moments?

Mr. CONKLING. Certainly.

Mr. INGERSOLL. Mr. Speaker, would it be in order to move that the article which has just been read be excluded from the Globe? It is absolutely disgraceful to the House of Representatives of the United States that we should have consumed so much time in listening to such balderdash and nonsense.

The SPEAKER. That can be done by unanimous consent. The gentleman from Illinois [Mr. INGERSOLL] asks that by unanimous consent the article which has been read at the Clerk's desk be excluded from the Globe.

Mr. ROSS. I object. I think the people should know what we are doing.

Mr. STEVENS. I desire to say a word or two with reference to this bill; but before doing so, let me say that while I do not wonder that my friend behind me [Mr. HULBURD] feels somewhat sensitive about this matter, yet when he has done a great many more good things in this House and has therefore been very much abused by the vagrancies of the press, he will learn to bear such things with equanimity. Why, sir, I see that this same Mr. Greeley says that I would go as far out of my way to kick a bag of specie as John Randolph would to kick a sheep. [Laughter.] I see, however, that Mr. Greeley speaks very praisingly of my friend from Chicago, [Mr. WENTWORTH]——

Mr. WENTWORTH. I hope that that article will be read. Certainly no one will object to that going into the Globe. [Laughter.]

Mr. STEVENS. But, Mr. Speaker, to return to the subject before the House, I desire to ascertain whether we can pass this bill without violating the public faith. If we can do so, it will give me great pleasure to vote for it.

The gentleman from New York [Mr. CONKLING] says that all this trouble arises from our infamous system of paper money.

Mr. CONKLING. I did not say that.

Mr. STEVENS. Well, then, "unfortunate system" was the gentleman's language. Now, sir, the gentleman may not like this kind of money, but that is not the question. The act of June 30, 1864, declared in the first section that—

"All bonds, Treasury notes, and other obligations of the United States shall be exempt from taxation by or under State or municipal authority."

The thirteenth section provides that—

"The words 'obligation or other security of the United States' used in this act shall be held to include and mean all bonds, coupons, national currency, United States notes, Treasury notes, fractional notes, checks for money of authorized officers of the United States, certificates of indebtedness, certificates of deposit, stamps, and other representatives of value of whatever denomination, which have been or may be issued under an act of Congress."

Now, sir, no man, I think, who reads these words can doubt that Congress meant to declare that United States notes—for that means legal-tender notes, and nothing else—should be exempt from taxation by any State or municipal authority. Do I understand the gentleman from New York [Mr. CONKLING] to say that Congress did not mean that?

Mr. CONKLING. No, sir; I did not say that. I simply said that Congress did not mean that these securities, when held and used only as money on hand, should not be taxed.

Mr. STEVENS. I do not see the distinction. When United States notes are declared to be free from taxation, they are, it seems to me, declared to be so in everybody's hands and in every particular, unless an exception is made.

Sir, I can see that when the nation has violated one of its pledges the transition will be easy to a violation of them all. I do not desire to make a long speech on this question. It seems to me that no man within the sound of my voice who understands the English language can misunderstand the terms of this law.

A gentleman across the way says that those on that side of the House are ready to vote for this bill. I do not doubt it. I know how they have regarded the sacred obligations of the United States. I trust, however, that gentlemen on this side will take a different view.

Mr. GARFIELD. In reply to the remarks of the gentleman from Pennsylvania, [Mr. STEVENS,] I desire, in order that the action of those who support this bill may not appear to have the slightest taint or color of repudiation, to state what appears to me to be the solution of the whole difficulty which the gentleman has raised.

It is true that State and municipal authorities are not permitted to tax United States notes or Treasury notes when considered as Treasury notes; but the act referred to contains nothing which declares that Treasury notes shall not be taxed when considered merely as money. If a State should pass a law to tax greenbacks by the pound, that, as a matter of course, would be a violation of the statute of 1864. If any municipal authority should adopt an enactment to tax greenbacks as greenbacks, having one tax for greenbacks and another tax for money in general, such a law would be in conflict with the act which has been cited. But I wish to ask the gentleman from Pennsylvania whether he supposes that this act gives greenbacks an advantage over gold, and whether gold is not United States money?

Mr. STEVENS. Yes, sir; that, too, is expressly declared to be free from taxation.

Mr. GARFIELD. I suppose Mr. Greeley was correct when he said that the gentleman from Pennsylvania would go two miles to kick a gold dollar. He is willing to kick gold and to pat "greenbacks" on the back as being more favored than gold itself. What a remarkable doctrine this is! If a man will take his gold and get "greenbacks" for it he is not to be taxed on money on hand.

I say the act of June 30, 1864, is merely this: that no municipal authority shall tax "greenbacks" as such, but they may tax them as money on hand. I have no doubt at all if such a cause were carried to the courts it would be decided with the utmost readiness that the States may tax "greenbacks" when used only as money.

The simple purpose of the resolution is merely to declare that the exemption from liability to State or municipal taxation shall not extend to money on hand. It refers to "greenbacks" as money in the way that gold is money. I hope the bill will be passed.

Mr. CONKLING. I now yield to the gentleman from Vermont.

Mr. MORRILL. I have only a word to say. The bill reported from the Committee of Ways and Means has become necessary because there is no practical uniformity in the operation of the law. I do not know of one instance in the New England States where these legal tenders are not treated in every respect as money on hand. They are so held in California. But it seems, sir, that they are not so held in some parts of Ohio. Therefore, in order that the law may be uniform in its practical operations it has become necessary to pass this act.

Mr. CONKLING. Mr. Speaker, I want to say a word in answer to what has been said of the bill. Before doing so I wish to make a remark aside from the purpose. Mr. Greeley's name has been brought in and somewhat unceremoniously treated, certainly, and although Mr. Greeley needs no defense or indorsement from me, I venture to suggest—and my colleague will agree with me on reflection, I am sure—that no wrong to him was intended in the article he has read. It treats him with a consideration which we know he deserves, and it was not said in malice or ill-will. Whatever the editor of the Tribune says of him will be said as a friend, and said by an earnest, conscientious journalist commenting on the events of the day. But I pass from that subject.

Congress has never yet said money on hand should not be taxed. The States, as far as I know, which have said anything on the subject have said money on hand shall be taxed. The proposition now is to remove any impediment there may be to State legislation and action.

I wish to submit to the gentleman from Pennsylvania [Mr. STEVENS] this proposition: money is for the illustration a commodity; it is not an obligation payable at a future day. Gold or silver or other money made a legal tender has a fixed value, neither more nor less, for the purpose for which it is used, whether with or without taxation. I say it is a commodity. Suppose it were merchandise, printed goods, and Congress says to-day printed goods shall be exempt from taxation. Is there any taint of repudiation in Congress saying to-morrow that printed goods shall not be exempt from taxation? Could we say, even if we had exempted money on hand from taxation, that we will withdraw that exemption? In regard to obligations which have a certain time to run, it would amount to repudiation to declare that the party entitled in law and honor to a certain earning upon his investment should receive it with a diminution. I say to the gentleman from Pennsylvania money passes from hand to hand, and like an ox, a horse, or a cow, it may be taxed to-day and to-morrow be exempted, or exempted to-day and taxed to-morrow, without repudiation entering the transaction at all.

Mr. STEVENS. I should like to ask a question.

Mr. CONKLING. I will try to answer it.

Mr. STEVENS. Suppose Congress, wishing to bring a certain thing to pass, should declare by law that the men who give gold and silver for bank notes shall hold them free from taxation.

Mr. CONKLING. Suppose that if Congress should say of gold and silver, in the first place, it shall have a fixed and definite value, specially and generally; that for its face it shall extinguish all pecuniary obligations; and then should add to that such an enactment as the gentleman has supposed. Such an enactment would be good and valid precisely as long as it stood, would it be longer? As money passes from hand to hand, as it is the mission, purpose, and business of money that it should incessantly go as a circulating medium, no person would be a *bona fide* holder of it so as to predicate of him the statement that the public faith had been broken by allowing it to be taxed. It would be, as I said before, a commodity taxable now and not taxable at another time, as we please.

I ask the gentleman from Pennsylvania [Mr. STEVENS] whether in his judgment Congress could tax the ten dollar gold eagles which circulate in the country?

Mr. STEVENS. My opinion is, that if gold had been put in circulation upon the express condition that it should never be taxed, in whose ever hand it went, it would be a violation to tax it.

Mr. CONKLING. There, Mr. Speaker, is precisely the distinction. Congress never put into the hands of any man greenbacks or other money with an agreement that if he would take that it should never be taxed. My point is that it never was the design to exempt money on hand, or interfere with the right of a State to tax money on hand, and therefore, there being what is seized upon as an embarrassment or impediment in the way of executing

the law, it is competent without a breach of faith for us to remove that impediment.

Mr. DAWES. I would ask the gentleman if he is quite certain that the phraseology of the bill reaches the object sought for; whether by providing that money shall not be exempt means, by a fair construction of the bill, that greenback currency, non-interest-bearing notes, shall not be exempt. They are not *eo nomine* money; they are only made equivalent to money.

Mr. CONKLING. The idea that the committee had was this: first, that United States notes, so called, are declared in the statute "lawful money;" and in the next place if they are not money, then the States should not tax them as money. We shall do all we ought if we declare that we take out of their way whatever impediment we have interposed unwittingly to their taxing "money on hand."

Mr. SHELLABARGER. I wish to inquire of the gentleman what the understanding of the committee is as to the scope of the bill. He gives as one reason why the bill should be passed that it is a taxation of securities or obligations which pass as legal tenders. Now, that remark would seem to indicate that everything that is of that quality is to be taxed under the provisions of this bill. There is a large amount of what are called compound-interest notes, legal tender which do not circulate much as money. I wish to know whether it is in the mind of the committee that that class of securities shall be taxable by the States?

Mr. CONKLING. Compound-interest notes have never been denominated or defined as lawful money, that I am aware of. On the contrary, the provision which comes the nearest to it is that which makes them a legal tender for the amount on their face, excluding interest. Possibly, however, there may be room for the question which the gentleman makes. But he will perceive that under the bill that will remain a judicial question for assessors and courts to determine. We keep within the purview which keeps us clear of repudiation when we confine ourselves to "money."

Mr. BINGHAM. Allow me to make an inquiry touching this measure. I desire to ask whether the only object of this bill is not to declare in express terms that United States notes, as they are everywhere designated, shall not be exempted from State or municipal taxation. Is not that the sole object?

Mr. CONKLING. Not quite the sole object. The gentleman from Ohio forgets that the law, as it now stands, is liable to the construction that it also exempts the notes of the national banks.

Mr. BINGHAM. Then it means United States notes or national currency?

Mr. CONKLING. Yes, sir.

Mr. BINGHAM. Then what objection is there to putting these words in the bill?

Mr. CONKLING. Perhaps I may say with propriety, and without encroaching on the rule which makes the proceedings of committees inviolable, that these words or equivalent words were originally in the bill, and that upon consideration they were stricken out by the committee, the conclusion of the committee being that the present form is safer and more unexceptionable than that which the gentleman from Ohio suggests.

Mr. BINGHAM. I beg leave to know whether it is intended that this bill shall subject to taxation, as far as it can subject anything to taxation, any securities of the United States except the United States notes, known as legal tender or the national currency issue?

Mr. CONKLING. I answer for myself and for the whole committee, that there is no design that it shall go further. Perhaps I may be pardoned for saying that my individual preference was with the gentleman from Ohio, but I yielded it in deference to the better judgment of the committee.

It is suggested that fractional currency is also included.

Mr. KASSON. I would ask if the compound-interest notes which by law were declared legal tender for their face excluding the interest are not also included?

Mr. CONKLING. That question has been put and answered, though the gentleman did not hear it; and now, unless some gentleman desires some further information, I demand the previous question.

Mr. BINGHAM. I hope the previous question will not be sustained. I desire, in order that we may understand this matter and do our whole duty, that the bill be recommitted and printed, and that there be an opportunity to offer amendments, so as to make it distinct and clear.

Mr. CONKLING. I have no personal preference one way or the other. I was directed to report the bill and put it upon its passage, but I will, as suggested, let the bill be recommitted to the Committee of Ways and Means, and printed, the committee having leave to report it back at any time.

The motion was agreed to.

Mr. STEVENS obtained the floor.

TENNESSEE.

Mr. RAYMOND. With the permission of the gentleman from Pennsylvania, I desire to ask a question, for information, of the gentleman from Ohio, [Mr. BINGHAM]. Some ten days since the gentleman from Ohio, on behalf of the committee on reconstruction, reported a resolution for the admission of members upon this floor from the State of Tennessee. I would like to know, for the purpose of guiding my own conduct in regard to presence in the House, as I would like to be absent, if he can inform the House when he will probably bring that matter before the House for its consideration.

Mr. BINGHAM. I beg leave to say that the gentleman has entirely mistaken the proposition I reported. Having made that explanation, I can only say that I have thus far deferred calling up the privileged motion to reconsider out of regard to the pressing public business in the nature of appropriation bills and other measures, but whenever it shall be the pleasure of the House to consider the matter, I am ready to bring it up. In answer to the gentleman's question, I may say that most likely the question will not be brought to a vote any time during the next week, although it may be called up for discussion.

Mr. RAYMOND. My object was to ascertain when it would be before the House for discussion.

Mr. BINGHAM. I am not able to say, certainly, but if it be the pleasure of the House, I will bring it up some day next week.

Mr. RAYMOND. I supposed the object of reporting it was to have prompt action upon it. It seemed to me to be one of the most important measures before the House. In that, however, I may differ with the gentleman from Ohio, [Mr. BINGHAM,] as I evidently did in supposing that the object of the joint resolution was to provide for the admission of Representatives from Tennessee.

MESSAGE FROM THE PRESIDENT.

A message from the President of the United States, by Mr. W. G. MOORE, his Secretary, informed the House that he had on the 17th instant approved and signed a bill and joint resolution of the following titles:

A bill (H. R. No. 358) entitled "An act to amend an act to extend the charter of the president and directors of the Firemen's Insurance Company of Washington and Georgetown, in the District of Columbia;" and

A joint resolution (H. R. No. 84) for the relief of the sufferers by the late explosion at the United States arsenal in the District of Columbia.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed a bill and joint resolution of the following titles:

A bill (S. No. 140) entitled "An act to grant the right of way to the Humboldt Canal Company through the public lands of the United States;" and

A joint resolution (S. R. No. 49) for the temporary relief of destitute people in the District of Columbia.

It also informed the House that the Senate had passed without amendment a joint resolution (H. R. No. 45) to change the name of the ship Art Union to George M. Barnard.

JOSÉ DOMINGUES.

On motion of Mr. THAYER, Senate bill No. 189, to confirm the grant of certain lands to José Domingues in California, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Private Land Claims.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

HOLDING EVENING SESSIONS.

Mr. STEVENS. I desire to have the House proceed to the consideration, in Committee of the Whole, of some short appropriation bills; particularly the Post Office and consular appropriation bills. Before submitting that motion, I will move that the order for holding night sessions be suspended for to-day, with the understanding that we shall sit here this afternoon until one or both of these appropriation bills shall have been considered in Committee of the Whole.

The motion was agreed to.

CONSULAR AND DIPLOMATIC BILL.

Mr. STEVENS. I move that the rules be suspended, and that the House now resolve itself into Committee of the Whole for the purpose of considering the consular and diplomatic appropriation bill.

The motion was agreed to; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and proceeded to the consideration of House bill No. 261, making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1867, and for other purposes.

The first reading of the bill was dispensed with by unanimous consent, and the Clerk proceeded to read it by paragraphs for amendments.

Mr. KASSON. There are some tranfers to be made in the different classes of consulates and commercial agencies provided for in this bill. "Aux Cayes, Bahia, Tabasco, and Venice," should be transferred from "Consulates, Schedule B," to "Consulates, Schedule C." And "Amoor River," in "Commercial Agencies, Schedule B," should be transferred to "Commercial Agencies, Schedule C." I move to amend the bill in accordance with what I have suggested.

Mr. BROOKS. I suppose this bill was reported in accordance with estimates from the State Department. I would inquire if the amendment proposed by the gentleman from Iowa [Mr. KASSON] is at the request of the Department?

Mr. KASSON. It is, and for the purpose of reducing the pay of those consulates, the pay having been raised under former acts of Congress during the rebellion in order to secure more effective servive.

The amendment of Mr. KASSON was agreed to.

Mr. INGERSOLL. I would ask the gentleman from Iowa [Mr. KASSON] if the commercial agents under schedule B have the right to trade at the places where they hold offices?

Mr. KASSON. I think not.

Mr. INGERSOLL. Then I move to transfer "Balize" from "Commercial Agencies, Schedule B," to "Commercial Agencies, Schedule C."

Mr. KASSON. I do not know the reason for the change the gentleman from Illinois [Mr. INGERSOLL] proposes. I should be unwilling

to consent to the transfer without some suggestion from the Department to that effect.

Mr. INGERSOLL. The Assistant Secretary of State remarked to me the other day that this change should be made, as without trading privileges the place would be almost worthless.

Mr. KASSON. The committee have received no intimation that the Department desires this change. I think the bill better pass as it stands, and go to the Senate; and if the Department desire the change made it can be done in the Senate.

Mr. INGERSOLL. I will not insist on my amendment; I will withdraw it.

Mr. HARDING, of Illinois. Before we pass from this portion of the bill I would ask what is the difference in compensation between schedule B and schedule C?

Mr. KASSON. In the one it is $1,500; in the other $750.

Mr. INGERSOLL. What is the difference between the compensation and privileges of the commercial agents in schedule B and schedule C?

Mr. KASSON. Those under schedule B receive a higher salary and are charged with more responsible duties, in some important particulars, than those under schedule C, who have some privileges of trade, corresponding with the system of the country.

Mr. WASHBURNE, of Illinois. Mr. Chairman, it is not often that I propose to make an office with a salary attached; and I do not know that I shall make such a proposition now. But, sir, I desire to say—and I submit the matter to the attention of the chairman of the Committee on Appropriations—that the Secretary of State has sent to me, as chairman of the Committee on Commerce, a communication in relation to the consulate at Malta. This communication comes from the consul at that place, Mr. Winthrop, a gentleman who has occupied the position continuously for thirty-two or thirty-three years during all Administrations, and who, as consul, has done a great deal for this country. The salary of this consulate was abolished some time ago; and since that time the consul has received only fees. It appears that now, in consequence of some regulations which have been adopted, the fees of this consul have been almost entirely cut off; and it is stated that no consul can remain at Malta if he receives only the fees. That is, as we all know, a very important point at which to have a consul; and it is important, also, in my view, that we should continue to have the services of the gentleman who now holds the position.

Mr. STEVENS. The gentleman's suggestion is very proper. The committee had intended to insert a provision to meet this case. I move the following amendment:

Insert at the end of line ninety-seven the word "Malta."

The amendment was agreed to.

Mr. STEVENS. I move to amend by inserting after the word "China," in line one hundred and three, the following words:

And the consular courts at Bankok, in Siam.

So that the paragraph will read:

For interpreters to the consulates in China, and the consular courts at Bankok, in Siam, including loss by exchange thereon, $5,800.

The amendment was agreed to.

Mr. STEVENS. In the same paragraph I move to amend by striking out "five" and inserting "six."

The amendment was agreed to.

Mr. BROOKS. I move to amend by striking out lines one hundred and nineteen to one hundred and twenty-two, reading as follows:

For expenses under the act of Congress to carry into effect the treaty between the United States and her Britannic Majesty for the suppression of the African slave trade, $17,000.

Mr. Chairman, as we have now abolished slavery throughout the United States, and are not responsible in any degree for that institution, and as no more slaves are likely to be brought from Africa to the United States, I desire to ask whether we have not discharged our national obligations on this question, and whether it is not time to give notice to Great Britain for the abrogation of this treaty and cease to make these appropriations.

Mr. STEVENS. The gentleman from New York will remember that this appropriation is made in pursuance of a treaty between this country and Great Britain. That treaty is not yet abrogated; and until it is, I suppose that we are obliged to make the appropriation. Whether it is proper to abrogate that treaty, I do not know. That question belongs, of course, to the Government. But as the treaty still exists, we are bound to make the appropriation.

Mr. BROOKS. I have no means of reaching the Government except through this House, and therefore I rise to say that it seems to me that, situated as we now are with regard to foreign nations, it is quite time for the Government to take measures for the abrogation of this treaty.

I withdraw the amendment.

Mr. KASSON. I move to amend by adding the following as a new section:

And be it further enacted, That the President be, and is hereby, authorized to appoint, by and with the advice and consent of the Senate, an officer in the Department of State to be called Solicitor to the Department of State, at an annual salary of $3,000.

Mr. WASHBURNE, of Illinois. That cannot be in order on this bill.

Mr. KASSON. This amendment is in accordance with the recommendation of the Secretary of State, communicated in a letter which I have sent for, and which will be here in a moment. It is in harmony with the bill, and is in order under the rule, because it is necessary to carry out the operations of the Department under existing law.

Mr. WASHBURNE, of Illinois. I raise the point that the amendment is out of order.

The CHAIRMAN. The Clerk will read the rule bearing on the question.

The Clerk read, as follows:

"120. No appropriation shall be reported in such general appropriation bills, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress, and for the contingencies for carrying on the several departments of the Government."

The CHAIRMAN. The Chair overrules the point of order.

Mr. KASSON. The letter to which I refer states that, owing to the large number, the very large number, of claims presented by citizens of the United States against foreign countries and by citizens of foreign countries against the United States, arising out of claims for damages by rebel privateers and interference with commerce during the late war, it is necessary, for the proper conduct of that part of the business of the Department, that this officer should be placed there to make examinations, and to report on them.

Mr. WASHBURNE, of Illinois. There is no quorum of the committee here present, and as I do not want to break up the committee by calling for a division, I am willing that this amendment of the committee shall be agreed to, provided we shall be allowed to have a vote on it in the House.

The amendment was agreed to.

Mr. WASHBURNE, of Illinois. The amendment was agreed to with the understanding that we should be allowed to have a vote on it in the House.

Mr. BANKS. I move to insert in line fourteen, before the word "Mexico" and after the word "Brazil," the words "republic of," so that it will read "republic of Mexico."

The amendment was agreed to.

Mr. KASSON. In consequence of the amendment moved by the gentleman from Illinois, I move to insert after the word "Malaga" in line sixty-eight the word "Malta," and to increase the appropriation in the one hundred and second line, so that it will read, "$22,000."

Mr. WASHBURNE, of Illinois. It ought to be $21,500.

Mr. RAYMOND. I have been informed at the Department of State that no increase is needed, as this appropriation will cover all additions.

I will add that the consular department of the United States supports itself by the fees which are received.

Mr. KASSON. Then I withdraw my amendment.

Mr. STEVENS. I move that the bill be laid aside to be reported to the House with a recommendation that it do pass.

The motion was agreed to.

POST OFFICE APPROPRIATION BILL.

Mr. STEVENS. I move that the committee proceed to the consideration of House bill No. 280, making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1867, and for other purposes.

The motion was agreed to.

Mr. STEVENS. I move that the first reading of the bill for information be dispensed with, and that it be read by sections for amendment.

The motion was agreed to.

Mr. BROOKS. Mr. Chairman, I hope some efficient system will be devised for the delivery of mails in our cities. The people of the city of New York, almost an empire of itself, and of its suburbs, with a million and a half of population, ought to be able to communicate with each other five or six times every day. At present they have no means of doing so. If there were such means they would yield an abundant revenue to the Post Office Department.

I call attention to the matter here, having no other means of expressing my views on this subject than when this bill is pending. I speak of my own city of New York, and I say that the delivery of letters by letter-carriers there is unworthy of the American people, and deserves at once the action of Congress, so that a sufficient remedy may be applied.

Mr. STEVENS. I think that is a pertinent inquiry for the Committee on the Post Office and Post Roads, and I have no doubt the able gentleman from Massachusetts [Mr. ALLEY] will take charge of it. It has nothing to do with an appropriation bill.

Mr. BROOKS. But the Committee on the Post Office and Post Roads has not the opportunity to report at any time like the Committee on Appropriations. I wish the chairman of the Committee on the Post Office and Post Roads were ready at the present time to submit an amendment on that subject.

Mr. CONKLING. Does the gentleman refer only to the carriers in the city of New York?

Mr. BROOKS. I only speak of New York city.

Mr. CONKLING. I wish to say that the carriers in my city do their duty most acceptably, and I do not wish any reflections to be cast upon them.

Mr. ALLEY. I will say for the information of the gentleman from New York [Mr. BROOKS] and of the House that this carrier system has given great satisfaction in all the cities with which I am acquainted. In my own city it certainly has given very great satisfaction. I have heard no complaint whatever from any city, except it may be the city of New York. I have heard some complaint from that city, but with that single exception I have heard not a word of fault found with the management of the carrier system in any city or large town of the Union.

I do not know that I have any particular information in regard to the city of New York, but I presume it is as the gentleman says, that some parts of that city are not as well taken care of as others.

But it gives such eminent satisfaction to all other cities that I think there must be something peculiar about that particular city which causes so much dissatisfaction there.

The introduction of the carrier system was an experiment, and it has been, as the House understands, of recent date; and thus far the system has worked admirably everywhere, unless it may be in the city of New York, where, if there are any just grounds of complaint, I trust and believe they may soon be removed.

Mr. STEVENS. I move to strike out the item in line twenty-three, page 2:

For office stamps, $6,000.

The amendment was agreed to.

The Clerk read, as follows:

SEC. 2. *And be it further enacted*, That the following sums be, and the same are hereby, appropriated for the year ending June 30, 1867, out of any money in the Treasury not otherwise appropriated:

For the mail steamship service between the United States and Brazil, $150,000.

Mr. WASHBURNE, of Illinois. I desire to know if this appropriation of $150,000 for subsidizing that mail line is in accordance with existing law; if we are required to vote that full amount.

Mr. KASSON. In connection with the answer to that inquiry I move to insert after the word "sums" the words "or so much thereof as may be necessary."

The amendment was agreed to.

Mr. KASSON. This appropriation is in accordance with the law that authorized the United States, in connection with Brazil, to arrange for a mail service between a port of the United States and a port in Brazil. We were required to pay a sum not exceeding $150,000 for our part of the expenses. The law was complied with and a contract was made for the building of the steamers. They are built, and they commenced running at the close of the year, and are now running between the city of New York and Rio Janeiro. And this provision is to carry out the duty on the part of the United States of paying its portion of the expenditure.

But I have ascertained that the Government of Brazil have not yet made the corresponding appropriation. It may have been done, but the Department is not yet advised of it. It is necessary, therefore, to make the appropriation.

Mr. WASHBURNE, of Illinois. I would like to know how this operation commenced. It was the understanding that it should be done jointly. If Brazil has not done her part what call is there upon us to do ours before we get anything from that Government to put the line in motion?

Mr. STEVENS. I suggest that an amendment be made by adding the words, "so soon as Brazil complies with its part of the contract."

Mr. KASSON. That amendment would be unnecessary. The act itself contains a limitation as to the time of payment. This is simply to provide for it under that law, and it makes no appropriation unless the law has been carried into effect. And the law has been carried into effect so far as building the steamers is concerned.

The question being taken on the amendment, it was agreed to.

The Clerk read, as follows:

For the mail steamship service between San Francisco, Japan, and China, for six months ending June 30, 1867, $250,000.

Mr. WASHBURNE, of Illinois. I would inquire if under existing laws we are required to appropriate annually for this service $500,000.

Mr. KASSON. Distinctly, under the law of the last Congress.

Mr. STEVENS. Yes, sir, I remember it very well. As the law is so we must make the appropriation whether we like it or not.

Mr. BROOKS. Is it expected to have the steamships go into operation during the coming fiscal year?

Mr. STEVENS. So I understand.

Mr. KASSON. The intimation from the Department is that the steamships will probably commence running the last half of the next fiscal year.

The reading of the bill having been concluded,

Mr. STEVENS moved that the committee rise and report to the House bills Nos. 261 and 280, with the amendments made by the committee.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union, having had under consideration the bill (H. R. No. 261) making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1867, and for other purposes, and also the bill (H. R. No. 280) making appropriations for the service of the Post Office Department during the fiscal year ending 30th June, 1867, and for other purposes, had directed him to report the same with sundry amendments, and a recommendation that the bills pass.

Mr. STEVENS. I ask the House to take a vote on bill No. 280, and let the other go over. I ask the previous question on bill No. 280.

The previous question was seconded, and the main question ordered; and under the operation thereof the amendments reported from the Committee of the Whole were agreed to.

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

Mr. STEVENS. I move to reconsider the vote by which the bill was passed, and to lay that motion on the table.

The latter motion was agreed to.

CONSULAR AND DIPLOMATIC BILL.

The House proceeded to the consideration of bill of the House No. 261, making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1867, and for other purposes, reported from the Committee of the Whole on the state of the Union with amendments.

Mr. STEVENS. I move the previous question on the bill.

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

Mr. STEVENS. I ask that the vote on the bill be postponed until to-morrow.

IMMIGRATION OF FOREIGN CRIMINALS.

On motion of Mr. BANKS, by unanimous consent, joint resolution of the Senate No. 45, protesting against pardons by foreign Governments of persons convicted of infamous offenses on condition of emigrating to the United States, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Foreign Affairs.

JAMES STOTT.

Mr. BANKS also, by unanimous consent, presented a communication from the Secretary of State, transmitting correspondence on the subject of the arrest of James Stott by the authorities of the United States; which was referred to the Committee on Foreign Affairs, and ordered to be printed.

BOUNDARIES OF NEVADA.

On motion of Mr. ASHLEY, of Ohio, by unanimous consent, bill of the Senate No. 155, concerning the boundaries of the State of Nevada, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Territories.

INDIAN AFFAIRS.

On motion of Mr. WINDOM, by unanimous consent, bill of the Senate No. 204, to provide for an annual inspection into Indian affairs, and for other purposes, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Indian Affairs.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

CORRECTION OF THE JOURNAL.

Mr. ANCONA. I desire to have a correction made in the Journal of to-day. I find that I am recorded as not voting yesterday on the motion to reconsider the vote by which the loan bill was lost. I did vote in the affirmative.

The SPEAKER. Has the gentleman examined the Journal?

Mr. ANCONA. No, sir; only the report in the Globe.

The SPEAKER. The Chair is informed that the gentleman's vote is not recorded on the Journal, and the Journal will be corrected accordingly.

PAY OF ARMY VOLUNTEER NURSES.

Mr. DRIGGS, by unanimous consent, introduced a bill to secure pay under certain circumstances to Army volunteer nurses; which was read a first and second time, and referred to the Committee on Military Affairs.

Mr. DRIGGS also presented a petition signed by Lieutenant General Grant, Major General Augur, Surgeon General Barnes, and some twenty other officers in favor of the object of the bill; which was likewise referred to the Committee on Military Affairs.

RAILROAD EXTENSION.

Mr. WELKER. I ask unanimous consent to introduce a bill to authorize the extension, construction, and use by the Baltimore and Ohio Railroad Company of a railroad from between Knoxville and Monocacy Junction into and within the District of Columbia.

Mr. WASHBURNE, of Illinois. I object unless the bill can be read.

Mr. RANDALL, of Pennsylvania. And I object to the reading.

And then, on motion of Mr. THAYER, (at ten minutes to five o'clock p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to appropriate committees:

By Mr. BAXTER: The petition of J. S. Morrill, and others, of Franklin, Vermont, asking increase of duties on foreign wool.

By Mr. BOUTWELL: The petition of Ziba Gay, and others, citizens of Chelmsford, Massachusetts, asking for an amendment of the tariff.

By Mr. BROOMALL: The petition of numerous manufacturers, mechanics, and laborers, citizens of Manayunk, in the city of Philadelphia, praying for a change in the tariff laws so as to afford adequate protection to American industry.

By Mr. CULLOM: A petition signed by a large number of citizens of Logan county, in the State of Illinois, praying for the passage of just and equal laws for the regulation of inter-State insurances of all kinds.

By Mr. DELANO: The petition of Michael O'Connell, one of the crew of the Indianola, praying indemnity for the loss of clothing amounting to sixty dollars by the capture of said vessel on the Mississippi river by the enemy.

Also, the petition of George A. McCleary, and 500 others, citizens and wool-growers of the thirteenth congressional district, Ohio, praying Congress to enact such duty on foreign wools as to give equal protection to the wool-growers of this country with that now given to woolen manufacturers.

Also, the petition of P. S. Humrickhouse, and 100 others, citizens and wool-growers of Coshocton county, Ohio, to the same effect.

Also, the petition of Waldo Taylor, and 6 others, insurance agents of Newark, Ohio, praying Congress to regulate the laws of insurance between the States.

By Mr. EGGLESTON: The petition of W. Y. Gholson, and 15 others, attorneys, of Cincinnati, Ohio, praying for an increase of salaries of district judges.

By Mr. HALE: The petition of Ordnance Sergeant Robert Grainger, United States Army, for compensation for property destroyed by the rebels at Barrancas barracks while in the line of his duty as ordnance officer at said post.

Also, five petitions of citizens of Essex county, New York, for protection to American labor.

Also, remonstrance of N. Lapham, and others, citizens of Clinton county, New York, against renewal of the reciprocity treaty.

By Mr. HUBBARD, of New York: The petition of Messrs. Scott & Conway, of Norwich, New York, praying that the duty on barley imported from Canada and the British Provinces in North America may not exceed the duty of five cents per bushel.

By Mr. INGERSOLL: The petition of William Seeley, J. H. Batchelder, C. E. Newton, J. F. Thomas, and others, of Chillicothe, Illinois, for the enlargement of the Michigan and Illinois canal and the improvement of the Illinois river, &c.

By Mr. KETCHAM: The memorial of R. W. Evans & Co. and Willard & Waterbury, for the admission of barley from Canada at a moderate rate of duty.

By Mr. MILLER: A petition of mechanics and laborers in American manufacturing establishments at Manayunk, Philadelphia, to have the tariff amended for the protection of labor.

By Mr. MOORHEAD: A memorial from citizens of West Virginia, praying for the passage of a law relating to insurance companies.

By Mr. PRICE: A memorial of the Legislature of the State of Iowa, asking for the establishment of certain mail routes in said State.

By Mr. RICE, of Massachusetts: The memorial of A. Richardson, and others, of Massachusetts, for adjustment of the duty on barley from the British Provinces.

By Mr. SCHENCK: The petition of P. O'Connell for compensation for the use by the Government of pontoons of his invention.

NOTICE OF A BILL.

The following notice for leave to introduce a bill was given under the rule:

By Mr. JULIAN: A bill to equalize the bounties of soldiers and sailors who served the United States during the late rebellion.

IN SENATE.

WEDNESDAY, *March* 21, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. RAMSEY presented a memorial of the Legislature of Minnesota, in favor of the establishment of a mail route from Sauk Center, in the county of Stearns, in Minnesota, to Ford Wadsworth, in Dakota Territory; which was referred to the Committee on Post Offices and Post Roads.

He also presented a memorial of the same Legislature, in favor of the establishment of a mail route from Little Falls, Morrison county, to Alexandria, Douglas county, in Minnesota; which was referred to the Committee on Post Offices and Post Roads.

He also presented a memorial of the same Legislature, in favor of the establishment of a military post at or near Vermillion Lake, St. Louis county, Minnesota; which was referred to the Committee on Military Affairs and the Militia.

He also presented a memorial of the same Legislature, in favor of making Du Luth, on Lake Superior, a port of entry; which was referred to the Committee on Commerce.

He also presented a memorial of the same Legislature, in favor of an appropriation for the building of piers and the improvement of harbors on Lake Superior; which was referred to the Committee on Commerce.

Mr. SUMNER. I offer a petition from citizens of Virginia, chiefly colored citizens, in which they represent themselves as delegated and deputed by a very large and respectable meeting of the citizens of Norfolk and Elizabeth counties, Virginia, in mass meeting assembled, to petition Congress. They ask Congress most earnestly to adopt such legislation as will secure to the lately rebellious States a republican form of government, and the consequent protection to the colored citizens of Virginia and other rebellious States of life, liberty, and property, and granting to the colored citizens of those States the right to testify in the courts and an equality of suffrage the same as white citizens. They also protest against any recognition of what is known as the Peirpoint government. I ask the reference of this petition to the committee of fifteen.

The motion was agreed to.

Mr. SUMNER presented a petition of citizens of Pennsylvania, praying for the adoption of such an amendment to the Constitution as will forever prevent any State from making any distinction in civil rights and privileges on account of race, color, or descent; which was referred to the joint committee on reconstruction.

Mr. MORGAN presented the petition of James W. Cairns, George D. Phelps, jr., and others, citizens of New York, praying that in the Army bill, now pending in Congress, it shall be provided that the cavalry force shall equal one third of the whole authorized increase; which was referred to the Committee on Military Affairs and the Militia.

Mr. LANE, of Indiana, presented the petition of John H. Farquar, praying that a pension may be granted to Martha Stevens, widow of the late John F. Stevens, of Greensburg, Indiana, who was killed while in the discharge of his duty as a provost marshal executing the enrollment act; which was referred to the Committee on Pensions.

Mr. HARRIS presented a memorial of brewers of the State of New York, praying for a reduction of the duty on barley imported from the British Provinces of North America, so that it shall not exceed five cents per bushel; which was referred to the Committee on Finance.

Mr. FESSENDEN presented a petition of citizens of New York, praying for a reduction of the internal revenue tax on dress-makers; which was referred to the Committee on Finance.

Mr. ANTHONY presented the petition of Ethan A. Jenks, late captain and brevet major seventh regiment Rhode Island volunteers, praying for pay and allowances from May 4 to September 9, 1863, while under sentence of dismissal from the United States service, to which he was reinstated; which was referred to the Committee on Claims.

Mr. NORTON presented a memorial of the Legislature of Minnesota, in favor of a grant of lands to aid in the construction of the Hastings, Minnesota River, and Red River of the North railroad; which was referred to the Committee on Public Lands.

He also presented a memorial of the Legislature of Minnesota, in favor of the establishment of a mail route from St. Peter to New Auburn, in that State; which was referred to the Committee on Post Offices and Post Roads.

He also presented a memorial of the Legislature of the State of Minnesota, in favor of reimbursing soldiers for the loss of moneys taken by the rebels in the late war; which was referred to the Committee on Military Affairs and the Militia.

He also presented a memorial of the Legislature of Minnesota, in favor of granting full bounty to soldiers who enlisted for one year, who were discharged after serving ten months or more; which was referred to the Committee on Military Affairs and the Militia.

Mr. COWAN presented five petitions of mechanics and laborers in American manufacturing establishments, praying for such an amendment of the tariff as to protect their labor to the extent of the difference of the cost of capital and labor here and abroad; which were referred to the Committee on Finance.

He also presented a petition of United States assistant assessors of the eleventh district of Pennsylvania, praying for an increase of pay; which was referred to the Committee on Finance.

Mr. COWAN. I rise to a privileged question, which has relation to the records of the Senate. I ask that the Secretary may read the petition that I send to the desk.

The PRESIDENT *pro tempore*. The petition will be read, if there be no objection.

The Secretary read it, as follows:

To the honorable the Senate of the United States in Congress assembled:

The undersigned begs most respectfully to represent that on July 21, 1862, he was appointed military storekeeper, quartermaster's department, United States Army, and nominated by his Excellency the President of the United States, as military storekeeper, quartermaster's department, United States Army, and that toward the close of the session of Congress in 1863, his nomination was taken up on motion of Hon. HENRY WILSON, of Massachusetts, in executive session, and having been favorably reported by the Committee on Military Affairs, was confirmed, and that it appears, however, that no notice of confirmation was sent to the President, and that in consequence he has been deprived of his commission; and further, that he has made every proper effort known to him to obtain redress without success; and now, he desires an opportunity to substantiate the above statement before your illustrious body by competent witnesses; and further, your petitioner makes the allegation against a certain Calhoun M. Derringer, of Philadelphia, that at an official interview between H. S. Olcott, special commissioner War Department, and the said Calhoun M. Derringer, he (Derringer) admitted to him that, being desirous to defeat the commissioning of your petitioner as military storekeeper, United States Army, he had succeeded in having your petitioner's name removed from the books of the Senate after your petitioner's appointment was confirmed in executive session; all of which can be substantiated by H. S. Olcott's certificate, dated Philadelphia, August 3, 1865, and your petitioner most respectfully prays that the case may be investigated and such action taken as may to your honorable body seem necessary to secure justice and the best interests of the public service, and your petitioner will ever pray.

GEORGE W. MARTIN.

PHILADELPHIA, *March* 14, 1866.

Mr. COWAN. I now ask that the letter signed by Mr. Olcott may be read.

The PRESIDENT *pro tempore*. It will be read if there be no objection.

The Secretary read, as follows:

PHILADELPHIA, *August* 3, 1865.

This is to certify that at an official interview between myself as special commissioner of the War Department, and Calhoun M. Derringer, he admitted to me that, being desirous to defeat the commissioning of Captain George W. Martin as military storekeeper United States Army, he had succeeded in having his (Martin's) name removed from the books of the Senate after, as I understood him, the said Martin's appointment was confirmed in executive session. The reason alleged for the act was that he considered Captain Martin not a good man.

H. S. OLCOTT,
Special Commissioner War Department, &c.

Mr. COWAN. I now move that those papers be referred to the Committee on the Judiciary.

The motion was agreed to.

Mr. COWAN. I also ask that an additional order be made that the committee have power to send for persons and papers in this case.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. WADE. The Committee on the District of Columbia, to whom was referred Senate bill No. 184, to define more clearly the jurisdiction and powers of the supreme court of the District of Columbia, have had it under consideration, and directed me to report it back with several amendments.

The same committee, to whom was referred a resolution instructing them to inquire into the expediency of increasing the salaries of the judges of the supreme court of the District of Columbia, have had the subject under consideration, and, having made provision on that point in an amendment to the bill that I have just reported, they ask to be discharged from further consideration of the subject.

The report was agreed to.

Mr. STEWART, from the Committee on the Judiciary, to whom was referred a bill (S. No. 185) amendatory of an act to provide for the reports of the decisions of the Supreme Court of the United States, reported it with an amendment.

Mr. LANE, of Indiana, from the Committee on Pensions, to whom was referred a joint resolution (S. R. No. 46) removing restrictions upon the payment of pensions to certain persons while in the service of the United States, reported adversely thereon.

He also, from the same committee, to whom was referred a bill (H. R. No. 216) for the relief of Cordelia Murray, reported it without amendment.

He also, from the same committee, to whom was referred a bill (H. R. No. 268) for the relief of Albert Nevins, reported it without amendment.

Mr. CONNESS, from the Committee on Post Offices and Post Roads, to whom was referred the memorial of Wellington & Dorsey, submitted a report accompanied by a bill (S. No. 210) for the relief of Wellington & Dorsey. The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. TRUMBULL. The Committee on the Judiciary, to whom was referred a bill (S. No. 112) authorizing documentary evidence of title to be furnished to the owners of certain lands in the county of St. Louis, in the State of Missouri, have directed me to report it back and ask to be discharged from its further consideration, and that it be referred to the Committee on Private Land Claims which has more properly jurisdiction of the subject.

The report was agreed to.

Mr. HARRIS, from the Committee on the Judiciary, to whom were referred a bill (S. No. 13) concerning appeals, writs of error, and injunctions, and a bill (S. No. 182) to enlarge the northern judicial district of California, and for other purposes, reported in favor of their indefinite postponement; and the report was agreed to.

Mr. HARRIS, from the Committee on the Judiciary, to whom was referred a bill (S. No. 179) in relation to the district courts of the United States in the State of California, reported it with an amendment.

Mr. CONNESS. I hope the Senate will proceed to consider the bill just reported by the Senator from New York for the consolidation of the two districts in California.

Mr. TRUMBULL. It is not printed yet. You had better let it be printed.

Mr. CONNESS. It is very plain.

Mr. TRUMBULL. It also consolidates two districts in Louisiana, as now amended.

Mr. CONNESS. I did not know that.

STATUTES-AT-LARGE.

Mr. ANTHONY. The Committee on Printing, who were instructed to inquire what legislation is necessary in regard to the printing the public statutes of the United States, have directed me to report a joint resolution (S. R. No. 50) in relation to the publication of the laws of the United States, and I should like to have it considered at this time.

There being no objection, the Senate proceeded to consider the joint resolution, which proposes to direct the Secretary of State to renew the contract of October 31, 1850, between the Department of State and Little, Brown & Co., of Boston, Massachusetts, for the annual publication of the Statutes-at-Large of the United States, until otherwise ordered by Congress, in conformity with the joint resolutions approved respectively March 3, 1845, and September 30, 1850; but the time within which the annual edition of the Laws is to be delivered at the Department of State is to be extended to seventy days after the adjournment of each session of Congress. The price is not to exceed the actual expenditures by Little, Brown & Co., for composition, press-work, paper, binding, editing, and transportation, (all of which are to be done at the lowest market price, and the paper to be furnished at as low a price as is paid by the Government for paper of the same quality,) and five per cent. commission thereon.

Mr. ANTHONY. I will explain very briefly the purpose of this resolution. The Statutes-at-Large are now printed and have been for a great many years by Little, Brown & Co., of Boston, under a contract made with the Department of State. The contract was made at a time when everything in regard to printing was a great deal lower than it is now, less than one half, perhaps not more than forty per cent. of the present cost, and when the annual volume of the Statutes was but a third of the size it has grown to during the war. Consequently it has been apparent for some time that the contract could not be continued without great loss on the part of the publishers, and they have come here from year to year and a fair allowance has been made to them in the miscellaneous appropriation bill. As it is considerable trouble to them and to the Senate to be adjusting the contract on equitable principles at every session of Congress, it is proposed to pass this joint resolution which continues the contract precisely the same as it has been before, by the Department of State, except that the time within which the volume shall be delivered is extended from sixty to seventy days after the adjournment, the ten days additional being made necessary by the increased size of the volume, and it is very necessary that it should be prepared with perfect accuracy in editing, indexing, marginal references, &c. The price is fixed at the actual cost to the publishers, their bills to be audited by the Department of State, and the price of paper not to be more than is paid by the Government, and an addition of five per cent. for their profit and expenses. That is cheaper than we can do it here, because printing can be done in Boston cheaper than it can be done here.

When the national Printing Office was first organized under the Interior Department, it was the intention of Congress that all the printing of all of the Executive Departments and of the judiciary and of the statutes should be done there, and it was accordingly proposed to transfer this publication from Little, Brown & Co., to the Superintendent of Public Printing at the last session; but the legal gentlemen in the Senate, the Senator from Maryland, [Mr. JOHNSON,] the Senator from Illinois, [Mr. TRUMBULL,] the Senator from Maine, [Mr. FESSENDEN,] and, I believe, the Senator from Ohio, [Mr. SHERMAN,] and the Senator from New York, [Mr. HARRIS,] all bore testimony to the very great accuracy of the edition printed by Little & Brown, and all considered it very important that the work should be continued in their hands; and in deference to their authority and to the recommendations of the highest judicial authorities in the country which have been presented here, the committee have reported this joint resolution.

The joint resolution was read three times, and passed.

BILLS INTRODUCED.

Mr. LANE, of Indiana, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 209) for the relief of Zada Sawdon, widow of the late John Sawdon, of Ripley county, Indiana; which was read twice by its title, and referred to the Committee on Pensions.

Mr. BROWN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 211) to improve and enlarge the arsenal grounds at St. Louis; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and, with the accompanying papers presented by him, was ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 212) to aid in the construction of the Kansas and Neosho Valley railroad, connecting the great lakes, Iowa, Missouri, and Kansas, with Texas and the Gulf of Mexico, and to secure to the Government the use of the same for military, postal, and other purposes; which was read twice by its title and referred to the Committee on Public Lands.

Mr. HENDERSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 213) for the relief of John H. Ellis, a paymaster in the United States Army; which was read twice by its title, and referred to the Committee on Claims.

Mr. HENDERSON. I present papers in connection with that bill to be referred to the same committee.

They were so referred.

Mr. MORRILL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 214) to incorporate the General Hospital of the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. STEWART asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 215) concerning certain lands granted to the State of Nevada; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

MESSAGE FROM THE HOUSE.

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

A bill (H. R. No. 213) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1867;

A bill (H. R. No. 238) to amend an act entitled "An act relating to *habeas corpus*, and regulating judicial proceedings in certain cases," approved March 3, 1863; and

A bill (H. R. No. 280) making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1867, and for other purposes.

ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House of Representatives had signed an enrolled joint resolution (H. R. No. 45) to change the name of the ship Art Union to the name George M. Barnard, and it was signed by the President *pro tempore*.

NORTHERN KANSAS RAILROAD.

Mr. POMEROY. I move to postpone all prior orders and take up the bill (S. No. 145) for a grant of lands to the State of Kansas to aid in the construction of the Northern Kansas railroad and telegraph.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. The route of the proposed railroad is from Elwood, on the Missouri river, in Kansas, opposite St. Joseph, in Missouri, west through Marysville to a junction with the Pacific railroad, eastern division, on the Republican river, in Kansas.

The Committee on Public Lands reported the bill with an amendment, in section one, line nineteen, after the words "United States," to insert "not designated as mineral lands;" so that the clause will read:

Then it shall be the duty of the Secretary of the Interior to cause to be selected for the purposes aforesaid, from the public lands of the United States not designated as mineral lands, nearest to tiers of sections, so much land, in alternate sections, &c.

Mr. CONNESS. If that is intended to be an exemption of mineral lands, I do not think it is a complete one, because there is no general designation that I know of made by the United States of mineral lands as such.

Mr. POMEROY. The surveyor general makes the designation from the public surveys. If the Senator desires to put the exemption in any other form, I shall not object.

Mr. CONNESS. I think it would be preferable to change the language so as to make it conform to the acts that have been passed on that subject. This is the first time I have ever heard that form of language. I do not think there is a form of specific designation.

Mr. POMEROY. "Not mineral" is the usual form.

Mr. CONNESS. I have not a copy of the bill before me, and cannot suggest a change; but I think a change should be made.

Mr. POMEROY. "Not mineral" is the usual form, and I have no objection to changing it in that way.

The PRESIDENT *pro tempore*. Does the Senator so modify the amendment?

Mr. POMEROY. Yes, sir. I will modify it by inserting, in lieu of the words "not designated as mineral lands," the words "not mineral;" so that the clause will read:

It shall be the duty of the Secretary of the Interior to cause to be selected for the purposes aforesaid, from the public lands of the United States not mineral, nearest to tiers of sections above specified, &c.

Mr. CONNESS. I suggest to the Senator that it is not a sufficient designation to say "lands not mineral." He had better reserve that and put in a special proviso:

Provided, That mineral lands, or lands containing gold or silver, shall not be conveyed under the provisions of this act.

Mr. POMEROY. There are no mineral lands within a thousand miles of this road, and I deem the phrase "not mineral" sufficient, because no minerals have ever been found there, and that is the usual form, the old form.

Mr. BROWN, [to Mr. CONNESS.] Let this amendment be adopted, and then you can put on the other proviso if you wish to do so.

The amendment was agreed to.

Mr. BROWN. I move to amend the bill in section one, line 8, by inserting after the words "Republican river," the words, "or at some point east of the hundredth meridian," so that it will read:

That there be, and hereby is, granted to the State of Kansas, for the purpose of aiding in the construction of the Northern Kansas railroad, to wit, from Elwood, on the Missouri river, in Kansas, and opposite the city of Saint Joseph, in the State of Missouri, west through Marysville, to a junction with the Pacific railroad, eastern division, on the Republican river or at some point east of the hundredth meridian, in Kansas, every alternate section, &c.

Mr. LANE, of Kansas. I hope the Senator

from Missouri will not insist upon that amendment. If the Union Pacific railroad runs up the Smoky Hill route, they cannot form a junction east of the hundredth meridian.

Mr. BROWN. They can form a junction with the other branch by striking out the words "eastern division." All I desire is to give them a connection in any event.

Mr. LANE, of Kansas. The probability is that the two roads will be separated; that the northern branch will run on the north side of the Platte, and the eastern division branch will run up the Smoky Hill. In that case they will be permitted to connect at any point.

Mr. POMEROY. If the Senator from Missouri will strike out the words "eastern division" he will accomplish all that he desires.

Mr. BROWN. I propose to strike out those words.

Mr. LANE, of Kansas. Why limit them at all? Why not permit them either to connect with the Union Pacific or with the Northern Pacific at any point?

Mr. BROWN. That will suit just as well; and if the Senator will draw up an amendment in that shape I shall have no objection to it.

Mr. POMEROY. The only difficulty about that is, that the Burlington and Missouri River Railroad Company have got the grant south of the road leading from Omaha. I have no objection to the amendment, but I am satisfied they cannot do that.

Mr. LANE, of Kansas. The Senator from Missouri will accomplish his object by striking out the words "eastern division on the Republican river;" so that it will read:

To a junction with the Pacific railroad in Kansas, every alternate section of land, &c.

Mr. BROWN. Very well; I accept that.

The PRESIDENT *pro tempore*. The question is on the amendment as modified.

The amendment was agreed to.

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

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

PUNISHMENT OF COUNTERFEITING.

Mr. POLAND. I move to take up for consideration Senate bill No. 165, reported by me a short time ago from the Committee on the Judiciary.

The motion was agreed to; and the bill (S. No. 165) more effectually to provide for the punishment of certain crimes against the United States was read the second time, and considered as in Committee of the Whole.

Under its provisions any person or persons who shall falsely make, alter, forge, or counterfeit; or cause or procure to be falsely made, altered, forged, or counterfeited; or willingly aid or assist in the false making, altering, forging, or counterfeiting of any bond, bid, proposal, guarantee, security, official bond, public record, affidavit, or other writing for the purpose of defrauding the United States; or shall utter or publish as true, or cause to be uttered or published as true, any such false, forged, altered, or counterfeited bond, bid, proposal, guarantee, security, official bond, public record, affidavit, or other writing, for the purpose of defrauding the United States, knowing the same to be false, forged, altered, or counterfeited; or shall transmit to, or present at, or cause or procure to be transmitted to, or presented at, the office of any officer of the United States, any such false, forged, altered, or counterfeited bond, bid, proposal, guarantee, security, official bond, public record, affidavit, or other writing, knowing the same to be false, forged, altered, or counterfeited, for the purpose of defrauding the United States, shall be deemed and adjudged guilty of felony, and being thereof duly convicted, shall be sentenced to be imprisoned and kept at hard labor for a period not exceeding ten years, or be fined not exceeding $1,000, or both, in the discretion of the court.

It is further provided that if any offense shall be committed in any place which has been, or shall hereafter be, ceded to, and under the jurisdiction of the United States, which offense is not prohibited, or the punishment thereof is not specially provided for by any law of the United States, such offense shall, upon conviction in any court of the United States having cognizance thereof, be liable to and receive the same punishment as the laws of the State in which such place is, or may be situated, now in force, provide for the like offense when committed within the jurisdiction of such State; and that no subsequent repeal of any such State law shall affect any prosecution for such offense in any of the courts of the United States.

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

USE OF HALL FOR LECTURES.

Mr. WILSON. I move that the use of the Hall be granted to Mrs. M. C. Walling, recently a refugee from Texas, now a resident of Illinois, to deliver a lecture in on Tuesday evening next, the floor of the Hall to be used only for members of the Senate and House of Representatives and their families.

Mr. GRIMES. As that will establish a very important principle, by which we shall be governed hereafter I suppose, I call for the yeas and nays on that motion.

The PRESIDENT *pro tempore*. The Chair can entertain the motion at the present time only by unanimous consent, as the morning hour has expired, and it is now the duty of the Chair to call up the special order.

Mr. CONNESS. I hope this matter will be voted on now.

Mr. RIDDLE. I object.

The PRESIDENT *pro tempore*. Objection being made, the motion, in the opinion of the Chair, cannot be entertained, as the hour has arrived for the consideration of the special order.

INTERNATIONAL OCEAN TELEGRAPH.

The Senate resumed the consideration of the bill (S. No. 26) granting to the International Ocean Telegraphic Company the right and privilege to establish telegraphic communication between the city of New York and the West India islands, the pending question being on the amendment of Mr. SHERMAN, in section three, line two, to insert after the words "at any time" the words "to fix and alter the rates for the transmission of messages and;" so as to make the section read:

That Congress shall have power at any time to fix and alter the rates for the transmission of messages, and to alter or repeal the foregoing act.

Mr. CHANDLER. I hope that amendment will not be adopted. Full control is now in the hands of Congress as the bill stands. I hope the bill will pass as it stands.

Mr. SHERMAN. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. CHANDLER. The Committee on Commerce very carefully guarded this bill by putting in the third section that "Congress shall have power at any time to alter or repeal the foregoing act." I think that covers the whole ground, and that it is improper to place the company so completely under the control of Congress as is now proposed. The bill is very carefully guarded, and I hope it will be passed as it is. I trust the amendment will not be adopted.

Mr. SHERMAN. Yesterday it was stated by the friends of this bill that the right to fix the rates was involved in the power to repeal or alter the charter. I did not think so myself. The adoption of this amendment will go very far toward removing my objections to the bill; but without this amendment this company may charge ten dollars a word for a dispatch between this country and Cuba. There is no limitation upon their power, no right to control them for fourteen years. It seems to me that the power to alter or repeal the charter does not include the power to fix the rates. We may repeal the charter, destroy the franchise, and the property may fall; but I do not think that includes the power to fix the rates. Yesterday, when this amendment was proposed, it seemed to be conceded by the friends of the bill that the one included the other. That being so, I am rather surprised that the Senator from Michigan should now oppose it.

Mr. FESSENDEN. A gentleman interested in this matter called upon me this morning and I had some conversation with him in reference to the bill. It seemed from that conversation that the object was to prevent any foreign company from establishing and thus getting a monopoly of a telegraphic station on our coast by means of the fact that perhaps we could not get the same privileges which we grant from any foreign country. I told him that that could be reached very easily in another mode than this, which was so objectionable, of granting an exclusive privilege for any given length of time. I said that if that was the object, which was all very well, I thought it might be attained in another way. I thought that proposition was satisfactory to him, but the conversation was not sufficiently definite on that point to enable me to say so. I therefore propose to take the vote again on striking out the word "sole" and to submit this proposition as an additional section:

And be it further enacted, That no person or persons, or incorporated company, shall be permitted to establish telegraphic communication between the United States and any foreign country through the waters of the United States, without the consent of Congress.

If, as is supposed and may probably be true, the United States have that exclusive jurisdiction over the marine league which would enable them to exclude any person from it that they saw fit to exclude, a provision like this would answer the purpose. If a foreign company is organized and that exclusion should not take place, it might be that the foreign company would have such control over the whole matter as would seriously affect our interests; but if we incorporate this company now, with leave to establish a telegraphic communication, it will enable them to compete on equal terms with the foreign company and make such an arrangement as may be beneficial. If that is all they want, and it is all they ought to have in my judgment, this will entirely protect them, and no person or corporation, whether foreign or native, could establish another telegraphic communication with a foreign country without the consent of Congress; and if it would not be reasonable to grant such a privilege to another company within the fourteen years it would not be granted by Congress, and yet Congress would retain in its own hands the power to regulate the whole matter if it became necessary to do so. I therefore propose, in order to test the sincerity of the company as to the reason that they give for desiring this bill, and also to protect them thoroughly, to put in this amendment which I have drawn; I will read it again; I think it is ample:

And be it further enacted, That no person or persons, or incorporated company, shall be permitted to establish telegraphic communication between the coast of the United States and any foreign country through the waters of the United States without the consent of Congress.

That, I think, will meet all they want and give them all necessary power, and at the same time it will leave Congress in possession of the subject, as they ought to be.

Mr. CHANDLER. The Committee on Commerce has spent months in examining and maturing this bill. I think we have devoted more time, perhaps, to this one bill than to any other measure that has been before that committee. We have succeeded in perfecting a bill which will insure the completion of a telegraph line to the West India islands. I believe that commercially it is more important than any bill which has been presented to this body during this session. I believe that to the commercial interests of this nation millions of dollars will accrue from the passage of this bill. Other nations are extending their commercial facilities. England is reaching all over the world, and has almost reached every nook and corner of the world with her telegraphic wires. France is extending her commercial relations and fa-

cilities all over the world. Russia is doing the same thing. The British have already, as I said yesterday, monopolized almost the entire business of this continent outside of the United States. They now monopolize it through their commercial facilities. The completion of this line will give us almost a monopoly of the business of the West India islands. I do not believe the Parliament of Great Britain is wiser than the Congress of the United States, except in one respect; I do not think the members of Parliament have any more business knowledge, any more business capacity, than the members of the Congress of the United States; but in Great Britain they prepare their bills in committee; they bring before those committees the business knowledge, the financial knowledge, the aggregated business intelligence of the British empire, and then the bills are passed; and fortunately for Parliament, men who know nothing about the business relations of Great Britain consent to take the advice of those who do know. I wish it was so here, sir.

The committee have perfected a bill that will insure the completion of this telegraphic wire. We know that the wire will be laid under the bill. Do we know that it will be laid under the proposition of the Senator from Maine? Do we know that it will be laid under the proposition of the Senator from Ohio? We know that it will be laid under this bill. I hope that Congress will take the bill as it has been prepared and pass it as it is, and give us this telegraphic wire.

For myself, I should be willing to give this company not only the exclusive right for fourteen years, but to pay them a subsidy of $25,000 a year for fourteen years, and then I should think we were paying very cheaply for such a great advantage to the business interests of this country. But, sir, these gentlemen propose to construct the line without a subsidy of any kind. The only thing that surprised me was that they did not ask a subsidy. I should be willing to grant a subsidy if one was necessary to insure the completion of the work. We give in this bill no further advantage than is given to every patentee under this Government. When the proposition was first made they asked an exclusive privilege for fifty years. The Committee on Commerce said, "That is too long; we will not give fifty years," and we reduced it to twenty-five. I think twenty-five years is not too long, but it has now been reduced to fourteen years; and nothing is asked except that they shall be protected during those fourteen years. I hope the Senate will take the bill as it has been reported, for it is guarded and it will insure the construction of the line. It is a good bill, and I ask the Senate to stand by it.

Mr. HARRIS. I am very sure that the proposition of the Senator from Maine will not be acceptable to the gentlemen who are engaged in this enterprise.

Mr. FESSENDEN. Then they do not tell me the truth as to what their object is, because this will effect it.

Mr. HARRIS. See what its effect will be. It will be simply to put the Spanish company that has been spoken of into the American market, and any American company who will bid highest for that charter will make an arrangement with the Spanish company expecting to come to Congress and get leave to land on our shores. That will be the result of it. I am pursuaded its effect will be to defeat this enterprise, and it seems to me that the Senate is not prepared to adopt any measure that shall result in that way.

Mr. FESSENDEN. It does seem astonishing to me that gentlemen will insist so very strongly upon granting a monopoly and tying up the hands of Congress and of the country for fourteen years on an assumed ground that can be met in another direction and by a provision leaving the hands of Congress free. If all that is desired—and I am assured that is all there is of it—is just to enable this company to keep the Spanish company off and to make a bargain with them, my amendment will do it. It prevents any other company, either foreign or native, setting up telegraphic communication between our shores and any foreign country until they get the leave of Congress. Now, sir, if we give this privilege to this company on this understanding, they coming and getting it, will Congress be guilty of such bad faith as immediately to take it out of their hands and grant it to somebody else?

Mr. HARRIS. That is not the trouble. It is not what Congress will do.

Mr. FESSENDEN. No company can do it unless Congress gives them leave. We by this bill give leave to this company, and no other company can get the privilege until they get leave from Congress. Does the Senator assume that after the American Congress has given this charter to this company with this understanding, they will turn around and give it to somebody else? That is putting Congress in a very low position and depriving it of all that business knowledge which my honorable friend from Michigan speaks of. We are to conduct ourselves, I take it, on proper principles in relation to these matters. I am very desirous to test the question whether this is mere talk about the Spanish company coming here and getting control of it and taking it out of our hands; I fear it all is nothing more than a pretense for getting an exclusive privilege for fourteen years. If it is true, and I have no question it is true, from the high character of the gentleman who stated it to me, that the object is only what I have suggested, then this proposition of mine meets it directly and keeps the whole power in the hands of Congress. That is the simple truth of it. I feel no more interest in this question than anybody else. I never heard of it until the bill was brought forward, but I really feel a very strong aversion to doing these things. I have done them before upon the large stories told about "the immense cost" and "the company will not do it unless inducements are held out," and the "great importance of the enterprise," and I have afterward seen that our action put fortunes in the hands of men. This has been repeatedly the case; it is the case with regard to the telegraph across the continent to the Pacific; and after this experience I am getting to be a little careful about what I do in relation to such matters.

If this line will pay, the bill gives a valuable privilege: if it will not pay, and the parties are satisfied it will not pay, it will not be built; but if it can be built now in this busy time—I mean busy in the sense that the whole world is busy, making active advances in everything—only on the principle of granting exclusive privileges for a series of years, I do not think it is worth undertaking at all.

Mr. HARRIS. If it were true, as the Senator from Maine assumes, that this were a question between this company and Congress, it would be a different affair; but, sir, what is the first thing they have to do after this charter is passed? To negotiate with the Spanish Government for permission to land upon the island of Cuba. Let his proposition be adopted, what will the Spaniards say on this subject? They will say, "Before we give this consent to this company, we will see what kind of a bargain we can make with these Americans; we will see what other company may apply for this permission; we will not grant the permission until we see what terms we can make with somebody else; perhaps we can get some of the Americans to join with us in our company and go to the American Congress and get permission." I do not think Congress would do it. It would keep good faith; I agree with the Senator from Maine in that respect; but the question is, how can this company negotiate with the Cuban company? With such a proposition as the Senator from Maine suggests incorporated in this bill, they cannot negotiate at all. I am persuaded of it. It is defeating the measure. What is the great evil that the Senator from Maine anticipates here? Suppose this to be the awful monopoly that he describes; what is it? It is to allow a company to construct a telegraph line about five hundred miles through the swamps and wilderness of Florida, where they will not receive one single cent of revenue, and then across the channel to Cuba; and they give us intercourse with Key West, one of the most important points in this country, and give also intercourse with the West Indies. Suppose they have a monopoly for fourteen years, restricted in their charges by the judgment of Congress, what does it amount to? What is the great evil to result from it? Suppose they have that monopoly: they are invited to make this large expenditure, to engage in this hazardous enterprise; let them have the monopoly; it will do no great harm, no great injury will result to the country from it. I am persuaded none can, and I am a little surprised, I confess I am, at the course of the Senator from Maine. I know the zeal with which the Senator from Maine enters into a discussion of this sort, and how anxious he is when he gets engaged in a matter to carry his point, but I am a little surprised that he should oppose the measure with so much energy.

Mr. MORRILL. Allow me to inquire what is the precise question now before the Senate.

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) The question is on the amendment moved by the Senator from Ohio, [Mr. SHERMAN.]

Mr. MORRILL. Suppose we vote on that, and then we can talk about the other question.

The question being taken by yeas and nays, resulted—yeas 17, nays 21; as follows:

YEAS—Messrs. Brown, Buckalew, Clark, Doolittle, Fessenden, Henderson, Hendricks, Howe, Kirkwood, Lane of Indiana, Lane of Kansas, Sherman, Sprague, Trumbull, Van Winkle, Willey, and Yates—17.

NAYS—Messrs. Chandler, Cowan, Cragin, Creswell, Davis, Guthrie, Harris, Johnson, Morgan, Morrill, Nesmith, Norton, Nye, Poland, Pomeroy, Ramsey, Saulsbury, Stewart, Sumner, Wade, and Wilson—21.

ABSENT—Messrs. Anthony, Conness, Dixon, Foot, Foster, Grimes, Howard, McDougall, Riddle, Stockton, Williams, and Wright—12.

So the amendment was rejected.

Mr. HOWE. I move to amend the bill by striking out "five" and inserting "two" in the eighth line of the second section, so as to require these parties to complete the line in two years.

Mr. CHANDLER. I should have no objection to that amendment were it not for the accidents that attend the laying of submarine cables. For how many years has the Atlantic Telegraph Company been trying to lay the Atlantic cable? This cable will be liable to the same kind of accidents. The company intend to go on immediately and lay the cable as soon as it can be done. I do not think the amendment is necessary, but if the Senator from Wisconsin will make it three years I shall not object; I am willing to accept that.

Mr. HOWE. Very well; I modify my amendment so as to say "three years."

Mr. JOHNSON. I ask the Senator from Michigan whether he thinks the work can be done in three years. I doubt it very much.

Mr. CHANDLER. I hope it can be; if it shall not be sufficient we can extend the time. I should prefer to retain "five years" in the bill, but I hope it may be done within three years, and therefore I make no objection to that amendment.

Mr. JOHNSON. I suppose it could be done in four years. If the honorable member who offered the amendment to fix two years, and who has accepted the proposition to make the time three years, will accept another modification and make his amendment "four years," I think the Senate perhaps will be unanimous. I doubt very much whether the work can be done in three years.

Mr. HOWE. I do not think there is the slightest doubt about the ability of this company to lay this wire in three years. I do not think there is the slightest doubt but what if they lay it at all, they will lay it in the next two seasons. I understand that but for a delay in their operations it would be laid this season. I do not suspect the gentlemen engaged in this enterprise of any such design, but I do not think it is right to give them an exclusive privilege to maintain this line for fourteen years, and then

an exclusive right to market that privilege for five years. I think they ought to have a reasonable time in which to lay the line; and if I had the slightest doubt about three years being a reasonable time I should be willing to extend it.

Mr. HARRIS. I think three years is enough.

Mr. CHANDLER. There is a negotiation to be made with the Spanish company. How long it will take to make that negotiation it is impossible for me to say.

Mr. HOWE. It is impossible for me to say; but I do not want to give them a great many years to negotiate with the Spanish company.

Mr. CHANDLER. I am satisfied to take three years.

Mr. HOWE. That is the way my amendment now stands.

The amendment was agreed to.

Mr. FESSENDEN. I move now to amend the bill by striking out the word "sole" before "privilege" in line five of section one.

Mr. CHANDLER. That is a motion to kill the bill. If the Senate desire to kill the bill they will adopt that amendment.

Mr. MORRILL. I understand that my colleague makes this motion with a view of following it, if it should be successful, with the amendment which he has stated to the Senate.

Mr. FESSENDEN. Precisely so.

Mr. MORRILL. If the amendment which he is to offer is to have any influence on the votes of the Senate on the question of striking out, I desire to call the attention of the Senate to the proposed amendment. It will be recollected that the argument yesterday was, that it was doubtful whether Congress had power to grant an exclusive right to lay a submarine telegraph from the shores of any one of the States to a foreign country. This amendment would seem to involve that question in a very obnoxious form, truly, I think, obnoxious to the criticism raised yesterday. It is well settled, I think, by the courts in this country that the commercial power is not exclusively in the Government of the United States, unless the Government of the United States chooses to exercise it. For instance, the Government of the United States has exclusive jurisdiction over all foreign commerce and over all questions arising in the foreign commerce of the country. Basing this bill on that power, it was said yesterday that it was doubtful whether we could exercise this power to the exclusion of the right of a State. It has been settled that the State may exercise the rights of commerce over that jurisdiction which is confessedly foreign and exterior provided Congress has never undertaken to exercise the right, and until Congress does exercise such right the State may exercise it. Now, the question I raise is, is this an exercise of the right? Does Congress by simply putting a negation in a bill exercise its power over the question of commerce?

Mr. FESSENDEN. Why not?

Mr. MORRILL. Simply because it does not, I conceive.

Mr. FESSENDEN. It does it by prohibiting just as much as in any other way.

Mr. MORRILL. But conceding now that the State has a right to exercise it if Congress does not interpose to exercise the right, to wit, the right to grant to this submarine telegraph company this exclusive privilege, cannot the State do it? Can the Congress of the United States accompany a bill simply granting the right to a company to lay a submarine telegraph from the shores of a State to a foreign country with a declaration that no other company from the shores of any State or from the whole coast of the country shall exercise any similar right without the consent of Congress? Whether this is sound or not, I submit that it presents a case vastly stronger than that which my honorable colleague raised yesterday against the jurisdiction of Congress to exercise this power. I shall vote against the amendment on the general grounds stated by the Senator from New York. I think it would tend to defeat the objects of the bill.

Mr. FESSENDEN. I did not intend to say a word more on this subject, and I really do not care much about it, except simply to do my duty in the premises, and when that is done, if the Senate think this privilege ought to be granted, so be it; I am content. But perhaps I ought to say a word in reply to the argument of my colleague. I think he has refined it to a degree. What in the world is this but a prohibition? Congress grants the right to one company and prohibits any other company from doing it. If it has the power, through its connection with commerce, to prohibit in the bill any other company from doing it, why cannot it prohibit it *in toto*? If Congress has the power, through the commercial power vested in it by the Constitution, to act upon this subject at all for the benefit of commerce, I am yet to learn that Congress is not at perfect liberty to exercise its own discretion for the benefit of commerce, either by granting or prohibiting.

Mr. MORRILL. If my colleague will allow me, there is a distinction between the right to prohibit and the right to regulate.

Mr. FESSENDEN. I should like to know if you cannot "regulate" by prohibiting as well as in any other way.

Mr. MORRILL. You do not regulate by prohibiting.

Mr. FESSENDEN. Certainly you regulate by prohibiting an act from being done which you think injurious.

Mr. MORRILL. But my distinction is, that instead of regulating, you destroy, and that you cannot do.

Mr. FESSENDEN. If you think that a certain act is or will be injurious, cannot you destroy it?

Mr. MORRILL. You cannot go that far.

Mr. FESSENDEN. Why not? If it be injurious to commerce, and it is under the regulating power, you can as well prohibit and prevent as you can act affirmatively and grant.

Mr. MORRILL. If my colleague will allow me, I will illustrate it in this way: Congress can regulate the commerce upon all the interior navigable waters; but can Congress say that those rivers shall not be navigable?

Mr. FESSENDEN. I do not know that they could.

Mr. MORRILL. Very well; that is the point exactly.

Mr. FESSENDEN. I do not know that they could in that case.

Mr. MORRILL. I submit that illustration.

Mr. FESSENDEN. But I do not think that illustrates it at all. Here is a power granted to a company. Cannot you say, for the benefit of the commerce of the United States, that no company or person shall do a certain act which Congress thinks injurious? If it cannot do that, you cut off a very large portion of its power. It will not do to say that Congress is prevented from interfering with a thing injurious to commerce, because by prohibiting it might destroy it. I wonder why the point is not raised when the Senator advocates a bill granting an exclusive privilege to a company. Is not that prohibiting all other companies from doing anything in the same direction? It is the same thing in result.

I only rose to comment upon that particular thing. I did state yesterday that there was some doubt about this power; but the same very intelligent gentleman who conversed with me stated that the matter had been very thoroughly investigated by counsel, and they thought Congress had the exclusive power, if it chose to exercise it, over the marine league next to the shore. I think it likely that that may be so. If it has, it can exercise this power which I propose. If it has not, then this grant of an exclusive privilege is good for nothing, and any company may do what it pleases. But, sir, I find that this case is just like all others. Nothing that accomplishes the purpose which gentlemen say they have in view will answer, unless it does something more that they do not pretend to have in view, but which they think essential. Here is this idea of an exclusive privilege for fourteen years. Gentlemen say it is to prevent a foreign company from interfering or controlling it. I offer them something that will control it, and they say that will not do. It is always so. If the idea is to be followed out that this company must have its own way, I am willing, if the majority say so, that it should. I always submit to defeat with good grace. If the majority say so, very well; I have no objection.

Mr. SPRAGUE. I object to this bill for a reason that has not been stated, and that is, that it grants a valuable property without consideration. I presume that this grant in the market is worth half a million of dollars. I cannot conceive of the necessity or the use of making this grant without a consideration of some kind. You refuse to permit Congress to regulate the prices under it for the protection of the people against exorbitant demands; you refuse to permit any one to have any charge or direction of this matter except the company who are to receive these advantages, and from whom we derive none. While the people of the United States are being taxed so heavily, and their industry almost prohibited, it seems to me Congress should not grant valuable privileges without a consideration.

The PRESIDING OFFICER, (Mr. DOOLITTLE in the chair.) The question is on the amendment offered by the Senator from Maine to strike out the word "sole" before "privilege" in the fifth line of the first section.

Mr. FESSENDEN. I should like to have the yeas and nays on that amendment.

The yeas and nays were ordered; and being taken, resulted—yeas 13, nays 22; as follows:

YEAS—Messrs. Anthony, Brown, Buckalew, Fessenden, Grimes, Henderson, Howe, Lane of Indiana, Lane of Kansas, Riddle, Sherman, Sprague, and Trumbull—13.

NAYS—Messrs. Chandler, Cowan, Cragin, Creswell, Davis, Doolittle, Guthrie, Harris, Johnson, Morgan, Morrill, Nesmith, Nye, Poland, Pomeroy, Stewart, Sumner, Van Winkle, Wade, Willey, Wilson, and Yates—22.

ABSENT—Messrs. Clark, Conness, Dixon, Foot, Foster, Hendricks, Howard, Kirkwood, McDougall, Norton, Ramsey, Saulsbury, Stockton, Williams, and Wright—15.

So the amendment was rejected.

Mr. COWAN. I propose to vote for the bill, although I am free to say I do not know what power Congress has in the premises. It is true we have exclusive jurisdiction of the marine league, but we only have that exclusive jurisdiction *sub modo* and for particular sanitary and police purposes. I should suppose that this right was exclusive in the States, from the nature of it, and that the only jurisdiction Congress could exercise over it would be in time of war, just as they would exercise it over any inland telegraph. I shall vote for the bill, not because I am conferring anything valuable upon any company unless they can make something valuable out of it by dealing with foreigners.

Mr. HARRIS. That suggestion has been made once or twice, and I will state in a word how I understand the legal question to be. I understand that the Congress of the United States have exclusive jurisdiction over the marine league, and that no company can construct a telegraph wire over it without the consent of Congress.

Mr. COWAN. This is under it, in the water.

Mr. HARRIS. Under it or over it. I understand, too, that the State of Florida has exclusive jurisdiction over that tract between high-water mark and low-water mark, and that this company will have to go to the State of Florida to get permission to construct their telegraph over that; and then they have also to make some arrangements with the individual who owns the land to the high-water mark. I understand those three powers are all to be consulted before this company will be able to enter upon their enterprise. It is very well for them to begin with Congress, because Congress has exclusive jurisdiction over the length of a cannon shot called a marine league.

The bill was ordered to be engrossed for a third reading, read the third time, and passed; and its title was amended so as to read: "A

bill to encourage telegraphic communication between the United States and the island of Cuba and other West India islands and the Bahamas."

THOMAS F. WILSON.

On motion of Mr. CHANDLER, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 146) for the relief of Thomas F. Wilson, late United States consul at Bahia, Brazil, which had been recommitted to the Committee on Commerce on the 14th of March and reported on the 16th, with an amendment to strike out all of the original bill after the enacting clause, and to insert in lieu thereof the following:

That the Secretary of the Treasury be, and he is hereby, authorized to pay to Thomas F. Wilson, late United States consul at Bahia, $1,500, out of any money in the Treasury not otherwise appropriated, in full compensation for extra services, and for all other claims he may have against the Government, while in the service of the United States as consul.

The amendment was agreed to.

Mr. FESSENDEN. I should like to have some explanation of the bill. I do not know anything about it.

Mr. CHANDLER. It is the same bill that was discussed here the other day.

Mr. FESSENDEN. Is it the one in relation to the cutting out of the Florida at Bahia?

Mr. CHANDLER. Yes, sir.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

VESSELS FOR QUARANTINE PURPOSES.

On motion of Mr. CHANDLER, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 57) authorizing the Secretary of War and the Secretary of the Navy, respectively, in their discretion, to place gratuitously at the disposal of the commissioners of quarantine, or the proper authorities of any of the ports of the United States, to be used by them temporarily for quarantine purposes, such vessels or hulks belonging to the United States as are not required for other uses of the national Government, subject to such restrictions and regulations as the Secretaries may respectively deem necessary to impose for their preservation.

Mr. GRIMES. I move to amend the resolution in the third line by striking out the words "and the Secretary of the Navy," so that the resolution will authorize the Secretary of War to place at the disposal of these quarantine authorities such vessels under his charge as may not be required for Government uses.

Mr. CHANDLER. I hope that amendment will not prevail.

Mr. GRIMES. I have but a word to say in behalf of this amendment. In the first place, I suppose this resolution is intended for the benefit of the harbor of New York. I do not know any reason why this Government, if we had the vessels, should furnish them to one particular harbor, or to a particular city, to the exclusion of another.

Mr. MORGAN. Is that the character of this resolution?

Mr. GRIMES. I suppose so from the use of the words "commissioners of quarantine," and New York I understand to be the only place where they have those commissioners. This resolution was inspired by gentlemen in New York, as I understand. The effect of it will be, in the first place, to create dissensions among the different Atlantic cities, and other cities too, which ought to be protected against cholera as much as the city of New York. In the second place, it holds out the idea to the people of the city of New York and these other cities that the Government has ships and vessels that they can furnish for this specific purpose, and they have not got one. There is not a hulk nor a ship-of-war that can be employed for this purpose, and if we had them, they ought not to be employed for this purpose, because it will entirely ruin them.

I know it will be answered that this resolution merely "authorizes" the Secretaries of War and of the Navy to detail these vessels. That is true; but we all know that if you pass this resolution they will be importuned from the moment of its passage by the people interested in having these vessels detailed for this purpose, and they will have a very great power of resistance if they are able to resist the demand that they shall comply with it in some way or other. They cannot comply with it, and you will only put these executive officers of the Government in a condition where they will be abused and maligned for not complying with the law, when those of us who are familiar with the subject know that it will be absolutely impossible for them to comply with it.

I know that the Secretary of War has two or three vessels. He has got the Illinois—and I believe he has turned that vessel over to the quarantine commissioners of New York—a very large steamship, pretty nearly worthless, but valuable perhaps for this particular purpose. I have not a word to say against the Secretary of War turning her over to the quarantine authorities of New York. They have her now, and so far as I am concerned, they may keep her; and I am willing to change this resolution so as make it confirm that act of the Secretary of War; but I do not wish to put the executive officers of the Government in the condition in which I know this resolution will place them if it should become a law. Sir, it is not our business to furnish vessels-of-war for any such purpose as this. If you want to establish quarantine, if it is necessary that the General Government should do it, bring in such measures as are legitimate and proper; employ commercial vessels if that is the kind of system you want to inaugurate; but do not undertake to convert the Navy of the United States, the armed ships of the Government, into hospital ships.

Mr. CHANDLER. This resolution has no more application to the city of New York than to any other city. The language of it is:

The commissioners of quarantine, or the proper authorities of any of the ports of the United States.

If the Secretary of the Navy has no ships that he can loan to the commissioners of quarantine or the commissioners of health for this purpose, I do not see that there is any harm done by granting him the permission to do what it is utterly impossible, as the Senator says, for him to do. The object of the resolution is, that in case of a sudden alarm, as last fall, for example, when a ship laden with cholera made its appearance in New York harbor, should such a ship appear in New Orleans or in Charleston or Norfolk or Baltimore, or in any of the other of our sea-ports, laden with cholera, having no cholera hospital prepared, this ship or hulk, or whatever it may be, that is not in requisition by the Department, may be turned over to the use of the health commissioners in that particular locality. I am told that in the harbor of New York they have to-day the North Carolina, capable of holding one thousand persons in case of necessity. I hope that no ship will ever be called for. I hope the cholera will never make its appearance; but it may. If, from the lack of a ship that the Navy Department had on hand, for example, the North Carolina in the harbor of New York, the cholera should be landed and thousands of lives should be sacrificed, I think the Senator would perhaps blame himself for having opposed this resolution. There is certainly no harm in it, for it merely grants the permission in case the Secretaries of War and of the Navy have the ships. That is all there is in it.

Mr. GRIMES. The remark which the chairman of the Committee on Commerce has just dropped with regard to the North Carolina shows, I will not say the ignorance, but the absence of knowledge with which we are attempting to legislate here. He speaks of the North Carolina as being an old hulk. Why, sir, she is the receiving ship at that station, and has been used for that purpose during the winter, and has to-day from twelve to fifteen hundred men on board of her, and they are compelled to be kept on board of her. Is it proposed by the chairman of the Committee on Commerce to take that vessel away from the Navy Department and use her for quarantine purposes? Can he name any other vessel within the reach and control of the Secretary of the Navy that can be used in this way? I want the chairman of the Committee on Commerce, who has now a considerable fleet under his command of revenue cutters and so on, to keep command of his own squadron, and not interfere with the jurisdiction of other people. If it is necessary that he should use these vessels, if there must be a marine patrol established or hospital ships, let him take the revenue cutters. Some of them are large, airy, beautiful, and well adapted for this purpose—quite as well adapted as most of the naval vessels are. This is a commercial measure. What I object to is that he shall come in and intrude upon other people's manors and undertake to take away the armed ships of the country and convert them into hospitals.

I knew the argument would be urged, as it is urged by him, that this only confers an authority, and does not impose any obligation upon the part of the Secretaries. But if you pass this bill you will have all the commissioners of police and two thirds of the city council of New York down here in less than twenty-four hours importuning the President or the Secretary of War and the Secretary of the Navy, and abusing every man who, as they think, thwarts their views on the subject or prevents vessels being handed over to their keeping.

Mr. WILSON. I thought they had one.

Mr. GRIMES. They have one, the Illinois, belonging to the War Department, an immense ship, larger than any of our naval vessels. Let them keep her if they want her. I do not want to reclaim her. I think she is performing as valuable service there as she will anywhere else, if I understand the character of the ship, and I think I do. But if we are going to do this for New York, shall we not do it for Portland? Shall we not do it for Boston and Philadelphia? Shall we not send the Michigan up to Detroit as a quarantine vessel at Detroit? Will not these other cities and towns present just as strong claims as the city of New York?

Mr. NYE. I always differ with great diffidence with the chairman of the Naval Committee; but, sir, it seems to me that this is a resolution that addresses itself to the humanity of this nation. The resolution is based upon the hypothesis that the cholera in its dread march will follow the tracks that it did in former years. It astounds and paralyzes this whole nation in viewing at a distance the consternation that must come with it.

Mr. GRIMES. It came by way of New Orleans the last time.

Mr. NYE. It came from the East. By what particular route it came I do not now remember; but it came here, as I well remember. It seems to me that the Navy of this nation, if the necessities of the occasion demand it, could be no better employed in any way than in protecting the lives of our people. It is the duty of this nation to put into the hands of the proper authorities all the means that it possesses to shield and ward off this terrible disease and malady with which we are threatened. The Senator from Iowa inquired from the Senator from Michigan if he would send the Michigan on Lake Erie to Detroit upon police duty? The Senator from Michigan did not answer, but I will assume to answer it for him. If the protection of the lives of the inhabitants of Detroit require it, send it by all means. It is on Government business, and the greatest of all the business of Government is to protect the lives of its people.

Sir, I am sorry to see this quibbling upon all these questions, without inquiring what certain ships shall do or what shall be done with them. I am not afraid to trust the man at the head of the Navy Department and clothe him with this discretion. If this pestilence comes like the wind, as it came before, and the pest-houses of New York or of Portland are full, and the people are dying in the streets, for God's sake will not this nation have magnanimity enough

to give them a floating hulk to die upon? If it takes the spare Navy of the nation to give these people shelter and protection, a place to lie down and be buried from, the inhumanity of this nation would be arraigned before the tribunals of the united world if it failed to apply it to that purpose.

I do not think there is any danger of this power being abused. "Hulks" is the word used, and if the information before the Navy Department is true, we have got plenty of hulks on which it would hardly be safe even for cholera patients to be; [laughter;] but I trust they would be appropriated to that purpose, if no better quarters could be had; and therefore I trust that this resolution will pass. I hope the chairman of the Committee on Naval Affairs will rid himself of all his fears on this subject. The present able Secretary of the Navy, watchful and vigilant as he is, and aided by the Senator's counsel, will be at all times able to see that the Navy is not weakened to any extent that would endanger it by letting such vessels as are not in use be used for this purpose.

Mr. GRIMES. My objection to this matter may, in the estimation of the Senator from Nevada, be "quibbling;" but it is not "quibbling" in my estimation.

Mr. NYE. I did not say that.

Mr. GRIMES. I understood the Senator to say so.

Mr. NYE. Oh, no, not by any means.

Mr. GRIMES. I think it is very important that we should keep the operations of these various departments distinct. If it becomes necessary that quarantine should be established by the national Government at New York, I am content that the Government should establish it. I undertake to say that if it does establish it, it must be established under the provisions of the Constitution that relate to commerce between this country and foreign countries, and it should be regulated by the Treasury Department. I am not willing to give to the Treasury Department or to the State Department, as was proposed in the House of Representatives the other day, the control of the Navy, however it may be with the Senator from Nevada or the Senator from Michigan. I do not know the exact number, but I suppose there are some thirty or forty revenue cutters.

Mr. CHANDLER. They are all now on duty and used for this purpose.

Mr. GRIMES. I suspect the Senator is not speaking with very great accuracy when he says that all the revenue cutters are used for that particular purpose.

Mr. CHANDLER. They are all on police duty.

Mr. GRIMES. I believe they have unlimited power to build revenue cutters. If they have not, let them apply to Congress and get the necessary power to build revenue cutters. When Senators cannot name a single vessel, or hulk, as it is called, that can be used for this purpose, not now in use by the national Government, why do they propose to select from the Navy vessels for this purpose?

Mr. CHANDLER. If the Senator will pardon me for interrupting him, the Secretary of the Navy himself told me that the North Carolina was condemned and was not in use for any purpose. I named the North Carolina because the Secretary of the Navy himself gave me that personal assurance.

Mr. GRIMES. Of course I cannot speak as to the conversations that took place between the Secretary of the Navy and the chairman of the Committee on Commerce. I can only say that when I was at the Brooklyn navy-yard a few months ago, the North Carolina was the receiving ship at that station.

Mr. CHANDLER. I am aware that she has been.

Mr. GRIMES. And I undertake to say that it has not been changed yet. Doubtless she has been condemned, as all of these receiving ships have been condemned, as no longer seaworthy. They are not made receiving ships until they have been first condemned. When they have been condemned and are found unfit to go to sea, then, if they are of the proper size, they are converted into receiving ships, and not before. When they become still further worthless they are broken up.

Sir, I should like to know why it is that my town cannot be protected as well as any other one? The Senator from Nevada says he would send the Michigan to Detroit; but how is he going to take care of Buffalo, Cleveland, and Toledo, that are in a like condition of danger, and have just as strong demands upon you as the city of Detroit? This question of humanity is a very pleasant argument to urge, and a very strong one, but it seems to me it ought not to have a very great weight here with us. I am willing to go as far as any of these Senators in protecting these different cities and the whole population of the United States against cholera. I only ask you to keep the operations of these different Departments distinct. I will vote for any appropriation that the chairman of the Committee on Commerce may bring in here proposing to furnish quarantine for New York, if that is considered necessary. If you want to build vessels for the purpose, build them; but it seems to me we ought to adhere to the principle that has been well established in the past, that the operations of these different departments should be kept perfectly distinct. We have had proposition upon proposition, one to send a vessel to assist in laying telegraph wires, another to send three ships to the great Exposition at France, and now we have a proposition to take other vessels and plant them wherever the Secretary of the Navy and the Secretary of War jointly may determine. If we agree to these propositions what is to become of our Navy, and how is the commerce of the city of New York to be protected elsewhere?

Mr. RIDDLE. I am not disposed to interfere or mingle in this debate. I agree with the chairman of the Committee on Naval Affairs, and shall vote against this resolution. I am not disposed to make cholera hospitals out of our naval vessels. I think that this talking about the cholera in the Senate is only inviting it here. I think the less we say about it the better, because by talking about it we are invoking it, we are creating fears which should not exist. I therefore move to lay the whole subject on the table.

Mr. NYE. Mr. President——

The PRESIDING OFFICER. The motion is to lay the resolution on the table, and that motion is not debatable.

Mr. CRESWELL. I understand the motion to be to lay the whole subject on the table; and if it takes the cholera with it I will vote for it. [Laughter.]

The motion was not agreed to.

The PRESIDING OFFICER. The question now is on the amendment of the Senator from Iowa to strike out the words "and the Secretary of the Navy," in the third line of the resolution, so as to confine its operations to the War Department.

Mr. GRIMES. I call for the yeas and nays on that amendment.

The yeas and nays were ordered; and being taken, resulted—yeas 11, nays 17; as follows:

YEAS—Messrs. Anthony, Clark, Cowan, Davis, Doolittle, Fessenden, Grimes, Riddle, Sprague, Van Winkle, and Willey—11.

NAYS—Messrs. Buckalew, Chandler, Conness, Creswell, Guthrie, Harris, Henderson, Howe, Kirkwood, Morgan, Morrill, Nesmith, Nye, Ramsey, Sumner, Wade, and Yates—17.

ABSENT—Messrs. Brown, Cragin, Dixon, Foot, Foster, Hendricks, Howard, Johnson, Lane of Indiana, Lane of Kansas, McDougall, Norton, Poland, Pomeroy, Saulsbury, Sherman, Stewart, Stockton, Trumbull, Williams, Wilson, and Wright—22.

So the amendment was rejected.

Mr. BUCKALEW. I move to amend the resolution by adding the following proviso:

Provided, That this resolution shall continue in force one year from its passage.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended; and the amendment was concurred in, and ordered to be engrossed, and the joint resolution to be read a third time. It was read a third time.

Mr. ANTHONY. I oppose this joint resolution for a reason entirely different from those stated, although I think those are sufficient. I regard this as a proceeding that belongs to the fourteenth or fifteenth century, rather than the nineteenth. No question in medicine that has ever been disputed is better settled than that quarantine is as useless against the cholera as it would be to attempt to keep out the east wind by quarantine; and the effect of a measure of this kind will only be to divert the public mind from the sanitary measures which alone can arrest the progress of the disease, and they are temperance, cleanliness, and orderly living.

Mr. COWAN. Let it be referred to the committee on ventilation. [Laughter.]

Mr. ANTHONY. I think that would be a very proper reference for it; I think that committee could suggest much better measures than a quarantine.

Mr. CHANDLER. I call for the yeas and nays on the passage of the joint resolution.

The yeas and nays were ordered; and being taken, resulted—yeas 19, nays 12; as follows:

YEAS—Messrs. Buckalew, Chandler, Conness, Cragin, Creswell, Guthrie, Harris, Morgan, Morrill, Nesmith, Nye, Pomeroy, Ramsey, Stewart, Sumner, Van Winkle, Wade, Wilson, and Yates—19.

NAYS—Messrs. Anthony, Clark, Cowan, Davis, Doolittle, Fessenden, Grimes, Henderson, Riddle, Sprague, Trumbull, and Willey—12.

ABSENT—Messrs. Brown, Dixon, Foot, Foster, Hendricks, Howard, Howe, Johnson, Kirkwood, Lane of Indiana, Lane of Kansas, McDougall, Norton, Poland, Saulsbury, Sherman, Stockton, Williams, and Wright—19.

So the joint resolution was passed.

On motion of Mr. MORGAN, its title was amended by adding the words "for one year."

INTER-STATE COMMERCE.

Mr. CHANDLER. I ask the Senate to take up the bill (S. No. 66) to facilitate commercial, postal, and military communication between the several States, for the purpose of making it the special order for this day week.

Mr. FESSENDEN. I hope it will not be made a special order; there are other matters of importance which are to be considered next week.

Mr. CHANDLER. As there is objection to making the bill a special order I withdraw my motion and content myself now with giving notice that I shall at an early day call up the bill and press it to a vote.

GOLDSMITH BROTHERS.

On motion of Mr. NESMITH, the bill (S. No. 192) for the relief of Goldsmith Brothers, of the cities of San Francisco, California, and Portland, Oregon, brokers, was read the second time, and considered as in Committee of the Whole.

By its terms the Secretary of the Treasury is to be authorized and required to issue and pay to Goldsmith Brothers, of the cities of San Francisco, California, and Portland, Oregon, brokers, two seven-thirty United States Treasury notes, for the payment of $5,000 each, in lieu of two United States seven-thirty Treasury notes of the value of $5,000 each, dated June 15, 1865, and respectively signed by the Treasurer and numbered three hundred and sixty-four and three hundred and sixty-five, issued under an act of Congress passed March 3, 1865, entitled "An act to provide ways and means for the support of the Government," which notes were lost or destroyed by the wreck of the steamer Brother Jonathan off the port of Crescent City, on the 31st of July, 1865. Goldsmith Brothers are first to execute a bond in the penal sum of $20,000, to be approved by the Solicitor of the Treasury, indemnifying the United States against any loss on account of the issuing of the notes.

Mr. CLARK. The bill should be amended in the nineteenth line by inserting the words "with sufficient sureties" after the word "bond," so as to read "a bond, with sufficient sureties, in the penal sum of $20,000."

The amendment was agreed to.

Mr. FESSENDEN. I make no objection to the passage of this bill, but I think there ought to be a proviso in it to this effect:

Provided, The Secretary of the Treasury shall be satisfied of the destruction of these notes.

I think that in these cases there ought always to be an examination by the Secretary of the Treasury. An examination by a committee of Congress on affidavits is very liable to prove deceptive. I think that amendment ought to be made, so that the Secretary of the Treasury shall not issue the new notes until on examination he becomes satisfied of the loss or destruction of the notes referred to which are to be replaced.

Then I would suggest to the honorable chairman of the Committee on Claims whether it is not best to have a general law on the subject that will cover these special cases. The cases are constantly occurring of the loss or destruction of notes and bonds by accident. Senators may think that it is best to keep the matter within the control of Congress and to pass special acts to meet the respective cases; if so, of course I shall not urge the suggestion; but I know the inconvenience which arises from the fact that there are many of these applications growing out of losses by fire and wreck, &c. If there was a general law on this subject which was sufficiently guarded, it might save considerable trouble here, leaving the entire examination to take place in another quarter.

Mr. NESMITH. I have no objection to any amendment the Senator from Maine may suggest as necessary to prove completely the fact of the destruction of these notes in this case. There is no doubt of their loss. Besides, the parties are to give a bond in the penalty of $20,000, to secure the Government against all loss.

Mr. FESSENDEN. I do not think those bonds are any security.

Mr. NESMITH. There may be difficulty in framing a general law, and this case ought not to be delayed till such a law can be secured.

Mr. FESSENDEN. I do not propose to interfere with this bill on that ground; I do not think it ought to wait after having gone through the committee. I only made the suggestion for the consideration of the Committee on Claims.

Mr. CLARK. I noticed as the bill was read that by its provisions the Secretary of the Treasury is not only authorized but he is required to issue new notes in this case. I was about to propose that the words "and required" be stricken out of the bill, so that the Secretary shall be merely authorized to do it, and then of course he would do it unless he was satisfied that it ought not to be done.

I desire to say that the Committee on Claims examine cases of this kind with great care. They examine them not only with such evidence as is before the committee, but in each case they take pains to send to the Treasury Department and ascertain if there is any information there on the subject. In this particular case we sent to the Treasury Department and got such information as they had. We ascertained there that nothing had ever been heard of the notes or of the coupons, so that there remains very little doubt that they were lost.

There is a difficulty in framing a general act to meet cases of this kind, though it would be very desirable if it could be done. It would save the committee a great deal of labor, because these are claims which require to be examined with great care. I have not the least objection to the amendment suggested by the Senator from Maine, if he thinks it desirable; but if we strike out the words "and required," I think the amendment suggested by him will hardly be necessary. What we all desire is, that the Treasury should be guarded, and that new bonds should not be issued in any case until it is satisfactorily ascertained beyond question that the old ones had been lost. Cases have arisen where bonds have been issued in lieu of those supposed to be destroyed where the old ones have afterwards come to light, though I am not aware of any such cases under the General Government. I have in my mind now a case which has been before the committee in regard to a California war bond that was supposed to be lost, and the old one has undoubtedly reappeared.

There is another class of cases about which we have often more difficulty than we have about bonds; and that is, applications for the payment of Treasury notes which have been lost—where a person alleges that he has lost a certain amount of Treasury notes, and there is no identification whatever. The Senator from Maine suggests that he would never grant such applications. That has been the opinion of the committee; they have never reported a bill of that kind; but those cases present the difficulties that have occurred to the committee. We have followed the rule of never providing for the emission of a new instrument until the old one could be identified. You will see at once, Mr. President, that if we were to issue new notes or bills for a certain quantity that had been lost and not identified, the bond which we take for identification would be of no avail. I move to amend the bill by striking out the words "and required" after "authorized."

Mr. NESMITH. I have no objection to that.

Mr. CLARK. I supposed the Senator would have no objection to it. We all want to accomplish the same purpose.

The amendment was agreed to.

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

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

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by its Clerk, Mr. McPHERSON, announced that the House had passed a joint resolution (H. R. No. 11) to facilitate commercial, postal, and military communication among the several States; in which the concurrence of the Senate was requested.

HOUSE BILLS REFERRED.

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

A bill (H. R. No. 213) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1867—to the Committee on Finance.

A bill (H. R. No. 338) to amend an act entitled "An act relating to *habeas corpus*, and regulating judicial proceedings in certain cases," approved March 3, 1863—to the Committee on the Judiciary.

A bill (H. R. No. 280) making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1867, and for other purposes—to the Committee on Finance.

A joint resolution (H. R. No. 11) to facilitate commercial, postal, and military communication among the several States—to the Committee on Commerce.

HOMESTEAD COMPANY.

Mr. MORRILL. I move to take up for consideration Senate bill No. 102, which has been reported from the Committee on the District of Columbia. It will not occupy much time.

The motion was agreed to; and the bill (S. No. 102) to incorporate the National Mutual Protection Homestead Company was considered as in Committee of the Whole. By its provisions A. W. Randall, John A. Andrew, Henry D. Cooke, Charles T. Sherman, F. P. Stanton, Richard McAllister, William T. Withers, John Trimble, John R. Elvans, C. A. Stevens, James Gilfillan, Joseph H. Wiggin, James M. Latta, A. H. Bigelow, Jackson S. Shultze, M. N. Wisewell, Ward H. Lamon, George W. Riggs, Duncan S. Walker, John W. Stokes, Anson O. Doolittle, Hawkins Taylor, John W. Geary, Charles Mason, George B. Center, John A. Beall, John B. Hutchinson, Martin H. Cassell, and their successors, will be constituted and created a body-corporate in the District of Columbia, under the name and style of the National Mutual Protection Homestead Company, for the encouragement of settlements and the organization of industry in the American States, with a capital of $3,000,000.

The bill proceeds to define the rights, powers, and duties of the corporation in detail. It had been reported by the Committee on the District of Columbia with two amendments.

The first amendment was in section five, line six, after the words "this act" to insert "or to the constitution and laws of the State in which the same is located;" so as to make the section read:

That the president and directors for the time being shall have power to ordain, establish, and put in execution such rules, regulations, ordinances, and by-laws as they may deem essential for the well government of the institution, not contrary to the Constitution of the United States, or to this act, or to the constitution and laws of the State in which the same is located, and generally to do and perform all acts, matters, and things which a corporation may or can lawfully do.

The amendment was agreed to.

The next amendment was at the end of section eleven to insert "and may at any time be amended, altered, or repealed by Congress;" so that the section would read:

That nothing in this act shall be construed as making it perpetual, but the same shall terminate and cease at the expiration of ten years from the organization of said company, and may at any time be amended, altered, or repealed by Congress.

The amendment was agreed to.

Mr. JOHNSON. This bill goes further than Congress has ever gone in the past, if I understand the sixth section of the bill. The authority we have to charter companies here is under the power which the Constitution gives Congress to exercise exclusive jurisdiction by legislation over this District. Now, the sixth section of this bill professes to give this company the power to buy or lease lands anywhere. They may go into any State in the Union and may claim, because of their charter, a right to buy and lease without the authority of the State into which they may go. Although I think it is very clear that Congress can give no power of that description, it is very desirable that it should not attempt to give it, because other opinions may be entertained, and it may be the impression of those who sell to or those who buy from this company that the title will be good by force of this act. They may go into Maryland and buy up all the lands of Maryland or lease them. Certainly Congress has no authority to do that; at least that is my impression. I submit to the honorable chairman and those who are friendly to the bill that they had better modify that section so as to free it from all possible doubt that it is not the purpose of Congress by chartering this corporation to enable it to go anywhere out of the District and in spite of State legislation to buy, to sell, and to lease. The power is very comprehensive.

Mr. CLARK. I want to call the attention of the Senator from Maryland to this point: suppose Congress should charter a company of this kind within the District, and they should be duly organized and then should go into the State of Maryland, if he pleases and buy a bit of land and the deed should be regularly made to the company by their corporate name, would they not take the land?

Mr. JOHNSON. Yes, unless there was some law there against it.

Mr. CLARK. So I supposed, and hence I wanted to call the attention of Congress to the enormous power that might be given in that indirect way, chartering a corporation here in the District, which should have the power to go into every State in the Union and take a grant of land. In good hands and for a good object, it might be well; but with such tremendous power, so liable to be abused, I should be very slow to pass an act of incorporation of that kind; and so I think would be the Senator from Maine. Look at the sixth section of this bill:

That the president and directors are hereby empowered and fully authorized, on behalf of the company, to lease or purchase and hold lands, and sublet or sell

and convey the same for use, settlement, and cultivation, and may also lend money on mortgage of lands or pledges of growing crops, with a view to promote the reorganization of labor on the basis of freedom and to promote the obtaining of homesteads by the landless.

Mr. CRESWELL. I call the Senator's attention also to the close of the fifth section:

And generally to do and perform all acts, matters, and things which a corporation may or can lawfully do.

Mr. CLARK. That is so very indefinite that it is very doubtful what could be done under that. I am now calling the attention of the Senate to what appears to be the direct object of the bill.

Mr. JOHNSON. It is evidently the purpose to let them go anywhere.

Mr. CLARK. It seems to be to charter a great company for purposes of land speculation, or what may become a great landed speculation, which may buy up lands in any State, hold, sell, or lease them in any way convenient for its purposes. As I said before, this in proper hands and for proper purposes might all be well; the power properly used is desirable; but it is a thing that may be very much abused. I should desire to hear from the Senator from Maine somewhat upon the necessities of such an organization here. Cannot lands be bought in all these States and leased or held or mortgaged without such an enormous corporation? Why is it necessary to come to Congress, in the District of Columbia, for the purpose of chartering a corporation of this kind? Cannot he, cannot I, cannot anybody that desires, go into the State of Virginia or any other State and purchase land? Or if we cannot, can a large corporation do so any better than we? Would it be any more agreeable to those States to have their lands held in that way? And is it desirable for the States to have large masses of their lands pass into the hands of foreign corporations who may hold them in that way? I should be very unwilling if my own State had lands to sell to have them pass into the hands of a foreign corporation like that. I do not say that the object of this corporation may not be entirely good; they set out a good object here; but what I fear is, that the good may be defeated and the power may be abused. We should be exceedingly careful how we grant such enormous power.

Mr. MORRILL. I think the bill is open fairly to some of the criticisms that have been made on it, and I am not sure that they ought not to be fatal. The subject had some consideration in the committee, and these very objections were considered. It is said the power may be abused. Clearly, but I think the answer is that it is not necessarily so. The object is a good one, professedly; it is to induce emigration to and the settlement of the large domain of unsettled lands in the southern States. That these parties have not the spirit of enterprise necessary to accomplish this declared purpose, I think it would hardly be fair to assume. I think they have.

Now, what is the scope of the powers of this bill? In the first place, these men are associated as a body-politic and corporate. All their powers, of course, come from Congress in the exercise of its functions over this District. We do not propose to invest them with any authority outside of this District; none whatever as against any State authority. They are simply a body-politic invested with such powers as they may exercise in this District. The advantages of being associated in this way are obvious enough. The advantages are such as would naturally arise from an incorporated company over a mere voluntary association or over a partnership. They can act with more efficiency and perhaps with less personal responsibility. That is a thing fairly to be considered.

That being their general power, what can they do in any of these States? They can do nothing repugnant to the policy of the State or any law of the State. They can only do what an individual might do, or what individuals simply associated together might do. They can go into the States and make contracts for the purchase and sale and lease of lands, may hold lands and improve lands, and that is the upshot of the whole of it. They would operate from this common center, sending their agents into the States to purchase and sell lands. They undoubtedly would have power and capacity over individual enterprise. That is the very object of the bill; it is to give them the power which comes from associated capital and associated enterprise. If the object is a good one, then the more power in that direction the better, provided it is not abused.

It is said that it is new legislation for this district. I am inclined to think that to some extent it is so; and that feeling is growing, I should say, from the number of bills of this character that have been presented to the committee during the last year or so. Feeling that some authority or some power in the name of the General Government, or having the sanction of the General Government, ought to go from this particular locality into other sections of the country, my honorable friend from Maryland [Mr. CRESWELL] introduced a bill of a similar character, which is now before our committee, to incorporate a mining and manufacturing company, not limited to this District, but to operate anywhere in any State where it can get permission so to do. That bill is almost a transcript of this; it is precisely after the style of this.

Mr. CRESWELL. I think that is a bill entirely different in spirit from this.

Mr. MORRILL. I do not speak of the spirit of it; I only speak of the general character and general provisions of it.

Mr. CRESWELL. It is a bill for associating capital.

Mr. MORRILL. That bill contemplates an association of capital and the capitalists are here; but the incorporation is not with a view of operating in the District of Columbia, but the whole field of operations is to be in Virginia or some other southern State, and it is to be a mining and manufacturing company.

Mr. CRESWELL. But that bill by its terms is confined to a specific object.

Mr. MORRILL. It is confined to the two specific objects of mining and manufacturing.

Mr. CRESWELL. In certain specific localities.

Mr. MORRILL. Now, these land bills are quite common to the country.

Mr. FESSENDEN. In the States; and then they are confined to the States in which the charter is granted.

Mr. MORRILL. Not quite. I think the history of these land companies is something like this: in early times a large landed association, or corporation, (I think it was a corporation in the State of New York,) called the American Land Company, was organized with the right to have associates and associate wealth, with the express object of operating in western lands; and I believe almost the entire Ohio reserve was at one time held by that company. I think the history of that company was rather favorable to settlement; and I think the people of Ohio regarded it as having been favorable to the settlement and growth of Ohio. There was the North American Land Company of Pennsylvania, which had its lands in all the southern States and most of the western States, amounting to many millions, eight or ten millions. I believe the operations of that company were never found to be disadvantageous to the States.

The apprehension arising on this bill is that it will be practicable for these persons by associating great wealth to monopolize large tracts and quantities of lands in the different States, keep them out of market until they appreciate largely, and so prejudice the growth of the States. There is a provision in the bill which was intended—and I hope it will be found on examination to be so—to guard against such a tendency. It is the proviso to the sixth section, commencing in the eighth line:

Provided, That all leases given or taken by said company shall provide that the lessee may purchase the lands leased, at a price stipulated in the lease, at any time within the term thereof, which shall not in any case exceed the time when this corporation will expire by virtue of this act.

Mr. JOHNSON. Allow me to suggest to the honorable member that that does not get clear of the objection. That proviso only applies to cases in which the corporation may lease the lands purchased by them; but they may purchase and hold lands. That they have a right to do.

Mr. MORRILL. They are to have the right "to lease or purchase and hold lands, and sublet or sell and convey the same for use, settlement, and cultivation." I think the general objects of the bill will be found to be commendable. Whether it is attended with the dangers that are stated is a matter for the Senate to judge.

Mr. CONNESS. The objects as stated in the bill unquestionably are commendable as assumed by the honorable Senator from Maine, and the names that are mentioned in connection with this corporation are among the best in our country. But it is proposed to organize a corporation which may pass immediately from those persons to altogether a different control. The control of this company may pass from the hands of the persons named in the bill within a year after its organization; and so far as the declared purposes are concerned, the authority to be acquired under it may be converted, to the extent that the scheme is capable of, or that the law permits, to very bad purposes. The whole theory of the legislation of the Congress of the United States, as I understand it, and I think as we all understand it, now is to make the people of the United States owners of the soil on which they live, not tenants; and every scheme that contemplates a tenancy for any length of time is one that is odious and objectionable. Tenancy has made a civil war in one part of the country already, and measures had to be resorted to finally to put an end to it which were of very extensive character; I mean in the State of New York. It was found to be an evil so great that it was necessary to overcome it, as during the recent war it was found necessary to exercise extraordinary powers, perhaps not warranted, at least in the opinion of some, under the Constitution. To organize such a system now does not seem to me to be in accordance with the spirit or theory upon which the Government goes at present.

It may be said that this is far-fetched. I do not think so. In the United States, by the beneficent action of this Government, the means of acquiring land are now placed really within the hands of every human being who desires it and who is capable of using it. Those who are able to purchase land at $1 25 an acre can get an abundance of it. The mode of disposition is made easy and ready and simple by the Government of the United States. Those who are not able to buy land may go and settle on the public land, and acquire it for nothing, without money and without price, by living upon it and cultivating it for five years. Certainly that means is easy enough. Now, if any corporation wish to promote settlement and ownership, let this bill be changed so that benevolent persons and able persons shall act as pilots, if you please, as directors and advisers and instruments to take the poor and aid them in getting upon these lands, to aid them in their preliminary work, to furnish them with the necessary capital; but let them not by any instrumentality whatever be placed as owners over those people, and let no part of the people of the United States be placed in the position of tenants of any other portion of the people by any act of Congress.

The bill appears to me to be obnoxious in these respects in addition to the fact that it creates (as Congress has the right to create) a corporation within the District of Columbia, but which may be coextensive in its operation with the extent of the United States. It is the equivalent, in other words, practically, of the erection by Congress of a corporation within every State in the Union for the manipulation and handling of lands within each State.

Mr. CRESWELL. The Senator from Maine in his remarks alluded to a bill which I pre-

sented to the Senate a short time ago, and had referred to his committee, as containing like provisions with this bill. I think that bill is altogether different in spirit from this. That was directed to the purposes of manufacturing and mining. I conceive these to be legitimate subjects for an aggregation of capital with a view to prevent too great personal risks. The object of the corporators there is to develop the mining and manufacturing interests of the country. Although that bill may be amenable to the objection that it is designed, and that its language expresses as the design of the bill, to give powers outside of the District of Columbia, that is a question of law which it is proper for the committee and for the Senate to determine, but I think that the objects of that bill are perfectly proper and legitimate.

But my objection to this bill is the object which the bill itself asserts. It alleges here, in so many words, that the object is to purchase or lease and generally to speculate in lands. The word "speculate" is not used, but at any rate the most enlarged powers are given for that purpose.

Mr. MORRILL. Will the Senator allow me, while he is precisely on that point, to suggest to him that he will get a more definite idea of the object proposed by a reference to the fifteenth and sixteenth lines of the first section, "For the encouragement of settlements and the organization of industry in the American States?"

Mr. CONNESS. Very handsome!

Mr. CRESWELL. I observed that—"the encouragement of settlements and the organization of industry in the American States, with a capital of $3,000,000." It arrays capital in that respect against the interests of the individual. I think the policy of the Government has been to give every encouragement to actual settlers who are disposed to take possession of and hold the lands of the General Government. There is no difficulty in their way. But this is arraying against their interests this immense corporation with a capital of $3,000,000. It is in that aspect that I view the bill unfavorably.

Mr. JOHNSON. Besides, there is no personal responsibility on the part of the directors or corporators.

Mr. CRESWELL. None at all.

Mr. JOHNSON. I do not mean to interrupt my colleague, [Mr. CRESWELL.] I am through. I rose simply to say that there was no limitation; and as far as the capital is concerned, the Senate will see that it will be entirely in the discretion of the corporators whether they will pay up anything. They are authorized to have a capital of $3,000,000; but if you look to the succeeding section, you will find that when that is to be paid up, in what amounts it is to be paid up depends altogether upon the company itself. The moment they are chartered they get credit; they can go into the market and buy upon that credit any amount of lands and sell them without paying up a dollar. The whole thing appears to me to be in its result a great speculation—a very great speculation. We have some land in Maryland that our people will sell. I understood the Senator from New Hampshire to say they had no land in New Hampshire.

Mr. CLARK. Not of this kind.

Mr. JOHNSON. None that any money could be made out of. [Laughter.] We have lands in Maryland that may be purchased to advantage; and this company may go into the lower portion of our State, on the Eastern Shore of Maryland, because of the sudden change in the system of labor that has caused more or less destitution, and they may buy up the whole of those lands on credit, and promise to pay for them in a year hence or three years hence, and in that way become the proprietor of one third of our State.

Mr. CRESWELL. They cannot buy one third of Maryland for three millions.

Mr. JOHNSON. I do not know.

Mr. CRESWELL. I do.

Mr. JOHNSON. That depends upon what they offer. They are not limited to $3,000,000 in buying; they may buy to the amount of $100,000,000 or $300,000,000. The limitation of $3,000,000 is only upon the capital, but there is no limitation upon the amount of property they may purchase. They may purchase, if they can induce the people of Maryland to sell, one third or more of the State. I do not know what would become of Delaware, and what would become of Rhode Island under such a system. I suppose the company could buy up the territory of Rhode Island comparatively cheap, because there is very little land there. But it is a new principle, it seems to me, in State legislation, and certainly entirely new in congressional legislation to charter a company with an authority to buy up lands without any limitation, all over the country, everywhere. They are authorized to make leases, and in the contracts of lease they may provide that they will sell to the lessee the fee-simple. Well, who is to be the lessee? I understood my friend from Maine to say that the bill was founded in part upon the theory of encouraging immigration. Then a lessee may be a man who has just got into the country, an alien, not a citizen; and yet we give to this company the authority to give an alien the right to purchase in fee the lands of a State. That has always been supposed to depend entirely on the State legislation.

Mr. MORRILL. So it would be under this bill.

Mr. JOHNSON. So it would not on the face of the bill, because the language of the clause is that they may by the terms of the leases provide "that the lessee may purchase the lands leased." Now, if in point of fact he is an alien and is not authorized by the laws of the State to hold lands in fee, the poor fellow may be induced by having upon the face of the lease an agreement to purchase, to believe that he can purchase, and by purchasing be a tenant in fee-simple of the land purchased. We ought not to put it in the power of a company to lead men astray in that particular.

But I object to the bill on the broader ground that the principle itself, looking to what may be accomplished by means of the bill, is all wrong and proved to have been wrong in the judgment of our predecessors by the entire absence of legislation of this description either under the authority of the United States or under that of the States.

Mr. CLARK. I want to call the attention of the Senate a little more directly, if I can, to what is proposed by the bill, and that is to incorporate a large company here with a large capital in the District of Columbia, where there is no pretense in the world that the company is going to operate, for there are no lands here to be bought, but to incorporate a company here by Congress that shall go into any of the States and operate in the States.

Mr. JOHNSON. That is the object.

Mr. CLARK. That is the great vice of the bill, as it seems to me; and the question presents itself to Congress whether they will undertake legislation of this kind. These may be all very good men and very good corporators, and yet for all that the State of Virginia, if they were to undertake to operate in the State of Virginia, might say, "We do not desire to have any such corporation operate within our State; they may operate in a way that may not be satisfactory to us, and if they do, what remedy have we?" So might say the State of North Carolina. So might say the State of Iowa, "What remedy have we?" And what remedy has the State? Suppose this company should abuse its trust in the State of Iowa and was acting in a manner not satisfactory to the population, what can that population or that government do about it? Come here and ask Congress to repeal, alter, or modify the charter; but they have no redress of themselves, none at all. The Senator from Maryland says so they might operate in every State in a way that would be objectionable to the State, the company chartered within this District by Congress, and the States have no redress except through Congress.

Now, I say if this corporation or any corporation wants to operate in the State of Iowa by associated wealth, let them go to the State of Iowa and ask the Legislature of Iowa to grant them that method of operation and grant them a charter, one which the State of Iowa can control. If they desire to operate in South Carolina, let them go down and ask South Carolina for a charter, one which South Carolina can control. I think it is very much better to follow in the respective States the legislation or want of legislation of those States themselves in this regard, and not incorporate companies within this District which may attempt to operate in this way in the States, or whose object shall be to operate in this way.

I presume it will not be denied by the Senator from Maine, or anybody else. I presume it will be admitted that the object of coming here and asking for this act of incorporation is to create a great company which shall act outside of the District, not within it.

Mr. MORRILL. That is so.

Mr. CLARK. That is so, says the Senator from Maine. Then shall we here, because we may legislate in the District and for the District, undertake in this indirect way to legislate for every State in the Union? That is what it does. We make a corporation which may act in every State in the Union, where we have no power to grant an act of incorporation. We have no power to go into the State of Louisiana and say that any number of men shall be a corporation to take their lands. If we grant an act of incorporation to individuals here, and then they go into the State of Louisiana and take and hold land——

Mr. MORRILL. "Purchase and hold."

Mr. CLARK. That is what I mean by "take and hold;" "take" is the ordinary legal phrase. I do not mean "rob" when I say "take."

Mr. MORRILL. You do not mean to take lands from them.

Mr. CLARK. No, but I say "take and hold" as I would say "to have and to hold." I say it is better to leave it to the States to decide who shall operate within their limits in that way, and not make ourselves liable to the obnoxious sort of legislation that I fear this would be.

I suppose the Senator from Maine has accomplished his purpose by calling the attention of the Senate to the bill; and if the motion be not disagreeable to him, I will now move that its further consideration be postponed until to-morrow.

Mr. MORRILL. I have no objection.

Mr. CLARK. I submit that motion.

The motion was agreed to.

TREATY OF WASHINGTON.

Mr. DOOLITTLE. I move to take up Senate bill No. 68, which was reported by me a few days ago from the Committee on Foreign Relations.

The motion was agreed to; and the bill (S. No. 68) to carry into effect the fourth article of the Treaty of Washington concluded between Great Britain and the United States on the 9th of August, 1842, was considered as in Committee of the Whole. For the purpose of executing the fourth article of the treaty between the United States and Great Britain, concluded at Washington on the 9th of August, 1842, the Secretary of the Treasury is by the bill directed to pay to the State of Massachusetts the sum of $32,688, and to the State of Maine the sum of $113,908, being at the rate of $1 25 per acre for the amount of the public lands of those two States in the possession of the classes of persons described in the fourth article of the treaty, as ascertained by a joint commission instituted by Massachusetts and Maine in 1843, and by a commission instituted by Maine in 1854; the money to be paid as soon as the State of Maine shall, by resolutions of the Legislature thereof, agree to quiet, by good and sufficient releases, all the occupants

of the public lands of Massachusetts and Maine, whether holding under grants from New Brunswick, or holding by possessory or equitable possessory titles, according to the reports of the commissions, so far as they have not been already quieted by such releases; and shall further undertake, at its own expense, to quiet, in like manner, any other possessory rights under the fourth article of the treaty which may hereafter be discovered to exist upon the public lands of said State of Maine. The Secretary of the Treasury may, at his discretion, make the payments directed by the act in any of the six per cent. securities of the United States which are or may be authorized by law.

Mr. DOOLITTLE. The principle involved in this bill of the liability of the United States to make compensation for these lands in pursuance of the fourth article of the treaty of Washington has already been passed upon by Congress in relation to a portion of the lands which had been granted to private individuals in what was denominated the Eaton grant in the Plymouth township; there were 8,107 acres of land which were there held under private grants, and Congress have passed the law which was necessary to pay for the amount of that land; but the residue of the land, which was held in possession by settlers in the State of Maine, and a part of which belonged to the State of Maine and the State of Massachusetts, and a part of which belonged to the State of Maine exclusively, has not yet been paid for. The question has been before the Committee on Foreign Relations for several years. On several occasions an effort has been made by the committee, supposing that it was within the rule of the Senate, as it was, to carry into effect a treaty stipulation, to move to put the subject-matter of this bill upon the general appropriation bill. Upon that subject discussion has arisen in the Senate, and when a vote of the Senate has been taken they have decided against its going upon the appropriation bill because it was regarded somewhat in the nature of a private claim. The principle of the bill I will state in a very few words.

By the treaty of 1842 it will be remembered that the State of Maine ceded to Great Britain over five thousand square miles of the territory which was claimed by the State of Maine—over 3,200,000 acres of land.

Mr. JOHNSON. England claimed it.

Mr. DOOLITTLE. England claimed it and Maine claimed it.

Mr. SHERMAN. They ceded something to us.

Mr. DOOLITTLE. England ceded to us land on the north side of New Hampshire, on the north side of New York and Vermont, and on the north side of Minnesota, a very large tract of country. England, it is true, laid claim to this land. She did not, however, claim it by right, but by a kind of military necessity. She wanted it and must insist upon having the land north of the river St. John in order that she could have military communication, and it was upon that ground that England pressed her claim with a view to her military necessities, and she would not allow the State of Maine to own what really belonged to her within the valley of the St. John, north of the river St. John. That was the controversy undoubtedly between the two Governments. By the treaty of Washington it was agreed that we should cede all north of the St. John, which was I say a cession of what Maine claimed to be hers of right of over five thousand square miles, 3,200,000 acres. It is true in the same treaty we acquired Rouse's Point in New York; we acquired some disputed lands on the north of New Hampshire and Vermont, and we acquired also between Pigeon river, I think, and the Lake of the Woods, on the north side of Minnesota, a very large tract of country, and we settled our northern boundary.

To the two States, Massachusetts and Maine, who owned the lands in the State of Maine that once belonged to the State of Massachusetts, the sum of $300,000 was paid by way of compensation for the territory which was surrendered on the north side of the St. John; but on the south side of the St. John a considerable portion of the lands which belonged to the State of Maine and the State of Massachusetts had been entered upon by settlers claiming to come in under the British authorities and occupy, and they had selected many of the very best lands. As a matter of course settlers going into a territory select the best lands, the valleys, &c.

In order to settle that matter and adjust it, the United States agreed, in this treaty of Washington, in the fourth article, as follows:

"All grants of lands heretofore made by either party within the limits of the territory which by this treaty falls within the dominions of the other party, shall be held valid, ratified, and confirmed to the persons in possession under such grants, to the same extent as if such territory had by this treaty fallen within the dominions of the party by whom such grants were made; and all equitable possessory claims arising from a possession and improvement of any lot or parcel of land by the person actually in possession, or by those under whom such person claims, for more than six years before the date of this treaty, shall in like manner be deemed valid, and be confirmed and quieted by a release to the person entitled thereto of the title to such lot or parcel of land so described as best to include the improvements made thereon; and in all other respects the two contracting parties agree to deal upon the most liberal principles of equity with the settlers actually dwelling upon the territory falling to them, respectively, which has heretofore been in dispute between them."

As it was unknown how many settlers there were in this new region of the State of Maine, and how many of the lands south of the St. John belonging to the States of Maine and Massachusetts had been occupied by them, here was this general provision made that the United States, on its part, agreed that release of title should be executed by the States of Maine and Massachusetts to all those persons that had gone in there claiming the lands from the English authorities, or who were settled upon these lands, making improvements upon them. As it was uncertain how many there were on those lands, the States of Maine and Massachusetts instituted a joint commission as early as 1843; and it was ascertained by the report of the first commission that of the lands which were held in common between the States of Maine and Massachusetts 53,822 acres were thus occupied, and deeds were executed by Maine and Massachusetts, who were then the owners of the lands. It was also found that 1,521 acres were the separate property of the State of Maine. Then there was a second commission; and the second commission, which was under the State of Maine, found that there was 63,454 acres of land which belonged to the State of Maine exclusively, and also 8,107 acres of land which belonged to private proprietors in the Eaton grant in Plymouth township. These 8,107 acres Congress has appropriated by law the sum of money necessary to pay for; and I think Congress paid for them at about the rate of four dollars per acre, amounting to over thirty-two thousand dollars. Those private individuals who had grants or pretended grants have got their money; but the States of Maine and Massachusetts have received nothing, although they have executed this release of their lands, and the best lands undoubtedly that could be found in that section, because such are the lands upon which the settlers would make their improvements.

In going into a computation and allowing the States of Maine and Massachusetts but $1 25 per acre for these lands, the selected lands by the settlers, we found that Massachusetts——

Mr. KIRKWOOD. Will the Senator allow me a moment before he leaves the point he has passed over? I wish to put one question. I have glanced over the report made on this subject. My mind is not clear on one point. The States of Maine and Massachusetts were to get $300,000 for something from the General Government.

Mr. DOOLITTLE. That was for what lay north of the St. John, surrendering their territory.

Mr. KIRKWOOD. So the Senator has said, but I wish he would make the point clear that the $300,000 was for that, and that only, and not for whatever those States might surrender by virtue of the treaty. In other words, I wish him to show that the $300,000 was not to cover all that these States surrendered both inside and outside of that line.

Mr. DOOLITTLE. By reference to the correspondence which took place between Mr. Webster, then Secretary of State, and the States of Maine and Massachusetts, to induce them to give their assent to have the treaty made, and the correspondence between Mr. Webster and Lord Ashburton, the fact will appear that the $300,000 offered to them was offered in consideration of the cession north of the St. John, before the fourth article of the treaty was agreed upon between Mr. Webster and Lord Ashburton. The fourth article is clearly a distinct article. As I stated before, Congress passed upon this case in the appropriation which they made to pay for the lands owned by individuals in the Eaton grant in the Plymouth township.

I was going on to state as to the computation. Computing the lands owned by Massachusetts and Maine jointly at 52,300 acres, one half belonging to Massachusetts, 26,150 acres at $1 25 an acre, would be $32,688. Then there was belonging to the State of Maine exclusively 64,975 acres, which, at $1 25, amounts to $81,220. Add also $32,688, and you have $113,908 belonging to the State of Maine. I have been informed that the State of Massachusetts has released to the State of Maine her claim in relation to this matter. There is a provision at the end of the bill that the Secretary of the Treasury may at his discretion make the payments which are here directed to be made in six per cent. securities of the United States.

I have stated very briefly the question which has been unanimously agreed upon by the Committee on Foreign Relations several times, and as I stated, the principle involved was decided by Congress in the appropriation made heretofore. The only reason why this measure has failed heretofore has been that the Committee on Foreign Relations supposed it was a proper matter to put upon an appropriation bill. Now it is brought forward as a separate claim by itself.

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

ACCEPTANCE OF A FOREIGN DECORATION.

On motion of Mr. SUMNER, the joint resolution (S. R. No. 44) authorizing Commodore William Radford to accept the decoration of the Equestrian Order of Saint Maurizes and Lazzaro from the King of Italy was read a second time, and considered as in Committee of the Whole.

It proposes to give the assent of Congress to Commodore William Radford, of the Navy of the United States, to accept the decoration of the Equestrian Order of Saint Maurizes and Lazzaro, bestowed upon him by the King of Italy as a reward for the assistance rendered by him to the Italian frigate Re d'Italia, when she got ashore near Long Branch.

Mr. SUMNER. There is a verbal amendment which I wish to make. Instead of "Saint Maurizes and Lazzaro" say simply "Saint Maurizes."

The amendment was agreed to.

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

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed; and the title was amended so as to read, "A joint resolution authorizing Commodore William Radford to accept a decoration from the King of Italy."

JOSHUA D. TODD.

On motion of Mr. RAMSEY, the bill (S. No. 57) for the relief of the heirs of Lieutenant Joshua D. Todd, late of the United States

Navy, deceased, was read a second time and considered as in Committee of the Whole. It directs the proper accounting officers of the Treasury to pay to James Todd, administrator of Joshua D. Todd, late of the United States Navy, deceased, the pay of a master in the Navy of the United States, from June 17, 1844, to August 10, 1846, after deducting therefrom the amount already received by him as passed midshipman during that period.

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

JANE HARRIS.

Mr. KIRKWOOD. I ask the Senate to take up a little pension bill, Senate bill No. 200, that I reported a few days ago from the Committee on Pensions. It will take but a few moments.

The motion was agreed to; and the bill (S. No. 200) for the relief of Jane Harris was read a second time, and considered as in Committee of the Whole. It directs the Secretary of the Interior to place the name of Jane Harris, widow of George H. Harris, late a private in company I, sixth Iowa cavalry, now deceased, on the pension rolls as entitled to a pension at the rate of eight dollars per month during her widowhood, payment to commence October 23, 1863, the date of his death.

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

BRIDGE ACROSS THE MISSISSIPPI.

Mr. BROWN. I move to take up for consideration Senate bill No. 38, to authorize the construction of a bridge across the Mississippi river at the city of St. Louis, State of Missouri, and at the city of East St. Louis, State of Illinois.

The motion was agreed to.

Mr. WILSON. The Senator has now got his bill up. I think it is important to have an executive session to-day, and I move that the Senate proceed to the consideration of executive business.

Mr. BROWN. I do not wish to interfere with the executive session if the understanding of courtesy will be extended to me to take up this bill in the morning and proceed with it.

The PRESIDENT *pro tempore*. It will be the unfinished business for one o'clock.

EXECUTIVE SESSION.

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

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *March* 21, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

WITHDRAWAL OF PAPERS.

On motion of Mr. LATHAM, leave was granted for the withdrawal from the files of the House of the petitition of Z. W. Denham to the Thirty-Eighth Congress, provided that copies be left.

NORTHERN PACIFIC RAILROAD.

Mr. PRICE, by unanimous consent, introduced a bill to secure the speedy construction of the Northern Pacific railroad and telegraph line, and to secure to the Government the use of the same for postal, military, and other purposes; which was read a first and second time, referred to the Committee on the Pacific Railroad, and ordered to be printed.

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

The latter motion was agreed to.

EQUALIZATION OF BOUNTIES.

Mr. JULIAN, by unanimous consent, introduced a bill to equalize the bounties of soldiers and sailors who served the United States during the late rebellion; which was read a first and second time, and referred to the Committee on Military Affairs.

HABEAS CORPUS ACT.

Mr. JULIAN. I desire to state that had I been present on yesterday when the *habeas corpus* bill was passed I should have voted in the affirmative. But I was necessarily absent, and therefore did not.

OREGON INDIAN WAR DEBT.

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

Resolved, That the Committee of Claims be instructed to inquire into the justice and extent of the claims held by the State of Oregon and Washington Territory against the Government of the United States for expenses incurred in suppressing Indian hostilities in said State and Territory in the years 1855 and 1856; and if anything is found due said State and Territory that they report a bill for the payment of the same according to the principles of justice and equity.

ARLINGTON MILITARY CEMETERY.

Mr. WARD. I desire to make a statement upon a subject in relation to which the public feel a very deep interest. I have received numerous letters from various parts of the country, written by friends and relations of soldiers who have been buried at Arlington Heights, expressing their solicitude as to the title which the Government holds of those heights. Fears seem to be entertained that at some future time the sacred dust of our heroic dead may become the property of the arch-traitor Lee or his descendants. In order to ascertain the facts, I have addressed the Secretary of War a letter upon the subject. His reply I ask to have read.

The Clerk read the communication, as follows:

WAR DEPARTMENT,
WASHINGTON CITY, *February* 24, 1866.

SIR: I am directed by the Secretary of War to acknowledge the receipt of your note of the 15th instant requesting information with regard to the title of the Government to the grounds on Arlington Heights occupied for a national military cemetery, and in reply thereto to state that it appears from a report of Brevet Lieutenant Colonel J. G. C. Lee, assistant quartermaster United States Army, to the Quartermaster General, that at a sale of lands for unpaid taxes on the 11th of January, 1864, the Arlington estate, including the grounds referred to, was bid in by the United States for the sum of $26,800, and was afterwards turned over to the military authorities, and that the certificate of the sale is now in the hands of the United States tax commissioners at Alexandria, Virginia, but will, as is stated by them, be soon placed on file in the Treasury Department.

I have the honor to be, sir, your obedient servant,
EDWIN L. STANTON.

Hon. HAMILTON WARD, *Washington, D. C.*

IOWA CENTRAL RAILROAD.

Mr. HUBBARD of Iowa, by unanimous consent, introduced a bill granting land to the State of Iowa in alternate sections to aid in the construction of the Iowa Central railroad; which was read a first and second time.

Mr. JULIAN moved that the bill be referred to the Committee on Public Lands.

The motion was agreed to.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

NATIONAL BUREAU OF EDUCATION.

Mr. GRINNELL presented the joint resolution of the Legislature of the State of Iowa, in favor of the establishment of a national Bureau of Education; which was referred to the select committee on national Bureau of Education, and ordered to be printed.

DIPLOMATIC APPROPRIATION BILL.

Mr. WASHBURNE, of Illinois, called for the regular order of business.

The SPEAKER. The first business in order is the consideration of the consular and diplomatic appropriation bill, with the amendments to it reported from the Committee of the Whole.

The House resumed the consideration of House bill No. 261, making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1867, and for other purposes.

The question was upon agreeing to the amendments made in Committee of the Whole, upon which the previous question had been seconded and the main question ordered.

Mr. WASHBURNE, of Illinois. There is but one important amendment, that in relation to the appointment of a Solicitor for the State Department. The other amendments are merely verbal, and can be adopted at once. But I shall ask a separate vote upon the one I have indicated.

The verbal amendments were then agreed to.

The question recurred upon the following amendment of the Committee of the Whole:

Add as an additional section:

And be it further enacted, That the President be, and is hereby, authorized to appoint, by and with the advice and consent of the Senate, an officer in the Department of State to be called Solicitor to the Department of State, at an annual salary of $3,000.

Mr. STEVENS. I ask that the communication from the State Department, which I send to the Clerk's desk, be read for the information of the House.

The Clerk read, as follows:

DEPARTMENT OF STATE,
WASHINGTON, *February* 6, 1866.

SIR: The great number of claims of citizens of the United States on foreign Governments and of the citizens and subjects of foreign countries on this Government growing out of the late civil war, and the importance of the principles involved in them, make it indispensable, in my judgment, that the head of this Department should have the assistance of a professional gentleman properly to dispose of those subjects. To that end, I recommend that an appropriation be inserted in the civil and diplomatic appropriation bill of $3,000, for the compensation at that rate by the year of an officer to be called "the Solicitor to the Department of State."

I have the honor to be, sir, your obedient servant,
WILLIAM H. SEWARD.

Hon. THADDEUS STEVENS, *House of Representatives.*

Mr. WASHBURNE, of Illinois. I am very reluctant to object to anything that may be necessary for the proper carrying on of the affairs of the Government. But I do not see that it is necessary to inaugurate this system of new offices. We have already a Solicitor for the War Department and a Judge Advocate for the Navy Department; and if we go on in this way we shall be soon provided with such an officer for every Department of the Government.

Mr. STEVENS. It is not proposed to make more than a temporary office of this.

Mr. WASHBURNE, of Illinois. There is no limitation in the amendment.

Mr. STEVENS. I should have no objection, if the House will agree to it, to inserting a proviso that the office should not be continued after the 30th of June, 1867.

Mr. WASHBURNE, of Illinois. If the gentleman from Pennsylvania [Mr. STEVENS] will limit the amendment as he suggests I will make no objection to it.

Mr. CHANLER. It strikes me that that is out of order.

The SPEAKER. It is out of order if objection is made.

Mr. STEVENS. Very well; Congress can repeal this section at any time.

Mr. WASHBURNE, of Illinois. I would state that the amendment proposed by the gentleman from Pennsylvania [Mr. STEVENS] is for the purpose of limiting this office, so that it shall expire at the end of the next fiscal year.

Mr. CHANLER. It appears to me that it comes within the rule forbidding independent legislation in an appropriation bill.

Mr. WASHBURNE, of Illinois. It is creating a new office, and that is the reason why I objected to it. But the gentleman from Pennsylvania [Mr. STEVENS] and the Secretary of State say that there is a large accumulation of business in the State Department, and the services of a professional man are needed to examine these cases. And it may be consistent with public policy to establish this office, and to continue it until these cases which have grown out of the rebellion are disposed of.

Mr. CHANLER. The gentleman from Illi-

nois may perhaps think that I am encroaching somewhat on his field; but I must give him time to resume his position.

Mr. WASHBURNE, of Illinois. I am entirely willing that the whole thing shall be voted down; but in view of the statement of the gentleman from Pennsylvania, I was willing to consent to the proposition with the amendment suggested, if it should be in consonance with the wishes of the House.

The SPEAKER. As the gentleman from New York objects to the modification of the amendment, it must be voted upon in its present shape.

Mr. CHANLER. In view of the representation that there is an absolute necessity for this officer, I withdraw the objection.

Mr. SPALDING. I renew the objection; and I do so for the reason that for the salary proposed it will be impossible to get a lawyer who will be of any service to that Department. As the proposition now stands, it will simply make a place for another clerk.

Mr. WASHBURNE, of Illinois. The gentleman from Ohio desires that the salary shall be higher.

Mr. SPALDING. I do for such a position.

Mr. STEVENS. The committee thought that $3,000 might be sufficient. As to the objection that this is a proposition to create a permanent office, I will simply say that any future Congress can abolish the office whenever that may be deemed necessary.

Mr. WILLIAMS. I desire to inquire why this business cannot be attended to by the Attorney General and his assistants. The practice in England is to refer all matters of this sort to the Attorney General or Solicitor General. I agree entirely with the gentleman from Ohio that it will be impossible to secure the services of an able lawyer for the salary proposed.

Mr. WASHBURNE, of Illinois. My friend from the Rochester district [Mr. HART] informs me that one of the best lawyers in the country, Mr. E. Peshine Smith, now has charge of this business in the office of the Secretary of State, and my friend thinks that there is no doubt this gentleman would be willing to perform all the duties of this office for the salary proposed.

Mr. WILLIAMS. I infer that the gentleman named would not occupy his present position if he were one of the best lawyers in the country.

Mr. STEVENS. Mr. Speaker, we all know that a vast number of claims have grown up out of the war, and it is impossible for any Secretary of State or deputy Secretary of State to examine all these claims. In England there are not only the Attorney General and the Solicitor General, but numerous deputies, to take charge of such business.

Only $3,000 is asked as salary for an officer to examine and report upon these claims. True, it is a small salary for a first-class lawyer; but it is, perhaps, sufficient for the kind of service required. We all know that the Secretary of State is doing all he can; but there has been a great accumulation of business in that office, and this officer appears to be absolutely necessary.

The SPEAKER. The question is upon agreeing to the amendment. The Chair is informed that there was an agreement in the Committee of the Whole that the vote should be taken in the House by yeas and nays. If that is the case, the Chair will consider the yeas and nays as having been ordered.

Mr. HART. Mr. Speaker, it has been remarked by several gentlemen that no first-class lawyer would accept this situation at so small a salary. Now, sir, I take great pleasure in saying that the gentleman on whom these duties at present devolve, Mr. E. Peshine Smith, is a constituent of mine, and ranks in the State of New York as a first-class lawyer. He has occupied the responsible position of reporter of the court of appeals in the State of New York, a place which has been filled by some of the most eminent lawyers in our State, some of whom have been among our most prominent judges. I know of no man in western New York who is more distinguished for his legal attainments than Mr. Smith.

It may be asked why a man of such ability is willing to take a position like that at so small a salary. In reply to this suggestion I will say that Mr. Smith is a patriotic gentleman, a warm personal friend of the Secretary of State, and has assumed the duties of his present position not so much for the sake of the emolument as to accommodate the Secretary of State and relieve him of a portion of the burdens imposed upon him.

Now, Mr. Speaker, it is well known that there are arising in that Department great questions of international law, the proper treatment of which demands the utmost care and delicacy and learning and research. It is absolutely impossible for the Secretary of State to examine particularly all the questions which have grown out of the depredations upon our commerce by pirates which have been fitted out in English ports.

This gentleman is having charge of the examination of international law in all these cases, and most of the legal papers which have proceeded from the State Department for some months past have been the result of his labors and researches. Gentlemen who have seen such documents will in them find some evidence of the character and ability of this gentleman.

I trust no objection will be made to the passage of this clause.

Mr. SPALDING. Has the previous question been ordered?

The SPEAKER. It was ordered last evening.

On the demand of Mr. ALLEY, the amendment was again read.

The question was taken; and it was decided in the affirmative—yeas 72, nays 39, not voting 72; as follows:

YEAS—Messrs. Alley, Anderson, Delos R. Ashley, James M. Ashley, Baldwin, Bergen, Bidwell, Bingham, Blaine, Boutwell, Broomall, Bundy, Chanler, Coffroth, Cullom, Davis, Dawes, Dawson, Dixon, Driggs, Dumont, Eliot, Ferry, Goodyear, Grinnell, Griswold, Hart, Hayes, Henderson, Higby, Hill, Holmes, Demas Hubbard, Edwin N. Hubbell, James R. Hubbell, James Humphrey, Jenckes, Julian, Kasson, Kelley, Kerr, Ketcham, Kuykendall, Laflin, Latham, Le Blond, Marshall, Marvin, McClurg, McRuer, Mercur, Myers, Noell, O'Neill, Paine, Pike, Samuel J. Randall, Rollins, Ross, Shellabarger, Stevens, Strouse, Taylor, Thayer, Francis Thomas, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, William B. Washburn, Welker, and Winfield—72.

NAYS—Messrs. Ames, Ancona, Baker, Baxter, Beaman, Boyer, Bromwell, Cook, Denison, Eggleston, Eldridge, Farnsworth, Farquhar, Glossbrenner, Grider, Aaron Harding, Abner C. Harding, John H. Hubbard, William Lawrence, McKee, Orth, Perham, Price, John H. Rice, Ritter, Rogers, Sawyer, Sloan, Spalding, Stilwell, Taber, Thornton, Trimble, Trowbridge, Warner, Elihu B. Washburne, Williams, James F. Wilson, and Windom—39.

NOT VOTING—Messrs. Allison, Banks, Barker, Benjamin, Blow, Brandegee, Brooks, Buckland, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Culver, Darling, Defrees, Delano, Deming, Donnelly, Eckley, Finck, Garfield, Hale, Harris, Hogan, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Hulburd, James M. Humphrey, Ingersoll, Johnson, Jones, Kelso, George V. Lawrence, Loan, Longyear, Lynch, Marston, McCullough, McIndoe, Miller, Moorhead, Morrill, Morris, Moulton, Newell, Niblack, Nicholson, Patterson, Phelps, Plants, Pomeroy, Radford, William H. Randall, Raymond, Alexander H. Rice, Rousseau, Schenck, Scofield, Shanklin, Sitgreaves, Smith, Starr, John L. Thomas, Upson, Henry D. Washburn, Wentworth, Whaley, Stephen F. Wilson, Woodbridge, and Wright—72.

So the amendment was concurred in.

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

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

The latter motion was agreed to.

WASHINGTON AND GEORGETOWN RAILROAD.

The SPEAKER laid before the House a communication from the president of the Washington and Georgetown Railroad Company, transmitting the report of the directors of that company for the year 1865; which was referred to the Committee for the District of Columbia.

ENROLLED JOINT RESOLUTION SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a joint resolution of the following title; when the Speaker signed the same:

A joint resolution (H. R. No. 45) to change the name of the ship Art Union to the name George M. Barnard.

INTER-STATE COMMUNICATION.

Mr. WASHBURNE, of Illinois. I demand the regular order of business.

The SPEAKER stated the regular order of business to be House bill No. 11, to facilitate commercial, postal, and military communication among the several States, reported from the Committee on the Judiciary.

Mr. WILSON, of Iowa. Mr. Speaker, the last provision of the bill is:

That this act shall not affect any stipulation between the Government of the United States and any railroad company for transportation or fares without compensation, nor impair or change the conditions imposed by the terms of any act granting lands to any such company to aid in the construction of its road.

That was the only question the committee regarded as sent to them by the action of the House, and that is the only one on which we passed. As the House has indicated its desire to pass the bill by adopting this provision three or four times already, I do not intend to occupy any time this morning with general discussion. I know the committees are anxious to report, and if this be disposed of the way will be opened to them for that purpose.

Mr. O'NEILL. The bill provides—

That every railroad company in the United States whose road is operated by steam, its successors and assigns, be, and is hereby, authorized to carry upon and over its road connections, bridges, and ferries, all passengers, troops, Government supplies, mails, freight, and property on their way from any State to another State, and to receive compensation therefor.

What does that mean? Does that authorize the connection of railroads in different States without proper State legislation?

Mr. WILSON, of Iowa. I will say to the gentleman that the terms of this bill will reach the question to which he has directed my attention.

Mr. O'NEILL. I will then ask one other question. Why not strike out the words "over its road connections" from the bill?

Mr. WILSON, of Iowa. I will say, in reply to that, that I shall feel opposed to striking out the words if it should have the effect that the gentleman supposes it may, for I would be in favor of allowing a railway in one State which runs to the State line and there connects with the road of a company in another State to form a through connection.

Mr. O'NEILL. I desire to postpone the consideration of this bill until this question can be thoroughly examined. I have no idea of giving by indirection what is not asked for by positive enactment. A few years ago struggle after struggle was made by States adjoining each other to accomplish by legislation railroad connections between the respective States.

Mr. WILSON, of Iowa. If it is the desire of the gentleman to have the bill so amended as to authorize a connection, I have no objection to that being done; but the gentleman from Ohio, [Mr. GARFIELD,] who reported the bill originally from the Committee on Military Affairs, I understand, desires to offer an amendment which will effect that object, and if he has his amendment prepared, I will yield for that purpose, retaining the floor myself after the amendment is offered.

Mr. O'NEILL. I can accomplish what I desire by adding a proviso like this:

Provided, That this act shall not be so construed as to authorize railroads terminating in adjoining States to connect without the consent of the Legislatures of the respective States.

Mr. WILSON, of Iowa. I shall not consent to that being offered, but as I have already stated, I will consent to have an amendment prepared by the gentleman from Ohio [Mr. GARFIELD] providing that railroads may make connections so as to be relieved of the burden

imposed upon them by the constant breaking of lines.

Mr. O'NEILL. The bill designs to do just what I imagined, and I think it had better be postponed or voted down. I did not suppose the chairman of the Judiciary Committee would advocate its passage when its design is confessed to be to allow railroads in States separated by broad rivers or otherwise to make connections without the consent of the Legislatures of the respective States. Years ago the Pennsylvania railroad had fight after fight before it could cross the Panhandle in Virginia, and awaited the action of the Virginia Legislature, and I hold that the States should still have the power to grant such franchises.

Mr. WILSON, of Iowa. And now Pennsylvania does not want to allow connections with other roads across her territory.

Mr. O'NEILL. I suppose the citizens of Pennsylvania do not want their vested interests destroyed.

Mr. WILSON, of Iowa. That was the objection the State of Virginia raised to crossing the Panhandle.

Mr. GARFIELD. With the consent of the gentleman from Iowa, I will move to amend by inserting in the ninth line, after the word "therefor," the following:

To connect the roads of other States so as to form continuous lines for the transportation of the same to the place of destination.

By this provision chartered roads are enabled to build up to the State line, and no law of any State can forbid their making connections with other chartered roads of adjoining States that also come up to the State line. There are several instances in which laws have been got through Legislatures by which roads duly chartered and almost completed in a State have been compelled to run their engines up to the State line, tumble out all the freight, load it upon other cars, and carry it on. What we mean by this amendment is, that connections may be made across the line of a State, and I believe the amendment will accomplish that, and that only.

Mr. FARNSWORTH. Does the gentleman mean to compel a railroad to go on with the same cars?

Mr. GARFIELD. I do not propose to compel them at all. Now, they are not permitted to do so, and the amendment provides that State laws shall not stop them.

Mr. THAYER. Will the gentleman allow me to make a suggestion?

Mr. GARFIELD. I have the floor only by the courtesy of the gentleman from Iowa.

Mr. WILSON, of Iowa. I desire to relieve myself, my committee, and all the other committees of the House, by getting this bill out of the way in some manner, so that other committees may have an opportunity to report. And I propose to do that by demanding the previous question on this bill and amendment. If the House shall not sustain that motion I shall be relieved of all responsibility, and the responsibility will rest upon the House.

Mr. THAYER. Will the gentleman allow me to make a single suggestion?

Mr. WILSON, of Iowa. If the previous question is seconded, I will then give the gentleman an opportunity.

The previous question was seconded—ayes 57, noes 35, and the main question ordered.

Mr. WILSON, of Iowa. I now yield the floor to the gentleman from Pennsylvania [Mr. THAYER.]

Mr. THAYER. I do not design to make a speech on this bill. I only wish to say that if the object of the amendment moved by the gentleman from Ohio [Mr. GARFIELD] is what he alleged it to be, to wit, to give these roads the right to make connection where they come close to each other upon adjoining State lines, the amendment, in my judgment, is very unskillfully worded to produce that result.

By the language of the amendment, as I understand it, these roads may connect whether they come within a quarter of a mile of each other or whether they come within a hundred miles of each other. I do not see in the language of the amendment any terms calculated to restrict the liberty of connection which is proposed by the gentleman from Ohio in his remarks, and such, in my judgment, is not the legal effect of the amendment.

Now, we all know with what jealousy these corporate franchises which have been created by the States have been reserved and fostered by the States, and I am opposed to any legislation which will step outside of a fair construction of the constitutional power under which it is proposed to pass this law. I am not in favor of taking under the protection of Congress the whole railway system of the United States. And while I do not say now whether I shall or shall not vote for the bill as it comes from the committee, I do say most emphatically that I shall not vote for the amendment of the gentleman from Ohio, and that in my opinion, if that amendment is adopted, it will transcend the powers of Congress in this respect.

Mr. WILSON, of Iowa. I now yield to the gentleman from New Jersey [Mr. ROGERS] for five minutes.

Mr. ROGERS. Mr. Speaker, I suppose it is well known to the members on both sides of this House that the original bill brought into this House with regard to these railroad facilities was intended to apply only to the State of New Jersey. The purpose of the original bill was to incorporate two railroads in the State of New Jersey that were incorporated to do local business, and for certain specified purposes, to override their charters and connect their roads so as to do business between Philadelphia and New York. Another road had been incorporated as far back as 1830 by the State of New Jersey, and by their act of incorporation a certain privilege was given to that road, to wit, that there should be no competition between those two cities until 1869. The charter of that road depended, so far as the payment of taxes was concerned, on its being continued in good faith, with the privileges granted to it, until 1869, when the charter will expire, or the special privileges granted to the company and not extended to other companies in the State will have expired.

Now, if the House will let this matter rest until the time arrives when these two companies can connect according to law and do a through business, the special privileges granted by New Jersey as an inducement to have that great railroad communication opened between Philadelphia and New York at a time when private capitalists would not invest money in it will be carried out to the letter, and nobody will be injured.

The State of New Jersey receives a tax of $200,000 a year from that company; and if this bill is passed authorizing other roads to run in competition with that road it will deprive the State of over two hundred thousand dollars taxes, which the corporation is bound to pay to the State only on the condition that that exclusive privilege shall not be violated either by the General Government or the State Legislature until 1869.

In order to obviate the objection that this is mere local legislation for the purpose of inflicting injustice upon the State of New Jersey, this general bill has been got up; but it can have no application to any other State in the Union but New Jersey. There is no other State in the Union where railroads are attempting to connect themselves together in violation of their charters and of the decisions of the courts of the States that chartered them. Two small corporations in New Jersey, the Raritan and Delaware Bay and the Camden and Atlantic Railroad Companies, are asking this legislation here in the form of a general law simply to authorize them to do in the State of New Jersey what they have no power to do under the authority which created them.

If this measure is to be carried into effect here, Congress will enter the domain of the State of New Jersey, and authorize corporations there to exercise functions which were not granted to them by the power which created them; and therefore, as a citizen of that State, feeling a deep interest in the welfare of the State and of its citizens, without regard to party, I stand here to protest against any legislation which enters the jurisdiction of my State, and controls the power of the State in regard to its railroad facilities and communications.

Sir, this measure proposes to violate the plighted faith of the State, and to interfere with a contract entered into by the State at a time when there was not one single railroad communication with the city of New York from my State. The people invested their money in the railroad line from Philadelphia to New York at a time when it was supposed that the money would be sunk; that the stock would not be worth ten cents on the dollar. And now, when times have improved, and the company has made a few dollars, it is not right to undertake to interfere with them, inasmuch as the time will soon come when these privileges under their charter will expire.

Mr. WILSON, of Iowa. The questions argued by the gentleman from New Jersey [Mr. ROGERS] were pronounced upon by the House when it passed this bill; and I do not propose now to discuss them further. I now call for a vote upon the amendments.

The first question was upon the amendment reported by the Committee on the Judiciary; and being taken, the amendment was agreed to.

The next question was upon the amendment proposed by Mr. GARFIELD.

Mr. THAYER. I ask the yeas and nays upon that amendment.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 73, nays 62, not voting 48; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Delos R. Ashley, Baker, Barker, Baxter, Beaman, Bidwell, Bingham, Blow, Boutwell, Bromwell, Buckland, Reader W. Clarke, Delano, Dumont, Eggleston, Eliot, Farquhar, Garfield, Grinnell, Hale, Abner C. Harding, Hart, Hayes, Henderson, Higby, Hill, Asahel W. Hubbard, James R. Hubbell, James Humphrey, Ingersoll, Jenckes, Kasson, Kelley, Kelso, Kuykendall, Laflin, George V. Lawrence, William Lawrence, Loan, Lynch, McClurg, McKee, Moorhead, Morrill, Morris, Moulton, Plants, Price, Sawyer, Scofield, Shellabarger, Sloan, Smith, Spalding, Stevens, Stilwell, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Warner, Elihu B. Washburne, Welker, Wentworth, Williams, James F. Wilson, and Windom—73.

NAYS—Messrs. Alley, Ancona, Baldwin, Banks, Bergen, Blaine, Boyer, Brooks, Coffroth, Conkling, Cook, Dawes, Dawson, Denison, Eldridge, Farnsworth, Glossbrenner, Goodyear, Grider, Griswold, Aaron Harding, Hooper, Chester D. Hubbard, John H. Hubbard, Edwin N. Hubbell, Jones, Julian, Kerr, Le Blond, Marshall, Marvin, McCullough, McRuer, Mercur, Miller, Myers, Newell, Nicholson, Noell, O'Neill, Orth, Paine, Perham, Phelps, Pike, Samuel J. Randall, Raymond, John H. Rice, Ritter, Rogers, Rollins, Ross, Sitgreaves, Strouse, Taber, Taylor, Thayer, Thornton, Trimble, William B. Washburn, Whaley, and Winfield—62.

NOT VOTING—Messrs. James M. Ashley, Benjamin, Brandegee, Broomall, Bundy, Chanler, Sidney Clarke, Cobb, Cullom, Culver, Darling, Davis, Defrees, Deming, Dixon, Donnelly, Driggs, Eckley, Ferry, Finck, Harris, Hogan, Holmes, Hotchkiss, Demas Hubbard, Hulburd, James M. Humphrey, Johnson, Ketcham, Latham, Longyear, Marston, McIndoe, Niblack, Patterson, Pomeroy, Radford, William H. Randall, Alexander H. Rice, Rousseau, Schenck, Shanklin, Starr, Francis Thomas, John L. Thomas, Henry D. Washburn, Stephen F. Wilson, Woodbridge, and Wright—48.

So the amendment was agreed to.

The bill as amended was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question was upon the passage of the bill.

Mr. WILSON, of Iowa. I ask the previous question upon the passage of the bill.

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

Mr. ROGERS. I call for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 69, nays 46, not voting 68; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, James M. Ashley, Baker, Banks, Barker, Baxter, Beaman, Bidwell, Bingham, Blow, Boutwell, Bromwell, Buckland, Reader W. Clarke, Conkling, Cook, Cullom, Delano, Dumont, Eggleston, Eliot, Farnsworth, Garfield, Grinnell, Hale, Abner C. Harding,

Hart, Hayes, Henderson, Higby, Hill, Holmes, Asahel W. Hubbard, John H. Hubbard, James R. Hubbell, James Humphrey, Ingersoll, Jenckes, Julian, Kelley, Kelso, Kuykendall, Laflin, William Lawrence, Loan, Lynch, McClurg, McKee, McRuer, Morrill, Moulton, Paine, Perham, Plants, Price, Raymond, Sawyer, Scofield, Shellabarger, Sloan, Smith, Spalding, Stevens, Stilwell, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Warner, Elihu B. Washburne, Welker, Wentworth, James F. Wilson, and Windom—69.

NAYS—Messrs. Ancona, Baldwin, Bergen, Boyer, Brooks, Broomall, Coffroth, Davis, Dawes, Dawson, Denison, Eldridge, Glossbrenner, Goodyear, Grider, Aaron Harding, Chester D. Hubbard, Edwin N. Hubbell, Jones, Kerr, Le Blond, Marshall, Marvin, McCullough, Mercur, Miller, Moorhead, Myers, Newell, Nicholson, Noell, O'Neill, Samuel J. Randall, Ritter, Rogers, Ross, Sitgreaves, Strouse, Taber, Taylor, Thayer, Thornton, Trimble, Whaley, Williams, and Winfield—46.

NOT VOTING—Messrs. Delos R. Ashley, Benjamin, Blaine, Brandegee, Bundy, Chanler, Sidney Clarke, Cobb, Culver, Darling, Defrees, Deming, Dixon, Donnelly, Driggs, Eckley, Farquhar, Ferry, Finck, Griswold, Harris, Hogan, Hooper, Hotchkiss, Demas Hubbard, Hulburd, James M. Humphrey, Johnson, Kasson, Ketcham, Latham, George V. Lawrence, Longyear, Marston, McIndoe, Morris, Niblack, Orth, Patterson, Phelps, Pike, Pomeroy, Radford, William H. Randall, Alexander H. Rice, John H. Rice, Rollins, Rousseau, Schenck, Shanklin, Starr, Francis Thomas, John L. Thomas, Henry D. Washburn, William B. Washburn, Stephen F. Wilson, Woodbridge, and Wright—68.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had passed the following bills, in which he was directed to request the concurrence of the House:

An act (S. No. 89) to issue American registers to the steam vessels Michigan, Dispatch, and William K. Muir;

An act (S. No. 199) to establish the collection district of Port Huron, and the collection district of Michigan, and to extend the district of Puget Sound; and

An act (S. No. 39) to amend the acts relating to officers employed in the examination of imported merchandise in the district of New York.

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

An act (H. R. No. 184) to authorize the sale of marine hospitals and of revenue cutters; and

An act (H. R. No. 122) making appropriations for the naval service for the year ending 30th June, 1867.

JONAS P. LEVY.

Mr. WASHBURN, of Massachusetts, reported back from the Committee of Claims a joint resolution (S. R. No. 169) for the relief of Jonas P. Levy, and moved that the committee be discharged from its further consideration, and that the same be laid on the table.

The motion was agreed to.

HOOPER, WILLIAMS, AND OTHERS.

Mr. WASHBURN, of Massachusetts, also reported back from the Committee of Claims a joint resolution (H. R. No. 91) for the relief of Hooper, Williams, and others, and moved that the committee be discharged from the further consideration of the joint resolution, and that it be laid on the table.

The motion was agreed to.

L. MARCHANT AND COMPANY.

Mr. WASHBURN, of Massachusetts, also reported back from the Committee of Claims the petition of L. Marchant & Co. and P. Rosecrantz, praying compensation for cotton taken from them at Mobile, Alabama, and moved that the committee be discharged from the further consideration of the petition, and that it be laid on the table.

The motion was agreed to.

JOHN WILSON.

Mr. WASHBURN, of Massachusetts, also reported back from the Committee of Claims the petition of John Wilson, praying compensation for services rendered under House resolution of May 4, 1848, and moved that the committee be discharged from the further consideration of the petition, and that it be laid on the table.

The motion was agreed to.

JOHN M. WHITEHILL.

Mr. WASHBURN, of Massachusetts, also reported back from the Committee of Claims the petition of John M. Whitehill, for relief, and moved that the committee be discharged from the further consideration of the petition, and that it be laid on the table.

The motion was agreed to.

ROBERT AUSTIN.

Mr. WASHBURN, of Massachusetts, also reported back from the Committee of Claims the petition of Robert Austin, of Missouri, praying to be reimbursed for certain Treasury notes of which he was the owner, and which have been destroyed by fire, and moved that the committee be discharged from the further consideration of the petition, and that it be laid on the table.

The motion was agreed to.

B. G. ROBERTS, AND OTHERS.

Mr. WASHBURN, of Massachusetts, also reported back from the Committee of Claims the petition of B. G. Roberts, and others, of St. Clair county, Missouri, praying compensation for damages, and moved that the committee be discharged from the further consideration of the petition, and that it be laid on the table.

The motion was agreed to.

HENRY JERARD, AND OTHERS.

Mr. WASHBURN, of Massachusetts, also reported back from the Committee of Claims the petition of Henry Jerard, and others, citizens of Cass county, Michigan, the petition of Patrick Barrett, and the petition of Henry Lehnhart, and moved that the committee be discharged from the further consideration of the petitions, and that they be laid on the table.

The motion was agreed to.

QUARTERMASTER'S DEPARTMENT, ETC.

Mr. WASHBURN, of Massachusetts, also reported back from the Committee of Claims a bill (H. R. No. 262) entitled "An act to perpetuate testimony in the case of claimants against the quartermaster's and commissary departments of the United States," and moved that the committee be discharged from the further consideration of the bill, and that it be laid on the table.

The motion was agreed to.

EDUCATION IN AGRICULTURE, ETC.

Mr. GRINNELL. Mr. Speaker, the Committee on Agriculture, to whom was referred the bill (H. R. No. 350) to encourage education in agriculture and mechanic arts, have instructed me to report back the same, and to move that it be indefinitely postponed.

The motion was agreed to.

Mr. GRINNELL moved to reconsider the vote by which the bill was indefinitely postponed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DISTRIBUTION OF SEEDS.

Mr. BIDWELL. I am directed by the Committee on Agriculture to report back the following resolution, and to move that the committee be discharged from its further consideration, and that it be laid on the table:

Resolved, That the Committee on Agriculture be directed to inquire what, if any, amount over and above the usual appropriation will be necessary for an adequate supply of seeds to be distributed among the farmers of the country by the Department of Agriculture, with liberty to present the result of their inquiry by bill or otherwise.

Mr. Speaker, a few words by way of explanation are due on the part of the committee. In view of the absolute necessity of retrenchment in all the Departments of the Government the committee were unanimous in the opinion that anything over and above the estimates made by the Department of Agriculture ought not to be asked for, believing, as they did, that the amount called for by the Commissioner would be ample, if economically expended in the purchase and distribution of rare and valuable seeds, instead of such as are to be found in almost every seed-store through the country, and, consequently, within the reach of all classes. With this view one of the committee [Mr. LAWRENCE, of Pennsylvania,] was instructed to offer a proviso to the appropriation bill, restricting the Commissioner to the purchase of seeds which will promise more benefit to the interests of agriculture. That duty was promptly discharged, and the proviso suggested adopted by the House, which renders further action by the committee unnecessary.

The motion was agreed to.

AGRICULTURAL COLLEGES.

Mr. BIDWELL, from the Committee on Agriculture, reported back House bill No. 50, to amend the fifth section of an act entitled "An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts," approved July 2, 1862, so as to extend the time within which the provisions of said act shall be accepted and such colleges established, with a substitute.

The substitute was read.

Mr. WASHBURNE, of Illinois. I suggest, as this is a most important bill, and as the morning hour is about to expire, that my honorable friend from California had better let it go over until to-morrow, so that the substitute may be ordered to be printed.

Mr. BIDWELL. If the bill goes over until to-morrow will the committee lose the floor?

Mr. WASHBURNE, of Illinois. It will still hold the floor, otherwise I would not have made the suggestion.

Mr. BIDWELL. I move that the substitute be ordered to be printed.

The motion was agreed to.

The SPEAKER. The morning hour has expired, and the bill and substitute will go over until to-morrow as the unfinished business of the morning hour.

LEAVE OF ABSENCE.

On motion of Mr. LAFLIN, leave of absence was granted to Mr. HULBURD for ten days.

DEFICIENCY APPROPRIATION BILL.

Mr. STEVENS. I am directed by the Committee on Appropriations to report back the amendments of the Senate to House bill No. 86, making additional appropriations, and to supply deficiencies in the appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1866, and for other purposes, recommending concurrence in some and non-concurrence in others, and to ask that they be acted on now.

Mr. WASHBURNE, of Illinois. I hope that the gentleman from Pennsylvania will consent to the postponement of the Senate amendments until to-morrow, so that they may be printed. Many of them are important amendments, involving large amounts of money. We ought certainly to have an opportunity to see these amendments in print. I do not make the suggestion for the purpose of delaying action; on the contrary, I desire to help the gentleman in getting through his business.

Mr. STEVENS. The request is a reasonable one, and I move that the amendments be printed and postponed until to-morrow.

The motion was agreed to.

NATIONAL CEMETERIES.

Mr. SMITH, by unanimous consent, submitted the following resolution:

Resolved, That the Committee on Appropriations be instructed to inquire into the propriety of making an appropriation to complete the work inaugurated by Major General Thomas, commanding military division of the Tennessee, and other officers, commanding divisions and departments throughout the United

States, contemplating the noble work of disinterring and gathering in national cemeteries the brave soldiers who gave their lives for the salvation of the Union; and that the committee be empowered to send for persons and papers, and report at any time by bill or otherwise.

Mr. WASHBURNE, of Illinois. I suggest that that ought to be referred to the Committee on Military Affairs.

Mr. SMITH. An appropriation will be necessary.

Mr. STEVENS. The matter ought first to be considered by the Committee on Military Affairs.

Mr. SMITH. I modify the resolution so as to refer it to the Committee on Military Affairs instead of the Committee on Appropriations.

The resolution as modified was adopted.

PATENT OFFICE REPORT.

Mr. LAFLIN, from the Committee on Printing, submitted the following report.

The Clerk read, as follows:

Resolved, That there be printed of the annual report of the Commissioner of Patents for the year 1865, together with illustrations, ten thousand extra copies for the use of the Commissioner of Patents, and five thousand extra copies for the use of the House; and that orders heretofore made for the printing of reports from said Commissioner yet unfilled, be made to correspond in amount with the order hereby made for the report of 1865.

Mr. LAFLIN. Mr. Speaker, I do not desire the House shall act upon this resolution without thoroughly understanding its meaning. The committee have instructed me to introduce it for two reasons, one, that our Printing Office may be relieved of a great burden that rests upon it, the other that they may understand from the disposition which the House chooses to make of this resolution what shall be their action in the future with reference to resolutions of this character referred to them.

The committee are happy to acknowledge the very kind and generous manner in which the House have received their reports, and it is because they have met these reports in this manner that they do not care at this time to introduce a resolution of this character without full explanation, so that each member of the House may fully understand its purport and meaning. In introducing this resolution they are aware that they are met at the outset with a great prejudice, and that prejudice arises from the fact that in the minds of many members of this House whenever "Patent Report" is mentioned there is at once associated with it the Agricultural Report. I wish to say to the House in the first place that this has nothing whatever to do with the Agricultural Report. It is the mechanical part of the Patent Office Report.

And I wish to say further that none of these reports have been published since the year 1862. To-day we have orders for one hundred and sixty thousand volumes of the Patent Office Reports for 1863 and 1864 yet unfilled.

Now, the time has come when the committee must determine where and how they shall reduce these orders, because they are met with the unpleasant fact (and I want every member of the House to listen to this) that the orders already presented to the Government Printing Office are so enormous that if the House should at this very moment decline to present any further orders, those orders could not be executed in less than a year.

It is not simply a question whether these books are valuable and whether they ought to be published, but whether they ought to be published to the exclusion of other valuable books. I know there is a feeling in this House in favor of printing Agricultural Reports, and yet if none of these orders are withdrawn or countermanded, and if the Superintendent of Public Printing takes them in the order in which they are given, it will be impossible for any member of this House to receive a copy of the Agricultural Report for 1865 until this Congress expires.

Now, sir, there are a few in this House who begin to estimate the amount that is expended in publishing these reports. It is not necessary for us to urge this with reference to this particular question. But since I am on the floor, I think it is due to our committee, to this House, and to the questions that will come before us, that gentlemen should understand the reason for the action of this committee, and the reason that will guide them hereafter in their reports.

I wish to say that I have thoroughly examined this subject, so that I can speak from the book. I make statements here to which I challenge successful contradiction. They are taken from our own official reports, and if necessary I can verify them item by item.

In the first place, the amount of paper used by the Government of the United States during the last year amounted to one thirteenth of the value of all the paper manufactured in the United States, according to the census of 1860. I want members of the House to consider the bearing of this fact upon the great interests of the country. I want every newspaper in the land to know that this Government, through its officials here, is the most to be dreaded competitor in the market for the very goods they use. I wish it could be placed conspicuously in the margin of every newspaper, and upon the fly-leaf of every school-book and Bible that the Government of the United States in one year consumes one thirteenth in value of all the paper manufactured in this country in 1860.

Here let me give you the figures:

Amount of paper paid for by the Government in 1865 and 1866, a little over	$1,700,000
Value of paper manufactured of all kinds as appears from census for year 1860	23,154,020

Sir, if you will go with me to the cities of New York and Philadelphia and inquire of the publishers what is the effect of this enormous business of the Government, you will be told by them that there is not an order that comes from Washington for paper that is not felt by the whole trade.

Why, sir, as a newspaper publisher, I would not desire any better protection of my interest in the way of reducing the price of paper, than a reduction of the consumption of paper at Washington. It would operate far better than a reduction of the tariff.

Again, Mr. Speaker, I find this Government is the greatest publishing-house in the world. There is not an establishment in the United States nor in Europe that begins to compare with our Government printing establishment. I find that during the last year we paid for printing one twelfth of the value of all the publications in the United States in 1860, including newspapers, pamphlets, and all. Would any one believe it? Think of it. Right here, in the city of Washington, this Government publishes one twelfth in value of all the publications of every kind in the United States, as returned by the census in 1860.

Now, look at the data upon which this statement is based:

Amount paid for Government printing in 1865 and 1866	$2,700,000
Value of publications, including newspapers, books, pamphlets, &c., as appears from census of 1860	31,063,898

And here it is due to the Houses of Congress to state that by far the largest proportion of the expenses incurred above has been made not by Congress but by the various Departments of the Government.

Now, sir, there are but three courses that this House can pursue: we must either countermand or curtail the orders that have already been given, to say nothing of the orders yet to be given; or we must wait for the publication of such orders as are now given for a year or a year and a half; or we must enlarge our printing department. Now, the sum and substance of this resolution is to avoid the choice of either of the two latter courses. We do not want to wait a year or a year and a half for books already ordered; neither, since it is a fact that we have the largest printing establishment in the world, do we wish to enlarge it. We have, therefore, only one course left to us, and that is to reduce our orders. The question came before the committee, where should we reduce? We found that the Patent Office Reports for 1863 and 1864 are yet wanting. We found that we had ordered for each year twenty thousand extra copies of the mechanical part of the Patent Office Report, and that makes forty thousand volumes. I wish to say here that the expense of this thing is perfectly enormous. It costs us $2 86½ per copy. Now, the committee have proposed to cut that down, and they have proposed to cut it down with the hope that other parties—if I may not be permitted to refer to the other end of the Capitol—that other parties will follow our example, and that the reduction will be still greater.

I wish to state that I have made a very close and accurate estimate of the amount that is to be saved on this very article of the Mechanical Report. Mind you, we give the Commissioner of Patents fifteen thousand extra copies for each year, at an expense of $2 86½. There will be a saving to the Government, if we adopt this resolution, of $128,700 on this very book.

And here I may be met with the inquiry why the Committee on Printing have seen fit to give ten thousand extra copies to the Commissioner of Patents and only five thousand to the House.

Mr. CONKLING. I want an explanation of that.

Mr. WASHBURNE, of Illinois. I tried to get an explanation of that last session, but I failed.

Mr. LAFLIN. I will give the controlling reasons with the committee. It may be that we entertain altogether too radical notions on this subject of printing; but if that is so, it is not because we are blind followers of any such miserable school of economy that would refuse to the public information that that public needs. We have not learned our lesson in any such school as that. We know that "there is that scattereth, and yet increaseth; and there is that withholdeth more than is meet, but it tendeth to poverty."

We understand that, and we understand the value of these books; but we are compelled by parity of reasoning to admit that the publication of school-books and Bibles is also important. I venture to say that there is not a single man in this House, who, if the question were presented to him whether he would expend this $125,000 in the publication of these extra copies of the Patent Office Report, or expend the same sum of money in the publication of school-books and Bibles to be circulated among the ignorant classes of our country, whose judgment would not compel him to vote in favor of the latter. And yet we do not propose to make ourselves a large publishing-house.

This brings me to the point of the idea operating on the committee in proposing to vote a certain number of these copies to the Commissioner of Patents. We wish to introduce some rules and regulations providing for the distribution of these books, and we want to do it with a view to a general, uniform, and fair distribution of the books as far as we can, and ultimately with a view of making those that take these books pay for them a certain sum of money.

Now, sir, in reference to this book, it goes into the hands of parties whose interests we protect by law, whose inventions we protect by law, and I believe that every man who is really interested in reading this book is willing to attest his interest in that book by paying a certain sum of money.

I do not think it expedient that they should pay anything like the cost of the book. But I do think it should be provided that after the year 1866 any person receiving the mechanical part of the Patent Office Report should be obliged to pay say twenty-five per cent. of what the book cost the Government. We will then learn just what value the people place upon that book. If it shall be found that only three thousand people in the United States are willing to pay fifty cents for that book, then we need not next year provide for the publication of ten thousand copies of it.

Mr. STEVENS. Who pays for the book now?

Mr. LAFLIN. We do.

Mr. STEVENS. The people pay for it.

Mr. LAFLIN. We, the agents of the people, compel the Government to pay for it; of course the people must pay for it, but we make them do it whether they want to do so or not. I do not wish it to be understood that the arrangement I have suggested shall apply to the books that are now ordered, or which may be ordered this year.

The Commissioner of Patents has insisted, with a pertinacity which it has been exceedingly difficult for the committee to resist that we should give him fifteen thousand copies. Yet we have concluded to cut down the number of copies for him to ten thousand.

Mr. CONKLING. It is proposed that fifteen thousand copies of this book shall be distributed to the people. I should like to be informed why the Commissioner of Patents should distribute ten thousand copies and the members of this House only five thousand copies.

Mr. LAFLIN. Because the Commissioner of Patents is supposed to know better the class of people interested in this Patent Office Report. And it is found by experience that the mechanics and inventors of this country are constantly applying to the Commissioner of Patents for this very book.

Mr. CONKLING. Does the gentleman mean to say that the Commissioner of Patents or any other officer of this Government knows more than a member of Congress? [Laughter.]

Mr. LAFLIN. Certainly not; not in general matters; but he may, perhaps, on some speciality.

Mr. CONKLING. On what?

Mr. LAFLIN. I venture to assert that he knows more about a water-wheel, for instance.

I believe I have stated to the House all the facts connected with this matter. It is for the House now to determine whether we will wait over a year for the publication of the Agricultural Report and other books which have been or may be ordered, or whether it will make a commencement in cutting down the orders already made.

Mr. ASHLEY, of Ohio. I wish to inquire of the gentleman from New York [Mr. LAFLIN] if he knows how many patents have been issued, how much money has been paid by inventors to secure those patents, and if he considers it too much for the Government to furnish each man who has thus paid for a patent a copy of this Mechanical Report.

Mr. LAFLIN. I am very sorry that the gentleman from Ohio [Mr. ASHLEY] should have been misled by anything I have stated. We do not propose to do anything of the kind he suggests.

In regard to why we allow the Commissioner of Patents more copies for distribution than is allowed to the House of Representatives, I think I have fully stated the facts. Let it be clearly understood that if the House adopts the report of the committee, the country will be saved the sum of $128,700, a saving which, even in these days, when men talk of their thousands of millions, will certainly be gratefully accepted by our constituency, already groaning under a load of debt "grievous to be borne." And as this is a mere question of fact, and not one of principle, I think I will do no injustice to any one to call, as I now do, the previous question.

Mr. GRINNELL. Will the gentleman withdraw the call for the previous question for a few moments?

Mr. LAFLIN. Certainly.

Mr. GRINNELL. I simply wish to say, as it was at my suggestion that this number, ten thousand, was inserted, that I subscribe to every sentiment uttered by the chairman of the Committee on Printing, [Mr. LAFLIN.] I believe there should be a reduction in the amount of our public printing. I am willing to forego all the copies of the Patent Office Report that are to be assigned to me, if we can get at an early date those documents which the country really requires and demands. I hope the number of this report will be cut down, and that we shall have an increase of the number of copies of a report which is required by the country at large.

As the gentleman has spoken of the expense of the Government for paper, I would like to call the attention of the House to some other documents which we have published for our use. Here is one called "Daily Order of Business." The copy which I hold in my hand is composed of eighteen pages of very fine paper, while only six of the pages have anything printed on them for us to read. That has been customary ever since I have been in Congress, at a cost of thousands and thousands of dollars to the Government for a useless purpose.

Mr. LAFLIN resumed the floor.

Mr. KELLEY. Will the gentleman yield to me for five or ten minutes?

Mr. LAFLIN. I will.

Mr. KELLEY. I agree to every suggestion made by the gentleman from New York [Mr. LAFLIN] which goes to the end of true economy. But I think beginning retrenchment with the Mechanical Report is beginning at the least proper point, taking in view the whole range of public printing.

I represent a district in which there are immense machine-shops, works of engineering, &c., and there is not an apprentice boy in my district that does not value the Mechanical Report and does not study it. There is no book sent out by this Government which does so much to improve the condition and promote the welfare of the whole community as the Mechanical Report. We have to compete with cheap labor, and we do it by the force of ideas. And if the British or the French Government disseminated knowledge upon the subject of patents and inventions as we do, we would have a more difficult competition to overcome than we now have.

After the World's Fair at London, the ridicule and odium thrown theretofore upon our country by the Times, Punch, and all the journals of Europe, were completely wiped out by declarations made by them that Europe had gathered more ideas from the American department of that Exhibition than from all the rest. It was owing to our patents, inventions, and contrivances, the knowledge of which this report of the Patent Office carries to our ingenious people, that those foreign journals were led to make that significant admission.

They are welcomed in every workshop, and studied by every apprentice. You will find them in our drawing-schools, for purposes of instruction, and I venture to say that there is not a gentleman on this floor, the conveniences of whose home, and the methods of whose business have not been improved and facilitated by the distribution of these Mechanical Reports. Though I represent in part an agricultural district, and have a demand for three hundred or four hundred of the Agricultural Report, since this session commenced I have gladly exchanged two copies of the Agricultural Report for one copy of the Mechanical Report to send to the engineers and young men in my district who want them to educate them for their business.

I do not ask that the number of the Agricultural Report shall be reduced; but I do ask that much of the extravagant printing of this Government shall be done away with. The gentleman from Iowa [Mr. GRINNELL] has very properly called attention to one item, this "Order of Business." All these eighteen pages could be dispensed with, and the whole of it put on one page, and then be easily read by any one of us without our spectacles. Let us attend to such extravagances as those before we strike out the only means we have of stimulating and educating the rising genius of the country in the mechanic arts.

Mr. LAFLIN. I now renew the demand for the previous question.

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

The question was upon agreeing to the resolution reported from the Committee on Printing.

Mr. ROSS. I should like, if there was any way to do it, to increase the number of copies for members of Congress, and not have so many for the Commissioner of Patents. As the resolution now stands, he is allowed twice as many as all the members of the House of Representatives.

Mr. CONKLING. It would be far better to have it reversed.

Mr. LAFLIN. If there is no objection, I would agree to making it seven thousand five hundred copies for the Commissioner of Patents and seven thousand five hundred copies for the use of the House.

Mr. CHANLER. I object.

Mr. WASHBURNE, of Illinois. Then I move to reconsider the vote ordering the main question, for the purpose of moving that amendment.

The motion to reconsider was agreed to.

Mr. WASHBURNE, of Illinois. I now move, with the consent of the gentleman from New York, [Mr. LAFLIN,] to amend this resolution so as to give the Commissioner of Patents five thousand copies and the House of Representatives ten thousand copies of the Mechanical Report, with illustrations, for 1865.

Mr. LAFLIN. I consent to that.

Mr. WASHBURNE, of Illinois. I now call the previous question on the amendment and resolution.

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

The question was then taken upon the amendment of Mr. WASHBURNE, of Illinois, and it was agreed to.

The resolution as amended was agreed to.

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

The latter motion was agreed to.

CLERK OF WAYS AND MEANS COMMITTEE.

Mr. MORRILL, from the Committee of Ways and Means, submitted the following report; which was laid upon the table, and with the accompanying papers ordered to be printed:

The Committee of Ways and Means, in obedience to the resolution of the House of February 26, asking for certain information in regard to clerks of committees, respectfully report that, in the judgment of the Committee of Ways and Means, their clerk is indispensable for the transaction of its business; and, in relation to all the other matters included in the inquiry, they beg leave to submit the statement of their clerk, to whom the resolution has been referred; and so far as is known to the committee it is truthful and accurate.

COMMITTEE-ROOM WAYS AND MEANS,
HOUSE OF REPRESENTATIVES, *March* 10, 1866.

SIR: In answer to the resolution of the House of Representatives calling for certain information in relation to my duties as clerk to the Committee of Ways and Means, to which you have directed my attention and requested a statement, I have the honor to reply that I come to the committee-room at nine o'clock every morning, frequently earlier, unless there is business of the committee to be transacted at some one or more of the Departments, and remain almost invariably until the adjournment of the House; that I have continuous employment until the session of the House at noon and afterward, and until the adjournment am engaged on the various bills, resolutions, petitions, and statistics drafted, presented, filed, and considered by the whole committee or some of the sub-committees. Three nights during the week are spent at my room upon committee work. During this session I have been engaged at your room upon work of committee exclusively. I have also spent several evenings at your room upon the work of the committee.

The time I have been engaged for the members of the committee during the sessions of committee and House will not exceed ten hours for the entire session of Congress.

At the commencement of this Congress I rendered some assistance to one of the important committees of the House, which was principally done at night, and did not in any way interfere with the work of my own committee.

Very respectfully, your obedient servant,
GEORGE A. BASSETT,
Clerk, &c.

Hon. JUSTIN S. MORRILL, *Chairman Committee Ways and Means, House of Representatives.*

FLAG PRESENTED FROM LYONS, FRANCE.

Mr. BANKS, by unanimous consent, presented a letter from Hon. William H. Seward

in relation to a flag of the United States received from the working people of the city of Lyons, France; which was referred to the Committee on Foreign Affairs, and ordered to be printed.

COMMODORE RADFORD.

Mr. BANKS, by unanimous consent, also presented a communication from the Secretary of State in relation to a decoration proposed to be conferred upon Commodore William Radford by the King of Italy for assistance rendered to the Italian frigate Re d'Italia; which was referred to the Committee on Foreign Affairs, and ordered to be printed.

TENNESSEE.

Mr. LATHAM. I ask unanimous consent to submit the following resolutions:

Whereas by the information received through the investigations of the committee on reconstruction and through other channels, it is the sense of this House that the people of the State of Tennessee are in a condition to entitle them to representation herein: Therefore,

Resolved, That the committee on reconstruction be, and the same is hereby, relieved from the further consideration of all matters pertaining to the representation of the State of Tennessee in this House.

Resolved, That the credentials of the Representatives-elect from said State be, and the same are hereby, referred to the Committee of Elections with leave to report at any time, and with instructions to report as soon as practicable upon the "elections, returns, and qualifications of" each of said Representatives-elect as presented, *prima facie*, by said credentials.

Mr. ASHLEY, of Ohio. I object.

Mr. LATHAM. I move to suspend the rules.

The SPEAKER. That motion is in order only on Monday.

MESSAGE FROM THE SENATE.

A message was received from the Senate by Mr. FORNEY, its Secretary, notifying the House that that body had passed bills and a joint resolution of the following titles, in which he was directed to ask the concurrence of the House:

An act (S. No. 26) to encourage telegraphic communication between the United States and the island of Cuba and other West India islands and the Bahamas;

An act (S. No. 146) for the relief of Thomas F. Wilson, late United States consul at Bahia, Brazil;

An act (S. No. 165) more effectually to provide for the punishment of certain crimes against the United States; and

A joint resolution (S. R. No. 50) in relation to the publication of the laws of the United States.

Also that it had passed a bill of the House (No. 57) authorizing the Secretaries of War and the Navy to place hulks and vessels at the disposal of commissioners of quarantine, or other proper authorities, at ports of the United States, with amendments, in which he was directed to ask the concurrence of the House.

NIGHT SESSIONS.

Mr. PRICE. I ask leave to submit the following resolution:

Resolved, That until otherwise ordered evening sessions shall be held on Tuesday and Thursday evenings of each week for the purpose of allowing committees to report in the regular order.

Mr. WASHBURNE, of Illinois. I object to that resolution. We are getting on rapidly with our business without night sessions, and are far ahead of the Senate.

DUGAN'S INFANTRY TACTICS.

Mr. LAWRENCE, of Ohio. I ask leave to introduce the following resolution:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of authorizing the Secretary of War to purchase for the use of the Army of the United States a certain number of copies of a work upon infantry tactics prepared by Colonel James Dugan, and which has been recommended by Lieutenant General Grant and Generals Augur, Hunter, Kiddoo, and others; and that they report by bill or otherwise.

I am advised by military gentlemen that the work referred to in the resolution I have just introduced is an absolute necessity as a book of instruction. It is recommended by the highest military authorities, and I present these to the House in support of the resolution. With these before the House I cannot doubt but it will meet with unanimous approval.

They are as follows:

Infantry Tactics for the instruction, exercise, and manœuvers of the soldier, a company, line of skirmishers, or a battalion. Designed for the use of academies, colleges, officers, and non-commissioned officers, schools. Based upon Brigadier General Casey's system, approved by the President, August 11, 1862. By Colonel James Dugan.

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HEADQUARTERS ARMIES OF THE UNITED STATES,
WASHINGTON, D. C., *March* 14, 1866.

The system of instruction in infantry tactics prepared by Colonel Dugan, will no doubt supply a want which has been felt in schools where this subject has been taught. It is well calculated to facilitate the labors of those engaging in instructing the militia and non-commissioned officers of the Army.

U. S. GRANT,
Lieutenant General United States Army.

—

I think it admirably adapted for schools and for the use of non-commissioned officers in the Army, and for our militia organizations.

C. C. AUGUR,
Major General United States Army.
LOVELL H. ROUSSEAU,
Late Major General Volunteers.

—

HEADQUARTERS GARRISON WASHINGTON,
March 1, 1866.

SIR: On a careful examination of your catechism of Casey's Tactics, I am convinced it is a good idea and should be adopted for schools both of officers and men. Twenty years' experience as a company officer has made me feel that just such a book as yours is much needed by the Army. It will be useful in all military organizations, and I commend it to them.

F. T. DENT,
Brigadier General Commanding.

Colonel JAMES DUGAN.

—

I fully concur with the above.

D. HUNTER,
Brevet Major General United States Army.

—

I cordially indorse the views and recommendations of Generals Dent and Hunter.

G. GRANGER,
Late Major General United States Volunteers.

—

I have examined this work with care, and take great pleasure in giving it as my opinion that it is most admirably adapted to the object for which it is intended, namely, a text-book for schools and academies where infantry tactics are taught, and for the instruction of officers and non-commissioned officers in the Army. The compiler does not presume to add to, take from, or interpolate Casey's Tactics as authorized by the War Department, but only introduces appropriate questions to each paragraph.

J. B. KIDDOO,
Brevet Major General United States Volunteers.

The resolution was agreed to.

CASCADE RAILROAD COMPANY.

On motion of Mr. HENDERSON, Senate bill No. 105, to grant the right of way to the Cascade Railroad Company through a military reservation in Washington Territory, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Military Affairs.

A. J. GRAY.

On motion of Mr. FARQUHAR, Senate bill No. 130, for the relief of A. J. Gray, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Invalid Pensions.

EMMA J. HALL.

On motion of Mr. FARQUHAR, Senate bill No. 181, for the relief of Emma J. Hall, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Invalid Pensions.

PENNSYLVANIA WAR CLAIM.

Mr. STEVENS. I move that the rules be suspended, and that the House now resolve itself into Committee of the Whole for the purpose of considering the special order.

The motion was agreed to; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. WASHBURNE, of Illinois, in the chair,) and proceeded to the consideration of House bill No. 360, to reimburse the State of Pennsylvania for moneys advanced Government for war purposes.

Mr. STEVENS. I move to amend in line eight by striking out "nine" and inserting "eight," so that it shall read "$800,000."

The amendment was agreed to.

Mr. STEVENS. This bill passed this House on a former occasion, and was lost between the two Houses.

In 1863, at the time of the invasion of Pennsylvania, the States of Pennsylvania, New York, and New Jersey sent a large number of troops under the proclamation of the President and at the call of the Governors of the different States to coöperate in repelling that invasion. They were in the service, under the command of officers of the United States. After the battle of Gettysburg, and the troops had withdrawn, they went on to settle the amount under the act of 1861, which authorized the Treasurer to pay them. Fifteen million dollars had been appropriated for the purpose of settling all such debts by the act of February 25, 1862. In adjusting the accounts it was found that the accounts claimed and allowed to the States of New York and New Jersey absorbed the whole $15,000,000 and a few dollars more. The few dollars due to New Jersey have since been paid.

At the time of the adjustment Pennsylvania agreed that she would allow her claim to remain back until the other States had been paid. As the invasion was in her territory it was thought that her troops should be last paid. But the $15,000,000 had run out, and the Secretary of War and the President telegraphed to the Governor of Pennsylvania asking him to raise the money to pay the troops, and promising that at the meeting of Congress payment would be recommended. There was nothing in the treasury at the disposal of the Governor, so he went to Philadelphia and raised from a few gentlemen there about seven hundred thousand dollars and paid the troops. The accounts were since adjusted in the Department here on the 4th of January, 1864. The amount allowed is $671,476. It is that amount with the interest due to those individuals which has since been paid by the State of Pennsylvania that it is proposed to pay. Pennsylvania has paid it, and that State is now substituted for these individuals.

I will have the Clerk read some correspondence on the subject.

The Clerk read, as follows:

WAR DEPARTMENT,
WASHINGTON CITY, *January* 4, 1864.

SIR: The Department has this day received returns of the amounts required for the payment of the militia called out for the defense of the State of Pennsylvania on the 26th of June, 1863, against the invasion by the rebel forces under command of General Lee. There being no appropriation out of which these payments could be made at the time they were required, patriotic citizens of Philadelphia advanced the money, and it is proper that they should be reimbursed without delay. I would respectfully recommend, therefore, that an immediate appropriation for that purpose be made. A copy of a letter of the Second Auditor of the Treasury is herewith communicated, showing the amount of claims audited by him to be $671,476 43 up to date. It is supposed that $700,000 will cover the whole amount of these claims.

I have the honor to be, very respectfully, yours,
EDWIN M. STANTON,
Secretary of War.

Hon. THADDEUS STEVENS,
Chairman Committee Ways and Means.

—

WASHINGTON, *July* 21, 1863.

J. R. FRY, *Chairman Union League, Philadelphia:*

All that is necessary is that the Governor of Pennsylvania should see that the company pay-rolls are properly made out and certified. This being done, the amount due is readily ascertained, and can be paid; and the pay-rolls will furnish the proper official voucher of the payment. This Department will lay before Congress at the commencement of the session an estimate to cover the amount, and request the appropriation. The matter has been arranged in this way in other States, and has been productive of no delay or complaint when the Governors have given their attention to it, and seen that the muster-rolls are properly made out.

EDWIN M. STANTON,
Secretary of War.

—

TREASURY DEPARTMENT,
SECOND AUDITOR'S OFFICE, *January* 4, 1864.

SIR: Respecting the claim of the State of Pennsylvania, amounting to $671,476 43, for payments made to the militia called out under the proclamation of the Governor of that State, dated June 26, 1863, I have the honor to state that the rolls and vouchers for said payments have been administratively examined in this office and found in the main correct. Errors and discrepancies amounting to say $2,900 have been discovered, consisting principally of cases where the internal revenue tax is not deducted, or when deducted not accounted for.

I am, very respectfully, your obedient servant,
E. B. FRENCH,
Second Auditor.

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

Mr. STEVENS. I have nothing further to say except this: this is not an ordinary case where the militia were called out, of which we have a good many claims presented here. These troops were called out by proclamation of the President and of the Governors of the States, and they assisted in repelling the invasion under officers of the United States Army. The $15,000,000 appropriation ran out just before the last company of New Jersey was paid, and another fund was to be resorted to.

Mr. BLAINE. I move to amend the pending bill by striking out all after the enacting clause and inserting in lieu thereof the following:

That there shall be reimbursed by the United States to each of the States that furnished troops to the Union Army, and also to the several Territories and the District of Columbia, a sum equal to fifty-five dollars for each man duly enlisted into the military or naval service of the United States during the late war, the total number being reduced to a uniform standard of three years' service, namely:

To the State of Maine, for fifty-six thousand five hundred and ninety-five men, $3,112,725.

To the State of New Hampshire, for thirty thousand eight hundred and twenty-seven men, $1,695,485.

To the State of Vermont, for twenty-nine thousand and fifty-two men, $1,597,860.

To the State of Massachusetts, for one hundred and twenty-three thousand eight hundred and forty-four men, $6,811,420.

To the State of Rhode Island, for seventeen thousand eight hundred and seventy-eight men, $983,290.

To the State of Connecticut, for fifty thousand five hundred and fourteen men, $2,778,270.

To the State of New York, for three hundred and eighty-one thousand six hundred and ninety-six men, $20,993,280.

To the State of New Jersey, for fifty-five thousand seven hundred and eighty-five men, $3,068,175.

To the State of Pennsylvania, for two hundred and sixty-seven thousand five hundred and fifty-eight men, $14,715,690.

To the State of Delaware, for ten thousand three hundred and three men, $566,665.

To the State of Maryland, for forty thousand six hundred and ninety-two men, $2,238,060.

To the State of West Virginia, for twenty-seven thousand six hundred and fifty-three men, $1,520,915.

To the State of Ohio, for two hundred and thirty-seven thousand nine hundred and seventy-six men, $13,088,680.

To the State of Indiana, for one hundred and fifty-two thousand two hundred and eighty-three men, $8,375,565.

To the State of Illinois, for two hundred and twelve thousand six hundred and ninety-four men, $11,698,170.

To the State of Michigan, for eighty thousand eight hundred and sixty-five men, $4,447,575.

To the State of Wisconsin, for seventy-eight thousand nine hundred and eighty-five men, $4,344,175.

To the State of Minnesota, for nineteen thousand six hundred and seventy-five men, $1,082,125.

To the State of Iowa, for sixty-eight thousand one hundred and eighty-two men, $3,750,010.

To the State of Missouri, for eighty-six thousand one hundred and ninety-two men, $4,740,560.

To the State of Kentucky, for seventy thousand three hundred and forty-eight men, $3,869,140.

To the State of Kansas, for eighteen thousand six hundred and fifty-four men, $1,025,970.

To the State of Tennessee, for twelve thousand and seventy-seven men, $664,235.

To the State of California, for seven thousand four hundred and fifty-one men, $409,805.

To the State of Nevada, for two hundred and sixteen men, $11,880.

To the State of Oregon, for five hundred and eighty-one men, $31,955.

To the District of Columbia, for eleven thousand five hundred and six men, $632,830.

To the Territory of Washington, for eight hundred and ninety-five men, $49,225

To the Territory of Nebraska, for three hundred and eighty men, $20,900.

To the Territory of Colorado, for one thousand seven hundred and sixty-two men, $96,910.

To the Territory of Dakota, for one hundred and eighty-one men, $9,955.

To the Territory of New Mexico, for one thousand and eleven men, $55,605.

SEC. 2. *And be it further enacted*, That the amounts to be thus reimbursed shall be in registered bonds of the United States, of not less than $1,000 each, bearing interest at the rate of five per cent. per annum, payable semi-annually in lawful money, and redeemable at the pleasure of the United States, after twenty years from date. Said bonds shall be dated July 1, 1866, and interest thereafter shall be payable on the 1st day of January and 1st day of July each year; said interest to be payable and said bonds to be redeemable out of moneys to be hereafter appropriated by Congress.

SEC. 3. *And be it further enacted*, That each bond issued in pursuance of this act shall have plainly printed or engraved thereon the words following, namely: "The bonds of which this is one are issued to the State of ——— in full reimbursement for expenses incurred by said State in the war for the Union. Said bonds are not negotiable until after the 1st day of July, A. D., 1866, and then only upon the indorsement of the Governor of the State. And said bonds are accepted by said State in full payment of all claims for expenses incurred or losses sustained in the war for the Union, either by the State or by any municipal corporation within the State."

SEC. 4. *And be it further enacted*, That the bonds authorized by this act shall not be delivered to any State until the Legislature thereof has formally consented to accept them on the terms contained in the third section; and upon such consent being properly certified to the Secretary of the Treasury by the Governor of any State, the Secretary shall, on the Governor's receipt therefor, issue to such State its proper amount of bonds as provided in the first section of this act. But the condition contained in the third section shall not be construed to exclude any demand or claim from a State or municipal corporation which can be audited and paid under any law in force at the time of the approval of this act.

SEC. 5. *And be it further enacted*, That the Secretary of State shall forward to the Governor of each State a certified copy of this act within thirty days from the date of approval; and the Secretary of the Treasury is hereby charged with executing the provisions of this act.

Mr. STEVENS. I doubt very much whether this is a proper amendment to this appropriation bill. It is an original law on another subject. I raise the point of order.

Mr. BLAINE. The point was raised exactly two years ago and overruled.

The CHAIRMAN. The Committee of the Whole is considering a bill to reimburse the State of Pennsylvania for moneys advanced to the Government for war purposes. The gentleman from Maine [Mr. BLAINE] moves an amendment to strike out all after the enacting clause and insert what has been read, being "a bill to reimburse the States that have furnished troops to the Union Army for advances made and expenses incurred in raising the same." The gentleman from Pennsylvania [Mr. STEVENS] raises the point of order that the amendment is not germane. As an original question the Chair would hold that it is not in order. But in a former case, where a bill granting lands to a railroad in a particular State was pending, it was decided that it was in order to amend it so as to include railroads in other States. And during the last Congress the same question was raised on precisely the same bill, and it was ruled that an amendment similar to this was in order. The Chair therefore thinks it is the will of the committee that such an amendment is in order. He rules accordingly.

Mr. MYERS. I raise another point of order; that this bill is an appropriation in pursuance of existing law, while the substitute is an unliquidated claim.

The CHAIRMAN. The Chair overrules the point of order.

Mr. BLAINE. I desire to submit a few remarks in support of the amendment. I have nothing whatever to say about the bill introduced by the gentleman from Pennsylvania, [Mr. STEVENS.]

Before proceeding, Mr. Chairman, to urge the justice, expediency, and necessity of adopting this measure, I will, with the indulgence of the House, present in brief detail the action of our Government in the cases of a similar nature that have thus far arisen in our history. I am aware that precedent alone is not a sufficient justification for legislative action, but where precedent and principle are in harmony, the argument is complete and the conclusion irresistible.

The most prominent and important subject that engaged the attention of the First Congress under the Federal Constitution was the funding of the war debt of the Revolution. The system adopted was mainly or almost precisely that recommended by Mr. Hamilton, in his celebrated report as Secretary of the Treasury, January 9, 1790. His scheme embraced not merely the debt of the Confederation, or the continental debt, so called, but also the debts of the several States contracted in supporting the war. He ardently and successfully urged the assumption of these debts by the General Government, and admirably epitomized the argument in favor of the measure in the following paragraph, which I quote from his report:

"The equalizing of the condition of the citizens of every State, and exonerating those of the States most indebted from partial burdens which would press upon them in consequence of exertions in a common cause, is not completely fulfilled until the entire debt of every State contracted in relation to the war is embraced in one general and comprehensive plan. The inconvenience to the United States of disburdening the States which are still incumbered with considerable debts would bear no proportion to the inconvenience which they would feel if left to struggle with those debts unaided."

No measure was ever discussed more thoroughly or more ably in the American Congress. The opposition to it was very considerable, but the effort to prevent its passage was by parliamentary tactics and embarrassing amendments, rather than by directly meeting the issue. Nor was the constitutionality of the measure seriously questioned. Insinuations against it were several times thrown out, but were effectually silenced by Elbridge Gerry, who asserted that the subject of assuming the State debts had been before the Federal Convention and was passed over on the ground that "the Constitution gave sufficient power in the premises to Congress." Roger Sherman sustained Mr. Gerry in this statement, with the limitation that "the assumption should be confined to debts which were contracted by the States for the common good of the Union and not for mere local purposes," a limitation which received general assent and approval. It is worthy of note, in this connection, that after the lapse of fifty years, when the school of "strict constructionists" had refined their theories to the utmost, they never took a different position from that announced by Mr. Sherman in the foregoing extract. In the famous series of resolutions introduced into the United States Senate by Mr. Benton in the session of 1839–40 in opposition to the General Government assuming the then existing debts of the States, the whole creed of strict construction was set forth at great length, and yet the first resolution was in words which implied, if they did not assert, that State debts contracted for the common good of the Union, and not for local purposes, might be constitutionally assumed by the nation. I conclude, therefore, that no one will question the competency of Congress to pass the bill under discussion.

In the protracted and able debate to which I have referred as taking place in the First Congress in regard to the assumption of the revolutionary debt, Mr. William Smith, of South Carolina, one of the ablest men of that day, spoke as follows:

"I cannot permit myself to doubt that Congress will decide the question upon principles of equity and justice. Nothing can appear to me to be more clear than that a State debt being incurred in the common defense should be made a common burden. We should consider ourselves as settling the affairs of a great family, and be studious to equalize the task to be borne by every one."

Mr. Jeremiah Wadsworth, of Connecticut, said:

"I consider the debt of my State now due as a real continental debt of the most meritorious class; nor can I easily persuade myself to provide funds for the other continental debts and leave the citizens of Connecticut to groan under a direct tax—their only resource—to pay a war debt which they do not owe except as sureties for the continent."

Mr. Roger Sherman, from the same State, said, with characteristic and emphatic bluntness:

"I consider the debts incurred by the several States in support of the war and for the common defense and general welfare as the debts of the United States."

Mr. Theodoric Bland, of Virginia, said:

"Some gentlemen are very desirous to sever the funding of the debt of the United States from that of the States, though both of them have been incurred for the same purpose, namely, the common defense against the common enemy. It would, in my opinion, be like separating man and wife, or like amputating the limbs from the body."

Mr. Elias Boudinot, of New Jersey, said:

"There must be the greatest equity in appropriating that treasure, supplied by the Union at large, to the payment of those debts contracted for the common defense of the Union."

Mr. Elbridge Gerry, of Massachusetts, asked:

"Were not the State debts contracted for the war? It appears by the books in the public offices that they were. Will any one say that the whole expense of defending our common liberty ought not to be a common charge?" * * * * "The entire debt was created by the war, and it seems to be in strict conformity with the letter as well as the spirit of the Constitution to assume it."

Mr. Fisher Ames remarked:

"That which is due on account of the war should

fall not unequally upon States, but equally upon the whole society. If some States should lose wealth and population and others increase; if new States should join the Union, or spring up within it and the western wilderness be thronged with people, the burden will be equalized upon all the citizens. Liberty and independence were procured for the whole; why, then, should not all contribute to the price?"

These quotations might be indefinitely multiplied. I have selected a few from the speeches of eminent men in Congress, a great majority of whom supported the measure. The most prominent of those who opposed it was Mr. Madison, and he grounded his chief objection on the fact, that the assumption applied to the debts as then existing in 1790, whereas, in his judgment, it ought to take them as they stood at the close of the war in 1783, since which time Virginia had made great efforts to liquidate a portion of her obligations. The result of the discussion was a victory for those who advocated assumption, and the following table will show the amount liquidated for each State by substituting United State bonds for local certificates of indebtedness:

New Hampshire	$300,000
Massachusetts	4,000,000
Rhode Island	200,000
Connecticut	1,600,000
New York	1,200,000
New Jersey	800,000
Pennsylvania	2,200,000
Delaware	200,000
Maryland	800,000
Virginia	3,500,000
North Carolina	2,400,000
South Carolina	4,000,000
Georgia	300,000
Total	$21,500,000

An amount vastly greater in proportion to the wealth and population of the country at that day than the sum proposed in the pending bill bears to the wealth and population of the country now.

Beside these direct assumptions of State indebtedness, Congress instituted a commission at the same time whose duty it was to "receive and examine all claims which shall be exhibited to them before the 1st day of July, A. D. 1791, and to determine upon all such as shall have accrued for the general or particular defense during the war, according to the principles of general equity, although such claims may not be sanctioned by the resolves of Congress nor supported by regular vouchers." Such were the liberal terms applied by the First Congress to the settlement and payment of all the debts incurred by the States in the war for independence.

The precedent thus established on such broad and magnanimous ground has been followed by our Government ever since in the liquidation of the war claims of States. In the war of 1812 claims of this kind were not large for the reason that the troops employed, volunteer as well as regular, were mainly raised by the General Government, and the agency of the States was not used to any great degree. But to the extent that the States made advances, every dollar was repaid on the most liberal principles, the only limit or qualification being that the money whose restitution was claimed "had been actually expended for the use and benefit of the United States during the late war with Great Britain." And the principle was carried further than simply refunding the amounts advanced, for interest was also subsequently allowed to every State except Massachusetts, upon all debts incurred on behalf of the common cause. The payment of interest was a much-discussed and long-delayed act, and its accomplishment was finally due to the clear and forcible presentation of the merits and rightfulness of the policy, by President Monroe, in a message to Congress during the session of 1824–25. In consequence of the argument and influence of the President, interest was allowed to Virginia "on all sums on which she had paid interest;" and subsequently, by separate acts, each State that had made advances for war purposes was allowed interest in full thereon, with the exception just noted, and a bill to refund interest to Massachusetts has been before Congress for several years past. Reference may be had to United States Statutes-at-Large, volume four, pages 161, 175, 192, 241, 499.

In the war with Mexico the principle of reimbursement to the States was again asserted and enforced in the most emphatic manner. As early as March 3, 1847, before the war had continued a single year, Congress, by joint resolution, provided for refunding, as follows:

"*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of War be, and he is hereby authorized and required to cause to be refunded to the several States or to individuals, for services rendered acting under the authority of any State, the amount of expenses incurred by them in organizing, subsisting, and transporting volunteers previous to their being mustered and received into the service of the United States for the present war."

The limitation contained in the phrase, "acting under the authority of any State," prevented the allowance of many claims which were manifestly fair and equitable. Counties and municipal corporations also presented claims which did not seem to be included within the terms of the resolution. To remedy these defects Congress passed an act July 2, 1848, the first section of which was in the following comprehensive terms, closely following in spirit and letter the legislation of the First Congress touching the revolutionary war debt of States:

"*Be it enacted, &c.*, That the provisions of the joint resolution approved March 3, 1847, entitled 'A resolution to refund money to the States that have supplied volunteers, &c.,' be, and the same are hereby, extended so as to embrace all cases of expenses heretofore incurred in organizing, subsisting, and transporting volunteers previous to their being mustered and received into the United States service for the present war, whether by States, counties, corporations, or individuals, either acting with or without the authority of any State: *Provided, however*, That proof shall be made to the satisfaction of the Secretary of War of the amount thus expended, and that the same was necessary and proper for the troops aforesaid."

The restriction in the concluding clause of the section just quoted was subsequently removed by Congress, and instead of any limitation whatever it was ordered with an extravagance of liberality that these State claims should be paid "as presented."

Let it be borne in mind that a large proportion of the money thus refunded to States had been paid for bounties to volunteers. Especially was this the case in the debt incurred in the revolutionary war. During that severe ordeal of patriotism and valor, bounties for soldiers were paid in all the States, and to a larger extent, all things considered, than were paid even at the most extravagant period of the late war. In the State of Massachusetts, in the year 1780—and my authority is Elbridge Gerry—a bounty of $280 to $300 was paid in gold, and the special war tax was so severe that a single merchant in Boston paid that year $7,000 in gold toward that fund. I submit that reckoning the difference in the value of money, no such bounties and no such taxes were paid anywhere during the late war for the Union.

The precedents, then, for such legislation as is contemplated in the pending bill, are ample and uniform in our congressional history. The principles on which this legislation is based are so plain as to scarcely need any argument in support of them, and yet, with your leave, I will proceed to point out some reasons of peculiar force, as it seems to me, why the State debts incurred in the war for the Union should be made a common charge on the national Treasury. If such reimbursement was just and equitable in former wars, it is so now in a far more enlarged and imperative sense.

I need not remind the House, Mr. Chairman, that during the past five years all the loyal States have been compelled to raise large sums of money in aid and support of the war for the Union. The statistics of expenditure have been gathered with all practicable exactness by the special committee which reported the pending bill, and the aggregate in the loyal States reaches well-nigh five hundred million dollars. Nor was this vast sum of money expended fruitlessly, needlessly, or wastefully. I do not state the case too strongly when I assert that without it the war would not and could not have succeeded. Had not volunteering been stimulated and sustained by the State and local bounties we should have been thrown back on the "rough and perilous edge" of the draft in its naked, indiscriminate, and most repulsive form. At several of the most critical junctures of the war, when reverses had been experienced, when popular ardor and hope were chilled, and when the Administration felt weak and timid, the revival of patriotism and courage throughout the land had its origin in the stimulus imparted to fresh volunteering by the large inducement of the local bounties. The most that can be said in favor of the conscription law is that it operated as an incentive to enlistments, being held *in terrorem* over the people, and inducing thousands to volunteer for bounties in order to avoid the possible alternative of being drafted into the service without other pecuniary reward than the monthly pay. It is not discreditable to American patriotism that our people have a deep prejudice against conscriptions, and it was therefore wise, nay, it was absolutely necessary, for the strength, harmony, and success of the Union cause, that the loyal States, counties, cities, and towns should offer bounties sufficient to fill the ranks of our Army without a ruthless resort to the draft. The money thus expended for bounties was, I repeat, wisely, and in the main economically, expended; far more carefully, indeed, than the average of Federal disbursements during the war. Though raised by local effort, every dollar of it was designed for the good of the national cause; and hence every dollar is fairly reimbursable from the national Treasury.

And this great effort on the part of the loyal States was not made for themselves only. Success of the Union cause was really of no more importance to them than to the revolted States, to the States yet to grow up on our vast western domain, and, indeed, to all the generations that are to follow us as American citizens and the inheritors of republican Government and constitutional liberty. The contest was not local, but general; not for ourselves, but for mankind; not merely for to-day, but for all time. The twenty-five loyal States derive no more advantage from the victorious issue of the war than do the eleven revolted States which were thereby saved from anarchy and destruction, or the forty new States that are yet to be added to the Union, and which would never have had an opportunity to reach an organized existence but for the successful struggle which has assured to them the fostering care and protecting ægis of the great Republic.

The contest, then, was one in which all the States, both now existing and hereafter to be organized, were equally interested; and what justice, what semblance even of fair dealing is there in leaving a heavy burden of debt on Maine while Nevada has not paid a dollar in the struggle; or in asking Michigan to pour out her money and her credit like water, while Colorado escapes without the cost of a penny? Nevada and Colorado were as much interested prospectively in the result of the contest as Maine and Michigan, and the burden should be proportionally and impartially shared between them.

Some gentlemen, with a tender sympathy which I fail to appreciate, argue that the southern States have suffered so severely in their abortive rebellion that they ought not to be called on to bear anything more than their part of the national debt already contracted. What those States expended in their wicked effort to destroy this Union is not, in my judgment, to be reckoned to their credit on the national ledger, nor is the exhaustion to which they were reduced by their insane persistence in the war, to be made the basis of an appeal to our sympathy, much less to our reason. They were kept back from suicide and redeemed with a great price, and it is but fair and honest that they should pay their full proportion of the cost, even to the uttermost farthing. But as a matter of fact let it be asserted that the lately revolted States are not burdened or embarrassed with debt. Their obligations incurred in supporting the rebellion have been or will

be repudiated, so that however much certain speculative traitors may lose, the political communities are free from debt and will enjoy light local taxation. They are not therefore in a position to decline their fair share of the national burden, and as the tax to support that burden is raised wholly by impost and excise, it cannot fall heavily on any community until the revival of business and the development of trade shall provide the means of meeting and sustaining it.

And in this connection let me remark, Mr. Chairman, that it is not only for the interest of the loyal States to adopt this measure, but it is preëminently for their interest to adopt it *now*. The subject is a dangerous one to leave open, and unless definitely and finally closed at this time it may reappear in a future Congress in a form most embarrassing and detrimental to the national Treasury and the national credit. Whenever the Representatives are readmitted on this floor from the southern States you will find a series of propositions introduced for the relief of their constituents from losses entailed by the war. These schemes will embrace compensation for slaves emancipated for the benefit of the Union; restitution for property seized for the use of the Federal Army; payment for losses inflicted by the march of our troops, and the nameless and numberless other claims which the extraordinary events of the past five years will so readily suggest. Let us beware how we leave open a class of meritorious claims from the loyal States with which the southern jobs may be combined and coalesced into a gigantic onslaught upon the Federal Treasury. Pass the present measure and you at once remove the opportunity and the temptation for such a dangerous coalition. Pledge the one hundred and eighteen millions embraced in this bill, and you will thereby escape the danger of paying twelve hundred millions in the future. The whole matter is subject to our control to-day. It may not always remain so.

For many years to come, Mr. Chairman, the loyal States will in any event inevitably bear the principal burden in sustaining the national credit. In addition to this, unless the pending measure prevails, they will each be called upon to bear a large local debt whose interest is provided by direct, merciless, and I had almost said ruinous taxation. Throughout the States represented on this floor to-day the direct tax on property, real and personal, will annually average more than two per cent. of its value, while in many communities it reaches the staggering rate of three to three and a half and even four per cent. Such taxation may be endured, and has been patiently and patriotically endured during our great struggle for national existence, but as a permanent charge upon the property of the country, in addition to all the Federal taxes, it is more than can be borne without grievous affliction. Let it be remembered that the local tax of which I am speaking comes in the most oppressive form. It is not disguised by any excise system, nor lightened by any indirection. It is so many dollars out of the earnings of the farmer, the gains of the merchant, the wages of the mechanic, and the savings of the humblest. It embarrasses every enterprise, is felt as a hardship at every fireside, and shrouds the business and commercial future with doubt and despondency. The communities that are thus suffering have never thought and will never think of resorting to repudiation as a remedy, but their high sense of honor on this point and their determination to meet all their obligations should not be taken, as I am sorry to say it is by some, as an argument for leaving them to struggle unaided against their onerous and crushing burdens.

But the financial question involved in this measure is not of pressing interest merely to the States that are so sorely burdened with debt and taxation. I maintain that it is of equal importance to the General Government that these debts be assumed, and my fear is that if this policy should be rejected serious embarrassment may result to the Treasury of the United States. When Mr. Hamilton originally recommended the policy of assumption with regard to the revolutionary debt, he did not view it simply from the stand-point of justice to the States, but quite as much from motives of sound policy touching the interests of the Federal Treasury. To quote his own language, he declared that "the assumption of the State debts was no less a measure of sound policy than of substantial justice, and that it would contribute in an eminent degree to an orderly, stable, and satisfactory arrangement of the national finances." The communities that are oppressed with these local debts are the same that pay almost the entire national revenue collected under the excise law, and the latter is felt as an infinitely greater burden because of its coming in addition to the heavy direct tax levied by the local authorities. Could this local tax be relieved to the extent which this bill would relieve it, the Federal tax could be paid with great ease even if largely increased beyond its present rate. To illustrate my position by the pertinent figures, let me say that the pending bill if adopted would add some one hundred and eighteen millions to the national debt, or, in other words, it would increase it a trifle more than four per cent., and would call for a corresponding increase in the amount raised to pay interest. But the immense relief that would be experienced throughout the loyal States by the removal of these enormous direct taxes would enable them to pay the increased excise with comparative ease. And in this way the General Government would have the field to itself, and could regulate its system of taxation with far greater efficiency and far greater equity. Competing and conflicting systems of taxation can but produce mutual injury, and if the power can be lodged wholly or mainly in one, a larger amount of money can be raised with less burden to the people than where each is compelled to make the utmost exaction to meet the demands upon it.

If there be any correctness in the view just suggested, the assumption of the State debts would make a nominal rather than a real addition to the national debt. The States and communities which owe these debts are precisely the same States and communities upon which must rest the maintenance of the national credit during the entire period that it may be said to be on trial before the world. While this oppressive burden of local indebtedness is upon them, it impairs their resources and their ability to carry the national debt by even a larger amount. And if the national debt is increased by refunding to the States, the local burdens are, to say the least, correlatively and proportionally reduced. This fact is so palpable and undeniable that it is only a waste of time to repeat it. Bankers and money-lenders would everywhere recognize it; and the tendency of such a policy would be to strengthen the national credit throughout the world. The change of securities does not change the amount to be raised by taxation, it only simplifies the mode of obtaining it. And this phase of the case presents another striking parallel to the first assumption as proposed and accomplished by Mr. Hamilton. In discussing the identical point to which I have just referred, that great master of finance dismissed it summarily with the following brief and conclusive comment:

"Admitting that a provision must be made in some way or other for the entire debt, it will certainly follow that no greater revenues will be required, whether that provision be made wholly by the United States or partly by them and partly by the States separately."

Another point, Mr. Chairman, in this connection, for the special attention of those gentlemen who fear that the adoption of the pending measure would injure the national credit. Nothing is so injurious to credit as uncertainty. It is the apprehension to-day of what our debt may be rather than the knowledge of what it is that prevents our bonds selling at a premium in gold, both at home and abroad. One source of uncertainty is found in this very question of the war debts of the States. Will they be assumed, or will they not, and if assumed, to what amount? are questions asked at all financial centers with anxious concern. So long as nothing is done the worst is feared, and the anticipated amount of assumption will expand with the agitation of the question. It is natural to exaggerate the unknown. *Omne ignotum pro magnifico.* We can put an end to injurious surmises as to what may be done, by adopting at once the very moderate and well-guarded proposition now under discussion. Refusing to pass this bill will not quiet agitation nor remove alarm. Agitation will go on and injury to our national credit will be the inevitable result.

Should the policy of assuming these debts be rejected, an act of injustice would be done entirely without precedent thus far in the dealings between the General Government and the States. The strange spectacle would be presented of less than one third of the prospective number of States bearing in its most oppressive form an enormous debt, every dollar of which was contracted as much for the benefit of the other two thirds of the Union as for themselves. The prejudicial effect which this would have on the States subjected to the burden need not be described. It would in a great degree cripple their energies and retard their growth, and the climax of its baleful influence would be made odiously and cruelly manifest in the emigration from the old to the new States, and from the North to the South, for the purpose of escaping the very tax which was incurred that the new States might be born and that the South might be saved from suicide. I could not, by any reasoning, enhance the force of such a fact as this, nor strengthen the plea which it makes for the equalization of the entire debt created by the war.

If further argument were needed to show the justice of reimbursing the States for their advances in support of the war, it would be found in the fact that Congress, in devising a system of taxation for the Union, has deprived the States of all the means of raising money except through the instrumentality of a direct levy on real and personal property. Many of the States had previously enjoyed the advantage of certain forms of excise, tolls, and other indirect taxes, which enabled them to lighten, if not entirely remove, the burden of local government. In Massachusetts, I believe, the tax derived from the State banks for a long series of years almost supported the State government; and other States had similar sources of revenue, if not proportionally so large; but the General Government, through its constitutional right to levy impost and excise, has absorbed all the easy and ready available channels of taxation, throwing back the States, as I have said, to the severest form of raising revenue. It is an inevitable hardship that, for necessary local purposes, the States must procure revenue by direct tax, but it is a hardship rendered almost unendurable by its injustice when the States have in this way to raise a large sum to pay the interest and principal of a debt contracted for the good of the whole Union. The power to meet the burden having been taken from the States, common equity demands that the burden should be taken away also.

And the burden to which I have just referred, Mr. Chairman, falls with increased severity on the farmers and other holders of real estate, from the fact that so vast a proportion of the personal property in many communities has sought investment in Government securities, which are specially exempt from State and municipal taxation. I should certainly be among the last to countenance a breach of the national faith in the slightest degree. We must stand by the terms "nominated in the bond," no matter how onerous and oppressive they may be. No hardship can arise to any of us from observing good faith on the part of the Government at all comparable with the hardship that would ensue to all of us by violating that faith even by the remotest hint. But while we all agree, I trust, on this point, I submit that as the

policy of the Government has made the war debt of the States bear unequally on different classes of the community, and most oppressively on the specially meritorious class, it is the imperative duty of the Government to equalize the burden by assuming an equitable share of the debt.

I am not willing, Mr. Chairman, to be understood as making in these remarks a supplicating appeal for relief on behalf of my own State, or the other loyal Commonwealths that have "borne the heat and burden of the day" throughout the great contest that has resulted so auspiciously for all the interests of humanity. Supplication is the language of those who have no right to use stronger phrase. But standing here to-day as one of the Representatives of the people, I have a right to demand that equal and exact justice be done to all the States of the Union, and that the Government of the Union should without cavil or hesitation pay the debts which were contracted on its own account and for its own benefit. Justice is all that the loyal States ask, and in the grand language of Mr. Hamilton, already quoted, "justice is not completely fulfilled until the entire debt of every State contracted in relation to the war is embraced in one general and comprehensive plan of payment."

Mr. MYERS. Mr. Chairman, I should like to know of my friend from Maine, whether he withdraws his amendment, having made his speech?

Mr. BLAINE. By no means.

Mr. MYERS. Mr. Chairman, I do not desire to make any speech on this question. The question is very plain and the claim very just. It has come to be a custom here when debate is exhausted upon any subject and a gentleman wishes to get in a speech, to move that some sensible part of the proposition pending be struck out, or to amend it by inserting some exceptional words, and having made the speech, to withdraw the amendment. I was half inclined to think that my friend from Maine meant to do that thing.

What is this proposition of my friend? It is, among other sums to other States, to pay Pennsylvania $14,715,690, when at present she only asks $700,000.

Now, sir, I do not wish to be misunderstood. When this subject comes before the House as an original proposition and in a fair way, I may perhaps vote with the gentleman from Maine; but I assert now that this is an attempt to ingraft a general law upon a special act. It is an attempt to get a bill in out of its place.

Perhaps I may favor some of the views which have been urged by the gentleman from Maine. He has been citing Alexander Hamilton. And I call to mind the language of that great man in his report as Secretary of the Treasury, to which the gentleman has referred, that the debt of the Revolution "was the price of liberty." I say still further, now, that the war debt of the Union to-day is the price of the salvation of the country, second only to the precious blood shed to attain it.

When Hamilton proposed to consolidate the State war debts into a Federal one the debt of the United States was but $54,000,000, and its population three millions. Now the population is over thirty millions and the debt over $2,700,000,000, or five times as great a burden proportioned to the population as then. Yet I have always held that parsimony in a nation is the poorest political economy. Let us do exact justice to all. I believe we can and will bear our great debt cheerfully, adding to it as much as is required to equalize the bounties to our soldiers, and paying it off in time by a judicious system of taxation.

Perhaps it may be well, also, when the question comes up legitimately, to see whether the loyal States which have debts contracted on behalf of the Union should not be relieved so as to put them on an equality with the disloyal ones whose debts we have caused to be repudiated, and which at no distant day, I hope, when their laws and the Constitution embody the great results of the war, may be represented on this floor. At this time I am opposed to the proposition, and, if it is offered as an inducement to give up a just claim, will only add that Pennsylvania spurns it.

The gentleman from Maine will understand me as speaking on this matter in all kindness, but he is attempting to append to this bill a proposition which he knows cannot, at this time, be acted on favorably.

Before I proceed further, I will ask him whether this assessment which has been made in favor of the several States, so far as it relates to Pennsylvania, includes the troops provided for in this bill, which we furnished in the year 1863 at the time of the battle of Gettysburg.

Mr. BLAINE. I am unable to reply to that question. If the gentleman can tell me whether these troops were ever credited to Pennsylvania on her quotas, I think I can answer it.

Mr. MYERS. No, sir; they were not.

Mr. BLAINE. I must then refer the gentleman to the Provost Marshal General's office for an answer.

Mr. MYERS. The gentleman is admirable, not in answering questions, but in getting out of answering them. He will understand, I trust, all the time, that I am not attacking the merits of his amendment.

Mr. DELANO. If the gentleman from Pennsylvania will allow me, I would like to know whether the sum provided for in the original bill is embraced in the measure offered by the gentleman from Maine, [Mr. BLAINE.]

Mr. MYERS. That is exactly the question I have been trying to get an answer to. This bill reimburses the State of Pennsylvania the $700,000 she expended in the pay of troops called for by the President at a time when neither Congress nor the Legislature of the State was in session, and under an express agreement by the President and the Secretary of War that the General Government would refund the amount. This sum is not included in the pending amendment, as the report of the Provost Marshal General, now before me, shows. By that report I find that Pennsylvania furnished to the war, in all, 366,326 men, not including any of the calls upon her for the emergencies of 1862 or 1863. These 366,326 men, reduced to a three years' basis, gave us 267,558 men, which, at fifty-five dollars for each man furnished—the rate proposed in the substitute now before the committee—is $14,715,690.

Mr. BLAINE. If the gentleman from Pennsylvania will allow me, I will make a brief explanation, which I think will also answer the gentleman from Ohio, [Mr. DELANO.] The principle on which this bill rests is, not to refund to the States in proportion to what they expended, but to repay them in some measure for what they did for the Union. What they did is to be determined by the number of men they furnished; and this House, in answer to a resolution, has received from the War Department a statement of all the troops that have been furnished by the respective States.

The gentleman from Pennsylvania wants to know whether these militia were credited on the quota. I do not desire to answer any question positively, unless I have information enabling me to speak with certainty; but I will say that, according to my impression, when the draft was bearing stringently upon the States, and when all sorts of credits were hunted up, Pennsylvania obtained an allowance on her quota for those very militia for which in this bill we propose to pay them fifty-five dollars per man. This is my impression, though I do not make the statement positively.

Mr. DELANO. I understand that the original measure before us is to refund money expended by Pennsylvania in payment of the militia called out by the Governor of that State.

Mr. STEVENS. With the permission of my colleague, [Mr. MYERS,] I will say that at the time of the rebel invasion the President of the United States called on the Governor of Pennsylvania, as well as the Governors of New Jersey and of other States, to furnish men for the emergency. Those men were furnished, and they rendered important service. Soon after the emergency had passed, and the troops had been withdrawn, the States of New York and New Jersey sent in their accounts, which were paid by the Government of the United States. Just at that point the appropriation ran out, and the claim of Pennsylvania could not be paid.

Mr. DELANO. These militia were never mustered into the service of the United States.

Mr. STEVENS. They were put under the command of United States officers.

Mr. DELANO. So I understand; but they were not mustered into the service of the United States.

Mr. STEVENS. Technically, perhaps, they were not, but practically it amounted to the same thing. I believe they were not sworn in, but they were put under the command of General Smith and other United States officers.

Mr. MYERS. Mr. Chairman, I pass from this point, simply stating in answer to my friend from Maine that these troops were not credited on the quota of the State of Pennsylvania. But even if he were right, the fact would have nothing to do with the question here, as this is a special claim under an agreement, as I shall show directly, and should not be affected by the bill which has been offered by him.

Mr. HARDING, of Illinois. Will the gentleman from Pennsylvania yield to me a moment? I desire to offer an amendment to the amendment.

Mr. MYERS. I decline to yield except for a question.

Mr. Chairman, how does this matter come before us? The Secretary of War has addressed a letter to the chairman of the Committee on Appropriations of this House stating that the Department had received returns of the amounts required for the payment of the militia called out to repel the invasion of the rebel forces under the command of General Lee. The Secretary of War states in his letter of January 4, 1864, just read:

"There being no appropriation out of which these payments could be made at the time they were required, patriotic citizens of Philadelphia advanced the money; and it is proper that they should be reimbursed without delay."

Then there is another letter addressed to those in Philadelphia who were raising some of these troops, and embodying the contract made with them by the Government at the time. That letter is, as follows:

WASHINGTON, *July* 21, 1863.

J. R. FRY, &c.:

All that is necessary is that the Governor of Pennsylvania should see that the company pay-rolls are properly made out and certified. This being done, the amount due is readily ascertained, and can be paid, and the pay-rolls will furnish the proper official voucher of the payment. *This Department will lay before Congress, at the commencement of the session, an estimate to cover the amount, and request the appropriation.* The matter has been arranged in this way in other States, and has been productive of no delay or complaint where the Governors have given their attention to it, and seen that the muster-rolls are properly made out. EDWIN M. STANTON,
Secretary of War.

I call the attention of gentlemen who may not have examined this case to the fact that the Secretary of War thus telegraphed in this dire emergency that if the men were raised he would, at the earliest possible moment, request Congress to make the appropriation, and that he faithfully carried out the promise. More than two years ago, in pursuance of the agreement stated by the Secretary, and his request, this House did pass the appropriation.

Governor Curtin, in his special message of April 30, 1864, says:

"The United States clothed, equipped, and subsisted the men thus called into service, but declined to pay them, there being no appropriation for the purpose."

And again, in his annual message of January 4, 1865—

"They were retained, as was alleged, to preserve the peace and enforce the draft. *Nearly, if not quite, one half the money was paid to troops thus held, and after the emergency had expired.*"

After this statement I think no one will question that these men were in the service of the United States.

In the last Congress an amendment was added, not like this of my friend from Maine, but members from other States, supposing they might have similar claims, (though it has since been ascertained that they have all been paid,) moved their amendments to the bill. In this shape it passed this House, went to the Senate, and, I believe, because of the inappropriate additions, was not reached for favorable action. The bill now under consideration, substantially the same as I introduced it early in the session, is virtually the same bill passed by the House during the last Congress.

The chairman of the Committee on Appropriations [Mr. STEVENS] has stated fully the reason why this claim was not before paid. The act of July 27, 1861, provided:

"That the Secretary of the Treasury be, and he is hereby, directed, out of any money in the Treasury not otherwise appropriated, to pay to the Governor of any State, or to his duly authorized agent, the costs, charges and expenses properly incurred by such State for enrolling, subsisting, clothing, supplying, arming, equipping, paying, and transporting its troops *employed in aiding to suppress the present insurrection against the United States*, to be settled upon proper vouchers, to be filed and passed upon by the proper accounting officers of the Treasury."

In the appropriation bill of February, 1862, there was a clause appropriating $15,000,000 to refund to the States the expenses incurred on account of the volunteers called into the service of the United States. This appropriation ran out, as has been stated, and having been expended in the bill passed March 3, 1863—Congress being about to adjourn—another appropriation was made to cover similar expenses, as follows:

"To defray expenses incurred in raising, equipping, transportation, and subsistence of minute-men and volunteers in Pennsylvania, Maryland, Ohio, Indiana, and Kentucky, to repel rebel raids, $600,000, to be settled upon proper vouchers, to be filed and passed upon by the proper accounting officers of the Treasury: *Provided*, That in determining the claims to be allowed under this act the same principles, rules, and regulations shall be observed by the accounting officers in auditing said expenses as have been applied to the claims allowed to States under the act approved July 27, 1861, entitled 'An act to indemnify the States for expenses incurred by them in defense of the United States.'"

And this sum also ran out before the proper vouchers for the present claim could be presented and passed upon satisfactorily, as the Second Auditor, in his letter, states they subsequently were.

Had Congress been in session at the time, it would have done exactly what it did do in another case. And I call the especial attention of the gentleman from Ohio [Mr. DELANO] to that case. In the year 1864 the gentleman's colleague [Mr. GARFIELD] asked unanimous consent to introduce the following joint resolution:

"*Resolved, &c.*, That the sum of $25,000,000 be, and hereby is, appropriated out of any money in the public Treasury not otherwise appropriated, for arming, equipping, clothing, subsisting, transporting, and paying volunteers who may be received by the President for any term not less than one hundred days."

No objection being made, the following communication from the Secretary of War was read:

WAR DEPARTMENT,
WASHINGTON CITY, *April* 25, 1864.

SIR: The Governors of Ohio, Indiana, Illinois, Iowa, and Wisconsin have tendered to the President, on the 23d instant, a large number of volunteers from their respective States for service during the present campaign. They are expected to number from eighty to one hundred thousand men; their term of service one hundred days from muster in. *It is believed they can render useful service.* They are to be paid no bounty, and are not to diminish or delay the draft for three years' men in States where the quota of pending draft is not filled up. The quota is filled up in Indiana, Illinois, Iowa, and Wisconsin, and less than ten thousand are due from Ohio. The expense of these troops is *not provided for in the war estimates* heretofore submitted. It is estimated that $25,000,000 will meet the cost of one hundred thousand of these extra volunteers. I respectfully recommend a special appropriation for that purpose, and submit a joint resolution for that purpose. The impending operations render it expedient that there should be early action by Congress upon the proposition, so that, if sanctioned, all needful provisions may be made in due season.

I have the honor to be, very respectfully, your obedient servant, EDWIN M. STANTON,
Secretary of War.

Hon. ROBERT C. SCHENCK, *Chairman of the Military Committee of the House of Representatives.*

And although you, Mr. Chairman, [Mr. WASHBURNE, of Illinois,] objected to it and asked its reference to the Committee of Ways and Means to be examined and reported upon, that was refused, and the House proceeded at once to its consideration, promptly and without discussion passing it. Now, if Congress had been in session when these special appropriations were exhausted I have no doubt they would have passed a bill to supply the deficiency as promptly as they did for the one hundred days' men.

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

Mr. MYERS. Certainly.

Mr. SPALDING. I would ask if there is not this difference between the two cases: the hundred days' men were called out to come here and relieve the garrisons in the forts about Washington so as to increase the force in the field under General Grant.

Mr. MYERS. Yes, sir; but I believe they would have gone to the front if required, as the Pennsylvanians did.

Mr. WILSON, of Iowa. With the permission of the gentleman from Pennsylvania, [Mr. MYERS,] I will say that the hundred days' men were regularly mustered into the service of the United States, which I understand was not the case with the Pennsylvania militia. And so far as regards those furnished by the State of Iowa, they were sent to Tennessee and Arkansas; were at the disposal of the Government of the United States, the same as other volunteers, and the same as regulars, for the period of their enlistment, one hundred days. But, as I understand it, the Pennsylvania militia were not mustered into the service of the United States.

Mr. STEVENS. Will my colleague [Mr. MYERS] allow me to say a word in reply to the gentleman from Iowa, [Mr. WILSON?]

Mr. MYERS. I do not object, though I shall answer him fully.

Mr. STEVENS. I do not exactly understand why these hundred days' men have been brought into the argument at all, for they certainly have nothing to do with this subject. The fact is the Pennsylvania troops to whom this bill relates were all put under the command of officers of the United States, and some of them were in an engagement with the enemy that took place in Maryland.

Mr. RANDALL, of Pennsylvania. And they went wherever they were ordered to go.

Mr. MYERS. I referred to these hundred days' men in reply to what was said by the gentleman from Ohio, [Mr. DELANO,] to show that an appropriation of $25,000,000 was made on another occasion when there was not so pressing a necessity for volunteers, and when the money was asked and promptly appropriated before the service was rendered. The only difference here is that the service was rendered first. These Pennsylvania troops were ready to go and did go wherever ordered.

I will go a little further than my colleague, [Mr. STEVENS,] who said that these Pennsylvania soldiers were placed under the command of United States officers; they were also sworn into the service of the United States; not regularly mustered in, perhaps, but they were sworn in to serve the United States as well as the State of Pennsylvania. They were called out for the defense of the United States, Pennsylvania being as much a part of it as the District of Columbia or any State. The defense of Pennsylvania and Maryland then was the preservation of the country. They were in the trenches at Harrisburg when Ewell's corps was before it. They were attacked at Carlisle, Wrightsville, and elsewhere, several being killed. They joined the advancing army of the Potomac near Gettysburg, and with it pursued the enemy through Maryland, picketing, and crossing the Potomac; all under United States officers placed over them by the War Department.

I do not wish to claim any superior merit for the troops from my State, and I presume that no gentleman upon this floor will make any such claim in behalf of those from his own.

In regard to the charge that they were not sworn into the United States service, let me say that the President of the United States telegraphed to Governor Curtin of Pennsylvania, and to Governor Parker of New Jersey, that it made no difference whether they were or not.

Mr. ROGERS. The State of New Jersey has not been paid.

Mr. STEVENS. The gentleman is mistaken. I understand that New York and New Jersey have been paid every dollar.

Mr. ROGERS. No, sir; some thousands of dollars are still due us.

Mr. STEVENS. Where does the gentleman get that from?

Mr. ROGERS. I get it from the Governor.

Mr. STEVENS. The Governor of New York has written to one of the Representatives from that State that they have been paid every dollar.

Mr. ROGERS. I say that New Jersey has not been paid.

Mr. STEVENS. I say that it has, and my statement cannot be successfully contradicted.

Mr. MYERS. Mr. Chairman, I do not want this side discussion to come out of my time. I feel certain that the gentleman from New Jersey is mistaken

Mr. ROGERS. I know I am not.

Mr. MYERS. Then all the gentleman has to do is to present vouchers, as Pennsylvania has done, and introduce a bill for his State, which I, for one, will sustain when properly before us.

As to the question of muster, they were mustered into the service; I have the telegram to show such was the fact, and this in pursuance of the contract made at the time these troops were raised. When the rebel invasion was threatened General Couch was assigned to the military department of the Susquehanna. All these troops were put under his command and that of General Smith. I read the telegram to Governor Parker:

WASHINGTON, *June* 28, 1863.

His Excellency Governor PARKER:

General Couch is authorized to receive any troops that may be offered to serve under his command, whether sworn into the United States service or not. Please send any militia or other force at your disposal.

E. M. STANTON,
Secretary of War.

Mr. ROGERS. What is the amount of your claim?

Mr. MYERS. Some seven hundred thousand dollars.

Mr. STEVENS. Six hundred and seventy-one thousand dollars is the amount settled at the Department, and then there is the interest.

Mr. MYERS. I do not suppose there is any just-minded man upon this floor who will take exception to this claim.

Mr. ROGERS. Let me ask the gentleman a question.

Mr. MYERS. Very well.

Mr. ROGERS. Why was not Pennsylvania allowed her claim as New York was?

Mr. MYERS. That has already been answered more than once.

Mr. STEVENS. I suppose the gentleman from New Jersey did not hear my statement. After the settlement took place, and New York and New Jersey were paid, the Department said the appropriation was exhausted. At the time gentlemen in Philadelphia paid it at the request of the Department, but the State has since returned it to them.

Mr. MYERS. I have only a few words more to add. I did not expect to be drawn into a discussion of this kind. I do not think any fair man hearing these statements can refuse to vote for the appropriation.

Mr. ROGERS. I would ask whether these soldiers were employed to prevent anything but the invasion of their own State.

Mr. MYERS. Yes, sir, they were. I think I have already answered that.

Mr. ROGERS. Then the gentleman does

not pretend that they went out of the State of Pennsylvania.

Mr. MYERS. They did go out of the State of Pennsylvania, as I have before explained—into Maryland and even Virginia.

Mr. BOYER. They were in three States beside their own.

Mr. MYERS. Mr. Chairman, I think I have been very good-natured in yielding the floor thus far, but I decline to yield any more, as I have only a word or two further to say. This bill refunds to the State of Pennsylvania the pay of those soldiers called for by the President in 1863, when General Lee was marching to his defeat at Gettysburg. This was not the first time she furnished men at a week's notice to defend the borders of three great States and aid the noble Army in which thousands of her sons were battling for the Union. In 1862, when Lee's rebel hordes were driven back from Antietam, twenty-five thousand of her sons joined the army of the Potomac and received the thanks of the Government for the aid they lent, yet not one dollar was demanded from the Government for their pay or expenses, and never will be. The soldiers of 1863 were paid at the request of the President and Secretary of War by the banks of Philadelphia. The State assumed and paid the amount to them as a matter of honor; and justice and honor demand that we shall no longer delay the liquidation of its claim.

Mr. WENTWORTH. Mr. Chairman, I was not here at the last session of Congress when the Committee on Appropriations was created. I do not understand how far the jurisdiction of this committee extends as contrasted with the Committee of Claims. There have been presented by me, and I suppose by a great many other members of Congress, claims for this same kind of service, and they have generally been referred to the Committee of Claims.

But the Committee on Appropriations is rather a privileged committee to carry on the Government, and yet, I believe, it is confined to those appropriations only that have heretofore been provided for by existing laws. That is the case, I understand, with this appropriation. But in regard to the amendment, I understand it has not been provided for by any existing law. The chairman, however, has decided that the amendment is in order.

Now, sir, if this amendment is in order, why may we not go on and amend this bill indefinitely? If the Committee of Claims had written out what bills were pending before them for military damages, I suppose it would be in order, under this ruling, to append them to this bill as amendments. Hereafter, then, as this amendment is decided to be in order, I shall take good care to have some of these claims provided for by existing law referred to the Committee on Appropriations; and having done that, I have made one point. I start with legality, and I am in order. Then it is only necessary to have enough of these private claims, and have them decided in order, and we can vote away millions.

Now, the gentleman from Maine [Mr. BLAINE] has embodied in his amendment claims of all the loyal States, and my own State, of course, among the rest. But really I do not know what the claims of the people of Illinois are upon this Government. As I walk about the streets of the city of Chicago I frequently see a man who has lost an arm or a leg, and sometimes both arms or both legs. Then, again, I meet a mother who has lost a son, or a widow who has lost a husband in the war. Now, I do not know how to make good a broken heart by bringing here a claim in dollars and cents in such a case.

I remember, upon this subject of damages, a letter written by a distinguished statesman whose name we honored the other day by voting that his portrait be placed within this Capitol—I refer to Hon. Joshua R. Giddings. That letter, Mr. Chairman, was addressed to you, [Mr. WASHBURNE, of Illinois.] I have never seen the doctrine contained in it refuted. I regret that you have it not here with you, so that I could have it read to this House. It covered the whole subject of claims upon the General Government; and the principle is this, that while you can measure damages in the burning of a house; while you can ascertain the number of rails in a fence that the rebel army has destroyed; while you can approximate to the quantity of corn destroyed in the field or in a granary, how are you to measure the damages to those men who have lost their legs or their arms in fighting for their country, or how are you to compensate for the loss of a husband or a father? When, sir, are we going to see claims presented here for losses of this sort estimated in dollars and cents? Now, until we can make good to these bereaved mothers and widows the loss of their brave sons and husbands, I, for one, do not propose to pay a dollar to pay for a rail fence, or a shanty, or any personal property.

Perhaps I am going a little further into this matter than I ought to go, because the amendment pending covers the whole subject. So far as the State of Illinois is concerned in this bill—and my friend has introduced a bill, I understand, to cover the losses of the State of Illinois—I tell you that millions will not pay the poor folks of my State for what they have lost, and they have put in no claims here for personal damages.

Mr. Chairman, I am more particular in making these remarks upon this occasion because I think the time has come when, if we do not limit the jurisdiction of the Committee on Appropriations, we should certainly exercise the right of amending the bills which they bring in.

Mr. HALE. Mr. Chairman, I do not rise for the purpose so much of opposing this bill, as of endeavoring to elicit a little light upon it, which, it seems to me, the subject requires.

I understand that in response to the question put by the gentleman from Illinois [Mr. WENTWORTH] who has just taken his seat, the chairman of the Committee on Appropriations says that this is an appropriation provided for by existing law. I desire to ask him, preliminarily, to what law he refers as authorizing this appropriation.

Mr. STEVENS. The law which authorized the calling out of the troops; the general law authorizing the President to call on the States for troops. He did call upon the State of Pennsylvania under that law, and those troops were furnished under the requisition of the Secretary of War. As I said before, this amount would have been paid without any trouble, if the appropriation had not run out.

Mr. HALE. I did not know but that the chairman, in his answer, referred to the same bill which is referred to in the body of the bill—the law of February 25, 1862.

I wish now to call the attention of the chairman of the Committee on Appropriations to what seems to me, with all the light I can get upon this bill, to be at least a misrecital in it, as the facts are stated by the friends of the bill on this floor. The bill recites that this appropriation is made to supply a deficiency in paying the Army under the act of February 25, 1862. The statements of the chairman of the Committee on Appropriations, and of other friends of the bill, are that this appropriation is for the payment of troops called out at the time of the battle of Gettysburg, in July, 1863.

I wish to call the attention of the gentleman and of the House to the fact that the act of February 25, 1862, was an appropriation bill for the year ending June 30, 1862; and that appropriation was contained in two lines, merely:

"For amount required to refund to the States expenses incurred on account of volunteers called into the field, $15,000,000."

I desire to ask how under that appropriation of $15,000,000 for the fiscal year ending 30th June, 1862, there could be a deficiency to be supplied by this bill for expenses incurred in July, 1863.

In the next place, this bill contains another recital which may be all true, and it may be inserted as a "stump speech in the belly of the bill." If true, I confess I should like to know where the evidence of it is to be found, and where is the difference between this and any other war claim in that respect. I refer to the recital that these moneys were advanced at the request of the Government for the payment of troops in the service of the United States under express promise of repayment. I desire to know where that express promise of repayment is to be found, by whom it was made, when it was made, and to what expenses it applied.

These are facts on which we have, as yet, no light in the House; and while I have every disposition to award to the State of Pennsylvania whatever may be justly her due from the United States on account of expenses incurred in raising volunteers, it does seem to me, from the light I have been enabled to gain so far upon the subject, that this bill contains recitals that are not supported by any evidence before the House, and recitals which are somewhat inconsistent with the past record of the House.

Before yielding the floor I wish to say a word more in reference to the amendment of the gentleman from Maine, [Mr. BLAINE.] While I have been favorably disposed toward the bill proposed by the gentleman, and while I have no disposition, certainly, as at present advised, to oppose it, it does seem to me that it ought not to come before the House in this form; that his amendment ought not to prevail.

I trust the gentleman will in due time withdraw it; and that when we get all the requisite information, we may come to a vote on the bill reported by the Committee on Appropriations.

Mr. STEVENS. In reply to what the gentleman from New York [Mr. HALE] has said about a special agreement, I beg leave to read again what I read a short time ago. Before doing so, I will say to the gentleman from Illinois [Mr. WENTWORTH] that the Committee on Appropriations takes cognizance of what is referred to them by the Departments. This matter was referred to us by the War Department, as will be seen by the following letter from the Secretary of War, addressed to me, during the last Congress, as chairman of the Committee of Ways and Means:

WAR DEPARTMENT,
WASHINGTON CITY, *January* 4, 1864.

SIR: The Department has this day received returns of the amounts required for the payment of the militia called out for the defense of the State of Pennsylvania, on the 26th of June, 1863, against the invasion by the rebel forces under command of General Lee. There being no appropriation out of which these payments could be made at the time they were required, patriotic citizens of Philadelphia advanced the money, and it is proper they should be reimbursed without delay. I would respectfully recommend, therefore, that an immediate appropriation for that purpose be made. A copy of a letter of the Second Auditor of the Treasury is herewith communicated, showing the amount of claims audited by him to be $671,476 43 up to date. It is supposed that $700,000 will cover the whole amount of these claims.

EDWIN M. STANTON,
Secretary of War.

And then there is a telegram to General Fry, at that time chairman of the Union League of Philadelphia, by whose efforts this money was raised to enable the State to pay these troops. That telegram is as follows:

WASHINGTON, *July* 21, 1863.

J. R. FRY, *Chairman of Union League, Pennsylvania:*

All that is necessary is that the Governor of Pennsylvania should see that the company pay-rolls are properly made out and certified. This being done, the amount due is readily ascertained, and can be paid, and the pay-rolls will furnish the proper official voucher of the payment. This Department will lay before Congress, at the commencement of the session, an estimate to cover the amount, and request the appropriation. The matter has been arranged this way in other States, and has been productive of no delay or complaint when the Governors have given their attention to it and seen that the muster-rolls are properly made out. EDWIN M. STANTON,
Secretary of War.

These militia were called out and put under the command of United States officers, and sworn into the service of the United States. After the defeat of Lee they followed him to Hagerstown and Falling Waters, and a portion

of them afterward went over into Virginia and served there.

I have taken care in this bill to provide that the accounts shall be reëxamined by the War Department, and if there are any errors in them they can be corrected.

Now, one single word in regard to the amendment, or rather the bill, of the gentleman from Maine, [Mr. BLAINE.] This claim of Pennsylvania is the only one of that character of claims that the United States Government has not yet paid. We have a great many other claims that should be paid, as other States also have. But the one now proposed to be paid by the bill reported from the Committee on Appropriations is the only one of that class of claims not already provided for. If that claim were paid I might be favorably disposed toward the bill of the gentleman from Maine. But I do think it very unfair to interfere with the one before the committee by endeavoring to substitute his bill in its place.

Mr. HALE. I wish to say simply that I fail to perceive in the evidence read by the gentleman from Pennsylvania [Mr. STEVENS] sufficient proof that the State of Pennsylvania advanced money at the request of the Government for the payment of troops in the service of the United States under the express promise of repayment. That being so, although the claim may be an equitable one, I do not think we ought to include in this bill a recital which the facts do not warrant. I therefore move to amend the bill by striking out the words "advanced at the request of the Government for the payment of troops in the service of the United States under an express promise of payment," and inserting, so as to make the bill conform to the facts, the words "expended for the payment of troops in the service of the United States."

Then, I submit, we ought to have a statement of the facts in this case; the details and items, in dollars and cents, of the expenditures of the State of Pennsylvania, and the expenditures of the State of New York, and the expenditures of the State of New Jersey, so that we may see that we are treating Pennsylvania as we are treating the other States in this matter. I certainly have no desire that Pennsylvania shall be dealt with in any other manner than the other States are dealt with, or to apply any more rigid rule to her than is applied to other States. But I am not willing that she shall have any more liberal rule applied to her than the other States have had applied to them.

Mr. STEVENS. That question was raised during the last Congress by a member then here from the city of New York, Mr. Fernando Wood. He proposed an amendment and then the matter was laid over for a time. Before it again came up for action he received a letter from the Governor of that State, stating that their troops had been paid.

Mr. HALE. Very well; I will move the amendment I indicated when I was last upon the floor in order to make this bill conform to the facts of the case.

Mr. STEVENS. I do not know that I have any objection to that amendment, as it does not affect the substance of the bill; but there is a telegram which I have not now here, and which I desire to submit to the House before the vote is taken.

Mr. RANDALL, of Pennsylvania, obtained the floor.

Mr. FARNSWORTH. If the gentleman from Pennsylvania will yield to me, I desire to move that the committee rise, in order that the House may dispense with the session of this evening.

Mr. RANDALL, of Pennsylvania. I have no objection to that.

Mr. FARNSWORTH. I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. WASHBURNE, of Illinois, reported that the Committee of the Whole on the state of the Union, having had under consideration the bill (H. R. No. 360) to reimburse the State of Pennsylvania for moneys advanced Government for war purposes, had come to no resolution thereon.

HOLDING EVENING SESSIONS.

Mr. STEVENS. It is now very near the hour of adjournment; and inasmuch as many gentlemen wish to have this evening to themselves, I move that the evening session for to-day be dispensed with.

The motion was agreed to.

Mr. STEVENS. Mr. Speaker, as some gentlemen desire information about certain facts in connection with the bill just under consideration, and as I desire to obtain evidence which is not here at present, I move that the House adjourn.

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

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. ANCONA: The memorial of Messrs. Frederick Sauer, N. A. Felix, Henry Geidel & Co., A. D. Hoyer, Peter Barbey, and Herman Floto, brewers of Reading, Pennsylvania, asking that the duty on barley imported from Canada, &c., may be so adjusted as not to exceed the sum of five cents per bushel.

By Mr. ASHLEY, of Ohio: Petitions from the business men of Sidney, Illinois; Illiopolis, Illinois; Catlin, Illinois; Philo, Illinois; praying Congress to grant an appropriation for the improvement of the navigation of the Maumee bay and the harbor of Toledo, Ohio.

Also, from New Haven, Indiana; La Gro, Indiana; Logansport, Indiana; Attica, Indiana; praying for an appropriation for the same purpose.

Also, from the citizens and business men of Maumee City, asking for an appropriation for the same purpose.

By Mr. BANKS: The memorial of revenue assessors of sixth district, Massachusetts, for increase of compensation.

Also, the memorial of Andover Savings Banks, Massachusetts, for exemption from tax on dividends, &c.

By Mr. BOUTWELL: The petition of A. Lawrence, and others, and the petition of John Wright, and others, asking for amendments of the tariff.

Also, the petition of Allen Hathaway, and others, citizens of Dighton, Massachusetts, upon the same subject.

By Mr. BUNDY: The petition of William Mercer, of Ross county, Ohio, for relief.

By Mr. DAVIS: The petition of Chester Patterson, and 66 others, citizens of Onondaga county, New York, asking an increase of duties on imported wool.

Also, the petition of W. P. Giles, Joseph Fisher, and 50 others, citizens of Onondaga county, New York, praying for increased rates of duty on imported wool.

Also, a similar petition by F. A. Sweet, R. R. Shaw, and 40 others, citizens of Onondaga county.

Also, like petition of David Hibbard, John Gulich, and 214 others, citizens of Onondaga county, New York.

By Mr. DENISON: Petitions of 114 citizens of Manayunk, Pennsylvania, asking for amendments to the tariff, to protect American labor from foreign productions.

By Mr. GARFIELD: The petition of Joshua Frobes, and 43 others, citizens of Ashtabula county, Ohio, praying Congress to pass a law for the protection of American wool.

By Mr. HARDING, of Illinois: The petition of citizens of Monmouth, Illinois, for uniform insurance laws.

By Mr. KASSON: The memorial of faculty of Middlebury College, for the legalization of the metrical-decimal system of weights and measures.

By Mr. LAWRENCE, of Pennsylvania: A petition from citizens of Greene county, Pennsylvania, for an increase of tariff on wool.

Also, a petition from citizens of Washington county, Pennsylvania, for amendments to the Constitution giving to all classes of citizens their natural rights.

By Mr. MORRIS: Five petitions signed by J. D. Bordwell, Esq., of Yates county, New York, and 300 others, tax-payers, remonstrating against a renewal of the reciprocity treaty with Canada.

By Mr. NOELL: A memorial from Hon. George H. Cramer, mayor of Cape Girardeau, Missouri. This sets forth the fact that the internal revenue tax on liquors and tobacco exceeds the import duty levied on foreign articles, and suggests that the duties should be so adjusted as to give our own manufacturers an equal chance with foreign.

Also, a communication from John L. Roach, of Cape Girardeau, accompanied by plats proposing a new plan for bridging navigable streams and applying the plan especially to the Mississippi river.

By Mr. RAYMOND: The petition of Walter W. Price, and others, of New York, for a reduction of the duty on imported barley.

By Mr. SPALDING: The petition of Tracey E. Smith, Harry Sortor, and others, citizens of Mayfield, Ohio, for an increase of the tariff on wool.

By Mr. WELKER: The petition of Cass Blakesley, and 148 others, wool-growers of Medina township; and W. P. Clark, and 74 others, wool-growers of Montville township, Medina county, Ohio, asking protection on wool.

IN SENATE.

THURSDAY, *March* 22, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. ANTHONY presented the memorial of Edwin M. Snow, M. D., of Providence, Rhode Island, remonstrating against the passage of the joint resolution (S. R. No. 38) providing quarantine regulations to prevent the introduction and spread of Asiatic cholera, and praying that a thorough investigation of quarantine regulations may be instituted, with a view of reforming alleged flagrant abuses existing in some of our principal sea-ports, in order that a uniform system of quarantine may be established, founded upon the true nature of diseases; which was referred to the Committee on Commerce, and ordered to be printed.

Mr. WADE presented the petition of Joseph L. Smith, and others, praying for an appropriation for the establishment of an industrial normal school in the District of Columbia; which was referred to the Committee on the District of Columbia.

Mr. SUMNER presented a petition of white and colored citizens of Pennsylvania, praying that the Constitution of the United States be so amended that there shall be no legislation within the United States against any portion of the inhabitants on account of race or color, and that all such legislation now existing be declared void; which was referred to the joint committee on reconstruction.

Mr. CLARK. I offer the petition of the officers of the savings banks in Manchester, New Hampshire, in which they say that their institutions are created for the purpose of receiving small sums of the poor, and loaned for the sole benefit of the depositors, and they go on to say:

"It is the belief of your petitioners that Congress did not intend to tax the small savings of the poor, averaging to each depositor in these institutions only about two hundred dollars, when they do not tax the accumulated property of the rich; and further, that said tax throws not only an unusual, but in the present prosperous condition of our country an unnecessary, burden only upon the poorer classes of the community, and creates a discrimination against the laboring classes as compared with those of affluent circumstances, contrary to the whole spirit and intent of the internal revenue act, and contrary to equity and justice."

I ask that this petition may be referred to the Committee on Finance.

It was so referred.

Mr. KIRKWOOD presented a petition of citizens of Linn county, Iowa, praying that a pension may be granted to Mrs. Jerusha Wilter, widow of Dr. Amos Wilter, late surgeon of the seventh regiment Iowa infantry, but who was not regularly mustered into the service; which was referred to the Committee on Pensions.

Mr. HOWE presented a petition of citizens of Wisconsin, praying for the enactment of just and equal laws for the regulation of inter-State insurances of all kinds; which was referred to the Committee on Commerce.

Mr. JOHNSON. I present the petition of David L. Swain, a citizen of the State of North Carolina, stating what he supposes to be a grievous oppression of that State in consequence of the manner in which the tax imposed upon the State was levied. He goes into a statement to show how disproportionate will be the amount to be paid by that State in its present condition in comparison with the other States that have not been in rebellion, and he asks whether the act of 1862 cannot be repealed or modified so as to meet the grievance. I move the reference of the petition to the Committee on Finance.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. MORRILL, from the Committee on Commerce, to whom was referred the petition of William Bell and John Hughes, praying for an American register for the ship Patrick Henry, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred a bill (S. No. 208) to protect American citizens engaged in lumbering on the St. Croix river, in the State of Maine, reported it without amendment.

He also, from the same committee, to whom was referred a bill (S. No. 135) to declare certain streams in the State of Iowa not navigable streams, reported adversely thereon.

Mr. POMEROY, from the Committee on Public Lands, to whom was referred a bill (S. No. 156) making additional grant of lands to the State of Minnesota in alternate sections to aid in the construction of a railroad in said State, reported it with amendments.

Mr. CHANDLER, from the Committee on Commerce, to whom was referred a bill (S. No. 139) to provide for surveys of the upper Mississippi and the Minnesota rivers, reported it with amendments.

Mr. DOOLITTLE, from the Committee on Indian Affairs, to whom were referred resolutions of the Legislature of Kansas in favor of so amending the provisions of the land grant to the Leavenworth, Lawrence, and Fort Gibson railroad, together with a branch from Lawrence to Emporia, as to make Burlingame a point on said road, asked to be discharged from its further consideration, and that it be referred to the Committee on Public Lands; which was agreed to.

Mr. NYE, from the Committee on Naval Affairs, to whom the subject was referred, reported a bill (S. No. 220) for the relief of certain contractors for the construction of vessels-of-war and steam machinery; which was read, and passed to a second reading.

Mr. POLAND, from the Committee on the Judiciary, who were instructed by a resolution of the Senate to inquire into the justice and expediency of providing by law for the payment of claims of loyal citizens for quartermaster's stores furnished the Army, and a petition of citizens of Stafford county, Virginia, praying for compensation for supplies furnished the Federal Army and for losses sustained by reason of the military occupation of that section of country, reported a bill (S. No. 217) to provide for the payment of quartermaster's stores and subsistence supplies furnished to the Army of the United States; which was read, and passed to a second reading.

Mr. HOWE. The Joint Committee on the Library have instructed me to report a bill (S. No. 216) to provide for the transfer of the custody of the library of the Smithsonian Institution to the Library of Congress.

The bill was read, and passed to a second reading.

Mr. HOWE. If there be no objection, I should like to have the bill considered at the present time.

The PRESIDENT *pro tempore*. It requires unanimous consent to consider the bill on the day it is reported. Is there any objection?

Mr. SUMNER. I am very much interested in that question. I have paid some little attention to the subject in advance, and I should really like to see the bill in print. I do not wish to make any objection, but I think it had better lie over.

Mr. HOWE. Certainly that is a very reasonable request. I cannot ask to have it considered.

The PRESIDENT *pro tempore*. It will lie over under the rule.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. JOHNSON, it was

Ordered, That the memorial of Samuel M. Salomon, executor and devisee of Haym M. Salomon, deceased, praying indemnity for advances of money made by his grandfather, Haym Salomon, during the revolutionary war, be withdrawn from the Committee on Claims, and referred to the Committee on Revolutionary Claims.

BILLS INTRODUCED.

Mr. WADE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 218) exempting the property of debtors in the District of Columbia from levy, attachment, or sale on execution; which was read twice by its title, referred to the Committee on the District of Columbia, and ordered to be printed.

Mr. CHANDLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 219) granting certain lands to the State of Michigan to aid in the construction of a ship-canal to connect the waters of Lake Superior with the lake known as Lac La Belle, in said State; which was read twice by its title, and referred to the Committee on Public Lands.

PEDDLERS' LICENSES.

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

Resolved, That the Committee on Finance be instructed to consider the expediency of amending the internal revenue act by providing that loyal soldiers who have been permanently disabled by loss of limb or otherwise may have a peddler's license without payment of the customary fee.

PRESIDENTIAL APPROVAL OF BILLS.

A message from the President of the United States, by Mr. WILLIAM G. MOORE, his Secretary, announced that the President of the United States had approved and signed, on the 21st instant, the following acts:

An act (S. No. 36) quieting doubts in relation to the validity of certain locations of lands in the State of Missouri made by virtue of certificates issued under the act of Congress of February 17, 1865; and

An act (S. No. 54) to amend an act entitled "An act to incorporate a national military and naval asylum for the relief of the totally disabled officers and men of the volunteer forces of the United States."

COMMITTEE SERVICE.

Mr. YATES. Mr. President, I desire to ask to be excused from serving on the Committee on Pensions. I am now serving on four committees, and I cannot attend to them all. I therefore ask to be excused.

The request was granted.

NORTHERN KANSAS RAILROAD.

Mr. LANE, of Kansas. I desire to move a reconsideration of Senate bill No. 145, which was passed yesterday.

The PRESIDENT *pro tempore*. The motion will be entered, unless its present consideration is asked.

Several SENATORS. What is the bill?

Mr. LANE, of Kansas. It is a bill granting lands to the State of Kansas to aid in the construction of the Northern Kansas railroad and telegraph. I desire to amend it so as to make it consistent with itself. If there be no objection, I should like to have it acted on now. I want to strike out two words, "in Kansas." It is a restriction which ought not to be there.

The PRESIDENT *pro tempore*. The Chair understands that the bill has been sent to the House of Representatives.

Mr. LANE, of Kansas. I move that the Secretary be directed to request its return.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House of Representatives had passed a bill (H. R. No. 261) making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1867, and for other purposes; in which it requested the concurrence of the Senate.

The message also returned, in compliance with the request of the Senate, the bill (S. No. 145) for a grant of lands to the State of Kansas to aid in the construction of the Northern Kansas railroad and telegraph.

The message further announced that the House of Representatives had agreed to the amendment of the Senate to the joint resolution of the House (H. R. No. 57) authorizing the Secretaries of War and the Navy to place hulks and vessels at the disposal of commissioners of quarantine or other proper authorities at the ports of the United States.

The message further announced that the House of Representatives had disagreed to the amendments of the Senate to the bill of the House (H. R. No. 184) to authorize the sale of marine hospitals and of revenue cutters.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House of Representatives had signed an enrolled joint resolution (H. R. No. 57) authorizing the Secretaries of War and the Navy to place hulks and vessels at the disposal of commissioners of quarantine or other proper authorities at the ports of the United States; and it was thereupon signed by the President *pro tempore*.

HOUSE BILL REFERRED.

The bill from the House of Representatives (H. R. No. 261) making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1867, and for other purposes, was read twice by its title, and referred to the Committee on Finance.

REVENUE COMMISSION REPORTS.

Mr. ANTHONY. The Committee on Printing, to whom was referred a resolution to print the same number of copies of the special reports of the internal revenue commission as was printed of the general report, have instructed me to report it back without amendment and recommend its passage, and I ask for its present consideration. It is a very small affair.

There being no objection, the Senate proceeded to consider the following resolution:

Resolved, That there be printed for the use of the Senate five thousand extra copies of the following special reports of the United States revenue commission, of which extra copies have not heretofore been ordered: report on distilled spirits, (No. 5;) petroleum, (No. 7;) proprietary medicines, &c., (No. 8;) appendix to cotton report, (No. 3;) on the relations of foreign trade to domestic industry and the internal revenue, (No. 10;) on the influence of the duplication of taxes on industry, (No. 9;) and the report made to the commission on the taxation and manufacture of malt liquors in Europe.

Mr. HENDRICKS. I wish to ask the chairman of the Committee on Printing whether this resolution provides for printing the minority report of the special commission appointed at the last session of Congress. I have looked for that report several times but could not find it. It does not seem to be printed with the rest.

Mr. ANTHONY. I do not know of any minority report being referred to the Committee on Printing. It is our intention to print all the documents from this revenue commission. I think several of these reports are minority reports; that is, they are not signed by the whole body of commissioners, but are reports of sub-committees.

Mr. HENDRICKS. The report that I speak of I believe was made by Mr. Hayes.

Mr. SHERMAN. I have read all these reports, and what the Senator from Indiana says is true. The various subjects were referred to different members of the commission, and each of them upon his own motion made a report. The report by Mr. Hayes, of Chicago, on the subject of taxing Government securities, and also upon the subject of reducing the national debt has not been published. I have been looking for it myself. I should like to see it published. Although it is a very bad document, in my judgment, still I think it ought to be published.

Mr. ANTHONY. I will accept an amendment to include that.

Mr. HENDRICKS. What was the number of the majority report that was ordered to be printed?

Mr. ANTHONY. The same number that is ordered here, five thousand.

Mr. HENDRICKS. Then I move to insert, "and the minority report made by Mr. Hayes."

Mr. ANTHONY. I accept that amendment.

The PRESIDENT *pro tempore*. The Senator from Indiana moves to amend the resolution by adding the words, "also the report made by Mr. Hayes."

Mr. SHERMAN. My impression is that the Secretary of the Treasury has never sent in that report. I have seen it. The document was handed to me as a member of the Committee

on Finance, but I think it was never published and never ought to be published by Congress, and perhaps this resolution for extra copies will not reach that.

Mr. HENDRICKS. It will do no hurt anyhow.

The amendment was agreed to.

The resolution, as amended, was adopted.

PASCHAL'S CONSTITUTION.

Mr. ANTHONY. The Committee on Printing, to whom was referred a resolution to inquire into the expediency of purchasing certain copies of the Commentaries of Mr. Paschal on the text of the Constitution, have instructed me to report it back and ask to be discharged from its further consideration, and that it be referred to the Committee on the Judiciary. This is a legal document, and it is not a matter that properly comes before the Committee on Printing. If the Committee on the Judiciary should think proper to purchase these books—it is not a resolution to print a book, but to purchase copies—the Committee on Printing might then take into consideration the subject of ordering any number of extra copies.

Mr. TRUMBULL. What book is it?

Mr. ANTHONY. It is a Commentary on the Constitution.

The PRESIDENT *pro tempore*. It is moved that the Committee on Printing be discharged from the further consideration of the resolution named by the Senator from Rhode Island, and that it be referred to the Committee on the Judiciary.

Mr. TRUMBULL. It does not seem to me that this is a matter for the consideration of the Judiciary Committee. As I understand it, here is a resolution referred to the Committee on Printing directing them "to inquire into the propriety of purchasing, for the use of the Senate, a number of the copies of the Constitution of the United States, with the notes of reference and a complete index prepared by George W. Paschal." I do not know what the Judiciary Committee has to do with a question of that kind. I think the Committee on Printing might either submit the matter to the Senate, or report against it. There is certainly nothing to be inquired into by the Judiciary Committee. I object to its reference to that committee, and hope the Senate will act upon it here. I cannot see what investigation the Committee on the Judiciary can make with regard to it. Certainly it does not relate to the courts of the country in any respect that I am aware of.

Mr. RIDDLE. The Committee on Printing thought that this matter should go to the Committee on the Judiciary as they are better able to judge upon such questions than the Committee on Printing, and if they consider it worth printing or purchasing, let them report it back to the Senate for the printing or purchasing of the usual number, and if any extra numbers are required the Committee on Printing can take that matter into consideration. That is the motive which induced the honorable Senator from Rhode Island, the chairman of the Committee on Printing, to ask that this subject be referred to the Committee on the Judiciary, of which the honorable Senator from Illinois is chairman.

Mr. TRUMBULL. Really I do not think the Constitution of the United States ought to be referred to the Committee on the Judiciary to know whether they will publish it or not. If somebody has been making notes upon it, I do not know what that committee has got to do with it. It is not the printing committee of the Senate. I hope the Senator from Rhode Island will not ask for such a reference of it.

Mr. ANTHONY. The motion that I have made can be divided. Certainly the Committee on Printing are not prepared to recommend the purchase of a book with notes upon the Constitution; but as the matter was brought before the committee, and as they did not think they were the proper organ of the Senate to determine upon the propriety of such a publication, they thought it had better be investigated by that committee that has charge of the Constitution and laws.

Mr. BROWN. Why not refer it to the Committee on the Library?

Mr. ANTHONY. Well, I will say the Committee on the Library.

Mr. TRUMBULL. Just report it back without asking that it be referred to any committee.

Mr. JOHNSON. The Committee on the Library is the proper one.

Mr. ANTHONY. The Committee on Printing ask to be discharged from its further consideration. Let that motion be put, and then it may be referred to any other committee that the Senate choose.

Mr. GRIMES. Let us take it up and act upon it now.

The PRESIDENT *pro tempore*. The former motion is withdrawn, and it is now moved that the Committee on Printing be discharged from the further consideration of the subject.

The motion was agreed to.

Mr. GRIMES. Is the resolution now before the Senate? If so, I move to postpone it indefinitely, so as to get rid of it.

The PRESIDENT *pro tempore*. It is moved that the further consideration of the subject be now indefinitely postponed.

The motion was agreed to.

USE OF HALL FOR A LECTURE.

Mr. WILSON. I submitted a motion yesterday in the form of a resolution to grant the use of the Hall on next Tuesday night to Mrs. M. C. Walling, the floor to be used for Senators and Representatives and their families.

The PRESIDENT *pro tempore*. It is moved to take up the motion submitted yesterday that the use of this Hall be granted to the lady named by the Senator from Massachusetts on Tuesday night next under the circumstances mentioned by him.

Mr. CONNESS. I hope the Senator will not press that. It is very well known that the House of Representatives have had to desist from giving the use of their Hall for such purposes to any one. The offenses committed need not be named here; desks have been broken up; and the practice has had to be stopped. The Senator accompanies this motion with a condition that the floor be reserved for Senators and members of the other House and their families. I am opposed to an exclusive aristocracy in this country, composed of Senators, members of the House of Representatives, and their families. A Senator's family and the family of a Representative are no better than the families of other citizens in the capital. They are not, I think, under such circumstances, entitled to any increased privilege, and it would be offensive to the public judgment to so entitle them by resolution to be passed by ourselves.

The honorable Senator cannot resist applications made by the other sex, I fear, and I must only attribute to his gallantry, to the ease and gentleness with which he retires before pressure of this character, the motion that he has made. However pleasant it might be to vote with him on the subject, I know of nothing further to say, except that I regret that the motion is pressed here in this body. It is a practice that cannot be followed, and I hope will not be carried.

Mr. WILSON. I simply made this motion. I have not pressed it quite so strongly as the Senator from California has opposed it. I suppose he is made of sterner stuff than I am; he is of a harder nature, and I supposed it would have his opposition. The question is before the Senate whether they will grant the use of the Hall for this lady to lecture in on Tuesday night. She is a refugee from Texas, a resident now, I believe, of the State of Illinois, and has been accustomed to lecture, and would like the use of the Hall for that purpose. I took the suggestion that was made to me to meet the point that the Hall might be abused or anything of that kind, and to prevent that it is declared that it shall be used solely for members of the two Houses and their families. That will fill the Hall; the galleries will be used by other persons.

The PRESIDENT *pro tempore*. It is now moved to take up the subject named by the Senator from Massachusetts, the motion having been laid on the table yesterday by him.

The motion was not agreed to.

FORT HOWARD MILITARY RESERVE.

Mr. HOWE. I move that the Senate proceed to the consideration of Senate bill No. 168.

The motion was agreed to; and the bill (S. No. 168) to provide for the disposal of certain lands therein named was considered as in Committee of the Whole. By its provisions the Commissioner of the General Land Office is authorized to cause to be sold at public auction all the unsold lots of that portion of the public domain known as the Fort Howard military reserve, which is situated in the county of Brown, and State of Wisconsin, giving not less than two months' notice of the time and place of such sale, by advertising the same in such newspapers and for such period of time as he may deem best. Every lot is to be sold separately to the highest bidder for cash, and when not paid for within twenty-four hours from the time of purchase, to be liable to be resold under the order of the Commissioner of the General Land Office aforesaid, but no sale to be binding until approved by the Secretary of the Interior.

The first amendment of the Committee on Public Lands was in section one, line four, to strike out the word "sold" and insert "offered;" so that the clause will read:

That the Commissioner of the General Land Office be, and he is hereby, authorized to cause to be offered at public auction all the unsold lots of that portion of the public domain known as the Fort Howard military reserve.

The amendment was agreed to.

The next amendment was in section one, in line fifteen, after the word "aforesaid," to strike out "but no sale shall be binding until approved by the Secretary of the Interior," and to insert "at such reasonable minimum as may be fixed by the Secretary of the Interior; and no sale shall be binding until approved by that officer;" so that the clause will read:

Every such lot shall be sold separately to the highest bidder for cash, and when not paid for within twenty-four hours from the time of purchase, it shall be liable to be resold under the order of the Commissioner of the General Land Office aforesaid, at such reasonable minimum as may be fixed by the Secretary of the Interior; and no sale shall be binding until approved by that officer.

The amendment was agreed to.

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

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

COURTS IN CALIFORNIA AND LOUISIANA.

On motion of Mr. HARRIS, the bill (S. No. 179) in relation to the district courts of the United States in the State of California was considered as in Committee of the Whole.

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

Mr. HARRIS. The Committee on the Judiciary have reported an amendment, which is to strike out all of the bill after the enacting clause and insert a substitute. It will only be necessary to read the substitute.

The PRESIDENT *pro tempore*. The words proposed to be inserted will alone be read, unless some Senator calls for the reading of the original bill.

The words proposed to be inserted in lieu of the original bill were read, as follows:

That the southern judicial district of the State of California and the western district of Louisiana shall be, and the same are hereby, abolished, and hereafter the said States shall respectively constitute one judicial district, and shall respectively be called the districts of California and Louisiana. The district judge, marshal, and district attorney for the United States for the northern district of California and the western district of Louisiana shall respectively possess and exercise the same powers and jurisdiction in said district courts of California and Louisiana as

they now possess and exercise in their respective districts.

SEC. 2. *And be it further enacted*, That all actions, suits, and proceedings, civil or criminal, which shall have been commenced, and at the time of the passage of this act shall be pending in the southern district of California or the western district of Louisiana, and all process, orders, judgments, decrees, records, or other papers or proceedings relating thereto or filed therein, shall be transferred to the said district courts of California and Louisiana respectively, which courts shall possess and exercise over such actions, suits, and proceedings, and the process, orders, judgments, decrees, records, and other papers and proceedings so transferred, the same authority and jurisdiction as they would have had if such actions, suits, and proceedings had been commenced in said courts: and no indictment, writ, process, recognizance, or other proceeding returnable to or to be heard, tried, or considered in the said southern district of California or said western district of Louisiana shall be abated, discontinued, or rendered void by the transfer thereof as aforesaid.

SEC. 3. *And be it further enacted*, That the clerks of the said southern district of California and the said western district of Louisiana shall, as soon as practicable after the passage of this act, deliver to and deposit with the clerks of the said district courts of California and Louisiana, respectively, all property, books, records, documents, and papers remaining in their respective offices, and the same shall be received and kept by the said last mentioned clerks subject to the order and direction of such courts respectively.

SEC. 4. *And be it further enacted*, That executions may be issued out of the said district court of California and the said district court of Louisiana, respectively, to collect any judgment or decree rendered in the said southern district of California or said western district of Louisiana before the passage of this act with the same effect as the same might now be issued out of the court in which such judgment or decree was rendered; and all process which shall have been issued out of said district court for the southern district of California or said western district of Louisiana, and shall not have been returned before the passage of this act, shall be returned to and filed with the clerks of the district courts of California and Louisiana, respectively.

Mr. HARRIS. In line nine of the first section the word "western" should be striken out and "eastern" inserted; it is a misprint.

The PRESIDENT *pro tempore*. That correction will be made, as it is a clerical mistake.

The amendment was agreed to.

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

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

On motion of Mr. HARRIS, its title was amended to read: "A bill in relation to the district courts of the United States in the States of California and Louisiana."

BRIDGE AT ST. LOUIS.

Mr. BROWN. I call for the regular order of business, being Senate bill No. 38.

Mr. TRUMBULL. Mr. President——

Mr. BROWN. I do not think this bill will take more than a few minutes.

Mr. TRUMBULL. I desire to call up this morning the case of the honorable Senator from New Jersey [Mr. STOCKTON] whose right to a seat is questioned, and which is a question of privilege.

Mr. BROWN. I am not desirous of embarrassing that case or of interfering with its consideration, but I think this bill can be disposed of in a few minutes.

Mr. TRUMBULL. If this bill is to occupy but a few minutes, I shall not object, but it may be of a character to lead to debate.

Mr. BROWN. I do not think it will lead to any question; at all events, if it produces a protracted discussion, I shall give way.

Mr. TRUMBULL. Well, sir, I shall call up the New Jersey case as soon as this bill is disposed of.

The PRESIDENT *pro tempore*. The bill (S. No. 38) to authorize the construction of a bridge across the Mississippi river, at the city of St. Louis, State of Missouri, and at the city of East St. Louis, State of Illinois, being the unfinished business of yesterday, is now before the Senate as in Committee of the Whole. It will be read.

Mr. BROWN. The Committee on Post Offices and Post Roads have reported an amendment in the nature of a substitute; I suppose it is only necessary to read the substitute.

The PRESIDENT *pro tempore*. The substitute only will be read if no Senator calls for the reading of the original bill.

The Secretary read the proposed substitute, as follows:

That the "St. Louis and Illinois Bridge Company," a corporation organized under an act of the General Assembly of the State of Missouri, approved February 5, 1864, and an act amendatory of the same, approved February 20, 1865, and also confirmed in its corporate powers under an act of the Legislature of the State of Illinois, approved ——1864, be, and the same is hereby, empowered to erect, maintain, and operate a bridge across the Mississippi river, between the city of St. Louis, in the State of Missouri, and the city of East St. Louis, in the State of Illinois, subject to all the conditions contained in said act of incorporation and amendments thereto, and not inconsistent with the following terms and provisions contained in this act. And in case of any litigation arising from any obstruction, or alleged obstruction, to the free navigation of said waters, the cause may be tried before the district court of the United States of any State in which any portion of said obstruction or bridge touches.

SEC. 2. *And be it further enacted*, That any bridge built under the provisions of this act may, at the option of the company building the same, be built as a draw-bridge, with a pivot or other form of draw, or with unbroken or continuous spans: *Provided*, That if the said bridge shall be made with unbroken and continuous spans it shall not be of less elevation in any case than forty feet above extreme high-water mark, as understood at the point of location, measuring for such elevation from the level of the city directrix of St. Louis to the bottom chord of the bridge, nor shall the spans of said bridge be less than two hundred and fifty feet in length, and the piers of said bridge shall be parallel with the current of the river: *And provided also*, That if any bridge built under this act shall be constructed, the same shall be constructed as a draw-bridge with a span over the main channel of the river, as understood at the time of the erection of the bridge, of not less than three hundred feet in length, and said span shall not be in any case less than forty feet above high-water mark, measuring for such elevation from the level of the city directrix of St. Louis to the bottom chord of the bridge, and one of the next adjoining spans shall not be less than two hundred and twenty feet, and also, that there shall be a pivot draw constructed in every such bridge at an accessible and navigable point, with spans of not less than one hundred feet in length on each side of the central or pivot pier of the draw: *And provided also*, That said draw shall always be opened promptly, upon reasonable signal, for the passage of boats whose construction may not at the time permit of their passing under the permanent spans of said bridge, except that said draw shall not be required to be opened when engines or trains are passing over said bridge, or when passenger trains are due, but in no case shall unnecessary delay occur in the opening of said draw after the passage of such engines or trains.

SEC. 3. *And be it further enacted*, That any bridge erected under the provisions of this act shall be a lawful structure, and shall be recognized and known as a post route, upon which, also, no higher charge shall be made for the transmission over the same of the mails, the troops, the munitions of war of the United States than the rate per mile which the railroad companies terminating at either end receive for such services, and the officers and crews of all vessels, boats, or rafts navigating the Mississippi river, are required to regulate the use of the said vessels and of any pipes or chimneys belonging thereto so as not to interfere with the elevation, construction, or use of the bridge authorized to be erected under the provisions of this act.

Mr. BROWN. This is a bill to sanction and forward an enterprise of very great moment, not only to the State that I represent, but to all the States in the central belt of territory east and west of the State of Missouri, and has for its object the effecting of a continuous line of railway across the Mississippi river at St. Louis. It is desirable, however, that in doing so, care should be taken that no substantial interference shall take place with the navigation of the river. That matter has been one of considerable discussion between the different interests involved, the railroad interests as representing the great continental lines centering at that point, and the steamboating interests representing a commerce on the Mississippi that promises to be the most gigantic inland commerce of the world, and has elicited a great deal of feeling on the subject.

For my own part I desire to say that I want this structure, when built, to be one worthy of the great States it is to connect, one that shall be of such ample capacity as will permit the transit of the freights of all the railway lines that may hereafter center at this great distributing point of the continent. Let it be built, too, for the ages, of a material that shall defy time, and in a style that will be equally a triumph of art and a contribution to industrial development. No narrow view of expense or contracted idea of the power of engineering skill should induce us to permit any attempt at bridging the Mississippi river—that great inland highway that must ever be the great dependence of the valley of the Mississippi for transferring its grain to the sea-board and the markets of the Atlantic and the Gulf, that will seriously interfere with its navigation. But when these are fully considered, then I believe that the highest boon we can confer on the facilities of transit and intercourse across the continent will be found to lie in this authorization to erect this bridge. The company to which the enterprise is committed is one that has the sanction, as I am advised, of both the States of Missouri and Illinois, and provisions are ingrafted on its charter that will insure the local municipalities interested a controlling right to subscribe to the capital stock.

Mr. President, the substitute which is reported by the committee has in it certain details of height, measurement, and width of span which it has been thought are not sufficiently guarded to avoid interference with the navigation of the river. I have therefore submitted an amendment in lieu of the second section, which has been printed, and to which I ask Senators to refer, which proposes to take the extreme limits that have been asked by any interest there, and make these the conditions of the structure. In doing so I am satisfied that those limitations and conditions will present no obstacles that the engineering skill of this age and country cannot overcome. They are in the first place that this bridge shall be fifty feet in height above high-water mark, or rather what is substantially high-water mark, the elevation line of the city directrix. Second, it shall have at least one span of six hundred feet in the clear, which would make it the largest bridge in the world, or else two spans of four hundred and fifty feet in the clear each, and that if the two latter spans be used the one over the main channel shall be at least fifty feet above the city directrix. The third is, that no span over the water way at low-water mark shall be less than two hundred feet in the clear of abutments. These conditions, I assume, will satisfy all the requirements of commerce. They will give ample space for steamers to pass to and fro between the piers without any interference, and will be of a height sufficient to permit them to pass under the bridge without any trouble. It will be necessary, of course, that steamers shall make some little arrangement of their chimneys, using the telescopic chimney, but the height stipulated will give ample room to pass clear of the pilot-houses and the fixed wooden structure of the boats.

It is only necessary to say in connection with this amendment which I propose, in regard to the use of the words "city directrix," that its level is the point at the intersection of the levee and Market street that marks the curbstone, and is near enough to the extreme high-water mark for all practical purposes. I hold in my hand a hydrograph of the Mississippi river at St. Louis, which shows that for the preceding six years, that is, from 1860 to the present time, or 1865, the river did not come up to within many feet of the level of the city directrix, and that there have been in the last quarter of a century only three occasions on which the water has risen above that point—in 1851, in 1858, and in 1844; on one of those occasions, only three feet, on the other four feet, and on the other seven feet and some inches, altogether for a space of three or four days at each time, so that really these rises have nothing to do with the substantial merits of the question, or the great interests of navigation, only occupying two or three days during the period of over a quarter of a century. For all practical purposes, therefore, the city directrix may be assumed, and is assumed, in St. Louis as the fixed point from which these measurements and all other measurements of city levels and water levels should be made. This hydrograph is prepared under the direction of the city

engineer of St. Louis, Mr. Truman J. Homer, an engineer of the very highest promise in his profession, who has given great attention to this whole subject; who is fully equal, as I believe, to carry out into construction this great enterprise, as projected by him in the printed pamphlet I hold in my hand. I assume, therefore, that the data on which this bill is based, and the practicability of the undertaking, giant-like as it is in character, are entirely reliable.

I also have before me the measurement of several of the steamers plying on different parts of the river, the lower waters, the upper waters, the Illinois river, and the Missouri river, showing that a space of fifty feet will clear the structures of almost all of these boats as at present constructed, even if the river were at the high point of the city directrix. In ordinary cases, at least three hundred and sixty days out of the year, all the time in fact with the exception of ten or fifteen days in a quarter of a century, there will be a good deal more space than that, so that on the point of interference the amendment covers all that can be asked with any reason in the premises. I now offer the amendment, and ask that it be read.

The Secretary read the amendment, which was to strike out section two of the substitute, and in lieu thereof to insert the following:

SEC. 2. *And be it further enacted*, That the bridge built under authority of this act shall not be a suspension bridge or draw bridge, with pivot or other form of draw, but shall be constructed with continuous or unbroken spans, and subject to these conditions: First, that the lowest part of the bridge or bottom chord shall not be less than fifty feet above the city directrix at its greatest span. Second, that it shall have at least one span six hundred feet in the clear, or two spans of four hundred and fifty feet in the clear of abutments. If the two latter spans be used, the one over the main steamboat channel shall be fifty feet above the city directrix, measured to the lowest part of the bridge at the center of the span. Third, no span over the water at low-water mark shall be less than two hundred feet in the clear of abutments.

The amendment to the amendment was agreed to.

Mr. HENDERSON. I will ask my colleague if this amendment is substantially in accordance with the recommendations of the Chamber of Commerce of St. Louis? I received a paper some time since from the Chamber of Commerce in reference to the height of the bridge and the spans.

Mr. BROWN. It is exactly in accordance with that, with this simple provision, that it substitutes the fixed point of the city directrix for the questionable one of extreme high-water mark.

Mr. JOHNSON. What is the elevation?

Mr. BROWN. Fifty feet.

Mr. HENDERSON. I was of the impression that the water more generally rose above the city directrix, but of course my colleague knows.

Mr. BROWN. No; I have here the water lines for the last twenty-five years.

Mr. HENDERSON. I have examined that draught.

Mr. BROWN. I think this amendment will cover all the objections.

The amendment to the amendment was agreed to.

Mr. BROWN. I will move to amend the amendment of the committee in section one, line fourteen, by inserting after the word "Illinois" the words "and across any channel, slough, or bayou of the Mississippi river that may separate the islands opposite St. Louis from the main Illinois shore;" so that it will read:

A bridge across the Mississippi river, between the city of St. Louis in the State of Missouri, and the city of East St. Louis, in the State of Illinois, and across any channel, slough, or bayou of the Mississippi river that may separate the islands opposite St. Louis from the main Illinois shore, subject to all the conditions contained in said act, &c.

Mr. TRUMBULL. I have a little doubt about the propriety of that amendment. The main channel of the river opposite St. Louis is separted from the Illinois shore by an island, and there are various sloughs there. A creek comes down there. I do not suppose the Congress of the United States can authorize the construction of a bridge across private property.

Mr. BROWN. The navigable channel is not private property.

Mr. TRUMBULL. The slough on the east side of the channel is not a navigable channel at all. It is a turnpike now. We have a traveled road from the main Illinois shore on to the island, and Bloody Island is a tract of land embracing several thousand acres at the present time, and owned by private individuals. I am not prepared to say at this moment what the effect of authorizing a bridge over private property might be. I see by the provisions of this bill that the State of Illinois has passed an act which in conjunction with an act passed by the State of Missouri authorizes the construction of this bridge. I have not seen the Illinois act; I do not know what its provisions are; but I presume that act will make the necessary provision for the construction of any part of the bridge that is not over the waters of the Mississippi.

Mr. BROWN. It is not important, and if the Senator objects to it, I will withdraw the amendment.

The PRESIDENT *pro tempore*. The proposed amendment to the amendment is withdrawn, and the question is on the amendment of the committee as amended.

The amendment as amended was agreed to.

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

Mr. DOOLITTLE. I should like to ask the Senator from Missouri whether the height of this bridge is sufficient so as not in any respect to interrupt navigation.

Mr. BROWN. Yes, sir; there is now no objection to it on that score.

Mr. DOOLITTLE. How high is it to be above high-water mark?

Mr. BROWN. Fifty feet above the directrix.

Mr. DOOLITTLE. Is that sufficiently high for steamboats?

Mr. BROWN. It is ample for all purposes.

Mr. GRIMES. Provided they lower their chimneys.

Mr. BROWN. They will have telescopic chimneys. It does not interfere with the pilot-houses or anything of that sort.

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

SENATOR FROM NEW JERSEY.

Mr. TRUMBULL. I now ask the Senate to proceed with the consideration of the case of Hon. Mr. STOCKTON.

The motion was agreed to.

Mr. TRUMBULL. I will ask the Clerk to read the report of the committee.

The PRESIDENT *pro tempore*. It will be read if there be no objection.

The Secretary read the following report submitted by Mr. TRUMBULL on the 30th of January:

The Committee on the Judiciary, to whom were referred the credentials of John P. Stockton, claiming to have been elected a Senator from the State of New Jersey for six years from the 4th day of March, 1865, together with the protest of certain members of the Legislature of said State against the validity of his election, submit the following report:

The only question involved in the decision of Mr. Stockton's right to a seat is whether an election, by a plurality of votes of the members of the Legislature of New Jersey, in joint meeting assembled, in pursuance of a rule adopted by the joint meeting itself, is valid. The protestants insist that it is not, and they deny Mr. Stockton's right to a seat, because, as they say, he was not appointed by a majority of the votes of the joint meeting of the Legislature.

The legislative power of the State of New Jersey is vested by the State constitution in a Senate and General Assembly, which are required, for legislative purposes, to meet separately; but which, for the appointment of various officers, are required to assemble in joint meeting, and when so assembled are, by the constitution itself, styled the "Legislature in joint meeting."

The constitution of New Jersey does not prescribe the manner of choosing United States Senators, as, indeed, it could not, the Constitution of the United States having vested that power, in the absence of any law of Congress, exclusively in the Legislature; but it does constitute the two Houses one body for the purpose of appointing certain State officers. The statute of New Jersey declares that "United States Senators on the part of that State shall be appointed by the Senate and General Assembly in joint meeting assembled;" but it does not prescribe any rules for the government of the joint meeting, nor declare the manner of election.

The practice in New Jersey has been for the joint meeting to prescribe the rules for its own government.

In 1794 fifteen rules were adopted, the first two of which are as follows:

"1. That the election of State officers during the present session be *viva voce*, unless when otherwise ordered; and that all officers be put in nomination at least one day before their election.

"2. That the chairman shall not be entitled to vote except in case of a tie, and then to have a casting vote."

The other thirteen rules related chiefly to the method of conducting the proceedings. Each joint meeting which has since assembled has adopted its own rules, usually those of the preceding joint meeting, sometimes, however, with additions or exceptions.

In 1851 the following additional rule was adopted:

"*Resolved*, That no person shall be elected to any office, at any joint meeting during the present session, unless there be a majority of all the members elected personally present, and agreeing thereto."

In 1855 the joint meeting, after adopting the fifteen rules of the preceding joint meeting, added the following:

"That all candidates for office, upon receiving a majority of the votes cast by this joint meeting, shall be declared duly elected."

The joint meeting of 1861 adopted the rules of the preceding joint meeting for its own government, among which were the following:

"1. That the election of State officers during the present session be *viva voce*, unless when otherwise ordered."

"15. That in all questions the chairman of the joint meeting be called upon to vote in his turn, as one of the representatives in the Senate or Assembly, but that he have no casting vote as chairman.

"16. That all candidates for office, upon receiving a majority of the votes cast by this joint meeting, shall be declared to be duly elected."

The same rules were adopted by each joint meeting from 1861 to 1865.

The joint meeting which assembled February 15, 1865, and at an adjourned session of which Mr. Stockton was appointed Senator, adopted, at its first meeting, the rules of the preceding joint meeting, except the sixteenth rule, in lieu of which the following was adopted:

"*Resolved*, That no candidate shall be declared elected unless upon receiving a majority of the votes of all the members elected to both Houses of the Legislature."

After having appointed various officers under the rules which had been adopted at the assembling of the joint meeting, the following rule was adopted:

"*Resolved*, That the vote for county judges and commissioners of deeds be taken by acclamation, and that the counties in which vacancies exist be called in alphabetical order."

Acting under this rule, quite a number of officers were appointed by acclamation. Not completing its business, the joint meeting adjourned from time to time till March 15, when the following rule was adopted:

"*Resolved*, That the resolution that no candidate shall be declared elected unless upon receiving a majority of the votes of all the members elected to both Houses of the Legislature be reseinded, and that any candidate receiving a plurality of votes of the members present shall be declared duly elected."

Every member of both Houses, eighty-one in all, was present and voting when the above resolution was passed, and it was carried by a vote of 41 in the affirmative, of whom eleven were senators and thirty representatives, to 40 in the negative, of whom ten were senators and thirty representatives. The joint meeting then proceeded to the election of a United States Senator, with the following result:

Hon. John P. Stockton 40 votes; Hon. J. C. Ten Eyck 37 votes; J. W. Wall 1 vote; P. D. Vroom 1 vote; F. T. Frelinghuysen 1 vote; H. S. Little 1 vote.

Whereupon John P. Stockton, having received a plurality of all the votes cast, was declared duly elected. The joint meeting then proceeded to the election of various other officers, having completed which it rose.

The credentials of Mr. Stockton are under the great seal of State, signed by the Governor and in due form. No objection appears to have been made at the time to the election. Its validity is now called in question by a protest, dated March 20, 1865, and signed by eight senators and thirty members of the General Assembly. The Constitution of the United States declares that the Senate of the United States "shall be composed of two Senators from each State, chosen by the Legislature thereof," and that "the times, places, and manner of holding election for Senators and Representatives shall be prescribed in each State by the Legislature thereof," but Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

The right to choose United States Senators in a joint meeting of the two Houses which compose the Legislature of a State has been too long and too frequently exercised to be now brought in question. This has been the manner of election in some States from the beginning, and is now the manner in most of them.

For the purpose of choosing United States Senators the joint meeting of the two Houses is regarded as the Legislature, and especially would this be so in New Jersey, where the joint meeting is by the constitution of the State denominated a Legislature. It has uniformly been held that when the two branches

of a Legislature meet in joint convention to elect a United States Senator they are merged into one, and act as one body, so that an election may be effected against the entire vote of the members of one House if the person voted for receive the requisite number of votes from the members of the other. It being, then, settled that the two Houses of a Legislature in joint meeting assembled constitute the Legislature, vested by the Constitution of the United States with authority, acting as one body, to elect a Senator, the question is, did the joint meeting of the Senate and General Assembly of New Jersey, duly convened, in pursuance of a resolution previously concurred in by each House separately, choose John P. Stockton United States Senator?

That it was competent for a plurality to elect, if a law to that effect had been prescribed by competent authority, will hardly be questioned. This is the rule very generally, if not universally, adopted in the election of members of the House of Representatives, who are "chosen every second year by the people of the several States," and no one questions the validity of the election of a Representative by a plurality vote when the law authorizes a plurality to elect. It is, however, insisted, and truly, that no law of New Jersey authorizes a plurality to elect. The laws of New Jersey are silent on this subject, but they do authorize a joint meeting of the two Houses of the Legislature to appoint a Senator, and it has been the uniform practice of this joint meeting since the foundation of the government to prescribe the rules for its own government. These rules as to the number of votes necessary to effect an election have varied at different times, sometimes requiring a majority of all the members elected to both Houses of the Legislature, sometimes a majority only of those present, and in the case under consideration only a plurality.

Suppose, under the rule first stated, but 79 members had been present in the joint meeting, and 40 had voted for the same person, would he have been elected? And if not, why not? Seventy-nine out of 81 would have constituted a quorum, and 40 would have been a majority of those present. The only reason why such a vote would not have made an election, would be the existence of the rule adopted by the joint meeting, declaring that "no candidate should be elected unless receiving a majority of the votes of all the members elected to both Houses of the Legislature." While that rule was in force, no presiding officer would have thought of declaring a candidate elected, nor would any candidate have supposed himself elected, because he received a majority of the votes cast, unless such majority was a majority of all the members elected to the Legislature. Under the other rule, "that a person receiving a majority of the votes of those present should be declared elected," who would doubt the validity of an election by 31 out of 60 votes, if only so many had been cast? If the joint meeting had the right to prescribe, at one time, that it should require a majority of all elected to the Legislature to elect, at another time that a majority of those present might elect, and at still another time that elections might be had by acclamation, it had the right to prescribe that a plurality should elect; and when any candidate received a plurality he thereupon became elected, not simply by the will of those who voted for him, but by the will of the joint meeting, which had previously, by a majority vote, resolved that such plurality should elect.

It might be urged in this case, with much plausibility, that inasmuch as the constitution of New Jersey recognizes the two Houses in joint meeting as a Legislature, that such joint meeting was the very body on whom the Constitution of the United States had conferred the power to prescribe "the times, places, and manner of holding elections for Senators;" but your committee prefer placing the authority of the joint meeting to prescribe the plurality rule on the broader ground, that in the absence of any law either of Congress or the State on the subject, a joint meeting of the two Houses of a Legislature, duly assembled and vested with authority to elect a United States Senator, has a right to prescribe that a plurality may elect, on the principle that the adoption of such a rule by a majority vote in the first instance makes the act subsequently done in pursuance of such majority vote its own.

The committee recommend for adoption the following resolution:

Resolved, That John P. Stockton was duly elected, and is entitled to his seat, as a Senator from the State of New Jersey, for the term of six years from the 4th day of March, 1865.

Mr. CLARK. I ask that the memorial of members of the Senate and House of Assembly of the State of New Jersey protesting against the admission of Hon. John P. Stockton to a seat in the United States Senate as a Senator from that State may be read, if there be no objection.

The Secretary read it, as follows:

TRENTON, NEW JERSEY, *March* 20, 1865.

To the Senate of the United States:

The subscribers, members of the Senate and House of Assembly of the State of New Jersey, respectfully represent:

That they protest against the admission to the Senate of the United States, as Senator from New Jersey, of Hon. John P. Stockton, on the ground that he was not appointed thereto by a majority of the votes of the joint meeting of the Legislature.

He was declared elected after the following vote: For John P. Stockton 40 votes; John C. Ten Eyck 37 votes; James W. Wall 1 vote; Peter D. Vroom 1 vote; F. T. Frelinghuysen 1 vote; Henry S. Little 1 vote.

So that only 40 votes were cast in his favor, while 41 votes were given against his election.

Immediately previous to the election the joint meeting, by a majority of one vote, rescinded a resolution previously adopted, declaring that a majority of all the members of the Legislature were required to elect any officer, and passed a resolution that only a plurality should be necessary to a choice. Hence, Mr. Stockton, on the vote above given, was declared elected Senator. That resolution, it is respectfully submitted, was unlawful.

The Constitution of the United States, the laws of New Jersey, and usage hitherto uninterrupted, require that no one shall represent a State in the United States Senate unless he be "chosen by its Legislature," which means, we submit, at least a majority of what constituted the Legislature as convened at the moment of the election.

These words, contained in the Constitution of the United States, article one, section three, really control the whole matter. Should a Legislature make a different rule, it would be inoperative; much more, if such rule were no State law, but a simple resolution.

This being so, we submit that, in order that any particular person may be rightly spoken of as "chosen" Senator, his name should have been designated as such by *all* the members of the Legislature present in joint meeting, or by a majority of them. It is so in reference to all bodies of individuals, public or private. Partnerships rule by majority; so do boards of trustees, common councilmen, the Legislature itself, in passing laws. The rule is universal whenever the creating power does not otherwise specify.

There can be no reason for a different rule in relation to this matter than that of the law as to corporations aggregate. The will of such corporations is that of all of the members or of a majority of them. The rule is founded on the law of nature, and it is settled that in such corporations where the principle of election is not specified in the charter, it requires a majority of the corporators; in elections of civil officers, it is sometimes otherwise; but that is in consequence of positive law, made by reason of the difficulties attending the requisition of a full majority upon a popular vote. And the same law of nature which decides that a majority of a collective body shall express its will, decides, likewise, that half or less than half shall not.

That a majority agree that a minority may choose the Senator is nothing. The act required is the concurrence of the mind of the body in the choice, *i. e.*, the designation of a particular individual as Senator. The concurrence of a minority leaves the majority non-concurrent whether they formally dissent or not, and the man named is not the choice of the majority, which the Constitution says he shall be when it declares that he shall be "chosen by the Legislature."

While this is the law, even should the Legislature make a contrary one, the next point we urge is that the Legislature have by law required the same thing.

The Constitution of the United States provides (article one, section four) that "the times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof." Under this authority the Legislature of New Jersey have passed laws in relation to the Senators and Representatives.

In the case of Representatives, they have provided that the person having the greatest number of votes shall be elected. In the case of Senators, that they "shall be appointed by the Senate and General Assembly of this State in joint meeting assembled."

They do not here declare that the person having the greatest number of votes simply shall be sent. They used words which imply the concurrence of the body, created from the Senate and Assembly, in the designation, a concurrence which can only be through unanimity or the vote of a majority. This difference is not unintentional. And the word appointed is one used in the ancient constitution of New Jersey, when it regulated the joint meeting. That instrument was adopted July 2, 1776. It provided that the Council and Assembly jointly, at their first meeting yearly, should elect by a majority of votes a Governor, and that the justices of the supreme court and other officers "should be severally appointed by the Council and Assembly in manner aforesaid." The law already quoted was passed under the old constitution, and all appointments of State officers by joint meeting and of Senators were made by a majority of all the members of joint meeting present. It has from time to time been re-enacted; but what has occurred to change its meaning? Under the old constitution it meant *election* by a majority of all votes. We submit that such is its meaning now.

The constitution of 1846 does not, in terms, require that appointments shall be "by a majority of votes;" it directs that specified officers shall be "appointed by the Senate and General Assembly in joint meeting;" but no change has ever before taken place, or been suggested as lawful, in the method of electing. The uniform usage has been to require a majority of all the members of a joint meeting to concur before there is any appointment. Severe contests have heretofore occurred in joint meetings, numerous ballots have been had, and candidates have owed their election to the absence of opponents reducing the number necessary to a majority. It cannot be said that because the joint meeting is composed of the Legislature, they can alter or add to the law. The two Houses together cannot make a law. It requires separate action and executive approval, and the meeting of members in joint meeting is for a specific purpose, and no other—to elect officers, not make laws. The consequences possible from admitting the right to select by a plurality vote furnish a conclusive argument against it. If two members vote for one person and every other member by himself for different individuals, the person having two votes would have a plurality. Can it be that in such a case he would be Senator? This is, indeed, an extreme case; but such cases test the propriety of legal doctrine, and many equally unjust, but less extreme, may easily be offered.

Believing, therefore, that Hon. John P. Stockton is not elected Senator from New Jersey, we respectfully pray that the Senate of the United States may so decide, and declare his seat vacant.

MEMBERS OF THE SENATE.

W. W. WARE,
Cape May County.
PROVIDENCE LUDLAM,
Cumberland County.
JOSEPH L. REEVES,
Gloucester County.
GEORGE D. HORNER,
Ocean County.

MEMBERS OF THE ASSEMBLY.

GEORGE M. WRIGHT,
Bergen County.
JAMES M. SCOVEL,
Senator from Camden County.
B. BUCKLEY,
Senator from Passaic.
R. M. ACTON,
Senator from Salem.
P. C. BRINCK,
Camden County.
THOMAS BEESLEY,
Cape May County.
JAMES D. CLEAVER,
Essex County.
JOHN H. LANDELL,
Essex County.
RUFUS F. HARRISON,
Essex County.
J. B. J. ROBISON,
Essex County.
A. M. P. V. H. DICKESON,
2d Legislative District, Salem County.
WILLIAM CALLAHAN,
1st Legislative District, Salem County.
JAMES H. NIXON,
2d District, Cumberland County.
ROBERT MORE,
1st District, Cumberland County.
JOHN F. BODINE,
3d District, Camden County.
C. C. LATHROP,
2d District, Burlington County.
GARRET VAN WAGONER,
2d District, Passaic County.
N. S. ABBOTT,
1st District, Gloucester County.
SIMON LAKE,
Atlantic County.
SAMUEL FISHER,
3d District, Mercer County.
A. B. GREEN,
1st District, Mercer County.
RYNEER A. STAATS,
3d District, Somerset County.
JACOB BIRDSALL,
Ocean County.
WILLIAM D. WILSON,
2d District, Gloucester County.
HENRY J. IRICK,
4th District, Burlington County.
J. W. HEULINGS,
3d District, Burlington County.
J. W. NICHOLSON,
2d District, Camden County.
I. D. BLAUVELT,
3d District, Passaic County.
L. D. JARRARD,
1st District, Middlesex County.
SAMUEL STOCKTON,
1st District, Burlington County.
THOMAS B. PEDDIE,
Essex County.
C. A. LIGHTHIPE,
Essex County.
JOHN BATES,
2d District, Morris County.
JOSEPH T. CROWELL,
2d District, Union County.

Mr CLARK. I suppose the question before the Senate is upon the resolution submitted by the committee:

Resolved, That John P. Stockton was duly elected and is entitled to his seat as a Senator from the State of New Jersey, for the term of six years from the 4th day of March, 1865.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) That is the question.

Mr. CLARK. I move to amend the resolution by inserting the word "not" before the word "duly," and also before the word "entitled;" so that it will read:

Resolved, That John P. Stockton was not duly elected and is not entitled to his seat as a Senator from the State of New Jersey, for the term of six years from the 4th day of March, 1865.

The PRESIDING OFFICER. The question will be upon that amendment.

Mr. CLARK. Mr. President, it will be understood by the offering of this amendment, I think, that I did not concur in the report of the Committee on the Judiciary. After a full examination of the case, of the law, and the facts and the usages of the Legislature of the

State of New Jersey, and of other bodies similarly constituted, I could not bring my mind to the conclusion that the Senator from New Jersey now holding the seat was entitled to it, or that he was duly elected. I differed from the majority of the committee upon this point. Mr. Stockton was elected in a joint convention of the two Houses. After that joint convention had assembled, it undertook to say, in the absence of any law or rule prescribed by competent authority to that effect, that a less number of the convention than a majority, to wit, a plurality, should entitle the person receiving such plurality to an election. There were in that convention eighty-one persons present. Upon casting their votes for Senator, it was found that Mr. Stockton received 40 votes, and Mr. Ten Eyck and other persons 41; so that Mr. Stockton did not have a majority of the convention; and the question now submitted to the Senate, and the one upon which I think the whole matter must turn, is, whether that joint convention, sitting and acting as it did as a joint assembly, had the power and authority to say that a person not receiving a majority of the votes was entitled to a seat in this Senate.

I maintain this as my first proposition: that under the Constitution of the United States, the constitution of New Jersey, and the laws of New Jersey, where the constitution and the laws prescribe no different rules, a majority was necessary to constitute a valid election. In the absence of a law prescribed by the Legislature of New Jersey, or some authority, if there was any other authority competent to do it, I say a majority would be required to entitle the Senator holding the seat to remain in it, because it is the law of corporations aggregate, and it is the parliamentary law of the land, that when a deliberative body or assembly like that undertakes to act, it acts by a majority, and only by a majority, unless it has the power to prescribe for itself a different rule, or some other authority having such power has done it. There is no pretense that the Legislature of New Jersey or any other authority but this joint convention so assembled ever undertook to say that a plurality should elect; but the joint convention did. I do not undertake to deny that it was competent for the Legislature of New Jersey, organized and acting in its proper manner and sphere, to say that a plurality might elect. I do not deny that a plurality of a Legislature, when the majority so determine, can elect a Senator. I concede that, but I say that here nobody having competent authority undertook to prescribe that a plurality should elect. The Legislature of New Jersey did prescribe that the election of Senator should be by joint convention. I will read that law. It is the first section of a law of the State of New Jersey, passed April 10, 1846:

"SEC. 1. Senators of the United States on the part of this State shall be appointed by the Senate and General Assembly of this State in joint meeting assembled; and in case a vacancy shall happen by death or otherwise, at any time during the sitting of the Legislature, then, and in such case, the vacancy or vacancies so happening, shall be filled, during such sittings, by the Senate and Assembly of this State; and if a vacancy or vacancies, by the death of either or both of the said Senators, or otherwise howsoever, shall happen during the recess of the Legislature, then the Governor of the State, or in case of his death, absence, or other disqualification, the person administering the government for the time being, may make a temporary appointment or appointments, until the next meeting of the Legislature, which shall then fill such vacancy or vacancies."

Now, as I understand it, that is the only law of the State of New Jersey prescribing that a Senator shall be appointed by joint meeting or in any way regulating the election; and Senators will observe that this law is entirely silent as to whether a plurality shall elect, or a majority shall be necessary, and leaves it entirely to stand upon the common law of the land and the usage of the people of New Jersey. Then, I maintain, that the Legislature being silent on that point, the number necessary for the appointment of a Senator would be the number necessarily required by the common law and the parliamentary law, to wit, a majority; and so the Legislature and the people of New Jersey understood it, for never, up to this time, in the whole history of the Government, did they even undertake to appoint a Senator by anything less than a majority of the joint meeting. It is something entirely new and novel. More than that, they did not ask the Senate and the General Assembly of that Legislature, sitting in the regularly organized way as two branches, to pass a law authorizing a plurality to elect; but when they had got in convention, by a majority of the Senate, and without a majority of the House, they undertake to determine that a plurality should elect. The papers in the case show that upon the vote as to whether a plurality should elect, only thirty members of the House voted in the affirmative. There are sixty members in the House of Assembly; thirty voted in the affirmative, and thirty in the negative; so that there was no majority in the House of Assembly in favor of that proposition. In the Senate there were ten votes against it and eleven for it. So it was carried by one vote in the joint convention. forty-one voting in favor of the proposition and forty against it, and this for the first time in the history of New Jersey or of its legislation.

Mr. WADE. Or any other State.

Mr. CLARK. Or, as is said by the Senator from Ohio, any other State. I think that is entirely true. I do not know that you can find in the history of debates or in the range of contested elections any case like this, where the two branches of the Legislature, in joint assembly, undertook to prescribe a rule or a law that a majority should elect. I then assert the proposition with which I started, that the Legislature of New Jersey being silent on that subject, no competent authority having prescribed the rule, it was necessary that there should be a majority of the votes of that joint convention to entitle the Senator from New Jersey to hold his seat; and that I think the records show he did not get.

The General Assembly of the State of New Jersey is composed of sixty members; the Senate is composed of twenty-one members, making in the aggregate eighty-one members. The Constitution of the United States prescribes that Senators shall be chosen by the Legislatures of the States. I am not now going to contend that it is not competent for the Legislature to act in joint convention in electing a Senator. That matter has been too long settled by practice, in my judgment, to be disturbed. Many of the States elect in that way, and the Senators when so elected have been accorded their seats. It is not necessary for my purpose in this case that I should take that position. I do not know that I could successfully defend it, if I were to take it. I admit for the purposes of this case that it is competent for the Legislature of New Jersey to prescribe by a law, as it did, that the Senators of that State should be appointed by a joint meeting; but the Legislature when it had gone thus far was entirely silent. It did not say whether that appointment was to be by a majority or by a plurality; and I maintain the proposition that in that silence, the Legislature saying nothing on the subject, the two Houses in the proper way saying nothing by law on that subject, it was necessary that there should be a majority of the votes to elect the Senator. That is the first proposition that I maintain.

I then hold to the proposition that there being no such action by the Legislature, acting in its regular organized way, it was not competent for the two Houses in a joint meeting, acting together, to enact a law or prescribe such a rule. The Constitution says that the time, the place, and the manner of electing Senators and Representatives shall be determined by the Legislature. Now, so far as the time, the place, and the election in a joint meeting was concerned, the Legislature of New Jersey had prescribed the manner, but they were entirely silent upon the subject of the number necessary to constitute an election.

Mr. BUCKALEW. Was not the mode of election a part of the "manner?"

Mr. CLARK. That is the point. I say it is a part of the manner, and being a part of the manner it was competent for the Legislature in its regular organized way, and in no other way, to regulate it, and it was not competent for the Legislature, in a joint meeting only for the purpose of electing an officer, to regulate as they undertook to do. That is the very point. I hold it to be a part of the manner, and the Legislature having regulated the manner so far as to say it should be in joint meeting, left the other part to the law of the country that a majority should be required to elect.

But the case does not rest exactly there. It will be found that when that joint meeting, as I said before, came to vote upon this proposition, it did not command a majority of the two Houses as they were constituted. Only thirty Representatives could be found to vote in favor of it; just one half; so that it did not command the assent of the House of Assembly.

It is said, Mr. President, and I think the report of the committee goes upon this ground, that a body like a joint assembly of the two Houses of a Legislature may prescribe rules of action. I do not undertake to deny that they may prescribe rules of action, but what rules of action? Rules of action which shall direct their proceedings as to how the business shall be done. But in this present case this is not a rule of action; it is a resolution which determines the result of their action. It undertakes to say, not how the vote shall be cast, but what shall be the result if a person gets so many votes, which I say it was not competent for the meeting acting jointly to do, but that should have been done by the Legislature acting and sitting in the ordinary way as a Legislature, each House by itself.

I do not undertake to find fault with what is stated in the report, in one of its sentences, to wit, "that it was competent for a plurality to elect, if a law to that effect had been prescribed by competent authority." But the difficulty is that there was no such law. I desire to ask Senators this question: suppose the New Jersey law of April 10, 1846, which says, "that Senators of the United States, on the part of this State, shall be appointed by the Senate and General Assembly of this State in joint meeting assembled," had also said, "and a majority of the votes of such meeting shall be necessary to a choice;" would it have been competent for the joint convention to overrule it? Will anybody contend that it would have been? Would it have been competent for that joint convention after having got together, to overrule the law and say, "Senators shall not be appointed by a majority vote of the joint convention?" And yet if they were the Legislature, as contended, why not? If they can say, in the absence of any particular law, when the whole matter rests in the common law and the parliamentary law, that a plurality shall be sufficient to elect, why could they not have said it, even if the Legislature had declared that a majority should be required? The only difference in the cases is that here a majority was required by the common law and the parliamentary law, and in the case supposed it would have been required by the statute law; but if the joint meeting be the Legislature, it could have overruled it in the one case as well as in the other. This is the point: that when the Legislature was silent upon this matter, it left the election to be regulated by the common law of the land, as the State of New Jersey had practiced it, and the joint meeting had no more right to overrule the common law of the land in that particular than it had to overrule the statute law.

Now, Mr. President, I say there was no law authorizing a plurality to elect; the joint meeting was not competent to make a law for that purpose; and Mr. Stockton did not receive a majority of the votes of the joint meeting. I think he did not get a majority of the Senate; he did not get a majority of the House; nor did he get a majority of the joint meeting; and yet here, under the pretense that they could prescribe the rule of election in that joint meeting, he comes in with his credentials and an-

dertakes to hold his seat, and asks the Senate to say that he is entitled to the seat.

But, Mr. President, it is said that he is entitled to hold his seat because nobody objected at the time, because when this vote was cast and he was declared to be elected everybody acquiesced. How acquiesced? By their silence? To whom could they protest? To the Senate who would judge upon his election; and the very first moment, the very first day, he entered here with his credentials, the men who did not vote for him appeared here and remonstrated and protested against his holding his seat; and this is the acquiescence on their part which is to conclude them! Here is their remonstrance before you, presented by the Senator from Pennsylvania [Mr. COWAN] on the first day of the session, the very earliest moment they could present it; and yet it is said that by their acquiescence these remonstrants are not entitled to be heard, and the honorable member is entitled to hold his seat! I do not so understand it.

The point is a narrow one. I do not propose to take up the time of the Senate. I have stated to the Senate and the Senators the considerations which induced me to differ from the other members of the committee in this report; they are to me controlling considerations. I think nothing else enters into this question but the mere question of the power of the Legislature of New Jersey and the people of New Jersey as to whether the sitting member has been rightfully elected and is entitled to hold his seat here. I hold that he has not been elected, and therefore I have moved the amendment to the resolution of the committee; and on that question I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. FESSENDEN. Mr. President, I do not know whether on a question of this sort we shall be considered as acting as in Committee of the Whole in the first place, and afterwards in the Senate.

Mr. TRUMBULL. One vote settles it.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) One vote is all that is necessary to decide the question.

Mr. FESSENDEN. Then, before the vote is taken, I wish to express my opinion upon it, because upon a question of this kind I think opinions should be decidedly expressed, one way or the other.

I confess that from the view I took of the case originally, I was exceedingly surprised, more so, I will say, than I ever was before at a judicial decision in my life, at the opinion to which the Committee on the Judiciary arrived in relation to this matter; for, in addition to lying in a very narrow compass, it struck me that the question was a very simple one and a very clear one. I may be wrong; but my opinion is so entirely fixed that I never have been able to perceive, and I have been unable to find in the report of the committee, anything that has in the slightest degree shaken my opinion.

It is a judicial question; and if I know anything of myself, I believe I am capable, in deciding the question of the right of a Senator to his seat, to lay aside every consideration except that which belongs to the mere question of legal right. I do not propose to go over any very particular space in laying before the Senate what I think upon the subject. The question in regard to Senators comes under this clause of the Constitution:

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

I did not have the pleasure of hearing the remarks made by the honorable Senator from New Hampshire who has just taken his seat, as I was out of the Senate, and perhaps I may simply repeat what he has said. It will be noticed that the Senators are to be chosen by "the Legislature," not by the legislators; not by the members of the Legislature, but by "the Legislature." That is the language of the clause. It is manifest, therefore, that it may be well to consider what the relation is in which the Legislature stands to the Government in reference merely to the election of Senators. I have always held, and hold now, that the Legislature, in the election of a United States Senator, is merely the agent of the Constitution of the United States to perform a certain act. It is the designation of a body, a body recognized as a constituent part of the government of each State; the Constitution selects that body of men to perform certain acts in connection with the Government of the United States. The body thus selected is, therefore, in the performance of that act, but the mere agent of the Constitution of the United States to perform it. It is, therefore, under the control of no other power. No provision in the constitution of New Jersey providing the mode in which a Senator shall be elected or the course that shall be taken, or the rules of the proceeding, or anything of that kind would bind in any way the Legislature which is to perform the act. No provision of law of a previous Legislature would in any manner bind the Legislature which is to perform that act. It is independent of everything except the Constitution of the United States. The constitution of a State cannot bind it. The State constitution prescribes who shall compose the Legislature; but that body, or those bodies thus composing the Legislature of the State, being the agent appointed by the Constitution of the United States to perform an act, is not under the slightest obligation to regard any of the provisions in the State constitution on the subject, because the State constitution has nothing to do with it, or any previous provisions of State law in reference to it. But while it is thus independent and may disregard those provisions, being the mere agent of the Constitution of the United States, still it must necessarily act as a Legislature in the performance of that duty, because, as I said before, the power is not committed to the Legislature individually or collectively, but committed to "the Legislature" of the State; and therefore, being committed to the Legislature of the State, the Legislature, in carrying out this provision of the Constitution, must act as a Legislature; that is, there must be a legislative act.

That being laid down as a principle, which it strikes me cannot be refuted, the next inquiry is, which is the Legislature to elect? The answer is a very obvious one: it is the Legislature in existence at the time that the vacancy occurs; and if that Legislature fails to elect, it goes necessarily, under the Constitution, to the next Legislature, and the place in the mean time may be filled by appointment; and when the next Legislature meets it makes the election in the same way; it has the same power over it. That being the case, the question arises, how shall this duty be performed? I remember that once in a discussion here, I think upon the case of the Senator from Iowa, (Mr. Harlan,) or in the case of the Senator from Illinois, the present chairman of the Committee on the Judiciary, [Mr. TRUMBULL,] Mr. Toombs, of Georgia, laid it down that all that was requisite was that a majority of the members of both branches, not each branch acting separately, but a majority of the whole should act on this subject; no matter when they acted, or where they acted, or how they acted they might meet at a tavern at any time they saw fit, and if there was a majority of both branches present and they voted for a certain man, that would be a good election. I suppose we are hardly prepared to go that length, because, as I said before, it is not the men composing the body acting as individuals, but "the Legislature," that is to elect, and the election must therefore be a legislative act.

How is that carried out? I believe the true system to be that there must be concurrent action, that each body (if there are two bodies of the Legislature, as there were in this case) must select the same man, but the practice has been otherwise, and I suppose the practice is defensible in many cases. We elect in the way I have supposed to be correct in Maine, we elect in that way in Massachusetts, and in some other States. In other States the two Houses form a convention and the convention elects, and that is a legitimate mode. But how must that convention be formed? That convention cannot be formed by a provision in the constitution of the State. The Legislature itself which is to make the election must act upon the individual case. The Legislature must therefore vote to go into convention for that purpose. Whatever is done in relation to the election of a Senator must be done as a consequence of legislative action, otherwise it is no election by "the Legislature." They vote to form a convention for the purpose of choosing a Senator, and when they meet in convention that choice may be made. If there is legislative action previously, a vote by the Senate and a vote by the House of Representatives to meet in convention at a particular time in order to choose a Senator, that is sufficient. When they meet what can they do? They can choose a Senator, because there has been legislative action which authorizes them to choose a Senator in that form. But how? Every lawyer will admit that the parliamentary rule and the rule of the common law with regard to corporations is fixed and settled, that unless otherwise provided by the constitution of the body itself or by the power that constituted it, elections must be by a majority—a majority of a quorum, if a quorum is fixed by law. That is the universally received, acknowledged, admitted rule of the common law and parliamentary law, that the election must be by a majority unless otherwise determined by competent authority. The Legislature, when it votes to go into a convention of the two branches, acting as a Legislature, may provide the mode of election. If it desires to change the ordinary and received law upon the subject it may provide how the election shall be made. It may say that a plurality shall elect if it pleases. It may make any provision that it pleases in reference to the mode in which the election shall be conducted, but it must be done by the Legislature. The common law, the ordinary law as applied to elections by a convention thus framed, must be changed by the body that gives it authority, or it cannot be changed at all.

What I say is, if the Senate will pardon me for repeating, that there must be legislative action governing the whole, because the power which the convention has is limited from the very nature of the case. Remember that it is "the Legislature" which is to choose the Senator; and the Legislature say "We will meet in convention to choose a Senator." The Legislature may go further if it sees fit, and by legislative act declare that that choice may be made by a plurality, or that choice may be made by a hand vote, or in any way it pleases; but it must be the body which gives the power that is to settle the mode of doing it, if that mode is to be different from the ordinary, received, acknowledged law and parliamentary law of proceeding of all bodies, whatever they may be.

Now, what are the facts in this case? There was no provision whatever made by the Legislature of the State of New Jersey as to the mode in which the Senator should be chosen. The legislative action which authorized the convention was perfectly silent upon that subject. What, then, had the Legislature a right to conclude? Was it not this, and this only, that when it authorized a body other than itself, though constituted of the same members, a convention to choose a Senator, that body must proceed in the choice of a Senator, according to the universally received parliamentary and common law upon the subject of election? Had not the Legislature a right to suppose and to insist that in discharging the power thus conferred upon it by the Legislature—which Legislature was to choose—the course of proceedings of the convention should be precisely that and only that which is received by law everywhere, unless otherwise ordered, and which is provided as the mode of proceed-

ing in all cases of election by all bodies, corporate or otherwise.

But how was it in this case? In this case the two bodies of the Legislature met in convention; when so met, the convention, without any legislative act, without any such authority conferred upon them, without anything done on the subject by the Legislature which formed the body, undertook to say that they would change the received, acknowledged, parliamentary law and common law in their mode of proceeding, and instead of acting according to that law, and being governed by that law as the Legislature must have intended it should be, would elect in a total different manner from that prescribed by that law, namely, by a plurality vote, for which they had no legislative sanction, for which there was no authority but their own will. Senators will admit that if they could do it in that way, they could do it in any other way; they could do it by putting the names into a box and drawing them out; they could select any mode that they chose and make an election in that way, contrary to what the law was, and ought always to be.

This is the simple statement of the case; there is nothing else in it that I can perceive from beginning to end. The question is simply whether when "the Legislature" is the body to choose and the Legislature has delegated that power to a convention of the members of the two Houses, without authorizing that convention, by any authority given to it from themselves by any legislative act, to change the ordinary, legal, parliamentary mode of proceeding always recognized, that convention thus got together may adopt any course of proceeding that they see fit to do, and which was necessarily legislative in its character, because it was changing the law? That being the simple question, I do not see any way in which the necessary result can be avoided, namely, that Mr. Stockton, the claimant of this seat, was not elected legally, because he did not receive a majority of the votes of either House of the Legislature, and as the case stands he was elected merely by a plurality of the convention, not receiving a majority of the votes either of the Senate or of the House of Representatives of the Legislature of New Jersey.

But if I understand the report, the answer is made that the convention had been previously in the habit of passing rules in reference to their proceedings in joint meeting. So far as those rules related to the election of State officers, they have nothing in the world to do with this question. There is no connection whatever between the subjects. They might make such rules as they saw fit in regard to the elections of State officers. It is said, however, and I do not know but that the fact is so, that they had been in the habit of making rules in regard to the election of United States Senators. Suppose they had; if they made rules beforehand and acted upon them, those rules, although they may have been acceded to and not questioned, were not necessarily legal. It so happened, however, that previous to this election their rules had invariably required that in order to make an election one person should receive a majority of the votes of the members elected to the Legislature, or a majority of the members present, a quorum being present. An election made in either of these ways would of course be legal, no matter what rule they had. If they had made no rule whatever, but had simply gone on to make an election, and an individual had received a majority of the votes of all the members present, those members being a quorum of the whole body, he would be elected. If their rules required a vote of a majority of the members elected to the Legislature, and any one individual received that vote, he would have been elected as a matter of course, there being a majority of a quorum present. Nobody would think of disputing the right of the member so chosen. But because they made and acted upon a rule which was consistent with parliamentary law and consistent entirely with the common law in relation to such matters, it does not follow that they are authorized to make a rule which overturns parliamentary law, overturns the common law, for that could not be done without legislative sanction; that is, without the action of the two bodies separately legislating.

The practice is of no sort of consequence and cannot be used as an argument for proceeding in a wrong direction. A practice which results in a thing perfectly legal and proper cannot be pleaded as a precedent for a thing that is illegal and improper. A practice which is consistent with a power that exists cannot be pleaded as a precedent for the exercise of a power that does not exist and that has never been granted. This is the first time in the history of New Jersey that an attempt has been made to elect by a minority, by a plurality of votes. There is no precedent of the kind either in that State or in any other in the election of United States Senators. I think, therefore, this answer does not hold; and I revert to the original principle which I laid down, that the election must be by the Legislature; that if the Legislature delegates that power to a convention, the convention must proceed according to the ordinary rules of parliamentary proceeding, or of common law proceedings in the case of corporations, election by a majority. That is always the rule unless it is otherwise specially provided. If the convention undertakes to vary from that and make a new rule, it assumes a legislative function which is not committed to it in any manner or to any extent. That is the simple principle upon which I put the case, and to my mind it is clear.

Mr. STOCKTON. I desire to ask the Senator from Maine a question before he takes his seat. I do not know whether I clearly apprehend him; but I wish to know whether he takes the position that the joint meeting had not the power to decide how the Senator should be elected.

Mr. FESSENDEN. I take that position most decidedly and thoroughly, that it has not the power to decide how a Senator shall be elected if it varies from the ordinary received mode. It may make its own rules on mere minor details as to matters of form; it may choose its presiding officer, or anything of that sort. But I hold that it cannot undertake to change the parliamentary law or the common law, because that is a matter that only the Legislature can do. Any change in the ordinary modes of proceeding, such as are recognized by the law, must be by the Legislature itself, because it is the Legislature, and not the convention, that chooses the Senator.

Mr. STOCKTON. Mr. President, I propose to read a few sentences from the language used by Mr. FESSENDEN in the debate in the Senate on Harlan's case:

"The convention being formed"—

In this case the Senator admits that the joint meeting was legally formed—

"The convention being formed, (and you may suppose it formed under the act, or in contravention of it,) it remains to inquire what were the incidents of the convention itself. A convention has certain legal incidents. It has the power to adjourn, if it is legally formed. It has the power to decide what shall constitute a quorum, if there is no overruling constitutional provision on that point. It has the power to organize. It has the power to decide who shall preside over it. It has a power of perpetuation unless its existence is terminated by a superior power at a certain time. Then this convention being assembled, whether under the statute or not, on coming together had these incidents: the power of deciding how the Senator should be elected."—*Congressional Globe, Thirty-Fourth Congress, third session*, p. 294.

Mr. FESSENDEN. Within the limits of the law, of course.

Mr. STOCKTON. I did not rise to say anything on this subject at present; but let me say, as I am on the floor, that the Constitution of the United States, which might have declared that a plurality could elect, took all the power it was capable of conveying and conveyed it all to the State Legislatures. The Senator from Maine is accurate in saying that the Legislature is created by the Constitution of the United States the body to elect Senators; but the State constitution is to define of what the Legislature consists. This question had been raised before the formation of the constitution of New Jersey in 1846; and to put it beyond dispute, the report of the committee of the constitutional convention was amended so as to make the constitution of our State declare the joint meeting to be the Legislature. The constitution of New Jersey for that express purpose not only declares it a Legislature when sitting separately, but declares it to be a Legislature when in joint meeting assembled. All the power that the Constitution of the United States had over the subject of the election of United States Senators it gave to the Legislature; it is admitted that the State constitution alone could declare what the Legislature was; it has so declared, and yet it is now said that that Legislature is incapable of saying how the Senators shall be elected; they may elect, but they are incapable of saying how the election shall be made. That is the argument.

Mr. President, I deny that the gentleman from Maine states the parliamentary law correctly. By the parliamentary law the natural rule in a deliberative body is undoubtedly that the majority shall govern, unless some previous agreement or rule of the body permits a smaller number to cast the vote, or requires a larger number; and in that case Mr. Cushing declares that it is by virtue of the major vote that the act is done. The King cannot authorize a private man to create a corporation, but a private man may name the corporators, and it becomes a corporation by virtue of the grant of the King. In the same way the vote here was the vote of a majority, and it is a misnomer to call it anything else; and the whole of this case has been misconceived by the gentlemen on the other side on this ground. It was the power of the majority vote which made the election.

Shall I stop, Mr. President, to refer to precedents? It is said that no such thing has ever been done in New Jersey. From the earliest times we have claimed the right in New Jersey, and exercised it, of dropping a candidate. Is not that a power similar to permitting by a majority vote a plurality vote to elect? Senators are not always elected in New Jersey, or in any other State, I presume, in precisely the same way. There is no argument against the validity of this election in the fact that the rule by which it was made is rarely resorted to. It is very seldom that a state of things can arise where a majority will agree beforehand to make a rule the result of the adoption of which is clearly manifested. It is rarely the case that individuals will be willing to vote for that rule when they will not vote directly for the candidate whom it will elect. Senators may not be able to account for it; they may think it a singular state of things; and so it is; but my political party were in power at the time; we had a majority of five in our Legislature. My predecessor, Mr. Ten Eyck, upon this floor, and his friends, supposed that they could elect him by adopting the plurality rule, because nine gentlemen belonging to the Democratic party refused to go into caucus and vote for me. It was impossible for Mr. Ten Eyck, my predecessor, to be reëlected in any other way but by the plurality rule; and he and his friends originated the idea, and upon the major vote adopting the plurality rule eight or ten Republicans voted for it. You will find that that rule was adopted by a majority of one. When they saw some of those nine Democrats falling in, they got up and withdrew their votes in favor of the plurality rule; but it was a movement of the gentlemen opposed to my election. No one doubted at the time that it was a legal election. The protest purports to have been signed five days afterward; I suppose it is a matter of no importance when it was signed. I can only say I never heard of it for months afterward; and some of the names upon it were not signed to that paper a month before Congress met.

Mr. President, I say that the election was adopted by the body *sub silentio* after the vote was cast, by every rule of parliamentary law. Why did not they continue the election? They

had agreed to go into joint meeting unanimously. For what purpose? The purpose of electing a United States Senator. Why did they adjourn? Why did they not go on with the election? There was but one ballot; the declaration was made by the President that John P. Stockton was elected Senator. It was received in silence. They proceeded to other business and then adjourned. I ask whether any Senator can say that those gentlemen did not consider themselves bound by the result? They were bound to it by every rule, both of law and of honor.

Mr. President, as I have unexpectedly taken the floor at this time, permit me to say that I am glad that the Senate has at last proceeded to the consideration of this case. Since I have been in Washington the position I have occupied has been very unexpected and very unpleasant to me. It is a very unpleasant thing to have any one believe that a gentleman would claim a seat to which he was not clearly entitled. I am satisfied that no gentleman upon this floor can doubt the sincerity of my belief that my election was as valid as any election that ever took place of a Senator in any State. The opinion of so many distinguished gentlemen of the Judiciary Committee would at least support me in that. I had hoped when the report of the committee came in that that would be regarded as closing the matter, but it seems not; it seems that it must be further investigated, and investigated by this body. This looks to me a little like what we lawyers sometimes call appealing from the court to the jury on a question of law. Sir, almost on entering the Senate Chamber I heard a beautiful eulogy upon the Committee on the Judiciary from the distinguished Senator from Wisconsin, [Mr. DOOLITTLE.] I was glad and proud to know that such men were my judges, and I was glad and proud to know that five out of the seven members of that committee were my party opponents. I presented a printed argument; three pamphlets have been written and printed on the other side and presented to that committee. They gave the whole subject a most laborious examination and they have made a report which I thought, as I said before, would have been satisfactory to the Senate.

But, Mr. President, when I alluded to the fact that the constitution of New Jersey was peculiar in one respect, that it made the Legislature when in joint meeting the Legislature, I thought some one upon the other side seemed to think that I was mistaken as to that fact. Permit me to refer to the constitution of New Jersey on that point. The fourth article, section one, clause one, provides that "the legislative power shall be vested in a Senate and General Assembly." Article four, section one, clause three: "The two Houses shall meet separately on the second Tuesday in January next after the said day of election." The constitution also provides for the meeting of the two Houses not separately, but in joint meeting. Article seven, section two, clause two: "Judges of the court of common pleas shall be appointed by the Senate and General Assembly in joint meeting." Clause three: "The State Treasurer shall be appointed by the Senate and General Assembly in joint meeting." By article five, clause two, in certain cases the Governor shall be chosen "by the vote of a majority of the members of both Houses in joint meeting." But the question recurs, when in joint meeting, are the two Houses still the Legislature?

Article four, section five, clause one, provides "that no member of the Senate or General Assembly shall, during the time for which he was elected, be nominated or appointed by the Governor or by the Legislature, in joint meeting, to any civil office," &c. Article five, clause twelve, provides for a vacancy occurring during the recess of the Legislature "in any office which is to be filled by the Governor and Senate, or by the Legislature in joint meeting." The journal of the constitutional convention of New Jersey shows that the clause cited from article four, when originally reported by the committee, did not contain the words "Legislature in joint meeting," but simply said "during the time for which he was elected or appointed." It was amended in the Committee of the Whole by inserting after "appointed" the words "by the Governor and Senate, or by the Legislature." On motion of Mr. Ewing, (page 150 of the Constitutional Convention Journal,) the amendment was amended by striking out "Legislature" and inserting "joint meeting." Afterward, on motion of Chief Justice Hornblower, one of the ablest jurists we have ever had in our State, (on page 151 of the Constitutional Convention Journal,) it was again amended by inserting before "joint meeting" the words "Legislature in." The very object, I say, of this amendment was to conclude this question which has been raised in reference to the constitutions of some of the States.

Now, gentlemen say that it requires an act of legislation to fix the mode of election. Then it requires the concurrence of the Governor. No law can be passed in New Jersey without the concurrence of the Governor. He has a veto power. Can he veto the prescription of "manner" for the appointment of a Senator? Whatever else is required, surely it cannot be legislation.

Now, Mr. President, the Constitution of the United States does not require legislation. It uses the word regulation; Congress may regulate. In the Continental Congress many of their acts, all of their acts, I believe, were passed by resolution. Certainly it does not require legislation, or else the States which have never passed any act on the subject have never elected Senators. Seventeen States of this Union have never passed any act on the subject. If it requires legislation, how do you hold your seats? There has been no legislation in your States at all.

The Constitution of the United States gave the power of election to the Legislature. The constitution of New Jersey says the joint meeting is the Legislature. If that be not true, then by the statute read by the distinguished Senator from New Hampshire, the prescription was made—a prescription was made as ample by law in the State of New Jersey as ever has been in seventeen States. The time, place, and manner of election are to be prescribed. What is "manner?" The manner is in joint meeting, and that is full compliance with the "manner." Does he mean to say that the number of voices necessary to a choice is necessarily a portion of the "manner?" The distinguished Senator from Maine did not say so in Harlan's case. He said it might be prescribed; and therefore he admitted, and the argument admits now, that the number of voices need not necessarily be prescribed by statutes. The full prescription of "manner" is complied with when the Legislature says the election shall be in joint meeting. Some of the States say it shall require a majority of all elected, some say it shall require only a majority of a quorum; and seventeen States like New Jersey are silent; therefore those States have never made any prescription of "manner," and their Senators are not entitled to seats on this floor according to the argument. I think the conclusion is plain, that it is no necessary part of the prescription of "manner" that the number of voices necessary to an election shall be prescribed by the Legislature in advance. That being so, what becomes of the argument that the joint meeting cannot do it?

Mr. President, it is all a fallacy. By parliamentary law, the joint meeting of the Legislature of the State of New Jersey have a right to take the sense of their own body, and the Senate of the United States has no right to deny it to them and no power to interfere with them. It is by parliamentary law that every body properly constituted has a right, a natural right, to take according to their own rules the sease of their body, the same right that you have to make your plurality rule which you did make in this Senate, for you say in your rules that committees shall be appointed in the Senate by a major vote. If so, why may not a plurality elect a United States Senator when the majority of the electing body so declare? If gentlemen will read Cushing, if they will study up a little on parliamentary law, we shall not have such mistakes as these made. The question is simply, Mr. President, whether that body had a right to determine how they would take the sense of the body; and when they took their sense it was not a plurality who voted for me, and it was not a majority; but it was the whole body. If a majority of this Senate vote to turn me out from my seat, is it the majority that do it? No, it is the Senate of the United States that does it. The Senate of the United States is a unit by parliamentary law, and the Legislature of New Jersey is a unit. How they express their voice they determine for themselves. They express their voice according to the rules of parliamentary law where they adopt none of their own; and by parliamentary law and by the constitution they have a right to adopt such rules as they please. The rules must not be absurd. There is no such allegation in this case, for under the same clause of the Constitution of the United States members of Congress are chosen by the people by a plurality rule in almost every State in the United States. The plurality rule is the law of election in the State of New Jersey and in almost all the other States. In some of the New England States, perhaps in New Hampshire, and I think in Maine, the majority rule prevailed in the election of members of Congress at one time, but it was changed by the constitution of Maine; the constitution was altered for the purpose. You will find a very interesting examination in several of our legal works and books on parliamentary law, into the history of how the different portions of this country adopted different rules in their general elections; but by the law of New Jersey, from the earliest times, all our local elections have been governed by the plurality rule.

Mr. President, much has been said about no Senator ever having been elected in this way before, in New Jersey or anywhere else, and it has been alleged that this was contrary to the custom in New Jersey. I have before me a copy of the minutes and proceedings of the joint meeting of the Legislature of New Jersey, from October 31, 1788. Under the Articles of Confederation, before the adoption of the Constitution of the United States, Delegates to Congress were elected by joint meeting in New Jersey, and the joint meeting made its own rules. This custom of having elections in joint meeting and of the joint meeting laying its own rules existed in New Jersey before the formation of the Constitution of the United States. The joint meeting appears to have had no rules, or at least the journals do not set out any until the year 1794, when it adopted for the first time rules for its own government. Before that time, when there were no rules of the joint meeting, let me refer to an election which took place November 23, 1790:

"The meeting proceed to the election of a Senator to represent this State in the Congress of the United States for supplying the vacancy of Governor Paterson; the persons in nomination being Philemon Dickinson, Abraham Clark, and Jonathan Dayton, Esqs."

The vote being taken, it appeared that Mr. Dickinson had 19 votes, Mr. Clark 16, and Mr. Dayton 14; and then the record proceeds to say:

"Whereby it appears there were not a majority of the meeting for either of the persons in nomination.

"On motion,

"*Resolved*, That the meeting will proceed to vote for the two highest in number of votes."

Do I not hear Senators say, "That is a gag law?" Here the joint meeting said to those gentlemen who had voted for Mr. Dayton, "You must drop him and vote for one of these other two candidates." Is that not a power as extensive, as arbitrary, as the power of a majority to say that a plurality may be permitted to elect? If it be necessary that the individual voice of each member of the body should be expressed, and that he should name the individual to be chosen, is he not as effectually deprived of that voice when he is told that he must vote for one of two men who have received the highest number of votes as he is when it is said that the choice of a plurality

shall prevail? It is nothing in the world but undertaking to say beforehand how the sense of the body shall be made known. It is not the individual elector who elects; it is the Legislature as a body, and therefore it matters not what their individual sentiments are, whether they love a man or hate him; whether they desire him or not. What it is necessary for them to do is, that when they speak out as one body the voice that does speak according to parliamentary usage shall say what is their choice.

But, Mr. President, in 1794 an incident happened of a peculiar character. It appeared on the 12th of November, 1794, that there was some mistake in the ballots cast in the election of secretary of state:

"It appeared that one more ballot had been given in the whole number of ballots than members present in the joint meeting. On the question, whether the election on that account be considered as void, it was carried in the negative. On the question whether the joint meeting will investigate the mistake by again taking the ballots, it was carried in the affirmative."

On the 20th of November, 1794, the joint meeting adopted the first rules and orders that were ever adopted in the State of New Jersey for the government of the joint meeting of the Legislature, and that was done because of the mistake which had been made a few days before and which there was no rule to provide for. The Senate makes rules for itself; the Assembly makes rules for itself; but neither the rules of the Senate nor the rules of the Assembly can govern the joint meeting, because the joint meeting is neither the Senate nor the Assembly. If there are no rules, there will be anarchy; and when anarchy was threatened by the happening of a mistake which there were no rules to correct, the wisdom of those who composed that Legislature induced them to adopt rules, and those rules are the rules which are referred to in the report of the committee, which were adopted in 1794. From that time on there never has been a joint meeting in the State of New Jersey that has not adopted rules for its own government.

Upon this point, in order that I may be distinctly apprehended, I beg leave to admit most clearly and emphatically, because it is a fact, that I have found no resolution declaring specifically the number of votes which should be required as necessary to a choice until 1851. There were resolutions in reference to everything else, but nothing in regard to the number of voices necessary to constitute an election. What, then, was the number of voices necessary? Necessarily, by parliamentary law, a deliberative body is controlled by the majority where there is no other rule prescribed. In 1851, however, the Legislature of New Jersey established a precedent which, according to the gentleman's own argument, must cover the case. In 1851 the Legislature of New Jersey being called upon to elect a Senator, the joint meeting when it first assembled passed a resolution declaring that it should require a majority of all the members elected to the two Houses of the Legislature to elect a Senator in Congress. Under that resolution various ballots were had, and the joint meeting adjourned on several occasions, not being able to elect a Senator. Finally, a gentleman proposed a resolution rescinding that rule and declaring that a majority of those voting should be sufficient to elect. That resolution was adopted, and a gentlemen was declared elected on the same vote which he had had for, perhaps, eighteen or twenty ballots before. He was elected, receiving 39 votes, while I had 40 votes, and yet he took his seat in the Senate unquestioned, and remained here until he resigned.

Now, Mr. President, as a matter of precedent, if gentlemen be right that the whole point in this case is that the joint meeting had not the power to adopt a rule of this character, the case to which I have just referred is a direct precedent against them, because the rule originally adopted there required more than a majority of a quorum, and therefore that was a rule which they could not adopt according to the gentlemen's argument, not being the natural rule; and then they rescinded that rule simply by a major vote, and adopted one permitting a majority of those voting to elect, thereby having a rule which was as much at variance from the principle that "the Legislature" must be a majority of all those elected as the rule adopted in my case. If "the Legislature" must choose by a majority of all those elected to it, all the State laws which permitted a majority of a quorum to elect are unconstitutional. If a majority of the Legislature is required, if they must vote as individuals, a majority of a quorum of the body, according to the argument of these gentlemen, does not fulfill the requisition. According to my argument it does, for a majority of a quorum of this Senate is, as I say, the Senate; it matters not who the individuals are, or how they vote, or how many are here, if the number is a quorum it is the voice of the whole Senate.

Mr. CLARK. Will the Senator permit me to interrupt him? I do not understand that anybody on this side has contended that a majority of all the members elected is required, whether they are present or not. We contend for the common law and the parliamentary law, that a majority of those present is required.

Mr. STOCKTON. I did not understand the gentleman, nor did I understand any gentleman on that side of the House, to take that position; but I alluded to the fact that both in my case and in the case of the Senator elected in New Jersey in 1851, the first rule adopted was a rule requiring a majority of all the members elected, and I desired to show that if a majority of a quorum was sufficient, and it was also admitted that that first rule could be adopted, then it had to be admitted that the latter rule could be adopted, for one is as much a violation of the principle laid down as the other.

But, Mr. President, I have occupied the time of the Senate much longer than I intended. I rose simply to call the attention of the distinguished Senator from Maine to the view to which he held in Harlan's case, and which I must say led me to believe that the weight of his great name and talents would be given in favor of the legality of this election. I suppose I must have misapprehended either the view he takes now or the one he took in Harlan's case; but it does seem to me that if that gentleman will read this argument carefully again he will see that the two positions are inconsistent.

Mr. CLARK. I want to inquire of the Senator from New Jersey, before he sits down, whether he has cited all those passages from the constitution of New Jersey which refer to the Legislature in joint convention, or which declare the joint meeting to be the Legislature. I understood him to say that the constitution declared the joint meeting to be the Legislature.

Mr. STOCKTON. Yes, sir.

Mr. CLARK. Will he be kind enough to refer me to that passage?

Mr. STOCKTON. The constitution of New Jersey speaks of "the Legislature in joint meeting."

Mr. CLARK. Exactly; but I want to know of him if that is the only passage.

Mr. STOCKTON. There are two, but I will refer the gentleman also to the Constitutional Convention Record, page 150:

"Mr. Ewing moved to amend the amendment by striking out 'Legislature' and inserting 'joint meeting.'" * * * * "Mr. Hornblower moved to amend by inserting before 'joint meeting' the words 'Legislature in.'"

Mr. CLARK. I understood that when the Senator referred to it before. I simply inquire if there are any other passages than those which he has read which declare that the joint meeting is the Legislature?

Mr. STOCKTON. I know of none other.

Mr. JOHNSON. Please read from the journal of the constitutional convention.

Mr. STOCKTON. This is the journal, page 150:

"Mr. Ewing moved to amend the amendment by striking out 'Legislature' and inserting 'joint meeting.'"

This was on the consideration of the clauses to which I referred the Senate in our constitution. I cite this to show that these distinguished men used these very words for the purpose of avoiding the difficulty which is now made here.

Mr. JOHNSON. The Senator will permit me to ask how the constitution itself reads.

Mr. STOCKTON. I will turn to it. Article four, section five, clause one:

"No member of the Senate or General Assembly shall, during the time for which he was elected, be nominated or appointed by the Governor, or by the Legislature in joint meeting to any civil office under the authority of this State, which shall have been created or the emoluments whereof shall have been increased during such time."

This was the clause under consideration when the amendment was moved.

Mr. JOHNSON. Is that the only clause on that point?

Mr. STOCKTON. No, sir; there is another one; clause twelve of article five:

"When a vacancy happens during the recess of the Legislature in any office which is to be filled by the Governor and Senate, or by the Legislature in joint meeting, the Governor shall fill such vacancy."

The constitution does not expressly declare in so many words that the Legislature when in joint meeting is the Legislature; but it speaks of it in these clauses as "the Legislature in joint meeting." Now, I refer to the journal of the constitutional convention to show that the clause as first reported was "Legislature," that then "Legislature" was stricken out and "joint meeting" inserted, and then on motion of one of our ablest jurists the two were joined together; the clause was made to read as it now stands, "by the Legislature in joint meeting." That amendment was made to the clause in which the power to elect officers is regulated by the constitution.

Mr. HENDERSON. I should like the Senator to state precisely the question before the convention if he can, from the proceedings which he has read. At the time this amendment was offered and voted upon, what was the clause of the constitution then pending?

Mr. STOCKTON. It was one of the two clauses which I have just read.

Mr. HENDERSON. Does not the proceeding itself show the clause in precise words that was then pending? Please read it from the proceedings.

Mr. STOCKTON. The proceedings do not show with a great deal of detail, because this is the report of a committee to the constitutional convention and not engaged in making various amendments. I will hand the book to the Senator and he can examine it for himself. It would require too much time for me to trace the history of it now.

Mr. CLARK. I wish to inquire of the Senator from New Jersey whether the constitution of New Jersey provides for a joint meeting of the Legislature for anything but the election of officers?

Mr. STOCKTON. I do not know that it does. I am not aware that it does.

Mr. JOHNSON. Mr. President, having concurred in the report of the Judiciary Committee on the question now before the Senate, having done so without any doubt that the conclusion to which the committee came was correct, I think it my duty to state very briefly the reasons which led me to that opinion.

The conclusion of the report, as the Senate will have seen, places the validity of the election on the ground that it was in pursuance of a rule established by the joint meeting by which the election was held. The report, however, also says that it might be rested upon the fact that by the constitution of New Jersey the Legislature of the State when in joint meeting was considered as the Legislature of New Jersey; that is to say, the joint meeting composed of the members of both Houses was to be considered as the Legislature of New Jersey. Now, a word upon the first point before I proceed to examine the second.

The honorable member from Maine is right in

saying that under the Constitution of the United States, in the clause relating to the subject, (the third clause of the first article,) the Legislatures of the States are to choose Senators; and added that the authority of the Legislatures of the States to choose Senators is one which can neither be enlarged nor modified by any State constitution. He says, and says correctly, that the Constitution assumes as the proper agency by which the election of United States Senators is to be effected, the Legislature of the State; but we all know that the Constitution of the United States does not say, does not pretend to say, how the Legislature of a State shall be organized. What is the Legislature of a State? It leaves that to be settled by their own constitution and their own laws; over that the Constitution of the United States gives to no department of this Government the slightest jurisdiction; it on the contrary assumes that its own continuance in existence is to be effected, as far as the election of Senator is concerned, by a body to be found in the States vested with legislative power. What legislative power it is to have, how extensive it is to be, or how restricted it is to be, how it is to be chosen, the Constitution is entirely silent, and was necessarily silent about, the sole purpose being to bring into existence a General Government to exercise certain delegated powers. It left to the people of each State to establish for itself its own constitution, and in that constitution to say what department of its government should be vested with legislative authority. It does not provide, and could not have provided, (for if it had, it would not have been adopted by the people,) that the Legislature of a State is to consist of two bodies. The Senate, who are familiar with the proceedings of the Convention itself by which the Constitution was adopted, and who are familiar with the proceedings of the conventions by which the early constitutions of the States were adopted, are not to be told that it was a matter of serious doubt with the men of that day whether there should not be but one body instead of two bodies to whom the legislative department of the Government was to be devolved. What I mean to say is that there is nothing in the Constitution of the United States which prescribes to the States the manner in which they shall elect their Legislature, or the powers which they shall devolve upon the Legislatures so chosen.

Mr. BUCKALEW. The Senator will remember that in Pennsylvania there was but a single legislative body at that time; there was no Senate.

Mr. JOHNSON. I was aware of that, and that was the preferred mode, I think, by Dr. Franklin; and, to repeat, there were very serious doubts whether that was not the best mode. That being the case, it depends upon the people of New Jersey, and upon no other people, to prescribe what shall be the powers of the Legislatures of New Jersey. It depends upon them to say how the Legislature is to be appointed; how they are to act when appointed; what they are to do when they act under their appointment. In other words, the whole powers of that department of the government are made to depend exclusively upon the people of the State as the will of the people of the State may be expressed in its State constitution. Then, I suppose it would be clear—neither the honorable member from New Hampshire nor the honorable member from Maine would doubt that proposition—that if the Legislature of New Jersey at the period when this election was held had consisted of one body by the constitution of the State, that body could have declared whether a plurality or a majority should be required in the election.

Mr. FESSENDEN. Undoubtedly, if it was the Legislature.

Mr. JOHNSON. There could be no doubt about that. I took it for granted that the honorable member would admit that, because he has admitted that, although it is constituted of two bodies, it is in the power of the two bodies by law to provide that a United States Senator may be elected by less than a majority. Now, what have they done? They have divided the legislative department of the government into two bodies, a Senate and a House; but they have done something else. They have provided that the Senate and the House in the election of officers shall meet in joint convention, and when assembled in joint convention, are to be considered as the Legislature. Now let me stop there; that is the only difficulty, provided the honorable member's objection rests upon that; because in so many words it says that the Legislature in joint convention assembled shall be considered the Legislature; that is, the men in joint convention shall be, within the meaning of the constitution of the State of New Jersey, for the purposes——

Mr. CLARK. If the Senator will allow me, I understand it to be this: that the appointments are to be made by the Legislature in joint convention.

Mr. JOHNSON. Certainly. Then it is a Legislature in joint convention.

Mr. CLARK. As far as it goes.

Mr. JOHNSON. So I understand. How far does it go? It goes to the election of officers. The honorable member seems to suppose because it provides only for the election of State officers that it has no application to the case immediately before us; but that, as I think, is a great misapprehension. In its application to State officers, its effect is—and I suppose the honorable member will admit it—to clothe the body so assembled with the power to do in that collective body what they could severally do in their separate bodies by a concurrent vote.

Mr. CLARK. I do not admit that.

Mr. JOHNSON. They have always done it.

Mr. CLARK. It may have always been done wrong.

Mr. JOHNSON. If we mean to commence at the beginning of the world and reform it, that is quite another matter; but I suppose what has been done since the constitution was adopted up to the time when this election was held is pretty persuasive evidence of what the people of New Jersey intended by the constitution, and that is all we want to ascertain. If meeting in joint convention for the election of their State officers, there being no law to prevent it and no constitutional provision to prevent it, they could provide that they might be elected by a plurality vote, why is it that when they come into joint convention legally they shall not have the same powers?

The next question is, were they brought together in joint convention legally? That depends, first, upon the inquiry, is there any law which brings them together; and secondly upon the other inquiry, had the Legislature the authority to pass such a law? There is a law, and what is it:

"Senators of the United States on the part of this State shall be appointed by the Senate and General Assembly of this State in joint meeting assembled."

It is not necessary to read the whole law.

Mr. FESSENDEN. I should like to ask the Senator a question right there. Would not the Legislature of New Jersey have the power by a joint resolution on concurrent act to elect a Senator, and where a Senator was elected in pursuance of that joint resolution, would he not have been legally elected, notwithstanding that law of the State?

Mr. JOHNSON. I do not know that. I am not prepared to say yes or no to that question. That is not the point before the Senate just now.

Mr. FESSENDEN. Why then does the Senator cite that law?

Mr. JOHNSON. For the purpose of showing that they were brought properly into convention; that is all. The use I shall make of it my friend will find by and by, if he will only stop his inquiries until I can get to that point.

Mr. FESSENDEN. I did not know that the Senator objected to inquiries, and of course I shall make no more.

Mr. JOHNSON. I never object to any inquiry the honorable member puts; but he sometimes puts an inquiry rather in anticipation of what would be the proper period of propounding it. He is sometimes rather in a hurry, like some other of my friends. [Laughter.] Now, the law of 1846 provides that—

"Senators of the United States on the part of this State shall be appointed by the Senate and General Assembly of this State in joint meeting assembled."

Had they authority to pass that law, is the next inquiry. I do not understand that that is doubted, and it could not well be doubted without unsettling the whole practice of the Government. I think there are some sixteen or seventeen States in which the Senators are elected in joint convention, and nobody has ever in the past called in qestion the validity of such an election; and I do not understand that either my friend from New Hampshire or my friend from Maine does it in this instance.

If they had the authority to call them together in joint convention, what were they when they got into convention? The Legislature is made to consist by the constitution of two branches, and the law says that those two branches, instead of acting concurrently in the election of Senators from New Jersey, shall meet in joint convention. What for, and in what capacity? To elect Senators is the purpose. In what capacity? As the Legislature, for they could not give the authority to anybody else. The constitution provides that Senators shall be elected by the Legislature, and the Legislature, in the exercise of what I understand to be the admitted power, passes a law which says that they shall go into joint meeting and there elect. Elect how? Elect as a Legislature, so that they are in the joint convention as a Legislature, just as they are in such a convention as a Legislature by force of the constitution in the election of State officers. There is not a word to be found in that law which provides that they are to act separately when they get into joint convention. There is not a word which declares the number of votes which are to be necessary to the election; and the result may be, and the result often is—and that proves, as I think, that I am right and my friend from Maine is wrong—that a Senator is elected without getting perhaps a single vote from one of the branches that constitutes the Legislature and authorized to act concurrently in the joint business of that department of the government. That might have been the case here.

The General Assembly of New Jersey consisted of sixty members, and the Senate of twenty-one. Suppose Mr. Stockton, or anybody else, had received a majority of the whole eighty-one—forty-two—and that every one of the votes cast for him had been cast by members of the House, while every one of the votes of the Senate had been cast against him, would he not have been elected? Certainly he would be elected; but he is not the choice of the Legislature in one sense, if my friends are right. If the legislative choice is to be made known by concurrent action and can only be so made known, then the concurrent assent is necessary. If it may be made known by the joint action, without reference to the authority conveyed to each body by its own constitution, then it can only be that a choice of that description is a choice by the Legislature; and if you come to the conclusion that the choice made in that way is a choice by the Legislature, it is only because the two bodies when in joint convention assembled constitute the Legislature. Why should it not be so? What has the Senate of the United States to do with it? What has the Constitution of the United States to do with it? What have the people of the United States to do with it? We are the representatives of our own States. The Constitution denies to itself the authority to interfere with that right. It says that the election of the Senators of the several States shall be a matter exclusively within the authority of the Legislatures of the several States. How the Legislature is to act, when they are to be considered as a Legislature, whether in acting in the particular instance they are to be esteemed as a Legislature depends upon the constitution

and laws of the particular State, and it would be monstrous if it were otherwise. But what is it to us? Why should we interfere and tell the people of New Jersey that they shall not elect in any manner that their Legislature thinks proper to elect? I agree with my friend from Maine, that the Legislature is selected by the Constitution of the United States, but being selected, the powers which it is to exercise, the time when it is to exert them, the place where the election is to be held, and the manner in which the election is to be conducted, all depend exclusively upon the constitution and laws of the State.

Now, what is the fact? My friend from Maine says, and I wonder that he did not see that that begged the whole question, that these precedents have nothing to do with the question, provided they are all against the law. That is assuming the very thing in dispute. All the members of the Committee on the Judiciary, except my friend from New Hampshire, thought that the election was properly held, and they relied upon the precedents; and my friend from Maine undertakes to avoid the application of the precedents by saying that the proposition is so plain against the precedents, the precedents should have no weight. If it be so plain, there is an end of the dispute; but I wonder that my friend from Maine had not seen that the fact that precedent after precedent had been established, if they were established, was evidence at least that in the opinion of New Jersey the opinion which he entertains now is not so plain.

Mr. FESSENDEN. I suppose the Senator does not mean to misrepresent me.

Mr. JOHNSON. Certainly not.

Mr. FESSENDEN. And yet the Senator has informed us that he does not desire to be interrupted.

Mr. JOHNSON. That depends upon whether I am able to answer it. [Laughter.]

Mr. FESSENDEN. I stated that those precedents that were relied upon had nothing to do with this case, because the rules relied upon as precedents were according to the common law and parliamentary law.

Mr. JOHNSON. So I understood. But the precedents go to show that in the opinion of the Legislature of New Jersey, when they were meeting in joint convention, they could establish rules without the authority of the Legislature acting concurrently. Now, what have they done? As far back as 1794 New Jersey prescribed the rules for the government of the joint meeting, and they adopted fifteen rules. One was:

"That the election of State officers during the present session be *viva voce*"—

They had a right to do that, I suppose. At least I have not heard that denied—

"unless when otherwise ordered; and that all officers be put in nomination at least one day before their election."

I suppose they had the authority to do that, and yet there is no rule for it unless this rule be law.

"2. That the chairman shall not be entitled to vote, except in case of a tie, and then to have a casting vote."

Had they authority to do that? The other rules do not so particularly relate to the question before us. In 1851 the following additional rule was adopted:

"*Resolved*, That no person shall be elected to any office, at any joint meeting during the present session, unless there be a majority of all the members elected personally present, and agreeing thereto."

They had the authority to pass that, I presume. Why did they pass it? Why was it necessary in 1851 by rule to provide that no person should be elected to any office at any such joint meeting unless he received a majority of all the votes? Because in the absence of such a rule, there might be another rule by which he might be elected without a majority; and for the purpose, therefore, of excluding the authority to elect by less than the majority, they passed a positive rule providing that a majority should be required. The power exerted was legislative; the subject to which the power addressed itself was a subject for the legislative department of the Government; and if they had therefore in the exercise of the power over that subject the authority to provide that a majority should be required, why, in the name of common sense, is it that they had not the authority to say that less than a majority should be sufficient? They went on under that rule, and in 1855, when the new constitution was adopted, they reaffirmed the fifteen rules adopted as far back as 1794, but added the following:

"That all candidates for office, upon receiving a majority of the votes cast by this joint meeting, shall be declared duly elected."

The same observations that I made in relation to the rule established in 1851 are applicable to this. But let me read from the report of the committee:

"The joint meeting of 1861 adopted the rules of the preceding joint convention for its own government among which were the following."

They adopted the rules themselves at each meeting:

"1. That the election of State officers during the present session be *viva voce*, unless when otherwise ordered.

"15. That in all questions the chairman of the joint meeting be called upon to vote in his turn, as one of the representatives in the Senate or Assembly, but that he have no casting vote as chairman."

Changing the original rule in that respect, which gave him no authority to vote at all except to throw a casting vote in the result of a tie.

"16. That all candidates for office, upon receiving a majority of the votes cast by this joint meeting, shall be declared duly elected."

They went on under these rules until 1865, when Mr. Stockton was elected, and at the first meeting in 1865, before a ballot was cast, they adopted the rules of the preceding joint meeting except the sixteenth, which required a majority, in lieu of which the following was adopted:

"*Resolved*, That no candidate shall be declared elected unless upon receiving a majority of votes of all the members elected to both Houses of the Legislature."

Why was that passed?

Mr. FESSENDEN. Will the Senator allow me to ask him a question right there?

Mr. JOHNSON. Certainly.

Mr. FESSENDEN. Suppose after the adoption of that rule, there was a quorum present, that is, a majority of the whole convention present, and a vote had been taken and a certain person had received a majority of all the votes cast, the votes cast amounting to more than a quorum?

Mr. JOHNSON. He would not have been elected under this rule.

Mr. FESSENDEN. I ask you, would he not have been elected?

Mr. JOHNSON. No, not under this rule.

Mr. FESSENDEN. But suppose he had presented himself here with that state of facts?

Mr. JOHNSON. No, I should say not, unquestionably.

Mr. FESSENDEN. There is no question he would have been legally elected.

Mr. JOHNSON. That depends on the Legislature. My honorable friend seems to be rather usurping the function of the Legislature. The Legislature say he shall not be elected unless he has a majority of all the votes of all the members, and the case supposed by the honorable member is the case of a man presenting himself here and claiming to be elected although he has not received a majority of all the votes of all the members.

Mr. FESSENDEN. I am speaking of the Legislature; but I am supposing that after the convention had adopted the rule the Senator has read, a person had received a majority of the votes of those present, being more than a quorum, the Legislature having passed no rule on the subject.

Mr. JOHNSON. I understand what you mean very well. I think you are clearly in error. But what I was about to say was this: the original resolution was "that all candidates for office, upon receiving a majority of the votes cast by this joint meeting, shall be elected." The substitute rule was "that no candidate shall be declared elected unless upon receiving a majority of the votes of all the members elected to both Houses of the Legislature." Nobody has questioned the validity of that rule, as far as I know; nor did anybody ever question the validity of the original rule of 1861, as far as I am advised; nor did anybody question the validity of the rule on the same subject adopted either in 1794 or in 1851. If the rules adopted at these several periods were right and valid, why were they valid? Only because it was a subject over which the joint meeting had jurisdiction. The possession of jurisdiction, and the manner of regulating that jurisdiction, are entirely distinct inquiries. Give the power to the joint meeting to prescribe rules, and then the rules prescribed, be they wise or be they unwise, are the laws for that joint meeting, and they are laws for the joint meeting only because of the other proposition that it is a subject submitted to the joint meeting by the very constitution of the body.

But let me inquire for a moment whether the ground upon which the Committee on the Judiciary place the question more decidedly is open to any serious objection. What is it?

"Your committee prefer placing the authority of the joint meeting to prescribe the plurality rule on the broader ground that, in the absence of any law, either of Congress or the State on the subject, a joint meeting of the two Houses of a Legislature, duly assembled, and vested with authority to elect a United States Senator, has a right to prescribe that a plurality may elect, on the principle that the adoption of such a rule by a majority vote in the first instance makes the act, subsequently done in pursuance of such majority vote, its own."

Is not the principle right as applicable to all elections? What is the principle, to repeat it in my own language? That where a body acting collectively or acting concurrently is clothed with the authority to elect, and have the right, therefore, to require that a majority of the whole shall be necessary or a majority of both branches shall be necessary, it is in their power to say that less than a majority of the whole shall be sufficient whether acting collectively or acting conjointly. I suppose nobody will doubt that. Then, as is conceded by both my friends who have spoken against the conclusion to which the committee came, that it was competent for the Legislature of New Jersey by a law to provide that an election of a United States Senator should be made by a plurality of votes, why is it not competent for the Legislature when meeting in convention to adopt the same rule? My friends say no, for he who receives less than the vote of a majority is not, within the meaning of the Constitution, the choice of the Legislature. That is begging the whole question. Why is he not the choice of the Legislature? If the Legislature by law so provides, the honorable members admit that a party receiving only a plurality would be elected; and why would he be elected in that case? Only because such an election is within the very term of the constitutional provision which says that Senators shall be "chosen by the Legislatures thereof." Now, in the case supposed, acting either concurrently or conjointly, they chose, in the first place, in order to effect the object submitted to them exclusively, to provide that when they go into the election, he who receives a plurality shall be considered as elected; but he is not in point of fact, as indicated by the mere vote, chosen by a majority of the Legislature. He is a majority candidate and a majority Senator; but in the sense of the Constitution, is he not the majority candidate and the majority Senator? If he is, as he certainly is, why is it? Only because they have said, speaking properly in their legislative capacity, that he who is elected in that way is the choice of the Legislature.

Well, now, what has been done? Honorable members seem to suppose that the difficulty is to be found in the words of the Constitution as they are found in the third section and in the fourth section of the first article. I have read the third section; now what says the fourth?

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

the Congress may at any time by law make or alter such regulation except as to the place of choosing Senators."

Congress has not legislated either as to the time or as to the manner; then the State is to do it under the very authority devolved upon it to decide for herself at what time and in what manner and at what place her Senators are to be elected. That is left to the State. What has the State done in this case? They have decided by the act of April 10, 1846, and the validity of that law is not called in question, that Senators shall be appointed by the Senate and General Assembly of the State in joint meeting assembled. That is all it says. How they are to act when they get into joint meeting, in what manner they are to vote, whether *viva voce* or by ballot, whether nominations are to be made orally or not in advance, and if in advance, how long in advance, that legislation is silent. Now, what is the result? My friends who differ with me on this subject seem to suppose that it is a common-law principle applicable to all bodies of this description, that in the absence of some legislation changing the rule, a majority must act. That in one sense is true; but how is the majority to act in order to change the rule? It is to act by providing for a different rule; and if they do provide for a different rule, and that different rule is complied with in the particular election, then the Legislature have complied with the provision of the Constitution which gives to the Legislature the authority to prescribe the manner in the absence of any prescription of manner on the part of the Congress of the United States.

The Legislature prescribed no manner; Congress prescribed no manner. What does the word "manner" mean? What is its proper acceptation? The election is to be held at such time and at such place and in such manner as the Legislature may direct. What is the meaning of the term "manner" as here used? What does it involve and include? Does it include the mode of voting? I suppose it does. But who is to decide that? The Legislature has made no provision. Cannot the joint meeting decide it? I suppose that will be admitted, for there is nobody else to decide. The whole duty would be arrested if there was not attached to the joint meeting an authority to regulate the mode in which the voting should proceed.

Mr. CONNESS. Will the Senator permit me an instant?

Mr. JOHNSON. With pleasure.

Mr. CONNESS. I did not mean to say anything on this subject and desire to vote; but on the question discussed by the Senator just at this time, what is meant by the term "manner," I have understood it to be elucidated by the different Legislatures who have provided different manners or modes of election. Some elect by the bodies voting separately, others provide that the election must be by joint convention, and as I understand the word "manner" it means that the Legislature is not to be confined to either mode of election by the separate Houses or the mode of joint convention; and thus the experience under that provision is that some States provide for the election according to one mode and some according to the other. I understand the word "manner" as going to that and no further. I will listen, of course, to what the Senator says.

Mr. JOHNSON. The honorable member is right in saying it goes to that extent; but it does not stop there, as I think the honorable member will see in a moment. They get together in joint meeting. Now, he says that the term "manner," as it is used in the Constitution, was intended to give to the Legislature merely the authority to decide whether the election should be made by the concurrent vote of the two branches, where there are two branches, or by a joint vote. There, he says, perhaps it is to stop. Can that be true? I was about to illustrate what I think will satisfy the honorable member that he is wrong in supposing that the authority conveyed to the Legislature of regulating the manner of the election terminates there. They get into joint meeting; cannot they establish rules of proceeding? Who doubts that? Can anybody doubt that unless they are inconsistent with some positive statute. Can they not establish rules of proceeding, and if they can where is the limit? Can they not prescribe that the election shall be *viva voce* or by ballot? Can they not prescribe that no ballot for any man shall be counted unless he is antecedently nominated? Who can doubt that? Nobody, as I think.

Mr. FESSENDEN. I doubt it very much.

Mr. JOHNSON. You do?

Mr. FESSENDEN. Suppose they say that no man shall be elected by a majority unless he has been antecedently nominated; a vote is taken, two thirds of the votes are thrown for a person not nominated; is he not elected?

Mr. JOHNSON. No; unquestionably not, unless you mean to take upon yourself the whole administration of this power conferred on the State exclusively. I would ask the honorable member if Congress, by legislation, cannot provide that no man should be elected unless he was first nominated. I suppose he will not deny that; and if he will not deny that, what is the difference between the cases? The honorable member says there is a difference between the two; a difference in what?

Mr. FESSENDEN. We cannot tell the Legislature whom they shall elect.

Mr. JOHNSON. Yes we can. Why cannot Congress by law prescribe that the mode of electing Senators should be by nomination before balloting? It is done by almost every deliberative body in the world. Congress is clothed, as it is, with regulating the manner; why cannot they regulate that manner as well as any other manner? The honorable member appears to suppose that whoever gets numerically a majority, is necessarily chosen. That is for the Legislature to decide; nobody else; and if the Legislature by law establish a different regulation, that regulation is binding upon this body unless it be true that we have a right to do that which is secured only to Congress, to interfere with the manner of electing Senators.

Mr. FESSENDEN. The Senator will let me ask him another question. Would a rule that the chairman, being a member of the Legislature, should have no vote be binding?

Mr. JOHNSON. Certainly, if Congress could make the same rule.

Mr. FESSENDEN. Congress could not make the same rule.

Mr. JOHNSON. Why not?

Mr. FESSENDEN. Because they cannot deprive any member of the Legislature of the right he has to vote.

Mr. JOHNSON. If that be so, the question of the honorable member does not apply to such regulations as Congress could make. Now, does the honorable member mean to say seriously—I beg pardon, for I know he always speaks seriously—that Congress could not by regulation prescribe everything that has been done by regulation in New Jersey? Could not they say that a plurality should be sufficient under certain circumstances? Certainly. If they could then, in the absence of regulation on the part of Congress, in whom is the power to regulate vested?

Mr. FESSENDEN. In the Legislature.

Mr. JOHNSON. "The Legislature." Now, what is the Legislature? Both branches. Both branches have not regulated as to this point; but they have regulated so far as to say that the Senators of that State are to be elected in joint meeting. Could not they have said that a plurality vote should be sufficient? And if they thought proper only to interfere with reference to the time and the place, saying nothing about the manner, the inference, in my judgment, is irresistible that they intended to leave to the body in joint meeting the whole authority of regulating the manner of holding the election; and that, as the Senate have seen, was the view taken by New Jersey in relation to all the elections held in joint meeting.

The question, Mr. President, is a purely legal one in relation to which I am sure no party feeling will operate, for every Senator is too honorable a man to let considerations of that description interfere; but it is a question involving as, I think, a very serious principle, one which touches us all, not the Senator from New Jersey alone; it is a matter of little or no moment to him whether he remains a member of this body or not; he has a home in New Jersey where he is honored and beloved. The principle is an important one. I consider this as a very serious interference, and if my friends who take a different view will permit me to say so, a very unconstitutional attempt to interfere with the rights of the States. It may come home to them or to those who may succeed them in the future. The Constitution of the United States leaves it to the Legislature, and the Legislature is to decide for itself in what manner the election is to be held.

I have, Mr. President, I believe, presented to the Senate all the observations that it is necessary to submit, and more than I intended, because of the interruptions to which I have been subjected.

Mr. HOWE. Mr. President——

Mr. SUMNER. If the Senator will give way, I will move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *March* 22, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read.

CORRECTION OF THE JOURNAL.

Mr. SMITH. I desire to have the Journal corrected. It states that my resolution in reference to national cemeteries was referred to the Committee on Appropriations. It was referred to the Committee on Military Affairs.

The SPEAKER. The correction will be made.

LEAVE OF ABSENCE.

Mr. LOAN. I ask leave of absence for my colleague, Mr. BLOW, for three weeks.

Leave was granted.

Mr. BERGEN. I ask leave of absence for my colleagues, Messrs. TABER and GOODYEAR, for one week.

Leave was granted.

UNION PACIFIC RAILROAD.

Mr. KASSON, by unanimous consent, presented a memorial of the General Assembly of Iowa for Government aid to the extension in Iowa of the Iowa branch of the Union Pacific railroad; which was referred to the Committee on the Pacific Railroad, and ordered to be printed.

PORT OF DELIVERY AT COUNCIL BLUFFS.

Mr. KASSON, by unanimous consent, introduced a bill to establish a port of delivery at Council Bluffs; which was read a first and second time, and referred to the Committee on Commerce.

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

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed a bill (S. No. 192) entitled "An act for the relief of Goldsmith Brothers, of the cities of San Francisco, California, and Portland, Oregon, brokers;" in which the concurrence of the House was requested.

WINNEBAGO INDIANS.

Mr. WINDOM, by unanimous consent, introduced a bill for the benefit of certain half-breeds and mixed bloods of the Winnebago tribe of Indians; which was read a first and

second time, and referred to the Committee on Indian Affairs.

CALIFORNIA LAND GRANT.

Mr. JULIAN, by unanimous consent, from the Committee on Public Lands, reported back House bill No. 377 to confirm the selection and location of lands granted to the State of California by the United States; which was ordered to be printed, and recommitted to the same committee.

Mr. ELDRIDGE. Mr. Speaker, we cannot hear anything that is going on in the House. If all the business is to be done on the other side of the House let us know it. Gentlemen seem to be addressing each other over there and not the Speaker.

The SPEAKER. The Chair does not understand the gentleman. Business is not confined to any side of the House. The first two gentlemen recognized by the Chair were gentlemen on the gentleman's own side.

Mr. ELDRIDGE. I find no fault with the Speaker, but we can hear nothing that is going on on the other side on account of the confusion in the House.

The SPEAKER. The gentleman has the right to make the point of order.

LAKE SUPERIOR SHIP-CANAL.

Mr. BEAMAN. I ask unanimous consent to introduce a bill granting certain lands to the State of Michigan to aid in the construction of a ship-canal to connect the waters of Lake Superior with the lake known as Lac La Belle, for reference to the Committee on Public Lands.

Mr. DENISON. I object.

MRS. CHARLOTTE E. READ.

Mr. DELANO, by unanimous consent, introduced a bill for the relief of Mrs. Charlotte E. Read; which was read a first and second time, and referred to the Committee of Claims.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, notifying the House that that body had passed bills and a joint resolution of the following titles, in which he was directed to ask the concurrence of the House:

An act (S. No. 68) to carry into effect the fourth article of the treaty of Washington concluded between Great Britain and the United States on the 9th of August, 1842;

An act (S. No. 57) for the relief of the heirs of Lieutenant Joshua D. Todd, late of the United States Navy, deceased;

An act (S. No. 200) for the relief of Jane Harris;

An act (S. No. 145) for a grant of lands to the State of Kansas to aid in the construction of the Northern Kansas railroad and telegraph; and

A joint resolution (S. R. No. 44) authorizing Commodore William Radford to accept a decoration from the King of Italy.

AGRICULTURAL COLLEGES.

The House resumed, as the unfinished business of the morning hour yesterday, the consideration of House bill No. 50, to amend the fifth section of an act entitled "An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts," approved July 2, 1862, so as to extend the time within which the provisions of said act shall be accepted and such colleges established, reported back from the Committee on Agriculture with a substitute.

Mr. BIDWELL. Mr. Speaker, by the act of July 2, 1862, entitled "An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts," there was granted, on certain conditions, an amount of land equal to thirty thousand acres for each Senator and Representative in Congress to which the States were respectively entitled by the apportionment under the census of 1860.

The purposes of this grant of lands are declared, in the fourth section of that act, to be the "support and maintenance in each State of at least one college where the leading object shall be, without excluding other scientific and classical studies and including military tactics, to teach such branches of learning as are related to agriculture and the mechanic arts."

Among the enumerated conditions the several States, in order to avail themselves of the benefits of the law, were required to express their acceptance within two years from the date of the approval of the act. They are required to pay all expenses arising from the selection and sale of the lands and the management and disbursement of the money. No part of the principal is to be expended in either the construction or repair of buildings. The interest only can be used for these and other expenses, so that the fund itself must remain undiminished and be a perpetual endowment for all time.

This act was amended April 14, 1864, by extending the time of acceptance two years, (which would carry it to April 14, 1866,) and by specially extending the benefits of the act, as well as the act of 1862, to West Virginia.

The following States have accepted the grant, and all of them received their agricultural college scrip, except Indiana and California, which have but recently accepted, to wit:

1. Rhode Island.
2. Kentucky.
3. Vermont.
4. New York.
5. Pennsylvania.
6. New Jersey.
7. Massachusetts.
8. Illinois.
9. New Hampshire.
10. Connecticut.
11. Maine.
12. Maryland.
13. Ohio.
14. West Virginia.
15. Indiana.
16. Iowa.
17. Kansas.
18. Michigan.
19. Minnesota.
20. Oregon.
21. Wisconsin.
22. California.

But these being land States are obliged to make their selections within their own limits. The States of Nevada, Delaware, and Missouri, and the Territories have not, as I am informed, accepted.

The third clause of section five of the act of July 2, 1862, requires that "any State which may take and claim the benefit of the provisions of that act shall provide, within five years at least, not less than one college," as described in the fourth section of the said act.

It must be apparent to every one, Mr. Speaker, that to provide the institutions required by the law, more time should be granted. Colleges are not the growth of a day; they require time for a proper beginning, the very foundation upon which the superstructure is to rest; they require great care, intelligence, and skill in order to shape their future proportions to the growing wants of agricultural developement; they demand a judicious outlay of vast sums of money, which cannot be well done if done in haste.

These are some of the reasons which induced the committee to recommend the extension of the time for the several States and Territories to provide these colleges. If there is one branch of industry which, more than another, claims the indulgent and fostering care of the Government, that branch is agriculture. I would by no means disparage other pursuits, for all should be encouraged; all are essential to make a complete whole—the sum, I may say, of our national industry. But, Mr. Speaker, where would be the manufacturing interests which are deemed of vital importance to every independent nation, without agriculture as a basis for their very existence and growth? Where would be your commerce whose sails are beginning to whiten almost every sea? What your future as a nation without these common-place but life-giving and life-preserving operations which are the only real creations of which the hand of puny man is capable, which produce seed time and harvest, and, at the bidding of industry, clothe the valleys with their annual robes of green and supply man with his daily bread, and make the desert wastes bud and blossom as the rose? Blot out this paramount interest and hardly a nation would survive. Organized society and labor would cease, there would be no division of labor, no manufactures, no commerce, none of the arts of peace and civilization.

Every civilized country must of necessity derive its principal means of subsistence from the soil; everything else is merely auxiliary.

Keep the agricultural interest in a prosperous condition, and the future of our own country will be grand beyond the power of human conception.

Such an interest, then, merits, and should receive, the first care of the nation. It should be a leading object in legislation. It should be taught by precept and example in schools, colleges, and elsewhere, and made an object of respect.

All are deeply concerned in devising the most efficient means to secure its promotion. It will afford a field of study almost limitless.

If the fertile, and what have been supposed almost exhaustless, soils of America are preserved in all their vigor of production, the best modes of returning to them what is annually taken away must be understood. Every year the best lands are losing their vitality, which is carried off in the form of grain and other products, which go to cities and across the ocean to supply the markets of the world, and thence through sewers and rivers to the ocean never to return. The identical elements thus thrown away must be replaced or the soil becomes impoverished. They must be chiefly sought in another form and collected from other sources than those whither they have been transported in the form of marketable products, and the aid of science must be brought to bear to solve the grand problem, and hence the necessity of colleges whose leading object shall be agriculture.

The preservation of timber is another important consideration. In many parts of our country there is already an absolute scarcity. In other parts, as the great prairies of the West, the normal condition of the country was timberless. The best mode of replenishing our wasted timber lands should be discovered and put into execution. There can be no doubt, I think, as to the possibility of making prairies of the West wave with fields if properly sown and cultivated.

The rearing and improvement of domestic animals is a noble employment, and advantageous—I might say indispensable—to national prosperity, and should ever be an object of public recognition. It will be sufficient to state, in order to see the value of this branch of the farming interest of the country, that there was, in 1860, in the United States 6,250,000 in round numbers of horses, or, including mules, over 7,000,000; of neat cattle, over 25,500,000; of sheep, over 22,000,000; of swine, over 33,500,000, amounting, in value, to the enormous sum of over $1,000,000,000, or more than one third of the present national debt.

The grain-growing interest is enormous, amounting, in 1860, to a grand total of 1,221,468,127 bushels of wheat, rye, corn, oats, and barley. These items alone would, in all probability, be sufficient, if reduced to dollars, to pay another third of the national debt, and this, too, in ever-recurring streams, to be repeated as often as the earth shall repeat its annual circuit around its central sun.

Agriculture must, to be successful for all time, be in the hands of free and intelligent labor. There must be no mudsills, because agriculture will not thrive in the mud; and yet the mud contains within itself all the elements of fertility. Drain it, cultivate it, and bring forth its latent powers, and the reward will be fruits, flowers, and golden grain to gladden the heart and supply the wants of the laborer. And this illustration may be not inapplicable to the laboring classes whom slavery, with haughty pride, denominated as "the mudsills of society." Cultivate these classes, and train them in the way to intelligence, usefulness, and honor, and the choicest fruits of the human intellect and the most gifted minds may crown the labors of this nation. From these classes may spring Presidents, statesmen, poets, orators, and loyal heroes to perpetuate the blessings and the glories of this nation in peace, "for peace hath her victories no less renowned than war," and

defend the emblem of our national freedom against all enemies from within or from without.

And I will embrace this occasion to say, Mr. Speaker, that when all citizens shall have an equal opportunity to become intelligent and understand the real issues that have drenched this nation in blood, and labor shall be duly respected, there will be no more traitors within the length and breadth of this then glorious and happy country.

Ever since the rebellion began no man has felt more desirous than myself to see every vestige of slavery swept from the land. The war was the result of injustice to an unfortunate and downtrodden race. I have believed, and still believe, that our only safety for the future is to plant ourselves on the enduring rock of equal and exact justice—by that I mean equal protection and civil rights—to all citizens, the high, the low, the rich, and the poor. Every line of distinction is purely arbitrary and despotic in principle and in tendency, and wholly inconsistent with the fundamental principles of democratic republican government. To me it seems that whatever may be denied the States recently in rebellion, they should not be denied the means of intelligence. Give them that with a bounteous hand, and surround them with a flood of light to light their future pathway to allegiance and good government.

I now yield the floor to the gentleman from Iowa, [Mr. GRINNELL.]

Mr. ASHLEY, of Ohio. The first section reads as follows:

SEC. 1. *Be it enacted, &c.*, That there be granted to the several States and Territories, for the purposes hereinafter mentioned, an amount of public lands, to be apportioned as follows: to each State a quantity equal to thirty thousand acres for each Senator and Representative in Congress to which the States are respectively entitled by apportionment under the census of 1860, and to each of the organized Territories ninety thousand acres, to be selected within their respective limits: *Provided*, That no mineral lands shall be selected or purchased under the provisions of this act.

Does the committee want the House to understand that this is an additional grant of thirty thousand acres for every Senator and Representative?

Mr. BIDWELL. No, sir.

Mr. ASHLEY, of Ohio. Unless there is some proviso such will be the construction.

Mr. TROWBRIDGE. No, sir. This bill simply proposes to amend the original bill in regard to the length of time the State may have to accept its provisions. But it leaves the language of the original bill in regard to the amount of land donated the same as it was in the original bill of 1862.

Mr. GRINNELL. There seems to be a misapprehension in regard to this bill. I wish to offer two or three amendments, with the consent of the chairman of the committee. And I also wish to make a statement.

This bill owes its existence to the fact that some of the States have not accepted the provision of the grant of lands for agricultural colleges, and the committee simply wish to provide that such States as have not done so shall have an extension of time. A portion of the committee wished also to extend it to the Territories, but I understand this was not the report of the committee. Certainly I, for one, did not accept of that provision. We are all interested in carrying out the good faith of Congress in regard to these grants of lands. My own State has entered its portion of lands and has appropriated $100,000 for an agricultural college, one of the most promising institutions in the country, having the sympathy and support of the entire agricultural interest of our State.

Mr. HUBBARD, of Iowa. I desire to ask whether it is the intention of the committee to extend these grants to the Territories.

Mr. BIDWELL. It was the intention of the committee to extend it to the Territories, and I will state the reason why it was so done.

The original bill reads, "An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts." It seems to have been the intention of Congress when the original bill was passed to extend it to the Territories. But in executing the law the Land Office, I understand, did not extend the benefit of that act to the Territories, and one of the reasons why the committee considered it proper that the Territories might have the benefit of the law, was, that many of our new Territories have but a small amount of agricultural land, and unless they select early there will be no lands to select from at all. It was believed that nothing would be more important or add more to the prosperity of the new Territories than to give them lands to establish agricultural colleges.

Mr. GRINNELL. With the permission of the gentleman from California, [Mr. BIDWELL,] I will say that the States have taken great interest in this matter of agricultural colleges. The Committee on Agriculture, as I understand, intended to extend the provisions of the act to States that have not accepted them under the law. And a portion of the committee—the chairman, at all events—were in favor of extending them to the Territories. I did not concur in that. I did not believe it was worth while to commit to two or three thousand people who may be now in the Territories the care and custody of ninety thousand acres of land, to be held for all purposes whatsoever, or to be controlled by them perhaps for twenty years until the organization of the State.

Now, sir, with a view of carrying out the original law, I propose amendments which shall limit the extension to those States that have not availed themselves of the privileges of the act, and to cut off the Territories until they shall become States of the Union. I understand that to be the desire of the majority of the committee. I may be mistaken.

But I will state here, if the chairman of the committee has no objection, that I am willing that this bill, with the consent of the House, shall be referred to the Committee on Public Lands, with the privilege of reporting it at any time. If that meets the approval of the chairman, I will make no further remarks. Otherwise I insist on offering my amendments.

Mr. ROSS. I object to allowing the committee to report at any time. Leave that out.

Mr. MORRILL. Will the gentleman yield to allow me to offer an amendment?

Mr. GRINNELL. I have the floor with the permission of the gentleman from California.

Mr. BIDWELL. I will yield to the gentleman from Vermont.

Mr. MORRILL. I desire to offer a substitute for the bill which I think will accomplish all the chairman of the committee seeks, and relieve it from any objection.

The SPEAKER. This will come in as an amendment to the pending substitute.

Mr. MORRILL. I will state that the substitute limits the grants to those States which have come into the Union since the passage of the previous act, and extends the time for acceptance by the several Legislatures for the term of three years. I think that that is all the legislation that we now require, and that any other legislation as to the Territories or the disloyal States is premature.

The Clerk read the amendment, as follows:

That an act entitled "An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts," approved July 2, 1862, be so amended as to allow States which have been admitted into the Union since the date of said act the amount of public lands to which they would have been entitled in accordance with the provisions of said act applicable to other loyal States; and that the time for the acceptance of the benefits of said acts by the Legislatures of the several States shall be extended for the term of three years from the passage of this act, and the time for providing at least one college shall be extended for the additional term of five years.

Mr. BIDWELL. I will state that we only extend the time of acceptance.

Mr. HALE. I think the proposition of the gentleman from Vermont does extend the time. The original bill provides that any State which may claim the benefits of the provisions of this act shall provide within five years, at least, one college.

Mr. DELANO. I think that is an extension of the grant.

Mr. HALE. It is an extension of three years for acceptance.

Mr. DELANO. Does it only apply to the acceptance of the grant?

Mr. KASSON. Will the gentleman from California allow me to ask a little information in respect to the disposition to be made of the lands thus appropriated? Let me say, in connection with this, that the great curse and cause of ruin, I might almost say, to some of the western States is the enormous appropriation of public lands for certain purposes without any condition to put those lands on public sale so that settlers may use them for the purposes which God Almighty intended them for, namely, the creation of food for man.

Now, in respect to railroad grants and lands reserved for agricultural purposes, I have intended to insist upon every bill that there shall be some provision for exposing them to sale just as fast as settlers may require them.

Many of the counties in my State are half depopulated because Congress has tied up the lands by grants to railroads and other corporations who refuse to sell them and intend to hold them indefinitely for the future. I am glad to see the chairman of the Committee on Public Lands giving his attention to this point.

Now, I ask the chairman of the Committee on Agriculture to say whether, in the third section of this bill, which allows seven years for the acceptance by the States and Territories of the benefit of this act, there is anything to prevent the United States, in the mean time, from exposing these lands for settlement under the homestead system, or to purchase by actual settlers.

Mr. BIDWELL. None whatever.

Mr. KASSON. Is there anything in the bill that will tie up these lands and withhold them from sale?

Mr. BIDWELL. I believe the lands have been selected and located. It is evident that the objection to many parts of this bill and to the substitute offered by the gentleman from Vermont does not cover the ground at all, as it only applies to States that have been admitted into the Union since the passage of the original act. It does not provide an extension of time for those States which have but recently accepted the donation, and consequently have had no time whatever in which to provide these colleges. I think, therefore, that under the circumstances I had better move to recommit the bill to the Committee on Agriculture.

Mr. JULIAN. I submit to my friend from California, [Mr. BIDWELL,] and to the House, the propriety of referring the bill and amendments to the Committee on Public Lands, whose duty it is carefully to scrutinize the provisions of measures before them in every respect. That committee will deal fairly with the bill, and endeavor to report upon it at an early day.

Mr. BIDWELL. I have no doubt in the world that the Committee on Public Lands will deal fairly and act promptly upon this matter. But inasmuch as this bill was referred to the Committee on Agriculture, I do not like to give up the job after it has been completed to some extent. I desire to see if we cannot clear away the objections which have been presented to this bill, and bring it in in an acceptable form. My only desire is to have a proper and efficient bill to carry out the object Congress had in view when it passed the original law.

Mr. HUBBARD, of Iowa. If this bill is to be recommitted, I wish to accompany the recommitment with certain instructions to correct some defects which I apprehend exist in the bill. One of the objections I have to the bill has already been mentioned by my colleague, [Mr. KASSON;] that is the tying up of these lands and precluding them from settlement and improvement. I live in a congressional district where we have nearly four million acres of land tied up by railroad grants, by agricultural college grants, and by swamp land

grants—tied up entirely from settlement and improvement, and the whole country is being injured in consequence of it; and I wish to prevent any occurrences of this character in future grants.

I therefore move to amend the motion to recommit by adding instructions that a proviso be added that the lands hereby granted shall be subject to preëmption under the preëmption laws of the United States, the money realized from such sales to be paid over to the States entitled to the lands.

And then, in regard to the question of granting these lands to Territories, I do not think it is advisable to make a grant of ninety thousand acres of land to each of the present organized Territories. In some of our Territories the population is very limited; perhaps it will be found that in some of the Territories the population of white resident inhabitants does not exceed three thousand. I think it would be wrong to confer upon a Territory with such a sparse population a grant of ninety thousand acres of land, as this bill proposes. The probabilities are that if you should make a grant of that kind to a Territory with only that population, before five years nearly all of these lands would be squandered and misapplied to purposes not intended by the original grant.

Now, for the purpose of obviating any difficulty of that kind I desire to propose another instruction to the committee, to provide that the land hereby granted to the Territories shall not be incumbered or disposed of until said Territories are admitted into the Union as States.

Mr. BIDWELL. I desire to say to the gentleman from Iowa [Mr. HUBBARD] that the objections he has urged do not apply to this bill. In the first place, the substitute proposed does not grant any land at all. I have no objection, in the second place, to having a proviso inserted requiring the lands to be disposed of, and even settled upon if necessary; I am willing to have that done. But nearly all the States for whose benefit the law was enacted have received their lands, and this bill is only for the purpose of extending the time to allow new States to take this grant.

Mr. MORRILL. I hope this bill will not be recommitted to the Committee on Agriculture or referred to any committee. The main purpose of the bill is certainly a good one. It is merely to allow the new States of Colorado and West Virginia and Nevada the same benefits that other States have enjoyed. Of course the gentleman from California, [Mr. BIDWELL,] as I understand, does not now adhere to the provision of the bill giving lands to Territories. And having abandoned that portion of the bill, the only other objection is that in regard to extending the time and to give lands to new States which have been admitted into the Union since the bill was passed.

Mr. KASSON. I ask the gentleman from Vermont [Mr. MORRILL] why there should not be, in connection with this extension of time to all the States, a proviso requiring them within a limited time to put on sale the lands that have been selected. If they ask now an extension of time, why not make it a condition that the lands shall, within a specified period, be put to the use for which they were intended?

Mr. MORRILL. When the original bill was under consideration it underwent a very searching scrutiny, and after a long and patient examination in both Houses, it received such a shape as obtained for the measure the votes of, I believe, more than two thirds of the members of both bodies. I think it would not be wise or proper to open any of the questions which were then settled. I believe that we should grant to these new States precisely the same terms as we granted to all the other States.

Mr. KASSON. The answer to that, Mr. Speaker, is that the main object to be accomplished by the bill was what members voted for; and that was the establishment of agricultural colleges. No one believed that the effect of the measure would be to depopulate, or rather to prevent the population of, the new States in which the lands are situated. I know that my friend from the Pacific slope, the chairman of the Committee on Agriculture, [Mr. BIDWELL,] sympathizes entirely with me in the desire that every bill making a grant of public lands should contain such a provision as will insure the settlement and cultivation of those lands, and prevent their being held for speculative purposes. My object in these remarks is to call the attention of the Committee on Agriculture, the Committee on Public Lands, and the House generally, to the importance of such a provision in connection with every bill which will enable us to reach that question.

Mr. BIDWELL. I yield for a few moments to the gentleman from Washington, [Mr. DENNY.]

Mr. DENNY. As the interests of the Territories are involved in this question, I desire to state that several of the Territories have already taken steps to accept this land grant, with the understanding that the original bill extended the grant to the Territories. I desire to say that if it is proper to make a donation to promote educational interest, certainly the time when that donation is most needed and is calculated to be of the greatest possible benefit is the proper time to bestow it. Therefore this grant should extend to Territories as well as States.

I desire to say further that I concur in the idea advanced by the gentleman from Iowa, that if the Territories are included at all, and I trust they will be, they should certainly have the privilege of disposing of the lands; and so far as I am concerned, I do not wish my Territory included in this grant unless it be done in such a way that the land there shall not be tied up and debarred from settlement. I trust that gentlemen of this House who are interesting themselves in this question will endeavor to deal justly and liberally with the Territories.

Mr. BIDWELL. I yield for a few moments to the gentlemen from Dakota, [Mr. BURLEIGH.]

Mr. BURLEIGH. Mr. Speaker, I should like to know on what principle of equity the gentleman from Iowa [Mr. HUBBARD] would have these lands withheld from the Territories while they are granted to the States. The people of our Territories certainly need something of this kind as much as the States. It appears to me that Congress is in duty bound to regard the interests and wants of the Territories as much as those of the States. The people of the Territories have gone there from almost every State in the Union, whose feelings they to a great extent represent. The people of the Territories are poor; they have not the means of establishing schools and colleges without the aid of the Government. It is very true that our population is sparse; the Territories are not thickly settled, but I think the allusion to that fact would have come more gracefully from any other gentleman than the gentleman from Iowa, [Mr. HUBBARD,] whose district, I believe, spreads over thirty-seven counties.

Mr. BIDWELL. I must decline to yield any longer, as I desire to have a vote on the motion to recommit this morning. I demand the previous question.

Mr. ASHLEY, of Ohio. I ask the gentleman to let the instructions be offered, so that we may have a vote on them.

Mr. BIDWELL. I have no objection.

Mr. HUBBARD, of Iowa. I move, then, to add as an amendment to the motion to recommit the following instructions:

Resolved, That the land hereby granted shall be subject to preëmption, and the preëmption laws of the United States, and the money realized from such sales shall be paid over to the States that may be entitled to the lands: *Provided*, The lands hereby granted to the Territories shall not be incumbered or disposed of until said Territories are admitted as States of the Union.

Mr. BIDWELL. I renew the demand for the previous question.

Mr. MORRILL. I hope the instructions will be voted down.

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

Mr. WRIGHT. I think the word "respectively" has been omitted after "States."

Mr. HUBBARD, of Iowa. Let it be inserted.

Mr. WILSON, of Iowa, demanded the yeas and nays.

The yeas and nays were not ordered.

The amendment was disagreed to.

Mr. MORRILL. If the motion to recommit be voted down, then the next question in order will be on the substitute I have offered.

The SPEAKER. The previous question does not exhaust itself till the third reading of the bill.

Mr. JULIAN. Is an amendment in order?

The SPEAKER. It is not, as the previous question has been seconded.

Mr. JULIAN. I desired to move to refer to the Committee on Public Lands.

The bill and pending amendments were then recommitted to the Committee on Agriculture.

NATIONAL ACADEMY OF SCIENCE.

The SPEAKER laid before the House a communication from Joseph Henry, Esq., the vice president of the National Academy of Science, transmitting its report for the year 1865.

Mr. KASSON. If that report relates to coinage, weights, and measures, then it ought to be referred to the committee on that subject. I make that motion, and if it does not, we can report it back again.

Mr. WILSON, of Iowa, moved that it be referred to the Committee on the Library.

Mr. WASHBURNE, of Illinois, moved that it be laid upon the table, and ordered to be printed.

The latter motion was agreed to.

LEAVE OF ABSENCE.

On motion of Mr. MORRILL, leave of absence was granted to Mr. WOODBRIDGE for a week from to-morrow.

CLERK TO COMMITTEE ON COMMERCE.

Mr. WASHBURNE, of Illinois. I am directed by the Committee on Commerce to submit the following report:

The Committee on Commerce, in obedience to the resolution of the House on that subject, and adopting substantially the report of the Committee on Military Affairs on this subject, respectfully report:

That, "in the judgment of the committee, a clerk is necessary for the transaction of its business;" "that as to the time their clerk is occupied in the necessary and legitimate business of the committee," it cannot be distinctly stated, varying as it does with the pressure of business. As to "what portion of the time of the clerk is occupied in attending to the private business of the members of the committee," the committee will state that they deem that a matter of amity between gentlemen, affecting only the personal relations of the clerk and themselves, and which, if not in any way interfering with the proper discharge of his public duties, ought not, the committee most respectfully submit, be made a question for legislative action, nor even a subject for impertinent inquiry.

I move that it be laid upon the table, and ordered to be printed.

Mr. WENTWORTH. Mr. Speaker, I rise to a question of privilege. I deny the right of any chairman, I consider it disrespectful to the House, after we have passed a solemn resolution, for any committee to turn on us and say we have made an impertinent inquiry. If I had been here when previous reports of a like character were submitted I would have objected to them as disrespectful to the House. We have the right to inquire of our committees on any subject we please, and they have no right to say to the House of Representatives we have made an impertinent inquiry. I move that the report be not received.

Mr. JENCKES. Move that it be recommitted.

Mr. WENTWORTH. I wish also to contrast that report with one submitted a few days ago by the Committee of Ways and Means. I want to see the difference between them. I now move that the report be not received.

Mr. JENCKES. I move that it be recommitted to the Committee on Commerce.

The SPEAKER. It has not yet been received.

Mr. WASHBURNE, of Illinois. This report follows the language of the report of the

Committee on Military Affairs, which was adopted unanimously.

Mr. WENTWORTH. I was outside when that was before the House or I would have objected to it. I object to any report that is impertinent.

Mr. WASHBURNE, of Illinois. I withdraw the report.

Mr. WENTWORTH. I move that it be recommitted to the committee.

Mr. WASHBURNE, of Illinois. It is not before the House.

The SPEAKER. The gentleman from Illinois [Mr. WASHBURNE] withdraws the report. He has a right to do so. The report will be returned to the committee.

Mr. SPALDING. Will the gentleman withhold his withdrawal for half a minute? I have a remark to make.

Mr. WASHBURNE, of Illinois. For what purpose?

Mr. SPALDING. I suppose members of the House have some rights.

Mr. WASHBURNE, of Illinois. I have no objection.

Mr. SPALDING. When the Committee on Military Affairs made their report through their chairman, [Mr. SCHENCK,] I took exception to that report, as the House will bear me witness. But the chairman of the committee said that he meant no disrespect to the House; and with that explanation the report was accepted.

Mr. WASHBURNE, of Illinois. And I stated at the time that I should adopt the report of the Committee on Military Affairs; but my colleague [Mr. WENTWORTH] objects, and I withdraw it.

NORTHERN KANSAS RAILROAD AND TELEGRAPH.

A message was received from the Senate, by Mr. FORNEY, its Secretary, informing the House that the Senate had to-day adopted the following resolution:

Resolved, That the Secretary be directed to request the House of Representatives to return to the Senate bill No. 145, for a grant of lands to the State of Kansas to aid in the construction of the Northern Kansas railroad and telegraph, which passed the Senate, and was sent to the House for concurrence.

The SPEAKER. According to the usage, the bill will be returned.

MARINE HOSPITALS.

Mr. WASHBURNE, of Illinois. I move that the House proceed to consider the business on the Speaker's table.

The motion was agreed to.

The SPEAKER. The first business is House bill No. 184, to authorize the sale of marine hospitals and of revenue cutters, returned from the Senate with amendments.

Mr. WASHBURNE, of Illinois. I move that the House non-concur with the amendments of the Senate. We undertook to sell a parcel of marine hospitals and get rid of the expense, and the Senate have undertaken to interfere with our purpose.

The amendments of the Senate were read.

Mr. WASHBURNE, of Illinois. I desire to say a word. The House passed a bill authorizing the sale of certain marine hospitals throughout this country where they are not wanted and where they are a large expense to the Government. Many of these hospitals are in the southern States. There is one at Natchez, one at Napoleon, Arkansas, two in North Carolina, and one at Charleston, South Carolina, I think. There are many hospitals in the States that have not been in rebellion. The House passed a bill authorizing the sale or lease of those hospitals. The Senate have amended the bill by striking out that portion of it which would cover all the hospitals that can be sold properly and putting in a few. To show how little the Senate knew about the matter, they have directed that the marine hospital at St. Louis shall be sold when we have no marine hospital there. We put a provision in our bill that those hospitals which ought not to be sold should not be sold.

I hope the House will be satisfied with this explanation, and that we shall adhere to the bill substantially as it passed the House.

Mr. FARNSWORTH. I think the hospital at Chicago has been authorized to be sold before.

Mr. WENTWORTH. I will explain that the hospital at Chicago was sold, and the money realized was appropriated to build another hospital. I am perfectly willing that the matter shall be referred to the Committee on Commerce, of which my colleague [Mr. WASHBURNE] is chairman.

Mr. WASHBURNE, of Illinois. There is no necessity of committing it to the Committee on Commerce. They would report precisely what I now propose. I move the previous question on my motion.

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

The amendments of the Senate were not concurred in.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the House non-concurred in the amendments of the Senate; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

NAVAL APPROPRIATION BILL.

The next business upon the Speaker's table was bill of the House No. 122, making appropriations for the naval service for the year ending June 30, 1867, returned from the Senate with sundry amendments; which was referred to the Committee on Appropriations.

QUARANTINE AT NEW YORK.

The next business upon the Speaker's table was joint resolution of the House No. 57, authorizing the Secretaries of War and the Navy to place hulks and vessels at the disposal of commissioners of quarantine or other proper authorities at ports of the United States, returned from the Senate with an amendment.

Mr. WASHBURNE, of Illinois. I hope the House will concur in the amendment. It is a mere limitation upon the original resolution.

The amendment of the Senate was read, and concurred in, as follows:

At the end of the resolution add the following:
Provided, That this resolution shall continue in force one year from its passage.

The Senate also proposed to amend the title of the joint resolution by adding the words "for one year."

The amendment to the title was concurred in.

STAMPS AND STAMPED ENVELOPES.

The next business upon the Speaker's table was bill of the Senate No. 71, to authorize the Postmaster General to deposit postage stamps and stamped envelopes for sale; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

PUNISHMENT OF KIDNAPING.

The next business upon the Speaker's table was bill of the Senate No. 132, to prevent and punish kidnaping; which was read a first and second time, and referred to the Committee on the Judiciary.

PENSION LAWS.

The next business upon the Speaker's table was bill of the Senate No. 116, to extend the benefit of the pension laws to artificers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

METROPOLITAN INSURANCE COMPANY.

The next business upon the Speaker's table was an act (S. No. 98) to incorporate the Metropolitan Fire and Marine Insurance Company of the District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

TRANSFER OF POST OFFICE APPROPRIATIONS.

The next business upon the Speaker's table was a joint resolution (S. No. 29) for the transfer of funds appropriated for the payment of salaries in the Post Office Department to the general salary account of that Department; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

GREAT FALLS ICE COMPANY.

The next business upon the Speaker's table was an act (S. No. 64) to incorporate the Great Falls Ice Company, of Washington, District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

THANKS TO SOLDIERS AND SAILORS.

The next business upon the Speaker's table was a joint resolution (S. No. 34) expressive of the gratitude of the nation to the officers, soldiers, and seamen of the United States; which was read a first and second time, and referred to the Committee on Military Affairs.

MILITARY ROAD IN OREGON.

The next business on the Speaker's table was an act (S. No. 58) granting lands to the State of Oregon to aid in the construction of a military road from Corvallis to the Aquina bay; which was read a first and second time, and referred to the Committee on Public Lands.

HUMBOLDT CANAL COMPANY.

The next business upon the Speaker's table was an act (S. No. 140) to grant the right of way to the Humboldt Canal Company through the public lands of the United States; which was read a first and second time, and referred to the Committee on Public Lands.

RELIEF OF THE DESTITUTE.

The next business on the Speaker's table was a joint resolution (S. R. No. 49) for the temporary relief of destitute people in the District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

ESTABLISHMENT OF COLLECTION DISTRICTS.

The next business upon the Speaker's table was an act (S. No. 199) to establish the collection district of Port Huron and the collection district of Michigan, and to extend the district of Puget Sound; which was read a first and second time, and referred to the Committee on Commerce.

ISSUING AMERICAN REGISTERS.

The next business upon the Speaker's table was an act (S. No. 89) to issue American registers to the steam vessels Michigan, Dispatch, and William K. Muir; which was read a first and second time, and referred to the Committee on Commerce.

NEW YORK CUSTOM-HOUSE EXAMINERS.

The next business upon the Speaker's table was an act (S. No. 39) to amend the act relating to officers employed in the examination of imported merchandise in the district of New York; which was read a first and second time, and referred to the Committee on Commerce.

WEST INDIA TELEGRAPH COMPANY.

The next business upon the Speaker's table was an act (S. No. 26) to encourage telegraph communication between the United States and the island of Cuba and other West India islands and the Bahamas; which was read a first and second time.

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

The bill was read at length, as follows:

Whereas James A. Scrymser, Alfred Pell, jr., Alexander Hamilton, jr., Oliver K. King, Maturin L. Delafield, William F. Smith, and James M. Digges, their associates, successors, and assigns, persons composing the International Ocean Telegraph Company, an incorporated company chartered by the State of New York, are desirous of establishing a line of submarine telegraphic communication between the United States of America and the West India islands and the Bahamas: Now, therefore, in order to facilitate the said enterprise,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the said International Ocean Telegraph Company, incorporated under the laws of the State of New York, their successors and assigns, shall have the sole privilege for a period of fourteen years from the approval of this act, to lay, construct, land, maintain, and operate telegraphic or magnetic lines or cables in and over the waters, reefs, islands, shores, and lands over which the United States have jurisdiction, from the shores of the State of Florida, in the said United States, to the island of Cuba and the Bahamas, either or both, and other West India islands.

SEC. 2. *And be it further enacted*, That the said International Ocean Telegraph Company shall, at all times during a state of war, give the United States the free use of said cable or cables to a telegraphic operator of its own selection to transmit any messages to and from its military, naval, and diplomatic or consular agents: *Provided*, That the said International Ocean Telegraph Company shall, within the period of three years from the passage of this act, cause the said submarine telegraphic cable or cables to be laid down, and that the said cable or cables shall be in successful operation for the transmission of messages within the said period of three years; otherwise this grant to be null and void.

SEC. 3. *And be it further enacted*, That Congress shall have power at any time to alter or repeal the foregoing act.

Mr. WASHBURNE, of Illinois. The Committee on Commerce have fully considered this subject. The point which I insisted upon, whether in committee or out of it does not matter, is that if this grant is made it should be upon the condition that the Government of the United States shall have the free use of this telegraph at all times, as well in time of peace as in time of war. I move, therefore, to amend the second section by striking out the words "during a state of war."

Mr. WILSON, of Iowa. I would inquire of the gentleman from Illinois [Mr. WASHBURNE] whether the grant in this bill to this company to land their cables and establish their stations, is confined to the coast of Florida, or whether it extends beyond that coast.

Mr. WASHBURNE, of Illinois. I will read:

To lay, construct, land, maintain, and operate telegraphic lines or cables in and over the waters, reefs, islands, shores, and lands over which the United States have jurisdiction, from the shores of the State of Florida, in the said United States, to the island of Cuba, &c.

This is the point which is considered of great interest to commercial men. It was so considered by the Committee on Commerce. The difference was in relation to what the company should give in consideration of the grant for the term of fourteen years. I was unwilling to consent to giving this grant unless the company would agree to do without charge the business of the Government at all times, as well in peace as in war. I also insisted (and I see that the Senate has adopted such an amendment) that this company should have only three years instead of five to complete the line. Then there is in the third section a provision that Congress shall have power at any time to alter or repeal the act. My motion is to amend by striking out the words "during a state of war," so that the clause will read:

The company shall at all times give the United States the free use of said cable or cables.

I now yield to the gentleman from Massachusetts, [Mr. BALDWIN.]

Mr. BALDWIN. It appears, to me, Mr. Speaker, that the bill ought to contain some provision against such private and exclusive use of the telegraphic communication from Cuba and the West Indies as will make it impossible for the gentlemen owning and controlling this telegraphic line to monopolize the earliest intelligence from that quarter in regard to the markets. Take, for example, the sale of sugar, a very important article in our markets. By monopolizing the earliest intelligence in regard to the market prices of that article, in Cuba alone, a gigantic system of speculation might be established and carried on immensely profitable to those concerned in it. Such a monopoly of the earliest news from the markets in the West India islands would be worth millions. There are men who would gladly pay for it very heavily. It seems to me the bill should contain some provision that will furnish security against the possibility of such a monopoly as this.

Mr. WASHBURNE, of Illinois. I was disposed to entertain pretty much the same opinion as my friend from Massachusetts [Mr. BALDWIN] has expressed, for I am opposed to every kind of monopoly, or anything that looks like it. This matter was very thoroughly discussed in the Senate, and it appeared that there really need be no apprehension of such a thing as the gentleman suggests. These men really obtain but a very small privilege by this bill. The enterprise is but an experiment at any rate, and it is considered by all commercial men as an enterprise of very great importance.

I do not appear here as the champion of the bill. I merely desire to state to the House that I will not oppose it if the amendment which I suggest be adopted. Otherwise I shall oppose the bill to the utmost.

Mr. WILSON, of Iowa. I desire to ask the gentleman from Illinois whether the committee have considered the probable extent of the burden which his amendment would impose on this company. The company are to receive no subsidy whatever from the United States. They ask for the privilege of landing their cable and establishing their station, and they have that privilege exclusively, so far as the coast of Florida is concerned, for the term of fourteen years. That is all the company are to obtain. The Government is to pay them nothing for the purpose of aiding them to establish this communication. It does seem to me that, unless the gentleman has some data by which he can inform the House as to the extent of the burdens which the amendment would impose on the company, the House should reject the amendment.

Mr. BLAINE. I ask the gentleman from Illinois [Mr. WASHBURNE] to yield the floor to me for a few moments.

Mr. WASHBURNE, of Illinois. I will do so.

Mr. BLAINE. Mr. Speaker, although I do not desire to make any opposition to the course of the gentleman from Illinois on this bill, I desire to say a word respecting the operation and effect of the amendment which he urges as the condition of his supporting the measure. The bill as it comes from the Senate, proposes to send all the Government dispatches free in time of war; or indeed to give the Government practical control of the line in time of war. My friend from Illinois insists that all the Government business shall be done free in time of peace also.

Now, so far as the Government business in time of peace is concerned, let me say that it would be very inconsiderable, and to send it without charge would not be much of a burden on the telegraph company and not much of a boon to the Government. A few hundred dollars per annum would probably cover the whole of it. But the prejudicial effect of such an amendment will be found in the fact that whatever conditions our Government lays upon the telegraph company the same will be exacted by the Spanish Government. This being the case there is a strong possibility, amounting indeed to a probability, that this condition from the Spanish Government might prove very onerous and oppressive. The probability of such a result is precisely in proportion to the probability of the Atlantic telegraph being successfully laid. In that event a vast amount of correspondence between Madrid and Havana would be carried on by telegraph, and it would impose an unreasonable burden on this company to compel them to send all the messages of the Spanish Government without charge. Now, the inevitable effect of the amendment proposed by the gentleman from Illinois will be to incumber the telegraph company with precisely this heavy load. If our own Government were to gain any corresponding gratuity to the immense one that would thus accrue to the Spanish Government, I would not object to the amendment, but the gentleman from Illinois cannot fail to see that his amendment will impose a severe penalty on certain enterprising American citizens simply for the benefit of the Spanish Government, and this being the plain and palpable effect I hope he will consent to withdraw it.

Objection has been made against granting a monopoly of this kind to any company for fourteen years. Such grants are, I admit, in general very objectionable; but in this instance I think it entirely justifiable. Indeed, it is simply a question as to whether an American company or a Spanish company shall have a monopoly, or rather whether a Spanish company shall have it solely or share it fairly with an American company. This bill will simply place the American company in a position to enforce its rights against the Spanish company. The company ask no subsidy from our Government, and in this respect its claims are very modest when compared with the Pacific Telegraph Company, which asked and obtained a grant of $40,000 a year for ten years from the Federal Treasury, and is now in receipt of that splendid endowment annually. It strikes me as a little strange that gentlemen who assisted in procuring that extravagant grant from Congress should now oppose this bill on the ground of its being a monopoly.

I trust, Mr. Speaker, that my friend from Illinois will not press his amendment, and that the bill will be allowed to pass just as it came from the Senate.

Mr. WASHBURNE, of Illinois. That is a consideration which should have no influence with us. We are not to regulate our legislation in accordance with the anticipated legislation of the Spanish Government. My amendment stipulates for a privilege on the part of our Government which this company should not refuse to give, in view of the fact that we give the company an exclusive privilege for the period of fourteen years.

Mr. BLAINE. We give the Pacific Telegraph Company $40,000 a year. We give this company nothing.

Mr. THAYER. Mr. Speaker, I do not think the House is prepared to act on a measure of this importance with no more information than we have on it. I think this bill ought to be printed, and if in order I move it be printed and recommitted. It is impossible we should legislate safely in regard to a bill that we have not had an opportunity to understand. We do not understand the extent of this monopoly, what privileges may be conferred, and what consequences may follow. For one, sir, I will vote for no bill in regard to which I have had no opportunity of obtaining more information than I have been able to get since this was taken from the Speaker's table.

Mr. WASHBURNE, of Illinois. This provides that the charter may be altered or repealed at any time.

Mr. ALLEY. I wish to say a single word on this subject. I do not know that I am opposed to it; in fact I am in favor of the project, although serious objections occur to my mind at the present moment to this bill as it is. The chief one is that urged by my colleague, [Mr. BALDWIN.] I think that is a serious objection, and it ought to be provided against. This will give them the control of all the markets in the West Indies and all the markets in South America, and it will be impossible for private parties to help themselves. I submit to this House whether it is worth our while to grant to a private company the control over the markets of the West Indies and South America, and for no consideration whatever. For this is the practical effect of this bill.

Then, again, I object to it on another account. It contains no provision in regard to the rate of charges. That to my mind is a serious objection. I think a provision should be introduced by which intelligence may be communicated at a fair rate. If this company is to have the exclusive right to telegraph, surely the people should have some protection against exorbitant and unreasonable charges.

Allusion has been made to the overland telegraph to California, and it has been stated that this Government gives that company a subsidy of $40,000. Mr. Speaker, that is a fact, and my experience in reference to the procurement

of that subsidy and the formation of that company has led me to feel cautious in granting such privileges, Your experience, Mr. Speaker, I have no doubt has had the same effect upon you.

Mr. BLAINE. Does the gentleman pretend to say that the Pacific telegraph has given anybody in the Atlantic States control over the California market?

Mr. ALLEY. Not at all.

Mr. BLAINE. Why will this do it then in the Cuba market?

Mr. WASHBURNE, of Illinois. If gentlemen who represent commercial interests are opposed to this bill, then I move that it be referred to the Committee on Commerce. If gentlemen from Massachusetts, in whose interest this thing is got up, oppose it, very well, let it go.

Mr. ALLEY. I do not say I am opposed to it. I am in favor of everything of the kind and always have been. I was in favor of the overland telegraph to the Pacific as much as any other member of the House, and I did everything in my power to procure the passage of that act. Your experience, Mr. Speaker, as chairman of the committee that reported that bill, must have convinced you, as it has done me, that it is necessary to examine carefully into all these bills to see that no gigantic monopoly shall be granted without sufficient care, without sufficient provision to prevent any undue advantage.

Mr. STEVENS. Although I opposed the subsidy to the overland telegraph, I do not suppose it was an exclusive grant.

Mr. ALLEY. It was not an exclusive grant.

Mr. STEVENS. Whenever an exclusive grant is proposed here I hope it will not be sanctioned by the House.

Mr. ALLEY. I think the California grant was not an exclusive grant. It was supposed it amounted in effect to an exclusive grant at the time, inasmuch as $40,000 per annum was paid to that corporation, which it was pretended would constitute its only real net profit. Subsequently it was shown that the telegraph line to California would pay handsomely without remuneration from the Government. The Senate, almost by unanimous consent, agreed to a subsidy of $50,000 and the privilege of charging five or six dollars for a message, and the House cut down the subsidy to $40,000 and refused to let the company charge over four dollars a message. The subsidy and the charge were based upon the estimate made by the company that the cost would be $750,000. You will remember, Mr. Speaker, I had charge of that matter, and after a thorough investigation of the subject I satisfied myself from accurate data that it would not cost much more than $300,000, and convinced the committee of that fact. The company made an estimate, and they assured the committee, they pledged their honor for its accuracy, that it would cost at least $750,000. My estimate was made for the committee of which I was a member.

Mr. WASHBURNE, of Illinois. I decline to yield any further. I wish it to be understood that I am not here as the champion of this bill. I do not even know whether I shall vote for it or not. I certainly shall not vote for it as it comes from the Senate. I deem it, however, a matter of great importance to the commercial interests of the country that we should have this telegraph line.

I will now yield for a moment to the gentleman from New York, [Mr. DARLING,] who represents the commercial interest of New York.

Mr. ALLEY. I believe I have never objected; but if the gentleman cuts me off right in the midst of a sentence, I shall certainly object to his yielding to the gentleman from New York.

Mr. WASHBURNE, of Illinois. The gentleman says that if I do a certain thing, which I have a right to do, he will do a certain thing. Now, I do not propose to interfere with the gentleman if he will be short.

Mr. ALLEY. I do not wish to be understood by the House nor by the country as opposing this bill. I am not opposed to it. I am in favor of every enterprise of this character, provided it can be done with sufficient guards around it.

I was about to remark when I was interrupted, in regard to the California telegraph line, that it has been shown that that line only cost about three hundred thousand dollars, and they have watered the stock, I am informed, to $4,000,000, and it has sold with this watering at an enormous advance in the market.

Mr. WASHBURNE, of Illinois. After it was watered?

Mr. ALLEY. Yes, after it was watered to $4,000,000. Some of these men have made a million dollars out of the operation; and their charges for telegrams now to the Pacific are enormously exorbitant. That is the state of the case in regard to that line of telegraph. This Government is paying $40,000 a year subsidy to that poor company to help them out with the vast expenditure of $300,000. This is a very great improvement on that, and I am in favor of it with sufficient limitations. But I am not for giving a monopoly to any company for fourteen years and enable them to control the markets of the West Indies and all the South American States. I think this Congress is hardly prepared to do any such thing. Therefore I hope this bill will be referred to the committee and that they will examine the subject, as I have no doubt they will; and from my impression of the carefulness and prudence of the gentleman from Illinois in such matters, I am quite content to leave it in his hands, having no doubt that it will come forth from the committee in better shape than it is now.

Mr. BANKS. Will the gentleman from Illinois yield to me a moment?

Mr. WASHBURNE, of Illinois. Yes, sir.

Mr. BANKS. From reading this bill, I do not think it grants the control of the telegraph line to any private parties for public purposes. It is a public grant to private individuals for public uses, and the moment they cease to serve the public with impartiality the law will step in and deprive them of their grant. Therefore there is no great trouble in regard to that.

Mr. RICE, of Maine. Congress reserves the right to repeal the charter.

Mr. BANKS. Yes, sir. This is a grant, I say, for public purposes, and it cannot be used for any other than public purposes, in which the whole people have an equal right.

But there is an objection, and I think a just objection, to the second section, which provides, "that the said International and Ocean Telegraph Company shall at all times during a state of war give to the United States the free use of said cable or cables, and telegraph operators of its own selection." Now, sir, in a state of war, the United States must take possession of this line. It will never answer to leave it in the hands of the company itself with the privilege of sending communications by operators in its own employ.

Mr. WASHBURNE, of Illinois. In the employ of the Government.

Mr. BANKS. So far as it is not in the jurisdiction of the Government this law will have no effect at all.

It seems to me that the proposition of the gentleman from Illinois is too severe for a line which costs the Government nothing, and which is capable of important public service. To impose upon it the granting of the free use of its property for an indefinite time in case of war is a condition so onerous and unjust that it should not be enforced. I think it ought to go to the committee.

Mr. WASHBURNE, of Illinois. I now yield to the gentleman from New York, [Mr. DARLING.]

Mr. DARLING. I have but a few words to say on this question. I think what we want to consider is, in the first place, whether this enterprise is to be of any value to the country. Most assuredly the whole commercial intercourse of the large cities is benefited by being brought in connection with the West India islands. And if it is to be a public enterprise for the benefit of the country, most assuredly it will not be carried out unless the corporators are secured in the results and fruits of the enterprise. Therefore we ought to give these gentlemen some advantage to encourage them in investing their capital in a way which is going to benefit the commerce of the country. It is well known that capitalists will not seek a channel of investment that is not likely to yield any return. And while I, for one, am willing and desirous that proper guards should be thrown around all grants of this kind, I nevertheless entertain liberal views upon such questions. By extending protection to this enterprise we keep it out of the hands of foreign nations. For there is already a grant given to a company by Spain for a telegraph from the West Indies to the United States. And the State of Florida has already given to certain corporators a charter for twenty-five years.

Mr. STEVENS. When was that?

Mr. DARLING. Some time ago.

Mr. ASHLEY, of Ohio. Since the rebellion?

Mr. DARLING. Yes, sir.

Mr. HALE. I would inquire whether the company to which it is proposed to give this privilege on our coast is this same Cuban or Spanish company?

Mr. DARLING. No, sir; it is not.

Mr. HALE. Then I would ask my colleague what he proposes to accomplish by this except a strife between two monopolies—one under our Government and one under the Spanish Government.

Mr. DARLING. As this is a time of compromises, perhaps we can compromise.

Mr. HALE. One having a monopoly at one end of the line and the other at the other.

Mr. DARLING. I do not propose that they should have any advantage in this country, at all events. Whether we can secure the right is a matter for the future. But I have no doubt, whatever rights may be obtained from Spain, that American or Yankee ingenuity and persistency will secure what may fall into the hands of other individuals.

I do not see any reason why we should not grant to these gentlemen this privilege. It is certainly an enterprise which will develop great results, and it is of vast importance to this country.

Mr. WASHBURNE, of Illinois. I now move to refer the bill with the pending amendments to the Committee on Commerce, and that they be printed.

The motion was agreed to.

Mr. BALDWIN. I move to reconsider the vote by which the bill was referred, and to lay that motion on the table.

The latter motion was agreed to.

Mr. WASHBURNE, of Illinois. I move to reconsider the vote by which all the bills from the Senate were referred, and to lay that motion on the table.

The latter motion was agreed to.

THOMAS F. WILSON.

The next business upon the Speaker's table was Senate bill No. 146, for the relief of Thomas F. Wilson, late United States consul at Bahia; which was read a first and second time, and referred to the Committee on Commerce.

PUNISHMENT OF CRIMES.

The next business on the Speaker's table was Senate bill No. 165, more effectually to provide for the punishment of certain crimes against the United States; which was read a first and second time, and referred to the Committee on the Judiciary.

PUBLICATION OF THE LAWS.

The next business upon the Speaker's table was a joint resolution (S. No. 50) in relation to the publication of the laws of the United States; which was read a first and second time, and referred to the Committee on Printing.

Mr. LATHAM subsequently said: I desire

to state that the Committee on Printing were prepared to report with reference to the joint resolution of the Senate just referred to them in relation to the publication of the laws of the United States. My understanding was that the chairman of that committee [Mr. LAFLIN] would ask that that joint resolution should be put upon its passage when called. I notice he is not in his place.

The SPEAKER. The chairman of the Committee on Printing [Mr. LAFLIN] sent word to the Chair that if he was not in his seat when the joint resolution came up, he desired to have it referred to the Committee on Printing, which was done.

LIEUTENANT JOSIAH D. TODD.

The next business on the Speaker's table was an act (S. No. 57) for the relief of the heirs of Lieutenant Josiah D. Todd, late of the United States Navy, deceased; which was read a first and second time, and referred to the Committee on Naval Affairs.

TREATY OF WASHINGTON.

The next business upon the Speaker's table was an act (S. No. 68) to carry into effect the fourth article of the treaty of Washington, concluded between Great Britain and the United States on the 9th of August, 1842; which was read a first and second time, and referred to the Committee on Foreign Affairs.

JANE HARRIS.

The next business on the Speaker's table was an act (S. No. 200) for the relief of Jane Harris; which was read a first and second time, and referred to the Committee on Invalid Pensions.

COMMODORE WILLIAM RADFORD.

The next business upon the Speaker's table was a joint resolution (S. No. 44) authorizing Commodore William Radford to accept a decoration from the King of Italy; which was read a first and second time, and referred to the Committee on Foreign Affairs.

GOLDSMITH BROTHERS.

The last business upon the Speaker's table was an act (S. No. 192) for the relief of Goldsmith Brothers, of the cities of San Francisco, California, and Portland, Oregon, brokers; which was read a first and second time, and referred to the Committee of Claims.

LEAVE OF ABSENCE.

Mr. HUBBARD, of West Virginia, asked and obtained for his colleague, Mr. WHALEY, leave of absence for ten days.

CONDITION OF MEXICO.

The SPEAKER laid before the House the following message from the President of the United States, with the accompanying documents:

To the House of Representatives:

In compliance with the resolution of the House of Representatives of the 11th of December last, requesting information upon the present condition of affairs in the republic of Mexico, I transmit a report from the Secretary of State, and the papers by which it was accompanied. ANDREW JOHNSON.

WASHINGTON, *March* 20, 1866.

Mr. BANKS. I move that the message, together with the accompanying documents, be printed, and referred to the Committee on Foreign Affairs.

Mr. WASHBURNE, of Illinois. Is it necessary to have that great pile of papers printed?

Mr. BANKS. They are papers which have been called for by the House. It is always customary, I believe, to print the messages of the President.

The motion was agreed to.

QUALIFICATION OF JURORS.

Mr. LAWRENCE, of Ohio, by unanimous consent, introduced a bill in relation to the qualifications of jurors in certain cases; which was read a first and second time.

Mr. LE BLOND. I ask that the bill be read in full.

The bill was read at length. It provides that in trials for treason against the United States, or of other high crimes and misdemeanors against the United States, committed by organized military forces and a multitude of people, no person shall be disqualified from acting as a juror by reason of having formed and expressed an opinion upon the guilt or innocence of the accused, based upon public rumor, statements in the public journals, or the common history of the times, provided he shall be otherwise competent and shall declare upon his oath, and it shall appear to the satisfaction of the court that, notwithstanding such opinion, he can and will impartially try the accused upon the crime charged in the indictment, and a true verdict render upon the evidence to be given in the trial.

The bill was referred to the Committee on the Judiciary.

DEFICIENCY BILL.

The House then proceeded to the consideration of the amendments of the Senate to House bill No. 86, making additional appropriations, and to supply deficiencies in the appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1866, and for other purposes.

The Committee on Appropriations recommend that certain of the amendments be concurred in, and that certain other amendments be non-concurred in.

Mr. WASHBURNE, of Illinois. I ask that these amendments be considered in the House as in Committee of the Whole, subject to the five-minute rule.

No objection was made.

First amendment:

Strike out in the appropriations for the light-house establishment the following:

For commissions, at two and a half per cent., to such superintendents as are entitled to the same, under the proviso to act of March 3, 1851, on the amount that may be disbursed by them, $5,000.

The Committee on Appropriations recommended concurrence.

Mr. SPALDING. I move that the House non-concur in this amendment; and in making this motion, I have the entire approval of the chairman of the Committee on Appropriations.

I have here a communication from the chief of the Light-House Board, and I ask the Clerk to read it.

The Clerk read, as follows:

TREASURY DEPARTMENT,
OFFICE OF THE LIGHT-HOUSE BOARD,
WASHINGTON, *March* 21, 1866.

SIR: It is observed that the deficiency bill was amended in the Senate by striking out the item of $5,000 for commissions of superintendents of lights.

This item was regularly estimated for by this office, (see page 247 Estimates,) and the light-house service will materially suffer if the amount is not appropriated.

I would be much obliged if you will have the amount reinstated in the bill.

Very respectfully, W. B. SHUBRICK,
Chairman.

Hon. THADDEUS STEVENS,
Chairman Committee on Appropriations.

Mr. SPALDING. This item will be found in the book of Estimates on page 247. The trouble in the Senate was that the amount, $5,000, was not carried out. For that reason they struck out the appropriation. It should be reinserted, as it is very important.

Mr. WASHBURNE, of Illinois. The Committee on Appropriations have recommended that the House concur in this amendment, and I think it very proper that we should follow their recommendation.

Mr. SPALDING. The gentleman perhaps did not understand my explanation. In moving to non-concur, I had the entire approbation of the chairman of the Committee on Appropriations. A letter from the chief of the Light-House Board, stating the necessity for this appropriation, has been read.

Mr. WASHBURNE, of Illinois. My attention was drawn away at the time, and I did not hear the gentleman's explanation. I suppose the matter may be all right.

Mr. STEVENS. The letter which has been read was not before the committee when the amendment of the Senate was under consideration. That letter was only sent to us a day or two ago.

The amendment was not concurred in.

Second amendment:

On page 5, strike out lines ninety-nine to one hundred and one, as follows:

For survey of, and for buoying out Seekonk river, from Pawtucket to India Point, in Providence, Rhode Island, $1,000.

The Committee on Appropriations recommended non-concurrence.

The amendment was not concurred in.

Third amendment:

On page 7, in line one hundred and forty-one, strike out "twenty" and insert "ten," so that the paragraph will read:

For rebuilding outer-range light at Cedar Point, Sandusky bay, Ohio, $10,000, or so much thereof as may be necessary.

The Committee on Appropriations recommended non-concurrence.

Mr. SPALDING. I send to the Clerk's desk a letter, which I ask shall be read.

The Clerk read, as follows:

TREASURY DEPARTMENT,
OFFICE OF THE LIGHT-HOUSE BOARD,
WASHINGTON, *March* 21, 1866.

SIR: I notice that the Senate has amended the bill making appropriations to support the light-house establishment for the year 1865-66, known as the deficiency bill, so that the amount appropriated for range lights at Cedar Point, Sandusky bay, Ohio, is $10,000 instead of $20,000, the estimates of this office. (See page 117, Estimates of Appropriations, 1866-67.)

The full amount of $20,000 is considered to be necessary, and it is to be hoped that the original sum will be appropriated, as less will not be sufficient to complete the work.

Very respectfully, W. B. SHUBRICK,
Chairman.

Hon. THADDEUS STEVENS, *Chairman Committee on Appropriations, House of Representatives.*

The amendment was not concurred in.

Fourth amendment:

Strike out "five thousand" and insert in lieu thereof "six thousand five hundred;" so that the paragraph will read:

For fitting up rooms in the basement, under the court-room of the Supreme Court, for a consultation room for the court, $6,500.

The Committee on Appropriations recommended non-concurrence.

The amendment was non-concurred in.

Fifth amendment:

Strike out the following:

For removing the unsightly double railing or fence erected across the old Hall of Representatives, (and all stands for the sale or display of any articles whatever in any of the entrances to the House on the main floor,) in the Capitol, ten dollars.

The Committee on Appropriations recommended concurrence.

The amendment was concurred in.

Sixth amendment:

Strike out the following:

For sewer in Four-and-a-half street, in front of reservation between Missouri avenue and the canal, under act of May 15, 1820, $1,000.

And in lieu thereof insert the following:

To enable the Commissioner of Public Buildings to pay for sewers and paving in front of Government property constructed under the act of May 5, 1864, $32,070.

The Committee on Appropriations recommended concurrence.

Mr. WASHBURNE, of Illinois. I hope we will not concur. I think it had better go to the committee of conference.

Mr. INGERSOLL. I hope the House will concur in the amendment of the Senate. This item has been considered both by the committee of the House and the committee of the Senate, and has been reported on favorably. By mere misapprehension of the law it was not adopted by the House. It is now well understood that this is due to the city of Washington by virtue of a contract with the Government. The money ought to be paid, and there ought not to be any hesitation about it when it is found to be due. I hope the House will concur in the amendment and show at least its willingness to comply with the law of 1864, which covered this thing precisely. The Committee on Appropriations have recommended a concurrence in the amendment of the Senate.

Mr. WASHBURNE, of Illinois. That is so; and I am somewhat surprised at it, as I see they have recommended a non-concurrence in the same sort of thing in the next paragraph. Here is an appropriation of $32,000, and in the next paragraph an appropriation of $37,000, $70,000 in round numbers, in all. I do not see why the Committee on Appropriations should recommend concurrence in one and non-concurrence in the other. I hope they will both be non-concurred in, and go to a committee of conference. I do not see why they should be divided.

Mr. KASSON. I will explain to the gentleman why they should be divided. They are under different laws. One is under the law of 1864, and the other under the laws of 1820 and 1865.

Mr. WASHBURNE, of Illinois. One is under the law of 1864, and the other under the law of 1865.

Mr. KASSON. The main part of the appropriation we found related to acts done under the law of 1820. Our committee had not information as full touching that as the other, and we recommended concurrence in the first and non-concurrence in the other.

The House was divided, and there were—ayes sixty-four, noes not counted.

So the amendment was concurred in.

Sixth and a half amendment:

Insert the following:
To enable the Commissioner of Public Buildings to pay for sewers and paving in front of Government property constructed by the city of Washington, under the act of May 15, 1820, and for cleaning Pennsylvania avenue, May 22 and 23, 1865, $37,420 61: *Provided*, That no payment shall be made on account of any appropriations herein contained to reimburse the city of Washington for improvements heretofore constructed in front or through the public grounds, until the items have been properly examined and audited, as to legality and amount, by the proper officer of the Treasury.

The Committee on Appropriations recommended a non-concurrence.

The amendment was non-concurred in.

Seventh amendment:

Strike out the following:
For lighting the Capitol and President's House, the public grounds around them, and around the executive offices, Pennsylvania avenue, and Four-and-a-half street, $50,000.
And in lieu thereof insert the following:
For lighting the Capitol and President's House, the public grounds around them, and around the executive offices, and Pennsylvania avenue, Bridge and High streets in Georgetown, Four-and-a-half street, Seventh and Twelfth streets across the Mall, and Maryland avenue west, and Sixth street south, $85,000.

The Committee on Appropriations recommended a concurrence.

Mr. WASHBURNE, of Illinois. I hope the House will non-concur. When the matter was up before it was fully discussed, and we struck out the provision for lighting the streets in Georgetown, reducing the appropiation from $85,000 to $50,000. I do not see any reason why we should change our action on the subject. I do not see why we should vote away the public money to light the neighboring city of Georgetown.

Mr. STEVENS. It is true the House reduced the appropriation from $85,000 to $50,000, so that there was nothing to light with from this to the end of the year. And it is a question whether we should grope on in darkness during that time, or restore the estimate of $85,000. I do not care much about it myself, but to these young men who go wandering about town at night it would be very dangerous to leave the city in darkness. [Laughter.] I hope, therefore, that in order to furnish light, the amendment of the Senate will be concurred in.

Mr. WASHBURNE, of Illinois. I have not seen any communication from the Commissioner of Public Buildings in regard to this matter.

Mr. STEVENS. The Committee on Appropriations sent for the Commissioner of Public Buildings, and that was the account he gave us.

Mr. WASHBURNE, of Illinois. The gentleman has made no reply to what I said on the subject of lighting the city of Georgetown. I move to strike out the words "Bridge and High streets, in Georgetown, Four-and-a-half street, Seventh and Twelfth streets across the Mall, and Maryland avenue west, and Sixth street south."

Mr. STEVENS. Pennsylvania avenue runs up to and connects with Bridge and High streets, and they are in Washington.

Mr. WASHBURNE, of Illinois. I beg the gentleman's pardon. Bridge and High streets are in Georgetown, and not an inch in Washington.

Mr. STEVENS. This is all on Pennsylvania avenue.

Mr. WASHBURNE, of Illinois. No, sir. Pennsylvania avenue only extends to the bridge.

Mr. STEVENS. There has been no time since appropriations have been made for this purpose at all that we have not appropriated for the lighting of those streets.

Mr. WILSON, of Iowa. High street, in Georgetown, is not even a continuation of Pennsylvania avenue.

Mr. WASHBURNE, of Illinois. It is one of the lateral streets in Georgetown. I think it is time we commenced a reform in regard to this matter of lighting these cities. If the gentleman from Pennsylvania insists on having this $85,000, I suppose the House will vote it; but I insist on my amendment to strike out the words I have indicated.

The SPEAKER. That would strike out Four-and-a-half street in this city.

Mr. WASHBURNE, of Illinois. I will modify my amendment and move only to strike out "Bridge and High streets in Georgetown."

Mr. GRINNELL. Will that leave Four-and-a-half street still lighted?

The SPEAKER. Yes, that will leave Four-and-a-half street lighted.

Mr. GRINNELL. Well, I want the Speaker and myself to have light to go home by.

Mr. RANDALL, of Pennsylvania. I think these two cities stand on the same ground in regard to this matter, and that if we light one, we ought to light the other. I have the honor to reside in Georgetown. High and Bridge streets are public thoroughfares. I can see no reason why Georgetown should be deprived of light, and light given to Washington. If an appropriation for lighting the one is just, an appropriation for lighting the other is equally just.

Mr. STEVENS. The argument of the gentleman from Iowa [Mr. GRINNELL] applies just as well to those who live in Georgetown as to those who live on Four-and-a-half street.

Mr. RANDALL, of Pennsylvania. I do not speak for myself at all; I go home before dark. [Laughter.]

Mr. MYERS. I desire the House to understand that the appropriation which the gentleman from Illinois [Mr. WASHBURNE] wishes to strike out is to pay a debt already incurred. The House will recollect that this appropriation bill failed last year.

Mr. WASHBURNE, of Illinois. My friend is a little too fast. I do not propose to touch the amount of the appropriation at all.

Mr. MYERS. Then I have utterly misunderstood the object of the gentleman. I want the House to understand that this money has all been expended. The deficiency appropriation bill failed, and in order to secure this lighting of the city, a loan was made by bankers and others here to the Gas-Light Company. It is merely a question now whether we shall return to them the amount which has been spent.

Mr. HALE. I desire to inquire whether we are now indebted to this gas company for the lighting of Bridge and High streets. If so, we ought to pay for it.

Mr. MYERS. Certainly; and that is what I wish the House to understand.

Mr. KASSON. I will say on this point that, in accordance with uniform custom, this gas has been consumed, and money has been raised and paid to compensate for it, relying upon the passage of this appropriation, as similar appropriations have been before made. The House is aware that, owing to an unfortunate provision in it, this bill failed in the last Congress, and the company have been obliged to go on furnishing the gas by borrowing money.

Now, I apprehend that, without the retention of these words in the bill, the vouchers for the accounting officer could not be settled at the Treasury Department.

The question was taken on Mr. WASHBURNE'S amendment, and it was not agreed to.

Mr. WASHBURNE, of Illinois. I will offer another amendment. I move to add to the clause this proviso:

Provided, That hereafter Bridge and High streets, in Georgetown, shall not be lighted at the public expense.

I want to see what the gentleman from Iowa has to say to that.

Mr. KASSON. The gentleman from Iowa has nothing to say to it, if the House chooses to pass it.

Mr. RANDALL, of Pennsylvania. Why will not the gentleman move to strike out the provision for lighting the streets of Washington as well as those of Georgetown? If there is any propriety in paying for the lighting of the one, there is equal propriety in paying for the lighting of the other. If you strike out the appropriation for the one, strike out the appropriation for both.

Mr. WASHBURNE, of Illinois. I will modify my amendment so as to read as follows:

Provided, That after the end of the present fiscal year Bridge and High streets, in Georgetown, shall not be lighted at the public expense.

Mr. RANDALL, of Pennsylvania. I move to amend by adding after the word "Georgetown" the words "and the city of Washington."

Mr. HALE. I wish to inquire whether there are any public offices on Bridge or High street in Georgetown which require to be lighted at the public expense.

Mr. WASHBURNE, of Illinois. Not one.

Mr. STEVENS. During the war the Government had large stores there, and occupied very large buildings, which were very well filled; and there was an absolute necessity then for the appropriation which was made. I am not informed as to the present condition of affairs, whether there is anything there more than the post office and the custom-house. How much light they require I do not know. I know that during the war there was great necessity for this appropriation; I do not undertake to say whether there is now or not.

Mr. HALE. It seems to me that the amendment of the gentleman from Illinois ought to prevail.

Mr. RANDALL, of Pennsylvania. I withdraw my amendment to the amendment.

The question was taken on Mr. WASHBURNE'S amendment, and it was agreed to.

The amendment of the Senate, as amended, was then concurred in.

Eighth amendment:

On page 15 strike out lines three hundred and thirty-two and three hundred and thirty-three, as follows:
For the protection and improvement of Franklin square, $1,720.
And insert in lieu thereof the following:
For the protection and improvement of Franklin square, and for lighting Thirteenth and Fourteenth streets, in front of said square, $5,000, to be expended under the direction and superintendence of William Saunders, superintendent of the propagating garden.

The Committee on Appropriations recommended non-concurrence.

The amendment was non-concurred in.

Ninth amendment:

On page 16 strike out the following:
For building sewer on Pennsylvania avenue, from Seventeenth street to Twentieth street, $27,500.

The Committee on Appropriations recommended a concurrence in the amendment.

Mr. INGERSOLL. I would like to ask the chairman of the Committee on Appropriations why his committee concur in the amendment of the Senate to strike out this appropriation for the sewer between Seventeenth and Twentieth streets. Sir, that sewer has been built, and the Government is bound in honor and by law to pay its proper proportion of the expense. The Secretary of the Interior called upon me

this morning to know why it was stricken out. I think the amendment of the Senate should not be concurred in. Let the matter go to a committee of conference and they will ascertain the facts. It is a just claim, and it should be paid by the Government.

Mr. STEVENS. We had no information that this work had been done, and that this was an appropriation to pay the Government's share of the expenses. It appears in the estimates as an original appropriation for the purpose of constructing this work, and when the Senate saw proper to strike it out we thought it rather a prudent step, and we did not think that we ought to resist this measure of economy when the Senate, after examining into the matter, had come to that conclusion. Hence it is that we have recommended a concurrence in the Senate's amendment.

I will say this, that we are now preparing another appropriation bill of this kind for the present year, and if this be merely a deficiency for work which has been done and not paid for, we can put it into that bill, which will be the more appropriate place for it.

The question was taken, and the amendment of the Senate was concurred in.

Tenth amendment:

Insert before the appropriation for the Attorney General's office the following:

Office of Secretary of State:

For publication of the laws, $8,900.

For extra clerk hire, $8,000.

For the pay of the United States commissioners, and for the pay of the United States surveyor, and for incidental expenses in the execution of the duty assigned to the joint commission appointed under the first article of the reciprocity treaty between the United States and Great Britain of the 5th of June, 1854, from November 1, 1865, to March, 1866, and for drafting and compilation of the final chart, showing the places "reserved from the common liberty of fishing," their limits and description, $1,500, or so much thereof as may be necessary.

The Committee on Appropriations recommended that the amendment be concurred in.

Mr. BROOKS. I wish to make a few remarks upon this amendment, and in order to do so it may be necessary for me to submit an amendment *pro forma*.

The SPEAKER. The gentleman can discuss the amendment for five minutes upon the question of concurring.

Mr. BROOKS. I apprehend the gravest difficulties may arise hereafter upon the matter of these fishing grounds. I look to the future with the greatest dread; and I avail myself of this opportunity to call the attention of the House and of the country to the perilous situation we are likely to be in with regard to Great Britain, in the conflict between our own fishermen and the fishermen of Nova Scotia, New Brunswick, and Prince Edward's Island upon these fishing grounds. The best of fish are caught near the shore; especially No. 1 mackerel. It is a matter of history that the fishermen of Maine, of Massachusetts, as well as of other States, will push their fishing boats, no matter what may be the law, within the three miles which are forbidden by the law of nations, and that they claim to fish upon these forbidden grounds. Conflicts of the most perilous character have arisen hitherto; and at one time we were upon the very eve of war with Great Britain in reference to these fisheries.

The rumor is now afloat, and in all probability it is a rumor having great foundation, that a fishing vessel is already being prepared upon the Atlantic coast, completely armed with the best of ordnance and the best of rifles, and manned by the bravest and boldest Irishmen connected with the Fenian organization, to fish within or near the prohibited grounds. I think it the duty of this House, I think it the duty of this Government, to take notice of rumors like this, and by an armed police upon those waters endeavor to preserve us from the peril of a war with a foreign Power, in which we would be violating a treaty and the law of nations, unless we cease to invade the right of fishing within three miles of the British coast.

Mr. SPALDING. I desire to say that I have heard something about these rumors. But I noticed in the columns of the Globe the other day, the introduction of a resolution by the gentleman from Maine, [Mr. PIKE,] which, it seems to me, would be the best refutation of these rumors. It proposed to instruct the Secretary of the Navy to send a portion of our iron-clad fleet down in that direction. And I hope the bold seamen of Massachusetts and Maine will pursue their vocation upon that coast to the utmost verge of their right. And I hope, if they are opposed, our ships will be there to protect them. I deny that any treaty made under God's heaven can take from our fishermen the right to fish in any part of the Atlantic ocean. That is all I have to say on this subject. If a war is to come, let it come.

Mr. WASHBURNE, of Illinois. I do not propose to address myself to that particular portion of this provision to which the gentleman from New York [Mr. BROOKS] referred. But I would like to have some information in regard to this item of $8,000 for extra clerk hire in the office of the Secretary of State. The Committee on Appropriations recommend a concurrence in this amendment. Now, before I can vote for it, I desire to have some information in regard to this subject of extra clerk hire.

Mr. STEVENS. All the information I have is that the head of the State Department thinks that owing to the very large amount of business thrown upon that Department this amount of clerk hire is necessary. I have no knowledge myself as to what is the necessity for it. But I have such great confidence in the head of that Department, that I am willing to take his word for anything—that I know to be correct. [Laughter.]

Mr. WASHBURNE, of Illinois. I hope the House will not concur in this amendment.

The question was then taken, and the amendment of the Senate was concurred in.

Eleventh amendment:

In the second paragraph relating to the office of the Attorney General, strike out the word "fifteen" and insert the words "three thousand five;" so that the clause will read:

For deficiency in appropriation for contingent expenses, $3,500.

The Committee on Appropriations recommend that the amendment be concurred in.

The amendment was concurred in.

Twelfth amendment:

On page 18, insert after line four hundred and five the following:

For stationery, furniture, and other contingencies, and for books and maps for the library of the Interior Department, $3,000.

For compensation for temporary clerks in the Pension Bureau for the current fiscal year, $20,000.

The Committee on Appropriations recommended non-concurrence.

The amendment was non-concurred in.

Thirteenth amendment:

On page 19, strike out in lines four hundred and forty-five and four hundred and forty-six the following words: "See letter of Commissioner dated October 31, 1865;" so that the paragraph will read:

For making good the aggregate differences between the original rates of salaries paid the clerks and employés of the Census Office, before they were assigned to the General Land Office, from June 1 to December 31, 1865, $2,450 31.

The Committee on Appropriations recommended concurrence.

The amendment was concurred in.

Fourteenth amendment:

On page 20, after line four hundred and sixty-one, insert the following:

For compensation of one Government commissioner, Central Pacific railroad, appointed agreeably to act of July 1, 1862, and amended act of July 2, 1864, and instructed by the Secretary of the Interior to attend meeting of board of Government directors, commissioners, and engineer, at Washington, District of Columbia, January 10, 1865, for purpose of fixing standard of railroad, to which the Pacific railroad and branches shall conform, seventy-five days, at eight dollars per day, $600.

For mileage of said commissioner from San Francisco to Washington, six thousand five hundred and sixty-nine miles, and back at ten cents per mile, $1,313 80.

For compensation of five Government directors while attending meeting of board of Government directors, commissioners, and engineer, for purposes above stated, ten days, at eight dollars per day each, $400.

For mileage of the same from their residences to Washington and back, $700.

For mileage of Government engineer from Cincinnati, Ohio, to Omaha, Nebraska, and thence to Washington, in July, 1865, directed by the President of the United States to examine and report upon Union Pacific railroad routes west from Omaha, two thousand nine hundred and two miles, at ten cents per mile, $290 20.

For mileage of the same from Washington to New York and back, in August, 1865, on account of Union Pacific railway, two hundred and twenty-five miles each way, at ten cents per mile, forty-five dollars.

For compensation of three Government commissioners appointed by the President of the United States agreeably to act of July 1, 1862, to examine forty miles of Union Pacific railroad, eastern division, (Kansas branch,) in May, 1865, fourteen days, at eight dollars per day each, $336.

For mileage of the same, at ten cents per mile, $200.

For compensation of two Government commissioners appointed by the President of the United States to reëxamine forty miles Union Pacific railroad, eastern division, in October, 1865, thirty-one days, at eight dollars each per day, $496.

For mileage, at ten cents per mile, $500.

For compensation and mileage of one commissioner of Union Pacific railroad, and of one commissioner of Union Pacific railroad, eastern division, appointed by the President agreeably to act of July 1, 1862, and amended act of July 2, 1864, during three examinations of railroad before close of fiscal year, twenty days each, at $400 each examination for each road, in all six examinations, $2,700.

For compensation and mileage of three commissioners of Central Pacific railroad, appointed by the President agreeably to act of July, 1, 1862, and amended act of July 2, 1864, during three examinations of road before close of fiscal year, at $1,050 each examination, $3,150.

For compensation and mileage of commissioners to examine portions of railroads reported completed according to law, to which grants of land inure, $2,500.

For pay, subsistence, and transportation of surveying party required by act approved July 1, 1862, to make the surveys to enable the President of the United States to fix the point on the one hundredth meridian of longitude, between the south margin of the valley of the Republican river and the north margin of the valley of the Platte river, at which the several branch roads shall converge and meet the Union Pacific railroad, $20,000.

For drawing instruments, mapping material, stationery, &c., $150.

For cost of completing bridge over Big Sioux, Vermillion, and Dakota rivers, and Government wagon road from Sioux City, Iowa, to Fort Randall, Dakota Territory, $20,000.

For commutation of quarters and fuel to officers of corps of Engineers, United States Army, in charge of engineer office, Department of the Interior, agreeably to Army regulations, from 1st August, 1865, to June 30, 1866, to be paid by Department of the Interior, agreeably to Army regulations, $1,137 64.

For contingencies, $3,000.

The Committee on Appropriations recommended non-concurrence.

Mr. PRICE. It will be observed, Mr. Speaker, that this amendment provides for the payment of the commissioners appointed under the act of Congress of July 1, 1862, to examine the Union Pacific railroad. It also provides for the pay of the surveying party required by the same act to make the necessary surveys for fixing the point of junction on the one hundredth meridian of longitude, "at which the several branch roads shall converge and meet the Union Pacific railroad." It is very clear that while the law makes provision that this work shall be done, some provision should be made for the payment of those who do it. If it is wrong to make these payments, that wrong should be corrected by a law to operate in the future; it could not justly operate with reference to the past. I hope, therefore, that the recommendation of the committee will not be adopted, but that we shall concur in the amendment of the Senate.

Mr. HUBBARD, of Iowa. I concur with the remarks of my colleague, [Mr. PRICE.] The appropriations embraced in this amendment are proper and ought to be made. The law provides for the appointment of these commissioners, but makes no provision for their payment. They are appointed by the President of the United States. They are not officers of the railroad company; they are not connected with it. There is no relation between them and the railroad company, except so far as their duties as commissioners under the appointment of the President bring them into connection with that company. They have done their work, and are entitled to pay. The only question is, who shall pay them? The law makes no special provision for their payment; but under the general terms of their appointment, the presumption is that they must be

paid by the Government. It is proper that they should be paid by the Government in order that they may be under no obligations to the company. Perhaps it would be improper for the company to pay them.

The amendment also contains a provision for the completion of the bridge over the Big Sioux, Vermillion, and Dakota rivers. This is an important work upon a valuable military road. Part of the work has already been done, some ten thousand dollars having been expended. Unless a sufficient amount be appropriated for the completion of the work, the money already expended must be lost. A large amount of Government transportation passes over this road every year. The Government has been paying for the last five years at the rate of about one thousand dollars a year in the way of ferriage. Hence it is important that the appropriation embraced in this amendment for the completion of this bridge should be made.

Mr. STEVENS. When this matter was being examined by the committee they had before them estimates amounting to about sixty thousand dollars. For what? To pay the engineers who went to examine this work and the commissioners appointed under the law. The law provided that the Government should give to this railroad company a vast subsidy of hundreds of millions in bonds whenever certain work should be done to the satisfaction of the commissioners to be appointed; and in order that the Government might be satisfied as to that, it was provided that the Government should have the appointment of the commissioners.

The appointment of those commissioners, as well as the surveyors to fix the line of the road, was a part of the construction of the road itself. The commissioners were as absolutely necessary as the surveyors who located the road. The appointments were necessary to enable these companies to get their half a million every month and their million every two months from the Government. It was necessary for that purpose that the Government should appoint directors and commissioners for the purpose of supervising the construction of the road. Until that was done they could not be paid.

Mr. BROOKS. I want to understand this subject. Are not these commissioners to see whether the road is well constructed and fit for the acceptance of the Government?

Mr. STEVENS. They are.

Mr. BROOKS. Is it good business policy to let a railroad company pay the men who are to inspect and report upon their work?

Mr. STEVENS. Whether good policy or not, the law provided for what things the Government should pay, and this was not one of them. In consideration of the privileges granted, the Government was to have certain privileges in return, and one of them was the appointment of five directors in the Union line. Another was to appoint examiners to see whether the work was done according to the requisition of the law. Those were privileges reserved by the Government in consequence of the immense grants they made to these roads. But, sir, there was no provision that these men should be paid by the Government. They were a part of the machinery of the road.

Whether it is good policy or not, the Government agreed to give certain things, and it was understood that the companies should provide and pay for all this machinery. Instead of that they now come here and ask us to appropriate $60,000 for the payment of the men who examined their work. If these commissioners have examined the work, it was because the Government provided it should be done before it was accepted.

As to whether it is good policy or not, I presume these are honest men, and will do their duty, no matter who pays them. I do not suppose that a few thousand dollars would influence them in their judgment. I do not believe these men will not do their duty because the company pays them. According to the gentleman, the company would understand how much it takes to mollify an engineer, and how many ounces of gold to bribe a commissioner. I suppose the Government will not appoint men who can be bribed for five or six dollars a day. I say they will not appoint men who can be bribed for $20,000. I am quite sure that the gentleman's remark cannot apply to the present commissioners.

I hope the Pacific Railroad Committee will, in providing for future roads, take care that the company shall pay these men and not leave the matter at all doubtful. I protest now against the Government being compelled to pay these men.

Mr. DAVIS. I desire to ask the honorable gentleman from Pennsylvania a question.

Mr. STEVENS. I will hear the gentleman.

Mr. DAVIS. Is there any presumption under the provisions of the law that any obligation rested on these corporations to pay these parties?

Mr. STEVENS. If the corporations wanted to build the roads I think they would pay the expense, and this is part of the expense.

Mr. DAVIS. I do not quite understand it so, although I have no feeling in regard to the amendment. It seems to me, when the Government appointed certain parties in whom it had confidence, whose duty it was to examine the character of the work done, it is safer, so far as the public interest is concerned, that those men should be under the compensation and control of the Government without in the least being influenced on the part of these corporations, as they would be if they looked to them for their pay.

Mr. STEVENS. I will say to the gentleman, never mind who pays them, they hold their appointments from the Government and are under the control of the Government.

Mr. DAVIS. So far as the parties who have already acted are concerned, I submit as a proposition of law that they have no claim upon these corporations. They have not been employed by them, their appointments coming directly from the Government itself. There is no contract between them and the corporations. The simple question is, whether these parties shall be thrust out without any compensation at all, or whether it shall be paid by the Government to whom these parties were held responsible.

Mr. HALE. I desire to inquire whether the report of the Committee on Appropriations of non-concurrence extends to all of these items.

Mr. STEVENS. It was thought as they were all one amendment it was better they should all go to the committee of conference, so that some understanding should be reached in regard to them.

Mr. HALE. The reason of my making the inquiry is, that there are two other appropriations covered by this amendment which have no connection with the Pacific railroad, one in regard to the completion of the wagon road from Sioux City to Fort Randall, and the other in regard to commutation of quarters and fuel to officers of corps of Engineers.

Mr. STEVENS. It is best to send the whole to the committee of conference.

Mr. WILSON, of Iowa. As an original proposition I would vote against this. I am opposed to imposing upon the Government the expenses attendant upon the control of the Union Pacific railroad and the interests connected therewith.

But, sir, the difficulty in this case is, there is no provision made by law for that expense being met by the Government. The Government, in pursuance of law, appointed these commissioners. They have discharged their duties and are entitled to compensation. It is too late for us to provide that the companies shall pay them for the services they have already rendered to the Government, and the true remedy to be provided is to pass an amendment to the Union Pacific railroad act which shall require these expenses to be borne by the company in the future. But for the past the Government has already incurred the expense.

Mr. WASHBURNE, of Illinois. Oh, no.

Mr. WILSON, of Iowa. The gentleman says, "Oh, no." He knows as well as I do that these persons have acted under the direct authority of the Government of the United States, and that there is no provision of law now requiring the company to pay these expenses. If the gentleman desires to guard against this for the future, and will propose an amendment to the existing law which shall require the company to pay the expenses hereafter, I shall most cheerfully vote for it. But for what is already incurred the Government must provide out of the Treasury.

Mr. HIGBY. We all agree that by the terms of the law creating the railroad company these commissioners are to be appointed by the Government exclusively. The railroad company has nothing to do with their appointment, and has no control or direction of them after their appointment.

Mr. STEVENS. The Government appoints five directors. Who pays them?

Mr. HIGBY. I understand that; and I ask the gentleman who pays them by this bill.

Mr. STEVENS. Why, the company pays them.

Mr. HIGBY. Not one word is said in this law about who pays them; and yet the Government has the entire control over them.

Mr. STEVENS. If the company will not pay them, I think they will never get any more bonds.

Mr. HIGBY. Well, sir, they do not ask the Government to appoint any such men, nor do they ask for their services. They are ready to give the Government information when twenty miles of this road is done, and if the Government accepts it they get their bonds.

Now, the Government has entire control over these commissioners, and yet it is assumed that this corporation shall pay them. I say it is repudiation when the Government employs men to do a certain service and then refuses to pay them. It is well said by the gentleman from New York that there is no legal obligation on the part of the company toward these commissioners. If there was I have no objection to their paying them. I do not know but it is right and just that they should pay them. but they are under no legal obligation under the law to pay them, and they cannot be forced to do it. But these gentlemen are employed by the Government without any means being provided for their payment. And I know one of these commissioners who has come on here from California at the call of the Secretary of the Interior, at great expense. He has been in the service of the Government and the railroad company have no control or dictation whatever in the matter.

The company certainly is not obliged to pay these commissioners. I have no objection that there shall be an amendment passed that shall require this Government, or, if you please, the railroad company, to pay them, but let them not be bandied backward and forward between the Government and the corporation. They must have somewhere to look for their pay, and why should we turn them away after having employed them?

This law simply provides for one commissioner. The original bill provided for three. One of them has actually come on here at the call of the Secretary of the Interior at great expense.

Mr. WASHBURNE, of Illinois. I do not propose to be satisfied with limiting this for the future, but I propose to save $40,000, for the reason that there is no obligation on the part of Congress to pay this bill to those commissioners. Certain things were required to be done before the company could get the benefit of the grant, and the company is bound to pay the expense. I understand that we have assumed obligations to the amount of $95,000,000 for the benefit of this company. We have given

them nearly all the land between the Atlantic and Pacific, [laughter,] and subordinated all the securities of the company; and yet they come in here after they have got all these things and ask us to pay the expenses of these commissioners. I think it is one of the most impudent claims I have ever seen introduced into Congress. Look at some of these items:

For mileage of said commissioner from San Francisco to Washington, six thousand five hundred and sixty-nine miles, and back, at ten cents per mile, $1,313 50.

I protest against voting away the people's money in this way.

Mr. STEVENS. I demand the previous question on the fourteenth amendment.

The previous question was seconded, and the main question ordered; and under the operation thereof the amendment was non-concurred in.

Fifteenth amendment:

Insert the following in relation to the botanic garden:

For the purchase and removal of materials, and for erecting four green-houses in the botanic garden, to be expended under the direction of the Joint Committee on the Library, $2,500.

The amendment was non-concurred in.

Sixteenth amendment:

Strike out the following:

To enable the Commissioner of the General Land Office to continue the investigations which he has instituted in relation to the mineral resources of the United States and the minerals, their extent and locality in the public domain, who shall report his doings as by law required in relation to other business of the General Land Office, $5,000.

Mr. WASHBURNE, of Illinois. I am inclined to non-concur in that amendment. The Commissioner of the General Land Office has undertaken investigations in the western Territories and has pursued them with great advantage, and I think we might make this appropriation with benefit to the public service, and enable him to go on. He has already shown to a great degree the character, extent, and value of the mineral resources of the country.

Mr. STEVENS. I am very much alarmed at the aberration of my friend. I hope it is only temporary. [Laughter.] This is really an appropriation which ought not to have been put into this bill because it is not a deficiency at all. And I do not know anything of the investigations of this man. He has got so many things on hand—the census, the examination of minerals, the scalping of Indians—that I think we had better not give him much more to attend to.

Mr. WASHBURNE, of Illinois. I supposed when the gentleman put this provision in the bill originally that he was well satisfied that it was correct and proper. And I think it is a very good appropriation, and hope that the House will vote to retain it.

Mr. INGERSOLL. That is my opinion. There is perhaps nothing that the Government can do that will so much tend to emigration and to the settlement of these Territories as giving the public information in regard to our mineral wealth. If these Territories abound in gold and silver, coal and petroleum, it will become best known by this means, and the resources will become developed and made materially beneficial to the whole country. I hope the amendment to strike this out will not be concurred in.

The amendment was concurred in—ayes forty-eight, noes not counted.

Seventeenth amendment:

Strike out the following:

For publishing the annual report of the National Academy of Sciences, made to Congress under the act approved March 3, 1863, $6,000.

The Committee on Appropriations recommend a non-concurrence in the amendment.

Mr. WASHBURNE, of Illinois. I hope the House will concur in this amendment; I do not see the necessity for such an appropriation.

The question was taken, and the amendment was not concurred in.

Eighteenth amendment:

Insert the following:

To supply a deficiency in the fund for the relief of sick and disabled seamen, $170,000.

The Committee on Appropriations recommend a concurrence in the amendment.

The amendment was concurred in.

Nineteenth amendment:

In the first clause, under the head of "miscellaneous," strike out the word "five," and insert the word "eight;" so that the clause will read as follows:

For the fencing in, repair, and completion of the United States court-house and post office at Indianapolis, Indiana, and paving the sidewalks in front of the same, the sum of $8,000, or such part thereof as may be necessary, to be expended under the Secretary of the Interior.

The Committee on Appropriations recommend that the amendment be non-concurred in.

Mr. KERR. I hope the House will concur in the amendment of the Senate. This amount of $8,000 is made necessary by the condition of the public buildings at Indianapolis. This appropriation was recommended by the late Secretary of the Interior, and has also been recommended by the present Secretary of the Interior, by the present judge of the district court of Indiana, by the marshal of that court, and the district attorney for that State. I hold in my hand the recommendations of those general officers, and if any gentleman desires it I will ask that they be read.

Mr. KASSON. I will say to the gentleman from Indiana, [Mr. KERR,] in order to avoid the necessity of further argument, so far at least as the opinion of the committee is concerned, that there is an error in the framing of this clause, which the Committee on Appropriations desire to have corrected. And in order to reach it they propose a non-concurrence in the amendment. But the committee do not wish to be understood as committed against the propriety of some slight increase of the amount inserted originally in the bill.

Mr. KERR. Is it the intention of the Committee on Appropriations that this matter shall be adjusted by the committee of conference?

Mr. KASSON. That is the intention of the committee.

Mr. KERR. With that understanding I will not press the matter further.

Mr. FARQUHAR. I desire to say a word upon this matter, in the absence of my colleague from the sixth district, [Mr. DUMONT,] who has this matter more especially in charge, but the state of whose health detains him from the House to-day. This appropriation is recommended by the Secretary of the Interior and by the Postmaster General. The original estimate presented to the Committee of Ways and Means of the last session of Congress, was for $8,000. The committee reported in favor of $5,000, and that was put in the bill which failed. It has now come before the House on an amendment of the Senate to increase the appropriation from $5,000 to $8,000. I did not fully understand the statement of the gentleman from Iowa [Mr. KASSON] in regard to the recommendation of the Committee on Appropriations to non-concur in the amendment.

Mr. STEVENS. In the opinion of the Committee on Appropriations it is not in the right place; and for the purpose of having it put in its proper place we recommend a non-concurrence in the amendment of the Senate; that being the only way in which we can get at it.

Mr. FARQUHAR. Then the object of non-concurring is that this matter may be adjusted by the committee of conference?

Mr. STEVENS. That is all.

Mr. FARQUHAR. Then I will say nothing more in regard to this matter, than that there is an imminent necessity for an increase of this appropriation from $5,000 to $8,000. My attention was called to this matter when I was in the city of Indianapolis by several officers of the General Government, who impressed upon me the necessity of increasing this appropriation to $8,000, the sum recommended by the Secretary of the Interior and the Postmaster General. I hope, therefore, that when this subject comes before the committee of conference it will be properly adjusted.

The amendment of the Senate was non-concurred in.

Twentieth amendment:

Amend the clause in relation to counterfeiting by striking out "$100,000" and inserting "$50,000;" so that it will read:

For expenses in detecting and bringing to trial and punishment persons engaged in counterfeiting Treasury notes, bonds, and other securities of the United States, as well as the coins of the United States, $50,000.

The Committee on Appropriations recommend that the amendment be concurred in.

The amendment was concurred in.

Twenty-first amendment:

Strike out the following:

For compensation to Charles B. Stuart for services as engineer, under appointment by the President, in examining, revising, and reporting upon the survey and estimates for the several proposed gunboat canals, $2,500.

The Committee on Appropriations recommend that the amendment be concurred in.

Mr. DAVIS. This Mr. Stuart was appointed by the President, under a law of Congress, to make a survey of the Niagara ship-canal route, in the year 1864, I think. He made that survey, and his report was laid before Congress and priated. And I cannot see why the Government should now refuse to compensate him for the services he has performed.

Mr. STEVENS. Our committee inserted this provision to pay Mr. Stuart, but the Senate has struck it out. I think it is a fair claim.

Mr. DAVIS. I trust that the House will not concur in the amendment. This is certainly a perfectly fair and honest claim, as honest as any that has ever been advocated on this floor by the gentleman from Illinois, [Mr. WASHBURNE,] and he never defends any but honest claims. It was included, as I understand, in the estimates of the Department. This money is honestly and legally due, and I am not ready to repudiate any honest obligation of the Government. I am as much disposed as the gentleman from Illinois to take care of the people's money, but I desire to pay some little regard to the people's honor.

Mr. STEVENS. I concur in the view of the gentleman from New York, and I therefore move that the House non-concur in the amendment.

The amendment was non-concurred in.

Twenty-second amendment:

On page 28, strike out in line six hundred and sixty-two the word "twenty" and insert "thirty;" so that the paragraph will read:

For building a custom-house at Portland, Maine, in addition to the sum heretofore appropriated by Congress, $75,000: *Provided*, That the Secretary of the Treasury may, if he thinks it advisable, expend a sum, not exceeding $35,000, in the purchase of ground adjoining the site of the old custom-house on Fore street, now owned by the United States, for the purpose of enlarging the same, or the Secretary may exchange the lot now owned as aforesaid for a more eligible one, if the same can be procured; but no money shall be paid or agreed to be paid by the United States in consideration of such exchange, and no transfer, assignment, or conveyance of property by the United States shall be made upon such exchange, except a conveyance, on its behalf, by the Secretary of the Treasury, of the interest of the United States in the lot aforesaid and the building thereon.

The Committee on Appropriations recommended non-concurrence.

The amendment was non-concurred in.

Twenty-third amendment:

On page 30, strike out lines six hundred and ninety-eight to seven hundred and one, as follows:

To enable the Secretary of the Treasury to pay to William Handy, of the Treasury Department, for extra clerical services, such sum as may be found due, not exceeding $500.

The Committee on Appropriations recommended non-concurrence.

The amendment was non-concurred in.

Twenty-fourth amendment:

On page 30 strike out lines seven hundred and two and seven hundred and three, as follows:

For compensation to John Hopley, for services in indexing the national currency act, $100.

The Committee on Appropriations recommended non-concurrence.

The amendment was non-concurred in.

Twenty-fifth amendment:

On page 30, after the word "dollars" in line seven hundred and nine, strike out the following:

Provided, That no part of the sums appropriated by the provisions of this act shall be expended in

violation of the provisions of the act entitled "An act to prescribe an oath of office, and for other purposes," approved July 2, 1862.

The Committee on Appropriations recommended non-concurrence.

The amendment was non-concurred in.

Twenty-sixth amendment:

Insert after line twenty-two, on page 35, the following:

For folding documents, including materials, $25,000.
For miscellaneous items, $10,000.
Contingent expenses of the Senate, namely:
For stationery, $15,000
For clerks, pages, horses, carryalls, &c., $27,000
For miscellaneous items, $5,000.
For fuel, and repairs of heating and ventilating apparatus, to be provided under the charge of the Sergeant-at-Arms, $16,250.
For furniture purchased, and repairs done by the Sergeant-at-Arms under the direction of the Committee to Audit and Control the Contingent Expenses of the Senate, $23,500.
For additional labor, in the folding-room and around Senate Chamber, $5,000.
To supply a deficiency in the appropriation for the Capitol police, under the act of April 22, 1854, to be paid to the widow of David Vose, late a policeman in the crypt, being twenty per cent. on his salary from December 4, 1861, to July 8, 1864, $532, to be expended under the direction of the Commissioner of Public Buildings.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

Twenty-seventh amendment:

Strike out section eleven, as follows:

And be it further enacted, That the proper accounting officers of the Treasury Department be, and they are hereby, authorized to pay A. D. Collingsworth, O. H. Vedder, Edward R. Sherman, Theophilus H. Gladwin, Charles C. Adams, Samuel W. Tucker, J. G. Adams, A. Bengiral, J. C. Parker, J. A. Odell, V. Barnes, T. H. Gladman, R. A. Cronin, T. N. Adams, J. C. Cleary, W. D. Lindsay, A. Jewett, jr., F. Cochin, B. C. Farless, J. P. Townsend, C. W. Odell, J. C. Morchead, T. P. Lee, H. W. Salter, James Cross, J. R. Creed, H. B. Rourke, E. A. Lipscomb, George Cottenham, C. A. Perkins, W. B. Cudlipp, T. S. Baker, J. M. Conroy, O. W. Boyden, J. O. Armes, J. Bellows, E. T. Brossius, J. J. Calvert, F. G. Calvert, G. D. Curtis, W. B. Dyer, D. A. Fish, A. H. Gillespie, R. D. Guillien, Charles Gohun, H. Holmes, G. C. Holliday, B. E. Messer, E. C. Messer, F. Madden, W. McKee, W. H. E. Overend, S. B. Porter, P. W. Pearson, J. L. Bowland, C. V. Rotterdep, E. J. Schale, E. J. Sweet, F. J. Scheca, J. C. Williams, J. G. Wilson, L. K. Brown, J. H. Gunn, H. A. Dobson, J. A. McIntire, V. B. Munson, J. J. Dickens, W. E. Armes, and B. W. Parsons, employed by the deputy provost marshal of the District of Columbia in the enrolling office of said marshal, for night work and special service performed in pursuance of a contract between said clerks and said provost marshal, such accounts being properly certified upon the rolls, or by said deputy provost marshal, and the amount necessary therefor is hereby appropriated out of any money in the Treasury not otherwise appropriated.

The Committee on Appropriations recommended non-concurrence.

The amendment was non-concurred in.

Twenty-eighth amendment:

On page 28, in line sixteen, strike out "$323,234," and insert "$250,000;" so that the clause will read:

For plates, engraving, printing, and paper for national currency notes, $250,000.

The Committee on Appropriations recommended concurrence.

The amendment was concurred in.

Twenty-ninth amendment:

On page 28, strike out, after the word "dollars," in the eighteenth line, the following:

Provided, That hereafter no portrait or likeness of any living person shall be engraved or placed upon any of the bonds, securities, notes, or postal currency of the United States.

The Committee on Appropriations recommended concurrence.

Mr. THAYER. I hope, Mr. Speaker, that the House will non-concur in this amendment of the Senate. When I proposed in this House the proviso which the Senate has stricken out, I had the honor to submit in support of it some considerations founded, as I thought, upon good taste and public propriety.

This proviso proposes to prohibit the engraving of the portraits of living persons upon the money issued by the Government of the United States. I believe it is a fact capable of being well authenticated that when the first silver dollar of the United States was struck it had upon it the image of the greatest of Americans, George Washington. When that fact came to be known to President Washington he ordered that die to be destroyed. Whoever, therefore, has a silver dollar with the head of General Washington upon it has in his numismatic collection a coin of rare value. Sir, the modesty which seems to have distinguished the public men and the public officers of that day does not, I regret to say, seem to characterize all of the public men and public officers of the present day.

If I take up now what is the representative in value of the smallest silver coin of the United States, I find upon it not only upon one side but upon both sides of it, (lest the people might fail to see it) the effigy, not of General Washington, but of the Superintendent of the Public Printing.

Mr. WASHBURNE, of Illinois. I beg the gentleman's pardon, not the Superintendent of Public Printing.

Mr. THAYER. I meant the superintendent of the currency printing.

Several MEMBERS. What is his name?

Mr. THAYER. It is not necessary for me to mention names as he is well known. I hold in my hand one of those notes on which his face is printed on both sides, lest it should not be seen.

Now, there are many reasons why this practice should be discontinued. It is in very bad taste and inconvenient in many respects. The arithmetic makers will be obliged, I apprehend, to do away with the old table of Federal currency, as it is taught in all the common schools of the country, and to substitute a new one running somewhat as follows:

NEW TABLE OF FEDERAL MONEY.

2 Clarks make .....1 Washington.
2 Washingtons and 1 Clark make.....1 Fessenden.
2 Fessendens make .....1 Spinner.
2 Spinners make.....1 Chase.
2 Chases make.....1 Hamilton.
5 Chases make .....1 Madison.

[Great laughter.]

The table, it is obvious, might be extended much further than this. The friends of Mr. Hamilton may well object that by the new table it takes two Hamiltons and a half to make one Madison, and others may discover inequalities of value equally objectionable.

The SPEAKER. The gentleman's five minutes have expired.

Mr. THAYER. I hope the House will non-concur in the Senate amendment.

Mr. HILL obtained the floor.

Mr. INGERSOLL. I hope the time of the gentleman from Pennsylvania will be extended so that he may finish his remarks.

Mr. HILL. I will yield to the gentleman from Pennsylvania part of my time.

Mr. THAYER. I thank the gentleman from Indiana.

I only wish to say further, sir, that the only excuse given in the Senate, as I find the debate reported in the Globe, is that this vicious practice is necessary as a preventive of counterfeiting. That is too transparently absurd to be believed or at least to have any weight in this House. A picture is a picture, and it is as easy to counterfeit one of these pictures of living personages as it would be to counterfeit the resemblances of the departed heroes and sages of the United States whose images should adorn the currency of the United States if we are to have these embellishments upon it.

I trust the House will insist on this provision in the bill, and that when our committee go into conference with the Senate committee they will hold fast to it, for the sense of the House upon this point was expressed by a very emphatic vote when the matter was under consideration here before.

Mr. HILL. The members of the House are modest gentlemen, and as such they inserted this provision. They had no ambition to purchase five-cent notoriety. They aspired to no such cheap reputation. But, Mr. Speaker, as the members of the Senate seem not to be so modest, and to desire the opportunity of having this display, I rather favor a concurrence in the amendment of the Senate.

Mr. GARFIELD. Mr. Speaker, I only wish to say a few words in reference to this amendment of the Senate. I hope it will prevail. It is a very remarkable proposition, after it has continued during the whole progress of this war to be the practice to print the faces of our leading public men on the public currency, when we have not in circulation any description of paper representing value that does not bear upon its face the picture of the President, or some Secretary of the Treasury, or some distinguished person, we shall now make a law declaring that the face of no living man shall be upon any of our public securities. I think it proper that our money should be a record of the persons and events of the times, and I am not willing that the proposition of my friend from Pennsylvania shall prevail.

It is virtually a vote of censure against the several Secretaries of the Treasury, and would require extensive changes in the plates on which our money is now printed.

In the discussion of the bill when it passed the House some things were said which I desire to notice in relation to the person who has been spoken of so slightingly.

Mr. THAYER. Allow me to disclaim any such intention as the gentleman imputes to me. I do not believe that the Secretary of the Treasury is responsible for the variety of the human physiognomy which appears upon all this currency.

Mr. GARFIELD. I did not say that the gentleman charged the Secretary with that responsibility.

Mr. THAYER. No; but the gentleman construed what I said as casting a reflection upon the Secretary, and I wish to disclaim that, that is all.

Mr. GARFIELD. No, I did not construe what the gentleman said as a reflection upon the Secretary, but I did say that the very proposition itself, which he proposes to put into this bill, will be a reflection upon every Secretary of the Treasury who has occupied that high position since the war began.

I am unwilling, sir, that my vote shall help to cast any such censure on any Secretary of the Treasury merely for the exercise of his taste in making up the figures and faces on the paper money. I am well aware that the gentlemen who have spoken on this subject intend no disrespect to any Secretary of the Treasury. They have directed their shafts against another person, the man who has been the special object of hatred and abuse from certain quarters for the last two years, and whose face on the five-cent scrip has been the occasion of the amendment and these vehement speeches.

Sir, I take pleasure in saying a word for an abused man, who is not here to answer his accusers; and I say it, too, remembering the declaration of an ancient philosopher, that people love to hear accusation better than defense. I do not hesitate to declare it as my opinion that when the history of our financial struggles during the late war shall have been written; when all passion and prejudice shall have died away; when the events of the present shall be seen in the clear light of veritable history, this man, whose picture is now sneered at; this man, so little known to fame, and so unfavorably spoken of among many members of this House, will stand out in that history as a man most remarkable for genius and ability, for having accomplished a work which will take its place among the wonders of mechanism and useful invention, and for having saved to the Treasury, by his skill and fidelity, millions of money. Whatever people please to say concerning S. M. Clark and his antecedents, he has done his country signal service; and, sir, I believe his merits will some day be recognized by the American people as they have been and still are by those who know what he has done and is still doing in the public service.

Mr. BROOKS. I did not intend to say a word upon this subject, and I should not have done so but for the remarks of the honorable gentleman from Ohio. What a eulogy he has pronounced upon a great hero of this war! When the name of Grant shall have faded away;

when the magnificent victories of Sherman, from the mountains of Tennessee throughout all Georgia, North and South Carolina, and Virginia, shall have been forgotten; when the name of Thomas shall have sunk into oblivion; when even Lincoln shall have been buried with Julius and Augustus Cæsar, there will arise one remarkable man, high on the horizon, on Orion among the Pleiades; and that is Clark, the printer of the public money! [Great laughter.]

Sir, the record of the past is made up between me and the honorable gentleman from Ohio, and I have not one word to take back or to reiterate now. There is the record. It is imprinted upon the public documents of the country, and it will go down, if such things are worthy of being gathered up in the sewers of the future, to a long posterity. All I have to say is, that not one paper was produced by me then, not one original document, not one damning iota of the record, that did not come from the Treasury Department itself, vouched for and verified by the officers of or under the Secretary of the Treasury himself. The remarks of the gentleman have alone prompted me to say what I have to say upon this occasion in vindication of the report that I have made. What is immortality? Is it service in this House? To-morrow we are not here, and are soon to be forgotten. What is immortality? It is in these statues that now and hereafter may surround this Capitol, in these portraits that are hereafter to do honor to those men who have done honor to their country; it is in these emblazonments upon the public money, these engravings which not only enter every man's pocket, but every man's bosom, and every woman's, too. [Laughter.] And it is upon this immortal record that the name and fame and picture of this man Clark is being sent through this great country to the utter destruction of the name of George Washington, whose portrait has been taken off that record, and that of Clark substituted in its stead.

Sir, the honorable gentleman from Pennsylvania [Mr. THAYER] is right. No man should be immortalized upon the public money of the country until the verdict of posterity has been pronounced upon his name, and it can go down upon that record sanctioned by the voices of men of all parties, of all politics, and of all religions.

Sir, the Secretary of the Treasury has not done right in this matter. It was within his power to control it, and he ought to have controlled it. But in the present disruption of affairs in the Treasury machinery, running, as it is now, in conflict and in different ways, it is not unnatural that this thing should have happened.

[Here the hammer fell.]

Mr. GARFIELD. Let it be distinctly understood that I made no defense of this particular picture being put on our currency. The point I made against the proposition of the gentleman from Pennsylvania [Mr. THAYER] was on the general principle that the picture of no living man should be on our currency.

Now, I wish to say only a word in answer to the gentleman from New York, [Mr. BROOKS.] I do not forget that he was the public accuser of Mr. Clark two years ago. I do not forget that in his vain attempt to sustain his accusation he stooped to become a public scavenger; he consented to send into the purlieus of the city of Washington, and, through his associate in accusation, drag up all that is foul and spread it out, bedaubing the public archives with a record that the committee would not even consent to have read in their hearing; a record having no legal character, but made up in houses of ill-fame by a man now infamous by judicial decision. It is on such evidence that the gentleman from New York [Mr. BROOKS] undertook to make good his outrageous accusations. It was his act of putting such documents on the public records that linked his name forever with that most disreputable conspiracy against the Treasury and the public credit. I do not wish to enter into this discussion, but I should suppose the gentleman's recollection of his share in those accusations would be to him anything but gratifying.

Mr. BROOKS. Mr. Speaker, "a public scavenger," the honorable gentleman from Ohio chooses to call me. I did not put this man into the Treasury Department. I did not make up the records there. They were made by the officers of the Treasury, and as a public man I found those records in the Treasury, and, without adding one word whatsoever, I brought them to the attention of the House. They were verified. They were collected by officers of the Government; and when I found the printing of the public money intrusted to such a personage, I felt it my duty to bring that testimony before the public.

Sir, many of us in these days, here and elsewhere, are obliged to breathe odors that are offensive to us. We are not responsible for the atmosphere that may surround us. If there be a sewer to cleanse, I did not create that sewer. If there be necessity for a scavenger, I was not the public man who provided the materials for that scavenger to remove from the public eye. But I saw that the printing of the public money, an immense mass of it, thousands and thousands of millions of dollars, was intrusted to a man without antecedents, except those that were bad; without character, except that which was stamped as bad by public officers of the Government; without history, except that which was corrupt from top to bottom, and I, as a public man, felt it my duty, in defense of the public purse, to proclaim to this House that something was wrong.

A report was published, signed by no other person than the honorable gentleman from Ohio, having appended to it the signatures of none of his colleagues on the committee, while the document to which I wrote my name was signed by a number of those who were associated with me on that committee.

Mr. GARFIELD. The gentleman will allow me to ask him if he does not know that the majority of that committee agreed with me, and if they did not do it in his hearing?

Mr. BROOKS. No, I do not know any such thing. On the contrary, a member of that committee has told me he never agreed to that report, and Governor Fenton, of New York, did not sign it, but made out a separate paper.

Mr. GARFIELD. Will the gentleman do me the justice to say that Governor Fenton stated that he agreed with the majority of the committee to all the parts of the report except one feature of it, the reflection on the New York Bank Note Company?

Mr. BROOKS. The report speaks for itself; there it is. It is signed by the gentleman from Ohio, [Mr. GARFIELD,] and signed by no other person; while the document to which my name is appended is signed by every man upon that committee who acted with me.

Mr. GARFIELD. The report was not signed by me; it was not signed at all.

Mr. BROOKS. The name "Garfield" is appended to it.

Mr. GARFIELD. I beg the gentleman's pardon; my name is not signed to it; it is made as the report of the committee.

Mr. INGERSOLL. If a man's reputation will not last longer than these five-cent notes, it will not amount to much. [Laughter.]

Mr. BALDWIN. I rise to a point of order, that this debate is not germane to the subject before the House.

Mr. BROOKS. How much time have I left?

The SPEAKER. One minute.

Mr. BROOKS. Then I will say nothing further.

Mr. RANDALL, of Pennsylvania. I desire to say a word to bring the debate back to the subject-matter under consideration.

The SPEAKER. The gentleman from Massachusetts [Mr. BALDWIN] has made a point of order, which must be decided unless it is withdrawn.

Mr. BALDWIN. I am not inclined to insist upon it, if the debate goes no further in that direction.

The SPEAKER. The paragraph proposed to be stricken out is as follows:

Provided, That hereafter no portrait or likeness of any living person shall be engraved or placed upon any of the bonds, securities, notes, or postal currency of the United States.

The Chair is of opinion that debate in regard to putting on the currency and bonds of the United States the likenesses of living persons would be in order; and that it would involve the propriety of putting on the likenesses of various persons already on the currency of the United States; thus opening up a wide range of debate.

Mr. RANDALL, of Pennsylvania. I desire to bring back the discussion more nearly to the subject-matter under consideration. The Committee on Banking and Currency have under consideration at this time a resolution referred to them by the House looking directly to this subject of Mr. Clark's likeness being placed upon this money. It occurs to me that the proper time to consider the subject to which my colleague [Mr. THAYER] has called the attention of the House will be when that committee shall have made its report; and it also occurs to me that such an amendment as this is not strictly germane to an appropriation bill. Therefore I think it would be wise for the House to concur in the action of the Senate, and strike this proviso out of this bill. Then, when the Committee on Banking and Currency report upon the resolution referred to them, this question of the propriety of placing the likenesses of "living heroes" upon our currency can legitimately come up as an independent proposition for the action of this House.

Mr. STEVENS. I do not know whether it is necessary to call the previous question; I hope it is not, but that we shall come to a vote.

I understand that my colleague [Mr. THAYER] is simply opposed to putting the faces of people upon the currency of the United States on account of the likelihood that they can be easily counterfeited. Many persons think that of all parts of the human form that which is least examined is the face. I think you better have that there than put on any other part. [Laughter.]

Mr. THAYER. I move that the House nonconcur in the amendment of the Senate.

The SPEAKER. The question will be upon concurring with the amendment of the Senate; the motion to bring the two Houses together taking precedence of the motion to non-concur.

The question was taken, and the amendment of the Senate was non-concurred in.

Thirtieth amendment:

Strike out the following:

For lighting the Capitol and President's House, and public grounds around them, around the executive offices, and Pennsylvania avenue, Bridge and High streets, Georgetown, Four-and-a-half, Seventh, and Twelfth streets, across the Mall, and Maryland avenue west, and Sixth street south, per act of March 3, 1863, $13,000.

The Committee on Appropriations recommended concurrence in the amendment.

The amendment was concurred in.

Thirty-first amendment:

Insert the following:

To supply a deficiency in the appropriation for the Naval Academy for the fiscal year ending June 30, 1866, $178,064.

The Committee on Appropriations recommend that the amendment be non-concurred in.

The amendment was non-concurred in.

Thirty-second amendment:

Strike out the following:

To pay H. A. Klopfer for ten months' services as a laborer in the office of the Attorney General, at forty dollars per month, $400: *Provided*, That no money shall be paid under the provisions of this bill to reimburse Brigham Young for money advanced while Governor and *ex officio* superintendent of Indian affairs of the Territory of Utah until the same shall be thoroughly investigated by some of the standing committees of Congress.

The Committee on Appropriations recommended that the House concur in the amend-

ment of the Senate, with an amendment to insert the following:

To pay H. A. Klopfer for ten months' services as a laborer in the office of the Attorney General, at forty dollars per month, $400.

The amendment to the amendment was agreed to.

The question recurring on the Senate amendment as amended, it was concurred in.

Thirty-third amendment:

Add to the bill the following additional sections:

SEC. —. *And be it further enacted*, That such sum as may be required to pay the additional compensation provided by section three of an act making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1865, and for other purposes, approved June 25, 1864, up to and including the 30th day of June, 1866, be, and the same is hereby, appropriated.

SEC. —. *And be it further enacted*, That from and after the 1st day of April, 1866, there shall be paid annually, instead of the yearly salaries at present authorized, to the Director of the Mint at Philadelphia, $4,000 dollars; to the treasurer, $3,500, and $1,500 for additional compensation as Assistant Treasurer of the United States; to the melter and refiner, $3,000; to the assayer, $3,000; to the assistant to the assayer, $2,000; to the chief coiner, $3,000; to the assistant to the chief coiner, $2,000; to the engraver, $3,000; to one clerk, $2,500; to two clerks, $2,000 each; to four clerks, $1,500 each; to the treasurer of the branch mint at San Francisco, for salary as Assistant Treasurer of the United States, in addition to his salary as treasurer of said mint, $1,500; to the Assistant Treasurer of the United States at New York, $8,000; to the Assistant Treasurer of the United States at Boston, $5,000; to the Assistant Treasurer of the United States at St. Louis, $5,000. And the amount necessary to carry these provisions into effect, for the fiscal year ending June 30, 1866, is hereby appropriated.

The Committee on Appropriations recommended that the amendment be concurred in, with an amendment striking out the second section.

The amendment proposed by the Committee on Appropriations to strike out the second section was agreed to.

The amendment of the Senate, as amended, was concurred in.

Mr. WASHBURNE, of Illinois. I move to reconsider the various votes upon the amendments of the Senate; and also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. STEVENS. I move that the House appoint a committee to confer with a similar committee of the Senate, with reference to the disagreeing votes of the two Houses on this bill.

The motion was agreed to.

ENROLLED JOINT RESOLUTION SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a joint resolution (H. R. No. 57) authorizing the Secretaries of War and the Navy to place hulks and vessels at the disposal of commissioners of quarantine, or other proper authorities at ports of the United States for one year; whereupon the Speaker signed the same.

REPORTS OF REVENUE COMMISSION.

Mr. MORRILL, by unanimous consent, submitted the following resolution:

Resolved, That there be printed for the use of the House, twenty thousand extra copies, and for the use of the Treasury Department two thousand copies of the following special reports of the United States revenue commissioners:

Report on distilled spirits, petroleum, proprietary medicines, &c.;

On the influence of the duplication of taxation on industry;

On the relations of foreign trade to domestic industry;

On iron and steel;

On wool;

On copper and zinc;

Selections from the testimony relative to the development of the cotton trade industry; and

The report to the commission on the taxation and manufacture of malt liquors in Europe.

And that the Public Printer be instructed to reserve from the extra copies ordered for the House, ten thousand copies, and from the copies ordered for the Treasury Department, one thousand copies, and to bind the same in connection with the other general and special reports of the commission in such a manner as to present all the reports of the commission complete in one volume; and the printer is authorized to print any additional copies of the reports heretofore ordered, necessary to make ten thousand complete sets.

The SPEAKER. This resolution will be referred, under the law, to the Committee on Printing.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, notifying the House that that body had passed bills of the following titles, in which he was directed to ask the concurrence of the House:

An act (S. No. 38) to authorize the construction of a bridge across the Mississippi river, at the city of St. Louis, State of Missouri, and at the city of East St. Louis, State of Illinois;

An act (S. No. 168) to provide for the disposal of certain lands therein named; and

An act (S. No. 179) in relation to the district courts of the United States in the State of California.

Mr. WASHBURNE, of Illinois. I hope the gentleman from Pennsylvania [Mr. STEVENS] will move to dispense with the night session, as I think we have done a very good day's work.

Mr. STEVENS. I make that motion.

The motion was agreed to.

RETIRED LIST.

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

Resolved, That the Committee on Invalid Pensions be requested to inquire into the expediency of placing officers of the volunteer service, totally disabled while in the line of their duty, on the Army retired ist, and to report by bill or otherwise.

JAMES SHAW, AND OTHERS.

On motion of Mr. LATHAM, leave was granted for the withdrawal from the files of the House of the papers of James Shaw, and others, for compensation for horses taken by military authority, on condition that copies were left.

LEAVE OF ABSENCE.

On motion of Mr. FARQUHAR, leave of absence was granted to Mr. DUMONT for two weeks.

CHOLERA.

Mr. McKEE, by unanimous consent, introduced a joint resolution providing for the appointment by the Secretary of War, under the direction of the Surgeon General, of a commission to visit Constantinople and inquire into the best means to prevent the spread of cholera and for other purposes; which was read a first and second time, and referred to the Committee on Foreign Affairs.

LEAVE OF ABSENCE.

On motion of Mr. WRIGHT, leave of absence was granted to Mr. WARNER for two weeks.

MICHIGAN WAGON ROADS.

Mr. DRIGGS, by unanimous consent, introduced a bill to amend an act entitled "An act granting lands to the State of Michigan for the construction of certain wagon roads for military and postal purposes," approved June 20, 1864; which was read a first and second time, and referred to the Committee on Public Lands.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

MARY CUNNINGHAM.

On motion of Mr. WILLIAMS, leave was granted for the withdrawal from the files of the House of the petitions and papers of Mary Cunningham, on condition that copies were left.

And then, on motion of Mr. WASHBURNE, of Illinois, (at four o'clock and fifteen minutes, p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to appropriate committees:

By the SPEAKER: A memorial of widows and orphans of Richmond, Virginia, asking that, as the confederate debt has been repudiated, Congress should declare null and void all contracts, bargains, and sales of real estate made during the existence of the confederacy.

By Mr. BARKER: A petition from citizens of Blair county, Pennsylvania, asking Congress to so amend the tariff as to protect the labor of American citizens to the extent of the difference of cost of labor and capital here and abroad, with the addition of taxes paid by American industrial products from which the foreign are free.

Also, two petitions from citizens of Mifflin county, Pennsylvania, asking for the passage of such revenue laws as will afford more ample protection to American capital and labor.

Also, a petition from citizens of Mifflin county, Pennsylvania, asking that Congress may enact such laws to regulate inter-State insurances of all kinds as will offer the greatest security for the interests protected by policies, &c.

Also, a petition from the boatmen on the line of the Pennsylvania canal, for a change in the revenue laws.

Also, a petition from citizens of Hollidaysburg, Blair county, Pennsylvania, asking for protection to American industry.

Also, five petitions from citizens of Cambria county, Pennsylvania, praying Congress to so amend the tariff as to protect the labor of American citizens to the extent of the difference of cost of labor and capital here and abroad, with the addition of the taxes paid by American industrial products from which the foreign are free.

By Mr. BOYER: The petition of certain brewers of the United States, praying that in the arrangement of the tariff between the United States and the British Provinces in North America, the duty on barley may be fixed at a rate that will not lessen the manufacture of malt liquors or induce the use of foreign ingredients.

By Mr. DAVIS: The petition of I. T. Frisbie, Edward Webster, and 26 others, citizens of Onondaga county, New York, praying for increased protection to the producers of American wool.

By Mr. DAWES: The memorial of North Adams Savings Bank, remonstrating against taxing deposits.

By Mr. DAWSON: The petition of Philip Robinson, Peter Benshell, and others, brewers in Luzerne county, Pennsylvania, asking that the tariff between the United States and the British possessions be so adjusted as to permit the introduction of barley.

By Mr. ECKLEY: The petition of William Leas, and 56 others, wool-growers of Jefferson county, Ohio, asking an additional tax on wool.

By Mr. HENDERSON: A memorial from the officers of the navy-yard at Mare Island, California, for increase of pay.

Also, a memorial from 202 citizens of Washington Territory, in reference to the Oregon and Washington Territory war debt.

By Mr. HOOPER, of Massachusetts: The memorial of George B. Upton, and others, ship-owners, in favor of a revision of the import duties and internal tax to reduce the cost of ship-building.

Also, the memorial of Chelsea Savings Bank, for exemption from tax on their deposits.

Also, the memorial of Ichabod Goodwin, and others, ship-owners, to relieve the shipping interests from taxation.

By Mr. HUBBARD, of New York: The memorial of the North American Lloyd Transatlantic Steamship Company, praying that a subsidy of $300,000 per annum for four years be granted them for carrying the mail in first-class vessels now owned by them, from New York to Southampton and Bremen and back twice per month each way, and that an additional compensation be allowed them when the service shall be increased to a weekly, &c.

By Mr. INGERSOLL: The petition of citizens of Wethersfield, and other towns in Illinois, for a law regulating insurances.

By Mr. KASSON: The petition of Thomas J. Hendry, and 69 others, for equalization of bounties.

By Mr. KETCHAM: The petition of H. D. Gay, George London, and others, citizens of New Lebanon, Columbia county, New York, for an additional duty on foreign wool.

By Mr. LAFLIN: The petition of citizens of Jefferson and Lewis counties, New York, in favor of the establishment of just and equal laws for the regulation of inter-State insurance of all kinds.

By Mr. MORRIS: The petition of Joseph C. Shelton, and 75 others, asking for an increase of duty on foreign wool.

By Mr. PAINE: The petition of A. A. Strohn, H. G. Reitzenstein, and others, citizens of Wisconsin, for modification of excise tax on cigars.

By Mr. PERHAM: The petition of Mrs. R. A. F. Bursley, widow of Lieutenant Charles M. Bursley, late of third regiment Maine volunteers, for increase of pension.

By Mr. SMITH: The petition of John L. Magee, of Cynthiana, Kentucky, for property destroyed during the war.

Also, petitions of Henry Johnson, J. F. Ware, C. Walton, John Bruce, J. S. Frizell, W. W. Trimble, W. A. Stewart, Frank Box, J. E. Dickey, C. T. Delling and wife, M. Streufels, and H. C. Uebel, for same purpose.

By Mr. SPALDING: The petition of Carlton & Lee, and many others, citizens of Ohio, in respect to the regulation of insurance.

By Mr. STEVENS: The petition of brewers in the tenth district of Pennsylvania, praying for a reduction of the duty on Canadian barley.

By Mr. WASHBURNE, of Illinois: The petition of sundry citizens of Illinois, asking legislation by Congress for the regulation of inter-State insurances of all kinds.

Also, the petition of sundry dress-makers in the cities of New York and Brooklyn, for a revision of the revenue law in reference to their present taxation.

IN SENATE.

FRIDAY, *March* 23, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY.

The Journal of yesterday was read and approved.

DEFICIENCY CIVIL BILL.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House of Representatives had agreed to some and disagreed to other amendments of the Senate to the bill of the House (H. R. No. 86) making additional appropriations and to supply deficiencies in the appropriations for sundry civil expenses of the Government, for the fiscal year ending the 30th of June, 1866, and for other purposes, and had agreed to other amendments of the Senate to the said bill with amendments; asked a conference on the disagreeing votes of the two Houses thereon, and appointed Mr. THADDEUS STEVENS of Pennsylvania, Mr. ELIHU B. WASHBURNE of Illinois, and Mr. RUFUS P. SPALDING of Ohio, managers at the same on its part.

Mr. FESSENDEN. I move that the Senate insist on its amendments disagreed to by the House, and that the conference be granted and the conferees be appointed by the Chair.

The motion was agreed to.

Mr. ANTHONY. I should like to know what the differences are.

Mr. CONNESS. They are very extensive. I believe the House have only concurred in two of our amendments.

The PRESIDENT *pro tempore* appointed Messrs. FESSENDEN, CONNESS, and JOHNSON, the committee on the part of the Senate.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of War, communicating, in obedience to a resolution of the Senate of the 9th instant, information in relation to legislation necessary to fix and establish the position of the Chicago and Rock Island railroad at Rock Island, Illinois, so as to enable the War Department to occupy that island for military purposes; which, on motion of Mr. WILSON, was referred to the Committee on Military Affairs and the Militia.

ACADEMY OF SCIENCES.

The PRESIDENT *pro tempore* also laid before the Senate a communication of the vice president of the National Academy of Sciences transmitting, in obedience to law, a report of the operations of that society during the past year; which was ordered to lie on the table, and be printed.

PETITIONS AND MEMORIALS.

Mr. CLARK. I hold in my hand, Mr. President, two hundred and eighteen petitions from various towns and places in the State of New Hampshire, all of them numerously signed, so that I think they may be regarded as the petitions of the citizens of New Hampshire, in which they ask for an act of Congress making a special bounty of land to the soldiers in the late war of 1861 and 1862, which shall make them more equal in pay with those who afterward entered the service and received large bounties. They also ask a special bounty of land to the reënlisted veterans who did so much toward the termination of the war. I move their reference to the Committee on Military Affairs and the Militia, hoping that they may be able to do something in answer to the prayer of the petitioners.

The motion was agreed to.

Mr. MORGAN presented a petition of one hundred and sixty-one soldiers and three hundred and seventy-one citizens of Little Falls, New York, praying for an equalization of bounties; which was referred to the Committee on Military Affairs and the Militia.

Mr. HENDERSON presented a resolution of the Legislature of Missouri, in favor of the payment of the losses and damages sustained by the university of that State on account of the occupation thereof by Federal troops as a military post; which was referred to the Committee on Claims, and ordered to be printed.

Mr. HARRIS presented a petition of brewers of New York, praying for a reduction of the duty on barley imported from Canada and the British Provinces in North America, so that it may not exceed five cents per bushel; which was referred to the Committee on Finance.

Mr. HOWE. I present a memorial signed very largely by citizens of the United States, praying Congress not to restore any State that has rebelled or warred against the United States to its place in power, as a governing partner in the Union, until adequate security has been obtained against its renewing the attempt to secede; against its being represented in Congress beyond its just proportion according to its voting population; against any payment for debts incurred in rebellion or for its emancipated slaves; and against any distinction in its constitution, laws, or municipal regulations on account of color or descent, and not to allow any distinction on account of color or descent in the laws or municipal regulations of the District of Columbia, the national capital, whose institutions, ordained by Congress, stand before the world as representative of the national spirit and character; and also to propose for ratification to the several States amendments to the Constitution such as are set forth in the petition at considerable length. I move its reference to the committee of fifteen.

The motion was agreed to.

Mr. DAVIS presented the petition of D. D. Sublett, praying for compensation for services rendered by him in taking the eighth census in the county of Morgan, Kentucky; which was referred to the Committee on Claims.

REPORTS OF COMMITTEES.

Mr. CLARK, from the Committee on Claims, to whom was referred the petition of Marie Genand, sole heir of John Hudry, praying to be reimbursed for money advanced and expended in 1814 and 1815 by Hudry for the United States, submitted an adverse report; which was ordered to be printed.

Mr. HENDERSON, from the Committee on Claims, to whom was referred the petition of George D. C. Hibbs, praying to be allowed the difference between his pay of a first-class clerk and the amount he received as a messenger in the Pension Office, submitted an adverse report; which was ordered to be printed.

Mr. STOCKTON, from the Committee on Pensions, to whom was referred a bill (H. R. No. 219) for the relief of Catharine Mock, reported it with an amendment, and submitted a report; which was ordered to be printed.

Mr. POMEROY, from the Committee on Public Lands, to whom the subject was referred, reported a bill (S. No. 221) relating to lands granted to the State of Minnesota to aid in constructing railroads; which was read and passed to a second reading.

He also, from the same committee, to whom was referred a bill (S. No. 193) to amend an act entitled "An act granting land to the State of Michigan to aid in building a harbor and ship-canal at Portage Lake, Keweenaw Point, Lake Superior," approved March 3, 1865, reported it with an amendment.

Mr. ANTHONY, from the Committee on Claims, to whom was referred the petition of the Amoskeag Manufacturing Company, praying for compensation for three regimental cook wagons furnished the Army by order of Major General Frémont, commanding the Western department, submitted a report, accompanied by a bill, (S. No. 225,) for the relief of the Amoskeag Manufacturing Company. The bill was read, and passed to a second reading, and the report was ordered to be printed.

MARINE HOSPITALS AND REVENUE CUTTERS.

The Senate proceeded to consider its amendments to the bill of the House of Representatives (H. R. No. 184) to authorize the sale of marine hospitals and revenue cutters, disagreed to by the House of Representatives; and on motion of Mr. CHANDLER, it was

Resolved, That the Senate insist upon its amendments to the said bill, disagreed to by the House of Representatives, and ask a committee of conference on the disagreeing votes of the two Houses thereon.

Ordered, That the managers on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Messrs. CHANDLER, SHERMAN, and NESMITH.

BILLS INTRODUCED.

Mr. CHANDLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 222) further to prevent smuggling, and for other purposes; which was read twice by its title, referred to the Committee on Commerce, and ordered to be printed.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 51) respecting bounties to colored soldiers; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 223) to revive and extend the provisions of an act granting the right of way and making a grant of land to the States of Arkansas and Missouri to aid in the construction of a railroad from a point upon the Mississippi opposite the mouth of the Ohio river, via Little Rock, to the Texas boundary near Fulton, in Arkansas, with branches to Fort Smith and the Mississippi river, approved February 19, 1853, and for other purposes; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 224) to aid in the construction of a southern branch of the Union Pacific railway and telegraph, and to secure to the Government the use of the same for postal, military, and other purposes, which was read twice by its title, referred to the Committee on the Pacific Railroad, and ordered to be printed.

Mr. MORRILL asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 52) authorizing the Secretary of the Treasury to change the name of the steamboat City of Richmond to City of Portland; which was read twice by its title, and referred to the Committee on Commerce.

Mr. YATES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 226) to repeal section ten of an act to amend the several acts heretofore passed to provide for enrolling and calling out the national forces, and for other purposes; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. MORRILL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 227) to incorporate the Washington Glass Company; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. BROWN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 228) donating public lands to the American Forest Tree Propagation and Land Company for conducting experiments and disseminating information respecting forest-tree culture, calculated to prevent the destruction and encourage the production of forests in America; which was read twice by its title, and referred to the Committee on Public Lands, and ordered to be printed.

EXPEDITION TO CHILI.

Mr. ANTHONY. The Committee on Printing, who were instructed to inquire into the expediency of continuing the publication of the report of the United States naval astronomical expedition to Chili, have instructed me to report a resolution on that subject, and I will ask for its present consideration.

There being no objection, the Senate proceeded to consider the following resolution:

Resolved, That the further publication of the observations of the United States naval astronomical expedition to Chili, for the use of the Senate, of the Secretary of the Navy, and of the superintendent of

the expedition, as authorized by a resolution of the Senate of August 2, 1854, be, and the same is hereby, discontinued.

Mr. ANTHONY. In reporting this resolution the committee do not wish to be understood as undervaluing in any respect the importance of this report, which is very creditable to those engaged in it, and we have no doubt highly advantageous to science, nor are we at all indifferent to the abstract scientific investigations, but the resolution is reported merely on account of the great expense, it costing nearly $50,000 to continue it, and in the present condition of the Treasury it is not thought proper to continue the publication.

The resolution was adopted.

NORTHERN KANSAS RAILROAD.

Mr. LANE, of Kansas. I ask the consent of the Senate to dispose of the motion to reconsider the bill (S. No. 145) for a grant of lands to the State of Kansas to aid in the construction of the Northern Kansas railroad and telegraph, which has been returned by the House of Representatives in compliance with a resolution from the Senate. It will not take an instant. I move to take up that question.

The motion was agreed to.

The PRESIDENT *pro tempore*. The Senator from Kansas moves that the Senate reconsider its vote passing this bill.

The motion was agreed to.

The PRESIDENT *pro tempore*. The Senator now moves that the vote of the Senate ordering the bill to be engrossed and read a third time be reconsidered.

The motion was agreed to.

The PRESIDENT *pro tempore*. The bill is now before the Senate and open to amendment.

Mr. LANE, of Kansas. I move now to amend the bill by striking out the words "in Kansas," where they occur in line nine.

Mr. POMEROY. There was an error by which those words were put in the wrong line. The words "in Kansas" should be stricken out in line nine and inserted in line ten, section one, so as to make the section read:

That there be, and hereby is, granted to the State of Kansas for the purpose of aiding in the construction of the Northern Kansas railroad, to wit, from Elwood, on the Missouri river, in Kansas, and opposite the city of St. Joseph, in the State of Missouri, west through Marysville to a junction with the Pacific railroad, every alternate section of land in Kansas designated by odd numbers, &c.

The amendment was agreed to.

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

RESERVED SEATS IN GALLERY.

Mr. RIDDLE. A few days ago some thirty Senators requested the Sergeant-at-Arms to assign reserved seats in the gallery for Senators, Representatives, and their wives and families. I now offer a resolution to that effect, as the Sergeant-at-Arms does not feel authorized to do it at our simple request:

Resolved, That the Sergeant-at-Arms of the Senate be directed to assign reserved seats in the gallery for Senators, Representatives, and their wives and families.

Mr. POMEROY. Let it lie over.

The PRESIDENT *pro tempore*. Objection being made, the resolution lies over under the rules.

WELLINGTON AND DORSEY.

Mr. CONNESS. I move that the Senate proceed to the consideration of the bill reported by me the day before yesterday from the Committee on Post Offices and Post Roads—Senate bill No. 210.

The motion was agreed to; and the bill (S. No. 210) for the relief of Wellington & Dorsey was read the second time, and considered as in Committee of the Whole. It proposes to direct the Postmaster General to pay to Daniel Wellington and J. C. Dorsey, composing the firm of Wellington & Dorsey, the sum of $10,437 50 for extra services rendered in carrying the United States mails on route No. 14602, between the towns of Carson City and Aurora, in the State of Nevada, from July 1, 1862, to June 30, 1865.

Mr. CONNESS. I ask for the reading of the report.

The Secretary read the following report:

The Committee on Post Offices and Post Roads, to whom was referred the memorial of Wellington & Dorsey for relief, beg leave to report as follows:

In July, 1862, the contract for carrying the mail once a week from Carson City, Nevada, to Aurora, on route 14602, was awarded to Wicks & Miller at a compensation of $4,600 per annum. For some reason unknown the contractors failed to fulfill their contract. This route was the only one which afforded mail communication to the town of Aurora, then, as now, a prosperous and busy mining town. Upon the solicitation of citizens and postmasters, Messrs. Wellington & Dorsey commenced to fulfill the contract forfeited by Wicks & Miller. By that time, however, the wants and demands for increased mail facilities became so great, consequent upon the greatly increased population of Aurora, and the discovery of rich mines in its vicinity, that these petitioners yielded to the solicitation of the people, and carried the mail three times per week for one year and ten months, and daily for eleven months. The Post Office Department paid them at the rate agreed upon by Wicks & Miller for a weekly service, and they now ask Congress to pay them for their extra service at the same rates at which the Department has (since) contracted for carrying a tri-weekly and daily mail over the same route.

The amount claimed is $20,875. In view of the facts, all of which have been well authenticated by papers from the Department and other sources, the committee offer the accompanying bill.

The bill was reported to the Senate without amendment.

Mr. CLARK. I should like to inquire of some one who may know, how much money this bill will take out of the Treasury.

Mr. CONNESS. That is stated in the bill. It appropriates $10,437 50, which is half of what the contractors claim, and half of what the service would entitle them to if it had been regularly authorized by the Department. The Department say that evidence is on file with them, furnished by postmasters, that the service was performed, and that it was necessary, and even a much-needed service. There is no doubt on that point. The service was performed in Nevada, not in California, in a mountain region where the cost of the service was very much enhanced.

Mr. GRIMES. When was it?

Mr. CONNESS. The report states. I have here a letter from the Second Assistant Postmaster General on the subject, the substance of which is embodied in the report. We concluded, on full examination of the case, that by agreeing to pay one half the amount charged the Department and the people got a very cheap service, and that under the circumstances it would be a sufficient compensation to these parties. They performed a very valuable and a very costly service. There is no doubt that it was needed. Of course there is no power in the Department to pay unless the appropriation be made.

Mr. CLARK. I understand it was entirely a voluntary service. I inquire of the Senator from California whether there was any recommendation or intimation on the part of the Post Office authorities that the service was desirable to be performed before these gentlemen undertook to do it.

Mr. CONNESS. I believe it grew up like all the service or a great portion of the service in all the new States and Territories. Before arrangements can be made to get the authorization of service by the Department the necessity becomes so great that the local postmasters and postal agents are intrusted with discretion to allow service in those cases. This service was authorized by all these parties belonging to the Post Office Department. It was not authorized from the Department here, but the Department are of the opinion that it was valuable service, that it was well performed, and that the contractors or performers of the service are entitled to compensation, and, as I say, we cut their compensation down just one half.

Mr. NYE. I wish to suggest to the Senator that when this service was performed I lived at one end of the line. A year ago the Post Office Department made arrangements by which they provided for this service. The parties did the service on the recommendation of the postmasters there and the postal agent, with assurances that they would be paid.

Mr. CONNESS. This is only half the rate now authorized by the present contract.

Mr. NYE. This is but half the rate the Post Office Department pays.

Mr. CLARK. I do not know that I am opposed to this particular bill; but it seemed to me that it was a dangerous kind of legislation, that parties undertaking to do a service entirely voluntary, coming to the Government, are to be allowed a certain sum, and then it is made a matter for the passage of the bill that we only allow them half what they charge! Is it understood that these parties take this allowance in full for what they claim?

Mr. CONNESS. Yes, sir.

Mr. CLARK. I desire to have the bill so amended that it shall say that it is in full, so that we shall not be troubled with another edition.

Mr. CONNESS. You will not be. They are not of that class to make that kind of trouble.

Mr. CLARK. I move to amend the bill by adding "which shall be in full for all claims and demands for such service."

The amendment was agreed to.

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

DISTRICT COURT IN MINNESOTA.

Mr. STEWART. I move to take up Senate bill No. 107, to provide for a term of the district court for the district of Minnesota, to be held at the city of Winona, in said district.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to repeal the laws providing for holding a term of the court at Mankato, and to require a term to be heard annually on the first Monday in June at Winona.

Mr. STEWART. I offer an amendment to add at the end of the first section:

And all process, writs, or recognizances, civil and criminal, which may have been or may hereafter be issued and made returnable at Mankato, shall be returned to the said term of the said court at the said city of Winona, in like manner and with the like effect as if originally made returnable thereto.

The amendment was agreed to.

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

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

LEAVENWORTH, LAWRENCE, ETC., RAILROAD.

Mr. LANE, of Kansas. I move that the Senate proceed to the consideration of Senate bill No. 119, reported by the Committee on the Pacific Railroad.

The motion was agreed to; and the bill (S. No. 119) granting lands to the Leavenworth, Lawrence, and Fort Gibson Railroad Company to aid in extending their railroad and telegraph line from the southern boundary of Kansas to the northern boundary of Texas, in the direction of Galveston bay, was considered as in Committee of the Whole.

The bill was read at length.

SENATOR FROM NEW JERSEY.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday, which is the resolution reported by the Committee on the Judiciary in reference to the case of the Senator from New Jersey, the pending question being on the amendment of the Senator from New Hampshire, [Mr. CLARK;] and on this question the Senator from Wisconsin [Mr. HOWE] is entitled to the floor.

Mr. HOWE. Mr. President, I do not propose to discuss the question before the Senate at any length. There is but little object in discussion. If the Senator from New Jersey sought any personal or any partisan triumph in this controversy, he has secured that. Whatever may be the decision of the Senate, it can-

not reflect upon his personal or his partisan character or claims. He has already a decision in his favor pronounced by a committee of this body composed of a large majority of his political opponents, and embracing some of the best, if not the very best, legal talent in the Senate. If, therefore, the Senate decides not to admit his claims to a seat here, there can be no party advantage derived to the party in the majority. The only way possible for the majority here to gain any advantage by a decision of this question, is by vindicating exactly the law of the land, and decreeing what is positively and abstractly and legally right to be done. I think myself, at all times, and under all considerations, the importance of deciding one of these questions correctly, transcends very much the importance of having any particular member in or out of this body. Therefore, so far as I have examined the question at all, I have examined it with express reference to seeing what is the law of the case; and if I were not very certain that my own conclusions were correct, I should feel bound to follow the lead of the committee which has investigated and reported upon the case.

But it does seem to me that there are two questions which if put to this Senate one after the other, or if put to any lawyer in the Senate one after the other, there would be no diversity of opinion upon either of them among the members of the Senate. If I asked the Senate whether the vote which was given in that joint convention for the present Senator from New Jersey would have elected him under the laws of that State in case there had been no rule of the joint convention pronounced, I think every member of the Senate would say "No; certainly not." If that convention had never declared by rule that a plurality of the votes given should constitute an election, and yet the convention had given precisely the vote they did give on this trial, forty votes to the Senator from New Jersey and forty-one votes against the Senator from New Jersey distributed among others, I do not think there is a single Senator on this floor but would have said at once, "Of course he cannot have been elected by any such vote as that." Why? Simply because forty votes cannot overcome forty-one; a minority cannot control a majority in the absence of a rule. If I put the other question to the Senate, whether a joint convention of the two Houses of the Legislature, can by rule, repeal or modify or change a law of the State, I think every Senator would say at once, "Certainly not; by rule the two Houses in joint convention cannot make a law, cannot repeal a law, cannot modify a law, cannot change a law." That would be the judgment of every Senator here upon that single question. If these two questions put separately would be answered in that way, in the negative, how happens it that both of these answers are overruled and disregarded when we come to consider the effect of them together?

The only clause of the Constitution which bears upon the view of this question which I take is the clause which declares that "the times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof." There is the delegation to the Legislature of the power, in the absence of any congressional legislation or direction, to prescribe the times, places, and manner of holding elections for Senators. It is under the authority derived from that clause of the Constitution that the Legislature of New Jersey, the very body referred to in the clause, did by law, the only way that a Legislature can do anything, provide that Senators from that State might be chosen by the two Houses in joint meeting. There was the exercise of the authority here delegated to the Legislature. By that delegation the two Houses were clothed with the authority to make the election.

If this was the first election they had ever been called upon to make; if this was the first time those two Houses were ever assembled in joint meeting, and they had enacted no rule on the subject, as I said before, I cannot conceive that there is a single member on this floor who would hesitate for a moment to say that if they had gone on under those circumstances and balloted, and but forty votes had been given for the Senator from New Jersey and forty-one had been given against him, he could not be elected. As I said before, no one will assert that those two Houses in joint meeting could make a law or could repeal or modify a law, and yet there are those who argue here that because the joint convention did agree by a majority before they balloted that a plurality might elect, therefore the Senator was elected, although he did not get a majority of the votes. But why so? The law was, before the rule was enacted, that a majority must be necessary to his election. After the rule was enacted it is contended the law became that a plurality might elect. If that is the force of the rule, does not the rule change and modify the law of New Jersey, the enactment of that Legislature? There are those who say that the act of the Legislature of New Jersey which directed that Senators should be appointed by the two Houses in joint convention, did, in terms, require that a majority of the votes of the two Houses should be necessary to an election, but yet that when the two Houses met together and agreed that a plurality might elect, then when an individual received that plurality it was in effect a majority; that the two Houses had agreed that it should stand for a majority. Mr. President, we cannot regard it as a majority because here is the record staring us right in the face which shows that eighty-one votes were given upon that question and only forty of them were given for the sitting member, and it is impossible for us to say by any rule of law or mathematics that forty is a majority of eighty-one.

Mr. McDOUGALL. The Senator will allow me to inquire if that joint meeting was not "the Legislature" denominated in the Constitution of the United States?

Mr. HOWE. Not at all.

Mr. McDOUGALL. I should like to hear it answered.

Mr. HOWE. It is not at all the Legislature denominated in the Constitution. The Legislature referred to in the Constitution is that tribunal in which is vested the law-making power.

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

Mr. HOWE. Certainly.

Mr. STOCKTON. I wish to ask how the Senator draws a distinction between the "Legislature" alluded to in the clause of the Constitution which says, "The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof," and the "Legislature" alluded to in the next clause, which says, "The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof." It has already been decided by practice and custom that the word "Legislature" in the first clause means the joint meeting, or else Senators so chosen are not chosen by the Legislature. They are to be chosen by the Legislature, and according to this argument they are not chosen by the Legislature in any State where they are chosen in joint meeting. I know it was very much doubted for a long time, and I think Chancellor Kent's opinion was rather against it, but it has by custom become fixed that the word "Legislature" in that clause is sufficiently complied with by a joint meeting electing. Nearly every Senator on this floor holds his seat by that construction. Now, I say, if it is a Legislature for the purpose of choosing, it is a Legislature for prescribing.

One other word. Has the Senator observed that there is no law required by the Constitution itself? The word used is "regulation:"

"The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations."

It is not a law, it is a rule of the body, and the body, it has been decided, is the joint meeting; and it is the "regulation," the rule of that body, that the Constitution of the United States requires. Now, although it may have been wrong to settle originally that the joint meeting was the Legislature, that being fixed, I insist, if it is a Legislature for the purpose of electing, it is a Legislature also for the purpose of making rules and regulations prescribing how the Senator shall be elected.

Mr. HOWE. To reply to the criticism of the Senator from New Jersey would lead me very much further into the discussion of the subject than I meant to go. I will say, by way of reply, very briefly, that if the question were a new one I myself would think there were grave reasons for contending that the body spoken of in the first clause of the third section was precisely the same body spoken of in the first clause of the fourth section, that the "Legislature" which is to choose Senators is precisely the same Legislature which is to prescribe regulations; but the question is not a new one. Although I do not agree with the Senator from New Jersey that precedent or usage or custom has settled the point that "the Legislature first spoken of means the two Houses in joint meeting, yet I do think precedent and usage have settled the interpretation that it means the members of the Legislature; that the members of the Legislature may, without the participation of the Governor, or without the participation of that majority which can enact a law, elect Senators; but in order to do so by any other means than those by which they can enact a law, they must be authorized to do it by a law enacted by the law-making power. I believe, so far as my acquaintance extends, that is the interpretation which usage sanctions. I do not think that a joint convention has been held without the sanction of a law, at least, if it has, I am not aware of any such usage.

Now, Mr. President, I have said nearly all I intended to say. I was remarking, however, when interrupted by the Senator from New Jersey, that it was impossible for us to consider forty votes as a majority of eighty-one. Besides that, there are rules of interpretation, not made for the government of this precise case, but as I think for the government of analogous cases, which exclude us from this interpretation. I think when the Legislature delegated to its members in joint convention the right to appoint a Senator, it did by force of that language require the assent of a number of individuals equal to a majority of those acting at the time and upon the question in order to a result.

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

Mr. HOWE. Yes, sir.

Mr. McDOUGALL. I should like to inquire of the Senator from Wisconsin whether it has not become a policy, that involves a rule of interpretation, to allow elections by pluralities instead of majority. Does it not belong to our system of elections from the precedent generally throughout our Government, pluralities, not majorities? Is not plurality the rule of construction, instead of majority?

Mr. HOWE. If the question is put to me, I must answer very directly, in my judgment no. Whenever a plurality does control a majority, I understand it to be by force of express law, by force of positive enactment controlling both minorities and majorities.

Mr. McDOUGALL. One moment, if you please. It is a rule of policy.

Mr. HOWE. The Senator from California and myself differ simply upon one point, whether it is a rule of policy or a rule of law. I think it is a rule of law, and wherever it prevails I think it is by force of law; and the existence of those enactments I take to be evidence that but for them the majority must prevail, and not the plurality.

Mr. President, when the law appoints an agent to do any act, that agent, I think, is not authorized to substitute another. When an individual is appointed to act as an agent or attor-

ney for another, he must himself act; he must exercise his own discretion; he cannot substitute the discretion of another unless he is expressly in the act of appointment authorized to do it. When a cause is submitted to the determination of a jury of twelve men you must have the assent of every individual on that jury, not merely of a majority, but of the whole, to the conclusion which is returned as the verdict, or it will be set aside. There cannot be any experimenting, there cannot be any contrivance employed to dispense with the necessity of each individual exercising his judgment and giving his assent to the verdict. The whole twelve may go into the jury-room and agree to adopt the opinions of the majority; but the verdict would be set aside, I take it, without hesitation. They may agree to take the average judgment, but the verdict would be set aside, I take it, without hesitation. Where an award is made after a cause is submitted to arbitration, you must have the assent of each one of the arbitrators to the award or it is not binding.

If it be conceded that when the Legislature by law has committed to the majority of the two Houses in joint convention the right to appoint a Senator those two Houses may, by a vote of their own, substitute a plurality for a majority, then can they not by agreement substitute a lottery or substitute any other mode they see fit to adopt for the selection of the Senator? If they had gone into joint meeting and the majority of them had agreed to put the names of all the candidates into a hat, and draw out one, and that the name drawn should be the Senator, and they had happened to draw the name of the present Senator from New Jersey from the hat first, and he had come here claiming upon that lot, would any Senator here say that he was entitled to his seat? But if not, why not? There would be the agreement of a majority of the members present to that mode of selection; why would not the lottery be just as binding, thus agreed to by the majority, as the decision of this plurality, which all admit would not have the slightest force but for the precedent agreement of the two Houses?

Mr. FESSENDEN. Allow me to ask my friend a question.

Mr. HOWE. Certainly.

Mr. FESSENDEN. Suppose that the two branches of the Legislature, when they passed the resolution to go into convention, had at the same time, as a part of it, said, "The individual who shall receive a majority of all the votes thrown shall be elected," and they had then gone into convention, could the convention have overruled that and elected by a plurality?

Mr. HOWE. I think not.

Mr. FESSENDEN. If they are, as contended, the Legislature in convention, having the right to make regulations, why not? The Legislature can repeal a law of the Legislature.

Mr. HOWE. But I do not contend that they are the Legislature. I contend that they are not.

Mr. FESSENDEN. That is the argument addressed to you from the other side, that they are the Legislature in convention.

Mr. HOWE. I thought the Senator was criticising something I had said.

Mr. FESSENDEN. No, sir; I merely wanted to suggest that.

Mr. STOCKTON. May I have the courtesy of the floor for a moment?

Mr. HOWE. Certainly.

Mr. STOCKTON. It is the Legislature for the purpose of electing and for the purpose of prescribing time, place, and manner of electing, because it is the Legislature referred to in these two clauses of the Constitution of the United States. It is not the law-making power of the State of New Jersey. That is the distinction.

Mr. FESSENDEN. The Senator contends that because the constitution of New Jersey uses the expression, "the Legislature in joint meeting," when they are in joint meeting on that subject they have the power of legislation, the power to make rules. That is what the Senator contends for, is it not?

Mr. STOCKTON. Not entirely. It is this: the Constitution of the United States declares that the Legislature shall choose, and that the Legislature shall prescribe the manner of choosing. The constitution of New Jersey alone has the right to say what the Legislature of New Jersey is. It says the Legislature is still the Legislature when in joint meeting. Now, Mr. President, the construction given to the Constitution of the United States declares that the joint meeting is the Legislature, as well as the constitution of New Jersey, so that both constitutions regard the joint meeting as the Legislature for choosing Senators and for prescribing the manner of choosing. It is not, however, the Legislature of New Jersey for the purpose of making the laws of New Jersey.

Mr. HOWE. Let me ask the Senator a question. In order to know what the Senator means by calling this convention the Legislature in joint meeting, I wish to ask him if he understands that under the constitution of the State those two Houses in joint meeting can pass a law.

Mr. STOCKTON. Certainly not.

Mr. FESSENDEN. Now, I want to ask my question, if the Senator will excuse me.

Mr. HOWE. Certainly.

Mr. FESSENDEN. I put this question: suppose the two branches of the Legislature, when they voted to go into joint meeting, had also voted that in order to elect there should be a majority; suppose they had made that part of the resolution by which they went into convention, could the joint meeting, after it got into convention, have overruled that and elected by a plurality?

Mr. STOCKTON. That is a question which is not directly involved in this matter; but I will answer that my opinion is that the joint meeting could not have set that law aside.

Mr. FESSENDEN. If they are still the Legislature in joint meeting, if they are the Legislature for the purpose of making rules, why not overrule it?

Mr. STOCKTON. They are not the law-making power in joint meeting.

Mr. FESSENDEN. But the gentleman contends that they can make rules. Now, I ask him if a different rule had been made by the two branches before they went in, prescribing the manner, could that meeting overrule it.

Mr. STOCKTON. I answer most distinctly, that in my opinion, it could not; but the fact is a different rule was not made.

Mr. FESSENDEN. What is the difference, if they have the power to make it?

Mr. STOCKTON. No rule as to the number of voices necessary to a choice was made by law in New Jersey ever. That always has been settled by regulation. It is by parliamentary law, under the very power by which they made a different rule, that the rule existed. That is my position.

Mr. HOWE. I differ with the Senator from New Jersey upon the point he now states, that there never was any law of New Jersey which directed the number of voices. I say that by force of that law which empowered the two Houses in joint meeting to choose a Senator, by the very terms of that law, a majority was required to elect; and in proof of this I made the assertion that if the joint convention had not adopted a rule to the contrary, not a Senator here would have ventured to assert that less than a majority could elect.

There was a law, then, which required a majority of the votes of the two Houses in order to elect; and although I answered the question of the Senator from Maine precisely as he would have answered it himself, I was not controlled by the same reason. I do not think that such a clause in the resolution providing for the joint convention, assented to by the two Houses, would have been the law which would have prevented the two Houses in joint meeting from adopting a different rule; I think it was that old and precedent law which directed that the two Houses in joint meeting should choose the Senator. It is by force of that law that they are precluded from electing by anything short of a majority. I will not now undertake to say how much additional force such a clause in the resolution assented to by the two Houses would have added to that. That was the force of the original law; and being so, it was not in the power of the two Houses to weaken or diminish the force of that law, or to substitute anything for that majority which the original law required.

Mr. HENDRICKS. Mr. President, when this question was before the Committee on the Judiciary I was very confident that the sitting member was entitled to his seat. I have listened with a great deal of care to the debate and have not been able to change my mind on that subject. I shall ask the attention of the Senate for a very few minutes while I consider the case.

On the questions of fact there is no difference; there can be none. The election took place in a joint meeting of the two Houses of the Legislature of New Jersey. That election took place pursuant to a resolution adopted by that joint meeting; and I was very clear, and I am yet, in the opinion that that joint meeting had the power in advance of the election to pass the resolution which it did adopt. It is not necessary to discuss the question whether that convention could by any regulation or rule depart from a rule prescribed by the two Houses acting separately, for that question is not involved. The Legislature acting in its separate branches did not undertake to prescribe the rule which should govern the election; it simply declared that the election should take place in a joint meeting of the two Houses. As to the mode of proceeding in that joint meeting, the Legislature adopted no rule or law, and the question in my judgment is simply whether the joint meeting had the power, first prescribing the rule, to elect in the mode in which it did elect.

I understand the astute Senator from Maine [Mr. FESSENDEN] to rely in his argument mainly upon one point, namely, that the Legislature, acting in the two branches, conferred upon the convention the power to elect; but when the convention met it was governed by parliamentary law, not by any law prescribed by Congress, for there was none; not by any law prescribed by the Legislature, because there was none; but by the common law governing parliamentary bodies; and that that was a law which the convention or joint meeting could not disregard. Now, sir, what was the common law governing that body? The Senator assumes that the common law, the parliamentary law governing the body, required a majority, and that the body itself could not adopt any other rule of election. In that I think he is mistaken. I think the parliamentary law conferred upon that body the power as a parliamentary body to prescribe the manner in which it should proceed to do the act which it had the power to do. Upon that subject I call the attention of the Senate to the law as given by Mr. Cushing in his very great work on the Law and Practice of Legislative Assemblies. It will be found in section three of chapter four, part one:

"In all collective bodies of men, assembled and acting together for the purpose of deliberating and deciding upon any subject, or for the purpose of selecting to any office, it is an admitted principle that whatever is done or agreed to by the greater number shall stand as the act or the will of the whole."

That is the general principle in all deliberative bodies. He goes on to say:

"The law of the majority is universally admitted in all legislative assemblies, unless, in reference to particular cases, persons, or circumstances, a different rule is prescribed by some paramount authority, or is agreed upon beforehand and established by the assembly itself, by which a smaller number is permitted, or a larger number is required, to do some particular act. But even in these cases it is the will of the majority that governs; because it is by a major vote, in the first instance, that the rule itself is established."

There is the parliamentary law which conferred upon this joint meeting the power to do the very act which it did. The Senator simply assumes that parliamentary law denied to that joint meeting the power to do the act

which it did. I dispute the proposition of the Senator. I say the parliamentary law enabled the joint meeting to do what it did, in advance to prescribe the number of votes that should be required to elect, and I say it on the authority of Cushing, and I know of no authority to the contrary. I will read a little further:

"Every question which is propounded to a legislative assembly for its determination, and voted upon in any of the manners described, receives its decision according to the preponderance of the votes, which, unless some other rule is expressly prescribed, as there usually is in each assembly in reference to particular questions, is ordinarily effected by a majority. In those cases where the rules or customs of any assembly allow a vote to remain on an equal division, the decision, as neither side preponderates, is necessarily in the negative. In many cases it is provided, either by a constitutional requisition or by rule, that particular questions, in order to prevail, shall require more or admit of less than the ordinary majority in their favor."

When the joint meeting by a majority vote agreed that a plurality should elect, and then a plurality vote was given, that plurality vote became the judgment of the majority for the simple reason that the majority in advance had agreed that the plurality vote should have the effect of a majority vote; and it is upon that principle that Cushing lays down the law, for it is the majority vote in advance prescribing the mode which gives the force of a majority vote to the plurality vote when it is given. I cannot express this so well as Cushing expresses it, and therefore I will read a part of what he says again:

"The law of the majority is universally admitted in all legislative assemblies, unless in reference to particular cases, persons, or circumstances a different rule is prescribed by some paramount authority"—

The Senator admits that the Legislature acting in its separate branches would be a paramount authority which could prescribe the rule that a plurality should elect, but the author goes on:

"or is agreed upon beforehand and established by the assembly itself by which a small number is permitted or a larger number required to do some particular act. But even in these cases it is the will of the majority that governs, because it is by a majority vote in the first instance that the rule itself is established."

If the authority of parliamentary law controlled that joint meeting, then I say parliamentary law gave to the joint meeting the power to prescribe the vote that should control, and that was done by a resolution adopted by a majority. The joint meeting agreed in advance that a plurality should elect; and then when the plurality vote was given it was the vote of the majority. Indeed, sir, I may say it was the vote of the body, because the body had agreed that that should be the vote of the body and conclusive upon the question.

But, Mr. President, I wish to call the attention of the Senate to another question in connection with this case. The Constitution of the United States conferred upon the Legislature the power to choose a Senator. The Legislature, it is conceded, could properly confer the power to choose a Senator upon the joint meeting, and the joint meeting could then choose the Senator. Congress not having prescribed any regulation of manner, the Legislature having prescribed no regulation of manner, it was left for the joint meeting to choose a Senator. Now, if the word "choose" governs and defines the power of the Legislature when each branch acts separately, why does it not define the power of the joint meeting in doing the very act? The Senator says that the parliamentary law went into that joint meeting and governed it. If the Constitution uses the word "choose," why does not the same parliamentary law govern the Legislature in doing that very act?

Let me call attention now to one or two provisions of the Constitution bearing upon this point: "The House of Representatives shall be composed of members chosen every second year by the people of the several States." The manner of choosing may be prescribed by Congress; it may be prescribed by the Legislature of the State, but the choice is to be made by the people. The Senator says that in choosing, in the absence of a regulation prescribed by some paramount authority, a majority vote alone can control. If his construction be right, the people in electing a member to the House of Representatives must elect by a majority vote, because the Constitution merely confers upon them the power to choose; it does not say they may choose by a minority vote, but that they may choose. We know, however, that without a regulation upon the subject, members of the House of Representatives are chosen by a plurality vote in many of the States.

Mr. CLARK. That is by express law of the State.

Mr. HENDRICKS. No, sir; not by express law of the State. There is a provision in the law that the party receiving the highest vote shall receive a certificate of election. That is the only provision of law upon the subject, and that is a provision in regard to the evidence of election.

Mr. CLARK. That is by law.

Mr. HENDRICKS. Now, let me call the attention of Senators to another provision: "The House of Representatives shall choose their Speaker and other officers." The Senator from Maine says that when a body is authorized simply to choose, the parliamentary law governs them in making the choice. The Constitution of the United States confers upon the House of Representatives the power to choose. I ask the Senator, then, does the parliamentary law go into the House and govern the House in making the choice. The Constitution of the United States conferred upon this joint meeting the power to choose a Senator. That is admitted; it is controlled by too many precedents in this body to be questioned. The Constitution authorized that joint meeting to choose a Senator. The Constitution says that the House of Representatives may choose a Speaker. Parliamentary law goes into the House then, and says that choice must be made by a majority; that is the argument of the Senator, and yet, in two very memorable instances, less than a majority of the House did elect a Speaker. Mr. Howell Cobb was elected Speaker by receiving 102 votes out of 222; Mr. N. P. Banks was elected Speaker by receiving 103 votes out of 214; and the elections were not questioned, and could not be questioned, and why?

Mr. SHERMAN. It was questioned and very much debated, but at the same time the decision was arrived at that the majority vote which authorized the plurality vote was an agreement to acquiesce in the result produced by the plurality rule. It was, however, questioned and debated very much.

Mr. HENDRICKS. It was debated, I dare say; but how did the House come to elect a Speaker by less than a majority? Not that the Constitution authorized it, for the Constitution simply said to them, choose your Speaker. The argument of Senators is, that in doing that act parliamentary law came in and controlled the action, and required a majority; but the House did not so construe its powers; it prescribed the rule that a plurality should elect, and prescribing it the election was held to be valid. Those distinguished men held their offices under an election by a plurality. That is precisely analogous to this case. The power of the Constitution went down to the joint meeting of the Legislature of New Jersey to choose a Senator. That is admitted. How choose him? Choose him according to its own mode. The Senator from Maine asked a question yesterday of the distinguished Senator from Maryland, the force of which I cannot understand. He asked the question whether a regulation could be prescribed by that joint meeting excluding the vote of the presiding officer. In reply to that, I ask the Senator can the Legislature, acting in its separate branches, prescribe a regulation which will cut off the vote of any member of the Legislature?

Mr. FESSENDEN. No; certainly not.

Mr. HENDRICKS. Certainly not. Then there is no force in the argument.

Mr. FESSENDEN. The Senator from Maryland said they could.

Mr. HENDRICKS. But it is not questioned that the joint meeting has the power to choose the Senator. Then, sir, Mr. Cushing lays it down that in making that choice it can prescribe the regulations, and among the regulations which it may prescribe is one as to the number of votes required to make the selection. But, sir, suppose parliamentary law did not confer this power upon the joint meeting, suppose Cushing and all authority was not that way, yet what was the parliamentary law for that joint meeting? Suppose that for two hundred years in England and during our history the parliamentary law had been that to do an act a majority must agree to it. Suppose that to be the common law, it is not the common law of the joint meeting of the Legislature of New Jersey, an institution known there before the adoption of the Constitution of the United States. The history of New Jersey in that regard is somewhat peculiar. Before the adoption of the Constitution of the United States a joint meeting of the Legislature was known to her institutions.

Mr. FESSENDEN. I ask the Senator, was it ever known in her institutions to elect by a plurality vote an officer.

Mr. HENDRICKS. I do not know of any instance in which New Jersey elected by a plurality vote; I have not examined in regard to that; but I understand the Senator to admit that the two branches of the Legislature of New Jersey acting separately could prescribe a rule under which a plurality might elect. He admits the fact that a plurality can elect. Now, I come to the question, under the law which governed the joint meeting of New Jersey, could that joint meeting adopt a rule in advance by which a plurality could elect? I say it could, for the simple reason that for seventy-five years the mode of conducting its business had been prescribed by that joint meeting. In 1794 the first set of rules were adopted.

Mr. CLARK. Allow me to inquire whether in all the seventy-five years they undertook to do a thing of this kind.

Mr. HENDRICKS. I have answered that question to the Senator from Maine, and it is not necessary, as I think, to repeat the question. I say I do not know of any instance in which the Legislature of New Jersey, acting in any way, has elected by a plurality vote; but it is admitted that the Legislature can elect by a plurality vote. The Senator from New Hampshire, I believe, does not dispute that the Legislature of New Jersey can prescribe that a plurality shall elect, acting in the separate branches. Now, my point is, that whatever the Legislature acting in the separate branches could do in that regard, the joint meeting could do; and I argue that, in the first place, from the parliamentary law laid down by Cushing and laid down by other authorities. But suppose, as I was going on to say, that the parliamentary law is as stated by the Senator from Maine, does that parliamentary law govern the joint meeting of the Legislature in New Jersey? No, sir; for the reason that that joint meeting has for so many years agreed to govern its proceedings by its own rules that its own rules and practice have become the rule and law for its government. Many times it has prescribed the number of votes required to elect; at some sessions it has prescribed the rule that a majority of all the members elected should be necessary to make a choice. At other times it has prescribed that a majority of those present and voting should be sufficient to elect; at other times, a majority of those present, whether voting or not voting, should be required to elect; so that that body for many years has acted upon the principle that it had the power to regulate the question of the number of votes necessary to make a choice. Then the constitution of New Jersey is adopted; it recognizes the joint meeting as an institution of the State; it provides for the election of very many State officers by that joint meeting. Now, I ask, in view of the history of that joint meeting for so many

years, the constitution itself adopting the joint meeting as a legislative body, what power does the Constitution of the United States confer upon that legislative body?

I say it is the power to do this act of choosing a Senator in the mode consistent with its practice. That joint meeting for so many years having controlled its own mode of proceeding, the parliamentary law thereby became abrogated so far as it was inconsistent with the practice of the joint meeting. How does it come that we have not the previous question in this body? It is a part of the parliamentary proceeding known for two hundred years in England. It was known in the Congress under the Articles of Confederation. It has been known in the House of Representatives ever since the adoption of the Constitution. It was practiced for many years in the Senate after the adoption of the Constitution, but by custom it has been abandoned, and is no longer a part of the parliamentary law of this body. I know of no express abrogation of the previous question in this body. The rules of the body prescribe what motions may be made during debate. It may be said that that rule had the effect to abrogate the previous question; but I think it will be found, though I have not had time to examine it very thoroughly, that the previous question ceased to be a part of the law of this body by its *non user*, by the practice of the body to the contrary.

It is very clear, Mr. President, that we can modify our rules by a practice of many years, and that practice becomes the law of the body instead of the parliamentary law. It is known to lawyers that even the common law may be modified by a custom in a neighborhood to the contrary. This legal custom, this neighborhood custom, perhaps, does not become the law of the land, so that the courts will *ex officio* take notice of it, but you can prove a custom in a neighborhood or a city, among all the people that exercise a business, trade, or art, in court for the purpose of making that custom part of the contract which is in question before the court. It is custom that has the effect to modify or abrogate a proposition of common law. So in a deliberative body I claim that a custom will modify or abrogate a part of the parliamentary law, and here for seventy-five years, in the joint meeting of the New Jersey Legislature, practice has obtained of governing its conduct by rules adopted by itself, and among those rules is found a rule regulating the number necessary to a choice.

Now, Mr. President, one other point I desire to make, and then I am done. The joint meeting of the Legislature agreed to elect by a plurality. They did so elect. The presiding officer, it seems from the record, announced the result, and there was no objection to it. The convention proceeded to other business on the result being announced, and by silence acquiesced. I say that is conclusive upon the question. Here is the record:

"Hon. John P. Stockton having received a plurality of all the votes cast, was declared duly elected United States Senator for the term of six years from the 4th day of March, instant.

"Mr. Holsman moved that the joint meeting now proceed to the election of commissioners of deeds in the various townships; which was agreed to."

No objection was made to the election; it was acquiesced in by the whole body. I say after the body acquiesces in the announcement of the presiding officer, makes no point upon it then and there, it is the act of the whole body. We witness it here every day. How frequently when you, sir, put a question to this body is there in the affirmative not a single response, while in the negative there are three or four responses. The presiding officer knows very well from the course of the debate what is the judgment and wish of the body, and it is announced that the affirmative has carried. If I am not satisfied with that decision, must I not make my point then? Must I not say to the presiding officer, "I ask for a division," or "I ask for the yeas and nays," right then? If I acquiesce in the announcement that is made by the presiding officer, I cannot afterward question it. Suppose a case: suppose that when the vote is taken upon the passage of a bill, not a single Senator votes for the bill while every Senator who actually votes votes in the negative, and the presiding officer announces the vote to the body that the affirmative has it, and no Senator objects at the time, can you let that go upon the Journals and then afterward undertake to prove that the bill never did pass?

Mr. CONNESS. Will my friend, the Senator from Indiana, allow me a suggestion?

Mr. HENDRICKS. Certainly.

Mr. CONNESS. In the election of my colleague, in 1861, the legislative body voted in joint convention, as in the State of New Jersey, and the result of the vote was declared to be a majority in his favor, and the presiding officer declared him duly elected a Senator of the United States from the State of California for six years from March 4, 1861, and the joint convention dissolved and adjourned. But it was found after that election was declared that less than a majority had really voted for him, that there was an error in the count; in other words, that there was a majority cast against him or for other candidates. I believe I am quite certain of that—the Senator obtained his certificate of election. But the Legislature took the position immediately that that was not an election, and a new convention was ordered, the Legislature calling upon him for his first certificate before they would give him a new one or consider the question of his second election; and it was by virtue of his credentials issued upon the second election that he now occupies his seat in the Senate. I make this statement applicable to the point the Senator from Indiana is now discussing.

Mr. HENDRICKS. Upon the statement made by the distinguished Senator from California, I should say that his colleague was well elected to the Senate.

Mr. CONNESS. But that does not touch the case; that hardly reaches the argument.

Mr. HENDRICKS. If the vote was announced to the convention, and there was no question of the announcement at the time, I say it was acquiesced in by that body.

Mr. CONNESS. There was not in the case that I state.

Mr. HENDRICKS. Very well; then there was no opportunity given. If there was no announcement of the result there was no opportunity given to question it. Upon this question I will read a very few authorities. Broom's Maxims, page 103, says:

"Where at the trial of the cause a proposal was made by the judge in the presence of the counsel on both sides, who made no objection, that the jury should assess damages contingently, with leave to the plaintiff to move to enter a verdict for the amount found by the jury, it was held that both parties were bound by the proposal, and that the plaintiff's counsel was not therefore at liberty to move for a new trial on the ground of misdirection, for *qui tacet consentire videtur*, the silence of counsel implied then their consent to the course adopted by the judge."

In the Queen *vs.* Green, (2 Queen's Bench Cases,) Chief Justice Denman said:

"I am of opinion that the objection here taken is good. It is not necessary to scan particular cases. The principle is, he that concurred in inducing a party to exercise an office cannot be heard in this court on an application in this court to turn him out of that office."

Lord Kenyon said, in Rex *vs.* Clarke, 1 East, 46:

"The court will not listen to a corporator who has acquiesced or perhaps concurred in the very act which he afterward comes to complain of when it suits his purpose."

In Cameron's case, Thirty-Fourth Congress, third session, it was alleged by the protestants that the Senate of the State did not appoint a teller and perform other duties at the time prescribed by the statute. The report of the Committee on the Judiciary, submitted by Mr. Benjamin, contains the following language:

"But where, as in the present case, both Houses proceeded without objection from any source to perform their constitutional duty of electing a Senator, the necessity of complying with any particular forms required by law may fairly be considered as waived by common consent, and it is entirely too late, after the result of the voting has been ascertained, to raise a question as to the mode of proceeding."

These are all the authorities to which I wish to refer on that point. I hold (though I do not think it is important to refer to that principle) that the result of the vote having been announced, Mr. Stockton having been declared to be elected Senator, that announcement not having been questioned, the body proceeding to other business acquiesced in the announcement. That convention, it is not questioned, could elect in any mode. Suppose on their assembling somebody had proposed that Mr. Stockton be the Senator, and the vote had been taken *viva voce* and the presiding officer had announced that Mr. Stockton was elected Senator, could it be afterward questioned that he had been elected Senator? As well might a man go into court and question the announcement made by the presiding officer of this body on the passage of a law and undertake to prove that the law was not in fact passed, when on the announcement of its passage being made by the presiding officer no Senator questioned it, all the Senate acquiesced in the announcement made. So it being announced in this joint meeting that Mr. Stockton was elected Senator, all the members of the convention knowing the purpose of the announcement and the purpose of the meeting and the business that was before it, that announcement being made and acquiesced in by the silence of all the members of the body, it is the vote and act of the entire body.

But upon the first question my mind was entirely clear on the investigation in the committee. The question was there very thoroughly investigated, and the arguments which the learned Senators on that committee presented in giving their votes were entirely conclusive to my mind.

The PRESIDENT *pro tempore*. Is the Senate ready for the question on the amendment?

Mr. TRUMBULL. Mr. President, if no other Senator desigus saying anything, I in conclusion desire to say a few words in behalf of the report of the committee which I presented.

Mr. CLARK. If the Senator from Illinois proposes to speak on this proposition, I wish to suggest that I suppose that I am entitled to close the debate on the amendment.

Mr. TRUMBULL. It is the first time I ever knew in a parliamentary body that a person who opposed the report of the committee had the close of the debate. I supposed that by all parliamentary rules the chairman of the committee who submits a proposition to the Senate or to any parliamentary body was entitled to close the debate. I do not think, however, it is very important. If the Senator from New Hampshire desires to follow me, he may do so. It is not a matter that I shall have any controversy with him about; but I understand the usage to be the other way.

Mr. CLARK. The Senator entirely misunderstands me. I did not claim the right to close the debate. I said upon this proposition, which does not close the debate, I should be entitled to close, and I make that remark that there may be no misunderstanding on the part of the Senator, so that if he makes his argument now, he may know that on this affirmative proposition of amendment I shall be entitled to close. I do not say that he is not entitled to close the entire debate by any means.

Mr. TRUMBULL. That is a mere begging of words. The Senator from New Hampshire knows that the whole question is involved in the proposition now before the Senate. If the Senate votes that he is not entitled to his seat, does it not settle whether he is entitled to it or not? It is merely putting in a word to take the vote in another form; it involves the whole merits of the question. It is not a side issue; it is not a demurrer; it is a proposition going to the whole matters in question. But I am going to have no discussion with the Senator from New Hampshire on this point. I shall say nothing that I do not wish to have met and controverted, if it be not correct.

Mr. CLARK. I do not propose, and did not propose, to take from the Senator from Illinois,

as I said, any right to close this debate; but he well knows that here are two distinct propositions, that we may amend this resolution in the manner in which I propose, and then if we do not go on and take another distinct and affirmative vote, it does not affect the Senator's seat. It was just the course pursued with the Senators from Indiana, as the Senator well knows, where he himself made the motion to amend. But I will go on now and leave him to close the debate, if that is understood to be the close of the debate.

Mr. TRUMBULL. I desire to make some remarks in closing. I was waiting until Senators were through, but this is a matter entirely of courtesy between Senators.

Mr. CLARK. Knowing what is the desire of the Senator, I cheerfully yield, and will go on with what I have to say.

Mr. FESSENDEN. I will state to the Senator from Illinois that the rule does not exist to any sort of extent unless gentlemen please. I was to close the debate on a subject the other day by particular understanding, and after that half a dozen Senators discussed it for two hours or more. It is only a matter sometimes understood and acted upon, sometimes not.

Mr. TRUMBULL. I understand it is entirely a matter of courtesy in the Senate. Any person can speak in this body at any time; but I have already stated that I understand it to be the usage and the propriety of the thing to leave to the person who has charge of a bill or measure, who reports it to the Senate, the conclusion of the argument. There is a sort of propriety in it. I certainly claim no right about it. I have said two or three times that I was quite ready to proceed, but if others desire to discuss it I rather preferred they should do so now, because I made the report and I thought I would speak but once upon the question; but that is a matter that I have no controversy with anybody about. I shall not go on now if anybody is ready to take the floor. If not, I can say what I have to say.

Mr. FESSENDEN. If the Senator had opened the debate, so that we knew his grounds in detail, he might properly have closed, but he did not do that.

Mr. TRUMBULL. Certainly I wrote a written report, giving my views, which was read to the Senate. I presented my views in the report in writing.

Mr. FESSENDEN. I have only stated the course that was pursued toward me some days ago.

Mr. TRUMBULL. I do hope that in the Senate of the United States Senators are not governed by a first or a last speech to the body; and if the Senator from Maine desires to reply to anything I shall be willing to hear him.

Mr. CLARK. If the Senator from Illinois will yield me the floor, I will proceed with what I have to say; it is not very much and I will not take very long.

In the course of the debate yesterday, the Senator from Maryland used this remarkable language:

> "I consider this a very serious interference, and if my friends who take a different view will permit me to say so, a very unconstitutional attempt to interfere with the rights of the States."

I do not suppose the Senator from Maryland intended discourteously to charge the Senator from Maine and myself with unconstitutionally interfering with the rights of the State of New Jersey.

Mr. JOHNSON. Not intentionally; certainly not; but I believe you do in point of fact.

Mr. CLARK. I said he did not intend to do so discourteously. I do not believe that he did. But I cannot permit the idea to go out that we have unconstitutionally interfered with the rights of the State of New Jersey. I find that the State of New Jersey has attempted to elect a Senator. She has given him a certificate of election, and sent him here to occupy his seat. The Constitution provides that "each House shall be the judge of the elections, returns, and qualifications of its own members;" so that when the sitting member from New Jersey came here with his certificate in his hand, and asked to be admitted to his seat, it became the constitutional right of every Senator here to inquire what were his qualifications and how he had been elected; and if we, as Senators, attempt to go back and investigate the doings of the Legislature of New Jersey, and to inquire how and under what rules he was elected, and attempt to judge for ourselves, we are acting under the Constitution of the United States, and are not to be charged with unwarrantable interference or an unconstitutional interference with the rights of the State of New Jersey. It is an interference (if you call it an interference) which the Constitution of the United States clearly gives us, and which as a Senate we have a right to exercise; and if we can exercise it rightfully under the Constitution of the United States, how can it be an unconstitutional interference with the rights of the State of New Jersey? The Senator from Maryland may differ with the Senator from Maine and myself as to what was the effect of the rule; but there certainly can be no difference, it seems to me, as to our right to inquire what is the effect of that rule. And when the patent fact is open to the Senate that the gentleman claiming to hold this seat was sent here against the will of a majority of the joint meeting which undertook to elect him; against the will of a majority of the Senate of his State; against the will of a majority of the Assembly of his State; against, as I say, the will of a majority of the Legislature of his State, we are not to be charged with an unwarrantable interference with the constitutional rights of New Jersey if we undertake to look into it and see whether he is properly elected here. It seems to me no more an unconstitutional interference in this case than it is in every other case that has come before the Senate. Did we not, in the case of the Indiana Senators, look into the constitution and action of the joint meeting which attempted to elect them? So in the case from Iowa. Was it an unconstitutional interference with the rights of those States? When the Constitution provided that we might look into the qualifications, did it contemplate that it was an unwarrantable interference? Each Senator will judge for himself, upon his own examination, what are the constitutional rights secured to him in conducting this examination.

Mr. President, in the course of this argument it is said that the joint meeting of the two Houses of the Legislature of the State of New Jersey was the Legislature of New Jersey, and they cite the constitution of New Jersey to prove it because it speaks of "the Legislature in joint meeting." What does that mean? The Legislature acting by joint meeting, the two Houses coming together to act as a joint meeting; and the constitution of New Jersey confines them entirely to the election of officers; when they go in there they have no power except to elect officers, and to elect officers, let me say, according to the laws of the State of New Jersey. When the constitution gives them the power as a Legislature in joint meeting to elect officers, it by no means gives them the power to make the laws or alter the laws under which they are to be chosen. The Senator from New Jersey admits himself that by the laws of New Jersey, had it not been for this rule, a majority would have been required. Do I not understand him rightly?

Mr. STOCKTON. I submit that a majority was required, but not by any law of the State; it was by the parliamentary law.

Mr. CLARK. By the practice of the State?

Mr. STOCKTON. Yes, sir.

Mr. CLARK. A custom for seventy-five years. That would seem to make law. By the common law which in the absence of statute law is the law of the land, by the parliamentary law, and by custom a majority was required.

Mr. STOCKTON. I beg the gentleman to understand me. A majority was required not by the common law of the land. That was not the common law of the State of New Jersey. The statute law of the State makes the general elections of the State under the plurality vote. It is because it is a parliamentary body, and governed by parliamentary law, that in the absence of any special regulation they are obliged to elect by a majority.

Mr. CLARK. I maintain that it was by the common law of the land, applicable to corporations aggregate and municipal corporations; but the question was settled in 3 Harrington, in the case of the city of Wilmington. The city of Wilmington having the power, if they had chosen to use it, to make a law that a plurality should elect, and having failed to do that, the Chief Justice said it required a majority, because they had not provided for a plurality, as they might have done. The Chief Justice said the common law must govern in such a case. Here, then, you have these men going into joint convention under the constitution of New Jersey for the purpose of electing a Senator, and electing that Senator how? According to the law of the land, it required a majority, and when they got into that convention, because they could not elect by a majority, they undertook to alter the law of the land, and to provide that a plurality should elect. We deny that that rule can have any such force. They undertake to plead custom in regard to making rules. If they could plead custom as to rules, they could plead custom only as to the rule which they had made. They could not plead a custom as to this rule, because never before in the existence of the State had they attempted to make such a rule. This is the first time in the history of New Jersey that they attempted to establish such a rule; and I cannot imagine how we are expected to support it because they had made another rule that was not obnoxious.

But it is said by the Senator from Indiana that we are concluded in this matter; that we, the Senate of the United States, I suppose he means, are concluded; that we cannot go back of what is done in that joint convention, and that they by their action have concluded the Senate of the United States. Let us see. They had passed this rule in their joint convention that a plurality should elect. Mr. Stockton gets forty votes, more than anybody else, a plurality, and then the speaker or the president of the Assembly declares him to be elected; and because all those forty-one gentlemen who sat around and had voted in that very convention that that plurality should not elect, did not get up and cry out, "It shall not be so, Mr. Speaker," they are concluded and they cannot come here and make an objection! There is one thing certain, I think; if they were concluded, the Senate of the United States were not concluded. They are the judges in this case, and the Senate of the United States were not there to assent or dissent. But they were not concluded. Suppose one man had got up and objected, "I do not assent," would that have been an election? Certainly, because there would have been eighty left. But suppose another rose, and so every one, one after another, must have got up and said, "Mr. Chairman, I dissent," or else Mr. Stockton, forsooth, would have been elected and the whole thing concluded. Was anything more senseless ever put forward so seriously? I do not know of anything unless it would be the Senator from Indiana quoting the authority of some justice of the peace out in that State on a question of law, and saying that a man was concluded in that suit because he did not do so and so. Are we to be told that the Senate of the United States, in judging of the qualifications of a person who comes here to claim a seat, is to be entirely barred, and this provision of the Constitution that we may look into and judge of the election and qualification of a man when he gets here is to be entirely nugatory and set aside, because the men in that convention did not get up and say, "I object, Mr. Speaker, I object?" That cannot be so. These men may not have agreed to it in their own minds, but they might well have said, "When this man goes to the Senate of the United States there is a tribunal before

which we will appear and appeal to them whether a rule of this kind setting aside a law of the State is to override us and qualify this man to hold his seat." That is the point, and it only shows the lameness and the weakness of a case which undertakes by an estoppel of that kind to prevent a majority of the Legislature of New Jersey from appearing here and contesting this man's seat.

Mr. President, this debate runs in so narrow and well-defined a channel that it is difficult to say more. The main question is, did that resolution passed in the joint meeting have the effect of overruling the law of the State? I admit that a deliberative body may make laws for the government of their proceedings; but, as I said yesterday, this is a law declaring what shall be the result of the proceeding, not declaring how they shall proceed; and never, as appears from the records of that State, have they attempted anything of the kind before. They say that as early as 1852 a rule was passed that a person to be elected should have a majority of all those elected to the Legislature. Suppose that was done, and suppose a person had had a majority of those present, but not a majority of all those elected to the Legislature, he might have come to this Senate for all that and have contended that he was elected, and I doubt whether the Senate would not have said "You are elected." But no action happened under it because they never had an election under it; it was not necessary to contest it. If that was a bad custom, you cannot plead it in justification and in support of this bad custom or this bad rule. Because they made rules from time to time that were never questioned, entirely different from this, it cannot be argued that this rule is authorized. It depends upon the rule itself, and what is the effect of the rule, and how far it goes, and whether it overturns the law of the State and undertakes to put into this Senate a man elected by a plurality and not by a majority, when there was no law of the State of New Jersey authorizing that to be done.

Mr. CRAGIN. There is one view of this case that has made some impression on my mind that I have not heard distinctly brought out in this discussion, and I beg to detain the Senate for a very few minutes while I state it.

I understood the Senator from New Jersey a few moments ago, in reply to a question put to him by the Senator from Maine, to admit that if there had been a law of New Jersey upon the statute-book requiring in this election a majority, this convention could not have elected by a plurality. My view is, that there is a law on the statute-book of New Jersey virtually requiring a majority to elect a Senator. The law upon the statute-book of New Jersey providing for this joint convention for the election of a Senator was passed in 1790, if I am correctly informed.

Mr. TRUMBULL. Seventeen hundred and ninety-four.

Mr. CRAGIN. The Senator says in 1794. At that time, under the old constitution of New Jersey, this provision was in that constitution:

"The Council and Assembly jointly, at their first meeting yearly, shall elect by a majority of votes, a Governor; and that judges, attorneys general, treasurer and other officers shall be appointed by the Council and General Assembly in the manner aforesaid."

That is by a majority vote. Then at the time this law was passed, in 1794, there was a provision in the constitution of New Jersey requiring a majority for the election by the Legislature or by this convention of a Governor and other officers named and other officers not named. Therefore I say it is clear to my mind that the Legislature, in 1794, when they passed the law authorizing the convention to appoint a Senator, without saying whether it should be by a majority or otherwise, had in view this constitutional provision which required a majority vote in this convention, and therefore it was not necessary to specify in that law that the Senator should be elected by a majority, for the constitution provided that the elections in this joint convention should be by majorities. This constitution continued in existence down to 1845, and this law in relation to the election of Senators has never been changed. Therefore I say that in my judgment it was the clear intention and purpose of the Legislature that passed this law that the Senator should be appointed by a majority of the convention. That is the point that I wished more particularly to bring out.

I agree entirely with the arguments that have been made, that in the absence of a law providing for an election by a plurality, the majority rule prevails in all cases. If the Senator from New Jersey was right when he said that if there had been a law upon the statute-book requiring a majority this convention could not have elected by a plurality, then I say that that convention could not make such a rule. If it could not repeal a law of the State, how has it this whole subject under its control and the right to say by what number of votes a man shall be appointed Senator? If they could say that he could be appointed by a plurality they might just as well say that he might be selected by lot, or by a committee appointed who should designate a name and that individual be declared elected. But, sir, I did not rise to make any extended remarks.

Mr. STOCKTON. I desire to say a word in reply to the point made by the Senator from New Hampshire, [Mr. CRAGIN.] He is mistaken in the fact upon which he founds the whole of his argument. The present act regulating the election of Senators in New Jersey is not the act passed in 1790. It cannot possibly be the same act, because when the constitution was changed, in 1846 I think, the very names of the two bodies that constituted the Legislature were changed. The old act commenced, "Be it enacted by the Council and General Assembly of this State, and it is hereby enacted accordingly." The act as you will find it at present on our statute-book begins, "Be it enacted by the Senate and General Assembly." The word "Council" was changed by the constitution.

Let me also refer to the argument the Senator used in reference to the constitution. The old constitution of New Jersey required that officers should be elected by what we used to call a constitutional majority. That was a majority of all elected, if I am right. At present, in case the Governor is elected by the Legislature, the present constitution requires a majority vote; but in reference to all other officers, no such vote is required; nor is there any requisition in the constitution for any number. Therefore the argument is directly the reverse of what the gentleman suggests. The express statement that in case of the election of a Governor a majority vote is required, is an exclusion that it was intended in any other case. I will turn in a moment to the act of New Jersey; I have our revised statutes here. I can say in addition that our laws were all submited to certain gentlemen to arrange and codify, after the new constitution was adopted, and all the acts in this statute-book are laws revised and altered under their direction. On page 547 of Nixon's Digest we find this title:

"An act to prescribe the manner of appointing Senators of the United States on the part of this State. Revision. Approved."

That is, it was approved by the Legislature and made a law after being submitted for alteration and after being altered, at least in the way that I suggest, by changing the title. It was approved April 10, 1846, after the change of the constitution:

"Senators of the United States, on the part of this State shall be appointed by the Senate and General Assembly of this State, in joint meeting assembled; and in case of vacancy," &c.

The position is taken that the Legislature was to prescribe the rule for the joint meeting; and failing to do so, the rule laid down to legislative assemblies by parliamentary law was to govern. I say that by that very parliamentary law the joint meeting had the right to make any reasonable rule for their government. The position now taken practically is, that the Senate of the United States shall make the rules by which the joint meeting of the Legislature of New Jersey shall take the sense of that body. The whole case is there. There are men, clear-minded men and lawyers, who will review this case hereafter; men whom fallacies cannot blind; men who will not examine it in their minds and in their judgments with any very nice and hair-splitting technicality; men who will honestly and firmly look upon the decision of this Senate without any respect for party; and they will seize that one point, that the Legislature of the State of New Jersey is the proper body to determine how it will take the sense of the body, and not the Congress or the Senate of the United States.

Mr. CONNESS. I wish simply to read two very short sections from the statutes of California relating to the election of Senators and providing for them, which I shall do for the purpose of showing the interpretation of the Legislature of that State of the provision of the Federal Constitution providing for the election of Senators of the United States. An act was passed, April 14, 1865, prescribing the manner of electing United States Senators. The third section of that act reads thus:

"A majority of all the votes given shall be necessary to elect a Senator."

That is the whole section.

The fourth section is as follows:

"The joint convention shall do no act, except to adjourn, during the absence of a majority of all the members-elect of either the Senate or Assembly; and the withdrawal of such majority shall cause a dissolution of the joint convention."

This statute being the interpretation by that State of the Constitution of the United States relating to the election of Senators, I read it as being in support of the vote that I shall give on this subject, agreeing also, as it does, with the views well and clearly expressed by other Senators better, perhaps, than I should be able to express them, and not being desirous of consuming any of the time of this body, but coming to a vote.

Mr. COWAN. Mr. President, I do not intend to discuss this case *in extenso*. The report of the Committee on the Judiciary is so clear and convincing that any attempt to strengthen it would be "gilding the gold and painting the lily." I shall only reply to some of the arguments made in the present debate.

The Senator from New Jersey [Mr. STOCKTON] was elected by the Legislature of that State in a joint meeting of both Houses of that body, and so far there is nothing complained of as irregular in the proceeding. But it is said that he was not chosen by a majority of that joint meeting, which is the question now before the Senate. If he was so chosen his right to his seat is indisputable; if not, he is not a Senator of the United States.

It may be premised that there is nothing in either the constitution or laws of New Jersey which prescribes the manner by which the joint meeting may manifest the will of its majority, whether by a direct vote on the main issue, or by other and indirect methods of attaining the desired end.

Now, the joint meeting from the earliest period had been in the habit of enacting rules for its government, and upon this occasion it declared, in the first place, that it would require a majority of all the members present to elect. But before the election was made that rule was rescinded, and it was declared that the person having a plurality of the votes cast should be taken to be chosen. The first rule required that the person elected should have more votes than all the other candidates together; the second, that he should have more votes than any other candidate.

Now, it is objected that the joint meeting could not adopt this latter rule, and the reason urged is, that by means of it a less number than a majority were enabled to elect; all of which is said to be erroneous and fatal. But this is more specious than sound; because it takes only a part of the proceeding for the whole and looks only to the final vote, instead of looking to that vote in connection with the rule adopted by the majority. It desires its

advocates to assert that the only way the majority can manifest its will must be by a single, immediate, and direct vote upon the final issue, and this they say is the universal or common law of Parliaments all the world over.

Mr. President, I deny that *in toto;* it is not true that the majority when not bound by a preëxisting and express law cannot ascertain its will in any manner it may see fit. It is not restrained or limited in any way by any suppositious or implied law; nor can it be; it is not in the nature of things.

Now, there are many ways of ascertaining the will of the majority. The first and most common is to put the main question at once, as we do here in the Senate, and thus discover on which side is the larger number of voices. This may be called the direct mode, and is especially applicable to all questions having but two sides. But in cases of elections the question may have more sides than two; nay, there will be a side for every candidate proposed, and the direct method is usually inapplicable without repeated trials—sometimes weeks and months are spent in balloting before a result is attained, as has happened in the House of Representatives when choosing a Speaker. Now, one of the most obvious ways of avoiding that difficulty is to adopt the indirect method, of which there are many. A very common one is to make a rule that after one or more ballots only the two highest shall be eligible as candidates and all the rest thrown off. Now, this rule is the act of the majority, and it leads to another direct vote as between the two highest, thus ending the contest. Nobody has yet complained of such a rule because it excluded all the candidates but two, yet it does so to effect a choice.

But the majority may make another rule, just as they did in this case, namely, that a plurality of votes shall elect; which is precisely the same as throwing off all the candidates except the one having the highest number of votes, whom it agrees to accept as elected without more; and the whole taken together constitutes but one act, though an act with two parts, and it was an act of the majority just as much as if the majority had afterward ratified it by a direct vote, as is sometimes done for greater certainty. Even here the same thing was done in effect, because the joint meeting immediately certified that Mr. Stockton was duly elected, returned that to the Governor of the State, who certified the same to the Senate of the United States. Now, suppose the majority were to protest against all this before us, what would have been your answer? Would you not have asked, why did you make the rule? Why did you not rescind it? Why did you acquiesce in the election under it, and certify it as your act?

Mr. HOWE. If the Senator will allow me, suppose the majority had agreed to select a Senator by lot, and the lot had fallen on the gentleman, would that have been an act of the majority?

Mr. COWAN. If the majority did it, why not? It is certainly the act of the majority, and I know no reason why it would not be a valid act, because they were free to choose their own mode, and we have no right to challenge the one they adopted. I know that jurors are not allowed to bind themselves to render a verdict determined by referring it to a hazard, but I know of no authority competent to say to a Legislature that they shall not decide by lot. Such a way might be reprehensible and improper, and I do not advocate it, but I do not know that we could correct by discarding it, and I think it would be good if ratified by certifying it as the act of the body. In the present case the majority agreed that the choice of the most of the body should be the choice of the whole, and I have no doubt in the world but that this is a proper and legitimate mode of expressing the will of a majority.

The Constitution of the United States provides that the Legislatures of the several States shall elect Senators, and it is said that because the election is committed to the Legislatures it is a legislative act, only to be legally performed by the Legislatures in the same way as they make laws; that is, that every act of theirs must be by a majority of each House composing the body acting concurrently, and not jointly. This is absurd. A legislative act is the act of making a law; that is the meaning of the word. To elect a Senator is not to make a law, but to choose an officer; and if the election of a Senator was given by the Constitution to a corporation of brick-layers, and they performed it, nobody would say the act was building a wall or laying bricks. Anybody would say this is absurd.

The word "Legislature," designated in the Constitution as the State organ for the election of Senators, is a mere word of description, and does not indicate that the duty imposed is legislative in its character. It does not perform that duty as a Legislature, but as a joint meeting; not as two bodies acting concurrently, but as one body acting jointly.

Now, it is said such a body not being able to make a law cannot make a rule; but that does not follow, for a law and a rule are different. We cannot make laws here in the Senate, but we can make rules; and so of the Legislature in joint meeting. It could not legislate or make laws, but it could make rules for its own government. Who could gainsay their right? The rule was good and valid, but it was like all rules, within the control of the body making them, and it might have been rescinded by the majority making it if they did not like its operation.

I think the whole proceedings were under the control of the joint meeting until they were consummated; they might have reconsidered the vote electing Mr. Stockton if they had chosen to do so, notwithstanding the rule, because even if that was a breach of good faith, yet it was all in their own hands, and nobody could prevent them.

Mr. FESSENDEN. Could the majority have voted to reconsider and then rejected him?

Mr. COWAN. I have no doubt of it. Undoubtedly a majority of a body can reconsider a vote of the body.

Mr. FESSENDEN. Were they not bound by it?

Mr. COWAN. They were bound by their honor only to abide the plurality rule, but there was no tribunal to coerce them to do so or to compel them to certify their final action, however improper their refusal to do might have been, simply because they were bound by no law in the premises except their own. Still, we are not to meet that difficulty, as they did not repudiate their own action, but consummated it by reporting it, and by so doing relieved it of all doubts of every kind as to whether or not it was their act or the act of a majority of them.

Mr. TRUMBULL. Having, as the organ of the Judiciary Committee, made a report to the Senate, in which we came to the conclusion that the Senator from New Jersey, whose right to a seat was questioned, was entitled to his seat, and having arrived at that conclusion after as careful an investigation of the question as I and those who were associated with me were capable of making, I consider it incumbent upon me to state, after this somewhat protracted debate, the considerations by which the committee were governed in coming to this conclusion. In doing so, the only object I have, or can have, and the only object I suppose any one has, is that the law on this question may be properly settled. It is purely a legal question submitted to us as judges. My only desire is that the Senate should not make an erroneous decision in so important a matter as in the representation of one of the States here, or the right of a member to his seat.

The Constitution of the United States provides that "the Senate of the United States shall consist of two Senators from each State, chosen by the Legislature thereof." The question is, what is "the Legislature?" By some it is supposed that it is that body acting in the same capacity as it acts in the enactment of laws in the State. But a different construction has prevailed, and it has been settled by precedent from the foundation of the Government that the word "Legislature" is used here in the Constitution as descriptive of the body that is to make the election. It may make that election by a separate vote of each House, the vote of the Houses concurring, or the members of both Houses may assemble together and make the election. The latter is the more general practice throughout the United States. Very few, considerably less than one half the States at this time, I think, elect by the concurrent action of the two Houses. Mr. Story, in his Commentaries—and I trust I shall be excused for referring to some of the elementary books, which I should not refer to on the present occasion were it not that in this discussion I find the plainest, most obvious, and, as I supposed, best settled principles of law disputed, and arguments based upon assumptions of that character addressed to the consideration of the Senate. Mr. Story says, in discussing the mode of electing Senators:

"Another question might be suggested, whether the Executive constitutes a part of the Legislature for such a purpose, in cases where the State constitution gives him a qualified negative upon the laws. But this has been silently and universally settled against the executive participation in the appointment."

He also says:

"Generally, but not universally, the choice of Senators is made by a concurrent vote."

Since the author wrote that has been changed, and generally, but not universally, the choice of Senators is made by joint conventions at the present time.

Now, sir, it being admitted that the "Legislature" named in the Constitution of the United States is a joint assembly of both bodies, and that that joint assembly, when met, has authority to elect, it matters not in that joint assembly whether the successful candidate receives a single vote of one of the bodies; if he obtains votes enough from the other he is legally elected. For instance, in the State of New Jersey, which has a General Assembly, as it is called, of sixty members, and a Senate of twenty-one members, nobody will question that when met together for the purpose of electing a United States Senator, if forty-one members of the General Assembly had voted for a particular candidate, and every Senator and all the other members of the Assembly had voted against him, he would have been elected; so that the two bodies are merged in one when they meet. Then this mode of election by the joint convention is an appropriate one.

Next, can a plurality elect? Extreme cases are put. The question is asked, suppose that an individual gets but two votes out of the eighty-one members; if every one had voted separately except two, who concentrated on one person, would he have been elected? That is not the question here. It is not to be decided by putting extreme cases. I believe there is not in the other end of this Capitol a single person holding his seat except by virtue of a plurality vote, and it might have happened that every member in the House of Representatives should obtain his seat by getting but two votes before the people, if every other voter had voted for himself or somebody that nobody else cast a vote for; and yet does anybody deny the authority to elect by a plurality?

Again, the Constitution of the United States says that Representatives shall be chosen by the people who constitute the electors of the most numerous branch of the State Legislature. What is meant by "the people" in that case? It does not mean majorities. Nobody construes it so. It means that the man who gets the most votes is elected in all the States. There have been times when majorities were required. Then I take it for granted that this is not an improper or unconstitutional or illegal way of electing.

Now, how was Mr. Stockton elected? Let us take his case. From time immemorial in New Jersey the mode of electing a United States Senator was by a joint meeting of the two bodies. From time immemorial this joint meeting had prescribed its rules. It did so in 1794. Every

joint meeting which met from that day to the time of the election of the present member adopted rules for its own government. The question is asked, had it ever adopted a rule that a plurality should elect before? No. Had it ever adopted a rule that a majority should not elect before? Yes. The question is not whether it has adopted this particular rule; the question is, had it authority to adopt rules for its government? And if it had, it had a right to adopt any reasonable rule, not an unreasonable one. It adopted a rule in 1851 by which a majority of a quorum could not elect, and it acted under it for years. It required a majority of all the members elected to both Houses to constitute an election under the rule adopted in 1851. There were but eighty-one members in both Houses; forty-one was a majority; and under the majority rule if forty-one Senators and members had met, twenty-one could have made an election. Would that militate against the right of a Senator here because twenty-one elected him out of eighty-one? The argument would be just as good as to say that it militates against the right of the election in this case when it is said that only forty voted for the person elected out of eighty-one. Under the majority rule, twenty-one could have elected a Senator. What is this majority rule? It is a rule adopted for convenience. Does it mean a majority of the whole body? No. That is not what you mean by a majority in the sense in which it has been used in this discussion; but it means the majority of a division. First, you divide the legislative power into two parts, and that part which has the largest number you may divide again. The majority of a quorum is all you mean by it; you mean twenty-one out of eighty-one; so that this argument that the Senator from New Jersey was not elected because he did not receive when the vote was taken a majority of all the persons elected to the Legislature of New Jersey, goes for nothing. Nobody contends for that, except there is a rule, as there was in New Jersey in 1851, requiring it. Let it not then be said that the Senator holds his seat by forty votes out of eighty-one. On the principle you are advocating he might hold his seat here by twenty-one votes out of eighty-one. That does not prove anything. It is not true that he is here with a majority of the Legislature of New Jersey protesting against him. These protestants do not constitute as many as the votes he got; he got more votes than all these protestants put together; and he got them in pursuance of the action of the whole body.

This convention when it met together, having made rules for its government at every meeting of the joint convention for more than seventy years, did the same thing on the occasion of the election of Mr. Stockton. But Senators say it never did this precise thing; it never declared that a minority should elect. If it had a right to declare that more than a majority of those present should be required, had it not a right to declare that a plurality should elect, or adopt any other rule? The point is as to the adoption of the rule for its own government, not as to this particular rule unless it is an unreasonable one. They did adopt this rule, not by a minority; a majority of the senators and representatives of the State of New Jersey composing the Legislature of the State of New Jersey assembled together, and a majority of all of them, forty-one, declared that they would express their will as to who should represent the State of New Jersey by taking a vote and giving the certificate of election to the man who got the most votes. They proceeded to ballot. Mr. Stockton received more votes than any other person, was declared elected, and the joint convention proceeding to the election of other officers, completed its business, adjourned, and no more was heard of it until a protest is afterwards got up by a minority of the Legislature, a less number than voted for the Senator, who ask now that he be unseated, or who deny the validity of his election because he was elected in the manner that a majority of that joint convention prescribed. There is the case.

But a distinction is made by Senators between a Legislature which can elect and a Legislature which can prescribe a rule. Let us test that. It is admitted, not denied by anybody in the Senate, that the two bodies of the Legislature in joint meeting may elect a Senator. They are a Legislature for that purpose of electing. Nobody denies that; but it is said they cannot prescribe a rule. Why can they not? The prescribing of rules is a legislative act, says the Senator from Maine. Let us see if it is a legislative act. If it is a legislative act, then it must be an act which goes through the forms of legislation; and it must be an act submitted to the Governor for his approval, because no legislative act can have force in the State of New Jersey which is not submitted to the Governor for his approval.

Mr. FESSENDEN. Let me ask the Senator what in the world the Governor has to do with the election of a Senator from New Jersey.

Mr. TRUMBULL. Nothing under heaven.

Mr. FESSENDEN. Then the Houses can prescribe rules.

Mr. TRUMBULL. Then it is not a legislative act, and that is the precise point to which I am attempting to bring the Senator from Maine. It is not a legislative act, because no legislative act can have effect in the State of New Jersey that is not submitted to the Governor, and Story says it is uniformly settled that the Governor has nothing to do with the election of a Senator.

Mr. FESSENDEN. It is like the case of a concurrent resolution passed by us.

Mr. TRUMBULL. That is not a legislative act. If it was you would have to take it to the President for his approval. Will you show me by the authority of the Constitution of the United States or the constitution of New Jersey, that you have a right to do a legislative act that you are not bound to submit to the approval of the President or of the Governor?

Mr. FESSENDEN. My answer is, that anything the Legislature has a right to do they do as a legislative act.

Mr. TRUMBULL. Very well; then the Legislature has a right to elect a Senator, and that is a legislative act. Now, I have the Senator right where I want him, because he says anything the Legislature has a right to do is a legislative act. He admits that the Legislature in joint convention have a right to elect a Senator. Then the election of a Senator is a legislative act, and of course they can make the rule.

Mr. FESSENDEN. That is the Senator's own argument.

Mr. TRUMBULL. That is what the Senator said.

Mr. FESSENDEN. I said no such thing.

Mr. TRUMBULL. I beg pardon, if I misunderstood the Senator. I understood him to say that whatever the Legislature could do was a legislative act.

Mr. FESSENDEN. I say that now.

Mr. TRUMBULL. He says whatever the Legislature can do is a legislative act, and he says the Legislature in joint convention can elect a Senator. He admits that. Then that is a legislative act, is it not?

Mr. FESSENDEN. Certainly it is if they have a right to do it.

Mr. TRUMBULL. Do you deny the right of a joint convention to elect a Senator?

Mr. FESSENDEN. I beg the Senator not to argue this matter as if it were a small case before a justice of the peace. Catching up words in that way amounts to nothing in the world. The point I made, and the point other gentlemen made, is that while the Legislature may elect by a convention, the convention must be duly appointed and authorized by the Legislature itself, acting as a Legislature, and as legislative bodies making up the convention. The convention can do nothing that they have not authority from the Legislature proper to do; and if they transcend that, what they do is not an act that can be sustained. That is the point. They must have their authority by an act of the Legislature that is the legal action of the Legislature. The Senator will see the difference.

Mr. TRUMBULL. Now, it is the action of the Legislature, not a legislative act.

Mr. FESSENDEN. I was not talking about a law.

Mr. TRUMBULL. The Senator does not mean a law. I think it very important, in the right decision of this question, that we should understand what a law is, and what the proceeding is by which a Senator is elected. I have no other desire in the world than that the Senate make a right decision in this matter. I do not desire to catch at any point or place anybody in a false position; and if it could seem that I was doing so, I do not intend it in that way. I am only arguing it for the purpose of showing that the positions assumed are untenable. Now, the Senator from Maine says:

"It is manifest, therefore, that it may be well to consider what the relation is in which the Legislature stands to the Government in reference merely to the election of Senators. I have always held, and now hold, that the Legislature in the election of a United States Senator is merely the agent of the Constitution of the United States to perform a certain act. It is the designation of a body, a body recognized as a constituent part of the government of each State. The Constitution selects that body of men to perform certain acts in connection with the Government of the United States. The body thus selected is therefore, in the performance of that act, but the mere agent of the Constitution of the United States to perform it. It is therefore under the control of no other power. No provision in the constitution of New Jersey providing the mode in which a Senator shall be elected, or the course that shall be taken, or the rules of the proceeding, or anything of that kind would bind in any way the Legislature which is to perform the act. No provision of law of a previous Legislature would bind the Legislature which is to perform that act."

With most that is here said I entirely concur, but I am not quite prepared to concur in the last sentence, that no provision of law of a previous Legislature would in any manner bind the Legislature called on to perform the act. It may be so; perhaps it is; but take this very case in New Jersey, where there is a law providing that the Senators shall be elected in joint meeting. That law can only be repealed by another body. Could the two Houses by concurrent resolution elect a man in violation of that law?

Mr. FESSENDEN. Unquestionably.

Mr. TRUMBULL. The Senator says "unquestionably." It would not be because the law was repealed. It would be because the law was not valid.

Mr. FESSENDEN. Not operative.

Mr. TRUMBULL. Not operative, and then the election may be effected without the aid of the law-making power of the State; that is, by the body which constitutes the Legislature to make the law and not in pursuance of any law whatever. That is so in my State. We have never had a law, and there is not in the State of Illinois to-day any statute providing for the mode of electing Senators. I think that is the case in several of the States. The practice is this: a resolution is introduced into one of the bodies proposing to go into the election, or asking the other House to meet them on a certain day to proceed to the election of a United States Senator. That is sent to the other House, and if the other House concurs the two bodies meet on the day assigned and make the election. We have no law on the subject, but if there was a law providing the mode it certainly could not be repealed by this concurrent resolution, because that would not have the force of a law.

So after all it seems, according to the views of those who think this election invalid, that a good election may be made right in the teeth of a statute law of the State. If that is so, then it does not require a law to prescribe the mode of election. It is a mere rule. The Senator says the two bodies acting concurrently may do that, but they cannot when they get together. I have always held in the various contested-election cases we have had here that the

joint convention must properly convene, that there must be a joint resolution under which they assemble; but when they get together I do not see, in the absence of any regulation, why they could not adopt this rule. I am not going to take the ground that they can do this in opposition to a law; I do not think it necessary, because there was no law in existence here. The Senator from Maine thinks they could do it in opposition to a law. Of course if they could in opposition to a statute law, they could in opposition to the common law. My position is that, in the absence of any law, they may adopt their own rules, just as they have always done in New Jersey. This long practice in New Jersey becomes the common law of New Jersey according to all the law books. I have before me Cushing on parliamentary law; he states that where a practice has prevailed for a length of time in a legislative body it becomes the rule. That is the way most of the parliamentary rules have grown up—by long practice and usage. Now, the Legislature of New Jersey and the people of New Jersey had stood by for three generations nearly, for more than seventy years, and seen their Senators elected to this body by this joint convention which had always made its own rules. Not this rule that less than a majority should elect I agree, but it had made its rules, it had made its rule requiring more than a majority of those present; it had that very rule at the first of the meetings of this joint convention; but I say that in the absence of any rule, it was an inherent power given it to make the rules for its government.

What says the Constitution of the United States? "The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof." Now, what is the Legislature to do that? That is the question. Those who say that Mr. Stockton has no right to his seat say it is not the Legislature in the form of making a law that does it. The Senator from Maine says it is to be done by concurrent action. Will he give me the authority for that? If they can do it by concurrent action, why can they not by joint action when they are together? It is admitted that it requires no law to prescribe the rule, that "the Legislature" means simply each body acting by itself in prescribing this rule. Now, if it means each body acting by itself, is there any constitutional authority, any parliamentary law, that will not allow the two Houses when they are together to make that rule.

Let us trace it a little further. "The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof." Does anybody doubt the right of this joint convention to adjourn its meetings? That is the "time." After the joint convention met, could it not adjourn to another day? This very convention did adjourn from time to time. They elect a great many officers in the State of New Jersey by joint meeting of their Legislature. It often happens that the joint meeting adjourns. The Legislature has a right to fix the "time;" it may meet to-day and adjourn for two weeks. It not only may fix the time but it may fix the place. Does anybody doubt that the Legislature in joint meeting when assembled could adjourn to the next day or for ten days and adjourn to meet in another portion of the capitol? Does anybody doubt that if they had first convened in the Senate chamber and found it inconvenient, they could resolve that they would meet the next day in the chamber of the House of Representatives? Then if the Legislature has a right to fix the time and has a right to fix the place, has it not the right to fix the manner? The Legislature separately said the manner was by getting together in joint meeting. That was the "manner" prescribed by the two bodies when they were separate, that they would meet together and do the thing together. When they got together they had a right after they assembled (everybody admits that) to fix the time; they had the right to adjourn; they had the right to fix the place, but it is said they had not the right to fix the manner. Why not? What does the Constitution say? "The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof." It was Legislature enough to do this, as they said once, I believe, in anti-masonic times, that a man was "good enough Morgan" to accomplish some particular object. Now for the life of me I cannot see how you are to say that it is a different Legislature that is to provide the "manner;" and in the State of New Jersey it ought not to be lost sight of that the constitution of New Jersey says that the Legislature in joint meeting shall make certain elections. It does not provide for the election of a United States Senator, and I agree with the Senator from Maine that the constitution of a State cannot prescribe the mode in which the Legislature shall elect United States Senators, but it may provide that its Legislature shall be a Legislature when in joint meeting, and they have said in the constitution of New Jersey that the Legislature in joint meeting shall elect certain persons. They use the word "Legislature;" they do not use the word that is used in the statute of New Jersey. The statute of New Jersey says that United States Senators on the part of that State shall be appointed by the Senate and General Assembly in joint meeting; but the language of the constitution of the State is "the Legislature in joint meeting."

But, sir, it is said that this was the repeal of a law. It is already admitted that the two bodies separately without a legislative act could repeal the law. That is conceded; that is, they could disregard the law and the election would be a good one. As I have said, I cannot for the life of me see where the authority is for the two bodies to disregard it separately, when meeting together they cannot disregard it. But, sir, an entire misapprehension has prevailed in this whole discussion in regard to the common law. What is the common law of this country? What do we mean when we speak of the common law? I should hardly think it necessary to refer to books if it had not been for the questions that have been raised in this debate. Kent says, in reference to the common law:

"But though the great body of the common law consists of a collection of principles, to be found in the opinions of sages, or deduced from universal and immemorial usage, and receiving progressively the sanction of the courts, it is nevertheless true that the common law, so far as it is applicable to our situation and government, has been recognized and adopted as one entire system by the constitutions of Massachusetts, New York, New Jersey, and Maryland. It has been assumed by the courts of justice, or declared by statute, with the like modifications, as the law of the land in every State. It was imported by our colonial ancestors as far as it was applicable, and was sanctioned by royal charters and colonial statutes. It is also the established doctrine that English statutes, passed before the emigration of our ancestors, and applicable to our situation, and in amendment of the law, constitute a part of the common law of this country."—*Kent's Commentaries*, vol. 1, p. 473.

The Supreme Court of the United States has held that the remedies in the Federal courts at the common law and in equity were to be not according to the practice of the State courts, "but according to the principles of common law and equity as distinguished and defined in that country from which we derived our knowledge of those principles." The common law is not according to the usages and customs in this country, but as defined in that country from which we derive our knowledge of those principles. From what country do we derive our knowledge of the principles of the common law in reference to parliamentary law? From England. Now, what is the common law of England on this subject of elections? Will the Senate be astonished—I do not know but that they will—when I tell them that the majority rule never prevailed in England in the election of officers at all, and does not to-day. The rule there is plurality and was so when our fathers came to these shores, and it was only by virtue of legal enactments that it was changed here.

Mr. SUMNER. Will the Senator allow me one minute?

Mr. TRUMBULL. Oh, yes.

Mr. SUMNER. He says that the common-law rule of England did not require a majority for the election of officers. I will ask him whether he is not a little mistaken?

Mr. TRUMBULL. Wait until I get through and you will find out, perhaps.

Mr. SUMNER. Whether the rule was not applicable simply to the election of members of Parliament? I think if the Senator looks into the law he will find that there were two classes of cases: one is elections by corporations, or by a legislative body, corporate in its character, where the rule of the majority prevailed; and the other popular elections, where the rule of the plurality prevailed.

Mr. TRUMBULL. If the Senator could have restrained himself until he heard the authority which I was about to read, he perhaps would have ascertained what my view was. I suppose that the States of this country are not simply corporations in the sense the Senator uses the term; nor are they juries, as the Senator from Wisconsin seemed to suppose; for he wanted to know if a verdict would be good if given by a majority. It is well understood that the verdict of a jury must be unanimous. An election of a Senator would be good when he did not get everybody's vote, I suppose. The idea of comparing the Legislatures of our States to a jury or to a board of arbitrators seems to me to present cases by no means analogous.

Mr. HOWE. The Senator will allow me to say that I did not put any such question.

Mr. TRUMBULL. I understood you to refer to juries.

Mr. HOWE. I referred to juries, and I referred to them only in this light: the law settling that the verdict of a jury must receive the unanimous assent of every member of the jury, I asked the question, if the whole jury should agree to adopt the verdict of a majority, would that make it the verdict of the whole jury?

Mr. TRUMBULL. Now, I will read from Cushing on parliamentary law, what the law in England was. I suppose that our form of Government was in some measure derived from the British form of government, and that the rules adopted in reference to the election of members to Parliament should have more force than other rules to be borrowed from the common law in reference to the election of members of this body. Now, what is the rule of the common law of England, adopted in this country by the decisions of our courts? I read from Cushing:

"At the time of the first settlement and colonization of the United States, the election of members of Parliament in England"——

Mr. SUMNER. I say members of Parliament.

Mr. TRUMBULL. Cannot the gentleman restrain himself?

"were conducted upon the principle of plurality, which also prevailed in other elections."

I will read it now in connection, and perhaps the Senator from Massachusetts can hold his breath until I read the whole sentence:

"At the time of the first settlement and colonization of the United States, the elections of members of Parliament in England were conducted upon the principle of plurality; which also prevailed in all other elections, in which the electors were at liberty to select their candidates from an indefinite number of qualified persons."

I should like to know if members of this Legislature were not authorized to select their candidates from an indefinite number of qualified persons.

"Such has been and still continues to be the common law of England; and such is the present practice in that country in all elections. Indeed, what is meant there by the term majority embraces what is denoted with us by the word plurality.

"In this country, however, the principle of majority, or absolute majority, as it is sometimes called, was early introduced into the law of elections by the colonists of New England; where it has ever since pre-

vailed to a greater or less extent; in some of the States exclusively, in others only partially."

It was changed by constitutions and by laws. The common law of England to-day is and always has been that in all elections in which the electors are at liberty to select their candidates from an indefinite number of qualified persons, a plurality elects, and that is precisely the case with regard to a legislative body in the election of a Senator of the United States.

Mr. YATES. May I ask a question?

Mr. TRUMBULL. Yes, sir.

Mr. YATES. My honorable colleague will perhaps say that he has answered the question I am about to put, when I propound it. But the question which I wish to ask is, whether he knows of an instance in the history of the Senate where a person who had not received a majority of the votes of the Legislature was declared and received as a Senator?

Mr. TRUMBULL. I do not.

Mr. YATES. I have not got through. The next question is, whether in all time it would be right to receive as a Senator into this body a man who had not received a majority of the votes of the Legislature of the State of Illinois? My colleague supposes a case in which there are only forty-one members of the Legislature present, and he says very justly, that being a quorum, twenty-one would be a majority of the quorum, and twenty-one could elect a Senator. I admit it. But extend the question. Suppose there were many candidates, and suppose there were only five votes for the highest candidate, does my colleague pretend to say that that man by virtue of that plurality vote would be entitled to a seat in the Senate as elected by the Legislature of that State? I ask this question in all fairness. I do not pretend to say that we do not derive our laws from England. I admit that. But then I do say that this Government is a Government of majorities. I say that whenever the Legislature of the State of New Jersey shall send to us a Senator who is elected by a majority of the Legislature, I will receive him into the Senate with open hands, without regard to his party position. But, sir, he must be elected by a majority of the Legislature. These are the questions which I ask my colleague.

Mr. TRUMBULL. My colleague says this is a majority Government. Does not my colleague know that every member of the other House is elected by a plurality vote? Does my colleague mean to deny that if the Legislature in its legislative capacity adopts a plurality rule in regard to Senators, it has a right to do so? Will he disregard it?

Mr. YATES. No, sir.

Mr. TRUMBULL. Then the question that he asks me has no pertinence to the question I am discussing. I understand him to admit that a man may be elected by a plurality; and if so the question is whether it has been done in this instance, not put a question to know whether if a man gets but five votes he can be elected. Would not my colleague hold him elected if the State of New Jersey legitimately by law had provided that a plurality should elect and they go into the election in pursuance of the law, acting strictly in conformity to it, and no candidate gets as many as five votes but one, and he gets them, will my colleague turn him out? Will he turn him out because he got but five votes? Extreme cases prove nothing. Sir, if the convention in the State of Illinois, a majority acting altogether, agree that a minority shall elect in the absence of any law, I say that is a valid election, and neither he nor I sitting as judges with an oath upon us, can turn that man out.

Mr. YATES. I deny that in this Government any body can decide that a minority may elect.

Mr. TRUMBULL. Then the Senator denies what is done every day, and what has not been denied on this floor before. That is the law of his own State. Our State provides that a minority may elect a member of the other House. It is the law of Illinois. The man who gets the most votes is elected Representative, not he who gets a majority of all the votes, and I believe it to be the law at this time in every State of the Union. I am not aware that a majority vote is required in any State.

Mr. SUMNER. That is a popular election.

Mr. TRUMBULL. Certainly, but my colleague is denying that a man can be elected by a minority.

Mr. JOHNSON. It was the law in Massachusetts, but they have changed it.

Mr. TRUMBULL. Yes, and now a plurality can elect. I suppose it to be the law everywhere in reference to the other House.

Mr. YATES. I do not deny that when there are half a dozen candidates for Congress the man who receives the highest number of votes is the member elected. I do not deny any such proposition; but the question here is whether a Senator has received a sufficient number of votes in the Legislature of New Jersey to entitle him to a seat in this body.

Mr. TRUMBULL. That was the point I was discussing when my colleague interrupted me to ask certain questions in which he laid down the proposition, in so many words, that he denied that a minority could elect.

Mr. YATES. Under the circumstances of this case.

Mr. TRUMBULL. "Under the circumstances of this case," is another thing. My colleague claimed it to be a majority Government, and denied any authority to allow a minority or a plurality to elect. Now, let me read a little clause in the Constitution of the United States to my colleague.

Mr. YATES. I of course meant in the absence of any State law. Of course if there is a law providing that a plurality may elect, as there is in regard to the election of Representatives, the case is different; I admit that.

Mr. TRUMBULL. Very well then; there was no necessity to have asked the question or to put the inquiry to me whether, if five men had voted for a man, I would admit him. My colleague, it seems, would admit him, too, if there was a law that authorized a plurality to elect.

Mr. YATES. Does the Senator hold that there was a law authorizing a plurality to elect?

Mr. TRUMBULL. I do hold that there was a valid rule authorizing a plurality to elect. That is the very question I have been trying to discuss.

Mr. YATES. I asked the question whether there was a law by the Legislature authorizing a plurality of the joint bodies to elect. That is the question.

Mr. TRUMBULL. I might turn my colleague over to my friend from Maine, who says that a law of the Legislature cannot control it; that it is to be controlled by the concurrent action of the two bodies.

Mr. FESSENDEN. Oh, the Senator is never as stupid as he sometimes appears to be.

Mr. TRUMBULL. I beg pardon; I meant to be exact.

Mr. FESSENDEN. I contended for no such thing. I said the action of a previous Legislature could not control the Legislature that was to elect, but that the action of the Legislature was necessary in order to authorize a convention.

Mr. TRUMBULL. I beg pardon. I did not state the Senator from Maine quite correctly.

Mr. FESSENDEN. When the Senator claims to close, and that no body must say anything after him, I would thank him to keep somewhere within the range of probability.

Mr. TRUMBULL. I assure my friend from Maine it was entirely inadvertent in me to leave out the word "existing" before "Legislature." What he means is, that that Legislature which elects could by law regulate it. I understand him now that former legislation, the law of a former Legislature, could be set aside and disregarded by the concurrent action of the two Houses. That is his position. I did not say "present Legislature," but it seems that a law on the statute-book passed by a former Legislature could be disregarded by the concurrent action of the two bodies in their election of a Senator, and their election still be good.

Mr. YATES. My colleague has not answered my first question: that is, whether he knows of an instance in the history of the Senate where a person who was elected by less than a majority of a Legislature had ever received a seat in the Senate?

Mr. TRUMBULL. I answered it directly when he first asked it, and told him I did not know of any such case.

Mr. YATES. I did not hear you.

Mr. TRUMBULL. And we did not know of any case of election in the other House by plurality until the rule was changed which had formerly required a majority in some States.

Mr. NYE. Where has it been changed?

Mr. TRUMBULL. It has been changed in New Jersey. They have never had the majority rule half the time since the State existed. It seems, Mr. President, somewhat difficult to pass through this discussion without speaking in a very incoherent manner when one is so frequently interrupted. I had proceeded to show that the common law of England did not require a majority; I had proceeded to show that a majority did not mean a majority of the whole body of electors, but meant a majority of a divided part, a majority of a quorum, and that there was nothing in the argument or suggestion made to the Senate that a person came here with less than a majority of all the votes. In the absence of any rule or regulation on the subject, the Legislature which met in New Jersey in joint meeting for the election of Senator had the right to prescribe rules for its government, and having prescribed the plurality rule in this case it is the act of the majority. The rule was prescribed by the majority, and according to the principle laid down in Cushing, where a majority adopts this rule for the government of its action, the action of the body in pursuance of the rule is the action of the majority. It is not a delegation of power, and here I do not quite agree with what my friend from Maine said in regard to the delegation of power. I hold that the Legislature cannot delegate its power to elect a Senator.

Mr. FESSENDEN. I hold that the Legislature cannot delegate it to any other body.

Mr. TRUMBULL. We agree, then, in reference to that point; but I think the Senator in his remarks used the word "delegate;" it is so in his published remarks; but we understand it alike; it cannot delegate its powers.

Mr. FESSENDEN. Not to another body.

Mr. TRUMBULL. It is only resolving itself into a different body to make the election; but it is the same thing; it is the Legislature. I quite agree that nobody but the Legislature can elect a Senator. The two bodies acting separately and concurring may do that, or they may get together and do it; still it is the Legislature, whether the two Houses act separately or whether they meet together in joint convention. When they get together in joint convention the adoption by the convention of the plurality rule is not a delegation of the authority to somebody else. A delegate is one who acts for another; it is not the principal. Here the eighty-one members are all together as principals, and they agree to make the election in a certain way by adopting a plurality rule among themselves. That does not delegate the power to elect a Senator to somebody else than themselves. It is right there in their own control; they agree to make the election in that form; a majority agree to that. Then, whenever it is done in that way, all acting together, not only a majority of the convention, but every member of both Houses acting together, it is the act of the Legislature adopting that mode of expressing their will. Therefore I hold that this is a valid election, I am sorry to have detained the Senate so long. I submit the case so far as I am concerned.

Mr. SUMNER. Mr. President, when the Senator from Illinois rose to speak I had made up my mind to say nothing in this debate, but topics have been introduced by him which I am unwilling should pass without notice.

The Senator did not disguise that the case is without a precedent in the history of the

Senate. Never before has a Senator appeared in this Chamber with the credentials of a minority. And permit me to say further, that I think it will be found that the rule of a majority has the consecration of history in all the proceedings of parliamentary or electoral bodies. It is the rule of the House of Commons in the choice of a Speaker. The oldest electoral body in the world is the Conclave of Cardinals; but who has heard that a Pope was ever elected by a minority? Let me ask your attention to this example that you may see how the rule of the minority has been constantly rejected, notwithstanding every temptation, inducement, and pressure to adopt it. There have been many contested elections during which the Cardinals separated from the world, each in a small apartment or cell, opening on the Hall of the Palace of the Quirinal, have been imprisoned sometimes for months, like a jury waiting for the requisite majority. They did not undertake to change the rule of elections and to set up the will of a minority. There was Lambruschini, who shone as Pope Benedict XIV, conspicuous as statesman and as patron of letters, who was not chosen until after the ineffectual efforts of months. These instances stand as so many pillars and I refer to them now as proper to guide your conduct.

The question before us is of law, and nothing else. It is not a question of politics or of sentiment, except so far as these enter into the determination of a question of law. It is a question for the reason alone.

It lies in a nutshell. A brief text of the Constitution, and another brief text of a local statute are all that need be considered.

The Constitution of the United States provides as follows:

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

"The times, places, and *manner of holding elections for Senators* and Representatives shall be *prescribed* in each State by the *Legislature* thereof; but the Congress may at any time by law make or alter such regulations, except as to the place of choosing Senators."

In carrying out this provision, the Legislature of New Jersey, by a statute passed April 10, 1846, and copied from a statute passed in 1790, has enacted as follows:

"Senators of the United States on the part of this State shall be appointed *by the Senate and General Assembly of this State in joint meeting assembled.*"

In pursuance of these two provisions of Constitution and of statute, the Legislature of New Jersey has undertaken to elect a Senator. From the statement of the case, it appears, that, on a certain day the two Houses assembled "in joint meeting;" that they proceeded to act on a resolution declaring that "the candidate receiving a *plurality* of votes of the members present shall be declared elected;" that this resolution was adopted by forty-one votes out of eighty-one—eleven Senators, being a majority of the Senate, and thirty members of the House, being less than a majority of that body, voting for it; that, in pursuance of this resolution Mr. Stockton was declared Senator, although he did not receive a majority of the votes of either House or of the joint meeting. In point of fact, he received forty votes, of which ten were from Senators, and thirty from members of the Assembly, while against him were forty-one votes. And the question which you are to decide is on the legality of this election.

The Constitution is, of course, the original and highest source of light on this question. Looking at this we find that, in the absence of any regulations from Congress, the *manner* of choosing a Senator is referred to the State *Legislature*. The Senator is to be chosen by the *Legislature*, which is to *prescribe*, among other things, *the manner of holding the election*. Whatever the State can do must be derived from this source; nor more nor less. The choice is to be by the Legislature, according to a manner prescribed by the Legislature.

The Constitution of the United States does not undertake to define a State Legislature or its forms of proceedings. This is left to the State itself. Notoriously at the time these Legislatures were modeled on the colonial Legislatures that had preceded them, which had been modeled on the Parliament of the mother country. As a general rule, there were two Chambers, an upper and lower; but this was not universal. In Georgia and Pennsylvania there was for awhile only a single Chamber, which constituted the Legislature. I mention this to show how completely the State itself was left to determine the conditions of its Legislature. But the State speaks through its constitution, which fixes these conditions. Where the constitution is silent can the Legislature itself venture to speak?

Repairing to the constitution of New Jersey, we find that it provides that "the *legislative power* shall be vested in a Senate and General Assembly;" that these bodies shall meet and organize separately; and that "bills and joint resolutions shall be read three times in each House. No bill or joint resolution shall pass unless there be a *majority* of all the members of each House personally present and agreeing thereto." Such is the definition of a Legislature, and such are the forms of legislative proceedings *prescribed* by the constitution of New Jersey.

The statute of New Jersey, to which I have already referred as framed in 1790, was entitled "An act to *prescribe the manner* of appointing Senators of the United States and electors of the President and Vice President of the United States on the part of this State." This was in pursuance of the Constitution of the United States. It was the execution on the part of the State of the power with which it was invested *to prescribe the manner of electing Senators.*

I have no purpose of raising any question with regard to the validity of this statute prescribing the election of Senators *in joint meeting*. Constant usage is in its favor; and yet I have no hesitation in saying that it has always seemed to me inconsistent with a just construction of the Constitution. Senators are to be "chosen by the Legislature;" but the Legislature is composed of two separate bodies, defined by the State constitution. Senators, therefore, should be chosen by the two bodies separately. So it has always seemed to me, and the practice of my own State is accordingly. In this opinion I am sustained by so eminent an authority as Chancellor Kent, who, after setting forth the usage under the Constitution, proceeds to express his dissent from it as a just construction of the Constitution. His language is explicit:

"I should think, if the question were a new one, that when the Constitution directed that the Senators should be chosen *by the Legislature*, it meant, not the members of the Legislature *per capita*, but the Legislature in the true technical sense, being the two Houses, acting in their separate capacities, with the ordinary constitutional right of negative on each other's proceedings."—*Kent's Commentaries*, vol. 1, p. 226.

Surely it is difficult to resist this conclusion, especially when it is considered that in any other way the smaller body is actually swamped by the larger body. In a joint meeting the Senate loses its relative power. But I adduce this not for criticism, but only for illustration. Even admitting that the received usage of choosing Senators in joint meeting is consistent with the Constitution, yet I insist that it must not be extended. And this is the precise question now before us. Contrary to all usage or precedents, and without any *direct sanction in the constitution or statutes of New Jersey*, the Legislature has undertaken in joint meeting, not only to choose a Senator, but also to *prescribe the manner* of choosing him. Finding that it could not choose according to the existing usage, it adopted the resolution declaring that the election should be determined by a minority of votes instead of a majority.

Now, in this resolution two questions arise: *First*, can the Legislature itself, by legislative act, substitute a minority for a majority in the election of Senators, and thus set aside a great and traditional principle? And *secondly*, can it do this in a "joint meeting" without any previous legislative act? It is enough for the present occasion if I insist that whatever may be the powers of the Legislature by *legislative act*, it can have no such extraordinary power in the abnormal assembly known as a "joint meeting." But we shall better understand the second question if we consider the first.

To what extent can a Legislature substitute a minority for a majority in any of its proceedings? In most cases the question is controlled by the express language of the State constitution, but I put the question now independent of any State constitution.

In considering the power of the Legislature it is important to put aside any influence that may be attributed to the unquestioned usage of choosing Representatives and other officers by a plurality of votes. Because the people may choose by a plurality, it does not follow that a Legislature may. From time immemorial the rule in the two cases has been different, unless we except the New England States, where until recently popular elections were by a majority. But the origin of the practice in New England seems to testify to the rule.

It is proper for us to repair to the country from which our institutions are derived for the origin of the rule. Indeed, where a word is used in the Constitution, having a previous signification or character in the institutions of England, we cannot err if we consider its import there. I think we do this habitually. Mr. Wirt, in his masterly argument on the impeachment of Judge Peck, thus develops this idea:

"The Constitution secures *trial by jury*. Where do you get the meaning of *trial by jury?* Certainly not from the civil or canon law, or the law of nations. It is peculiar to the *common law*, and to the common law, therefore, the Constitution itself refers you for a description and explanation of this high privilege, *the trial by jury*, and *the mode of proceeding in those trials.*" * * * * "The *very name* by which it is called into being authorizes it to look at once to the English archetypes for its government."

Following this statement, so clearly expressed, the words "Legislature" and "holding elections," in our Constitution, which belonged to the political system of England, may be explained by that system; so, at least, that in case of doubt we shall find light in this quarter.

Now, from the beginning, it appears that there have been two different rules in England with regard to election by the legislature and elections by the people. Elections by the legislature, like legislative acts, have been by a majority. Elections by the people for Parliament have been by a plurality. This distinction will be found throughout English history.

The House of Commons chooses its Speaker by a majority. It may be said, also, that it chooses the ministers of the Crown in the same way, because the fate of a cabinet depends upon a majority. In short, whatever it does, unless it be the nomination of committees, is by a majority. It is only through a majority that it can act. The House of Commons itself is found in a majority of its members; never in a minority.

On the other hand, members of Parliament are chosen by a plurality. No reason is assigned for this difference; but it may be found, perhaps, in two considerations: first, the superior convenience, amounting almost to a necessity, of choosing members of Parliament in this way; and secondly, the fact that popular bodies were not embraced by the law of corporations, which establishes the rule of the majority.

Here let me adduce the authority of Mr. Cushing, in his Parliamentary Law. I cite the very passage cited by the Senator from Illinois:

"At the time of the first settlement and colonization of the United States, the election of members of Parliament in England were conducted upon the principle of plurality; which also prevailed in all other elections in which the electors were at liberty to select their candidates from an indefinite number of qualified persons. Such has been, and still continues to be, the common law of England; and such is the present practice in that country in all elections."

It will be perceived that this statement is with reference to popular elections, and not the elections by corporate or legislative bodies. So

far as it goes it is explicit. But pardon me if I say that the Senator from Illinois [Mr. TRUMBULL] has misunderstood it. Had he examined it carefully he would have seen that it had no bearing on the present case. Nobody questions the plurality rule in the elections of members of Congress, although few, perhaps, have considered how it came into existence. Mr. Cushing, whom the Senator cites, explains it, and in a way to furnish no authority for the substitute of a minority for a majority in a legislative body. The rule prevailed in England, and the colonies of Virginia and New York adopted it. From these colonies, as they became States, it gradually extended throughout the country. A different rule was carried to New England by the Puritan fathers. Even by the popular elections that were by the rule of the majority, as is explained by the same learned authority:

"The charter of the colony of the Massachusetts Bay being that of a trading company, and not municipal in its character, the officers of the colony were originally chosen at general meetings of the whole body of freemen; precisely as at the present day, the directors of a business corporation, a bank, for example, are chosen by the stockholders at a general meeting. In the choice of assistants, who were to be eighteen in number, at these meetings of the company, or, as they were called, courts of election, the practice seems to have been for the names of the candidates to be regularly moved and seconded, and put to the question, one by one, in the same manner with all other motions. This was then, as it is now, the mode of proceeding in England, in the election of the Speaker of the House of Commons, and in the appointment of committees of the House, when they are not chosen by ballot. Probably, also, it was the usual mode of proceeding in electing the officers of a private corporation or company. In voting upon the names thus proposed, it was ordered—with a view, doubtless, to secure the independence and impartiality of the electors—that the freemen, instead of giving an affirmative or negative voice in the usual open and visible manner, should give their suffrages by ballot, and for that purpose should 'use Indian corn and beans, the Indian corn to manifest election, the beans contrary.' The names of the candidates being thus moved and voted upon, each by itself, it followed, of course, that no person could be elected but by an absolute majority."

The rule, which is thus curiously explained, continued in Massachusetts down to a recent day. At last it yielded to the exigency of public convenience, so that at this moment, I believe popular elections throughout the United States are by the plurality rule. But I repeat that this is no authority for overturning the rule of the majority in a legislative body, having in its favor so many reasons of law and tradition.

I have only alluded to the law of corporations; but this law is of much weight in determining the present case. According to this law the rule of the majority must prevail. Indeed, an eminent jurist says that this rule is according to the law of nature, as it is unquestionably according to the Roman law, and the modern law of civilized States. But what is a legislative body but a political corporation?

If, therefore, I be asked, if a Legislature, even by legislative act, may set aside the rule of the majority in the election of Senators, I must candidly express a doubt. The Constitution confides this power to the "Legislature;" but the "Legislature" consists of a majority. *Ubi major pars est, ibi totum.* "Where the greater part is, there is all." Such is an approved maxim of the law, and this maxim has in its support, first, the law of nature; secondly, the law of corporations; thirdly, the parliamentary law; and fourthly, the principles of republican government. Whoever thought of saying, where the minority is, there is the whole?

But we are not asked now to decide the question whether the Legislature, by legislative act, may substitute the rule of a minority for the majority. That question is not necessarily before us. In the present case there has been no legislative act. And the question is whether the rule of the minority may be substituted for the majority by the abnormal body known as the joint meeting. On this point the conclusion is clear. Even assuming that this substitution may be made by legislative act, it does not follow that it may be made in joint meeting.

Surely such a change is of immense gravity, and should be made only under all possible solemnities and safeguards. If ever there was occasion for the delays and precautions provided by legislative proceedings, with three different readings in each separate House, it must be when such a change is in question. Such surely is the suggestion of reason. But the Constitution itself, which delegates to the "Legislature" of each State the power to *prescribe the manner* of electing Senators, uses language which is not open to evasion. This power is to be exercised by the "Legislature," which may *prescribe* the manner. It is not to be exercised by any other body than the Legislature, and the manner is to be prescribed by the Legislature. Now, assuming that it may be exercised in joint meeting, it is clear that this must be in pursuance of some legislative act, which shall *prescribe* in advance the manner.

Supposing the case to be doubtful, then I submit that all presumptions and interpretations must tend to support the rule of a majority. In other words, so important a rule, having its foundation in the law of nature, the law of corporations, parliamentary law, and the principles of republican institutions, cannot be set aside without the plainest and most positive intendment. It cannot be done by inference or construction. If ever there was occasion where every doubt was to be counted against the assumption of power, it is the present. I know very little of cards, but I remember a rule of Hoyle, "If you are in doubt take the trick." Just the reverse must be done in a case like the present, involving so important a principle; if you are in doubt do not take the trick. This is a republican Government, and surely you will not abandon the first principle of a republican Government without good reason. According to received maxims of the law, you must always incline in favor of liberty. In the same spirit you must always incline in favor of every principle of a republican Government, and especially of that vital principle which establishes the rule of the majority. Thus inclining, the way at present is easy; and here let me quote another authority very different from Hoyle. Lord Bacon, in his Maxims of the Law, after quoting a similar presumption, says:

"It is a rule drawn out of the depths of reason. It makes an end of many questions and doubts about construction of words; for if the labor were only to pick out the intention of the parties, every judge would have a several sense; *whereas this rule doth give them a sway to take the law more certainly one way.*"—*Bacon's Maxims, Reg.* 3.

And now, sir, I have only to say, in conclusion, let us incline in favor of the rule of the majority. So inclining, you will at once show your reverence for the republican principle and will stand on the ancient ways.

Mr. McDOUGALL. The Senator from Massachusetts has given us the law of Rome as to how the cardinals elect the Pope. He has given us the law of England as to the election and displacement of ministers, and then the rule of the House of Commons in the election of their officers. He says these elections are by majorities. He has affirmed much of old antiquity that cannot be verified by the text as it is recorded. But that I will not discuss. He has admitted that popular institutions in England are controlled by pluralities.

Mr. SUMNER. Popular elections.

Mr. McDOUGALL. Popular institutions. He has admitted that popular institutions have been controlled by pluralities in this Republic. He cannot dispute but that it is one of the cardinal laws belonging to republican institutions and necessary for harmony. It is not democratic or republican, as you please to use the terms. I hold them to be one and the same, to affirm that a majority has absolute power. Minorities have rights, but according to the system of our Government as best organized pluralities control. It is a law not founded upon any abstract principle but necessary in the policy of a republican government.

It was within the power of the Legislature of New Jersey, they having had conferred on them that power by the Constitution of the United States, to make their own rule, majority or plurality. They were commissioned, and by the Constitution of the United States that commission cannot be withdrawn. They have exercised it in this instance. It is not consistent with the duty of any Senator to act in this matter without grave consideration. I gave to it the consideration which the Senator from Massachusetts demands. I say that the Legislature of New Jersey convened, exercised their franchise. I say that in the lower corporations that the gentleman speaks of, it is not the majority of the entire body but the majority of a quorum present that controls. That is the law that governs through all the books. The Senator from Massachusetts should know it. The two Houses together convened were the Legislature of the State according to their system of organization, and they elected a gentleman who took his place in this body; and when a law is violated by partisan calculations wrong is done the nation.

I want to correct my friend from Massachusetts in his reference to Hoyle. Hoyle does not say that which he attributes to him. He says, "When you are in doubt play trumps." [Laughter.]

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from New Hampshire, [Mr. CLARK,] to insert the word "not" before the word "duly," and also before the word "entitled," in the resolution reported by the Committee on the Judiciary; and on this question the yeas and nays have been ordered.

Mr. STEWART. I desire to state that Mr. DOOLITTLE and Mr. WILLIAMS have paired off on this question, they being on opposite sides.

Mr. VAN WINKLE. I desire to state that I have paired off with the Senator from Michigan, [Mr. HOWARD,] who is absent, who would, I suppose, vote for this amendment if he were present. I should vote in the negative if I were at liberty to do so.

The question being taken by yeas and nays, resulted—yeas 19, nays 21; as follows:

YEAS—Messrs. Brown, Chandler, Clark, Conness, Cragin, Creswell, Fessenden, Grimes, Howe, Kirkwood, Lane of Indiana, Nye, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Wade, and Yates—19.

NAYS—Messrs. Anthony, Buckalew, Cowan, Davis, Foster, Guthrie, Harris, Henderson, Hendricks, Johnson, Lane of Kansas, McDougall, Morgan, Nesmith, Norton, Poland, Riddle, Saulsbury, Stewart, Trumbull, and Willey—21.

ABSENT—Messrs. Dixon, Doolittle, Foot, Howard, Morrill, Stockton, Van Winkle, Williams, Wilson, and Wright—10.

So the amendment was rejected; and the question recurred on the following resolution:

Resolved, That John P. Stockton was duly elected, and is entitled to his seat as a Senator from the State of New Jersey for the term of six years from the 4th day of March, 1865.

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

Upon the conclusion of the calling of the roll the vote stood, as follows:

YEAS—Messrs. Anthony, Buckalew, Cowan, Davis, Foster, Guthrie, Harris, Henderson, Hendricks, Johnson, Lane of Kansas, McDougall, Morgan, Nesmith, Norton, Poland, Riddle, Saulsbury, Stewart, Trumbull, and Willey—21.

NAYS—Messrs. Brown, Chandler, Clark, Conness, Cragin, Creswell, Fessenden, Grimes, Howe, Kirkwood, Lane of Indiana, Nye, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Wade, Wilson, and Yates—20.

Mr. MORRILL, (to the Secretary.) Call my name.

The SECRETARY. Mr. MORRILL.

Mr. MORRILL. I vote nay.

Mr. STOCKTON. Mr. President, I have a colleague, and my colleague has telegraphed me that he has paired off with the Senator from Maine, [Mr. MORRILL.] I telegraphed to him yesterday morning that the Senator from Maine did not wish any longer to be bound by his arrangement for pairing off. I received an answer this morning by telegraph from my colleague stating that he could not regard the arrangement as at an end. I think it my duty on Mr. WRIGHT's account to state this fact to the Senate, because when he was last in this Chamber he told me as he left the Hall that he would not go home if it were not for the fact that he had paired off with the Senator from

Maine. Mr. President, I ask that my name be called.

The PRESIDENT *pro tempore*. The Secretary will call the name of the Senator from New Jersey.

The Secretary called Mr. STOCKTON'S name, and he voted in the affirmative.

Mr. MORRILL. Perhaps the statement of the honorable Senator requires that I should say that the fact is substantially as he states. The fact changes no result, however. Some seven weeks ago, perhaps, when this question was expected to be called up, Mr. WRIGHT being here in his seat, I agreed to pair off with him. This week, when the question was expected to come up, I felt embarrassed by the arrangement, and I advised Mr. STOCKTON on Wednesday evening of that embarrassment and desired him to notify his colleague. This is Friday. A sufficient time, a reasonable time having elapsed, I think, within which the Senator's colleague might have returned, and after the great lapse of time since the original arrangement was made, and in view of the changes that have taken place in the Senate, I felt constrained upon the whole to vote upon the question.

Mr. NYE. It is proper for me, being a new member here, to inquire whether upon a question of this kind the person claiming the seat is entitled to a vote according to the rules of this body.

The PRESIDENT *pro tempore*. There is no rule of the Senate upon the question, and the Chair has not the prerogative of settling any question of the kind except to hold that the name of every Senator on the list may be called, and it is the privilege of every person whose name is on the list to have his vote recorded.

The result was announced—yeas 22, nays 21; as follows:

YEAS—Messrs. Anthony, Buckalew, Cowan, Davis, Foster, Guthrie, Harris, Henderson, Hendricks, Johnson, Lane of Kansas, McDougall, Morgan, Nesmith, Norton, Poland, Riddle, Saulsbury, Stewart, Stockton, Trumbull, and Willey—22.

NAYS—Messrs. Brown, Chandler, Clark, Conness, Cragin, Creswell, Fessenden, Grimes, Howe, Kirkwood, Lane of Indiana, Morrill, Nye, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Wade, Wilson, and Yates—21.

ABSENT—Messrs. Dixon, Doolittle, Foot, Howard, Van Winkle, Williams, and Wright—7.

So the resolution was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House of Representatives had passed the joint resolution of the Senate (S. R. No. 50) in relation to the publication of the laws of the United States.

The message further announced that the House of Representatives had passed the following bills and joint resolutions, in which it requested the concurrence of the Senate:

A bill (H. R. No. 360) to reimburse the State of Pennsylvania for moneys advanced Government for war purposes;

A bill (H. R. No. 363) supplementary to the several acts relating to pensions;

A bill (H. R. No. 394) for the relief of the estate of E. W. Eddy;

A bill (H. R. No. 420) to provide arms and ammunition for the defense of the inhabitants of Dakota Territory;

A bill (H. R. No. 421) for the relief of James G. Holland, late acting assistant paymaster United States Navy;

A bill (H. R. No. 422) for the relief of Mrs. Ann E. Smoot, widow of Capt. Joseph Smoot;

A joint resolution (H. R. No. 101) for the relief of certain officers of the Army; and

A joint resolution (H. R. No. 102) for the relief of Alexander Thompson, late United States consul at Maranham.

ADJOURNMENT TO MONDAY

On motion of Mr CRESWELL, it was

Ordered, That when the Senate adjourn to-day, it be to meet on Monday next.

Mr. JOHNSON. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *March* 23, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

LIEUTENANT CROUSE, AND OTHERS.

Mr. SHELLABARGER, by unanimous consent, introduced a joint resolution ordering the names of First Lieutenant Edward Crouse, First Lieutenant Jesse W. Dungan, and Second Lieutenant Joseph Parker to be placed and borne upon the muster-rolls of the Army of the United States; which was read a first and second time, referred to the Committee on Military Affairs, and, with the accompanying evidence, ordered to be printed.

KANSAS AND NEOSHO VALLEY RAILROAD.

Mr. PRICE, by unanimous consent, from the Committee on the Pacific Railroad, reported back House bill No. 378, to aid in the construction of the Kansas and Neosho Valley railroad, connecting the great lakes, Iowa, Missouri, and Kansas, with Texas and the Gulf of Mexico, and to secure to the Government the use of the same for postal, military, and other purposes; which was recommitted to the same committee, and ordered to be printed.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill was recommitted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

MAUMEE BAY AND RIVER.

Mr. ASHLEY, of Ohio, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of War be requested to furnish this House with such information as may be in his possession as to the amount of money necessary for the improvement of the harbor of Maumee bay and Maumee river at the city of Toledo, Ohio.

LEAVE OF ABSENCE.

Mr. TAYLOR asked and obtained leave of absence for his colleague, Mr. CHANLER, for two weeks.

Mr. THAYER asked and obtained leave of absence for his colleague, Mr. BROOMALL, after to-day until Thursday next.

EASTERN DISTRICT OF NEW YORK.

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

Mr. MORRIS. I ask the gentleman to allow me to put on its passage a bill relating to a judicial district of New York. It will only take a few moments. It is House bill No. 134, to regulate the term of the United States courts in the eastern district of New York, and for other purposes.

Mr. ANCONA. I will allow it to be reported.

The bill was reported. It provides for the holding of six terms of the district court and four of the circuit court, amends the act of February 25, 1865, by substituting for the word "Suffolk" the word "Richmond," and regulates the compensation of officers of the court.

Mr. WASHBURNE, of Illinois, (interrupting the reading.) I shall object to this bill.

NAVY-YARD ON HUDSON RIVER.

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

Resolved, That the Committee on Naval Affairs be instructed to inquire into the propriety of locating a navy-yard on the Hudson river, opposite the village of Hastings, and to report by bill or otherwise.

E. W. EDDY.

The House then resumed the consideration of the bill reported on Friday last from the Committee on Military Affairs (H. R. No. 394) for the relief of the estate of E. W. Eddy.

The bill provides for the payment of $200,000, being the amount of public funds in the hands of E. W. Eddy, as paymaster, on board the steamer Brother Jonathan, lost by the wreck of the said steamer on the 30th of June, 1865, off the coast of California.

The accompanying report was read.

Mr. ANCONA. I demand the previous question on the bill.

Mr. WASHBURNE, of Illinois. I hope the previous question will not be called until we can amend this bill.

Mr. ANCONA. I will hear what amendment the gentleman has to suggest.

Mr. WASHBURNE, of Illinois. I offer the following proviso, which is the same substantially as was adopted in the bill which the gentleman's colleague introduced at the last Congress:

Provided, That the final order for the allowance of the said credit shall not be made until the whole subject connected with the said alleged loss shall be investigated by the Paymaster General; and he shall certify to the proper Department of the Government that the loss of the money has been fully proved.

Mr. ANCONA. I see no objection to that amendment.

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

The question being taken on the amendment of Mr. WASHBURNE, of Illinois, it was agreed to.

The bill, as amended, was then ordered to be engrossed and read a third time; and being engrossed, it was read the third time and passed.

Mr. ANCONA. I move to reconsider the vote by which the bill was passed, and to lay that motion on the table.

The latter motion was agreed to.

INDIAN EXPENDITURES.

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

Resolved, That the Secretary of the Interior be requested to report to this House the account of the expenditures made under his direction in conformity with the fifth section of the Indian appropriation bill, approved March 3, 1865, specifying the amount of each appropriation expended, and for what Indians and for what objects disbursed.

ARMS FOR DAKOTA.

Mr. SMITH, from the Committee on the Militia, reported a bill to provide arms and ammunition for the defense of the inhabitants of Dakota Territory; which was read a first and second time.

The bill authorizes and directs the Secretary of the Treasuy to issue, upon the requisition of the Governor of Dakota Territory, such amount of ordnance and ordnance stores as may be necessary to arm the inhabitants of said Territory who may organize for defense against hostile Indians, not exceeding one thousand stand of small-arms and one hundred thousand rounds of ammunition, to be charged against the quota due or to become due to the said Territory under the law for arming and equipping the militia.

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

Mr. SMITH moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

JAMES G. HOLLAND.

Mr. DARLING, from the Committee on Naval Affairs, reported a bill for the relief of James G. Holland; which was read a first and second time.

The bill authorizes the Secretary of the Treasury to credit James G. Holland, late acting assistant paymaster of the Navy of the United States, with the sum of $500 in the settlement of the accounts of said Holland with the Fourth Auditor of the Treasury, such credit to be given to the said Holland for the sum of $500 in Treasury notes of the United States lost and destroyed without any fault or neglect on the part of said Holland.

Mr. WASHBURNE, of Illinois. I think the House should demand a pretty full investigation of this matter. We are adopting a very unsafe principle in paying for notes and bonds of the United States alleged to have been lost.

I recollect that during the last session of Congress we passed a bill here, against my most strenuous remonstrance, to reissue some bonds that were alleged to have been lost on board

the Golden Gate. It was proved most conclusively that the bonds were burnt up when that steamship was lost. The bill passed the House and it afterward passed the Senate.

My friend from Pennsylvania [Mr. STEVENS] advocated the passage of the bill here. It was not long after the bill had been passed that my friend brought in here a letter from the Secretary of the Treasury stating that those very bonds, which had been proved so conclusively to have been lost, had been presented for redemption at the Treasury Department; and we passed a bill here, on the strength of the statement of the gentleman from Pennsylvania, to repeal that law; but I believe that bill never passed the Senate, and it is very likely that the two sets of bonds are out.

Mr. DARLING. The gentleman from Illinois does not understand this case exactly.

Mr. WASHBURNE, of Illinois. I hardly know how this bill got to the Committee on Naval Affairs. It is one of those cases which should certainly have gone to the Committee of Claims, who have jurisdiction of this subject, and I am told are considering this very question. Now, I suggest to the gentleman from New York that he permit his bill to be referred to the Committee of Claims, and let them examine the whole subject. We must have some general rule on which we are to act in all such cases.

Mr. DARLING. Permit me to explain.

Mr. WASHBURNE, of Illinois. Certainly; I only spoke of the bill as it was read from the Clerk's desk. There may be something different behind it.

Mr. DARLING. This case is entirely different from the one referred to by the gentleman from Illinois, [Mr. WASHBURNE.] This paymaster was compelled to go from a vessel to which he was attached to the flag-ship to receive money from the fleet paymaster to pay off the men of his vessel. While in the discharge of that duty his boat was swamped, a number of the crew were drowned, and he and the captain rescued in a drowning condition. The money which he had in his coat pocket was lost, together with the coat. But he is charged on the books of the Department with the amount lost, and this bill is intended merely to relieve him from that charge, and to credit his account with the money thus lost while in the discharge of his duty without fault on his part. It is simply a proposition to wipe out the charge against him of $500 in money, which was lost by reason of this calamity.

Mr. WASHBURNE, of Illinois. Where is the proof of the loss?

Mr. SHELLABARGER. Will the gentleman yield to me for a moment?

Mr. DARLING. I will.

Mr. SHELLABARGER. I desire to ask the attention of some committee, whatever one may have the matter in charge, to a subject kindred to this, perhaps identical with it. A case has occurred in my own State in which a man presents at the Treasury of the United States parts of mutilated bonds; those parts showing the numbers of the bonds, so as to exclude all possibility of duplicating them, or of fraud in regard to the matter.

Mr. DARLING. The gentleman from Ohio [Mr. SHELLABARGER] is discussing a matter which is foreign to the subject now before the House. If the gentleman has any explanation to make in regard to this particular case, I have no objection to hearing him.

Mr. SHELLABARGER. I desire to add but one sentence to what I have already said. Now, in the case I have described, where parts of bonds are presented to the Treasury, showing that they have been mutilated and destroyed, the law is now such that they cannot be reissued, and the loss falls upon the citizen. And I hope that the committee having charge of the resolution upon that subject which I submitted a few days since will report a bill to meet that difficulty.

Mr. DARLING. I do not see that the case referred to by the gentleman from Ohio [Mr. SHELLABARGER] has anything to do with the one now under consideration. This is a case which can be met only by passing a private bill. In regard to the evidence of the loss, there is the testimony of officers of the fleet who saw the boat capsized, saw the men struggling in the water, and assisted in saving those who were rescued. There is the certificate of the fleet paymaster that he paid Mr. Holland the sum of $2,500. It appears that $2,000 of the money he handed over to the captain, and that amount was fortunately saved; but the rest of the money, $500, he put into the pocket of his own coat, and the coat and money were both lost.

Mr. BLAINE. The papers which accompanies the claim set forth that fact.

Mr. DAWES. I desire to say that in passing these private bills for relief, if there is no general bill proposed, each one should be accompanied by a statement of facts in the form of a report.

Mr. WASHBURN, of Massachusetts. I desire to state that the Committee of Claims have half a dozen cases of this kind before them, in relation to bonds of all descriptions destroyed under different circumstances. The committee have been endeavoring to provide some means by which some general law could be passed to meet these cases. I regret that any individual case should be brought forward in this manner, without a written report accompanying it, thus establishing what may be considered a precedent.

Mr. BLAINE. I think the private cases to which the gentleman from Massachusetts [Mr. WASHBURN] has referred are cases where parties have lost bonds and applied to the Government for the reissue of bonds to make good their losses. This case is entirely a different matter; the case of a paymaster who lost money of the Government in his possession by an accident over which he had no control. It is not proposed to take money out of the Treasury, but simply to relieve him from this amount now charged against him on the books of the Department.

Mr. WASHBURN, of Massachusetts. I do not wish to say anything against this particular case. But the cases to which I have referred are those of collectors, paymasters, quartermasters, and officers of all sorts who have met with these losses.

Mr. DARLING. I now call for the previous question.

Mr. WASHBURNE, of Illinois. I hope the previous question will not be seconded, but that this case will go to the Committee of Claims.

Mr. PIKE. Will the gentleman from New York [Mr. DARLING] withdraw his call for the previous question for a moment?

Mr. DARLING. I will.

Mr. PIKE. This bill provides simply that the proper accounting officer of the Treasury shall credit this officer with this amount when satisfactory proof of the loss shall be presented; so that the Government is amply protected.

Mr. PAINE. Will the gentleman from New York yield to me for a moment?

Mr. DARLING. Certainly.

Mr. PAINE. Mr. Speaker, I am not opposed to this bill; on the contrary, if the facts are as stated, I think the allowance should be made. But it seems to me that the case should be subjected to the scrutiny of the Committee of Claims. I wish that the gentleman from New York would yield to me to move the reference of the bill to that committee.

Mr. DARLING. I cannot do that.

Mr. PIKE. The gentleman from New York will permit me to say to the gentleman from Wisconsin [Mr. PAINE] that this is simply a question as to the settlement of the accounts of this officer with the Government. The accounting officer will not make the allowance except upon satisfactory proof.

Mr. PAINE. I understand that; but nevertheless it is a case in which the Government may possibly lose a large sum of money; and I think it ought to go to the Committee of Claims.

Mr. PIKE. This is similar to many bills which have heretofore been passed, and which have in no instance been referred to the Committee of Claims.

Mr. PAINE. I trust that the case will be referred to the Committee of Claims, and that we shall have a full report from that committee.

Mr. FARNSWORTH. I see no propriety in referring this case to the Committee of Claims. I suppose that the Committee on Naval Affairs is entirely competent to investigate a case of this kind, pertaining to the settlement of the accounts of a naval officer. I know that it has been the custom of the Committee on Military Affairs to examine and report upon similar cases in reference to the settlement of the accounts of military officers. I remember distinctly that while a member of that committee I reported several bills authorizing the accounting officers, in settling accounts of military affairs, to make allowance for losses of this kind.

Mr. BLAINE. The House this morning passed, with the approval of the gentleman from Illinois, [Mr. WASHBURNE,] a bill providing for a precisely similar case, except that in that case the amount was $200,000, and in this it is $500.

Mr. WASHBURNE, of Illinois. That bill had a very stringent proviso.

Mr. BLAINE. No more stringent than the proviso in this bill.

Mr. WASHBURNE, of Illinois. In that case there was a written report, and there was clear proof that the money had been lost. There is nothing here but a mere certificate; the claim is not even supported by an oath.

Mr. BLAINE. The proof is just as ample in this case as in the other.

Mr. DARLING. Gentlemen seem to misapprehend this case entirely. The bill simply authorizes the proper accounting officer to credit this officer with a balance of $500, which amount was unavoidably lost while he was in the discharge of his duty.

I renew the demand for the previous question.

On seconding the demand for the previous question there were—ayes 50, noes 33; no quorum voting.

The SPEAKER, under the rule, ordered tellers; and appointed Mr. DARLING, and Mr. WASHBURNE of Illinois.

The House divided; and the tellers reported —ayes 56, noes 42.

So the previous question was seconded.

The main question was ordered; which was on ordering the bill to be engrossed and read a third time.

Mr. PIKE. I find, Mr. Speaker, that I was mistaken. The bill does not contain the proviso which I thought it did.

Mr. WASHBURNE, of Illinois. The House voted under a misapprehension.

Mr. PIKE. I move to reconsider the vote by which the main question was ordered.

The motion to reconsider was agreed to; and the question recurred on seconding the demand for the previous question.

Mr. DARLING. I now withdraw the demand for the previous question, in order that the gentleman from Maine [Mr. PIKE] may offer an amendment.

Mr. PIKE. I move to amend by adding the following proviso:

Provided, That satisfactory proof of the loss of the same be presented to the Fourth Auditor.

Mr. WASHBURNE, of Illinois. I move the following amendment:

Provided, That the final order for the allowance of the said credit shall not be made until the whole subject connected with said alleged loss shall be fully investigated by the Fourth Auditor and fully certified to.

Mr. PIKE. I accept that, and demand the previous question.

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

The amendment was agreed to.

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

Mr. PIKE moved to reconsider the vote by

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

The latter motion was agreed to.

MRS. ANN E. SMOOT.

Mr. PHELPS, from the Committee on Naval Affairs, reported a bill for the relief of Mrs. Ann E. Smoot, widow of Captain Joseph Smoot, of the United States Navy; which was read a first and second time.

The bill provides that the benefit of the sixth section of an act to amend the act to promote the efficiency of the Navy, approved January 16, 1859, be extended to Mrs. Ann E. Smoot, widow of the late Captain Joseph Smoot, of the United States Navy, and that the proper accounting officers of the Treasury be directed to pay her the amount her said husband was receiving at the time he was placed on the reserved list on furlough pay to the date of his death, deducting whatever amount he may have received in the mean time on account of pay.

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

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

The latter motion was agreed to.

INVENTION IN NAVAL WARFARE.

On motion of Mr. GRISWOLD, the Committee on Naval Affairs were discharged from the further consideration of House bill No. 136, to provide for testing an invention in naval warfare; and the same was referred to the Navy Department.

PAY OF CERTAIN ARMY OFFICERS.

Mr. BINGHAM, from the Committee on Military Affairs, reported a joint resolution for the relief of certain officers of the Army; which was read a first and second time.

The joint resolution provides that in all cases in which a commissioned officer actually entered on duty as such commissioned officer, and was entitled by law to be mustered in as such, but by reason of capture by the enemy, or other cause beyond his control, and without fault or neglect of his own, was not mustered according to the regulations within a period of not less than thirty days, the pay department shall allow said officer full pay and emoluments from the date on which such officer actually entered on said duty, as aforesaid, deducting the pay actually received by such officer for such period.

Mr. HALE. I beg to inquire of the gentleman from Ohio whether this will cover the case of officers who served in their promoted rank and died before being mustered in?

Mr. BINGHAM. It does under the words "or other cause," if such cases are not already provided for.

Mr. SHELLABARGER. I move to insert the words "killed in battle."

Mr. BINGHAM. I have no objection.

The amendment was agreed to.

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

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

The latter motion was agreed to.

PAY WITHHELD BY COURTS-MARTIAL.

On motion of Mr. BINGHAM, the Committee on Military Affairs was discharged from the further consideration of a joint resolution to pay officers and soldiers money withheld by judgments of courts-martial; and the same was laid upon the table.

ALEXANDER THOMPSON.

Mr. BANKS, from the Committee on Foreign Affairs, reported a joint resolution for the relief of Alexander Thompson, late United States consul at Maranham, Brazil; which was read a first and second time.

Mr. WASHBURNE, of Illinois. I objected to that resolution when up once before, because it then appeared that this man was appointed after the passage of the law providing that none but citizens should be appointed. That was a mistake, and my friend from Ohio acknowledges "the corn." [Laughter.] It seems this man continued to perform the duties of consul at the request of the Department in a satisfactory manner after the passage of the act of August 18, 1856. I think the claim is just and should be passed. As it stood on the report it was not a good claim.

Mr. BANKS. I do not think the report is as was stated by the gentleman from Illinois, [Mr. WASHBURNE.] If so it was a mistake. The consul was not a citizen of the United States at the time of the passage of the act, but he continued in service at the request of the Secretary of State. He was not entitled to pay under the law, but having performed his duty, it is just that he should receive compensation.

I move the previous question.

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

Mr. BANKS. I move to reconsider the vote by which the joint resolution was passed, and to lay that motion on the table.

The latter motion was agreed to.

CLERKS OF COMMITTEES.

Mr. BANKS, from the Committee on Foreign Affairs, in answer to a resolution of the House, submitted the following report; which was read, laid on the table, and ordered to be printed:

The Committee on Foreign Affairs, to whom was referred the House resolution relating to the employment of clerks of committees, report as follows:

That in order to keep a correct journal of the proceedings and a proper record of the business referred to the committee, and for the thorough examination into matters pertaining to the conduct of its business, a clerk is indispensable. Much of the business of the committee is connected with the Departments, requiring such personal attendance as individual members of the committee cannot give to it; and from the State Department alone important documents are to be referred to the Committee on Foreign Affairs concerning the claims against the British Government for losses sustained by American citizens which will require the constant services of a clerk to classify, index, and preserve. The clerk of the Committee on Foreign Affairs is on duty the usual number of hours prescribed by law and custom for clerical attendance, and performs such service only for the members of the committee as legitimately belongs to the official business of the committee.

For the committee: N. P. BANKS,
Chairman.

THOMAS HUNT.

On motion of Mr. ORTH, the Committee on Foreign Affairs was discharged from the consideration of the petition and accompanying papers of Thomas Hunt, and the same were referred to the Committee of Claims.

PENSIONS.

Mr. PERHAM. Mr. Speaker, how much time is there left of the morning hour?

The SPEAKER. Five or six minutes.

Mr. PERHAM. I was instructed by the Committee on Invalid Pensions to report, and ask its consideration at the present time, a general bill on the subject of pensions.

The SPEAKER. The committee will be entitled to the remainder of this morning hour and to the next morning hour.

Mr. WASHBURNE, of Illinois. That is rather unfortunate. This is a very important committee, and I hope that the remaining five minutes of this morning hour will not be charged to it as a whole morning hour. I move, therefore, that the committee be entitled to two morning hours hereafter.

No objection being made, it was so ordered.

Mr. PERHAM. I thank the House for this favor.

The House accordingly proceeded to the consideration of House bill No. 363, supplementary to the several acts relating to pensions.

The bill provides a pension of twenty-five dollars a month to those who have lost both eyes, or both hands, or been permanently disabled in the same, in the military or naval service of the United States; and twenty dollars a month to those who have lost both feet or one hand and one foot, or been totally disabled in the same; and fifteen dollars a month to all who have lost one hand or one foot or been totally disabled in the same.

During the reading of the bill the morning hour expired.

Mr. LAWRENCE, of Ohio. I call up for consideration joint resolution No. 43, proposing an amendment to the Constitution of the United States, upon which I entered the motion to reconsider the other day.

Mr. PERHAM. I hope the gentleman will allow the reading of the bill to be completed.

Mr. LAWRENCE, of Ohio. I will do so.

The reading of the bill was here completed.

Mr. KASSON. I ask the gentleman to allow me to offer this amendment to the bill, to come in at the end:

Provided, That the payment of no pension shall be suspended or withheld by reason of the acceptance by the pensioner of any public office, unless the annual pay of such office, added to the pension, shall be equal to or greater than the amount of income exempt from the income tax under the internal revenue law.

In listening to the reading of the bill I did not observe any such provision, and therefore I offer this proviso, in order to meet a difficulty under the existing law.

Mr. PERHAM. In answer to the question suggested I wish to say that by the law of March, 1865, persons who accepted office in the civil service of the Government who were entitled to pensions forfeited their pensions, and the ruling of the office is such that it excludes all classes of officers, so that a postmaster, for instance, who may be receiving from fifty to a hundred dollars a year is excluded from the right to draw his pension under the law. The fourth section of this bill repeals entirely the law to which the gentleman from Iowa refers and allows every person who is entitled to a pension to draw it, notwithstanding the fact of his being in the civil service of the Government.

Mr. KASSON. Then, if the fourth section has that effect, I withdraw my amendment.

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

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

The latter motion was agreed to.

Mr. LAWRENCE, of Ohio, resumed the floor.

Mr. WASHBURNE, of Illinois. I hope that my friend from Ohio will postpone this matter and let us go on with the public business. It is more important that we should proceed with the appropriation bills than bring up this matter now.

Mr. LAWRENCE, of Ohio. This is public business as much as any business which can be brought before the House. It is business of as much importance as any that can be brought before the House, and it is important that it shall be brought before the House now, so that the resolution may not only go over to the Senate for its final action, but that it may go to the country.

I would be glad to accommodate the gentleman from Illinois.

Mr. WASHBURNE, of Illinois. It is not for my accommodation. I merely made the suggestion to the gentleman in the public interest.

Mr. LAWRENCE, of Ohio. I will now yield the floor to the chairman of the Committee on Printing, [Mr. LAFLIN,] who desires to report a bill for action.

PUBLICATION OF THE LAWS.

Mr. LAFLIN, from the Committee on Printing, reported back, with the recommendation that it do pass, joint resolution of the Senate No. 50, in relation to the publication of the laws of the United States.

The joint resolution authorizes and directs the Secretary of State to renew the contract

of October 31, 1850, between the Department of State and Little, Brown & Co., of Boston, Massachusetts, for the annual publication of the Statutes-at-Large of the United States until otherwise ordered by Congress, provided that the time within which the annual edition of the Laws is to be delivered to the Department of State be extended to seventy days after the adjournment of each session of Congress; and provided further, that the price shall not exceed the actual expenditure of Little, Brown & Co., for composition, press-work, binding, editing, and transportation, all of which shall be done at the lowest market prices, the paper to be furnished at as low a price as is paid by the Government for paper of the same quality, and five per cent. commission thereon.

Mr. LAFLIN. This is a joint resolution that requires very little explanation. In 1850 the Secretary of State made a contract with Little, Brown & Co., for the publication of the Statutes-at-Large. At that time those Statutes made a book about one third the size they now do, and material and labor were much cheaper than they are at present. They are unable to perform their contract now at the old prices, and they have consented to renew the contract in the manner specified in this resolution. The joint resolution has already passed the Senate and has been thoroughly considered by the House committee, and inasmuch as there is a clause in the resolution which puts it in the power of Congress to change the contract at any time, I think there can be no possible objection to the passage of the joint resolution.

The joint resolution was ordered to a third reading; and it was accordingly read the third time and passed.

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

The latter motion was agreed to.

FOREST CULTURE.

Mr. LAWRENCE, of Ohio. I will yield the floor now for a moment to my friend from New York, [Mr. MORRIS.]

Mr. MORRIS, by unanimous consent, introduced a bill donating lands to the American Forest Tree Propagation and Land Company, for conducting experiments respecting forest-tree culture, calculated to prevent the destruction and encourage the production of forests in America; which was read a first and second time, and referred to the Committee on Agriculture.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had insisted upon its amendments, disagreed to by the House, to the bill (H. R. No. 184) entitled "An act to authorize the sale of marine hospitals and revenue cutters," and had appointed Messrs. CHANDLER, SHERMAN, and NESMITH a committee of conference on the part of the Senate.

The message further stated that the Senate had insisted upon its amendments, disagreed to by the House, to the bill (H. R. No. 84) entitled "An act making additional appropriations, and to supply deficiencies in the appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1866, and for other purposes;" had disagreed to the amendments of the House to the other amendments of the Senate; and had appointed Messrs. FESSENDEN, CONNESS, and JOHNSON a committee of conference on the part of the Senate.

SERGEANT-AT-ARMS.

Mr. ROLLINS. I ask leave to report back, from the Committee of Accounts, the following resolution as a substitute for one referred to that committee:

Resolved, That the Sergeant-at-Arms be allowed to employ an additional clerk in his office during the present session of Congress, at a salary of $125 per month.

Mr. ROSS. I object.

Mr. ROLLINS. Will the gentleman allow me to explain a moment?

Mr. ROSS. I do not think we need any more explanation.

EXECUTIVE COMMUNICATION.

The SPEAKER laid before the House a communication from the Secretary of War, transmitting the remainder of the information called for by a resolution of the House of Representatives of the 8th instant; and the same was referred to the select committee on freedmen and ordered to be printed.

PAYMENT FOR SLAVES.

Mr. LAWRENCE, of Ohio. I now call up the motion to reconsider the vote by which the House on the 13th instant recommitted to the Committee on the Judiciary the joint resolution (H. R. No. 43) proposing an amendment to the Constitution of the United States.

The joint resolution proposes the following amendment to the Constitution of the United States:

ARTICLE —.

SEC. 1. Neither Congress nor any State shall ever authorize, provide for, or make payment to any person or persons on account of the emancipation of any slave or slaves in the United States, or as compensation therefor.

SEC. 2. *And be it further enacted*, That Congress shall have power to enforce this article by appropriate legislation, and the judicial power of the United States shall extend to all cases arising under this article and the laws made in pursuance thereof.

The question was upon the motion to reconsider.

Tellers were ordered; and Mr. HARDING, of Kentucky, and Mr. LAWRENCE, of Ohio, were appointed.

The House divided; and the tellers reported —ayes 44, noes 48.

So the motion to reconsider was not agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed bills of the following titles, in which the concurrence of the House was requested:

A bill (S. No. 107) entitled "An act to provide for a term of the district court for the district of Minnesota to be held at the city of Winona, in said district;"

A bill (S. No. 210) entitled "An act for the relief of Wellington & Dorsey;" and

A bill (S. No. 145) entitled "An act for the grant of lands to the State of Kansas to aid in the construction of the Northern Kansas railroad and telegraph."

PENNSYLVANIA WAR CLAIM.

Mr. STEVENS. I move that the rules be suspended, and that the House now resolve itself into Committee of the Whole for the purpose of considering the special order.

The motion was agreed to; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. WASHBURNE, of Illinois, in the chair,) and resumed the consideration of House bill No. 360, to reimburse the State of Pennsylvania for moneys advanced Government for war purposes.

The pending question was upon the following amendment moved by Mr. HALE:

Strike out the words "advanced at the request of the Government for the payment of troops in the service of the United States under an express promise of payment," and insert the words "expended for the payment of troops in the service of the United States."

Mr. STEVENS. I think that improves the bill; I do not object to it.

The amendment was agreed to.

The next question was upon the following amendment proposed by Mr. BLAINE:

Strike out all of the enacting clause, and insert in lieu thereof the following:

That there shall be reimbursed by the United States to each of the States that furnished troops to the Union Army, and also to the several Territories and the District of Columbia, a sum equal to fifty-five dollars for each man duly enlisted into the military or naval service of the United States during the late war, the total number being reduced to a uniform standard of three years' service, namely:

To the State of Maine, for fifty-six thousand five hundred and ninety-five men, $3,112,725.

To the State of New Hampshire, for thirty thousand eight hundred and twenty-seven men, $1,695,485.

To the State of Vermont, for twenty-nine thousand and fifty-two men, $1,597,860.

To the State of Massachusetts, for one hundred and twenty-three thousand eight hundred and forty-four men, $6,811,420.

To the State of Rhode Island, for seventeen thousand eight hundred and seventy-eight men, $983,290.

To the State of Connecticut, for fifty thousand five hundred and fourteen men, $2,778,270.

To the State of New York, for three hundred and eighty-one thousand six hundred and ninety-six men, $20,993,280.

To the State of New Jersey, for fifty-five thousand seven hundred and eighty-five men, $3,068,175.

To the State of Pennsylvania, for two hundred and sixty-seven thousand five hundred and fifty-eight men, $14,715,690.

To the State of Delaware, for ten thousand three hundred and three men, $566,665.

To the State of Maryland, for forty thousand six hundred and ninety-two men, $2,238,060.

To the State of West Virginia, for twenty-seven thousand six hundred and fifty-three men, $1,520,915.

To the State of Ohio, for two hundred and thirty-seven thousand nine hundred and seventy-six men, $13,088,680.

To the State of Indiana, for one hundred and fifty-two thousand two hundred and eighty-three men, $8,375,565.

To the State of Illinois, for two hundred and twelve thousand six hundred and ninety-four men, $11,698,170.

To the State of Michigan, for eighty thousand eight hundred and sixty-five men, $4,447,575.

To the State of Wisconsin, for seventy-eight thousand nine hundred and eighty-five men, $4,344,175.

To the State of Minnesota, for nineteen thousand six hundred and seventy-five men, $1,082,125.

To the State of Iowa, for sixty-eight thousand one hundred and eighty-two men, $3,750,010.

To the State of Missouri, for eighty-six thousand one hundred and ninety-two men, $4,740,560.

To the State of Kentucky, for seventy thousand three hundred and forty-eight men, $3,869,140.

To the State of Kansas, for eighteen thousand six hundred and fifty-four men, $1,025 970.

To the State of Tennessee, for twelve thousand and seventy-seven men, $664,235.

To the State of California, for seven thousand four hundred and fifty-one men, $409,805.

To the State of Nevada, for two hundred and sixteen men, $11,880.

To the State of Oregon, for five hundred and eighty-one men, $31,955.

To the District of Columbia, for eleven thousand five hundred and six men, $632,830.

To the Territory of Washington, for eight hundred and ninety-five men, $49,225.

To the Territory of Nebraska, for three hundred and eighty men, $20,900.

To the Territory of Colorado, for one thousand seven hundred and sixty-two men, $96,910.

To the Territory of Dakota, for one hundred and eighty-one men, $9,955.

To the Territory of New Mexico, for one thousand and eleven men, $55,605.

SEC. 2. *And be it further enacted*, That the amounts to be thus reimbursed shall be in registered bonds of the United States, of not less than $1,000 each, bearing interest at the rate of five per cent. per annum, payable semi-annually in lawful money, and redeemable at the pleasure of the United States, after twenty years from date. Said bonds shall be dated July 1, 1866, and interest thereafter shall be payable on the 1st day of January and 1st day of July each year; said interest to be payable and said bonds to be redeemable out of moneys to be hereafter appropriated by Congress.

SEC. 3. *And be it further enacted*, That each bond issued in pursuance of this act shall have plainly printed or engraved thereon the words following, namely: "The bonds of which this is one are issued to the State of —— in full reimbursement for expenses incurred by said State in the war for the Union. Said bonds are not negotiable until after the 1st day of July, A. D., 1866, and then only upon the indorsement of the Governor of the State. And said bonds are accepted by said States in full payment of all claims for expenses incurred or losses sustained in the war for the Union, either by the State or by any municipal corporation within the State."

SEC. 4. *And be it further enacted*, That the bonds authorized by this act shall not be delivered to any State until the Legislature thereof has formally consented to accept them on the terms contained in the third section, and upon such consent being properly certified to the Secretary of the Treasury by the Governor of any State, the Secretary shall, on the Governor's receipt therefor, issue to such State its proper amount of bonds as provided in the first section of this act. But the condition contained in the third section shall not be construed to exclude any demand or claim from a State or municipal corporation which can be audited and paid under any law in force at the time of the approval of this act.

SEC. 5. *And be it further enacted*, That the Secretary of State shall forward to the Governor of each State a certified copy of this act within thirty days from the date of approval; and the Secretary of the Treasury is hereby charged with executing the provisions of this act.

Mr. STEVENS. I hope the gentleman from Maine [Mr. BLAINE] will withdraw that amendment.

Mr. BLAINE. My colleague upon the committee having in charge the war debts of the loyal States, as well as many other gentlemen on this floor who feel friendly to the bill which I moved as an amendment to the pending prop-

osition, have expressed a desire that the one shall not be embarrassed by connecting it with the other. I therefore withdraw my amendment.

Mr. STEVENS. I now move that the committee rise and report this bill, with the amendment to it, to the House.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. WASHBURNE, of Illinois, reported that the Committee of the Whole on the state of the Union, having had under consideration the bill (H. R. No. 360) to reimburse the State of Pennsylvania for moneys advanced Government for war purposes, had directed him to report the same to the House with an amendment, and recommend its passage.

Mr. STEVENS. I now call the previous question on the bill and amendment.

Mr. SPALDING. Will the gentleman from Pennsylvania [Mr. STEVENS] withdraw his call for the previous question for a moment?

Mr. STEVENS. I will give the gentleman an opportunity to say what he desires to say out of my time after the main question shall be ordered.

Mr. HALE. Will the gentleman from Pennsylvania permit me to make a single suggestion?

Mr. STEVENS. Certainly.

Mr. HALE. I understood the gentleman to promise us the other day that he would furnish the House with certain documentary evidence. I desire to inquire whether the gentleman proposes to furnish that evidence. It seems to me that it ought to be furnished.

Mr. STEVENS. I have it in my hand, and will present it.

The previous question was seconded and the main question ordered.

Mr. STEVENS. I do not propose, Mr. Speaker, to discuss the bill to any extent myself, but will yield to several other gentlemen. I simply wish to make a remark in reference to a point which was drawn into the discussion the other day. The question was then raised whether the New York and New Jersey troops, called out at the same time as these Pennsylvania troops, had been paid. I have made inquiry at the office of the Adjutant General, who addressed the following note to the Assistant Adjutant General:

General VINCENT:

Have the troops of New York and New Jersey which were called out during the invasion been paid?

E. D. T.

March 22, 1866.

To this the Assistant Adjutant General made the following reply:

They have, long since. Respectfully,

T. M. V., *A. A. G.*

Mr. FARNSWORTH. Will the gentleman from Pennsylvania yield to me for a moment?

Mr. STEVENS. Yes, sir.

Mr. FARNSWORTH. I have understood from what has been stated by the friends of this bill, the gentleman from Pennsylvania and others, and from my recollection of the discussion upon the question last year, that these troops were mustered into the service of the United States.

Mr. STEVENS. They were sworn in, as it is called, under the telegram of the Secretary of War, which was read the other day. Technically speaking, they were not mustered in, although they were sworn in. They took part in the battle of Gettysburg, and were also engaged at Hagerstown and Falling Waters. There was no time for mustering in.

Mr. FARNSWORTH. Were muster-rolls made out?

Mr. STEVENS. Company pay-rolls, which the Secretary of War stated were all that were necessary, were made out.

Mr. TAYLOR. If the gentleman from Pennsylvania will allow me, I desire to ask him why those Pennsylvania troops were not mustered into the United States service.

Mr. STEVENS. They were called out at the moment of the invasion. There was no time to muster them in.

Mr. TAYLOR. I desire to inquire whether those Pennsylvania troops did not positively refuse to be mustered into the United States service.

Mr. STEVENS. Not one did so. There was some such report, but there was no truth in it. The Government did not require that they should be mustered in. The Secretary of War sent the following dispatch to Governor Parker, of New Jersey:

WASHINGTON, *June* 28, 1863.

His Excellency Governor PARKER:

General Couch is authorized to receive any troops that may be offered to serve under his command, whether sworn into the United States service or not. Please send any militia or other force at your disposal.

E. M. STANTON,
Secretary of War.

Subsequently, the Secretary of War sent the following communication to the Committee of Ways and Means of this House:

WAR DEPARTMENT,
WASHINGTON CITY, *January* 4, 1864.

SIR: The Department has this day received returns of the amounts required for the payment of the militia called out for the defense of the State of Pennsylvania on the 26th of June, 1863, against the invasion by the rebel forces under command of General Lee. There being no appropriation out of which these payments could be made at the time they were required, patriotic citizens of Philadelphia advanced the money, and it is proper that they should be reimbursed without delay. I would respectfully recommend, therefore, that an immediate appropriation for that purpose be made. A copy of a letter of the Second Auditor of the Treasury is herewith communicated, showing the amount of claims audited by him to be $671,476 43 up to date. It is supposed that $700,000 will cover the whole amount of these claims.

I have the honor to be, very respectfully, yours,

EDWIN M. STANTON,
Secretary of War.

Hon. THADDEUS STEVENS,
Chairman Committee Ways and Means.

The following is the communication of the Second Auditor of the Treasury Department, addressed to the Secretary of War:

TREASURY DEPARTMENT,
SECOND AUDITOR'S OFFICE, *January* 4, 1864.

SIR: Respecting the claim of the State of Pennsylvania, amounting to $671,476 43, for payments made to the militia called out under the proclamation of the Governor of that State, dated June 26, 1863, I have the honor to state that the rolls and vouchers for said payments have been administratively examined in this office and found in the main correct. Errors and discrepancies amounting to say $2,000 have been discovered, consisting principally of cases where the internal revenue tax is not deducted, or when deducted not accounted for.

I am, very respectfully, your obedient servant,

E. B. FRENCH,
Second Auditor.

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

Mr. TAYLOR. Will the gentleman permit me to ask him how long these troops were in service?

Mr. STEVENS. I cannot state precisely.

Mr. TAYLOR. About how long?

Mr. STEVENS. Between two and three months.

Mr. TAYLOR. I have been told by some persons who ought to know that these troops absolutely refused to be mustered in after the emergency passed away.

Mr. STEVENS. There is no truth in that. My colleague here [Mr. BROOMALL] was one of the captains of those troops; and my colleague from the first district [Mr. RANDALL] was also in service at the same time. Both these gentlemen can speak further in reference to the point which the gentleman suggests.

Mr. TAYLOR. I have been informed that these troops refused to be mustered in, claiming that they were State troops. They refused, I understand, because they did not wish to be subject to the disposal of the Federal Government, lest they might be taken beyond the limits of their State. Is there any truth in that?

Mr. STEVENS. My two colleagues can state the facts, because they were in that army. I yield to my colleague from the seventh district, [Mr. BROOMALL.]

Mr. BROOMALL. Mr. Speaker, I happen to know all about that matter, and can state all about the charge that some of these troops refused to be mustered into the service of the United States. The fact is that troops were wanted badly at that time; the danger was very imminent. It was understood that more troops could be had by permitting them to be mustered into the service of the United States, or of the State, as they might elect. It was distinctly put to each one of the companies whether it would be mustered into the service of the United States or the service of the State; the statement being made at the same time that they would all be put under the command of the same officers, rationed in the same way, equipped in the same way, paid in the same way, and in all respects treated in the same way. The result showed that more men could be obtained by giving them their election. Some companies were mustered into the State service, and some were mustered into the United States service. The company I had the honor to command was sworn into the United States service. No one supposed there would be any difference in the payment or the treatment of the troops. It was supposed they would be all under the same officers and treated alike. The object was to get the most men in the emergency.

Mr. TAYLOR. You say you were sworn into the United States service. Were you mustered into the United States service?

Mr. BROOMALL. My company was mustered into the United States service.

Mr. TAYLOR. Did you get your pay?

Mr. BROOMALL. My company was paid. The difference between the State service and the United States service did not show itself until the time to pay came.

Mr. TAYLOR. This is for those who would not be mustered into the United States service.

Mr. BROOMALL. I do not know there were any who refused to be mustered into the United States service. They had their choice.

Mr. TAYLOR. Were all those who were mustered into the United States service paid?

Mr. BROOMALL. I do not know. I think so.

Mr. TAYLOR. I will state that I learn at the War Department all who were mustered into the United States service have been paid.

Mr. MYERS. If I am allowed I will have read the form of the oath that was taken.

Mr. STEVENS. I ask that it be read.

The Clerk read, as follows:

HARRISBURG, *April* 26, 1864.

Hon. LEONARD MYERS, *House of Representatives:*

The following is the form of oath of muster of Pennsylvania troops in June, 1863:

"You and each of you do solemnly swear that you will bear true faith and allegiance to the United States of America, and to the State of Pennsylvania; that you will serve them honestly and faithfully against all their enemies or opposers whatsoever, and observe and obey the orders of the Governor of Pennsylvania and the orders of the officers appointed over you according to law. So help you God."

SAMUEL B. THOMAS,
Lieutenant Colonel, and A. D. C. to Governor Curtin.

Mr. BROOMALL. That is the form of the oath which was administered to those men. I will say another word. Those who were sworn into the State service were under the same commanders as those mustered into the United States service; they marched together to Gettysburg, marched out of the State into Maryland together, and were treated in all respects alike. The arrangement was made for the convenience of the War Department, and it was never supposed that that Department would not in good faith pay those whom it had undertaken to pay.

The year before I was also called to command a company in the State service, yet the officers of the United States paid us just as they did the soldiers sworn into the service of the United States. Hence Pennsylvania and these soldiers had the right to understand the Government would pay them if sworn into either service, when they paid them when sworn into neither.

Mr. MORRILL. This claim is an old acquaintance. It was first introduced from the Committee of Ways and Means last year, and the point of order was made that it was not in accordance with existing law. It was brought before the House again and defeated.

I do not know but I am in favor of the bill, but I would prefer it should be first committed to the Committee on Military Affairs. It seems to me bills of this character should undergo the

scrutiny of that committee. I have no fault to find with the gentleman from Pennsylvania for getting his bill in this way. Of course he preferred to have the child nursed by its friends.

We have claims of other States of a like character, and whatever example we may set in relation to this bill the House will be disposed to follow.

Now, while we are all ready and willing to relieve the people of some part of their taxation, I do think that such large appropriations ought to be subjected to careful scrutiny, and I hope the House will come to the conclusion to recommit this bill to the Committee on Military Affairs. Let us have a bill based on some general principles upon which we can stand, by which other States may have their claims adjusted.

Mr. STEVENS. I now yield the floor to my colleague, [Mr. RANDALL.]

Mr. RANDALL, of Pennsylvania. I have but a word to say in reference to the objection raised by the gentleman from Vermont, [Mr. MORRILL.] I should suppose after he had characterized this as an old acquaintance, that he had given to it a thorough examination. But for one I am in favor of any examination or scrutiny that can be made of the bill. I do not know what my colleague [Mr. STEVENS] desires, but for myself I am perfectly willing that it should pass through the severest scrutiny, knowing that it is a just claim. It is in fact an obligation which is due to Pennsylvania by the United States Government. The Governor of the State of Pennsylvania (the Legislature not being in session) found himself compelled to take some responsibility without a law authorizing an expenditure necessary to pay and equip the soldiers called out at this period, the State being invaded. The Governor accordingly went to Philadelphia and borrowed this entire sum of money from patriotic men of that city. They advanced their money without any written obligation, merely upon the word of the Secretary of War transmitted to them by telegraph and the word in person of the Governor of the State, but for this it is not the less sacred in morals or equity. It has not lost any of its force by examination or by delay, and I think that for the House to refuse to pay this obligation would be substantially repudiation.

I think it is right that a full examination should be made, and such has been made fully, fairly, and completely. If, however, the gentleman who has charge of the bill desires that it should go to the Committee on Military Affairs for further examination, and such is the pleasure of the House, I am perfectly willing. It must come out of any investigation unimpaired in merit.

Several MEMBERS. No, no.

Mr. STEVENS. The House knows all about it. I yield now to my colleague, [Mr. BOYER.]

Mr. BOYER. My colleague [Mr. STEVENS] first yielded the floor to my colleague [Mr. BROOMALL] in preference to me upon a ground the validity of which I am not willing to recognize, as I was also in the same war as captain of a military company, and my sword was quite as bloodless as that of my colleague, and I trust my heart quite as loyal.

If I can have the attention of the House a few moments I think I can answer any reasonable objection to the passage of this bill. This claim of the State of Pennsylvania rests upon contract. It is based upon the express pledges of the President of the United States and the Secretary of War.

This money was originally due to certain banks and moneyed institutions in the city of Philadelphia, who advanced the same upon the joint credit of the Government of the United States and the State of Pennsylvania for the purpose of paying the troops which had been raised in Pennsylvania to repel the rebel raid into that State in the summer of 1863, the United States being the principal debtor and the State of Pennsylvania surety for the faithful repayment of the amount.

Both the Secretary of War and the President of the United States recommended to the last Congress that an appropriation should be made sufficient to pay this amount. The items had been examined by the proper Department, and the Second Auditor had certified to their correctness. Congress, however, having neglected to make the required appropriation, the State of Pennsylvania, as surety, paid every dollar of the debt to the lenders. She is now here to ask that the United States, the principal debtor, shall refund to her this money. It therefore touches the credit and the honor of the General Government.

It is too late to meet this claim by the plea that these troops were not mustered into the service of the United States for two reasons: first, because the United States accepted the service of the troops under the muster as it was; second, because after the troops had gone into service, and after the rebels had been repelled, the President of the United States and the Secretary of War, with full knowledge of the nature of the muster, gave the pledges upon which Pennsylvania now claims, as a matter of contract, that this money should be paid.

I will read to the House the letter of the Secretary of War recommending to the last Congress that an appropriation should be made for this purpose:

WAR DEPARTMENT,
WASHINGTON CITY, *January* 4, 1864.

SIR: The Department has this day received returns of the amount required for the payment of the militia called out for the defense of the State of Pennsylvania, on the 26th of June, 1863, against the invasion by the rebel forces under the command of General Lee. There being no appropriation out of which these payments could be made at the time they were required, patriotic citizens of Philadelphia advanced the money, and it is proper that they should be reimbursed without delay. I would respectfully recommend, therefore, that an immediate appropriation for that purpose be made. A copy of the letter of the Second Auditor of the Treasury is herewith communicated, showing the amount of claims audited by him to be $671,476 43 up to date. It is supposed that $700,000 will cover the amount of these claims.

I have the honor to be, very respectfully, yours,
EDWIN M. STANTON,
Secretary of War.

HON. THADDEUS STEVENS, *Chairman of the Committee of Ways and Means, House of Representatives.*

I will take the liberty, in this connection, to read (what has not been read to the House before) the indorsement of this recommendation by President Lincoln:

I fully indorse the within statement and recommendation, and shall be glad if Congress see fit to act promptly in the case. A. LINCOLN.

And perhaps, as a day has intervened since this subject was up before the House, it may be well enough to read again the dispatch of the Secretary of War to the Governor of Pennsylvania upon the credit of which this money had been advanced:

WASHINGTON, *July* 22, 1863.

To his Excellency Governor A. G. CURTIN:

Your telegrams respecting the pay of militia, called out under your proclamation of the 27th of June, have been referred to the President for instructions, and have been under his consideration. He directs me to say, that while no law or appropriation authorizes the payment, by the General Government, of troops that have not been mustered into the service of the United States, he will recommend to Congress to make an appropriation for the payment of troops called into State service to repel an actual invasion, including those of the State of Pennsylvania. If, in the mean time, you can raise the necessary amount, as has been done in other States, the appropriation will be applied to refund the advance to those who made it.

Measures have been taken for the payment of troops mustered into the United States service, as soon as the muster and pay-rolls are made out. The answer of this Department, to you as Governor of the State, will be given directly to yourself, whenever the Department is prepared to make answer.

EDWIN M. STANTON,
Secretary of War.

The message of the Governor of Pennsylvania upon this subject, addressed to the Legislature of that State, contains the following statement in reference to the communication just read:

"On the faith of these assurances I proposed that the moneyed institutions of the State should advance the money, there being no State appropriation for the purpose. I pledged myself that if the money should be so advanced I would recommend an appropriation by the Legislature to refund it, in case Congress should fail to do so."

These troops were in the actual service of the United States. They wore the United States uniform, carried United States muskets, followed the United States flag, and were commanded by general officers appointed over them by the Federal Government. They were in three States besides our own, namely, Maryland, West Virginia, and Ohio. It is a slander, therefore, to say, as has been uttered here in reference to these troops, that they refused to cross the State line. The Governor of Pennsylvania, in his last annual message, has stated in a few words the nature of their services, and the promptitude with which they were willing, in defense of the common country, to cross the boundary of the State. Governor Curtin says:

"Acting under orders, they did not hesitate to cross the State line and enter Ohio and West Virginia, in the West; and in the East they defended the line of the Susquehanna, were at Gettysburg before the advance of the army of the Potomac, defended Carlisle successfully when attacked by a superior force, made long marches, patiently suffering great privations for the want of sufficient means of transportation, crossed into Maryland when ordered, and attacked the enemy successfully, and saved the capital of their State from destruction."

These men, it is true, did not belong to a class who expected to remain during a long campaign in the Army. Most of them had already borne their full proportionate share of the burdens of the war. Many of them were not adapted to the profession of arms, but whose pursuits and whose usefulness in life lay in a different direction, and various duties and disabilities prevented them from remaining a long time in the service. But for the emergency they were willing to incur all risks, and when the invading rebels swept past the armies of the Union and struck at the General Government in the very center of its power, then it was that the Pennsylvania farmer, who had already sent his sons to the war, left his plow in the unfinished furrow, and the merchant, who had already a substitute in the Army, without even making preparation to meet his notes at the bank, left his unposted ledger lying at the counter, and the lawyer forsook his clients, and the judge adjourned his court and ordered the court-house bell to be rung for the assembling of the people, and there were improvised on the spot throughout the limits of Pennsylvania these companies of militia who rallied in defense of their country in that hour of its peril.

They were assisted by the militia from New York and from New Jersey, who deserved great credit for the promptitude and the courage which they displayed in coming so quickly from New York and New Jersey to the defense of Pennsylvania. But they were all engaged in defense of their common country. Pennsylvania is the frontier of New York, and the frontier of New Jersey; and in defending Pennsylvania, they defended their own States as well.

They have been paid. When this question was up before, it was asserted by the gentleman from New Jersey [Mr. ROGERS] that the troops of New Jersey had not yet been paid in full. My colleague [Mr. STEVENS] has however again asserted to-day that those troops have been paid, and I do not now hear it denied by any one.

Mr. ROGERS. I know that the troops from New Jersey have not been paid.

Mr. STEVENS. I do not make the assertion myself; but I saw the evidence in the War Department positively asserting that they were paid.

Mr. ROGERS. A certain amount has been paid; but some one hundred and eight thousand dollars is still due.

Mr. BINGHAM. How much has been paid?

Mr. ROGERS. I do not know; I know that $108,000 is still due.

Mr. BOYER. At all events, by paying a portion of the amount, the principle has been established that the troops are to be paid; and whenever the State of New Jersey shall bring in here her claim for the balance due by the General Government for the services of her troops, I shall support it with the greatest cheerfulness.

Mr. ROGERS. Then why not refer the bill

to a committee until we can have an opportunity to get the claims of New Jersey and other States? I am told that the State of New York has also a claim.

Mr. BOYER. It is because I think each claim should stand by itself upon its merits.

Mr. ROGERS. I understand that the State of Missouri has a claim.

Mr. BOYER. I can see no good reason for aggregating all these claims in a sort of omnibus bill, any more than for consolidating different suits between different parties to be tried at the same time before the same court and jury. Let each case stand upon its own merits. This case of Pennsylvania rests upon the plighted faith and honor of the General Government; it rests upon the word of the President of the United States, which during the war was held competent for the accomplishment of far greater things than this. It was held to be sufficient, without an act of Congress, to suspend the writ of *habeas corpus*.

Mr. STEVENS. I do not like to interfere with my colleague's remarks, but as my time is fast passing I must resume the floor.

Mr. SPALDING. The gentleman from Pennsylvania [Mr. STEVENS] promised to yield to me for a few moments.

Mr. STEVENS. I know that I did, but I cannot fulfill the promise now. When this measure was up during the last Congress, Mr. Wood made the assertion that the State of New York had not been paid, and he moved an amendment. The bill then passed over to the next week. When it again came up, Mr. Wood got up in his place and stated that he had received a letter from the Governor of the State of New York informing him that the New York troops had been paid in full. There was no pretense that the New Jersey troops had not been paid. Now, I have seen a certificate that New Jersey was paid in full.

Mr. ROGERS. It was pretended distinctly that New Jersey was not paid, and I made an argument against the bill on the ground that New Jersey had not been paid. I obtained the items of the account.

Mr. STEVENS. Why did not the gentleman present those items?

Mr. ROGERS. Because I could get no opportunity to do so, the bill is rushed through so fast.

Mr. STEVENS. I wish to say one word in reply to the gentleman from Vermont, [Mr. MORRILL,] who is mistaken in regard to this bill. It was considered during the last Congress by the only appropriate committee, the Committee of Ways and Means, and this session it has been considered by the only appropriate committee, the Committee on Appropriations. This bill has already passed the House once, and I now ask for a vote.

Mr. HALE. I rise to a privileged motion. I move to reconsider the vote by which the main question was ordered. If the reconsideration should prevail, I desire to move the reference of the bill to the Committee on Military Affairs.

On agreeing to the motion to reconsider, there were—ayes 41, noes 57.

Mr. ROGERS called for tellers.

Tellers were ordered; and Messrs. ROGERS and BROOMALL were appointed.

The House divided; and the tellers reported—ayes 32, nays 65.

So the motion to reconsider was not agreed to.

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

The question being on the passage of the bill,

Mr. STEVENS demanded the previous question.

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

Mr. SPALDING. I call for the yeas and nays on the passage of the bill.

On ordering the yeas and nays, there were—ayes sixteen.

Mr. SPALDING. I call for tellers on ordering the yeas and nays.

Tellers were ordered; and Messrs. SPALDING and BOYER were appointed.

The House divided; and the tellers reported—ayes twenty-six, noes not counted.

So the yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 85, nays 35, not voting 63; as follows:

YEAS—Messrs. Alley, Ancona, James M. Ashley, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Boyer, Broomall, Bundy, Reader W. Clarke, Darling, Davis, Dawson, Donnelly, Driggs, Eckley, Eggleston, Eliot, Farquhar, Ferry, Garfield, Glossbrenner, Grinnell, Griswold, Abner C. Harding, Hayes, Henderson, Higby, Hill, Hogan, Holmes, Hooper, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, Ingersoll, Jones, Kelley, Kelso, Kuykendall, Laflin, Latham, George V. Lawrence, Loan, Lynch, Marston, Marvin, McClurg, McCullough, McKee, Mercur, Miller, Moorhead, Morris, Myers, Noell, O'Neill, Orth, Paine, Perham, Phelps, Plants, Price, Samuel J. Randall, John H. Rice, Rollins, Scofield, Stevens, Stilwell, Strouse, Thayer, John L. Thomas, Trowbridge, Upson, Van Aernam, Robert T. Van Horn, Henry D. Washburn, William B. Washburn, Williams, Stephen F. Wilson, and Windom—85.

NAYS—Messrs. Allison, Baker, Baldwin, Bergen, Chanler, Conkling, Cook, Cullom, Dixon, Finck, Grider, Hale, Aaron Harding, Julian, Ketcham, William Lawrence, Le Blond, Marshall, Morrill, Moulton, Pike, Ritter, Rogers, Ross, Shellabarger, Sloan, Smith, Spalding, Taylor, Francis Thomas, Thornton, Trimble, Ward, Elihu B. Washburne, and James F. Wilson—35.

NOT VOTING—Messrs. Ames, Anderson, Delos R. Ashley, Banks, Blow, Boutwell, Brandegee, Bromwell, Brooks, Buckland, Sidney Clarke, Cobb, Coffroth, Culver, Dawes, Defrees, Delano, Deming, Denison, Dumont, Eldridge, Farnsworth, Goodyear, Harris, Hart, Hotchkiss, John H. Hubbard, Edwin N. Hubbell, James R. Hubbell, Hulburd, James Humphrey, James M. Humphrey, Jenckes, Johnson, Kasson, Kerr, Longyear, McIndoe, McRuer, Newell, Niblack, Nicholson, Patterson, Pomeroy, Radford, William H. Randall, Raymond, Alexander H. Rice, Rousseau, Sawyer, Schenck, Shanklin, Sitgreaves, Starr, Taber, Burt Van Horn, Warner, Welker, Wentworth, Whaley, Winfield, Woodbridge, and Wright—63.

So the bill was passed.

During the call of the roll,

Mr. ANCONA stated that Mr. DENISON, if present, would have voted in the affirmative.

Mr. ANCONA also announced that Mr. JOHNSON was confined to his bed by sickness.

Mr. ELDRIDGE stated that on this question he had paired with Mr. DENISON.

Mr. SMITH announced that Mr. RANDALL, of Kentucky, was absent on account of sickness.

Mr. RANDALL, of Pennsylvania, stated that Mr. COFFROTH was unavoidably detained from the House.

The result of the vote was announced as above recorded.

Mr. STEVENS moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LOAN BILL.

Mr. MORRILL, from the Committee of Ways and Means, reported back, with amendments, a bill (H. R. No. 207) entitled "An act to amend an act entitled 'An act to provide ways and means to support the Government,' approved March 3, 1865."

Mr. WILSON, of Iowa. I must object to the consideration of this bill in the House at the present time.

Mr. MORRILL. I think that after the gentleman shall have heard my explanation he will withdraw his objection. This is the report of the majority of the Committee of Ways and Means. It is the understanding that the gentleman from Massachusetts [Mr. HOOPER] shall be permitted to offer his bill as a substitute, and also that one other member of the committee shall, if he chooses, offer an amendment. I shall then ask the House to second the demand for the previous question. I do not propose to occupy, myself, any more time than may be necessary to explain the report of the Committee of Ways and Means.

Mr. WILSON, of Iowa. I do not withdraw my objection.

Mr. STEVENS. I would like to know how far this bill differs from the bill of the gentleman from Massachusetts, [Mr. HOOPER,] on which I thought all seemed to agree the other day.

Mr. THAYER. We should like at least to hear the title of the bill.

The bill was read.

The SPEAKER. This is neither a tax bill nor an appropriation bill, and therefore the language of the bill does not require it to have, under the rules, its first consideration in the Committee of the Whole on the state of the Union; but the rule giving the Committee of Ways and Means the right to report at any time provides it shall be for commitment. The bill therefore goes to the Committee of the Whole on the state of the Union.

Mr. MORRILL moved that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union; and pending that motion moved that general debate in the Committee of the Whole on the state of the Union be closed in ten minutes after the committee resumed the consideration of the bill just referred to it.

Mr. STEVENS. I hope the bill will be postponed so that it may be ordered to be printed.

The House divided on the motion to close debate; and there were—ayes 65, noes 30.

So the motion was agreed to.

Mr. STEVENS. Is it in order to move that the bill be postponed till it can be printed?

The SPEAKER. Not pending the motion to go into committee.

The question recurred on the motion of Mr. MORRILL to go into committee.

The House divided; and there were—ayes 65, noes 33.

So the motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. ROLLINS in the chair,) and proceeded to the consideration of House bill No. 207, to amend an act to provide ways and means to support the Government, approved March 3, 1865.

The CHAIRMAN stated that general debate was ordered to be closed in ten minutes.

Mr. MORRILL. Mr. Chairman, it is not necessary for me to trouble the committee with any extended remarks. The bill was recommitted with sundry amendments to the Committee of Ways and Means without instructions, but the committee did regard the fact of recommitment as instructions to some extent, and in harmony with that idea have reported the bill back with an amendment which provides that the Secretary of the Treasury shall not retire more than ten millions in the first six months after the passage of this act, and not more than four millions per month thereafter. It will be seen, then, if this law be passed, that it will not limit the Secretary of the Treasury to a period of less than nine years in which to retire the amount of legal tenders now in circulation. That certainly will not be a very rapid reduction of the currency. So much for that.

The gentleman from Massachusetts, [Mr. HOOPER,] I suppose, will offer his proposed amendment as a substitute. All I have to say is that we have, in the bill now offered to the House, limited the Secretary as much as we believe a large majority of the House would be in favor of doing. If the views of the Secretary are of any consequence to the House, and I think they should be, I ask to have read a communication from him to-day on the subject, which I send to the Clerk's desk.

The Clerk read, as follows:

TREASURY DEPARTMENT, *March* 23, 1866.

DEAR SIR: Your favor of the 22d instant is received, transmitting to me the following resolution, namely:

"*Resolved*, That a communication be addressed by this committee to the Secretary of the Treasury, stating that the committee has received, through one of its members, information that the Secretary is of opinion that he is, without further legislation, sufficiently armed with power to carry out the policy announced in his late annual report, and to request the Secretary to inform the committee whether such is his opinion."

In reply, I have to say that I must have failed to make myself clearly understood by the honorable member of the committee to whom reference is made. I did not intend to say to him that the Secretary is, "without further legislation, sufficiently armed with power to carry out the policy announced in his late annual report;" but I did intend to say to him that, if it should be found necessary to modify in any im-

portant particulars the provisions of the bill reported by the committee, I should prefer that it would not become a law. It will be, in my opinion, a national calamity if Congress shall fail to grant additional powers to the Secretary; for it will be very difficult if not impossible to fund the interest-bearing notes under existing laws; but I do not desire that the committee or myself should become in any way responsible for a law which is likely to fail in accomplishing its object.

I regard it a matter of the greatest importance that the power of the Secretary should not be strictly defined. If, for example, the Secretary should be prohibited from selling bonds below par, it would be easy, as the market in the process of funding must be liberally supplied, for the enemies of the Government to form successful combinations for keeping the bonds at such a price as would prevent the negotiation of them. On the other hand, if the authority of the Secretary in this respect is not limited, no such combinations would be likely to be formed. In my opinion, the best way of keeping the bonds at a premium will be to leave the Secretary unrestrained in the sale of them. Against an undefined power it will be difficult to form successful combinations. A limitation of the authority of the Secretary in this respect will be very likely to prevent funding. I do not, therefore, favor such a limitation, and should regret to have the committee responsible for it.

In regard to the other important feature of the bill—the authority to withdraw United States notes—I have merely to remark, that I can conceive it to be of vast importance to the business of the country, the welfare of the people, and the credit of the nation, that such a financial policy shall be adopted by this Congress as will prepare the way for a return to specie payments. *When* this can be brought about, will depend upon the condition of national industry and the trade relations between the United States and foreign nations. It is not desirable that specie payments should be restored until that restoration can be made permanent by increased industry and a proper adjustment of the trade with Europe. The tendencies now are all in the right direction, and if they shall be assisted by judicious legislation, I shall be hopeful that the currency of the country may be brought up to the specie standard without a large reduction of it.

The apprehension which exists that if power is given to the Secretary to retire United States notes, the circulation of the country will be ruinously contracted, is without any substantial foundation. If no reliance can be placed upon the discretion and carefulness of the Secretary, the very condition of the finances of the country will prevent such a reduction of the currency as will make either a tight money market or depress business. Authority to reduce the currency will go very far to prevent the necessity for a reduction. The battle will be more than half fought when the Government shall adopt a healthy financial policy.

I am, very truly, your obedient servant,

H. McCULLOCH,
Secretary of the Treasury.

HON. JUSTIN S. MORRILL, *Chairman Committee of Ways and Means, House of Representatives.*

Mr. MORRILL. The amendments have been agreed upon and reported by the Committee of Ways and Means in a spirit of compromise; not to allow, as was reported in the original bill, unlimited power on the part of the Secretary of the Treasury, and on the other hand not trammeling him so that he could not retire a single dollar of legal tenders, nor even look toward a time, however remote, of ultimate specie payments. I hope and believe it will prove acceptable to this side of the House, and I also hope it will not be a reproach to the bill nor to gentlemen on the other side of the House if they forego party and give it their support. I think it will be a compliment to the American Congress if we can consider financial questions regardless of party.

Mr. BINGHAM. Does this authorize the Secretary to negotiate these bonds abroad?

Mr. MORRILL. It leaves the bill as it was in that respect.

The amendments reported by the Committee of Ways and Means were read, as follows:

On page 2 of the bill, after the word "debt" in line two, insert these words:

Provided, That of United States notes not more than $10,000,000 may be retired and canceled within six months from the passage of this act, and thereafter not more than $4,000,000 in any one month.

At the end of the bill add the following as an additional section:

SEC. —. *And be it further enacted*, That the Secretary of the Treasury shall report to Congress at the commencement of the next session the amount of exchange made, or money borrowed under this act, and of whom, and on what terms, and also the amount and character of indebtedness retired under this act and the act to which this is an amendment, with a detailed statement of the expense of making such loans and exchanges.

The CHAIRMAN. The question is on the first amendment reported by the Committee of Ways and Means.

Mr. ELDRIDGE. I desire to ask the chairman of the Committee of Ways and Means a question in regard to this matter. I desire to know how many dollars this bill authorizes the Secretary to retire, and whether, in the retirement of money, he is limited to greenbacks or legal tenders alone, or whether it includes all the currency of the United States.

Mr. MORRILL. It is limited to the legal tenders, commonly called "greenbacks."

Mr. ELDRIDGE. Will it not have the effect to limit him in the retirement of interest-bearing notes, as now authorized?

Mr. MORRILL. Not at all.

Mr. EGGLESTON. He has a right to do that by law.

Mr. ELDRIDGE. I understand this to be a limitation upon the Secretary.

Mr. LAWRENCE, of Ohio. I do not know whether I understand the effect of this bill or not, and I rise more for the purpose of making an inquiry than of saying anything on the subject.

If I understand this proposition now, it is that the Secretary of the Treasury shall be authorized to fund $180,000,000 of the compound-interest notes within the coming year, and that in addition to that he shall have authority to fund $34,000,000 of United States notes, legal tenders, making in all a reduction of $214,000,000 in the currency of this country within one year, all of which is a legal tender in the payment of debts.

Now, sir, I hold in my hand an extract from the New York Tribune of March 19, from an article which was devoted to the discussion of this subject, and in favor of the bill; and here is the effect which the advocates of this measure claim will follow from it. This, mark you, is the effect of this bill as stated by its friends.

The Clerk read, as follows:

"What *is* it that people mean who talk of resumption 'crushing the business of the country?' Will corn refuse to grow, or farmers to plant it? When grown, will it not make pork and beef? And will not those who produce more than they consume of either be willing to exchange their surplus for iron, cloth, groceries, or whatever else they need? If they will and do, why will there not be business?

"But let us grant that resumption, accompanied or preceded by contraction, would cause a temporary and very considerable diminution of trade and manufacture—what of it? Suppose we should shut down the gates of half our mills, close some of our stores, and send a million or so of workers from the forges, furnaces, factories, and stores of the East to help our farmers grow an extra crop and open a hundred thousand new farms in the great West. Would not this insure a great and healthy trade next winter and thereafter? Would not our farmers want fabrics and metals next fall; and would not our skilled workmen be called back to the factories and furnaces to produce them? Might it not be well to let the farmers get a crop ahead, so as to place the trade between city and country on the healthy foundation of pay down, and then keep it there for evermore?

"'But the people, whose industry would thus be temporarily deranged, their usual employment cut off, their comforts diminished, and their profits wiped out, would vote us down next fall.'

"Our answer to this is, the people are not fools. They have stood by us in darker hours and under more trying circumstances than an earnest, fearless attempt to return to specie payments would now produce. They have shown themselves worthy of trust; we shall show ourselves unworthy of their confidence if we fail to trust them fully. Let us tell them frankly, 'We are trying to return to a currency based on specie, whereof each dollar shall be worth ten silver dimes everywhere. To effect this we must all submit to temporary inconvenience and apparent loss. The laborer must accept lower money wages; but they will buy him as much food, shelter, and clothing as those he gives up. So the farmer must sell his grain and meat for fewer dollars; but these will buy as much, in the average, as his present receipts now do. The manufacturer may have to hold on a few months; but he will hire his labor and buy his materials cheaper thereafter, and be able to compete fairly with foreign rivals who are now crowding him out of our markets. So let us all take hold and make the very best of the matter, assured that the evils of immediate resumption are preferable to the perils of indefinite suspension.'

"As to the talk of waiting to return gradually and naturally to specie payments, it is exactly like the sot's resolve, that he would stop drinking after he got sober. He must stop in order to get sober.

"'But what do you say for people over ears in debt?'

"Only this, that they have had warning enough and time enough."

Mr. LAWRENCE, of Ohio. These are the effects which I suppose are to follow if we adopt the proposition now before the House. It is said that the laborer must accept less wages, but that the amount which he will receive will buy him as many products. That article, it seems to me, overlooks the fact that if the laborer shall receive less wages for his labor and the farmer less pay for his products, the amount which shall be so received will not pay as much taxes as if the laborer received the same compensation for his labor and the farmer the same pay for his products as now. And yet I suppose we are to pay within the next year some five hundred million dollars in taxes in various forms, and the wages of the laborers of the country and the price of the products of the great West are to be reduced, when there is to be no reduction in the amount of the national indebtedness or in the amount of the national taxes.

Now, I hope that this measure will not be agreed to by the House. I hold that the reasons which are presented by the friends of the measure themselves are such as must convince every gentleman here that we ought not to pass it.

I hold in my hand a letter which I have received from a distinguished gentleman in New York, and I will ask the Clerk to read an extract from it.

The Clerk read, as follows:

"We need no artificial means to break down prices, they will come down this summer fast enough."

* * * * * * * * *

"If you will keep an accurate account of the gold received monthly from California, and the gold sent to Europe, you will find that for several months past there has been less sent to Europe than we have received from California. Hence, the supply being greater than the demand, gold is accumulating here, and is consequently slowly falling here. If there shall continue the same increase here until September or October, the par of gold will be reached.

"Gold has nothing whatever to do with the currency."

Mr. LAWRENCE, of Ohio. I am not in favor of an indefinite suspension of specie payments, but a reduction of the legal-tender United States notes is not necessary to resumption. The question we have to decide is, what is the true policy of the country, not what is the policy of any officer or individual. It is time we should ask only whether we are supporting the policy of the people and their interests.

The CHAIRMAN. Debate is exhausted on the pending amendment.

Mr. HOOPER, of Massachusetts. I would inquire if it is now in order for me to move a substitute for the bill?

The CHAIRMAN. There are two amendments reported from the Committee of Ways and Means now pending.

Mr. STEVENS. Is it in order to move a substitute for the entire bill?

The CHAIRMAN. It is in order.

Mr. WASHBURNE, of Illinois. After the original bill is perfected.

Mr. HOOPER, of Massachusetts. Then I will give notice that at the proper time I will move a substitute for the whole bill.

Mr. LYNCH. I propose to amend the amendment reported by the Committee of Ways and Means by adding the words:

And no United States notes shall be retired and canceled until all the interest-bearing Treasury notes now outstanding are funded.

The CHAIRMAN. To what portion of the amendment of the committee does the gentleman propose to add that?

Mr. LYNCH. I will move to insert it at the end of the amendment reported by the committee.

Mr. Chairman, I understand the Secretary of the Treasury does not propose, if we confer upon him the authority, to retire any of the United States legal-tender notes until all the compound-interest notes are funded; and that he proposes to retire of these not over one hundred million a year. At this rate it would take nearly two years to fund all the compound-interest notes. Now, I ask gentlemen, why anticipate beyond that time? Why not wait and see the result of retiring one hundred and eighty million of the currency? and then, if we think it desirable, to continue the experiment, if we find the country can stand up under it, grant additional power upon the Secretary of the Treasury. The people have a right to know what the finan-

cial policy of the country is to be, that they may conform their business to it, and govern themselves accordingly.

I am as anxious to see the country once more on a specie basis as the Secretary of the Treasury or the Committee of Ways and Means or any member of this House can be; but I do not believe it necessary to contract the currency beyond the amount of the compound-interest notes in order to reach this result. Why, sir, since the meeting of this Congress, and without contracting the currency a dollar, the premium on gold has fallen one third. At this rate we shall reach specie payment in about six months. Why not let well enough alone?

Mr. WASHBURN, of Indiana. I would ask the gentleman whether, if I hold $20,000 in compound-interest notes, and am disposed to hold on to them for ten years, I can be compelled to fund them?

Mr. LYNCH. I presume the gentleman would not hold those compound-interest notes for ten years when they have ceased to be a legal tender and to bear interest.

Mr. PRICE. Will the gentleman from Maine let me answer that question?

Mr. LYNCH. I yield to the gentleman for a moment.

Mr. PRICE. The gentleman from Indiana [Mr. WASHBURN] asks the gentleman from Maine whether, if he has $20,000 in compound-interest notes, and is disposed to hold them for ten years, he can be compelled to fund them. I wish to answer that question in this way: that he may hold them as long as he pleases, but when they mature they will draw no interest after that time.

Mr. WASHBURN, of Indiana. The amendment of the gentleman from Maine [Mr. LYNCH] is that no legal-tender notes shall be funded until all the other notes are taken in.

Mr. LYNCH. That none of the notes not bearing interest, known as legal-tender notes, shall be retired until all the interest-bearing notes are funded.

Mr. WASHBURN, of Indiana. Suppose that I should hold $20,000 of these compound-interest notes for ten years, the legal-tender notes cannot be retired while I continue to hold those notes.

Mr. LYNCH. I do not suppose these compound-interest notes will be held after they mature and cease to draw interest. The gentleman knows very well that those notes are not legal tender except for their face. After they mature they will no doubt be promptly presented for payment.

Mr. ALLEY. Mr. Chairman, I rise to oppose the amendment. I had not proposed to say anything upon this question; but having introduced the resolution on the 18th of December so frequently alluded to, which received the almost unanimous vote of this House, and which pledged this House to coöperative action with the Secretary of the Treasury in trying to effect an early resumption of specie payment, I will say a word in explanation of my purpose in introducing that resolution. The circulation of such vast amounts of irredeemable paper money during the war had stimulated business and enhanced prices to such a degree as to enrich almost everybody engaged in any speculation or business pursuit to any extent; and the consequence was that everybody expected to part with a very considerable portion of their nominal gains as soon as the war should cease. Accordingly, as soon as the rebellion was crushed, everybody looked for the commencement of a policy of liquidation and contraction on the part of the Government, and preparations for such a state of things immediately commenced. Gold declined, property and merchandise of all kinds were compelled to submit to serious reduction in prices, until it was discovered that the Government could not, if it would, contract the currency until it was further out of the woods. And so far from contraction and depreciation following the close of the war, they found that a slight expansion and consequent increase of values was the result. Trade was stimulated, speculation ensued, gold advanced materially, and a worse state of things, so far as speculation and high prices were concerned, seemed to be promised than existed during the war.

It was under this state of things that the Fort Wayne speech of the Secretary of the Treasury was made, which produced such a profound sensation throughout the country. It was welcomed as the harbinger of better days by all those who desired a sound currency, a stable business, and who believed that the only real wealth of a country was in its productive industry and not in irredeemable promises to pay. But it produced consternation and dismay in the ranks of speculators and advocates of high prices. That speech was soon followed by the Secretary's able report to Congress; and then the inquiry arose, will Congress sanction his views and coöperate with him in effecting, as speedily as possible consistent with the true interests of the country, a restoration of the currency to a sound basis? If it will, then, said the speculator, my vocation is gone; and the manufacturer, I must be content with less exorbitant profits; and the merchant, I must be more prudent in my operations. Now, it was with a view of determining how far Congress coincided with the Secretary in his views of financial policy, that the country might understand what to expect, that I introduced the resolution alluded to, and I confess the vote surprised me; but the discussions and action of the House recently have convinced me that they did not comprehend so well as the country did the import of that resolution.

Now all, or nearly all, are agreed that it is important that we should come back to a sound currency as speedily as possible consistent with the true interests of the country. Now the question arises, how can this best be done? And I will say right here, that if you give the Secretary all the power he desires, and coöperate with him as earnestly and fully as you may, and commence the work of contraction to-morrow, such are his wants, and the Government's needs, that it is impossible to accomplish the desired result for two or three years at best; but every day you defer the commencement of this policy, the harder and more difficult the process. Contraction eight months ago could have been commenced with much less shock to the business interests of the country than it can to-day, and much better to-day than eight months hence. Why? Because at the conclusion of the war everybody was comparatively well off; labor was scarce; merchandise was scarce, and nothing plenty but paper money, and individual indebtedness was small; consequently a contraction of the currency at that time would not have seriously affected the price of labor or merchandise, and would only have served as a wholesome check to speculation and that over-production in some kind of manufactures which was superinduced by fabulous profits. Commence to-day and labor is not so plenty, nor our surplus products so great, or individual indebtedness so large as to occasion any serious reaction, such as must inevitably arise if we defer it a year or two longer. Defer this attempt to contract the currency a year or two longer, and whoever hopes to avert widespread disaster, desolation, and ruin to all the business interests of the country, knows nothing in my opinion of the laws of trade, and the relation which currency bears to those laws.

We can no more get back to a specie basis than England could after twenty years' suspension, without a shock to our monetary and commercial system of greater or less magnitude, in proportion to the length of time it shall be deferred. At the close of the continental wars, after the battle of Waterloo, in June, 1815, a great impetus was given to trade in England for a year or two, just as with us for the last few months, which was followed by a corresponding depression and stagnation to an extent which reduced values of all kinds to less than forty cents on the dollar of what they were for a year or two preceding, extending to real as well as personal property. The same result must inevitably follow here, unless we manage our financial matters with great skill and prudence; and this can only be done by giving the Secretary of the Treasury the power to do everything needful to bring us to specie payments as speedily as practicable; in other words, to make him "master of the situation."

Just so long as we remain as we are, and until we resume specie payments, all our vast business interests are in the hands of and at the mercy of the Secretary of the Treasury. His action may, if he chooses, affect values of currency, merchandise, or gold every day in the year. His power now is gigantic, his responsibility immense, and our peril, in consequence of the necessity of placing so much power in a single person's hands, most terrific. Nothing connected with the Government troubles me so much, and nothing I would make such sacrifices to avoid; and the only remedy to be found is in a resumption of specie payments. Resume specie payments, and that power and that control over the currency and business interests of the country cease in great degree. Now, while he has so much power for evil I would clothe him with all the necessary power for good that we possess, and put upon him the responsibility of using it properly. I am aware that it is no argument that the present incumbent is all right financially. We should legislate not only for probable but possible contingencies. In the present crisis we have no alternative. We must take the fearful risk; but it is a great satisfaction to know that our present Secretary is a prudent, careful financier, of incorruptible integrity. I wish he was as sound politically as he is financially, but I think he is far from it. He was not the candidate of my choice. I urged upon Mr. Lincoln somewhat earnestly the appointment of another distinguished citizen. One evening he sent a message that he wished to see me. I called upon him, and he told me that he had quite as exalted an opinion of the person urged by me as I had myself, but for certain reasons he could not nominate him; and he asked me what I thought of Mr. McCulloch. I told him I thought he was one of the wisest men, financially, I had met in Washington. "Well," said he, "it seems to me he is; and understands that matter thoroughly, if he does not anything else. And I have confidence that he will put our finances through, and I am going to appoint him Secretary of the Treasury." I thought then, and I think now, Mr. Lincoln's estimate of him was right; and while this power must rest in some man's hands, I think the country is fortunate in having its finances in the hands of Mr. McCulloch.

The country is looking with intense anxiety and interest to Congress for some action in this matter; and however unwilling Congress may be to give the subject prominent consideration, let me tell gentlemen of the House, this question in the future is going to absorb all other questions; and mightier contests and fiercer political struggles over these questions are in store for us than were those which distinguished the period which immediately preceded the great financial revulsion of 1837. To-day an immense majority of the sound and substantial business men of the country are in favor of a reasonable contraction of the currency and an early resumption of specie payments. Wait a few months, even, before you begin to look in that direction, and you will find the business interests of the country then all against you if you attempt contraction, just as they were a unit almost in 1836 in favor of inflation and expansion. If no check is given now expansion is sure to follow, until the business men of the country will find themselves holding large stocks, with an extended credit system which will make it impossible to contract the currency and reduce prices without overwhelming a large portion of the most enterprising business men in the country in irretrievable ruin. It is to avert such a calamity that I now

plead for action in the right direction by this Government.

But, after all, the great interest to be protected, cherished, and encouraged, is labor. We cannot produce wealth without labor; and the only way for Government to protect and give to labor its highest reward is to prevent as much as possible fluctuations in the currency, and protect home industry against foreign competition. With almost any kind of financial management, if we could induce our people to forego the consumption of useless foreign fabrics, we should soon have our currency sound, and instead of a fictitious we should have a real prosperity unexampled in the history of the world. It is the professed, and I hope it may be the real mission of our Government, to protect, elevate, and improve the masses. We see the lobbies of Congress filled by the advocates of a policy adverse to any contraction of the currency. They are those, mostly, whose personal interest will be greatly injured, they think, by a contraction of the currency, and undoubtedly they are right.

Every large importer, and every heavy manufacturer must suffer, temporarily at least, tremendously by any policy we may adopt looking to contraction and consequent fall in prices. But where you injure one such—and generally they are the ones that can afford to be injured, for they have reaped immense gains from inflation—you benefit toiling thousands. I am an importer and manufacturer, and am subjected, as they are, to heavy losses, by contraction and fall of gold, but we must find our consolation in the fact that what is our loss is the country's gain.

Such are my opinions, which I submit with some distrust, I confess, for this subject of finance is so abstruse and difficult to comprehend that there are but few persons whose opinions possess much value with me upon this subject. Although a matter which has engaged my earnest thought and attention for a quarter of a century, and with a practical experience in the management of financial affairs not very limited, yet when I find those who have given the subject more thought and attention than I have, with a longer and larger experience, and in whose judgment I have great confidence, differing from me, I cannot but feel great diffidence in thus expressing my convictions.

Mr. LYNCH. I withdraw my amendment.

Mr. KELLEY. I renew it, as follows:

But no United States notes shall be retired and canceled until all the interest-bearing Treasury notes now outstanding are funded.

Mr. HOOPER, of Massachusetts. Will the gentleman from Pennsylvania [Mr. KELLEY] yield to me to ask my colleague [Mr. ALLEY] a question?

Mr. KELLEY. I will, if it does not come out of my time.

The CHAIRMAN. It will come out of the gentleman's time, except by unanimous consent.

Mr. KELLEY. Then I must decline to yield, as my time is limited by the rule.

Mr. Chairman, I voted in the earlier days of this session for the resolution of the gentleman from Massachusetts, [Mr. ALLEY,] and I desire to say that I voted for it because I was then under the delusion that he is still under, that contraction of the currency was the way to resumption of specie payment. But we are to-day on the high road to resumption, and will, if matters are let alone, soon resume.

Gentlemen tell us that the currency is redundant; and the gentleman from Ohio [Mr. GARFIELD] told us the other day that the balance of trade was in our favor and the exportation of gold diminishing, so that the volume of currency was expanding and becoming more redundant; yet we all know, that with this expansion of the currency, prices are daily depreciating; the price of commodities, the price of labor, the price of gold, is steadily depreciating, showing that we have not sufficient currency to prevent the too rapid depreciation of prices. Our currency is not expanded, and we are on the successful road to an early resumption of specie payments without a crisis. I would let well enough alone.

But it is proposed to alarm the business men of the country and to paralyze the business of the country, by announcing that the present Secretary of the Treasury, and whoever may be his successor, shall hold the business of the country in his hand, control the currency by his will, and put all great enterprises at his mercy. I have confidence in the integrity of the present Secretary of the Treasury; but I do not know who may be his successor in the event of his death or resignation. But had I the supremest confidence in him that man can have in man, I would not vote to invest him with the power to expand or contract the currency and so influence the business of the country, to quicken or retard it when and as he pleases.

Again, this bill proposes to empower him to do the absurd thing of taking up the non-interest-bearing debt of the Government by borrowing money at six per cent. for that purpose. It will close your factories, stop your forges and your furnaces, and paralyze the business of the country, to contract your currency by borrowing money at six per cent. to retire it, or in other words to pay a debt that is carrying no interest, but which on the contrary is paying interest to the Government; for every dollar note destroyed or lost is a dollar of gain to the country. But it is not only proposed to borrow money at six per cent. to redeem a non-interest-bearing loan, but there is no limitation upon the price at which the Secretary of the Treasury may sell the bonds of the Government for that purpose. He may, if he sees fit, sell them below par, and thus bring down the value of all Government securities. Gentlemen say the Secretary will not do this; but a less worthy successor may do it, whatever may be the integrity and ability of the present incumbent.

Sir, this bill is full of peril to the country. Its tendency will be to retard the resumption of specie payment by producing uncertainty and alarm. It may bring our laboring people to idleness, reduce the value of farm products, and close our mines and factories. In that event many of our laboring people who are now liberal consumers of foreign and domestic goods, will be turned into paupers, and all of them be made close economists, as people always become when they cannot see a prospect of daily labor and wages before them.

Mr. HOOPER, of Massachusetts. I desire to ask my colleague [Mr. ALLEY] if his resolution was anything more, or purported to be anything more, than an expression of opinion on the part of this House, that at the earliest suitable opportunity, when the country was in a proper condition for it, specie payments should be resumed? Was it anything more than that?

Mr. ALLEY. I will state all that it contained. The gentleman from Maine [Mr. LYNCH] offered an amendment the practical effect of which I have stated to be to prevent any contraction of the currency at all.

Mr. HOOPER, of Massachusetts. My colleague will pardon me for interrupting him. My inquiry was in reference to the resolution he introduced in the early part of this session.

Mr. ALLEY. I was going on to say that that resolution merely contemplated the pledging the Congress of the United States to coöperative action with the Secretary of the Treasury in the views he had expressed in his annual report to Congress. That I think was the language of the resolution: that so far as it could be done without disaster to the business interests of the country, the policy of Congress should be in favor of an early resumption of specie payments.

Mr. HOOPER, of Massachusetts. It referred to a resumption of specie payment?

Mr. ALLEY. It did.

Mr. HOOPER, of Massachusetts. At the earliest period practicable?

Mr. ALLEY. Yes, sir, without doing violence to the business interests of the country.

Mr. GARFIELD. And suggested a contraction of the currency as a means.

Mr. HOOPER, of Massachusetts. I wish to ask my colleague if he intends to convey the impression to this House and to the country that any member who is opposed to withdrawing all the greenback circulation, which cost the country nothing for interest, and substituting for it bonds bearing interest payable in gold, is therefore opposed to the resumption of specie payments at the earliest period possible without derangement of the industry and business of the country; and if he wishes the contraction of the currency to be conducted so rapidly as to break down all industrial pursuits, and thus benefit large capitalists at the expense of the great body of the people?

Mr. ALLEY. I understand the practical effect of the amendment of my colleague will be to prevent the resumption of specie payment, will be to prevent contraction; and believing, as I most firmly do, that resumption cannot be effected except by contraction to some extent, I am opposed to the amendment of my colleague.

What my colleague's purpose is I do not presume to say. I know heretofore he and I have gone together on these financial questions, and there has been no man in whose opinion I have had more confidence in the main than in his. I am glad to bear testimony to my confidence in his judgment on these matters. But I think in this particular, so far as this amendment goes, he is greatly mistaken. For some reason I cannot divine, I find he has changed his views, and I can no longer follow his lead on this bill.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. HOOPER] has expired.

Mr. HOOPER, of Massachusetts. Has all my time been consumed by the gentleman's answer?

The CHAIRMAN. Yes, sir.

Mr. WILSON, of Iowa. I desire to get the views of the gentleman from Massachusetts [Mr. ALLEY] in relation to this fact, whether the laws of trade are not now carrying us a little faster toward the resumption of specie payment than is satisfactory to the Secretary himself; whether he is not of opinion that gold is falling too fast; and whether he would not be glad if it would go up?

Mr. ALLEY. Perhaps that all may be.

Mr. WILSON, of Iowa. Is not that so?

Mr. ALLEY. I am not here to shield anybody. I express my honest convictions. No man will be more glad than I will be to receive information from any quarter, and I will answer the question——

The CHAIRMAN. Debate is exhausted on the pending amendment.

Mr. HOOPER, of Massachusetts. Can I have the floor to move an amendment? All my time was taken up by my colleague.

The CHAIRMAN. Amendment is not now in order.

Mr. WASHBURNE, of Illinois, moved that the committee rise, to dispense with the night session.

The motion was disagreed to.

The question recurred on Mr. KELLEY's amendment, and it was disagreed to.

Mr. SLOAN. I move the following amendment:

Provided, That all bonds or other obligations issued under this act, or the acts to which this is amendatory, shall be payable in the lawful money of the United States.

Mr. Chairman, I offer that amendment for the purpose of calling the attention of the committee to what seems to me to be a very great defect in this bill in allowing the Secretary to send our bonds abroad. The chairman of the Committee of Ways and Means has asserted that it will be ruinous, and even the Secretary of the Treasury himself says that if our bonds go abroad largely our debt will become an oppression and a curse, and ruinous to the industry of the country; yet, as far as I have observed, neither the chairman of the Committee of Ways and Means, nor the Secretary of the Treasury, nor any other gentleman, has proposed any remedy for this great and crying evil. Our

bonds are going in large amounts every day to Europe, and as confidence in the stability of our Government and its ability to pay increases, they will go abroad in larger amounts unless something is done to prevent it. It requires no very great knowledge of business to see that when our bonds are held in Europe to such great extent, and hundreds of millions of coin are annually drained from the country to pay them, that it will be impossible to maintain our credit and prosperity unless we prevent it by providing that they shall be paid in currency. If this be done our bonds will not continue to go abroad. To-day our five-twenties can be purchased there at seventy, thus affording an interest of from nine to ten per cent. in gold, whereas the national loans of Europe give only four or five per cent. There is no means of preventing this evil, so far as I can see, if our bonds are to be paid in coin. So long as we pay six per cent. interest, while European Governments pay but three or four, if the capitalists or the people of Europe have confidence in the stability of our Government, and in its ability to discharge its obligations, it seems to me by the natural law of finances that our bonds must inevitably go to Europe.

Now, this debt can be taken care of by the American people. There is abundant ability, and I would much prefer to see the seven-thirty bonds continue in the hands of the people, and be diffused throughout the entire country among the laboring men, those who can own a few hundred dollars' worth, rather than have a large amount of coin-interest-bearing obligations issued. Now, while this evil is acknowledged, while there is danger impending in regard to our finances and the business of the country, though this amendment may be very inadequate, and may fail to accomplish the purpose desired, yet it is the only means that occurs to me of meeting the danger. So long as the bonds are payable in lawful money, until we reach the specie basis, there will be no demand for these obligations issued in Europe.

[Here the hammer fell.]

Mr. GRISWOLD. I rise to oppose the amendment. I concur with the gentleman in the object he seeks to attain, but I differ with him entirely as to the mode of doing it. In my judgment we are legislating at the wrong end of this question. If the House of Representatives would take measures with reference to protecting us from the overwhelming, inevitable, and destructive avalanche of foreign importations into this country, we would be legislating to some purpose.

Mr. WENTWORTH. I ask if there are not importers in this House now acting for this bill?

Mr. GRISWOLD. I say if we should legislate to prohibit these enormous importations we would be doing a much wiser thing than we are doing now.

Mr. HIGBY. I rise to a question of order. It is a disgrace the way this House conducts itself when gentlemen are on the floor. It is utterly impossible to hear them, there is so much talking in the vicinity of members who are speaking. I have got tired of this.

The CHAIRMAN. Gentlemen will resume their seats and preserve order. All business will be suspended until gentlemen resume their seats.

Mr. GRISWOLD. I was alluding to the enormous importations with which this country is now being flooded, and I appeal to this Congress to put forth its arm and do something to arrest it. Do we realize the fact that from the 1st of January to the 1st of February of this year the increase of importations over the corresponding period of last year was one hundred and fifty per cent., and that for the last six weeks up to the 1st of March, the importations as compared with the same period of last year, were six times as much? Are gentlemen aware that we are to-day being flooded with foreign goods at the rate of $500,000,000 per annum; that our foreign indebtedness to-day is not less than $1,500,000,000, and that $2,000,000,000 is a small estimate of the amount of our securities that within the next sixty or ninety days will be held abroad? Why, sir, it will require an exportation of $120,000,000 a year in gold to pay that interest alone.

I appeal, therefore, to this Congress to commence at the other end in their legislation and protect us from this ruinous flood of foreign importation, and let the currency stand as it is.

Sir, I have been reluctant to oppose any measure that has been recommended by the Secretary of the Treasury or that comes through the distinguished Committee of Ways and Means. I have the fullest faith in the discretion and integrity of the present incumbent of that office. But I would clothe no man with the power of crushing the whole business interest of this country at his pleasure, as in my judgment this discretionary power would clothe the Secretary of the Treasury.

Gentlemen talk about contraction. Are we not contracting sufficiently now? Has not the Secretary of the Treasury under the present law ample power to contract as far, ay, much further, than the business interests or the industrial interests of the country require?

And let me say, further, that there is a great deal of delusion about this idea of an expanded currency. Of course there is no difference of opinion on one point: every man believes it is our duty, as rapidly as possible, to get back to specie payment. But there are worse things than the mere deferring of the resumption of specie payment. I am in favor of its resumption, of course, as every man is or should be, but in arriving at that point I am opposed to any policy which shall crush out and destroy the material and industrial interests of this country. I would clothe no man, not even the present incumbent of the Treasury Department, with that power.

Is there anything unreasonable in insisting that he shall fund the interest-bearing notes before disturbing the circulating medium of the country? As I said before, there is a great delusion about this idea of inflation. Previous to the war we had not less than $560,000,000 of circulation, including bank notes and coin. Under the present expansion at most it can only reach $750,000,000.

[Here the hammer fell.]

Mr. WENTWORTH. Is it in order for me to say a few words against the amendment?

The CHAIRMAN. It is not. Debate is exhausted upon it.

The question being taken on the amendment to the amendment it was disagreed to.

Mr. FARQUHAR. I offer the following amendment:

Provided, That the legal-tender notes known as greenbacks shall not be diminished from the amount now in circulation.

I offer this amendment in order that I may state to the House the reasons that induced me to favor the amended bill as reported from the committee.

I voted against the passage of the bill last before the House. My objection to that bill I had not an opportunity to state at the time. I objected to it on account of the fact that it gave to the Secretary of the Treasury an unlimited power to retire at pleasure all the outstanding circulation of the United States currency. To that I was opposed, and I recorded my vote accordingly. The amount of local indebtedness arising from township and county bounties, and in my State made payable in the next two years, would by too sudden contraction prove disastrous in the extreme to our people.

This amended bill limits the amount at the disposal of the Secretary of the Treasury to such a degree that I think there is no responsibility taken by any member of the House, who is in favor of retaining the greenbacks as a circulating medium, in voting for the measure.

Gentlemen express their unlimited confidence in the present incumbent. I also have confidence in him, and I am willing to show that confidence by casting a vote that will satisfy the country on the subject.

I do not believe in that kind of profession which declares great confidence in the ability and integrity of that officer, and at the same time holds out to this House and the country that a responsibility is being reposed in him which gentlemen do not place in his hands.

What is the responsibility? Gentlemen tell us that under existing laws the Secretary of the Treasury has power to retire $180,000,000 of compound-interest notes. If he has that power what additional power do you place in his hands? It will be but eight months before this Congress will convene again. Pass this bill and you place in the hands of the Secretary of the Treasury, until you can arrest him by your action eight months hence, the power to do what? To issue $18,000,000 of bonds for currency; that is to say, $10,000,000 in the first six months, and $4,000,000 in each of the two succeeding months. I ask you, Mr. Chairman and gentlemen of this House, you who have stood up and backed the Administration during the hours of its peril, when the existence of the nation was at stake; I appeal to you now in the hour of its financial struggle, will you not place in the hands of its Secretary of the Treasury the power of funding the $18,000,000 that this bill proposes? How much will it affect the business of the country to retire this $18,000,000?

There are yet $50,000,000 of national bank paper unissued, and will doubtless swell the volume of currency that amount during the next year, and with but $18,000,000 of greenbacks withdrawn this year, the actual circulation of the country would be increased in the aggregate rather than diminished.

But I may be told that this amount of $180,000,000 may be retired. I take it upon myself to say that it does not constitute a part of the general circulating medium of the country. It is retired now. It is held in the pockets of the business men of this country, because of the interest that the notes are bearing.

[Here the hammer fell.]

Mr. WENTWORTH. Mr. Chairman, I desire to state to the House, with entire frankness, why I oppose any limitation upon the power of the Secretary of the Treasury. My reason is that I believe that the Secretary of the Treasury has to yet fight the greatest battle that any one man ever fought. The conflicts carried on by General Grant and the other prominent military men of our day were of less consequence than this great battle in which the Secretary of the Treasury is to take part, because, if General Grant were overcome, we could fall back upon Sherman; and if Sherman were unsuccessful, we could fall back upon Sheridan. But if the present Secretary of the Treasury should be overcome, upon whom can we fall back?

I desire to say, Mr. Chairman, that I have consented to this bill in committee as a compromise. As such it has been reported. In agreeing to the bill I have been influenced mainly by my confidence in the gentleman from Vermont, [Mr. MORRILL,] the chairman of the committee. He has been appointed to that position by the Speaker of this House, and the defeat of this bill will be equivalent to declaring a want of confidence not only in the chairman of the committee, but also in the Speaker who appointed him.

There are but two questions before the House at the present time, and those are questions which have divided this country from the origin of our Government. It is no use to attempt to get up here a cry against this bill on the ground that the trouble all arises from the importers. I have seen here, I presume, not less than fifty importers during this session. Some of them have been on this floor to-day, and I endeavored a little while ago to obtain the attention of the Chairman that I might call for the enforcement of the rule in reference to admission on the floor. Sir, there is not an importer that has come on here to Washington as a lobbyist who is not in favor of the proposition of my friend from Massachusetts, [Mr. HOOPER,] the antagonist proposition to that now presented by the chairman of the Committee of Ways and Means. The importers are the natural allies

of the brokers, and both are interested in fighting this bill and every similar measure.

Gentlemen express their apprehensions that hard times will come if we adopt this bill. Why, sir, the question is simply whether we shall cheat the soldiers and others of the humble, hard-working classes of this country out of twenty-five per cent., when we can borrow at six per cent. the money necessary to pay them. On this question arises the difference between my friend from Massachusetts and my friend from Vermont; the difference between paper-money men and hard-money men; the difference between the disciples of Andrew Jackson and those of Alexander Hamilton. Let us meet this issue squarely, and if those who support the policy of the Secretary of the Treasury be beaten in this House, we will refer the question to the polls, and will fight it out there.

Mr. FARQUHAR. I withdraw my amendment.

Mr. MOORHEAD. I renew the amendment.

Mr. Chairman, I am not at all surprised that there should be a great deal of excitement on this question, for it is a very important one, and the House appears to be somewhat closely divided upon it. I regret to say—I believe I can refer to the fact without impropriety, as it is already well understood by the House—that the Committee of Ways and Means were divided upon this question. I do not wonder that such should be the fact.

I must say, however, that I differ entirely from the remarks of the gentleman from Illinois [Mr. Wentworth] upon the subject of the resumption of specie payments. I think, sir, that all the members of this House are in favor of resumption. I know that I am in favor of as early a resumption of specie payments as can be attained without doing violence to the business of the country. The difference is with regard to the mode of reaching resumption. I do not believe that it is to be reached by making a stringent currency. I do not believe that the resumption of specie payments can wisely be attained by creating a scarcity of money throughout the country and thereby causing general distress. Therefore, when this bill in another form was before the House a few days ago I voted against it.

Mr. ASHLEY, of Ohio. I desire to ask the gentleman a question: under the provisions of the bill as now reported by the committee, how many years would it be before the currency would be reduced in the manner in which the gentleman desires to have it reduced?

Mr. MOORHEAD. I have but five minutes, and I cannot permit myself to be drawn aside from the line of my remarks to answer questions.

I was saying that when this bill in a different form was before the House the other day, I voted against it. I am opposed to reducing the currency to any considerable extent at the present time. But I believe it to be important, and I may say necessary, that we should agree upon a bill, by the passage of which we shall manifest our confidence in the Secretary of the Treasury, and, so far as may be done, without violating our own convictions of policy and duty, stand by him and support him.

With the view of reconciling so far as possible the differences of opinion on this subject, the Committee of Ways and Means have presented the amendment now before us; and I trust that gentlemen on both sides of the House can give it their support. I hope that the bill will be passed. Its effect will be to reduce the currency in a very moderate measure, and not by any means at a rapid rate. It will not, as I believe, affect injuriously the interests of the country.

My reason for voting as I did the other day to prevent the reduction of the currency was that I believed, with the gentleman from New York, [Mr. Griswold,] that we were beginning at the wrong end. As I have already remarked, I did not believe that we can safely advance toward a resumption of specie payments by making the currency of the country stringent. I believe that to insure the prosperity of the country, the money of the country should be abundant. I believe that if we would adopt some measure to restrain the excessive imports with which our country is being flooded, entailing upon us an intolerable burden of debt, which, unless some remedy be found, must soon involve us in distress and ruin, we should soon have money enough here to float all our present currency, and even more.

I withdraw my amendment.

Mr. MORRILL. In order to terminate debate on the pending amendments, I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. Rollins reported that the Committee of the Whole on the state of the Union, having had under consideration the Union generally, and particularly the bill (H. R. No. 207) entitled "An act to amend an act entitled 'An act to provide ways and means to support the Government,' approved March 3, 1865," had come to no resolution thereon.

EVENING SESSION DISPENSED WITH.

Mr. WASHBURNE, of Illinois. I move that the session of this evening be dispensed with.

The motion was agreed to.

ORDER OF BUSINESS TO-MORROW.

Mr. WASHBURNE, of Illinois. I move that, by unanimous consent, the session of to-morrow be devoted exclusively to debate as in Committee of the Whole upon the President's message.

There was no objection, and it was so ordered.

LOAN BILL—AGAIN.

Mr. MORRILL. I move that when the House shall again resolve itself into the Committee of the Whole on the state of the Union on House bill No. 207, all debate upon the bill and pending amendments terminate in one minute. I desire, however, to give the gentleman from Massachusetts [Mr. Hooper] an opportunity to offer his amendment.

Mr. FARNSWORTH. I move to amend the motion so as to provide that debate upon the bill and all amendments thereto shall terminate in ten minutes.

The amendment was agreed to—ayes 66, noes 56.

The motion of Mr. Morrill, as amended, was adopted.

Mr. STEVENS, (at four o'clock and five minutes p. m.) I move that the House adjourn.

The motion was not agreed to; there being —ayes 60, noes 65.

Mr. MORRILL. I move that the House again resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. Rollins in the chair,) and resumed the consideration of the bill (H. R. No. 207) entitled "An act to amend an act entitled 'An act to provide ways and means to support the Government,' approved March 3, 1865."

Mr. HOOPER, of Massachusetts. I rise, Mr. Chairman, for the purpose of offering, if in order, a substitute for the bill.

The CHAIRMAN. It is in order.

Mr. HOOPER, of Massachusetts. I wish first to record my protest against the idea which has been urged in the House, that any person who votes against withdrawing "greenbacks" from circulation, before the interest-bearing notes are withdrawn, is an opponent to the resumption of specie payment. I claim to be as strongly in favor of the resumption of specie payment at the earliest possible time as any man in this House.

I will state, sir, in regard to the substitute which I propose to offer, that it differs from the bill of the committee mainly in two points. By the act to which this bill is an amendment the Secretary of the Treasury cannot issue bonds at less than par. The bill of the committee places no limit to the rate at which he may issue bonds. I propose that the original limit shall be retained, so that the Secretary cannot issue bonds at less than par. I think it is due to the holders of the bonds who have taken them at par that they should have this security.

The Secretary expresses fears that if the limitation of par is inserted in the bill, combinations may be made to reduce the price below par and thus prevent their being negotiated. The danger seems to be that if the power is given to sell below par such combinations may be made to compel him to sell at constantly decreasing rates, and the present holders may become sellers with the view of replacing their bonds afterward at still lower rates and thus produce a panic in regard to the value of the Government securities.

I have as much confidence in the present Secretary of the Treasury as any one, but it does not seem to me desirable to withdraw the security of a limitation of the rate at which the bonds may be sold, and to give the power to issue bonds at any rate he chooses. We cannot tell who may be his successor; and, even if we were willing to give the present Secretary the power, we may not be willing to give it to his successor.

Mr. FARNSWORTH. Has there been any such limitation in former bills?

Mr. HOOPER, of Massachusetts. In the early bills there was a limitation of the market price, but in which it is proposed to amend, as it now stands, the limitation at par exists.

The second difference is in regard to the withdrawal of the United States notes, or legal-tender currency not bearing interest. This bill provides that the Secretary shall only withdraw interest-bearing obligations. The Secretary has power now under existing laws to withdraw non-interest-bearing obligations also to issue Treasury notes or interest-bearing legal tenders in place of them. It was thought unwise to exchange bonds bearing interest for United States notes which cost nothing for interest, and therefore this substitute limits him, so far as he acts under this law, without impairing the power he has under another existing law. If he sees fit to withdraw non-interest-bearing notes he has that power now. Those are the only two essential points of difference between the proposition of the committee and the substitute which I offer.

I have added one other provision, to limit the rate of interest on the temporary loans to five per cent.; the limit now being six per cent. I think the temporary loans would not be reduced by thus limiting the rate of interest; that they would be continued at five as well as at six. Even if it did lessen the amount of the loan, no harm could be done, as the greater the amount the more uncertain it becomes, and therefore less advantageous.

I prepared this substitute after hearing the discussion in the House, believing it conformed to the sentiment of the House on the two points to which I have referred, namely, that bonds should not be issued at less than par, and should not be issued in place of the United States notes, which constitute a loan to the Government without interest.

The Clerk read the substitute, as follows:

That the act entitled "An act to provide ways and means to support the Government," approved March 3, 1865, shall be extended and construed to empower the Secretary of the Treasury to sell any description of bonds authorized by said act, at such rates not less than par as he may think advisable, for lawful money of the United States, or to receive in payment any Treasury notes, compound-interest notes, certificates of indebtedness, or of deposit, with the interest accrued thereon, which have been or which may be issued under any act of Congress; it shall be the duty of the Secretary of the Treasury to retire and cancel an amount of Treasury notes, certificates, or other obligations bearing interest, equal in amount to the bonds disposed of; and the public debt shall not hereafter be increased by authority of this or of any previous acts of Congress; and from and after the 1st day of July next the interest on certificates of deposit for temporary loans shall not exceed the annual rate of five per cent.

Mr. HOOPER, of Massachusetts. I wish to say that in the early part of the session——

Mr. MORRILL. Have not the gentleman's five minutes expired?

Mr. THAYER. The gentleman has ten minutes, and I hope he will not be interrupted.

Mr. FARNSWORTH. I make the point that we are under the five minutes' discussion and that the gentleman cannot speak for a longer time.

The CHAIRMAN. The Chair overrules the point of order, and decides that the gentleman is entitled to ten minutes.

Mr. HOOPER, of Massachusetts. I wish to say that early in the session the Committee of Ways and Means addressed a letter to the Secretary of the Treasury asking him whether he had not, under existing laws, sufficient power to meet all requirements of the Treasury and contraction of currency suggested in his report. His reply I will send to the Clerk to be read; and it will be seen that my substitute contains all the power stated therein to be requisite.

The Clerk read, as follows:

TREASURY DEPARTMENT, *January* 22, 1866.

DEAR SIR: Your favor of the 19th instant is received.

The proviso in the act of the 3d of March, 1865, to which you call my attention, simply authorizes the Secretary of the Treasury, with the consent of the holders, to convert Treasury notes or other obligations bearing interest into any description of bonds authorized by that act.

I have been and still am of the opinion that the word "converted" is used synonymously with "exchanged," and that it was the intention of Congress to limit the Secretary to a mere exchange of bonds authorized by that act for other interest-bearing obligations of the United States.

With this view of the provision I have not felt and should not feel at liberty to sell bonds under that act for United States and national currency notes, and use the proceeds in retiring interest-bearing obligations.

It is, in my judgment, of very great importance that the powers of the Secretary of the Treasury should be clearly defined, and that he should avoid the exercise of an authority not expressly given to him by law.

I am, very truly, yours, H. McCULLOCH,
Secretary.

Hon. J. S. MORRILL, *Chairman Committee Ways and Means, House of Representatives.*

Mr. HOOPER, of Massachusetts. I wish only to add that my substitute exactly covers the points asked for in that letter.

The CHAIRMAN. The time allowed for debate is exhausted.

Mr. FARNSWORTH. I would like to ask the gentleman from Massachusetts——

[Cries of "Order!"]

The CHAIRMAN. Debate on this bill is exhausted.

Mr. FARNSWORTH. I understand that Congress——

[Loud and continued shouts of "Order!" "Order!"]

Mr. MORRILL. I desire to ask the Chair, what is the first question before the House?

The CHAIRMAN. The question before the committee is upon the first amendment reported by the Committee of Ways and Means.

The question was taken on the first amendment reported by the Committee of Ways and Means, and it was agreed to.

The second amendment reported by the Committee of Ways and Means was also agreed to.

Mr. ALLISON. I move to insert after the word "advisable," in line fourteen of the original bill the words "at not less than par;" so that it will read:

As he may think advisable, at not less than par, for lawful money of the United States, &c.

Mr. HOOPER, of Massachusetts. I call for tellers on that amendment.

Tellers were ordered; and Messrs. MORRILL and ALLISON were appointed.

The committee divided; and the tellers reported—ayes 59, noes 73.

So the amendment was not agreed to.

No further amendments being offered to the original bill, the question recurred on the substitute offered by Mr. HOOPER, of Massachusetts.

Mr. STEVENS. I demand tellers.

Tellers were ordered.

Mr. HOOPER, of Massachusetts. I wish to ask if by common consent the question may not be taken on this substitute by yeas and nays in the House. [Cries of "No!" "No!"] Why not let the substitute be reported to the House, and let us have a vote upon it by yeas and nays? [Shouts of "Object!" and "No!" "No!"]

Messrs. MORRILL, and HOOPER of Massachusetts, were appointed tellers.

The committee divided; and the tellers reported—ayes 60, noes 74.

So Mr. HOOPER's substitute was not agreed to.

Mr. MORRILL. I move that the committee rise, and report the bill to the House, with the recommendation that it pass.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. ROLLINS reported that the Committee of the Whole on the state of the Union, having had under consideration as a special order bill of the House No. 207, to amend an act entitled "An act to provide ways and means to support the Government," approved March 3, 1865, had instructed him to report the same to the House with sundry amendments, and recommend its passage.

Mr. MORRILL. I move the previous question on the engrossment of the bill.

Mr. ALLISON. I appeal to the gentleman to yield to me for a moment. [Cries of "No!" "No!"] I desire to put a simple question. [Shouts of "Order!" and "No!" "No!"]

Mr. MORRILL. I must really decline to yield.

Mr. STEVENS. I move that the House do now adjourn, and on that motion I demand the yeas and nays.

Mr. FARNSWORTH. I call for tellers on the yeas and nays.

Tellers were not ordered.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 61, nays 72, not voting 50; as follows:

YEAS—Messrs. Allison, Baker, Beaman, Benjamin, Bingham, Bromwell, Broomall, Buckland, Bundy, Cook, Dixon, Driggs, Eckley, Eggleston, Eliot, Ferry, Grinnell, Griswold, Abner C. Harding, Hart, Hayes, Higby, Hill, Holmes, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, Edwin N. Hubbell, James R. Hubbell, Julian, Kelley, Kelso, Kuykendall, William Lawrence, Loan, Lynch, McClurg, McKee, Miller, Myers, O'Neill, Orth, Paine, Phelps, Price, Shellabarger, Stevens, Stilwell, Thayer, Francis Thomas, John L. Thomas, Trimble, Trowbridge, Van Aernam, Burt Van Horn, Henry D. Washburn, Welker, Williams, James F. Wilson, Stephen F. Wilson, and Windom—61.

NAYS—Messrs. Alley, Ancona, Anderson, James M. Ashley, Baldwin, Banks, Barker, Baxter, Bergen, Bidwell, Blaine, Boyer, Brooks, Reader W. Clarke, Cullom, Darling, Dawes, Dawson, Donnelly, Eldridge, Farnsworth, Farquhar, Finck, Garfield, Glossbrenner, Grider, Hale, Aaron Harding, Hogan, John H. Hubbard, James M. Humphrey, Ingersoll, Jones, Kasson, Kerr, Laflin, Latham, George V. Lawrence, LeBlond, Marshall, Marston, Marvin, McCullough, McRuer, Mercur, Moorhead, Morrill, Morris, Moulton, Nicholson, Noell, Perham, Pike, Samuel J. Randall, Ritter, Rollins, Ross, Sawyer, Scofield, Smith, Spalding, Strouse, Taylor, Thornton, Upson, Robert T. Van Horn, Ward, Elihu B. Washburne, William B. Washburn, Wentworth, Winfield, and Wright—72.

NOT VOTING—Messrs. Ames, Delos R. Ashley, Blow, Boutwell, Brandegee, Chanler, Sidney Clarke, Cobb, Coffroth, Conkling, Culver, Davis, Defrees, Delano, Deming, Denison, Dumont, Goodyear, Harris, Henderson, Hooper, Hotchkiss, Hulburd, James Humphrey, Jenckes, Johnson, Ketcham, Longyear, McIndoe, Newell, Niblack, Patterson, Plants, Pomeroy, Radford, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Rogers, Rousseau, Schenck, Shanklin, Sitgreaves, Sloan, Starr, Taber, Warner, Whaley, and Woodbridge—50.

So the House refused to adjourn.

The previous question was seconded, and the main question ordered, being upon the first amendment reported from the Committee of the Whole on the state of the Union, as follows:

On page 2, line two, after the word "debt" insert the following:

Provided, That of United States notes, not more than $10,000,000 may be retired and canceled within six months from the passage of this act, and thereafter not more than $4,000,000 in any one month.

The amendment was agreed to.

Mr. BINGHAM. I move to lay the bill upon the table; and upon that motion I demand the yeas and nays, and I call for teliers on the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

The question was taken; and the House refused to lay the bill upon the table.

The question recurred on the second amendment reported from the Committee of the Whole on the state of the Union, to add at the end of the bill the following:

SEC. —. *And be it further enacted*, That the Secretary of the Treasury shall report to Congress at the commencement of the next session the amount of exchanges made, or money borrowed, under this act, and of whom and when and on what terms, and also the amount and character of indebtedness retired under this act and the act to which this is an amendment, with a detailed statement of the expenses of making such loans and exchanges.

The amendment was agreed to.

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

Mr. MORRILL. I demand the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

Mr. WILSON, of Iowa. I demand the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and was decided in the affirmative—yeas 83, nays 53, not voting 47; as follows:

YEAS—Messrs. Alley, Ancona, Anderson, James M. Ashley, Baldwin, Banks, Barker, Baxter, Bergen, Bidwell, Blaine, Boyer, Brooks, Conkling, Cullom, Darling, Dawes, Dawson, Donnelly, Eldridge, Eliot, Farnsworth, Farquhar, Finck, Garfield, Glossbrenner, Grider, Hale, Aaron Harding, Hogan, Holmes, John H. Hubbard, James M. Humphrey, Ingersoll, Jones, Kasson, Kerr, Ketcham, Kuykendall, Laflin, Latham, George V. Lawrence, Le Blond, Marshall, Marston, Marvin, McCullough, McRuer, Mercur, Moorhead, Morrill, Morris, Moulton, Myers, Nicholson, Noell, Perham, Pike, Samuel J. Randall, John H. Rice, Ritter, Rogers, Rollins, Ross, Sawyer, Scofield, Smith, Spalding, Stilwell, Strouse, Taylor, Thornton, Upson, Burt Van Horn, Robert T. Van Horn, Ward, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Wentworth, Windom, Winfield, and Wright—83.

NAYS—Messrs. Allison, Baker, Beaman, Benjamin, Bingham, Bromwell, Broomall, Buckland, Bundy, Reader W. Clarke, Cook, Dixon, Driggs, Eckley, Eggleston, Ferry, Griswold, Abner C. Harding, Hart, Hayes, Higby, Hill, Hooper, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, Edwin N. Hubbell, James R. Hubbell, Julian, Kelley, Kelso, William Lawrence, Loan, Lynch, McClurg, McKee, Miller, O'Neill, Orth, Paine, Phelps, Price, Shellabarger, Stevens, Thayer, Francis Thomas, John L. Thomas, Trowbridge, Van Aernam, Welker, Williams, James F. Wilson, and Stephen F. Wilson—53.

NOT VOTING—Messrs. Ames, Delos R. Ashley, Blow, Boutwell, Brandegee, Chanler, Sidney Clarke, Cobb, Coffroth, Culver, Davis, Defrees, Delano, Deming, Denison, Dumont, Goodyear, Grinnell, Harris, Henderson, Hotchkiss, Hulburd, James Humphrey, Jenckes, Johnson, Longyear, McIndoe, Newell, Niblack, Patterson, Plants, Pomeroy, Radford, William H. Randall, Raymond, Alexander H. Rice, Rousseau, Schenck, Shanklin, Sitgreaves, Sloan, Starr, Taber, Trimble, Warner, Whaley, and Woodbridge—47.

So the bill was passed.

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

The latter motion was agreed to.

POSTAL LAWS.

Mr. ALLEY. I now call up the motion to reconsider the vote by which the House recommitted to the Committee on the Post Office and Post Roads House bill No. 281, to alter and amend the postal laws. I entered the motion to reconsider at the time this bill was recommitted, which was about the 17th of February.

As it is now late, and I suppose the House has no desire to proceed to the consideration of that bill, I will now move to adjourn.

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

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to appropriate committees:

By the SPEAKER: The petition of W. Woodward, and 30 others, soldiers of Spencer county, Indiana, in favor of an equalization of bounties to the soldiers of the late war.

Also, the petition of Colonel C. H. Foster, of Murfreesboro, North Carolina, asking appointment of an agent to collect and forward claims of representatives of deceased Union volunteers of that State.

Also, the remonstrance of the New York State Military Association, and of George S. Batchellor, in-

spector general of the State of New York, against the passage of the Senate bill No. 111, for the reorganization of the militia.

By Mr. BANKS: The memorial of Nathaniel Thayer, George B. Upton, J. W. Brooks, S. T. Dana, and others, merchants of Boston, for an increase of duty on copper.

Also, a memorial of Phœnix Copper Company, and other mining companies; Bay State Mining Company, and other mining companies, for an increase of duty on copper.

By Mr. BAXTER: The petition of Ira O. Lockwood, and others, of St. George, Chittenden county, Vermont, asking additional duties on foreign wool.

By Mr. BEAMAN: The petition of M. Johnson, and others, citizens of Michigan, praying that increased duties may be imposed on copper, copper ores, and manufactures of copper.

By Mr. DAWES: A memorial of certain citizens of Springfield, praying Congress to exempt deposits in savings banks from taxation.

By Mr. DENISON: The petition of F. B. Strecter, and 31 others, citizens of Montrose, Susquehanna county, Pennsylvania, asking Congress to enact just and equal laws for the regulation of inter-State insurances of all kinds.

By Mr. DONNELLY: A memorial of the Legislature of Minnesota to reimburse soldiers for loss of moneys taken by the rebels in the late war.

Also, a memorial of same for a mail route from Little Falls to Alexandria.

Also, a memorial of same for a mail route from Sauk Center to Fort Wadsworth, in Dakota Territory.

Also, a memorial of the same for an appropriation for the building of piers and improvements of harbors on Lake Superior.

Also, a memorial of the same for a military post at or near Vermillion Lake, in St. Louis county, Minnesota.

By Mr. ECKLEY: The petition of 500 wool-growers of Columbiana county, Ohio, asking an additional duty on wool.

By Mr. HALE: The petition of Sylvester Mung, and 163 others, citizens of Essex county, New York, for increased protection to American wool.

Also, the petition of Philip S. Baldwin, and 71 others, citizens of Essex county, New York, for increased protection to American wool.

By Mr. HOGAN: The petition of 371 cigar-makers of St. Louis, Missouri, praying a modification of the tariff on cigars.

By Mr. HOOPER, of Massachusetts: The memorial of Joseph B. Eaton for settlement of claims for material furnished the mounted volunteers under General Frémont in California.

By Mr. HUBBARD, of West Virginia: The petition of Major James L. Simpson asking compensation for damages to his property incurred by the action of Federal troops.

By Mr. J. M. HUMPHREY: The petition of the maltsters of Buffalo, asking that a tariff of only five cents per bushel be imposed upon barley imported from Canada.

Also, a petition of the manufacturers at Buffalo, for a reduction of the revenue tax on manufactured agricultural implements.

By Mr. MARVIN: The petition of 68 citizens of Saratoga county, New York, for an increase of duty on foreign wool.

Also, the petition of 51 citizens of Saratoga county, New York, for the same object.

By Mr. MERCUR: The petition of 42 citizens of Montour county, Pennsylvania, praying for such revision of the tariff laws as will protect domestic labor and invite the investment of capital in home manufactures.

Also, the petition of 43 citizens of Bradford county, Pennsylvania, praying that no State lately in rebellion be restored to its place and power as a governing partner in the Union until adequate security has first been obtained.

By Mr. MORRIS: The petition of U. U. Gae, and 60 others, against the renewal of the reciprocity treaty.

By Mr. PRICE: The petition of citizens of the State of Iowa, asking for the passage of a law for the regulation of inter-State insurances of all kinds, and to promote the greatest good and convenience of all concerned in such transactions.

By Mr. SLOAN: The petition of J. B. Doe, and 64 others, citizens of Wisconsin, asking that Congress will enact equal and just laws regulating inter-State insurances.

Also, the petition of Joseph H. Ainsworth, and 32 others, citizens of Wisconsin, praying that Congress will enact equal laws for the regulation of inter-State insurances of all kinds.

By Mr. VAN HORN, of New York: The petition of 184 citizens of Wyoming ounty, New York, asking additional tariff on wool.

Also, the petition of John Hoffman Smith, of the District of Columbia, for compensation for property taken by United States troops during the late war.

By Mr. WARD: The petition of 321 wool-growers, in the county of Steuben, New York, in favor of the increase of the duties on foreign wool.

Also, the petition of numerous wool-growers in the county of Alleghany, New York, in favor of an increase of the duties on wool.

By Mr. WILLIAMS: The petition of Pittsburg, and Boston, and National Mining Companies, for increase of duties on copper and copper ore.

By Mr. WINDOM: A memorial of the Legislature of the State of Minnesota, in relation to the establishment of a port of entry at Du Luth, in said State.

Also, a memorial of the Legislature of Minnesota, for a law granting the full bounty to soldiers enlisted for one year, who were discharged after serving ten months or more.

Also, a memorial of the Legislature for the establishment of a weekly mail route from the town of St. Peter to the town of New Auburn, through the towns of Lake Prairie, Kelso, and Dryden, in the State of Minnesota.

By Mr. WASHBURNE, of Illinois: The petition of citizens of Whiteside county, Illinois, in favor of a specific duty of fifteen cents per pound on all unwashed, and thirty cents per pound on all washed wools of foreign production imported into the United States.

By Mr. WRIGHT: A petition from Hermann Schalk and others, brewers of the city of Newark, New Jersey, in favor of the reduction of the duty on barley.

HOUSE OF REPRESENTATIVES.

SATURDAY, *March* 24, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

The SPEAKER. By order of the House, the only business in order to-day is debate, as in Committee of the Whole, upon the President's annual message; upon which the gentleman from Illinois [Mr. MOULTON] is entitled to the floor.

PERSONAL EXPLANATION.

Mr. BROOKS. I ask consent of the House to make a correction of the semi-official report of our proceedings.

The SPEAKER. The gentleman from Illinois [Mr. MOULTON] is entitled to the floor, and no other person can occupy the time of the House without his permission during the hour to which he is entitled.

Mr. MOULTON. I will yield the floor, if it is not to come out of my time.

No objection was made.

Mr. BROOKS. If I recollect aright, never before in my life have I arisen to a matter of personal explanation, or to correct anything which has appeared officially or semi-officially in relation to the debates and proceedings of the House. But in the Globe of yesterday there is a report in some respects so erroneous that I feel it my duty to call attention to it briefly.

I do not refer to my own remarks, where there is a slight error in astronomy, in regard to Orion among the Pleiades, a matter which is of little importance; though the reporters are supposed to know astronomy, astrology, and almost everything else.

But I rise more particularly to state that the remarks of the honorable gentleman who followed me, [Mr. GARFIELD,] which are reported there as having been made to this House were not heard by me; and as I understood them they have been very incorrectly reported. It is not for me to state how or where this report is in error. It is a matter of comparatively little importance to me, except to stand right on the record.

Before I go further, I wish to state that in the debate of the other day I stated that the report of the majority of the select committee made by Hon. Mr. Garfield, is signed only by himself. In justice to the honorable member I will state that by reference to the record I find that "Mr. Garfield, from the select committee to investigate charges against the Treasury Department, made the following report." The report was not signed; but it seems that he had authority from the select committee to make it.

The report of the minority was signed by James Brooks, John T. Stuart, W. G. Steele, and John L. Dawson.

But the particular object for which I have arisen, is to ask that the paper which I send to the Clerk to be read be entered upon the Congressional Globe, as a part of the record connected with this debate.

The Clerk read, as follows:

TREASURY DEPARTMENT,
SOLICITOR'S OFFICE, *April* 19, 1864.

SIR: I have the honor herewith to transmit a report made to me by Colonel L. C. Baker, together with a number of affidavits affecting the conduct and character of S. M. Clark and G. A. Henderson.

In accordance with your instructions I exhibited these affidavits to Mr. Clark, stating to him that I did so by your direction, and in order that he might have an opportunity to make such explanation or reply as he should deem proper. His reply to me was, that as to anything alleged against him impeaching his conduct or character as an officer of this Department he denied it utterly; and that as to any other matter, he scorned to make any answer.

I have further, in obedience to your order, called before me most of the persons whose affidavits are herewith transmitted, and made such other inquiries as it has been in my power to make touching the matter stated in the affidavit, and the result is an entire conviction that the most material of those statements are true, particularly those contained in the affidavits of Ella Jackson, Jennie Germon, and Laura Duvall.

What action, if any, ought to be taken in view of these facts, is of course not a question for me to consider.

I have the honor to be, with high respect,

EDWARD JORDAN,
Solicitor of the Treasury.

Hon. S. P. CHASE, *Secretary of the Treasury.*

Mr. GARFIELD. Will the gentleman from Illinois [Mr. MOULTON] yield to me for a moment?

Mr. MOULTON. I will, with the understanding that it is not to come out of my time.

Mr. GARFIELD. I have nothing further to say in regard to this matter beyond what I have already said. I am obliged to the gentleman from New York [Mr. BROOKS] for the correction he has made in his remarks of Thursday last. On that point I will only state that my report was in the usual form of reports of committees to this House. Reports are not signed; but some member of the committee is authorized to make the report as from the committee. So far as I know, it is the almost universal custom to head a report thus: "Mr. —— submitted a report from such a committee;" and that is understood to be the authorized report of the committee. Such was the fact in this case; I was authorized by the majority of the committee to make the report. If I had not been so authorized, certainly some one of the four members associated with me, Mr. Henry Winter Davis, Mr. Wilson, of Iowa, Mr. Jenckes, of Rhode Island, and Governor Fenton, of New York, would have made the correction at the time. No such correction was made; the report was made, as the record of the committee will show, by their authority.

One word only in regard to the paper which has just been read. That paper constituted the chief element of the charges on which the committee proceeded to make the investigation. As the result of their examination of those charges, and of other charges brought before them, the committee made the report which I submitted. I will ask the Clerk to read the conclusion of that report.

The Clerk read, as follows:

"*Resolved*, That the policy of printing public money in the Treasury has resulted in a great saving of expense to the Government, and security against fraud, and the affairs of the Printing Bureau have been administered with marked ability and integrity.

"All of which is respectfully submitted."

Mr. GARFIELD. Then in addition there is a report from Governor Fenton, in which he states that he concurs in the report of the committee in every respect, except the reflection on the New York Bank Note Company; so that I made the report from a majority of the committee; and there was not, so far as I have ever heard, until the gentleman from New York [Mr. BROOKS] so stated, any dissent whatever except by the minority whose report is on the record.

I am entirely satisfied to leave the record as it now stands.

Mr. WILSON, of Iowa. With the permission of the gentleman from Illinois, I wish to put myself right in relation to this report, inasmuch as it seems that it was not signed by any person. I did not concur in the conclusion of the committee. I was not present at the session of the committee when the report was read. That report contains a great deal in which, as I stated at the time to members of the committee, I did not concur. If the report had been presented to me for my signature I should not have signed it. I do not concur in a portion of the conclusion of the committee as set forth in the resolution appended to the report. As the case has been brought up in this manner I make this statement, in order that I may be placed in a proper position upon the record.

Mr. GARFIELD. I am very glad to hear

the statement of the gentleman. I now learn for the first time that he dissented from the conclusions of that report. I know that a majority of the committee present at its last meeting authorized me to make the report, as the records of the meeting will show. Of course what the gentleman now states in regard to his own opinion is correct.

Mr. WILSON, of Iowa. Before the report was submitted to the House, I was asked by a member of the committee, the late Henry Winter Davis, whether I would be willing to sign the report. I told him that I would not be; that I did not agree with the conclusions of the committee as set forth in the report, and the resolution accompanying it.

LEAVE OF ABSENCE.

Mr. GRIDER asked leave of absence for himself for two weeks from next Wednesday.

Leave was granted.

The SPEAKER asked leave of absence for Mr. LAWRENCE, of Pennsylvania.

Leave was granted.

RECONSTRUCTION.

Mr. MOULTON. Mr. Speaker, a great variety of opinions upon the great questions growing out of the rebellion, and which have arisen since the surrender of the rebel armies, have been expressed here and by the press and people of the country.

The questions mostly discussed have been the relations of the rebel States to the Government; what rights of the people of the rebel States were lost by or have survived the rebellion; what rights have the people of the rebel States now; should the rebel States be at once admitted into the Union on an equal footing with the loyal States; and if admitted, what authority has the right to pass upon the question, the President or Congress?

The President in his annual message, in his veto message to the Freedmen's Bureau bill, and on various occasions has assumed the ground that he has brought the rebel States to the doors of Congress, and in a condition to be admitted into the Union on an equal footing with the other States; that each House simply judges of the returns and qualifications of persons sent here, and that the powers of Congress over all these great questions pertaining to the condition of the rebel States end with the performance of this clerical duty; or, in other words, that the President, and not Congress, is to judge and decide as to the condition and loyalty of the southern States, and whether they are in a condition to be admitted into the Union; and upon this question and its consequences the President appeals to the people.

Sustaining the views of the President we find the broken remnants of the old Democratic party, the men who for the last five years reviled and abused Andrew Johnson and Abraham Lincoln; also we find every man, including James Buchanan and Franklin Pierce, who has sympathized with treason; also we find on the same side every man who has served in the rebel army against the flag of his country, and traitors North and South and everywhere, sustaining the President's policy.

On the other side you find the grand Union column of true Union men, all over the loyal States, unbroken and unwavering, sustaining Congress, and in a voice that has even penetrated the White House, condemning the policy of the President. The Union press everywhere, and the people in masses all over the loyal States, proclaim and insist upon, as a condition-precedent to the admission of the rebel States, indemnity for the past so far as that is possible, but security for the future in some form, so as to prevent rebellion in the future, and give ample, full, and complete protection to every one, without regard to race or color. This was the doctrine upon which Lincoln and Johnson were elected. The Union party everywhere avowed these principles, and the Union members of this Congress were sent here pledged to maintain these principles, and we cannot ignore them without stultifying ourselves and betraying the people who elected us.

If there is any question in which the people have more interest or feel more intensely than another, it is that the fruits of our victories, won by so many precious sacrifices of blood and treasure, shall not be lost; that treason shall be made odious; that southern institutions shall be purified, and that liberty and equality should be secured to all. This is the reasonable hope, expectation, and demand of the people.

How has it been met by the Democratic party in this House? Every measure for the purpose of ascertaining the condition of the people of the rebel States, for the purpose of protecting the freedmen and Union citizens in those States, to secure their civil rights, for the purpose of establishing liberty and equality on the principles of the Declaration of Independence, and every measure that tended to the disfranchisement and punishment of rebels, has been uniformly and steadily opposed by them. Their votes are here recorded, and will stand as perpetual evidence of their injustice, prejudice, and illiberality. They oppose all amendments to the Constitution because it would take away the power of the southern States to practice injustice and to pass infamous laws for the oppression of large classes of their own citizens.

The Opposition maintain and avow here the monstrous doctrine that we should forget and forgive the past terrible acts of traitors; that the test oath should be repealed; that the States lately in rebellion should at once be admitted on an equality with the loyal States, and that they are willing to take the blood-stained hand of the southern rebel and receive him with open arms and call him brother.

This is the policy of the Opposition and the President, and upon which the new party is to be formed.

Upon this policy their shattered and depleted ranks are to be filled. This policy will bring to their aid the whole of Lee's and Johnston's armies, all the predatory hordes and guerrilla bands in the rebel States, and every traitor everywhere. It will bring also into this and the other House some seventy members, and with these accessions they hope to triumph over the Union party and to again transfer the Government into the hands of those who have for the past four years been attempting to destroy it. This is their programme and only hope of success.

It is for the Union members of Congress to decide whether this stupendous fraud upon the rights of the people shall succeed.

The President till recently has had the confidence of the Union party. No honorable man for a moment could believe that he would desert the party who defended him against the assault of traitors, and elected him to the position he now holds.

Ingratitude in all ages of the world has been regarded a crime of so damning a character that no man has ever been willing to acknowledge himself guilty of it. And yet, in my opinion, Andy Johnson will go down to posterity, not only as the betrayer of his party, but as an ingrate, infamous in all time to come to all honorable men. All the instincts of Andy Johnson are intensely southern. He hates the northern man as intensely as does Davis or Toombs, Beauregard or Lee. This the southern people know. Hence their confidence in Johnson. In my opinion it is, to say the least, unfortunate that any man with intense southern feelings and instincts should at this time be at the head of this Government. The pernicious consequences may require the work of ages to correct and overcome.

The Democratic party knew the President and his instincts better than the Union party.

The Union party thought him true, honest, and patriotic, but in this have they not been shamefully deceived and betrayed?

The Democratic party have said from the beginning that the President would desert the party which elected him, and would return to his first love—Democracy.

Since the death of Mr. Lincoln the bearing of that party has been defiant, arrogant, and supercilious. Their conduct, as well as that of leading rebels in the South, has for a long time shown that there was an understanding that upon the first favorable opportunity the thin veil that covered the Union pretensions of the President should be thrown off, that the Union party and its principles should be discarded, and that the President was to fall into the arms of the Democratic party. Now, sir, what has time developed? Nobody pretends that the Union party in Congress have proposed measures or departed from the principles upon which they were elected. They were pledged to every measure that has been proposed in Congress—constitutional amendments, Freedmen's Bureau bill, and the other measures. They were all discussed before the people in 1864, and indorsed by overwhelming majorities at the polls.

But the President on these questions differs with the Union party, and Democrats, copperheads, and rebels agree with the President, and Democratic meetings and rebel newspapers from one end of the land to the other indorse the President. Somebody has changed, and it is not the Union party; besides, that party does not intend to change. The appeal has been made to the people. The people are true, honest, and patriotic. They hate treason and traitors. They love justice, liberty, and fair dealing. They are intelligent, and can understand all the elements in these great questions. They expect, and I hope will not be disappointed, that the Union members will be true to their pledges, themselves, and the country, and unawed by power or patronage.

Now, sir, let us see what is the real condition of things in regard to the rebel States.

After the collapse of the confederacy the people of the South did not expect soon to be admitted as equals with the loyal States, but rather expected to be treated and considered as conquered provinces. They felt and knew that they had forfeited all their rights under the Constitution, and that they were traitors and entitled to no rights except what the laws of war and the grace of the conqueror gave them. That life and property was all they asked and more than they deserved.

Such were the feelings and sentiments of the southern people and the rebel armies at the time of their surrender. Such also was the almost universal sentiment of the people in the northern States. Nobody for a moment supposed that as soon as the rebels laid down their arms they would be clamorous for all their former rights without conditions or security for the future. It is almost impossible of belief that the traitors who have always hated the Union, and would hang every Union man if they could, should desire, on laying down their arms, to at once come back to the hated Union.

But the rebellion had hardly ceased before the Democracy of the loyal States proclaimed the heresy that the rebel States had lost nothing by the rebellion; that on the cessation of hostilities all the former rights of the States revived, and that they had the same rights as any loyal State. Also the lenient and impolitic acts of the Government, by the wholesale pardon of leading rebels, restoration of rebel property, the encouragement to form State governments, with the statement that they would be admitted into the Union at once, and the appointment of notorious rebels to office all over the South from Governors down, have entirely changed the hopes, sentiments, and aspirations of southern leaders, and they now imperatively and offensively demand admission into the Union upon an equal footing with the other States. And we have been told by a Senator from one of the border States, and by some of the leading Democratic press of the North, that if this is not done and at once, force may be used and would be justified. Such is the arrogance, impudence, and threats that are being used for the purpose of overawing Congress. This monstrous attempt at fraud will be fully met by true men everywhere and rebuked as it deserves.

The vice president of the late southern confederacy and other rebels admit that they have

been conquered in the field. But they insist that they can obtain by diplomacy, craft, and fraud all that they desire—the control of the Government; that the Democracy of the North are their true friends, and with their help they can succeed.

But who are the men in the South that are claiming admission? Not the true Union men, but traitors, southern leaders, the men who inaugurated the rebellion and labored for it for thirty years. These are the men who, without shame, penitence, or even regrets for the past, are demanding admission.

The true Union men of the South are not now demanding admission. They, as well as every intelligent man in the country, know that the southern States are in no condition to be admitted into the Union at this time. The consequence of their admission now would be that the whole machinery of State government would inevitably be in the hands and control of rebels, who, in every southern State, leaving out the colored race, number three to one Union man. Then their hate toward the Union men and the colored race is intense and diabolical in the extreme. And their power would be constantly exercised to oppress, harass, and extirpate the entire Union element of the South.

The Union men in those States desire the protection of the Government against the violence and outrages of pardoned rebels. The Union people of the rebel States could not maintain themselves for a single day in most parts of the South without the support of the Government. What is the actual condition of the southern States? This is a question of fact, and is to be decided by evidence. Upon this point the evidence has been accumulating for months. It has been gathered from all parts of the South, and by those friendly to the South and without prejudice. The result tends to show, by an overwhelming preponderance of testimony, that if a loyal majority of the people in the rebel States is made a condition-precedent to their readmission into the Union, then they are in no condition to come in.

The testimony taken by the reconstruction committee shows that the great mass of the people in the southern States are as much rebels and disloyal to-day as they were at any time during the war; that their hatred toward the Union and northern people is intense; and this is conclusively shown by their acts.

The constant and barbarous outrages committed by rebels in the South against the Union men and freedmen would fill volumes, and outrage the feelings of savages. There is neither freedom of speech, of the press, or protection to life, liberty, or property; and this is the class of people and kind of States that the Democratic party say should be admitted into the Union. And the persons highest in authority in the Government are using every appliance, direct and indirect, for the accomplishment of the same object. But these appliances will be disregarded by an honest Congress.

But as a reason why these States should be admitted, the rebels and Democrats say that the Government refused to let them go, and whipped them back and thwarted their designs. This is true. But does it therefore follow that these traitors lost no rights? Is treason no crime? Is an attempt to break up this Government no offense? Is it really contended that traitors can inaugurate a rebellion and carry it on for four years and yet run no risk of person, property, or loss of rights on its overthrow?

The man who attempts my life, but is prevented, does he lose no rights? Can he claim that he be exempt from punishment because he was prevented from the consummation of his offense? Yet this is the argument of the rebels and those who sympathize with them.

The whole territory was ours, and all the people owed allegiance to the Government, and it was our duty to prevent the dissolution of this Union, and because we did prevent it treason is thereby none the less a crime and odious, and traitors are none the less deserving of punishment.

Upon what principle was it that we put down the rebellion by force, burned towns, destroyed property, devastated the country, took prisoners, killed people, made war? It was a power and right incident to all Governments, and without which no Government could exist. It was the high principle of self-preservation.

We rightfully decided under the Constitution how the war should be prosecuted, what means should be used, and the extent. Our right was absolute under the laws of war. The rebellion became a public territorial war, and the people engaged in it were public enemies, and entitled only to the rights of enemies under the laws of war.

But did this war power of the Government over the rebels and the territory they occupied cease the moment their armies were dispersed and the war no longer flagrant?

The rebels have been declared to be "public enemies" by the highest law tribunal in this country, the Supreme Court of the United States.

The character of a public enemy having once been stamped upon them, their former rights cannot be regained by their having ceased fighting. To stop fighting does not make them cease to be public enemies, because they may have ceased to fight for want of means, not will.

The Government must necessarily be the judge of the whole case. It not only has the right to decide what shall be done when the war is flagrant, but on the same principle to decide what is necessary for the preservation of the Government after the armies may have been dispersed.

The question as to the *status* of the people of the rebel States is exclusively a political question, determinable by the executive and legislative branches of the Government. This has been repeatedly decided by the Supreme Court of the United States and publicists everywhere. Therefore the Government has a right to decide whether the rebels shall have the *status* of public enemies; whether and when a state of peace shall be declared, and upon what conditions; how and in what way the rebels shall be governed; and when and under what circumstances and conditions the rebel States may be admitted into the Union. The power of the Government to this extent I think cannot be successfully controverted.

In the prize cases, 2 Black, it is decided that—

"The laws of war, whether the war be civil or *inter gentes*, convert every citizen of the hostile State into a public enemy and treat him accordingly, whatever may have been his previous conduct." "All treaties between the parties are annulled."

The court further says:

"In the case of a rebellion or the resistance of a portion of the people of a country against the established Government there is no doubt, if, in its progress and enlargement, the Government thus sought to be overthrown sees fit, it may by the competent power recognize or declare the existence of civil war, which will draw after it all the consequences and rights of war between the contending parties as in the case of a public war."

No rights of the South that were lost by the rebellion were revived or repossessed by traitors on the cessation of hostilities. War destroys all rights but the rights of war. It annuls contracts, compacts, treaties, constitutions, and none of these rights are revived or in force simply by the termination of the war. This is a universal rule in war between foreign nations.

The war that we have just passed through stands upon the same grounds. It has been decided by the Supreme Court of the United States, in the cases referred to, that it was a public territorial war, and that all the rights, disabilities, and consequences of a foreign war attached. The South strictly are entitled only to the rights of war. We are the conquerors and they the conquered; and if they are not a conquered people then no people ever were. They themselves so understood it and accepted it. But the leniency of those in power and the willingness of the Democracy to receive them back, and with open arms, and without conditions, has raised hopes and created desires doomed to disappointment.

At the commencement of the rebellion the South confidently expected aid and comfort from their friends in the North; this was undoubtedly promised.

Now the rebels are invited to come back by these same friends, when they certainly must know that under the present condition of things the doors will be closed.

This, I think, the South will regard as adding insult to injury.

Now, it may be as important for the public good and general welfare to control and govern the rebel States, after armed resistance has ceased, to demand security for the future, so as to prevent rebellion and treason in all time to come, and for self-preservation, as it was to put down armed resistance to the Government; and there is as much power and authority under the Constitution for the one as the other. The evidence shows that treason and rebellion still exist in the hearts of most of the southern people. This power to govern the rebel States after their armies were dispersed has been acted upon by every department of the Government up to the present moment, all conceding its absolute necessity. Hence, we have maintained military governments over the South hitherto. This is in fact a mild form of war, justified by the laws of war, the Constitution, and the admitted condition of affairs in the rebel States.

Now, sir, what policy should be pursued by the Government in regard to those States; and what department of this Government has the right under the Constitution to decide in regard to the question of restoration and admission of the rebel States. I have already stated that the Executive claims that right. This claim, in my opinion, is an attempted usurpation of power, and that the practice of the Government and the decision of the highest tribunal in the land deny this power to the President. It has never been exercised or attempted to be exercised by any Executive till now.

The committee on reconstruction has reported a resolution to each House in relation to Tennessee, and asserts in that resolution that "the people of Tennessee can execute the functions of a State within the Union only by the permission of the law-making power." Here is a statement of the true principle, and till very recently has always been understood to be the law. This certainly was understood to be the theory and practice of the Government as late as September 12, 1865.

August 29, 1865, Provisional Governor Marvin, of Florida, wrote a letter to Secretary Seward, transmitting a copy of a proclamation which he had issued to the people of Florida convening a convention with the view of restoring that State to the Union. I will read a paragraph or two from that paper:

"Whereas by the proclamation of Andrew Johnson, President of the United States, dated 13th of July, 1865, I have been appointed provisional governor of the State of Florida, with instructions to prescribe, at the earliest practical period, such rules and regulations as may be necessary and proper for convening a convention of the people composed of delegates to be chosen by that portion of the people who are loyal to the United States, and no others; and also with all the power necessary and proper to enable such loyal people of said State to restore it to its constitutional relations to the Federal Government, and to present such a republican form of government as will entitle the State to the guarantee of the United States therefor, and its people to the protection of the United States against invasion, insurrection, and domestic violence." * * * * * *

"Tenth. Upon the establishment of a republican form of State government under a constitution which guaranties and secures liberty to all inhabitants alike, without distinction of color, there will no longer exist any impediment in the way of restoring the State to its proper constitutional relations to the Government of the United States, whereby its people will be entitled to protection by the United States against invasion, insurrection, and domestic violence."

Secretary Seward, September 12, 1865, in answer to said letter wrote the following to Governor Marvin:

DEPARTMENT OF STATE,
WASHINGTON, *September* 12, 1865.

SIR: Your Excellency's letter of the 29th ultimo, with the accompanying proclamation, has been received and submitted to the President. The steps to which it refers toward reorganizing the government of Florida seem to be in the main judicious, and good results from them may be hoped for. The presump-

tion to which the proclamation refers, however, in favor of insurgents who may wish to vote and who may have applied for but not received their pardons, is not exactly approved. All applications for pardon will be duly considered and will be disposed of as soon as may be practicable. It must, however, be distinctly understood that the restoration to which your proclamation refers will be subject to the decision of Congress.

I have the honor to be your Excellency's obedient servant,

WILLIAM H. SEWARD.

His Excellency WILLIAM MARVIN, *Provisional Governor of the State of Florida, Tallahassee.*

Also by order of the President the following was sent to Governor Sharkey:

WASHINGTON, *July* 24, 1865.

W. L. SHARKEY, *Provisional Governor of Mississippi:*

Your telegram of the 21st has been received. The President sees no reason to interfere with General Slocum's proceedings. The government of the State will be provisional only until the civil authorities shall be restored with the approval of Congress. Meanwhile military authority cannot be withdrawn.

WILLIAM H. SEWARD.

Here Mr. Seward distinctly lays down the doctrine, that the question of restoration to which the proclamation referred must be "subject to the decision of Congress." This was sound constitutional doctrine then; but now we are given to understand that Mr. Seward, as well as the President, repudiates the doctrine and policy which they proclaimed but a few months ago. This same principle, that to Congress belonged the question of restoration, was asserted by the last Congress, with but little if any opposition.

But the Supreme Court of the United States, in the case of Luther *vs.* Borden, 7 Howard, page 42, in a case growing out of the Dorr rebellion in the State of Rhode Island, and involving the question under consideration, says:

"Under this article of the Constitution it rests with Congress to decide which government [of the two set up in Rhode Island] is the established one, for as the United States guaranties to each State a republican government, Congress must necessarily determine what government is established in a State before it can decide whether it is republican or not. When the Senators and Representatives of a State are admitted into the councils of the Union the authority of the government under which they are appointed is recognized by the proper constitutional authority. And its decision is binding on every other department of the Government."

These authorities, it seems to me, ought to end the controversy as to the right of Congress over the question of restoration of the rebel States. The civil governments of the rebel States were totally destroyed. Their organization as States in the Union no longer existed. These States voluntarily dissolved their connection with the Government; their members left these Halls, and they attached themselves to another government in hostility to our own.

This condition of things has been seven times recited by the President in his proclamations establishing provisional governments for seven of the rebel States. I will read from the proclamation establishing provisional government for North Carolina. This language is used:

"Whereas the rebellion which has been waged by a portion of the people of the United States against the properly constituted authorities of the Government thereof, in the most violent and revolting form, but whose organized and armed forces have now been almost entirely overcome, has, in its revolutionary progress, deprived the people of the State of North Carolina of all civil government."

The language of the other proclamations is the same.

The distinct statement is that the rebellion, in its revolutionary progress, has deprived those States of all civil governments.

Now, sir, under all the circumstances, and in view of the future peace, prosperity, and security of the country, and in view of the pledges made to the people touching the past and present condition of the rebel States, what ought to be required as a condition-precedent to the readmission of the rebel States?

In my opinion public faith and security require—

First. That the Government shall be absolutely protected from the repetition of secession and rebellion by providing for the punishment of treason.

Second. That the freedmen shall be secured an absolute equality with the white man before the law, and shall be endowed with every political right necessary to maintain that equality.

Third. That representation in Congress shall be founded on and in proportion to numbers entitled to suffrage.

Fourth. That the rebel debt shall be absolutely repudiated.

Fifth. That civil rights shall be guarantied to all with the means to enforce them.

These rights and conditions should be secured by proper amendments to the Constitution, and now is the time and this Congress the place to inaugurate these amendments, and if now we fail to perform our duty in this regard when we have the power, we shall justly be held responsible by the people who sent us here. We will be derelict in our duty to ourselves and to the honest expectations of the country. The people demand security for the future, so that the sacrifices which have been made to secure union and liberty may not be entirely lost.

Now, sir, who are the men that have opposed every measure, and are now opposing every measure that tends to equality before the law, and the protection of the citizen in life, liberty, and property? Why, sir, it is that class of men who have sympathized with the rebellion, who refused to vote a man or a dollar to suppress the rebellion, and who proclaimed at Chicago that the "war was a failure." And in this Hall this week, when a measure was before us for the protection of the Union soldier in the rebel States for his acts under lawful commands against the prosecutions that are being instituted against him by rebels, the Democratic party voted solid against the bill. This certainly is strong evidence of their love for the soldier and the rights of the citizen.

We are told that in the State of Kentucky alone there are thirty-five hundred prosecutions pending against Union soldiers, and that in most cases the prosecutors are rebels, and have fought against the old flag and on the side of Jeff. Davis; being whipped in the field, they appeal to the courts.

But, sir, we are told by the Opposition and by the South that unless we admit the southern States at once, and without condition, the rebels in those States will become very indignant; that it will produce hatred and malice toward the North; that the "southern heart" will be fired anew; that Union men and the freedmen will not be permitted to live there, and that the South will again take up arms against the Government; or, in other words, that the South lost nothing by the rebellion, and that the rebels are the conquerors and entitled to name the terms upon which they consent to come back. This was the kind of talk that we heard at the commencement of the rebellion. It was said the Government should conciliate the South; that it should do nothing to irritate her; that if the southern heart became fired the whole North would be overrun with the rebel armies; that our towns and cities would be sacked, and all our women carried off. Well, this alarmed a good many timid men and women, and the conciliatory policy was tried, and the "southern heart" was not appeased, and the success of the Union arms was almost despaired of.

A new policy was inaugurated; we made war on the rebels; and success and victory everywhere perched on our banner. The rebel armies have been dispersed and we are conquerors and the rebels the conquered party. The Government is the party to dictate terms, and should prescribe conditions commensurate with the enlightened ideas and civilization of the age.

The war of arms has been gloriously consummated. The achievements of our soldiers have shed imperishable honor upon themselves and the country. To them we owe a debt of gratitude which never can be paid.

But, sir, peace has her victories not less renowned than those of war. There is another war being waged, and between the same parties and their respective supporters who struggled for the ascendency on the battle-field. It is a war of ideas. It is a contest between civilization and barbarism, freedom and slavery, treason and loyalty. In this great moral conflict, involving the country's safety, prosperity, and honor, the whole world are interested spectators. The true patriot everywhere will watch with profound interest the result of this great moral and intellectual struggle.

As when the rebellion was flagrant, so now the haters of republican institutions, free government, and the equality of men, are unfriendly to the loyal North, and strongly sympathize with the rebels and their preposterous and arrogant pretensions and demands.

The loyal people everywhere have a full conception of the great issues involved in this controversy. They cannot be deceived, and if we here in this Hall truly reflect the sentiment, desires, and ideas of the loyal people, civilization, right, liberty, and equality will triumph, and the sacrifices of the war will not have been in vain.

But, Mr. Speaker, suppose the Union people, we here in this Hall, yield up these great principles of justice and right, and the principles of the Opposition and the rebel leaders prevail; the rebel States would be admitted with all their disloyalty, treason, hatred of the Government, hatred of the freedmen and Union men in the South, and with the unrepentant rebel smarting under the humiliation of defeat. What would be the consequences? The rebel States would have entire and exclusive control of their State governments. Their State laws would comport with their bitter feelings against the Government, Union men, and the freedmen; they would at once be persecuted, hunted down like dogs, their property confiscated, discriminated against in every law, deprived of suffrage and all rights, and would be exterminated or compelled to leave the States.

This is no fancy picture. Such is the effect of their inhuman laws to-day, and made, too, by these reconstructed rebels. The Union men now are being compelled to leave the rebel States to save their property and lives.

The Freedmen's Bureau bill was intended in part to remedy these great outrages perpetrated upon the Union men and freedmen. The Democratic party here voted solidly against it, and their President vetoed the bill.

But why such hot haste to admit the rebel States? What is to be gained by it? It would seem that those who urge the immediate admission of the southern States can have but little regard for the memories of the glorious dead who have fallen in this bloody war, or the feelings of mothers, sisters, and widows, whose mourning weeds are still worn as sad memorials of their great loss, and by the hands of these very traitors whom it is proposed to admit into the Union.

Then what necessity is there, public or otherwise, for the admission of these disloyal States? For whose good? Certainly the Government can go on without them. We can perform our duties here without them. But it is said that we tax them and they are not represented. In answer, I will say that we have the right to tax them and even to confiscate their property for their treason if we choose.

But whose fault is it that they are not represented here? Not certainly the fault of the Government. It is the result and consequence of their treason by which all their rights, even to life, were justly liable to forfeiture for their crimes.

The Government has never released its rights upon the rebels as subjects, though the rebels by the laws of war have forfeited all their rights under the Government.

Besides, the objection that the South are not represented comes with a bad grace from the rebels who have for years, and in the most cruel manner, excluded nearly half of their own population from representation and every other civil right, and still insist upon excluding from all equality of right, civil or political, four millions of their own citizens. The rebels were public enemies. By becoming enemies they annulled and lost all their rights in the Government, and can never regain them ex-

cepting by the consent of the law-making power of the Government.

Now, I will say to the people of the southern States that, until you show fruits meet for repentance; that until there is loyalty and patriotism enough in the southern States to secure and protect life, liberty, property, and equality of rights to all, you are in no condition to be admitted among the loyal States, and ought not to be, and will not be; therefore your present political aspirations to be admitted into the Union should cease. Let your attention be directed to the improvement of your shattered fortunes, your morals, your humanity, and loyalty. In this way only, in my opinion, can you ever regain those privileges which are now justly denied to you.

Mr. Speaker, this Government will be preserved with all its glories and its inestimable blessings. Those who have defended this Union against the machinations of rebels and traitors will take care that all the privileges, immunities, and guarantees of this Government shall be transmitted unimpaired to posterity.

Let justice, humanity, liberty, and equality ever be the motto of the American Republic.

Mr. MYERS. Mr. Speaker, we are passing through the most interesting periods of American history. No higher duties, no graver responsibilities, no prouder privileges ever devolved upon men than those which the American people have accepted and discharged in the last five years. Every attribute of manhood has been called forth by the struggle for a nation's existence, until purified by the ordeal we have risen in the scale of honor and of civilization. Happy in the arts of peace, treason's poisoned dagger found us unarmed. Yet to-day rebellion and treason lie prostrate, while the slave power which for years sapped the foundations of our liberties, at last striking at the life of the Republic, learned, in its own dying agonies, that there is nothing so terrible as the wrath of a free people. I need not recount the story of these years of battle, when the rivers were reddened and the fields drenched with the blood of those who should have been brothers. The right has triumphed. Unsympathizing nations abroad have taken good heed of it. We are at this time the most powerful empire on the globe. Nor have I the time to signalize acts of heroism where all were heroes. The trumpet of fame will be broken when they are forgotten. Who shall tell of the unreturning brave or sprinkle over their graves the sweet incense of a nation's gratitude? Unnumbered thousands of them went down to death, willingly as the bridegroom to the altar. But they died that liberty might live, and a Union preserved is their monument, imperishable as the eternal hills. What meed of praise, what public honors, what high rewards can suffice for their noble survivors, many of them maimed and crippled forever in this holiest of causes? Where shall the balm be found for those who sorrow, and like Rachel, mourning for their children too, will not be comforted?

We have been lifted out of the sordid and common-place into the generous, the lofty, and patriotic, the purest sympathies of our nature constantly brought into action. A world looked on amazed as courage unsurpassed, faith untiring, charity beyond bounds, and zealous love of country won for us the moral as well as physical victory. Childhood already girded on the sword for the conflict. The women were worthy of the women of the Revolution. As words of cheer from home strengthened the arms of our defenders, from camp and deck and battle-front their thanks were echoed; while amid the very thunder of artillery the American soldier, still the American citizen, sealed with his ballot the verdict of the people, whose voice in this happy land has always been more potent than bayonets.

Mr. Speaker, the Representatives of the people reflected this overwhelming sentiment. The bolder their stand the more loudly were they applauded. They voted men, and as from the teeth sown by Cadmus in the olden mythology, or at the whistle of Roderick Dhu, men sprang up in every furrow and by every hill-side. They voted money and laid heavy taxes to obtain it. The citizens gladly paid the taxes and took the Government loans, a million a day. The shafts of death thinned our armies. Conscription laws, at all times unpleasant, were received almost without a murmur, and through the popular exertions rarely needed to be enforced. Generals failed; amid universal acquiescence Congress placed a lieutenant general over them who knew no such word as fail. It gave higher pay and bounty and pension for the soldier and sailor. It thanked the brave on all fitting occasions. With a President, whose name will ever be coupled with that of the Father of his Country, the Cabinet and national Legislature faltered not in this trying emergency. In field and council, at home and abroad, the people of the North were true, and the boast of the Roman was not prouder than that of him who could say "I am an American citizen."

When I speak of the people I mean the majority. The right of the majority to rule is the principle underlying all our institutions. The rebellion was a rebellion against this principle. The overthrow of the confederacy is its triumph and vindication. In the North it continued to be respected. During all this bloody strife, however, a factious minority to the extent of its power clogged the progress of the national arms. The masses are always honest, but designing leaders, ambitious of power rather than false to their country, endeavored to misguide them.

When the life of the nation was trembling in the balance, when nothing but the suspension of the writ of *habeas corpus* could save it, these leaders quibbled less as to its necessity than as to where the power was vested. Abraham Lincoln cut the Gordian knot, suspended the writ, and saved the country. The quibblers spent years denying that he did it constitutionally, although Congress had ratified the legality of the act. Reënforcements were begged for at the front; the factionists denounced the draft and the enlistment of negroes, although these measures added half a million to our armies; they opposed the soldier's cause; they denied him the right to vote; they voted to continue slavery. In a word, they clung to the slave power, asserted the war for the Union to be a failure, and when the cup of victory was at the very lips of the nation would have dashed it to the earth.

Mr. Speaker, after the disastrous battle of Cannæ the Roman Senate waited on Terentius Varro, thanking him that at least he had not despaired of the republic.

What shall be said of those who, in the fullness of our strength, when our arms were triumphant and our cause nearly won, almost paralyzed the public energies by despairing of the contest?

The irresistible logic of events swept over them like an avalanche, and their posterity may be grateful if it has covered them with the waters of oblivion.

With these exceptions, as I have said, the North was true. In the South, if loyalty existed, it was hid from us by a wall of fire.

Mr. Speaker, the war is over; the spirit of the rebellion is not all dead, but armed resistance to the national authority has ceased. The sword has done its work, and the duties of statesmanship step in to perfect it. The Thirty-Ninth Congress meets to consider questions of greater magnitude than have been presented since the formation of the Government. The eyes and the hopes of patriots everywhere are turned to it. The telegraphic flashes of its discussions from day to day are eagerly scanned. By every hearth-stone where there is a vacant chair—from every corner of the land where loyal hearts beat—North and South, the prayer ascends to heaven that all this blood and agony and sacrifice may not have been in vain, that the dreadful lessons of these sad years shall not pass unheeded; above all, that those whom the people have chosen to legislate for them shall, in the great work of reorganization, be true to the principles which triumphed in the contest, and see to it well that the germs of another rebellion are excluded in the organic laws which are to unite us again.

And now, let us, as Representatives of a great nation, counsel together, for if we fail in our duty now the wrong may be irreparable; if we discharge it manfully and justly, millions yet unborn shall rise and call us blessed.

One great question overshadows while it includes all the rest. The eleven States which attempted secession are knocking at the doors of Congress claiming immediate admission for those whom they have chosen Senators and Representatives. Are these States entitled at this time to such recognition?

And again, who shall admit or reject them? What are the grounds, if any, for their present exclusion, and what the conditions and qualifications requisite to secure them representation?

In determining this whole subject, sir, important as it is, we need no fine-spun theories. The law is so plain that he who runs may read it. A calm statement of the facts will suggest the remedy, solving any difficulty.

It is useless to discuss whether the rebel States have ever been out of the Union. Some stoutly assert that secession not being legal was impossible. A successful revolution would certainly have contradicted this idea. Again, if the people of South Carolina, dissatisfied with the Government, had all left her borders, the territorial limits of the State only would have remained. The rebellion, however, failed, and there was no honorable hegira. These States and their people were all the time legally in the Union; the triumph of our arms alone made them actually so once more. But one thing all can agree upon. For four years these eleven States were beyond the national control. They defied the Constitution and laws of the Union. They set up a new constitution, anti-republican and founded on slavery. As States, so far as they could, they severed the bonds which knit them to the rest. They broke up their old State governments and erected new ones and made new laws to suit the condition they were trying to bring about. Whether they were in or out of the Union is quite immaterial. Only three days before his death Mr. Lincoln pronounced this "a merely pernicious abstraction." "We all agree," said he, "that the seceded States, so-called, are out of their proper practical relation with the Union, and that the sole object of the Government, civil and military, is to again get them into that proper practical relation." President Johnson, in his annual message, tells us "their functions are suspended." I accept these definitions, and believe in them.

A suspension of functions necessitates a restoration by some power, or the State as such will die. Who has the power to restore it? Some contend that the Executive has it, others that it rests with Congress. The solution is an easy one. The law-making power is supreme in this land, and except where the assent of the Executive aids in passing the law, his sole power is to execute it.

Either the rebellious States could legally at any time during the rebellion have resumed their places in the Congress of the Union or they could not. If the law then or now would have permitted it, then or now it could be done without order, direction, or authority from the President. The decision, then, rests either with these States or with Congress.

No sane man will assert the monstrous doctrine that the confederacy could have kept its armies in the field and sent even loyal men to the Congress of the United States. War then makes a difference. The laws which were violated by foul rebellion cannot be held up as its shield. The parent authority, it is true, might have consented at any time to a restoration, and while the war brought no change of civil relations was willing on a due submission to do so; but the party who breaks the contract cannot set it up at his pleasure, and though these rebel States violently suspended their own func-

tions it is not for them, especially after failure, to declare the time and manner and conditions of their restoration.

It is absurd to cite the resolutions we passed at the beginning of the war to induce these States to reconsider their folly. When you can breathe life into the nostrils, pour blood into the veins, and quicken the pulses of the hundreds of thousands whom their refusal struck dead, men may prate about promises and congressional resolutions based on their assent, but not till then!

At the outset of the rebellion the President of the United States, speaking confidently for the people, declared the Union was unbroken, that no plainly written provision of the Constitution had ever been denied, and pleaded eloquently with the South against its contemplated withdrawal. State after State, in utter disregard of all entreaties, had withdrawn its Senators and members, and still refused to return them. The blow was struck, the war went on, slavery still lived. The President and Congress again and again urged a practical reacknowledgment of the national authority that the war might cease and the South return with all their rights. Compensated emancipation was tendered them; they laughed it to scorn. Their seats here and in the Senate Chamber remained vacant, while, at the bidding of those who left them, loyal blood still trickled down the mountain sides and the bodies of the loyal dead enriched the valleys of the South. At last forbearance ceased to be a virtue. Under the war power the President gave the people in revolt one hundred days' notice, in which time they were permitted to renew their allegiance without the overthrow of their institutions, especially inviting them to choose members of Congress in good faith and by elections in which a majority of their voters should participate. The proffer fell upon dull ears and hardened hearts, and under the same power, on January 1, 1863, he issued the great emancipation proclamation, absolutely freeing the slaves, save in a few excepted localities. Ingrafted afterward by constitutional amendment, it verified the promises of the Declaration of Independence, and all over the Union forever prohibited property in man.

The red right arm of war at last had changed the political privileges which the South was so long, so constantly pressed to preserve for itself. Slavery was to rebellion the heel of Achilles, and there it was smitten. The usurpers had staked their all on the hazard of battle. They bowed down before false gods. Rude iconoclasts, they broke the beautiful images of their loyal State governments, but the stain which marred their marble purity perished too. Nothing but victory could help them now. If defeated the United States might carve for them new forms of republican government, but the defect which their blinded vision loved would be omitted forever. One more chance was given them, not to restore these privileges, but to obtain terms of peace which might have secured them immediate representation. Abraham Lincoln even left his high seat for this purpose to meet their commissioners at Fortress Monroe. Separation or destruction was still their motto! Then the Union armies moved upon theirs, breaking their columns, seizing their cities, driving them along the valleys till they withered like a scroll, and in defeat and dismay surrendered to the majesty—ay, sir, I am happy to add, to the clemency of the Union.

And now, who will be so bold as to say that upon this surrender the rebel States could, of their own motion and on their own terms, reenter the American Congress? If so, let us look the fact in the face—no condition whatever could legally be imposed on them. In the prosecution of their attempt to break up the Government they had contracted an enormous debt to their own followers and to their sympathizers in England and elsewhere. They could of right return and endeavor to make the nation pay it. The war power had struck the fetters from the slave, but the constitutional amendment was not yet ratified by the States. They might with propriety have refused to adopt it, claimed their seats here, denounced the Proclamation as invalid, and endeavored in Congress and out of it to render it a nullity. Ah! but gentlemen may say they did neither of these things; they were put upon terms in these two matters. Yes, sir, they were; and I thank the President that he forced them to do right. He forced them to do right, although they may even yet reconsider their repudiation of the rebel debt, until the Constitution shall forbid it. But who could legally dictate these terms? And if such terms could be imposed, what can prevent Congress, the law-making power, from determining whether other guarantees are required?

Congress, under the Constitution, has the power to "declare war," to "suppress insurrections and repel invasions," yet in the view of some gentlemen here it may not inquire whether war or insurrection has utterly ceased! It may "constitute tribunals," yet it has no right to be informed whether such tribunals are still closed and the course of justice impeded! It can regulate commerce "among the several States," as well as with foreign nations, but it must not see if such commerce has been illegally restricted! It may provide "for the general welfare of the United States," but when that welfare has been violently assailed it dare not ask even whether the assaults upon its integrity or those it is bound to protect still continue! "The United States shall guaranty to every State in the Union a republican form of government;" but after four years, during which all government recognized by the Constitution has been overthrown, woe be to Congress, the guarantying power, if it attempt to investigate whether republican government has been restored or now exists in any of these States! Oh, no; Congress, with all its great powers, is limited, they say, to that section which makes each House "the judge of the elections, returns, and qualifications of its own members;" and when, after four years of revolution and ruin, the member from Mississippi presents himself, Mr. Speaker, before you, if his election has been held at the regular time, if his return be duly signed and no one contests it, if with or without republican government, with or without loyal constituents, he is willing to be sworn, you have nothing to do but to swear him in, and we are powerless to make further inquiry. To state the proposition is to refute it.

One word more on this point: it is said that such was Mr. Lincoln's view of the case. The opinions of that lamented patriot, written and spoken, are just the reverse.

In order to foster loyalty, in order to end the rebellion by lifting up the hands of those who had strayed and were repentant, rather than by the dread wager of battle, Mr. Lincoln, on December 8, 1863, issued his amnesty proclamation, promising that when one tenth of the number who voted for President in 1860 should in any State reëstablish a republican government, it should be recognized as the true government of the State; and, not directing any election for members of Congress, he added:

"To avoid misunderstanding," * * * * "it may be proper to further say that whether members sent to Congress from any State shall be admitted to seats constitutionally, rests exclusively with the respective Houses, and not to any extent with the Executive."

More than this, when the war was ended, in his last public speech, referring to the government he had endeavored to set up and sought to sustain in Louisiana, he thus alluded to the views above expressed, applying them, then and there, to that State:

"And I also [in the proclamation] distinctly protested that the Executive claimed no right to say when or whether members should be admitted to seats in Congress from such States. This plan was in advance submitted to the then Cabinet, and as distinctly approved by every member of it."

Mr. Lincoln's views, it will thus be seen, were precisely those now held by Congress, and the following paragraph from the Senate judiciary report, of February 18, 1865, accompanying the joint resolution relating to the credentials of members claiming seats from Louisiana, a report and resolution which gave general satisfaction, denotes how fully these opinions governed the last Congress:

"The persons in possession of the local authorities of Louisiana having rebelled against the authority of the United States, and her inhabitants having been declared to be in a state of insurrection in pursuance of a law passed by the two Houses of Congress, your committee deem it improper for this body to admit to seats Senators from Louisiana, till by some joint action of both Houses there shall be some recognition of an existing State government acting in harmony with the Government of the United States and recognizing its authority."

But enough, sir, upon this point. When the integrity of the Union was endangered by open and secret foes; when the land trembled with the shock of hostile forces, and timid men saw nothing but darkness in the future, the Government was found to possess ample power under the Constitution to preserve itself against treason and rebellion. It has equal right, now the cloud is lifted, to protect itself against their consequences; a protection which can be enforced only by law and afforded only by the power which makes the law.

What, then, are the conditions on which any rebellious State shall be restored to representation in the national councils? I answer, That it shall conform by its constitution and laws to the change in political relations brought about by the war, accepting the issue in good faith, submitting to such acts of Congress, and ratifying, if required, such amendments to the national Constitution as fairly and equally embody the results of this great change.

Certainly there is nothing very harsh in this. But Congress is to judge of these conditions, and nervous people, more anxious as of old about what they call southern rights than careful of national security, fear it will do wrong. I do not believe that Congress will act unjustly. I for one, am not afraid to trust the national Representatives. They come directly from the people. They mingle with and catch their inspirations from that source. The elections take place less than a year from the time they are first sworn in, and if they err the people will sit in judgment on them.

The creation of this body is the very essence of popular government. The Senate is only one remove further from the people. And this great republican idea, with a President coming too almost directly from the people, clothed with the veto power to check hasty or imprudent legislation, which on careful thought two thirds may still overrule, is to me the most beautiful in theory as it has been the most successful in practice which the world ever knew. I cannot believe, sir, that either of these branches of the Government will willingly trespass upon the privileges of the other. I have faith that each will act honestly, and in this crisis of the country will be no less true than heretofore to every right of the Government and the people.

There is not a man in this House who does not desire the restoration of the functions of every southern State at the earliest moment consistent with the security of the whole. The Union was our watchword and battle-cry, our pillar of cloud by day and pillar of fire by night; our Army was known only as the Army of the Union. The great party which, rising above partisanship, prosecuted the war to a successful close, was the party of the Union. From the first shot at Sumter, all over the land, prouder than oriflamme or crescent, in every valley, on every mountain, from every window and house-top of the North, wherever our keels plowed the waters or the eddying waves of battle were the reddest, the flag of the Union floated in beauty with not a star omitted on its field of azure. For this the conflict was accepted. For this the victory was won. This was the sacred trust we inherited, and the Union so admirably formed, cleansed now of its only blemish, we hope to hand down to the latest generation.

But several months have passed, and, terrible to relate, the Representatives from the South are not yet on the floors of Congress! Still more

terrible, their claims have been referred to a joint committee to report upon; and perhaps more terrible still, gentlemen here charge that they are denied representation. I assert, sir, that they have never been denied the right of representation. I have said that Congress is to judge of the condition of these people; but it is for them to show themselves ready for representation here. If there is delay, it is their own fault.

Three months' delay! Why, sir, I have been one of those most urgent for the reports of the reconstruction committee. I want the country to know that full justice will be done. I am anxious that each State shall be found fitted for representation; but when I remember that the regular Election Committee, with no evidence to take, has not yet reported upon several of its cases, I believe the country will not expect too much of a committee which has to consider the most delicate questions ever presented to Congress, and which has already reported several bills of an importance not to be over-estimated.

Oh! but it is said, the committee is a joint one and revolutionary; it ties up the Houses to inaction. The Library Committee is a joint one, yet I never heard of its creating a revolution, even in literature! The Printing Committee is a joint one, but thus far has not destroyed the liberties of the press! Each subject presented is referred to some committee, and is only acted on as it reports. Upon this important subject the committee was made a joint one, because it would be an anomaly to receive members from any State in this House when in the Senate its laws were found to cause a delay in the reception of Senators, and *vice versa*. The Houses are acting separately and respectively in this matter as in all others, joint reports only enabling them to present the question more speedily and harmoniously.

Admit each district to representation, is the demand. Sir, it is the State which sends Senators, and the Legislature of the State which elects them. It is the State to which we must guaranty a republican form of government. It was by State conventions the people assembled to reorganize, not by districts. We are judging how far the work of reorganization is good. State lines are not obliterated, though the false doctrine of State rights is. The claimants from Tennessee, by memorial to us, tell how their State has been reorganized. They "submit that the said government is republican in form as well as in spirit, and they ask that the same be recognized and its perpetuity guarantied as the true and proper government of the State of Tennessee;" not that they should be admitted by districts and our duties to their State shirked. And here let me say I hope the day is near when this recognition and guarantee shall be given. Tennessee furnished thirty thousand gallant soldiers to the Union Army, several of whom are elected to seats here. She was excepted in the proclamation of emancipation; but one of the first acts of her Legislature was to ratify the "constitutional amendment" by a unanimous vote; and while her functions, or those of any State fully organized before the war ended, might be restored before a change in the basis of representation is finally ratified by the States, I believe she would adopt that, too. She (as well as Maryland and Missouri) excludes rebels from voting till a term of years shall have naturalized, if not nationalized, them. Above all, her laws—so the committee seem to report—have accepted the issue of the war and embodied its results.

I hope I have disposed of the question of receiving members by districts. But if gentlemen desire to be technical—and I do not—if powers exercised with an honest purpose are questioned because the two Houses, the Congress, are doing what it is contended each House should do separately, let me add that, from the insurrectionary States organized since the rebellion ceased, there has not perhaps been a single member elected to this House constitutionally, or who could take his seat if the Supreme Court instead of ourselves had to determine the question. Article one, section two of the Constitution prescribes that—

"When vacancies happen in the representation from any State, the executive authority thereof shall issue writs of election to fill such vacancies."

If it be alleged that the southern members left by districts, and so may return to their places, I answer that the Executive of the State must issue the writs of election. If, on the other hand, as the President well says in his several proclamations appointing provisional governors, the rebellion "has, in its revolutionary progress, deprived the people [of each State] of all civil government," such government must be established anew. The President directed conventions to be chosen by the loyal people in each such State, with authority "to present such a republican form of State government as will entitle the State to the guarantee of the United States therefor." Surely it cannot be that with the State laws not yet reëstablished, a convention may redistrict a State, or order elections for members of the national Legislature.

Yet in all of these States save one there was such haste to obtain power again they could not wait till an Executive was elected, but the writs were issued under the provisional governors, and the elections ordered without law by the conventions. The North Carolina certificates are even signed by "W. W. Holden, Provisional Governor." In South Carolina the Legislature ordered the election, but there was no Executive to sign the law, and it cannot even be supported under their old laws, as the convention had redistricted the State. In Virginia fourteen delegates and six Senators, calling themselves a Legislature, not only changed the time of election for members of Congress but assumed the duties which, under long-settled usage, belong only to a convention called for the purpose, and changed their constitution.

The accusation of delay may be still better appreciated when I state that, except from Tennessee, Arkansas, and one or two from Louisiana, there are very few of those sent here who could take "the iron-clad oath" if the doors were thrown open to them.

Is Texas denied representation? Thus far no Governor or member of Congress has been elected in this State, where Generals Howard and Gregory tell us slavery still virtually exists. Her convention is only now in session.

What of Georgia, which sends as Senators Alexander H. Stephens, the vice president of the confederacy, and Herschel V. Johnson, of the rebel senate? Her provisional governor telegraphed to the President, "No members of Congress elected can take the oath." Do we deny representation to her or has she paralyzed herself?

And Mississippi, which, after electing as Governor a confederate major general, who was pardoned to enable him to take the office, passed laws so violative of equal liberty under the Constitution and equal right before the law that the President instructed General Thomas to disregard them?

What of Virginia, which restored rebels to the right of suffrage, and whose unjust vagrant laws, founded, too, on a previous agreement among the planters to keep down wages, General Terry had to set aside?

How is it with South Carolina, whose Legislature, after repeated requests from the President to repudiate the rebel debt, took good care to adjourn without doing so, having provided that "persons of color shall be known as servants and those they contract with as masters?"

And Alabama, whose Executive is Governor Patton, the confederate cotton loan agent, and whose aristocratic and anti-republican laws, almost reënacting slavery, among other harsh inflictions impose an imprisonment of three months and a fine of $100 upon any one owning fire-arms, and a fine of fifty dollars and six months' imprisonment on any servant or laborer (white or black) who loiters away his time or is stubborn or refractory?

Can Florida complain? By an ordinance of the convention, adopted November 4, 1865, a vagrant in that State shall be punished by a fine not exceeding $500 and imprisoned for a term not exceeding twelve months, or by being sold for a term not exceeding twelve months, at the discretion of the court; the convention, be it understood, the same week declaring that "slavery had been destroyed in this State by the Government of the United States," and no later vagrant act having been reported to us.

It is with no pleasure that I cite either the law or the facts against any of these States. I wish both were otherwise. What I have said has been by way of defense not attack. It will be a proud day when, their rehabilitation complete, the loyal Representatives from all of them can meet here, beneath the shadow of the old flag, remembering its glories, rejoicing in its triumphs, consecrating it for the dominion of a continent in the future, and still unfolding its undying promise to the oppressed throughout the world. When that time, I trust not far distant, shall come, pæans of joy will be chanted all over the land, and the thunder from a thousand brazen throats, speeding over hill and prairie and river, will be echoed far across the sea, proclaiming in tones never again to be mistaken, that American liberty and American union shall go hand in hand down the pathway of the ages. God speed the day! But while it is a beautiful thing to be merciful, it is still grander to do right. Disloyal practices, unjust legislation, oppression, and wrong must not again be the stepping-stones to power. These local governments, in their reconstruction, must be built on the eternal principles of right, or crumbling upon their own citizens, they may once more shake to their foundations the very pillars of the temple of liberty. The loyal men of the South, overborne during the rebellion and almost excluded now, demand it at our hands; common justice, a common country, cry aloud to us to be true.

We have been merciful. Never did a nation behave more generously. We fought for the flag, for liberty, for law, for the Union. There was no rancor, no vengeance, not even retribution, only a holy love of country, an unswerving belief that our cause was just, that we were stewards for posterity and dared not betray our trust, that death was better than dishonor. Our merchant marine was swept from the seas by pirates, our prisoners were starved, guerrillas murdered our stragglers, arson was plotted for our cities. We met bitterness with dignity. We told our wrongs only that civilization might shudder at them. Ascribing them all to the teachings of slavery, we cared for the captives and still pleaded for justice in the name of liberty. When the insurrection was crushed the rebels had little right to expect, and did not expect, to participate in the national councils for years. Their soldiers, brave in a bad cause, have no complaint now. Those who fought on either side understood this question fully. They felt the struggle, they knew what it was for, and neither side supposed that victory meant defeat. Our kindness did not end here. We saved their cities from the torch applied by their own generals. Want stared them in the face; high and low, every age, sex, and condition received supplies from the Union Army. Desolation followed in the track of war; the rebellion had brought enfranchisement for white and black, and this great Government did its most generous deed in providing a Bureau for Refugees and Freedmen, that these suffering southern men and women, white and black, might be sustained till the right to labor and to receive the rewards of labor should be recognized; until confidence restored and business flowing in its accustomed channels, should render the department needless.

The committee on destitution and supplies, of Alabama, reported to their Legislature that in January of this year the Freedmen's Bureau distributed 13,000 rations per day; "given alike to whites and blacks." In September last the assistant commissioner at Mobile

reported rations issued on August 1, 1865, to 3,570 "destitute citizens;" the list in September standing, 1,742 persons, "ninety-five per cent. of whom were rebels." The rations issued in January, 1866, in Arkansas were, 59,532 to refugees, 11,696 to freedmen; in South Carolina, 68,452 to freedmen, 4,563 to refugees. Mississippi, in February, received 1,076 rations for refugees, 20,039 for freedmen. Kentucky and Tennessee, last August, 3,777 for refugees, 3,785 for freedmen.

And all this time every beneficence of the General Government has been gently extended over the South equally with the North. The courts are open; the post office brings us together once more; the local machinery of the States goes on undisturbed; trade and commerce are carrying new life to the southern capitals. With labor made honorable, capital and enterprise are developing the natural advantages and vast wealth of the South. We enact no differing code for the sections, but equal laws for all. If the military remain it is not our fault but rather as a protection. General Grant says:

"I did not meet any one, either those holding places under the Government or citizens of the southern States, who think it practicable to withdraw the military from the South at present. The white and the black mutually require the protection of the General Government."

Mr. Speaker, I appeal to the men of the South, from Tennessee to the Gulf, whether I have not spoken truly. If I have, their tongues should blister before charging upon us a desire to oppress, or to deprive them of their rights. The northern leader who does so, after full knowledge of the fact, is lured only by the thirst for political aggrandizement. His soul panteth after it "as the hart panteth after the water-brooks." To reach it he would strike down the blood-bought privileges of the people and scatter to the winds the fruits of a victory which vindicated before the world the dignity of labor and restored to a great nation its birth-right.

Let us see, then, whether, meeting in a spirit of kindness and mutual trust, the ground I have indicated is not one upon which all can stand, President, Congress, and people.

The great change of which I have spoken is that from slavery to freedom. Slavery gone, its laws, its prejudices, and consequences should be buried forever. We are legislating for mankind. If there be wrong, now is the time to right it; if there be defects, this is the forum in which to remedy them; if doubts remain, the present is the hour to solve them. The craven may shift the responsibility, but civilization will hold us accountable for the performance of our whole duty.

This change requires:

1. That no law of any State lately in insurrection shall impose by indirection a servitude which the Constitution now forbids.

If it be answered that the second clause of the amendment abolishing slavery gives Congress power to enforce this result by appropriate legislation, I reply that we do not choose to keep a standing army in the future to enforce acts of Congress, when we can prevent such legislation by the States.

2. That each State shall provide for equality before the law, equal protection to life, liberty, and property, equal right to sue and be sued, to inherit, make contracts, and give testimony.

Not one of the rebel States allows a negro to give testimony against a white man; several impose punishments which differ according to the color of the offender. The second clause of the amendment asserts no power to remedy this; but even if it did, or if the bill to guaranty civil rights under another section of the Constitution confers the authority, we are not compelled to meet at every step a conflict of jurisdiction, or punish innocent State officers for enforcing State laws which should be annulled.

To these two propositions Congress has been earnestly addressing itself in the testimony taken by its committee, as well as to the condition and conduct of the people of these States. In order to be fully informed of their legislation, the Senate on January 5, and again on February 27 of this year, requested information of the President in regard to their provisional governors. On the 6th of this month he transmitted a reply, and within a few days only this evidence has been published.

But the war brought other results which should be embodied forever in the organic law by constitutional amendment. If not done now the golden opportunity will be gone forever. Congress has been conscientiously endeavoring to present propositions which will do equal justice to all and forever settle the controversy. Two such amendments passed this House. As to the justice of one there is no question. The other in some shape will, I have not a doubt, prevail during the present session. One is to declare by constitutional amendment that no part of the rebel debt shall ever be paid by the United States.

Who will object to such a provision? It is of no force to allege that the States have already declared those debts void which they contracted in aid of the rebellion. What one Legislature has done another may repeal. The war debt of the Union must be sacred, that of the rebellion forever excluded.

Article six, paragraph one, of the Constitution, provides that—

"All debts contracted and engagements entered into before the adoption of this Constitution shall be as valid against the United States under this Constitution as under the Confederation."

It is as appropriate now to exclude an illegitimate obligation as it was then to provide for an honorable one.

Let me on this point read the very excellent telegram sent by the President, November 5, 1865, to Governor Sharkey, of Mississippi, in relation to slavery:

"The action of the Legislature of Mississippi is looked to at this time with great interest, and a failure to adopt the amendment will create the belief that the action of the convention abolishing slavery will hereafter by the same body be revoked. The argument is, if the convention abolished slavery in good faith, why should the Legislature hesitate to make it a part of the Constitution of the United States?"

While I favor this amendment, Mr. Speaker, candor compels me to say we may be safe without it. I hope it will be adopted. Yet, if every other guarantee were obtained, we might trust to the acts of the several Legislatures in reference to this question. But there is another amendment needed, involving a vital principle, which was partially yielded because of slavery, and should now be reinstated.

Under article one, section two, of the Constitution—

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

Every one knows that this three-fifths clause was inserted because of the existence of slavery. It was only passed after much debate and heated discussion in the Convention which adopted the Constitution; men like Butler, of South Carolina, General Pinckney, and others, insisting that "blacks be included in the rule of representation equally with whites;" the same Charles C. Pinckney who afterward in the South Carolina convention, urging the adoption of the Constitution, said:

"We determined that Representatives should be apportioned among the several States by adding to the whole number of free persons three fifths of the slaves. We thus obtained a representation for our property."

Mr. Randolph "urged strenuously that express security ought to be provided for including slaves in the ratio of representation. He lamented that such a species of property existed. But, as it did exist, the holders of it would require this security."

On the other hand, Mr. King "thought the admission of them along with whites at all would create great discontent among the States having no slaves."

Gouverneur Morris "could never agree to give such encouragement to the slave trade as would be given by allowing the southern States a representation for negroes," and did not believe Pennsylvania would agree to it.

Mr. Gerry "thought property not the rule of representation; why, then, should the blacks, who were property in the South, be in the rule of representation more than the cattle and horses of the North?"

Mr. Wilson said "he did not well see on what principle the admission of blacks in the proportion of three fifths could be explained. Are they admitted as citizens? Then why are they not admitted on an equality with white citizens? Are they admitted as property? Then why is not other property admitted into the computation? These were difficulties which he thought must be overruled by necessity or compromise;" and accordingly this "compromising expedient of the Constitution," as Madison terms it, this inequality, based upon wrong, was adopted, the same proportion entering into the basis of taxation. And so from the foundation of the Government the South has had this unfair representation in the national councils, to make up for which a direct tax, only collected several times in our history, and which might well be repealed or its basis changed, has been nominally imposed on them in the same ratio.

Slavery being dead, it becomes us at once to alter the representation based upon it. I ask it on behalf of the North; in the cause of the Union which should never again be disturbed by a discussion of the question; in conformity with the representation adopted by the southern States themselves; and I ask that an amendment embodying it may be passed by Congress, even if not ratified, before any insurrectionary State is again represented here.

IT IS JUST TO THE NORTH.

The whole number of Representatives in Congress is established by law at two hundred and forty-one.

The South under the next apportionment must either lose this representation on three fifths of the negroes, or gain two fifths and mount to power on the whole. Unless the ratio be altered the South will gain twelve members; those twelve members will be taken from the number we now have, equivalent to twenty-four. If they are so gained, the vote of every white man in the South will be nearly equal to two at the North, and the rebellion will have produced for the former more power than the arch-traitor Jefferson Davis, in his long years of plotting and fondest visions of aristocracy ever compassed. Let the laboring man who has given his son to the country ponder over this fact, and the Representative beware how he votes away the liberties of the people.

IT IS FIDELITY TO THE UNION.

C. C. Langdon, elected to this House from the Mobile district of Alabama, over his own signature says, admit the twenty-two Senators and fifty-eight members from the South, "and the radicals cannot carry anything by a two-third vote." Yes, sir, even under the present three-fifths representation, and without the gain which the next apportionment would fix, the radical Union men in Congress would be tied hand and foot by the representatives of those who, not many months since, stood in battle array, as they had done for four dreadful years, against the banner of their country. Self-preservation dictates that for the sake of that Union they strove to destroy we shall pass now whatever constitutional amendments are needed. Admit these eighty "conservatives" first and the discussion may as well be postponed indefinitely.

IT IS FAIR, HONORABLE, AND EQUAL FOR THE SOUTH.

Mr. Speaker, I want no law for the South that is not to apply equally to the North. I hear a great deal about taxation without representation. North and South there are human beings who are taxed without being represented. I assert that we have no right to take advantage of our own wrong; that where any class is excluded from the elective franchise we are not entitled to representation for such excluded class. I voted for such a proposition. I would

be willing, that having failed, to adopt the proposition of basing representation on voters, counting all as voters who had once exercised the privilege, and lost it by rebellion or crime, and waiting for each census to add that part of the foreign population which is continually drifting into a voting one. But some such alteration becomes a vital necessity. And why should the South complain? Mr. Madison, in No. 54 of the Federalist, arguing in favor of the three-fifths clause in the Constitution, says:

"It may be replied that slaves are not included in the estimates of Representatives of any of the States possessing them. They neither vote themselves nor increase the votes of their masters. Upon what principle ought they to be taken into the Federal estimate of representation? In rejecting them altogether the Constitution would in this respect have followed the very laws which have been appealed to as the proper guide."

And trying, as it were, to stem the tide, he adds:

"Let the case of the slaves be considered, as it is in truth, a peculiar one."

Very well; it is now alleged by the South that had the slaves been freed they would have been counted man for man in the basis. Perhaps they would at that time, for in nearly every State the free negroes then had the right to vote. They voted for and elected a member of Congress in Tennessee as late as 1828. They took part in most of the State elections to the Constitutional Convention and the conventions to ratify the Constitution of the United States, and this argument would act as a two-edged sword. But be the fact as it may, certain it is that in nearly every southern State the basis of representation for the State Legislatures omitted the important element of power which existed federally.

The Kentucky constitution of 1799, by proviso reënacted in 1850, made "qualified electors" the basis; that of Arkansas, adopted in 1836, in force in 1861, "free white male inhabitants." The Mississippi constitution of 1817 apportions representation according to the number of "free white male inhabitants." The Louisiana constitution of 1812 based representation upon "qualified electors," and it was not until 1852 that this was altered to "the total population of each of the several parishes of the State." That of Texas was based by the constitution "on the number of free population." The Alabama constitution, adopted in 1819, on the "number of white inhabitants;" and Tennessee, by her constitution of 1796, revised in 1835, on "qualified voters."

The Missouri constitution bases representation on "permanent free white inhabitants." In Virginia, where the rule was reversed, the State was racked with dissensions arising out of the unequal representation afforded by slavery to the tide-water counties and those east of the Blue Ridge. Twice were conventions assembled, in 1830 and again in 1850, to remedy the evil; but the slavery element was too powerful for the yeomen of West Virginia, who received scarcely enough concessions to keep them from separation till the rebellion came. In the convention of 1830, Mr. Baldwin, expressing the bitterness to which the contest had arisen, said:

"The eastern people demand, as we are told, only security, not for their personal rights, but for their property, and it is granted by conceding representation according to Federal numbers in the Senate. They would sustain no pangs of humiliation by yielding to the basis of white population in the House of Delegates, and would soon become reconciled to the compromise. What do the western people demand? That equal representation which is to give protection not only to their property but to their persons, and place them upon an equality with the other freemen of the Commonwealth. Let the principle of Federal numbers, in whatever degree, be introduced into both Houses, and the hardy yeomanry of the west will never be satisfied. The final result will be a separation of the State."

But this was during slavery. Since the shackles have fallen, however, these States persist in excluding from their basis of representation those whom they exclude as a class from political privileges. Tennessee, Missouri, Maryland, do so. Louisiana was restored to the white basis. In the late Alabama convention there was a struggle to strike it out, but the mountains, ever the home of liberty, triumphed over the lowlands and retained the white basis. Even aristocratic South Carolina has abolished her rotten-borough system and advanced rapidly toward the right. Provisional Governor Perry, in his message to the South Carolina convention, well reminded them that "twenty or thirty voters in one of the parishes whose population and taxation combined entitle it to only one member in the House of Representatives have the same representation in the Senate that three thousand voters have in Edgefield district. Now that slavery is abolished a reformation in this respect is imperative, and must be adopted."

Surely what the South is doing at home cannot be far wrong when demanded here. Surely if the reduction in number of Representatives from the South be urged as an objection, the answer now is as perfect as in the early days of the Republic, that the States, small and large, have an equal voice in the Senate, and that the House of Representatives derives its power directly from the expression of the popular will.

Mr. Speaker, in 1842 Andrew Johnson introduced the following resolution into the Tennessee Legislature:

"*Resolved*, That the basis to be observed in laying the State off into congressional districts shall be the voting population without any regard to the three fifths of the negro population."

Last October, in conversation with George L. Stearns, since published, he still spoke approvingly of the idea. If the same Andrew Johnson, now the Chief Magistrate of a great republic, will give this or some kindred plan his support in this trying juncture, I believe it will pass Congress as an amendment to the Constitution and be adopted by three fourths of the States in a few months, and then, sir, these insurrectionary States, having conformed to the laws as I have stated, I for one am in favor of receiving from them such loyal Representatives as they may send, and binding up every wound. I know that rebellion is still rife in the hearts of many of the people; that the President still keeps the writ of *habeas corpus* suspended in the South; that the military cannot yet be removed with safety to its citizens; that the national airs are hissed, as was done in the theater at Mobile lately, the newspapers calling upon the general in command to forbid the performance of tunes calculated to annoy their citizens; that "no steamer below the mouth of the Ohio flies our flag, no hotel in the southern cities spreads it to the breeze;" and on the 21st of last month General Wood, commanding the department of Mississippi, was forced to issue an order that "the national flag shall be respected;" that General Grant has suppressed newspapers in the South for disloyal sentiments; that the gray there continues more fashionable than "the blue."

This and much more might be adduced to prove that the "confederacy" is still odorous in the nostrils of the South. But I do not believe the southern heart can be changed in a day; perhaps not entirely in a generation.

With liberty and equality ingrafted by law and Constitution, accepting none who are disloyal, I am willing to trust to fraternity in the future. Distinguished men who now ask its exercise, I know, believe that power was conferred originally in the Constitution to regulate suffrage in the States. Without denying this, I assert that contemporaneous legislation and uniform custom have been the other way. I know, too, that still others claim this right under the late amendment to the Constitution, alleging that freedom made the negro a citizen and a part of "the people of the several States," who, by section two, article one, of the Constitution, are to choose members of the House of Representatives. Citizenship alone does not give the rights of an elector. The negro was a citizen before his fetters were burst. It is true, however, that all civil government in these States, recognized by the Constitution, being overturned, reverted to the people. The whole people, not the disloyal part of it only, had a right to be heard in its restoration. But this was not done. The President organized these southern governments, leaving this element out, and as education is needed to give it fitness, I am satisfied not to demand of the South a policy which my own State has not adopted, asking, however, of South and North, that a population excluded from voting shall not avail in any State for the purposes of representation.

Some such plan as I have proposed—and I shall be glad to accept a better one—would prevent future rebellion against the Government and future wrong to the citizen. I earnestly trust that Congress will soon be enabled to declare on what terms the insurrectionary States may have full communion with those which remained true and loyal.

Indemnity for the past is impossible. The dead cannot be recalled to life. But security for the future is demanded; demanded by the sacred dust of the martyrs for liberty; demanded by the laboring masses South as much as North; demanded by the widow and orphan, widowed and orphaned to gratify the unholy ambition of infamous demagogues whose treasonable crimes are still unpunished; demanded by the maimed and diseased who suffer from the conflict; demanded by every soldier and sailor who fought to preserve the Union won by the Revolution, guarantied by the Constitution, and now cemented once again and forever by patriotic blood.

That once obtained, and it need not be a question of many months, the United States will present a spectacle of beauty and strength such as the world has never seen. Skilled in the art of war by the ordeal of battle, with a navy that has made us the astonishment of Europe, there is no fear of the future. Our commerce swells every sea and decks every shore. Science has wrought for us its choicest wonders. New manufactures invite, South and North, the energy and capital of our citizens. The land is "flowing with milk and honey." The mountains teem with mineral wealth. Broad, beautiful rivers, bearing rich argosies to the ocean—our veins and arteries—are met and crossed by bands of iron, fresh bonds and ligaments to unite us; shortly it is hoped to stretch from the Atlantic to the Pacific.

The wildest day-dream of the enthusiast will soon be realized, for labor, vindicated and respected, has at once found its reward and its home in the regenerated American Union.

RECONSTRUCTION—ADMISSION OF TENNESSEE.

Mr. BUCKLAND. Mr. Speaker, thus far I have been a silent listener to the able and interesting discussions in this House upon the important and intricate questions arising out of the present condition of the States lately in rebellion against the national Government, contenting myself with voting upon the various propositions as they have been presented according to the best lights before me. I have watched and waited anxiously, hoping that the distinguished gentlemen who shape and control the legislation of this body would be able to agree among themselves, and present for our consideration and adoption practical measures for settling and removing the difficulties now weighing heavily upon the nation and creating intense anxiety in the public mind for the future integrity of the Republic. But, sir, apparently we are now as far from a solution of these difficulties as we were at the close of the first week in the session. We have had numerous propositions, many learned and eloquent speeches, theories upon theories from the great intellects of the House, and the Constitution has been expounded and construed by the most experienced statesmen and the profoundest lawyers; but, unfortunately, scarcely any two of these distinguished gentlemen to whom we have a right to look to lead us out of this slough on to solid ground agree upon any one point. Each one seems to be so perfectly sure that he is right and all who differ with him wrong that his conscience will not allow him to swerve from the path of duty marked out for himself. When doctors disagree, who shall decide? When gentlemen of so much learning and ex-

perience differ so widely, it is not at all strange that common minds become confused.

We must get out of this dilemma in some way. It has sometimes happened in the Army that the rank and file understood the situation and what was necessary to be done better than their officers. On one occasion a commanding officer gave orders to his engineer to bridge a stream with as little delay as possible. The learned engineer went to work getting up his plan on scientific principles, but before he had completed it the soldiers, without his knowledge, had completed the bridge, which answered the purpose just as well and perhaps better than the engineer's bridge would have done. A little common sense is sometimes better than much learning without any practical sense with it.

I believe, sir, that even our distinguished leaders might receive some profit by occasionally listening to suggestions from gentlemen of less learning. I believe there is at least a fair share of common sense in this House outside of the brilliant circle within which the discussion of the more important measures has heretofore been mostly confined, and I hope it may hereafter be permitted to exercise its proper influence upon the great questions of reconstruction. Among the first things done by this honorable body was to place all papers and propositions pertaining to that question in the keeping of a joint committee, without discussion, and we have to wait the action of that committee before we can move at all. I think the appointment of such a committee was a very proper and necessary thing to be done in order to insure prompt and harmonious action in both branches of Congress. The people, however, are becoming very impatient at the delay, and do not understand why Congress has not adopted some definite plan of reconstruction. They do not understand how difficult it is even for great minds to agree upon important questions. They do not appreciate the fine-spun theories of gentlemen as to the present *status* of the rebellious States. They know very well that certain States attempted to take themselves out of the Union and form a separate and independent government, and that the Government of the United States, through its President and Congress, proclaimed that a State had no right to secede, and that the Union must be preserved intact. They have a pretty distinct recollection of the sacrifices they made in lives and in money to sustain the Government, and they know that the Union cause, after four years of terrible war, was completely triumphant; that armed rebellion has been entirely suppressed, and that the attempt to sever the Union has failed. They fought to preserve the Union. They have done all that a patriotic people could do, and now they expect Congress to pass such measures as will secure the Union from future harm. You may call them dead States or live States, or what you please, but most people believe that the States are, in some way, in the Union, and they care as little about your calling them dead States, conquered States, or live States as they do about the important question whether Forney is a live duck or "a dead duck."

I do not propose to enter very extensively into a discussion of these questions as to the *status* of the rebel States. I do not consider myself capable of throwing any new light upon the subject, nor do I consider it necessary for a proper determination of the question whether the people of a State who have been in rebellion against the Government of the United States are in a condition to be restored to their practical relations with that Government and entitled to representation in the Congress of the United States. I object to the resolutions on Tennessee reported from the committee because they present theories and issues not necessary to the proper decision of the question whether Tennessee is entitled to representation in Congress.

I will ask permission to read the resolutions:

Resolved by the Senate and House of Representatives in Congress assembled, That whereas the people of Tennessee have made known to the Congress of the United States their desire that the constitutional relations heretofore existing between them and the United States may be fully reëstablished, and did, on the 22d day of February, 1865, by a large popular vote, adopt and ratify a constitution of government, republican in form, and not inconsistent with the Constitution and laws of the United States, and a State government has been organized under the provisions thereof, which said provisions, and the laws passed in pursuance thereof, proclaim and denote loyalty to the Union; and whereas the people of Tennessee are found to be in a condition to exercise the functions of a State within this Union, and can only exercise the same by the consent of the law-making power of the United States: Therefore,

Resolved, That the State of Tennessee is hereby declared to be one of the United States of America, on an equal footing with the other States, upon the express condition that the people of Tennessee will maintain and enforce in good faith their existing constitution and laws excluding those who have been engaged in rebellion against the United States from the exercise of the elective franchise for the respective periods of time therein provided for, and shall exclude the same persons for the like respective periods of time from eligibility to office, and the State of Tennessee shall never assume or pay any debt or obligation contracted or incurred in aid of the rebellion, nor shall said State ever in any manner claim from the United States, or make any allowance or compensation for slaves emancipated or liberated in any way whatever, which conditions shall be ratified by the Legislature of Tennessee or the people thereof as the Legislature may direct, before this act shall take effect.

Mr. Speaker, the first objection I make is to the assertion that the people of Tennessee can only exercise the functions of a State by consent of the law-making power of the United States. Now, whether that be true or not in regard to the people of Tennessee, it is entirely unnecessary to assert it in determining the question whether Tennessee is entitled to representation in the Congress of the United States, and can do no possible good and can have no possible effect, unless it be to make or declare void all the acts done by the present government of Tennessee. The resolutions recite that the people of Tennessee have adopted a constitution and established a State government and passed laws "which proclaim and denote loyalty to the Union." But the resolutions virtually say that all the acts of the Legislature heretofore passed are null and void. This was undoubtedly the intention, for in a subsequent part of the resolution it is required that the Legislature of Tennessee shall reënact all its laws disfranchising rebels, &c.; and furthermore, they require the Legislature to repudiate all rebel debts, although such debts are expressly repudiated by provisions of the constitution. Does any one suppose that the enactment of a Legislature can add any force to a constitutional provision? Certainly no lawyer will make such a claim. Then, again, it is made a condition that the State of Tennessee shall never, in any manner, claim from the United States compensation for emancipated slaves. Upon what principle can the State of Tennessee claim compensation for slaves emancipated by her own act, by her own constitution, before the emancipation amendment to the United States Constitution was passed? For myself, I have no fear that the United States will ever pay for any emancipated slaves in any State; and as to Tennessee, I do not believe any precautionary conditions are necessary. Acts of Congress and acts of State Legislatures which may be repealed by any subsequent Congress or Legislature amount to nothing as guarantees.

These resolutions were intended, in my opinion, to repudiate the present government of Tennessee, constitution and laws. I cannot reconcile them with any other view. Having declared the constitution and laws of the State government void for the want of the assent of Congress, they go on to recognize the existence and validity of the Legislature, and authorize and require it to pass laws. Now, I would like to have some one more enlightened than I am inform me upon what principle Congress can recognize a Legislature elected without authority and without a constitution? There can be no State Legislature without a State constitution providing for it. You might as well enact a law that this Capitol shall stand after the foundation is knocked from under it.

It would have been much more satisfactory if the committee had reported in plain and direct language that the present State government of Tennessee, having been organized without the assent of Congress, is a usurpation, and that the constitution and laws enacted in pursuance thereof are null and void, and then reporting a resolution or bill legalizing the present State government, or else providing for the organizing of a State government *de novo*. Then we could have met the question squarely. But, Mr. Speaker, I object to this covert way of establishing anybody's theory. Let us have these questions presented to us fairly and openly.

I hold that the people of a State finding themselves from any cause without a government, may organize a government and exercise the functions of a government without the assent of Congress. Supposing after the rebels were driven from Tennessee the Government of the United States had withdrawn all her troops and agents from the State, leaving the people without even martial law, would they not have had a right to organize a government? Must they be left entirely without a government or laws until such time as Congress should see fit to authorize the organization of government? I think not, sir. If they had formed a rebellious government, or a government not republican in form, or in any respect in violation of the Constitution and laws of the United States, then it would have become the duty of this Government to put it down. But, sir, if they had organized a loyal government, republican in form, in all respects in conformity with the Constitution and laws of the United States, and in good faith for the purpose of sustaining the Government of the United States, who will say that it would not have become the duty of Congress to recognize that government?

Now, what are the facts in regard to the organization of the present government of Tennessee? The rebellion was crushed in that State and the rebels driven out. The people of the State were governed entirely by martial law. Nothing could be done without the consent of military commanders. If any judges or magistrates exercised the functions of their offices it was simply by permission or order of the military commanders, and subject to their control. I commanded the district of Memphis during the year 1864. During part of that time there were some civil courts in operation by military authority, but their acts were entirely subject to and sometimes set aside by that authority. I remember instructing a justice of the peace in Memphis that he must treat black men the same as white men, and that the rule "that the black man had no rights which a white man was bound to respect" would not be in force in the district of Memphis as long as I remained in command.

Now, sir, while this state of things existed in Tennessee the present State government was organized by the loyal people of the State, with the assent and by the authority of the President of the United States, as Commander-in-Chief of the Army, and his subordinate military officers. It was done not only for the good of the people of Tennessee, but also to aid the Government of the United States to put down the rebellion. It may be urged that it is the mere creature of martial law. I say in answer, that acts done within the proper scope of martial law are just as valid as if done by authority of civil law, and I deny the right of Congress to invalidate such acts.

I claim that it was perfectly competent for the military authority to organize a State government in Tennessee during the existence of martial law, as it was competent for post commanders to organize municipal governments in towns and cities in aid of their duty of governing and controlling the people; and it was done in numerous instances in the South during the war.

But whether the State or people of Tennessee are in a condition to entitle them to representation in the Congress of the United States is another and very different question. It is a question which rests with Congress alone.

The third section of the second article of the Constitution of the United States says:

"He [the President] shall from time to time give to

the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient."

By another constitutional provision the President is authorized to veto, or refuse to sign any measure passed by Congress which he disapproves, and return the same for the further consideration of Congress, and then it can only become a law by receiving the votes of two thirds of each House in favor of its passage.

Now, sir, these two provisions of the Constitution give to the President all the power which he has over this question. It is not merely his privilege, but it is his duty, to give advice and recommend to Congress such measures as his judgment dictates, and no one has any more right to call in question his motives for any advice he may think proper to give, or for any recommendation he may make to Congress, or for exercising the veto power, than he has to call in question the motives of the learned members of this honorable body who differ so widely upon the same questions.

While I think, sir, that this House has the naked power to admit Representatives from Tennessee, or any of the rebel States, without the concurrence of the Senate or President, I do not think it ought to admit Representatives from any State which has been in open rebellion against the national Government, without the concurrent or joint action of all branches of the legislative power determining that the State or the people of the State have returned to their loyalty, and that they are in a condition entitling them to be represented in the Congress of the United States. The clause in the Constitution which says "each House shall be the judge of the elections, returns, and qualifications of its own members," was not made to meet such an exigency as is upon us now. In my humble judgment it is not applicable to the present case at all. It is only applicable to States and people where there is no question as to their right to elect and send Senators and Representatives to Congress. If the people of a State rebel and take up arms against the Government, they certainly forfeit that right. Would the Senate have a right to receive Senators, or the House Representatives, from a State in rebellion? I think not. The people of the States lately in rebellion forfeited the right to representation in the Congress of the United States, and I hold that they cannot resume that right until the legislative power of the Government, by proper action, restores it to them. It is a question for Congress to decide when the people of a State who have been in rebellion are in a condition to resume the right of representation, and it is a question to be determined in reference to the good of the whole country, and not upon any abstract right of the people of the particular State. There having been a time when the people of the rebellious States had not the right of representation, it follows, according to my view, that the Government must determine the time when they may resume the right. When I speak of the Government, I mean, of course, the legislative and executive departments acting within their respective spheres.

The late war, Mr. Speaker, has imposed great obligations upon the national Government, the most important and sacred of which is that of providing for the disabled soldiers, the soldiers' widows, and the soldiers' orphans. The Government is also bound to provide for the future protection of the lives, the liberty, and the rights of property of the loyal white people and of the loyal colored people of the rebellious States. Those obligations must be faithfully discharged, and I am not willing by any act of mine to transfer the control of the Government to the party or to the men who would be likely to disregard these obligations. Nor do I yet believe, Mr. Speaker, that the President will commit so great a crime. I cannot believe that Andrew Johnson would sacrifice the interests of the Union soldiers who have so nobly fought the battles of their country, and the widows and orphans of those men who have sacrificed their lives upon the altar of their country's liberties. I cannot believe that Andrew Johnson will turn over to the tender mercies of their enemies the loyal people of Tennessee, whom he induced, more than any other one man, to rally around the flag of their country, and enlist and fight in the Union cause, and who have suffered more than tongue can tell. If he does, sir, he will go down in history damned with a more infamous fame than even Buchanan, the last of Democratic Presidents. Yet, Mr. Speaker, there are some who believe it, some who fear it, and some who desire it. It is not to be denied that there has existed in certain quarters a fixed purpose to bring about a breach or controversy between the President and Congress.

Early in the session, the distinguished gentleman from Pennsylvania [Mr. STEVENS] and a distinguished Senator from Massachusetts [Mr. SUMNER] commenced throwing stones at the White House, and, I think, the President made a great mistake when he descended from his high position to throw back at them. If he had passed along on the even tenor of his way, paying no attention to them, all their abuse would have had about as little effect upon him as it would for a little child to strike an elephant with a straw. The people have great respect for the presidential office. They know the history of Andrew Johnson, and the noble stand which he took in the Senate of the United States and elsewhere against the rebellion; and his steadfast support of the Union cause during the war is still fresh in their memories. They cannot easily be made to believe that now, after the Union cause has so gloriously triumphed in the field, this same Andrew Johnson is about to prove recreant to the great trust so confidingly reposed in him by the great loyal constituency of the Republic. They have sacrificed thousands of their most precious lives; they have contributed millions upon millions of money, and they will not permit any combination of politicians to snatch from them the fruits of their victory. Let them become satisfied that the President does not intend to and will not prove faithless to the cause of the loyal people of the country, and they will stand by him, regardless of attacks from any quarter, as they stood by President Lincoln, notwithstanding he, too, was bitterly assailed by many distinguished members of Congress and politicians. But the people had the utmost confidence in the purity of the motives and purposes of Mr. Lincoln, and I hope they will have good reason to repose the same confidence in President Johnson.

The political history of this country indicates very distinctly that no public man need expect to secure the confidence or respect of any respectable portion of the people by betraying the confidence of those who elected him to office or by falsifying the professions he made before his election. The Democrats encouraged and lauded the defection of John Tyler from the party which elected him, but their subsequent conduct showed very clearly that although they "loved the treason, they despised the traitor." And thus it will ever be. Whatever politicians may say or think, the great mass of the American people of all parties despise bad faith in public men.

I make these remarks, Mr. Speaker, because I desire this honorable body, but more particularly my constituents, to understand my position, and because I intend to say and do say that I disapprove the assaults made upon the President which I have referred to. I think they were uncalled for, out of place, and added nothing to the fair fame of the distinguished gentlemen who made them. Now, sir, I do not suppose these gentlemen care a fig about my opinion or about what I say, but my constituents do, and I mean to leave them no room to doubt as to my views upon this matter. I wish them distinctly to understand that I do not follow the distinguished chairman of the committee on reconstruction in that part of his plan of reconstructing the rebellious States. It looks very much to me as if it was thought in certain quarters to be necessary or at least politic, in order to insure the success of certain theories and plans of reconstruction, to get up a quarrel or bad state of feeling between the President and Congress and to destroy the confidence of loyal people in the President. Sir, I will not be a party to any such warfare. I am no apologist for the President. I have no personal favors to ask of him. I never asked any such favors from any President, and I never expect to; but, Mr. Speaker, the President of the United States is entitled to respectful treatment in this body, composed as it is of the Representatives of the people, and especially from distinguished gentlemen who are looked upon by the whole country as leaders, and who are held responsible for the character of its proceedings. I never had any taste or disposition for paying court to men in high places, and perhaps I have not as much veneration for the great experience and eminent abilities of the distinguished chairman of the reconstruction committee as I ought to have, but if that be so it is my misfortune. I cannot help it.

I trust, Mr. Speaker, that we shall decide the question of the admission of representation from the State of Tennessee upon its merits, uninfluenced, one way or the other, by feelings of hostility to the President or to the President's policy; and I hope, sir, that no one will be moved to oppose the admission of Representatives from Tennessee because the present State government of Tennessee was organized while Andrew Johnson was military governor of that State, or because he was in some measure instrumental in bringing it about and approved it as military governor. It must be remembered that Governor Johnson was a subordinate officer of President Lincoln, and that President Lincoln directed and approved his acts in that regard. President Lincoln was responsible for the present State government of Tennessee, and not Andrew Johnson, and it was organized with his approbation, and in accordance with his known policy. If we repudiate it we are not repudiating the doings or policy of Andrew Johnson merely, but also the doings and policy of President Lincoln. I take it, sir, that no man will venture to go before the people and impugn the motives of President Lincoln for this policy, or undertake to convince them that it ought to be repudiated because it has been adopted by his successor.

Mr. Speaker, the facts cited in the resolutions of the committee, and the evidence taken before the committee and reported with the resolutions, the well-known history of the loyal people of Tennessee, their constant devotion to the Union cause, their trials, their sacrifices, the number and services of their soldiers in the Union Army, and the welfare of the whole country, in my opinion, demand at our hands an early recognition of the present State government of Tennessee and the admission of her Senators and Representatives into the Congress of the United States without imposing any further conditions. If the faithfulness of the loyal people of Tennessee through all the dark days of the war does not entitle them to the confidence of the national Government, when, I ask, will you find in any State lately in rebellion the same number or the same proportion of the people in whom you can place any confidence? Not, sir, during the present generation, if ever. Refuse to recognize the present government of Tennessee and you strike a fatal blow at loyalty in that State, and in all the other States. If you wish to keep up and increase loyal sentiment at the South, you must trust, encourage, and support it wherever found. It is not only for the interest of the loyal people, but for the interest of all the people of Tennessee, that the controversy as to the government of that State should be settled as soon as practicable, that their minds may be put at rest on that subject.

Hear what Major General George H. Thomas, commanding that department, says. I quote from his testimony before the committee:

"*Question.* So far as your knowledge and observation extend, what is the condition of the popular sentiment in the State of Tennessee, so far as it relates

to the Federal Government and the rights of the Union people and of the freedmen?

"*Answer.* I have studied the condition of affairs in Tennessee pretty carefully, and have had practical demonstration of the condition of affairs there; having, in addition to the information I have derived from personal observation, such information as I have received from other sources. The Union sentiment in Tennessee, of course, has been sufficient to place the State in its present favorable condition toward the Government, and, if protected and encouraged by the presence of a small Union force, it will gain the complete ascendency in the State in the course of a year or two. I do not think it would be safe at this time to remove the national troops from Tennessee, or to withdraw martial law, or to restore the writ of *habeas corpus* to its full extent.

"By Mr. GRIDER:

"*Question.* You say you believe that there is a gradual improvement going on in Tennessee as to loyalty?

"*Answer.* Yes, sir.

"*Question.* Will you give your opinion as to whether the admission into Congress of the Representatives from Tennessee would tend to encourage the loyal people of Tennessee, and strengthen the feeling of loyalty in that State?

"*Answer.* I think it would be very much. It would not only encourage the loyal people to exert themselves, but it would encourage the rebels to return to their loyalty, because they would see that their chances and hopes for another outbreak were passing away from them. If you will permit me to give additional reasons why I think the delegation from Tennessee should be admitted I will do so.

"*Question.* Certainly; state any reasons you may desire to state.

"*Answer.* I think the delegation from the State of Tennessee should be admitted into Congress for the reason that that State, of her own accord, has complied with every instruction of the President, and has done all that it was believed it would be necessary for her to do in order to gain admission into Congress. All that they have done of their own accord in Tennessee. They have repudiated the rebel debt; they have abolished slavery, and also adopted the constitutional amendment upon that subject; they have passed a franchise law prohibiting from voting every man who has been engaged in the rebellion; and I believe they have now passed a bill giving the negro the right to testify in the courts; and all the members elected to Congress can take the test oath, both Senators and Representatives; and if their Representatives shall be admitted into Congress it will be a precedent for all the southern States; they can see at once the reasons why the Tennessee members are admitted, and that if they expect their members to be admitted they must do as she has done."

All the witnesses examined by the committee express substantially the same views. I will claim the indulgence of the House for reading one more extract, from the testimony of Brevet Major General Clinton B. Fisk, assistant commissioner of the Bureau of Freedmen, Refugees, and Abandoned Lands for the States of Kentucky and Tennessee:

"*Question.* As the Legislature of Tennessee has adopted the principal measures, if not all of the measures, recommended by the President of the United States, and they have elected members of Congress, will you state whether or not you believe their admission into seats in Congress would tend to encourage and increase the spirit of loyalty in Tennessee, and of attachment to the General Government?

"*Answer.* My own opinion about that is this: the State of Tennessee occupies altogether a different position from that of any State below. In the first place, Tennessee abolished slavery by her own actions; she elected a Governor by the people; she repudiated the rebel debt; she ratified the constitutional amendment abolishing slavery, and did all that without executive indication or inauguration. Tennessee furnished thousands for the defense of the Union. All this is to her advantage; and were I a member of the Senate or House of Representatives of Congress, I would vote most cheerfully to admit the delegation from Tennessee, believing that in so doing I would be taking a step that would increase the loyal sentiment of the State, and which would promote the tranquillity and prosperity of the State. I speak now of Tennessee.

"By Mr. GRIMES:

"*Question.* You discriminate between Tennessee and the more southern States?

"*Answer.* I do."

Mr. Speaker, there is the whole case in a nutshell; and it is perfectly clear to my mind that every consideration of policy and justice and the good of the whole country require that Congress, without unnecessary delay, should recognize the loyal government of Tennessee by admitting her Senators and Representatives into Congress, and that that government should be sustained by all the influence and power of the national Government.

Believing, as I do, that the case of Tennessee ought to be decided upon its own merits, without reference to any conditions which might be thought necessary to prescribe for any other of the States lately in rebellion, I have drawn up a resolution which, I think, meets the case, and contains all that is necessary, and which I propose to offer as a substitute for the committee's resolution if I have an opportunity. It recites the facts stated in the resolution of the committee, and is in strict accordance with the concurrent resolution of the two branches of Congress, which reads as follows:

"*Resolved by the House of Representatives,* (the Senate concurring,) That in order to close agitation upon a question which seems likely to disturb the action of the Government, as well as to quiet the uncertainty which is agitating the people of the eleven States which have been declared to be in insurrection, no Senator or Representative shall be admitted into either branch of Congress from any of the said States until Congress shall have declared such States entitled to representation."

Now, sir, according to this resolution, all that is necessary, is for Congress to declare that the State of Tennessee is entitled to representation in the Congress of the United States. My resolution goes further and recites the facts upon which that declaration is founded, and declares that the people of Tennessee are found to be in a condition to exercise the functions of a State within this Union. I ask that the resolution may be read.

The Clerk read, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That whereas the people of Tennessee did on the 22d day of February, 1865, by a large popular vote adopt and ratify a constitution of government, republican in form, and not inconsistent with the Constitution and laws of the United States, and a State government has been organized under the provisions thereof; and which said provisions and laws passed in pursuance thereof exclude those who have been engaged in rebellion against the United States from the exercise of the elective franchise for the respective periods of time therein provided for, and forever prohibit the State of Tennessee from assuming or paying any debt or obligation contracted or incurred in aid of the late rebellion, which said constitutional provisions, and laws passed in pursuance thereof, proclaim and denote loyalty to the Union; and whereas the people of Tennessee have made known to the Congress of the United States their desire that the constitutional relations heretofore existing between them and the United States may be fully established, and said people are found to be in a condition to exercise the functions of a State within this Union: Therefore,

The State of Tennessee is hereby declared entitled to representation in the Congress of the United States in accordance with the Constitution and laws thereof.

Mr. BUCKLAND. Mr. Speaker, this is a joint resolution, and if passed by Congress will require the approval of the President, and is founded upon the principle that it requires the action of the legislative power of the Government to admit representation into the Congress of the United States from States which have been in rebellion against the national Government. Is not this enough, at least as regards Tennessee? It seems to me that every one really desirous of recognizing the present loyal government of Tennessee by admitting her Senators and Representatives into Congress, ought to be satisfied with this resolution or something like it. Those who desire to keep Tennessee out indefinitely may consistently vote for the committee's resolutions in their present shape, for whatever the intention of their authors may have been, the practical effect of the passage of these resolutions must be to keep the Tennessee representatives out of Congress during the present session. If the President should approve them, they cannot go into effect until the Legislature of Tennessee complies with the required conditions, and there is no telling how much time that will require, as there cannot be a quorum of the Legislature until some time in April.

We have already declared that Senators and Representatives shall not be admitted into either branch from any of the States lately in rebellion until Congress shall have declared such State entitled to representation. I am willing to go still further, and say that the right of representation must be restored to these States by force of law, by act of Congress approved by the President; but in passing such an act I am not willing to raise any unnecessary issues, or present to the President for his approval any gentleman's theories as to whether these States are in or out of the Union, or whether they are States or Territories, or whether the present government of Tennessee, and the acts performed by it, are void for the want of the assent of Congress. There is no necessity for presenting these issues in the case of Tennessee. Nothing can be gained by it, but much may be lost. If we believe what the committee say, that "the people of Tennessee are found to be in a condition to exercise the functions of a State within this Union," and have organized a government republican in form and not inconsistent with the Constitution of the United States, which proclaims and denotes loyalty to the Union, and we have faith in the loyal people of Tennessee that they will prove true to the Union as they have done heretofore, then let us pass an act or resolution in plain terms, stripped of all unnecessary and useless issues and theories, and of all unnecessary and humiliating conditions, declaring the facts, and that the State is entitled to representation in the Congress of the United States. If the President refuses his approval of such a measure the responsibility of keeping Tennessee out will be fairly upon him, and for one I am willing to go before the country upon the issue. But, sir, I am not willing to vote for a resolution declaring that the State of Tennessee is a Territory; that the State is out of the Union, or that the present State government, and all acts done by its authority, are null and void, and I do not believe that Congress will be sustained or justified in unnecessarily presenting these issues.

There is much less difficulty in agreeing upon practical measures than upon particular theories, and therefore, if harmony among the true friends of the Union is desirable, it can be best promoted by avoiding, in every measure, all unnecessary issues, all useless theories, and, in short, everything not necessary for that particular measure, leaving every measure to stand or fall upon its own merits. The country wants less theorising and more practical legislation. Let us try Tennessee first. If she prove faithless, then we may well doubt all the other States. If we cannot trust such true Union soldiers as Colonels Stokes and Hawkins, and such men as Maynard and Brownlow and others, who are known to have been true from the beginning to the end of the war, then we may as well say at once that we will not trust any citizen of these States, no matter how faithful he has been to the national cause, no matter how faithfully and well he has served in the Union Army.

Mr. Speaker, great pains have been taken to convince the loyal public that the people of the South are not acting in good faith toward the Government of the United States, and that they are even now preparing to take advantage of the first favorable opportunity to renew the war. That there are some men in all of those States who entertain such sentiments and purposes, I have no doubt. It would be wonderful, indeed, if there were not. It would form an exception in the history of civil wars and in the history of human nature itself. No doubt there are men there, as there are elsewhere, whose importance or prominence in public life depends upon keeping up civil commotion or sectional strife, and who will make use of every opportunity and pretext for prejudicing and inflaming the public mind; but they are comparatively few in number. I fully believe, sir, that the great mass of the southern people are submitting to the Government in good faith, and desire to live in peace as American citizens, and to have restored to them the rights and privileges of American citizens; and I do not believe they can be deceived or driven into another rebellion except by such acts of oppression as would drive any people to desperation. Take, sir, a candid survey of the whole southern people and the circumstances which have brought them to their present deplorable condition; the passions inflamed by the war; the destruction of property and life; the annihilation of the very foundations of all their domestic society; hopes blasted, and the disgrace and chagrin of utter defeat, and you will not be surprised at the instances of insubordination and outrages, though when grouped together in one view they appear to be numerous and excite our indignation. Even at the North the de-

moralizing influences of the war have largely increased crime, notwithstanding the people are prosperous and are rejoicing at the results of the war. Therefore, I am not disposed to condemn the whole southern people on account of the conduct of comparatively few, nor because they exhibit a natural sympathy for each other as companions in misfortune. I do not expect them to denounce each other as traitors and criminals, but I do believe that the great majority of the people are satisfied that they were misled and that they made a great mistake in taking up arms against the Government of the United States.

The people of the South ought to understand, if they do not, that if the war is ever renewed by them, nothing will satisfy the people of the loyal States short of complete subjugation, perhaps extermination. But, sir, I think considerations of sound policy, of justice, and of humanity dictate that we should avoid all unnecessary causes of irritation, and seek rather to conciliate than to increase or keep alive the feelings of hatred and discontent which the war has left behind. But, sir, it is the duty of the Government to provide for its future safety, and insist upon such measures as will secure to every American citizen the natural rights of life, liberty, and property, in all the States. If any citizen of Ohio chooses to go into South Carolina, or Mississippi, or any other State, for pleasure, for business, or for permanent settlement, his rights must be respected and protected. If the State authorities refuse or are unable to protect them against unlawful combinations of any kind, then the people of that State should be declared to be in a state of insurrection against the national Government and treated accordingly. The people of the loyal States will never again submit to the indignities and outrages which were perpetrated upon northern people at the South previous to the war. A repetition of these wrongs will most assuredly lead to another civil war more terrible than the one we have just passed through. The people of the South should be made to understand this. If the Constitution of the United States does not now confer upon the national Government the power to provide against such outrages upon the rights of American citizens, which I think it does, then I say it is the duty of Congress and the President to insist upon such an amendment as will confer that power. It is for the interest of all the people, North and South, that the national Government should have that power, and in my opinion it is absolutely necessary to prevent another civil war. I have already said that the Government was bound to protect the rights of the loyal white people and the loyal colored people of the South, for a Government which either cannot or will not protect those who sustain it, when in peril, is not worth fighting for.

Now, sir, were I perfectly sure that all these rights would be respected and protected by the southern people I would vote to-day for restoring them to their practical relations with the Government of the United States and to the control of their State and local affairs, without asking them for but a single amendment to the Constitution, and that would be upon the subject of apportioning representation.

Much has been said, Mr. Speaker, about this being a white man's Government, and it is substantially a white man's Government, and must always remain so. If universal suffrage were granted to the colored man as well as the white man, it would nevertheless remain the white man's Government, for it is impossible that five million colored people could control thirty million white people, or have much influence in the Government; and the proportion of colored people to the white must rapidly decrease on account of the large immigration of white people to this country. According to the census of 1860 only two States—South Carolina and Mississippi—had more colored than white people; and if the people of those States are wise in the future they will soon have a preponderance of white people. If this is to continue to be exclusively a white man's Government, then I say that none but white men should be represented in Congress or have any influence in the election of President. All white men should have an equal voice. There is great injustice in allowing the vote of one white man in Mississippi to be equal to two white men in Ohio in electing the President of the United States and members of Congress. I think a white citizen of Ohio is as good as a white citizen of Mississippi or any other State, and I shall insist upon his vote having as much power in the national Government, notwithstanding my Democratic colleagues, [Messrs. FINCK and LE BLOND,] judging from their votes, still cling to their old party doctrine, that one southern man is equal to two of their constituents. But, sir, if they will put that issue fairly to their constituents I think they will hardly find them consenting to that doctrine.

The provision in the Constitution which gave the slave States representation for three fifths of their slaves was a concession to the slave aristocracy against the people of the free States. It was, in fact, a representation for property, and had no more foundation in justice than to give representation for horses and cattle. Now that slavery is abolished that provision of the Constitution ought to fall with it.

My own opinion is, that representation should be founded solely upon voters. It is the only principle which will place all voters upon an equality. It is a mistake to say that a voter represents anybody but himself. He may or may not agree in political sentiment with females or others whom he is supposed to represent, but he only represents himself in the republican sense of representation. I know several instances where husbands were bitter copperheads, and their wives were devoted and active supporters of the Union cause. Did these husbands represent their wives when they voted for Vallandigham for Governor of Ohio? I am willing to let the noble and patriotic wives answer the question for themselves. I am none the less favorable to this basis of representation because I understand it to be favored by the President; on the contrary, that is to my mind an additional reason why we should give it a favorable consideration.

Looking at all sides of this question, Mr. Speaker, my mind is forced to the conclusion that the especial friends of negro suffrage overestimate the importance of the influence which it will have for the welfare of the colored people themselves, and the influence it will have on the national Government. I doubt very much whether it would prove beneficial to either. But my time will not permit me to discuss this question further. I wish to say, however, Mr. Speaker, that I am not wedded to any particular theory but will support any practical measures which will accomplish the objects I have indicated. I am very anxious that measures shall be devised which will satisfy the people both North and South, so that they may again meet together in cordial friendship, and on terms of perfect equality and with mutual respect.

It is perfectly idle to think that a mere fraction of the people of any of these States can control the State government for any great length of time, nor do I think they ought to do it if they could. It is contrary to the fundamental principles of republican government. It may answer for a time as a mere temporary necessity, but it cannot endure long. I advocate the recognition of the present government of Tennessee, because I think it due to the loyal people who formed and control it, and because I think it will prove beneficial to all the people of Tennessee, and is demanded by the loyal sentiment of the country, and for other reasons which I have stated. But, sir, I hope before this Congress adjourns measures will be adopted by Congress and by the people which will justify a general amnesty to all the people of the South, excepting always such men as are responsible for the starving and murdering of our soldiers when prisoners of war, and such men as were guilty of other cruelties to our soldiers, in violation of the rules of civilized warfare. Such fiends in human form are unfit to breathe the air of this world.

RECONSTRUCTION.

Mr. HART. Mr. Speaker, the pestilent heresy of Calhoun found its culmination in States discordant and belligerent, which with force of arms sought to establish a new dominion where slavery might be enthroned forever. The rapid growth of liberal ideas among the people, together with the imperious demands of slavery itself for more than was nominated in the bond, gave token that the power of slavery in the Government was rapidly waning. The doctrine of State sovereignty was not asserted by the men of the South so much to maintain and defend the dignity of the reserved rights of the States as to keep open a door by which, whenever they came to believe their sacred institution of slavery was in danger, they might withdraw from the Union into a new fabric wherein they might keep it safe from harm. Their loyalty to the Government solely consisted in obedience to its laws so long only as it was their interest to do so. For thirty years they had the control of the Government and its policy. Statesmen and people obeyed their sovereign commands. Whatever tended to advance the interests of freedom or develop and expand the energies of a free people was the special object of their attack. While claiming all the honors under the Constitution for themselves, they denied that it contained any guarantees for freedom worth respecting. In the Government, in Congress, in the courts, in political conventions, within their own borders they assumed to be above all constitutional control. They believed themselves a superior race, and all others born thralls to their imperious command.

The North suffered long, and was kind. Steadily and loyally adhering to the revolting compacts of the Constitution, they enacted and enforced fugitive slave laws. When bullied and threatened, they with kindness and submission compromised. The press and people cried down and hunted with maledictions the few who here and there found their manhood getting the better of their politics. The mad-dog cry of "abolitionist" was straightway started upon all who dared to question the right of man to hold his fellow-man as property and sell him like an ox in the shambles, and all parties joined the hue and cry.

But the time at last came when the South, alarmed at the rapid increase of free States, saw the power which they had so long controlled was about to pass from their hands. Some counteraction must be made. New Territories were sought, and States were to be organized, in order that their representation in the General Government should balance the new accessions of strength to the side of freedom. The election of President came on, and at last they saw the North in full panoply of power, ready to try conclusions with them and question their time-honored pretensions to absolute control of the Government. The time had come when slavery must go down; not by the power of the Government, not by the act of the people; but by the inherent weakness of slavery itself. Slavery now "clutched but a barren scepter in its gripe." Then started up again, though "with twenty mortal murders on its crown," the old spirit of State sovereignty and the right to secede from the Union, asserted not because they had suffered wrong and were threatened with wrong; on the contrary, our good President plainly told them:

"I have no purpose, directly or indirectly, to interfere with the institution of slavery in the States where it exists. I believe I have no lawful right to do it, and I have no inclination to do so."

Mr. Alexander H. Stephens, in his speech before the convention of Georgia, plainly confessed that the South had no grievances to redress, and asked them:

"What right has the North assailed? What interest of the South has been invaded? What justice has been denied? And what claim founded in justice and right has been withheld? Can either of you to-day name one governmental act of wrong deliberately and purposely done by the Government of Washington of which the South has a right to complain?"

And, again, he says:

"I must declare here, as I have often done before, and which has been repeated by the greatest and wisest statesmen and patriots in this and other lands, that it is the best and freest Government, the most equal in its rights, the most just in its decisions, the most lenient in its measures, and the most aspiring in its principles to elevate the race of men that the sun of heaven ever shone upon."

The simple truth was, they intended to try the experiment of secession for no other reason than because they saw the doom of slavery was recorded. It could no longer sit in the high places of the Government and mold the policy of the nation. It was not enough that the people and Congress were ready to abase themselves even lower in the dust and at their feet in tenderest accents implore them not to be angry with us because for once we had beaten them in an election; that to make sure that no harm could result to slavery we would put an amendment into the Constitution that would effectually bind us and our heirs forever never to disturb their darling institution. They attempted to secede only because slavery was dethroned. Hereditary ruler they believed it to be; it must have a new throne provided.

"Better to reign in hell than serve in heaven."

Alexander H. Stephens, two months after he had so bravely uttered his noble defense of the Government, said of the new government which treason had founded:

"The foundations of our new government are laid upon the great truth that the negro is not equal to the white man; that slavery, subordination to the superior race, is his natural and normal condition."

Here, then, is the cause of the war; not secession, but slavery. The one was but the means by which the other was to be perpetuated. It is this we have been combatting in the memorable struggle of the past five years. It was necessary to break up the Union in order to perpetuate slavery. The nation took up arms to prevent the disruption of the Union, which had been attempted as a means to this end. But even if the proclamation had never been issued, and the constitutional amendment had never been adopted, the existence of slavery was placed upon the hazard of the issue, and was destroyed in the defeat of the rebellion.

But the war and the proclamation and constitutional enactment have settled the question forever. What remains now to consider is what course shall be followed in restoring these States to their proper relations to the Federal Government.

I have briefly alluded to the history of the pretensions of slavery and its relations to the bloody struggle of the nation, because I believe it should be kept prominently in view in all our plans of reconstruction. We must not permit ourselves to rest content with the delusion that all that is involved in the dread arbitrament of war which has just been decided is simply the preservation of the integrity of the Union. I do not deny that that was indeed "a consummation devoutly to be wished." But while the integrity of the Union was one of the points of defense and maintenance, justice, humanity, and right were more fearfully involved. We cannot, in honor, restore these States to their full relations to the Union until the bondsman we have set free shall stand erect in all the rights of citizenship, protected in person, property, and liberty, and burdened by no restriction imposed because of race or color. He has been the "corner-stone" of the bastard government which they defiantly reared in the view of the world. They sought to throw about them a wall of adamant through which none could pass to strike off the manacles from his hands. We have broken down their strong wall and set the captive free, and it is now our work to see that new fetters are not forged again, and that the freedom we claim to have granted is not a delusion and a snare. If the Union is to be restored, it must not be "a Union as it was," where the insolence of class and the pretensions of an oligarchy shall obstruct the energies of the Government and bind heavy burdens upon the people too grievous to be borne. It must be a Union so strong no power can sever it if it would, so homogeneous in character and so beneficent in its influence that none should even desire to sever it. In all its broad acres, where ever the humblest human being dwells, there shall liberty, pure and undefiled, have her habitation; there shall the law give him peace and protection.

In the consideration of the subject of reconstruction I care not to disturb myself with ideas of "State sinlessness" or "State immortality," or to know whether these States are dead, alive, or in a state of suspended animation. It is enough for me to know, the people who are within the boundaries of their respective States overthrew and destroyed the only government they had which was in relation to the Federal Government, and substituted in place thereof a rebellious one which we could not recognize. We know, too, that while in rebellion these people within the boundaries of these States waged wanton and wicked war upon us; that they prosecuted that war with a meanness and atrocity unparalleled in the annals of civilized warfare; that they attempted to burn our cities and scatter pestilence among our people; that they starved our soldiers who fell into their hands; that they fashioned the skulls of our dead into drinking-cups and their bones into finger-rings, and that they practiced, from the beginning to the end, barbarities which would have shamed the savages of the kingdom of Dahomey; and that finally, after commencing with the greatest of all crimes, treason, and running through the entire calendar of infamy, they murdered our President. It is enough for me also to remember that these perjured parricides had many of them taken upon their lips the solemn oath to support the Constitution of the United States, and yet were ready to strike at the heart of the nation that they might build up on its ruins a government that should have no better purpose than crushing the poor slave into irredeemable bondage. And when at last, by God's help and the strength of our right arm, these wretches are subdued and lie writhing at our feet, and we call to mind the enormity of their crime, how can any man who loves his country and defends his country's laws stand forth and proclaim that these men have any rights whatever except such as we in our tenderness and magnanimity choose to grant them? They have by their stupendous crime become subject to the penalty of law, and instead of audaciously demanding recognition as fellow-citizens having equal rights with ourselves, should with becoming humility and shameness of face wait for the doors of mercy to open for their admission.

With such bitter memories so freshly engraven upon the hearts of the nation, while the tears of hundreds of thousands of mourners for the gallant dead are hardly dry; while the echo of the universal wail of sorrow still lingers in the portals of the ear; with a people groaning beneath the weight of taxation which this rebellion has bound upon their shoulders, why is such hot haste manifested to take these parricides to our embrace again? "Swear them," do you say? Did they not many times heretofore swear before God they would maintain and defend the Government? Yet they rebelled. What binding force or security is there in an oath with such men? Is it said they are conquered and are ready to submit? How are you to know that the vipers we take to our bosoms as they warm into active being again, shall not strike us again with their poisonous fangs? On the 9th of June, 1864, Andrew Johnson asked the people of Tennessee:

"But in calling a convention to restore the State, who shall restore and reëstablish it? Shall the man who gave his influence and his means to destroy the Government? Is he to participate in the great work of reorganization? Shall he who brought this misery upon the State be permitted to continue its destinies? If this be so, then all the precious blood of our brave soldiers and officers so freely poured out, will have been wantonly spilled; all the glorious victories won by our noble armies will go for naught, and all the battle-fields which have been sown with dead heroes during the rebellion will have been made memorable in vain."

Sir, between us and these men there lies

"A gulf profound as that Serbonian bog
Betwixt Damiata and mount Casius old."

When we reconstruct these States we owe it to peace and human rights that we proceed with deliberation and caution, but at the same time without inviting rebels to participate in our deliberations.

Whatever plans of reconstruction may be adopted, we must not for a moment forget with whom we have to deal. We do not mean to perpetuate the wrangling discord of the past thirty years or more, nor that we, or those who shall come after us should witness the bloody drama of the past five years again enacted. We do not ask for bloody retribution on their crime; we only demand security for the future, protection to all, universal freedom, and no discrimination under the law against any human being within their borders. We have inaugurated a great social revolution in the southern States—a fundamental change in social order. Shall we leave it incomplete and throw it under the control of men whose education, habits, and prejudices are in deadly antagonism to its further progress? While the negro was property he was certain of at least so much care and protection as his owner would give his horse or his ox, because he possessed a pecuniary value. Now that the tie of property is severed, he is left to the tender mercy of men who look upon him with hate and detestation, and blindly hold him to bitter account as the cause of all their present troubles. They will be slow to elevate the chattel to the dignity of the man. They may talk bravely of giving him his rights, but their ideas of human rights are not ours. They have been bred in a school which has taught them that a black man can have no rights which they are bound to respect. They have no comprehension of that pure republican faith with which we of the North are imbued, which recognizes all men equal before the law, and that in the framework of free society all men should have equal share in its development and progress.

It may be said these men are loyal to the Government. Yet what fruits of loyalty have yet been shown? Is it the loyalty of taking the oath? That they took long ago, yet rebelled. Their loyalty is not the golden fruit of conviction. It is the loyalty of submission only.

"Who overcomes
By force, hath overcome but half his foe."

It is not that earnest love which yearns toward our country with ardent affection. It is not the return of that devotion which thrills at the sight of the starry banner, the proud emblem of a great and free people, for it is hard to come so soon to love the hand that smote them. That they may hereafter be brought by slow degrees to that true loyalty which belongs to an American freeman I have no doubt; but never if you make haste to restore them to power before the virus of slavery is ejected from their veins; never, until every statute is blotted out forever, never again to be recorded anew, which denies to any man, however humble or lowly he may be, a single right which others have.

That we have the power as well as the obligation to reconstruct these States cannot be successfully refuted. This point has been already most ably argued by many distinguished gentlemen in this House. If there were no other argument in its vindication, that pertaining to our belligerent rights in the premises would be conclusive. That we have all the rights of the conqueror over the conquered, all the great public writers on the law of nations, together with our Supreme Court, agree.

Says Vattel:

"A civil war breaks the bands of society and government, or at least suspends their force and effect; it produces in the nation two independent parties, who consider each other as enemies, and acknowledge no common judge. These two parties, therefore, must necessarily be considered as constituting, at least for a time, two distinct societies."

The Supreme Court, in the well-known prize cases, have clearly defined our relations to these States:

"Now, it is a proposition never doubted that the belligerent party who claims to be sovereign may exercise both belligerent and sovereign rights.

"Under the very peculiar constitution of this Government, although the citizens owe supreme allegiance to the Federal Government, they also owe a qualified allegiance to the State in which they are domiciled; their persons and property are subject to its laws.

"Hence, in organizing this rebellion, they have acted as States claiming to be sovereign over all persons and property within their respective limits, and asserting a right to absolve their citizens from their allegiance to the Federal Government. Several of these States have combined to form a new confederacy, claiming to be acknowledged by the world as a sovereign State. Their right to do so is now being decided by wager of battle. The ports and territory of each of these States are held in hostility to the General Government. It is no loose, unorganized insurrection, having no defined boundary or possession. It has a boundary, marked by lines of bayonets, and which can only be crossed by force. South of this line is enemy's territory, because it is claimed and held in possession by an organized, hostile, and belligerent power.

"All persons residing within this territory, whose property may be used to increase the revenues of the hostile power, are in this contest liable to be treated as enemies, though not foreigners. They have cast off their allegiance and made war on their Government, and are none the less enemies because they are traitors."

Chief Justice Chase also, in Mrs. Alexander's case, 2 Wallace, delivered the opinion of the court as follows:

"We must be governed by the principle of public law so often announced from this bench as applicable to civil and international wars, that all the people of each State or district in insurrection against the United States must be regarded as enemies until by the action of the Legislature and Executive, or otherwise, that relation is thoroughly and permanently changed."

Who shall say that if while war was flagrant Congress had the right to raise armies, destroy and confiscate property, maintain a blockade, and take such other measures for the defense of the Union as seemed necessary, that its powers are exhausted for the further preservation and safety of the Union? Hear again Vattel on the obligation of a nation to defend and preserve itself from "threatening danger:"

"Since, then, a nation is obliged to preserve itself, it has a right to everything necessary for its preservation. For the law of nature gives us a right to everything without which we could not fulfill our obligations; otherwise it would oblige us to impossibilities, or rather would contradict itself in prescribing a duty and prohibiting at the same time the only means of fulfilling it." * * * * *

"By an evident consequence from what has been said, a nation ought carefully to avoid, as much as possible, whatever may cause its destruction, or that of the State, which is the same thing." * * *

"A nation or State has a right to everything that can secure it from such a threatening danger, and to keep at a distance whatever is capable of causing its ruin; and that from the very same reasons that establish its rights to the things necessary to its preservation."

The power to dispose of these States carries with it the power to restore in such manner as Congress may determine.

But independent of our belligerent right to adjust the social order of these States the Constitution makes it the express duty of Congress to "guarantee to every State a republican form of government." It was in this view, together with the war power in his hands as Commander-in-Chief, the President felt himself authorized to inaugurate new governments in the rebellious States, which were "deprived of all civil government." And we find that Secretary Seward fully recognized that the whole power of restoration rested with Congress to determine; and in this he doubtless had the full approval and advice of the President. Here was a case of conflict of authority between Governor Sharkey, provisional governor of Mississippi, where a writ of *habeas corpus* had been issued at his instance, directed to General Slocum, as commander of the forces at Vicksburg. This writ General Slocum refused to obey, and Governor Sharkey appealed to Secretary Seward to order the writ obeyed. To this Mr. Seward replied as follows:

[Telegram.]

WASHINGTON, *July* 24, 1865.

W. L. SHARKEY,
Provisional Governor of Mississippi, Jackson:

Your telegram of the 21st has been received. The President sees no reason to interfere with General Slocum's proceedings. The government of the State will be provisional only until the civil authorities shall be restored, with the approval of Congress. Meanwhile military authority cannot be withdrawn.

WILLIAM H. SEWARD.

Again: Governor Marvin, the provisional governor of Florida, on entering upon the duties of his office, issued a proclamation to the people of Florida, setting forth the course of proceeding he proposed to pursue in reorganizing a government, and closing with the following statement, all of which proclamation he submitted to the President for his approval:

"10. Upon the establishment of a republican form of State government, under a constitution which guaranties and secures liberty to all the inhabitants alike, without distinction of color, there will no longer exist any impediment in the way of restoring the State to its proper constitutional relations to the Government of the United States, whereby its people will be entitled to protection by the United States against invasion, insurrection, and domestic violence."

To which Mr. Seward replied as follows:

DEPARTMENT OF STATE.
WASHINGTON, *September* 12, 1865.

SIR: Your Excellency's letter of the 20th ultimo, with the accompanying proclamation, has been received and submitted to the President. The steps to which it refers, toward reorganizing the government of Florida, seem to be in the main judicious, and good results from them may be hoped for. The presumption to which the proclamation refers, however, in favor of insurgents who may wish to vote, and who may have applied for, but not received, their pardons, is not entirely approved. All applications for pardons will be duly considered, and will be disposed of as soon as may be practicable. It must, however, be distinctly understood that the restoration to which your proclamation refers will be subject to the decision of Congress.

I have the honor to be, your Excellency's obedient servant,

WILLIAM H. SEWARD.

His Excellency WILLIAM MARVIN, *Provisional Governor of the State of Florida, Tallahassee.*

Those only oppose this doctrine who desire to see red-handed rebels restored to the full fruition of all the rights of citizenship and to be placed on entire equality with loyal men who have saved the nation from destruction.

"The United States shall guarantee to every State a republican form of government," says the Constitution. What, then, is a republican form of government? The distinguished Senator from Massachusetts has brilliantly illustrated the true definition of the term in his great speech in the Senate, which displayed the profundity of his learning not less than the resplendency of his intellect. But he derives his definition from the testimony of the framers of the Constitution, from the principles asserted by the fathers preceding the Revolution, and from the utterances of legislative assemblies. While I do not question the exhaustive completeness of his authority and the accuracy of his definition, I think we may find it nearer by—where he that runs may read—in the Constitution itself. The Constitution clearly describes that to be a republican form of government for which it was expressly framed. A government which shall "establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty;" a government whose "citizens shall be entitled to all privileges and immunities of other citizens;" where "no law shall be made prohibiting the free exercise of religion;" where "the right of the people to keep and bear arms shall not be infringed;" where "the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated," and where "no person shall be deprived of life, liberty, or property without due process of law."

Have these rebellious States such a form of government? If they have not, it is the duty of the United States to guaranty that they have it speedily. In an intelligent discharge of this duty this Congress has proceeded to investigate their condition before it can assume the grave responsibility of declaring them provided with such a form of government as the Constitution exacts, and, moreover, imbued with such a spirit to maintain it as shall entitle them to admission into full and complete relation with the Federal Union.

But all information received from these States concurs in showing that the old chronic evil festers foully as before. When first they found themselves overcome in the battle-field they were ready to submit with resignation to the will of the conqueror. They knew the penalty they had incurred for their crimes, and waited to see it meted out to them in full measure. To avert just punishment they would gladly have conceded suffrage to the negro, irreversible guarantees for his protection, and the maintenance of his rights, and accepted any other conditions with most cordial acquiescence which the Government had chosen to impose. The country was led to believe, from the earnest and oft-repeated declaration of the President, that "treason was a crime, and must be made odious;" that at least if the blood of the offenders was not to be demanded as an expiation, such penalties, restrictions, and conditions should be imposed as should make memorable their guilt, and afford some sort of guarantee for the future safety of the nation. But soon more lenient counsels prevailed, and we behold the result. The rebels, who, a few months ago, believed themselves forever beaten in their attempts to destroy the Government, now stand erect with unconquerable hate to renew the struggle. All the vile passions which urged them on to the foul atrocities which have made their rebellion forever infamous in the annals of warfare are again let loose. They persecute loyal men; they butcher the negroes; they enact laws which practically reënslave the freedmen, and demand to be recognized as entitled to share in the Government they were lately sworn to destroy. They have taken the oath to stand by the Government, yet no man can be elected to an office who has not been conspicuous in the rebellion. There is no regret for their crime; no assurance of amendment; but with the ballot and seditious speech they are preparing to combat again the ideas vital to the safety of the Republic. Major General Thomas, now in command of the military division of Tennessee, testified before the committee of fifteen:

"I have received communications from various persons in the South that there was an understanding among the rebels, and perhaps organizations formed or forming, for the purpose of gaining as many advantages for themselves as possible; and I have heard it also intimated that these men are very anxious and would do all in their power to involve the United States in a foreign war, so that if a favorable opportunity should offer they might turn against the Government of the United States again. I do not think they will ever again attempt an outbreak on their own account, because they all admit that they had a fair trial in the late rebellion and got thoroughly worsted. There is no doubt but what there is a universal disposition among the rebels in the South to embarrass the Government in its administration, if they can, so as to gain as many advantages for themselves as possible.

"*Question.* In what could those advantages consist; in breaking up the Government?

"*Answer.* They wish to be recognized as citizens of the United States, with the same rights that they had before the war.

"*Question.* How can they do that—by involving us in a war with England or France, in which they would take part against us?

"*Answer.* In that event *their desire is to reëstablish the southern confederacy. They have not yet given up their desire for a separate government, and if they have an opportunity to strike for it again they will do so.*

"*Question.* Does the intelligence in regard to these organizations reach you from such authentic sources as to command your belief of their existence?

"*Answer.* Yes, sir; it comes from very reliable men."

An officer of the Army, writing from Louisiana to Senator WILSON, of Massachusetts, who is vouched for by him as a gentleman of intelligence and character, says:

"There is not one spark of love for the Union in all that I have seen or can judge; but bitter, unrelenting hate, full of the spirit of hell and death to the black man and his white benefactor. A leading man in this place told me a few days ago that they should not rest till paid for their freed slaves; if they could not get this they would exterminate them. I can assure you, in the country away from notice the negro has not half the protection that he had five or even one year ago. The most ignorant, corrupt, and unprincipled set of men exist and rule society here on the earth. They have been forced back into the Union greater sinners now than when they went out of it. Could northern Senators travel through the South, stop and see it as it is, they would be appalled at the atrocities practiced and the undying hate toward northern men. With troops away, a northern life would be a thing of the past. I care not what freedmen's agents may say of the good condition of the blacks. I say their condition is wretched and heart-rending, and all by the abuse and studied persecution of their former masters. All the men, from General Grant, General Howard, &c., down, who pay flying visits to the South, know nothing of the state of society and suffering, nothing of the persistent determination to kill out the black race."

If such things be, how long shall we continue to maintain that "steady temper" which

"Can look on guilt, rebellion, fraud, and Cæsar,
In the calm lights of mild philosophy?"

Little did our brave heroes who lay in the bloody trenches before Petersburg or stood upon "the perilous edge of battle" amidst the terrible carnage dealt out from rebel hosts dream that in a few short months rebel leaders were to stand at the doors of Congress claiming their seats to take part in the government of the nation. We owe it to the memory of the dead and the honor of the living heroes who have saved the nation, to the enormous sacrifices which a loyal and devoted people have offered up so freely in our peril, that at least, if the Government shall "like a painted Jove keep idle thunder in its lifted hand" and let traitors go "unwhipped of justice," we should hold them back from coming again so near as to endanger our future peace.

What muniments, then, shall be erected to drive back the threatening danger to the disturbance of our future peace? It is urged that loyal Representatives should be admitted where ever found. This would be a mere recognition of loyalty by itself, and not reconstruction or reorganization. We are dealing with States, not scattered individuals. As States they went into rebellion; as States we seek to reorganize their government; to States the Constitution requires the guarantee enforced of republican forms of government; by States the apportionment of Representatives is made, and it is only as States they are to be restored to their normal relations to the Federal Union. The admission of a Representative here and there who happens to be personally loyal does not touch the great point of controversy at all. Besides, even if a Representative elected may prove to be loyal, the constituency behind him may be utterly rebellious and disloyal. It is with the people of these States we must deal when we come to final adjustment of the question.

Suppose we should adopt the plan of admitting Representatives solely on the ground of their personal loyalty, and should in the case of a given State, say Tennessee, admit all the Representatives from that State. Suppose that at the next congressional election every one of these gentlemen were defeated at the polls, and in their places rank, notorious traitors were elected, not one of whom could take the oath nor even intended to. We necessarily could not admit them, and the State of Tennessee again would stand where she does now, out of normal relation to the Union. What progress has been made toward restoration in such a case? On the contrary, is not the last condition of that State worse than the first? By this course of proceeding we should by that time have crushed out the germs of loyalty which by nurture and protection from the General Government and by a more radical policy might have gathered sufficient strength to make successful resistance to the enemies of the Government, while the latter would become defiant and strong, and be in a condition to successfully thwart all the beneficent designs of the Government to establish social order on the basis of freedom, protection, and equality of rights. Already, even in this very State of Tennessee, which has drawn so largely upon the sympathy of the American people and of this House, on account of the devoted loyalty of some of their people through perils and sacrifices and persecution which have canonized them in the popular heart—as martyrs to the sacred cause of liberty, we are told by Governor Brownlow, only two weeks since, that a few days before the date of his letter—

"The election of county officers took place throughout the State, such as clerks, sheriff, justices, trustees, and tax collectors, and in Middle and West Tennessee the rebels have made a clean sweep, turning the Union men out and electing their own candidates, who electioncered for office on the ground that they were rebels, and had either served in the rebel army or in some other capacity had given their influence to the cause of treason and traitors."

Another plan is, in general statement, to exact or impose "irreversible guarantees" for the rights of the freedmen; to repudiate the rebel debt and maintain true allegiance to the Federal Government. How shall these guarantees be obtained? Is it to be by acts of State Legislatures, and by amendments to State constitutions? How can we make such sort of guarantees irreversible? Any subsequent Legislature or convention may at their pleasure abrogate them. If we propose to put them in the Constitution of the United States how will we get them there? If these States are part of the Union their voice is needed to make up the requisite three fourths of the States before your guarantees can be ingrafted in the fundamental law. Will they readily put manacles upon their own hands? If they are to be considered out of the Union and not to be counted, they will then claim they are not bound by enactments which they had no part in creating.

But, apart from this view of the subject, consider the effects of delay involved in waiting for the uncertain action of the Legislatures of States upon amendments to the Constitution. These States are rapidly, nay, fearfully, lapsing into a condition of anarchy. The life, property, and liberty of loyal men within their borders are becoming every day more endangered. Humanity, justice, the honor of the Government, sternly demand that governments be established upon sure foundations at once in those States. We have seen the utter failure of the attempt to trust to the people themselves to organize such governments as shall be willing to afford those "irreversible guarantees" we are determined to have. We have seen that the clemency of the President has not reënforced the loyal men of these States, but on the contrary has only reanimated the lately stiffened corpse of rebellion. Although with the aid of the military power of the Government these so-called loyal State governments may have made some sort of hollow pretense of authority and control in their respective States, it is yet notorious that if the military forces were withdrawn, the whole eleven "wayward States" would be in rebellion in thirty days thereafter. Not perhaps in organized, armed rebellion, but with governments which would proscribe the loyal friends of the Union, and be wholly under the control of its unrelenting foes.

What course, then, shall be pursued to bring these people back on a platform of justice and peace? I know of but one way by which these States may be restored, and that is to recognize them as entitled to representation, only when the majority of the people of each State respectively is willing and able to maintain a loyal government, and afford those guarantees which eternal justice will ever demand for the protection of human rights. That is no State where a minority can only govern when backed by a military power from without. It is a conquered province only, and the Governor thereof, whether appointed by the President or put into place by the form of an election, wherein only one tenth of the population over whom he is to administer, participate, is little better than its proconsul. It is against the vital principles of our polity to call that a republican government which has not the consent of the great mass of the governed.

Mr. Speaker, reënforce the loyal white men of these States, not by soldiers from without, but by the loyal black men within these States. At one bound loyalty may then spring into the arena and claim and hold its own against all comers. We have found them true when even the white Unionists have faltered. Lately our faithful allies and friends in our greatest peril, they stand ready again in this "imminent deadly breach" to extricate us from the impending danger of anarchy and civil disorder. Prejudice made us hesitate to use them in war, but that prejudice was brought to shame by the devotion, fidelity, and courage they exhibited everywhere. Is it manly, in view of the patriotic aid we have been willing to accept from these people to save the Government, now to deny them any right to maintain and defend it and share in all its privileges, especially when by their enfranchisement we see the solution of this momentous problem of the restoration of social order over one third the area of these United States? It is said there is no power to enfranchise the negro except by the several States. While I admit that such has been the commonly received opinion, I not only believe the power exists in the Constitution itself, but the power finds its best argument in the very nature of the case. Is it not monstrous that four million people, whom we, by military power and constitutional enactment, have made free and independent citizens of the Republic, shall be deprived of the right to vote for no better reason than because of the color of their skin? They may be many of them Caspar Hausers, and suddenly emerging from the night of slavery into the meridian blaze of freedom may be unfitted to comprehend the philosophy of citizenship. Such an objection is entitled to respect. But build your school-houses, give them your Bible, and open their eyes to a realization of the true glory of their new baptism of regeneration.

Besides, we derive the power from the law of nations. I quote again from Vattel:

"A nation has a right to everything that can secure it from threatening danger, and to keep at a distance whatever is capable of causing its ruin; and that from the very same reasons that establish its rights to the things necessary to its preservation."

The "threatening danger" is that the enemies of the Government will overpower the loyal men in these rebel States and crush out the liberties of the people, unless this large body of loyal citizens who have no share in the Government are invested with the privilege of the ballot. The "threatening danger" is in leaving a great mass of people as a mere excrescence upon the body-politic, compelled to be subject to laws they are not permitted to share in making or administering, and believing themselves separate and apart from the social system—political outcasts, denied the political rights which their traitor masters who enslaved them may freely enjoy.

Nor is such a condition of things consistent with the idea of that republican form of government which the United States shall guarantee to every State. While the State of South Carolina proscribes one half of her population on account of race or color, can it be said that she has a republican form of government? If the United States must guarantee a republican government, it is competent for Congress to create such guarantee in such form and in such a manner as may seem wisest to secure the desired end. What more rational, proper, humane, and consistent course can be adopted than to enfranchise the freedmen to create an irreversible guarantee for the future peace and safety of the nation?

I am aware that we have not yet outgrown our prejudice against this unfortunate race, but it is high time we recognize, that they have, in the past four years, effectually vindicated their manhood and established a lasting claim upon our gratitude. The ballot is a precious boon to grant to them, and we should ourselves be none the poorer for the gift. In the eloquent language of the distinguished Senator from Massachusetts—

"To him who has the ballot all other things shall be given—protection, opportunity, education, a homestead. The ballot is like the Horn of Abundance out of which overflow rights of every kind, with corn, rice, and all the fruits of the earth." * * * * "Give me the ballot and I can move the world, may be the exclamation of the race still despoiled of this right. There is nothing which it cannot open with almost fabulous power, like that golden mistletoe, offshoot of the sturdy oak, which, in the hands of the classical adventurer, unclosed the regions of another world, and like that golden bough, it is renewed as it is used—

"'One plucked away, a second branch you see
Shoot forth in gold and glitter from the tree.'"

Mr. Speaker, in this great "march to the sea" of safety and peace for this mighty Republic, let us tramp in solid column and with sounding tread; firm in our adherence to the eternal principles of Right, with undaunted courage to maintain and defend them; prepared to make no concessions which may put "Truth again upon the scaffold and Wrong

upon the throne;" and we may at last join our voices in glad hosannas over a regenerated nation. But the yielding of the first iota of the great principles of liberty at stake would be a disgraceful compromise of the dignity and honor of the nation.

"What boots it at one gate to make defense,
And at another let in the foe?"

Our safety alone lies in guarding the citadel at every point. Make strong the weak places, and take care no treacherous foe in friendly guise shall pass within our walls to betray us to our ruin.

Mr. HOGAN. I desire to make some remarks, but I prefer not to go on this afternoon. I have agreed to yield to the gentleman from Ohio, [Mr. LAWRENCE,] with the understanding that I shall be recognized as entitled to the floor when the House again meets for general debate.

The SPEAKER *pro tempore*, (Mr. THAYER.) That will be the understanding, if there be no objection.

There was no objection.

PAYMENT FOR SLAVES.

Mr. LAWRENCE, of Ohio. Mr. Speaker, the social and political changes effected as a consequence of the rebellion require some amendments to the great charter of our liberties, the Constitution of the United States. If there is any one thing more than all others demanded by the loyal people of the country, it is that amendments shall be speedily submitted by Congress to the States for their approval which shall change the basis of representation in Congress and the Electoral College, and shall forever prohibit the payment of the confederate and State debts contracted in aid of the rebellion, and shall prohibit the nation and the States from making payment on account of the emancipation of slaves.

I propose now to discuss the last of these propositions as embodied in a joint resolution reported to this House on the 13th day of March, with the pending amendment thereto. This proposition to amend the Constitution is contained in an article in these words:

"SEC. 1. Neither Congress nor any State shall ever authorize, provide for, or make payment to any person or persons on account of the emancipation of any slave or slaves, or as compensation therefor.

"SEC. 2. Congress shall have power to enforce this article by appropriate legislation, and the judicial power of the United States shall extend to all cases arising under this article and the laws made in pursuance thereof."

The immediate question which must be first voted on and decided is the pending amendment, to add to section one these words:

"Except as provided by statute in force prior to the 1st day of January, 1865."

I will now briefly explain the object of this amendment, and then the House can determine whether it should be adopted or whether it may not be best to reject it and let provision be made to discharge all existing obligations for slaves between this time and the period when the proposed amendment to the Constitution shall go into effect, if it shall be sanctioned by Congress and the requisite number of the State Legislatures.

If the proposed amendment to the Constitution could be adopted exactly as it stands, without the pending amendment to it, consistently with good faith, I would most certainly urge it, with the hope that it would secure the sanction of the House, the people, and a sufficient number of the States to make it a part of the Constitution. But Congress, by an act approved February 24, 1864, has assumed some obligations or made pledges, the performance of which may not properly be refused.

By section twenty-four of that act it is provided that able-bodied male colored persons shall form a part of the national forces; and when a slave of a loyal master shall be drafted and mustered into the service, he shall be free, and his master shall have a certificate therefor, and the bounty of $100, allowed by law, shall be paid to the master.

It is further provided that—

"The Secretary of War shall appoint a commission in each of the slave States represented in Congress, charged to award to each loyal person to whom a colored volunteer may owe service a just compensation, not exceeding $300 for each colored volunteer, payable out of the fund derived from commutations; and every such colored volunteer, on being mustered into the service, shall be free."

By the letter of the Secretary of War, dated January 9, 1866, we learn these facts: that under this act commissioners were appointed in Maryland and Delaware, and that the President has suspended further appointments:

The commutation funds referred to in the act amounted to	$17,877,564 45
The expenditures from that fund for procuration of substitutes, recruits, bounties, and premiums, including $30,000 paid the chief of Bureau of Colored Troops, and for enrollment and draft to January 10, 1866, were	8,362,641 00
Balance subject to draft, January 11, 1866	$9,514,923 45

There were filed with the commission for Maryland for compensation three thousand eight hundred and sixty-seven claims. Awards were made on seven hundred and eighty-six claims, amounting to $230,750, and of these twenty-five were paid, amounting to $6,900. The commission was dissolved October 18, 1865.

The commission for Delaware awarded $11,833 on forty-three of the one hundred and fourteen claims filed with them, no part of which has been paid. This commission was dissolved July 6, 1865.

Whatever obligation the nation has incurred under this act, to the extent of the means of payment therein provided, may or may not be paid, depending on the action of the Government hereafter.

Maryland has passed laws also, providing for payment for slaves enlisted as soldiers, and it is not proposed to disturb this. (See acts of February 6, 1864, Laws of Maryland, chapter fifteen, page 20; act of March 10, 1864, chapter two hundred and forty-six, Laws, page 335.)

A joint resolution was passed by Congress and approved April 10, 1862, declaring—

"That the United States ought to coöperate with any State which may adopt gradual abolishment of slavery, giving to such State pecuniary aid," &c.

But the Government has not incurred any liability under that resolution since no State acted on it. It was indignantly spurned by the States which might have profited by it. The proposed amendment to the Constitution will exclude any claim under that resolution.

The amendment now pending is designed to except from the operation of the constitutional amendment, as originally introduced, claims for compensation under the laws already in force, to which I have referred.

Whatever shall be paid for slaves will be the discharge of a duty imposed by good faith as the performance of a pledge already made. I do not concede the legal duty to pay for any slave at any time or in any form. No matter what interpretations have been given to the Constitution, it recognizes slaves as "persons," not "property," and in declaring the condition of persons, their right to liberty, either by constitutional amendment or the exercise of the war power, there results no claim for compensation. "There is nothing in the laws of nature or of God which gives to man the right of property in man." Slaves are not property at common law, (Anderson *vs.* Poindexter, 6 Ohio State Reports, 622,) and in the States where slavery has been abolished no compensation has ever been made for emancipated slaves. When mustered into the military service they stand on the footing of other persons, and do not constitute property applied to the public use by the exercise of the right of eminent domain. But the obligations of good faith under existing laws rest upon a different footing.

And now I will submit a few words in support of the proposed amendment to the Constitution. Our present national debt may be set down in round numbers at $3,000,000,000, to say nothing of State, county, city, village, and town indebtedness. It is of vast importance to the holders of national and other bonds to know if this indebtedness is to be increased. If it shall be, our national credit will be impaired, and when we come to renew the national bonds as they fall due, a higher rate of interest will be required if our indebtedness may be increased than if nothing of this sort is in contemplation or may be possible.

It is of vast importance to the people that they shall know if their burdens may be increased to pay for four million slaves, for if so there will come up a voice of complaint that will not be misunderstood. It is of vast importance to the people of the late slave States, or those who may desire to make homes there, to know if the material prosperity of those States is to be retarded and industry loaded with insupportable taxation to discourage immigration and to prohibit the investment of capital in enterprises from which revenues and prosperity will accrue to the States. The whole nation is interested in knowing whether the late slave States may be so burdened with taxes that their property and people shall be unable to bear a full share of the load of debt imposed upon all by the slaveholders' rebellion, the rebellion of southern so-called Democracy in arms against the national life. Yet if four million slaves should be paid for at the rate of $300 each, it would create a debt of $1,200,000,000, nearly one half as much as the whole national debt created by the war. This price would not equal the estimated value of the slave population at the commencement of the war, especially when we remember that able-bodied men sold at from one thousand to two thousand dollars each. But even at the valuation I have named, it would require one sixth of all the wealth of the late slave States to pay for the emancipated slaves, as may be seen from a statistical table which I submit to the House, as follows:

Eighth Census, 1860.

States.	Value of real estate.	Value of personal estate, exclusive of slaves.	Value of slaves, $300 per capita.	Aggregate value of real and personal estate.	No. of slaves.	Number of slaveholders.
Alabama	$235,548,553	$426,201,646	$130,524,000	$792,274,199	435,080	33,730
Arkansas	115,761,431	113,911,893	33,334,500	263,007,824	111,115	1,149
Delaware	48,843,434	24,209,913	539,400	73,592,747	1,798	587
Florida	24,906,966	39,162,175	18,523,500	82,592,641	61,745	5,152
Georgia	210,098,682	337,568,004	138,659,400	686,326,086	462,198	41,084
Kentucky	414,103,501	275,630,056	67,644,900	757,378,457	225,483	38,645
Louisiana	353,798,709	177,678,061	99,517,800	630,994,570	331,726	22,033
Maryland	245,368,578	145,756,920	26,156,700	417,282,198	87,189	13,783
Mississippi	247,180,284	376,731,184	130,989,300	754,900,768	436,631	30,943
Missouri	302,442,951	225,897,621	34,479,300	652,819,872	114,931	24,320
North Carolina	179,950,131	271,054,914	99,317,700	550,322,748	331,059	34,658
South Carolina	185,043,652	302,052,836	120,721,800	607,818,288	402,406	26,701
Tennessee	303,216,232	362,529,302	82,715,700	838,452,354	275,719	36,844
Texas	101,166,301	207,214,652	54,769,800	453,150,753	182,566	21,878
Virginia	494,898,327	441,026,851	147,259,500	1,083,184,678	490,865	52,128
Total	$3,732,327,765	$3,726,617,118	$1,185,153,300	$8,644,098,183	3,950,511	383,635

The value of slaves ($1,185,153,300) is equal to 15.889 per cent. of the total real and personal property, exclusive of slaves.

DEPARTMENT OF THE INTERIOR, CENSUS OFFICE, *March* 3, 1866.
JAMES S. WILSON, *C. C.*

WASHINGTON CITY.

This proposition, therefore, is a necessity if we would avoid repudiation or the constant danger of it which will continually impair the value of our national bonds, and increase the rate of interest, and hence the burden of paying the national debt. We have been admonished that constitutional amendments should be sparingly made, and I agree that none should be adopted except for adequate reasons.

But the result of the war has created a necessity for some amendments which we cannot in justice to the nation or people withhold.

If there be danger in fact that either the late slave States or the nation may assume payment to masters for the value of slaves in whole or in part, then I think all loyal men will agree that the possibility of this should be forever averted.

I affirm that there is danger that this may be done.

We are providing now not merely for to-day but for all time. And what has been our experience in the past? The slave States were always in a minority in Congress. The Senators and Representatives from the free States were always in the majority. But the South was united on every question affecting slavery or southern interests, while the North was as uniformly divided. It was a part of the political strategy of the South to "divide and conquer." How well this was accomplished we all know.

The northern Democracy, so called, was, through almost its whole history, ready and willing to unite with the South and give success to every southern demand. This coalition ruled the country until the people, alarmed at its corrupt and wicked purposes, overthrew its power in 1860 in the election of Abraham Lincoln to the Presidency. The Douglas Democracy of the North, during that political campaign, could no longer tolerate the increased and increasing demands of the slave power, and they were compelled to repudiate it at the expense of the disruption and division of the ancient party of the Democracy into the Breckinridge and Douglas factions or wings. And we may even now see the evidence that so soon as southern Senators and Representatives shall be admitted to Congress we will again have the coalition of southern and northern politicians and parties, which will be more formidable in power than in the justice of their principles or their means of success.

During the whole war the North has had its sympathizers with treason, eager to censure and oppose every step taken for the suppression of rebellion.

In Ohio, the State I in part represent here, this sympathy with traitors was expressed by a resolution adopted at a State convention of the so-called Democratic party on the 21st of January, 1861, in these words:

"*Resolved*, That the two hundred thousand Democrats of Ohio send to the people of the United States, both North and South, greeting; and when the people of the North shall have fulfilled their duties to the South, then, and not until then, will it be proper for them to take into consideration the question of the right and propriety of coercion."

And the national convention of the same party at Chicago, in 1864, adopted a resolution in these words:

"*Resolved*, That this convention does explicitly declare, as the sense of the American people, that after four years of failure to restore the Union by the experiment of war, during which, under pretense of military necessity, or war power higher than the Constitution, the Constitution has been disregarded in every part, and public liberty and private rights have been alike trodden down, and the material prosperity of the country essentially impaired; justice, humanity, liberty, and the public welfare demand that immediate efforts be made for a cessation of hostilities, with a view to an ultimate convention of all the States, or other peaceable means, to the end that at the earliest practicable moment peace may be restored on the basis of the Federal Union of the States."

But I will not now pursue the evidence to demonstrate that southern traitors have their northern sympathizers, and that these will be ready to unite their political fortunes so soon as they can be admitted to power in the councils of the nation.

If the South shall demand compensation for her slaves her northern allies will be ready to aid in the demand. And the demand has already been made. We are admonished in advance of the modest purposes of the men who so recently waged war against the national life. The so-called Governor, James L. Orr, of South Carolina, in his inaugural address of December 29, upon the transfer of the provisional military government of that State to another form of government purporting to be civil in form but military in fact, said:

"The Constitution of the United States recognized property in slaves, and an appropriation was made by Congress to indemnify slave-owners in the District of Columbia when slavery was abolished there in 1862. I therefore cherish the hope that Congress will, as soon as the public debt is provided for, make some just and equitable arrangement to make the citizens of the South some compensation for the slaves manumitted by the United States authorities."

General Carl Schurz, in his recent report to the President, says:

"It is true no striking demonstrations have as yet been made of any decided unwillingness on the part of the people [of the South] to contribute to the discharge of our national obligations. But most of the conversations I had with southerners upon this subject led me to apprehend that they, politicians and people, are rather inclined to ask money of the Government as compensation for their emancipated slaves, &c., than, as the current expression is, to 'help paying the expenses of the whipping they have received.' In fact, there are abundant indications, in newspaper articles, public speeches, and electioneering documents of candidates, which render it eminently probable that on the claim of compensation for their emancipated slaves, the southern States, as soon as readmitted to representation in Congress, will be almost a unit. In the Mississippi convention the idea was broached by Mr. Potter, in an elaborate speech, to have the late slave States relieved from taxation 'for years to come, in consideration of debts due them for the emancipated slaves; and this plea I have frequently heard advocated in private conversations."

In the recent assemblage called the Legislature of Virginia, it was gravely proposed to cause an inventory to be taken of all slaves of that State made free and of all property destroyed by the Union Army, with a view to ultimate compensation therefor.

I repeat, then, that the demand for compensation will be made and urged with a show, if not a hope, of success; it may be ultimately with success if not now forever prohibited.

My distinguished colleague on the Judiciary Committee, [Mr. ROGERS,] the acknowledged leader of the party in this House opposed to the Union party, in his speech of February 26, said:

"Mr. ROGERS. It is proposed to prohibit the States from paying the debts they contracted in aid of the rebellion. I would not have one cent of it paid by the Federal Government, because it would have no right to do so, and it would be an outrage to do so. My ground is, that each State is sovereign upon the question of its debts. There is no more sacred right in any State than the right to say what debts it will pay, to whom it will pay them, and when and how it will pay them; and an amendment to the organic law for the purpose of preventing a State paying any debt it pleases is but the emblem of despotism and tyranny. Congress has no power, by an amendment to the Constitution or otherwise, to prevent New Jersey from paying any debt she pleases."—*Globe, March 3, supplement.*

That, Mr. Speaker, I believe to be the sentiment of the party with which the gentleman acts on this floor. And what is it? It is simply that it would be "the emblem of despotism and tyranny" to prohibit a State from paying a debt contracted in an effort to destroy the national life.

It is simply the doctrine that we may not properly prohibit a State from paying a debt contracted without authority, every dollar of which was expended in aid of treason. That may be Democratic loyalty, it is not the loyalty of Union men.

There are vast elements of political power, of political strategy, and, if you please, of political corruption in $1,200,000,000. I do not want this power knocking at our doors to bring suspicion if not reproach on congressional integrity. Let us forever prohibit the possibility of this now that we are admonished in season.

But if all this should be impossible it is important to settle the question for other reasons.

The agitation of this subject in the rebel States will enable unscrupulous demagogues to employ it as a means of attaining political power, it will enter into political contests, both State and national, giving rise if not to political parties at least to disturbing questions from which alone the unscrupulous and the unworthy can derive advantage.

We have been admonished that there are already many proposed amendments to the Constitution. This grossly perverts and libels the facts as they exist. There are several proposed amendments, all covering the same ground, in a different form, and limited to a very few subjects. But with what grace does this opposition to all amendments come to us?

President Buchanan in his last annual message urged constitutional amendments, and his political adherents saw nothing but wisdom and patriotism in that.

They declared the Constitution was made by compromise and could only be sustained by compromise; that with every revolution of the wheel of political fortune a constitutional amendment must be made to avert a dissolution of the Union, and that to refuse to make it was the highest proof of a want of patriotism. Congress did, in fact, on the 28th of February, 1861, propose to the States a constitutional amendment designed forever to protect slavery from national interference or destruction.

On the 16th of January, 1861, the famous Crittenden compromise constitutional amendment was voted upon in the Senate, and then the political friends of President Buchanan were clamorous in its support.

Andrew Johnson, then a Senator from Tennessee, voted for both of these amendments. In February, 1861, the "Peace Conference" met for the purpose of proposing amendments to the Constitution, and then the same political leaders who now are so suddenly struck with reverence and awe for "the Constitution as it is," were clamorous for amendments without number. The whole Democratic party seemed to have resolved itself into a universal town meeting to demand constitutional amendments in the interest of slavery and of incipient traitors, though no social or other change in our condition had occurred to render them necessary. But now great social, political, and material changes have occurred in our condition by the rebellion and the overthrow of slavery, which render constitutional amendments necessary. When political power was departing from the hands of the so-called Democracy, in 1860 and 1861, they alone demanded amendments to the Constitution. Why was this? Then they were ready to surrender the political rights of the North to appease the treason of the South; now they seek alliance with traitors again to control the nation, which, thank God, they failed to destroy.

There never has been a time in our history when fundamental changes in both national and State constitutions were so appropriate, so necessary as now. This was fully recognized by Andrew Johnson when, in his speech accepting the nomination for the Vice Presidency, he spoke on the 9th of June, 1864, as follows:

"The question is whether man is capable of self-government. I hold, with Jefferson, that government was made for the convenience of man, and not man for government. The laws and constitutions were designed as instruments to promote his welfare. And hence, from this principle, I conclude that Governments can and ought to be changed and amended to conform to the wants, to the requirements, and progress of the people, and the enlightened spirit of the age. [Loud applause.] Now, if any of your secessionists have lost faith in men's capacity for self-government, and feel unfit for the exercise of this great right, go straight to rebeldom, take Jeff. Davis, Beauregard, and Bragg for your masters, and put their collars on your necks.

"And let me say that now is the time to secure these fundamental principles, while the land is rent with anarchy and upheaves with the throes of a mighty revolution. While society is in this disordered state, and we are seeking security, let us fix the foundations of the Government on principles of eternal justice which will endure for all time.

"But in calling a convention to restore the State, who shall restore and reëstablish it? Shall the man who gave his influence and his means to destroy the Government? Is he to participate in the great work of reorganization? Shall he who brought this misery upon the State be permitted to control its destinies? If this be so, then all this precious blood of our brave soldiers and officers so freely poured out will have been wantonly spilled. All the glorious victories won by our noble armies will go for naught, and all the battle-fields which have been sown with dead heroes

during the rebellion will have been made memorable in vain.

"Why all this carnage and devastation? It was that treason might be put down and traitors punished. Therefore I say that traitors should take a back seat in the work of restoration. If there be but five thousand men in Tennessee loyal to the Constitution, loyal to freedom, loyal to justice, these true and faithful men should control the work of reorganization and reformation absolutely. [Loud and prolonged applause.] I say that the traitor has ceased to be a citizen, and in joining the rebellion has become a public enemy. He forfeited his right to vote with loyal men when he renounced his citizenship and sought to destroy our Government.

"Treason must be made odious, and traitors must be punished and impoverished. Their great plantations must be seized and divided into small farms, and sold to honest, industrious men. The day for protecting the lands and negroes of these authors of rebellion is past. It is high time it was. I have been most deeply pained at some things which have come under my observation. We get men in command who, under the influence of flattery, fawning, and caressing, grant protection to the traitor, while the poor Union man stands out in the cold, often unable to get a receipt or a voucher for his losses. [Cries of 'That's so.']"

And I adopt as appropriate, views which I find elsewhere, stated thus:

"To Congress is solely confided the power and the duty, 'whenever two thirds of both Houses shall deem it necessary, to propose amendments.' As to the resort to this power, the opinions of the founders of this Government may well be adduced. Madison observes (Federalist, No. 43), 'that useful alterations will be suggested by experience, could not but be foreseen. It was requisite, therefore, that a mode of introducing them should be provided. The mode preferred by the Convention seems to be stamped with every mark of propriety. It guards equally against the extreme facility which would render the Constitution too mutable, and that extreme difficulty which might perpetuate its discovered faults.' The fear, when the Constitution was presented to the American people for their adoption or rejection, was not a disposition too ready to amend it, but a disinclination so to do. In the last number of the Federalist, Hamilton meets this apprehension. Having quoted the double mode in which amendments might be made, he observes, 'Howsoever difficult it may be supposed to unite two thirds' of Congress 'or three fourths of the State Legislatures in amendments which may affect local interests, can there be any room to apprehend any such difficulty in a union on points which are merely relative to the general liberty or security of the people?' It is a bold thing to say, in the present state of this country, after a battle, as it were, of the Titans, and such a battle, that amendments 'relative to the general liberty and security of the people' are not demanded.

"It is the more bold, it might be termed audacious, to say this, when we know that the very contingencies to which the article of the Constitution providing a mode for amendments expressly points, have arisen; and, as the fruit of that great battle, slavery is abolished throughout this fair land."

I would not now carelessly, or hastily, or for anything less than reasons of the highest necessity, make changes in the Constitution. But that some changes are alike just and necessary has been demonstrated beyond controversy.

That the basis of representation and direct taxes should be changed has been proven so clearly that none can doubt but those who would reward traitors with a premium of political power for their treason.

That the rebel debt should be repudiated, State and confederate, has been declared by the President. That there must be some security for the future, the lessons of the past should teach us.

Slavery, that compound of every wrong which man can inflict upon man, I know is dead, but its spirit still lives, and not until its ghost shall be buried will there be enduring peace in the land.

Its allies are already dictating terms to us, and prescribing our duties, with their rebel uniforms not yet laid aside.

The organized body calling itself the Legislature of Virginia have quite recently resolved:

"That Virginia will not voluntarily consent to change the adjustment of political power as fixed by the Constitution of the United States."

And in the same resolve it is declared that—

"To do so" * * * * "would be an unjustifiable breach of faith."

And all this simply means that by the Constitution as it is, Virginia, with a population one third of which is colored but disfranchised, insists that her white rebels shall have twelve Representatives, one third of them apportioned to her colored population, thereby giving every two voters in Virginia as much political power as three voters in Ohio.

Of course, she will not voluntarily consent to do political justice. That has not been her mission for the last few years. And with unparalleled impudence she is dictating to us the terms of her return to political power before she has any *status* to give her any right to representation here.

The men who for years waged a war to destroy the Government have no right to a share in reconstructing it. They should be content to share its rights, benefits, and blessings when it is restored and reconstructed.

This is the simple lesson taught us in that famous speech of the President, in which he declared "that traitors should take a back seat in the work of restoration."

The right of Virginia to dictate terms of restoration or prescribe our duties may be seen from the "statement of a few important facts bearing upon the admission of the Virginia delegation to the Congress of the United States," which I find thus presented to us:

"Besides the well-known facts connected with the original reorganization of the Virginia State government at Wheeling, in 1861, the separation of West Virginia, and the removal of Governor Peirpoint, 'with his carpet-bag,' to Alexandria, in 1863, a few events have transpired since the latter date which it is very important for Congress to know before it settles the Virginia question, and which it will be the object of this paper briefly to narrate.

"On the 21st day of December, 1863, the General Assembly passed an act calling a State convention to amend the constitution of Virginia, and providing for the election of its members. This convention met at Alexandria, February 13, 1864, and on the 7th of April following adopted a new State constitution, which from that date has been the organic law of the State.

"The following provisions were adopted in that convention:

"'ARTICLE IV.

"'SEC. 1. The legislative power of this Commonwealth shall be vested in a General Assembly, which shall consist of a Senate and House of Delegates.

"'SEC. 3. The House of Delegates shall consist of not less than eighty and of not more than one hundred and four members. The Senate shall never be less than one fourth nor more than one third the number of the House of Delegates.

"'SEC. 8.' * * * * 'A majority of the members elected to each House shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and shall be authorized to compel the attendance of absent members in such manner and under such penalty as each House may provide.'

"Since this constitution was adopted, there have been three sessions of the General Assembly; a regular session commencing December 3, 1864, an extra session commencing June 21, 1865, and a regular session commencing December 4, 1865, and not yet closed. At the first regular session and the extra session the House consisted of fourteen members and the Senate of six. No more were elected, or could be as matters then existed.

"Was the 'Legislature' which met December 3, 1864, and June 21, 1865, a legal Legislature under the Alexandria constitution? Have its acts any legal force or validity whatever?

"Now, those acts, if illegal, have plunged the State into difficulties from which no power but Congress can relieve it, and it does not clearly appear how even Congress can relieve it otherwise than by ignoring its so-called 'restored government,' and organizing it anew.

"The mischief has been introduced by the extension of the rights of suffrage and of holding office, beyond their former limits, by an act of the fourteen delegates and six senators at the extra session of June 21, 1865.

"The Alexandria constitution had prescribed the qualification of voters and office-holders, as follows:

"'ARTICLE III.

"'*Qualification of Voters.*

"'1. Every white male citizen of the Commonwealth, of the age of twenty-one years, who has been a resident of the State for one year, and of the county, city, or town where he offers to vote for six months next preceding an election, and who has paid all taxes assessed to him after the adoption of this constitution, under the laws of the Commonwealth after the reorganization of the county, city, or town where he offers to vote, shall be qualified to vote for members of the General Assembly, and all officers elective by the people: *Provided, however*, That no one shall be allowed to vote who, when he offers to vote, shall not thereupon take, or shall not before have taken, the following oath: "I do solemnly swear (or affirm) that I will support the Constitution of the United States and the laws made in pursuance thereof, as the supreme law of the land, anything in the constitution and laws of the State of Virginia, or in the ordinances of the convention which assembled at Richmond on the 13th day of February, 1861, to the contrary notwithstanding; and that I will uphold and defend the government of Virginia as restored by the convention which assembled at Wheeling on the 11th day of June, 1861, and that I have not since the 1st day of January, 1864, voluntarily given aid or assistance, in any way, to those in rebellion against the Government of the United States for the purpose of promoting the same." But the Legislature shall have power to pass an act or acts prescribing means by which persons who have been disfranchised by this provision shall or may be restored to the rights of voters when in their opinion it will be safe to do so. Any person falsely so swearing shall be subject to the penalties of perjury.

"'No person shall hold any office under this constitution who shall not have taken and subscribed the oath aforesaid. But no person shall vote or hold office under this constitution who has held office under the so-called confederate government, or under any rebellious State government, or who has been a member of the so-called confederate congress, or a member of any State Legislature in rebellion against the authority of the United States, excepting therefrom county officers.'

"In June, 1865, the fourteen delegates and six senators, styling themselves a 'General Assembly,' evidently thinking it had become 'safe to do so,' restored the persons who were disfranchised by the necessity of taking the oath required in article three, section one, to the rights of voters. If they were a Legislature at all, they were authorized to do this, because the constitution had expressly given them the power to do it. But the constitution had given them no power whatever to change the qualifications for office-holding, or to remove the disability upon both voting and office-holding, resulting 'from having held office under the so-called confederate government, or under any rebellious State government,' or from having 'been a member of the so-called confederate congress, or a member of any State Legislature in rebellion against the authority of the United States, excepting therefrom county officers.' The Alexandria constitution provides that 'no person,' under any of these disabilities, 'shall vote or hold office' in the State, excepting county officers.

"The twenty delegates and senators, however, undertook to amend the constitution themselves, so as to remove all these disabilities. It was a sore trouble to these gentlemen that a single rebel should be denied a 'right' to which anybody else was entitled, or that any discrimination should be made which placed a loyal man in a better situation than a rebel. So they assumed for themselves the authority of a constitutional convention, and enacted the following laws:

"'CHAPTER VI.—An act prescribing means by which persons who have been disfranchised by the third article of the constitution may be restored to the rights of voters. Passed June 22, 1865.

"'Whereas, in the opinion of this General Assembly the time has arrived when it would be safe and expedient to restore to the rights of voters certain persons who are disfranchised by the provisions of the third article of the constitution of Virginia. Now, for the purpose of restoring such persons,

"'SEC. 1. *Be it enacted by the General Assembly of Virginia*, That every person possessing in other respects the qualifications of a voter, under the constitution and laws of the State, who has taken, or shall hereafter take, the oath prescribed by the amnesty proclamation of the President of the United States of the 29th of May, 1865, which oath is in the following words, to wit: "I do solemnly swear (or affirm) in the presence of Almighty God, that I will henceforth faithfully support, protect, and defend the Constitution of the United States, and the Union of the States thereunder, and that I will, in like manner, abide by and faithfully support all laws and proclamations which have been made during the existing rebellion with reference to the emancipation of slaves;" and an oath to uphold and defend the government of Virginia, restored by the convention which assembled at Wheeling on the 11th of June, 1861, which oath is in the following words: "I do solemnly swear (or affirm) that I will uphold and defend the government of Virginia as restored by the convention which assembled at Wheeling on the 11th day of June, 1861;" shall be entitled and qualified to vote for members of the General Assembly, and all officers elective by the people, subject always to the laws in regard to voters and voting not inconsistent with this act: *Provided, however*, That the persons excluded by the terms of the said proclamation from the benefits thereof, excepting those embraced in the thirteenth class of such excluded persons, shall not be entitled or qualified to vote as aforesaid, unless pardoned by the President, as provided for by said proclamation.

"'SEC. 2. This act shall be in force from its passage.'

"'CHAPTER I.—An act to provide for the amendment of the third article of the constitution. Passed June 21, 1865.

"'SEC. 1. *Be it enacted by the General Assembly of Virginia*, That the Governor of this Commonwealth is hereby authorized to submit to the qualified voters of this State, at the next election for members of Congress and of the General Assembly, the question, "Shall the next General Assembly be clothed with power to alter or amend the third article of the constitution?" And if a majority of the votes so cast shall be in favor of vesting such power in the General Assembly, the Governor shall communicate the result to that body at its next session: *Provided, however*, That the Governor shall give at least thirty days' notice of the submission of said question, and shall at the same time prescribe the mode and manner of taking the vote thereon.

"'SEC. 2. This act shall be in force from its passage.'

"It is needless to say that the act was ratified by 'the people,' by an 'overwhelming majority,' and it is equally needless to say that the act was in itself entirely illegal, whatever the legality of the Legislature proposing it. For, in Virginia, the constitution must be amended by a State convention, called for the purpose by act of the Legislature. There is no express provision for this mode of amendment, but having always been the mode employed in changing the organic law of the State, we submit that it cannot

now be legally departed from. The first State constitution was adopted in convention in 1776; the second was adopted by a similar convention in 1829; the third by a similar convention in 1851; the Wheeling constitution by a similar convention in 1861, and the Alexandria constitution by a similar convention in 1864. If constant and unvarying usage from the earliest periods of our history as a State down through all the successive changes in our constitution, till the present time, and through revolutions and war, as well as peace, does not constitute a 'common law,' to regulate the method of changing the constitution, it is difficult to conceive how any law could be established.

"From the facts above stated, the following propositions appear plainly deducible:

"1. That fourteen delegates and six senators do not constitute a legal Legislature, and that, therefore, all the acts of the sessions commencing December 3, 1864, and June 21, 1865, are void, and all that has been done by virtue of authority derived from those acts is void.

"2. That, even if fourteen delegates and six senators do constitute a legal Legislature, still they have no power to change the State constitution, as they have attempted to do, and that such change, and all acts done by virtue of it, are void.

"3. That the whole thing being now, through this illegal Legislature, placed in the hands of ex-rebels, who are clearly disfranchised by the organic law of the State, the legislators, judges, magistrates, &c., being nearly all of the disfranchised class, the evil cannot be remedied by any power within the State, but Congress alone can relieve Virginia from the inextricable confusion into which she is plunged.

"4. That the best means of accomplishing this is to disregard the present State organization and organize anew.

"It may be interesting to know the votes given for Governor on 28th of May, 1863, the time Governor Peirpoint was elected Governor of Virginia.

"F. H. Peirpoint, 3,367; W. H. B. Custes, 137; G. T. Yerby, 37; and that part of the following counties only voted: Elizabeth City, Fairfax, Northampton, Loudoun, York, Prince William, Norfolk, Alexandria, besides Berkeley and Jefferson, now in West Virginia."

And in this connection I may be permitted to read an extract from a letter of February 16, in part on the validity of the Virginia Legislature, written by that ablest of all the statesmen of the "Old Dominion," the loyal John M. Botts, who demonstrates alike the disloyalty of the South and the illegality of the assumed authority of the so-called Virginia Legislature. He says:

"I have seen this same Legislature overstepping its legitimate bounds, usurping the functions of the courts, with Argus eyes peering over the State for another victim to satiate their rapacity, and stretching out its Briarean arms to strike at a Union railroad president in order to put a secession president in his place. I do not mean by this to express any opinion as to the merits of this unfortunate controversy—unfortunate for the interests of the stockholders and the State—but I do mean to say that in my opinion the Legislature had no right to interfere in the matter, and that if Mr. Barbour felt aggrieved, his remedy was to appeal to the proper judicial tribunals for relief; and I mean to say, moreover, that he exhibits an extraordinary degree of credulity and simplicity who believes that if Mr. Barbour had been the Union candidate and Mr. Jamieson the secession candidate for the presidency of the Orange and Alexandria road that he would have been able to obtain the same proceedings from the body calling itself the Legislature of Virginia. I have seen that Mr. Alexander H. Stephens himself, but yesterday steeped up up to his eyelids in secession and rebellion, (which in April, 1861, in a speech delivered in Richmond, he said had been forced upon the South, and that the South had the right on their side,) and who has just been elected to the Senate of the United States, because of his participation in the rebellion, declaring in a letter to a friend in Washington that 'the condition and persecution of the Union men in Georgia are vastly worse than during the rebellion.'

"I have seen application after application, and memorial after memorial, coming up to Congress from Union men in nearly all the so-called reconstructed States, complaining of the bad treatment and violence done to them by the secession element of their several localities. I myself have been almost daily in receipt of letters for the last two months, saying that they are looking to me to do something to stay the hand of this proscriptive and intolerant party in this State, and praying that I will come to their relief.

"I have seen, too, those men whom a becoming modesty, and a commendable diffidence of their capacity and pretensions to govern, after the events of the last four years, would have kept, at least for a time, in the background, rushing with hot haste to assert their own indestructible and inalienable right, as if by divine injunction, to govern and control, by thrusting themselves into places they had no constitutional right to fill, and grasping with greedy hand at every high and petty office for those whose claims rested alone on the fact of their service in the rebel cause. I have seen men wheedling and cajoling President Johnson in the press, in public meetings, and in the legislative halls, who, when they get him in their power, will measure out to him the same allowance that they have to Governor Peirpoint, for the unpardonable sin of having been a southern Union man during the rebellion, all of which is set forth and fully avowed by that infamous, mischievous, and treasonable sheet, the New York Daily News, which would lead the South to her still deeper ruin and degradation, and which has a larger circulation, is more extensively read, is sought after with greater avidity throughout the South than any other paper in the United States, and which is regarded as the most faithful organ of the disloyal element of the South, when it says of Hon. Joshua Hill, of Georgia:

"'Never can he represent there or elsewhere the brave and gallant men of Georgia. They know better than to intrust the honor of their dead and the interests of the living to such as he. Men do not trust those who have been false to them in the hour of danger and darkness. The southern people never will, never can confide in those who, born among them or living in their midst during the dark and stormy days of their grand struggle, prayed or sighed at least for the success of the foe, and for the ruin and devastation of the houses and temples and fields of the South, and for that fearful oppression beneath which these people are now staggering and groaning.'

"Here, then, is the edict that has gone forth from the fountain source, the law-maker and the law-giver of secession depravity, the fate that awaits all good, true, and loyal men who stood by their country in the country's peril, and hazarded fortune, liberty, and life in its defense, as did Andrew Johnson in Tennessee during the great strife and struggle for the life of the nation, and for the liberties of mankind on the one hand, and the perpetuation of the power of southern Democracy on the other. And all this we are asked to receive as unmistakable evidence of a purpose on the part of the conquered to do full justice and to extend a full measure of mercy and forbearance to their conquerors in the great conflict and strike for higher wages through which we have passed; in this is foreshadowed the fate of Mr. Johnson, whom they now smother with caresses, and stuff with professions of loyalty to him, if he should ever have the misfortune to fall into their forgiving and merciful arms." * * * * * *

"Now, then, I may be asked for what good purpose have I opened up, or propose to open up, these cases, and I answer, I propose to show to these gentlemen what is held by some of the best lawyers in this country to be sound, incontrovertible law in their cases—that they are not yet far enough out of the woods to push all these airs of superiority and lordly dictation to those who have rights in this Government superior to their own, to show to them that they stand on dangerous ground, with a mine beneath, and that they cannot and will not be permitted to frown down, or crush down, to trample down, to vote down, to write down, or to put down in any way the Union men of the South who have it in their power to place them in a far worse condition than they have yet occupied from the beginning of the rebellion, and in a far worse condition than they can place the Union men, either by voting them out of office, or otherwise oppressing or harassing them. As for their social distinctions, let them be kept up to their heart's content. Nobody cares, I suppose, to associate with any of those who prefer other society. This pretension and arrogance is too ridiculous and contemptible to produce any other feeling than that of pity and derision. If this disposition proceeded from the pride of the conquered it might be respected; but when it proceeds from bad taste, bad temper, bad feeling, and worse judgment, I should despise the man or woman who would stoop to conciliate it. They have the right to do it, but those who encourage it stand much in the way of their own interests and the interests of the State, when we should all work together for the common good; but they can be permitted no longer to treat Union men with indignity, nor to stigmatize them as traitors, for every such Union man has his remedy in his own hands. If any man calls me a traitor, or thinks me one, I challenge him to a trial of the question; let him make an affidavit against me, and I will return the compliment to him and have the question tried. I will promise to plead no pardon in bar that I have crawled to the footstool of power to solicit.

"Do you ask me what this remedy is? I'll tell you. Suppose the loyal men refuse to pay the taxes imposed by the body now in session—and I give timely notice now that I will not pay one dollar of tax imposed upon me—on the ground, first, that the Legislature is not a lawfully and constitutionally constituted body, and, second, that it is composed in part of aliens, whose pardons are of no avail, and who have no more right to tax me than a Mexican Legislature would have. The sheriff seizes my property, and I apply to the judge for an injunction and appeal to the law for protection; he grants the injunction and he decides that they did or did not comply with the provisions of the constitution, that they were or were not aliens, and that the pardons were or were not granted in accordance with the provisions of the constitution. The case is carried up to the court of appeals, and from there to the Supreme Court of the United States. Here is a case made for the Supreme Court, and suppose they decide that the pardons are good for nothing, then all any citizen has to do is to go before a magistrate or district judge of the Federal court and make oath that such a party has been guilty of treason and demand a warrant for his arrest, and he is bound to issue such warrant, and bring him to trial, when the pardon can be plead in bar, and thus bring it to the Supreme Court for adjudication.

"Now I want to be understood. Not a pardon has been granted that I desire to see revoked. There is no man that I have cared to see pronounced an alien by the law, provided full justice is done to the Union men, of whom there are from thirty to fifty thousand in this State, and who would openly proclaim it if it were not for the terror of public opinion and the fear of denunciation from the public press; but if there were but a handful, a baker's dozen, or if I stood alone, I would demand it for myself. Therefore I call upon every Union man in the State, and in the South, to stand up for their rights without fear and say to all who would withhold them, 'Stand from under.'

"Of course I must expect to hear a general howl and volumes of abuse from the 'reconstructed;' but I am so used to this that it don't hurt, and if they knew what contempt I feel for all such trash they would save their wrath and bottle it up for somebody else that would feel it more than I do. I once heard it said that if a man throws a stone in the dark, and he heard a dog howl, you may be sure it hit him. This much in anticipation of what is to come.

"This thing has to be stopped, for I pledge myself to bring the whole matter to a judicial decision, as I said before, if it costs me half that I am worth in the world if it is not. *'Verbum sat in præsenti.'*

"I am, very respectfully and truly, your friend,

"JOHN M. BOTTS."

Let it be remembered that if constitutional amendments are not secured now, they will not be secured when these Halls are filled with representatives from the rebel States.

And now, having given my views of this subject, I will, at the earliest practicable day, ask this House to pass the joint resolution.

LEAVE OF ABSENCE.

The SPEAKER *pro tempore* (Mr. THAYER) asked leave of absence for next week for Mr. GARFIELD.

Leave was granted.

Mr. ASHLEY, of Ohio. I move that the House adjourn.

Mr. WENTWORTH. Will the gentleman from Ohio withdraw that motion for one moment?

Mr. ASHLEY, of Ohio. Yes, sir.

FALL OF GOLD.

Mr. WENTWORTH. I desire to inquire whether any preparations have been made to drape this Hall in mourning in consequence of the fall of gold to 125? [Laughter.]

Mr. ASHLEY, of Ohio. I have not heard from any gentlemen on the other side.

Mr. WENTWORTH. Well, I will simply say that although I am in favor of the fall of gold, yet if the opponents of it wish to do anything of that kind I do not know that I would object.

Mr. LAWRENCE, of Ohio. Mr. Speaker, I would like to inquire at the same time whether anything has occurred that is likely to bring about a fall of taxes. Taxes have not fallen any, if gold has. The price of the means whereby taxes are to be paid is falling, and will continue to fall; yet taxes are not likely to decrease.

Mr. WENTWORTH. I will simply say, Mr. Speaker, in answer to the gentleman, that there is every probability that the few remaining soldiers of the Revolution and their widows, the soldiers of the war of 1812, and the brave boys who fought so nobly to put down the late rebellion, will, with members of Congress and the employés of this House, rejoice in a few days in the fact that the credit of this great Government of ours has been restored, and that the money of the nation is at par. God bless the soldiers!

Mr. GRIDER asked and obtained leave to print a speech. [See Appendix.]

Mr. ASHLEY, of Ohio. I renew my motion that the House adjourn.

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

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to the appropriate committees:

By Mr. KASSON: The petition of Campbell & Thayer, and others, for increase of duty on foreign linseed oil imported.

By Mr. LAFLIN: The petition of citizens of Clayton, Jefferson county, New York, in favor of universal suffrage.

By Mr. MORRILL: The petition of assistant assessors of second district of Vermont for increase of pay.

By Mr. NICHOLSON: The petition of John H. Price & Co., and others, for the removal of the tax on barrels and casks.

By Mr. PERHAM: The petition of J. H. Worcester, and 90 others, for the amendment of the tariff law so as to protect American labor.

By Mr. UPSON: The preamble and resolutions of the Common Council of the city of Lansing, Michigan, in favor of the extension of the land grant made to the State of Michigan for the purpose of building a railroad from Amboy, via Lansing, to Traverse Bay, and requesting the Senators and Representatives from that State to use all honorable means to procure such extension.

IN SENATE.

MONDAY, *March* 26, 1866.

Prayer by Rev. JOSEPH CUMMINGS, President of Wesleyan University, Middletown, Connecticut.

The Journal of Friday last was read.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives by Mr. MCPHERSON, its Clerk, announced that the House of Representatives had passed a bill (H. R. No. 207) to amend an act entitled "An act to provide ways and means for the support of the Government," approved March 3, 1865.

ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House of Representatives had signed an enrolled joint resolution (S. R. No. 50) in relation to the publication of the laws of the United States; and it was thereupon signed by the President *pro tempore*.

SENATOR FROM NEW JERSEY.

Mr. SUMNER. I rise to a question of privilege. I move to amend the Journal by striking out the vote of Mr. Stockton on the question of his seat. As the motion is of some importance I have reduced it to writing, and I send it to the Chair.

The PRESIDENT *pro tempore*. The following motion to amend the Journal of Friday's proceedings is offered by the Senator from Massachusetts. It will be read.

Mr. SAULSBURY. I rise to another question of order. The Journal is correct, the vote having been taken, and cannot be amended, I apprehend, by a resolution contrary to the fact. The vote was given by Mr. Stockton. The Journal is correct. No one denies that the Journal states the truth, and therefore to undertake to correct it now in this way would be to make it speak that which is false. The vote of Mr. Stockton was given. My point of order is that this motion cannot be entertained in the Senate, being out of order.

The PRESIDENT *pro tempore*. The motion must first be read. The proposed amendment to the Journal offered by the Senator from Massachusetts will be read.

The Secretary read it, as follows:

That the Journal of Friday, March 23, 1866, be amended by striking out the vote of Mr. Stockton on the question of his seat in the Senate.

Mr. SUMNER. Before I sit down I shall try to answer the remark of the Senator from Delaware.

There are two ways, I believe, if there are not three, but there are certainly two ways of meeting the question which is presented to us by the vote of Mr. Stockton. I use his name directly because it will be plainer and I shall be more easily understood. I say there are two ways in which the case may be met: one is by a motion to disallow the vote; the other by a motion such as I have now made to amend the Journal. Perhaps a third way, though not so satisfactory to my mind, would be by a motion to reconsider; but I am not in a condition to make this motion, as I did not vote with the apparent majority. I call your attention, however, at the outset, to two ways: one by disallowing the vote, and the other by amending the Journal; but behind both those ways, or all three ways, arises the simple question, had Mr. Stockton a right to vote? To this I understand it is replied that his name was on the roll of the Senate, and accordingly was called at the desk by our Secretary. To which I reply, and to my mind the reply cannot be answered, the rule of the Senate is to be construed always in subordination to the principles of natural law and parliamentary law, and therefore you are brought again to the question with which I began, had Mr. Stockton a right to vote?

Had he a right to vote, first, according to the principles of natural law, or, in other words, the principles of universal law? I take it there is no lawyer, there is no man even of the most moderate reading, who is not familiar with the principle of jurisprudence recognized in all countries and in all ages, that no man can be a judge in his own case. That principle has been reduced to form among the maxims of our common law as follows: *nemo debet esse judex in propria sua causa*. As such it has been handed down from the earliest days of the mother country. It was brought here by our fathers and has been cherished sacredly by us as a cardinal rule in every court of justice. No judge, no tribunal, high or low, can undertake to set aside this rule. I have in my hand the most recent work on the maxims of law, which is called Broom's Legal Maxims, where, after quoting this rule, the writer says:

"It is a fundamental rule in the administration of justice, that a person cannot be judge in a cause wherein he is interested."

He then goes on in another place to say:

"It is, then, a rule always observed in practice, and of the application of which instances not unfrequently occur, that where a judge is interested in the result of a cause he cannot, either personally or by deputy, sit in judgment upon it."

This rule had its earliest and most authoritative judicial statement in an opinion given by an eminent judge of England, who has always been quoted for his integrity in times when integrity was rare: I mean Chief Justice Hobart of the Court of Common Pleas. In his own reports, cited as Hobart's Reports, I call attention to the case of Day *vs.* Savadge, where this learned magistrate expressed himself as follows:

"It was against right and justice, and against natural equity to allow them"—

That is, certain magistrates—

"their certificate, wherein they are to try and judge their own cause."

And then he goes on to say, in memorable language, which has made his name famous:

"Even an act of Parliament, made against natural equity, as to make a man judge in his own case, is void in itself, for *jura naturæ sunt immutabilia*, and they are *leges legum*."

Thus strong was the language of this eminent magistrate. According to him, even an act of Parliament making a man judge in his own case was void. But, sir, he was not alone. His great contemporary and our teacher to this day, Sir Edward Coke, in a very famous case, which I have not before me now, but which is referred to in other cases, known as Bonham's case, lays down the same rule, that a court of justice will not even recognize an act of Parliament itself if it undertakes to make a man judge in his own case.

But another judge, who as a lawyer and as an authority in courts down to this day, perhaps, excels even those two that I have already cited—I mean Lord Chief Justice Holt—has explained and developed this principle in masterly language. I refer to what is known as Modern Reports, volume twelve, the case of The City of London *vs.* Wood, page 688, where he expresses himself as follows:

"I agree, where the city of London claims any freedom or franchise to itself, there none of London shall be judge or jury for there they claim an interest to themselves against the rest of mankind."

He then goes on to explain that principle, as follows:

"It is against all laws that the same person should be party and judge in the same cause, for it is manifest contradiction; for the party is he that is to complain to the judge, and the judge is to hear the party; the party endeavors to have his will, the judge determines against the will of the party, and has authority to enforce him to obey his sentence; and can any man act against his own will or enforce himself to obey? The judge is agent, the party is patient, and the same person cannot be both agent and patient in the same thing; but it is the same thing to say that the same man may be patient and agent in the same thing as to say that he may be judge and party; and it is manifest contradiction. And what my Lord Coke says in Dr. Bonham's case in his 8 Co. is far from any extravagancy, for it is a very reasonable and true saying, that if an act of Parliament should ordain that the same person should be party and judge, or, which is the same thing, judge in his own cause, it would be a void act of Parliament; for it is impossible that one should be judge and party, for the judge is to determine between party and party or between the Government and the party; and an act of Parliament can do no wrong, though it may do several things that look very odd, for it may discharge one from his allegiance to the Government he lives under and restore him to the state of nature, but it cannot make one that lives under a Government judge and party."

These are the words of Chief Justice Holt. It will be observed that three eminent judges, Hobart, Coke, and Holt, all found the inevitable conclusion on the immutable principles of natural law, that law which is common to all countries. It is the very law of which Cicero spoke in the concluding sentence of his treatise on the Republic, when he said that there was but one law for all countries now and in all times, the same at Athens as in Rome. It is also that universal law to which the great English writer, Hooker, alluded, when he said that her seat is the bosom of God; all things on earth do her reverence; the least as feeling her care, and the greatest as not exempt from her power. To this universal law all your legislation must be brought as to a touch-stone, and all your conduct in this Chamber and all your rules must be construed in subordination to it; and therefore I say as I began, the practice in this Chamber of calling the names on the roll of the Senate must be interpreted in subordination to this commanding rule of universal law.

But that is not all. I said that it was forbidden not only by natural law, but also by parliamentary law. Of course parliamentary law in itself must be in harmony with natural law; but parliamentary law has undertaken in advance to deal with this very question. There is no rule of the Senate on the subject, but there is a rule in the other House, as follows:

"No member shall vote on anything in the event of which he is immediately interested."

This is but an expression in parliamentary language of what I have announced as the rule of universal jurisprudence. But, sir, this rule of the other House was borrowed from the rules of the British House of Commons, one of which is as follows:

"If anything shall come in question touching the return or election of any member, he is to withdraw during the time the matter is in debate."

I quote from May's Parliamentary Law, page 450. I now quote from another work of authority, Dwarris on the Statutes, part first, page 281, who expresses himself as follows:

"No member of the House may be present when a bill or any other business concerning himself is debating. While the bill is but reading or opening, he may"

Then, after citing two different cases, the learned writer proceeds as follows:

"This rule was always attended to in questions relative to the seat of a member on the hearing of controverted elections, and has been strictly observed in cases of very great moment."

Again the same writer says, on page 304:

"Where a member appeared to be 'somewhat' concerned"—

That is the phrase, only "somewhat"—

"in interest, his voice has been disallowed after a division."

Then, again, Cushing, who was quoted so frequently the other day, in his elaborate book on the Law and Practice of Legislative Assemblies, pages 711 and 713, expresses himself as follows:

"Cases are frequent in which votes received have been disallowed."

Again he says:

"Votes have also been disallowed, after the numbers have been declared, on the ground that the members voting were interested in the question; and, in reference to this proceeding, there is no time limited within which it must take place."

Thus, sir, you will see, as I have already said, that parliamentary law is completely in harmony with natural law. Indeed, if it were not, it would be your duty to correct it to the end that it should be brought into such harmony.

And now, after this statement of the law, which I believe is completely applicable to the case of Mr. Stockton, I am brought to consider the remedy. I said at the outset that there were two modes: one was by disallowing the vote on motion to that effect, and the other by amending the Journal. But first let me call your attention to the practice in disallowing a vote on motion. I have already read from Dwarris, where the vote was disallowed, and I will read it again:

"Where a member appeared to be 'somewhat' concerned in interest, his voice has been disallowed after a division."

Mr. TRUMBULL. Was that at the same or a subsequent session?

Mr. SUMNER. It does not appear whether it was at a subsequent session, but it simply appears that it was after the division. The Senator understands that the division in the British Parliament corresponds with what we call the yeas and nays. They do not take the yeas and nays. They "divide," as it is called. The yeas, for instance, stay in the Chamber, and the nays go out into the lobby, and they are counted as they go out.

The American authority is in harmony with the English which I have already quoted. I read now from Cushing, page 712, section 1836, as follows:

"The disallowance of votes usually takes place when, after the declaration of the numbers by the Speaker, it is discovered that certain members who voted were not present when the question was put, or were so interested in the question"—

Mark those words, if you please, sir—

"that they ought to have withdrawn from the House.

"It has already been seen that when it is ascertained that members have improperly voted, on a division, who were not in the House when the question was put, if this takes place before the numbers are declared by the Speaker, such votes were disallowed by him at once, and not included in the numbers declared. If the fact is not ascertained until after the numbers are declared, it is then necessary that there should be a motion and vote of the House for their disallowance; and this may take place, for anything that appears to the contrary, at any time during the session, and has, in fact, taken place after the lapse of several days from the time the votes were given.'

Thus much for the remedy by disallowance; and that brings me now to the proposition which I have made, which I call the second mode of remedy, by amending the Journal. That remedy, permit me to say, from the nature of the case is applicable to an error which appears on the face of the Journal. I ask Senators to note the distinction. It is applicable to an error that appears on the face of the Journal. If the interest of a Senator appeared only by evidence *aliunde*, by evidence outside, as for instance, that he had some private interest in the results of a pending measure by which he was necessarily disqualified, his vote could be disallowed only on motion; but if the incapacity of the Senator to vote on a particular occasion appears on the Journal itself, I submit that the Journal must be amended by striking out his vote. The case is patent. We have already seen, by the opinions of eminent judges, great masters of law in different ages and countries, that what is contrary to the principles of natural law must be void; and English judges tell us that even an act of Parliament must be treated as void if it undertakes to make a man a judge in his own case. Now, sir, apply that principle to your Journal. It has recognized a man as a judge in his own case. I insist that the recognition was void. Is not the true remedy to be found by amending the Journal so as to strike out his name from the proceedings? Of course the Journal discloses the two essential facts: first, that as a Senator he was a party to the proceedings; secondly, that as a Senator he was a judge in the proceedings; and since those two facts appear on the face of your Journal, it seems to me that the only substantial remedy is by amending your Journal to the end that a precedent of such a character shall not find a place hereafter in the records of the Senate.

Sir, this question is not unimportant; it is grave. It belongs to the privileges of this body. I might almost say it is closely associated with the character of this body. Can Senators sit here, and by their sanction allow one of their number, on an important occasion, to come forward and play those two great parts, party and judge, at the same time? And yet those two great parts have been played in this Chamber, and your Journal makes a record of the performance. I ask that the Journal should be rectified in harmony with the principles of parliamentary law, and in harmony with the principles of universal law.

In making this motion I have no other motive than to protect the rights of the body of which I am a member, and to establish those principles of justice which will be a benefit to our country for all time. You cannot lightly see a great principle sacrificed. You abandon your duty if you allow an elementary principle of justice to be set at naught in this Chamber. Be it, sir, your duty to uphold those truths and to stand by those principles. I know no other way in which you can do it so completely and effectually as by amending your Journal and eliminating from the record the mistake that was made. The vote of Mr. Stockton was null and void. It should be treated as if it had not been given.

I have no doubt that the motion that I now make to correct this Journal would be in order even at a late day. I believe that at any day any Senator might rise in his place and move to expunge from the Journal a record which in itself is derogatory to this body. I have in my hands a reference to the case of John Wilkes, who, you will remember, just before our Revolution, was excluded from Parliament, while his competitor, Luttrell, was declared duly elected. The decision of Parliament, so the history records, convulsed the whole kingdom for twelve years, but after that long period it was expunged from the Journals—I now quote the emphatic words—"as being subversive of the rights of the whole body of electors of that kingdom." But, sir, the record made in your Journal, I submit, is subversive of the great principle of jurisprudence on which the rights of every citizen of this country depend.

Mr. JOHNSON. Mr. President, it is not pretended that the entry on the Journal was not correct in point of fact. The reason why the member, whose seat was contested, voted, was stated in the presence of the Senate and the vote was recorded under the opinion of the President *pro tempore* that his name being upon the list of Senators must be called as must be called the names of all other Senators. It was called. The vote was received; the resolution was announced to have been passed; and the Senate adjourned. Now, the honorable member from Massachusetts, under the impression that the character of the body is involved—the character of which he claims apparently to be the especial vindicator—asks the Senate to strike out from the Journal that vote. I had supposed when I heard that such a motion had been made by the honorable Senator that it was nothing more than a motion to expunge an entry in the Journal that had been improperly entered, but the honorable member has left the Senate in no doubt on that subject, because, as authority for the motion which he makes, he refers to what was done in the British Parliament in the case of the contested election between Wilkes and Luttrell, in which he says that that Parliament, with a view to vindicate its own honor and the rights of Englishmen, after a lapse of twelve years expunged the proceedings which had been had in Parliament in relation to that election.

If the honorable member's recollection had gone to an incident of still later date, it might have told him that the same proceeding was had in this body when, by a vote of the body, black lines were drawn around a vote of this body condemnatory of the course of a very popular chieftain, great as a military man, and almost idolized as a statesman. I think the Senator belonged at that time to the party who denounced that proceeding as utterly unconstitutional. One of his great predecessors made a speech that thrilled throughout the Chamber, and thrilled throughout the land, denouncing the proceeding as a flat and palpable violation of the Constitution. That speech is among the other speeches of that great man which have often been referred to by his successor, the present member from Massachusetts, and always with admiration; and I cannot imagine how it is that he should change his opinion in relation to the propriety of a course of that kind in this particular instance and now for the first time.

It is "to save the honor of this body," and the honor of this body is to depend upon the keeping of the honorable Senator from Massachusetts! Speaking for one, and the humblest of the body, however presumptuous it may be, I feel myself as well able to maintain my official and private honor without the aid of the Senator from Massachusetts as with it; and it is rather a reflection upon the character and the reputation of the Senate to be told by the Senator from Massachusetts, or by anybody else, that we need his bidding to tell us what our own reputations demand or what the honor of the Senate requires. What have those of us who voted in accordance with the vote cast by the honorable member from New Jersey done?

We have sat still, heard his vote recorded, heard the result announced, and not an objection was made by any member of the Senate, except by the honorable member from Nevada [Mr. NYE] and the honorable member from Massachusetts himself, who, in a moment of excitement, told us it was against the law of nature, not of nations, as he is represented. Against the law of nature to do what? That a man should sit in judgment in his own case. Is it his own case within the meaning of the principle upon which the honorable member from Massachusetts relies? It is the case of the State of New Jersey, and not of Mr. Stockton. He stands here claiming to represent her. He in the past has voted in that capacity, and in casting his vote the other day he represented, not himself individually, but the State of New Jersey. Whether he properly represents New Jersey may be a question; but in the vote he cast, he cast it claiming to be the representative of New Jersey, and his name stands upon your files as the representative of New Jersey. How are you to get it off? Every resolution that has been before the body, whether proposing an amendment to the Constitution or otherwise; every bill which has been submitted to the body and upon which the body voted, no matter what the nature of the bill was, he has been permitted to vote upon, and his vote has been recorded. When has he ceased to be a member of the body? Never; and being a member of the body, what is there to prevent his casting his vote upon a question as much affecting, as he believes, the rights of his own State as any question which has been presented before us during the period that he has honored us by his presence.

Lord Coke, and Hobart, and various other authorities, have been produced for the purpose of showing that this case comes within the principle that they have announced. It is an entire misapprehension of the principle. He who has a personal interest with which the interest of the public is not combined has no right to sit in judgment in any case involving that interest; but whether he has a personal interest or not, when called upon to pass upon a question which involves the public interest as well as his own, he forfeits his duty to the public if he fails to vote. Nothing can be plainer than that; and the honorable member's doctrine would be to force a Senator in the situation in which Mr. Stockton is placed to abandon the interests of his State upon the assumption that his own individual interest may perhaps be bound up in the public interest of the State.

Assuming now that he has an interest, what is it? It is an interest—I speak of it with due respect—that no member of the Senate should for a moment suppose would influence the judgment of any member of the body; it is the interest in his pay. He has a compensation, and it is supposed that the interest in that compensation is likely to bias his judgment; for that is the principle upon which the exclusion rests. Will the honorable member from Massachusetts tell us whether upon a great question of public moment his judgment could be biased by the fact that he was to receive $250 per month? My friend smiles; why? Only because he knows, as I know, and we all know, that it is no interest within the meaning of the rule. Is it to be supposed that a Senator of the United States would be capable of being false to duty in the discharge of a great and high public trust by the paltry and mean consideration that as he may decide it the one way

or the other he is to pocket $250 a month, or to be without it? So far as interest is concerned, the interest is the other way. Who is there belonging to the body, looking to the mere point of interest, that would not be benefited by leaving the body? I am sure the honorable member from Massachusetts, and no member of the Senate would bring his mind to the condition of alleging that Mr. Stockton or any other man who claims a seat upon the floor of this Senate, could permit his mind to be influenced by such a miserable, contemptible amount of interest as that. Then, if there is no interest within the meaning of the principle, the only question of interest that arises is a question of public interest.

Mr. SUMNER. I will remind the Senator that members of the House of Commons receive no compensation, and yet no member of the House of Commons is allowed to sit as a judge in his own case.

Mr. JOHNSON. After awhile, if the learned member goes on, he will try to persuade us that the Government of Great Britain is a great deal better than our own; that a monarchy is to be preferred to a republic; and that instead of the present mode of electing Presidents, we should adopt the mode resorted to in the Vatican of electing Popes.

Now, they have made a rule in the House of Representatives on this subject, he says. What is the rule? In the first place, why make a rule? The honorable member says it is a part of the law of nature. I suppose that the members of the House are subject to the laws of nature. Then he says it is a part of the law of Parliament. I imagine the House of Representatives are supposed to know what the law of Parliament is; but notwithstanding that, they adopted the rule to which the honorable member refers. We have adopted no such rule; and if the rule referred to as adopted by the House was a rule which would cover a case of this description, the adoption of it by the House is conclusive evidence that without it the law would be otherwise than it was made to be by the rule. But the rule is altogether misconceived.

But it is said the rights of the American people are involved, the reputation of the Government is at stake. If the rights of the American people and the reputation of the Government are to depend on the manner in which this case is disposed of, they are neither rights nor reputation worth contending for.

The whole of the Judiciary Committee except my friend the member from New Hampshire [Mr. CLARK] were satisfied that Mr. Stockton was duly elected. What would have been the result if Mr. Stockton had not voted? Would he have lost his seat? The member from Massachusetts, I suppose, is under that impression. Would a tie vote—and that would have been the state of the vote if he had not voted—have lost him his seat? Certainly the member knows that it would not. He is to remain here until he is excluded; and as far as the result, therefore, is concerned, it is quite immaterial whether he cast that vote or did not cast it. Why did he vote? He gave his reasons on Friday. I shall not repeat them. Even if there had been any want of delicacy in such a vote in ordinary circumstances, there was in the judgment of many, perhaps of all, thought to be no want of delicacy under the particular circumstances in which he cast his vote. His colleague was away and had telegraphed that he would be here early this week. He had no notice that his vote would be required at all until Thursday morning. He telegraphed in reply, after stating matters which I shall not mention, "I am now confined to my room, and I cannot come immediately, but I will be there early in the next week;" and yet the vote was taken on the very day the telegram arrived.

Mr. FESSENDEN. Nothing was said about postponing the vote on the part of Mr. Stockton; no request was made to postpone.

Mr. JOHNSON. There was no proposition on this side. There was no proposition suggested by my friend, who, I have no doubt, acted as he thought was right, to make a postponement. Under the circumstances, therefore, I think the sense of the public was and will be that even supposing there was the slightest want of delicacy in casting a vote upon such a question by the member whose seat is contested, it was in the particular instance more than justified by the circumstances existing at the time the vote was cast.

I have said all I propose to say. The whole matter is in the keeping of the Senate. No matter what may be the judgment of those who differ from me personally, whether they direct the name to be stricken from the Journal or not, I shall rest perfectly conscious that my honor is untarnished by my approval of the act of the member from New Jersey.

Mr. TRUMBULL. I regret exceedingly that this question is presented in the shape in which it is now before us. In the consideration of the right to a seat of the Senator from New Jersey I have regarded it, and I think the committee to which it was referred all regarded it, as a judicial question. We endeavored to look at it purely in that light. It was a question of law, whether the Senator from New Jersey was entitled to his seat or not. In the opinion of the committee he was entitled to his seat. That was my opinion; it is still my opinion. I think he is clearly entitled to his seat. But, sir, there was a difference of opinion in the Senate, and when the vote came to be taken upon that question the name of the Senator from New Jersey was called and he himself voted. Since I have been a member of this body, in the last eleven years, there have been a number of contested cases; the right to seats of several gentlemen sitting here as Senators has been questioned; and this is the first time that any person whose seat has been questioned has ever voted since I have been a member of the Senate; and I confess I was very much surprised when the Senator from New Jersey proposed to vote. When he directed his name to be called, some gentleman sitting near me, I believe the Senator from Nevada [Mr. NYE] asked if he had a right to vote in his own case. Privately I said to him at once, "Certainly not." I believe he asked the question of the Presiding Officer of the Senate, and he simply replied by stating that Mr. Stockton's name was on the list. No more was said; no decision was made; it took the Senate by surprise I think; his vote was recorded, and the result announced. The Presiding Officer said there was no rule of the Senate on the subject. That is true; but there are some things that it needs no rule to declare. If any member of the Senate had risen in his place and had asked his name to be called a second time and to vote twice, there is no rule that a member of the Senate shall not vote twice; but there are some self-evident propositions, and among them is the one that no man shall be a judge in his own case. This is a judicial question. It is not like an individual who is a candidate for office going to the polls and voting for himself where his right to vote is not in question. The question here is not whether the State of New Jersey is entitled to representation or not, but it is whether the person who claims to have been elected to this body has been elected or not. It is a judicial question, and in my judgment the Senator from New Jersey had no right to vote.

Now, sir, how this is to be corrected—I think it ought to be corrected—is another question. The Senator from Massachusetts proposes to correct it by striking from the Journal the name of the Senator from New Jersey. What would be the effect of that? The resolution has passed. Suppose you strike his name from the list, where does the resolution stand? Suppose, instead of a resolution of this body, it had been a bill from the House of Representatives—and I submit that for the consideration of the Senator from Massachusetts—suppose it had been a bill from the House of Representatives upon its passage from this body, and the result depended upon the vote of a Senator who was interested in the result, and the bill had been carried by his vote, and this occurred last Friday, and in the mean time the bill had been presented to the President of the United States and had received his signature, and we came in on the Monday morning following and moved to strike from the Journal the name of the interested party by whose vote it was carried, what would become of the law? What would be the condition of this resolution?

I believe, as I said before, that the Senator from New Jersey is entitled to his seat, but I do not believe that he is entitled to hold his seat by his own vote. He would have held his seat without his own vote. The vote upon the resolution was a tie without the vote of the Senator from New Jersey; and that would have left him in his seat, he already having been sworn in as a member. It is not necessary that the resolution should have passed. He is here as a Senator, and it would require an affirmative vote to deprive him of his seat as a Senator.

Mr. NYE. Will the Senator from Illinois allow me to ask a question?

Mr. TRUMBULL. Certainly.

Mr. NYE. If I understand the resolution reported from the Committee on the Judiciary the conclusion of it was that the Senator from New Jersey was entitled to his seat. I wish to ask whether, in order to pass that resolution, it is not necessary to have a majority vote.

Mr. TRUMBULL. Certainly it is; but the Senator is here without that.

Mr. NYE. That is what we will discuss hereafter.

Mr. TRUMBULL. You would have to get him out by a vote, would you not? And if you proposed such a resolution and the vote was twenty for it and twenty against it the resolution would fail.

Mr. NYE. If the Senator from Illinois will show me how he can pass a resolution without a majority vote of this body, I will be obliged to him.

Mr. TRUMBULL. That is not a matter involved here at all. It is not necessary to pass a resolution to declare the Senator from New Jersey entitled to his seat any more than it is necessary to pass a resolution to declare the Senator from Nevada entitled to his seat. They are both here as Senators, and until you have some affirmative vote of the Senate denying them the right to their seats they have a right to remain here as Senators. It will require, as I said, an affirmative vote.

Mr. CONNESS. It is simply an undetermined question. He would not have a right.

Mr. TRUMBULL. The question with me is as to the proper mode of arriving at this matter; and it seems to me that the proposed proposition would not accomplish the object; at any rate without another proposition, if this carries, to strike the Senator's name from the roll. Then you would have to bring up the resolution, it seems to me, upon which we acted, for although this motion carried, that would stand just as it is. It seems to me that the proper and the only proper mode of reaching this matter would be to reconsider the vote by which the resolution was carried, and then, when the question arises upon the passage of that resolution, the Senate can decide as to whether the Senator from New Jersey shall vote or not. If his name is stricken out the resolution stands unpassed; but it seems to me we have to get that resolution before us in some shape in order to place our action properly upon the Journals. I do not see how you can expunge the Journal to change the result of what has happened. I am inclined to think that the proper course to pursue is that which I have suggested; and I shall be prepared, if that is the proper course—I leave that to other Senators—to move a reconsideration of the vote by which that resolution carried, if that is necessary to accomplish the object.

Mr. SUMNER. Do I understand my friend from Illinois to say that he is ready to move a reconsideration?

Mr. TRUMBULL. I said if it was necessary to accomplish this object. If that is the best mode to get at it, I shall make that mo-

tion if no other Senator does. I did not see how it could well be accomplished by the Senator's motion, and I ask him now whether in any of the cases to which he has referred the result was determined by the vote of the interested party.

Mr. SUMNER. I think not.

Mr. TRUMBULL. Then they are not analogous to the proposition which he has made.

Mr. SUMNER. I did not understand the Senator's question. I have two cases before me to which I will call attention. The Senator, as I understand him, now proposes to move a reconsideration. I am glad of it.

Mr. CONNESS, [to Mr. SUMNER.] You withdrawing your motion.

Mr. SUMNER. I am glad of it, I say. When I brought forward this motion, and, indeed, when I undertook to consider the propriety of bringing it forward, I had no reason to suppose that any Senator would move a reconsideration. Voting as I did, I was not in a condition to make such a motion; I could not make it; and with me the practical question was how to bring the Senate to a vote on the important question whether Mr. Stockton had a right to vote for himself. That was with me the practical point —how to bring that up for consideration? As I have said, I could not move a reconsideration, nor after conversation with different gentlemen interested in this question did I learn that any Senator was prepared to bring forward such a motion. What was to be done? Surely the next best thing; and after reflection and careful examination of the precedents I satisfied myself that the next best thing was the motion which I have now made to-day. And now allow me to make one further remark.

The Senator from Illinois opens a question which he will remember I did not open in the discussion to-day. I confined myself simply to the question whether Mr. Stockton had a right to vote. I did not go into the second question which the Senator opens, what would be the effect of striking out his vote? I see the importance of that question; I see its bearings; I was not insensible to them when I commenced this discussion; but I chose to confine myself to what to my mind was the first question, had Mr. Stockton a right to vote? and I thought it belonged to the Senate to settle that question, whatever might be the effect of their determination on the result of the vote. Suppose the result was left as the Senator from Illinois states, with Mr. Stockton in his seat, I submit that that should not affect our course on this occasion. It belongs to us to establish forever this precedent; we must see to it that no one of our number hereafter comes into this Chamber in the two parts of party and of judge. Suppose Mr. Bright, who was some years ago expelled from this body, after an animated debate lasting several weeks, and as I am reminded our excellent Judiciary Committee reporting in his favor—suppose he had undertaken to vote for himself, is there any Senator who would not have felt that it was wrong to admit any such vote? Mr. Bright on that occasion showed no want of hardihood, but he did not propose to vote for himself. I ought, however, to add that the vote against him was so large that his own vote could not have turned it the other way. But if you allow Mr. Stockton to vote in his own case now, how can you stop a Senator from voting in his own favor when proceedings are against him here for his expulsion? The rule must be the same in the two cases. I therefore submit that it is important for the rules of the Senate to determine precisely whether a Senator in the situation of Mr. Stockton can vote, and I say that is the first question.

Now, the Senator from Illinois introduces the second question, and he says, suppose we strike out Mr. Stockton's vote, what will be the effect? On that I answer that the effect will be, in the first place, to change the subsequent proceedings and make them as if he had not voted, and the record must be corrected throughout accordingly, and the declaration of the vote by the Chair accordingly. Any proceedings subsequent to the action must be amended in harmony with the correction.

The Senator from Illinois put the case: suppose a bill is passed by mistake, and the mistake is afterward discovered, could that bill be arrested? I say if it was not too late it clearly could be arrested. We all know—the anecdote is familiar to us, the Senator has recalled it to my mind—of the passage of the great act of *habeas corpus* in England, which, according to the story, (I think it is Bishop Burnet tells it to us,) passed under a misapprehension as they were voting. This was in the upper House; as the peers passed between the tellers one lord said, count such a peer, who was passing along, being very fat, as ten; and he was counted as ten for the bill. The bill passed by some four or five votes; and so a fat man being counted for ten gave at that time to the English people what they have since called the great palladium of their liberties, the writ of *habeas corpus;* but I am not aware that the mistake was divulged until it was too late for correction. But we have had in the other House two cases, which I have before me in the Journals of the House, which answer precisely the inquiry of my excellent friend, the Senator from Illinois. I read from the House Journal, first session Twenty-Ninth Congress, under the head July 6, 1846, page 1032:

"Mr. McGaughey moved that the same [the Journal] be amended by inserting thereon all the proceedings of Friday last in relation to the vote upon inserting 'salt' in the schedule of articles free of duty, which were then declared by the Speaker to be null, in consequence of the discovery of an error in the adding up of a vote, and which were consequently omitted from the Journal of that day.

"The Speaker stated that inasmuch as the error alluded to in the amendment proposed by Mr. McGaughey was discovered before the next vote was announced, and as that vote was upon a motion to reconsider the last vote, made by a member who voted with the majority, and as the correction of the error changed the result of that vote, the member making the motion had no right under the rule to make it, and therefore all the action subsequent to the announcement of the erroneous vote was properly stated by the Speaker at the time to be a nullity, in which statement the House acquiesced. The Speaker therefore decided that the amendment of the Journal now proposed by Mr. McGaughey was not in order."

The other case I find in the House Journal, first session Thirty-First Congress, under date of September 10, 1850, page 1436:

"The Speaker stated that the result of the vote of the House on yesterday on the passage of the bill of the House (No. 387) to supply a deficiency in the appropriation for pay and mileage of members of Congress for the present session had been erroneously announced, and that the subsequent proceedings upon the said bill would consequently fall.

"The Speaker then announced the vote to be—yeas 98, nays 76.

"So the bill was passed; and the Journal of yesterday was ordered to be amended."

According to these precedents, should the motion which I sent to the Chair be adopted, the Journal throughout must be amended accordingly; the vote would therefore fall; in other words, it would stand, as the Senator states, a tie. Now, I do not propose at this moment to discuss the condition in which that would leave Mr. Stockton, whether it would leave him a member of this body or not. I will simply make one remark upon it in which I think all Senators will agree with me. If the resolution is recorded on your Journal as having a tie vote on its passage, it surely is not passed. Mr. Stockton may be left in his seat, but the resolution affirming his title to the seat is not passed; and, therefore, at any time during the present session, I take it, it will be open for the consideration again of the Senate, or that some further proposition looking to the same end may be introduced; at any rate, the Senate will not be concluded by the vote. I content myself with that statement; and now I come back to the proposition of my friend from Illinois.

I said at the outset that I was not in a condition to make the proposition of reconsideration. I would add, also, that I adhere to the opinion which I expressed at the beginning, that it were better, if the Senate were now disposed, to proceed at once to correct the Journal by striking out the name of Mr. Stockton from the vote in question, and thus establishing a precedent for all time. But that may cause a discussion protracted, and I do not know whether the Senate are ready to adopt it or not. The Senator from Illinois, however, is ready to move a reconsideration; and that I see will furnish a practical mode of reaching the conclusion which I seek. On the consideration of his motion, of course we may properly object to the vote of Mr. Stockton, and take the opinion of the Senate upon that objection. What I have been aiming at will then be reached. As I say again, I should like to eliminate from the Journal of the Senate the record that has been made; but I seek a practical result, and therefore I shall follow the Senator from Illinois. I withdraw the proposition.

Mr. SHERMAN. I think, with due deference to the Senator from Massachusetts, that he errs in withdrawing the proposition. If he will not withdraw it for a moment I will give a reason why I think so.

Mr. SUMNER. Certainly.

Mr. SHERMAN. This is a question of parliamentary practice. Undoubtedly, if a vote is given by any person, whether a Senator or not, it is the right of the Senate at some time to supervise the authority of the person to vote. There is no doubt that if a Senator is directly involved in a measure before the Senate he is excluded by a general parliamentary rule from voting; but the question arises, when can the objection be made? It cannot be made pending the vote; and the same difficulty would arise if the suggestion of the Senator from Illinois were now adopted. Suppose Mr. Stockton, as Senator from New Jersey, should again offer his vote. Pending the division of the Senate, can you stop and discuss his right? Can that question be raised and decided in the midst of a vote, during the call of the yeas and nays? I say, certainly not. His name may be called; he may vote; but it is the duty of the Senate after the vote is given to determine whether or not the vote was properly given, whether he had a right to vote upon the question. It seems to me, therefore, that it is wiser and better to decide the right of Mr. Stockton to vote on this motion to amend the Journal. That is the proper way, and the only way in which you can present the question. It is true that if the motion had been made on Friday, after the Chair announced the result, to correct the amendment on the ground that one of the votes given was given without authority of law, or in violation of parliamentary rule, the objection might then have been made, and the question presented to the Senate. It seems to me that the lapse of time from Friday to this day does not change the right of the Senate to pass upon that question. This, I think, is the only way in which we can pass upon it now.

Suppose that the proposition of the Senator from Illinois is now put, and we reconsider the vote, we are placed in precisely the attitude we were in before the vote was taken. Suppose the roll is again called upon the passage of the resolution, and Mr. Stockton again offers his vote, the same difficulty occurs. No question can be raised pending the vote or pending a division of the Senate which will give rise to debate. Any question that does arise in the midst of the vote must be decided promptly by the Chair, without debate, from the very necessity of the case. There must be a time when the Senate can pass on this question. It seems to me that can be done immediately on the announcement of the vote, in correcting the announcement of the Chair, because the Chair is but the organ of the body in announcing the vote; or it may be done in passing upon the Journal, which is always acted upon at the next session after the vote is given. It appears to me, therefore, that this is the time and this is the proper occasion to determine whether or not Mr. Stockton had a right to vote in this particular case. I will not pass my judgment now on that question or upon any other question involved in this matter, but simply as to the question of time and manner. It seems to me the Senator from Massachusetts presents the question in the proper manner, and that

now is the time to act upon it, before we pass upon the correctness of the Journal.

Mr. DAVIS. The motion made by the honorable Senator from Massachusetts is to correct the Journal. What matter does such a motion involve? Simply the question whether there has been a departure in the Journal, as it has been made up by the Clerk, from the proceedings and acts of the Senate. According to that rule there is no correction to make. The record is in strict conformity to the action of the Senate, the Journal faithfully records everything that was done in the Senate and nothing more; and for that reason there is nothing to correct.

But, Mr. President, I will say a word upon the main question here. I maintain that Mr. Stockton had an undoubted right to vote. He presented his credentials to this body some three months since, and was admitted by its order to take the oath of office and to take his seat upon this floor as a Senator. From that time up to the consideration of this subject he has been voting, debating, and acting precisely as the other Senators. Was or was not his action as a Senator in this body as strictly legitimate and regular as that of any Senator in the body upon all other subjects? No gentleman will controvert that proposition. What is there to deny him the right to vote in his own case, as it is called, upon the question of adopting the resolution reported by the Committee on the Judiciary? He is a member of the body; he is a Senator of the United States. As such he has been uniformly acting from the time that he took the oath of office the same as any other Senator in the body. If his action were regular, legitimate, and proper on all other subjects, was it not equally so upon the present subject and in the present mode? It is, unless there be some law or some rule that excludes him from his privilege and his right to vote. Where is the law, where is the rule, that debars Mr. Stockton from his right to vote in this matter? The precedents read by the Senator from Massachusetts are not analogous, because the House of Representatives have a positive rule that excludes every member from voting upon any question in which he is personally interested. The Senate has no such rule; and in the total absence of such rule I ask gentlemen for the law that excludes Mr. Stockton from his right to vote. What says the Constitution of the United States upon the subject of the Senate and the right of Senators to vote?

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

That is the constitutional provision; that is the law of the Constitution in relation to the right of a Senator to vote generally upon all questions, without any exception whatever of his own case. He, by the letter of the Constitution, is entitled to vote, and he is by its spirit, too. Where is the rule, I ask again, that overrules this provision of the Constitution which expressly guaranties to every Senator the right to one vote? It is not found in the Constitution; it is not found in any rule of the Senate; and it cannot be deduced from parliamentary law, because that parliamentary law would be in conflict with this express provision of the Constitution.

Mr. President, this is a rule not for this case alone, but if it is adopted it will apply to the future, unless it should be abrogated, and what will be its effect in the future? Suppose at a future session the Senate is equally divided; it is separated into two parties, and the strength of both parties is the same. What is to be done then? One of the fractions of the Senate immediately institutes a contest of the seat of a Senator belonging to the other party, and under the rule that a Senator cannot vote in his own case, the party that makes the contest will gain the ascendency in the Senate by excluding the Senator whose seat is contested from his right to vote, and overpower him by a majority vote on a question on which he is not entitled to vote, and deprive him of his seat. That will be the effect of it.

Is there a Senator in this body who is not perfectly convinced in his own mind that the whole object of this movement now is party power in the body? If the division of the Senate between the parties had been different, so different that the question how Mr. Stockton's right to his seat might be decided could not affect the majority in the Senate, and the power of the party that now is claiming by this mode to gain the ascendency, can any man who has witnessed the proceedings of the Senate suppose that there would have been any contest of his seat at all?

Mr. President, I am authorized to come to the conclusion that this is not a *bona fide* examination of the right of the Senator from New Jersey to a seat here according to his vote and the law and the Constitution. It is not intended to examine into and ascertain, upon the principles of law and the facts of the case, whether he is entitled to his seat or not. That is not the object. The object is to gain party power, to acquire a power in the body sufficient to achieve a two-thirds vote of the Senate for the party objects of the party that is now in the ascendency in the two Houses of Congress; and no man is so blind as to wink his eyes against the truth of that proposition. If this issue had been made before a tribunal irrespective of party considerations and the necessity, real or supposed, of a party majority of two thirds, we should never have heard, in my judgment, of the right of Mr. Stockton being seriously contested, or at least such contest would only have been by a very small minority of the body.

Mr. President, will not the same party excuses and the same need for party ascendency and for party strength in this and in the other House come about in the future? In future Senates, when the House may be divided, as it may well be divided, equally in the case that I put, what will be the effect of this precedent, and of party impulses generally? It will be for one of the parties to contest the seat of a member of the other party in the House, without any regard to the merits of the case, but simply to grasp at and reach party power.

Now, Mr. President, if Mr. Stockton is to be deprived of his right to vote on the present question, it must be by some rule or by some law. Will the honorable Senator from Massachusetts point out any rule or any law that contravenes, much less that overrules the positive provision of the Constitution, that each Senator shall be entitled to one vote? That is the law of the Constitution in the organization of the Senate. If the Senate has prescribed a rule for its own proceedings, that a Senator should not vote on a question in which he was concerned or interested, the question might come up, then, between the validity of such a rule and the provision of the Constitution; but this case, as it is now before the Senate, admits of no such question. There is no conflict of rule or law to govern the principle of the case; but here is a simple rule of the Constitution, that says in plain and explicit language that the Senate shall consist of two members from each State, and that every Senator shall be entitled to one vote, generally, without qualification, without reservation, and that, I maintain, entitles Mr. Stockton here to vote. If the Senate ever intended a different rule they would have prescribed a special rule to govern the particular case; and in the absence of any special rule or any rule upon the subject, his right to vote, in my judgment—and I have always been of this opinion—is just as undeniable and as valid as that of any Senator of the body. Whether he will vote or not in his own case is a question addressed to his own delicacy and his own sense of honor; and I concur with the judgment passed by the honorable Senator from Maryland, that the circumstance of this case fully authorized and required him to cast his vote; and he would have been derelict to his duty to the State of New Jersey and to his duties as a Senator in this body not to have given that vote.

The PRESIDENT *pro tempore*. Is the Senate ready for the question on the motion to amend the Journal?

Mr. STOCKTON. Mr. President, I had not intended to say one word on this subject to-day; but remarks have been made in the course of this debate which it may seem proper that I should reply to. And first, let me ask, was I entitled to vote? The Constitution of the United States, section three of article first, says:

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

Now, Mr. President, I have flattered myself even yet, through four terrible years of this war, that I was living under a constitutional Government, and that when the Constitution of the United States said a thing in direct words, all the authority that could be read from parliamentary law would be inapplicable, and could not control the judgment of any gentleman in this body.

Gentlemen seem to see this point very clearly; but their friends elsewhere do not. There are in the Senate of New Jersey now eleven Republican senators and ten Democratic senators; and at the opening of the session a Republican senator voted for himself, with his party, and elected himself president of the Senate of New Jersey, and is to-day presiding over it. Your rules, gentlemen, are different here from what they are in New Jersey. The question was never raised there.

Mr. President, I am here by virtue of my credentials. The Governor of the State of New Jersey, under the broad seal of the State of New Jersey, told me that I was elected Senator. I believed it was true. I examined the subject thoroughly, and as far as conviction could fasten itself upon the human mind, that conviction had fastened itself upon my mind. I presented those credentials. I was sworn in. I took a solemn oath to do my duty as a Senator in this body. The doubt in this case is whether I should not have voted when my name was called on the amendment of the Senator from New Hampshire, [Mr. CLARK.] Gentlemen have failed to remark upon the fact that I did not vote when my name was called on the amendment. Why? From delicacy, which any gentleman would feel, not because I did not think I had a right to vote. Mr. President, it might have been a very serious question, it might have been a difficult thing for me to free myself from the responsibility (if my vote had been the deciding vote) of not voting on that amendment, and allowing delicacy to overcome what was my constitutional duty.

Gentlemen say that I am voting in my own case, that it is a judicial question, and that I voted in my own case. Is that true? I have never thought so. If I thought it was my own case, I should not have come to the Senate, I should not have asked to take my seat here, I should not have presented my credentials. Some gentlemen may absorb their representative character in personal considerations. I cannot do it. I never looked upon this as my case. It was the case of the Senator from New Jersey; and when one gentleman from New Jersey, my colleague, was deprived of his vote by—what shall I term it? I do not propose to violate parliamentary propriety by terming it anything—but when one Senator from New Jersey by artifice was prevented from recording his vote, as he would have done, the other was not to vote from delicacy.

Mr. President, there are eleven States out of the Union, and they wanted to put New Jersey out; and I did not mean that they should do it from motives of delicacy on my part.

This, Mr. President, makes it necessary for me to make an allusion which is extremely disagreeable; an allusion which I did not intend to make; a subject so painful to me that I should like to see it erased from the record

for the credit of the Senate of the United States. I received yesterday, for the first time, a letter from the home of my colleague, since this unfortunate difficulty occurred; and that letter is from his son, Major Wright, who distinguished himself in the late war. I will, with the permission of the Senate, read one extract from it:

"Of Mr. MORRILL's course I am almost unwilling to speak. By what system of ethics he could justify himself for breaking his pledged word with my father, I cannot imagine. Not one word has he written to my father on the subject; but he states in his seat, that after pledging his honor not to vote on your case, he 'feels constrained to vote.' What if he did notify you that he intended to break his word? His business was to inform my father. That a man should feel himself released from an agreement with another because he announced his intention to a third party to play false, is a curious sort of casuistry, worthy, though, of the new school of manners."

Mr. President, I hold in my hand a letter addressed to me by Senator MORRILL, of Maine, giving me the information that he desired to be released from his pair with my colleague. The letter bears no date. It was received by me on the evening of the day for which my case was noticed, after Mr. TRUMBULL had given notice of his intention to call it up. I ask that the Clerk read the letter.

Mr. SUMNER. What was that day?

Mr. STOCKTON. I think it was Tuesday night, but this fact any gentleman can ascertain; it was the evening before the day when the case was called up.

Mr. COWAN. Wednesday.

Mr. STOCKTON. My impression is that it was Tuesday.

The PRESIDENT *pro tempore*. The letter will be read, if there be no objection.

Mr. STOCKTON. I recollect now that the Senator from Maine [Mr. MORRILL] stated himself on the floor that it was on Wednesday evening that he notified me, and I have no doubt, therefore, that it was on Wednesday evening that this letter was written.

The Chief Clerk proceeded to read the letter, but was unable to decipher it.

The PRESIDENT *pro tempore*. The Clerk suggests his inability to read the writing.

Mr. CLARK and Mr. JOHNSON advanced to the desk to assist the Clerk in deciphering the manuscript.

Mr. DOOLITTLE. While the letter is being deciphered, I ask unanimous consent to introduce a bill for the purpose of reference.

Several SENATORS. Not now.

Mr. STOCKTON. I will go on with my statement.

The PRESIDENT *pro tempore*. The Chair will state that the Senate is hardly yet open for business. This is a question of privilege, one of amending the Journal. The Chair does not feel authorized to receive any business until the correction of the Journal has been determined.

Mr. STOCKTON. After receiving that note, I took it in my hand and went round to the house of the Senator from Maryland [Mr. JOHNSON] and showed him an answer which I had prepared to it, in which I stated that it was impossible to get my colleague here the next day if the vote came up. I did not know really whether he could come or could not come, and do not now. I presume his actual condition is and has been that it is possible for him to come, but not without some risk of his life, although I do not know his precise condition. The Senator from Maryland advised me not to send the note I had written, but he said he would see the Senator from Maine the next morning. He did see him. I then prepared, at my seat, with the Senator from Maine sitting alongside of me, a telegram at his request, he stating to me, "You must give Mr. WRIGHT immediate notice." I replied, "I will write to him." Said he, "That will not do; you must telegraph to him." I said I would do so. I prepared the telegram at my seat and handed it to the Senator from Maine. He read it and approved of it. I handed it then to a Senator who sits near me and asked him to copy it in his handwriting. I have it in the handwriting of one of the Senators on this floor, and I will read it:

[Copy.]

To Senator WRIGHT, *Newark, New Jersey:*

Senator MORRILL wishes you to know that after allowing you a reasonable time to get to Washington he will consider himself at liberty to vote in my case.

JOHN P. STOCKTON.

He then, on Thursday morning, agreed to give my colleague a reasonable time to get to Washington. On Friday morning, while sitting in the Senate, this answer from Mr. WRIGHT was handed to me:

Dated NEWARK, *March* 23, 1866.
Received at WASHINGTON, *March* 23.

To Hon. JOHN P. STOCKTON, *United States Senate:*

I am still confined to my room and cannot be in Washington before the middle of next week. Am I to consider your telegraph of yesterday as a notice from Senator MORRILL that his agreement to pair off with me on your case has ended? I have not heard anything direct from him in reference to it, and still trust he will adhere to his agreement with me. Please answer.

WILLIAM WRIGHT.

Mr. President, I have always had ever since I have been a member of this body the highest respect and regard for the Senator from Maine; and I desire to say now to the Senate that while I desire to characterize the act in the strongest terms that parliamentary language will permit me to use, I am perfectly convinced that Senator MORRILL meant to do nothing that was not honorable and right. I have not the slightest idea that he did, because I saw his anxiety, and he said to me himself when I read this telegram to him that he did not know what to do. But, Mr. President, the gentleman who is now taking care of the honor of the Senate, the gentleman who has the honor of the Senate in his charge, as reported in the papers, called out to him to vote.

I leave the case with these remarks. I endeavored only to do my duty, believing that I had a constitutional right to vote without overstepping any question of delicacy.

Mr. FESSENDEN. Mr. President, I do not know whether the Senator referred to me or not in his closing remarks.

Mr. STOCKTON. No sir; not at all.

Mr. FESSENDEN. I think it very likely that I told Mr. MORRILL to vote, or rather advised him to vote.

Mr. STOCKTON. I referred to the Senator from Massachusetts.

Mr. SUMNER. I advised him to vote, of course.

Mr. FESSENDEN. I can state the circumstances with reference to this matter, as I understand them well. The Senator from New Jersey has undertaken to use the word "artifice"—to say that his colleague was deprived of his vote by artifice. That of itself is hardly consistent with the opinion which he seems to entertain and which he has expressed with regard to the honor of my colleague, than whom no man is more honorable or more desirous to act upon proper principles on all occasions. I will state the facts as I understand them. Some six or seven weeks ago, at a time when Mr. WRIGHT was here, and when it was supposed that this question was coming up, but when it was uncertain on what day it might be, Mr. WRIGHT stated that he was sick and desired to go home, and asked my colleague if he would pair off with him; and my colleague, supposing of course that it was only to be a temporary absence because he was unwell, then agreed to pair off that he might go home. Nobody supposes that when there is a pair on account of the sickness or the convenience of a Senator, or anything of that kind, that pair is to last all through the session and to run on indefinitely, even on the question mentioned, unless the Senator who consents to pair agrees to that understanding. It has never been so understood; and at any rate I can say that the practice has always been, within my knowledge, that at any time a Senator who had agreed to pair off might be released by giving notice to those on the other side of the question, (not to the person with whom he was paired,) in order that information might be communicated, that he should consider that after a reasonable time had elapsed to enable the Senator who had gone home to return he would be entitled to vote. That was all that was necessary; because no man is bound to keep it up at the will and convenience of the party who leaves; it is only necessary to allow him a reasonable time. It has always been the understanding here since I have been a member that a pair might be put an end to in that way.

It was understood that this question was to come up. My colleague stated the facts to me and consulted me as to what he should do. I told him that if he desired to vote all he had to do was to give reasonable notice to the other party, and probably I suggested that notice should be given to the Senator whose seat is in question, as being the colleague of the absent Senator and most interested in the matter of anybody, to state to him that he desired to terminate the arrangement and to allow a reasonable time for Mr. WRIGHT to return, and that then he would be at liberty to vote. According to my understanding of the facts he gave this notice on Wednesday evening last. Mr. WRIGHT lives about six hours, I think, from this city by rail. Am I right in that?

Several SENATORS. Eight hours.

Mr. FESSENDEN. There are several trains coming in the course of the twenty-four hours. The notice was given to Mr. Stockton on Wednesday evening. It was allowed to lie over until the next morning, but when the next day came Mr. MORRILL again spoke to me on the subject and said he was disposed to allow Mr. WRIGHT ample time, and if the vote came on that day he did not think he could vote. I told him that he was the best judge; it was a matter of delicacy and I could not undertake to advise him on that point.

The vote went over from that day until the very close of the next, allowing Mr. WRIGHT, if he was in a condition to come, (and that was his concern,) ample time to arrive. When the first vote was taken, Mr. MORRILL was sitting by my side; he said, "My vote will not change the result, and in order to raise no question about it as it is not my duty to vote, and my not doing so will have no effect, I will let this vote go." When the next vote came and it was perceived how it stood, he then voted. It is said that the Senator from Massachusetts said to him, "Vote." I know that I said so to him, as he was sitting by my side; he could vote if he saw fit, and I advised him to vote. Now, sir, if there is any imputation upon my colleague's honor and uprightness, and manliness with reference to that matter the same imputation rests upon mine. I do not mean to shun my share of the responsibility. That was my opinion given to him. I so expressed it, I stand by it now. I think he was perfectly right, and there was no reason why, after giving the notice usual in such cases, he should, on account of Mr. WRIGHT's state of health or any other reason, decline to vote. Senators are sick on each side, and it is a sort of advantage on a close question of this sort. It happens sometimes to the advantage of one party and sometimes to another, as the case may be.

I know that the Senator from New Jersey spoke what he ought to speak and what everybody who has watched my colleague in the Senate feels, that there is not a more strictly honorable and upright man in all relations. He had some delicacy about this contest between what might be supposed to be understood on the other side and what was his duty. I think he did right in spite of the comments that are made by the gentleman whose letter has been read, which I will excuse, for he cannot be supposed to understand the rules that govern us here in relation to these matters, and probably takes his father's impression or his own. I excuse him for expressing those opinions; but they will not affect in any degree a gentleman of the unblemished honor and high standing of Mr. MORRILL, my colleague upon this floor. At any rate, if they affect his they affect mine also, and I have no disposition to

shun in any degree the responsibility that I take on the subject.

Mr. SUMNER. If I had not been directly alluded to by the Senator from New Jersey I should not say a word again; but I desire to join with the Senator from Maine [Mr. FESSENDEN] in taking my full share of the responsibility of the counsel that I gave to Mr. MORRILL. I do not shrink from it at all, and I take my share of that responsibility with certainly a greater knowledge of the rules of this body than the Senator from New Jersey can now have. When I first came to the Senate pairs were of very rare occurrence, very rare indeed. The habit has grown up of late years. The rules which regulate them are still uncertain, unsettled; they are left to the mutual understanding of the parties rather than to any general considerations. Of course there must be always the essential element of good faith. No one can doubt that. But I take it no Senator with any experience in this body supposes that a pair, as it is called, can be, like a covenant, running with the whole session. We hear of covenants running with the land; but a pair running with the whole session I have never heard of until it seemed to be suggested by the Senator from New Jersey. I think Mr. MORRILL—I call him by his name as he is not present—acted fairly and honorably with Mr. WRIGHT, kindly, too, and gently, as became the mild and gentle nature which we all know Mr. MORRILL has. By pairing with him, as he did, he allowed Mr. WRIGHT for a long time to absent himself from his duties in this Chamber; and then, when at last the important question seemed to be hurrying to a close, and Mr. MORRILL thought that he ought to vote, he was anxious; the Senator from New Jersey bears testimony himself to the anxiety that he displayed. There are many of us here who can bear testimony to it. The Senator from Maine near me [Mr. FESSENDEN] has already done it. I must do it. More than once he spoke to me on the subject, and confessed his unaffected solicitude. I advised him that after giving a reasonable notice to Mr. WRIGHT he might then consider the pair as at an end and vote. The question then was what, under the circumstances, was a reasonable notice. As has already been remarked, Mr. WRIGHT was eight hours from Washington. He might have come through had he been able to come, the very night on which he received the telegraphic dispatch; he could have been here early the next morning, and could have been here late the next morning, at eleven o'clock; I believe there is a second arrival at that time. Mr. MORRILL, full of that delicacy which belongs to him, forbore on that day to vote, giving the absent gentleman an opportunity of arriving. Again, he had not one opportunity, but two or three, for there were as many arrivals from his home, and he did not appear, and then Mr. MORRILL properly considered his pair at an end, and proceeded to exercise his privilege as a Senator.

I think the Senator from New Jersey has been hasty in his judgment of the act. I thank him for his courtesy to Mr. MORRILL personally, and for his appreciation of his character. He would have been more unjust than he has been if he had not rendered that homage; but I think had the Senator been more familiar with the question, he would not even have undertaken to characterize the act as he has.

Mr. STOCKTON. There is one fact about which I presume I know as much as these gentlemen at least, and that is in regard to how the railroad lines run between here and Newark, in my own State. From the time my colleague received the telegram which allowed him a reasonable time to get here until the vote was actually taken, there were not more than twelve or fourteen hours of daylight. There was a part of one day, and until the vote was reached the next day. The object of the pair, as the Senator from Maine himself states, was the kindness of Mr. MORRILL to let a sick man go home. What is a reasonable time to a man so situated? A person lying on his bed sick is telegraphed to, and he is expected to take the owl line, the midnight line, as it passes his house, and then whether he gets here in time or not may depend very much on the accidents of railroad traveling. I say that the mistake these gentlemen make is that they did not give Mr. WRIGHT time, although I agree with them entirely in reference to the Senator from Maine, and I have felt bound so to state; because I have seen that he has been spoken of in the papers as if he intended to do wrong. I say that he did not intend to do wrong, but he suffered like a great many other people, from having very bad advisers.

Mr. CLARK. I know a little more about this transaction than has been expressed in the Senate. This pair was made some five or six weeks ago with Mr. WRIGHT, of New Jersey, who then desired to return home. I think the Senator from New Jersey, sitting here, will bear me witness that he is satisfied that Mr. MORRILL did not understand it to go on for any length of time; certainly not for such an indefinite length of time, because on Saturday, when Mr. MORRILL was sitting by me in my seat, the Senator from New Jersey, now present, came to him and inquired if he had not paired with his colleague, Mr. WRIGHT. The Senator from New Jersey will, I am sure, remember the astonishment with which Mr. MORRILL looked up and inquired if that was so, and then said that he did not know but that he had done it. That took place on Saturday.

Mr. STOCKTON. That is the occasion to which his letter refers when he appeared undeceived.

Mr. POMEROY. What Saturday was that?

Mr. CLARK. A week ago last Saturday. That was the time when the Senator from New Jersey here himself called the attention of Mr. MORRILL to that pair which had run on so long that Mr. MORRILL had entirely forgotten that he was paired with Mr. WRIGHT, or that anybody so understood it.

Mr. STOCKTON. At the time that conversation occurred notice had been given, if I am not mistaken, that the case would be called up on the following Monday. On Saturday, at the suggestion of a Senator on this floor, who said that there might be some doubt about it, I came up to the Senate Chamber and spoke to Mr. MORRILL in his seat. The Senate was not in session, but he was here in his seat.

Mr. CLARK. That is entirely true. The matter was expected to come up on Monday and Mr. MORRILL made no objection at that time further than to say that he did not know but that Mr. WRIGHT might not so understand it. It so happened that the case did not come up on Monday on account of my illness. I was confined to my room and I sent a messenger to request the Senator from Illinois not to call it up because I could not be in the Senate.

Mr. JOHNSON. You asked him in the Judiciary Committee-room not to call it up.

Mr. CLARK. That was afterward.

Mr. JOHNSON. And I united in the application.

Mr. CLARK. There was abundance of indulgence toward me. The case was not called up on Monday. Afterward, on Wednesday, the Senator from Maine, knowing that I had heard what had been said by the Senator from New Jersey, came to me and said that the pair ought not to run on; that he was embarrassed by it; that he felt uncertain about it, and finally he said, "I am going to give the Senator from New Jersey, Mr. Stockton, notice that it cannot go on any further, because I did not so understand it." He sat down at my table and wrote a note. When he had written it he read it to me. Some objection was made to it; it was not satisfactory, and he then wrote a second note and sent it by special messenger so that it should get into the hands of Mr. Stockton or be left at his house that very night. So earnest was he that ample notice should be given that he sent that note by a special messenger. The Senator himself now says that when he proposed on Thursday to write to his colleague, so anxious was Mr. MORRILL that his colleague should have the notice, that he said, "No, that will not do; you must telegraph him, because he must have the notice." There was not much "artifice" in that. It was the act of an honest man to shield himself from what he did not understand would be claimed in the first instance, that that pair was to run on in that way interminably.

In regard to the other matter, I wish to say that in my judgment the proper way to give the notice was to give it to the sitting member here, because Mr. MORRILL could not be expected to travel to New Jersey, to follow the Senator from New Jersey who had gone home and was then at his own home. The proper way, in my judgment, was to give the notice to the man who was interested that he might see that his colleague was here. It seems to me it shields the Senator from Maine from all blame. All the Senators about me said, "Vote, Mr. MORRILL; it is your duty to vote." Under that consideration, and with that notice to the member from New Jersey, waiting the first day and refusing to vote, not being called upon to vote and saying he would not, if the vote was taken that day, he gave two days' notice that his pair must terminate.

Mr. JOHNSON. It was only one day's notice in fact.

Mr. CLARK. It was intended to be two days, and he took every precaution that it should be. When the Senator from New Jersey said that he would write by the tardy mail, Mr. MORRILL said, "No, that will not do; send by telegraph." And yet now he is accused of using "artifice."

The Senator from New Jersey does him the honor to state that he does not suppose that Mr. MORRILL intended to do anything wrong. I am happy he does say so.

Mr. STOCKTON. Allow me to correct the Senator. There is a misunderstanding on the part of these gentlemen. I used the word "artifice" in the course of my remarks, but I expressly said that I accused the Senator from Maine [Mr. MORRILL] of nothing that he did not think right, that I took pride in saying so. I do not think it is fair to impute the word "artifice" to him. It was perhaps not the most proper word to use on the occasion; I meant simply to pronounce that the act, under the circumstances connected with it, was such, and so entirely wrong in my judgment, that it justified me in giving my vote at that time and overcoming any question of delicacy. But at the same time I wish to bear testimony, because I think it is right, to the fact that Senator MORRILL himself was very uneasy, and very doubtful, and very anxious to do right, and it was the pressure of his party friends that forced him to give that vote.

Mr. CLARK. I have not a word to say further upon the epithet applied to the Senator from Maine, or to the act of his, because the Senator from New Jersey, as I now understand him, says it was not a proper term to use, and of course he would desire to withdraw it. But now the charge is that he acted not under duress, but under the advice of this "new school of manners," as Major Wright says. I think that is the term he uses. I am ready to take my share of that advice, and if he means to characterize this portion of the Senate as the "new school of manners," I belong to the new school of manners. It may not be very acceptable to the other side, but I say here that I think the Senator from Maine was entirely right in casting his vote, and if the Senator from New Jersey feels the load that he has taken upon his shoulders, he should not shift it upon the Senator from Maine.

Mr. HENDRICKS——

The PRESIDENT *pro tempore*. With the permission of the Senator from Indiana, as a note from the Senator from Maine was sent to the desk and its reading asked for, and it could not be read by the Clerk, the Chair will now, with the permission of the Senate, read it:

MY DEAR SIR: I was not quite decided, when you spoke to me a day or two since, about arrangement to pair with your colleague. The question was not

expected to run on at that time so long, and upon reflection I think it not unreasonable so to regard it. To avoid embarrassment, I give you this suggestion that you may advise your colleague.

Very truly, yours, L. M. MORRILL.

Hon. J. P. STOCKTON, *United States Senate.*

Mr. HENDRICKS. Mr. President, I am not satisfied that the Senator from New Jersey had not the right to vote on the occasion. It is said that he had a personal interest in the question. I do not know that it is proper to say that a Senator has a personal interest in his office. It is a position which is sought for because of its honorable character. We are not elected to the Senate to benefit ourselves, or for the gratification of our personal ambition. We are elected as Senators upon the supposition that it is for the good of the country, and it is an office that we hold for the public good. Therefore, in respect to that office, I think it is hardly proper to say that a Senator has a personal interest in it. If reference is had to the emoluments of the office, then we have a very strong precedent upon that subject, and I presume it is very likely that the Senator from Massachusetts who has led in this debate participated in the establishment of that precedent. A few years ago the compensation of Senators was increased from eight dollars a day during the session to $3,000 a year—a very decided increase of compensation—and I believe that increased compensation was made to take effect at the very session of the passage of the law. It could not have become a law except by Senators voting for it, and every Senator who voted for that law voted to put money in his own pocket at that very session. You might say that a Senator had a personal interest in the result of that vote because it put money in his pocket, and yet it was not so regarded then.

Mr. SUMNER. May I interrupt the Senator there?

Mr. HENDRICKS. Certainly.

Mr. SUMNER. I do not happen to have the book near me now; but the book which the Senator cited the other day and which I have cited to-day, Cushing on Parliamentary Law, expressly notices that case and treats it as exceptional. He says that a member of a parliamentary body cannot vote where he is interested; and he then goes on to say that in voting the compensation of legislative bodies there is an exception to this rule. I mention that as a reply at once to the instance adduced by the Senator.

Mr. HENDRICKS. I know it is an exception, if you want an exception to the supposed rule that a man shall not vote for his own benefit; but it is a striking case. The law might have been framed so that a Senator who voted for it should not have voted money into his own pocket. A man cannot vote in favor of his own personal interest; if that is the general proposition, and that is the morality of parliamentary law on the subject, that bill could have been so framed as to avoid a breach of the rule.

I might refer to some other cases. I believe that within a few days four volumes, containing the writings of James Madison, have been distributed among Senators. I was not aware that they were to come until they reached my room. How did they get there? Senators must have voted them. They are worth money; they are a valuable addition to a man's library; and yet we must have voted for them ourselves, or we should not have received them.

I was struck the other day by the very able argument of the Senator from Rhode Island [Mr. SPRAGUE] upon the vexed question of interest between the manufacturer and the importer. He occupied many days in the debate. That Senator may perhaps have an interest in the action of Congress upon that question. As Congress may legislate for or against the manufacturer, he may be interested. It is understood that he is one of the most enterprising of the manufacturers, one of the most successful; and yet what Senator supposed that it was not proper for him to participate in the discussion of a question that affected the interest of the country at large, although it may have affected himself individually? Almost every question that we vote upon has some influence upon our individual fortunes. I do not care to discuss that further. I think the Senator had a right to vote under the circumstances, especially in view of the fact that he was, under the circumstances, denied the vote of his colleague.

A point is made in respect to the course of the Senator from Maine in voting after he had paired off upon the fact that the pair was made several weeks ago. There is force in that suggestion when there is a general pair. If I pair with the Senator from Maine upon questions of a class, for instance, upon all questions in relation to the rebel States, with the understanding that that is to last but a short time, of course, if I remain absent for a protracted time, he has a right to terminate that pair because I am cutting him off, by remaining absent, from his participation in legislation upon a class of subjects. But if I pair with him in regard to one particular question, what difference does it make to him whether the vote upon that question is taken to-morrow or a month hence? If the seat of his colleague is to be contested and I am to be absent and I intend to vote one way and he the other, and upon that subject he and I agree to pair off, not generally upon a class of subjects, but upon that particular question, how is it of interest to him whether that particular vote comes up to-morrow or next month? If he pairs with me upon that particular question, not upon a class, I expect him to stand by the pair, because he is not prejudiced in his participation in the legislation of the country by the pair, and I think he should stand by it until the vote is had.

Although I cannot agree that Senator MORRILL under the circumstances ought to have voted, still I do not doubt that he gave his vote under the influence of the most honorable sentiments; but yet it had the effect under the circumstances to lose to Mr. Stockton the vote of his colleague. I think there is no force in the suggestion that Mr. WRIGHT remained from the Senate for a longer time than was expected, because it made no difference to Senator MORRILL whether that question on which he was paired came up the next day after he left or one month after he left.

I do not know whether it is a very good policy to pair off. That is a question of doubt. I do not do it myself very much. If a Senator desired it on some particular question, I should not hesitate, I presume, to accommodate him; but if I remained here and he went home, would I expect to terminate the pair by giving him twenty-four hours' notice? In the practice of the law if I agreed with the opposite counsel that a case should not be called up until I gave him notice, I would not expect on Wednesday evening to telegraph to him in another State that I should call up the case on Thursday for trial; and if I went into court on Thursday and told the judge that I had agreed to give notice to the opposite counsel in another State before I should call the case up, and told the court that I had given the notice the night before, I think the court would not allow me to bring that case to trial. The notice must be reasonable, not twenty-four hours' notice for an attorney to arrange his business in another State and come and meet me upon the trial. A man leaves the Senate because of the condition of his business at home, or because of the condition of his health. Is he expected to respond to a telegraphic dispatch by coming in the next train? Courts do not require that. It cannot be required in a court, and you cannot carry it in a court; and yet in the Senate, where the greatest courtesy and kindness is observed, it is expected that Mr. WRIGHT who went home on account of his health should be able to take the first train and be here on the next morning! Mr. President, I think under the circumstances that it was not right, and that it justified the sitting member in casting a vote upon the question.

Mr. CONNESS. Mr. President, the argument of the honorable Senator from Indiana is, as I understand him to state it, that if Mr. MORRILL, the Senator from Maine, had not voted, then he, the Senator from Indiana, is not sure that Mr. Stockton had a right to vote in his own case; he has some doubt about it.

Mr. HENDRICKS. No, sir, I did not say that. There was one question that I did not discuss, and that was the question of delicacy in voting upon such a case. I should hesitate to vote upon any question involving my right to my own seat. It is a question of delicacy, and not of legal or constitutional right, in my judgment; but when the Senator from New Jersey was placed in such a condition that he would lose the vote of his colleague, to which he was entitled, and which could have been procured but for this pair, I think the question of delicacy was overcome by the fact that Mr. MORRILL voted under the circumstances.

Mr. CONNESS. I thought I understood the honorable Senator correctly, and I find that I did, and I shall try to state him exactly. If Mr. MORRILL's vote had not been in question in the premises, the Senator from Indiana would then regard the question of Mr. Stockton's right to vote in his own case as one of extreme delicacy, so much so that he would not like to vote in the case himself, and does not desire to express now an opinion on the subject; but if Mr. MORRILL did vote in violation, as he thinks, of the pair, he then believes positively that Mr. Stockton had a right to vote. I do not think that that logic holds good. I think that Mr. Stockton either had or had not the right to vote in his own case; and upon that proposition I have, and have had, no doubt as to my opinion. I confess that I was surprised when the honorable Senator from New Jersey rose and asked that his name be called, and I uttered an exclamation from my seat against the propriety of the vote. I shall not undertake to characterize that vote as the honorable Senator from New Jersey has undertaken to discuss and characterize the conduct of Mr. MORRILL, although with some compliments to Mr. MORRILL at the same time, and ending his analysis of the case by putting the responsibility upon other Senators, and finally concluding by characterizing it as chargeable to modern morals prevailing particularly on this side of the Senate. I shall not go into that branch of the case; but in this discussion the question pending before the Senate appears to me to have been entirely lost sight of by running into an incidental discussion whether Mr. MORRILL properly voted or not. The question now pending is whether the honorable Senator from New Jersey had the right to vote in a case in which he was interested.

Upon that proposition the honorable Senator from Maryland and the honorable Senator from New Jersey take what appears to me to be a very strange view of the case. They construe the interest that a Senator has in his seat here into a pecuniary interest, that which is involved in the receipt of his salary or compensation. I apprehend that that is not the interest of a Senator in his seat. They say he had the right to vote because it was New Jersey voting, and not he; and upon the question as to whether New Jersey should be represented in the Senate through the honorable member now occupying the seat here, he had the right to vote for New Jersey. Sir, the question whether New Jersey had the right to a Senator here was not in question at all; it has not been before this body; but whether New Jersey had a right to a Senator in the person of Mr. Stockton was the question that was pending and before the body, and that is involved now. The question of the pecuniary interest derived from the salary of a Senator as contradistinguished from the interest of a Senator in the franchise and possession of his office are two different things, widely different; the one so inconsiderable that there is an exception made by writers on parliamentary law in favor of the point, for there would be no compensation provided by law unless there was an exception which allowed members of legislative bodies to fix their own compensation,

and therefore there is an exception made. But the right of a member to the franchise of the office; to enjoy it, its honors, its powers, its representative character, is what is involved in the proposition whether a Senator shall vote where that franchise is brought into question.

Now, sir, the more immediate question before the body is as to the proper mode of procedure. The honorable Senator from Ohio [Mr. SHERMAN] has told us that he approves rather the motion now pending, made by the honorable Senator from Massachusetts, to strike from the Journal the vote of Mr. Stockton, and thus correct the proceeding and deprive that Senator of the vote that he cast. The honorable Senator from Illinois [Mr. TRUMBULL] thinks that the proper course is to move a reconsideration of the vote, and in that respect a Senator objects, and says that if that course be taken, then while the names of Senators are being called no question can arise as to the right to vote of a Senator, for the call cannot be arrested. That might be gotten over, after the motion to reconsider was made, by a separate resolution, which should be a rule of the body, if adopted, declaring that no Senator has a right to vote upon the question as to whether he is entitled to a seat in the Senate or not; and that being adopted, would be a rule of the Senate.

But there is a further objection, I think on reflection, to the mode proposed by the Senator from Illlinois, namely, to reconsider the proceeding already had. It is that the reconsideration is based upon the presumption that the Senator from New Jersey had a right to vote; for as the resolution was carried by but one majority, and his vote made that majority, if he had no right to vote the vote was null, and no decision was arrived at in his favor. If his vote was null and void, there is nothing to be reconsidered; but if he had a right to vote, the Senate may reconsider its action. The proceeding to reconsider, therefore, seems to carry with it the presumption that the Senator from New Jersey had the right to vote, for it is his vote that gives the majority and makes the reconsideration necessary; and in that view of the case I am not certain but that I prefer the mode first proposed by the honorable Senator from Massachusetts, to correct the record, which assumes that the record is wrong, because the Senator from New Jersey had no right to make up the majority by casting his own vote.

Thus, Mr. President, I have endeavored to consider the immediate question at issue, and I close by saying that I have no doubt upon the question as to whether the Senator from New Jersey, or any other Senator, should have the right to vote when his seat was brought in question in a legislative body.

Mr. SAULSBURY. Mr. President, I have only one remark to make. When the proposition was made by the Senator from Massachusetts to amend the Journal of the Senate, knowing as I did, and knowing as every Senator here knows, that the Journal spoke the truth, and therefore could not be corrected except so as to make it speak falsely, I raised a question of order as to the proposition of the Senator from Massachusetts. When Mr. Stockton, the Senator from New Jersey, voted the other day, there was objection made, but his name was called and he voted. A Senator rose and inquired of the Chair whether it was proper, whether it was legal, for the Senator from New Jersey to vote upon that proposition. Any one hearing the decision of the Chair must have come to the conclusion that, in answer to that question, which amounted in fact to an objection to that vote being recorded, the Chair decided in effect that it was proper, the name of the Senator being on the list, and there being no rule of the body to exclude the vote. If that was an objection made, and the decision of the Chair was against the objection, then I hold that the only proper mode to be pursued was to take an appeal from the decision of the Chair on that question, and to have had a vote of the Senate whether that decision should stand as the judgment of the body. But if it be not treated as a decision of the Chair, still I hold that the only proper mode would be a reconsideration of the vote declaring that the Senator from New Jersey was entitled to his seat.

Now, Mr. President, let us look at this question for one moment in a legal point of view. It is not the first time in the course of my not very long life that I have seen law-books cited in support of a proposition which had nothing to do with the case under consideration. What is the objection made here to the right of the Senator from New Jersey to vote in this case? It is that the law-books say that no man shall be a judge in his own case. To what has that application? To legislative bodies, as to the right of members to seats in those bodies? Not at all; but it has reference and reference alone to judicial proceedings, proceedings in court, proceedings before legal tribunals, and not to proceedings in legislative bodies. If the Senator from New Jersey held an office that the courts could take judicial cognizance of, the right to exercise which they could inquire about, this question might have application. Suppose that a person assumes to exercise the duties of an office and a writ of *quo warranto* is sued out against him, that is a proceeding in court, and in such a case as that the person who is the party to that writ cannot sit as a judge in the case. The principle cited that a party shall not be a judge in his own cause never had application, and the law-books from which the principle is cited show conclusively that it never had application in reference to proceedings in legislative bodies, but only to judicial proceedings in courts of law and equity.

But, sir, look at the form in which this proposition is made. It is in effect, as I said, treating it in one aspect, a proposition to amend the Journal, which you cannot amend except you make it speak falsely, to say that a thing did not occur which actually did occur in the body. I now come to view it in a more objectionable aspect. As the motion reads, it is to strike from the Journal the vote of Mr. Stockton. Have you got that right? If you have, then I hold that you have the same authority to come into the Senate and on motion strike from the Journal the fact that a bill was passed. Have you got that right? When the Journal shows that it was passed, and when the body knows that it was passed, can you do that, instead of moving to reconsider the vote upon the passage of the bill? Have you the authority to get rid of the binding effect of that act by simply moving to strike from the Journal the fact that it had passed the body? If you have not got authority to do the latter you have not the authority to do this.

Mr. President, every legislative body makes its own rules. It is said that this is contrary to parliamentary law. A case has not been cited where it has been held to be contrary to parliamentary law, where there was not some rule of the body in conflict with which it was. The cases cited from the British Parliament show this state of facts: that when a question in which a member of Parliament is interested is before the body he is bound to withdraw under their rules. Is that according to any parliamentary law except the law of the Parliament of Great Britain? Does it bind any other legislative body? If so, why did you not order Mr. Stockton out of this Chamber when his question was under consideration? Then the authority of a rule of the House of Representatives is cited which says that when a member of the House of Representatives is interested, he shall not vote upon the subject. That shows that in the absence of such a rule as that in the House of Representatives the party would have been entitled to vote; and to make it applicable here you are bound to show that before that vote was recorded there was some rule of this body to prevent it, because the rules of the House of Representatives do not bind the Senate of the United States. Is there any such rule in this body? Nobody contends there is, and yet the case is attempted to be decided upon parliamentary law and cases arising under special rules adopted in the English Parliament and special rules adopted in the House of Representatives for their government.

Mr. President, this case only shows this fact, that in times of high political excitement the interests of party rise infinitely higher than the great questions of justice and of law; and if Mr. Stockton, the Senator from New Jersey, is ousted from his seat, in my judgment it will not be because the law or justice is against his right, but because the interests of party seem to demand it.

Mr. TRUMBULL. Mr. President, it is not very material to me how this question is arrived at; I do not think there is any importance in that. It occurred to me at first that perhaps the better way would be to move a reconsideration of the vote taken on Friday; but I think on reflection the motion of the Senator from Massachusetts will settle the question. His motion is that the Journal of Friday the 23d of March, 1866, be amended by striking out the vote of Mr. Stockton on the question of his right to a seat in the Senate. If that resolution should pass, the consequence would follow which he has stated, and for which he has cited a precedent—that the resolution would remain not passed.

Mr. SUMNER. Not agreed to.

Mr. TRUMBULL. That would be the position of it. It would stand a tie vote, and of course the resolution would not be agreed to. That is the position in which it would be left if this motion should prevail, as I understand it. Now, that the Senator from New Jersey had no right to vote is to my mind very clear, and I am sorry, exceedingly sorry, that he should have been betrayed into some remarks that have fallen from him, and that the Senator from Delaware should have followed them up, in which the Senator from New Jersey started by saying that eleven States are kept out of the Union and now New Jersey is to be kept out of the Union. Such imputations are unwarranted here. The Senator from Delaware talks of party associations. Sir, if party was to decide it the Senator from New Jersey would have had no power, by an improper vote of his own, to sit here to-day. It is a judicial question; and it is because members of the Senate rise above all political considerations in deciding such questions that the Senator sits here an hour, and it ill becomes him to taunt the Senate with party considerations. It is because it is no party question, because it is a judicial question purely, one affecting him, that he has no right to vote. It is not at all like the case he puts of the Senate of New Jersey, which he says is to-day presided over by a senator who voted for himself. Is that at all like this case here? Did the senator in New Jersey settle his right to vote? The independent right of a voter is one thing; but that being settled he may vote for himself; that is a matter of propriety and delicacy on his own part. But when the question is whether he has the right to vote at all or not, it is a judicial question upon which he has no right whatever to vote.

Let me say to my learned friend from Maryland that these questions are not confined to dollars and cents. It is the interest of the party that disqualifies him. It is the principle that a man shall not be a judge in his own case, and the office may furnish as high a temptation as the dollars and cents to do wrong. It is because civil governments would carry out that divine precept, "Lead us not into temptation," that no man is to be tempted to do wrong by deciding in his own case.

I have before me a decision of a case, a political case, decided in a judicial tribunal, arising out of an election in the State of Pennsylvania—The Commonwealth *vs.* McCloskey, 2 Rawle, 369. I read the syllabus of the case:

"Under the act of Assembly of the 24th of March, 1812, incorporating the township of Moyamensing, the three commissioners-elect are not competent to take part in deciding on the validity of their own election."

Now, let me read from the opinion of the supreme court of Pennsylvania in that case:

"From the facts which have been disclosed, it is

apparent that the approval of the election of the respondents depends altogether on their own vote, and that independent of that vote there had not been that confirmation of the election which is required by the act of incorporation. The inquiry will then be, to which all others are subordinate in some measure, whether the act of Assembly authorizes this proceeding on the part of the commissioners-elect; whether each of them who have been returned elected are entitled to judge of their own election, with full power and authority to approve thereof.

"It will be conceded that where it can be avoided no man should be permitted to decide his own cause; nor can I perceive much difference where he is called on to determine his right to an office of profit, or one of trust, accompanied, as this is, with extensive patronage. The temptation to an abuse of the trust is as great in the one case as the other; and is such that no prudent Legislature would intrust such a power to any person unless in cases of necessity; and where such necessity exists the legislative grant would, we should be led to suppose, be in such clear, unequivocal terms as to leave room for neither doubt nor cavil. In England, it is said that even an act of Parliament, made against natural equity, as to make a judge in his own cause, is void in itself; for, as it is expressed, *jura naturæ sunt immutabilia;* and they are *leges legum*. Day *vs.* Savadge, Hob. 87. And in 12 Mod., if an act of Parliament should ordain that the same person should be party and judge, or, which is the same thing, judge in his own cause, it would be a void act of Parliament, for it is impossible, says the court, that one should be judge and party; for the judge is to determine between party and party, or between the Government and a party; and our own courts appear equally averse to the introduction of such a principle.

"An act of the Legislature, says Justice Chase in Calder and wife *vs.* Bull, 3 Dall, 386, contrary to the great first principle of the social compact, cannot be considered a rightful exercise of legislative authority. The obligation of a law in Governments, established on express compact and on republican principles, must be determined by the nature of the power on which it is founded. A law that punished a citizen for an innocent action, or in other words, for an act which, when done, was in violation of no existing law; a law that destroys or impairs the lawful private contracts of citizens; a law that makes a man a judge in his own cause, or a law that takes property from A and gives it to B, it is against all reason and justice for a people to intrust a Legislature with such powers; and therefore, it cannot be presumed they have done it. The genius, the nature, and the spirit of our State governments amount to a prohibition of such acts of legislation; and the general principle of law and reason failed there. To maintain that our Federal or State Legislatures possessed such powers, if they had not been expressly restrained, would be a political heresy altogether inadmissible in a republican government."

Mr. JOHNSON. That has been overruled.

Mr. TRUMBULL. Let me go on:

"To these high and imposing authorities, I may add the opinion of the present Chief Justice, in *The* Commonwealth *vs.* Woelper *et al.*, 8 Serg. & Rawle, 43, which it is a mistake to suppose was overruled or contradicted by the other members of the court."

The Senator spoke a little too soon; the supreme court of Pennsylvania says it is not overruled.

Mr. JOHNSON. The Senator does not understand me. I say the decision is overruled in all the States.

Mr. TRUMBULL. What decision?

Mr. JOHNSON. Read the opinion of Judge Iredell in the case cited.

Mr. TRUMBULL. What case does the Senator from Maryland mean to say is overruled?

Mr. JOHNSON. I mean the general doctrine that legislation contrary to the principles of justice and equity in the opinion of the court before whom the question is decided is not binding. The honorable Senator will find, if he will turn to the original case of Calder *vs.* Bull, in which Judge Chase's opinion was pronounced, that Judge Iredell, who stood even higher than Judge Chase, took directly the opposite view, and in almost all the States of the Union where the same question has arisen it has been decided that the doctrine laid down by Chase was untenable.

Mr. TRUMBULL. I am reading from the case of The Commonwealth *vs.* McCloskey. Does the Senator from Maryland mean to say that it is overruled?

Mr. JOHNSON. I do not mean to say that. I say that the opinion of Justice Chase in Calder *vs.* Bull has been overruled.

Mr. TRUMBULL. I imagine that my friend telling me that some other case has been overruled will have very little to do with this.

Mr. JOHNSON. The honorable member, I am sure, does not mean to misrepresent me.

Mr. TRUMBULL. Not at all. The Senator from Maryland shall be correctly stated if he will have patience.

Mr. JOHNSON. I have as much patience as most men.

Mr. TRUMBULL. In the case of The Commonwealth *vs.* McCloskey, from which I am reading, a reference is made to a case decided by Mr. Justice Chase. Now, the Senator from Maryland says that the case referred to has been overruled. Some positions laid down by Mr. Justice Chase have been disagreed to by subsequent decisions. The question in this case of The Commonwealth *vs.* McCloskey, that I am reading from, was as to the authority of a party to pass upon his own case, and the question was whether the law had authorized him to do so. There was no doubt that it could not be done unless the law had authorized it. The judge starts out in the opinion by showing that according to some persons, and according to Judge Chase, even a positive act of the Legislature could not establish such a principle, that a man could be a judge in his own case. After stating that, he comes to the consideration presently of the Pennsylvania statute, and he shows that that statute is not so clear as to require the court to hold that those parties had a right to pass upon the validity of their own election:

"In this view, the right claimed by the respondents struck the judicial mind in England and in this country, and particularly the powerful intellect of Justice Chase. Although I fully accede to the general principle of that distinguished jurist, yet I should pause before I would carry it to the extent he seems willing to go."

Now, the Senator from Maryland sees that the judge who pronounced this opinion understood fully what he was talking about. He shows he does not agree with Justice Chase in that:

"If the Legislature should pass a law in plain, unequivocal, and explicit terms, within the general scope of their constitutional power, I know of no authority in this Goverment to pronounce such an act void, merely because, in the opinion of the judicial tribunals, it was contrary to the principles of natural justice; for this would be vesting in the court a latitudinarian authority which might be abused, and would necessarily lead to collisions between the legislative and judicial departments, dangerous to the well being of society, or at least not in harmony with the structure of our ideas of natural government."

After these general observations, the judge comes to the particular case in hand, and says:

"We are authorized to believe they [the Legislature of Pennsylvania] did not intend to contravene a principle which has been deemed by the most eminent jurists contrary to natural equity and the first principles of the social compact. On the contrary supposition the approval of the election would be a mockery, as we could not suppose, particularly with the knowledge of the facts which have been disclosed, that an interested party, under the influence of irritated and party feelings, could bring to the examination that impartiality which is necessary to a proper and correct decision." * * *

"The Constitution of the United States prescribes 'that each House shall judge of the elections, returns, and qualifications of its own members.' The constitution of Pennsylvania is in nearly the same words, 'that each House shall judge of the qualifications of its members.' The right of determination is given to the House who exercise their authority by the decision of the majority, as in the act it is vested in the commissioners or a majority. Under these different provisions no instance can be produced, either in Congress or our State Legislature, where such a right has ever been permitted, or even claimed."

This is the first time it was ever claimed, according to the authority of the supreme court of Pennsylvania in this case. If the Senator from Maryland can produce an instance where it was ever claimed, I should like to see it. I never heard of its being claimed. There has been case after case decided in the Senate since I have been here, and no person ever pretended to vote on the question of his own right to a seat. Let us have the cases, if there are any. I undertake to say that the decision of the supreme court of Pennsylvania states the fact. The opinion was given some years ago, but there has been no case since, I venture to say, where such a claim has been made.

Mr. SUMNER. Who gave the opinion?

Mr. TRUMBULL. Judge Rogers.

Mr. JOHNSON. How long ago?

Mr. TRUMBULL. In 1830. The judge goes on to say:

"The nearest they have ever gone to it in Congress was where returned members voted on a principle on which their own election depended; a case entirely different from this, and the propriety of which might be well questioned; at any rate, I feel but little respect for a decision which comes in such a questionable shape."

I shall not take up the time of the Senate by reading futher from this decision; but I venture to say that what is stated by the judge in that case will be found on examination to be strictly correct. It is not unnatural that the Senator from New Jersey should have fallen into what I think was a mistake on his part, that because a voter sometimes voted for himself at an election where his right to vote was not in question, or because a member in a legislative body voted for himself as presiding officer, therefore he could vote on the question of his own right to vote. It is a very different thing. It is a matter addressed to the discretion and propriety of the voter, whether he will vote for himself or not; but it is not a question addressed to the sense of propriety and delicacy of a person, when his right to vote is questioned, whether he shall decide that he has got a right to vote; and that is precisely this case.

Now, sir, I desire this to be corrected. I am ready to vote upon it now, and I think perhaps that is the better way, and let us settle at this time that a member has no right to vote upon the question. I am willing to do that either by moving, as I said before, if it cannot be got at in any other way, to reconsider; but the Senator from Ohio has satisfied me that I shall not accomplish my object by moving a reconsideration, because the question would come up again when the vote came, and we could not determine it while the yeas and nays were being called. I think, upon consideration, that perhaps the best way to arrive at it is by the adoption of the resolution offered by the Senator from Massachusetts.

Mr. LANE, of Kansas. Mr. President, I voted to sustain the Senator from New Jersey in his seat, believing that the majority of the Legislature expressed their opinion when they adopted the plurality rule. I voted on the case as I would decide as a judge passing upon a judicial question. I was never more surprised in my life than when the Senator from New Jersey asked to vote, and did vote. I at that time proposed to move a reconsideration. The action struck me as highly improper. The rule, as I have understood it, has been that legislators should not vote upon a question where their interest is of such a character as to bias their judgment. That the Senator from New Jersey had such an interest in the decision of the question as to bias his judgment, none can deny. It would be unnatural that he should not have that bias. Any provocation, I care not of what character, in my judgment cannot either excuse or legalize the act. I regretted the position occupied unintentionally by the Senator from Maine. I regret it on his own account; but that his action or the action of any other Senator could excuse the Senator from New Jersey has no place in my mind. I traveled the same road that the Senator from New Jersey has. Four years ago my seat was assailed as his is, not for any illegality or irregularity in the election, but from the fact that I had accepted the position of brigadier general. The same resolutions were introduced in that case as in his. I not only felt it a duty that I owed to myself as well as to the Senate not to vote, but to withdraw from the Chamber while the verdict was being made up, while the Senate was making its decision. I felt it a duty I owed to myself and to the Senate to withdraw from the Chamber. I was, therefore, greatly surprised at the course of the Senator from New Jersey; and now, with all kindness to him, I feel it a duty I owe to my State and to the Senate as well as to myself to place him in such a position as that he may refuse to vote. I should like to have the Senator from New Jersey placed in such a situation as that he might refuse to vote. If he does not take that course I shall feel it bounden on me to treat his vote as a nullity, as utterly without validity.

Mr. FOSTER, (Mr. CLARK in the chair.) Mr. President, from the course of the debate, and especially from a remark made by the hon-

orable Senator from Delaware, I see that the action taken here on Friday afternoon has been, at least by him, in my judgment misunderstood. I understood the honorable Senator to say that on Friday, after the roll had been called and after the name of the Senator from New Jersey had been called and he had voted, an objection was made, and that after the objection the Chair decided in substance that the Senator had a right to vote; and he urged that after that had occurred it was too late, in his judgment, to amend the Journal in the manner now proposed. The honorable Senator from Delaware is mistaken entirely in regard to what occurred at that time, and in order that I may be quite right in regard to it I will read from the Globe of Saturday morning the record of what was said at the time:

"Mr. NYE. It is proper for me, being a new member here, to inquire whether upon a question of this kind the person claiming the seat is entitled to a vote according to the rules of this body."

That is certainly not an objection to the vote of the honorable Senator from New Jersey. It does not by any means make objection, but it proposes an inquiry, and that is all. To that, this was answered:

"The PRESIDENT *pro tempore*. There is no rule of the Senate upon the question, and the Chair has not the prerogative of settling any question of the kind except to hold that the name of every Senator on the list may be called, and it is the privilege of every person whose name is on the list to have his vote recorded."

That is not, in my judgment, deciding that the Senator from New Jersey had a right to vote. On the contrary, it expressly excludes, in the opinion of the individual who then held the Chair, that it was the prerogative of the Chair to decide that question, and holds that the only duty of the Chair was that the list should be called through, and that he had no option but to have it called through. It certainly was not the prerogative of the Chair to direct the Secretary to strike off one or another name, and that is all that occurred. I wished simply to make this explanation.

Mr. SAULSBURY. I wish to say to the honorable Senator from Connecticut that in any remarks I made I did not wish to reflect, or mean to be understood as reflecting, on the President of the Senate. He is the last man I know in this body or anywhere else that I would reflect upon by any remarks of mine. I certainly did not wish to be understood as making any reflection on the President of the Senate.

Mr. FOSTER. I did not, by any means, understand the Senator as reflecting on any one, but as stating a fact, which was of course as he believed the fact to be, but not the fact as it appears on the record. I did not by any means mean to be understood as that I considered it a reflection.

Mr. STOCKTON. Mr. President, I rise to withdraw my vote, with the permission of the Senate, and I am exceedingly anxious that I shall make my position in doing so perfectly clear. At the moment that I voted on the resolution of the Judiciary Committee no man had questioned my right to vote in this body when my name was called, from the moment I entered the Chamber, upon any subject whatever. I had been, on the contrary, told by Republican as well as Democratic Senators, by gentlemen of different politics, that in their opinion I was entitled to vote. None of them with whom I spoke on the subject had examined that matter particularly. The question of the validity of that vote never crossed my mind. I believe to-day, I believe this moment, that that vote was a valid vote under the Constitution of the United States.

Now, Mr. President, the vote being valid according to my judgment, that being beyond question, it was my duty, as I explained this morning, to overcome all scruples of delicacy in order that New Jersey should be represented properly, whatever gentlemen might think of my delicacy on the subject. But the discussion to-day has exhibited to me the fact that there are in the minds of the ablest lawyers in the Senate, in the mind of the chairman of the Judiciary Committee of the Senate, grave doubts as to the constitutionality of the vote. I do not propose to keep my seat in this body by an unconstitutional vote or by an illegal vote. That was not the proposition upon which I voted. I desire that question to be examined carefully. I should like the Judiciary Committee, of which the distinguished Senator from Illinois is chairman, to examine it. I therefore withdraw my vote, and request some gentleman to offer a resolution that the Judiciary Committee be instructed to examine into the question before I am again called upon to vote in this case.

Mr. SUMNER. Can the Senator at this day withdraw his vote?

The PRESIDING OFFICER, (Mr. CLARK.) The Chair is of opinion that he cannot, unless by the unanimous consent of the Senate he wishes to correct the Journal.

Mr. JOHNSON. If the Senate refuse to consent to let him withdraw his vote then his vote stands and he is a Senator. I submit to the Senate whether, if they think the vote is illegal and the resolution be passed in consequence of that vote, they ought to suffer him to withdraw it; but certainly if they refuse to allow him to withdraw it there it stands, and it stands to have the same effect as my vote; and if it stands, that vote, with the other votes, decides that he is a Senator of the United States now.

Mr. FESSENDEN. It is entirely contrary to the rule. The Senator cannot withdraw his vote at all, as I understand, after the vote has been declared, even by the unanimous consent of the Senate.

Mr. COWAN. He can consent to your striking it off, which is the same thing.

The PRESIDING OFFICER. The Chair does not mean to be understood as saying that the Senator may withdraw the vote in such a manner as to strike it out, but the Journal might be corrected as he desires.

Mr. FESSENDEN. That amounts to precisely the same thing. My own judgment is, that the proper mode to reach this matter would be by some gentleman moving a reconsideration of the resolution adopted on Friday, and then we could settle that question free from any embarrassment, if we desire to settle it forever in the Senate hereafter by making a precedent. Several gentlemen who voted for the resolution have expressed the opinion that that vote ought not to have been given and consequently the resolution ought not to have been declared adopted. If they are of that opinion, any one of those gentlemen can with perfect propriety move a reconsideration and vote for a reconsideration in order that the question may stand before the Senate as it did before the vote was taken, and then the question can be properly settled. I hope that course will be taken. I do not propose to argue it. I think that will relieve the question of a great deal of difficulty, because if the vote of the Senator from New Jersey was withdrawn, it would then stand twenty to twenty, and it would be hard to tell who voted in the majority in such a case, or who should move a reconsideration, if any one was disposed to move a reconsideration. The resolution standing adopted on the records, if the Senate proceed to order the Journal to be corrected, it would raise questions whether they were not acting rather unfairly or without deference to the rights of the Senator; but if the vote adopting the resolution is reconsidered, it settles all that, because the majority have a right to reconsider it if they see fit. I hope that course will be taken instead of the other.

Mr. POLAND. I was one of those who voted in favor of the resolution reported by the Committee on the Judiciary and in favor of the right of the Senator from New Jersey to hold his seat, having been one of the committee who reported that resolution; and I now think, as I thought in giving that vote on Friday, that the Senator from New Jersey was legally elected; but, sir, I am equally clear that he himself had no right to vote on that question. The law regards the right to an office as a species of property. A man is entitled to maintain an action at law, if he is deprived of the proper induction into office, for the purpose of securing himself the place. He is entitled to maintain an action against a man, if he deprives him of an office whereby he loses the profits of it. A man may be entitled to maintain an action for a slander or libel in consequence of which he is deprived of obtaining an office. In every way almost the law regards an office as a species of property, so that it is regarded as a legal, pecuniary interest that a man is entitled to in the office. I feel perfectly clear, therefore, that upon the decision of this question the Senator from New Jersey himself had no right to vote; that he was legally interested in the question; and as this resolution was passed by his vote—it required his vote to make the majority by which it was passed—I am ready if this proposition be withdrawn, or in any state of the question where it may be necessary to have a reconsideration moved for the purpose of bringing the subject again before the Senate and having it properly debated, to move that reconsideration.

Mr. SUMNER. I understand the Senator from Vermont declares his willingness to move a reconsideration. Of course that motion must be made to-day according to our rules. I have already stated that the motion that I brought forward was partly conceived with the idea of accomplishing what the Senator, by his motion to reconsider, proposes to accomplish, but which I was not in a condition to attain. I could not make a motion to reconsider, but at the same time I have already said that I did conceive that it would be better if the Senate by a similar vote rectified their Journal. But Senators about me, I see, are disposed to meet the question in another form. The Senator from Maine prefers the form that is proposed by the Senator from Vermont, and other Senators with whom I have conferred prefer that form, and I certainly shall not stand in the way of their desires.

Mr. SHERMAN. I should like to ask my friend from Massachusetts a question. He desires to have a vote on this question. I think we ought to have a vote. Suppose the motion to reconsider should prevail and the question should again come upon the adoption of the resolution and Mr. Stockton should not vote, is the question settled? Not at all. Suppose he should vote, can you raise the point then, pending the vote? Not at all. His name is called. At the conclusion of the roll-call, when the vote is announced by the Chair, you may insist that the Chair is in error in announcing the vote in that way and you might possibly raise the question in that way. But you have the question raised now just as well. If you desire the judgment of the Senate on the right of the Senator to vote in his own case you have the question in as good a form now as you can ever have it.

Mr. SUMNER. I would ask my friend if we should not meet it.

Mr. SHERMAN. I think we ought to meet it.

Mr. SUMNER. I ask him if we might not meet it in this way: previous to the call of the roll let a Senator move that the name of Mr. Stockton on that occasion be omitted. That would meet the question.

Mr. SHERMAN. In a very indirect way. It would be presuming that he would undertake to vote when according to your claim he has no right to vote.

Mr. SUMNER. He certainly has no right to vote.

Mr. SHERMAN. Then you presume that he would claim to exercise a right which you say he has not.

Mr. SUMNER. Simply because he has undertaken to exercise it once.

Mr. SHERMAN. We come back after all to the same difficulty. If he exercises the right to vote, it is in the power of the Senate to express an opinion as to whether that vote is legally recorded. You have that question now before you. You have the record for the first

time of this vote brought before you, and you say that record is not true, that a person has voted on a particular vote that had not the right to vote. You certainly have a right so to declare. The question is now presented, and if you desire to settle it it can be done now as well as at any other time.

Mr. SUMNER. I agree with the Senator.

Mr. FESSENDEN. I ask Senators, is there any difficulty when Mr. Stockton's name is called in another Senator moving that Mr. Stockton's vote be not received? There would be no trouble about that.

Mr. SUMNER. Before the call it can be done. Senators say to me, "Withdraw the motion." I withdraw it with the understanding that the Senator from Vermont makes the motion for a reconsideration, that we may at once enter upon the consideration of the question in another form.

Mr. JOHNSON. I object to the withdrawal.

Mr. POLAND. I move a reconsideration of the vote by which the resolution reported by the Committee on the Judiciary that the Senator from New Jersey was entitled to his seat was adopted.

Mr. JOHNSON. Has the Senator from Massachusetts a right to withdraw his motion without the unanimous consent of the Senate?

The PRESIDING OFFICER. The Chair is of opinion that he may.

Mr. SHERMAN. The yeas and nays were not ordered upon it.

Mr. JOHNSON. I objected, and the objection was made very positively—quite loud enough, I thought, to be heard all over the Chamber.

Mr. FESSENDEN. He may withdraw it at any time, on his own motion, the yeas and nays not having been ordered.

Mr. JOHNSON. I only want to know what the rule is.

The PRESIDING OFFICER. The Chair is of opinion that the Senator from Massachusetts may withdraw the motion. That motion being withdrawn, the Senator from Vermont moves to reconsider the vote by which the Senate on Friday last adopted the resolution reported from the Committee on the Judiciary.

Mr. JOHNSON. How does a motion to reconsider settle the case? When is it to be acted upon?

Mr. SUMNER. Right off.

Mr. JOHNSON. So I supposed. The colleague of the Senator from New Jersey is not here and cannot be got here "right off." The Senator from New York [Mr. MORGAN] is confined to his room by sickness, and cannot be got here, but he is in the city, and is exceedingly anxious to vote on this question. I put it to Senators who think Mr. Stockton is not entitled to his seat in this body, whether it is not due to their colleagues in the body, and especially the Senator from New York, that no vote should be had until they have had a reasonable opportunity of being present.

Mr. TRUMBULL. Of course, I apprehend nobody expects to take the vote instantly to decide the whole question.

Mr. JOHNSON. What I said was in consequence of the remark of the Senator from Massachusetts that the matter was to be acted upon "right off."

Mr. TRUMBULL. I was not aware that that was the design of the Senator from Massachusetts, but I presume there is no such design on the part of the Senate. I am willing that the resolution should be reconsidered; that does not alter it at all; and then the question in relation to the Senator's right to vote may be considered afterward or before. I have pretty much come to the conclusion that the Senator from Ohio was right about it, and that it would be best to do it the other way. However, I do not think it is very material. I shall vote for the reconsideration, and then, it strikes me, we had better settle the question as to the right of the Senator from New Jersey to vote by adopting the resolution already offered or some other one.

The PRESIDING OFFICER. The question before the Senate is, Will the Senate reconsider its vote agreeing to the resolution declaring the Senator from New Jersey entitled to his seat?

The motion was agreed to.

The PRESIDING OFFICER. The resolution is before the Senate.

Mr. JOHNSON. I now move that the further consideration of the question be postponed until Thursday next.

Mr. FESSENDEN. It is hardly worth while to do that. I should like to have some reason given for it.

Mr. CONNESS. I thought the Senate was about to vote first on the question of expunging the vote of the Senator from New Jersey from the record.

Mr. JOHNSON. That motion was withdrawn.

Mr. CONNESS. I understand that, sir. Nevertheless, the vote on the resolution is reconsidered now, and it stands as before the Senate. Do I not understand that the record of that vote is made?

The PRESIDING OFFICER. The record is made.

Mr. CONNESS. Then I should like to see that record corrected. As to when the final vote shall be taken, that is another matter. That may be postponed, if it is the sense of the Senate. I think we had better settle that question now.

Mr. LANE, of Kansas. I would like the Senate to give its unanimous consent that the Journal be corrected, and the Senator from New Jersey be permitted to withdraw his name. I make that motion, that the Journal be corrected by striking his name from the vote.

The PRESIDENT *pro tempore*. At present there is another motion before the body.

Mr. LANE, of Kansas. I propose that it be done by unanimous consent. I think it but just to the Senator from New Jersey. He admits that he gave a hasty vote. We have spoken in favor of the proposition that it was a hasty vote It seems to me but just to one who is a new member of this body that he have permission to correct that vote by unanimous consent.

Mr. CONNESS. What is the question pending?

The PRESIDENT *pro tempore*. The motion made by the Senator from Kansas is that the Senator from New Jersey be permitted to withdraw his vote, and thus correct the Journal. In the opinion of the Chair, that motion cannot now be entertained. The Senate having voted to reconsider the vote on the resolution reported from the committee, the question before the Senate is, Shall the resolution pass? and a motion of this sort cannot now be entertained.

Mr. CONNESS. Then, as I understand, the question is now settled except as to the record, so far as the vote of the Senator from New Jersey is concerned.

The PRESIDENT *pro tempore*. The vote has been reconsidered by a vote of the Senate.

Mr. CONNESS. But yet there is a record of the Senator's vote on the Journal.

The PRESIDENT *pro tempore*. The record of Friday remains yet unaltered.

Mr. CONNESS. Then I hope a motion will be made to correct the record, and then the subject can be postponed, if that is the wish of the Senate.

Mr. CLARK. I was going to suggest that the alteration had altered nothing except the vote on the resolution. The record stands.

Mr. CONNESS. But the vote is there.

Mr. CLARK. The vote is there.

Mr. CONNESS. I move that the record be corrected by excluding the vote of the Senator from New Jersey. Then, if that is done, the subject may be postponed to any time agreed upon by the Senate.

Mr. SHERMAN. I will ask the Senator whether, if his motion should be agreed to, the motion to reconsider does not fall. If the Senator wants to get at this point, let him introduce a simple order stating that on the vote on this resolution the name of the Senator from New Jersey shall not be called on the ground that he is interested.

Mr. CONNESS. I am speaking with reference to the record that is made on the Journal of the Senate. It is there recorded that the Senator from New Jersey did vote.

Mr. SHERMAN. But if the Senator accomplishes that purpose, a motion to reconsider the vote on the resolution cannot be entered, because neither party had a majority; and it is doubtful whether a party on either side can move to reconsider. So the Senator had better let it stand as it is.

Mr. SUMNER. I will propose still another form to meet this difficulty. I offer the following resolution:

Resolved, That the vote of Mr. Stockton be not received in determining the question of his seat in the Senate.

That meets it directly without undertaking to interfere with the existing Journal.

Mr. JOHNSON. Does the honorable member desire to take a vote upon that proposition now?

Mr. SUMNER. I should like to have a vote upon it now. I think we can all agree upon it.

Mr. JOHNSON. But we cannot all agree. It seems to me that it ought to go over until Thursday next, when the final vote is to be taken. It is a question that will arise then. We can dispose of it then. We are not prepared to do it now for the reason that there are two or three Senators absent whose opinion may be against the proposition contained in that resolution. Nothing would be made by it, because we could change it afterward. I move that the whole subject be postponed until Thursday next.

Mr. CLARK. I hope the matter will not be postponed, but I desire to suggest to the Senator from Massachusetts that it is hardly worth while to introduce an order or resolution of that kind, because I understand the Senator from New Jersey to express regret that he cast the vote on Friday, and I have no idea that he will attempt to do it again.

Mr. STOCKTON. I hope I may be permitted to say a word at this point. The Senator from Kansas [Mr. LANE] said a moment ago that I acknowledged I voted on Friday last in a hasty moment. I at once determined at the first opportunity on taking the floor to state that he misunderstood me partially. I used no such word as that. The Senator from New Hampshire now says that I said I regretted it. I ask every Senator on the floor whether I uttered one single word of the kind. I state now that I had the constitutional right to vote, in my own judgment, and I did not know that any human being could or would dispute it. Believing that I had that right, I overcame all delicacy for the purpose of accomplishing what I believed to be a solemn duty. I cannot regret that. I did what I believed to be right. But I find that other gentlemen, abler lawyers than myself, and some of my own party friends are of opinion that there is extreme doubt on the subject of the constitutionality of that vote. Under those circumstances, I asked permission to withdraw the vote; and of course no gentleman on the floor could dream that I would vote until the question was settled. What is the object of my withdrawing it? If there is a doubt in the minds of the Judiciary Committee as to whether it is unconstitutional, I do not wish to hold my place here by an unconstitutional vote. In my judgment, that question ought to be settled by the Judiciary Committee before this resolution again comes to a vote. I think it is but just to require that. If they say I am not entitled to vote, I certainly should never dream of offering a vote; and if the vote is forced upon me before that question is decided I shall not vote.

Mr. SHERMAN. I think it would be well to take the honorable Senator from New Jersey at his word, and refer the pending resolution of the Senator from Massachusetts to the Judiciary Committee, with instructions to report by Thursday morning, so that we may

have that question settled. I have no doubt that the action of the Judiciary Committee would be complied with, and would be looked upon as the settled rule on this question. If any Senator thinks that the Senator from New Jersey has a right to vote we ought not to force a vote on that question to-night, because the matter has not yet been fully debated. From the beginning I had some doubts about it. Under circumstances of some difficulty, I was placed in a position where I was compelled to decide a question for myself; the circumstances were somewhat different from the circumstances in this case; and I know the sensitive embarrassment under which any person acts who is compelled to cast a vote when that vote is misunderstood. I will state the facts: some years ago I was a candidate for office, when it was supposed that my vote was necessary to elect me, and it was gravely debated whether or not I had the right to vote. I had a natural sensitiveness against voting for myself for any office except a mere popular election, and I gravely considered it. My political friends then almost unanimously, perhaps unanimously, held that I had the right to vote for myself for that office if the contest came to such a position that my vote would elect me. I debated it for a long time, but I came to the conclusion that my constituents had the right to my vote, and under the circumstances I would have cast the vote.

But I draw a wide distinction between the position in which I was then placed and the position in which the Senator from New Jersey is now placed. His question is a judicial one. This is a high court of errors. This is the final tribunal and the only tribunal to decide his right to a seat. It is a judicial question. He is not merely running for an office where the choice is between one of two persons, when he has the right to cast the vote of his State or district in favor of his own political party for a mere party office; but the question of his right to his seat is involved. It seems to me if any question is judicial that is a judicial question. It involves not only the mere salary, which is nothing, but his right to the office, which is a judicial question to be determined by the courts in many cases, but here the Senate is to determine for itself. Upon this question I have already indicated my opinion; but if anybody else has any doubt of it I would certainly refer it to the Committee on the Judiciary. The report of that committee I have no doubt would settle it forever, so that when the question may hereafter arise there would be a fixed rule adopted by the general concurrence of all parties in the Senate. I therefore move that the resolution of the Senator from Massachusetts be referred to the Judiciary Committee with instructions to report by Thursday morning.

Mr. SUMNER. I agree with the Senator from Ohio in taking the Senator from New Jersey at his word. I have no personal question with the Senator; I have for him nothing but kindness and respect. I deal with this question simply as a question of principle. The Senator tells us that he will not vote when the case comes up again. I believe him; he will not vote. But, sir, he has taken the Constitution in his hand, and holding it up he tells us that he finds in that instrument authority for it in his case. That being so, I do think that we ought not to be content merely with his statement that he will not vote. The Senate owes it to itself to fix the precedent for all time, that a Senator in his position cannot vote. He says, reading the Constitution, "The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof for six years, and each Senator shall have one vote." Ay, sir, each Senator shall have one vote when he is recognized as a Senator on this floor fully and completely.

Mr. FESSENDEN. That has reference to their voting by States.

Mr. SUMNER. It has reference, as the Senator from Maine reminds me, to their voting by States; but then I am willing to accept the interpretation even that the Senator from New Jersey gives it, subject, however, to this limitation, that he cannot vote in his own case. The Constitution of the United States itself is to be interpreted in subordination to that great principle of universal law. But since the Senator makes that claim it is important that we should meet it, and in some way or other, as I proposed, by correcting the Journal, or, as I now propose, by a resolution declaring that the Senator shall not vote, fix the precedent forever, so that hereafter we shall not be left to the uncertainty of the will or opinion of a Senator whose seat may be in question. We must not rely upon his honor. We have got to rely upon the Constitution as interpreted by this body and fixed by precedent beyond recall. It is, therefore, that I think still it would be better if the Senate had corrected its Journal and annulled the vote. Being a vote that in itself was null and void, it was to be treated as not having been given.

That brings me to another question. The Senator asks to withdraw his vote. To withdraw what? Something which I think has never been done; that is, legally done. There is no legal vote of the Senator. His name is recorded there as having voted, but it is a vote that at the time was null and void. There is nothing, therefore, for him to withdraw, but something for the Senate to annul.

Now, sir, as to the question of postponement, if the Senate desire to postpone the subject, they will postpone it. I shall regret it. Already this case has occupied too much time. Why not proceed with it at once? Who hesitates? Who doubts whether Mr. Stockton should be allowed to vote or not? Let us begin, therefore, by declaring that he should not vote, and then let us proceed with the main question and settle it before we adjourn. Why not?

Mr. TRUMBULL. It strikes me that the easier and better way to dispose of this matter in the shape in which it now is, as we have reconsidered the vote, would be to correct the Journal. The Senator from Massachusetts says the vote is void. No matter whether it is void or not void, it is cast. The Senator from New Jersey, from considerations of his own, which he has stated to the Senate, has asked the unanimous permission of the Senate to have the Journal in that respect corrected. If there is no objection, that may be done. I think that would be the better way; and then let the other question of his right be referred, as suggested by the Senator from Ohio, to the Judiciary Committee. As he and some other Senators desire it, I have no objection to that. The committee can examine it and make a report on the subject. I trust that there will be unanimous consent to correct the Journal as suggested by the Senator from New Jersey. That would make the correction upon the Journal; and then we will settle the question of his right to vote on the motion that is made by the Senator from Ohio. That would dispose of the case, as the motion to reconsider is already adopted.

The PRESIDENT *pro tempore*. The question is on the motion to refer to the Committee on the Judiciary, with instructions, the following resolution:

Resolved, That the vote of Mr. Stockton be not received in determining the question of his seat in the Senate.

Mr. GRIMES. I understand the Chair to say that the motion is to refer that resolution to the Committee on the Judiciary, with instructions. I should like to know what those instructions are.

The PRESIDENT *pro tempore*. To report by Thursday morning.

Mr. GRIMES. I move to amend that by instructing them to report a standing rule for the Senate, and then we shall have the question settled not only in this, but in all other cases.

Mr. TRUMBULL. I suppose it would be competent under this resolution, and probably that would be the result, for the committee to report a standing rule on the subject. It strikes me so at this time; but that would certainly be competent. We should not be compelled to report back the precise words of the resolution referred.

Mr. CLARK. What is the necessity of a reference to the Judiciary Committee of that question at all?

Mr. GRIMES. To frame a rule.

Mr. CLARK. The Senator from Iowa says to frame a rule. I have drawn and hold in my hand what I think would be a good rule, which I offer to the Senate, and it can lie on the table until to-morrow and then be adopted.

The PRESIDENT *pro tempore*. The question before the Senate now is on the reference of the resolution of the Senator from Massachusetts to the Committee on the Judiciary with instructions.

Mr. NYE. After having listened here almost all day to the leading members of this committee, it seems to me but another act in this farce to refer back to them this resolution to make a rule. I am opposed to that reference, and I am opposed to the motion made by the Senator from Maryland, and which seems to be seconded by the Senator from Ohio, to postpone action in this case. It seems to me we have reached a point in the consideration of this case where the Senate should act promptly upon it. It is due to the State of New Jersey. It is a thing perfectly well known that the Legislature of the State of New Jersey are holding on now for no other purpose than, if the vote in this body is such as to relieve Mr. Stockton from further duty here, that they may elect a man to put in his place. I am credibly informed, and about that there will be no dispute, that they are now adjourning from day to day for no other purpose.

Mr. President, in speaking one word for the State of New Jersey, I shall be pardoned if I recur a little to the history of this whole proceeding. It started and originated, I will not say with the purpose, but the result of the action is a palpable wrong to the people of New Jersey. I deny that the Legislature of any State possesses the right to exercise powers which are not delegated, to make any agreement in reference to the election of an officer, especially one so high in character as a Senator of the United States, which for a moment imperils even the wishes of the humblest citizen in the State. This question goes back, then, and the people feel an interest in it, and their interest should be regarded by this body.

For almost four months this question has been under consideration. The citizens of New Jersey claim that they have not only not been represented, but they have been misrepresented. It is due to that people that this body, after so full a discussion as we have had here on both sides, should meet the question like men and decide it at once. The Senator from Maryland says that the Senator from New York [Mr. MORGAN] is sick. So was the Senator from Vermont [Mr. FOOT] the other day when this vote was taken. So is the Senator from Connecticut, [Mr. DIXON.] On Thursday the Senator from Maryland may be sick himself. If the vote stood a little different to-day I think a motion to postpone would not be made. I take it for granted that if the Senator from New York was in his seat, the vote would not be postponed. I say that each question that is before this body is to take its chances of the health of Senators. There is no reason for further postponing the consideration of the question now before the body, after the manner in which it has been conducted here, and let me say, especially after that most insolent letter, by which the Senator from New Jersey attempted to vindicate himself, from a Major Wright, arraigning this body here and before the world as exercising a high prerogative that they had not the right to exercise, and therefore offering not only to the State of New Jersey, but to all the constituencies that we represent, a most palpable insult.

I submit that there is nothing new to be brought out upon this question. The learned Senator from Maryland has exhausted himself upon the right of this man to his seat; and the

learned Senator [Mr. STOCKTON] has exhausted all of his arguments upon it. I know of no other man who wants to make a speech on the subject. Why should it be postponed? I insist that we should vote, and vote now, upon this question. It is due to the people of New Jersey, who are not represented, that we should vote upon it. And here I may state a fact that is just as palpable as any other. I regret to say that there is no human probability that the colleague of the Senator from New Jersey will ever again come to this body. That is the information that I have received; and that it is true I entertain no doubt. I say it with sorrow, because we all undoubtedly desire that he should have a prolonged existence. But I insist upon it that this vote should be taken now. I hope the Senator from Illinois will not desire to get this thing again into the bosom of that Judiciary Committee to slumber as quietly and as long as their former report did. [Laughter.] They have given it all the nourishment that they can give it, I imagine.

The PRESIDENT *pro tempore*. Is the Senate ready for the question?

Mr. JOHNSON. What is the question?

The PRESIDENT *pro tempore*. The question is, Shall the resolution of the Senator from Massachusetts be referred to the Committee on the Judiciary with instructions to report by Thursday morning?

Mr. JOHNSON. On that question I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 18, nays, 22, as follows:

YEAS—Messrs. Anthony, Buckalew, Cowan, Davis, Guthrie, Harris, Hendricks, Johnson, Lane of Kansas, McDougall, Nesmith, Norton, Riddle, Saulsbury, Sherman, Trumbull, Van Winkle, and Willey—18.

NAYS—Messrs. Brown, Chandler, Clark, Conness, Cragin, Creswell, Fessenden, Foster, Grimes, Howard, Howe, Kirkwood, Lane of Indiana, Nye, Poland, Pomeroy, Ramsey, Sprague, Sumner, Wade, Wilson, and Yates—22.

ABSENT—Messrs. Dixon, Doolittle, Foot, Henderson, Morgan, Morrill, Stewart, Stockton, Williams, and Wright—10.

So the motion was not agreed to.

The PRESIDENT *pro tempore*. The question now is on the resolution offered by the Senator from Massachusetts.

The resolution was agreed to.

Mr. SUMNER. The question now is, I believe, on the report of the committee.

Mr. JOHNSON. I suppose the question now is on the motion to postpone until Thursday next, the motion which I made some time ago.

The PRESIDENT *pro tempore*. That is the pending question.

Mr. WADE. I hope this subject will not be postponed. We have had it here long enough. Everybody understands all that they ever will understand about it. Those that have said nothing about it are not anxious to postpone it any further. I believe every member here disposed to take any part in the discussion on the subject has said all that he can think of on it. Those of us who have not taken part in the debate are ready, and always have been, to vote upon it. It has taken time enough. There is no reason why there should be any extraordinary magnanimity on this subject. I hope we will take the vote and end the question now.

Mr. HENDRICKS. The proposition to postpone until Thursday next is not an unreasonable one. The Senator from New Jersey desires an opportunity to have his colleague here, and another of his friends is not able to be in the body. Although perhaps one gentleman desires to discuss the question further, still it is desirable that all the Senators who wish to vote on the subject shall be here, and they can probably be here by that time. I do not see any special necessity to hurry a vote on it, unless it be to have that vote when some Senators cannot be here. It has been impossible for Mr. WRIGHT, of New Jersey, to be here at this time, for the reason that it was not supposed this question would come up again. It was supposed to have been settled. In this body it is not customary to drive questions through. A proposition to postpone for a few days is generally received with favor. I appeal to the magnanimity, if not to the sense of right, of Senators to allow an opportunity to have a full vote upon the question. If the Senate be full and the vote of the majority be that Mr. Stockton is not entitled to his seat, of course we will acquiesce in it; but to take the vote now, when it was not expected that the question would come up, when but three days' postponement is asked, would indicate a desire to have a vote when the Senate is not full, and I am sure the majority of this body cannot desire that. The proposition is a reasonable one, and I think it ought to be agreed to.

Mr. TRUMBULL. I have said what I have to say in regard to this case. I have expressed my views in reference to it. I think that the attempt to force a vote on the question now, with a view of getting a vote upon the right of Mr. Stockton to his seat, is not proper under the circumstances. We have discussed here to-day the question of his right to vote, and have disposed of that question properly, I think. He was mistaken in voting. But I think it would be an unusual thing on the part of the Senate under the circumstances to attempt to force action here to-night. I trust there will be a general understanding not to do so, and to take the vote at some suitable time when Senators can be here.

Several SENATORS. Move to adjourn.

Mr. TRUMBULL. I move that the Senate adjourn. I think that we had better not attempt to take a vote to-night, and I make that motion, if all will acquiesce in it.

Mr. SUMNER. With the understanding that this question will come up to-morrow.

Mr. CLARK. It will come up to-morrow as the unfinished business.

The PRESIDENT *pro tempore*. The question is on the motion to adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *March* 26, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of Saturday last was read and approved.

ORDER OF BUSINESS.

The SPEAKER. This being Monday, the first business in order is the calling of committees for reports, to go upon the Calendar and not to be brought back by a motion to reconsider, commencing with the Committee of Elections.

No reports were presented.

ASSUMPTION OF REBEL DEBT, ETC.

The SPEAKER. The next business in order during the morning hour is the call of States for resolutions. Under this call the first question is on a series of resolutions, presented last Monday by the gentleman from New Jersey, [Mr. ROGERS,] on which the House refused to second the demand for the previous question just as the morning hour expired. The question is on agreeing to those resolutions; and the gentleman from New Jersey is entitled to the floor.

The resolutions were read, as follows:

Resolved, That the Federal Government has no constitutional right to assume or pay the debt of the so-called confederate government of the insurgent States, or the rebel debt of any of said States, and that it would be an outrage even to attempt to do so.

Resolved, That the honor of the Federal Government and every principle of justice demand that the Federal debt should be paid to the utmost farthing; that repudiation should be discountenanced, and the plighted faith of the country sacredly preserved.

Resolved, That equal taxation is just and right, and that every person in this country should bear his equal share of the Federal and State taxes; and that there should be no privileged class.

Mr. DAVIS. I move to amend by adding the ten commandments. [Laughter.]

Mr. ROGERS. I want to be heard on the resolutions.

Mr. BLAINE. I rise to a point of order. When the resolutions were up on last Monday, and the House refused to second the call for the previous question, the gentleman from Illinois [Mr. WASHBURNE] rose for the purpose of debating them, and they went over under the rule.

The SPEAKER. The morning hour expired while the tellers were counting the House; and as the morning hour expired before the House was counted, no other business could be transacted, and the gentleman from Illinois could not rise to debate the resolutions.

Mr. BLAINE. My recollection is distinct that the gentleman from Illinois rose to debate the resolutions.

The gentleman from New Jersey is as graciously heard as almost any man on this floor; we always listen to him with delight, but it is rather going too strong for him to take up the entire morning hour.

Mr. ROGERS. Mr. Speaker, there is no one in this House more thankful than I am for the courtesy which has been extended to me by both sides in being heard during this session. Nor do I offer these resolutions with any purpose of frittering away the time of the House. I offer them particularly for the purpose of defining my position at least, if not the position of others, on the third resolution of the series. And I was not a little surprised on last Monday to find the seconding of the call for the previous question being refused, not only on all but on either one of the pending resolutions. It cannot be that any honorable member, either upon the Republican or Democratic side of the House, will disagree with one single word laid down in the first of the resolutions contained in this series.

I take it for granted that the members upon both sides of the House, without one dissenting voice, will record themselves fearlessly and with pleasure in favor of the two resolutions contained in this series, because I have understood it to be one of the principal axioms of the parties on both sides of the House to discountenance, to the utmost extent, any assumption for the payment of the rebel debt, either of any of the rebel States, or of the so-called confederate government of the insurgent States, by the Federal Government of the United States. While they have persistently insisted, from the first time that these securities were issued, that there should be no repudiation of the Federal debt, they certainly can have no hesitancy now in unanimously voting for the second resolution in this series, which merely gives it as the expression of this House that the Federal Government will not repudiate the Federal debt one single farthing, and that the plighted faith of the Government shall be sacredly kept.

While I have always been in favor of paying every single farthing of this Federal debt, and using the resources of the people of this country to pay every single dollar and every single cent of this debt, yet I have not forgotten that elementary principle which lies at the very foundation of this Government, upon which the principles of equality and justice are founded, that every man in this country, be he rich or poor, should be taxed according to the protection he receives from the Government, and the more property he has the more protection he needs. The man who would before the war propose that $3,000,000,000 of money in the hands of aristocratic owners should be exempt from taxation, would have been scouted and have received no consideration from the people. He would have been considered as one who was inimical to the best interests of the country, and to the working and toiling millions of the land.

While I am opposed to repudiation, and will oppose it with all my power and with the influence of my vote, on all and every occasion, not only now but hereafter, yet I will, as a Representative of the people, as a man who has the best interests of the people at heart, not only now but hereafter, so long as I am a member of this body, stand here and proclaim that grand doctrine which our fathers proclaimed when they rebelled against the power of England, that equal taxation is just; that it should be extended to all classes alike.

Mr. HALE. Will the gentleman from New Jersey permit me to ask a question?

Mr. ROGERS. Yes, sir.

Mr. HALE. I would ask if it is the purport and meaning of the third resolution of this series, that the Federal securities should be taxed; and if so, whether it would not be better that the resolution should say so in express terms, and not leave it in language which may be deemed ambiguous.

Mr. ROGERS. Most certainly; everybody will understand that the last resolution has application to all classes of people. It declares that there should be no distinction of classes in this country, whether they own their property in Government securities or anything else. The resolution lies at the very foundation of the principle which I have just been advocating in the remaks which I have made, namely, that equal taxation is just and right, and that every person in this country should bear his equal share of the Federal and State taxes.

I am surprised that the gentleman should ask me whether that last resolution applies to the taxing of Federal bonds, when the very language, "there being no privileged class," precludes the idea that there was any intent to exempt from taxation any class, without regard to the investments which they hold.

I take it for granted, and if there is any gentleman on the other side of the House who will deny the proposition I now make I am ready to hear him, that the Federal Government has the constitutional right to tax these Government securities which are now exempt from taxation by a law of Congress just as much as it has the constitutional right to tax the farm or the loom. Because there is no limit in the Federal Constitution preventing the Federal Government whenever in its judgment it sees fit in its sovereign power to lay its hands on every kind of property and tax it to such an extent as is deemed necessary for the protection and welfare of society.

But, it is said by those who are opposed to laying any tax upon these Federal securities that to tax them would be a breach of plighted faith, a violation of a sacred contract which they claim has been entered into by the Federal Government and the holders of those securities. Sir, the Government never entered into any contract with any holder of these securities that it would not tax them whenever it found it necessary or for its interest to do so. There is no contract between the bond-holders and the Government in the bonds, or in any writing or law that they shall not be taxed in future. Read them carefully over and you will find there no obligation or agreement on the part of the Federal Government with the bond-holder that the Federal Government will not tax them whenever in its wise judgment it may see fit.

To be sure, laws may be passed by a State exempting certain property from taxation in any State or by Congress, and by virtue of that power these bonds were exempted at the time they were issued; but any subsequent Congress has undoubtedly the right to repeal that act, because there is no better settled principle of the common law than that a Legislature has no right to pass a law which shall tie up and control the action of future Legislatures on the same subject. Suppose a Legislature should declare that real estate in a State should not be taxed, and persons should purchase that estate after such exemption, will any man doubt that the Legislature may afterward tax it? This was a mere law declaring that these Government securities should be exempt from taxation, and there was no contract, express or implied, either in the bond or in the words of the law, which gave out to the bond-holder the idea that he should hold them for all time to come exempt from State or Federal taxes.

I am in favor of taxing these bonds by the Federal Government and of taxing them by the States, and I offered a joint resolution early in the session in the form of a law for the purpose of having them taxed, both by the Federal Government and by the States. I do not pretend that a State government has a right to tax Federal securities without the consent and authority of the Federal Government, which consent may be given by act of Congress. The Federal Government has the right to borrow money on the credit of the United States, and the bonds and securities which it issues are the evidences of its debt.

States cannot tax these securities without the consent of Congress, because they are one of the means used by the Government to carry on its operations. The Federal bonds cannot be taxed by the States, because that might interfere with the operations of the General Government. And in order that the States may tax them, it is necessary that the Federal Government should give its assent.

It has been settled, and I suppose no lawyer on either side of the House will deny it, in the Maryland Bank case, in the Charleston case, and in a case tried before the court of appeals of the State of New York, now before the Supreme Court of the United States, that a State has no right to tax a Federal bank or a Federal bond, *eo nomine*, directly by that name, for the simple reason that the bond and bank are one of the instrumentalities used by the Federal Government to carry its power into effect. And although there is no prohibiting or restraining clause in the Constitution of the United States to prevent the States from taxing these bonds; yet from the simple fact that it was against the spirit and intent of the Constitution, and would clog the natural operations of the Government, and prevent it carrying its functions into effect, the courts have decided that the State has no right or authority to tax these bonds, without the consent of Congress.

The court of appeals of the State of New York, being composed nearly altogether of Republican judges, and some of the most eminent and talented jurists that ever sat upon a law bench, at its late session decided, without one dissenting voice, that Congress had a right, if it saw fit, to authorize these States to tax these Federal bonds. And although the State had no authority to do it of its own volition, yet, whenever the Federal Government shall see fit to delegate this right to the States, they can carry that taxing power into effect.

The bill offered at the commencement of this session simply proposed that the Federal Government shall tax the bonds one fourth of one per cent.: and that Congress shall give power to the States to lay such a tax upon these Federal bonds in the States as the States lay on other kinds of property. Is there a man here—if so, I would like to see him—who will have the audacity to rise here and say to me that equal taxation in the abstract is not right?

Mr. CONKLING. Will the gentleman from New Jersey [Mr. ROGERS] allow me to ask a question?

Mr. ROGERS. Certainly.

Mr. CONKLING. Will the gentleman from New Jersey inform the House whether Federal securities are exempt from taxation by force of acts of Congress, or by force of the Constitution of the United States?

Mr. ROGERS. Federal bonds are exempt from taxation by reason of the Constitution of the United States; not that there is any express provision in the Constitution forbidding a State from taxing the bonds, but the courts have decided that it was against the spirit and intent of the Constitution to allow a State to interfere with the necessary functions of the Federal Government in carrying its proper powers into effect.

Mr. CONKLING. Are we to understand, then, that if we repeal all acts which in terms exempt these securities, they will thereby become subject to State taxation?

Mr. ROGERS. No, sir; if we simply repeal the law which now exempts Government securities from State taxation, the States can no more tax them under the Constitution of the United States than if this law had never been passed. There was no necessity for framing this act of Congress exempting those bonds from State taxation, for the simple reason that the spirit and intent of the Constitution forbids any State from taxing the machinery of the Federal Government without its consent, because it might by that means prevent the Government from exercising fully its necessary powers.

Mr. CONKLING. In the light of the very lucid explanation which the gentleman gives, how could we subject the securities of the Government to State and municipal taxation?

Mr. ROGERS. I was just about to explain that when the gentleman interrupted me. If he had listened to my argument attentively he would have seen the ground which I take. Although the Constitution of the United States, in its intent and spirit, though not by direct provision, prevents the States from taxing these securities, yet Congress, as the guardian of that power, could delegate to the States this right of taxation. This was expressly settled in the great case lately before the court of appeals of the State of New York, and now before the Supreme Court of the United States for final decision. And the Maryland Bank case also decides that the State of Maryland had the right to tax the income derived from the bank, to tax the property upon which the bank stood, and to tax the stockholders who owned the stock in the bank to the amount of their stock. The State could not tax the bank itself, because the bank was one of the means used by the Federal Government to carry its own functions into effect. And therefore the spirit and intent of the Constitution of the United States would not permit the State in any manner to clog the wheels of the Government, or in any way prevent it from carrying on its lawful operations.

Mr. CONKLING. If I may avail myself further of the views of the gentleman, I ask him whether we are to understand that this power of Congress to delegate to the States the right to tax may properly be exercised in reference to bonds which were issued heretofore under the legislation of Congress as it stands, and which are now held by those who took them under the existing exemptions from taxation by the States.

Mr. ROGERS. Most certainly, sir; and the first part of my argument, if the gentleman had listened to it, was designed to meet the point which the gentleman now raises. I maintain that there is no contract or agreement with the bond-holders that if the bond-holders would accept the bonds, the Federal Government would not tax them. It is a recognized principle of the common law with which the learned gentleman from New York [Mr. CONKLING] is as familiar as I am, that no legislative body, by a mere legislative act, can tie the hands or diminish the power of a subsequent Legislature. This principle is expressly laid down by Blackstone; and it is well settled in this country that a mere law either of the Congress of the United States, or of the Legislature of any State, cannot prevent a subsequent Congress or a subsequent Legislature from repealing that law.

Mr. CONKLING. I differ with the gentleman; he affirms that a State Legislature is not bound in any case by the action of its predecessor. In that position the gentleman runs counter to the Constitution of the United States.

Mr. ROGERS. I say that one Legislature cannot by a simple law prevent a subsequent Legislature from repealing it.

Mr. CONKLING. Let us pass that point; it is foreign to my question. The point I submit to the gentleman is whether, not as a question of power, (I waive that consideration for the moment,) but as a question of good faith in the exercise of power, Congress may properly subject to State taxation bonds issued heretofore, and taken, paid for, and held under an express guarantee beforehand of exemption from taxation?

Mr. ROGERS. Now, if I understand the gentleman, he has changed the position he took in the first place. Do I understand the gentleman to say now that he does not deny that Congress has the constitutional power to subject these bonds to taxation and to authorize the

States to tax them, although the law upon the statute-book at the time the bonds were issued and went into the hands of the bond-holders declared that these bonds should not be taxed? Let us have the question of power settled first.

Mr. CONKLING. Does the gentleman wish me to answer?

Mr. ROGERS. I do.

Mr. CONKLING. Without having heard the whole question I will say——

Mr. ROGERS. I will repeat the question, if the gentleman so desires.

Mr. CONKLING. It is not necessary. I understand it far enough to answer it.

As an original question I have no doubt, confining the question to bonds to be issued and sold hereafter, that Congress may tax the bonds of the United States. I have no doubt, either, that Congress may leave to the States all subjects of taxation which, as subjects of taxation, lie within the domain and jurisdiction of the States, whatever those subjects may be. I was asking the gentleman, and I wish now to go back to the inquiry, exclusively with regard to those Federal securities, those instrumentalities for raising money and carrying on the Federal Government which have heretofore been created and invested with immunity from all State taxation. Speaking only of these, I ask whether he means to say that without repudiation, without a violation of the public faith, we can now, either by delegating to the States the power or by exercising it directly ourselves, withdraw from those securities the immunities which now attach to them, and which did from their inception attach to them, and subject them to the very taxation against which we guarantied the holders when they took them and advanced their money.

Mr. ROGERS. As to the power to do it, I presume it is unquestioned. I presume the gentleman does not question it. As to the policy, I am equally as clearly of the opinion, and I think the majority of the American people are so, that the $3,000,000,000 which are invested in these Government securities ought to bear the necessary burdens of State and Federal taxation according to the protection those bonds and those men receive from the different sovereign States of this Union.

Mr. CONKLING. I see that I am unable to make myself clear. I will try once more. I am not asking about the question of power.

Mr. ROGERS. I am talking about the policy, too.

Mr. CONKLING. I assume, for the sake of the argument, all that the gentleman pleases as to the mere question of power. I ask him whether, without repudiation and violating the public faith, any power may be exercised by Congress which shall withdraw from these securities the immunity enhancing their value which holders relied upon when they took them and paid their money for them.

Mr. ROGERS. I understand the gentleman, and I understood him before. Yes, sir; I say it would not be in violation of plighted or public faith, and would not have the first resemblance of repudiation to compel these bond-holders—these rich, aristocratic bond-holders, who have $2,000,000,000 invested in Government securities, to pay taxes to the State and Federal Government, according to the amount of protection they receive from both, because there is no guarantee to the contrary. It is not a violation of public faith, because, when the law was passed, it was well understood that Congress afterward might exercise its constitutional power of taxation. It is a well-settled principle that Congress or a Legislature may exempt certain kinds of property from taxation one year, and the next year may compel every one of those articles to pay tax, and yet not repudiate or violate public faith. It has been done in my own State of New Jersey. It is done in almost every State of the Union. You cannot find a single year passing without the Legislature of some State changing the taxation of that State. Sometimes schools, colleges, corporations, or banks are exempted from taxation by virtue of mere law, but no one ever pretended it was violating the public faith or derogatory to the State afterward to compel the things before exempted from taxation to pay taxes.

Mr. STROUSE. I desire to ask the gentleman a question. Does the gentleman mean to say that all these $3,000,000,000 invested in Federal securities are entirely exempt from taxation?

Mr. ROGERS. No, sir, not exactly; but it amounts to that. There is no other tax but a mere tax on income.

Mr. STROUSE. Suppose, then, that the owners of this money invested in these bonds had kept it, what tax would be upon them?

Mr. ROGERS. Upon every dollar they had.

Mr. STROUSE. What law have you for that?

Mr. ROGERS. The law which taxes every kind of property in the States.

Mr. STROUSE. Do we not pay five or ten per cent. income tax?

Mr. ROGERS. I understand that. Do you not pay income tax upon all incomes, whether from these bonds or not? Do you not in addition pay income tax on all kinds of property? Do you not pay school tax, township tax, county tax, State tax, and Government tax, from which the Government securities are exempt?

Mr. STROUSE. Very well; one word more. This is not a contract between the citizens of a State; it is directly with the General Government, with which the States, in my judgment, have nothing to do.

Mr. ROGERS. I agree with the gentleman that the law has relation only to the Federal Government and to the citizens of the States, and that the States have nothing to do with it. But I propose that Congress shall legislate so as to give authority to the States to have something to do with it.

Mr. WARD. Mr. Speaker, I wish to inquire if this comes out of the morning hour.

The SPEAKER. It does. This is the morning hour.

Mr. BLAINE. Has not the morning hour expired?

The SPEAKER. No, sir.

Mr. BLAINE. I was going to ask, then, that the gentleman repress his remarks until some Saturday and let the States be called.

Mr. ROGERS. I propose to go on, and claim my right, and if gentlemen on the other side or on any side do not agree with me, all I have to say is, that this is the doctrine that the Democratic conventions have enunciated in almost every State of this Union, and which was enunciated by our revolutionary fathers when Parliament taxed the colonies different from what it taxed the English. It has just been enunciated by the State convention of Indiana, and was enunciated by both Democratic and Republican conventions of New York, and I am here to sustain it without regard to who may agree or disagree with me. It is well known in this House that I speak what I consider right regardless of consequences to me.

Mr. RANDALL, of Pennsylvania. I have no objection to the gentleman from New Jersey speaking for himself as he proposed when he got up, but when he assumes to speak for the Democratic party of Indiana or New York I would like to have the resolutions read.

Mr. ROGERS. I have read the resolutions of the Democratic conventions of New Jersey, New York, and of the other States, and they all take ground, as President Johnson in his message does, against a privileged class in this country being exempted from taxation.

If we have no constitutional power to tax these bond-holders, then I am opposed to doing it, as I will not violate the Constitution. But if we have a right, and it is equal justice, as I am attempting to show in my argument, then I am in favor of taxing them. I profess to be a man of the people, and to have the interests and feelings of the downtrodden and hard-working millions of this country at heart, rather than those who staid at home during the four years of bloody war, while the poor men went to the battle-field, and now, when the poor soldier comes back from the war to his little homestead, purchased with the small bounty that he received, while he has to pay a tax on his house and lot for State, county, and school purposes, I propose that the rich aristocrats who have remained at home and invested all their money in Government securities shall not be exempted from taxation.

The principles of justice demand that the holders of these Federal securities, this bonded aristocracy, should pay their equal share of the taxes of the country. And I am here to-day, without fear of what may come, to maintain as long as there is breath in my body the principle of equal taxation, and to denounce the aristocratic element in this country, which rides over the rights of the masses of the people by being exempted from taxation to the amount of $3,000,000,000, with the exception of the paltry income tax of five per cent. I do not deny that a State can bind itself by act of its Legislature to the performance of a solemn contract, nor that the Federal Government may also bind itself by act of Congress in a like contract; but it must be an act embodying a contract and not a simple law. A solemn contract ought not to be violated; but there is no such contract in the case.

I am opposed to repudiation, and yet I take the ground here as a legal argument, and I defy contradiction by any lawyer on either side of the House, that the Federal Government, in the exercise of its constitutional power, if it sees fit, has a right by act of Congress to repudiate the payment of every single dollar of the whole debt.

And if the Federal Government has the power to repudiate this debt, will any man stand here and undertake to question the power of the Federal Congress to impose a just tax upon that debt, to make the holders of it pay their just share of taxation necessary to effect the required purposes of the Federal and State governments?

Sir, I am well convinced there is not a man north of Mason and Dixon's line who for one moment would countenance even the faintest attempt looking toward repudiation. I am not here for the purpose of sustaining any such doctrine. I am here for sustaining the great rights of millions of people of this country who are burdened with the payment of taxes.

Look at my State alone. By the law of the State of New Jersey a citizen of a school district can be taxed to build a school-house. Take, if you please, a poor man with six children, who has invested his savings in building for himself and family a little house. Perhaps it is the bounty which is the result of his labors in the armies of the country, defending the Union of these States. He will be taxed for the construction of a school-house in the school district where he lives. Take another man, a neighbor of his in the same district, with three children, who is worth say $600,000. The man with the six children went to the war and risked his life in defense of his country, while the man with $600,000 remained at home, and as soon as bonds were offered in the market invested every single dollar in them. After the war, when the soldier comes back, and the tax-gatherer goes around and taxes him, he collects a tax from him to build the school-house, while the rich man, with his $600,000 invested in Government securities, is not called upon to pay a single cent of taxation for the construction of the school-house in which his own three children are educated. Is it just or proper that the rich man should be exempt from taxation and it should be imposed alone upon the poor man? Why should this rich man, with $600,000 invested in Government securities, be exempt from paying one single cent toward building that school-house, when the poor soldier is taxed upon his small savings for that purpose?

When I see the poor man thus taxed to educate not only his own children, but the children of the rich man, and the rich man exempted altogether from taxation, I think I would be lost to the duty which I owe to my country and

to that grand principle of equal taxation which lies at the foundation of the American Government and to the memory of our forefathers, who so strenuously protested against unequal taxation by the English Parliament, if I did not raise my voice in behalf of the working, mercantile, and farming classes of this country, who, under this law, have such injustice inflicted upon them.

The Constitution also says that no State shall make anything but gold and silver coin a legal tender, but it nowhere says the Federal Government shall not do it, yet the Supreme Court has decided, because there was no express restraining clause in the Constitution prohibiting the Federal Government from making anything but gold and silver coin a legal tender, that "greenbacks" were a legal tender, and that the Government could compel us to take "greenbacks" as gold and silver. In the same way it prohibits a State from impairing the obligation of a contract, yet it nowhere prohibits the Federal Government from impairing the obligation of a contract. Because the Constitution of the United States has lodged in the Federal Government that power, it is just, legal, right, proper, and equitable to make every man in this country, however rich or however poor, pay tax on the amount of funds he has invested in any property without regard to what that property may be.

Take the State of New Jersey. Suppose that State has $100,000 worth of taxable property, and that $96,000 of it were invested in Government securities, then there would only be $4,000 in the whole State for it to lay its tax upon, in order to carry on its government. If this rule is to be carried out, it might go to an unlimited extent, and deprive New Jersey of all taxation of her own citizens to carry on the necessary functions of her own State government.

Where is the man who professes to love the principles of the Democratic party, and follow the doctrines of Thomas Jefferson, who will deny that equal taxation is just and right, or that in this country, upon the broad principle of liberty and justice, every man ought to pay taxes in proportion to the amount of his property? Sir, there is one thing which will drive the Republican party from power, if nothing else will; and that is this: if they refuse to authorize the taxation of these Government securities the masses will at some future day rise in indignation, determined that this bonded aristocracy, exempt from taxation, shall not exist in this country.

No one upon the other side pretends to deny that the Federal Government is endowed with the power to exercise this taxation. Why, then, should men who have invested their money in Government securities escape taxation? They bought those securities when gold was worth 150 to 200. They bought them with greenbacks. Many of these securities are payable in gold. The holders of them have realized from twelve to fifteen per cent. They have been exempted from taxation now for about three years. I want to know why they should be exempted any longer.

Mr. CONKLING. When the gentleman says that he wants to know, does he really mean it? If so, I will answer him.

Mr. ROGERS. I understand the gentleman's ground. It is that this taxation is against the policy of the country.

Mr. CONKLING. Oh, no, that is not my ground. I want no privilege that can be honestly avoided.

Mr. ROGERS. Then the gentleman holds that taxation of these bonds would be a violation of plighted faith?

Mr. CONKLING. Yes, sir, as to those which the nation's faith is solemnly pledged not to surrender to taxation—only those.

Mr. ROGERS. The gentleman does not deny that we have the constitutional right to exercise this power of taxation, but maintains that it would be a violation of the faith of the country to do so.

Mr. STEVENS. Will the gentleman from New Jersey allow me to interpose a word, in answer to a question which he has asked?

Mr. ROGERS. Certainly.

Mr. STEVENS. The gentleman asks why we should not tax these bonds. My only answer is, because we promised upon the faith of the Government of the United States that we would not tax them.

Mr. ROGERS. I say that there has been no such promise. Congress simply declared by a simple law that the bonds for the time being should be exempt from taxation. Without any such law they would have been exempt from State taxation; and because Congress saw fit to sanction it by a law it makes the obligation no more sacred; and we are just as much authorized now, in the face of that act of Congress, and without a violation of plighted faith, to authorize the States to tax the Federal securities as we would have been if that act of Congress had never been passed.

Mr. CONKLING. Will the gentleman answer one more question?

Mr. ROGERS. I will.

Mr. CONKLING. Will the gentleman explain the difference between his proposition to allow the States to tax bonds which were taken and paid for by *bona fide* holders, under a promise that they should be exempt from State and municipal taxation, and a proposition to reduce, say one per cent., the interest to be paid? In other words, would it not be just as fair and equitable for us to say now that, upon a six per cent. bond we will pay only five per cent. interest, as to say that, though we continue to pay six per cent. nominally, we will withhold one per cent. by permitting State or municipal taxation to that or a greater extent?

Mr. ROGERS. No, sir; the cases are not at all analogous. The rate of interest is of the essence of the contract. If a man gives a promissory note payable three months after date with interest at a certain rate, that interest is a part of the contract, and when he refuses to pay the interest he refuses to perform the contract. But, sir, if a State gives its obligation to an individual, payable if you please in six months after date, with interest at five per cent., does that prove that it is repudiation if the State, before the time for the payment of that obligation arrives, should, in the exercise of its sovereign power, declare that that obligation shall bear its share of the necessary burdens of taxation imposed by the State in pursuance of a fundamental right of its government?

If the Federal Government, plighting its faith, had entered into a contract with the bond-holders, saying, "If you will take these bonds, they shall never be taxed," I am the last man who would stand here to advocate that Congress should either delegate or exercise the power of taxation in violation of the contract. But, sir, the declaration in the law of Congress passed two or three years ago, that these bonds at that time should not be liable to taxation, constituted no agreement, contract, or compact, express or implied on the part of the Federal Government with the bond-holders that the bonds should be exempt from taxation for all time to come.

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

Mr. ROGERS. Certainly.

Mr. GRINNELL. I desire to inquire whether the gentleman subscribes to that Democratic letter written a short time since, declaring:

"If we should now in the first place succeed in taxing the bonds, then we shall be ready to demand that those holding the bonds shall receive for their bonds what they paid for them, taking a gold standard; and then, if they will do that, shall we not be prepared to put the rebel indebtedness on a par with this, and so go upon the market?"

That is the position which has been taken by certain Democrats in this country.

Mr. ROGERS. I do not subscribe to any such doctrine as that. To compel these bond-holders to surrender their bonds before those bonds are surrenderable upon their face, would be a violation of plighted faith, and a repudiation of an express contract entered into by the Federal Government with the bond-holders. I am opposed to repudiation in every shape. The time in which they shall be paid and the rate of interest are in the bonds themselves, and are an express contract which should not be violated.

What I am now asking is that taxes shall be levied in this country upon the equitable principles of justice, and that all men shall pay taxes according to the value of their property, regardless of what that property may consist. What reason is there that a man with wealth amounting to a million dollars invested in securities of the Federal Government, should reside in the State of New York, or any other State, and pay no taxes to the State, and but a disproportionately small amount to the Federal Government, while he enjoys the protection of both governments and is allowed to participate in all the privileges of citizenship, while the toiling millions of the country have their meager means subjected to a heavy taxation, the rich aristocrats are living in luxury and paying comparitively no taxes?

Mr. THAYER. The gentleman has been very good-natured in yielding to others; will he permit me to ask him a question?

Mr. ROGERS. Yes, sir.

Mr. THAYER. I happen to have in my family a lady of Celtic extraction, an artist who attends to matters relating to the chambers in my household. By "aristocrats" she is ordinarily called a chamber-maid. [A laugh.] Within the last year she called upon me and placed in my hands a small sum of money, which by frugality she had accumulated from her small earnings, and requested me to invest it in United States securities, which I did. Now, I want to ask the gentleman if that person is included in the designation "aristocrats," against whom he has inveighed here for an hour?

Mr. ROGERS. No, sir, that lady is not included. But I will tell you who is included: those men who have made money out of the blood and misery that have been stalking throughout our land for the last five years; the men who have almost drawn the life-blood from this nation in their greed of wealth; the men who remained at home while the poor man went out and periled life and limb in defense of his country. Sir, had it not been for the poor men this country would have gone to ruin and destruction. The men who are unable to buy bonds of the Government because they have not the money to invest in them, they are the men who are entitled to the credit of putting down this most unjust and unrighteous rebellion. And I am here to-day as the friend of the poor man who has risked his life that his country might be saved; as the friend of the widow and the orphan, to call upon the Congress of the United States to break up this most pernicious aristocracy of the land and make taxation equal upon all men throughout our country. I am here to claim equal and exact justice to all men in this regard.

The President, Andrew Johnson, in his message to the Congress of the United States, sustains the same doctrine that I am advocating here to-day. I know you do not like him; I know you do not like his Democratic doctrines. But they are doctrines which contain the elementary principles which lie at the foundation of our Government. He says that no privileged classes should be allowed to exist in this country, that all should share equally in the burdens necessary to sustain, support, and carry on this Government. What does that mean? It means that it is not right that $3,000,000,000 should be exempt from taxation, and that one fifth or one sixth of the entire wealth of this country should be locked up in the coffers of those rich aristocrats, and not allowed to be touched to the extent of one cent by taxation; while the western farmer who is selling his produce below the cost of its production, the mechanic who is working for his daily bread, the merchant who is trembling at the crisis which even now threatens to overwhelm him, are compelled to pay their

full amount of taxation by money which they have honestly earned. Why should these be taxed, while the speculators on the woes and sufferings of their country, men who have always been opposed to the best interests of the great masses of the people are entirely exempt from that taxation which is necessary to carry on the proper governmental operations of the State, county, or township in which they live?

Congress has full power to remove this oppressive and unjust inequality. Congress has already exercised the right of taxing these bonds to the extent of compelling the bond-holders to pay an income tax. If gentlemen on the other side of the House do not like this proposition of mine, to give to the States the authority to tax these bonds as they tax other property, and do not believe it legal, just, and right, have they any objection to saying that the Federal Government shall tax those bond-holders, not only by compelling them to pay a tax upon the income derived from those bonds, but also to pay a tax levied directly upon these bonds *eo nomine?* Sir, I do not believe there can be a man here on either side of the House so loose in his political opinions, so blindly tenacious of any imagined or real principles he may profess to sustain, as to say that it would not be right or proper or just, or that it would be in violation of any contract whatever on the part of the Government, if this Congress should pass a law placing a tax upon the bonds themselves.

And should the Federal Government tax those $3,000,000,000 of bonds, as it taxes the horse, wagons, machinery, implements, and every other article of property owned by its citizens, it will do much to advance the interest of the bond-holders themselves, as well as of the community at large, by assuring them that every dollar of their bonds will be fully paid. I say it is to the interest of the bond-holders themselves that these bonds should be taxed. I tell you that if you go on taxing the people under the present system, and allow these rich aristocrats who are rioting in all the luxuries which wealth can procure, without bearing their equal share of the burdens of the Government, the time may not be far distant when the down-trodden masses will refuse longer to submit to the iniquitous and unjust burdens imposed upon them.

[Here the hammer fell.]

The SPEAKER. The morning hour for to-day has expired, and this resolution goes over to next Monday, during the morning hour.

Mr. BLAINE. I would inquire of the Chair what will be the position of the resolution on Monday next.

The SPEAKER. It will be again open to debate.

Mr. BLAINE. Is a motion now in order in reference to this resolution?

The SPEAKER. Not at present; the morning hour having expired, the resolution goes over under the rule.

Mr. BLAINE. Well, sir, the gentleman from New Jersey, [Mr. ROGERS,] with all his blatant argument upon this subject, was afraid to bring the resolution to a vote because the members on that side of the House have too much sense of honor and justice to sustain any such principles as he there lays down. He has gone on and talked during the whole morning hour and prevented us from attending to any morning business at all. Now, after he has abused and outraged the patience of the House to this extent I want to guard against any similar outrage next Monday.

Mr. ROGERS. I had no intention of occupying so much time. As to the vote of the members on this side, I do not care how they vote; each man will vote for himself.

The SPEAKER. The Chair will state the manner in which this resolution came up this morning. It is one of those cases which happen very rarely indeed. The morning hour of last Monday expired just as the House had refused to second the demand for the previous question on the passage of the resolution submitted by the gentleman from New Jersey, [Mr. ROGERS,] therefore, by the operation of the rule the resolution went over until to-day. The rule is, that resolutions shall not be debated on the very day of their being presented; nor on any day assigned by the House for the receipt of resolutions, unless where the House shall direct otherwise, but shall lie on the table, to be taken up in the order in which they were presented. This resolution, before the question of its disposition had been decided, by the expiration of the morning hour, came over until to-day, and was open for debate. And by the expiration of the morning hour to-day, it goes over until next Monday, and will be again open to debate.

Mr. BLAINE. Will I be then entitled to the floor upon this resolution?

The SPEAKER. Certainly.

RAILROAD TO PITTSBURG.

Mr. STEVENS, by unanimous consent, introduced a bill to authorize the building of a military and a postal railroad from Cumberland, on the river Potomac, in the State of Maryland, to the city of Pittsburg, in the State of Pennsylvania; which was read a first and second time, and referred to the select committee on an air-line railroad to New York.

Mr. STEVENS moved that two members be added to the select committee on an air-line railroad to New York.

The motion was agreed to.

Mr. STEVENS moved to reconsider the votes just taken; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

STATISTICAL DIVISION, TREASURY DEPARTMENT.

Mr. GRINNELL, by unanimous consent, introduced a bill to establish a Manufacturing and Statistical Division in the Treasury Department; which was read a first and second time, and referred to the Committee on Manufactures.

POSTAL LAWS.

Mr. WASHBURNE, of Illinois. What is the regular order of business?

The SPEAKER. The consideration of the motion to reconsider the vote by which the House recommitted to the Committee on the Post Office and Post Roads House bill No. 281, to alter and amend the postal laws.

BOYD VERSUS KELSO.

The SPEAKER laid before the House evidence in the contested-election case of Boyd against Kelso, fourth congressional district of Missouri; which was referred to the Committee of Elections.

COAST SURVEY REPORT.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting the annual report of the United States Coast Survey for the year 1865; which was laid upon the table and ordered to be printed.

Mr. ELIOT moved that there be printed three thousand extra copies of the report of the Superintendent of the United States Coast Survey for 1865, two thousand copies for distribution by the Superintendent of the Coast Survey, and one thousand for the use of members of the House.

The motion was referred, under the law, to the Committee on Printing.

NAVAL STATION AT CANTON, MARYLAND.

The SPEAKER also laid before the House a communication from the Secretary of the Navy in reply to a resolution of the House in reference to the cost at which the Government can locate a coal and naval station at Canton, near Baltimore.

Mr. PHELPS moved that it be laid upon the table and ordered to be printed.

The motion was agreed to.

TAX ON PETROLEUM.

Mr. MOORHEAD, by unanimous consent, presented a joint resolution of the Legislature of Pennsylvania instructing her Senators and requesting her Representatives to procure a repeal of the tax on crude oil or petroleum; which was referred to the Committee of Ways and Means, and ordered to be printed.

TRADE WITH BRITISH NORTH AMERICA.

Mr. KELLEY. I ask unanimous consent to submit the following resolution:

Resolved, That the Secretary of the Treasury be requested to communicate to this House a statement of the trade of the Provinces of British North America, especially Canada, in 1854 and 1865-66, respectively, the values being estimated in gold, and specifying what proportion of said trade was with the United States, and what articles, if any, were exclusively exported to the United States; also, the tariff laws now in force in Canada, with a statement of the nature and extent of the changes made therein since 1854; also, the returns of Canadian canals for 1865, illustrating their value and the importance of the free navigation of the river St. Lawrence to American commerce, together with such general information, brought down to the present time, as may be in his possession and may assist in correctly estimating the trade, resources, &c., of said Provinces, and their relation to the trade and production of the United States.

The SPEAKER. Being a call for executive information, it requires unanimous consent.

Mr. PIKE. I object.

RAILROAD TO PITTSBURG—AGAIN.

Mr. F. THOMAS. Mr. Speaker, I rise for the purpose of making an explanation. I understand, during my absence for a short while this morning, the gentleman from Pennsylvania, [Mr. STEVENS,] chairman of the Committee on Appropriations, moved that two more members be added to what is called the select committee on an air-line railroad between this city and New York. I ask whether I am rightly informed in that respect.

Mr. WASHBURNE, of Illinois. The gentleman from Pennsylvania is not now in his seat.

Mr. F. THOMAS. The Chair will have the kindness to say.

The SPEAKER. The gentleman from Pennsylvania is now present.

Mr. F. THOMAS. Very well, then, I will repeat: I understand during my absence a few moments since the gentleman from Pennsylvania moved that two members be added to the select committee to inquire into the expediency of making a new railroad connection between this city and New York.

Mr. STEVENS. What I did was this: I presented a bill authorizing the construction of a road from Cumberland, Maryland, to Pittsburg, Pennsylvania, and then asked that two members be added to the committee to which it was referred.

Mr. F. THOMAS. I hope some gentleman who was then present will move to reconsider.

The SPEAKER. The motion to reconsider was made and laid upon the table.

Mr. F. THOMAS. Cannot the vote to lay upon the table be reconsidered?

The SPEAKER. Only by unanimous consent.

Mr. F. THOMAS. Will the House indulge me in a moment's explanation?

The SPEAKER. The Chair hears no objection.

Mr. F. THOMAS. The House will recollect that early in the session the gentleman from Pennsylvania [Mr. STEVENS] submitted a bill proposing to construct a new line of railroad between this city and the city of New York, and that upon his motion the bill was referred to a select committee of seven members appointed by the Speaker. That subject has been under full consideration in that committee in some six, eight, or ten meetings. Delegates from Maryland and officers of the various railroad companies between this city and New York have been heard. We have gone into a full, thorough, and minute examination of a great deal of documentary evidence which has been submitted to the committee, and the committee have formed an opinion, as the gentleman from Pennsylvania well knows, the majority having decided against the propriety and expediency of the mode of communication proposed between the two cities.

Now, what is proposed to be done? That the House shall interpose and place two more members on that committee, and require at its hands that it shall revise all the proceedings that have been taken. Why, sir, if such a practice prevails there will be no termination to any subject-matter of inquiry in a committee, because the minority can come into the House at any time and ask that two or more members be added so as to make a majority.

Now, all I ask of the House is that by some mode the consent of the House be obtained to a reconsideration of the action heretofore taken. If in no other way, perhaps it can be done by a motion to suspend the rules.

The SPEAKER. That motion would be in order, the morning hour having expired, were it not that a motion to reconsider is pending.

Mr. F. THOMAS. I could move to postpone further proceedings.

Mr. STEVENS. The gentleman will have an opportunity hereafter.

Mr. F. THOMAS. We may as well dispose of it now, for I may be absent again.

Mr. STEVENS. I beg leave to say a word in answer to the gentleman from Maryland, [Mr. F. THOMAS.] Early in the session I had the honor to offer a bill, as well as the gentleman from Ohio, [Mr. GARFIELD,] on this subject, and we asked for the appointment of a select committee to which it should be referred. That was granted.

Now, I need not say to this House that by parliamentary rule the Speaker was bound to place upon that committee, which consisted of seven, a majority favorable to the project. Such is the absolute and undoubted parliamentary rule. The Speaker did appoint four whom I have no doubt he supposed were favorable to the project, for one of them was the chairman of the same committee last year.

Now, sir, I do not like exactly to say what took place in the committee, but the remarks of the gentleman render it important that I should say something. Contrary to all parliamentary law, one of the majority of the committee to which it was referred, has by argument, and by argument alone, changed his views and refused to let the bill be reported favorably to the House. I have, therefore, deemed it not only perfectly proper, but my duty, to ask the House to reconsider the matter, in order that, according to parliamentary law, the friends of the bill might have a majority on the committee and be able to report favorably.

Mr. F. THOMAS. I would rather have the subject disposed of by the House, and I hope the House will allow me to respond to what has been said by the gentleman from Pennsylvania.

I suppose there is no necessity for any fastidiousness in making further reference to what occurred in committee. There has nothing extraordinary occurred in the committee at all, according to my information, and I have had some thirty years of experience in public affairs, and some little experience in the proceedings of the Congress of the United States. It is true the House has had under consideration and advisement a bill, and has passed an opinion upon that subject, that it should be referred to a select committee which should be friendly to the object proposed. But when the House refers either a motion, a resolution, or a bill in the usual way to a select committee, all that is required by parliamentary law is that there shall be a majority of members on the committee friendly to the object. I never before heard that a committee was bound to be friendly to the instrumentality which had been devised by a particular member for the purpose of carrying out the purpose of the House. Of what earthly use would be the organization of a committee, or the investigation of a committee, if they were to take a bill brought in by an individual, make that the guide, and report it back to the House?

Now, as one of the members of the committee has been referred to, who is absent, it is perhaps proper that I should say that Mr. BRANDEGEE was placed on the committee under the supposition that he was favorable, not to this bill, but to the purpose of having a line of communication between the two cities if the public interest demanded it. Having examined the phraseology and object of this particular bill with great candor and frankness, he said that since the war had terminated he had come to a different opinion as to the propriety of the project. In the presence of the gentleman from Pennsylvania [Mr. STEVENS] he addressed a question to the president of the Baltimore and Ohio railroad, and received an answer that removed all difficulty out of his way. Mr. BRANDEGEE entertains the theory that there may be a combination of circumstances that would justify the Government of the United States in exercising the high prerogative and power of disregarding State legislation in every respect, and making a great thoroughfare from one point to another within our national boundaries; but he believes that that must be a case of stern necessity, or very nearly approximating to that state of affairs; that the power is only to be exercised under circumstances of very great emergency, or great, palpable public inconvenience.

It was with a view to ascertain whether such a state of affairs existed Mr. BRANDEGEE asked the president of the Baltimore and Ohio railroad what power they had been using on that road during the last four years for freighting purposes. Mr. Garrett answered, one thousand cars daily with all the necessary motive power. He then asked what power they required now, and the president answered that only thirty cars daily with the necessary power were necessary. So it appears that there has been a reduction from one thousand to thirty.

It seems that this improvement is recommended by the War Department. Now, I want nothing more than this declaration of this officer of the Baltimore and Ohio railroad to show that there is no necessity, so far as the war power of this Government is concerned, for this proposed improvement.

Mr. BRANDEGEE voted, therefore, with the majority, to report this bill with the recommendation that it do not pass. Gentlemen have the power of moving any other report as a substitute that they may think proper.

Now, what I protest against is this: that it should be assumed, according to parliamentary law, that this committee was not at liberty, when it took this subject under advisement, to change the instrumentality by which a given public improvement was proposed to be made, or to modify that mode, the expediency of which they were organized and appointed to inquire into.

I come back again to the position with which I started, and I move that the rules be suspended so that the House may reconsider the proposition adding two more members to the committee and allow it to come before the House again.

The SPEAKER. The motion to suspend the rules is not in order without postponing the pending motion of the gentleman from Massachusetts, [Mr. ALLEY.]

Mr. ALLEY. I yield to allow the gentleman to move to postpone.

Mr. STEVENS. I desire to say one word in answer to the gentleman from Maryland, [Mr. F. THOMAS.] He has hardly stated the rule fairly; I mean no reflection upon him at all. Whenever a select committee is appointed and a bill or proposition is referred to it, all parliamentary law requires that a majority of the members of that committee shall be favorable to the proposition; not favorable to the particular bill, but favorable to the general subject-matter; and any departure from that rule on the part of the Speaker would be either a mistake or an overruling of parliamentary law. I have never known it done except by mistake.

Mr. F. THOMAS. I would ask the gentleman from Pennsylvania [Mr. STEVENS] to suspend his remarks until my proposed motion comes up for consideration.

Mr. STEVENS. No, sir; I prefer to say what I have to say now. Now, the member of the committee who has been referred to—I will not refer to him by name—was not in favor of the proposition at all. He did not propose to amend the bill, he did not propose any other bill for the same object, but absolutely refused to allow any bill to be introduced into this House for the action of the House.

Mr. DAWES. It is true the gentleman from Pennsylvania [Mr. STEVENS] has not named any particular member of the select committee, but he has been just as specific as if he had named him. Now, I wish he would call the attention of the House to the fact that that member is not present here. If there is any significance in the remarks of the gentleman from Pennsylvania, it must be as a reflection upon the integrity of that member, which I hardly think the gentleman from Pennsylvania desires to make in his absence. I am aware of the peculiar language with which the gentleman from Pennsylvania has clothed what he has said. But it strikes me that there can be no significance in his remarks if they do not reflect upon the gentleman now absent to whom he refers. If he were here it would be a matter of his concern, and that of no one else.

Mr. STEVENS. I have no objection to having this matter postponed until all the members of the committee are present. I do not intend to reflect upon the integrity of any member of the committee. I mean to say that there has been a vast deal of argument in this case by the railroad company interested, and it has prevailed upon some member of the committee to act in an unparliamentary manner. If he had said, "I do not like this bill"——

Mr. RAYMOND. If I understand the nature of this debate, the case is this: a bill providing for a railroad from this city to the city of New York was introduced and referred to a select committee, that committee having charge of no other subject. The committee have made no report.

Mr. STEVENS. I do not hesitate to say that the majority of the select committee were opposed to any new road, and this morning I introduced another bill to make a road in another quarter, and asked that it be referred to this same select committee; and I also moved that the committee be increased by the addition of two members.

In the first place, I say I had the right, without the introduction of any new bill, to ask that the committee be increased, so as to put it upon the footing which parliamentary law puts it. In the second place, after I had introduced another bill, and had it referred to the same committee, I had a further right to ask for that increase of the committee. After finding that the committee did not agree with the original proposition, I should have felt myself acting perfectly in order in making this request.

I am willing, however, that the vote shall be postponed until all the members of the committee are present; or, if the gentleman from Maryland [Mr. F. THOMAS] prefers, let it be taken now.

Mr. WASHBURNE, of Illinois. I was out of my seat when this discussion arose. I would like to know what is the pending question.

The SPEAKER. The pending question is upon the motion of the gentleman from Maryland [Mr. F. THOMAS] to postpone the reconsideration of the recommitment of the bill No. 281, the postal bill, moved by the gentleman from Massachusetts, [Mr. ALLEY.] The Chair understands the motion of the gentleman from Maryland [Mr. F. THOMAS] to have been made with the intention of moving to suspend the rules for the purpose of reconsidering the proposition made by the gentleman from Pennsylvania [Mr. STEVENS] to add two members to the select committee on the air-line railroad between this city and the city of New York. The gentleman from Pennsylvania moved to reconsider the vote by which his proposition was agreed to, and also moved that the motion to reconsider be laid upon the table, which

latter motion was agreed to, and the only manner in which the subject can be reached is by suspending the rules.

Mr. WASHBURNE, of Illinois. Then it all comes up in the proposition to reconsider the vote by which two members were added to the select committee?

The SPEAKER. That is the gist of the matter.

Mr. WASHBURNE, of Illinois. I should like to understand the reason for reconsidering that vote.

Mr. F. THOMAS. I will reiterate what I have said upon that subject. I consider that it is nothing more than right that I should do so, and also to respond to something that has fallen from the gentleman from Pennsylvania, [Mr. STEVENS.]

The SPEAKER. With the permission of the gentleman from Maryland, [Mr. F. THOMAS,] as the composition of this committee has been debated at some length, the Chair will state that it has been his uniform custom, when a select committee has been ordered by the House, to consult with the member who was to be the chairman of the committee as to the *personnel* of the majority of the committee. The rule requires that the majority of a select committee shall be favorable to the measure for the consideration of which the committee is raised. When this select committee was ordered the Chair consulted with the gentleman from Pennsylvania, [Mr. STEVENS,] who introduced the original bill, and as the gentleman from Pennsylvania will say, he was satisfied with the names of the majority suggested by the Speaker.

Mr. STEVENS. I did consent to the names suggested. Mr. BRANDEGEE was the chairman of the committee of last session, and when the Speaker mentioned his name I replied, "Certainly."

Mr. F. THOMAS. The House has been so very kind and indulgent that it is with extreme regret that I intrude this upon the regular order of business; but I hope the House will find my apology in the peculiar circumstances of the case. Now, if we were to permit a postponement of this subject, I do not know what motion might be made in my absence. I did think, and I now believe that I was right in so thinking, that the gentleman from Pennsylvania would not have made such a motion without notifying the majority of that committee that this attack was to be made upon the action of the committee.

Mr. STEVENS. I made no attack on the committee.

Mr. F. THOMAS. I so considered it; I mean an attempt to overthrow the action of the committee. Now, I remonstrate most earnestly against this proposed action. The Speaker has said that where a measure is submitted to a select committee parliamentary law requires that the majority of that committee shall be favorable to the measure. That corroborates all I have said; but you are not obliged to have a committee friendly to the particular instrumentality by which that end is proposed to be attained.

Mr. STEVENS. I would inquire of the gentleman whether in the present case the member he has referred to did not oppose all measures of this committee.

Mr. F. THOMAS. No, sir; I do not so understand it. We have a committee on reconstruction, and day after day we read to them propositions in regard to the mode or manner in which the States of the South shall be permitted to come back into the Union. Now, does that committee feel themselves forbidden to amend, modify, change, or alter those propositions, or even to repudiate them altogether? Can they not come back to this House and recommend that all those propositions be rejected? And if the House is dissatisfied with that recommendation of the committee, the House can refer the subject to some other committee for further advisement. There is hardly a day when committees are called that some one or more of them do not report back some matter referred to them, and ask to be discharged from its further consideration and that it be laid on the table. And upon what principle? Because the committees have a perfect right to change their opinions, even if the measure referred to them was one they were originally friendly to. Of what earthly use is a committee if they cannot do that?

I do not understand the gentleman from Pennsylvania [Mr. STEVENS] as reproaching Mr. BRANDEGEE for anything morally wrong. Suppose he was originally friendly to the very instrumentality referred to the committee upon which he was placed. In the course of the investigation he finds that he had taken a false view of the subject, and changes his opinions because good reasons have been laid before him for that change. Therefore he votes with a majority of the committee to report against the very identical bill that he was at first friendly to. Is not that according to the practice of committees here every day? Some committee has a bill referred to it; they examine it, and report that it does not meet their approbation; they move to amend it by striking out this or that part, or the enacting clause, as they have the right to do. I presume it does not require a wizard to understand that much of parliamentary law.

Now, then, let me say that, so far as regards the success of the movement, I attach no importance to this question, because the House and the country now know that after the appointment of a committee by the gentleman who made the proposition, a majority of the committee have decided that the proposition is inexpedient and unwise. All we ask is that the committee shall now report the conclusion to which they have arrived; and that, after it has been ascertained that the committee are about to report, there shall not be two more members added to that committee to see whether, after a delay of three or four months longer, the committee cannot be induced to bring in a report satisfactory to gentlemen who are now dissatisfied with the report on which the majority of the committee have agreed.

I desire that all the public interests shall have the advantage of the investigation already had. When the report shall have been presented, the gentleman from Pennsylvania can, if he chooses, have the subject-matter sent to any committee which he may anticipate will decide favorably to the project. I hope that the House will reconsider its action and will decline to add two additional members to the committee. I trust that the committee will be permitted to report the result of its investigations which have been continued for two months or longer.

Mr. LE BLOND. I wish to make this inquiry: if the motion now pending, which is to postpone, should be agreed to, will it arrest the appointment of the two additional members of this committee?

The SPEAKER. After the disposition of the motion to postpone, the question would be upon the motion which, as the Chair understands, the gentleman from Maryland [Mr. F. THOMAS] proposes to submit for a suspension of the rules to allow a reconsideration. If that motion should be adopted, action would be suspended; otherwise it would not.

Mr. LE BLOND. If the motion to suspend the rules should be postponed, can the Chair go on and appoint these two additional members, and can the committee thus increased proceed to act upon the subject-matter under consideration? If this be so, then the House ought of course to take immediate action.

Mr. STEVENS. Let me say that if such a thing takes place, I shall not, nor will the committee, ask the Chair to proceed any further until the motion of the gentleman from Maryland shall be acted upon.

The SPEAKER. By parliamentary law, the pendency of the motion to suspend the rules would not arrest the appointment of the two additional members. The Chair would be obliged, after consultation with the gentleman from Pennsylvania, to make the appointment. But as the gentleman from Pennsylvania states that he would consider the pendency of the motion to suspend the rules as equivalent to a suspension of the action of the House, it might be so understood. If that were the understanding, the Chair would not appoint the additional members till the motion to suspend the rules should be decided.

Mr. CONKLING. If the present motion to postpone should not prevail, the Chair will go on and appoint the two additional members.

The SPEAKER. The Chair would be compelled to do so, acting, of course, upon consultation with the gentleman from Pennsylvania.

Mr. CONKLING. I hope, then, that the motion to postpone will not prevail: and as in the case of this bill this child has been put out to nurse, and has been strangled, I hope that two additional members will be appointed and that we shall have some bill under which we can get such a railroad between here and New York as is necessary in time of peace as well as in time of war.

The SPEAKER. If the pending motion to postpone the proposition to reconsider the vote recommitting bill H. R. No. 281 should be rejected, the Chair would understand the House as desiring him to go on and appoint the two additional members.

Mr. STEVENS. I desire to say that gentlemen around me seem to prefer that a vote should be taken now.

Mr. CONKLING. Let us make this a test question. Those who are in favor of a railroad to New York will vote against the motion to postpone.

Mr. F. THOMAS. I cannot allow the remark which the gentleman from New York [Mr. CONKLING] has just made to go before the House or the country without correction. At the very opening of my remarks I said that by permitting this committee now to make its report the House does not decide whether it is or is not in favor of a railroad from here to New York. A majority of the committee are ready to report that they consider it unwise and inexpedient to make a new railroad between here and New York. When the committee shall have made their report the gentleman from Pennsylvania will have a right to move a substitute for that report and ask that the bill be acted upon by the House. The committee do not stifle or cover up anything. The committee cannot take away from the House its power to say, "We will take up this bill and pass it into a law." The committee do not contemplate anything of that kind. Let me state again, and more fully, what is the nature of the objection which I now interpose to the appointment of two additional members of the committee.

While this investigation was in progress the Legislature of Maryland was in session. The House of Delegates and the Senate, constituting that Legislature, passed resolutions on this subject, and delegated a committee to come before the committee of Congress and represent the wishes of that Legislature. The committee heard that delegation for several days. The boards of direction of the various railroads between New York and this city have been before this committee, and have replied to every interrogatory addressed to them. They have laid before us voluminous testimony. The result is that the majority of the committee are ready to present a report, not suppressing this bill, not taking it out of the power of the friends of the bill to bring it up and test the sense of the House upon it. I simply desire that the majority of the committee shall have the opportunity to present the result of their deliberations, reporting the bill with the recommendation that it be not passed, yet placing it subject to the action of the House.

If two additional members be now appointed, the committee will be obliged to go over the whole investigation again for the sake of those two new members. We must reassemble the committee of the Legislature of Maryland and the delegations representing the different railroad companies. We must reëxamine the voluminous manuscript communications made to the committee. Why, can any great object be

gained by requiring that at our hands? The fact is open, palpable, known now to the whole House, and soon will be known through the instrumentality of our reports to the whole country, that a majority of the committee are of the opinion it ought not to pass. All we ask is that that majority should be allowed to make report. That is all.

Mr. CONKLING. I will say that out of respect to the gentleman from Maryland, I have withheld objection to this debate, which has only proceeded by unanimous consent. And having said that, I ask his permission to make a single suggestion.

Mr. Speaker, we all understand, in the quaint old language of parliamentary law, that a child is not to be put to nurse with those who will strangle it. The Speaker will know whether I am right or not. In an early part of the session the gentleman from Pennsylvania [Mr. STEVENS] made a motion for the creation of a select committee to which a certain subject should be referred. It was not a new thing. It did not need any investigation of evidence, voluminous or otherwise. The Speaker, with the care and caution which the present incumbent of the Chair gives to everything with which he has to do, took, it seems, particular pains to observe the understanding and requirement of the parliamentary law in the composition of this committee; but, in spite of the unusual care he took, it so happened the committee was not against a particular bill, was not divided as to a particular mode and manner in which the expressed determination of the House should be carried out and embodied, but the majority of that committee was radically against the whole measure which was proposed.

Mr. F. THOMAS. I do not think it right and proper that the gentleman should introduce an elaborate argument into my remarks.

The SPEAKER. The regular order of business is the motion to postpone the pending motion to reconsider the vote by which the House recommitted the bill in reference to the postal laws. If the strict rule be enforced, this debate is all out of order.

Mr. STEVENS. I will say my friend from Massachusetts [Mr. DAWES] misunderstood my remarks this morning.

Mr. CONKLING. The gentleman from Maryland has referred to me and I want to set myself right.

Mr. RADFORD. I want to correct a statement made by the gentleman. I understood the gentleman to say a majority of the committee are radically opposed to a new road between Washington and New York. For myself, I wish to deny that charge. I was in favor, and am in favor, of a railroad between New York and Washington to-day, provided I could see the right of Congress to pass a bill of that character.

Mr. CONKLING. I am glad to hear the explanation of my colleague, for I do not wish to misrepresent any gentleman.

Mr. RADFORD. I suppose not.

Mr. F. THOMAS. I ask whether it is right that the gentleman should exhaust my time in this way?

Mr. CONKLING. I do not wish to interfere with the gentleman, but——

Mr. F. THOMAS. I claim the floor.

Mr. CONKLING. The gentleman referred to me, and I was only stating my position.

Mr. F. THOMAS. I claim the floor. I consider the remarks of the gentleman as an argument on this matter and not in explanation of his position. He gets up and interrupts me, and then goes into an elaborate discussion of all the points involved in the question presented to the consideration of the House. I never did like the practice which has grown up in Congress of interpolating one speech into another. I have never indulged in it during any portion of my life. I know it is a practice prevalent here, and that I must have respect for it, because it is indulged in by gentlemen who have a better idea of the proprieties than I have; but as I do not practice it myself I must be allowed to protest against it, and especially when I find the whole argument of the gentleman has nothing at all upon which to rest. The fact is, that the majority of this committee have reported against no instrumentality devised by Congress to make a railroad between here and New York. There is no such report before Congress. The fact is simply this, that they have instructed a majority of the committee to report a specific measure submitted to them with a recommendation that it do not pass. That is all. Any gentleman on the floor may move a substitute. The gentleman from New York, as well as myself, may move a substitute. We cannot, if we would, and we would not if we could, keep the bill from coming before the House, but we desire the committee to report the result of a long, tedious, and elaborate investigation. That is all.

Now, suppose the reconstruction committee had a proposition referred to it and they had considered it in the light of all the information which had been brought to their attention, and suppose after a most thorough examination the majority had come to the opinion that the particular proposition should not pass, what would be thought of the minority of the committee, instead of allowing the report to be made, to come here and ask additions to be made to the committee so as to overreach the action of the majority?

I think I have said enough on this point to satisfy gentlemen that the position I take is the just and proper one. I say that the committee may after investigation adopt or reject certain instrumentalities referred to them in favor of a measure which meets with the approval of their judgment.

I will not go further into that point, but I will make this proposition to the gentleman from Pennsylvania with a view to avoid any further controversy: if the gentleman will agree that no committee shall be appointed until these gentlemen return and the case shall come up *de novo* for action——

Mr. STEVENS. What does the gentleman mean by "*de novo?*"

Mr. F. THOMAS. It is that we shall, notwithstanding the motion to reconsider has been laid upon the table, be brought to the plain proposition whether the majority of the House will allow this thing or not.

Mr. STEVENS. I think the gentleman will execuse me from going that far.

I wish to say that the gentleman from Massachusetts [Mr. DAWES] misunderstood my remarks this morning. I did not say the arguments addressed to the committee were persistent and that the gentleman referred to could not resist them. When I said the gentleman had changed I did not say from persistent argument but from argument. I meant nothing more. We had argument upon argument on the measure sent to us, and I only rose to exonerate the gentleman referred to from any suspicion of having been convinced by persistent argument.

Mr. CONKLING. I wish to be allowed to say that the motion of the gentleman from Pennsylvania this morning was in effect to correct a mistake—a mistake into which the Speaker and the House fell, the Speaker having, in spite of all the pains he took, constituted a committee which in the end turned out to be adverse to this measure. Now, sir, because the motion is made for that purpose, because it does carry out the original intention of the House, to wit, that the committee should report here a proposition favorable to the construction of a road from here to New York, I hope for one the action this morning will not be overturned, but that the gentleman from Pennsylvania will persist, and that the House will sustain him in persisting, in that action. Then we shall have a proposition which the country, the enterprise of the whole country demands—that is, a proposition to construct a road relieving the public from the inconvenience, from the imposition, from the monopoly to which it is subjected. I speak in the interest of no line, no corporation, no proposition peculiar to any set of men; I speak only in the interest of a railroad from the political to the commercial capital of this country to rival that which now exists, and to give to the country, I hope, that convenience which is denied now and which can be found only in the construction of another railroad between the termini I have mentioned.

I hope the motion to postpone the regular order will be defeated, and that on this question we will have the assistance of all those in the House who are against perpetuating the monopoly under which the traveling public groans and has been groaning for years past. That is all I wish to say.

Mr. F. THOMAS. I suppose if the motion to postpone be agreed to the matter to which I have reference will come up.

The SPEAKER. If a majority of the House refuse to postpone the pending proposition the Chair will regard that as instruction that additional members should be so named as to make the majority of this committee in favor of the original bill referred to them. The Chair will state that in the appointment of select committees he always consults with the friends of the measure as to their *personnel*, as he did in this case.

This is in accordance with the old parliamentary rule referred to by the gentleman, that a child must not be nursed by one who does not care for it. It was decided two or three hundred years ago that the whole of a select committee should be in favor of the bill referred to them, and it was held to such an extent that if a member was named who did not intend to go for it, it was required of him that he should rise in his place and ask to be excused from serving on the committee. That was as far back as 1606; but in the House of Representatives the practice has been that a majority should be favorable to the bill.

Mr. F. THOMAS. Does the Speaker maintain that a majority of the committee are bound to sanction anything that is sent to them?

The SPEAKER. The Chair does not so hold; but that they should be "friends of the measure referred."

Mr. F. THOMAS. So I understand. But does not the Chair recognize the parliamentary law of which I spoke, that the majority of the committee may report a bill back to the House with a recommendation that it do not pass?

The SPEAKER. If they are convinced on hearing the arguments, they would have to so report it. But the duty of the Presiding Officer is to make a select committee which shall be friendly to the measure referred to it, and therefore the Speaker always consults the chairman of the select committee about the composition of the majority of the committee.

The question is on postponing the motion to reconsider.

Mr. STEVENS. By common consent let the motion to reconsider be considered as postponed and then take the vote on the suspension of the rules.

The question being accordingly taken on the motion to suspend the rules for the purpose of reconsidering the vote by which the House added two members to the select committee, there were —ayes 43, noes 55.

The SPEAKER ordered tellers; and appointed Messrs. STEVENS and F. THOMAS.

The House divided; and the tellers reported—ayes 43, noes 54.

So the House refused to suspend the rules.

The SPEAKER appointed as the additional members of the select committee, Mr. WASHBURNE, of Illinois, and Mr. WILSON, of Iowa.

ARMY BILL.

Mr. SCHENCK. I rise to a privileged question. I have not asked to make any bill proceeding from the Committee on Military Affairs a special order at this session, but I think it is important that I should do so in reference to the Army bill. I will, therefore, ask that the House permit me to report that bill say on Monday next, and make it the special order from day to day until disposed of.

Mr. WASHBURNE, of Illinois. Make it the special order after the morning hour.

The SPEAKER. There is one special order and only one remaining in the House, which is the bankrupt bill; but as that was made under a suspension of the rules, a special order by unanimous consent overrides it.

Mr. JENCKES. If the House will allow an evening session for the consideration of the bankrupt bill I think we can dispose of it. It can be disposed of in a few hours.

Mr. CONKLING. Suppose the Committee of Ways and Means want to report the internal revenue bill, what will be the effect of this special order on that?

The SPEAKER. The committee could not report while there is a special order pending.

Mr. CONKLING. Then I ask the chairman of the Committee on Military Affairs [Mr. SCHENCK] whether it would not be the shortest way of getting at this by postponing his motion until the chairman of the Committee of Ways and Means is present.

Mr. SCHENCK. I would willingly do so, but I think the House will concur with me that there is no bill more important or pressing than this, if we may believe what the officers of the Department communicate to the country in regard to the necessity of having the Army bill disposed of, or if we look at the intense anxiety pervading the whole volunteer force of the country, which is, to some extent, to be transferred by examination, and to constitute a part of the regular Army. I think we can dispose of it in two days.

The SPEAKER. If there is no objection the Chair will understand that the Committee of Ways and Means will have leave to report an internal revenue bill, and as soon as it reports it will go to the Committee of the Whole.

Mr. SCHENCK. I have no objection to that understanding.

The SPEAKER. There being no objection, on Monday next, after the morning hour, the Committee on Military Affairs will have leave to report the Army bill, and make it the special order from day to day till disposed of.

LEAVE OF ABSENCE.

Mr. ANCONA asked and obtained leave of absence for his colleague, Mr. DENISON, for ten days from Friday last; and also stated that he had paired with Mr. LAWRENCE, of Pennsylvania.

Mr. ALLEY asked and obtained leave of absence for his colleague, Mr. AMES.

HOSPITAL IN THE DISTRICT OF COLUMBIA.

Mr. INGERSOLL, by unanimous consent, introduced a bill to incorporate the General Hospital of the District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

TRADE WITH BRITISH AMERICA—AGAIN.

Mr. KELLEY. The gentleman from Maine [Mr. PIKE] withdraws his objection to the resolution I submitted this morning.

Mr. ANCONA objected, but subsequently withdrew his objection, and

Mr. BERGEN renewed it.

EVENING SESSIONS.

Mr. PRICE. I ask unanimous consent to submit the following resolution:

Resolved, That, until otherwise ordered, the House will hold sessions every Tuesday and Thursday evenings for the call of committees, commencing on Tuesday evening, the 27th instant.

Mr. WASHBURNE, of Illinois. I object. The House is ahead of the Senate in legislation.

POSTAL LAWS.

The House proceeded to consider the motion of Mr. ALLEY to reconsider the vote of the House by which House bill No. 281, to amend the postal laws, was recommitted to the Committee on the Post Office and Post Roads, Mr. ALLEY being entitled to the floor.

Mr. ALLEY. Mr. Speaker, the postal bill which was reported several weeks ago was objected to on account of its great length, and a desire having been expressed at that time to have it printed, I yielded to the request and moved that the bill be recommitted and printed. I then entered a motion to reconsider for the purpose of bringing it up when it should suit the convenience of the House. That motion is now before the House.

But before the motion is put I will explain the provisions of the bill. The main objections I believe to that bill were to a supposed provision which members seemed to apprehend was in the bill in relation to the prepayment of postage on newspapers. That provision was not in the bill and is not reported at all by the committee.

Another provision which excited a good deal of opposition at that time, and which is now in the bill, I propose to move to strike out. The remainder of the bill I think will occasion no opposition whatever.

This bill passed the committee unanimously. All its provisions were asked for by the Department.

The first section is in relation to stamped envelopes.

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

Mr. ALLEY. Yes, sir.

Mr. CONKLING. The bill, as I apprehended it, contained two propositions: one that the Government was to give away envelopes, charging nothing except the price of the stamps, and the other requiring subscribers of local newspapers to pay postage upon their papers if carried through the mail. I should like to learn from the gentleman from Massachusetts whether he proposes to relieve the bill entirely of the provision with regard to giving away envelopes on payment of the price of the stamps upon them, and also the provision relative to imposing postage upon local newspapers. If those provisions be stricken out, I shall be willing, so far as I am at present informed, to vote for the bill.

Mr. ALLEY. The gentleman from New York [Mr. CONKLING] has manifested very considerable zeal and solicitude with regard to this small matter of stamped envelopes, and also in relation to newspaper postage, and I will state for his special gratification that I propose to move to strike out the provision which the bill now contains on the subject of stamped envelopes.

The other provision to which the gentleman alludes has never been reported from the committee, and it is not their purpose to report any provision of that character. There is nothing in this bill affecting that question.

Now, Mr. Speaker, the first section of the bill contains a provision with regard to stamped envelopes which I have just intimated I shall at the proper time move to strike out.

The second section provides,

> That from and after the 1st day of April, 1866, prepaid letters shall be forwarded, at the request of the party addressed, from one post office to another without additional postage charge; and returned dead letters shall be restored to the writers thereof free of postage.

The third section provides that so much of previous laws as requires postage to be charged at the prepaid rate, to be collected on the return delivery of letters indorsed with a request for their return to the writers, shall be repealed; and that all letters bearing such indorsement shall hereafter be returned to the writers thereof without additional postage charge.

The provisions of these two sections have been recommended by the Department, and the committee were unanimously of opinion that they should be adopted. I am prepared to give any explanation in regard to them which members may desire.

Mr. KASSON. Will the gentleman from Massachusetts allow me to suggest that the bill be read section by section, so that it may be amended as we go along?

Mr. ALLEY. I thought it best to explain the contents of the bill before the House voted upon the motion to reconsider.

The SPEAKER. The bill is not yet before the House. The question is on the motion to reconsider the vote by which it was recommitted. If there is no objection, the Chair will regard the motion to reconsider as adopted and the bill as before the House.

There was no objection.

The SPEAKER. The bill is now before the House; and the Clerk will read it section by section for amendment.

The first section was read. It proposes to authorize the Postmaster General, in his discretion, to sell postage-stamped envelopes for letters or newspapers, at the value of the stamps impressed thereon, without reference to the cost of procuring and furnishing the same.

Mr. ALLEY. I move to strike out that section.

The motion was agreed to.

The second section was read. It provides that from and after the 1st day of April, 1866, prepaid letters shall be forwarded, at the request of the party addressed, from one post office to another without additional postage charge; and returned dead letters shall be restored to the writers thereof free of postage.

Mr. WASHBURNE, of Illinois. I desire to inquire of the gentleman from Massachusetts whether he proposes to allow this section to stand intact. If so, I wish to inquire of him why, if these dead letters are returned, postage should not be paid upon them?

Mr. ALLEY. That provision is recommended by the Department; and the reasons given by the Department, which the committee deem sufficient, are thus stated:

> "The collection of postage on such returned letters complicates the accounts under the law fixing salaries of postmasters. These letters must be entered at the mailing and then at the receiving office, and postage collected; and such as cannot be delivered must be credited to the postmaster when sent to the dead-letter office. The aim of the Department is to have no unpaid letters in the mails, and to collect all revenues by means of postage stamps, avoiding the necessity of keeping accounts. In future, postmasters are to enter in their accounts only unpaid letters, which are mostly from or to foreign countries, and it seems inconsistent to send thousands daily from this Department with instructions to enter them and collect postage. The amount is comparatively small, and yet the attendant labor very considerable. I therefore suggest, as a matter for the consideration of Congress, the propriety of restoring prepaid letters to the owners free of postage, especially in view of the fact that a very large proportion go to persons of moderate means."

There is such a small portion of the letters sent back that are called for and the postage paid that it really amounts to very little to the Department. The expense is nearly as much as it comes to. Therefore we have proposed this as a great saving of labor to the Department without any very great loss, as the whole thing amounts to but a small sum.

Mr. WASHBURNE, of Illinois. The labor has to be done anyhow. I suppose the gentleman wants the letters returned and not have anything charged for them.

Mr. ALLEY. The postage has always to be prepaid.

Mr. KASSON. I will state what I understand the facts to be about this clause. Instead of a question of revenue and inconvenience alone, I approve the action of the committee in recommending this clause for this reason: it is in the direction of simplicity and uniformity. It already prevails at English post offices under the simplified system of England.

The last clause is the only thing about which there can be any difficulty. The first clause is certainly a very great convenience and was proposed, I think, two or three years ago. I think the House then adopted that proposition. It simply authorizes, when a traveler has gone from one city to another, his letter shall be forwarded without a new account. It is to facilitate the work among postmasters. The other clause concerning dead letters is a matter of more pecuniary importance. It is in the same direction of simplicity and uniformity and the abolition of unnecessary accounts. It may sacrifice a few thousand dollars, but it will be of great convenience, not only to the public, but to the Department. I believe it harmonizes with the views of the Department for four or five years in both of these directions.

The section was agreed to.

The Clerk read, as follows:

SEC. 4. *And be it further enacted*, That the Postmaster General be, and he is hereby, authorized to cause the mails to be transported by sailing vessels between any port of the United States and any foreign port or ports, allowing and paying therefor any sum not exceeding the sea postage on the mails so transported.

Mr. ALLEY. I move that that section be stricken out, as it was contained in an appropriation bill which we passed the other day.

The motion was agreed to.

The Clerk read, as follows:

SEC. 5. *And be it further enacted*, That so much of the seventh section of the act entitled "An act to amend the laws relating to the Post Office Department," approved March 3, 1863, as provides for the publication of the list of undelivered letters in any post office in newspapers having the largest circulation within the post office delivery, be, and the same is hereby, repealed; and the mode of publishing lists of undelivered letters shall be at the discretion of the Postmaster General.

Mr. WASHBURNE, of Illinois. The gentleman does not really expect that we will agree to any such section as that.

Mr. ALLEY. Why not? This section was asked for by the Department, and was adopted by the committee unanimously.

Mr. FARNSWORTH. What reasons are there for it?

Mr. ALLEY. I will say, in the first place, that it entails upon the Department a large expense; and that something less than twenty-five per cent. of the advertised letters are called for. The Department pays for advertisements of letters over sixty thousand dollars a year. It seems to the Department to be to a considerable degree an unnecessary expense. They are required now to advertise in those papers having the largest circulation, and are obliged to pay two cents a letter, and but for that provision they would be able to get most of them advertised for a cent apiece. If the Postmaster General be allowed to advertise in such papers only as he may choose, and to the extent he may deem necessary, it will save much to the Government, and do little or no damage to anybody.

Mr. WASHBURNE, of Illinois. I think the law is right as it is. It has existed for a long time. I think it is just and proper that the paper having the largest circulation should have the publication of the list of letters, I do not care to what party it may belong. I do not believe in giving the power to the Postmaster General to transfer the publication of these lists to papers which have very little circulation.

Mr. STEVENS. I move to amend by striking out the following words:

In any post office, in newspapers having the largest circulation within the post office delivery, be, and the same.

That will leave it so that undelivered letters may not be published at all unless the postmaster sees proper; but if they are to be published at all they should be published in the papers which have some readers.

Mr. KASSON. I think that proposition strikes right at the point; for I remember very well that in many cases it has been deemed expedient for years simply to post up a list of the letters advertised in the post-office, where we can always find a crowd looking at them, even after they have been published in the newspapers. I agree with the gentleman from Pennsylvania that if the list is published in any papers at all it should be in those of the largest circulation. If posting a list in the post office is sufficient, then it will certainly economize expenditures.

Mr. RAYMOND. I think if the list is published at all it ought to be published in the newspapers having the largest circulation. But the chairman of the Post Office Committee [Mr. ALLEY] knows, whether other gentlemen here know or not, that it is utterly impossible to do this at present rates. The rates provided by law may be very extravagant or they may not; but it is utterly impossible at those rates to get this list published in any newspaper of any considerable circulation published in any large city.

I think I but state a fact well known to every one here at all familiar with this subject, that in the city of New York the Postmaster General has endeavored in vain to get this list published, not only in the papers having the largest circulation, but even in those papers standing the second, third, or fourth on the list of circulation. And a list is now published and posted up in the post office building.

If this list is to be published in the newspapers having the largest circulation, then a rate of payment must be provided adequate to secure that publication. Unless that can be done perhaps the only thing that can be done is to let the Postmaster General use his discretion in selecting such papers as will publish at the rate now fixed by law.

Mr. ALLEY. I do not know that I object to the amendment of the gentleman from Pennsylvania, [Mr. STEVENS;] still I think the section is better as it now stands, because it gives the Postmaster General the authority which he needs. But as it seems to be the desire of the gentleman to limit it in the way he proposes, I shall not make any strenuous opposition to it.

Mr. WASHBURNE, of Illinois. I do not want to repeal the provision of the law here referred to. I think the most of the newspapers, outside of the city of New York, advertise the letter-list at the prices fixed by law. New York may be exceptional, probably is. I think the law is substantially right as it is. Everybody knows that letters are advertised in the papers, and the people are accustomed to look in certain papers for the list.

I therefore move to strike out this whole section.

The section was as follows:

SEC. 5. *And be it further enacted*, That so much of the seventh section of the act entitled "An act to amend the laws relating to the Post Office Department," approved March 3, 1863, as provides for the publication of the list of undelivered letters in any post office in newspapers having the largest circulation within the post office delivery, be, and the same is hereby, repealed; and the mode of publishing lists of undelivered letters shall be at the discretion of the Postmaster General.

Mr. ALLEY. I hope that motion will not prevail. I see no objection to placing this matter in the hands of the Postmaster General to the extent here proposed. A great many letters are advertised, for which advertising is unnecessary; it subjects the Department to great expense, and if the Postmaster General is permitted to exercise discretion in the matter the advantage is very great. The annual expense of advertising letters is about sixty thousand dollars; while less than twenty-five per cent., in fact only about twenty-two per cent., of the whole number of letters advertised are ever called for. I therefore submit to the House whether, under the circumstances, it is not better to take this section with the amendment of the gentleman from Pennsylvania rather than subject the country to this great expense for the comparatively little advantage derived from it. Then the Postmaster General, whenever he shall deem it expedient, will advertise the list of letters, and when he does advertise will do so in the papers having the largest circulation. It seems to me that covers all the ground that can be desired.

Mr. SCOFIELD. The gentleman from Massachusetts [Mr. ALLEY] says that only about twenty-two per cent. of the number of letters advertised are called for. I suppose that he might say, in addition to that fact, that probably not five per cent. are called for in consequence of their being advertised; that the largest number of advertised letters called for are called for by persons who would have called for them even if the advertisement had not been made.

Mr. RAYMOND. I think the gentleman from Pennsylvania [Mr. SCOFIELD] is mistaken, inasmuch as it is required, when advertised letters are called for, that the fact that they have been advertised shall be stated by the persons calling for them.

Mr. SLOAN. I hope this entire section will be stricken out, for as I understand the law as it now stands, the Postmaster General has all the discretion that is necessary. If the paper having the largest circulation will not publish the list of letters at the rate prescribed by law, the Postmaster General is authorized to have it published in the paper having the next largest circulation; and so on down until he obtains its publication in some newspaper. And if the papers all refuse to publish the list, then he may, as the gentleman from New York [Mr. RAYMOND] has stated, have printed lists to be posted in the post office building. Therefore he has now all the power that is necessary.

And the only object which this section, if it becomes a law, can accomplish will be to allow the Postmaster General to select the newspaper, irrespective of the amount of its circulation—any newspaper which he may choose. And the giving out of the advertising of this letter-list will be made a matter of mere partisan favoritism, instead of the Postmaster General being required, as he is now by law, to give it to the paper having the largest circulation. I believe the law as it now stands confers ample power upon the Postmaster General to have the list published in any newspaper that will publish it at the rates fixed by law. I for one am decidedly opposed to allowing the Postmaster General to give this advertising to any paper he pleases as a reward for its partisan and political services. By the law, as it now stands, that matter was expressly taken out of the hands of the Postmaster General; because, as we all know, if the power exists on the part of any public officer to do so, these matters are always given to political favorites as a reward for partisan services. It is far better for the public, and I suppose it would be far better for the Postmaster General himself, to have this matter fixed by law, without requiring him to exercise his discretion at all.

Mr. ALLEY. The gentleman from Wisconsin [Mr. SLOAN] is mistaken in supposing that the Postmaster General has the power he describes. He has not the power of selecting beyond the paper having the largest circulation. In consequence of that he is compelled to pay the rate prescribed by law—that is, two cents for each letter—when in a great many cases he might be able to get the advertising done for less, for even one cent per letter. I understand from the Postmaster General that he can get nearly all the letter advertising for one cent per letter but for this law, which practically fixes the rate at two cents each letter.

Mr. SLOAN. Then I would suggest that this section be amended so as to give the Postmaster General the power, if the paper having the largest circulation will not publish the list, to select the paper having the next largest circulation. And also give him the power to obtain the publication of the list at a less rate than that now fixed by law wherever he can do so. I would be willing to support such an amendment as that.

Mr. WILSON, of Iowa. The gentleman from Massachusetts [Mr. ALLEY] says that but about twenty-five per cent. of the advertised letters are called for. I apprehend that arises from the fact that the advertised letters are not delivered unless the parties to whom they are addressed call for them and state when they do so that the letters are advertised. A letter may be in a list advertised to-day; the party to whom it is addressed may call at the post office to-morrow for letters, but not having seen the advertised list he does not call for an advertised letter, and thus fails to receive it. All that difficulty could be obviated by requiring the postmaster to examine both his advertised list and the other letters, so that whoever calls for letters may receive all there may be in the office for him. I apprehend if that were the practice instead of the practice now in force, nearly all the advertised letters would be delivered. The difficulty is that parties do not see the advertised list, and are therefore not apprised that it is necessary for them to call for an advertised letter.

Now, sir, with reference to the economy of the section as embraced in this bill, and also in connection with the amendment of the gentleman from Pennsylvania, let me say that if the gentleman proposes to have these lists printed and posted up in the post offices he will find that the expense of that will be greater than to pay one or two cents for advertising each letter in a newspaper. There will be no advantage so far as economy is concerned.

Again, sir, if the long lists of advertised letters in the city post offices are to be prepared and posted up in manuscript it will cost almost as much as the one or two cents per letter that would be paid for advertising them; and a manuscript list would be so cumbrous that scarcely any person would ever examine it.

I think that the best method to be pursued is the one now adopted, that the paper having the largest circulation, no matter what its character may be, shall publish these lists at a reasonable rate. People ought to have this information in reference to letters not called for; and in the case of every person calling for letters, the postmaster should be required to examine the packages of letters unadvertised, as well as advertised. In this way most of the advertised letters will be taken out.

Now, sir, let me make one further remark: the whole tendency on the part of the Post Office Department for the last three or four years has been to withdraw itself from the people, and the amendments of the postal laws have all tended to withdraw from the people, particularly of the newer sections of the country, the benefits of the post office system. So, in the amendment which was incorporated into the law concerning the compensation of postmasters, ample provision was made for all those in the older sections of the country, but as to those in the newer portions of the country, where the business, though not large, is constantly increasing, the compensation is in many cases totally inadequate. Yet, for the sake of economy, regardless of the value of the service rendered, and regardless of the convenience of the people, the Post Office Department has been clinging like a leech almost to the letter of the law; and it is very nearly impossible to secure any revision of the rates of compensation provided by the Department.

Now, sir, I think that we had better let the present law with regard to advertised letters stand as it is; while we should provide for additional compensation to postmasters in the newer sections of the country; and we should adopt a requirement that when a person inquires for letters, the postmaster shall examine all letters, whether advertised or not.

Mr. ALLEY. Mr. Speaker, the gentleman from Iowa has declared that the Post Office Department has been administered, not for the benefit of the people, but against the interests of the people. For one, I do not believe that declaration to be correct.

Mr. WILSON, of Iowa. The gentleman states my position rather too broadly. I say that the tendency of these amendments to the postal laws has been in that direction.

Mr. ALLEY. No, sir; the tendency of the postal laws has been in the opposite direction. I think, sir, that no Government on the face of the earth has ever done so much for its people in the way of postal facilities as this Government has, from the time of its organization in 1789 down to the present moment.

The gentleman makes complaint with regard to the compensation of postmasters. Sir, the newer portion of the country, as he calls it, was provided for most fully. The Postal Committee and the two Houses of Congress considered that matter to the fullest extent, and intended to provide for all such cases as the gentleman has referred to. I think that the postal compensation bill sufficiently covers that whole ground.

But the Postmaster General with regard to those cases has adopted a rule which in some cases is a hardship, and I confess somewhat stringent. I for one should not object to see him a little more liberal in his construction of the law in reference to some of the post offices in the new settlements. But when it is considered what an immense labor is involved in the revision of this matter concerning the compensation to be allowed post offices, and when it is known that next July a new revision of them under the law will be required, you can hardly blame the Postmaster General for not having yielded to the demands which have been made upon him from all quarters. So much in regard to the action of the Postmaster General.

In regard to the compensation law itself, it covers the whole ground and was so intended. The matter was considered in committee, and was considered in the House, and went through by an almost unanimous vote after a full and general discussion of all the points which were involved. So far as its general provisions are concerned it has worked admirably and economically. It has saved a great deal of labor as well as a great deal of expense. The post office system is much less complicated than it was before, although I agree it has worked a hardship in some particular instances to which my friend has alluded. Yet I must say, while it may have worked a little hardship in one or two instances, it is one of the best reforms in the Post Office Department.

Mr. WASHBURNE, of Illinois. Mr. Speaker, I have looked over this bill, and perhaps it would be well enough to pass two or three sections; all the balance might be left unpassed with advantage to the Government. I am tired, sir, of the constant change of the post office laws. Every Congress we have something new brought in. One session we make a new law and the next session we change it, so that it is almost impossible for anybody to tell really what the postal laws of the United States are.

Mr. ALLEY. My friend will allow me to make a suggestion.

Mr. WASHBURNE, of Illinois. Hear me a moment and you will agree with me that we had better leave this matter alone so far as a change is provided for by the second section. I believe, Mr. Speaker, you were the author of the law brought in here requiring a return of these dead letters. I do not think it has yet proved to be a failure, and I am of opinion we had better let that remain as it is.

The fourth section, providing that the Postmaster General shall be authorized to cause the mails to be transported by sailing vessels between any port of the United States and any foreign port or ports, allowing and paying therefor any sum not exceeding the sea postage on the mails so transported, has been stricken out on the motion of the gentleman from Massachusetts, because it was contained in an appropriation bill already passed.

I think the fifth section ought to be stricken out, so as to let the law remain as it has been since the foundation of the Government in regard to the advertisement of letters. I think every one is satisfied with that.

The sixth section provides that the balance of the appropriation of $100,000, under the thirteenth section of the act approved May 17, 1864, which may remain unexpended at the close of the current fiscal year, may be used as far as necessary to supply deficiencies in the proceeds of the money-order system during the fiscal year commencing July 1, 1866. I think that should be left where it is. I dislike this thing of changing appropriations made by Congress in this way. I believe when we make specific appropriations for specific objects that they should be carried out.

I will state my objections to this bill, and I hope the gentleman from Massachusetts will agree to have it recommitted to his committee, so that it may report back the two or three sections which are just and proper. I think the seventh section is a good section, as well as the eighth, and that they ought to be adopted into the law. The ninth section also contains a good provision. So does the tenth. The eleventh section I shall be compelled to oppose. It places the whole appropriations of the Post Office Department in the hands of the President.

I am opposed to one portion of the twelfth section. It provides that—

> Newspapers, circulars, pamphlets, and all kinds of printed matter deposited in any post office for local delivery, shall be subject to the following rates of postage, to be prepaid in all cases by stamps, namely, the drop postage on newspapers, circulars, and pamphlets, shall be uniform at one cent each: *Provided, however*, That drop newspapers, in packages to one address, shall be subject to postage at the rate of one cent for each four ounces or fraction thereof: *And provided also*, That drop printed matter not enumerated in this section shall be subject to a postage of one cent for each piece, except books, which shall be subject to postage at the rate of four cents for each eight ounces or fraction thereof.

I suggest that would operate in many instances as a great hardship in towns where newspapers are dropped by the publishers and postmasters have them put into a box to be delivered. That is one consideration why a man should take a box, and the Government gets the benefit of it. It is a matter of convenience, and I do not think the expense of one cent additional should be charged.

The thirteenth section provides:

> That so much of the fifteenth section of the act entitled "An act to amend the laws relating to the Post Office Department," approved March 3, 1863, as authorizes postmasters to contract with the publishers of newspapers, periodicals, and circulars, for delivery by carriers within their postal districts of any publication not coming through the mails, at rates and upon terms to be agreed upon with such publishers, be, and the same is hereby, repealed.

Mr. KASSON. I rise to a point of order. We should go on with this bill section by section.

The SPEAKER. The whole bill is before the House.

Mr. ROLLINS. I suggest that we have five minutes' debate on amendments, taking up the bill section by section.

No objection being made, it was so ordered.

Mr. ALLEY. The gentleman from Illinois [Mr. WASHBURNE] states that he has looked over this bill and that there are two or three sections perhaps that might be properly adopted, and as for the rest he is entirely opposed to them. I will say for the benefit of the House, I think it had better dispense with the Committee on the Post Office and Post Roads and refer the whole matter to the gentleman from Illinois.

Mr. WASHBURNE, of Illinois. I hope that suggestion will be carried out. I will make a good bill—a great deal better than this.

Mr. ALLEY. My friend feels fully competent to discharge the functions of every committee in the House, and I suppose the House will concur with him in that opinion. But, sir, we had no idea when this committee was appointed that he would give his attention and look over any bill so thoroughly as he says he has this. If we had, we certainly could have dispensed with the appointment of such a committee, and for one I should have been relieved of a vast amount of labor; for this committee has met twice a week for several weeks, has considered all the questions presented to it very carefully, has conferred with the Department and considered its recommendations fully, and has reported this bill unanimously.

There is only one section that we were in doubt about, and that is the one on which there was a great deal of division in the House, so far as we could learn. It is the first section, which I have proposed, in accordance with the wish of the Department, to strike out. As it is merely a proposition to reduce the postage, we did not think, in the present condition of the Treasury, that it was worth while to grant it at this time.

Now, I propose, notwithstanding the statement of the gentleman from Illinois, [Mr. WASHBURNE,] that he has looked over this bill and does not think there are more than two or three sections that should be adopted, to have it considered section by section, and I will endeavor to explain them.

[Here the hammer fell.]

Mr. RAYMOND. I move to amend section five by striking out the last line.

This section provides for the repeal of section seven of the law of 1863. Several statements have been made concerning the law of 1863, but none of them, I believe, have been quite accurate. By that section the Postmaster General has now the discretion of deciding, first, how long letters must lie before they are advertised, and then whether he can advertise them by posting them in writing or by insertion in a daily or weekly newspaper having the largest circulation. But he is restricted from paying more than one cent per letter. That of course prevents him from publishing in papers having large circulation in any considerable town. This section proposes to strike that out for the purpose of enabling him to secure the object sought by the original law, namely, the advertising of letters in the newspapers of largest circulation. That is the character of the section to be stricken out by section five.

I shall oppose the amendment of the gentleman from Pennsylvania [Mr. STEVENS] and go for the section as it stands in the bill.

Mr. FINCK. My colleague, the chairman of the committee, I think, has inadvertently fallen into a mistake in regard to the unanimity which prevailed in the committee in relation to its action. I was from the beginning opposed to the fifth section. I do not believe there is any necessity for legislation in relation to this particular question. The law as it now exists is, in my judgment, the best that we can have in relation to the publication of letters. It ought, in fairness, to be always in the paper having the largest circulation. I am therefore opposed to the section as it stands, and also to the proposition to amend it by the gentleman from Pennsylvania, [Mr. STEVENS.] I trust the motion to strike it out will prevail.

Mr. RAYMOND. I withdraw my amendment.

The question being taken on the motion of Mr. STEVENS to strike out of section five the words, "in any post office, in newspapers having the largest circulation within the post office delivery, be, and the same," it was not agreed to.

The question recurred on the motion to strike out the entire section.

Mr. BALDWIN. I move to strike out the last ten words of the section. This would kill it; and I think this section ought to be killed in some way, and for this reason: the attempt to advertise letters in any other way than is now prescribed would certainly cost the Government more than it costs now, or the attempt to advertise suitably would fail. Any job printer who should be required to furnish printed lists of letters suitable for posting would charge more for his work than it costs to advertise them in the newspapers. Any one familiar with the printing business knows this, or will readily see it by means of a little calculation.

Now, if it is necessary to give public notice of letters remaining in the post office uncalled for, it should be done in a way best calculated to bring the notice to the attention of those concerned. The present method is better than any that has been suggested. In one respect the present system might be improved; the present regulation might be so changed as to require letters to remain longer in the post office before advertising them than is now required.

I oppose this section for another reason, which may lie also against some other sections of the bill. These continual changes in the post office laws are very injurious. I hear some of the best men connected with the management of the post offices complain of this. They say, "Before we can get accustomed to the law in one form, or as soon as we get our machinery fairly at work, in proper adaptation to the law, some new change is made in the law, and we have to devise new appliances and a new adaptation of the machinery." Now, let us allow the law, in some of its provisions at least, to stand long enough for the people to become familiar with it.

Mr. ALLEY. I rise to oppose the amendment. My colleague, as well as the gentleman from Iowa, [Mr. WILSON,] seem to suppose that this advertising is to be done in some other mode, or in the most expensive manner. I do not understand that to be the proposition at all. This simply provides that it shall be left in the hands of the Postmaster General, to be done in the manner that shall be most economical and shall best serve the interest of the people and the Government.

Mr. WILSON, of Iowa. What other mode can he resort to?

Mr. ALLEY. He expects, I presume, to advertise these letters. If you take it for granted that the Postmaster General is to administer the Department for partisan purposes merely, and not for the good of the country, then you are justified, I think, in taking the position which you do with regard to this provision. But if you expect the Department to be administered for the benefit of the people, then I say you ought to give him such discretion as is here proposed.

Now, with regard to the remark respecting frequent changes, I concur in all that has been said in that particular. I know that a great many changes have been made, and some that are unnecessary. The committee have investigated these matters fully. They have refused to concur in a great many recommendations. Nothing has been recommended or asked for that has not been fully examined. And notwithstanding my predisposition to oppose anything like changes in the post office laws not absolutely necessary, yet everything here proposed meets the approval of my judgment. And I do hope that the House will retain this section of the bill. It will be promotive only of good, save considerable money, and do no possible harm, in my judgment.

Mr. WASHBURNE, of Illinois. I will ask my friend from Massachusetts whether this bill was not drawn in the Post Office Department, and sent to him from that Department?

Mr. ALLEY. Most of the provisions of the bill were recommended by the Department; and the Department recommended some other provisions, which did not receive the approval of the committee.

The SPEAKER. Debate is exhausted upon the amendment.

Mr. BALDWIN. I withdraw the amendment.

Mr. WASHBURNE, of Illinois. I demand the previous question on the section.

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

The motion of Mr. WASHBURNE, of Illinois, to strike out the fifth section was agreed to.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the fifth section was stricken out; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The sixth section was read. It provides that the balance of the appropriation of $100,000, under the thirteenth section of the act approved May 17, 1864, which may remain unexpended at the close of the current fiscal year, may be used as far as necessary to supply deficiencies in the proceeds of the money-order system during the fiscal year commencing July 1, 1866.

Mr. KASSON. I desire to ask my friend from Massachusetts whether he will not consent that this section be stricken out, and let the matter come up for the consideration of the Senate in connection with the regular Post Office appropriation bill. I think the gentleman himself must concede that such a provision is out of place coming from the Post Office Committee. It is in fact an appropriation of $100,000, or some considerable portion of that sum, for the support of the Post Office Department. This House has already passed the regular Post Office appropriation bill. If the gentleman desires that this item shall be included in a deficiency bill, he can doubtless procure the consent of the Committee on Appropriations for its insertion; or if the matter requires earlier action, the gentleman can doubtless induce the Senate to insert the item in the regular Post Office appropriation bill. I submit to the gentleman that this section should not be embraced in a bill like this, which has nothing to do with appropriations of money.

Mr. ALLEY. I will not object to the section being stricken out.

Mr. KASSON. I move, then, to strike out this section.

The motion was agreed to.

The seventh section was read. It provides that the third section of the act entitled "An act to establish a postal money-order system," approved May 17, 1864, be amended so as to authorize the issuing of a money order for any sum not to exceed fifty dollars, and that the charge or fee for an order for a less sum than thirty dollars shall be ten cents; for an order for more than thirty and not exceeding forty dollars, twenty-five cents; and for an order exceeding forty dollars a fee of thirty cents shall be charged.

Mr. STROUSE. Mr. Speaker, I move to amend by striking out before the word "dollars," in line six, the word "fifty," and inserting in lieu thereof the words "one hundred;" and by adding at the end of the section these words:

And for an order exceeding fifty dollars, fifty cents shall be charged.

Mr. Speaker, if this money-order system is to be of any practical benefit to the people of the country, especially the store-keepers and the small dealers, there is no good reason why fifty dollars should be fixed as the maximum amount of the orders. By authorizing orders of a larger amount, the revenue of the Department will certainly be increased, and the public will be accommodated. If we wish to suit the convenience of the small traders throughout the northern, the eastern, and the western States, there is no reason why $100 should not be the maximum rather than fifty dollars. It is a great advantage to the people to be able to purchase money orders, instead of being obliged to buy drafts or send their money by express. The Government guaranties the payment of these orders; and in case of their loss duplicates are issued. To extend the benefits of this system, I have offered my amendment.

Mr. ALLEY. I was really in hopes this section would pass without any motion to amend, as the gentleman from Illinois said when it was read that it was all right, and that he was content to have it go through.

As to the gentleman's motion to amend by inserting "one hundred" instead of "fifty," I will remark, when the bill was first introduced and considered there seemed to be serious objections to making it as high as fifty dollars. The object of the money-order system is to enable persons of small means to make remittances of small amounts. It was not designed or intended as a medium of exchange for brokers and persons of large means. It seemed to the committee, and I believe the House will come to the same conclusion, that fifty dollars should be the maximum amount we should adopt for the money-order system. I hope, therefore, the amendment will not prevail.

The amendment was rejected.

Mr. RADFORD. I move to strike out all after the word "dollars" in the seventh line, and to insert in lieu thereof:

One half of one per cent. for all sums for more than thirty dollars and not exceeding fifty dollars.

As it is now a man may call for two thirty dollar orders and only pay twenty cents. Scarcely one will call for an order beyond that, for as it now reads they are required to pay twenty-five cents for an order for more than thirty dollars and not exceeding forty dollars.

Mr. McRUER. I move to strike out after the word "order," in the sixth line, the following:

For a less sum than thirty dollars shall be ten cents; for an order for more than thirty and not exceeding forty dollars, twenty-five cents; and for an order exceeding forty dollars a fee of thirty cents shall be charged.

And in lieu thereof to insert the following:

Shall be one half of one per cent.: *Provided*, No order shall be sold for less than ten cents.

The SPEAKER. Does the gentleman from New York accept that as a modification of his amendment?

Mr. RADFORD. I do not accept it as a modification of my amendment.

Mr. KASSON. I wish to say that it is impracticable for gentlemen to regulate this by percentage. The law limits the minimum draft to one dollar. The charge on that would be one half of one cent—half a cent to pay for an order for a dollar for a subscription to a country newspaper.

Mr. McRUER. My amendment is that no order shall be sold for less than ten cents.

Mr. KASSON. I do not believe we can act to suit every man's convenience. It will be impracticable to carry out the amendment. The difficulty of computation is very troublesome. I think there should be two charges for money orders, as we have now but two charges for letter postage, a charge of three cents whether the letter is to go to Baltimore or to Boston, and a charge of two cents for a drop letter, whether it is to go to the next door or a mile or two. So I think we ought only to have two rates for money orders. I suggest that it should be, for a less sum than thirty dollars, ten cents, as it is in the report of the committee, and for all orders exceeding thirty dollars twenty-five cents, so that a man may know exactly what a draft is to cost. If we adopt this plan of percentage, a calculation will have to be made before a man would know what his draft would cost.

You must recollect, too, that the blank draft costs something. In this money-order system there are two items of expense to the Department, one for the blank draft itself, and the other for the clerical labor. We must also remember that the Department does not, like the brokers, transport money from one section to the other to meet these drafts. I hope the amendments will not prevail.

Mr. RADFORD. Suppose a man asks for two orders of thirty dollars. Now, as I understand it, he gets two money orders, amounting to sixty dollars, for twenty cents.

Mr. KASSON. I refer these matters to the chairman of the committee.

The question was taken on Mr. McRUER's amendment, and it was disagreed to.

The question then recurred on Mr. RADFORD's amendment.

The House divided; and there were—ayes 30, noes 32; no quorum voting.

The SPEAKER ordered tellers; and appointed Messrs. RADFORD and ALLEY.

The House again divided; and the tellers reported—ayes thirty, noes not counted.

Mr. RADFORD. I do not press my amendment any further.

The SPEAKER. The amendment will then be considered as rejected.

Mr. KASSON. In order to meet the point to which attention has been called, and I ask the attention of the chairman of the committee to it, will it be satisfactory to say, for a less sum than twenty dollars it shall be ten cents, and for an order exceeding twenty dollars, twenty-five cents?

I will state my amendment again. I move to modify the section so that it will read:

SEC. 7. *And be it further enacted*, That the third section of the act entitled "An act to establish a postal money-order system," approved May 17, 1864, be, and the same is hereby, amended so as to authorize the issuing of a money order for any sum not to exceed fifty dollars, and that the charge or fee for an order for a sum not exceeding twenty dollars shall be ten cents; and for an order exceeding twenty dollars it shall be twenty-five cents.

The question was taken, and the amendment was agreed to.

Mr. HILL. I desire to move to strike out the word "fifty" in line six of section seven, and insert in its stead the words "seventy-five." As the section now stands it provides that money orders may be issued for sums not exceeding fifty dollars each. I believe a proposition to strike out "fifty" and insert "one hundred" has been already made and voted down.

My own observation and experience has been that this money-order system has been received with great favor by the people at large. The only complaint in regard to it which I have heard is, that the amount for which the order may be issued is not large enough. For that reason I make the motion to amend which I have indicated.

Mr. ALLEY. I think that the sum of fifty dollars is sufficiently large, for the reasons which I have already stated. If any one desires a larger sum than fifty dollars, then the person can take two or more orders, and thus accomplish his object.

The amendment of Mr. HILL was not agreed to.

The next section was then read, as follows:

SEC. 8. *And be it further enacted*, That a money order shall be valid and payable when presented to the deputy postmaster on whom it is drawn within one year after its date, but for no longer period; and in case of the loss of a money order a duplicate thereof shall be issued without charge, on the application of the remitter or payee, who shall make the required proofs; and postmasters at all money-order offices are hereby authorized and required to administer to the applicant or applicants in such cases the required oath or affirmation free of charge.

Mr. ALLEY. I desire to inquire of the gentleman from Illinois [Mr. WASHBURNE] if he has examined this section, and if he has any objection to it. [Laughter.]

Mr. WASHBURNE, of Illinois. I think I have no particular objection to it.

The next section was read, as follows:

SEC. 9. *And be it further enacted*, That all railroad companies carrying the mails of the United States shall convey, without extra charge, by any train which they may run over their roads, all such printed matter as the Postmaster General shall, from time to time, direct to be transported thereon, in charge of persons designated by the Post Office Department for that purpose.

Mr. WASHBURNE, of Illinois. I agree to that. [Laughter.]

Mr. KASSON. There is, I think, a little alteration needed in that section. I move to amend the last clause so that it will read, "with the persons in charge of the same, designated by the Post Office Department for that purpose."

The amendment was agreed to.

The next section was read, as follows:

SEC. 10. *And be it further enacted*, That if any person or persons shall willfully and maliciously injure, deface, or destroy any mailable matter deposited in any letter-box, pillar-box, or other receiving boxes established by authority of the Postmaster General of the United States for the safe deposit of matter for the mails or for delivery, or shall willfully aid and assist in injuring such mailable matter so deposited as aforesaid, either by pouring into such boxes oil, water, or other fluids, or by any other means, every such offender, being thereof duly convicted, shall, for every such offense, be fined not less than one hundred nor more than one thousand dollars, or be imprisoned not less than one year, nor more than three years, at the discretion of the court.

No amendment being offered,

The next section was read, as follows:

SEC. 11. *And be it further enacted*, That the President of the United States may, and he is hereby authorized, on the application of the Postmaster General, and not otherwise, to direct, if in his opinion necessary for the public service, that a portion of the moneys appropriated for a particular branch of expenditure in the Post Office Department be applied to another branch of expenditure in the same Department; in which case a special account of the moneys thus transferred and of their application shall be laid before Congress during the first week of their next ensuing session: *Provided*, That nothing herein contained shall be construed to modify or repeal the second section of the act of March 3, 1843, authorizing the transfer of any surplus of the contingent fund, under the direction of the proper Department.

Mr. WASHBURNE, of Illinois. I move to strike out this section. If passed at all it should be passed in an appropriation bill.

Mr. ALLEY. I will remark, in regard to this section, that the Postmaster General has always exercised the power to transfer money from one particular appropriation to another where it may be needed. That has been the invariable custom in the Post Office Department as well as in other Departments. And I am told at the Department that it is impossible to get along without the exercise of such a power. The Postmaster General says that being indispensably necessary, even he does not like to do it without authority of law; and therefore he asks for this authority from Congress, notwithstanding it has always been the custom to do it.

This section provides that this power shall not be exercised without the consent of the President of the United States, and upon a report to him by the Postmaster General that it is necessary. And I do not see how any gentleman can object to this section if he is in favor of restricting the Postmaster General to the provisions of the law. It has heretofore been customary for them to do it, but in violation of the law. They say they cannot get along without it, that they cannot run the machine without it. The Postmaster General, who gentlemen all know is a very strict and conscientious man in these particulars, said to me that if this was absolutely essential for the administration of the Department, he desired to do it in accordance with law; and therefore he asks that this provision be passed, guarded in this manner.

Mr. STEVENS. I do not think there would be the least difficulty if the House or the Senate were asked to make up any deficiency that might be needed. But this is a very loose way of doing business, entirely unknown to any regular legislation, and in my judgment ought never to be practiced. The gentleman can have put in the deficiency bill any appropriation that may be necessary.

Mr. THAYER. This matter has been presented to the House by the gentleman from Massachusetts [Mr. ALLEY] in a very tender manner. Now, I undertake to say that whatever may have been the practice of the Post Office Department, or of any other Department of this Government in this respect, if it has coincided with what the gentleman tells us has been the practice, then it has been in direct conflict with the whole theory of appropriations, as they have hitherto been made by this Government, and as is provided in the Constitution of the United States.

Now, what is the proposition before us in this section? It is that after the Committee on Appropriations have investigated the estimates of the public Departments of the Government, brought in their bill which in all its details has been examined and passed upon by this House, and each item of the appropriation has been assigned to its particular place and duty, all this is to go for nothing, and the President of the United States is to have the disposal of the whole amount appropriated, without regard to any limitations which Congress may have prescribed in regard to its expenditure. Now, I appeal to gentlemen to say whether this is not a monstrous proposition.

I am not aware that either this Congress or any other has ever gone further than it went in the act of 1843, where in a general appropriation bill it was declared that if the amounts appropriated for certain contingent expenses in the different Departments were not exhausted, the head of each particular Department might devote them to other objects authorized by law where there might exist a deficiency in the appropriation therefor. But that proposition was one totally different from the one proposed here.

This is a proposition that all the money appropriated by Congress to a particular Department of the Government shall be placed under the control of the President of the United States. For one, I protest against any such surrender of the responsibility which is devolved upon Congress by the Constitution of the United States, in the appropriations of the money of the people of the United States. The Constitution places upon us the responsibility of appropriating properly the money raised by taxes upon the people. And it will be in vain for us to say we meet that responsibility properly, if we confer upon any one by act of Congress the power asked to be conferred by the Committee on the Post Office and Post Roads; if we say the President of the United States, notwithstanding the directions made by Congress in regard to the application of the public money, may proceed to make such disposition of it as he may see fit.

Mr. HILL. I move to amend the section by striking out the following:

Provided, That nothing herein contained shall be construed to modify or repeal the second section of the act of March 3, 1843, authorizing the transfer of any surplus of the contingent fund, under the direction of the proper Department.

And upon that I desire to say a few words.

Mr. ALLEY. Will the gentleman allow me to say a few words now?

Mr. HILL. I will do so.

Mr. ALLEY. I was going to remark that the speech of the gentleman from Pennsylvania [Mr. THAYER] reflects almost precisely the views I presented to the Department upon this subject, and the reply was that it would be impossible for them to get along in the Department without some such provision as this. I appreciate fully the remarks and objections of the gentleman from Pennsylvania, [Mr. STEVENS,] and acting upon his suggestion, with the view that he presents, that it would be more appropriate in the appropriation bill, and that the Committee on Appropriations will report the provision if necessary, fully convinced as I am of the necessity of this provision in some form, I cheerfully consent to having this section stricken out.

Mr. HILL. I am very glad the gentleman from Massachusetts [Mr. ALLEY] agrees to that.

Mr. KASSON. In the proviso of the first section of the act of March 3, 1809, which is still in force, as I understand, is the following:

"*Provided, nevertheless*, That during the recess of Congress, the President of the United States may, and he is hereby authorized, on the application of the Secretary of the proper Department, and not otherwise, to direct, if in his opinion necessary for the public service, that a portion of the moneys appropriated for a particular branch of expenditure in that Department, may be applied to another branch of expenditure in the same Department; in which case a special account of all moneys thus transferred and of their application shall be laid before Congress during the first week of their next ensuing session."

That is all the power any Secretary ought to have, and all I presume that the Postmaster General wants. For if a deficiency occurs during the session of Congress, he can report to Congress and they will take action. If a deficiency occurs during the vacation of Congress, then this old law confers all the power that is necessary.

Mr. HILL. All I desire to say now, since the gentleman from Massachusetts [Mr. ALLEY] consents to have this section stricken out, is, that I am very happy to find that the speech which the gentleman says he made to the Postmaster General has had a much happier effect when made here than it had upon the Postmaster General.

Mr. ALLEY. I was not aware of the existence of the law just quoted by the gentleman from Iowa, which renders this section of course unnecessary and therefore it should be stricken out.

The motion of Mr. WASHBURNE, of Illinois, to strike out section eleven was then agreed to.

Section twelve was then read, as follows:

SEC. 12. *And be it further enacted*, That newspapers, circulars, pamphlets, and other kinds of printed matter deposited in any post office for local delivery, shall be subject to the following rates of postage, to be prepaid in all cases by stamps, namely, the drop postage on newspapers, circulars, and pamphlets, shall be uniform at one cent each: *Provided, however*, That drop newspapers, in packages to one address shall be subject to postage at the rate of one cent for each four ounces or fraction thereof: *And provided also*, That drop printed matter not enumerated in this section shall be subject to a postage of one cent for each piece, except books, which shall be subject to postage at the rate of four cents for each eight ounces or fraction thereof.

Mr. RAYMOND. I move to strike out the words "to be prepaid in all cases by stamps."

Mr. MILLER. I move to strike out the whole section.

Mr. RAYMOND. I accept that motion.

Mr. MILLER. I think this section ought clearly to be stricken out.

Mr. ALLEY. I understood that this section was got up in the newspaper interest. Certainly no objection has heretofore been made to it from that quarter. It has been considered, I believe, by a great many newspaper editors, and I have not yet heard any opposition to it on their part. But if it is objectionable to that interest I have no objection to its being stricken out.

The motion was agreed to.

The thirteenth section was read, as follows:

SEC. 13. *And be it further enacted*, That so much of the fifteenth section of the act entitled "An act to amend the laws relating to the Post Office Department," approved March 3, 1863, as authorizes postmasters to contract with the publishers of newspapers, periodicals, and circulars, for delivery by carriers within their postal districts of any publication not coming through the mails, at rates and upon terms to be agreed upon with such publishers, be, and the same is hereby, repealed.

Mr. ALLEY. I suppose it will be necessary to strike out that section, now the others have been stricken out. I make the motion that it be stricken out.

The motion was agreed to.

The fourteenth section was read, as follows:

SEC. 14. *And be it further enacted* That whenever it shall become expedient, in the opinion of the Postmaster General, to substitute a different kind of postage stamps for those now in use, he shall be, and is hereby, authorized to modify the existing contract for the manufacture of postage stamps, so as to allow to the contractors a sum sufficient to cover the increased expenses, if any, of manufacturing the stamps so substituted.

Mr. WASHBURNE, of Illinois. I suppose the gentleman from Massachusetts will also move to strike that out.

Mr. ALLEY. In regard to that section I will say he will not object to its being retained. It is deemed of great importance by the Department.

Mr. WASHBURNE, of Illinois. Why should I not object to it when it provides for increased and unnecessary expense? I do not like this authority given to the Postmaster General to change these stamps at any time when a new design may be proposed. I think it is unsafe. Everybody knows what the stamps are now, and everybody is satisfied with them.

Mr. KASSON. Will the gentleman from Illinois, with whom at the first blush I agreed, listen to a single statement? I remember now there is another kind of postage stamp with a peculiar kind of ink which is in part a patent and in part a secret. It is in use in some of the English and in some of the continental post offices. It has been desired by the Department here. The mark which it puts in canceling a stamp cannot be removed without effacing the entire impression of the stamp. If the chairman of the committee thinks it relates to the substitution of some stamp like that, and not for some new design, I think the section should be retained.

Mr. ALLEY. When this matter was presented to the committee, the same objection occurred to my mind that the gentleman from Illinois has urged against it, but the Department satisfied the committee that it was important and necessary. I will not detain the House by stating all the arguments that were advanced, but I recollect very well they were conclusive to my mind. I hope the clause will be retained.

Mr. WASHBURNE, of Illinois. Will not the gentleman agree to amend so as to strike out the words "so as to allow to the contractors a sum sufficient to cover the increased expenses, if any, of manufacturing the stamps so substituted?"

Mr. ALLEY. I think the section is proper as it is. It is a simple matter, and it is necessary for the Department.

Mr. WASHBURNE, of Illinois. I move the amendment.

The amendment was disagreed to.

Mr. GRINNELL. I move to add the following as an additional section:

That section two of chapter one hundred and thirty-seven of the laws of Congress, approved July 1, 1864, be amended by adding the following: *Provided*, That when the quarterly returns of any postmaster, of the third, fourth, or fifth class, shows that the salary allowed is ten per cent. less than it would be on the basis of commissions under the act of 1854, fixing compensation, then the Postmaster General shall review and readjust under the provisions of said section.

Mr. Speaker, I wish to say a word on that amendment. I was on the Committee on the Post Office and Post Roads when this provision was under consideration, and proposed an amendment proven inadequate. It does not seem to me that the hardships experienced under the system of commissions by postmasters in new towns, in towns built up in the newest portions of the country, and on the lines of railroads, have been fully appreciated. It has been found, sir, that the postmasters in these new towns under the system of salaries are called upon to do work for little or nothing. I know of postmasters who receive only thirty-five or forty dollars a quarter who should receive $100 if commissions were allowed according to business. Now, it is not just; it does not appertain to the dignity of the Post Office Department to call upon those public servants living in Kansas, Minnesota, Iowa, Wisconsin, Michigan, California, and the new States and Territories to do this work for next to nothing. Let the law be plain that there may be an early recognition of responsible and faithful service. Once in three months is not too frequent an adjustment for men too poorly paid.

Mr. HUBBARD, of Iowa. I would ask my colleague whether frequent applications have not been made for relief, and whether they have not been refused by the Postmaster General.

Mr. GRINNELL. I have received between forty and fifty applications for redress, and gentlemen all around me have received similar applications they inform me. This is only a question of justice to those who receive comparatively little compensation.

Mr. ALLEY. I do not like to object to a provision of this kind. As I said before, if the gentleman would make it twenty per cent. instead of ten I would agree to it, although it will involve immense additional labor to the Department. The review of the whole matter of compensation to postmasters will have to take place in July. I was in hopes they would consent to let it be deferred till that time, when this revision will take place. If this is passed it goes over to the Senate, where it will probably be delayed and before this will be passed to do much good July will probably be upon us. I think on the whole that the amendment had better be referred to the committee for them to mature it and put it in the next bill which they report.

Mr. GRINNELL. I dislike this reference to the committee. This is the favored hour. Near three months ago I presented a bill to remedy this grievance of our half-paid postmasters in our new towns, and it has slept with the committee. I will trust the Senate to concur with us in what is so palpably proper. Next July is too far off. It was my fortune to serve for two sessions under the chairman of the Committee on the Post Office and Post Roads, [Mr. ALLEY,] and I take pleasure in saying that I was honored by the association, and found him discreet and wise, as our chairman, ever faithful to the postal service; but I cannot resist the conviction, that a little more liberality to the new States on his part and that of the able Postmaster General, would tend to secure a faithful class of servants and add to the dignity of the Department, as well as its efficiency.

Mr. WASHBURNE, of Illinois. I suggest to my friend from Iowa [Mr. GRINNELL] to change the language of his amendment, so that we may know what act he means. Let it be to amend a certain act. The language as it is now is entirely exceptional. I never saw it in any bill.

Mr. ALLEY. Will it be in order to move to amend the amendment?

The SPEAKER. It will.

Mr. ALLEY. Then I move to strike out "ten per cent." and insert "twenty per cent."

Mr. GRINNELL. I will modify the amendment as suggested by the gentleman from Illinois, [Mr. WASHBURNE,] as it is not material. I hope the amendment of the gentleman from Massachusetts [Mr. ALLEY] will not be adopted. It is not fair to the new States. The penalty for growth by a loss of ten per cent. on what is justly due is quite enough.

Mr. HALE. Is there any district in the gen-

tleman's section of the country that increases at a less rate than twenty per cent. a quarter?

Mr. GRINNELL. I do not know how that is. Yet if it enjoyed the presence of the learned gentleman the country would present such attractions that its growth could not easily be computed.

Mr. ALLEY. I hope my amendment will prevail, for I do think that twenty per cent. is little enough.

I move the previous question on the bill and amendments.

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

The question being taken on the amendment proposed by Mr. ALLEY, there were—ayes 23, noes 69.

Mr. ALLEY. I demand tellers.

Tellers were not ordered.

So the amendment was not agreed to.

The question then recurred on the amendment of Mr. GRINNELL; and it was agreed to—ayes 70, noes 22.

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

Mr. ALLEY. I move to reconsider the vote by which the bill was passed, and to lay that motion on the table.

The latter motion was agreed to.

EVENING SESSIONS.

Mr. WASHBURNE, of Illinois. I move to dispense with the session of this evening.

The motion was agreed to.

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

Resolved, That in every evening session of the House the first hour shall be considered as a morning hour, in addition to the usual morning hour.

CONTESTED ELECTION.

Mr. DAWES. The Committee of Elections, to whom was referred the memorial of William E. Dodge, contesting the right of James Brooks to a seat as Representative from the eighth district of the State of New York, have instructed me to submit a report, accompanied by two resolutions. I ask that the resolutions be read, and the report laid on the table, and printed. And I desire to state that it is my intention at an early day after the printing of the report to call it up. I will say on Thursday next, if it should be printed by that time.

The resolutions were read, as follows:

Resolved, That Hon. James Brooks is not entitled to a seat in this House as Representative in the Thirty-Ninth Congress from the eighth district in New York.

Resolved, That William E. Dodge is entitled to a seat in this House as a Representative in the Thirty-Ninth Congress from the eighth district in New York.

Mr. MARSHALL. I wish to offer, from the same committee, a minority report, and to have it printed.

Both reports were laid on the table, and ordered to be printed.

Mr. FINCK. I ask the gentleman from Massachusetts [Mr. DAWES] not to designate so early a day as Thursday next. This is a case involving a great deal of testimony, and ample time ought to be given to both sides for examination. I suggest next Thursday two weeks. The evidence cannot be printed by Thursday next, as I understand.

Mr. DAWES. The testimony has been printed more than two months.

Mr. FINCK. It could hardly be examined until the report is presented from the committee.

Mr. DAWES. I hardly think it could be expected to postpone it as long as that. It is now more than four weeks since the parties concluded their arguments. They were for three weeks in daily session submitting their views. More than two months have elapsed since the testimony was printed. And now to ask three weeks longer before we act on the question seems to me really to be rather a modest request. If the gentleman from Ohio [Mr. FINCK] has not yet read the documents that have been printed I certainly cannot ask the House to wait for him to read them.

Mr. WRIGHT. I have not read these documents, nor have I been supplied with them.

KANSAS RAILROAD AND TELEGRAPH.

On motion of Mr. LOAN, Senate bill No. 145, for a grant of land to the State of Kansas to aid in the construction of the Northern Kansas railroad and telegraph, was taken from the Speaker's table, read a first and second time, and referred to the Committee on the Post Office and Post Roads.

DEPARTMENT OF MISSOURI.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting, in reply to a resolution of the House of March 9, 1866, the report of Major General Pope on the condition of the department of Missouri; which was laid on the table, and ordered to be printed.

CATTLE PLAGUE.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Commissioner of Agriculture, transmitting correspondence of European consuls received through the State Department relative to the cattle plague, its nature, remedy, and means of prevention, and a copy of the recent law enacted by the British Parliament on that subject; which was referred to the Committee on Agriculture; and the question of printing the document was referred to the Committee on Printing.

LEAVE OF ABSENCE.

Mr. VAN HORN, of New York, asked and obtained leave of absence for his colleague, Mr. MORRIS, for ten days.

And then, on motion of Mr. FARNSWORTH, (at four o'clock and thirty-five minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to the appropriate committees:

By Mr. BEAMAN: The petition of I. C. Wyllis, and others, of Hillsdale, Michigan, praying that Congress will enact such just and equal laws for the regulation of inter-State insurances of all kinds as may be effectual in establishing the greatest security for the interests protected by policies and promotive of the greatest good and convenience to all concerned in such transactions.

Also, the petition of Barton Tiffany, and others, of Jonesville, Hillsdale county, Michigan, asking for the extension of the land grant to the Amboy, Lansing, and Traverse Bay Railroad Company, State of Michigan.

Also, resolutions of the Common Council of the city of Lansing, in the State of Michigan, in favor of an extension of the land grant for the purpose of building a railroad from Amboy to Traverse Bay via Lansing.

Also, a resolution of the Board of Trade of the city of Detroit, expressing approval of the bankrupt bill now pending before Congress, and asking that the same be passed into a law.

Also, the petition of H. M. Boies, and 68 others, citizens of Hillsdale and Lenawee counties, Michigan, praying that Congress will enact such just and equal laws for the regulation of inter-State insurances of all kinds as may be effectual in establishing the greatest security for the interests protected by policies and promotive of the greatest good and convenience to all concerned in such transactions.

By Mr. BINGHAM: The petition of John H. Simmes, W. William, William Galt, and Augustus E. Perry, and others, citizens of Washington, asking a fair and equitable reduction in the price allowed the Gas-Light Company by existing law.

By Mr. CONKLING: The petition of Hon. William J. Bacon, James Sayre, Ellis H. Roberts, and others, of Utica, New York; also the petition of L. L. Lewis, and others, of Rome, New York; also the petition of Ivers Monroe, and others, of Camden, New York, asking the passage of a law regulating inter-State insurances.

By Mr. CULLOM: A petition signed by 1,318 citizens of the city of Springfield, in the State of Illinois, praying that eight hours shall be established by law as a day's work in all places wherein laborers, mechanics, or artisans shall be employed by the Government of the United States or by its authority.

By Mr. DAVIS: The petition of Frank J. Jerome, John J. Jerome, and 32 others, citizens of Onondaga county, New York, praying increased duties upon imported wool.

Also, the like petition of Elbridge Kinner, and 15 others, citizens of Onondaga county.

Also, the petition of Messrs. Hier & Aldrich, H. Barnet, and 85 others, manufacturers of cigars, and citizens of Syracuse, New York, asking for additional duties on imported cigars.

By Mr. DELANO: The petition of William Sturgeon, and 100 others, citizens and wool-growers of Knox county, Ohio, praying an increased tariff on foreign wools, and increased protection to the wool-growers of this country.

By Mr. DENNY: A memorial of the Legislature of Washington Territory, respecting a grant of land for agricultural college.

Also, one relative to mail route from Walla Walla to Seatle, in Washington Territory.

Also, one asking the establishment of a post route from Helena, in Montana Territory, to Walla Walla, in Washington Territory.

Also, one asking the extension of route No. 15402.

By Mr. ELIOT: The petition of Charles S. Paisley, and others, of New Bedford, Massachusetts, praying that eight hours may be fixed as a legal day's work for workmen, artisans, and laborers in the employ of the United States.

By Mr. HARDING, of Illinois: The memorial of citizens of Clarksville, Tennessee, for pensions to colored soldiers.

By Mr. HUBBARD, of West Virginia: The petition of M. L. Hill, and 83 others, citizens of Ohio county, State of West Virginia, asking an increased rate of duty on wool of foreign growth.

By Mr. J. M. HUMPHREY: Three petitions of citizens of Buffalo, New York, for an increase of duties on foreign goods.

By Mr. JENCKES: A memorial of Board of Trade of Detroit, in favor of passage of bankrupt bill.

By Mr. KASSON: A memorial of William Baker, of Nebraska, for compensation for property destroyed by certain Indians, with accompanying proofs.

By Mr. LAFLIN: The petition of M. W. Priest, and others, of Little Falls, Herkimer county, New York, in favor of just and equal laws for the regulation of inter-State insurances of all kinds.

By Mr. MARVIN: The petition of 21 citizens of Saratoga Springs, New York, asking for a law regulating inter-State insurances.

By Mr. MERCUR: The petition of 79 mechanics and laborers engaged in Whittaker's mill, Manayunk, Philadelphia, praying that the tariff may be so amended as to protect their labor to the extent of the difference of the cost of capital and labor here and abroad, with the addition of the taxes paid by American industrial products from which the foreign are free.

Also, the petition of 14 citizens of Montour county, Pennsylvania, praying for such revision of the tariff laws as will protect domestic labor and invite the investment of capital in home manufactures.

By Mr. SCHENCK: The petition of cigar-makers of Dayton, Ohio, for an increased tariff on imported cigars.

Also, the petition of soldiers of Warren and Montgomery counties, Ohio, for equal bounties.

By Mr. VAN HORN, of Missouri: The petition of John W. Riley, of Missouri, for pension due for service in revolutionary war.

By Mr. VAN AERNAM: The petition of citizens of Chautauqua county, New York, praying Congress to levy a specific and *ad valorem* duty upon all imported wool.

Also, the petition of citizens and soldiers of Cattaraugus county, New York, praying Congress to grant additional bounties to soldiers who enlisted into the service in 1861 and 1862.

Also, the petition of 69 citizens, prominent business men of Dunkirk, New York, praying Congress to enact just and equal laws regulating inter-State insurance.

By Mr. WASHBURNE, of Illinois: The petition of William Salem, for an act to change the name of the steamer Circassian to Abraham Lincoln.

Also, the petition of Mrs. E. J. Bushnell, for a pension.

By Mr. WELKER: The petition of A. D. Howe, and 46 others, citizens of Lorain county, Ohio, asking protection on wool.

By Mr. WENTWORTH: The petition of western citizens, for greater protection to inter-State securities.

Also, the petition of Dr. Philip Adolphus.

Also, the petition of the dress-makers of New York city, asking for a reduction of taxes.

IN SENATE.

TUESDAY, *March* 27, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY.

The Journal of yesterday was read and approved.

COAST SURVEY REPORT.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Treasury, transmitting in obedience to law the annual report of the Superintendent of the United States Coast Survey, showing the progress of that work during the year ending November 1, 1865, and an engraved sketch, showing the progress made in the survey of the Atlantic, Gulf, and Pacific coasts.

Mr. SHERMAN. I believe that is the regular coast survey report. There is a great deal of matter of the coast survey published that I think ought to be omitted in printing the report. It is a very expensive volume, and much of it is useless. I move that it be referred to the Committee on Printing with a view to see how much of it should be printed.

The PRESIDENT *pro tempore*. That order will be made if there be no objection.

HOUSE BILLS REFERRED.

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

A bill (H. R. No. 207) to amend an act entitled "An act to provide ways and means for the support of the Government," approved March 3, 1865—to the Committee on Finance.

A bill (H. R. No. 360) to reimburse the State of Pennsylvania for moneys advanced Government for war purposes—to the Committee on Military Affairs and the Militia.

A bill (H. R. No. 363) supplementary to the several acts relating to pensions—to the Committee on Pensions.

A bill (H. R. No. 394) for the relief of the estate of E. W. Eddy—to the Committee on Military Affairs and the Militia.

A bill (H. R. No. 420) to provide arms and ammunition for the defense of the inhabitants of Dakota Territory—to the Committee on Military Affairs and the Militia.

A bill (H. R. No. 421) for the relief of James G. Holland, late acting assistant paymaster United States Navy—to the Committee on Naval Affairs.

A bill (H. R. No. 422) for the relief of Mrs. Ann E. Smoot, widow of Captain Joseph Smoot—to the Committee on Claims.

A joint resolution (H. R. No. 101) for the relief of certain officers of the Army—to the Committee on Military Affairs and the Militia.

A joint resolution (H. R. No. 102) for the relief of Alexander Thompson, late United States consul at Maranham—to the Committee on Foreign Relations.

PETITIONS AND MEMORIALS.

Mr. LANE, of Indiana, presented the memorial of Conrad Baker, Lieutenant Governor, acting as Governor of Indiana, praying that the transfer of the United States general hospital at Jeffersonville, Indiana, and the personal property belonging thereto, heretofore made by the War Department to the State of Indiana, may be confirmed as a donation to the State of Indiana, for the benefit of soldiers and seamen of that State disabled in the service of the United States; which was referred to the Committee on Military Affairs and the Militia.

Mr. SHERMAN presented two petitions numerously signed by citizens of Ohio, praying for an increase of the duty on foreign wool so as to make the protection afforded to the woolgrower equal to that given the manufacturer; which were referred to the Committee on Finance.

Mr. SHERMAN. I also present preambles and resolutions of the Chamber of Commerce of the city of Cincinnati, remonstrating against the expenditure of any money by the national Government for the construction of the Illinois ship-canal or the Niagara ship-canal, setting out that in the view of the memorialists it would be unwise at this time for the Government to embark in new enterprises that will involve a large outlay of money, and praying that Congress will confine itself to the completion of works now in progress of an acknowledged national character. I move that it be referred to the Committee on Commerce.

It was so ordered.

Mr. HENDRICKS. I present a memorial of brewers in the city of Madison, State of Indiana, representing that a large portion of the barley used in the manufacture of malt liquors has been heretofore received from Canada, perhaps one half, and sold in this country; that the best quality of malt liquors have been produced from Canada barley; and that it will be impossible to import barley from Canada under the tax which will be imposed upon it on the termination of the reciprocity treaty. They desire no special legislation for the protection of their business, but ask that in arranging the tariff between the United States and the British Provinces in North America, the duty on barley may be fixed at a rate which will not lessen the manufacture of malt liquors, or induce the use of foreign ingredients. I presume this memorial ought to be referred to the Committee on Foreign Relations as it asks for a regulation by treaty. I move its reference to that committee.

It was so referred.

Mr. SUMNER presented a petition of citizens of the United States, praying for the adoption of an international copyright law; which was referred to the Committee on Foreign Relations.

Mr. SUMNER. I also offer four different petitions from citizens of Pennsylvania, reminding Congress of the guarantee in the Constitution of a republican form of government to every State in the Union, and calling upon Congress by constitutional amendment and otherwise to provide for the enforcement of that guarantee. I ask the reference of these petitions to the committee of fifteen.

It was so ordered.

Mr. SUMNER. I also offer nineteen petitions, they are the same in language, from citizens of Louisiana. As the petition is very brief, I will read it precisely as it is:

To the honorable the Senate and House of Representatives of the United States of America in Congress assembled:

The petition of the undersigned, inhabitants of Louisiana, respectfully represent, that, in their judgment, the inhabitants of Louisiana should not be admitted at once into the Union as a State, but that a preliminary system of government should be established by act of Congress, to endure so long as may be necessary to test the fidelity of the population to the Government of the United States, and to accustom the habitants to exercise in peace and harmony the rights and duties of self-government.

Your petitioners further represent, that, in their opinion, the tranquillity of the country, the requirements of our republican system, the principles of natural justice, and sound policy urge you to reestablish State governments here and elsewhere, on the principles of equality of political privileges for all loyal men of all races and conditions.

Wherefore your petitioners pray, the premises considered, that you may be pleased to enact a law establishing here a preliminary system of government founded on the theory of equal political privileges before the law, for all men without distinction of race.

I ask the reference of these nineteen petitions to the committee on reconstruction.

They were so referred.

Mr. CHANDLER presented a memorial of the common council of the village of Albion, Calhoun county, Michigan, praying for an extension of the land grant to the Amboy, Lansing, and Traverse Bay railroad; which was referred to the Committee on Public Lands.

He also presented a petition of brewers of the city of Detroit, Michigan, praying for a reduction of the duty on barley imported from the British Provinces of North America; which was referred to the Committee on Finance.

Mr. HOWARD presented ten memorials numerously signed by citizens of Michigan remonstrating against the application of the Amboy, Lansing, and Traverse Bay land grant upon the present line of that road from Lansing to Jacksonville, in the State of Michigan; and against giving any portion of said grant to the Amboy, Lansing, and Traverse Bay Railroad Company; which were referred to the Committee on Public Lands.

He also presented two petitions of citizens of Virginia, praying for the establishment of a territorial government for that State; which were referred to the joint committee on reconstruction.

Mr. NESMITH presented a memorial of the Legislative Assembly of the Territory of Idaho, in favor of the appointment of a surveyor general for that Territory, and that it be made a separate and distinct district; which was referred to the Committee on Public Lands.

Mr. WILSON presented a petition of female employés of the Treasury Department, praying for an increase of compensation; which was referred to the Committee on Finance.

He also presented the memorial of James Monroe Manning, a private in the third regiment, Massachusetts cavalry, praying that he may be allowed bounty; which was referred to the Committee on Claims.

He also presented a petition of citizens of Massachusetts, praying that such conditions be imposed upon the rebel States as shall punish treason and reward loyalty with confidence and honor, and which shall demand as an evidence of sincere loyalty and good faith on the part of those States, the abolition of all distinctions on account of color or race; which was referred to the joint committee on reconstruction.

Mr. FESSENDEN presented a memorial of the American Industrial Agency, praying for a reduction of the rate of interest on so much of the public debt as may be made the basis of the issue of bank notes, to be payable in currency and the principal convertible into the legal currency of the United States as a means of terminating foreign speculations in American securities and of furnishing ample means of giving employment to our own labor; which was referred to the Committee on Finance.

Mr. DOOLITTLE presented the memorial of Henry T. Fuller, Charles E. Dyer, and others, members of the bar of the circuit court of the United States for the district of Wisconsin, praying that the district of Wisconsin may be annexed to the eighth judicial circuit; which was referred to the Committee on the Judiciary.

He also presented a memorial of the Legislature of Wisconsin, in favor of an *ad valorem* tax upon cigars; which was referred to the Committee on Finance, and ordered to be printed.

He also presented a memorial of the North American Lloyd Steamship Company, praying that a subsidy of $300,000 per annum for this and the next four years may be granted them for carrying the mail from New York to Southampton and Bremen and back twice per month each way, and that additional compensation may be allowed them when the service shall be made weekly; which was referred to the Committee on Post Offices and Post Roads.

Mr. DOOLITTLE. I ask leave to present, also, the petition of Hon. Wyman Spooner, the Lieutenant Governor of the State of Wisconsin, and H. D. Barron, Speaker of the Assembly, and other members of the Legislature and officers of the State, asking Congress to give such judicious and sufficient aid as will hasten the completion of the ship-canal connecting Lake Erie with Lake Ontario and the Hudson river; second, the improvement of the Fox and Wisconsin rivers; third, the enlargement of the Illinois and Michigan canal and the improvement of the Illinois river; and fourth, the improvement of the rapids, and the removal of obstructions in the Mississippi and other rivers. I move that this petition be referred to the Committee on Commerce.

The motion was agreed to.

Mr. RAMSEY presented a petition numerously signed by officers of the Army of the United States stationed on the northwestern frontier, representing that the increased cost of living since the establishment of the present rates of compensation, an increase that has mainly arisen in the last few years, having rendered it entirely inadequate for their absolutely necessary wants and requirements, leaves them no recourse but an appeal to the justice and liberality of their countrymen, and praying for an increase of their compensation; which was referred to the Committee on Military Affairs and the Militia.

He also presented a memorial of the Legislature of the State of Minnesota, in favor of an appropriation for the improvement of the navigation of the Mississippi river; which was referred to the Committee on Commerce.

He also presented a memorial of the Legislature of Minnesota, in favor of an extension of the time for providing an agricultural college in said State; which was referred to the Committee on Public Lands.

He also presented resolutions of the Legislature of Minnesota, in favor of an appropriation for the construction of a light-house at Beaver bay, on Lake Superior, in that State; which were referred to the Commitee on Commerce.

Mr. TRUMBULL presented a petition of citizens of Alton, Illinois, praying for the enactment of equal and just laws for the regulation of inter-State insurances; which was referred to the Committee on Commerce.

Mr. HARRIS presented a petition of women of the United States, praying for an amendment to the Constitution that shall prohibit the several States from disfranchising any of their citizens on the ground of sex; which was ordered to lie on the table.

Mr. ANTHONY presented a memorial of officers of the East Greenwich Institution for Savings, of East Greenwich, Rhode Island, praying that savings banks or institutions for savings having no capital and whose business is confined to receiving deposits and loaning the same on interest for the benefit of the depositors only, and which do no other business of banking, may be exempted from the payment of any further internal revenue tax upon deposits or otherwise; which was referred to the Committee on Finance.

Mr. YATES presented the memorial of Mrs. Marilla B. Philips, and ninety-nine other ladies, of Fulton county, Illinois, remonstrating against licenses by the Government to drinking saloons, gaming houses, &c.; which was referred to the Committee on the District of Columbia.

Mr. COWAN presented resolutions of the Legislature of Pennsylvania, in favor of the repeal of the tax upon crude petroleum; which were referred to the Committee on Finance.

He also presented a memorial of judges, counselors, and attorneys now presiding over and practicing in the court of common pleas in the county of Armstrong, Pennsylvania, praying for an increase of the salaries of the judges of the United States district courts; which was referred to the Committee on the Judiciary.

He also presented a petition of members of the bar of Westmoreland county, Pennsylvania, praying for an increase of the salaries of the judges of the district courts of the United States; which was referred to the Committee on the Judiciary.

He also presented a petition of citizens of Washington city, District of Columbia, praying for a reduction of the price of gas; which was referred to the Committee on the District of Columbia.

He also presented the memorial of S. B. Elliott, assistant assessor United States internal revenue for the eighth division, eighteenth district of Pennsylvania, remonstrating against an increase of the compensation of assistant assessors; which was referred to the Committee on Finance.

Mr. HOWE. I ask leave to present a petition from the Soldiers' and Sailors' Union of Washington, District of Columbia, in which they set forth at some length and with great force the obstacles placed in the way of their obtaining employment under the Government, and they ask Congress to pass an act that honorably discharged soldiers and sailors, particularly those disabled in the service, shall be appointed to situations in the different Departments of the General Government according to their capacity and fitness; that no person employed in any of the Departments who has not served in the military or naval service of the United States during the late rebellion shall be retained in such position to the detriment of any person who has so served and is qualified for such position; and that in all promotions in said Department the claims of the men who have thus served in the Army or Navy shall be preferred to those who have not so served; and further, that such honorably discharged soldiers and sailors may only be dismissed from civil offices or clerkships when they do not perform their duties faithfully or when they prove themselves unworthy of the positions they hold after a thorough investigation. I move its reference to the Committee on Military Affairs and the Militia.

The motion was agreed to.

Mr. JOHNSON. I beg leave to present the memorial of the Eutaw Savings Bank, in the city of Baltimore. They state that they have six thousand depositors, and of that number about twenty-five hundred are for amounts not exceeding fifty dollars each. The institution is carried on exclusively for the benefit of depositors. The president and directors have no interest whatever in it. They do not complain that they are made liable to the tax upon incomes, but they do object very much to the tax deposits, and they pray that, as far as that tax is concerned, they may be relieved from the payment of it in the future. I move the reference of this memorial to the Committee on Finance.

The motion was agreed to.

PRINTING OF A COMMUNICATION.

Mr. TRUMBULL. A communication was received when I was not in my seat, a day or two since, from the Secretary of War, and referred to the Committee on Military Affairs, in reference to some improvements at Rock Island, Illinois, where the Government has established an arsenal. I desire to have that communication printed for the use of the Senate. It is now in the hands of the Committee on Military Affairs.

The PRESIDENT *pro tempore*. The order to print will be made if there be no objection.

PRINTING OF A BILL.

Mr. RIDDLE. A few days since a bill (S. No. 190) was introduced by the Senator from Illinois, to incorporate the District of Columbia Canal and Sewerage Company. It was not ordered to be printed. It is an important bill. It was referred to the Committee on the District of Columbia, the chairman of which is absent, and I merely ask that it may be ordered to be printed.

The PRESIDENT *pro tempore*. The order to print will be made if there be no objection.

REPORTS OF COMMITTEES.

Mr. FESSENDEN, from the Committee on Finance, to whom was referred a bill (H. R. No. 127) making appropriations for the support of the Army for the year ending the 30th of June, 1867, reported it with amendments.

He also, from the same committee, to whom was referred a bill (H. R. No. 280) making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1867, and for other purposes, reported it with amendments.

Mr. SUMNER, from the Committee on Foreign Relations, to whom the subject was referred, reported a bill (S. No. 229) to authorize the President of the United States to transfer a gunboat to the Government of the republic of Liberia, accompanied by a correspondence of the Department of State in relation to the subject. The bill was read and passed to a second reading, and the correspondence was ordered to be printed.

Mr. SUMNER, from the Committee on Foreign Relations, to whom the subject was referred, reported a joint resolution (S. R. No. 53) authorizing Rear Admiral H. Paulding to accept a decoration from the King of Italy; which was read a first time by its title, and passed to a second reading.

Mr. SUMNER. As this is similar to a resolution which was passed last week with reference to another officer of the Navy, I ask the Senate to proceed with its consideration now.

Mr. GRIMES. Let the morning business be first disposed of.

Mr. SUMNER. This will not take a minute.

Mr. TRUMBULL. I hope the resolution will not be taken up until we get through with the morning business.

Mr. SUMNER. It will take no time.

Mr. TRUMBULL. When we get through with the morning business you can call it up. I object to it now.

The PRESIDENT *pro tempore*. Objection being made, the joint resolution cannot be considered on the day it is reported.

Mr. NESMITH, from the Committee on Military Affairs and the Militia, to whom were referred resolutions of the Legislature of West Virginia, in favor of an appropriation for the payment of military claims created by that State during the late war, submitted a report, accompanied by a bill (S. No. 230) to reimburse the State of West Virginia for moneys expended for the United States in enrolling, equipping, and paying military forces to aid in suppressing the rebellion. The bill was read, and passed to a second reading, and the report was ordered to be printed.

Mr. NORTON, from the Committee on Claims, to whom was referred the petition of Mrs. Mary E. Twiford, praying for indemnification for the loss of her house and other property, submitted an adverse report; which was ordered to be printed.

Mr. ANTHONY, from the Committee on Printing, to whom was referred a bill (S. No. 172) authorizing certain public documents to be distributed to the district and territorial judges of the United States, reported it with amendments.

He also, from the same committee, to whom was referred a petition of citizens of the United States, praying that each common school in the Union may be furnished with the President's annual message and accompanying documents, asked to be discharged from its further consideration, on account of the large sum of money it would cost.

The report was agreed to.

Mr. ANTHONY, from the Committee on Claims, to whom was referred the memorial of William Pierce, of San Francisco, California, praying for an issue to him of duplicate bonds in place of four Oregon war bonds, lost by the burning of the steamer Golden Gate on the 27th of July, 1862, submitted a report, accompanied by a bill (S. No. 231) for the relief of William Pierce.

The bill was read, and passed to a second reading, and the report was ordered to be printed.

Mr. CHANDLER, from the Committee on Commerce, to whom was referred a memorial of the Winona and St. Peter Railroad Company, of Minnesota, praying that certain additional duties paid on railroad iron imported in the fall of 1863, may be refunded, asked to be discharged from its further consideration, and that it be referred to the Committee on Finance; which was agreed to.

Mr. WILSON. I am directed by the Committee on Military Affairs and the Militia, to whom was referred the joint resolution (H. R. No. 96) in relation to the public lands appertaining to the armory at Springfield, to report it back without amendment, and as it is a small matter, if there be no objection, I should like to put it on its passage now.

The PRESIDENT *pro tempore*. Is there any objection to the present consideration of the joint resolution?

Mr. GRIMES. Yes, sir, there is objection. I think we had better proceed with the morning business until we dispose of that, and then we can take up the Senator's bill.

The PRESIDENT *pro tempore*. Objection being made, the bill cannot be considered to-day.

CONDITIONS OF RESTORATION.

Mr. STEWART. I ask leave to introduce an amendment in the nature of a substitute for the joint resolution (S. R. No. 48) setting forth certain conditions upon which the States, the people of which have been lately in rebellion against the United States, shall be restored to their representation in Congress; and I move that it be printed and referred to the committee on reconstruction.

The motion was agreed to.

BILLS INTRODUCED.

Mr. DOOLITTLE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 232) to provide appropriate legislation to enforce article thirteen of the amendments to the Constitution abolishing slavery in the United States; which was read twice by its title.

Mr. DOOLITTLE. I move that the bill be referred to the Committee on the Judiciary, and as it is, in my judgment, a very important bill, and perhaps could be easier examined by the committee if it were printed, I ask the unanimous consent of the Senate to have it printed.

The PRESIDENT *pro tempore*. The order to print will be entered and the bill referred to the Committee on the Judiciary if there be no objection.

Mr. GRIMES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 233) in relation to appointment of enlisted persons at the Naval Academy and for other purposes; which was read twice by its title.

Mr. GRIMES. This bill was prepared at the Navy Department and is accompanied by a letter from the Secretary of the Navy addressed to the chairman of the Committee on Naval Affairs, explaining and urging the provisions of the bill. I move that the letter be printed in connection with the bill, and that they be referred to the Committee on Naval Affairs.

The motion was agreed to.

Mr. LANE, of Kansas, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 234) to authorize the Secretary of War to sell a portion of the Fort Leavenworth military reservation to the city of Leavenworth, in the State of Kansas, for a public park; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. NYE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 235) granting lands to aid in the construction of a railroad and telegraph line from Virginia City to the Truckee river, in the State of Nevada; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. TRUMBULL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 236) to authorize and establish certain post roads; which was read twice by its title, and referred to the Committee on Post Offices and Post Roads.

Mr. TRUMBULL. As that bill contains a provision for the establishment of a bridge across the Mississippi river, I move that it be printed.

The motion was agreed to.

Mr. DOOLITTLE asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 54) to provide for a survey of a route for steam navigation through the Wisconsin river, from the Mississippi river to Green Bay, on Lake Michigan; which was read twice by its title, and referred to the Committee on Commerce.

SEIZURE OF STEAMSHIP METEOR.

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

Resolved, That the President of the United States be requested (if not deemed by him to be incompatible with the public interests) to transmit to the Senate copies of all correspondence that has passed between the Government of the United States and the representatives of the Government of Spain, in relation to the seizure and detention of the steamship Meteor; as well as copies of all instructions issued on the same subject to the United States district attorney and marshals for the southern district of the State of New York.

COAST SURVEY REPORT.

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

Resolved, That there be printed of the report of the Superintendent of the United States Coast Survey for the year 1865, twelve hundred copies extra for the use of the Senate, and three thousand copies for distribution by the Superintendent of the Coast Survey.

MESSAGE FROM THE HOUSE.

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

A bill (H. R. No. 281) to amend the postal laws;

A bill (H. R. No. 416) for the benefit of certain half-breeds and mixed-bloods of the Winnebago tribe of Indians; and

A joint resolution (H. R. No. 103) to refer the petition of Benjamin Holliday to the Court of Claims.

SPRINGFIELD ARMORY LANDS.

Mr. WILSON. I now call up the joint resolution that I reported a few moments ago, in relation to the public lands at the Springfield armory.

The PRESIDENT *pro tempore*. That joint resolution having been reported to-day, and objection having been made to its consideration, it lies over under the rule unless the Senator making the objection withdraws it.

Mr. GRIMES. I do not object to it now.

Mr. WILSON. The Senator only objected to it until the morning business could be disposed of.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 96) in relation to the public lands appertaining to the armory at Springfield, which proposes to revive, reënact, and continue in force the first section of a joint resolution approved June 17, 1844, entitled "A resolution relating to the public lands appertaining to the armories at Springfield and Harper's Ferry."

Mr. GRIMES. What is the section that it is proposed to reënact?

Mr. WILSON. I will simply say that this resolution revives an old resolution which empowered the Secretary of War to lay out streets adjoining the Government lands at Springfield, and to dispose of a portion of the Government lands in exchange for other lands. This resolution is introduced for the purpose of enabling the armory at Springfield to obtain certain lands that they desire, and to lay out certain streets; in other words, to authorize the Secretary of War to make such arrangements with the military authorities at Springfield and other persons as will accommodate the Government with the lands it needs in exchange for others that it possesses. It puts the whole power in his hands to make such disposition as he may deem necessary for the public interest. It is a very small matter any way, but it is deemed necessary to pass this resolution.

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

TRANSFER OF SMITHSONIAN LIBRARY.

The PRESIDENT *pro tempore*. If there be no further morning business, the Chair will call up the unfinished business of yesterday.

Mr. HOWE. Is that now regularly before the Senate?

The PRESIDENT *pro tempore*. It is not regularly before the Senate until one o'clock, but if there be no other business the Chair will call it up.

Mr. HOWE. Then I move that the Senate proceed to the consideration of Senate bill No. 216.

The motion was agreed to; and the bill (S. No. 216) to provide for the transfer of the custody of the library of the Smithsonian Institution to the Library of Congress, was read a second time and considered as in Committee of the Whole. It provides that the library collected by the Smithsonian Institution under the provisions of an act approved August 10, 1846, shall be removed from the building of that Institution, with the consent of the regents, to the new fire-proof extension of the Library of Congress upon completion of a sufficient portion for its accommodation, and while there deposited, it is to be subject to the same regulations as the Library of Congress, except as provided in this bill.

When the library shall have been so removed and deposited, the Smithsonian Institution is to have the use of it in like manner as it is now used, and the public is to have access thereto for purposes of consultation on every ordinary week-day, except during one month of each year, when it may be closed for renovation. All the books, maps, and charts of the Smithsonian library are to be properly cared for and preserved in like manner as are those of the Congressional Library, from which the Smithsonian library is not to be removed except on reimbursement by the Smithsonian Institution to the Treasury of the United States of expenses incurred in binding and in taking care of it, or upon such terms and conditions as shall be mutually agreed upon by Congress and the regents.

The Smithsonian Institution, through its secretary, is to have the use of the Library of Congress, subject to the same regulations as Senators and Representatives. The Librarian of Congress is to be authorized to employ two additional assistants, who are to receive a yearly compensation of $800 and $1,000, respectively, commencing July 1, 1866; and the sum of $500, or so much thereof as may be necessary, is appropriated to defray the expenses of the removal provided for in the bill.

Mr. HOWE. I move to amend the bill in section two, line six, by inserting the words "in the recess of Congress" after the word "year," so that it will read:

That when such library shall have been so removed and deposited, the Smithsonian Institution shall have the use thereof in like manner as it is now used, and the public shall have access thereto for purposes of consultation on every ordinary week-day, except during one month of each year in the recess of Congress, when it may be closed for renovation.

The amendment was agreed to.

Mr. HENDRICKS. I wish to ask the Senator from Wisconsin whether this bill contemplates the permanent transfer of these books to the Congressional Library? These books belong to the Smithsonian trust fund, which I think ought not to be diverted.

Mr. HOWE. The Senator will see, if he looks over the bill, that it does not transfer the title of the books. It is the custody of the books that is transferred to the Congressional Library for safe-keeping, as well as for the better accommodation of the public.

Mr. TRUMBULL. I will state to the Senator from Indiana that this is a mutual arrangement entered into between the regents of the Smithsonian Institution and the Committee on the Library, satisfactory to both parties. It is thought to be safer to have them deposited there. There is danger of them at present, as the building in which they are is not fire-proof.

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

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

MINNESOTA LAND GRANTS.

Mr. RAMSEY. I move that the Senate postpone all other business and proceed with the consideration of Senate bill No. 221.

The motion was agreed to; and the bill (S. No. 221) relating to lands granted to the State of Minnesota to aid in constructing railroads, was read a second time by its title, and considered as in Committee of the Whole.

It provides that whenever it shall appear that the United States have sold or disposed of any lands granted to the Territory or State of Minnesota for the purpose of aiding in the construction of railroads, after the passage of the act making the grant, and after the definite location of the line of road, and before the withdrawal of the lands from sale at the proper local land office, the State may by its agent select, in lieu of the lands so sold or disposed of, from any of the lands of the United States subject to sale, within twenty miles of the line of the proper road, a quantity of land equal to that so sold or disposed of; and the lands so selected are to be substituted for those so sold or disposed of by the United States, and may be disposed of by the State in all respects as if the substituted lands had been parcel of the original grant to the State.

The second section extends the time named in the act granting lands to the Territory of Minnesota to aid in the construction of a certain railroad, "from St. Paul and from St. Anthony, by the way of Minneapolis, to a convenient point of junction west of the Mississippi river, to the southern boundary of the Territory," approved March 3, 1857, for the construction and completion of the road for seven years.

The third section provides that all the lands heretofore granted to the Territory and State of Minnesota to aid in the construction of railroads are to be certified to the State by the Secretary of the Interior, from time to time, whenever any of the roads shall be definitely located, and are to be disposed of by the State in the manner and upon the conditions provided in the particular act making the grant; but when the original quantity granted to aid in the construction of any road has been increased, the quantity authorized to be sold from time to time is to be increased correspondingly; and on the completion of any ten miles of road the State may sell one half the quantity of lands which the State is authorized to dispose of on the completion of twenty miles.

The fourth section provides that the lands granted specifically, lying in place, on any division of ten miles of road shall not be disposed of until the road shall be completed through and coterminous with it.

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

SENATOR FROM NEW JERSEY.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday, which is the following resolution, reported from the Committee on the Judiciary:

Resolved, That John P. Stockton was duly elected, and is entitled to his seat as a Senator from the State of New Jersey, for the term of six years from the 4th day of March, 1865.

The pending question is on the motion of the Senator from Maryland [Mr. JOHNSON] to postpone further consideration of this resolution until Thursday next.

Mr. STOCKTON. I desire to make a correction in the remarks that I made yesterday when this matter was before the body. I stated that the present presiding officer of the Senate of New Jersey was elected by his own vote. I find upon inquiry that that is not strictly correct. He exchanged votes with a Democrat.

I have received a telegram from my colleague, [Mr. WRIGHT,] in these words:

"Is your case adjourned to Thursday? If not, beg the Senate for me to defer your case to that day, when I will be present or ask no further delay."

Mr. HENDRICKS. I presume upon that statement there will be no objection to a postponement until Thursday. The public interest will not suffer by it. Mr. WRIGHT expected to be here to-day, as I understand from dispatches from him, but his physician informed him this morning that he must not leave to-day, that he could probably leave to-morrow. He thinks he can, and if he cannot be here by Thursday, no further delay of the question will be asked on that account. It seems to me to appeal so forcibly to the sense of justice of the Senate that there should be no objection to a postponement of it until that time. There is no desire to have any advantage by a postponement except to get the vote of all the Senators that can attend upon this question, and especially to get the vote of the Senator from the State of New Jersey. These resolutions and bills are generally under the charge of the Senators who report them. I have not known of any case in which any Senator has reported a bill and desired its postponement where it has been denied. When the Senator from Maine [Mr. FESSENDEN] reported a bill to the body and suggested its consideration at a particular time, I never knew an earlier consideration to be demanded. The Senator from Illinois [Mr. TRUMBULL] reports this resolution, and I understood him to suggest yesterday before the reconsideration, "Let the reconsideration take place, and then let the resolution stand over until Thursday," and I thought there was no objection to it. I thought it was understood when the vote for the reconsideration was taken, that it was to stand over until Thursday. It seemed to me at the time that that was the understanding. There was no opposition to it. I therefore understood that it was to stand over until Thursday. Under all the circumstances of the case I think that by unanimous consent the resolution should stand over until Thursday. There can be no objection to it, I think.

Mr. CLARK. I hope the postponement will not take place. This matter came before the Senate last Thursday. It was discussed on that day. It was discussed all day Friday. It then came up before the Senate yesterday, (Monday.) To-day it is before the Senate again—five days after it first came before the Senate—and now we are asked to postpone it that a man who has been sick six or seven weeks may by possibility get here after two or three days, when his physician says he cannot leave to-day to be here.

Mr. JOHNSON. Will the Senator permit me to interrupt him?

Mr. CLARK. Certainly.

Mr. JOHNSON. I have a dispatch from him, directed, I suppose, to his colleague, which has just been placed in my hand:

Is your case adjourned to Thursday? If not, beg the Senate for me to defer your case to that day, when I will be present, or ask no further delay.
WILLIAM WRIGHT.

Now, I submit to the Senate whether, under the circumstances, the postponement should not be had? The fact itself speaks as persuasively to the Senate as any language I could use.

Mr. CLARK. I have only to reiterate that I hope no postponement will take place. There is the dispatch from the Senator from New Jersey that he can be here on Thursday, but not a shadow of a reason given why he could not be here to-day.

Mr. JOHNSON. I can tell the Senator if he will permit me again to interrupt him, that a dispatch received before this dispatch was received stated that his physician told him it would peril his life if he started last night or this morning; that he might come to-morrow.

Mr. POMEROY. I was called upon by a neighbor of Mr. WRIGHT'S last night who says he not only does not expect to come back within a week, but he never expects to come back. He says he lives almost the next door neighbor to him; he knows him well; and he not only could not be here, but did not expect to be here.

Mr. CLARK. I have only to add that after this long and lingering delay I do not think this question should be postponed any longer.

Mr. HENDRICKS. There is but one purpose on the part of those who believe Mr. Stockton is entitled to his seat in asking this postponement, and that is, to get a full vote of the Senate. If there is any question upon which Senators do not desire Mr. Stockton's vote before Thursday next, if that should be communicated to me, I should not ask the consideration of any such question. The delay is not for the purpose of having his vote upon any matter in the mean time, but simply to secure the vote of Mr. WRIGHT upon this question.

I am surprised that the Senator from New Hampshire should object to this postponement. It is the only postponement, I believe, that has been asked by the friends of Mr. Stockton. The resolution was reported by the Senator from Illinois rather early in the session. Its consideration was not pressed by the Senator from New Hampshire or any other Senator, although it lay upon the Secretary's table week after week. There was no concern expressed about it, no haste. Finally the Senator from Illinois informed the Senate a few days in advance that he should call it up on yesterday week, and then the Senator was informed that the Senator from New Hampshire, [Mr. CLARK,] who was opposed to the resolution and the doctrines of the report of the Judiciary Committee, was not able to be in his seat on that day, and he asked a postponement. I never dreamed of objecting to that postponement; I did not think of such a thing. When it was asked by a Senator upon the ground that his health did not allow him to be in the Senate, not for one moment did I think of asking that the consideration of the resolution should be pressed; and I believe no Senator thought of such a thing. By pressing it at that time, if we could have pressed it, our side, perhaps, would have the advantage of excluding his vote. But, sir, I would count myself very unworthy if I should ask the immediate consideration of a question because at the hour it was asked I would have the advantage of the sickness of a Senator who did not concur with me in opinion upon the merits of the question. Only upon his request has there been a postponement at all. It was postponed then, I believe, from Monday until Wednesday, upon the request of the Senator, or some one requesting it in his behalf.

Mr. JOHNSON. He asked another postponement until Thursday.

Mr. HENDRICKS. And then it was postponed again until Thursday, I understand. The exact particulars of that postponement I do not recollect.

Mr. JOHNSON. The Senator from New Hampshire will, I am sure, remember that at his request it was postponed until Thursday, from Wednesday, he being unwell and not being able to take part in the debate as he intended to do, so that two postponements of the subject have been made on account of the Senator from New Hampshire.

Mr. HENDRICKS. I have but one more remark to make. I cannot conceive of any reason why this subject should be pressed now except the fact that the vote of a Senator cannot be had upon the resolution to-day. He telegraphed to his colleague yesterday evening that he would be here to-day. That was his first dispatch, that he would be here to-day if allowed, and then afterward he telegraphs that his physician will not allow him to start to reach here to-day, but hopes to be here to-morrow. We can get a full vote on Thursday, and we cannot to-day. Is not that a sufficient reason in the Senate of the United States on a question of this sort to let it stand over for two days, when there is no public interest jeopardized by it?

Mr. CONNESS. It appears to me that the case of the Senator from New Hampshire is a very different one from that of the Senator from New Jersey, as presented by the honorable Senator from Indiana. In regard to the case of the Senator from New Hampshire, it was a postponement in behalf of the only dissenting member of the Judiciary Committee, by whom the question had been considered. The question had never been considered in the Senate then, and there was not only fitness, but necessity, in permitting the dissenting member of that committee to have an opportunity of presenting his views. Now the question has been fully argued. Every phase of the case has been considered and considered again; and the only ground upon which this request for postponement can legitimately lie is the last ground upon which it has been put by the honorable Senator from Indiana, that there may be a full vote of the Senate. The vote of the Senator from New Jersey is certainly not more important than the vote of any other absent Senator; and I ask the Senator from Indiana whether there can possibly be a full vote of the Senate on Thursday or upon any other day within, perhaps, two weeks to come or more? Unfortunately—a great misfortune, not only to us, but to the country—it is more than probable that another Senator who has been our colleague here will never appear in his seat again. On Thursday the Senate cannot be full, and there cannot be a full vote then.

If this question had not been considered again and again, for one I would not oppose its postponement, but considerations other than the merits of this case have really been intruded into the discussion. From its having received the most fair and thorough consideration by the majority of the committee to whom it was referred, it has absolutely been construed to a very considerable extent into a political question. For one I have not allowed myself so to consider it, but from the other side of the Senate that construction has been put upon it and intruded into the discussion,

I will not repeat in what way, but in a way certainly objectionable and releasing members of the Senate from further postponement of the matter.

Mr. CLARK. The Senator from Indiana endeavors to press upon me and the Senate the fact that the discussion of this question was once postponed by my request. The Senator from California has stated partially what was the occasion of that postponement, and as far as he went stated it truly. I was the only member of the Judiciary Committee dissenting from the majority report. When that report was made, I was urged by the friends of the remonstrants to put my views before the Senate in writing and have them printed. I said there could be no necessity for doing that, for the objections had been stated pretty fully in the publications that had been laid on our desks on one side and the other, and that when the case should come up, I would be in my place in the Senate to state them to the Senate, and that was the reason I gave them for not making what is called a minority report. Having assured the remonstrants that I would do that, I felt that I should have an opportunity of doing it, and hence I asked that the Senate should postpone the case until I could be in the Senate; and that, it seems to me, is a very different case from that of the Senator from New Jersey who is not here, who has taken no part in this discussion, who was not upon the committee, who has been absent from his seat four or five weeks, who does not return after four or five days' notice, but asks it to be still further postponed that he may be here. I do not wish to do anything discourteous to anybody, but it does certainly seem to me that we ought now to come to a vote.

Mr. SUMNER. The Senator from Indiana says that next Thursday we shall have a full Senate. How does he know that?

Mr. HENDRICKS. I do not think I said that.

Mr. SUMNER. I understood that was the language.

Mr. HENDRICKS. I did not intend to say that. I intended to say that we wanted it postponed so as to have as full a Senate as possible.

Mr. CONNESS. The other expression was the one the Senator used.

Mr. SUMNER. I believe I did not misquote the Senator from Indiana. However, he now says that he wishes as full a Senate as possible. Does the Senator expect that next Thursday there will be a fuller Senate than there is now? I need not remind him that we are all subject to the contingency of sickness, and there is a Reaper whose name is Death; he, too, may come among us. There is no one who is sure that he will be here next Thursday, and the very Senator whose presence is expected on that day is at this moment so ill that no person can promise surely that he will be here. And yet the Senate is asked to postpone this grave question, which has already occupied so many days of our deliberations, merely for that contingency.

We too, sir, have an absent colleague, who if he were in this Chamber we have every reason to believe would record his name with us. He cannot be here. Disease has made the pair between the absent Senator from New Jersey and the absent Senator from Vermont, [Mr. FOOT.] Let that pair continue. Meanwhile, let the business of the Senate proceed. If this were the first day of the discussion, perhaps the Senator from Indiana might urge his suggestion with better reason. But the absent Senator from New Jersey has already had ample notice. On Wednesday night he was informed by telegraphic dispatch that this matter already occupied the attention of the Senate and that his presence was needed. He has not yet appeared. Six days have passed. During any one of those six days two or three times a day he might have come to Washington. He has not come: and now the Senate is asked to postpone the final decision of this important question merely for the contingency that the sick man may rise from his bed and do what during the last six days he has either declined to do or been unable to do. I hope, sir, that the Senate will to-day proceed with this question and carry it to its close. It has occupied enough of the attention of this body, enough of the attention of the public.

Mr. SAULSBURY. In reply to one remark which has fallen from the Senator from Massachusetts, I wish simply to make a statement. I do not know what may have come over the mind of the Senator from Vermont, who is sick, [Mr. FOOT,] but I myself heard him approach the Senator from New Jersey, while the Senator from New Jersey and I were sitting on that sofa, and he told the Senator from New Jersey that there was no objection in his judgment to his right to a seat upon this floor. So, unless there has been a change since, disease has made no pair in that case, because the Senator from Vermont told the Senator from New Jersey in my presence—we did not approach him, he came to us—that in his judgment there was no question as to his right to a seat on this floor.

Mr. HENDRICKS. There is just one point in the argument of the Senator from Massachusetts that I wish to answer, and that is the statement that so many days have elapsed, and still the Senator from New Jersey is not here. What are the facts? On Thursday morning he was telegraphed. The resolution came up that day. He could not come that day. He supposed that it would be disposed of that day, and of course made no further effort to come. Then on Friday the vote was taken, and from that time until yesterday it was supposed of course that his presence was not necessary here. He was telegraphed yesterday afternoon to be here, that probably the question would be reached to-day. He answered by telegraph that he would be here to-day. Then this morning he telegraphs again that he cannot come to-day under the advice of his physician, but hopes to come to-morrow. He has hopes that he can come to-morrow.

Mr. SUMNER. Hopes!

Mr. HENDRICKS. Yes, sir. Just what the word is, I cannot say, but that is the idea. It is not positively certain that he can be here, nor is it certain that he cannot be here. He hopes himself to be here. Now, will the Senate allow the question in relation to the representation of his State to be forced on simply to exclude his vote, or under circumstances that will exclude him, when there is a probability of getting that vote on Thursday?

If any Senator had suggested any public consideration for this immediate action of the Senate, I could understand it, but there is no reason given why it ought to be disposed of to-day. The public interests are not suffering by reason of this question being undetermined. I suggest that should any question arise in the Senate upon which Senators would object to the vote of Mr. Stockton, I would say that that vote will be withheld until Thursday, or the question might stand over, so far as I was concerned, and I believe so far as this side of the Senate is concerned. All that we want is that we shall have an opportunity to vote when the Senate is as full as it can be had. We desire a full Senate to say whether Mr. Stockton is entitled to his seat or not. Surely Senators do not want to press a vote simply because they have the advantage of one member being absent. That cannot be. What public consideration requires it? I hear none stated, and I appeal to Senators as a matter of courtesy, of justice, and of propriety, to let the question stand over until Thursday.

Mr. CONNESS. The repeated suggestion of the honorable member from Indiana, which is implied in the offer volunteered by him that the Senator from New Jersey will not vote upon questions to ensue before the Senate, is, as I think, entirely out of place and gratuitous. It carries with it the imputation that Senators are influenced by the fear of the vote of the Senator from New Jersey upon questions not yet presented to the Senate. I think the suggestion is hardly legitimate in its character here, but that the honorable Senator should, as he must feel, concede to each member of the Senate the same independence and intelligence in regard to his vote that he claims for himself. If the Senator had not repeated his suggestion I should not have noticed it; but I do not feel that it is a legitimate argument in this case.

Mr. DAVIS. Mr. President, I wish to state a point in the practice of the courtesy of the Senate. I am aware that it will avail nothing; still I will make the statement. Since I have been in the Senate I have frequently known propositions to be made to postpone the taking of a question upon a particular subject pending before the Senate for a few days on account of the absence of Senators, or their want of readiness to complete the debate before the time indicated, and I do not recollect a solitary instance in which such a request has been made in relation to important ordinary topics of legislation that the Senate has refused the courtesy of postponing the question to the time desired.

Now, sir, it is a very reasonable request that this question shall not be taken before Thursday. There is certainly enough connected with the arrangement made between the absent Senator from New Jersey and the Senator from Maine [Mr. MORRILL] to induce the friends of the latter, I think, who are properly regardful of his honor and of fair play, to accede at least to this reasonable request. I believe that the honorable Senator from Maine, of whose honor and integrity I have high appreciation, would feel himself dissatisfied with the conduct of his friends on this occasion if they were to refuse that moderate and reasonable request. I do trust that in conformity to the uniform courtesy and usage of the Senate, so far as I have recollection of its practice in that respect—since I have been a member of the body I know of no instance in which such a reasonable request as this has ever before been denied—this will not be denied now. If it is yielded on ordinary questions of legislation, much more is it due to the importance of this occasion and the serious interest of my friend from New Jersey in the issue of the question. I therefore hope—no, I will not say I hope, but I desire that the question upon the pending proposition shall be postponed until Thursday next.

Mr. JOHNSON. Upon the question of postponement I ask for the yeas and nays.

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

Mr. WILLIAMS (when his name was called.) I observe that the Senator from Wisconsin [Mr. DOOLITTLE] is temporarily absent from his seat, and as I agreed to pair with him in this case I shall not vote.

Mr. STOCKTON (after the call of the roll was concluded.) I desire to say, in order that there may be no misunderstanding on the subject, that the reason I did not vote when my name was called was on account of the rule adopted by the Senate yesterday.

The result of the vote was announced—yeas 18, nays 23; as follows:

YEAS—Messrs. Anthony, Buckalew, Cowan, Davis, Guthrie, Harris, Hendricks, Johnson, Lane of Kansas, McDougall, Morgan, Nesmith, Norton, Riddle, Saulsbury, Trumbull, Van Winkle, and Willey—18.

NAYS—Messrs. Brown, Chandler, Clark, Conness, Cragin, Creswell, Fessenden, Foster, Grimes, Henderson, Howard, Howe, Kirkwood, Lane of Indiana, Nye, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Wade, Wilson, and Yates—23.

ABSENT—Messrs. Dixon, Doolittle, Foot, Morrill, Poland, Stewart, Stockton, Williams, and Wright—9.

So the motion to postpone was not agreed to.

Mr. CLARK. I now move to amend the resolution by striking out all in it after the word "Stockton" and inserting "not having received a majority of the voices of the Legislature of the State of New Jersey present and voting, is not entitled to a seat as Senator from that State for the term of six years from the 4th day of March, 1865."

Mr. SAULSBURY. I ask whether that is in order. The other day the Senate by a solemn vote refused to declare that Mr. Stockton was not entitled to his seat. There has been no appeal taken from that decision. Now, the

proposition is to amend the resolution so as to say that he is not entitled to his seat, and to assign a reason for that declaration. I hold—I may be mistaken, but I submit the question—that the amendment is not in order, because the Senate on Friday last refused to vote that Mr. Stockton was not entitled to a seat on the yeas and nays, upon a vote on which Mr. Stockton himself did not vote. The proposition was then distinctly made to the Senate that he was not entitled to his seat; a vote was had upon it; the vote was against the proposition; it was rejected; there has been no appeal from that decision; and now the attempt is made to amend the resolution so as to say that Mr. Stockton is not entitled to a seat. I apprehend that it is the same question, and the fact that a reason is assigned in the amendment for so voting now makes no difference.

The PRESIDENT *pro tempore*. In the opinion of the Chair, the proposed amendment is in order. An amendment in the precise terms of the former amendment might be obnoxious to the objection made by the Senator from Delaware; but this proposed amendment is different entirely in its terms; and though it may come to the same result, it is not obnoxious on the ground that it is out of order.

Mr. CLARK. Some Senators having suggested to me that it is better not to state in the resolution the reason why Mr. Stockton was not elected, I will modify my amendment. I now propose to strike out the same words which I before moved to strike out, but to insert: "is not entitled to a seat as Senator from the State of New Jersey for the term of six years from the 4th day of March, 1865," so that the resolution, if thus amended, would read:

Resolved, That John P. Stockton is not entitled to a seat as Senator from the State of New Jersey for the term of six years from the 4th day of March, 1865.

Mr. SAULSBURY. Now I renew my objection to the amendment. What was the question decided on Friday last? It was that the Senate would not say, and it refused to say, that Mr. Stockton was not entitled to his seat. If he was entitled to his seat, he was entitled to it from the 4th of March, 1865. The amendment as now modified is certainly directly within the objection which I make, that it is precisely the same question that the Senate decided before, and adding the words "from the 4th day of March, 1865," cannot alter it, because the Senate, on Friday last, said by a solemn vote that they would not declare that he was not entitled to his seat, and his credentials, under which he was then acting, said that he was entitled to that seat, if entitled at all, from the 4th of March, 1865. It is precisely the very same question, in my judgment, which the Senate decided on Friday last. I again submit my point of order, that the amendment is not in order.

The PRESIDENT *pro tempore*. The Chair thinks the amendment is in order, again repeating that upon a question of order it is not uniform, and, indeed, perhaps never the case, that though the same result may be arrived at an amendment is out of order because the Senate has before acted on it. The amendment must be in the same words as the previous one which has been decided in order, in the opinion of the Chair, to be obnoxious to the objection that it is not in order. That it comes to the same thing in substance is a matter of reasoning, not a question of order.

Mr. HOWARD. Mr. President, I shall vote for this amendment to the resolution of the Committee of the Judiciary. I was not present last week when this subject was before the Senate or I should have endeavored to express my ideas to the Senate on the subject more fully and at large than I now propose to do, but I cannot suffer this subject to be acted upon finally without saying a few words.

I have read with a good deal of interest the report made by that learned committee upon this subject, and have endeavored to comprehend the facts in the case as clearly as I was able, and also the law which is applicable to the case, and on the most mature reflection that I have been able to give it, I have come to the conclusion that the committee, learned as they are confessedly, are wrong in the result to which they have arrived. The committee at the conclusion of their report, lay down this broad proposition:

"Your committee prefer placing the authority of the joint meeting to prescribe the plurality rule on the broader ground, that in the absence of any law, either of Congress or the State, on the subject, a joint meeting of the two Houses of a Legislature, duly assembled, and vested with the authority to elect a United States Senator, has a right to prescribe that a plurality may elect, on the principle that the adoption of such a rule by a majority vote in the first instance makes the act, subsequently done in pursuance of such majority vote, its own."

Sir, I deny the soundness of the law thus announced. Mr. Stockton was elected at a joint meeting of the two Houses of the Legislature of New Jersey acting together. The sole object and the sole power pertaining to that body, so far as the election of a United States Senator was concerned, was to elect a United States Senator for the State of New Jersey. That was the object for which they were assembled. That was the extent of the trust and of the power conferred upon that body. That was the whole subject-matter about which they could hold discussions and upon which they could vote. Now, sir, I deny the principle laid down by the committee of this House, that it is competent for such a body of men to part with that power which by the common law and common sense pertains to the majority, and to turn over the power and the functions which they are to exercise to a minority, or a plurality even. If the principle were applicable in that joint meeting, it is upon the same ground applicable in the Senate of the United States, and it may with just as much propriety be said that it is competent for the Senate of the United States, by a resolution, to declare that a plurality of its members may pass bills as it was for that joint meeting to declare that a mere plurality might elect a United States Senator.

Sir, it strikes me as being an abdication of the power conferred upon them by the Legislature, an abandonment of a public trust placed in their hands for important sacred public purposes; a trust and a duty of which they could not divest themselves without the commission of a great fault, not to say a public crime. If the principle thus announced by the committee be correct, it would have been competent in that case for the convention known as the two Houses to have elected a United States Senator by simply the votes of two of its members. The meeting consisted of eighty-one persons. Suppose there had been eighty candidates for the United States Senate, and seventy-nine of those candidates had received one vote each, and the remaining candidate had received two votes only, which would have been a plurality, the result would have been that the individual receiving only two votes in that body would, upon the principle laid down by the committee, have been elected to the United States Senate for six years. It strikes me that this view of the subject is too plain not to challenge the attention of every member of this body, and of the country at large.

Without spending further time on the subject, I conclude by saying that I look upon the election of Mr. Stockton by the body by which he purports to have been elected, as having been in utter violation of the fundamental principles of universal law as well as of the principles embodied in the constitution of New Jersey itself, which prohibits any act to be passed or any resolution to be passed having the force of law, unless it receives the sanction of a majority of each of the two Houses of their Legislature. That is a provision contained in the constitution of New Jersey. It is, in the language of the Constitution of the United States, the duty of the Legislature of each State to elect United States Senators. The very phraseology of the instrument shows that it is to be an act of that body known in the State as the Legislature, and possessing the legislative power of the State. This convention possessed no legislative power; it was in no sense the Legislature of the State of New Jersey, but was a mere convention established by law for the purpose of doing one single act, and that was to elect a United States Senator. The convention could act only by a majority. It assumed to act through a minority of its own body, and the gentleman from New Jersey, now upon this floor claiming a seat, cannot claim that he had the support and suffrages of a majority of the Legislature of New Jersey; and for that reason it is that I hold the election was totally void in law, and that he has no right whatever to a seat upon this floor.

Mr. CLARK. I think the yeas and nays have not been ordered on this amendment.

The PRESIDENT *pro tempore*. They have not been.

Mr. CLARK. I ask for them.

The yeas and nays were ordered.

Mr. STOCKTON. Mr. President, as the discussion of this question has been opened again upon the other side, I desire, in reply, to say a few words before the vote is taken. I have never had a single doubt on my part since I first examined this question; and as a simple question of law I think, after a full investigation, few sound lawyers would entertain a doubt in regard to it. I had the pleasure before I came here of taking the opinion of many eminent lawyers, men of different shades of politics, and I found that all those whom I consulted, who examined the case thoroughly, at the conclusion of their examination were of the same opinion. The case was investigated carefully and thoroughly by the Judiciary Committee of this Senate; they did it ample justice; they considered it as a purely legal question, and the report they made seems to me to be unanswerable in itself. Now, Mr. President, let me state the case and in a few minutes give the reasons for the conviction that it is so strong upon any mind.

By the Constitution of the United States article one, section three, "the Senate of the United States shall be composed of two Senators from each State chosen by the Legislature thereof for six years."

Article one, section four, "the times, places and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof," &c.

By the constitution of the State of New Jersey, article four, section one, the Legislature of the State is composed of a Senate and General Assembly, meeting separately in some instances, (article four, clause one, clause three,) and in others in joint meeting, (article four, section five, clause one.) In the latter clause, called "Legislature in joint meeting;" in article five, clause two, "both Houses in joint meeting," and in article seven, section two, clause two, clause three, "the Senate and General Assembly in joint meeting."

By the statute of New Jersey entitled "An act to prescribe the manner of appointing Senators of the United States on the part of this State," it is enacted "that Senators of the United States on the part of this State shall be appointed by the Senate and General Assembly of this State in joint meeting assembled," and no further provision is contained in any statute of the State regulating the choice of Senators, except in case of vacancy, when the Governor may appoint.

By the second section of the same act the Governor is required to commission, under the great seal of the State, every person who shall be elected a Senator.

The senatorial term of Hon. John C. Ten Eyck, Senator of the United States from the State of New Jersey, expired on the 4th day of March, in the year 1865. The Legislature of New Jersey assembled on the 10th day of January, in the year 1865, and it became its duty to choose a Senator in his stead to represent the State in the Senate of the United States. To conform to the statute last stated in the choosing of the Senator, a joint meeting became necessary. Accordingly, soon after the meeting of the Legislature, on the 8th day

of February, 1865, the Senate passed the following resolution:

Resolved, That the secretary be directed to inform the House of Assembly that the Senate will be ready to go into joint meeting for the appointment of a United States Senator, State treasurer, and such other State and county officers as may be necessary, on the 15th day of February, instant, at three o'clock p. m., in the Assembly Chamber.

"In which the concurrence of the House of Assembly is requested."

On the same day this resolution was sent to the House of Assembly, as follows:

"The following message from the Senate was received by the hands of their secretary:

"SENATE CHAMBER, *February* 8, 1865.

"Mr. SPEAKER: I am directed by the Senate to inform the House of Assembly that the Senate has passed the following concurrent resolution:

"*Resolved*, That the secretary be directed to inform the House of Assembly that the Senate will be ready to go into joint meeting for the appointment of United States Senator, State treasurer, and such other State and county officers as may be necessary, on the 15th day of February, instant, at three o'clock p. m., in the Assembly Room:

"In which the concurrence of the House of Assembly is requested. JOHN H. MEEKER,

"*Secretary of the Senate.*"

On the 14th day of February, 1865, the following entry appears in the House Journal:

"The resolution from the Senate relative to joint meeting was taken up and concurred in."

The following is the journal of the joint meeting:

In Joint Meeting.

STATE OF NEW JERSEY, ASSEMBLY CHAMBER, TRENTON, *February* 15, 1865.

At half past three o'clock p. m. the Senate and General Assembly met in joint meeting in the Assembly Chamber for the purpose of making sundry appointments: of United States Senator, State, county, and township officers.

Hon. Joseph T. Crowell nominated Hon. Edward W. Scudder for chairman of the joint meeting; which was unanimously agreed to.

On motion of Mr. Holsman, John H. Meeker was appointed secretary of the joint meeting.

On motion of the same Senator, George B. Cooper was appointed assistant secretary.

Under the directions of the chairman the secretary called the joint meeting, as follows:

Messrs. Abbett, L., Abbott, N. S., Acton, Allen, Anderson, Bates, Beesley, Birdsall, Blauvelt, Bodine, Boss, Brinck, Broking, Buckley, Callahan, Chandler, Clever, Corey, Coriell, Crowell, Culver, Demarest, Dickeson, Doughty, Dougherty, Duryea, Fisher, Goble, Green, Haring, Harrison, Heulings, Hoagland, Hoffman, Holmes, Holsman, Horner, Iliff, W. J., Iliff, W. M., Irick, Jarrard, Jenkins, Kearney, Kennedy, Kinter, Lake, Landell, Lathrop, Lighthipe, Little, Ludlam, Martin, Moore, Nicholson, Nixon, Peddie, Randolph, Reeves, Robins, Robison, Schenck, Scovel, Scudder, Seiffert, Staats, Stille, Stockton, Taylor, Treadwell, Trusdell, Van Buskirk, Van Vorst, Van Wagoner, Ware, Weart, Willever, Wilson, Wright, Wurts, Young—80.

Mr. Holsman moved that the rules of the last joint meeting be adopted for the government of this joint meeting, except the sixteenth rule, for which he offered the following resolution:

Resolved, That no candidate shall be declared elected unless upon receiving a majority of the votes of all the members elected to both Houses of the Legislature.

Which was agreed to.

The said sixteenth rule of the last joint meeting was as follows: "16. That all candidates for office, upon receiving a majority of the votes cast by this joint meeting, shall be declared to be duly elected."

On motion of Mr. Holsman, the resolution under which the joint meeting was called was read, as follows:

Resolved, That the secretary be directed to inform the House of Assembly that the Senate will be ready to go into joint meeting for the appointment of United States Senator, State treasurer, and such other State and county officers as may be necessary, on the 15th day of February, instant, at three o'clock p. m., in the Assembly.

In which the concurrence of the House of Assembly is requested.

Mr. Ludlam moved to proceed to the election of a United States Senator.

Mr. Holsman moved to amend by postponing the same until the 1st day of March next.

Mr. Scovel moved further to amend by postponing the same until the 7th day of March next.

Upon which the yeas and nays were taken, as follows:

In the affirmative, were Messrs. Abbott, N. S., Acton, Bates, Birdsall, Blauvelt, Bodine, Buckley, Callahan, Clever, Crowell, Dickeson, Fisher, Green, Jarrard, Lake, Robison, Scovel, Staats, Ware, Wright—20.

In the negative, were Messrs. Abbett, L., Allen, Anderson, Boss, Brinck, Broking, Chandler, Corey, Coriell, Culver, Demarest, Doughty, Dougherty, Duryea, Goble, Haring, Harrison, Heulings, Hoagland, Hoffman, Holmes, Holsman, Horner, Iliff, W. J., Iliff, W. M., Irick, Jenkins, Kearney, Kennedy, Kinter, Landell, Lathrop, Lighthipe, Little, Ludlam, Martin, Moore, Nicholson, Nixon, Peddie, Randolph, Reeves, Robins, Schenck, Scudder, Seiffert, Stille, Stockton, Taylor, Treadwell, Trusdell, Van Buskirk, Van Vorst, Van Wagoner, Weart, Willever, Wilson, Wurts, Young—59.

So said amendment to the amendment was not agreed to.

The yeas and nays then being taken upon the amendment offered by Mr. Holsman, resulted, as follows:

In the affirmative, were Messrs, Abbett, L., Acton, Allen, Anderson, Boss, Broking, Chandler, Corey, Coriell, Culver, Demarest, Dickeson, Doughty, Dougherty, Duryea, Goble, Haring, Hoagland, Hoffman, Holmes, Holsman, Iliff, W. J., Iliff, W. M., Jenkins, Kearney, Kennedy, Kinter, Little, Martin, Randolph, Robins, Schenck, Scudder, Seiffert, Stille, Taylor, Treadwell, Trusdell, Van Buskirk, Van Vorst, Ware, Weart, Willever, Wurts, Young—45.

In the negative, were Messrs. Abbott, N. S., Bates, Birdsall, Blauvelt, Bodine, Brinck, Buckley, Callahan, Clever, Crowell, Fisher, Green, Heulings, Harrison, Horner, Irick, Jarrard, Lake, Landell, Lathrop, Lighthipe, Ludlam, Moore, Nicholson, Nixon, Peddie, Reeves, Robison, Scovel, Staats, Stockton, Van Wagoner, Wilson, Wright—34.

So said amendment was agreed to.

On motion of Mr. Holsman, it was

Resolved, That when this joint meeting adjourn it adjourn to meet on Wednesday, March 1, at three p. m.

After appointing a large number of State officers, on motion of Mr. Holsman, the joint meeting adjourned.

—

In Joint Meeting.

ASSEMBLY CHAMBER, WEDNESDAY, *March* 1, 1865.

At three o'clock p. m. the adjourned joint meeting came to order in the Assembly Chamber.

Under the direction of the chairman the secretary called the joint meeting, when the following gentlemen answered to their names:

Messrs. Abbett, L., Abbott, N. S., Acton, Allen, Anderson, Bates, Beesley, Birdsall, Blauvelt, Bodine, Boss, Brinck, Broking, Buckley, Callahan, Chandler, Clever, Corey, Coriell, Crowell, Culver, Demarest, Dickeson, Doughty, Dougherty, Duryea, Edsall, Fisher, Goble, Green, Haring, Harrison, Heulings, Hoagland, Hoffman, Holmes, Holsman, Horner, Iliff, W. J., Iliff, W. M., Irick, Jarrard, Jenkins, Kearney, Kennedy, Kinter, Lake, Landell, Lathrop, Lighthipe, Little, Ludlam, Martin, Moore, Nicholson, Nixon, Peddie, Reeves, Robins, Robison, Schenck, Scovel, Scudder, Seiffert, Staats, Stille, Stockton, Taylor, Treadwell, Trusdell, Van Buskirk, Van Vorst, Van Wagoner, Ware, Weart, Willever, Wilson, Wright, Wurts, Young—80.

Mr. Holsman moved that the consideration of the election of United States Senator be postponed until the 15th day of March instant.

The yeas and nays being demanded and ordered upon the question of agreeing thereto, were as follows:

In the affirmative, were Messrs. Abbett, L., Anderson, Allen, Boss, Broking, Chandler, Corey, Coriell, Culver, Demarest, Doughty, Dougherty, Duryea, Edsall, Goble, Haring, Hoagland, Hoffman, Holmes, Holsman, Iliff, W. J., Iliff, W. M., Jenkins, Kearney, Kennedy, Kinter, Little, Martin, Robins, Schenck, Scovel, Scudder, Seiffert, Stille, Taylor, Treadwell, Trusdell, Van Buskirk, Van Vorst, Weart, Willever, Wurts, Young—43.

In the negative, were Messrs. Abbott, N. S., Acton, Bates, Beesley, Birdsall, Blauvelt, Bodine, Brinck, Buckley, Callahan, Clever, Crowell, Dickeson, Fisher, Green, Harrison, Heulings, Horner, Irick, Jarrard, Lake, Landell, Lathrop, Lighthipe, Ludlam, Moore, Nicholson, Nixon, Peddie, Reeves, Robison, Staats, Stockton, Van Wagoner, Ware, Wilson, Wright—37.

So the motion was agreed to.

Mr. Holsman moved that when this joint meeting adjourn it be to meet on the 15th day of March, instant.

After appointing several State officers, on motion of Mr. Holsman the joint meeting then adjourned.

—

In Joint Meeting.

ASSEMBLY CHAMBER, WEDNESDAY, *March* 15, 1865.

At three o'clock p. m. the adjourned meeting came to order in the Assembly Chamber.

Under the direction of the chairman the secretary called the joint meeting, when the following gentlemen answered to their names:

Messrs. Abbett, L., Abbott, N. S., Acton, Allen, Anderson, Bates, Beesley, Birdsall, Blauvelt, Bodine, Boss, Brinck, Broking, Buckley, Callahan, Chandler, Cleaver, Corey, Coriell, Crowell, Culver, Demarest, Dickeson, Doughty, Dougherty, Duryea, Edsall, Fisher, Goble, Green, Haring, Harrison, Heulings, Hoagland, Hoffman, Holmes, Holsman, Horner, Iliff, W. J., Iliff, W. M., Irick, Jarrard, Jenkins, Kearney, Kennedy, Kinter, Lake, Landell, Lathrop, Lighthipe, Little, Ludlam, Martin, Moore, Nicholson, Nixon, Peddie, Randolph, Reeves, Robins, Robison, Schenck, Scovel, Scudder, Seiffert, Staats, Stille, Stockton, Taylor, Treadwell, Trusdell, Van Buskirk, Van Vorst, Van Wagoner, Ware, Weart, Willever, Wilson, Wright, Wurts, Young—81.

It will be noticed that at the call of the joint meeting at its first session only eighty members answered to their names. There was a vacancy in the Legislature at that time, occasioned by the death of Mr. Fowler, a member from Sussex. Prior to the election of Mr. Stockton, however, Mr. Edsall was elected to fill that vacancy; thus completing the full numerical strength of the Legislature present and voting on this occasion.

Mr. Holsman offered the following resolution, and moved its adoption:

Resolved, That the resolution that no candidate shall be declared elected unless upon receiving a majority of the votes of all the members elected to both Houses of the Legislature be rescinded, and that any candidate receiving a plurality of votes of the members present shall be declared duly elected.

Mr. Ludlam moved that the question be divided.

The chairman ruled said motion out of order, the secretary having commenced to call the roll upon the adoption of said resolution.

Whereupon, Mr. Crowell appealed from the decision of the Chair.

Upon the question, Shall the decision of the Chair be sustained? the yeas and nays being taken resulted as follows:

In the affirmative, were Messrs. Abbett, L., Abbott, N. S., Acton, Allen, Anderson, Beesley, Blauvelt, Boss, Broking, Buckley, Callahan, Chandler, Corey, Coriell, Culver, Demarest, Doughty, Dougherty, Duryea, Edsall, Fisher, Goble, Green, Haring, Harrison, Hoagland, Hoffman, Holmes, Holsman, Horner, Iliff, W. J., Iliff, W. M., Irick, Jarrard, Jenkins, Kinter, Lake, Lighthipe, Little, Ludlam, Martin, Moore, Nicholson, Nixon, Randolph, Reeves, Robins, Schenck, Seiffert, Stille, Taylor, Treadwell, Trusdell, Van Buskirk, Van Vorst, Van Wagoner, Ware, Weart, Willever, Wilson, Wright, Wurts, Young—62.

In the negative, were Messrs. Bates, Birdsall, Bodine, Brinck, Cleaver, Crowell, Dickeson, Heulings, Landell, Lathrop, Peddie, Robison, Scovel, Staats, Stockton—15.

So the decision of the Chair was sustained.

The question then being upon the adoption of the resolution offered by Mr. Holsman, and the yeas and nays being taken, resulted as follows:

In the affirmative, were Messrs. Abbett, L., Allen, Anderson, Boss, Broking, Chandler, Corey, Coriell, Culver, Demarest, Dougherty, Duryea, Edsall, Goble, Haring, Hoagland, Hoffman, Holmes, Holsman, Iliff, W. J., Iliff, W. M., Kearney, Kinter, Little, Martin, Randolph, Robins, Schenck, Scudder, Seiffert, Stille, Taylor, Treadwell, Trusdell, Van Buskirk, Van Vorst, Weart, Willever, Wright, Wurts, Young—41.

In the negative, were Messrs. Abbott, N. S., Acton, Bates, Beesley, Birdsall, Blauvelt, Bodine, Brinck, Buckley, Callahan, Cleaver, Crowell, Dickeson, Doughty, Fisher, Green, Harrison, Heulings, Horner, Irick, Jarrard, Jenkins Kennedy, Lake, Landell, Lathrop, Lighthipe, Ludlam, Moore, Nicholson, Nixon, Peddie, Reeves, Robison, Scovel, Staats, Stockton, Van Wagoner, Ware, Wilson—40.

So said resolution was adopted.

Mr. Jenkins moved that the joint meeting do now adjourn *sine die*.

Upon which the yeas and nays were taken, with the following result:

In the affirmative, were Messrs. Abbott, N. S., Acton, Bates, Beesley, Birdsall, Blauvelt, Bodine, Brinck, Buckley, Callahan, Cleaver, Crowell, Dickeson, Fisher, Green, Harrison, Heulings, Horner, Irick, Jarrard, Jenkins, Kennedy, Lake, Landell, Lathrop, Lighthipe, Ludlam, Moore, Nicholson, Nixon, Peddie, Reeves, Robison, Scovel, Staats, Stockton, Van Wagoner, Ware, Wilson, Wright—40.

In the negative, were Messrs. Abbett, L., Allen, Anderson, Boss, Broking, Chandler, Corey, Coriell, Culver, Demarest, Doughty, Dougherty, Duryea, Edsall, Goble, Haring, Hoagland, Hoffman, Holmes, Holsman, Iliff, W. J., Iliff, W. M., Kearney, Kinter, Little, Martin, Randolph, Robins, Schenck, Scudder, Seiffert, Stille, Taylor, Treadwell, Trusdell, Van Buskirk, Van Vorst, Weart, Willever, Wurts, Young—41.

So the motion was not agreed to.

Mr. Holsman moved that the joint meeting do now proceed to the election of United States Senator.

Which was agreed to.

Whereupon Mr. Holsman nominated Hon. John P. Stockton, of the county of Mercer.

Mr. Kennedy nominated Hon. James W. Wall, of the county of Burlington.

Mr. Doughty nominated Hon. Peter D. Vroom, of the county of Mercer.

Mr. Jenkins nominated Hon. Henry S. Little, of the county of Monmouth.

Mr. Scovel nominated Hon. F. T. Frelinghuysen, of the county of Essex.

Mr. Ludlam nominated Hon. John C. Ten Eyck, of the county of Burlington.

Mr. Little declined being a candidate, and desired his name withdrawn.

Under the direction of the chairman, the secretary called the joint meeting, resulting as follows:

For John P. Stockton, were Messrs. Abbett, L., Allen, Anderson, Boss, Broking, Chandler, Corey, Coriell, Culver, Demarest, Dougherty, Duryea, Edsall, Goble, Haring, Hoagland, Hoffman, Holmes, Holsman, Iliff, W. J., Iliff, W. M., Kearney, Kinter, Little, Martin, Randolph, Robins, Schenck, Scudder, Seiffert, Stille, Taylor, Treadwell, Trusdell, Van Buskirk, Van Vorst, Weart, Willever, Wurts, Young—40.

For John C. Ten Eyck, were Messrs. Abbott, N. S., Acton, Bates, Beesley, Birdsall, Blauvelt, Bodine, Brinck, Buckley, Callahan, Cleaver, Crowell, Dickeson, Fisher, Green, Harrison, Heulings, Horner, Irick, Jarrard, Lake, Landell, Lathrop, Lighthipe, Ludlam, Moore, Nicholson, Nixon, Peddie, Reeves, Robison, Staats, Stockton, Van Wagoner, Ware, Wilson, Wright—37.

For James W. Wall, was Mr. Kennedy—1.

For Peter D. Vroom, was Mr. Doughty—1.

For F. T. Frelinghuysen, was Mr. Scovel—1.

For Henry S. Little, was Mr. Jenkins—1.

Hon. John P. Stockton having received a plurality of all the votes cast, was declared duly elected United States Senator for the term of six years from the 4th day of March instant.

After appointing several State officers,

Mr. Holsman moved that the joint meeting do now rise. Which was agreed to.

Attest: JOHN H. MEEKER,

Secretary of the Joint Meeting.

Now, Mr. President, two general propositions arise under this statement of the provisions of the United States and State constitutions, the statute of the State, and the proceedings of the "Legislature in joint meeting assembled," namely:

I. Was the Senator so elected "chosen by the Legislature" of the State?

II. Was the "time, place, and manner" of holding such election prescribed by the Legislature in the sense of these words as used in the Constitution of the United States?

I. Under the first proposition it will be necessary to inquire, first, what is the Legislature of New Jersey? And second, did the Legislature make a choice?

1. What is the Legislature of New Jersey?

The constitution of New Jersey, article four, section one, clause one, provides, "The legislative power shall be vested in a Senate and General Assembly." Article four, section one, clause three, "The two Houses shall meet separately on the second Tuesday in January next after said day of election." But the constitution also provides for the meeting of the two Houses, not separately, but in joint meeting. Article seven, section two, "Judges, &c., shall be appointed by the Senate and General Assembly in joint meeting." Clause three, "The State treasurer, &c., shall be appointed by the Senate and General Assembly in joint meeting." Article five, clause two, in a certain case the Governor shall be chosen "by the votes of a majority of the members of both Houses in joint meeting." But the question recurs, when met in joint meeting are the two Houses still the Legislature?

Article four, section five, clause one, provides, that "No member of the Senate or General Assembly shall, during the term for which he was elected, be nominated or appointed by the Governor or by the Legislature in joint meeting," &c.

Article five, clause twelve:

"Where a vacancy happens during the recess of the Legislature in any office which is to be filled by the Governor and Senate, or by the Legislature in joint meeting, the Governor shall fill," &c.

The journal of the constitutional convention in New Jersey shows that the clause cited above from article four, when originally reported by the committee, did not contain the words "Legislature in joint meeting," but simply said, "during the time for which he was elected or appointed." It was amended in committee of the whole by inserting after "appointed" the words "by the Governor and Senate, or by the Legislature."

On motion of Mr. Ewing, (page 150, Convention Journal,) the amendment was amended by striking out "Legislature" and inserting "joint meeting."

On motion of Chief Justice Hornblower, (page 151, Convention Journal,) it was again amended by inserting before "joint meeting" the words "Legislature in."

The very object of this amendment was to conclude this question which had been raised in reference to the constitutions of some other States.

These passages from the constitution of New Jersey (which only can define what is the Legislature of the State) show conclusively that an election by the joint meeting is an election by the Legislature. But the Senate of the United States, from 1789 to the present time—the last seventy-seven years—has recognized the joint meeting of the New Jersey Legislature as the Legislature thereof, whatever may be the Legislature of other States. Every Senator from New Jersey has been elected by the joint meeting under the rules prescribed by the same or a similar statute. Unless the joint meeting is the Legislature we never have had a United States Senator from New Jersey.

2. Did the Legislature make a choice?

"The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six years." This establishes the body of electors. It has no reference to "manner" of selection. "Chosen by the Legislature" is elected by the Legislature. It is the Legislature, not the people, who are to choose. "*Eligere*," to take out or elect, to call out one thing before another, to select. "To choose" is "to elect."

That the words are used in the Constitution as synonyms is manifest from other clauses of the same instrument: "Who shall not when 'elected' be an inhabitant of that State for which he shall be 'chosen.'"

The times, places, and manner of holding "elections" for Senators and Representatives shall be prescribed "in each State by the Legislature thereof, but the Congress may at any time, by law, make or alter such regulations, except as to the places of 'choosing' Senators."

"The Senate shall 'choose' their other officers, and also a President *pro tempore*."

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

"No Senator or Representative shall, during the time for which he was 'elected.'"

"The House of Representatives shall be composed of members 'chosen' every second year."

"No person shall be a Representative who shall not, when 'elected,' be an inhabitant of that State in which he shall be 'chosen.'"

"The House of Representatives shall 'choose' their Speaker."

Yet, under this last clause, it is to be noted that Howell Cobb and N. P. Banks were each "chosen" by a plurality vote Speakers of the House.

The first clause of the fourth section of the first article is as follows:

"The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the place of choosing Senators."

It is well known that this clause of the Constitution was assailed in the State conventions on the ground that Congress might contrive the manner of holding elections so as to exclude all but their own favorites from office. The conventions of the States of Virginia, Massachusetts, New Hampshire, New York, Rhode Island, and South Carolina accompanied their ratification of the Constitution with a solemn protest against the power of Congress over the election. They prepared amendments to the Constitution calculated to carry out their views, and recorded on their journals perpetual instructions to their representatives in Congress to urge earnestly and zealously their adoption, and to refrain from the exercise of any power inconsistent with the principles of the proposed amendments.

Judge Story, in his Commentaries on the Constitution, section 826, after having stated the objections to the latter part of the clause which were made at the time of the adoption of the Constitution, and the reasoning by which they were met, thus concludes:

"A period of forty years has since passed by without any attempt by Congress to make any regulations or interfere in the slightest degree in the elections of members of Congress. If, therefore, experience can demonstrate anything, it is the entire safety of the power in Congress, which it is scarcely possible (reasoning from the past) should be exerted except upon very urgent occasions. The States now regulate the time, the place, and the manner of elections in a practical sense exclusively. The manner is very various; and perhaps the power has been exerted in some instances, under the influence of local or party feelings, to an extent which is indefensible in principle and policy. There is no uniformity in the choice or in the mode of election. In some States the Representatives are chosen by a general ticket for the whole State; in others they are chosen singly in districts, &c. In some States the candidate must have a majority of all the votes to entitle him to be deemed elected; in others (as it is in England) it is sufficient if he has a plurality of votes. In some of the States the choice is by the voters *viva voce* (as it is in England;) in others it is by ballot. The times of the elections are quite as various, sometimes before and sometimes after the regular period at which the office becomes vacant. That this want of uniformity as to the time and mode of election has been productive of some inconvenience to the public service cannot be doubted, for it has sometimes occurred at an extra session a whole State has been deprived of its vote, and at the regular sessions some districts have failed of being represented upon questions vital to their interests. Still, so strong has been the sense of Congress of the importance of leaving these matters to State regulation that no effort has been hitherto made to cure these evils, and public opinion has almost irresistibly settled down in favor of the existing system."

Contrary to the prediction of the learned commentator, Congress passed an act in 1842, entitled "An act for the apportionment of Representatives among the several States according to the sixth census," the second section of which provides that in every case where a State is entitled to more than one Representative, the number to which each State shall be entitled under this apportionment shall be elected by districts composed of contiguous territory equal in number to the number of Representatives to which the State may be entitled. The authority under which Congress made this provision was the fourth section of article first, the latter part of which says Congress may at any time make or alter the State regulations in reference to the manner of choosing Senators and Representatives.

When the law of Congress passed, New Hampshire, New Jersey, Alabama, Georgia, Mississippi, and Missouri had election laws requiring their Representatives to be elected by general ticket. New Jersey and Alabama conformed to the law of Congress. It was insisted that the elections of New Hampshire, Georgia, Mississippi, and Missouri, under the State law, were void. The debate on the subject occupied a large part of the session. The majority of the committee to whom it was referred reported that the law was unconstitutional, and the members elected on general ticket entitled to their seats. The minority reported that the law was valid, and the seats should be declared vacant. Neither report was formally agreed to, but it was voted by a decided majority that the members retain their seats. The reports were both prepared by gentlemen of great ability—the majority report by Stephen A. Douglas, and that of the minority by Garrett Davis.

But both the majority report of Mr. Douglas, and the minority report of Mr. Garrett Davis agree, so far as the question concerns the right of the Legislature to prescribe any manner, where Congress does not exercise its privilege the State Legislature shall prescribe the times, places, and manner.

Says Mr. Douglas:

"An imperative duty rests upon the Legislatures, while a mere privilege is granted to Congress. In the performance of this duty, the Legislatures are clothed with a wide discretion, upon which the Constitution imposes no restraints. They may provide for elections by general ticket, or in districts; for voting by ballot, or *viva voce*; for opening the polls at one place and on one day, or at different places and on different days. These and all things pertaining to the times, places, and manner of holding elections are confided to the wisdom and discretion of the several Legislatures, to be performed in such manner as they shall deem most favorable to popular rights and just representation."

He alludes to the fact that when General Pinckney proposed in the Convention which formed the Constitution, that the Representatives "should be elected in such manner as the Legislatures of each State shall direct," he urged among other reasons in support of his plan, "that this liberty would give more satisfaction, as the Legislature could then accommodate the mode to the convenience and opinions of the people."

Mr. Davis says:

"Some of the States have passed laws regulating their election of Senators; others have not; and yet the constitutionality of the regulations of the latter States for holding their elections of Representatives has not been and cannot be questioned. Such States as have no regulations by law for the senatorial elections may make them also; so Congress could pass a law requiring the election of Senators generally; for that would be an alteration of the election regulations of some of the States by adding to them. Congress could thus establish uniformity in the mode of electing Senators, by enacting a law requiring both branches of the State Legislatures to choose by their aggregate vote, and might confine its action to that or any other particular regulation for the election of Senators. That principle has generally prevailed in senatorial elections, &c. The State Legislatures might alter their existing regulations relating to time or place or manner, confining their action to either one."

The report illustrates the meaning of the expression "chosen" by the Legislature, as used

in the Constitution in reference to Senators, and "chosen" every second year by the people of the several States, in reference to Representatives, insisting that this is only an indication of the body of electors, not the manner of elections, or the absurdity follows, that the people of every State not only have a right, but are bound to "choose" the House of Representatives.

It is manifest that the only object of this clause was to establish the body of electors, both as to Senators and Representatives.

The House is composed of members "chosen" every second year "by the people" of the several States, and the time, place, and manner of the choice is to be prescribed by the State Legislatures.

The Senate is composed of two Senators "chosen by the Legislature" for six years, at the time, in the place, and by the manner prescribed by the Legislature.

Chosen "by the people" is always by a plurality vote in New Jersey; the Legislature has so prescribed.

Chosen "by the Legislature" is as the Senate and Assembly, in whom our constitution has vested all legislative power, shall prescribe; and in failure of a special rule prescribed, the rule of the body is prescribed by parliamentary law.

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

In some of the States it is prescribed by statute that the election shall be by concurrent action, in some by joint vote, in others an effort is first made to elect by separate action, and on failure thereof resort is had to joint meeting. Some States require a majority of all the members elected to choose a Senator, some only a majority of those present and voting, some leave the number of votes necessary to the joint meeting, to determine either by rule for that purpose, or parliamentary law, while some States it would seem have never passed any law on the subject, and must therefore prescribe the manner at the time by the action of the body electing.

New York. Such election shall be made by the Legislature in the following manner: the Senate and Assembly shall each openly nominate one person for the office of Senator in Congress; after which they shall immediately meet, and if they shall agree in their nominations, the person so nominated shall be appointed to the office for which he shall be nominated. If they shall disagree, the election shall be made by the joint ballot of the senators and members of Assembly.

Pennsylvania. By joint ballot; and a majority of the members present required to elect.

Vermont. First by separate vote, and if the same person does not receive the majority of all the votes in each House, then by joint ballot; and a majority of all the votes of the joint assembly required.

North Carolina provides that the election shall be by joint vote of both Houses of the General Assembly, the vote being *viva voce;* and it is necessary to have a majority of the votes of both Houses to elect.

Wisconsin elects by joint vote, declaring in section two of the act, a majority of all the votes given shall be necessary to elect a Senator.

In Michigan the Senate and House shall each openly nominate one person for the office of Senator, after which, they shall immediately meet in joint convention in the hall of the House. If they shall agree, the person so nominated shall be deemed elected. If they shall disagree, the election shall be made by a joint vote of the senators and members, and a majority of the votes given in such convention shall be necessary to an election.

Louisiana elects by joint vote; "and the person or persons having the greater number of votes shall be declared duly elected Senator or Senators, provided such number be a majority of all the members present."

Kentucky. Senators in the Congress of the United States shall be elected by *viva voce* vote of the members of the two branches of the General Assembly in joint ballot

Alabama. A majority of the whole number necessary to a choice.

Indiana. Hereafter all elections of United States Senators and other officers to be elected by the General Assembly of this State shall be *viva voce*, except certain officers specified, who are to be elected by joint ballot.

Maryland. By joint ballot; and the person or persons qualified, and having a majority of the votes of all attending members in both branches, shall be declared duly elected.

Arkansas. Joint vote; majority of all the votes given required.

California. Joint vote; a majority of all the votes given necessary to elect a Senator; and the convention can do no act but adjourn in the absence of a majority of all the members-elect, in either Senate or Assembly.

In Mississippi the act is as follows:

An act prescribing the time, manner, and place of holding elections for Senators to Congress.

At the regular session of the General Assembly of this State next preceding the expiration of the term of a United States Senator, or at any other session in which a vacancy or executive appointment shall be reported by the Governor, shall be the time of electing United States Senators. The manner shall be by vote of each member of the Senate and each member of the House of Representatives in the State Legislature, and the place of holding such election shall be in the hall of the House of Representatives of this State, and the particular day and hour of such election shall be determined in each case by a joint resolution of both Houses.

In Rhode Island it is provided that Senators shall be elected by General Assembly in grand committee, and not in separate Houses. The name of each member shall be called aloud by the clerk; he hands in a ballot and responds the name aloud; nothing said about the number of votes necessary to a choice.

Delaware elects in joint meeting; requires a majority of all the votes given as necessary to a choice; but if upon any balloting, two persons only shall be voted for and receive all the votes, and each of them an equal number of votes, the Speaker of the Senate shall give an additional casting vote, unless he shall be one of said persons, in which case the Speaker of the House of Representatives shall give an additional casting vote, unless he shall be the other of said persons; and further, if upon twice balloting, more than two persons shall be voted for, and one of said persons shall on each balloting receive one half the number of all the votes given, then on the second ballot the Speaker of the Senate may give an additional casting vote to the person having one half the number of all said votes, unless he shall be such person, &c.

It will be observed that New York, Kentucky, Mississippi, Indiana, and Rhode Island, as well as New Jersey, require no particular numbers of votes, leaving the Legislature to manifest their choice in the manner they determine by their own rules.

Louisiana declares first the "plurality" rule, "the person having the greatest number of votes shall be declared duly elected," but subsequently provides that such number must be a majority of all the members present.

The law in Delaware is really a "plurality" law; for, where two persons have an equal number of votes, or one person shall have half of all the votes given, the Speaker gives an additional casting vote. Now, if it be true, as is alleged, that "chosen by the Legislature" means that at least a majority of the members should select the candidate, by directly voting for him, the permission to the Speaker to vote twice does not accomplish that necessary object. But if it is the "choice of the Legislature," manifested in any way the majority may see fit that is required, the object is attained. And if a majority may not express their choice by a plurality vote, this act of Delaware is unconstitutional.

Again, if it is a majority of all the members which is required, the laws of Pennsylvania, Michigan, Missouri, Arkansas, Maryland, and Wisconsin are unconstitutional, for the majority of a quorum can elect under them. If, for example, the number of members of any of the Legislatures of these States is 81, a majority of the whole number is a quorum, namely, 41; a majority of the quorum is 21 members. Therefore, 21 members out of 81 members, under the law of all these States, are capable of choosing a Senator.

The rule requiring only a majority of the members voting has frequently been the rule of the joint meeting of New Jersey, and under it they elected a United States Senator in the year 1851, by less than a majority, and his right to his seat was never questioned. In this election the joint meeting first adopted a rule requiring a majority of the whole number; they subsequently rescinded it for a majority of those voting, and elected by 39 votes.

In the case under consideration at present, they adopted the rule requiring a majority of the whole number, and rescinded for the plurality rule, and elected by 40 votes.

During the argument in Harlan's case, Thirty-Fourth Congress, third session, Mr. Hale said:

"It is said it is impossible to make anything else the Legislature than the Legislature. That is true; but does any gentleman here contend that it was not competent for the people of Iowa to say that less than a majority should constitute a quorum if they saw fit so to do? I apprehend not. In the Legislature of the State of Massachusetts, when the House of Representatives consisted of some four hundred or five hundred members, sixty of them constituted a quorum, and when the Senate consisted of forty members, sixteen formed a quorum. Sixteen senators and sixty representatives might pass a bill, or do any other legislative act, but nobody ever supposed that was an infringement of the constitutional provision that the Legislature must do certain things."

In the above case, cited by Mr. Hale, thirty-one members in the House might express the will of the five hundred members; and in the Senate nine members might express the will of the forty members; and thus the voice of forty members was the voice of a Legislature which was composed of upwards of five hundred members.

The act in New Jersey simply says, Senators of the United States on the part of this State shall be appointed "by the Senate and General Assembly in joint meeting assembled." There is no constitutional restriction, no restriction on the "manner," no provision as to the number of votes necessary. The act is eloquently silent on that subject. The joint meetings have from the earliest record always made their own rules, at one time requiring a majority of all elected, at another time a majority of those present, electing to some offices without a ballot, sometimes by acclamation, sometimes by silence. On this occasion they first required a majority of all elected; they then by a majority vote rescinded that resolution and adopted one declaring that the plurality rule should prevail, and the person who had the most votes should be declared elected. Now the question is, whether the Senate of the United States shall make, retrospectively, rules to govern the joint meeting of New Jersey, or whether it can by a majority vote prescribe the manner of indicating its choice.

The same clause that prescribes that the time, place, and manner of holding elections for Senators shall be prescribed in each State by the Legislature provides also in the same words for the election of Representatives. Yet Representatives in New Jersey are always elected by a plurality vote, and the statute declares that the board of State canvassers shall proceed to determine the person or persons who shall by the greatest number of votes have been duly elected; and under this very clause of the Constitution, every member of Congress from New Jersey has always been elected by a plurality. Now, suppose the statute relating to the election of Senator had prescribed the plurality rule to the joint meeting, would it not have been valid? Certainly, if the general election law is valid. Yet, if it is, as charged, in violation of the Constitution for the joint meeting to make such a rule, it must be in violation of the Constitution for the Legislature to prescribe it, and hence the election of Representatives

from New Jersey has always been unconstitutional. The plurality rule has been the rule in such elections in most of the States. The States of Maine and Massachusetts were exceptions, but the inconvenience of the majority rule in electing Representatives was so great that it induced an amendment of the State constitutions of these States. But suppose that the majority is necessary to appoint a Senator. The "manner" in which the majority manifests that choice, in failure of any restriction of the constitution of the State or of the United States, is certainly confided to their discretion, whether they vote by ballot or *viva voce;* whether by rising or sitting; whether by permitting a plurality to indicate their choice, or requiring a majority of all the members elected, it is for them to decide. They did decide, that they "chose" the candidate who, on the coming ballot, should receive the most votes. It was not an unreasonable manner, for it was the rule adopted by the general election law of the State. It was the manner in which members of Congress were elected under the same clause of the Constitution of the United States which imposed upon them the duty they were engaged in performing.

The Constitution of the United States commanded the Legislature to prescribe the manner of electing Senators. The Legislature by general enactment directs that the Senate and General Assembly, in joint meeting assembled, shall perform that duty. The constitution of New Jersey vests all legislative power in the Senate and General Assembly, and recognizes them as the Legislature when in joint meeting assembled. By custom dating before the Constitution of the United States, and continued to the present day, the first act of the joint session has been to prescribe the rules for the government of that body. Under these circumstances can it be gravely insisted that the majority of this body was incompetent to make such a rule?

But if they had no power from their legislative character, or from immemorial custom to perform the duty confided to them, by the adoption of rules which seemed to them calculated to attain the ends in view; still they were bound by parliamentary law, and were clothed, at least, with that authority, which appertains to all deliberative bodies. Mr. Cushing says, chapter four, section three:

"In all collective bodies of men, assembled and acting together for the purpose of deliberating and deciding upon any subject, or for the purpose of selecting to any office, it is an admitted principle that whatever is done or agreed to by the greater number shall stand as the act or the will of the whole."

Again, section six:

"The law of the majority is universally admitted in all legislative assemblies, unless in reference to particular cases, persons, or circumstances, a different rule is prescribed by some paramount authority, or is agreed upon beforehand and established by the assembly itself, by which a smaller number is permitted, or a larger number is required to do some particular act. But even in these cases it is the will of the majority that governs; because it is by a major vote; in the first instance, that the rule itself is established."

In part six, chapter three, section 1826:

"Every question which is propounded to a legislative assembly for its determination, and voted upon in any of the manners prescribed, receives its decision according to the preponderance of the votes, which, unless some other rule is expressly prescribed, as there usually is in each assembly in reference to particular questions, is ordinarily effected by a majority. In those cases where the rules or customs of any assembly allow a vote to remain on an equal division, the decision, as neither side preponderates, is necessarily in the negative. In many cases it is provided, either by a constitutional requisition or by rule, that particular questions, in order to prevail, shall require more, or admit of less, than the ordinary majority in their favor."

The 40 votes given for Mr. Stockton, no one else having more than 37, was, then, an indication of the will of the majority, and that was the will of the whole. Every member elected to the Legislature was present and voted; no protest or objection was made. The result is, that "the Legislature," and every member of it, voted for, chose, and appointed Mr. Stockton. The question is clearly within the principle of the case from Florida, which was unanimously decided by the Senate. The result of that case was to establish the principle that, until Congress shall pass an act on the subject, the State Legislatures may choose their own methods for the election of United States Senators. In this case it appeared that a poll *viva voce* was taken of the members, pursuant to the requirements of the constitution of the State, and 29 responded David L. Yulee, and 29 blank; whereupon the presiding officer declared that no choice had been made. They then proceeded to a second and third vote, with substantially the same result. On the 15th of January, 1851, they again met in convention for the same purpose, and upon a call of the roll, 31 members responded S. R. Mallory, and 27 voted for Mr. Yulee, and others; whereupon the president declared Mr. Mallory to be duly elected. Neither the record nor any other evidence in the case shows that any objection was made at the time. The certificate of election was granted to Mr. Mallory, and he, having been qualified, held the seat.

Mr. Yulee contested the seat on the ground that he was himself elected at the first vote, because there was a quorum of each House present, and he being the only qualified person voted for, had a majority of the legal votes; those who responded "blank," voted for no qualified person, and waived their rights.

Mr. Mallory opposed to this inference a resolution of the two Houses, adopted in 1845 by concurrent vote, which had never been rescinded, and was in the following words:

"*Resolved*, That a majority of all the members-elect, composing the two Houses of General Assembly, shall be necessary to determine all elections devolving upon that body."

The whole number of members-elect was fifty-nine, and Mr. Yulee not having a majority of that number was not elected, if the rule was binding and valid.

Mr. Bright, on behalf the committee to whom the Florida case was referred, made a report, which says:

"It may be observed that the power given to the Legislature to regulate the time, place, and manner, applies as well to Representatives as to Senators; and here again are other diversities in the manner of exercising it. Some States elect by a plurality of votes; others by a majority, and others have required at the first trial a majority, and a plurality afterward. Some, again, (until Congress made a law upon the subject,) elected by a general ticket, others by a single district, or districts entitled to more than one, according to convenience. None of these modes of electing Senators or Representatives have been held unconstitutional, but members have been uniformly admitted to their seats, whether elected in one or more of these modes. These practices have at all times existed, and have uniformly been recognized as constitutional, proving clearly that the discretion reposed in the Legislatures of the States may be exercised in a diversity of ways, and yet be a sufficient compliance with the requirements of the Constitution. With these views, the committee recommend the adoption of the following resolution:

"*Resolved*, That Hon. Stephen R. Mallory was duly elected a member of the Senate of the United States from the 3d day of March, 1851."

After lengthy debate the report of the committee was adopted, and the resolution unanimously passed.

Mr. Toombs, in Harlan's case, (Congressional Globe, third session Thirty-Fourth Congress, page 299,) says:

"Iowa has a perfect right, until Congress acts, to prescribe the mode in which her State senators and representatives shall cast their votes, as she pleases. It ought to be fixed, not as the Senator from Maine says, by the particular Legislature which elects. There is nothing in the Constitution like that. Power is given to 'Congress,' and in exactly the same words to the 'Legislature'—any Legislature which may be lawfully constituted under the constitution of Iowa. There is perfect and absolute power on this subject in the Legislatures in the States until Congress acts. When Congress chooses, it can define how those persons whose duty it is under the Constitution to elect Senators, shall do so. The State Legislatures can exercise the right. It can be done by majority, or by a plurality, or in any way, so that all the electors are allowed to vote, and none are deprived of their right."

The first article of the Constitution of the United States enacts that the House of Representatives shall "choose" their "Speaker" and other officers.

In reference to an election for Speaker, Mr. Cushing says:

"In regard to the number of votes necessary to elect, it seems to be a rule established, at least by practice and usage, that nothing short of an absolute majority will be sufficient, even in those States where the election of other officers takes place by a plurality."

But he adds in a note:

"In the House of Representatives in Congress the Speaker has always been elected without any previous order of the House, or provision of law to that effect, but simply in virtue of a resolution of the House to proceed to the election of a Speaker. On one occasion, and the only one it is believed that ever took place, the principle was departed from, the election of Speaker of the House in the Thirty-First Congress, contested principally between Hon. Robert C. Winthrop, of Massachusetts, who had been Speaker of the last House, and Hon. Howell Cobb, of Georgia. That memorable contest began on the 3d of December, 1849, and ended on the 22d, after sixty-three ballotings. Previous to the last balloting a resolution was adopted, that at the next trial, in order to insure an organization a plurality should be sufficient to elect. At the last balloting Mr. Cobb received 102 votes out of 222, and was accordingly declared elected."

It is well known that after a much more severe struggle in 1856, Nathaniel P. Banks, jr., on the one hundred and thirty-third ballot was elected Speaker under the plurality rule, having only 103 votes out of 214.

Now, it will be remembered, that in the House of Representatives the Speaker has always been elected without any previous order of the House, while in New Jersey the joint meeting have always made their own rules.

That an absolute majority by parliamentary law is required for a presiding officer where all other appointments may be made by a plurality.

That the Speaker is required to be "chosen" as well as Senators under the Constitution.

If a plurality has twice elected or "chosen" a Speaker of the House, cannot a plurality, when a majority has so ordered, elect or choose a Senator?

It may be urged that the consequences which would follow from permitting less than a majority of the whole to elect, furnish a conclusive argument against it. This was the argument used this morning: that if two members vote for one person, and every other member by himself for different individuals, the person having two votes would have a plurality, and two votes might elect. That this argument is mere sophistry is easily manifested:

1. The question is, whether the New Jersey Legislature in joint meeting assembled had the constitutional right to choose a Senator by adopting by a majority vote a plurality rule. This argument amounts to no more than that there might be cases "where the rule would be inconvenient." It is an argument *ab inconvenienti* alone, and might be properly urged to prevent the adoption of the rule, but it does not touch the question of power on the part of the joint meeting to make it.

2. After the majority had adopted the rule, by parliamentary law 2 votes were 41 and 41 were 81. The majority adoption of the rule is the solemn pledge that they will accept the result as their own act. They vote for the candidate who has the plurality in advance.

3. The argument from inconvenience applies equally to the election of members of the House of Representatives; if a conclusive argument in one case, it is so in the other, for it is the same clause in the Constitution under which the elections are held, and from which the power is derived, and the consequence is that our election law and that of nearly every other State is unconstitutional, and we have never had a constitutional House of Representatives.

4. The majority rule did exist in Maine and New Hampshire, and was abolished as the most inconvenient of the two.

5. Nearly all the State appointments made by the joint meeting are made with only two or three voting; sometimes no vote is taken at all. It is done by agreement and consent, yet the silent assist in choosing the persons appointed. By way of example, in the joint meeting which elected Mr. Stockton, on motion of Mr. Holsman it was "resolved that the vote for county judges and commissioners of deeds be taken by acclamation, and that the counties in which vacancies exist be called in alphabetical order." When, on motion of Mr. Lake, a list of ten gentlemen were appointed commissioners.

6. That under the laws of at least six of the States where a majority of those present are

permitted to cast the vote a majority of the quorum may elect, and the majority of the Legislature may not be present and voting at all. That under a similar rule the joint meeting of New Jersey have elected a United States Senator who took his seat unquestioned.

I now come to the second point:

II. Was the "time, place, and manner" of holding such election prescribed by the Legislature in the sense of these words as used in the Constitution of the United States?

There is no objection to the "time and place;" the only question is, was the "manner" prescribed in the sense intended by the Constitution of the United States?

Neither the words "time" or "place" affect the question whether a majority of votes or less is necessary to a choice. The whole objection must be to the defective prescription of the "manner."

If the word "manner" has no reference to number of voices that shall elect, then the failure of the Legislature to prescribe the number of voices necessary to a choice is no objection to the indication by the joint meeting of the number of voices by which the will of the majority shall be expressed. In the absence of any legislative rule as to the number of voices necessary, the joint meeting, as a deliberative body, had full power, under parliamentary usage, to determine, by a majority of its members, the number of votes which shall indicate their choice. In the present instance they declared that the vote of a plurality should indicate their choice; that vote indicated Mr. Stockton. He was therefore the choice of the joint meeting in the manner indicated by the majority.

But if the word "manner" does relate to the number of voices necessary to a choice, then has no "manner" ever been prescribed by the Legislature of New Jersey, by concurrent action, but such "manner" has always been prescribed by the rules of the "Legislature in joint meeting assembled." No Senator has, therefore, ever been elected from New Jersey. All such elections have been void.

The Legislature may prescribe by other means than a law. It may exercise its authority by joint resolution, by rule, and by ordinance. And each House prescribes rules for its own government. Under them the voice of the House may be taken in a variety of ways, by acclamation, by tellers, by rising, and by yeas and nays. When the action of either House is reported to the other, they cannot inquire into the means by which such action was arrived at; that is controlled by the bodies themselves. Upon what principle, then, can the "joint meeting" be debarred from exercising the same privilege? The rules of the Senate cannot bind them, for they are not the Senate; nor can the rules of the House for the same reason. Yet there must be rules or there would be anarchy.

Suppose, however, for the sake of the argument, that the "Legislature in joint meeting assembled," is not the Legislature alluded to by the Constitution of the United States, when it directs that the "manner" of choosing Senators shall be prescribed in each State by the Legislature thereof; that the joint meeting, although competent to elect, could not prescribe the "manner," and you are driven to the inevitable conclusion that "the manner," as the expression is used in the Constitution, does not necessarily include within its meaning the regulation of the number of votes necessary to a choice, for the act in several other States, as well as New Jersey, fails to prescribe the number of votes necessary, and the manner therefore has never been prescribed in any of these States by the Legislature. Consequently, no Senators have ever been constitutionally elected therefrom.

It seems then that the "Legislature when in joint meeting assembled" are competent to prescribe the "manner" of election under the Constitution, or "the manner" was sufficiently described by the statute. One or the other of these propositions must be true. In either case the constitutional requirement is complied with.

"The Legislature in joint meeting assembled," was the "manner" by the statute, and the number of votes requisite to a choice—as well as the method of making the result of the individual choice of its members the choice of the Legislature, and properly manifesting it—were questions of custom and parliamentary law; the authority to decide which was inherent in the body from the necessity of the case, and was, moreover, an incidental power resulting from the duty imposed by the Constitution of the United States and the "manner" prescribed by the Legislature.

Although the Legislature in joint meeting assembled may not be able to pass a law, or do any act which the Houses are required to do separately, when it is admitted that they can elect a Senator, it necessarily follows that they can pass rules for their governance while in the performance of that duty.

The distinguished Senator from Maine [Mr. FESSENDEN] said, in Harlan's case, (Thirty-Fourth Congress, third session,) speaking of the inherent powers of a Legislature when assembled in joint meeting:

"The convention being formed" * * * * "it remains to inquire what were the incidents of the convention itself. A convention has certain legal incidents. It has the power to adjourn if it is legally formed. It has the power to decide what shall constitute a quorum, if there is no overruling constitutional provision on that point. It has the power to organize. It has the power to decide who shall preside over it. It has the power of perpetuation, unless its existence is terminated by a superior power at a certain time. Then this convention being assembled, whether under the statute or not, on coming together, had these incidents: the power of deciding how the Senator should be elected, a power of deciding what should constitute a quorum; the power of deciding that it might adjourn from day to day, or do anything else that it saw fit to do, and was not prohibited from doing by any provision of the Constitution of the United States."

The Constitution of the United States says "the times, places, and manner of holding elections for Senators shall be prescribed in each State by the Legislature thereof;" but it is silent as to the particular mode whereby such "times, places, and manner" shall be prescribed, and when an act is required to be done without any limitation as to form the body required to perform such act may select any form it chooses. The Legislature, therefore, may perform the duties imposed upon it in this instance either by statute, by concurrent resolution, by joint resolution, by ordinance, or by rule in joint meeting assembled. They are not confined to the mode by statute, for a statute requires the sanction of the Governor, and the Governor is no part of the "Legislature." But the second clause of the same section of the Constitution says "Congress may at any time, by law, make or alter such regulations." Here the manner in which Congress may perform this act is expressly provided. It is "by law," *i. e.* by statute; but the more comprehensive word "regulations," *i. e.* rule, order, or law, is used when referring to the mode prescribed by the Legislature, namely, "may" "alter such regulations." The Legislature, therefore, under the Constitution of the United States, having full power to prescribe "the times, places, and manner" in any way it shall see fit, neither the Senate nor the Congress of the United States can dictate to it the mode in which such duty shall be performed. Congress may "by law," under the Constitution, "make" regulations of its own, or "alter" those already made by the Legislature, but it cannot interfere with the Legislature in its selection of the mode by which it will perform the duty imposed upon it by the Constitution of the United States, and if Congress cannot interfere, much less can the Senate of the United States. As well might the Legislatures of the several States attempt to dictate to Congress the modes in which they shall execute the powers which have been granted by the several States to the Union.

Mr. Badger, in the discussion of the Florida case, says:

"The Constitution of the United States bestows upon the Legislature the power of prescribing the time, place, and manner of electing the Senators and members of the House of Representatives. It confers upon them the whole jurisdiction, the entire power of making the law in regard to elections. The gentleman (Mr. Yulee) has stated that only the formalities of an election, the orderly method merely of conducting it, is committed to the Legislature, but not the law of elections. This, surely, is not so. Does not the Constitution of the United States give them the whole power? Certainly it does. The State has the power to prescribe the time, place, and manner of the election; but Congress, the only other authority over the subject, has power only to regulate these three things. If, then, these do not include the whole power, then the whole power is not by the Constitution conferred at all. But this cannot be; and hence, subject only to the control of Congress, the State has the entire power over the subject."

Again, he says:

"Now, we must recollect that on this subject we are dealing with a transaction which took place in Florida; in a legislative body of that State, which not only has power to prescribe its own rules, but also to decide judicially upon the existence and operations of a rule, so far as their elections are concerned."

Again, he says:

"Now, whether these 29 votes are to be considered as votes of assent, or no votes at all, depends entirely upon the laws and usages of the State of Florida. The Congress of the United States, not having exercised the power which, under the Constitution, they might exercise, to interpose regulations in regard to the election of Senators, this election depended exclusively upon the rule prescribed by the Legislature of Florida. An attempt is made to show that there is something in the decisions of other States and tribunals, something in the nature of a general parliamentary law, which controls the State of Florida on this point, and fixes the character of assent upon these blank votes, or makes them nullities. Permit me to say, that if it were shown that every other State in the Union, or on the face of the earth, had laid it down as a rule that blank votes should be rejected, or counted as votes of assent, this would not in the slightest degree affect this election, if a different rule or practice has prevailed in Florida; for Florida, in the absence of any legislation by Congress, has as absolute a right to prescribe a rule or adopt a practice of her own, as to the mode of signifying assent or dissent, as any other tribunal, or Legislature, or authority on earth. So that the question at last comes around, not as to what is the rule of the Legislature of New York or Rhode Island, but what is the rule established by the Legislature of Florida? That is the only question. Allow me to remark that this Senate has no jurisdiction to prescribe any rule or to control any rule that has been prescribed in a State; our function is purely judicial; we are to judge of the election, to say whether a party has been elected according to the rules or practice prevailing in the State from which he comes."

It has been the uniform custom for the Legislature of New Jersey in joint meeting assembled to make rules for its government. Mr. Stockton was chosen under the rules adopted by the joint meeting. Whether the rules adopted on that occasion when that election took place were the same as on other occasions is not a question which concerns the Senate of the United States.

Delegates to the Continental Congress were elected in New Jersey in joint meeting before the adoption of the Constitution of the United States. Senators have always been elected in joint meeting, and no joint meeting has ever assembled in New Jersey that did not adopt rules for its own government. Both under the old and new constitution of New Jersey, the acts of the Legislature which prescribed the "manner" of election of United States Senators fail to go into detail as to the form of taking the sense of the joint meeting, because by both constitutions the two Houses are clothed with all legislative power, and are a constitutional Legislature when in joint meeting assembled, and because the custom derived from parliamentary law for them to make the rules for the joint meeting, in joint meeting, each meeting for itself, was older than the Constitution of the United States.

A brief historical examination of this question will place it beyond doubt.

The Constitution of the United States went into operation March 4, 1789.

The old constitution of New Jersey, which remained in force until 1844, went into operation July 2, 1776.

That constitution vested the government in a Governor, Legislative Council, and General Assembly. After providing for the election of the two branches of the Legislature, it declares that the Council and Assembly jointly, at their first meeting after each annual election, shall by a majority of votes elect some fit person within the colony to be a Governor for one year, who shall be constant President of the

Council, and have a casting vote in their proceedings.

The Articles of Confederation became obligatory on all the States in March, 1781. They declared that Delegates should be chosen in such manner as the Legislature of each State should direct.

Accordingly by an act passed in 1783, section twenty-two, it was enacted that the Council and Assembly in joint meeting at the first sitting of the Legislature after the annual election, and at any other time when the same may be necessary, shall elect and choose any number of Delegates not less than three nor more than seven to represent this State in the Congress of the United States, and shall agree upon the form of credentials to be given them of their appointment, which credentials signed by the chairman of the joint meeting, shall authorize the said Delegates to sit and vote on the part of this State, in the Congress of the United States, during the year or time for which they are elected, unless in that time superseded by a new appointment; and it was further enacted in section twenty-five, that no person shall be hereafter elected a Delegate to represent this State in the Congress of the United States, unless he hath been a freeholder within this State for at least three years, and an inhabitant of the same for at least seven years next before his election, and worth £1,000 in real and personal estate within this State. In addition, it was required that he should take before one of the judges of the court of common pleas of the State the oaths of abjuration and allegiance.

The joint meeting was established, then, by our old constitution long before the Constitution of the United States. It was the instrument of electing our Governor.

By the Articles of the Confederation the Delegates were, almost in the language of the present Constitution of the United States, to be chosen in such manner as the Legislature shall direct. The Legislature directed in joint meeting. From 1781 to 1790, the Council and Assembly met sometimes in the house of Mr. Howell, in Trenton, in the library of the college at Princeton, in the Methodist church, in the city of Burlington, and in other places. They made their own rules in reference to all other matters except the number necessary to elect the Governor which was provided in the constitution. In reference to other officers, when no rule was adopted as to the number necessary to elect, they elected not by an absolute majority of the whole body, but by a majority of those present. In case a majority of those present was not attainable, the rules of practice required that only the two highest candidates should be voted for on the next ballot. As, for example:

November 25, 1783. The Council and Assembly met at the house of Francis Witt, in Trenton. John Schurman having declined his appointment as treasurer, the joint meeting proceeded to the election of another person in his room. Ephraim Harris, Moore Furman, and James Mott were nominated. Harris had 14, Furman 6, Mott 20. "Whereby it appears that neither candidate had a majority of the votes present; therefore, the two highest were voted for again."

This rule of the joint meeting, requiring the name of the lowest candidate to be dropped, was only one means of expressing the will of the majority. It compelled certain members either to remain silent, or cast their votes for one of the two highest candidates. Strictly speaking this is only another means of declaring that the candidate who in reality is but the choice of a minority of the members, should be formally declared to be the choice of a majority. A majority of the members present being unable to agree in their choice of an individual, consent that the parliamentary rule requiring a majority shall be complied with, by compelling certain of the members to forego their preference. In order to do this certain members must voluntarily surrender their rights, otherwise no determination could be arrived at by the majority. Is not this only another, and a more arbitrary manner of declaring that the choice of a plurality shall be the choice of a majority of the whole?

The rule which appears to have been always adopted at the commencement of the session was:

"*Resolved*, That the election of State officers during the present session be *viva voce*, and that all officers be put in nomination at least one day before the election."

In reference to Delegates, the usual entry is in this form:

"November 23, 1780. The Council and Assembly met at the house of Mr. Bergen, in Trenton.

"The joint meeting proceeded to the election of Delegates to represent this State in Congress, and the votes being taken, Hon. John Witherspoon, Abraham Clark, William Churchill Houston, William Paterson, William Barnett, Esqs., were duly elected."

And a resolution followed empowering them to vote and to represent the State in the Congress of the United States of North America.

When then, in 1789, the Constitution of the United States became operative, the clause which left "the times, places, and manner" of the election of Senators and Representatives to the Legislatures of the several States, was in accordance with the plan which had been thirteen years in use.

In 1790, on the 12th of November, the Legislature of New Jersey passed another act in reference to the duties required of New Jersey by the Constitution, entitled "An act to prescribe the manner of appointing Senators of the United States, and Electors of the President and Vice President of the United States, on the part of this State."

The first section is in these words:

"*Be it enacted by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That Senators of the United States on the part of the State shall be appointed by the Council and General Assembly of this State in joint meeting assembled, on the first Tuesday of November of every year in which this State is authorized to elect a Senator of the United States, at the place where the Legislature shall then sit, and on such other day or days as may be appointed by the Congress of the United States."

The act provides for the Governor's filling vacancies when the Legislature is not in session, the appointment of Electors for President, and concludes:

"That every person who shall be elected a Senator or Elector on the part of this State shall be commissioned by the Governor of this State, or the person administering the government for the time being, under the great seal of the State."

There was a supplement passed in October, 1790, and the 18th of January, 1805, merely referring to the time of election, Congress having left the time, place, and manner to the Legislature. They say as to Senators as they did in reference to Delegates, "By the Council and General Assembly of this State in joint meeting assembled." That Council and General Assembly under this constitution being the Legislature, and under it, acting in joint meeting, to elect the Governor.

The joint meeting of November 13, 1794, adopted for their government the rules and orders of the House of Assembly. November 20, 1794, fifteen rules and orders were adopted for the government of the joint meeting, which, with occasional additions and alterations, have been adopted since that time. They were as follows:

"1. That the election of State officers during the present session be *viva voce*, unless when otherwise ordered; and that all officers be put in nomination at least one day before their election.

"2. That the chairman shall not be entitled to vote except in case of a tie, and then to have a casting vote.

"3. That the chairman attend carefully to the preservation of order and regularity in transacting the business of the joint meeting; that he shall not engage in any debate or propose his opinion on any question without leave of the joint meeting.

"4. That every member, when he speaks, shall stand up in his place, and address himself to the Chair.

"5. That in all debates and proceedings the members observe the strictest decorum, and that if any one use indecent expressions or utter any personal reflections, or otherwise offend herein, he be censured according to the nature and aggravation of the offense.

"6. That no debate ensue or question be put as a motion unless it be seconded, when it shall be open to debate, and the same receive a determination by the question, unless it be laid aside by the joint meeting, or motion be made to amend it, to postpone it, or for the previous question.

"7. The previous question shall be in this form: Shall the main question now be put? And until decided shall preclude all amendment and further debate on the main question.

"8. If any motion contain more than one simple question any member may have it divided into as many parts as there are distinct questions, if seconded in his motion.

"9. That no member speak more than twice on the same subject in the same debate without leave of the House.

"10. That all questions of order be determined by the chairman, subject to an appeal to the joint meeting when demanded by four members.

"11. That when two or more members rise to speak nearly at the same time the chairman shall decide who shall speak first.

"12. When any question is stated, and by the joint meeting agreed to be put, no member shall be at liberty to withhold his vote without the leave of the joint meeting.

"13. That the names of the members voting, and for whom they have voted, shall be entered on the minutes if moved for and seconded.

"14. That the joint meeting may adjourn when the list of nominations is not gone through with.

"15. That reappointments may be made without resignations or the commissions being expired, if the commissions of the persons to be reappointed expire the same sitting in which the joint meeting shall be held."

October 28, 1796, it was resolved that the rules and orders established by the joint meeting on the 20th of November, 1794, as entered on their journal for that date, be the rules for the government of this joint meeting until otherwise ordered.

In 1797 the rules of the 20th of November, 1794, were adopted, with the additional rule opening the doors of the gallery, &c.

The journals of each year usually set out the rules in detail, but occasionally only refer to the portion altered, stating the rules of the last joint meeting were adopted, with an exception, addition, or alteration, as the case might be.

On the 2d day of September, 1844, a new constitution went into operation in New Jersey, which declared "the legislative power shall be vested in a Senate and General Assembly." In article seven, section two, in providing for the appointment of civil officers, it says judges of the courts of common pleas shall be appointed by the "Senate and General Assembly in joint meeting." So with the treasurer and keeper of the State prison and other officers.

The joint meeting is, under our constitution, the Senate and General Assembly, in which all legislative power is vested.

It is provided that the Governor shall be elected by the legal voters of this State; "the person having the highest number of votes shall be the Governor." If two or more shall be equal and highest in votes, one of them shall be chosen Governor by the vote of a majority of the members of Houses in joint meeting.

The necessity for expressing that it should be a majority of both Houses in this case excludes the idea of any restraint on the power of the joint meeting to make their own rules, as they had been accustomed to do in all others.

April 2, 1845, Peter D. Vroom, Henry W. Green, William L. Dayton, and Stacey G. Potts were appointed to revise the laws, suggest amendments, &c.

The present act in reference to the appointment of United States Senator is to be found in their revision on page 806, as it is now in Nixon's Digest, page 547, as follows:

"1. *Be it enacted by the Senate and General Assembly of the State of New Jersey*, That Senators of the United States on the part of this State shall be appointed by the Senate and General Assembly of this State in joint meeting assembled; and in case a vacancy or vacancies shall happen, by death or otherwise, at any time during the sitting of the Legislature, then and in such case the vacancy or vacancies so happening shall be filled during such sitting, by the Senate and Assembly of this State; and if a vacancy or vacancies, by the death of either or both of the said Senators, or otherwise however, shall happen during the recess of the Legislature, then the Governor of the State, or in case of his death, absence, or other disqualification, the person administering the government for the time being, may make a temporary appointment or appointments until the next meeting of the Legislature, which shall then fill such vacancy or vacancies.

"2. *And be it enacted*, That every person who shall

be elected a Senator on the part of this State, shall be commissioned by the Governor of this State, or the person administering the government for the time being, under the great seal of the State."

The Legislature were no longer the Council and General Assembly, but the legislative power had been vested in the Senate and General Assembly by the new constitution, and they are commanded by the Constitution of the United States to prescribe the manner. Hence the changed form of the act.

In 1845, 1846, 1847, 1848, 1849, and 1850, the rules for the election were prescribed as they had been before the adoption of the new constitution; sometimes adopting the rules of the last joint meeting, and sometimes altering them.

In 1851, after electing the officers in the usual way, the Journal states that the following rules for the government of the joint meeting were read, (and after setting them out at length,) Mr. Edward G. Rogers moved that the first rule be amended by striking out the words "*viva voce*," and inserting the words "by ballot" in lieu of it; not agreed to. Adjourned to February 14, 1851.

Mr. Canfield offered the following resolution, which was agreed to:

"That no person shall be elected to any office at any joint meeting during the present session, unless there be a majority of all the members elected personally present, and agreeing thereto."

Nominations were made for Senator; 40 votes were necessary to a choice under the rule. No one receiving the requisite number, the joint meeting adjourned.

After various adjournments and efforts to elect, Mr. Hineline offered the following:

"*Resolved*, That the rules of the joint meeting requiring a majority of all the members elected to the Legislature to elect any officer be rescinded, and that a majority of those voting be sufficient to elect any officer to be appointed by this joint meeting."

The motion being agreed to, a ballot was taken, and a United States Senator declared elected by 39 votes; they being a majority of all cast.

In 1852 they adopted fifteen resolutions, which are set out in the Journal, to govern the joint meeting, on motion of Mr. Alexander.

In 1853, the same, on motion of Mr. Sitgreaves.

In 1854, on motion of Mr. Mulford.

Some of the officers "chosen" by the joint meeting in nearly every session were chosen without a ballot or a poll—by acclamation, as it was termed.

1855. Mr. Allen moved that the rules of the last joint meeting be the rules for the government of the present joint meeting, until otherwise ordered. Motion was agreed to; and the rules were read, and adopted.

Mr. Allen moved the following as an additional rule for the government of this joint meeting:

"That all candidates for office upon receiving a majority of the votes cast by this joint meeting shall be declared duly elected."

Motion agreed to, and rule adopted accordingly.

Mr. Roberts moved the following:

"*Resolved*, That this joint meeting will vote for the officers on nomination by voice, except for the treasurer and keeper of the State prison, which officers shall be voted for by ballot, after the election of the other officers."

Mr. Allen moved to amend the resolution by striking out the words "by ballot."

Motion to strike out agreed to.

Mr. Hoxsey moved to amend the resolution by striking out all after "resolved," and inserting "that this joint meeting in voting for treasurer and keeper of the State prison will vote by ballot." Motion to strike out and insert was not agreed to, &c.

In 1859, Mr. Buckley moved that the rules of the last joint meeting be adopted as the rules for the government of the present joint meeting, until otherwise ordered.

Mr. Chandler moved as an amendment to the said motion that the twelfth rule of the last joint meeting be omitted, and that the vote on his amendment be taken by ballot.

Mr. Buckley moved that the vote be taken *viva voce*.

The vote was ordered to be taken *viva voce*; the amendment not agreed to, and the rules of the last joint meeting adopted.

In 1860, on motion of Mr. Buckley, the rules of last joint meeting were adopted and set out in the journal.

In 1861, Mr. Demarest moved that the rules of the last joint meeting be adopted as the rules for the government of the present joint meeting until otherwise ordered, which motion was agreed to, and said rules adopted, as follows:

"1. That the election of State officers during the present session be *viva voce* unless when otherwise ordered.

"2. That the chairman shall attend carefully to the preservation of order and regularity in transacting the business of the joint meeting, and that he shall not engage in any debate, or propose his opinion on any question, without leave of the joint meeting.

"3. That every member when he speaks shall stand up in his place, and address himself to the Chair.

"4. That in all debates and proceedings the members shall observe the strictest decorum, and that if any one use indecent expressions, or utter any personal reflections, or otherwise offend herein, he be censured according to the nature and aggravation of the offense.

"5. That no debate ensue, or question be put on a motion, unless it be seconded, when it shall be open to debate, and the same receive a determination by the question, unless it be laid aside by the joint meeting, or a motion be made to amend it, to postpone it, or for the previous question.

"6. The previous question shall be in this form: Shall the main question now be put? And until decided, shall preclude all amendments and further debate on the main question.

"7. If any motion contain more than one simple question, any member may have it divided into as many parts as there are distinct questions, if seconded in his motion.

"8. That no member speak more than twice on the same subject in the same debate, without leave of the joint meeting.

"9. That all questions of order be determined by the chairman, subject to an appeal to the joint meeting when demanded by four members.

"10. That when two or more members rise to speak nearly at the same time, the chairman shall decide who shall speak first.

"11. When any question is stated, and by the joint meeting agreed to be put, no member shall be at liberty to withhold his vote without leave of the joint meeting.

"12. The names of the members voting, and for whom they have voted, shall be entered on the minutes, if moved for and seconded; and the ayes and noes shall be entered upon the journal upon every question taken in the joint meeting, other than questions of appointment, when moved for and seconded by five members, except the vote be unanimous.

"13. That the joint meeting may adjourn when the list of nominations is not yet gone through with.

"14. The appointments or reappointments may be made without resignation or the commissions being expired, if the commissions of persons in office shall expire the same sitting, or within two months thereafter: *Provided*, That when a new appointment is made, the person so appointed shall not be considered as in commission until the expiration of the commission of the former person whose place it is to supply.

"15. That in all questions the chairman of the joint meeting be called upon to vote in his turn as one of the representatives in the Senate or Assembly, but that he have no casting vote as chairman.

"16. That all candidates for office upon receiving a majority of the votes cast by this joint meeting shall be declared to be duly elected."

It will be observed that in the second rule adopted in 1794, the chairman was not entitled to a vote, except in case of a tie, and then to have a casting vote; and by the fifteenth rule, as above, he votes in his turn as a member, but has no casting vote.

In 1862, Mr. Demarest moved that the rules of the last joint meeting be adopted for the government of this joint meeting.

On motion of Mr. Cook, the rules were read.

Mr. McGrath moved to amend so that the voting would be by ballot. The yeas and nays being demanded, resulted—39 yeas, 40 nays.

So said amendment was not agreed to. The main question was then put and agreed to.

In 1863, on motion of Mr. Randolph, the rules of the last joint meeting were adopted for the government of this joint meeting.

In 1864, on motion of Mr. Buckley, the rules of the last joint meeting were adopted for the government of this joint meeting.

In 1865, the joint meeting that elected Mr. Stockton, the Journal says:

February 15. Mr. Holsman moved that the rules of the last joint meeting be adopted for the government of this joint meeting, except the sixteenth rule, for which he offered the following resolution:

"*Resolved*, That no candidate shall be declared elected unless upon receiving a majority of the votes of all the members elected to both Houses of the Legislature."

Which was agreed to.

March 15. The day to which the joint meeting had been regularly adjourned.

Mr. Holsman offered the following resolution, and moved its adoption:

"*Resolved*, That the resolution that no candidate shall be declared elected unless upon receiving a majority of the votes of all the members elected to both Houses of the Legislature be rescinded, and that any candidate receiving a plurality of votes of the members present, shall be declared duly elected."

Which resolution was adopted by a majority of all the members elected.

So that the rules of this joint meeting were the first fifteen rules adopted in 1861, and this last resolution in place of the sixteenth. That is, the plurality rule adopted in place of the rule requiring a majority of all elected which had been on the first day of the session of the joint meeting substituted for the sixteenth rule of the last joint meeting, which required only a majority of those voting.

Enough has been said to show that the joint meeting in New Jersey have always made their own rules. Being the Legislature, under the constitution, they needed no directions as to the rules of their joint action, but made them by parliamentary law, and custom dating before the constitution and continued to the present day.

Mr. President, I have but one other point to present to the Senate and then I shall close. I insist upon it that the Legislature acquiesced in the mode of the election, and unanimously ratified it as their choice.

The Journal shows that each House separately in the usual form unanimously adopted a resolution to go into joint meeting. Every member of both Houses was personally present at the time specified in pursuance of the resolutions, and voted to establish rules for the government of the body in conformity with the uniform practice since the adoption of the Constitution of the United States. Among others:

"That no candidate should be declared elected unless upon receiving a majority of all the members elected to both Houses of the Legislature."

At an adjourned session every member of the Legislature elected was present in pursuance of resolutions of the Houses to that effect, for the purpose of electing a United States Senator, when the vote was taken to rescind that rule, and substitute for it a rule that any candidate receiving "a plurality of votes of the members present shall be declared duly elected."

This rule was adopted by a majority of all the members elected, every member elected present and voting. Mr. Stockton received 40 votes, no one else receiving more than 37; there being 4 scattering votes.

Mr. Stockton was declared elected, in the presence of the whole Legislature; not one of whom expressed any dissent. The joint meeting transacted some other business and adjourned *sine die;* the Legislature was in session some fifteen days after the adjournment of the joint meeting, and finally adjourned for the session without one word of protest. There has not been one single word of legislative protest against it from that day to this. Certain individuals who allege that they were members of that Legislature, and I presume they were, did bring in a paper here protesting against my election, but there has been no legislative protest, no action on the part of the body that did the acts complained of as being improperly done.

Mr. Stockton was duly commissioned by the Governor of the State, under the great seal of the State, as provided by the act.

This was the will of the Legislature, expressed in the manner the majority had previously prescribed, and subsequently acquiesced in by all. It can, therefore, in no proper sense, be called a plurality election.

The two bodies met and gave a joint vote under a law which authorized it. The Houses

separated; neither House objected; of course they both assented, and the election is valid.

It is a familiar rule, applicable to all elections by political bodies, that the public declaration of the result of an election by the body itself or its presiding officer, with the acquiescence of every individual member, is conclusive.

It is also as well established that every individual member present at such public declaration of the result of the election, and at that time passing it *sub silentio*, acquiesces.

Multitudes of questions are determined in a legislative body without actual vote, merely by the declaration of the presiding officer, no member dissenting.

Cushing's Manual says, section 1792:

"In order that any proposition may become the act or will of the House it is necessary that it should receive the assent of a majority of the members, which may be manifested in two ways, namely, either by no one objecting to the proposition, in which case the sense of the House is ascertained by their common consent, the thing being sufficiently declared when no man contradicts it; or by a majority of the members declaring themselves in its favor.

"'*Consensus tollit errorum*,' is a maxim of the common law, and the dictate of common sense, and it may be implied as well as expressed."

Broom's Maxims, page 103, says:

"Where, at the trial of the cause, a proposal was made by the judge, in the presence of the counsel on both sides, who made no objection, that the jury should assess damages contingently, with leave to the plaintiff to move to enter a verdict for the amount found by the jury, it was held that both parties were bound by the proposal and that the plaintiff's counsel was not therefore at liberty to move for a new trial on the ground of misdirection, for *qui tacet consentire videtur*, the silence of counsel implied then their consent to the course adopted by the judge."

In the Queen *vs.* Green, 2 Q. B., C. J. Denman said:

"I am of opinion that the objection here taken is good. It is not necessary to scan particular cases. The principle is, he that concurred in inducing a party to exercise an office cannot be heard in this court on an application in this court to turn him out of that office."

Lord Kenyon said, in Rex *vs.* Clarke, 1 East., 46:

"The court will not listen to a corporator who has acquiesced or perhaps concurred in the very act which he afterward comes to complain of when it suits his purpose."

In Cameron's case, Thirty-Fourth Congress, third session, it was alleged by the protestants that the Senate did not appoint a teller and perform other duties at the time prescribed by the statute. The report of the Committee on the Judiciary, submitted by Mr. Benjamin, contains the following language:

"But where, as in the present case, both Houses proceeded without objection from any source to perform their constitutional duty of electing a Senator, the necessity of complying with any particular forms required by law may fairly be considered as waived by common consent, and it is entirely too late, after the result of the voting has been ascertained, to raise a question as to the mode of proceeding."

Mr. Bayard said in Harlan's case:

"I can well understand that where a quorum votes, the acquiescence of the two bodies, after the election is made and after the severance of the joint meeting precludes inquiry into the question of legality, because there is necessarily assent, in the same manner that we assent to votes taken here without a quorum, when no yeas and nays are called and no decision had. That principle is familiar in a variety of other cases. Acquiescence binds political bodies, and all other bodies. Where the contrary does not appear they are supposed to be present and to assent, not as a presumption of fact, but as a presumption of law; and a presumption of law is not controvertible by evidence. That is the meaning of what I say. If when the vote has been taken a majority of both bodies being present, by a quorum, a person is declared elected, and no objection is made by the action of either House singly, and they separate, of necessity it is a presumption of law that the election was valid, and neither House can afterward look into it."

Mr. Bayard said, in the same debate:

"I can understand perfectly well, under the principle of passing a measure *sub silentio*, that we have no right to inquire into the question how members of the Legislature, whether of the Senate or House, voted in regard to the election of a Senator of the United States, if the certificate comes here authenticated according to the laws of the State. Where the two bodies meet and give a joint vote, under a law which authorizes the expressed will of a majority of the whole to govern, and then the Houses separate and neither House objects to the election, of course they both assent and the election is valid."

Mr. Cushing says in his treatise on the Law and Practice of Legislative Assemblies:

"The rule of decision in all councils and deliberative assemblies, whose members are equal in point of right, is, that the will of the greater number present and voting—the assembly being duly constituted—is the will of the whole body. Hence, whatever is regularly agreed upon by a majority of the members of a legislative assembly is a thing 'done and past' by that body."

The principle as universally admitted is again emphatically pronounced by the same high authority in part first, chapter four, section three, under the title "Of the principle upon which the result of an election is determined:"

"In all collective bodies of men, assembled and acting together for the purpose of deliberating and deciding upon any subject, or for the purpose of electing to any office, it is an admitted principle that whatever is done or agreed to by the greater number shall stand as the act or will of the whole. This principle assumes, as its basis, the absolute and perfect equality of all the individuals, one with another, who enjoy the right of suffrage, in the possession of the elements essential to the determination of any act to be done, or to the formation of any judgment to be pronounced, or to effecting any election to be made as the act, judgment, or choice of the whole."

Again, part six, chapter two, section 1792, says:

"In order that any proposition may become the act, or express the sense, judgment, opinion, or will of the House, it is necessary that it should receive the assent of a majority of the members, or of such other number as may be agreed upon, or otherwise fixed beforehand; which may be manifested in two ways, namely, either by no one's objecting to the proposition, in which case the sense of the House is ascertained by their common consent, the thing being sufficiently declared when no man contradicts it, or by a majority or the requisite number of the members declaring themselves in its favor, in which case the sense of the House is ascertained by a question put and determined."

The act of the Legislature left the election to the expressed will of a majority of the joint meeting. That majority agreed that the "choice" of the Legislature should be indicated by the plurality rule. This was the will of the majority; their choice. It was the act, judgment, and choice of the whole. It is the "Legislature" that elects; not the members thereof. They act under the rules that they may adopt, and the principles of parliamentary law as established by authority and usage. The question is not what any individual member prefers nor how he manifests his preference. It is, what is the choice of "the Legislature" as legally manifested? As a private corporation acts under the common seal of the body, properly authenticated, the Legislature of New Jersey provides how the result of their choice shall be manifested to the United States Senate and to the world, by a commission under the great seal of the State.

When Mr. Stockton was declared elected in the joint meeting, according to the manner of choice agreed upon by the whole, it was notice that in the view of the presiding officer he was the choice of the Legislature, and that so would the Legislature speak by its only voice, the signature of the Governor and the great seal of the State.

The declaration was assented to *sub silentio*.

The Governor was authorized by the Legislature, under the great seal of the State, to commission Mr. Stockton as Senator, for so they said all. If this election was not the will of the majority, why was the declaration that Mr. Stockton was duly elected permitted to pass in silence? If they desired to avoid the result of the plurality vote which they had previously agreed to, whether it was in their power to do so or not, they would have manifested it, if only to prevent the conclusion of unanimous consent.

Having the return, he is entitled to take his seat upon his credentials, beyond question. It is equally true that the fact that there was some error or mistake in giving the credentials, by which they did not properly express the choice of the Legislature, may be subsequently examined when properly brought before the United States Senate. But in order to raise even this question, it is manifest that the charge must be that the credentials do not properly express the will of the Legislature at the time of the election, while they were in session, before they separated, while the matter was pending. This is the foundation of the attack; no charge without it can authorize an examination. Admit that the Legislature agreed by a vote of a majority of the whole to select in this manner, to express their choice in this way; that when the result was reached they heard it announced and declared, aproved it by unanimous consent, silently confirmed the result of the majority rule by the action of the whole, made it the duty of the Governor to commission the candidate declared to be elected under the great seal of the State, and you are estopped from attempting to prove that the election was invalid.

Individual members may change their mind after the joint meeting, and the Legislature had adjourned, and ceased to exist, but this cannot alter what was done by the Senate and Assembly when assembled in joint meeting.

The protest of individual members after the adjournment of the Legislature, affected in no manner the action of the Legislature in its official capacity. The majority of the Legislature authorized the application of the plurality rule. Subsequent to its application, they confirmed and ratified their previous action by their silence when Mr. Stockton was declared duly elected. Their official power to question their action has expired. Their subsequent protest as individuals could in no manner affect their official action as representatives, though they might, in common with any other individual, contest the validity of such legislative action.

The Senate is the "judge of the elections, returns, and qualifications of its own members," but in reference to the manner of the election, they are confined to the question, whether or not it was done as prescribed by the Legislature of the State. If both Houses have assented, there is nothing upon which the Senate of the United States can pass judgment.

In conclusion, Mr. President, from the foregoing examination I think I have proved the following propositions:

1. Senators of the United States are to be "chosen" by the Legislatures of the several States.

2. The "manner" of the choice is to be prescribed by the Legislature thereof.

3. The Legislature of New Jersey, by statute, indicated "the Senate and Assembly in joint meeting assembled" as the "manner" in which the duty imposed upon them by the Constitution of the United States should be performed.

4. The constitution of New Jersey recognizes "the Senate and Assembly in joint meeting assembled" as the Legislature of the State.

5. "The Senate and Assembly in joint meeting assembled" have full power to determine the "manner" of the election of the United States Senator, by the authority derived from the Constitution of the United States; the constitution of the State; by virtue of the statute law of the State; by parliamentary usage, and by universal custom.

6. That if the joint meeting had not the power to prescribe the manner of choice, yet the "manner" being determined by the statute of the State, "the Senate and Assembly in joint meeting assembled" were authorized to indicate their choice by such rules as they might adopt.

7. The election of Mr. Stockton under the rules adopted by the joint meeting of 1865 was not a plurality election, but was the choice of the majority, expressed by the method indicated by them, so declared in the resolution previous to the election, and subsequent to it, by the silence and acquiescence of all the members.

8. That the whole body confirmed the legal election of Mr. Stockton, and authorized the Governor, under the statute, to commission him as United States Senator for six years from the 4th of March, 1865, and thereby the matter is concluded.

Mr. DAVIS. I move to amend the amendment of the Senator from New Hampshire by striking out all after the word "is" in the first line of the proposed amendment, and in lieu thereof inserting—

That the Legislature of New Jersey having convened in joint meeting to choose a Senator to the

Congress of the United States for six years from the 4th of March, 1865, and said Legislature in said joint meeting having passed an order that such election should be made by a plurality vote of that joint meeting; and on the first ballot taken by said meeting John P. Stockton having received 40 out of the 81 votes of the members of both Houses of the Legislature constituting such Legislature in said joint meeting, and every other person voted for, a less number, and the presiding officer of said joint meeting having then announced to it that the said John P. Stockton was elected Senator to Congress, and there being no objection or dissent expressed to said enunciation, the said John P. Stockton was duly elected a Senator from said State and is entitled to hold his seat as such from the 4th of March, 1865.

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

The yeas and nays were ordered.

Mr. ANTHONY. I have already indicated by my vote my concurrence with the report of the Judiciary Committee in this case, but I can see no possible use of piling amendment on amendment in this way, and I shall vote against it.

The question being taken by yeas and nays resulted—yeas 15, nays 27; as follows:

YEAS—Messrs. Buckalew, Cowan, Davis, Doolittle, Guthrie, Hendricks, Johnson, McDougall, Morgan, Nesmith, Norton, Riddle, Saulsbury, Van Winkle, and Willey—15.

NAYS—Messrs. Anthony, Brown, Chandler, Clark, Conness, Cragin, Creswell, Fessenden, Grimes, Harris, Henderson, Howard, Howe, Kirkwood, Lane of Indiana, Nye, Poland, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Trumbull, Wade, Williams, and Wilson—27.

ABSENT—Messrs. Dixon, Foot, Foster, Lane of Kansas, Morrill, Stewart, Stockton, and Wright—8.

So the amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question now is on the amendment of the Senator from New Hampshire, upon which the yeas and nays have been ordered. With the permission of the Senate, before the roll is called, the Chair will state that upon this question he is paired with the Senator from Maine, [Mr. MORRILL,] who is absent. The Senator from Maine, if present, would vote for the amendment; the Chair would vote against it.

Mr. McDOUGALL. I move that the further consideration of the subject before the Senate be postponed until to-morrow, Wednesday, at one o'clock p. m.

Mr. CLARK. I hope not.

Mr. McDOUGALL. On that question I ask the yeas and nays.

The yeas and nays were ordered.

Mr. ANTHONY. I desire to state again that I regard this as a mere dilatory motion on a subject upon which the sense of the Senate has already been taken, and without meaning it to be an indication of my vote on the main question, I shall vote against the postponement.

The question being taken by yeas and nays resulted—yeas 15, nays 28; as follows:

YEAS—Messrs. Buckalew, Cowan, Davis, Doolittle, Guthrie, Hendricks, Johnson, McDougall, Morgan, Nesmith, Norton, Riddle, Saulsbury, Van Winkle, and Willey—15.

NAYS—Messrs. Anthony, Brown, Chandler, Clark, Conness, Cragin, Creswell, Fessenden, Foster, Grimes, Harris, Henderson, Howard, Howe, Kirkwood, Lane of Indiana, Nye, Poland, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Trumbull, Wade, Williams, Wilson, and Yates—28.

ABSENT—Messrs. Dixon, Foot, Lane of Kansas, Morrill, Stewart, Stockton, and Wright—7.

So the motion was not agreed to.

The PRESIDENT *pro tempore*. The question now is upon the proposed amendment.

Mr. JOHNSON. What is the amendment before the Senate?

The PRESIDENT *pro tempore*. The proposed amendment will be read.

The Secretary read the amendment of Mr. CLARK, which was to strike out of the resolution of the committee the words "was duly elected, and is entitled to his seat, as a Senator from the State of New Jersey for the term of six years from the 4th day of March, 1865," and in lieu thereof to insert, "is not entitled to a seat as Senator from the State of New Jersey for the term of six years from the 4th of March, 1865."

The Secretary proceeded to call the roll on the amendment.

Mr. STOCKTON. I desire to state, in order that it may be a part of the record, that I do not vote on this question, on account of the resolution passed by the Senate yesterday.

The result was then announced—yeas 22, nays 21; as follows:

YEAS—Messrs. Brown, Chandler, Clark, Conness, Cragin, Creswell, Fessenden, Grimes, Howard, Howe, Kirkwood, Lane of Indiana, Nye, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Wade, Williams, Wilson, and Yates—22.

NAYS—Messrs. Anthony, Buckalew, Cowan, Davis, Doolittle, Guthrie, Harris, Henderson, Hendricks, Johnson, Lane of Kansas, McDougall, Morgan, Nesmith, Norton, Poland, Riddle, Saulsbury, Trumbull, Van Winkle, and Willey—21.

ABSENT—Messrs. Dixon, Foot, Foster, Morrill, Stewart, Stockton, and Wright—7.

So the amendment was agreed to.

The PRESIDENT *pro tempore*. The question now is on the resolution as amended:

Resolved, That John P. Stockton is not entitled to a seat as Senator from the State of New Jersey for the term of six years from the 4th of March, 1865.

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

The Secretary proceeded to call the roll.

At the conclusion of the call of the roll,

Mr. RIDDLE, (who had at first voted in the negative.) I ask to change my vote from the negative to the affirmative. I vote "yea."

Mr. STOCKTON. I desire to announce that I did not vote on this ballot, because I was deprived of my vote by the resolution of the Senate passed yesterday.

The PRESIDENT *pro tempore*. Before announcing the vote, with the permission of the Senate, the Chair will state that upon this question he has paired with the Senator from Maine who is absent. The Senator from Maine, if present, would vote for this resolution; the Chair would vote against it.

The result was then announced—yeas 23, nays 20; as follows:

YEAS—Messrs. Brown, Chandler, Clark, Conness, Cragin, Creswell, Fessenden, Grimes, Howard, Howe, Kirkwood, Lane of Indiana, Nye, Pomeroy, Ramsey, Riddle, Sherman, Sprague, Sumner, Wade, Williams, Wilson, and Yates—23.

NAYS—Messrs. Anthony, Buckalew, Cowan, Davis, Doolittle, Guthrie, Harris, Henderson, Hendricks, Johnson, Lane of Kansas, McDougall, Morgan, Nesmith, Norton, Poland, Saulsbury, Trumbull, Van Winkle, and Willey—20.

ABSENT—Messrs. Dixon, Foot, Foster, Morrill, Stewart, Stockton, and Wright—7.

So the resolution as amended was agreed to.

Mr. CLARK. The Senator from Delaware having voted in the affirmative undoubtedly for the purpose of moving a reconsideration, I move now a reconsideration of the vote, and hope that every Senator who voted for the resolution will vote against the reconsideration, and I ask the trial now. ["Question!" "Question!"]

The PRESIDENT *pro tempore*. It is moved that the Senate reconsider their vote passing this resolution.

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

The yeas and nays were ordered.

Mr. SHERMAN. The question occurs to me whether a motion to reconsider can be twice entered.

The PRESIDENT *pro tempore*. This resolution, in the opinion of the Chair, is a different one from the other. There was a motion made to amend the other. It passed without amendment. The motion now has been to strike out and insert other matter, which makes this, in the judgment of the Chair, a new resolution and subject to a motion to reconsider.

Mr. HENDRICKS. I move to postpone the further consideration of the motion to reconsider until to-morrow at one o'clock, and on that motion I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. TRUMBULL. I have voted steadily against all propositions to deprive the Senator from New Jersey of his seat. I thought the request to postpone this matter until Thursday next was a reasonable one, and I voted for it. The majority of the Senate disagreed with me, and voted it down. I shall take no part in motions made simply for delay. I will enter into no struggle with the Senate. Having voted to postpone the matter until Thursday, and the majority of the Senate overruling me, although I disagree with the judgment to which the Senate has come, I shall make no factious opposition to that judgment. If the majority of the Senate are opposed to postponing the matter until Thursday, I shall not unite in any of these dilatory motions, and, therefore, I shall now vote against postponing, unless there is some probability that somebody has changed his vote and we could postpone it. If there was any disposition on the part of Senators to postpone it, I would unite with them; but I look upon these motions now made as having no other effect than that of delay, it being manifest that the majority of the Senate which is here is opposed to postponing.

Mr. SHERMAN. I have voted steadily on this question from, I believe, a conscientious judgment upon the merits of this case against the right of Mr. Stockton to his seat. I have now not the slightest doubt upon it. I do not think that a joint convention of a Legislature can prescribe a plurality rule. The Constitution says explicitly that the Legislature shall prescribe the time, place, and manner of electing a Senator. In prescribing the "manner," in my judgment the Legislature must concur, and the Legislature means the two branches acting separately in a legislative capacity. They may prescribe the manner. They may authorize it to be done by a joint vote. Here is the sole point upon which I rest my judgment: that while the Legislature may prescribe a plurality rule in the election of a Senator, a joint convention of the Legislature in the exercise of the law cannot do it.

But at the same time this is a high judicial question, and I therefore have been willing to grant every request the Senator from New Jersey could make, every request that a reasonable judge acting under the solemnities of an oath would give to a man on trial before him. And now, if there was any reasonable probability that a change in the vote of the Senate would occur by the presence here of members who are detained by sickness or any other cause, I should vote to postpone until to-morrow or Thursday. I voted yesterday to postpone until Thursday upon the declaration made by the Senator from New Jersey that his colleague might be here. And now, if any Senator can state upon his honor as a gentleman, that there is a reasonable prospect that he believes that the Senator from New Jersey [Mr. WRIGHT] can be here, and that a different result from the full vote of the Senate would occur, I would have no objection whatever to change my vote in that particular, and vote for a postponement; but there has been no such declaration. The Senator from New Jersey, whose case we have acted upon, did not state that he believed his colleague could be here. The Senator from Nevada, [Mr. STEWART,] who is the only other person absent, was here this morning in his seat. He is not here now. We therefore cannot postpone this question until to-morrow to secure his vote. He is certainly able to be here to vote, because he has been in the Hall to-day. Why should we postpone this matter for the presence of the Senator from New Jersey when we have no assurance that he can be here to-morrow? There must be an end of all controversy, and although this is a close vote, I believe it has been an honest one.

The Senator from Kentucky, I regretted to see, yesterday charged Senators who voted against the right of Mr. Stockton to his seat with doing so from party considerations. I can speak honestly for myself, that in this matter I have not been influenced in the slightest degree by party feeling. But as there is now no object in postponing this matter, as important public business is lying on your table and ought to be acted upon, I think we ought to consider this matter as at an end; and therefore the motion to reconsider ought to be voted upon now, unless we have some positive and reasonable assurance that other Senators who have a right to vote will be here to vote to-morrow. I shall, therefore, vote against postponing the matter and shall vote for disposing of it now.

Mr. JOHNSON. It is very far from my purpose to suggest, because it is altogether opposed to my belief, that the vote which the Senate has pronounced has been governed by any party consideration; that is to say, that Senators have voted contrary to their judgment under the influence of party motives. Whether party motives may have influenced the judgment, is another matter; but that they have conscientiously acted, I have no doubt; and even if I had a doubt, I would not express it. I am as much opposed as the honorable member from Ohio [Mr. SHERMAN] or as the honorable member from Illinois [Mr. TRUMBULL] to motions made for the purpose of delay; and if there was nothing to be accomplished by the motion which is now made but to delay the vote, if it was factious in any sense, I should vote against it.

I recollect that at the last session when the question of the right of Senators from Louisiana to seats in this body was before us, the honorable member from Massachusetts [Mr. SUMNER] and the honorable member from Ohio [Mr. WADE] declared their purpose on the floor of the Senate to speak the session out in order to prevent a vote being taken on that question; and they spoke the session out. The honorable member from Massachusetts was, though in parliamentary language, still in fact, reproved by the honorable member from Illinois upon the ground that such a proceeding was factious. It was perfectly evident at that moment that if the vote had been taken, there would have been a majority for the Senators from Louisiana of some six or seven, and the avowed purpose of the two honorable gentlemen to whom I have adverted in speaking out the session was to prevent that vote being cast; and the member from Massachusetts said that he had a perfect right to resort to every parliamentary movement that might promise success in his object. Now, I am not in favor of any such course, and I never have in my public life pursued such a course. I find no fault with it, however, because each Senator must act upon his own judgment; but in my judgment it is erroneous, and I therefore would not support a proposition which I believed was merely made for the purpose of defeating the sense of the Senate. But that is not this case; it is very far from being this case. What is this case? On Friday by a vote the Senator whose seat was contested was declared to be entitled to hold that seat, by a majority vote. It was objected at the time the vote was cast, or a few moments before it was cast, that one of the votes cast in that majority was improperly given—the vote of the Senator whose seat was contested; but still it went over, and the next day a proposition was made by the honorable member from Massachusetts to correct the record by striking out the name. The result of that would have been that there would have been a tie. The tie then would have left the Senator from New Jersey in his seat. That would not have accomplished the purpose.

Now, what happens to-day? Twice, at the instance of my friend from New Hampshire, [Mr. CLARK,] has this question been postponed, each time because he was sick. It was to have been called up on Monday. Those who accorded—and there was a unanimous concurrence as far as I know—in the desire of the member from New Hampshire to postpone the consideration of the question, were perfectly willing to accommodate him because he was sick, although he was here. The chairman of the committee gave notice that he would call it up on Wednesday; and on Wednesday the member from New Hampshire repeated the request to postpone it because he was sick, although he was here. It was accorded to him, and by no vote more cheerfully than by mine. Now, in what condition are we placed? You have, after it was received, directed the vote of the Senator from New Jersey to be stricken from the list, and one of those who had voted for him is not now in the Chamber, and his absence causes the majority against the Senator from New Jersey. Now, what is proposed?

Mr. DOOLITTLE. If the honorable Senator will give way, I will state a fact which perhaps I am in duty bound to state to the Senate. It is this: this morning, after the session commenced, I received a message from Senator DIXON, of Connecticut, who is ill, expressing to me the hope that this question could be postposed until he should be able to be in the Senate and to vote upon it. That Senator, as I am informed, is much better than he has been. Whether he would be able to come into the Senate to-morrow I am not able to state, but the fact of this message having been sent to me is perhaps a fact that I ought not to omit to state to the Senate.

Mr. JOHNSON. I was not about to advert to the condition of the Senator from Connecticut, for I did not know whether it was at all probable that he would be here. But what do we know in relation to the Senator from New Jersey, [Mr. WRIGHT?] In his seat he stated to the Senator from Maine, [Mr. MORRILL,] "I will stay until the vote is cast unless some one will pair off with me," and with the frankness which distinguishes the member and with the perfectly honest purpose of carrying out his agreement he consented to pair off, to enable the sick man to return to his home; and he returned; and not until last Wednesday had he or his friends any notice that that agreement would not be adhered to, and then the vote was to be taken on the next morning. It was not taken then, but it was taken on Friday; and the honorable member from Maine, my friend personally and upon many matters politically, whom I am perfectly satisfied had no idea of doing wrong, acting under the advice of friends with whom he had acted, who told him that it was his duty to vote, voted. Now the man who is sick in Newark, in answer to a telegram, says that he would have been here to-day but that his doctors told him he could not start with safety until to-morrow, but that to-morrow he will be here.

Mr. FESSENDEN and others. No.

Mr. JOHNSON. Yes; that is what he says. He says that if not here to-morrow he will not ask for further delay; but he will be here to-morrow. I know not how Senators may feel upon this subject, but speaking for myself individually I should feel that I had been harshly dealt with.

Mr. NYE. Will the gentleman allow me to read a telegram that has just been received?

Mr. JOHNSON. Certainly, you may read it from your seat.

Mr. NYE. I read it for the Senator's information:

Mr. WRIGHT was here to-day, but he gave up going to Washington this morning. H. N. CONGER.

This dispatch has just been received from Newark, New Jersey.

Mr. JOHNSON. That I understand; the honorable member need not have read that to me for the purpose of correcting me. I had said nothing that required that correction. He intended to start this morning, but was advised not to start, but he says he will be here to-morrow. Now, in the name of all that is reasonable, when the only Senator from the State of New Jersey appeals to you from his sick chamber to give him one day to be here to represent what he supposes to be the rights of his State, and there is no public ground upon which he should be excluded, no public necessity for his exclusion, why should not the little privilege be granted to give him that one day? We are in the habit, Mr. President, of giving days, ay and weeks. If as the honorable member from Nevada suggested yesterday, the Legislature of New Jersey is continuing from day to day in session having, as I understood, no other public business except that which might be brought before them upon the contingency of the rejection of Mr. Stockton, why should they remain? The Governor can appoint. Why should that Legislature remain?

Mr. NYE. Because they want to send a Senator in his place.

Mr. JOHNSON. So I supposed; that I had no doubt of; but a Senator could be here nominated by the Governor. His seat, however, would only continue until there could be an election by the succeeding Legislature, and in the mean time a new Legislature would be elected. Now, I do not charge any party view upon the member from Nevada; he is above it; but I charge a party view upon those gentlemen who are remaining in session at Trenton for the very purpose of watching contingencies; and is it that we may gratify a purpose of that description that we refuse to give a few hours' indulgence to a sick brother, and especially when we have given days of indulgence to another sick brother upon the same question when he was in the Chamber?

Mr. President, to deprive a State of a Senator is a very serious matter. The honorable member from Ohio, [Mr. SHERMAN,] speaking, I have no doubt, with the sincerity which characterizes his whole course, has told you that he has no doubt of the illegality of this election. His opinion may be worth a great deal more than mine, but it is due to myself to express an opinion as decided, that the Senator from New Jersey, Mr. Stockton, is just as much entitled to his seat in this Chamber as any one of us. Here is an honest difference of opinion.

Now, I submit in all candor, appealing to the generosity of the members of this body, to the kind feelings which we should entertain for each other, not to set a precedent that will make us hereafter watch for the time when any particular proposition can be carried through the body that could not be carried through the body at any other time. We should be, as I trust in God we are, a band of brothers, united by social ties and willing to trust to the honor of each other, and to trust confidingly, and never to do a thing or utter a word which would induce the public to suppose that we were trying to take advantage of each other. I speak in no party sense. Those who know the political principles which I have entertained from the time I came into public life up to the present time, are not warranted in calling me a Democrat. I never was. During the last terrible struggle upon which the life of the nation was made to depend, I went as far as the farthest in supporting the authority of the Government, and I would do it again. But I am an American Senator, anxious because the usefulness of the body, more or less, in my judgment, depends upon it, to have the deliberations of this high body marked by everything that is magnanimous and generous.

The gentleman who sits on my left, [Mr. WRIGHT,] appealing to the generosity and magnanimity of my friend who sits upon my right, [Mr. MORRILL,] told him that here he would remain unless he or somebody else would agree to do what was called pairing off, and he left for home under a conviction that that agreement would be carried out to the letter; and when he tells you now that he is surprised at being informed to the contrary, and begs you to give him a few hours, you refuse, when there is no public exigency demanding haste. How would my friend from Ohio feel if he were placed in the situation of Mr. WRIGHT? The question answers itself to those who know the high character of the honorable member from Ohio.

I therefore, in no party sense—it is nothing to me whether the honorable member from New Jersey retains his seat or does not retain it—I appeal, I repeat, to the generosity and magnanimity of the Senate to give this poor absent friend and brother of ours the opportunity of a few hours to make his presence in this Chamber, in order to vindicate what he believes to be the rights of his State.

Mr. HENDRICKS. I am unwilling to have the Senate believe that I have proposed this postponement from any factious opposition to the will of the majority. I make the proposition because I think there is a possibility, I will not say a probability, that the Senator from New Jersey may be here to-morrow. The vote now stands 21 to 22, and a gentleman supposing himself till this hour to be a Senator is denied his seat upon that close vote. His col-

league is absent; he being present the resolution would fall. I am not discussing the effect of his vote upon the reconsideration, but I say he being present, the resolution excluding Mr. Stockton would have fallen. His absence is under peculiar circumstances. He said when he left that he would remain at every hazard to his health if he could not pair off; the pair was accomplished, and he left and that pair was afterward withdrawn at a time when he could not travel. The dispatches authorize us to entertain the hope that he may be here to-morrow. Now, is it wrong that we should ask that an opportunity be given to him to come and cast his vote upon the question of the right of his colleague to a seat here?

Again, Mr. President, this is to establish a precedent, a precedent to which I do not agree. I am just as firmly of the opinion that Mr. Stockton's election was legal and valid as the Senator from Ohio can be that it was otherwise. I believe that the joint convention under parliamentary law, and especially under the usage of seventy-five years of that convention in the State of New Jersey, had the right to prescribe the rule which it did prescribe, and that the election pursuant to that rule was a valid election. But now, sir, it is proposed to establish a precedent which shall be conclusive in all time to come, that no joint convention hereafter can adopt a rule electing a Senator by less than a majority. Before a precedent having such weight and of such importance is adopted, the Senate ought to be as full as it is possible that it can be. Why, sir, it may occur in some State that no Senator can be elected by a majority. In two memorable instances the House of Representatives was unable to organize upon the majority rule. The Constitution of the United States simply says that the House may choose a Speaker; and according to the opinion of some gentlemen in this body that choice must be made by the voice of the majority; and yet, twice in the history of the House no organization could be accomplished upon that rule, and resort was had to the plurality. That may occur in the States; it may be impossible upon the majority rule to elect Senators at times when it may be important to elect them. So, sir, in view of the importance of the question, in view of the rights, as I think, of the absent Senator, I have proposed for one day further the postponement of this question.

Mr. SAULSBURY. Mr. President, I rise, not to discuss the question, but to make a single remark. I have voted on this resolution, believing as honestly as I believe in my personal existence, that Mr. Stockton is entitled to his seat as a Senator on this floor, but I rise to say to him and to say to the country that if he is excluded under these circumstances he can return home to his native State, feeling that—

> "More true joy Marcellus exiled feels
> Than Cæsar with a senate at his heels."

Mr. McDOUGALL. Mr. President, in making a few minutes since the same motion which has now been made by my friend from Indiana, I did it with no purpose to delay a conclusion for delay's sake. I will say to my friend from Ohio in connection with what has been said by the Senator from Maryland, that this morning a messenger arrived from Newark and came to my room before I came to the Senate Chamber and informed me that full arrangements had been made for the Senator from New Jersey to arrive here in the city to-morrow. It was with that information and in view of the results we have seen that I made the motion I did, for no object of delay, but simply that New Jersey might at least be represented by one Senator in a case where she was so deeply concerned.

The PRESIDENT *pro tempore*. The motion is to postpone the further consideration of this subject until to-morrow at one o'clock, and upon that question the yeas and nays have been ordered.

The question being taken by yeas and nays resulted—yeas 21, nays 22; as follows:

YEAS—Messrs. Anthony, Buckalew, Cowan, Davis, Doolittle, Guthrie, Harris, Henderson, Hendricks, Johnson, Lane of Kansas, McDougall, Morgan, Nesmith, Norton, Poland, Riddle, Saulsbury, Trumbull, Van Winkle, and Willey—21.

NAYS—Messrs. Brown, Chandler, Clark, Conness, Cragin, Creswell, Fessenden, Grimes, Howard, Howe, Kirkwood, Lane of Indiana, Nye, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Wade, Williams, Wilson, and Yates—22.

ABSENT—Messrs. Dixon, Foot, Foster, Morrill, Stewart, and Wright—6.

So the motion to postpone was not agreed to.

The PRESIDENT *pro tempore*. The question now is on the motion to reconsider the vote of the Senate passing this resolution.

The question being taken by yeas and nays, resulted—yeas 20, nays 23; as follows:

YEAS—Messrs. Anthony, Buckalew, Cowan, Davis, Doolittle, Guthrie, Henderson, Hendricks, Johnson, Lane of Kansas, McDougall, Morgan, Nesmith, Norton, Poland, Riddle, Saulsbury, Trumbull, Van Winkle, and Willey—20.

NAYS—Messrs. Brown, Chandler, Clark, Conness, Cragin, Creswell, Fessenden, Grimes, Harris, Howard, Howe, Kirkwood, Lane of Indiana, Nye, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Wade, Williams, Wilson, and Yates—23.

ABSENT—Messrs. Dixon, Foot, Foster, Morrill, Stewart, and Wright—6.

So the motion to reconsider was rejected.

CIVIL RIGHTS—VETO MESSAGE.

During the discussion of the case of Mr. Stockton the following message was received from the President of the United States by Mr. W. G. MOORE, his Secretary:

Mr. President, I am directed by the President of the United States to return to the Senate, in which House it originated, the bill (S. No. 61) entitled "An act to protect all persons in the United States in their civil rights, and furnish the means of their vindication," with his objections thereto in writing.

Mr. WADE. I move that the Senate do now adjourn.

Mr. TRUMBULL. I hope not. There is a message on the table that ought to be read.

The PRESIDENT *pro tempore*. The motion is not debatable.

Mr. TRUMBULL. I hope the Senator will withdraw the motion, and let the message be printed.

Mr. WADE. If it is the general desire to have that message read to-night, I withdraw my motion.

Mr. TRUMBULL. I move, then, that the Senate proceed to the consideration of the message from the President returning the civil rights bill, with his objections.

Mr. HOWARD. I move that the Senate do now adjourn.

The motion was not agreed to.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Illinois.

The motion was agreed to.

The PRESIDENT *pro tempore*. The subject is before the Senate, and the message will be read.

The Secretary read the message, as follows:

To the Senate of the United States:

I regret that the bill which has passed both Houses of Congress, entitled "An act to protect all persons in the United States in their civil rights, and furnish the means for their vindication," contains provisions which I cannot approve, consistently with my sense of duty to the whole people and my obligations to the Constitution of the United States. I am therefore constrained to return it to the Senate, the House in which it originated, with my objections to its becoming a law.

By the first section of the bill, all persons born in the United States, and not subject to any foreign Power, excluding Indians not taxed, are declared to be citizens of the United States. This provision comprehends the Chinese of the Pacific States, Indians subject to taxation, the people called Gypsies, as well as the entire race designated as blacks, people of color, negroes, mulattoes, and persons of African blood. Every individual of those races, born in the United States, is by the bill made a citizen of the United States. It does not purport to declare or confer any other right of citizenship than Federal citizenship. It does not purport to give these classes of persons any *status* as citizens of States, except that which may result from their *status* as citizens of the United States. The power to confer the right of State citizenship is just as exclusively with the several States as the power to confer the right of Federal citizenship is with Congress.

The right of Federal citizenship thus to be conferred on the several excepted races before mentioned is now, for the first time, proposed to be given by law. If, as is claimed by many, all persons who are native-born, already are, by virtue of the Constitution, citizens of the United States, the passage of the pending bill cannot be necessary to make them such. If, on the other hand, such persons are not citizens, as may be assumed from the proposed legislation to make them such, the grave question presents itself, whether, when eleven of the thirty-six States are unrepresented in Congress, at this time it is sound policy to make our entire colored population and all other excepted classes citizens of the United States? Four millions of them have just emerged from slavery into freedom. Can it be reasonably supposed that they possess the requisite qualifications to entitle them to all the privileges and immunities of citizens of the United States? Have the people of the several States expressed such a conviction? It may also be asked whether it is necessary that they should be declared citizens in order that they may be secured in the enjoyment of civil rights? Those rights proposed to be conferred by the bill are by Federal as well as State laws secured to all domiciled aliens and foreigners even before the completion of the process of naturalization, and it may safely be assumed that the same enactments are sufficient to give like protection and benefits to those for whom this bill provides special legislation. Besides, the policy of the Government, from its origin to the present time, seems to have been that persons who are strangers to and unfamiliar with our institutions and our laws should pass through a certain probation, at the end of which, before attaining the coveted prize, they must give evidence of their fitness to receive and to exercise the rights of citizens as contemplated by the Constitution of the United States.

The bill, in effect, proposes a discrimination against large numbers of intelligent, worthy, and patriotic foreigners, and in favor of the negro, to whom, after long years of bondage, the avenues to freedom and intelligence have now been suddenly opened. He must, of necessity, from his previous unfortunate condition of servitude, be less informed as to the nature and character of our institutions than he who, coming from abroad, has to some extent at least, familiarized himself with the principles of a Government to which he voluntarily intrusts "life, liberty, and the pursuit of happiness." Yet it is now proposed by a single legislative enactment to confer the rights of citizens upon all persons of African descent, born within the extended limits of the United States, while persons of foreign birth, who make our land their home, must undergo a probation of five years, and can only then become citizens upon proof that they are of "good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the same."

The first section of the bill also contains an enumeration of the rights to be enjoyed by these classes, so made citizens, "in every State and Territory in the United States." These rights are, "To make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property," and to have "full and equal benefit of all laws and proceedings for the security of person and property as is enjoyed by white citizens." So, too, they are made subject to the same punishment, pains, and penalties in common with white citizens, and to none others. Thus a perfect equality of the white and black races is attempted to be fixed by Federal law, in every State of the Union,

over the vast field of State jurisdiction covered by these enumerated rights. In no one of these can any State ever exercise any power of discrimination between the different races.

In the exercise of State policy over matters exclusively affecting the people of each State, it has frequently been thought expedient to discriminate between the two races. By the statutes of some of the States, northern as well as southern, it is enacted, for instance, that no white person shall intermarry with a negro or mulatto. Chancellor Kent says, speaking of the blacks, that "marriages between them and the whites are forbidden in some of the States where slavery does not exist, and they are prohibited in all the slaveholding States, and when not absolutely contrary to law, they are revolting, and regarded as an offense against public decorum."

I do not say this bill repeals State laws on the subject of marriage between the two races, for as the whites are forbidden to intermarry with the blacks, the blacks can only make such contracts as the whites themselves are allowed to make, and therefore cannot, under this bill, enter into the marriage contract with the whites. I cite this discrimination, however, as an instance of the State policy as to discrimination, and to inquire whether, if Congress can abrogate all State laws of discrimination between the two races in the matter of real estate, of suits, and of contracts generally, Congress may not also repeal the State laws as to the contract of marriage between the two races? Hitherto every subject embraced in the enumeration of rights contained in this bill has been considered as exclusively belonging to the States. They all relate to the internal policy and economy of the respective States. They are matters which in each State concern the domestic condition of its people, varying in each according to its own peculiar circumstances, and the safety and well-being of its own citizens. I do not mean to say that upon all these subjects there are not Federal restraints, as for instance, in the State power of legislation over contracts, there is a Federal limitation that no State shall pass a law impairing the obligations of contracts; and as to crimes, that no State shall pass an *ex post facto* law; and as to money, that no State shall make anything but gold and silver a legal tender. But where can we find a Federal prohibition against the power of any State to discriminate, as do most of them, between aliens and citizens, between artificial persons called corporations and natural persons, in the right to hold real estate?

If it be granted that Congress can repeal all State laws discriminating between whites and blacks in the subjects covered by this bill, why, it may be asked, may not Congress repeal in the same way all State laws discriminating between the two races on the subjects of suffrage and office? If Congress can declare by law who shall hold lands, who shall testify, who shall have capacity to make a contract in a State, then Congress can by law also declare who, without regard to color or race, shall have the right to sit as a juror or as a judge, to hold any office, and, finally, to vote "in every State and Territory of the United States." As respects the Territories, they come within the power of Congress, for as to them, the law-making power is the Federal power; but as to the States no similar provisions exist, vesting in Congress the power "to make rules and regulations" for them.

The object of the second section of the bill is to afford discriminating protection to colored persons in the full enjoyment of all the rights secured to them by the preceding section. It declares "that any person who, under color of any law, statute, ordinance, regulation, or custom, shall subject, or cause to be subjected, any inhabitant of any State or Territory to the deprivation of any right secured or protected by this act, or to different punishment, pains, or penalties on account of such person having at one time been held in a condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, or by reason of his color or race, than is prescribed for the punishment of white persons, shall be deemed guilty of a misdemeanor, and, on conviction, shall be punished by fine not exceeding $1,000, or imprisonment not exceeding one year, or both, in the discretion of the court." This section seems to be designed to apply to some existing or future law of a State or Territory which may conflict with the provisions of the bill now under consideration. It provides for counteracting such forbidden legislation by imposing fine and imprisonment upon the legislators who may pass such conflicting laws, or upon the officers or agents who shall put, or attempt to put, them into execution. It means an official offense, not a common crime committed against law upon the persons or property of the black race. Such an act may deprive the black man of his property, but not of the right to hold property. It means a deprivation of the right itself, either by the State judiciary or the State Legislature. It is therefore assumed that under this section members of State Legislatures who should vote for laws conflicting with the provisions of the bill; that judges of the State courts who should render judgments in antagonism with its terms; and that marshals and sheriffs, who should, as ministerial officers, execute processes, sanctioned by State laws and issued by State judges, in execution of their judgments, could be brought before other tribunals and there subjected to fine and imprisonment for the performance of the duties which such State laws might impose.

The legislation thus proposed invades the judicial power of the State. It says to every State court or judge, if you decide that this act is unconstitutional, if you refuse, under the prohibition of a State law, to allow a negro to testify, if you hold that over such a subject-matter the State law is paramount, and "under color" of a State law refuse the exercise of the right to the negro, your error of judgment, however conscientious, shall subject you to fine and imprisonment. I do not apprehend that the conflicting legislation which the bill seems to contemplate is so likely to occur as to render it necessary at this time to adopt a measure of such doubtful constitutionality.

In the next place, this provision of the bill seems to be unnecessary, as adequate judicial remedies could be adopted to secure the desired end without invading the immunities of legislators, always important to be preserved in the interest of public liberty; without assailing the independence of the judiciary, always essential to the preservation of individual rights; and without impairing the efficiency of ministerial officers, always necessary for the maintenance of public peace and order. The remedy proposed by this section seems to be, in this respect, not only anomalous, but unconstitutional; for the Constitution guaranties nothing with certainty, if it does not insure to the several States the right of making and executing laws in regard to all matters arising within their jurisdiction, subject only to the restriction that in cases of conflict with the Constitution and constitutional laws of the United States the latter should be held to be the supreme law of the land.

The third section gives the district courts of the United States exclusive "cognizance of all crimes and offenses committed against the provisions of this act," and concurrent jurisdiction with the circuit courts of the United States of all civil and criminal cases "affecting persons who are denied or cannot enforce in the courts or judicial tribunals of the State or locality where they may be any of the rights secured to them by the first section." The construction which I have given to the second section is strengthened by this third section, for it makes clear what kind of denial or deprivation of the rights secured by the first section was in contemplation. It is a denial or deprivation of such rights "in the courts or judicial tribunals of the State." It stands, therefore, clear of doubt that the offense and the penalties provided in the second section are intended for the State judge, who, in the clear exercise of his functions as a judge, not acting ministerially, but judicially, shall decide contrary to this Federal law. In other words, when a State judge, acting upon a question involving a conflict between a State law and a Federal law, and bound, according to his own judgment and responsibility, to give an impartial decision between the two, comes to the conclusion that the State law is valid and the Federal law is invalid, he must not follow the dictates of his own judgment at the peril of fine and imprisonment. The legislative department of the Government of the United States thus takes from the judicial department of the States the sacred and exclusive duty of judicial decision, and converts the State judge into a mere ministerial officer, bound to decide according to the will of Congress.

It is clear that in States which deny to persons whose rights are secured by the first section of the bill any one of those rights, all criminal and civil cases affecting them, will, by the provisions of the third section, come under the exclusive cognizance of the Federal tribunals. It follows that if, in any State which denies to a colored person any one of all those rights, that person should commit a crime against the laws of the State, murder, arson, rape, or any other crime, all protection and punishment through the courts of the State are taken away, and he can only be tried and punished in the Federal courts. How is the criminal to be tried? If the offense is provided for and punished by Federal law, that law, and not the State law, is to govern.

It is only when the offense does not happen to be within the purview of the Federal law that the Federal courts are to try and punish him under any other law. Then resort is to be had to "the common law, as modified and changed" by State legislation, "so far as the same is not inconsistent with the Constitution and laws of the United States." So that over this vast domain of criminal jurisprudence, provided by each State for the protection of its own citizens, and for the punishment of all persons who violate its criminal laws, Federal law, wherever it can be made to apply, displaces State law.

The question here naturally arises, from what source Congress derives the power to transfer to Federal tribunals certain classes of cases embraced in this section? The Constitution expressly declares that the judicial power of the United States "shall extend to all cases in law and equity arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting embassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States, between a State and citizens of another State, between citizens of different States, between citizens of the same State claiming land under grants of different States, and between a State, or the citizens thereof, and foreign States, citizens, or subjects."

Here the judicial power of the United States is expressly set forth and defined; and the act of September 24, 1789, establishing the judicial courts of the United States, in conferring upon the Federal courts jurisdiction over cases originating in State tribunals, is careful to confine them to the classes enumerated in the above recited clause of the Constitution. This section of the bill undoubtedly comprehends case and authorizes the exercise of powers that are not, by the Constitution, within the jurisdiction of the courts of the United States. To transfer them to those courts would be an exercise of authority well calculated to excite distrust and alarm on the part of all the States; for the bill applies alike to all of them—as well to those that have as to those that have not been engaged in rebellion.

It may be assumed that this authority is incident to the power granted to Congress by the Constitution, as recently amended, to enforce,

by appropriate legislation, the article declaring that "neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction." It cannot, however, be justly claimed that, with a view to the enforcement of this article of the Constitution, there is at present any necessity for the exercise of all the powers which this bill confers.

Slavery has been abolished, and at present nowhere exists within the jurisdiction of the United States; nor has there been, nor is it likely there will be, any attempt to revive it by the people of the States. If, however, any such attempt shall be made, it will then become the duty of the General Government to exercise any and all incidental powers necessary and proper to maintain inviolate this great constitutional law of freedom.

The fourth section of the bill provides that officers and agents of the Freedmen's Bureau shall be empowered to make arrests, and also that other officers may be specially commissioned for that purpose by the President of the United States. It also authorizes circuit courts of the United States and the superior courts of the Territories to appoint, without limitation, commissioners, who are to be charged with the performance of *quasi* judicial duties. The fifth section empowers the commissioners so to be selected by the courts to appoint in writing, under their hands, one or more suitable persons, from time to time, to execute warrants and other processes described by the bill. These numerous official agents are made to constitute a sort of police, in addition to the military, and are authorized to summon a *posse comitatus*, and even to call to their aid such portion of the land and naval forces of the United States, or of the militia, "as may be necessary to the performance of the duty with which they are charged."

This extraordinary power is to be conferred upon agents irresponsible to the Government and to the people, to whose number the discretion of the commissioners is the only limit, and in whose hands such authority might be made a terrible engine of wrong, oppression, and fraud. The general statutes regulating the land and naval forces of the United States, the militia, and the execution of the laws, are believed to be adequate for every emergency which can occur in time of peace. If it should prove otherwise, Congress can at any time amend those laws in such manner as, while subserving the public welfare, not to jeopard the rights, interests, and liberties of the people.

The seventh section provides that a fee of ten dollars shall be paid to each commissioner in every case brought before him, and a fee of five dollars to his deputy, or deputies, "for each person he or they may arrest and take before any such commissioner," "with such other fees as may be deemed reasonable by such commissioner," "in general for performing such other duties as may be required in the premises." All these fees are to be "paid out of the Treasury of the United States," whether there is a conviction or not; but in case of conviction they are to be recoverable from the defendant. It seems to me that under the influence of such temptations bad men might convert any law, however beneficent, into an instrument of persecution and fraud.

By the eighth section of the bill, the United States courts, which sit only in one place for white citizens, must migrate, with the marshal and district attorney, (and necessarily with the clerk, although he is not mentioned) to any part of the district, upon the order of the President, and there hold a court "for the purpose of the more speedy arrest and trial of persons charged with a violation of this act;" and there the judge and the officers of the court must remain, upon the order of the President, "for the time therein designated."

The ninth section authorizes the President, or such person as he may empower for that purpose, "to employ such part of the land and naval forces of the United States, or of the militia, as shall be necessary to prevent the violation and enforce the due execution of this act." This language seems to imply a permanent military force, that is to be always at hand, and whose only business is to be the enforcement of this measure over the vast region where it is intended to operate.

I do not propose to consider the policy of this bill. To me the details of the bill seem fraught with evil. The white race and the black race of the South have hitherto lived together under the relation of master and slave—capital owning labor. Now, suddenly, that relation is changed, and as to the ownership, capital and labor are divorced. They stand now each master of itself. In this new relation, one being necessary to the other, there will be a new adjustment, which both are deeply interested in making harmonious. Each has equal power in settling the terms, and if left to the laws that regulate capital and labor, it is confidently believed that they will satisfactorily work out the problem. Capital, it is true, has more intelligence; but labor is never so ignorant as not to understand its own interests, not to know its own value, and not to see that capital must pay that value. This bill frustrates this adjustment. It intervenes between capital and labor, and attempts to settle questions of political economy through the agency of numerous officials, whose interest it will be to foment discord between the two races; for as the breach widens their employment will continue, and when it is closed their occupation will terminate.

In all our history, in all our experience as a people living under Federal and State law, no such system as that contemplated by the details of this bill has ever before been proposed or adopted. They establish, for the security of the colored race, safeguards which go infinitely beyond any that the General Government has ever provided for the white race. In fact, the distinction of race and color is, by the bill, made to operate in favor of the colored and against the white race. They interfere with the municipal legislation of the States, with the relations existing exclusively between a State and its citizens, or between inhabitants of the same State—an absorption and assumption of power by the General Government which, if acquiesced in, must sap and destroy our federative system of limited powers, and break down the barriers which preserve the rights of the States. It is another step, or rather stride, toward centralization and the concentration of all legislative power in the national Government. The tendency of the bill must be to resuscitate the spirit of rebellion, and to arrest the progress of those influences which are more closely drawing around the States the bonds of union and peace.

My lamented predecessor, in his proclamation of the 1st of January, 1863, ordered and declared that all persons held as slaves within certain States and parts of States therein designated, were and thenceforward should be free, and, further, that the Executive Government of the United States, including the military and naval authorities thereof, would recognize and maintain the freedom of such persons. This guarantee has been rendered especially obligatory and sacred by the amendment of the Constitution abolishing slavery throughout the United States. I therefore fully recognize the obligation to protect and defend that class of our people, whenever and wherever it shall become necessary, and to the full extent compatible with the Constitution of the United States.

Entertaining these sentiments, it only remains for me to say, that I will cheerfully cooperate with Congress in any measure that may be necessary for the protection of the civil rights of the freedmen, as well as those of all other classes of persons throughout the United States, by judicial process under equal and impartial laws, in conformity with the provisions of the Federal Constitution.

I now return the bill to the Senate, and regret that in considering the bills and joint resolutions—forty-two in number—which have been thus far submitted for my approval, I am compelled to withhold my assent from a second measure that has received the sanction of both Houses of Congress.

ANDREW JOHNSON.

WASHINGTON, D. C., *March* 27, 1866.

Mr. COWAN. I move that the Senate adjourn.

Several SENATORS. Let us have the message printed.

Mr. COWAN. I withdraw the motion to adjourn; and I move that the message be printed for the use of the Senate.

The motion was agreed to.

Mr. COWAN. I now renew the motion to adjourn. ["No!" "No!"]

Mr. SAULSBURY called for the yeas and nays, and they were ordered, and being taken, resulted—yeas 14, nays 28; as follows:

YEAS—Messrs. Buckalew, Cowan, Davis, Doolittle, Guthrie, Hendricks, Johnson, McDougall, Morgan, Nesmith, Norton, Riddle, Saulsbury, and Van Winkle—14.

NAYS—Messrs. Anthony, Brown, Chandler, Clark, Conness, Cragin, Creswell, Fessenden, Foster, Harris, Henderson, Howard, Howe, Lane of Indiana, Lane of Kansas, Nye, Poland, Pomeroy, Ramsey, Sprague, Stewart, Sumner, Trumbull, Wade, Willey, Williams, Wilson, and Yates—28.

ABSENT—Messrs. Dixon, Foot, Grimes, Kirkwood, Morrill, Sherman, and Wright—7.

So the Senate refused to adjourn.

Mr. TRUMBULL. I move that the consideration of this subject be postponed until to-morrow at one o'clock. I do not know but that it will come up at that hour at any rate without a motion.

The PRESIDING OFFICER, (Mr. CLARK in the chair.) It would, in the opinion of the Chair, if the Senate adjourned without any order being made. It is before the Senate at the present time.

Mr. SHERMAN. Is it now in order to renew the motion to adjourn? Has any business intervened?

Mr. TRUMBULL. I design to make some remarks upon this veto, and will either make them to-night or to-morrow, as may suit the convenience of the Senate. I have only listened to the reading of the message. We shall have it before us in print to-morrow. I am willing to consult the convenience of the Senate and either submit the observations I design to make to-night or to-morrow, as shall seem best to them.

Mr. HENDRICKS. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *March* 27, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

COMMITTEE ON AIR-LINE RAILROAD.

Mr. GRINNELL. I rise to a privileged question. I ask to be excused from further service on the select committee on the railroad from Washington to New York city.

Mr. ANCONA. Is it in order to ask on which side of the question the gentleman is?

Mr. GRINNELL. I am on the right side.

The SPEAKER. The gentleman has a right to ask to be excused.

The request was accordingly granted.

The SPEAKER subsequently appointed Mr. SLOAN to fill the vacancy.

STEAM AGRICULTURAL IMPLEMENTS.

Mr. WENTWORTH. I have had a bill in my charge for some four weeks past which I have been instructed by the Committee of Ways and Means, unanimously, to report to the House, and ask that it be considered at the present time. Now, I ask leave, in order not to infringe upon the morning hour, to report the bill at this time.

No objection was made, and the bill was received. It was a bill for the admission, free of

duty, of steam agricultural implements and machinery for the manufacture of flax and beet sugar for the period of one year.

The bill was read a first and second time.

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

Mr. WENTWORTH. I call the previous question on the passage of the bill.

Mr. STEVENS. I move that the bill be laid on the table.

Mr. WENTWORTH. I call for the yeas and nays on that motion; and upon the yeas and nays I call for tellers.

Tellers were refused.

The yeas and nays were refused.

Mr. WENTWORTH. Let the bill be read; it will speak for itself.

Mr. JENCKES. It has been read, and it has spoken for itself.

Mr. WENTWORTH. Will the gentleman from Pennsylvania [Mr. STEVENS] allow this bill to be recommmitted to the Committee of Ways and Means?

Mr. STEVENS. Inasmuch as it helps the tariff to let everything come in free, I do not object to its being recommitted.

Mr. McKEE. I object to that.

The motion to lay the bill on the table was agreed to.

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

The latter motion was agreed to.

AMERICAN SUBMARINE TELEGRAPH.

Mr. SPALDING, by unanimous consent, introduced a bill to grant certain privileges to the American Submarine Telegraph Company; which was read a first and second time, and referred to the Committee on Commerce.

ORDER OF BUSINESS.

Mr. WASHBURNE, of Illinois. I call for the regular order.

The SPEAKER. The first business in order is the consideration of reports from the Committee on Indian Affairs.

SHIP-CANAL—MICHIGAN.

Mr. BEAMAN, by unanimous consent, introduced a bill granting certain lands to the State of Michigan, to aid in the construction of a ship-canal to connect the waters of Lake Superior with the lake known as Lac La Belle in said State; which was read a first and second time, and referred to the Committee on Public Lands.

RIVER RAISIN SHIP-CANAL.

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

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of constructing a ship-canal from the mouth of the river Raisin to the St. Joseph river, in the State of Michigan, and that the said committee also consider the propriety of an appropriation for a survey for such ship-canal.

TAXING NATIONAL BANK STOCK.

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

Resolved, That the Committee on Banking and Currency be instructed to inquire into the expediency of making the stock in national banks taxable in the city or town where the holder thereof has his legal residence.

Mr. BLAINE moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

OCEAN STEAM LINES.

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

Resolved, That the Committee on Commerce consider and report, by bill or otherwise, whether Congress may, without conflict with the provisions of any existing treaty, discriminate by appropriate legislation in respect to duties or charges upon the ship or cargo, in behalf of steam vessels bearing the flag of the United States, running without public subsidy between ports of the United States and foreign ports, and against foreign steam lines running with the aid of a public subsidy in competition with them.

CHANGING THE NAMES OF VESSELS.

Mr. RAYMOND, by unanimous consent, introduced a bill to authorize the Secretary of the Treasury to change the names of certain vessels; which was read a first and second time, and referred to the Committee on Commerce.

LARCENY, ETC., IN DISTRICT OF COLUMBIA.

Mr. INGERSOLL, by unanimous consent, introduced a bill defining and providing for the punishment of grand and petit larceny, and the employment of prisoners in jail in the District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

BENJAMIN HOLLIDAY.

Mr. WINDOM reported back from the Committee on Indian Affairs a joint resolution to refer the petition of Benjamin Holliday to the Court of Claims, with a recommendation that it pass.

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

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

The latter motion was agreed to.

WINNEBAGO INDIANS.

Mr. WINDOM reported back from the Committee on Indian Affairs a bill (H. R. No. 416) for the benefit of certain half-breeds and mixed bloods of the Winnebago tribe of Indians, with a recommendation that it pass.

The bill was read *in extenso*.

It proposes to authorize the President of the United States to exempt from the operations of the act of Congress approved February 21, 1863, entitled "An act for the removal of the Winnebago Indians and for the sale of their reservation in Minnesota for their benefit," such half-breeds and mixed bloods of the Winnebago tribe of Indians as are in his opinion sufficiently advanced in civilization, and have abandoned or may abandon their tribal relations, and permit them to return and occupy the several tracts of land that have been allotted to them respectively under the provisions of the first article of a treaty made and concluded at the city of Washington, April 15, 1859, between the United States and the Winnebago tribe of Indians; and that said half-breeds and mixed bloods be permitted to hold said tracts in severalty, for which patents shall be issued to them in fee-simple, and they shall be subject to taxation as other lands from and after the date of the patent.

Mr. WINDOM. This bill simply provides for issuing patents to some fifteen or twenty half-breeds of the Winnebago nation who, under the treaty of 1859, had their lands assigned to them in severalty. Those lands are upon the old Winnebago reservation in Minnesota. Those Indians have adopted the habits of civilization; they are voters in our State; and it is desired by them, as well as by the people of the county and of the State, that those lands shall be patented and become subject to taxation, and that the Indians may have the right to control them. The committee are unanimous in favor of the bill.

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

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

The latter motion was agreed to.

MIAMI INDIANS OF INDIANA.

Mr. WINDOM. I am instructed by the Committee on Indian Affairs to submit a report in answer to a resolution instructing that committee to inquire who constitute the Miami tribe of Indians of Indiana.

The report, which was read, states that the committee, after a careful investigation of the facts of the law appertaining thereto, are satisfied that no further legislation is necessary on the subject. The committee are of opinion that the tribe of Miami Indians of Indiana consist of the persons named on the list or payroll as added to by the Secretary of the Interior under the act of June 12, 1858. The committee, in confirmation of their views, append to their report the opinion of the Attorney General of the United States, dated October 26, 1865.

The report was laid on the table, and ordered to be printed.

WINNEBAGO INDIANS.

Mr. WINDOM, from the Committee on Indian Affairs, reported back Senate bill No. 121, to provide for the enlargement of the Winnebago reservation in the Territory of Nebraska, and for other purposes, with the recommendation that it do pass.

The bill was read.

Mr. STEVENS. That bill contains an appropriation, and must, under the rules, have its first consideration in the Committee of the Whole on the state of the Union.

The SPEAKER. The bill does contain an appropriation, and must, under the rules, be referred to the Committee of the Whole on the state of the Union, objection being made to its consideration in the House.

Mr. WINDOM. I move, then, that the bill be referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

The motion was agreed to.

WYANDOTTE INDIANS.

Mr. ROSS, from the Committee on Indian Affairs, reported a bill for the relief of the Wyandotte tribe of Indians; which was read a first and second time.

The bill was read *in extenso*.

Mr. STEVENS. The bill contains an appropriation, and must, under the rules, have its first consideration in the Committee of the Whole on the state of the Union.

Mr. ROSS. I should prefer to have the bill recommitted to the Committee on Indian Affairs, and ordered to be printed. But I do not understand this is such a bill as is required by the rules to have its first consideration in the Committee of the Whole on the state of the Union, as it only provides for carrying out treaty stipulations. I think the bill ought to be considered now.

The SPEAKER. The motion to recommit is in order. If the bill makes a new appropriation, it must be referred to the Committee of the Whole on the state of the Union. If it is out of an appropriation already made in an appropriation bill, then it does not go to the Committee of the Whole on the state of the Union.

Mr. ROSS. The appropriation has already been provided for by treaty.

Mr. STEVENS. It not only makes an appropriation, but it changes existing law.

Mr. ROSS. I move that the bill be recommitted and ordered to be printed.

Mr. WASHBURNE, of Illinois. That will accomplish nothing, as the bill will have to go to the Committee of the Whole on the state of the Union after it is reported back.

The SPEAKER. It does contain a direct appropriation.

Mr. ROSS. I withdraw my motion to recommit, and move that the bill be referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

The motion was agreed to.

DAMAGES BY SIOUX INDIANS.

Mr. HUBBARD, of Iowa, from the Committee on Indian Affairs, reported back House bill No. 305, for the relief of persons for damages sustained by reason of depredations and

injuries by certain bands of Sioux Indians, with a substitute.

Mr. STEVENS. That also embraces an appropriation.

Mr. HUBBARD, of Iowa. I will state that the substitute contains an appropriation of $3,000. If there is objection to the consideration of the bill now, of course it must under the rules go to the Committee of the Whole on the state of the Union. It is to provide for the relief of parties who have suffered from depredations of Sioux Indians, and contains only an appropriation of $3,000 to pay expenses.

Mr. STEVENS. Let it be referred to the Committee of the Whole on the state of the Union and ordered to be printed.

Mr. KASSON. I ask my colleague whether he cannot strike out the clause making a small appropriation, leaving the bill so that it may be acted upon now in the House. I understand this is a most meritorious measure, and ought to be passed.

Mr. HUBBARD, of Iowa. I think when the substitute is read there will be no objection to it.

The substitute was read.

Mr. STEVENS. That is a long bill, and ought to be printed before we are called upon to consider it. It is creating a new commission. I remember some years the cry was loud in regard to some Indians in Minnesota, and we granted a commission which took one or two millions out of the Treasury. I am not going to inquire where it has gone to. It seems this is a remnant to pay those who did not get enough.

The SPEAKER. The Chair will state that if the bill is debated that waives the rule which requires it to go to the Committee of the Whole, because that is considering the bill.

Mr. STEVENS. I was just going to move that it go to the Committee of the Whole and that it be printed.

Mr. HUBBARD, of Iowa. I am able, I think, to explain the principle of the bill.

Mr. CONKLING. Does the bill contain an appropriation?

The SPEAKER. It contains an appropriation of $3,000, and a single objection will send it to the Committee of the Whole.

Mr. CONKLING. Then I insist that it shall go to the Committee of the Whole.

Mr. HUBBARD, of Iowa. I ask, then, that it be printed.

The SPEAKER. The bill and substitute will be printed.

INDIAN LANDS IN KANSAS.

Mr. HUBBARD, of Iowa. I am instructed by the Committee on Indian Affairs to report back House bill No. 259, subjecting Indian lands and allotted lands in Kansas to the laws thereof, with an amendment, and with a recommendation that it pass.

The bill was read, together with the amendment, which is to add the following:

Provided, That nothing herein contained shall be construed to authorize any of said Indians or Indian tribes to sell, grant, or lease any of said lands, unless the same be made by treaty or convention entered into, pursuant to the Constitution of the United States; nor shall anything herein contained be construed to give the State of Kansas power to tax any of said lands, except such as are held in severalty by individual members of said Indian tribes.

Mr. WASHBURNE, of Illinois. I would like some explanation of this bill. It seems to me it is subordinating the United States laws to the laws of Kansas.

Mr. HUBBARD, of Iowa. I have here a map indicating the condition of the lands in the State of Kansas. The parts colored red indicate the lands belonging to the Indians. Upon those lands the laws of the United States are in force. The State of Kansas has no jurisdiction over them or over the persons residing upon them. The portions of the map that are not colored indicate lands belonging to the Government of the United States and to individuals. Over those lands the laws of the State of Kansas prevail. They are within the limits and jurisdiction of the State of Kansas for all legal purposes.

This condition of affairs, as any man can readily perceive, results not only in a great deal of injustice, but in a great deal of inconvenience, and the provisions of this bill are intended to remedy this injustice and inconvenience. That is the simple object of the bill. It provides that the laws of Kansas shall be extended over these Indian lands, which have been set apart to them in severalty. It provides, also, that they shall not have the power to convey except under the provisions of the laws of the United States. I think the provisions of the bill are ample and sufficiently guarded.

Mr. STEVENS. I would ask whether this is by any treaty with the Indians.

Mr. HUBBARD, of Iowa. There is no treaty stipulation.

Mr. STEVENS. And it is now proposed to extend the laws of the State of Kansas over these Indian lands?

Mr. HUBBARD, of Iowa. I have examined all the treaties on the subject, and also the acts of Congress, and I see nothing in either which prohibits the passage of this bill. Every person can see from this map, showing the location of these lands, that the citizens of Kansas must labor under a great deal of inconvenience.

Mr. STEVENS. How would it be if we pass that law? Would they have more convenience?

Mr. HUBBARD, of Iowa. I understand that a great many of these lands are held by the Indians in severalty. They have farms and improvements, and yet they are exempt from taxation and from all the obligations imposed upon the citizens of the State of Kansas by the laws of that State. Men who commit crimes on these Indian lands are to be punished, according to the provisions of this bill, under the laws of the United States, and not under the laws of the State of Kansas.

Mr. WINDOM. I believe the provisions of the bill extend only to those lands that are held in severalty by the Indians.

Mr. HUBBARD, of Iowa. I believe I have already stated that the bill only extends to lands held in severalty by the Indians; the lands upon which they are living, the lands upon which they have farms and improvements.

Mr. INGERSOLL. I desire to ask the gentleman who has reported this bill [Mr. HUBBARD, of Iowa] whether it is intended to confer jurisdiction upon the State of Kansas over these Indians, who are now under the jurisdiction of the United States, and to require them to pay taxes upon lands held in severalty by them to support the State government of Kansas. If that is so, I desire to ask further whether under this act it is proposed to confer the right of franchise upon these Indians who are thus to be taxed for the support of the State government.

Mr. HUBBARD, of Iowa. I will answer the last question first. I understand that some of these Indians, or some who are considered a part of the tribe, are now exercising the right of voting in the State of Kansas. And one of them, one of the very men who is holding these lands in severalty, and who will be embraced within the provisions of this bill, is now a member of the State Legislature of Kansas. It is the object of this bill to extend the laws of the State of Kansas over the lands held in severalty so far as to subject them to taxation. And we believe that that is right and just.

Mr. ROSS. It is proper, perhaps, as I am one of the members of the Committee on Indian Affairs, that I should state that this bill did not meet my approbation. I do not think it is expedient to pass any such bill as this. Indeed, I regard it as violative of all treaty obligations between the Government of the United States and these Indians that these lands should not be subject to taxation. I know that there exists on the part of the citizens of Kansas a feeling of hostility toward those Indians. These Indians occupy lands in the State of Kansas under treaty stipulations with the Government of the United States; and I do not believe it is good policy for Congress to subject them to the laws and jurisdiction of the State of Kansas. It will create continual trouble between the Indians and the whites.

Now, it is true this bill does not subject to taxation the Indian lands in Kansas, except so far as they are set apart in severalty. But why should even those lands be subjected to this State taxation? The dividing those lands among the Indians in severalty does not release the Government of the United States from the performance of its treaty stipulation, that these lands should not be subject to taxation.

This bill was agreed to by a majority of the Committee on Indian Affairs; and perhaps I should not have said this much about it. But it did not receive my assent there, nor can I vote for it in the House.

Mr. DAVIS. I wish to inquire of the gentleman from Iowa [Mr. HUBBARD] whether he is certain that any of these lands are held in severalty under any fee which would be held good in law? We have in the State of New York several Indian reservations, on which have been located certain premises which are occupied by the Indians year by year; but they do not hold under any individual title. Their title is that of the tribe; there is no separate title. And I doubt whether there is a single Indian reservation within the United States where there is a title which the Indian could convey to another. In my judgment it is a mere permissive occupation. And I therefore ask the gentleman to give us any information upon that subject which he may have in his possession.

Mr. HUBBARD, of Iowa. The gentleman from Kansas [Mr. CLARKE] is much more familiar with these Indian lands than I am. But I will endeavor to answer the question of the gentleman from New York, [Mr. DAVIS.] I understand that under the provisions of the treaties between some of these Indians and the Government of the United States provision is made for the issuing of patents, or rather of certificates, to the Indians for these lands assigned in severalty; and under the provisions of these treaties some of these lands may be certified to the Indians in such a manner that they will hold an absolute fee in the land. That is the way I understand it. I now yield to the gentleman from Kansas [Mr. CLARKE] for a moment.

Mr. CLARKE, of Kansas. The necessity for the passage of this bill grows out of the peculiar state of things which exist in the State of Kansas. This map which I hold in my hand represents the Pottawatomie reservation, originally thirty miles square, in a compact body. Under a treaty made some two or three years since, this reservation was diminished, and the Indians were allowed to select their lands in severalty, and patents were issued by the United States to these Indians for the lands so held in severalty. These lands were selected under the direction of the Secretary of the Interior. As I think, the Secretary of the Interior wrongfully allowed these lands to be selected on any part of this reservation of thirty miles square. They were selected in accordance with this map, an examination of which will show that, while one section is held by the Indians, an adjoining section may be held by white men. The consequence is that while the jurisdiction of the laws of the United States, and the district court of the United States, extends over the Indian lands, the jurisdiction of the State courts extends over the lands immediately adjoining. Thus there arises a conflict of jurisdiction.

The object of this bill is to bring about a uniformity of jurisdiction. Practically, the difficulty is this: half-breeds or sometimes white men adopted into the Indian tribes go and take these lands; and, Mr. Speaker, it is absolutely impossible to have any uniformity in the execution of justice unless the laws of Kansas are extended over those lands. This bill does not interfere with the subject of taxation; it does not interfere with the question of the transfer of the Indian lands. It simply provides that

depredations upon these lands and other criminal acts shall be punishable under the law of the State of Kansas.

What we want is a law which will enable us to execute justice, to enforce the laws of Kansas, to punish horse thieves, to punish men who commit depredations upon these lands. At present we are not able to secure the execution of justice under the operations of the district court. That court is very efficient, and to the extent of its ability performs, I have no doubt, its whole duty. But it is absolutely impossible to secure the administration of justice upon these lands unless the laws of Kansas are extended over them.

The necessity for this bill grows, as I have remarked, out of the peculiarity connected with the selection of these lands. If the lands had been selected in a body, as I believe the provisions of the treaty originally intended they should be selected, there would have been no necessity for the passage of this bill; but in view of the manner in which they have been selected, and the difficulties which have resulted, it is very important that this legislation should be adopted.

Mr. WASHBURNE, of Illinois. I certainly cannot see my way clear in reference to this legislation. The United States courts now have jurisdiction of all these matters. They are now all left, and I think very properly, under the jurisdiction of the laws of the United States, to be administered by the courts of the United States. I am entirely opposed to changing the principle which we have heretofore followed. If we put this power into the hands of the white men we cannot tell how it will be abused or what will be the result.

I think, sir, that we had better let matters remain as they are. The gentleman from Kansas [Mr. CLARKE] says that the United States court there is an efficient court. That court has full jurisdiction; and if the Indians are guilty of any crimes, they may be punished in that court. I do not believe that it will tend to the public interest or the ends of justice to have this jurisdiction vested in the courts of the State of Kansas.

Mr. STEVENS. I remember, sir, when a law was passed by the State of Georgia extending the jurisdiction of that State over the Indian lands within the State, the United States still, as it was thought, holding jurisdiction. But as the United States never annulled the laws of the State of Georgia, although the Government evidently had the jurisdiction, what was the result? In a short time, under those State laws, a system of persecution was carried on against those Indians. A man named Tassels was ordered to be hanged without the least authority of law, without his having committed any crime. The case was carried to the Supreme Court of the United States, and when that tribunal was about to reverse the decree of the State court, the man was hanged, and that ended the case.

That is the manner in which the Indians are treated whenever they are put out of the protection of the United States, and placed under the control of the State laws. I trust that we shall never disgrace the national legislation by any act which will give the sanction of law to such an outrage as I have cited. These unprotected and helpless people are going out of existence fast enough by the natural operations of the white man's crimes, without anything further.

Mr. HUBBARD, of Iowa. I do not know, sir, what may have been the experience in the case of Georgia, but I apprehend no injustice can be effected or grow out of the passage of this bill. I am satisfied, under the present law, in the manner in which those Indian lands have been selected, a great deal of injustice grows out of the mixed and interlaced jurisdiction which exists in the State of Kansas. Any person can see, from an examination of this map, and the location of the lands named in the bill, that the administration of law and the punishment of crime in the State of Kansas will be difficult.

Mr. SLOAN. I understand one object of this bill is to protect the lands of this reservation from depredation. These lands are held partly by whites and partly by Indians. Is it to protect the Indian lands from depredations or the lands held by the whites? I should like also to know whether it is the whites upon this reservation or the Indians who are asking for this legislation.

Mr. HUBBARD, of Iowa. I understand the people of Kansas ask for this legislation.

Mr. SPALDING. Do any of the Indians ask for it?

Mr. HUBBARD, of Iowa. I cannot say; but it does not matter whether the Indians ask for it or not. The people there are suffering from this mixed and interlaced jurisdiction.

Mr. HIGBY. I ask when Indians went off from lands reserved in Kansas and committed crimes whether they are not punishable under the laws of the State instead of the laws of the United States?

Mr. HUBBARD, of Iowa. I do not understand it so. Practically at least it is not so. I understand that the Indians are under the protection of the laws of the United States.

Mr. STEVENS. If an Indian goes out of his tribal domains and commits a crime, does the gentleman say that he is not to be tried by the laws of the place where the crime was committed? Does the gentleman want to take him away from his own reservation, and let white men go in there and try him?

Mr. HIGBY. I should like to have my question settled. It would be extraordinary if the laws of Kansas did not have full jurisdiction within the limits of Kansas excepting Indian reservations. I hope the committee will let us have some information on the subject.

Mr. HUBBARD, of Iowa. I understand the Indians are punished under the laws of the United States. I understand the jurisdiction of the laws of the United States is not extended over them, and if an Indian does commit a crime upon his reservation he is not punishable by the laws of the State where the reservation is located. That is my idea of the law and it is an answer to the question of the gentleman from California.

Mr. BURLEIGH. I have lived there for five years, and not less than one hundred citizens have been murdered by Indians, yet not one has been arraigned or punished under the present laws. It is next to impossible to punish an Indian. It is very well so say that the laws of the United States protect the white people upon the frontiers, but the fact is that they do not protect them. Thousands of horses, thousands of cattle have been stolen, buildings burned, and property destroyed of our citizens, and I have not heard of a single instance where the Indians were brought to justice and punished.

Mr. STEVENS. Were not these Indians out in a war of nation against nation?

Mr. BURLEIGH. We regard all Indians as hostile who come down and ravage our frontiers.

Mr. STEVENS. Does the gentleman refer to the terrible slaughter of Indians by the white chief Chivington?

Mr. BURLEIGH. I do not refer to anything of the kind. I say that the present Indian policy cannot be changed for the worse. As at present managed, it is a system of corruption from the beginning to the end.

Mr. HALE. I understand the gentleman from Dakota to say that no Indian has been punished under the laws of the United States. I had an impression that in Minnesota, a few years ago, some thirty or forty Indians were hung under the military laws.

Mr. BURLEIGH. The gentleman speaks of the little hanging-bee. I believe there were some twenty or thirty Indians hung, but the balance of them I learn are about to be turned loose in the Territory of Dakota, by order of the Indian department, to commence again their work of robbery and rapine upon our citizens.

Mr. HUBBARD, of Iowa. I have no knowledge of a single instance in which an Indian has been punished under State or territorial laws for the commission of any crime under the civil law. And the cases referred to by the gentleman from Pennsylvania and the gentleman from New York are cases of punishment under trials by military tribunals. I do not believe a single instance can be found where during the last twenty years an Indian has been punished by a civil tribunal in any State or Territory. So far as these Indians are concerned, they are under the jurisdiction and laws of the United States; they are regarded as being outside of and not under the jurisdiction and laws of the States or the Territories.

By the provisions of this bill it is not intended to bring these Indians within the jurisdiction and the laws of the State of Kansas. It is only intended to bring the lands of these Indians within the jurisdiction of these laws; that is, such lands as have been assigned to these Indians in severalty, and for which certificates have been issued by the Secretary of the Interior, vesting in them the absolute title to the land.

Mr. ROSS. Does not this bill propose to extend the laws of Kansas over these Indians?

Mr. HUBBARD, of Iowa. Simply over the land; not over the Indians. It does not affect the jurisdiction of the Government of the United States, so far as the persons of these Indians are concerned; it relates only to jurisdiction over the land.

Now, as to the justice and propriety of this bill: these Indians are holding these lands in severalty under titles from the General Government, with their farms and improvements, living there in style and splendor. And yet gentlemen say they are to be exempt from taxation; exempt from the operation of the local laws of the State.

Mr. SPALDING. I would ask the gentleman how the jurisdiction can be extended over the lands without being extended over the persons on the lands?

Mr. HUBBARD, of Iowa. I have no time to speak of or discuss questions of this kind.

Mr. SPALDING. If I can be convinced that that can be done I might be induced to vote for the bill.

Mr. HUBBARD, of Iowa. I think I could explain it if I had the time. I am directing my attention to another point or feature of this law. I will ask the gentleman from Pennsylvania, [Mr. STEVENS,] and the gentleman from Illinois, [Mr. ROSS,] whether it is just and right for these Indians to hold these lands in severalty, and be benefited by the erection of schoolhouses, the construction of roads, and by all other improvements of a local character, and yet be exempt from the burdens imposed upon others, in the shape of taxes, for the purposes of making these improvements?

Mr. STEVENS. That depends upon the original bargain, which it is proposed we shall now try to evade.

Mr. HUBBARD, of Iowa. I undertake to say that an investigation of that subject will show that we have a right to pass this law. If we have the right to pass the law, I maintain that it is politic and expedient that we should do it. Any man who will look at the condition of those lands can see how the citizens of Kansas are situated in regard to those Indians. A man commits a crime upon the lands of the whites, and then flees to the Indian territory, where he is out of the way of arrest, so far as the officers of the law in the State of Kansas are concerned, for he has placed himself beyond the power and jurisdiction of the State; and yet gentlemen demand that this state of affairs shall continue.

Now, we ask that the laws of Kansas shall be extended over these lands, so that when a man commits a crime upon the lands of the whites and goes upon the lands of the Indians he may be arrested and brought to justice, like other criminals in the State.

[Here the hammer fell.]

The SPEAKER. The morning hour has expired, and this bill will go over until to-morrow morning.

Mr. HUBBARD, of Iowa. I move that the bill and amendments be printed.

The motion was agreed to.

LEAVE OF ABSENCE.

On motion of Mr. FARQUHAR, leave of absence was granted to Mr. DUMONT for two weeks from Friday last.

RECONSTRUCTION—TESTIMONY REPORTED.

Mr. CONKLING. I rise to a privileged question. The joint committee on reconstruction, which is authorized to report at any time, have directed me to report to the House the testimony taken by them in relation to the States of Virginia, North Carolina, and South Carolina. The testimony taken by that committee has already been ordered to be printed.

Mr. ELDRIDGE. Is it in order to call for the reading of what has just been reported?

The SPEAKER. It is not, as there is no motion pending. The order to print this testimony was made some time ago.

Mr. CONKLING. I am sorry the gentleman from Wisconsin [Mr. ELDRIDGE] should be disappointed as there is some very good reading in this testimony.

Mr. ROSS. Would it be in order to move to add two more members to this reconstruction committee according to the decision of the Chair yesterday?

The SPEAKER. It would be by unanimous consent.

Mr. CONKLING. Is there any hope that we can have the benefit of the services of the gentleman from Illinois [Mr. ROSS] on that committee?

Mr. ROSS. I do not want to serve on it.

The SPEAKER. The gentleman from Illinois [Mr. ROSS] spoke of the decision of the Chair on yesterday in reference to adding two members to a select committee. That was done on yesterday by order of the House, not by any action of the Chair.

Mr. SCHENCK. The order which was made about printing extra copies of the testimony taken by the joint committee on reconstruction was based upon a resolution which I introduced relating to the reports already made. I doubt whether a reference to the Journal will show that that order includes the testimony just reported by the gentleman from New York, [Mr. CONKLING.]

Mr. CONKLING. The Chair will very likely remember, if the gentleman from Ohio [Mr. SCHENCK] does not, that when the resolution was reported from the committee I myself asked to have it amended so as to cover testimony to be received thereafter.

Mr. LAFLIN. I desire to state to the House that it certainly was not the intention of the Committee on Printing, when they reported that resolution, that it should apply to all the reports that were yet to be made. Not even after the resolution was amended was it so understood. I may say here that the committee have been inquired of by the Superintendent of Public Printing upon this very point, and the interpretation they put upon the order was not of the character intimated. Neither did we suppose, as my colleague [Mr. CONKLING] has suggested, that his amendment was for any such purpose.

Mr. CONKLING. What did it cover?

Mr. LAFLIN. I do not remember what it did cover. I have seen the resolution as it was sent to the Superintendent of Public Printing, and I certainly do not think it is susceptible of that interpretation.

The SPEAKER. The Chair has sent for the resolution, and when it is found it will be read by the Clerk.

Mr. CONKLING. In the mean time permit me to say that at the very time that resolution was reported from the Committee on Printing, the testimony which I have just submitted to the House was reported in every sense, but the mere manual sense of handing it in to the Clerk of the House. The testimony was all completed, was all ready to be handed in, and was only delayed in deference to the Senator from Michigan, [Mr. HOWARD,] who was absent, as I mentioned at the time the resolution was adopted. After the action of the joint committee the testimony was in truth reported; but the handing it in to the House, and sending it to the Public Printer was postponed merely for the reason I have suggested.

Nevertheless, when the Committee on Printing reported the resolution referred to, it occurred to me that there might be some misapprehension about it; and I thereupon rose and asked that the resolution be amended so as to make it read, "the testimony already presented, and that to be presented." Now, if the chairman of the Committee on Printing [Mr. LAFLIN] means that that committee did not understand the resolution as amended to include testimony which might be taken thereafter, then I have no controversy with him at this time upon that point. But it did include that which in truth had been taken, and which in point of form had been reported, and only lacked its appearance here; there can be no doubt of that, as my colleague will agree. If so then there is no necessity for any question at this time. If the question shall arise about testimony taken hereafter, that question can be decided when it comes up.

But the country certainly wants the testimony printed, and wants this I have just reported as much as it wants any of the testimony.

The SPEAKER. The Clerk will read the resolution as adopted by the House.

The Clerk read, as follows:

Resolved, That twenty-five thousand extra copies of each of the reports of testimony taken by the joint select committee on reconstruction, together with the accompanying documents, be printed without covers for the use of the House.

Mr. CONKLING. That is quite broad enough. This is one "of the reports of testimony taken by the joint select committee on reconstruction."

Mr. LAFLIN. I suggest that that applies only to such reports as had then been made. I know the question was thoroughly canvassed in our committee whether the resolution applied to reports yet to be made, and it was not so intended. Most assuredly it would argue a very great want of judgment on the part of the committee to report in favor of a certain number of extra copies of testimony and reports which did not then have an existence. Certainly that was not our intention.

Mr. CONKLING. I would like to inquire what became of the amendment which was adopted.

The SPEAKER. The Chair is not certain but what the suggestion of the gentleman from New York [Mr. CONKLING] was made when the resolution was first introduced and referred to the committee.

Mr. CONKLING. I think not.

The SPEAKER. The resolution as it now appears has been read, strictly construed, it would refer only to the reports which had then been made.

Mr. CONKLING. Then I will submit a motion, to go to the Committee on Printing, that twenty-five hundred copies of the testimony just presented be printed for the use of the House.

The SPEAKER. That motion is in order. It will be referred, under the law, to the Committee on Printing.

Mr. CONKLING. I think that the number of copies to be printed ought to be even larger than I have named. I trust that the Committee on Printing will be as liberal in reference to printing this testimony as they can be in regard to any matter to be printed by this Congress. If there is anything that it is desirable shall go before the country it is this testimony.

Mr. SCHENCK. My object in calling attention to this matter has been accomplished.

Mr. CONKLING. I propose to add to my motion a provision that this testimony be printed with that previously presented or in such a form that the two documents can go together.

The SPEAKER. If the other has already been printed, this cannot, of course, be printed with it. The committee can report as to that. The reference of the motion to print gives them jurisdiction of everything relating to that matter.

Mr. ROSS. I desire to ask, Mr. Speaker, whether this motion to print can be made without unanimous consent?

The SPEAKER. It can. When a report or any other document is presented to the House, a motion to print extra copies is in order, and must go to the Committee of Printing under the law.

NAVAL APPROPRIATION BILL.

Mr. STEVENS. I am directed to report back from the Committee on Appropriations Senate amendments to the naval appropriation bill. I desire that the House shall consider them now.

Mr. WASHBURNE, of Illinois. Have these amendments been printed?

The SPEAKER. They have not.

Mr. WASHBURNE, of Illinois. I believe there is quite a large number of amendments. I hope my friend from Pennsylvania will not press their consideration until they are printed.

Mr. STEVENS. The amendments are very few.

Mr. WASHBURNE, of Illinois. I have looked over them, and it seemed to me that they were quite important, involving large amounts of money. As we are in no particular hurry so far as these appropriation bills are concerned, I submit to my friend that we had better in all these cases have the report of the Committee on Appropriations printed, showing by numbers the Senate amendments in which the committee recommend concurrence, and those in which they recommend non-concurrence. The gentleman from Pennsylvania knows that I would not interpose any objection for the purpose of delaying unnecessarily any of these measures.

Mr. STEVENS. My reason for desiring the consideration of these amendments at the present time was that several gentlemen who must go away this afternoon have a deep interest in this bill. However, I will say to those gentlemen that I will not ask the House to consider this subject till they have returned. I do not myself like to consider amendments of this sort without having them printed.

I move, therefore, that the consideration of these amendments be postponed and made the special order for next Wednesday week, immediately after the morning hour.

The motion was agreed to.

Mr. WASHBURNE, of Illinois. I suggest to the gentleman from Pennsylvania, the chairman of the Committee on Appropriations, as there seems to be no business particularly pressing upon the House, that we proceed to call committees for reports and go right through with them.

Mr. JENCKES. I object to that. The bankrupt bill has been made the special order for to-day, and I demand its consideration.

The SPEAKER. There is only one appropriation bill now before the Committee of the Whole on the state of the Union—the Indian appropriation bill.

BANKRUPT BILL.

The House then proceeded to the consideration of the special order, being House bill No. 7, to establish a uniform system of bankruptcy throughout the United States; the pending amendment being that of Mr. ROGERS to the fourteenth section.

Mr. ROGERS. I will so modify my amendment as to move to strike out "six" and insert "three;" so that it will read:

That as soon as said assignee is appointed and qualified, the judge, or, where there is no opposing interest, the register, shall, by an instrument under his hand, assign and convey to the assignee all the estate, real and personal, of the [debtor] bankrupt, with all his deeds, books, and papers relating thereto, and such assignment shall relate back to the commencement of said proceedings in bankruptcy, and thereupon, by operation of law, all such property and estate, both real and personal, shall vest in said assignee, although the same is then attached on mesne process as the property of the debtor, and shall dissolve any

such attachment made within three months next preceding the commencement of said proceedings, &c.

Mr. JENCKES. If the gentleman will make it four months I will accept it.

Mr. ROGERS. That is a long time.

Mr. JENCKES. It is not longer than in most of the States. This is simply to prevent fraudulent preferences by way of attachments. I have looked through the laws of all the States and think that four months would be a fair average.

Mr. HUBBARD, of Iowa. I hope that amendment will not prevail. In my own State attachment proceedings may be commenced and concluded within three months. I do not know what the effect would be, but I think it would set aside sales of property. If so, it would produce a great deal of injustice.

Mr. JENCKES. Not at all. In the gentleman's own State, and in most of the other States, no order for attachment can issue except that which would authorize an adjudication of bankruptcy under this act. This is to prevent the procurement of fraudulent preferences by way of attachment.

If the gentleman will look at the laws of the States, I think that four months will be found to be a very fair average. I think that it is sixty days in Connecticut and six months in Massachusetts. In some of the States attachments are set aside two years—what are called in technical phrase "sleeping attachments."

Mr. HUBBARD, of Iowa. If the objection I have made to this provision is corrected by other provisions of the bill, I will not insist on moving any amendment.

The question was taken on Mr. ROGERS's amendment, and it was disagreed to.

Mr. JENCKES. I now move to amend by making it four months instead of six months.

The amendment was agreed to.

Mr. JENCKES. When the bill was last up several amendments were proposed to this section, and I would like to know what has become of them.

The SPEAKER. Gentlemen only gave notice of the amendments, but did not offer them.

Mr. JENCKES. I have prepared an amendment which I think will meet all the objections to this section. I move after these words—

Provided, however, That there shall be excepted from the operation of the provisions of this section the necessary household and kitchen furniture, and such other articles and necessaries of such bankrupt as the said assignee shall designate and set apart, having reference in the amount to the family, condition, and circumstances of the bankrupt, but altogether not to exceed in value, in any case, the sum of $500; and also the wearing apparel of such bankrupt, and that of his wife and children, and the uniform, arms, and equipments of any person who is or has been a soldier in the militia or in the service of the United States; and such other property as now is, or hereafter shall be, exempted from attachment or seizure or levy on execution by the laws of the United States.

To add the following:

And such other property not included in the foregoing exceptions as is exempted from levy and sale upon execution by the laws of the State in which the bankrupt has his domicile at the time of the commencement of the proceedings in bankruptcy to an amount not exceeding that allowed by such State exemption laws which were in force in the year 1864.

Mr. HALE. I ask the chairman of the committee whether the amendment is not open to the objection that it is a departure from the provision of the Constitution that the law shall be uniform in its operations?

Mr. JENCKES. I think not sir; I have considered the question carefully and have consulted those learned in the law on this subject. The better opinion seems to be that the requirement of the Constitution in using the word "uniform" or "uniformity" is that the uniformity shall be with regard to persons and not with regard to any particular exemption or any particular allowance. A person who comes to take possession of the property of a bankrupt whose assets amount to nothing, of course there is no estate out of which to pay him. Another bankrupt whose assets amount to $1,000,000, the allowance may be made to the fullest extent of the laws of the State where he lives.

The provision of the Constitution requires uniformity with regard to the person, not equality with regard to any allowances that may be made or of payment of costs or of dividends in the course of proceedings.

And I will say further for the information of the gentleman that I consider that this law if now made applicable to the business and property of the country must take effect upon that property according to the laws by which it is held. The laws of the several States affecting the title to property, the rules for its transmission by conveyance or descent, and the terms and conditions under which it may be held, are not to be altered by the laws of the United States. What may be done hereafter may be a different thing.

Mr. HALE. It seems to me the gentleman is in error in the construction which he gives to the language of the Constitution, that by a uniform system of bankruptcy is meant one which shall operate with uniformity throughout the Union, with uniformity as to the rights of persons or of property which persons may hold. Take the case of homestead exemption. I think there is now in nearly all the States a homestead exemption to a greater or less extent.

Mr. JENCKES. This does not alter it.

Mr. HALE. In the State of Vermont the homestead exemption is limited to $500 in value; in New York it is limited to $1,000; and in some of the western States there is, I believe, an exemption of land without limitation in value.

Mr. JENCKES. I beg leave to correct the gentleman. There is no State except Texas, under the laws existing there before the rebellion, in which there is an exemption without limitation.

Mr. HALE. I beg pardon; I think Wisconsin and Iowa both exempt real estate to the amount of a certain number of acres.

Mr. KASSON. I will state that in Iowa there is a limitation of forty acres for a farm, and half an acre for a dwelling.

Mr. HALE. Without limitation as to value. And I understand Iowa is not the only State.

Mr. SPALDING. In Wisconsin, I believe, it is without limitation, provided it shall be a homestead.

Mr. HALE. There are States again in which there is no exemption of real estate. It seems to me it cannot but strike every one that in introducing this question of bankruptcy, if we are going to adopt the exemption laws of the States, we are going to have the greatest possible latitude.

Mr. KASSON. I move to amend the amendment by striking out the last word.

I regret that my friend from New York [Mr. HALE] should oppose a proposition of this kind, touching a question as precious to the judgment, conscience, and heart of western men as this idea of a homestead exempt from violent seizure under the law. If other States have not seen fit to adopt this great principle of legislation then it is their fault and should not be made our misfortune. Every debt incurred for years among our people has been incurred with reference to just these exemptions, and the equality of the proposed provision of the gentleman from Rhode Island consists in the fact that it neither takes from nor adds to the property which was liable for the payment of debts. The property which the creditors had claims to at the time the debt was incurred remains. That is the general rule, and it is equitable.

It also leaves intact the rights and customs of the State, which, in some respects, are more important than a bankrupt law itself.

I am ready and anxious to support a bankrupt bill, but without protection of the homesteads of my people against the action that might result under it, I would prefer to have no bankrupt law at all. The debtor cannot make his first start in the recovery of his prosperity and the comfort of his family unless he has a shelter for his wife and children. It is a very fundamental condition of a return of prosperity to this interest of the country, which this law is intended, I apprehend, to secure by releasing these debtors from the burden now imposed upon them by the laws. It will stimulate their efforts for the deliverance of themselves from burdensome debt.

For these reasons, I hope the House will allow these exemptions to take effect and secure the equal operation of this law as to debtors in all the States by adopting a rule that leaves to the creditor only that class of property with reference to the security of which his debt was contracted.

Mr. SPALDING. I rise to oppose the amendment of the gentleman from Iowa.

However much I may be disposed to support a national bankrupt bill—and I think there is no man on this floor more disposed to do it—I must say as a lawyer that I agree with the gentleman from New York, that if you establish this inequality which must arise from excepting these homesteads as reserved to debtors by the respective States, you no longer have a uniform rule of bankruptcy in the United States. I say it reluctantly, but I say it from my honest conviction as a lawyer that this cannot be done consistently with the Constitution of the United States. Now, I have the greatest respect for the legal capacity of my friend, the chairman of the committee, [Mr. JENCKES,] but I think with the gentleman from New York [Mr. HALE] that in this particular his zeal for the passage of this bill outruns his knowledge of constitutional law.

Suppose I should live in the State of Illinois, and should contract debts beyond my ability to pay. I there hold a homestead worth say $25,000. The laws of the State of Illinois would allow me to reserve a homestead of the value say of $1,000. This bankrupt law is passed with the provision which my friend wishes to insert. I have only to sell my homestead and pass over into Wisconsin and invest the whole amount in a homestead there, and it is protected from my creditors; whereas if I remain in Illinois I could only hold $1,000.

In my own State, Ohio, I could hold to the value of $500. So it is in many of the States. But in some of them there is no limitation of the value of the homestead, provided it is considered as such; and in Texas, we are told, it runs to any extent in land. Now this is an inequality. I say it as a lawyer, and not because I wish to defeat the measure, because I should hope, even if this provision should be inserted, that the bill should pass.

Mr. KASSON. I withdraw my amendment.

Mr. SLOAN. I offer an amendment to the amendment, by adding the following:

Provided, That the foregoing exception shall operate as a limitation upon the conveyance of the property of the bankrupt to the assignee, and in no case shall the property hereby excepted pass to the assignee or the title of the bankrupt thereto be impaired or affected by any of the provisions of this act.

Mr. HILL. I think that is not germane to the amendment.

Mr. SLOAN. There is no doubt about its being germane, as I will show.

The SPEAKER. The Chair thinks it is germane.

Mr. SLOAN. The object of this amendment is this: while I believe with the gentleman from Rhode Island that the exemption of a homestead or other property as provided by State laws is valid, and is not in conflict with the Constitution, which provides for uniformity, yet there may be some doubt upon that question. It may be true, as the gentleman from Ohio [Mr. SPALDING] has just argued, that the provision excepting a homestead will be held by our courts to be void for want of uniformity. If that be so the exemption will simply become void, but the bankrupt law will be operative, and the homestead, with all other property exempted by the law of the State, will be swept away from the debtor.

The object of this amendment is to make that exception a limitation upon the grant of the property; so that, if the exception should be held void, in no event can the property pass, and the whole law will fall, instead of simply the exception falling, and the law remaining good. While I am disposed to support this

bill, and believe it will be a beneficial measure to the country, provided the exemption of homestead and other property can be preserved to the debtor; yet I am opposed to the bill if it is to result in depriving debtors of their homestead and other property exempted by the laws of the State.

Mr. JENCKES. I desire to ask whether the gentleman from Wisconsin [Mr. SLOAN] or any other gentleman who has spoken has ever known the question of the constitutionality of those exemption laws to be raised in any suit for the collection of debt in their respective States. I have never known that question to be raised in my State.

Mr. SLOAN. The gentleman means raised in the courts of the United States.

Mr. JENCKES. Yes, sir.

Mr. SLOAN. I have never known the question to be raised in the United States courts. But I have no doubt that those exemption laws are valid.

Mr. JENCKES. Then the question has not been raised within the knowledge of any gentleman present.

Mr. HALE. I do not wish my silence to be taken as an assent to the proposition of the gentleman from Rhode Island, and therefore the gentleman from Wisconsin must permit me to say that the question has been raised and decided in the State of New York.

Mr. JENCKES. Decided how?

Mr. HALE. The constitutionality of those laws has been sustained.

Mr. SLOAN. The question is not whether any or all of these laws are valid and constitutional, but whether the various State laws exempting different kinds and amounts of property, an exemption recognized in this bill, are invalid for want of uniformity. In my judgment, the risk is too great to allow the simple exception to go into the law, as proposed by the gentleman from Ohio. We should add some such proviso as I have offered. I think that this which I propose will accomplish the object. It provides that the exceptions shall operate as a limitation upon the conveyance of the property from the debtor to the assignee, and that in no event shall the property pass if the exemption is held to be void for want of uniformity.

Mr. JENCKES. I think that the gentleman from Wisconsin should be satisfied with the amendment which I propose. The law with reference to this matter stands, as I understand it, in this way: the Constitution authorizes Congress to pass "uniform laws on the subject of bankruptcies throughout the United States." The Congress which first met under the Constitution passed no law on that subject. If they had done so, the question about equality or inequality, and whether inequality is want of uniformity never could have been raised in the passage of a law. They did pass the judiciary act of 1789; and the thirty-fourth section of that act provides—

"That the laws of the several States, except where the Constitution, treaties, or statutes of the United States shall otherwise require or provide, shall be regarded as rules of decision in trials at common law in the courts of the United States in cases where they apply."

Under that section, the laws of the States have been held to establish rules concerning property; and the courts of the United States have conformed to the decisions of the States. Now, it is proposed to pass a law of the United States upon the subject authorized by the Constitution. It must, as I view the law, step in and apply to the state of things now existing, recognizing that which has been lawful hitherto, under the laws of the States by the recognition of that statute of 1789, as the rule of property now existing with regard to bankrupts as well as other persons.

But I do not conceive the word "uniformity" or "uniform" applies to this class of exemptions any more than to equality in dividends. You might as well require one as the other. The fact eliminated from the question put just now seems very conclusive on the subject, as expressive not only of the judicial opinions but the opinion of lawyers of the United States as to the question that the constitutionality of these exemption laws has never yet been raised, or if raised——

Mr. SLOAN. The gentleman is so thoroughly convinced that this exception is valid he can have no objection to the proviso.

Mr. JENCKES. I have objection to it, because of the laws I find in the statute-books of Texas and elsewhere. I wish it to stand as an excepton, and not as a limitation on the grant.

Mr. HALE. It seems to me the real point of the question here has been lost sight of by many on the floor. The objection I make is not to the allowance of the existing homestead exemption to the bankrupt, but allowing exemption in one State utterly disproportionate to that in the other, so that one man is exempted to the extent of $40,000 in Wisconsin, $500 in another State, and nothing at all in Kentucky. If that is a uniform system of bankruptcy, then I am unable to understand what is not uniformity.

As to the constitutionality of exemption laws, referred to by the chairman, these decisions are under State laws before the power of the United States is exercised in passing a law of bankruptcy. This law, when passed, will not control State laws as to taking property in execution. It is only when a man is driven into bankruptcy. It is only then when he is brought under the operation of the law. Under this a man may remove from one State to another, and keep $40,000 from his creditors, which he could not do in his own State.

Mr. JENCKES. I move that all debate be closed on the pending amendments.

The motion was agreed to.

The question recurred on Mr. SLOAN's amendment.

The House divided; and there were—ayes 11, noes 12; no quorum voting.

Mr. KASSON. I hope it will be understood that a vote will hereafter be taken on this proposition.

Mr. SLOAN. I do not object to that.

The SPEAKER. As the count has shown that no quorum is present, the only motion in order is to adjourn.

Mr. FARNSWORTH. I move that there be a call of the House.

Mr. JENCKES. I have no objection to letting this amendment go over for a vote in a full House.

The House divided; and there were—ayes 15, noes 23.

Mr. JENCKES demanded tellers.

Tellers were ordered; and Messrs. JENCKES and SPALDING were appointed.

Mr. ELDRIDGE moved that the House do now adjourn.

Mr. DARLING demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 10, nays 115, not voting 58; as follows:

YEAS—Messrs. Eckley, Eldridge, James M. Humphrey, Kerr, Le Blond, Marshall, Moorhead, Niblack, Trimble, and Elihu B. Washburne—10.

NAYS—Messrs. Alley, Allison, Ames, Ancona, James M. Ashley, Baker, Baldwin, Baxter, Beaman, Benjamin, Bergen, Bidwell, Bingham, Boyer, Buckland, Sidney Clarke, Cullom, Darling, Davis, Dawes, Dawson, Dixon, Donnelly, Driggs, Eggleston, Eliot, Farnsworth, Farquhar, Finck, Glossbrenner, Grider, Hale, Aaron Harding, Abner C. Harding, Hart, Hayes, Henderson, Hill, Holmes, Hooper, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbell, James Humphrey, Ingersoll, Jenckes, Julian, Kasson, Kelley, Kelso, Ketcham, Kuykendall, Laflin, Latham, Loan, Longyear, Marston, Marvin, McClurg, McCullough, McKee, McRuer, Mercur, Miller, Moulton, Myers, Newell, Nicholson, O'Neill, Orth, Paine, Patterson, Perham, Phelps, Pike, Plants, Pomeroy, Price, Radford, Samuel J. Randall, Raymond, Alexander H. Rice, John H. Rice, Ritter, Rogers, Rollins, Ross, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Spalding, Stilwell, Strouse, Taber, Taylor, Thayer, Francis Thomas, John L. Thomas, Thornton, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Henry D. Washburn, William B. Washburn, Welker, Williams, Stephen F. Wilson, Windom, and Winfield—115.

NOT VOTING—Messrs. Anderson, Delos R. Ashley, Banks, Barker, Blaine, Blow, Boutwell, Brandegee, Bromwell, Brooks, Broomall, Bundy, Chanler, Reader W. Clarke, Cobb, Coffroth, Conkling, Cook, Culver, Defrees, Delano, Deming, Denison, Dumont, Ferry, Garfield, Goodyear, Grinnell, Griswold, Harris, Higby, Hogan, Hotchkiss, Edwin N. Hubbell, Hulburd, Johnson, Jones, George V. Lawrence, William Lawrence, Lynch, McIndoe, Morrill, Morris, Noell, William H. Randall, Rousseau, Shanklin, Sitgreaves, Smith, Starr, Stevens, Warner, Wentworth, Whaley, James F. Wilson, Woodbridge, and Wright—58.

So the House refused to adjourn.

During the vote,

Mr. BAKER stated that his colleague was detained from the House by sickness.

The vote was then announced as above recorded.

Mr. SCOFIELD. I move that further proceedings under the call be dispensed with.

The motion was agreed to.

The question recurred upon the amendment of Mr. SLOAN to the amendment of Mr. JENCKES.

Mr. SLOAN. I understand the amendment to the amendment will be accepted by the gentleman from Rhode Island, [Mr. JENCKES.]

Mr. JENCKES. I will accept it.

The amendment, as modified, was then adopted.

Mr. HALE. I did not understand the question as just taken. I move to reconsider the vote by which the amendment, as modified, was agreed to.

The question was taken; and upon a division there were—ayes 17, noes 46; no quorum voting.

The SPEAKER appointed Messrs. HALE and JENCKES to act as tellers.

The House again divided; and the tellers reported that there were—ayes sixteen, noes not counted.

So the motion to reconsider was not agreed to.

Mr. PAINE. I move to further amend section fourteen by striking out the words "all the estate, real and personal, of the bankrupt," and inserting in lieu thereof the following words, namely:

Such real and personal estate of the bankrupt as shall not be exempted from attachment, or seizure, or levy on execution, by the laws of the United States, or of the State where the bankrupt resides.

Also to strike out the following proviso:

Provided, however, That there shall be excepted from the operation of the provisions of this section the necessary household and kitchen furniture, and such other articles and necessaries of such bankrupt as the said assignee shall designate and set apart, having reference in the amount to the family, condition, and circumstances of the bankrupt, but altogether not to exceed in value, in any case, the sum of $500; and also the wearing apparel of such bankrupt, and that of his wife and children, and the uniform, arms, and equipments of any person who is or has been a soldier in the militia or in the service of the United States; and such other property as now is, or hereafter shall be, exempted from attachment or seizure or levy on execution by the laws of the United States; and the determination of the assignee in the matter shall, on exception taken, be subject to the final decision of the said court.

The question was upon agreeing to the amendment.

Mr. PAINE. Mr. Speaker, I came here at the opening of the session hoping to have an opportunity before its close to vote for a well-considered bankrupt law; and when the bill now under consideration was introduced by the honorable chairman of the select committee on bankruptcy, I addressed myself to its examination, expecting to be able to record my vote in favor of its passage; for I was of the opinion that a wisely framed system of bankruptcy would not only give relief and, as it were, new life to thousands of wretched debtors in the country, but also, if made a permanent feature of our national legislation, prove of great value to creditors themselves, and promote the commercial interests and general welfare of the people. Certainly there are many thousands of our fellow-citizens enchained by hopeless debt, in bondage almost as intolerable as that which so long and fearfully cursed the black slaves in the southern States, by whom such a law would be hailed as a proclamation of emancipation hardly less beneficent than that of Abraham Lincoln to the blacks. At the same time it is not to be forgotten that there is a wide difference between the present condition of the country and its

condition when the law of 1841 was passed. Then the revulsions of 1837 had strewn the land with wrecks, and thousands of prostrate debtors appealed to Congress for a bankrupt law. But now there is no such wide-spread insolvency in the country. If a law of any kind is now enacted, it will be mainly as a permanent measure, and not specially for present relief like the act of 1841. But, sir, the more I examine the provisions of this bill, the more I observe the spirit and purpose of those who have it in charge, the more apprehensive do I become that it is destined to be presented, for the final vote upon its passage, in a form so objectionable as to exclude the possibility of my support.

I have concluded to vote against the provisions for involuntary bankruptcy contained in this bill; and will proceed to state the considerations which have impelled me to this decision. I shall take no part in the old and, I suppose, interminable controversy respecting the precise import of the word bankruptcies in that clause of the Federal Constitution which provides that Congress shall have power to establish "uniform laws on the subject of bankruptcies throughout the United States." In that controversy, Webster, Clay, Benton, Calhoun, Marshall, and Story have been conspicuous. But, for the purposes of my argument, it will be sufficient to state the views of each without any presumptuous attempt to decide who were right and who were wrong.

Mr. Justice Story, in his Commentaries on the Federal Constitution, says:

"Without stopping at present to consider what is the precise meaning of each of these terms as contradistinguished from the other, it may be stated that the general object of all bankrupt and insolvent laws is, on the one hand, to secure the creditors an appropriation of the property of their debtors *pro tanto* to the discharge of their debts, whenever the latter are unable to discharge the whole amount, and, on the other hand, to relieve unfortunate and honest debtors from perpetual bondage to their creditors, either in the shape of unlimited imprisonment to coerce payment of their debts or of an absolute right to appropriate and monopolize all their future earnings."—*Section* 1101.

"What are to be deemed bankrupt laws, within the meaning of the Constitution, has been a matter of much forensic discussion and argument. Attempts have been made to distinguish between bankrupt laws and insolvent laws. For example, it has been said that laws which merely liberate the person of the debtor are insolvent laws, and those which discharge the contract are bankrupt laws. But it would be very difficult to sustain this distinction, by any uniformity of laws, at home or abroad. In some of the States laws known as insolvent laws discharge the person only; in others they discharge the contract. And if Congress were to pass a bankrupt act which should discharge the person only of the bankrupt, and leave his future acquisitions liable to his creditors, there would be great difficulty in saying that such an act was not, in the sense of the Constitution, a bankrupt act, and so within the power of Congress. Again, it has been said that insolvent laws act on imprisoned debtors only at their own instance; and bankrupt only at the instance of creditors. But however true this may have been in past times as the actual course of English legislation, it is not true, and never was true, as a distinction in colonial legislation. In England it was an accident in the system and not a material ground to discriminate who were to be deemed, in a legal sense, insolvents or bankrupts. And if an act of Congress should be passed which should authorize a commission of bankruptcy to issue at the instance of the debtor, no court would, on this account, be warranted in saying that the act was unconstitutional and the commission a nullity. It is believed that no laws ever were passed in America, by the colonies or States, which had the technical denomination of bankrupt laws. But insolvent laws, quite coextensive with English bankrupt systems in their operations and objects, have not been unfrequent in colonial and State legislation. No distinction was ever practically, or even theoretically, attempted to be made between bankruptcies and insolvencies. And an historical review of the colonial and State legislation will abundantly show that a bankrupt law may contain those regulations which are generally found in insolvent laws, and that an insolvent law may contain those which are common to bankrupt laws."—*Section* 1106.

"Perhaps as satisfactory a description of a bankrupt law as can be framed is that it is a law for the benefit and relief of creditors and their debtors in cases in which the latter are unwilling to pay their debts, and a law on the subject of bankruptcies in the sense of the Constitution is a law making provisions for persons failing to pay their debts."—*Section* 1108, *note* 3.

Mr. Calhoun, in his great speech upon the bankrupt bill, enacted a quarter of a century ago, expressed the following opinion:

"At the time of the formation of the Constitution there existed, both in this country and in England, from which we derived our laws, two separate systems of laws growing out of the relation of creditors and debtor, the one known as the system of bankruptcy and the other of insolvency. The system of insolvent laws grew out of the debtor side of the relation; and originated in motives of humanity for the unfortunate but honest debtor. Their object is to relieve him from the power of his creditors, upon an honest surrender of all his property for their benefit. Very different are the motives and objects in which the laws of bankruptcy originated. They grew out of the creditor side of the relation and form a portion of the mercantile or commercial code of laws. Their leading object is to strengthen the system of commercial credit. Though growing out of the same relation and to that extent connected, the two are as different in genius and character as the different aspects of the relation out of which they grow. The members of the Convention that framed the Constitution could not have been ignorant of the fact that there were two such systems known by the names of bankrupt and insolvent laws. Is it to be supposed that, if they intended to delegate to Congress power over both systems, these able and cautious men, so familiar with the distinction between them, would not have included both by name? And is it not conclusive that, in not doing so, and in limiting the grant to bankruptcy alone, it was the intention to grant that only to the exclusion of insolvency."

In the same debate Mr. Clay said:

"I shall attempt no precise definition of the phrases bankruptcy and insolvency, which are certainly generally used, in the vernacular language, in a synonymous sense. I prefer to describe the properties or qualities of each system. That of insolvency requires a full surrender of all the property and credits of the debtor, takes the administration of them out of his hands, distributes them, by a third party, among his creditors, and finally, after an honest compliance with the provisions of the system, exonerates the person of the debtor from all arrest or imprisonment on account of pre-existing debts. The system does not, it is generally supposed, discharge his future acquisitions from liability. The bankrupt system, too, exacts a full surrender of the property and credits of the debtor, takes the administration of them out of his hands, confides the distribution of them among his creditors to a third party, and finally, after an honest and faithful compliance with the requirements of the system, exonerates both the person of the debtor from all arrests and imprisonment and his future acquisitions from all liability on account of all debts and contracts existing at the period of the commission of the act of bankruptcy. Thus it will be perceived that on most points there is a strong resemblance between the two systems. The essential and characteristic difference between them is that the system of insolvency does not, or rather is supposed to be incompetent to grant while the bankrupt system can confer an effectual discharge of the debtor from all pre-existing debts and obligations. That incompetency of the States to provide in their systems of insolvency for such a discharge is supposed to result from the prohibition to the States, in the Constitution of the United States, against the passage of any law impairing the obligation of contracts."

In the progress of this memorable debate Mr. Webster said:

"The Constitution declares that Congress shall have power to establish uniform laws on the subject of bankruptcies throughout the United States. What are bankruptcies? The word is most certainly to be taken in its common and popular sense; in that sense in which the people may be supposed to have understood it when they ratified the Constitution. Bankruptcies, in the general meaning and acceptation of the term, mean no more than failures. When a man cannot pay his debts we say he has become bankrupt, or has failed. Bankruptcies, as facts, or occurrences, or cases, for which Congress is authorized to make provision, are failures. A learned judge has said that a law on the subject of bankruptcies, in the sense of the Constitution, is a law making provision for cases of persons failing to pay their debts. Over the whole subject of these bankruptcies, or these failures, the power of Congress, as it stands on the face of the Constitution, is full and complete."

In the case of Sturgis *vs.* Crowninshield, 4 Wheaton, Chief Justice Marshall said:

"But the subject is divisable in its nature into bankrupt and insolvent laws; though the line of partition between them is not so distinctly marked as to enable any person to say with positive precision what belongs exclusively to the one and not to the other class of laws. It is said, for example, that laws which merely liberate the person are insolvent laws, and those which discharge the contract are bankrupt laws. But if an act of Congress should discharge the person of the bankrupt, and leave his future acquisitions liable to his creditors, we should feel much hesitation in saying that this was an insolvent, and not a bankrupt law, and therefore unconstitutional. Another distinction has been stated and uniformly observed. Insolvent laws operate at the instance of an imprisoned debtor; bankrupt laws at the instance of the creditor. But should an act of Congress authorize a commission of bankruptcy to issue on the application of a debtor, a court would scarcely be warranted in saying that the law was unconstitutional." * * * * "This difficulty of discriminating with any accuracy between insolvent and bankrupt laws, would lead to the opinion that a bankrupt law may contain those regulations which are generally found in insolvent laws, and that an insolvent law may contain those which are common to a bankrupt law."

It is immaterial for my present purpose to decide which of these is the better opinion. Give the word its widest latitude, including all the meanings, whether of bankruptcy or insolvency, claimed by any or all of those eminent men, and you will find that any bankrupt law which we can constitutionally enact will embrace a part or all of the following as its main features, and no others:

The surrender of the debtor's estate for the benefit of his creditors.

Exemption of the person of the debtor from imprisonment.

The discharge of the debtor, operative within his own State only, from liabilities incurred within the State after the taking effect of the law.

The discharge of the debtor, operative in all the States, from all his liabilities, including those incurred before the taking effect of the law.

An initiative in the proceedings by the debtor which characterizes voluntary bankruptcy.

An initiative by the creditors which characterizes involuntary or compulsory bankruptcy.

Uniformity in the operation of the act throughout all the States.

And the persons upon whom the act shall operate must be those who cannot or will not pay their debts, and who are of the class or classes to which the right or liability to bankruptcy is restricted, if there is any restriction.

Now, it is firmly established by judicial decision that in the absence of legislation by Congress on this subject, the States have both the right and the power to put in operation, within their own limits, by their own legislation, all of the provisions which I have enumerated except only that for the general discharge of the debtor from his liabilities. This exception results from the inhibition to impair the obligations of contracts laid by the Constitution upon the States. Whether Congress can exercise this power is of course another question, to be decided, as it happens, by a reference, not to express constitutional grant, for which you will look in vain, but to the inherent attributes of national sovereignty. And if no such inhibition were imposed upon the States, it is obvious that their inability to make laws operative beyond their own geographical limits would render uniformity in bankruptcy an improbable if not impossible result of State legislation. And it must be admitted that there is no urgent reason for uniformity in any of the provisions of a bankrupt law, except that which relates to the debtor's general discharge from his liabilities.

Whether you do or do not recognize in all of these provisions features of a bankrupt law as distinguished from an insolvent law, whether you admit or deny their constitutionality, yet the bill before us embraces them all. It provides for the surrender of the debtor's estate to his creditors; for his exemption from imprisonment; for his general discharge, operative in all the States, from antecedent liabilities incurred before or after the taking effect of the act; for voluntary bankruptcy; for compulsory bankruptcy; and for the uniform operation of the law throughout the United States. And it further provides that the operation of the law shall not be restricted to merchants and traders, but shall extend to all natural and artificial persons. In this respect this bill differs as well from the act of 1800 as from that of 1841. The former included provisions for involuntary but not for voluntary bankruptcy. The latter embraced both, but its compulsory provisions were only applicable to merchants, traders, bankers, factors, brokers, underwriters, and marine insurers. Each act was repealed after an unsatisfactory trial of less than three years.

Now, sir, I am in favor of the distribution of the debtor's estate among his creditors; I am in favor of the exemption of the person of the debtor from imprisonment; I am in favor of the debtor's general discharge from his debts, and therefore, of course, in favor of such limited discharge from liability as the States can constitutionally grant. And although adequate provisions on these subjects can be and in fact are made by State laws, so that they present

no affirmative reasons for the enactment of this law, yet their presence in this bill would have no effect to deter me from its support. For, however capable the States may be of effectuating these provisions by legislation, they are, in my judgment, proper elements of a national bankrupt law. Nor am I opposed to that distinctive feature of this bill which constitutes voluntary bankruptcy. I am also quite willing, for the purposes of this argument, to concede that certain questions which divided in Titanic combat the Senators of the Twenty-Sixth Congress shall be decided to suit the friends of this bill; that we have, under the Federal Constitution, the powers, then so vigorously disputed, to provide by a Federal law for both voluntary and involuntary bankruptcy, and to include within its scope all natural persons, whether traders or not—excepting, of course, those who have by rebellion forfeited their claims to its benefits—and to include also all artificial persons, whether banks or other incorporations.

But, in the present condition of the country, I can vote for no such compulsory bankruptcy as I find in this bill. I should be sorry to see even merchants and traders subjected to its provisions; but to my mind the idea of inflicting compulsory bankruptcy upon our farmers and mechanics, in the present condition of the collection laws and tribunals of the several States and of the United States, is too preposterous and revolting to receive the sanction of my vote.

Sir, the country does not now ask for compulsory bankruptcy. The country will not thank us for it. If there exists anywhere, in any class, a desire for any bankrupt law, it is for a voluntary bankrupt law. There may be a small number of men, in narrow localities of four or five of the States, who desire a compulsory law. But the masses shrink from it. If it is forced upon them, they will submit to it as an intolerable, indefensible wrong. I believe there is not a single State where one citizen in ten would vote for this bill. In all of the States, excepting possibly four or five, its supporters would number less than one in one thousand. Indeed, sir, if it were submitted to the eight hundred and fifty thousand people of my own State to decide to-day whether a compulsory bankrupt law should be enacted, to operate upon farmers and mechanics and all other persons, I doubt if it would obtain one hundred votes outside of the greedy throng who would hope to fatten as officials on the spoils of bankruptcy.

And it is with good reason that the masses of the people shrink from such a law. It will carry among them wide-spread ruin and desolation. Hungry swarms of marshals and clerks and registers and messengers and trustees and assignees and lawyers will gather as buzzards to banquet on the corpses with which this bill will strew the land. If I stood here as the representative, not of the people, but of my professional brethren only, I would not oppose this law. For it is their sickle which is to reap in this harvest of death. Into their purses and the purses of officials will go whatever of gold can be extracted from the bankrupt estate. To the creditor will go only the wretched rags which you strip from the corpse of the debtor.

Sir, this compulsory bankruptcy is hostile to the genius of our institutions and the spirit and interests of the great masses of our people. It will be peculiarly offensive to the free and easy but honest and true men of the West, whom it will squeeze into the strait-jacket so befitting the madmen of Wall street. And the response which it will draw hither from that new country, as soon as its practical operations shall be understood and felt, will be marked with all the strength and vehemence which characterized its response to Abraham Lincoln's call for three hundred thousand more men to smite down the rebellion. They are an agricultural people, interspersed with mechanics. They have not the highly developed commerce of Boston, New York, or Philadelphia. Nor have they the manufacturing peculiarities of Massachusetts, Connecticut, or Rhode Island. The farmers and mechanics of the West are, as a people, inferior in intelligence, enterprise, honesty, and patriotism to no portion of our fellow-citizens. In business prosperity, if not before, they certainly are not behind the average of the country. Without that reverential respect for or precise observance of the artificial rules of trade and commerce which sometimes serve as a guise of external decency to cover essential rottenness of character in the hot-beds of commercial speculation, they are yet able to transact their business satisfactorily to themselves and to others, on a basis quite as safe and sound and honest as do those men with whom book-keeping is religion, form is substance, arithmetic is honesty, and punctilio is honor, even though steeped in knavery and fraud. And it will be neither just nor expedient to put these people, millions in number, into Wall street strait-jackets at the instance or for the benefit of a few hundreds of their fellow-citizens.

Some of them have seen their neighbors, under the laws already in force giving to Federal courts jurisdiction of cases between citizens of different States, dragged into those courts by non-resident creditors. They have not failed to appreciate the difference in the expense of litigation in the State tribunals and in the cumbrous Federal courts. They have not failed to perceive what an engine of oppression a Federal court may be in the hands of a man holding office for life, free from the salutary checks of responsibility to, and swift punishment by, the people or government of the State which are imposed upon the judges of State courts, and prudent enough to avoid those tangible and glaring wrongs which alone incur danger of impeachment. They have not failed to observe that for these reasons a Federal court may be, and sometimes is, a tribunal the tracks of whose suitors, whether plaintiffs or defendants, point all inward and none outward. And hard enough for them, oftentimes, is the law which permits non-resident creditors to force them into these courts. But, sir, if you enlarge this jurisdiction as you propose so that it shall virtually embrace the collection of debts, as between citizens of the same State, you will impose upon them a burden of expense, inconvenience, oppression, and misery, which nothing but the most urgent necessity will excuse; for they know very well, as you and I know, sir, that in the present condition of the collection laws of the States no intelligent creditor will institute these proceedings in bankruptcy if prompted merely by a desire to recover his debt, and not by a malicious purpose to harass and torment his debtors. But whether the enforcement of these compulsory provisions shall be prompted by ignorance or malice, they will inevitably thrust into unnecessary bankruptcy, into gratuitous ruin, thousands of unfortunate but upright men who are this day manfully struggling against failure, heroically resolved, and if let alone able, to stem and turn back the tide which threatens to ingulf them. And so this law, intended as a benign measure for the relief of the unfortunate, becomes itself an engine of persecution. Its mischievous consequences, too, will be most distressing in those very debtor communities and among those very debtor classes whom you assert to be most in need of the beneficent provisions of voluntary bankruptcy, whom you profess yourselves most anxious to relieve.

The compulsory chapter of this bill will be enacted for the benefit of the creditor, if it shall be enacted for anybody's benefit and not for universal mischief. It certainly can be no blessing to the debtor, for the voluntary provisions afford all the relief he wants, and just when he wants it. But it happens that the only feature of a bankrupt law, whether voluntary or compulsory, which does not lie within the constitutional scope of State legislation, is a feature which has no connection with the creditor's remedy or interests, but is instituted solely for the benefit of the debtor. It is that provision which discharges the debtor from the debt and so destroys the legal obligation of the contract. All else the States can enact. Every conceivable contrivance to enable the creditor to wring payment from the debtor's hands State legislation can provide. And, Mr. Speaker, every such contrivance State legislation does provide to-day.

I ask you, sir, to look at the collection laws, which State legislators have exhausted their ingenuity to bring to perfection, which are the results of centuries of experience, and tell me whether they leave anything wanting to the creditor, unless it be the barbarous delight of tormenting his debtor without benefit to himself. I ask your attention to the creditor's remedies in my own State as an epitome of the whole, for they differ in no essential particular from those of other States. He has his action at law and in chancery with the ordinary execution. He may arrest his debtor in an action not arising on contract when the debtor is about to remove from the State; in an action for injury to person or character, or for an injury to, or wrongful taking, detention, or conversion of property; in an action for fraudulent misapplication of property by an agent, factor, broker, attorney, solicitor, or counselor; and in an action for the recovery of the possession of personal property unjustly detained, where the property, or any part thereof, has been concealed, removed, or disposed of, so that it cannot be found or taken by the sheriff. He may seize his debtor's property by attachment, in an action on contract, if he has absconded or is about to abscond from the State, or concealed therein, to the injury of the creditor, or has assigned, disposed of, or concealed any of his property with intent to defraud his creditor, or is about to do either of these things, or has removed, or is about to remove, any of his property out of the State with intent to defraud his creditors, or fraudulently contracted the debt or incurred the obligation for which the action is brought. The writ of *ne exeat* is preserved to the creditor, and the remedies by injunction and replevin are secured to him in most complete and effective forms.

And in addition to all these well-known methods of enforcing his demands, the creditor has that modern device which, under the name of supplementary proceedings in aid of execution, combines, in their cheapest and most summary form, the injunction, attachment, receiver, creditor's bill, compulsory bankruptcy, arrest, *ne exeat*, and in fact every other contrivance ever invented to wring gold from the hands of fraudulent or unfortunate debtors.

All this the creditor now has by State law. What more will he have? For what legitimate interest of his do the State laws fail to provide? For what legitimate purpose does he ask the interposition of the rough arms of this bill? Can it be for any other purpose than the gratuitous injury of the debtor without benefit to himself?

Perhaps, Mr. Speaker, the destruction of the State exemption laws is the object of these provisions for compulsory bankruptcy. Certainly it will be their effect. But, sir, the masses of our people will not permit these salutary exemptions to be swept away with impunity at the request of a mere handful of their fellow-citizens, whether merchants or manufacturers, however opulent or influential they may be. The American homestead exemption is at once among the choicest fruits and the noblest emblems of American civilization. The idea which underlies it is indeed the very idea which characterizes the genius of our institutions and Government as distinguished from that of all others, the development, elevation, and dignity of the individual men who constitute the pillars and the strength of the Republic. It is at least five years too late to deny or doubt that the grand conservators of American institutions are the millions of men who occupy their own houses and their own land. It is too late to doubt that whatever just law tends to increase the number of these, to elevate them in intelligence and character and dignity, will not only contribute to the sum total of national happi-

ness and prosperity, but will also add to that essential strength which the country has required and may again, God only knows how soon, require to preserve and perpetuate the national existence.

Sir, when the State makes the home of the citizen, be he merchant, farmer, or mechanic, his castle, from which the storms of fortune cannot drive him, and himself one of the sovereigns of the Republic, it is not a boon of charity conferred upon him or his wife or children at the expense of creditors or of justice, but it is at once an act absolutely just, a blessing to the husband, wife, and child, and a tenfold greater blessing to the nation itself. It is just. It interferes with no rights, because, being prospective in its operation, all business and all credit are predicated upon its provisions. No man is deceived. There is no false credit. No man's homestead is an element of his credit, except through that legitimate and proper confidence which will be felt in the prospects of him who is encouraged and enabled to stand up, an independent man, on his own soil. He who becomes his creditor becomes such knowing that whatever adversities overtake the debtor, the homestead will never answer for the debt any more than the body or the soul. And it is preposterous to say that when adversity does overtake the debtor, it will be hard and unjust if the creditor cannot do what he from the beginning knew he could not do; what he never intended or expected to do, drive the debtor and his wife and children from their home. But if you enact this bankrupt law, it will, indeed, be difficult to estimate the hardship and injustice which it will work. I pray you to consider the case for one moment. The industrious and moderately prosperous mechanic owns his little home, which is better than a palace for him, which is encircled by the very heartstrings of wife and children, which cannot be stricken from the American vocabulary, and leave much of liberty behind. To-day he becomes indebted to his neighbor, the farmer. To this friendly transaction the hard, relentless features of a Wall street operation are as foreign as were the money-changers to the temple of God. The creditor trusts his neighbor knowing that his homestead will never respond to the debt, and if the homestead law remains in force he will wait, as he intended, until his debtor pays him every penny. But pass this bill, and you thereby inspire the creditor with something of your own cruelty. The friendship in which the debt originated is forgotten in the tempting opportunity which you suddenly hold out to wrest an estate from a helpless neighbor. Abandoning the State courts, which ordinarily dispense justice at reasonable charges between citizens of the same State, he drags his neighbor into the dreaded machinery of the Federal courts, which are, in some parts of the country, hardly less terrible to the people than the Star Chamber or the Inquisition itself. The creditor does this only to find the mirage of his neighbor's homestead, which deluded him on, disappear in the ever-thirsty sands of Federal fee-bills, as the oasis of the enchanted traveler disappears in the sands of the desert. The debtor is ruined. His wife and children are homeless paupers. The creditor has gained not a farthing. The friendship of years is broken up. And worse than all, the Federal Government has lost a pillar of strength which it could not afford to lose. Will you wonder if he curses the suicidal folly of that Government which is ready to ruin not only him and his wife and children and creditor, but also even itself?

It will not do, sir, at this day, to pretend that the creditor who is a citizen of a different State sustains a relation substantially different from this. For you know, sir, that the merchant of New York or Philadelphia or Boston who trades with western men knows the collection laws of the States of his western customers as well as he knows those of his own State. The published books containing the collection laws of the several States in circulation among merchants are as countless as dictionaries and better read than their Bibles. And what is more, it will result from the difference in the character and extent of the transactions that when claims from other States come into conflict with the homestead law once, those from the same State will come into such conflict a thousand times.

But, sir, while it is true that the nation itself derives the highest benefit from these State exemption laws, it is also true that they are of inestimable value to the people, to widows and to orphans no less than to men. Their presence in the body of the laws of a people constitutes a mile-stone in the progress of the commercial world from that brutality which made the creditor the cannibal tormentor of the debtor, to the ameliorations of modern civilization. The value of exemptions is recognized in the legislation of almost all the States. Indeed, they are established by the declaration of rights in the constitution of my own State, in these words:

"The privilege of the debtor to enjoy the necessary comforts of life shall be recognized by wholesome laws, exempting a reasonable amount of property from seizure or sale for the payment of any debt or liability hereafter contracted."

In obedience to this injunction of the constitution of Wisconsin, our Legislature has enacted laws exempting certain property, real and personal, from seizure or sale for the payment of debts contracted after their enactment. The business of our people, transacted with each other and with citizens of other States, has been transacted with reference to these constitutional and statutory provisions. It is a part of our system which has become endeared to our people by experience of its benefits, and it will not be torn from them with impunity by this or any other Congress. When you ask me to vote for a compulsory bankrupt act which will, without occasion or excuse, abrogate not only our statutes, but even our constitution, your demand is unreasonable and I must resist it. If you could show me that the welfare of the whole country demanded that we should now exercise our constitutional power by enacting a compulsory bankrupt law which would annihilate State laws and constitutions, I should feel bound to vote for your law, however reluctant to injure my own people. But, sir, you can show no such thing. On the contrary, I have shown you that you are called upon neither by the wishes nor by the interests of the people at large, or of any considerable portion of them, to make this law. Sir, I would hesitate to say that the distressed farmer or mechanic should either forego the benefits of voluntary bankruptcy or tear down the roof that covers his wife and children, and lead them out penniless and shelterless into the world. But if I could consent to that, I could not consent to drive him into compulsory bankruptcy, and then ingulf him in such hopeless ruin.

I shall, therefore, oppose this bill on the ground that it destroys wise and salutary exemptions, which have gradually grown up in most, if not all, of the States, have become incorporated as an integral part into the body of their laws, and become, with good reason, unspeakably dear to the masses of the American people, however unimportant or repulsive they may be to manufacturing or mercantile capitalists in particular localities. That this bill will, if enacted, abrogate these exemptions no man can doubt. When my attention was first called to it I prepared an amendment limiting the operation of its compulsory provisions to such real and personal estate of the debtor as should not be exempted from attachment or seizure or levy on execution by the laws of the State of his residence. But it became apparent that such an amendment would render the bill unconstitutional, for it must be uniform in order to be constitutional; and uniformity as to the property subject to or exempt from its operation is as indispensable as uniformity in any other particular. Now, if no bankrupt law is in force the homestead exemption is violative neither of the letter nor of the spirit of the Federal Constitution. But if a bankrupt law is enacted, and the State exemptions are not expressly saved, they are destroyed by the constitutional provision made operative by the enactment of the law. If the exemptions are expressly saved by such a structure of the bill as makes it operative upon property not exempted, and on such property only, then the bill falls to the ground as unconstitutional in all its length and breadth. If, however, the exemptions are expressly saved by such a structure of the act as extends its operation to all the estate of the debtor, and then excepts therefrom the property exempted by State laws, the exception alone falls as unconstitutional, and the law crushes to powder our homestead exemptions. There is, then, no middle ground. This compulsory bankrupt law will destroy our homestead laws, or we must destroy it. In my judgment, if we enact this law we shall, after a very short experience of its practical operation, become satisfied, not only that we have incurred, but that we have justly incurred, the displeasure of the country.

If the principle of the compulsory clause of this law is objectionable, so also are the details by which it is carried into execution. With a high hand it assumes to reverse that solid maxim that the accused is presumed to be innocent until proven to be guilty, and actually attempts the absurdity of holding the accused guilty unless he shall establish his innocence by proving a negative. When the trial or hearing is held, to determine whether the alleged act of bankruptcy has been committed, what is the rule of procedure? Are the proceedings to be dismissed unless the accusing creditor shall prove the truth of his accusation? Shall the accused go free unless his accuser shall prove what he has charged, that the debtor has absconded, or removed his property, or assigned, sold, conveyed, or transferred it, to defraud or hinder his creditors, or has been arrested or imprisoned, or has confessed judgment, to defeat this act? No, sir; there is no such thing in the bond. The burden of proof is shifted to the shoulders of the debtor. These are the concluding words of the forty-first section of the bill:

"And if upon such hearing or trial the debtor proves to the satisfaction of the court or of the jury, as the case may be, that the facts set forth in the petition are not true, or that the debtor has paid and satisfied all liens upon his property, in case the existence of such liens was the sole ground of the proceeding, the proceeding shall be dismissed."

And you will not fail to observe, sir, that whereas the proof of a negative in ordinary cases is proverbially difficult, the proof of the negative of either of the allegations of prescribed acts of bankruptcy is peculiarly difficult. It is in such circumstances of aggravated hardship that the accused must assume the hitherto unheard-of burden of actually proving his own innocence before any attempt is made to prove his guilt. How natural that a law conceived in the spirit of the Inquisition should drag its machinery along in its train! And mark you! In the next section it is provided that the bankruptcy shall be adjudged, not if the creditor shall prove the facts alleged in his petition to be true, but if the judge shall find them to be true; leaving the unjust judge a pretext to find them true if the debtor shall not have proven them not to be true under the requirement just read. Sir, it will be superfluous to comment on legislation like this, whether operative on merchants, mechanics, farmers, or anybody else.

There is one other provision which must not be overlooked. It will only be necessary to translate it from the verbiage of the law into common English, in order to exhibit its enormities. The district judge may, if, after the commencement of the proceedings, creditors holding three fourths of the claims shall recommend it, appoint trustees to supersede the assignees, and without giving any security whatever, wind up the estate under the direction of a committee of creditors, with all the powers of assignees in bankruptcy. Sir, I fancy I see the vultures, that fatten on fees and costs already flapping their wings for the banquet to which this provision invites them. And yet there is something better still in store for them.

They will not be able to restrain their gabble of loathsome joy when they scent that clause of section thirty-three which provides that if the estate, which, fairly and cheaply settled, would have paid, perhaps, ninety per cent., shall shrink to less than fifty in the hands of these irresponsible trustees and their attendant harpies, the debtor shall still be held for every unpaid cent; and so his carcass at some future day may furnish another feast for the buzzards of the law.

It seems to me, sir, that these reasons ought, of themselves, to deter us from the enactment of this measure. But against it we have also the concurrent authority of all the greatest statesmen of the generation which has just passed away. This very question of compulsory bankruptcy has been debated in this Capitol by Webster and Clay and Benton and Calhoun. The law which was enacted in 1841, and repealed in 1843, contained provisions for involuntary bankruptcy. But unlike the compulsory provisions of the pending bill, they were restricted in their operation to certain classes. On the 5th day of June, Mr. Clay moved, in the Senate, to strike out the compulsory clause. The yeas and nays were taken; and I ask the House carefully to observe the vote, which stood as follows:

"YEAS—Messrs. Calhoun, Clay of Alabama, Clay of Kentucky, Clayton, Crittenden, Dixon, Grundy, Huntington, Knight, Nicholas, Porter, Prentiss, Smith of Indiana, Southard, Tallmadge, Webster, and White—17.

"NAYS—Messrs. Allen, Anderson, Benton, Brown, Buchanan, Cuthbert, Davis, Fulton, Hubbard, King, Linn, Lumpkin, Norvell, Pierce, Preston, Roane, Robinson, Sevier, Smith of Connecticut, Tappan, Walker, Wall, Williams, Wright, and Young—25."

Now, it is true that there was a majority of eight in favor of retaining the compulsory clause. But even if this vote were to be taken as a correct criterion of the opinions of these Senators upon the simple question of accepting or rejecting compulsory bankruptcy, it could hardly be doubtful on which side the preponderating weight of authority is found. If, however, you will carefully read the speeches of those who voted against striking out this compulsory provision you will, I think, be satisfied that other reasons than the simple approval of that provision prompted most of the opposition to the motion of Mr. Clay. You will find that only Messrs. Benton, Norvell, and Wall have placed themselves upon the record as advocates of the involuntary clause, and that they expressly required the restriction of its operation to merchants and traders, which restriction in substance characterized that law of 1841, but is wanting in this bill of 1866. You will find also that Messrs. Anderson and Hubbard avowed their hostility to the bill as a whole; that of the twenty-five who voted to retain this clause, thirteen subsequently, on the same day, voted for the indefinite postponement of the bill, and seventeen on the 25th of June voted against the bill on its final passage. You will become convinced, sir, that the explanation of the vote upon Mr. Clay's motion given by Mr. Calhoun in the extract from his speech which I shall soon read was correct. Mr. Clay said in this memorable debate:

"I will now say a few words on the particular amendment which I have submitted, to strike out the section which provides for the case of compulsory or involuntary bankruptcies. Three considerations appear to me to unite in recommending the adoption of that amendment:

"1. Such a coercive system is opposed to the habits and genius of the country. It might answer for the large commercial cities, but it is not adapted for the other parts of the country. In large portions of the Union the interior merchant and trader are accustomed to give extensive credits, waiting for payment until the farmer or planter realizes the sales of his growing crop. But the uncertainty of the seasons and the markets frequently occasions disappointment in the collection of debts of the most undoubted character. Hence the merchant may be disabled punctually to comply with his engagements, although his ultimate ability is beyond all doubt. And it would be a case of extreme hardship to divest him, on account of a temporary delinquency without his fault, of the careful and prudent management of his own property, and transfer it to the custody of a receiver or assignees, whose chief solicitude might be their own commissions and fees.

"2. All the acts specified in the compulsory section proposed to be stricken out as evidence of bankruptcy, are already provided for by the laws of some of the States, and are susceptible of provision by all the States. And

"3. If the involuntary system be desirable, it ought not to be included in this bill, but should be introduced in a separate bill, as was proposed by a majority of the Judiciary Committee."

Mr. Calhoun said:

"But it goes much further, and provides for a comprehensive system of compulsory bankruptcy, as it is called; that is, as I understand it, bankruptcy as intended by the Constitution. As far as the provisions of this portion of the bill are limited to individuals, I admit its constitutionality, but object to it on the broad ground of expediency. It is impossible for any one to doubt, who will examine the history of our legislation, that there must be some powerful objection to the passage of laws of bankruptcy by Congress. No other proof is needed than the fact that, although the Government has been in operation for more than half a century, and the power is unquestionable, yet in that long period, notwithstanding the numerous and strenuous efforts that have been made, but a single act has passed, and that, though limited to five years, was repealed before the expiration of the time. If we inquire into the cause we shall find it, in part at least, in the genius of our institutions and the character of our people, which are abhorrent to whatever is harsh in legislation, than which there is none, in its wide range, more so than the laws of bankruptcy. They give the creditors the most summary and efficient process against the debtors, of which we may be satisfied by looking into the provisions of this amendment." * * * * "And shall we, who are at least in part responsible for such a state of things, at such a period when the debtors are so much at the mercy of the creditors, reversing the ill-judged but humane policy wisely prohibited to the States by the Constitution, of interposing in favor of the debtors, arm the creditors with new and extraordinary powers of enforcing their demands? Who is there that does not feel that it would be cruel, impolitic, and unjust? But it is only at such periods that bankrupt laws are proposed; and is it at all wonderful that the instinctive feelings of the community have so strongly and steadily resisted their adoption?

"On no occasion has there been stronger cause for resistance than the present; for on none could such a law be more impolitic and cruel; and such, if I may judge from the discussion, is the feeling of this body. Standing alone and limited to individuals, I doubt whether the portion of the amendment under immediate consideration would receive a single vote, although it is the only part which is clearly and unquestionably within the limits of the Constitution. It may, then, well be asked, if it is without supporters, why is it inserted? But one answer can be given: because it is felt, as obnoxious as it is, to be indispensable to the passage of the provisions connected with it. One portion of the Senate is so intent on passing the part in favor of insolvent debtors that they are willing to take with it the compulsory portion in favor of creditors, while another, from a strong desire to include corporations, are willing to comprehend the other provisions, though they denounce the provisions in favor of insolvent debtors standing alone as fraudulent, unjust, and unconstitutional. It is thus the two extremes unite in favor of a measure that neither would support alone, and a feature of the bill, obnoxious of itself, but constitutional, is made to buoy up other portions which, if not clearly unconstitutional, to say the least, are of doubtful constitutionality.

"Let me say to those who represent the portion of the Union where the indebtedness is the greatest, and who, on that account, favor the provisions for the relief of the insolvent, that the operation of the amendment, should it pass, will disappoint them. The part in favor of the debtors may, indeed, throw off the burden from many who are now hopelessly insolvent, and restore their usefulness to themselves and society, but the other provisions will induce a far greater number to insolvency who might otherwise struggle through their embarrassments with a competency left for the support of themselves and their families. I cannot be mistaken. Should the amendment as it now stands become a law, instead of relieving it would crush the indebted portion of the Union."—*Debate on Repeal in* 1843.

Mr. Webster said:

"Now, sir, the argument for the compulsory clause is, that without this power the creditors have no security; that the bill is a one-sided measure, a measure for the benefit and relief of debtors only, quite regardless of the just rights of creditors. All this I deny. I maintain, on the contrary, not only that there is just security for the rights of creditors, under the voluntary part of the bill, but that that part, of itself and by itself, is of the highest value and importance to creditors. This proposition takes for granted, what I have no doubt will be found true, that persons in insolvent circumstances will generally become voluntary bankrupts; and in the second place, I maintain that very little value is added to the security of creditors by the compulsory part of the bill."

And his arguments, in maintenance of these propositions alone, fill more than five columns of the Globe.

Mr. Benton said:

"Persons who are not merchants or traders have been carried away by the spirit of the times, and have been involved in debts from which they see no means of extrication. These have a right to the relief of a bankrupt law as well as those regularly engaged in trade; at the same time they should not be subject to the compulsory application of the law. With them the application of the law should be voluntary and optional; it should only be applied to them on their own petition, while with those regularly engaged in trade, and particularly bound to know the laws of trade, and to obey these laws, the application of the law should be compulsory, and should take effect upon the petition of a given proportion of the creditors."

I have now, Mr. Speaker, presented the considerations which control my judgment in this case. They rest upon reason, experience, and authority; and I cannot deem it wise or expedient to enact a law which they all so emphatically condemn.

Mr. JENCKES. I have but a word to say in regard to the amendment proposed by the gentleman from Wisconsin, [Mr. PAINE.] I think that all that he seeks to accomplish, and perhaps more than he asks, has already been provided for. I hope the amendment will not be adopted.

The question was taken, and the amendment of Mr. PAINE was not agreed to.

Mr. HOLMES. I move further to amend this section by striking out the words "the district" in the last clause of the section, and inserting in lieu thereof the words "that portion of the district in which the bankrupt and his creditors shall reside." The clause will then read:

The assignee shall immediately give notice of his appointment, by publication at least once a week for three successive weeks, in such newspapers as shall, for that purpose, be designated by the court, due regard being had to their general circulation in that portion of the district in which the bankrupt and his creditors shall reside, and shall, within six months, cause the assignment to him to be recorded in every registry of deeds or other office within the United States where a conveyance of any lands owned by the bankrupt ought by law to be recorded; and the record of such assignment, or a duly certified copy thereof, shall be evidence thereof in all courts.

Mr. JENCKES. I know the gentleman from New York [Mr. HOLMES] has reference to his own district. I would suggest to him that he leave the words "the district" in the section, and then insert the words he suggests, prefacing them with the word "or."

Mr. HOLMES. Very, well; I will accept the suggestion and modify my amendment accordingly.

The amendment of Mr. HOLMES was then agreed to as modified.

Mr. ROGERS. I desire to call the attention of the gentleman from Rhode Island [Mr. JENCKES] to the following clause of the fourteenth section:

And provided further, That no mortgage of any vessel or of any other goods or chattels, made as security for any debt or debts, in good faith and for present considerations and otherwise valid, and duly recorded, pursuant to any statute of the United States, or of any State, shall be invalidated or affected hereby.

Does the gentleman mean that a mortgage given for good and valuable considerations, and not for present considerations, shall be set aside by this bankrupt law?

Mr. JENCKES. This proviso is intended to prevent the classes of preferences which have hitherto been referred to in the debate. Valuable consideration might refer to a consideration passing between the parties years before.

Mr. ROGERS. Suppose a mortgage had been given long before for a valuable consideration?

Mr. JENCKES. It would be perfectly good.

Mr. ROGERS. Suppose a mortgage had been given on Tuesday for a consideration obtained on Monday?

Mr. JENCKES. That would certainly be for a present consideration.

Mr. ROGERS. For how long a time would this provide?

Mr. JENCKES. For four months, by an amendment already adopted.

Sections fifteen to nineteen inclusive were then read.

Mr. HALE. This section nineteen contains the following clause:

Any person liable as bail, surety, guarantor, or otherwise for the bankrupt, who shall have paid the debt or any part thereof in discharge of the whole, shall be entitled to prove such debt, or to stand in the place of the creditor if he shall have proved the same, although such payments shall have been made after the proceedings in bankruptcy were commenced.

I move to amend by inserting after that clause the following:

And any person so liable for the bankrupt, and who has not paid the whole of said debt, but is still liable for the same or any part thereof, may, if the creditor shall fail or omit to prove said debt, prove the same either in the name of the creditor, or otherwise, as may be provided by the rules of the court, and subject to such regulations and limitations as may be established by such rules.

Mr. JENCKES. I have no objection to that amendment.

The amendment was agreed to.

Section twenty was then read.

Mr. HALE. The first clause of this section is as follows:

That in all cases of mutual debts or mutual credits between the parties, the account between them shall be stated, and one debt set off against the other, and the balance only shall be allowed or paid, but no set-off shall be allowed of a claim in its nature not provable against the estate.

I think that requires some amendment, and therefore I move to amend by adding the following:

Provided, That no set-off shall be allowed in favor of any debtor to the bankrupt of a claim purchased by or transferred to him after the filing of the petition.

Mr. JENCKES. I presume that would be the law without any such amendment, but I have no objection to it.

The amendment was then agreed to.

Section twenty-one was then read.

Mr. HALE. I move to amend this section by inserting the words "against the bankrupt" after the following clause:

That no creditor proving his debt or claim shall be allowed to maintain any suit at law or in equity therefor.

Mr. JENCKES. That is the proper construction of the words of the clause as it now stands. I have no objection to the amendment.

The amendment was agreed to.

Sections twenty-two and twenty-three were then read.

Mr. HALE. There is one clause in this section which I think needs amendment. It is as follows:

Any person who, after the approval of this act, shall have accepted any preference, having reasonable cause to believe that the same was made or given by the debtor contrary to any provision of this act, shall not prove the debt or claim on account of which the preference was made or given, nor shall he receive any dividend therefrom.

I move to amend by adding thereto the following:

Until he shall first have surrendered to the assignee all moneys, property, and advantage received by him under such preference.

Mr. JENCKES. I am willing that amendment should be made.

The amendment was agreed to.

Section twenty-four was then read.

Mr. DAVIS. I wish to call the attention of the gentleman having charge of this bill to that portion of this section which relates to the issue of an execution against the assignee. It is as follows:

That a supposed creditor who takes an appeal to the circuit court from the decision of the district court rejecting his claim, in whole or in part, shall, upon entering his appeal in the circuit court, file in the clerk's office thereof a statement in writing of his claim, setting forth the same, substantially, as in a declaration for the same cause of action at law, and the assignee shall plead or answer thereto in like manner, and like proceedings shall thereupon be had in the pleadings, trial, and determination of the cause, as in an action at law commenced and prosecuted, in the usual manner, in the courts of the United States, except that no execution shall be awarded against the assignee for the amount of a debt found due to the creditor.

I would inquire of the gentleman whether there is any intention on his part to have a judgment even *pro forma* against the assignee personally? If there be any such thing, it ought to be provided against in this bill.

Mr. JENCKES. The gentleman will see that the bond is at all times within the control of the court. Instead of entering a judgment against the assignee personally, the court can order the amount recovered to be paid out of the fund, and the receipt of payment will be a discharge of the assignee.

Mr. DAVIS. I do not see how the execution can issue except upon a judgment; and if the execution is to be against the individual the judgment must be against the individual.

Mr. JENCKES. They will make no judgment.

Mr. DAVIS. Then there will be no necessity for providing that no execution shall issue.

Mr. JENCKES. Under the judiciary act as it now stands, without amendment, an execution may be ordered to issue upon the judgment, unless this provision is interposed.

Sections twenty-five and twenty-six were then read.

Mr. DAVIS. I move to amend section twenty-six by striking out the following:

On the application of any creditor, and on such reasonable notice as the court may direct, and for good cause shown, any bankrupt may be required to bring his wife before the court, to the end that she may be examined as a witness; and if such wife do not attend at the time and place specified in the order, the bankrupt shall not be entitled to a discharge unless he shall prove to the satisfaction of the court that he was unable to procure the attendance of his wife.

I make this motion for the reason that I doubt the policy of bringing the wife of a bankrupt before a court to testify in a case of bankruptcy. I know that of recent years we have had some legislation in various States authorizing the wife to be a witness for or against her husband. But I have never yet seen any good ground for any such policy; it is but offering a premium for perjury. I have seen wives examined for and against their husbands, and I am sorry to say that I have seen scarcely an instance in which not only I myself but others were convinced that there was perjury. There doubtless have been exceptions. But the interest of the husband over the wife is controlling, and I do not believe it is best for us by our legislation to do anything that may seem to offer a premium for perjury.

Mr. JENCKES. I agree entirely with what the gentleman from New York [Mr. DAVIS] has said, but this provision has reference to an entirely different class of cases. This does not relate to any personal matter of the bankrupt, but as to the rights of property in the wife; and if the gentleman will examine the section, he will find in the forty-sixth line that no such order for the examination of the wife is to be made by the court, except "for good cause shown," which, it is expected, will bring this provision entirely within the rule of the civil law, and not inflict upon either husband or wife the hardships of the rule of the common law, but will protect the wife's property where she has it in her own right, and will prevent the husband from settling property upon his wife in fraud of his own creditors.

Mr. DAVIS. Then, if that be the object, it appears to me the language used in the bill fails to accomplish it fully.

Mr. JENCKES. The "good cause shown" covers it, if you have a wise judge.

Mr. DAVIS. If the object is for the protection of the wife's property, then certainly she should be authorized to be a witness, even if the creditor does not apply. According to the bill as it stands, the wife can be a witness only on the application of the creditor.

Mr. JENCKES. If the gentleman will move an amendment to insert "upon her own application," I have no objection to such an amendment.

Mr. DAVIS. I withdraw the amendment which I have offered, and move the following:

Insert after the word "creditor" at the end of the forty-fourth line the words "or of the wife of the bankrupt;" so that it will read;

On the application of any creditor, or of the wife of the bankrupt, and on such reasonable notice as the court may direct, and for good cause shown, any bankrupt may be required to bring his wife before the court, to the end that she may be examined as a witness.

The amendment was agreed to.

The Clerk read the following:

SEC. 27. *And be it further enacted*, That all creditors whose debts are duly proved and allowed shall be entitled to share in the bankrupt's property and estate *pro rata*, without any priority or preference whatever, except that wages due from him to any operative, or clerk, or house servant, to an amount not exceeding fifty dollars, for labor performed within six months next preceding the adjudication of bankruptcy, shall be entitled to priority, and shall be first paid in full, &c.

Mr. HALE. I move to amend by inserting after the word "full" in the paragraph just read the following:

Provided, That any debt proved by any person liable as bail, surety, guarantor, or otherwise for the bankrupt, shall not be paid to the person so proving the same until satisfactory evidence shall be produced of the payment of such debt by such person so liable; and the share to which such debt would be entitled may be paid into court or otherwise held for the benefit of the party entitled, as the court may direct.

Mr. JENCKES. I would inquire of the gentleman whether that is not the law at present. Here is a debt payable by the bankrupt. To whom? Why, to the person with whom he contracted.

Mr. HALE. I think the gentleman misapprehends. I will explain. I moved to the nineteenth section an amendment which was adopted, providing that any person liable as bail, surety, guarantor, or otherwise, for the bankrupt, not having paid the debt, and still liable, might, if the creditor should fail or omit to prove said debt, prove the same, either in his own name or otherwise, as might be provided by the rules of the court. Now, in order to correspond with that amendment it is necessary to provide that whenever a person in that situation shall prove a claim no dividend shall be paid until satisfactory evidence is produced of the payment of such debt.

Mr. JENCKES. I believe that such would be the law without the amendment which the gentleman proposes; but still I do not object to it.

Mr. HALE. I really do not see how it can be the law when the law says otherwise.

The amendment was agreed to.

The Clerk read the following:

At such meeting the majority in value of the creditors present shall determine whether any and what part of the net proceeds of the estate, after deducting and retaining a sum sufficient to provide for all undetermined claims which, by reason of the distant residence of the creditor, or for other sufficient reason, have not been proved, and for other expenses and contingencies, shall be divided among the creditors; but unless one third in value of the creditors shall attend such meeting, it shall be the duty of the assignee so to determine.

Mr. MILLER. I move to amend by striking out the words "one third," before the words "in value," and inserting "one half." It sometimes happens that a single creditor controls one third or more of the indebtedness; and "one half" should be inserted to give all an equal chance.

Mr. JENCKES. I have no objection to that amendment, if the gentleman will insert after the words "attend such meeting" the words "in person or by attorney."

Mr. MILLER. I accept the gentleman's suggestion, and so modify my amendment.

The amendment as modified was agreed to.

Mr. MILLER. I move to amend the twenty-eighth section in that part which provides for the priority or preference of the claims to be presented for dividends so as to change the two following paragraphs, putting the fourth in place of the second, and the second in place of the fourth:

2. All debts due to the United States, and all taxes and assessments under the laws thereof.

4. Wages due to any operative, clerk, or house servant, to an amount not exceeding fifty dollars, for labor performed within six months next preceding the first publication of the notice of proceedings in bankruptcy.

Mr. JENCKES. The trouble about that is it would alter the Constitution of the United States, which gives priority to this class. It is independent of the bankrupt law. I think it ought to be done, and the bill has been drawn as far as possible to give these debts preference, but the Constitution and the laws forbid us from going any further.

The amendment was rejected.

Mr. DAVIS. I move to add, at the end of the seventy-seventh line, page 40, these words: "county or city," so that it will read:

5. All debts due to any persons who, by the laws of the United States, are or may be entitled to a priority

or preference, in like manner as if this act had not been passed: *Always provided*, That nothing contained in this act shall interfere with the assessment and collection of taxes by the United States or any State, county, or city.

As it now stands it relates simply to State taxes which may or may not be collected through the instrumentality of the county collector and treasurer. It seems to me that the tax levied by county or city should be protected in the same way as a tax due to the United States or the State.

Mr. JENCKES. I would suggest, as a modification of the gentleman's amendment, to insert in the seventy-sixth line, after the word "by," these words, "the authority of;" so that it will read, "by the authority of the United States or any State."

Mr. DAVIS. I have no objection to that.

Mr. JENCKES. Mere municipal tax is another thing.

Mr. DAVIS. That satisfies me, and I accept it as a modification of my own amendment.

The amendment was agreed to.

Mr. HOLMES. I move the same amendment to section twenty-nine that has been moved to previous sections, after the word "district" insert "or that portion of the district in which the bankrupt and his creditors shall reside."

The amendment was agreed to.

The Clerk read, as follows:

SEC. 33. *And be it further enacted*, That no debt created by the fraud or embezzlement of the bankrupt, or by his defalcation as a public officer, executor, administrator, guardian, trustee, assignee, or factor, or while acting in any other fiduciary character, shall be discharged under this act; but the debt may be proved, and the dividend thereon shall be a payment on account of said debt; and no discharge granted under this act shall release, discharge, or affect any person liable for the same debt for or with the bankrupt, either as partner, joint contractor, indorser, surety, or otherwise. And in all proceedings in bankruptcy commenced after one year from the time this act shall go into operation, no discharge shall be granted to a debtor whose assets do not pay fifty per cent. of the claims against his estate, unless the assent in writing of a majority in number and value of his creditors who have proved their claims is filed in the case at or before the time of application for discharge.

Mr. ALLEY. Mr. Speaker, I wish to say in reference to this section that it was adopted in the committee mainly through my efforts. It does not meet my views fully nor the views of those whom I represent as we would desire.

The SPEAKER. The House is under the five-minute rule, and the gentleman must move some amendment.

Mr. ALLEY. I move to strike out the last word of the section.

I simply wish to say that this section is deemed by some to be of vital importance to the creditor interest. Its provisions are in the Massachusetts law. I have consented to the provision as it stands here postponing the time for its operation one year as a compromise. Believing the time has come when a good bankrupt law should be enacted; believing the enactments in the several States are conflicting and unsatisfactory, I am of opinion if a bankrupt scheme could be devised similar to that in Massachusetts it would be productive of great good both to the creditor and debtor interest of the country. I believe that is the feeling not only in Massachusetts but universally, that if that Massachusetts provision could be inserted in the bill it would be eminently satisfactory to all interests. In the absence of that it meets with strong opposition. A communication addressed to the chairman of the committee from the Boston Board of Trade sets forth, I believe, the views of the creditor interest in Boston fully and clearly, and I ask that it be read.

The Clerk read, as follows:

BOSTON BOARD OF TRADE,
55 MERCHANTS' EXCHANGE,
BOSTON, *January* 2, 1866.

SIR: The undersigned, as a committee of the Boston Board of Trade, were intrusted with a memorial to the Thirty-Eighth Congress, at its last session, respectfully asking for a postponement of action upon the bankrupt bill until the insurgent States should have been brought back to their allegiance; and further praying that the said bill might be so modified that a debtor receiving the benefits of its provisions, should be required to pay fifty per cent. of the indebtedness proved against him, or, in lieu thereof, to obtain the consent of a majority of his creditors, in number and amount, in order to secure his release.

Now that the rebellion has terminated and the Federal jurisdiction has been restored over the States which were in revolt, the objections entertained by the Boston Board of Trade in common with merchants in other cities, to the passage of a general bankrupt law, to be operative in the South as well as in the North, cease to exist. It cannot be denied that the time has now come for the passage of a law relating to insolvency which shall be paramount over the various and often greatly conflicting enactments of the several States, and which by its uniform and equal operation shall furnish an additional bond of union and a new element of national life. The undersigned, however, as representing the Boston Board of Trade, earnestly hope that the provisions for the discharge of the debtor suggested above, may be incorporated into the bill now before the House of Representatives. These provisions have for the past eighteen years formed a part of the bankruptcy law of Massachusetts, and in this State they have been found most salutary and essential, indeed the law could not have been kept on the statute-book through all this time without them. They have not worked to the disadvantage of the honest debtor, while they have furnished an effective hinderance in the way of many persons who would avail themselves of the benefits of insolvency proceedings, while withholding their property in whole or in part from their creditors.

The undersigned venture to express a fear that should a law on this subject go into effect without a requirement as to the amount which shall be paid by the bankrupt to entitle him to release, the number of those who would unworthily avail themselves of it would lead the mercantile community to demand either its repeal or its essential modification. This would not only reopen the whole subject and prevent the attainment of that which is so much to be desired, namely, a well-defined and a well-understood system, which should be permanent as well as uniform, but in the opinion of the undersigned it might lead to the almost indefinite postponement of the whole question, after a brief period, similar to those which have gone before, shall have elapsed, during which persons throughout the country seeking to be relieved from their creditors without paying their debts, will have obtained their discharge.

The undersigned commend these considerations to your attention, and beg to subscribe themselves, sir, with much respect,

Your obedient servants,

EZRA FARNSWORTH,
WILLIAM CLAFLIN,
HAMILTON A. HILL.

HON. THOMAS A. JENCKES, *House of Representatives, Washington, D. C.*

Mr. ALLEY. I withdraw the amendment.

Mr. JENCKES. I will renew it.

Mr. ALLEY. Will the gentleman allow me to add a word further?

Mr. JENCKES. Yes, sir.

Mr. ALLEY. I concur entirely with the views expressed by the eminent merchants whose names are attached to that communication. I have labored earnestly in the committee to procure the adoption of those views in full, but being unable to accomplish that, I consented to the reporting of the bill and promised my support to it if they would insert a provision like this as a compromise. I understand from the chairman of the committee that the creditor interest, as represented by the Boards of Trade of the several States with which he has had communication, assent to the bill as it now stands and agree to the provision in its modified form.

Believing, as I do, that a uniform law for insolvent debtors is of great importance both to the debtor and to the creditor interest, I shall give this bill my support. I regard it as the best bankrupt bill ever presented to the American Congress. While it does not contain all of the best features of our Massachusetts insolvent law, it contains many of its wisest and most beneficent provisions. Within my recollection Massachusetts has had all sorts of laws in relation to debtor and creditor; but her present bankrupt law has been in existence nearly twenty years, and gives to all the most eminent satisfaction, and nothing would induce her people to fall back upon the old system, so long since cast off by her, and which, I am sorry to say, is so persistently adhered to in so many of the other States of the Union.

Mr. JENCKES. I wish simply to add certain resolutions on this subject from the creditor interest of other cities in support of the bill. First, from the city of Detroit:

BOARD OF TRADE ROOMS,
DETROIT, MICHIGAN, *March* 21, 1866.

To the honorable the Senate and House of Representatives of the United States:

The following is a copy of a resolution that passed this board on the 16th instant:

"*Resolved*, That having examined the general bankrupt bill now pending before Congress, this board, in consideration of its judicious provisions, especially the safeguards for the protection of both debtor and creditor, hereby approve of said bill, and respectfully ask that it be passed into a law during the present session."

A true copy: RAY HADDOCK,
Secretary.

Also the following resolution of the Board of Trade of Chicago:

"CHICAGO, *March* 14, 1866.

"*Resolved*, That this board consider the establishment of a uniform system of bankruptcy to be a just and expedient measure, demanded alike by the true interests of debtor and creditor.

"*Resolved*, That this board believes that the early passage of the bankrupt bill, now pending in Congress, will be of great benefit to the whole country; and that we request the Representative from this district to give the bill his active support.

"*Resolved*, That the secretary forward a copy of these resolutions to our Representative in Congress."

Also the proceedings of the Chamber of Commerce, New York:

Mr. Walter S. Griffith, chairman of the committee of arbitration, to which was referred the consideration of the memorial of the Boston Board of Trade on the bankruptcy bill now before the United States Senate, submitted the following report, recommending the non-concurrence of the chamber in said memorial.

The arbitration committee of this chamber, to whom was referred the communication of the Boston Board of Trade in reference to the proposed bill for establishing a system of bankruptcy, now pending before Congress, respectfully report, that they have examined the act with much care, and have fully considered the grounds suggested for urging postponement of legislation on the subject,

The southern States are largely in debt to the merchants of New York, and this chamber, as representing such creditor interest, cannot view without concern the enactment or postponement of legislation having reference to the sequestration of property for the purpose of discharging such indebtedness.

After full consideration, your committee have come to the conclusion that the bill in question is adapted to protect the interest of creditors in cases of bankruptcy, whether voluntary or compulsory, more thoroughly and effectively than similar laws ever enacted in this country or elsewhere.

That while the clause refusing the benefits of a discharge to those who have in any way aided or abetted the rebellion may perhaps be amended so as more effectually to accomplish the end designed, still the bill in its present form is of the greatest possible interest and value, securing, as it does, to the loyal creditors of disloyal debtors in the revolted States, ready and sure means, when the authority of the Government is restored, of compelling the application of all the property of the debtors toward the discharge of their obligations.

It is obvious that much time must elapse before the rights of northern creditors can be enforced in the local courts of those States where, in consequence of the rebellion, all judicial functions have been long suspended, and where, even after law shall be again administered, local prejudices may interpose formidable barriers in favor of the resident debtor against the non-resident creditor. Without the interposition of Congress the dishonest debtor would have ample time and opportunity to place his assets beyond the reach of his creditors.

If this bill becomes a law, however, it will by its provisions extend the power of the court of bankruptcy over the entire territory of the Union, and thus afford an adequate remedy through the national tribunals wherever the authority of the Government shall prevail.

Though admitting of improvement in several respects, the bill in its general outline and provisions seems drawn with signal ability, and with a wise regard alike for the true interests of debtor and creditor, and your committee regard its passage as eminently desirable.

It is with regret your committee differ on this subject from the highly intelligent body whose communication has been referred to them, but they are unanimous in opinion that the chamber should reply to the Boston Board of Trade that we cannot concur in their views respecting this bill.

WALTER S. GRIFFITH,
A. W. BRADFORD,
S. B. CHITTENDEN,
F. S. LATHROP.

New York, *February* 2, 1865.

Mr. SPALDING. I desire to add the action of the Board of Trade of Cleveland, Ohio:

BOARD OF TRADE ROOMS,
CLEVELAND, *March* 14, 1866.

DEAR SIR: The following resolution was passed by the Board of Trade of this city at its session this day held:

"*Resolved*, That in view of the considerations contained in the report of arbitration committee of the Chamber of Commerce of the city of New York, dated February 2, 1865, and found on page 76 of the proceedings of that body for that year; and also of the like considerations contained in the report of Ezra Farnsworth, William Claflin, and Hamilton A. Hill, which has recently been adopted by the Boston Board of Trade, recommending the passage by Congress of the bankrupt bill now before the House of Representatives, this board do concur in such recommendation, and respectfully urge the enactment of said bill during the present session."

Attest: J. C. SAGE,
Secretary Board of Trade.

Hon. R. P. SPALDING.

Mr. J. M. HUMPHREY. Allow me to add the following proceedings of the Board of Trade of Buffalo, New York:

BOARD OF TRADE ROOMS, CENTRAL WHARF,
BUFFALO, NEW YORK, *March* 13, 1866.

Extract from minutes of meeting of members of the Board of Trade, held this morning.

"The following resolution was passed unanimously:

"*Resolved*, That in view of the considerations contained in the report of the arbitration committee of the Chamber of Commerce of the city of New York, dated February 2, 1865, and found on page 76 of the proceedings of that body for that year, and also of the like considerations contained in the report of Ezra Farnsworth, William Claflin, and Hamilton A. Hill, which has recently been adopted by the Boston Board of Trade, recommending the passage by Congress of the bankrupt bill now before the House of Representatives, this board do concur in such recommendations, and respectfully urge the enactment of said bill during the present session."

WILLIAM THURSTONE,
Secretary.

Mr. JENCKES. I withdraw the amendment.

The Clerk proceeded with the reading of the bill.

Mr. JENCKES. I move to amend section thirty-five, in line two, by striking out "six" and inserting "four;" so as to make it conform to other amendments.

Also, in line eleven, after the word "thereby" to insert the words "or by such attachment;" so as to relieve the section of ambiguity.

Also, in line thirteen, after the word "such" and before the word "payment" to insert the word "attachment."

The foregoing amendments were agreed to.

Mr. JENCKES. I move to amend section thirty-eight, by striking out in lines three and four the words "or the issuing of" and inserting the words "upon which" in lieu thereof; and in line four, after the word "order," by inserting the words "may be issued."

Also, in line five by striking out the word "forty," leaving the word "four." It is a misprint.

The foregoing amendments were agreed to.

Mr. JENCKES. I move to amend section forty-one by adding at the end thereof the words "and the respondent shall recover his costs."

The amendment was agreed to.

Mr. JENCKES. I move to amend section forty-six in line fourteen, by striking out the words "to be imprisoned" and inserting instead thereof the words "by imprisonment."

The amendment was agreed to.

Mr. JENCKES. I move to amend the forty-seventh section by adding at the end thereof the following:

Or from reducing the fees prescribed in this section in classes of cases to be named in their rules and order.

So that the paragraph will read:

The enumeration of the foregoing fees shall not prevent the commissioners, who shall frame general rules and orders in accordance with the provisions of section twelve, from prescribing a tariff of fees for all other services of the officers of courts of bankruptcy, or from reducing the fees prescribed in this section in classes of cases to be named in their rules and order.

There are some persons who, if this bill goes into effect, will have to sue in the form of paupers, having no property, and possibly no friends; persons who may in some States be imprisoned for debt. In such cases, special rules should be made so that the fees should not be excessive. The fees provided by this bill may stand for all cases in which there are estates of the bankrupts. They provide a fund for the payment of the register, without whose services this law could hardly be carried into effect. This amendment gives the commissioner power to reduce them and provide for certain classes of cases, so that the provisions of the act shall not be a burden upon them, and relief shall not be denied them on account of poverty.

I do this also preliminary to a motion to strike out the next section.

Mr. HOLMES. I am not quite satisfied to leave these fees as they are. While this provision permits the commissioner or judge to reduce them it does not impose any such obligation upon him, but leaves them to be paid, unless the judge sees fit to reduce them.

Mr. JENCKES. If the gentleman will look back to the section providing for the establishment of rules and orders, he will see that it puts it entirely in the power of the commissioner to prescribe equitable rules for the different classes of cases, which I see no way of providing for by the act itself.

Mr. HOLMES. I would ask the gentleman whether these allowances for every day's service in section forty-seven, can be made on the same occasion when they are performing this service.

Mr. JENCKES. That is prescribed by the rule. It is not for the register or commissioner to say what is a day's service, but the general rule to be established by the court under the authority of the Supreme Court of the United States shall prescribe what it shall be.

Mr. HOLMES. The gentleman does not understand my question. Here are certain services for which they are paid a satisfactory fee. Now, can they, in addition to that, have a *per diem* allowance? For instance, on the day they issue a warrant, or perform any other service, can they also be paid a *per diem*?

Mr. JENCKES. No, sir. For every day's service while actually employed under the special order of the court, the court shall define what the duty shall be. For instance, in the district in which the gentleman lives the judge sends a register to Ogdensburg. He will define in the order sending him there what he shall be paid—whether a *per diem*, or otherwise—and not allow the officer himself to increase his own fee.

Mr. HOLMES. I prefer to offer an amendment, by moving to strike out "five dollars" in the forty-seventh section, line seven, and inserting "two dollars;" so that it will read:

For issuing every warrant, two dollars.

I think that is ample compensation.

Mr. DAVIS. I move to amend by inserting "three dollars."

The amendment of Mr. DAVIS was not agreed to.

The amendment of Mr. HOLMES was agreed to.

The amendment of Mr. JENCKES, to add to the section as above, was also agreed to.

Mr. JENCKES. I now move to strike out section forty-eight.

The section was read, as follows:

SEC. 48. *And be it further enacted*, That the following stamp duties shall be paid, and stamps to the several values be affixed to the papers in each of the several proceedings in bankruptcy as follows, to be prepaid in every case by the petitioner:

Upon every debtor's petition, ten dollars.
Upon every creditor's petition, twenty dollars.
Upon every warrant to messenger, two dollars.
Upon every messenger's notice by mail, ten cents.
Upon every messenger's notice by advertisement, fifty cents.
Upon every assignment, three dollars.
Upon every order for meeting of creditors, two dollars.
Upon every order for dividend, two dollars.
Upon every petition to vacate proceedings, five dollars.
Upon every citation to debtor, twenty-five cents.
Upon every other citation, warrant, and summons, in the course of proceedings, twenty-five cents.
Upon every discharge of a bankrupt, five dollars.

The motion to strike out the foregoing section was agreed to.

The last section was read, as follows:

SEC. 51. *And be it further enacted*, That this act shall commence and take effect as to the appointment of the officers created hereby, and the promulgation of rules and general orders, from and after the date of its approval: *Provided*, That no petition or other proceeding under this act shall be filed, received, or commenced before the 1st day of September, A. D. 1866.

Mr. MILLER. I move to strike out "September," and insert "January," and also strike out the last word "six" and make it "seven;" so that it shall read, "the 1st day of January, A. D. 1867."

Mr. JENCKES. I hope not. If the gentleman will substitute "November" for "September," I will not object.

Mr. MILLER. Very well; I so modify my amendment.

The amendment as modified was agreed to.

Mr. JENCKES. I now move the previous question on the passage of the bill.

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

Mr. JENCKES. The vote may be taken to-morrow, immediately after the morning hour.

Mr. WASHBURNE, of Illinois. I object to fixing a time for taking the vote.

The SPEAKER. Then it will come up immediately after the reading of the Journal.

Mr. JENCKES. That will give me an hour.

Mr. WASHBURNE, of Illinois. You can take your hour.

EVENING SESSION.

Mr. WASHBURNE, of Illinois. I now move that the session of this evening be dispensed with.

The motion was agreed to.

Mr. JENCKES. I move that the House adjourn.

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

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to the appropriate committees:

By Mr. BUCKLAND: The petition of La Q. Rawson, Sawles Birchard, and 60 others, business men of Frémont, Ohio, praying that Congress will enact such just and equal laws for the regulation of inter-State insurances of all kinds as may be effectual in establishing the greatest security for the interests protected by policies, and for the good of all concerned.

By Mr. DENNY: The memorial of the Legislature of Washington Territory, asking an appropriation to aid in building a road from Walla Walla to Seattle.

Also, a memorial, asking an appropriation to improve the road from Olympia to Monticello.

Also, a memorial in relation to common-school lands in Washington Territory,

Also, a memorial respecting a codification of the laws of Washington Territory.

Also, a memorial relating to the election of Federal officers in the Territory of Washington.

By Mr. DRIGGS: The petition of Rev. W. Wright, L. D. Harvey, and 60 others, of Lake Superior, Michigan, asking Congress to so regulate duties on imports as to protect the workingmen of the country.

By Mr. ECKLEY: The petition of 240 wool-growers of Stark and Columbiana counties, Ohio, asking an additional duty on wool.

Also, the petition and accompanying papers of George M. Mell, for compensation for property taken and damages done to his property by the Army of the United States and the enemies of the Government during the war of the rebellion.

By Mr. EGGLESTON: The memorial of the Chamber of Commerce, of the city of Cincinnati, protesting against the building of a canal around the falls of Niagara by the Government.

By Mr. FARNSWORTH: The petition of W. A. Whiting, and others, of Hampshire, Kane county, Illinois, for increase of tariff on wool.

By Mr. GARFIELD: The petition of 34 citizens of Trumbull county, Ohio, asking for the passage of an act to regulate insurance companies.

By Mr. HUBBARD, of Connecticut: The petition of 67 citizens of Danbury and Ridgefield, Connecticut, praying for the enactment of just and equal laws for the regulation of inter-State insurances.

By Mr. HUBBARD, of West Virginia: The petition of 92 persons, wool growers, and others, citizens of Brooke county, West Virginia, asking an increased rate of duty on wool of foreign growth.

By Mr. J. M. HUMPHREY: A petition for bounties to volunteer soldiers.

Also, the petition for reduction of revenue tax on insurance companies.

By Mr. INGERSOLL: The memorial of citizens of Henry county, Illinois, in favor of the colonization of the negro population of the South in Mexico or some foreign country or in some territory within the jurisdiction of the United States.

By Mr. LAFLIN: The petition of J. A. Hardee and others, citizens of Redwood, Jefferson county, New York, in favor of joint and equal laws for the establishment of inter-State insurance of all kinds.

By Mr. MERCUR: The petition of 30 citizens of Bradford county, Pennsylvania, praying that no State lately in rebellion shall be restored as a governing partner in the Union till adequate security has been obtained against a renewal of its attempt to secede.

By Mr. PIKE: The petition of N. G. Hichborn, of Maine, for amendment of tonnage law.

By Mr. PRICE: The petition of citizens of Clinton county, Iowa, asking for the regulation of inter-State insurances of all kinds.

By Mr. SLOAN: The petition of James D. Reymert, late receiver of public funds at United States land office St. Croix Fall.

Also, the claim of James and Emma Cameron, of Chattanooga, Tennessee.

By Mr. STEVENS: The petition of several citizens of the District of Columbia, asking for the incorporation of a national institution of learning.

By Mr. UPSON: The memorial of the Common Council of the village of Albion, Calhoun county, Michigan, praying for an extension of the land grant to the State of Michigan for a railroad from Amboy, via Lansing, to Traverse Bay, in said State.

By Mr. WARD: The petition of the county clerk, and 53 others, prominent citizens of Steuben county,

New York, in favor of increase of duties on foreign wool.

Also, the petition of 108 wool-growers of the county of Steuben, New York, in favor of an increase of the duty on foreign wool.

Also, petition of Hon. H. Sherwood, and 32 others, prominent citizens of Corning, New York, in favor of equal national insurance laws.

By Mr. WASHBURNE, of Illinois: The papers in the case of James Preston Beck, administrator of Preston Beck, jr., deceased, late surviving partner of the firm of Brent & Beck, heretofore referred May 16, 1864.

Also, the petition of James L. Johnson, surviving partner of the firm of Beck & Johnson, praying for relief; heretofore referred January 22, 1862.

By Mr. VAN HORN, of New York: The petition of 27 leading citizens of Perry, New York, asking equal and just laws in relation to inter-State insurances, so as to secure protection to such interests.

IN SENATE.

WEDNESDAY, *March* 28, 1866.

The Chaplain, Rev. E. H. GRAY, offered the following prayer:

O God! Truly in the midst of life we are in death. Passing away is true of us and true of our friends. The places now knowing us will soon know us no more forever. May we hear the voice of the Lord, and may all the dispensations of Thy providence, which are wise and righteous and kind—kind even though they seem to be severe—be sanctified to our everlasting good. And when God speaks to us from His throne and comes into the midst of our circle of friends, may we remember that it is God who speaks, and not man. We pray that Thou wilt teach all of us to number our days that we may apply our hearts unto wisdom, and that we may keep the great object of life constantly in view, and be prepared for Thy glory and Thy service in the kingdom of heaven. Bless, we pray Thee, the Senate and all of its members, and grant that each of them may be made to realize that death is commissioned to go to the high places of trust and of power as well as to those of the lowly, and that it becomes us all to recognize the hand of God in the dispensation of affliction as well as of mercy. Grant, we pray Thee, that all of us to-day may realize that we are passing on to the unseen world, and that there is no work nor device nor knowledge nor wisdom in the path which we take. Bless the family in affliction; sustain and support them, and help them to feel to-day that God is their trust and their everlasting strength. Bless us all, and prepare us with fidelity to discharge the duties of life; and when we have accomplished our work and fulfilled our sojournings here on earth, prepare us for places of trust, of honor, of praise, of glory in the kingdom of heaven, for Jesus' sake. Amen.

The Journal of yesterday was read and approved.

Mr. SUMNER. Mr. President, a great bereavement has fallen upon the Senate. Mr. FOOT, the Senator of Vermont, one of our most honored associates, and the oldest among us in continuous service, died this morning at eight o'clock. He has passed from this scene of duty and of honor. In the presence of such a sorrow, it seems better that public business should be suspended in this Chamber for to-day. Accordingly, I shall make a motion which I believe will have the sympathetic concurrence of the Senate. I make it in the absence of the surviving Senator of Vermont, who is now necessarily engaged in attendance upon the family of the deceased, and after consultation with him. I move that the Senate do now adjourn.

The motion was unanimously agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *March* 28, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

LEAVE OF ABSENCE.

Mr. BERGEN asked and obtained further leave of absence for one week for his colleague, Mr. GOODYEAR.

Mr. PIKE asked and obtained leave of absence for two weeks for his colleague, Mr. LYNCH.

Mr. TAYLOR asked and obtained leave of absence for one week for his colleague, Mr. JONES.

Mr. HOOPER, of Massachusetts, asked and obtained leave of absence for one week for his colleague, Mr. BANKS.

REFUGEES AND FREEDMEN.

Mr. WILSON, of Iowa, by unanimous consent, reported back from the Committee on the Judiciary House bill No. 406, to provide for the settlement of accounts of certain public officers, without amendment, and with a recommendation that it be passed.

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

The bill was read at length. The first section provides that all moneys raised in the United States for the support of refugees or freedmen, and received by any officer of the United States Army, shall be charged against such officer on the books of the Treasury Department and accounted for by him in like manner as if such moneys had been drawn from the Treasury of the United States; and if any part thereof shall have been expended for the use of refugees or freedmen, the same shall be passed to the credit of the officer, if, upon the examination of his accounts, it shall appear to the proper accounting officer of the Treasury Department that the amount expended was properly disbursed for such refugees or freedmen; and on the adjustment of the accounts of the officer, if any balance shall remain in the hands of such officer, the same shall be paid into the Treasury of the United States for a fund for the relief of refugees and freedmen. And any officer having such balance in his hands, who, after being duly required, shall refuse or neglect to pay over the same, or who shall, after due notice, fail to settle his accounts, shall be proceeded against in the same manner as is provided for by existing laws in the case of disbursing officers who neglect or refuse to account for moneys drawn from the Treasury of the United States.

Section two provides that where accounts are rendered for expenditures for refugees or freedmen, under the approval and sanction of the proper officers, and which shall have been proper and necessary, but cannot be settld for want of specific appropriations, the same may be paid out of the fund for the relief of refugees and freedmen, on the approval of the Commissioner of the Bureau of Refugees and Freedmen.

Mr. WILSON, of Iowa. This bill is necessary in order that the Third Auditor of the Treasury may settle the accounts of the officers of the Freedmen's Bureau for funds which have been received by them, other than by appropriations from the Treasury of the United States, by way of donations or otherwise. All the funds received by the officers of that bureau are reported by them to the Treasury Department, and are charged against them upon the books of that Department. But there is now no law authorizing the settlement of their accounts for the expenditure of the funds received by them for the purposes specified in the act under which they are acting.

I had an interview this morning in regard to this bill with the Third Auditor, and he told me that it was highly important that this bill should be passed at once, in order that these accounts may be adjusted.

I now demand the previous question.

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

Mr. WILSON, of Iowa. I call the previous question on the passage of the bill.

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

Mr. WILSON, of Iowa, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

BRITISH AMERICAN TRADE.

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

Resolved, That the Secretary of the Treasury be requested to communicate to this House a statement of the trade of the Provinces of British North America, especially Canada, in 1854 and 1865-66, respectively, the values being estimated in gold, and specifying what proportion of said trade was with the United States, and what articles, if any, were exclusively exported to the United States; also, the tariff laws now in force in Canada, with a statement of the nature and extent of the changes made therein since 1854; also, the returns of Canadian canals for 1865, illustrating their value and the importance of the free navigation of the river St. Lawrence to American commerce, together with such general information, brought down to the present time, as may be in his possession and may assist in correctly estimating the trade, resources, &c., of said Provinces, and their relation to the trade and production of the United States.

INTERNAL REVENUE.

Mr. MORRILL. I am instructed by the Committee of Ways and Means to report a bill to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and the act amendatory thereof, approved March 3, 1865.

I will merely state, Mr. Speaker, that it is the purpose of the Committee of Ways and Means to report a bill extensively modifying the income tax; and in order that the bill may take effect this year, we desire to have the levying and collection of that tax postponed for two months. This will give time to mature and pass the bill which the committee have now under consideration.

The bill was read a first and second time.

It provides that all proceedings touching the levy and collection of the annual tax provided in schedule A of section one hundred of the act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and the act amendatory thereof approved March 3, 1865, and all proceedings for the levy, return, and collection of the income tax provided by said act be, and the same are hereby, postponed for the space of two months; provided, that all the provisions, remedies, and penalties of said act shall remain in full force and effect in all respects, except so far as the same are changed as to time by the postponement aforesaid.

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

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

The latter motion was agreed to.

ISABELLA STRUBING.

Mr. ANCONA, by unanimous consent, introduced a bill for the relief of Isabella Strubing; which was read a first and second time, and referred to the Committee on Invalid Pensions.

IOWA CENTRAL RAILROAD.

Mr. HUBBARD, of Iowa, by unanimous consent, presented a joint resolution of the Legislature of the State of Iowa, asking a grant of lands to aid in the construction of the Iowa Central railroad; which was referred to the Committee on Public Lands, and ordered to be printed.

PAYMENT FOR SLAVES.

Mr. LAWRENCE, of Ohio. I ask unanimous consent to report back from the Committee on the Judiciary a joint resolution (H. R. No. 43) proposing an amendment to the Constitution of the United States.

The SPEAKER. The joint resolution will be read for information, after which the Chair will ask for objections, if any.

The Clerk read, as follows:

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two thirds of both Houses concurring,) That the following article be proposed to the Legislatures of the several States, which, when ratified by three fourths of said Legislatures, shall be valid, to all intents and purposes, as a part of said Constitution, namely:

ARTICLE —.

SEC. 1. Neither Congress nor any State shall ever authorize, provide for, or make payment to any person or persons on account of the emancipation of any slave or slaves, or as compensation therefor, except as provided by statute in force prior to the 1st day of January, 1865.

SEC. 2. Congress shall have power to enforce this article by appropriate legislation, and the judicial power of the United States shall extend to all cases arising under this article and the laws made in pursuance thereof.

The SPEAKER. Is there objection to permitting the gentleman from Ohio to report back this joint resolution from the Committee on the Judiciary?

Mr. HARDING, of Kentucky. I object.

Mr. LAWRENCE, of Ohio. I hope the gentleman will withdraw his objection. My object is simply to move an amendment to the pending amendment, and then move that the resolution be recommitted.

Mr. HARDING, of Kentucky. The intention is not to bring it up for action?

Mr. LAWRENCE, of Ohio. No, sir.

Mr. ANCONA. Will the gentleman consent that a motion to reconsider the recommittal shall be laid on the table?

Mr. LAWRENCE, of Ohio. I want to recommit the bill to the committee, and I hope there will be no objection to it.

Mr. ANCONA. I must object unless it be the understanding it is not to be brought back by a motion to reconsider.

Mr. LAWRENCE, of Ohio. I cannot accept that.

ORGANIZATION OF THE HOUSE.

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

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of so amending chapter 108, laws of 1863, entitled "An act to regulate the duties of the Clerk of the House of Representatives in preparing for the organization of the House," as to provide that no member whose name may be called by the Clerk in accordance with that act shall participate in the election of Speaker or in any other business of the House until he shall first have taken the oath of office prescribed by the Constitution and the laws.

UNITED STATES COAL AND IRON LANDS.

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

Resolved, That the Committee on Public Lands be instructed to inquire into the expediency of reporting a bill extending the principles and policy of the laws now in force regulating the sale of coal lands to the iron of the United States.

PAYMENT FOR QUARTERMASTERS' STORES.

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

Resolved, That the committee on the debts of the loyal States be instructed to inquire into the expediency of amending the act entitled "An act to restrict the jurisdiction of the Court of Claims, and to provide for the payment of certain demands for quartermasters' stores and subsistence supplies furnished to the Army of the United States," approved July 4, 1864, so as to authorize the Quartermaster General to pass upon and recommend for settlement to the Third Auditor all supplies taken from loyal citizens of States not in rebellion for the quartermaster's or commissary department, whether said stores and supplies were taken by the quartermasters or commissaries, or by others under orders of officers commanding the forces, for the use of which such supplies were impressed, and to report by bill or otherwise.

TAX ON SLAUGHTERED ANIMALS.

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

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of abolishing the tax upon slaughtered animals.

NEW POST ROUTE IN ILLINOIS.

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

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the propriety of establishing a mail route from Edwardsville, Illinois, to Troy, Illinois, and report by bill or otherwise.

BARLEY FREE OF DUTY.

Mr. STROUSE. I ask unanimous consent to submit the following resolution of inquiry:

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of admitting barley, used for malting, free of duty, from Canada and the other British Provinces.

Mr. FARNSWORTH. I object, and call for the regular order of business.

BANKRUPT BILL.

The House then proceeded to the consideration of the special order, being House bill No. 7, to establish a uniform system of bankruptcy throughout the United States; the pending question being on the third reading and engrossment, on which the main question had been ordered.

Mr. HUBBARD, of Iowa. I ask the gentleman from Rhode Island [Mr. JENCKES] to agree to the postponement of the bankrupt law until later in the day, so that we may proceed to the consideration of reports from the Committee on Indian Affairs.

The SPEAKER. That can only be done by unanimous consent, as the previous question has been seconded and the main question ordered.

Mr. HUBBARD, of Iowa. I understand the gentleman from Rhode Island agrees to it.

Mr. JENCKES. I will agree to a postponement if a day and hour be fixed for the consideration of the bankrupt bill.

Mr. SCHENCK. I object. I think it is a good time to vote on the bill when we have a full House.

Mr. JENCKES. The reason why I consent to the suggestion of the gentleman from Iowa is that many members who have obtained leave of absence have requested me not to push the bill to a vote until they had returned.

Mr. SCHENCK. I know of two applications for leave of absence to be made this morning; such applications always occur about this season of the year, and it is not probable we will have a fuller House than we have now. I object to postponing to a late hour of the day, and think it is better to vote now when the House is reasonably full.

Mr. JENCKES. My suggestion is this—I will state it again so that the gentleman may hear and understand it—that many members are now absent.

Mr. SCHENCK. That is what I understood the gentleman to say, and my reply is that it will be the same for weeks to come.

Mr. JENCKES. And many of these have asked me not to press this measure to a vote until they can be present. I therefore assent to the proposition of the gentleman from Iowa, [Mr. HUBBARD,] that the previous question shall be postponed until an hour certain, whether a week or a fortnight from to-day, so that every member of the House may be notified that it will be voted upon.

Mr. WASHBURNE, of Illinois. We have fully considered this bill; the gentleman from Rhode Island has had the fairest consideration that a member could possibly have; the previous question has been seconded, and the main question ordered, and now he comes in and makes the extraordinary request——

Mr. JENCKES. The gentleman is wrong; I do not make any personal request. I stated that I had been requested by others not to press it to a vote.

Mr. WASHBURNE, of Illinois. I do not mean to say that the gentleman himself has made an extraordinary request, but that it is an extraordinary one to come from gentlemen who have left the House and gone away from their business, that we should postpone it on their account.

Mr. HUBBARD, of Iowa. I would inquire of the Chair, when will the regular business come up, provided we proceed with the bankrupt bill now?

The SPEAKER. As soon as this bill is disposed of. The only way of proceeding with the call of committees will be to reconsider the vote by which the previous question was ordered on the bankrupt bill, and then postponing it.

Mr. JENCKES. In accordance with the request of members who are absent, I move to reconsider the vote by which the previous question was seconded and the main question ordered.

Mr. WARD. I hope that will not prevail.

Mr. SCHENCK. It was my intention to respond to the appeal of the gentleman from Rhode Island, but really I can hear nothing, there is so much noise in the House. I understand that his appeal to postpone is not on his own behalf, but on behalf of those who are absent. I certainly do not wish to do anything discourteous toward that gentleman, but the difficulty is there are other gentlemen who are about to obtain leave of absence who also desire to vote for the bill, and it is not easy to tell when there will come a time, even with notice, when we shall have a fuller House than now. And besides, I understand that the objection is likely to be renewed by others if I withdraw it.

Mr. JENCKES. I hope the gentleman will hear me.

Mr. SCHENCK. I am always happy to hear the gentleman.

Mr JENCKES. Gentleman who are absent on leave have made a request to me that I should ask the House to fix a time when the vote shall be taken. As matters now stand, that would not interfere with any public business. It is a mere courtesy to our absent friends.

Mr. ROSS. I rise to a question of order. I understand the previous question has been seconded, and I do not understand by what rule this debate goes on.

The SPEAKER. By unanimous consent.

Mr. ROSS. I object.

The SPEAKER. The gentleman from Rhode Island moves to reconsider the vote by which the previous question was ordered.

Mr. JENCKES. Gentlemen will understand that this motion is not made on my own behalf.

Mr. WASHBURNE, of Illinois. I rise to a privileged question. The bill has been fully considered, engrossed, and read a third time.

The SPEAKER. Not yet. The previous question is ordered on the engrossment of the bill.

Mr. ROSS. I move to postpone the question till the first Monday in December next.

The SPEAKER. That is not in order.

Mr. JENCKES. Is there any objection to having an hour certain fixed for action on this bill?

The SPEAKER. The gentleman from Illinois objects.

Mr. JENCKES. Then I withdraw the motion.

Mr. WASHBURNE, of Illinois. I move to lay the motion to reconsider on the table.

The SPEAKER. The gentleman from Rhode Island has the floor.

Mr. SCHENCK. I want to have it understood that I am willing to withdraw my objection and allow the gentleman from Rhode Island to manage his bill.

The SPEAKER. The gentleman from Illinois has objected.

Mr. JENCKES. Mr. Speaker, the bill upon which I now ask the vote of this House rests upon no doubtful authority; no question can arise in regard to the constitutional power of this Congress to pass it. The language of the Constitution of the United States is plain and explicit that Congress shall have power to pass uniform laws upon the subject of bankruptcies throughout the United States. Looking through the debates that have arisen upon previous laws relating to this subject, I have found no question raised as to the power of Congress; the entire and absolute power of Congress over the whole subject is conceded and acknowledged.

There have been criticisms upon the language used in previous laws, and upon the language

used in the Constitution. At the time of the passage of the bankrupt law of 1800, many believed, if I may credit the language then used in the debates as reported in the Annals of Congress, that the constitutional provision had reference only to the laws of England when that phrase was adopted which now stands in the Constitution. But in the subsequent debates, when the subject was before Congress in 1820, in 1827, in 1840-41, and 1842, I think I may say, from having examined every speech that was made upon the subject, there was no question as to the power of Congress over the entire subject. Some said that the laws of England were to be their guide. Others said, and said more wisely, as I think, that there were other systems of bankruptcy than those adopted or recognized by the laws of England; and that the authors of the Constitution had reference to a general law upon the entire subject, which should meet, not only the wants of the American people at that time, but whatever they might require in their business thereafter.

The Constitution itself was expressed in brief phrase, containing general propositions. The authors of it have by experience shown themselves to be as wise, if not wiser, than their successors. The phrase which they used upon this subject seems to me to furnish the basis of the present law, and of any future amendment to it which shall embrace the entire subject of laws relating to persons who have failed in business, and which shall provide for the distribution of the estates of the insolvents. The foundation of this law, therefore, I assume, is entirely clear and sound. No one can raise an objection to the power of Congress over this whole subject.

The objections which have been raised in this debate, and the objections which have hitherto been raised, are to certain provisions of the law, not to the general policy of it. But in the limited time which is allowed to me I propose to consider these general objections and to reply to them as bravely as I may.

The first objection is made by gentlemen who live in certain portions of the territory of the United States whose district courts are authorized and required to take jurisdiction of cases under this bill, and wherever there are a large number of persons and a large amount of property that may be subjected to the operations of this bill. I will take the northern district of New York for example. And as I wish this to be a debate simply upon the propositions of the law, and not upon the general policy of it, I ask the attention of the gentleman from that district, [Mr. CONKLING.] One of the principal objections raised to this law is that it cannot be executed in the northern district of New York.

Mr. CONKLING. Does the gentleman from Rhode Island [Mr. JENCKES] address any inquiry to me?

Mr. JENCKES. Not now; but I propose to do so. I understand the sole objection of the gentleman from New York [Mr. CONKLING] is that there will be a difficulty in the enforcement of this bill, if it becomes a law, within the district in which he resides. I agree to his objection; there is a serious difficulty. But I submit to him, as I shall submit to other gentlemen, that such difficulty is one which is to be remedied, not by defeating the bill, but by submitting amendments to its provisions or by proposing amendments to the laws creating the judiciary which shall execute the law within his district. The objection which has been raised by the gentleman from New York, and also repeated by other gentlemen, is a good objection. But it is not an objection to the law itself, but simply to the means to be employed to carry it into effect.

The objection is equally applicable to the northern district of Illinois, and also to the district of Massachusetts. But I learn that the judge in the district of Massachusetts can administer the law in that district, and I have not learned that the judge in any other district feels incompetent to administer this law. So, also, in other districts. It being a mere matter of executive, not to say judicial ability, I think the gentleman will withdraw his objection to the bill itself, if he can devise any method, or if the House can aid him in devising any method by which this objection can be overcome. The original bill, which I had the privilege to present in the last Congress, contained a provision that an additional judge might be appointed in any district when the present judge cannot administer the law. There is no such provision in the present bill. For one, I am willing to accept such an amendment that any gentleman may offer, or any other amendment by which the machinery of the bill may be carried into effect, improved and perfected.

I pass from this objection, because it is one of mere detail, and I come to another. It is one which relates to the principle of the law, and the only one raised by any person who has yet spoken against the bill. I refer to the objection of the gentleman from Wisconsin. He objects that this bill contains a clause providing for proceedings in involuntary bankruptcy. Upon this point, I wish to submit to this House and to the country, what I believe to be the true view of the law of debtor and creditor. This strikes at one of the fundamental relations between man and man. How shall a man contract debts? How shall the person with whom he contracts debts be paid? Without doubt, this question of the collection of debts might have been left to the constitution and laws of the several States. Wise statesmen—Mr. Clay among the number—said that they thought the subject of the collection of debts might have been left to the several States.

Learned and wise as Mr. Clay was, the fathers and authors of the Constitution were, in my opinion, wiser than he. They were building up a nation. The foundations of that nation were to be laid under the pillars of the States for some purposes; and for others, the national dome was to be raised upon broader and firmer foundations. And the men of that day saw, and others who have followed them have seen, that one of the great questions to be settled by the national laws was that between debtor and creditor. And why? Not because it was a mere municipal regulation, a matter of local law within State jurisdictions, but because it was a part of the commercial law, of the regulation of commerce between the States. And they placed in the letter of the Constitution not only the power to regulate this system of laws as between debtor and creditor, but that of commerce both between citizens of the States and between citizens and the subjects of foreign nations. The language used in the Constitution has a greater significance than has been given to it in legislation in these days.

Therefore I say that when the power is delegated to this Congress, it is an implied instruction from the framers of the Constitution and their constituents to those who frame laws under the Constitution that they should see that those powers are properly exercised. This "involuntary clause," as it is called, is simply a mode of collecting debts—a uniform law for the collection of debts in every State of these United States. And independently of that clause, is it not a wise thing to be adopted? Is there any person who has had experience, either as a merchant or a lawyer, who can say that this is not the best and the wisest thing that can be done? Is there anything better in this branch of the law than a uniform system for the collection of debts?

No man knows what may be the law of Texas or Alabama or Oregon or Maine. A man may trust an individual, that individual may fail, and the creditor may be obliged to resort to the law for the collection of his debt. But who knows what that law is? Only the man living in the neighborhood of the debtor and within the State where the debtor has his domicile. Under this bill every one will be able to know what is the law on this subject of the collection of debt everywhere throughout the United States of America. Based upon the Constitution, founded upon the adamant that our fathers placed there, I defy any man to say that the superstructure now proposed to be reared is not one that will adorn and perfect the foundation which they constructed.

Again, the objection is raised, and it seems to me to be a technical one, as to the exemption laws of certain States. All States have exemption laws. If the first Congress which met under the Constitution had exercised all the power granted to them, no question could have arisen now on this subject. I have heard men say, many inside and outside of the House, that they would like to have a bankrupt law fifteen or twenty years old. True. Why? Because it would not then interfere with the existing laws of any State. I hold, and I think it will be sustained by the highest authority—it may be vanity in me to think so, but having studied the question and being bound to give my opinion not only to the House but to the country—I am satisfied that when we have first exercised the power granted in the Constitution, as we now propose to do, we must take as the basis upon which our statute shall take effect the existing laws of the States as the first Congress under the Constitution would have taken the State laws in force in 1789. We can alter them in future, but not as to the past. We must take the titles of property, real and personal, as the First Congress would have taken them.

How would a bankrupt law passed in 1789 have operated upon estates tail and base fees and titles of that kind? The answer will be found in the English law. It would have no operation upon them, and therefore I meet the question, which is a serious one, now both for and against it by saying that this is the first exercise of the power granted to Congress by the Constitution, and that we must take things as they are and not undertake now to make them as we would have them.

Some object that the law will be retroactive; that it will discharge debts now existing. I will meet that, Mr. Speaker, by saying when the Constitution of the United States was framed, and when adopted by the several States, and when power was conceded and granted thereby to this Congress to pass uniform laws on the subject of bankruptcy, that this power of Congress was created and its duty directed as soon as the Constitution was adopted as to the exercise of this power of Congress. I ask where the proposition has been gainsaid in any authoritative manner. No one can show. I challenge an answer from any one within the sound of my voice. Where has any one said that that power was not in Congress, and that our duty, since the Constitution was adopted, has not been to exercise the power thus granted? And why has Congress been derelict in that duty?

Behind that lies another question which seems to influence men's minds, and that is—and there I strike the principle of all these laws—why is it (some men say) that a man's future earnings should be exempted from the payment of his past debts, which may be the consequence of his indiscretions? The proposition embraced in this bill has been adopted in the commercial world for over two thousand years. I will concede to the argument of my opponents, even at this day, that a learned member having charge of the amendments to the bankrupt system in the English Parliament doubts whether that ought to have been the law; but every commercial nation in the world, every State, not only of the magnitude of this, but every State that has had individuals engaged in commercial transactions, has agreed to that principle. Who will deny to the honest man who has met with misfortune the discharge to which an honest judge may say he is entitled? If there is any one my time is at his service in which to answer this question.

I will add but one word to what I have said on the retroactive effect of the law. All remedial statutes are retroactive, and this is a remedial statute.

There are gentlemen here who have said to me, "Provide that this bill shall take effect upon contracts which shall be made after the 1st day of January, 1867, or on any interme-

diate day, and the bill shall receive my vote." Now, I say to those gentlemen, and the answer will be regarded as conclusive by every lawyer who hears it, and it is not necessary to go into the details of the reasons for that answer; I answer that every remedial statute, as this is, is retroactive, and necessarily must be. When we legislate, we do so upon the business of the country as it stands, as it is.

Now, I have no friendliness for prophetic legislation. I cannot understand that wisdom that sees beyond the present hour. When I vote at all, it is upon the experience that the past has given us, and upon the emergency that arises in the present.

I look around this country and I see not only thousands but tens of thousands, and if some communications are to be believed, hundreds of thousands of men who may now need, and who ought to obtain, the benefit of this remedial legislation. I know many of them; men who do not obtrude themselves upon their Representatives; men who do not seek sympathy in print; men who are borne down by the weight of misfortune, who are earning a scanty subsistence for themselves and for their families in a quiet and obscure way; men who do not come up here to seek what may seem to be a grant of aid from their country; men who do not sign their names to memorials, but who are toiling to get a living where once they were in high credit and fortune; men whose skill was a gain to the country, but whose misjudgment was a loss to themselves. These are the men, and these only—let me say it, and be heard and be known to say it—these are the only men, the honest and unfortunate, and perhaps misjudging, not the fraudulent, who are to obtain the benefit of what are called the voluntary provisions in this act.

We say, by this measure, that we have confidence in our judges, that they will grant the benefit of this discharge to none others than those who show themselves to be honestly entitled to it.

Mr. Speaker, this brings me to another point, upon which I wish I could not only have the attention of all the members of this House, but of every person in this country. The objection is made here by members, as well as in the press and by correspondence, that this is a measure of such magnitude that Congress should hesitate in regard to it, and they say further that because it is a measure of great magnitude, Congress should not pass it. Now, I agree with them in the first proposition; it is a measure of vast consequence; it reaches the relation of debtor and creditor in every State of the Union; and because it does so I am not astonished at its magnitude. But my faculties do not grow dim; my senses are not weakened or impaired in the presence of a question of such magnitude.

I read the old Constitution of our fathers, and I find that they charged Congress with the duty and clothed them with the power of legislation upon this subject, and as one of those legislators I assume my share of the responsibility. I know whereof I legislate. I have had some experience in the execution of the laws of the different States on the subject of debtor and creditor. But that is of no consequence. The study I have given to those laws has led me to the conclusion that our fathers were wise and that their successors should be just. I should do discredit to them if I should say otherwise; I should do discredit to myself and to my associates if I acted otherwise.

There is a great power not only granted to Congress but imposed upon it in the same clause to which I have referred. Congress is required and authorized to pass uniform laws upon the subject of naturalization, and such laws have been made ever since this Government had an existence. And why are not our own native citizens entitled to legislation upon the subject of bankruptcy equally with that which aliens are entitled to have by virtue of the same provision of the Constitution?

I have also heard it said that there are objections to this bill because it is called a bankrupt bill. Well, I think no one will deny the fact that bankrupts exist. Bankruptcy means failure in business; that there are men who cannot pay their debts to the number of thousands in the United States. Why should they not have a law to relieve them? And above all, why in the future should not all persons who owe debts, and all persons who have debts to collect, have a uniform system of laws throughout the United States, by which those debts can be settled or collected? Is not that a plain proposition? There is no interference with State rights. Use any phrase you may; disguise it as you may for the purpose of making it acceptable to political parties, the truth is there is no political question about it.

And why should not this be? I ask any gentleman to answer me. That question has not been answered, it never has been answered in any debate. Heretofore, and that has been the misfortune of the nation upon this subject, it has been made simply a matter of the existing politics, and no men have arisen who have met the question in the spirit of the fathers of the Constitution, and said, let us build where our fathers laid the foundation. I do not say this to disparage any who have preceded us; they yielded to their necessities; I yield to none. My duty is plain.

And again; and here I ask the attention of the gentleman from Pennsylvania, [Mr. STEVENS,] as I notice the objection which he made to the passage of this bill. I do not expect to convince him; he has his own opinions, as I have mine. But I wish to answer him before this House and before the country. He said, in a side conversation, in the debate upon this bill the other day, that this was the worst time when a law of this kind could be passed. I believe I do not misreport him.

Now, he will agree that every debtor in the land would like to have this bill become a law; no one can disagree to that proposition. And I present to him and to the House and to the country recommendations of this bill by the creditor interest of the entire North; beginning with the Board of Trade of the city of Boston, indorsed by the Chamber of Commerce of New York, and further by similar boards in Buffalo, Cleveland, Detroit, Chicago, Milwaukee, St. Louis, Dubuque, Cincinnati, &c., representing at least nine tenths if not nineteen twentieths of the creditor interest of this country. Yet the gentleman from Pennsylvania [Mr. STEVENS] says, "Why, sir, you may let some rebel debtor go if this bill becomes a law."

I say to him, as this creditor interest says to me, and I will try to use their own language, "We know our debtors; we wish to meet them as commercial men, mercantile men, business men; we do not care to know whether they have been rebels or not; that is a political question. We want to meet them upon the ground that business men meet each other upon; and let them meet us before the courts of the country; let them show themselves to have been honest; let them show that they have not used their property in aid of the rebellion; let them show that they have not wasted their property in that direction, and we will meet them and give them a discharge, and trust them hereafter."

I have piles of letters from creditors to that effect, men who ask me not to mention their names to the House and to the country; men whom I know and whom I believe.

And there is another class which Congress should consider; a large class of men who say, "We can get discharged from our northern and loyal creditors; but we want the privileges of this bill, and hope that it will become a law in order that we may compel a discharge from those who have persecuted us during the rebellion."

Every word that has been used against this bill upon that ground will retroact upon the persons who have used these fallacious arguments.

But laying aside every question relating to past transactions, everything relating to rebellion or civil war, I wish to say to this House and to this country, as one much wiser and greater than I said two thousand years ago in the senate of Rome, "Erase the debts of your friends and of your enemies upon their meeting you with their property;" and that became then the law of Rome; and wherever the Roman law had force, and the civil law (which is the Roman) has been maintained, it has been and is the law now, and has been the law in all the intermediate years.

Mr. Speaker, the number of the persons and the interests upon which this bill will operate form another great consideration which I have to urge upon this House. As I have said, there are thousands and tens of thousands of persons who make no complaint or request here by open and public memorial, because of their double necessity—the necessity in which they are, not to alarm their creditors, who may pursue them with the rigor of the local law, and the necessity which they have to maintain their present position.

When the gentleman from Ohio [Mr. SCHENCK] said the other day that he had a bill which he wished to urge upon the attention of the House, he stated that it involved the necessities and requirements of the army of volunteers. Now, I wish to say to him and to the House that this bill calls for action because an army of persons tenfold in number, who have been placed in their present position, not by their will, but involuntarily, call for relief, and can obtain it only by the action of this Congress.

I would not like to state their number. It has been stated by gentlemen who have hitherto addressed this House upon this subject. The statistics which they cited I believe to be true. But for myself I would not wish to assume the responsibility of stating the actual number who could have relief under this bill if it should become a law. Every member knows of many, some know of hundreds, some, like myself, know of thousands, and I ask the gentleman from Pennsylvania, [Mr. STEVENS,] who objected to this bill for political reasons, whether after so many years during which he has been known as the champion of the black man, he will now in his old age vote for the enslavement, the continued enslavement, of the white man.

I am in favor of emancipation, but I am for the emancipation of white and black alike. The slavery of debt is worse than the slavery of personal service. The latter can be performed and the obligations satisfied; the former never can be. It has been tried in the history of the world. In ancient Rome the debtor was a slave to his creditor, and they even had a law providing that the creditors, if they so willed, should not only have custody of the body of the creditor, but should cut it into pieces and divide it among themselves if they saw fit. That was a dividend richly earned and much to be desired! That desire remains even now. We all have known and used the merciful maxims of the common law. Many of us have frequently urged upon juries the proposition that ninety-nine guilty men should escape punishment rather than that one innocent man should be found guilty. All this has been done with regard to crime; but when you come to a question of debt, if it is but a dollar, where is then the merciful maxim? Who ever heard of a common-law decision with a word of mercy for a debtor?

Why, Mr. Speaker, among the objections urged to the bankrupt law of 1800, repeated in the debates of 1820, was that, if the principle should be adopted that we were to look to the bankrupt laws of England for our guidance, under which men were at one time convicted and sentenced to death for bankruptcy, it was argued that there might be danger of introducing such a principle into the legislation of this country. That was the argument that was heard in these old Halls. Those who opposed a system of bankrupt law did so, not because such system gave discharge to the debtor, but because they feared that those inhuman punishments might be introduced as against the debtor in this country. Men with kind hearts and merciful dispositions, and taking wise views

of the Constitution, urged that argument, and it prevailed. Every one can read it. It is in our records; and it is one of the remarkable things in our records.

Now, we propose to meet the case, not by any half measure, but by a measure which receives the approbation of both debtor and creditor. All the debtors, as I have said, are in favor of this measure. I ask any member to rise here and state if he knows a creditor who is against the bill. I should like to know any man who has reason for saying that there is a creditor in the United States of America who objects to the provisions of this bill. I should like to see any man who will say that this measure does not approach to the creation of an equality between debtor and creditor, which is the great thing to be desired in all commercial transactions. If any one wishes to say that the creditor interest opposes the passage of this bill, or has authority for saying so, I am ready to yield him a portion of my time for that purpose. I have searched this country over, and have found no one making such objection.

I wish to make one further remark in connection with these suggestions, for they are nothing more. A speech upon this subject would require not only the time allowed by the rules of this House, but the time of a day and a night session. What I have uttered has been simply propositions; not an argument, but suggestions. Allow me to say—I may be singular in entertaining this idea—that it seems to me that one of the principal causes of the difficulty between sections of this country has been that Congress has not carried into effect the powers granted to it.

Mr. FARNSWORTH. I wish to inquire of the gentleman from Rhode Island whether he will give me three minutes of his time.

Mr. JENCKES. I propose when I conclude my remarks to yield to the gentleman from New Jersey, [Mr. ROGERS,] and if there is any time left I will then yield to the gentleman from Illinois.

Mr. Speaker, here is a great unexecuted power which has existed, and not exercised, except for short intervals, since the adoption of the Constitution. Suppose it had been enforced by the First Congress, and the relation of debtor and creditor had been established uniformly in every State, would it not have been an element of union strong as the Constitution itself, because it would have bound together the business interests of every man in the country? When the Constitution was adopted commercial transactions were confined to the Atlantic coast, but now they have spread to the Pacific and throughout all the inland cities, and commercial transactions envelope the whole Union in their clasp. And further, if this Congress should exercise the power granted to them of regulating the internal commerce, not merely the relation of debtor and creditor established or attempted to be established by this bill, but the internal commerce between the States as well as the external commercial relations, what a bond that would create between all commercial interests and between every individual engaged in commerce throughout the country.

In order that I may not be misunderstood or misrepresented in any way, let me refer to the Constitution itself in reference to the grants of power to Congress. In the eighth section of the first article, after the power to define and punish piracies and felonies, which has already been done, it is provided that Congress shall pass laws in reference to offenses against the law of nations. Why has not Congress executed that power? Has it been because all previous Congresses have stood aghast at the grand task thus imposed upon them, as some seem to think they should as to the duty which they are now asked to perform? Why is it that before the commencement of the war we had not recorded in our legislation the experience of all the civilized nations on earth, and stated by authoritative statute what we understood to be the law of civilized Christian nations, defining offenses against it, and prescribing the punishment for such offenses? Let us do these things. Let us not shrink from exercising any of those powers. I, for one, feel that my duty in my place here is that I should study out all these subjects; that I should give to the House and the country the result of such study, and that I should endeavor to see that carefully framed enactments, based on the results of such careful study, should become the law of the land. I hope every one who hears me has the same thought. As to the responsibility for the legislation I propose, I assume it all, and ask no one to share it with me.

And I wish to say, in conclusion, that it is my belief that many of our controversies might have been prevented, and most, if not all, of our present difficulties might be overcome, if Congress would wisely exercise the great unexecuted powers granted by the Constitution. Let us begin by establishing the relation of debtor and creditor; let us follow that beneficent action by recognizing and enforcing a code of commercial law; and above and beyond all, let us declare by the plain language of statute-law what we believed to be, and what we are prepared to maintain, as the law of nations, and define and fix the punishment for the offenses against it. When Congress shall have done these things, which the Constitution authorizes and requires it to do, then the United States of America will have taken their true place among the nations of the earth.

Mr. ROGERS. It is a well-known fact that prior to the situation of the country in which it has existed for the last five years the party which I represent persistently opposed the passage of all bankrupt laws. I have, heretofore, been opposed myself to a system of this character, and if the situation of the country had remained as it was before the war and before our financial difficulties, I perhaps would have remained in the same state of mind; but I feel the responsibility rests upon me higher and above all party considerations, and that the interests of this whole country are at stake in having some system adopted throughout the length and breadth of this broad land that will relieve those who have been so unfortunate as to have failed in business by reason of the war over which they had no control. I know the results of this war have caused many honest and patriotic business men throughout this country to lose their property.

In the great State of New York, as well as in other States of the Union, the very best business men have been for the last three or four years lost to the best business interests of society merely because they have been subjected to failure on account of consequences to the country which they could not prevent.

I have taken some pains to examine this bill with a view to get it in such a shape that I could conscientiously vote for it, and I am now free to say that no bankrupt bill has ever been drawn in this country which is so equal in its terms to all sections and all parts of the country as this bill. And because, within the language and meaning of the Constitution, it extends to the people of the southern States as well as to the people of the North, I feel that I would not be doing my solemn duty to the interests of the whole country did I not, notwithstanding the position which, in times gone by, has been assumed by the Democratic party, cast my vote in favor of this great measure which I believe will do much to bring back that business enterprise, prosperity, and happiness which this country enjoyed before these financial difficulties came upon us.

I know that there are thousands of men in the southern and northern States who had no control of the state of affairs that has existed during the last five years, who have been compelled to go into insolvency. To these men, whose hearts beat with patriotic emotion in the North, as well as to the people of the southern States, I want to extend the protection which the Constitution designed should be extended to them whenever the circumstances should arise which required the passage of a law like this.

Therefore I shall unhesitatingly and with pleasure cast my vote for this bill, whatever views may be entertained by those who hold the same political opinion as I do, upon the ground that it is my duty as a Representative of the people, without distinction of party or of vocation, when a great measure like this comes up, which I believe is to advance the interest of the whole Union from one end to the other, to throw away my party prejudices and cast my vote for the advancement of that which I believe to be the best interest of society and particularly of the business classes of this country.

The question recurred on ordering the bill to be engrossed and read a third time.

Mr. ROSS. Is my motion now in order to postpone till December next?

The SPEAKER. It is not. The previous question cuts that off, having priority over it, as the gentleman can find by reference to page 136 of the Digest.

Mr. ROSS. I do not care about destroying the bill, but I thought next December would be time enough to dig it up.

Mr. JENCKES. It does not take effect until the 1st of November.

Mr. ROSS. I move to lay the bill on the table.

The motion was not agreed to.

The bill was then engrossed, and read a third time.

Mr. JENCKES. I demand the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

Mr. RANDALL, of Pennsylvania. I call for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken on the passage of the bill; and it was decided in the negative—yeas 59, nays 73, not voting 51; as follows:

YEAS—Messrs. Alley, Allison, James M. Ashley, Baxter, Darling, Davis, Dawes, Dixon, Donnelly, Driggs, Eliot, Farnsworth, Ferry, Grinnell, Griswold, Hale, Hart, Hooper, Asahel W. Hubbard, Demas Hubbard, John H. Hubbard, James M. Humphrey, Jenckes, Kasson, Kelley, Laflin, Longyear, Marvin, McCullough, McRuer, Moorhead, Phelps, Plants, Radford, Raymond, Alexander H. Rice, John H. Rice, Rogers, Scofield, Sloan, Spalding, Starr, Taber, Taylor, Thayer, Francis Thomas, John L. Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Henry D. Washburn, William B. Washburn, Wentworth, Williams, Windom, and Wright—59.

NAYS—Messrs. Ancona, Delos R. Ashley, Baker, Baldwin, Beaman, Benjamin, Bergen, Bidwell, Bingham, Boyer, Bromwell, Buckland, Sidney Clarke, Cook, Cullom, Dawson, Eckley, Eggleston, Eldridge, Farquhar, Finck, Glossbrenner, Grider, Aaron Harding, Abner C. Harding, Hayes, Henderson, Hill, Holmes, Chester D. Hubbard, Edwin N. Hubbell, James R. Hubbell, Ingersoll, Julian, Kelso, Kerr, Kuykendall, William Lawrence, LeBlond, Loan, Marshall, Marston, McClurg, McKee, Mercur, Miller, Moulton, Myers, Newell, Niblack, Noell, O'Neill, Orth, Paine, Perham, Price, Samuel J. Randall, William H. Randall, Ritter, Rollins, Ross, Sawyer, Schenck, Shellabarger, Smith, Stevens, Stilwell, Strouse, Thornton, Trimble, Elihu B. Washburne, Welker, and James F. Wilson—73.

NOT VOTING—Messrs. Ames, Anderson, Banks, Barker, Blaine, Blow, Boutwell, Brandegee, Brooks, Broomall, Bundy, Chanler, Reader W. Clarke, Cobb, Coffroth, Conkling, Culver, Defrees, Delano, Deming, Denison, Dumont, Garfield, Goodyear, Harris, Higby, Hogan, Hotchkiss, Hulburd, James Humphrey, Johnson, Jones, Ketcham, Latham, George V. Lawrence, Lynch, McIndoe, Morrill, Morris, Nicholson, Patterson, Pike, Pomeroy, Rousseau, Shanklin, Sitgreaves, Warner, Whaley, Stephen F. Wilson, Winfield, and Woodbridge—51.

So the bill was rejected.

During the roll-call,

Mr. WINFIELD said: I have paired with my colleague, Mr. KETCHAM.

Mr. NICHOLSON. I have paired with the gentleman from New York, Mr. CHANLER.

Mr. WARD. I desire to state that my colleague, Mr. MORRIS, is unavoidably absent, and if present would undoubtedly vote for the bill.

Mr. ANCONA. My colleague, Mr. DENISON, is paired with Mr. LAWRENCE, of Pennsylvania, and my colleague, Mr. JOHNSON, is still confined to his room.

The vote having been announced as above recorded,

Mr. WASHBURNE, of Illinois, said: I move to reconsider the vote by which the bill was rejected, and to lay that motion on the table.

The question being taken on the motion, there were—ayes 52, noes 53.

Mr. WASHBURNE, of Illinois. I call for the yeas and nays.

The yeas and nays were ordered.

The question being taken on the motion to lay the motion to reconsider on the table, it was decided in the negative—yeas 59, nays 68, not voting 56; as follows:

YEAS—Messrs. Ancona, Delos R. Ashley, Baker, Benjamin, Bergen, Bingham, Bromwell, Buckland, Sidney Clarke, Cook, Cullom, Dawson, Eckley, Eggleston, Farquhar, Finck, Glossbrenner, Grider, Aaron Harding, Abner C. Harding, Hayes, Henderson, Hill, Edwin N. Hubbell, James R. Hubbell, Ingersoll, Julian, Kelso, Kerr, William Lawrence, Le Blond, Loan, Marshall, McClurg, McKee, Mercur, Miller, Moulton, Myers, Niblack, O'Neill, Orth, Paine, Perham, Price, Samuel J. Randall, William H. Randall, Ritter, Rollins, Sawyer, Schenck, Shellabarger, Stevens, Stilwell, Strouse, Thornton, Trimble, Elihu B. Washburne, and Welker—59.

NAYS—Messrs. Alley, Allison, Ames, Baldwin, Beaman, Conkling, Darling, Davis, Dawes, Dixon, Donnelly, Driggs, Eliot, Farnsworth, Ferry, Grinnell, Griswold, Hale, Hart, Higby, Holmes, Hooper, Asahel W. Hubbard, Demas Hubbard, John H. Hubbard, James M. Humphrey, Jenckes, Kasson, Kelley, Knykendall, Laflin, Latham, Longyear, Marston, Marvin, McCullough, McRuer, Moorhead, Newell, Noell, Phelps, Plants, Radford, Raymond, Alexander H. Rice, John H. Rice, Rogers, Scofield, Spalding, Starr, Taber, Taylor, Thayer, Francis Thomas, John L. Thomas, Trowbridge, Upson, Van Aernam, Robert T. Van Horn, Ward, Henry D. Washburn, William B. Washburn, Wentworth, Williams, Jas. F. Wilson, Stephen F. Wilson, Windom, and Wright—68.

NOT VOTING—Messrs. Anderson, James M. Ashley, Banks, Barker, Baxter, Bidwell, Blaine, Blow, Boutwell, Boyer, Brandegee, Brooks, Broomall, Bundy, Chanler, Reader W. Clarke, Cobb, Coffroth, Culver, Defrees, Delano, Deming, Denison, Dumont, Eldridge, Garfield, Goodyear, Harris, Hogan, Hotchkiss, Chester D. Hubbard, Hulburd, James Humphrey, Johnson, Jones, Ketcham, George V. Lawrence, Lynch, McIndoe, Morrill, Morris, Nicholson, Patterson, Pike, Pomeroy, Ross, Rousseau, Shanklin, Sitgreaves, Sloan, Smith, Burt Van Horn, Warner, Whaley, Winfield, and Woodbridge—56.

So the motion was not agreed to.

The question recurred on the motion to reconsider.

Mr. BEAMAN. I move to postpone the further consideration of the motion to reconsider for one week, and on that I demand the previous question.

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

Mr. JENCKES. If the House will allow me, I will repeat what I said at the opening of the discussion this morning, when I asked a postponement for one week, that I did it at the request of absent members. I hope the House will grant it.

The question being taken on the motion to postpone the motion to reconsider, there were—ayes 75, noes 36.

Mr. WASHBURNE, of Illinois. I demand the yeas and nays.

The yeas and nays were not ordered.

So the motion to postpone was agreed to.

Mr. WASHBURN, of Indiana. I move to reconsider the vote by which the motion to reconsider was postponed, and to lay that motion on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. W. J. McDONALD, its Secretary, announced that the Senate had passed without amendment a joint resolution (H. R. No. 96) in relation to the public lands appertaining to the armory at Springfield.

DISMAL SWAMP CANAL COMPANY.

The SPEAKER laid before the House a communication from the Secretary of the Treasury, recommending an appropriation or some other relief for the Dismal Swamp Canal Company; which was referred to the Committee on Commerce, and ordered to be printed.

MAUMEE BAY AND RIVER.

The SPEAKER also laid before the House a communication from the Secretary of War, transmitting, in compliance with a resolution of the House of March 23, 1866, information as to the amount of money necessary for the improvement of Maumee bay and river at the city of Toledo, Ohio; which was referred to the Committee on Commerce, and ordered to be printed.

INDIAN LANDS IN KANSAS.

The House resumed, as the first business of the morning hour, the consideration of House bill No. 259, to subject Indian lands and allotted lands in Kansas to the laws thereof, upon which Mr. HUBBARD, of Iowa, was entitled to the floor.

The question pending was on the amendment reported from the committee, as follows:

Provided, That nothing herein contained shall be construed to authorize any of said Indians or Indian tribes to sell, grant, or lease any of said lands, unless the same be made by treaty or convention entered into, pursuant to the Constitution of the United States; nor shall anything herein contained be construed to give the State of Kansas power to tax any of said lands, except such as are held in severalty by individual members of said Indian tribes.

Mr. HUBBARD, of Iowa. I ask the previous question on the amendment just reported.

Mr. INGERSOLL. I hope it will not be seconded. The amendment is bad, and ought not to pass.

The previous question was not seconded.

Mr. INGERSOLL. Mr. Speaker, I believe I have now five minutes to discuss the proposed amendment.

The SPEAKER. The gentleman has one hour.

Mr. INGERSOLL. Mr. Speaker, I wish to call the attention of the House to the treaty made with the Indians in 1861. The treaty provides that the Indians of the Pottawatomie tribe in Kansas who desire may have their lands patented to them in severalty. The gentleman who has charge of this bill informed the House yesterday that many of these Indians had selected their lands, and had received either their certificates or their patents therefor; that nearly all of these lands had been set apart to them in severalty, many of them having abandoned their tribal condition. Now, sir, under the provisions of the proposed bill and amendment of the committee the State of Kansas has a right to tax these lands held in severalty the same as the lands of any other citizen of the State. These Indians are not familiar with the tax laws of Kansas, nor will they ever be, and yet, by virtue of these laws, which they will not understand, their lands will be sold and taken from them. The result will be that nine tenths of the Indians who own these lands will lose them by the sharp practice of your land speculators in Kansas under the operation of the tax laws. These Indians understand the treaty, and have complied with its terms and provisions, and if further concessions are desirable, good faith requires that we should get them by virtue of a new treaty. The proposed action on the part of Congress, to say the least, is in bad faith.

The treaty which was made with these Indians was intended to protect them in the enjoyment of those lands. The laws of the United States are intended to protect them in their rights; and the same law that protects these Indians provides for punishing them for any injury which they may inflict upon the white man or upon his property in the State of Kansas. The district court of the United States has cognizance of such offenses; it has jurisdiction over the person and the property of the Indian; and any white man who may be aggrieved by any act of any Indian may appear in that court and have the Indian prosecuted for any crimes for which he may have been guilty. Such is the law at present. No power over these Indians during the existence of the present treaty should be vested in the State of Kansas.

In my opinion, this bill is designed, not by this committee, but by other persons who desire solely the promotion of their own interests, and who are utterly regardless of the rights or the welfare of the Indians, their object being to get hold of these lands, represented to be the most valuable in the State of Kansas, for the purpose of compelling these Indians to leave there, just as they have been compelled to leave every other State, by force and by cunning on the part of the white man. They have been pursued by a ferocity of which only a white speculator is capable. They have been thus driven almost out of existence.

Sir, I believe it to be the duty of Congress to protect these Indians in the few rights that have been conceded them by the Congress of the United States. This bill is not asked for by the Indians. No one comes here and says that the rights of the white man there have been invaded, or that the treaty has been by the Indians in any particular violated. I sincerely believe that if this bill becomes a law the result will be that these people will be oppressed. Their lands will be taken from them, and they will be driven from Kansas miles westward into the wilderness, and even then they will not be allowed to rest. Other laws and new violations of treaties will soon drive them over the mountain range, and they will find rest and peace only when covered by the waves of the sea.

By the provisions of the treaty of 1861, it was provided that "such tracts shall be exempt from levy, taxation, or sale." It was agreed upon our part, with these Indians, that these lands held in severalty by them should be exempt from State taxation.

Mr. WINDOM. Will the gentleman yield to me one moment for a question?

Mr. INGERSOLL. Certainly.

Mr. WINDOM. Is it not declared in a provision of the treaty which the gentleman just read, that this exemption shall continue "until otherwise provided by law?"

Mr. INGERSOLL. Yes, but it is limited by another portion which I was about to read.

Mr. WINDOM. Then why does the gentleman claim now that the treaty declares that these lands shall be exempt from taxation, as if we had no right to pass a law providing for their taxation?

Mr. INGERSOLL. I was about to read, when interrupted by the honorable gentleman, a subsequent clause of the treaty which limits the language referred to.

This bill proposes to subject them to taxation by the State of Kansas. It proposes to repeal, so far, that contract made by the Government with these Indians without any notice to them. But let me read further:

"Until otherwise provided by law, such tracts shal be exempt from levy, taxation, or sale, and shall be alienable in fee, or leased, or otherwise disposed of only to the United States or to persons then being members of the Pottawatomie tribe and of Indian blood, with the permission of the President."

In violation of the stipulation of this treaty this bill proposes to dispose of these lands to the State of Kansas, so far as to make them subject to State taxation; and should the taxes assessed not be paid, to vest the title absolutely in other persons than those mentioned in the treaty. By the treaty it will be observed that no white person is allowed to buy any of these lands, even though the Indians might desire to sell them. The bill under discussion proposes to override this provision of the treaty.

It was never contemplated that the State of Kansas should be a party to the contract and have any right to interfere between the United States and these Indians. I understand that these Indians are under the special protection of Congress, and for Congress to concede all its rights to the State of Kansas without a single word from these Indians, and against what seems to be their interest, would not only be an outrage upon their rights, but in violation of the solemn compact which we entered into with them four years ago, which I think demands that we shall treat them honorably, justly, and fairly.

I believe it to be true that nine tenths of the depredations ascribed to the Indians generally are exaggerated by those who are interested on our borders in plundering these tribes from Kansas to California. Yes, sir, so far as the evidence has gone in all the cases examined heretofore, hardly with an exception, there has been some white man, some avaricious monster with his fire-water, tracts, and trinkets, robbing, cheating, plundering, brutalizing, and

murdering them; and, sir, when the Indians have asserted their rights, attempted either to retaliate or defend themselves, then we have been appealed to by these same men asking us to use the power of the Government to crush these weak and outraged people. We find that General Pope and other major generals have been dispersed all over the western country with troops at their back for the purpose of hunting down and murdering Indians who in nine cases out of ten would have lived peaceably with the whites if they had been treated as they were treated by William Penn on the banks of the Delaware nearly two hundred years ago.

Mr. WINDOM. I ask the gentleman to yield to me for a moment.

Mr. INGERSOLL. Only for a question.

Mr. WINDOM. The gentleman read from one clause of the treaty which declares, as the House heard, that these Indians shall not have the power to alienate their lands, and he said he was in favor of that. I would like to know, then, why he opposes this bill which contains a provision that nothing herein contained shall be so construed as to authorize the alienation of these lands. I do not understand what the gentleman's theory is, when he opposes a proposition for doing what he is contending it is our duty to do.

Mr. INGERSOLL. I am not talking about technicalities, or about fine constructions of these treaty stipulations. Varnish it over as you please, if this bill becomes a law, the white men of Kansas will by operation of their tax laws become the owners of these lands, and the Indians will be driven out. I am taking broad ground in favor of justice.

Mr. WASHBURNE, of Illinois. My colleague will let me interrupt him for a moment. I know that he does not wish to do injustice to a distinguished citizen of our own State. He referred to Major General Pope.

Mr. ROGERS, (in his seat.) He meant the Pope of Rome. [Laughter.]

Mr. WASHBURNE, of Illinois. I ask my colleague to read the report which Major General Pope has recently made to the Commander-in-Chief on this subject, and he will find that Major General Pope entertains the same views in regard to these Indian difficulties that my colleague does, as well as myself. In the allusion which my colleague made to Major General Pope, I think, without intending it, he has done a great injustice.

Mr. INGERSOLL. I do not believe that my remarks can be considered as imputing anything wrong to Major General Pope. I thank my colleague for calling my attention to it, for I certainly have no disposition to do injustice to any one; but so far as the Pope of Rome is concerned, I only wish he could be dispersed among the Indian tribes of America. [Laughter.]

I know the report of Major General Pope, to which my colleague has referred, only confirms the position I have taken here, that the white men, nine times out of ten, are the aggressors; that if they were disposed they could live in amicable relations with the Indian tribes upon our frontiers. Why, sir, from the first Indian war down to the present hour you will find that in almost every case the whites have been the aggressors, not the Indian race.

Now, sir, I do not propose by this bill to place the power to invade the rights of these Indians in the hands of the people of Kansas. I do not suppose these gentlemen of the committee who report this bill are interested in any invasion of the rights of the Indians in Kansas, but I say that men so disposed can take advantage under this bill and deprive these Indians of their lands under the tax laws of Kansas. We ought not to pass such a bill. And I am opposed to the amendment proposed by the committee in addition to the bill as reported by them this morning. It leaves these Indians to the operation of the laws of Kansas. Now, it is not to be supposed that they are acquainted with the laws of Kansas, and I for one am opposed to yielding our jurisdiction over them to that State.

Mr. STEVENS. I ask the gentleman to yield to me for the purpose of moving a substitute for the bill.

Mr. INGERSOLL. I yield for that purpose.

Mr. STEVENS. I move to strike out all after the enacting clause and in lieu thereof to insert the following:

That whenever a crime shall be committed by an Indian in Kansas he shall be arrested wherever he may be found and tried wherever the crime was alleged to have been committed.

The only excuse there seems to be for this law against a people who are not represented here is that they go into different parts of Kansas, commit crimes, and fly back into their own territory which has been secured to them by treaty.

Now, if that is the only object desired my amendment secures it. If these Indians commit a crime, my amendment allows them to be arrested anywhere within the State and taken to the bailiwick in which the crime was committed and be tried there, and unless something more is wanted than justice I think my amendment is sufficient.

Mr. INGERSOLL. I am willing the amendment of the gentleman from Pennsylvania [Mr. STEVENS] should be received.

The SPEAKER. The question will be first upon the amendment of the Committee on Indian Affairs; then upon the substitute of the gentleman from Pennsylvania, [Mr. STEVENS.]

Mr. INGERSOLL. This bill proposes to give the State of Kansas a power which she does not now possess; that is, the power of taxing Indian lands. But it is not anywhere proposed that these Indians shall be represented in the Legislature of Kansas, notwithstanding they are to be taxed. Thus it is proposed to violate one of the cardinal principles of republican government, that taxation should be accompanied by representation. The lands of these Indians are to be taxed, amounting to thousands and thousands of acres, but the Indians themselves are to be allowed no voice whatever in the legislative body which is to pass the laws imposing the taxes. That is a species of injustice that I can never support.

Then, again, if you are going to impose this obligation upon these Indians, these half-civilized Indians and those tending toward civilization, you should confer upon them the right of suffrage and let them have a voice in the election of members to the Legislature which is to make the laws for governing them and taxing their property. This bill, therefore, should be defeated, because it refuses the right of voting and the right of representation, which should accompany the obligation of paying taxes, unless the person taxed has forfeited his right to representation by taking up arms against the Government.

These are some of my objections to this bill. If you are going to tax the Indians for the purpose of supporting the State government, then I am in favor of allowing them to vote the same as the white men. If you do not want them to vote, then let their property alone. I hope, therefore, this bill and the amendment of the Committee on Indian Affairs, will be voted down. If there is any necessity for legislation, I prefer the substitute of the gentleman from Pennsylvania, [Mr. STEVENS.]

If it is true that these Indians have committed crimes, then they can be punished in the United States courts. If it is true that the property, liberty, and lives of the citizens of Kansas can be protected only by conferring upon her State courts the jurisdiction over these Indians, then confer upon them the right to try them before a jury just as in the case of other men. But that does not necessarily involve the right to steal their lands.

Mr. WINDOM obtained the floor.

Mr. WARD. Will the gentleman from Minnesota [Mr. WINDOM] allow me to ask the gentleman from Pennsylvania [Mr. STEVENS] a question?

Mr. WINDOM. I will hear the question.

Mr. WARD. I would ask the gentleman from Pennsylvania if his substitute contemplates the extending State jurisdiction all over the United States; that the process of the State court for the arrest of an Indian shall extend anywhere throughout the United States?

Mr. STEVENS. It does not propose to change the court in which he is to be tried; but empowers the State authorities to arrest him in his own territory where he may flee.

Mr. WARD. By what process would he be arrested?

Mr. STEVENS. The same as a white man, or anybody else, would be arrested.

Mr. WARD. By State process?

Mr. STEVENS. By any process which would arrest any other man for the same crime.

Mr. WINDOM. I do not think this bill is liable to so grave objections as some of my friends here seem to entertain in regard to it. The gentleman from Illinois [Mr. INGERSOLL] seems to be very much excited over this subject of Indian affairs, and he has taken them under his peculiar charge. I very much hope that when we shall hereafter bring in bills which we now have before us for the benefit and protection of certain of these Indian tribes, we shall find the gentleman as energetic then to assist the committee as he now seems to be in opposition to them.

And one or two other gentlemen who are opposed to this measure, and who say that it is severe upon the Indians and likely to do them injustice, I think have done far more injustice to the Indians by raising technical objections to another bill which we introduced. Yesterday morning we brought a measure before this House which should have been passed, but which under the rules could only be passed in case no objection was made. The gentleman from Pennsylvania, [Mr. STEVENS,] and the gentleman from Illinois, [Mr. WASHBURNE,] both made the point, I believe, that the bill should go to the Committee of the Whole, where it will sleep perhaps the remainder of the session. That bill was for the benefit of certain Indians who have been always peaceable and friendly to the United States.

It has seemed to me that whenever any measure has been brought forward for the benefit of Indians who are peaceable and friendly, it always meets with far greater opposition from some men in this House than those measures which are brought forward for the benefit of Indians who have been engaged in robbing and murdering our white people.

I remember that at a former session an appropriation bill was brought in here containing an appropriation of $150,000 for some twelve hundred Sioux Indians who had murdered from eight hundred to nine hundred of our people in Minnesota; while for some twenty-five hundred Winnebago Indians, who lived side by side with the Sioux, but were always peaceable and friendly, only about fifty thousand dollars, was appropriated. I did not think there was any propriety in that then, any more than I think there is in this opposition now.

The gentleman from Illinois, [Mr. INGERSOLL,] says we have sent General Pope with an army to murder these Indians on the plains, and that in nine cases out of ten the Indians have been innocent. Those Indians I believe were the same that committed the horrible massacres in Minnesota in 1862. Now, I believe if gentlemen will carefully read the reports which have been made in regard to the punishment inflicted upon those Indians, it will be seen that the United States have very little to answer for in regard to killing Indians upon that expedition. The Government has expended millions and millions of dollars for that purpose. Yet I apprehend if the estimate could be made it would be found that it has cost the Government about five hundred thousand dollars for each and every Indian killed. I do not think, so far as the Sioux Indians are concerned, that the charge of murder can ever be laid at our doors; except it may be the murders of our own people.

Mr. INGERSOLL. I do not suppose the gentleman from Minnesota [Mr. WINDOM] intends to do me injustice, when he makes

special allusions to the Minnesota outrages of the Indians upon the whites, and the defense of the white people by General Pope. He intimates that I said General Pope was sent to murder those Indians. I meant nothing of the kind in what I said. I meant simply this: that take the last twenty-five years, yes, the last hundred years, more Indians have been killed, murdered, butchered, call it what you please, in consequence of the aggressions of the whites upon the Indians, than there have been Indians killed in any justifiable defense of the rights of the whites. In the case of the Minnesota troubles, I admit that the Indians deserved chastisement, and a great many of them received it.

Mr. WINDOM. I do not care to continue the discussion upon this point any further, except to say that so far as the Indians in Minnesota being punished was concerned, some eight hundred to nine hundred of our people were murdered by them, and only thirty-nine of the murderers were hung.

In regard to the bill now under consideration, I think it was misunderstood on yesterday. I know that some gentlemen who opposed it argued that it was intended to extend the laws of Kansas over lands which the Indian tribes yet held. There is nothing of the kind in the bill. The whole object of the bill is to extend the laws of Kansas over lands which the Indians hold in severalty.

The gentleman from Illinois [Mr. INGERSOLL] tells us that the design of this bill is to enable speculators in Kansas to swindle the Indians out of their land. I know he exonerates the Committee on Indian Affairs from any such design; but he pays but a poor compliment to the committee when he says they are used by these speculators for this purpose. If there be any such object, I am not aware of it; and I apprehend, from the facts obtained concerning the most of these Indians who live upon these lands allotted to them in severalty, gentlemen will find that they are a very different class of people to swindlers. I am informed, and I believe it to be a fact, that a portion of the Indians located upon these lands are among the wealthiest people in Kansas. One of them, as was stated yesterday, is now a member of the Kansas Legislature, and I presume he pays taxes.

The difficulties which this bill is intended to obviate were clearly stated yesterday by my colleague on the committee, the gentleman from Iowa, [Mr. HUBBARD.] The object is simply to enable the officers of justice in Kansas to execute the laws. I think that the amendment offered by the gentleman from Pennsylvania [Mr. STEVENS] will not meet the difficulty which, as I understand, does not arise wholly from Indians going off their reservation and committing depredations. White men residing near these allotted lands may commit crimes, and flee to those lands for refuge, and as I understand it, there is no power to execute the laws upon those lands. By the law admitting the State of Kansas, it is expressly provided that these lands held by the Indians shall not be included within the State of Kansas at all. Hence, there may be, for instance, an eighty-acre tract, owned by an Indian or a half-breed, and surrounded on all sides by white settlements; yet that tract, under the present law, is not within the State of Kansas.

If an Indian or a white man commits a crime and takes refuge on that tract, how can the authorities of the State of Kansas arrest and punish him? The gentleman's amendment would perhaps obviate the difficulty as to Indians; but I do not think it would do so as to white men. I believe that there is nothing in this bill which would operate to the injury of those Indians. I believe, on the contrary, that it would be a vast benefit to the people of Kansas, both Indians and whites.

I propose, at a suitable time, to move an amendment, to strike out in the eighth, ninth, and tenth lines the following words:

Also over all lands sold in trust by the United States for any tribe of Indians in said State.

The word "sold" is evidently a misprint for the word "held." I stated yesterday that the bill extended only to lands held in severalty. Until I saw the bill in print this morning, I thought that that provision had been stricken out.

Mr. HENDERSON. Mr. Speaker, I should not attempt to say anything on this bill but for the fact that I am a member of the Committee on Indian Affairs, and concurred with other members of that committee in reporting the bill.

The gentleman from Illinois [Mr. INGERSOLL] appears to imagine that this bill is calculated to defraud the Indians, because they do not understand the tax laws.

Mr. INGERSOLL. The gentleman from Oregon [Mr. HENDERSON] will allow me to correct him. He is advancing the same idea which has been put forward by the gentleman from Minnesota, [Mr. WINDOM,] that I insist that this bill was framed for the especial purpose of defrauding the Indians. I disclaim any such idea. I simply insist that, under this bill, crafty, designing men can take advantage of the Indians, and in all probability will do so. I did not mean to intimate that the committee had any such design in framing the bill.

Mr. HENDERSON. I did not desire to represent the gentlemen from Illinois as having said that the bill was intended for that purpose; but the gentleman has said that the Indians will not understand the tax laws sufficiently to protect their own lands. According to my information concerning the character of those Indians, the gentleman is very much mistaken. They are generally shrewd, intelligent men; many of them have become wealthy; they understand how to take care of their interests; and there need be no apprehension that they will be defrauded in consequence of ignorance of the tax laws.

The insinuation was thrown out by some of the gentlemen who spoke yesterday that this bill has been gotten up by a set of swindlers who intend to defraud the Indians. In reply to this, I can say that the bill in its present form was asked for by the Representative from Kansas, [Mr. CLARKE.]

I will say, in reference to the provisions of this bill as they affect these Indians, that I believe them to be just and right, and that they ought to be adopted by this House. These lands are held in severalty, and a great many of the settlements of these Indians are surrounded at least on three sides by those of white men, and the settlements of some white men are surrounded on three sides by those of Indians. Gentlemen say that some settlements are surrounded on all four sides. Now, a country thus situated can never prosper. Neither the whites nor the Indians can prosper where there is such a mixed and divided jurisdiction. There must be some uniformity, and that is what this bill proposes to supply.

If these Indians do not want the rights of citizens, then I have been misinformed. I understand that the object is to have these Indians Christianized; to have them become citizens of the United States; to have them become in all respects civilized like white men. I think the sooner the Indians can become citizens, and enjoy all the rights and privileges of citizens, the better it will be for them. If they cannot be brought to enjoy the privileges of citizenship, then I despair of any successful effort being made in their behalf. I feel, as fast as they arrive at the proper stage, they should have the protection of citizens under the laws and be compelled to submit to the duties enforced by the Government.

I regretted to hear the gentleman from Illinois [Mr. INGERSOLL] declare that the troubles between the whites and the Indians are almost universally chargeable upon the whites. I have lived a long time in sight of Indians, and I think I have a pretty correct knowledge of their habits; and, sir, I now take it upon myself to say that Indians who are not civilized and enlightened, who have not been brought under the influences of Christianity, have no moral principle, and are not to be depended upon. I deny that the barbarities perpetrated by the Indians have universally been occasioned by the whites. I could recite barbarities perpetrated by Indians upon the whites within my own knowledge, but I will not take up the time to do so. I repel, however, any idea that the barbarities committed by the Indians have grown out of any acts of the whites. They grow out of the depraved nature of the Indians unenlightened by Christianity. That is the cause of the barbarous conduct of which so many of these Indians have been guilty.

Mr. STEVENS. I modify my substitute so as to make it read, "wherever found within the State," &c.

Mr. HUBBARD, of Iowa. I am very happy to find, Mr. Speaker, that the gentleman from Illinois [Mr. INGERSOLL] has such a strong feeling of sympathy for the Indians; and I hope when measures are presented for the relief of Indians, and for their benefit and protection, especially for the protection of their interests, he will be found acting with us.

He says this bill is based upon a scheme of swindling; that it is proposed here with that view by the men who have presented it and brought it before the committee for consideration; that it has been presented for the purpose of swindling, and for no other purpose than to cheat these Indians out of their lands.

Mr. INGERSOLL. Allow me to correct the gentleman. I do not believe that the gentleman from Iowa wishes to do me injustice.

Mr. HUBBARD, of Iowa. I yield only for a moment. I have no time to spare as most of my time has been already taken up by the speeches of other gentlemen.

Mr. INGERSOLL. I disclaim any intention of imputing dishonest motives to the gentleman who presented this bill. If my language will bear any such construction I certainly withdraw it.

Mr. HUBBARD, of Iowa. Then withdraw your whole speech.

Mr. INGERSOLL. Withdraw the bill and I will do it.

Mr. HUBBARD, of Iowa. I will say to the gentleman from Illinois that I stand here for the purpose of defending the provisions of this bill against the unjustifiable assaults which he has seen proper to make upon them. I undertake to say, and I do it without fear of successful contradiction, that there is no swindling lying at the base and foundation of this bill. Not only has it for its object the protection of the rights and interests of the citizens of Kansas, but also the protection of the rights of property and the interests of the Indians themselves. Some of the men whom the gentleman has so large a sympathy for are as intelligent as I am or the gentleman himself. White men have been adopted as members of this tribe who are living there with Indian women, with families, upon farms which they are cultivating. These are the men in reference to whom the gentleman has been speaking.

He says if you pass this law you will confer upon the citizens of Kansas the power to take from these Indians their land. I repudiate any such idea. Such a thing is not in contemplation. These lands, sir, if they are taxed at all, must be taxed under the laws of Kansas, laws which bear upon white men as well as upon Indians.

Mr. INGERSOLL rose.

Mr. HUBBARD, of Iowa. I cannot yield. I have not time to do it. I would gladly yield if I could do so.

If these lands are taxed they must be taxed under the laws of Kansas, under the same laws that impose burdens upon white men. And I appeal to the gentleman from Illinois and to every other gentleman on this floor, and ask them if it is not right. These lands are set apart in severalty to these Indians who are living on them and enjoying the benefits of civilization. They have the benefit of the construction of roads and bridges, schools and school-houses, and why, therefore, should they be exempt from taxation?

The gentleman from Pennsylvania [Mr. STEVENS] has offered an amendment, and upon that I will make a single remark. We not only want this bill for the purpose of punishing Indians, but for the purpose of punishing white men who commit crimes upon the lands that belong to the State or under the jurisdiction of the State, and then escape by going upon these Indian lands outside of the State jurisdiction. We want to punish such men according to the laws of the State of Kansas.

Mr. STEVENS. If my friend will allow me, I will modify my amendment by adding after the word "Indian" the words "or white man."

Mr. HUBBARD, of Iowa. The gentleman from Illinois [Mr. INGERSOLL] says he is in favor of suffrage for the Indians. I say to him that he need not ask us to confer suffrage upon these Indians. Many of the men for whom I am speaking here to-day are already exercising the right of suffrage. Men who are counted as part of these tribes are to-day voters, and one of them, as I stated yesterday, is now a member of the Kansas Legislature.

Mr. INGERSOLL. Will the gentleman answer this question? Is the full-blooded Indian in the State of Kansas allowed to vote?

Mr. HUBBARD, of Iowa. No, sir; but a great many men are included in these tribes who are not full-blooded Indians. There are a great many half-breeds and white men who have been adopted among them and are counted and included under the term Indians whenever we refer to them as such.

Mr. DRIGGS. By the permission of the gentleman, I offer the following substitute, which makes the provision apply generally to all the States and Territories:

That the laws of each State and Territory enacted, and to be enacted, are hereby extended and shall have full force and effect on all lands in said States or Territories reserved or granted to Indians or Indian tribes, which have been, or shall hereafter be, allotted in severalty to said Indians or to the members of said tribes, whether the same be by treaty or otherwise; also over all lands sold in trust by the United States for any tribe of Indians in said States or Territories: *Provided*, That nothing herein contained shall be construed to authorize any of said Indians or Indian tribes to sell, grant, or lease any of said lands, unless the same be made by treaty or convention entered into pursuant to the Constitution of the United States, nor shall anything herein contained be construed to give the States or Territories power to tax any of said lands except such as are held in severalty by individual members of said tribes.

SEC. 2. *And be it further enacted*, That whenever a crime shall be committed by an Indian in any State or Territory he shall be arrested wherever he may be found within the State or Territory and tried where ever the crime is alleged to have been committed.

My object in offering this is simply to make the law general, applicable to other States and Territories and reservations as well as in Kansas.

Mr. STEVENS. That will abrogate every treaty with the Indians in the United States.

Mr. HUBBARD, of Iowa. I rise to call the previous question on the amendment reported by the committee, which is as follows:

Provided, That nothing herein contained shall be construed to authorize any of said Indians or Indian tribes to sell, grant, or lease any of said lands unless the same be made by treaty or convention entered into pursuant to the Constitution of the United States. Nor shall anything herein contained be construed to give the State of Kansas power to tax any of said lands, except such as are held in severalty by individual members of said Indian tribes.

This is simply a restrictive provision upon the general object of the bill, which is to extend the State laws over these lands that are assigned to the Indians in severalty, for which they hold titles by certificate or by patent from the Secretary of the Interior; lands which are held by them in the same manner that they are held by white men. I call the previous question.

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

Mr. WINDOM. I move to amend the bill by striking out the following at the end thereof:

Also over all lands sold in trust by the United States for any tribe of Indians in said State.

So that the bill will read as follows:

That the laws of the State of Kansas, enacted and to be enacted, are hereby extended and shall have full force and effect on all lands in said State reserved or granted to Indians or Indian tribes which have been, or shall hereafter be, allotted in severalty to said Indians or to the members of said tribes, whether the same be by treaty or otherwise.

Mr. ROSS. I move to lay the bill and amendment on the table.

The question being taken, there were—ayes 50, noes 30.

Mr. WINDOM. I demand the yeas and nays.

The yeas and nays were ordered.

The question being taken on the motion to lay the bill and amendment on the table, it was decided in the affirmative—yeas 69, nays 48, not voting 66; as follows:

YEAS—Messrs. Alley, Ames, Ancona, Baker, Baldwin, Baxter, Benjamin, Bergen, Bingham, Boutwell, Boyer, Bromwell, Conkling, Cook, Davis, Dawson, Dixon, Eckley, Eldridge, Eliot, Finck, Glossbrenner, Hale, Aaron Harding, Higby, Hill, Holmes, Chester D. Hubbard, John H. Hubbard, Edwin N. Hubbell, Ingersoll, Kasson, Kerr, William Lawrence, Le Blond, Marshall, Marston, Marvin, McCullough, Miller, Moorhead, Morrill, Moulton, Myers, Niblack, Nicholson, Orth, Phelps, Samuel J. Randall, William H. Randall, Raymond, Ritter, Ross, Schenck, Scofield, Sloan, Smith, Spalding, Starr, Stevens, Taber, Taylor, Thayer, Francis Thomas, Thornton, Trimble, Ward, Elihu B. Washburne, Wentworth, and Williams—69.

NAYS—Messrs. Allison, Beaman, Bidwell, Bundy, Sidney Clarke, Cullom, Darling, Donnelly, Driggs, Eggleston, Farnsworth, Farquhar, Ferry, Grinnell, Abner C. Harding, Henderson, Asahel W. Hubbard, James R. Hubbell, Julian, Kelley, Kelso, Kuykendall, Latham, Loan, Longyear, McClurg, Mercur, Newell, Paine, Patterson, Perham, Plants, Price, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Shellabarger, Stilwell, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Henry D. Washburn, Welker, James F. Wilson, and Windom—48.

NOT VOTING—Messrs. Anderson, Delos R. Ashley, James M. Ashley, Banks, Barker, Blaine, Blow, Brandegee, Brooks, Broomall, Buckland, Chanler, Reader W. Clarke, Cobb, Coffroth, Culver, Dawes, Defrees, Delano, Deming, Denison, Dumont, Garfield, Goodyear, Grider, Griswold, Harris, Hart, Hayes, Hogan, Hooper, Hotchkiss, Demas Hubbard, Hulburd, James Humphrey, James M. Humphrey, Jenckes, Johnson, Jones, Ketcham, Laflin, George V. Lawrence, Lynch, McIndoe, McKee, McRuer, Morris, Noell, O'Neill, Pike, Pomeroy, Radford, Rogers, Rousseau, Shanklin, Sitgreaves, Strouse, John L. Thomas, Warner, William B. Washburn, Whaley, Stephen F. Wilson, Winfield, Woodbridge, and Wright—66.

So the bill and amendment were laid on the table.

Mr. INGERSOLL. I move to reconsider the vote by which the bill was laid on the table; and also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JACOB B. LEESE.

Mr. SLOAN. I desire to report back from the Committee of Claims the papers in the case of Jacob B. Leese. It is a case on which the Court of Claims has passed favorably. The committee have come to the conclusion that the claim ought not to pass; but inasmuch as Congress has passed a law authorizing all the judgments of the Court of Claims to be paid, it becomes unnecessary for the committee to make an adverse report. I therefore simply move that the committee be discharged from the further consideration of these papers, and that they be laid upon the table.

The motion was agreed to.

EVENING SESSION.

Mr. STEVENS. I move that the evening session of to-day be dispensed with.

The motion was agreed to.

EXPORT DUTY ON COTTON.

Mr. STEVENS. I ask leave to introduce the following joint resolution:

Resolved by the Senate and House of Representatives &c., (two thirds of both Houses concurring,) That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three fourths of said Legislatures, shall be valid as a part of said Constitution:

Congress shall have power to lay a duty on cotton exported from the United States.

I move its consideration now.

Mr. HOOPER, of Massachusetts. I object.

POSTAGE STAMPS AND STAMPED ENVELOPES.

The SPEAKER. The next business in order is the consideration of House bill No. 279, relative to the sale of postage stamps and stamped envelopes, postponed some time since until to-day. On that bill the gentleman from Massachusetts [Mr. ALLEY] is entitled to the floor.

Mr. ALLEY. I move that it be recommitted to the Committee on the Post Office and Post Roads.

The motion was agreed to.

Mr. WASHBURNE, of Illinois. I move to reconsider the vote by which the bill was recommitted, and to lay that motion on the table.

The latter motion was agreed to.

MARINE HOSPITALS.

The SPEAKER. The Senate has asked for a committee of conference on the disagreeing votes of the two Houses on House bill No. 84, authorizing the sale of marine hospitals and of revenue cutters.

Mr. WASHBURNE, of Illinois. I move that the House appoint a committee of conference.

The motion was agreed to.

PAY OF NAVY OFFICERS.

Mr. DAVIS, by unanimous consent, presented concurrent resolutions of the Legislature of New York, in regard to increase of pay of Navy officers; which were referred to the Committee on Naval Affairs, and ordered to be printed.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. W. J. MCDONALD, its Chief Clerk, announced that the Senate had passed bills of the following titles, in which they requested the concurrence of the House:

A bill (S. No. 221) relating to lands granted to the State of Minnesota to aid in constructing railroads; and

A bill (S. No. 216) to provide for the transfer of the custody of the library of the Smithsonian Institution to the Library of Congress.

LEAVE OF ABSENCE.

Mr. WASHBURN, of Massachusetts, asked and obtained leave of absence for ten days.

AMENDMENT OF HOMESTEAD LAW.

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

Resolved, That the Committee on Public Lands be instructed to inquire into the expediency of so amending the homestead act as to give to soldiers who have been permanently disabled in the service, and to the widows or other legal representatives of deceased soldiers who have located land under said act, the title to lands so located by them without the delay of occupancy required by said act.

Mr. WASHBURNE, of Illinois, moved that the House adjourn.

The motion was agreed to; and thereupon (at three o'clock and thirty-five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to the appropriate committees:

By Mr. BANKS: The petition of owners of the ship Daring, of Boston, for redress for damages sustained by an embargo by the British authorities in India.

Also, the memorial of Horatio Walter, claiming compensation for services rendered to Census Office, Department of the Interior.

Also, the memorial of officers of the Stoneham Savings Bank, of Massachusetts, for exemption from taxation.

Also, the petition of workingmen for the alteration of the tariff for the protection of labor.

By Mr. CLARKE, of Kansas: The petition of Robert Reed, and 30 others, citizens of Franklin county, Kansas, praying for certain amendments to the Constitution of the United States.

By Mr. COOK: The petition of citizens of La Salle county, Illinois, asking for the passage of a law regulating inter-State insurances.

By Mr. CULLOM: A petition signed by numerous citizens of Springfield, Illinois, praying for the passage of a national insurance law, regulating inter-State insurance of all kinds.

By Mr. DARLING: The petition of F. M. & B. H. Bixby, to have compound-interest notes lost at sea reissued to them by the Secretary of the Treasury.

Also, the petition of Darling, Albertson & Rose, for the adjustment of their claim.

By Mr. DAWSON: The petition of the members of the bar of Westmoreland county, Pennsylvania, asking an increase of salary for the judges of the district court of the United States.

Also, the petition of the members of the bar of

Indiana county, Pennsylvania, asking an increase of salary for the judge of the United States district court of western Pennsylvania.

By Mr. ECKLEY: The petition of 266 citizens, wool-growers, of Columbiana county, Ohio, asking an additional duty on wool.

Also, the petition of 88 wool-growers, of Jefferson county, Ohio, on the same subject.

By Mr. FARNSWORTH: A petition of citizens of Kane county, Illinois, for increase of tariff on wool.

By Mr. HALE: Six petitions of citizens of Essex county, New York, for protection to the interests of American wool-growers.

Also, two petitions of citizens of Essex county, New York, for increased duties on imports so as fully to protect home labor.

Also, two petitions of citizens of Essex and Clinton counties, New York, for further protection to American industry.

Also, the petition of Thomas Potter, and others, citizens of Warren county, New York, for the passage of laws regulating inter-State insurances.

By Mr. HITCHCOCK: The memorial of the Nebraska Legislature, praying for land bounty for Nebraska volunteers.

Also, the memorial of the Nebraska Legislature, for reimbursement for expenses incurred in suppressing Indian hostilities.

Also, the memorial of the Nebraska Legislature, for mail route from Ponca to Fremont.

Also, the memorial of the Nebraska Legislature, for mail route from Dakota City to Columbus.

Also, the memorial of the Nebraska Legislature, for mail route from Plattsmouth to Beatrice.

Also, the memorial of the Nebraska Legislature, for mail route from Dakota City to Yancton.

Also, the memorial of the Nebraska Legislature, for mail route from Plattsmouth to Columbus.

Also, the memorial of the Nebraska Legislature, praying for a grant of land to aid in the construction of a railroad west from Nebraska City.

Also, the memorial of the Nebraska Legislature, for a grant of land to aid in the construction of a railroad west from Brownville.

Also, the memorial of the Nebraska Legislature, that Congress should give the same grants to aid in the construction of the Burlington and Missouri river railroad extension that is now given the Union Pacific railroad.

By Mr. LAFLIN: The petition of Joseph R. Lee, and others, of Herkimer county, New York, in favor of just and equal laws establishing inter-State insurance.

By Mr. MERCUR: The petition of about 1,000 honorably discharged soldiers of Bradford county, Pennsylvania, praying for an equalization of bounties.

By Mr. MOORHEAD: The petition of J. McDonald Glenn, and others, citizens of Alleghany county, Pennsylvania, praying for an increase of duty upon foreign wool.

By Mr. RAYMOND: The petition of Daniel Fitzgerald for a right to renew his patent for the salamander safe.

By Mr. RICE, of Maine: The petition of Hon. Edward Kent, and others, of Bangor, Maine, asking suspension of the law taxing issues of State banks ten per cent., until October 1, 1867.

By Mr. ROGERS: The memorial of P. Ballintine & Sons, and others, brewers, in relation to duty on barley.

By Mr. SAWYER: The petition of Eli Stitson, and 300 others, residents of Winnebago county, State of Wisconsin, asking for a duty of not less than ten cents per pound and ten per cent. *ad valorem* on all unwashed wool, and double that duty on washed wool of foreign production imported into the United States.

By Mr. SCOFIELD: The petition of P. B. Templeton, for compensation as stenographer in taking testimony in the trial of Dr. George A. Gardiner, convicted of defrauding the Government of over half a million dollars.

By Mr. VAN HORN, of New York: The petition of 143 citizens of Pavilion, New York, asking duty on wool.

By Mr. WILLIAMS: The petition of citizens of Butler county, Pennsylvania, asking for an increase of duties on foreign wools.

IN SENATE.

THURSDAY, *March* 29, 1866.

The Chaplain, Rev. E. H. GRAY, offered the following prayer:

O Lord! Thou hast been our refuge and our dwelling-place in all generations. Before the mountains were brought forth or Thou hadst created the earth and the world, Thou art from everlasting to everlasting God. We are the creatures of a day. We look up unto Thee for a blessing now to rest upon us as we are about to engage in these solemn services. May we be suitably admonished, may our minds be properly impressed with our frailty, with our ignorance of our future, not knowing what a day may bring forth; and may we thus be better fitted from the solemnities of this hour for the discharge of all the duties and responsibilities resting upon us, and better prepared for Thy glory in the kingdom of heaven. Command Thy blessing, we pray Thee, upon us, and enable us to look up unto Thee as that God who disposes of all events and of all beings as it seemeth good in His sight; and when He has done with us here, may we be dismissed from our earthly scene of labors with honor, and prepared for a place of trust and honor and glory in heaven. Though Jesus Christ, our Lord. Amen.

The Journal of yesterday was read and approved.

SENATOR FROM NEW JERSEY.

Mr. SUMNER. I move that the Secretary of the Senate be directed to communicate to the Governor of New Jersey a copy of the resolution in reference to the seat of Mr. Stockton.

The motion was agreed to.

DEATH OF SENATOR FOOT.

Mr. POLAND. Mr. President, I rise to perform a most painful duty. A very few months since Vermont was represented in the Senate of the United States by two of her most distinguished citizens, of large ability, tried integrity, and filled with the wisdom derived from long experience in public affairs. Just previous to the commencement of the present session one of these eminent men, my predecessor on this floor, was called away by death. While the voices of mourning for his loss are yet sounding in our ears, the bolt has again fallen, and Vermont is again called to weep over the dead form of the other.

My colleague in this body, and one of its oldest and most distinguished members, Hon. SOLOMON FOOT, died at his lodgings in this city yesterday, at about eight o'clock in the morning. He endured a long and painful sickness with patience and resignation, and departed this life with bright and cheerful hopes of a blessed immortality in the life to come.

The time which has elapsed since this great sorrow has fallen upon us has been so short, that amid the grief and care occasioned by the sad event, I have found no time in which to prepare to speak suitably of the character and distinguished public services of our departed associate; and I shall therefore ask the indulgence of the Senate on some future day, when time shall have a little dulled the sharp edge of our grief, for myself, and others who may desire, an opportunity to pay appropriate tribute to the memory of the deceased.

I now offer the following resolutions, and ask their present consideration:

Resolved, That the members of the Senate, from a sincere desire of showing every mark of respect to Hon. SOLOMON FOOT, deceased, late a Senator from the State of Vermont, will go into mourning for the residue of the present session by the usual mode of wearing crape on the left arm.

Resolved, That the Senate will attend the funeral of the deceased from the Senate Chamber at one o'clock to-day; and that the committee of arrangements, consisting of Messrs. DOOLITTLE, ANTHONY, HOWARD, HENDRICKS, SHERMAN, and BUCKALEW, superintend the same.

Ordered, That the Secretary communicate these proceedings to the House of Representatives.

The resolutions were unanimously adopted.

RECESS.

Mr. TRUMBULL. I see by the arrangements that the body of our deceased colleague is not to be brought to the Chamber until one o'clock. I move therefore that the Senate take a recess until that hour.

The motion was agreed to.

The PRESIDENT *pro tempore* resumed the chair at one o'clock.

MESSAGE FROM THE HOUSE.

The following message was received from the House of Representatives by Mr. MCPHERSON, its Clerk:

Mr. President, I am directed by the House of Representatives to inform the Senate that it has this day adopted the following resolutions:

Resolved, That this House has heard with deep sensibility the announcement of the death of Hon. SOLOMON FOOT, a Senator in Congress from the State of Vermont.

Resolved, That, as a testimony of respect for the memory of the deceased, the members and officers of this House will wear the usual badge of mourning for thirty days.

Resolved, That the proceedings of this House in relation to the death of Hon. SOLOMON FOOT be communicated to the family of the deceased by the Clerk.

Resolved, That the House will as a body repair to the Senate Chamber to attend the funeral of the deceased at the hour of one o'clock this day, and upon its return to the Hall that the Speaker declare the House adjourned.

At one o'clock the corpse, attended by the committee of arrangements, pall-bearers, family and friends of the deceased, and citizens of Vermont, was removed from the late residence of the deceased, and placed in the area in the center of the Senate Chamber, where seats were provided for the remaining Senator and Representatives from Vermont and the family of the deceased. The judges and officers of the Supreme Court of the United States, the President of the United States and heads of the various Departments, and the members of the House of Representatives, preceded by their Speaker and officers, entered the Senate Chamber at intervals, and were conducted to the seats assigned to them.

Prayer was then offered up by Rev. E. H. GRAY, D. D., Chaplain of the Senate.

Rev. BYRON H. SUNDERLAND delivered a discourse from the text, Psalm ciii, verses 13–18:

"Like as a father pitieth his children, so the Lord pitieth them that fear him.

"For he knoweth our frame; he remembereth that we are dust.

"As for man, his days are as grass; as a flower of the field, so he flourisheth.

"For the wind passeth over it, and it is gone; and the place thereof shall know it no more.

"But the mercy of the Lord is from everlasting to everlasting upon them that fear him, and his righteousness unto children's children.

"To such as keep his covenant, and to those that remember his commandments to do them."

Rev. C. B. BOYNTON, Chaplain of the House of Representatives, closed the ceremonies by an impressive prayer, after which the funeral procession left the Senate Chamber to convey the body to the depot of the Baltimore and Washington railroad, in the following order:

The Chaplains of Congress for the occasion.

The Physicians who attended the deceased.

Committee of Arrangements.

Mr. DOOLITTLE, Mr. ANTHONY, Mr. HOWARD, Mr. HENDRICKS, Mr. SHERMAN, Mr. BUCKALEW.

Pall-Bearers.

Mr. FESSENDEN,	Corpse.	Mr. GUTHRIE,
Mr. HARRIS,		Mr. LANE of Indiana,
Mr. JOHNSON,		Mr. SUMNER.

The family and friends of the deceased.

The Senator and Representatives from the State of Vermont as mourners.

Citizens of the State of Vermont.

The Sergeant-at-Arms of the Senate of the United States.

The members of the Senate, preceded by the President of the Senate *pro tempore* and the Secretary of the Senate.

The Sergeant-at-Arms of the House of Representatives.

The members of the House of Representatives, preceded by its Speaker and Clerk.

The President of the United States.

The Heads of Departments.

The Diplomatic Corps.

Judges of the United States.

Officers of the Executive Departments.

Officers of the Army and Navy.

The Mayor of Washington.

Citizens and strangers.

After the funeral, the Senate returned to their Chamber.

ADJOURNMENT TO MONDAY.

On motion of Mr. WILSON, it was

Ordered, That when the Senate adjourns to-day, it be to meet on Monday next.

On motion of Mr. RAMSEY, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *March* 29, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

KANSAS RAILROAD AND TELEGRAPH.

Mr. LOAN. I rise to a privileged question. I see that in the Globe of Tuesday, Senate bill

No. 145, for a grant of land to the State of Kansas to aid in the construction of the Northern Kansas railroad and telegraph, is stated to have been referred to the Committee on the Post Office and Post Roads. The reference of the bill, which was on my motion, was to the Committee on the Pacific Railroad. I ask that if the Journal be incorrect in this respect it may be corrected.

The SPEAKER. The Journal will be examined, and if incorrect, will be corrected.

DEATH OF SENATOR FOOT.

A message from the Senate by Mr. FORNEY, its Secretary, communicated the following extract from its Journal, which was read:

IN SENATE OF THE UNITED STATES,
March 29, 1866.

Resolved, (unanimously,) That the members of the Senate, from a sincere desire of showing every mark of respect to the memory of Hon. SOLOMON FOOT, deceased, late a Senator from the State of Vermont, will go into mourning for the residue of the present session, by the usual mode of wearing crape on the left arm.

Resolved, (unanimously), That the Senate will attend the funeral of the deceased from the Senate Chamber at one o'clock to-day, and that the committee of arrangements, consisting of Messrs. DOOLITTLE, ANTHONY, HOWARD, HENDRICKS, SHERMAN, and BUCKALEW, superintend the same.

Ordered, That the Secretary communicate these proceedings to the House of Representatives.

Mr. MORRILL. Mr. Speaker, I learn that Senators who desire to submit remarks in relation to the life and character of the eminent Senator from Vermont whose decease has just been communicated to this House, are not ready to do so to-day. The family of the deceased were desirous to reach home this week, and therefore the funeral ceremonies could not be deferred. I may also state that some of my colleagues are at the present moment absent; and I trust that at some early day the usual opportunity will be afforded for submitting such eulogies upon the character and public services of the deceased as members may desire to offer.

I present the following resolutions:

Resolved, That this House has heard with deep sensibility the announcement of the death of Hon. SOLOMON FOOT, a Senator in Congress from the State of Vermont.

Resolved, That as a testimonial of respect for the memory of the deceased the members and officers of this House will wear the usual badge of mourning for thirty days.

Resolved, That the proceedings of this House in relation to the death of Hon. SOLOMON FOOT, be communicated to the family of the deceased by the Clerk.

Resolved, That this House will as a body repair to the Senate Chamber, to attend the funeral of the deceased, at the hour of one o'clock p. m. this day, and upon its return to the Hall, that the Speaker declare the House adjourned.

ADJOURNMENT TILL MONDAY.

Mr. STEVENS. If the gentleman from Vermont will consent to postpone the question upon these resolutions for a few moments, I desire to submit a motion in regard to the adjournment.

Mr. MORRILL. I will do so.

Mr. STEVENS. I move that when the House adjourns to-day it adjourn to meet on Monday next. I do it because several committees have business accumulating on their hands. I learn from the gentleman behind me, chairman of the Committee on Military Affairs, [Mr. SCHENCK,] and others, that they are desirous to have these two days to perfect business for presentation to the House.

Mr. GRINNELL. I move to amend so that the House will meet on Saturday for debate only.

Mr. WASHBURNE, of Illinois. I hope the House will agree to the motion to adjourn over till Monday.

Mr. MORRILL. Most of the members of the Committee of Ways and Means would not be able to attend even if there were a session of the House.

Mr. ASHLEY, of Ohio. I hope the House will adjourn until Saturday so that we may have the usual session for speech-making.

Mr. STEVENS. Most of the House desire to adjourn over until Monday. I do not say it is necessary for the Committee on Appropriations, because we are through most of our business.

Mr. GRINNELL. I withdraw my motion.

Mr. ASHLEY, of Ohio. I renew the amendment that when the House adjourns to-day it adjourn to meet on Saturday next, when no business shall be in order but speech-making. I do this in behalf of some of the new members who wish to be heard, and objection comes with ill grace from men who have had the same favor more than once during this session. I have no speech to make myself.

Mr. CONKLING. It requires unanimous consent for the House to meet on Saturday next as in Committee of the Whole on the state of the Union for debate only, and I object.

The House divided; and there were—ayes 51, noes 50.

Mr. THAYER demanded tellers.

Mr. STEVENS. I am informed that they have been waiting for an adjournment of two days to repair the roof, which absolutely needs repair.

Mr. ELDRIDGE. If the gentleman from New York will withdraw his objection to the latter part of the motion of the gentleman from Ohio there will be no difficulty.

Tellers were ordered; and Messrs. ASHLEY of Ohio, and THAYER, were appointed.

Mr. ASHLEY, of Ohio. My motion will not take a single man off of any of the committees.

The House divided; and the tellers reported—ayes 60, noes 49.

So the amendment was agreed to.

Mr. STEVENS. I now withdraw my motion.

The SPEAKER. It can only be done by unanimous consent, as the gentleman's motion has been amended by the House.

Mr. STEVENS. I hope, then, the motion will be voted down.

Mr. SCOFIELD. I move to amend to adjourn till to-morrow, and that both Friday and Saturday be devoted to debate.

Mr. SCHENCK. If it be in order, I wish to propose an amendment, that all these Saturday speeches be handed in in manuscript and published without taking up any time. [Laughter.]

Mr. SCOFIELD. I move further to amend by saying that speeches made on all other days be treated in the same way. [Renewed laughter.]

Mr. SCOFIELD's motion was disagreed to.

The question recurred on Mr. STEVENS's motion, as amended.

The House divided; and there were—ayes 59, noes 45.

So the motion was agreed to.

Mr. ASHLEY, of Ohio. I move that the session of Saturday be limited to speeches as in Committee of the Whole.

Mr. STEVENS. I object.

Mr. RANDALL, of Pennsylvania. I move that the rules be suspended for that purpose.

The SPEAKER. That motion is not now in order.

DEATH OF SENATOR FOOT—AGAIN.

The question was then taken on Mr. MORRILL's resolutions, and they were unanimously adopted.

The SPEAKER. At one o'clock, then, the House will proceed in a body to the Senate Chamber.

ADJOURNMENT OVER—AGAIN.

Mr. ROGERS. I move to reconsider the vote by which the House agreed to adjourn over until Saturday.

Mr. ANCONA. I move to lay the motion to reconsider upon the table.

The House divided; and there were—ayes 50, noes 63.

So the House refused to lay the motion to reconsider upon the table.

The question then recurred on the motion to reconsider.

The House divided; and there were—ayes 75, noes 30.

So the motion was agreed to.

The question then recurred on the amendment of Mr. ASHLEY, of Ohio, to adjourn until Saturday.

Mr. JENCKES. I demand the yeas and nays. I want to see the chairman of the Committee on Commerce record his vote in favor of adjournment.

The yeas and nays were not ordered.

Mr. ASHLEY, of Ohio, demanded tellers.

Tellers were not ordered.

The amendment was then disagreed to.

The question recurred on the original motion, that when the House adjourns it adjourn to meet on Monday next.

The motion was agreed to.

Mr. STEVENS. I move to reconsider the vote by which the House agreed to adjourn over till Monday, and to lay that motion on the table.

The latter motion was agreed to.

LEAVE OF ABSENCE.

Mr. STEVENS asked and obtained leave of absence for his colleague, Mr. MILLER, for next week.

Mr. LATHAM asked and obtained leave of absence for his colleague, Mr. HUBBARD, for next week.

Mr. MORRILL. I move that the House take a recess till one o'clock.

The motion was agreed to.

OBSEQUIES OF SENATOR FOOT.

At one o'clock the House reassembled, and the members, headed by the Speaker, the Clerk, and the Sergeant-at-Arms, proceeded to the Senate Chamber to attend the funeral services of Senator FOOT; and when they afterward returned to the Hall,

The SPEAKER declared the House adjourned till Monday next.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to the appropriate committees:

By Mr. ALLISON: The petition of Titus Schmid, and others, brewers at Dubuque, Iowa, praying that barley may be imported from Canada free of duty.

By Mr. CONKLING: The petition of J. S. & M. Peckham, and others, of Utica, praying a change of tax on stoves.

By Mr. COOK: The petition of citizens of La Salle, Illinois, praying for a law regulating insurance.

By Mr. DELANO: The petition of E. E. Fillmore, and 50 others, citizens of Zanesville, Ohio, and J. F. Wilcoxon, and 50 others, citizens of Coshocton, Ohio, praying for United States laws regulating insurance and insurance companies in the States.

By Mr. EGGLESTON: A petition from the merchants of Cincinnati, Ohio, praying that the excise tax on Louisiana and Texas sugars be reduced to one cent per pound, and the tax on cane molasses be reduced to two cents per gallon.

By Mr. ELDRIDGE: The petition of citizens of Fond du Lac, Wisconsin, for duty of ten cents a pound and ten per cent. *ad valorem* on unwashed and double that amount on washed imported wool.

By Mr. HART: A petition of the nurserymen of the county of Monroe, New York, asking that the revenue law be so amended as to place producers of fruit and ornamental trees on the same footing as to licenses as producers of garden seeds and agricultural implements.

By Mr. LONGYEAR: The petition of Charles T. Gorham, and 456 others, citizens of Calhoun and Jackson counties, in the State of Michigan, asking for an extension of the land grant in aid of the construction of a railroad from Amboy by way of Hillsdale and Lansing to Traverse Bay, in the State of Michigan.

Also, the petition of John C. Gale, and 65 others, citizens of Onondaga, Ingham county, Michigan, asking an extension of the land grant to aid in the construction of a railroad from Amboy, by way of Hillsdale and Lansing, to some point on or near Traverse Bay, in the State of Michigan.

Also, the memorial of Common Council of Albion village, Calhoun county, Michigan, for the same purpose.

Also, the memorial of the president and trustees of Eaton Rapids village, Eaton county, Michigan, for the same purpose.

Also, the memorial of the Common Council of Lansing city, Michigan, for the same purpose.

Also, the remonstrance of D. L. Crosman, and 21 others, citizens of Ingham county, Michigan, against any extension of the land grant to the Amboy, Lansing, and Traverse Bay Railroad Company, in the State of Michigan.

Also, remonstrance of D. T. Weston, and 54 others, citizens of Ingham county, Michigan, for the same purpose.

Also, petition of J. C. Frick, and 32 others, citizens of Michigan, asking for the establishment of a Bureau of National Insurance.

By Mr. ORTH: The petition of citizens of Attica, Indiana, in reference to protection of insurance companies.

By Mr. PERHAM: The petition of business men

of Auburn, in the State of Maine, for a national insurance law.

By Mr. THAYER: The petition of mining companies and citizens of the United States, asking for improvement of Lac La Belle harbor, in the State of Michigan.

By Mr. WILLIAMS: The petition of citizens of Alleghany county, Pennsylvania, praying for an increase of duties on imported wools.

IN SENATE.

MONDAY, *April* 2, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY.

The Journal of Thursday last was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, transmitting a memorial of the Legislature of Alabama, asking for an extension of the time for the completion of certain railroads in that State; which, on motion of Mr. GRIMES, was referred to the Committee on Public Lands, and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. SHERMAN presented a petition of manufacturers of linseed oil of the city of New York, praying for an increase of the duty on importations of foreign linseed oil; which was referred to the Committee on Finance.

He also presented a petition of citizens of Ohio, praying for such an adjustment of the tariff of duties on imports as will afford ample protection to American industry; which was referred to the Committee on Finance.

He also presented a petition of officers of the Society for Savings, in the city of Cleveland, Ohio, praying that deposits in savings banks be exempted from taxation; which was referred to the Committee on Finance.

Mr. GRIMES presented the memorial of Henry O'Reilly, of the city of New York, praying permission for constructing the requisite conductors for supplying the governmental Departments and the people of Washington and Georgetown with petroleum gas light; which was referred to the Committee on the District of Columbia.

Mr. SUMNER. I present seven petitions from citizens of Louisiana, in which they ask Congress to secure the reëstablishment of State governments both in Louisiana and elsewhere on the principle of equality of political privileges for all loyal men of all races and conditions; and in order to bring that about, they ask Congress to enact a law establishing in Louisiana a preliminary system of government founded on the theory of equal political privileges before the law for all men without distinction of race. I move the reference of these petitions to the joint committee of fifteen.

The motion was agreed to.

Mr. SUMNER also presented a petition of citizens of Lancaster county, Pennsylvania, praying for an amendment to the Constitution that shall prevent every State from making any discrimination in civil rights or privileges on account of color or race; which was referred to the joint committee on reconstruction.

He also presented a petition of citizens of West Fitchburg, Massachusetts, praying for an amendment to the tariff act so as to give additional protection to American labor; which was referred to the Committee on Finance.

He also presented a petition of citizens of New York, writers and authors, praying for the adoption of an international copyright law; which was referred to the Committee on Foreign Relations.

He also presented a petition of citizens of Boston, Massachusetts, praying for a grant of public lands by Congress in order to aid in the construction of a ship-canal connecting Lake Superior with Lac La Belle; which was referred to the Committee on Public Lands.

Mr. RAMSEY. I present a petition of citizens of the State of Minnesota, who call attention to the fact that the capitalists of the older States, by reason of the perfect organization and concentration of their capital, were able to take speedy advantage of the privileges afforded by the national banking law passed by Congress in 1861; that so large a portion of the national currency was thus absorbed as to leave for the new and rapidly growing States of the West much less than their proportion; that the amount allowed to the State of Minnesota is more than one million dollars short of her just proportion; and the petitioners therefore pray that the law may be so amended that the banking capital for that State may be increased $1,500,000. I move its reference to the Committee on Finance.

It was so ordered.

Mr. HOWE presented a petition of citizens of Wisconsin, praying for the adoption of an amendment to the Constitution of the United States providing for the election of President and Vice President by direct vote of the people; and also authorizing Congress to prescribe by law the qualifications of voters for President, Vice President, and Representatives in Congress; which was referred to the joint committee on reconstruction.

Mr. WADE. I present the memorial of three hundred soldiers, setting forth, among other things, that persons honorably discharged from the military and naval service by reason of disability resulting from wounds or sickness incurred in the line of duty, should be preferred for appointments in civil offices, provided they shall be found to possess the business capacity necessary for the proper discharge of the duties of the offices; and they refer to a resolution of Congress passed on that subject, and they go on to say that it has been entirely disregarded by the authorities, and they call the attention of Congress to it in order that it may be more emphatically reënacted. I move the reference of the memorial to the Committee on Military Affairs and the Militia.

The motion was agreed to.

Mr. WILSON presented the petition of Mrs. Mary O'Connor, praying for the restitution of property in the town of Beaufort, South Carolina, sold by tax commissioners, or for indemnity for the same; which was referred to the Committee on Military Affairs and the Militia.

Mr. MORGAN presented resolutions of the Legislature of New York, in favor of an increase of pay of officers of the United States Navy; which were referred to the Committee on Naval Affairs.

He also presented a petition of soldiers and citizens of Little Falls, New York, praying for an equalization of bounties; which was referred to the Committee on Military Affairs and the Militia.

Mr. LANE, of Kansas, presented a petition of citizens of Kansas, praying for a grant of land for a railroad from Elwood, Doniphan county, westward through northern Kansas; which was referred to the Committee on Public Lands.

Mr. WILLIAMS presented three petitions of citizens of Oregon, praying for an act of Congress to authorize the purchase of an Indian reservation in that State called the Umatilla reservation, and for the removal of the Indians therefrom; which were referred to the Committee on Indian Affairs.

Mr. NYE presented resolutions of the Legislature of Nevada in favor of the establishment of a weekly mail route from Esmeralda to Austin, in that State; also in favor of the establishment of a daily mail route from the city of Austin to Silver Peak, in that State; and also in favor of the establishment of a weekly mail route from Ione to Crystal Springs; which were referred to the Committee on Post Offices and Post Roads.

He also presented a resolution of the Legislature of Nevada, in favor of the speedy establishment of a United States branch mint at Carson City, in that State; which was ordered to lie on the table.

Mr. FESSENDEN presented two petitions of citizens of Maine, praying for an increase of the compensation of postmasters of class No. 5, and that they be furnished with a sufficient quantity of stationery for the business of their offices; which were referred to the Committee on Post Offices and Post Roads.

REPORTS OF COMMITTEES.

Mr. LANE, of Indiana, from the Committee on Pensions, to whom was referred the petition of John H. Farquhar, praying that a pension may be granted to Martha Stevens, widow of the late John F. Stevens, of Greensburg, Indiana, who was murdered while in the discharge of his duty as a provost marshal, executing the enrollment act, submitted a report accompanied by a bill (S. No. 237) granting a pension to Mrs. Martha Stevens. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred a petition of citizens of Cambridge, Guernsey county, Ohio, praying that a pension may be granted to Mrs. Amarilla Cook, submitted a report accompanied by a bill (S. No. 238) granting a pension to Mrs. Amarilla Cook. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred a bill (H. R. No. 264) granting a pension to Mrs. Altazera L. Willcox, of Chenango county, in the State of New York, reported it without amendment.

He also, from the same committee, to whom was referred a bill (H. R. No. 265) granting a pension to John Hoffman, of Madison county, in the State of New York, reported it without amendment.

Mr. WILSON. The Committee on Military Affairs and the Militia, to whom was referred a bill (S. No. 104) to promote military education, have directed me to report it back, and as the Senate has acted on the subject, I move the indefinite postponement of the bill.

The motion was agreed to.

Mr. WILSON, from the same committee, to whom was referred a bill (H. R. No. 420) to provide arms and ammunition for the defense of the inhabitants of Dakota Territory, reported it without amendment.

He also, from the same committee, to whom was referred a joint resolution (H. R. No. 101) for the relief of certain officers of the Army, reported it without amendment.

He also, from the same committee, to whom was referred a joint resolution (S. R. No. 51) respecting bounties to colored soldiers, reported it without amendment.

Mr. WILSON. The same committee, to whom was referred a bill (S. No. 207) to provide for the equalization of bounties to soldiers in the late war of rebellion, have directed me to report a new draft for the bill. I move that it be printed, and recommitted to the committee.

The motion was agreed to.

Mr. WILSON. I am also directed by the Committee on Military Affairs and the Militia, to whom the subject was referred, to report a joint resolution (S. R. No. 55) to provide for the representation of the United States at the International Health Congress, at Constantinople. I believe it is important to act upon this resolution speedily, and as it is a small matter, I ask to have it considered now.

The PRESIDENT *pro tempore*. It requires unanimous consent to consider the resolution on the day it is reported. Is there any objection?

Mr. WILSON. If anybody desires to examine it carefully, let the report be printed, and I will call up the resolution in the morning.

The PRESIDENT *pro tempore*. The motion to proceed to the consideration of the resolution is withdrawn. The order to print will be entered if there be no objection.

Mr. VAN WINKLE, from the Committee on Pensions, to whom was referred the petition of Sarah Rodman, widow of Robert C. Rodman, late a sailmaker in the Navy of the United States, praying for arrears of pension, asked to be discharged from its further consideration, and that the petitioner have leave to withdraw her petition and other papers from the files of the Senate; which was agreed to.

Mr. WILLIAMS, from the Committee on

Claims, to whom was referred a bill (H. R. No. 215) for the benefit of John W. Campbell, reported it without amendment.

Mr. FESSENDEN, from the Committee on Finance, to whom was referred a bill (H. R. No. 207) to amend an act entitled "An act to provide ways and means to support the Government," approved March 3, 1865, reported it without amendment.

Mr. NESMITH, from the Committee on Military Affairs and the Militia, to whom was referred a bill (S. No. 62) to amend an act entitled "An act granting lands to the State of Oregon to aid in the construction of a military road from Eugene City to the eastern boundary of said State," reported it without amendment.

Mr. WADE, from the Committee on the District of Columbia, to whom was referred a bill (S. No. 214) to incorporate the General Hospital of the District of Columbia, reported it without amendment.

WASHINGTON CANAL.

Mr. WADE. The Committee on the District of Columbia, to whom was referred a bill (S. No. 190) to incorporate the District of Columbia Canal and Sewerage Company, have directed me to report it back with amendments, and recommend its passage, and I ask the Senate to agree to take it up at this time. My reason for doing so is that it is in a great degree a sanitary measure touching the canal here, which is a perfect nuisance, and, it is apprehended, will be the cause of a great deal of sickness if it is left in the condition it is until the warm weather comes on; and if the bill is to be passed at all it ought to be passed immediately in order that the company may go to work at once and put the canal in a better condition than it now is.

By unanimous consent, the bill was considered as in Committee of the Whole. It proposes to incorporate John Van Reswick, Samuel S. Smoot, J. B. Hutchinson, Whitman Bestor, William E. Spalding, W. D. Wise of Washington, Joseph W. Parish of New Orleans, Charles L. Frost, Charles A. Secor, Gideon L. Walker of the city of New York, Martin H. Cossell of Illinois, and their successors and assigns, as a body-politic, by the name and style of the District of Columbia Canal and Sewerage Company, with power to survey, locate, lay out, construct, operate, and use and enjoy a continuous line of canal and sewer, with all the privileges and appurtenances thereof, between the waters of the Anacostia river, commonly known as the Eastern branch, where it enters the District of Columbia, running along that river to its junction with the Potomac river, and the Potomac river and the Chesapeake and Ohio canal, at or near the city of Georgetown, all in the District of Columbia, upon a route to be surveyed and designated by a competent engineer appointed by the company for that purpose. The canal or sewer is to form a duct or depository for the sewers of the city of Washington. The company is to have the exclusive right to use the canal for the purpose of conveying freights and regulating the passage through the same, of all vessels, boats, rafts of lumber, and crafts of all kinds, capable of navigating the canal and sewer. The canal and sewer shall be cut to the depth of ten feet below high tide as it usually rises, and shall be seventy feet wide at the water-line, with the usual slope to the banks; and shall at all times be kept in good and navigable repair, and all sediment or deposits collecting in the same from the sewers or otherwise shall be kept cleaned out so that the tide may constantly flow through the same. The company shall have the exclusive right to assess and collect tolls upon the canal, and also upon its wharves and docks. The capital stock is to be $1,000,000, and consist of ten thousand shares of $100 each, and may be increased whenever, in the opinion of a majority of the directors of the company, its interests require such increase.

The Committee on the District of Columbia reported the bill with several amendments. The first amendment of the committee was in section one, line four, after the name "J. B. Hutchinson" to insert "Samuel F. Dickerson."

The amendment was agreed to.

The next amendment was in section one, line six, to strike out the letter "A" and insert "F;" so as to read "Charles F. Secor."

The amendment was agreed to.

The next amendment was to insert after section eleven the following as an additional section:

SEC. 12. *And be it further enacted*, That in order to aid the said District of Columbia Canal and Sewerage Company in fulfilling the objects and requirements of this act, all the right, title, property, interest, and estate, in law or equity, of the United States of and to the Washington canal and the bridges crossing the same and the lands upon which said canal, bridges, basins, locks, reservoirs, docks, and wharves are now located, occupied, used, and constructed, be, and the same are hereby, vested in the said District of Columbia Canal and Sewerage Company, to have and to hold the same for the use and benefit of the said company.

Mr. WADE. I will not ask to have that amendment considered now, but I move that the bill and the amendments be printed, and that the bill be postponed to some early day. It has just been reported, and probably the Senate are not ready to act upon it now; but I shall call it up at a very early period. I give notice that I shall endeavor to call it up to-morrow, and I hope that Senators will be ready to act upon it at that time. I now move that the bill and amendments be printed, and its further consideration postponed until to-morrow.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House of Representatives had agreed to the conference asked by the Senate on the disagreeing votes of the two Houses on the bill (H. R. No. 184) to authorize the sale of marine hospitals and revenue cutters, and had appointed Messrs. E. B. WASHBURNE of Illinois, BENJAMIN EGGLESTON of Ohio, and JAMES HUMPHREY of New York, managers at the same on its part.

The message further announced that the House of Representatives had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 406) to provide for the settlement of accounts of certain public officers; and

A bill (H. R. No. 433) to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and the act amendatory thereof, approved March 3, 1865.

ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House of Representatives had signed an enrolled joint resolution (H. R. No. 96) in relation to the public lands appertaining to the armory at Springfield; and it was thereupon signed by the President *pro tempore*.

E. W. EDDY.

Mr. NESMITH. The Committee on Military Affairs and the Militia, to whom was referred the bill (H. R. No. 394) for the relief of the estate of E. W. Eddy, have directed me to report it back without amendment and recommend its passage. I ask for its immediate consideration.

No objection being made, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to require the proper accounting officers of the Treasury to allow to the estate of E. W. Eddy, late paymaster in the United States Army, a credit of $200,000, the amount of public funds in his hands as paymaster on board the steamer Brother Jonathan, lost by the wreck of that steamer, on the 30th of July, 1865, off the coast of California. It is provided, however, that the final order for the allowance of the credit shall not be made until the whole subject connected with the alleged loss shall be fully investigated by the Paymaster General, and he shall certify to the proper Department of the Government that the loss of the vessel has been fully proved.

Mr. CLARK. I do not think that bill ought to be passed in the shape it is, to refer the matter of the loss to the Paymaster General. Wherever these cases have come before the Committee on Claims, we have investigated them ourselves, to see in the first instance and satisfy ourselves whether the loss was clearly proved; and I think it is rather an unsatisfactory way of legislation to turn it over to any officer of the Government to allow him to do what shall seem to him meet after his examination. I think the examination ought to be made here. I hope the bill will not be pressed at this time.

Mr. NESMITH. I desire to state to the Senator from New Hampshire that the proviso to which he refers struck me as an unnecessary provision in the bill; but it is a House bill, and the committee did not think proper to amend it. There is a report from the Assistant Paymaster General, Colonel Larned, who convened a board of officers at San Francisco to make an investigation of the circumstances. They report that Paymaster Eddy went on board the steamer Brother Jonathan, with a safe containing $200,000 in Government funds, in July last; that the steamer was lost off the coast of California; that there were eighteen passengers saved. The declaration of the passengers saved accompanies the papers, showing that Major Eddy was lost and that no part of the wreck was recovered. The proof is of the most positive character that Major Eddy and the money were both lost. The case is established most clearly. Not a cent of the funds has ever been recovered.

Mr. CLARK. I have never been satisfied myself with an examination in the House of Representatives, not to say that they do not do it on their part satisfactorily to them; but I have never felt that the Senate committee discharged its duty by taking the result of the investigations of a committee of the House; nor have I ever felt that they discharged their duty by taking the result of a commission of inquiry. I think we are bound to go beyond that, and not to take the judgment of other people, but to ascertain the fact ourselves and come to our own conclusions. If the Senator from Oregon can say that the Committee on Military Affairs have examined this case upon the proofs, that the proofs are satisfactory, that they are entirely satisfied in their own judgment that the loss has been suffered so as to report that fact to the Senate, I am content; but I am not content without an examination beyond that of the House of Representatives.

Mr. NESMITH. I will say to the Senator from New Hampshire that a full examination of the papers and reports was made in the Committee on Military Affairs, and the committee unanimously came to the conclusion that it was a just case and that relief ought to be granted. The evidence adduced before the committee in the form of official reports is incontrovertible.

Mr. CLARK. Of course I cannot know what papers were before the committee, but the reports of other bodies, committees and commissions, are not satisfactory to me.

Mr. NESMITH. Before the committee was the report of the Paymaster General and the report of the board of officers convened at San Francisco subsequent to the loss of the steamer, and the testimony of the officers who took the safe on board the steamer, and so on.

Mr. CLARK. I desire to know of the Senator from Oregon whether the facts on which that commission acted went before the committee and were found by them, in their judgment, to be true.

Mr. NESMITH. The facts were before the committee—the statements and depositions of the persons who were brought before that military commission.

Mr. CLARK. I have no desire to impede the bill if it has been satisfactorily examined, but it is a very large amount, and seems to me should be very carefully looked into before it is passed.

Mr. LANE, of Indiana. The committee examined the case carefully, and adopted the report of the House committee, deeming no further report necessary. The proof is clear, and it is impossible to make it any clearer.

Mr. HOWE. The feature in this bill that attracted my attention was that it proposed to allow a credit of a very large amount, not upon the ground that Congress was satisfied that the officer was entitled to it, but it refers the claim to another officer of the Government, and proposes to allow the credit when he becomes satisfied that it is due. If the Committee on Military Affairs have seen the testimony which establishes this loss, and have it here, there is no objection to Congress saying absolutely that the credit ought to be allowed; but I think there is always an objection in the way of Congress referring these matters to be settled after the passage of the law by any other officer of the Government. Before we authorize any such credit to be allowed we ought to be satisfied ourselves. The bill ought to be put upon that footing.

Mr. NESMITH. I will state to the Senator from Wisconsin that that struck me as an unnecessary part of the bill, as surplusage. The reports and testimony being so conclusive that the money was lost, and that the officer was lost at the same time, it did seem to me there was no necessity for a provision of that kind, that the account should be readjusted by the Paymaster General. I suppose the House incorporated that provision in the bill thinking it might afford some additional guarantee or security to the Government. It can possibly furnish none. The facts, as I stated, are proved conclusively. There is no possibility of the money ever having been recovered, and there is no possibility that the officer escaped from the wreck. It is a mere bill for the relief of his estate.

Mr. HOWE. Allow me to inquire if the military commission which examined this case report the testimony which was laid before them? Do they report the testimony on which they adjudicated?

Mr. NESMITH. They report the testimony of several officers who saw the money counted and put in the safe and taken on board the vessel. In addition to that is the protest signed by eighteen passengers who escaped in small boats, and they state positively that Major Eddy did not escape.

Mr. CLARK. As the bill is only reported this morning, if the Senator will allow it to lie over until we can look into the papers, I think it will be better.

Mr. NESMITH. Very well; but if the bill goes over I move that the report of the House committee be printed with the bill.

The motion was agreed to.

BILL INTRODUCED.

Mr. VAN WINKLE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 239) for the classification and graduation of invalid pensions; which was read twice by its title, referred to the Committee on Pensions, and ordered to be printed.

OATH OF OFFICE.

Mr. SUMNER. I desire to introduce a resolution, and as it is in my hand-writing, with the permission of the Chair I will read it myself and save the Secretary the trouble:

Resolved, That the Secretary of the Treasury and the Postmaster General be requested to report to the Senate, so far as the records of their respective Departments will allow, whether at any time since the report of December last any persons have been permitted to enter upon the duties of office, and to receive the salary or emoluments thereof, without taking the oath prescribed by act of Congress; or, if they have taken it, adding thereto explanations; or if they have altered the oath, then the alterations they have made; and if such things have been done, then to report the names of such persons and the oath they have taken and the reasons for allowing the same.

I ask the unanimous consent of the Senate to consider this resolution now.

Mr. McDOUGALL. I object.

The PRESIDENT *pro tempore*. Objection being made, the resolution lies over.

HOUSE BILLS REFERRED.

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

A bill (H. R. No. 416) for the benefit of certain half-breeds and mixed bloods of the Winnebago tribe of Indians—to the Committee on Indian Affairs.

A bill (H. R. No. 433) to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and the act amendatory thereof, approved March 3, 1865—to the Committee on Finance.

A bill (H. R. No. 406) to provide for the settlement of accounts of certain public officers—to the Committee on Military Affairs and the Militia.

A bill (H. R. No. 281) to amend the postal laws—to the Committee on Post Offices and Post Roads.

A joint resolution (H. R. No. 103) to refer the petition of Benjamin Holliday to the Court of Claims—to the Committee on Claims.

HYDROGRAPHIC OFFICE.

Mr. GRIMES. I move that the Senate take up Senate bill No. 174.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 174) to establish a hydrographic office in the Navy Department. It proposes to attach a hydrographic office to the Bureau of Navigation in the Navy Department for the improvement of the means for navigating safely the vessels of the Navy and of the mercantile marine, by providing, under the authority of the Secretary of the Navy, accurate and cheap nautical charts, sailing directions, navigators, and manuals of instructions, for the use of all vessels of the United States, and for the benefit and use of navigators generally. It also authorizes the Secretary of the Navy to cause to be prepared at the hydrographic office attached to the Bureau of Navigation in the Navy Department, maps, charts, and nautical books relating to and required in navigation, and to publish and furnish them to navigators at the cost of printing and paper, and to purchase the plates and copyrights of such existing maps, charts, navigators, sailing directions, and instructions as he may consider necessary, and when he may deem it expedient to do so, and under such rules, regulations, and instructions as he may prescribe. The moneys which may be received from the sale of all such maps, charts, and nautical books are to be returned by the Secretary of the Navy into the Treasury of the United States, to be used in the further preparation and publication of maps, charts, navigators, sailing directions, and instructions for the use of seamen, and to be sold at the rates set forth in this bill; and the bill makes an appropriation for the objects recited in it.

Mr. GRIMES. I move to fill the blank in the eighth line of the third section with the words "fifteen thousand," as the amount to be appropriated for the objects of the bill.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, read the third time, and passed.

SUPREME COURT REPORTS.

On motion of Mr. STEWART, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 186) amendatory of an act to provide for the reports of decisions of the Supreme Court of the United States, which had been reported from the Committee on the Judiciary with an amendment to strike out all of the original bill after the enacting clause, in the following words:

That so much of the proviso to the act of August 29, 1842, entitled "An act to provide for the reports of decisions of the Supreme Court of the United States," as provides that the compensation of $1,300 given by the said act to the reporter of the said decisions shall not be paid unless the reporter shall print and publish the decisions of said court made during the time he shall act as such reporter within six months after the decision shall be made, is hereby amended so as to allow him eight months instead of six.

And to insert in lieu thereof the following:

That the reporter of the decisions of the Supreme Court of the United States shall hereafter be allowed the term of eight months for the publication of his reports, instead of six, as provided by the act of August 29, 1842.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

PILOT KNOB AND HELENA RAILROAD.

Mr. BROWN. I move to take up for consideration Senate bill No. 37, making a grant of lands in alternate sections to aid in the construction and extension of the Iron Mountain railroad from Pilot Knob, in the State of Missouri, to Helena, in Arkansas.

The motion was agreed to; and the bill was considered as in Committee of the Whole.

The first amendment reported by the Committee on Public Lands was in section one, line twenty-four, after the word "that" to insert "all mineral lands except those containing coal and iron, and;" so that the clause will read:

And provided further, That all mineral lands, except those containing coal and iron, and any lands heretofore reserved to the United States by any act of Congress, or in any other manner by competent authority, for the purpose of aiding in any object of internal improvement, or for any other purpose whatever, be, and the same are, reserved to the United States from the operation of this act.

The amendment was agreed to.

The next amendment was in section two, line twenty-four, after the word "that" to insert "all mineral lands except those containing coal and iron, and;" so that the clause will read:

And provided further, That all mineral lands, except those containing coal and iron, and any lands heretofore reserved to the United States by any act of Congress, or in any other manner by competent authority, for the purpose of aiding in any object of internal improvement, or for any other purpose whatever, be, and the same are, reserved to the United States from the operation of this act, except so far as it may be found necessary to locate the routes of said railway through the same, in which case the right of way only shall be granted, subject to the approval of the President of the United States.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House of Representatives had passed the bill of the Senate (S. No. 82) granting a pension to Sarah Fitzgibbon, with an amendment, in which it requested the concurrence of the Senate.

The message further announced that the House of Representatives had passed, without amendment, the following bills of the Senate:

A bill (S. No. 165) more effectually to provide for the punishment of certain crimes against the United States; and

A bill (S. No. 216) to provide for the transfer of the custody of the library of the Smithsonian Institution to the Library of Congress.

REAR ADMIRAL PAULDING.

Mr. SUMNER. I move that the Senate proceed to the consideration of the Senate joint resolution No. 53.

The motion was agreed to; and the joint resolution (S. R. No. 53) authorizing Rear Admiral H. Paulding to accept a decoration from the King of Italy was read the second time and considered as in Committee of the Whole. It is a permission to Rear Admiral H. Paulding, of the Navy, to accept a decoration of the equestrian order of Saint Maurice, which has been tendered to him by the King of Italy as a reward for assistance rendered to the Italian frigate Re d'Italia when she got ashore near Long Branch.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

DISTRICT SUPREME COURT.

On motion of Mr. WADE, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 184) to define more clearly the jurisdiction and powers of the supreme court of the District of Columbia.

It provides that the justices of the supreme court of the District of Columbia shall hold a common-law court, an equity court, an admiralty and maritime court, and a criminal court; that they shall hold sessions in banc at such times as they shall designate in their minutes; and at the sessions in banc they shall have the power, and it shall be their duty, to allot the courts among themselves, as they see fit, by orders to be entered of record in their minutes, but so as to assign each of the courts to be held by one justice; to make all appointments assigned to the court by law; to remove officers appointed by it in such manner as may be prescribed by law; to hear and decide all questions of law which may be reserved at the trial of any cause in either of the courts; to hear and decide all such issues of law, demurrers to evidence, questions of law arising on special verdict, or special or agreed case, motions in arrest of judgment, motions for new trial, or other motions as may be adjourned to the court in banc, by an order on the minutes of the court in which such matter arises; to hear and decide all appeals from the final decisions of either of the courts; to hear and decide all appeals from the orphans' court, and from justices of the peace; to fix the times of holding the stated and special sessions or terms of the courts; to cause jurors to be summoned to serve in the common-law and criminal courts whenever jurors are required by the exigency of the business therein; to make all such rules of procedure as they may deem best adapted to a fair and speedy administration of justice.

In the common-law court there are to be monthly sittings for the trial of issues of law, and for taking judgments by default, and all other matters not involving or requiring a trial by jury, which sittings shall commence on the first Tuesday of every month, except during the stated terms or the recesses of the court. For the trial of issues of fact, there are to be at least three terms every year, at times fixed by the justices at their sessions in banc to be entered in their minutes.

The equity court and the admiralty and maritime court are to be deemed always open for filing libels, bills, petitions, answers, pleas, and other pleadings; for issuing and returning all process and commissions; for making and directing all interlocutory motions, orders, rules, and other proceedings whatever, preparatory to the hearing of all causes pending therein; and also for the trial and final decision of causes, in case the parties consent to such trial, or the time of preparation has elapsed, and the cause has been set, and has stood for trial ten days.

Writs of attachment and garnishments are to be issued by the clerk of the supreme court of the District, without any authority or warrant from any judge or justice, whenever the plaintiff, his agent or attorney, shall file in the clerk's office, whether at the commencement or during the pendency of the suit, an affidavit, setting forth that the plaintiff has a just right to recover against the defendant what he claims in the declaration, and also stating either, first, that the defendant is a non-resident of the District; or, second, that the defendant evades the service of ordinary process by concealing himself or by withdrawing from the District temporarily; or, third, that he has removed or is about to remove some of his property from the District, so as to defeat just demands against him; and shall also file his (the plaintiff's) undertaking, with sufficient surety or sureties, to make good all costs and damages which the defendant may sustain by reason of the wrongful suing out of the attachment. The thing attached is not to be discharged from the custody of the officer seizing it until the defendant shall deliver, either to the officer or to the clerk, to be filed in the cause, his undertaking, with sufficient surety or sureties, to satisfy and pay the final judgment of the court against him; and in case the defendant be found liable to the plaintiff's claim, in whole or in part, the final judgment is to be that the plaintiff recover against the defendant and his surety or sureties; and if the defendant fail to execute such undertaking, the court may sell the thing attached whenever it is satisfied that it is the interest of the parties that it should be sold before final judgment.

The first amendment reported by the Committee on the District of Columbia was in section five, line six, after the word "affidavit" to insert "supported by the testimony of one or more witnesses, showing the grounds upon which he bases his affidavit, and also;" so that the clause will read:

That writs of attachment and garnishments shall be issued by the clerk of the supreme court of the District, without any authority or warrant from any judge or justice, whenever the plaintiff, his agent or attorney, shall file in the clerk's office, whether at the commencement or during the pendency of the suit, an affidavit, supported by the testimony of one or more witnesses, showing the grounds upon which he bases his affidavit, and also setting forth that the plaintiff has a just right to recover against the defendant what he claims in the declaration, and also stating either, first, that the defendant is a non-resident of the District.

The amendment was agreed to.

The next amendment was in section five, line twenty, after the word "attachment" to insert:

Provided, however, That if the defendant, his agent or attorney, shall file an affidavit traversing the said affidavit, the court shall determine whether the facts set forth in said plaintiff's affidavit are true, and that there was just ground for issuing said writ or warrant of attachment; and if the court shall deem the facts do not sustain the affidavit, he shall quash the writ of attachment or garnishment; and this issue may be tried by a judge at chambers on three days' notice.

The amendment was agreed to.

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

SEC. 6. *And be it further enacted*, That from and after the passage of this act the annual salaries of the chief justice and associate justices of the supreme court of the District of Columbia, instead of the amount now fixed by law, shall be as follows: for the chief justice, $4,500, and for each of the associate justices, $4,000.

Mr. WADE. I wish the Senate to understand what this amendment is. It is a matter of a good deal of importance, and I see that the Senate are not attending particularly to it. The judges of this court now receive $3,000 per annum for their services.

Mr. JOHNSON. All receive the same, I think.

Mr. WADE. All the same. That, they contend, is entirely insufficient for the support of themselves and their families, and I think it is perfectly apparent to every member of the Senate that at the present time no man in their position can support himself and his family as they ought to be supported the year round in this city on the salary now paid to these judges. For myself, I have opposed at all times the increase of salaries; I do not like to yield to it in any case; but in my judgment this is exceptional. I do not believe that these judges can, indeed they inform me that it is impossible that they can, continue in their positions unless their salaries be increased, and the committee having the subject under consideration thought it would be right to increase the associates $1,000, making them $4,000, and the chief justice to $4,500, giving him $500 more than the other judges. Of course the sum fixed must be arbitrary; there is no particular measure you can assume; but we thought this would be reasonable, and it would be tolerably satisfactory to the judges themselves. That we know. I hope there will be no objection to it.

I will say, while I am up, that the other parts of this bill refer almost entirely to the practice of the court. There are no principles of law that are altered or changed by it except as to attachments. The process of foreign attachment, I believe, does not obtain, or is very defective in this District, and it is thought they ought to have it for the collection of debts and the expedition of business here. In almost every community in every State that I know of they have been under the necessity of having a law on that subject; and if the people want it here we think they are entitled to have it. The writ of attachment provided for in the bill is in the common form used in the States, for although they vary in their legislation on that subject do not vary very materially as to the conditions on which a man may seize the property of his neighbor. It has to be regulated somewhat, and it is regulated in this bill as it is, I believe, in most of the States, but not in all of them.

Some parts of the bill really affirm what was a little doubtful in the original bill which was drawn and presented by the Committee on the District of Columbia, and that is the reason, I suppose, why this bill has not gone to the Judiciary Committee. The original bill only provided that this court should have common-law and equity jurisdiction. They have, however, exercised admiralty and maritime jurisdiction, and they have done it in the way that this bill proposes. It affirms and makes perfectly legal that which might be deemed a little doubtful without such a bill, and it was thought best that it should be made legal, although I believe they have acted upon the same principle as though they had full legal authority. I hope the bill will pass.

Mr. JOHNSON. Mr. President, in relation to the salaries, I concur entirely with the honorable member from Ohio that it is impossible for these judges to live in the District, in the way judges should live, upon their present salary. They may live here alone, but they cannot live here with their families. In point of fact they are now, all of them, I believe, boarding, and the greater part of the year they are boarding without their families. Their families are sent away to remain during several months of the year from necessity, and if anything can be plain, I suppose it to be that in a Government like ours the judiciary should be well sustained. It is all-important to the rights of the individual citizen.

It appeared to me, however, in listening to the bill as it was read, that there were a good many provisions in it that are wholly unnecessary, and among others the particular provision to which the honorable member adverts, giving to the court jurisdiction in cases of admiralty. I had supposed the present court had, in addition to the powers not conferred upon the original court, all the powers of that court. They from time to time always exercised admiralty jurisdiction; and the present court has from time to time exercised the same jurisdiction, and cases I think have been taken to the Supreme Court of the United States from its decision where there was no doubt expressed but that the jurisdiction existed; but if there be any reasonable doubt or any plausible doubt that the jurisdiction does exist, there can be no impropriety in removing the doubt and making the matter certain as will be done by this bill.

In relation to the authority to issue attachments, the Senate perhaps may not be so well satisfied that that ought to be granted. They have it now to a certain extent, for I suppose they are under the law of Maryland that existed at the time the District was ceded. They are governed by the laws of Maryland so far as they have not been changed by the laws of Congress, and by the Maryland law antecedent to the cession of the District the process of attachment existed; but the summary process of attachment which was given in Maryland by an act passed subsequent to the cession of the District it might perhaps be somewhat perilous to grant. This District is not like a State. Crowds of people come here every year only to remain a few days; they are here to-day, and gone to-morrow; and there is no knowing how the power of summary attachment might not be abused. If a man happened to go away without paying

his tavern bill, the next thing he would hear would be, if he had any property here that it was attached, and if he lived at some distance——

Mr. CLARK. Only where he goes away without paying.

Mr. JOHNSON. But he may go away having paid and then be charged with not having paid; such things have occurred. I will not make any presumption to embrace members of Congress, for they always pay, and they go away without anything to attach [laughter] unless they happen to have houses here, as is the case with some. It may subject people to a good deal of inconvenience. I do not know (I have no experience on the subject) that the absence of the power has been the cause of any material loss to the residents of the District; I submit, therefore, to the Senator that perhaps he had better consider the question whether that particular provision of the bill should not be so guarded as to protect the citizen against improper proceedings of this kind.

Mr. WADE. I believe it is very well guarded. Whoever wishes to get out an attachment for the property of another person must file his own affidavit, and in addition to that must prove the facts by other independent testimony. This, I believe, is more a restriction on the issue of attachments than exists in most of the States. I think the bill in that particular is unusually well guarded.

Mr. JOHNSON. Permit me to ask the Senator whether there is any provision for giving notice in the public prints of the attachment.

Mr. WADE. No. It is not a foreign attachment. It does not seize property in the absence of the party, and therefore that notice is not required.

As to what the Senator has remarked in regard to the admiralty jurisdiction of the court, I said that I believed they had exercised that jurisdiction which this bill expressly gives, but they had exercised it under a bill that did not expressly give it. They took it by implication. It was thought that that matter had better be made positive and certain, and therefore this bill gives the jurisdiction expressly. I do not know that there is any ground for any considerable doubt as to the authority of the court to exercise jurisdiction in maritime cases, where they have done it; but that jurisdiction is not now expressly given by law, and therefore it might be supposed that there was some reason for making a question on that point. This bill gives it expressly. I think it well to do so as we are passing a bill on the subject.

The main provisions of the bill relate to the practice of the court, and were got up under the authority of the court by their clerk, I believe. It is their desire that the practice should be altered as this bill proposes to alter it. It is not altered very materially from what it is now, but in some particulars the court thought it would be convenient to have modifications made. The bill does not touch the rights of anybody, and does not alter the law, materially, upon any subject. It alters the manner of process, and of seizing the property of a person about to abscond to the injury of his creditor, when affidavit is made and proper testimony given. In such cases the plaintiff can attach the property; but if the defendant sees fit to traverse the allegations he may do so, and have the question of fact tried before the judges of the court, notice being given. Then, if the charge is a groundless one, it will be dismissed by a judge at chambers. I think the bill is very cautiously drawn, and is very proper.

Mr. JOHNSON. I have no objection to the bill.

Mr. MORRILL. I wish to say a word upon the question of attachment which has been adverted to by the Senator from Maryland. It will be found that the bill is particularly guarded on that subject. The committee had in view somewhat the method of proceeding in several of the States. What is the practice there, particularly in New England, has never obtained here, but it will be found on comparison that this bill is vastly more guarded than anything that obtains in any of the New England States. It will be seen that in order to enable the party to issue a writ of attachment and hold property—it is not an attachment against the person, but an attachment of property—there must, in the first place, be an affidavit of the plaintiff, and that affidavit must be supported by the testimony of one or more witnesses, showing the grounds upon which he bases his claim, that he has a right to recover against the defendant, and then it must show, in addition, that the defendant is either a non-resident of the District, or, second, that the defendant evades the service of ordinary process, by concealing himself, or, in the third place, that he has removed, or is about to remove, some of his property from the District to defeat the collection of the debt.

I submit, therefore, that the terms upon which the process is to be issued seem to preclude the possibility, or, at least, the probability of injustice toward the defendant. But to put it still further beyond the reach of danger, the defendant is allowed to come in with a counter-affidavit traversing these allegations, or any of them, if he chooses to do so, and that fact may be submitted at once to the court, who shall confirm or dismiss the process according to the facts. I think if the process is to be given at all—and the propriety of that I suppose will not be questioned—it could hardly be better guarded than it seems to have been by this bill. I concur entirely—and I believe the committee were unanimous in their concurrence—that the salaries of these judges ought to be increased at least to the amount proposed.

Mr. SAULSBURY. Some five years ago, sir, the courts of this District were composed of men of great learning in the law; they had been on the bench for many years; the salary of the chief justice, according to my recollection, was $3,000, of the associate judges $2,500. The act organizing that court was changed so as to get rid of those judges and to put in their places other judges, two of whom were defeated members of Congress in their own States. Being defeated for Congress, they were provided for with seats upon the bench in this District. I shall say nothing against those judges, for I certainly have no unkind feelings to them personally, but their predecessors only received, the chief justice $3,000, and the associates $2,500. The proposition now is to give these gentlemen, who I presume sought the places they hold, or if they did not seek, very willingly accepted them, a large increase of salary. When the salary of any public officer is too low, there is always a remedy without an increase of compensation. If he is not satisfied with the situation, he has the liberty to retire, and there are plenty of others equally qualified who will accept the place. If the salary of these gentlemen is not sufficiently large, if they are not satisfied with their position at the present compensation, they certainly have the liberty to retire from the bench and go to the practice of their profession and see whether they can make more.

Mr. President, the chief justice of my State receives $1,200 per annum, and the associate justices $1,100; and I think the judiciary of that State will compare very favorably at least with the judiciary of the District of Columbia, I may say with the judiciary of any State in the Union. Those gentlemen hold their places upon the bench not from the mere money consideration: there is something of dignity, something of honor in being a judge of a court. Men do not seek those places for the pecuniary consideration. There is a great deal of honor, character, and dignity in the situation.

I shall vote against the bill because it is within my remembrance that the very able judiciary who preceded the present bench of this District were willing to retain their places at the salary of $3,000 for the chief justice and $2,500 for the associates. They were not allowed to do so, but provision was made for these gentlemen by appointing them to the bench; and now, I think, the best thing they can possibly do, if they are not satisfied to retain their positions at the present salary, is gracefully to retire, and there are plenty of lawyers, equally able, I presume, in this District, who will accept their places. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. WADE. Several Senators about me do not seem to understand what this amendment is. It is to increase the salary of the chief justice of the supreme court of the District of Columbia $1,500, and of the associate justices $1,000, so that hereafter the chief justice will receive $4,500, and the associate justices $4,000. That is all there is in the section.

The question being taken by yeas and nays, resulted—yeas 24, nays 5; as follows:

YEAS—Messrs. Anthony, Buckalew, Chandler, Cragin, Fessenden, Foster, Guthrie, Harris, Henderson, Howe, Johnson, Lane of Indiana, Morgan, Morrill, Nesmith, Ramsey, Sumner, Trumbull, Van Winkle, Wade, Willey, Williams, Wilson, and Yates—24.

NAYS—Messrs. Brown, Clark, Cowan, Davis, and Saulsbury—5.

ABSENT—Messrs. Conness, Creswell, Dixon, Doolittle, Grimes, Hendricks, Howard, Kirkwood, Lane of Kansas, McDougall, Norton, Nye, Poland, Pomeroy, Riddle, Sherman, Sprague, Stewart, and Wright—19.

So the amendment was agreed to.

Mr. HARRIS. I did not see this bill before it came up for consideration to-day, but I think the fifth section is very objectionable. It authorizes the issuing of an attachment by the clerk of the court—a thing which I think scarcely allowable. An attachment is a pretty serious sort of thing. It seizes a man's property in advance. It is a preliminary execution. It takes a man's property out of his possession before he has an opportunity to be heard. This fifth section provides that a man's property may be seized upon a warrant to be issued by the clerk of the court—a thing I never heard of before. There is no limit as to the amount. A man's store may be shut up at once without any previous knowledge or notice, upon a process issued by the clerk, without any authority or warrant from the judge. I do not think that will do. It is said that the man who applies for an attachment must give security to cover all the damage that may be sustained by the defendant, but the amount and character of that security are not prescribed. I think this provision will be liable to very great abuse. It is one of the highest offices of a judicial tribunal to issue an attachment in advance of a trial, and the case ought to be submitted to some judicial officer before that warrant goes. It never was heard of before that a clerk of a court was authorized to issue an attachment like that.

Mr. MORRILL. My honorable friend is greatly mistaken in supposing that the issuing of a writ of attachment in this way was never heard of before in the jurisprudence of this country.

Mr. HARRIS. I have never known of a provision to seize a man's property without better care than this.

Mr. MORRILL. Why, Mr. President, it is ordinary, it is universal. There is not a State in New England where it is not universal, where it is not ordinary. It is the ordinary course of proceedings. A man desires to sue out a writ of attachment; he never sees the judge; he never applies to the judge; the only thing he is bound to do in my State, is to state on the back of the writ that he has reason to believe, and does believe, that the party is about to absent himself, and then he not only takes his property but he takes the man himself; he arrests him. He wants to hold him for the security of his debt. This process of attachment in all the New England States is the ordinary proceeding for the collection of a debt, and it issues precisely like a summons in every State of New England; I believe there is not an exception; and it issues without the guarantee contained in this bill; it issues as a matter of course. A plaintiff having a debt goes to a lawyer; the lawyer has a blank of the court signed by the clerk; the

court is fifty miles away; the judge is fifty miles away; the lawyer issues that writ, and on the face of the writ it commands the officer to attach the party.

Mr. VAN WINKLE. Permit me to ask the Senator whether a bond is required in such a case.

Mr. MORRILL. No bond of any description.

Mr. VAN WINKLE. Certainly it is an anomaly that no bond should be required to indemnify the party.

Mr. MORRILL. No, it is not anomalous; it is usual, general, and universal. That is the very character of the writ of attachment. The remedy, on the other hand, which the defendant has is, first, to pay the debt; and, second, to give security that the property shall be forthcoming, to give what we call a receipt to the officer by some responsible party that the property shall be forthcoming on judgment. The law is satisfied and the creditor is satisfied, and that is all that is ever exacted, and that is the whole course of judicial proceedings in all the New England States. I know that that is not common in New York and not common to this part of the country, but I can assure my honorable friend that the whole judicial experience in New England is that no wrong ever comes from it, that no oppression and no abuse ever come from it. But to meet the objections that might well be anticipated in a community where they were not accustomed to it, it will be seen that this bill proceeds with very great caution. In the first place, it does not allow the attachment to issue at all until an affidavit is made and that affidavit is corroborated by testimony. It is to proceed upon the assumption of evidence of a just debt. Then it is not to go out unless, in the first place, the defendant is a non-resident of the District and has property here, or, in the second place, he is attempting to evade the collection of his debt, or, in the third place, he is about to move and take his property beyond the jurisdiction. I submit, therefore, that if in any instance the attachment is allowable, as on mesne process for the security of debt or for the collection of debt, I can hardly conceive that it can be better guarded than it is in this bill.

Mr. HARRIS. I submit to the chairman of the committee whether he ought not to allay such apprehensions as those I indulge, even though it may be that they are unfounded. This question of an attachment should be submitted to a judge to pass upon the sufficiency of the affidavit and the sufficiency of the security before such a process is issued to take a man's property out of his hands. Here are four judges in the District. I submit it to the Senator himself, would it not be better to provide that before such process as this should go, which is very serious in its consequences, the case should be submitted to a judge to approve of the security, to see that it is sufficient, to see that a sufficient case is made out by the affidavit, and then if he will indorse the warrant, let it go; but it seems to me, the clerk of the court is not the proper officer to judge of such a serious question as this.

Mr. MORRILL. If my friend will allow me, I will refer him to the proviso in this section and see whether that does not answer his objection. If a party proceeds according to this bill and states these facts, and the defendant chooses to arrest the proceedings, all he has got to do is to file a counter-affidavit and then appeal to the judge and invoke the judgment of the judge whether he stands within the conditions contemplated in this bill. If he does not, the writ is to be quashed and the attachment is off. That proviso, it seems to me, as a matter of precaution, meets any difficulty that might be contemplated by the suggestions of the honorable Senator.

Mr. HARRIS. An amendment may not be exactly appropriate, but I will move to strike out the word "without," in the third line of this fifth section, and to insert the word "upon;" so that the warrant shall not be issued except upon the authority of the judge. The section will then read:

That writs of attachment and garnishments shall be issued by the clerk of the supreme court of the District, upon any authority or warrant from any judge or justice, &c.

Mr. CLARK. I think the apprehensions of the Senator from New York are in a great measure groundless. I think the experience of the States where they have had writs of attachment shows that there is no well-grounded objection to the bill as it stands. In the State of New Hampshire, from time immemorial, a man could go to an attorney of the court, sue out his writ, have it filled out for the purpose of attaching property, take it to the sheriff, and have the property attached to a reasonable amount to secure his debt, without asking the clerk, the judge, or anybody else, and such is the law now. No damage ever comes from it.

Mr. HENDERSON. Has not the defendant the right to sue in case of damage to his property?

Mr. CLARK. Not unless the plaintiff has done it unreasonably, and for the purpose of injury and mischief. If he has done it in that way, for the purpose of oppressing the defendant, for injury and mischief, with malice, of course an action would lie; but if he has done it for the purpose of securing his debt, no action lies against him. There are various ways in which a defendant can relieve his property from attachment, as where the officer attaches a quantity of personal property, say a store of goods, and the defendant gets some responsible parties to say "We will take that property and be responsible," precisely the same as giving a bond.

Mr. JOHNSON. We give bail.

Mr. CLARK. We give bail for persons, not property. In case of the attachment of a person we have the same process that this bill gives. A person may make an affidavit on the back of the writ if he apprehends that his debtor is going without the jurisdiction, and may arrest him without going to a judge, and then the law provides for this same method of examination before a justice of the peace or two justices of the peace, and setting him at liberty if he is not going without the jurisdiction. But we do not find that that works any mischief, and it is oftentimes the means of securing a debt that ought to be paid.

I apprehend that the reason suggested by the Senator from Maryland why this should not be the law here, to wit, that the people here are a movable people, is one of the very reasons why it should be the law. Here, for instance, is a man who has established himself in this District; he has a stock of goods, and he has got those goods packed up and is about to move out of the District; should you not attach those goods? Should you not have some lien upon them? The very fact that these people are moving about from place to place is a good reason why the attachment should issue. It becomes a lien upon the goods. I think there can be no objection to the bill as it stands. I do not believe the Senator from New York need have any apprehension from it.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from New York to strike out the word "without," in the third line of the fifth section, and to insert the word "upon."

The amendment was rejected.

Mr. HENDERSON. I think all that the Senator from New York desires to accomplish can be accomplished by inserting in the eighteenth line of the fifth section, after the word "sureties," the words "to be approved by the clerk;" so that it will read:

And shall also file his [the plaintiff's] undertaking, with sufficient surety, or sureties, to be approved by the clerk, to make good all costs and damages which the defendant may sustain by reason of the wrongful suing out of the attachment.

Mr. WADE. There is no objection to that, though I suppose the section means exactly the same thing now.

Mr. HENDERSON. It does not require that there shall be an approval of the bond by any one, and I suppose the plaintiff would be left to file any sort of a bond that he in his own judgment and discretion might regard as good. However, as there is no objection to the amendment, I will say no more about it.

Mr. WADE. There is no objection to it at all.

The amendment was agreed to.

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

Mr. HENDERSON. I should like to ask the Senator who has charge of this bill whether an action can be brought upon the bond, in his judgment, under the bill, in case of a dissolution of the attachment; whether the question as to the *mala fides* of the plaintiff in prosecuting the suit is open in a suit upon the bond, and can be inquired into, or whether the failure of the plaintiff's suit is of itself sufficient to authorize a suit upon the attachment bond.

Mr. WADE. I suppose it is not a question of good faith. If the writ was honestly sued out, and damage should accrue to the defendant in consequence of its not being well founded, I suppose that damages could be recovered against him whether he really intended an injury or not. I do not think it involves any question of bad faith.

Mr. JOHNSON. The bond is to indemnify against all cause of damage.

Mr. WADE. It is to indemnify the defendant in this proceeding if it is imprudently or incautiously taken out. It is to secure him at all events for any damage he may be put to in consequence of this proceeding, if he suffers any. That is my opinion about it.

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

On motion of Mr. WADE, the title of the bill was amended by adding the words, "and for other purposes;" so that it will read:

A bill to define more clearly the jurisdiction and powers of the supreme court of the District of Columbia, and for other purposes.

DISTRICT BUSINESS.

Mr. MORRILL. I desire to ask the Senate to assign a day for the consideration of business pertaining to the District of Columbia. There are a great many bills on the docket relating to the District, and the affairs of the District have occupied but very little of the time of the Senate at this session. With the indulgence of the Senate, therefore, I move that to-morrow at one o'clock be assigned for the consideration of business relating to the District.

The motion was agreed to.

COMMITTEE SERVICE.

Mr. BROWN. I move that the President *pro tempore* of the Senate be authorized to fill the vacancy on the Committee on Public Buildings and Grounds, occasioned by the death of Senator FOOT.

The motion was agreed to.

REORGANIZATION OF JUDICIARY.

On motion of Mr. HARRIS, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 103) to reorganize the judiciary of the United States.

The Committee on the Judiciary reported the bill with several amendments. The first amendment of the committee was in section one, line three, to strike out the word "July" and insert "September;" so as to read:

That on and after the 1st day of September, 1866, the circuit courts of the United States shall be abolished, &c.

The amendment was agreed to.

The next amendment was in section one, line fourteen, after the word "judge," to insert, "may be assigned by the justice of the Supreme Court for the circuit to hold a court in district in said circuit or."

Mr. HARRIS. There is a clerical omission of a word in that amendment. The word "any" should be inserted before the word "district" in the fifteenth line, so that it will read:

Any district judge may be assigned by the justice of the Supreme Court for the circuit to hold a court in any district in said circuit, or may hold, &c.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) That correction will be made in the amendment.

The amendment as modified was agreed to.

The next amendment was in line sixteen of section one, to strike out "in any other district" and insert "such court."

The amendment was agreed to.

The next amendment was in lines seventeen and eighteen of section one, to strike out the words "such court" and insert "the same."

The amendment was agreed to.

The section as amended is as follows:

That on and after the 1st day of September, 1866, the circuit courts of the United States shall be abolished, and the several district courts of the United States shall, in addition to the authority and jurisdiction now vested in said courts, have original jurisdiction of all actions at law and suits in equity commenced on or after that date, to the same extent in all respects as is now possessed by the circuit courts of the United States for said districts respectively. The several district judges also shall possess and exercise all the jurisdiction, powers, and authority heretofore possessed and exercised by the judges of the circuit court. Any district judge may be assigned by the justice of the Supreme Court for the circuit to hold a court in any district in said circuit, or may hold such court upon the request of the judge of the district in which the same is to be held.

The next amendment was in section two to insert the words "or prosecution" after the word "actions" in lines one and five, respectively; so as to make the section read:

SEC. 2. *And be it further enacted*, That actions or prosecutions commenced in any of the State courts may be removed into a district court of the United States, in the same cases and in the same manner and by the like proceedings and with the like effect as such actions or prosecutions may now be removed into the circuit court for the same district.

The amendment was agreed to.

The next amendment was in lines seven and eight of section three, to strike out the words "in the minutes" and insert "of record;" so as to make the section read:

SEC. 3. *And be it further enacted*, That the trial of issues of fact in all civil causes, except those of equity and of admiralty and maritime jurisdiction, shall be by jury. But a trial by jury may be waived by the several parties to the issue by failing to appear on the trial, or by written consent, in person or by attorney, filed with the clerk of the court, or by oral consent in open court entered of record.

The amendment was agreed to.

The next amendment was in line two of section four, to strike out "July" and insert "September."

The amendment was agreed to; and the section as amended is as follows:

SEC. 4. *And be it further enacted*, That all actions and suits which, previous to the said 1st day of September, shall have been commenced in any circuit court, or shall have been removed to any circuit court from a State court, and all process, orders, judgments, decrees, bonds, papers, and proceedings appertaining thereto or filed therein, shall be transferred to the district court of the district in which such action or suit shall be pending; and the said district court shall possess and exercise in the cases and over the process, orders, judgments, decrees, and proceedings thus transferred, the same authority and jurisdiction with which they are invested by this act over similar cases subsequently commenced, and the process, orders, judgments, decrees, and proceedings therein; and no bail-bond or undertaking of sureties, or any proceeding in any such case, shall be avoided, impaired, or invalidated by such transfer.

The next amendment was in lines two and thirteen, respectively, of section five, to strike out "July" and insert "September;" in lines four and five to strike out after "jurisdiction" the words "to inquire by the intervention of a grand jury;" in line six to strike out the word "committed;" and in lines seven and eight to strike out the words "and to try and determine all indictments found therein;" so as to make the section read:

SEC. 5. *And be it further enacted*, That the several district courts aforesaid shall, on and after the 1st day of September, 1866, have exclusive jurisdiction of all crimes and offenses that shall be cognizable under the authority of the United States within their respective districts. All indictments found previous to that date, in the circuit courts of the United States for said districts, and all process, orders, judgments, bonds, papers, and proceedings in anywise relating to any public offense or offenses then remaining in said circuit court, shall, on said 1st day of September, be transferred to the said district courts respectively; and the said district courts shall possess and exercise in the criminal cases and over the orders, judgments, and proceedings thus transferred, the same authority and jurisdiction with which they are invested by this act over criminal cases and proceedings subsequently commenced; and no bail-bond or recognizance taken in any criminal case or proceeding thus transferred shall be avoided, impaired, or invalidated by such transfer.

The amendments were agreed to.

The next amendment was to insert after section five the following new section:

SEC. 6. *And be it further enacted*, That on the said 1st day of September, or as soon thereafter as practicable, the clerks of the several circuit courts of the United States shall deliver to and deposit with the clerks of the district courts in their respective districts all property, books, records, documents, and papers remaining in their respective offices, and the same shall be received and kept by the said clerks of the district courts respectively as part of the records of their offices and subject to the order and control of said courts.

The amendment was agreed to.

The next amendment was to insert as a new section after the amendment just adopted:

SEC. 7. *And be it further enacted*, That on and after the said 1st day of September, executions may be issued out of any district court to collect any judgment or decree rendered in the circuit court for such district with the same effect as such executions may now be issued out of such circuit court, and all process which before the said 1st day of September shall have been issued out of any circuit court, and shall not have been returned, shall be returned to and filed with the clerk of the district court for the same district.

The amendment was agreed to.

The next amendment was in section six of the original bill (section eight of the bill as amended) to strike out the word "circuit" before "court" in line three, and after the word "respectively" in line five to strike out the words "but no original jurisdiction;" so as to make the section read:

SEC. [6] 8. *And be it further enacted*, That there shall be established in each of the circuits of the United States a court, to be called the court of appeals, which shall have appellate jurisdiction of all cases arising in the several district courts within said circuits, respectively. The justice of the Supreme Court assigned to the circuit and the several district judges of the districts composing the circuit shall be the judges of such court, any three of whom may hold a court. The justice of the Supreme Court, or, in his absence, the district judge senior in office, shall preside. In the absence of a quorum any judge may adjourn the court from day to day.

The amendment was agreed to.

The next amendment was in section (seven) nine to strike out the word "circuit" in line one; after "by" in line four to insert "and removable at the pleasure of," and after "justice" in line five to strike out "and to hold his office during his pleasure;" to strike out the words "in its minutes" in line seven and to insert "of record;" and after the word "process" in line twelve to strike out "may be tested in the name of any judge of the court," and in lieu of these words to insert "shall run in the name of the United States, shall be under the seal of the court, and be signed by the clerk."

The amendments were agreed to, and the section as amended reads as follows:

SEC. [7] 9. *And be it further enacted*, That such court of appeals shall have a seal, the form and device of which shall be prescribed by its presiding judge. It shall also have a clerk, to be appointed by, and removable at the pleasure of, the presiding justice. Such clerk may, with the approval of the court, to be entered of record, appoint a deputy, who, in case of the death or resignation of the clerk, may perform the duties of clerk until another shall be appointed. Every such clerk shall take the oath and give the bond with sureties prescribed by law for clerks of district courts. Process shall run in the name of the United States, shall be under the seal of the court, and be signed by the clerk.

No amendment was proposed in section (eight) ten, which reads as follows:

SEC. [8] 10. *And be it further enacted*, That the marshal of the district in which such court shall be held shall attend the sittings of the court, and, under the directions of the Secretary of the Interior, shall provide such rooms as may be necessary, and for all incidental expenses of the court, including crier, bailiffs, and messenger, in the same manner that the marshal of the District of Columbia now provides for the Supreme Court of the United States.

The next amendment was in section (nine) eleven to strike out the word "circuit" in line two; after the word "circuit" in line three to insert "when the amount claimed or the value of the property in controversy exceeds $500, and in other cases, if the district judge shall certify that the adjudication involves a question of general importance. Such appeal shall be taken within ninety days after the entry of the judgment or decree sought to be reviewed;" after the word "decree" in line ten to insert "upon the questions of law and fact arising upon the record;" in line eleven to strike out "or" after "affirm;" after the word "just" in line fourteen to strike out the following words: "an appeal may in like manner be taken from any order of any such district court when such order grants or refuses, continues or modifies an injunction, or when it grants or refuses a new trial or sustains or overrules a demurrer, or when it involves the merits of the action or affects a substantial right of a party;" in line twenty to strike out the word "circuit," and in line twenty-four, after the word "writs," to strike out the words "not specially provided for by statute;" so as to make the section read:

SEC. [9] 11. *And be it further enacted*, That an appeal may be taken to the court of appeals from any final judgment or decree of any district court within the circuit, when the amount claimed or the value of the property in controversy exceeds $500, and in other cases, if the district judge shall certify that the adjudication involves a question of general importance. Such appeal shall be taken within ninety days after the entry of the judgment or decree sought to be reviewed. Upon such appeal the court shall review such judgment or decree, upon the questions of law and fact arising upon the record, and may affirm, modify, or reverse the same, or may order a new trial or such other proceedings to be had in the proper district court as shall be just. The judgment or decision of such court of appeals upon any appeal shall be remitted to the district court, to be enforced according to law. The said courts shall have power to issue writs of *scire facias*, *habeas corpus*, and all other writs which may be necessary to the exercise of their jurisdiction and agreeable to the principles and usages of law.

Mr. HOWE. If agreeable to the Senator from New York, I wish he would consent to let the vote on the amendment in lines ten and eleven of this section be postponed. I have a suggestion to make about it, but I have not my memoranda here now.

Mr. HARRIS. Let it be suspended for the present.

The PRESIDING OFFICER. That amendment will be passed over for the present and the remaining amendments to this section will be regarded as agreed to.

The next amendment was to insert the following as a new section at this point:

SEC. 12. *And be it further enacted*, That to render an appeal under the provisions of the foregoing section effectual for any purpose, a bond shall be executed on behalf of the appellant, by at least one sufficient surety, to the effect that the appellant will pay all costs and damages which may be awarded against him on the appeal, not exceeding $250. If the appeal be from a judgment or decree directing the payment of money, it shall not stay the execution of the judgment or decree unless a bond with surety as aforesaid shall be executed to the effect that if the judgment or decree appealed from, or any part thereof, be affirmed, or the appeal be dismissed, the appellant will pay the amount directed to be paid by the judgment or decree, or the part thereof as to which the judgment or decree shall be affirmed. The bonds prescribed by this section may be in one instrument or several, at the option of the appellant; such bonds shall be of no effect unless they shall be accompanied by the affidavit of the surety or sureties, showing that he or they are worth double the amount specified therein over and above all debts and liabilities, and such bond and affidavits are filed with the clerk with whom the judgment or decree appealed from was entered. In other cases a stay of execution may be granted upon such terms as any judge of the court may prescribe.

Mr. HARRIS. I desire to amend that section a little before it is voted on. After the word "bond" in line three I move to insert "in the penalty of $500;" and after the word "bond" in line nine to insert "in a penalty of double the amount of such judgment or decree."

The amendments to the amendment were agreed to.

Mr. HOWE. Is the question now upon adopting the twelfth section as amended?

The PRESIDING OFFICER. The question is on the amendment of the committee as amended on the motion of the Senator from New York.

Mr. HOWE. I had some memoranda of amendments which were suggested to me by a member of the bar from our State, and they seemed to me to be very reasonable. I supposed they were with the chairman of the com-

mittee, but he has sent for them and cannot find them.

Mr. HARRIS. Let me suggest to the Senator from Wisconsin that he allow us to go through the bill now and he can offer those amendments afterward in the Senate.

Mr. HOWE. But there was one of the amendments which I think should come in here, providing for a stay of proceedings in criminal cases.

Mr. CLARK. That can be offered in the Senate.

Mr. HOWE. Very well.

The amendment as amended was agreed to.

The next amendment was to insert as a new section at this point the following:

SEC. 13. *And be it further enacted*, That cases pending in any circuit court on the said 1st day of September upon appeal or writ of error shall be transferred to the proper court of appeals, and shall be heard and determined by such court according to the provisions of this act.

The amendment was agreed to.

The next amendment was in section (ten) fourteen, to strike out the word "circuit" before "courts" in line two, and to strike out the words "at the first session thereof" after the word "shall" in line two; in line four to strike out the words "time and" before "manner;" in line four, to strike out "making" and insert "taking;" in lines five and six, to strike out the words "and may prescribe the terms and conditions upon which the same may be made;" and at the end of the section to add: "For this purpose special terms of said courts of appeals shall be held in the several circuits at the places hereinafter mentioned, on the first Tuesday of September, 1866;" so as to make the section read:

SEC. [10] 14. *And be it further enacted*, That the said courts of appeal shall, respectively, adopt such rules as they may deem proper to regulate the manner of taking such appeals. They may also establish such other rules as they may deem necessary for the regulation of the practice of their respective courts, and may from time to time alter and revise the same. For this purpose special terms of said courts of appeals shall be held in the several circuits, at the places hereinafter mentioned, on the first Tuesday of September, 1866.

Mr. HOWE. Let me inquire of the Senator from New York if it is the intention of the bill to restrict the power of these courts in making rules to this particular time.

Mr. HARRIS. No. The Senator will notice in the eighth and ninth lines the words "and may from time to time alter and revise the same."

The amendment was agreed to.

The next amendment was in section (eleven) fifteen to strike out all after the enacting clause of the section, in the following words:

That the final judgment of a district court in any criminal action may be reviewed by the proper circuit court of appeals upon a writ of error. Such writ may be allowed by any judge of the circuit court of appeals, but such writ of error shall not operate as a stay of proceedings unless it is so ordered by the judge who allowed the same.

And in lieu thereof, to insert:

That an appeal may be taken from the final judgment of a district court in any criminal action to the proper court of appeals within ninety days after the entry of such judgment. But such appeal shall not operate as a stay of proceeding, unless it is so ordered by a judge of the court. The judgment or decision upon such appeal shall be remitted to the district court to be enforced according to law.

Mr. HOWE. Let me suggest to the Senator from New York if it would not be proper to make an amendment there, in the ninth line perhaps, so as to insert after the word "appeal" the words "except in capital cases."

Mr. HARRIS. That is a question that has been discussed somewhat. For myself I have no choice about it. There is no doubt the judgment would be stayed if there was any sort of question about it.

Mr. HOWE. The right of appeal is given absolutely by the section, but if the judge should take it into his head that the appeal was frivolous, he might not order a stay of proceedings.

Mr. HARRIS. If the man was executed, the appeal would not do him any good.

Mr. HOWE. That is very clear.

Mr. JOHNSON. The appeal, as I understand it, is given absolutely, and if the punishment is death, it certainly ought not to be in the power of the judge to say whether the appeal should supersede the execution of that sentence or not. Would you grant an appeal and permit a judge to have the man hung in the mean time? Is that right?

Mr. HARRIS. It is done; a writ of error is often allowed without a stay.

Mr. JOHNSON. It seems to me it would be better to deny the right of appeal altogether than to tell a party who is under sentence of death, "You may appeal, but you may be hung in the mean time unless the judge interposes."

Mr. HARRIS. It may be a question worthy of consideration whether a man sentenced to execution should in all cases be allowed an appeal and then a stay.

Mr. JOHNSON. But that strikes at the bill altogether. There is no appeal, now, in cases of that sort in the United States courts, but it always seemed to me to be right that there should be an appeal in cases of that description. It cannot make much difference to the public whether the man is hung to-day or hung six months hence. The case can always be disposed of in that time. But if you permit the bill to stand as it is, where the judge thinks the man ought to be hung, he will not interfere, and when the man is hung the appeal falls as a matter of course. I concur with the Senator from Wisconsin in thinking an exception ought to be made of capital cases.

Mr. HARRIS. The question is this, whether in all capital cases the party convicted shall have an appeal as a matter of right to operate as a stay of proceedings, perhaps for a year, for this court is to sit but once a year, without submitting the question to a court or a judge whether there is any probable cause for such stay. If the amendment suggested be adopted, that will be its effect. On the other hand, if the section is left as it is, unless the party convicted satisfies some one of five or six judges that there ought to be a stay of proceedings he may be executed before he can have the case heard on appeal. That is the way it stands. Any one of five or six judges, whatever number there may be in the circuit, may stay proceedings. If a man cannot satisfy any one of them that there ought to be a stay, I think his chances very poor on the appeal.

Mr. JOHNSON. It seems to me the proper way to avoid that would be to make the appeal dependent on its allowance by some one judge.

Mr. HENDERSON. That is not the case here.

Mr. JOHNSON. I know it is not the case here. The case here is one in which we give the appeal absolutely, and then we do not provide against what may happen very often, that a man may be hung pending the appeal. If it be improper to give the appeal absolutely, the proper mode to guard against the mischief that may result from a provision of that description would be to make the appeal itself dependent on the allowance of the judge in capital cases.

Mr. TRUMBULL. This bill is in precise accordance with the practice in the State of Illinois. We allow appeals in criminal cases in that State; but in order to obtain a suspension of the judgment of the court, the party appealing must satisfy some justice of the supreme court that he has reasonable cause for the appeal, and then he indorses on the record an order to stay proceedings. That is the practice in my State. In all capital cases where the day is fixed for the execution, it is always some day more or less remote from the day of entering the judgment. In the mean time the party, if he desires to take his case to the supreme court, obtains a copy of the record and presents it to some judge of the supreme court. If the judge thinks there is probable ground for taking the appeal, he indorses on it an order staying proceedings. That is the precise proceeding here. However, I think if the Senator from New York will look at the language he will see that it is not quite clear but that it would require this order to be made by the judge of the district court who tried the case. I will read the section:

That an appeal may be taken from the final judgment of a district court in any criminal action to the proper court of appeals within ninety days after the entry of such judgment. But such appeal shall not operate as a stay of proceeding unless it is so ordered by the judge of the court.

What court? A judge of the court of appeals I suppose is meant. If that language were inserted I think it would be precisely right, for it seems to me that the result of allowing an appeal to operate as a *supersedeas* in every capital case might be to postpone the execution in every case for a year, because this court of appeals will sit but once a year.

Mr. FESSENDEN. What is the harm?

Mr. TRUMBULL. Perhaps there may be no harm; but the objection to it is that it is not usual—I know it is not in my State; I do not know how it may be in others—to fix so remote a day for the execution of persons charged with capital offenses. Of course after conviction they would not be out on bail, but they are confined in the county jails, and they are not, perhaps, the best places for the confinement of parties. The result would be in every capital case, the party would take his appeal and would be confined there for a year or more. If it is thought advisable by a general law to declare that no capital execution shall take place within a year, be it so; but it seems to me this whole thing being an innovation, no appeal now being allowed at all, it is taking quite a step in advance to allow a stay of proceedings in those cases where any judge may be found who will indorse upon the record that there is probable cause for the appeal. That certainly extends to the convicted party a privilege which he did not have before, and I think it is going far enough to begin with. If we find it does not operate well we may extend the time afterward.

Mr. HARRIS. In accordance with the suggestion of the Senator from Illinois I move to amend the amendment by inserting the word "appellant" before "court" in the tenth line.

The amendment to the amendment was agreed to.

Mr. HOWE. I do not propose to move an amendment here against the judgment of the committee which reports this bill. One reason is because I am not exactly prepared to decide what terms I would couch the amendment in, but I do not see the propriety of giving to all defendants in criminal cases absolutely a right of appeal, and yet making it discretionary with the judge whether the appeal shall be of any use to him, as it certainly is discretionary with the judge if the defendant is sentenced to death and may be executed before the appeal can be tried. If this section did what the Senator from Maryland suggests, made the right of appeal itself to depend upon the discretion of the appellate court, or a judge of the appellate court, then it would be sensible, and the two provisions would be in harmony with each other. But on the question of appeal the judge has no discretion whatever. On the question whether the appeal shall be of any benefit to the defendant the judge has full discretion.

Mr. TRUMBULL. I think the Senator from Wisconsin can readily conceive of cases, even capital cases, where a party could have the benefit of appeal without a *supersedeas*. It will often happen that convictions take place throughout the United States within a few days of the assembling of the court of appeals, sometimes cases where the party could have his appeal tried before the day fixed for execution. In all other cases, not capital, the court could take up the case and try it at any time while the party was undergoing sentence.

Mr. HOWE. Undoubtedly in many cases the judge would order a stay of proceedings. It does not follow, if this amendment is not made, that every defendant who is sentenced to death and takes an appeal will be hung before his appeal is tried. I concede that very readily; but whether the statute should be so framed as to make it possible that any defend-

ant might be put to death pending an appeal given to him by law from one court to another, is the question. That will be the effect of the law if the section is passed as it is reported. I do not think such a law ought to be put on the statute-book. It may never operate harshly in any given case, but the committee evidently contemplate that a case may arise in which a man may take an appeal to which you give him a legal right, and yet be hung or put to death before the appeal can be tried. If you give him an appeal, I think you should allow him to live until the appeal is tried. If you think appeals are liable to be abused, then give them only in the discretion of the judge.

Mr. CLARK. I agree entirely with the Senator from Wisconsin. I think that in favor of life, the words "except in capital cases" should be inserted. If a man has a suit about property the court may deny a stay of proceedings, and still he may go on and have the trial of his appeal and be rectified in the court above; but if he is tried for his life and the proceeding is not stayed, and he is executed, what becomes of his appeal? You thus give more consideration and favor to property than you do to life. I do not quite like, as a lawmaker, to put on the statute-book a law of this kind without exception, saying that the judge shall have power to let the man go to execution, notwithstanding his appeal, and be executed before he can be tried. I would rather the man should live and have the second trial. If he be confined in jail for six or eight or ten months or a year, so much the more is it in favor of life.

Mr. JOHNSON. In Massachusetts they keep him a year anyhow.

Mr. CLARK. So in Maine; a man cannot be executed until a year has passed. When I had given a man the right of appeal to save his life, I would not say that any judge should refuse him the benefit of that appeal and have him hung by the neck before the time came for the trial of the appeal. It seems to me little better than a mockery of the appeal. I think the words should be inserted.

Mr. DAVIS. The regulation of the State of Kentucky is nearly similar to that of Illinois, as explained by the Senator from Illinois; but the matter of appeal is simplified in the State of Kentucky by the provision of our law. An appeal cannot be taken there unless with the permission of one of the judges of the court of appeals, and I suppose that would be the effect of these two provisions taken together. The right of appeal seems to be granted in one section, and in another section it seems to be provided that the appeal can only be had upon the condition that a judge enters upon a copy of the record that there shall be an appeal. It seems to me that if the bill were referred back to the Committee on the Judiciary who I suppose are properly the committee to take charge of this subject, and if they were to simplify the proceeding either by granting a general right of appeal without regard to the order of an appellate judge, or only allowing an appeal on the condition that that record shall first be examined by an appellate judge, and the appellate judge enter on the record that the appeal should be granted, it would be best.

I have not read the bill with sufficient carefulness to know whether an appeal is given to the United States or not. Where there is a judgment in favor of the accused in the State of Kentucky, an appeal is given to the State; but the effect of that appeal is not to reverse the judgment of the court below, but simply to decide what the legal principle involved in the appeal is. The acquittal of the accused remains irreversible, is not the subject of revision, but the principles of law settled in the case are fixed. I should suppose the bill ought to be as simple and perspicuous in its meaning as practicable. I think both of these matters ought to be provided for in the same section: first, whether the accused shall be entitled to the right of appeal, and second, whether that appeal shall be had only upon the condition of a judge of the court of appeals certifying upon the record that it is a case in which an appeal ought to be allowed.

Mr. CLARK. I do not see any necessity for sending the bill back to the Judiciary Committee. It seems to me the matter may be remedied by inserting the words "except in capital cases" after the word "appeal" in the ninth line; and I move that amendment.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The next amendments were in section (twelve) sixteen, to strike out the word "circuit" before "court," in line two; to strike out "each," in line two, and insert "the several;" after "circuits," in line three, to insert "except the tenth;" in lines three and four, to strike out "Tuesdays of April and October" and insert "Tuesday of May;" in line ten, to strike out "Columbus" and insert "Cleveland;" and after "San Francisco," at the close of the section, to insert:

The terms shall be held annually on the first Monday of June. Adjourned terms may also be held in any circuit from time to time as in the judgment of the court the public interests shall require.

The amendments were agreed to; and the section, as amended, reads as follows:

SEC. [12] 16. *And be it further enacted*, That terms of said court of appeals shall be held in the several judicial circuits, except the tenth, on the first Tuesday of May, in each year, and at the following places: in the first circuit, in the city of Boston; in the second circuit, in the city of New York; in the third circuit, in the city of Philadelphia; in the fourth circuit, in the city of Baltimore; in the fifth circuit, in the city of Savannah; in the sixth circuit, in the city of Louisville; in the seventh circuit, in the city of Cleveland; in the eighth circuit, in the city of Chicago; in the ninth circuit, in the city of Saint Louis; and in the tenth circuit, in the city of San Francisco, the terms shall be held annually on the first Monday of June; adjourned terms may also be held in any circuit from time to time as in the judgment of the court the public interests shall require.

The next amendment was, in line two of section [thirteen] seventeen, to strike out the word "circuit" before "court;" in line eight after "sum" to insert "or value;" and at the end of the section to insert the words, "the judgment or decision shall be remitted to the proper district court to be enforced according to law;" so as to make the section read:

SEC. [13] 17. *And be it further enacted*, That the decision of the court of appeals upon questions of fact shall in all cases be final and conclusive; but a review upon the law may be had upon writ of error or appeal, in the manner now provided by law, to the Supreme Court of the United States, from every final judgment or decree rendered upon any decision of a court of appeals where the matter in controversy exceeds the sum or value of $10,000, or where the adjudication involves a question upon the construction of the Constitution of the United States, or any treaty or revenue law of the United States, or where the court shall certify that the adjudication involves a legal question of sufficient importance to require that the final decision thereof should be made by the Supreme Court. Such writ of error or appeal shall be sued out or taken within one year after the entry of the judgment or decree sought to be reviewed. The Supreme Court may affirm or modify or reverse the judgment or decree brought before it for review, or may direct judgment or decree to be rendered, or such further proceedings to be had as the justice of the case may require. The judgment or decision shall be remitted to the proper district court to be enforced according to law.

The next section remains without amendment, as follows:

SEC. [14] 18. *And be it further enacted*, That commissioners who have been appointed by any circuit court in any district, by virtue of any act of Congress, shall be deemed commissioners for the district court of such district, and the several district courts shall hereafter have the same powers to appoint and remove commissioners as have heretofore been possessed and exercised by the circuit courts.

The next amendment was in line three of section [fifteen] nineteen to strike out the word "circuit" before "court;" so as to make the section read:

SEC. [15] 19. *And be it further enacted*, That any judge who shall, in pursuance of the provisions of this act, attend any court of appeals at any place other than his own residence, shall be allowed his reasonable expenses for travel and attendance, to be certified by the clerk and paid by the marshal of the district in which such court shall be held, and allowed to him in his accounts with the United States.

The amendment was agreed to.

The last section of the bill is not proposed to be amended. It is as follows:

SEC. [16] 20. *And be it further enacted*, That the clerks of said courts of appeals and the marshals attending the same shall be allowed the same compensation for their services, respectively, as are now allowed by law to the clerk of the Supreme Court of the United States and the marshal of the District of Columbia for similar services, and shall have the like remedies for collecting the same.

The PRESIDING OFFICER. The amendments of the committee have all been acted upon except the one passed over at the request of the Senator from Wisconsin.

Mr. HARRIS. I suggest that that be acted on now, and the Senator from Wisconsin can propose any amendment to it when we go into the Senate.

Mr. HOWE. Yes; that may be acted on. I have no amendment to be suggested there.

The amendment was in section [nine] eleven, line ten, after the word "decree" to insert "upon the questions of law and fact arising upon the record;" and in line eleven to strike out the word "or" after "affirm;" so that the clause will read:

Upon such appeal the court shall review such judgment or decree, upon the questions of law and fact arising upon the record, and may affirm, modify, or reverse the same, or may order a new trial or such other proceedings to be had in the proper district court as shall be just.

The amendment was agreed to.

Mr. HOWE. I move to amend the bill by adding to it as a new section:

And be it further enacted, That after the 1st day of September next, the State of Wisconsin shall be annexed to and constitute a part of the eighth circuit.

Mr. HARRIS. I have no objection.

Mr. CLARK. It ought to be in a separate bill.

Mr. HOWE. I do not know that I shall get a separate bill. I will say that the only purpose in the world I have in offering the amendment is for the better convenience of suitors in the State of Wisconsin.

Mr. HARRIS. What circuit are you in now?

Mr. HOWE. The ninth circuit. Its courts of appeals are required to be held at St. Louis, and in the eighth circuit the courts of appeals are to be held at Chicago. It will be much more convenient for us to attend the appellate court at Chicago than at St. Louis.

The amendment was agreed to.

Mr. CLARK. I move to amend the bill in section one, line sixteen, after the word "or" by inserting "such district judge or justice of the Supreme Court for the circuit;" so that the clause will read:

Any district judge may be assigned by the justice of the Supreme Court for the circuit to hold a court in any district in said circuit, or such district judge or justice of the Supreme Court for the circuit may hold such court upon the request of the judge of the district in which the same is to be held.

The amendment was agreed to.

Mr. HARRIS. I propose an amendment to be added at the end of the first section:

And the clerk of any such district court may, with the approval of the court, to be entered of record, appoint a deputy who in case of the death or resignation of the clerk may perform the duties of clerk until another shall be appointed.

The amendment was agreed to.

Mr. HARRIS. I offer this amendment to be added to the end of the second section:

The application to the State court for such removal shall be deemed to have been made in time, if the petition therefor is filed in the proper clerk's office at any time within twenty days after service of the declaration, complaint, or first pleading on the part of the plaintiff or party instituting the prosecution.

The amendment was agreed to.

Mr. HARRIS. I offer the following amendment in section eleven, line eleven, after the word "record," to insert "and any intermediate order involving the merits and necessarily affecting the judgment or decree;" so that the clause will read:

Upon such appeal the court shall review such judgment or decree upon the questions of law and fact arising upon the record, and any intermediate order involving the merits and necessarily affecting the judgment or decree, and may affirm, modify, or reverse the same, or may order a new trial, or such other proceedings to be had in the proper district court as shall be just.

The amendment was agreed to.

Mr. HARRIS. I offer this amendment in section eleven, line twelve, strike out "the same" and insert "such judgment or decree."

The amendment was agreed to.

Mr. HARRIS. I offer this amendment, to come in at the end of section [ten] fourteen:

By consent of parties, appeals may be heard and decided at such special terms.

The amendment was agreed to.

Mr. SUMNER. I notice that there is no provision for appeals in the case of patents, unless, indeed, it may be considered as coming under the very general language to this effect, that there may be appeals "where the court shall certify that the adjudication involves a legal question of sufficient importance to require that the final decision thereof should be made by the Supreme Court." Of course if the court make such a certificate in a patent-case an appeal may be had; but except under such a certificate, as I understand this proposed statute, there could be no appeal in a patent-case.

Mr. CLARK. It would depend on the amount of damages.

Mr. SUMNER. There is an appeal where the matter in controversy exceeds the sum or value of $10,000, but Senators are aware that very often in a patent-case the damages may be very trivial in that individual case, and yet that case may put in issue the value of a patent-right of great importance. The case itself may perhaps involve damages only to the amount of one hundred or two hundred dollars; the infringement may be slight. It is that peculiarity in patent-cases that does not seem to me to have been met adequately by this statute. The question with me is whether, considering that the Constitution of the United States gives a special jurisdiction in the case of patents, which of course is exercised exclusive of the State courts, an appeal in all cases of patents should not be secured. I observe that there is an appeal "where the adjudication involves a question upon the construction of the Constitution of the United States, or any treaty, or revenue law of the United States." Now, I propose to insert after those words in the eleventh line of the seventeenth section, these words, "or any question of patents."

Mr. HOWE. Why not say "revenue or other law?"

Mr. SUMNER. I do not know that that would be required. I am endeavoring to meet what seems to me a peculiarity in the case of patents, because all see that in determining a patent-case where the infringement has been trivial you may disparage a patent-right of enormous value. Under the circumstances, therefore, I ask the Senator from New York if there is not something so peculiar in patent-cases, and in the jurisdiction which is given to the national Government in the case of patents, as to justify us in including those among the cases with regard to which there shall be an appeal? I had not looked at this before I listened to the bill as it was read at the desk, and I speak now from the impressions of the moment.

Mr. HARRIS. For myself I have no objection to amend the bill so as to allow an appeal from the appellate court that is created under this bill to the Supreme Court in patent-cases. I suppose, however, that object would be accomplished if the bill were allowed to stand as it is now, because in an important patent-case like that which the Senator suggests there is no doubt that the court would give the proper certificate to take it up; but I have no sort of objection, if he desires so to amend the bill, to insert the word "patent" after "revenue," so as to read, "revenue or patent law."

Mr. SUMNER. That will meet my case, but I should like to make one word of reply to a remark of the Senator. I doubt whether suitors in patent-cases would be satisfied that their appeal should stand on such general language as leaves the appeal within the discretion of the court. I think that in cases of such magnitude as patent-cases often are, suitors would be better pleased if they saw that their right to an appeal stood on the actual text of the statute.

Mr. CLARK. The Senator from Massachusetts will see, if he turns to page 6, that an appeal may be taken to the court of appeals from any final judgment or decree of any district court within the circuit, when the amount claimed or the value of the property shall be $500, or shall exceed that, and a patent is not a very important one that does not exceed in its value $500. It is already provided for.

Mr. SUMNER. That is an appeal to the circuit court?

Mr. CLARK. Yes.

Mr. SUMNER. I am providing for an appeal to the Supreme Court; and if the Senator turns to the seventeenth section, on the tenth page, he will see that there is no language which does precisely meet the case of patents. I do not say that they might not by construction come under the language there, but it is not met precisely. I think, upon the whole, the word "patent" had better come in before the word "law" in line ten, after "revenue;" so as to read, "or any treaty or revenue or patent law."

Mr. HOWE. I suppose the object of giving an appeal to the Supreme Court in all cases involving the construction of the Constitution or involving the construction of a revenue law is for the purpose of having a uniform rule of decision upon those questions as well as upon treaties. Now, is a uniform rule more absolutely demanded on the construction of a revenue law than any other law? Ought we not to have and provide for by our system of jurisprudence a uniform rule of interpretation of all laws of the United States? Why not make the amendment that I suggested to the Senator from Massachusetts, so as to make the clause read, "revenue or other law of the United States?" I merely make the suggestion.

Mr. HARRIS. The suggestion of the Senator from Wisconsin accords very much with the views that I have entertained on the subject of appeals. As I first introduced the bill it allowed appeals in all cases to the Supreme Court; but it was objected to, and I thought the objection was sound, that it would be impossible for the Supreme Court to get through the business if there was no restraint on appeals. The Supreme Court are some three years behind with their business, and probably have more business on their docket now than they can dispose of in three sessions. Unless there is some restriction that court will be effectually blocked up. How to make it I do not know, unless we make it in the way provided for in this bill. It was that necessity which reconciled me to such a restriction upon appeals as is here provided. My preference would be to allow an appeal in all cases. I should be glad if the Supreme Court could do the business, to allow every party who is defeated in the court below to appeal; but we cannot do it; it is impossible, unless we greatly enlarge our judiciary system, and that we cannot do in these times. I regard it as one of the excellencies of this bill that it makes no new judge and no additional expense to the Government. It seems to me we had better leave it as it now is, and if we find a necessity for enlarging the class of cases in which appeals are allowable, do it by some subsequent legislation. I would be glad to have it passed in the shape it is now. I quite agree with the Senator from Massachusetts that patent-cases ought to be added.

Mr. DAVIS. I was struck with the soundness of the suggestion of the honorable Senator from Wisconsin. It seems to me that the object of all appeals is to have a uniformity of law, and that that uniformity cannot be obtained unless the right of appeal, in cases involving legal questions, is granted. This bill allows an appeal where the value in controversy is $10,000, or where the question in litigation involves the construction of the Constitution of the United States, or of any treaty or revenue law of the United States. The suggestion of the Senator from Wisconsin is to insert the words "or other" between "revenue" and "law." I agree to that suggestion. By the section as it now stands, an appeal is allowed where the court shall certify that the adjudication involves a legal question of sufficient importance to require that the final decision thereof should be made by the Supreme Court. I think that provision would prove illusive in practice. A court having power to certify that a legal question is of sufficient importance to justify an appeal, will have a general indisposition to give such a certificate. My experience in relation to courts is precisely the same that it is in relation to all depositaries of power. The depositaries of power want to increase their jurisdiction and their power and lessen their labor—that is the general rule—and I think the disposition of courts, both supreme and inferior, is not an exception; they will grasp as much jurisdiction and power as they can, with as little labor as it is possible for them to perform. The idea of their certifying that a legal question is of sufficient importance to authorize an appeal to be taken from their judgment to the Supreme Court will, in practice, I think, prove illusive. The provision ought to be expunged, in my judgment, or it ought to be put in a form that would make it practical and available to the parties to the suit. I hope, therefore, that the honorable Senator from Wisconsin will put his idea into an amendment to this proposition, and that the question upon his proposition will be taken.

The PRESIDING OFFICER. The question now before the Senate is on the amendment of the Senator from Massachusetts, to insert the word "patent."

Mr. HOWE. I must say, in justice to the Senator from Kentucky, that I am not convinced by the remarks of the Senator from New York that the amendment I suggest ought not to be made. I did not, however, intend to move the amendment except with the permission of the honorable Senator who has charge of the bill. I shall be compelled to offer one or two other amendments, and one to this very clause, in justice to the State I represent—an amendment which will be open to the same objection that he urges to this, and I am dissuaded by that fact from pressing this amendment since I find he objects to it.

Mr. CLARK. I suggest to the Senator from Wisconsin that this amendment proposed by the Senator from Massachusetts may be made, and then it will read, "or any treaty or revenue or patent law;" and then if he desires to have his amendment, saying that a question arising on any law of the United States shall be open to appeal, he can move to strike out "revenue or patent." That would leave it to stand "or any treaty or law." He can get it in that way.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Massachusetts.

The amendment was agreed to.

Mr. HOWE. Now, Mr. President, I must do what I am reluctant to do, that is, submit an amendment in the eighth line of this section to strike out "ten" and insert "five" before "thousand." I am not very familiar with the cases in the Supreme Court, but I believe a very large proportion of them involve less than $10,000 in amount.

Mr. JOHNSON. Nearly two thirds.

Mr. HOWE. I was told by a leading attorney from our State that three fourths of the appeals which come up from the State of Wisconsin involve less than that amount. It should be borne in mind that these causes involve private rights and do not affect ordinarily any one in the world except the parties; and the importance of the cause to the parties depends much more upon the amount in controversy than it does upon the condition of the parties themselves or the estates that they own. A suit involving $100,000 is of no more importance to a man worth a million than a suit involving $10,000 is to a man worth ten times that amount. The object of giving appeals in this court, I suppose, is because it is believed

it is more likely to do justice, to decide causes right than any other court. If it is supposed you can get a correct decision below that, why have this court at all? Why not amend your Constitution and strike it out and have several courts of final jurisdiction?

I hope, Mr. President, that the honorable Senator from New York will accede to this proposition. I have no manner of doubt but what there is an urgent necessity for limiting the amount of business in this court. I will take this occasion to say that I cannot quite agree with the honorable Senator from New York that it is the chief merit of this bill that it provides no new judicial officers. I stand here to say that I would myself have liked the bill better if it had provided a new judge for each of these circuits to sit in the court of appeals, and had dispensed with the necessity of assigning one of the justices of the Supreme Court to the hearing of those trials. I do myself believe that that would have been an improvement to the bill. It would have involved an expenditure of considerable money; but the money thus expended, money expended with the view of having causes fully heard, fully considered, and rightly determined, I do believe is well invested. Economy is an admirable thing, but economy practiced at the expense of private right and private justice is not the article exactly that I am prepared to brag of. However, I will not discuss the merits of that proposition, for it is not before the Senate; I do not propose to bring it before the Senate; but I wish the Senator would consent to allow this amendment to be made; if he insists that that would incumber the records of this court with causes more numerous than they can hear, then I shall insist upon his fixing a remedy for that in some such way as I have suggested, or in some other way.

Mr. HARRIS. The Senator from Wisconsin must have misapprehended me when he says that I regard the chief merit of this bill to consist in the fact that it makes no new judges. I said it was one of the excellencies of the bill that it was economical, that it created no new judges, that the office of the bill is to use the judicial power already existing in a more economical manner. That I believe, and I regard that as one of the great excellencies of the bill. I should be glad myself to enlarge the judicial force of the country, and the time will come, I am persuaded, when that will be necessary; but I do not believe that a bill contemplating such a measure as that could be passed through Congress at the present time, in the present condition of our country; and I therefore regard it as a great excellence of the bill that it does not add to the expense of the Government. I think the Senator from Wisconsin, when he objects to this large amount as a limit of jurisdiction, does not consider the fact sufficiently that we are here creating a very important, intelligent, efficient court of appeals. The limit to appeals to that court is $500, and I should be glad to make it even less if it were practicable. Here is created an intermediate appellate court consisting of three or four or six intelligent judges, judges as capable of deciding ordinary questions as they come up as the Supreme Court here in the capital; and every case will pass in review before that court. Ordinary cases may very well be stopped there; and if it is necessary in order to protect the Supreme Court from being overburdened with causes is it not better that the limit should remain as it is? I am not very anxious whether that limit be $5,000 or $10,000. If I felt confidence that the Supreme Court would not be overburdened, I should like to make the limit much less than that. As I have already said, in drawing the bill originally I had no such limit and I should be glad if it were not necessary to have a limit; whether it should be $5,000 or $10,000, I do not think very important; but there must be a limit.

Mr. HOWE. Then I suggest to the Senator as there must be a limit, and he is not very urgent that it shall be placed at $10,000, let it be placed at $5,000, and let us make the experiment with that. If we find the practical operation of the bill is such as still to incumber the records of the Supreme Court beyond its capacity, it is easier to restrict hereafter than it is to give appeals.

Mr. HARRIS. I am not inclined to struggle against the amendment.

Mr. FESSENDEN. I should like to know in what way you will exactly determine as matter of practice that the amount in controversy exceeds $10,000. How is that to be ascertained? I suppose you will confine yourself to the *ad damnum*.

Mr. HARRIS. It is a case of final judgment, and the record will show.

Mr. JOHNSON. Suppose that the amount claimed is more?

Mr. HARRIS. It is an appeal from a final judgment, and the record shows.

Mr. JOHNSON. I believe that is the rule; but the plaintiff often claims a great deal more than he gets, and thinks he is entitled to more. The plaintiff may claim $20,000, and may, in the opinion of a court and jury, be entitled to recover less than $10,000; and he is debarred from appealing to the Supreme Court because the judgment below does not give him what he thinks he is entitled to receive. There ought to be some mode in which the case may be brought up.

Mr. HARRIS. The Senator is more familiar with the practice of the Supreme Court of the United States than I am; but I understand this is precisely the language that has been in the statute for a great many years, only limiting the amount to $2,000. I think the present statute is that an appeal will lie to the Supreme Court where the amount in controversy exceeds the sum or value of $2,000. The law now uses precisely the language here employed under which the court has been acting all our lives.

Mr. SUMNER. I should like to ask the Senator from New York whether he assents to the amendment of the Senator from Wisconsin. He does provide the relief for the Supreme Court which is desired. He has stated himself, and we all know, that the court is now some three years behind in its business, and the practical question is, how are we to supply the relief? There are two different ways in which that may be done. One is by limiting the appeals to the Supreme Court, so that hereafter it shall have less business to do. Another way, and I am free to say to my mind the better way, would be, perhaps, to allow appeals substantially as now, but to enable the court by further provisions to give themselves unreservedly to the hearing of those appeals. Of course that raises the question whether the judges of the Supreme Court sitting here in Washington should have imposed upon them duties elsewhere. That is a question, perhaps, of practice, and also of theory. Since I have been in the Senate it has been very often discussed, formally or informally. There have been differences of opinion upon it. I believe that the inclination of opinion always has been that the judges of the Supreme Court are perhaps better in the discharge of their duties from the experience they get at *nisi prius*. That opinion, I take it, is derived from England, and yet I need not remind the Senator from New York that the two highest courts in England are held by judges who have no experience at the time at *nisi prius*, and do not go on circuit. I refer to the court of the Privy Council, and to the highest court of all, the court of the House of Lords. Then, if you pass over to France, where certainly the whole system of judicature is very admirably arranged on principles of science, where I believe justice is assured, you have the highest court, which is known as the Court of Cassation, composed of persons set apart exclusively for cases of appeal, never leaving Paris, and never hearing any other business except that which comes before them on appeal.

I merely refer to these cases for illustration. The Senate is also aware that in the beginning of our Government, when Washington submitted to his first Chief Justice, John Jay, the question of how the court should be constituted, Mr. Jay wrote in reply a programme for the organization of the court which, according to my recollection, provided that the court should be exclusively for the consideration of appeals. The other business was to be done by circuit judges, leaving, of course, to the higher judges exclusively the hearing of appeals. That recommendation, however, was put aside, and the system which now exists substantially was organized. Justice has been administered to the satisfaction of the country, reasonably at least, under this system.

But now we are driven to this pass: justice promises to fail here in the Supreme Court unless we provide relief. Does the bill of the Senator from New York provide adequate relief? Speaking frankly, I fear that it does not; and I fear that the proposition of my friend from Wisconsin, if that should be adopted, will go still further to limit the relief which my friend from New York proposes to supply. I am disposed to believe that the only real relief will be found in setting apart the judges of our highest court exclusively for the consideration of cases of appeal. They would then sit as many months in the year as they could reasonably give to judicial labor; they might hear every case that could reach the tribunal of appeals; and still further, they would have a vacation to themselves in which they might review the science of their profession and add undoubtedly to their attainments. I remember perfectly well that one of the ablest lawyers in England, in giving his testimony some years ago before a committee of the House of Commons on the value of what is known in England as the vacation —I refer to Sir James Scarlett, afterward Lord Abinger, Lord Chief Baron—testified that for one, as an old lawyer, he regarded the vacation as important because it gave him an opportunity to review his studies and to read books that he could not read in the urgency of practice. I have heard our own judges make similar remarks.

Now, the question is, whether the present bill does meet the case? Does it supply the needed relief? I fear that it does not, and I really should be much more satisfied if my friend from New York had more boldly dealt with the whole question by giving us a court of appeal composed of the eminent judges of the land which should be devoted exclusively to appeals, and should leave to other judges the duty of hearing cases at *nisi prius*.

This brings me back, of course, to the proposition of my friend from Wisconsin, who, I fear, by endeavoring to provide a hearing for his clients, if I may say so——

Mr. HOWE. No.

Mr. SUMNER. For those whom he is supposed to represent now and those whose interest is under $5,000. By providing an appeal for them, I fear that he is going to continue this burden on the Supreme Court, so that in point of fact the bill will supply but a very slight remedy.

Mr. GUTHRIE. I have considered this subject somewhat, and I recollect that some ten or twelve years ago a very strong effort was made to relieve the judges of the Supreme Court entirely of circuit court duties. The effort failed because members of Congress were not prepared to take that step, and because they believed it was better for the judges of the Supreme Court to attend the *nisi prius* practice, and understand the facts and how things were done in the circuits. I am in favor of this bill. I believe we can carry it out. I think it is all that we can do now. I believe that it will be a great advantage to the business of the circuits. I believe the time will come when we shall have to relieve the judges of the Supreme Court from the duty of attending the circuit courts and make circuit judges attend to that business.

The gentleman from Massachusetts has got an idea that they must be relieved altogether at once, and he is not willing to agree to this bill because all the good will not come from it that he desires to attain. If you were to agree

with him in that, it might be ten years again before anything would be done on this subject. Ten years ago there was a very strong and earnest movement made to relieve these judges and to relieve the circuits of the difficulties they had and the compulsion to bring every case to the Supreme Court. I believe good policy and good judgment require that we should pass this bill now, leaving to the next Congress or the Congress after that, as the necessity proves itself, to relieve the judges of the Supreme Court altogether of circuit duty. I do not think this is exactly the time for bringing in circuit judges and turning out all the district judges. I do not think it would be desirable that we should have to do it now, and I fear we should not do it very harmoniously if we had it to do. We are too near the effects and dissatisfactions that have grown out of the rebellion. I think we can do this much more beneficially to the country, and I hope we shall do it. Very few of us have ever done as much in regard to any measure as we thought ought to be done. We have taken what we could get. I trust we shall pass this bill and see how this circuit court system works, so that we can know something of it practically.

Mr. WILLIAMS. I hope the Senator from New York will not accede to the request made by the Senator from Wisconsin and make the proposed change in this bill. I understand that the primary, if not the only, object of this legislation is to reduce the amount of business in the Supreme Court of the United States and to expedite the administration of justice in that court. Now, it is a fact that all the labor of the Supreme Court during this present session has hardly reduced the size of the docket. Cases have come into that court about as fast as they have been decided; and the prospect is that unless some relief can be afforded by this or similar legislation the accumulation of business will be so great as to amount to an absolute denial of justice. Suitors in the Supreme Court are now compelled to wait two or three years before their cases can be reached upon the docket, and there is a necessity for some remedy of this kind and of the kind proposed by this bill.

Now, sir, I should rather see the amount increased than decreased, and I believe that it would add to the administration of justice in the Supreme Court, and be of advantage to all concerned, to have the amount enhanced rather than reduced. It is objected that this amount is too large, and that persons may be interested in suits where the amount involved is less than $10,000, and it may be of as much consequence to such litigants to have their cases go to the Supreme Court as in cases where the amount exceeds $10,000. If I understand this bill, it provides the same remedy for persons who have suits in the courts of the United States as persons have who have suits in the State courts. Nearly all the questions of property, or a very large proportion of the cases of property, are settled in the courts of the States. Suits are brought in the circuit courts of a State; questions are there decided; the parties have their remedy by a writ of error or appeal to the supreme court of the State, and there is an end of litigation. Every suitor, under this bill, has the same remedy. He has his case tried by the district court, and then he has his case tried by the court of appeals in the circuit; so that every suitor, under this bill, has the same remedy that every suitor has who brings his suit in a State court; and it is well known that there are suits involving as much property brought before the tribunals of the States as are brought in the courts of the United States. I think that the business of the Supreme Court should be confined as much as possible to the construction of the Constitution and laws and treaties of the United States, and that questions of property and questions of fact that arise in ordinary litigation should as much as possible be confined to the State courts or to courts of inferior jurisdiction.

I believe there was a time when the jurisdiction of the Supreme Court was confined altogether to questions of law, and I think that perhaps even now it would be advisable to recur to that old practice of confining the proceedings of the Supreme Court of the United States to questions of law, and not require that court to pass upon questions of fact. But, at any rate, if the court is required to pass upon questions of fact, it seems to me that this bill certainly does not restrict the jurisdiction of that court any more than is absolutely necessary; and if this proposed amendment should be adopted, it seems to me that this bill will produce but little or no effect; the change from the old law to this one will be trifling, and the great evil which exists at this time will not to any considerable extent be remedied. I am satisfied, from what I have learned of the proceedings of the Supreme Court, that it is absolutely necessary that this provision should be made, or, if not this, that some other provision equivalent to it should be made in this bill.

Mr. CLARK. I desire to call the attention of the Senator from Oregon and the Senator from Massachusetts to the provision of this bill that the decision of the court of appeals shall be final upon the facts. I suppose that more than half of the time of the present Supreme Court is spent upon an investigation of the facts in the record. This bill relieves them entirely from that, and will save, I presume, more than half their labor. Then, again, the bill, if it should be amended as the Senator from Wisconsin proposes, would double the amount in controversy which now comes to the Supreme Court. It is now $2,000, and it would be by this bill, if amended, $5,000, so that the relief that would be furnished by relieving the Supreme Court from the investigation of questions of fact and carrying the amount in controversy up to $5,000 would be a very great one.

Mr. President, I apprehend another difficulty from this bill, and my objection to it is not so much that it will relieve the Supreme Court, as that it will overburden and break down the district courts. I am afraid that you are putting more work upon the district courts than they will be fairly able to do. They are to take the place of the circuit courts and try all the questions of fact, settle the law in the first instance, and then they are to hold a court of appeals in various cities of the Union some two or three months in the year to determine the cases which may be carried there; and I am very much afraid that you will overburden the district courts. That is my objection to the bill, if I have one. I am willing to try the experiment, but I certainly doubt very much whether it is going to work in the way that the Senator from New York and others apprehend; but still I am willing to try it; it may be better than the present system.

But I wish to call the attention of the Senator from New York and other Senators to what is requisite to have a good system, and that is that your system should be satisfactory to your suitors as well as to the court. It must be a system which will not only not impose too much labor upon the judges, but will be satisfactory to the most of the people whose business you undertake to transact. My fear in regard to this matter is, that a great many of the suitors whose cases do not come up to the amount of $10,000 will not be satisfied if you provide one tribunal for them and a more dignified and more learned tribunal for another class of cases. There must be a limit somewhere; but you must allow all the people as far as you can to approach your highest tribunal, or they will not be satisfied. The man with a case that involves $9,500 will inquire of you why he cannot come up to the higher court as well as the man whose case involves $10,000, and perhaps his case involves a principle of vastly more consequence than the case where the value is $10,000. It is necessary, therefore, that you should open the court as wide as you can, and give all the suitors an opportunity of approaching the higher court consistent with the labor of the court. I submit to the Senator from New York whether it would not be better to try the experiment of more than doubling the present jurisdiction, placing it at $5,000, and removing the examination of all questions of fact to the court of appeals, and trying the point there.

Mr. TRUMBULL. I hope the amendment of the Senator from Wisconsin will not prevail. I think it is an entire mistake to suppose that litigants are to be benefited by allowing them to go from one court to another with their cases. What is the object of courts? It is to afford parties the means of establishing their rights. This intermediate court of appeals, in my judgment, will be just about as likely to do justice as your Supreme Court here. You give a party two trials. He has a trial, in the first place, in the district court, or the court which corresponds to our present circuit court, and then he has the right of appeal to the court of appeals, which is a court composed of one justice of the Supreme Court and all the district judges of his circuit, amounting probably on an average to five persons—one justice of the Supreme Court and four district judges. They meet together and constitute the court of appeals. I submit to the Senator, is it not better to stop the litigation there than to allow another appeal from this court of appeals to the Supreme Court of the United States?

When Senators talk abont allowing a party who wishes to do so, to take his case from one court to another, they should not forget that it may happen that one of the parties to a suit is a poor man and the other is a rich man, and if you allow these appeals first from the district court to the court of appeals, and then from the court of appeals to the Supreme Court of the United States, here at Washington, you provide the means of oppression on the part of the rich upon the poor. A poor man had better give up his claim than litigate with a rich person, first in his own State where the district court sits, then go to the court of appeals, perhaps, in some adjoining States, and then from that court of appeals to Washington to get his rights. A man who has the means to take all these appeals, if you give them, will have it in his power to prevent justice being obtained by a man of smaller means. I think you will be as likely to obtain justice in the court of appeals as you will in the Supreme Court of the United States.

There is but one appeal allowed now. When a cause is decided in the circuit court of the United States it comes directly from that court to the Supreme Court of the United States. When we are trying to pass a law which will relieve the Supreme Court of the United States by providing an intermediate court of appeals, what relief shall we afford if the same class of cases can come here as if we had no intermediate court of appeals? The object is not to promote and increase litigation. That is not the object of the establishment of courts; but the object of courts is to afford the means by which parties may vindicate and obtain their rights. I would be quite satisfied with this court of appeals in nearly all cases; in fact, if it were not required by the Constitution of the United States that there should be a Supreme Court here, in ordinary cases between parties, where no great rights of Government were in controversy, where no constitutional questions were to be settled, I would be willing that the decision of the court of appeals should be the end of the case. I believe you would be quite as likely to have justice in that way. If you fix the limit at $2,000, the man who has a controversy involving $1,950 will say, "This is a very important case, and why should I not be permitted to take that to the Supreme Court, when my neighbor, who has a case that involves fifty dollars more can go to the Supreme Court of the United States and have his case settled?"

I regard it as no privilege whatever to litigants to allow these appeals from court to court. They sometimes think it a privilege. Parties

get involved in lawsuits, and they become excited in regard to their cases, ambitious, vindictive often, and they will appeal a case from court to court, and would appeal it to twenty or a thousand courts, if you would pass a law that would allow it. If the object was to encourage litigation and furnish business for lawyers, I think you had better establish not only one intermediate court, but twenty intermediate courts; but if the object is the peace of the community, to furnish reasonable means for every man to obtain his rights, I think when you have given him one appeal to a court of the high character of these courts of appeals, you have given him enough; and the relief to the Supreme Court will amount to nothing if you are going to allow every case to go there which went there before. I hope the amendment will not prevail.

Mr. CLARK. What do we have courts for, Mr. President? To do justice. What do we have a Supreme Court of the United States for? To do justice. Then, if that court is established to do justice, why should it not do justice to as many citizens of the United States as it can accommodate at its doors and in its hall? Why should not everybody have the privilege of approaching that court? Why should the man whose controversy involves an amount of $10,000 have the right to go to that court, and the man whose controversy does not involve that amount be shut out? If this bill should stand as it is the result would be that the suits which originate in the cities where the amount is large, and the large landed cases only, would reach the Supreme Court; the others would not reach the Supreme Court. What I desire is that as many of the people be permitted to reach that court as is consistent with the convenience of the court. The court must not be overburdened: but if you relieve that court of the examination of the facts, and if you more than double the amount required to be in controversy under the old law, it seems to me you will relieve that court sufficiently.

It is very true that a poor man may contend with a rich man; it is very true that the rich man may prevail against the poor man in your district court; it may be very true that the rich man may prevail against him in the court of appeals; but will you then shut out the poor man because he is poor, and not let him go further, when, by going to the court above, he might prevail against the rich man? It will not do to shut the doors of the court on any such account. The doors must be open to the poor man as well as to the rich man; and it is because I would make the court satisfactory, and would have it open to as many people as possible, that I am for amending this amount here and striking it down to $5,000. I hope the amendment will prevail.

Mr. HOWE. The opposition urged by the honorable Senator from Illinois and the Senator from Oregon, as well as that insinuated rather than urged by the Senator from Massachusetts, induces me to say what I undertook to say to-day to the Senator from New York, and it is this, very briefly: the diminution of business that you are seeking to secure in the Supreme Court will be accomplished much more I think than we now estimate by the fact that you are providing two trials for all causes before any case gets into the Supreme Court except those of which they have original jurisdiction. Two trials are to be had. It is a mistake to suppose, as the Senator from Illinois seems to suppose, that suitors generally take appeals or go to law for the fun of the thing, for their own gratification. There are perhaps individuals in this world of ours so constituted as that they can find solid fun in lawsuits—I speak of course of unprofessional gentlemen [laughter]—but they are very rare. Ordinarily, men engage in litigation because they believe their rights are infringed or abused, and they get the judgment of a tribunal on that question. If it does not satisfy them, if it does not lead them to doubt very seriously whether they have been abused as they supposed, they will doubtless seek the judgment of a new tribunal; but it often happens—I think it is within the experience of every professional gentleman—that from accident, or from some cause or other, the first trial has not only failed to be satisfactory to his client, but has failed to be satisfactory to himself. I think almost all lawyers will assent to the proposition that they frequently try causes for the first time and can see they have not fairly presented them to the court, and that upon a second hearing they could present them more satisfactorily to themselves. When that is the case, neither suitors nor attorneys will be satisfied.

Here you have provided, as I said, for two hearings before any cause goes to this final tribunal. That is the provision which is going to restrict more than any other the business in the Supreme Court; and I think, having provided for those two hearings below, the business of this court will be diminished much more than we now estimate. I hope, however, that the Senate will conclude to try this amendment. If it is found that in spite of these two hearings granted below, the business accumulates in the Supreme Court beyond its capacity to dispose of it, then we can restrict these appeals further hereafter, and then we shall have the alternative before us of diminishing the business by restricting the right of appeal, or of releasing the judges of this court from the duty of attending the court of appeals below. I am encouraged to believe, by the remarks thrown out by the Senator from Kentucky some time ago, as well as by the remarks of the Senator from New York and the Senator from Massachusetts, that if we find we must provide further relief to the justices of this court, we shall by and by come to the conclusion that this is the true mode of doing it. Now, I hope the Senate will assent to this amendment.

Mr. JOHNSON. I am as well satisfied that the Supreme Court are unable now to dispose of the business brought before them as any member of the Senate can be; but I think they will be relieved very much, and perhaps sufficiently relieved, by the bill which is upon your table, if the right of appeal is given in all cases where the amount in controversy is over $5,000. The same section which contains the limit of $10,000 also makes the decision of the court below conclusive upon the facts. I think I am safe in saying that at least one half the cases in the Supreme Court are more or less troublesome because of their obligation to examine into the facts. That is almost solely the case in equity causes. The records are generally very large, the testimony being generally very voluminous, and as the court is obliged, as the law now stands, to examine into the whole record in order to pass judgment upon the facts as well as the law, it takes up a great deal of their time. The same remark is applicable to cases in admiralty. During the war which has just passed—and I believe all the prize causes are now disposed of—the principal difficulty the court had was, not in the law applicable to cases of that description, but in the facts. What was the character of the cargo, what was the purpose of the voyage, whether it was intended to run the blockade or not—all of those matters of course were matters *in pais*, and required the investigation which the court was obliged to give them, and it took up a great deal of their time.

This bill—and it is not proposed, as I understand, to alter that feature of it—in the section under consideration, makes the judgment of the court of appeals conclusive of the facts; and, as I understand it, it is conclusive not only in cases of common law, but in cases of admiralty and maritime jurisdiction, and cases in equity. According to my impression, the effect of that will be to relieve the Supreme Court of at least one third of the labor to which they are now subjected. If you retain that feature of the bill, and make the limit of $10,000 as the limit which is to give a right of appeal, there will be hardly any business in the Supreme Court. In nearly all the eastern States, except so far as the cities are concerned, and in all the western States, except in cases where there are disputes about large tracts of land, the large majority of cases will be found to be under $10,000. If you make $5,000 the limit, you will get clear, as I think, of a majority of the cases that are now brought to the Supreme Court; and if you make the judgment of the court below conclusive upon the facts, you rid the Supreme Court of at least one half of the labor to which it is now subjected; and as it is very desirable, as I think, to give to the citizen a right to come to the Supreme Court in all cases where it can be done consistently with the public good, I should prefer that the limitation should be less than $10,000; if not $5,000, $6,000, or $7,000.

There is another practical inconvenience arising from this bill. I shall vote for it because it does relieve the Supreme Court to some extent, and will, I think, be productive of public good. It is all-important that the law of the United States should be uniform in the courts of the United States. To have one system of laws in one circuit and another system in another circuit is very much to be deprecated. The effect of authorizing an appeal to the Supreme Court of the United States is to produce that uniformity; and one of the principal advantages of that tribunal has been not only that it has settled the constitutional questions which from time to time have arisen, but that it has settled the commercial law of the country, and settled the common law of the country as far as questions existing under the common law have been brought to the Supreme Court of the United States.

But now we are about to constitute ten separate courts of appeal, and they are to have exclusive jurisdiction in all cases under $10,000. I can readily see, such is the pride of opinion, and such is our frailty, if frailty it may be called, that there will be found, in the course of time, as many different systems in these several circuits as there are circuits; and the result will be the same uncertainty, the same multiplication of systems that existed before the Constitution of the United States was established and courts were organized under that Constitution.

The effect of an appeal to the Supreme Court of the United States in commercial cases where there is no authoritative efficacy in the decision upon the courts of the States, has yet been a very salutary one, because of the character of the tribunal. I do not speak of the tribunal as it exists with a view to disparage it, for certainly I have no such purpose, nor do I think it could be properly disparaged; but looking to the tribunal as it has heretofore existed from the beginning of the Government up to the present time, there has been a general confidence upon the part of the courts of the States and upon the part of the professional men of the several States in the judgments of that tribunal, and the operation of that confidence is that the State courts have conformed their decisions in a great measure to the decisions of the Supreme Court, especially upon all questions of commercial law; and in a country like the United States, every Senator will at once see that it is exceedingly desirable that there should be that uniformity.

Now, the confidence in the Supreme Court under its present organization felt by the State courts will not be had, we cannot expect it to be entertained toward these circuit courts. There is not a State court, I am sure, in the United States that would not say, and perhaps they would be justified in saying, "We are as capable of judging upon all these questions as the single judge of the circuit court of the United States and his three or four district judges." I do not know what is the case in the other circuits, but speaking generally, with the salaries that you now give your district judges, although there are certainly some striking exceptions, it is impossible to get superior men. But for the honor of the station it would

be almost impossible to get superior men upon the bench of the Supreme Court of the United States. But there is an honor in that station which, in the judgment of many, and some of the best men that the profession has ever produced, causes them to forget for a time how inadequately they are compensated, and they leave a practice worth three or four times as much as the salary that you give, and go upon the bench of the Supreme Court for the honor; and certainly no higher honor can be conferred upon an American citizen. But that is not the case with the district judges. They are, and they must be as a general thing, in public opinion not equal to the State judges; certainly not equal to the judges of the State superior courts; and where that is the case there will not be felt in their decisions the same confidence that is felt in the decisions of the Supreme Court.

As I have said, I shall vote for this bill, but with very great doubts whether it will operate beneficially throughout the country. My opinion coincides with that of the honorable Senator from Massachusetts, and others who concur with him in thinking that the Supreme Court of the United States should be relieved altogether from circuit court duty. I know that there are objections to a measure of that kind. Those objections were stated very forcibly upon several occasions when the proposition was made to relieve them from circuit court duty. It was supposed to be very important that they should go into the several circuits and see the people. The reason was as much political as anything else, but it was deemed to be political in an exalted and statesmanlike sense. It was supposed that the public would be better satisfied with a court, the members of which they were in the habit of seeing from time to time, and that the judges of the court would individually be better able to decide the questions that came up from the circuits if they were themselves participators in the judgments in the courts below. The act of 1789 was prepared, I think, by Mr. Ellsworth. The Senate will see that in the recent writings that we have published of Mr. Madison, he disclaimed being, as was ascribed to him, the author of the act of 1789, and he gave that credit very freely to Mr. Ellsworth. It was deemed by the wise men by whom that act was prepared, so important that these judges should go through the circuits in order that they might themselves know what the local law was from personal observation, and in a measure from personal practice, that the judge whose judgment was brought by a writ of error or appeal to the Supreme Court of the United States, was directed to sit in judgment when the case was being heard. The principle, perhaps, as a principle, in its general application was erroneous; but the error of applying the principle in that case was supposed to be outweighed by the benefit of having the testimony of the judge himself.

But now the country has grown to such dimensions, and is growing even with greater rapidity than it has done in the past, that it would seem to be clear that the Supreme Court judges will be unable to perform their circuit duties and at the same time perform the duties which belong to them here. If that is the case, if the value of the Supreme Court is to be totally lost unless we give up the benefit to be derived from the judges going on circuit, we must rid them from the obligation to go the circuit and confine them to appellate jurisdiction altogether. But I am very clear in the opinion—and with that remark I shall close—that it would be very unjust to the suitor, and relieve the court more than the necessities of the court demand, if the amount which can be brought up by appeal or writ of error should be placed so high as $10,000. I shall, therefore, vote for the amendment proposed by the Senator from Wisconsin.

Mr. HARRIS. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *April* 2, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of Thursday was read and approved.

The SPEAKER stated as the first business in order the call of the States and Territories for bills and joint resolutions on leave for reference, not to be brought back into the House on a motion to reconsider, commencing with the State of Maine.

MEDICAL OFFICERS OF THE NAVY.

Mr. WASHBURN, of Indiana, introduced a bill to provide for continuing in service the acting medical officers of the Navy, and to supply vacancies in the regular list; which was read a first and second time, and referred to the Committee on Naval Affairs.

CATHARINE QUIGLEY AND THOMAS ROGERS.

Mr. ALLISON introduced a bill for the relief of Catharine Quigley and Thomas Rogers; which was read a first and second time, and referred to the Committee on the Judiciary.

PAPERS REQUIRING STAMPS.

Mr. KASSON introduced a joint resolution allowing a limitation of the time for perfecting papers requiring stamps to be affixed thereto; which was read a first and second time, and referred to the Committee of Ways and Means.

CIVIL RIGHTS.

Mr. SHELLABARGER introduced a bill to declare and protect all the privileges and immunities of citizens of the United States in the several States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

COURTS IN WASHINGTON TERRITORY.

Mr. DENNY introduced a bill in relation to the courts of Washington Territory; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

RAILROAD IN WASHINGTON TERRITORY.

Mr. DENNY introduced a bill granting lands to aid in the construction of a railroad and telegraph line from Puget sound, on Admiralty inlet, in Washington Territory, to the Columbia river; which was read a first and second time, referred to the Committee on the Pacific Railroad, and ordered to be printed.

ELEVENTH REGIMENT OHIO VOLUNTEERS.

Mr. HAYES introduced a bill to provide for the payment to the eleventh Cincinnati regiment of Ohio volunteer militia during the time they were in the service of the United States in 1862; which was read a first and second time, and referred to the Committee on Military Affairs.

LAND GRANTS IN CALIFORNIA.

Mr. BIDWELL introduced a bill to confirm the selection and location of certain lands granted to the State of California by the United States, and for other purposes; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

FRANKING PRIVILEGE.

Mr. NIBLACK introduced a bill conferring the franking privilege on ex-Presidents of the United States; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

TAXING UNITED STATES SECURITIES.

The call of the States for bills and joint resolutions having been completed, the Speaker stated as the next business in order the call of the States and Territories for resolutions, commencing with New Jersey, the pending question being upon the resolutions offered by Mr. ROGERS, which were under consideration at the close of the morning hour on Monday last.

Mr. PRICE. I move to refer the resolutions to the Committee of Ways and Means.

Mr. ROGERS. I ask to modify the last resolution by adding these words:

And that all Government securities heretofore issued should bear their fair share of Federal taxes.

The resolutions as modified are as follows:

Resolved, That the Federal Government has no constitutional right to assume or pay the debt of the so-called confederate government of the insurgent States, or the rebel debt of any of said States, and that it would be an outrage even to attempt to do so.

Resolved, That the honor of the Federal Government and every principle of justice demand that the Federal debt should be paid to the utmost farthing; that repudiation should be discountenanced, and the plighted faith of the country sacredly preserved.

Resolved, That equal taxation is just and right, and that every person in this country should bear his equal share of the Federal and State taxes; that there should be no privileged class; and that all Federal securities heretofore issued should bear their fair share of Federal taxes.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolutions were referred to the Committee of Ways and Means.

Mr. PRICE moved to reconsider the vote by which the resolutions were referred; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

EQUALIZATION OF BOUNTIES.

Mr. WARD submitted the following preamble and resolution, upon which he demanded the previous question:

Whereas this House on a previous occasion instructed the Committee on Military Affairs to report a bill equalizing the bounties of soldiers and sailors; and whereas early action by Congress is demanded by many of these soldiers and sailors, and by the widows and orphans of those who have perished in the field, in hospitals, and in rebel prison pens; and whereas this session of Congress is far spent, and no definite action has yet been had upon the subject: Therefore,

Resolved, That the Committee on Military Affairs be requested to report at an early day, by bill or otherwise, upon the subject, and that they have liberty to make such report at any time.

Mr. SCHENCK. Mr. Speaker——

The SPEAKER. The resolution is not debatable under the rules.

Mr. SCHENCK. I merely wish to make a statement to the House.

The SPEAKER. The last part of the resolution requires unanimous consent.

Mr. WARD. Let me say a word.

The SPEAKER. The resolution is not debatable.

Mr. WARD. I ask the unanimous consent of the House to make a single suggestion.

Mr. HARDING, of Illinois. I object.

The previous question was seconded.

Mr. LE BLOND. I wish to suggest to the gentleman from New York who introduces this resolution, that he withdraw the latter part of it.

Mr. SCHENCK. It will save all trouble if the House will allow me to make a statement. I ask unanimous consent to say a word.

No objection was made.

Mr. CONKLING. I submit, then, that my colleague [Mr. WARD] ought to be allowed to say a word. It would be invidious to allow the gentleman from Ohio to be heard and not the gentleman from New York.

Mr. SCHENCK. I make no objection to anybody being heard.

The SPEAKER. The gentleman from Illinois [Mr. HARDING] objected to the gentleman from New York being heard; does he withdraw his objection?

Mr. HARDING, of Illinois. I decline to withdraw my objection. I think the resolution itself has a speech in it.

Mr. WARD. I only wanted to make a statement.

Mr. SCHENCK. I have simply to say that there is probably not a single member in this House who feels more anxiety to get forward this subject and have it properly disposed of than every member of the Committee on Military Affairs. It is perhaps an easier matter to consider it in all its lights to some gentlemen outside of the committee than it is to the committee themselves who have to take the

responsibility of putting in shape the best bill they can, which shall provide liberally for the soldier according to his just expectations, and at the same time take care of the interests of the country at large.

Now, sir, it may relieve gentlemen to know that the committee have had a sub-committee at work on this subject, that they are prepared to report a bill, but that the gentleman from Maine, [Mr. BLAINE,] who is on the sub-committee which has had the subject in charge, has been called away suddenly by the death of a near connection in Boston; he is there now, and the committee would prefer to wait for a period of about eight days, during which, as I understand by letter and telegraph from him, he may be detained there, before making their report.

I hope, however, leave will be given to the committee to make that report at any time; and the House may rely on it, if such leave be given to the committee that at the earliest possible day, which certainly will not be two weeks from this time, the gentleman from Maine [Mr. BLAINE] having returned, the report will be made, and I think the report will be satisfactory to the House.

As to the committee not having reported before, gentlemen must bear in mind that the Committee on Military Affairs has not been called since early in the session, so that we have had no opportunity of reporting without asking it specially, but we had proposed to ask it specially, knowing how generally anxious gentlemen here are upon this subject and how much anxiety there is outside.

I make these remarks because there seems to be a sort of reflection on the committee in this resolution.

Mr. WARD. Will the gentleman from Ohio [Mr. SCHENCK] yield to me for a moment?

Mr. SCHENCK. I will do so if I have the right.

The SPEAKER. The gentleman from Ohio [Mr. SCHENCK] has no right to yield the floor to another, as he holds it by unanimous consent of the House.

Mr. WARD. Then I ask unanimous consent.

No objection was made.

Mr. WARD. When I asked permission a few moments ago to make some remarks, I desired to state that this resolution was not intended as any reflection upon the patriotic gentlemen who compose the Committee on Military Affairs. The House by a prior resolution have already directed the Committee on Military Affairs to report a bill equalizing bounties. And the point and object of this resolution, the only intent of it, was to give the Committee on Military Affairs the right to report at any time.

Mr. SCHENCK. If that is all the gentleman desires, I hope he will limit it to that, and that the House will grant it. I was myself instructed by the Committee on Military Affairs to ask that permission of the House.

Mr. WARD. I will modify the resolution so as to give the committee leave to report at any time.

Mr. HARDING, of Illinois. I ask unanimous consent to say a word.

No objection was made.

Mr. HARDING, of Illinois. I did not object to the resolution because I was opposed to the bill to which it refers; I objected to it simply because I thought it tended to reflect upon the House for not acting earlier on the subject. Now, I want to bear witness that so far as I know the sentiments of the House they are unanimously in favor of the measure, no one individual more than another. It is a work of difficulty and labor, and I have waited patiently for an opportunity to vote for it. That is all I desire to say.

Mr. WARD. I ask leave to modify my resolution.

The SPEAKER. The previous question having been seconded, the gentleman cannot modify his resolution without unanimous consent.

Mr. WARD. Then I ask unanimous consent.

No objection was made.

Mr. WARD. I modify my resolution, as follows:

Whereas the House on a previous occasion instructed the Committee on Military Affairs to report a bill equalizing the bounty of soldiers and sailors; and whereas early action by Congress is demanded by the wants of many of these soldiers and sailors, and the widows and orphans of those who have fallen on the field, in the hospital, and in rebel prison pens; and whereas this session of Congress is far spent and no definite action has yet been had upon the subject: Therefore,

Resolved, That the Committee on Military Affairs have liberty to make such report at any time.

The resolution was agreed to.

Mr. SCHENCK. I desire to state that the Committee on Military Affairs are only waiting for the return of Mr. BLAINE, who has been called away, as I have stated.

TRANSPORTATION FROM WEST TO EAST.

Mr. RAYMOND submitted the following concurrent resolution:

Resolved by the House of Representatives, (the Senate concurring,) That a commission of five persons be appointed by the President of the United States to consider and report to Congress at its next session upon the necessity of some more speedy, cheap, and reliable means of transportation between the western States and the Atlantic sea-board; and to submit some plan, whether by law or treaty, whereby the national Government can aid in providing for said necessity if it shall be found to exist: *Provided*, That said commissioners shall receive no compensation for their services, and no payment of any kind except for such traveling expenses as they may actually incur in discharging the duties imposed upon them by this resolution.

Mr. RAYMOND. I have no desire to have the question taken upon this resolution to-day if it gives rise to any debate, as very possibly it may. I do not know but it should be in the form of a joint resolution instead of in the form of a concurrent resolution.

Mr. SPALDING. If the gentleman from New York [Mr. RAYMOND] will consent, I will move that this resolution be referred to the Committee on Commerce.

Mr. RAYMOND. I do not desire to have the resolution referred until some little debate be had upon it, and the objects and reasons for offering it have been stated. I prefer, therefore, to have it go over under the rule.

The resolution accordingly went over under the rule.

Mr. SPALDING. I move the concurrent resolution be printed.

The motion was agreed to.

PAYMENT OF BONDS LOST AND STOLEN.

Mr. HUBBARD, of New York, submitted the following resolution, upon which he called the previous question:

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of providing by law some means by which the owners of the bonds of the United States heretofore issued may secure their payment in case of their loss by robbery or accident; and that they have leave to report by bill or otherwise.

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

DICTIONARY OF CONGRESS.

Mr. HART submitted the following resolution, on which he demanded the previous question:

Resolved, That there be printed, for the use of the House, an edition of the Dictionary of Congress sufficient to make the quota of the House equal to the quota of the Senate; and that the author of the Dictionary be allowed for the copyright the same price hitherto paid by Congress.

Mr. BEAMAN moved that the resolution be laid upon the table.

The House divided; and there were—ayes 41, noes 52.

Mr. BEAMAN demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 60, nays 48, not voting 75; as follows:

YEAS—Messrs. Alley, Allison, James M. Ashley, Baker, Beaman, Benjamin, Boutwell, Bromwell, Broomall, Cook, Cullom, Davis, Dawes, Defrees, Donnelly, Eggleston, Eliot, Farnsworth, Grinnell, Aaron Harding, Abner C. Harding, Hayes, Henderson, Higby, Demas Hubbard, Julian, Kasson, Kelley, Laflin, Latham, William Lawrence, Loan, Longyear, Marshall, McClurg, McIndoe, McKee, Morrill, Moulton, Myers, Niblack, O'Neill, Paine, Perham, Pike, Price, John H. Rice, Ritter, Rollins, Sawyer, Schenck, Scofield, Shanklin, Sloan, Thornton, Trowbridge, Elihu B. Washburne, James F. Wilson, and Windom—60.

NAYS—Messrs. Delos R. Ashley, Baldwin, Baxter, Bergen, Bidwell, Boyer, Coffroth, Dawson, Dixon, Eldridge, Ferry, Glossbrenner, Griswold, Hale, Hart, Hill, Hogan, Asahel W. Hubbard, Edwin N. Hubbell, James Humphrey, James M. Humphrey, Jenckes, Kerr, Le Blond, McRuer, Mercur, Nicholson, Noell, Orth, Patterson, Phelps, William H. Randall, Raymond, Alexander H. Rice, Rogers, Ross, Sitgreaves, Spalding, Stilwell, Taber, Taylor, Thayer, John L. Thomas, Van Aernam, Burt Van Horn, Ward, Henry D. Washburn, and Winfied—48.

NOT VOTING—Messrs. Ames, Ancona, Anderson, Banks, Barker, Bingham, Blaine, Blow, Brandegee, Brooks, Buckland, Bundy, Chanler, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Culver, Darling, Delano, Deming, Denison, Driggs, Dumont, Eckley, Farquhar, Finck, Garfield, Goodyear, Grider, Harris, Holmes, Hooper, Hotchkiss, Chester D. Hubbard, John H. Hubbard, James R. Hubbell, Hulburd, Ingersoll, Johnson, Jones, Kelso, Ketcham, Kuykendall, George V. Lawrence, Lynch, Marston, Marvin, McCullough, Miller, Moorhead, Morris, Newell, Plants, Pomeroy, Radford, Samuel J. Randall, Rousseau, Shellabarger, Smith, Starr, Stevens, Strouse, Francis Thomas, Trimble, Upson, Robert T. Van Horn, Warner, William B. Washburn, Welker, Wentworth, Whaley, Williams, Stephen F. Wilson, Woodbridge, and Wright—75.

So the resolution was laid upon the table.

Mr. RICE, of Maine, moved to reconsider the vote by which the resolution was laid upon the table; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

ENROLLED JOINT RESOLUTION.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled the following joint resolution; when the Speaker signed the same:

Joint resolution (H. R. No. 96) in relation to the public lands appertaining to the armory at Springfield.

FISHING GROUNDS.

Mr. PIKE submitted the following resolution, on which he demanded the previous question:

Whereas the Governors of several of the British Provinces have publicly warned our fishing fleets off the fishing grounds adjacent to their coasts, and thus indicated a design to renew the unreasonable claims made by them prior to the reciprocity treaty, and annoy our peaceable commerce: Therefore,

Resolved, That the Secretary of the Navy be requested to send a sufficient naval force to the fishing grounds to protect our citizens in the enjoyment of their rights as recognized by the treaty of 1783.

Mr. MORRILL. I suggest to the gentleman from Maine that there is a question whether the rights we claim accrued under the treaty of 1783 or the treaty of 1818, and that therefore this is a proper subject of a preliminary investigation by one of the committees of the House.

Mr. PIKE. I modify the resolution so as to say "the treaty of 1783 or subsequent treaties."

Mr. CONKLING. This is too important a matter to be disposed of under the previous question.

Mr. PIKE. It is a mere police force which seems to be rendered necessary.

The SPEAKER. If it gives rise to debate it must go over.

Mr. PIKE. A thousand vessels are on their way to the fishing grounds now.

Mr. RAYMOND. Is a motion to refer in order?

The SPEAKER. Not now.

On seconding the call for the previous question, the House divided; and there were—ayes 27, noes 45, no quorum voting.

Mr. SPALDING demanded tellers.

Tellers were ordered; and Messrs. PIKE and RAYMOND were appointed.

The House again divided; and the tellers reported—ayes twenty-two, noes not counted.

So the previous question was seconded.

Mr. CONKLING. Let it go to the Committee of Ways and Means.

Mr. ROSS. I suggest the committee on reconstruction.

Mr. RAYMOND, by unanimous consent, moved that the resolution be referred to the

Committee on Foreign Affairs, with leave to report at any time.

The motion was agreed to.

QUARTERMASTER GENERAL'S DEPARTMENT.

The SPEAKER stated, as the next business in order, a resolution offered on the 19th of March, by Mr. McCULLOUGH, as follows:

Resolved, That the Secretary of War be directed to furnish this House with a list of the officers, volunteer and regular, employed in the Quartermaster General's department in this city; also their rank, the particular duties performed by them, and the number of clerks serving in each bureau under them; also, by what tenure the Secretary of War holds the Corcoran Art Building, what amount of rent is paid for it per annum, and if a less expensive and equally commodious and suitable building for the headquarters of the Quartermaster General cannot be procured and thereby a large saving to the country be made.

Mr. WASHBURNE, of Illinois. I move to amend by adding:

And to report also whether any steps have been taken for the confiscation of the aforesaid Corcoran Building.

I demand the previous question.

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

The resolution as amended was then agreed to.

APPROVAL OF THE PRESIDENT.

The SPEAKER stated, as the next business in order, the following resolution submitted by Mr. DAVIS on the 10th of January last:

Resolved, That this House cherish the most entire confidence in the patriotism and ability of the President of the United States, and in his desire to restore the Union on a basis of permanent prosperity and peace; and that the coöperation of this House is pledged to him in support of the general policy of reconstruction inaugurated by him in all modes authorized by the Constitution and consistent with the security of republican institutions.

Mr. DAVIS. Mr. Speaker, how much time is there remaining of the morning hour?

The SPEAKER. The morning hour will expire in ten minutes. But the Chair will state that there is no special order pending in the House for to-day, except an authority of the Committee on Military Affairs to report an Army bill.

Mr. DAVIS. I yield to my colleague, [Mr. RAYMOND.]

Mr. RAYMOND. I suppose, Mr. Speaker that this resolution would not, under the existing circumstances of the case, pass the House by a unanimous vote—at least without some discussion. [Laughter.] I am desirous, when it is acted upon, to have it pass, and by a vote as nearly unanimous as can be commanded for it. The gentleman from Massachusetts [Mr. BOUTWELL] thinks we had better not discuss it. I differ from him entirely on that point, as I have the misfortune to differ from him on many others. My own opinion is that in that matter, as in all others, the truth is most likely to be reached by discussion, provided that it be frank, manly, and fair, on grounds of judgment and conviction, instead of grounds of prejudice and preconceived opinion.

I do not know whether the House is at present in a proper mood to enter upon the discussion in that spirit. I hope its discussion will not now be entered upon. I have no intention to enter upon it myself unless it should be necessary to do so in order to prevent what might me called a snap judgment. I would like to know distinctly what will be the effect upon this resolution of the expiration of the morning hour.

The SPEAKER. By reference to page 34 of the Digest it appears that "it is the invariable practice to permit a member, upon the expiration of the morning hour, to take the floor, even though another may be occupying it, to make the motion to proceed to business on the Speaker's table." If the gentleman from Ohio [Mr. SCHENCK] does not rise to report the Army bill, and no member makes the motion to proceed to the business on the Speaker's table, the debate will go on.

Mr. WILSON, of Iowa. I intend to make that motion.

Mr. RAYMOND. I suppose there is no intention on the part of the House to press this resolution to an immediate vote. All that I desire is that it shall be acted upon fairly when it is acted upon at all. And if it is understood that upon the expiration of the morning hour this resolution shall be laid aside for subsequent consideration, I shall be quite content, as I have no doubt the gentleman who introduced it will be.

Mr. SMITH. I would inquire whether or not this question will not come up each morning hour until disposed of.

The SPEAKER. It will come up in the morning hour on Monday, whenever resolutions are called, and it will have to be disposed of in some way before the call of the States for resolutions can be resumed.

Mr. SCHENCK. Perhaps I can relieve the mind of the gentleman in this matter.

Mr. SPALDING. Allow me to say that I will not press my motion to take up the business on the Speaker's table.

The SPEAKER. The gentleman from Iowa [Mr. WILSON] states that he will make that motion.

Mr. SCHENCK. The morning hour, I believe, has not yet expired, but the moment it does expire it will be in order for me to report the Army bill and proceed with it as a special order.

The SPEAKER. It is the special order after the morning hour.

Mr. SCHENCK. I am compelled to ask the House to name another day for the consideration of that bill. I have it ready with all the amendments which have been agreed upon, but, as I said in reference to another matter this morning, the gentleman from Maine, [Mr. BLAINE,] a member of the committee who has taken special interest in and has been instrumental in putting into shape several portions of the bill, has been called away to Boston by the death of a member of his family. He writes and telegraphs that he sees no possibility, on account of the condition of the estate and the family of the deceased, for his return here before the 10th or 11th of April.

I would ask the House, under these circumstances, out of consideration to at least one member of the committee, to let the 12th of April be assigned for the consideration of this bill as a special order, and in the mean time I will report back the bill and have it printed just in the form in which I wish it considered by the House, with all the amendments made. If there be no objection, I ask permission to report back the bill now, to have the amendments and the substitute printed, and that it be made the special order for the 12th of April after the morning hour, and from day to day until disposed of.

The SPEAKER. Will the gentleman from New York [Mr. RAYMOND] yield for that purpose?

Mr. RAYMOND. I will make a single statement. All I desired was to have an understanding on the part of the House that this resolution will not be acted on now, and that whenever it is called up, such gentlemen as may feel that justice to themselves as well as to the subject requires them to say something on it may have opportunity to do it. With that understanding I am ready to yield the floor.

Mr. PAINE. I wish to say that I object to any understanding that would prevent any member from moving to lay the resolution on the table.

Mr. RAYMOND. I certainly should not wish it laid on the table the moment it is called up; and I desire whenever it is called up to say something in regard to it and of my own relations to the subject. Unless that arrangement can be made, I shall be compelled to retain the floor and go on now.

Mr. FARNSWORTH. I wish to make an inquiry of the Chair. If the resolution should be referred to the Committee of the Whole on the state of the Union, I suppose the House could at any time, by a majority vote, go into committee and take it up; could it not?

The SPEAKER. The special orders in committee would have priority. There is an appropriation bill in the Committee of the Whole on the state of the Union; when that is disposed of there is no other special order.

Mr. FARNSWORTH. But a majority can lay aside a special order.

The SPEAKER. They can as soon as it is reached.

Mr. FARNSWORTH. Then I suggest to the gentleman from New York that he refer the resolution to the Committee of the Whole on the state of the Union.

Mr. RAYMOND. The only objection to that is, that just now the resolution, so far as my object is concerned, is under my own control, and I can speak upon it now. I cannot, under the arrangement he suggests, without the consent of the majority of the House.

It seems to me, Mr. Speaker, that the disposition of the House is to leave this matter in such a condition that it can be disposed of without any discussion whatever. That will be the policy of the majority. I have no right to put myself against the will of the majority, except in this particular case, so far as my own right to be heard is concerned. There, I think I have, and I shall proceed with the discussion of the resolution until the expiration of the morning hour unless the suggestion I have made can be received and adopted by the House. [Cries of "Go on!" "Go on!"]

Mr. Speaker, the resolution proposes to declare the confidence of this House in the integrity and patriotism of the President of the United States, and the wisdom of the policy by which he proposes to restore the Union. Under ordinary circumstances the passage of this resolution would be simply a matter of course. This House contains a very large majority of Union men.

The SPEAKER. The morning hour has expired and it is the duty of the Chair to call up the special order made on the motion of the gentleman from Ohio, [Mr. SCHENCK.] The gentleman from New York [Mr. RAYMOND] is entitled to fifty minutes on this resolution when the House resumes its consideration. The gentleman from Ohio [Mr. SCHENCK] has the authority of this House to report the Army bill to-day.

Mr. SCHENCK. I now report back from the Committee on Military Affairs House bill No. 361, to reorganize and establish the Army of the United States, with certain amendments thereto. This bill, by order of the House, was made the special order for to-day. For the reasons I have already stated, I move to postpone the further consideration of this bill until Thursday, the 12th instant, after the morning hour, and from day to day until disposed of.

The motion to postpone was agreed to.

Mr. SCHENCK. I now move that the bill and amendments be printed.

The motion to print was agreed to.

Mr. TAYLOR. I would suggest that the gentleman from Ohio [Mr. SCHENCK] submit a motion to print extra copies of this bill, as it is a matter in which the country feels great interest.

Mr. SCHENCK. I will submit a motion to print one thousand extra copies.

The SPEAKER. The motion will go to the Committee on Printing under the law.

Mr. TAYLOR. I would suggest five thousand extra copies.

The SPEAKER. The Committee on Printing can report any number they think proper.

J. C. G. KENNEDY.

Mr. LAFLIN, from the Committee on Printing, to which was referred the memorial of J. C. G. Kennedy, late superintending clerk of the census, in relation to the action of the Secretary of the Interior concerning the third volume of the Census Reports, reported the same back, with a written report, which was read, concluding with the following resolution:

Resolved, That the Committee on Printing be discharged from the further consideration of the memorial of J. C. G. Kennedy, under date of December 12, 1865.

Mr. LAFLIN. This is a subject that relates to a difficulty that arose between the Secretary of the Interior and the memorialist, Mr. Kennedy, late superintending clerk of the census.

It appears that in June last, owing to the failure of the appropriation by the last Congress, it was found to be impossible to continue the duties of the Census Office without making some change therein. Accordingly the Secretary of the Interior, on the advice of the Cabinet and the President of the United States, transferred the duties of that office to the Commissioner of the General Land Office, Hon. J. M. Edmunds. The reason for the transfer was that there was an unappropriated fund under the charge of the Commissioner of the General Land Office which could be as well applied to this purpose as to any other, and it was impossible to continue the publication of the Census Reports without making this transfer.

At the time this was done it was held by the memorialist, Mr. Kennedy, that the Secretary of the Interior acted in violation of law. This is the charge which is plainly and distinctly made in the memorial. It was consequently the first duty of the committee to address themselves to the consideration of that question. By referring to the act of January 23, 1850, establishing the Census Office, it was found that after enumerating certain powers which were to be given to the Secretary of the Interior, and to marshals and others to be appointed under him in connection with the census, the Secretary of the Interior was empowered, in the general management of the business of the census, to appoint a superintending clerk of the census, who should do thus and so under his direction.

In accordance with the provisions of that law the memorialist, the late superintending clerk of the census, was appointed and continued in that office until June, 1865. At that time, for the reasons I have already stated, the duties of the Census Office were transferred to the Commissioner of the General Land Office.

Now, we find, by the express language of the act to which I have referred—language the meaning of which cannot be mistaken, and upon which no doubtful construction can be placed—that the Secretary of the Interior was empowered in the general management of the duties of his office to appoint a superintending clerk of the census to act under his direction. The late superintending clerk of the census, Mr. Kennedy, claims that although the law in such explicit terms gave the whole control of the office to the Secretary of the Interior, yet certain resolutions adopted by the Senate and by the House of Representatives with reference to the publication of the third volume of the Census, relating to manufactures, transferred these powers to him.

By reference to those resolutions we find that they instructed the Superintendent of Public Printing to print, as furnished by the late superintending clerk of the census, so many volumes of the third volume of the Census on manufactures.

But there is nothing in the language he respectfully submitted to the House that would give to the superintending clerk power to take from the Secretary of the Interior the general management of the duties of the office.

And besides that, even if it were so, the committee found when this work was ready for publication, when the manuscript was furnished *in toto* to the Superintendent of the Public Printing, the memorialist was not in office; that the duties of the office had been transferred to the Commissioner of the General Land Office, Hon. James M. Edmunds; and under the interpretation sought to be given to these resolutions, he had no right to claim that the Secretary of the Interior had acted in violation of the law.

It appears that the incumbent of the office of Superintendent of the Census at the present time was appointed, named, and authorized under the written direction of the Secretary of the Interior to assume the duties of that office prior to the preparation of the work; but, sir, it is due to the memorialist to say that of eight hundred and forty-three pages, some six or seven hundred had been prepared when the office was under his direction.

Now, sir, I think I have shown sufficiently clear to this House that the Secretary of the Interior did not act in violation of the law in transferring the duties of that office to the Commissioner of the General Land Office.

But the memorialist claims, still further, that an illegal act has been committed, not only by the Secretary of the Interior, but by the Commissioner of the General Land Office, inasmuch as the latter, when in charge of the Census, saw fit to introduce into the third volume, on manufactures, a preface of his own composition in place of the preface prepared by the late superintending clerk of the census. Now, sir, we have thoroughly examined these prefaces, and although we cannot for a moment admit that the character of these prefaces, as to their literary merit, has anything to do with the consideration of this question, yet we are clearly satisfied that the Commissioner of the General Land Office, who was acting under the direction of the Secretary of the Interior, and who was the officer in charge at the time when this work was transmitted to the Public Printer, had the right to exercise his judgment as to what should be in and what should be out of the third volume. We hold there was nothing in what he did or what he failed to do that was illegal.

And we hold, still further, the proposition, which will meet, we think, the cordial assent of this House, that no person, however exalted may be his position, occupying a subordinate position in any of the Departments of the Government, has a right to claim for any of his work or labor that which may be considered as a *quasi* copyright or its equivalent.

Mr. THAYER. Allow me to make a remark. I do not understand that Mr. Kennedy has ever made a claim to a copyright, or that his position has been at all of that character. I happen to know a little about that matter, and I wish simply to say this: I do not wish the House to suppose that the claim set up by Mr. Kennedy was of the character of a copyright. I understand that Mr. Kennedy claimed as an ordinary act of literary justice, he having had imposed upon him the labor and responsibility of the preparation of the third volume of the Census, it was right and proper that the preface which he had written for that volume should go into it.

If the gentleman will excuse me a moment, I wish to add that Mr. Kennedy in that position was entirely right; and it has always seemed to me to have been a great act of discourtesy, to have been what, among literary and scientific men, would have been considered a great act of impropriety in the Commissioner of the General Land Office, to take the work of Mr. Kennedy and put into it a preface of his own, conveying to the public the impression he performed the work which went into that volume. In my judgment, that was an act of discourtesy and of impropriety, and I hope the House will not adopt it.

Mr. GRINNELL. I wish to ask the gentleman if he does not consider that five years was a sufficient time in which to execute that literary trust.

Mr. THAYER. I do not know that that has anything to do with it. I do know that the gentleman referred to is a man of great industry and ability in the matter of statistics, and I do not think that anybody who is acquainted with his abilities in that respect will deny that fact. And if there was a great deal of time consumed, I have no doubt it will turn out that it was necessary for the work to be accomplished.

Mr. LAFLIN. It was far from my intention, as the gentleman would seem to intimate, to do any injustice whatever to Mr. Kennedy. If he had watched my remarks closely he would have discovered that I did not say that he claimed a copyright. I know he did not claim it. But I knew of no language that could express my idea more clearly than to say that he claimed that he was entitled to the credit of the production of this work—a *quasi* copyright.

Now, the gentleman does not pretend to dispute this point, but he goes on to argue it as a question of delicacy, of literary honor. I do not assume to dispute that question with him, although perhaps I may not agree with him in that particular. That is not a question for this House to determine; and I would simply say here, inasmuch as this question has been raised, that by far the greater proportion of printed matter that appears in the third volume evidently emanating from the brains of somebody. I think I may say, speaking from recollection, fully ten pages to one, appears in connection with the introduction to that volume. And I think I am safe in saying that the introduction to the third volume, on manufactures, contains more valuable statistics, gives more information, shows more power and capacity, and entitles the author to more literary credit, than the preface itself. I found, when I went into an examination of this case, that every word of this introduction had been prepared originally by Dr. Bishop, that it had been submitted to the late Superintendent of the Census, and that it was only corrected in a very few words.

We asked the superintending clerk of the census several questions on this subject, and I would not allude to them but for the remarks that have been made by the gentleman from Pennsylvania, [Mr. THAYER.] We asked him, "Were you not appointed under the direction of the Secretary of the Interior?" He answered that he was. "Did you not act under his direction?" He answered, "I did." We asked him, "Who wrote the introduction?" He said it was written principally by Dr. Bishop. "Under whose direction did he act?" He answered, "Under the direction of the superintending clerk of the census." Then we asked him, "If you as the superintending clerk, acting under the direction of the Secretary of the Interior, have a right to authorship and to property in your productions in reference to such a book as this, has not Dr. Bishop also the same right; and if so, where will it stop?"

Now, sir, I want to say here that there has been no such injustice done to the late superintending clerk as the gentleman from Pennsylvania [Mr. THAYER] has represented. I entertain the most friendly feelings toward Mr. Kennedy. I am willing to recognize the ability with which he has conducted the duties of that office. I am aware that he has a reputation of which any man might be proud, not only in this country but abroad. But this volume, as were the preceding volumes, ought not to have been published with a title-page reading thus: "Compiled by the superintending clerk of the census, J. C. G. Kennedy, under the direction of the Secretary of the Interior."

When the third volume, on manufactures, was published, that which related "to the superintending clerk of the census" was left entirely out; the Commissioner in charge of the General Land Office never inserted anything relating to himself or his office upon the title-page whatever, but printed it as it ought to have been printed, "under the direction of the Secretary of the Interior." And, sir, there is not a single word, from the beginning to the end of the preface, which in any manner detracts from the high character which Mr. Kennedy has held, or which in any manner claims for Mr. Edmunds any right or title to the preparation of the book.

Now, Mr. Speaker, I think I have made the case clear. I think it is perfectly apparent that under the act of Congress of May 23, 1850, the Secretary of the Interior, and the Secretary of the Interior alone, was placed in the general management of this office, and every person appointed thereto was to act under his direction. I have shown that under his direction, on the 7th of June, 1865, the duties of this office were transferred to Hon. J. M. Edmunds of the General Land Office, and he was placed in charge of the census. I have shown that the Secretary of the Interior could not, therefore, as this memorial charges, have acted in viola-

tion of law. This is a very serious charge to be made against such a high and distinguished public functionary as the Secretary of the Interior, and that, too, by a gentleman occupying, to say the least of it, a subordinate position.

But the committee were satisfied, there was not a doubt resting on their minds, as to the legality of the case, and even if a question might have been raised as to delicacy and propriety, certainly this House is not the place to determine it. It certainly does not become this House, when a large edition of this volume on manufactures is already published and circulated to the country, to assume to say that the preface shall be expurgated in the forthcoming edition and another substituted, when that preface was placed there by the order of him to whom the charge was given, in strict conformity, not only with rigid law, but with resolutions of the House of Representatives and Senate.

The committee merely ask to be discharged from the further consideration of the subject; and I move the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

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

The latter motion was agreed to.

SMITHSONIAN LIBRARY.

On motion of Mr. HAYES, by unanimous consent, bill of the Senate No. 216, to provide for the transfer of the custody of the library of the Smithsonian Institution to the Library of Congress, was taken from the Speaker's table and read a first and second time.

Mr. HAYES. The Committee on the Library recommend the passage of the bill.

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

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

The latter motion was agreed to.

NEW YORK CONTESTED ELECTION.

Mr. DAWES. I desire to state that it was my intention to call up to-day the contested-election case of Dodge *vs.* Brooks, but at the request of the gentleman from Illinois, [Mr. MARSHALL,] my colleague on the committee, I postpone it until to-morrow. If the House is willing to take it up to-morrow, I should like to call it up immediately after the reading of the Journal, or, if a morning hour is desired, immediately after the morning hour.

The SPEAKER. The Chair would state that the call of committees is progressing very slowly indeed.

Mr. DAWES. Then I will call it up after the morning hour.

PURCHASE OF PAPER, ETC.

Mr. GRINNELL, by unanimous consent, submitted the following resolution:

Resolved, That the Committee on Printing be requested to report to this House what reforms, if any, are needed in the purchase of paper, the ordering of books, documents, bills, and other matters printed at the public expense, in the management of the Printing Office, for the collection and sale of the waste paper either at said office or in any other place under the control of the Government, or in anything connected with the consumption of paper and the purchase of the same; and to this end, they are hereby empowered to send for persons, books, and papers, and to make such examination as shall, in their judgment, be necessary to attain the end hereby sought, with authority to sit during the sessions of the House.

Mr. GRINNELL. I wish simply to state that I know from letters which I have received that the country is looking with great interest to this question of the reduction of the expenses of printing. I did not see any way in which to get at this matter but to require the Committee on Printing to investigate the subject and report. I know there is a public demand for an investigation. I now yield to the gentleman from New York, [Mr. LAFLIN.]

Mr. LAFLIN. I certainly cannot allow this resolution to be adopted without first inquiring of my friend from Iowa [Mr. GRINNELL] whether there is any intention by the introduction of this resolution to reflect upon any one in any way connected with the Government Printing Office, or any one connected with the purchase or sale of paper.

Mr. GRINNELL. I wish to say, in reply to the gentleman from New York, [Mr. LAFLIN,] that I know of nothing against the Superintendent of Public Printing, or against the purchase of paper, or against any expenditures whatever in that department. But it is whispered about by gentlemen on the other side of the House that they will show us something one of these days. Now, we have committees which can investigate these matters, and the other side of the House has a member upon this committee. Now, I do not wish to have a fire in the rear after we have gone home. Let us have the investigation now; let the committee be empowered to send for persons and papers, so that they can recommend any contraction or reduction of the expense that they may deem necessary. But I have no imputation to cast upon any one.

Mr. LAFLIN. I am very glad to hear the statement of my friend from Iowa, for it agrees entirely with what has been my experience, so far as I have been called upon to investigate the subject referred to in the resolution.

I should dislike very much to have this resolution go before the world without some explanation of the kind which has already been made by the gentleman who introduced it. I felt it due to a faithful officer that such an explanation should be made. For as I have become acquainted with the duties and responsibilities connected with the Printing Office, as I have observed that it involves the expenditure of over $2,000,000 a year, I have felt that the Government of the United States was practicing a most niggardly economy in paying the Superintendent of Public Printing such a miserable pittance in the way of a salary. Now, I am very glad indeed that no reflection is intended to be cast upon this officer.

And I wish to say another thing: if this investigation is to be ordered by this House, it will impose a burden upon our committee which we cannot perform in connection with our other duties unless we have some assistance. And if this resolution is adopted, I shall ask the House to furnish us a clerk for the purpose of this investigation.

Mr. WASHBURNE, of Illinois. We already have a stenographic clerk.

Mr. GRINNELL. I now call the previous question.

Mr. RANDALL, of Pennsylvania. Will the gentleman from Iowa [Mr. GRINNELL] yield to me for a moment?

Mr. GRINNELL. I will yield for a question.

Mr. RANDALL, of Pennsylvania. I desire to make a suggestion. I suppose the gentleman from Iowa [Mr. GRINNELL] would not have offered this resolution for investigation unless he had some warrant for so doing. I agree with that gentleman that if an investigation is to be had it should be had at once by those who are here, and not by those who may come after us, who are not familiar with the subject-matter to be investigated. And I am glad to know that so good a gentleman as the member from Iowa will act as chairman of that committee. I hope he will use his influence with the Speaker of the House to secure a majority of the committee in favor of a thorough and complete investigation; a majority adverse to any process of white-washing, which may at this time be sought by the parties implicated.

Mr. GRINNELL. The gentleman entirely misapprehends the resolution. It does not provide for the appointment of a special committee, but calls upon the Committee on Printing to investigate and report to the House. I certainly should not have offered any resolution with the idea of being chairman of any committee.

Mr. RANDALL, of Pennsylvania. I supposed it was the intention to have a new committee. I have myself entire confidence in the Committee on Printing. And I may be allowed to express the hope that they will make their investigation a complete and thorough one, because the people of the country believe there is something wrong about this matter, and it should be settled at once whether there be or not. If these gentlemen are conducting the printing department with economy and probity they should have the benefit of that statement before the country. If, on the contrary, they are extravagant and without full warrant for their proceedings, then the corrective should be promptly applied by this House.

Mr. GRINNELL. As this provides only for an investigation, and not for the creation of a select committee, I demand the previous question.

The previous question was seconded and the main question ordered.

The resolution was again read.

Mr. LATHAM. Can the resolution be now modified?

The SPEAKER. Only by unanimous consent.

Mr. LATHAM. It ought to be a joint resolution and referred to the Joint Committee on Public Printing.

Mr. GRINNELL. I object to that.

The resolution was adopted.

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

The latter motion was agreed to.

TAX UPON CRUDE PETROLEUM.

Mr. MYERS, by unanimous consent, submitted a joint resolution of the Legislature of Pennsylvania for the repeal of the tax on crude petroleum; which was referred to the Committee of Ways and Means, and ordered to be printed.

LEAVE OF ABSENCE.

On motion of Mr. SCOFIELD, leave of absence was granted to Mr. BARKER for four days from to-day.

Mr. KELLEY asked and obtained leave of absence for ten days for his colleague, Mr. WILLIAMS.

Mr. BENJAMIN asked and obtained leave of absence for two weeks for his colleague, Mr. ANDERSON.

On motion of Mr. COOK, leave of absence was granted to Mr. KUYKENDALL for two weeks from to-day.

BRIDGE ACROSS THE MISSISSIPPI.

On motion of Mr. HOGAN, Senate bill No. 38, to authorize the construction of a bridge across the Mississippi river, at the city of St. Louis, in the State of Missouri, and the city of East St. Louis, in the State of Illinois, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Commerce.

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

The latter motion was agreed to.

ORGANIZATION OF THE HOUSE.

Mr. ASHLEY, of Ohio, by unanimous consent, submitted the following resolution, on which he demanded the previous question:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of so amending chapter one hundred and eight of the laws of 1863, entitled "An act to regulate the duties of the Clerk of the House of Representatives in preparing for its organization," as to designate, in case of the death, resignation, or inability of the Clerk to perform the duties prescribed in organizing the House, the person on whom the duties of Clerk in such a contingency shall devolve.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

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

The latter motion was agreed to.

SHIP-CANAL IN MARYLAND.

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

Resolved, That the Secretary of War be, and he is hereby, directed to inform this House what appropriation will be necessary to complete the ship-canal from Fort McHenry to the mouth of the Patapsco river in the State of Maryland, together with such information of the practicability and the character of the work as may be in the possession of the Department.

NATIONAL ACADEMY OF SCIENCE.

On motion of Mr. KASSON, by unanimous consent, the annual report of the National Academy of Science was taken from the Speaker's table, and referred to the Committee on Coinage, Weights, and Measures.

CRIMES AGAINST THE UNITED STATES.

Mr. WILSON, of Iowa, by unanimous consent, from the Committee on the Judiciary, reported back Senate bill No. 165, more effectually to provide for the punishment of certain crimes against the United States, with a recommendation that it do pass.

The bill was then read.

Mr. WILSON, of Iowa. Mr. Speaker, the subject to which this bill relates was brought to the attention of the committee of the Senate by communications sent to the chairman of that committee by the Sixth Auditor's office; and to show the necessity for its immediate passage, I will send to the Clerk's desk to have read a statement of one of the cases which has recently occurred.

The Clerk read, as follows:

"A LEGAL DEFECT.—A very curious illustration of the manner in which the law is made to bend to technicalities has just occurred in the city of New York, upon a motion to quash an indictment for the forgery of a certain custom-house bond, executed in fraud of the internal revenue act. The proceedings were under an act of Congress passed in the year 1825, which provides that if an offense shall be committed in a place under the jurisdiction of the United States, as a custom-house, dock-yard, &c., for which no punishment is provided in the laws of the United States, the punishment shall be under the State law for offenses of the same grade. The Supreme Court of the United States has decided that this act means that the punishment is to be the same as by the State law in force when the act of Congress was passed in 1825. The New York court also decides that the offense must be committed in a place in which the United States held jurisdiction at the time when the act was passed in 1825. Now, it happens that the New York custom-house, where this forgery was committed, is not in the same place occupied by the New York custom-house in 1825. It also happens that the State law against forgery existing in 1825 has been repealed. The New York court therefore holds that an indictment cannot be sustained, because the act of 1825 cannot extend its provisions to a forgery committed in any other place than the old custom-house; and even if it could, there is no State law punishing forgery now in existence which was in force in the year 1825; consequently the party who committed the forgery goes clear. Thus the triumph of technicality over justice. We may profit by this decision here in Philadelphia. There is no United States establishment here in the same place which was occupied in 1825 by the same national jurisdiction except the navy-yard, (or a portion of it,) and the United States arsenal near Gray's Ferry. The custom-house, post office, Mint, were all in 1825 in different situations from those which they occupy now. Furthermore, the Pennsylvania act against forgery in 1825 is not the act in force in 1866. Our whole criminal code was revised a few years ago, and all our criminal laws are comparatively new. We are, therefore, in no better condition than they are in New York as regards protection against offenses punishable under the terms of the act of Congress of 1825. Luckily, Congress is in session, and this defect can be cured by the passage of a proper act. It will be judicious to attend to it without delay, otherwise we shall be without protection against the designs of rogues."

Mr. WILSON, of Iowa. I will state that a case of similar character has arisen in the Post Office Department, and that such cases are likely to occur in every Department of the Government. I hope there will be no objection to the passage of the bill.

Mr. JENCKES. Will the gentleman allow me a question?

Mr. WILSON, of Iowa. Yes, sir.

Mr. JENCKES. Why not extend the provisions of this statute to the counterfeiting of any record in any court of justice in the United States?

Mr. WILSON, of Iowa, I have no doubt there are a number of things that might be very well provided for in this bill, but it so happens that the Senate committee have extended its provisions only thus far, and it will only delay the matter and subject the Government to great inconvenience if we undertake to amend it. These cases of forgery may occur day by day, and we need a law to punish them.

Mr. JENCKES. I wish to call the attention of the chairman of the committee to the fact that there is an omission in the criminal statutes of the United States to provide for the punishment of such offenses.

Mr. WILSON, of Iowa. I am aware of that. I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was read the third time and passed.

Mr. WILSON, of Iowa. I move to reconsider the vote by which the bill was passed, and to lay that motion on the table.

The latter motion was agreed to.

COLORED TROOPS.

Mr. WILSON, of Iowa. I offer the following resolution:

Whereas it is reported that orders have been issued directing that all colored troops shall be mustered out of the service; and whereas it is also reported that very many of said troops desire to remain in the service, and that the white volunteers generally desire to be mustered out in order that they may return to their homes and engage in their accustomed civil pursuits: Therefore,

Be it resolved, That the Committee on Military Affairs be instructed to inquire whether said reports are true; and if true, that the committee report all the facts to the House concerning said orders and the desires of said troops, together with such other information relative to the subject-matter of this inquiry as the committee may obtain.

Mr. FINCK. I object.

Mr. WILSON, of Iowa. I understand from the chairman of the Committee on Military Affairs that that committee has now all the information. If that is so, and they are ready to report, of course this is unnecessary.

TAXING MINING CLAIMS.

Mr. HENDERSON, by unanimous consent, presented the joint memorial of the Oregon Legislature, against taxing mining claims; which was referred to the Committee on Mines and Mining, and ordered to be printed.

CAPITOL DECORATION.

Mr. SMITH, by unanimous consent, submitted the following resolution:

Resolved, That a committee of five be appointed to inquire into the propriety of having a decoration prepared for the south wing of the Capitol as a match-piece to the "Progress of Civilization" on the north wing; and that they have power to call for plans, designs, and casts for such work, and report at any time by bill or otherwise.

Mr. WASHBURNE, of Illinois. I move to refer that to the Committee on the Library.

The motion was agreed to.

ELIZABETH YORK.

Mr. BENJAMIN, by unanimous consent, from the Committee on Invalid Pensions, reported a bill granting a pension to Mrs. Elizabeth York, widow of Shubal York, late surgeon of the fifty-fourth regiment of Illinois infantry volunteers.

The accompanying report was read, showing that the deceased was shot and killed by disloyal citizens in an unprovoked attack upon him on the 28th of March, 1862.

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

Mr. BENJAMIN. I move to reconsider the vote by which the bill was passed, and to lay that motion on the table.

The latter motion was agreed to.

SARAH FITZGIBBON.

Mr. TAYLOR, by unanimous consent, from the Committee on Invalid Pensions, reported back Senate bill No. 82, granting a pension to Sarah Fitzgibbon, with an amendment.

The bill grants a pension of twenty-five dollars per month.

The amendment is to insert the following proviso:

Provided, That in the event of the marriage or death of said Sarah Fitzgibbon the pension allowed by this act shall be continued to the children of the late Major Thomas C. Fitzgibbon.

The amendment was agreed to.

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

Mr. TAYLOR. I move to reconsider the vote by which the bill was passed, and to lay that motion on the table.

The latter motion was agreed to.

LEWIS W. DIETRICH.

Mr. TAYLOR, by unanimous consent, from the Committee on Invalid Pensions, reported a bill granting a pension to Lewis W. Dietrich; which was read a first and second time.

The report was read.

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

Mr. TAYLOR moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

REPRESENTATIVES OF BETSY NASH.

Mr. SAWYER, by unanimous consent, from the Committee on Invalid Pensions, reported a bill for the relief of the legal representatives of Betsy Nash; which was read a first and second time.

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

Mr. SAWYER moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

NICHOLAS HIBNER.

Mr. VAN AERNAM, by unanimous consent, from the Committee on Invalid Pensions, reported a bill for the relief of Nicholas Hibner, late a private in the sixth regiment Missouri State militia; which was read a first and second time.

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

Mr. VAN AERNAM moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

LAND-GRANT RAILROADS.

Mr. PRICE. I ask the unanimous consent of the House to report back from the Committee on the Pacific Railroad Senate bill No. 83, to extend the time for completing certain land-grant railroads in the States therein named, with an amendment in the nature of a substitute, and I ask that it be passed.

Mr. WASHBURNE, of Illinois. I object.

Mr. PRICE. I hope the gentleman will not object. It is only a bill to extend the time of the Iowa roads.

Mr. WASHBURNE, of Illinois. Well, I will hear the substitute read, reserving the right to object.

The substitute was read. The first section provides that the time allowed for the completion of the several railroads in the State of Iowa, named in the act approved May 16, 1856, be extended eight years from the time named in said act, provided that the unsold lands shall revert to the United States, as provided in said act, if the railroads shall not be completed within the period fixed by this act.

The second section provides that such portion of the lands granted to the State of Iowa by the act of May, 1856, as would revert to the United States at the end of twelve years from the passage of said act, by reason of the non-completion of the roads named therein, if there were no extension of time given, shall be subject to preëmption, settlement, and purchase; and that any *bona fide* settlers upon any of said lands, upon making due proof of settlement, occupation, and improvement, under the preemption laws of the United States, shall be entitled to enter the same in quantities not

exceeding eighty acres each, at three dollars per acre. The money obtained from such sales is to be retained in the Treasury of the United States until the particular line of road to which the said lands were granted has been so far completed as to entitle the State to the lands, when the money is to be paid over to the State of Iowa for the use of the company constructing the road, and to which the preëmpted lands were granted.

The substitute further provides for a change in the route of the road from Dubuque to Sioux City.

Mr. KASSON. I want to say to my colleague [Mr. PRICE] that that bill is evidently one of very great importance to the State of Iowa, particularly to the western part of the State. I should very much like to see it printed. I shall make no objection to the bill being reported to the House if it can be postponed a few days and printed in time to give an opportunity for its proper examination. The Legislature of our State has been very much excited upon this general subject of railroads in the State. If my colleague has no objection, I would ask that this bill when reported may be postponed for a week, more or less, and ordered to be printed. If he will not consent to that, then I shall be compelled to object to its being reported at this time.

Mr. PRICE. Then the gentleman will have to object. My only objection to fixing a future time for the consideration of this bill is simply this: this bill has been before the Pacific Railroad Committee for a great many weeks; the Legislature of the State of Iowa will adjourn within a very few days, and this bill should be passed before they adjourn.

All that this bill provides for is to extend the time for building the roads, to allow preëmptions upon the land if the road is not built within a certain time, and to change in some respects the route. Those three points are all that this bill embraces. The bill as it came from the Senate and was referred to our committee contained a provision extending the time of other roads. That part of the Senate bill the committee have struck out, and have instructed me to report the substitute which has been read by the Clerk.

If the reporting of the bill is objected to at this time, then I will move to suspend the rules in order that I may report it for action at this time. Any gentleman who knows anything about the condition of affairs, and the time when our Legislature will adjourn, must know that it is necessary that this bill should be passed at once.

Mr. KASSON. I must object to the reporting and passing of this bill without some provision is put in it to open up to settlement these lands, which are now tied up in these grants.

Mr. GRINNELL. There is such a provision.

Mr. KASSON. I understand that there is no such provision in the bill, except one that opens these lands for settlement after a certain time. I must object to the reporting of this bill, unless consent is given to its postponement and printing.

Mr. PRICE. My colleague will discover that there is a specific provision in the bill allowing these lands to be preëmpted and settled.

I now move to suspend the rules that I may be allowed to report this bill at this time.

Mr. JULIAN. This bill properly belongs to the Committee on Public Lands, and I hope if it is reported now it will be referred to that committee.

The question was taken upon suspending the rules; and upon a division, there were—ayes thirty-seven, noes not counted.

So (two thirds not voting in the affirmative) the rules were not suspended.

Mr. PRICE. I now ask leave to report the bill and have it postponed until some day next week and printed.

Mr. JULIAN. I ask that the bill be referred to the Committee on Public Lands, with leave to report at any time.

Mr. PRICE. The bill has already been before the Committee on the Pacific Railroad and been considered by them.

Mr. JULIAN. It was referred to the Committee on Public Lands of the Senate, and should go to the corresponding committee of the House.

The SPEAKER. That is not a question to be decided at this time.

No objection being made,

Mr. PRICE, from the Committee on the Pacific Railroad, reported back to the House Senate bill No. 83, to extend the time for completing certain land-grant railroads in the States therein named, with an amendment in the nature of a substitute.

On motion of Mr. PRICE, the further consideration of the bill was postponed until Monday next after the morning hour, and the substitute was ordered to be printed.

CALIFORNIA AND OREGON RAILROAD.

Mr. BIDWELL. I ask unanimous consent to report back from the Committee on the Pacific Railroad, for consideration at this time, House bill No. 339, granting land to aid in the construction of a railroad and telegraph line from the Central Pacific railroad, in California, to Portland, or the navigable waters of the Columbia river, in Oregon.

Mr. JULIAN. I must object to that.

Mr. BIDWELL. Then I move to suspend the rules for that purpose, and I ask the unanimous consent of the House to make a statement in explanation of that motion.

No objection was made.

Mr. BIDWELL. There is probably no subject of more consequence to the interests of the Pacific coast, and I may say to the whole country, than this subject of the construction of railroads, for it is by those communications that we are enabled to develop the resources of the country. I may say that there is nothing that will tend more to the development of our unsettled agricultural lands and the development of our mineral regions, than the construction of railroads within our borders.

Now, sir, here is a bill which has been before the House for months, and it is desired that it should pass in order that these companies may be able to begin the work early in the present season. If another month pass without its consideration it will be impossible to commence work until the next year. I hope, therefore, the House will consent to suspend the rules and consider the bill at this time. I do not believe that any well-grounded objection can be found to its provisions. It has been carefully considered, and its provisions carefully framed by the Committee on the Pacific Railroad, and I am empowered unanimously to report it from that committee.

Mr. JULIAN. Mr. Speaker, this bill proposes to revolutionize our whole land policy. It makes a direct grant of lands to an incorporated company for which there is no precedent, except in the case of the Pacific railroad where we could not grant the lands to any one State on account of the great length of the road. I ask that it be referred to the Committee on Public Lands so that we have an opportunity to examine it. Certainly so radical a change in our land policy should not be made at this time without proper consideration by the appropriate committee.

Mr. BIDWELL. I hope the rules will be suspended. If it be a new idea for Congress to grant lands to aid in the construction of railroads, then certainly I have come to the wrong place. But, sir, I do not believe that it is any new idea.

Mr. JULIAN. To grant lands to companies is a new policy.

Mr. BIDWELL. I understood, on the contrary, objection was to grant lands to the States, and that the policy was to grant them to companies.

These companies are responsible organizations. Because they are organizations, why cannot lands be granted to them? To whom would the gentleman grant lands? States. If lands are to be granted to States only for building roads then we ought to abandon the idea of building roads altogether. If we do grant lands to the States it will give an opportunity to speculators in the States to gain some particular advantage for some particular class of speculators. But this proposes a grant of lands to a company after they have constructed twenty miles of road, and when they have constructed twenty miles more other lands, and so on.

Mr. FARNSWORTH. I wish to inquire whether this bill has been printed.

Mr. BIDWELL. It has. I do not wish to deprive any committee of any business which legitimately belongs to it.

The House refused to suspend the rules.

CATTLE PLAGUE.

Mr. BIDWELL, from the Committee on Agriculture, submitted a communication from the Secretary of State to the chairman of that committee, transmitting correspondence on the subject of the cattle plague; which was laid upon the table and ordered to be printed.

NEW POST ROUTE IN ILLINOIS.

Mr. ROSS, by unanimous consent, introduced a bill to establish a post route between the towns of Bedford and Pearl, in Pike county, Illinois; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

MINNESOTA DISTRICT COURT.

On motion of Mr. WINDOM, Senate bill No. 107, to provide for a term of the district court for the district of Minnesota to be held at the city of Winona, in said district, was taken from the Speaker's table and read a first and second time.

The bill provides that hereafter, and until otherwise provided by law, there shall be held annually, on the first Monday in June, a term of the district court of the United States for the district of Minnesota, at the city of Winona, in said district, and that all acts or parts of acts which require a term of said court to be held at Mankato, in said district, be, and the same are hereby, repealed.

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

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

The latter motion was agreed to.

COURTS IN CALIFORNIA AND LOUISIANA.

On motion of Mr. WILSON, of Iowa, Senate bill No. 179, in relation to district courts of the United States in the States of California and Louisiana, was taken from the Speaker's table, read a first and second time, and referred to the Committee on the Judiciary.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill was referred to the Committee on the Judiciary; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

SHIP-CANAL IN WISCONSIN.

Mr. ECKLEY, from the Committee on Public Lands, reported back without amendment Senate bill No. 85, granting to the State of Wisconsin a donation of public land to aid in the construction of a breakwater, harbor, and ship-canal at the head of Sturgeon bay, in the county of Door, in said State, to connect the waters of Green bay with Lake Michigan in said State.

The bill was read. It grants two hundred thousand acres of land for the aforesaid improvements.

Mr. WRIGHT. I would like to ask a question of the gentleman who reports this bill. This appropriates two hundred thousand acres of land, and I understand an appropriation has already been made for the same object of two hundred thousand acres. Now, I would inquire what is the length of this canal, and whether it is not owned by a private corporation, which

seeks this aid from the public lands which should be appropriated for the payment of the national debt?

Mr. ECKLEY. This is not an additional appropriation of two hundred thousand acres of land.

Mr. DRIGGS. With the leave of the gentleman from Ohio, I would say, in answer to the gentleman from New Jersey, that at the last Congress the Senate passed a bill appropriating one hundred thousand acres of land for this canal, which is about a mile and a half in length, but the bill failed in the House. Some of the Wisconsin members were absent and there was not a very full explanation given of it. Upon a complete survey it was ascertained that appropriation would be entirely inadequate, and therefore the amount now asked is two hundred thousand acres. Nothing has been granted heretofore. The Senate by a nearly unanimous vote, I believe, has passed the bill, and the Committee on Public Lands after a thorough investigation have reported the bill back with a unanimous recommendation that it pass.

Mr. SLOAN. Will the gentleman from Ohio [Mr. ECKLEY] yield to me to say a word?

Mr. ECKLEY. Certainly.

Mr. SLOAN. I desire to add to the explanation already given by the gentleman from Michigan [Mr. DRIGGS] that although this canal is but a mile and a half in length, yet a large part of the proceeds of this land is to be devoted to constructing a harbor at the entrance of the canal. There is now, from Milwaukee northward, a distance of nearly two hundred and fifty miles with no safe harbor for vessels in a storm. The construction of this canal is but a small portion of the work proposed. The bill provides for the construction of a harbor which will benefit the entire commerce of Lake Michigan.

Mr. RADFORD. Will the gentleman answer me one question, for the purpose of determining my vote on this bill? Would it not be cheaper for the Government to construct the canal and save the land?

Mr. SLOAN. No, sir. I think not.

Mr. RADFORD. It seems to me the proceeds of the land ought to be enough to construct twice or three times this work.

Mr. SLOAN. The gentleman should be aware that under the homestead act the General Government has ceased almost entirely to derive any revenue from our public lands. They are taken up largely by settlers, under the homestead act, who pay nothing for them. And in regard to the disposition of the public lands in the West, it is a matter of far more interest to the States themselves in which the lands are located, how they are disposed of, than to the General Government, under the operation of the homestead act.

Now this improvement will tend to increase very largely the commerce of the lakes. Green bay is quite a large body of water extending far into the State. Already the lumber and manufacturing interest has become very great, and by constructing this canal a distance of one hundred and fifty miles can be saved for all the vessels engaged in that carrying trade, which in the one article of lumber amounts now to two hundred and fifty million feet produced on the shores of that lake.

The entrance to that body of water is through a dangerous channel which was named on that account "Death's Door." That is the name it bears on the map. This bill appropriates two hundred thousand acres of public land, from which the General Government could hope to derive no benefit, for this improvement, which will save a distance of one hundred and fifty miles, seventy-five each way, to the navigation, and it will also provide an excellent harbor. There is now a distance of two hundred and fifty miles in which there is no safe harbor, and this improvement will benefit the entire navigation of Lake Michigan.

I venture to assert that no proposition has come before the House where so large a benefit was to be derived, not only to the States more immediately interested, but to the general commerce of the lakes, from so small a grant as is proposed in this bill, and that this bill has more merit in it than almost any other that has been presented to Congress.

Mr. RADFORD. Will the gentleman tell us what is the estimated entire cost of this canal?

Mr. SLOAN. The cost of the canal and harbor is estimated at $800,000. It is not expected that this grant of land will do the work. The men who are interested in it in that section of the State are willing to contribute money to the result; but no larger grant is asked of Congress. When this subject was under discussion in the Senate at the last Congress, several Senators, who had fully investigated the facts, expressed the opinion that it was an object which was worthy of an appropriation of money from the General Government.

Mr. WRIGHT. I desire to speak on this bill.

Mr. ECKLEY. I will give the gentleman an opportunity before the vote is taken.

Mr. Speaker, I am not one who is particularly favorable to the donation of public lands. I have looked upon these large grants of land with a considerable degree of jealousy, being myself from a State that has no lands to be granted, and no improvements that are expected to be benefited by any such donations from the General Government.

But I have investigated this among the numerous propositions of the kind that have come before the present Congress, and I have become satisfied that there is none that has been or can be presented which has more claim upon the public interest than this.

It has been very well said that this improvement will benefit the navigation of a distance of two hundred and fifty or three hundred miles. It will avoid a difficulty with which all of us are acquainted who live on the northern frontier—the great danger of loss of vessels at the place called "Death's Door."

This bill is recommended by the Chambers of Commerce of Milwaukee, Chicago, and Green Bay. It comes recommended by the Legislatures of Michigan and Wisconsin. And I think any gentleman who will look at the report of the engineer on this subject cannot hesitate to approve of either this or some other aid for the purpose of completing the work.

I desire to call attention to a few facts connected with the commerce of that portion of our lakes. From the report of the engineer it appears that the distance around the peninsula saved on each voyage to and from Green bay to Chicago is two hundred miles, or a saving of one fifth of the entire voyage, and will avoid the dangerous navigation of the "Death's Door" channel at the present entrance into Green bay.

It will open to the shipping of the lakes a harbor of refuge at Sturgeon bay, the finest and most commodious on the western lakes. The great lumber region of Green bay shipped from there in 1865 two hundred million feet of sawed lumber, two hundred and forty-nine million shingles; also square timber, cordwood, tan bark, cedar posts, railroad ties, telegraph poles, shingle bolts, staves, and furniture timber in large quantities, all the above being products of the forest, and valued in the aggregate at $3,500,000.

The Green bay fisheries in 1865 yielded twenty-four thousand packages, valued at $180,000. The quantity of wheat, flour, and other cereals shipped from Green bay is about four hundred tons per week. The quantity of merchandise, salt, iron, coal, pork, and beef shipped into the lumber region at Green bay is about one thousand tons per week.

I think this statement of facts is sufficient to satisfy the minds of those who look with the greatest jealousy upon donations of this kind, that this donation should be made. And for that reason the committee felt constrained to report unanimously in favor of this bill.

Unless some gentleman wants to ask some further questions in regard to this bill, I will call the previous question.

Mr. WRIGHT. What is the area in acres of the State of Wisconsin?

Mr. ECKLEY. About fifty-eight thousand square miles.

Mr. WRIGHT. I should like to say a few words upon this subject.

Mr. ECKLEY. For how long a time?

Mr. WRIGHT. Five minutes will be enough for me.

Mr. ECKLEY. I will withdraw the call for the previous question, and yield to the gentleman from New Jersey [Mr. WRIGHT] for five minutes.

Mr. WRIGHT. I am opposed to this modern system of legislation by which the Representatives of the people in Congress attempt to donate lands to some particular State because there are public lands of the United States that happen to be within the borders of that State.

We have appropriated lands for agricultural colleges, but that appropriation was made generally to all the States which complied with the conditions of the grant. And again, when the revenues of the country derived from the sales of the public land were distributed, all the States had the benefit of them. But now propositions are made to grant the public lands to States that are able to get along without them. Wisconsin is as able as New York to build her own canals and make her own public improvements, and yet gentlemen come here and ask for two hundred thousand acres of land to aid in the construction of a canal a mile and a half long. I know it is asserted here that the grant is not merely for the canal, but also to make Sturgeon bay a safe harbor. Perhaps it will be made a safe harbor for sturgeons.

Sir, the State of Wisconsin ought to be able to build her own canals and works of improvement. You might as well donate public lands in Wisconsin to the Air-Line Railroad Company between Washington and New York, to aid it in the purchase of lands along its route. If the one is right in principle so is the other; if one is wrong in principle so are both of them.

This is a violation of our pledges to our constituents. I speak for the people and the State of New Jersey which I have the honor in part to represent. It has been a maxim with us that the Constitution was the supreme law of the land with us; and that our powers are clearly defined in that instrument, and any step beyond is exceeding our powers. That is all I have to say.

Mr. DAVIS. Will the gentleman from Ohio [Mr. ECKLEY] yield to me for five minutes?

Mr. ECKLEY. I will.

Mr. DAVIS. I wish simply to explain one point in this bill. One of the largest items of expenditure attending the construction of this canal will be the construction of a breakwater. The canal itself being but about a mile and a half long, of course the cost of its excavation will not reach the price of two hundred thousand acres of land. But when you come to construct a breakwater, for the purpose of affording protection for vessels entering the harbor, you will find the expense to be largely enhanced.

I wish further to say that from the harbor of Milwaukee to the harbor of Chicago there is no safe harbor on the lakes. The harbor of Milwaukee is not a very safe harbor, and the harbor of Chicago is sometimes very difficult of approach when the wind is blowing in a certain direction. The commerce of the lakes requires for its safety and protection the creation of a harbor at some point north of Milwaukee. This point to which this bill relates is about two hundred and fifty miles north of Milwaukee, and from there, after you pass Green bay, there is no harbor until you come to the Manitou Islands, near the straits of Mackinaw.

It is well known that the whole coast of Michigan, especially the western coast, is one of sand. The waters running into Lake Michigan from the west have their head within fifteen miles of the lake, and consequently there

are no large streams flowing into the lake so as to afford a harbor.

The little indentation at Milwaukee and one at another little point constitute the only harbors on that lake from Green bay to Milwaukee. And when you take into consideration that Green bay itself is connected with rivers coming in from the south and southwest, by which the produce of that country is brought to market, you see that you will save one hundred and fifty miles in passing from the mouth of Sturgeon bay up to the main entrance of Green bay.

Another consideration is that in stress of weather vessels going south or north may take this course and have safe inland navigation.

It seems to me wise, and that the Government will be fostering its own interest, to give for the benefit of that commerce one hundred or two hundred thousand acres of land. The time has passed when the Government can expect to make money directly from the sale of the public lands.

Mr. WINFIELD. I ask the gentleman to yield to me for a moment.

Mr. ECKLEY. I must decline to yield any further. I demand the previous question.

The previous question was seconded and the main question ordered.

The bill was ordered to a third reading, and it was accordingly read the third time.

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

The previous question was seconded and the main question ordered.

Mr. WINFIELD demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 76, nays 30, not voting 77; as follows:

YEAS—Messrs. Alley, Allison, Delos R. Ashley, Baker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Boutwell, Bundy, Sidney Clarke, Conkling, Cook, Cullom, Davis, Donnelly, Driggs, Eckley, Eggleston, Eldridge, Eliot, Farquhar, Ferry, Garfield, Grinnell, Hale, Abner C. Harding, Hart, Hayes, Henderson, Higby, Hill, Holmes, Asahel W. Hubbard, Julian, Kasson, Kelley, Kelso, Laflin, Latham, Le Blond, Loan, Longyear, McClurg, McIndoe, McKee, McRuer, Mercur, Morrill, Moulton, Myers, Orth, Paine, Perham, Plants, Price, John H. Rice, Sawyer, Schenck, Shellabarger, Sloan, Spalding, Stilwell, Taber, Taylor, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Elihu B. Washburne, Henry D. Washburn, Welker, Wentworth, James F. Wilson, and Windom—76.

NAYS—Messrs. Bergen, Boyer, Broomall, Coffroth, Dawson, Defrees, Dixon, Finck, Glossbrenner, Aaron Harding, Edwin N. Hubbell, James R. Hubbell, Kerr, Marshall, Marston, Niblack, Nicholson, Patterson, Radford, William H. Randall, Ritter, Rogers, Rollins, Ross, Shanklin, Thayer, Thornton, Whaley, Winfield, and Wright—30.

NOT VOTING—Messrs. Ames, Ancona, Anderson, James M. Ashley, Baldwin, Banks, Barker, Blaine, Blow, Brandegee, Bromwell, Brooks, Buckland, Chanler, Reader W. Clarke, Cobb, Culver, Darling, Dawes, Delano, Deming, Denison, Dumont, Farnsworth, Goodyear, Grider, Griswold, Harris, Hogan, Hooper, Hotchkiss, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Hulburd, James Humphrey, James M. Humphrey, Ingersoll, Jenckes, Johnson, Jones, Ketcham, Kuykendall, George V. Lawrence, William Lawrence, Lynch, Marvin, McCullough, Miller, Moorhead, Morris, Newell, Noell, O'Neill, Phelps, Pike, Pomeroy, Samuel J. Randall, Raymond, Alexander H. Rice, Rousseau, Scofield, Sitgreaves, Smith, Starr, Stevens, Strouse, Francis Thomas, John L. Thomas, Trimble, Trowbridge, Ward, Warner, William B. Washburn, Williams, Stephen F. Wilson, and Woodbridge—77.

So the bill was passed.

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

The latter motion was agreed to.

MINNESOTA LAND GRANTS.

On motion of Mr. DONNELLY, Senate bill No. 221, relating to lands granted to the State of Minnesota to aid in the construction of railroads, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Public Lands.

MILITARY RESERVATIONS.

Mr. CLARKE, of Kansas, by unanimous consent, introduced a bill to authorize the Secretary of War to sell a portion of the Fort Leavenworth military reservation to the city of Leavenworth, in the State of Kansas, for a public park; which was read a first and second time, and referred to the Committee on Military Affairs.

Mr. CLARKE, of Kansas, also, by unanimous consent, introduced a bill to authorize the construction of a railroad through certain lands of the United States in Kansas; which was read a first and second time, and referred to the Committee on Military Affairs.

CEMETERY AT ATLANTA.

Mr. KASSON, by unanimous consent, submitted the following resolution:

Resolved, That the Secretary of War be requested to inform this House whether any effort has been made to collect into burial ground set apart for that purpose the remains of the officers and soldiers killed and buried on the various battle-fields about Atlanta; and if not, whether any special appropriation is necessary therefor.

Mr. KASSON. I ask the Clerk to read the letter which I send up to his desk.

The Clerk read, as follows:

ATLANTA, GEORGIA, *March* 26, 1866.

DEAR SIR: Last Saturday I rode over the battle-ground of 22d July, 1864. It seems to me something ought to be done about getting our brave dead together. They are buried all about the country; some in fields that are now preparing for plowing; then all traces of the graves will be obliterated. I found graves of Iowa, Wisconsin, Minnesota, Illinois, Indiana, Michigan, Pennsylvania, Ohio, New York, Massachusetts, and Connecticut soldiers. Many are buried in private lots; these will soon be dug over. Cannot you call attention to this subject and have it attended to.

Yours truly, A. Y. RAWSON.

Hon. JOHN A. KASSON.

Mr. SCHENCK. I wish to make a suggestion to the gentleman who introduces this resolution, and it is, that he strike out "Secretary of War" and insert "President." The law places this matter especially in the hands of the President, and it does not legitimately belong to the War Department.

Mr. KASSON. If the gentleman considers that it would be more properly in that shape I will change it. I will strike out the words "Secretary of War be directed," and insert "President be requested."

The resolution was agreed to.

VOLUNTEERS IN SERVICE.

Mr. SCHENCK. I have here a communication from the Secretary of War, showing precisely how many volunteers, both white and colored, are now in the service. There has been some misapprehension about that matter, and some gentleman introduced a resolution to get this information. I present the papers which have been communicated to me as chairman of the Committee on Military Affairs, and move that they be laid upon the table, and printed for the information of members.

The motion was agreed to.

PAY OF THE ARMY.

Mr. SCHENCK, by unanimous consent, introduced a bill to reduce and establish the pay of officers, and to regulate the pay of soldiers of the Army of the United States; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

PAPERS WITHDRAWN.

On motion of Mr. SCHENCK, by unanimous consent, the Committee on Claims was discharged from the further consideration of the petition of Columbus L. Lancaster, and leave was granted to the petitioner to withdraw his papers from the files of the House, copies being left.

ADDITIONAL PORT OF ENTRY.

Mr. PIKE, by unanimous consent, introduced a bill making the city of Calais an additional port of entry in the Passamaquoddy district; which was read a first and second time, and referred to the Committee on Commerce.

CHANGE OF REFERENCE.

On motion of Mr. RICE, of Massachusetts, by unanimous consent, the Committee on Naval Affairs was discharged from the further consideration of the petitions of Captain J. M. Partridge and James Thompson, and the same were referred to the Committee on Military Affairs.

EIGHT-HOUR SYSTEM.

Mr. WARD. I ask leave to introduce a petition fifteen feet long, signed by several hundred citizens of my district, asking that a legal day's work for labor on the Government works be eight hours.

There being no objection, the petition was received and referred to the Committee on the Judiciary.

And then, on motion of Mr. THAYER, (at half past three o'clock p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rules and referred to the appropriate committees:

By Mr. ALLISON: The petition of Milo Gilbert, and 50 others, citizens of Floyd county, Iowa, praying, first, for a ship-canal connecting Lakes Erie and Ontario; second, the improvement of the Fox and Wisconsin rivers; third, the enlargement of the Illinois and Michigan canal and improvement of the Illinois river; fourth, the improvement of the rapids of the Mississippi river.

Also, the petition of Robert G. Reiniger, and 50 others, citizens of Floyd county, Iowa, asking Congress to enact laws upon the subject of insurance.

Also, the petition of Catharine Quigley and Thomas Rogers, asking relief from payment of certain judgment against them.

Also, the petition of Mark W. Lovett, and 300 others, citizens of Clayton county, Iowa, asking for an additional duty on wool.

By Mr. BEAMAN: The remonstrance of A. Stocking, and others, citizens of Lenawee county, Michigan, against renewing land grant to the Amboy, Lansing, and Traverse Bay Railroad Company, in said State.

Also, the remonstrance of E. R. Thompson, and 108 others, citizens of Hillsdale county, to same effect.

Also, the remonstrance of J. J. Newell, and J. R. Bennett, and 74 others, citizens of Adrian, Michigan, to same effect.

Also, the remonstrance of P. J. Spalding, E. J. Waldby, and 73 others, citizens of Adrian, Michigan, to same effect.

Also, the remonstrance of Austin Blair, and 40 others, citizens of Jackson, Michigan, to same effect.

By Mr. BROOMALL: The petition of citizens of the counties of Chester and Delaware, Pennsylvania, praying for the equalization of bounties of soldiers.

Also, the petition of manufacturers of agricultural implements in Chester county, Pennsylvania, praying for relief from the onerous tax upon their business.

By Mr. CLARKE, of Kansas: The petition of 784 citizens of northern Kansas, praying for the passage of a bill authorizing a grant of land for a railroad from Elwood, Doniphan county, westward through northern Kansas.

By Mr. CONKLING: The petition of George S. Porter, and others, citizens of Utica, asking the passage of a law regulating inter-State insurance.

By Mr. COOK: The petition of citizens of Wilmington, Will county, Illinois, praying for the passage of a law regulating insurances.

Also, the petition of citizens of Peru, Lasalle county, Illinois, praying for the passage of a law regulating insurances.

By Mr. DAVIS: The petition of Alanson Woodford, Holden Budlong, and 128 others, citizens of Onondaga county, New York, praying increased protection to American wools.

Also, a similar petition of Luther Baker, Calvin H. Knapp, and 50 others, citizens of Onondaga county, New York.

By Mr. DAWES: The petition of H. J. Dunham, and others, citizens of Stockbridge, Massachusetts, asking for legislation on insurance.

Also, the petition of George W. Barker, and others, citizens of Hancock, Massachusetts, asking for an increase of the tariff.

By Mr. DAWSON: The petition of 200 citizens of Indiana county, Pennsylvania, praying for an increase of duty on imported wool.

Also, the petition of 115 citizens of Indiana county, Pennsylvania, asking an increase of duty on imported wool.

By Mr. DONNELLY: The memorial of the Legislature of the State of Minnesota, for an extension of time for providing an agricultural college in said State.

By Mr. ECKLEY: The petition 482 citizens, woolgrowers of Columbiana county, Ohio, asking an additional duty on wool.

Also, the petition of 175 citizens of Stark county, Ohio, on the same subject.

By Mr. EGGLESTON: The petition of 140 merchants of the city of New Orleans, praying that the excise tax on sugar and molasses produced in the southern States may be reduced.

By Mr. ELIOT: The petition of T. W. Sanford, and others, of Massachusetts, praying that a law may be passed fixing eight hours as a day's labor for employés of the Government.

By Mr. FARNSWORTH: The petition of Miles Shepard, and others, of Antioch, Lake county, Illinois, for a uniform system of insurance.

Also, the petition of a large number of citizens of St. Charles, Illinois, for increase of duty upon wool.

By Mr. GARFIELD: The petition of James Stone, George W. Shepard, and others, of Ashtabula county, Ohio, praying for increase of duty on wool.

Also, the petition of Augustus Spaulding, and 61 others, citizens of Mahoning county, Ohio, praying for increased duty on foreign wool.

Also, the petition of Leverett Barnes, and 61 others, citizens of Ohio, praying for increased duty on foreign wool.

Also, petitions of Elias Snyder, A. J. Wright, and L. T. Nelson, and others, citizens of Portage county, Ohio, praying for equalization of bounties to soldiers and sailors.

By Mr. HAYES: The petition of Lieutenant Colonel John H. Carter, Captain John Holland, and Captain William I. Torrence for the payment of the eleventh regiment Ohio volunteer militia for services during the Kirby Smith raid in Kentucky in 1862.

By Mr. HENDERSON: Two petitions relative to the Umatilla Indian reservation in the State of Oregon.

Also, a memorial from the county of Umatilla, in the State of Oregon, in regard to a road through the Indian reserve.

By Mr. HOLMES: The petition of Ira Spencer and others, citizens of De Ruyter, New York, for an increase of tariff on wool.

Also, the petition of J. M. Gray, and others, citizens of Hamilton, New York, for establishment of Bureau of National Insurance.

By Mr. HUBBARD, of Iowa: The petition of Charles Sherman, and others, of Boone county, Iowa, asking the enactment of just laws for the regulation of inter-State insurance of all kinds, &c.

By Mr. HUBBARD, of New York: The petition of numerous citizens of Otsego and Chenango counties in the State of New York, asking for a new mail route from Unadilla, in the county of Otsego, via East Guilford, Guilford Center, and Guilford, nineteen miles, to the village of Oxford, in the county of Chenango.

By Mr. JULIAN: The petition of 24 citizens of Philadelphia, Pennsylvania, asking that eight hours may be fixed by Congress as a lawful day's work as to all Government employés.

Also, the like petition of 24 other citizens of the same State.

By Mr. KASSON: The petition of Henry Ford, and many others, for a new mail route in western Iowa.

Also, the petition of A. C. Johnson, and others, for mail route from St. Joseph to Des Moines.

Also, the petition of A. Caldwell, and others, for same.

By Mr. KELLEY: The memorial of 500 farmers, mechanics, and working-men of Pennsylvania, praying Congress to promptly pass such a tariff law as will protect the national industry, replenish the national treasury, and develop our vast national resources, making us in fact, as well as in theory, a great, prosperous, and independent people.

Also, the memorial of the National Brewers' Association of the United States, praying Congress to so adjust the duty on barley imported from Canada and the other British Provinces in North America, that it may not exceed the sum of five cents per bushel.

Also, the memorial of 67 citizens of Philadelphia county, Pennsylvania, praying Congress that the production and manufacture of copper may be protected in the same manner as iron and lead already are, by an increase of duty on ingot, bar, and pig copper to not less than six cents per pound, and on copper ores, regules, &c., not less than twenty per cent. *ad valorem*.

By Mr. KERR: The petition of J. S. Moser, Benjamin F. Close, W. B. Stage, and many others, soldiers in the late war from Scott county, Indiana, for the equalization of bounties.

By Mr. LAFLIN: The petition of citizens of Evans's Mills, Jefferson county, New York, in favor of just and equal laws for the establishment of inter-State insurance of all kinds.

By Mr. LONGYEAR: The petition of G. T. Gridley, and 37 others, citizens of Jackson, Michigan, for equal laws regulating inter-State insurance of all kinds.

Also, the petition of A. Knapp, jr., and 13 others, for the same purpose.

By Mr. McKEE: The petition of 127 colored soldiers of Kentucky regiments, asking that the same bounty be paid to colored soldiers as has been to white troops.

Also, petitions of citizens of Pennsylvania Furnace, Greenup county, Kentucky, asking protection to American industry, and that the duties on foreign imports be increased.

By Mr. MORRILL: The petition of John A. Farnsworth, and 43 others, citizens of Saxton's River, Vermont, praying for protection to American labor.

Also, the petition of B. G. David, and 76 others, citizens of Crawford county, Pennsylvania, praying for an increased duty on wool.

Also, the petition of Grand Trunk Railway Company to Congress, for remission of duties paid on rerolled iron.

By Mr. NIBLACK: The petition of J. R. Davis, and others, of Daviess county, Indiana, praying Congress to regulate insurance companies in the United States.

By Mr. ORTH: The petition of James G. Hendy and others, of Indiana, in reference to insurance companies.

By Mr. PAINE: The petition of George Cotton, and others, citizens of Walworth county, Wisconsin, for the enactment of a law regulating insurance in the United States.

By Mr. PIKE: The petition of Reuben Grindle, for an issue of seven-thirty bonds, to replace certain bonds destroyed by fire.

By Mr. PLANTS: The petition of the Wool-grower's Association, of Athens county, Ohio, asking for efficient protection and encouragement to that interest in the readjustment and increase of the tariff upon the importation of foreign wool into this country.

By Mr. PRICE: The petition of citizens of Henry county, Iowa, asking for the passage of a law for the better regulation of inter-State insurances of all kinds.

Also, the petition of citizens of Cedar county, Iowa, asking for an increase of the tariff on wool.

By Mr. RADFORD: The memorial of F. Grote and others, of the city of New York, dealers in and manufacturers of ivory and bone goods, for such a discrimination in the rates of duty on crude and manufactured ivory as will afford adequate protection to the American manufacturer.

Also, the memorial of Edward Underhill, brewer, of Yonkers, New York, in favor of a reduction of duty on barley imported from the British North American Provinces.

Also, the memorial of Frost Horton, and others, of Peekskill, New York, manufacturers of agricultural implements, asking to be relieved from the duplication of taxes now imposed on the manufacture of such implements.

By Mr. RICE, of Massachusetts: The petition of Thomas Gogin, and others, in favor of such a modification of the tariff as shall protect American labor.

Also, the petition of the officers of the Union Savings Institution, of Boston, for relief from taxation on deposits in that institution.

By Mr. SAWYER: The petition of William B. Felker, and 80 others, residents of Omro, Wisconsin, praying that Congress will enact equal laws for the regulation of inter-State insurances.

Also, the petition of George Barker, and 30 others, residents of Manitowoc, Wisconsin, praying that Congress will enact equal laws for the regulation of inter-State insurances.

By Mr. SLOAN: The remonstrance of James Sutherland, and others, citizens of Wisconsin, against the passage of an act authorizing the Postmaster General to sell stamped envelopes for the price of the stamps.

Also, the petition of William Wyman, and 97 others, citizens of Wisconsin, praying for increased duty on imported wool.

By Mr. UPSON: The memorial of the executive committee of the board of trustees of Albion college, Michigan, in favor of an extension of the land grant to the State of Michigan to aid in the construction of a railroad from Amboy, via Lansing, to Traverse Bay, in said State.

By Mr. VAN HORN, of New York: A petition of 128 citizens of Wyoming county, New York, asking an increase of duty on wool.

By Mr. WARD: The petition of 247 wool-growers, of the county of Steuben, New York, in favor of increasing the duties on wool.

Also, the petition of 100 wool-growers, of the county of Alleghany, New York, in favor of a like duty.

Also, the petition of 38 prominent citizens of the county of Steuben, New York, in favor of a law on the subject of insurance.

By Mr. WASHBURNE, of Illinois: The petition of citizens of the State of Illinois, praying for the passage of laws by Congress for the regulation of inter-State insurances of all kinds.

By Mr. WASHBURN, of Indiana: The petition of citizens of Terre Haute, Indiana, praying for a law regulating insurance.

By Mr. WELKER: The petition of G. M. Ganyard, and 185 others, wool-growers of Medina county, Ohio, asking for protection on wool.

Also, the petition of William Kennedy, and 134 others, wool-growers of Brunswick township, Medina county, Ohio, for the same purpose.

Also, the petition of L. B. Nettleton, and 209 others, wool-growers of Medina county, Ohio, for the same purpose.

Also, the petion of Robert Reed, and 83 others, wool-growers of Wayne county, Ohio, for the same purpose.

Also, the petition of Leander Carter, and 218 others, wool-growers of Ashland county, Ohio, for the same purpose.

By Mr. WENTWORTH: The petition of the manufacturers of wearing apparel in Chicago for the modification of taxes.

Also, the petition of R. O. Warinner, late paymaster of United States Army, asking for relief.

Also, the petition of citizens of Chicago for additional duties on foreign wool.

Also, the petition of citizens of Du Page county, Illinois, for an increased duty upon foreign wool.

Also, the petition of sundry merchants of Chicago asking that Petrei's hydrometer be made the test of the strength of spirituous liquors.

By Mr. WILSON, of Pennsylvania: The petition of citizens of Center county, Pennsylvania, praying Congress to enact such just and equal laws for the regulation of inter-State insurances of all kinds as may be effectual in establishing the greatest security for the interests protected by policies, &c.

By Mr. WINDOM: Joint resolution of the Legislature of the State of Minnesota in relation to the settlement of certain Indians in Minnesota.

Also, a memorial of the Legislature of the State of Minnesota for the improvement of the Mississippi river.

Also, a memorial of the Legislature of the State of Minnesota for the establishment of a mail route from Shakopee, in Scott county, via Maple Glen, New Dublin, New Market, and Cedar Lake, in said county, to Oral, in the county of Le Sueur, and from thence returning via Helena, Lydia, and Marystown to Shakopee.

NOTICE OF A BILL.

The following notice for leave to introduce a bill was given under the rule:

By Mr. HILL: A joint resolution proposing an amendment to the Constitution of the United States to apportion Representatives according to the number of voters in the several States.

IN SENATE.

TUESDAY, *April* 3, 1866.

Prayer by Rev. A. D. GILLETTE, D. D., of Washington.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. MORGAN. I present a memorial of the American Geographical and Statistical Society of the city of New York, in relation to the medical and surgical history of the rebellion, recently published by the Surgeon General of the United States Army. The memorialists represent that a mass of materials has been gathered by surgeons of the American school, the like of which it is hoped may never occur again, and it is due to the American nation that this should be published in a manner creditable to the country and worthy of comparison with the publications of Baron Larry and M. Chenu of the grand armies of France against Russia in the campaigns of the elder and younger Bonapartes. I move that this memorial be referred to the Committee on Printing.

The motion was agreed to.

Mr. HOWE presented a memorial of citizens of Fond du Lac and Green Lake counties, in the State of Wisconsin, praying Congress to provide by law that a duty of not less than ten cents per pound and ten per cent. *ad valorem* may be levied on all foreign wool imported into the United States; which was referred to the Committee on Finance.

Mr. HOWARD presented three memorials of citizens of Michigan, remonstrating against the application of the Amboy, Lansing, and Traverse Bay land grant upon the present line of that road from Lansing to Jonesville, in that State, and against giving any portion of that grant to the Amboy, Lansing, and Traverse Bay Railroad Company; which were referred to the Committee on Public Lands.

He also presented a memorial of the common council of the city of Lansing, Michigan, praying for an extension of the land grant to the Amboy, Lansing, and Traverse Bay Railroad Company; which was referred to the Committee on Public Lands.

Mr. HENDRICKS presented a memorial of brewers of the city of Indianapolis, Indiana, praying for a reduction of duty on barley imported from Canada and the other British Provinces in North America, that it may not exceed the sum of five cents per bushel; which was referred to the Committee on Foreign Relations.

He also presented the petition of Minerva Lewis, administratrix of the estate of Ezekiel Lewis, deceased, praying for compensation for the steamboat Admiral, taken possession of by the United States authorities in the spring of 1862, used by them as an ordnance boat, and burned at Columbus, Kentucky; which was referred to the Committee on Finance.

Mr. GRIMES presented the petition of Sarah A. Holland, praying that she may be allowed a pension; which was referred to the Committee on Pensions.

Mr. MORRILL presented a petition of citizens of Kennebec county, Maine, praying for an appropriation for the improvement of the Kennebec river; which was referred to the Committee on Commerce.

Mr. CHANDLER presented a memorial of the Tobacco Cutters' Association, of Michigan, praying for a reduction of the tax on tobacco; which was referred to the Committee on Finance.

Mr. BROWN presented a memorial of inhabitants of Beverly, in the State of New Jersey, praying for the adoption of a proposed amendment to the Constitution of the United States, to be presented to the several States for ratification, which will forever prevent any State making any distinction in civil rights and privileges among the naturalized citizens residing within its limits, or among persons born on its soil, on account of race, color, or descent; which was referred to the joint committee on reconstruction.

REPORTS OF COMMITTEES.

Mr. WILLIAMS, from the Committee on Claims, to whom was referred the petition of Anthony S. Robinson, praying to be compensated for the services of his deceased father as a brigadier general in the Mexican army during the struggle for independence in that country, and for indemnity for losses and injuries sustained while acting in that capacity, submitted an adverse report; which was ordered to be printed.

Mr. HOWARD, from the Committee on the Pacific Railroad, to whom was referred a bill (S. No. 109) to rescind the order of the President designating the Sioux City and Pacific Railroad Company to construct the branch of the Union Pacific railroad from Sioux City, reported it without amendment.

He also, from the same committee, to whom was referred a bill (S. No. 224) to aid in the construction of the southern branch of the Union Pacific railway and telegraph, and to secure to the Government the use of the same for postal, military, and other purposes, asked to be discharged from its further consideration, and that it be referred to the Committee on Public Lands; which was agreed to.

He also, from the same committee, to whom was referred a resolution of the Legislature of Iowa in favor of granting to the Iowa branch of the Union Pacific railroad the same aid, under the same restrictions and limitations, as has been granted to the Kansas branch of the Union Pacific railroad, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the petition of Charles Fosdick Fletcher, praying for the passage of an act authorizing the building of a railroad to the Pacific ocean, on the southern route along the line of the thirty-second degree of latitude, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred a petition of persons engaged in running coal to market down the Ohio river from Pittsburg, praying for an appropriation for the improvement of the Ohio river between Pittsburg, Pennsylvania, and Buffington Island, West Virginia, asked to be discharged from its further consideration; which was agreed to.

Mr. HOWARD. The same committee to whom was referred a resolution of the Legislature of Nevada in favor of the passage of an act prohibiting the Central Pacific Railroad Company, or any other railroad company, from acquiring any right, title, or interest to the minerals, of whatever character, except iron or coal, which have been, or may hereafter be, discovered in the lands donated by Congress to such companies, have instructed me to ask to be discharged from the further consideration of the resolution, for the reason that they are not aware of the existence of any law now in force which does grant that kind of minerals to those companies, and they see no necessity for the legislation contemplated by that resolution.

The report was agreed to.

Mr. DAVIS, from the Committee on Pensions, to whom was referred the petition of Schley & Emery, praying that a pension may be granted to Mrs. Agnes W. Laughlin, reported a bill (S. No. 241) directing the enrollment of Agnes W. Laughlin, the widow of a deceased soldier, as a pensioner; which was read and passed to a second reading.

BILL INTRODUCED.

Mr. HENDRICKS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 240) for the relief of Minerva Lewis, administratrix of the estate of Ezekiel Lewis, deceased; which was read twice by its title and referred to the Committee on Claims.

INTERNAL REVENUE.

Mr. SHERMAN. I am directed by the Committee on Finance, to whom was referred the bill (H. R. No. 433) to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and the act amendatory thereof, approved March 3, 1865, to report it back adversely, and as the opinion of the Senate ought to be expressed on this bill now I will explain the matter with a view to have the action of the Senate at once upon the report of the committee.

The bill proposes to extend the time for collecting the income tax of last year two months. Under the present law the income tax lists are made up about the 1st of May. The blanks are now ready to be distributed for the purpose of making up the income tax for last year, and the House of Representatives propose to extend the time two months in order to give effect to the proposed amendment to the income tax now pending in that House. The bill also proposes to extend the time of levying the tax on certain schedules of personal property with a view to the same modification. The Committee on Finance are of opinion that it is wiser to collect the income tax of last year according to the present law, allowing any changes that may be made hereafter to operate on the tax in the future, and as the blanks are now ready for distribution this matter ought to be acted on at once, so that the officers of the Government may proceed to execute the law. I move, therefore, that the further consideration of the bill be postponed indefinitely.

Mr. GRIMES. I suggest to the Senator from Ohio that he allow that bill to lie over until there is a fuller Senate than there is here now. For my own part, I have thought somewhat on this measure, and do not agree with the report of the Committee on Finance.

Mr. SHERMAN. Very well, I have no objection to its going over.

The PRESIDENT *pro tempore*. The motion of the Senator from Ohio is withdrawn for the present; the bill will lie over.

LAND DISTRICT IN NEBRASKA.

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

Resolved, That the Committee on Public Lands be instructed to inquire into the expediency of establishing an additional land district in the Territory of Nebraska, the office for which shall be located at Fort Kearney, and that they report by bill or otherwise.

REMOVAL OF CASES FROM STATE COURTS.

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

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of so restraining by law the act of the 2d of March, 1833, as that the same shall not confer the right of removal from a court of any State on indictments for sales of spirituous liquors, under the laws of said States, to the Supreme Court of the United States before trial of the same in the State courts.

COMMITTEE SERVICE.

The PRESIDENT *pro tempore*. The Chair will announce, under the order of yesterday directing the vacancy on the Committee on Public Buildings and Grounds to be filled, the appointment of Mr. POLAND, of Vermont, to fill that vacancy. Under the practice of the Senate, the Senator from Missouri [Mr. BROWN] will now be the chairman of the committee, and will be so entered if no objection be made.

Mr. BROWN subsequently said: I find myself assigned to the chairmanship of the Committee on Public Buildings and Grounds. In view of that fact, I should like to be excused from further service on the Committee to Audit and Control the Contingent Expenses of the Senate.

The motion was agreed to.

Mr. SHERMAN. In order to enable the Chair to constitute the Committee on Contingent Expenses, which has been disarranged entirely by the death of our lamented colleague, Mr. Foot, I ask to be relieved from service on that committee. One of the members has already been excused by death and another by his own act. I ask to be relieved from further service on that committee, so that the Chair may make up a new committee.

The motion to excuse Mr. SHERMAN was agreed to.

Mr. SHERMAN. I move that the Chair be authorized to fill up the Committee to Audit and Control the Contingent Expenses of the Senate.

The motion was agreed to by unanimous consent.

Mr. LANE, of Indiana. There are two vacancies in the Committee on Pensions occasioned by the withdrawal of Mr. YATES and Mr. Stockton. I move that the President *pro tempore* be authorized to fill those vacancies.

The motion was agreed to by unanimous consent.

MESSAGE FROM THE HOUSE.

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

A bill (H. R. No. 443) granting a pension to Mrs. Elizabeth York, widow of Shubal York, late a surgeon in the twenty-fourth regiment Illinois infantry volunteers;

A bill (H. R. No. 444) granting a pension to Lewis W. Dietrich;

A bill (H. R. No. 445) for the relief of the legal representatives of Betsey Nash; and

A bill (H. R. No. 446) for the relief of Nicholas Hibner, late a private in the sixth regiment Missouri State militia.

The message further announced that the House of Representatives had passed the following bills of the Senate:

A bill (S. No. 85) granting to the State of Wisconsin a donation of public lands to aid in the construction of a breakwater and harbor and ship-canal at the head of Sturgeon bay, in the county of Door, in said State, to connect the waters of Green bay with Lake Michigan in said State; and

A bill (S. No. 107) to provide for a term of the district court for the district of Minnesota to be held at the city of Winona, in said district.

APPROVAL OF A BILL.

A message from the President of the United States, by Mr. MOORE, his Secretary, announced that the President had, on the 31st of March, approved and signed a joint resolution (S. R. No. 50) in relation to the publication of the laws of the United States.

OATH OF OFFICE.

Mr. SUMNER. There is a resolution of inquiry which I offered yesterday that was objected to, so that it went over under the rules. I move that the Senate take it up and act on it.

The motion was agreed to; and the Senate proceeded to consider the following resolution:

Resolved, That the Secretary of the Treasury and the Postmaster General be requested to report to the Senate, so far as the records of their respective Departments will allow, whether at any time since the report of December last any persons have been permitted to enter upon the duties of office, and to receive the salary or emoluments thereof, without taking the oath prescribed by act of Congress; or, if they have taken it, adding thereto explanations; or if they have altered the oath, then the alterations they have made; and if such things have been done, then to report the names of such persons and the oath they have taken and the reasons for allowing the same.

Mr. HENDRICKS. A resolution of that sort implies, to say the least of it, a censure or a question of the fidelity of a Cabinet officer. I wish to inquire of the Senator from Massachusetts whether there is any information upon the files of the Senate that calls for an investigation of that sort.

Mr. SUMNER. I am very much obliged to the Senator for making the inquiry. The Senator perhaps has forgotten that as long ago as December last a resolution passed this body on my motion calling for specific information on this very question. I have in my hand the reply of the Secretary of War and of the Secretary of the Treasury letting us know that in many cases persons had been appointed and had been allowed to proceed with the execu-

tion of the duties of their offices without taking the oath required by Congress, and the report sets forth the various alterations made in the oath, the modifications. I hold the reports in my hand. The present inquiry is addressed to the time subsequent to this former report.

Now, the question is whether anything has occurred to suggest the present inquiry. I am obliged to say that something has occurred which has come to my own knowledge. Indeed, I may state to the Senate that last Saturday I called on the Commissioner of Internal Revenue and he put in my hand from twenty to thirty different oaths of assistant assessors which had been reported to the Department; being so many modifications or alterations of the oath required by Congress; and I understood from him that notwithstanding those alterations or modifications these parties had been recognized as incumbents of their offices respectively. It was to bring that information before the Senate that I felt it my duty to make this second call, which it will be perceived is only supplementary to the first call.

Mr. HENDRICKS. I was aware of the information so far as it came from the Treasury Department; I had not noticed the reply of the War Department; and I think there is nothing in the communication from the Secretary of the Treasury that calls for any further investigation. As I now recollect the reply of the Secretary of the Treasury, it amounted to about this: that there were some persons who had been appointed to office in the southern States who had modified their oaths, but in no very important respect, as I now recollect; and I think he said that no salary had been paid in any case where the party had not taken the oath prescribed by law.

I suppose there is no Senator who doubts the fidelity of the Secretary of the Treasury to the Union, or his fidelity in the execution of the laws. I think, as a public officer, he stands very closely by the laws. I am justified in saying that of him. He may in some instances find it exceedingly difficult to execute the laws, the duty of the execution of which devolves on him in some localities; and he may have to use as officers for the time being some persons who cannot take the oath without some modification; but he has not permanently, as I recollect his report, appointed men to office and paid them the salaries who failed to take the oath. If the Senator says that he wishes to institute any proceedings against the Secretary, or to call in question because of this investigation his fidelity to the discharge of the duties of his office, then there is a purpose in it; otherwise there is no purpose in this kind of resolutions. They simply go to the country as a sort of impeachment of the officer. I do not like to see it done in regard to a man from the State of Indiana who I think is faithful in the discharge of his duties, as I think Secretary McCulloch is. I think he is an able officer and a very worthy one. Therefore, I am opposed to all such resolutions.

Mr. SUMNER. There is a law on our statute-book requiring that all officers before entering on the discharge of their duties or receiving any salary or emoluments thereof, shall take a certain oath. Now, I presume no Senator imagines that any functionary of this Government is invested with what, in old times, was called the dispensing power; that even an officer so important to us all as the Secretary of the Treasury can dispense with the law of the land. For myself, I insist that the law of the land, so long as it continues law, shall be obeyed both by citizen and by magistrate. I do not believe that the Secretary of the Treasury can be exempted from any such obedience.

Now, sir, at this moment I make no criticism; on former occasions I felt it my duty to criticise his conduct in this respect; I do not know that I shall deem it my duty to criticise it again; but I do think the Senate ought to have before it all the facts in the case. We ought to know to what extent the law of the land is set aside, if it be set aside. The resolution on your table does not affirm that it has been set aside; it simply addresses an inquiry to certain officers, asking them if in their respective Departments it has been set aside, and then it proceeds, if they report that it has been set aside, to ask the circumstances under which it has been set aside.

Sir, this resolution is entirely according to the course of business in this body, and, at this moment, I submit that it is of peculiar importance. The Senate ought to have this information; the country ought to have it. And I submit still further that the character of the Secretary of the Treasury himself is involved in an accurate statement of these facts. We ought to know to what extent the Secretary of the Treasury is disposed to set aside the laws of the land.

The PRESIDENT *pro tempore*. The question is on agreeing to the resolution offered by the Senator from Massachusetts.

The question being put; there were, on a division—ayes 16, noes 7; less than a quorum voting.

Mr. GRIMES and Mr. SUMNER called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 25, nays 9; as follows:

YEAS—Messrs. Anthony, Brown, Chandler, Clark, Conness, Creswell, Foster, Grimes, Harris, Henderson, Howard, Howe, Kirkwood, Nye, Pomeroy, Sherman, Stewart, Sumner, Trumbull, Van Winkle, Wade, Willey, Williams, Wilson, and Yates—25.

NAYS—Messrs. Buckalew, Cowan, Davis, Guthrie, Hendricks, Johnson, Lane of Indiana, Nesmith, and Saulsbury—9.

ABSENT—Messrs. Cragin, Dixon, Doolittle, Fessenden, Lane of Kansas, McDougall, Morgan, Morrill, Norton, Poland, Ramsey, Riddle, Sprague, and Wright—14.

So the resolution was agreed to.

BEALS AND DIXON.

Mr. COWAN. I am instructed by the Committee on Finance to report a joint resolution (S. R. No. 56) authorizing the Secretary of the Treasury to adjust the claim of Beals & Dixon against the United States. I ask that it be put upon its passage now.

The joint resolution was read a first time by its title, and passed to a second reading.

The PRESIDENT *pro tempore*. The Senator from Pennsylvania asks the unanimous consent of the Senate to consider the resolution now. Is it objected to?

Mr. GRIMES. I ask for the reading of the joint resolution at length for information.

The Secretary read it. It proposes to authorize the Secretary of the Treasury to cause the accounts of Beals & Dixon, for deliveries of material after May 1, 1861, under their contract with the United States, to be adjusted and paid, allowing to them such additional prices for material delivered after May 1, 1861, as, in his opinion, they may be justly entitled to under the provisions of their supplementary contract, dated January 1, 1857, if, in the opinion of the Attorney General, they have a legal claim upon the United States for an increase of prices under their contract.

Mr. CLARK. I think that had better lie over.

The PRESIDENT *pro tempore*. Objection being made, the joint resolution lies over.

MILITARY ROAD IN OREGON.

Mr. WILLIAMS. I move that the Senate proceed to the consideration of Senate bill No. 62.

The motion was agreed to; and the bill (S. No. 62) to amend an act entitled "An act granting land to the State of Oregon to aid in the construction of a military road from Eugene City to the eastern boundary of said State" was considered as in Committee of the Whole. It proposes to amend the act entitled "An act granting lands to the State of Oregon to aid in the construction of a military road from Eugene City to the eastern boundary of said State," so as to grant to the State, for that purpose, such odd sections or parts of odd sections, not reserved or otherwise legally appropriated, within six miles on each side of the road, to be selected by the surveyor general of the State, as shall be sufficient to supply any deficiency in the quantity of the grant as described occasioned by any lands sold or reserved, or to which the rights of preëmption or homestead have attached, or which for any reason were not subject to the grant within the limits designated in the act.

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

GUNBOAT FOR LIBERIA.

Mr. SUMNER. I move that the Senate proceed to the consideration of Senate bill No. 229.

The motion was agreed to, and the bill (S. No. 229) to authorize the President of the United States to transfer a gunboat to the Government of the republic of Liberia, was read the second time, and considered as in Committee of the Whole. It authorizes the President of the United States to transfer to the Government of the republic of Liberia any one of the gunboats now or hereafter included in the Navy of the United States, her armament, tackle, apparel, and furniture, which may be acceptable to that Government, and can, in the judgment of the Secretary of the Navy, be conveniently spared for that purpose, and upon a valuation to be fixed by him. It also directs the Secretary of the Navy to enter into a contract with any person duly empowered by the Government of that republic, by which that Government shall engage to repay to the United States the value of the gunboat to be transferred; but the contract is to stipulate for the full reimbursement to the United States of the value of such gunboat in annual installments, not exceeding ten in number, with interest on each at six per cent. per annum from the date of the contract.

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

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (H. R. No. 443) granting a pension to Mrs. Elizabeth York, widow of Shubal York, late a surgeon in the fifty-fourth regiment Illinois infantry volunteers;

A bill (H. R. No. 444) granting a pension to Lewis W. Dietrich;

A bill (H. R. No. 445) for the relief of the legal representatives of Betsey Nash; and

A bill (H. R. No. 446) for the relief of Nicholas Hibner, late a private in the sixth regiment Missouri State militia.

WASHINGTON CANAL.

On motion of Mr. WADE, the Senate resumed, as in Committee of the Whole, the consideration of the bill (S. No. 190) to incorporate the District of Columbia Canal and Sewerage Company, the pending question being on the amendment reported by the Committee on the District of Columbia to insert the following as a new section:

SEC. 12. *And be it further enacted*, That in order to aid the said "District of Columbia Canal and Sewerage Company" in fulfilling the objects and requirements of this act, that all the right, title, property, interests, and estate, in law or equity, of the United States of, in, and to the Washington canal and the bridges crossing the same, and the lands upon which said canal, bridges, basins, locks, reservoirs, docks, and wharves are now located, occupied, used, and constructed, be, and the same are hereby, vested in the said "District of Columbia Canal and Sewerage Company," to have and to hold the same for the use and benefit of the said company.

Mr. GRIMES. I should like to have the Senator from Ohio, who has charge of this bill, explain its provisions. As I understand it, this section grants to this company all the rights of the United States to the canal, and the bridges, basins, locks, reservoirs, docks, and wharves that are constructed, or that may be constructed, upon the public lands in this city. What I want an explanation about is this: the second section declares that this company shall do certain things; that they shall dig out the

canal so that it shall be ten feet below high-water mark; but I do not see that there is any power of limitation reserved by Congress, or any power left on the part of anybody to enforce this performance on the part of the company, and no power even to change, alter, or amend the charter itself that we create by the passage of this bill.

Mr. WILLEY. I propose to offer an amendment at the end of the second section, which will, perhaps, cover the difficulty to which the Senator from Iowa refers.

Mr. GRIMES. Let us hear what it is.

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) The question now is upon the amendment of the committee.

Mr. GRIMES. I should like to know what the amendment that the Senator from West Virginia proposes to offer is before we give away all our interest in the canal.

Mr. WADE. I intended to make a brief explanation of the bill. I proposed to do it after these amendments had been made; but if gentlemen are opposed to the bill they will be opposed to the amendments. The amendments really restrict the power of the company. There have been before the Committee on the District of Columbia various propositions for abating this most terrible nuisance, which for many years this canal has been in the warm, dry weather. A portion of that committee the other day traversed that canal from near the arsenal grounds up to Georgetown, and no one can look upon it without seeing that it is full of all kinds of filth of the most disgusting, abominable, and, in my judgment, dangerous character to the health of this city. How that could be abated has been a question of a very great deal of difficulty before the committee, and there have been a great many propositions to do it. None of them, however, seemed to be very satisfactory. None of them proposed to do it with any great facility. Not one of them proposed to do it so as to remedy the evil at this season that I know of except the company that appeared and made the proposition substantially contained in this bill. Here was a great company that was organized for the purpose of running a canal from Annapolis to the Potomac river and up this canal, so as to make a navigable canal between these two points, running along this canal to Georgetown and coming down here to the navy-yard. The points are designated in the bill. But that was the general scope of the bill.

This canal has been of no use to anybody that I know of for a great many years, certainly not since I have had any knowledge of the city, and I do not know how much longer. I believe it is used for no useful purpose whatever. This company for the purpose of carrying out their plans came before the committee and offered, if they could have this canal, to make it ten feet deep below low-water mark, and of a given width—I believe about seventy feet, and that they would keep it so that the sewerage of the city could be emptied into it, and a brisk current of water from the upper Potomac passed through it to clear it of all the dangerous deposit that is made there every year. It seemed to us to be the best method that could be devised; for when that is done and the banks of that canal are filled with a healthy, brisk current of fresh water that will wash all the sewerage out into the river and carry it out with the tide, it certainly will divest it of all its dangerous characteristics.

Mr. FESSENDEN. Does it affect the public grounds?

Mr. WADE. There will be a connection through the public grounds, but it will do no injury to those grounds as we suppose.

By this bill we agree to surrender to this company whatever rights the public have in that canal, provided they will clear it out in this manner, and we do surrender the canal to them with all its bridges and appurtenances for this purpose. They will have entire and full control of it, under such restrictions as we see fit now to impose upon them. Their plan I think is very feasible. At Georgetown the old Baltimore and Ohio canal locked down to the river, I believe at Rock creek, and so entered the Potomac. Coming down to that level at tide-water, there was no current that could be precipitated through the banks of this canal to take out the sediment, and there it is deposited. This company propose to commence at those locks which lock down into that stream, and build an aqueduct there and carry the canal right across it to the high ground on this side and up toward the Observatory, so that they will have a fall, I believe, of some thirty-five feet or more, and thus they can have any amount of current in the canal that they deem necessary. The great difficulty in the old canal was, as I said before, locking down there into the stream, and then they could have no current whatever to carry this deposit away.

They do not ask the Government to pay anything for this privilege. They want to have the privilege of navigating this canal with large boats as part and parcel of the canal that they intend to bring down from Annapolis, and the canal goes beyond that. Their intention is to make this a great coal depot. The company believe that that will be the great business of the canal, although it will do a great deal of other business undoubtedly. That we did not consider of much importance to us; that is their lookout.

The corporation of the city of Washington claim that they have an interest in this canal. I do not know that they have not such an interest. The committee have thoroughly investigated that matter and traced up the title so as to ascertain whether they really have any such interest or not. I find that a good many years ago there was a company that undertook the construction of this canal, and they laid out a good deal of money upon it; but they did not lay out any money that I can find except what the Government appropriated. The legal title to this canal was conveyed over and vested in this city corporation I believe at a certain time, and they undertook to clear it out and keep it in proper condition, but they never did anything to it. All the debt that they incurred the Government paid off. At one time the Government paid $150,000; at another period—I have not the paper before me and cannot exactly state the dates—they paid $20,000 for keeping it cleared out; and at another time $20,000 more. I do not find upon the record that the corporation of the city ever paid one single dollar of their own for the construction of this canal.

However, we do not pretend to divest the city of any part of the title they can make to it. The company themselves undertake to pay off the claim the city may have to this canal, if they have any. If they can make any title to it the company, of course, will have to pay them whatever it is worth; but we allow them to condemn the property along the line of the work in the usual way in making railroads and canals. If they cannot purchase and buy out the land from the owners wherever they want to go with it, they have to do as railroad builders and canal projectors always do; they have to go before the courts, have a commission appointed, the lands appraised, &c. The provision of the bill on that subject, I believe, is in the usual form in which land is condemned in this country for public purposes. If the city can establish a claim to the canal it will have to be got in that way, by commissioners appointed to appraise the value of it, and the company will have to buy it. I really suppose they have no substantial claim, for I do not think from all I have seen that they ever paid a dollar toward it. I have heard the mayor himself say that they had a claim to it, and they may assert that claim. The committee understand that whatever claim the corporation of this city or anybody else can make to this property this corporation will have to pay off. If they can agree upon the price, well and good; if they cannot agree upon the price the bill provides in the usual way how the value of it shall be ascertained and paid off by the company. No objection, I believe, can arise from any such titles that may be made to it.

I am not quite certain as to whether there is a sufficient restriction in the bill with regard to the passage of the canal over any portion of the public grounds, though I feel very sure that it is safe enough in that regard; but if any gentleman supposes that the bill requires any further restriction on that subject, inasmuch as a canal passes over a little corner of the public grounds, so that it shall not interfere with any public property of the United States, either now erected or hereafter in contemplation of erection, or any such restriction, I have no objection to it. The design is to bring this canal into the Eastern branch of the Potomac when they get down where the water is ten feet deep, which we are assured is very much above the navy-yard.

Mr. GRIMES. Then they will follow it down from the Eastern branch along the river.

Mr. WADE. That is so.

Mr. GRIMES. The second section reads:

> Between the waters of the Anacostia river, commonly known as the Eastern branch, where it enters the District of Columbia, running along said river to its junction with the Potomac river—

Right through the navy-yard and through the arsenal grounds—

> and the Potomac river and the Chesapeake and Ohio canal.

And then it follows up the Potomac.

Mr. WILLEY. The Senator from Ohio will remember—I do not see it in the amended bill as reported—that an amendment was agreed upon in the committee so as to obviate the difficulty suggested by the Senator from Iowa, striking out all after the word "branch" in the sixth line of that section down to and including the words "river and" at the end of the eighth line; and I have also an amendment which I think will meet the objection of the Senator from Iowa entirely.

Mr. WADE. There is an amendment to obviate that. I am only speaking now of the general scope of the bill. There are one or two amendments that are proposed by the committee to be made to the bill which I think will make it entirely safe. I know of no other plan contemplated that will relieve us of the danger of that nuisance at this season. This company assure us that in three weeks from the time this bill shall pass they will put this stream of water through the banks of this canal entirely covering up the dangerous matter there. Of course it will take another season to dig it all out, but they will immediately do what will prevent its being dangerous and such a nuisance as it is now. No other plan contemplates any such thing. There is another. Surveyors have been sent out, but we cannot hear anything from them, and do not know whether they are making any progress in the surveys or not. There has been a proposition to cover up the canal, and give the land which would be thereby made to a company for doing it, but nobody seems to be responsible for it, and there is nothing doing in that line, nothing that promises any immediate action on the subject. I think this is a vigorous company, ready to go to work now, and I can see no real objection to granting them this privilege, provided the proper restrictions are applied to it, and of course nobody objects to such as are necessary to make it entirely safe. I think it ought to be done, and if it is done at all, it should be done speedily. That is all I wish to say about it just now.

Mr. HENDRICKS. It is not my purpose to oppose this bill, but I think it proper that I should make a statement. At the last meeting of the Committee on Public Buildings and Grounds before the sickness of its chairman, Senator FOOT, the subject of the improvement of the public grounds, particularly of the improvement of this canal, was discussed. What was the exact conclusion of the committee I am not able to say; but I had the impression that it was decided that the committee ought to report a resolution to the Senate providing for the appointment of an engineer.

Mr. GRIMES. We have passed through Congress a resolution ordering the Secretary of War to detail three engineers to survey this canal

and report what was advisable and ought to be done, and they are now engaged on that work.

Mr. HENDRICKS. Was that adopted at this session?

Mr. GRIMES. Yes, sir.

The PRESIDING OFFICER. The Chair understands it was a resolution of the Senate, not a joint resolution.

Mr. HENDRICKS. The purpose of the chairman of the committee was, as I recollect, to secure the services of the engineer of the city of New York who had charge of the improvement of the great park in that city. That engineer was before the committee at the last session, I recollect, and he explained the improvements that he thought advisable, and they struck the committee with a great deal of force. This particular improvement was to be made in connection with the general improvement of the city and of the public grounds. Unquestionably it will involve a large expenditure of money; but, sir, this expenditure has to be made. This is the seat of Government; our public buildings are here; people are coming here from every part of the country; and I was willing to appropriate a very handsome sum of money for the improvement of the city and particularly this part which is so offensive both to the health and to the taste of the people; and I am not sure whether we ought to tie ourselves up by giving this canal to a company; I am not satisfied about it. It is very certain that there ought to be an improvement in this part of the city. That was contemplated; and I feel that this city has sustained a very great loss in the death of that eminent Senator. He was giving attention to it, and being so devoted to the subject himself, and his tastes being so accurate, the rest of the committee, I believe, did not give the attention to the subject that they otherwise would. For myself, I am scarcely able to say what his views were, but he contemplated a very handsome improvement in that part of the city.

Mr. BROWN. I will remind the Senator from Indiana that at the same meeting of the committee one of its members was instructed to move an appropriation of some twenty-five thousand dollars, in connection with the same subject to which he has alluded. That is probably what he refers to. I believe the resolution was introduced by the Senator from Delaware, [Mr. RIDDLE,] and the engineers are now engaged in making surveys on the grounds.

Mr. WILLIAMS. I should like to make an inquiry of the Senator from Ohio as to the effect of this bill. When it is passed, if I understand it, the right and title to this canal and all its appurtenances are vested in this company. Suppose, then, that the company refuse or neglect to improve the canal, as contemplated by this bill, does not that put it beyond the power of Congress to provide any remedies, and does it not leave the health of this city, so far as this canal may affect it, at the mercy of these private individuals?

Mr. WADE. My idea on that subject is, that unless they went on and performed the stipulations of this charter they forfeited all right and title to it at once.

Mr. CLARK. There is no provision of that kind in the bill.

Mr. WADE. There may not be a provision of that sort in the bill, but that condition would attach to it, in my judgment. However, I am perfectly willing that an amendment of that kind should be made, that unless they progress by such a time with it, and unless they finish it in such a time, they shall forfeit all their rights to the Government. I have no objection to such an amendment as that; but I suppose the bill itself would forfeit the right unless they did perform the stipulations contained in it. I think it is so drawn that they would. However, there is no objection to such an amendment as that. I have no desire not to have the bill entirely guarded, but I have a desire, when it is made right, that it shall pass, and pass speedily.

Mr. CLARK. I wish the Senator from Ohio, if he can, would tell us what property specifically it is proposed to pass to this company, if he knows what it is. It passes all that the United States have, but what is that "all?"

Mr. WADE. All that I could ever see or find out was the ditch, the canal, and some bridges that cross it at some of the streets. I do not know that there is anything else in it or about it. I do not suppose that there is anything else.

Mr. CLARK. I observe that the amendment now under consideration proposes to transfer the canal and the bridges, basins, locks, reservoirs, docks, wharves, &c., as they are now located, but this transfer is not to affect any public rights. Can the Senator tell us, if this corporation should take down one of those bridges, whether it would affect any public right?

Mr. WADE. I do not know but it would affect a public right. It might be said that if a bridge crossing a public road was taken down it would affect a public right; but they are required to keep up the bridges, and they would not take them down unless it was absolutely necessary; and of course if they did they would have to build them again. I do not suppose, however, that it would be necessary for them to interfere with any bridges.

Mr. CLARK. Does that clearly appear from the bill?

Mr. WADE. I think it does.

Mr. WILLEY. There is a provision in the bill to that effect.

Mr. CLARK. I will thank the Senator to point it out to me. There is a provision in section thirteen—

That nothing in this act contained shall be held or deemed, in any manner or way, to injure or impair any public or private rights or interests.

Mr. WILLEY. The seventh section provides—

That the said company shall, at their own cost and expense, erect and maintain good and substantial bridges over and across said canal and sewer where ever it crosses any public road or street.

Mr. CLARK. Exactly; that may be, because if it was where a public street crosses it might impair a public right to take away the bridge; but there may be other things that are very convenient to the public which they might undertake to remove and which we would not desire to have removed. It seems to me we ought to know exactly what we are doing when we undertake to transfer this property to them, and I conceive it may be very possible that the city, which may have some interest, more or less, I do not know what, but the Senator intimates that they have something.

Mr. WADE. They may have something.

Mr. CLARK. They may have something, and they might not desire to have a corporation made in this way who might have conflicting interests with them. I think we ought to understand what interests the city have and what the United States have, and what we are parting with, and what situation we are coming to when we have done it. I do not know but I shall agree entirely with the provisions of the bill if they are found sufficiently guarded. I will say that I agree entirely with the object that the Senator from Ohio has to get rid of this nuisance, but I want to get rid of it in a proper manner.

I desire now to call the attention of the Senator, because I do not wish to trouble the Senate many times, to the second section of the bill, that we may know whether that is sufficiently guarded. By that section this company is—

Authorized and empowered to survey, locate, lay out, construct, operate, and use and enjoy a continuous line of canal and sewer, with all the privileges and appurtenances thereof, between the waters of the Anacostia river, commonly known as the Eastern branch, where it enters the District of Columbia.

That is the northeast part of the District, and then it is to run along down that river until it comes to the Potomac river, and then it is to go by the Potomac river to the Chesapeake and Ohio canal, at or near the city of Georgetown, to that point, running completely around the angle of the city. Now, I wish to know from the Senator from Ohio whether there is anything that fixes the line of this canal, or whether this corporation have the discretion to pass here or pass there, provided they keep along the line of the river.

Mr. WADE. The line has not been located. It is, in that particular, like every other survey that I have ever known. They have not got it staked out so as to describe it exactly, but the line of it is to be, conveniently, along the river. If it does injury to anybody where they carry it, of course they have got to pay for it, like any other railroad or canal company. They do not expect, however, to go very far from the bank of the river. They could not locate it more certainly than it is stated in the bill until the engineers have staked it out.

Mr. CLARK. I supposed it must be so, and I want to call the attention of the Senate, and of the Senator from Ohio in particular, to this feature of the bill, because it seems to me one of very great power. It proposes that these gentlemen shall build this canal along the line of the Anacostia river, and they may go here or go there, a little more or a little less near the river.

Mr. WILLEY. It is proposed, as I stated some time ago, and it was so agreed in the committee, to strike out, in the sixth line of the second section, after the word "branch" down to and including the word "and" at the end of the eighth line, and to insert in lieu of those words, something like the following:

At a point near where it intersects the Potomac river, thence to the nearest and most practicable point of intersection with the present old canal now running through the city of Washington, and thence in, and by, and with the said old canal, through the corporate limits of the city of Washington, and thence to the Chesapeake and Ohio canal at or near Georgetown.

Mr. GRIMES. How will it read then?

Mr. WILLEY. That is the way it will read. It is proposed to strike out the words, "where it enters the District of Columbia, running along said river to its junction with the Potomac river, and the Potomac river, and," and to insert after the word "branch" the words I have just read, so that the section will read, when those words are inserted, as follows:

That the said company is hereby authorized and empowered to survey, locate, lay out, construct, operate and use, and enjoy a continuous line of canal and sewer, with all the privileges and appurtenances thereof, between the waters of the Anacostia river, commonly known as the Eastern branch, at a point near where it intersects the Potomac river, thence to the nearest and most practicable point of intersection with the present old canal, now running through the city of Washington, and thence in, and by, and with the said old canal through the corporate limits of the city of Washington, and thence to the Chesapeake and Ohio canal, at or near the city of Georgetown.

Mr. CLARK. I desire to understand the Senator from West Virginia a little more clearly than I now do. The effect of his amendment, as I understand it, would be to start from the Anacostia river, near its mouth down near the arsenal, and strike the old canal, and follow that up.

Mr. WILLEY. Yes, sir.

Mr. CLARK. It would abandon that part of the scheme which proposes to take water from the Anacostia river near the point where it enters the District and carry it down toward the arsenal and thence up along the river. It abandons a large part of the route as it is now in the bill.

Mr. WILLEY. It abandons the whole of the route from where it strikes the District of Columbia down to near the mouth of the Anacostia river.

Mr. CLARK. That is as I understand, and of course that would avoid any question about the navy-yard or any public ground in that direction. That would be so much the better in so much as it makes the damage that might be done the less.

But, sir, I desire to call the attention of the Senator from Ohio and the Senate to the provision of the bill—it may be necessary, but it should be more guarded it seems to me—which allows this corporation for a purpose of this kind to take individual property. Everybody at once objects to their taking the property of the navy-yard or the public property

for any such purpose; but if they should not take public property, why should they take private property? If you will guard your own property so securely that they should not touch it, why should they take the private property of an individual?

Mr. WADE. We always take private property and condemn it for public uses. We have a right to do that, on paying for it, under the Constitution; but we can hardly take public property that is necessary for the Government. We might do it constitutionally, because the Government can do what they please with their own. But what this bill grants to this company is what every company that ever built a canal or a railroad is compelled to do. Let them agree with the private owners if they can as to the transfer and sale of the property that they require; but if they cannot agree, there must be some equitable way of ascertaining the value of the damages, and those that seek the privilege must pay for it. I know of no other way. If you cannot do that, of course you must abandon the matter at once; the thing cannot be done.

Mr. CLARK. That may be, but we should always consider the thing to be attained and the damage we are going to do in securing it. We propose here, without a survey, without marking out the route, without ascertaining what the damage to individuals will be, or where this canal is to go, except in a very general way, to give these people the right to do this and to take private property. I wish to call the Senator's attention to the provision in the bill in regard to that matter:

And in case the owners of such property cannot agree upon the terms of the sale thereof, or shall be a *femme covert*, infant, *non compos mentis*, imprisoned, or resident beyond the District of Columbia, then application may be made by the president of said company to the chief justice of the United States district court for the District of Columbia, for the appointment of three persons, who shall be freeholders in said District, as a commission of inquest of damages, and who shall go upon and inspect any property proposed to be taken by said company for the purposes contemplated by this act; and before any person so appointed as such commissioner shall proceed to act, he shall take an oath or affirmation that he will fairly and truly value the damages sustained by the owner or owners of any property by the use and occupation of any such real estate, water rights, or other property, by said company; and said commission shall reduce their inquisition or finding to writing, and sign and seal the same, and it shall then be returned to said chief justice, who shall file the same in the office of the register of deeds of the city of Washington; and said report shall be confirmed by the supreme court of the District of Columbia at its next term after the return of said report, unless for cause shown to the contrary.

Now, is there any provision here that the party who is in any way interested shall be notified by this inquisition?

Mr. WADE. I do not think there is. I think that the bill is deficient in that respect.

Mr. CLARK. It does not provide for a hearing. It provides that these three men shall go on, assess the damages without any hearing, as they think best, and make a report to the court, and if the court say it is all right, very well, and then the owner is concluded forever. I understand the Senator to say that he thinks that defective.

Mr. WADE. I think notice ought to be given.

Mr. CLARK. I have no doubt that will commend itself to his sense of justice. But I want to go a little further with this provision:

And in case there be good cause shown, said inquest may be set aside, and said chief justice shall direct another inquisition to be taken in the manner above described.

Suppose they take another inquest, and the land-holder is no better satisfied, what then?

Mr. WADE. There is the end of it, I suppose.

Mr. CLARK. There is to be no notice in either case, and there is the end of it. I do not think the Senator himself would say that that was fair to the man whose property is to be taken against his consent for a purpose of this kind.

Mr. WADE. I agree that those interested in this adjudication should have notice. There is no doubt about that; but I see nothing else in the way. I think that is usual, and it ought to have been in here.

Mr. CLARK. It is usual in a case of this kind, and I should very much prefer, instead of the court appointing these three men, to let the second trial be by a jury.

Mr. WADE. The committee talked over that subject of a jury trial. We in Ohio, I believe, generally condemn property by a jury, but I believe in most of the States they do not. The committee thought that the condemnation by these commissioners would be just as good and as valid as by a jury; but I am not particular about that. If it is thought better to have it determined by a jury rather than by this commission of three men, I have no objection to such an amendment.

Mr. CLARK. I have no preference for any particular mode, whether by a jury or by a commission; but what I do want in a case of this kind is, that where you take a man's property, and where he has properly a right to find fault, he shall have a full and fair hearing, and shall have fair and equitable damages assessed to him by some competent tribunal. I suppose the Senator wants that.

Mr. WADE. Yes, sir.

Mr. CLARK. I do not think this provision goes quite as far as it should in that particular. I should hardly be willing to give a corporation who want to build up an immense coal depot along the banks of the canal the power to take a man's property in that way.

Mr. WADE. It has to be done very often.

Mr. CLARK. In some cases it has to be done, and in all cases where the public service and interests warrant it. I am only calling the attention of the Senator and the Senate to some features of the bill. There is another feature to which I wish to call his attention, and that is in the twelfth line of the second section:

That said canal or sewer shall form a duct or depository for the sewers of Washington.

I suppose that is an object to be secured by the United States in granting these privileges to this company. Will the Senator tell me whether that is to be without the consent of this great company or without pay to them, or whether it is to be under their control or not, because the public have a very large interest in this matter. As I understand, this canal must be the depository of the sewerage. Then it should be abundantly guarded, so that the city should have the right, either with or without pay, as might be found just and proper, and as it might be the intention of Congress in making this grant.

Mr. WADE. That subject was under consideration in the committee, and we thought this provision sufficient:

That said canal or sewer shall form a duct or depository for the sewers of Washington.

We supposed that in this general manner the grant in favor of the city was larger than it would be by any words we could put upon it. This company could not restrain the city under this provision, as we believe, from making such sewerage into the canal, and in such manner and form as they thought best for the purposes of sewerage. We thought that it would be an advantage to the city to give them the general power to empty their sewers into the canal, without prescribing exactly the means, because the means not being prescribed, they can take such means and in such way as they think best. That was the opinion of the committee, and we thought it would be better to leave it in that way than to have it more specific on that subject. I will state here in regard to the sewerage that one great advantage to be gained by this navigable canal will be that sewers may be let into it and they will empty into the river. The engineers in this city have heretofore been unable to find a way in which sewerage can be effective into the river, because it has been found on survey that between the canal and the river there is a rise of ground which renders it extremely difficult to make the drainage and sewerage.

Mr. CLARK. The Senator does not come quite to the question which I wish to present to his mind, and that is, whether this city will have the right, without any expense paid to this company, to drain into the canal.

Mr. CONNESS. That can be very easily given.

Mr. CLARK. The Senator from California says it can be easily given; but if we do not call attention to it now and the bill passes without any provision on the subject, we shall have all these questions hereafter. It is very true it can be easily given, and that is one of the things I want to provide for. I want to know the Senator's idea about it, and what is intended by the bill, so that we may amend it in that particular, if it shall be found necessary.

Mr. WADE. I think myself the bill is better for the corporation of the city as it stands than in any other way. It is to be without any expense, and the canal company is compelled to allow the sewerage in there, and it will be in their own interest, too.

Mr. CLARK. Will the Senator allow me to inquire whether the committee intended that it should be without expense?

Mr. WADE. Certainly.

Mr. CLARK. Then it should be clearly expressed in the bill.

Mr. WADE. It is.

Mr. CLARK. I think not. It reads:

That said canal or sewer shall form a duct or depository for the sewers of the city of Washington.

Mr. CONNESS. If the Senator will permit me, by adding there the words, "and the corporate authorities of the city of Washington shall always have the right," his purpose will be accomplished.

Mr. CLARK. This would give the right, but the question of expense is not settled, and you might have that coming into the court.

Mr. WADE. Rather than debate that matter, I will add the words "without expense to the city."

Mr. CLARK. I have not the least doubt that the Senator desires to do everything in regard to the bill that can be done, and I do not wish to defeat it. I desire to call his attention to it, and show how it is necessary to perfect the bill, in my judgment, and show him the objections that I have, and the defects in the bill.

Mr. WADE. I certainly have no desire to have any insecurity in the bill, but my idea of the construction of the bill in reference to that was that it did not require an amendment in that particular; but perhaps it does, and if it does I am willing to insert the words "without expense to the city."

Mr. CLARK. Here we are granting to this corporation very large corporate powers, and beside that we are granting them I do not know how much property in the way of the canal and bridges; the Senator himself does not seem to know; and for what are we doing it? For the purpose of clearing out this canal and securing sewerage and a depository for the filth of the city. Then it ought to be made entirely clear when we pay for this advance by granting this property that we have not got to pay over again, and that we shall always have this privilege. I only desire to secure what the Government and the public should have for these large privileges, in thus criticising the bill.

That brings me again to what has been suggested by some other Senator, that if we grant these large corporate powers, and this corporation does not go along and perfect this canal and thus render a fair equivalent to the public, and put it in such a situation as that it shall secure the benefits intended by it, these privileges and this property should revert to the public or to the United States. They might form their corporation; they might take up the grant and the property under this bill, and then stop; what then? There is no provision here that they shall forfeit anything. They may say, "We intend to go on by and by;" but when are you to make them do it? What is the limit here? I am not aware of any.

Mr. JOHNSON. Is there no limitation on the completion of the work?

Mr. CLARK. I do not know but there may

be some limitation in regard to the time for commencing the work, but there is no forfeiture if they do not fulfill it. If there is a limitation, will the Senator from Ohio point me to it.

Mr. WADE. No; there is no limitation.

Mr. JOHNSON. Is there no limitation about the beginning of the work?

Mr. CLARK. Neither the beginning nor end nor middle. It is a grant of this property to them for the purpose of doing this thing, without the survey of a route, without specification of the time when they shall begin or specification of the time when they shall end or ever doing it at all. It seems to me all these things ought to be provided for. I am ready to aid the Senator from Ohio in perfecting this bill, if I can. I do not desire to throw any obstruction in his way or the way of the public in getting rid of this nuisance. Whether this is the best way of doing it, I am not prepared to say. I should rather hear the report of the engineers, if any have been appointed to make a survey, as to what they think best in regard to it. I know very little about it myself. I only desire to secure to the public a fair equivalent for what we grant.

Mr. CONNESS. The object of the resolution that passed the Senate, as I understood it when it passed, and the board of engineers appointed under it, was to get action if possible before the summer months in reference to the foul condition of this canal. I do not know whether the action now being taken by that board of engineers will give us that result this year. If it can result in that, it will certainly prove that we have taken a very wise step. I doubt, however, whether there will be any practical results arising from that action this year.

The main purpose of this bill, I desire to say, seems to me to be a very good one, that of so deepening this canal as to make it a thorough means of sewerage to this city, and also passing a stream of fresh water through it; but it is apparent to my mind, from what has been said and from the observations I have made of the case myself, that the bill will have to be recommitted and reconsidered before it is in a condition to be passed. I believe that a grant to a corporation of this canal, holding them bound to a strict performance of the conditions, is really the wisest disposition that can be made of it. The control of the canal, as it has existed between the Congress of the United States and the corporate authorities of the city of Washington for a great many years, has evidently resulted in nothing but neglect and the worst of the conditions that follow neglect. If placed in the hands of a corporation, under proper restrictions and upon proper conditions, requiring them to execute what will be necessary to the complete establishment and carrying out of the plan, I think it will be a wise measure, indeed, to pass.

As to the question raised by the Senator from New Hampshire in regard to private and public property, I do not see anything in that. There is a great difference between private and public property. Private property is always subject to be condemned and taken for public uses, while public property belonging to the United States is always devoted to public uses, and may not be taken. It is subject to grant, it is true, but it is already devoted to public service and may not be taken.

But there is an additional reason why care should be taken in regard to this grant that is now being made. You are granting corporate rights to a company within the jurisdiction of another corporation—the corporation of this city—and the bill should be so carefully guarded as to give rise to no conflict of rights or privileges or control as between the two corporations. The city should always have the right, without let or hinderance, and at the same time without unnecessary damage or interference with this corporation, to control the sewerage, and to use the canal to that end and for that purpose. That is not clearly expressed in the bill as it now stands. It appears to me that it should be recommitted and subjected to a very careful examination. The design of the bill, I think, is a good one, and I should like to see it carried out. I hesitate to make a motion to recommit because the bill is not in my charge, but I think that would be the best plan, to recommit it and let the subject be fully considered.

Mr. WILLEY. I believe myself that the bill is in a very imperfect form; at least it might be made more explicit in many parts, and put into much better form. In regard to the object contemplated by the bill, I think there can be but one opinion. The canal in its present condition is a very great nuisance. it answers no good purpose whatever. It does not accomplish the purpose designed by making the canal, in the first place, so far as the transportation of commerce is concerned, and the bringing of produce, coal, &c., into the city for the convenience of the people; nor does it answer the purpose of sewerage to any very considerable extent; indeed, no just purpose of sewerage at all. While it is the proper receptacle of the city sewerage, it does not carry it away; it remains there; it festers there; and it will be the source of disease and pestilence unless something be done. So far as I am concerned, I think that something ought to be done with this canal, and that speedily. Here is a company which proposes, without any cost whatever to the United States, to build a canal from the Chesapeake and Ohio canal through the city of Washington to the Anacostia river, making it ten feet deep, obligating themselves to keep it perfectly clear of all sediment and deposits and to keep the tide constantly flowing through it. If we had a work of that character through the city, it would evidently promote the convenience of the city in a great many ways, and the health of the city by affording better sewerage than it now has.

Then it is a fact which has recently come to my knowledge, and which surprised me very much, that the people of this city are pretty much indebted for their coal to this canal; but instead of having it extended from Georgetown into the city, so as to have the coal deposited upon the streets of the city, in a convenient place, it has to be unshipped at Georgetown; it has to be thrown down the bank and brought down in boats to the borders of the city, or hauled by wagons into the city. It is so with any other article of commerce. It is so with flour; it is so with bacon; it is so with everything that comes down the Chesapeake and Ohio canal, and the citizens of Washington are put to great additional expense for the want of the extension of this work.

As to the form of the bill for accomplishing the purpose we have in view, in looking over the bill last night I made divers and sundry amendments, which I believe would meet every one of the objections suggested by the honorable Senator from New Hampshire, or at least they are designed to meet them. I myself, however, am of the opinion—and perhaps the Senator from Ohio will agree with me—that it had better be recommitted, and if that meets the views of the Senate, we can then amend the bill in the committee in such form as we see proper. I have divers and sundry amendments marked upon the bill, which I will mention now, unless it meets the view of the Senators at this stage to have the bill recommitted.

Mr. WADE. If the Senator has got his amendments ready, and can perfect the bill now, it had better be done now; but if not, it can be recommitted.

Mr. WILLEY. I have my amendments ready.

Mr. WADE. Very well, propose them then.

Mr. WILLEY. There is an amendment pending.

The PRESIDING OFFICER. The first question is upon the amendment reported from the Committee on the District of Columbia, to insert a new section as section twelve.

The amendment was agreed to.

The next amendment of the committee was to insert, as section thirteen, the following:

SEC. 13. *And be it further enacted*, That nothing in this act contained shall be held or deemed, in any manner or way, to injure or impair any public or private rights or interests, or in any manner to affect the same beyond the mere transfer of the rights of the United States to said "District of Columbia Canal and Sewerage Company."

Mr. GRIMES. I move to amend the amendment by inserting after the word "private," in the third line, the words "or corporate;" so that it will read:

That nothing in this act contained shall be held or deemed, in any manner or way, to injure or impair any public or private or corporate rights or interests.

The amendment to the amendment was agreed to.

The amendment as amended was adopted.

Mr. WILLEY. In the twenty-second and twenty-third lines of the first section, perhaps there ought to be a little verbal amendment. It now reads:

And upon its franchises, to borrow money, to negotiate loans upon their franchises, bonds, mortgages, or other securities.

I move to strike out the word "its" in the twenty-second line and to insert the word "their," so as to make the clause correspond. We should have it either singular or plural.

Mr. CLARK. In a previous part of the section the word "its" is used, and perhaps it had better be changed to "its" all through the section.

Mr. WILLEY. Then I will vary my motion and move to strike out the word "their" in the twenty-third line, before the word "franchise," and insert the word "its."

The amendment was agreed to.

Mr. WILLEY. In the second section, after the word "branch," in the sixth line, I move to strike out the words "where it enters the District of Columbia, running along said river to its junction with the Potomac river, and the Potomac river and," and in lieu thereof to insert:

At a point near where it intersects the Potomac river, thence to the nearest and most practicable point of intersection with the present old canal now running through the city of Washington, and thence in, by, and with the said old canal through the corporate limits of Washington, and thence to.

So that the section will read:

That the said company is hereby authorized and empowered to survey, locate, lay out, construct, operate and use, and enjoy a continuous line of canal and sewer, with all the privileges and appurtenances thereof, between the waters of the Anacostia river, commonly known as the Eastern branch, at a point near where it intersects the Potomac river, thence to the nearest and most practicable point of intersection with the present old canal now running through the city of Washington, and thence in, by, and with the said old canal through the corporate limits of the city of Washington, and thence to the Chesapeake and Ohio canal, at or near the city of Georgetown.

The amendment was agreed to.

Mr. WILLEY. In the twelfth line of the second section I move to strike out the word "that" at the beginning of the sentence, and to insert the word "the;" so that it will read:

The said canal or sewer shall form a duct or depository for the sewers of the city of Washington.

The PRESIDING OFFICER. That is a mere verbal amendment and will be considered as adopted.

Mr. WILLEY. I call the attention of the Senator from Ohio to the clause in the second section commencing at the fourteenth line, where it says, "and said company shall have the exclusive right to use said canal for the purpose of conveying freights and regulating the passage through the same of all vessels, boats, rafts of lumber, and crafts of all kinds, capable of navigating said canal and sewer," and ask him to compare it with the eleventh section on page 9. That section reads as follows:

That said canal and sewer, when completed, shall forever thereafter be esteemed and taken to be a public highway for the transportation of all goods, commodities, or produce of every kind and description.

It seems to me there is an inconsistency here. The clause in the second section gives to the company "the exclusive right to use said canal for the purpose of conveying freights and regulating the passage through the same." The other section makes it, as I think it ought to be, a public highway for the transportation of

all freights that anybody may bring upon it upon the payment of tolls and freights. It strikes me that this clause in the second section which I have just read after the word "Washington," in the fourteenth line, down to and including the word "sewer," in the eighteenth line, ought to be stricken out, and I make that suggestion to the honorable Senator.

Mr. WADE. I think that would be an improvement. There does seem to me to be an inconsistency between the two sections.

Mr. WILLEY. Then I move to strike out the clause commencing in the fourteenth line of the second section in the following words:

And said company shall have the exclusive right to use said canal for the purpose of conveying freights and regulating the passage through the same of all vessels, boats, rafts of lumber, and crafts of all kinds, capable of navigating said canal and sewer.

The amendment was agreed to.

Mr. WILLEY. I propose further to amend the second section by adding at the end of it the following words:

And in case the said company shall fail to keep said canal and sewer in such repair, clear of sediment and deposits as aforesaid, for three consecutive months, the franchise hereby granted to said company shall be forfeited, and the rights and privileges hereby granted shall revert to the United States.

Mr. CLARK. I suggest to the Senator from West Virginia that he had better incorporate in that amendment a provision that they shall commence the work at such a time and have it finished at such a time, so that we shall have only one provision on that subject in the bill. There ought to be a provision that they shall commence the work by a certain time and have it finished by such a time.

Mr. WILLEY. I have no objection to that, if the Senator will suggest an addition.

Mr. CLARK. It requires a little time to frame an amendment of that kind and I was just turning my attention to it.

Mr. WILLEY. With the leave of the Senate, I will withdraw the amendment for the present, and I hope the Senator will perfect it.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. CONNESS. I desire to call the attention of the Senator who has reported this bill to the twelfth and thirteenth sections, which appear to be new ones. They may be right as they stand, but they appear strange to my mind. The twelfth section is in these words:

SEC. 12. *And be it further enacted*, That in order to aid the said "District of Columbia Canal and Sewerage Company" in fulfilling the objects and requirements of this act, that all the right, title, property, interests, and estate, in law or equity, of the United States of, in, and to the Washington canal and the bridges crossing the same, and the lands upon which said canal, bridges, basins, locks, reservoirs, docks, and wharves are now located, occupied, used, and constructed, be, and the same are hereby, vested in the said "District of Columbia Canal and Sewerage Company," to have and to hold the same for the use and benefit of the said company.

Why convey the bridges? You are required to keep them open as public easements and highways, and why convey to this company a property in them? Why not let the property in those bridges remain where it now is, in the public? It appears to me to be a very questionable matter to grant to a company.

Mr. WADE. I suppose the right to the material should belong to the company. They are obliged by the bill itself to keep up these bridges across the roads as they are now; but it was really designed that the bridges should pass to them, for they are useless for any other purpose than to be used for the company, who are compelled to keep them up for the public convenience.

Mr. CONNESS. The next section provides—

That nothing in this act contained shall be held or deemed, in any manner or way, to injure or impair any public or private or corporate rights or interests.

The question is whether that is a sufficient protection against an exclusive control of those bridges.

Mr. WADE. Of course they will keep the bridges up in their own way. They are to be kept up for the public convenience, and if they should fail to do so, of course they will be liable for any damage that may accrue in consequence.

Mr. SHERMAN. I will ask my colleague what section of the bill imposes on them the duty of keeping up the bridges?

Mr. GRIMES. The seventh.

Mr. CONNESS. The control over the tolls is in the eighth section, but that refers to the canal, I presume.

The PRESIDING OFFICER. The Senate, in Committee of the Whole, have adopted the twelfth section, and it is not in order to amend it now. It can be amended in the Senate, when the bill is reported to the Senate.

Mr. WADE. I have a few verbal amendments that I wish to offer to perfect the bill before it passes out of committee. There are some verbal alterations necessary in the names of the corporators mentioned in the first section. The name "John Van Reswick," in the third line of the first section, should be "John Van Riswick."

The PRESIDING OFFICER. That correction will be made.

Mr. WADE. In the sixth line of the first section, after the words "New Orleans," I move to insert the words "William H. Noble, of Minnesota."

The amendment was agreed to.

Mr. WADE. In the seventh line of the first section, the name "Martin H. Cossell" should be "Martin H. Cassell."

The PRESIDING OFFICER. That correction will be made.

Mr. GRIMES. The argument that is urged in favor of the passage of this bill is, that it is necessary that something should be adopted as a sanitary measure. I should like to know from the Senator from Ohio how soon he supposes this canal will be completed under the provisions of this bill.

Mr. WADE. I suppose I can answer that. I understand the gentlemen who have charge of this work to say that if they get the right to do this work, they are willing to bind themselves—and perhaps we had better make them bind themselves—that within three weeks after we pass the bill they will put a current of water through the canal that will answer all the sanitary purposes. They say they will fill it with fresh water from the upper Potomac within three weeks after the passage of the bill, and then they intend in another season to complete the work. They do not expect to do it short of that. I am willing to insert a provision in the bill binding them to do that within that time. They will do immediately what we want done for sanitary purposes; they will fill the canal with a current of fresh water right away.

Mr. GRIMES. I have no doubt the gentlemen who are seeking this charter will make very fair promises; but the question is, not what do they promise now, but what does the bill require them to do. By reference to the tenth section of the bill it will be seen that it provides:

That the said company shall, as soon as practicable after the passage of this act, commence work upon said canal—

They of course being the parties to determine whether it is practicable to commence at once or not—

and shall, within eight months after said company shall have acquired by condemnation or purchase the right of way for said canal, fully complete the same.

They are required to complete it within eight months after they have condemned the last portion of the property; but it is left entirely within their own control to determine whether they will condemn that property this year, or fifteen years hence.

Now, I desire to call the attention of the Senate to the sixth section. It will be observed that according to this section there is no limitation whatever upon the amount of real estate or other property that this company is authorized to own. Just as much as the company themselves deem necessary they are entitled to hold, neither more nor less. Is the Senate prepared to intrust such an authority as that to this corporation? This section provides—

That said company is hereby authorized and empowered to purchase, lease, receive, and hold real estate, and any other property which shall be deemed necessary for the use of said company.

Who deems it necessary? The corporation. There is no limitation whatever upon it.

Mr. WILLEY. I have got a limitation here.

Mr. GRIMES. I am happy to hear the Senator from West Virginia say that he has got a limitation upon that; but it strikes me that these amendments had better be all done in committee.

There is another question which I wish the committee would investigate if the bill should be recommitted, and that is, whether it is proper or not for us to legislate at all on this subject, unless there shall first be some understanding reached with the city of Washington in regard to it. According to my recollection—I am not fresh in my reading of the history of the transaction in connection with this canal; I once examined it, and I should like to be able to refresh my recollection on that subject—when Maryland was about to construct the Cumberland canal, the capitalists of Alexandria proposed to unite with the State of Maryland, and have the terminus of the canal at Alexandria. That stimulated the people of Washington to attempt to have a terminus here, and in order to accomplish that purpose they embarked the credit of the city to a large amount—ultimately I think it reached the amount of $5,000,000, and issued bonds for it, which were sold to certain Holland capitalists. The interest on those bonds was not paid, or the principal was not paid at any rate, when they matured. The Holland capitalists threatened to foreclose on the city and sell it out, and General Jackson, who was then President, sent down a message to Congress, recommending that Congress should assume the payment of that debt; and I believe Congress did pay that debt; but the United States never acquired any title to the canal. The title, therefore, still rests in the city.

Now, is it not advisable, if we are going to create such a corporation as this, right in the city, a corporation that is to have such a potential influence in the city in regard to sanitary measures, that there should be some perfect understanding between the corporation that we propose to create and the city authorities on the subject? I do not understand that the city authorities have been consulted or that they have given their assent. I understand that this bill proceeds on the idea that this canal belongs to the Government of the United States, and not to the government of the city of Washington.

Mr. WADE. No, I do not proceed upon that ground. I believe it does substantially belong to the Government, inasmuch as, from all the investigation I have been able to make, the Government has paid all the money for constructing it; but the legal title I suppose to be vested in the city. The bill proceeds upon the ground that if the city own it in whole or in part or have any interest in it, this corporation must acquire that right either by agreement with the city, or by the other mode of condemnation.

Mr. GRIMES. I do not understand that the Senator controverts my proposition that the legal title is in the city of Washington. I know that when those bonds fell due, and the city government could not pay them, we stepped in and paid them, but we did not thereby acquire any title. That was a mere gift to the government of the city of Washington. If the legal title is in the city of Washington, it seems to me there ought to be some conference or some acquiescence on the part of the city of Washington before we undertake to legislate this property out of their hands entirely. It is a matter of a good deal of moment; it may be of infinite moment. If it be so necessary as is alleged, I trust that there will be perfect drainage, and that perfect drainage can only be secured by means of this canal. I trust this bill

will be recommitted. The amendments which the Senator has on his desk, and which he proposes to offer, I have no doubt are properly matured now, but we can better consider them if they are presented to us in the bill as reported by the committee than when they are simply read from manuscript at the Secretary's desk.

The PRESIDING OFFICER. Does the Senator make a motion?

Mr. GRIMES. Yes, sir, I make the motion that the bill be recommitted to the Committee on the District of Columbia.

Mr. WILLEY. I have no objection to that motion, but I will say while I am up, in answer to the Senator, that by the act of Congress of 1832, all the right, title, and interest of the United States in and to this canal were transferred to the mayor and the corporate authorities of the city of Washington, but upon the express condition that they should make the canal so many feet deep, eight or ten, I forget which, and that they should constantly keep it in repair and clear of all sediment, &c., and in operation. Whether they have complied with that condition or not, I suppose the Senator from Iowa can very well judge.

Mr. GRIMES. But there was no forfeiture.

Mr. WILLEY. No forfeiture has been declared by any judicial tribunal. That is exactly the way it stands at this time. What right the United States by that act of Congress did really transfer to the corporate authorities of Washington city is not very clear from previous legislation on the subject.

Mr. MORRILL. I do not object to the recommittal of this bill. I have not paid much attention to the details of the bill at any time, but I know something of the history of this canal. That this enterprise would accomplish what is so much desired by the city, I am quite persuaded. This canal is indispensable to the proper sewerage of the city; but instead of its answering that purpose now and in the past, it has been, as the Senator from West Virginia has well said, a nuisance; it has answered no purpose. I am satisfied that if you connect with the general object of sewerage the enterprise of commerce, you will always have connected with that of sewerage an active principle which will keep the sewerage in a condition to make it effective. Therefore I am in favor of combining the two things, and I believe it is practicable; I believe it is the best measure, all things considered, that I have yet seen.

Now, as to this question of who owns the canal, judging from the use that has been made of it, I should think nobody owned it. Nobody has seemed to claim ownership over it, and nobody seems to have exercised much ownership over it. I have no doubt the equitable interests of the Government in it are vastly superior to the interests of any other party. I do not understand that the city undertakes to exercise jurisdiction over it as against the Government, and, in fact, in repeated and numerous instances, they have declined to exercise any jurisdiction over it, saying that it was within the power of the General Government. There is a bill now on our tables, introduced in the other House, contemplating an improvement of this canal, upon the principle that it is chiefly the interest of the Government to make this improvement, and I believe it proposes to appropriate four or five hundred thousand dollars on the part of the Government for the improvement of this canal. I therefore desire to say, before the bill is recommitted, that I am in favor of the general objects of the bill, and believe that it can be best accomplished in connection with some active enterprise, such as is contemplated by the corporators in this bill.

The PRESIDING OFFICER. The question is on the motion of the Senator from Iowa to recommit the bill to the Committee on the District of Columbia.

The motion was agreed to.

CLERK OF DISTRICT SUPREME COURT.

On motion of Mr. MORRILL, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 43) to prescribe the mode of settling the accounts of the clerk of the supreme court of the District of Columbia. It provides that the clerk of the supreme court of the District of Columbia shall pay into the Treasury of the United States all the earnings of his office, over and above the necessary expenses and his own compensation. His accounts of the earnings and expenses are to be adjusted by the regular auditor of the court, or by a special auditor to be appointed by the court for the purpose, within thirty days after the 1st day of January and July, every year; and the auditor is immediately to report his adjustment to the court, with such exceptions thereto as the clerk shall, within four days after the adjustment reported, take and file with the auditor. The court is to pronounce such decree upon the report and exceptions as may seem to it equitable and just; and the decree is to be final, and be binding upon the United States and the clerk. If, upon such account, a balance be found due from the clerk to the United States, the court is to order payment by the clerk into the Treasury, and enforce its order by execution, process of contempt, or otherwise; and, if the clerk refuse to pay the money, remove him from office. If a balance be found due from the United States to the clerk, it is to be paid upon presenting to the Treasurer a copy of the decree, duly certified. The clerk as in other cases of judgments to which the United States is a party is to furnish the Solicitor of the Treasury a copy of the decree immediately after it is pronounced.

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

SETTLEMENT OF TREASURY BALANCES.

Mr. GUTHRIE. I move to take up Senate bill No. 158.

Mr. MORRILL. I do not like to interpose, and if the bill of the honorable Senator will take no time I will not object, but this day was assigned for the consideration of District business.

Mr. GUTHRIE. I think it will not take any time.

Mr. MORRILL. I will not object, with the understanding that it will take no time.

The motion was agreed to; and the bill (S. No. 158) to facilitate the settlement of the accounts of the Treasurer of the United States, and to secure certain moneys to the people of the United States, or to the persons to whom they are due, and who are entitled to receive the same, was read the second time as in Committee of the Whole.

It provides that all amounts of moneys that are represented by certificates, drafts, or checks, issued by the Treasurer of the United States, or by any disbursing officer of any Department of the Government of the United States, upon the Treasurer or any Assistant Treasurer, or designated depositary of the United States, or upon any national bank designated as a depository of the United States, and which shall be represented on the books of either such offices as standing to the credit of any disbursing officer, and bearing date prior to July 1, 1863, and which were issued to facilitate the payment of warrants, or for any other purpose in liquidation of a debt due from the United States, which may remain outstanding on the 1st of July, 1866, shall be deposited by the Treasurer of the United States, to be covered into the Treasury by warrant, and to be carried to the credit of the parties in whose favor such certificates, drafts, or checks were respectively issued, or to the persons who are entitled to receive pay therefor, and into an appropriation account, to be denominated "outstanding liabilities."

The certificate of the Register of the Treasury, stating that the amount of any draft issued by the Treasurer of the United States to facilitate the payment of a warrant directed to him for payment, and which may have so remained outstanding and unpaid for three years or more, and which shall have been thus deposited and covered into the Treasury, is authorized to be, when attached to any such warrant, a sufficient voucher in satisfaction of any such warrant or part of any warrant, the same as if the drafts correctly indorsed and fully satisfied were attached to such warrant or part of warrant. And all such moneys are to remain as a permanent appropriation for the redemption and payment of all such outstanding and unpaid certificates, drafts, and checks.

The payee, or the *bona fide* holder of any such draft or check, the amount of which has been so deposited and covered into the Treasury, on presenting it to the proper officer of the Treasury, is to be entitled to have it paid by the settlement of an account and the issuing of a warrant in his favor, according to the practice in other cases of authorized and liquidated claims against the United States.

At the termination of every fiscal year, after this act begins to operate, its provisions are to apply to all similar certificates, drafts, and checks which shall then have for three years or more remained outstanding, unsatisfied, and unpaid, and to all disbursing officers' accounts that shall have so remained unchanged.

The amounts, except such as are provided for in the first section of this bill, of the accounts of every kind of disbursing officer of the Government of the United States which have remained unchanged or which shall not have been increased by any new deposit thereto, nor decreased by drafts drawn thereon, for the space of three years, are in like manner to be covered into the Treasury, to the proper appropriation to which they may belong, and the amounts, on the certificate of the Treasurer of the United States that such amount has been deposited in the Treasury, are to be credited by the proper accounting officer of the Treasury on the books of the Treasury Department, to the officer in whose name it had stood on the books of any agency of the Treasury, if it shall be made to appear that he is entitled to such credit.

For the purpose of giving force and effect to the full intent and meaning of this act, it is to be the duty of the Treasurer, and of all Assistant Treasurers, and of all designated depositaries of the United States, and of the cashiers of all national banks designated as such depositories, to report to the Secretary of the Treasury, at the close of business on the 30th of June next, and in like manner at the close of business on every 30th day of June thereafter, the condition of every such account so standing on the books of their respective offices, stating the name of each depositor, respectively, with his official designation, the total amount so remaining on deposit to his credit, and the dates, respectively, of the last credit and the last debit made to each of such accounts, respectively. And it is to be the duty of every and each disbursing officer in any and every department of the Government of the United States to make a like return of all checks issued by such officer, and which may then have been outstanding and unpaid for three years and more, stating fully in such report the name of the payee, for what purpose given, the office on which drawn, the number of the voucher received therefor, and the date, number, and amount for which it was drawn, and, when known, the residence of the payee.

Mr. GUTHRIE. This is a very necessary and proper bill. The chairman of the Committee on Finance requested me to take it up and see General Spinner about it. I took it up and had it examined by the experts in the office, and they believe it is exactly right. I found a difficulty of the same kind about balances while I was in the Treasury. The last act passed by Congress authorizing the settlement of balances was in 1837, and it was so construed as not to be continuing, looking forward to future balances, but only to those that had already accrued. This bill keeps this money under the control of the Government to settle the claims for which it was issued, but it brings it into a separate account, so that the particular accounts of the officers can be closed. These balances arise from accident and misfortune, and sometimes it takes a long time to

settle them, and sometimes they are for pretty considerable amounts. Very often they are very small; but sometimes they amount to five hundred and one thousand dollars. It is very easy to bring them into the Treasury by a warrant and carry them to this account where they stand, and the particular officer gets his account closed. I recommend very decidedly the passage of the bill.

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

WASHINGTON COUNTY LEVY COURT.

On motion of Mr. MORRILL, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 190) enlarging the powers of the levy court of the county of Washington, in the District of Columbia.

Mr. MORRILL. The Committee on the District of Columbia have reported the bill with an amendment striking out all after the enacting clause in the original bill and inserting a substitute, and I suggest that the amendment only be read.

The PRESIDING OFFICER. The reading of the original bill will be dispensed with, and the amendment reported by the committee only will be read, if there be no objection.

The Secretary read the amendment, as follows:

That the levy court of the county of Washington, in the District of Columbia, is hereby empowered to declare and locate as public highways such roads known and used as military roads in said district during the rebellion as said court may deem advisable: *Provided*, That the damages which the owners of the land over which said roads pass shall sustain by reason of said roads being declared public highways shall be assessed as provided for in section three of the act of Congress approved July 1, 1812, entitled "An act conferring certain powers on the levy court for the county of Washington, in the District of Columbia."

The amendment was agreed to.

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

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

WOMEN'S HOSPITAL ASSOCIATION.

On motion of Mr. MORRILL, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 167) to incorporate the Women's Hospital Association of the District of Columbia. It proposes to constitute Mrs. Adelaide J. Brown, Mrs. Jane L. Smith, Mrs. Harriet M. Blanchard, Mrs. Maria M. Carter, Mrs. Jane Farnham, Mrs. Hannah J. Gillette, Mrs. Mary W. Kelly, Mrs. Kathleen Carlisle, Mrs. Sarah C. Jones, Mrs. Mary K. Lewis, Mrs. Elmira W. Powell, and Mrs. Elizabeth Sampson, and their successors duly chosen, a body corporate in the District of Columbia, with the usual powers of a corporation. The object of the association is to found in the city of Washington a hospital and dispensary for the treatment of diseases peculiar to women, in which those unable to pay therefor shall be furnished with medicine and medical attendance gratuitously.

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

EVIDENCE OF MARRIAGES.

On motion of Mr. MORRILL, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 185) to preserve evidence of marriages in the District of Columbia. It provides that every minister of the gospel, appointed or ordained according to the rites and ceremonies of his church, may be licensed to solemnize and attest marriages in the District of Columbia.

The license is to be issued by the clerk of the supreme court of the District, under the seal of the court, in the following form:

To any person capable of solemnizing and attesting marriages in the District of Columbia:

You are hereby licensed to solemnize and witness a marriage between ——— ——— and ——— ———, if you find that there is no lawful impediment thereto; and having so done, you are commanded to appear in the clerk's office of the supreme court of the District of Columbia without delay, and certify the same.

———, *Clerk.*

The clerk is to provide a book of his office, consisting of licenses printed in blank, one of which he is to fill up with the names of the parties for whose marriage any license is issued; and beneath it is to be printed a certificate, to be made by the person attesting the marriage, in the following form:

I certify that on the —— day of ———, eighteen hundred and ———, I witnessed the union, in due and legal form, of the parties aforesaid.

——— ———,

Minister of ———.

The clerk's fee for issuing the license, filling up the blank, receiving the certificate, and indexing the same, is to be one dollar; and for each copy of the license and certificate of solemnization, and verifying it by his signature and the seal of the court, his fee is to be one dollar; and every such copy is to be conclusive evidence of the facts it contains.

The Committee on the District of Columbia reported the bill with an amendment, to add the following as an additional section:

SEC. 6. *And be it further enacted*, That if any minister or other person, not licensed as aforesaid to solemnize marriages, joins any persons in marriage, he shall be punished by confinement in the penitentiary for a term not exceeding five years, or by fine not exceeding $1,000.

Mr. JOHNSON. The effect of a marriage without a license has been recently discussed in the Supreme Court, and is not yet decided. It is a doubtful matter with the profession—I speak more particularly of the profession in Maryland and the courts in Maryland—whether a marriage solemnized by a clergyman without a license is void because of the want of license. I rose for the purpose of asking whether there is in this bill any provision that the marriage is to be a valid one or is to be an invalid one if there is not a license.

Mr. MORRILL. No, sir; there is no provision touching that particular subject at all. It is left entirely as the law now provides.

Mr. JOHNSON. Then I suggest to my friend that perhaps it would be advisable that a provision should be made on that subject, because it is a matter of very grave doubt, and it is a question that ought not to be left in doubt. The general rule, as the Senate are aware, is, that any contract made contrary to the policy of the law is void. Whether a marriage contract falls within that rule is a question upon which there are differences of opinion; but I suggest to my friend, the chairman of the committee, whether it would not be advisable to clear away that doubt in this bill. I will not move an amendment myself. Let it be passed by now and it may be thought of hereafter. I will vote for the amendment reported by the committee because that amendment is clearly right. The minister in such a case ought to be punished.

The amendment was agreed to.

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

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

NATIONAL SAFE DEPOSIT COMPANY.

On motion of Mr. MORRILL, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 177) to incorporate the National Safe Deposit Company, of Washington, in the District of Columbia. It proposes to declare A. R. Shepherd, William S. Huntington, S. P. Brown, G. W. Riggs, Nathaniel Wilson, G. H. Plant, together with the subscribers to the stock of the association and their successors and assigns, a body politic and corporate, by the name and style of the National Safe Deposit Company of Washington, with the usual powers of a corporation. The capital stock is not to exceed $200,000, divided into two thousand shares of $100 each; and the company are authorized to receive and keep on deposit all such valuables, gold, silver, or paper money, bullion, precious metals, jewels, plate, certificates of stock, or evidence of indebtedness, deeds or muniments of title, or other valuable papers of any kind, or any other article or thing whatsoever, as may be left or deposited for safe keeping with them, and be entitled to charge such commissions or compensation therefor as may be agreed upon, and for their complete preservation and safe keeping are to construct, erect, lease, or purchase such fire-proof and burglar-proof building or buildings, vaults, iron or composition safes, or other means which may become necessary, and generally to transact and perform all the business relating to such deposit and safe keeping or preservation of all such articles or valuables as may be deposited with them, and also to invest the capital or funds of the company, or such money or funds as may be deposited with them for that purpose, from time to time, in the public funds of the United States, or in any stock or property whatsoever, and to dispose of the stocks, money, and property in such manner (not contrary to law) as to them shall appear most advantageous to the company.

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

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House of Representatives had passed the following bill and joint resolution of the Senate:

A bill (S. No. 94) to amend an act entitled "An act for the relief of seamen and others, borne on the books of vessels wrecked or lost in the naval service," approved July 4, 1864, and for other purposes; and

A joint resolution (S. R. No. 2) for the restoration of Commanders William Reynolds and Melancton B. Woolsey, United States Navy, to the active list from the reserved list.

The message further announced that the House of Representatives had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 163) to further regulate the appointment of certain volunteer officers to the regular Navy; and

A bill (H. R. No. 197) to provide for the better organization of the pay department of the Navy.

EXEMPTION OF DEBTOR'S PROPERTY.

Mr. WADE. I move to take up Senate bill No. 218.

The PRESIDING OFFICER, (Mr. POMEROY.) The Chair understands that the bill referred to by the Senator from Ohio is in the hands of the Committee on the District of Columbia, the committee not having yet reported it.

Mr. WADE. I move to discharge the committee from its further consideration.

The motion was agreed to; and the bill (S. No. 218) exempting the property of debtors in the District of Columbia from levy, attachment, or sale on execution, was considered by the Senate as in Committee of the Whole. It provides that the following property, being the property of a head of a family or householder, shall be exempt from distraint, attachment, levy, and sale on execution or decree of any court in the District of Columbia, (but this exemption is not to interfere with the foreclosure of any mortgage or deed of trust executed before the passage of the act,) namely: all wearing apparel belonging to all persons, and to all heads of families, being householders; all beds, bedding, household furniture, stoves, cooking utensils, &c., not exceeding $300 in value; provisions for three months' support, whether provided or growing; fuel for three months; mechanics' tools and implements of the debtor's trade or business amounting to $200 in value, with $200 worth of stock for carrying on the business of the debtor or his family; the library and implements of a professional man or artist to the value of $300; one horse, mule, or yoke of oxen; one cart, wagon, or dray, and harness for such team; farming utensils, with food for such team for three months,

and if the debtor be a farmer, any other farming tools of the value of $100; all family pictures, and all the family library; one cow, one swine, six sheep. No deed of trust, bill of sale, or mortgage upon any of these exempted articles, is to be binding or valid unless signed by the wife of the debtor, if he be married and living with his wife; and these exemptions are to be valid when the property is *in transitu*, the same as if the property were at rest. No property is, however, to be exempted from attachment or execution for any debt due for the wages of servants, common laborers, or clerks, except the wearing apparel, beds and bedding, and household furniture and provisions for the debtor and family.

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

MUTUAL FIRE INSURANCE COMPANY.

Mr. MORRILL. I move to proceed to the consideration of House bill No. 223.

The motion was agreed to; and the bill (H. R. No. 223) to amend an act to incorporate the Mutual Fire Insurance Company of the District of Columbia was considered as in Committee of the Whole.

The bill had been reported by the Committee on the District of Columbia with an amendment, which was to strike out in line three the words "said act" and insert "An act entitled 'An act to incorporate the Mutual Fire Insurance Company of the District of Columbia,' approved on the 10th day of January, 1855;" so as to make the bill read:

Be it enacted, &c., That the third section of an act entitled "An act to incorporate the Mutual Fire Insurance Company of the District of Columbia," approved on the 10th day of January, 1855 be, and the same is hereby, so amended as to read "$50,000" in the place of "$20,000."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. It was ordered that the amendment be engrossed, and the bill read the third time. The bill was read the third time and passed.

POTOMAC NAVIGATION COMPANY.

Mr. MORRILL. I move to take up Senate bill No. 51; it is the last bill I shall ask the Senate to consider to-day.

The motion was agreed to; and the bill (S. No. 51) to incorporate the Potomac Navigation and Transportation Company of the District of Columbia was considered as in Committee of the Whole.

Mr. MORRILL. I move to amend the bill by inserting after the word "company," in the ninth line of the first section, the words "for the purpose of transacting the business of common carriers;" so as to make the section read:

That George W. Riggs, M. G. Emery, Fitzhugh Coyle, Ward H. Lamon, Moses Kelly, Henry D. Cooke, S. A. Peugh, Riley A. Shinn, Esau Pickerell, and George Hill, jr., and their associates and assigns, be, and are hereby, created a body corporate and politic, under the name, style, and title of the Potomac Navigation and Transportation Company, for the purpose of transacting the business of common carriers.

The amendment was agreed to.

Mr. MORRILL. I move further to amend the bill by adding, at the end of the second section these words:

Provided, however, That said corporation shall not be authorized to enter upon the business of the company until at least $500,000 of its capital stock has been fully subscribed.

The amendment was agreed to.

Mr. MORRILL. I move further to amend the bill by inserting after the word "river" in the fourth line of the fourth section the words "upon and at some point;" so as to make the section read:

That said corporation is hereby authorized to purchase and hold lands, and may locate and construct wharves, docks, and railways into the Potomac river upon and at some point in front of Mason's Island, so called, as may be necessary for the objects of said company, to be built under the supervision of the Superintendent of the Coast Survey, so as not to interfere with the navigation of the Potomac river, and the use and maintenance of said wharves, docks, and railways shall be subject to the municipal regulations of the city of Washington.

The amendment was agreed to.

Mr. MORRILL. I move further to amend that section by striking out the words "so called" after the word "island" in line four; they do not add anything to it.

The amendment was agreed to.

Mr. MORRILL. I now offer the following amendment as a new section:

SEC. 7. *And be it further enacted*, That this act may be altered, annulled, or repealed by Congress.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The bill was ordered to be engrossed for a third reading, and was read the third time and passed.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred to the Committee on Naval Affairs:

A bill (H. R. No. 163) to further regulate the appointment of certain volunteer officers to the regular Navy; and

A bill (H. R. No. 197) to provide for the better organization of the pay department of the Navy.

SARAH FITZGIBBON.

The Senate proceeded to consider the amendment of the House of Representatives to the bill of the Senate (S. No. 82) granting a pension to Sarah Fitzgibbon, which was to add the following proviso:

Provided, That in the event of the marriage or death of the said Sarah Fitzgibbon, the pension allowed by this act shall be continued to the children of the late Major Thomas C. Fitzgibbon.

The amendment was referred to the Committee on Pensions.

REORGANIZATION OF JUDICIARY.

On motion of Mr. HARRIS, the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 103) to reorganize the judiciary of the United States, the pending question being on the amendment of Mr. HOWE to strike out "five" and insert "ten" before "thousand" in line eight of section seventeen.

Mr. HARRIS. I hope the Senator from Wisconsin will not insist upon pressing this amendment. I find that the judges of the Supreme Court, who have given considerable attention to this bill and are deeply interested in it, are very much opposed to reducing this limit. Really, in principle, there is no reason in the world why an action involving $10,000 should go to the Supreme Court when one involving less is not allowed to go there. We have provided for the more important questions involving constitutional construction, involving treaties, involving revenue and patent laws. It seems to me that in this experiment we had better at least leave it at $10,000. I hope, therefore, the amendment will not be pressed.

Mr. HENDRICKS. When this bill was examined in the Committee on the Judiciary, I thought it would be a very good bill or a very vicious bill, and my judgment is that it depends upon the action of the Senate on this very question. If we do accomplish what is intended by the bill, that is, to relieve the Supreme Court so that the cases which come to that court may be decided at an early day, we accomplish what every one admits to be a desirable end, because it is dreadful that people have to wait two or three or four years to have their cases decided. In the mean time estates are tied up, and the gaining party sometimes is destroyed by the very fact of the delay. Speedy justice is almost as important as it is to have justice itself.

But, Mr. President, if we do not relieve the Supreme Court—and that is really, I think, the only virtue in this bill—then we introduce a very great vice into our system; that is, increasing the number of courts in which cases are to be litigated. If we do not decrease the labor of the Supreme Court, the cases ought to go directly from the court of trial to the appellate court; and in my judgment it is a very great objection if cases have to go first from the district court or circuit court to the court of appeals, undergoing there the delay and the expense of that litigation, and then go to the Supreme Court still.

I do not think there is much force in the argument of the Senator from New Hampshire, [Mr. CLARK,] although it was stated ingeniously, that this is a provision for the rich man and against the poor man. I do not look at it so. In our State we have a provision that causes of trifling importance before a justice of the peace shall have an appeal to the circuit court, but none to the supreme court. It may be said the poor man is as much interested in the disposition of a little case that originates before a justice of the peace as a rich man is in a case of greater importance that originates before the circuit court. That is the argument. It turns simply on the proposition that the case is of such inconsiderable importance in itself that there ought to be an early end of litigation about it. So I think in the Federal courts, if a case is of considerable importance, either because of the amount that is involved or because of the importance of the question that decides it, then there ought to be an appeal of course to the highest court; but if the case be inconsiderable in amount, and unimportant in regard to the principles involved, let the litigation stop upon one appeal. This bill provides for a very enlightened court, a court of appeals, equal perhaps—it ought to be equal—to the supreme court of any of the States. An ordinary case not involving a constitutional question, but involving commercial law, is sufficiently litigated when it goes from the district court to the court of appeals, and it is no hardship to say that the party shall stop there. In my judgment it is a benefit to litigants to say to them that there shall be an early stop to their litigation in three fourths of the cases. Therefore, I think this bill is right as it stands, and if we change it so as to increase the business of the Supreme Court above what it contemplates, we do not accomplish any good, but introduce a vice into the system.

This proposition to have an intermediate court of appeals is a very objectionable feature in the system, if we allow all cases to go still on from that court to the Supreme Court, if we do not stop litigation there in the great body of the cases; and it is a good feature if we do stop litigation there. I do not think ordinary litigants will complain of it.

Mr. CLARK. I would ask the Senator from Indiana why if we stop a part we should not stop the whole?

Mr. HENDRICKS. The Senator from Missouri [Mr. HENDERSON] yesterday gave a very satisfactory reason for that. It is exceedingly desirable that there should be uniformity of decisions, and I admit that this bill will, to some extent, introduce conflicts of decisions. We must have a court of final resort, and that is the Supreme Court of the United States, to settle great questions. All grave questions, all important questions should go there, and this bill provides that they may go there. But, Mr. President, I do not think that the Supreme Court ought to be bothered with cases that involve small amounts and no important question. The Supreme Court ought to have jurisdiction of those cases that are important because of the gravity of the question involved, as constructions of the Constitution, or the statute law of Congress, or of treaties.

Mr. CLARK. That is very true; but here is a case involving $10,000, and another case involving $9,000; no constitutional question arises in either; and where the case involves $10,000 the suitor may have his writ of error, and have his law settled in the Supreme Court. The man who has his $9,000 case cannot do it, and the question of law in the $9,000 case may be of more importance vastly than the question arising in the other case.

Mr. HENDRICKS. I will say to the Sen-

ator that if the question is of sufficient importance the court below may certify an appeal.

Mr. CLARK. Where it is of general importance.

Mr. HENDRICKS. But the distinction must be arbitrary. If you have this intermediate court of appeals do not let all the causes go to the Supreme Court. You have got to establish arbitrarily the point at which you stop.

Mr. CLARK. That is very true; the point must be arbitrary; but I want that point to be made so low that while it accommodates the business of the court it shall satisfy suitors as well; that you shall not make it so high that there will be complaint. The Senator from New York will allow me to say that we are making a bill for the accommodation of the public and the answering of the ends of justice, and not to satisfy the court. I should not think of going to the Supreme Court to ask them what questions they would choose to try or what they would like.

Mr. HENDRICKS. But I will ask the Senator if he would not ask those learned judges what cases they can try. If the Senator will allow me, I will illustrate this. In the circuit court of the United States, a few years ago, I tried a cause that occupied nine days. It was a very important cause, not so much because of the amount that was involved in that particular case, but to settle the rights to a very important work of general interest that affected the commerce and trade and business of the capital of the State. An appeal was taken to the Supreme Court. It lay here; the judges reached it as soon as possible, but it was impossible to reach it until two or more years had rolled around. In the mean time the business of that city was very much hindered, enterprise was checked, because that question was not settled. Any court would have decided that that question ought to go to the Supreme Court of the United States; and yet, because the judges could not hear it promptly, great injury was done. Now, is it not proper to ask the judges how many cases they can try? They know better than we do. Therefore, I submit to their judgment on that question how many cases they can decide in view of the interests of the litigants.

Mr. CLARK. Let us see, Mr. President, how this may be. I take it that we are not always to accede to what may be the opinions of the court in that regard, that we may have some knowledge ourselves and may act on our own judgment. Now, we propose, in the first place, to relieve the Supreme Court of all questions of fact, which take a third or a half of their time. That of itself will so facilitate the business that they may transact that which is before them. But in addition to that, we propose to carry the sum which limits their appellate jurisdiction up to $5,000 instead of $2,000; and then when you go into the circuit court we relieve the supreme judge of all circuit business. He is obliged to go into the court of appeals and spend some time there, but the Supreme Court may spend much more time here; the court may have more leisure, more time to recuperate and recover strength, and to come here and work with much more efficiency if the vacation is so valuable, as stated by the Senator from Massachusetts, and I have no doubt it is.

The point is this: I think the Senate would go too far in carrying the amount fixing the jurisdiction to $10,000. We had better try $5,000 in the first instance. The Senator from Maryland [Mr. JOHNSON] says to me, "Make it $6,000." I agree to make it $6,000. I am not disposed to have any controversy about the matter, but I am satisfied that very much of the business coming from my section of the country never could and never would reach the Supreme Court as the bill stands, and the people would be dissatisfied. It would be shutting the door and be a perfect bar to them; and so it must be in a great many other sections of the country. If the Senator from Wisconsin assents to $6,000, I am willing to take that as a compromise.

Mr. HENDERSON. I have taken no part in this debate, and do not expect to do so, because the gentlemen who are conducting it understand the subject much better than I can possibly do; but I rise to suggest to the Senator from New Hampshire and to the Senator from Wisconsin and others, who have argued this subject, that they seem to suppose that no appeal or writ of error will go to the Supreme Court unless there be a judgment for $10,000 in the court of appeals.

Mr. CLARK. No, we do not.

Mr. HENDERSON. If a plaintiff claims $10,000 in his declaration and recovers only $100, he can take the case to the Supreme Court.

Mr. HARRIS. No.

Mr. HENDERSON. You think not.

Mr. HARRIS. That is my opinion.

Mr. HENDERSON. Yesterday the Senator from Maine [Mr. FESSENDEN] started the question. I was not prepared at that moment to answer it; but since then I have examined the authorities on the subject, and I find it abundantly settled in a case before me, in 3 Peters. I shall not detain the Senate by reading that decision. The judiciary act of 1789 allowed an appeal to the Supreme Court in cases where the amount in dispute should be $2,000 or over. That language, "amount in dispute," is changed in this bill to "amount in controversy." I suppose that will make no difference, but I suggest to the Senator from New York that it would be better to adopt the same word "dispute," because its meaning has been judicially settled and fixed; and by using the same words the court will have no trouble, though I suppose the expressions mean the same. In the case of Alexander Gordon, and others, *vs.* Francis B. Ogden, 3 Peters, 33, this question came up and was thoroughly discussed and determined. I will read the head notes of that decision:

"The plaintiff below claimed more than two thousand dollars in his declaration, but obtained a judgment for a less sum.

"The jurisdiction of this court depends on the sum or value in dispute between the parties, as the case stands upon the writ of error in this court, not on that which was in dispute in the circuit court.

"If the writ of error be brought by the plaintiff below, then the sum which the declaration shows to be due may be still recovered should the judgment for a smaller sum be reversed; and consequently the whole sum claimed is still in dispute.

But if the writ of error be brought by the defendant in the original action the judgment of this court can only affirm that of the circuit courts, and consequently the matter in dispute cannot exceed the amount of that judgment. Nothing but that judgment is in dispute between the parties."

That is not the only case. I have looked at half a dozen cases where it has been abundantly settled. I refer the Senate to the case of Wilson *vs.* Daniel, 3 Dallas, 401, where the same principle was settled; and also to the case of Course *vs.* Stead's executors, 4 Dallas, 22; and also to a case in 7 Peters, 634.

Senators seem to argue this question as if no case could ever get to the Supreme Court where the judgment below would not be $10,000. There is never any difficulty in the plaintiff claiming enough; he has no difficulty in swearing to his declaration; his declaration may claim as much as he chooses, and if he recovers only $100, he can get in the Supreme Court; there is no trouble about it.

The Senator from Maryland yesterday insisted that the business of the Supreme Court would be so much lessened by the provisions of this bill that it would be a very bad idea to adopt this $10,000 clause. Five thousand dollars would be amply sufficient, he said. Let us look. I understand from the judges of the Supreme Court that they are three or four years of business behindhand now. Suppose that all the Senator from Maryland said be true, suppose that this bill by relieving the Supreme Court from an examination of the facts appearing on the record and confining them to the law enables them to attend more conveniently to the business that comes before them, I cannot see how the Supreme Court can ever apply principles of law very well unless they have the facts in the bill of exceptions. They must have the facts of the case in order to ascertain and determine what principle of law applies, and they are not going to be disburdened a great deal by that provision of the bill. But even if they were to the extent urged by the Senator from Maryland, let me suggest that this business now of three years yet undetermined has accumulated here in the absence of all the southern States. I apprehend the Union will be restored sometime soon. I apprehend the southern States will be again in their political relations to the Government at some time or other, and that they will begin to send causes here.

I believe the Supreme Court has determined already to take up cases that were here from the southern States, and I see no reason why cases cannot be brought from those States. I do not know what the determination of the court would be on that point. A case might come here from those States and be set aside by the court as not properly coming; but on the other hand they may take them up, and if they do, the business at least will be one third greater than it is from the present loyal States. Therefore the court will not be relieved any by this provision, cannot possibly be relieved. What the court will gain by the provisions of this bill, in not being required to examine the facts of cases coming up from the northern States, they will receive in the shape of additional business in a short time from the southern States.

I think, therefore, that the bill as it stands ought to be adopted, at least until the Supreme Court can get rid of the vast mass of business that is now before them. If Senators desire, let the bill go back to the Judiciary Committee, and let them adopt the principle suggested by the Senator from Wisconsin yesterday, that separate judges for circuit duties be selected; and I think the Senator from New Hampshire has made the same suggestion.

Mr. CLARK. Let me say to the Senator that there was a bill of that kind introduced by myself and sent to the Judiciary Committee.

Mr. HENDERSON. I thought so.

Mr. CLARK. It was considered by the committee with this bill and did not receive their approbation.

Mr. HENDERSON. I was only going to suggest that if Senators insist upon reducing the amount here, I think some plan of that sort ought to be adopted. If we retain the $10,000 clause here, and let no case come up to the Supreme Court that does not present a controversy for that amount, the Supreme Court, perhaps, in the course of three or four years can get through the mass of accumulated business; and then, if it be deemed advisable, let us reduce this amount to $5,000, or let us adopt the other plan of having circuit court judges to perform these duties separate and distinct from the judges of the Supreme Court. I do not know that I should vote for a proposition of that sort. I am very much inclined to believe that the judges of the Supreme Court are made better judges by performing circuit court duties. That has been my opinion, and I have seen no cause to change that opinion during the discussion here. But would it not be better for the time being to retain the $10,000 clause, and wait awhile, especially as the Senator from Massachusetts has succeeded in ingrafting an amendment on the bill putting in the patent laws, and I really can see no use for that? If a plaintiff in an action of trespass for infringing his patent claims $20,000, (and it is a very easy matter so to do,) and he recovers $100, can he not bring the case to the Supreme Court under the provisions of this bill? Certainly so. I know defendants cannot do it; but plaintiffs will bring cases into the Supreme Court in order to get all the questions under the patent laws and revenue laws adjudicated, so as to be uniform throughout the nation.

If it becomes important at any time that a principle should be settled even under the patent laws, a party can sue for $20,000 and recover a dollar, and can bring the case, under the provisions of this bill, to the Supreme Court. It is a very easy matter to do so. In that way we get uniformity. These courts of appeal surely will be courts possessing ability

and vast legal learning. We expect to have able men upon the bench of these courts of appeal, as they are called here; and I think that under the circumstances, considering the fact that the Supreme Court is so much burdened with business, the utter impossibility of getting speedy justice at the hands of the Supreme Court—cases put off in which States and people are interested, and deeply interested, from year to year, as was well suggested by the able Senator from Indiana—and in consideration of the fact that this bill gives a court that will be equal in its ability and in its legal learning, to the Supreme Court when it was first established, equal in numbers, even, in a great many of the circuits, and in fact in a majority of them, I suppose, equal in every respect to the Supreme Court as it formerly stood, (I do not speak of it now,) and equal in many circuits perhaps to the Supreme Court as it now stands, having one of the judges of the supreme bench who will go out with a full understanding of the various questions that have been discussed before this court and decided by this court—with the advantages of such a court as that I think it would be well to retain this provision, at least for a time. I do not say that I would retain it for all time.

Senators have presented strong reasons, I admit, why the amount should be reduced to $5,000; but in 1789 it was provided by the judiciary act that a case must involve $2,000 in order to get to the Supreme Court, and now I ask if $10,000 at the present day is a larger amount of money or affects private interests to a greater degree than $2,000 did in 1789. A man in 1789 owning $2,000 was as rich as he is now worth $10,000. If at that time it was thought well—and it has certainly operated well from that time to this—to restrict appeals from the circuit court to the Supreme Court to cases involving at least $2,000, would it not be well at this time, under all the circumstances I have enumerated, to retain the $10,000 clause so as to restrict appeals from these courts to cases involving that amount? The plaintiff can always get his case here if he claims enough, no matter what the judgment is. I know the defendant cannot get it to the Supreme Court unless the judgment itself involves that amount. But suppose there is any difficulty upon the point of the amount in controversy, I suggest to the Senators that the Supreme Court has again and again received affidavits of individuals here in open court to ascertain the amount in controversy. It does not matter what the declaration is, or what the judgment is, if the thing itself can be shown in the Supreme Court to involve the value of $2,000 under the old law, the court will take jurisdiction. There are various decisions on that subject which I have looked up since the discussion yesterday, and to which I can refer Senators. The Supreme Court will take evidence here by affidavit to show that the amount really in controversy between the parties is $10,000. I think it better, therefore, to retain the clause, but other Senators know much more about the matter than I do.

Mr. WILLIAMS. I desire to add one or two suggestions to what I said yesterday on the proposed amendment. I am satisfied that its adoption will tend greatly to defeat the benefits that otherwise would be derived from this bill. In considering the amount of business to come before the Supreme Court of the United States it is to be remembered that all cases come before the Supreme Court as heretofore from courts of final resort in the State. There are three cases pending in the Supreme Court of the United States at this time from the State of Oregon; all of them are brought up by writs of error to, or appeals from, the supreme court of that State. Two of them are cases in equity, and involve the examination of a large amount of evidence and the decision of questions of fact; the other is a case involving a question of law.

Now, is it a large estimate to suppose that each State will average two cases in the Supreme Court each year? If so, there will be seventy-two cases coming from the supreme courts of the several States into the Supreme Court of the United States annually, and they may be cases involving questions of fact as well as questions of law. Besides that, as I understand, all cases determined in these courts of appeals involving constitutional questions may be appealed to the Supreme Court of the United States, and it is well known that a large proportion of those cases are cases of that description. Then all cases involving the construction of the revenue laws or patent laws may be brought into the Supreme Court; and to these must be added such cases as may come up to the Supreme Court from the Court of Claims.

Putting together, then, all the cases that may come into the Supreme Court from the courts of final resort in each of the thirty-six States, with all cases involving constitutional questions, all cases involving the construction of, or any claim arising under, the revenue or patent laws of the country, and all cases that may come up from the Court of Claims, and I ask if it is not reasonable to suppose, if this bill remains in its present shape, that as much business will accumulate before the Supreme Court as it can reasonably transact.

Moreover, Mr. President, the condition of things in the lately rebellious States, it seems to me, ought to be considered. Acts of Congress have been passed affecting the rights of property, immense quantities of property, in those States. Acts of the Federal Government affecting the rights of property there have been committed; and it is well known that many people in the country, and particularly those most directly concerned, claim that these laws and these acts are unconstitutional; and the probability is that as soon as the door of the Supreme Court is opened to those people, if it is not open at this time, they will come into that court with these cases involving these constitutional questions that grow out of the transactions of this war, and they are certainly very numerous and very important; and it seems to me that in considering this subject it is necessary to give due weight to that circumstance.

Now, I do not appreciate the force of the argument that has been urged in favor of this proposed amendment, because if it proves anything it proves that a man that has a claim involving $4,000 ought to be allowed to come into the Supreme Court of the United States as much as a man who has a claim involving $6,000. There must be some limitation upon the right of appeal. What is the criterion by which that is to be determined? Is it to be the supposed wishes or interests of the persons who may be involved in litigation, or is it the capacity of the court to transact business?

I presume there would be no particular object in restricting the right of appeal at all if the Supreme Court of the United States could reasonably transact all the business that might arise from an unlimited right of appeal; but it is perfectly clear that the Supreme Court cannot transact that business, and therefore it is necessary that there should be some limitation, and that limitation is fixed at $10,000 in the bill, and as I before suggested, I do not see why suitors who go into the courts of the United States should complain when they have the same remedy that suitors have in the State courts. Every man who brings a suit in the district court of the United States has a right to have his case there tried and determined before a judge and jury, if it be a jury case, and then has a right to take his appeal to this court of appeals, where there will be four or five learned judges to pass upon the questions involved. So far as my observation extends, the multiplication of courts is of no advantage to suitors, but rather a detriment to them and to the country, because men, when they become involved in litigation, become excited and exasperated; they carry the cases from court to court from a sort of stubbornness rather than from any expectation that the ends of justice will be promoted.

The Senator from New Hampshire suggests that this will be a hardship upon the poor man. Sir, poor men, in my opinion, will not carry their cases into the Supreme Court of the United States under this system. Suppose a man brings a suit in the district court of the United States upon a claim amounting to $5,000; the case is there tried and determined and he is defeated and compelled to pay the expenses of that litigation and the fees of his attorneys; he takes his case into this court of appeals; it is there tried and determined and he is defeated, and he pays there the expenses of that trial and the fees of his attorneys, and then takes the case into the Supreme Court of the United States, where he must wait for two or three years and have an attorney employed all the time to watch the case. Suppose in the end he recovers his $5,000, how much has the poor man made in that operation? Deducting all his expenses, costs of every nature and description, to which this litigation has subjected him from the $5,000 that he recovers, how much will be left? If that man is driven by any feeling of resentment, as he might be, contrary to his own interests, to take the case to the Supreme Court of the United States, it is better for him and better for all concerned, he will be better satisfied when he comes coolly to reflect upon the subject, if the law prevents him from taking the case any further than the court of appeals.

It seems to me that the object which this bill seeks to attain will be preserved more by allowing the bill to pass in its present shape than by the adoption of the amendment. I say again, so far as I am concerned—I may not be as well advised on that subject as other Senators—I believe it would be conducive to the ends of justice to enhance this amount rather than to diminish it, because the business of the Supreme Court of the United States should chiefly be decisions as to the Constitution and laws of the United States rather than to be engaged in trying questions of property and other questions of that description, which may be tried and properly adjudicated by the inferior courts of the United States or the courts of the States.

Mr. HOWE. Mr. President, I must say another word on this amendment. If we were providing a court of appeals here for the benefit of plaintiffs alone, as the Senator from Oregon and the Senator from Missouri seem to imagine, this bill would be sufficient, for any plaintiff can get into this court on appeal if he is careful to lay his *ad damnum* high enough, and they would all understand that. Ordinarily, however, it happens that there are two parties to a lawsuit. The defendant can only come here by appeal when he gets a judgment against him, under this bill, of $10,000. Ten thousand dollars, as I took occasion to say to the Senate yesterday, is as important to a man who has got no more as a million is to a man who has a million. When a judgment involves one's whole estate, it is a very important judgment to him, and he is not prepared to acquiesce in that judgment unless it is right, and you cannot justify yourselves to the people of the United States for excluding this class of suitors from your highest and therefore your best court, except upon the plea of stern necessity. That brings us to the question of necessity: is it absolutely necessary, to enable this court to transact its business, to limit the sum at $10,000?

The Senator from Indiana says we must rely upon the judges of this court; their judgment should be conclusive; they know how much business they can do. Certainly upon that point I take their opinions; they do know how much business they can do; but I respectfully submit that they do not any better know how much business they will have to do under this bill than lawyers practicing in that court. The Senator from Maryland, who has for fifty years, more or less, practiced in that court, and whose opinion is perhaps——

Mr. CRESWELL. I hope the gentleman does not look at me when he makes any such assertion as that. I have not been practicing fifty years in any court. [Laughter.]

Mr. HOWE. Mr. President, I was looking in the other direction when I made that remark.

I was referring, not to the Senator from Maryland before me, [Mr. CRESWELL,] but to the Senator from Maryland over the way, [Mr. JOHNSON.] I hope my friend understands me now. [Laughter.] The Senator from Maryland over the way [Mr. JOHNSON] told us yesterday that two thirds of the causes heard in this court now, under the present laws, involve less than $10,000; so that your bill, if there were no other clauses in it but just this, would strike out two thirds of the cases that come here.

Mr. HENDERSON. It is to be supposed that one half of those cases are brought here by plaintiffs who have recovered a less sum than they asked in their declaration. Therefore, when the Senator from Maryland said two thirds of the cases here of course he meant two thirds of one half.

Mr. HOWE. No, Mr. President, I submit that my friend is mistaken. The Senator from Maryland says that two thirds of the causes heard in this court, as the law now stands, involve less than $10,000 in amount.

Mr. HENDERSON. In the judgment.

Mr. HOWE. No, sir; he does not say so.

Mr. HENDERSON. I am satisfied that must be the case, because the Senator was of the impression, and so was I, yesterday, that the judgment determined the amount; that is, that the judgment must be $10,000.

Mr. HOWE. I do not know what might have been the opinion of the Senator from Maryland on that point yesterday. I apprehend, however, he entertained a very different opinion upon that point from what the Senator from Missouri suggests. That was his statement. I have the same information from other sources. I have no doubt it is entirely correct. But, sir, this bill would not only strike off, if that estimate is correct, two thirds of the causes that come here, but it would strike off a still larger proportion by virture of this second hearing that is provided for in the court of appeals before causes come here at all. When suitors have already had two trials, it will be a remarkable case that they will wish to bring here. I am surprised to hear Senators and lawyers argue as if it was the ordinary practice of suitors to litigate causes simply to gratify a feeling of obstinacy or of revenge. That such is the ordinary motive which governs suitors, I took occasion to deny yesterday, and I deny it to-day; and if I believed it was the ordinary motive, my remedy would be not to secure that luxury of revenge to your wealthiest classes alone, but I would deprive every class and every individual of it, and I would open no courts whatever to the indulgence of such a motive. There are exceptions, as I said yesterday and repeat to-day, but in point of fact the ordinary rule is that men go to courts as they go to war, for right and because they cannot get it in any other way; and when they go there for that purpose, let the Government see, so far as it can, that right is as secure to small fortunes as it is to large ones.

But I put it to Senators to experiment in the other way; make your limitation $5,000; or I accept the suggestion of the Senator from New Hampshire; I am willing to modify the amendment and put it at $6,000. Try that experiment. If you find, contrary to the expectation of the old practitioners in the Supreme Court, that the calendar is still incumbered beyond the capacity of the court to determine the causes, at the next session of Congress or at the next session after that, when that fact is unmistakably determined, when it does not stand upon mere prediction but stands upon verification, then provide a remedy, and then, as I said yesterday, you can take one of two remedies, either raise the amount upon which a cause can come here on appeal, or provide the other remedy which was referred to yesterday by several Senators, and I think myself that would be the better one; but that will be time enough to further disembarrass the litigation in that court.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Wisconsin as modified.

Mr. HARRIS. I am very anxious that this bill shall be disposed of before the adjournment, and therefore hope the question will be taken on this amendment now. I hope it will be voted down; that we shall try the experiment of allowing the limit to stand as it is in the bill as reported by the committee. I hope the question will be taken now.

Mr. HOWARD. Mr. President, the motion is to strike out $10,000 as the basis of an appeal from the court of appeals to the Supreme Court of the United States and to insert $6,000 instead. I shall vote for that motion. I shall vote for it for the reasons which were so forcibly presented to us yesterday by the Senator from Maryland. He remarked very properly and very forcibly that the great desideratum in the matter of the decisions of our courts was uniformity. Now, what have we in this bill presented to us? We have eleven appellate courts, each of which operates within a separate circuit, and each of which is to be composed of the circuit judge for that circuit as the presiding judge and of all the district judges embraced within the circuit. It is supposed that these courts will consist, upon the average, of four or five judges. Of course, in every case the district judges will constitute the majority.

As my friend on the opposite side from Maryland remarked, it is of all things desirable that these courts, eleven in number, should decide the same questions of law uniformly; that there should be no variation in the course of decision. I have a little distrust of these new-fangled projects for the reorganization and the improvement of our judicial system. There has been existing in the State of New York for several years past a reformed judiciary, and that State is divided, I believe, into eight different circuits or districts within which there is held at proper seasons of the year what is called a supreme court. Each of these courts makes a very great number of decisions every year, most of which are published in a series of law reports; and if I am not mistaken, the greatest complaint against the system that exists in New York is the want of this same uniformity of decision mentioned by the Senator from Maryland. Indeed, the decisions of the supreme courts of the State of New York have become really of very little value. The bar there, if I am properly informed, have very little respect for the decisions of those supreme courts, and the parties litigant, of course, are never satisfied until their cases have been determined by the court of last resort, which in that State is called the court of appeals.

It is just as desirable to obtain this uniformity in the Federal courts as in the courts of the State of New York; and the question in my mind is, whether a reduction in the amount which is the basis of the appeal will have a tendency to produce that uniformity. I think it will, because by multiplying the number of cases appealed to the Supreme Court of the United States, we are more likely to obtain this same uniformity; and I confess that I am not yet prepared in my own mind to say that the press of business before the Supreme Court of the United States is so great, or that it is likely to become so great, as to justify the introduction of this radical change in our judicial system. It is possible that the judges, learned, industrious, as they undoubtedly are, might by some arrangements among themselves secure a greater dispatch of business in that court. I do not accuse them of inattention to their duties, or an omission to bestow that degree of industry upon their business which is required at their hands; but I would rather call the fact to their attention and ask them whether they cannot by some means contrive to dispose of the cases more expeditiously than they have done heretofore. I am not without some apprehension that they might do this, and thus relieve suitors and the country.

I shall vote to reduce the amount. I cannot see any justice in excluding from the right of taking an appeal to the Supreme Court, the man in whose case the amount in controversy does not exceed the sum of $10,000. Under the old system, which has lasted more than three quarters of a century, every suitor in a circuit court had a right to take an appeal where the matter in contest exceeded the sum of $2,000. I believe the country has been well satisfied with this arrangement, and I do not believe the people generally, if they understood this bill, would give in their adhesion to a principle which would exclude from the benefit of appeal to the court of last resort of the United States eight tenths at least of the cases which now go there. They would be very apt, I think, to suspect that the office of a judge of the Supreme Court of the United States was about to become a sinecure. I do not say that that would be the effect by any means, but I am in favor of keeping the door to appeals as widely open as is practicable under the circumstances.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Wisconsin.

Mr. CLARK. I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 13, nays 22; as follows:

YEAS—Messrs. Chandler, Clark, Davis, Fessenden, Grimes, Howard, Howe, Johnson, Kirkwood, Morrill, Nye, Wade, and Yates—13.

NAYS—Messrs. Anthony, Buckalew, Conness, Cowan, Cragin, Creswell, Foster, Guthrie, Harris, Henderson, Hendricks, Morgan, Pomeroy, Saulsbury, Sherman, Stewart, Sumner, Trumbull, Van Winkle, Willey, Williams, and Wilson—22.

ABSENT—Messrs. Brown, Dixon, Doolittle, Lane of Indiana, Lane of Kansas, McDougall, Nesmith, Norton, Poland, Ramsey, Riddle, Sprague, and Wright—13.

So the amendment was rejected.

Mr. HOWARD. I offer this amendment to come in at the end of section seven:

Final process from said district courts may run into any judicial district of the United States, and shall be executed by the proper marshal of such district, whose duty it shall be to execute the same and make due return thereof, and who shall be subject to the orders of the court issuing the same; and all interlocutory and final orders of said courts in cases in equity may be served and executed in any other district where the person to be served or the person adjudged to be liable or where the subject-matter of the suit may be.

Mr. HARRIS. That amendment is a very sweeping one in its operation. If I understand it upon its reading, it would authorize the district court of the United States for the northern district of New York to issue an execution to be executed in California or Oregon or anywhere else within the jurisdiction of the United States.

Mr. HOWARD. Yes.

Mr. HARRIS. It would be a very extraordinary provision.

Mr. HOWARD. Nothing extraordinary in principle, certainly, Mr. President. I believe that in all the States final process from the county courts runs into any part of the State, and may be executed there by the sheriff of the proper county. I fancy this is so in the State of New York, though I do not know exactly how that may be. But the object of the amendment is to remove a decided inconvenience which exists under the laws as they stand at present on the statute-book. For instance, I commence a suit in the eastern district of Michigan, and obtain my judgment. The defendant against whom the recovery is had, at the time I take out my execution is not in the district, and has no property there, but is in the western district, only a few miles from the place where I obtain my judgment. Under the law as it now stands, in order to make my judgment effectual, it is necessary for me to take out a certified copy of the whole record and commence a new suit against him in the western district, obtain another judgment there, and in the mean time run the risk of the defendant running off into Illinois or Wisconsin, and escaping me a second time.

There are instances where this thing has been practiced repeatedly to the great inconvenience and injury of suitors. The object of this amendment is to enable the proper marshal of any district in the United States where the defend-

ant may be or where his property may be that is liable to be seized and taken into execution, to serve an execution and return it into the proper court.

And now, sir, I ask, what rational objection can there be to this proceeding? Why should a plaintiff who recovers judgment in the State of New York against a defendant whose property is in Louisiana, be under the necessity of employing counsel and relitigating the questions in the district of Louisiana in order to obtain the fruits of his original judgment there; simply doubling the expense, doubling the trouble to which he is put in order to realize his debt, and all the time increasing the hazard of his debt?

Another thing: in chancery proceedings where a party has been properly served with original process in the district where the suit is commenced, if he passes out of that district he is not subject to be served by the orders of the court in that chancery suit, and he cannot be held amenable for any contempt of the orders of the court. This is another cause of inconvenience which is a very serious one as we all know who have practiced law in the courts of the United States.

The adoption of this amendment will remedy all these difficulties and enable the plaintiff who has obtained a judgment to execute it in any part of the United States, and enable a party who has taken out an interlocutory order against a defendant who does not happen to be in the district where the suit is commenced to serve it upon him and hold him amenable in the same manner as if he were in the original district.

Mr. HENDERSON. I desire to ask the Senator a question before he takes his seat. If his amendment should be adopted, and an execution should be sent from the district in Michigan to the district in California, for instance, and placed in the hands of the California marshal, and indorsed by him on the first day of the month, and on the last day of the preceding month a State court had rendered a judgment against the defendant, and a sale should take place under the process of the State court and also under the process of the district court of the United States for Michigan in the State of California, who would hold the title?

Mr. HOWARD. The party serving the process first upon the property. "First come, first served," is, I believe, not only the rule of the mill but the rule of the courts.

Mr. HENDERSON. The Senator may be correct; but I think it is the judgment that creates the lien, and not the execution. I do not pretend to say that I have any objection to the proposition, so far as it will enable a court to send its process to another district. I believe that the Senator is correct when he says that most of the States enable their courts to send process from one county into another county in the State. That is the case in my State; but we have a special provision, that when final process has been sent and placed in the hands of the sheriff of another county than the one in which the judgment was rendered, it operates as a lien on the real estate only from the moment when it is indorsed by the sheriff. Without some provision of this character, I think the Senator will fail to accomplish what he desires; or if he does accomplish the object of giving some convenience to the plaintiff, who is entitled to the process, he will yet produce a great deal of inconvenience in the State to which the process may have been sent, unless he provides something further.

Mr. HOWARD. I am not aware that the rendition of a judgment in a Federal court operates as a lien either upon real estate or personal property.

Mr. HENDERSON. It operates as a lien on real estate within the district. There is no doubt about that.

Mr. HOWARD. I do not know how it may be in the State of Missouri; certainly it is not so in the State of Michigan. There is no lien created on the property until there is an actual seizure of it on execution.

Mr. HENDERSON. Personal property?

Mr. HOWARD. No, as to real property.

Mr. HENDERSON. I think the Senator must be mistaken. The judgment itself is a lien within the limits of the district. There can be no question about that.

Mr. HOWARD. I think the Senator is mistaken as to the facts.

Mr. HENDERSON. I will ascertain.

Mr. HOWARD. It may depend on the rules established by the courts; I do not know how that is; but it might depend also on the law of the State.

Mr. CRESWELL. Allow me to make a suggestion. I approve of the general scope of the amendment, but I think great inconvenience may result from it in its present shape. The gentleman from Michigan speaks of the practice of the States. We have a practice in Maryland by which we send authenticated copies of judgments from one county into another to be executed there; but our law requires that the return shall be made to the court of the county in which the property lies. I think we might make a similar arrangement here by requiring that the execution shall be returned, and the proceedings, if any, had in the court of the district where the property lies, and I would suggest that with a view to the interests of third parties. Take this case: in the city of New York, for instance, a judgment is rendered in the district court; execution is issued and sent to California, levied there upon lands, and returned again to the district court in the city of New York. Those lands may pass through the hands of half a dozen different parties; they may have other lands in connection with those lands; and those parties will be compelled to travel all the way from California to New York to protect their rights of property by litigation in the city of New York. I think it would be much more equitable and much more just to give the party holding the judgment a right to proceed against the party who litigated against him as defendant in New York by sending an authenticated copy of the judgment to California and requiring the proceedings to be had in that court with a view to enforce the lien acquired.

Mr. HOWARD. I should have no objection to that. My object is to make the judgment effective without putting the party to the necessity of recommencing a suit and trying his case over again in another district.

Mr. CRESWELL. My suggestion gets rid of that difficulty.

Mr. HARRIS. The amendment proposed by the Senator from Michigan contemplates a great and radical change in the execution of judgments. There may be something in it; I am not sure that a proposition of that sort properly matured would not meet my approbation; but it is quite too important a measure to attach to a bill of this kind in a single sentence. It will not do. Every State has its own peculiar laws in relation to the lien of judgments and the effect of the lien of executions; perhaps no two States agree in that respect. I suppose the different States have their different laws in relation to the liens to be created upon judgments of the Federal courts. We have a statute on that subject in my own State, and I suppose every Senator will say that there is a statute in his own State in reference to it. How can you possibly adapt the execution to be issued under a proposition like this to the different State laws relative to the lien of judgments? It is impossible. A measure of this sort ought to be matured with great care. I am not sure that the general principle contemplated by the Senator from Michigan may not be right; I am rather inclined to think it is; I think I might agree to it; but I hope it will not be attached to this bill. I hope that a bill will be matured by him in reference to that, and let us consider it. It will never do to adopt a proposition like this in an amendment such as that presented to the Senate now.

Mr. GRIMES. Several Senators around me here suggest that this is too important a measure for us to pass upon with this slight consideration, and have suggested the propriety of adjourning in order to give further time to consider it. I therefore move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *April* 3, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

PRINTING OF A REPORT.

The SPEAKER. On yesterday a report was made from the Committee on Printing which was not ordered to be printed. If there be no objection, the order to print will be made.

No objection was made.

DESTITUTE PEOPLE OF THE DISTRICT.

Mr. INGERSOLL. I desire to ask the unanimous consent of the House to report from the Committee for the District of Columbia joint resolution of the Senate No. 49, for the temporary relief of destitute people in the District of Columbia. I may state that it is for the relief of destitute people without regard to color; it includes whites as well as blacks.

Mr. ANCONA. I would like to have the resolution read.

Mr. WENTWORTH. I wish to reserve the right to object after the reading.

Mr. INGERSOLL. I desire to say before the resolution is read that I hope gentlemen who feel disposed to object will reserve their objections until they hear the report of the Superintendent of Police, Mr. Richards, upon this subject read.

The joint resolution was read. It appropriates $25,000 for the temporary relief of the destitute population of the District of Columbia, to be expended under the direction of the Commissioner of the Freedmen's Bureau.

Mr. INGERSOLL. I now ask that the communication be read.

The Clerk read, as follows:

DEPARTMENT OF METROPOLITAN POLICE,
OFFICE SUPERINTENDENT, 483 TENTH STREET WEST,
WASHINGTON, *March* 6, 1866.

To the Board of Police:

GENTLEMEN: I have the honor at this time to submit a report, based mainly upon personal inspection, of the sanitary condition of certain localities in the city of Washington inhabited by colored people, mostly known as "contrabands," together with certain other facts connected with the condition of these people.

The first locality visited is known as "Murder Bay," and is situated between Thirteenth and Fifteenth streets west, below Ohio avenue, and bordering on the Washington canal. Here crime, filth, and poverty seem to vie with each other in a career of degradation and death. Whole families, consisting of fathers, mothers, children, uncles, and aunts, according to their own statements, are crowded into mere apologies for shanties, which are without light or ventilation. During storms of rain or snow their roofs afford but slight protection; while from beneath a few rough boards used for floors the miasmatic effluvia from the most disgustingly filthy and stagnant water, mingled with the exhalations from the uncleansed bodies of numerous inmates, renders the atmosphere within these hovels stifling and sickening in the extreme. Their rooms are usually not more than six or eight feet square, with not a window or even an opening, except a door, for the admission of light. Some of the rooms are entirely surrounded by other rooms, so that no light at all reaches where persons live and spend their days and nights. In a space about fifty yards square I found about one hundred families, composed of from three to ten persons each, living in shanties one story in height, except in a few instances where tenements are actually built on the tops of others. There is a distance of only three or four feet separating these buildings from each other—not even as convenient as an ordinary three-feet alley. These openings lead in so devious a course that one with difficulty finds his way out again. Thus pent up, not even these paths are purified by currents of fresh air. In one building visited seventeen families were found upon the ground floor, consisting of from two to seven persons, one restaurant, and one boarding-house. The second story is a large dance hall, where these people nightly congregate for amusement.

Nearly all of these people came from Virginia during the rebellion, and some of them propose to return whenever they are assured that they can get work to do there and will be well treated. It was found that from five to eight dollars per month are paid for the

rent of these miserable shanties, except in some instances where a ground rent of three dollars per month is paid for a little spot covering a few square feet; there some of the more enterprising have erected cabins of their own. These, also, are in equally close proximity to each other, so that it is with difficulty that one can crowd between them.

On the west side of Fourteenth street, near the same locality, are a large number of small buildings, which, however, are kept in a somewhat more cleanly condition, and are opened to light and ventilation. Here some of the occupants of houses boast of small back yards, but so low and wet are their surfaces that they are a curse rather than a benefit. Filthy water here accumulates, from which, with the advent of warm weather, the seeds of disease must spread among and destroy the wretched people.

In each of these localities there are no proper privy accommodations, and those that exist are in a leaky and filthy condition generally. Nor can the sanitary laws be properly enforced against delinquents, for they have no means wherewith to pay fines, and a commitment to the work-house is no punishment. I can see no efficient mode of remedying this evil, except that scavengers be employed at the public expense to visit these localities, though by far the best remedy would be to require that these buildings be razed to the ground.

Under the best sanitary laws that can be enacted, stringently enforced, these places can be considered as nothing better than propagating grounds of crime, disease, and death; and in the case of a prevailing epidemic the condition of these localities would be horrible to contemplate.

A similarly crowded lot of shanties exist on Rhode Island avenue, between Tenth and Eleventh streets, though as to fresh air and cleanliness a somewhat better condition of things exists. Here in a space some two hundred feet square two hundred and thirteen persons reside, mostly known as "contrabands." There are several other places equally crowded within the city limits, which I have not yet had time to visit and inspect personally, for which purpose I respectfully ask for further time.

A. C. RICHARDS,
Superintendent.

Attest: T. A. LAZENBY,
Secretary.

Adopted March 8, 1866.

Mr. ANCONA. After the reading of that report I am not disposed to make any objection.

Mr. DAWES. If it comes out of the morning hour I will not object.

Mr. HARDING, of Kentucky. I object, if it is intended to take action on the resolution this morning. I will not object if the gentleman does not design to take action this morning.

Mr. INGERSOLL. I would like to have action on it this morning, but if the House has no objection I am willing it shall be postponed, say until to-morrow.

Mr. HARDING, of Kentucky. Let it be referred.

Mr. INGERSOLL. It has been referred. It passed the Senate without a dissenting vote. It was referred to the Committee for the District of Columbia, and they ask leave to report it back this morning. Action is desired upon it at the very earliest day possible for the benefit of these destitute people, and if there is no really good objection to it I should like to have it disposed of this morning. I am willing, however, that it shall be postponed until to-morrow.

Mr. HARDING, of Kentucky. Say the day after to-morrow.

The SPEAKER. Is there objection to the bill being reported and postponed and made the special order for the day after to-morrow?

Mr. ANCONA. Would that prevent its being referred to the Committee of the Whole on the state of the Union?

The SPEAKER. A majority can refer it.

Mr. ANCONA. Would it not necessarily go there, as it contains an appropriation?

The SPEAKER. It would not, because that point will be waived if the House receives the report for consideration in the House by unanimous consent.

No objection being made, the joint resolution was reported from the Committee for the District of Columbia, postponed until the day after to-morrow, and made the special order immediately after the morning hour.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had passed a bill (S. No. 184) to define more clearly the jurisdiction and powers of the supreme court of the District of Columbia; and also a bill (S. No. 27) making a grant of lands in alternate sections to aid in the construction and extension of the Iron Mountain railroad from Pilot Knob, in the State of Missouri, to Helena, in Arkansas, in which he was directed to ask the concurrence of the House.

ORDER OF BUSINESS.

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

The SPEAKER. The regular order of business is the call of committees for reports, commencing with the Committee on Military Affairs.

Mr. SCHENCK. In consequence of the absence and sickness of several members of the Committee on Military Affairs, I have agreed with the chairman of the Committee on Naval Affairs, if the House will consent to it, that the Naval Committee shall change places with the Military Committee.

No objection was made; and the Committee on Naval Affairs was called for reports.

NAVAL APPOINTMENTS.

Mr. RICE, of Massachusetts, from the Committee on Naval Affairs, reported back, with an amendment in the nature of a substitute, bill of the House No. 163, to further regulate the appointment of rear admirals and for the appointment of certain volunteer officers to the regular Navy.

The substitute was read. The first section provides that the Secretary of the Navy shall appoint a board of three naval officers above the grade of commodore to examine and select for promotion to the office of rear admiral a number of commodores from the active or retired lists who shall be deemed by them most meritorious in character, ability, and honorable service, equal to two commodores for each vacancy, one of which to be nominated to the Senate by the President for confirmation as rear admiral; provided no further promotions shall be made while the whole number on the active and retired lists shall equal the number now authorized by law.

Section two provides that of the line officers of the Navy on the active list, five lieutenant commanders, twenty lieutenants, fifty masters, and seventy-five ensigns may be appointed from volunteer officers of the Navy who have served for a period of not less than two years, and may now be in the service, or have been honorably discharged therefrom; provided that if, by reason of these appointments, the number of officers in any grade in the Navy shall exceed the number now fixed by law, no more appointments shall be made until the number shall be reduced to that fixed by law.

Section three provides that the Secretary of the Navy shall appoint a board consisting of three naval officers, superior in rank to the officers to be appointed from the volunteer service, to examine the claims of all candidates, and to select and report from the most meritorious in character, ability, and honorable service, twice the number to be transferred to the several grades mentioned, from whom the Secretary of the Navy shall select the persons to be appointed to each grade. Any officer who has served for two years or more in the Navy shall have the right to appear before the board for examination.

Section four authorizes the Secretary of the Navy to retain or appoint, under existing laws and regulations, such volunteer officers of the Navy as the exigencies of the service may require, until their places can be supplied by graduates from the Naval Academy.

Section five repeals all acts and parts of acts inconsistent with this act.

The question was taken upon the substitute, and it was agreed to.

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

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

The latter motion was agreed to.

PAY DEPARTMENT OF THE NAVY.

Mr. RICE, of Massachusetts, from the Committee on Naval Affairs, reported back, with sundry amendments, House bill No. 197, to provide for the better organization of the pay department of the Navy.

The bill was read at length. The first section provides that the active list of the pay corps of the Navy shall consist of one hundred paymasters, fifty passed assistant paymasters, and fifty assistant paymasters; promotions to be made subject to such examinations as are now required by law and may be hereafter established by the Secretary of the Navy.

Section two provides that passed assistant paymasters shall give bonds for the faithful performance of their duties in the sum of $15,000; and their annual pay shall be, at sea, $1,875 each; on other duty, $1,500; on leave or waiting orders, $1,200.

Mr. RICE, of Massachusetts. I will explain the amendments which the committee have recommended. They are merely to reduce the numbers named in the bill. The first section of the bill now provides that the pay corps of the Navy shall consist of one hundred paymasters, fifty passed assistant paymasters, and fifty assistant paymasters. The committee propose to amend so as to reduce the number to eighty paymasters, forty passed assistant paymasters, and thirty assistant paymasters.

The committee also propose to reduce the pay provided in the second section, from $1,875 to $1,500 while at sea, and from $1,500 to $1,400 while on other duty.

The question was taken on the amendments, and they were agreed to.

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

Mr. RICE, of Massachusetts, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

COMMANDERS REYNOLDS AND WOOLSEY.

Mr. RICE, of Massachusetts, also reported back, from the Committee on Naval Affairs, joint resolution (S. No. 2) for the restoration of Commanders William B. Reynolds and Melancton B. Woolsey, United States Navy, to the active list from the reserved list.

The joint resolution was ordered to a third reading, read the third time, and passed.

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

The latter motion was agreed to.

PERSONAL EFFECTS OF NAVAL OFFICERS.

Mr. RICE, of Massachusetts, also reported back, from the Committee on Naval Affairs, a bill (S. No. 94) entitled "An act to amend the act entitled 'An act for the relief of seamen and others borne on the books of vessels wrecked or lost in the naval service,' approved July 4, 1864, and for other purposes."

The bill, which was read *in extenso*, provides that in case any officer of the Navy or Marine corps on board a vessel in the employ of the United States which, by any casualty, or in action with the enemy, has been or may be sunk or otherwise destroyed, shall thereby have lost his personal effects, the proper accounting officers shall be authorized, with the approval of the Secretary of the Navy, to allow to such officer a sum not exceeding the amount of his sea pay for one month, as compensation for said loss; provided, that such loss has not occurred through the negligence or want of skill or foresight of the officer making application for such loss; provided, that the accounting officers shall in all cases require a schedule and certificate from the officer making the claim for effects so lost; and provided further, that no allowance shall be made by virtue of this act for any loss incurred prior to the 19th day of April, 1861.

The bill further provides for the repeal of so

much of the seventh section of the act of Congress, approved February 24, 1864, entitled "An act to amend an act entitled 'An act for enrolling and calling out the national forces, and for other purposes,' approved March 3, A. D. 1863," as provides that "the bounty money which any mariner or seaman enlisting from the Army into the Navy may have received from the United States, or from the State in which he enlisted in the Army, shall be deducted from the prize money to which he may become entitled during the time required to complete his military service."

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

Mr. RICE, of Massachusetts, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

BRIGADIER GENERAL COMMANDANT.

Mr. DARLING reported back from the Committee on Naval Affairs a bill (H. R. No. 374) entitled "An act to create the grade of brigadier general commandant in the United States Marine corps."

The bill, which was read *in extenso*, provides for creating in the United States Marine corps the grade of brigadier general commandant, to be filled by and with the advice and consent of the Senate, by selection from the officers of said corps; the pay and allowances to be the same as now are or may hereafter be allowed to officers of a similar grade in the Army of the United States; provided that the creation of the said grade shall not authorize the appointment of aids-de-camp except when on duty in the field.

The bill further provides that after the appointment of said brigadier general, the office of colonel commandant of said corps shall be abolished.

The question was on ordering the bill to be engrossed for a third reading.

Mr. SPALDING. I should like to hear the reasons for the passage of this bill.

Mr. WILSON, of Iowa. I ask the gentleman from New York to give us some explanation of the necessity for this bill. I understand from the reading it proposes to abolish the office of colonel commandant of the Marine corps and to establish the office of brigadier general, that is, that it provides merely for an increase of rank. I should like to have some explanation of the amount of pay now received by the colonel commandmant and the amount of increased compensation he would receive on the passage of this bill, including pay and commutation.

The colonel commandant of that corps, as I understand it, has no active duties to perform. He is stationed at the Marine barracks in this city. He is never upon shipboard and has never any active duty more than that which results from his being at the head of that corps and stationed in this city. He is now receiving pay, if I am not misinformed, equal to that which is paid to the Vice Admiral of the Navy. More I am told. He is now receiving greater pay than is paid to the Vice Admiral of the Navy.

It seems to me, unless there is some reason which does not appear on the face of the bill, it ought not to pass.

Mr. SPALDING. I desire the gentleman from New York to show us the necessity for making this office. I am opposed to it unless my reason be satisfied by his argument.

Mr. FARNSWORTH. Will the gentleman from New York tell us how large the Marine corps now is? Of how many does it now consist? For my own part, I think this is a bad time for us to increase rank or to increase salary. Prices are coming down rapidly while taxes are increasing. The war is over. The President says we have peace throughout our borders, that everything is loyal, and what, therefore, is the use of increasing the rank and pay either of the Army or the Navy?

Mr. DARLING. Mr. Speaker, the chief officer of the Marine corps is called colonel commandant. He has two officers with the rank of colonel under him, and it seems proper that the head officer of that corps should have the rank of brigadier general. And if passed, the bill does not increase the emoluments of this officer but a small amount. It will depend upon the pay of the Army, and I have not yet seen the report of the Committee on Military Affairs, but I understand a reduction of pay is proposed. The bill proposes to give him the rank and pay of a brigadier general in the Army. That seems to be proper. It conforms to the English and French service, the French service particularly, as he has now two colonels under him.

There are some three thousand in the Marine corps, officers and men. There have been several laws passed to confer the rank of brevet brigadier general upon the commandant of the Marine corps. I have been requested to introduce the bill from the committee, and it is the wish of the officers of the corps that it should pass. The Committee on Naval Affairs agreed to it unanimously. The increase of pay will not exceed $600, if it does that. If the bill decreasing the pay of the Army passes I do not think his pay as brigadier general will be as much as it is now. He is now a full colonel commanding a corps. If there were only one colonel in the corps there would be no necessity for the passage of the bill; but as he has two colonels under him, and in view of the practice in other services, it seems to be proper he should have that rank. I will say that the pay of the Marine corps follows that of the Army, and not the pay of the Navy.

Mr. WILSON, of Iowa. Does the gentleman believe there is any propriety in paying the head of the Marine corps more than you pay the head of the Navy? I understand the pay of brigadier general, together with commutations, would give this officer more than the pay of the Vice Admiral of the Navy. A member of the Committee on Naval Affairs nods assent to that statement. It seems to me it would be remarkable to provide that the colonel commandant of the Marine corps, in command of some three thousand men, the police force of the Navy, shall receive higher pay than the head officer in the Navy.

Mr. DARLING. I am perfectly willing that the bill should be amended so that the pay should be no more than it is now.

Mr. WILSON, of Iowa. If we establish the rank now, we shall increase the pay either at this or the next session of Congress. Increase of pay, according to my recollection, has always followed an increase of rank. It is then said that as the rank is increased the officer ought to have the same compensation as is allowed to others of the same rank.

Mr. KELLEY. If I understand this bill rightly, it is simply to change the title of the office of colonel commandant of the Marine corps. It gives him the title of brigadier general, and puts him on a footing with a general of the Army of that rank, and assimilates the organization of the corps in this respect to that of the Army. This officer has under his command some three thousand men, widely distributed on land and sea.

Mr. SPALDING. Will the gentleman tell us whether there were ever more than three hundred of these marines together at one time?

Mr. KELLEY. Yes, sir; there are three hundred of them now at Cairo.

Mr. SPALDING. At one place?

Mr. KELLEY. Yes, sir; at one place, Cairo or Mound City, guarding the valuable ordnance and other stores concentrated there. There are not three hundred of them on board of any ship; so many are not required. About sixty is the largest number put on board of any vessel. This corps is diffused very widely, and this fact involves the exercise of character, experience, and sound discretion. It not only assimilates the organization of the Marine corps to that of our Army, but very nearly to that of the British service, and entirely to that of the French service. The uniform of the colonel commandant is like that of a brigadier general. His badge of rank is a single star. I do not think the bill will increase our expenditure. If it provides for a slight increase of annual pay it will, if the incumbent enjoy the ordinary length of life, probably prove to be a measure of economy, as a brigadier receives no longevity ration. It may not be known to gentlemen that the colonel commandant receives an increase of pay at the end of each successive term of five years' service. Of this this bill would deprive him. I doubt, therefore, whether the pecuniary question is a consideration in this connection.

As the organization of the Marine corps is in all other respects that of our infantry, the committee think that he whose command embraces corporals, sergeants, lieutenants, captains, majors, lieutenant colonels, and colonels should be a brigadier general. And to give him that rank and title is the object of the bill under discussion.

Mr. O'NEILL. If I understand it, the passage of this bill will not absolutely increase the pay of the commandant of the Marine corps. He commands a distinct branch of the service under the general orders of the Secretary of the Navy and the Vice Admiral. He commands some four or five thousand enlisted men. Now, sir, in the Army we have a Paymaster General, a Quartermaster General, a Commissary General, and a Surgeon General, neither with a rank below brigadier general. We have bureaus at the head of which there are brigadier generals, and in many instances major generals, and why not make the commandant of the Marine corps a brigadier general? In reply to an observation of the gentleman from Ohio [Mr. SPALDING,] he will doubtless recollect that not many months ago a gallant attack was made on the forts at Charleston by five or six hundred marines, and that in the Mexican war in many of the hardest-contested battles, a battalion of these men won equal distinction with the Army for prowess in the field during its memorable and glorious campaigns. The gentleman from Pennsylvania reminds me that the marines also captured John Brown. They did, and I believe history gives them the credit of having made that capture, although the whole militia force of the State of Virginia had been summoned to Harper's Ferry to quell that great old man's insurrection. This corps, from the time of its organization, has done great service to the country and has covered itself with distinction in all our wars. The commandant is at the head of a large body of men and has important duties to perform. It is, in fact, a distinct department, and yet his rank is only that of colonel commandant.

Mr. WILSON, of Iowa. I would ask the gentleman whether the rank of colonel commandant is not superior to that of colonel of the Marine corps.

Mr. O'NEILL. I would answer the gentleman, yes.

Mr. WILSON, of Iowa. If that be true, then he already has rank superior to the other colonels in the corps, and why should his rank now be increased?

Mr. O'NEILL. He has the rank of colonel with the affix of "commandant" to distinguish him from the other colonels of the corps. But he is at the head of a large department performing constant and arduous duties, and I do not see why the House should hesitate to pass this bill. I do not see why he should not be entitled by act of Congress to the full rank of brigadier general, as he has command of as many men as a brigadier general in the Army, and is performing duties which occupy the whole of his time, just as much so as the head of any other department of the Government.

When Colonel Henderson was in command, although his real rank was that of colonel, he was always called by courtesy "General" Henderson. Considering the services which have been rendered by the Marine corps, and the responsibilities upon the commanding officer, I think it no more than justice that its present distinguished commandant, especially as the gentle-

man from New York has assured the House that it will not increase the amount of his compensation, should be now rewarded with a brigadier generalship as a mark of distinction for his faithfulness as an officer, his gallantry and activity in the field during the rebellion, and as a further appreciation of his conduct in his earlier career in the service.

Mr. PIKE. It appears from the Navy Register that the pay of colonel commandant now is $3,186. This bill proposes to make him a brigadier general. A brigadier general's pay in Washington, including commutation for forage, is about six thousand two hundred dollars. This bill would, therefore, very nearly double his pay, and, as the gentleman from Iowa [Mr. WILSON] very truly says, the pay of this officer, who is stationed in Washington, would be two or three hundred dollars more than the pay of Vice Admiral Farragut.

It is proposed now to amend the bill so as to give him the barren rank of brigadier general without the pay of one. He might just as well be a brevet brigadier as to be a brigadier and not have the pay. Further than that, it is making an invidious distinction between a brigadier of the Marine corps and a brigadier of the Army, and at the next session of Congress we shall have a bill brought in here for the purpose of equalizing the pay. That is the customary mode of sliding up these things.

I have no doubt but the whole pay of the Army and Navy ought to be rearranged. The pay of the Navy is definite and distinct, and it is not difficult, by looking at the Navy Register, to ascertain the pay of any naval officer; but it is almost impossible to ascertain the pay of an Army officer. It is a work of time, patience, skill, and experience. It is well suggested to me that you must be up to all the dodges to get at what Mr. Mantilini used to call the "demnition total" of the pay of an Army officer. [Laughter.] I know that our committee has examined the subject time and time again, and whether we finally got at the right amount of pay received by Army officers or not, I do not know. At any rate, we have arrived at the conclusion that a brigadier general in the Army received some sixty-two or sixty-three hundred dollars, which is a very respectable sum even in the present "irredeemable" paper currency.

Now, for one, I am in favor of equalizing the pay of the Army and Navy. There is no reason in the world why a naval officer holding equal rank should not receive the same pay as an Army officer. I hope, however, that we shall take up the subject as a whole, and not in piecemeal.

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

Mr. PIKE. Anything I am capable of answering.

Mr. BALDWIN. I wish to ask the gentleman whether the Naval Committee have considered the expediency of abolishing this corps or transferring it to the Army? It has done great service in the past, but in modern navies it is unnecessary and useless.

Mr. PIKE. Of course, if a majority of the committee had been in favor of abolishing the corps they would not have reported this bill to increase the pay of its commanding officer. That is my answer to the gentleman.

I say, then, in conclusion, that when this matter of pay is arranged, I hope it will be taken as a whole, and not in piecemeal as proposed here.

Mr. SCHENCK. I am inclined to vote for this bill, and yet I would be unwilling to do so were it not in prospect of some future legislation, and that too by this Congress.

The Marine corps, as some of the members of the Naval Committee have remarked, has heretofore followed the condition of the Army in relation to the forms of its organization and its pay and allowances. Now, the commandant of the Marine corps does in fact command a brigade. That corps, which was in existence during the war with Mexico, was reduced to one regiment at the close of that war. But by successive increases the corps has now come to be a body of about three thousand men, equivalent to three regiments of the Army. As such it is commanded by an officer intended at least to have higher rank, as he has a higher command, than the colonel of any one of the regiments.

Now, it would seem to be proper, unless the corps be abolished, as General Jackson once proposed, the marines or their equivalents to be supplied by details from the Army, that the commandant of this corps should have rank and pay equivalent to a commander of a brigade in the Army. But, as it has been said, it is difficult to determine what the pay of an Army officer is.

The pay proper of an officer of the Army is but an inconsiderable proportion of the whole amount of compensation given to him. The actual compensation is increased in the aggregate by allowances for servants, for servants' clothing, for rations, for fuel or commutation for fuel, for quarters, and for forage, now in kind, and not in cash in commutation. So that the whole allowances of an Army officer amounts to very much more than would appear upon the face of any law looking only to his pay.

Now, what is the compensation in the case of a brigadier general, and what would it be, therefore, in the case of the commandant of the Marine corps if he should have the same rank? That would depend very much whether the officer is sent to the field to perform active duty or whether he remains here about Washington drawing these various commutations. If he goes to the field he will receive something like thirty-six or thirty-seven hundred dollars a year as his full pay; by no means an excessive amount, considering his rank and responsibilities. But if he remains at Washington, and gets commutation for fuel and quarters, and various other commutations, he will receive $6,269 75.

The whole policy of legislation heretofore has been in favor of those officers who remained in Washington. The whole tendency has been, under the pretext, or, in some degree, the necessity, of increasing the allowances in order to enable men to remain where their expenses are great, to give advantages to them over those actively engaged in the field.

One consequence of this policy during the recent war was that the chief of staff of Lieutenant General Grant, when Major General Halleck was his chief of staff, received something like two thousand dollars more than General Sherman or General Sheridan or any other major general or officer of the same rank who was fighting in the field. And this prevails generally through all grades and ranks of the Army.

Yesterday I introduced a bill, which is this moment under consideration before the Committee on Military Affairs, and which I trust may be reported upon favorably—though of that I cannot yet speak—which provides for putting Army officers on the footing of naval officers and civilians and of all other persons receiving salaries from the Government. It proposes to pay them liberally, something like an equivalent for the compensation they have heretofore received, though reducing to some extent what their aggregate receipts have been; to pay them an actual salary, so that it shall be known, as in the case of naval officers, what an officer is receiving, whatever may be his rank, as a consideration for the performance of the duties required by his rank.

Now, sir, if the bill of which I speak should become a law, a brigadier general will receive, I think, just $5,000; not an unfair compensation, it appears to me, for an officer having command of a brigade, with all the responsibilities of a distinct corps in the military service of the United States. If that bill should prevail, as I trust it may, then I should be in favor of adopting the measure now proposed by the Committee on Naval Affairs. If this officer, however, is to be made a brigadier general, so as to add one more to the number of those who will receive between $6,000 and $7,000 annually by counting up various allowances for commutation and otherwise, I am unwilling to see this bill passed.

Supposing, however, that upon the general principle of legislation, the commander of the Marine corps, like every other officer in that corps, will follow the condition and receive the compensation, as he holds the rank, of officers of corresponding degree in the Army of the United States. I think it eminently proper that he, commanding that corps, and having an equivalent responsibility, should have the same grade. I am willing, therefore, for one to vote for this bill proposed by the Committee on Naval Affairs, and to give this officer what seems to me is right as compared with a like rank in the Army, by which always the measurement has been made, trusting that this Congress will pass some general law reducing, regulating, and fixing at specific amounts all the salaries of all the officers of the Army; and under such a law, this officer, I presume, would follow the condition of officers of corresponding rank in the Army.

Mr. DARLING. If no other gentleman desires to discuss this question, I call the previous question.

The previous question was seconded and the main question ordered; which was upon ordering the bill to be engrossed for a third reading.

On the question, there were—ayes 40, noes 40; no quorum voting.

The SPEAKER, under the rule, ordered tellers, and appointed Messrs. DARLING and WHALEY.

The House divided; and the tellers reported—ayes 49, noes 48.

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

The question recurring on the passage of the bill,

Mr. SPALDING called for the yeas and nays.

Mr. UPSON. I move that the bill be laid on the table.

On the motion, there were—ayes 62, noes 40.

Mr. ANCONA demanded tellers.

Tellers were not ordered.

Mr. COFFROTH called for the yeas and nays.

The yeas and nays were not ordered.

So the motion to lay the bill on the table was agreed to.

Mr. WENTWORTH moved to reconsider the vote by which the bill was laid on the table; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed bills of the following titles, in which they requested the concurrence of the House:

An act (S. No. 62) to amend an act entitled "An act granting lands to the State of Oregon to aid in the construction of a military road from Eugene City to the eastern boundary of said State;" and

An act (S. No. 229) to authorize the President of the United States to transfer a gunboat to the Government of the republic of Liberia.

NAVY-YARD AT LEAGUE ISLAND.

Mr. KELLEY reported, from the Committee on Naval Affairs, a bill to authorize the Secretary of the Navy to accept League Island, in the river Delaware, for naval purposes; which was read a first and second time.

Mr. KELLEY. I move that this bill be postponed till Wednesday of next week, after the morning hour, and be made a special order for that time.

The SPEAKER. It requires unanimous consent to make it a special order.

Mr. ROSS and others objected.

The motion to postpone was agreed to; and the bill was ordered to be printed.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had

passed a bill (H. R. No. 223) entitled "An act to amend an act to incorporate the Mutual Fire Insurance Company of the District of Columbia," with an amendment, in which the concurrence of the House was requested.

REAR ADMIRAL PAULDING.

Mr. PHELPS, by unanimous consent, from the Committee on Naval Affairs, reported a bill for the relief of Hiram Paulding, rear admiral of the United States Navy; which was read a first and second time.

The bill and report were both read.

Mr. ROSS. The bill makes an appropriation, and must, under the rules, have its first consideration in the Committee of the Whole on the state of the Union.

The SPEAKER. The bill does make an appropriation, and if objected to it must be referred to the Committee of the Whole on the state of the Union.

Mr. ROSS. I object to its consideration now.

Mr. PHELPS. I hope the gentleman will withdraw his objection. It has been reported upon favorably by many committees of Congress. It has been passed by the Senate twice, and has been agreed to by the Committee on Foreign Affairs of this House.

Mr. ROSS. There are a great many honest claims before the Committee of the Whole on the state of the Union, and I think this should go there with them.

Mr. PHELPS moved that the bill be recommitted.

The motion was agreed to.

EIGHT-HOUR SYSTEM.

Mr. WRIGHT. I ask unanimous consent to present a memorial.

There was no objection.

Mr. WRIGHT. Mr. Speaker, I have the honor to present the memorial of several thousands of the people of my district, asking that the officers of the Government, so far as they are engaged in mechanical pursuits, shall have the benefit of what is called the "eight-hour system of labor," and to say that I cordially concur in the prayer of the memorialists. I move that it be referred to the Committee of Ways and Means.

The motion was agreed to.

WOOL.

Mr. PAINE. I present the following resolutions, adopted at a convention of wool-growers of southern Wisconsin and northern Illinois, held at Burlington, Wisconsin, March 23, 1866, and move that they be referred to the Committee of Ways and Means, and ordered to be printed:

Whereas the wool-growing interests of the country are laboring under disadvantages and difficulties seriously affecting its prosperity, the Wool-Growers' Convention of southern Wisconsin and northern Illinois, assembled at Burlington, Wisconsin, do adopt the following resolutions:

Resolved, That it is the duty of Congress to provide sufficient protection against the low prices of foreign wool grown in warm latitudes, where the raising of food for sheep is unnecessary, and where wool can be grown for from five to twelve cents per pound.

Resolved, That it is the duty of Congress to impose a specific duty upon foreign wools competing with American wools, at the rate of fifteen cents per pound on all unwashed wool, thirty cents per pound on all washed wool, forty-five cents per pound on all scoured wools, and twenty-five cents per pound on all shoddy and woolen rags.

Resolved, That we earnestly protest against the adoption of any tariff imposing *ad valorem* duties upon imported wools or woolens.

Resolved, That while we are willing that important woolen manufacturing interest of the United States should receive all the protection which may be necessary to render it prosperous, we firmly insist that the wool-growing interest is equally important, is entitled to equal protection, and that this convention, representing the farmers and wool-growers of southern Wisconsin and northern Illinois, does most earnestly request our Senators and Representatives in Congress to see that our interests in this regard are fully respected in the proposed adjustment of the tariff on wools and woolen fabrics.

Mr. MORRILL. I hope it will not be ordered to be printed. If one be ordered to be printed, then we will have to print all the others.

Mr. PAINE. I do not insist on that part of my motion.

The resolutions were referred to the Committee of Ways and Means.

TAX UPON STATE BANK CIRCULATION.

Mr. PIKE. I ask unanimous consent to submit the following resolution:

Resolved, That the Committee on Banking and Currency be requested to inquire into the expediency of providing for the postponement of the assessment of the ten per cent. tax on State bank circulation until the 18th of January next, or, if that be inexpedient, to provide for allowing State banks to become national banks any time before the 18th of October next, with all the privileges of national banks now in operation.

Mr. ANCONA. I object.

RETROCESSION OF ALEXANDRIA.

Mr. INGERSOLL. I ask unanimous consent to submit the following resolution:

Resolved, That the Committee for the District of Columbia are hereby directed to inquire into the expediency of repealing the act of July 9, 1846, entitled "An act to retrocede the county of Alexandria to the State of Virginia."

Mr. RANDALL, of Pennsylvania. I object.

NEW YORK CONTESTED ELECTION.

The House then proceeded to the consideration of the regular order of business after the morning hour, being the following resolutions reported from the Committee of Elections:

Resolved, That Hon. James Brooks is not entitled to a seat in this House as a Representative in the Thirty-Ninth Congress from the eighth district in New York.

Resolved, That William E. Dodge is entitled to a seat in this House as a Representative in the Thirty-Ninth Congress from the eighth district in New York.

Mr. DAWES. Mr. Speaker, I know it is not necessary to remind the House that this is an important question submitted to them—the right of a member to a seat upon this floor and of a constituency to the Representative of their choice; but still, so frequently have these cases of late come before the House that sometimes I think it is disposed to dispatch them as a matter of business rather than to weigh and pass upon them as a judicial question. There are other questions of a judicial character that the Constitution provides shall be submitted to this body, but the constitution of the House, of course, underlies, not only all those, but all other matters to be decided here. Therefore the House will excuse me for reminding, perhaps tiring, them with repeating the details of these cases, which attract no notice outside of this Chamber. So little attention is sometimes given to them here that I am sorry to say we are in danger of dispatching them as matters of business when we ought to consider them more carefully than any other subject which comes before us.

Perhaps there may be some danger, too, especially in a House constituted politically as this is, with a large preponderating majority upon one side, of disposing of the case in a manner which the judgment of sober men outside of this House would not commend.

It has been the object of the committee, so far as the lot of humanity will permit, to free itself from all bias so as to be able to present this report, as they hope they have done others heretofore which have received the sanction of the House, solely as a matter of fact, in regard to the votes cast in the eighth congressional district of New York, and to ascertain, so far as was possible, what was the honest voice of that district in the election here contested.

If the committee, in presenting the views on one side or the other, can have the attention of the House candidly and carefully to the real state of the facts connected with this case, I think the conclusion to which the House shall come will be satisfactory to the committee.

This contest concerns the representation of the eighth congressional district of New York. It is one of the so-called up-town districts of New York city, being composed of the eighteenth, twentieth, and twenty-first wards. The district extends clear across the city from the East river to the Hudson. It embraces therefore, as every one acquainted with the character of New York city knows, every variety of the inhabitants of that great city. It embraces representatives of the Old World of all characters, pursuits, and conditions of life. That vast city, the greatest on the continent, huddled together in very narrow limits, casts a vote greater than is cast by many whole States. All these votes have to be cast within the limits of a single day, between sunrise and sunset—cast by people living in all conditions, from the hovel to the palace.

It has been, as every one knows who is familiar with the history of New York, a matter of general complaint, so much so that the Legislature has addressed itself to the subject, that it has been next to impossible, or at least very difficult, to secure a true and honest expression of the voters in the several districts of the city, owing to the number of votes cast by those who have no legal right to vote. Every variety of device has been resorted to and adopted to circumvent the object sought by the Legislature in securing an honest election. At times every barrier has been broken down by the tumult that has been raised around the polls, not such as is to be charged specially against the people of the city of New York alone, but such as is necessarily connected with the assembling and crowding together of such a body of men, all striving to cast their votes within the limited time prescribed by law.

With these remarks I desire to give some idea of the difficulty of holding a fair election in the city of New York. And this is why certain laws have been enacted in the State of New York applicable to elections.

Before calling attention to those laws, I will state that at this election, which was held a year ago last November, there were in this district three candidates in the field, who received the entire vote, I believe, cast at the polls. The vote, as returned by those named as officers at the several precincts, was as follows:

For the sitting member	8,583
For the contestant	8,435
For Mr. Thomas J. Barr	4,544

Showing a plurality for the sitting member, according to this return, of 148 votes.

The contest has been confined to four precincts or voting districts, namely, the thirteenth of the eighteenth ward, the fifteenth of the eighteenth ward, the third of the twenty-first ward, and the seventh of the twenty-first ward.

I propose at this time simply to state the results at which the committee arrived, and the grounds upon which they based those results, leaving the case open for such considerations as may be submitted by others, reserving the right to answer such arguments, if any there be, which bear against the conclusions of the committee.

The committee were of the opinion that the contestant failed to sustain his case in two of these districts, and did sustain it in the other two; that as to the thirteenth district of the eighteenth ward, and the third district of the twenty-first ward, the evidence did not sustain the allegations of the contestant so conclusively as to satisfy the committee, and therefore they were of the opinion that he had failed to make out his allegations touching them; but that as to the fifteenth district of the eighteenth ward, and the seventh district of the twenty-first ward, the committee were of the opinion that the evidence sustained the allegations, and they have reported accordingly.

I desire to call the attention of the House to the grounds upon which the committee have concluded touching those two districts, assuming that inasmuch as the committee were unanimous as to the other two districts, the House will not care to have me go over the evidence upon which they came to a conclusion adverse to the contestant as regards those districts.

I ask the House to tax their patience as well as they may while I state the evidence upon which the committee arrived at the conclusion that the allegations were sustained in regard to the other two districts.

In speaking a moment ago of the efforts upon the part of the Legislature of the State of New York to secure an honest ballot in the city of New York, I had reference particularly to a law which came under the consideration of the committee, and the non-compliance with which by the officers of the election of the fifteenth district of the eighteenth ward, led directly, in the opin-

ion of the committee, to the admission of fraudulent votes into that ballot-box to an amount that rendered it necessary, under decisions of this House heretofore, to reject entirely the vote cast in that district. In order to ascertain beforehand who were entitled to vote upon the day of election in the city of New York, and because of the utter impossibility of the inspectors of election determining that judicial question with any fairness or correctness upon the day of election itself, the Legislature of New York have created a tribunal, a judicial tribunal, for that purpose, and have provided that the supervisors of the county of New York shall appoint each year for each election district in the whole city three men, to be called a board of registry for the district. They also provided that the duty which this board is to perform is to register the name, street, and number, before the election day, of every voter in the city.

In order that they might be cognizant of their duties, and able to determine who in each election district is an elector, as well as in order better to guard against cheating or devices to circumvent them, the law wisely provides that those three inspectors of registry shall be residents in and voters in the election district for which they are appointed, so that they may bring to the discharge of their duties a general familiarity with the district, and with its residents, and the qualifications of its voters.

I am under the necessity of asking the attention of the House to every one of these provisions, for I shall submit that in the case before the House every one of them was violated.

They provide, further, that this board shall hold a session for two days, or rather for one day, with permission to extend it to two days; provided the number of votes cast at the last previous election exceeded the number registered 400. In the case before the House that gave them two days. The law provides that those two days shall be the third Tuesday before the election and the Wednesday following it. It provides, further, that they shall hold these meetings in the place designated for holding the election, for the purpose of letting everybody in the district know where to go for all the purposes connected with this registry.

The law further provides that in making out this registry they shall, in the first instance, take from the poll-list of the last annual election, which is for that purpose deposited with the county clerk, all such names as appear to them to be voters in the district. They are then to hold a court and appoint a clerk if they need one; and the law goes so far as to prescribe the particular oath that that clerk shall take to secure his fidelity in a record which he is to make, which becomes subsequently of vital importance to the carrying out of an honest ballot. They were to hold this court for two days, and before them any one was to appear who desired to have his name registered as a voter, and to make such proof as would satisfy the board that he was a voter.

They were then to make four copies of the register thus prepared, to be certified by this clerk to be correct, or by the board of registry, I am not certain which; nor is it material. One of these copies they were to post up in this place designated for holding the election. So that during that time, nearly three weeks before the day of election, any one in the district having the slightest interest to know whether he was registered as a voter, or whether anybody else was registered as a voter who in his opinion was not a voter, could repair to this place, known to the law and to the residents of the district, and read for himself and copy for his own use, if he desired, this list thus posted up. That was considered a great safeguard, because it opened this register for two weeks to the inspection of the whole district.

Then this board was to meet on the Tuesday next preceding the election, two weeks after their first meeting, for the purpose of correcting this register: that is, by striking off the name of every person who was then and there before this court proved not to be a voter, and by adding thereto the name of every person who was proved to be a voter. Then they were to furnish copies of this register so corrected to the inspectors of election who were to preside at the election. These inspectors were required by law to perform certain specific duties, ministerial in all respects but one. That one was this: when any person came to the poll to deposit his ballot, and it was found that his name was not upon the register, he could be registered specially by producing sufficient proof; his own affidavit of his right to vote, the reasons why his name had not been before registered, and also the testimony of a householder in the district to corroborate his statement. And by pursuing this course, a man whose name was not upon the register could secure the reception of his ballot and its deposit in the ballot-box.

Then the law prescribed, in so many words, that the inspectors of election should receive no vote whatever that did not comply with these provisions, that is to say, of any person who was not upon the register before the day of election, or was not put upon the register on the day of election upon this special proof.

Now, with this tedious explanation of the law, I beg leave now to submit to the House what was the proof in relation to the fifteenth district of the eighteenth ward of the city of New York. That was a new district, set off from the twelfth district of that ward, subsequent to the last election. Before the election in question it had been a part of the twelfth district. In July, previous to the election, the city authorities set off the fifteenth district from the twelfth district, by metes and bounds. But no place for holding the election in November was designated by the common council, as required by law, at that time, nor at any subsequent time until the 3d day of November.

Mr. BROOKS. Of course the gentleman wants to state the facts correctly. He states that no place was designated by the common council.

Mr. DAWES. I should have said, probably, by the city authorities.

Mr. BROOKS. The place was designated on September 9, I think.

Mr. DAWES. I said "common council" when I should have said "city authorities," that is all.

Mr. BROOKS. The point I want to make is that the place was designated, so that everybody knew it, by one branch at least of the city government, the common council, on the 9th of September.

Mr. DAWES. I am told that in point of fact the common council wanted it at one liquor shop, and the board of aldermen wanted it at another liquor shop. So they differed, and could not agree on the place of election until the 3d day of November. Therefore, in point of fact, it was just as I have stated, that the place of election was not designated until the time I have named.

Mr. BROOKS. The learned gentleman is indulging in his wit; but I want to state some facts in connection with the matter. The councilman of the ward was a Democrat, and the alderman of the ward was a Republican; and the two together probably combined in the selection of the liquor shop of which the gentleman speaks.

Mr. DAWES. I suppose my friend, the sitting member, is as anxious and as impatient as possible to bring politics in this case.

Mr. BROOKS. Oh, no; I am as impatient as possible if politics are brought into this case.

Mr. DAWES. I wish the House to bear in mind that the gentleman has interrupted me for the purpose of introducing politics.

Mr. BROOKS. I beg the gentleman's pardon. He stated that the common council of New York did not state the place till November 3. I rose to a correction of fact, and stated that in the month of September the common council did designate the place. I rose simply to correct the statement of fact, and I humbly rose, for I recognize the gentleman as my judge in this case.

Mr. DAWES. Mr. Speaker, I think that I stated the matter with entire accuracy, except, perhaps, that I used the words "common council" when I should have used the words "city authorities."

It is true, Mr. Speaker, that an effort was made to designate the place earlier than the 3d of November. I do not know that this circumstance, inasmuch as no place was designated till the 3d of November, has any other bearing than that which I suggested, that one branch of the city government wanted one liquor shop selected, and another branch wanted another.

In point of fact, no place was designated until the 3d of November; and that was not made known until the 7th of November, which was the day before the election. All the other places designated for holding elections had been since October published every day, I think, in the daily papers of New York. That publication, instead of containing a designation of the place for voting in the fifteenth district of the eighteenth ward, contained these words: "fifteenth district of eighteenth ward not designated;" but all the district was informed by the official paper that it was of no use to attempt to hunt up a place, for none had been designated. So that there was an official proclamation to every elector in that district, up to the day before the election, that there was no place for holding this election and making the registry.

It was officially promulgated up to the day before the election that no place had yet been appointed for holding this election; and therefore there was no place for the board of registry to meet; no place for making up registry; no place where the electors could appear before the board of registry, and no place where the board of registry could according to law pass upon the qualifications of voters. The registry appointed was appointed in violation of the law by the selection of three men, no one of whom was, as required by law, a resident or voter in that district. Three men who were strangers to the district were selected. Although the law specially, and for the reason I have suggested, provided that they should be residents and voters in this particular election district, these men were neither residents nor voters in the district. They selected their own place for meeting. They could not do otherwise; for the body required by law to select for them had failed to select it. They selected their own place of meeting; but they did not give notice to anybody, so that nobody had any knowledge of where they were to meet. They organized by the choice of one of their number as chairman, who having business in the country left and was not present at all during the remainder of the sitting of the board.

Mr. FARNSWORTH. Will the gentleman from Massachusetts allow me to ask him a question?

Mr. DAWES. Certainly.

Mr. FARNSWORTH. As I am called upon to vote upon this question, I desire to be fully informed with regard to the facts of the case. I wish to inquire of the gentleman whether there is any evidence in this case to show that any man who desired to be registered in that district, or who desired to vote on election day, was unable to find the place of registry or the place of voting in consequence of its not having been advertised?

Mr. DAWES. I have been laboring a good while to get to the point. The gentleman has very properly manifested his impatience; I do not wonder at it; but if he will bear with me, I will reach, by regular approaches, the point which he has suggested.

I have stated, sir, that the board was not constituted according to law. They deemed it necessary to have a clerk. They appointed a man as clerk who took the oath prescribed, but being desirous to furnish business for his brother, he substituted his brother for himself,

and his brother performed the duties, without appointment or qualification, and received the compensation of clerk.

The law requires the board to meet "at the place designated for holding the poll of said election," but no place for holding this election had as yet been designated, and no notice had been given to the electors of the district of the place where the board of registry would meet. They selected their own place of meeting, but gave no notice to the electors of where they might be heard. They met at the liquor store of James Thompson, the place subsequently designated, on the 3d of November, after their meetings had been by law closed, as the place for holding the election. At their meeting on the first day, no further business was done except the organization of the board. Dougherty then left, and was not present at any further meetings of the board. Hall came the next day, and remained till ten o'clock, and then left till four.

He was an employé of the custom-house, and left at the hour he was called to the discharge of the duties there, ten o clock, and did not return till four, when he returned, spending several hours in the evening. He did the same on the third day, though the law allowed but two days for this meeting. Cowen, the remaining register, was sometimes present when Hall was there, and sometimes not; he also left on several occasions in Hall's absence, thus leaving the entire duty of the board to be discharged by the self-constituted clerk, Andrew Brady. The names were entered upon the registry; some taken from the poll-book of the old twelfth district, others, to the number of two hundred or more, were taken from time to time by James Thompson, the keeper of the liquor store, and by him entered upon an old account book as persons called at his store. This list of names upon the account book was furnished by him to the registers, and the names transcribed by Brady upon the registry; others were entered, some by Hall when alone, some by Cowen when alone, and some by Brady, in the absence of both, and some by Thompson, the keeper of the shop.

Persons came into the liquor shop, and, in the absence of the board, entered their own and such other names as they pleased upon the registry. One of the registers accused this Brady of entering names purposely with wrong residences, and otherwise erroneously. In this manner was made up what was called and used as the registry of voters at this precinct. From the evidence it appeared that scarcely a quarter of those whose names were upon this register appeared personally before the board, and very few of the names entered upon the registry were entered in the presence or by order of more than one of the so-called registers.

Mr. MARSHALL. I ask a question of the chairman of the Committee of Elections, in order to see what position he has taken. He has stated two points which I confess are facts in this case. That at the time the registers first met no place had been designated, and also that the proper authorities, in appointing inspectors and registers, named gentlemen who did not reside in the election district; a portion or all of them. I ask to know whether the chairman of the committee takes the position that that disfranchises the electors of the district and deprives them of the right to be heard on the question of electing a member of Congress. I want to know whether he takes the position it has that legal effect.

Mr. DAWES. If I ever get to the end of what I propose to say I will endeavor to answer that interrogatory. I would consider I had made but poor work if I had not foreseen and provided for that objection. I do not refer to it now because it will come in better hereafter. It is a pertinent inquiry, and I will endeavor to answer it hereafter.

Mr. MARSHALL. It seems to me only fair that the matter should be set right in this connection. It should be understood by the House that none of these registers were under the control of Mr. Brooks or his friends, but that on the contrary, the inspectors and registers, as well as the clerk who has been designated as a self-constituted clerk, whereas the proof shows to the contrary, were, a majority of them, the partisans of Mr. Dodge.

Mr. DAWES. The gentleman must not use up my time, as I need my whole hour; and I hope the House, if I do not abuse their patience, will give me more time if I need it. I do not intend to abuse their patience if I can help it, by allowing other speeches to be made in my time.

If I recollect rightly, when interrupted by the gentleman from Illinois, I was gathering together the facts touching this precinct, and giving the conclusions of the committee on those facts. I was stating the manner in which this registry was made up and the view the committee took of it. They had the opinion, Mr. Speaker, that this board was a judicial board because the law requires them to pass as judges upon the qualifications of the voter; and they were further of the opinion that it required at least two of this board to pass upon any judicial question referred to them.

It is the opinion of many good lawyers that in the absence of any provision to the contrary there must be a concurrence of all in order to pass upon any judicial question submitted to them, though a majority of the court perhaps can give the judgment. I do not think it is necessary for us to decide the question whether it requires all three or a majority of this court, for at no time when it attempted to pass upon the qualifications of a voter in this precinct was there ever a majority of the court so constituted that it could pass upon the question of qualification except as to those names that were transcribed from the old registry in the twelfth district. The whole affair, with the exception of that, was made up without the judicial sanction of even two of those men. This was the registry to guide the inspectors of election, containing a list of names having upon its face the sanction of this board. It contained the names of men without giving the name and number of the street, with nothing to show that they were voters qualified to cast their votes on that day. That list was handed over to the board of inspectors of election with directions to take it as evidence of who were legal voters in that district. More than half, nearly three fourths, of the names placed on the list were there in mockery of the provisions of the law of the State of New York, enacted for the purpose of securing to the honest voter, and to him alone, the exercise of this franchise.

What, Mr. Speaker, would be the natural tendency and effect of this? Everybody can see that it afforded facility for fraudulent voting to any extent. There was no limit to fraud save the capacity and inclination of the keeper of this shop, who furnished all the names from his own account book, and of the self-constituted clerk of election, who testified that he inserted the names, and of those who came in the absence of all these parties and inserted their own names, as well as the names of such friends as they desired to register. Therefore it was the opinion of the committee that a registry thus made up was no registry; in the first place, because the board of registry was an illegal board.

And here I propose to answer a question of my colleague on the committee, [Mr. MARSHALL.] The law is express that the registers shall be residents of the district. That is not disputed. It is an essential provision of the law. No man can for a moment look at the machinery of the law and doubt the fact that to take men who are strangers in a district like this and require of them the discharge of this duty is the most idle mockery in the world. And if any security can come from the employment of men who are residents and voters in the district it comes from the fact of their familiarity with the district and its voters, coupled with their own personal integrity.

It may be said, and it is sometimes said, that a man may be an officer *de facto*, and that his acts may be lawful as to a third person. And the question is raised here by the minority of the committee that these were officers *de facto*. Now, without undertaking to define the exact line between officers *de facto* and officers *de jure* binding on third persons, and without undertaking to define exactly that other question raised in this case by our friends on the minority, that these are also directory provisions of the statute and not mandatory, merely advisatory directions involving no illegality in their non-performance, I wish to state that the law, it seems to me, had an end in view which was defeated, as I have already said, by a disregard of this provision. And therefore I do not consider that it can be a directory provision as is termed by lawyers in that sense that it may be departed from without vitiating the proceeding.

Officers *de facto* are those who act under color of an appointment, who are otherwise competent to act, but have some defect in their appointment. But a man who by statute is incompetent to act cannot be any more an officer *de facto* than an officer *de jure*. If a man fails, for instance, to take his oath, there is a defect in his appointment, but he may discharge his constitutional duties, and as to third persons they may be valid notwithstanding this defect. There may be some other defect; but when the law declares that a man cannot be that officer, cannot perform those duties, then if he walks into the office, he is a usurper, and no form of appointment can make him any more an officer *de facto* than an officer *de jure*.

Now, sir, what was the effect of undertaking to open the poll at this election with this registry as the guide? The natural tendency, as I have already stated, was to allow every man to vote whose name was on the poll-list. The poll-list at the close contained no presumption of its honesty arising from the fact that it corresponded with the registry, because the registry of itself, as made up, was a fraud upon the law. Therefore the poll taken as the product of the result of a registry made up in conflict with and fraud of the law can have no presumption that it is a legal poll.

But, sir, not only the natural tendency of this thing is to a fraudulent vote, but the evidence in the case must, it seems to me, demonstrate to every man that the result was to put into those ballot-boxes a large preponderance of illegal votes from some quarter.

Mr. SCOFIELD. Will the gentleman allow me a single question?

Mr. DAWES. Yes, sir.

Mr. SCOFIELD. I wish to ask the gentleman if, in consequence of this mistake about this registry, he comes merely to the conclusion that it is no evidence of the right to vote of any person; if that is all the conclusion he arrives at?

Mr. DAWES. That is all. I ought to have made that more clear.

Mr. SCOFIELD. There may have been many legal votes cast, but this registry is not evidence of it.

Mr. DAWES. I am obliged to the gentleman for the suggestion.

Mr. SPALDING. I desire to ask this question: supposing the registrars were disqualified under the laws of New York, and there were legal votes put in through their agency, would you cast away those votes?

Mr. DAWES. Not a solitary one, and I will try to show that I have never, I trust, been guilty of such a violation of the ballot-box heretofore, and I hope I shall not be on this occasion.

Mr. Speaker, in saying that a registry thus made up in fraud could carry no presumption that a ballot put into the box under and in conformity with it, was a legal ballot, I ought to have said further, that the registry itself is made no evidence at all, from the fact that it is shown to have been made in fraud. That leaves the poll, then, without any legal registry.

But as was well intimated in the interrogatory

of the gentleman from Ohio, [Mr. SPALDING,] legal voters are not to be deprived of their ballots for the want of this registry. The law recognizes the fact that they shall not be so deprived, even if there be no registry. But the law goes on to prescribe in what method they shall secure their ballot if there be no registry, and I ask the gentleman from Ohio to take note of this fact. The law says if a name has not been put upon a registry the person may still vote, provided he comes to the polls and makes an affidavit stating, first, the reason why his name is not registered, and second, that he is a legal voter, residing in such a street and at such a number; and provided that he also brings a householder from the district in which he resides who will make affidavit that he knows him to be a voter residing in that street and at that number. When he does that the law declares that he may vote notwithstanding there may be no registry of his name.

Mr. MARSHALL. Will the gentleman yield for a question?

Mr. DAWES. Yes, sir.

Mr. MARSHALL. I was going to ask this question in connection with what the gentleman from Massachusetts [Mr. DAWES] was saying, where a registry is made, although it is irregular, informal, and defective, and an elector goes to the polls and no objection is made to his voting, and his vote is received without argument or objection as in this case, is he to be deprived of his right as an elector, and is his vote to be thrown out, because an affidavit was not demanded of him at the time? That is the question presented in this case. It is proposed to cast out the whole vote and to disfranchise the entire district.

Mr. DAWES. The gentleman and I have interchanged our views, and he knows very well the line of argument by which I arrive at an answer to his inquiry, and by which I intend to meet it in due time.

[Here the hammer fell.]

Mr. MARSHALL obtained the floor, but gave way to

Mr. RANDALL, of Pennsylvania, who moved that the time of Mr. DAWES be extended.

No objection was made.

Mr. BROOKS. I understand the gentleman from Massachusetts [Mr. DAWES] to say that if a party comes to the polls and swears in his vote by his own affidavit, verified by the affidavit of a householder of the district, he has a right to vote, and his vote is a legal vote. Do I understand the gentleman correctly as so stating?

Mr. DAWES. I do not say it is a legal vote; but the presumption is that it is a legal vote.

Mr. BROOKS. Then I would call the attention of the gentleman to the testimony in this big book, from page 522 to page 531, where he will see that 26 persons voted upon an affidavit sworn to by a householder, recorded in the registry here set forth; which 26 votes, notwithstanding his own admission, he has thrown entirely out of the court. How does the gentleman get over that?

Mr. DAWES. I can perhaps best answer that question by asking another. For whom did those 26 men vote?

Mr. BROOKS. That is a very Yankee mode of answering a question, though I do not think it is a very proper one.

Mr. DAWES. Very well.

Mr. BROOKS. But I will answer the gentleman's question if he will allow me. They undoubtedly voted for me. The gentleman has thrown them out.

Mr. DAWES. That is one of the difficulties of the case, which the House is called upon to decide in the end. If it had so happened that the law of New York, like the law of Missouri, and of some of the other States, enabled us to trace each man's vote and ascertain for whom he voted, another duty would have devolved upon the Committee of Elections, which they have shown themselves heretofore willing to accept; and that was the ascertaining for whom these votes were cast, and to give the proper party the full benefit of them. There was no evidence whatever submitted by the parties, and it was not in the power of the committee to ascertain for whom a single one of these men voted, and now I suppose it is a sufficient answer to that that the sitting member insists that they shall be counted for him.

Mr. BROOKS. I do not insist upon that, but I insist that, upon the gentleman's own admission, the whole district should not be thrown out, yet he has thrown out the whole district, when there are affidavits showing that at least 26 legal votes were cast in the district.

Mr. DAWES. If the gentleman had presented a particle of evidence that 26 legal voters, or 26 voters concerning whom the presumption was that they were legal, had voted for him, it would have been a pertinent inquiry for him to put to me why I did not count them for him. And here is the contestant ready to ask me why I did not count them for him.

Mr. SPALDING. Is the whole fifteenth district ruled out?

Mr. DAWES. I will come to that, or will try to, though I do not know that I ever shall.

I hardly know where I was in the line of my argument when I was last interrupted. But I was endeavoring to show not only what was the practical tendency of this fraudulent registry, but what was also the fact. Did it have any effect upon the result of that election? Was there any evidence that after all anybody but honest voters cast their votes at that election? Would it not be rather remarkable, after the registry was so prepared, with all these names put upon it by irresponsible persons, that it was done for no purpose, that nobody availed himself of the opportunity offered by this arrangement, or that the arrangement was made without any disposition or purpose to enable anybody who claimed to be a voter to avail himself of it? It is too violent a presumption for any man who has had any experience in the investigation of election frauds to accept for a moment.

But, sir, the fact is that the vote of this district was just about double upon this occasion. All the votes of the whole twelfth district, a part of which became subsequently the fifteenth district, amounted at the last preceding election to only 496; while at this election there were polled in this part of it 446 votes, and in the other part 365, making 811 votes polled through the facilities of this fraudulent registry. And one of the inspectors of the election, called by the sitting member himself, testifies that, at the closing of the polls, about two hundred and fifty men whom he believed to be legal voters were excluded by the arrival of sunset. If that be true, it would make 1,061 votes in this district which at the last election polled only 496 votes. Now, Mr. Speaker, could there have been honestly that many legal voters, and there yet be no means of tracing them, or showing such to have been the fact?

Is an addition of 500 votes in a single precinct at a single election an increase that cannot be traced in any way? The registry, if it be an honest one, shows by street and number the residence of every voter, so that after the election the tracing of every voter is only a question of time. And the most rational and natural method of proceeding, when the validity and honesty of a poll like this is questioned, is to undertake after the election to trace the voters by the registry. This is the proper method to test and prove the honesty of the poll. The contestant, feeling this, employed for six weeks a man who had been a canvasser for the city Directory, and who therefore had skill in this matter, to trace to his home each man who, according to this registry, had voted.

If we could have had the benefit of that man's testimony, supposing him to have been an honest, intelligent man, it would have gone far to settle this question. But, unfortunately, at least for the contestant, the name of this man was, through a mere clerical error in copying the notice to be served upon the sitting member, omitted from the list of witnesses whose depositions were to be taken. As the law requires that the sitting member shall have ten days' notice of witnesses whose depositions are to be taken, the sitting member objected, as he had the right under the law to do, to taking this man's testimony, because the ten days' notice required by law had not been given. The affidavit of this man was taken without the notice; and he was then tendered to the sitting member for cross-examination, when the sitting member declined to cross-examine. Therefore the contestant was without the testimony of this man. He sought to prove the same facts by another witness who had acquired his knowledge from this man; but the committee decided that that was not legal evidence.

The sitting member, however, to some extent helped the contestant out of this difficulty; for he produced witnesses to prove that what was stated in this affidavit was not true. He produced, first, a man who had been one of the inspectors of the election—the man who testified that 250 legal voters did not succeed in depositing their votes, because they were still waiting when the time arrived for closing the polls. He was an officer in the Catholic church near by, and was supposed to have peculiar knowledge in reference to the district. He went over this list, and there were some twenty or thirty whom he could not find anywhere, with all his knowledge. Others he thought he found, but in a way which I will illustrate. There was upon the registry a William Hubert, 551 East Sixteenth street. This witness said that he knew a William Hubbard, on Fifteenth street, who, he thought, must be the same man. So upon the registry was the name of John Callaghan, 257 Fourteenth street. This man stated that he knew a John Allen, residing in another street at another number, and he thought this must be the same man. Again, the registry contained the name of Patrick Willing, 276 Sixteenth street. This witness thought that this must be Patrick Fanning, 514 Sixteenth street. In this way he identified some 100 or more.

Some thirty and more he could not identify at all. He then brought on a German resident of the district familiar with the German names on the register, and the list was handed to him to point out and identify those who had voted, and of the first twenty, sixteen he negatived, and said they did not live where they were set down, and that they were not voters. Four he did identify. With that lot the examination of this witness was suspended.

So while the contestant was without the benefit of his witness, whom he had employed for six weeks, because of this clerical error, by the witnesses of the sitting member there were shown to be by positive testimony from fifty to sixty who had no residence there. And then they were only traced to others identified in the manner I have indicated; forgetting, Mr. Speaker, that the object of putting down names upon the register with a similarity of spelling was to facilitate the very fraud which is sought to be carried out at the polls by bringing a man——

Mr. BROOKS. I beg pardon of the gentleman, but I am sure that the House will never give attention to details except in this way. He recites the testimony of a man by the name of Jung. It is necessary the House should understand the difficulty of getting German names. A man is asked whether a Mr. Young lives in his house. Although Mr. Jung lives there he says that no Mr. Y-o-u-n-g lives there. Now, in German the name Jung is pronounced like Young, but Mr. Jung would not recognize his own name when presented to him spelled Young. In order to see how the English register had blundered in recording German names, the members have only to refer to pages 301 and 302 of the printed testimony:

"*Question.* How do you pronounce your name? Will you spell it?

"*Answer.* Jung.

"*Question.* How is it pronounced?

"*Answer.* Young.

"*Question.* How would an American write it?

"*Answer.* Young.

"*Question.* Is there any difficulty of Americans correctly spelling German names?

"*Answer.* There is: no American could write my name except I spelled it for him.

"*Question.* How is Morschauser in English?

"*Answer.* You cannot spell it in any other way.

"*Question.* How would an Englishman give the sound?

"*Answer.* Mor-shau-zer; shau is pronounced the same as show in English.

"*Question.* How is that pronounced—shorzer?

"*Answer.* That is about as near as you can get to it.

"*Question.* How do you suppose an Irishman or an American poll-clerk or anybody except a German would be likely to get the name of Morschauser?

"*Answer.* Can't tell.

"*Question.* Do you think he would be likely to get it right?

"*Answer.* I believe not."

Mr. DAWES. The sitting member will excuse me from yielding to him any further. He will have an opportunity to be heard after awhile.

Mr. BROOKS. I hope the gentleman will read the testimony. I know the weight of his authority, and I want him to read the testimony, and not to state it.

Mr. DAWES. The gentleman can present whatever testimony he pleases when he comes to address the House.

Now, Mr. Speaker, the gentleman has a very artful theory about the pronunciation and spelling of German names, but it does not reach the case I have stated. Here in a list of twenty names; a German familiar with the district swears that sixteen of them do not reside there, and it does not matter whether you call them Zung or Young or anything else. But his theory was made to apply to another part of the district.

We have the fact that there has been a departure from the law in every respect. We have the fact of departures of such a character as to taint the voting. We have the fact that the law says that a vote shall not be received by the officers unless it conforms to the provisions of the law. It also appears that the vote was swollen to double what it was before, and that while both had the opportunity of tracing to their homes every living voter in the district the contestant alone sought to do that.

It also appears that the sitting member, in attempting to contradict the testimony of the contestant to see whether these men lived where they were registered, himself proved there were these men I have shown who had no legal habitation in the district.

It is for the House to say whether it will take the returns under these circumstances as evidence of honest votes. In the matter of disfranchising an honest voter, in the matter of depriving the sitting member or the contestant of the vote of a single man, and in the matter of taking as evidence that such a vote has been cast, the current of authority in this House and everywhere else is unbroken on this point. There is no conflict and never has been. It was sometimes held, as it was by the gentleman from Pennsylvania in the discussion of another case, that you are required to set aside not only the return but everything else.

It has sanction in courts of law as well as in the opinion of the gentleman from Pennsylvania as announced here the other day. But the committee have not felt called upon to go outside of the precedents which the Committee of Elections have heretofore sanctioned in their reports, and which have been sustained by the House. They have simply said that this return made up in this fraudulent manner, with evidence not only that the officers composing the board were illegally appointed, and the board illegal, but also that the last meeting of the board was held not at the place appointed by law, so that nobody could go there. The place of voting was at James Thompson's, No. 252 Avenue B, and the meeting of the board was actually held at another place. The poll itself was not held at the place designated by law, though it was held somewhere in the neighborhood.

So that we are called upon to do one of two things: to disregard all of these provisions of law, to take this return, made without conformity to any provision of law, of a poll held at a place not designated according to law, as the true return; or we are to set it aside and tell these parties to call up their witnesses to show how they voted, and if they voted legally to count their votes, as was done in another district in this case.

Now, one of two things must be done; it cannot be halved; there is no intermediate position to be taken. You must take the returns as they are, forget or overlook all their errors, and pronounce by your decision here as unnecessary all these provisions of law thrown by the statutes of New York around the ballot-box, one provision of law being that no vote shall be received but in conformity with the statute, or else you must take the course adopted by the committee, and say to these parties, we will not take a return based upon such a proceeding as this, but we will count every vote which you may prove to have been legal. And that was the course of the committee in this case.

I must hurry on to another of these precincts, that of the seventh district of the twenty-first ward. In reference to that district the testimony shows that the whole vote cast for member of Congress was, for Mr. Brooks, 160; Mr. Barr, 158; Mr. Dodge, 71; in all 389. There were cast for presidential electors 400 votes.

Now, this was a peculiar district in its physical condition. It is what is called "Dutch Hill;" a district not laid out in streets or numbered, but covered with shanties, built upon other men's lands. These shanties were of the frailest character, and treated in the market as personal property, selling for from ten to fifteen dollars each. Into this district were crowded all these voters. It was very difficult in making out the registry to put down anything like street and number. And if it was desired to cheat and deceive it was very easy to do so in this district.

In the year before, 1863, the vote of this district was 202; in 1864 it was 400. Now, when a district of this character doubled its vote in the course of a single year, it would be natural to inquire where those votes came from, and if they were given by honest voters, where they resided; also, whether you could double the voting capacity of such a small district as this without showing where they resided, without showing some increase of the number of habitations, some influx of population, some new families, some new faces, some new presence out of which you could double the vote of this district.

But on the contrary, it is testified to that not only were there no new habitations put up in that district during the year preceding this congressional election, but very many of the little habitations of the year before had been wiped out, removed, the number reduced. So that there was no chance of any increase of *bona fide* residents there from new comers. Nobody was able to be found to testify to any new presence in the district, any new families anywhere in it.

The question then arose, how were they able to double the vote in this small district? Well, the matter was revealed by one of the parties who turned State's evidence. His testimony is referred to by book and page in the report of the majority of the committee, and the name of the witness is Geoghegan. He and a comrade of his named Tracy had, in the common parlance of the day, for many years controlled that district, and in the interest of their particular party friends had dealt out the votes of the district as they pleased, and with such success as they were prompted to secure by their zeal and interest in particular elections. Getting into some difficulty with his comrade the day after the election in the adjustment of some matters pertaining to it, Geoghegan came forward and made a disclosure of the way and manner in which the thing was done.

The thing was managed by taking the registry from year to year and putting it bodily into the new registry, preserving the name of every man that had ever been on it, whether he had died or moved away in the mean time, and adding just as many names as they pleased of their friends there and elsewhere. In that way they made out the registry to suit themselves. Then when election day came, by arrangements made beforehand, men were brought forward, whom the witness called "substitutes," who voted upon these names, and then went away and were never heard of afterwards.

That being the fact in reference to this district, the whole matter is explained, and only shows that the fraud is of such a character that it has no limit except in the time, capacity, and genius of those who carried it out. Geoghegan himself stated that at least thirty of the names upon which substitutes were voted were the names, some of persons who had been dead from six months to two years, and some of persons who had moved out of the district. He testifies that he himself voted for the sitting member; and he named others, among them his comrade, who voted in the same way; in many instances giving the name of the man who voted, but of course always taking care of his friends and not telling their present whereabouts. And from this single witness testimony was obtained of 65 fraudulent votes, those of substitutes voting on the names on the registry thus made up for the district.

The contestant then employed a man in this district, as in the other, to take this poll-list and trace every voter to his house and habitation and find him if he could. For this purpose he employed a responsible man, a United States deputy marshal, who had served in the Army, and who had occupied positions of responsibility and of trust for a great many years, so that there could be no question at all as to his integrity. This man he employed for nearly six weeks, and the result of his investigation is here in this book; for the contestant fortunately did not lose his testimony. With all his ability, this deputy marshal was unable to find anywhere in this district 109 of these men.

Now, he corroborates in his testimony the statements of this *particeps criminis*, Geoghegan. For the committee admit the correctness of the rule claimed by the sitting member, that Geoghegan being a party to this fraud his testimony should not be taken without corroboration. And it is a little curious that in comparing the testimony of this United States deputy marshal, Russell Myers, with the testimony of Geoghegan, it will be found that he corroborates him in regard to 23 of the names in Geoghegan's table, and testifies to some 88 names besides. So that Geoghegan, who is a party to the fraud, is corroborated to that extent by the testimony of Myers.

Geoghegan is also further corroborated by the testimony of his copartner in this matter, Tracy, who was produced upon the stand by the sitting member, for the purpose of tracing these votes, by reason of his familiarity with the district and his knowledge of the voters. In all his testimony he does not contradict Geoghegan as to but one or perhaps two of the persons named by him. He then takes up the list of Myers, the one who was employed by the contestant for six weeks to canvass this district, and corrects it by striking out the name of every person known to Tracy to be a voter in the district, although he traces out many of them in the manner adopted in the other district, by some imagined similarity of sound in the name, though he resides in some other place. That list is thus reduced to 65 names, which added to the other list makes 109 illegal voters in this small district alone.

But there is another point in which Tracy also corroborates Geoghegan. According to Geoghegan's statement, Tracy is the party who was joined with him in this matter. But Tracy, although called by the sitting member, is not even asked by him whether Geoghegan's story is true. But at the end of the examination, after it was all over, after the time had expired, the sitting member asks for further time to examine certain witnesses, and among others he names this Tracy, whom he desires to examine further. He states what he desires to examine him upon; but it is not to ascertain whether

Geoghegan told the truth or not in regard to this arrangement with Tracy, but merely to ascertain whether he voted for him or for Barr, so that the man who of all others knew whether Geoghegan was telling the truth or not, was called by the sitting member, and was examined by him about everything else, but the sitting member failed to ask him whether Geoghegan's story was true. If the story of Geoghegan be true, if the story of Russell Myers be true, if the story of Tracy, his own witness, be true, then out of these 389 votes 116 were fraudulent.

Then arises the question, what will you do with the poll when you know more than one in four of the votes is fraudulent? You cannot tell for whom the fraudulent votes were cast, except the 30 which, if Geoghegan is to be believed, were cast for the sitting member. If 30 be deducted from the votes of the sitting member, 86 fraudulent votes still remain unaccounted for. They were cast either for the sitting member, the contestant, or Mr. Barr. There is no means of telling for whom they were cast. Shall we count the whole poll, three honest votes to one fraudulent, or shall we say, "This fraud, like frauds we have had in cases coming before us heretofore, so taints the ballot-box that, having no means by which it can be purged, we cannot tell what the truth is; we cannot tell for which of these three candidates those 86 votes were cast; and we do not propose to count a poll in which one fourth of all the votes are shown to be fraudulent?" Besides, the throwing out of this vote does not alter the result, while it goes far to show that the conclusions as to the other polls are correct. Under these circumstances, the committee were of opinion that, following the precedents which they have adopted, and which have been sanctioned by the House, they must reject this poll.

With the rejection of these two polls there is a majority of 105 votes for the contestant. If you omit this last poll altogether, there is a majority of 16. If you deduct the 30 votes which, if Geoghegan is to be believed, were cast for the sitting member, that increases the majority to 46. The committee, coming to this conclusion, entertain no doubt that they have given effect to every legal vote cast in that district. They have tendered to the parties the opportunity to show every legal vote cast, if they will show for whom the votes were cast.

Mr. THAYER. I want to ask the chairman of the committee—for it is impossible, of course, that members can read a voluminous mass of testimony like this—whether any effort was made in the case of which the gentleman has just been speaking, to correct the return by calling the actual legal voters who cast their votes at that poll and to show how they voted.

Mr. DAWES. Not in this precinct.

Mr. THAYER. I mean in this precinct. I understand this poll to have been thrown out entirely, as being so fraudulent that it was impossible for the committee to give any credit to it. I wish to know whether any attempt was made to correct the poll by calling those who were entitled to vote and who had cast their votes at that poll.

Mr. DAWES. No, sir; no such attempt was made by either party; the attempt was made in other precincts.

Mr. BROOKS. I beg the gentleman's pardon. We called up voter after voter from that precinct who swore to having voted for me. I can read the testimony.

Mr. THAYER. There seems to be an issue of fact here. I should like to know how the truth is, because it seems to me a matter of some importance in forming my opinion on this question.

Mr. DAWES. The sitting member, I suppose, can refer to the evidence. If any votes were proved in that way, they should have been counted.

Mr. SCOFIELD. In the Indiana case, a few weeks ago, the gentleman from Pennsylvania [Mr. THAYER] objected to evidence of that kind.

Mr. THAYER. No, sir; I did not object to such evidence. I maintained that where you throw out election papers, lists of voters, tally-lists, and everything connected with the poll, you have no right to go to work and make a new return by calling Tom, Dick, and Harry to testify for whom they voted. I hold that you cannot do that legally.

I simply wish to inquire of the chairman whether an effort was made, whether successfully or not, to show the legal voters in this election division by calling those voters themselves.

Mr. DAWES. I have answered according to my examination of the facts. The sitting member will call my attention to any correction of fact which may exist. I now yield the floor.

Mr. MARSHALL obtained the floor.

Mr. BROOKS. The gentleman from Illinois will yield to me for a moment, so that I may read a particular case. I have not time now to investigate particularly the testimony in the smaller book. I will read:

"William Kelly sworn.
"Examined by Mr. Anthon:
"*Question.* Where do you reside?
"*Answer.* Fortieth street, between First and Second avenues.
"*Question.* Are you a legal voter in the seventh district, twenty-first ward?
"*Answer.* Yes, sir; I have been a legal voter since James K. Polk was elected.
"*Question.* And voted in that district ever since?
"*Answer.* No, sir; I came from Manhattanville.
"*Question.* How long in the twenty-first ward?
"*Answer.* The twenty-first ward used to be the eighteenth; I have been voting about twenty years in that ward.
"*Question.* Do you live in the nineteenth ward?
"*Answer.* No, sir; in the twenty-first ward?
"*Question.* If any man says you live in the nineteenth ward, what do you say of him?
"*Answer.* I say he is a perjurer, sir."

The same testimony will be found by others further on. But I will trace this fully and ask the attention of the House to it hereafter.

Mr. DAWES. Does it say whom he voted for?

Mr. BROOKS. Yes, sir; he says he voted for me.

Mr. DAWES. He does not say so here.

Mr. BROOKS. I will have time to show that. If the gentleman had read the testimony he would have found it.

Mr. DAWES. It does not say so in this deposition.

Mr. BROOKS. There are two or three other depositions.

Mr. DAWES. That is the difficulty we labored under. We could not find for whom the men voted.

Mr. THAYER. That is the point I particularly inquired about.

EVENING SESSION DISPENSED WITH.

Mr. STEVENS. I desire to ask the gentleman from Massachusetts, chairman of the Committee of Elections, whether he is willing to go on to-night with this debate.

Mr. DAWES. Personally, I have no objection. I leave that to those who propose to participate in the debate.

Mr. STEVENS. Then I shall make no motion to dispense with the evening session.

The SPEAKER. The Chair is informed of several gentlemen who desire to speak on this case, perhaps two or three outside of the committee.

Mr. STEVENS. Under the circumstances I do not propose to make any motion.

The SPEAKER. Then there will be a night session.

Mr. CONKLING. I will move the House adjourn, if no other member makes that motion. I know of several gentlemen beside myself who would like very much to hear this discussion, but who this evening are compelled to engage in what we deem pressing and important labor in committee. The appointment was made without any suspicion there was to be an evening session.

Mr. DAWES. So far as I am concerned I do not object.

Mr. CONKLING. I move, then, to dispense with the evening session.

The motion was agreed to.

NEW YORK CONTESTED ELECTION—AGAIN.

Mr. MARSHALL addressed the House in support of the resolution offered by the minority as a substitute for the resolution reported by the committee. [His remarks will be found in the Appendix.]

Mr. WARD. Will the gentleman from Illinois yield for a motion to adjourn?

Mr. MARSHALL. I will yield for that purpose.

The SPEAKER. The gentleman from Illinois has spoken fifty-five minutes and is entitled to five minutes more.

Mr. MARSHALL. I have but little more time unless my time shall be extended.

The SPEAKER. The gentleman's time will probably be extended.

DEPARTMENT OF EDUCATION.

Mr. GARFIELD, by unanimous consent, from the select committee on the subject, reported back, with an amendment in the nature of a substitute, the bill to establish a Department of Education.

The substitute was ordered to be printed, and the bill was recommitted to the select committee.

Mr. GARFIELD offered a resolution for the printing of one thousand extra copies of the substitute; which was referred, under the law, to the Committee on Printing.

WITHDRAWAL OF PAPERS.

On motion of Mr. DARLING, leave was granted for the withdrawal from the files of the House of the papers in the case of the Mercantile Insurance Company of New York.

On motion of Mr. LAFLIN, leave was granted for the withdrawal from the files of the House of the papers relating to the claim of A. Garland.

And then, on motion of Mr. WARD, (at twenty-five minutes after four o'clock p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to the appropriate committees:

By Mr. BEAMAN: The remonstrance of E. Smith, and 155 others, citizens of Washtenaw and Lenawee counties, in the State of Michigan, against applying any part of the Amboy, Lansing, and Traverse Bay railroad land grant on the line of that road between Lansing and Jonesville in said State, and against renewing the said grant to the Amboy, Lansing, and Traverse Bay Railroad Company.

Also, the remonstrance of C. Walbridge, J. C. Robinson, and 163 others, citizens of Washtenaw county, Michigan, to the same effect.

By Mr. COOK: The petition of citizens of Will county, Illinois, praying for the passage of a law regulating insurances.

Also, the petition of citizens of Kankakee, Illinois, on the same subject.

By Mr. DARLING: The petition of Daniel W. Lee, for relief and pay.

Also, the petition of Charles Pirley, of New York, for compensation and redress for the use of his invention in the submarine gunboat Spuyten Duyvil, built by the Navy Department.

By Mr. DAVIS: The petition of Jacob P. Clark, Lester Jackson, and 37 others, citizens of Onondaga county, New York, praying for increased protection to American wool.

Also, a like petition of Leonard P. Field, Oscar Belding, and 56 others, citizens of Onondaga county.

Also, a like petition of H. W. Hotchkiss, M. W. Hotchkiss, and 57 others, citizens of said county.

By Mr. DELANO: The petition and evidence of Mrs. Lucy B. Sinclair, a loyal citizen of Culpepper Court-House, Virginia, praying indemnity and compensation for damages to premises and use of property by the army of the Potomac.

Also, the petition of Mrs. Anna de Neuville Evans, of Mississippi, praying indemnity for the destruction of premises and use of property by United States military authorities.

By Mr. DENNY: A memorial of the Legislature of Washington Territory in relation to a road from Cathlemet to Olympia.

Also, one relating to a military road from Willopa to Black river.

Also, one asking an appropriation to build a lighthouse at Gray's Harbor.

Also, a joint resolution relative to a change of the port of entry in Washington Territory.

By Mr. DRIGGS: The petition of Hon. George C. Jones, and 30 others, citizens of Ontonagon, Lake Superior, Michigan, to have a law passed regulating insurance between the States.

Also, the petition of P. M. Everett, and 50 others, citizens of Marquette, Lake Superior, Michigan, for a law to regulate insurance between the States.

By Mr. DONNELLY: Joint resolutions of the Legislature of the State of Minnesota, in favor of the pay of certain officers and men in the late war.

Also, joint resolutions of the same, asking Congress for a grant of land to aid in the construction of a ship-

canal connecting the waters of Lake Superior with Portage Lake.

Also, joint resolutions of the same, in relation to the establishment of a light-house on Lake Superior.

By Mr. EGGLESTON: The petition of William Beam, and 70 others, carpenters of the city of Cincinnati, praying for the passage of a law to compel all carpenters who engage on steamboats (as such when the boats are running) to obtain a license therefor from a board of inspectors.

By Mr. FARNSWORTH: The petition of citizens of Kane county, Illinois, for increased tariff upon wool.

Also, the petition of D. W. Young, mayor of Aurora, Illinois, and 200 others, in favor of eight hours being fixed for a legal day's work, by laborers for the Government.

By Mr. HART: The petition of 168 citizens of the town of Yates, Orleans county, New York, asking for an increased duty on wool.

Also, the petition of 49 citizens of Clarendon, Orleans county, for the same.

Also, the petition of 1,000 citizens and working men asking that eight hours be established as the regular time of a day's work.

By Mr. JULIAN: The petition of 444 citizens and laboring men of Janesville, Wisconsin, asking that eight hours shall be fixed as a lawful day's work as to all Government employés.

Also, the like petition of 573 citizens and laboring men of Milwaukee, Wisconsin.

By Mr. KASSON: The petition of N. S. Bates, H. C. Nutt, A. L. Deming, and other leading citizens of Council Bluffs, Iowa, for national regulation of inter-State insurance.

By Mr. KETCHAM: The petition of Cornelius Bortle, and others, of Columbia county, New York, for the passage of a law regulating inter-State insurance.

By Mr. LONGYEAR: The remonstrance of C. Warriner, V. M. Bostwick, and 112 others, citizens of Jackson county, Michigan, against applying any part of the Amboy, Lansing, and Traverse Bay railroad grant, on the line of that road, between Lansing and Jonesville, and against renewing the said grant to the Amboy, Lansing, and Traverse Bay Railroad Company.

By Mr. MARSTON: The petition of George Cooke, and 60 others, citizens of Rochester, New Hampshire, all mechanics and laborers in American manufacturing establishments, praying for an amendment of the tariff so as to protect their labor to the extent of the difference in the cost of capital and labor here and abroad.

By Mr. McKEE: The petition of William J. Lee, for payment of money he claims due him by contract.

By Mr. O'NEILL: Resolutions of the Philadelphia Board of Trade, approving of the acceptance by the Government of the United States of the invitation of the Emperor of the French to participate in the Paris Exposition of 1867, and hoping for a liberal appropriation, so that a proper display may be made in it of the products of our country.

By Mr. PRICE: The petition of citizens of Cedar county, Iowa, asking for the passage of a law regulating inter-State insurance of all kinds.

By Mr. RANDALL, of Kentucky: The petition of Andrew Herd, and others, of the fourteenth Kentucky cavalry, for the passage of an act requiring the payment of bounties to them, agreeably to the terms of their enlistment.

By Mr. RAYMOND: The memorial of a large number of manufacturers of clothing, boots and shoes, hats and caps, umbrellas, cloaks, shirts, &c., of the cities of New York, Troy, Rochester, Utica, Baltimore, Philadelphia, Cincinnati, Chicago, Detroit, Danbury, Norwalk, and New Haven, praying for an abrogation of the excise on the products of their manufacture, and the substitution of a manufacturer's license therefor.

Also, the memorial of the Bank for Savings in the city of New York, and six other savings banks, in the said city and Brooklyn; praying for the repeal of the law subjecting the deposits in said banks to taxation.

By Mr. ROSS: The petition of D. D. Hicks, and others, of Pittsfield, Illinois, for the passage of a law regulating inter-State insurance.

By Mr. SLOAN: The petition of Lucius Farchild, and 86 others, citizens of Wisconsin, praying that a commission may be appointed to go to Europe to investigate the rinderpest with a view to the protection of the cattle in this country from that disease.

Also, the petition of Daniel Cloud, and others, citizens of Wisconsin, asking that cumulative taxes on agricultural implements may be abrogated.

Also, the petition of R. T. Graves, and 84 others, citizens of Wisconsin, praying for increased duties on imported wool.

By Mr. TROWBRIDGE: The petition of R. P. Eldridge, Giles Hubbard, and 24 others, citizens of Macomb county, Michigan, asking for increased duites on foreign wool.

By Mr. VAN HORN, of New York: The petition of 180 citizens of Niagara county, New York, asking an increased duty on wool.

By Mr. WENTWORTH: The petition of citizens of Barrington, Cook county, for a national insurance company.

IN SENATE.

WEDNESDAY, *April* 4, 1866.

Prayer by Rev. A. D. GILLETTE, D. D., of Washington.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Postmaster General, transmitting, in compliance with a resolution of the Senate of the 3d instant, information in regard to the oath required to be taken by persons in the employ of that Department; which was ordered to lie on the table, and be printed.

The PRESIDENT *pro tempore* also laid before the Senate a message of the President of the United States, transmitting a report of the Secretary of War, in compliance with a resolution of the Senate of the 7th of March, 1866, respecting the improvement of the Washington city canal, to promote the health of the metropolis; which was referred to the Committee on the District of Columbia, and ordered to be printed.

COMMITTEE SERVICE.

The PRESIDENT *pro tempore*. In compliance with the order of the Senate directing the Chair to fill up the Committee to Audit and Control the Contingent Expenses of the Senate, the Chair will announce the appointment of Mr. HENDERSON, chairman, Mr. GRIMES, and Mr. BUCKALEW.

PETITIONS AND MEMORIALS.

Mr. POMEROY presented the petition of Michael Stearn, and sixty others, citizens of Kansas, praying for the establishment of a mail route from American City to Rock Creek, in that State; which was referred to the Committee on Post Offices and Post Roads.

He also presented a resolution of the Legislature of Kansas, in favor of the establishment of a daily mail route from Medina to Leavenworth, and also for the establishment of a daily mail route from Lawrence to Grasshopper Falls, in that State; which was referred to the Committee on Post Offices and Post Roads.

He also presented a petition of citizens of Kansas, for the establishment of a mail route from Pleasant Hill, Missouri, to Baldwin City, Kansas; which was referred to the Committee on Post Offices and Post Roads.

He also presented a petition of citizens of Kansas, praying for the establishment of a post route from Ottawa to Mound City, in that State; which was referred to the Committee on Post Offices and Post Roads.

Mr. POMEROY. I present, also, a petition from Governor Murphy, of Arkansas, Mr. Robert J. T. White, secretary of state, A. W. Bishop, adjutant general, Major General J. J. Reynolds, and various other citizens of Arkansas, asking that the grant of lands to that State given some years ago to aid in building certain railroads, and which has now reverted to the United States in consequence of the roads not being completed within the time prescribed, may be revived. I move its reference to the Committee on Public Lands.

The motion was agreed to.

Mr. VAN WINKLE presented two petitions of citizens of West Virginia, praying that semi-annual terms of the district Federal courts may be held at Parkersburg, in that State; which were referred to the Committee on the Judiciary.

Mr. COWAN presented a petition of Caleb Cope, president of the Philadelphia Saving Fund Society, and others, praying that the internal revenue laws may be so amended as to exempt banks of deposit and loan from taxation; which was referred to the Committee on Finance.

He also presented a petition of members of the bar of Indiana county, and a petition of members of the bar of Pittsburg, Pennsylvania, praying that the salary of the judge of the district court of the United States for the western district of Pennsylvania may be increased; which were referred to the Committee on the Judiciary.

He also presented a petition of inhabitants of Oswayo, in the State of Pennsylvania, praying for an amendment to the United States Constitution which will prevent any State from making any distinction in civil rights and privileges on account of race, color, or descent; which was referred to the committee on reconstruction.

He also presented a petition of mechanics and laborers in American manufacturing establishments, signed by William Colbert, Charles Treese, and others, praying that the tariff act may be so amended as to protect American labor; which was referred to the Committee on Finance.

He also presented a petition of Campbell & Thayer, and others, manufacturers of linseed oil in the city of New York, praying that the tariff on foreign linseed oil may be increased; which was referred to the Committee on Finance.

He also presented a memorial of the Board of Trade in the city of Philadelphia, praying for an amendment to the internal revenue laws so that taxes upon the various industrial processes involved in articles of manufacture may fall upon those who make the several processes; which was referred to the Committee on Finance.

He also presented the petition of Stephen R. Parkhurst, praying for an extension of his patent for ginning cotton and burring wool; which was referred to the Committee on Patents and the Patent Office.

Mr. HOWARD presented the petition of Moses A. Commins, and others, citizens of Fairfax county, Virginia, who were Unionists during the late war, praying for indemnity for losses sustained by them by reason of the military occupation of that section; which was referred to the Committee on Military Affairs and the Militia.

Mr. SUMNER presented a petition of citizens of Massachusetts, praying Congress to impose such conditions upon the rebel States as shall punish treason at least with ineligibility to office and loss of power, and reward loyalty with confidence and honor, and which shall demand as an evidence of loyalty on the part of those States the abolition of all distinctions in their constitutions and laws on account of color or race; which was referred to the joint committee on reconstruction.

Mr. SUMNER. I also offer another petition from citizens of Philadelphia, chiefly connected with literature, among them some ladies well known as authoresses—Sarah Josepha Hale, Grace Greenwood, and Ann S. Stephens—asking for the adoption by Congress of an international copyright law. I ask the reference of this petition to the Committee on Foreign Relations.

It was so referred.

Mr. WADE. I present a petition, numerously signed by citizens of Ohio, praying Congress—

I. Not to restore any State that has rebelled and warred against the United States to its place in power as a governing partner in the Union till adequate security has been obtained against its renewing the attempt to secede.

II. Not to allow any distinction on account of color or descent in the laws or municipal regulations of the District of Columbia.

III. To propose for ratification by the several States amendments to the Constitution, substantially as follows:

1. The Union of the United States of America shall be perpetual.

2. If, by the constitution or laws of any State, persons are denied, on account of their race or color, the right of voting equally with others, then those inhabitants of that race or color shall not be counted in determining its number of Representatives in Congress.

3. That the national faith of the Union shall be forever sacred; and any State which shall be hereafter admitted or restored to this Union shall thereby, as it becomes a partner in the national power and treasure, assume its proportionate share of the national responsibilities.

4. That no State which shall hereafter be admitted into this Union, or which may have attempted to withdraw from it, shall make any distinction in its constitution, laws, or municipal regulations, on account of color or descent, or any payments, either by the State or the United States, for emancipated slaves.

5. Congress shall have power to enforce these articles by appropriate legislation.

I move that this petition be referred to the committee on reconstruction.

The motion was agreed to.

Mr. ANTHONY presented the petition of Edmund F. Prentiss, of the second Rhode

Island infantry, praying for a bounty of $100, to which he claims to be entitled; which was referred to the Committee on Military Affairs and the Militia.

Mr. MORRILL presented a petition of brewers of the District of Columbia, praying for the passage of an act incorporating the Brewers' Association of the District of Columbia; which was referred to the Committee on the District of Columbia.

Mr. YATES presented a petition of United States assistant assessors of the first district of Illinois, praying for an increase of pay; which was referred to the Committee on Finance.

He also presented a petition of citizens of Illinois, praying for the enactment of just and equal laws for the regulation of inter-State insurances of all kinds; which was referred to the Committee on Commerce.

Mr. CRAGIN presented the petition of Jane E. Miles, widow of William D. Miles, praying to be allowed a pension; which was referred to the Committee on Pensions.

REPORTS OF COMMITTEES.

Mr. CLARK, from the Committee on the Judiciary, to whom was referred a bill (H. R. No. 238) to amend an act entitled "An act relating to *habeas corpus*, and regulating judicial proceedings in certain cases," approved March 3, 1863, reported it with an amendment.

Mr. LANE, of Indiana, from the Committee on Pensions, to whom was referred a bill (H. R. No. 266) granting a pension to Mrs. Isabella Fogg, of the State of Maine, reported it without amendment.

He also, from the same committee, to whom was referred the amendment of the House of Representatives to the bill of the Senate (S. No. 82) granting a pension to Sarah Fitzgibbon, reported it with a recommendation that the Senate concur therein.

Mr. WILLIAMS, from the Committee on Claims, to whom was referred the petition of Aaron Van Camp and Virginius P. Chapin, praying for indemnity for the alleged illegal seizure and confiscation of their property at Apia, in the Navigator's Islands, by the United States consul at those islands, submitted an adverse report; which was ordered to be printed.

Mr. CHANDLER, from the Committee on Commerce, to whom was referred a bill (H. R. No. 11) to facilitate commercial, postal, and military communication among the several States, reported it without amendment.

Mr. YATES, from the Committee on the District of Columbia, to whom was referred a bill (S. No. 175) to incorporate the Pharmaceutical Association of the District of Columbia, reported it without amendment.

REPORT RECOMMITTED.

Mr. POMEROY. I move that the report of the Committee on Claims, on the petition of Clara Moore, widow of Ely Moore, deceased, praying for the payment to her of the amount of the claim of her husband for sums paid for additional clerks and office accommodations in the register's office in Lecompton, Douglas county, Kansas, be recommitted to that committee with the papers which have been received since the report was made. The case was reported upon before those papers were received.

The motion was agreed to, and the report was recommitted, and the additional papers referred to the Committee on Claims.

BILLS INTRODUCED.

Mr. HOWARD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 242) to amend an act entitled "An act making a grant of alternate sections of the public lands to the State of Michigan to aid in the construction of certain railroads in said State, and for other purposes," approved June 3, 1856; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. CHANDLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 243) to extend the time for the reversion to the United States of the lands granted by Congress to aid in the construction of a railroad from Amboy, by Hillsdale and Lansing, to some point on or near Traverse bay, in the State of Michigan, and for the completion of said road; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. CONNESS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 244) granting lands to aid in the construction of a railroad from the city of Stockton to the town of Copperopolis, in the State of California; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. MORRILL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 245) to incorporate the Brewers' Association of the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 246) relating to public schools in the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 247) donating certain lots in the city of Washington for schools for colored children in the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 57) appointing a board of managers for the National Military Asylum; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

BURIAL OF SOLDIERS.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 58) respecting the burial of soldiers who died in the military service of the United States during the rebellion; which was read twice by its title.

Mr. WILSON. I do not see any necessity for referring this resolution to a committee, and if there be no objection I ask to have it put upon its passage now.

Mr. JOHNSON. I ask for the reading of it for information.

The Secretary read the resolution. It proposes to require the Secretary of War to take immediate measures to preserve from destruction the graves of the soldiers of the United States who fell in battle or died of disease in the field or in hospital during the war of rebellion, to secure suitable places in which they may be properly interred, and to have the grounds inclosed, so that the resting-places of the honored dead may be secured forever.

Mr. CONNESS. Is not that done now?

Mr. WILSON. In some places it is.

The PRESIDENT *pro tempore*. The Senator from Massachusetts asks for the present consideration of the resolution. Is there any objection?

Mr. JOHNSON. Of course I have no objection to it, but I will inquire whether there is any appropriation to meet the expense?

Mr. WILSON. We may insert in the Army appropriation bill whatever appropriation may be necessary on examination. It was thought better to pass the resolution now, by itself. Something has been done in this respect in many localities; but in many nothing has yet been done. I am told that in one State a field in which there were two hundred dead was plowed up and the remains were exposed to view. A gentleman who was on another battle-field, the other day told me that the remains of many soldiers could be seen, the rains having washed away the earth that covered them. It is to be remembered that we have many hundred battle-fields and places where men have fallen; and I think it is important to attend to every part of the country in this respect. It cannot cost a great sum, and I have no doubt Congress and the country will be willing to vote whatever may be necessary for this purpose, and we can put it in an appropriation bill.

The PRESIDENT *pro tempore*. No objection being made to the present consideration of the resolution, it is now before the Senate as in Committee of the Whole.

The joint resolution was reported to the Senate, ordered to engrossed for a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House of Representatives had passed a bill (H. R. No. 453) for the relief of Cornelius B. Gold, late acting assistant paymaster United States Navy, in which it requested the concurrence of the Senate.

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

A bill (S. No. 80) for the relief of J. B. Rittenhouse, fleet paymaster of the Pacific squadron; and

A bill (S. No. 199) to establish the collection district of Port Huron, and the collection district of Michigan, and to extend the district of Puget Sound.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills and joint resolution; which were thereupon signed by the President *pro tempore*:

A bill (S. No. 85) granting to the State of Wisconsin a donation of public lands to aid in the construction of a breakwater and harbor and ship-canal at the head of Sturgeon bay, in the county of Door, in said State, to connect the waters of Green bay with Lake Michigan, in said State;

A bill (S. No. 107) to provide for a term of the district court for the district of Minnesota to be held at the city of Winona, in said district;

A bill (S. No. 165) more effectually to provide for the punishment of certain crimes against the United States;

A bill (S. No. 216) to provide for the transfer of the custody of the library of the Smithsonian Institution to the Library of Congress;

A joint resolution (S. R. No. 2) for the restoration of Commanders William Reynolds and Melancton B. Woolsey, United States Navy, to the active list from the reserved list; and

A bill (S. No. 94) to amend the act entitled "An act for the relief of seamen and others borne on the books of vessels wrecked or lost in the naval service," approved July 4, 1864, and for other purposes.

REPRESENTATION OF SOUTHERN STATES.

Mr. STEWART. I desire to take up Senate joint resolution No. 48, setting forth certain conditions upon which the States, the people of which have been lately in rebellion against the United States, shall be restored to their representation in Congress. I move to discharge the committee of fifteen from its consideration, and to make the resolution the special order for to-morrow at one o'clock.

The PRESIDENT *pro tempore*. The joint resolution is in the hands of the committee of fifteen. The Senator from Nevada moves that the committee be discharged from the further consideration of that resolution.

Mr. STEWART. I wish to make a few remarks on that motion. The importance of this subject must be my excuse for calling the attention of the Senate to it at this time.

The Senate are aware that I have from time to time since Congress convened alluded to the fact that we were in a false position by reason of having no plan before the country by which the Union might be restored. The country is anxious that Congress shall say what it will

do. Every person who has taken any pains to understand the public feeling on this question must realize that to the fullest possible extent. There is no avoiding the responsibility, and it has come to a pass where time is the essence of the entire transaction. We must not only have a plan, but we must have a plan speedily, or it will avail nothing.

I was told constantly when I complained that no person produced a plan, and I was told in rather a derisive manner, "You produce a plan." I studied for a long time what I conceived to be the sentiment of the country, and without regard to preconceived notions, without regard to my own preferences one way or another, I endeavored to produce a plan which should embody the principles of mercy and justice, and as far as possible reflect the sentiment of the country.

The outside world is now saying that Congress does not intend to adopt this or any other plan; and although I repudiate the charge as without the slightest foundation, it is still constantly charged in the public press that there is no sincerity in this matter on the part of Congress; that the only object in pretending to be for some plan of restoration is to use Senators and Representatives for other purposes. This I repudiate; but still I cannot avoid feeling the absolute necessity resting upon me to do all in my power to secure a plan on which we can go before the country. Union men everywhere say to us, "We cannot approve of the President's plan altogether, but we want some other plan; what is your plan? Is it true that you are seeking a dissolution of the Union? Is it true that you will not consent to any proposition for restoration? Is it true that you will not allow the Union to be restored upon any terms?" Every man who goes out from here to talk to the people has got to pledge his honor that such is not the fact, or they will not hear him. I and other speakers have pledged our honors that Congress would act, and that speedily, on this important question.

It is also important that whatever plan be adopted, shall be an entirety and shall cover the whole subject. Isolated propositions will not answer the purpose. In almost every scheme it happens that there is something good which we like, and that there is at the same time something in it that we do not like, but which we vote for in order to get the good the bill contains. Very few bills pass this House or the other where each member approves of all their provisions, but he is willing to take the good with the evil. In order that any plan shall be adopted here, it is necessary that it shall contain every proposition essential to a final settlement, and then it can be sustained not only here but elsewhere.

The proposition which I have presented in this resolution—I speak not of its entire details but of its general sentiments—has been indorsed by every leading Union newspaper throughout the North, except, perhaps, the New York Times, and I do not know that it has taken any ground one way or the other. The great body of the leading Union newspapers of the North have indorsed it because it looks to a final settlement of the question; and I have received, and other members of Congress have received, hundreds of letters urging that this or some kindred plan be adopted which will put an end to our troubles and show the country that we are willing that the Union shall be restored upon some terms. I do not believe that any one single isolated proposition which does not look to a finality can be adopted here or elsewhere; but I believe that any liberal and just plan which concludes all the questions and gives us peace can be adopted and will be satisfactory to the country.

Since this resolution was first introduced the discussion regarding the difficulties that might arise under it has suggested to me some modifications; and after consultation with leading Union men, whom I believe to be sincere in their endeavors to bring about harmony and concord and have a final settlement, I have been led to make some changes, not in the general principles, but in the mode of arriving at the conclusion. I will read the essential portion of the plan. The preamble and the last resolution are unnecessary. The essential portion of the plan is contained in the two sections of my proposed constitutional amendment. The first section reads as follows:

SEC. 1. No discrimination in civil rights and disabilities, nor in the exercise of the elective franchise, shall exist among the population of the United States (Indians not taxed excepted) on account of race, color, or previous condition of servitude; but in case of restrictive qualifications by the States, this provision shall not work disfranchisement of any persons now entitled to vote.

This constitutional amendment places those who are to vote hereafter upon the same footing without regard to color. However men may feel with regard to the abstract question of negro suffrage, all must concur that restrictions may be imposed under this section that will so regulate the question of suffrage that no injury will result to the country. If the States wish to impose an educational test they can educate their young men up to it, and it is a slander upon the white man to say that he cannot compete with the negro under any reasonable test so as to maintain the Government intact. This provision avoids all the great objections that were made to enfranchising the negroes *en masse*, and provides a chance to all those who are to come after us to rise in the scale of humanity alike.

The second section of this constitutional amendment reads as follows:

SEC. 2. Obligations and liabilities incurred in aid of insurrection or rebellion, and claims for compensation on account of emancipation of slaves, are void, and shall not be assumed nor paid by any State or the United States.

Some may say that this provision is unnecessary, but it will place a question that has been agitated at rest and benefit our national finances and save future agitation upon the question. Then there is one other section essential to the plan to popularize it, and that is in a joint resolution, not a constitutional amendment, in this form:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever any one of the eleven States whose inhabitants were lately in insurrection, through its Legislature, having been first authorized so to do by a popular vote of its present electors, including all who would be qualified to vote under the laws thereof as they existed in 1860, shall have ratified the foregoing amendments to the Constitution of the United States, and shall have modified its constitution and laws in conformity therewith, then, and in that case, such State shall be recognized as having fully and validly resumed its former relations with this Government, and its chosen representatives shall be admitted into the two Houses of the national Legislature, and a general amnesty shall exist in regard to all persons in such State who were in any way connected with armed opposition to the Government of the United States, wholly relieving them from all pains, penalties, or disabilities to which they may have become liable by reason of their connection with said insurrection.

That is all that there is essential in the entire plan. It provides for every question that has been raised. It provides for the question of the representation of the southern States; because, if the suffrage is extended to all, then it is proper that representation shall be based upon the entire population. It therefore disposes of all the questions connected with changing the basis of representation; and I tell you that there is more prejudice against changing the fundamental basis of representation which exists by the compromises of the Constitution, than there is to extending civil and political rights to the blacks, under such terms as shall not injure or impair the efficacy of the Government. Such a proposition will be harder to pass; and when you have done it, what have you accomplished?

The advantage of this plan is that it submits a proposition to the South for their voluntary action; and let me here remark that I am thoroughly satisfied that, whatever we may do to protect the negro, if it is done otherwise than by the voluntary action of the South, unless we can offer them inducements to accomplish it, it must result in one of two things. If you protect the negro by force, in a hostile country, you are inevitably driven to the necessity of destroying his enemies, and that involves the enslavement and final extermination of the whites of the South. There is nothing more certain than that; and in that the best minds of the North concur. If you do not resort to the voluntary action of the South, but leave the negro as he is, then you may be charged, and justly, with having violated your pledges. Force must ultimately result in the extermination of either the blacks or the whites. While I am upon this point, I do not think I can state it as clearly and as forcibly as it has been already stated by an able statesman, John A. Andrew, of Massachusetts; and I desire to read a letter from him on the subject. I will read you, also, letters from the South, to show you that the opinion of thinking men is not so far apart but that if we rest upon a just basis we can come together. I must read this letter of Mr. Andrew; it is worthy to be read, and to be preserved, and to become a part of the records of this country, because it is patriotic, short, concise, comprehensive. It emanates from a man who thinks. It is as follows:

BOSTON, *March* 20, 1866.

MY DEAR SIR: I have read with great satisfaction and interest the resolutions proposed by you last week in the Senate concerning the reorganization of the States lately in rebellion.

If it was convenient to do so at this moment I might, perhaps, take the liberty of writing you at some length, but it is enough for my present purpose to declare my hearty sympathy with the general design and plan they indicate.

I beg you will allow me to call your attention to a copy of a valedictory address delivered to the General Court of Massachusetts on the 4th of January last, in which, with some elaboration, I attempted to discuss the same general subject, and, if I correctly understand the resolutions you offered in the Senate, I think that you and myself are in entire agreement.

Now comes the important part of the letter, and I call on Senators to reflect upon the axioms that are here laid down.

It seems plain to me that the colored men must be invested with the rights, both political and civil, which pertain to citizenship, according to laws which shall impart political honors according to capacity and desert, and not according to descent or the accidents of birth, or else they must be exterminated. I think that the former rebels must be reinstated in their political rights, or they must be exterminated. I think, also, that the same body of voters in each State who carried it out into rebellion must bring it back again into loyalty. Any other "reconstruction" is dangerous and delusive. I pray you to excuse both the brevity of this note and the liberty I take in expressing opinions so explicitly, and believe me, faithfully your friend and servant,

JOHN A. ANDREW.

Hon. WILLIAM M. STEWART,
United States Senate, Washington, D. C.

Since that letter was written it has been authenticated in one particular at least. Tennessee, which we have all been anxious to restore at once, has had an election, the military having been removed, and I believe that election has been generally in the hands of those who are violating the test oath. It is idle to suppose that a minority, where there are no bayonets to back them, can control the polls. Consequently, you must deal with the majority, leaving out of the question the irresponsible minority. Senators, reflect upon it; what man among you would be willing to go to the polls with a little clique of forty or fifty, and have three hundred or four hundred of your former neighbors against you, and attempt to enforce exclusionary laws upon them? Would you not give way, as they did in Tennessee? Educated as we are in republican institutions to the idea that the majority must rule, would not the mere moral force of the majority change the thing into their hands? We must deal with majorities, or abandon our theory of government. Then, I say, submit to the majority in the South such propositions as you believe to be just, such propositions as will relieve your pledges to all classes of men, and wait for their action.

You may say that it is idle to submit this proposition, that they will not act on it fairly. I deny that they will not act fairly. I deny, at all events, that we have any right to assume that they will not until we try them. I am happy to call the attention of the Senate to the recent action of Georgia tending in this direction, which has gone much further than I supposed

any southern State had gone or would now go; and her action has been by a majority. If the Senate will pardon me, I will read a letter from a distinguished citizen of Georgia in reply to an inquiry addressed to him by me on this subject. I endeavored to ascertain whether, if the thing were put to them for their voluntary action, there was any possibility of their coming up to the ideas of justice and right so deeply ingrafted in the hearts of the loyal North; and in response to that inquiry I have received a letter which I will read.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday, which is the bill (S. No. 103) to reorganize the judiciary of the United States.

Mr. STEWART. Will the Senate give me about five or ten minutes more? ["Yes." "Go on."]

Mr. TRUMBULL. I have no objection to that; but it was my intention to call up the veto message to-day at one o'clock.

Mr. STEWART. I only want a few minutes.

The PRESIDENT *pro tempore*. The Senator from Nevada may proceed by the common consent of the Senate.

Mr. STEWART. The letter to which I refer is as follows:

WASHINGTON, D. C., *April* 4, 1866.

DEAR SIR: In answer to your inquiries touching the sentiments and feelings of the people of Georgia toward the freedmen, and the legal *status* of this class of population in the State, &c., allow me briefly to say that the address delivered by me on the 22d of February last before the Legislature (a copy of which I herewith hand you) expresses very fully and clearly my own opinions and feelings upon the subjects of your inquiry. This address was written and printed as you now see it, before its delivery. It was delivered *verbatim* as you now read it, that there might be no mistake about it. It was as it now stands unanimously indorsed by the Senate in a joint resolution which was concurred in in the House without dissent, and was ordered to be spread upon the Journals of both Houses. This I refer you to as a better and more reliable index of the feelings and views of the people of the State on this subject than any bare individual opinion I might entertain or express. The Legislature of the State, it is to be presumed, is as correct an exponent of the general feelings and views of the State upon any political question as any that can be obtained from any quarter. In addition to this, the Legislature subsequently evinced their principles by their works in passing an act which I also inclose to you. This act speaks for itself. It is short, concise, pointed, as well as comprehensive. It secures to the colored race the right to contract and to enforce contracts, the right to sue and to be sued, the right to testify in the courts subject to the same rules that govern the testimony of whites, and it subjects them to the same punishments for all offenses as the whites. In these respects, embracing all essential civil rights, all classes in Georgia now stand equal before the law. There is no discrimination in these particulars on account of race or color.

Please excuse this hasty note. I have no time to go more in detail.

Yours, most respectfully,

ALEXANDER H. STEPHENS.

Hon. WILLIAM M. STEWART, *United States Senate.*

I beg leave to read the law of Georgia, sent to me by Mr. Stephens. I did not know of its existence until this morning. I regard it as an indication that if we put up the right standard there is a chance to get men North and South to walk up to it. This is the law of Georgia:

[No. 90.]

An act to define the term "persons of color," and to declare the rights of such persons.

SEC. 1. *Be it enacted, &c.*, That all negroes, mulattoes, mestizoes, and their descendants having one eighth negro or African blood in their veins, shall be known in this State as "persons of color."

SEC. 2. *Be it further enacted*, That persons of color shall have the right to make and enforce contracts, to sue, be sued, to be parties and give evidence, to inherit, to purchase, and to have full and equal benefit of all laws and proceedings for the security of person and estate, and shall not be subjected to any other or different punishment, pain, or penalty, for the commission of any act or offense, than such as are prescribed for white persons committing like acts or offenses.

The third section repeals all conflicting laws.

Mr. WADE. When was that passed?

Mr. STEWART. On the 17th day of March, 1866. When the Empire State of the South is willing to go thus far—it is quite as far as your civil rights bill here goes; it contains the same provisions as your civil rights bill—when by the voluntary action of her Legislature Georgia thus provides, is it not all-important that we shall agree on a plan and present it to the South before we do anything else? The civil rights bill may be all very well, but it does not reach the real evil All must realize the fact that the civil rights bill does not reach the real and substantial evil. We all know very well how such laws operate in States hostile to their principles. You recollect the fugitive slave law to which the North was hostile; you recollect that it was entirely inoperative there. So in the South any law to which the people there are hostile must be enforced by the sword or not enforced at all. Every man knows that. If we can do nothing else; if it is impossible to restore this Union without enforcing these laws by the sword, so as to redeem our pledges and protect loyal men, then it is the duty of this nation to use the sword; but if there is another course, if by putting the question to the South and asking them if they will adopt our proposition and grant these people their political and civil rights we can secure the result, that course should first be tried; let force come only when that fails. First submit the question, particularly when you see the Empire State of the South marching so near the point we are desirous to attain. How would a voluntary proposition of this kind operate upon the South? In the first place there would be parties there. The party who would contend for the political and civil rights of the negro would be separated from the other, and as soon as that party came into power and got a majority it would be reënforced by the loyal blacks, who would be allowed to vote under the restrictions they might adopt. Thus it would be strong; but if you impose negro suffrage by force against all the South, and allow no effort on their own part, you make them all enemies, you bring on conflicts which humane men must seek to avoid.

Then I say that it is important that we should act immediately upon this question; your other bills may follow, your civil rights bill and everything else may follow. The grand thing is to commence, so that action may be inaugurated at once. Your candidates in the North are working in the dark; they do not know the plan that Congress is going to adopt. They are struggling in the dark. I say the whole country is in confusion over what will be the platform of Congress. Any man that goes from here to talk to the people must promise a platform; and why promise? Why not perform at once?

There is another consideration that, if we would do anything for the freedmen, makes a proposition of this kind a paramount necessity. A proclamation of the President appeared in the papers yesterday which declared that peace was restored throughout the South, except in Texas. That, I suppose, restores the writ of *habeas corpus*. That, I suppose, renders the exercise of force, if not impossible, rather impracticable, under the present condition of things. But this proclamation does not do some things; it does not repeal the test oath; it does not remove disabilities; and we have something left yet to offer for justice. If this offer be made, and the South do not accept it, and injustice be subsequently done, the loyal masses of the North will then see to it that justice is done. They demand justice; but they demand of us, while we pass laws, to make propositions which shall secure justice; and I believe that this matter is of so much importance, to be disposed of at once, that the whole attention of Congress should be directed to it; because, I tell you frankly, that if no plan is presented by Congress we shall have anarchy, or we shall have to adopt the plan of the President. We shall have to choose between his plan and anarchy. That will be the position in which the people will be placed in less than three months, unless we say upon what terms the southern States shall resume their former relations to the Union. The question will be put to the loyal men, will you have anarchy and bloodshed yourselves, or will you allow the negro to be sacrificed, and break your pledges? How that question, if it comes in that form, will be ultimately decided, an all-wise Providence only knows.

I appeal to the Senate to take up this proposition, to put it in some form, and to pass it. Let us send it to the country, and stand upon some foundation. If I have not embodied enough of the particular views of different gentlemen in it, let me hear their views. Let us agree upon anything on which we can compromise. The views of the resolution were no original views expressed by me, but they were taken from yourselves; they were taken from the Senate; they were taken from the country, and incorporated in this resolution; and I ask of you to make it the special order, and give it your special attention. On that motion I call for the yeas and nays.

The PRESIDENT *pro tempore*. The motion before the Senate is that the committee of fifteen be discharged from the further consideration of the joint resolution alluded to by the Senator from Nevada.

Mr. TRUMBULL. It was understood that we would to-day proceed to the consideration of the veto message of the President of the United States, and in pursuance of that understanding I move that the present and all prior orders be postponed, and that the Senate now proceed to the reconsideration of the bill returned by the President with his objections.

Mr. STEWART. Cannot I get a vote on my motion?

Several SENATORS. Not yet.

Mr. TRUMBULL. I supposed there might be objection——

Mr. STEWART. I think it is important to have a vote. I want a vote.

Mr. JOHNSON. You cannot get a vote to-day.

Mr. STEWART. A vote on the question of discharging the committee?

Mr. JOHNSON. Before the vote is taken I desire to say a word or two, and that will take up the time of the Senate.

Mr. TRUMBULL. Under these circumstances the Senator from Nevada will not persist, I presume.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Illinois.

Mr. STEWART. I shall press a vote to-morrow morning on my motion.

The motion of Mr. TRUMBULL was agreed to.

CIVIL RIGHTS—VETO MESSAGE.

The Senate proceeded to reconsider the bill (S. No. 61) to protect all persons in the United States in their civil rights and furnish the means of their vindication, returned by the President of the United States with his objections.

The PRESIDENT *pro tempore*. This bill having been returned with the objections of the President of the United States, the bill is now to be reconsidered; and the question is, Shall the bill pass, the objections of the President notwithstanding?

Mr. TRUMBULL. Mr. President, I fully share with the President of the United States the regret expressed that he was unable to sign the bill "to protect all persons in the United States in their civil rights, and secure the means of their vindication." I regret it on my own account, because the just expectations raised when this bill was presented to the President before its introduction into the Senate have been disappointed. I regret it on the President's account, because it is calculated to alienate him from those who elevated him to power, and would gladly have rallied around his Administration to sustain him in the principles upon which he was elected. But above all, sir, I regret it for liberty's sake, to secure which to ourselves and our posterity this Government was founded. Yet, if the bill is unconstitutional or unjust to the whole people, I would not have had the President approve it. That its provisions are not unjust to the whole or any portion of the people, nor unconsti-

tutional, I shall endeavor to show by a candid and dispassionate examination of the President's various objections.

He begins these objections with the very first lines of the bill, which declare that "all persons born in the United States, and not subject to any foreign Power, (excluding Indians not taxed,) are citizens of the United States." The bill as originally introduced did not contain this provision. It was believed by myself and many others that all native-born persons since the abolition of slavery were citizens of the United States. This was the opinion of Mr. Bates, the Attorney General during Mr. Lincoln's Administration, the opinion adopted by his Administration and acted upon since by all departments of the Executive Government, including the Secretary of State, who has issued passports to persons of color recognizing them as citizens. It was the opinion expressed by Mr. Marcy when Secretary of State that all persons born in the United States were citizens of the United States, not referring, of course, to slaves, slavery at that time existing in the country. The President does not object to this declaration in the bill as unconstitutional. He does, however, say that—

"It does not purport to declare or confer any other right of citizenship than Federal citizenship. It does not purport to give these classes of persons any *status* as citizens of States, except that which may result from their *status* as citizens of the United States. The power to confer the right of State citizenship is just as exclusively with the several States as the power to confer the right of Federal citizenship is with Congress."

We all know that no State has authority to make a citizen of the United States. The Constitution of the United States vests in Congress the sole power of naturalization, and it may make a citizen of a foreigner; but is it true that when a person becomes a citizen of the United States he is not also a citizen of every State where he may happen to be? On this point I will refer to a decision pronounced by the Supreme Court of the United States, delivered by Chief Justice Marshall, the most eminent jurist who ever sat upon an American bench. In the case of Gassies *vs.* Ballon, reported in 6 Peters, the Chief Justice, in delivering the opinion of the court, says:

"The defendant in error is alleged in the proceedings to be a citizen of the United States, naturalized in Louisiana, and residing there. This is equivalent to an averment that he is a citizen of that State. *A citizen of the United States residing in any State of the Union is a citizen of that State.*"

Mr. JOHNSON. From what page does the Senator read?

Mr. TRUMBULL. Sixth Peters, page 762. This was the only point in the case. And, sir, unless this authority is to be disregarded, the President of the United States is mistaken in his law, and it is not true that when a man is made a citizen of the United States he is not also a citizen of any State where he may choose to reside.

The President next tells us that—

"The right of Federal citizenship thus to be conferred on the several excepted races before mentioned is now for the first time proposed to be given by law."

This is not a misapprehension of the law, but a mistake in fact, as will appear by references to which I shall call the attention of the Senate, and which will show that the President's facts are as bad as his law. If the Senator from Maryland [Mr. JOHNSON] wishes to take a note of the authorities he will find in Lawrence's Wheaton on International Law the various statutes of the United States referred to upon this subject. I read from page 897 of that work:

"There have been in the United States several cases of collective naturalization by annexation of territory. By the third article of the first convention of April 30, 1800, with France, for the cession of Louisiana, it is provided that the inhabitants of the ceded territory shall be incorporated into the Union of the United States, and admitted, as soon as possible, according to the principles of the Federal Constitution to the enjoyment of the rights, advantages, and immunities of citizens of the United States. (Statutes-at-Large, vol. 8, p. 202.) A provision to the same effect is to be found in the sixth article of the treaty of 1819, with Spain, for the purchase of the Floridas. (*Ib.*, p. 256.) By the eighth article of the treaty of 1848, with Mexico, those Mexicans who remained in the territories ceded, and who did not declare their intention within one year to continue Mexican citizens were to be deemed citizens of the United States. (*Ib.*, vol. 9, p. 930.) By the annexation of Texas, under a resolution of Congress of March 1, 1845, and its admission into the Union on an equal footing with the original States, December 29, 1845, all the citizens of the former republic became, without any express declaration, citizens of the United States. (*Ib.*, vol. 5, p. 798; vol. 9, p. 108.)"

Again, at page 899:

"A collective naturalization may also take place of a class of persons, natives of the country or otherwise, and who, without any act on the part of the individuals, may be made citizens." * * * *

"In the United States it is incorrect to suppose that *alien*, as opposed to *citizen*, implies *foreigner* as respects the country. Indians are the *subjects* of the United States, and therefore are not, in mere right of home birth, citizens of the United States. Nor can they become citizens under the existing naturalization laws, but they may be made citizens by some competent act of the General Government, by treaty or otherwise." * * * * * * *

"By the treaty of September 27, 1830, provision is made for such heads of families of the Choctaws as desire to remain and become citizens of the United States. (Statutes-at-Large, vol. 7, p. 335.) There is also a provision in the treaty of December 29, 1835, with the Cherokees in reference to such individuals and families as are averse to a removal west of the Mississippi, and are desirous to become citizens of the States where they reside. (*Ib.*, p. 483.) By the act of March 3, 1843, it is provided that, on the completion of certain arrangements for partitioning the lands of the tribe among its members, 'the Stockbridge tribe of Indians, and each and every of them, shall be deemed to be, and from that time forth are hereby declared to be, citizens of the United States to all intents and purposes, and shall be entitled to all rights, privileges, and immunities of such citizens.' (See Statutes-at-Large, vol. 5, p. 647.)"

By these various treaties, resolutions, and acts of Congress, it will be observed that Frenchmen and Spaniards, Mexicans and Indians, have at different times been made citizens of the United States; and among them some of the very classes of persons mentioned in this bill; and yet the President tells us that this right of Federal citizenship is now for the first time proposed to be given by law.

"If," says the President, "as is claimed by many, all persons who are native-born already are, by virtue of the Constitution, citizens of the United States, the passage of the pending bill cannot be necessary to make them such."

That is true; but is the President to learn now for the first time that rule to be found in the very horn-books of the law, that an act declaring what the law is, is one of the most common of acts passed by legislative bodies? When there is any question as to what the law is, and for greater certainty, it is the most common thing in the world to pass a statute declaring it. My opinion is, such was the opinion of the Attorney General, such the opinion of the present Secretary of State, such the opinion of Mr. Lincoln's Administration in all its departments, such I believe to be the prevailing opinion in the United States, that all native-born persons not subject to a foreign Power are by virtue of their birth citizens of the United States. But some dispute this; and hence for greater certainty it is proper to pass this law, and the fact of its being a declaratory act is now made a reason for disapproving it by a President.

"But if such is not the law," says the President, "the grave question presents itself, whether, when eleven of the thirty-six States are unrepresented in Congress at the present time, it is sound policy to make our entire colored population and all other excepted classes citizens of the United States?" This is a standing objection in all the veto messages of the President, not urged, it seems, against all bills, for the President tells us in this message that he has signed some forty bills. Why is it made an objection to this bill? The President does not state it as an objection applicable to this particular bill. It is a general objection which he makes applicable alike to all bills; and if there is anything in it, no bill can pass the Congress of the United States till these States are represented here. Sir, whose fault is it that eleven States are not represented? By what fault of theirs is it that twenty-five loyal States which have stood by this Union and by the Constitution are to be deprived of their right to legislate? If the reason assigned is a good one now, it has been a good one all the time for the last five years. If the fact that some States have rebelled against the Government is to take from the Government the right to legislate, then the criminal is to take advantage of his crime; the innocent are to be punished for the guilty.

Within a few days the President has issued a proclamation, not of peace, as the Senator from Nevada [Mr. STEWART] seemed to suppose, not a proclamation declaring that the rebellion is over, but that in certain States it is over. The President does not tell us that Texas, one of the States that was in rebellion, is in a condition to be represented here; and if we are to wait for these eleven States before legislating, must we not wait for Texas? The same principle would require us to wait for Texas as for the others, and she has not yet reorganized any form of government. Those States which have undertaken to reorganize have not yet been recognized as having a republican form of government entitling them to representation. The Representatives chosen by most of them are persons fresh from the rebel congress or from the rebel armies, men who could not take the requisite oath to entitle them to admission to seats. Are we to abstain from all necessary legislation for the nation until these States shall be admitted to representation, which as organized refuse to send Representatives entitled to admission, and insist on thrusting into Congress men whose hands are dripping with the blood of loyal men? Is the vice president of the rebel confederacy, is his colleague, one of the senators in the rebel congress, to come here to legislate for the loyal people of this country? Are the men who organized a government that carried on a four years' war against us, as the result of which this nation has had to expend more than three thousand million dollars, and as a consequence of which more than a quarter of a million of patriotic heroes have laid down their lives upon the battle-field and in Army hospitals—are those men to come here to legislate for the loyal people of this country?

Sir, States can only be represented through State organizations. The members of this body can only be elected by State Legislatures. Members of the other House can only be elected in pursuance of State laws. Hence, as preliminary to any representation of a State in either House of Congress, it must first be determined whether there is a State government, whether there is a State Legislature having authority to elect Senators, having authority to provide laws under which Representatives may be elected. There certainly was a time when there were no such Legislatures in any of these eleven States. There was a time when the only organized government in either of them was hostile to the United States, when every officer in it had abjured his allegiance to the United States and sworn allegiance to a government hostile thereto. Will anybody pretend that while the State government was in such hands it was entitled to representation in either House of Congress? If not, shall we not inquire whether it has passed out of such hands and into the hands of loyal men? And who but Congress is competent to make this inquiry? Mr. Lincoln, in the last speech he ever made, alluding to his plan of reconstruction, said:

"I distinctly stated that this was not the only plan which might possibly be acceptable; *and I also distinctly protested that the Executive claimed no right to say when or whether members should be admitted to seats in Congress from such States.*"

Sir, this proposition that no bill is to be passed because certain States are unrepresented, when their being unrepresented is their own fault, would if sanctioned and acted upon be utterly destructive of the Government.

But the President tells us that "the bill, in effect, proposes a discrimination against large numbers of intelligent, worthy, and patriotic foreigners, and in favor of the negro." Is that true? What is the bill? It declares that there

shall be no distinction in civil rights between any other race or color and the white race. It declares that there shall be no different punishment inflicted on a colored man in consequence of his color than that which is inflicted on a white man for the same offense. Is that a discrimination in favor of the negro and against the foreigner—a bill the only effect of which is to preserve equality of rights?

But perhaps it may be replied to this, that the bill proposes to make a citizen of every person born in the United States, and therefore it discriminates in that respect against the foreigner. Not so; foreigners are all upon the same footing, whether black or white. The white child who is born in the United States a citizen, is not to be presumed at its birth to be the equal intellectually with the worthy, intelligent, and patriotic foreigner who emigrates to this country. And as is suggested by a Senator behind me, even the infant child of a foreigner born in this land is a citizen of the United States long before his father. Is this therefore a discrimination against foreigners?

The President also has an objection to the making citizens of Chinese and Gypsies. I am told that but few Chinese are born in this country, and where the Gypsies are born I never knew. [Laughter.] Like Topsy, it is questionable whether they were born at all, but "just come." [Laughter.]

But, sir, perhaps the best answer to this objection, that the bill proposes to make citizens of Chinese and Gypsies, and this reference to the foreigners, is to be found in a speech delivered in this body by a Senator occupying, I think, the seat now occupied across the Chamber by my friend from Oregon, [Mr. WILLIAMS,] less than six years ago, in reply to a message sent to this body by Mr. Buchanan, the then President of the United States, returning, with his objections, what was known as the homestead bill. On that occasion the Senator to whom I allude said:

"But this idea about poor 'foreigners,' somehow or other, bewilders and haunts the imagination of a great many." * * * * * * * *

"I am constrained to say that I look upon this objection to the bill as a mere quibble on the part of the President, and as being hard-pressed for some excuse in withholding his approval of the measure; and his allusion to foreigners in this connection looks to me more like the *ad captandum* of the mere politician or demagogue, than a grave and sound reason to be offered by the President of the United States in a veto message upon so important a measure as the homestead bill."

Mr. SUMNER and Mr. JOHNSON. Who was the Senator?

Mr. TRUMBULL. That was the language of Senator Andrew Johnson, now President of the United States. [Laughter.] That is probably the best answer to this objection, though I should hardly have ventured to use such harsh language in reference to the President as to accuse him of quibbling and of demagoguery, and of playing the mere politician in sending a veto message to the Congress of the United States.

The President also makes some other allusions in this veto message of a similar character. For instance, he speaks of the impropriety of marriages between whites and blacks, and then he goes on to say, "I do not say that this bill repeals State laws on the subject of marriage between the two races." Then for what purpose is it introduced into this message? Not surely as an *ad captandum* argument to excite prejudice—the argument of a demagogue and a politician? Mr. Johnson could not do that, having condemned such "quibbles" in Mr. Buchanan.

The President further says:

"If it be granted that Congress can repeal all State laws discriminating between whites and blacks in the subjects covered by this bill, why, it may be asked, may not Congress repeal, in the same way, all State laws discriminating between the two races on the subjects of suffrage and office? If Congress can declare by law who shall hold lands, who shall testify, who shall have capacity to make a contract in a State, then Congress can by law also declare who, without regard to color or race, shall have the right to sit as a juror or as a judge, to hold any office, and, finally, to vote, 'in every State and Territory of the United States.'"

Perhaps the best answer I could give to this would be the answer of Andrew Johnson himself. He undertook to reorganize State governments in the disloyal States. When he did so, to whom did he extend the right of suffrage? To the blacks? No, sir; but he extended the right of suffrage to those who were authorized to vote under the laws of those States before the rebellion; and when urged to allow loyal blacks to vote, what was his answer? That he had no power; it was unconstitutional; but he has claimed and exercised the power to protect colored persons in their civil rights, and if it be true that protection in civil rights carries with it the right of suffrage, what becomes of the position which he assumed when he extended civil rights to the negroes that he had no constitutional power to extend to them the right to vote; that it was a right vested in the States with which he could not interfere?

But, sir, the granting of civil rights does not, and never did in this country, carry with it rights, or, more properly speaking, political privileges. A man may be a citizen in this country without a right to vote or without a right to hold office. The right to vote and hold office in the States depends upon the legislation of the various States; the right to hold certain offices under the Federal Government depends upon the Constitution of the United States. The President must be a natural-born citizen; and a Senator or Representative must be a citizen of the United States for a certain number of years before he is eligible to a seat either in this or the other House of Congress; so that the fact of being a citizen does not necessarily qualify a person for an office, nor does it necessarily authorize him to vote. Women are citizens; children are citizens; but they do not exercise the elective franchise by virtue of their citizenship. Foreigners, as is stated by the President in this message, before they are naturalized are protected in the rights enumerated in this bill, but because they possess those rights in most, if not all, the States, that carries with it no right to vote.

But, sir, what rights do citizens of the United States have? To be a citizen of the United States carries with it some rights; and what are they? They are those inherent, fundamental rights which belong to free citizens or free men in all countries, such as the rights enumerated in this bill, and they belong to them in all the States of the Union. The right of American citizenship means something. It does not mean, in the case of a foreigner, that when he is naturalized he is to be left entirely to the mercy of State legislation. He has a right when duly naturalized to go into any State of the Union and to reside there, and the United States Government will protect him in that right. It will protect a citizen of the United States, not only in one of the States of the Union, but it will protect him in foreign lands. Mr. Marcy, when Secretary of State, held that a citizen in a foreign country was entitled to the same protection that was extended by that Government to its own citizens. These rights belonging to the citizen, and known as natural rights, are defined by Blackstone in his definition of civil liberty to be:

"No other than natural liberty, so far restrained by human laws and no further, as is necessary and expedient to the general advantage of the public. In this definition of civil liberty it ought to be understood, or rather expressed, that the restraints introduced by the law should be *equal to all*, or as much so as the nature of things will admit."

"The equality of rights is the basis of a commonwealth" is said in a note to Kent, and Kent himself, in speaking of these rights, says:

"The absolute rights of individuals may be resolved into the right of personal security, the right of personal liberty, and the right to acquire and enjoy property. These rights have been justly considered, and frequently declared, by the people of this country to be natural, inherent, and inalienable."

What are they? "The right of personal security, the right of personal liberty, and the right to acquire and enjoy property;" and these are declared to be inalienable rights, belonging to every citizen of the United States, as such, no matter where he may be.

In the second volume of his Commentaries——

Mr. JOHNSON. What page?

Mr. TRUMBULL. Page 38.

Mr. JOHNSON. On what page is the other quotation to be found?

Mr. TRUMBULL. Page 610. I give the top paging. In the second volume of his Commentaries, page 38, Chancellor Kent says:

"The privileges and immunities conceded by the Constitution of the United States to citizens of the several States were to be confined to those which were, in their nature, fundamental, and belonged of right to the citizens of all free Governments. Such are the rights of protection of life and liberty, and to acquire and enjoy property."

The President, in his annual message, says:

"The American system rests on the assertion of the *equal* right of every man to life, liberty, and the pursuit of happiness."

There is a case reported in 10 Johnson which goes much further than this, and which decides, not simply that a citizen of the United States, as such, is entitled to protection in these rights, but that an alien enemy, who is permitted to reside in this country during a time of war, is to be protected in all these rights. In giving the opinion of the court in the case of Clarke *vs.* Morey, reported in 10 Johnson, 71, the court says:

"A lawful residence implies protection, and a capacity to sue and be sued."

I should like to inquire if the negro is lawfully in this country; and if not, where does he belong?

"A lawful residence implies protection, and a capacity to sue and be sued. A contrary doctrine would be repugnant to sound policy, no less than to justice and humanity.

"The right to sue, in such a case, rests on still broader ground than that of a mere municipal provision, for it has been frequently held that the law of nations is part of the common law. By the law of nations, an alien who comes to reside in a foreign country is entitled, so long as he conducts himself peaceably, to continue to reside there, under the public protection."

In the same opinion the learned judge who gave the opinion of the court says that this is the public law of Europe. It is international law; and every person residing in the United States is entitled to the protection of that law by the Federal Government, because the Federal Government has jurisdiction of such questions. American citizenship would be little worth if it did not carry protection with it.

How is it that every person born in these United States owes allegiance to the Government? Everything that he is or has, his property and his life, may be taken by the Government of the United States in its defense or to maintain the honor of the nation; and can it be that our ancestors struggled through a long war and set up this Government, and that the people of our day have struggled through another war, with all its sacrifices and all its desolation, to maintain it, and at last that we have got a Government which is all-powerful to command the obedience of the citizen, but has no power to afford him protection? Is that all that this boasted American citizenship amounts to? Go tell it, sir, to the father whose son was starved at Andersonville, or the widow whose husband was slain at Mission Ridge, or the little boy who leads his sightless father through the streets of your city, made blind by the winds and the sand of the southern coast, or the thousand other mangled heroes to be seen on every side, that this Government, in defense of which the son and the husband fell, the father lost his eyes, and the others were crippled, had the right to call these persons to its defense, but has no right to protect the survivors or their friends in any right whatever in any of the States. Sir, it cannot be. Such is not the meaning of our Constitution. Such is not the meaning of American citizenship. This Government, which would go to war to protect its meanest—I will not say citizen—inhabitant, if you please, in any foreign land whose rights were unjustly encroached upon, has certainly some power to protect its own citizens in their own country. Allegiance and protection are reciprocal rights.

I pass from the consideration of this first section of the bill to that of the second, which is objected to by the President as affording "discriminating protection to colored persons."

I will read the section:

SEC. 2. *And be it further enacted*, That any person who, under color of any law, statute, ordinance, regulation, or custom, shall subject, or cause to be subjected, any inhabitant of any State or Territory to the deprivation of any right secured or protected by this act, or to different punishment, pains, or penalties on account of such person having at any time been held in a condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, or by reason of his color or race, than is prescribed for the punishment of white persons, shall be deemed guilty of a misdemeanor, and, on conviction, shall be punished by a fine not exceeding $1,000, or imprisonment not exceeding one year, or both, in the discretion of the court.

Can human ingenuity point out wherein that section discriminates in favor of colored persons? It says, in effect, that no one shall subject a colored person to a different punishment than that inflicted on a white person for the same offense. Does that discriminate in favor of the colored person? Why, sir, the very object and effect of the section is to prevent discrimination, and language, it seems to me, could not more plainly express that object and effect. It may be said that it is for the benefit of the black man because he is now in some instances discriminated against by State laws; but that is the case with all remedial statutes. They are for the relief of the persons who need the relief, not for the relief of those who have the right already; and when those needing the relief obtain it, they stand upon the precise footing of those who do not need the benefit of the law.

There are, however, other serious objections made to this section. It is said that "it provides for counteracting such forbidden legislation by imposing fine and imprisonment upon the legislators who may pass such conflicting laws." Let us see if that is the language or the proper construction of the section. I will read again the first lines of it. It declares—

That any person who, under color of any law, ordinance, regulation, or custom, shall subject, or cause to be subjected, &c., * * * * shall be punished, &c.

Who is to be punished? Is the law to be punished? Are the men who make the law to be punished? Is that the language of the bill? Not at all. If any person, "under color of any law," shall subject another to the deprivation of a right to which he is entitled, he is to be punished. Who? The person who, under the color of the law, does the act, not the men who made the law. In some communities in the South a custom prevails by which different punishment is inflicted upon the blacks from that meted out to whites for the same offense. Does this section propose to punish the community where the custom prevails? Or is it to punish the person who, under color of the custom, deprives the party of his right? It is a manifest perversion of the meaning of the section to assert anything else.

But it is said that under this provision judges of the courts and ministerial officers who are engaged in the execution of any such statutes may be punished; and that is made an objection to this bill. I admit that a ministerial officer or a judge, if he acts corruptly or viciously in the execution or under color of an illegal act, may be and ought to be punished; but if he acted innocently the judge would not be punished. Sir, what is a crime? It is a violation of some public law, to constitute which there must be an act and a vicious will in doing the act; or, according to the definition in some of the law-books, to constitute a crime there must be a violation of a public law, in the commission of which there must be a union or joint operation of act and intent or criminal negligence; and a judge who acted innocently, and not viciously or oppressively, would never be convicted under this act. But, sir, if he acted knowingly, viciously, or oppressively, in disregard of a law of the United States, I repeat, he ought to be punished, and it is no anomaly to prescribe a punishment in such a case. Very soon after the organization of this Government, in the first years of its existence, the Congress of the United States provided for punishing officers who, under color of State law, violated the laws of the United States. I read from the twenty-sixth section of an act passed in 1790, providing for the punishment of certain offenses against foreign ministers, consuls, &c.:

"That in case any person or persons shall sue forth or prosecute any such writ or process, such person or persons, and all attorneys or solicitors prosecuting or soliciting in such case, and all officers executing any such writ or process being thereof convicted, shall be deemed violators of the laws of nations and disturbers of the public repose, and imprisoned not exceeding three years, and fined at the discretion of the court."

By this provision all officers executing any writ or process in violation of the laws of the United States are to be subject to a much longer imprisonment than is provided by this bill.

Mr. JOHNSON. Does the Senator cite from the Statutes-at-Large?

Mr. TRUMBULL. I did.

Mr. JOHNSON. What page?

Mr. TRUMBULL. It is the first volume, page 118, section twenty-six; and as my friend from Maryland seems to be taking notes of the authorities, I refer him to the first volume of Kent's Commentaries, pages 646 and 649, in which the author, speaking of the statutes of New York, says:

"The penalty of $1,000 is given in favor of the party aggrieved, against every officer and every member of the court assenting to the refusal."

To grant a writ of *habeas corpus* where the party is entitled to it.

"The *habeas corpus* act of Mississippi makes the refusal or neglect of any judge or judges to grant the writ a high misdemeanor and an impeachable offense."

On page 649 the author says:

"And finally, if any person solely, or as a member of any court, or in the execution of any order, knowingly reimprisons such party, he forfeits a penalty of $1,250 to the party aggrieved, and is to be deemed guilty of a misdemeanor and liable to fine and imprisonment."

This applies to any member of a court who knowingly reimprisons a person who has once been discharged on a writ of *habeas corpus*. I should like to know if the freedom of a man discharged by a writ of *habeas corpus* is any more sacred than the freedom of the negro discharged from bondage by the great constitutional amendment, and if it is any worse to punish a judge who under color of law undertakes to deprive of his liberty a poor African freed from bondage by the Constitution of his country than it is to punish a judge who reimprisons a man once discharged on a writ of *habeas corpus?* Sir, there is no novelty in these provisions, and the times require them.

But, sir, there is another answer, in my judgment, more conclusive, to all these objections to this second section, which is the vital part of the bill. Without it, it would scarcely be worth the paper on which the bill is written. A law without a penalty, without a sanction, is of little value to anybody. What good does it do for the Legislature to say, "Do this, and forbear to do that," if no consequence is to follow the act of disobedience? This is the vitality of the bill. What is the objection that is made to it, and which seems even to have staggered some friends of the measure? It is because it reads in the first section that any person who "under color of law" shall commit these offenses shall be subject to the penalties of the law. Suppose those words had been left out and the bill read, "any person who shall subject any inhabitant of a State to different punishment by reason of his color shall be punished," would there have been any objection to the bill then? That is the way most criminal laws read. That is the way the law punishing conspiracies against the Government reads. If two or more persons conspire together to overthrow the Government, or by force to resist its authority, they are liable to indictment, and, upon conviction, to imprisonment in the penitentiary and to heavy fine. Would the fact that the persons engaged in the conspiracy were judges or Governors or ministerial officers, acting under color of any statute or custom, screen them from punishment? Surely not.

These words "under color of law" were inserted as words of limitation, and not for the purpose of punishing persons who would not have been subject to punishment under the act if they had been omitted. If an offense is committed against a colored person simply because he is colored, in a State where the law affords him the same protection as if he were white, this act neither has nor was intended to have anything to do with his case, because he has adequate remedies in the State courts; but if he is discriminated against under color of State laws because he is colored, then it becomes necessary to interfere for his protection.

The assumption that State judges and other officials are not to be held responsible for violations of United States laws, when done under color of State statutes or customs, is akin to the maxim of the English law that the King can do no wrong. It places officials above the law. It is the very doctrine out of which the rebellion was hatched.

Everything that was done by that wicked effort to overturn our Government was done under color of law. The rebels insisted that they had a right to secede. They passed ordinances of secession; they set up State governments; and all that they did was done under color of law. And if parties committing these high crimes are to go free because they acted under color of law, why is not Jeff. Davis and every other rebel chief discharged at once? Why did this country put forth all its resources of men and money to put down the rebellion against the authority of the Government, except it had a right to do so, even as against those who were acting under color of law? Lee, with his rebel hordes, thundering upon the outskirts of this very city, was acting under color of law. Every judge who has held a court in the southern States for the last four years, and has tried and convicted of treason men guilty of no other offense than loyalty to the Union, acted under color of law.

Sir, if we had authority by the use of the Army and the war power to put down rebels acting under color of law, I put the question to every lawyer if we had not authority to do that through the courts and the judicial tribunals if it had been practicable? When may you resort to war? When you cannot accomplish the just object of the war in any other way. The *dernier* resort is the cry to arms and the appeal to battle; but if it be possible to put down an insurrection, to prevent a combination against the Government, and to punish persons for treason and conspiracy against the Government, without a resort to arms, the Government not only has the power but it is its duty to do it. Suppose it had been practicable through the marshals to arrest the Legislature which convened at Montgomery and undertook to take the State of Alabama out of the Union and set up a government in hostility thereto, ought it not to have been done? Was not that a conspiracy against this Government? When the Legislature assembled at Montgomery in 1861 and resolved that the connection between Alabama and the United States was dissolved, and when its members took steps to maintain that declaration; when the same thing was done in South Carolina, and courts were organized to carry out the scheme, will anybody tell me it would not have been competent, had it been practicable, for the United States courts in those States to have issued process for the arrest of every one of those legislators, Governors, judges, and all. And, sir, had this been done, and it had turned out upon trial that any of the parties arrested had been engaged in armed hostility against the United States, as some of them had been when with

arms in their hands they seized the arsenals and other public property of the United States, would they not have been found guilty of treason and hung for treason? And would the fact that they had acted under color of law, have afforded them any protection?

Sir, it is competent, and always competent, to do through the judicial tribunals all that is necessary to prevent or suppress a rebellion, and it is only when the resistance is too formidable to be overcome by the ordinary course of judicial proceedings that a resort to arms is justifiable. A nation has no right to go to war with another nation until it first exhausts all means of a peaceable solution of the difficulty. If it can accomplish the end through peaceful means, it not only has the right, but it is its bounden duty to do so.

I shall be pardoned, I trust, for reading in this connection a sentence from the proclamation of Andrew Jackson hurled against the nullification ordinance of South Carolina, which undertook to annul the laws of Congress and set them at defiance, required its officers to swear allegiance to Carolina and abjure their allegiance to the United States. After reciting the illegal action of South Carolina, stating what her ordinance was, what it proposed to do, and what the citizens of Carolina were proposing to do under color of that authority, General Jackson said:

"I consider, then, the power to annul a law of the United States, assumed by one State, incompatible with the existence of the Union, contradicted expressly by the letter of the Constitution, unauthorized by its spirit, inconsistent with every principle on which it was founded, and destructive of the great object for which it was formed."

The right to punish persons who violate the laws of the United States cannot be questioned, and the fact that in doing so they acted under color of law or usage in any locality affords no protection, because by the Constitution that instrument and the laws passed in pursuance thereof are the supreme law of the land, and every judge, not only of the United States, but of every State court, is bound thereby.

But says the President, "I do not apprehend that the conflicting legislation which the bill seems to contemplate is so likely to occur as to render it necessary at this time to adopt a measure of such doubtful constitutionality." That statement makes it necessary that I should advert to the facts and show whether there is any likelihood of such conflicting legislation; and my testimony comes from the President himself, or those acting under his authority.

I hold in my hand a communication from Colonel De Gress, addressed to General Howard, and dated at Houston, Texas, December 15, 1865, in which he says:

"I have the honor to respectfully report that in some portions of this State the negroes are not yet free; that the pass system is still in force, and when a freedman is found at large without a pass he is taken up and whipped."

Lieutenant Eldridge, writing to the same officer, from Vicksburg, Mississippi, on the 28th of November, 1865, says:

"I have the honor to inclose herewith, for your consideration, the freedmen's bill, which has just become a law in this State, and would respectfully ask your attention to the following points therein:

"Section one prohibits the holding, leasing, or renting of real estate by freedmen." * * * *

"Section four excludes freedmen from testifying in cases of whites.

"Section five authorizes mayors and boards of police by their sole edict to prevent any freedmen from doing any independent business, and to compel them to labor as employés, with no appeal from such decision.

"Section seven gives the power to any white citizen over the person of a freedman unknown to any other law, and denies the right of appeal beyond the county court."

Major General Terry, in an order issued at Richmond, Virginia, January 24, 1866, referring to a statute passed at the present session of the Legislature of Virginia entitled "A bill providing for the punishment of vagrants," says:

"The ultimate effect of the statute will be to reduce the freedmen to a condition of servitude worse than that from which they have been emancipated—a condition which will be slavery in all but its name."

Now, sir, what becomes of this declaration that there is no necessity for any measure of this kind? Here are the laws of Texas, of Mississippi, of Virginia, to which I have referred; and laws equally oppressive exist in some of the other States. Is there no necessity to protect a freedman, when he is liable to be whipped if caught away from home? No necessity to protect a freedman in his rights, when he is not permitted to hold or lease a piece of ground in a State? No necessity to protect a freedman in his rights, who will be reduced to a slavery worse than that from which he has been emancipated if a State statute is permitted to be carried into effect? Sir, these orders emanate and this information comes from officers acting by presidential authority; and yet the President tells us there is no danger of conflicting legislation.

He says:

"In the next place, this provision of the bill seems to be unnecessary, as adequate judicial remedies could be adopted to secure the desired end without invading the immunities of legislators."

Let us see if they could. If adequate judicial means could be provided without invading these immunities, why, let me ask, did he not adopt them? Let me read to you, sir, what was done by authority of the President of the United States in the department of Louisiana. In a general order issued by Major General Canby, at New Orleans, on the 12th day of January, 1866, I find this provision. After referring to the order of General Grant protecting colored persons from prosecutions in any of the State courts charged with offenses for which white persons are not prosecuted or punished—a similar provision to that contained in this bill—General Canby says:

"All prosecutions and suits embraced in the foregoing order, pending in any court not of Federal jurisdiction, within the limits of this command, will at once be discontinued and set aside." * * * *

"Whenever it shall appear that any suit or proceeding of the character mentioned is pending in a State court, in violation of this order, district commanders are authorized and required to give and enforce such orders as may be necessary and proper."

No necessity to interfere with judicial tribunals! Why, then, are such orders issued? What did General Terry say in his order? After stating the effect of the act of the Virginia Legislature, "it is therefore ordered that no magistrate, civil officer, or other person, shall, in any way or manner, apply or attempt to apply the provision of said statute to any colored person in this department."

Adequate remedy can be provided without assailing the independence of the judiciary, says the President; and here we have samples of that adequate remedy which is to take the designated cases from the courts, and imprison the judges if they disobey orders.

Again, sir, let me refer to another order issued under presidential authority, dated headquarters department of South Carolina, Charleston, January 17, 1866, and issued by Major General Sickles. It is a very significant order:

"All laws shall be applicable alike to all the inhabitants."

That is the very thing that is in this bill. I wonder it did not occur to the President, when he approved this order, that Gypsies and Chinese might be protected by it.

"No person shall be held incompetent to sue, make complaint, or to testify because of color or caste."

Again, sir:

"To secure the same equal justice and personal liberty to the freedmen as to other inhabitants, no penalties or punishments different from those to which all other persons are amenable, shall be imposed on freed people." * * * * *

"All injuries to the person or property committed by or upon freed persons shall be punished in the manner provided by the laws of South Carolina for like injuries to the persons or property of citizens thereof."

And in a subsequent order issued by General Sickles, on the 4th of March, it is provided that—

"Superior and circuit provost courts will continue in operation as heretofore, and shall have, as against any and all civil courts, exclusive jurisdiction in all cases where freedmen and other persons of color are directly or indirectly concerned, until such persons shall be admitted to the State courts as parties and witnesses, with the same rights and remedies accorded to all other persons."

Why, sir, here are the very provisions of this bill embodied in military orders issued under presidential authority. And yet the President tells us there is no necessity for this bill.

The President objects to the third section of the bill that it gives the district courts exclusive jurisdiction of all crimes and offenses committed against the act. Well, sir, that is no new thing. The United States courts have always had jurisdiction of crimes and offenses committed against United States laws. But it further, as he insists, gives jurisdiction to all cases affecting persons discriminated against, as provided in the first and second sections of the bill; and by a strained construction the President seeks to divest State courts, not only of jurisdiction of the particular case where a party is discriminated against, but of all cases affecting him or which might affect him. This is not the meaning of the section. I have already shown, in commenting on the second section of the bill, that no person is liable to its penalties except the one who does an act which is made penal; that is, deprives another of some right that he is entitled to, or subjects him to some punishment that he ought not to bear.

So in reference to this third section, the jurisdiction is given to the Federal courts of a case affecting the person that is discriminated against. Now, he is not necessarily discriminated against, because there may be a custom in the community discriminating against him, nor because a Legislature may have passed a statute discriminating against him; that statute is of no validity if it comes in conflict with a statute of the United States; and it is not to be presumed that any judge of a State court would hold that a statute of a State discriminating against a person on account of color was valid when there was a statute of the United States with which it was in direct conflict, and the case would not therefore rise in which a party was discriminated against until it was tested, and then if the discrimination was held valid he would have a right to remove it to a Federal court—or, if undertaking to enforce his right in a State court he was denied that right, then he could go into the Federal court; but it by no means follows that every person would have a right in the first instance to go to the Federal court because there was on the statute-book of the State a law discriminating against him, the presumption being that the judge of the court, when he came to act upon the case, would, in obedience to the paramount law of the United States, hold the State statute to be invalid.

If it be necessary in order to protect the freedman in his rights that he should have authority to go into the Federal courts in all cases where a custom prevails in a State, or where there is a statute-law of the State discriminating against him, I think we have the authority to confer that jurisdiction under the second clause of the constitutional amendment, which authorizes Congress to enforce by appropriate legislation the article declaring that "neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States or in any place subject to their jurisdiction." That clause authorizes us to do whatever is necessary to protect the freedman in his liberty. The faith of the nation is bound to do that; and if it cannot be done without, would have authority to allow him to come to the Federal courts in all cases.

The President objects to the fourth, fifth, sixth, and seventh sections of the bill because of the numerous officers and agents who are authorized to be employed in its execution. I will not take up the time of the Senate in examining these various objections in detail.

This is the character of all of them. But, sir, all these provisions of the bill are copied from the statute of 1850, known as the "fugitive slave act," for which Andrew Johnson voted. That act has been repeatedly held by the courts to be constitutional. I know some object to using its machinery even in the interests of freedom. But it was because of the uses and purposes to which that act was applied that it was infamous. When you come to use the same machinery, not for the purpose of reducing to bondage and keeping in slavery human beings, but for the purpose of liberating and protecting them, it is a very different thing. As well might our brave soldiers, when they routed the rebel armies, have objected to using in the country's cause the weapons which they wrested from rebel hands.

The eighth and ninth sections of the bill which authorize the President to require a court to be held in any portion of the district where a court may be necessary to punish offenses under this act, and to use the Army and Navy to prevent its violation, are also objected to, but both those sections are copied from an act passed March 10, 1838, which was approved by Mr. Van Buren, and when he did so I presume it never occurred to him that these sections were specially designed for colored persons, or to keep up a permanent military force whose only business it should be to enforce the act.

Mr. President, I have now gone through this veto message, replying with what patience I could command to its various objections to the bill. Would that I could stop here, that there was no occasion to go further; but justice to myself, justice to the State whose representative I am, justice to the people of the whole country, in legislation for whose behalf I am called to participate, justice to the Constitution I am sworn to support, justice to the rights of American citizenship it secures, and to human liberty, now imperiled, requires me to go further. Gladly would I refrain from speaking of the spirit of this message, of the dangerous doctrines it promulgates, of the inconsistencies and contradictions of its author, of his encroachments upon the constitutional rights of Congress, of his assumption of unwarranted powers, which, if persevered in and not checked by the people, must eventually lead to a subversion of the Government and the destruction of liberty.

Congress, in the passage of the bill under consideration, sought no controversy with the President. So far from it, the bill was proposed with a view to carry out what were supposed to be the views of the President, and was submitted to him before its introduction into the Senate. I am not about to relate private declarations of the President, but it is right that the American people should know that the controversy which exists between him and Congress in reference to this measure is of his own seeking. Soon after Congress met it became apparent that there was a difference of opinion between the President and some members of Congress in regard to the condition of the rebellious States, and the rights to be secured to freedmen.

The President in his annual message had denied the constitutional power of the General Government to extend the elective franchise to negroes, but he was equally decided in the assertion of the right of every man to life, liberty, and the pursuit of happiness. This was his language:

"But while I have no doubt that now, after the close of the war, it is not competent for the General Government to extend the elective franchise in the several States, it is equally clear that good faith requires the security of the freedmen in their liberty and their property."

There were some members of Congress who expressed the opinion that in the reorganization of the rebellious States the right of suffrage should be extended to the colored man, though this was not the prevailing sentiment of Congress. All were anxious for a reorganization of the rebellious States and their admission to full participation in the Federal Government as soon as these relations could be restored with safety to all concerned. Feeling the importance of harmonious action between the different departments of the Government, and an anxious desire to sustain the President, for whom I had always entertained the highest respect, I had frequent interviews with him during the early part of the session. Without mentioning anything said by him, I may with propriety state that, acting from the considerations I have stated, and believing that the passage of a law by Congress, securing equality in civil rights when denied by State authorities to freedmen and all other inhabitants of the United States, would do much to relieve anxiety in the North, to induce the southern States to secure these rights by their own action, and thereby remove many of the obstacles to an early reconstruction, I prepared the bill substantially as it is now returned with the President's objections. After the bill was introduced and printed a copy was furnished him, and at a subsequent period, when it was reported that he was hesitating about signing the Freedmen's Bureau bill, he was informed of the condition of the civil rights bill then pending in the House, and a hope expressed that if he had objections to any of its provisions he would make them known to its friends, that they might be remedied, if not destructive of the measure; that there was believed to be no disposition on the part of Congress, and certainly none on my part, to have bills presented to him which he could not approve. He never indicated to me, nor, so far as I know, to any of its friends, the least objection to any of the provisions of the bill till after its passage. And how could he, consistently with himself? The bill was framed, as was supposed, in entire harmony with his views, and certainly in harmony with what he was then and has since been doing in protecting freedmen in their civil rights all through the rebellious States. It was strictly limited to the protection of the civil rights belonging to every freeman, the birthright of every American citizen, and carefully avoided conferring or interfering with political rights or privileges of any kind.

The bill neither confers nor abridges the rights of any one, but simply declares that in civil rights there shall be an equality among all classes of citizens, and that all alike shall be subject to the same punishment. Each State, so that it does not abridge the great fundamental rights belonging, under the Constitution, to all citizens, may grant or withhold such civil rights as it pleases; all that is required is that, in this respect, its laws shall be impartial.

And yet this is the bill now returned with the President's objections, and such objections! What are they? That—

"In all our history, in all our experience as a people, living under Federal and State laws, no such system as that contemplated by the details of this bill has ever before been proposed or adopted."

Have I not already shown in the action of the President himself, through General Sickles, declaring that "all laws shall be applicable alike to all inhabitants," and in various acts of Congress, a precedent for every provision of this bill?

"The details of the bill," says the President, "establish for the security of the colored race safeguards which go infinitely beyond any that the General Government has ever provided for the white race."

With what truth this can be said of a bill which declares that the civil rights and the punishment of all races, including, of course, the colored, shall be the same as those "of white persons," let an intelligent public judge.

"They," [the details,] says the President, "interfere with the municipal legislation of the States, with the relations existing exclusively between a State and its citizens, or between inhabitants of the same State, an absorption and assumption of power by the General Government which, if acquiesced in, must sap and destroy our federative system of limited powers, and break down the barriers which preserve the rights of the States. It is another step, or rather stride, toward centralization and the concentration of all legislative powers in the national Government."

All this is said by a President who, by his own fiat, issued through General Howard, set aside an act of the Legislature of Mississippi, and by another order, through General Terry, an act of the Virginia Legislature, and forbade any magistrate or civil officer from attempting to execute it; who, through General Canby, ordered the State courts in his department to suspend all suits against persons charged with offenses for which white persons were not punished, and we all know the penalty which would have been visited upon State judges or officials for violations of any of these orders; a President who, after vetoing a provision of the Freedmen's Bureau bill because it secured to occupants the land which was in their possession under Major General Sherman's order for the limited period of three years, himself issued an order within less than thirty days afterward, through H. W. Smith, assistant adjutant general, declaring that "grants of land to the freed people in compliance with General Sherman's Special Field Order, No. 15, dated January 16, 1865, will be regarded as good and valid."

Well may we exclaim, in view of these acts of the President, in language which he quoted when discussing a veto of President Buchanan, "O consistency! thou art a jewel much to be admired, but rarely to be found."

In view of these facts, who is it that is breaking down the barriers of the States, and making strides toward centralization? Is it Congress, by the passage of this bill, or the President, who, without law, is arrogating to himself far greater powers than any conferred by this bill?

Let it not be said that the President exercises these vast powers by virtue of the war power. He told us in his annual message that the war was over, and whether over or not, no incidental powers are vested by the Constitution in the President, either as President or Commander-in-Chief of the Army. That instrument gives Congress power to—

"Make all laws necessary and proper for carrying into execution" * * * * "all powers vested by the Constitution in the Government of the United States or in any *department or officer thereof.*"

The President is required in carrying out his powers to act in obedience to law—the very thing which he refuses to do.

He says "the tendency of this bill must be to resuscitate the spirit of the rebellion." What assumption in one who denies the authority to punish those who violate United States laws under color of State authority—a doctrine from which the rebellion sprung, and in entire harmony with the declaration of Mr. Buchanan, that there was no power to coerce a State. But, sir, out of the mouth of Senator Andrew Johnson I will prove that President Andrew Johnson has violated the spirit of the Constitution, if not its letter, in vetoing this bill. It will be remembered that the bill passed both Houses of Congress by more than a two-thirds majority, the vote in the Senate being, yeas 33 to nays 12, and, in the House, yeas 111, nays 38. I will read from the remarks of Senator Andrew Johnson on the veto of the homestead bill by Mr. Buchanan:

"The President of the United States *presumes*—yes, sir, I say *presumes*—to dictate to the American people and to the two Houses of Congress, in violation of the spirit, if not the letter, of the Constitution, that this measure shall not become a law. Why do I say this? I ask, is there any difference in the spirit of the Constitution whether a measure is sanctioned by a two-thirds vote before its passage or afterward? When a measure has been vetoed by the President, the Constitution requires that it shall be reconsidered and passed by a two-thirds vote in order to become a law. But here, in the teeth of the Executive, there was a two-thirds vote in favor of this bill. The vote was 36 to 2 in this body. The two Houses have said that this bill is constitutional and right. In the other House, reflecting the popular sentiment of the nation, the vote was 112 to 51—ten more than the two-thirds majority which the Constitution requires; and when there is a two-thirds vote for a measure, I say it is against the spirit of the Constitution for the Executive to say, 'No, you shall not have this measure; I will take all the chances of vetoing it.'"

Apply this language to the facts connected with this bill, and then say who has violated the spirit of the Constitution.

This bill in no manner interferes with the municipal regulations of any State which protects all alike in their rights of person and property. It could have no operation in Massachusetts, New York, Illinois, or most of the States of the Union. How preposterous, then, to charge that unless some State can have and exercise the right to punish somebody, or to deny somebody a civil right on account of his color, its rights as a State will be destroyed. It is manifest that unless this bill can be passed, nothing can be done to protect the freedmen in their liberty and their rights.

Whatever may have been the opinion of the President at one time as to "good faith requiring the security of the freedmen in their liberty and their property" it is now manifest from the character of his objections to this bill that he will approve no measure that will accomplish the object. That the second clause of the constitutional amendment gives this power there can be no question. Some have contended that it gives the power even to confer the right of suffrage. I have not thought so, because I have never thought suffrage any more necessary to the liberty of a freedman than of a non-voting white, whether child or female. But his liberty under the Constitution he is entitled to, and whatever is necessary to secure it to him he is entitled to have, be it the ballot or the bayonet. If the bill now before us, and which goes no further than to secure civil rights to the freedman, cannot be passed, then the constitutional amendment proclaiming freedom to all the inhabitants of the land is a cheat and a delusion.

I cannot better conclude what I have to say than in the language of Mr. Johnson on the occasion of the veto of the homestead bill, when, after stating that the fact that the President was inconsistent and changed his opinion with reference to a great measure and a great principle is no reason why a Senator or Representative who had acted understandingly should change his opinion, he said:

"I hope the Senate and House of Representatives, who have sanctioned this bill by more than a two-thirds majority, will, according to the Constitution, exercise their privilege and power, and let the bill become a law of the land, according to the high behest of the American people."

Mr. JOHNSON. Permit me to ask the Senator whether the veto in that case was overruled?

Mr. TRUMBULL. It was not.

Mr. JOHNSON. So I supposed.

Mr. CONNESS. That is no reason why a bad example should be followed now.

The PRESIDING OFFICER, (Mr. RAMSEY in the chair.) Is the Senate ready for the question? The question is, Shall the bill pass, the President's objections to the contrary notwithstanding?

Mr. JOHNSON. I do not suppose it is the purpose of the honorable chairman of the Judiciary Committee to insist upon a vote on the measure to-day.

Mr. TRUMBULL. It is my intention to continue the measure before the Senate, if the body will sustain me in so doing, until we reach a vote.

Mr. JOHNSON. To-day?

Mr. TRUMBULL. I did not suppose it probable that we should get a vote this evening. If we can do it I shall be glad to do so. I presume the Senate will be full by night. The measure has been delayed for a week in consequence of a sad calamity, and it is my intention to press it and to have more than one speech a day upon it. It is now only twenty minutes past three, I see by the clock, and I think we had better go on with the bill.

Mr. JOHNSON. The honorable member has had the better part of the day to make his speech, and I presume he would not require one who is a year or two older than himself to occupy the attention of the Senate at this hour of the day.

Mr. TRUMBULL. I presume there are others who are ready to proceed with the discussion.

Mr. JOHNSON. But in relation to taking the vote the same sad event, which we all so much deplore and which has delayed action on the measure until now, keeps from their seats in the Senate several Senators who will be here, I suppose, to-morrow.

Mr. TRUMBULL. They have been heard from by telegraph, and I presume will all be here this evening. We may as well go on with the discussion. I can inform the Senator that I do not expect to have a vote until they return.

Mr. JOHNSON. So I supposed.

Mr. TRUMBULL. But I should be very glad to proceed with the consideration of the measure, so that we may be able to take a vote when they do return, unless some of the gentlemen returning shall desire to discuss it.

Mr. JOHNSON. I have no objection personally to the vote being taken at any time; but if the vote is not to be taken to-day, as it is my purpose to submit some observations to the Senate in reply to the honorable member from Illinois, I should prefer being permitted to do so to-morrow. If there is any Senator who is prepared to discuss the measure to-day, he may of course go on, and will not be considered as interfering at all with my desire to address the Senate in the course of to-morrow. The honorable member has prepared his speech with great labor and has delivered it with his accustomed energy and force, and it is rather hard to call upon a Senator the moment he sits down to reply at once to a speech of some two or three hours, more particularly when the dinner hour has nearly arrived; and I have some reason to believe that that has some effect on those whom I should like to be my audience when I do address the Senate. If, therefore, there is no member ready to proceed now, I move that further consideration of the measure be postponed until to-morrow at one o'clock, and that it be made the special order for that hour.

Mr. TRUMBULL. I have been informed that several Senators design discussing this bill. It has already been before us for a week. Certainly nobody can complain that we go on with its consideration. We ought to have proceeded with its consideration at once on its return to us. It is one of those measures regarded rather as of a privileged nature, and should therefore be proceeded with. I am very sure that if we adjourn at half past three o'clock to-day, the same appeal will be made to-morrow. We have been in the habit of sitting until half past four. I do not desire the Senator from Maryland to go on at his inconvenience; but there are other Senators to speak. I have been informed by several others that they design making some remarks on this bill, and I think we ought certainly to insist that somebody should proceed after this hour.

Mr. JOHNSON. I can only answer for myself; I know of no one who desires to address the Senate.

Mr. TRUMBULL. I have been informed by several Senators that they desired to speak.

Mr. JOHNSON. I have no knowledge on the subject. Senators can speak for themselves.

Mr. TRUMBULL. If no Senator will go on, we cannot take the vote to-night.

Mr. HARRIS. If we are not to proceed with this bill, I should be very glad if the Senate would take up the judiciary bill, and finish that.

Mr. TRUMBULL. Allow me to suggest to the Senator from New York that I was informed by the Senator from Pennsylvania that he designed to say something on the bill before the Senate. Perhaps he may be ready to proceed to-day.

Mr. COWAN. I am not.

Mr. TRUMBULL. If no one is prepared to go on I shall not resist the postponement of the measure until to-morrow, but I ask that it be made the special order for one o'clock to-morrow.

The PRESIDENT *pro tempore*. That is the motion of the Senator from Maryland.

The motion was agreed to.

DEFICIENCY CIVIL BILL.

Mr. FESSENDEN, from the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 86) making additional appropriations, and to supply deficiencies in the appropriations for sundry civil expenses of the Government for the fiscal year ending the 30th of June, 1866, and for other purposes, submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 86) making additional appropriations, and to supply deficiencies in the appropriations for sundry civil expenses of the Government for the fiscal year ending the 30th of June, 1866, and for other purposes, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from their amendments numbered three, six and a half, twenty-three, and twenty-four.

That the House of Representatives recede from their disagreement to the amendments of the Senate numbered one, two, four, twelve, fifteen, seventeen, twenty-one, twenty-two, twenty-five, twenty-six, and thirty-one, and agree to the same.

That the House of Representatives recede from their amendment to the seventh amendment of the Senate and agree to the same.

That the House recede from their disagreement to the eighth amendment of the Senate and agree to the same with an amendment, as follows: strike out all of said amendment after the word "square" in line one, and insert in lieu thereof the following words: "two thousand dollars;" and the Senate agree to the same as so modified.

That the House recede from their disagreement to the fourteenth amendment of the Senate and agree to the same with the following amendment: strike out all of said amendment and insert the following:

"For mileage of Government engineer from Cincinnati, Ohio, to Omaha, Nebraska, and thence to Washington, in July, 1865, directed by the President of the United States to examine and report upon Union Pacific railroad routes west from Omaha, two thousand nine hundred and two miles, at ten cents per mile, $290 20.

"For mileage of the same from Washington to New York, and back, in August, 1865, on account of Union Pacific railway, two hundred and twenty-five miles each way, at ten cents per mile, $45.

"For cost of completing bridge over Big Sioux river, near Sioux City, and Government wagon road from Sioux City, Iowa, to Fort Randall, Dakota Territory, in addition to former appropriations, $10,000.

"For commutation of quarters and fuel to officer of corps of Engineers, United States Army, in charge of Engineer office, Department of the Interior, agreeably to Army regulations from 1st August, 1865, to June 30, 1866, to be paid by Department of the Interior, agreeably to Army regulations, $1,137 64.

"For contingencies, $2,000."

And the Senate agree to the same.

That the House of Representatives recede from their disagreement to the nineteenth amendment of the Senate and agree to the same with the following amendment: on page 22 of said bill, in lines eighteen and nineteen, strike out the following words: "to be expended under the Secretary of the Interior;" and the Senate agree to the same.

That the Senate recede from their twenty-seventh amendment, and agree to the eleventh section of the bill in the following words:

"*And be it further enacted*, That the proper accounting officers of the Treasury Department be, and they are hereby, authorized to pay A. D. Collingsworth, O. H. Vedder, Edward R. Sherman, Charles C. Adams, Samuel W. Tucker, J. G. Adams, A. Bengiral, J. C. Parker, J. A. Odell, V. Barnes, T. H. Gladman, R. A. Cronin, T. N. Adams, J. C. Cleary, W. D. Lindsay, A. Jewett, jr., F. Cochin, B. C. Farless, J. P. Townsend, C. W. Odell, J. W. Morehead, S. P. Lee, W. H. Salter, James Cross, J. R. Creed, H. B. Rourke, E. A. Lipscomb, George Cottenham, C. A. Perkins, W. B. Cudlipp, S. S. Baker, J. M. Conroy, O. W. Boyden, J. O. Arnes, J. Bellows, E. S. Brossius, J. J. Calvert, F. G. Calvert, G. D. Curtis, W. B. Dyer, D. A. Fish, A. H. Gillespie, R. B. Guillien, Charles Gobeen, H. Holmes, G. C. Holliday, B. E. Messer, E. C. Messer, F. Madden, W. McKee, W. H. E. Ourand, L. P. Porter, P. W. Pearson, J. L. Rowland, C. V. Rotterden, E. J. Schale, E. J. Sweet, T. J. Schea, J. C. Williams, J. G. Wilson, L. K. Brown, J. H. Gunn, H. A. Dobson, J. A. McIntire, V. B. Munson, J. J. Dickens, W. E. Armes, J. C. Green, Lewis E. Rauterburg, and B. W. Parsons, employed by the deputy provost marshal of the District of Columbia in the enrolling office of said marshal, for night work and special service performed in pursuance of a contract between said clerks and said provost marshal, such accounts being properly certified upon the rolls, or by said deputy provost marshal, and the sum of $3,360, or so much thereof as may be necessary, is hereby appropriated out of any money in the Treasury not otherwise appropriated therefor."

And the House agree to the same as so modified.

That the Senate recede from their amendment numbered twenty-nine, and substitute in lieu thereof the following: "*Provided*, That no portrait or likenes of any living person, hereafter engraved, shall be placed upon any of the bonds, securities, notes, fractional or postal currency of the United States;" and the House agree to the same as so modified.

That the Senate recede from their amendment numbered thirty-two so far as to restore the following words: "to pay H. A. Klopfer for ten months' service

as a laborer in the office of the Attorney General, at forty dollars per month, $480."

That the House recede from their disagreement to the Senate amendment numbered thirty-three, and agree to the same with the following amendment: in line fourteen of said amendment, after the word "thousand," insert the words "five hundred."

W. P. FESSENDEN,
JOHN CONNESS,
REVERDY JOHNSON,
Managers on the part of the Senate.
THADDEUS STEVENS,
R. P. SPALDING,
E. B. WASHBURNE,
Managers on the part of the House.

Mr. FESSENDEN. I can answer any question that any Senator desires to put to me in regard to individual amendments. It is hardly worth while to go into all the details.

Mr. HENDRICKS. I wish to inquire whether the little amendment for the Indianapolis courthouse is in the bill.

Mr. FESSENDEN. That is retained with a slight amendment striking out the words putting it under the direction of the Secretary of the Interior. It is under the direction of the Treasury Department that the building has been put up.

Mr. HENDRICKS. The amount is left at $8,000?

Mr. FESSENDEN. The amount is left the same. We were obliged to compromise the best way we could to save the bill in several things.

The report was agreed to.

JUDICIARY REORGANIZATION.

Mr. HARRIS. I move that the Senate resume the consideration of the judiciary bill.

The motion was agreed to; and the Senate resumed, as in Committee of the Whole, the consideration of the bill (S. No. 103) to reorganize the judiciary of the United States, the pending question being on the amendment of Mr. HOWARD, to add to the seventh section the following clause:

Final process from said district courts may run into any judicial district of the United States, and shall be executed by the proper marshal of such district, whose duty it shall be to execute the same, and make due return thereof, and who shall be subject to the orders of the court issuing the same; and all interlocutory and final orders of said courts in cases in equity may be served and executed in any other district where the person to be served or adjudged to be liable or where the subject-matter of the suit may be.

Mr. HOWARD. I offered the amendment which is now before the Senate in the earnest expectation that the Senate would view it favorably. I really think that it embodies a principle of great utility to the country, and that in some form or other it ought to be enacted into a law. I learn, however, from the honorable Senator from New York, who has the bill in charge particularly, that he regards it as incongruous to the other matter contained in the bill; and under the assurance that I almost assume from him that he will assist me in getting a separate bill through embodying the same principle, I shall withdraw the amendment by the consent of the Senate.

The PRESIDENT *pro tempore*. The amendment is withdrawn.

Mr. HARRIS. There are a few amendments which I desire to make. In the fifteenth section, at the end of line one, after the word "appeal," I move to insert the words "upon the questions of law and fact arising upon the record," so as to read: "an appeal upon the questions of law and fact arising upon the record, may be taken."

The amendment was agreed to.

Mr. HOWE. I wish to ask the Senator if he designs to give a right of appeal to the Government as well as to the defendant.

Mr. HARRIS. I have no objection to that. Perhaps that would be the effect of this section.

Mr. HOWE. That I suppose to be the effect as it stands.

Mr. HARRIS. That is the case in my own State. I move to amend the same section by striking out in the eighth line the word "ninety" and inserting "thirty." I think ninety days is too long a time within which to allow an appeal to be taken.

Mr. HENDRICKS. I wish to understand that amendment, as I have not the bill before me.

Mr. HARRIS. The committee had agreed upon ninety days as the time within which an appeal might be taken from the district court to the court of appeals, both in civil and in criminal cases; but since the report was made my attention has been called to the subject from several different quarters, and especially by judges who are familiar with the practice, and they urge that ninety days is too long, especially as these courts of appeals are to be held but once a year. To allow ninety days, within which an appeal could be taken, and then to have a year perhaps before the appeal could be heard, would cause great delay. The law now is that an appeal from a district court to a circuit court must be taken within ten days, and no inconvenience has resulted from that. Now, if we allow thirty days, I suppose it is long enough. I hope it will be made thirty days instead of ninety.

Mr. HENDRICKS. This time was considered by the committee, and ninety days was thought to be about right. This is the appeal from the district court to the court of appeals. It is not like the appeal from the district court to the circuit court, which is an appeal on all the facts of the case. Then it is to be tried right over again, in the same building, and there are no records to make out. I wish to call the attention of the Senator from New York to the difference between this appeal and the one with which he compares it. An appeal from the district to the circuit court is an appeal of the whole case, which removes the entire record and all the papers. In that event no preparation of the cause for appeal is necessary; the time of the attorney is not required in preparing the case for appeal to any considerable extent; but in an appeal from the court of trial to the court of law, the record has to be prepared, and in the midst of trials attorneys have not time to do it. I ask the Senator from New York, what is the time allowed for an appeal or a writ of error to the Supreme Court of the United States? This is analogous to that.

Mr. HARRIS. I think that is a year.

Mr. HENDRICKS. This takes the place of an appeal to the Supreme Court; and instead of a year—I do not recollect the time, but I dare say the Senator is correct—this bill proposes ninety days. I think ninety days is a short enough time to allow attorneys to prepare their cases for an appeal; the record has to be seen to, and oftentimes it is a very important matter. While a court is in session attorneys cannot give very much attention to the preparation of the record for the appeal. I think ninety days is fully short enough.

Mr. HARRIS. My answer to the suggestion of the Senator from Indiana is, that the ten days now allowed run from the time the record is made up, from the time final judgment is entered; so that the bill of exceptions must be settled, and before the time for appeal commences to run the record is to be made up, the judgment perfected, and then the party has ten days additional to appeal. I propose to make it in this case thirty days. It seems to me it is ample. I have the opinion of judges of experience to that effect. I hope the amendment will prevail.

Mr. HENDRICKS. I do not think judges have any experience on this particular question. This is an appeal within thirty days after the entry of the judgment; and the judgment is rendered immediately after the verdict is entered. Then you prepare your case for the appellate court. The preparation of causes for court of error must be after the rendition of the judgment. In the midst of trials, an attorney cannot do that who has much business on hand. I do not think thirty days is long enough, but I shall not make a contest about it.

The amendment was agreed to.

Mr. HARRIS. I desire to make the same amendment relative to appeals in civil cases in section eleven, line eight, by striking out the word "ninety" and substituting "thirty."

The amendment was agreed to.

Mr. HOWARD. I wish to call the attention of the Senator from New York to the subject of these appeals more particularly. In the eleventh section an appeal may be taken "from any final judgment or decree of any district court within the circuit when the amount claimed or the value of the property in controversy exceeds $500," &c.; and that an appeal may also be taken from the final judgment of a district court in any criminal action to the proper court of appeals within ninety days after the entry of such judgment. I do not know that I wholly understand the bill. I ask therefore for an explanation. If I understand it, an appeal from an inferior to a superior court opens the whole case and places it in the superior court upon the same basis that it was in the inferior court before the judgment. In case there is a trial by jury in the district court of a civil case, an action for damages, and a final judgment is rendered upon the verdict and that case is appealed, is the case to be retried by a jury in the court of appeals; and in a criminal case is the appeal that is taken to the court of appeals to open the whole case and require a retrial for the offense as charged? I understand such would be the effect of a simple appeal. I do not discover in the bill any provision in details specifying in what way this appeal may be carried out and made effectual. I may be wrong about it. If the honorable Senator would have the goodness to explain, I should be very much gratified.

Mr. HARRIS. I think I can answer the inquiry to the satisfaction of the Senator from Michigan. The eleventh section provides that the review shall be had upon the questions of law and fact arising upon the record, so that if exceptions are taken upon the trial the bill of exceptions is made, that is incorporated in the record, and when it goes up on appeal the appellate court will examine that record, and if it finds error in the record will reverse the judgment. There will be no jury trial there, no new facts presented, no testimony taken. The review is had upon the questions of law and fact arising upon the record.

Mr. HOWARD. Suppose there is no bill of exceptions.

Mr. HARRIS. Then there will be nothing to review.

Mr. HOWARD. But you have appealed it all. You have taken your case from the inferior to the superior court on appeal.

Mr. HARRIS. I need not remind the Senator from Michigan, who is an experienced lawyer, how often cases are taken up where there is really no question to review and the judgment is affirmed as a matter of course.

Mr. HOWARD. That depends on the mode in which the case is taken up. If the case is taken up on a bare appeal I understand the law to be that that appeal opens the whole case for a retrial.

Mr. HARRIS. No, sir, not at all. The court of appeals, in the examination of the case, is confined to the questions that appear on the record, and if there is no bill of exceptions, of course there are no questions arising; there is nothing but the bare record of the trial.

Mr. HOWARD. Does the bill then provide for the taking of a bill of exceptions except by implication?

Mr. HARRIS. No, sir. The judges have a right to prescribe rules under this bill. The common-law practice is to take a bill of exceptions; there will be no trouble about that, I apprehend.

Mr. HOWARD. Perhaps not.

The bill was reported to the Senate as amended.

The PRESIDING OFFICER. (Mr. ANTHONY in the chair.) The question is on concurring in the amendments made as in Committee of the Whole. If no Senator desires to except any particular amendment for a sep-

arate vote, the question will be put on all the amendments together.

The amendments were concurred in.

Mr. HOWE. I move to amend the bill in the eighth section by inserting after the word "court," in the ninth line, the words "but no district judge shall sit in the court of appeals on the trial of any cause which shall have been determined by him in the district court."

Mr. SUMNER. That is absolutely new. I take it that in no country in the world has that rule ever been recognized.

Mr. FESSENDEN. I will say to the Senator that we tried it in Maine for awhile and then abandoned it.

Mr. SUMNER. I knew that nothing of that kind had ever got fairly established in the jurisprudence of any country.

Mr. HARRIS. In New York we had it at one time and abandoned it.

Mr. SUMNER. I take it the experience of the world is that the court above does need the knowledge and practical acquaintance with the cause which the judge below has acquired in its trial.

Mr. HARRIS. In the Supreme Court it is no unusual thing for the judge to write the opinion of the court reviewing his own decision.

Mr. SUMNER. I hope the amendment will not be adopted.

Mr. HOWE. I think the proposition is not so new as the Senator from Massachusetts seems to think, though it is newer than it ought to be. I think it has not been adopted early enough, nor generally enough, nor stuck to in the State of Maine or in the State of New York very long. It is impossible for me to conceive how such a provision should occasion any inconvenience. You have an appellate tribunal here consisting of several judges. The purpose of providing that court of appeals is to give a new trial, to get the adjudication of a different tribunal, and, I think, it is better and will be more satisfactory if it is entirely a different tribunal than if it is partly a new one and partly the same. To the extent that it is the same tribunal, it is a rehearing and not an appeal, not a review.

It is a fact not universal, but so general that it scarcely affords a ground for an imputation on the character of a magistrate, that some men become so wedded to an opinion from the mere fact that they have once pronounced it, that they are less open to conviction than they would be if they never had pronounced that opinion. I do not mean to make any personal application of the remark, and I hope my friends close by will not wince under it. I have noticed such cases; and I have heard of another fact, which is that some judges are so constituted that they are inclined to yield to the opinion of an associate, finding a firm and fixed opinion in that associate, rather than to investigate for themselves when they have such an opinion to lean upon; and I do not mean to make any personal application of that remark either.

It has been suggested here that the acquaintance of the judge who has tried a case in the court below might be absolutely essential to the appellate court. I beg leave to say in reply to that suggestion that I think it is absolutely dangerous for an appellate court to know more of the cause than they can gather from the record and from the arguments of the counsel, except what they gather from the examination of authorities. If it be resolved that there shall be one man in the appellate tribunal who has already passed upon the case and has fixed opinions, the side of the controversy on which those opinions have been pronounced has an advantage on this hearing. That is certain. The appellate court has then the duty of hearing counsel for each of the parties before it, and when those arguments have been submitted there is or may be a further argument submitted in the council chamber by the judge who has once tried the cause and made up his opinions on the trial below and has transported those opinions to the appellate court. If there were any positive or possible good to be derived from that I would submit to what inconvenience is likely to result from this measure of fallibility to which I referred; but unable as I am to see any possible good to be derived from having that particular judge to preside on the new trial of the cause, it seems to me we had better provide for a new tribunal, composed of new judges, to act as the appellate court. I hardly think the Senate would be prepared to accept this proposition against the protest of the Senator from New York and the Senator from Massachusetts and others who have indicated their opinion against it. My own judgment is that it is a very proper one, and I should be very glad to see it adopted.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Wisconsin.

Mr. JOHNSON. Is the object of the amendment to prevent the judge sitting in the court below from sitting in the court in banc?

Mr. HOWE. Yes, sir.

Mr. JOHNSON. I am in favor of that amendment. In Maryland we had the provision which will be in this bill if the amendment is not accepted. The judge sat in the court above, and the suspicion of the bar was —whether it was well founded or not well founded I do not know; but the very existence of such a suspicion was mischievous in its consequences—that the judge who decided below really became a partisan; his opinion was fixed, more by pride of opinion than anything else, and he became an advocate, instead of being, as he should be, strictly, a judge open to conviction. And without meaning to name individual judges at all, I have seen, as I have thought, the same thing in the Supreme Court of the United States. The judges who decide the cases below think that their reputation is injured by having their judgments reversed; and the result has been, as I think I have seen over and over again, that they become exceedingly active; they pass the bounds, as I think, that should limit the judicial function and become advocates merely for the purpose of saving their reputations. Now, as far as relates to any information that the judge may give of the case as it existed in the court below and his reasons for giving his opinion, the court will consult him; but to put him upon the bench and make him a part of the court that is to decide that case, has more than once resulted in this, that the judgment below has been affirmed by a divided court, he being one of that court; and frequently when there was not a divided court, because there could not be in consequence of the numbers, it has been affirmed by his vote, when it would have been reversed if he had not been a member on the bench. In principle, therefore, I think the amendment is right. I am satisfied, as far as an experience of some forty or fifty years can satisfy me upon a question of this sort, that it is necessary in order to clear away all doubt about the judgment which the court above may render, whether it is the result more or less of the arts of the advocate resorted to by the judge whose opinion is in question, or the cool and dispassionate opinion of the rest of the bench.

Mr. HARRIS. The practical inconvenience that would result from the adoption of this rule would be, that in some cases it would be impossible to hold a court. There is a circuit court now in the United States where there are four district judges, two of whom are, as I am informed, scarcely able to perform the duties of their districts, and there are but two active judges in the circuit. Now, if you disqualify one of those judges, you will be unable to get a quorum of the judges to hold a court at all, and the result would be, practically, that the appeals from these two judges who are performing most of the business in the circuit would go unheard; it would be impossible to get along. There is no provision in the bill, and there cannot be one made, by which any other court can be constituted; and inasmuch as you cannot get a quorum of the judges who are qualified to sit in review of the cases tried by these two judges, who try nearly all the cases in the circuit, the cases will go unheard. That will be the practical effect of the adoption of such an amendment in certain circuits, and I have in my mind a circuit in which that will be the immediate practical effect. It will hardly do to insert such a provision applicable to such a case.

Mr. CLARK. In every case some judge would be disqualified by sitting in the court below, and there will always be a judge excluded.

Mr. HARRIS. Certainly.

Mr. WILLIAMS. I know from my own experience how difficult it is for a judge to review his own decisions and at the same time divest himself of all feeling or pride of opinion as to the judgment which he pronounced in the inferior court; and I am inclined to favor the amendment which has been proposed by the Senator from Wisconsin. When the constitution of the State of Oregon was formed the supreme court was made to consist of the circuit judges of the State, and by a provision in that constitution the judge who decided a case in the court below was excluded from any participation in the decision in the supreme court; and I believe that the experience under that constitution so far has been satisfactory, or more satisfactory than it otherwise would have been. I have no doubt in my own mind that the better system would be to have a court of appeals entirely distinct, to consist of judges who have not presided in the inferior courts. But, as that policy is not proposed in this bill, I think it desirable to approximate as near as possible to that policy. I am satisfied that justice requires that the judges who are called upon to review the decisions of the inferior courts should not be the identical persons who made those decisions, because they cannot, in the nature of things, be entirely impartial. They go into the investigation with their opinions fixed and determined, and it is necessary that those opinions should be overcome by argument, which it is often very difficult to do.

I do not understand exactly the force of the objection made by the Senator from New York that some members of the court may be unable to attend to their business, and if you disqualify the judge making the decision in the court below, no court could be held. It is supposed that the persons who are appointed are competent and qualified to transact the business which the law devolves upon them. So far as the experience of my State is concerned, and the State government has been in operation there for several years, no inconvenience has resulted from this system; and I do not now remember one term of the supreme court where all the judges have not been present. I presume there will be no great inconvenience resulting from the adoption of this amendment such as is anticipated by the Senator from New York.

Upon the Pacific coast this court of appeals I think would consist of four judges. A bill has been introduced by the Senator from California which I understand proposes to make the State of California one judicial district; but the State of Oregon constitutes one judicial district, and so does Nevada, which would make the court of appeals to consist of four judges. I think, so far as that portion of the United States is concerned, no difficulty would grow out of the adoption of this amendment.

The PRESIDING OFFICER. The question is upon the amendment of the Senator from Wisconsin.

Mr. HOWE. I should like to have the yeas and nays on that amendment.

The yeas and nays were ordered.

The Secretary proceeded to call the roll.

Mr. HENDRICKS (when his name was called) said: I scarcely know how to vote on this question. We have had no experience upon it in my State at all, and I hardly know how to vote; but in cases of doubt I vote in the negative. I therefore vote "nay."

The result was announced—yeas 11, nays 21; as follows:

YEAS—Messrs. Buckalew, Chandler, Creswell, Davis, Howard, Howe, Johnson, Saulsbury, Wade, Willey, and Williams—11.

NAYS—Messrs. Anthony, Clark, Conness, Cragin, Fessenden, Foster, Guthrie, Harris, Henderson, Hendricks, Morgan, Morrill, Norton, Nye, Ramsey, Sherman, Stewart, Sumner, Trumbull, Van Winkle, and Wilson—21.

ABSENT—Messrs. Brown, Cowan, Dixon, Doolittle, Grimes, Kirkwood, Lane of Indiana, Lane of Kansas, McDougall, Nesmith, Poland, Pomeroy, Riddle, Sprague, Wright, and Yates—16.

So the amendment was rejected.

Mr. HOWARD. I wish to offer an amendment to the bill to which I think there will be no objection. It is in section nine, line five, after the word "justice" to insert the words, "such clerk shall not be of kin to such presiding judge within the fourth degree of consanguinity;" so that it will read:

It shall also have a clerk, to be appointed by and removable at the pleasure of the presiding justice; such clerk shall not be of kin to such presiding judge within the fourth degree of consanguinity.

I am stating nothing new to gentlemen who have practiced in the Federal courts and in other courts when I say that the appointment of near relations of the judge generally has the effect to cast some sort of suspicion upon the judge himself, and therefore to impair his influence. For instance, in the Federal courts, as we are all aware, it becomes necessary for the judge to certify the accounts which the clerk makes out against the Government, and the certificate of the judge is received as a sufficient voucher at the Department for the allowance of the account in most cases. It is, in many instances, a source of great complaint. I could individualize some cases of the kind, but I do not choose to do so at the present time. Certainly I think the public interest will be consulted by the adoption of this amendment. I think it will relieve the presiding judges from an unfair imputation which uncandid suitors are too apt to lay upon them.

Mr. HARRIS. I ask for the yeas and nays upon the amendment.

The yeas and nays were ordered.

Mr. HOWARD. It is supposed by some that the fourth degree is a little too remote. I will ask, therefore, common consent to change my amendment from the fourth degree to the third degree.

The PRESIDING OFFICER. The yeas and nays having been ordered, the amendment can only be changed by unanimous consent. The Chair hears no objection, and it will be so modified.

Mr. HENDERSON. Let me suggest to the Senator from Michigan that if he will strike out the words "presiding justice," in the fifth line of the ninth section, and substitute the word "court," he will perhaps accomplish all he desires. The clause now reads:

It shall also have a clerk, to be appointed by and removable at the pleasure of the presiding justice.

The Senator desires to prevent the presiding justice from appointing a relation as clerk. I suggest to him, would it not be better to strike out the words "presiding justice" and insert the word "court," so as to let the clerk be appointed, as he is now, by the court? I intended to offer that amendment.

Several SENATORS. The presiding justice is the court.

Mr. HENDERSON. Senators are mistaken. This is the court of appeals, not the district court.

Mr. HOWARD. I feel inclined to take away from the presiding judge altogether the power of appointing a relative as clerk.

Mr. HENDERSON. Is it in order to offer that to the amendment now pending? If it is, I offer it as an amendment to the amendment of the Senator from Michigan.

The PRESIDING OFFICER. In the opinion of the Chair, such an amendment would not be in order to the pending amendment. It does not apply to it in any way.

Mr. HOWARD. It has no application to my amendment that I can perceive.

Mr. VAN WINKLE. I should like to ask the Senator from Michigan whether he thinks there is more objection to a son than a son-in-law; or, in other words, whether a relation by marriage ought not to be excluded as well as one by blood.

Mr. HOWARD. I should apprehend less danger in the case of a relation by marriage than by consanguinity. However, if Senators think they ought to be included also, the amendment might be amended by adding "or affinity."

Mr. JOHNSON. I shall vote against the proposition, first, because it is a reflection upon the judiciary, and, secondly, because I can very well imagine that there are cases in which the judge would find some relative within the degrees designated in the amendment more fit to discharge the duties of the office than any one else. I know there have been complaints, expressions more in way of surprise than anything else, that the judges of the courts of the United States have appointed their relatives to these clerkships; but I never heard it intimated in any instance that the clerk so appointed did not turn out to be a good one. If you are about to apply that general rule, because it prescribes a principle, you had better make it uniform, and you should apply it to the Executive Departments. It has been a constant practice there; the present Secretary of State has his son as his assistant, and a good many of the Secretaries prefer having their relatives, because the offices are matters of trust entirely, and personal trust. You send ministers abroad, and at the instance of the minister himself, his son is very often selected as his secretary of legation.

Mr. SUMNER. That is wrong, I think.

Mr. JOHNSON. It is not supposed to be wrong by them. They think it is right in its results. The minister has entire confidence in his own son. It is wrong if the son is incompetent; but supposing him to be competent, as the relation is a confidential relation, is it not better that he should have his son stand in that situation? If those of us here that are chairmen of committees want clerks, what is there to prevent our appointing our sons or our nephews, if we desire a clerk in whom we have personal confidence? It has been done very often, and no mischief has resulted from it that I have ever heard of. On the contrary, the chairman has got on more satisfactorily with that power than perhaps he would without it. But what possible bad influence can the fact of their being related have upon the judge or upon the clerk? The clerk has no judgment to pronounce. He is a mere ministerial officer. I do not see that it will affect in any way the judgment of the judge himself, assuming that the judge is an honest man. Of course we have a right to assume that he is an honest man; and if he is an honest man he cannot be influenced by anything his son might say to him.

The question being taken by yeas and nays, resulted—yeas 9, nays 19; as follows:

YEAS—Messrs. Buckalew, Chandler, Conness, Fessenden, Howard, Howe, Sumner, Wade, and Wilson—9.

NAYS—Messrs. Anthony, Clark, Cragin, Creswell, Guthrie, Harris, Henderson, Hendricks, Johnson, Morgan, Norton, Nye, Ramsey, Sherman, Stewart, Trumbull, Van Winkle, Willey, and Williams—19.

ABSENT—Messrs. Brown, Cowan, Davis, Dixon, Doolittle, Foster, Grimes, Kirkwood, Lane of Indiana, Lane of Kansas, McDougall, Morrill, Nesmith, Poland, Pomeroy, Riddle, Saulsbury, Sprague, Wright, and Yates—20.

So the amendment was rejected.

Mr. HENDERSON. I do not desire to protract this matter any further, but I should like very much to have the amendment that I have suggested adopted; and I move in the fifth line of the ninth section to strike out the words "presiding justice" and to insert the word "clerk;" so that it will read:

It shall also have a clerk, to be appointed by and removable at the pleasure of the court.

The clerk, I think, ought to be an officer selected by the whole court. He is an officer of the court. There will be five or six of these judges, and the presiding judge might select a man who would be very obnoxious, indeed, to the remainder of the judges, and I can see no reason for changing the law as it now is.

Mr. HARRIS. My objection to this amendment is this: each district judge now has the appointment of a clerk to the district court. The clerks of the present circuit courts are appointed by the judge of the Supreme Court assigned to the circuit. The effect of this amendment will be to legislate out of office those clerks of the circuits. There is no reason in the world why the judge of the Supreme Court assigned to a circuit should not continue that clerk in office as the clerk of this court that is to be created. This provision of the bill is giving to each judge of these circuits an equal amount of patronage. Every district judge appoints the clerk of his district court. Now, I am in favor of allowing the judge assigned to the circuit from the Supreme Court to appoint the clerk of the court of appeals. That will give each judge the appointment of one clerk, and its effect will be, practically, to continue in office the clerk of the circuit as the clerk of the court of appeals. I think it is a fair and just and equal distribution of patronage. I hope, therefore, that the amendment will not prevail.

The amendment was rejected.

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

Mr. FESSENDEN. On the passage of the bill I should like to have the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 23, nays 6; as follows:

YEAS—Messrs. Anthony, Buckalew, Conness, Cragin, Creswell, Foster, Guthrie, Harris, Henderson, Hendricks, Howe, Johnson, Morgan, Norton, Ramsey, Sherman, Stewart, Sumner, Trumbull, Van Winkle, Willey, Williams, and Wilson—23.

NAYS—Messrs. Chandler, Clark, Fessenden, Howard, Nye, and Wade—6.

ABSENT—Messrs. Brown, Cowan, Davis, Dixon, Doolittle, Grimes, Kirkwood, Lane of Indiana, Lane of Kansas, McDougall, Morrill, Nesmith, Poland, Pomeroy, Riddle, Saulsbury, Sprague, Wright, and Yates—19.

So the bill was passed.

HOUSE BILL REFERRED.

The bill (H. R. No. 453) for the relief of Cornelius B. Gold, late acting paymaster United States Navy, was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. WADE. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *April* 4, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

The SPEAKER. The first business in order is the call of committees for reports, continuing the call of the Committee on Naval Affairs.

QUINCY HILL, UNITED STATES NAVY.

Mr. DARLING, from the Committee on Naval Affairs, made an adverse report upon the petition of Quincy Hill, late acting assistant paymaster of the United States Navy, asking an appropriation of $313 34, to cover a charge of that amount in his account with the Fourth Auditor of the Treasury; which was laid on the table, and ordered to be printed.

CORNELIUS B. GOLD, UNITED STATES NAVY.

Mr. DARLING, from the Committee on Naval Affairs, reported a bill for the relief of Cornelius B. Gold, late acting assistant paymaster of the United States Navy; which was read a first and second time.

The bill authorizes and directs the proper accounting officers of the Government, in the settlement of the accounts of Cornelius B. Gold, late acting assistant paymaster of the United States Navy, to allow a credit of $510 09 for clothing abstracted from a store-room under charge of said Gold while on duty in Mobile bay, in the spring and summer of 1865.

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

Mr. ROSS. I think this bill should be referred to the Committee of Claims.

Mr. DARLING. I ask that the report accompanying the bill be read.

The report was read.

Mr. ROSS. I hope the gentleman from New York [Mr. DARLING] will allow this bill to be referred to the Committee of Claims.

Mr. DARLING. I do not see any propriety at all in such a reference. The claim was recommended by the proper authorities of the Navy Department, and it has been examined and approved by the Committee on Naval Affairs. This case is one which cannot be reached in any other way than by action of Congress.

These officers of the Navy are very peculiarly situated, and they are entirely subject to the Fourth Auditor of the Treasury in the settlement of their accounts. The money and property placed in their keeping are charged to them, and they must account for them either by property returned or by means of proper vouchers. This property is subject to all the contingencies of war.

This officer had charge of a number of vessels, neither of which had the capacity to contain the goods placed in his charge, and he was obliged to put them in a building on shore, where they were kept under lock and key. In the discharge of his duty the officer was obliged to leave the shore and go upon the several vessels there, and while absent these goods were abstracted.

This case having commended itself to the favor of the Department, and having been considered by the Committee on Naval Affairs, who recommend it to the favorable action of Congress, I think this bill should pass. I call the previous question on this bill.

Mr. WASHBURNE, of Illinois. Will the gentleman from New York withdraw the call for the previous question for a moment?

Mr. DARLING. Certainly.

Mr. WASHBURNE, of Illinois. The amount involved in this case is not very large. But we are establishing a principle which will involve, if carried out, the appropriation of a very large amount. I think with my colleague, [Mr. Ross,] that this is a bill which should be examined by the Committee of Claims.

Mr. DARLING. I am very willing to admit that there should be a general law authorizing the Secretary of the Navy, or the proper officer of the Government, to act on all these cases. But there is no such law now, and before one can be passed some of these men may die and their accounts pass unsettled to their estates.

Mr. WASHBURNE, of Illinois. I should be very unwilling to have a general law passed to cover all these claims, for it would be an invitation to carelessness on the part of these paymasters.

Now, in the first place, there has not been satisfactory evidence to me of the loss of this clothing, and in the second place, if such loss has been completely established, it is a question how far this officer should be relieved from this charge.

I hope the gentleman from New York [Mr. DARLING] will allow me to offer an amendment to this bill before he calls the previous question. With his permission I will move to amend the bill by adding the following:

Provided, That no credit shall be allowed until the proper officer of the Government shall be satisfied of the alleged loss of the clothing herein referred to.

Mr. DARLING. I have no objection to that amendment, for the evidence is full upon that point.

Mr. TAYLOR. I would like to ask my colleague [Mr. DARLING] if the report of the board of examiners who inquired into the circumstances of the loss of this clothing is among the papers in this case.

Mr. DARLING. Yes, sir; a board of survey was ordered, and their report is on file with the other papers.

Mr. TAYLOR. Do they exonerate this officer from blame?

Mr. DARLING. Yes, sir, expressly; and the Department exonerates him.

Mr. TAYLOR. Such a report as that is generally deemed a sufficient voucher by the Department.

Mr. DARLING. All the testimony is there. The report of the committee simply sets forth the evidence presented to them. And the report of the committee has just been read.

Mr. TAYLOR. Would it be out of order to ask that the report of the board of examiners be read?

The SPEAKER. The gentleman's colleague desires that the report of the board of examiners shall be read.

Mr. DARLING. I have no objection to that.

The Clerk read the report.

Mr. WASHBURNE, of Illinois. I will modify my amendment so as to read as follows:

Provided, That no credit shall be allowed until the proper officers of the Government shall be satisfied by full and complete proof of the loss of the clothing herein referred to.

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

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

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

The latter motion was agreed to.

REAR ADMIRAL PAULDING.

Mr. PHELPS reported from the Committee on Naval Affairs a bill for the relief of Hiram Paulding, rear admiral of the United States Navy; which was read a first and second time.

The bill, which was read *in extenso*, provides that the proper accounting officers of the Treasury be directed to audit the accounts of Hiram Paulding, while a captain in the United States Navy, covering his expenditures in the entertainment of the foreign officers and people who visited the frigate St. Lawrence under his command at Southampton, not exceeding the sum of $963 92, and also his expenditures in entertaining the officers of the Government of Bremerhaven and Stockholm, in the years 1848, 1849, and 1850, not exceeding the sum of $2,650.

Mr. PHELPS. I demand the previous question.

Mr. ROSS. This same bill was up yesterday, and it was decided to be an appropriation bill.

The SPEAKER. This bill is different from that which was before the House yesterday. This simply directs the proper accounting officers to audit the accounts. It makes no appropriation.

Mr. ROSS. If credit is given this officer upon his accounts, it is the same practically as an appropriation of money.

The SPEAKER. An appropriation bill is one which by its own force appropriates money out of the Treasury. This does not.

Mr. ROSS. I think that this bill had better go to the Committee of Claims. All questions of this sort should be examined by that committee.

The SPEAKER. Does the gentleman from Maryland [Mr. PHELPS] yield for a motion to refer the bill to the Committee of Claims?

Mr. PHELPS. No, sir. This claim has been before Congress three several times. It has been favorably reported by three different Naval Committees of the Senate, has been twice passed by that body, and has once been reported favorably by the Committee on Foreign Affairs of this House. The claim is just, and should have been paid long since. Captain Paulding was sent upon this *quasi* diplomatic mission during the revolution in the north of Germany in 1848, and during the course of his cruise in those waters was visited by representatives of many foreign Powers. He was visited by the common council of the municipality of Southampton; he was visited by representatives of Bremerhaven and Stockholm, all of whom he of course, in the discharge of his duty as an officer of this Government, was bound to receive and to entertain. It was not an ordinary cruise; it was a special diplomatic mission, undertaken in pursuance of instructions from the Secretary of the Navy, giving Captain Paulding a latitude of discretion in reference to such matters. This claim has been acted upon favorably so often that it seems to me it would be an outrage upon this officer to refer this bill to the Committee of Claims or delay its passage in any manner.

Mr. SPALDING. I am not well informed on this subject; but I really desire to know whether it has been the practice for our commanders of naval vessels to make entertainments abroad on board their ships and then appeal to Congress afterward to pay the expense. If that is the practice, I suppose we must follow it on this occasion. But, sir, I do not like the precedent; and if it be a precedent which we are about to establish, I cannot give it my sanction. I know very well that these officers fill places of high trust, and ought to be well paid so that they can incur occasionally these extra expenses. But I do not know that Congress should be called upon to pay for every dinner the captain of a war ship chooses to give to the nobility in every port of Europe. Hence, unless the gentlemen who now compose the Committee on Naval Affairs can satisfy me we are following a legitimate practice of Congress, I must be constrained to vote against this bill.

Mr. PHELPS. Mr. Speaker, the precedents are compiled in the report of the Committee on Naval Affairs of the Senate submitted by Mr. Fish in the Thirty-Fourth Congress. These are the precedents: naval appropriation act of February 20, 1833, section five, allowance to Master Commandant John D. Sloat, $1,360; civil and diplomatic appropriation act of March 2, 1833, allowance to Captain Daniel Turner of $1,182 78, and to Captain George W. Storer, $500; act of July 7, 1838, for the relief of Captain Daniel T. Patterson, allowing him $3,891, and act of June 17, 1844, for the relief of Captain Charles W. Morgan, allowing him $4,200. Then we have the well-known case of Commodore Perry, of 1855, whose expenses in entertaining the Japanese authorities were paid by the Government. And the mission of Captain Paulding was similar to that of Commodore Perry. The precedents are amply supported, and the justice of the claim is obvious to all who will consider that it cannot be expected of officers of the Navy, poorly paid as it is admitted they are, to pay these expenses out of their own private purses.

Mr. WASHBURNE, of Illinois. I ask that the bill be again read.

The bill was again read.

Mr. WASHBURNE, of Illinois. I hope that the demand for the previous question will not be seconded.

The House divided; and there were—ayes 31, noes 50; no quorum voting.

Mr. PHELPS demanded tellers.

Tellers were ordered; and Messrs. PHELPS and ROSS were appointed.

The House again divided; and the tellers reported—ayes twenty-six, noes not counted.

So the previous question was not seconded.

Mr. ROSS moved that the bill be laid upon the table.

The motion was agreed to.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill was laid upon the table; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

TREASURER OF THE UNITED STATES.

On motion of Mr. MORRILL, by unanimous consent, Senate bill No. 158, to facilitate the settlement of the accounts of the Treasurer of the United States, and to secure certain moneys to the people of the United States or to persons to whom they are due and who are entitled to receive the same, was taken from the Speaker's table, and referred to the Committee of Ways and Means.

J. B. RITTENHOUSE.

Mr. GRISWOLD, from the Committee on Naval Affairs, reported back Senate bill No. 80, for the relief of J. B. Rittenhouse, fleet paymaster of the Pacific squadron, with the recommendation that it do pass.

The bill authorizes the proper accounting officers of the Treasury, in the settlement of the accounts of J. B. Rittenhouse, fleet paymaster of the Pacific squadron, to release him from all accountability for the amount of $13,509, public money, stolen from him on the evening of October 30, 1865, while on duty at Panama, or such portion thereof he may or shall fail to recover.

Mr. GRISWOLD. Mr. Speaker, I desire, in explanation of that bill, to say that the petitioner was assigned to duty at Panama as fleet paymaster, and occupied an office paid for by the Government. While in the discharge of his duty there some thirteen thousand dollars, or thereabouts, was stolen from his safe. Every effort was made upon his part to ferret out the thief and to have the money restored. The thief was subsequently arrested and convicted, and a large portion of the money was recovered. This bill was passed by the Senate and only provides that this paymaster shall not be held responsible for the loss incurred. There is no doubt of its propriety.

Mr. WASHBURNE, of Illinois. I should like to have the report read.

Mr. GRISWOLD. There is no report except that made in the Senate.

Mr. WASHBURNE, of Illinois. If I recollect, this occasioned a great deal of discussion in the Senate.

The Clerk read, as follows:

"That on a careful examination of the petition and accompanying documents, it appears that the petitioner, having sustained a stroke of paralysis, was permitted to remain in the discharge of his duties as fleet paymaster at Panama, as that place, from its centrality of position, presented far greater facilities for the execution of the requirements of his position, as all instructions and reports between Government and squadron would there concentrate; there the returns of the different paymasters would be the sooner and more surely received, examined, corrected, and transmitted, and there funds obtained upon the most reasonable terms, could most readily and inexpensively be remitted to the various vessels needing them.

"That the quarters assigned him were in a building leased by the Government for use as a naval storehouse, and admirably adapted to the purpose of its selection, but situated in a neighborhood thronged with residents, and crossed by two of the most traveled thoroughfares of the city, its inmost recesses and most ordinary transactions exposed to the gaze of passing multitudes; not a dollar received or disbursed but could be thoroughly observed, as well as the habits and arrangements, the goings-out and returning of the occupants of the office.

"It appears that while occupying these premises the petitioner was robbed of the amount of $13,509 of public money, which he had on deposit in his safe, on the afternoon of the 30th, or during the morning of the 31st October last, (1865:) and immediately on the discovery of the robbery he notified Commander Paulding, of the United States sloop Cyane, then lying at anchor in the harbor of Panama, of the fact by official letter, requesting a prompt and scrutinizing investigation into the manner in which the robbery was committed. Upon being apprised of the fact of the robbery, Commander Paulding immediately instituted a board of inquiry to investigate the matter, composed of the United States consul at Panama, the prefect of the city, and three officers of the United States sloop Cyane, and to report thereon to him."

Mr. WASHBURNE, of Illinois. I hope the gentleman will permit the ordinary proviso to be put in this bill; and I wish he would yield me the floor one moment to speak on the subject.

Mr. GRISWOLD. I do so.

Mr. WASHBURNE, of Illinois. This is a different case, I wish the House to understand, from those which we have heretofore acted upon. Those that we have acted upon have been cases where the money has been absolutely lost, as for instance, that of the Brother Jonathan. Here the allegation is that the money has been stolen; and if I recollect right, looking over the proceedings of the Senate, this bill was very thoroughly discussed; and great doubts were expressed by the most careful Senators as to the propriety of passing it. And I recollect that a case was adverted to where a paymaster in New Orleans stole the money himself, and then charged it upon a negro, who, under threats, I believe, confessed that he stole it, and was sentenced by a military tribunal to imprisonment for twenty years. The fact was ascertained afterward that the negro had confessed to a crime that he did not commit.

That is one of the dangers connected with the passage of a bill of this kind, legislating for the relief of parties in this way; and hence I am opposed to the whole system; and I ask the gentleman, before he calls the previous question, to permit the same amendment to be made that has been put into the previous bills.

Mr. GRISWOLD. What is that?

Mr. WASHBURNE, of Illinois. That no credit should be given until the proper accounting officers of the Government are fully satisfied in regard to the larceny.

Mr. GRISWOLD. I have not the slightest objection to that.

Mr. WASHBURNE, of Illinois. I will then move to amend by adding the following proviso:

Provided, That no part of said money shall be allowed to the said Rittenhouse until the proper accounting officers of the Government are satisfied upon full and complete evidence of the larceny of the money alleged to have been stolen.

Mr. GRISWOLD. I desire to state two or three facts in connection with this case in order that there may be no misapprehension on the part of the House.

As I stated before, this paymaster occupied an office of the Government. In that office was an iron safe, within which was deposited this gold in a box. His assistant was a boy in the naval service. On one occasion it became necessary to send the boy to another room, or to some other place, with a bunch of keys. The boy, while going out with the keys, having been previously instructed by a man named Bradley, took a small peice of writing paper, wetted it with his tongue, and took the impression of the key of the safe. This enabled the man to make a key out of a piece of iron. Then the boy, who had been bribed for the purpose, committed the robbery. Bradley was immediately arrested, and a portion of the money was found secreted in his house.

Every possible measure was taken by the petitioner in regard to the security of the money. The safe was not a proper one, and he applied to commercial houses in Panama to procure another, either in exchange or by purchase. He had previously lost from the same safe $600, the loss of which he himself submitted to rather than make an application for reimbursement. This is one of those cases where every possible degree of caution and vigilance was taken by him, and he is therefore not responsible for the loss.

Mr. ROSS. Would it not be better to let this case go to the Committee of Claims? I think we had better have it investigated.

Mr. GRISWOLD. I will say to the gentleman that while I believe in all possible vigilance in regard to these matters, I do not believe that the Congress of the United States is going to withhold the meed of justice that any commercial man in the land would readily allow. Nor do I believe in that sort of economy which withholds from a man who comes to Congress with such a claim the reimbursement which is equitably and lawfully due. I think there are duties incumbent upon the American Congress that every member should recognize, and I appeal to this House not to send to the Committee of Claims or any other vague and indefinite tribunal a petition that comes here with such force.

Mr. ROSS. I did not wish to be understood by the gentleman or by the House that I was opposed to paying claims of this character where they are clearly made out by proper and legitimate proof; but the Committee of Claims is the committee organized by this House for the purpose of investigating claims of this character. It does not properly appertain to the business of the Committee on Naval Affairs. I am therefore in favor of letting the claim go like others to be investigated by the proper committee of this House.

Mr. GRISWOLD. I desire to inform the gentleman that this officer had a court-martial investigation of the case, and the findings of the court and the whole examination are here in this report.

Mr. ROSS. I have no doubt that a great many mistakes are made in the passage of bills of this sort and that we pay money that is not due. It is frequently the case that the man has stolen the money himself and then pretended that some one else did it, and we should investigate such cases with great care.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had passed bills of the following titles, in which he was directed to ask the concurrence of the House, namely:

An act (S. No. 167) to incorporate the Women's Hospital Association of the District of Columbia;

An act (S. No. 185) to preserve evidence of marriages in the District of Columbia;

An act (S. No. 177) to incorporate the National Safe Deposit Company of Washington, in the District of Columbia;

An act (S. No. 158) to facilitate the settlement of the accounts of the Treasurer of the United States, and to secure certain moneys to the people of the United States, or to persons to whom they are due and who are entitled to receive the same;

An act (S. No. 43) to prescribe the mode of settling the accounts of the clerk of the supreme court of the District of Columbia;

An act (S. No. 218) exempting the property of debtors in the District of Columbia from levy, attachment, or sale on execution;

An act (S. No. 90) enlarging the powers of the levy court of the county of Washington, in the District of Columbia; and

An act (S. No. 51) to incorporate the Potomac Navigation and Transportation Company of the District of Columbia.

J. B. RITTENHOUSE—AGAIN.

Mr. GRISWOLD. I will yield the floor now to the gentleman from Pennsylvania [Mr. THAYER.]

Mr. THAYER. I do not know, Mr. Speaker, how many examinations would be necessary in order to satisfy the gentleman from Illinois [Mr. Ross] with regard to the justice of a claim presented to Congress, or how many committees, in his judgment, should be required to examine a claim, or how many favorable reports should be made in order to satisfy his conscience in voting to do justice to an officer of the United States.

It seems to me, sir, that when a report has come from a committee of this House, who have given the subject a careful examination, and when the gentleman finds it impossible to lay his finger upon any fact or any principle stated in the report of that committee with which he can take issue, the objection is of very little force that the case has not been examined by two committees instead of one.

The person whose case is before the House is, according to the information which I have received, a gentleman of excellent character in the naval service. I have taken the trouble to read the report of the committee upon his case; I have taken the trouble to read the evidence which was before the committee, and my judgment is that it is a perfectly clear case for the favorable action of this House. It is highly proper that extreme vigilance should be shown by the members of this House, and particularly by the committees of this House, in the examination of claims of this character and indeed of claims of every character which come before this body. But, sir, when those claims have undergone deliberate investigation, and when the evidence is of a character to satisfy the judgment of any reasonable man that the claim is just, that the facts are true and the principles upon which our favorable action is invoked are correct, I know no reason why this House should refuse to do justice or why an officer of the

Army or Navy of the United States should, in this respect, be subjected to any different rule from that which is applied to other officers or agents of the United States, or, indeed, from that rule of law which is applied to all similar circumstances in the private relations of life.

Now, if it is shown, as it is in this case, that proper care and diligence has been taken by the bailee of the money, that he has exercised in the circumstances in which he was placed all the diligence and care that a man of prudence and caution would exercise in taking care of his own money, and he has lost it by an accident or a force against which he could not guard, and which occurred in spite of all the vigilance which he could exercise, and which could be reasonably demanded of him, then I see no reason why a rule should be applied to him different from that which would be applied in private life to persons similarly situated. When the testimony shows that no lack of diligence has existed, that there is on the side of the officer good faith, unimpeached character, and all possible care in the protection of the property committed to him, and when that is accompanied by full proof of the loss, the conviction of the thieves and reclamation of a portion of the money; when the case is such, in a word, as to satisfy the judgment of a reasonable man, that as between man and man it would be just that this allowance should be made, and that the bailee should be exonerated from responsibility, then I see no reason why justice should be denied by the United States, or why the United States should refuse that justice to its own officers which persons in private life would extend and would be obliged by law to extend to their own agents and bailees.

I hope, sir, that the recommendation of the committee will be concurred in by this House, and the bill passed.

Mr. GRISWOLD. I call the previous question on the bill and amendment.

The previous question was seconded and the main question ordered.

The first question was upon the following amendment of Mr. WASHBURNE, of Illinois:

Provided, That no part of said money shall be allowed said Rittenhouse until the proper accounting officers of the Government are satisfied upon full and complete evidence of the larceny of the money alleged to have been stolen.

The amendment was agreed to.

The bill as amended was then read the third time.

The question was upon the passage of the bill.

Mr. LAWRENCE, of Ohio, called for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 68, nays 40, not voting 75; as follows:

YEAS—Messrs. Alley, Allison, Ancona, Baker, Baldwin, Banks, Beaman, Bingham, Boutwell, Boyer, Broomall, Bundy, Sidney Clarke, Coffroth, Darling, Davis, Dawes, Dixon, Driggs, Eckley, Eggleston, Eldridge, Eliot, Farquhar, Ferry, Grinnell, Griswold, Hale, Hart, Hayes, Holmes, James R. Hubbell, Kasson, Kelso, Ketcham, Laflin, Latham, Le Blond, Loan, McRuer, Mercur, Morrill, Morris, Myers, Nicholson, Perham, Phelps, Pike, Plants, Price, Samuel J. Randall, Alexander H. Rice, Rogers, Rousseau, Schenck, Scofield, Spalding, Stevens, Stilwell, Strouse, Taylor, Thayer, Francis Thomas, Van Aernam, Welker, James F. Wilson, and Winfield—68.

NAYS—Messrs. Benjamin, Bergen, Cook, Cullom, Dawson, Defrees, Denison, Farnsworth, Finck, Glossbrenner, Aaron Harding, Abner C. Harding, Hill, Asahel W. Hubbard, Edwin N. Hubbell, Hulburd, George V. Lawrence, William Lawrence, McCullough, Moulton, Orth, Paine, William H. Randall, John H. Rice, Ritter, Ross, Sawyer, Shanklin, Shellabarger, Sitgreaves, Sloan, Taber, Thornton, Trimble, Trowbridge, Elihu B. Washburne, Henry D. Washburn, Wentworth, Windom, and Wright—40.

NOT VOTING—Messrs. Ames, Anderson, Delos R. Ashley, James M. Ashley, Barker, Baxter, Bidwell, Blaine, Blow, Brandegee, Bromwell, Brooks, Buckland, Chanler, Reader W. Clarke, Cobb, Conkling, Culver, Delano, Deming, Donnelly, Dumont, Garfield, Goodyear, Grider, Harris, Henderson, Higby, Hogan, Hooper, Hotchkiss, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James Humphrey, James M. Humphrey, Ingersoll, Jenckes, Johnson, Jones, Julian, Kelley, Kerr, Kuykendall, Longyear, Lynch, Marshall, Marston, Marvin, McClurg, McIndoe, McKee, Miller, Moorhead, Newell, Niblack, Noell, O'Neill, Patterson, Pomeroy, Radford, Raymond, Rollins, Smith, Starr, John L. Thomas, Upson, Burt Van Horn, Robert T. Van Horn, Ward, Warner, William B. Washburn, Whaley, Williams, Stephen F. Wilson, and Woodbridge—75.

So the bill was passed.

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

The latter motion was agreed to.

The SPEAKER. The morning hour has now expired.

MESSAGE FROM THE PRESIDENT.

A message in writing from the President of the United States, by Colonel WILLIAM G. MOORE, his Secretary, was received by the House.

Also, a message informing the House that he had this day approved and signed a joint resolution (H. R. No. 96) in relation to the public lands pertaining to the armory at Springfield.

ENROLLED BILL SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled Senate bill No. 94, entitled "An act to amend the act entitled 'An act for the relief of seamen and others borne on the books of vessels wrecked or lost in the naval service,' approved July 4, 1864, and for other purposes;" when the Speaker signed the same.

MISSOURI LAND-GRANT RAILROAD.

On motion of Mr. HOGAN, by unanimous consent, Senate bill No. 37, making a grant of land in alternate sections to aid in the construction and extension of the Iron Mountain railroad from Pilot Knob, in the State of Missouri, to Helena, in Arkansas, was taken from the Speaker's table and read a first and second time.

Mr. HOGAN. I move that the bill be referred to the Committee on Public Lands.

Mr. PRICE. I object to that reference. I call attention to the following rule of the House:

"There shall be appointed at the commencement of each Congress a Committee on the Pacific Railroad, to consist of nine members. It shall be the duty of the said committee to take into consideration all such petitions and matters or things relative to railroads or telegraph lines between the Mississippi valley and the Pacific coast as shall be presented or shall come in question and be referred to them by the House; and to report their opinion thereon, together with such propositions relative thereto as to them shall seem expedient."

The point I make is, that under that rule all matters relating to railroads between the valley of the Mississippi and the Pacific coast shall go to the Committee on the Pacific Railroad.

The SPEAKER. The gentleman from Iowa [Mr. PRICE] raises the point of order that this bill must be referred, under the rules, to the Committee on the Pacific Railroad. The Chair overrules the point of order.

There are two rules bearing upon this question. The gentleman has quoted one, which is rule 150; the Chair will read the other, rule 80:

"It shall be the duty of the Committee on the Public Lands to take into consideration all such petitions and matters or things respecting *the lands of the United States*, as shall be presented, or shall or may come in question, *and be referred to them by the House;* and to report their opinion thereon, together with such propositions for relief therein as to them shall seem expedient."

Rule 150 provides:

"It shall be the duty of the Committee on the Pacific Railroad to take into consideration all such petitions and matters or things relative to *railroads or telegraph lines between the Mississippi valley and the Pacific coast* as shall be presented, or shall come in question, *and be referred to them by the House*, and to report their opinion thereon, together with such propositions relative thereto as to them shall seem expedient."

Both rules state that the respective committees shall take cognizance of such matters as "shall come in question and be referred to them by the House." But the Committee on Public Lands have the larger jurisdiction. They have jurisdiction of all questions "respecting the lands of the United States as shall be presented or shall come in question, and be referred to them by the House." The Committee on the Pacific Railroad have jurisdiction of "all such petitions and matters or things relative to railroads or telegraph lines between the Mississippi valley and the Pacific coast as shall be referred to them." This bill grants lands for a railroad west of the Mississippi. It is certainly in order for the House to refer it to the Committee on the Pacific Railroad. The language of the rule, however, providing for raising the Committee on Public Lands is so broad as to make the reference of the bill to that committee equally proper, if the House sees fit so to refer it.

Mr. PRICE. I am satisfied. I only wanted the question settled.

The SPEAKER. The gentleman from Iowa withdraws his objection, and the bill, if there be no further objection, will be referred to the Committee on Public Lands.

There was no objection; and the motion to refer the bill to the Committee on Public Lands was agreed to.

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

The latter motion was agreed to.

COLLECTION DISTRICT OF PORT HURON, ETC.

Mr. TROWBRIDGE. I ask the House to grant unanimous consent to have reported from the Committee on Commerce a bill in which my constituents are very much interested, and which should be passed immediately. It relates to the division of a customs district on the eastern side of the State of Michigan. The division is recommended by the collector of customs and also by all the officers in the Treasury Department who have anything to do with the subject.

There was no objection; and

Mr. WASHBURNE, of Illinois, by unanimous consent, reported back from the Committee on Commerce, with amendments, the bill (S. No. 199) to establish the collection district of Port Huron, in the district of Michigan, and to extend the district of Puget Sound.

The bill, which was read *in extenso*, provides that a new collection district, to be called the district of Port Huron, be established in the State of Michigan, which shall embrace the mouth and entire shore of the Saint Clair river, and the counties of Saint Clair, Lapeer, Tuscola, and Saginaw, and all the territory and waters of the State of Michigan lying north of said counties and east of the principal meridian; and a collector shall be appointed, to reside at Port Huron, which shall be the sole port of entry for said district; and said collector shall receive the same compensation provided for the collectors of Pembina, Chicago, and certain other ports, by the second section of the act to regulate the foreign coasting trade on the northern, northeastern, and northwestern frontiers of the United States, and for other purposes, approved June 17, 1864.

The bill further provides that all the territory and waters of the State of Michigan lying west of the said principal meridian, and not included in the district of Michilimackinac, are hereby made a separate district, to be called the district of Michigan, for which a collector, with the same compensation as provided for the collector of Port Huron, shall be appointed, to reside at Grand Haven, which shall be the sole port of entry for said district of Michigan.

The second section provides that the collection district of Puget Sound be extended so as to embrace all the territory and waters east of said district to the head waters of the Mississippi river.

Mr. WASHBURNE, of Illinois. I am directed by the Committee on Commerce to offer the following amendment, which is in accordance with the recommendation of the Treasury Department:

After the enacting clause of the second section insert the following:

That the Territories of Montana and Idaho be, and the same are hereby, made a new collection district, to be called the district of Montana and Idaho; and

that a collector, with the same salary as is above provided for each collector of Port Huron and Michigan, shall be appointed to reside at the port of entry in said district, which shall be designated by the Secretary of the Treasury.

The amendment was agreed to.

Mr. WASHBURNE, of Illinois. I am also directed by the committee to move another amendment, which is desired by the Treasury Department.

The Clerk read, as follows:

Add as a new section:

And be it further enacted, That the collection district of Penobscot, in the State of Maine, shall hereafter be called the district of Castine.

The amendment was agreed to.

The bill as amended was ordered to a third reading; and it was accordingly read the third time, and passed.

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

The latter motion was agreed to.

Mr. WASHBURNE, of Illinois. I move to amend the title so that it will read: "An act to establish the collection district of Port Huron, the collection district of Michigan, the collection district of Montana and Idaho, and to change the name of the collection district of Penobscot."

The title as amended was adopted.

REORGANIZATION OF THE ARMY.

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

Resolved, That two thousand extra copies of House bill No. 361, to reorganize and establish the Army of the United States, with certain amendments thereto, be printed for the use of the House in pamphlet form.

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

The latter motion was agreed to.

NEW YORK CONTESTED ELECTION.

The House then proceeded to the consideration of the regular order of business after the morning hour, being the following resolutions reported from the Committee of Elections:

Resolved, That Hon. James Brooks is not entitled to a seat in this House as a Representative in the Thirty-Ninth Congress from the eighth district in New York.

Resolved, That William E. Dodge is entitled to a seat in this House as a Representative in the Thirty-Ninth Congress from the eighth district in New York.

Mr. MARSHALL. How much time have I left of my hour?

The SPEAKER. Five minutes.

Mr. MARSHALL. I hope, as the time of the chairman of the committee was extended, mine will also be extended before I commence.

Mr. DAWES. I hope the time of the gentleman will be extended.

By unanimous consent the time was extended to another hour.

Mr. MARSHALL then concluded the speech commenced by him on yesterday. [His speech will be published in the Appendix.] At the close he moved to amend the resolutions reported by the majority by striking out all after the word "resolved" and inserting as follows:

That William E. Dodge is not entitled to a seat in the House as a Representative in the Thirty-Ninth Congress from the eighth district in New York.

The question was stated on agreeing to the amendment just offered.

Mr. BROOKS. Mr. Speaker, there is a small number of members present at this time, and——

Mr. MORRILL. There is evidently not a quorum present, and I move a call of the House.

The SPEAKER *pro tempore*, (Mr. TROWBRIDGE in the chair.) The gentleman from New York [Mr. BROOKS] has the floor.

Mr. DAWES. I suppose nobody expected a vote to be taken at this time, and many members are at the other end of the Capitol.

The SPEAKER *pro tempore*. Does the gentleman from New York [Mr. BROOKS] yield to the motion of the gentleman from Vermont, [Mr. MORRILL?]

Mr. BROOKS. I do not consider that I had the floor when the gentleman made the motion.

The motion for a call of the House was agreed to.

So a call of the House was ordered, the roll was called, and the following members failed to answer to their names:

Messrs. Alley, Ames, Anderson, Barker, Blaine, Blow, Brandegee, Bromwell, Buckland, Chanler, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cullom, Culver, Defrees, Delano, Deming, Donnelly, Dumont, Eckley, Goodyear, Grider, Henderson, Higby, Hotchkiss, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Ingersoll, Johnson, Jones, Kasson, Kerr, Kuykendall, Latham, Lynch, Marvin, McCullough, McRuer, Miller, Moorhead, Moulton, Newell, Niblack, Orth, Pomeroy, Starr, Strouse, Thornton, Burt Van Horn, Warner, Williams, and Woodbridge.

Mr. WASHBURNE, of Illinois. I move to dispense with further proceedings under the call of the House.

The motion was agreed to; and further proceedings were accordingly dispensed with.

Mr. GARFIELD. I offer an amendment to the resolutions reported by the majority of the committee, by striking out all after the word "resolved" and inserting in lieu thereof the following:

That the testimony taken as to Hon. James Brooks be recommitted to the Committee of Elections, with instructions to report especially the facts as to the custom under the laws of New York of appointing inspectors of the registry of elections not from the particular election districts in which they reside; also, the facts respecting the verification by Brooks of the votes for Brooks in the fifteenth district, with power to send for persons and papers, and power to reinstitute judicial reëxamination in said district.

Mr. SPALDING. If that substitute be not adopted, I intend to offer the following as a substitute:

Strike out all after the word "resolved," and insert:

That neither the sitting member, James Brooks, nor the contestant, William E. Dodge, has been elected to the Thirty-Ninth Congress in conformity with the laws regulating elections in the State of New York, as a Representative from the eighth congressional district in said State.

Resolved, That a vacancy exists in the place of Representative from the eighth district in the State of New York, and that the matter be referred to the proper authorities to fill the same by new elections according to law.

Mr. SCHENCK. I would inquire whether there are not two resolutions pending now, one declaring Mr. Brooks entitled to the seat, and the other declaring Mr. Dodge entitled to it; and if both are voted down, whether the object of my colleague [Mr. GARFIELD] will not be accomplished without any special resolution on the subject.

Mr. DAWES. If both are voted down the sitting member remains in his seat.

Mr. SCHENCK. If we vote that Mr. Brooks is not entitled to the seat and negative the other resolution that Mr. Dodge is entitled to the seat, it leaves a vacancy. So that there is no necessity of a proposition like that submitted by my colleague.

Mr. GARFIELD. I desire to occupy the attention of the House for a few moments. I have always voted, with perhaps a single exception, with the majority of the Committee of Elections in the cases that they have reported to the House, and it is with a great deal of hesitancy that I differ with the Committee of Elections now. Indeed, I do not say that I differ with them entirely in their conclusion, but I say this much: after a very careful reading of the majority report as well as the report of the minority, I am unwilling to vote to sustain either of them, as the case now stands before the House.

Now, I will ask attention to two or three points to show the reason why I am unwilling to vote to sustain either report, and why I desire further investigation to be had before final action is taken upon this subject. There is a single sentence on the first page of the report of the majority which, it seems to me, ought to decide this matter at once. It is this:

"If each allegation and pleading of the two parties were stripped of everything but that which could properly be called a 'particular specification of the grounds upon which the party relies in the contest,' very little would be left for either."

Now, it seems to me that is a very important statement for the Committee of Elections to start out with. They say that if the propositions of both parties were stripped of all verbiage, very little would be left to either. And yet the committee go on to decide that enough is left to unseat one gentleman, and put the other in his place.

Then there are some discrepancies between the reports of the majority and the minority of the committee. In the report of the majority it is stated that only four districts are reported as doubtful and contested. Those four districts are named, and it is declared that those four districts only are in the contest. Yet the sitting member sets forth in his report as well as in his pleadings here that there is another district in which the election was fraudulent, and on four different pages, at four different places in the printed book of evidence, testimony is introduced to prove that one other precinct in one ward of the city was fraudulent in its election, and yet the majority of the committee declare that only four precincts were brought into the contest at all. They have entirely ignored one voting precinct which the sitting member alleges was fraudulent, and in regard to which he brings forward proof to sustain his statement. It seems to me that is an omission too remarkable to be passed over without notice. I am unwilling to vote to unseat any man here when the report of the committee neglects even to remark upon an allegation set forth in regular form, with proof submitted, whether good or bad I do not know, to sustain it.

Now, one thing more: this whole case practically turns on the settlement of the question in relation to the fifteenth district of the eighteenth ward; for if the report of the majority be accepted in all other particulars, and rejected in respect to that district, it still does not unseat Mr. Brooks. There are so many remarkable collisions between the reports of the majority and the minority that I am unwilling to act until some of them are cleared away. For instance, in the very beginning of their report the majority allege that this fifteenth district of the eighteenth ward is only a part of the original twelfth district. And from that fact they proceed to argue that there being a large vote there, it must be that the vote was fraudulent; the vote in the present fifteenth district being a little larger than the vote was in the old twelfth district before the fifteenth district, as it is claimed, was taken from it.

Now, the minority of the committee report that not only is the present fifteenth district not a fragment of the old twelfth district, but that new territory was added to the extent of three times the area of the old twelfth district. Now, this very remarkable discrepancy ought to be settled before the House is called upon to act on this question.

Mr. DAWES. I desire to understand my friend from Ohio, [Mr. GARFIELD.] Is it the purpose of his resolution to require the Committee of Elections to harmonize these two reports?

Mr. GARFIELD. By no means. I am simply giving the reasons, to my mind, why I desire further light upon this subject, and I think before I am through I will show in what way this light I ask for will aid us in arriving at a proper decision of this matter. I am simply stating the points of discrepancy which make it impossible for me to decide this matter now in a manner satisfactory to myself.

Another thing: it is urged, as one point in dispute, that the place of election was not definitely settled. It is said that the place of election was declared by competent authority to be at "James Thompson's, No. 252 Avenue B," whereas the election was in fact held at a stable on the premises, about one hundred feet from the front where the name and number were put upon the door. Now, although that does not seem to me to be enough to vitiate the election, even if it were so, I should like to

know whether the election was held at the place designated or not. It seems to me the majority of the committee have not definitely stated that in their report.

Without going further into a discussion of the points which have suggested themselves to my mind as I have read over this case, I will mention one very remarkable fact, upon which I hope we shall get light. It is alleged that the management of the registry and inspection was in the hands of the party favorable to the election of the contestant, yet that, notwithstanding this fact, the other party favoring the sitting member committed so many frauds in the management both of the inspection and the registry that the whole should be thrown out. That in itself is a very remarkable proposition—one which is not usually made in cases of contested elections; and I should be very glad to know whether it would be likely that the party having the management could be the party defrauded. It seems to me, on the face of it, a little remarkable that, with that fact before us, we should be asked to throw out the whole vote of that district as fraudulent.

But, what is of more consequence still, the sum of all the allegations, as I understand, bears against the legality of the registry and the inspecting board, and not particularly against the legality of the ballots deposited in the box. Now, it would seem to me unwise and unjust on our part to throw out the votes of a large number of voters simply because some of the officers, antecedent to the election, failed to do their duty. If, as the minority claim, the statute in this case is merely directory, we ought to try to find out, if possible, whether there were illegal votes cast; and if so, how many, and whether the throwing out of the illegal votes would change the result and unseat the sitting member. The committee have not gone into that question at all; yet to my mind that is precisely the point upon which the decision of the case should turn. If I knew that there were enough illegal votes cast under all circumstances to unseat the sitting member, I should, without hesitation, vote for the report of the committee.

It does not appear, however, that the committee have gone into that question at all; but on antecedent grounds, on the ground of the illegality of the registry, and the illegal constitution of the inspectors' board, they have thrown out the vote of the entire precinct, and thus they settle the question in favor of the contestant. Now, sir, I want the committee to go further and inquire into the legality of the votes cast—going beyond the mere question of the legality of the registry—a proceeding in which the voters themselves could have had no part or lot.

Mr. SCOFIELD. Will the gentleman yield to me for a moment?

Mr. GARFIELD. Certainly.

Mr. SCOFIELD. The committee examined the evidence with which the parties furnished them. Now, does the gentleman from Ohio [Mr. GARFIELD] desire that the committee shall go to New York, undertake for themselves a personal investigation, and thus make up a case; or does he mean that the committee shall act as do all other committees not authorized to call witnesses before them? The committee act upon the evidence brought before them by the parties or their counsel, or sent to them by the House, and they present such a report as they believe the evidence warrants. If the gentleman wants to send the committee to New York to trace out the men who were concerned in this fraudulent election, let him so state. If the gentleman has any evidence to send to that committee, let him produce it, and show wherein the committee have neglected any duty that the House has assigned them.

Mr. GARFIELD. I can save the gentleman some apprehension by saying that I do not reflect at all upon the action of the committee, nor do I wish them sent on a roving commission. I in common with the other members of the House may be in fault in not having given the committee sufficient material to work with.

Mr. SCOFIELD. I am not complaining or censuring the committee. I am only stating what the gentleman's proposition is. It is outside of any duty ever assigned to that committee or any other except an investigating committee. I want to ask him whether he means that we shall go to New York or call New York witnesses before us; or, sir, shall the committee, as it has always done, act on the case the parties have chosen to present to the House and the House has referred to us.

Mr. GARFIELD. I will answer the gentleman. What I mean is precisely this: as a member of the House, before I vote to unseat or retain a person here, I desire to know what the fraud was, so far as it can be ascertained, for which it is proposed to throw out the district. I propose that the parties contesting here shall have an opportunity to present evidence on that point, and that the committee shall have power to send for persons and papers, if necessary, for us to find that before we take final action in the case. I want the contestants here to have an opportunity to find that out.

I will only detain the House for a moment longer. I do not believe, sir, in the present state of the case, as reported by the committee—I have no doubt they have used all the facts they had before them—I say that I do not believe they have had sufficient facts to meet the issue in this case.

I was about to mention another thing when interrupted. One side insists that a district means an election precinct, and the other insists it means an assembly district. If it means an assembly district, then I should say the registry board was legally made. If it means an election district, then I think it was illegal. Before voting I should like to know whether the custom prevails in the city of New York to appoint registers within the election district or from anywhere in the assembly district.

Mr. DAWES. I am searching for information, and I would like to know from the gentleman from Ohio in what part of the report he finds the statements to which he refers.

Mr. GARFIELD. The majority report, on page 4, speaks of the inspectors of the election as not residing within the district. Now, the sitting member declares that it was so generally throughout the city of New York. He so declared in the debate yesterday, and he further declared that he had affidavits from other wards of the city that such was the usual practice, that members were chosen to boards of inspectors from the assembly district in which they voted, and were not necessarily confined to the election district. Now, upon what ground this is claimed by the other side I do not know, and it is precisely for that reason that I want this committee to inquire as to the practice and custom in New York in reference to that point. The settlement of that point will determine whether this was legal or not, and as the chairman of the committee deems it of prime importance, it will of course decide the case.

Mr. FARNSWORTH. Mr. Speaker, it is my custom, so far as I can, in all these election cases to understand them before I vote. It seems to me to be the duty of every member of the House, when he comes to act as judge under his oath in deciding between two men, both claiming seats upon this floor, to understand the case. I am not willing myself ordinarily, though I have great respect for the Committee of Elections and for its able chairman, to shelter myself behind the report of that committee without some examination and an effort to come to a correct conclusion on my own part. With that view, I have devoted what time I could to the investigation of this case. I have read the majority and minority reports, and the testimony referred to in them.

It seems, Mr. Speaker, that the eighth congressional district of New York is a Democratic district, I fear hopelessly so. There is no question about that. If any man will examine the vote given at the election of 1864 he will come to the conclusion that there is a very large majority in that district against my party. There were three candidates running, the sitting member, Mr. Brooks, the Tammany Hall Democrat, Mr. Barr, and the Republican candidate, Mr. Dodge. Mr. Brooks obtained the certificate that he had received a plurality of the votes, being 148 more than Mr. Dodge, who received the next highest vote. Mr. Barr received four or five thousand votes. I do not remember the exact number. It is claimed that there was fraud practiced in preparing the register of one of the election districts in this congressional district, and that incompetent and illegal votes were polled in another voting precinct. The committee discard as unsustained the allegations against the other voting district and confine themselves in their report to the fifteenth district of the eighteenth ward and the seventh district of the twenty-first ward.

Now, sir, it is nowhere claimed, or if claimed it is not proven, as I can understand, and if I am incorrect I wish some member of the committee would correct me—there is no proof whatever bringing home to Mr. Brooks any fraud or corruption at either of these polls. It is not shown that he had any knowledge of or participation in any frauds. It is not shown by any of the evidence that he used any money to carry the election. I believe I am correct in this. Then, so far as he is individually concerned, his skirts are clear from any imputation of fraud or other corrupt practices. So far, so good, then. On the other hand, it is proven in this case that Mr. Dodge paid Mr. Barr $2,000 to run.

Mr. UPSON. I call the gentleman's attention to the fact that there is no such proof whatever, and that it is all untrue. On the contrary, so far as that matter is concerned, if anything of that kind was done, it was done without the knowledge of Mr. Dodge.

Mr. FARNSWORTH. Well, the proof will settle that. If I am mistaken, I shall be very glad to be corrected.

Here is an extract from Mr. Dodge's testimony, which will be found on page 146 of the second part of the testimony:

"*Question.* When was your last payment to Mr. Cannon on account of the election?

"*Answer.* I didn't pay anything to Mr. Cannon except on election day.

"*Question.* How much was that?

"*Answer.* Five thousand dollars. He returned me, after election, I think, $360.

"*Question.* For what purpose was that?

"*Answer.* I don't know; it was some expenses for carriages—for hack hire; he said he might want it in the course of the day.

"*Question.* When was your last payment to Mr. Cowden?

"*Answer.* I have not the date, but my impression is that it was some three or four weeks after election.

"*Question.* And the amount?

"*Answer.* It was exactly $2,000.

"*Question.* Was any statement made at that time for what purpose that $2,000 was?

"*Answer.* He wrote to me that he had a bill to pay, and that Mr. Cannon had stated that funds had been put in my hands.

"*Question.* Do you know whether that $2,000 was for any special purpose?

"*Answer.* I have heard since it was to pay Mr. Barr.

"*Question.* Did you know that at the time?

"*Answer.* I suspected it, but didn't know it."

The contestant has corrected his testimony, and says now the amount he paid Mr. Cannon was $500 and not $5,000.

In the testimony of Cannon and Cowden, they swear, one or the other, that he did bargain with Mr. Barr to continue in the field, that he asked Barr how much money it would take, and Barr told him it would require about five thousand dollars to "run" that district. They finally settled upon $2,000, to be paid to Barr, as he said, for "running the polls," providing ticket distributors, &c. I will read from the testimony of Cowden. He says:

"*Question.* You paid Mr. Barr $2,000?

"*Answer.* Yes, sir.

"*Question.* And you received from Mr. Dodge $2,000?

"*Answer.* I received just $2,000; it so happened that it was the same amount.

"*Question.* Was the $2,000 received by you from Mr. Dodge for any other purpose than to reimburse you the $2,000 you had paid Mr. Barr?

"*Answer.* Well, I will not say it was for that purpose directly.

"*Question.* I ask if it was for any other purpose?

"*Answer.* Not so far as I am concerned, it was not."

It appears from the testimony of Mr. Dodge that he did not know himself who the money was for when he paid it, but that he suspected it was for Mr. Barr, and that he afterwards heard that it was for Mr. Barr.

Mr. UPSON. When was that money paid? Was it not two or three weeks after the election?

Mr. FARNSWORTH. The money was paid by Mr. Dodge after the election; but it was paid to Mr. Barr before the election.

Mr. UPSON. Not by Mr. Dodge.

Mr. FARNSWORTH. It was paid by the agents of Mr. Dodge, and Mr. Dodge reimbursed them after the election precisely the $2,000 which they paid to Barr before the election. If I am incorrect in this I shall be very glad to know it, but that is the way I read the proof.

Mr. DAWES. That was after the election was all over. Mr. Dodge states in his testimony what his suspicion was, that is all. He had no knowledge of anything before the election. I hope my friend will state the matter fairly.

Mr. FARNSWORTH. That is precisely what I have read from the depositions of both these gentlemen.

Mr. DAWES. Then I think you are a little inexcusable for making the statement you have made.

Mr. FARNSWORTH. The statement I made was that the agents and friends of Mr. Dodge paid $2,000 to Mr. Barr before the election.

Mr. DAWES. What makes you think they were Mr. Dodge's agents?

Mr. FARNSWORTH. Because Mr. Dodge paid back the money after the election; that is pretty good proof that they were his agents. These gentlemen who paid Mr. Barr this money were not Barr men, they were Dodge men, and they certainly were not running Mr. Barr to defeat Mr. Dodge. They were running him to take away a part of Mr. Brooks's vote. I only mention this fact to show that the testimony proves that while Brooks was not using money to carry the election, Dodge was using money. This may be all well enough in New York, but it would not do out in our rural districts in Illinois where the candidates are poor and have not the money to pay.

Mr. GRINNELL. I desire to ask the gentleman if he has not learned, in his political experience, in close districts where Democrats run, that they can always conceal their money operations, while our friends are entirely open and above-board. [Laughter.] I desire to state that when I have run for Congress I have found men outside of my State called upon to contribute money, and "Democratic" money; and money has been contributed outside of my State, in Chicago and elsewhere, to beat me. They tried to conceal it, but when thieves fall out the truth comes to light.

Mr. FARNSWORTH. I have no doubt that the gentleman from Iowa, being largely in the wool business, has himself occasionally been sheared. [Laughter.] It is not extraordinary, as he fleeces so many, that he should himself be fleeced.

Mr. GRINNELL. I did not make any complaint of being fleeced. I always adopt an honest policy, and generally carry my point. I am sorry to hear the gentleman talking against our friends, and in favor of the honesty of the Democrats in carrying on elections. Now, I lived for four years in the city of New York, and in this very district of the gentleman from New York, [Mr. BROOKS,] and I have some little knowledge of what goes on there at election times.

Mr. FARNSWORTH. Was it the practice when the gentleman lived in that district to make bargains of this sort on Sundays?

Mr. GRINNELL. I never heard of bargains being made on Sundays; I have heard some good praying on Sundays in behalf of our candidates.

Mr. FARNSWORTH. It seems that this bargain made with Mr. Barr was made on Sunday; I have forgotten whether it was made in church or in a Sunday-school or in a private house.

Mr. GRINNELL. If the gentleman means to imply that the contestant in this case, or those who supported him, ever made any bargain on Sunday, all I have to say is that I do not so understand it. This contestant is as far above suspicion as the stars in the heavens are above the earth.

Mr. FARNSWORTH. The contestant was not present; he was away, no doubt attending church; very likely he was. But his friends, who were not so pious, were making bargains in his behalf, and paying $2,000 over to another man; and Dodge paid this money back to them afterward.

Mr. GRINNELL. Let me ask the gentleman, if he lived in a close district, would he not consider it a most fortunate circumstance in his behalf if he could induce half a dozen opponents to run instead of one. I know I would have no objection to it.

A MEMBER. By buying them?

Mr. GRINNELL. A Democrat can be bought any time for $2,000 in my country. [Laughter.]

Mr. FARNSWORTH. The first charge is with reference to the fifteenth district of the eighteenth ward. Now, sir, with reference to the registers of that district, it was said that they were non-residents of that election precinct. Now, there is no charge whatever of that kind in the notice given by the contestant to the sitting member; not a word. The charge of the contestant, in his notice to the sitting member, was that the district was illegally created. But not a word is said that the registers appointed for that district were illegally appointed. It does appear, from the testimony, that the three registers appointed for that district were not residents of that particular election precinct. And from reading the election law of the State of New York, it appears to me that it is required that they should reside in the district for which they were appointed. I do not agree with the conclusion of the minority of the committee, that the law does not require that they should live in the election district, but only in the assembly district.

I disagree, also, with the reasoning of the majority of the committee upon that subject. That reasoning is, that it is necessary that the registers should live in the election district, because they are more likely to be acquainted with the voters and the circumstances of the district. These districts are arbitrarily created. Lines are made, certain streets and certain numbers are included within an election district. Now, a man appointed register, although he may live within the district, may live upon the outskirts, and may not necessarily know more about that district than he does of any other part of the ward.

Then, again, there may be, and probably are, districts in the city of New York, where fit and proper men cannot be found within the election district to act as registers. I judge that is so from a fact to which I desire to call the attention of the House, that since this election the Legislature of New York have amended their election law, and have provided that registers of election shall be residents of the assembly district, but they need not be residents of the election district.

Mr. SCOFIELD. I wish to inquire of the gentleman from Illinois [Mr. FARNSWORTH] if he thinks it was true in this case, that fit men could not be found in the district, and therefore they went out of the district to get these remarkably fit men?

Mr. FARNSWORTH. Perhaps so; though I do not think it appears from the testimony in this case that these men were remarkably fit or unfit men. It appears from the testimony that all three of the registers were not present all the time. And I put it to the gentleman from Pennsylvania himself [Mr. SCOFIELD] to say whether it is not rare to find a case where the whole board of registers assemble and remain together during the entire sitting of the board. Is not the registration done by one and another and another of the board? Is there any law in the State of New York which requires that each elector shall appear personally before the board of registry? I do not so understand it. If it is so, I should like to be informed of the fact.

Mr. SCOFIELD. He may appear by proper evidence, or his name may be taken from the old register by the board. But in either case there is judicial action by the board upon registering the name.

Mr. FARNSWORTH. The law requires that a transcript shall be made of the names upon the poll-book of the last election; that all those names shall be transcribed bodily upon the new register.

Mr. DAVIS. That is the law.

Mr. FARNSWORTH. They appear as voters upon the last poll-books; and the presumption is that every man who voted at the last election was a legal voter. And the law requires that their names shall be transferred bodily to the new register.

Others are added to make up the registry, as they are reported to the registers; but no law requires that every qualified voter in the district shall present himself personally before the board in order to be registered. In no State, so far as I know, does the registry law require that. Why, sir, I never went before a register to be registered. I doubt whether any member upon this floor ever presented himself personally to the board of registers of his town or his precinct or his ward to be registered. Those who are well-known voters, those who are vouched for as voters by persons well known, those, in fine, who present any sufficient *prima facie* evidence that they are voters within the district, are registered by the register. If the registers are guilty of a fraud, they may be punished. But the fact that they may have put down the name of a man who is not a legal voter does not, in my opinion, vitiate the election. The fact that the registers are not all present during the entire session of the board of registry does not vitiate the election. The fact that the clerk of the board is not sworn does not vitiate the election. I understand that the law of New York only provides for the appointment of a clerk when in the opinion of the board of registers one is needed.

Mr. SCOFIELD. I desire to inform the gentleman that nobody has alleged, and nobody, I suppose, will allege, that anything of that kind vitiates the election. But the gentleman will permit me to ask him whether, in his opinion, none of those facts, nor all of them combined, vitiate the registry; because the committee allege that such facts do vitiate the registry. The election is one thing and the registry is quite another.

Mr. FARNSWORTH. Mr. Speaker, the registers, as I understand, sit as a judicial board to decide who are and who are not voters and qualified to be registered. They adjudicate upon that question. Now, sir, answering the gentleman's inquiry in brief, I say that the facts I have enumerated do not, all combined, vitiate the election.

Mr. SCOFIELD. That is just what I have said, and just what the committee maintain—that those facts do not vitiate the election, that they have no effect upon the election. But the committee hold that such facts do vitiate the registry so as to destroy its legal effect as evidence that certain men are voters. The election may be legally held, and every man who is a legal voter, and has the proper evidence of the fact, may vote, notwithstanding the registry may be vitiated.

Mr. FARNSWORTH. Now, Mr. Speaker, let us examine that point. The facts which I have enumerated are that these registers did not reside in the election district, that possibly the clerk who acted was not sworn, and that possibly some men who were registered were not properly qualified to be registered. I say, then, in reply to the gentleman's question, that in my opinion all these facts put together do not even vitiate the registry. I think that

these registers, whether they do or do not reside within the election district, are in fact officers of the law until you turn them out, and their acts as to third persons are legal.

If a person who is disqualified under the constitution of a State to hold the office of judge by reason of non-age, alienage, or any other disqualification be appointed and commissioned as judge, his adjudications are valid to all intents and purposes until he is ousted. Suppose that the law requires that the judge shall be a resident of a particular circuit, and suppose that a person not a resident of that circuit is appointed and commissioned and enters upon the discharge of his duties, I ask the gentleman from Pennsylvania [Mr. SCOFIELD] whether, in a collateral proceeding, the decisions of that judge can be questioned because of his disqualification? The gentleman concedes that they cannot. Then I ask whether, in a collateral proceeding, the acts of these registers can be questioned on the ground that they were not residents of a particular district. Then, again, if they were not all present all of the time, they did all of them certify to the registry, and that was their judgment. Suppose their clerk was not sworn, that amounts to nothing. Can you question the judgment of a court because the clerk who keeps the record was not properly sworn or qualified? And if some names were entered upon the registry who were not voters, does that vitiate the registry? If so, you will never have a legal register made, for it is human to err.

It seems to me not. I may be wrong. If I am right, however, in this regard, then this question whether they were residents of the district or not cuts but a small figure in this case, and it is unnecessary that the motion of the gentleman from Ohio [Mr. GARFIELD] should be adopted to send the committee back to inquire what is the practice there. I believe the State of New York has since that election provided that registers may not be residents of the election district, but shall be residents of the assembly district, thus showing the people of New York do not regard it as important that the registers should be actual residents of the election district.

Well, sir, it is claimed in reference to the fifteenth district—I am now speaking of the reports, and not the charges, because the charges are so confused that it would be difficult to make an issue upon them—it is claimed by the report that frauds were perpetrated in receiving votes at the polls. The only witness referred to in the majority report to sustain this charge was Dean and another, both of whose depositions have been ruled out by this committee. Then there is no proof in this case on behalf of the contestant that there was any fraud.

It is claimed that the fact of so many more votes being polled in this precinct than were polled the year before is evidence of fraud, yet the testimony shows that at the next registration of voters there were over and above this very poll some two hundred legal voters, showing that the next year there were two hundred more voters than voted at the election under consideration. It seems to me that is sufficient to dispose of that point.

The committee, however, say that the sitting member has, by witnesses introduced by himself, shown that men voted in this precinct who were not legal and qualified voters. I do not so consider the testimony. All I can make out of it is that a presumption is raised that some men voted in this district who were not legal voters. Indeed, it is hardly a presumption, but it is a kind of probability from negative testimony. Witnesses swearing, when called upon to designate and identify voters, that such and such voters they could not identify. They failed to identify some of the voters, and that is all. It raises scarcely a presumption. There may have been illegal votes polled at that election.

Now, I might stop here. If the House comes to the conclusion that the returns of this election district should not be discarded, it ends the question; for even if you discard the other, it leaves Mr. Brooks a plurality and entitled to his seat. Therefore, I will take up but little time in discussing the other.

I believe, sir, there is no complaint made that the registration was not fair. The charge with reference to the seventh district by the contestant is, "that sundry persons voted for Brooks not legal voters, to wit, one hundred and upward." He offers to sustain this by two witnesses. A portion of the testimony has been read by the Clerk at the suggestion of my colleague, [Mr. MARSHALL.] I refer to the testimony of Stephen Geoghegan. The majority of the committee, while saying in their report that this man was *particeps criminis*, and by his own confession so much of a rascal that his testimony should not be regarded as worthy of credit, still throughout the report constantly refer to his testimony. I have read this testimony over, a most nauseous dose. He is a man covered over with filth and rascality from head to foot; a man who has shown himself to be a rascal all the way from New Orleans to New York; a notorious fighter, liar, and rascal.

While my friends are talking about Democratic inspectors at this election, they should bear in mind that the majority of the registers and inspectors and a majority of the clerks were not Democrats, and to "give the devil his due." If there was fraud committed at this election by the registers or inspectors it was perpetrated by our own and not by the other party.

I understand that the State of New York adopts a rule something like this—and it is a very good one, and one that I would recommend to my colleague from the Chicago district, [Mr. WENTWORTH.] In a strong Democratic district they put in a majority of officers of the Republican party, and in a strong Republican district they put in a majority of the Democratic party; thus setting men of the opposition party to watch the polls.

So it was in this election; and if frauds were perpetrated they were perpetrated by registers and inspectors of the party in the minority in that district.

But in this case I understand that Mr. Brooks had no party, that the officers were none of them Brooks men, but all Barr and Dodge men. Mr. Brooks was running as an independent candidate.

Under the laws of the State of New York, votes are not necessarily received at the poll because they are registered. A man is just as liable to have his vote challenged there as in States where there is no registry. Challengers attend the polls as elsewhere—that is, outside challengers, and not inspectors merely—and they have the same right as if there were no registry.

I was commenting on the testimony of this man Geoghegan. He swears that the reason why he trumped up this story—for the presumption is that anything he said was a lie; he admits he told the voters lies, and that he ran the risk of the penitentiary in carrying on this business—he swears that the reason why he became informant and witness in this case was, that he kept open shop on the day of election for certain individuals, not at their request, but because he took it into his head to do so, and that Mr. Stewart, who was running for city judge on the Republican ticket, had come around and settled the bill, but that Mr. Brooks had not the manliness to come to his shop the next day and pay his bill. He thought that was not "honor between gentlemen!" "He could not buy his goods for nothing"—meaning his whisky—and when he spent his goods—still meaning whisky—at the polls on election day, honor required that the candidate for whom he treated should come around the next day and pay up. Mr. Brooks did not do that, and so when he found Myers going about the district to ascertain the residences of voters in behalf of Mr. Dodge, Geoghegan tells him this story, and is then produced as a witness in behalf of the contestant in the case.

Mr. GRINNELL. I would like to ask the gentleman a question.

Mr. FARNSWORTH. I will hear it.

Mr. GRINNELL. I would like to know whether the gentleman is now arguing on the presumption that in every district of the city of New York the drinking establishments of the lowest kind is preëngaged on the part of the Democracy on every election.

Mr. FARNSWORTH. Well, as to that, I do not know as much, perhaps, as the gentleman, who says he has lived in the city of New York. I am inclined to think, however, that if the fact was known it would be found that while most of the whisky shops are engaged by the Democrats, the Republicans have an equal share at least in the lager beer saloons.

Another witness introduced by the contestant is Myers. It seems that this man had been a deputy provost marshal in New York, and he went about the district asking if A, B, C, and D lived in this or that shanty, or at this or that place. It appears from the testimony of one Tracy, who was, I believe, one of the inspectors or canvassers, that he (Tracy) followed Myers about, and that he ascertained that the people in the district were afraid when Myers came around inquiring where they lived that he was after them for the draft. So when he inquired of a woman, for instance, whether Tom McLaughlin lived there she said, "No; Tom has been dead these two years." But when Tracy came around, afterward, they explained why they misled Myers, that knowing him to be a deputy marshal they were afraid he was after drafting them.

It appears from the testimony of Tracy, who was an old resident in the district, having lived there upward of twenty years, that a very large number of those whom Myers could not find, and who he swore did not reside in the district, were found and identified by Tracy. One swears negatively that he could not find them, and the other positively that he did find them.

In many cases Myers's list was imperfect; he had got the names wrongly spelt, and in some instances he had the wrong number and wrong street. Tracy corrected this, and found the men that Myers could not. I do not say that the evidence shows that Tracy found everybody, but it does show that he found many of the men that Myers swears did not live in the district. This simply leaves in the case of this district, as in the case of the fifteenth district, a presumption more or less strong that there were some men who voted at that election who were not qualified.

I do not understand that a single witness whose name appeared on the poll-list came before the officers in this case and swore that he was not a voter. I do not understand that anybody who attended that election, with the exception of Geoghegan, swears that he saw any one vote who was not a voter. I think he is the only witness who swears that anybody voted who was not entitled to vote. But he swears at wholesale. He says, when asked how many of those illegal voters voted for Mr. Brooks, "I guess, may be, I reckon about 30." And in answer to the very next interrogatory he swears positively that there were 30, and that he gave many of them tickets. And again, shortly afterward, he swears that he gave them all tickets to vote.

And yet the majority of this committee in their report are constantly referring to the 30 illegal ballots in that district as traced to the vote for Brooks. After admitting that this man is not worthy of credit, they talk about subtracting these 30 votes from the majority for Mr. Brooks, when there is no corroborating evidence or circumstance, nothing but the bare statement of this miserable fellow upon which to base the fact. Now, sir, I want to know if it becomes the House of Representatives to unseat a member upon such testimony as this.

But I will not detain the House longer. There is a great mass of testimony in this case which I have not read. I have read the testimony referred to in the report, and a portion of the rest. That is all that I supposed neces-

sary. I have not examined particularly the testimony in regard to the other precincts that are referred to, because the charges are not sustained in reference to them.

I will, however, mention the counter-charge of the sitting member with reference to one of the other precincts. The proof shows that in another district where Dodge received a large majority, the canvassers, before they had completed their work, left the canvassers' room, went across the street for refreshments, and were gone about an hour, leaving the ballots lying on the table and persons present about the room. I am inclined to think that if we had had a fact like that occurring in a district that gave a majority for Brooks, my friend from Massachusetts [Mr. DAWES] would have used it with terrible effect. There is no proof that there was any tampering with the votes in the absence of the canvassers, or that any of the ballots were stolen or missing. Nobody charges any such thing. But common prudence requires that the canvassers shall not leave their ballots lying about loosely on the table with persons present in the room while they go away. It furnishes an opportunity for tampering with the vote, for stuffing the ballot-boxes, and for adding or subtracting ballots. I do not pretend that there was any such thing done in that case. I only state the fact and say that if such a thing had occurred in one of the districts where Brooks had a large majority, we should have heard the voice of the eloquent chairman of the committee [Mr. DAWES] ringing in denunciation of so gross a violation of the duty of canvassers.

Let us do in this case as I hope we do in every other case. I shall certainly try to do my duty in the light of whatever information I may obtain in these cases, whether a man is politically my friend or my foe, whether he votes with me or against me. So far as persons are concerned I shall act blindly in regard to all such considerations. I shall act precisely as I would if I were sitting upon the bench as a judge, and was called upon to decide a case between a Republican and a Democrat who appeared before me as parties litigant. It is none of my business what their politics are. And if I could admit for a moment that my judgment would be warped from what my conscience tells me my duty is in the case, I should blush from the crown of my head to my heels.

Now, considering all these facts, I am of the opinion that a case is not made out here which justifies the House in unseating the sitting member and putting the contestant in his place.

Mr. SHELLABARGER obtained the floor.

DIRECT TAXES IN SOUTHERN STATES.

The SPEAKER, by unanimous consent, laid before the House the following message from the President of the United States:

To the House of Representatives:

I transmit a communication from the Secretary of the Treasury, dated 22d ultimo, together with a letter addressed to him by the Governor of Alabama, asking that the State of Alabama may be allowed to assume and pay in State bonds the direct taxes now due from that State to the United States; or that delay of payment may be authorized until the State can by the sale of its bonds or by taxation make provision for the liquidation of its indebtedness.

I concur in the opinion of the Secretary of the Treasury that it is desirable that the State of Alabama and the other southern States should be allowed to assume and pay their proportion of the direct taxes now due, and therefore recommend the necessary legislation by Congress.

ANDREW JOHNSON.

WASHINGTON, D. C., *April* 3, 1866.

Mr. WASHBURNE, of Illinois. I move that the message and accompanying documents be printed and referred to the Committee of Ways and Means.

The motion was agreed to.

HOLDING AN EVENING SESSION.

Mr. WASHBURNE, of Illinois. I move that the evening session for to-day be dispensed with.

The motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had passed a joint resolution (S. No. 58) respecting the burial of soldiers who died in the military service of the United States during the rebellion, in which he was directed to ask the concurrence of the House.

LEAVE OF ABSENCE.

On motion of Mr. NIBLACK, leave of absence for two weeks was granted to his colleague, Mr. KERR.

KANSAS LAND-GRANT RAILROAD.

Mr. LOAN. Will the gentleman from Ohio [Mr. SHELLABARGER] yield to me for a few moments?

Mr. SHELLABARGER. I will.

Mr. LOAN. I am instructed by the Committee on the Pacific Railroad to report back Senate bill No. 144, for a grant of lands in the State of Kansas to aid in the construction of the northern Kansas railroad and telegraph, with an amendment in the nature of a substitute. I move that the same be printed and recommitted to the Committee on the Pacific Railroad.

The motion was agreed to.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill and substitute were recommitted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

CONTESTED-ELECTION CASE—AGAIN.

Mr. SHELLABARGER resumed the floor; but yielded to

Mr. DAVIS, who moved that the House adjourn.

Mr. DAWES. If it is the desire of my colleague on the Committee of Elections [Mr. SHELLABARGER] not to proceed with his remarks this afternoon, I will not object to the motion to adjourn. Otherwise I should desire to proceed with the consideration of this case, at least until the previous question shall have been seconded and the main question ordered.

Mr. DAVIS. I made the motion to adjourn with the consent of the gentleman from Ohio, [Mr. SHELLABARGER;] otherwise I would not have submitted it.

The motion was agreed to; and accordingly (at four o'clock p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to the appropriate committees:

By Mr. BALDWIN: A petition of 1,400 Sons of Temperance and Good Templars, of Worcester, Massachusetts, for a law to punish officers of the Army and Navy, and members of Congress, for intoxication.

By Mr. CONKLING: The petition of James P. Murray, and others, citizens of Bridgewater, New York, praying protection to American wool.

By Mr. COOK: The petition of citizens of Lockport, Illinois, for the passage of a law regulating insurances.

By Mr. DARLING: The petition of Alfred Coffin, for relief.

By Mr. DAVIS: The petition of Andrew Bowen, John Maxson, and 102 others, citizens of Cortland county, New York, praying increased protection on American wool.

Also, a similar petition of Rufus Cassett, William T. Morcley, and 48 others, citizens of Onondaga county, New York.

By Mr. DEFREES: A petition from the citizens of Kosciusko county, Indiana, praying that Congress will enact such just and equal laws for the regulation of inter-State insurances of all kinds as may be effectual in establishing security for the interests protected by policies.

By Mr. DONNELLY: A petition of citizens of the State of Minnesota, in favor of an increase of national banking capital in the said State.

Also, a petition of citizens of the same State, in favor of some national provision for the regulation of insurance companies in the United States.

By Mr. HOGAN: The petition of 113 bricklayers, 86 stone-cutters, 154 ship-carpenters, of St. Louis, Missouri, praying that eight hours may be declared a legal day's work.

By Mr. HULBURD: The petition of sundry citizens of St. Lawrence county, New York, asking the enactment of a general insurance law.

Also, the petition of sundry citizens of Brasher Iron Works, New York, asking increased protection for manufactures by a higher tariff.

By Mr. JULIAN: Twelve petitions, signed by 618 citizens and working men of Johnstown, Pennsylvania, praying Congress to fix eight hours as a lawful day's work for all employés of the Government.

By Mr. KERR: The petition of William B. Lent, A. A. Day, H. B. Shields, J. M. Harris, and others, for Federal legislation on the subject of insurance.

By Mr. LAWRENCE, of Ohio: Various letters, papers, documents, &c., relating to the claim of George C. Johnston, and the bill for his relief before the Committee of Claims.

By Mr. LONGYEAR: The remonstrance of the common council of the city of Jackson, Michigan, against an extension of the land grant to the Amboy, Lansing, and Traverse Bay Railroad Company, in said State, and asking that the same be conferred upon certain other companies therein named.

By Mr. MARSTON: The petition of David H. Hill, and 38 others, citizens of New Hampshire, praying that such conditions be imposed upon the rebel States as shall punish treason, at least with ineligibility to office and loss of power, and reward loyalty with confidence and honor, and which shall abolish in the rebel States all distinction in their constitutions and laws on account of race or color; and further, that the Constitution of the United States be so amended as to make these conditions imperative and perpetual.

Also, the petition of David H. Hill, and 40 others, citizens of New Hampshire, praying that the Constitution be so amended that the President and Vice President be chosen without the intervention of the Electoral College, and that the qualifications of voters for President, Vice President, and Representatives in Congress may be established on an impartial basis, imparting and limiting the privilege of voting for those offices to those citizens who can read and who comply with the other requirements and conditions made by the laws of the States respectively; provided that no one shall be affected in his enjoyment of this franchise by reason of race, color, descent, or social condition.

By Mr. O'NEILL: The memorial of Caleb Cope, Esq., president of the Philadelphia Saving Fund Society, John Wiegand, president of the Western Saving Fund Society, of Philadelphia, and C. A. Reppler, Esq., president of the Beneficial Saving Fund Society, of Philadelphia, the depositors in whose institutions are upward of twenty-five thousand in number, the average amount deposited by each being but about two hundred and twenty dollars, generally the accumulation of small earnings through many years, praying that saving fund societies having no capital stock, and whose business is confined to receiving deposits and loaning the same on interest for the benefit of the depositors only, may be relieved from the tax on their deposits and the tax on the interest paid to depositors.

By Mr. PAINE: The petition of S. C. Russ, and others, citizens of Walworth county, Wisconsin, for the enactment of a law regulating insurance in the United States.

By Mr. SITGREAVES: The memorial of brewers of the United States, asking that in arranging the tariff between the United States and British Provinces in North America, the duty on barley may be fixed at a rate that will not lessen the manufacture of malt liquors, &c.

Also, the petition of Stephen R. Parkhurst, for extension of his patent for ginning cotton and burring wool.

By Mr. UPSON: The petition of B. G. Buell, R. J. Huyck, and 43 others, citizens of Cass county, Michigan, praying for an increase of duties on foreign wool.

IN SENATE.

THURSDAY, *April* 5, 1866.

Prayer by Rev. A. D. GILLETTE, of Washington.

The Journal of yesterday was read and approved.

CREDENTIALS.

Mr. POLAND presented the credentials of Hon. GEORGE F. EDMUNDS, appointed a Senator by the Governor of the State of Vermont, to fill the vacancy occasioned by the death of Hon. Solomon Foot, until the next meeting of the Legislature.

The credentials were read, and the oaths prescribed by law having been administered to Mr. EDMUNDS, he took his seat in the Senate.

PETITIONS AND MEMORIALS.

Mr. HOWARD presented the petition of Henry A. Shaw, S. V. Irwin, W. H. Brockway, and I. M. Crane, in behalf of the stockholders and other citizens of Michigan, praying for an extension of the land grant to the Amboy, Lansing, and Traverse Bay railroad; which was referred to the Committee on Public Lands.

Mr. MORRILL presented the memorial of J. T. Hawes, and others, citizens of the State of Maine, praying Congress not to restore any State that has rebelled and warred against the United States to place and power as a governing partner in the Union until adequate security

has been obtained against its renewing the attempt to secede, against its being represented in Congress beyond its proportion according to its voting population, against any payment for debt incurred in rebellion or for its emancipated slaves, and against any distinction in its constitution, laws, or municipal regulations on account of race, color, or descent; which was referred to the joint committee on reconstruction.

Mr. NORTON presented a memorial of the Legislature of Minnesota, in favor of the establishment of a mail route from Shakopee, Scott county, to Oral, Le Sueur county, in that State, and in favor of the discontinuance of the present routes from Shakopee to Northfield, and from Shakopee to Oral; which was referred to the Committee on Post Offices and Post Roads.

He also presented resolutions of the Legislature of Minnesota, in favor of a grant of lands to aid in the construction of a ship-canal across the base of Keweenaw Point, from Lake Superior to Portage Lake; which were referred to the Committee on Public Lands.

He also presented resolutions of the Legislature of Minnesota, in favor of the payment to certain officers and enlisted men of volunteer regiments of that State of the sums equitably due them for services performed, but which they have failed to receive, they not having been regularly mustered into the United States service; which were referred to the Committee on Military Affairs and the Militia.

He also presented resolutions of the Legislature of Minnesota, remonstrating against the settlement of certain Indians upon the frontier of that State, under section four of an act for the removal of Sisseton and other Indian tribes, and for the disposition of their lands in Minnesota and Dakota, approved March 3, 1863; which were referred to the Committee on Indian Affairs.

Mr. POMEROY presented a petition of citizens of Kansas, volunteer soldiers in the late war for the suppression of rebellion, praying for an equalization of soldiers' bounties; which was referred to the Committee on Military Affairs and the Militia.

Mr. YATES presented a petition of soldiers of the States of Illinois, Ohio, Indiana, and Missouri, praying for an equalization of soldiers' bounties, and that land warrants may be granted to honorably discharged soldiers, and for an increase of pension to such as have been disabled in the service; which was referred to the Committee on Military Affairs and the Militia.

Mr. HARRIS. I present the petition of one thousand citizens and working men of the city of Rochester, New York, praying Congress to pass an act making eight hours the measure of a day's work throughout the country, and, failing in this, that eight hours be considered the measure of a day's work for all workmen, artisans, or laborers in the employ of the Government. I understand that petitions of this sort have been referred to the Committee on Naval Affairs; I move that reference of this petition.

It was so referred.

Mr. BUCKALEW presented the petition of Cornelius Crowley, praying for an increase of his pension; which was referred to the Committee on Pensions.

REPORTS OF COMMITTEES.

Mr. SUMNER, from the Committee on Foreign Relations, to whom was referred the petition of James G. Clarke, praying for compensation for services and expenses as acting chargé d'affaires at Brussels, submitted a report accompanied by a bill (S. No. 248) for the relief of James G. Clarke. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred a joint resolution (H. R. No. 52) to provide for the expenses attending the exhibition of the products of industry of the United States at the Exposition at Paris in 1867, reported it with an amendment.

Mr. HENDRICKS, from the Committee on Naval Affairs, to whom was referred a memorial of Commodore T. Turner, United States Navy, praying for a distributive share of the prize money of the proceeds of the steamers Aries, Cherokee, and St. John, taken by vessels of the blockading squadron off Charleston, commanded by him, and sent to Boston for adjudication, submitted a report accompanied by a bill (S. No. 251) for the relief of Commodore Thomas Turner. The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. POMEROY, from the Committee on Public Lands, to whom was referred a bill (S. No. 219) granting certain lands to the State of Michigan to aid in the construction of a ship-canal to connect the waters of Lake Superior with the lake known as Lac La Belle, in said State, reported it with an amendment.

Mr. POMEROY. The same committee, to whom was referred a bill (S. No. 224) to aid in the construction of a southern branch of the Union Pacific railroad and telegraph, and to secure to the Government the use of the same for postal, military, and other purposes, have directed me to report it back and to ask that the committee be discharged from its further consideration, and that it be referred to the Committee on the Pacific Railroad, because there is already a grant of public lands for this line, all that the Committee on Public Lands could give them.

The report was agreed to.

BILLS INTRODUCED.

Mr. WILLIAMS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 250) for the discontinuance in certain cases of land offices, and authorizing modifications in the limits of land districts; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. SHERMAN. I ask leave to introduce a bill, of which no previous notice has been given, to incorporate the National Telegraph Company. I have had some doubt as to what committee this bill ought to be referred, whether to the Post Office Committee or the Committee on the District of Columbia, but I presume the Committee on the District of Columbia is the proper committee.

No objection being made, leave was granted to introduce the bill (S. No. 249) to incorporate the National Telegraph Company, and it was read twice by its title.

Mr. BROWN. To what committee is the bill to go?

Mr. SHERMAN. I supposed at first the Post Office Committee would be the proper committee.

Mr. BROWN. Where is the telegraph line to run to?

Mr. SHERMAN. On the postal routes of the United States.

Mr. BROWN. Then it ought to go to the Post Office Committee.

Mr. SHERMAN. I am perfectly willing to have it referred to that committee.

The bill was referred to the Committee on Post Offices and Post Roads.

Mr. SHERMAN subsequently said: At the suggestion of other Senators, as the bill I introduced a few moments ago is rather peculiar in its character, and yet of great importance, I will submit a motion that it be referred to a special committee of five, to be appointed by the Chair. It does not really relate to the postal service, nor is it exactly a bill relating to a company in the District of Columbia. The purpose of the bill is to organize a company to immediately commence the construction of telegraph lines in the United States on the postal routes of the United States. The only connection that it has with the Post Office Department is that it is to be a medium of communication, and provides that these telegraph lines shall be constructed on the postal routes. I think that the subject is of such pressing importance that it would justify the appointment of a select committee of five. I have no special desire myself to be on the committee, but at the same time I think the subject ought to be promptly acted upon, and I will make that motion.

Mr. BROWN. I will simply say that I am inclined to think the motion of the Senator from Ohio is the better motion in the premises than the reference I proposed.

The PRESIDENT *pro tempore*. The order of the Senate referring the bill to the Committee on Post Offices and Post Roads will be considered as reconsidered, and it is now moved that the bill be referred to a special committee to consist of five members to be appointed by the Chair.

The motion was agreed to.

SARAH FITZGIBBON.

Mr. LANE, of Indiana. Yesterday morning I reported back from the Committee on Pensions a bill which has already passed the Senate and the House, and which is now simply pending on an amendment made by the House of Representatives. I now move to take up that bill, Senate bill No. 82, granting a pension to Sarah Fitzgibbon, simply for the purpose of concurring in the amendment of the House.

The motion was agreed to; and the Senate proceeded to consider the amendment of the House of Representatives to the bill, which was to add the following proviso:

Provided, That in the event of the marriage or death of the said Sarah Fitzgibbon, the pension allowed by this act shall be continued to the children of the late Major Thomas C. Fitzgibbon.

So that the bill will read:

That the Secretary of the Interior be, and he hereby is, authorized and directed to place the name of Sarah Fitzgibbon, widow of Thomas C. Fitzgibbon, late major of the fourteenth Michigan volunteer infantry, upon the pension rolls, at twenty-five dollars per month from the 1st day of May, 1865, subject to the limitations and restrictions now imposed by existing pension laws: *Provided*, That in the event of the marriage or death of the said Sarah Fitzgibbon the pension allowed by this act shall be continued to the children of the late Major Thomas C. Fitzgibbon.

Mr. GRIMES. What are the limitations of existing laws there referred to?

Mr. LANE, of Indiana. The limitation is, ordinarily, that if she marries the pension ceases.

Mr. GRIMES. I will inquire of the chairman of the Committee on Pensions why there is a deviation from the uniform rule in this case?

Mr. LANE, of Indiana. The uniform rule is precisely carried out in this pension law. If this were a case allowed by the Pension Commissioner the pension would go, at the death of the party, to the children under sixteen years of age; but it is necessary for us to pass a special law to carry out that rule in this case.

Mr. HOWARD. I will ask the Senator from Indiana whether he has examined the amendment made by the House of Representatives, and whether it is in conformity with the general pension law?

Mr. LANE, of Indiana. Yes, sir, exactly.

Mr. HOWARD. I hope, then, that it will be concurred in.

The amendment was concurred in.

BEALS AND DIXON.

Mr. ANTHONY. I ask the Senate to take up the joint resolution reported the day before yesterday by the Senator from Pennsylvania, [Mr. COWAN,] from the Committee on Finance, authorizing the Treasury to settle the accounts of Beals & Dixon, according to their contract. The Senator from New Hampshire [Mr. CLARK] objected to its consideration on the day it was reported, but I understand he has no objection to its being considered now. I move that it be taken up.

The motion was agreed to; and the joint resolution (S. R. No. 56) authorizing the Secretary of the Treasury to adjust the claim of Beals & Dixon against the United States was read a second time, and considered as in Committee of the Whole.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed

for a third reading, read the third time, and passed.

J. B. RITTENHOUSE.

The Senate proceeded to consider the amendment of the House of Representatives to the bill (S. No. 80) for the relief of J. B. Rittenhouse, fleet paymaster of the Pacific squadron. The amendment was to add at the end of the bill the following proviso:

Provided, That no part of said money shall be allowed said Rittenhouse until the proper accounting officers of the Government are satisfied upon full and complete evidence of the larceny of the money alleged to have been stolen.

Mr. NYE. Is it proper to move now that the Senate concur in the amendment?

The PRESIDENT *pro tempore*. That is a proper motion for the Chair to entertain.

Mr. NYE. I make that motion, that the Senate concur in the amendment made by the House of Representatives.

The motion was agreed to.

COLLECTION DISTRICTS.

The Senate proceeded to consider the amendments of the House of Representatives to the bill (S. No. 199) to establish the collection district of Port Huron and the collection district of Michigan, and to extend the district of Puget Sound.

The amendments of the House of Representatives were as follows:

Strike out all after the enacting clause of the second section, and insert the following:

That the Territories of Montana and Idaho be, and the same are hereby, made a new collection district, to be called the district of Montana and Idaho, and that a collector, with the same salary as is above provided for each of the collectors of Port Huron and Michigan, shall be appointed to reside at the port of entry in said district, which shall be designated by the Secretary of the Treasury.

Add the following as an additional section:

SEC. 3. *And be it further enacted*, That the collection district of Penobscot, in the State of Maine, shall hereafter be called the district of Castine.

Amend the title of the bill so as to read: "An act to establish the collection district of Port Huron, the collection district of Michigan, the collection district of Montana and Idaho, and to change the name of the collection district of Penobscot."

Mr. CONNESS. I move that the bill and the amendments be referred to the Committee on Commerce.

The motion was agreed to.

DEFENSE OF DAKOTA TERRITORY.

On motion of Mr. WILSON, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 420) to provide arms and ammunition for the defense of the inhabitants of Dakota Territory. It directs the Secretary of War to issue, upon the requisition of the Governor of Dakota Territory, such amount of ordnance and ordnance stores as may be necessary to arm the inhabitants of the Territory who may organize for defense against hostile Indians, not exceeding one thousand stand of small-arms and one hundred thousand rounds of ammunition, to be charged against the quota due, or to become due, to the Territory under the laws for arming and equipping the militia.

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

PETER ANDERSON.

Mr. CRESWELL. I move to take up for consideration Senate bill No. 79.

The motion was agreed to; and the Senate resumed the consideration of the bill (S. No. 79) for the benefit of Peter Anderson, the pending question being on ordering the bill to be engrossed for a third reading.

Mr. CLARK. I ask that the bill be read.

The Secretary read it, as follows:

Be it enacted, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Peter Anderson $1,128, being in full for back pension, at the rate of six dollars per month, from the day he received his wounds to the day his pension commenced, under award of Commissioner of Pensions, that is to say, from November 7, 1847, to July 13, 1863.

Mr. CLARK. I do not think that bill ought to pass without further inquiry. It will be remembered that some time ago this bill was before the Senate, and the question came up whether this man was not passing here under two names, asking of the Committee on Pensions an award under the name of Peter Anderson and of the Committee on Claims an award under the name of C. F. Johnson. I find upon inquiry that there is but one man. He is before the Committee on Pensions as Anderson and before the Committee on Claims as Johnson. The thing should be explained in some way before Congress makes any appropriation for him.

Mr. CRESWELL. I think that matter is susceptible of an easy explanation. When this bill was up for the consideration of the Senate, some two or three weeks ago, some gentleman on the other side of the House stated that difficulty, and desired that the bill might lie over until it should be inquired into. On inquiry I find that this same man, whose real name is Johnson, enlisted many years ago in the Navy of the United States under the assumed name of Anderson. Enlisting in that way is a common thing. He makes an application for his back pension in that name, for the reason that his pension issued to him in the name of Anderson; but I am assured, from the inquiries that I have made and the information I have been able to gather, that there has been no intention, no disposition, and no desire on the part of this man to perpetrate any fraud or to appear here in any false character. I think his sufferings and his conduct are a sufficient guarantee against that. The only reason he assigns for making the application to the Pension Committee in the name of Peter Anderson is, as I have stated, because his name was entered on the lists of the Navy as Peter Anderson. He appears before that committee and asks that the back pension to him shall be paid in the same way. He presents letters from respectable parties identifying him beyond all mistake, and I think exempting him from any suspicion of fraud or unfairness.

Mr. CLARK. There may have been cases of that kind where a man has enlisted under an assumed name and has been entitled to a pension, but I think this is not the usual way in which mistakes of that kind are corrected; but that he should be permitted to take the pension which belongs to the man under the assumed name, it not appearing to the Department that any other man claims it. I think if the Senator is satisfied on that point he had better alter his bill so as to make it take that direction.

Mr. CRESWELL. The gentleman could readily meet that difficulty by saying "to C. F. Johnson." ["Let it lie."] According to the wishes of my friend, I move that the bill lie over until to-morrow.

The motion was agreed to.

JOHN W. CAMPBELL.

On motion of Mr. WILLIAMS, the bill (H. R. No. 215) for the benefit of John W. Campbell, was considered as in Committee of the Whole.

It proposes to require the proper accounting officers of the Treasury Department to allow John W. Campbell, late quartermaster seventh Kentucky cavalry, on settlement of his accounts, a credit of $4,770, money expended by him for the use of the regiment, the vouchers and accounts for which were destroyed and lost by falling into the hands of the enemy at Cynthiana, July 17, Big Hill, August 23, and Richmond, Kentucky, August 30, 1862, respectively, if, on examining the evidence, the Quartermaster General shall deem him justly entitled to this credit.

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

PACIFIC RAILROAD.

Mr. HOWARD. I move to take up Senate bill No. 109.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 109) to rescind the order of the President designating the Sioux City and Pacific Railroad Company to construct the branch of the Union Pacific railroad from Sioux City.

Mr. GRIMES. I suggest to the Senator from Michigan that he permit this bill to lie over for a few days. I was not aware that any such report had been made from this committee, and I am astonished that it has been. I should like an opportunity to examine into the reasons why they have been impelled by their sense of duty to submit any such report as this. It takes me entirely unawares.

Mr. HOWARD. The bill which is now before the Senate has been before the Committee on the Pacific Railroad for a very considerable portion of this session, and they have had numerous meetings upon it. They have expended very much time and attention on the bill, far more than they usually do on such bills. It has been a subject of attention at their meetings since the commencement of the session, and after the most full and careful deliberation they have come to the conclusion to recommend the passage of the bill now before the Senate; but as the Senator from Iowa desires time to look into the subject, and is taken somewhat by surprise by the report of the bill, I certainly have no objection to its lying over in order to meet his convenience. I give notice, however, that I shall call it up at an early day.

Mr. GRIMES. Is there any report accompanying it?

Mr. HOWARD. No printed report. I suggest that it lie over.

The PRESIDENT *pro tempore*. The further consideration of the bill will be postponed by common consent.

BOUNTIES TO COLORED SOLDIERS.

Mr. WILSON. I move to take up Senate joint resolution No. 51, respecting bounties to colored soldiers.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution, which provides that the omission on the muster-rolls of the words "free on or before April 19, 1861," shall not deprive any colored soldier of the bounty to which he is entitled, and which is now or may hereafter be withheld by reason of such omission; but the resolution is not to be so construed as to entitle soldiers who were not free at the date specified to receive bounty.

Mr. WILSON. I move to add the following as an additional section:

And be it further resolved, That in determining who is or was the wife, widow, or heirs of any colored soldier, evidence that he and the woman claimed to be his wife or widow have cohabited together or associated as husband and wife, or evidence that a form or ceremony of marriage has been entered into or celebrated by them, and that the parties thereafter lived together or associated or cohabited as husband and wife, and so continued to live, cohabit, or associate at the time of the enlistment, shall be deemed sufficient proof of such marriage for the purpose of securing any arrears of pay, pension, or other allowances due any colored soldier at the time of his death; and the children born of any such marriage or connection shall be deemed and taken to be the children embraced within the provisions of this act, whether such marriage or connection shall or shall not have been dissolved at the time of the enlistment of the father.

Mr. HENDRICKS. I think that had better be explained a little. We cannot tell much about it from the mere reading. Perhaps, however, a bill of this sort requires no explanation in this body.

Mr. WILSON. I did not hear the remark of the Senator.

Mr. HENDRICKS. I believe there is no report accompanying this resolution. We certainly ought to know something about it. It is impossible to tell its scope and effect from merely hearing it read.

Mr. WILSON. The resolution simply proposes to correct errors; it alters no principle. There are a great number of colored persons who entered the service, having always been free citizens of the Senator's State and of my State and of other States, but who on the enrollment were not enrolled as having been free before the 19th of April, 1861. Several such persons have been wounded in the service and are now without arms or legs. This resolution

simply provides that that error shall not work against them, that other testimony than the mere enrollment may be taken to show that they were free at that time. It does not, however, alter the principle of the existing law, for it gives no bounty to a person who was not free before the 19th of April, 1861.

The object of the additional amendment which I have proposed is to remedy a difficulty which is now experienced in settling balances due to colored soldiers who have died in the service. There is a difficulty in determining who are their heirs, and who is entitled to receive any part of their bounty or back pay. This amendment puts it on the same ground that Congress adopted in making free the wives and children of colored soldiers; it accepts the facts. The thing can work no wrong to anybody, but will do justice. I hope, certainly, there will be no opposition to it.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the special order, which is Senate bill No. 61.

Mr. WILSON. If the Senator from Maryland, who is entitled to the floor on that bill, will yield it for three or four minutes, I think we may pass this resolution.

Mr. JOHNSON. I have no objection.

The PRESIDENT *pro tempore*. The resolution before the Senate will be proceeded with by common consent. The question is on the amendment proposed by the Senator from Massachusetts.

The amendment was agreed to.

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

The resolution was ordered to be engrossed for a third reading, and was read the third time, and passed. On motion of Mr. WILSON, its title was amended so as to read: "A joint resolution respecting bounties to colored soldiers, and the pensions, bounties, and allowances to their heirs."

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House of Representatives had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 86) making additional appropriations, and to supply deficiencies in the appropriations for sundry civil expenses of the Government for the fiscal year ending the 30th of June, 1866, and for other purposes.

The message further announced that the House of Representatives had passed the bill of the Senate (S. No. 117) for the relief of F. A. Patterson, late captain of the third Virginia cavalry.

The message further announced that the House of Representatives had passed the following bill and joint resolution, in which it requested the concurrence of the Senate:

A bill (H. R. No. 456) to extend the benefits of section four of an act making appropriations for the support of the Army for the year ending June 30, 1866; and

A joint resolution (H. R. No. 105) giving construction to the law in relation to bounties payable to soldiers discharged for wounds.

The message further announced that the House of Representatives had passed the bill (S. No. 105) to grant the right of way to the Cascade Railroad Company through a military reserve in Washington Territory, with an amendment, in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills; which were thereupon signed by the President *pro tempore*:

A bill (S. No. 80) for the relief of J. B. Rittenhouse, fleet paymaster of the Pacific squadron; and

A bill (S. No. 82) granting a pension to Sarah Fitzgibbon.

CIVIL RIGHTS BILL—VETO MESSAGE.

The Senate resumed the reconsideration of the bill (S. No. 61) to protect all persons in the United States in their civil rights and to furnish the means of their vindication, which had been returned by the President of the United States with his objections.

Mr. JOHNSON. Mr. President, in the discussion which I propose to give to the measure before the Senate, I need hardly say that I shall not be influenced by any party motive. The questions which are before us are in part strictly legal questions, and in part questions of policy. The objections which the President makes to the bill, and which have induced him to return it without his approval, relate as well to the expediency of the measure as to its alleged unconstitutionality. I do not understand that the chairman of the Committee on the Judiciary denies that the first ground of objection is as good a one for the application of the presidential power of veto as the second. The purpose of clothing the President with that power was first to guard his own department against encroachments by the legislative department, to guard the States against the like encroachments, and to guard the individual citizen also; but in addition to that object, one of the purposes of the Convention was to guard against inexpedient and ill-considered legislation. Looking to what had taken place in the Congress of the Confederacy, and to what had occurred in the several State governments, the members of the Convention of 1787 were satisfied that it was almost as necessary to the public weal to protect the country against inexpedient legislation as it was to protect it against unconstitutional legislation. It has heretofore, by some, been doubted whether the President is justified in using the power except upon constitutional ground. That principle was, in part, urged by the leading members of the Whig party, at the head of which stood Mr. Clay, when they became very much dissatisfied with the exercise of that power by the then President of the United States, General Jackson; and the fact being called to the attention of Mr. Madison, he expressed his opinion upon it in a letter, written with the ability which always marked his writings, dated on the 15th of October, 1834, in which he said:

"Another novelty of great practical importance is the alleged limitation of the qualified veto of the President to constitutional objections. That it extends to cases of inexpediency also, and was so understood and so vindicated, (see the Federalist,) cannot be doubted. My veto to the bank was expressly to the inexpediency of its plan, and the validity of the veto was never questioned."—*Madison's Writings*, vol. 4, p. 369.

The honorable member from Illinois seems to suppose that he finds a valid objection to the exercise of this power by the President, in this instance, in the fact that the bill itself was passed by more than two thirds of the members of each House; and he cites, in support of that doctrine, a speech delivered by the President when he was a member of this body, in 1860, in which the Senate, perhaps, were induced by what the honorable member read from the part of the speech to which he called our attention, to believe that the President had stated the principle to be that a bill so passed could not constitutionally be subjected to the veto power. If he had read the latter part of the same sentence, he would have found that the President intended no such thing. Let me read a passage that the honorable member omitted to read:

"I am one of those who have always been the advocate of the veto power under the Constitution. When bare majorities have passed bills it is a salutary check to arrest what may be called hasty and intemperate legislation. I have advocated its exercise, though seldom and cautiously, in that view; but, sir, when, according to the spirit, if not according to the exact letter, of the Constitution, a measure has been passed by a two-thirds vote of both Houses, after a discussion of fifteen years, showing that it is not hasty or improvident legislation—I say, respect to the public judgment of the nation, respect to both Houses of Congress, should have been a great inducement to the Executive to approve such a bill."

And of the soundness of that doctrine I suppose there will not be two opinions. Then, Mr. Johnson, when he was a member of this body, merely stated that the fact that a bill had been passed by a majority of that kind, a majority rendered necessary for the purpose of overruling a veto, was a reason why the President should very cautiously apply the power for its defeat. But so far from its being the judgment of the Senate, as it certainly was not his, that a bill's being passed by that majority took it out of the veto power, the honorable member's answer to a question which I propounded to him at the close of his speech shows that, in the judgment of the Senate, the veto power was properly exercised, for the bill which in that instance had been passed by more than two thirds of both branches did not become a law, as many of those who had voted in favor of the bill changed their votes under the influence of the President's veto message.

Now, in order to see exactly whether it was proper in the President to disapprove of this bill, it becomes necessary to ascertain with precision what the bill is. The honorable member from Illinois insists upon it that there is no section in it that is not clearly constitutional. He maintains the constitutionality of the first section upon the ground, first, that it is merely declaratory of what the law is, and secondly, that if it is not declaratory, it is a law which Congress has a right to make, because, in his judgment, it is within the power of Congress by law to declare who shall be citizens of the United States.

The honorable member referred to the decision of Chief Justice Marshall in a case reported in 6 Peters for the purpose of showing that a citizen of the United States who has been naturalized and who resides in a State of the United States has a right to go into the courts of the United States. The honorable member clearly, as I think, misapprehended the decision to which he referred. The question before the court was, whether it appeared upon the face of the pleadings that the party going into the court below had a right to go into that court as a court of the United States. Under the Constitution of the United States, and the act of 1789, which was passed to carry out its provisions, the jurisdiction of the courts of the United States, where it was made to depend upon the character of the parties, was given only in cases where the party plaintiff and the party defendant were citizens of different States; and the question before the court was whether it appeared upon the face of the declaration in the particular case that the party plaintiff was a citizen of a State and, as such, entitled to go into the courts of the United States. The language of the declaration was that he was a naturalized citizen of the United States residing in the State of Louisiana. The court came to the conclusion that that averment was equivalent to an averment that he was a citizen of the State of Louisiana, in the absence of anything to the contrary. But that is not the question which this bill presents. He became a citizen under the naturalization laws of the United States, and the authority of Congress to pass such laws could not be doubted. The effect of the exercise of that authority was merely to rid the particular party of the disabilities arising from alienage and to give him the capacity of becoming a citizen of the United States. When the declaration, therefore, averred that the original disability of alienage was removed in that instance by the party becoming a citizen under the naturalization laws, the only other question upon which the case before the court turned was, whether he had sufficiently averred in his declaration that he was a citizen of a different State from the State in which the other party resided; and the court decided that an averment of a residence in a State of one who was alleged to be a citizen of the United States was equivalent to an averment that he was a citizen of the State; and I suppose no one could well have doubted before, or will now doubt, that the decision was a legitimate one.

But that is not this case. This bill, in its first section, makes all who were born in the

United States at any time, and who are now living, citizens of the United States, and, as such, citizens of the States in which they may respectively reside, and confers upon them all the rights belonging to those who have heretofore been considered citizens of the States in which they may reside. Now, Mr. President, you are not to be told that the only express authority conferred upon the Congress of the United States in relation to citizenship, that is to say in relation to the power of converting one who is not a citizen into a citizen, is the authority to be found in the delegation to Congress of the power of passing uniform laws on the subject of naturalization. There is not a single word in the Constitution which gives to this department of the Government, or to any other department of the Government, any power to declare who shall be a citizen of the United States. What is the effect of the exercise of the power to pass uniform laws on the subject of naturalization? What was the design of the power? What is the operation of the power when it is exerted? The design of the power is to remove the disabilities arising from the fact of alienage, and nothing else. The operation of the power is to place the party, whose disability arising from alienage is removed by virtue of the naturalization laws, in the same condition with anybody else; but whether he is to be considered as a citizen of a State of the United States by virtue of the removal of the disabilities consequent upon his taking advantage of the naturalization laws, presents an entirely different inquiry.

Perhaps I can make the view which I should otherwise present in my own language more apparent to the Senate and to the country by reading from an opinion in the Dred Scott case—not that opinion pronounced by the majority of the court, which has been so often, as I think, shamelessly perverted to the disparagement, not only of the majority who sanctioned that opinion, but of the very admirable lawyer by whom the opinion was pronounced; but the opinion of Mr. Justice Curtis, in which he differed from that of the majority—an opinion full of learning and as able as any opinion ever pronounced by any judge of that or any other tribunal. The question which, in that part of the opinion that I am about to quote, he was discussing, was, whether Dred Scott was a citizen entitled to sue in the courts of the United States. The majority of the court decided that in consequence of the blood which was supposed to run in his veins, and was alleged to run in his veins by the plea, that is, the African blood, he being descended from an African ancestor who came to the United States as a slave, he could not become a citizen of the United States. Mr. Justice Curtis held that the Constitution of the United States assumes that citizenship may be acquired by nativity. That is the common law, that is the law of the civilized world, that he who is born in a country, and not made a slave at the moment he is born by any municipal regulation, becomes, by virtue of his birth, a citizen; but he by no means held that his being a citizen of the United States by virtue of his birth made him a citizen of any State of the United States. Let me read a sentence or two from his opinion. That part of the opinion to which I refer will be found in 19 Howard, page 577 and onward. After having stated, and no doubt stated correctly, that at the adoption of the Constitution of the United States there were five States in which persons of color were entitled to the right of suffrage, and in which, therefore, they participated in the deliberations of the States by whom the Convention was authorized, and afterward in the conventions of the several States by which the Constitution itself was sanctioned, he came to this conclusion:

"And my opinion is, that under the Constitution of the United States, every free person born on the soil of a State, who is a citizen of that State by force of its constitution or laws, is also a citizen of the United States."

Mark the qualification. It is not nativity that imparts the character of citizenship alone. There must be added to the fact of nativity, the other fact, that at the time of his birth he is, by the laws of the State in which he is born, a citizen; and the two things occurring, birth and citizenship, by the laws of the State, he becomes, by virtue of the two, a citizen of the United States. If there could be any doubt that I correctly interpret that part of his opinion, that doubt seems to be removed by subsequent portions of it, to which I will now call the attention of the Senate. He says:

"The first section of the second article of the Constitution uses the language, 'a natural-born citizen.' It thus assumes that citizenship may be acquired by birth."

And then he goes on to state that that is the rule everywhere, and proceeds:

"The Constitution having recognized the rule that persons born within the several States are citizens of the United States, one of four things must be true."

I beg the attention of my friend from Illinois to this. I do not know that he has seen the opinion with reference to this question. The Constitution assuming that there may be citizenship by virtue of birth where the law of the State in which the birth occurred confers upon the party born the character of citizen, and—

"The Constitution having recognized the rule that persons born within the several States are citizens of the United States, one of four things must be true."

What are they?

"1. That the Constitution itself has described what native-born persons shall or shall not be citizens of the United States; or,

"2. That it has empowered Congress to do so; or,

"3. That all free persons, born within the several States, are citizens of the United States; or,

"4. That it is left to each State to determine what free persons, born within its limits, shall be citizens of such State, and *thereby*"—

What I emphasize is italicized by the judge—

"be citizens of the United States."

I will not read everything that he says in relation to the alternatives, but only portions:

"If there be such a thing as citizenship of the United States acquired by birth within the States, which the Constitution expressly recognizes, and no one denies, then these four alternatives embrace the entire subject, and it only remains to select that one which is true.

"That the Constitution itself has defined citizenship of the United States by declaring what persons, born within the several States, shall or shall not be citizens of the United States, will not be pretended. It contains no such declaration. We may dismiss the first alternative as without doubt unfounded."

That is to say, the Constitution has not stated, or, to use the language of his question, the Constitution has not prescribed what native-born persons shall or shall not be citizens of the United States. The proposition, to use his own language again, may be dismissed as a proposition wholly unfounded. If that is untrue, then is the other proposition true? If it does not of itself declare who are to be citizens of the States, and thereby citizens of the United States, is there anything in the Constitution which confers upon Congress the power to do the same thing? Let us see what he says about that:

"Has it empowered Congress to enact what free persons, born within the several States, shall or shall not be citizens of the United States?

"Before examining the various provisions of the Constitution which may relate to this question, it is important to consider for a moment the substantial nature of this inquiry. It is, in effect, whether the Constitution has empowered Congress to create privileged classes within the States, who alone can be entitled to the franchise and powers of citizenship of the United States. If it be admitted that the Constitution has enabled Congress to declare what free persons, born within the several States, shall be citizens of the United States, it must at the same time be admitted that it is an unlimited power. If this subject is within the control of Congress, it must depend wholly on its discretion."

Then he proceeds immediately after to state in very clear and forcible language that the Constitution confers no such power upon Congress. I will read a part of what he says:

"Among the powers expressly granted to Congress is 'the power to establish a uniform rule of naturalization.' It is not doubted that this is a power to prescribe a rule for the removal of the disabilities consequent on foreign birth." * * * *

"It appears, then, that the only power expressly granted to Congress to legislate concerning citizenship is confined to the removal of the disabilities of foreign birth."

Leaving the inquiry whether there is in the Constitution any express authority conferred upon Congress to legislate at all in relation to the *status* of citizenship, he proceeds to inquire whether there exists any implied power to accomplish the same end, and examines all the clauses:

"Whether there be anything in the Constitution from which a broader power may be implied, will best be seen when we come to examine the two other alternatives, which are, whether all free persons born on the soil of the several States, or only such of them as may be citizens of each State, respectively, are thereby citizens of the United States. The last of these alternatives, in my judgment, contains the truth."

That is to say, there is no power, express or implied, which confers upon Congress any authority to declare what free persons are to be considered as citizens because of their birth within a State except such, or, to use again his own language, that it is true only of such as may be citizens of each State, and because they are citizens of each State by virtue of their birth under the constitution and laws of the State of their birth they become citizens of the United States. That, and that alone, contains the truth.

"Undoubtedly, as has already been said, it is a principle of public law, recognized by the Constitution itself, that birth on the soil of a country both creates the duties and confers the rights of citizenship."

That is the doctrine relied upon by my friend from Illinois; but the judge says:

"But it must be remembered that though the Constitution was to form a Government, and under it the United States of America were to be one united sovereign nation, to which loyalty and obedience on the one side, and from which protection and privileges on the other would be due, yet the several sovereign States, whose people were then citizens, were not only to continue in existence, but with powers unimpaired, except so far as they were granted by the people to the national Government.

"Among the powers unquestionably possessed by the several States was that of determining what persons should and what persons should not be citizens."

And having come to the conclusion that that power was not delegated by the Constitution of the United States, he came necessarily to the other conclusion consequent upon that, that it remains as it stood before that, a power exclusively belonging to the States respectively. What is the consequence of that doctrine if it be true, and I think I may challenge my friend from Illinois to disprove it? The authority over citizenship under the Constitution of the United States is not delegated to Congress except in one particular, and that not one which was intended to make the party in whose favor the power might be exercised a citizen of a State, but merely for the purpose of removing the disability which alone the Government of the whole could remove consequent upon his foreign birth and his foreign allegiance. That was a question in which the whole were interested; it was a matter of general moment; it related to the common objects for which the Constitution itself was adopted; foreign nations were to be considered; and because no one State had the power of legislating upon any subject in which a foreign nation or a foreign citizen might be concerned, it was deemed advisable to vest a power which might otherwise create difficulties to the injury of the whole in the Government to which were submitted the interest and safety of the whole. But the removal of the disabilities under the naturalization laws did not create the party a citizen of any one State. That power, in the words of Mr. Justice Curtis, remained as it stood before the Constitution was adopted, exclusively belonging to the States themselves.

Now, what does this bill do? It says that every man born within the United States, whether born as a slave or not—for it is not prospective, operating only upon those who may be born subsequent to the abolition of slavery in the United States—but whoever was born at any time, though born in slavery, is to be considered a citizen by reason of the fact of his being born alone. The States where slavery existed declared, at the time of the birth, if he was born of a slave mother that he was a slave. The constitution and laws of the States, undisputed, declared—I mean the States in which slavery existed—that no descendant of a colored

mother, whether she was free or not, was to be considered a citizen by virtue of birth; and yet my friend from Illinois, and the Congress of the United States in passing this bill, have declared that those who were born in a state of slavery, who were never citizens as long as that condition existed, who were prevented from becoming citizens by the constitution of the State in which they resided, which has never been changed, shall, by force of this enactment, be considered as citizens of the United States, and of course for all purposes. If it be true that whether birth is to give citizenship of the United States depends upon the fact whether the party born by the laws of the State in which he is born becomes a citizen of that State, then I should like to know where is the authority in Congress to interfere with what the State has done in the past, or may be doing in the present, or may do in the future, unless it can be accomplished under the constitutional amendment, to which I shall advert by and by.

The honorable member from Illinois disposes of the President's objection to the first section of this bill by saying that it is merely declaratory. I know it is competent for any legislative body, on a question where differences of opinion exist in relation to any legal proposition, to remove them by declaratory legislation; but that is not the purpose of this bill. It professes to be passed in the exercise of a positive and absolute power to change the law—not to declare what the law was in order to remove doubts, but to make the law. It assumes, or otherwise there would be no occasion for it, that birth alone does not confer citizenship; and assuming that no citizenship would exist in consequence of birth alone, it declares that birth alone, in spite of State constitution and State laws, shall confer citizenship. Now, with all deference to the opinion of the honorable chairman of the Committee on the Judiciary, that seems to me to be a proposition as clearly erroneous as any proposition can be in relation to constitutional law. The States were sovereign before the Constitution was adopted; and the Constitution not only, according to its very terms, does not profess to confer upon the Government of the United States all governmental power, but as far as Congress is concerned professes to confer upon that department of the Government only the particular delegated powers there enumerated; but so anxious were the framers of that instrument and the great men of that day, to whom the subsequent organization of this Government was left, that although they had no doubt as to the principle that only the delegated powers were granted, (and the debates in the Convention itself as well as the debates in the conventions of the several States when the Constitution was before them for adoption or rejection all went upon the theory that no powers were conferred except such as were expressly granted or as were reasonably to be implied as necessary to carry out the powers expressly granted,) by the tenth amendment adopted recently after the Constitution went into operation, and recommended by the men many of whom were the framers of the Constitution itself, that the powers not delegated by the Constitution and not denied to the States by the same instrument were to be considered as reserved to the States respectively or to the people.

Standing, therefore, as well upon the nature of the Government itself, as a Government of enumerated powers specially delegated, as upon the express provision that everything not granted was to be considered as remaining with the States unless the Constitution contained some particular prohibition of any power before belonging to the States, what doubt can there be that if a State possessed the power to declare who should be her citizens before the Constitution was adopted that power remains now as absolute and as conclusive as it was when the Constitution was adopted? The bill, therefore, changes the whole theory of the Government.

The President, then, I think, is right. I go further than he does: he expresses a doubt whether Congress has the power; I affirm, with all deference to the better judgment of the majority of the Senate who voted for the bill, and to that of the honorable chairman of the Committee on the Judiciary, that it is perfectly clear that no such power exists in Congress as the one attempted to be exercised by the first section. I hold, with Mr. Justice Curtis—and his opinion to this day has never been questioned—that citizenship of the United States consequent upon birth in a State is to depend upon the fact whether the constitution and laws of the State make the party so born a citizen of the State.

What is the remaining provision of the first section? Not satisfied with assuming that they had the power to declare that all persons not subject to any foreign Power born in the United States are to be considered hereafter as citizens of the United States, and leaving the rights of such persons to depend upon the fact of their being citizens, the section goes on to provide what rights shall belong to them. What is that for? Is that declaratory, too? Citizenship, says the honorable member, carries with it certain rights. What rights? He read to the Senate yesterday from the first and second volumes of Kent's Commentaries, and particularly, I think, from 1 Kent, page 46, a passage which he will pardon me for saying has nothing in the world to do with the particular question before us. The passage which he read merely states that every nation is bound to protect its own citizens. Certainly where it has the power under its form of government. The Government of the United States has the authority and is bound to protect the rights of any citizen of the United States when invaded by any other nation. Why? Because the States have no jurisdiction extra-territorial, because with reference to foreign nations the States have no place at all. That relation subsists, and can only subsist, as between the foreign nation and the General Government; and because that relation can only in that way subsist, it is the duty of the United States, as it is the duty of every nation, to protect its own citizens. But how does that even tend to prove that a citizen of the United States who is entitled to demand protection when abroad from the Government of the United States is to be considered a citizen of any one State? But what are these rights? The section converts him into a citizen by virtue of his birth, which I have endeavored to show the Senate cannot be done unless the constitution or law of the State where he is born makes him a citizen of that State, and it goes further, and says that "such citizens"—that is, by force of this congressional legislation—"of every race and color without regard to any previous condition of slavery," &c., "shall have the same right in every State and Territory in the United States to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of person and property as is enjoyed by white citizens."

If there be anything that may be considered as true in the past in constitutional law, it is that over every one of these rights, or to speak more correctly, over every one of the subjects to which these rights are made to attach, the jurisdiction of the States was exclusive. The honorable member from Illinois seems to forget, as I think, what is the real character of our institutions. This bill, in my opinion, strikes at all the reserved rights of the States. You may look in the statute-book in vain, sir, and nobody knows it better than you do, (Mr. HARRIS in the chair)—and I am sure the honorable member from Illinois will agree that such is the fact—you may look in the statutes of the United States and in the Journals of Congress in vain for the purpose of finding that at any time, from 1789 up to the breaking out of this rebellion, anybody ever proposed in Congress by legislation to regulate, by securing or otherwise, the rights which are referred to in the latter part of this section. What are they? The declaring who may be authorized to make contracts and who may be authorized to enforce contracts, who may be authorized to sue, to be parties, and give evidence, inherit, purchase, lease, sell, hold, and convey real and personal estate. If Congress can legislate in relation to these rights in behalf of the black, why cannot they legislate in relation to the same rights in behalf of the white? And if they can legislate in relation to both, the States are abolished; because, if the further provision in this bill follows (as perhaps it does flow legitimately upon the assumption of the constitutionality of the provisions of the first section to which I have adverted) that Congress has the authority to constitute its own tribunals for the purpose of granting relief for the enforcement of these rights, then the State courts may be closed up. If Congress can prescribe the rules of evidence, it is because with reference to that question this Government is a consolidated Government. I submit that nothing can be plainer than that; and yet it would have startled with surprise any member of the Convention of 1787, or any member of the Congress of the United States who passed the judiciary act of September, 1789, to have been told that there lurked somewhere in the Constitution of the United States an authority by which Congress could usurp to itself a right to enter in the limits of the several States and regulate the law of contract, the law of evidence, the law of devise, and the law of marriage.

And yet my friend from Illinois says that that provision is clearly constitutional; and why? Because, as I understand him, it is the business of every Government to protect its own citizens. That is begging the entire question. It is the business of the General Government to protect citizens of the United States where that protection cannot be obtained through the instrumentality of the States; but where the rights of citizens of the United States are given by State laws over subjects intrusted exclusively to State legislation, it is the exclusive business of the State to protect them.

But that is not all. This first section has another provision. Not satisfied with making the parties citizens and clothing them with all the rights belonging to white citizens by the laws of the States, it says that they "shall be subject to like punishment, pains, and penalties, and to none other." That invades the jurisdiction of the States over their criminal code. Congress assumes to define a crime, and defining a crime gives to its own courts exclusive jurisdiction over the crime and the party charged with its perpetration. It strikes at the criminal code of the States. The result, therefore, of the three provisions in this section is, that contrary to State constitutions and State laws, it converts a man that is not a citizen of a State into a citizen of the State; it gives him all the rights that belong to a citizen of the State; and it provides that his punishment shall only be such as the State laws impose upon white citizens. Where is the authority to do that? If it exists, it is still more obvious that the result is an entire annihilation of the power of the States. It seems to be the fashion of the hour—I do not know that my honorable friend from Illinois goes to that extent—to hold to the doctrine that the sooner everything is vested in the Government of the United States the better for the country. It is a perilous delusion. If such a proposition had been supposed to be found anywhere in the Constitution of the United States, it never would have been adopted by the people; and if it is assumed, or if it is considered as constitutionally existing by virtue of some power not before known, the Government will not last half a century. I have not time to read from the writings of Mr. Madison and Mr. Hamilton and the decisions of the Supreme Court on the question.

But you, Mr. President, know very well that consolidation of power in the Government of the United States was looked upon as certain

ruin to republican institutions. In the first place, it would be sure to result in anarchy; and in the second place, in order to be saved from the horrors of anarchy, we should be compelled to take refuge in despotic power, and the days of constitutional liberty would soon be numbered. The doubt then was, and the doubt now should be more firmly settled in the public mind, that a country as extensive as that of the United States cannot exist except by means of divided sovereignties; one sovereignty having charge of all external matters, or matters between the States to which the powers of the States are inadequate; the other sovereignties having power over all internal matters to the management of which they are adequate. Despotism would soon be our fate, preceded by anarchy; the military chieftain instead of being looked upon, as he should be by every republican, with alarm and concern, would be hailed as a savior in order to save us from the horrors of disorganization.

But look at the second section of this bill. It declares that any person who under color of any law shall subject or cause to be subjected any inhabitant of any State or Territory to the deprivation of any right secured or protected by the bill, or to different punishment, pains, or penalties than those prescribed for white persons, shall be deemed guilty of a misdemeanor, and on conviction shall be punished by fine or imprisonment or both. What says the President, and what, as I think, is he fully justified in saying? He has not said it as strongly as the exigency would have justified. What is the meaning of the section? The right has been given to make and enforce contracts, &c.; and then the second section says, in order to secure those rights, that he who shall interfere with them under color of law shall be considered a criminal. What is the effect of that? In the first place, it assumes what is true, that there is a statute, an ordinance, a regulation, or a custom inconsistent with the exercise of the rights secured by the first section, an existing law, organic or statutory, which declares who may sue, who may contract, who may testify, who may hold real and personal estate, who may inherit, who may marry; and if any judge, (as the President says and as I say,) who is called upon to decide whether the State law is in force because this law is unconstitutional, shall hold it to be in force notwithstanding this law, is to be punished. The honorable member from Illinois told us that that is only true where there is an intentional wrongful decision on the part of a judge. That is not so, Mr. President. The intention is presumed from the offense. If the offense is clearly defined, an intention is made no bar to the offense; he who commits the offense is the criminal. Here it is clearly, specifically defined: "You, a judge of the State court who think proper to enforce as against any of the parties a judgment inconsistent with the rights secured by the first section of this bill, in consequence of any law or regulation of a State, shall be liable to an indictment in the courts of the United States, and punished by fine, or imprisonment, or both."

The first section usurps, as I think, what has heretofore been considered as the exclusive authority of the States. The second section goes a step further, and declares that the judge, whether he honestly or dishonestly decides that the State law is binding irrespective of your statute, shall be punished. This usurps a power inconsistent with the independence and integrity of the State judiciary. The first section strikes at the legislative authority of the States; the next strikes at the judicial department of the governments of the States, and the two lay them both down at the footstool of Federal power.

But that is not all. Unwilling to trust the State courts with the authority to pass upon the defined crimes, it gives to the district courts of the United States within their districts, exclusive of the courts of the States, jurisdiction. Then it abolishes all the State courts, as far as relates to these offenses, and what are the cases in which this exclusive jurisdiction is vested in the courts of the United States?

That the district courts of the United States, within their respective districts, shall have, exclusively of the courts of the several States, cognizance of all crimes and offenses committed against the provisions of this act, and also, concurrently with the circuit courts of the United States, of all causes, civil and criminal, affecting persons who are denied or cannot enforce in the courts or judicial tribunals of the State or locality where they may be, any of the rights secured to them by the first section of this act; and if any suit or prosecution, civil or criminal, has been or shall be commenced in any State court against any such person, for any cause whatsoever, or against any officer, civil or military, or other person, for any arrest or imprisonment, trespasses, or wrongs done or committed by virtue or under color of authority derived from this act or the act establishing a Bureau for the Relief of Freedmen and Refugees, and all acts amendatory thereof, or for refusing to do any act upon the ground that it would be inconsistent with this act, such defendant shall have the right to remove such cause for trial to the proper district or circuit court in the manner prescribed by the act relating to *habeas corpus* and regulating judicial proceedings in certain cases, approved March 3, 1863, and all acts amendatory thereof.

A black man being made to believe by the provisions of this bill that the rights secured to him by the bill are improperly interfered with by a State or by some State officer, or one of the commissioners or sub-commissioners or agents, for there are hosts of them provided for in subsequent parts of the bill, undertaking without authority or by the use of unnecessary harshness to arrest a white citizen of a State, is met with the independence of a freeman who, in the exertion of his right of self-defense, slays his assailant. He is to be tried in the courts of the United States. Any such officer or any colored person who, in the assertion of the rights and authority which he supposes to be conferred upon either by this act, slays a white man, is not to be tried for murder in a State court, but must be tried in a court of the United States. How my friend from Illinois can bring his mind to the belief that there exists any authority to give such jurisdiction to the courts of the United States, passes my comprehension. I believe he at one time belonged to a party which held to a strict construction of the Constitution. Here, practically, the bill goes upon the theory that there is but one Government created by the Constitution, having all legislative power and all judicial power within the limits of every State. The whole criminal code of the States, therefore, is hereby abolished. Murder, theft, robbery, are offenses which nobody, until this bill was proposed, ever dreamed, if committed within the limits of a State, could be tried in any other court than in the courts of the State.

The honorable member referred to the act of 1790, but it relates entirely to different subjects, and all the statutes to which he adverted are statutes of the same description. What is the twenty-sixth section of the act of 1790 to which he referred? The preceding section provided that no one should sue a foreign minister, and the section to which my friend referred particularly, said that if a party did sue a foreign minister he should be liable to be punished. Certainly; but why? Because the Government of the United States was vested with the exclusive authority in all cases depending upon the law of nations; and the law of nations saving from responsibility embassadors accredited to the United States, for civil debts, he who attempted to interfere offended against the Government, and he offended in relation to a subject exclusively committed to the General Government. The power, therefore, which Congress exerted in the particular legislation to which the honorable member reverted is just the power which they exert when they provide for the punishment of any man who counterfeits the currency of the United States, or forges its paper, or forges its bonds, or interferes with the administration of the Post Office Department. These are all powers incidental to the possession of the express power, and in the case to which he adverted the express power was one necessarily belonging to the Government, because it was a power belonging to and regulated by the law of nations, and not by any municipal regulation.

The honorable member from Illinois tells us that these powers should be granted, and granted now; that the President's objection, that there are eleven States not now represented, is entitled to no consideration whatever. The honorable member seems to suppose that the President adverted to the fact that there were eleven States not represented as showing that Congress possessed no constitutional authority to legislate upon the subject, supposing that they would have had the authority if those States were represented. That is not the view taken by the President; it is an entire misapprehension of the doctrine of the President. He says no such thing, and he intimates no such thing. But assuming, what in another part of the message he denies, that the authority might be considered as existing, he submits as a question of policy whether it is right to change the whole domestic economy of those eleven States, in the absence of any representation upon this floor from them. My honorable friend asked whose fault it is that they are not represented; not for the purpose of an *ad captandum* appeal, for that, I suppose, he is incapable of, as he animadverted upon it when the President was imagined to have indulged in such a thing—not in the spirit of the demagogue, which he never indulges in—he asked, whose fault is it? Why are they not here? He says their hands are reeking with the blood of loyal men; that they are unable to take the oath which a statute that he assumes to be constitutional has provided; and he would have the country and the Senate to believe that that is the reason why they are not here. Is that the fact, Mr. President? These States are organized, and how organized? What have they done? They have abolished slavery by an astonishing unanimity; they have abolished nearly all the distinctions which antecedently existed between the two races. They have permitted the negroes to sue; they have permitted them to testify; they have not yet permitted them to vote. Some of them have elected to Congress men who have gone further than my honorable friend from Illinois in efforts to suppress this rebellion, men who have periled their lives upon many a battle-field for that end, and who can take that oath just as conscientiously as either of us; and yet they are not received.

Why are they not received? Because, in the judgment of the Senate, before the States can be considered as restored, congressional legislation on the subject is necessary. Whose fault is it that there has not been congressional legislation? Is it the fault of the eleven States? Certainly not; it is our own fault. And why is it that we are in point of fact delaying their admission, whether it be considered as a fault or not? Because we want to inquire into the condition of these States. Why, in the name of Heaven, how long have we been here? We came here early in December, and this is the month of April; and here we may remain until July, or, as rumor has it, until next December, and shall we be satisfied within that time that congressional legislation may be safely adopted? And are those States to blame? How are they to be judged? By the conduct of individual men? I can go, I have no doubt, into the State so ably represented by my friend from Illinois and find men there by the hundred who are just as disloyal as the same number of men who can be found in any of the States formerly in rebellion; that is to say, disloyal in the sense in which the term is used in modern times—disloyal in not having confidence in the powers that be. Formerly it was want of confidence in the President. Now, confidence in the President is evidence of disloyalty; now, disloyalty is want of confidence in Congress; and if any citizen of the South or anywhere else says, what he believes, that the course of the legislative department of the Government is calculated to continue the state of things which now exists, and continue to all practical purposes the war, he is considered as disloyal.

How are these States now, to pursue the thought a step further? The executive branch

of the Government recognizes them as in to all intents and purposes. The judicial department of the Government has done the same thing. I took occasion upon a previous day to advert to an order of the Supreme Court on that subject, which demonstrated that in the opinion of that tribunal the States were now in the Union, as far as that department of the Government is concerned. Since then, under an order passed by themselves some four weeks ago, they have been hearing cases from those States, and the last order announced by the Chief Justice on the last day of the court's sitting said that all the cases from the southern States would be called in their order at the beginning of the next term.

Then, with reference to the other two departments of the Government, these States are now in the enjoyment of all the rights which the Constitution of the United States can give them. We alone stand in the way of a complete restoration. The oath does not keep all out. I have reason to believe that a great many men of the party to which my friend from Illinois belongs are of opinion that the oath should be modified; but if you adhere to the oath, the States can and will send representatives who can take it. But that will not do; there is some apprehension that if they are represented here, some mischief may be the result. Mischief of what kind? Mischief of a party character? That should not influence the deliberations of the Senate, and I have no reason to suppose it does. But irrespective of mischief of a party character what possible inconvenience or disadvantage can result from the fact of their being represented on this floor? Do we not want them? There is not a member, I am sure, on the floor of the Senate that would not like to shake by the hand those who are now loyal in the southern States, forget the past, and regard the present and the future. But no; we keep them out, and the fact of their being kept out is relied upon by the honorable member from Illinois as justifying this legislation; if they were in, the concession seems to be that the legislation would be clearly unconstitutional.

Mr. TRUMBULL. No.

Mr. JOHNSON. Then it would be constitutional whether they were in or out?

Mr. TRUMBULL. Undoubtedly, in my opinion.

Mr. JOHNSON. I think, with you, just as constitutional whether they are in or whether they are out; that is to say, it is not constitutional whether they are in or out. Where is the occasion for it? Does anybody suppose that the rights of the black man are not just as safe in the southern States as they are now organized, whatever those rights may be, as the rights of the white man in many of the loyal States? Go to Missouri; what do we see there? Under a constitution which makes it a crime to pray or to preach in public without taking a certain oath prescribed by it, preachers are actually taken out of the pulpit, punished, thrown into prison. Why do you not legislate to protect them? Is it because you go upon the assumption that the State has a right by its own constitution to provide that no man shall preach unless he takes such an oath as the constitution of the State may prescribe? What I mean to say is, that if unconstitutional interference with private rights justifies an appeal of this description, then I invoke my friend from Illinois to draft a bill which will cover the cases that are occurring now in the State of Missouri. I refer to that State with no view to disparage the State. In my judgment her constitution in that particular is clearly invalid. Whether it is or not will be ascertained at a future day by the decision of the Supreme Court. But one thing is certain, that, apparently, rights are invaded; and if the existence of an authority in the States to invade rights clothes the Congress of the United States with authority to legislate on the subject of rights, then we ought to legislate with regard to that State. But that is not the only State. Are not horrid enormities practiced every day, robberies unheard of, murders more atrocious than perhaps the world has heretofore witnessed, in some of the loyal States of the East, robberies in broad day? With just as much constitutional authority might we claim a right to legislate and appoint commissioners and sub-commissioners for the purpose of making arrests throughout the loyal States in cases of that description, as we have in the cases provided for in this bill.

I was about to advert to a speech made in another department of the Government, but perhaps that would not be strictly in order. It is sufficient for my purpose to say that a gentleman of legal ability, who has been called upon to examine this question, and under official responsibility too, concurs in opinion with the President that the bill is wholly unconstitutional, and he not among the friends of the President.

I have but a word or two more to say. My honorable friend from Illinois, as it seemed to me—his nature is impulsive, and perhaps he was carried further than he intended—seemed to intimate that the President of the United States had not acted sincerely in this matter, that his usurpation was a clear one, and that he was to be censured for that usurpation. What has he done? He has vetoed this bill. He had a constitutional right to do so. Not only that; if he believed that the effect of the bill would be that which he states in his veto message, he was not only authorized, but bound, to veto it. His oath is to "preserve" as well as to "protect and defend" the Constitution of the United States; and believing as he does, and in that opinion I concur, that this bill assails the Constitution of the United States, he would have been false to his plighted faith if he had not returned it with his objections.

As to his intending or being capable of intending anything that could be tortured into disloyalty, anything that could be construed as an unjust interference with the legislative department of the Government, it is sufficient to refer to his whole political career. I believe the honorable member from Illinois was a member of this body in 1860–61, when the rebellion was inaugurated. I was here, not a member, but as a spectator, and I saw him, on that side of the Chamber, in words that burned, and in a spirit of indignant eloquence rarely if ever excelled, say to the men who were about to inaugurate the insurrection that they were traitors to their country, standing in the midst of them face to face, periling life for aught that he knew——

Mr. NYE. Will the Senator allow me to ask him a question? In the same speech I would like to ask the Senator if he did not advocate boldly and in the most imperative and affirmative manner the right of the States to secede.

Mr. JOHNSON. No.

Mr. NYE. I think he did.

Mr. JOHNSON. Nothing like it. If my friend will improve his reading he will find directly the reverse. The only public man who has been very prominent who advocated the right of secession was the late lamented President Lincoln, in a speech that he made in 1848.

Mr. NYE. Stephens——

Mr. JOHNSON. Who?

Mr. NYE. Mr. Stephens did. I know he did.

Mr. JOHNSON. I am not speaking of Mr. Stephens. [Laughter.]

Mr. NYE. I thought you were speaking of the eloquence of Stephens.

Mr. JOHNSON. Not at all. I had not Stephens in my mind. Perhaps my friend has been to visit him within the last day or two; he has got him into his head. I have not been to visit him. I was speaking of the President of the United States, and I have yet to learn that Mr. Stephens is President of the United States.

Mr. NYE. He was vice president of the confederacy.

Mr. JOHNSON. It is very seldom that the honorable member from Nevada falls into a mistake of fact, but this time I rather think he has.

If the President of the United States on the floor of this Senate took the manly and patriotic and bold stand which we know he did; if he ran the hazards which we know he did; if, in returning to his home, because of that speech his life was in imminent peril, being saved only by the intrepidity of the conductor of the car in which he was; if, after his return to his State of Tennessee, he boldly denounced every effort that treason was engaged in, and day and night exposed himself to all the weapons that treason could use or treason could procure; who is bold enough or ungrateful enough to say that he is not patriotic now and true to the Union? My friend from Maine, [Mr. FESSENDEN,] in the speech which he delivered upon the former veto, admitted with the frankness which belongs to him that he had entire confidence in the sincerity and patriotism of the President. The honorable Senator from Illinois, in the speech which he gave us upon the same subject, repeated his confidence in terms as strong. And what has since occurred to shake our confidence? He may be mistaken, in the judgment of my friend from Illinois and in the judgment of my friend from Maine, in this particular message, as they thought he was in error in relation to the other message; but here, as there, with every generous mind he must stand before the country a patriot, though he may be mistaken. He desires—and who does not—that the Union shall be restored as it originally existed. He has a policy which he thinks is best calculated to effect it. He may be mistaken, but he is honest. Congress may differ with him. I hope they will agree sooner or later, because I believe as I believe in my existence that the condition in which the country now is cannot remain without producing troubles that may shake our reputation, not only in our own eyes, but in the eyes of the civilized world. Let the day come when we shall be again together, and then, forgetting the past, hailing the present, and looking forward to the future, we shall remember, if we remember the past at all, for the exhibition of valor and gallantry displayed by both sides, and find in it, when we become one, a guarantee that in the future no foreign hostilities are to be dreaded, and that no civil discord need be apprehended.

Mr. TRUMBULL. I do not design making any extended remarks, but I am not quite sure that I understood correctly the positions assumed by the Senator from Maryland in the opening part of his speech. I was somewhat interrupted at the time, but if I understood him correctly he laid down the position that now, since the abolition of slavery, and when there are none but free persons in the United States, they are not all by virtue of their birth citizens of the United States. I understand him to assume the position that even now, since the abolition of slavery, it does not follow that persons born in the United States, and born free, are citizens of the United States, and consequently that it is not competent for Congress by law to make them citizens. Did I understand the Senator correctly?

Mr. JOHNSON. Yes, sir. I maintain the doctrine of Judge Curtis.

Mr. TRUMBULL. Well, Mr. President, the opinion of Judge Curtis, from which the Senator read, was the opinion of a dissenting judge, entitled to very great credit on account of the learning and ability of that judge, but it was not the opinion of the court, and an examination of the entire opinion, which is very lengthy, would perhaps not sustain the precise principles the Senator from Maryland laid down. But, sir, I have another authority which I think of equal weight with that of Judge Curtis—not pronounced in a judicial tribunal it is true, but by one of the most eminent members of the bar in this nation; I may say by a gentleman who stands at the head of the bar in America at this time, an opinion pronounced, too, in the exercise of official duties; and I propose to read a few

sentences from that opinion, for it is to be found reported in the Congressional Globe containing the proceedings of this body, less than ninety days ago. This is the language:

"While they [negroes] were slaves it was a very different question; but now, when slavery is terminated, and by terminating it you have got rid of the only obstacle in the way of citizenship, two questions arise: first, whether that fact itself does not make them citizens? Before they were not citizens, because of slavery, and only because of slavery. Slavery abolished, why are they not just as much citizens as they would have been had slavery never existed? My opinion is that they become citizens, and I hold that opinion so strongly that I should consider it unnecessary to legislate on the subject at all, as far as that class is concerned, but for the ruling of the Supreme Court, to which I have adverted."

Sir, that opinion was held by the honorable Senator from Maryland who made this speech to-day. He holds the opinion so strongly now that slavery is abolished, which was the only obstacle in the way of their being citizens, that he would want no legislation on the subject but for the Dred Scott decision! What further did the Senator from Maryland say less than ninety days ago? It is possible doubtless, it is not only possible but it is certainly true, that the Senator from Maryland by reading the conclusive arguments of the veto message in regard to Chinese and Gypsies has discovered that he was in error ninety days ago. I by no means mean to impute any wrong motive to the Senator from Maryland, but simply to ask that he will pardon me if I have not been able to see the conclusive reasoning of the veto message. I will read a little further from this opinion. In alluding to the view of the Supreme Court in the Dred Scott case, the Senator said:

"They held that the Constitution of the United States in no part of it in which the word citizen was used was intended to embrace the African; or, to state it still more strongly, but not more strongly than the court stated it, they held that looking to the contemporaneous history and to the contemporaneous legislation of the several States at the time the Constitution was adopted, the use of the word 'citizen' as employed in that Constitution was to exclude the African.

"Mr. COWAN. And every other race but the white.

"Mr. JOHNSON. Every race but the white—to exclude the African. That decision stands unreversed. Nobody can say that it will be reversed. It is the decision of the highest court, to which we are bound to submit with all proper deference, not binding upon us perhaps as legislating in very many particulars; but still, after such a decision has been pronounced, it is our duty, as I think, to avoid its results if we think that decision in the present state of the country would produce mischievous results, by providing that these people, notwithstanding their African descent, shall be citizens of the United States now that they are free."—*Daily Globe of January* 31, 1866.

This is a part of the opinion delivered in this body less than ninety days ago by the Senator from Maryland. Since the abolition of slavery he was of the opinion, and strongly of the opinion, for he is always strong in any opinion he entertains, that native-born colored people in the country were citizens; but out of deference to the decision in the Dred Scott case, which seems always to be flitting in the mind of the Senator from Maryland, he thought it advisable to provide by law that they should be citizens. As that speech made less than ninety days ago is a better argument than I am capable of making, I shall not attempt to reply in any other way to the speech of the Senator from Maryland upon that question to-day.

But as I am up I will refer to one other point to which the Senator alluded, and that is in regard to the quotation which I made yesterday from the statute of 1790. I quoted that statute for the purpose of showing that the provisions in the bill under consideration, which it was insisted allowed the punishment of ministerial officers and judges who should act in obedience to State laws and under color of State laws, were not anomalous. I read a statute of 1790 to show that the Congress of the United States at that day provided for punishing both judges and officers who acted under color of State law in defiance of a law of the United States. How does the Senator answer that? He says that was on a different subject; the law of 1790 provided for punishing judges and officers who did an act in violation of international law, jurisdiction over which is conferred upon the nation. Let me ask the Senator from Maryland, if the bill under discussion does not provide for the punishment of persons who violate a right secured by the Constitution of the United States? Is a right which a citizen holds by virtue of the Constitution of his country less sacred than a right which he holds by virtue of international law? The statute of 1790 provided:

"That if any writ or process shall at any time hereafter be sued forth or prosecuted by any person or persons, in any of the courts of the United States, or in any of the courts of a particular State, or by any judge or justice therein respectively, whereby the person of any embassador or other public minister of any foreign prince or State, authorized and received as such by the President of the United States, or any domestic or domestic servant of any such embassador or other public minister, may be arrested or imprisoned, or his or their goods or chattels be distrained, seized, or attached, such writ or process shall be deemed and adjudged to be utterly null and void to all intents, constructions, and purposes whatsoever."

The next section provided:

"That in case any person or persons shall sue forth or prosecute any such writ or process, such person or persons, and all attorneys or solicitors prosecuting or soliciting in such case, and all officers executing any such writ or process, being thereof convicted, shall be deemed violators of the law of nations, and disturbers of the public repose, and imprisoned not exceeding three years, and fined at the discretion of the court."

I think that is a complete precedent for the second section of this bill. But, sir, I did not rise with a view of making any extended remarks; I simply desired to reply to one or two of the positions assumed by the Senator from Maryland, which it seemed to me were inconsistent with the instruction which he had imparted to the Senate when he spoke in this body some three months ago, and we know that when he speaks he always imparts instruction to all of us.

Mr. JOHNSON. Mr. President, I am very much obliged to the honorable member for his compliment; but it is singular, in my estimation, how a gentleman with a mind as clear as his, with a perspicacity that is a little surprising, could have fallen into the error of supposing that there is any inconsistency between the doctrine contained in the speech to which he has adverted and the one which I have maintained to-day. What I said then I say now, that as far as the United States are concerned all persons born within the limits of the United States are to be considered as citizens, and that without reference to the color or the race; that after the abolition of slavery the negro would stand precisely in the condition of the white man. But the honorable member can hardly fail, I think—certainly he cannot when I call his attention to it—to perceive that that has nothing to do with the question now before the Senate. His bill makes them citizens of the United States because of birth, and gives to them certain rights within the States.

Mr. FESSENDEN. Were not your remarks made on this very question in this bill?

Mr. JOHNSON. No; on another bill. What I maintain is this, (and I have never doubted it, because I entertained the same opinion when I made those remarks that I entertain now,) that citizenship of the United States in consequence of birth does not make the party a citizen of the State in which he is born unless the constitution and laws of the State recognize him as a citizen. Now, what does this bill propose? All born within the United States are to be considered citizens of the United States, and as such shall have in every State all the rights that belong to anybody else in the State as far as the particular subjects stated in the bill are concerned. Now, I did suppose, and I shall continue to suppose, it to be clear unless I am met with the almost paramount authority of the chairman of the Judiciary Committee, that citizenship by way of birth conferred on the party as far as he and the United States were concerned, is not a citizenship which entitles him to the privilege of citizenship within the State where he is born; if it be true, and I submit that it is true beyond all doubt, that over the question of State citizenship the authority of the State government is supreme.

Now, the honorable member is confounding the *status* of a citizen of the United States and the *status* of a citizen of the United States who as such is a citizen of the State of his residence. Maintaining as I do that there is no authority to make anybody a citizen of the United States so as to convert him thereby into a citizen of a State, there is no authority in the Constitution for this particular bill, which says that because he is a citizen of the United States he is to be considered a citizen of any State in which he may be at any time with reference to the rights conferred by this bill.

Mr. YATES. Mr. President——

Mr. TRUMBULL. Will my colleague allow me to say a word in reply to the Senator from Maryland, before he proceeds?

Mr. YATES. I shall occupy but a few moments. I remember very well that the Senator from Maryland offered an amendment to the Freedmen's Bureau bill to this effect: to strike out the words "without distinction of color." The Freedmen's Bureau bill applied legislation by Congress to the freedmen in the States and to the condition of the freedmen in the States. It was legislation that affected the freedmen in the rebellious States. If I remember aright the Senator from Maryland moved to strike out the words "without distinction of color" in one section of that bill, and for that motion he gave this reason: because under the Constitution of the United States as amended abolishing slavery in all the States and Territories of the United States, the freedmen occupied precisely the same position with any other citizen of the United States in any State or Territory. I understood him as taking the broad position, which I have maintained, and which Republican Senators have maintained, and which I think the country maintains, that under the Constitution as amended the freedman occupies precisely the same position as any man born in any State or Territory of the United States; and that was the object, if I understood the Senator from Maryland, of his moving to amend the Freedmen's Bureau bill by striking out the words "without distinction of color."

I recognize the authority of the decisions quoted by the Senator from Maryland before the adoption of the amendment to the Constitution. The States had the power over the question of slavery in the States before the amendment to the Constitution; but by the amendment to the Constitution, in which the States have concurred, the freedman becomes a free man, entitled to the same rights and privileges as any other citizen of the United States.

Mr. TRUMBULL. I desire simply to remark that the speech from which I quoted, made by the Senator from Maryland, was made upon this very bill. It was in reference to this bill that he was speaking when he laid down the proposition that every person born in the United States since the abolition of slavery was a citizen of the United States, and if there was any doubt about it, it was proper for us to declare them so, and not only proper, but our duty to do so; and to make the matter specific, the honorable Senator voted for this proposition, which I will now read, on the yeas and nays:

"All persons born in the United States, and not subject to any foreign Power, excluding Indians not taxed, are hereby declared to be citizens of the United States, without distinction of color."

Upon the adoption of that proposition as an amendment, it not being in the bill as originally introduced, the Senator from Maryland, with thirty others, voted in the affirmative. So we have his high authority for saying that all persons born in the United States, and not subject to any foreign Power, are citizens of the United States, exactly as it appears in this bill; but if I understood the first half hour of his remarks to-day, they were devoted to endeavoring to show that negroes were not citizens of the United States by reason of their birth in the United States, and that Congress had no authority by law to declare them so.

But the Senator from Maryland on that

occasion said more than I have read to the Senate. There is a great deal of information and instruction in the speech which he delivered. Among other things, he said:

"It is very desirable that we should cease to consider for a moment that, in relation to citizenship and rights, there is, as far as the Constitution of the United States is concerned, any difference on account of color." * * * * * * * *

"There are all sorts of notions, having no foundation in fact or in law, broached from time to time by individuals or classes of individuals; but I suppose that if the Constitution declared that all persons born in the United States should be citizens, nobody would be able to raise a reasonable doubt that it included the black man." * * * * * * *

"I conclude, therefore, with what I said in the beginning, that it seems to me very desirable that we should upon the very first occasion that arises, and upon every occasion, if any future occasion should arise, say at once, virtually, by ceasing to use the term 'distinction of color,' that in the judgment of the American Senate and of the people of the United States, there is no such distinction."

Now, the Senator says that a citizen of the United States, by virtue of his birth, is not therefore a citizen of a State. What is he, I should like to know, if he is not a citizen of a State? What is the condition of a naturalized foreigner? He becomes a citizen of the United States. Does he have any different rights from a native-born citizen, or any greater rights? He certainly has a right, being naturalized as a citizen of the United States, to go into any State of the Union and there reside. Does he not then become a citizen of that State? Is he not a citizen of the State wherein he is naturalized? Look at your naturalization laws. They provide for naturalizing persons through the State courts, and the naturalized citizen and the native-born citizen have precisely the same civil rights, not political rights in all cases, because political rights are regulated, as we all admit, without regard to citizenship. If the Senator is right, and American citizenship, that is, being a citizen of the United States, confers no rights in a State, does not allow the citizen to leave there, or to go there, I should like to know what this American citizenship is worth and what it amounts to.

I shall not go over the argument that I made yesterday to show that certain fundamental rights belong to every American citizen as such, and among those are the rights to enjoy life and liberty and to acquire property. Such are the decisions of all the courts. We would protect a citizen in a foreign nation in those rights. Certainly, then, the Government has power to protect them within its own jurisdiction.

Mr. COWAN. Mr. President, I very much desire that we may have an understanding with those who advocate the passage of this bill by which we shall fix the hour when the vote may be taken. It is well known to the Senate that there are gentlemen who propose to vote against the bill whose health is in a very delicate condition; and common humanity would dictate that they be allowed to come here at such a convenient hour as may be fixed by the Senate, in order that they may cast their votes. I should like to have some understanding with gentlemen on the other side, and that they should fix the hour most agreeable to themselves, so that it shall not be put into the night, in order that we may accommodate these invalid brothers of ours. I will move, if it be in order, that the vote be taken at five o'clock, if that will be satisfactory. I understood the chairman of the Committee on the Judiciary to state that he would press the vote to-night if the Senate sustained him. We do not propose to make any factious opposition to the vote; and we are willing that it shall be taken at five o'clock, or at half past four o'clock, if desirable. We do not wish to prolong the debate or waste words, as it is supposed that everybody by this time has made up his mind on the subject. I move, then, that the vote be taken upon the bill at five o'clock.

Mr. TRUMBULL. I am ready to proceed to the vote at once, if nobody wishes to debate it further. This is a very important question, and I do not wish to tie up the hands of the different parties in regard to the taking of the vote. I do not know that all the friends of this measure are here; and I think that upon a measure of this kind we should afford a reasonable opportunity to everybody to discuss it; and when the discussion is over we should proceed to take a vote. I am not authorized to speak for the Senate, so far as I am concerned, to say whether they would agree to take the vote at any particular hour or not. The Senator makes that motion. The Senate can do what they please in regard to it. It is a thing that I never knew to be done since I have been a member of the body.

Mr. COWAN. I called upon the honorable chairman of the Committee on the Judiciary to know whether he would agree that the vote should be taken in the morning. He declined, properly I have no doubt, and said that he would press the vote to-night, that it was his duty so to do, if the Senate sustained him. I have made this motion for the purpose of accommodating two gentlemen who are well known to be sick, very seriously sick, even unto death, and who are to be here, and will be here, I trust, almost by a miracle. But it is said the vote is to be taken now, and that if the vote is to be taken now, the honorable chairman is ready. We are not ready, and we are not obliged to him for that courtesy. We can debate the bill, at least until we get those gentlemen here. If there is no disposition on the part of the majority, even if it should not be the constitutional two-thirds majority, to deal fairly and as becomes the humanity and the civilization of the age, then I have nothing further to say. We are not here to solicit favors; we scorn them quite as much as we would seeking to obtain advantages. But from the well-known facts of the case I had supposed gentlemen would consent to fix an hour for taking the vote. There is no telling when any one of us may be in the same situation that the Senator from Connecticut [Mr. DIXON] and the Senator from New Jersey [Mr. WRIGHT] now find themselves in; and really I did not suppose that any conceivable objection could be made to the hour that I named. If the motion is out of order, I shall withdraw it. If it is in order, I insist that the vote be taken upon it.

Mr. McDOUGALL. I do not agree with my friend from Pennsylvania; I do not think the motion in order. There is an ancient law of the Senate that all Senators may be heard in advancing their own opinions and conclusions upon all questions depending in the Senate Chamber. I do not wish to see that law impinged upon. It belongs to the dignity of this body. I should like to see Senators on the other side consent by courtesy to such an arrangement; I would concur in it although it might prevent me from doing what I may choose to do, to say something upon this question. I would waive all such considerations for the purpose of bringing the matter to a vote and having it finally concluded, consistent with the possible health of the Senators who are at present absent, and who have to come in for that especial occasion. If they are forced to come here at the sound of the bell, without any formal warning, I shall regard it as an outrage upon humanity. I know there are men on the opposite side who are capable of these things, but I think that is not the sentiment or the spirit of the party on the opposite side. I hope that by the courtesy of the Senate, on both sides of the Chamber, it may be conceded and agreed that the vote may be taken at four, or half past four o'clock, to-morrow. I do not approve of the motion as made, because that makes a rule of the Senate, as against the courtesy of the Senate, which should be the only governing rule. As against any such rule, I would have the right to rise in my place, and, according to the law of the Senate, discuss the question at my will, and I might violate the courtesy as it was violated here the other day, on a similar occasion, by the Senator from Massachusetts. But I hope the courtesy of the Senate will admit of a general understanding that the vote may be taken at four o'clock to-morrow.

The PRESIDING OFFICER, (Mr. HARRIS in the chair.) The Chair, though not familiar with questions of this sort, is of the opinion that this motion is not in order. A motion to postpone the bill to a day certain might be entertained; but a motion to take the vote at a particular hour is not in order.

Mr. COWAN. I proposed it as an amicable arrangement, and I supposed it would be agreed to.

Mr. McDOUGALL. I trust the chairman of the committee will consent to take the vote at half past four o'clock to-morrow.

Mr. COWAN. Mr. President, if no arrangement can be arrived at, I propose to say a very few words upon the subject now under consideration by the Senate. I think that the question here is purely one of constitutional law, and upon the determination of that question properly or improperly the fate of the bill ought to depend. I have a very clear and decided opinion of my own on that question. I think the merits of the bill are out of the question really; but as a great many good people think that the bill has intrinsic merits which ought to override the provisions of the Constitution, and ought to become a law, notwithstanding our want of power to pass it, I propose to say a few words, which, if they are not to convince anybody in the Senate, may go to the country and be reflected upon there.

I agree, and am quite willing as an inhabitant of one of the States of this Union, or a citizen, or an elector, or any other word you may choose to use in order to designate me, that all the people of this country shall enjoy the rights conferred upon them by this bill. I have never had any objection to that; and if my own State, Pennsylvania, did not confer all these rights, or almost all of them, certainly the voice of no one in that State should be heard sooner, longer, or louder than my own until they were secured. That all men should have the right to contract, I agree. That all people should have the right to enforce their contracts, I agree. I might limit the right of a great many people to purchase and hold real estate, but as a general proposition I would allow them to purchase, hold, and lease, and to be entitled to their remedies for the defense of their property. There is no doubt in my mind about that.

But what I wish to say at the start is, that this bill, even supposing it had all the merit in the world, will not be effective to attain the ends hoped for by its friends; and that, apart from that, its provisions are exceedingly dangerous. Waiving the question of power, therefore, I propose to direct the attention of the Senate to the provisions of this bill. I think it will be found that it has not been read heretofore very closely. The first section provides that "all persons born in the United States," with certain exceptions which I need not read, shall be "citizens of the United States; and such citizens of every race and color," and I suppose that means everybody—

"Shall have the same right in every State and Territory in the United States to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property."

This portion of the first section confers upon all persons born in the United States the rights which are here enumerated, and it confers those rights without any qualification and without any restriction whatever; and I beg leave to direct the attention of Senators to the next clause because I am sure there is a misapprehension upon that subject. The bill has been taken to mean to confer those rights as they are conferred upon white citizens in the several States. That is not so. These rights are not conferred absolutely; and if we look at them and see what they are, we shall ascertain what may be done with this bill within the States. It provides that all native-born citizens "shall have the same right in every State and Territory in the United States." Now, a married woman in no State that I know of has a right to make contracts generally. In some of the States she cannot contract at all; in others she contracts *sub modo;* and in all there is a limit put upon

her power to contract. Is it intended by this bill that it shall be put in the hands of any judge to decide that this bill confers upon married women the unlimited right to contract? Because it will be observed that if a married woman has a right to contract, the other party to the contract has an equal right, for contracts must be mutual, and if she has a right to contract and enforce her contract, the contract may, on the other hand, be enforced as against her. Now, I ask Senators having the care of States here, whether they are willing to put it in the power of the district court of the United States, or the circuit court of the United States, or any other court *de hors* the State to interfere with regard to the contracts of married women.

Again, minors are born in the United States, and naturally, I suppose, minors have as much right to contract as anybody else, and the only restrictions that our laws know of upon their right to contract is the State laws; but this bill is made to give them the right irrespective of the State laws, and not only irrespective of those laws, but in direct defiance of them.

Mr. TRUMBULL. Oh, no.

Mr. COWAN. I know the honorable Senator's point, and I will come to it, and when I come, he can have whichever horn of the dilemma he chooses to take. I say that this bill, according to its grammatical construction, and according to the construction that any judge not strongly impregnated with the idea *mala grammatica non vitiat* can readily put upon it, confers upon married women, upon minors, upon idiots, upon lunatics, and upon everybody native born in all the States, the right to make and enforce contracts, because there is no qualification in the bill, and the very object of the bill is to override the qualifications that are upon those rights in the States, and to punish the judges of the several States for executing them. There is no qualification as to the kind of contracts. The power given to these people by this bill is unlimited as to persons, and it is equally unlimited as to contracts. I need not remind you, sir, that there are a large number of contracts which are not allowed in the several States, some on account of policy, some on account of morality, and others upon account of positive injunction to the contrary. A contract in my State made upon the Sabbath day is void; but under this bill that contract could be enforced. A contract made against chastity, *proh pudor*, is void; but under this bill that might be enforced.

I wish to direct the attention of Senators to the artistic mode in which these important bills are drawn and passed through this body, because I hold that this first section in itself, if there were nothing more in it in the world than this incongruous kind of phrase that is made use of, would justify any executive officer in putting his veto upon it. I have no doubt it was intended originally by the person who drew this bill to make the next phrase which comes in qualify the former, so that the bill would read:

> That all persons born in the United States shall have the same right in every State and Territory to make contracts and to the full and equal benefit of all laws and proceedings for the security of person and property as is enjoyed by white citizens.

"As is enjoyed." But you will observe that it is a singular verb, and to take the phrase literally, the word "benefit" in the line preceding is the nominative to that verb, and supplies all that is needed in the way of a nominative. I am perfectly free to admit that a fair construction of this section would be to make that second clause qualify the first and to take the whole section as meaning that these persons should only enjoy such rights as are enjoyed by the white persons of the State or Territory where these rights are claimed; but that is not this bill; it is not its grammatical construction; and when we observe, as we do here daily, that cavils are made upon the ninth part of a hair, very frequently; and when we find such loose notions prevailing upon the proper construction to be given to the laws, I am afraid that a corrupt, a passionate, or a prejudiced judge, who had some end or motive beyond that which ought to govern him in the execution of his official duty, would take advantage of this in order to widen the jurisdiction of the United States courts and drag into them not only all the native-born people of the country, but to drag into those courts all the business which had heretofore occupied the State courts. Is that nothing? Why, sir, to suppose such a thing possible is to suppose an ignorance of our form of government, of its frame and texture, and of the powers delegated to it that is enough in this nineteenth century to make a man tremble for the fate of constitutional government.

Mr. President, the subjects-matter of the first section of this bill never have been within the jurisdiction or control of the United States Government. When did an inhabitant of a State or Territory, in a controversy between himself and one of his neighbors, look to the United States Government to settle that controversy? When did he look to the United States Government for any of those rights which are usually protected by Governments? Never. The inhabitant of a State settles his disputes with his neighbors by a reference to the State courts. They are the tribunals to decide those questions; and to the State laws it is to be referred whether there was a contract or not, whether the party in contracting was competent and capable to make the contract or not. It is to be referred to the State courts whether there is a title or not, and how that title shall be evidenced and how it shall be maintained. All these subjects are purely and exclusively within the domain of the States; and the judiciary power of the United States extends only to that single, solitary case, where it was necessary, where disputes arise between citizens of different States. If I have a difficulty with my friend from Maryland I am not obliged to go into a Maryland court in order to adjust that difficulty. Being a citizen of the State of Pennsylvania, I can take him *pro hâc vice* into the district court of the United States and have an impartial (as it was supposed) tribunal there to settle the differences between us. But when he has difficulties with citizens of Maryland, or I have them with citizens of the State of Pennsylvania, the United States Government has nothing more to do with it, and never has had, and never has claimed any more right to do with it than the Government of Great Britain, or the Government of Russia, or any other Government having no jurisdiction at all; and it is the same way with regard to the ordinary crimes and offenses.

Take all the criminal court business of the States, and what have the United States to do with it? Nothing in the world. They have no jurisdiction except that which is expressly given. They have a right to collect the revenues, and they have the right to protect the revenues. They have a right to coin money, and therefore they have a right to punish counterfeiting the coin and securities of the United States. They have a right to establish post offices, and therefore they have a right to punish for robbing the mails. They have a right, because the United States Government is the medium through which we communicate with all foreign Powers, to declare the punishment of crimes against the laws of nations, and to define them. But with these domestic concerns they never have had, and have not now, in my judgment, anything whatever to do; and to confer upon this Government that power would be an incalculable mischief, and one which would tend inevitably to destroy it by consolidation and by centralizing everything here. That is the first objection that I have to this bill; and that objection is, that the first section is capable of a construction which, if the United States courts were inclined to amplify and enlarge their jurisdiction, and draw into them cases everywhere, would annihilate the jurisdiction of the States as to everything except foreigners.

There is another ambiguity in the third section to which I wish to direct attention; and I should like to know from some gentleman learned in the law what is the meaning of this particular phraseology:

> That the district courts of the United States within their respective districts shall have, exclusively of the courts of the several States, cognizance of all crimes and offenses committed against the provisions of this act, and also, concurrently with the circuit courts of the United States, of all causes, civil and criminal, affecting persons who are denied or cannot enforce in the courts or judicial tribunals of the State or locality where they may be any of the rights secured to them by the first section of this act.

Mr. President, could you tell whether that was an exclusive jurisdiction on the part of the United States court, or a concurrent jurisdiction in them and the State courts, or an appellate jurisdiction over the State courts? What is the meaning of it? What construction will a judge put upon it? If the judge were disposed to put the construction upon the first section of which I say it is grammatically capable, and perhaps he would be justifiable in doing so, that would draw into the United States courts all native-born people; it would draw into them all that class and character of business which have heretofore been expressly and exclusively within the control of State legislation and State courts; and if this is actually an exclusive jurisdiction on the part of the district court and the circuit court of the United States, then the whole is finished, the work is done; then the States are annihilated; then, instead of going into a State court you will be obliged to go into the United States court. If the jurisdiction is exclusive, you must go there; and, as power always tends to encroach, what is to prevent this power from encroaching in that direction, and what guarantee have you that it will stop where you think it should stop and within safe limits? None whatever; and let no man in these revolutionary times delude himself with the idea that it will so stop. If not intended to produce centralization, it will as a matter of necessity do so in the struggle which must ensue between the State governments and the United States Government.

Mr. President, I do not choose to run that risk. If we had undoubted authority to pass this bill, under the circumstances I would not vote for it, on account of its objectionable phraseology, its dubious language, and the mischief which might attend upon a large and liberal construction of it in the district and circuit courts of the United States. Therefore I would ask, what is the meaning of this bill? Is it intended, as the language would indicate, that these courts have exclusively of the State courts jurisdiction of all the cases I have enumerated and of all the persons I have enumerated, or is it an alternative jurisdiction? Does the author of the bill mean that one of the proscribed class, before he can go into the district court or into the circuit court of the United States for remedy, must first go into the State court and try it? Is he to go there to see whether he can enforce his right, or whether it shall be denied him?

Then, Mr. President—and I come to that now—if that is to be its construction, (and that is the fairest and most charitable construction that the authors of the bill can ask to be put upon it,) I say to these friends of the emancipated African and the African everywhere, your remedy is delusive; your remedy is no remedy at all; and to hold it up to the world as a remedy, is a gross fraud, however pious it may be. How many district courts are there in the several States that these people inhabit? There are not more than two district courts in any of the slave States, and in a great many of them I think there is but one; and you provide here, and propose it as a remedy to the black man, "Go into the State court with your claim and try it; if you are denied or cannot enforce your remedy there, you can go into the district court of the United States." Now, I appeal to Senators whether that is not a delusion and a snare? Of what magnitude will the claims of these poor black people be, pray? Not one out of every hundred will ever have a claim amounting to over fifty dollars, or, if you please, say $100. You send him into the State

court to get a remedy; the judge decides, according to the State laws, that he has no remedy; and then you say to him, "You can go into the district court of the United States." Where is it? Not within one hundred and fifty miles of him perhaps, perhaps more; and he is to go there and seek a remedy for the recovery of fifty or one hundred dollars. Sir, the legislator who would profess to guaranty the rights of these people with machinery of that kind is not their friend. Let us accompany him if you please in his journey to procure that remedy. He travels one hundred and fifty miles with his little claim in his pocket. What then? He could hardly pay a lawyer in these expensive times to sign his *præcipe* for much less than the whole of it as a retaining fee; but let me ask what would he have of it after he contests there in litigation with a stronger and a more rapacious opponent than himself? That is the boasted remedy which the civil rights bill now occupying the attention of Congress is to give the African.

Mr. President, I trust I have treated this bill fairly. But I hear some gentlemen say, "Oh, the judge of the State court who decided against the negro and who turned him out of his court is to be indicted; he is to be punished; he is to be made a criminal and fined $1,000 and imprisoned a certain length of time." May I ask, sir, of what great benefit that would be to the negro? I agree that that would be exceedingly offensive to the judge, and it might be exceedingly irritating in his neighborhood, particularly if the people thought the judge was right in his decision; and I agree that it might give rise to an eternal feud there; but I ask, wherein would that help the black man? Sir, the machinery of this Government is utterly and entirely unfitted for the execution of any such law as this; and why? Just because this was the Government of the United States, and it was clothed with delegated powers to do the things for the United States, and which would be for their benefit, that the States themselves could not do; and you may search the Constitution from end to end, and you cannot find a single line in that instrument which gives color to the idea that the United States Government was to have power over any subject which the States could administer for themselves. It was given power over war and peace; and why? Because the United States, thirty-six of them, could make war and could make peace better than any one State. It was given jurisdiction over disputes between the States; and why? Because the thirty-six States could settle their intestinal disputes among themselves better by a reference to this Congress and the General Government than they could by warring them out between one another, as was very often the case with the ancient confederations and leagues that were formed between small States such as ours. It was given jurisdiction over the revenue for its own support. It was given jurisdiction over certain subjects common to the whole with regard to which there ought to be uniform laws, but no jurisdiction was ever given it to intermeddle in the concerns of the States, and between the citizens of the several States, and in their domestic affairs where the States themselves could and ought to afford justice and a remedy.

But, as I said before, if we had the power to afford the remedy, this is no remedy. It is no remedy to the poor debtor that you prosecute his judge and threaten him with fine and imprisonment. It is no remedy to the poor man with a small claim that you locate a court one hundred or two hundred miles away from him which is so expensive in its administration of justice that he cannot enter there.

Besides, there is another difficulty about the execution of this law, if it ever becomes a law. It is to secure to the negro the right to testify in the courts. Some people do not like to be witnesses very well, and I am one of them myself. I do not think anybody need quarrel much about it if it was taken away entirely. The right to testify as a witness is not one that he usually prizes very highly. He would a great deal rather stay at home and attend to his own business than to be dragged to a court and hang around there eight or ten days in order to be a witness for some other man. But the judge is to be punished under this bill for refusing the testimony of certain people who are said by the States not to be competent to testify.

How is that remedy to be enforced, or who is to enforce it? Is the negro to be insulted because he cannot go into the State court to testify, and is he to become the public prosecutor in the case and vindicate his right to be a witness? If any Senator thinks there would be an especial advantage in that, I must confess that I do not see it. The right to testify is a right which belongs to the parties in the court, and if the negro is a competent witness, and if the juries of the country in any State or community will believe him and can believe him, and if he is to be useful as a witness, it is the clear interest of those communities themselves to confer upon him that right or privilege; and I think, from the tendency of the times, that all disabilities will be removed in the case of witnesses. I think after awhile they will all be competent; and whatever objections there may be to their testimony will go to their credibility rather than to their competency.

There is another provision of the bill which, notwithstanding the act of Congress relied upon by the honorable Senator from Illinois, I think is unquestionably anomalous, and to me not only anomalous, but atrocious; and that is, the substitution of an indictment for the writ of error. What has been the law of these United States heretofore? When an act of Congress came in contact with a State law, and the judge of the State court decided that the law of Congress was unconstitutional, there was an appeal given to the defeated party to the Supreme Court of the United States in order to determine the constitutionality of the law. But, sir, who until the last few months ever heard of making the judge a criminal because he decided against the constitutionality of a law of the United States? One would think we were being transported back to the dark ages of the world when a man is to be accused and perhaps convicted of a crime who has done nothing more than honestly and conscientiously discharged his duty. I know that the persons of embassadors are sacred, and I know that it is a very high offense against the law of nations, which no civil judge of any court could justify, to invade this sacred right of the embassador, but everybody knows that that is an exceptional case. Everybody knows that in all times and in all ages the judge was punishable who did not respect the person of an embassador. But that is not this case. That analogy will not help the third section of this bill. It is openly avowed upon the floor of the Senate of the United States, in the year of our Lord 1866, in the full blaze and light of the nineteenth century, that the indictment is to be a substitute for the writ of error, and it is justified because a judge ought to be indicted who violates the sacred person of an embassador! What potency there must be in the recent amendment of the Constitution which has foisted the negro and set him upon the same platform as the envoy extraordinary and minister plenipotentiary of Great Britain or of all the Russias to the United States of America, and made him as sacred as an embassador, and the judge who decides against him is to be punished as a criminal!

Mr. President, there are in the law facts as well as rules. No enactment in the world can make that a crime which in itself is not a crime. The Congress of the United States, potent as it is within the range of its delegated powers, the Parliament of England, omnipotent as it is, cannot make that a crime which is not a crime in itself; and to do so is only to convict itself of an absurdity which at some subsequent period, if it does not, it should regret. I ask whether we here are willing to put upon our statute-book a provision of that kind? I appeal to Senators of the reforming school, Senators of the progressive school, Senators who declare that their course is forward and onward, will they do this thing? And for what?

Mr. HOWARD. Will the Senator from Pennsylvania allow me to make a suggestion?

Mr. COWAN. Certainly.

Mr. HOWARD. In case a magistrate acting as a judge assumes a jurisdiction which is not conferred upon him by the law, and thus proceeds as a wrong-doer, without any legal right or authority, and commits a felony or a misdemeanor under the pretext of exercising his jurisdiction, is he not guilty of a crime which is justly to be indicted and punished?

Mr. COWAN. Mr. President, that is not this case. If the judge, under pretext of having jurisdiction, were to do a wrong, it is not the judge that does the wrong, it is the individual. A judge may do a wrong; but he never does it in the execution of a law which he honestly believes to be constitutional. Here it is proposed on the part of the Congress of the United States, to pass a law overriding certain State laws. Is that denied? Will any Senator upon the floor deny the fact that this bill is intended to override and set aside the State laws? Why, sir, if it is not to have that operation, it is to have none at all. As I understand it, there are some States of the Union—I do not know where they are, because I have not been informed what States they are—where certain persons are not allowed to make contracts, and if they did make them, (for I suppose there is no way of preventing a man from making a contract,) there is no way by which they can enforce them under the laws of those States, and this bill is to give them a right to enforce them, to give them a right to go into a court where the judge says they cannot go, and he has no jurisdiction to determine their causes. Now, it is questioned whether that law is constitutional. Is it not questioned here? We are not unanimous. Thirty Senators may be of opinion that it is, and sixteen or fifteen, or whatever the other number may be, believe that it is not. The President of the United States is of opinion that it is not constitutional. His constitutional advisers are of that opinion, or, if they are not of that opinion, they should not be there as his constitutional advisers.

Well, sir, is it to be supposed that that will not be questioned in the State courts? I put it to you, Mr. President, whether you as a judge of a State court would not hesitate in that case? What are you to do? If you decide that the action cannot be maintained on the part of the plaintiff, what then? You are to be indicted and punished. If you decide that it can, you are to be impeached by your own State Legislature and punished for taking jurisdiction of that over which the State has given you no jurisdiction. What is an honest and conscientious judge to do there? I can very easily tell what a cowardly man would do, a timid man, a feeble man. I suspect he would shirk his duty in some way; he would find some way to dodge it; but the honest man would decide the question as it struck him; he would decide either for or against the constitutionality of this act of Congress; and now we undertake to say that in so doing he subjects himself to a criminal prosecution, subjects himself to fine and imprisonment; and that I say here in the open light of this day is atrocious and unworthy the Congress of the United States of America. I have no other word for it than atrocity; so it will be stigmatized, and so it will be handed down to coming generations if we make it the law. It has not been heard of before.

Mr. President, all this you will observe is aside from the main question; and that, as I said before, lying upon the threshold of this case, is the question of power. Where do we get the power to pass this bill? From what clause of the Constitution is it extracted? Where is it? Has anybody satisfied this Senator, or that one, or all of them, that there is such a power in the Constitution? I have listened carefully to everything almost that has

been said on this question; and I say that nothing worth talking about, nothing worth attention on the part of a sane man has yet been produced to show that we have any constitutional authority to pass this bill, however meritorious the bill itself may be. It is not pretended that the power was in the old Constitution; no man that has ever so little reputation would hazard it upon that assertion. I have heard it said that it springs from the recent amendment abolishing slavery. There is the color, if there is color anywhere for it, and that I propose to examine.

What is the fair construction of that amendment of the Constitution abolishing slavery? That amendment declares that "neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted"—and that exception might just as well have been left out; it was put into the old Ordinance of 1787, and has been handed down as a kind of traditional heir-loom among the Constitution-makers ever since—"shall exist within the United States or any place subject to their jurisdiction." What was the slavery mentioned there? What was the involuntary servitude mentioned there? Was it the service that was due from the minor to his parent? Was it the right the husband had to the services of his wife? Nobody can pretend that those things were within the purview of that amendment; nobody believes it. It was mentioned as a matter of ridicule, in some places, that it did actually liberate the minor from the control of his parent or guardian; that it did actually entitle the wife to be paid for her own services, that they should not go to the husband; but that was false. The true meaning and intent of that amendment was simply to abolish negro slavery. That was the whole of it. What did it give to the negro? It abolished his slavery. Wherein did his slavery consist? It consisted in the restraint that another man had over his liberty, and the right that that other had to take the proceeds of his labor. This amendment deprived the master of that right, and conferred it upon the negro. What more did it do? Nothing, by the terms of it, and nobody can construe its terms to extend it beyond that. It gave to the negro that which is described in the elementary books of the law as the right of personal liberty? What is that right of personal liberty? The right to go wherever one pleases without restraint or hinderance on the part of any other person.

That is followed by a subsequent clause, in which it is stated that Congress shall have a right to enforce this provision by "appropriate legislation." What is the appropriate legislation? The appropriate legislation is that legislation which allows personal liberty to the negro and prevents anybody from restraining him in that liberty. Allow me again to refer to the elementary books. The remedies for a restraint upon personal liberty are, first, the *habeas corpus;* and if a bill is framed to give to the negro the right to the *habeas corpus*, to deliver him from restraints which may be exercised over him by anybody, I shall vote for that bill.

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

Mr. COWAN. Yes, sir.

Mr. STEWART. Would he not have, under State laws, a right to a writ of *habeas corpus* without any act of Congress; has he not that right now?

Mr. COWAN. I think so; I have always thought so.

Mr. STEWART. If he has that right, and had that right at the passage of the constitutional amendment, what was contemplated by the phrase giving Congress power to pass appropriate legislation, if not to give him something that he did not have before?

Mr. COWAN. I have always been of opinion that the second clause of that amendment amounted to just nothing at all. When slavery was abolished, it was abolished as perfectly by the first clause as by both together. At the same time, however, it must be remembered that there has been a school of lawyers and politicians who contended that the Constitution in itself had no operation, but that it was for Congress to make such legislation as should carry it out. I believe there was a school of politicians who contended that a fugitive slave law was not necessary, that the clause in the Constitution itself was enough, without more; and there were others again who insisted that the clause in itself amounted to nothing, unless Congress exercised the power and passed a law to carry it into effect. I suppose that was in the mind of the person who drew this second section, but it simply gives the right on the part of the United States to enforce the first.

I say I am perfectly willing to do that. I shall not stand upon fine points with any man upon these questions. I will agree to any *habeas corpus* law that may be passed to rescue the negro from any unlawful restraint of any kind. I will go further—which would be "appropriate legislation" in that behalf; if anybody does restrain improperly of his liberty a negro who has been freed by the amendment to the Constitution, I will give the negro a right to damages against him, so that he may answer in damages to the negro himself, and if you please you may make kidnaping an offense. I think there is a bill now on our table which makes the restraint of the negro under these circumstances to be a species of kidnaping. I have no objection to that, because it is appropriate legislation.

But, Mr. President, I suppose it will not be pretended by any lawyer in the world that the subject-matter of that amendment extended to anybody but slaves. We have seen that it did not extend to minors, it did not extend to apprentices, it did not extend to married women. We know that it did not extend to anybody who before that time was free. Did anybody ever suppose that it had any operation whatever upon the *status* of the free negro, a negro who was born free or who had been emancipated ten years before it was passed? Certainly not. Nobody ever dreamed of such a thing. Its operation was wholly confined to the slave; it made the slave free; it did not affect anybody else except the master by depriving him of his slave.

Now, what does this bill do? This bill, pretending to be based upon that amendment of the Constitution, whose subject-matter was slaves, and which cannot be extended beyond that, proposes to legislate for a very large number of persons who were not slaves, and who were not within its purview or its operation. I mean this bill purports to give power to Congress to legislate in regard to free negroes and mulattoes. To my mind that is as clear and conclusive an objection to it upon the score of constitutionality as ever was made to a bill in the world. However constitutional it might be with regard to the emancipated slave, clearly it is as unconstitutional to all other people not embraced within that amendment. I happen to have come upon a newspaper in which it is stated, and I suppose the compiler is accurate, that the free negroes did amount, before the abolition of slavery, to nearly half a million—four hundred and eighty-eight thousand and seventy—lacking about twelve thousand of half a million. There can be no pretense in the world that we have any authority to legislate in this wise in regard to them under the amendment to the Constitution; and that is the only place from whence I have heard anybody attempt to derive any shadow of constitutional authority to pass this bill.

That, Mr. President, if there were nothing else in it, would have justified this veto. Apart from everything else, that alone is beyond all question indubitable; and not only would it have justified the President in vetoing the bill, but he would have been false to his oath and recreant to his duty if he had not vetoed it. As I said before, it is not a question as to the merits of the bill; it is not whether in that respect it is right or is wrong; it is not a question whether its provisions are salutary or whether they are not salutary; it is a question whether we have a right to pass it.

We are here clothed with authority written down, powers enumerated and fixed, and that authority is accompanied by the assertion that powers not delegated we shall not exercise. Then, if this power is not delegated, we have no more right to pass this bill than we would have a right to do any other unlawful thing. It is a hundred times greater infraction of our duty than it could possibly be for a judge, who is made a criminal under this bill, to decide in favor of his own State against its constitutionality. I have no hesitation in saying that.

Mr. President, I have another objection to the bill that is anomalous. This bill provides what I think is entirely new in our jurisprudence, and if it is not, it ought to be; it establishes and pays public prosecutors; it establishes and pays in every county where the President may choose to appoint them, persons who have no other office than to be public prosecutors. What is to be the business of these officers? They are to be as obnoxious as such an officer always has been in every other country. They are to be so nearly akin to the sneak that the one is hardly to be known from the other. They are to pry about, and they are to see that this law is executed and that all lawgivers, all Governors, all judges, all juries, everybody who has anything to do with the administration of the State law are punished if this law be violated. What a compliment is that to the American people! I thought if there was any one thing well established here among our people it was that they themselves would enforce the due administration of the criminal laws.

I believe there is hardly a district attorney anywhere all over the country who holds himself bound to go and pry about and seek offenses in order that he may take them into his criminal court and have them punished. No, sir; ours has been a very different system—a far more high and dignified one, and one of which as an American citizen I am proud. Who by the law has been intrusted with the duty of inquiring whether offenses are committed or not in your State, in my State? It is the grand inquest of the body of the State or of the county which inquires. It is not the paid, hired informer, who is to get a fixed sum if he catches a criminal, but it is the citizens of the vicinage, drawn, summoned, and sworn to inquire as to these offenses, and not only sworn to inquire, but sworn to do what the informer is not sworn to do, and that is, to protect the citizen as well as to punish the criminal. That institution is established by the Constitution of the United States, and by that same instrument it is to "remain as heretofore." By the Constitution, the grand jury and the petit jury are out of the reach even of Congress itself to alter or to change their constitution; and yet here it is proposed to substitute in the room and stead of that bulwark of liberty (and it is the great bulwark for the security of the citizen) the paid and the hired informer in order to see that offenses against this bill are punished.

Mr. President, that, to my mind, is another atrocity, and deserves no softer name, and it not only deserves that appellation, but it is an insult to the intelligence of our people and an insult to their institutions that they should not be supposed to know of themselves when the laws are violated and when one of them has been offended by an offense against himself, that he himself is not competent to bring it before the proper tribunal, but that he should be aided by a commissioner. And I may say that if this was intended to aid the black man, it is a poor compliment to his sagacity and comes very illy, I think, from those who insist that he is now competent to bear a particular portion of the sovereignty about his person, and to be the depositary of a particular portion of political power, or in other words, help us to vote. If he is to have a commissioner, a kind of wet-nurse to suckle him on into the lawsuits and to aid him in instituting criminal prosecu-

tions when he himself is offended, I should think, when he is declared to be a citizen of the United States, it is no wonder that learned gentlemen quarrel as to exactly what that term means and how much is intended to be conferred upon him by means of it. That is not just to the negro himself. We have a great many of them in my State, and when an assault and battery is committed upon one he understands exactly how to resent it as well as any white man there. If his property is taken from him, he seeks the ordinary channels to recover it, just as his neighbor. There is no necessity whatever that you should exhaust the Treasury and overload the people with office-holders in order to procure for him the vindication of these rights, if he is ever to have them.

Mr. President, I have nothing to say in reply to the argument of the honorable Senator from Illinois as against the veto. Indeed, I have not heard any argument. It is true he says the President has been guilty of a great many inconsistencies; that he once made a speech against a veto that was sent here upon one of his favorite measures, and he has read a portion of that speech. He has told us, too, that the President has exercised, as he thinks, a great many powers not warranted by the Constitution and the laws, and has been generally guilty of divers inconsistencies. Well, suppose we should grant all that, what has it got to do with this case? A hit is not an argument. To raise a laugh is not always the highest effort of reason. To show that your antagonist upon a former occasion has been guilty of some impropriety of conduct is not defending yourself. The affirmative of this proposition is with the defenders and advocates of this bill. It is for them, in the first place, to show that it is such a bill as we have power to pass, and second, that it is one which it would be expedient and politic for us to pass. Nothing but showing that clearly and conclusively will operate to overthrow the arguments of the veto message. There they stand, calm, cool, clear, temperate, neither crimination nor recrimination in it; and to overthrow, to gainsay it successfully, it is necessary to show, as I have just this moment said, that this bill is constitutional, and not only that it is constitutional, but that it would be wise and politic on our part to enact it and make it a law.

Mr. STEWART. Mr. President, I voted for this bill, and have seen no good reason why I should change my opinion; I shall therefore vote for it again. Although I am a strong advocate for local government, and extremely anxious that these matters should be attended to by the States as early as practicable, still I believe that it was the intention of those who amended the Constitution, as plainly indicated by that amendment, to give the power to the General Government to pass any necessary law to secure to the freedmen personal liberty. I believe that was the intention. I believe that is within the legitimate scope of legislation. I believe that power is in the General Government. I do not believe there is any constitutional argument against it that is worthy of serious consideration. I fully concur with the opponents of the bill that it would be much more desirable that the States should do it themselves; and I am anxious that propositions should be held out whereby they may do it, and perhaps it would have been well if we had done that in the first instance; but when I reflect how very easy it is for the States to avoid the operation of this bill, how very little they have to do to avoid the operation of the bill entirely, I think that it is robbed of its coercive features, and I think no one has any reason to complain because Congress has exercised a power which it must be conceded it has, when it has exercised it in a manner which leaves it so easy for the States to avoid the operation of this bill. If passed to-day, it has no operation in the State of Georgia; it is impossible to commit a crime under this bill in the State of Georgia; and the other States can place themselves in the same position so easily that I do not believe they ought to complain.

That we have this power, and that we ought and must exercise it if the States will not do justice to the freedmen, I think every fair-minded man must admit, and that was the intention in framing the amendment of the Constitution.

Now, if I can have attention for one moment, I can show that the bill has no operation in the State of Georgia, and that every southern State can relieve itself from this bill by doing a simple act of justice. The second section of this bill declares what shall be offenses under it. It reads as follows:

That any person who, under color of any law, statute, ordinance, regulation, or custom, shall subject, or cause to be subjected, any inhabitant of any State or Territory to the deprivation of any right secured or protected by this act, or to different punishment, pains, or penalties on account of such person having at any time been held in a condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, or by reason of his color or race, than is prescribed for the punishment of white persons, shall be deemed guilty of a misdemeanor, and, on conviction, shall be punished by fine not exceeding $1,000, or imprisonment not exceeding one year, or both, in the discretion of the court.

He must do it under the color of a law. If there is no law or custom in existence in a State authorizing it, it will be impossible for him to do it under color of any law. This section is simply to remove the disabilities existing by laws tending to reduce the negro to a system of peonage. It strikes at that; nothing else. It strikes at the renewal of any attempt to make those whom we have attempted to make free slaves or peons. That is the whole scope of the law. Now, if you listen to the act of Georgia you will see that they can have no law there under the color of which an offense of this kind can be committed. The second section of the act of the State of Georgia is precisely similar to the first section of the civil rights bill, taken from it almost in the precise language:

"SEC. 2. *Be it further enacted*, That persons of color shall have the right to make and enforce contracts, to sue, be sued, to be parties, and give evidence, to inherit, to purchase, and to have full and equal benefit of all laws and proceedings for the security of person and estate, and shall not be subjected to any other or different punishment, pain, or penalty for the commission of any act or offense than such as are prescribed for white persons committing like acts or offenses."

And the third section repeals all laws in conflict with this second section. Then I submit that there is no law or custom in force in Georgia under the color of which a crime against this bill can be committed; and if all the southern States will follow this noble example, this civil rights bill, which strikes at peonage another form of slavery, will be simply a nullity, because it will not exist. When peonage in all its forms (which is a twin relic of slavery, a part of it) is abolished, as in Georgia, your bill has no operation. It being so easily avoided by being complied with, by doing a simple act of justice, by carrying out the spirit of the constitutional amendment, I cannot give my consent to defeat a bill the purpose of which is good, the operation of which is so innocent and may be so easily avoided. I shall therefore give my vote for the bill.

Mr. DAVIS obtained the floor.

Mr. HENDRICKS. If the Senator from Kentucky will yield to me, I propose to Senators that we agree upon some hour to-morrow for taking the vote. I will say that the son of the Senator from New Jersey, [Mr. WRIGHT,] who is attending upon him, has dropped a note to the Senator from Delaware [Mr. RIDDLE] that he will come out this evening to vote, but that it is so late in the evening that he ought not to come. On that state of facts, I suggest that we agree upon an hour to-morrow for the vote.

Mr. TRUMBULL. I do not know that I heard the Senator. What is the proposition?

Mr. HENDRICKS. The proposition is that we agree upon an hour to-morrow for taking the votes, say two or three o'clock.

Mr. TRUMBULL. Can we not vote to-night?

Mr. HENDRICKS. The difficulty is this: the Senator from Delaware sent to ascertain the condition of the Senator from New Jersey; his son, who is waiting upon him, replies that he is now asleep, that he will come out any time we notify him, but that he ought not to come out so late in the evening. There is no desire, I will say, on the part of Senators on this side of the House to postpone this bill for any purpose except just to get the vote. We do not desire any protracted debate, but we are not in a condition to have a vote to-night without asking a Senator to come out who ought not to come out; and I hate to ask it of him. I am sure the majority would hate to ask him that. I would not ask it of any Senator.

Several SENATORS. Name an hour.

Mr. HENDRICKS. I will suggest four o'clock to-morrow, or even earlier if Senators prefer it, three o'clock. There will be no question about taking the vote at that time. I do not propose by this suggestion to stop debate now, but simply that we now have an understanding so that we shall not think of asking a Senator to come out at night whose health would be endangered by it.

Mr. GUTHRIE. I would suggest to Senators that every principle of courtesy to a gentleman who is sick, every principle of humanity, and every principle of respect to the Senate of the United States, makes it proper that we should fix some hour to-morrow that is agreeable to the gentlemen who are urging this measure at which the vote may be taken. It is usual in deliberative bodies, or at least in such bodies as I have been accustomed to, when a vote of this kind is to be taken, in which all feel great interest, to fix an hour so that every opportunity may be given to each side to bring up their men. It may very often happen that we want indulgence ourselves.

The PRESIDENT *pro tempore*. Will the Senator suspend his remarks. The disturbance on the floor makes it entirely impossible for the public business to proceed. The Chair must appeal to Senators to preserve order. [Applause.] The Senator from Kentucky will proceed.

Mr. GUTHRIE. I have said nearly everything that I wanted to say. I should regret if the Senate should refuse to fix an hour—I should deeply regret it, because I think it would be an evidence of a want of courtesy.

Mr. TRUMBULL. If the Senator from Kentucky will allow me, I will say that I think the Senate will agree on this side of it to take a vote to-night at half past five o'clock.

Mr. GUTHRIE. But we have now ascertained that we cannot get these gentlemen in by that time.

Mr. TRUMBULL. It was proposed awhile ago on the other side to fix that hour. Now, if it is to be the same thing to-morrow, when the named hour comes, that you cannot get them here, what are we to do? An hour or two ago, it was proposed to take the vote at five o'clock or half past five.

Mr. HENDRICKS. I will say for myself—and if there is any Senator on this side who dissents from it of course he will speak—that if they are not able to come up at the hour fixed to-morrow, there will be no delay asked upon their account.

Mr. GUTHRIE. None on this side of the House.

Mr. JOHNSON. The vote will be had.

Mr. TRUMBULL. I myself am willing to have the time fixed for voting under these circumstances at some hour to-morrow. I hope our friends will agree to it.

Mr. HENDRICKS. Whatever hour you fix. I would rather say four o'clock, as the Senator from California [Mr. MCDOUGALL] wishes to make some remarks.

Mr. TRUMBULL. I shall not myself object to fixing it at four o'clock to-morrow.

Mr. WADE. Mr. President, if this was a question in the ordinary course of legislation, I certainly would not object to the proposition which the gentlemen on the other side make; but I view it as one of the greatest and most fun-

damental questions that has ever come before this body for settlement, and I look upon it as having bearings altogether beyond the question on this bill. The bill is undoubtedly a very good one. There is no constitutional objection to it; there has been no objection to it raised that creates a doubt in the mind of any mortal man; but nevertheless we are at issue with the President of the United States upon a question peculiarly our own. The President of the United States has no more power under the Constitution to interpose his authority here to prescribe the principle upon which these States should be admitted to this Union than any man of this body has out of it. The Constitution makes him the executive of the laws that we make, and there it leaves him; and what is our condition? We who are to judge of the forms of government under which States shall exist, we who are the only power that is charged with this great question, are to be somehow or other wheedled out of it by the President by reason of the authority that he sets up.

Sir, we cannot abandon it unless we yield to a principle that will unhinge and unsettle the balances of the Constitution itself. If the President of the United States can interpose his authority upon a question of this character, and can compel Congress to succumb to his dictation, he is an emperor, a despot, and not a President of the United States. Because I believe the great question of congressional power and authority is at stake here, I yield to no importunities of the other side. I feel myself justified in taking every advantage which the Almighty has put into my hands to defend the power and authority of this body, of which I claim to be a part; I will not yield to these appeals of comity on a question like this; but I will tell the President and everybody else, that if God Almighty has stricken one member so that he cannot be here to uphold the dictation of a despot, I thank Him for His interposition, and I will take advantage of it if I can. [Manifestations of applause in the galleries.]

The PRESIDENT *pro tempore*. Order will be observed in the galleries, or they will be cleared.

Mr. WADE. I am very frank to say that when gentlemen tell us that if we persist here with all the physical power the Almighty has put into our hands we may probably prevail, it is not an argument against my staying here, standing by the Constitution, standing by these powers that the Constitution has armed me with, and which I have no right or authority to give up. No Senator on this floor has any right to surrender the authority with which we are clothed. The moment a President can rise and interpose his interference with a question purely congressional and legislative, your Constitution is not worth the paper upon which it is written. That is the reason that I urge, and beg of my friends on this floor to take every advantage that the Almighty has put into your hands to maintain, uphold, and sustain that Constitution that we have sworn we will support.

Sir, a little physical inconvenience here will not lead me to surrender that power which the Constitution has armed me with; and the people of the State that I represent would look upon me with scorn and contempt if I should surrender it on questions like this.

What are these States that the President wishes to get in here? It is suggested to me that this question has nothing to do with that. I say this bill does have something to do even with that. The issue the President has made with Congress, the quarrel he has picked with Congress from the very commencement, is nothing more or less than on the question of recognizing and permitting rebels to occupy their old places on this floor for the utter destruction of the Government in my judgment and belief. What power has he to do it? What is the condition of these States that he says shall be represented here? Do you know anything of their constitutions? Were they made by the people of those States, or are they mere creatures of military power, made over the heads of the people who have never asked you yet to recognize a single one of them? No, sir, the people of these States, with the exception of one single State, have never had the right, have never had the opportunity to pass upon the constitutions that you are asked to admit here as legitimate. They were not submitted to the people, but it was dictated from the Executive Mansion what provisions they should contain.

I argued this matter all over, last year, in the case of the application of Louisiana, and my mind has not changed upon the subject. It is not a presidential question. I argued then as zealously against Mr. Lincoln's interposition as I do now against Mr. Johnson's interposition. I care not who your President may be, he is not to be a despot, and it is time that the American people should know and feel that no one man made this great Government of ours, and, thank God, no one man can destroy it. Sir, if there is any one question about which the American people are unanimous, it is against this one-man power—these monarchical attempts of your Presidents to beat down every other department of the Government and set up their own will as supreme over all. Sir, it will not be done, with my consent, on this floor by any compromise, by any concession, and not even by the plea of comity that is now paraded before us. For one I am willing to stay here all night and all day to-morrow, and as long as my physical powers can hold out, in order to vindicate the great principle of constitutional law that I am intrusted with by the people whom I represent; and nothing shall take it out of my hands except it is the power of majorities here. Never, with my consent, will I yield it.

Mr. McDOUGALL. Mr. President, the Senator from Ohio is in the habit of appealing to his God in vindication of his judgment and conduct; it is a common thing for him to do so; but in view of the present demonstration, it may well be asked who and what is his God. In the old Persian mythology there was an Ormuzd and an Ahriman—a god of light and beauty, and a god of darkness and death. The god of light sent the sun to shine and gentle showers to fructify the fields; the god of darkness sent the tornado and the tempest and the thunder scathing with pestilence the nations. And in old Chaldean times men came to worship Ahriman, the god of darkness, the god of pestilence and famine; and his priests became multitudinous, they swarmed the land, and when men prayed then their offerings were, "We will not sow a field of grain, we will not dig a well, we will not plant a tree." These were the offerings to the dark spirit of evil until a prophet came who redeemed that ancient land; but he did it after crucifixion, like our great Master.

The followers of Ahriman always appealed to the same spirit manifested by the Senator from Ohio. Death is to be one of his angels now to redeem the Constitution and the laws and to establish liberty. Sickness, suffering, evil, are to be his angels; and he thanks the Almighty, his Almighty, that sickness, danger, and evil are about! It may be a good god for him in this world; but if there is any truth in what we learn about the orders of religion in this Christian world, his faith will not help him when he shall ascend up and ask entrance at the crystal doors. If there can be evil expressed in high places that communicates evil thoughts, that communicates evil teachings, that demoralizes the youth who receive impressions as does the wax, it is by such lessons as the Senator from Ohio now teaches by word of mouth as Senator in this Senate Hall.

Sir, the President of the United States is a constitutional officer, clothed with high power, and clothed with the very power which he has exercised in this instance, and those who conferred upon him these powers were men such as Madison and Jay and Hamilton and Morris and Washington and a host of worthies, men who, I think, knew as much about the laws of government, and how they should be rightly balanced, as any of the wisest who now sit here in council. It is the duty of the President of the United States to stand as defender of the Constitution in his place as the conservator of the rights of the people, as tribune of the people, as it was in old Rome when the people did choose their tribunes to go into the senate chamber among the aristocracy of Rome, and when they passed laws injurious to the Roman people, to stand and say, "I forbid it."

That is the veto power, incorporated wisely by our fathers in the Constitution, conferred upon the President of the United States, and to be treated with consideration; and no appeal of the Senator to his God can change the Constitution or the rights of the President of the United States, or can prevent a just consideration of the dignity of this Senate body by persons who have just consideration, who feel that they are Senators.

It is a strange thing, an exceedingly strange thing, that when a few Senators in the city of Washington, ill at their houses, give assurance that they can be here to act upon a great public question on the day following this, we should hear a piece of declamation, the Senator appealing to his God, and saying, with an *Io triomphe* air, "Well or ill, God has made them ill." Sir, the god of desolation, the god of darkness, the god of evil is his god. I never expected to hear such objections raised among honorable men; and men to be Senators should be honorable men. I never expected to hear such things in this Hall; and I rose simply to say that such sentiments were to be condemned, and must receive my condemnation, now and here, and if it amounts to a rebuke, I trust it may be a rebuke.

Mr. GUTHRIE. Mr. President, I made this motion in good faith, and I expected that it would be responded to, because no advantage can be gained by those acting with me between now and the period at which we propose to submit this bill to a vote. I do not wish to stand between the Senator from Ohio and his constituents; but there is not a people in the world to whom I would appeal with more certainty of being responded to than the people of Ohio upon this very subject, if I was addressing them now. They would not, I verily believe, sanction the idea of taking advantage of the circumstance of the absence of two Senators, who are sick and who do not wish to come here at an inconvenient hour of the night. But his action on that point is a matter between the Senator and his constituents. I said nothing about bringing in Senators from the southern States. I believe, however, that they ought to be here, and in saying so I speak as a Union man; as one who has stood by the Union from the beginning. I advocated the cause of the Union in the Peace Convention; I went home and advocated it in Kentucky; I have stood by it since, and I cannot be driven from it by the cry of the one-man power, because I have seen as much self-will in the one-man power exercised at the dictation of individuals here in the Senate as I have read of anywhere in the United States.

I do not want to continue this discussion. I should not like it to go out from this body that the Senator from New Jersey (Mr. Stockton) was removed because his vote was wanted. I do not want it to go out from this body that we would not do a courtesy to sick Senators because we could pass a bill without their votes, when we could not if they were here. The time will come when the people being convinced of these things will say that there is more to be feared from a combined Congress than there is from a President, in relation to the liberties of the people. I have no fear for the liberties of the people from the President. That is a bugaboo; but I have a fear of a consolidated Government from the action of the party in power here. I have felt it creeping on me the whole time since I have been here. But I will not go into those matters. I ask the Senate to make this postponement and teach the Senator from Ohio that he is not the one-man power here.

The PRESIDENT *pro tempore*. Is the Senate ready for the question?

Mr. SAULSBURY. What is the question?

The PRESIDENT *pro tempore*. The question is, Shall the bill pass, the objections of the President to the contrary notwithstanding?

Mr. HENDRICKS. I renew the appeal to Senators that we agree to take this vote at four o'clock to-morrow.

Mr. BROWN, and others. We are agreed so far as we are concerned.

Mr. HENDRICKS. I believe the chairman does not object to that arrangement. We do not want to discuss the matter further to-night, and, with the understanding that we shall take the vote at that hour, I propose to move an adjournment; but before I make that motion I will state that the understanding on our side is that a vote takes place at four o'clock to-morrow whether the sick Senators are able to be here or not.

Mr. CONNESS. I object to this attempt to fix a time by understanding for taking the vote, at which time Senators are to be brought in here to vote upon a single proposition, when they can perform no other public duty. I object to it. It cannot be done.

Mr. TRUMBULL. I am satisfied that no good is to grow out of a struggle here to-night.

Mr. CONNESS. That is entirely another question.

Mr. TRUMBULL. There are some of our friends who will not agree to fixing an hour to-morrow, and my judgment is, the Senate had better adjourn, and I think we shall get a vote to-morrow. I trust there will be no factious opposition.

Several SENATORS. None at all.

Mr. TRUMBULL. We will try to get a vote.

Mr. JOHNSON. You can certainly get a vote to-morrow.

Mr. TRUMBULL. I think we had better do that. That is my judgment, and I hope our friends will acquiesce in that course.

Mr. HENDRICKS. I move that the Senate do now adjourn.

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

The yeas and nays were ordered.

Mr. ANTHONY. Although this motion is not debatable, I wish to state that I understand that the Senator who has the bill in charge thinks the Senate had better adjourn; I shall vote in accordance with what I understand to be his wishes.

Mr. SUMNER. I hope the Senator will make a declaration of his desire.

Mr. ANTHONY. He has already done so.

The PRESIDENT *pro tempore*. Debate is not in order unless the motion to adjourn is withdrawn. The call will proceed.

The question being taken by yeas and nays, resulted—yeas 33, nays 12; as follows:

YEAS—Messrs. Anthony, Brown, Buckalew, Clark, Cowan, Cragin, Davis, Doolittle, Edmunds, Fessenden, Foster, Grimes, Guthrie, Harris, Henderson, Hendricks, Howe, Johnson, Lane of Kansas, McDougall, Morgan, Morrill, Nesmith, Norton, Riddle, Saulsbury, Sherman, Sprague, Trumbull, Van Winkle, Willey, Williams, and Wilson—33.

NAYS—Messrs. Chandler, Conness, Creswell, Howard, Lane of Indiana, Nye, Poland, Pomeroy, Ramsey, Stewart, Wade, and Yates—12.

ABSENT—Messrs. Dixon, Kirkwood, Sumner, and Wright—4.

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

HOUSE OF REPRESENTATIVES.

THURSDAY, *April* 5, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

SURVEY AND SALE OF MINERAL LANDS.

Mr. JULIAN. I ask unanimous consent to report a bill from the Committee on Public Lands in order that it may be made a special order for the last Tuesday and Wednesday of this month. The title of the bill is House bill No. 322, to provide for the survey and sale of the lands of the United States containing gold, silver, and other valuable minerals, for the assaying and coining of such minerals, and for other purposes.

Mr. WASHBURNE, of Illinois. I object. There are bills before the Committee on Commerce just as important as this, and which I would like to have made special orders. But if the House is going to make special orders in this way I do not know what is to become of the regular business. I demand the regular order.

REPORTS OF COMMITTEES.

The SPEAKER. The first business in order is the call of committees for reports, beginning with the Committee on the Militia.

No reports were presented from the Committee on the Militia.

The SPEAKER. In accordance with the arrangement made between the Committee on Military Affairs and the Committee on Naval Affairs, reports from the Committee on Military Affairs are next in order.

Mr. SCHENCK obtained the floor.

RAILROAD AND TELEGRAPH LINE.

Mr. ASHLEY, of Ohio. The gentleman from Ohio [Mr. SCHENCK] yields to me, and I ask unanimous consent to introduce for reference a bill to aid in the construction of a railroad and telegraph line from Great Salt Lake City to the Colorado river, and to secure to the Government of the United States the use of the same for postal, military, and other purposes.

There being no objection, the bill was read a first and second time, and referred to the Committee on Public Lands.

LEAVE OF ABSENCE.

Mr. McINDOE, by unanimous consent, asked leave of absence for Mr. SLOAN for one week.

Leave was granted.

CAPTAIN JOHN W. PARTRIDGE.

On motion of Mr. SCHENCK, the Committee on Military Affairs was discharged from the further consideration of the petition of Captain John W. Partridge, company F, twenty-fourth Massachusetts volunteers, and the same was referred to the Committee of Claims.

LIEUTENANT JAMES THOMPSON.

On motion of Mr. SCHENCK, the Committee on Military Affairs was discharged from the further consideration of the petition of Lieutenant James Thompson, twenty-fourth Massachusetts volunteers, praying reimbursement for clothing, &c., lost, and the same was referred to the Committee of Claims.

JOHN C. MAGILL.

On motion of Mr. SCHENCK, the Committee on Military Affairs was discharged from the further consideration of the petition and accompanying papers of John C. Magill, asking payment for horses furnished to the United States Army, and the same was referred to the Committee of Claims.

PAY OF THE ARMY.

Mr. SCHENCK. A very serious blunder has been made by the printer in printing House bill No. 450 in regard to the pay of the Army. In the fifth section the printed bill reads:

That all officers of the Army of the United States shall be entitled to receive the pay that may be due, &c.

The words "and soldiers" should be inserted after the word "officers." As this error is so serious and material, I ask that the bill may be reprinted.

The SPEAKER. If there be no objection, it will be so ordered.

There was no objection.

ESTABLISHMENT OF MILITARY POSTS.

Mr. SCHENCK. I am instructed by the Committee on Military Affairs to submit a report upon the memorial of the Minnesota Legislature for the establishment of military posts. I ask that the report be read.

The Clerk read the report. It states that, in the opinion of the committee, full authority is already vested in the War Department to establish military posts at such points as the military authorities may deem advisable. The committee, therefore, see no occasion for legislation on the subject on the part of Congress, and ask that they be discharged from the further consideration of the memorial, and that the same be laid on the table.

The Committee on Military Affairs was discharged from the further consideration of the memorial, which was laid on the table.

ORGANIZATION OF THE ARMY.

Mr. SCHENCK, from the same committee, moved that it be discharged from the further consideration of sundry resolutions and petitions having relation to the organization of the Army and different subjects connected therewith, the matter having been embraced in the Army bill, and that they be laid upon the table.

The latter motion was agreed to.

NATIONAL GUARD OF NEW YORK.

Mr. SCHENCK, from the same committee, moved that it be discharged from the further consideration of the report of a committee appointed by a military association relative to the National Guard of the State of New York as affected by action of Congress, and that it be referred to the Committee on the Militia.

The motion was agreed to.

INCREASE OF PAY TO NAVAL OFFICERS.

Mr. SCHENCK, from the same committee, moved that it be discharged from the further consideration of resolutions of the Legislature of the State of New York indorsing resolutions of the Chamber of Commerce asking an increase of pay to officers of the Navy, and that they be referred to the Committee on Naval Affairs.

The motion was agreed to.

ARMY VOLUNTEER NURSES.

Mr. SCHENCK, from the same committee, moved that that committee be discharged from the further consideration of House bill No. 411, to secure pay (under certain circumstances) to Army volunteer nurses, and that it be laid upon the table.

The motion was agreed to.

Mr. SCHENCK, from the same committee, reported back a petition on the same subject, and moved that it be laid upon the table.

The motion was agreed to.

DAMAGE TO CHURCHES, ETC.

Mr. SCHENCK, from the same committee, moved that that committee be discharged from the further consideration of petition of citizens of Upshur county, West Virginia, for compensation for damages done to churches, &c., by the Union armies, and that it be laid upon the table.

The motion was agreed to.

DONATION OF PUBLIC BUILDINGS, ETC.

Mr. SCHENCK, from the same committee, moved that that committee be discharged from the further consideration of papers, &c., relating to resolutions before Congress that buildings, sheds, and lumber of the United States at Grafton and at New Creek, West Virginia, lately used for hospital purposes may be donated to boards of education, &c., and that they be laid upon the table.

The motion was agreed to.

REIMBURSEMENT OF UNITED STATES SOLDIERS.

Mr. SCHENCK, from the same committee, reported back the memorial of the Legislature of the State of Minnesota, asking that soldiers be reimbursed for losses of money taken by rebels in the late war, and moved that it be referred to the Committee of Claims.

The motion was agreed to.

BARNEY CAIN.

Mr. SCHENCK, from the same committee, reported adversely on Senate bill No. 53, for the relief of Barney Cain; and the same was laid upon the table.

MILITARY POSTS.

Mr. SCHENCK, from the same committee, to whom was referred the memorial of the

Legislature of Minnesota for the establishment of military posts on the northern overland mail route from St. Cloud to Fort Walla Walla, submitted the following report; which was laid on the table, and ordered to be printed:

The Committee on Military Affairs, to whom was referred the memorial of the Legislature of the State of Minnesota for the establishment of military posts on the overland mail route from St. Cloud, Minnesota, to Fort Walla Walla, Oregon, beg leave respectfully to report:

The memorial asks for the establishment of military posts at Fort Abercrombie, Devil's Lake, at a point between Devil's Lake and the Missouri river, and at such other places as may be deemed necessary for the protection of emigrants passing over the northern overland mail route. The committee, with a view to obtaining exact information, transmitted the memorial with a letter of inquiry to the Secretary of War, by whom it was referred to Lieutenant General Grant, who made the following indorsement thereon:

HEADQUARTERS ARMY UNITED STATES,
February 8, 1866.

Respectfully returned to the honorable Secretary of War. I deem it impracticable to grant the prayer of this memorial at present. I inclose a report on the subject from Major General W. T. Sherman, in which I fully concur.

U. S. GRANT,
Lieutenant General.

The report of General Sherman is as follows:

ST. LOUIS, *January* 23, 1866.

COLONEL: I am this minute in receipt of the letter of Hon. ROBERT C. SCHENCK, chairman House Committee on Military Affairs, of January 17, indorsed by you, covering a memorial to Congress by the State of Minnesota for the establishment of a line of military posts to Walla Walla, Oregon.

I do not think it calls for action on the part of Congress, nor do I think we can order anything definite until Congress determines the military establishment and the Lieutenant General apportions to me my quota. I then propose to indicate a route of travel from the neighborhood of Fort Pierce, on the Missouri, river, but it is judged both impracticable and unnecessary to guard the whole road by costly military posts, but rather to confine travel to one road, and require emigrants to go in bodies sufficient for self-preservation. There will be no real danger in traveling from Minnesota to Fort Pierce; but thence to Virginia City some protection will be necessary. Were we to grant one half the requirements of the Territories the national Congress would have to increase the Army far beyond any present estimate, and the cost would be beyond all estimate. The people on our frontiers must conform to the national interest instead of forcing us to cover them in their wandering propensities.

I am, with great respect,

W. T. SHERMAN,
Major General Commanding.

Colonel T. S. BOWERS, *Assistant Adjutant General, Headquarters of the Army, Washington, D. C.*

The committee, regarding the whole matter as lying within the exclusive jurisdiction and discretion of the military authority, and not considering any act of legislation on the subject expedient or necessary, ask to be discharged from the further consideration thereof, and that the memorial be laid on the table.

NATIONAL CEMETERIES.

Mr. SCHENCK, from the same committee, reported back the following resolution, with the recommendation that it do pass:

Resolved, That the Committee on Appropriations be instructed to inquire into the propriety of making an appropriation to complete the work inaugurated by Major General Thomas, commanding military division of the Tennessee, and other officers commanding divisions and departments throughout the United States, contemplating the noble work of disinterring and gathering in national cemeteries the brave soldiers who gave their lives for the salvation of the Union; and that the committee be empowered to send for persons and papers, and report at any time by bill or otherwise.

The resolution was adopted.

CYRUS LELAND.

Mr. SCHENCK, from the Committee on Military Affairs, to which was referred the memorial of Cyrus Leland, late first lieutenant in the thirtieth Kansas volunteers, praying for relief from liability in consequence of loss of important papers in battle, by which he was unable to settle his accounts, reported adversely on the same. The report was ordered to be printed, and leave was granted to the petitioner to withdraw the papers in the case on leaving copies.

JOHN COOPER.

On motion of Mr. SCHENCK, the Committee on Military Affairs, to which was referred the petition of John Cooper, and others, praying for the repeal of that portion of the internal revenue law taxing gross receipts of turnpike companies, was discharged from the further consideration of the same; and it was referred to the Committee of Ways and Means.

JOHN J. WALSH.

On motion of Mr. SCHENCK, the Committee on Military Affairs was discharged from the further consideration of the petition of John J. Walsh; and the same was laid on the table, and the report ordered to be printed.

B. BIBO.

Mr. SCHENCK, from the Committee on Military Affairs, to which was referred the petition of B. Bibo, and others, praying for the relief of said Bibo, who lost his arm during the war, asked to be discharged from the further consideration of the same, and reported the following resolution; which was agreed to:

Resolved, That the petition of B. Bibo, and others, be referred to the Committee of Ways and Means, with instructions to inquire into the expediency and propriety of such legislation as will authorize the issuing of licenses to peddle and trade without charge to such persons as were wounded or disabled while serving as soldiers in the Army of the United States in the war for the suppression of the rebellion, and that said committee report by bill or otherwise.

CASCADE RAILROAD.

Mr. SCHENCK, from the Committee on Military Affairs, reported back Senate bill No. 105, to grant a right of way to the Cascade railroad through a military reserve in Washington Territory, with an amendment, to add the following proviso:

Provided, That nothing in this act shall be so construed as to give said companies the right to occupy for any purpose whatever more than sixty feet in width on the line of said road at any point or points where the the space or pass between river and bluff or mountain is so narrow as not to admit of the construction of another parallel railroad or turnpike, canal, or other public work for transportation of freight or passengers.

The amendment was agreed to.

The bill as amended was then read a third time and passed.

Mr. SCHENCK moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had passed an act (S. No. 103) to reorganize the judiciary of the United States.

Also, that the Senate had agreed to the report of the committee of conference on the deficiency bill.

F. A. PATTERSON.

Mr. SCHENCK, from the Committee on Military Affairs, reported back Senate bill No. 117, for the relief of F. A. Patterson, late captain of the third Virginia cavalry, with a recommendation that it pass.

The Senate report was read.

Mr. DAVIS. I ask that the bill be reported.

The bill was accordingly read. It directs payment to Captain Patterson from November, 1862, the date of his commission from the Governor of Virginia, to the date of the muster out of his regiment.

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

Mr. DAVIS. I understand that there are many cases of a similar character to this, and it seems to me that there should be some general act which would cover all these cases. I have myself received a number of communications on the subject, and I have understood that the committee has had a general bill covering these cases under consideration. I would inquire of the chairman of the Committee on Military Affairs if such is not the fact.

Mr. SCHENCK. There is a general bill covering such cases; but this case is a little peculiar in its character. This bill has passed the Senate, and the committee recommend its passage by the House.

The SPEAKER. The Chair is of the opinion that a general bill on this subject has passed the House and is now pending in the Senate.

Mr. SCHENCK. I believe such a bill was reported by my colleague, [Mr. BINGHAM,] and passed.

The SPEAKER. That bill is still pending in the Senate; it has not passed.

Mr. SCHENCK. This bill has passed the Senate, and there is no objection to it.

The bill was passed.

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

The latter motion was agreed to.

EXTRA PAY TO VOLUNTEER OFFICERS.

Mr. SCHENCK, from the Committee on Military Affairs, to which a joint resolution, an act, and a petition were severally referred, relating to the three months' pay provided for officers who resigned at the close of the war, reported a bill to extend the benefits of section four of an act making appropriations for the support of the Army for the year ending June 30, 1866, approved March 3, 1865; which was read a first and second time.

The bill provides that section four of an act entitled "An act making appropriations for the support of the Army for the year ending June 30, 1866," shall be so construed as to entitle to the three months' pay proper provided for therein all officers of volunteers below the rank of brigadier general who were in the service continuously, either as enlisted men or commissioned officers, at least two years prior to the 19th day of April, 1865, and whose resignations were presented and accepted, or who were mustered out at their own request or otherwise honorably discharged from the service after that day.

Mr. SCHENCK. I will submit a few words in explanation of that bill. Toward the close of the war, in 1864 and 1865, it was found that a large number of officers in the field, and especially of the lower grades, first and second lieutenants, were resigning from sheer necessity. They were not able to subsist even in the field, cheap as the means of subsistence there were. They could not make purchases within the limits of the seat of war, outside of commissary stores, except at a great disadvantage and at large prices; they were not able to draw, as soldiers do, their rations, and there was, in fact, proof before the Committee on Military Affairs, as I remember well, in the last Congress, of a great deal of absolute destitution among officers of that class. I use the word "destitution" advisedly. It is not too strong a one to describe the condition of things.

In this state of affairs the last Congress provided, in order to encourage men to hold out to the end of the war and not to resign, this as an inducement, that those who continued in the service to the end should receive extra payment to the amount of three months' compensation. The provision is to be found embodied in the fourth section of the act of 3d March, 1865, providing appropriations for the support of the Army for the year ending on the 30th of June, 1866. It is in these words:

"SEC. 4. *And be it further enacted*, That all officers of volunteers now in commission, below the rank of brigadier general, who shall continue in the military service to the close of the war, shall be entitled to receive, upon being mustered out of said service, three months' pay proper."

The war, so far as active operations in the field are concerned, virtually closed with the surrender, first, of Lee, and afterward of other forces, in the month of April, 1865. After that, there being no further hostilities, officers, feeling that they had virtually complied with the expectations of the Government, in some instances tendered their resignations voluntarily, but in many instances tendered their resignations because they were invited by the War Department, in two or three successive general orders, to do so; and the construction was afterward put upon their conduct, that, having resigned, even when invited by the Department to do so, they did not come within the description of persons entitled to the three months' extra pay, for the reason that it was to be given to those alone who staid in the service until they were, by order of the Department, regularly and formally mustered out.

The object of the bill which we now propose is to extend the provisions for the extra three months' pay to all officers who in good faith remained till the end of the war before asking to be relieved from further public service, that they might return to the pursuits of civil life; but limiting the application of this provision to those who had served at least two years prior to the 19th of April, when hostilities were in effect closed throughout the country. The committee deemed this but an act of justice to a meritorious class of officers who, without intention perhaps upon the part of the military authorities, were actually intrapped into resigning, under the impression that, according to the true construction of the law, they were putting themselves in the same position as those mustered out by an order emanating from the Department.

Mr. KASSON. I wish to inquire of the chairman of the Committee on Military Affairs [Mr. SCHENCK] whether he intends to confine the provisions of this bill to officers who did not leave the Army till the 19th of April or thereafter. If that is the intention, I fear that the language of the bill will not accomplish that end. I apprehend that the bill is liable to misconstruction in this particular, and that its benefits will be claimed by those who voluntarily resigned before the cessation of hostilities. I desire that the phraseology may be made a little more specific.

Mr. SCHENCK. I am under the impression that the language of the bill is not ambiguous. Let the bill be again read:

The bill was read.

Mr. KASSON. Now, Mr. Speaker, it will be observed that the language of the bill does not necessarily imply that those who are to receive the benefits of the bill shall have been in the service on the 18th day of April, 1865. The benefits of the bill are extended to "those who were in service continuously, either as enlisted men or commissioned officers, at least two years prior to the 19th day of April, 1865, and whose resignations were presented and accepted, or who were mustered out at their own request, or otherwise honorably discharged from service after that date."

Mr. FARNSWORTH. I think that the bill is not ambiguous in the particular suggested by the gentleman from Iowa, [Mr. KASSON,] as it provides, I believe, for giving this three months' pay proper to officers who were mustered out after the 19th of April. But, Mr. Speaker, I will state my objection to this bill.

The law of last year provided that all officers below the rank of brigadier general, who were in service when the law was passed, and who should continue in service till the close of the war, should receive three months' pay proper upon being mustered out. That law did not limit this three months' pay proper to those officers who had been in the service two years continuously, but it provided for giving the three months' pay proper to all who were in service when the law passed and should continue in service till the close of the war.

Now, sir, I think that we ought to pass a law construing that provision so as to give this pay to all covered by that provision who were in service up to the 19th day of April, 1865. Officers and men in the Army, concurring with almost everybody who exercised common sense, regarded their obligations as fulfilled when the rebel army capitulated and surrendered. According to the understanding of Congress itself, the end of the war arrived when there was no longer a rebel army to be battled with. Sir, in contemplation of law, as well as in fact, the war was over the next day after the rebels had capitulated; just as much so as when the other day the President issued his proclamation declaring the war to be ended. If this is not so, I would like some gentleman to tell me when the war ceased.

Mr. LAWRENCE, of Ohio. The gentleman from Illinois [Mr. FARNSWORTH] is mistaken if he means to say the war, in legal contemplation, ceased when the last rebel army surrendered. Flagrant war, in fact, then ceased. But the war, in legal contemplation, could not cease until so declared by the proper political department, or departments, of the Government. This principle is perfectly well settled in the books on international law and by the Supreme Court. The Attorney General, in his letter of January 4, declared that "a state of war" still continued. Mr. Seward, in effect, declared the same thing in New York in his speech there on the 22d of February.

Mr. FARNSWORTH. If we must wait for the "proper political department, or departments," to declare the war ended, then the war might be continued, in contemplation of law, till doomsday, in consequence of a failure to make the declaration. I hold that the war was over, in contemplation of common sense, when there was no longer an armed, organized body resisting the Union forces.

Mr. COOK. I desire to remind my colleague [Mr. FARNSWORTH] that the proclamation of the President does not state that the war is over or the rebellion ended in all the States of this Union. The State of Texas is not included at all in that proclamation.

Mr. FARNSWORTH. Well, the President declares that all citizens are disposed to be loyal——

Mr. STEVENS. The proclamation states that ten elevenths of the war have ceased, and that one eleventh remains.

Mr. FARNSWORTH. Mr. Speaker, if that be a correct conclusion, if the President be right in that regard, then we ought to pay the officers and soldiers mustered out ten elevenths and leave one eleventh unpaid. [Laughter.]

Now the truth is, Mr. Speaker, that the country so understood it, the officers and soldiers so understood it. When Lee capitulated and Johnston surrendered they understood that, in the contemplation of these statutes which provided for the payment of troops mustered out, &c., the war was concluded, and then the men who did not want to stay about garrisons, those officers who enlisted to fight and not to hang about and draw pay, commenced resigning, for there was nothing more for them to do. What does the War Department but construe the law so as to cut off all such men from the three months' extra pay and give it to the lazy men who hung around and would not resign until they were forced to be mustered out?

They construed another law singularly, and I am glad to be assured by the chairman of the Committee on Military Affairs that he proposes to present a bill remedying that evil. We provided by law that the veterans should receive a certain amount of bounty, I think $400, if they should serve to the end of the war. After the war had ceased, after all active hostilities had ceased, many who had left shops and farms at home, applied to the War Department to be discharged. They were for awhile discharged with great facility, for they were not needed. Now, the War Department construes the law so as to cut off these men from the unpaid installment of the bounty. I know of several instances where men received their discharges only two or three days before the order came to muster out the entire regiment, and they have been cut off from the payment of some two hundred or three hundred dollars of bounty as well as transportation to their homes, while the men who were mustered out only a few days afterward received both bounty and transportation to their homes. Still further, a great many of those regiments were mustered out after the surrender of Lee, and when they were mustered out they received three months' extra pay as well as bounty, yet men belonging to the regiments still in service discharged by order of the War Department, who were enlisted upon the same terms with the men who were mustered out, were denied the payment of three months' pay and bounty. While the War Department paid men who were mustered out last April, they refused to pay men who were discharged long afterward.

What kind of construction of the law is that? I hope, therefore, the chairman of the Committee on Military Affairs will consent to amend his bill by striking out that portion that the officer shall be required to have served two years, so as to put all the officers upon the same footing.

Mr. KASSON. I move to amend by inserting after the word "were" the words "after that date;" so that it will read:

And whose resignations were after that date presented and accepted.

The amendment was agreed to.

Mr. FARNSWORTH. I move to strike out the words "who were in the service two years" and substitute for them "who were in the service at the time of the passage of the said law, the 3d of March, 1865."

Mr. SCHENCK. If I understand it, the gentleman's criticism is, that while interpreting this law to cure what is thought to be a wrong construction given at the War Department, we do injustice to a class of officers not admitted to the benefits of that law, because we require them to have been continuously two years in the service, and he proposes to amend by striking out that feature, so that it shall apply to all those who were in the service at the time of the passage of the law, which we are presenting this declaratory law to construe; that is, the 3d of March, 1865. I have no objection to that amendment being made. It extends the provisions of the bill. It is perhaps just to put them upon the same footing.

Mr. WASHBURN, of Indiana. The construction of the War Department, Mr. Speaker, reaches two other classes of officers as well as those who resigned. It referred to those who were mustered out on account of physical disability, and those who were mustered out by the expiration of their term of service. It reaches officers who may have been wounded in battle and been mustered out on account of disability.

Mr. SCHENCK. The committee have added the words "or otherwise honorably discharged," so that all persons honorably discharged come within the construction of the law.

Mr. WASHBURN, of Indiana. The gentleman does not understand me. I am in favor of the bill as it is now, and am only urging reasons for passing it.

The second class included are those mustered out on the expiration of their term of service. This includes all the veterans who reënlisted in 1863, and who served four years. Their time expired and they were mustered out. They were not asked whether they wanted to go out or not, but were mustered out, and the War Department says they shall not have the three months' extra pay.

We have in this bill these three classes provided for: those who resigned after the close of the war, those who were mustered out on account of wounds, and those officers of veteran regiments that were obliged to go out after the close of the war by expiration of term of service.

Mr. SCHENCK. I demand the previous question.

The previous question was seconded and the main question ordered.

The amendment of Mr. FARNSWORTH was agreed to.

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

Mr. SCHENCK moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

BOUNTIES TO WOUNDED SOLDIERS.

Mr. SCHENCK. The Committee on Military Affairs have instructed me to make a report in reference to another construction of law by the War Department. The committee submit, in connection with the report, a joint resolution giving construction to the law in relation to bounties payable to soldiers discharged for wounds. I ask that the report be read.

The report was read, as follows:

The Committee on Military Affairs, to whom was referred the joint resolution for the relief of Hans Seivers, formerly a private in company A, fourteenth regiment of Iowa volunteer infantry, and the papers relating thereto, have had the same under consideration and report:

That they find the facts in the case of the petitioner to be as follows: the said Hans Seivers enlisted as a private in company A, fourteenth regiment Iowa volunteer infantry, and was mustered into service in November, 1862, receiving in advance twenty-five dollars of the $100 bounty provided by law at that time. On the 11th of May, 1863, while standing guard at Cairo, Illinois, he was wounded by the accidental discharge of a gun, caused by the falling of a stack of arms near his beat. By this injury he suffered the total loss of his left hand, and on this account he was discharged from service at Jefferson barracks, Missouri, about July 13, 1864. He afterwards applied for the seventy-five dollars remaining unpaid of his bounty, but his claim was refused, the Paymaster General deciding that "under the act of March 3, 1865, he is not entitled to the bounty claimed, it appearing from the evidence that the wound causing the discharge was not the result of hostilities actually going on at the time."

The committee were not able to comprehend how such a construction could be put upon the law by the accounting and disbursing officers of the Government as would deprive the petitioner, under the circumstances of his case, of the unpaid remainder of his bounty. The committee are of opinion that the case is one coming clearly within the saving provision of the fourth section of March 3, 1865, and they do not understand how the language of that section could well have been made broader or more general for such purpose. With this view, they made application to the Paymaster General for an explanation of the grounds of his decision in this and similar cases. The result of this inquiry was that such limitation of the benefits of the law was not in accordance with any judgment or construction of its meaning by that officer himself, but that he decided under what he conceived to be the controlling authority of a letter of instruction on this subject from the proper officer of the Treasury Department. A copy of that letter was furnished to the committee, and is as follows:

TREASURY DEPARTMENT,
SECOND COMPTROLLER'S OFFICE, *May* 16, 1865.

SIR: In construing the fourth section of the act of March 3, 1865, in relation to calling out the national forces, (13 Statutes, 488,) it is necessary to bear in mind that to entitle a soldier to bounty, the wound for which he may be discharged must be a direct result or necessary incident of his military service.

He is entitled to the bounty of his full term, if he be discharged by reason of "wounds received in battle, on skirmish, on picket, or in action, or in the line of duty," but it must be in the line of his duty as a soldier, not in the peaceful occupation of a citizen.

An enlisted man acting as blacksmith, and kicked by a vicious horse while shoeing the animal, is not entitled to bounty on discharge for an injury thus received. Nor is a soldier who is assisting to make a bridge, and is wounded by the rolling of a log upon him, entitled under the law to bounty.

These injuries are as likely to happen to a citizen as to a soldier, and are by no means the wounds for which bounty is awarded.

The wounds for which bounty is provided must be the consequence of hostilities actually going on at the time, whether in battle or by firing on pickets, attacks of guerrillas, &c., and any injury received under such circumstances, of sufficient gravity to cause the soldiers discharge from the military service, is a wound within the meaning of the law.

Very respectfully, your obedient servant,
J. M. BRODHEAD,
Second Comptroller.

Hon. E. B. FRENCH, *Second Auditor Treasury.*

Official copy:
B. W. BRICE, *Paymaster General.*

Ruled, February 8, 1866.

Without comment on what they regard as the very unsatisfactory and illogical reasoning of this letter of the Second Comptroller, or on the inaptness of the illustrations by which he seeks to sustain that reasoning, the committee have concluded to propose such declaratory legislation as will remove all doubt on the subject. For this purpose the accompanying joint resolution is introduced, and its passage recommended.

The joint resolution was read, as follows:

Resolved by the Senate and House of Representatives, That the true intent and meaning of the words "or in the line of duty," used in the fourth section of the act approved March 3, 1865, entitled "An act to amend the several acts heretofore passed to provide for the enrolling and calling out of national forces and for other purposes," requires that the benefit of the provision of said section shall be extended to any enlisted man or other person entitled by law to bounty who has been or may be discharged by reason of wounds received while actually in service under military orders, not at the time on parole or leave of absence, nor engaged in any unlawful or unauthorized act or pursuit.

Mr. SCHENCK moved the previous question.

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

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

The latter motion was agreed to.

DEFICIENCY BILL.

Mr. STEVENS. The committee of conference on the deficiency bill make the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 86) making additional appropriations, and to supply deficiencies in the appropriations for sundry civil expenses of the Government for the fiscal year ending the 30th of June, 1866, and for other purposes, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from their amendments numbered three, six and a half, twenty-three, and twenty-four.

That the House of Representatives recede from their disagreement to the amendments of the Senate numbered one, two, four, twelve, fifteen, seventeen, twenty-one, twenty-two, twenty-five, twenty-six, and thirty-one, and agree to the same.

That the House of Representatives recede from their amendment to the seventh amendment of the Senate and agree to the same.

That the House recede from their disagreement to the eighth amendment of the Senate and agree to the same with an amendment, as follows: strike out all of said amendment after the word "square" in line one, and insert in lieu thereof the following words: "two thousand dollars;" and the Senate agree to the same as so modified.

That the House recede from their disagreement to the fourteenth amendment of the Senate and agree to the same with the following amendment: strike out all of said amendment and insert the following:

"For mileage of Government engineer from Cincinnati, Ohio, to Omaha, Nebraska, and thence to Washington, in July, 1865, directed by the President of the United States to examine and report upon Union Pacific railroad routes west from Omaha, two thousand nine hundred and two miles, at ten cents per mile, $290 20.

"For mileage of the same from Washington to New York, and back, in August, 1865, on account of Union Pacific railway, two hundred and twenty-five miles each way, at ten cents per mile, $45.

"For cost of completing bridge over Big Sioux river, near Sioux City, and Government wagon road from Sioux City, Iowa, to Fort Randall, Dakota Territory, in addition to former appropriations, $10,000.

"For commutation of quarters and fuel to officer of corps of Engineers, United States Army, in charge of Engineer office, Department of the Interior, agreeably to Army regulations from 1st August, 1865, to June 30, 1866, to be paid by Department of the Interior, agreeably to Army regulations, $1,137 64.

"For contingencies, $2,000."

And the Senate agree to the same.

That the House of Representatives recede from their disagreement to the nineteenth amendment of the Senate and agree to the same with the following amendment: on page 22 of said bill, in lines eighteen and nineteen, strike out the following words: "to be expended under the Secretary of the Interior;" and the Senate agree to the same.

That the Senate recede from their twenty-seventh amendment, and agree to the eleventh section of the bill in the following words:

"*And be it further enacted*, That the proper accounting officers of the Treasury Department be, and they are hereby, authorized to pay A. D. Collingsworth, O. H. Vedder, Edward R. Sherman, Charles C. Adams, Samuel W. Tucker, J. G. Adams, A. Bengiral, J. C. Parker, J. A. Odell, V. Barnes, T. H. Gladman, R. A. Cronin, T. N. Adams, J. C. Cleary, W. D. Lindsay, A. Jewett, jr., F. Cochin, B. C. Farless, J. P. Townsend, C. W. Odell, J. W. Morehead, S. P. Lee, W. H. Salter, James Cross, J. R. Creed, H. B. Rourke, E. A. Lipscomb, George Cottenham, C. A. Perkins, W. B. Cudlipp, S. S. Baker, J. M. Conroy, O. W. Boyden, J. O. Armes, J. Bellows, E. S. Brossius, J. J. Calvert, F. G. Calvert, G. D. Curtis, W. B. Dyer, D. A. Fish, A. H. Gillespie, R. B. Guillien, Charles Goheen, H. Holmes, G. C. Holliday, B. E. Messer, E. C. Messer, F. Madden, W. McKee, W. H. E. Ourand, L. P. Porter, P. W. Pearson, J. L. Rowland, C. V. Rotterden, E. J. Sehale, E. J. Sweet, T. J. Schea, J. C. Williams, J. G. Wilson, L. K. Brown, J. H. Gunn, H. A. Dobson, J. A. McIntire, V. B. Munson, J. J. Dickens, W. E. Armes, J. C. Green, Lewis E. Rauterburg, and B. W. Parsons, employed by the deputy provost marshal of the District of Columbia in the enrolling office of said marshal, for night work and special service performed in pursuance of a contract between said clerks and said provost marshal, such accounts being properly certified upon the rolls, or by said deputy provost marshal, and the sum of $3,360, or so much thereof as may be necessary, is hereby appropriated out of any money in the Treasury not otherwise appropriated therefor."

And the House agree to the same as so modified.

That the Senate recede from their amendment numbered twenty-nine, and substitute in lieu thereof the following: "*Provided*, That no portrait or likeness of any living person, hereafter engraved, shall be placed upon any of the bonds, securities, notes, fractional or postal currency of the United States;" and the House agree to the same as so modified.

That the Senate recede from their amendment numbered thirty-two so far as to restore the following words: "to pay H. A. Klopfer for ten months' service as a laborer in the office of the Attorney General, at forty dollars per month, $400."

That the House recede from their disagreement to the Senate amendment numbered thirty-three, and agree to the same with the following amendment: in line fourteen of said amendment, after the word "thousand" insert the words "five hundred."

W. P. FESSENDEN,
JOHN CONNESS,
REVERDY JOHNSON,
Managers on the part of the Senate.

THADDEUS STEVENS,
R. P. SPALDING,
E. B. WASHBURNE,
Managers on the part of the House.

Mr. STEVENS. I do not know that there is anything in this report which will give rise to controversy.

Mr. DAVIS. Will the gentleman yield to me for a moment?

Mr. STEVENS. I will yield to the gentleman for the purpose of asking a question.

Mr. DAVIS. There was one provision in this bill which the Senate struck out, and upon which I understand the House committee have receded.

Mr. STEVENS. What one is that?

Mr. DAVIS. It is in regard to the payment of $2,500 to Charles B. Stuart.

Mr. STEVENS. Yes, the House has receded from that. The House were in favor of paying that claim. The Senate thought it ought to go to the Committee of Claims. They would not say that it was unjust, but they wished it investigated.

Mr. DAVIS. This obligation was incurred under authority of a resolution of this House, which authorized the President to appoint this engineer for the purpose of making a survey of the Niagara ship-canal and submitting that survey with his report to this House. The service was performed by the officer appointed by the President by authority of that resolution. He made his report, and that report was accepted by the House. We have had the benefit of all the information contained in that report, and the committee now having charge of the subject have the benefit of it in their deliberations upon the bill pending for the construction of the Niagara ship-canal.

Now, I submit that it is bad faith, so far as this House is concerned, to say that we will send this man, whose employment we authorized, to the Committee of Claims to get his compensation. For one, I hold that we are in honor bound to stand to the pledge we made, because we did pledge him compensation for the services he rendered. Inasmuch as we have had the benefit of Mr. Stuart's report and survey—and I may say here that it is one worthy of great consideration and confidence—I think we should be willing to pay him for it.

Mr. STEVENS. I thought so, and so did the committee on the part of the House, but inasmuch as the appointment was made not strictly according to law—because it was made under a mere resolution of this House—the Senate did not think they were bound by it. Although they would not say that he ought not to be paid, they thought the appropriation was not proper here.

I once examined this report, and I think it a very able one. I think the engineer showed great ability, and that he ought to be paid. The only difficulty is that the Senate thought the claim ought to go to the Committee of Claims, and the managers on the part of the House did not feel justified in standing out. I still think Mr. Stuart ought to be paid, and I hope he will be eventually.

Mr. THAYER. I observe that the proviso which was adopted by the House in reference to the portrait gallery upon notes of the United States has undergone modification which restricts it to the plates which shall be hereafter engraved. I suppose the object of the modification is to avoid the great expense which would be incurred in abandoning the plates already engraved. I desire to ask my colleague [Mr. STEVENS] if that was the object of the modification.

Mr. STEVENS. If there had been but one plate engraved, we should probably have agreed to the proviso as it passed the House, and got

a new one; but the engraving of all these plates cost about sixty thousand dollars; and it was found that the engraving of new plates would stop work for about three months and cost some $60,000 more. It was, therefore, thought better to let the matter run on until the present plates wear out, and in the mean time others can be prepared to meet the views of my colleague.

Mr. THAYER. I desire to say that I think the action of the committee to have been entirely proper and justifiable under the circumstances; and my only object in calling attention to the subject was in order that the country might understand the reason for the modification made by the committee.

Mr. STEVENS. I now move the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the report of the committee of conference was agreed to.

Mr. STEVENS moved to reconsider the vote by which the report of the committee of conference was agreed to; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

HIRAM PAULDING.

Mr. SCHENCK, by unanimous consent, introduced a bill for the relief of Hiram Paulding, rear admiral United States Navy; which was read a first and second time, and referred to the Committee on Naval Affairs.

ASSASSINATION OF PRESIDENT LINCOLN, ETC.

Mr. WILSON, of Iowa. I ask unanimous consent to submit the following preamble and resolutions for consideration at this time:

Whereas the President of the United States did, on the 3d day of May, in the year 1865, by proclamation declare and make known that it did then appear from evidence in the Bureau of Military Justice that the atrocious murder of the late President, Abraham Lincoln, and the attempted assassination of Hon. William H. Seward, Secretary of State, were incited, concerted, and procured by and between Jefferson Davis, late of Richmond, Virginia, and Jacob Thompson, Clement C. Clay, Beverly Tucker, George N. Sanders, William C. Cleary, and other rebels and traitors against the Government of the United States; and whereas the said Jefferson Davis, in the same month of May, was arrested by the military forces of the United States, and has since been held in the custody thereof under the authority of the President of the United States: Therefore,

Be it resolved, That the Committee on the Judiciary be instructed to inquire whether there is probable cause to believe that any of the persons named in said proclamation are guilty, as is in said proclamation alleged, and if so, whether any legislation is necessary in order to bring such persons to a speedy and impartial trial; and that said committee have power to send for persons and papers.

And be it further resolved, That said committee be in like manner empowered to inquire whether there is probable cause to believe that said persons, or any of them, are guilty of treason against the United States, and whether any legislation is necessary in order to bring such persons to a speedy and impartial trial in the district where such crime may have been committed.

Mr. ANCONA. I object.

TEMPORARY DUTIES ON IMPORTS.

Mr. MOORHEAD. I ask unanimous consent to introduce a joint resolution to increase temporarily the duties on imports, which I ask to have referred to the Committee on Manufactures.

Mr. ALLISON. I think the joint resolution should be referred to the Committee of Ways and Means.

Mr. MOORHEAD. I think the Committee on Manufactures is the appropriate committee.

Mr. ROSS. I object to the introduction of the joint resolution.

NEW YORK CONTESTED ELECTION.

The House then resumed the consideration of the regular order of business after the morning hour, being the following resolutions reported from the Committee of Elections:

Resolved, That Hon. James Brooks is not entitled to a seat in this House as a Representative in the Thirty-Ninth Congress from the eighth district in New York.

Resolved, That William E. Dodge is entitled to a seat in this House as a Representative in the Thirty-Ninth Congress from the eighth district in New York.

The following amendment had been moved by Mr. MARSHALL:

Strike out all after the word "resolved," and insert in lieu thereof the following:

That William E. Dodge is not entitled to a seat in the House as a Representative in the Thirty-Ninth Congress from the eighth district in New York.

The pending question was upon the motion of Mr. GARFIELD to substitute for the amendment of Mr. MARSHALL the following:

That the testimony taken as to Hon. James Brooks be recommitted to the Committee of Elections, with instructions to report especially the facts as to the custom, under the laws of New York, of appointing inspectors of the registry of elections not from the particular election districts in which they reside; also, the facts respecting the verification by Brooks of the votes for Brooks in the fifteenth district, with power to send for persons and papers, and power to reinstitute judicial reëxamination in said district.

Mr. SHELLABARGER. Mr. Speaker, I shall strive to condense what I have to say in this case as much as I can, and to that end have written down part of my remarks.

I shall confine my remarks to the facts and law applicable to the fifteenth district of the eighteenth ward. I leave to others to discuss the other points of contest.

That I may avoid all discussion of matters not essential to the right determination of the case I will admit, for the sake of shortening the argument, and only for that sake, the following:

1. That the registers who acted in this district were officers *de facto*, and able to act for the public, provided their action be substantially in conformity with law.

2. That a good election can be held in New York where there is no register or only a fraudulent one.

3. That a good vote can be cast by one who is in fact an elector, but who was neither registered nor proved at the polls to be a legal voter.

4. That every law which the majority of the committee find to have been violated in this case was only directory in the matter in which it was violated.

Now, I maintain that if you grant each of the foregoing propositions, still, upon the facts and law of this case the contestant, Mr. Dodge, is clearly entitled to his seat.

I shall, for the most part, content myself with naked statements of propositions of law and fact, and if there is to be elaboration of argument, I shall leave that to the very able chairman of the committee, who has been charged by the committee with the management of the contest in the House.

I now state some general legal propositions preparatory to the consideration of the facts of the case.

I. Where by reason of the gross negligence, or by reason of the fraud of the officers of the election, or even from accident, it has become impossible to find out the truth from the election returns, then the poll must at least *prima facie*, be rejected, and if the poll is valid at all it must be shown by other proofs than the returns so defective. In Blair *vs.* Barrett, (2 Contested Elections, 315,) this House affirmed by its action the doctrine that if it should appear that the election officers were not sworn that fact shifts the burden of proving the votes from the sitting member to the contestant.

In the case of Draper *vs.* Johnson, decided long ago in the Twenty-Second Congress, the House decided that where it appeared that the officer conducting the election was not sworn, the effect of that proof was to throw "the burden of proof upon the party claiming the vote." (2 Contested Elections, 315. I also refer to 2 Contested Elections, 282, to rejection of the Van Buren township vote.)

II. I next assert that acts of registers in New York are judicial in their nature.

III. The registry, in contemplation of law, enters into and forms part of the election proceeding, and therefore the same rules of law control the qualification and organization of this board as of the election board. This is because:

1. The registry must be at each election poll; each inspector must have one list and "use" it in deciding on the elector's right to vote, and each name must be "checked" on the registry as they vote. (New York Laws, page 26, section six.)

2. Because the election law makes the finding and judgment of the board of registers to be present upon and at the election, and expressly gives to it then and there the legal force, value, and effect of one judgment of one election tribunal; and makes its presence efficacious as one solemn sworn judgment of a court in authorizing the vote. (New York Election Laws, page 26, section six.)

Mr. BROOKS. I suppose the gentleman from Ohio [Mr. SHELLABARGER] desires to state the law correctly. With his permission I will ask him two questions: first, does not the election law of the State of New York give to the inspectors the power to override the registry and to receive the vote of a man not registered, if it is sworn in by the person offering to vote, a householder of the district vouching for him? Second, if a person is registered, cannot his vote be rejected by the inspectors of election? In other words, do not the inspectors of election have the power in those cases to override what the gentleman terms the judicial decision of the board of registry?

Mr. SHELLABARGER. I answer "yes" to both questions. And I shall fully consider their effect as I proceed, if the gentleman will just be patient.

3. It makes the judgment so efficacious in controlling the election upon election day that if the judgment be in favor of the voter, and his name appears on the list, that judgment is conclusive of his right to vote, unless it is appealed from by somebody, and that appeal may be taken by a challenge at the time of the offer to vote. But if the decision be the other way then it is made so effectual in its power in controlling the election that it is unlawful to permit the one to vote whom the decision is against, unless that person shall establish by legal proofs two things:

(1.) The reason why he did not appear on the day for correcting the registry. (New York Laws, page 26.)

(2.) That he is known to a householder-witness to be an inhabitant of the district and giving the residence. (New York Laws, page 26.)

4. Such being the power of a registry judgment under New York laws in controlling the action of the inspectors of election in conducting it, it is utterly idle to assert that their action is not in law made part of the election, and their due action and qualification must be as scrupulously guarded and insisted upon as must that of the inspectors of election.

IV. From the foregoing propositions it follows in law irresistibly that, as the judicial judgments of the board of registers and that of the inspectors in holding the election are intermingled and blended into and become one act, resulting by their combined force in admitting or rejecting the votes of all the people, therefore whenever it is proved that the registry judgment was from any cause wholly illegal, and also that it did enter into the election and was used in controlling it, that proof by necessity invalidates, not, mark it, the vote of any legal voter, but the *prima facie* correctness of the proceedings and returns of the boards of election officers whose proceedings are thus proved to be unreliable. This is by reason of their being proved destitute of the very safeguards which the law had carefully provided to make them reliable. Hence the law sets these returns and certificates based upon them aside as instruments of evidence and compels him who relies upon them to look for and produce better proof of who voted.

V. From this it again results (or rather it is the same thing) that if this registry was wholly illegal, and was used in controlling the election in the fifteenth district of the eighteenth ward, then that fact destroys, not the election, but only the *prima facie* correctness of the returns of that election, and throws upon them who allege it to have been in fact legal voting, to prove it so. This proof all the people, as well

as Mr. Brooks, have the right to make and thus set up their will and choice.

VI. That this is not only reasonable but the law as settled by this House. I now refer the House to

1. Howard *vs.* Cooper, 2 Contested Elections, 282.

2. Blair *vs.* Barrett, 2 Contested Elections, 308 and 315.

3. Coffroth and Koontz at this term, where soldiers' votes were rejected, because, as the committee say in their report—

"Of the eight alleged as rejected returns for Adams county, the three from the hospitals, namely: Mower, Cuyler, and McClellan, (papers 23, 24, 25,) are by all the committee admitted to be too defectively certified and authenticated to be entitled to any consideration. The law in relation to the certifying, signing, and returning with the poll-book the evidence of the administering the oath to the officers of the election (sections five and fifteen) was wholly disregarded. (See also on this point the case of Blair *vs.* Barrett, Bartlett's Contested-Election Cases, page 315, and cases there cited.) So also in the case of company C, two hundred and second regiment, (paper 22,) where only one judge of election appears to have been appointed, or sworn, or acted, the committee were alike unanimous in their opinion that the return was invalid, (sections four and five,) the law expressly requiring three. (See also Howard *vs.* Cooper, Bartlett's Contested-Election Cases, page 282.) The returns of company I, two hundred and tenth regiment, (paper 35,) do not show that two of the judges or the clerks were sworn, a certificate of which the law (sections five and fifteen) expressly requires. (See also case of Blair *vs.* Barrett, above cited.)"

Mr. MARSHALL. I desire to call the attention of the gentleman to the fact that the case of Coffroth *vs.* Koontz cannot possibly be considered as authority in this case. In that case neither had the certificate of election; neither party was the sitting member. The only question was, which party had the *prima facie* case, so that the seat could be filled and a contest inaugurated.

Mr. SHELLABARGER. If the announcement of that proposition made it so, then of course I should be subdued on that point.

Mr. MARSHALL. The gentleman certainly will not deny that that was the question.

Mr. SHELLABARGER. The House has as vivid a recollection of that matter as either the gentleman or myself can have.

Mr. MARSHALL. Was either gentleman actually in the seat?

Mr. SHELLABARGER. I will state the case again. The House referred to us, as the Committee of Elections, the question as to who *prima facie*—that was the term used in the order of the House—who *prima facie* was entitled to the seat. The committee went to work to find out where that *prima facie* title was; and the majority of the committee found that it was in Mr. Coffroth. How did they find that to be so? By finding that the safeguards provided by the election law had been omitted, by failing to certify the votes or failing to swear the officers, or both. They found that the omission of that evidence of correctness left the *prima facie* case in Mr. Coffroth, and compelled Mr. Koontz to prove that he was rightfully elected, and that Mr. Coffroth was not.

Mr. MARSHALL. If the gentleman will permit me, I will submit to the House that there is no possible analogy between the two cases.

Mr. SHELLABARGER. If the gentleman will allow me to proceed I have no doubt he will have an opportunity to reply to my remarks if he desires. Now, I have cited three cases, and I challenge gentlemen to cite any case, in contravention of those, where this House has determined that when proof appears in the case that the safeguards provided by the election law have been disregarded, the burden of proof is not thereby shifted upon the party who alleges the correctness of the election.

VII. If these cases be not law, then you strike down at a blow, in matters connected with and controlling the very sources and springs of all national power and sovereignty, every possible distinction between the observance of law and the defiance of it—between fraud and purest integrity—between an election conducted with the most religious observance of all the solemn enactments designed to secure the purity of the elections, and one in which every one of these enactments was not merely ignored, but ruthlessly and contemptuously defied.

Returns and certificates of elections which were conducted throughout with scrupulous observance of law, are never made any more than *prima facie* evidence of what was the result of an election. Let it be decided here to-day, by this House, that these returns shall be just as much as that, when it is proved to the House that every rule and requirement of the law, meant to secure the purity of the election was utterly trodden down, then, indeed, you members of this House, who are the framers of the national law, will have said to the nation that you know no distinctions between the observance of the law and its profligate and outrageous violation. And you will have sent out from this sanctuary of the nation's authority a stab at the authority and sway of "the law" which may reach the nation's heart, and the deadly effects of which will be potent enough to enable these Halls of the people's sovereignty to be filled, not with the chosen representatives of that authority, but with the instruments of them who are the most experienced in the practices of villainy, most skilled in the instrumentalities of fraud, the most bold and reckless in the disregard of law, and the most debauched by the influences of crime.

Let us now see whether there was in this election the presence of such disregard of law as takes from the proceedings and returns of these two boards of election officers (the registers and inspectors) which we have seen are for all the purposes of this trial blended into one, that stamp of *prima facie* truth which the law impresses upon the returns of officers whose proceedings appear to have been legal. First, it must be premised that all which has been said in this debate about the election officers being of the same politics with the contestant is, in the view the committee has taken of the case, utterly insignificant and frivolous. This is just, because that it makes no sort of difference whether the violations of law were intentional or unintentional, whether they were the results of gross ignorance and reckless inattention to duty or came from corrupt and meditated fraud. In either case the result is the same, to wit: the gross violation of law, the striking down of all safeguards against illegal voting, and the loss of all evidence of the purity of the election; and, as a consequence of these, the withdrawal by the law of her seal, giving authenticity and legal truth to the returns of officers, thus ignorant, reckless, or fraudulent.

Now, look at what occurred in this election, and see whether it is one of those from which the law withdraws her *prima facie* approval and compels them who affirm its purity to prove it:

1. The law requires in express terms that the three registers shall meet at a place designated for holding the poll of said election on Tuesday, three weeks before the election, at nine o'clock a. m. (Page 21.) But they met at a place not designated; for none then was designated.

2. The law required them, in express terms, to "sit" together as a board for two days, if that time were necessary in order to make up the lists. (Page 22.) But they did not "sit" together at all as a board.

3. The law required, in express terms, that the registers and sworn clerk, and no one else, should enter the names of them "entitled to vote" from the poll-list of the last election. But the entries were not at all made by the board or its clerk, but sometimes by one member, sometimes by an unappointed and unsworn stranger to the law, called by courtesy a clerk, sometimes by the grocery-keeper, Thompson, sometimes by his customers at the liquor store, and always in the absence of the board. And the names, in the main, were not taken "from the poll-list of the last general election," as the law expressly required, but in part from the poll-list of Thompson's liquor customers and in part from the fancy and memories of these customers.

4. The law required that these registers should "be residents and voters in the district in which they are so appointed." (Page 21, section one.) But neither one of them were such.

5. The law required that their clerk should be appointed and sworn. (Page 900, section nine.) But he who acted, and acted, too, when by himself, doing all the judicial duties of the full board, and also of the clerk, was neither appointed nor sworn. This alone avoids the whole registry. (See Howard *vs.* Cooper, 2 Contested Elections, 282.)

6. The law requires that the board should "meet at eight o'clock in the morning of the Tuesday preceding the election, and remain in session until nine o'clock p. m. of that day and the following day, for revising, correcting, and completing said lists." (Page 24.)

But such a board never met at all; but only two of them ever met at this second meeting.

7. The law required that this registry be made up and completed at the place designated for the election, (page 21,) and that it be posted up in the "room" where it was made, that is at the "room" where the election is held. (Page 24.) But it was neither made nor posted up at the "room" where the election was held.

8. The law requires that this board at first meeting should sit, at most, but two days. (Page 22.) But most of the business was done on the third day, and at a time when even the board had no "power" to sit to do the business. The business was done by the liquor seller or other outsiders on this third day.

9. The law requires that the entire board should sit in "open" session and "hear" all persons residing in the district as to their right to vote. (Pages 24 and 25, sections three, four, and five.) But no such meeting or hearing ever occurred.

10. The law requires that, at this last meeting, the said three inspectors shall "erase" from register the name of any person inserted therein who shall be proved, by the oaths of two legal voters of the district to the satisfaction of the inspectors, to be not entitled to vote. (Page 25.) And so also new names may be inserted where proved to be voters. (Page 25.)

But there was neither hearing, proving to satisfaction, nor meeting of this board.

11. The law prohibits the vote of any man being received whose name is not on the register, unless he first proves why he did not appear on the day for correcting lists, and also that he has the right to vote. (Page 26.)

But such proof was required of no man, whether his name was on no list at all, or was upon this utterly worthless list.

Such, sir, were only some of the violations of law which entered into the making up of this registry.

Now, sir, if this is a good registry, I beg to be informed what would be a bad one. The disregard of law was utterly flagrant and radical. It extended to every part and stage of the proceeding, and was gross and palpable, rendering the accuracy and legality of the registry absolutely impossible.

Sir, this was the registry which was used as the first solemn sworn and unquestioned judgment of an election court of New York, adjudicating and deciding that every name upon it was the name of a legal voter of that district. One copy of this judgment was put by the laws of New York into the hands of each of the inspectors of the election, (section six,) and it was by them "used on election day" (section six) for the two purposes and to perform all the high powers of a good registry under the laws of New York, to wit:

(1.) To entitle every man whose name was on it (or, rather, who claimed to own one of the names upon it,) to vote unless somebody should take an appeal from that judgment of the (fictitious in this case) registers which put the name there; this appeal being taken alone by challenge.

(2.) To exclude every honest voter of the dis-

trict from voting because his name was not upon a register where he had, from want of any legal meeting of the registers and of notice, no opportunity to have it put, unless such voter should find out where this election was being held in the stable, and should be able to prove his right to vote.

Shall the law be mocked here by its being said that a registry so potent in controlling that election did not affect the validity of the election; that it did not become a part of such election; that its illegality did not as much spoil the *prima facie* goodness and truth of that election as the election in Van Buren township was spoiled in the case of Howard *vs.* Cooper by reason of one of its inspectors being absent? (2 Contested Elections, page 282.)

Here, surely, I might stop and say that every decency of the law would be outraged by holding that such a registry, and such an election, conducted upon the faith of its legality and purity, is as *prima facie* good and pure and true as one conducted according to law.

Now, the result to which I am brought by these considerations I will again state. It is not that there was no election held there; it is not that no voter could prove himself to have voted there; not that no vote could be counted that was not in fact cast there; but it is that when every safeguard which the law has provided to insure accuracy, purity, and truth in the election and in the election returns has been disregarded and stricken down, then the burden of proof is devolved upon the party who maintains the purity of the election.

Now, Mr. Speaker, if I am not mistaken in my understanding of the law and the facts, what I have stated shows that it devolved upon the sitting member to establish the votes which he claims should properly be counted in his favor in the fifteenth district of the eighteenth ward. In maintaining this ground, I am not taking any novel position; I am taking one that is in exact harmony with every decision upon the subject-matter that I have been able to find in the history of the Government. I am taking a position which is in harmony with reason. If this position be not sound, then, as I have already suggested, you must give the same effect to returns and proceedings which have been conducted in total and flagrant violation of law as to proceedings which are in all respects in accordance with the law, a result which I insist is simply monstrous. Stopping here, sir, it does seem to me in all fairness that the case is made out in favor of Mr. Dodge, because upon this principle the vote of this election precinct must be rejected, for you cannot get at the truth as to what vote was cast.

But, sir, if my time would permit, I might go much further, and show by the evidence produced before the committee what were the facts in regard to that district. There is one single fact which has been several times alluded to here and which seems to me startling and conclusive in its character. It was alleged yesterday that there was some difference between the size of the present fifteenth and twelfth districts, and the size of the old twelfth district; and that therefore the figures to which I now allude are not to be relied on. Mr. Speaker, that is a mistake. There is no difference; the fifteenth and twelfth districts are identical with the old twelfth district. According to the proof before the committee, the largest vote ever cast in what now makes up the twelfth and fifteenth districts was 496. But in the very next year there were cast in the same district according to the return 811 votes, while, according to the testimony, there were 200 or 300 voters who were prevented from polling their votes by the arrival of sunset. Taking the medium between 200 and 300, namely, 250, and adding it to 811, we have 1,061 persons voting in that district, when the district had never before polled half that number of votes. Yet the only proof bearing on that subject is that there was in the district one tenement-house less than there had been the year before.

Besides, sir, the two witnesses selected by the sitting member himself, on account of their supposed purity and integrity and their presumed familiarity with everybody in the district, testify on cross-examination, that of all the persons about whom they were asked, at least three fourths were missing—could not be found in the district.

Now, sir, in view of such facts as I have indicated, I ask this House whether it will hesitate to follow what I have shown to be the invariable precedents during the entire history of the Government. I beg members to pause before precedents like these shall be set aside. I beg them to consider what will be the result of a proposition like this that an election conducted in any State of the Union where it appears to the House that all the substantial requisites of precaution and safety have been disregarded, that such returns are to have *prima facie* conclusiveness of a good election. You will have the result that there will be no difference, as I have remarked, between an election held in total disregard of the law provided a man can get the certificate, and one where the law was most sacredly observed.

Nay, more, Mr. Speaker, you put a contestant every time he has been deprived of his seat by wrong or fraud into the hard position of proving a negative, of proving what it is ordinarily impossible ever to prove; and the more skilled the fraud the more inevitable the defeat of the injured contestant. He cannot, I venture to affirm in the hearing of the House, in one case in a hundred prove that negative, to wit, that the sitting member did not receive such and such votes. He cannot prove by the selected instruments of the fraud, the fraud that has stricken down his rights. Look at the spectacle presented in this case. If you adopt that rule, that an election held in disregard of the election laws is to be held as *prima facie* evidence of the right of the sitting member, then you drive the injured party to a contest and you make him prove a negative. If he proves it, he proves it by the parties who committed the fraud. It was attempted in this case when Geoghegan was presented. My friends on the other side have been eloquent in urging that no such man is worthy of credit.

I beg my fellow-members of the House of Representatives to pause on the threshold of this case. I tell you that you disport yourselves in the forge of the gods and play with live thunder when you lightly dispose of principles which will forever control the structure of the American House of Representatives. Do not here to-day adopt a rule which will permit the House of Representatives to be put in a position where every man making a contest is to be called to prove by the instruments who deprived him of his seat, the men who swindled him, that the sitting member did not get the votes fraudulently returned.

I here leave my part of the case. I know that my duty has been poorly discharged.

Mr. PAINE obtained the floor.

Mr. SPALDING. I wish to ask my colleague a question, as he is a member of the Committee of Elections. How does he cure the irregularities in the thirteenth district of the twenty-first ward, where all the officers left the polls and retired to a liquor shop, and were gone some half an hour, leaving the votes without any protector?

Mr. SHELLABARGER. I am glad my colleague has called my attention to that fact. I will leave the main presentation of it to the chairman of the committee. The fact is this: that there was no adjournment or postponement within the meaning of the law. If they all went, and there is a difference in the testimony on that point, it was only for twenty minutes to get some refreshments. I would not, as a member of the committee, think that it was either a postponement or an adjournment within the meaning of the statute. And second, if I am mistaken in that, the weight of testimony is that before going to supper the canvass of the congressional vote had been completed. That is in the testimony of Mr. Fox.

Mr. PAINE. I yield five minutes to the gentleman from Ohio.

Mr. GARFIELD. I have asked the gentleman to give me two or three minutes in order that I may modify the resolution which I presented yesterday. Before stating the modification I wish to thank my colleague from Ohio [Mr. SHELLABARGER] for baring his sword and letting us see the keen edge with which he proposes to cut. I wish to say that in the propositions he has advanced I am more strongly convinced than before of the necessity for the passage of the resolution which I have submitted. He says if it is admitted the registry was illegal it would not invalidate the election, but it would invalidate the *prima facie* evidence of the correctness of the return and would throw the burden of proof upon the party who claimed the election as illegal. That is his proposition and that is the *gravamen* of his argument. I will meet his proposition by the report of the committee. They say:

"The committee are, however, of the opinion that it was competent for either contestant or sitting member to prove the casting of legal votes at this poll, even without a register."

Now, it is precisely that thing which both the gentleman in his argument and the committee in their report declare it is a proper thing to do that we ask them to go forward and do for the reasons which I will now state. All parties admit that those persons who were registered in the old twelfth district, and now belong to the present fifteenth district, were legally registered voters and have a legal right to vote, and those persons constitute a very large proportion of the voters or the alleged voters in the fifteenth district. Now, by the report of the committee we are asked to throw out the whole district, a large number of whose voters are by all parties agreed on a former occasion to have been legally registered. We now ask the committee to go further into the question, and allow the contestant and the sitting member to make proof of how many there were in that precinct that were really legally entitled to vote.

I ask now for the reading of my resolutions, and then I will leave the case.

The Clerk read, as follows:

Resolved, That the testimony taken as to Hon. James Brooks be recommitted to the Committee of Elections, with instructions to report especially:

The facts as to the custom, under the laws of New York, of appointing inspectors of the registry of elections not residing in the particular election districts in which they act.

Also, that the contestant and sitting member be permitted to make proof of the casting of legal votes in the fifteenth district of the eighteenth ward; and that the committee be authorized to prescribe the time and manner of taking the necessary testimony.

Mr. GARFIELD. Just let me say that I have left it with the committee to prescribe the time and manner of taking this testimony, and they can require the parties to produce all their testimony in ten days or two weeks. This is not a proposition for an indefinite postponement or for delay.

Mr. PAINE. Mr. Speaker, I was unable to agree with either the majority or minority of the Committee of Elections in this case. For the first time I found myself "solitary and alone" in the committee. Of course it is hardly possible that I am right; and nevertheless I must either vote in accordance with my own convictions or, as a mere machine, in obedience to the judgment of others. In justice, therefore, to all concerned, I ought to state, in a few words, the considerations which are decisive of my vote.

The case seems to me to hinge upon the question whether the invalidity of the register of the fifteenth district of the eighteenth ward is a sufficient ground for the rejection of the official returns of the canvassers of that district. I am of the opinion that the register was not prepared at the place, in the mode, at the time, or by the persons authorized by law, and was of no validity; that it was used as a register at the polls, and that few of the votes received were accompanied by the affidavits provided for by the registry law of New York, in cases where the names of voters are not duly registered. But I am not satisfied that

these are sufficient reasons for setting aside the poll.

If the official returns of this district are shown to be so essentially erroneous or fraudulent that they cannot, with the aid of whatever corrections the evidence may furnish, indicate to us the will of the voters, they are certainly to be rejected. But the contestant has not shown that persons voted here who were not lawful voters; that either the inspectors of election or canvassers were dishonest or partial in the performance of their duties; that they were not officers as well *de jure* as *de facto;* that the election at this precinct was characterized by any serious irregularities on the part of the people; or that the register, with all its faults, contained the name of any person who was not a lawful voter of the district. There is testimony which tends to show that one of the three inspectors was not sworn until afternoon; but, if this were established beyond doubt, it would not destroy the legality of the poll or the validity of the returns.

An attempt was made to prove, by the affidavit of L. C. Dean and the deposition of W. W. Phelps, that many illegal votes were received. After the affidavit of Mr. Dean was made, the contestant's counsel proposed that the counsel of the sitting member should cross-examine him thereon. This offer was declined on the two grounds, that there had been no direct examination, and that no legal notice of the proposed examination had been given. The affidavit of Mr. Dean was excluded by the committee, because it was an affidavit and not a deposition, and because legal notice had not been given; and the deposition of Mr. Phelps on this point was rejected, because it contained only hearsay testimony. If the statements of the affidavit and deposition were before the House in a legal form, coupled with the testimony offered on the same points by the sitting member, it would be impossible for me to hold the returns of the canvassers to be a reliable expression of the will of the people of the district, or to be valid as official returns. But, the affidavit and deposition being excluded, I am unable to say that the invalidity of the register will require the returns to be rejected unless fortified by proof that the votes were actually cast by lawful voters. On the contrary, I think that, notwithstanding the register was worthless, and its worthlessness reduced the amount of propf requisite to invalidate the official returns, yet it was not of itself decisive against their validity; but the burden of proof was still on the contestant to destroy them, by showing, either that illegal votes were cast, in such numbers or under such circumstances as to render the returns valueless as an indication of the popular will, or that the proceedings of the inspectors of the election or canvassers were so tainted with fraud or vitiated by illegalities, as to render the returns unworthy of credit.

The registry law, in the section relating to the duties of inspectors of elections, provides that no votes "shall be received," if the names of the persons offering to vote are not registered, unless certain affidavits shall be furnished by such persons. This provision seems to refer to the power and duty of inspectors, rather than to the rights or qualifications of electors. Under that law, the register was, to a great extent, a transcript of that of the previous year; so that only new comers in the district had occasion to know whether the register was or was not made at the lawful time or place, in the lawful manner, or by the lawful persons. It will, therefore, be a very rigorous interpretation of the law which will virtually disfranchise, for the time being, the mass of old residents of the district, for the reason that the register was, without their fault or knowledge, irregularly or fraudulently prepared, and when they appeared at the polls, not being informed of any irregularity or fraud, or required to furnish any affidavits, they simply complied with the actual requirements of the officers of the polls, voted, and went their way. To put the voters so completely in the power of a board of registry the terms of the statute should certainly be very clear and explicit; and the provision already cited, respecting the reception of votes, should not be forced from a more natural and obvious construction in order to attain such a result.

The registry law seems to have given the inspectors the power, and to have made it their duty, to require certain affidavits in case the names of persons offering to vote were not duly registered, and to refuse the votes of such as failed to produce them when so required; but if they received votes, from persons not lawfully registered without demanding affidavits, it seems hardly right for us to reject these votes for want of affirmative proof that such persons were legal voters. In the case before us, if a lawful voter of the district offered his ballot, it was competent for the inspector to say that he was not lawfully registered, and, without the prescribed affidavits, could not vote, notwithstanding his name appeared on the book, which was a register not in reality, but only in name; and if he refused to furnish the affidavits the inspectors would have incurred no legal liability by refusing to accept his vote. But the people are concerned in the election, as well as the officials and the candidates. It is not shown that the officers of the polls entertained any suspicion that the register, which appeared upon its face to be correct, had been illegally prepared by the board of registry. If a person, who was actually a legal voter, offered his vote, and his name was found on the register, and his vote thereupon received, he ought not to be afterward compelled either to lose that vote or prove affirmatively his legal qualifications and right to vote. If this is correct, it follows that all persons who, without being so registered, cast their votes without challenge, were *prima facie* entitled to vote, and should not be compelled to assume the burden of proving their right to do so in the absence of evidence attacking their own votes or the entire poll.

It does not appear that this registry law takes the place of or dispenses with any of the other election laws in force before its enactment. It is an addition to the regulations adopted to secure the purity of elections, but not a substitute for any one of them. It does not relieve the officers in charge of the polls of any duty imposed by law before its adoption. No man is entitled to vote by the fact that his name is on the list. Notwithstanding that fact, he must, in all other respects, stand at the polls in precisely the same attitude now as before the enactment of the registry law. He is liable to precisely the same challenges, and if challenged must make precisely the same oaths now as before. If it has been generally true, in New York, that the use of a register under this law has relaxed the vigilance of the officers of the polls, prevented challenges, and tended to impair the practical value of the other statutory provisions for the purity of elections, it has been a perversion of the act by elective officers, for which the people ought not to pay the penalty of a virtual temporary disfranchisement. If the registry is a substitute for the ordinary safeguards of elections, and dispenses with them, or any of them, the sooner it is itself dispensed with the better for the State of New York. For, in the first place, in a shifting city population, nothing can be more worthless as proof that a man is a resident of the election district on the day of the election, than a register completed several days before the election; in the next place, the opportunity nominally afforded to the people to correct the list is in practice embraced by a very small fraction of the voters, because most of them find it to be as much as they are able or willing to do to attend the polls; again, since the greater portion of every register consists of a transcript of that of the last year, it is obvious that its preparation must involve the risk of such errors as result from the changes of the year; and, finally, the opportunities for fraud are practically, although perhaps not theoretically, greater in the formation of the register than in the mere public proceedings of the polls.

If the official returns of this district shall be accepted, the sitting member will retain his seat. And if the House shall reach a vote upon the reports of the majority and minority of the committee, I shall vote in favor of the sitting member.

I wish to say, before I take my seat, a few words respecting the amendments which have been offered to the House. The proposition of the gentleman from Ohio [Mr. GARFIELD] contains two points: first, that the committee to whom this case shall be referred shall hear supplementary testimony respecting the legality of the votes given in this fifteenth district; and in the second place, shall report the facts respecting the existence of a usage in the city of New York under the election law in force in that city, by which inspectors of the register are chosen either from within or without the election district where the register is made.

Now, I have no great objection to the first point in the resolution, but I have serious objections to the second. As I understand it, the gentleman's resolution requires the Committee of Elections to report as to the existence of a usage which may or may not be in contravention of the positive law governing elections in that city.

Now, Mr. Speaker, if that usage is in conformity with law, proof of its existence is supererogatory, and there can be no possible object in obtaining such a report from the committee. If, on the other hand, the purpose of the gentleman is to call for a report showing a custom in contravention of the plain letter of the law, then I am utterly opposed to it, because I know now what the law was on the election day in 1864, and I know now what the law is at the present time; and I conceive that it is in opposition to all the recognized principles of law to set up a usage as opposed to a plain statute, if that usage shall be shown. If this proposition shall be adopted, and the Committee of Elections shall be called upon to report on the subject, I shall most cheerfully perform the duty imposed upon me as a member of that committee; but if it shall appear, from this new report of the committee, that such a usage did exist, or does to-day exist, it can by no possibility affect my vote in this House on the contest between these gentlemen, because I cannot see how we can permit such a usage either to contravene or to construe the plain letter of the law applicable to the case.

I am opposed also to the proposition of the gentleman from Ohio, [Mr. SPALDING,] who would refer the case back to the people on the hypothesis that there has been no election. I believe that there has been an election, that the people have performed their duty, and it is for us to perform ours by ascertaining, if we can ascertain, what the will of the people expressed at that election was.

Now, I have drawn up a proposition which I hope my friend from Ohio [Mr. GARFIELD] will accept as a substitute for his. If he does not accept it, then I shall embrace the first opportunity, if any shall be offered, to propose it, when it shall be in order, for a vote of the House. In case it shall fail, and the action of the House upon the propositions of the gentlemen from Ohio [Messrs. GARFIELD and SPALDING] shall not dispose of this case, then I shall vote for the sitting member. I send my resolutions to the Clerk's desk to be read.

The SPEAKER. The power of amendment is now exhausted; there is an amendment to the amendment pending.

Mr. PAINE. I understand that. Unless the gentleman from Ohio [Mr. GARFIELD] accepts my resolutions, I know I must wait.

The Clerk read Mr. PAINE's resolutions as follows:

Resolved, That the invalidity of the register of the fifteenth district of the eighteenth ward of the city of New York would not of itself justify the rejection of the official returns of the canvassers of that district.

Resolved, That this case be recommitted to the Committee of Elections to report upon supplementary proof to be made as provided in the next resolution.

Resolved, That either party be authorized to take supplementary testimony respecting the election in the fifteenth district of the eighteenth ward only,

before the 10th day of May next, complying with the statutory regulations applicable to the case: *Provided*, That five days' notice of any proposed examination of witnesses shall be sufficient.

The SPEAKER. The Chair will state to the gentleman from Wisconsin that the first resolution would not be in order now; but the other two resolutions proposing to recommit the whole matter to the Committee of Elections would be in order now.

Mr. PAINE. The Speaker has failed to understand me. I merely gave notice that at the proper time I would offer these resolutions.

The SPEAKER. The Chair supposed the gentleman desired to offer them now, if he could do so under the rules.

Mr. PAINE. No, sir, I desire to offer these resolutions together.

The SPEAKER. That is not in order at this time.

Mr. PAINE. Let me explain why I am unwilling to offer the last two resolutions unless accompanied by the first.

I am unwilling that the case shall go to the committee incumbered by a dispute about the propriety of making the invalidity of the register of the fifteenth district a ground for the rejection of the returns of the canvassers in that district. Unless, therefore, these three resolutions can go together I do not desire to offer them.

Mr. GARFIELD. As those resolutions express in almost every particular what I desired to express in my resolution, and as these are drawn by a member of the Committee of Elections and are doubtless in better shape than mine is, I will accept them in place of mine.

Mr. BROOKS. It is now the 5th of April. Between now and the 10th of May is a very short time in which to repoll a district as large as the one in question.

The question was upon the resolution submitted by Mr. PAINE, and accepted by Mr. GARFIELD in lieu of his own.

Mr. SPALDING. Mr. Speaker, my purpose on the present occasion is merely to explain my own position, and to give some of the reasons which will control the vote I shall give upon the question now before the House.

I find from the report of the Committee of Elections that this contest arises in a congressional district in the city of New York, which cast 21,562 votes in the election in question. Of that number the sitting member received 8,583 votes, the contestant received 8,435 votes, and the third candidate received 4,544. In reality, therefore, the contestant in the present case did not receive one half of the whole number of votes cast in that district by 2,346 votes.

Now, by the duties of my place, I find myself compelled to act as a judge between two gentlemen of high respectability. And waiving all feelings of partisanship, which I know are very powerful with me, if not with others, I am disposed to do as between those gentlemen what the dictates of justice may seem to require. I do not claim to be as well versed in the merits of this question, in the history of the case and the evidence pertaining to the case, as any one member of the Committee of Elections. I may not presume to have that knowledge. But I do claim that I have listened attentively to the arguments which have been made here; I do claim that I have examined to some extent the reports of the majority and the minority of the committee, and the testimony upon which those reports are predicated. And I am satisfied entirely that this election, which took place on the 8th of November, 1864, was wholly irregular. I am satisfied that the laws of the State of New York, prescribing the way and manner in which these congressional elections should be held, were not complied with to any great extent by the parties in interest, or rather by those to whom the authority was given for superintending the election. I am further persuaded that numerous frauds were practiced on the one side and on the other; of this I can entertain no doubt.

I cannot doubt but that the registry was a fraudulent one in many respects. Witnesses have been sworn and examined who testified that they themselves aided in making up the registry by putting on the names of fictitious persons, persons who had once lived in the district but had moved out of it, or had deceased. Many things of this sort conspire to bring my mind, as I think it must the mind of any candid man, to the conclusion that the election itself was irregular.

The objections to the election, as given to us by the majority of the Committee of Elections, are brought to bear more especially upon the fifteenth district of the eighteenth ward and seventh district of the twenty-first ward. And they give the reasons why the returns from those districts should be rejected. I cannot say but that my judgment approves of the reasons deduced by the majority of the committee for rejecting these returns.

Now, when we have done that, when you have rejected from those two districts votes to the number of 835; in the fifteenth district rejecting for the sitting member 221 votes, and for the contestant 57 votes; and in the seventh district rejecting for the sitting member 160 votes and for the contestant 71 votes; when we have done that, where do we find ourselves? It will be noticed that those two districts gave heavy majorities for the sitting member. But they are swept away, so that his large majorities in those districts count for nothing.

But the vote is different in one other district, the thirteenth district of the twenty-first ward, to which the sitting member took exception on the ground that there were such irregularities there that they rendered the election return invalid. In that district the sitting member received only 136 votes, while the contestant received 394 votes, and the third candidate but 27 votes. Now it is alleged that at one period during the canvass in this district, all three of the inspectors or canvassers left the polls and retired to a drinking-house, and were absent, as was conceded by my friend who has just argued the case for the majority of the committee, [Mr. SHELLABARGER,] for the space of twenty minutes.

And I call upon the House now to bear me witness when I say that I gave that learned and ingenious gentleman a fair opportunity to explain to this House how he could cure this defect in the transaction in that district. It has been shown that the canvassers, one and all, went to a drinking-house and were absent for twenty minutes, leaving the ballots upon a table where any and all persons could have access to them, and where the ballot-box could have been stuffed to any extent. I gave the gentlemen full opportunity to explain why the committee did not also reject the returns from that district.

Sir, his reply was given with a great deal of assurance; and my learned friend and colleague, being a good lawyer, has the skill when he feels that he is arguing on the weaker side, to put on an air of assurance and speak in an impressive tone of voice. Said he, "I can answer the question readily. The constitution and the laws did not sanction that adjournment of those canvassers for that space of time, hence the committee found no defect there whatever."

Mr. SHELLABARGER. My colleague entirely misapprehended me.

Mr. SPALDING. If I have made any mistake, I will yield to the gentleman with pleasure for an explanation.

Mr. SHELLABARGER. I do not mean to say whether the gentleman misapprehended my manner; but he has misunderstood what I said. I said that, as I understood the matter, what occurred was not an adjournment or postponement within the meaning of the laws of New York. I further said that the weight of the testimony showed that, even if an adjournment within the meaning of the law did occur, it did not take place until after the canvass had been completed. I said, moreover, that I would not go into that question more fully, because, so far as it had not been discussed, it would be discussed by the able chairman of the committee, and I did not desire that the House should be wearied by listening to the argument twice. Let me add, with the permission of my colleague, that so little importance was attached to that question in the discussions before the committee that, so far as I recollect, it was not orally argued by any one.

Mr. SPALDING. Mr. Speaker, I think I have done no injustice to my colleague. I stated substantially his reply: that the adjournment from the polls to the liquor shop was not under any law. The gentleman now admits it. Sir, I ask what difference did it make whether the adjournment was according to law or against the law? Could not the same frauds have been perpetrated in the one case as in the other?

The gentleman says that the votes had been counted. Sir, I learn from the report of the minority that the votes had simply been sorted in bunches of tens; they had not been counted to ascertain how many votes there were for one candidate or the other. They were simply set apart in tens upon the table, and they could be interfered with as readily as if they had not been sorted at all.

The gentleman, I admit, said that this objection would be answered more fully by the chairman of the committee in the closing argument. That undoubtedly will be so; and perhaps the argument of the chairman will satisfy my mind in reference to this point. But I must be permitted to say that I find some presumptive evidence in support of the position that frauds may have intervened while those gentlemen went out to the liquor shop. While the vote of the sitting member falls very considerably below the vote given for McClellan, for President, the vote of the contestant surpasses by a considerable number the vote given for Abraham Lincoln in the same precinct. McClellan received 185 votes, Brooks 134; Lincoln 376, Dodge 394. Now, sir, if we are to draw inferences from such facts as these, there may arise an inference of fraud in this respect, in consequence of the opportunity given for fraud by the retiring of the canvassers on the occasion referred to.

But, Mr. Speaker, the weighty consideration with me in this case is that we are sitting here, not so much in the character of judges between the sitting member and the contestant, as to protect the rights of the people of the city of New York, who are constitutionally entitled to representation here. And I say that we have no right to reject the sitting member in consequence of the irregularity of the returns made in two precincts where the votes were returned greatly in his favor while we accept the returns of precincts which gave his opponent a majority, and in regard to which the objection to the validity of the return is equally strong, thus unseating one gentleman and seating another irrespective of the wishes of the people of the district. Why, sir, if the main argument of my colleague [Mr. SHELLABARGER] be sound, we may go on through the agency of a committee and reject the returns of one district after another on the ground of some irregularities, until finally we reduce the number of votes to 100 from a district casting 20,000, and then we may declare that those 100 votes should entitle a man to a seat on the floor of Congress. Sir, it will never do to adopt such a rule as that. Never; never. It will not answer for the gentlemen to say they can break down the popular will by casting out the returns of two or three or four districts, and then requiring of some sitting member, or of some contestant, to show by affirmative proof how each individual votes. It strikes me that is requiring an impossibility at the hands of either the sitting member or the contestant, to go into the wards of the city of New York, where the population is transient, changing every twenty-four hours; where it is difficult at any time to trace them, and require three or four months afterward proof as to each individual voter, and as to how each individual voter voted.

I have brought my mind to the conclusion, Mr. Speaker, that we can do justice only in one

way here, and that is, where the returns are so defective as these were, to send the matter back to the people of the district and let them elect a member of Congress agreeably to the laws of the State of New York. With that disposition of the question the people of New York will have no reason to complain, and the people of other States will have no reason to complain. We shall satisfy justice and satisfy the dictates of our own consciences, which is much better.

Mr. DAWES. I take the floor to call the previous question, but I will yield the floor to the sitting member if he desires to be heard.

Mr. BROOKS. I do desire to be heard.

Mr. GARFIELD. Allow me to say that I understood my resolution, as modified by the gentleman from Wisconsin, [Mr. PAINE,] was so drawn as to confine the investigation to the fifteenth district of the eighteenth ward. I see it is not so stated definitely, and I want that added.

Mr. PAINE. Such was my object, and I will modify it accordingly.

EVENING SESSION DISPENSED WITH.

Mr. STEVENS. I move that the session for this evening be dispensed with.

The motion was agreed to.

ENROLLED BILL SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled Senate bill No. 80, for the relief of J. B. Rittenhouse, fleet paymaster of the Pacific squadron, when the Speaker signed the same.

NEW YORK CONTESTED ELECTION—AGAIN.

Mr. BROOKS addressed the House. [His speech, when concluded, will be found in the Appendix.] Without concluding his speech, he yielded to

Mr. HALE, who said: If the gentleman does not desire to complete his argument this afternoon, I will ask him to give way to a motion to adjourn.

Mr. BROOKS. I will yield for that purpose.

Mr. HALE. I now move that the House adjourn.

Mr. DAWES. Before the vote is taken, allow me to suggest to my friend from New York [Mr. BROOKS] that he continue his argument until half past four, unless he is about to enter upon a new branch of his argument.

Mr. BROOKS. I am just approaching a new branch of the subject.

Mr. DAWES. Very well.

Mr. WILSON, of Iowa. Will the gentleman from New York [Mr. HALE] withdraw the motion to adjourn for a few moments, that some Senate bills on the Speaker's table may be taken up and referred to the Committee on the Judiciary, which will meet to-morrow morning? It will take but a few moments.

Mr. HALE. I will withdraw the motion for that purpose.

SUPREME COURT, DISTRICT OF COLUMBIA.

On motion of Mr. WILSON, of Iowa, Senate bill No. 184, to define more clearly the jurisdiction and powers of the supreme court of the District of Columbia, and for other purposes, was taken from the Speaker's table, read a first and second time, and referred to the Committee on the Judiciary.

On motion of Mr. WILSON, of Iowa, Senate bill No. 43, to prescribe the mode of settling the accounts of the clerk of the supreme court of the District of Columbia, was taken from the Speaker's table, read a first and second time, and referred to the Committee on the Judiciary.

SUPREME COURT REPORTS.

On motion of Mr. WILSON, of Iowa, Senate bill No. 186, amendatory of an act to provide for the reports of the decisions of the Supreme Court of the United States, was taken from the Speaker's table, read a first and second time, and referred to the Committee on the Judiciary.

REORGANIZATION OF THE JUDICIARY.

On motion of Mr. WILSON, of Iowa, Senate bill No. 103, to reorganize the judiciary of the United States, was taken from the Speaker's table, read a first and second time, and referred to the Committee on the Judiciary.

REAR ADMIRAL HIRAM PAULDING.

On motion of Mr. RICE, of Massachusetts, Senate joint resolution No. 53, authorizing Rear Admiral Hiram Paulding to accept a decoration from the King of Italy, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Naval Affairs.

HYDROGRAPHIC OFFICE, NAVY DEPARTMENT.

On motion of Mr. RICE, of Massachusetts, Senate bill No. 174, to establish a hydrographic office in the Navy Department, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Naval Affairs.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed joint resolutions of the following titles, in which the concurrence of the House was requested:

Joint resolution (S. R. No. 56) authorizing the Secretary of the Treasury to adjust the claim of Beals & Dixon against the United States; and

Joint resolution (S. R. No. 51) respecting bounties to colored soldiers, and the pensions, bounties, and allowances to their heirs.

It also announced that the Senate had passed, without amendment, House bills of the following titles:

An act (H. R. No. 420) to provide arms and ammunition for the defense of the inhabitants of Dakota Territory; and

An act (H. R. No. 215) for the benefit of John W. Gamble.

It also announced that the Senate had concurred in amendments of the House to Senate bills of the following titles:

An act (S. No. 80) for the relief of J. B. Rittenhouse, fleet paymaster of the Pacific squadron; and

An act (S. No. 80) granting a pension to Sarah Fitzgibbon.

FRAUDS OF CLAIM AGENTS.

Mr. BUNDY, by unanimous consent, submitted the following resolution:

Whereas there are certain persons located in the city of Washington, who style themselves claim agents, professing to have special facilities for the collection of soldiers' claims against the Government of the United States; and whereas such persons as such agents have in their possession and under their control a large number of claims belonging to soldiers and sailors, covering vast sums of moneys, which must pass through the hands of such claim agents or attorneys; and whereas certain of those agents have collected and appropriated to their private use, moneys arising from such claims and refuse to pay the same to the rightful owners thereof; and whereas there is no law providing for the adequate punishment of such dishonest agents or attorneys: Therefore,

Resolved, That the Committee on the Judiciary be instructed to report a bill which will more effectually protect the soldiers and sailors in securing the payment of all moneys which may come into the hands of such agents or attorneys, by providing that all defaulting agents or attorneys shall be declared guilty of embezzlement, and shall be punished in the same manner as is or may be provided for the punishment of embezzlement or grand larceny.

Mr. FARNSWORTH. I ask the consent of the House to say a word or two for the purpose of giving notice to the soldiers throughout the country of a fraud which is being perpetrated upon them by these claim agents.

The SPEAKER. The Chair hears no objection, and the gentleman will proceed.

Mr. FARNSWORTH. I have recently received numerous letters from soldiers in Illinois, who inform me that claim agents in Washington are sending them circulars promising them fabulous amounts in the shape of bounty and land-warrants. I have received letters from soldiers asking me to procure their land-warrants for them, inquiring whether I could not get them for less than the sum for which these claim agents offer to procure them. These agents are sending circulars all over the country, representing that the soldiers are entitled to bounties and land-warrants, in anticipation of some law of Congress granting land-warrants and equalizing bounties. These agents inform the soldiers that they are entitled to large sums as bounty and to land-warrants for one hundred and sixty acres of land, and ask them to send their discharges and other documentary proof.

Now, sir, I desire to give notice to the country, and I hope that the reporter of the Associated Press will publish it in his report, that it may extend to every part of the country, that these claim agents in the city of Washington, as a class—there may be exceptions—are a set of infernal rascals and cheats, utterly unworthy to be trusted.

The SPEAKER. As this subject has been referred to, the Chair, if the House will indulge him, desires to make a single remark.

A claim agent, named George E. Lemon, called upon the occupant of the chair, asking authority to refer to him in the prosecution of his business, which permission was positively refused. Circulars were, however, sent over the country, using the name of the Speaker of the House as a referee for this agent; and the Chair is every day engaged in answering letters of inquiry from soldiers and others, and informing them that he never gave any authority for the use of his name in that manner.

Mr. GRINNELL. I desire to say that this same individual has used my name in the same way without authority, and I have also received these letters of inquiry. I have no knowledge of the person whatever.

Mr. MORRILL. One of my constituents has inquired of me whether there is any such person as the individual who has been named. I have not, on inquiry, been able to find any such person, but I have found his name recorded in the Pension Bureau as a licensed claim agent.

The resolution was agreed to.

DISTRICT OF COLUMBIA BILLS.

On motion of Mr. INGERSOLL, the following Senate bills were taken from the Speaker's table, severally read a first and second time, and referred to the Committee for the District of Columbia:

An act (S. No. 167) to incorporate the Women's Hospital Association of the District of Columbia;

An act (S. No. 185) to preserve evidence of marriages in the District of Columbia;

An act (S. No. 177) to incorporate the National Safe Deposit Company of Washington, in the District of Columbia;

An act (S. No. 158) to facilitate the settlement of the accounts of the Treasurer of the United States, and to secure certain moneys to the people of the United States or to persons to whom they are due and who are entitled to receive the same;

An act (S. No. 43) to prescribe the mode of settling the accounts of the clerk of the supreme court of the District of Columbia;

An act (S. No. 218) exempting the property of debtors in the District of Columbia from levy, attachment, or sale on execution;

An act (S. No. 90) enlarging the powers of the levy court of the county of Washington, in the District of Columbia; and

An act (S. No. 51) to incorporate the Potomac Navigation and Transportation Company of the District of Columbia.

LEAVE OF ABSENCE.

On motion of Mr. HOTCHKISS, leave of absence was granted to Mr. HUBBARD, of New York.

GUNBOAT FOR LIBERIA.

On motion of Mr. BANKS, Senate bill No. 229, to authorize the President of the United States to transfer a gunboat to the Government of Liberia, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Foreign Affairs.

NAVY APPROPRIATION BILL.

On motion of Mr. STEVENS, the House proceeded to the consideration of the amendments of the Senate to House bill No. 122, making appropriations for the naval service for the year ending June 30, 1867, as reported from the Committee on Appropriations.

First amendment:

Strike out the following:
Provided, That there be transferred from appropriations for fuel to the contingent expenses of the Bureau of Equipment and Recruiting.
And in lieu thereof insert the following:
Bureau of Equipment and Recruiting:
For expenses that may accrue for the following purposes, namely: expenses of recruiting, traveling expenses of officers, transportation of men, printing and stationery, advertising in public newspapers, postage on public letters, wharfage and demurrage, apprehension of deserters, pilotage and towage of vessels, and assistance to vessels in distress, $800,000.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

Second amendment:

Insert the following:
Provided, That in the purchase of carpets and furniture provided for in this act they shall be of domestic manufacture.

The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

Third amendment:

After these words:
For the purchase of Seavey's Island, $105,000: *Provided*, That a perfect and approved title in fee to the whole island can be obtained and vested in the United States for that sum,
Add the following:
And provided further, That in case the owners of lots and improvements on said island shall not agree to receive said sum for the whole of said island and the privileges and improvements thereunto belonging, the Secretary of the Navy is hereby directed to discontinue communication from said island through said navy-yard, to take effect on the 1st day of January, 1867.

The Committee on Appropriations recommended concurrence in the amendment numbered three, with an amendment striking out the words "the Secretary of the Navy is hereby directed to discontinue communication from said island through the said navy-yard," and inserting in lieu thereof, "the Secretary of the Navy is hereby authorized to discontinue the public use of the bridge and thoroughfare leading from said island to and across the navy-yard."

Mr. RICE, of Massachusetts. I desire to state, if the amendment suggested be adopted, the proviso will then read as the law does at present. The Secretary of the Navy is now authorized to discontinue that bridge.

Mr. STEVENS. I move to strike out "authorized" and insert "required."

Mr. STEVENS's amendment was agreed to.

The amendment of the Committee on Appropriations as amended was agreed to; and then the amendment of the Senate as amended was concurred in.

Fourth amendment:

Insert under the head of "Boston," the following:
For purchase of Oakman & Eldridge's wharf, $135,000; *Provided*, That this sum shall cover the whole cost of the property, and that it can be acquired on terms satisfactory to the Secretary of the Navy.

The Committee on Appropriations recommended non-concurrence.

The amendment was non-concurred in.

Fifth amendment:

Insert the following:
For quay-wall extension at sewer, $100,000.
For continuing the work on the new machine and boiler shop, $100,000.

The Committee on Appropriations recommended non-concurrence.

The amendment was non-concurred in.

Sixth amendment:

Under the head of "Norfolk" insert the following:
For ship-joiners' shop and timber shed No. 12, $45,000.
For storehouse No. 14, $46,000.

The Committee on Appropriations recommended non-concurrence.

The amendment was non-concurred in.

Seventh amendment:

Strike out "or so much thereof as may be necessary, twenty" and insert in lieu thereof, "and for repairs, of all kinds, fifty;" so that it will read:
For the preservation of the property of the United States at the Pensacola navy-yard, and for repairs of all kinds, $50,000.

The Committee on Appropriations recommended non-concurrence.

The amendment was non-concurred in.

Eighth amendment:

Insert the following:
And the pay of the clerk of the yard and first clerk to naval storekeeper at each of the navy-yards at Portsmouth, New Hampshire, and Philadelphia shall be $1,200 per annum, the same as those rates received at Boston, New York, and Washington.
For the construction of a levee on the river front of the Government property at Mound City, Illinois, $7,000.
To pay mileage of Visitors to the Naval Academy, $1,000.

The Committee on Appropriations recommended concurrence in the amendment numbered eight, with an amendment striking out all after the words "per annum," and inserting as follows:

For testing the use of petroleum as a fuel under marine boilers, $5,000.

The amendment was agreed to, and the amendment of the Senate as amended was concurred in.

Ninth amendment:

Insert the following:
For the purchase of the land adjacent to the Naval Academy at Annapolis, belonging to the State of Maryland, and known as the Government house and grounds, $25,000.
For the purchase of other grounds at Annapolis for the use of the Naval Academy, $25,000.
For the erection of a building suitable for the accommodation of the third and fourth classes of the Naval Academy, $100,000.
For the erection of a foundery and machine-shop at the Naval Academy, $20,000.
For the increase of the library at the Naval Academy, $2,000.
For the enlargement of the chapel at the Naval Academy and for the erection of mural tablets therein to commemorate the memory of naval officers who have sacrificed their lives in the service of the country, $7,000.

The Committee on Appropriations recommended concurrence in the amendment numbered nine, with an amendment striking out the second clause thereof, and also striking out the words "foundery and" in the fourth clause thereof.

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

Tenth amendment:

In the following strike out "twenty-five" and in lieu thereof insert "fifteen:"
For preparing for publication the American Nautical Almanac, $25,850.

The Committee on Appropriations recommended non-concurrence.

The amendment was non-concurred in.

Eleventh amendment:

In the following strike out "July," and insert "May:"
SEC. 2. *And be it further enacted*, That so much of the first section of the act making appropriations for the naval service, approved July 21, 1864, as appropriates $250,000 "for bounties for destruction of enemies' vessels, as per act of July 17, 1862," be amended so that said appropriation shall apply to all cases of destruction of enemies' vessels during the recent rebellion, and at the same rate as is provided in the act to which reference is made.

The Committee on Appropriations recommended concurrence.

The amendment was concurred in.

Twelfth amendment:

Insert the following:
SEC. 4. *And be it further enacted*, That the second section of an act entitled "An act to regulate the pay of the Navy of the United States," approved March 3, 1865, and all acts and parts of acts authorizing the appointment of Navy agents be, and the same are hereby, repealed.
SEC. 5. *And be it further enacted*, That the examination of candidates for admission to the Naval Academy shall be held at such stated times as the Secretary of the Navy may direct.
SEC. 6. *And be it further enacted*, That the office of assistant in Bureau of Ordnance be, and the same is hereby, abolished.
SEC. 7. *And be it further enacted*, That hereafter no vacancy in the grade of professor of mathematics in the Navy shall be filled.
SEC. 8. *And be it further enacted*, That the act approved August 31, 1852, for surveys and reconnoissances, for naval and commercial purposes, of such parts of Behring straits, of the north Pacific ocean, and of the China seas, as are frequented by American whale ships and by trading vessels in their routes between the United States and China be, and the same is hereby, revived, and the Secretary of the Navy is hereby authorized and required to recommence and continue surveys and reconnoissances in the Pacific ocean not yet fully examined, by using such vessels, officers, crews, outfits, and supplies of the Navy as may be necessary and available for that service.
SEC. 9. *And be it further enacted*, That, for the purpose of settling the accounts of disbursing officers of the Navy where payments for contingent expenses have been made from the appropriation for the pay of the Navy prior to the passage of the act making appropriations for the fiscal year 1863-64, the Secretary of the Treasury be, and he is hereby, authorized to transfer from the appropriation for the pay of the Navy to the appropriation for contingent the sum of $245,904 12.

The Committee on Appropriations recommended concurrence in the amendment numbered twelve, with an amendment, so that the first section thereof shall read as follows:

And be it further enacted, That so much of the second section of an act entitled "An act to regulate the pay of the Navy of the United States," approved March 3, 1835, as prohibits any allowance to any officer in the naval service for rent of quarters, or for furniture, or for lights, or fuel, or transporting baggage, and all acts and parts of acts authorizing the appointment of Navy agents, be, and the same are hereby, repealed.

Mr. RICE, of Massachusetts. I move to amend section six by adding at the end the words "if approved by the Secretary of the Navy." I am not aware that he has been consulted on this subject. The section will then read:

That the office of assistant in Bureau of Ordnance be, and the same is hereby, abolished, if approved by the Secretary of the Navy.

Mr. STEVENS. I have no objection to that.

The amendment was agreed to.

The question recurred on concurring in the amendments of the Senate as amended, and they were concurred in.

Mr. STEVENS moved to reconsider the vote by which the House acted on the amendments of the Senate; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. STEVENS. I now move that a committee of conference be appointed on the part of the House.

The motion was agreed to.

LEAVE OF ABSENCE.

Mr. DRIGGS asked and obtained leave of absence for Mr. JULIAN for ten days.

And then, on motion of Mr. HALE, (at four o'clock and forty minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to the appropriate committees:

By the SPEAKER: The proceedings of a public meeting of Union men in Overton county, Tennessee, signed by 114 voters thereof.

By Mr. BROOMALL: The petitions of citizens of the cities of Chester and Philadelphia, Pennsylvania, asking an appropriation for the harbor of the former city.

By Mr. DRIGGS: The petition of Jonathan Dayton, and 200 others, citizens of Grand Blanc, Michigan, asking for an increase of duty on wool.

Also, the petition of J. S. Judson, and 50 others, citizens of Bay City, Michigan, for a law to regulate insurance between the States.

By Mr. DAWSON: The petition of 80 citizens of Fayette county, Pennsylvania, asking for the establishment of a post route from Farmington to Brandonville, Virginia, with a new post office located at Shinbone Alley, Wharton township, Fayette county, aforesaid.

By Mr. ELIOT: The petition of W. W. Crapo, and others, citizens of Massachusetts, praying that compensation may be allowed to the officers and crew of the Kearsarge for the destruction of the Alabama, according to the recommendation of the Secretary of the Navy.

By Mr. ECKLEY: The petition of Robert George, and 117 others, wool-growers of eastern Ohio, asking an additional duty on wool.

Also, the petition of 53 citizens of Marlborough, Stark county, Ohio, on the same subject.

By Mr. FERRY: The memorial of many citizens of Ottawa county, Michigan, asking for the establishment of a post route from Holland to Grand Rapids, via Zeeland, Vriesland, Jamestown, and Grandville.

By Mr. FARNSWORTH: The petition of D. Valentine, and numerous others, of Aurora, Illinois, for increased tariff on wool.

By Mr. HUBBELL, of New York: The petition of H. A. Brigham, paymaster United States Army, praying for increase of pay.

By Mr. HOLMES: The petition of E. B. Tillotson, and others, citizens of Madison county, New York, for an increase of the tariff on wool.

By Mr. HOTCHKISS: The petition of citizens of Tioga county, New York, for the adoption of uniform laws upon the subject of insurance.

By Mr. JULIAN: Four petitions of citizens and working men of Pittsburg and vicinity, in Pennsylvania, being 524, praying Congress to fix eight hours as a lawful day's work as to all Government employés.

Also, the like petition of 68 working men, of Johnstown, Pennsylvania.

Also, the like petition of 58 working men, of Williamsport, Pennsylvania.

By Mr. KELSO: The petition of W. B. Edwards, for damages sustained from the burning of mill, stillhouse, and other property by Federal troops.

By Mr. KETCHAM: The petition of 104 citizens of Pine Plains, New York, praying for increased protection on American wool.

Also, the memorial of Hunt & Miller, Benedict & Rainey, and others, of Hudson, New York, for a change in the law for the taxation of stoves composed of cast and sheet iron, respectively, so that the tax shall be imposed on the increased value only.

By Mr. KELLEY: A memorial of 87 citizens of Philadelphia county, Pennsylvania, praying your honorable body to so amend the tariff laws of the United States as to protect the manufacturing and laboring classes of our country to the extent of the difference of the cost of capital and labor here and abroad, with the addition of the taxes paid by American industrial products from which the foreign are free.

By Mr. LAWRENCE, of Pennsylvania: Eight petitions, very numerously signed, from citizens of Washington county, Pennsylvania, asking an increase of duty on foreign wools.

By Mr. LYNCH: The petition of Joseph Bradford, and others, assistant assessors, for increase of pay.

By Mr. MORRIS: Twelve petitions, numerously signed by citizens and wool-growers of Yates and Ontario counties, New York, asking for an increase of duty upon imported wool.

Also, two petitions of citizens of said counties and State, asking for the passage of a law in relation to inter-State insurances.

By Mr. RICE, of Maine: The petition of A. N. Atkinson, and others, legal voters in the town of Atkinson, Maine, asking additional compensation to postmasters of the fifth class, and for allowance for stationery, &c.

By Mr. TAYLOR: The petition of Andrew Smith, and 43 others, local expressmen in the city of New York, praying to be relieved from the tax of three per cent. on the gross receipts of their business, they being, in addition to the foregoing tax, obliged to pay yearly a Government license of ten dollars, a city license of five dollars, and $2 50 yearly for a renewal of license on each wagon used in their business.

By Mr. VAN HORN, of New York: The petition of citizens of —— county, New York, asking an increased duty on wool.

By Mr. WARD: The petition of Mr. Benson, for relief for moneys expended in securing a treaty with certain Indian tribes.

Also, the petition of Byron Tyson, for relief.

IN SENATE.

FRIDAY, *April* 6, 1866.

Prayer by Rev. A. D. GILLETTE, D. D., of Washington.

The Journal of yesterday was read and approved.

COMMITTEE SERVICE.

The PRESIDENT *pro tempore*. In compliance with the order of the Senate, directing the Chair to fill the vacancies in the Committee on Pensions, the Chair announces the appointment of Mr. EDMUNDS and Mr. SAULSBURY.

PETITIONS AND MEMORIALS.

Mr. MORGAN. I present the memorial of the Bank for Savings in the city of New York, signed by its president, and which is also concurred in by the Brooklyn Savings Bank, the Seamen's Bank for Savings, the Greenwich Savings Bank, the Bowery Savings Bank, the Institution for the Savings of Merchants' Clerks and others, and the Manhattan Savings Institution, in which they pray that the Senate and House of Representatives may be pleased to reconsider their action whereby the principal and the interest of such small savings as are confided to their keeping by their depositors are subjected to special taxation, and so to modify the law now in force that the savings of the poor may not become taxable merely because they are lodged in the institutions of which your memorialists are managers and trustees. This is a very important memorial, and affects a very large class of persons. I suppose the proper reference of it would be the Committee on Finance, and I move that reference.

The motion was agreed to.

Mr. HOWE presented a petition of citizens of Wisconsin, praying for the enactment of just and equal laws for the regulation of inter-State insurances of all kinds; which was referred to the Committee on Commerce.

Mr. WILLIAMS presented a petition of the citizens of the State of Oregon and Washington Territory, praying for the payment of claims that accrued to those citizens in the Indian war of 1855 and 1856, in accordance with the order of a commission authorized by act of Congress to audit such claims; which was referred to the Committee on Military Affairs and the Militia.

Mr. TRUMBULL presented the petition of D. C. Cone, and others, citizens of Knox county, Illinois, praying that the two races, blacks and whites, may be separated, and that the blacks may be colonized either in some foreign country or some distinct portion of the United States set apart to them; which was referred to the Committee on Military Affairs and the Militia.

He also presented a petition of E. T. Hollister, and others, citizens of Alton, Illinois, praying for the enactment of equal and just laws regulating inter-State insurances of all kinds; which was referred to the Committee on Commerce.

Mr. HENDERSON presented a petition of J. B. Johnson, praying to be reimbursed for losses sustained by him by the destruction of his property during the late war; which was referred to the Committee on Claims.

PAPERS WITHDRAWN AND REFERRED.

Mr. DOOLITTLE. I have been requested by the parties interested to ask that the petition of Ceran St. Vrain, for himself and the heirs of Ignacio Vigil, praying for the confirmation of a private land claim in New Mexico, be withdrawn from the files of the Senate and referred to the Committee on Private Land Claims.

Mr. CONNESS. I should like to know what that is.

Mr. DOOLITTLE. It is a petition in relation to a private land claim in New Mexico. I do not know personally what it is, but a gentleman handed me the papers and requested me to have them referred to the Committee on Private Land Claims.

Mr. GRIMES. Has there been any adverse report?

Mr. DOOLITTLE. I think not. If there has been I do not ask that the papers be withdrawn.

The PRESIDENT *pro tempore*. That order will be made if there be no objection.

On motion of Mr. DAVIS, it was

Ordered, That Maria L. Saunders have leave to withdraw her petition and other papers from the files of the Senate.

REPORTS OF COMMITTEES.

Mr. VAN WINKLE, from the Committee on Pensions, to whom was referred the bill (H. R. No. 363) supplementary to the several acts relating to pensions, reported it with amendments.

He also, from the same committee, to whom was referred a bill (S. No. 239) for the classification and graduation of invalid pensions, asked to be discharged from its further consideration; which was agreed to.

Mr. HENDERSON, from the Committee on Claims, to whom was referred the memorial of Thomas Laurent, praying for the payment of a balance alleged to be due him on account of money seized from him by General Scott in Mexico in 1847, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the memorial of Captain H. Clay Wood, of the eleventh regiment United States infantry, praying compensation for property lost by the evacuation of Fort Cobb, Texas, under Post Order No. 87, issued for the evacuation of that post in 1861, submitted an adverse report; which was ordered to be printed.

Mr. YATES, from the Committee on the District of Columbia, to whom was referred a memorial of women of Fulton county, Illinois, remonstrating against licenses being granted to drinking saloons, gaming houses, &c., asked to be discharged from its further consideration, and that it be referred to the Committee on Finance; which was agreed to.

Mr. KIRKWOOD, from the Committee on Pensions, to whom was referred the petition of Sarah E. Wilson, praying for a pension, reported a bill (S. No. 252) granting a pension to Mrs. Sarah E. Wilson. The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. CLARK, from the Committee on Claims, to whom was referred the petition of James Crutchett, praying for compensation for the occupation and use of his property in Washington city, by the Government, for military purposes, reported a joint resolution (S. R. No. 60) referring the petition and other papers in the case of James Crutchett to the Court of Claims; which was read, and passed to a second reading.

Mr. WILLEY, from the Committee on the District of Columbia, to whom was recommitted the bill (S. No. 190) to incorporate the District of Columbia Canal and Sewerage Company, reported it with amendments.

PRINTING OF A BILL.

On motion of Mr. POMEROY, it was

Ordered, That the bill (S. No. 212) to aid in the construction of the Kansas and Neosho Valley railroad, connecting the great lakes, Iowa, Missouri, and Kansas, with Texas and the Gulf of Mexico, and to secure to the Government the use of the same for military, postal, and other purposes, be printed.

BILLS INTRODUCED.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 253) to incorporate the First Congregational Society of Washington; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. FESSENDEN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 254) to amend an act entitled "An act to provide a national currency secured by a pledge of United States bonds and to provide for the circulation and redemption thereof;" which was read twice by its title.

Mr. FESSENDEN. I move that it be referred to the Committee on Finance and ordered to be printed.

Mr. GRIMES. I should like to hear it read at length.

Mr. FESSENDEN. I beg the Senator not to ask to have it read. It will be referred and printed and then he can see what it is. It is rather long.

The PRESIDENT *pro tempore*. The order to print will be made, and the bill will be referred to the Committee on Finance.

HOUSE BILLS REFERRED.

The following bill and joint resolution from the House of Representatives were severally read twice by their titles, and referred to the Committee on Military Affairs and the Militia:

A bill (H. R. No. 456) to extend the benefits of section four of an act making appropriations for the support of the Army for the year ending June 30, 1866; and

A joint resolution (H. R. No. 105) giving construction to the law in relation to bounties payable to soldiers discharged for wounds.

CASCADE RAILROAD.

The Senate proceeded to consider the amendment of the House of Representatives to the bill (S. No. 105) to grant the right of way to the Cascade Railroad Company through a military reserve in Washington Territory.

The amendment was to add at the end of the bill the following proviso:

Provided, That nothing in this act shall be so construed as to give said company the right to occupy for any purpose whatever more than sixty feet in width on the line of said road, at any point or points where the space or pass between the river and bluff or mountain is so narrow as not to admit of the construction of another parallel railroad, turnpike road, canal, or other public work for transportation of freight or passengers.

Mr. NESMITH. I move that the Senate concur in that amendment.

The motion was agreed to.

REPRESENTATION OF SOUTHERN STATES.

Mr. LANE, of Kansas, asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 59) providing for admitting Senators and Representatives from the States lately in insurrection into the Congress of the United States; which was read twice by its title.

Mr. LANE, of Kansas. As this joint resolution is framed on the theory that has been followed by the President of the United States in the policy pursued by him for reconstructing the States lately in insurrection, I should be glad to have it read at length.

The Secretary read the resolution, which proposes that Senators and Representatives from either of the States lately in insurrection shall be admitted into Congress whenever it shall satisfactorily appear that such State has, in accordance with the advice of the President of the United States, passed laws annulling its ordinance of secession, ratifying the amendment of the Constitution of the United States abolishing slavery, repudiating all rebel debts, recognizing the debts of the United States, and extending the elective franchise to all male persons of color residing in the State over twenty-one years of age who can read the Constitution of the United States in the English language and write their names, and also to all male persons of color of like age and residence who own real estate valued at not less than $250, and pay taxes thereon. The resolution is accompanied by a proviso declaring that such Senators and Representatives shall possess all the qualifications required by the Constitution and laws of the United States.

Mr. BROWN. I should like to inquire of the Senator from Kansas whether he has any assurance that the President of the United States is of the same opinion now as he was when he uttered those sentiments.

Mr. LANE, of Kansas. I have no assurance from the President of the United States on that or any other subject; but this I do know, that the Republican party of which I am a member is crumbling to pieces, and that every day we postpone the reception of these States tends to insure the destruction of that party. I know further, that if both branches of the Congress of the United States pass this joint resolution and the President signs it, it will bring the Republican party and the President of the Republican party together in harmony, and continue the political power of this country in the hands of that party.

Sir, I have been laboring for months to harmonize the President of the United States with the majority on the floor of Congress. I thought yesterday that there was a hope of securing such a result. It did seem that some of the members of this body were disposed to harmonize with the President. I proposed to go very far yesterday to secure that harmony. But while pursuing this course, we were awakened by one of the most vindictive assaults ever made upon any official by either friend or opponent from the Senator from Ohio [Mr. WADE]—an assault upon my personal friend, a man who for two years sat side by side with me here, whom I learned to respect and admire for his pluck, his ability, and integrity, and to love for his manly virtues; a man whom I originally selected as the candidate of the Republican party for the second office within the gift of that party; a man whom I urged on the Republican convention at Baltimore as their candidate; a man whose election I did my utmost to secure against the efforts of the Senator from Ohio. In the most critical moment of that political campaign an assault was made on our presidential candidate in the same spirit evinced by him yesterday in his attack upon the President. I defended the candidate of the Republican party against that assault, and I defend the President of the Republican party against the assault of yesterday.

"A despot!" "A dictator!" In what? In seeking to reconstruct the rebellious States in violation of the wishes of the Congress of the United States? When Mr. Johnson took his seat in the presidential chair, I ask you, sir, what had Congress done? The people of the United States had done this: Mr. Lincoln had marked out the policy of reconstruction, since adopted by Mr. Johnson, and the people of the United States, the party to which the Senator from Ohio and myself belong, indorsed by triumphant majorities that very reconstruction policy. A despot for proposing, in violation of the wishes of the Congress of the United States, to reconstruct the insurrectionary States upon the theory expressed in that joint resolution annulling the ordinances of secession, ratifying the amendment to the Constitution abolishing slavery, repudiating the confederate debt, indorsing the national debt, and extending suffrage to all colored men who can read the Constitution of the United States and sign their names, and to all colored men owning and paying taxes upon $250 worth of property!

Mr. President, I am not as conversant with the constituency of the Senator from Ohio as he is, but I venture the assertion that outside of New England there is not a single northern State in this Union but will by a majority vote to indorse the policy of reconstruction advised by President Johnson and expressed in that joint resolution. You cannot carry before the people of this country suffrage to the unqualified black man. You cannot find a State in this Union outside of New England, in my judgment, that will indorse that policy. Restrict it to a qualification clause, as the President of the United States recommends, and you can carry the Republican Union party everywhere and with unanimity.

The President of the United States "a despot" for exercising a constitutional right in vetoing a bill passed by Congress! Mr. President, had the Senator from Ohio occupied the position which is occupied by President Johnson, in my judgment, he would have vetoed the civil rights bill. "A despot!" What is the exercise of the veto power? It amounts merely to a vote to reconsider, with the lights given in his reasons for the veto. When before has the exercise of a constitutional right justified a political friend of the President of the United States in denouncing that President as a despot and a dictator? He has been and is now, in my judgment, as anxious to harmonize the difficulties in the Union party as any Senator upon this floor. If he was met in the same spirit, that party would be reunited and this Union would be restored. His advances are met by insult; his advances are met by denunciation from the leader of the Republican party upon this Senate floor in language without a parallel. Mr. President, so far as I am concerned, I propose to-day and hereafter to take my position alongside the President of the Republican party and stand there unflinchingly so long as he remains faithful to the principles of that party, defending him against the Senator from Ohio as I defended his predecessor against the same Senator.

I should be glad to have the joint resolution lie upon the table for the present, and be printed.

The PRESIDENT *pro tempore*. That order will be entered, if there be no objection.

Mr. WADE. I am very sorry to see that my friend from Kansas is so much exercised this morning. I do not know why his nerves should be so shocked and shaken by anything that I have said or done. I certainly have said nothing in opposition to the project of reconstructing the States, that he has now laid before us, I believe, for the first time. When it was read, I thought it read very well, and I am not at all sure that I should not be willing to accept it. I want time to consider it. I do not know really what is in it. I will not make any pledges that I will accept it, but he attacks me very violently; as Lord Hale says, "he leaps before he comes to the stile." I have said nothing, certainly, in opposition to his proposition; really I do not know what it is entirely, but I thought it sounded very well on just hearing it loosely.

And now, sir, it is said I made an attack on the President of the United States. As a Senator upon this floor, I care no more about the opinions of the President of the United States than I do about those of any respectable Senator upon this floor, or any Senator on this floor. Who is your President, that every man must bow to his opinion? Why, sir, we all know him; he is no stranger to this body. We have measured him; we know his height, his depth, his length, his breadth, his capacity, and all about him. Do you set him up as a paragon and declare here on the floor of this Senate that you are going to make us all bow down before him? Is that the idea? You [to Mr. LANE, of Kansas,] are going to be his apologist and defender in whatever he may propose to do! Is that the understanding of the Senator from Kansas?

I do not believe that his constituents will be quite satisfied with so broad a declaration, that he is to wear any man's collar, and follow him wherever he may go. Did I use harsh language toward the President yesterday? All that I said I stand by to-day and forever. What was the question upon which I made those observations and what has been the opinion of the President heretofore; what has been his action since? Here are three million people, our friends, friends to the Government, who generously came forward in its difficulty and helped us throughout the war, sacrificed their blood and their lives to maintain the issue on our side, and who were faithful beyond all men that were ever faithful before, to us during the whole of the difficulty, everywhere assisting our brave soldiers in the field, laying down their lives to maintain our principles, and ministering in every way to the misfortunes of our brave men whenever they fell into the hands of those worse than savages with whom we were warring; and now these men are laboring, are under one of the most frightful despotisms that ever settled down upon the heads of mankind. Three million people are exposed to the outrages, the insolence, the murder of those worse than savages, their former masters, murdered as we hear every day, oppressed everywhere, their rights taken away, their manhood trampled under foot; and Congress, under the Constitution of the United States, endeavors to extend to them some little protection, and how are we met here? Every attempt of your Moses has been to trample them down worse, and to throw every obstruction in the way of any relief that could be proposed by Congress.

Mr. LANE, of Kansas. Will the gentleman permit me to ask him if his remarks of yesterday are published? I do not find them in the Globe. Are they published?

Mr. GRIMES. They are there.

Mr. WADE. I do not know anything about them; I do not look into the Globe; and I am not very apt to take back anything I have said, either.

Mr. GRIMES. They are on the third page.

Mr. LANE, of Kansas. I see them now.

Mr. WADE. Now, sir, how stands this matter? The President of the United States did at an early period profess to be the protector, the friend, the Moses of these men, to lead them from bondage to liberty. How has he redeemed that pledge? He has from all appearances become their inveterate and relentless foe, making violent war upon any member of Congress who dares raise his voice or give his vote in favor of any measure having for its object the amelioration of the condition of these poor people. Talk to me about the President being their friend! When did it ever happen before that a great measure of relief to suffering humanity on as broad a scale as this was met by the stern veto of the President of the United States, and without being able when he undertakes to make his obstruction to our measures to designate a single clause of the Constitution that he pretends has been violated.

My Lord Coke used to say that fraud lurketh in generalities. Look through that message, and in not a single place can he put his finger upon anything that looks like a violation of the Constitution of the United States. There is nothing in the bill that looked as if it had for its object anything except the means of affording some little relief to these poor people, these friends of ours, whom we are under the highest obligations that can devolve upon mortal man to see defended against their mortal enemies. How has the President redeemed his pledges?

Mr. LANE, of Kansas. Will the Senator permit me to ask him a question?

Mr. WADE. Certainly; ask me any question.

Mr. LANE, of Kansas. The Senator yesterday used this language:

"The issue the President has made with Congress, the quarrel he has picked with Congress from the very commencement, is nothing more or less than on the question of recognizing and permitting rebels to occupy their old places on this floor, for the utter destruction of the Government in my judgment and belief."

I ask the Senator from Ohio to point to a single expression, either oral or written, in which the President of the United States has advised, advocated, or urged the admission of other than truly loyal men upon the floor of either branch of Congress.

Mr. WADE. Is the Senator through?

Mr. LANE, of Kansas. I ask that question, sir.

Mr. WADE. I was answering the question in the first place with regard to his treatment of our friends in the South, three million people. I say he made a violent assault upon the Constitution and an assault upon the power of Congress in these repeated vetoes that are totally destitute of any reason that he can assign for them. He did say early, I admit, in the language I believe that the Senator has set forth in the proposition he has just submitted, that he would be favorable to some terms with these people, that they should have votes if they were able to read and write, if they came up to certain qualifications. We all believed that he was willing to do justice by these people; but the moment that we undertake to do anything to secure their rights, we are met by his stern hostility, denying them everything, denying their citizenship, denying their right to have citizenship extended to them, vetoing our bills because they endeavor to solve the doubt whether they are citizens or not, determined that now, henceforth, and forever, there shall be an inferior class of people, trampled under foot, without the right of citizenship, and without the power of Congress to make them citizens. That is the way that this Egyptian relief is extended to these men that he pretended he was friendly to. Yesterday what was the issue? I was charged with great cruelty on this floor, because I was unwilling to wait for recruits to be brought in here for the purpose of overthrowing the ground we had taken upon this important question whether these poor people shall have relief or not. Now, I wish to say that I am willing to extend courtesy to our old associates on this floor under other circumstances; but when you extend this kind of courtesy to them the result is death and destruction to three million people trampled under the feet of their former masters. My courtesy is extended to those poor men, and I would not wait a moment that their enemies may be brought in here in order to prevent our doing anything for their relief, joining with the President who is determined, if we may judge by his acts, that no measure having for its object any relief shall be extended to them.

Look at your frivolous second veto message, and tell me it is good faith, will you? Did you hear the facts stated here the other day, that bills were drawn with a view to escape the anathemas of your President, and were exhibited to him, and he asked if he had any objection to them, to look them over well, "because if we can, consistent with the object aimed at, make them clear of any objection you may have, we will do it?" The secret motive in his own heart was never divulged to mortal man until the measures were passed through Congress, and then sternly met by his veto. Is that good faith? And you talk about his respectability toward Congress! What did he say to that secession rabble that met him on the 22d of February? Had we commenced any assault upon him? Had any man uttered a word disrespectful of the President when he belched forth those anathemas against the majorities of Congress?

Mr. LANE, of Kansas. Had not the Senator from Massachusetts denounced him as having sent into this Senate "a white-washing message?" Had not the leader of the House of Representatives declared that if he had lived in early times in England he would have been hanged as a traitor, before that speech was made?

Mr. WADE. Does the Senator look upon that as a justification for an attack upon the power of the people as expressed through a majority of their Congress, amounting to two thirds of it? Suppose I, in intemperate language, as you say, had assailed the President unwarrantably, would that authorize him to visit upon your head and the heads of other Senators the stigma of being disunionists, leagued with the enemy to break up this Union? Is that friendly counsel from your Executive? You say you are going to defend all his measures; you are his apologist for anything he has done, or anything he may do. I did say, sir, that he seemed to have meditated a controversy with Congress from the beginning, and he has. He has treated our majorities as hostile to the people; two thirds of both branches of Congress have been treated by him as mere factionists, disunionists, enemies to the country bent upon its destruction, leaguing with the enemy to destroy the Government. This is the way the President has treated Congress, and every bill they have passed which promised any relief to the men whom we are bound to protect has been trampled under the executive heel; and even when members of this body did what I say they ought not to have done—for I do not approve of my brother TRUMBULL's going up to the President, when he has a measure pending here as a Senator, to ask the President, in the first place, whether he will approve of it or not; even when he was asked if he objected to this measure, and made no objection, he still undertakes to veto it. Your President, in order to trample down Congress, if he could, and to destroy and override the rights of the States, has reached his executive arm into States in order to carry elections in his favor, and sent his myrmidons there to proclaim his will and his wishes and to argue the question pending before the States of this Union, he professing to be a State-rights man! There is a point I want you, sir, to defend him upon.

If you say our side went to him to get his opinion to carry into Connecticut, I say that they ought not to have done it if they attempted it. It was stooping from that dignity which ever should characterize Congress and the pride and intelligence of a State, to make any attempt to carry a State by executive influence or dictation. Nay, sir, if newspaper reports may be relied upon—I do not know that they can be—he has done worse than that; he has been tampering with members of legislative bodies in order to extend his influence there and to bring over men to sustain his side of this question there.

This is all fair play, is it? When I say that he is endeavoring to override and slander and libel members of Congress and even two thirds of both Houses, and because I denounce that on the floor of this Senate, am I to be arraigned by an apologist of the President, by one who proclaims himself to be his defender, and who is commissioned, for aught I know, to defend him here and elsewhere?

I spoke yesterday of the President's usurpation, and I ask again what business, what constitutional right has the President of the United States to reach his executive arm into any State, seceded or not seceded, to set up civil government there? If any lawyer of this body can find any warrant for such an act in the Constitution, I will take back all that I have said about it. But, sir, you cannot find it there. The President is a mere executive officer, bound to obey our mandates and our behests in this particular, having no right to have any will of his own upon the subject. If during the vacation of Congress he thought it was expedient and urgently necessary that these States should be brought back into the Union, he should have convened the national Legislature to take that question into consideration. He had no power on God's earth, no scintilla, no color of authority for undertaking to reorganize them and bring them here for admission.

What did he do? He let the whole long vacation run over without making any effort to convene Congress or in any way insinuating that he wanted the counsel of Congress on the subject; but behind their backs and in their absence we find him dictating to the States, for he calls them States, and he says they are in the Union and have never been out of the Union. If they have not been out of the Union as he alleges, then he is the most bold usurper who ever undertook to accumulate unwarranted power in his own hands. What right has he to go into any State of this Union and displace the Governor that has been elected there? What right has he to put by and override the Legislature of any State of this Union? He has done it. There is not a State now south of us, except Tennessee, that is not a mere creature of executive power. The people there never moved to regain their relations with the General Government except as they were moved by the executive arm. They have sent us no petitions, they have had no meetings to consider the subject among themselves; but your Executive Chief, holding these States under the military power of the Government, they being under martial law, and the *habeas corpus* being overridden, the military breath being there the law of the land, commanded them to form constitutions; and they were not even accorded the poor, miserable privilege of making them according to their own will, but under the bayonets of the conqueror they were ordered to make their constitutions, and he sent his orders to them telling them what provisions they must make in those constitutions. Do you deny that? Has he not told them over and over again, if you make your constitutions without such and such provisions you will not be admitted in Congress? Is that according to American principles? Bad as these men are, secessionists as I know them to be mostly, I say you cannot make an American republican State out of that material, and in that way. Until these people can agree to assemble themselves together and make such constitutions as will accord to that of the United States and ask to resume their relations with the General Government under such constitutions, they can have none. If the President has found fault with Congress because they did not, at his breath, when they first assembled, admit these States into the Union and allow their members back into Congress, and if we are to be constantly anathematized by him for not doing it, it is because he intends to have them come in here resuming their old places. What has he done to discriminate? I ask the Senator to tell me.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday.

Mr. WADE. I do not intend to go on very long, but if the Senate are anxious to go on with anything else I will suspend my remarks.

Mr. TRUMBULL. I was about to suggest that we go on with the business regularly before the Senate.

Mr. WADE. I am willing that you should. I believe I have said enough on this occasion. I say these usurpations are unwarrantable. The President has censured Congress from the beginning, although at the very first moment that we had time to deliberate on the subject after Congress convened we raised a great committee

for the purpose of taking it into consideration, and while we were doing it he was censuring us as having created an irresponsible central despotism here. Did the man believe it? Defend him if you can. Did the President of the United States believe the charge when he accused Congress with deliberately getting up an irresponsible central despotism to tyrannize over this Government? If he did not believe it, where does it place him? Judge ye, and defend him if you can. He said it was an irresponsible central despotism—"directory" was the word—an irresponsible central directory, dangerous to the liberties of the people; and what was it? A mere committee of Congress, the commonest thing in the world, an instrument made use of by Congress to ascertain the very facts that the President ought to have wanted to know as much as we did if he wanted these States properly reconstructed. What light had he on the subject? Barely nothing. But had we had the light he pretended to have, such as it was? Even now he dare not say in his proclamation of peace that these people are ready to resume their relations with the Government. If they have not done what is necessary, he prophesies that they will do it. He knows nothing about it, or if he does know about it, he knows that that flood of testimony brought from this great committee has enlightened everybody else upon the facts, and that there is no one of these States that is ready to resume her relations with the Government, or can do so, because they are yet hostile to the Government. He complained of us for not letting in those governments while he stood over them with the bayonet and dared not withdraw his troops; when martial law pervaded every inch of their territory. We were blamed for not letting in here a subdued and hostile people that were kept under the ban of executive dictation upon the principles that he, the Commander-in-Chief, should dictate. That is what we were censured for. What else was there in it?

I am reminded by a Senator near me that his organs are threatening us day by day with the bayonet. We are to be driven out of here. I see it everywhere. Mr. Voorhees, of Indiana—and you know what a loyal man he is—a man, I believe, who it came out on a judicial investigation in that State was the keeper of the records of the Knights of the Golden Circle, who had formed themselves into a hostile community, and had joined the rebels to overthrow the northern States——

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

Mr. WADE. Yes, sir.

Mr. HENDRICKS. I say that the charge which he now makes against Mr. Voorhees is not sustained by any record, and I give it now a square denial.

The PRESIDENT *pro tempore*. The Chair will again state that it is the duty of the Chair to call up the unfinished business of yesterday, which is the message of the President returning to the Senate the bill of the Senate No. 61, and the question is, Shall the bill pass, the objections of the President notwithstanding? In the absence of any motion to postpone that, it is the duty of the Chair to bring it before the Senate.

Mr. WADE. I am nearly through.

Several SENATORS. You can go on on that question.

Mr. TRUMBULL. I think we had better proceed with the order of the day.

Mr. WADE. My friends think I had better discontinue my remarks. I have but little more to say, but perhaps I can say it at any other time just as well. Let the bill be taken up.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House of Representatives had passed the bill (S. No. 115) for the relief of Jane W. Nethaway.

The message further announced that the House of Representatives had passed a bill (S. No. 181) for the relief of Emma J. Hall, with an amendment, in which it requested the concurrence of the Senate.

NAVAL APPROPRIATION BILL.

The message further announced that the House of Representatives had agreed to some and disagreed to other amendments of the Senate to the bill (H. R. No. 122) making appropriations for the naval service for the year ending 30th June, 1867, and had agreed to other amendments of the Senate to the said bill with amendments, asked a conference on the disagreeing votes of the two Houses on the said bill, and had appointed Mr. N. P. BANKS, of Massachusetts, Mr. JOHN F. FARNSWORTH, of Illinois, and Mr. CHARLES E. PHELPS, of Maryland, managers at the same on its part.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills; which were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 86) making additional appropriations, and to supply deficiencies in the appropriations for sundry civil expenses of the Government for the fiscal year ending the 30th of June, 1866, and for other purposes;

A bill (H. R. No. 215) for the benefit of John W. Campbell; and

A bill (H. R. No. 420) to provide arms and ammunition for the defense of the inhabitants of Dakota Territory.

APPROVAL OF BILLS.

A message from the President of the United States, by Mr. MOORE, his Secretary, announced that the President of the United States had approved and signed, on the 5th instant, the following acts and joint resolution:

An act (S. No. 107) to provide for a term of the district court for the district of Minnesota to be held at the city of Winona, in said district;

An act (S. No. 165) more effectually to provide for the punishment of certain crimes against the United States;

An act (S. No. 216) to provide for the transfer of the custody of the library of the Smithsonian Institution to the Library of Congress; and

A joint resolution (S. R. No. 2) for the restoration of Commanders William Reynolds and Melancton B. Woolsey, United States Navy, to the active list from the reserved list.

And that on the 6th instant the President had approved and signed an act (S. No. 94) to amend the act entitled "An act for the relief of seamen, and others, borne on the books of vessels wrecked or lost in the naval service," approved July 4, 1864, and for other purposes.

CIVIL RIGHTS BILL—VETO MESSAGE.

The PRESIDENT *pro tempore*. The bill (S. No. 61) to protect all persons in the United States in their civil rights, and to furnish the means of their vindication, is now before the Senate; and the question is, Shall the bill pass, the objections of the President of the United States to the contrary notwithstanding?

Mr. WADE. I was nearly through the remarks I proposed to make on this sudden outbreak. As the President, without any cause on earth, has censured Congress and accused them of having erected a despotism here, though it was nothing more than an ordinary committee for the purpose of taking testimony to enlighten us upon the subject of legislation that we must enter upon of the most important character, let me refer to his own conduct to show the *quo animo* more perfectly. We had, it seems, besought him to lay before Congress that evidence which he himself had, and nobody else had; and how did he meet it? I believe—and let gentlemen of the committee correct me if I am wrong—it was more than two months, and after three several applications to him, before we could extort from him the very evidence without which Congress could not stir hand or foot on this subject. He had the constitutions that he had dictated; Congress had never seen one of them. He had other muniments of their titles to be States, if States they are; and while he stood before the rabble there, accusing Congress of being despotic and attempting to overthrow the Government, he was withholding the very evidence without which Congress could neither stir hand nor foot. Was that candid? What have you to say to that? Other Senators have been much more fortunate than I have if they have been able as yet to see one single constitution of these reconstructed States that we are told are all in order to-day. What are they? Apologists of the President, condescend to tell us what are the constitutions of these reconstructed States of yours. I saw from the papers that divers orders went down to their conventions requiring them to do this and the other on peril that they would not be admitted here; but where is the authentic evidence of how they came out of it, and what they did do, and what they are? The President says they are reconstructed States, with all the rights, powers, and immunities of States, and with a right to claim all the rightful relations of all the unseceded States. How does he know it? How do we know it? When a State is to be admitted into this Union, everybody knows the first thing is for that State, after it has been permitted to come in here by Congress, to furnish us with the constitution that the people themselves, unbiased by executive dictation, have adopted as the will of the people, that we may see whether it is republican, whether it squares with the Constitution of the United States, and whether it is proper for us to admit them here. Congress passes judgment upon it. It is not the President that admits States; it is the United States. The United States, says the Constitution of the United States in thundering tones, shall judge of these forms of government; not the President of the United States. It is Congress, the true representative of the sovereignty of this great nation, and it rests and abides nowhere else. The doctrine that yields everything to the Executive and nothing to Congress is the most slavish doctrine that was ever propagated in a Government pretending to be free. You cannot tell us to-day what the constitutions of these reconstructed States are; but you do know that they were not got up by a people free to act precisely as they wanted to act. They were under martial law, as I said before, under executive dictation, under the bayonet, and under the orders of your Executive Chief, promulged to his subordinate officers to carry into effect. Do you say that an American constitution can be built upon such a foundation as that?

Mr. President, it was these things that I branded as usurpations. It was for these things that I declared that the President of the United States was endeavoring to overthrow the constitutional powers of Congress and to erect a despotism upon its ruins; for the moment it shall be admitted in the Congress of the United States that these immense powers belong to the executive arm of the Government, instead of to us, you have a despotism and nothing but a despotism; we have not even the power of the legislative body that meets in France. These States have destroyed their connection with this Government by a four years' war to overturn it; they have disorganized their own State constitutions, have annulled them all, trampled them under foot, have got up new constitutions hostile to this Government, under new chiefs, new relationships, and entirely destroyed their connection with the Union; and then when you put them down at the point of the bayonet, where do they stand? Certainly not on their old constitutions, because if they did how could President Johnson attempt to declare who might be voters and who might attempt to exercise the elective franchise there? I say if these States are all standing as they were originally, how came it that he even wanted to prescribe who should be voters and who should not? Answer that for him, sir. Tell me why he denies the power to these States, if they are States of the Union, to prescribe the conditions upon which men shall exercise the elective franchise or by what right did he dictate to them on that subject? Were they States? Did he

do it? And if he did, was it not a usurpation, in his own language? Sir, these absurdities cannot be crowded down the throats of a free Congress. All these inconsistencies are so manifold, so utterly new to the principles and legislation of American government, that they breathe nothing but the spirit of despotism. The people will not permit it to be done.

You say that the party is crumbling to pieces. If it is, so much the worse for this Government. If Congress should recede from the position they have taken to claim jurisdiction over this great question of readmitting these States, from that hour they surrender all the power that the Constitution places in their hands and that they were sworn to support, and they are the mere slaves of an accidental Executive; of a man who formerly associated with us upon this floor; who was no more infallible than the rest of us poor mortals; and yet the moment, by death or accident, he is placed in the executive chair, it would seem as if some Senators believed him to be endowed with superhuman wisdom and ought to be invested with all the powers of this Government, that Congress ought to get on their knees before him, and take his insults and his dictation without resentment and without even an attempt to resist. Some States may send such instrumentalities here, but God knows some will not; and I pity those that do, for they would hold their freedom on a very uncertain tenure.

But, Mr. President, I have pursued this course of argument long enough. It may be that hereafter during the session I shall endeavor in a more deliberate and orderly manner to set their sins in order before some men in high authority that have accused us of treason here. Some gentlemen may be patient under the charge of treason, perhaps the more so because treason is becoming popular in this day; but, sir, I am a little too old fashioned to be charged by the executive branch of this Government as a traitor on the floor of Congress, and not resent it. I do not care whether he be King or President that insinuates that I am a disunionist or traitor standing upon the same infamous platform with the traitors of the South, I will not take it from any mortal man, high or low, without repelling the charge. If any man here is tame enough to do it, he is too tame to be the Senator of a proud-spirited people, conscious of their own freedom. I claim to be their representative, and they will censure me if they do not like my doctrine. It will not come from Kansas. I will settle it with my own constituents. I fought your battle for you, sir, [turning to Mr. LANE, of Kansas,] and saved your State in part from a slavery worse than that in the southern States, and I will save it again if its representative prove recreant to it.

And now, Mr. President, I wish to make an appeal to those great, patriotic statesmen on this floor who, by their love of principle, by their unswerving honesty, unseduced by the blandishments of executive power, unawed by threats of violence, stand here to defend the rights of the people upon this floor, and will stand here forever. I say to you, Senators, we the majority who are stigmatized as traitors, are the only barrier to-day between this nation and anarchy and despotism. If we give way, the hope of this nation is lost by the recreancy—yea, sir, I will say the treachery of a man who betrayed our confidence, got into power, and has gone into the camp of the enemy, and joined those who never breathed a breath of principle in common with us.

Now, sir, [addressing Mr. LANE, of Kansas,] if your nerves were unstrung by what I said before, I hope they will be calmed by what I have said now. [Laughter.] I say, Senators, you are the hope of the people. On your courage and constancy the people rely. You bear the destinies of this great and free nation—not forever—for although we should turn our backs and betray our constituents, there is behind us a brave people who will vindicate their rights, whether we are recreant or not.

Mr. LANE, of Kansas. Mr. President, I stated that the party to which I belong nominated the present President of the United States and elected him, and that as long as he fought within our lines and remained in our party, I would endeavor to defend him upon this floor against all unjust assaults. After making that statement, the Senator from Ohio, forgetting the position he occupies, has suggested that I have taken upon myself the collar of the President of the United States. I hurl the suggestion in the teeth of the Senator from Ohio as unworthy a Senator. I wear a collar! The pro-slavery party of the United States, backed by a Democratic Administration, sustained and supported by the Army of the United States, could not fasten a collar upon the handful of Kansas squatters of whom I had the honor to be the leader. The gallant fight made in this Senate Chamber by the Senator from Ohio, aided by the Senators from Massachusetts and other Senators, would have been of but little avail had it not been for that other fight that was made upon the prairies of Kansas under the lead of your humble speaker. I wear a collar! Indicted for treason by a pro-slavery grand jury, hunted from State to State by a writ founded upon that indictment for treason, and $100,000 offered for my head! Jim Lane wear a collar! Wherever he is known, that charge will be denounced as false by both friends and enemies.

Mr. President, I desire to have the attention of the Senator from Ohio. The President of the United States is not here to answer for himself. I call the Senator's attention again to this statement made upon this floor in his capacity as a Senator of the United States, to this Senate and to the world yesterday:

"The issue the President has made with Congress, the quarrel he has picked with Congress from the very commencement, is nothing more or less than on the question of recognizing and permitting rebels to occupy their old places on this floor for the utter destruction of the Government in my judgment and belief."

That charge is either true or it is untrue. I ask the Senator for the evidence of its truth. I give him the evidence of its untruth; he gives me no evidence of its truth. Again and again, on all occasions, in conversation, in writing, in public speech, the President has stated privately and publicly that the governments of those States belonged to the loyal people, and that none but loyal representatives should be admitted upon the floor of either branch of Congress. The Senator fails to furnish me any testimony of the truth of the charge. I refer him to the statement again and again made by the President; and now, the Senator failing to furnish the testimony of the truth of his allegation, I ask him as an honest man to withdraw the charge he has thus made when he cannot vindicate its truth.

Mr. President, most of the speech of the Senator from Ohio was made up of an attempt to show that the President of the United States had no right to institute any steps for the organization or reorganization of State governments in the insurrectionary districts. To that statement and position I desire to call the particular attention of the Senator from Ohio. Tennessee was organized, or the steps for its organization were taken by Mr. Lincoln, while the Congress of the United States was in session.

Mr. WADE. I excepted Tennessee.

Mr. LANE, of Kansas. Steps were taken to reorganize the State government in Arkansas while Congress was in session and before the presidential election of 1864. The Congress of the United States saw those steps being taken, saw the State being organized; the people of the United States saw them; and Congress acquiesced in the steps taken in three of the States—the same proceedings which were pursued subsequently by the present President of the United States in the other States.

Mr. WADE. Let me ask the Senator one question. Does he claim that while a State is under martial law, when the *habeas corpus* is suspended there and kept in suspension by the troops of the Federal Government, while war still exists, it can properly form a constitution?

Mr. LANE, of Kansas. I answer, the Constitution of the United States guaranties to each State a republican form of government.

Mr. WADE. The Senator says Congress acquiesced in that. I say it did not. Their electoral votes were thrown out of the presidential count because they had no right to be recognized as States.

Mr. LANE, of Kansas. Congress acquiesced in those steps of organization because Congress failed to supply a plan for their organization.

Mr. WADE. Again I wish to correct the Senator right there, because he makes so many statements——

Mr. LANE, of Kansas. I make none that are not true.

Mr. WADE. Did Congress fail to furnish a plan? No, sir, it passed a plan, and in my judgment a very good one, but the President put an end to it.

Mr. LANE, of Kansas. In that plan the Senator from Ohio stultified himself, in my judgment. I will show you how. You, [addressing Mr. WADE,] have been advocating here the right of suffrage to the colored man, you and your colleagues; and yet you voted solemnly in that bill to disfranchise every colored man in the insurrectionary States; and let me say to you that the proudest recollection upon my mind to-day is that I advised Mr. Lincoln to withhold his signature to that bill because it disfranchised the loyal men in those States.

That clause of the Constitution that guaranties to every State a republican form of government is, in my opinion, as binding upon the executive as upon the legislative branch of the Government; and the legislative branch failing to furnish that republican form of government, it was the duty of Mr. Lincoln to institute steps for organizing State governments. It was good policy, too, to reorganize State governments in the rear of our armies; but I repeat that this President had nothing else to do. The Congress of the United States tacitly, at least, and the people of the United States, directed him to complete the work that Mr. Lincoln had begun.

Mr. President, I ask the Clerk to read the five points in the joint resolution I have presented. You say that you and those you represent are standing between the country and anarchy. I desire to have these read, and then I desire to ask the Senator from Ohio whether, if that plan of the President of the United States is adopted by Congress and approved by him, we do not secure to the whole country peace and quiet, and avoid anarchy.

Mr. WADE. I thought the Senator said he did not know whether the President would adopt it or not.

Mr. LANE, of Kansas. I do not now say; but I ask, if he does, will not that be the effect. I ask the Clerk to read my proposition.

The Secretary read the resolution, as follows:

Resolved, &c., That Senators and Representatives from either of the States lately in insurrection shall be admitted to Congress whenever it shall satisfactorily appear that such State has, in accordance with the advice of the President of the United States, passed laws annulling its ordinance of secession, ratifying the amendment to the Constitution of the United States abolishing slavery, repudiating all rebel debts, recognizing the debts of the United States, and extending the elective franchise to all male persons of color residing in said State over twenty-one years of age who can read the Constitution of the United States in the English language and write their names, and also, to all male persons of color of like age and residence who own real estate valued at not less than $250, and pay taxes thereon: *Provided*, That such Senators and Representatives shall possess all the qualifications required by the Constitution and laws of the United States.

Mr. HOWARD. I understood the Senator from Kansas to remark in the course of his observations that he found some warrant for the resolution which he has submitted to the Senate in some writing or document emanating from the President of the United States. I desire to say, with the permission of the Senator from Kansas, that I accept, so far as it goes, with a great deal of pleasure, the principles contained in this resolution. My recollection is that it is almost a verbal recital of a

letter from the President of the United States, dated in August, 1865, to Governor Sharkey, of Mississippi. I was very much pleased at that time with the views taken by the President in that letter of instruction to Governor Sharkey, and if the Senator from Kansas happens to have about him the letter to which I refer, I shall for one feel extremely obliged to him if he will read it, or cause it to be read, to the Senate.

Mr. LANE, of Kansas. I propose to read that letter. I have it here.

Mr. HOWARD. I am very much obliged to the Senator.

Mr. LANE, of Kansas. The first four points made in the joint resolution have been pressed on every single insurrectionary State. I have here the letter of the President to Governor Sharkey, which I ask the Clerk to read.

The Secretary read the following letter:

EXECUTIVE MANSION,
WASHINGTON, D. C., *August* 15, 1865.

GOVERNOR WILLIAM L. SHARKEY, *Jackson, Mississippi:*

I am gratified to see that you have organized your convention without difficulty. I hope that, without delay, your convention will amend your State constitution abolishing slavery, and denying to all future Legislatures the power to legislate that there is property in man; also, that they will adopt the amendment to the Constitution of the United States abolishing slavery. If you could extend the elective franchise to all persons of color who can read the Constitution of the United States in English and write their name, and to all persons of color who own real estate valued at not less than $250, and pay taxes thereon, you would completely disarm the adversary, and set an example the other States will follow. This you can do with perfect safety; and you thus place the southern States, in reference to free persons of color, upon the same basis with the free States. I hope and trust your convention will do this; and, as a consequence the radicals, who are wild upon negro franchise, will be completely foiled in their attempts to keep the southern States from renewing their relations to the Union by not accepting their Senators and Representatives.

ANDREW JOHNSON,
President United States.

Mr. LANE, of Kansas. Now, I ask the Senator from Ohio, if this joint resolution is passed, is approved by the President, and accepted by the States, are we not secured from anarchy?

Mr. WADE. It would be perfectly idle for me to answer any hypothetical cases that might be put. I could put a hundred that would satisfy me well enough. I have no doubt that some plan may be devised whereby the country may be saved from anarchy, but the President has furnished us none.

Mr. LANE, of Kansas. But, Mr. President, I have shown that this is the reconstruction policy of the President of the United States.

Mr. WADE. But I understand the Senator does not know what the President of the United States will do with it.

Mr. LANE, of Kansas. I said that he had pressed it upon the different disloyal States, that he has committed himself to it in the letter to Governor Sharkey, and has again and again and again publicly stated that no Senator or Representative should be admitted from the disloyal States except those loyal to the core.

Now, sir, the President of the United States has suggested a plan that will restore this Union.

Mr. WADE. Where is it?

Mr. LANE, of Kansas. In this joint resolution. He has suggested a plan that will in my judgment preserve the Republican party intact. All that we have to do, all that the Congress of the United States has to do is to join with him, their own President, hand to hand, shoulder to shoulder, and again restore this country to peace, prosperity, wealth, and dignity.

Mr. President, I should like to ask the Senate of the United States why it is Congress, differing with the President in his reconstruction policy as to the other States, has not adopted a plan for the reconstruction of the State of Texas. That State was ready during this session to be reconstructed on the congressional plan. Why was it not furnished?

Mr. TRUMBULL. I should like to make an inquiry, if the Senator from Kansas will allow me.

Mr. LANE, of Kansas. Certainly.

Mr. TRUMBULL. It is somewhat important in this connection. I understand the Senator to say that he relies upon the approval by the President of the proposition which he has submitted upon his letter to Governor Sharkey. That is the basis upon which he relies for supposing that the President would approve the measure which he now introduces. I should like to inquire of the Senator from Kansas if he has any stronger assurance of that, than was given by the annual message to Congress by the President of the United States when he said that he was in favor of securing all persons equal rights, and that under the American system every man was entitled to protection in his life, liberty, and property. He has vetoed a bill securing those rights, which is now under consideration; and I want to know if there is any better assurance that he will approve of what he said in the Sharkey letter, than there was as to his approval of what he said in his annual message to the two Houses of Congress.

Mr. LANE, of Kansas. I have made it a rule through life never to question the motives of men. I entertain the opinion that I expressed a moment ago to the Senator from Ohio, that if the Senator from Illinois had been President of the United States he would have been compelled to veto the civil rights bill, not for the reason given by the Senator from Illinois, not because it secured equal rights to all—that portion of the bill I favored—but for other reasons, which I do not now propose to detain the Senate with discussing.

Mr. TRUMBULL. Will the Senator allow me to ask him if he himself did not vote for and support the civil rights bill?

Mr. LANE, of Kansas. I did, in all its phases, and only yesterday I was willing to waive my objections to the bill if a plan could be adopted to quiet this country, restore these States, and preserve the Republican party intact, and to permit it to become a law in connection with other propositions to accomplish this great object.

Mr. TRUMBULL. The Senator from Kansas will permit me to ask, then, if his support of a measure in the Senate of the United States depends on a bargain to get some other measure supported. Is that what he means to say to the Senate? I understand him to say now that he voted for the civil rights bill in all its stages—a bill which he says the President was bound to veto; that he was for it; that he would have voted for it yesterday, but he wants a bargain about something else before he will do it. Do I understand him aright, that he wants some other assurance?

Mr. LANE, of Kansas. I offered no bargain. I make no bargains. But I feel the absorbing and overwhelming danger that is upon our country, and was willing to waive my objections to the bill, and permit it to pass. The wheels of these State governments are revolving; there is no power on earth to stop them.

Mr. TRUMBULL. Has that anything to do with this bill?

Mr. LANE, of Kansas. Yes; much to do with it. I regret exceedingly that the Senator from Ohio, who, I understand, has just escaped assassination, [laughter,] should be troubled about the Administration organs threatening members of the Senate.

Mr. WADE. I caught that disease from the President. [Laughter.]

Mr. LANE, of Kansas. I am not the President's keeper, and I cannot say how much he is troubled with fear of assassination; but I do regret to hear that my *beau ideal* of a Senator, my *beau ideal* of a bold man, should have the nightmare for fear of assassination. Threats uttered by the organs of the Administration! I forget what insurers charge for insuring against railroad accidents; but I will take the insurance on the life of the Senator from Ohio very low indeed against assassination.

Mr. CONNESS. Will the Senator permit me?

Mr. LANE, of Kansas. I am very anxious to get through.

Mr. CONNESS. I only desire to say, if the Senator will permit it, that I would take the insurance upon the life of the President against the Senator from Massachusetts at a much less rate. [Laughter.]

Mr. LANE, of Kansas. I regret that the Senator from Ohio should in the Senate of the United States reiterate that newspaper slander that the President of the United States had been tampering with Scovel, of New Jersey. He contradicts it himself, over his own signature, and another gentleman, whose name was connected with the rumor, contradicts it. And after it is nailed to the counter as a falsehood, the Senator from Ohio here circulates it from his seat.

Mr. WADE. Two witnesses say that Scovel said so, but whether he is a man to be relied upon I do not know.

Mr. LANE, of Kansas. One of those very witnesses, I understand, denies the statement positively over his own signature.

Mr. WADE. I am very glad if it is so.

Mr. LANE, of Kansas. But it is said the President interfered with the Connecticut election. Let me say to the Republicans just one word on the subject of that election. One more victory like that, and I should think the Republican party would be unhorsed. It is but the first scratch of the handwriting upon the wall. If you permit the Democratic party to take and occupy the platform of restoring these States to the Union, admitting these Senators and Representatives to their places in Congress, I venture the assertion as a politician, that the House of Representatives will stand at the next Congress on the other side as much as it stands on our side this session. The people of this country will have those States restored; they will have those loyal members in their places in Congress; and if they cannot do it through the Republican party, if they cannot do it through the Union party, they will do it even through the Democratic party.

The Senator says these States have no constitutions. Oh, how short a memory he has! Only a few days since I presented to the Senate of the United States the constitution of the State of Arkansas. There was a Governor elected by the people without the intervention of the President; the constitution submitted to the people and ratified by them. Why do you keep Baxter and Snow from their places in this body? Why are the loyal Representatives from Arkansas kept from their places in the other House? Arkansas is to-day as peaceful and as quiet as is Missouri or Kentucky.

The Connecticut election! Mr. President, the President of the United States made no objection to hundreds of the employés of the Government attending that election from positions within this Administration.

Mr. CLARK. What had he to do with it? I want to know if it has come to this, that a man has got to ask the permission of the President to go home and vote. He permitted them to do it!

Mr. LANE, of Kansas. No, sir, I do not say that; but I say the President cheerfully, so far as I know, willingly——

Mr. CLARK. The Senator said that the President permitted them to do it.

Mr. LANE, of Kansas. Sir, he made no objection. [Laughter.]

Mr. SAULSBURY. If the Senator from Kansas will allow me I will state that an attempt was made by a menial of President Lincoln to prevent Democrats in my State from voting by military interference and with the approval of that President. That menial was Edwin M. Stanton.

Mr. LANE, of Kansas. I do not propose to be drawn into the defense of the 22d of February speech of the President. I regret that speech. But I do say that he was provoked, and with the same provocation I do not know that as President I would have referred to gentlemen as he did, but as a Senator or man, I would have struck, by speech, the gentlemen referred

to by the President of the United States. His provocation was gross, coming from members of his own party who had aided in his election. He had a right to expect their support instead of their denunciation.

In answer to the charge that the evidence as to the organization of these States was held back by the President, I refer the Senator from Ohio to the letter of Mr. Seward, in which he explains satisfactorily the reason for that delay. I have it here before me:

SUPPLEMENTARY REPORT.

DEPARTMENT OF STATE,
WASHINGTON, D. C., *March* 1, 1866.

It now appears that the foregoing report was prepared in this office on the 22d of January last by the Acting Secretary of State, William Hunter. The delay of transmitting it was due to the fact that it was held for revision by the undersigned. But neither the preparation of the report nor the passage of the first resolution of the Senate became known to the Secretary of State until they were brought to his knowledge after the passage of the Senate's second resolution.

Respectfully submitted.

WILLIAM H. SEWARD.

The PRESIDENT.

Mr. President, the Senator from Ohio, having denounced the President yesterday as a dictator and a despot, now arraigns him for his "treachery." In what has he shown treachery? By vetoing bills which he felt it his duty to veto, and which would have given him imperial power? By carrying out the reconstruction policy of Mr. Lincoln which was acquiesced in by Congress and indorsed by the people of the United States? Treachery in nothing. It is as bold a charge as that he desires to force into these Chambers disloyal Senators and Representatives. As a Republican, as one devoted to the interests of that party, as a lover of my country, desirous of its early restoration, I throw back the charge of dictatorship, despotism, and treachery. When our President evidences either of these qualities, I will go as far as the farthest in denunciation of him. But until he does prove unfaithful I will stand by him, defending him against all unjust attacks, and with the people of the United States will endeavor to strengthen his arm in the discharge of the important duties devolving upon him.

Mr. BROWN. I do not desire to take any part in this debate, Mr. President, and should have probably said nothing but for an allusion which dropped from the Senator from Kansas to a bill which was passed by the last Congress in regard to "guarantying to certain States, whose governments have been usurped or overthrown, a republican form of government," and the implication which fell from him that the gentlemen on this side of the Senate were guilty of stultifying themselves in now contending for suffrage for the colored race as one of the essential guarantees in reconstructing these States. I desire in justice to myself to make this statement: that when that bill came from the House of Representatives at the last Congress, and was pressed upon us here, containing as it did a feature in it which excluded the negroes in the southern States from suffrage, I, for one, announced myself as utterly opposed to the bill. I furthermore stated on the floor of the Senate publicly that I never would vote for that bill, or for any other bill reconstructing those States, that did not guaranty to that class of citizens, the loyal colored population of the South, a right of suffrage. I desire to reiterate that statement to-day, sir, and to say that by no possibility and at no time and under no circumstances will I cast any vote for restoring those States to their original *status* in the Union and admitting back here their Senators to participate in our legislation until suffrage shall have been granted to that class of people. I believe no other reconstruction will ever give peace to the South, security to the North, or permanent and contented union to both sections, to all classes and to every race. So much for my own position.

But, Mr. President, of all the Senators on this floor who do now or may heretofore have acted with the Republican party, the Senator from Kansas is the last one entitled to make any such crimination against those who may have supported that bill in its original form. It was on my motion, as Senators will remember, that an amendment in the nature of a substitute was put upon that bill, striking out all after the enacting clause, and along with it, of course, the clause which prohibited any colored citizen from exercising the right of suffrage, and providing simply that no election should transpire in any of those States until it had first been authorized by act of Congress. On that amendment, which would have saved the rights of the colored citizens from absolute sacrifice, and left them for future assertion, and, indeed, on all the intermediate amendments to that bill having the same end in view, the Senator from Kansas voted side by side with the Senator from Ohio, whom he now accuses of stultifying himself by that bill and his votes thereupon. I further desire to say, sir, that when that bill was amended by the prevalence of my motion and sent back to the House of Representatives, the House refused to concur, and returned their bill in its original shape. A committee of conference was called for, and that committee of conference, at the head of which was the Senator from Ohio, recommended that the Senate recede from its amendment, the result of doing which would be to leave the bill just as it came from the House of Representatives, with that section in it confining the right of suffrage in the rebel States exclusively to whites, and thus precluding any, even such limited colored suffrage as the Senator from Kansas now professes to favor. On that motion the yeas and nays were called, and the Senator from Kansas voted side by side with the Senator from Ohio—both voting in the affirmative. With what face, therefore, can he talk about the Senator from Ohio stultifying himself by then voting to reconstruct the rebel States on an exclusively white basis, and now contending for colored suffrage as an essential guarantee for a safe restoration, when he himself, the Senator from Kansas, did exactly the same thing—voting with him in every position then, and indorsing the bill as it came from the House of Representatives? But, sir, I will read from the Journal of the Senate the vote as recorded on this motion of the Senator from Ohio to recede. Here it is:

"The Senate proceeded to consider the resolution of the House of Representatives disagreeing to the amendment of the Senate to the bill of the House (H. R. No. 244) to guaranty to certain States, whose governments have been usurped or overthrown, a republican form of government, and asking a conference with the Senate thereon, and

"On motion by Mr. WADE that the Senate recede from its amendment to the said bill,

"It was determined in the affirmative—yeas 18, nays 14.

"On motion by Mr. SAULSBURY, the yeas and nays being desired by one fifth of the Senators present.

"Those who voted in the affirmative are, Messrs. Anthony, Chandler, Clark, Conness, Foot, Harlan, Harris, Howe, Lane, of Kansas, Morgan, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Wade, Wilkinson, Wilson."

Sir, the Senator from Kansas made a boast in his remarks when up that it was he who told President Lincoln to veto that bill, and that he reflected upon that advice so tendered by him as one of the proudest acts of his life. Of course as he says so it is not permitted me to doubt that he did so advise the President, but in view of the fact of his votes in favor of the bill, in favor of it as against amendments that would have relieved it of all its obnoxious features, the question of how much credit the Senator from Kansas is entitled to for so advising the President of the United States and urging him, as he declares, to pocket that bill, I leave for him and the Senate to determine. I have only to say further, for my own part, that I did approve of the action of the President in defeating that bill, but it was because I opposed it throughout and thought it would have been a most unjust and disastrous measure.

Mr. LANE, of Kansas. The history of that legislation was this: the bill came from the House of Representatives and went to the Committee on Territories, and in that committee, on my motion, the word "white" was stricken out, and in that way it was reported to the Senate. I made a few remarks, saying that the bill in its original shape disfranchised the loyal men; but the time for its consideration was short, and I remember that the Senator from Ohio thought the bill would be lost, and it was settled by the Senate agreeing to the House bill. The committee, however, reported the amendment which I suggested.

Mr. WADE. I hope the Senator will now absolve me from all responsibility on that subject.

Mr. LANE, of Kansas. Not at all. I have never been in favor of universal suffrage.

Mr. WADE. But you voted with me throughout.

Mr. LANE, of Kansas. That is true; but I am not one of the men who are for universal suffrage. I am for a qualification.

Mr. DOOLITTLE. Mr. President, the late amendment to the Constitution of the United States gives rise to the same struggle which has marked our whole history—a struggle between two tendencies or forces always at work in our complicated system of government. We have a Federal Government with its delegated sovereign power; we have State governments with their reserved rights and power; and between these two great forces, this ever-constant and ever-pressing struggle has gone on. It has marked our history from the beginning, and from before the beginning. During the whole revolutionary war, during that period when the first confederation was formed, as well as during the sitting of that great convention which formed the Constitution of the United States, these two forces, the one which tends to give power to the Federal Government, the other which tends to reserve and defend power in the States, were struggling with each other. The one, to borrow the name of ancient times, was designated Federalism; the other was designated Republicanism. These two forces in their ever-recurring struggles have produced all the political conflicts from the beginning of the Government to the present time. In these struggles political parties rise and dissolve. In that great convention which formed our Constitution, the Constitution itself was born of that struggle. It is the child of compromise between these great forces—the great centripetal force which tends to bring all power here, and the great centrifugal force which if left to itself would drive the States from their orbits into anarchy, confusion, secession.

Sir, the assembly which formed the Constitution was as wise as any ever organized upon the earth; wiser, in my judgment, than any which ever before laid the foundations of human empire; and wise as they were, from the very fact that the human intellect is finite, from the fact that language is incapable of giving perfect expression to human thought, the result of their labors producing this Constitution of ours, left certain clauses, perhaps all its clauses, open to construction, and from the beginning to the present time differences of opinion, differences of construction, in relation to the meaning of those clauses which prescribe the boundary line between Federal and State authority have arisen.

It seems that this new amendment is destined to the same fate. That this amendment is a most important one, all must concede. For myself there is no proposition which has occurred during that period since I have been in public life here, in which I have taken so deep an interest as in its success. For its introduction the Senator from Missouri [Mr. HENDERSON] is entitled to the honor. The Senator from Illinois [Mr. TRUMBULL] is entitled to the honor of taking charge of that great measure from the Committee on the Judiciary, and carrying it through the Senate. I believe in that amendment, in its necessity, in its propriety. I believe, also, that it should be made a certainty, a fact; and therefore I rejoice that it was not left alone to the clause of the Constitution which gives Congress the power to carry out by legislation every power that has been granted, but that there was an express

provision in relation to this amendment, authorizing Congress to enforce it by appropriate legislation.

Therefore, Mr. President, it was to me a matter of congratulation that the Judiciary Committee, of which my honorable friend from Illinois is chairman, engaged in the work of endeavoring to provide appropriate legislation to enforce this constitutional amendment. No person can have any higher opinion than is entertained by myself of the patriotism, of the great intelligence, and the great earnestness of those members of our body who constitute the Judiciary Committee. I always have respect to their opinions. While this measure was upon its passage, I took no part in its discussion except upon a single point in relation to the Indian tribes. The bill passed, and the final vote was taken when I was not present in the Senate; but it was not under such circumstances that had I been here I should not have voted for the bill. I have no doubt that if I had been present I should have voted for it. My attention was not drawn very earnestly to the consideration of all the provisions of this bill until the bill had passed from the Senate and had gone to the House of Representatives, when the speeches of Mr. BINGHAM, of Ohio, and of Mr. DELANO, of Ohio, both able and distinguished lawyers of that State, arrested my attention and called me very carefully to the consideration of the great questions which are involved in the bill. The bill was passed by the House of Representatives; it went to the President. From the fact that it was not signed and returned to this body at once and from all I heard, I became satisfied that at least, if the bill was not to be returned with objections, it was being withheld for most earnest and serious consideration by the Executive.

Then, Mr. President, it was, in view of all that had occurred, what had been said by gentlemen in whom I had the utmost, I may say unbounded confidence, that I began to look into this measure and to study it for myself. It is not my purpose now to go into a discussion of the provisions of this bill any further than to say that there are provisions in it upon which the judgments of the best patriots, the best jurists, the most earnest men disagree. There are men in whom I have entire confidence who maintain that all its provisions are within the purview of the Constitution; there are others in whom I have confidence, and equal confidence, who maintain directly the contrary; and this has brought me seriously to consider whether there be no common ground upon which friends can stand and stand together. Sir, I may have failed to find it: but if I have it is not because I have not most earnestly sought for it with some days of study and most earnest reflection. I have endeavored to put upon paper what I believe would carry this constitutional provision into effect and yet would be a common ground on which we could unite without violating the conscientious convictions of any.

Now, Mr. President, I beg for a moment to call attention to the bill I have drawn with this view. The title is "A bill to provide appropriate legislation to enforce article thirteen of the amendments to the Constitution abolishing slavery in the United States." There can be no objection to its title; it is borrowed from the very language of the Constitution itself; it embodies almost the second clause of the amendment. The bill commences with a recital, in brief terms, of the adoption of this great amendment:

Whereas slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, has been abolished and prohibited by article thirteen of the amendments to the Constitution, lately ratified and adopted by the Legislatures of three fourths of all the States within this Union, which amendment is in the words following, namely:

"ARTICLE XIII.

"SEC. 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States or any place subject to their jurisdiction.

"SEC. 2. Congress shall have power to enforce this article by appropriate legislation:"

Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all persons heretofore held to slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted under the laws of any State of the United States, or of any of the Territories thereof, are hereby declared to be free persons, and they and their descendants shall be, and remain forever, free from slavery or involuntary servitude, except in punishment for crime whereof the party shall have been duly convicted, anything in any law, statute, regulation, custom, or constitution of any State or Territory to the contrary notwithstanding.

SEC. 2. *And be it further enacted*, That all laws and customs having the force of law in any State or Territory heretofore or hereafter establishing, recognizing, maintaining, or regulating the right of property in slaves, or the relations of master and slave, are hereby declared to be abrogated and abolished.

SEC. 3. *And be it further enacted*, That any person who shall unlawfully, and in violation of the said thirteenth amendment to the Constitution, and of the provisions of this act, restrain, or cause to be restrained of his or her liberty, with intent to subject, or cause to be subjected, or to hold, or to cause to be held, to service as a slave, or involuntary servant, any person, shall be deemed guilty of a misdemeanor, and on conviction shall be punished by fine not exceeding $1,000, or imprisonment not exceeding one year, or both, in the discretion of the court.

In reference to these clauses there is and I think there can be on the part of any person no objection whatever. I come now to read the fourth section, which perhaps is the more important section of the bill:

SEC. 4. *And be it further enacted*, That any person who shall unlawfully, and in violation of the provisions of the said thirteenth amendment to the Constitution and the provisions of this act, restrain or cause to be restrained of his or her liberty, with intent to hold or cause to be held to service as a slave or involuntary servant, any person who has heretofore been held to slavery or involuntary servitude under the laws of any State or Territory, and has been emancipated by the said thirteenth amendment to the Constitution, commonly called a freedman, shall, in addition to the pains and penalties provided in the last preceding section of this act, be liable to be prosecuted by the person injured, who shall be entitled to recover the sum of $1,000, in addition to all damages sustained by such person, together with the costs of the prosecution; and in case any such freedman shall, as party to any suit or legal proceeding, civil or criminal, in the courts of the State or Territory where he may reside, be denied any right secured by article thirteen of amendments to the Constitution, he shall have a right to remove the said cause or proceeding into the district or circuit courts of the United States, which shall thereafter take cognizance of the same, under such rules as may from time to time be adopted by such court; and the said State courts thereupon shall have no power to proceed further in said cause or proceeding.

Here is a power enforcing the language of the Constitution, guarantying all the rights which this constitutional amendment gives; and if these rights, whatever they may be, (and to the decision of the judicial tribunals you come at last,) according to the decisions of the courts of the United States, ample protection is given if any such right is denied in the court of any State or Territory. And it provides further:

And the said district or circuit courts shall also be empowered by writs of *mandamus* and prohibition to stay all further proceedings in the State courts, or under any judgment or decree of the same, until the same shall be finally determined in the courts of the United States; and the said district and circuit courts shall have power, by writs of *habeas corpus*, *mandamus*, prohibitions, and *certiorari*, or other writs or process, to take cognizance of the rights secured by said amendment to the Constitution to such freedman, and to adjudge, decree, and enforce what shall be right in the premises, anything in any law, statute, custom, or regulation in any State or Territory notwithstanding.

Mr. President, the bill goes further, and adopts the language of a bill which has already been presented, and I think has passed this body and is pending in the House of Representatives, namely:

SEC. 5. *And be it further enacted*, That if any person shall kidnap or carry away any other person, whether negro, mulatto, or otherwise, with the intent that such other person shall be sold or carried into involuntary servitude, or held as a slave; or if any person shall entice, persuade, or knowingly induce any other person to go on board any vessel or to any other place, with the intent that he or she shall be made or held as a slave, or sent out of the country to be so made or held, or shall in any way knowingly aid in causing any other person to be held, sold, or carried away, to be held or sold as a slave, he or she shall be punished, on conviction thereof, by a fine of not less than $500 nor more than $5,000, or by imprisonment not exceeding five years, or by both of said punishments.

The sixth section provides:

That if the master or owners, or person having charge of any vessel, shall receive on board any other person, whether negro, mulatto, or otherwise, with the knowledge or intent that such person shall be carried from any State, Territory, or district of the United States, to a foreign country, State, or place, to be held or sold as a slave, or shall carry away from any State, Territory, or district of the United States any such person, with the intent that he or she shall be so held or sold as a slave, such master, owner, or other person offending shall be punished by a fine not exceeding $5,000 nor less than $500, or by imprisonment not exceeding five years, or by both of said punishments. And the vessel on board which said person was received to be carried away shall be forfeited to the United States.

The seventh section provides:

That the district courts of the United States, within their respective districts, shall have cognizance of all crimes and offenses committed against the provisions of this act, and also, concurrently with the circuit courts of the United States, of all civil causes under this act. The jurisdiction in civil and criminal matters hereby conferred on the district and circuit courts of the United States shall be exercised and enforced in conformity with the laws of the United States, so far as such laws are suitable to carry the same into effect.

This language is borrowed from the bill now pending before the Senate, to a very considerable extent, with this provision added:

But in all cases where such laws are not adapted to the object, or are deficient in the provisions necessary to furnish suitable remedies and punish offenses against law, the common law, as modified and changed by the constitution and statutes of the State wherein the court having jurisdiction of the cause, civil or criminal, is held, so far as the same is not inconsistent with the Constitution and laws of the United States, shall be extended to and govern said courts in the trial and disposition of such cause, and, if of a criminal nature, in the infliction of punishment on the party found guilty: *Provided*, That nothing herein contained shall prevent any State or Territory from providing by law for the trial and punishment, in the courts of such State or Territory, of any person who may be adjudged under the laws thereof to be guilty of false imprisonment or kidnaping, or prevent any person from bringing a prosecution in such courts to recover damages sustained by him by reason of such false imprisonment or kidnaping, under the laws of such State or Territory.

The eighth section provides:

SEC. 8. *And be it further enacted*, That the district attorneys, marshals, and deputy marshals of the United States, and the commissioners appointed by the circuit and territorial courts of the United States, in case any person heretofore held to slavery or involuntary servitude, commonly called a freedman, shall be restrained of his liberty by any person, with intent, in violation of the thirteenth amendment to the Constitution and of the provisions of this act, to subject him to slavery or involuntary servitude, shall, at the expense of the United States, apply immediately for the writ of *habeas corpus* to bring such freedman before the proper court or officer, to the end that speedy justice may be done in the premises.

With a provision punishing marshals and deputy marshals for refusing to execute processes, and with a provision at the end of the bill, in section twelve—

That final decrees and judgments in all cases arising under the provisions of this act may be reëxamined and reversed or affirmed in the Supreme Court, upon writ of error issued as now provided by law in other cases: *Provided*, That no such review shall be had except upon the certificate of the judge presiding upon the trial or hearing that the constitutionality of some law or proceeding under the authority of the United States or of this act has been drawn in question on such trial or hearing.

Now, Mr. President, for myself I very much wish that it were in my power to induce our friends upon the Committee on the Judiciary to take this bill, but I am not particularly wedded to the exact language or form contained in it, and they may prepare a bill which will avoid the objections which have been raised by men not only in this body but in the other House, and the objections which have been raised by the President of the United States to the bill now pending. For myself no man desires more strongly than I do to preserve the relations of amity between the Executive of the United States and Congress. No man would go further or struggle harder to preserve that amity, or to restore it if it has been in any measure broken or destroyed. I deem it most essential to the welfare of this country that the Executive of the United States and the Congress should be in accord with each other. The present Executive will occupy his position for almost three years to come, and during those three years of eventful history in this country this Republic will live or die. Sir, hardly during any three years of the rebellion were more momentous questions pending than are pending

now. I for one am willing to labor, and I have been from the beginning, to prevent any apparent collision between Congress and the President. I foresaw or thought I foresaw the elements at work which might result in this conflict, from the beginning of the session, ay, from before the beginning. I strove to avoid it; I will strive on; I strive to do it still; but I say to our friends in all kindness and in all sincerity that the way to avoid these conflicts is not to treat the executive branch of the Government as if it were in hostility to us, as a department with whom we were unwilling to consult, with whom we are unwilling to treat. That is not the way to treat the Executive elected by ourselves, placed at the head of our Administration to lead our Administration in this crisis.

Mr. President, I shall, as I have said, not go into any lengthy discussion, for I have no disposition to take up the time of the Senate. Some remarks, however, have been made on this and on a former occasion by the Senator from Ohio [Mr. WADE] which challenge for the moment my passing consideration. There are many things in the Senator from Ohio which I very much admire. While we have sometimes differed, warmly, earnestly differed, I say in all sincerity that I have never had occasion to question his patriotism, his love of country, his desire to accomplish the well-being of his common country and of every part of it. I say, sir, that while there are some things in which I disagree with him very widely, there are some things in him that I very much admire, and above all his entire frankness. In answer to a speech which I made on a former occasion, the honorable Senator from Ohio went on to say that he found fault not so much with what I did say as with what I did not say; and he went on further to speak of the Executive and his policy, accrediting to him his belief in his entire patriotism and saying that what the President had done, he had done well; the only fault he found with him was that he had not taken one step further in the process of reconstruction. The Senator said that President Johnson had followed in the footsteps of President Lincoln; he had improved upon the policy adopted by President Lincoln; and had Mr. Johnson but taken one step further, his whole reconstruction policy would have been complete. So now, sir, when this civil rights bill is pending, the honorable Senator from Ohio at once steps forward and speaks out, and what does he say? Very little about the civil rights bill; not that he regards that of so much importance as the reconstruction policy of the Administration in relation to the southern States. Now, on this subject of reconstruction, the honorable member from Ohio and myself have differed this session and on a former occasion, and I wish briefly to call to the mind of that honorable Senator some facts in relation to this reconstruction policy.

In the first place, Mr. Lincoln, as early as 1863, came forward with this reconstruction policy. He submitted his proposition to his Cabinet and every member of his Cabinet fully indorsed it, every part and parcel of it. We know who were then the members of the Cabinet; that the present Chief Justice was then a very prominent member of the Cabinet of Mr. Lincoln.

Mr. SUMNER. May I interrupt my friend just there?

Mr. DOOLITTLE. Certainly.

Mr. SUMNER. I think the Senator is mistaken when he supposes that the Chief Justice gave his consent to any proposition which was not founded on universal suffrage; and I think if he pushes his inquiry a little further, he will find that the first proposition submitted by President Lincoln and which had the approbation of the Chief Justice was founded substantially on universal suffrage.

Mr. DOOLITTLE. The authority which I have for making the statement I do was the language of Mr. Lincoln, used in his speech three days before his assassination, in the city of Washington, in which he said that his plan of reconstruction was submitted to his Cabinet and approved by every member of it—to quote his words, "every part and parcel of it."

Mr. SUMNER. The Senator is right.

Mr. DOOLITTLE. Certainly he said that.

Mr. SUMNER. But the Senator perhaps is not aware that that very statement of President Lincoln drew a letter from the Chief Justice, who was then holding court at Baltimore, which President Lincoln received on the morning before his death, in which the Chief Justice made the important correction to which I now call the attention of the Senator.

Mr. DOOLITTLE. I have no objection, of course, that the honorable Senator should state that, if the Chief Justice has made such a correction. I only state my authority, which is the speech of Mr. Lincoln on that occasion.

Mr. SUMNER. The letter is in print.

Mr. TRUMBULL. If the Senator from Wisconsin has it by him, I hope he will read that part of the speech of the President to which he refers. I think he will find that there is a qualification wherein the President says that his Cabinet agreed with him, except that one member of the Cabinet wished him to strike out that part in which he stated that he had no right to determine when members should be admitted into Congress. I think if he will look into it, he will find that there is that exception, so that he is mistaken in supposing it was unanimous.

Mr. DOOLITTLE. My honorable friend will pardon me; I remember it distinctly. I have quoted the exact language of Mr. Lincoln, in which he said that every part and parcel of that policy was submitted to the Cabinet and approved by every member. If there has been any correction of that statement, as stated by the honorable Senator from Massachusetts, it has failed to attract my notice. That, however, is not very material to the issue. This policy, I say, was entered upon at that time.

Mr. TRUMBULL. I happen to have before me an extract from the speech of Mr. Lincoln on that occasion, in which after stating what the Senator from Wisconsin has related, that it was submitted to his Cabinet and approved by every one of them, he proceeded to say:

"One of them suggested that I should then and in that connection apply the emancipation proclamation to the theretofore excepted parts of Virginia and Louisiana; that I should drop the suggestion about apprenticeship for freed people, and that I should omit the protest against my own power in regard to the admission of members of Congress; but even he approved every part and parcel of the plan which has since been employed or touched by the action of Louisiana."

That was the report of it, and I never heard it disputed.

Mr. DOOLITTLE. All approved every part and parcel of the policy of reconstruction, and he says one member of the Cabinet desired him to omit a portion in relation to representatives in Congress. Now, what Mr. Lincoln said upon that subject as to representatives in Congress was precisely what Mr. Johnson has said. This draws me a little from the thread of my remarks, but I may as well make this statement now. It is precisely what Mr. Johnson has, as I understand him, in every message and every speech always maintained. Mr. Lincoln said in the very plan he then proposed that each House was to be the judge of the admission of its own members. Those words are contained in the proclamation; I know they are; my friend can examine it and see. Mr. Lincoln says that the reorganized State governments shall be recognized by the Executive Government, but in substance nothing herein contained shall be construed to affect the right of Congress, each House for itself, to judge of the returns, elections, and qualifications of its members. That is the very language concerning which it is said that one of the Cabinet ministers desired to have it changed, but it remains.

Mr. TRUMBULL. He says here as I quoted him——

Mr. DOOLITTLE. This point is not very material to the one I am discussing, but I have no objection to be corrected.

Mr. TRUMBULL. The language I think is this—but if the Senator has it he will read the very words.

Mr. DOOLITTLE. I have not quoted the whole proclamation. The proclamation was issued December 8, 1863.

Mr. TRUMBULL. The Senator has the speech; will he be good enough to read all that part wherein he speaks of the plan submitted?

Mr. DOOLITTLE. He says:

"In the annual message of 1863 and accompanying proclamation I presented a plan of reconstruction, as the phrase goes, which I promised, if adopted by any State, should be acceptable to and sustained by the executive Government of the nation."

Mr. TRUMBULL. Read a little further.

Mr. DOOLITTLE. I have not got all the speech, but only another extract. Here is another extract:

"This plan was in advance submitted to the then Cabinet and distinctly approved by every member of it."

Then in another part of the speech he says:

"Every part and parcel of the plan which has since been employed or touched by the action of Louisiana."

Mr. TRUMBULL. I supposed the Senator had the whole speech.

Mr. DOOLITTLE. I have not.

Mr. TRUMBULL. In that speech the President said, also, that he distinctly repudiated—I do not think he used that word—the right to determine when or whether members should be admitted into Congress. This, I believe, is the language:

"I always distinctly protested that the President claimed no right to say when or whether members of Congress should be admitted to seats."

Mr. DOOLITTLE. Yes, sir; and in the proclamation he uses the language which I have quoted, that while he pledges the support of the executive Government to the States thus reorganized or reconstructed, he expressly says that this is not to be construed as in any way affecting the right or power of Congress—each House for itself to judge of the elections, returns, and qualifications of its members.

Now, Mr. President, let us go a step further. Under this proclamation, proceedings were taken in the States of Louisiana, Arkansas, and Tennessee. Mr. Johnson, the present incumbent of the executive office, resigned his seat in this Chamber to go home to Tennessee, under the direction of Mr. Lincoln, to reconstruct or reorganize the State government there. A friend has handed me the proclamation of Mr. Lincoln. I call the attention of the Senator from Illinois to this language:

"To avoid misunderstanding, it may be proper to say that this proclamation, so far as it relates to State governments, has no reference to States wherein loyal State governments have all the while been maintained. And for the same reason, it may be proper to further say, that whether members sent to Congress from any State shall be admitted to seats constitutionally rests exclusively with the respective Houses, and not to any extent with the Executive."

I undertake to say that there is not a word to be found in any speech or letter or document coming from the present Executive, or so far as I know, from any person who upon this floor or the floor of the other House has maintained the policy of reconstruction favored by the Executive, who has not always held that each House had the right to judge for itself, not merely of the form of credentials, not merely of the regularity of the returns, but whether the States were in a condition to elect, the Senate judging for itself if there was a legislature capable of electing Senators, and the House of Representatives whether the several districts and each district for itself were in a condition to elect Representatives.

But, Mr. President, I do not propose to go into the argument of that question. That is not in the line of discussion which I proposed to myself to-day.

Mr. TRUMBULL. The Senator will allow me a word. I never heard anybody in either House of Congress dispute that each House was to judge for itself of the elections, returns, and qualifications of its own members. It is a universally admitted axiom by everybody; but I undertake to say further, that nobody ever denied until recently that neither House

had the right to determine whether a State organization existed or not. The Senator from Wisconsin repeatedly voted that none of these States was entitled to vote for President or to have representation at all until Congress, and not each House, had decided whether it was entitled to be represented. His vote is on the record over and over again; he voted for the resolution that electoral votes should not be counted; he voted for a proposition which was put on as an amendment in this body to what was known as the reconstruction bill, in which it was directly affirmed that until a law of Congress should be passed, and a proclamation of the President should be issued in pursuance of that law of Congress, no State that had been in rebellion should be entitled to representation. It was his own vote, and that doctrine was never denied until very recently.

Mr. DOOLITTLE. I have no doubt we all voted that during the rebellion they should not be represented.

Mr. HOWARD. Mr. President——

Mr. DOOLITTLE. I beg my friend to excuse me; I cannot yield any further. This is on an incidental point entirely, and is not a question in the line of my argument. If I am to be interrupted continually I prefer to surrender the floor altogether.

Mr. HOWARD. I merely wish to correct what I supposed to be a misapprehension on the part of the honorable Senator.

Mr. DOOLITTLE. I will simply say to my honorable friend from Michigan that I desire to treat him with all courtesy, but this is not a question connected with the thread of my argument, and I desire to pass on to other points and other topics.

I was speaking of the history of this reconstruction policy, and saying what had been done in fact. I said that Mr. Johnson, then a Senator in this body, resigned his position here to go home to the State of Tennessee for the very purpose of carrying out the reconstruction policy of Mr. Lincoln. He was appointed military governor of Tennessee for that purpose, and he acted in that capacity. He organized, or aided in the reorganization of the State government of Tennessee, and had been engaged in that business for a year and a half before the nominations were made for President and Vice President in 1864. Mr. Lincoln having adopted that policy, and having acted upon it, was renominated as President of the United States, that being a part and parcel of his policy and of his Administration as much as any other. I know that when in the convention at Baltimore the proposition was made to have delegates from Tennessee admitted, it was objected in that convention that Tennessee was not a State in this Union, that she had no right to representation in the national convention; and when Mr. Johnson was proposed as Vice President he was objected to for the same reason. But the convention, then representing the people of the United States, representing the great Union Republican party, renominated Mr. Lincoln, and nominated Mr. Johnson, because, among other reasons, Mr. Johnson had been engaged to the satisfaction of the people whom they represented, in this great work of reconstruction.

Sir, to arrest the progress and policy of this work of reconstruction, we know that two prominent members in both Houses of Congress issued a protest to the country against this policy of reconstruction after the nomination had taken place. But did it arrest the current of events? Did it prevent the great mass of the people from indorsing, sustaining, and reaffirming that policy in the election of Mr. Lincoln and Mr. Johnson? Not at all. It was like dropping a pebble into a great stream, a momentary ripple and the current flowed on.

Mr. Lincoln and Johnson were elected President and Vice President of the United States. This policy was continued as a part and parcel of the policy of our Republican Administration. Louisiana a year ago was organized and presented to the two Houses of Congress her representatives. How were they received by the Senate of the United States? Our Judiciary Committee reported that Louisiana was properly organized and entitled to representation. They reported a resolution to that effect. It came up for action in this body near the close of the session, I think as late as the 1st day of March. How was the proposition received here then by the great mass of the Republican Senators on this floor? My honorable friend from Illinois will remember very well that when the night was fixed and agreed upon on which the question was to be taken, every member of the Republican party but six on this floor was in favor of action, and action then, and that there was a clear, unquestioned majority, and a large majority, in this body, notwithstanding at that time those who claimed to represent the Democratic party on this floor opposed the recognition of Louisiana——

Mr. CONNESS. I wish to correct the Senator on that point. I think the Senator is in error in stating that there was any agreement to vote on that occasion. There was no such agreement, according to my recollection.

Mr. DOOLITTLE. There was no agreement of those particular persons, for they would not agree.

Mr. CONNESS. There was no agreement of the Senate, as agreements are commonly made.

Mr. DOOLITTLE. There was a general understanding that on that night we would take up the question and take the vote. At all events, we made a struggle on the question.

Mr. CONNESS. That will do.

Mr. DOOLITTLE. The Senator will remember very well what the Senator from Massachusetts [Mr. SUMNER] and others said on this floor, that they would talk out the session rather than permit us to come to a vote.

Mr. CONNESS. If the Senator will pardon me, I only interrupted him that his statement might be correct. In the ordinary acceptation, when an agreement to vote is made, it is by public understanding in the Senate. There was no such understanding on the occasion alluded to.

Mr. DOOLITTLE. I am not talking about that agreement now. I am talking about the struggle we had here to come to a vote, and I say that when the struggle was to come to a vote on this question, there were but six Republican Senators on this floor who were opposed to coming to a vote; and it was the determination of the honorable Senator from Massachusetts, [Mr. SUMNER,] who remembers well what he said, and of the Senator from Ohio, [Mr. WADE,] and one or two others, to use all the parliamentary tactics of opposition to prevent a vote, even if thereby the remaining time of the session was consumed and the appropriation bills lost that defeated it. I undertake to say that this body, as a body of Republican Senators, indorsed and sustained the policy of reconstruction adopted by Mr. Lincoln as late as March one year ago. These are facts that cannot be denied.

Congress adjourned on the 4th of March, 1865, and as this was the state of the case in the Senate of the United States, Mr. Lincoln had a right to believe, and did believe, that a majority of his friends were with him on the great question of reconstruction; and it was for that reason that he told the Senators-elect from Louisiana, who publish the statement over their own hands, "Persevere, Louisiana will be recognized by the next Congress, and you will be admitted to your seats." Time passed on; victories were won; Richmond taken. Mr. Lincoln, but three days before his death, gave expression to this policy, and in a speech which I think no man on this floor would undertake to answer, urged upon us and upon the people that it was our duty, if we did not wish to demoralize and disperse our friends, the Union men of Louisiana and the other States, to recognize them, not turn the cold shoulder upon them, but to take them by the hand and to welcome them into the fraternity of States.

Mr. Johnson found this policy adopted by the Administration prepared to his hand. The great man now departed, whom we so much loved, who was the chosen leader of the great American people in the terrible time through which we have been called upon to pass, had himself laid down the track in which the car of state was to move on. The train was made up; the engines were in full motion, carrying the car of state forward to its desired end, when in come certain gentlemen who conceive that they are much wiser than the Republican party that nominated Mr. Lincoln and Mr. Johnson, and propose to throw down obstructions on the track, to throw off the car of state from the track on which it is going, and then claim that they are acting in the name of the great Union Republican party of the United States.

Mr. HENDERSON. Will the Senator from Wisconsin permit me to ask him a question right here?

Mr. DOOLITTLE. It is rather difficult for me to conclude my remarks with these interruptions.

Mr. HENDERSON. It is on this point. I suppose the line of the Senator's remarks indicates that because Mr. Lincoln adopted a certain policy in December, 1863, for the restoration of State governments in the seceded States, therefore that policy must have been correct in the spring of 1865, after the surrender of Lee's armies. Now, it will be remembered that under the proclamation of Mr. Lincoln he required simply that a party to be entitled to vote in the seceded States should take an oath that he would not thereafter take up arms against the Government of the United States. Of course, no man would participate in the organization of the Government there except a Union man, because all other men were in the confederate armies. That was in the midst of the war; the war was going on; it was in December, 1863, near midway between the origin and conclusion of this great war through which we have just passed.

Mr. DOOLITTLE. My honorable friend evidently misapprehends the point at which I am arriving. He will see in a moment that all he is now saying has no application to it.

Mr. HENDERSON. The Senator is certainly arguing that because Mr. Lincoln adopted a certain policy at a certain time, therefore that policy was the true policy at a certain other time. If that is not the meaning of the argument, of course there is nothing in it. If he does not design to show that because a man was in favor of Mr. Lincoln's policy he must certainly be in favor of Mr. Johnson's policy, then I cannot understand the drift of the argument. It surely means that, and nothing more. I ask him if he thinks because a policy was correct in 1863, that therefore the same policy was equally correct in the spring of 1865. It is unquestionably the fact that if in 1865 the same oath was required, and Mr. Johnson required only the same oath, that the party would not hereafter take up arms, in order to entitle him to vote, if the majority of the people of the seceded States were satisfied that they would not take up arms against the Government thereafter, they could very well come and take that oath, and take the civil power into their hands. There was no danger of that under Mr. Lincoln's proposition, because of the time at which it was made, in the fall of 1863; but surely it was not appropriate to urge that plan afterward.

Mr. DOOLITTLE. If my honorable friend will be patient for a few moments, he will find out what I mean. I am here an earnest man, talking to earnest men; and the point at which I am arriving is this: certain men claim now, in the name of the Union party, to denounce those who still adhere to the policy adopted by Mr. Lincoln——

Mr. HENDERSON. I have not done any such thing.

Mr. DOOLITTLE. I do not understand the Senator to have done it. Men are denounced

as being traitors to the Union party. Mr. Johnson, the present President of the United States, this day, on this floor, and in this high place, has been denounced by the Senator from Ohio as a traitor to the party that elected him to office because of his reconstruction policy. Sir, I am but pointing out to you the steps by which Mr. Johnson has arrived at that policy. He inherited it from Mr. Lincoln and from the Union party. It was substantially sustained by this Senate one year ago in the proposition to recognize Louisiana as completely reorganized and entitled to representation; and but for what was then denominated on the floor of the Senate as a factious opposition, that proposition would have passed the Senate. I remember that in the midst of that stormy time I became excited myself, I regret to say, and I gave utterance to words which I would not have done in my cooler moments perhaps. In speaking of the Senator from Kentucky (Mr. Powell) and the Senator from Ohio, [Mr. WADE,] who were then voting together, I stated, in the excitement of the moment, that Pilate and Herod had joined hands together to crucify the free State of Louisiana; the Senator from Ohio because the negroes were not permitted to vote, and the Senator from Kentucky because the rebels were not permitted to vote. I remember that scene very well. I know, and I speak of what I know, when I say that a large majority of this Senate, and of the Republican members of this Senate, then favored the reconstruction policy of Mr. Lincoln as adopted in Louisiana.

Now, Mr. President, let me go a step further. When men rise here to charge upon the present President of the United States, because he pursues the policy of the Union party, because instead of acting against it, to use the very language of the Senator from Ohio in his speech in answer to me the other day, Mr. Johnson "improved" upon the plan of Mr. Lincoln—when Senators stand up now and undertake to denounce as traitors our own friends, men whom we ourselves elected to office, men who hold our Administration, and who must of necessity administer the Government for three years to come, they are inconsistent, unwise; such language is certainly unnecessary, and it should be avoided.

If this spirit of denunciation of the President by Congress and of Congress by the President is to prevail, what hope is there of the ascendency in the future of the Union or Republican party? There is no hope whatever. The elections that have just occurred in New England have carried us safely through upon the idea that there is still hope that the Union party will not be divided, that there is still hope that Congress and the President may by some terms, by some bill, or some measure, yet be reconciled. Had you deprived the people or those States of that hope in the Union party and of that hope of reconciliation, there would have been no chance for us whatever. Therefore, from my stand-point—I say it with all respect to my friends around me—it seems to me, our duty is to try and see if we cannot reconcile our differences rather than to wage war upon each other.

Mr. President, I have received, in connection with my colleague, a telegraphic dispatch from the Governor of the State of Wisconsin, which I have no doubt is correct, although I have not seen the resolution which is said to have been passed by the Legislature, in which it is stated that the Legislature has passed a resolution instructing the Senators in Congress from Wisconsin to vote for the passage of the Senate bill commonly known as the civil rights bill, the veto of the President to the contrary notwithstanding. I have already stated, from my stand-point, the reasons why, in my judgment, I cannot do it. I have stated them freely and frankly, and, as a matter of course, I expect to abide the consequences. I know that it has sometimes been said to me, by those, too, in whom I would have confidence, that for me, under circumstances like these, not to follow the instructions of the Legislature of my State, would be to terminate my political life. Sir, be it so. I never held or aspired to any other office politically than the one I now hold; and God knows, if I know my own heart, if I can see this Union restored after this gigantic war which has put down the rebellion, and to which I have lent my support, I shall be satisfied. I do not desire to remain in political life beyond that hour. There is nothing in that which will have the slightest influence whatever upon me. The duty which I owe to myself, the duty which I owe to the country, the duty which I owe to the Union of these States, and the preservation of the rights of the States, and the duty which I owe to the great Republican party, which I would still desire to save, prompts me to pursue the course which I now do.

I do this with no disrespect whatever to the honorable gentlemen who voted for that resolution in the Legislature of Wisconsin. I respect their opinions as those of honorable men. But, sir, I believe that, standing where I do, I see what they do not see in the existing crisis of our beloved country. They, like all others, are liable to be deceived and imposed upon by the statements of the public press and by the statements of many of those through the South who are interested in preserving the present disordered state of things. I have here two communications, one of which I received some months since in relation to Louisiana, and another of but recent date from the State of Alabama, extracts from which I desire to read. Speaking of a certain Treasury agent in the city of New Orleans, the gentleman writing the first communication says:

"I hear that he has written to various radical members of Congress against the free State of Louisiana, and that even Mr. WADE has been influenced by his statements.

"I have been an extreme abolitionist for thirty-four years, and am, therefore, personally, not thin-skinned under the tongues of mendacious men.

"But I wish to enter my protest against the acceptance of any statement made by him against the free State of Louisiana, or any friend or advocate of the policy of Mr. Lincoln and the measures of General Banks for the restoration of the State. He is in no respect a competent witness against us. He has no principle, no honor, no taste, almost no qualities of manhood but those of adipose and impudence.

"He was a 'Border Ruffian' in Kansas, a slave-driver adventurer in Texas, where he was known by the appropriate canine cognomen of 'Big Brindle.'

"Here he has been a dirty weight upon various bureaus, falling steadily and certainly, by the gravity of unfitness, to the floor of each, to be swept out with the sweepings.

"He made money while in the 'Plantation Bureau,' because he was regardless of all interests, public or private, but his own, openly declaring often in my hearing that he 'thought no more of a negro than of a mule,' and carrying with him on to the plantations manners and control in consonance with that declaration." * * * * * * *

"Senator, it is to such men as him on the one side, on the other to embodied negative legalists and precedent men, like Durant, that we owe the hostility to the free State of Louisiana.

"The first class is arrested in the race of brutality and money making; the last in that of ambition and personal leadership. Each extends a hand to the martinetism that here holds the bayonet, and thus, together, not triune, but ternary, they secure the moral significance of this 'sacred number' while animated by avarice, ambition, and despotism.

"That my radical friends in Congress and elsewhere listen so eagerly and with the credulity of novices in place to the allegations against our own political kith and kin, of these classes, who are our natural enemies, sometimes fills me with the apprehension that we radicals simply possess power from the accident of revolution, rather than from the divine right of fitness for dominion." * * * * * *

"We are pressing for colored suffrage upon our Legislature, for the classes allowed by our free constitution, and I have great hope of attaining it in spite of the opposers." * * * * * *

"Durant and the small clique of colored men who adhere to him want suffrage from Congress. We want it from the Legislature.

"As it is possible that you may never feel the practical pressure of a military despotism, it might be well for you to step into New Orleans, just to see what a free white man can endure from bayonets that he helps to buy, in hands that he helps to pay, turned upon him with a sharpness and persistence measured by the exact ratio of his adhesion to the policy of Mr. Lincoln, and his deservings of justice and protection.

"If the rule we have here, at this time, is that of freemen, God grant me an asylum under Francis Joseph, where, having not even a dream of liberty, I should never awake to the reality of its loss."

* * * * * * * * * * *

"The military rule here has done more to drive further away the native people, to sap the sense of loyalty in our ranks, to weaken the Administration and the Republican party than half a dozen rebel successes could have done." * * * *

"One of the most distinguished of the lay Catholics and one of our staunch friends, said to me this morning:

"'Well, major, the radicals have the Government; is this their rule?'

"The people do not yet blame Mr. Lincoln. They know he is just, and desperately busy, but they begin to wonder why he leaves a bureaucratical officer, excellent in an office or an outpost, in the autocratic administration of a division more extensive than some kingdoms, in which, at this moment the civil, political, and commercial weaponry would be far more effective for us than the boyonet, especially where the latter is principally directed against the very friends of the President."

This is reading from one source, an extreme man perhaps, strong in his expressions, who claims to have been for thirty-four years an abolitionist. I hold in my hand a letter which I received the other day coming from another man of the South. This man was once a member of Congress. He was one of those who joined in the secession movement. He was a member of the rebel congress, and was at one time in the rebel army. He is now at the head of a college in Alabama. He wrote to me some time since to know whether by the law as it stood those States were entitled to any public lands in aid of their collegiate or agricultural institutions. I answered that letter, to which answer he replied, and in the course of his reply he speaks of the condition of public sentiment at the South. His name must be known to most gentlemen here. He was known to me at the time he was a member of Congress. He is a gentleman of great intelligence and perhaps one of the ablest men in Alabama. I refer to Mr. J. L. M. Curry.

Mr. EDMUNDS. Will the gentleman allow me to inquire the name of the writer of the letter he has just read?

Mr. DOOLITTLE. His name is Plumley.

Several SENATORS. Who is he?

Mr. DOOLITTLE. He has charge of the schools in Louisiana. He is a gentleman from Philadelphia, I believe. Mr. Curry says:

"It may not be amiss to make some suggestions and statements in reference to the condition of public sentiment in the late belligerent section. The strangest misapprehension seems to prevail at the North. Good men have certainly been misled." * * * *

"Some of the testimony before the reconstruction committee, as reported in the newspapers, is the grossest carricature of southern opinion and purposes. They have been imposed upon. How, is a mystery to me." * * * * "The representations of the desires and purposes of the ex-rebels, 'so called,' are so absurd and ridiculous as to be impossible of refutation, except by putting the whole people on the stand to prove a negative. I was a secessionist, for awhile a member of the confederate congress, and afterward in the army, on the staff of generals, or in command of a regiment. It would be merest affectation to pretend that I was not somewhat prominent as a secessionist." * * * * * * *

"Having laid the predicate for my competency, I desire to aver, as a gentleman and Christian I hope, that with large personal intercourse with the people and those who are suspected of rebel intentions, I never heard (of course since the surrender) of any conspiracy or movement or society or purpose, secret or public, present or prospective, to overthrow the United States Government, to resist its authority, to reënslave the negroes, or in any manner to disturb the relations that now exist between the southern States as constituent elements of the Federal Government and that Government, until I read of such intentions recently in northern newspapers. With perfect certainty as to the truth of my affirmation, I can state that there is not a sane nor sober man in Alabama who believes or expects that African slavery will be reëstablished. As unalterable facts, the people accept the abolition of slavery, the extinction of the right of secession, and the supremacy of the Federal Government. It is as idle, a thousand times more so, to speak of another contemplated southern resistance to Federal authority as to anticipate the overthrow of the British Government by the Fenians."

I cite this in connection with what I believe to be true, that the newspapers of the northern States this day, by their correspondents all through the South, to a very considerable extent, misrepresent the true condition of affairs. The recent action of the State of Georgia, and of other States, in relation to the civil rights of the negroes, tends to show that the public sentiment of those States is not, as it has been sometimes represented, to murder and crush and destroy them, but it is to employ them in the production of what is necessary to the growth of the States of the South and to the happiness of the people of all classes. While undoubtedly there exist very great abuses, and

it would be impossible that it should be otherwise after such a war, and all the anarchy that follows it, yet I do sincerely believe, and I think the honorable committee of fifteen, when they come to look the whole case over, will come to the conclusion in the end, that considering all these things, the people of the South have made as rapid advance as could have been reasonably expected after such a gigantic war.

Mr. President, I have occupied a longer time than I intended when I rose. I have stated, very briefly, the purpose I had, hoping that if this measure should not be carried we may agree upon a measure substantially protecting all the rights of the freedmen of the South, and directly and positively, and following the very language of the Constitution enforcing the constitutional amendment abolishing slavery throughout all the States.

Mr. DAVIS addressed the Senate in support of the President's veto. [His speech will be found in the Appendix.]

Mr. SAULSBURY. Mr. President, it is not my intention to detain the Senate; argument is useless; reason is thrown away. I prefer to discuss the question hereafter before another tribunal. But, sir, I rise to say that in my judgment the passage of this bill is the inauguration of revolution—bloodless, as yet, but the attempt to execute it by the machinery and in the mode provided in the bill will lead to revolution in blood. It is well that the American people should take warning in time and set their house in order, but it is utterly impossible that the people of this country will patiently entertain and submit to this great wrong. I do not say this because I want a revolution. Heaven knows we have had enough of bloodshed; we have had enough of strife; there has been enough of mourning in every household. There are too many new-made graves on which the grass has not yet grown for any one to wish to see the renewal of strife. But, sir, attempt to execute this act within the limits of the States of this Union, and in my judgment this country will again be plunged into all the horrors of civil war.

In my own State, a feeble State in point of numbers, but a State of gallant sons and noble hearts, your law will not be observed by the judiciary; and every member of the judiciary of that State, except two, belongs to your own party. But, sir, there is not a Republican judge in the State of Delaware, and we have not had a judge in that State, who would so far forget his duty to the people of his State or the teachings of the great luminaries of the law as to attempt to execute such a flagrantly unconstitutional act as this. Sir, I shall not go into the discussion of the unconstitutional features of this bill; but if it is not grossly, palpably, flagrantly unconstitutional in its provisions, five-and-twenty years of somewhat diligent study of the law have availed me but little.

Mr. President, do you suppose, does this Senate suppose, is there a sane man within the limits of this whole country who supposes, that if an honest judiciary of a State shall decide that a free negro shall not testify in the courts of that State, when his right to testify is prohibited by the statute law of the State, the people of such State will allow the agents of your commissioners to arrest those judges and drag them from the bench? Do you suppose that if the Legislature of a State enacts a law discriminating between the white and the black races, the people of any State of this Union are going to allow their Legislature to be dragged from their legislative halls by your free negro agents sent by free negro commissioners, because you have got the power under this bill to appoint free negro commissioners and they have the power to send free negro agents to execute their commands? Do you suppose the people of any State are going to allow such an outrage as that? No, sir. They would sooner see every foot of their soil drenched in blood than submit to any such outrage.

Sir, I say this not because I want these scenes to transpire. May God forbid. But you are about to enter upon another revolution, and a revolution the effects of which the wisest cannot foresee. Sir, if in any solitary moment of my life I could have doubted that I was right when I opposed the inauguration of civil war in this country, if at any moment of my life I ever doubted that war was disunion, I am convinced now, certainly, fully of the truth that every vote I have ever given since this war commenced, and every word I have ever uttered in this Chamber has been right; and I am convinced now more than ever that war was and is disunion. Thank God, though during the stormy periods of the war those who had not brains enough to comprehend the meaning of what they said could charge me and those with whom I acted as being disunionists, I have lived to see the day when my political opponents and the opponents of those with whom I associated in political action have not only become disunionists, but revolutionists, and this evening, while the bleeding, mangled body of the Constitution of their country lies in their pathway, they ruthlessly are trampling it into the dust!

Sir, I will not detain the Senate. I will submit to the vote and I will advise peace, but I see nothing but pictures of horror and blood in the future.

Mr. YATES. I simply wish to say that the Union people of this country expect the Republican Union Senators to march forward in the performance of their duty. Let us do it now and do it for the country.

Mr. McDOUGALL. Mr. President, it was my intention to address the Senate at some length upon the pending question. The understanding had on yesterday, however, prevents me from making any extended remarks; and I do not care to make inconsequent speeches, for I am aware that the opinion of every Senator has been matured, and that all are prepared now to pronounce judgment upon the question. And yet, while not now undertaking to discuss this measure, I desire to say that it is unconstitutional, potently so. It cannot be supported by any one who understands the Constitution as it reads in the book, and as it has been taught to us by those who have spoken most wisely and most profoundly of that Constitution.

More than that, Mr. President, I agree with the Senator from Delaware that this measure is revolutionary in its character. I will say more: there have been a series of measures introduced here altogether revolutionary, by which the Constitution itself is disregarded and trampled under foot, and the arbitrary power of the majority asserted, and it is now, I suppose, to be maintained. For whom were constitutions and laws made? For the most powerful? No; for the weak. For majorities? No; for minorities. The strong can maintain themselves; the weak need protection.

The majority glory now in their giant power, but they ought to understand that it is tyrannous to exercise that power like a giant. A revolution now is moving onward; it has its center in the Northeast. A spirit has been radiating out from there for years past as revolutionary as the spirit that went out from Charleston, South Carolina, and perhaps its consequences will be equally fatal, for when that revolutionary struggle comes it will not be a war between the North and its power and the slaveholding population of the South; it will be among the North men themselves, they who have lived under the shadows of great oaks and seen the tall pine trees bend.

This is no idle remark of mine. Such consequences are threatened by a policy indicated here upon this floor and now being maintained by a majority both in this House and in the other end of this building. Persons conversant with the history of other lands and the history of our own land, who know how the passions of men are controlled and influenced, can easily detect an effort at revolutionary movement that if not checked must end in vast disaster. This measure, so far as its own provisions alone are concerned, may be inconsequent of great harm; but it with its accompanying policies must lead to infinite mischief.

I say this not for the purpose of influencing a single vote, for I do not think that any vote can be influenced by any word of mine, but to express the profound conviction in my own mind that the policies of which this is a part are fraught with infinite mischief, and if they are not checked will throw us into a severer storm and a rougher tempest than has raged over the land for the last five years.

The PRESIDENT *pro tempore*. The question is, Shall the bill pass, the objections of the President of the United States to the contrary notwithstanding? The question must be taken by yeas and nays. As many as are in favor of the passage of the bill will say "yea," those opposed will say "nay," as their names are called.

The Secretary proceeded to call the roll.

Mr. MORGAN'S vote in the affirmative was followed by applause in the galleries.

The PRESIDENT *pro tempore*. Order will be preserved in the galleries. If there be any disturbance, they will be cleared; and the doorkeepers will take in charge any persons who commit disturbance. The call will proceed.

The Secretary concluded the call of the roll; and the result was as follows:

YEAS—Messrs. Anthony, Brown, Chandler, Clark, Conness, Cragin, Creswell, Edmunds, Fessenden, Foster, Grimes, Harris, Henderson, Howard, Howe, Kirkwood, Lane of Indiana, Morgan, Morrill, Nye, Poland, Pomeroy, Ramsey, Sherman, Sprague, Stewart, Sumner, Trumbull, Wade, Willey, Williams, Wilson, and Yates—33.

NAYS—Messrs. Buckalew, Cowan, Davis, Doolittle, Guthrie, Hendricks, Johnson, Lane of Kansas, McDougall, Nesmith, Norton, Riddle, Saulsbury, Van Winkle, and Wright—15.

ABSENT—Mr. Dixon.

The PRESIDENT *pro tempore*. The yeas being 33, and the nays 15, the bill has passed the Senate by the requisite constitutional majority, notwithstanding the objection of the President to the contrary.

On motion by Mr. TRUMBULL, it was

Ordered, That the Secretary communicate the bill (S. No. 61) to protect all persons in the United States in their civil rights and furnish the means of their vindication, with the message of the President returning the same to the Senate with his objection, and the proceedings of the Senate thereon, to the House of Representatives.

OATH OF OFFICE.

The PRESIDENT *pro tempore* laid before the Senate the following message from the President of the United States:

To the Senate and House of Representatives:

I herewith transmit communications from the Secretary of the Treasury and the Postmaster General, suggesting a modification of the oath of office prescribed by the act of Congress approved July 2, 1862. I fully concur in their recommendation, and as the subject pertains to the efficient administration of the revenue and postal laws in the southern States, I earnestly commend it to the earliest consideration of Congress.

ANDREW JOHNSON.

WASHINGTON CITY, *April* 6, 1866.

On motion of Mr. CLARK, the message was ordered to lie on the table, and be printed.

BRITISH VESSEL MAGICIENN.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, transmitting a report from the Secretary of State, with accompanying papers, in relation to the claim on this Government of the owners of the British vessel Magicienn, and recommending an appropriation for the satisfaction of the claim pursuant to the award of the arbitrators; which was ordered to lie on the table, and be printed.

MESSAGE FROM THE HOUSE.

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

A bill (H. R. No. 25) for the relief of Thomas Hurley;

A bill (H. R. No. 371) to grant a pension to Leonard St. Clair;
A bill (H. R. No. 458) granting pension to Sarah E. Pickell;
A bill (H. R. No. 459) granting pension to Anna E. Ward;
A bill (H. R. No. 460) granting pension to Spencer Kellogg;
A bill (H. R. No. 461) granting pension to Ann Sheehey;
A bill (H. R. No. 462) granting pension to Mrs. Sally Andrews;
A bill (H. R. No. 463) for the relief of James Foster; and
A bill (H. R. No. 464) for the relief of John Gordon.

These bills were severally read twice by their titles and referred to the Committee on Pensions.

EQUALIZATION OF BOUNTIES.

Mr. WRIGHT presented resolutions of a mass meeting held at Bordentown, New Jersey, in favor of the equalization of soldiers' bounties; which were referred to the Committee on Military Affairs and the Militia.

NAVAL APPROPRIATION BILL.

Mr. FESSENDEN. I move that the Senate insist upon its amendments disagreed to by the House of Representatives to the bill (H. R. No. 122) making appropriations for the naval service for the year ending the 30th of June, 1867, and disagree to the amendment of the House to other amendments of the Senate, and agree to the conference asked by the House of Representatives on the disagreeing votes of the two Houses.

The motion was agreed to; and by unanimous consent, at the suggestion of Mr. FESSENDEN, the President *pro tempore* was authorized to appoint the committee of conference on the part of the Senate.

ADJOURNMENT UNTIL MONDAY.

Mr. SUMNER. I move that when the Senate adjourns to-day it be to meet on Monday next.

The motion was agreed to.

EMMA J. HALL.

The amendment of the House of Representatives to the bill (S. No. 181) for the relief of Emma J. Hall was referred to the Committee on Pensions.

Mr. HARRIS. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *April* 6, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

BANKRUPT LAW.

Mr. PAINE, by unanimous consent, submitted resolutions of the Chamber of Commerce of the city of Milwaukee, in favor of a bankrupt law; which were read, and referred to the special committee on bankruptcy.

DOCUMENTS FOR HOUSE REPORTERS.

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

Resolved, That the Committee on Printing be instructed to inquire into and report upon the expediency of furnishing to each of the House reporters for the Congressional Globe two copies of each printed bill and resolution of the Senate and House of Representatives.

Mr. HARDING, of Illinois. I call for the regular order of business.

The SPEAKER stated, as the regular order of business, the calling of committees for reports of a private nature, commencing with the Committee on Invalid Pensions.

PENSION OFFICE.

Mr. PERHAM, from the Committee on Invalid Pensions, reported back House bill No. 278, to amend the several acts relative to the organization of the Pension Office, with a substitute; which was ordered to be printed, and recommitted to the Committee on Invalid Pensions.

ADVERSE REPORTS.

Mr. PERHAM, from the Committee on Invalid Pensions, submitted adverse reports on the following petitions and memorials; which were laid on the table, and ordered to be printed:

The petition of H. Hough, of Susan T. Williamson, of James Whaley, Alexander McClan, and Charles Williams, of Mrs. Mary K. Hall, widow of Lieutenant Hall, of George P. Rensburg, of Hon. T. W. Powell, and others, citizens of Ohio, and of George Clark.

SUSAN MEADOR.

Mr. PERHAM, from the Committee on Invalid Pensions, submitted an adverse report on the bill for the relief of Susan Meador.

SIMEON ALFRED.

On motion of Mr. PERHAM, the Committee on Invalid Pensions was discharged from the further consideration of the petition of Simeon Alfred, and one hundred and seventy others, citizens of Dearborn county, Indiana, and the same was referred to the Committee on Military Affairs.

JANE W. NETHAWAY.

Mr. PERHAM, from the Committee on Invalid Pensions, reported back Senate bill No. 115, entitled "An act for the relief of Jane W. Nethaway."

The bill was read. It directs the payment of a pension from the 29th of September, 1864, during her widowhood, at the rate allowed by law to the widow of a first lieutenant.

The bill was ordered to a third reading, and was accordingly read the third time, and passed.

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

The latter motion was agreed to.

EMMA J. HALL.

Mr. PERHAM, from the Committee on Invalid Pensions, reported back Senate bill No. 181, for the relief of Emma Jane Hall, with an amendment to strike out all after the enacting clause and insert the following:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of Emma Jane Hall, widow of Perry Hall, deceased, late chaplain of the seventy-ninth Indiana volunteers, on the pension rolls at the rate now prescribed by law for officers of his rank, and to be continued during her widowhood.

The amendment was agreed to.

The bill as amended was then ordered to a third reading, and was accordingly read the third time, and passed.

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

The latter motion was agreed to.

ADVERSE REPORTS.

Mr. BENJAMIN, from the Committee on Invalid Pensions, made adverse reports on the petition of Alfred Merrill, of Wisconsin, and of John Hyatt, of Harper's Ferry, West Virginia; which were severally laid upon the table, and ordered to be printed.

THOMAS HURLEY.

Mr. HARDING, of Kentucky, reported back, with a recommendation that it do pass, a bill for the relief of Thomas Hurley, with an amendment in the nature of a substitute. The substitute directs the Secretary of the Interior to place the name of Thomas Hurley, late a private in company K, eighth Tennessee cavalry, on the pension roll at the rate of twenty dollars a month.

The report of the committee was read.

Mr. HARDING, of Kentucky. I move the previous question on the substitute.

Mr. BOUTWELL. I would inquire whether the pension proposed here is the same that is allowed to persons who have been disabled to an equal extent in the regular service.

Mr. HARDING, of Kentucky. Yes, sir.

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

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

The latter motion was agreed to.

WILLIAM BLAIR.

Mr. HARDING, of Kentucky, from the Committee on Invalid Pensions, made an adverse report on the petition of William Blair, praying for a pension; which was laid upon the table, and ordered to be printed.

SARAH E. PICKELL.

Mr. TAYLOR, from the Committee on Invalid Pensions, reported a bill granting a pension to the widow of Colonel John Pickell; which was read a first and second time.

The bill directs the Secretary of the Interior to place the name of Sarah E. Pickell, widow of Colonel John Pickell, on the roll of invalid pensioners, and pay the sum of fifty-seven dollars per month to her, or in the event of the marriage or death of the said widow, then to the children, subject to the restrictions of the pension laws.

Mr. WASHBURNE, of Illinois. I would like to have the report read. It seems to me that this is an entirely new principle.

The report was read.

Mr. WASHBURNE, of Illinois. So far as the first portion of that bill is concerned I shall interpose no objection; but that portion of it which provides that the pension shall go to the children after the marriage or death of the widow is incorporating a new principle, and to which I shall object. In all the bills we have passed the pension has been limited to the widowhood.

Mr. TAYLOR. This bill is in conformity with the general pension law, and that provision is put in to prevent the necessity of the children coming to Congress and asking a special act. That is the reason of it, and it is in conformity with the general pension law. The Commissioner of Pensions refuses to continue the pensions where they are granted by special act, and the object is to avoid the necessity of a separate application, if there are children under sixteen years of age.

Mr. WASHBURNE, of Illinois. Let the bill conform to what is the universal practice of the House.

Mr. MORRIS. If I understand the rule, in the event of the marriage of the widow, or her death, the pension goes to the minor children, and ceases when they arrive at majority. I understand that to be the rule. Certainly it is equitable. This Government can afford to take care of the widows and orphans, until they arrive at majority, of those who laid down their lives for the country.

Mr. WASHBURNE, of Illinois. The gentleman may be right as to the general pension law. But what I say is, that this bill introduces a new principle in our legislation. Heretofore, in every case where we have passed a special bill for the relief of a widow, we have confined it to her widowhood or natural life. Now, in this case, the party is not entitled to any pension under the general law; but it is proposed to go further in this than in any other case. Now, I am as patriotic a man as any, I think, and as willing to go as far as any one. But I think this is a dangerous principle, and should not be adopted in this House.

Mr. TAYLOR. This bill comes within the spirit of the general pension law. It merely continues the pension, in case this widow dies or marries, to her children until the age of sixteen.

Mr. FARQUHAR. I understand the objection of the distinguished gentleman from Illinois [Mr. WASHBURNE] to the principle involved

in this bill to be, not that the principle is wrong, but simply that it is an innovation upon the practice of this House heretofore. Now, I ask that gentleman if it is not proper for this House, at some period of time, to depart from the usages of this House, if those usages have not been strictly in accordance with the principle of justice and right?

What is the new principle involved in this bill, presented to the House by the Committee on Invalid Pensions? It is, that upon the death of the widow the pension shall continue to her minor children, not to the children of the deceased soldier, who are able to protect and take care of themselves, but to the minor heirs of the deceased soldier, those who have not passed the age of sixteen years. Now, I appeal to members of this House to say whether it has not been the pledge of the people of this country to the men who entered the service of the country to put down the late rebellion, that they would not only protect the soldier who was wounded in the discharge of his service, but that they would take care of the orphan children of the soldiers as the apple of the eye, the jewels of the household? And if the precedent has been wrong, it is the duty of Congress to correct it. This principle is right, and I appeal to this House to sustain it.

Mr. PERHAM. I wish to say just this: the purpose of the committee was to place this widow and her children in precisely the same condition in which they would have been had the pension been granted by the Pension Bureau; that is all. It is very true that usually in passing acts of this kind we have not given, by the terms of the act, a pension to the minor children at the death of the mother. And the consequence has been that these orphan children have been obliged to come here to Congress and obtain a special act for their own benefit. And, so far as I know, Congress has granted their prayer in every instance.

Mr. WASHBURNE, of Illinois. I will ask the gentleman from Maine [Mr. PERHAM] if he has ever known a special act passed providing that in case of the death or the marriage of the widow the pension should go to her minor children?

Mr. PERHAM. I am not certain that that has ever been done; perhaps it has never been done. But this is also true: that when we failed to do that these minor children upon the death of the widow have come back here and obtained pensions. If the pension had been granted by the Pension Bureau, then these children would have been entitled to the pension in case of the death or marriage of the mother. And in this case we only ask that the same shall be established now.

Mr. HILL. The objection of the gentleman from Illinois [Mr. WASHBURNE] to this bill is that it introduces a new principle in our legislation. Now, if this be a new principle, let us adopt it; it seems to me to be high time that we should introduce a new principle. And if it requires a revision of every bill upon this subject which we have passed, then in God's name let us revise them, and introduce a new principle. Now, I confess to some surprise and a little mortification when I see gentlemen on this floor insisting upon a technical quibble to deprive these children of what would have been their clear legal right, if the death of the mother occurred under the circumstances embraced in the general pension law. I think it does not speak well for the character of this House to avoid giving this little pittance of compensation to these children, because it has the power to do so by a mere quibble. Therefore I insist that this principle should be incorporated not only into this bill, but into every bill of a similar nature that may hereafter be framed, and that, if necessary, former acts should be revised so as to conform to this principle. The principle is certainly correct; otherwise the principle upon which we have by general law granted pensions to minor children is incorrect and should no longer be sanctioned.

Mr. TAYLOR demanded the previous question.

The previous question was seconded and the main question ordered.

The amendment of Mr. WASHBURNE, of Illinois, was not agreed to.

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

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

The latter motion was agreed to.

ANNA E. WARD.

Mr. TAYLOR reported, from the Committee on Invalid Pensions, a bill granting a pension to Anna E. Ward; which was read a first and second time.

The bill, which was read *in extenso*, provides for the payment of a pension at the rate of eight dollars per month to Anna E. Ward, of the city of Washington, District of Columbia, widow of the late Joseph D. Ward, second Kentucky volunteers, the pension to continue during her widowhood, and in the event of her marriage or death, to be paid to the minor children of Joseph D. Ward, subject to the limitations and restrictions of the pension laws.

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

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

The latter motion was agreed to.

SPENCER KELLOGG.

Mr. TAYLOR reported, from the Committee on Invalid Pensions, a bill granting a pension to Spencer Kellogg; which was read a first and second time.

The bill, which was read *in extenso*, provides that the name of Spencer Kellogg, of Oswego county, State of New York, be placed on the roll of invalid pensioners, and that there be paid to his legally appointed guardian twenty dollars per month, until the said Spencer Kellogg shall have attained the age of sixteen years; the act to take effect from the 6th day of September, 1865.

The report, which was read, states that Spencer Kellogg, the father of the ward of Orville C. Brown, was fourth master of the United States gunboat Essex, and was captured by the enemy, while in the discharge of his duty, on or about August 15, 1862, and was executed in Richmond, Virginia, on the 25th of September, 1863, by the rebels, charged with being a spy; that the muster and pay-rolls of the Essex were lost; that Congress, by joint resolution approved June 30, 1864, directed the name of Mary Kellogg, widow of Spencer Kellogg, and mother of the ward of Orville C. Brown, to be placed upon the pension roll, with the pension incident to the rank of her late husband; that Mary Kellogg, widow of said Spencer Kellogg, died September 6, 1865, leaving a son and only child by said Spencer Kellogg, deceased, to wit, Spencer Kellogg, ward of Orville C. Brown, now about three years of age.

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

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

The latter motion was agreed to.

MRS. ANN SHEEHEY.

Mr. TAYLOR reported, from the Committee on Invalid Pensions, a bill granting a pension to Mrs. Ann Sheehey; which was read a first and second time.

The bill, which was read *in extenso*, provides for granting a pension of eight dollars per month to Ann Sheehey, of Boston, Massachusetts, during her widowhood. It also provides that the proper accounting officers of the Treasury be authorized and directed to settle and adjust the accounts of John Sheehey, late a private in company D, twenty-eighth Massachusetts volunteers, and to pay to Ann Sheehey the amount that may be found to have been due said John Sheehey on the 3d of July, 1863, the date of his death; this act to take effect from and after its passage.

The report, which was read, states that Ann Sheehey, the step-mother of John Sheehey, performed the duties of a mother toward him from 1850, when he was but six years old; that in 1857 his father died, leaving him entirely dependent upon his step-mother for support; that about November 20, 1861, when John enlisted, his step-mother had become feeble and dependent upon him for support; and that he was killed July 3, 1863, while in the line of his duty, at the battle of Gettysburg.

Mr. WASHBURNE, of Illinois. I move to strike out the last words, that it shall take effect from and after the passage of this act, as it is mere surplusage.

Mr. TAYLOR. I have no objection to that.

The amendment was agreed to.

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

Mr. TAYLOR moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

MRS. SALLY ANDREWS.

Mr. TAYLOR, from the same committee reported a bill granting a pension to Mrs. Sally Andrews; which was read a first and second time.

The bill directs the Secretary of the Interior to place the name of Mrs. Sally Andrews, of Buckstown, York county, Pennsylvania, widow of the late Elijah Andrews, quarter gunner on board of the Levetta Adams, upon the list of invalid pensioners at the rate of eight dollars a month during her widowhood, to take effect from and after the passage of the act.

Mr. WASHBURNE, of Illinois, moved that the words "from and after the passage of this act" be stricken out.

The amendment was agreed to.

It appears from the report that Elijah Andrews was quarter gunner on board of the Levetta Adams during the war of 1812, and that while in the line of his duty, he ruptured a blood-vessel, producing hemorrhage and causing disability, from which he died on the 5th of April, 1820.

Mr. WASHBURNE, of Illinois. It seems to me that is going a long way back.

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

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

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had concurred in the amendment of the House to Senate bill No. 105, to grant a right of way to the Cascade railroad through a military reserve in Washington Territory.

LEONARD ST. CLAIR.

Mr. TAYLOR, from the same committee, reported back House bill No. 37, to grant a pension to Leonard St. Clair, with a recommendation that it do pass.

The bill directs that the name of Leonard St. Clair be placed upon the pension list of the United States at the rate of six dollars per month, from and after the passage of this act.

Mr. TAYLOR moved to strike out the last words.

The amendment was agreed to.

It appears from the report that Leonard St. Clair was a soldier in the war of 1812, and lost

his right arm by reason of exposure in the line of his duty; and that he is in indigent circumstances and has a large family to support.

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

Mr. TAYLOR moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

ENROLLED BILLS SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 86) making additional appropriations, and to supply deficiencies in the appropriations for sundry civil expenses of the Government for the fiscal year ending the 30th of June, 1866, and for other purposes;

An act (H. R. No. 420) to provide arms and ammunition for the defense of the inhabitants of Dakota Territory; and

An act (H. R. No. 215) for the benefit of John W. Campbell.

JAMES FISHER.

Mr. TAYLOR, from the Committee on Invalid Pensions, reported a bill for the relief of James Fisher; which was read a first and second time.

The bill directs that the name of James Fisher, late of the United States ship Germantown, be placed upon the pension list at the rate of six dollars per month, from and after the passage of this act.

Mr. WASHBURNE, of Illinois, moved to strike out the last words, "from and after the passage of this act."

The amendment was agreed to.

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

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

The latter motion was agreed to.

SARAH BONINGTON.

On motion of Mr. SAWYER, the Committee on Invalid Pensions was discharged from the further consideration of the petition of Sarah Bonington, and the same was referred to the Committee of Claims.

MARTHA J. WILLEY.

Mr. STILWELL, from the Committee on Invalid Pensions, reported a bill for the relief of Martha J. Willey, widow of George W. Willey, late corporal in company F, second New Hampshire volunteers.

The bill grants a pension at the rate of eight dollars per month from the 18th of April, 1865, to continue during her widowhood.

Mr. WASHBURNE, of Illinois. I call for the reading of the report.

Mr. STILWELL. There is no report. I can state the facts. Mr. Willey was in the service three years. He received a parole for thirty days, having reënlisted as a veteran, and while at home on that parole he was taken sick and died.

Mr. WASHBURNE, of Illinois. I have the same objection to this bill that I had to the bill introduced by the gentleman from New York, [Mr. TAYLOR.] I do not like the provision in special cases that the pension shall go to the minor children after the marriage or death of the widow. I think it is a wrong principle, and that we ought to pass none of these bills unless we have a written report, and not only written, but printed, so that every member can see for himself. The gentleman's explanation may be very good for those who hear it, but there ought to be a printed report to go on the records of legislation.

Mr. STILWELL. I withdraw the bill.

HENRY COLEMAN.

Mr. VAN AERNAM, from the Committee on Invalid Pensions, reported adversely on the petition of Henry Coleman, late seaman on board of the United States transport McClellan, for a pension.

Mr. RAYMOND. I would like a statement in regard to that case, not with a view to immediate action. As I understand it, the case is simply this: this man came on board the transport, but was not mustered in as a regular soldier on duty. On board that transport, under command of an officer of the United States Army, while engaged in firing a gun as a salute, he was wounded. He has applied for a pension, and I believe the committee have made an adverse report, on the technical ground that he was not mustered into the service.

Mr. STEVENS. Did we not pass a general law on the subject covering these cases?

Mr. BENJAMIN. This man was hired, as every other seaman is, by the party who chartered the vessel. He was in no way under the orders of the Government, if he was wounded in the manner stated, by firing a salute. He was a seaman employed by a private party on board of a vessel chartered for the Government.

Mr. RAYMOND. I would like to ask whether in firing the gun he was not acting under orders of an officer of the Army.

Mr. VAN AERNAM. He was under the order of the captain who was in charge of the vessel. The transport McClellan was chartered by the Government. The crew were selected by the captain. This man lost his arm while obeying the captain of the vessel who had charge of the transport.

Mr. RAYMOND. I suggest that the matter lay over.

Mr. SHELLABARGER. I wish to make an inquiry. A number of cases have been sent to me of this character, where the person is in the civil employment of the Government of the United States and is killed in the discharge of duty under orders of the Secretary of War. Now, I wish to know whether there has been any action taken in favor of giving to the families of such persons pensions, or whether they are rejected.

Mr. RAYMOND. I move that the bill be recommitted to the committee with instructions that the committee inquire in regard to the cases suggested by the gentleman from Ohio, [Mr. SHELLABARGER,] and make a report accordingly.

Mr. PERHAM. I will state that the committee have had that subject under consideration; that various petitions have been referred to them, and many propositions have been made in relation to granting pensions to those who have been in the civil service of the Government and have been injured, and to the widows of those who have died, and the conclusion the committee have come to, for the present at least, is that it is not advisable to report in favor of providing for a general enactment for their relief. It has been very fully discussed.

Mr. VAN AERNAM. I have no objection to its recommitment.

The question being taken on the motion to recommit, no quorum voted.

The SPEAKER ordered tellers; and appointed Messrs. RAYMOND and TAYLOR.

The House divided; and the tellers reported—ayes 57, noes 35.

The SPEAKER. The Chair votes in the affirmative, making a quorum.

So the report was recommitted to the Committee on Invalid Pensions.

ADVERSE REPORTS.

On motion of Mr. VAN AERNAM, it was

Ordered, That the Committee on Invalid Pensions be discharged from the further consideration of the petitions of Mary Kirby Smith, of James Levier, and of George Williams; and that the same be laid upon the table.

JOHN GORDON.

Mr. VAN AERNAM, from the Committee on Invalid Pensions, reported a bill for the relief of John Gordon, accompanied by a report in writing thereon.

The bill was read a first and second time.

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

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

The latter motion was agreed to.

MARY C. HAMILTON.

Mr. LAWRENCE, of Pennsylvania, from the Committee on Invalid Pensions, reported back, with the recommendation that it do not pass, bill of the Senate No. 56, granting a pension to Mary C. Hamilton; which was laid on the table.

NEW YORK CONTESTED ELECTION.

The morning hour having expired, the House resumed the consideration of the regular order of business after the morning hour, being the following resolutions reported from the Committee of Elections:

Resolved, That Hon. James Brooks is not entitled to a seat in this House as a Representative in the Thirty-Ninth Congress from the eighth district in New York.

Resolved, That William E. Dodge is entitled to a seat in this House as a Representative in the Thirty-Ninth Congress from the eighth district in New York.

The following amendment had been moved by Mr. MARSHALL:

Strike out all after the word "resolved," and insert in lieu thereof the following:

That William E. Dodge is not entitled to a seat in the House as a Representative in the Thirty-Ninth Congress from the eighth district in New York.

The pending question was upon the following resolutions, submitted by Mr. GARFIELD as a substitute for the amendment:

Resolved, That the invalidity of the register of the fifteenth district of the eighteenth ward of the city of New York would not of itself justify the rejection of the official returns of the canvassers of that district.

Resolved, That this case be recommitted to the Committee of Elections to report upon supplementary proof to be made as provided in the next resolution.

Resolved, That either party be authorized to take supplementary testimony respecting the election in the fifteenth district of the eighteenth ward only, before the 10th day of May next, complying with the statutory regulations applicable to the case: *Provided*, That five days' notice of any proposed examination of witnesses shall be sufficient.

The SPEAKER. The time of the gentleman from New York [Mr. BROOKS] having been extended yesterday for one hour, he is now entitled to the floor.

Mr. BROOKS then concluded the speech he commenced yesterday. [His speech will be found in the Appendix.]

EXECUTIVE COMMUNICATIONS.

The SPEAKER, by unanimous consent, laid before the House a message from the President of the United States, transmitting a report from the Secretary of State, with accompanying papers, relative to the claim on the Government of the owners of the British vessel Magicienn, and recommending an appropriation for the satisfaction of the claim, pursuant to the award of the arbitrators; which was referred to the Committee on Appropriations, and ordered to be printed.

The SPEAKER also laid before the House a message from the President of the United States, transmitting communications from the Secretary of the Treasury and the Postmaster General suggesting modifications of the oath of office prescribed by the act approved July 2, 1862; which was referred to the Committee on the Judiciary, and ordered to be printed.

NEW YORK CONTESTED-ELECTION CASE—AGAIN.

Mr. DAWES obtained the floor.

Mr. GRINNELL. I ask the gentleman to yield me a few moments of his time.

Mr. DAWES. I am very anxious to close this debate, as I know every other member of the House must be.

Mr. GRINNELL. I only desire a very few moments.

Mr. DAWES. I will yield the gentleman six minutes of my time.

Mr. GRINNELL. Mr. Speaker, it has suggested itself to my mind that there are still other reasons why the sitting member should retain his seat. He says, in conclusion, that the blood of the martyrs is the seed of the church. Well, sir, I have only to say in regard to that, let it be spilt. That kind of Democratic seed seems to be running out, and for one, I am in favor of the blood of the martyrs being the seed of the church as an experiment in this instance. But that is only an argument in addition to other reasons. The House will find some of them enumerated in the paper I hold in my hand. Perhaps it will not consider them good reasons. I find in the New York Times of yesterday, good conservative authority, the following:

"Brooks is resorting to all sorts of strategy and questionable practices to make sentiment in his favor. To-day his partisans were circulating the story among the conservatives that Dodge was a radical, and would vote against the President; and they were urging the radicals to vote against him on the ground that he was a conservative, and would sustain the President. Brooks has also caused to be lithographed copies of the subscription lists of moneys raised by Mr. Dodge's friends to aid in his election, and has distributed them freely, as though that was a very immoral practice, never resorted to in a New York election, or anywhere else. Brooks is running his machine on a high-pressure moral principle, and seems terribly shocked at the use of money in an election."

Mr. Speaker, this is the seventh year I have enjoyed legislative experience, State and national, and I have never yet known a Democrat to vote against his own party, against his own friends, or against the report of his committee, and if, in the revolving of the wheel of political fortunes, my doubtful friends should "go over" and have the perplexities of a contested election, your magnanimity will be remembered and thus fall into the arms of a party voting honestly almost by instinct. This is not one of the virtues of the Union Congress.

There is another reason why we should give the sitting member the seat. The minority of the committee report that this corrupt bargain was made on a Sunday, and one of the divine commandments, "Remember the Sabbath day to keep it holy," was broken. The Democratic party have found it out, and should we not join in their sacred devotion and virtuous indignation? We all know that on the Sabbath before the election all the Democrats were at church or at vespers; they had nothing to do with liquor shops; there was no indulgence of profane swearing; they were at church invoking the god of elections that they might succeed with all the devotion which the saviors of their cause would evoke. Heed the Democratic suggestion and rebuke the Sabbath profanation. Another charge made by the sitting member is, that our party was guilty of bribery. Well, the statement that our party can beat the Democratic party at cheating in New York will cause a broad grin throughout the country. But we must not doubt it. Mr. Dodge should be punished, and the sitting member be honored in behalf of a party free from all doubtful devices and political *finesse*. Recurring to the "strategy" of the times, if it be that virtuous and persuasive woman has been enlisted in the behalf of the Fifth avenue printer, who has just informed Mackerelville of the splendor of his congressional equipage; he has taken account of the contestant's income down to a dime. I can mention an additional motive in a response to gentle appeals. I saw but one valid consideration to be set over against these opportunities to reward virtue from an unlooked-for source—it is the verdict of the Committee of Elections after months of investigation; but may not an approval of Democratic sobriety, political morality, and Sabbath-keeping, and tender persuasion overcome our scruples?

[Here the hammer fell.]

Mr. DAWES. I now demand the previous question.

The previous question was seconded and the main question ordered.

Mr. DAWES obtained the floor.

Mr. SCOFIELD. Will the gentleman from Massachusetts yield to me for a few moments?

Mr. DAWES. I should be very glad to accommodate my friend on the committee, but really I think it due to the House that I should close this matter as soon as possible. I hope, therefore, my friend will excuse me.

Mr. SCOFIELD. I wished to say a few words, but I will not insist on it.

Mr. GRINNELL. Let me read one passsge from the report:

"The committee entertain no doubt, therefore, that the majority of all the legal votes cast in the district were cast for Mr. Dodge, and in this finding they have deducted from his poll every vote about which, in their judgment, there was reasonable ground for doubt, giving the sitting member who holds the certificate, the benefit of all the doubts that rested upon their minds after the most patient and careful examination and deliberation."

I am obliged to follow the committee in this case.

Mr. DAWES. Mr. Speaker, so much ground has been gone over in the discussion of this case, and so much, as matter of testimony and of law, is involved in it, that it will be utterly impossible for me, in the brief hour allotted me under the rule, to make anything like an argument satisfactory to myself and worthy of the subject. I can only promise, Mr. Speaker, and that is all I have ever promised in any of these undertakings, to be faithful to the charge committed to me, and with whatever ability I may be able to command, with all candor and with a conviction that I have no right to be otherwise than, so far as in me lies, entirely impartial, endeavor to submit in summing up what is, in the opinion of the committee, the conclusion of this whole case.

Mr. Speaker, the closing remarks of the sitting member were of so peculiar a character, so unusual in a discussion of this kind, that I may perhaps be expected to make some reply to them. I think that the House will bear the committee out when I say, as their representative, that from the time when this evidence was submitted to them to be examined and weighed until the present moment not a word of a personal character toward either the contestant or the sitting member or any individual member of the House differing with them in their conclusions has fallen from the lips of any one of them. I think further, Mr. Speaker, that, so far as my memory serves me, nothing that can be regarded as of a partisan character has fallen from any member of the committee; and I hope that I may be able to say of myself, what I feel I can say of every other member of the committee, on the one side and on the other, that they have striven to forget party on this occasion, and to regard this only as a contest between A B and C D as to which has been rightfully elected as a Representative from the eighth congressional district of New York.

But, sir, it has been the fortune of the committee from the beginning of the hearing till the last dying notes of the sitting member, still echoing within these walls, to hear one continued strain and refrain of charges of the grossest corruption and bribery on the part of the contestant, and that, sir, without one scintilla of evidence to sustain such charges. The committee in their report ignored the whole thing, for the reason that the most diligent search of 900 pages of printed matter failed to reveal a single particle of testimony that any money whatever had been used by any person for any corrupt or unlawful purpose.

But, sir, it has seemed fitting to the sitting member never to forget this strain; and while some word in defense of this contestant might properly have come from the city of New York, where he is best known and where he has earned a reputation that will outlive any attacks that have been made upon it, still as the contestant himself has not, and I think wisely, deemed it proper to notice these attacks, it becomes me, I think, to say a word or two in reference to them and the source from which they come.

Sir, it cannot but be true that a politician of many years' standing, who has affiliated with every political party that has lived and died during a long period of time, and has repudiated in succession the principles which they have avowed and which he has advocated; who has himself declared, from his own experience in mingling with parties, that he could buy a nomination for Congress at the hands of Mozart and Tammany Halls and the Republican party, each and all of them at the same time, and then go into the canvass, and if he had money enough, buy up votes at five dollars a head to elect him—I say, sir, it cannot but be true that such a man, whatever his ability and skill, will fail in attempting to transfer the character thus earned in a generation of such service, from himself to one who has never had the fortune to mingle in politics at all, who has earned among the mercantile community a reputation as spotless as the sun, a reputation as dear to him as the apple of his eye, and which up to this hour the breath of slander has never tarnished. Sir, the instincts of some politicians are as certain and unerring as the instincts of some animals, which can succeed in making the clearest water foul and muddy, and which he who is wise gives a wide berth, since he cannot come near them without being bespattered.

Sir, the sitting member has seen fit not only to attack the contestant with the charge of corruption, without a particle of testimony that one dollar was ever used for any purpose improper under the law of New York or elsewhere, but in attempting to sustain that charge, he has made out a table which he has caused to be printed and spread upon our records, and which the minority of the committee have unwittingly incorporated bodily in their report—a table which is as false on its face as it is in fact. The table sums up an expenditure of $15,508, and it does it in this way: one item of $2,900 is inserted twice; another item of $2,000 is inserted twice; another item of $2,200 is inserted twice; another item of $500 is inserted twice.

Mr. MARSHALL. Does the gentleman assert that there is no evidence that Mr. Dodge expended immense sums of money in this election?

Mr. DAWES. I say there is not a particle of evidence that a dollar of money was expended in an improper way.

Mr. MARSHALL. It is a matter of conjecture as to how it was expended. The evidence is that immense sums of money were expended, and I insist——

Mr. DAWES. I wish that my friend had heard the remarks which I made a few moments ago. I stated that the minority of the committee had been imposed upon in including in their report from the brief of the sitting member a table in which a number of the items are inserted twice over.

Mr. MARSHALL. I did not hear the entire statement of the gentleman; but I understood him as charging that this whole statement about the expenditure of money is without foundation in the evidence. The gentleman certainly cannot undertake to sustain such a statement; because it is in evidence that immense sums of money were expended by the contestant; and I think it is in evidence that a part of it was expended fraudulently, wrongfully, and disgracefully; and if the gentleman will permit me, I will state wherein.

Mr. DAWES. I do not know how long the patience of the House will endure; but I hold in my hand the testimony precisely as it was given; and instead of its proving what the gentleman from Illinois [Mr. MARSHALL] claims in his report, and what is claimed by the sitting member, it proves the contrary, if it proves anything in the world. I refer the House to pages 34, 35, 36, 46, 47, and 48 of the testimony, where the witnesses of the sitting member himself deny point-blank his grand and leading statement that Mr. Barr had been hired, with the money of the contestant, to run for Congress against Mr. Brooks, or that they had expended one dollar of money with the knowledge of the contestant, or had expended it

otherwise than in precisely the same way that money is spent by everybody in elections, in paying the expense of hiring carriages, procuring speakers, posting handbills, and in all the variety of methods in which money is usually and properly expended in elections.

Mr. MARSHALL. Mr. Speaker, let me say——

Mr. DAWES. I decline to be further interrupted.

Mr. MARSHALL. Of course, if the gentleman will make these statements and will not permit corrections I must submit to it.

The SPEAKER. The gentleman from Massachusetts [Mr. DAWES] declines to yield, and must proceed without interruption.

Mr. DAWES. Let me read from the testimony of the sitting member's own witness—Elliot C. Cowden:

"I can only give you the leading idea. The idea was that Mr. Brooks had strong backers and was in the way of raising a great deal of money—he mentioned through whom, but I don't remember now—and that no amount of money was wanted to carry on Mr. Brooks's election; and on the other hand, his means were very small; and while he did not ask us for a dollar, we thought it politic to give him some money—Mr. Cannon and myself—and we did it without saying a word to any one to my knowledge. It may have got out; those things always do; but Mr. Dodge was not consulted in regard to it; he knew nothing about it to my knowledge."

Mr. Speaker, one word more and I will proceed to what belongs to this case. I want to know for what purpose the sitting member has paraded the income of this contestant. For what purpose is it that he is continually referring to the abundance of the contestant's wealth? Is it for the same purpose in reference to this tribunal as appears in the charge in the New York Express, that the contestant had succeeded in carrying his case through the committee by the force of his money?

Mr. BROOKS. Has the gentleman from Massachusetts ever seen such a statement published in the New York Express?

Mr. DAWES. Is it denied?

Mr. BROOKS. Have you ever read such a statement in the New York Express?

Mr. DAWES. I want to know whether the object is the same, whether the insinuation is the same touching this House when he parades the money of the contestant, as that which was made in the New York Express—that this case was put through by the force of the contestant's money?

Mr. BROOKS. Did you ever read any such thing in the Express?

Mr. DAWES. Is it not there?

Mr. BROOKS. Did you ever read it?

Mr. DAWES. I make this statement upon my own responsibility.

Mr. BROOKS. The gentleman cannot say he ever read any such thing there. Let me say I have never read anything like that in the Express. I should deeply regret to have anything like that in the Express. So far from believing the Committee of Elections would be influenced by Mr. Dodge's money, I do not believe all of his money would buy the poorest man on it.

Mr. DAWES. I do not believe the gentleman would put it in the paper himself; it must have been put there in his absence. I take his own statement that he knows nothing about it. I stated it has been charged, and I asked whether he was trying to make the same argument to the House. I beg pardon if I have done him injustice. I regret that I have been compelled to say a word about this matter. I would not have alluded to it, Mr. Speaker, if I had not felt it was necessary for some one to repel the charge which seemed to be made upon this undefended contestant, when there is not a member of the committee who can put a finger upon a single dollar of money which has been used improperly in this case, whether by the contestant or any of his friends. But it has been brought up here, and this parade of his income has been made before this House for some purpose best known to the sitting member, which I wish I could explain charitably.

Mr. Speaker, if the contestant had paraded before the House that the sitting member was using his paper at home and his party at home for any such purpose, if the contestant had consented to such a mean and contemptible performance before the Committee of Elections, I should have felt bound to have treated it with all the indignation it deserved.

The Committee of Elections have weighed this testimony as well as they could. We may have erred. We claim nothing ourselves. The members of that committee claim nothing beyond others, to sift and weigh testimony, and to judge properly of the conclusion to come to. But they do claim, Mr. Speaker, that they have faithfully examined and weighed this case. They do claim that they have spared no pains. They have spared no labor. They have omitted no opportunity. They have turned a deaf ear to no argument, come from what source it may. I have before me, taken from the record, a list of the time expended by the committee in giving the sitting member and the contestant the opportunity they desired. Ten days, two hours each day, we listened to the learned gentleman from New York. We heard no complaint he had one word more. The records show that he took two weeks to prepare a brief of what he had said. The committee waited two weeks more before they came to a decision. Is it proper for him then to make any charge against the committee?

What has transpired, Mr. Speaker, in the hearing of this case from first to last to justify the gentleman in his charge on the chairman of the committee that since the action of the House on the Bruce and Loan case he has failed to bring to the discharge of his duties here an upright and unbending purpose?

Sir, I have been now eight years on this committee, not by any request of mine, sometimes put there against my remonstrance. During that time the records of the committee show that fifty contested-election cases out of eighty that have existed in the last thirty years have come before the Committee of Elections, and I stand recorded on every one of them, and on no report ever made by me has the House differed with me or failed to sustain me.

I make no pretension to any ability manifested in those reports, but I have this to say, that poorly as I may have been able to discharge the responsible duties of this position, there is one thing about them of which I am proud, and that is, they are all consistent. There is no conflict during all that eight years.

Mr. Speaker, the party with whom I have affiliated has been in power, and yet the book of contested elections shows that of the reports I have made quite a number of them have been against my party, and I repeat, that on none of them has the House failed to sustain me.

But that is of less consequence than the fact that at the close of this whole career, now drawing voluntarily to a close, I shall leave in this book a record which, if adhered to, I can trust my party associates on this floor with, if in the vicissitudes of fortune they shall come into a minority. No one decision in this book, for which in any degree I am responsible, will be found in conflict with any other, nor will any be found in conflict with the principles that will protect my party if they come into a minority, as I feel some conscious pride in saying they have to some extent protected the minority of this House on some occasions when I have felt there was some pressure upon them.

Now, Mr. Speaker, I want to ask the House, is there anything that calls upon the House to treat this case otherwise than we have treated other cases? Is there anything in the position of the distinguished gentleman who now occupies this seat, or in that of his distinguished contestant, or in the circumstances in which we stand, that calls upon us to treat it otherwise than the House has treated cases for the last thirty years that have come before it? If there is, I have failed to see it; and in listening most attentively to what has been said here on one side and on the other, I have failed to hear one reason offered or suggested why we should not treat this case as we have treated all that have gone before.

For one I do not propose to stand recorded in this case in any other light nor under any other precedent than that which has governed me and the House in all the cases in which I have participated in bringing to a conclusion upon this floor; and until I hear some reason, I hope it will be sufficient for me to show that this case is like those which have passed before the House, upon which, after the most deliberate and calm consideration, we have entered judgment for and against the parties, and handed down that judgment to those who are to come after us, as testimony that we deal impartially with contestants in this body.

Sir, what is claimed by this committee? Not that because a board of registry was appointed and constituted of men who were not residents of their district that made the election void. There is no such claim by this committee as that the appointment of incompetent registrars made void the election. Nor is it claimed that because they did not appoint a clerk according to law, or did not administer the oath required by law, that made the election void. Nor is it claimed that because they did not hold their meetings according to law that made the election void. Nor that, when they did hold their meetings, because they did not discharge the duties imposed upon them by law, that made the election void.

What, then, is claimed by the Committee of Elections? It is this: that all these things put together were means through which fraud entered into the ballot-box in that district. Not that one of them of itself made the election void, not that all of them put together made it void, but that by means of them all fraud came into that box.

"The committee are of the opinion that there was no registry at this district; that neither of the persons appointed as registrars was competent to hold the office; that the man acting as clerk acted without authority; that the mode of making up the registry itself was a fraud upon the registry law, and in no manner a compliance with its provisions; that the use of such registry at the polls as a guide to the inspectors of election contributed directly to the polling of fraudulent votes, and that the large and unaccounted for increase of votes at this poll is directly attributed to these departures from, and violations of, plain provisions of law, and that to accept the result of such poll so taken and so counted as the true account of legal votes only, is to sanction most inexcusable violations of important provisions of law, essential to the purity of the ballot-box."

Is there anything erroneous in law in that conclusion? The committee have not stopped, as I said before, at what would be the effect if any one of those departures from the law alone existed, but they have taken for their guide the law of the State of New York, as laid down in 4 Selden, and followed it literally in the conclusions to which they have come. I read the syllabus:

"An irregularity in conducting an election, which does not deprive a legal voter of his vote, or admit a disqualified person to vote, if it cast no uncertainty on the result, and has not been occasioned by the agency of a party seeking to derive a benefit from it, may be overlooked in an action in the nature of a *quo warranto*."

That is the position taken. All these things may have existed, and still no evidence of fraud in the ballot-box.

The court, in the case referred to, says:

"It is not to be disguised that there were irregularities in this district for which the inspectors were censurable, and perhaps liable to be punished by indictment. Had the defendant's counsel contended on the trial that these irregularities rendered the state of the canvass uncertain, he should have asked to go to the jury with the question whether the votes were accurately canvassed or not. By omitting to do so, and by conceding that the questions were questions of law, and not of fact, and allowing it to be proved, without objection, that the votes were accurately canvassed, nothing was left but the abstract question whether an omission to comply with the statutory requirements in question *per se* invalidated the votes of that district. If these requirements be directory, and not jurisdictional, the learned judge was right in deciding that the votes were properly allowed."

Now, sir, it comes to a question of fact, whether through these agencies frauds were perpetrated on the ballot-box; and all that has been said by the committee in reference to the character of these illegalities was only to show how they contributed directly to the bringing of fraudulent votes into the ballot-box. The regis-

trars were not residents and voters in the district, but strangers there, who did not know the honest from the dishonest voters so as to be able to pass upon their qualifications as such. The failure to have a clerk sworn by law to make a faithful record enabled men without the sanction of an oath to do precisely what was charged upon this clerk, namely, make false returns and entries upon the register for the purpose of blinding the inspectors of election. The failure to hold their meetings in the place designated by law enabled them to hold a meeting unknown to the electors in the district, and therefore to create facilities for making a fraudulent registry to be the guide thereafter. The failure to post up the notice in the place where the election was held for two weeks before the day of election was a failure to advertise to the electors of that district the names of those they had registered, so that all could know whether they were true or false.

And in this connection I wish to call the attention of the learned gentleman from Ohio to the fact that the election was not held in the place where they held their other meetings for the performance of their duty. It was held in a stable near by. The law says that the notice shall be posted up in the room or place where they hold the registry, which the law designates as the place for holding the election. Therefore the law says that the notice shall be posted up in the room where the election is to be held.

Now, this was not done. The list was posted up in Thompson's bar-room, while the election was held in his stable, off at a distance, communicating with this building, as we learn to-day for the first time, only by a passage-way up in the second story. Men who went to the place where the election was held, in the stable, would not find this registry list; and men who went to the place where the list was posted up, would not find the place where the election was held. The object of having the list posted up in the place where the election was to be held was, that for two weeks previous to the election every name recorded there as that of a voter might undergo a challenge. Now, that was not done.

Now, all of these things rendered it perfectly easy to perform the fraud that was charged in regard to this election precinct, and that is why the committee have arrayed together the irregularities in this precinct.

Now, what was the evidence in this case? To begin with, the vote in the district was doubled; and beside the vote being doubled, according to the testimony of one of the inspectors there were two hundred and fifty legal voters who failed to vote. And the vote in this fifteenth district was as large as it was in the fifteenth and twelfth districts, forming the old twelfth district the year before; and the part left of the old twelfth district as the new twelfth district cast within a few votes of the old vote, so that the two districts taken together give double the vote cast in the old twelfth district. And when you take into account the two hundred and fifty men who Brennan said were ready to vote when the sun went down and they were prevented from doing so, then you will have a thousand or more votes to offset the four hundred and ninety odd given the year before.

Mr. HALE. I desire to ask of the chairman of the Committee of Elections [Mr. DAWES] if the committee state to this House as a rule of law, that the fact that the vote of the new twelfth and fifteenth districts exceeded the vote in the old twelfth district by sixty-five and a half per cent. is of itself evidence of fraud in the election of 1864. The increase of the vote is precisely sixty-five and a half per cent.

Mr. DAWES. That is just like the learned gentleman on the other side taking up one of these irregularities by itself, and insisting upon it that I say that renders the election illegal.

Mr. HALE. The gentleman cannot have understood my question; allow me to restate it. I simply asked whether the Committee of Elections claim that fact of itself to be presumptive evidence of fraud. I make no proposition, but simply leave the question there.

Mr. DAWES. The committee make no such claim. If my friend had been attentive to what has already been said he would have learned that that fact of itself and alone is not regarded as evidence of fraud. But that taken with other things is one of the links in the chain of evidence that proves there was fraud. And if my friend cares to look over this book of contested-election cases, I will suggest to him to read the case of Blair *vs.* Barrett, and see what is said there, and what use the committee made of that very kind of evidence in that case, and what the House did in conclusion of the case.

Now, I want the attention of my friend to this statement. You cannot double the vote in a little district that you can build a fence around in an hour—you cannot double the vote in such a district in a single year without being able to find some traces of it. You cannot double the vote in a single precinct in the city of New York without being able to find some traces of it. There will be some new house built, some new family, some new resident in the district. They cannot vote without being residents of the district.

Now, how was it in regard to this district in which the vote was doubled in a single year? Not only was there no new habitation erected in the district, but some of the old ones had been pulled down. There was no new family in this district known to any of those parties; there was no evidence that there was any newcomer in the district.

And the evidence of one of the inspectors of the board of registry was that the register had been incorrectly made, by the clerk purposely putting down wrong numbers and wrong streets. And there is evidence that the men could not be found at those numbers and on those streets, who were recorded as having voted on those streets and numbers. There is evidence that, to a large extent and per cent: in this district, men who were acquainted with the district and its residents, and who went around from house to house, were unable to find these voters anywhere. There is evidence that one of these parties attempted, while the other did not, to test the registry by a canvass of the district; and the evidence of the man who made the canvass was excluded on the motion of the sitting member, because it was in the form of an affidavit, the contents of which have never been before the committee in any way.

Mr. HALE. The gentleman will permit me to ask him another question, simply to throw light upon the case, as I have failed to gather it from the report itself. I wish to inquire whether there was any evidence before the committee of any effort whatever to trace out and falsify the poll-list as to the names and residence of the voters.

Mr. DAWES. It has been stated over and over again that the contestant employed for six weeks a man who had been a canvasser for the city directory, who ought to be a capable and skillful man for such work, to go from house to house, testing this registry. The evidence of this man was not introduced. But an officer of the Catholic church in the neighborhood, a man who was supposed to have a peculiar knowledge of the district, and who was one of the board of election inspectors of the district, was examined; and this affidavit, which had been excluded as part of the testimony of the contestant, was put before him, and he was asked about each one of the persons named. I submit that that was, so far as his testimony was concerned, a verification of the list.

Mr. HALE. Did he testify to having made any examination?

Mr. DAWES. Yes, sir; he was employed by the sitting member for the purpose of discrediting this list which was excluded by reason of the objection of the sitting member.

Mr. BROOKS. And we had four days in which to do it.

Mr. DAWES. When this witness came upon the stand to discredit the list, he verified it to a certain extent.

Then the sitting member called another witness, a German, to discredit this list. This witness pronounced 16 of the first 20 names to be bogus voters; and then the sitting member examined him no further as to that list. On the other hand, Mr. Speaker, there is no reply or explanation as to the fact that the vote of this district was doubled, and more than doubled.

Now, Mr. Speaker, I think I have clearly explained the conclusions of the committee. I shall not attempt to reargue or enforce the legal positions so ably presented yesterday by my colleague upon the committee, [Mr. SHELLABARGER.] Nobody has attempted to refute those positions; and in truth they are unanswerable. The facts, as I have shown, corroborate those positions; and in view of the law and the facts, I submit that the committee are fully justified in the conclusion that the vote of that district was so largely fraudulent, was based upon illegalities so glaring—contributing, in the language of Selden, directly to the frauds themselves—that there is no precedent, and ought never to be a precedent, for counting such vote.

The committee are called upon to-day to state why they did not treat in the same way the vote of another district in which there was a majority for the contestant. Now, sir, I beg the House to listen while I state, in the hearing of the members of the committee, that one reason why we did not pass upon that question was that we were never asked to do so.

Mr. BROOKS. The gentleman will permit me to state that I did, in my brief, call the attention of the committee to that point. On page 48 of the brief all the facts are set out in regard to that district; and it was the duty of the committee to look at the brief.

Mr. DAWES. Mr. Speaker, in further corroboration of what I have stated, I call attention to the first paragraph of the sitting member's brief:

"It is admitted on both sides that in the four contested districts, namely, twenty-first ward, seventh and third districts, and eighteenth ward, thirteenth and fifteenth districts, two of the three registers there were Republicans; also, two of the three inspectors were Republican; the poll-clerks (two in each) were equally divided in politics; that is, the Republicans had the registration of the voters before the election, and the reception of the votes on the day of the election."

I now ask the attention of the House to what the sitting member claims was a call upon the committee to pass upon this question. I read from page 48, under the heading, "A Dodge district:"

"*Twenty-first ward, thirteenth district.* The vote stood:

"Dodge, 394; Brooks, 134; Barr, 27.

"The allegation is (B., 4,) that the canvassers were absent pending the canvass, 'irregular and fraudulent,' and that thereby Dodge was made to run higher than Lincoln, President, who had only 376 votes. The vote for McClellan was 185. (See official returns.)"

[Here the hammer fell.]

Mr. ASHLEY, of Ohio. I move that by unanimous consent the time of the gentleman from Massachusetts [Mr. DAWES] be extended.

There was no objection.

EVENING SESSION DISPENSED WITH.

Mr. ASHLEY, of Ohio. With the consent of the gentleman from Massachusetts, I move that the session of this evening be dispensed with.

The motion was agreed to.

ORDER OF BUSINESS TO-MORROW.

Mr. MORRILL. With the permission of the gentleman from Massachusetts, I move that the session of to-morrow be devoted exclusively to debate as in Committee of the Whole on the state of the Union on the President's message.

The motion was agreed to.

ENROLLED BILLS SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that the committee

had examined and found truly enrolled bills of the following titles; which were thereupon signed by the Speaker:

An act (S. No. 105) to grant the right of way to the Cascade Railroad Company through a military reserve in Washington Territory;

An act (S. No. 115) for the relief of Jane W. Nethaway; and

An act (S. No. 117) for the relief of F. A. Patterson, late captain in the third Virginia cavalry.

NEW YORK CONTESTED ELECTION—AGAIN.

Mr. DAWES. Now, what does he say in that brief? He says that in the twenty-first ward, thirteenth district, the absence of canvassers pending the canvass (B., 294,) exposed the canvass to peril from outsiders, and that the district voted—Dodge, 394; Brooks, 132; Barr, 27; furnishing reasons, if any district is excluded from the count, the best reason for excluding this.

I am aware that the testimony which has been taken is in the book; but I repeat that neither party asked the committee to look at this. The sitting member described four contested districts, but he only referred to this, he said, for the purpose of elucidation. If I have time I will refer to the testimony in this district.

I have already stated the committee have not held any illegality in a district otherwise honest was any reason to set it aside. I have repeated it over and over again. Allow me to say that the committee based their conclusions not upon the fact that the board was illegally constituted but upon these naked frauds which they afterward found. I want the House to understand that.

It was charged in this district, after the canvassers took possession of the boxes, they left the canvass and went away to get some refreshment—for twenty minutes. It is now claimed because they did that we must reject this if we reject the other. How is this charge supported? It is supported, if at all, by three witnesses, three only. Two of them swear only two of the canvassers went away, two only, naming them. One of them swears he and his associates stood right in sight of the boxes while they were gone and that they could see everything that happened, and that the boxes were not touched. There is some contradiction of the testimony here. One witness contradicts another witness. One swears one way and another contradicts him. One witness, a senator-elect, or a senator occupying his seat at the time, of the State of New York, Senator Connolly, I think, swears that he was where he could look right on the boxes all the time until these men came back. Another witness contradicts him. One swears that three canvassers went away and left the boxes in charge of the clerk and a police officer. He swears before he went away that they canvassed the Congress box.

Now, Mr. Speaker, without any evidence that the box was touched at all; with the evidence of Senator Connolly, who swears that he was where he could see the box, and that during the whole time he saw nothing done to it; with the evidence of another, who said they canvassed the Congress box before they went away, and with the fact if there had been no canvass there could have been some discrepancy proved, we are asked why we ought not to reject this box because these two or three men went away and left it.

And we are asked to do this at this late day. I insist that we would have weighed the testimony if we had been asked in the committee to have done so.

Now, what is the duty of Congress? I do not ask them to take the report of the committee blindly and without any question. I do not ask them to support its conclusion if from the testimony they are satisfied it is not a just one. But I insist it is the duty of Congress to do one of two things, either to support the conclusion at which the committee has arrived or to show from the testimony why it should be rejected. I do not claim for the committee the right to have its report adopted without examination. Every member of the House, as well as every member of the committee, is responsible for the vote which he may cast; but the committee have a double responsibility, they have to be responsible that they do not misguide the House. Now, here is a case admitted by everybody to be difficult to secure possession of all the facts involved. I do not ask on that account the report of the committee shall be adopted without question. The testimony was so voluminous that it could not be expected that the members of the House could have carefully examined it. I do not ask that the report shall be adopted without question, but I do ask for it fair and candid treatment.

Now, the gentleman from Ohio [Mr. GARFIELD] came into the House and offered a series of resolutions to recommit this case to the committee for further investigation. Upon what did he base his resolutions? This is the language of the gentleman from Ohio:

"Now, one thing more: this whole case practically turns on the settlement of the question in relation to the fifteenth district of the eighteenth ward; for if the report of the majority be accepted in all other particulars, and rejected in respect to that district, it still does not unseat Mr. Brooks. There are so many remarkable *collisions between the reports of the majority and the minority that* I am unwilling to act until some of them are cleared away."

Now, I submit, Mr. Speaker, in all kindness to my friend from Ohio, if that is fair. Everybody knows that this is a voluminous and complicated case, and the gentleman has not had time to examine it and study it and understand the testimony. And yet he is unwilling to take the report of the committee. Why? Not because he knows that there is anything in it wrong; not because he has found in it anything that is not corroborated by the testimony; but because the minority of the committee do not agree with the majority.

Mr. GARFIELD. The gentleman will allow me to say that he has only referred to one of the points which I made. I trust he will not say that because the two reports differed I wanted further investigation.

Mr. DAWES. I understand the gentleman to say distinctly that he cannot vote upon this question until these discrepancies between the report of the committee and the views of the minority are reconciled.

Mr. GARFIELD. Discrepancies as to matters of fact.

Mr. DAWES. Because the committee who have studied this case, or who certainly ought to have done it, have made a report on it, find that two of their number are unable to agree with them, the gentlemen from Ohio is unwilling to vote until that discrepancy is removed.

Now, let us see what he says are the points of difference between the members of the committee. One of them is this: that the committee say that the vote in the old twelfth district is about half as much again as the vote in the twelfth and fifteenth districts combined; and the area of the fifteenth district is three or four times as large as that of the twelfth district. Well, now, instead of looking into the book to see which is right, the gentleman insists upon it that we must take the case back to settle that question. If he had turned to the book for one moment, he would have seen that the fifteenth district was taken out of the old twelfth district—a single page of the testimony would have settled that fact. But my friend says that he cannot vote until that discrepancy is reconciled, until we show that a part of a thing is not three times as large as the whole.

The gentleman says, further, that this is a most remarkable statement upon the first page of the report:

"If each were stripped of everything but that which could properly be called a 'particular specification of the grounds upon which the party relies in the contest,' very little would be left in either. The contestant, however, confined his proofs to the allegations affecting four precincts only, namely, thirteenth district of the eighteenth ward, fifteenth district of the eighteenth ward, third district of the twenty-first ward, and the seventh district of the twenty-first ward."

My friend read that much; why could he not, with that candor which becomes and adorns his character, have read further, as follows?

"In the opinion of the committee, there is contained in the several allegations of the contestant respecting these four precincts a distinct allegation of fraud in the election, and error in the return, sufficiently specific to require an answer from the sitting member, and to form the basis of a fair trial of the facts involved in the issues thus made up."

But, Mr. Speaker, my friend from Ohio revealed another thing to which I wish to call the attention of the House. He spoke of the inspectors of election not residing in the district. He said the sitting member declares that that is general throughout the city of New York; that he so declared in the debate yesterday. Now, sir, I do not find any such statement of the sitting member, that he had so declared in debate, or that he had affidavits to that effect. I made diligent inquiry, and it came to pass that I ascertained that the sitting member had procured affidavits secretly, unknown to the committee. After he had procured the rejection by the committee of the affidavit of Dean about the residence of his voters, he himself procured affidavits, and carried them secretly around among the members of this House, and it was not until he caused them to be read at the Clerk's desk, that the Committee of Elections could derive any benefit from them whatever. They were taken not only without notice, but without knowledge on the part of the contestant.

My friend from Wisconsin, [Mr. PAINE,] who is a fair and candid and true man, states in his speech, which I hold in my hand, that if the affidavit of Dean could have been used as evidence before the Committee of Elections, he would have been obliged to vote for the contestant. I ask him to take notice that the sitting member here yesterday supported his case by affidavits of which the committee never had the slightest knowledge. I submit to him, therefore, whether the way is not clear for him to look into the affidavit of Las Casas Dean, and come to the conclusion, legally, as I believe he has already done morally, that this seat belongs to the contestant. The sitting member has waived, by his proceedings here in the presence of the House, all further claim to have the affidavit of Las Casas Dean excluded.

Mr. MARSHALL. I wish to state, with the permission of the gentleman from Massachusetts, the fact, which it seems to me the House ought to know, that there is a perfectly satisfactory reason why this evidence, offered by Mr. Brooks in the affidavits, was not submitted by witnesses to the proper tribunal in New York, and that is that there was no specification made by the contestant that these inspectors were not residents of the election district. The sitting member had no notice whatever before the evidence was taken that this was a point in the case, none whatever.

Mr. DAWES. I will now yield for a moment to the gentleman from Vermont, [Mr. WOODBRIDGE.]

Mr. WOODBRIDGE. I desire to ask the gentleman a question. I have been obliged to be absent for the last ten or twelve days, in Vermont, and, of course, I have not examined this question for myself, as I should otherwise have done, or read the two elaborate reports presented by the majority and minority of the committee. I have been informed, however, since I came back that the gentleman whose name appears first as signing the minority report, by reason of illness was only present at two of the meetings of the committee, which continued during a period of six weeks, and that the other gentleman who signed the minority report was very seldom present.

Sir, I have been somewhat accustomed to try cases before our courts involving questions both of law and of fact; and if any questions of fact are involved here in regard to which the appearance of the witnesses might govern in the weight to be allowed to their testimony, I desire to ask the chairman of the Committee of Elec-

tions whether the members of the committee who have signed this minority report have been in attendance so as to have heard the testimony given both for the contestant and the sitting member?

Mr. MARSHALL. Let me say to the gentleman from Vermont, that the witnesses in election cases are not brought before the committee at all.

Mr. WOODBRIDGE. The testimony is taken in writing, I know, but have those members who signed the minority report been present for consultation at the meetings of the committee?

Mr. THAYER. I object to that question on a point of order, and I do not think that is a proper inquiry.

Mr. DAWES. I was going to say to the gentleman from Vermont, that I cannot answer such a question. I do not wish to give any indication in regard to the action of the committee of the gentlemen who signed the minority report. I will make no statement about that. I think I may say, however, that the committee were suprised at the accuracy with which the minority were able to reproduce the language including the errors in the arithmetical computations of the argument before the committee of the sitting member. [Laughter.]

Mr. MARSHALL. I did not hear the wit of my friend that provoked that laugh. But I would like to make one remark, and that is, so far as my connection with the minority report is concerned, I can state what my means of information were. The gentleman seems to intimate that the minority had no information, and made up their report without knowing what they were doing. I can only state, without saying anything that occurred before the committee, that all the evidence that was before the committee is before every member of this House, who can look into the record, and see whether the facts stated by the minority of the committee are correctly stated or not.

Mr. DAWES. I was calling attention to the fact that while the sitting member had excluded, by the inexorable rule of law, testimony offered by the contestant, which was most important in its character, if true, in regard to the fraudulent character of this vote, excluded it because it was an affidavit, yet unknown to the committee he has got together some affidavits and circulated them privately among members of this House. And then when he had the last word he has had those affidavits read at the Clerk's desk. Now, I submit it to the judgment of the House, not to that of the sitting member, to say whether or not that was fair and right.

I want to show what has been the effect of all that on the part of the sitting member. The gentleman from Ohio [Mr. GARFIELD] proposes that the House recommit this case to the Committee of Elections. Sir, it ought to be recommitted to the committee if one of two things has happened: if the committee have not dealt fairly with the sitting member, or if he has not had a full and fair opportunity to be heard. Now, I do not intend to say anything more in regard to whether the committee have dealt fairly with him.

But I wish to state a few things to enable the House to decide whether the sitting member has had or not a full and fair opportunity to be heard, and I make the statement in the hearing of all the members of the Committee of Elections. The committee commenced this hearing early in January last. It was a long time before they could get the sitting member to a hearing, and when the committee began the hearing it was without any testimony at all on behalf of the sitting member. To their inquiry where his testimony was he gave this response: "I propose to submit this case to the committee first upon the testimony produced and filed by the contestant and referred to the committee. Then if you find a case against me, I will introduce new testimony and ask you to hear that."

The reply of the committee to that was, that that was not the way to try a case; that he must put in his testimony, which was then in the Capitol and within his control, but not referred to the committee; that he must have that referred with the rest, and the whole case must be tried together. Now, I ask the House whether that was fair or not, I ask the gentleman from Ohio, [Mr. GARFIELD,] because he is the mover of this resolution to have the case again tried by the committee. I ask him as a gentleman of great experience whether it was fair for us to say to the sitting member, "We will not try this case one side at a time; put in your testimony along with that of the contestant, and when you say you are ready we will try the whole case?" Thereupon he did put in his testimony and it was printed in one of these books of evidence.

Then when we again came to a hearing of the case the sitting member made a new proposition, that we should try the case upon these two books, and then if the committee found that the contestant had the right to the seat, the sitting member would ask time to take more testimony. The reply of the committee to him was, "That is not the way to try a case; make up your mind whether you will go to trial on this record or not; if you are ready to go to trial upon this record the committee are ready to hear you; if you are not ready then say so." I ask the House to decide whether that was fair or not. The sitting member took a day to decide whether he would go to trial upon this testimony; at the next hearing he came in and said he was ready. And then it was that the committee spent weeks in hearing him and the contestant. And the sitting member gave us notice that it would be May before we got through with this case.

Now, what comes from circulating these private affidavits here? Why, the gentleman from Ohio, [Mr. GARFIELD,] after seeing these private affidavits, and hearing the declarations of the sitting member in regard to them, comes in here and offers a resolution to recommit this case to the committee, and thus enable the sitting member to attain the very end he seeks. What was that resolution?

"*Resolved*, That the testimony taken as to Hon. James Brooks be recommitted to the Committee of Elections, with instructions to report especially the facts as to the custom, under the laws of New York, of appointing inspectors of the registry of elections not from the particular election districts in which they reside; also, the facts respecting the verification by Brooks of the votes for Brooks in the fifteenth district, with power to send for persons and papers, and power to reinstitute judicial reëxamination in said district."

That Mr. Brooks do so and so; not even that the contestant be allowed an opportunity to reply to that testimony.

It is proper for me to say that such is the honesty of the gentleman from Ohio that he never can be caught in any man's trap, and when it was pointed out to him that common justice required that the contestant should also have an opportunity to take testimony, he immediately modified the resolution which the affidavits had prompted him to offer, and put it in such a shape as to provide that both parties should take testimony. I only submitted the original form of the resolution to show that the affidavits had tended in a certain degree to produce exactly the effect which the sitting member contemplated when he gave us notice in February that he would make us try this case over again on new testimony.

Mr. BROOKS. Mr. Speaker——

Mr. DAWES. I cannot yield any further.

Mr. BROOKS. What the gentleman says is not true.

The SPEAKER. The gentleman from Massachusetts declines to yield further, and must proceed without interruption.

Mr. DAWES. When it has been shown that the law required the board of registry to be residents and voters of the district; that the requirement of the law was not complied with in this district; that the registrars gave every opportunity to cheat, and that cheating was carried on extensively, the gentleman from Ohio proposes that the case shall be sent back to the committee, so that they may report whether in a great many other districts the same facts did not exist, as if that would be any answer. When the committee have decided that the board of registry in that district was illegally constituted, and that a door was opened to fraud, the gentleman asks that we shall be directed to report the custom in the State of New York in reference to that matter. The custom in New York, I believe, is to cheat on all sides, though I do not know positively how that may be.

Mr. MARSHALL. I trust that I shall be allowed an opportunity to correct the statement which the gentleman has made in reference to what occurred before the committee. I shall not follow him in that statement unless by the permission of the House, as I know that the rules forbid it. The gentleman has not stated fairly all the facts in regard to the manner in which this matter came before the committee. If the House would grant its permission I would give another version of the facts, which, I think, the gentleman would not deny, and which, I believe, would present the matter more fairly to the House.

The SPEAKER. If the gentleman from Massachusetts yields the floor, the gentleman from Illinois can proceed with his explanation, unless some gentleman raises a point of order.

Mr. DAWES. The point at issue relates to a matter which transpired in the committee when the gentleman from Illinois was not present.

Mr. MARSHALL. The gentleman seems to make an insinuation that I did not attend the sittings of the committee as regularly as I should have done. I will state, for the satisfaction of the gentleman and the House, that I was not able always to be present. But I certainly am able to read, and I think to understand, the evidence in this case. I would like to state the facts as they actually occurred, but I do not propose to make that statement except by unanimous consent.

The SPEAKER. The Chair will state that it has been repeatedly decided that it is not in order to allude on the floor to anything that has taken place in committee, because committees must report their action to the House in a formal manner. But if no gentleman raises the point of order, the Chair will not arrest the gentleman from Illinois in any statement he may make.

Mr. MARSHALL. I prefer not to proceed without the consent of the House.

The SPEAKER. The gentleman from Illinois asks unanimous consent to state what transpired in the committee-room. Is there objection? The Chair hears none.

Mr. MARSHALL. It appears by the printed evidence that the time for taking the testimony was nearly all occupied by the contestant, and when the time closed the sitting member had not had an opportunity to conclude his evidence. The contestant, although appealed to, refused to consent to an extension of time. The subject, if I am not mistaken, first came up before the committee on a motion to dismiss the case, for the reason that there was no sufficient notice and that there were no specifications according to the forms of law. That was the question which was discussed before the committee for some days. Then the sitting member did appeal to the committee that time should be given to him to go back and take the evidence which he had proposed to take before. That privilege was refused him. I do not say that the committee acted improperly in refusing that permission, but I think it fair that the House should know that the sitting member has made every endeavor to have this evidence taken. He has tried every means in his power to obtain an opportunity to take this testimony, both by appealing to the contestant and to the committee.

Mr. RAYMOND. I ask the gentleman from Massachusetts to yield to me for a few moments.

Mr. DAWES. I will yield to the gentleman from New York for five minutes.

Mr. RAYMOND. I did not wish to inter-

rupt the argument of the chairman of the committee, for what I have to say has no bearing on what he is discussing. Without entering into a canvass of the merits of the case—I am ashamed to say I have not possessed myself with a knowledge of all the testimony in the case—I desire simply to refer to one aspect of the argument of the sitting member, particularly as I heard him yesterday and to-day; I mean that portion of his argument which may be called *argumentum ad invidiam*, relating personally to the contestant, to his standing, to his wealth, and to various matters which, according to the allegation of the sitting member, have been connected with this contest. I listened with a good deal of surprise, sir, to the gentleman's remarks upon the wealth of the contestant, to his rehearsal of the amount of his income, the net income upon which he pays tax, the aggregate income upon which he does not pay tax, the amount *per annum*, *per diem*, and *per horam*, and so much for each moment he drew his breath. What could be the use of such enumeration as that unless to appeal to the prejudices of the House against his wealth? That, I take the liberty to say, is an unfair appeal, and one with which this case has nothing to do.

I venture to say there is not a man in New York, or in the United States, or on the face of the earth, who knows the contestant in this case, who will for one moment pretend or suspect his possession of large wealth is to be weighed against him in this or any other scale. It has all been acquired honorably, justly, fairly, without wronging any man. After acquiring wealth in this way it is to his honor and something to be said rather in his praise than against him that he still has it. And something still more to his praise and honor should be the fact that he has expended it as liberally and nobly and honorably as he has acquired it.

There is not a man familiar with the charities of New York, or the charities outside of New York, which seek that city as the field of operation for the recruital of their resources, who does not know the contestant in this case is the first man to whom they all go and the man from whom they come with the largest contributions.

I do not think it was more just to reproach the contestant with the companionship attributed to him in the terrible sentence of Cicero's invective which he applies to the associates of Catiline, that the murderers, thieves, scoundrels, and rascals were all to be found, as the gentleman has with some freedom interpreted the passage, in the parlors of the contestant. Well, sir, I perhaps stretch the matter a little too far, but I do not see how I can avoid the conclusion that the intention was to carry the impression that these men were in the parlors of the contestant for the same purpose and with the same motives which brought the companions of Catiline into his presence. I do him no injustice when I say he knows better than that. He knows no man ever stood in the presence of the contestant venturing to make any proposition dishonorable in any way. The sitting member will agree with me they were there for the purpose of being consulted as witnesses, and not as participants in any crime.

I rose simply to protest against personal injustice done to the contestant in this case, and I do not wish to enter into any further discussion of the matter.

Mr. DAWES. In the heat of what I have been saying I am conscious of having said something personal to the sitting member which I shall always regret. I ask permission of the gentleman to withdraw all such remarks.

Mr. BROOKS. The gentleman promised to call the attention of the committee to the fact that the July riots were in the fifteenth district, and to show the testimony therefor.

Mr. DAWES. Mr. Speaker, I did promise to make an answer. I ask the gentleman to read the report. The report does not say that the July riots were in the district, but it says, "this district had a bad reputation in connection with the July riots." I think the gentleman knows what reputation is. I submit such was the statement in presence of the committee without contradiction. They went from this district to the July riots, and those men made this reputation.

Mr. BROOKS. Was that in the proof?

Mr. DAWES. No, it was not; but reputation is proof without taking depositions. It is what people say of him.

Mr. BROOKS. They never said it. It was never said except by Mr. Dodge.

Mr. DAWES. It was said over and over again in the committee-room. That is my recollection.

Mr. BROOKS. Another correction. The gentleman said that in the third district the canvasser was drunk. Is there any proof of that?

Mr. DAWES. There are two answers to that. That is a district in which the committee are unanimous that the allegation was not sustained by the proofs, and therefore it does not make any difference whether it was so or not. The evidence is that the man drank liquor so many times that he could not tell how many, and fell asleep.

Mr. BROOKS. Is that in the proof?

Mr. DAWES. I cannot spend time on these matters. That is the second thing; now, what is the third?

Mr. BROOKS. The gentleman promised to make all these corrections. He said that Brady was a self-constituted clerk.

Mr. DAWES. I explained what I meant by that when the gentleman from Illinois [Mr. MARSHALL] was on the floor. I meant that he was a clerk who was put in the place of his brother, without appointment, because his brother said he wanted to make employment for him. He did his work and took the pay as clerk in his brother's name. I call that self-appointment. I am not a lexicographer.

Here is the testimony of the man who drank the liquor:

"*Question.* Did you take any liquor there?
"*Answer.* I might have taken liquor in the house that day.
"*Question.* Don't you remember that you took liquor there?
"*Answer.* I did not take very much liquor the same day.
"*Question.* Don't you recollect you took liquor there?
"*Answer.* I did.
"*Question.* How many glasses did you take?
"*Answer.* I don't recollect.
"*Question.* Did you take ten?
"*Answer.* No, sir.
"*Question.* Did Mr. Fitz Simmons give you this liquor?
"*Answer.* I can't recollect whether Mr. Fitz Simmons or his bar-keeper.
"*Question.* Either Mr. Fitz Simmons or his bar-keeper gave it to you?
"*Answer.* Very like, sir.
"*Question* Did he give it to others beside you?
"*Answer.* Yes.
"*Question.* Many others, or few?
"*Answer.* I don't think there were many."

Mr. BROOKS. Is there any proof that he was drunk?

Mr. DAWES. He drank a good deal of liquor and got asleep. [Laughter.]

Now, Mr. Speaker, I have spent considerable time on this collateral matter. I hope the Globe reporters will strike out of my remarks everything that is personal to the sitting member, that I may never have it to think of after this case is over.

I was dwelling upon the singular request made by the gentleman from Ohio, [Mr. GARFIELD,] first that we should take this case back and go into evidence whether others were in the habit of cheating in the same way, and second, as his resolution was modified, that both parties take further testimony about the fifteenth district, and finally, as was modified by the adoption of the resolution now pending, thus:

Resolved, That the invalidity of the register of the fifteenth district of the eighteenth ward of the city of New York would not of itself justify the rejection of the official returns of the canvassers of that district.

Resolved, That this case be recommitted to the Committee of Elections to report upon supplementary proof to be made as provided in the next resolution.

Resolved, That either party be authorized to take supplementary testimony respecting the election in the fifteenth district of the eighteenth ward only, before the 10th day of May next, complying with the statutory regulations, applicable to the case: *Provided*, That five days' notice of any proposed examination of witnesses shall be sufficient.

Now, I want to inquire why the gentleman applies this proposition to the fifteenth district of the eighteenth ward. If he had read the report he would have found that there are two other districts in which the committee said that the allegations were not sustained, because they were in doubt as to the testimony in regard to those districts. Why did the gentleman not think it of just as much importance to take testimony in regard to those districts as in regard to this one?

Mr. GARFIELD. This is the only one which decides the case.

Mr. DAWES. That only shows, as I stated before, that the testimony was so voluminous that my friend could not read it, and so he trusted to the minority report for his facts. We reported on four districts, two of which we sustain and two of which we do not, because there is doubt in the testimony.

There is one thing more to which I will advert. The gentleman from Ohio [Mr. GARFIELD] says he is prompted to do this because we make this admission:

"The committee are, however, of the opinion that it was competent for either contestant or sitting member to prove the casting of legal votes at this poll, even without a register."

Now, that is precisely what we in the report declared was a proper thing for them to do. They did not do it, but afterward the sitting member asked to have further time for that purpose. In that respect the resolution of the gentleman from Ohio [Mr. GARFIELD] follows the very course which the sitting member desired.

And now I wish to call attention to the fact that when the gentleman from Ohio [Mr. GARFIELD] adopted the resolution, offered by my colleague on the committee, [Mr. PAINE,] confining the taking of this testimony to the 10th day of May, the sitting member sprang to his feet and sought to extend the time beyond the 10th day of May. Let him not be concerned. If the resolution is adopted, and this is recommitted to the committee, he will not be required to be here on the 10th day of May; he will not be required to be here this session of Congress at all. It is not possible. There are four election cases behind yet to be heard. The testimony cannot be kept until after the 10th of May and produced here until the close of the session. It will be January before he would get to the hearing of the case, and then he can take ten days as well at the next session as at this, and it will be the last two weeks of this Congress before the report will be made. And does the gentleman suppose that in the last two weeks we can spend four more days arguing this case?

That is the practical result of the proposition to submit it again to this committee, and that, too, after every opportunity has been afforded that any contestant or sitting member has had in thirty years to bring his case before the committee. There is not on record a case where a party has had a hearing of ten days and has afterward come into the House and said he wanted more time to take testimony.

But my friend from Ohio [Mr. SPALDING] has another mode of disposing of this case. Why did not my friend on my right come right out manfully and say we had better confirm the sitting member in his seat than strike this side blow at the report of the committee by recommitting the report, the effect of which can be nothing else than to confirm him in his seat. The practical operation of it, I submit, is nothing else than to do so. But my friend over the way [Mr. SPALDING] says that the method pursued by the committee is not justifiable to set aside the vote of a precinct which is proved to be illegal and fraudulent, and which he agrees with the committee is so, because we have no right so to override the will of the people in a precinct; and if we may do it in one precinct we may do

it in two, and may thus unseat any member. I believe I state it correctly.

And that is the line of the argument of the gentleman from Illinois, [Mr. FARNSWORTH.] It was an argument that evinced that he understood thoroughly the case. It was exactly in the line that I had heard before so long in the committee, that no one who had heard it the first time could doubt but what it was an able and thorough argument, made from a complete understanding of the case.

But I want to call his attention to the fact that his conversion in the case surpasses that of Saul of Tarsus. For let us remember that in the last few moments of the debate in the Voorhees case my friend begged a few minutes of my time in order to make a speech, and he made haste to say that he disagreed with the committee because they did not go far enough. Because the committee set aside a poll and then gave the parties an opportunity to prove the votes, he said that that, in his opinion, was not law.

[Here the hammer fell.]

Mr. ELDRIDGE. I move the gentleman's time be extended.

Mr. DAWES. I want five or ten minutes.

Mr. ELDRIDGE. I move that the gentleman have ten minutes.

No objection was made.

Mr. DAWES. I only want to call attention to the speech of the gentleman from Illinois, [Mr. FARNSWORTH,] where, on the last day of the Voorhees case, he undertook to call the committee to account because they not only set aside the poll for the same reason that they set aside the poll in this case, but they also gave an opportunity to prove the votes which were legally given; which, he said, we ought not to have done. Yet yesterday my friend made haste to say, when the committee had done in this case exactly what he said they should have done in the other case, that it was not a principle by which he could stand.

Mr. FARNSWORTH. Will the gentleman allow me to point out the difference between the two cases?

Mr. DAWES. I understand the difference fully.

Now, my friend from Ohio [Mr. SPALDING] has a more singular way of doing things than that. He says it is an unsafe proceeding to establish the precedent of setting aside a whole poll, because there was illegal and fraudulent votes cast in the district; for that would be putting the power in our hands to unseat any member. Well, and what is his remedy for that? He proposes to set aside all the polls.

He says it would be most unprecedented, most unjust, most wicked to set aside this poll, although in his speech he agrees with the committee that it was fraudulent and illegal, and therefore void. But he says it gives us the power to unseat a member by setting aside just as many polls as we please, and then he proposes as his remedy that we set aside all the polls.

Now, it is our duty to do something else; it is our duty to say, and to say now, which of these two men was elected, unless we believe in one of two things. We must believe, if we refuse to decide which of those two men was elected, either that the committee are fools, and cannot reproduce the conclusions which lie in the testimony, or that they are knaves and refuse to do so, one or the other. I ask nothing in behalf of the committee. I only ask this House not by any side blow to set aside the report of the committee; not to recommit the case to the committee for the purpose of taking more testimony, which will end in leaving the sitting member here, for reasons I have already stated, unless they think the committee have not treated him fairly, and have not given him every opportunity to try his case as it ought to have been tried.

I have no doubt the committee will, as well as they may, cheerfully perform any duty which is devolved upon them by the House. But I confess to a lack of strength and some feeling of discouragement, if all the labor which they have performed in this case is to be set aside and considered as naught. I believe it has been the honest endeavor of the committee to sift this case fully; and having done so, with all their knowledge of other cases and the principles therein involved, there has been left upon their minds a clearer conviction than ever rested upon them in other cases, that the honest return left the majority of the votes in favor of Mr. Dodge. And that is the reason why they have reported a resolution that the contestant should have this seat.

Mr. BROOKS. So far as I am concerned, I hope the reporters of the Globe will make no alteration or retraction of the remarks of the able gentleman from Massachusetts, [Mr. DAWES.] By those remarks he has done me all the damage he could before the House; he could do no more if they should be published. I trust, therefore, he will not change them.

The question was upon the following amendment of Mr. GARFIELD to the amendment of Mr. MARSHALL:

Resolved, That the invalidity of the register of the fifteenth district of the eighteenth ward of the city of New York would not of itself justify the rejection of the official returns of the canvassers of that district.

Resolved, That this case be recommitted to the Committee of Elections to report upon supplementary proof to be made as provided in the next resolution.

Resolved, That either party be authorized to take supplementary testimony respecting the election in the fifteenth district of the eighteenth ward only, before the 10th day of May next, complying with the statutory regulations applicable to the case: *Provided*, That five days' notice of any proposed examination of witnesses shall be sufficient.

Mr. RANDALL, of Pennsylvania, called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 53, nays 80, not voting 50; as follows:

YEAS—Messrs. Baker, Bergen, Boyer, Coffroth, Cullom, Dawson, Defrees, Denison, Eldridge, Farnsworth, Finck, Garfield, Glossbrenner, Aaron Harding, Harris, Hogan, Edwin N. Hubbell, James R. Hubbell, James M. Humphrey, Ingersoll, Jenckes, Kasson, Latham, Le Blond, Loan, Marshall, McIndoe, Niblack, Nicholson, Noell, Paine, Pike, Radford, Samuel J. Randall, William H. Randall, Ritter, Rogers, Ross, Rousseau, Shanklin, Sitgreaves, Smith, Spalding, Strouse, Taber, Taylor, Thornton, Trimble, Robert T. Van Horn, Elihu B. Washburne, Whaley, Winfield, and Wright—53.

NAYS—Messrs. Alley, Allison, Baldwin, Banks, Baxter, Beaman, Benjamin, Bidwell, Bingham, Boutwell, Broomall, Buckland, Bundy, Reader W. Clarke, Cook, Darling, Davis, Dawes, Dixon, Driggs, Eckley, Eggleston, Eliot, Farquhar, Ferry, Grinnell, Hale, Abner C. Harding, Hart, Hayes, Henderson, Higby, Hill, Hotchkiss, Asahel W. Hubbard, Hulburd, James Humphrey, Kelley, Kelso, Ketcham, Laflin, George V. Lawrence, William Lawrence, Longyear, Lynch, McClurg, McKee, McRuer, Mercur, Moorhead, Morrill, Myers, O'Neill, Orth, Patterson, Perham, Plants, Price, Raymond, Alexander H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Stevens, Stilwell, Thayer, John L. Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Henry D. Washburn, Welker, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—80.

NOT VOTING—Messrs. Ames, Ancona, Anderson, Delos R. Ashley, James M. Ashley, Barker, Blaine, Blow, Brandegee, Bromwell, Brooks, Chanler, Sidney Clarke, Cobb, Conkling, Culver, Delano, Deming, Donnelly, Dumont, Goodyear, Grider, Griswold, Holmes, Hooper, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Johnson, Jones, Julian, Kerr, Kuykendall, Marston, Marvin, McCullough, Miller, Morris, Moulton, Newell, Phelps, Pomeroy, John H. Rice, Sloan, Starr, Francis Thomas, Ward, Warner, William B. Washburn, Wentworth, and Williams—50.

So the amendment to the amendment was not agreed to.

During the roll-call,

Mr. NIBLACK said: My colleagues, Mr. KERR and Mr. JULIAN, are paired upon this and all other questions until further notice.

Mr. RICE, of Maine, said: I am paired on this question with my colleague, Mr. BLAINE. If he was here he would vote for the sitting member, and I should vote against him.

Mr. DAWES said: My colleague, Mr. WASHBURN, is paired with Mr. JOHNSON.

Mr. HOTCHKISS said: My colleague, Mr. MORRIS, is paired with Mr. CHANLER.

The result was announced as above stated.

The question then recurred on the amendment of Mr. MARSHALL, to strike out all after the word "resolved," in the resolution of the committee, and insert the following:

That William E. Dodge is not entitled to a seat in the House as a Representative in the Thirty-Ninth Congress from the eighth district in New York.

Mr. ELDRIDGE called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 55, nays 78, not voting 50; as follows:

YEAS—Messrs. Ancona, Baker, Bergen, Boyer, Coffroth, Cullom, Davis, Dawson, Defrees, Denison, Eldridge, Farnsworth, Finck, Glossbrenner, Hale, Aaron Harding, Harris, Higby, Hogan, Edwin N. Hubbell, James M. Humphrey, Ingersoll, Jenckes, Kasson, Latham, Le Blond, Loan, Marshall, Niblack, Nicholson, Noell, Paine, Pike, Radford, Samuel J. Randall, Ritter, Rogers, Ross, Rousseau, Shanklin, Sitgreaves, Smith, Spalding, Strouse, Taber, Taylor, Thayer, Thornton, Trimble, Robert T. Van Horn, Elihu B. Washburne, Whaley, Winfield, and Wright—55.

NAYS—Messrs. Alley, Allison, James M. Ashley, Banks, Baxter, Beaman, Benjamin, Bidwell, Bingham, Boutwell, Broomall, Buckland, Bundy, Reader W. Clarke, Cook, Darling, Dawes, Dixon, Driggs, Eckley, Eggleston, Eliot, Farquhar, Ferry, Grinnell, Abner C. Harding, Hart, Hayes, Henderson, Hill, Hotchkiss, Asahel W. Hubbard, James R. Hubbell, Hulburd, James Humphrey, Kelley, Kelso, Ketcham, Laflin, George V. Lawrence, William Lawrence, Longyear, Lynch, McClurg, McIndoe, McKee, McRuer, Mercur, Moorhead, Myers, O'Neill, Orth, Patterson, Perham, Plants, Pomeroy, Price, William H. Randall, Raymond, Alexander H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Stevens, Stilwell, Trowbridge, Upson, Van Aernam, Burt Van Horn, Henry D. Washburn, Welker, Wentworth, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—78.

NOT VOTING—Messrs. Ames, Anderson, Delos R. Ashley, Baldwin, Barker, Blaine, Blow, Brandegee, Bromwell, Brooks, Chanler, Sidney Clarke, Cobb, Conkling, Culver, Delano, Deming, Donnelly, Dumont, Goodyear, Grider, Griswold, Holmes, Hooper, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Johnson, Jones, Julian, Kerr, Kuykendall, Marston, Marvin, McCullough, Miller, Morrill, Morris, Moulton, Newell, Phelps, John H. Rice, Sloan, Starr, Francis Thomas, John L. Thomas, Ward, Warner, William B. Washburn, and Williams—50.

So the amendment of Mr. MARSHALL was rejected.

During the call of the roll,

Mr. TRIMBLE said: My colleague, Mr. GRIDER, has paired on this question with Mr. AMES.

Mr. GARFIELD. Believing that the committee have not furnished us with sufficient evidence to enable us to decide this case satisfactorily, I decline to vote.

The result was announced as above stated.

The question recurred on the following resolutions reported by the Committee of Elections:

Resolved, That Hon. James Brooks is not entitled to a seat in this House as a Representative in the Thirty-Ninth Congress from the eighth district in New York.

Resolved, That William E. Dodge is entitled to a seat in this House as a Representative in the Thirty-Ninth Congress from the eighth district in New York.

Mr. CONKLING. Are those resolutions divisible?

The SPEAKER. They are divisible upon the demand of any member.

Mr. CONKLING. I call for a division. I desire a separate vote on these resolutions.

The SPEAKER. The vote will be taken separately. The question is now upon the first resolution.

Mr. ELDRIDGE called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 84, nays 46, not voting 53; as follows:

YEAS—Messrs. Alley, Allison, James M. Ashley, Banks, Baxter, Beaman, Benjamin, Bidwell, Bingham, Boutwell, Broomall, Buckland, Bundy, Reader W. Clarke, Conkling, Cook, Cullom, Darling, Dawes, Defrees, Dixon, Driggs, Eckley, Eggleston, Eliot, Farquhar, Ferry, Grinnell, Abner C. Harding, Hart, Hayes, Henderson, Higby, Hill, Hotchkiss, Asahel W. Hubbard, James R. Hubbell, Hulburd, James Humphrey, Ingersoll, Kelley, Kelso, Ketcham, Laflin, George V. Lawrence, William Lawrence, Longyear, Lynch, Marston, McClurg, McIndoe, McKee, McRuer, Mercur, Moorhead, Morrill, Myers, O'Neill, Orth, Patterson, Perham, Plants, Pomeroy, Price, Raymond, Alexander H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Spalding, Stevens, Stilwell, John L. Thomas, Trowbridge, Upson, Van

Aernam, Burt Van Horn, Welker, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—84.

NAYS—Messrs. Ancona, Baker, Bergen, Boyer, Coffroth, Davis, Dawson, Denison, Eldridge, Farnsworth, Finck, Glossbrenner, Hale, Aaron Harding, Harris, Hogan, Edwin N. Hubbell, James M. Humphrey, Jenckes, Latham, Le Blond, Loan, Marshall, Niblack, Nicholson, Noell, Paine, Pike, Radford, Samuel J. Randall, Rogers, Shanklin, Sitgreaves, Smith, Strouse, Taber, Taylor, Thayer, Thornton, Trimble, R. T. Van Horn, Elihu B. Washburne, Henry D. Washburn, Whaley, Winfield, and Wright—46.

NOT VOTING—Messrs. Ames, Anderson, Delos R. Ashley, Baldwin, Barker, Blaine, Blow, Brandegee, Bromwell, Brooks, Chanler, Sidney Clarke, Cobb, Culver, Delano, Deming, Donnelly, Dumont, Garfield, Goodyear, Grider, Griswold, Holmes, Hooper, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Johnson, Jones, Julian, Kasson, Kerr, Kuykendall, Marvin, McCullough, Miller, Morris, Moulton, Newell, Phelps, William H. Randall, John H. Rice, Ritter, Ross, Rousseau, Sloan, Starr, Francis Thomas, Ward, Warner, William B. Washburn, Wentworth, and Williams—53.

So the first resolution was adopted.

The question then recurred on the second resolution, as follows:

Resolved, That William E. Dodge is entitled to a seat in this House as a Representative in the Thirty-Ninth Congress from the eighth district in New York.

Mr. ELDRIDGE demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 72, nays 52, not voting 59; as follows:

YEAS—Messrs. Alley, Allison, James M. Ashley, Banks, Baxter, Beaman, Benjamin, Bidwell, Bingham, Boutwell, Broomall, Buckland, Bundy, Reader W. Clarke, Cook, Darling, Dawes, Driggs, Eckley, Eggleston, Eliot, Farquhar, Ferry, Grinnell, Abner C. Harding, Hart, Hayes, Henderson, Hill, Hotchkiss, Asahel W. Hubbard, Hulburd, James Humphrey, Kelley, Kelso, Ketcham, Laffin, George V. Lawrence, William Lawrence, Longyear, McClurg, McIndoe, McKee, McRuer, Mercur, Moorhead, Moulton, Myers, O'Neill, Patterson, Perham, Plants, Pomeroy, Price, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Stevens, Stilwell, Trowbridge, Upson, Van Aernam, Burt Van Horn, Henry D. Washburn, Welker, Wentworth, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—72.

NAYS—Messrs. Ancona, Baker, Bergen, Boyer, Bromwell, Coffroth, Cullom, Davis, Defrees, Denison, Eldridge, Farnsworth, Finck, Glossbrenner, Hale, Aaron Harding, Harris, Higby, Hogan, Edwin N. Hubbell, James M. Humphrey, Ingersoll, Jenckes, Latham, LeBlond, Marshall, Marston, Niblack, Nicholson, Noell, Orth, Paine, Pike, Radford, Samuel J. Randall, Ritter, Rogers, Ross, Shanklin, Sitgreaves, Smith, Spalding, Strouse, Taber, Taylor, Thayer, Thornton, Trimble, Robert T. Van Horn, Elihu B. Washburne, Whaley, Winfield, and Wright—53.

NOT VOTING—Messrs. Ames, Anderson, Delos R. Ashley, Baldwin, Barker, Blaine, Blow, Brandegee, Brooks, Chanler, Sidney Clarke, Cobb, Conkling, Culver, Dawson, Delano, Deming, Dixon, Donnelly, Dumont, Garfield, Goodyear, Grider, Griswold, Holmes, Hooper, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbell, Johnson, Jones, Julian, Kasson, Kerr, Kuykendall, Loan, Lynch, Marvin, McCullough, Miller, Morrill, Morris, Newell, Phelps, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Rousseau, Sloan, Starr, Francis Thomas, John L. Thomas, Ward, Warner, William B. Washburn, and Williams—58.

So the second resolution was adopted.

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

The latter motion was agreed to.

Mr. DODGE presented himself at the Clerk's desk, and was duly qualified.

JUDICIARY OF THE UNITED STATES, ETC.

Mr. WILSON, of Iowa, by unanimous consent, from the Committee on the Judiciary, reported the following bills; which were ordered to be printed and recommitted to the same committee:

An act (S. No. 184) to define more clearly the jurisdiction and powers of the supreme court of the District of Columbia, and for other purposes; and

An act (S. No. 103) to reorganize the judiciary of the United States.

And then, on motion of Mr. HARDING, of Kentucky, (at five o'clock and forty minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to the appropriate committees:

By Mr. BUCKLAND: The petition of Charles Powers, and 48 others, citizens of Woodville, Sandusky county, Ohio, for protection to the wool-growers of this country by levying a duty on all foreign wools of not less than ten cents per pound specific duty, and ten per cent. *ad valorem*.

Also, the petition of L. Vanteal, and 42 others, of Elmore, Ottawa county, Ohio, for the same.

Also, the petition of Isaac Fowler, and 39 others, citizens of Berlin Heights, Erie county, Ohio, for the same.

Also, the petition of J. F. Basey, and 34 others, citizens of Woodville, Sandusky county, Ohio.

Also, the petition of John Eoff, and 46 others, citizens of Elmore, Ottawa county, Ohio, for the same.

Also, the proceedings of a meeting of insurance agents of the ninth congressional district of Ohio, held at Clyde, Ohio, on the subject of establishing by act of Congress a National Insurance Bureau for the regulation of inter-State insurance business.

Also, the petition of F. W. Cogswell, and others, citizens of Sandusky city, upon the same subject.

By Mr. BAXTER: The petition of Hon. William C. Wilson, and others, citizens of Bakersfield, Franklin county, Vermont, praying for an increased protection on foreign wool.

Also, the petition of Henry H. Ballard, and 30 others, citizens of Georgia, Franklin county, Vermont, praying for an increased protection on foreign wool.

Also, the petition of David Sunderlin, and 39 others, citizens of Highgate, Franklin county, Vermont, praying for an increased protection on foreign wool.

Also, the petition of David Brown, and others, citizens of Grand Isle, Grand Isle county, Vermont, praying for an additional protection on foreign wool.

By Mr. BUNDY: The petition of G. B. Morris, and 115 others, citizens of Ohio, asking an equalization of bounties to soldiers.

By Mr. BROMWELL: The petition of M. C. Collier, J. P. Pugh, and others, of Macon county, Illinois, praying for an increase of the annual amount of pensions paid to invalid officers and soldiers.

By Mr. CULLOM: Three separate petitions signed by a large number of citizens of Logan county, Illinois, asking that Congress shall fix certain specific duties upon imported wool.

By Mr. CONKLING: The memorial of the Savings Bank of Utica, asking relief from present taxation.

By Mr. DRIGGS: The petition of John Wilson, and 75 others, citizens of Genesee county, Michigan, for an increased duty on wool.

By Mr. DAVIS: The petition of E. D. Clapp, Thomas Stanton, and 61 others, citizens of Onondaga county, New York, praying increased protection on American wool.

Also, the petition of Caroline A. Randall, administratrix of Lieutenant Colonel Charles B. Randall, for relief.

By Mr. DARLING: The petition of Mrs. A. M. Conrey and Miss Harriet S. Jaudon, for the return of property alleged to be unlawfully confiscated.

By Mr. DELANO: The petition, proofs, and claim of Leonard B. Johnson, of Sandusky, Ohio, praying compensation for use and damage to his property on Johnson's Island, Lake Erie, by the Government of the United States.

By Mr. ELDRIDGE: The petition of 78 citizens of Rosendale, Fond du Lac county, Wisconsin, for a law providing for a duty of ten cents per pound and ten per cent. *ad valorem* on wool imported into the United States.

By Mr. ELIOT: The petition of George E. Gould, to change name of schooner Lord Clyde to Golden City.

By Mr. FARNSWORTH: The petition of Asa W. Smith, and a large number of others, citizens of McHenry county, Illinois, in favor of a uniform system of insurance.

By Mr. FERRY: The memorial of many citizens of Barry county, Michigan, praying for a post route to be established from Vermontville, Eaton county, to Barryville, Barry county, Michigan.

By Mr. HOGAN: The memorial of John D. Perry, president of the Union Pacific Railway Company, eastern division, for a reduction of the military reservation at Fort Riley.

By Mr. HUBBELL, of Ohio: The petition of John Rice, and 130 others, wool-growers and citizens of Richland county, Ohio, praying for increased duties upon imported wool.

By Mr. HOTCHKISS: The petition of citizens of Tioga county, New York, for the improvement of the harbor of Fair Haven, New York.

By Mr. HUBBARD, of Connecticut: The petition of John Benz, and others, for a reduction of duty on imported barley.

By Mr. KELLEY: A memorial of 55 citizens of Chattanooga, Tennessee, praying your honorable body to amend the tariff laws so as to protect our labor to the extent of the difference of the cost of capital and labor here and abroad, with the addition of the taxes paid by American industrial products from which the foreign are free.

By Mr. LAWRENCE, of Pennsylvania: A petition from citizens of Lawrence county, Pennsylvania, for an increase of duty on foreign wool.

Also, a petition from the members of the bar at Washington, Pennsylvania, for an increase of salary to Judge McCandless, district judge for the United States for western Pennsylvania.

By Mr. LONGYEAR: A remonstrance of the common council of the village of Mason, Ingham county, Michigan, against the extension of the Amboy, Lansing, and Traverse Bay railroad land grant to the company of that name, and asking that the said grant may be conferred upon certain other companies therein named.

Also, a like remonstrance of S. P. Hutchinson, and 91 others, citizens of Brooklyn and Napoleon, Jackson county, Michigan.

By Mr. MOORHEAD: Three memorials from Joseph Plummer, John A. Jones, John Patterson, W. McClintock, and Hugh Lee, citizens of Alleghany county, Pennsylvania, praying for an increase of duty on foreign wool.

Also, from General F. H. Collier, John M. Kilpatrick, John W. Riddell, and others, members of the Pittsburg bar, asking that the salary of the United States district judge for western Pennsylvania be increased.

Also, five memorials signed by 500 citizens of Mercer county, Pennsylvania, praying for an increase of duty upon foreign wool.

By Mr. MORRILL: The petition of Hon. Charles Barrett, and 57 others, citizens of Grafton, Windham county, Vermont, praying for an increased duty on foreign wool.

Also, the petition of A. H. Gilmore, and 69 others, citizens of Fairlee, Orange county, Vermont, praying for an increased duty on foreign wool.

Also, the petition of H. W. Bailey, and 40 others, citizens of Newbury, Orange county, Vermont, praying for an increased duty on foreign wool.

Also, the petition of David F. Chapman, and 72 others, citizens of Tunbridge, Orange county, Vermont, praying for an increased duty on wool.

Also, the petition of D. F. Tolinson, and 40 others, citizens of Newark, Caledonia county, Vermont, praying for an increased duty on foreign wool.

By Mr. PAINE: The petition of Richard Richards, and others, citizens of Mount Pleasant, Racine county, Wisconsin, in favor of an increased tariff upon wool.

By Mr. PRICE: The petition of citizens of Davenport, Iowa, asking for the passage of a law for the regulation of inter-State insurances of all kinds.

By Mr. PHELPS: The memorial of J. C. Gates & Co., praying to be refunded tax paid on merchandise.

By Mr. SCHENCK: Sundry petitions of citizens and discharged soldiers of Ohio, for equal bounties.

By Mr. SCOFIELD: Petitions from citizens of Erie and Alleghany counties, Pennsylvania, in favor of increasing the duty on wool.

By Mr. VAN HORN, of New York: The petition of 60 voters of Niagara county, New York, asking additional duty on wool.

By Mr. WOODBRIDGE: The petition of W. R. Bates, and 64 others, and also of M. Whipple, and 24 others, mechanics and laborers in manufacturing establishments in the State of Vermont, praying for such amendments to the tariff as will afford reasonable protection to the labor of this country against the cheap and pauper labor of Europe.

By Mr. WARD: The petition of 160 wool-growers, of Chemung county, New York, in favor of increasing the duties on foreign wool.

HOUSE OF REPRESENTATIVES.

SATURDAY, *April* 7, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

PRESIDENT'S MESSAGE.

The SPEAKER stated that, by order of the House, this day was set apart for discussion, as in the Committee of the Whole on the state of the Union, of the President's message, on which the gentleman from Missouri [Mr. HOGAN] was entitled to the floor.

Mr. HOGAN. Mr. Speaker, as the House has resolved to devote this day for the purpose of debate is the reason why I seek to occupy its attention with some remarks. I would not wish to disturb its regular business, or to protract discussion, if legitimate legislation could be enacted; but, sir, as this day has been devoted to debate and nothing else, I deem it proper to present to the House, and through it to the country, some views as to what has transpired and what is transpiring, and in which the people of the country are vitally interested.

This Congress, Mr. Speaker, called into existence at a time and under circumstances which have deprived one party of that vote to which it is entitled by its numerical numbers, while giving a very large majority to another, the Republican party, has been wasted, wholly wasted in the discussion of questions mainly irrelevant to the great subjects in reference to which we have been elected.

Very many speeches have been made. Indeed, sir, without any disrespect at all to the House, or to Congress, I might, perhaps, characterize this session as a session of essays. We have had magazine articles prepared and spoken. We have had various presentations of general ideas. We have had four months occupied in the discussion of this question, and scarcely has a single act been passed at this Congress in which the people have very much or very general interest. I do not hesitate to say that there has never been, in the history of this Republic, as much time uselessly consumed in discussion as during this

session. I do not hesitate to say that at no period in its history has its public Journal, devoted to the production of the debates in Congress, been as much occupied with these debates as in this present session. The Congressional Globe of this session embraces matter to an extent probably of three or four hundred pages more than the corresponding period of the session of the Thirty-Eighth Congress.

The previous Congress was held in a period of war, when the life of the nation was at stake, when great public interests were under discussion, when new measures of public policy for the maintenance of the integrity of the Republic were to be presented and argued; and yet during that quadrennial period, in which discussions in Congress are generally recognized as proper and right, during that period in which a presidential election was to be held, and in which the war was in progress, the records of the Congressional Globe show a less quantity of debate, by some four hundred and eighty-six pages during the first four months of the session than the present session. And yet, I say, scarcely a public act, or one in which the general public are interested, has been passed during all this period.

This, sir, to me is quite an anomaly. Nor does it seem to me that during the four months that have passed the country has had much enlightenment from the speeches of their Representatives in Congress. I know we have had numerous essays read, read from manuscript and read from printed sheets. Those essays might do very well in the Atlantic Monthly, or some other periodical of analogous character. But what have they contributed to any beneficial purpose in this country? I do not want to be disrespectful to this House or to this Congress, but I may be permitted to say that, with the exception of four or five of these numerous, almost innumerable speeches, there has not been a solitary new idea presented to this House or to this country. Three or four, or possibly a dozen, have presented certain facts and arguments and illustrations which were new, striking, or startling, but the mass has been a mere repetition of what has been said by others. The verbiage has been changed, the ideas are the same, gathered from those who preceded, and brought into the form of speeches.

I hope I shall not be considered as disrespectful when I say that, having listened to a few of these speeches and to parts of others of them, I have felt that I could attend to other things, to reading or writing, while they were in progress of delivery, without any particular disrespect to the speakers, inasmuch as I had heard them all before. It was to me a thrice-told tale, which had lost its power to attract my attention, and I think had lost its power to attract the attention of the country.

Many of these speeches might have been declared to be law, for they had their first and second reading, their engrossment, and their third reading. All they wanted was the usual enacting clause. Indeed, most of them that were delivered in the early part of the session, have been carried into the law.

In reference to these speeches generally, I will remark that they had three main points, possibly more, but I can only call to mind now three general points to which they all tended.

The first is the great, absorbing, Americanized idea of this day, the idea that seems to possess everybody, that seems to absorb everything else—the American citizen of African descent. That has been the great substratum of the whole.

This question, Mr. Speaker, in regard to the descendants of Africa in this country has been its disturbing element almost from the origin of the existence of this country. The cupidity of the people of old England, aided very materially by the cupidity of the people of New England, brought for gain this disturbing element into this fair land of promise and of hope. They brought it here against the wishes and against the remonstrances of the people who then inhabited the land, and who desired not a participation in this disturbing element. But it was forced upon an unwilling people, and being forced upon them, it has ever since been a means of their disturbance, a means of their derangement, and has brought upon us the destruction of our Republic, and has deprived us of a portion of that country and of those States which we have heretofore had among us.

I am not, sir, either the advocate or the apologist of slavery. I am not now, and I have not been. But when the last Congress passed a constitutional amendment by which slavery was abolished in this country, and when the States of the Republic acquiesced in its abolition, I supposed that this distressing element was to be removed from among us, and that henceforth we would be one people, seeking one prosperity, and advancing as a unit to greatness and to glory. Slavery for over thirty years was the agitating element, and when slavery ceased to be, the agitation apparently but just commenced.

Now, sir, I would not apologize for a moment for the great wrong that was done to Africa by stealing from her soil her children to enslave them elsewhere. Enslaved at home, they always have been enslaved abroad. They have been ever since men were first stolen from Africa to be enslaved in other lands. Yet, Mr. Speaker, there seems to be in all this matter some providential interference. Divine Providence has permitted this wrong, and it is not to be forgotten that the African race in this country are more elevated, are more civilized, are more advanced in manhood, and have attained to greater elevation than in any other country on earth, their own home not excluded. They have been brought here and brought into contact with the civilization of the white race on this continent, and such civilization has imparted to them an elevation and benefits which they have derived nowhere else. And although slavery was doubtless a great wrong, a very great wrong, to those who were the possessors of slaves, it cannot be said with truth to have been detrimental to those who have been brought to this country, and under its power have been made to experience the benefits they have.

It is not the fact, Mr. Speaker, that the African race in the South has been overwhelmed with ruin and destruction by reason of slavery. The owners of those slaves had for many years been using every effort in their power to elevate them, to advance them socially, civilly, and religiously, and in every respect except, probably, pecuniarily. They have held them as slaves and have derived advantage from their labor, and yet, sir, many, very many, of the slaves in the South were in their social relations greatly advanced from what they had ever been before. Nor is it true that the masters have in all cases been the terrible monsters that they have been represented to be.

I have traveled extensively through the southern States; I have had opportunities of examining the social relations there, and in many instances I have found those held in servitude enjoying immunities which those of the same race in freedom in the northern States had never attained unto. I have gone through the southern States and I have seen the manner in which many of these people held in servitude have been treated by their masters, and I will now state what my own eyes beheld and which could not probably be beheld outside of the region about which I am speaking. Twelve or sixteen years ago, I had occasion about this period of the year to journey into the center of the South. My time was not necessarily hurried and I had opportunity of leisurely examining all that was going on. I visited a very pleasant and interesting town in the center of the South. I had occasion to spend several days there. One of its hospitable sons found myself and the friend who was journeying with me domiciled in a hotel in the town. He had a beautiful home close by and he invited us to take up our residence with him during our stay. As a matter of course we accepted his kind invitation. The nobility of his hospitality could not be exceeded anywhere. In his house we found a pleasant and delightful home, and day after day, in converse with a refined family, I had an opportunity of examining the operations of his plantation and the condition of those who were under him as servants.

Sabbath after Sabbath passed. We attended church in the village and had an opportunity of returning again to the home of our friend. One beautiful Sabbath morning, when the balmy southern air pervaded everything, when the flowers were already looking forth from their winter quarters, when the grass was green and beautiful, and the woods were already beginning to leaf, we proposed to go to town to attend church. The gentleman suggested that we take a walk through the woods, for by doing so we would shorten our walk. The way around by the road was two or three, or probably four miles, whereas by the path through the forest we could reach the town very readily by walking only about a mile.

We all started together, pleased with the prospect of such a walk through such a country and in such a balmy atmosphere. After having whiled away our time examining the flowers and forests, we finally came to the road which from the house meandered around in its way to the village. Just as we got into the road, immediately behind us came a carriage loaded with colored gentlemen and ladies. The master stopped, as we were in the path, to get out of the way of the carriage that was coming down the hill. Looking up at the driver, he saw it was his own carriage, filled with his own servants. He said: "Hey, Tom; where now?" "Oh, massa," said he, "I knew the gentlemen was going walk you over the fields to church; and I thought as there was no further use for the carriage to-day, I would take my ladies and we would ride to church."

Mr. PRICE. I would like to ask the gentleman a question right here.

Mr. HOGAN. Very well.

Mr. PRICE. I would like to ask the gentleman whether it has been the rule in the South for the last fifty years for the master to walk and for the servants to ride.

Mr. HOGAN. Not having been there for fifty years I cannot tell. I know it is not the rule among the people of the North where I have lived. But I have stated what I saw.

Mr. PRICE. Has it been the rule there?

Mr. HOGAN. There may be no rule on the subject; I presume there is not. But I would ask the gentleman, if he in Iowa ever walked to church and let his white servants ride in his carriage.

Mr. PRICE. We do not have "servants" in the North. They are all on a level there; we all ride and walk together.

Mr. HOGAN. I know we do not have "servants;" I am perfectly well aware of that thing. But this I say; and in order that the gentleman from Iowa [Mr. PRICE] may understand the relative position of things, I will give him a case in contrast, drawn from the other side.

I was in a northern city, and was at the house of a gentleman there. In the course of the conversation he said that a colored man had come to his house, and so delighted were he and his wife with the color, that they had placed him at their table and he and his wife had waited upon him. I said, "Did you ever treat your white help in that way? Did you and your wife ever seat your white servant at your table while you waited on him?" "Oh, no;" said he, "they are hired people; they can wait."

Mr. PRICE. I will now ask the gentleman from Missouri [Mr. HOGAN] whether that is the rule in the North.

Mr. HOGAN. No, sir; I do not think it is.

Mr. PRICE. I suppose the gentleman from Missouri is dealing in exceptions to-day.

Mr. HOGAN. That may be, but I am only citing these exceptions in order to show this House and the country that all the stories which we have heard of the terrible calamities inflicted upon those people of color in the South are as

the "baseless fabrics of a vision;" merely "the figments of the imagination" of those who never saw the institution and never had anything to do with it. All this wrong, all this evil, all this error, have been the exception. The general rule has been the proper, judicious, conservative, I would say Christian, treatment of most of those who by surrounding circumstances have become the possession, or the property if you choose, of the late masters of the South.

But, sir, it has been alleged that the people were brutalized; that they were plunged in intellectual and moral darkness; that no thought or care was given to their welfare. Sir, that is all a mistake. The southern people have in the main labored earnestly and ardently in order to advance the condition of those held in servitude. So far from these statements being true, I affirm that by the labors of the devoted men of the South in caring for the social and moral welfare of the Africans there, the Christian religion has exercised a salutary influence upon those held in servitude, and more of them have been brought into the enjoyment of Christianity than were converted to the Christian religion by all the Protestant missionaries in all the world beside from the days of Christ till the present time.

I speak not now of what has been done by the Catholics with reference to the social and religious training of the Africans in the South. I speak of what has been done by Protestant ministers who have labored there; and I state it as a fact that up to 1859—I do not speak of any later period, for I have no information as to what has been going on there since that time—there were brought into church fellowship and under the influence of Christian teaching four hundred and twenty-five thousand and more of these Africans whose ancestors were pagans.

Mr. PRICE. I presume that, as the gentleman has not his speech written, it does not interrupt the thread of his discourse for me to ask him a question occasionally.

Mr. HOGAN. Oh, no, sir; I have nothing written.

Mr. PRICE. Then I wish to ask the gentleman whether we are to understand from his speech that in his opinion the system of slavery, as it has been practiced in the United States during the last half or three quarters of a century, has been conducive to the spread of the Christian religion, and whether he believes that the slaves of the South have been more effectually Christianized because they have been slaves than have been the laboring classes of the North, who have been free from servitude of that kind. If that be so, I wish to inquire further, how it happens that throughout the balmy and genial South, which the gentleman has so poetically described this morning, schools and churches have so seldom been found in the places where slaves were most numerous, while among the hill-tops and valleys of the North, where the beneficent influences of slavery were not exerted, school-houses and churches were found at short intervals. How come these things, if the gentleman's preaching be true? If his views are correct, have we not inflicted on the colored people of the South a curse in abolishing slavery, and thus deprived them of Christianity, under which they lived and flourished and were so happy in the years of the past?

Mr. HOGAN. Now, Mr. Speaker, the gentleman rose to ask me a question. I did not know that he was going to make a speech.

Mr. PRICE. I asked several questions; and I would like to have them all answered.

Mr. HOGAN. I know that the gentleman asked a great many questions; and I know also that when a gentleman on that side of the House makes a speech, we on this side seldom get a chance to ask any questions. We, however, are a little more liberal.

Now, Mr. Speaker, the gentleman's questions are so numerous, that without having them in writing I can scarcely remember them all; but so far as I can recollect them I will answer them. I want to answer them. I have no printed speech. I have no written speech. I have not even the notes of a speech, except a memorandum of a few points which I wish to come to by and by. This is a mere episode, which serves to turn the attention of the House to matters which I think about, and which I think the House ought to think about.

In the first place, let me say in answer to the gentleman, that I believe slavery to be wrong. Secondly, I am glad that it has been extirpated from our country. I had hoped, as I before remarked, that when it had been abolished, all the agitation concerning it, with all the disturbing animosities arising from that agitation, would cease.

Now, as to the next point. The gentleman asks me whether throughout the balmy South, churches and school-houses exist as they do in the North. Sir, the census shows that they exist there in about the same proportion to population as they do in the North. And I will state to the gentleman a fact which perhaps he may not have noticed, that many of those who were the owners of large numbers of slaves have generally not only built upon their plantations churches for their servants, but have themselves employed ministers to teach them the principles of Christianity. That has been the case generally throughout the entire South. Some, it is true, have not done so; but such cases have been the exceptions and such masters have received the opprobrium of the community in which they lived.

Mr. PLANTS. I would like to ask the gentleman a question.

Mr. HOGAN. I will hear the gentleman.

Mr. PLANTS. I desire to ask the gentleman whether in those churches, as he informs us, the southern masters have built for their servants, those masters would permit their servants to read a single verse of the Bible or the hymn-book.

Mr. HOGAN. Let me say, in reply to that, that the first Sunday-school I ever undertook to teach was a Sunday-school in a slave State, in which slaves were taught.

Mr. PLANTS. Were they taught to read, or even permitted to read?

Mr. HOGAN. They were taught to spell and taught to read.

Mr. PLANTS. Let me ask the gentleman one other question.

Mr. HOGAN. One thing at a time.

Mr. PLANTS. Did not the gentleman know, when he was teaching those slaves to read, that he was making himself liable to prosecution under the State laws?

Mr. HOGAN. No, sir; I did not.

Mr. PLANTS. Does not the gentleman know it now?

Mr. HOGAN. I knew the reverse: for the masters were with me as colaborers in the work. I know that such representations have been made——

Mr. MORRIS. Will the gentleman yield to me for a moment?

Mr. HOGAN. Oh, yes; I will yield to anybody.

Mr. PLANTS. The gentleman has not yet answered my question. I would like him to answer whether in those churches the slaves were permitted to read the Bible and the hymn-book. I have not yet heard the gentleman's answer to that question. I should like to have it answered.

Mr. HOGAN. I thought I had answered that. So far as I know, they were.

Mr. MORRIS. Will the gentleman now yield to me for a moment?

Mr. HOGAN. Yes, sir.

Mr. MORRIS. I believe, Mr. Speaker, that I have never interrupted any gentleman; and I desire now simply to ask a question for information. After that "peculiar institution" of the South has destroyed the Democratic party, and almost ruined the country, I desire the gentleman to explain why he is yet wedded to that obsolete institution, which has worked ruin wherever its influence has pervaded.

Mr. HOGAN. Now, Mr. Speaker, the gentleman's question has suggested two points which I wish to notice in the proper place, and if I do not do so, I trust some gentleman will remind me of them.

The gentleman suggests in the first place that the Democratic party has been destroyed. Why, sir, this idea of the destruction of the Democratic party is the Banquo's ghost which continually haunts the vision of gentlemen on the other side. The Democratic party dead! No, sir; no. Gentlemen on the other side doubtless wish that it were dead; but they know that it cannot die while liberty lives.

Mr. MORRIS. Will the gentleman allow me again?

Mr. HOGAN. Now, do not stick in these cross-questions when I am trying to answer one you have already asked. [Laughter.]

Mr. MORRIS. I am good-natured.

Mr. FINCK. I object to any further interruption of the gentleman from Missouri.

Mr. HOGAN. I want to answer the gentleman's questions one at a time. How am I to answer the gentleman when he continues to put to me multitudinous questions? How can I answer one when you throw me off by another? I would then be like the gentleman and his party, at cross-purposes all the time, running zig-zag. [Laughter.]

The Democratic party is not dead. There are nearly two millions in the loyal States of the North, and although they have only twenty or thirty members to represent them, yet they are within a small majority of the American people. It is the terrible thunder of that party that gentlemen are now fearing, which is to roll up like clouds in a summer sky when storms are brewing. They are terribly alarmed at all this when they are talking about the death of the Democratic party.

As to the second inquiry, if the gentleman had listened to me before he made it he would have seen not only I am not for slavery, but that I have never been for it. So much for that.

But, sir, this is only a portion of the argument I am making to show that the gentlemen on the other side of the House, by consuming so much of the time of Congress declaiming about negro slavery, are doing a great wrong to the American people. I say in reference to all of these matters, and it cannot be contradicted, that during the existence of slavery in the South more of this race of people whose ancestry were pagans have been brought through the instrumentalities of Christian teachings to the consolations and enjoyments of God than were brought to them by the labors of all the missionaries which have ever been sent out by the Christian nations in order to convert pagans to Christianity.

Mr. MORRIS. Will the gentleman allow me to interrupt him now?

Mr. HOGAN. Oh, yes.

Mr. MORRIS. I am happy to hear the gentleman allude to Christianity and to the Gospel. Now, sir, like Paul, I was born——

Mr. HOGAN. Is the gentleman going to make a speech or to ask a question?

Mr. MORRIS. I wish to make a statement, and then to ask a question.

Mr. HOGAN. I must decline to yield for a speech.

Mr. MORRIS. I hope the gentleman will allow me to make a brief statement.

Mr. HOGAN. You may make that after I am done.

Mr. MORRIS. It will not take a minute.

Mr. RADFORD. I object to further interruption.

Mr. MORRIS. I will ask the question, then. I was born and bred in the Democratic party, and——

Mr. ELDRIDGE. I rise to a question of order.

Mr. MORRIS. I sustained Andrew Jackson, Thomas H. Benton, and Silas Wright.

The SPEAKER. The gentleman from Missouri declines to yield.

Mr. MORRIS. Was the gentleman bred in the same school?

Mr. ELDRIDGE. Is it in order for the

gentleman to say he was born in the House of Representatives? [Laughter.]

Mr. HOGAN. I was not born a Democrat myself.

Mr. MORRIS. Did the gentleman sustain Andrew Jackson, Thomas H. Benton, and Silas Wright? I did. I do so now.

Mr. HOGAN. I do not think they are before the House at this time. The question before the House is the President's message; yet I will say my first vote was given for Andrew Jackson.

Mr. MORRIS. Let me ask a direct question. Were the Jews the true representatives of Abraham, though they claimed to have him for their father, or had they departed from the faith?

Mr. HOGAN. Being myself a Gentile, I cannot answer. [Laughter.]

Now, Mr. Speaker, when interrupted I was going on to make a further statement, not that slavery was right or wrong—with that I have nothing to do—but that the existence of slavery in this country was a great question of Providence. The black race were brought to this country from Africa through the cupidity of men. A great wrong was perpetrated by that cupidity, but the great all-seeing God has overruled all this for their good and for the good of the world. In my judgment they were permitted to come to this country where they might be taught Christian civilization, the rights of man, and the immunities of freedom; where they might be instructed. Thus Providence intends that they shall sweep back again into the great dark continent where no light of civilization or Christianity has ever penetrated, in order that the news of salvation through them may be carried to the very ends of the earth. In this I see the finger of divine Providence, as I have seen it in all the vicissitudes through which this country has passed. I see it all, and I recognize in it the exemplification of one of those most beautiful, sublime, and sententious declarations to be found in the Book of God, emanating from the wise King of Israel, the learned and beautiful Psalmist: "Thou wilt make the wrath of man to praise thee." The wrongs of man in reference to the African race have been made the instrument in the hands of God to revolutionize Africa and light up its darkness with the glow of gospel truth, and spread over that broad continent the benefits of civilization.

Sir, if the blacks in this country had not been left to the care of those who have been providentially made their masters and protectors there is no telling what would have been the result. For allow me to say that in all my travels North I have never seen a place where the philanthropy of the northern people has led them to take much pains to benefit the Africans among them. But I have found whenever that race is scattered they have become what they are by their unaided efforts, and have had none to aid them, to teach them Christianity or civilization.

Mr. MORRIS. Will the gentleman allow a question?

Mr. HOGAN. Only a question.

Mr. MORRIS. Does he know, or has he ever heard, of Mr. Johnson, of Canandaigua, New York, or Frederick Douglass, of Rochester, two eminent orators and scholars, made so in that locality, the first now a missionary in Africa?

Mr. HOGAN. Very well; that shows what I have been contending about—that in the North there are exceptions to the general rule. I say that this race of people providentially thrown in among us are the most docile in the world, and are well calculated to receive the greatest possible good. I do not say that they are all ignorant, or that they are all pagans. Not at all. I have not known personally Mr. Douglass, nor the other man that the gentleman referred to in Canandaigua; but I have been acquainted with men of that race years and years ago who were men of intellect, men of learning, men of piety, men of glorious promise, men of eloquence, men of power. I have known such men go to Africa upon the mission that divine Providence pointed out for them, and there they are instilling the truths of Christianity, which they learned here, into the dark and benighted minds of those from whom their ancestors were stolen.

Now, I say furthermore, in reference to this general question of slavery—and I do not want to make my speech all about that; indeed, but for the interruptions I should probably have been done with that subject some time ago—what are you doing now with these freed people? You have emancipated them by millions after sacrificing lives innumerable.

Mr. MORRIS. One question.

Mr. HOGAN. I decline to yield to be interrupted in the middle of a sentence. I am making an extemporaneous speech, and now I have almost forgotten what I was going to talk about. I hope it is not the purpose of the gentleman to drive my thoughts and ideas away, so that when my remarks shall appear in the columns of the Congressional Globe there will be little there that I intended to say; for I want this to go to the country.

And now, when we have, at an expense of thousands of millions of dollars, and of hundreds of thousands of lives—while we have at a terrible sacrifice freed these people from the shackles of slavery, what are we doing for them? Sir, I know men of this race who have grown up among us who are excellent men, and many of whom command the respect of everybody with whom they associate. There are colored men in my own district with whom I would feel it no disgrace to be in the closest affiliation; men whom I have known for years, and whose course I have watched intently; men who have by honesty, industry, and thrift acquired some competence; men who enjoy the respect of everybody with whom they are associated. But, sir, these men, these elevated men, do not want the legislation which you are trying to crowd upon them. They were slaves once, but are now free, and they have commanded by their character, by their industry, by their thrift, by their sobriety, by their skill, the respect of those with whom they are associated. You want now to put men whom you say have for years been crushed down into the very lowest dregs of degradation, men that you say have been made mere beasts of burden, right alongside of these men of color who have acquired property, and fortune, and intellect. You want to make them equal. Why, sir, they are as far above some of the race as can be by possibility conceived of.

Let them come along as these men have done. You now tax the American people to support in indolence this large class. Why do you not attempt to support the smaller class also?

I was down the month before last at Alexandria. It was on a Saturday, balmy and light and beautiful. It was the first budding of the early spring there. And what did I see? Why, I saw thousands and thousands of these people gathered together lounging around the streets, lying up against the sides of the houses, doing nothing and having nothing to do. And why? Because the General Government of the United States is taxing the broken-down, tax-ridden people of this country in order to have the means to feed these paupers—paupers only by our laws and by our action.

Mr. Speaker, my time is nearly up, but I hope my friends will not deprive me of an opportunity of continuing my remarks.

The SPEAKER. The gentleman has four minutes and a half left.

Mr. ASHLEY, of Ohio. I move that the gentleman's time be extended fifteen minutes.

Mr. HOGAN. Oh, no; I cannot finish in fifteen minutes. I have lost twenty minutes by interruptions.

Mr. ASHLEY, of Ohio. Well, I will say half an hour.

Mr. HOGAN. If I am let alone, I will agree to finish in an hour. [Laughter.]

The SPEAKER. The Chair is informed that there are several gentleman who desire to speak to-day.

Mr. MORRIS. I move that the gentleman's time be extended thirty minutes.

Mr. HOGAN. This is a lost day anyhow.

The motion of Mr. MORRIS was agreed to by unanimous consent.

Mr. HOGAN. I am very much obliged to the House for this consideration. I have not troubled the House much, and I do not want to trouble them much now. This is probably the only speech I shall make on this subject unless you provoke me pretty badly, and I am not very easily provoked.

I was saying, sir, that you feed these people at the public expense. What is the result? Here is an honest colored man who has for years toiled and labored to support himself and his family and who works now. Here is another colored man who has just been freed by your action, and who also has a family to support.

By your laws you take this man, feed him, clothe him, educate him, and doctor him. You pay him. You leave the other man alone. What is the legitimate consequence of it? The man will say "What is the use of my toiling? Why cannot the Government take care of me as well as the other man?" You will then realize the old adage—you make it a truism as well as an adage—"There is only a six-pence difference between the man that works and the man that plays, and the man that plays gets it." You take away all incentive from all of these people to labor and to accumulate. You deprive them of all means; you hold out to them no inducement to labor. And beside this you virtually deprive the country of the advantage of that large amount of labor, and to its extent you prevent the early and satisfactory recuperation of that large portion of our country in which these people lived.

But I leave this point. I leave it to you alone. You have the power to do it. You can saddle upon the American people millions and millions of taxes for the purpose. You can say you will spend millions and millions for the colored people, and you will pile up more taxes upon the people of the country, who are now taxed almost on everything, taxed almost to death. You will saddle another fifty or one hundred millions upon the Government to feed people who ought to be made to work as well as white men.

I tell you, Mr. Speaker, as the gentleman from Pennsylvania [Mr. STEVENS] said in reference to another matter, you will hear the rumbling of the earthquake ere long. The people will not stand it.

I wish to turn the attention of the House now, leaving this point, to another matter. I wish to call attention to another question; and that is the disruption of the Union. Gentlemen on the other side have told us over and over again that eleven States are out of the Union; that they are dead States; that they were destroyed; that they have no existence as States. Let me refer briefly to some of the gentlemen's own doings in the past. Let me show their own action on this matter. In 1861, when this Government was in danger; in the summer of 1861, when on the other side of the Potomac was heard the thunder of the cannon of the rebels; when the flag of the foe floated almost in sight of this Capitol; when the people of the country stood appalled at the terrible disaster of Bull Run; when hope had almost sunk in the hearts of our people; when our Army had been defeated; and when it seemed as though the rebellion was to be triumphant, what was the action of Congress? On the 22d of July, 1861, this House resolved—

"That this war is not waged on our part in any spirit of oppression, nor for any purpose of conquest or subjugation, nor purpose of overthrowing or interfering with the rights or established institutions of those States, but to defend and maintain the supremacy of the Constitution and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired."

That resolution was passed by this House on the 22d of July, 1861. Who voted for it? I find in looking over the list of yeas and nays

several of the gentlemen on the other side now. I will name them so that they may read the resolution now in the glass of history. Who were they who recorded themselves on the 22d of July, 1861, for that resolution, when rebel arms were thundering at the gates of the Capitol, and when it became necessary for Congress to sustain the Government. Here are some of them, and these are still members of this House: J. B. Alley, P. Baxter, F. C. Beaman, S. Colfax, R. Conkling, H. L. Dawes, H. Grider, A. Harding, P. Johnson, W. D. Kelley, J. K. Moorhead, J. S. Morrill, F. A. Pike, T. M. Pomeroy, A. H. Rice, J. H. Rice, S. Shellabarger, R. E. Trowbridge, B. Van Horn, K. V. Whaley, and William Windom.

What becomes of that when these same gentlemen declare that these States are out of the Union?

That is but one of the circumstances connected with it. You will find the record with the yeas and nays on pages 124 and 125 of the Journal of that year, under date of July 22, 1861.

Now, sir, was the Union dissolved after that? We all know that the President of the United States declared that there was no intention to dissolve the Union; we all know that Abraham Lincoln declared positively, "So long as I am President the war shall be carried on for the sole purpose of restoring the Union."

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

Mr. HOGAN. Well, I have but a few minutes left.

Mr. HIGBY. It is not often that I interrupt any one, and it is a candid question that I desire to put.

Mr. HOGAN. I really cannot yield to the gentleman. If I do, it would be impossible for me to get through with my remarks.

I wish to call the attention of the House to another fact in reference to this matter. Not only did Congress, in 1861, declare that these States could not and should not be disrupted, but I find that at the very next session—the second session of that Congress—a question arose in reference to this matter which settled, so far as Congress was concerned, these points to which I have been referring. I find that at that session a resolution was offered to admit A. J. Clements to a seat from the fourth district of Tennessee. Now, Tennessee, according to the present doctrine, went out of the Union when she seceded. Horace Maynard also remained in the House as a member from Tennessee. I find that on the 13th of January, 1862, (House Journal of that session, page 166,) on motion of Mr. DAWES, then, as now, chairman of the Committee of Elections, A. J. Clements was admitted to a seat in this House as a Representative from the fourth district of Tennessee. I find, furthermore, what is even more significant, that at the third session of that Congress, on the 17th February, 1863, (House Journal, pages 412, 413,) Representatives were admitted from the two loyal districts of Louisiana. Here are the resolutions:

"*Resolved*, That Benjamin F. Flanders is entitled to a seat in this House as a Representative from the first congressional district of Louisiana.

"*Resolved*, That Michael Hahn is entitled to a seat in this House as a Representative from the second district of Louisiana."

Those resolutions were adopted, and, on motion of Mr. DAWES, a motion to reconsider the vote by which they were adopted was laid upon the table.

Thus we have a declaration, made during the period of war, that this Government could not be disrupted, and a further declaration that Representatives from Louisiana and Tennessee, which were then in rebellion, were entitled to seats upon this floor.

But, sir, there is another thing to which I wish to call the attention of the House in this connection, and that is, to resolutions which were offered by the gentleman from Pennsylvania [Mr. STEVENS] on the 4th of December, 1862. They are to be found on page 36 of the House Journal of the third session of the Thirty-Seventh Congress. I will read the resolutions:

"Mr. STEVENS submitted the following resolutions, which were read, ordered to be printed, and their further consideration postponed until Tuesday, the 16th instant, namely:

"*Resolved*, That this Union must be and remain one and indivisible forever.

"*Resolved*, That if any person in the employment of the United States, in either the legislative or executive branch, should propose to make peace, or should accept or advise the acceptance of any such proposition, on any other basis than the integrity and entire unity of the United States and their Territories as they existed at the time of the rebellion, he will be guilty of a high crime."

Now, the gentleman from Pennsylvania is the leader of this House; he seems to control its action. Looking around here, he may almost say, in the language of Alexander Selkirk:

"I am monarch of all I survey,
My right there is none to dispute."

He can pass what resolutions here he pleases. He said, at that day, that it would be a high crime for any one even to think of allowing a disruption of this Union. While the rebellion was in existence nobody thought of anything but fighting for the Union; but now, when the battle for the Union has been fought and won, it is the strangest thing in the world that men who are elected under the name of the Union party should come into Congress and propose to obliterate eleven stars from our noble and glorious flag. There they stand yet; and who here dare say, as was said by a writer in a New York paper, "Tear down that flaunting lie!" Sir, that flag has thirty-six stars on it yet, and eleven of those stars are not represented in this House. For four months of this session you have been keeping out men who are entitled to seats upon this floor, according to all your own acts and your own resolutions.

But I wish to call your attention further, to another point. I refer you to page 460 of the same Journal. On the 23d of February, 1863,

"Mr. DAWES called up, and the House proceeded to consider, the report of the Committee of Elections in the case of Jennings Pigott, claiming a seat in the House as a Representative from the State of North Carolina, the pending question being on agreeing to the following resolution, namely:

"*Resolved*, That Jennings Pigott is not entitled to a seat in this House as a Representative from the second congressional district in North Carolina.

"Mr. CLEMENTS submitted the following amendment, namely: 'Strike out all after the word "resolved," and insert:

"'Whereas the rebellion of a portion of the people of any State cannot deprive those who remain loyal of any of their rights under the Constitution, nor destroy the integrity of the State itself; and whereas the forfeiture of rights and privileges by the disloyal devolves the responsibility of citizenship upon those who maintain a true allegiance; and whereas the Constitution of the United States guaranties to each State a republican form of government and equal representation in Congress; and whereas the obligation of paying taxes, which is imperative upon all citizens everywhere, is reciprocal with the rights of representation; and whereas protection to citizens in the exercise of their political right of voting is a duty of Government, and the loss of that right by loyal men in consequence of the armed rebellion of their neighbors, or an invading enemy, is a misfortune and not a fault; and whereas this House regard the right of loyal citizens to be represented as essential, and the laws prescribing the time, mode, and manner of holding the elections as merely directory; and whereas in the second district of North Carolina the people, being subject to taxation, are entitled to representation, did, on the 1st day of January, 1863, meet at their usual places of holding elections, and complied, as far as was within their power, with the laws regulating the same, by the election of Jennings Pigott to represent them in this body, giving to him a majority of all the votes cast at said election: Therefore, the said election is hereby declared valid, and the said Jennings Pigott is hereby admitted to his seat as the Representative from the second district of North Carolina.'

"Pending which, after debate,

"Mr. DAWES moved the previous question; which was seconded, and the main question ordered; and under the operation thereof, said amendment was agreed to; and the resolution reported from the Committee of Elections was agreed to."

Now, I inquire, with what consistency can gentlemen who thus, after the passage of ordinances of secession, which if anything except *successful revolution*, could take these States out of the Union—if, after the war had long progressed, and multitudes on both sides had been slain, yet voted that the Union was not dissolved; that these States were not out of the Union, but in it, and entitled as loyal people to representation in this House, and actually allowed Tennessee and Virginia and Louisiana and North Carolina representation here, and participation in legislation—how, I ask, can these gentlemen, now that the war is over, the terrible conflict closed, when we have but one flag waving over our land, when the laws of the United States are in none of these States obstructed, that now they deny representation, and in fact regard them as out of the Union, thus, by the action of this Congress, doing what armed rebellion could not accomplish?

Mark my word, the people will have a bitter controversy with those Representatives who act upon the idea that Congress can, by act or deed, dissolve the Union.

Now, sir, the allegation upon which these States secured their independence was the right of representation where there is taxation. I wish to call the attention of the House to the strikingly anomalous fact, that in this year of our Lord 1866, after we have been a people since 1776, when that declaration was made, that taxation and representation must go together, we are taxing these States, and have collected from them during the past year, as public documents show, (see report of Secretary of Treasury, February 16, 1866, Ex. Doc. No. 47,) $27,955,540 37 in taxes, and yet we allow them no Representatives upon the floor of this House.

Sir, I like that Declaration of Independence; and I like the Constitution of my country. Framed by men of little less than divine wisdom, little less than inspired, it is such a Constitution that cannot impair it without danger to our posterity as well as of ourselves. You might just as well try to obliterate from the firmament of heaven a part of its glorious galaxy of stars, as to deprive any of our glorious galaxy of stars of any of its rights and immunities.

The Constitution of our country was formed upon the model which the great Architect of the universe established when He formed this planetary system of ours. Our Federal Government is the central sun, which revolves upon its own axis to be sure, but which at the same time exerts its power and influence to control and direct and manage all the surrounding planets of the system. And all those planets have an independent action of their own; they revolve upon their own noble axis; and although they do that, they go around the sun among the planetary worlds in the order and according to the laws which God has established for them. By the Constitution of the United States, the Federal Government is the great central head; and the States are independent so far as they move on their own axis. You cannot obliterate a part of the system without destroying the beauty and configuration of the whole system.

But there is one thing more to the consideration of which I will now go, and upon which I will dwell but a few moments. A great deal of the argumentation during this whole session has been in opposition to the President of the United States. We have been told here that certain things which have been done, were done by Democrats in support of the President; and that was a reason why his friends on the other side should not do them. Has it come to this, that because Democrats support a measure, it is therefore wrong in the opinion of gentlemen upon the other side? Do not our people pay taxes just the same as your people? Although we have but few men upon this floor, not so many as we are entitled to, and not so many as we will have when the people get a chance at your Unionism again, I tell you we have just as good a right to support the President of the United States as anybody has, and we intend to do it; not because he is a Democrat; not because we aided to elect him; but because he is the President of the United States, and because he is right.

Why do you denounce Andrew Johnson? Why has he been spoken of so scurrilously in this House of Congress? Did you not elect him? Did you not know when you nominated him that he was an inborn Democrat? Did

you not want him just because he was a Democrat? Did you not want him just because he was a southern man as well as a Democrat? With Mr. Lincoln, a northern Republican, and Mr. Johnson, a southerner and a Democrat, what did your platform declare? In favor of the maintenance of the Union, its integrity, its power, its glory, and its salvation.

"*Resolved*, That it is the highest duty of American citizens to maintain, against all their enemies, the integrity of the Union and the paramount authority of the Constitution and laws of the United States."—*Platform at Baltimore*, 1864; *Raymond's Life of Lincoln*, 556.

But who made this platform? I answer, representatives from all the loyal States, so called. But not they only. No. Tennessee and Louisiana and Arkansas were also fully represented there, and they *as living States* participated in its doings. I know that the gentleman from Pennsylvania, the present recognized leader of this House, the one who directs its course, opposed then in that convention, as he does now in this House, their recognition as "States." He then proclaimed them "dead States," and maintained that they had no right to be represented. But the convention decided otherwise by an overwhelming majority. Their representatives were admitted to participation in the deliberations of that national convention. They helped nominate its candidates, helped make its platform, and the people who confirmed its action, and on its principles elected the members composing the majority in this House, have given these gentlemen unmistakable instructions that their will and their positions must be carried out in the same way, and "no State be deprived of equal representation" in Congress.

You wanted to blend all parts together; and hence you took a Republican from the North and a Democrat from the South and blended them together upon the same ticket. That is what made the Union party under which you fought the last political battle and by which you now fill up these seats here.

And now you denounce the man you voted for, the man who stands upon the platform that you made for him, who has not deviated from it one hair's breadth. What brought you into power? What brought you into the places which you occupy on this floor? The platform which you made at Baltimore; that platform which recognized the Union of these States, and the unity of Democrats and Republicans, and the very man who perambulated your country, declaring that you were for peace, that you were for union and the conservation of the nation, you now abuse because you say he is a traitor. A traitor to what? A traitor to whom? Is he a traitor to the Union of these States? Is he a traitor to the platform upon which he was elected? Is he a traitor to the principles which he enunciated and declared while he was your candidate? No, sir, no; he is no such traitor. He sustained the cause of the nation; he battled for its flag; he has sacrificed more than most of his traducers have sacrificed. While they were at home, quietly ensconced in the enjoyment, many of them, of the pilferings of the war, Andrew Johnson was sacrificing health, and almost life and family and all his property, in order to preserve our Union, and make it glorious and indissoluble forever.

And now, Mr. Speaker, I have shown that President Lincoln did not regard any of those States out of the Union, but in revolt against its power—and hence, the war was only to restore and protect; that Congress so declared by its solemn act, in a period of alarm and danger; that again, by the admission to seats upon this floor of members from several of the revolted States, they hold out inducements to all the others to follow the example and send their members here, and thus have recognized that in 1861, 1862, and 1863 those States were still in the Union.

I have shown also that as a party, both in your name of "Union" and by the action of your national convention, your highest and most authoritative exponent of mere party principles, you have recognized their existence as "States," living and entitled to full representation as such, and all this while war was progressing.

Yet now, when you have got into power upon these principles and platform, when the war is over, when no armed rebel disputes the authority of the Government anywhere, when your armies have crushed out the revolt, your so-called "Union party," by means of your present majority, refuse representation to even the States which were represented here during the rebellion, and keep men who, although of those States, yet enlisted in your armies to fight for the restoration of the Union which they loved, and although elected by loyal constituencies, are not allowed to participate in your deliberations, although you are passing laws directly affecting their constituencies. I ask you, is this just, is it magnanimous, is it patriotic, is it American? If this is what you call Unionism, I am proud that I do not belong to such a Union party.

But, you ask, why should the Democrats support him? Because we are patriots, that is the reason. In thus supporting him we have no party ends to subserve. Patriotism, genuine patriotism, rules the Democratic heart. Those one million eight hundred thousand noble free American Democrats who have not bowed the knee to any Baal stand up for Andrew Johnson because Andrew Johnson stands up for the integrity of this country. They declare their determination to support him from purely patriotic motives.

Gentlemen on the other side need not be alarmed at all. We do not intend to steal their President from them. They brought him into power, placing him upon a platform which he stands by to-day. We do not want to take him away from them; nor do we want to deprive them of the patronage of the Government. They are welcome to all the loaves and all the fishes. We from patriotic motives give him our support; and we ask nothing from him but the integrity of our Union and the unsullied honor of our flag. We ask that that glorious banner shall wave over a united, a happy, and a prosperous people; and we desire to support, not the party that elected Andrew Johnson, but the President of the whole United States of America, one and indivisible, now and forever.

CONGRESS AND RECONSTRUCTION.

Mr. BALDWIN. Mr. Speaker, in what I have to say there will be some reference to the joint resolution concerning Tennessee. At the proper time the gentlemen of the committee from which that resolution was reported will undoubtedly give a full statement of their reasons for asking us to adopt it. I shall not interfere with their duty to the House in this respect by undertaking an elaborate argument either for or against the measure. I will give careful attention to what they may urge in its behalf, hoping it will be made clear to the House that Tennessee, which has been so sadly convulsed, disorganized, and desolated by treason, is now in a fit condition to reëstablish her old relations with the Government. It is reasonable to believe that satisfactory reconstruction can be found there, if anywhere, for in Tennessee the work of restoring the State was placed entirely in loyal hands.

I confess, Mr. Speaker, that I have not sympathized with that eager zeal which dreamed of seeing treason, all hot with the fierce fires of the war, suddenly lower its temperature, change its heart and its habits, throw off its chronic hatred of the Government, and restore the insurgent States to honest patriotism and proper organization during the first weeks or months after the overthrow of its armies. On the contrary, I have felt that in some of the insurgent States, if not in all of them, the effort to secure complete restoration was premature. It has seemed to me that this work, on which the future destiny of the nation so much depends, should have been undertaken without haste and with very great deliberation. I have thought it should have waited until the mad passions of the war had subsided; until the whole nation had been made to feel that treason is a crime, and not an excusable pastime; until an amnesty bill had settled the policy to be pursued toward the conquered traitors, who had forfeited all their rights under the Constitution; until time had developed, in those insurgent communities, such preparation for the work of reconstruction as would have made it everywhere successful; until the black and bloody spirit of baffled treason had been changed and purified by the transfiguration of such returning love for the old flag and the old honor and glory of the Republic as would have brought with it all the sentiments of genuine loyalty.

But we did not wait; very soon after the rebel armies surrendered provisional measures were employed to secure immediate reconstruction. The motive was patriotic; and this movement might not have embarrassed the situation if it had not very strangely led to a denial of the rightful authority of Congress over this question. The joint resolution to which I have referred brings us at once to a discussion of this question, and no man here should be willing to evade it.

Nothing in all the proceedings touching the restoration of the insurgent States has moved me with such profound astonishment as the claim that Congress has no duty or function in this case beyond judging, each House for itself, "of the elections, returns, and qualifications of its own members." This is a denial of the authority of Congress never before heard of since the Union was formed. Here for the first time we are told that it does not belong to Congress to decide questions and controversies that may arise touching the validity, or the republican character of State governments.

The President seems to have had no doubt in regard to this prerogative of Congress when he devised provisional measures to restore the insurgent States. He assumed necessarily that reorganization and new State governments were indispensable, and what he deemed necessary to the validity of a new State organization was expressed distinctly in his communications to some of the "provisional governors," through the Secretary of State. July 24, 1865, Mr. Seward telegraphed to the provisional governor of Mississippi, as follows:

"The government of the State will be *provisional only* until the civil authorities shall be restored *with the approval of Congress*."

That is very explicit. September 12, 1865, he wrote thus to Provisional Governor Marvin of Florida:

"It must, however, be distinctly understood that the restoration to which your proclamation refers will be subject *to the decision of Congress*."

This prerogative of Congress was then seen and admitted without question. It was difficult to fail of seeing it, for, according to the national Constitution as interpreted by the Supreme Court, Congress is the only branch of the Government that has authority to settle questions of this kind.

The doctrine of these executive instructions is in accordance with all the intimations of reason, as well as with the spirit of all precedent, and one feels that the writer must have had before him the decision of the Supreme Court in the somewhat famous Rhode Island case. It is well known that the Dorr commotion in Rhode Island brought this question before the Supreme Court in the case of Luther *vs.* Borden, *et al.* Mr. Chief Justice Taney, delivering the opinion of the court, expounded as follows that provision of the Constitution which makes it the duty of the United States to guaranty to each State a republican form of government. The exposition is not new to the House. It has already been quoted here. But it is important, and will bear quoting again. Judge Taney said:

"Under this article of the Constitution it rests with Congress to decide what government is the established one in a State. For, as the United States guaranty to each State a republican government, Congress must necessarily decide what government is established in a State before it can determine whether it is republican or not. And when the Senators and

Representatives of a State are admitted into the councils of the Union, the authority of the government under which they are appointed, as well as its republican character, is recognized by the proper constitutional authority. And its decision is binding on every other department of the Government, and could not be questioned in a judicial tribunal. It is true that the contest in this case did not last long enough to bring the matter to this issue, and as no Senators or Representatives were elected under the authority of the government of which Mr. Dorr was the head, Congress was not called upon to decide the controversy. Yet the right to decide is placed there, and not in the courts."—*Howard*, vol. 7, p. 42.

This language could hardly be made more pertinent to the present condition of affairs. Language cannot say more unequivocally that it is the prerogative of Congress to decide concerning the authority or validity of a State government, as well as its republican character. In Rhode Island two State governments contended for supremacy, but the men conducting the Dorr movement were not bold enough, and perhaps not strong enough, to maintain the controversy and bring it to the national Government for decision. Had this been done, not the Supreme Court, and not the President, but Congress, and Congress alone, would have been authorized to decide it, and its decision would have bound both the President and the court. The authority of Congress is just as exclusive and paramount in every other case of this kind, and nowhere more so than in the case of the States disorganized more than five years ago by the treasonable endeavor to establish a "southern confederacy."

Mr. Speaker, there is something worth attentive study in the cool deliberation with which some gentlemen put aside all this, while that pestilent creature, known as secession State sovereignty, crawls into this discussion, and undertakes to wind its slimy coils around the question at issue. Gentlemen talk to the House as if Congress had never heard, and never could hear, of the duty thus imposed by the Constitution and expounded by the court. They tell us with amazing assurance that Congress cannot assume such authority without violating the sovereignty of the States; that is to say, this outlawed and accursed doctrine, which was used to authorize treason, is now used as a sacred refuge from the consequences of treason. Meanwhile, it is undeniable that some branch of the Government must interfere, demand reconstruction, and decide in regard to its validity. Two things are constantly forgotten by the advocates of this traitorous doctrine of State sovereignty: first, that the Union was formed before any State was constituted; and second, that the Congress representing this Union changed the colonies into States and moved them to form State governments. A careful study of the records of our early political history might enlighten such men.

The Union, first known as "the United Colonies," was formed by the permanent establishment of the Continental Congress. To this Congress was committed the whole direction of affairs, with authority to negotiate for an adjustment with Great Britain, or to declare separation from that Power and recommend such measures of organization as might become necessary. Its first session began at Philadelphia September 5, 1774; it negotiated and petitioned in vain; finally, May 15, 1776, it decided that the authority of the British Government must no longer be recognized, and recommended the colonies to organize regular governments. In the preamble and resolution by which this was done we have the original Declaration of Independence. The great Declaration, made seven weeks later, only completed and announced to the world what was here determined. As the declaration of May 15, 1776, is not as well known as it should be, although of the very highest importance in our history, I will give it entire. It is as follows:

"Whereas his Britannic majesty, in conjunction with the Lords and Commons of Great Britain, has, by a late act of Parliament, excluded the inhabitants of these United Colonies from the protection of his crown; and whereas no answer whatever to the humble petition of the colonies for redress of grievances and reconciliation with Great Britain has been or is likely to be given, but the whole force of that kingdom, aided by foreign mercenaries, is to be exerted for the destruction of the good people of these colonies; and whereas it appears absolutely irreconcilable to reason and good conscience for the people of these colonies now to take the oaths and affirmations necessary for the support of any Government under the Crown of Great Britain, and is necessary that the exercise of every kind of authority under the said Crown should be totally suppressed, and all the powers of Government exerted under the authority of the people of the colonies for the preservation of internal peace, virtue, and good order, as well as for the defense of their lives, liberties, and properties against the hostile invasions and cruel depredations of their enemies: Therefore,

"*Resolved*, That it be recommended to the respective assemblies and conventions of the United Colonies, where no government sufficient to the exigencies of their affairs hath hitherto been established, to adopt such government as shall, in the opinion of the representatives of the people, best conduce to the happiness and safety of their constituents in particular, and America in general."

The existence of the States of this Union began there. They were never, at any time, separate and independent. They were born united, and the Continental Congress brought them into existence. They were organized by direction of that Congress, and began their existence subject to its supremacy. Immediately on the publication of the foregoing preamble and resolution, the people of the colonies proceeded to establish the governments recommended, which, you will observe, were to be such as would not only promote their own welfare, but also the welfare of "America in general;" that is to say, they must be parts of one great whole, and take such form as would fit them for their places in the Union. Those who established the first State governments left a full record of their recognition of the authority and supremacy of the Congress over the States. The preamble to the first constitution of South Carolina, adopted in 1778, declared expressly that the States had been "constituted" by the Congress. Here is what it said:

"Whereas the United Colonies have been constituted independent States, and the political connection heretofore existing between them and Great Britain entirely dissolved, by the Declaration of the honorable Continental Congress, dated July 4, 1776," it becomes "necessary to frame a constitution suitable to that great event."

The preamble to the first constitution of Georgia gave as a reason for establishing the State government that the Continental Congress had recommended such organizations. The same reason for establishing a State government is given in the preamble to the first constitution of New Jersey. In New Hampshire the provisional "congress" of the colony was authorized "to establish some form of government, provided, that measure should be recommended by the Continental Congress." Hoping for an adjustment with Great Britain they established a temporary organization to last one year, with a proviso that it might be continued longer by the people "*if the Continental Congress give no instructions or directions to the contrary.*"

How different is all this from that disorganizing heresy of a later day, which represents that the States were originally independent sovereignties, and that they formed the Union by establishing a mere league between these sovereignties! And how distinctly it shows that from the beginning it has been the unquestioned prerogative of the Congress to have a certain control over the States and their organizations. The Union and its supremacy were the first facts in our national history, and they have stood from the beginning unmoved and immovable. Since that creative declaration of the Continental Congress there have been many changes intended to perfect and strengthen the national organization, but in the course of all these changes there has never been even so much as a proposition to change the relation of the States to the legislative branch of the Government.

It belongs to Congress, and to no other branch of the Government, to constitute and admit new States. It belongs to Congress, primarily, and to no other branch of the Government, to guarantee to each State a republican organization; and it belongs exclusively to Congress to decide whether the reorganization of a State that has been disorganized by any cause whatever is republican in form and in all respects satisfactory. The national Constitution, the Supreme Court, all the precedents and teachings in our history, and all the suggestions of reason, give this power to Congress and make plain that it cannot be taken away or transferred elsewhere without a radical and disastrous change in the Government. Congress would be false to itself, false to the Constitution, false to the Republic, false to our oaths of office, false to every sentiment of honor and justice, should it yield this power to the clamor of any dictation whatever or allow it to be used in any way to give impunity to treason and break down the defenses of the national welfare.

For these reasons, Mr. Speaker, I cordially approve the joint resolution reported from the committee on reconstruction so far as it asserts or implies the absolute authority of Congress over questions of this character. But this resolution is not free from objection in some other respects. It has not been presented to the House in the best form it can take. The resolution would be much improved by making it more simple and direct; and certainly a portion of the language used is calculated to mislead many people in regard to its actual meaning. I refer particularly to this portion of it:

"*Resolved*, That the State of Tennessee is hereby declared to be one of the United States of America, on an equal footing with the other States."

This language is similar to that of the act by which Tennessee was admitted into the Union. That act, passed June 1, 1796, was as follows:

"*Be it enacted*, That the whole territory ceded to the United States by the State of North Carolina shall be one State, and the same is hereby declared to be one of the United States of America, on an equal footing with the original States in all respects whatever, by the name and title of the State of Tennessee."

The language of the resolution is understood by many persons to mean that Tennessee is now out of the Union. I am assured that no such meaning is intended, but I do not need the assurance, for I have not supposed this could be meant by the committee from which the resolution comes. It appears to me that language liable to such misconstruction should not be used in such a resolution. The resources of the English tongue are very great. Without taxing them severely we can find terms more appropriate and less likely to be misunderstood. When you say that the late insurgent States are "out of the Union," and talk of admitting them again into the Union, many people understand you to mean that they actually separated themselves from the nation, that by virtue of their ordinances of secession they actually went out of the Republic. Jefferson Davis maintained to President Lincoln that the Republic had become "two nations;" that was the doctrine of secessionism; but it was false doctrine, treasonable doctrine, fit only to be spit upon and trampled under foot. Therefore, I think the resolution would be much improved by striking out the words I have quoted and putting in their place something like the following:

Resolved, That the State of Tennessee is hereby declared to be satisfactorily reorganized, and in a fit condition to reëstablish her old relations with the Government and resume her representation in Congress.

There is not an acre, not a foot, not an inch of that southern region, where the nation's right of sovereignty has ceased for a moment; and no assumption or proceeding of treason has repealed the act of Congress by which certain specified territory was declared to be the State of Tennessee. We must either indorse the most pestilent doctrine of secession treason, or maintain inflexibly that every "ordinance of secession" was, from the beginning, null and void. On this question of in or out of the Union, mistake and confusion have been occasioned by an inappropriate use of words. If by the word "State" some gentlemen mean chiefly the State organization, they will, of course, talk as if the State had disappeared, should the State government be destroyed or in any way become invalid. It seems to me indispensable to avoid confounding the State with its political organization, if

we mean to be understood. There is no such confusion in the act by which Tennessee was made a State, for it describes as the State, not a given political organization, but certain inhabited territory. There is no such confusion in the national Constitution. Read that provision of the Constitution which makes it the duty of the United States to guaranty to each State a republican form of government and see how clearly the distinction is made. Language could not say more plainly that the State and its government are two distinct things. One is very necessary to the other; but they are not identical. I am not saying that a State cannot be destroyed; nor shall I here undertake to show what might be effected in this direction by an act or declaration of Congress touching the *status* of an insurgent State. I take the case as we now have it before us.

Nevertheless, it is true—and this is the great fact with which we have to deal—that every insurgent State became utterly disorganized. The State governments were transformed into agencies of treason, and became, like the pretended southern confederacy itself, of no validity whatever, and no more entitled to consideration than any other lawless creation of treason. This necessarily withdrew those States from practical relations with the Government, and it suspended their representation in Congress, for such representation implies an organized State, with a government duly recognized by Congress as valid and republican. Those States did not separate themselves from the nation, but they were no longer organized States of the Union. Before they can return to the condition from which they fell they must be loyally reorganized, with forms of government duly recognized by Congress as satisfactory; and all this with due regard to the fact that the nation has in those States not only the rights of sovereignty, but also, superadded to these, the belligerent rights of conquest. It seems to me impossible for the joint resolution to mean more than this; therefore, I insist that it should not appear to say more.

Mr. Speaker, I repeat earnestly the expression of my hope that it will be shown, at the proper time, that Tennessee is acceptably reorganized and securely loyal. For the sake of the noble Union men of that State, who have fought no many desperate battles with the wild beasts and arrogant devils of secession treason, I desire this; and I desire it for the sake of the whole nation. But when it is shown that a State which has been made insurgent, and desolated by treason, has been truly restored, some points should be made very plain. I will specify some things which in such a case should be shown clearly; but, instead of attempting to make out a complete bill of particulars, I shall indicate in two or three general propositions what seems to me necessary.

In the first place, we ought to see that the work of reconstruction has been regulated by a due sense of the fact that treason is a crime to be punished and made odious. Nothing in this House moves me to more wonder and amazement than the cool, audacious nonchalance with which this consideration is frequently disregarded. The tone and style, as well as the meaning, of some gentlemen on this floor in their talk of the conquered traitors and their present relation to the Government, furnish material for a new study of the mysterious possibilities of human nature. They perpetually discuss this subject on the assumption that the late insurgent communities are full of heavenly minded loyalists, who are grievously wronged and terribly persecuted, and whose angelic devotion to the Union is brutally insulted, buffeted, tormented, and trodden into the dust by the great Union party of the loyal States. According to this talk, the men who saved the nation are disunion traitors, and impenitent rebels are godlike patriots; and all the venerable axioms of civil liberty are brought forth, repeated very dolefully, and befouled for their benefit in the most shocking way. I know of nothing to match this talk unless it be the audacity of Jefferson Davis and his associates, when they claimed a constitutional right to be let alone in their effort to destroy the Republic, and denounced interference with their agencies of mischief as unconstitutional. Do these gentlemen forget that bloody treason was organized in those communities? And do they no longer see that treason is a crime? Have they ceased to remember that traitors, reduced to the condition of conquered belligerents, have forfeited all their rights under the Constitution?

Not for the sake of vengeance, not for the sake of any ungenerous passion, nor to secure merciless exactions, should we keep alive the consciousness that treason is a crime, but to save the nation from ruin and give it permanent security. We are now establishing precedents for all the future; and shall these precedents say to the people and the States of this Union, "Treason is a trifling affair; rebellion is an excusable irregularity; you may conspire against the nation, organize treason, marshal armies under its banner, and wage a desolating war against the Government for months or years, with the full assurance that on being conquered or becoming tired of the war you may haughtily return to your old places and your old influence in the Union without serious question, as if nothing important had happened?" I cannot believe that any true friend of the Republic desires this, for here is the way to disunion, endless civil war, and hopeless ruin. By pursuing such a policy we should strike a far more terrible blow at the life of the nation than was ever possible to the confederate traitors we have conquered and disarmed.

In the second place, it should be shown clearly that effective guarantees have been established against a return of the rebel spirit to political control of the country, or of any part of it. Testimony, which no reasonable man should call in question, shows abundantly that in many of the southern communities treason, although conquered, is still quite unchanged in spirit. Baffled in its war against the Government, it now plots, conspires, and waits to reach its ends by other methods. It could not easily be otherwise immediately after the overthrow of rebellion in the field, unless human nature should change its usual fashions and tendencies. Careful investigation will discover the extent to which this defiant mood of disloyalty is still prevalent. Doubtless it is much more menacing and dangerous in some localities than in others. For this and other reasons the case of each State professing to be reorganized should be considered and decided by itself; but any reconstruction that does not effectually restrain the rebel spirit, put it under bonds to keep the peace, and exclude it from political control of the restored States, fails to secure what the welfare of the nation demands.

General Thomas is known to the country as one of the ablest, bravest, best, most judicious, and most trustworthy men in the Army. Read the following passage from his testimony before the committee, concerning the present mood of the rebel spirit in the localities where he has observed it:

"*Question.* Have you any reason to believe that the rebels still entertain hopes of another outbreak, or that any considerable portion of them do?

"*Answer.* I have received communications from various persons in the South that there was an understanding among the rebels, and perhaps organizations formed, or forming, for the purpose of gaining as many advantages for themselves as possible; and I have heard it also intimated that these men were very anxious and would do all in their power to involve the United States in a foreign war, so that if a favorable opportunity should offer they might turn against the United States. I do not think they will ever again attempt an outbreak on their own account, because they all admit that they had a fair trial in the late rebellion and got thoroughly worsted. There is no doubt but what there is a universal disposition among the rebels in the South to embarrass the Government in its administration if they can, so as to gain as many advantages for themselves as possible.

"*Question.* In what would their advantages consist? In breaking up the Government?

"*Answer.* They wish to be recognized as citizens of the United States, with the same rights they had before the war.

"*Question.* How can they do that by involving us in a war with England or France, in which they would take part against us?

"*Answer.* In that event their desire is to reëstablish the southern confederacy. They have not yet given up their desire for a separate government, and if they have an opportunity to strike for it again, they will do so.

"*Question.* Does the intelligence in regard to these organizations reach you from such authentic sources as to command your belief of their existence?

"*Answer.* Yes; it comes from very trustworthy men."

Mr. Speaker, is there in all this broad land an honest lover of his country who would restore such men to political power, and place in their hands any great interest of the nation? This is not an ordinary political question, involving merely the success or defeat of a political party; it is a question in which are the issues of life or death for the Republic itself. To adopt any policy or sanction any adjustment that would open the way for these men to assume again their old political influence, reëstablish their old machinery of intrigue, get control of the Government, and make the rebel influence supreme over all the great interests affected by the legislation of Congress, would be not only an act of supreme folly, but also an act of foul treachery to the nation and its loyal defenders.

Observe carefully that we meet here a demand of the conquered traitors for political power. They have been terribly defeated in the field, and not being able to overthrow the Government by force of arms they now haughtily insist on a right to come back and rule it. And they put forth this demand without an emotion of penitence for treason, without a sign of regret for the bloodshed and desolation they have caused; on the contrary, they are proud of what they have done, and in the communities they control a record filled with treason and rebellion is the surest passport to public favor. Shall such men have their will and dictate the terms on which they will henceforth live under the Government? Not unless we mean to make confederate treason victorious in the new field of its endeavor. No considerations of policy, no eloquence of magnanimity, no mesmeric charm of the siren expediency, can hide the overwhelming fact that it would be a crime more damnable than treason itself to make a final settlement of this terrible war with treason by such a submission to the enemy.

Men who have conspired and warred against the Government, and are still unchanged in spirit, men such as are described in the testimony of General Thomas, should be compelled to stand back and feel for a time the disabilities of treason. Let them be content with no further molestation on account of the past, and satisfied to enjoy in quiet the lives they have forfeited. Impenitent treason is unfit to use political power in the nation it has sought to destroy, and certainly has no right to demand it. But it is sought in the spirit of menace and for the purposes of conspiracy. Who does not understand that the immediate result of an adjustment that should grant this demand would be an eager alliance and organization of all the elements in the country that have been unfriendly to the Government during the war? In such a combination the disloyal southern spirit always has been, and always will be, the supreme director and oracle; and should this formidable combination succeed, should it gain all the political power at which defeated treason now aims, who does not know that every interest of the country, its credit, the payment of the public debt, the pensions, and other provisions for our disabled soldiers, every measure involving the honor, good faith, and welfare of the nation, and the very destiny of the Republic, would be at the mercy of the men who controlled that "southern confederacy" of traitors? Under their malignant rule there would be a work of reconstruction at which every true patriot and every man who has the slightest interest in the national credit or the national honor might well shudder and stand aghast. Then should we see the grand carnival of triumphant treason, allowed through our wicked folly and false magnanimity to rise from overwhelming defeat to supreme victory.

In the third place, we need to see plainly that effective provision is made for protection of

the rights and well-being of all loyal men. By the words "loyal men" I intend those who have never been traitors; I mean the heroic Union men of Tennessee and all others like them. A rigid exclusion of disloyal men from political power will do much toward securing this guarantee; but there ought to be in the reorganization of each State, or in imperative obligations assumed in connection with it, something that will give this guarantee both certainty and permanence. We know very well, because the evidence makes it undeniable, that faithful Union men who suffered fearful persecutions during the war are still intensely hated by those who represent the rebel spirit, and who lack nothing but the power to revive the worst atrocities of the rebel domination. I do not say this state of things prevails universally in the South; but it exists in many localities to such an extent that Union men could not remain in them safely should the Federal troops be withdrawn; and this should not be forgotten in any attempt to arrange a permanent adjustment.

It would be an indescribable wickedness for the Government to sanction any scheme of restoration that would leave the much-enduring Union men of those States to the mercy of their enemies. Wherever the confederate traitors could reach them during the war these Union men were subjected to intolerable outrages. Yet they clung to the old flag through all the dark and bloody days, looking onward to the light and security to be realized through the certain triumph of the Government. They believed religiously in the national Union, and bore with fortitude the sufferings and perils incident to their trying position. And have they suffered and waited in hope for the great victory of the Government over its deadly enemies only to be delivered over to whatever chance of life, liberty, and the pursuit of happiness may await them under the control and discipline of the unrelenting rebel spirit of the South? It would be infamous to deal with them in this manner. They must not be left to the possibility of such a fate.

There is another class in those States more numerous, but, for many reasons, much more helpless. I mean the colored freedmen. They have been loyal to the Government far beyond its right to claim their allegiance. Many of them have borne arms in defense of the Government; and could the history of the rebellion be written in all its details, it would be full of stories of the good will and fidelity of these men to our soldiers and our cause. We have decreed their freedom, and the people have duly ratified this decree. We now stand pledged by every consideration of justice and humanity to provide adequate protection of their rights and make this freedom real. Let the colored freeman have the ballot; he is a citizen of the United States; give him the ballot. In the ballot there is a wonderful power of protection; it is a talisman of unfailing virtue; it makes and unmakes political successes and distinctions. The man who has it is sure of a certain degree of consideration, for by means of the ballot he can reach the law-makers who trample on his rights. In giving it to the colored freemen we should only return to what was established by the founders of the nation. The first constitutions of only two of the original States—South Carolina and Georgia—confined the ballot to white men. We have swept away slavery; let us sweep away the barbarisms created by it since that period.

But, Mr. Speaker, what mountains of obstruction are thrown up between these colored freedmen and the full enjoyment of their freedom! Even their civil rights are denied, or oppressively limited; and the same evil spirit that makes haste to embody in law all the malignant prejudices of caste, urges imperiously that the Government shall not undertake to defend them against oppression. Meanwhile, it is undeniably the aim of the old pro-slavery spirit to reduce them to a condition as nearly like that of slavery as circumstances will admit, a condition that would yield all the advantages of slavery without any of its incumbrances. The hatred which has declared the freedom of these people a calamity conspires diligently to make it so; the Government is angrily forbidden to interfere with its operations; and if there be an epithet of contumely and reproach that has not been hurled at those who would allow these people the protection they need, it must be some blackguard epithet not yet invented. But the mountains with which barbarism blocks the way of justice will tumble down and disappear. The powers of darkness will not triumph in this contest; and whoever enlists in their service, be he high or be he low, will certainly discover that truth and justice, guided by divine Providence, move onward to their triumph with a resistless force to which every obstruction must yield.

In this matter of duty to the freedmen, we are on trial before the world, and cannot escape the judgment of mankind. Great occasions like this do not come often. Not every generation can do so much to make history. Not in every year, nor in every age, is it possible to make so great a record; and how noble it would be, how bright should we make this page of our history, if we could all be great enough to put aside every unworthy influence, and meet truly this great demand of justice! I say justice; but it is more than this, for one of the highest obligations of the Government is that which binds it to protect the rights of every person from whom it demands allegiance and support. We cannot disregard it, and deserve national welfare and honor. We cannot accept and make valid any restoration of the insurgent States which fails to protect the rights of these people, and either have or deserve security for anything. We cannot so violate obligation and defy justice, without destroying the foundations of the Republic itself.

Mr. LE BLOND obtained the floor.

CIVIL RIGHTS.

Mr. WILSON, of Iowa. The gentleman from Ohio [Mr. LE BLOND] consents to yield to me that I may make a brief statement.

I presume, Mr. Speaker, that a message from the Senate communicating the action of that body on the civil rights bill will be received by the House on Monday morning. I desire to state now, for the information of those members who are here, and in order that the notification may go out in the reports of to-day's proceedings, that on Monday immediately after the morning hour, if the message shall at that time have been received, I shall ask the House to take up that bill, and after the reading of the veto message, I intend to demand the previous question, and if possible bring the House at once to a vote.

Mr. FINCK. I desire to ask the chairman of the Judiciary Committee [Mr. WILSON, of Iowa] whether no discussion will be allowed on that question. I would like to submit a few remarks.

Mr. WILSON, of Iowa. It is not my intention, Mr. Speaker, to allow any discussion, if the House will second the previous question. The bill has already been very thoroughly discussed.

Mr. FINCK. But events have since transpired which, it seems to me, warrant at least some discussion on so important a measure. I trust the House will on Monday permit some discussion.

Mr. WILSON, of Iowa. I only desire to give notice of the course which I deem it proper to pursue.

The SPEAKER. No arrangement which would bind the House can be made at this time, as to-day has been fixed exclusively for debate. The gentleman from Iowa gives notice that he will at the time named call the previous question, which a majority of the House can either second or refuse to second, as they may prefer.

Mr. ELDRIDGE. It seems to me that the gentleman from Iowa ought not to insist on pushing that bill through without discussion. The House, certainly, has not been very industrious during the last two or three weeks. Almost every day we have adjourned at an early hour, and the evening session has almost invariably been dispensed with. Certainly there is no necessity for pushing through a matter of this kind under the previous question. It is absurd that it should be done. It has not been done in the Senate. Full discussion has been had there since the bill has been returned. The bill ought not to be pushed through in this House under whip and spur. To do so would be a disgrace to the House.

Mr. WILSON, of Iowa. That will be a matter for the House to determine. I intend to move the previous question. If the House will support me, we shall take a vote immediately after the reading of the message. If that will be a disgrace to the House, the House will take the responsibility of determining whether to inflict the disgrace upon itself. I shall make that motion, depending upon a majority to sustain me.

RECONSTRUCTION.

Mr. LE BLOND. Mr. Speaker, the history of the country for the past four years is too well known to even justify a recapitulation as preliminary to the remarks I propose to submit. It is fraught with shame as well as glory, and may only be recalled to show the consistency of parties and men upon passing events.

Some gentlemen recur to the bloody past with apparent feelings of gratification, and recount the deeds of carnage as if every brave that fell brought joy but no grief.

I would, if I could, obliterate every event of the fearful struggle, and leave it a blank in the history of a great people. It is true that that period has brought to the surface men who without it would never have been known; but it has swept away a corresponding number who stood high in the confidence of the American people. What has been gained upon the one hand has been lost upon the other.

For the purpose of removing the cause of irritation that chafes the feelings of one portion of our people, we could well afford to forego the glory claimed by the other portion as conquerors. Silence and magnanimity are the surest safeguards against a recurrence of acts that have proven unfortunate, whereas the taunts of the victor feed the spirit of discontent, and fan it into new and more sanguinary outbreaks. The nation at this time needs such wise and conciliatory statesmanship as will establish its unity and restore its original prosperity. The task is Herculean, but it can be done, and well done; not by physical force, for that has done all that was required, and perhaps more than was necessary. It met a similar force, and overcame it; there it should end and statesmanship begin. Victors may tyrannize over an inferior and imbecile race, but not over equals, not over any part of the American people who have been, in days gone by, associated with them in deeds of valor and acts of civil polity that have given glory and renown to the American name. Harsh and oppressive measures never heal the wounded spirit nor arouse the attachment that inspires patriotism, but fosters the rancor and nourishes the bitter hatred that sooner or later must promote the very evil against which such measures are aimed.

The Fenian movement is an illustration of this truth, and furnishes an example for the statesman and food for the reflecting mind. From generation to generation this feeling is handed down, from sire to son, intensified by its transmission, till time and circumstances mature such events that the oppressed—

> "With wings
> Swifter than meditation or the thoughts of love,
> May sweep to their revenge."

Unity may be thus secured; but it is the delusive unity of force, the unity that ceases with the force itself. It is the conqueror's union; the union of superior force; the union that compels the weak to submit to the strong; a union that requires strength, but does not give it—the union of master and slave. This is no union laid in the interest or affection of a whole nation. The people are not vieing

with each other for the common good. One part is struggling to neutralize the efforts of the other. Neither concord, strength, nor prosperity are thus promoted. A people who have enjoyed the blessings of a free government, and know its advantages, cannot and will not long submit to the domination of the oppressor.

"Equal and exact justice to all men" has ever been a cardinal principle in this Government, and one in which the people of all sections have been too thoroughly taught to tamely submit to injustice.

The people thus taught will never be content with fewer privileges than their neighbors, and the wise statesman will see that no invidious distinction is drawn between different sections or different classes of the same people in one common country.

But it is claimed by many, too many, that war justifies radical and permanent changes in our social and political system. Constitutions are suspended, if not destroyed; laws are but cobwebs; and great fundamental truths are, pending and after the war, mere fictions.

For instance, a grave Senator, [Mr. SUMNER,] who is the acknowledged leader of the present revolutionary party, and has attained that eminence by offering more revolutionary measures, and saying more for the colored man and less for the white man than any of his party, in a speech delivered in the Senate, asserted that "whatever was necessary to preserve the Government was constitutional."

An infraction of the Constitution for the sake of the Union may be excusable on the ground of devotion; but he who would violate that instrument and claim the breach itself to be constitutional, is either a fanatic or a madman, and in either case a dangerous leader and a much worse constitutional lawyer. The same idea has been advanced upon this floor, and with great apparent sincerity, by one of my colleagues, [Mr. GARFIELD.] But this may be accounted for by the fact that the versatile gentleman in question made a speciality of the "higher law" in his younger days, and has since divided his time between martial law and politics; consequently he is not expected to be very proficient in municipal or constitutional law. If this doctrine should attain in this Government, life, liberty, and property could have no guarantees for the future, and the whole form and theory of our political system would be as changeable as the seasons. What would be constitutional to-day would be unconstitutional to-morrow, if the party in power but will it. It is in fact a substitution of the will of an irresponsible majority for the written Constitution.

I have alluded to this marvelous doctrine, not that I have any fears that the American people in time of profound peace will ever indorse it, but as a specimen of the many heresies of the day urged upon the people for sinister and party purposes.

But if this were the only heresy emanating from high and responsible sources, it might be treated with indifference and passed over as an idiosyncrasy; but, sir, they have become too numerous and of too uniform a tendency to go unnoticed by the American people. They tend to disunion and, worse than disunion, a total overthrow of our system of government.

The time is most opportune to give success to such monstrosities. We are just emerging from a most fearful and sanguinary struggle for nationality, which has left the public mind in a chaotic state with regard to the many new issues constantly arising; and gentlemen here, instead of being actuated by a high sense of duty to the Union and the whole Union, seem to forget that there is anything more of the Union than is represented here upon this floor, and that there is a higher and more binding allegiance than their allegiance to party; other duties to perform than those for purely partisan ends.

While upon this subject let me recur to the able speech of the great head center of radicalism in this House, made in the Thirty-Eighth Congress, where he says:

"According to my judgment they ought never to be recognized as capable of acting in the Union, or being counted as valid States, until the Constitution shall have been so amended as to secure perpetual ascendency to the party of the Union." * * * * "If they should grant the right of suffrage to persons of color I think there would always be Union white men enough in the South, aided by the blacks, to divide the representation and thus continue the Republican ascendency."

However much I may differ with the honorable gentleman in his revolutionary schemes, I cannot but admire his boldness (as I admire that of Catiline) in asserting his doctrines. He adheres to his party with a zeal worthy of a better cause. Party is the Alpha and Omega with him, and all things else are but secondary considerations.

Let us look at some of the doctrines enunciated by this gentleman, and follow them to their logical conclusions. On the 10th of March, in his great "hoax" speech, he says:

"I argued from this state of facts that the people and States within the jurisdiction of the confederate government had severed their former connection with the United States, and broken the ties which bound them together, not justly or legally, but in fact; that the United States had conquered this formidable power, and as their conqueror had a right to dispose of them as they deemed for their own interest, always duly regarding the law of nations."

And in support of this theory he cites Vattel as follows:

"Civil war breaks the bands of society and government." * * * * "They stand precisely in the same predicament as two nations who engage in a contest." * * * * "The State is dissolved, and the war between the two parties stands on the same ground in every respect as a war between different nations."

And then says:

"Now, sir, this, without multiplying authorities, makes out my main substantive proposition, from which all the others are corollaries."

He holds the connection of the southern States with the Union is severed, and that they are of necessity out of the Union; that they are subjugated provinces, and the conqueror may dispose of their territory and people as may be deemed proper; in short, that they have become Territories, and are to be treated as such, requiring an enabling act to bring them again in the Union as States.

Now, let us see if he has sustained his "substantive proposition from which all the others are corollaries."

They all hinge upon the correctness or fallacy of his proposition, and if he fails upon this proposition all the others fall to the ground, of course, and it is useless to follow up his theory further.

I call the attention of the gentleman to the point. I deny that Vattel has laid down the doctrine in the sense in which the gentleman has quoted him. Vattel uses the following language:

"A civil war breaks the bands of society and government, or at least suspends their force and effect; it produces in the nation two independent parties, who consider each other as enemies, and acknowledge no common judge. These two parties must therefore be considered as thenceforward constituting, at least for a time, two separate bodies: two distinct societies. They stand, therefore, in precisely the same predicament as two nations who engage in a contest, and being unable to come to an agreement, have recourse to arms."

It will be observed that the gentleman has only quoted so much as in his judgment would make out his "substantive proposition," and omitted the balance. Why he has done so is too apparent. If he had quoted the paragraph in full the public would see that Vattel held that the bands of society were either broken or suspended for a time.

If suspended, then our position is vindicated; but if broken, then his "substantive proposition" is sustained, and the point is gained upon which he can defend his vicious and revolutionary measures, if international law is at all applicable where you have a written constitution that is supreme.

Nowhere has Vattel asserted that civil war absolutely dissolves the relation of the rebellious States to the Federal Union. The relations are only suspended "for a time," and so soon as the cause of the suspension is removed the former relations at once attach. (And in this connection, let me say that Vattel died long before this Government was formed, and his law can only apply where there is no written constitution in conflict with it.)

Such is the theory of the Constitution and such the declared policy of the Government at the beginning of the war and during its continuance. The Constitution and laws follow our flag throughout the length and breadth of our domain, and as the contending hosts are driven back the Constitution with all its guarantees gives protection to the person, property, and rights of the non-combatants within our lines. This theory is correct, just, and humane, and its effect most salutary. It preserves intact the unity of the States; it protects the liberty and property of the citizen wherever found; it encourages love of our institutions, and does away with the complication and injustice consequent upon the theory of "dead States."

By the theory of the gentleman, if a bare majority of the people of a State should resolve to resist the Federal authority, and should resist it but for one day only, or even an hour, that State whose people thus resisted would be out of the Union or dead, and could not again be recognized as a State in the Union, till an enabling act was passed by Congress, giving it vitality.

The idea that a mere attempt to revolutionize should forever destroy the preëxisting relations of the States is hardly worthy of serious consideration.

And what is worse than all is that this loyal minority, which lacks but one of being a majority, should be taxed without representation, and legislated for without a voice in the laws they are required to obey.

Mr. Speaker, it would be an easy task to prove by the "boys in blue," by men of all parties, by congressional enactment, that the sole object of the war was to preserve the Union and not to destry it; to enforce the laws, and not to abrogate them; to protect and defend the loyal, and not to subjugate them. It was to prevent the people of those States from doing what we are now told has been done—from destroying the Union.

Two years ago, a man who had the boldness to assert the right of a State to withdraw from the Federal Union, would have been denounced by the whole abolition phalanx as a traitor to his country. To even denounce the policy of the late President was constructive treason; but now men can denounce the present Chief Executive as a traitor and a sympathizer with Davis, and even hold out inducements for his assassination, and that is loyalty to the Union.

Who, sir, does not remember the day when my then colleague (Mr. Long) made his speech upon this floor in favor of the right of the States to withdraw from the Union, and in condemnation of the policy of the Administration?

It was a scene long to be remembered. Our honorable Speaker with eager haste left his high position and came upon the floor for the purpose of preferring charges against my colleague, and demanded his expulsion from this Hall. And the House, I will not say with indecent haste, but with unusual haste began his trial, which ended in his censure.

What more, I ask, was claimed by my colleague as a right than is now asserted as an existing fact by those who were foremost in his censure? What a change has come over the spirit of their dreams.

The insurrection is put down; the supremacy of the Federal authority is vindicated in every part of the territory in rebellion; the military power of the revolted race is overthrown; the hostile armies are disbanded, and their arms are in the hands of the victors; their soldiers have scattered to their homes, and are engaged in the peaceful avocations of life.

The confederate government faded away with the dissolving armies, and each constituent State is now organized under Federal authority, and in full exercise of its functions as a State. They have elected their Senators and Representatives to Congress under Federal law, and are here now knocking at the door for

admission. They are met at the threshold by the distinguished gentleman from Pennsylvania, and told, "No, no; you are from dead States—from Territories which are not entitled to representation till we give them life. You have torn your constitutional States into atoms, and built on their ruins fabrics of a totally different character. Dead men cannot raise themselves; dead States cannot restore their own existence as it was."

Mr. Speaker, imagine Hon. Mr. Stokes, of Tennessee, who periled his life in defense of the Union, with his colleagues, all of whom were elected under the Constitution and laws of the United States, approaching the main entrance to this Hall, where they are met by Mr. Stevens, at the head of the Shellabargers, Ashleys, Conklings, and all the New England delegation, and denied admission.

"But," they say, "we are loyal, and have been elected by the qualified electors of our State, and are entitled to our seats under the Constitution."

Our venerable friend replies that there is no such State in this Union.

"What has become of it?"

"It is dead—dead by the attempt to secede, as my Vattel says."

"But we were told that the war was to preserve the Union and enforce the laws; and Mr. Lincoln said:

"'Lest there should be some uneasiness in the minds of candid men as to what is to be the course of the Government toward the southern States after the rebellion shall have been suppressed, the Executive deems it proper to say it will be his purpose then, as ever, to be guided by the Constitution and laws.' * * * * 'He desires to preserve the Government that it may be administered for all as it was administered by the men who made it. Loyal citizens everywhere have a right to claim this of the Government, and the Government has no right to withhold or neglect it.'

"And we believed him, and fought under the stars and stripes for that purpose."

"The war is now over, and things have changed since then."

"But not to change our rights, and we will enter."

"Back, back! You are alien enemies, and have no rights."

"Then all our devotion to the Union but makes us alien enemies; and the loss of blood and treasure to save the Union is useless waste."

"Be quiet, gentlemen, be quiet. We can only 'thus continue the Republican ascendency.'"

This colloquy, Mr. Speaker, is but a recapitulation of what has already transpired, and yet the chief actors in this scene claim to be loyal, and stigmatize those who are for the Union, and the whole Union, as sympathizers with rebels—disunionists. What, sir, is more ridiculous, what more unjust, what more anti-American? Judge, soldiers, for what you fought—union or disunion.

Mr. Speaker, I now propose to show that the true theory upon this subject is not to be found in Vattel or any other author upon international law, but in that great American authority, the Constitution, which is paramount to all law. It is the rock upon which our Government rests, and the Government is a model without a parallel. Mr. Madison has truly said that—

"The compound Government of the United States is without a model, and to be explained by itself, not by similitudes or analogies."

In that instrument is found the power of preservation of the Government, without doing violence to a single State, or resorting to international law.

I maintain now, as in a former speech upon this floor, that a State once in this Union is always in except by successful revolution. And when I assert that as a fundamental principle in our Government, I only reiterate what was the almost unquestioned doctrine of Congress and the people of the adhering States. I am aware that the people of the rebellious States, together with the abolitionists of the North, claimed the right of nullification and secession; but the unanimity with which the North resisted the attempt must forever settle that question. If our organic law had not provided a remedy whereby an insurrection or rebellion might be put down and the unity of the States preserved, then I admit that we would have to resort to the publicists to determine how far revolution affected the relation of the State to the Federal Government. We need not look further than the Constitution to find ample power vested in the Federal Government to repel invasion, foreign or domestic, and to suppress insurrection or rebellion. Section eight, article one, provides that Congress shall have power "to raise and support armies," and "to provide and maintain a navy."

Under this power we raise our standing Army and maintain our Navy, among other things, to repel foreign invasion and protect our commerce on the high seas. This power is all that is necessary in ordinary times and upon ordinary occasions. But in the same article and section is to be found this further grant: "Congress shall have power to provide for calling forth the militia to execute the laws of the Union, suppress insurrection, and repel invasion." This is a power ceded by the States to the Federal Government for the purpose of enabling it to enforce and execute its laws over the people of each and every State of the Union, to suppress insurrection whenever and wherever it might arise, and to repel invasion from whatever source it might come. I hope it will not be thought discourteous in me or in any manner reflecting upon the wisdom of this House, to say that the framers of that Constitution evinced more wisdom and foresight than is justly attributable to this House. They foresaw the events we have just passed through nearly three quarters of a century in advance, and clothed Congress and the Federal head with ample and complete power to suppress the most gigantic insurrection known to the civilized world. If this grant of power means anything it is that the *status* of the States in the Federal Union shall forever be preserved. And this extensive power is given to compel submission by the people of the States to the Constitution and laws. This provision has direct reference to the States; for no one will contend that the people of one Government can rebel against another.

And this power, above all others, is the most essential to preserve our nationality; for without it there is no warrant to enforce the laws over any State or part of a State where they refuse to obey. It is in fact the cohesive power of the Government.

But, sir, while you find ample power to create, protect, and preserve a State, there is none to destroy or unmake, and he who searches will search in vain. You will also find that States are created out of Territories; but Territories out of States, never.

We see, too, that the Constitution contemplates the possibility of rebellion or insurrection, but nowhere is it provided that thereby the State whose people are in rebellion shall lose its identity as a State in the Union and become a Territory. Such a provision would have defeated the plain intent and object of the Constitution, the purpose for which the States united themselves and delegated this authority to keep them together as a family, as a nation, by which we are destined to become great among the nations of the earth, and without which we would be weak and contemptible. If this is not the object of that provision of the Constitution, then this power is worse than useless.

Mr. Speaker, as another argument that the rebellious States are out of the Union, and the people thereof not entitled to representation, it is said that belligerent rights were accorded to them.

Now, sir, the Constitution being silent upon this subject, such a measure would be dictated by humanity itself in order to soften the horrors of war, which are in their mildest form appalling. In this connection it is only to be regretted that we had then and still have at the head of the War Department a Nero, who, cruel as the dogs of Corinth, gorged upon human flesh and gore; who refused to carry out the cartel and save the lives of the thousands and tens of thousands who were perishing at Andersonville.

At all times during the war it was the declared policy of the Government that it waged no war of conquest or subjugation; that its sole object was the maintenance of the Union, the preservation of the Constitution, and the enforcement of the laws. So said Congress; so said Mr. Lincoln in his messages and proclamations; and so said the present Chief Executive on the 13th June, in his proclamation declaring the insurrection in the State of Tennessee to be ended. And again, in his proclamation of the 2d April, 1866, where he says:

"And whereas the House of Representatives, on the 22d day of July, 1861, adopted a resolution in words following, namely:

"*Resolved, by the House of Representatives of the Congress of the United States*, That the present deplorable civil war has been forced upon the country by the disunionists of the southern States, now in revolt against the constitutional Government, and in arms around the Capitol; that in this national emergency Congress, banishing all feelings of mere passion or resentment, will recollect only its duty to the whole country; that this war is not waged on our part in any spirit of oppression, nor for any purpose of conquest or subjugation, nor purpose of overthrowing or interfering with the rights or established institutions of those States, but to maintain and defend the supremacy of the Constitution; and to preserve the Union with all its dignity, equality, and rights of the several States unimpaired; and that as soon as those objects are accomplished, the war ought to cease.

"And whereas the Senate of the United States, on the 25th day of July, 1861, adopted a resolution in the words following, to wit:

"'*Resolved*, That the present deplorable civil war has been forced upon the country by the disunionists of the southern States, now in revolt against the constitutional Government, and in arms around the Capitol; that in this national emergency, Congress, banishing all feeling of mere passion or resentment, will recollect only its duty to the whole country; that this war is not prosecuted on our part in any spirit of oppression, nor for any purpose of conquest or subjugation, nor purpose of overthrowing or interfering with the rights or established institutions of those States, but to defend and maintain the supremacy of the Constitution and all laws made in pursuance thereof, and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired; that as soon as these objects are accomplished the war ought to cease.'

"And whereas these resolutions, though not joint or concurrent in form, are substantially identical, and as such may be regarded as having expressed the sense of Congress upon the subject to which they relate:

"And whereas by my proclamation of the 13th day of June last the insurrection in the State of Tennessee was declared to have been suppressed, the authority of the United States therein to be undisputed, and such United States officers as had been duly commissioned to be in the undisputed exercise of their official functions; and whereas there now exists no organized armed resistance of misguided citizens or others to the authority of the United States, in the States of Georgia, South Carolina, Virginia, North Carolina, Tennessee, Alabama, Louisiana, Arkansas, Mississippi, and Florida, and the laws can be sustained and enforced therein by the proper civil authority, State or Federal, and the people of said States are well and loyally disposed, and have conformed or will conform in their legislation to the condition of affairs growing out of the amendment to the Constitution of the United States prohibiting slavery within the limits and jurisdiction of the United States; and whereas, in view of the before recited premises, it is the manifest determination of the American people that no State, of its own will, has the right or the power to go out of, or separate itself from, or be separated from the American Union, and that therefore each State ought to remain and constitute an integral part of the United States."

Both Mr. Lincoln and Mr. Johnson have at all times been uniform in their messages and proclamations in treating those States as States in the Union, and the people only in revolt. They have at all times considered the war as being waged for the sole porpose of putting down the rebellion and enforcing the laws. This idea pervaded every department of Government up to a very recent period, and none understood it more perfectly than the Army and Navy, with their Commander-in-Chief, the President. Every battle fought, every city taken, was for that purpose and no other. Grant, Sherman, Thomas, and Farragut, speaking in the name and by the authority of the Commander-in-Chief, everywhere asserted it; but none more eloquently, accurately, and constitutionally than did the gallant Farragut in his demand for the surrender of New Orleans, addressed to the mayor of that city, as follows:

"I came here to reduce New Orleans to obedience

to the laws, and to vindicate the offended majesty of the Government. The rights of persons and property shall be secured. I therefore demand the unqualified surrender of the city, and that the emblem of sovereignty of the United States be hoisted upon the city hall, mint, and custom-house, by meridian this day, and all emblems of sovereignty other than those of the United States must be removed from all public buildings from that hour."

The Army carried out in good faith what had been the declared policy of the Government and the American people, and what alone could be their mission under the Constitution and laws of Congress. Congress passed sundry laws and resolutions defining the *status* of the States and the attitude of the General Government; and in none have they treated the States as out of the Union, or the inhabitants as alien enemies. The very first act passed which authorized the President to proclaim rebellion treated the States as States in the Union:

"Then and in such case it may and shall be lawful for the President by proclamation to declare that the inhabitants of such State or States, or any section or part thereof where such insurrection exists, are in a state of insurrection against the United States, and thereupon all commercial intercourse by and between the same and the citizens thereof, and the citizens of the rest of the United States, shall cease and be unlawful, so long as such condition of hostility shall continue."

The act of June 7, 1862, which provides for the purchasing of lands sold for taxes in insurrectionary districts, uses this language:

"Until the said rebellion and insurrection in said State shall be put down, and the civil authority of the United States established, and until the people of said State shall elect a Legislature and State officers, who shall take an oath to support the Constitution of the United States, to be announced by the proclamation of the President."

By the act of March, 1862, apportioning Representatives among the several States, the southern States are treated precisely as the northern States, having each its due share of representation allotted to it. And these precedents may be multiplied to an indefinite extent. Till the present session of Congress assembled, after the rebellion vanished, all our legislation looked to but one result, the restoration of the Union as it was.

But, sir, why argue these propositions? They are among the cardinal principles of this Government, thoroughly understood, and always carried out, except when personal interest, partisan feeling, or spoils of office intervene.

While the booming of hostile guns rattled the windows of the very Capitol, and the dome itself trembled at

"The muffled tread of thousands,"

none could be found on that side of the House who was not willing to sacrifice even the Constitution to preserve the Union, enforce the laws, and restore peace and tranquility. But now, when the dread legions of the South are driven back, decimated and crushed, when the clash of arms echoes faintly through the vista of time, now, when the triumph of the Union is complete for the first time, the doctrine of dead States, dissevered Union, alien enemies, subjugated provinces, and enabling acts is gravely advanced and considered. Vattel, Grotius, and Rutherford have hitherto been but ornaments to the well-furnished law library, or used only to teach the student the principles that govern separate nations in their intercourse.

But now these primitive authorities are brought forward and perverted to displace and overthrow the organic law of the land, the fundamental principles of the Government.

And where these authors, misquoted, misconstrued, and misapplied, fail to furnish a pretext, and where the violation of the Constitution is too flagrant, you can see the Jacobins vieing with each other to gain the Speaker's recognition, to introduce some constitutional amendment deifying the negro at the expense of the white man. This spirit has already brought before the American Congress upwards of thirty-seven proposed constitutional amendments, and quite as many bills, all tending to the same end, and yet they come.

Where shall this Jacobinism cease? When shall party fealty yield to country and constitutional liberty? Time, the great disposer of events, a wise, just, and magnanimous people, and an overruling Providence must determine.

FINANCIAL POLICY OF THE COUNTRY.

Mr. HARDING, of Illinois. Mr. Speaker, in the presence of the many distinguished statesmen of this House, restricted by necessary rules, which with slight exception limit the right to this floor to the chairmen of committees, in the face of the momentous issues before us and the urgent reasons for the prompt action of Congress, I have with the ayes and noes endeavored to perform my part of our mission; although at times restive, necessity has schooled me to "bear the bit" without breaking the reins! And now, if no other result follows, I shall feel that I have done my duty by expressing very briefly and hastily a few remarks upon the financial policy of the Government.

The bill which is still before Congress, and which will again come before us for final action, is less objectionable than when it first demanded our consideration. We owe a national debt, which, with the sums to be added, to equalize bounties to soldiers, amounts to near $3,000,000,000; about one third bearing coin interest, and the remaining two thirds bearing currency interest, except to the amount of about $425,000,000 currency, bearing little or no interest. It proposed, first, to borrow in Europe gold, giving bonds payable, principal and interest, in the money of the country where borrowed, and pay and retire our currency, bonds and greenbacks; to give power to the Secretary of the Treasury to sell bonds in such quantities and upon such terms as he might determine, and to destroy the national currency at his pleasure.

I shall not comment upon the evident impolicy of increasing our debt to foreign countries, thereby increasing the demands upon us for gold, and the balance of trade against us; nor of substituting gold bonds, payable in Europe, for the bonds held by our own people, payable in the lawful money of the United States, and contracted by the medium of the same kind of money. Neither by foreign loans, nor by giving gold-bearing bonds for currency-bearing bonds, nor by the contracting of the quantity of national currency or national bank currency, can we reach the goal of specie payments.

We are reminded that early in this session we resolved in favor of a return to specie payments, and that as the Treasury bill proposes this result it demands our support.

For myself, I have never for a moment doubted the propriety of the proposed end; but I do dissent from the oft-repeated opinion—which is the basis of the bill before Congress—that we can reach specie payments only by a contraction of the currency. The proposed measure will not diminish our national debt, but will increase both the principal and the interest; by it we exchange a domestic for a foreign creditor, and the gold we borrow abroad will soon find its owner to whom it will speedily return in payment of interest and importations, stimulated by the means to buy, increasing our embarrassments and ending in national exhaustion, if not bankruptcy. We must depend for the golden era, not upon foreign loans, but upon the productive resources of our country. To our fertile lands, our rich mines, our flowing oil wells, our manufactures, and our people, with the aid of a uniform national currency and a free Government, we may look with full confidence for that produced wealth which in a very short period will make specie payments not only possible but inevitable. Until these great sources of wealth shall have time to work the desired results no legislation can achieve the great object.

Neither nation nor individual can extinguish debts by borrowing. And while the sure process of recuperation is marching to the certain result, the greenbacks and the bonds of the nation, indorsed by a faithful people, resting upon the firm foundation of national faith and wealth, will be estimated equal to gold long before even the result is accomplished by the reproduced wealth that shall equal the amount of our debt. Demonstrate by economical and patriotic legislation that our means shall not be squandered; that our glorious and blood-bought institutions shall be preserved; keep faith with our obligations; and specie will come here and beg for your bonds and your greenbacks at par. Unless the amount of our debt is disproportioned to our ability to pay it, the volume or amount of it is not the standard of value or its relation to gold. To-day the greenback currency is at a par or very near at par with our five-twenty gold-bearing bonds; by this we know that our currency is not redundant nor worthless, and that the currency is estimated by the same standard with the bonds. The ability of the nation to pay, and not the quantity or volume, is the rule of value.

The very distinguished gentleman from Massachusetts [Mr. BOUTWELL] uttered, in the debate upon this bill, the key-note of the subject when he said in substance, as I understood him, that a certain relation in amount and value of portable property must be established or exist between us and foreign countries to bring us to the era of specie payments. Political considerations weigh heavily for or against the value of our outstanding obligations, because they enter into the question of our national ability. The superficial observer can see, and the closer the scrutiny the clearer will be the proof, that the relations of our national paper to gold throughout the entire period of our late war have changed with the fortunes of the field; from the dark hours of disaster, when gold was 240 or more, to the more hopeful present, their value has "kept step with the music of the Union."

Emerging from an exhausting war of unparalleled magnitude and cost, in which we have expended more than $3,000,000,000, with a national life endeared to us by the precious blood poured out to save it, we find ourselves scheming to banish the national currency that has been the sinew of war that bore us up through the struggle! Sir, I confess to a feeling of love, of almost reverence for greenbacks! When our Treasurer struck with the hand of necessity the rock of public faith, they invigorated us with a needed supply of money. They are hallowed by the cause they have served, and sprinkled with the blood of many a brave soldier. My heart will cease to beat when it does not love the greenbacks! Stamped by the dies of a nation's faith, by no word or deed of mine shall they be dishonored, nor will I ever consent to give the place they occupy in the affectionate respect of our people to the hybrid of national bank notes. I beg no pardon of any bankers for this preference!

The legal tenders have furnished to the country the long-desired uniform national currency, adequate to the wants of a numerous people engaged in active business. Many millions of currency have been destroyed yearly by accidents, by fire and flood; where that loss fell upon the citizen it has been the gain of the bankers, and by this, with millions more received from interest upon their bills in past days, has been one of the most popular methods for extracting wealth from the toiling thousands. Within four years we have saved to our people, in interest and shrinkage diverted from the banks to the Treasury, more than $100,000,000. This is a guess, but if faulty it is too low an estimate.

It is the policy of the money-changers to retire the greenback currency. Do it or authorize it, and there are so many millions a prize for success in the plan that it will be done. That privileged class swarm about your Treasury, and with pompous pretensions speak like Sir Oracle of financial policy. Retire reliable money and restore the rag reign, bills of irresponsible banks, State or national, and some, if not all, the losses by discount and depreciation, more than one hundred million dollars per year, will again be our lot. The tables of

the rag-money-changers are turned over, and I hope they will never be set up, converting the temple of our freedom into a den of brokers. It is entirely unnecessary to make a loan, as the able financier from Massachusetts [Mr. HOOPER] has demonstrated, and while I would not increase our bonds, (except to equalize bounties,) it will prove safe to leave the volume or amount of legal tenders to the regulation of the law of supply and demand quoted by the able chairman who reported this bill.

Sir, if the currency becomes redundant, if the people have more than they require for business, give them seven-thirties or five-twenties. If they again want more currency, give them again the bonds. If under this system our revenue receipts far exceed your estimates, and we are rapidly going up to the point of par with gold, even more rapidly than the Treasurer desires, as stated by the gentleman from Ohio, and every day in peace restoring that wealth which we wasted in war, why disturb our onward march? In whose interest is this to be done? What great public interest is to be subserved by contracting and retiring national currency, exchanging bonds payable, principal and interest, in gold in Europe for bonds held by our own people, and payable in the lawful money of the United States?

Sir, we are not left to doubt as to the party that urges this measure. It is the great creditor party that wish to increase their gains and their incomes. They have the intelligence to see and the conscience to accomplish, regardless of consequences, the end. While they make money scarce to bring down prices and wages, do they propose to bring down the sums due to them? No, sir, no; they tell us, through the honest lips of the gentleman from Ohio, [Mr. SPALDING,] that "small incomes will be, in effect, greatly increased," and thus relieve some wants, which I would gladly do if we could stop there; but I answer that gentleman, that while it doubles in effect the small incomes, it also extends the same to all incomes and all credits!

If this measure increases incomes, does it not follow that it also increases the cost of your debts? The farmer and the merchant have bills and mortgages and bonds to pay; make money scarce, and they can pay them more readily, is a mode of reasoning utterly unsatisfactory to me. Give them no medium of value with which to do business, require them to sacrifice in the impoverished condition of our country their all to get specie, which will rise according to the demand for it, until 240 in the war will be lost sight of in the dizzy height to which the value of gold will ascend in this Treasury balloon.

We have been reminded by the gentleman from Massachusetts [Mr. BANKS] that we, in the West, have been blessed by their loans to us of $800,000,000 to create our railroads. If small incomes are to be doubled by this process, will it not also double the gains to our philanthropic friends whose investments are in our railroads, and the interest upon which is now promptly paid in a plentiful and valuable currency?

Pleasant as this game may be to our greedy creditors, in behalf of the paying millions I exclaim, as the old frog in the fable did to the boys who stoned his family, "It may be sport to you, but it is death to us!" To the aggregate credit of this nation, seen in the face of the greenbacks, we may look for that protection which we need and must have until our wasted wealth is restored. Take from us this friend, and while our creditors may gloat upon the spoils that they share in our convulsed and prostrate condition, they will learn, although late, that they have killed the goose to get the golden egg. That enlightened self-interest is true patriotism; for creditors and debtors will ultimately find a common financial grave.

Give us time to develop our resources, to heal the wounds of war, to rebuild the waste places; withdraw not from us the life-blood of business, a plentiful national currency, and every just debt will be honorably paid.

I shall not attempt to ring any changes with my esteemed colleague, [Mr. WENTWORTH,] whose impulses are always for the public welfare upon the theme of paying specie to the soldiers. The interests of the soldiers are identical with the interest of the country they have so bravely battled to save, and no scent of specie can divert them from the support of measures necessary for the public welfare, and lead them to "hunt" in the pack of the Shylocks, who would ultimately have us all in their merciless grasp. For one I am more anxious to equalize bounties and extend pensions, thus paying a debt, the withholding of which will not enrich us than to fund the "war debt of the States." While I will not load the nation, the property of the people, and the soldier, with burdens, incurred mainly to hire substitutes, I shall with grateful pleasure devote our means to pay the debt of the nation to its saviors! But I shall hesitate to invest in the venture of the war debt of the States or to adopt the policy of the money-changers.

CIVIL RIGHTS.

Mr. LAWRENCE, of Ohio. Mr. Speaker, the President in his annual message said to us—

"That good faith requires the security of the freedmen in their liberty, their right to labor, and their right to claim the just return of their labor. I cannot too strongly urge a dispassionate treatment of this subject, which should be carefully kept aloof from all party strife."

In pursuance of this recommendation, Congress passed a measure known as the "civil rights bill," the essential purpose of which is declared in these words:

"SEC. 1. That all persons born in the United States, and not subject to any foreign Power, excluding Indians not taxed, are hereby declared to be citizens of the United States; and such citizens of every race and color, without regard to any previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall have the same right in every State and Territory to make and enforce contracts, to sue, to be sued, be parties and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to be entitled to full and equal benefit of all laws and proceedings for the security of person and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, and penalties, and to none other, any law, statute, ordinance, regulation, or custom to the contrary notwithstanding.

"SEC. 2. That any person who, under color of any law, statute, ordinance, regulation, or custom, shall subject, or cause to be subjected, any citizen of any State or Territory to the deprivation of any right secured or protected by this act, or to different punishment, pains, or penalties on account of such person having at any time been held in a condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, or by reason of his color or race, than is prescribed for the punishment of white persons, shall be deemed guilty of a misdemeanor, and on conviction shall be punished by fine not exceeding $1,000, or imprisonment not exceeding one year, or both, in the discretion of the court."

This bill has met with the executive veto. When it passed the House I was satisfied to record my vote in its favor without consuming time in discussion, leaving the measure to commend itself to the judgment of the world. It has already been debated somewhat at large. (See speeches of WILSON, and others, March 1, Globe, March 2; of BINGHAM, February 28, Globe, March 1; of BINGHAM and SHELLABARGER, March 9, Globe, March 10; DELANO, March 8, Globe, March 13.)

I will not therefore attempt a full discussion of it now, but content myself with briefly presenting some of the grounds upon which I will again perform the proudest act of my political life in voting to make this bill the law of the land.

It is scarcely less to the people of this country than Magna Charta was to the people of England.

It declares who are citizens.

It does not affect any political right, as that of suffrage, the right to sit on juries, hold office, &c. This it leaves to the States, to be determined by each for itself. It does not confer any civil right, but so far as there is any power in the States to limit, enlarge, or declare civil rights, all these are left to the States.

But it does provide that as to certain enumerated civil rights every citizen "shall have the same right in every State and Territory." That is whatever of certain civil rights may be enjoyed by any shall be shared by all citizens in each State, and in the Territories, and these are:

1. To make and enforce contracts.
2. To sue, to be sued, and to be parties.
3. To give evidence.
4. To inherit, purchase, lease, sell, hold, and convey real and personal property.
5. To be entitled to full and equal benefit of all laws and proceedings for the security of person and property.

The bill does not declare who shall or shall not have the right to sue, give evidence, inherit, purchase, and sell property. These questions are left to the States to determine, subject only to the limitation that there are some inherent and inalienable rights, pertaining to every citizen, which cannot be abolished or abridged by State constitutions or laws.

The first clause of section one provides:

"That all persons born in the United States, and not subject to any foreign Power, excluding Indians not taxed, are hereby declared to be citizens of the United States."

This clause is unnecessary, but nevertheless proper, since it is only declaratory of what is the law without it. This has been sufficiently demonstrated by the distinguished chairman of the Judiciary Committee, (Mr. WILSON'S speech, March 1,) and by the authorities he has cited. (1 Sharswood's Blackstone, 364; Naturalization Act of April 14, 1802; Act of February 28, 1803; Brightly's Digest, 487; Section 10 of Act of September 4, 1841; Opinions of Attorneys General, vol. 4, p. 147, (Legare;) 1 Bouvier's Law Dictionary, title Denizen; 2 Kent Com., 278, note; Marcy, Secretary of State, March 6, 1854; Attorney General Bates, Opinion, November 29, 1862; Rawle on Constitution, 80; State *vs.* Manuel, 3; Deveraugh & Battle's N. C. R., 26.)

In the great case of Lynch *vs.* Clarke, it was conclusively shown that in the absence of all constitutional provision or congressional law "declaring citizenship by birth, it must be regulated by some rule of national law" "coeval with the existence of the Union," which was and is that all "children born here are citizens without any regard to the political condition or allegiance of their parents." (1 Sandford's Ch. R., 583.)

This was the common law of England, and "the statute (25 Edward III, St. 2, *De natis ultra mare*) was declaratory of the old common law."

It has also been sufficiently demonstrated that the nation may by solemn act of Congress, or even by treaty, declare that classes of people collectively, shall be citizens. (Louisiana treaty, April 30, 1800; Florida treaty, 1817; Mexican treaty, 1848; Choctaw treaty, September 27, 1830; Resolution March 1, 1845, annexing Texas; Act of December 29, 1848, admitting Texas; Cherokee treaty, December 29, 1855; Act of March 3, 1843, Stockbridge Indians; Opinions of Attorneys General, vol. 7, p. 746, (Cushing;) Lawrence's Appendix to Wheaton on International Law.)

It is an exercise of authority which belongs to every sovereign Power, and is essentially a subject of national jurisdiction. The whole power over citizenship is intrusted to the national Government, which can make citizens of any foreign people as an exercise of sovereignty, or under the power, "to establish a uniform rule of naturalization." (Constitution, art. 1, section 7.)

There is, then, a national citizenship. And citizenship implies certain rights which are to be protected, and imposes the duty of allegiance and obedience to the laws.

There is in this country no such thing as "legislative omnipotence." When it is said in State constitutions that "all legislative power is vested in a Senate and House of Representatives," authority is not thereby conferred to destroy all that is valuable in citizenship. Legislative powers exist in our system to pro-

tect, not to destroy, the inalienable rights of men. (1 Story Constitution, sec. 207; Taylor *vs.* Porter, 4 Hill's Reports, 147; 2 Dallas, 471; People *vs.* Morris, 13 Wendell, 328.) This has been the common understanding in our whole history, and upon which governments have been created.

The Continental Congress of 1774, composed of delegates from twelve colonies, in their Declaration of Rights, among other things, declared:

"That the inhabitants of the English colonies of North America, by the immutable laws of nature, the principles of the English constitution, and the several charters or compacts, have the following rights:

"*Resolved*, That they are entitled to life, liberty, and property, and that they have never ceded to any sovereign Power whatever a right to dispose of either without their consent."—*Hurd on Habeas Corpus*, chap. 5, p. 107.

The Declaration of Independence affirms—

"That all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness. That to secure these rights, Governments are instituted among men."

The Constitution was established, as its preamble declares, to—

"Promote the general welfare and secure the blessings of liberty."

All the law-writers agree that every citizen has certain "absolute rights," which include—

"The right of personal security, the right of personal liberty, and the right to acquire and enjoy property. These rights have been justly considered and frequently declared by the people of this country to be natural, inherent, and inalienable."—1 *Kent's Commentaries*, 599; *Federalist*, No. 84.

In Wilkinson *vs.* Leland, 2 Pet. 657, Judge Story said:

"The fundamental maxims of a free Government seem to require that the rights of personal liberty and private property should be held sacred. At least no court of justice in this country would be warranted in assuming that the power to violate and disregard them—a power so repugnant to the common principles of justice and civil liberty—lurked under any general grant of legislative authority."

(See Turrett *vs.* Taylor, 9 Cranch, 43; People *vs.* Morris, 13 Wend., 328; Taylor *vs.* Porter, 4 Hill, 147; Fletcher *vs.* Peck, 6 Cranch, 87.)

The bill of rights to the national Constitution declares that:

"No person" * * * * "shall be deprived of life, liberty, or property without due process of law, nor shall private property be taken for public use without just compensation."

It has never been deemed necessary to enact in any constitution or law that citizens should have the right to life or liberty or the right to acquire property. These rights are recognized by the Constitution as existing anterior to and independently of all laws and all constitutions.

Without further authority I may assume, then, that there are certain absolute rights which pertain to every citizen, which are inherent, and of which a State cannot constitutionally deprive him. But not only are these rights inherent and indestructible, but the means whereby they may be possessed and enjoyed are equally so.

We learn from Coke that—

"When the law granteth anything to any one that also is granted without which the thing itself cannot be."—*Oath before the Justices*, 12 *Co.*, 130; *Heard* vs. *Pierce*, 8 *Cush.* 338-345.

In law the incident always adheres to and accompanies the principle. (Broom's Legal Maxims, 198; 20 Ohio R., 409.)

It is idle to say that a citizen shall have the right to life, yet to deny him the right to labor, whereby alone he can live. It is a mockery to say that a citizen may have a right to live, and yet deny him the right to make a contract to secure the privilege and the rewards of labor. It is worse than mockery to say that men may be clothed by the national authority with the character of citizens, yet may be stripped by State authority of the means by which citizens may exist.

Even Shylock, when the decree of confiscation was pronounced against him, reasoned better; for he said:

"Nay, take my life and all, pardon not that;
You take my house, when you do take the prop
That doth sustain my house; you take my life,
When you do take the means whereby I live."

Every citizen, therefore, has the absolute right to live, the right of personal security, personal liberty, and the right to acquire and enjoy property. These are rights of citizenship. As necessary incidents of these absolute rights, there are others, as the right to make and enforce contracts, to purchase, hold, and enjoy property, and to share the benefit of laws for the security of person and property.

Now, there are two ways in which a State may undertake to deprive citizens of these absolute, inherent, and inalienable rights: either by prohibitory laws, or by a failure to protect any one of them.

If the people of a State should become hostile to a large class of naturalized citizens and should enact laws to prohibit them and no other citizens from making contracts, from suing, from giving evidence, from inheriting, buying, holding, or selling property, or even from coming into the State, that would be prohibitory legislation. If the State should simply enact laws for native-born citizens and provide no law under which naturalized citizens could enjoy any one of these rights, and should deny them all protection by civil process or penal enactments, that would be a denial of justice.

Yet twelve years have not passed since these and other hostile measures against naturalized citizens were gravely discussed in several of the States, and beyond this, it was urged that their political rights should be denied or so abridged as to be useless. History is full of instances where all this has been done or attempted. (Com. *vs.* York, 9 Metcalf Rep., 116; 2 Bennett & Heard's Lead. Crim. Cases.)

This bill, in that broad and comprehensive philanthropy which regards all men in their civil rights as equal before the law, is not made for any class or creed, or race or color, but in the great future that awaits us will, if it become a law, protect every citizen, including the millions of people of foreign birth who will flock to our shores to become citizens and to find here a land of liberty and law.

But there is a present necessity for this bill which I find forcibly stated thus:

"The fact that no single southern Legislature has yet recognized the right of blacks to the civil rights accorded to every white alien, suffices to prove the need of such legislation by Congress. We believe no single southern State has yet enabled blacks to sue and be sued, to give testimony and rebut testimony on equal terms with whites. All that they do, under the pressure of necessity, is meanly, grudgingly, shabbily done. What can be more absurd than to provide that a black may testify in cases between blacks and whites, but not when the parties are both white? If he would even swear falsely, would he not be likely to do so in a case between a white and a black? And if his oath can be taken in cases where he will naturally have a bias, why not in cases where he is likely to have none?"

"Consider the case of a riotous white attack on a colored school kept by a white woman. A black who witnessed the outrage is called to tell what he knows, and turned off because the schoolma'am was white, like the rowdies; so he is not a competent witness, unless he can swear that the roughs assaulted also a pupil; then he may be. Why is the distinction made but to insult and degrade the blacks?

"The Cincinnati Commercial has a letter from a correspondent traveling through Mississippi, who states that the barbarous vagrant law recently passed by the rebel State Legislature is rigidly enforced, and under its provisions the freed slaves are rapidly being reënslaved. No negro is allowed to buy, rent, or lease any real estate; all minors of any value are taken from their parents and bound out to planters; and every freedman who does not contract for a year's labor is taken up as a vagrant. The officers of the Freedmen's Bureau are often not accessible, and the freedmen are kept back, by the distance, from complaining. Finally, as the writer estimates, it would take an army of twenty thousand men to compel the planters to do justice to the freedmen.

"This bill takes right hold of this matter, and subjects the oppressors to pains and penalties which they will seldom choose to invoke."

Since this statement of the condition of southern law, I believe Georgia, by an act of March 17, 1866, has made provision for the enforcement of civil rights.

It is barbarous, inhuman, infamous, to turn over four million liberated slaves, always loyal to the Government, to the fury of their rebel masters, who deny them the benefit of all laws for the protection of their civil rights. To do so, would make the age of Draco and Nero respectable in comparison with the infamy of this. It is partly because there is no such law that the Freedmen's Bureau now, by order of the President, interposes military authority to secure the civil rights of the white Union population, and of the freedmen, the wards of the nation, in their new-born liberty.

I find in the testimony of Major General Alfred H. Terry, commanding the department of Virginia, which was taken before the reconstruction committee, March, 1866, the following:

"*Question.* What is the political character of the present Legislature of Virginia?

"*Answer.* I judge, by its actions and by the language used by many of its members in debate, that it is not a loyal Legislature.

"*Question.* In case of the withdrawal of military protection from Virginia, what would be the condition of the loyal people in Virginia, and of the blacks?

"*Answer.* I think they would be in a lamentable condition. So great is the prejudice entertained, especially against those who were faithful in their obligations to the Government during the war, that I do not think they would receive any adequate protection for their rights of person and property from the courts, and I think that they would be persecuted through the machinery of the courts, as well as privately. Even now, when military law prevails in the State, and when military authority is supreme, attempts were made in the courts to punish the Unionists for acts done by them under military authority during the war, and I have been obliged to interfere, and release from prison men thus prosecuted.

"*Question.* Has that been of frequent occurrence?

"*Answer.* I have directed the cessation of proceedings in some five or six cases of this kind. In some of them the parties had been admitted to bail; in some, they were imprisoned. I have released those in prison, and in all cases have taken possession of the indictments and warrants, and, when bonds had been given, of the bonds.

"*Question.* Would the Unionists be safe in case of the removal of the protecting troops?

"*Answer.* I think not. And in that opinion I am supported by, as I think, the unanimous feeling of the Unionists themselves, which has been frequently and still continues to be expressed to me.

"*Question.* Has the liberal policy of President Johnson, in granting pardons and amnesties to the rebels, had the effect, in your opinion, to increase or decrease the feeling of respect toward the Government of the United States on the part of the people of Virginia?

"*Answer.* I am unable to trace results to their causes in that matter; but since the time when I took command, especially since military restraint has been so much relaxed as it has been during two or three months, disloyal publications have very much increased. They seem to have increased in proportion to the relaxation of military restraint.

"*Question.* The newspaper known as the Richmond Examiner has been recently suppressed by an order emanating from General Grant?

"*Answer.* Yes, sir.

"*Question.* For the utterance of disloyal sentiments, and of language insulting to the Unionists, and to the northern section of the country?

"*Answer.* Yes, sir.

"*Question.* How is it regarded? Is it regarded as one of the leading exponents of public feeling and opinion in Virginia?

"*Answer.* It seems to be an exponent of the secession feeling.

"*Question.* Did you execute the order of General Grant?

"*Answer.* I caused it to be executed. I gave the order to General Turner, who commands in Richmond, and he executed it.

"*Question.* Has the order been revoked or modified in any way?

"*Answer.* It has.

"*Question.* By whose order, so far as you know?

"*Answer.* So far as I know officially, by General Grant's order.

"*Question.* Has it been revoked?

"*Answer.* It has been revoked, temporarily, by order of General Grant, and, as I understood, on the condition that in the future it will not pursue a course detrimental to the Government, or the growth or expression, in acts and words, of Union sentiment among the people of the States lately in rebellion, or to the cultivation of friendly relations between the people of those States, or any of them, and the other States of the Union; and that it will not, in any way, fail in its editorial correspondence, or transfer of articles from other newspapers, to give support, countenance and friendship to the Union and its supporters.

"*Question.* What is their [the late rebels] treatment, generally, of the freedmen?

"*Answer.* It is very various. Many persons are treating the freedmen kindly and justly, endeavoring to accommodate themselves to the changed circumstances of the times, and to enter into the proper relations between them, as between the employers and the employed. Many others, on the contrary, treat them with great harshness and injustice, and seek to obtain their service without just compensation, and to reduce them to a condition which will give to the former masters all the benefits of slavery, and throw upon them none of its responsibilities.

"*Question.* So far as you can judge, which class is the most numerous, those who treat the freedmen kindly or those who treat them with injustice and severity?

"*Answer.* The latter.

"*Question.* Do you think they greatly predominate in numbers?

"*Answer.* I can hardly estimate the relative proportion. I thould think they predominate.

"*Question.* Do you suppose, from what you have

seen and heard, and from what you know, that it would be safe to intrust the great body of freedmen in Virginia or elsewhere in the South to the care of the local authorities or the local legislation?

"*Answer.* I do not.

"*Question.* Suppose this were done, what consequences in your judgment would be like to follow? Would they not maltreat the black race, deprive them of their rights, embarrass them in the enjoyment of their property if they should have any, provoke them, goad them if necessary to acts of violence which the blacks might suppose they were performing in their interests, and in this way, within some short time, bring about an open bloody resistance on the part of the black population?

"*Answer.* I should say there would be danger that the blacks would commit those acts which an oppressed people, sooner or later, commit against their oppressors.

"*Question.* Have you reason to believe that the blacks possess arms to any extent at the present time?

"*Answer.* I have been told they do. I have received that information from citizens of Virginia, including State officers, who have entreated me to take the arms of the blacks away from them.

"*Question.* Who were those officers?

"*Answer.* Some were members of the present Legislature. I have also been asked to do so by public meetings held in one of the counties.

"*Question.* Have you in any case issued orders for disarming the blacks?

"*Answer.* I have not.

"*Question.* The blacks, I suppose, are almost unanimously loyal?

"*Answer.* I think there is no question about that.

"*Question.* How do the Virginians feel in regard to the education of the blacks?

"*Answer.* There is a great difference of opinion in that respect in different communities. In some places the people cordially approve of it. Many have taken part in it. In other places the reverse is the case. Cases have come to my knowledge, where persons coming to teach the blacks were not permitted to rent a place, either for school or personal occupation, and it has been reported to me that teachers sent to teach the blacks have been treated with great contempt, and in some places threatened. Again, in the city of Lynchburg, for instance, the city authorities cordially entered into the arrangement for teaching the blacks, in connection with the military authorities. There is this variation of feeling, and what is the predominating feeling I cannot tell."

And Major General Custer has given his evidence with regard to affairs in Texas, as follows:

"He testifies that he has been over the greater portion of that State, and he also instructed his officers in various parts to report to him the views of the people and their disposition toward the Government. He therefore says he has greater opportunities than any other officer there to know the situation. In reply to a direct question, he says, 'I do not regard the disposition of the people as at all friendly toward the Government. To use their own words, they accept the situation; but I think their motives are entirely selfish, and they acknowledge that it is from a desire to obtain the benefit of the Government rather than give the Government any support. The feeling is more hostile now than it was three or four months ago. They affirm, as a reason for this hostility that they are kept in an unsettled condition, and are particularly dissatisfied with the Government because they are not allowed to resume their places in Congress.' General Custer adds that it is hardly possible to find a man who has been loyal to the Union and remained so during the war. He says, 'I do not consider that it would be safe for loyal men to remain in Texas if the troops should be removed. There is now little or no intercourse between loyal and disloyal men.' When our troops first entered the State, he says that the people seemed as loyal as the most loyal man could wish. They expected the leading rebels hung, and the property of the rebels confiscated; but when they saw a lenient policy pursued, they assumed a different position and assailed the Government, and especially denounced the provisional State government."

Many people suppose that because flagrant war has ceased actual peace has returned. But peace has not yet come in fact. The President maintains the exercise of military power as fully as during the conflict of arms, unless it has been moderated since his peace proclamation of April 2.

Mr. Seward in his speech in New York on the 22d of February declared that a state of peace had not been restored. He said:

"Now, if you will refer to the old bill creating the Freedmen's Bureau, you will find it is limited by the laws of enactment to the war of the rebellion and one year thereafter. Is the war ended? Practically it is. Hostilities have ceased. Is peace restored? No; practically the States are still disturbed and there is a necessity for military force. The peace has not absolutely come. Coming, but not come, the President says. The proclamation of 1861 announced civil war. A proclamation of the President will announce that the war is at an end. Now, if I am right in this, then peace in a legal sense will come to be in the United States just at the day when the President issues a proclamation, or Congress passes a law declaring that peace has come, and not before. If the proclamation should be made to-day, then by the terms of the act creating a Freedmen's Bureau, we will have one whole year thereafter. At the end of that time we shall have the benefit of experience. If we need the continuation of the Freedmen's Bureau, Congress will then be in session to enact a bill, and if so we all trust we shall have it from them. The 22d of February will be a very good day, the most glorious of all days, for a proclamation that the rebellion is ended, that the freedmen of this country are restored to their own natural rights. Well, this being the case, what is the course of duty? What is the difference between the President and Congress? The President says, 'I have got fifty thousand men and I do not want any more—I can execute the duties of the Freedmen's Bureau. I have got $11,000,000 under the old law, and I do not want any more. I can administer the Freedmen's Bureau with $11,000,000, and I have got five hundred agents, military and civil; with their salaries they are sufficient to execute the administration of the Freedmen's Bureau. I do not want any more agents.'"

General Grant, in his report to the President in December last, said:

"In some form, the Freedmen's Bureau is an absolute necessity until civil law is established and enforced, securing to the freedmen their rights and full protection." * * * * "It cannot be expected that the opinions held by men at the South for years can be changed in a day, and therefore the freedmen require, for a few years, not only laws to protect them, but the fostering care of those who will give them good counsel, and on whom they can rely."

And the manner in which military authority is exercised proves that the civil rights of all Union men are denied by law and courts and juries in the rebel States.

Here are some of the evidences of it found in military orders, as follows:

[General Orders, No. 3.]

WAR DEPARTMENT,
ADJUTANT GENERAL'S OFFICE,
WASHINGTON, *January* 12, 1866.

To protect loyal persons against improper civil suits and penalties in late rebellious States.

Military division and department commanders, whose commands embrace or are composed of any of the late rebellious States, and who have not already done so, will at once issue and enforce orders protecting from prosecution or suits in the State or municipal courts of such State all officers and soldiers of the armies of the United States, and all persons thereto attached, or in anywise thereto belonging, subject to military authority, charged with offenses for acts done in their military capacity, or pursuant to orders from proper military authority, and to protect from suit or prosecution all loyal citizens or persons charged with offenses done against the rebel forces, directly or indirectly, during the existence of the rebellion, and all persons, their agents and employés, charged with the occupancy of abandoned lands or plantations, or the possession or custody of any kind of property whatever, who occupied, used, possessed, or controlled the same, pursuant to the order of the President or any of the civil or military departments of the Government, and to protect them from any penalties or damages that may have been or may be pronounced or adjudged in said courts in any of said cases; and also protecting colored persons from prosecution in any of said States charged with offenses for which white persons are not prosecuted or punished in the same manner and degree.

By command of Lieutenant General Grant:

E. D. TOWNSEND,
Assistant Adjutant General.

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[General Orders, No. 7.]

HEADQUARTERS DEPARTMENT SOUTH CAROLINA,
CHARLESTON, S. C., *March* 4, 1866.

I. In order that the loyal people of this State may be relieved from all unnecessary restraints incident to the existence of martial law, the administration of civil affairs in the several districts, parishes, and municipalities, respectively, will be remitted by commanding officers of military districts to the civil officers therein, duly qualified to perform such duties. No person shall be deemed eligible to hold office unless he shall have taken the amnesty oath last prescribed, and, if he belong to either of the classes excepted from amnesty, shall have received executive pardon. Civil officers will in all cases respect and obey the proclamations of the President, the laws of Congress, and all orders relating to the government of this department, issued by competent military authority.

II. To aid the local functionaries in resuming their proper duties, it is ordered that hereafter, without authority from these headquarters, no military tax, assessment, or charge of any kind whatsoever shall be levied upon citizens, except fines and penalties imposed by the provost courts or other competent military tribunals, for offenses whereof the party shall have been duly convicted; and with the further exception of the ground rents at the post of Hilton Head, that being a military reservation.

III. No prosecution or suit shall be entertained in the courts of South Carolina against officers or soldiers of the armies of the United States, or persons in anywise thereto belonging, subject to military authority, charged with acts done in their military capacity or pursuant to orders from proper military authority; nor against loyal citizens or persons charged with acts done against the rebel forces, directly or indirectly, during the rebellion; and all persons, their agents or servants, charged with the occupation of abandoned lands and tenements, or the possession or custody of any kind of property whatever, in cases where such occupation, use, or possession was authorized by the President, or by any of the civil or military departments of the Government, shall be protected from any recoveries, penalties, or damages that may have been or may be imposed or adjudged therefor in said courts.

IV. Superior and circuit provost courts will continue in operation as heretofore, and shall have, as against any and all civil courts, exclusive jurisdiction in all cases where freedmen and other persons of color are directly or indirectly concerned, until such persons shall be admitted to the State courts as parties and witnesses with the same rights and remedies accorded to all other persons. It shall nevertheless be competent for a State court to hear and determine a cause or proceeding wherein persons of color are parties to the record, when they shall file a written stipulation to submit the cause or proceeding to a State court.

By command of Major General D. E. Sickles:

W. L. M. BURGER,
Assistant Adjutant General.

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BUREAU OF REFUGEES, FREEDMEN, AND ABANDONED LANDS,
HEADQUARTERS ASSISTANT COMMISSIONER,
STATE OF VIRGINIA,
RICHMOND, VIRGINIA, *March* 12, 1866.

I. The following portion of an act entitled "An act relative to the testimony of colored persons," passed February 28, 1866, by the Legislature of Virginia, is published for the information of the officers and agents of this bureau:

"*Be it enacted by the General Assembly*, That colored persons and Indians shall, if otherwise competent, and subject to the rules applicable to other persons, be admitted witnesses in the following cases:"

* * * * * * * * *

"2. In all criminal cases and proceedings at law or in equity in which a colored person or an Indian is a party, or which arise out of an injury done, attempted, or threatened to the person, property, or rights of a colored person or Indian, or in which it is alleged in the presentment, information, or indictment, or in which the court is of opinion, from the other evidence, that there is probable cause to believe that the offense was committed by a white person in conjunction or coöperation with a colored person or Indian."

Also, the following portion of "An act to amend and reënact the ninth section of chapter one hundred and three of the Code of Virginia of 1860," &c.:

"*Be it enacted by the General Assembly*, That any person having one fourth or more of negro blood shall be deemed a colored person, and every person, not a colored person, having one fourth or more of Indian blood, shall be deemed an Indian.

"All laws in respect to crimes and punishments, and in respect to criminal proceedings, applicable to white persons, shall apply in like manner to colored persons, and to Indians, unless when it is otherwise specially provided."

II. From and after the reception of this order, until further orders, no criminal cases will be tried by any officer or agent of the bureau in this State, except such as may at that time have been commenced.

III. It will henceforth be the duty of the assistant superintendents to attend in person the trials of all criminal cases within their jurisdiction, including criminal trials or preliminary hearings before justices of the peace or magistrates, to which a colored person may be a party, or in which, according to the law above quoted, the testimony of a colored person may be taken.

IV. When present at such trials or hearings the assistant superintendent will not interfere at the time with the action of the court or magistrate, but will confine themselves to such friendly suggestions, made to a colored party concerned, or the counsel for the same, as may be necessary. They will not act as attorneys in such cases, or argue with the court or magistrate. They will, however, make immediate report of any instance of oppression or injustice against a colored party, whether prosecutor or defendent, and also in case the evidence of colored persons should be improperly rejected or neglected. In such cases, all details possible will be forwarded.

V. They will also carefully examine and report if in any instance a justice of the peace, attorney for the Commonwealth, grand jury, or other authority vested with the power of allowing or regulating the institution of criminal proceedings, has refused justice to a colored person by improperly neglecting a complaint, or declining to receive an oath or sworn information tendered by such person, whereby a trial or prosecution might be prevented through partiality or prejudice.

VI. All superintendents and assistant superintendents will, on the last day of each month, make a detailed report of the manner in which this order, by restoring to the State authorities jurisdiction in criminal cases over colored persons, has resulted, with reference to the interests of the latter within their respective districts and sub-districts, whether they have been treated with impartiality and fairness, and the law respecting their testimony carried out in good faith or otherwise.

O. BROWN,
Colonel and Assistant Commissioner.
JAMES A. BATES,
Acting Assistant Adjutant General.

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HEADQUARTERS DEPARTMENT OF VIRGINIA,
RICHMOND, VIRGINIA, *March* 12, 1866.

The foregoing order is approved, but no person of color will be examined or brought to trial on a criminal charge until he shall have had sufficient time and opportunity to notify the assistant superintendent of the Freedmen's Bureau for the sub-district of the time when, and place where, such examination or trial is to take place.

By command of Major General A. H. Terry:

EDWARD W. SMITH,
Assistant Adjutant General.

Governor Brownlow, of Tennessee, gives us some information in a letter, as follows:

NASHVILLE, *March* 8.

DEAR SIR: Inclosed I send you a copy of my proclamation, from which you will learn that a faction of twenty-one disorganizers here, in the true spirit of the late iniquitous rebellion, have withdrawn and reduced our House of Representatives below a quorum. I need not add further remarks, as the proclamation fully discusses the points at issue.

On Friday last the election of county officers took place throughout the State, such as clerks, sheriffs, justices, trustees, and tax collectors; and in Middle and West Tennessee the rebels have made a clean sweep, turning the Union men out and electing their own candidates, who electioneered for office on the ground that they were rebels, and had either served in the rebel army, or in some other capacity had given their influence to the cause of treason and traitors.

When Richmond fell and Lee surrendered, rebels, and many who sympathized with them, were very respectful to Union men—often obsequious; guilty culprits, they evidently feared arrest and punishment, and felt that to be let alone and allowed to live was all they had a right to expect. But since pardons have been so multiplied, and no man is punished, they have everywhere become impudent and defiant, until in most counties in Middle and West Tennessee it is disreputable to have been a Union man, or, as a southern man, to have served in the Union Army. And matters are growing worse, the reconstructed traitors openly cursing loyal men, and threatening them with shooting or hanging, boasting that they have the President on their side, while we all feel that the President's policy is ruinous to us.

* * * * * * * * * * *

There is twice the amount of bitterness and intolerance in the South to-day toward the Union and everything northern, that there was at the time of Lee's surrender. Abuse of Union men, of the radical majority in Congress, and self-assumed superiority on the part of southern chivalry, have arisen to such a height that loyal men cannot travel on a steamboat, or in a railroad car, without being insulted. As it was during the war so it is now—all concessions from the North, or from the majority in Congress, are regarded as evidences of fear. All the old rebel papers of 1861, and many new ones, are in full blast, threatening Congress and the North with ultimate vengeance, and boasting of southern prowess. The most popular men in the largest portion of Tennessee to-day are the men most distinguished for their hostility to the North, and what they are pleased to call the "radical Congress," and they are the class of men selected to fill offices, as the late county elections show. The same is true of the entire South, only to a greater extent. In a word, they are resolved on breaking up the Government, and they expect to carry out their schemes through the ballot-box. And how men of candor and intelligence can represent them as loyal and kindly disposed is a mystery to me, even in this age of rebellion and treachery. I do not understand them, and my opportunities for learning their temper and ultimate purposes are as good as those of most men.

Why, sir, many of them are expecting the President to disperse Congress with the bayonet, as Cromwell dispersed the Long Parliament. The southern heart is rapidly being fired to deeds of war, and all this, and more, as I believe, has been caused by the mistakes of the President. His plan of trusting rebels with their State governments has had an effect exactly the opposite of what he intended. It has ruined the prospects of the Union men, and they feel that there is no safety for them, unless Congress shall choose to protect them. Even three days ago General Thomas had to send troops into Marshall county, some sixty miles distant, to protect loyal men and freedmen, who were fleeing for safety, and coming to this city.

So far as I am individually concerned, the intemperate abuse of rebels, the denunciation and blackguardism of their reconstructed journals, the threats of personal violence from the amnestied patriots, and the anonymous letters of cowards threatening my assassination, all fall harmless at my feet. No earthly power can drive me from the support of the men and party who fought the battles of the late war, and put down the rebellion. * * * * * *

Very respectfully, your obedient servant,

W. G. BROWNLOW,
Governor of Tennessee.

Hon. WILLIAM D. KELLEY,
House of Representatives.

In the Cincinnati Commercial of February 26 I find these facts stated:

"FREEDMEN IN KENTUCKY.—More than half a dozen letters were to-day received by Representative MCKEE, of Kentucky, detailing outrages against freedmen of that State in various parts of his district. One case of the shooting of two negroes and robbing them of all their families had occurred, and upon the arrest of the perpetrators of the act by the agents of the bureau they were discharged on a writ of *habeas corpus* sued out and tried before the circuit judge of the State court. Another case where a party of white men went to the house of an old negro nearly eighty years of age, and a free man nearly all his life, robbed him of his money, and kicked him to death. They then raked coals from the fire and putting him on them, roasted first one side, then the other. They also burnt two others nearly to death, putting out the eye of one, and boasted that they had not only intended to drive out the negroes, but intended also to drive out certain whites."

The Raleigh (North Carolina) Progress of March 21, under the caption, "The Exodus Continued," says:

"We have already noticed the arrival of a party of some twenty-five persons belonging to the Society of Friends, in Washington city, *en route* for the North, and now we learn that on Monday night about eighty more passed through this city for the same destination, and that one hundred and fifty more will follow in a few days. This is a cheerful picture, truly. While *white* laborers are invited from abroad the best white laborers already here are leaving us, and leaving because they are denied that equality and protection which they feel they ought as loyal citizens to enjoy.

"The Quakers, as these people are commonly called, are a patient, peaceable, industrious, law-abiding set of people; they will have no strifes among themselves or with other people; they took no part in the late war beyond what they were forced to do at the point of the bayonet; they were true to the United States Government at heart and in act as far as possible all the time; and they hailed the day of their deliverance as an era of great joy. They did their own work, would never own slaves, and did not look on slavery as the greatest of blessings or slaveholders as being any better than other respectable people. They have not given any one just cause of offense, and yet, because they would take no voluntary part in the war against the Government, and hailed with joy the coming of their deliverers, they are driven out from the land of their nativity and the homes of their childhood by persecutions and oppressions heaped upon them by the disaffected. These Quakers are honest and straightforward, frank and truthful; these are the tales they tell here before leaving, and they will repeat the same at Washington and as they journey North; and the simple recital will have a more powerful effect upon the northern mind and the Congress of the United States than the studied stories of all the witnesses that have been before the joint committee on reconstruction relative to the condition of affairs in North Carolina. They tell that they are driven out by persecutions, and that they have been hunted down because of their opposition to the war and their devotion to the Union, and all the smoothing over of Mr. Graham and others as to the harmony and loyalty which they assert exists here will not counteract their simple narrative."

Major General George H. Thomas, in command of the department including Kentucky, Tennessee, Georgia, Alabama, and Mississippi, in his evidence before the reconstruction committee, testified in relation to Alabama as follows:

"I do not think it would be expedient to remove the troops until the people show that they are themselves willing and determined to execute civil law with impartial justice to all parties. I think public sentiment is divided on the subject of allowing freedmen to become freeholders. I have heard of no legislation on that subject either to empower them to become freeholders or to prohibit them from becoming such. If the national troops and Freedmen's Bureau were to be withdrawn from the State at this time, I do not believe the Union men or the freedmen could have justice done them. Injustice toward them would commence in suits in courts for petty offenses, and neighborhood combinations to annoy them so much that they could not reside among them. I am satisfied, until a better state of feeling shall arise, that if all restraint should be removed, the freedmen would be thrown back into a condition of virtual slavery; that is, they would be compelled by legislative enactments to labor for little or no wages, and legislation would assume such form that they would not dare to leave their employers for fear of punishment; and unless men who had been Union men through the war had very strong personal friends they could not live in the State; they would be annoyed so much in various ways that they could not live there in any peace or comfort. I think emigrants from abroad would be kindly received, but I think emigrants from the North, or Union men, would be coldly received and treated with indifference. I do not know whether any effort has been made or not to ascertain whether the negroes would be willing to remove to any Territory assigned to them, if that was to be done, but from my knowledge of negro character, I think they would object to it. I think the mass of them desire very much to continue to live in their old neighborhoods, and with their old masters—invariably where they have been treated well as slaves.

"I was born in a southern State and reared, to the age of nineteen, in that country. Since I have been in the Army my service has been mostly in the southern States and on the frontier bordering on southern States."

But we are gravely told that—

"The Constitution does not delegate to the United States the power to punish offenses against the life, liberty, or property of the citizen in the States, nor does it prohibit that power to the States, but leaves it as the reserved power of the States to be by them exercised."—*Speech in Congress*, March 7, citing 1 Kent, lecture 19, section 446; Globe, March 10.

This does not quite meet the question. The bill does not undertake "to punish offenses against the life, liberty, or property of the citizen in the States."

If States should undertake to authorize such offenses, or deny to a class of citizens all protection against them, we may then inquire whether the nation itself may be destroyed by this insidious means.

The question before us now is this:

When the States deny to millions of citizens the means without which life, liberty, and property cannot be enjoyed, is the nation powerless to punish the great crime of denying civil rights constitutionally recognized and affirmed by national authority? That is, if a State, by her laws, says to whole classes of native or naturalized citizens, "You shall not buy a house or a homestead to shelter your children within our borders;" "you shall be deprived of the means whereby life is preserved, whereby liberty is a boon, and whereby property is held sacred;" "you shall have no right to sue in our courts or make contracts"—in such cases, is the nation powerless to intervene in behalf of her own citizens, in behalf of humanity itself, to avert the annihilation of citizenship? Now, when this condition of affairs has been reached, I maintain that Congress may by law secure the citizens of the nation in the enjoyment of their inherent right of life, liberty, and property, and the means essential to that end, by penal enactments to enforce the observance of the provisions of the Constitution, article four, section two, and the equal civil rights which it recognizes or by implication affirms to exist among citizens of the same State.

Congress has the incidental power to enforce and protect the equal enjoyment in the States of civil rights which are inherent in national citizenship. The Constitution declares these civil rights to be inherent in every citizen, and Congress has power to enforce the declaration. If it has not, then the Declaration of Rights is in vain, and we have a Government powerless to secure or protect rights which the Constitution solemnly declares every citizen shall have. And now let us consider these propositions briefly.

The Constitution declares that—

"The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States."

I will concede that the courts have by construction limited the words "all privileges" to mean only "some privileges."

In a note to this section of the Constitution, in Brightly's Digest, it is said:

"This is confined to those privileges and immunities which are in their nature fundamental, which belong of right to the citizens of all free Governments, and which have at all times been enjoyed by the citizens of the several States which compose this Union from the time of their becoming free, independent, and sovereign. They may all be comprehended under the following general heads: protection by the Government, the enjoyment of life and liberty, with the right to acquire and possess property of every kind, and to pursue and obtain happiness and safety, subject, nevertheless, to such restraints as the Government may justly prescribe for the general good of the whole. The right of a citizen of one State to pass through or to reside in any other State, for purpose of trade, agriculture, professional pursuits, or otherwise, to claim the benefit of the writ of *habeas corpus*, to institute and maintain actions of any kind in the courts of the States, to take, hold, and dispose of property, either real or personal, and an exemption from higher taxes or impositions than are paid by the other citizens of the State, may be mentioned as some of the particular privileges and immunities of citizens which are clearly embraced by the general description of principles deemed to be fundamental."—*Corfield* vs. *Coryell*, 4 *Wash. C. C. R.*, 380; *Conner* vs. *Elliott*, 18 *Howard*, 591; *Murray* vs. *McCarty*, 2 *Munf.*, 393; *United States* vs. *Williamson*, 4 *American Law Register*, 19; *People* vs. *Lemmon*, 5 *Law Rep.*, 486; *Lawrence's Wheaton on International Law*, 909; *Calhoun's Speech, Senate, April* 2, 1836; *Sergeant on Constitution*, chap. 31, p. 348; chap. 31, p. 393, *2d ed.*; 6 *Pickering R.*, 92; 2 *Story on Constitution*, 605.

Kent says that if citizens

"Remove from one State to another they are entitled to the privileges that persons of the same description are entitled to in the State to which the removal is made."

That is, distinctions created by nature of sex, age, insanity, &c., are recognized as modifying conditions and privileges, but mere race or color, as among citizens, never can. And this view Kent proceeds to recognize as to fundamental rights by citing with approval the case of Corfield *vs.* Coryell, 4 Wash. C. C., 380, and stating the rule of constitutional law to be—

"That the privileges and immunities conceded by the Constitution of the United States to citizens in the several States were to be confined to those which were in their nature fundamental, and belonged of right to the citizens of all free Governments. Such

are the rights of protection of life and liberty, and to acquire and enjoy property," &c.—2 *Kent*, 72.

And Judge Story, in commenting on article four, section two, of the Constitution, says:

"The intention of this clause was to confer on them, [citizens,] if one may so say, a general citizenship; and to communicate all the privileges and immunities which the citizens of the same State would be entitled to under the like circumstances."—*Serg. on Constitution*, chap. 31, p. 384; chap. 33, p. 393; *Livingston* vs. *Van Ingen*, 9 *Johns R.*, 507; *Abbott* vs. *Bagley*, 6 *Peck*, 92.

This clause of the Constitution asserts two things:

1. That there are "privileges and immunities of citizens."

2. That "the citizens of each State" if they remove from one State to another "shall be entitled to all privileges and immunities of citizens" of the United States "in the" State to which they remove.

The Constitution does not define what these privileges and immunities are; but all privileges and immunities are of two kinds, to wit, those which I have shown to be inherent in every citizen of the United States, and such others as may be conferred by local law and pertain only to the citizen of the State.

But conceding, as the courts have held, that the privileges referred to in the Constitution are such as are fundamental civil rights, not political rights nor those dependent on local law, then to what extent shall they be enjoyed by a citizen of one State removing into another? Not simply so far as they may be enjoyed by "some portion" or "some description" of citizens, but "all the privileges and immunities of citizens;" that is, all citizens under the like circumstances.

This section does not limit the enjoyment of privileges to such as may be accorded only to citizens of "some class," or "some race," or "of the least favored class," or "of the most favored class," or of a particular complexion, for these distinctions were never contemplated or recognized as possible in fundamental civil rights, which are alike necessary and important to all citizens, and to make inequalities in which is rank injustice.

This clause of the Constitution therefore recognizes but one kind of fundamental civil privileges equal for all citizens. No sophistry can change it, no logic destroy its force. There it stands, the palladium of equal fundamental civil rights for all citizens.

Any law that invades its fundamental equality is void, and so it has always been understood.

In the great case of Lynch *vs.* Clarke, 1 Sandford's Chancery Reports, 645, the court says:

"The Articles of Confederation between the States made no provision for naturalizing aliens. Each State was left to its own legislation on that subject; and the laws of the several States on that behalf prevailed within their own bounds until the 4th of March, 1789, or until the legislation of Congress in 1790—when the Constitution took effect; therefore, it found the existing mass of citizens of the United States ascertained and defined. It was not necessary to enact anything further in reference to those citizens than was done in the section which gave them immunities as citizens alike in all the States. But as we have seen, it was necessary to provide for the boundless future. State laws and State legislation could not in the nature of things be longer permitted to define, abridge, or enlarge the important privilege of citizenship in the United States. It was purely a national right and one which must for the future be governed by rules operating alike upon every part of the Union."

My learned and able colleague [Mr. SHELLABARGER] has furnished unanswerable authorities on this point. (Speech of March 9.)

The national Government is the depositary of the power to enforce the enjoyment of these fundamental rights when denied or destroyed by State authority.

In Prigg *vs.* Pennsylvania, 16 Peters' Reports, 539, the Supreme Court, in discussing the fugitive slave clause of the Constitution, said:

"The fundamental principles applicable to all cases of this sort would seem to be that where the end is required the means are given; and where the duty is enjoined the ability to perform it is contemplated to exist on the part of the functionaries to whom it is intrusted. The clause is found in the national Constitution and not in that of any State. It does not point out any State functionaries or any State action to carry its provisions into effect. The States cannot, therefore, be compelled to enforce them: and it might well be deemed an unconstitutional exercise of the power of interpretation to insist that the States are bound to provide means to carry into effect the duties of the national Government nowhere delegated or intrusted to them by the Constitution. On the contrary, the natural, if not the necessary, conclusion is, that the national Government, in the absence of all positive provisions to the contrary, is bound, through its own proper department, legislative, judicial, or executive, as the case may require, to carry into effect all the rights and duties imposed upon it by the Constitution. The remarks of Mr. Madison, in the Federalist, (No. 43,) would seem in such cases to apply with peculiar force. 'A right,' says he, 'implies a remedy; and where else would the remedy be deposited than where it is deposited by the Constitution?' meaning, as the context shows, in the Government of the United States."

Even State constitutions and laws cannot stand in the way of the constitutional power of Congress. (Jefferson Branch Bank *vs.* Skelly, 1 Black, 436; Franklin Branch Bank *vs.* Ohio, 1 Black, 474.)

Certainly then in aid of article four, section two, of the Constitution, Congress has large incidental powers to enforce its observance, so essential to preserve the national life and the means of national existence.

In McColloch *vs.* Maryland (4 Wheaton, 316), the general principle is announced that—

"The States have no power" * * * * "to retard, impede, hinder, or in any manner control the operations of the constitutional laws enacted by Congress to carry into effect the powers vested in the national Government.

"If a certain means to carry into effect any of the powers expressly given by the Constitution to the Government of the Union be an appropriate measure, not prohibited by the Constitution, the degree of its necessity is a question of legislative discretion, not of judicial cognizance."

The same principle is affirmed in Bank of Commerce *vs.* New York City, (2 Black, 620;) Dobbins *vs.* Commissioners of Erie Co., (16 Peters, 435;) Weston *vs.* City Court of Charleston, (2 Peters, 449–489.)

It is by virtue of these principles that a State may not prohibit a national bank from locating therein; that a State may not prohibit national officers from exercising their duties; that we enact penal laws against the people of the States, and punish them if they

"Intimidate or impede any juror, witness, or officer in any court of the United States in the discharge of his duty."—*Act of March 2, 1831*; 1 *Brightly*, 213.

No statesman or jurist has ever doubted the power of Congress to enforce the efficacy of the Constitution by penal enactments against all who would forcibly or otherwise molest or impede national officers in the exercise of their official duties. All this is done under the authority of incidental power. And why? Because these are means appropriate to carry into effect the powers of Congress. Protection by redress in courts and penal enactments are just as essential as the power to create officers and clothe them with authority and rights and duties.

Yet, when an alien who by law may be denied all rights, and who cannot be guilty of treason, becomes naturalized, and thus is clothed by national authority with all the rights of an American citizen owing allegiance to the Government, invested with civil rights declared to be inherent and inalienable, shall Congress have no authority to protect him in the enjoyment of these rights when they are stricken down by State laws?

As an alien may be deprived of all rights by law, and even excluded from the country, it is the act of naturalization, the condition of national citizenship, that confers on him the civil rights recognized by the Constitution. It is citizenship, therefore, that gives the title to these rights to all citizens. From the very nature of citizenship, the avowed purpose of the founders of our Government, and the interpretation put upon the Constitution, it must be clear that this bill creates no new right, confers no new privilege, but is declaratory of what is already the constitutional rights of every citizen in every State, that equality of civil rights is the fundamental rule that pervades the Constitution and controls all State authority.

Now, assuming that in each State every citizen has equally and alike all the civil rights enumerated in this bill, there are two legal modes of meeting any and every willful deprivation of these rights: one by action for damages at common law in the courts, which, however, will not lie against judicial officers; and another by making it a penal offense, as the second section of this bill does, to—

"Subject or cause to be subjected any inhabitant of any State or Territory to the deprivation of any right secured or protected by this"

bill or by the Constitution.

As the remedy by action at common law involves a construction of the Constitution, the national courts will have ultimate jurisdiction of these questions, for the Constitution provides that—

"The [national] judicial power shall extend to all cases in law and equity arising under this Constitution, the laws of the United States," &c.

If rights of citizens are recognized by and secured to citizens by the national Constitution, cannot Congress declare an invasion of these rights a crime?

The whole question of the power of Congress to enact this bill is resolved into this: when the Constitution recognizes and secures rights which are denied by State laws, may Congress declare it a crime to execute or enforce unconstitutional laws, to deprive a citizen of a constitutional right?

There is no solitary right which the Constitution sanctifies, the invasion of which may not be declared criminal, or be otherwise enforced.

The Constitution declares that—

"This Constitution and the laws of the United States which shall be made in pursuance thereof" * * * "shall be the supreme law of the land, and the judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding."

This, sir, "invades the judicial power of a State" whenever it undertakes to disregard the national Constitution.

And shall it be said there is no power to enforce this Constitution against all who would intentionally defy and willfully disregard its provisions?

On the 26th of March the Supreme Court of the United States, in the great bank case of Van Allen *vs.* Nolan, affirmed the power of Congress to declare that banks created under national law should share equal immunities in the States with banks created therein. The court say:

"The decree of the court of appeals [of New York] must be reversed on the ground that the enabling act of the State [of New York] of March 9, 1865, does not conform to the limitations prescribed by the act of Congress passed June 3, 1864, organizing the national banks and providing for their taxation. The defect is this: one of the limitations in the act of Congress is 'that the tax so imposed under the laws of any State upon the shares of any association authorized by this act shall not exceed the rate imposed upon the shares of any of the banks authorized under the authority of the State where such association is located.' The enabling act of the State contains no such limitation; the banks of the State are taxed upon their capital; and although the act provides that the tax on shares of the national banks shall not exceed the par value, yet inasmuch as the capital of the State banks may consist of the bonds of the United States which are exempt from State taxation, it is easy to see that a tax on the capital is not an equivalent for the tax on the shares of the stockholders. This is but an unimportant question, however, as the defect may be readily remedied by the State Legislature."

And will it be said that Congress may require its corporate persons to share equal privileges and immunities with the corporate persons of the States and that laws making discriminations are unconstitutional and void, yet that State laws when applied to citizens of the nation denying them equal civil rights are valid? Are the rights of persons less sacred than the rights of property?

And if Congress may prohibit the States from interfering with the rights, powers, and duties of national officers by penal enactments, may we not in the same mode protect citizens in the enjoyment of civil rights secured to them by the Constitution?

Are the rights of citizens less sacred than the privilege of exercising national official functions?

A State which denies to half its citizens not only all political, but their essential civil rights, recognized and confirmed by the national Con-

stitution and described in this bill, has ceased to be republican in form, and the Constitution has made it the duty of Congress to "guaranty" such form of government. This it may do by law in this form. (Constitution, article four, section four.)

If a State may divest natural citizens, or large classes of them, of every civil right, the nation itself cannot survive.

Shall it be said that Kentucky may deprive her naturalized citizens of all civil rights and that there is no redress? In the last extremity the instinct of self-preservation, which is the first law of nature, would invoke our sympathies. The Constitution itself, clothing Congress as it does with all the incidental powers necessary to the preservation of the national life, would invoke that legislative discretion as to the means of self-preservation which would sanction measures beyond this.

But it is objected—

"The legislation thus proposed invades the judicial power of the State. It says to every State court or judge, if you decide that this act is unconstitutional, if you refuse under the prohibition of a State law to allow a negro to testify," [or refuse to allow a poor, white naturalized citizen to sue in your courts for wages or refuse to permit him to recover possession of the house he has purchased in defiance of a wicked State law declaring he shall own no home,] "if you hold that over such a subject-matter the said law is paramount, and under color of a State law refuse the exercise of the right to the negro," [or to a naturalized citizen,] "your error of judgment, however conscientious, shall subject you to fine and imprisonment."—*Veto Message.*

I answer it is better to invade the judicial power of the State than permit it to invade, strike down, and destroy the civil rights of citizens. A judicial power perverted to such uses should be speedily invaded. The grievance would be insignificant. A single case tried and finally decided by the Supreme Court of the United States would determine the right just as all great rights are settled. This is better than to leave millions of citizens deprived of civil rights to such an extent as to bring disgrace upon even a barbarous age.

I concede that in ordinary times it might be well to await the slower forms of the civil law to reach the final decision of fundamental constitutional questions. But we now employ military power to reach the same results, to secure civil rights.

If penal enactments enforced by civil tribunals, can reach the same result, this is better than the exercise of military power. The necessity which justifies a military enforcement of these rights will sanctify penal enactments for the same purpose. The penal section of the bill is made for a great emergency, when the rights of millions are imperiled or totally denied, as a temporary expedient, justified by the times and the circumstances, and which may be modified or abandoned when the necessity for it has ceased.

It is again objected that

"An error of judgment, however conscientious, shall subject [judicial officers] to fine and imprisonment"

under this bill. This is by no means its purpose or its legal effect. The universal rule of law is that there can be no crime unless there be willful wrong. In the books this has become a settled maxim:

"'*Actus non facit reum nisi mens sit rea.*'

"The act itself does not make a man guilty unless his intention were so."—*Broom's Legal Maxims*, 226.

"It is therefore a principle of our legal system, as probably every other, that the essence of an offense is the wrongful intent without which it cannot exist."—1 *Bishop on Crim. Law*, sec. 370.

These simple, elementary principles, supported as they are by an unbroken current of authorities cited by Bishop, completely answer this objection.

And if an officer shall intentionally deprive a citizen of a right, knowing him to be entitled to it, then he is guilty of willful wrong which deserves punishment.

The speech of my distinguished colleague, [Mr. BINGHAM, March 9,] has been extensively published in a mode to mislead the public judgment.

The great weight of his argument was leveled against a single provision of the bill as it originally came from the Senate. In his speech he used this language:

"It [the bill] provides that—

"'There shall be no discrimination in civil rights or immunities among citizens of the United States in any State or Territory of the United States, on account of race, color, or previous condition of slavery.'"

Having quoted this provision, he proceeds to remark on it as follows:

"That is as obligatory as any other portion of the section. If it is not obligatory, what objection has the gentleman to striking it out? If it is obligatory, it must be stricken out or the constitutions of the States are to be abolished by your act, or, what is the same thing, their enforcement by the State officers charged with that duty made a crime for which they are to be imprisoned."

Now, sir, he placed upon this provision of the bill an interpretation different from the committee who reported it. But for the purpose of obviating his objection this clause was stricken out and forms no part of the bill as it finally passed.

Mr. Speaker, this nation must settle the question whether among her own citizens there may be a discrimination in the enjoyment of civil rights. It should not be settled in the spirit of passion or prejudice, but in the light of liberty and justice. Nothing ever can be finally settled until it rests on the broad basis of eternal justice. If States may deny to any class of our citizens the right to make contracts, to own a homestead; may strip men of all that is valuable in life; if we shall sanctify this as the mission of the American Government, some friendless class or race may suffer to-day, but as sure as retributive justice exists the terrible wrong will sooner or later "return to plague the inventors," and we who have "sown the wind" may "reap the whirlwind."

But if we shall give to the Constitution that interpretation which its language requires, which is approved of justice, humanity, and God, then may we hope that the men of to-day and of all time will enjoy its benefits and blessings forever.

RECONSTRUCTION.

Mr. CLARKE, of Kansas. Mr. Speaker, I approach the discussion of the question of reconstruction with anxious solicitude. Results momentous to the interests of civil liberty, and affecting the weal or woe of those who are to come after us, depend upon the solution of the problem. While we are here assembled to legislate for the protection, welfare, and permanent salvation of the nation, the enemies of the Union and of Freedom are still boldly contending for the control or the destruction of the Government. The form, but not the character, of the contest has changed. Beaten upon the battle-field, the pestilent politicians of the rebel States, aided by their more pestilent northern allies, continue the contest at the ballot-box with a renewed hope and with the same inflexible and malicious purposes. Let me say here, sir, that under these solemn circumstances the duties of all loyal and patriotic men are as stern, unyielding, and, if necessary, should be as self-sacrificing as the duties of the soldiers of the Union who went forth to fight our battles, to struggle, to suffer, and to die. Sir, we are not worthy to be the legislators of the Republic in this great crisis, if we do not possess that unflinching courage and that unswerving fidelity, necessary to gather up the logical results of the war, and base upon them a more perfect freedom and a grander nationality.

It is not my purpose to enter into a discussion of the legal *status* of the rebellious States.

The doctrine of the "immortality of States," and the attempt to conceal beneath it the crimes and enormities of individual and associated treason, finds an ample exposure in history, in reason, and in common sense. The traitors of the South, with their sympathizers in the North, who precipitated secession and who proclaimed the Union dissolved forever, are now the loud-mouthed advocates of that "State immortality" in which they hope to obtain absolution from unpunished crimes and a protection to new conspiracies. I hold that the rebellious States are out of the Union so far as any right exists on the part of said States to claim anything from the Federal Government. They have forfeited all, by a treason as unprovoked as it was wicked and unnecessary, and they are defeated and powerless, at the mercy of the conqueror. They stand as a criminal at the bar of offended justice, and it is the prerogative of Congress to affix the penalty and hedge about the refractory States with those irreversible guarantees necessary for the permanent good of the offenders and the future peace of the whole nation. While they are out of the Union so far as they have any right to claim anything for themselves, they are in the Union so far as the jurisdiction of national authority extends—an authority which has no limit but the will of the conqueror, and the necessity, safety, and welfare of the people of all the States. Though the attempt to disrupt the Union was a failure, the forfeiture of all the rights which were originally reserved to the States was full and complete. As well might the highwayman or the midnight assassin claim the protection of the traveler who had escaped from the plunge of his misdirected dagger, as for the rebellious States to claim from Congress anything but the terms Congress is pleased to give.

Nowhere have I seen the *status* of the rebel States and the powers of the General Government so well set forth, as in a recent address by that stern patriot, Governor Brownlow, to the noble loyalists of East Tennessee. He says:

"The national Government may govern the seceded States with or without the media of elections. If it choose to do it by means of elections it has the right to prescribe the qualifications of electors. It may make suffrage limited or universal." "The revolted States have destroyed their separate governments. As communities of people, as States bounded by geographical lines, the rebel States have never been out of the Union; but as governing powers they are not in the Union, for as such, in their efforts to destroy the Union, they have themselves been destroyed."

"The national Government is bound to control these rebel States, so as to secure the safety of all the loyal people therein, and of the whole nation. It cannot allow itself to be destroyed by hostile voters any more than by hostile armies." "The men who hurt the Union the most" "receive the most votes in the revolted States. The repudiation of the Federal debt and the payment of the rebel debt are the aims of the reconstructed governments of the South. The restoration of slavery is the grand purpose of the rebels, and is hoped for and looked to in their voting and their conversation."

"The national Government ought to hold the South by military power till its people heartily repent of the guilt and spirit of the rebellion. The best interests of the country, and the happiness of generations yet unborn, require that the rebels shall not be restored to power. Justice should be done to the friends of the Union. Let the nation delay in giving pardons to leading guilty rebels and according power to the organized enemies of the country."

"The rebels clamor" "for the right of testifying and voting; and Union men are ready to concede the right, because of the color of their skin! But for four years they did all they could to destroy the Union, and for this they should not be allowed a voice in its affairs. For four years the blacks did all they could, by giving information and fighting, to save the Union; and but for their color they would now have the right to testify and vote. The voice of prejudice says, hold them back! The voice of reason and justice says, take suffrage from the white enemies of the Union and give it to the black friends! If the States will not do this, Congress has the power under the amendment to the Constitution to do it, and ought to carry it out!"

Mr. Speaker, I have said that the character of the contest has not changed. It is true the rebels have been defeated on the field of battle; the great armies which menaced your capital and defied your authority have been broken up. When Lee and Johnston surrendered, all the leading rebels expected, was, to escape to foreign lands or to suffer the penalties merited by their crimes. By the laws of Congress they were excluded from participating in public affairs; and it is difficult to see how they could be legally pardoned by the Executive until convicted of treason by due process of law. Congress was not in session. A hasty, irregular process of reconstruction was commenced by the President. Pardons were freely showered upon untried, unconvicted, but guilty rebels. The men who educated the public opinion of the South in the doctrine of State rights, and precipitated the rebellion, were unfortunately placed in power; and in some of the States, minorities of the people, and these

minorities the rebels, were called upon to organize State governments and to form State constitutions. The brave white loyalists of the South, few in number, suffering, bleeding, and impoverished, appealed in vain for that protection and recognition due to exalted patriotism and to their isolated position. Four millions of black loyalists, notwithstanding the pledge of the proclamation of freedom, were ignored, and left to the mercy of an embittered and hostile rebel population.

The appointment of men, as Governors of some of the rebel States, fresh from the conclaves of treason, and the encouragement thus given to the rebel population these men represented, necessarily resulted adverse to all true loyalty in the South, and paved the way to the election of rebel generals and rebel officials, as Governors and Senators and Representatives of the "reconstructed" States. Thus it is that the men who one year ago were in the field fighting against the Union, are to-day the rulers of the southern States as of old, and demand in imperious terms the right to govern, not only the South, but the whole nation.

Sir, I deny this preposterous assumption in all its forms, whether it comes from the traitors themselves, or from their faithful allies who have been concealed in the Union party only to attempt its destruction. Nor must our strength on this question be frittered away by the cunning devices of political guerrillas. As States, the South went into rebellion. In their State capacity they attempted to confederate together for the destruction of the Union and the establishment of a separate nationality. In my judgment, sir, it is the highest duty of Congress to examine the condition, sentiment, laws, and all the ramifications of the social and political condition of these States in the light of past experience, and in view of the present and future welfare and safety of the nation, as a preparatory step in any policy or condition of restoration, and more especially when the question of the reëndowment of the right of representation upon this floor and at the other end of the Capitol, is considered. Representatives from any State, loyal or disloyal, should represent majorities and not minorities. We should in no way be justified, either by the dictates of justice or by a decent regard for the interests of the whole people, to admit to this floor, men, on their individual loyalty, simply because they could take the test oath, while the great mass of their constituents are disloyal and unrestrained in their future actions by proper safeguards. Our first duty, I repeat, is to inquire into the condition of the constituency, and to settle the account on the basis of national justice and in the spirit of the Declaration of Independence.

What, then, is the condition of the rebel States, and how and on what terms should they be restored to their relations to the Federal Union?

It is not my purpose to indulge in any unkind criticism of those who once held their fellows in bondage. Simple facts are sufficient. The American people appreciate fully the controlling influences of education, of circumstances, and of those germinal influences which produced the southern character. The former slaveholders are just what their system has made them. They stand to-day, with all its evil influences permeating their minds, and intensified by a most mortifying defeat of cherished purposes, fiercely contested and ardently sought. It is but natural, sir, that they should hate not only those who defeated them, but the principles and purposes which animated the victors. Especially do they hate the loyal and defenseless freedmen.

Every mail brings to us the records of injustice and outrage. Every gathering of the defeated yet struggling and defiant rebels, shows conclusively that the only purpose entertained by them is to hold on to as much of slavery as possible. If the people of the rebel States were as anxious to do justice to the freedmen, and to establish republican liberty, as they seem to be in maintaining old prejudices, and in perpetuating all the essential elements of slavery, we should speedily approach the hour of complete restoration. General Howard, the present able head of the Freedmen's Bureau, has given most vigorous expression in relation to the condition of affairs in the South, in a late speech at the Cooper Institute, New York:

"They surrender slavery inch by inch and piece by piece, but they will not give it up altogether until constrained to do it by the power of freedom itself. Compulsory labor is stamped upon every plan yet proposed. Their whole thought seems to be, how can we white men maintain our authority over these black men? How keep them from renting lands, from having disputes with us and testifying against us in courts of law, and having a voice in framing and executing the laws? The great majority of southern people avow all this: it is a truth apparent to every thinking man."

Sir, it is because they do avow this boldly and frankly, and carry it out in their acts, that I see the necessity of extending the strong arm of the Federal power to redeem the plighted faith of the nation in the protection of the rights of its humblest but most loyal citizens. I give my support to the humane and patriotic measures of this Congress and to the principles and the methods by which the desired results are to be obtained, entertaining no doubt of our constitutional power. The second clause of the great amendment expressly provides that Congress shall have power to enforce emancipation by all necessary legislation. Notwithstanding this solemn injunction of the Constitution, we are told by the gentleman from New Jersey [Mr. ROGERS] that all our legislation framed in the interests of liberty, is an infringement of the rights of the States, and that it is of an unconstitutional character, and that the rebel States themselves, through their courts, would be sufficient to protect the rights of the people. In other words, the control of the southern States should be surrendered to the rebels. It would be easy to show how impossible it is for the freedmen at this stage of southern development to receive anything like justice, protection, equity, at the hands of the communities which were built upon his forced labor and are now depressed by his forced emancipation. Judges, juries, lawyers, officers, must for many years, certainly during this generation, carry with them such a hatred and contempt for the freedmen as to utterly preclude the idea that they can do him full justice. A negro testifying in a State court against a white man, will labor under the disadvantage for many years of being despised by the local court and the local population. Now, sir, I do not say this in reproach, but as a simple illustration of a well-understood truth.

I want these people, necessarily standing for awhile in an exceptional position, and having been pledged the national honor for their protection, to know that they may turn from the prejudices which must and will affect local tribunals, and under the broad ægis of the Union find those ample guarantees, which, not to insure them, will forever dishonor us.

Mr. Speaker, the last four years of our history has reversed the position of the nation. Our pathway must now lead in the direction of freedom, justice, an enlarged liberty to the citizen, and a nobler civilization in the progress of national destiny. Time is making even, the wrong of the fugitive slave law, with its atrocious infamies. Those who supported that statute and could see no infringement of the reserved rights of the States, now build many an argument upon the very principles they then so scornfully rejected. What was it to those advocates of organized injustice that they laughed to scorn the idea which underlies all true harmony between States and the individuals thereof? John Stuart Mill has aptly said:

"The State, while it respects the liberty of each in what specially regards himself, is bound to maintain a vigilant control over his exercise of any power which it allows him to exercise over others."

But, sir, the object was power. They desired only to sustain injustice that they might obtain place, and gratify their ambition in vesting the governing power in the hands of the aristocratic few. Sir, the party of which I am proud to be a member, has sought other ends. It desired, and still does, as I understand its principles, to establish impartial justice as the foundation of our national polity. It is only by a just application of this principle, in the protection of the rights of all classes and conditions of our people, that republican institutions can be made permanent on this continent. The logical results of the revolution, in whose closing acts the members of this Congress have the honor to participate, must be accepted by us in this spirit and for these purposes, or we shall be swept from the scene of public action by the scorn and indignation of the people of the loyal States, who have fought too earnestly and suffered too much to be sacrificed by timidity or betrayed by power.

But, sir, let me return from this digression. I will not detain the House in recapitulating at much length the testimony relating to the southern *animus*, which from a thousand sources has been placed before the country. That in every conceivable shape and form the freedmen are oppressed, is most true. The letters received by members of this Congress since the present session opened, from persons of the most reliable character, would, if gathered into a volume, present a mass of facts so appalling that even gentlemen on the other side, who have no ear for the suffering of anybody except they have been aiding the late rebellion; even those gentlemen would shrink back, and out of common humanity, meet us half way in devising some legislation by which the people we have made free shall be fully protected.

Among the laws passed by the Legislature and approved by the "reconstructed" Governor of the "reconstructed" State of Alabama, Governor Patten, the confederate cotton loan agent, I find one signed January 4, 1866, which provides:

"1. That it shall not be lawful for any freedman, mulatto, or free person of color in this State, to own fire-arms, or carry about his person a pistol or other deadly weapon.

"2. That after the 20th day of January, 1866, any person thus offending may be arrested upon the warrant of any acting justice of the peace, and upon conviction fined any sum not exceeding $100 or imprisoned in the county jail, or put to labor on the public works of any county, incorporated town, city, or village, for any term not exceeding three months.

"3. That if any gun, pistol, or other deadly weapon be found in the possession of any freedman, mulatto, or free person of color, the same may by any justice of the peace, sheriff, or constable be taken from such freedman, mulatto, or free person of color; and if such person is proved to be the owner thereof, the same shall, upon an order of any justice of the peace, be sold, and the proceeds thereof paid over to such freedman, mulatto, or person of color owning the same.

"4. That it shall not be lawful for any person to sell, give, or lend fire-arms or ammunition of any description whatever, to any freedman, free negro, or mulatto; and any person so violating the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined in the sum of not less than fifty nor more than one hundred dollars, at the discretion of the jury trying the case."

In this respect Alabama is superior to Mississippi, whose rebel militia, upon the seizure of the arms of black Union soldiers, appropriated the same to their own use.

Sir, I find in the Constitution of the United States an article which declares that "the right of the people to keep and bear arms shall not be infringed." For myself, I shall insist that the reconstructed rebels of Mississippi respect the Constitution in their local laws, before I will even consider their claims to representation in Congress.

But Alabama is not alone. The "reconstructed" adjutant general of Mississippi, a State which passed laws to prevent persons of color—American citizens—from owning, leasing, or renting real estate, issued an order under date of December 13, 1865, for the disarming of the freedmen, in which occurs the following sentence:

"In the execution of this order, you will abstain from all unnecessary violence; but should you meet with any resistance, you will employ sufficient force to accomplish your object."

This order is addressed to the militia, composed of men who, like the Jackson company, voted to adopt the uniform, rules, and tactics of the confederate army, to admit no one who had not served in that army or was not known

to be friendly to that cause. The Adjutant General of the United States reports about seventy thousand men enlisted in Mississippi and serving in our Army. Who, sir, were those men? Not the present militia; but the brave black soldiers of the Union, disarmed and robbed by this wicked and despotic order. Nearly every white man in that State that could bear arms was in the rebel ranks. Nearly all of their able-bodied colored men who could reach our lines enlisted under the old flag. Many of these brave defenders of the nation paid for the arms with which they went to battle. And I regret, sir, that justice compels me to say, to the disgrace of the Federal Government, that the "reconstructed" State authorities of Mississippi were allowed to rob and disarm our veteran soldiers and arm the rebels fresh from the field of treasonable strife. Sir, the disarmed loyalists of Alabama, Mississippi, and Louisiana are powerless to-day, and oppressed by the pardoned and encouraged rebels of those States. They appeal to the American Congress for protection. In response to this appeal I shall vote for every just measure of protection, for I do not intend to be among the treacherous violators of the solemn pledge of the nation.

I shall vote for these measures, believing them necessary for a speedy restoration of the Union. I desire to see these vacant seats filled, and that at an early day. But, sir, I would make haste slowly. While I remain a member of this body I shall never vote to admit to its deliberations any man who voluntarily participated in the rebellion and conspired against the liberties of my country. As the Representative of a loyal constituency, who sent to the field over twenty-two thousand men to fight, not only for the Union, but for liberty, I will never surrender the right of Congress to do all things necessary for the welfare of the whole nation, and the full and permanent freedom and protection of all its citizens. I shall continue to insist upon irreversible guarantees from the rebel States, and they must be accepted, too, in a spirit of repentance commensurate with the crimes they have committed against our country and against humanity. In justification of this policy I appeal to the gallant people of Kansas, for whom I am proud to speak in this hour of national peril. Other gentlemen upon this floor may have constituencies who will surrender the results of our great contest at the dictation of power, or by vacillation and impatience; but I say to you, sir, and I say to the country, that my constituents will never consent to be governed by rebels and traitors.

Mr. Speaker, what General Grant said, (he who having led us to victory in war is, I believe, under the providence of God, to lead us to a still greater victory in peace,) in his letter to the President, of December 18, 1865, will illustrate the condition of the South:

"In some form the Freedmen's Bureau is an absolute necessity until civil law is established and enforced, securing to the freedmen their rights and full protection." * * * * "It cannot be expected that the opinions held by men at the South for years can be changed in a day, and therefore the freedmen require, for a few years, not only laws to protect them, but the fostering care of those who will give them good counsel, and on whom they can rely."

Kentucky, always claimed as a loyal State, and exercising a powerful, but baneful influence over our early war policy, comes to us with pertinent proofs of the great necessity which asks action at our hands. The State Legislature has lately passed laws calculated to virtually make serfs of the persons that the constitutional amendment made free, and who are citizens of this Republic. The vagrant laws are so amended that a man can take a negro child and have it bound to him until the same is of age. A negro adult, if it be decided that he appears to have nothing to do, can be sold to forced labor for one year.

I might go on, sir, to read the barbarous codes which have been passed in all the rebel States. I might show how the condition of the freedmen has been growing worse under the mistaken policy that has been pursued. I might justly describe a condition of nominal freedom worse than a condition of actual slavery. But I pass on.

General Carl Schurz, in his able report to the President upon the condition of affairs in the South, says:

"The true problem remains, not how to remove the colored man from his present field of labor, but how to make him, where he is, a true freeman, and an intelligent and useful citizen. The means are simple: protection by the Government until his political and social *status* enables him to protect himself; offering to his legitimate ambition the stimulant of a perfectly fair chance in life, and granting to him the rights which, in every just organization of society, are coupled with corresponding duties."

Sir, I am not only in favor of protecting the oppressed freedmen on these grounds, but I step upon higher ground, and base my action on reasons affecting the welfare of the nation and the permanent security of all its great interests. The spirit which animated the South, and led it into rebellion, grew out of that pernicious political philosophy known as the doctrine of State rights and State sovereignty, in which the cunning slave oligarchy early intrenched itself, culminating in treason and disunion. The same cunning instincts are still at work. The same spirit stimulates their present polity. Slavery destroyed, their object is now to make their former slaves dependent serfs, victims of unjust laws, and debarred from all progress and elevation by organized social prejudices. This policy is but another form of the spirit which Spratt, of South Carolina, expressed when defending secession before the confederate convention at Montgomery, Alabama, March 1861. He said:

"We secede because the North believes in equality before the law, and we do not; because we believe in a class kept ignorant that they may be contented, and disfranchised that they may be merely the ballast of the ship of state."

These bold words, this merciless logic, expresses fully the animating idea of the rebellion. Of the existence of this spirit now, we have ample proof in the tenacity with which every just measure of protection is opposed, and in the wild delight in which the remarkable utterances of the Executive, in veto messages and in speeches, are quoted, North and South, by those who accept the position enunciated by Mr. Spratt. The existence of these ideas, and the defiance and restlessness of the encouraged rebels, render absolutely essential the passage of proper constitutional amendments, as well as other measures necessary for future security. These sentiments of the rebel Spratt are to-day the ruling ones of the rebellious States.

Alexander H. Stephens, the unpardoned vice president of the southern confederacy, and now insulting the American people by claiming to be United States Senator-elect from Georgia, addressed the rebel Legislature of that State on the anniversary of the birthday of Washington. Among other things, he is reported as declaring that "secession was not a crime to be repented of, or even a mistake to be condemned, but simply a failure to be deplored;" and that the rebellion was an "heroic struggle to maintain the Constitution of the United States." The report of his speech continues:

"Having failed in the arena of arms, they must now abandon the hope of constitutional liberty and the cause for which they fought, unless they can secure in the courts and the halls of legislation what they lost in the field; and that the surest way of regaining what they lost in battle is to sustain the restoration policy of the President."

Here, sir, commences the new conspiracy, a confident attempt to win at the ballot-box what they failed to achieve on the battle-field. In this way bloody-handed rebels, fresh from the murder and starvation of Union soldiers, demand admission to these Halls as the rightful law-makers of the nation. In behalf of the interests of the present and the hopes of the future, this dangerous assumption must be resisted, and just and righteous legislation of Congress must go on. Liberty, universal and impartial, and the high duty of Congress to enlarge its scope and power, must not be compromised. Let no man forget that the spirit of republican institutions is radical, aggressive, and creative. Sir, if any man invested with any portion of the sovereign power of the people shall betray his trust in this great crisis, let him stand forth in the withering gaze of the maimed heroes of a thousand battle-fields, and of the patriotic masses of this nation, and recalling the memory of half a million of starved and murdered soldiers, and in the light of justice, reason, humanity, and religion, receive that terrible condemnation which mankind have always visited upon unfaithful public servants, and which most assuredly the American people now have in store for the betrayers of public liberty.

Sir, we must not take counsel of our fears. No man, no party, no policy, has strength enough to mislead or to deceive the public mind. It has been educated amid the throes of a mighty revolution, and sharpened by unparalleled sacrifices and sufferings. Nor did we fight the battles of the Union for an uncertain purpose. Mr. Lincoln did not invoke the "considerate judgment of mankind and the gracious favor of Almighty God" upon his immortal proclamation of freedom to have us disgracefully abandon its pledges and securities. Sir, the President, the Cabinet, and Congress, all elevated to power by a loyal and radical constituency, are but the servants of this constituency, and unless false to all that is sacred in the obligations of human government, will execute the will of loyalty, and spurn the advice of compromisers and traitors. But I know that some will falter. The timid, the impatient, and the corrupt will fall by the way. Let who will, falter; let who may, go back; let me say for myself and my constituency, we stand now, as in the turbulent past, believing in the Republic, and determined to build into law the doctrines of the Declaration of Independence. It has been well said "that the nation which gives liberty and refuses equality, bestows at once too much and refuses too little." Give, then, to the freedman his inalienable rights and that full protection due to him from a nation he has fought to defend in the hour of danger.

Mr. Speaker, in all ages of the world it has required costly sacrifices and persistent courage to maintain the rights of the many—of the poor, the weak, and the defenseless, against the injustice, the despotism, and the cupidity of the few. The character of the contest for the maintenance of popular rights, through which we are now passing, is not an exception to the rule. Despots and demagogues defy justice, ignore humanity, and in the name of the Constitution vainly attempt to stay the progress of the Republic to a more perfect freedom and a grander nationality. In the estimation of the gentleman from New Jersey, [Mr. ROGERS,] the leader of the Democratic party upon this floor, every legislative act looking to the protection of freedom, every sentiment of the loyal American people demanding from the rebel States security for the future peace of the nation, is revolutionary and unconstitutional. Recreant Republicans, false to the inexorable logic of this crisis, to the people, to themselves, and to God, and vainly attempting to stay the progress of human liberty, catch up and herald the cry. Just now, sir, we have a grand political chorus, in which the gentleman from New York [Mr. RAYMOND] and the gentleman from New Jersey [Mr. ROGERS] join in harmonious strains, and invoking the aid of the "reconstructed" rebels, chant anew the requiem of copperhead Democracy and antiquated conservatism. Sir, let the new song be sung. Let fawning sycophants prostrate themselves at the feet of power. Let them oppose and denounce the just and humane policy of the majority of this Congress. I say to these gentlemen one and all, you may delay, but you cannot prevent the final triumph of these principles.

Now, sir, as I have before claimed, the power of Congress in the enactment of all necessary and positive measures of reorganization is full and undeniable. Secretary Seward telegraphs

Provisional Governor Sharkey, of Mississippi, under date of July 24, 1865, as follows:

"The government of the State will be provisional only until the civil government is reorganized with the approval of Congress."

As late as September 12, 1865, the same high functionary telegraphs Provisional Governor Marvin, of Florida:

"It must, however, be distinctly understood that the restoration to which your proclamation refers will be subject to the decision of Congress."

In the exercise of this decision let Congress set forth in distinct terms the conditions of restoration. Let us place before the whole people certain fundamental and irreversible guarantees to which assent should be required from the disorganized States as a condition-precedent to becoming governing partners in the nation. In pursuance of this policy I would embody in constitutional amendments:

1. Prohibition of the payment of the rebel debt.

2. Prohibition of the payment for slaves.

3. An equal basis of representation in every State.

4. A declaration of the indivisibility and sovereignty of the Union.

I would require further that the rebel States should make equal the civil rights of all their loyal inhabitants; and establish State governments republican in form and based upon impartial suffrage.

In the words of Andrew Johnson, which I fully adopt, uttered on the 9th of June, 1864, in his speech at Nashville:

"The question is, whether man is capable of self-government. I hold, with Jefferson, that Government was made for the convenience of man, and not man for Government. The laws and constitutions were designed as instruments to promote his welfare. And hence, from this principle, I conclude that governments can and ought to be changed and amended to conform to the wants, to the requirements and progress of the people, and the enlightened spirit of the age. [Loud applause.] Now, if any of your secessionists have lost faith in men's capacity for self-government, and feel unfit for the exercise of this great right, go straight to rebeldom, take Jeff. Davis, Beauregard, and Bragg for your masters, and put their collars on your necks.

"And let me say that now is the time to secure these fundamental principles, while the land is rent with anarchy and upheaves with the throes of a mighty revolution. While society is in this disordered state, and we are seeking security, let us fix the foundations of the Government on principles of eternal justice which will endure for all time.

"But in calling a convention to restore the State, who shall restore and reëstablish it? Shall the man who gave his influence and his means to destroy the Government? Is he to participate in the great work of reorganization? Shall he who brought this misery upon the State be permitted to control its destinies? If this be so, then all this precious blood of our brave soldiers and officers so freely poured out will have been wantonly spilled. All the glorious victories won by our noble armies will go for naught, and all the battle-fields which have been sown with dead heroes during the rebellion will have been made memorable in vain.

"Why all this carnage and devastation? It was that treason might be put down and traitors punished. Therefore I say that traitors should take a back seat in the work of restoration." * * * * "I say that the traitor has ceased to be a citizen, and in joining the rebellion has become a public enemy. He forfeited his right to vote with loyal men when he renounced his citizenship and sought to destroy our Government."

These, sir, indorsed by this high authority, are, in my judgment, the main features of any plan of reconstruction which would be adequate to meet the emergencies of this crisis.

But the duties of this Congress do not end here. We must keep faith with the defenders of the nation in the hour of peril. Early in the session it was my privilege, as I esteemed it my duty, to introduce a bill for the equalization of bounties. I hope the Committee on Military Affairs will soon report some measure of the kind, and that it will be adopted at this session. While we guard the national credit, let us not hesitate to repay the debt of gratitude we owe to the citizen soldiery of the Republic.

Sir, there is another lesson we should not forget. History admonishes us that the people must be jealous of the powers vested in the representative branch of the Government. In the struggles which have taken place for the maintenance of representative democracy the encroachments of power have always been directed against the popular branch of the system. Cromwell, seizing supreme power, and restless of control, dispersed the Long Parliament by the bayonets of his soldiery. Napoleon returning a conqueror from Egypt, paved his way to despotic power by the forcible dispersion of the Constituent Assembly of France. Louis Napoleon, in later days, with the oath to the French republic fresh on his lips, which, unmindful of his uncle's treachery, had elected him to the highest office in its gift, denounced the National Assembly as revolutionary and traitorous, arrested its members, butchered those who defended them, and invested himself with imperial power. And, sir, let it not pass unnoticed here that the organs of treason and sedition at the national capital, and in the North and in the South, have boldly called upon an American President to play the rôle of the usurper, and disperse by force the Congress of the United States, a body which holds in its keeping the liberties and the interests of the loyal millions of America.

Surely it is the duty of the President they thus insult by inviting him to become a revolutionist and a despot, to arrest and punish the traitors who uttered this astounding treason; for Andrew Johnson has often declared that "treason must be made odious and traitors must be punished;" and as late as April 20, 1865, he declared:

"It is time the American people should be taught to understand that treason is a crime, not in revenge, not in anger, but that treason is a crime, and should be esteemed as such and punished as such."

Sir, there has been no treason so bold and so easily detected as that of the National Intelligencer and of the Chicago Times, and other papers to which I have alluded.

Mr. Speaker, let us guard with watchful eyes the citadel of freedom. Though there may be no misuse or usurpation of power at present, who can look into the future and divine its history; for its ambitions, its conspiracies, its mysteries, as well as its brightest pages, are hidden from our sight. All we can do is, to learn by the history of the past, and to build as firm as the everlasting hills the fabric of a true representative Government, in which the rights of the many shall be forever protected from the caprice, the will, or the despotism of the few. In this great crisis each department of the Government has separate and distinct duties, and my prayer to Almighty God is that each and all will perform them well.

ADMISSION OF TENNESSEE.

Mr. BENJAMIN. Mr. Speaker, I regret being unable to agree with the committee on reconstruction as to the policy and expediency of passing the joint resolution. I ask the attention of the House while I give the reasons that constrain me to vote against it. In doing so, I will endeavor to confine myself within the limits of legitimate debate, although the question brings up and involves all the questions touching the *status* of the insurrectionary States, their past and present attitude toward the Federal Government, and the duty of Congress in reconstructing them. Upon the result of our decision in the case of Tennessee hangs the fate of the other ten. The precedent established by the passage of this joint resolution will be cited and followed in our legislation for all the others. It may go far beyond what now claims our attention. Our successors years and perhaps centuries hence may be called upon to pass judgment on the people of some other revolting State, when our sayings and doings will be eagerly scanned, digested, and commented on, approvingly or disapprovingly. We all know the force of precedent in the decision of all such problems.

We are making history, and no page in the history of our country will record matter of greater importance to "millions yet unborn" than that which chronicles our deliberations on this resolution. We are often told that history repeats itself; hence the necessity of making such a page as when repeated will not involve those who succeed us in the Government in as great or even greater difficulties than we are now encountering.

This joint resolution is very skillfully worded, and bears the impress of a mind of no ordinary character. I must be permitted to congratulate its author in having fully succeeded in employing language that effectually "conceals his thoughts." Are the rebellious States in or out of the Union; are they dead and awaiting sepulture, or alive and as majestic as ever; have they ceased to be stars in the constellation, or do they now, and have they during the din of battle, shone with the same resplendent luster as at the beginning? are questions which the anxious inquirer will look in vain for a solution of in the report of the committee.

To this I have not the slightest objection. Indeed I heartily approve of the wisdom displayed by the committee in ignoring these perplexing questions, as they are entirely immaterial, mere abstractions, and unimportant in themselves. It cannot be possible that a great party after accomplishing so much, having in the eyes of the world performed miracles, successfully carrying us through difficulties apparently insurmountable, finally emerging from the contest victorious at every point, and crowning all by ridding the country of a curse as dreadful as ever afflicted mankind, will suffer itself to be split on such rocks as these. Not the least of the many strange events of the present day would be such a result.

I assume that into these intricate propositions even the keen sagacity and penetrating eyes of the very able gentlemen composing the committee on reconstruction "see but dimly." In this they are in sympathy with the public mind, which is entirely at sea.

The "midnight oil" consumed in efforts to penetrate their depths and solve their mysteries, has shed but little light on the general gloom. Look where we will, and in whatever direction we may, no familiar landmark is discernible. The history of the world presents no parallel case. Whether the insurrectionary States are in or out of the Union, whether they are entitled to all the rights, privileges, and immunities pertaining to and enjoyed by the loyal States, or whether they are Territories, conquered provinces, or subjugated communities, cannot be determined by the lights of the past. The various writers on public law have discussed the relation one State bears to another, their rights, duties, and liabilities; but they have nowhere discussed questions of this character. They speak of States, but not of such States as compose the American Union. They lay down certain laws that govern in time of war and upon the return of peace; but those laws will be found wholly inapplicable to the cases under consideration.

While it is true that the public mind is unsettled upon the various questions growing out of the reconstruction, or restoration if you prefer, of the revolted States, there are certain facts developed by the events of the last five years that the people do fully understand and about which there is no dispute. They know full well that a most wicked and unholy rebellion, formidable in its proportions, and worse than savage in its character, was inaugurated for the overthrow of the Government of our fathers. They know that the chief conspirators in that rebellion were men holding high positions in the Government, and while acting under the solemnities of an oath to support, protect, and defend it.

They know that in its suppression the nation has incurred a debt of $3,000,000,000, that is to be wrung out of the industry of the country. They know that in every hamlet and upon every hearth-stone in the land have been shed bitter tears of sorrow and anguish for some dear one, whose life was given a sacrifice on the altar of liberty. They know that the right finally prevailed; that the rebel hosts were overthrown, and that the flag they love so well proclaims

to-day the supremacy of the authority of the United States over the whole length and breadth of the land. They know this has been accomplished in the face of declarations made over and over again, not only from the stump to the multitude, but in this Hall, that the South could never be subjugated, that their armies were invincible, and that compromise and concession must at length terminate the strife. Knowing these things, they expect and demand of us, their Representatives, that we repair the breaches made by the enemy, build up the waste places, and construct such additional outworks as will insure their future safety. As we cannot obtain indemnity for the past, they expect us to require ample security for the future. They say to us, "If the great charter we heretofore gave you is not sufficiently comprehensive to enable you fully to carry out our wishes and expectations, come back to us for such additional grants as are necessary for the purpose, and they shall 'be nominated in the bond.'"

The people from the beginning have been in advance of the authorities. They continually called upon Congress to make further demands on their purses and patriotism, and every such call was promptly responded to. They were determined the rebellion should be suppressed, and now being suppressed they require the strongest guarantees against a similar occurrence in the future.

It is necessary, Mr. Speaker, to consider one or two other preliminary questions in order to a proper understanding of the case before us. First, let us see if we understand each other when we speak of the State of Tennessee, and let us inquire for what or whom are we legislating when we pass this joint resolution. I apprehend very great confusion of ideas would be made apparent were we to compare notes with each other or were we severally called upon to define the word "State" as applied to a member of the Federal Union. The writers on public law are no authority on this point, because they nowhere speak of such a State as Tennessee or Ohio. It will not do to measure the relations England and France sustain toward each other by those subsisting between New York and South Carolina, either in peace or war. To adopt and attempt to act in this case upon the ideas of the writers on international law will involve us in inextricable confusion.

We have but for a moment to study the history of the establishment of the Government, examine the elements of which it is composed and the foundation on which it is built in order to a proper understanding of the subject.

The framers of the Constitution found thirteen States or independent communities in existence, each sovereign and capable of acting and speaking for itself. They left them stripped of every important element of sovereignty, and incapable of acting, speaking, or holding converse with the nations of the earth, or even with each other, except through the General Government. They can neither lay duties on imports or exports, coin money, keep troops or ships of war in time of peace, engage in war, make peace, enter into any alliance with foreign Powers or frame any compact or agreement among themselves. Strictly speaking, they are not States at all, as the term had previously been used and as it is now used by writers on public law. No foreign Power can hold intercourse with or declare war against either of them. Among the nations of the earth they are neither known nor recognized as States. They are only known in our own Constitution and laws as States in consequence of their former condition and designation. The word States, when applied to them, is to be understood in its narrowest and most restricted sense. As nations, or States, they differ in no material respect from Territories, save the right of representation in Congress.

The party of the rebellion insisted that notwithstanding the grants contained in the Constitution, sovereignty still remained with the States. The delegation of powers to the General Government was a mere loan, subject to be called in at pleasure. The Government was the creature of the States, and not the agent of the people.

"We'll even let it hold the rein,
But we'll show it the way to go."

Upon this rock we split. Here was the Gordian knot that politicians could not untie. It has been severed with the sword and the question set at rest, and I trust forever. In order that it may not involve us in further difficulties, we must be instructed by what we have learned at so dear a rate, and entirely discard the heresy of State sovereignty from our political system. If there is one vestige of it left it must be rooted out and destroyed.

Among the nations of the earth, then, Utah is as much a State as is New York. Indeed, the earlier Territories were rarely known or spoken of except as States in legislation during the first thirty years of the Government. True, Congress reserves a negative on their legislation, but it is by virtue of its power and duty to guaranty to its people republican government, and applies equally to the States. Hence, in this light and with this character we must consider them in making up our verdict in the case now before us.

Of what, then, are the States of this Union composed; or, to come more directly to the question before before us, of what is the State of Tennessee composed, if she is a State at all? In our intercourse and dealings with her, to whom are we to address ourselves? We have an answer to this that is explicit, full, and complete. We long since accepted it as expressing our theory of government. If we adhere to it, act upon it, and carry it out in its republican simplicity, we will find but little trouble in extricating ourselves from the dilemma in which we find ourselves placed.

"What constitutes a State?
Not high-raised battlements, or labored mound,
Thick wall, or moated gate;
Not cities proud, with spires and turrets crowned;
Not bays and broad armed ports,
Where, laughing at the storm, rich navies ride;
Nor starred and spangled courts,
Where low-browed baseness wafts perfumes to pride—
No! men, high-minded men,
With powers as far above dull brutes endued,
In forest, brake, or den,
As beasts excel cold rocks and brambles rude;
Men who their duties know,
But know their rights; and knowing, dare maintain,
Prevent the long-aimed blow,
And crush the tyrant, while they rend the chain—
These constitute a State."

If of such is Tennessee, open wide your doors and bid her Representatives to enter. If of such, she has been they have been kept in waiting too long already. If, on the contrary, when measured by the standard, or weighed in the balance, she is "found wanting," continue your sentinels on duty, with instructions to guard vigilantly every approach to your Capitol.

If I have succeeded in making myself understood the House will observe that we now have the proper parties in court. We know now with whom we are to deal, and upon whom we are to pass judgment. Here we may drop the State of Tennessee and take up the men who inhabit her territory. The former neither has nor can she commit treason. The latter have essayed to stab the Government to the heart. The former is in no way responsible to us, for she is really but a myth. The latter have a living, physical existence, and can be arrayed at the bar of justice.

The passage of this joint resolution affects the relations of the people of Tennessee to the General Government in no respect save their representation in Congress. It is therefore a question of expediency, and nothing more. I understand the committee to place it on that ground, and upon that, and that alone, so far as at present appears. I take issue with them.

I have said the people expect us to provide against the repetition of the scenes through which we have just passed. One of the means to be employed, and by far the most effectual of any that has been suggested for the purpose, is to provide for placing and perpetuating the powers of both State and national Governments in loyal hands. It would appear that the committee are of opinion that such is accomplished in this resolution. I am unable to come to such a conclusion.

The joint resolution says:

"And whereas the people of Tennessee are found to be in a condition to exercise the functions of a State within this Union," &c.

Here is a fact asserted that virtually settles the whole question. Upon its truth depends everything else connected with her admission. In what "condition" do the committee intend us to understand "the people of Tennessee are found to be in" that they are qualified "to exercise the functions of a State within this Union?" I will not impeach their intelligence by supposing they are of opinion that anything like a majority of the people are loyal to the United States. The testimony they have taken warrants no such conclusion. Every report that comes to us from there negatives any such an idea. We have in addition the testimony of the highest in authority, both civil and military, that without the aid of Federal bayonets the State government could not endure for a week.

Without aid from without Governor Brownlow informs us he would be compelled to "take up his bed and walk." If left to herself, it is doubtful if an outspoken Union man would be able to canvass a congressional district in the State prior to the next election. I am very much of opinion that were President Johnson himself required to spend a few nights at his mountain home in East Tennessee, the most loyal portion of the State, more "uneasy would lie the head that wears a crown" than when in proximity to Thaddeus Stevens and Charles Sumner in Washington, unless assured by some late treaty stipulations. The only hypothesis left from which the committee could come to such a conclusion is that because the present government there is in loyal hands, and the joint resolution requires them to promise as a condition-precedent to their admission that they will keep it there, that it follows as a matter of course that "the people of Tennessee are in a condition to exercise the functions of a State in this Union."

It is drawing largely on our faith in asking us to come to any such conclusion. We all know that the present government is not only sustained but was originally established by the military power of the United States. To this I interpose no objections, but the Army is not always to be kept there for that purpose, and when withdrawn Tennessee again becomes a prey to the rebels. Suppose this resolution becomes a law, Tennessee complies with all the conditions, her members admitted to both Houses, and we awake some morning and find that the Legislature has repealed some or all of the laws referred to in this resolution, what then? Are her Senators and Representatives to be ejected in consequence? Is she in that event in or out of the Union? Here would arise another batch of knotty problems difficult of solution. That such a result will follow is certain to my mind. These conditions will certainly be violated or evaded if the rebel element predominates as sure as day follows night, for "Where there is a will there is a way." If Tennessee is yet in her swaddling clothes, unable to stand alone and dependent on others for protection, I readily come to the conclusion she is not in a condition to exercise the functions of a State within this Union.

Reference has frequently been made to the State of Missouri, and a parallel claimed in the case of Tennessee. There is no similarity in the two cases. Indeed, in all that is essential to their representation in Congress they are as far apart as the poles. True, both were slave States at the beginning, and both contained many disloyal persons. The government of each was, in the incipiency of the rebellion, in traitorous hands, who refused to furnish troops to put down the rebellion. But here the parallel ceases. Tennessee was declared by the proclamation of the President to be in rebellion, and all intercourse between her people

and the people of other States forbidden. Missouri was at no time so declared nor regarded. The Federal flag floated over no part of the territory of Tennessee for more than nine months. No important town in Missouri was at any time occupied by the enemy, and no armed foe at any time walked the streets of her commercial metropolis. Her important thoroughfares were never but temporarily obstructed. The government of Tennessee was for a long time in rebel hands, and until driven out by Federal troops. As soon as treason manifested itself in the government of Missouri the loyal people rose in their might, hurled the traitors from their places of power, chased them from the State, and installed loyal men in their places.

Missouri has at all times been fully represented in Congress by loyal men, regularly elected. Has such been the case in Tennessee? Missouri at all times responded promptly to every demand of the General Government for troops, and I venture the assertion furnished a larger number in proportion to her arms-bearing population than any State in the Union. The General Government is to-day her debtor to the amount of $7,000,000 for money advanced for its use. How stands Tennessee in that respect? Slavery was abolished in Tennessee by Federal bayonets. The people of Missouri abolished it in spite of the "world, the flesh, and the devil," the administrations at Jefferson City, Washington, and Richmond. The loyal masses early decreed its immediate extinguishment, and gave "neither sleep to their eyes nor slumber to their eyelids" until the work was done. Missouri, without any command from Washington, and while the war was still going on, placed all her people equal before the law, and provided for the mental improvement of her freedmen by a tax on property, the proceeds of their toil. There is not a Federal soldier on her soil, nor is their presence necessary. Is Tennessee the parallel in this respect? Finally, Missouri has placed her government in the hands of men who have stood by the Union in six troubles nor forsaken it in the seventh, and intends to thus perpetuate it. "Treason is made odious" there, and bloody-handed traitors compelled to take a back seat. When Tennessee becomes the parallel of Missouri, works up to the model Missouri furnishes, and gives evidence of her ability to stand alone, none will be more forward in welcoming her than the humble individual now addressing you.

But the question is daily being asked, how long is the South to be excluded, and what period of probation is required? The President in answer has said, "Until they bring forth the fruits of repentance." Who objects to that? We are asked if we intend to tax them, require military service of them, and still deny them representation. Have not the people of the District of Columbia, and of Nebraska and Utah the same right to complain? Why are the people of Utah denied admission into the Union? Other States have been admitted with a much smaller population. We all know the reason, and should we consider treason any less a crime, or should we seek to render it less odious than polygamy? Not one reason now given or that has ever been given for rejecting Utah but applies with tenfold force when applied to every southern State. But we are told that we should be generous and forgiving. I will admit it. One says, "Pray, has not the South suffered enough already?" I answer yes, and too much, but who are the authors of her suffering? Surely not those who warned her of the abyss to which she was hastening. Another says, "You must be forgiving." I agree to that, we must forgive them. Another says, "You must treat them kindly and seek to restore good feeling and brotherly love." Very well. I will agree to that also; still, I cannot but remember that for sixty years every demand upon us from that quarter was yielded to upon the same plea, coupled with threats, and relentless war was the fruit. Another says, "Let by-gones be by-gones," and every gentleman on the other side of the House unites in saying, "Let us meet them as brothers, treat them as the prodigal son was treated, kill the fatted calf, and make merry."

For the sake of peace I am disposed to yield a great deal, and as this beautiful parable of the Saviour presents a case more nearly parallel with that under consideration than any other that suggests itself to me, I am disposed to unite with the Opposition and make it the "basis of reconstruction." There is another reason why we should all close in upon that platform, for when we have an example furnished by Him "who spake as never man spake," and we follow it, we are sure to not go wrong. There can be no question but posterity will approve our course, and I believe our constituents will say to us, "Well done, good and faithful servants." The prodigal son, then, is to be our guide, and let us look into it a little and apply the principle in practice.

"A certain man had two sons, and the younger said to his father, Father, give me the portion of goods that falleth to me. And he divided unto them his living." This, I infer, means: "I want to secede. I am deprived of my rights here, therefore I prefer to set up for myself, and be let alone." His father, rather more Christian-like than Uncle Samuel, finally consented. The account continues: "And not many days after the younger son gathered all together and took his journey into a far country"—Dixie probably—"and there wasted his substance with riotous living." It is not stated that he stole anything when about to leave, nor that he attempted to take the life of his benefactor. Unlike our erring brothers, he did not seize on his father's strong box, *à la* New Orleans and Charleston, nor clandestinely purloin his weapons of defense, *à la* Floyd. But the world has grown wiser since then. "And when he had spent all there arose a mighty famine in that land, and he began to be in want." How completely this plank in the platform fits, proving conclusively its architect to be a master workman. "And he went and joined himself to a citizen of that country"—that is, sought a foreign alliance—"and he sent him into his fields to feed swine." Our brothers were not quite so successful. Had they succeeded, undoubtedly the sequel would have been the same. "And he would fain have filled his belly with the husks that the swine did eat; and no man gave unto him." The blockade was effective, you observe. He finally—probably after about four years' absence—came to himself and returned to his father, who still had "bread enough and to spare." As he met the old gentleman he exclaimed, in the anguish of his soul, evincing a spirit of real and sincere penitence, "Father, I have sinned against heaven, and in thy sight, and am no more worthy to be called thy son; make me as one of thy hired servants."

Who has ever seen a rebel return in this frame of mind, craving forgiveness for his crimes, considering it a privilege to be permitted to occupy the most humble position in society, and ready to perform service even the most menial in its character? On the contrary, they generally bear themselves in the most arrogant and even insulting manner. Instead of asking forgiveness for the wrongs they have done, they tell you they "accept the situation." Instead of asking that they may be permitted to enter their father's house, they abruptly tell you to vacate it, for it is theirs. Their only regrets are that their efforts were not crowned with success.

But as I am to-day in a compromising mood and ready to yield nine points in ten rather than not succeed, I will consider them as truly penitent, returning as the prodigal returned, broken in spirit and contrite of heart. Hence we will receive them as he was received. The prodigal was clothed, for he was naked, but not more so than were they. Hence we must clothe them, and as their services may hereafter be required in a more honorable war than they have hitherto been engaged in, I suggest that blue is the most appropriate color. Besides, we perhaps have a small surplus of that color left over. "A ring was put upon his finger." Certainly it is necessary that some badge should be worn that the faithless may be distinguished from the faithful. A ring shall be put on their fingers that they may be hereafter known. It is less degrading and humiliating when worn upon the finger than either the wrist or ankle; therefore we will put it on the finger, for the chivalry has always been sensitive on that point, and we should be very careful and not wound his feelings or impeach his honor.

But the fatted calf must be killed, the minstrels called in, and we must make merry. Yes, and we have done all that. What loyal heart did not rejoice when the "Johnny Rebs" were marched home by the boys in blue, keeping involuntary step to the music of the Union they had put forth such efforts to destroy; not with the "pomp and circumstance of glorious war," as when they departed, but sick, hungry, and naked. We all rejoiced, and still rejoice, and generations yet unborn will continue to rejoice on every succeeding anniversary of that glorious event, not only with music and dancing, but with "bonfires and illuminations."

Here ends the first act in the drama of the prodigal son. There is another act to be performed. The curtain rises presenting entirely different scenery, and a new character steps forward.

A little reconstruction becomes necessary. The other son enters. He, the eldest, and who had ever remained loyal, never having transgressed his father's commandments, and hearing music and mirth-making, inquires the cause. The situation is explained to him, and he feels as President Johnson says he felt when he saw "Union men standing out in the cold, often unable to get a receipt or a voucher for their losses," while "traitors could get lucrative contracts, pushing loyal men aside." He felt "deeply pained." His father comes out and entreats him to come in. He says, "No, I have served thee faithfully lo these many years. I have at no time set at defiance thy commands. While this, thy recreant son, was devouring thy living, rioting with harlots, I was keeping vigils over thy household and defending thy possessions. This principle of reconstruction does not exactly meet my 'unqualified approbation.'"

The kind-hearted old gentleman saw the force of such reasoning at a glance. He felt the rebuke, and readily admitted that his "policy of reconstruction was not a success." He says, "True, my son, you have indeed 'borne the burthen in the heat of the day,' and all you have said is true. I will do you no wrong. This thy 'erring brother' has returned. I will be merciful to him. I will not exact the life he has forfeited, nor the liberty he is no longer in justice entitled to enjoy. I will restore them to him, and overlook his crimes and transgressions. But while I do this I will do thee no wrong, for from henceforth all that I have is thine. That White House yonder is reserved for thee. Those council halls shall alone be occupied by persons of thy choice. The ermine prepared for those who are authorized to expound my will shall be placed upon those whom thou art pleased to appoint. All, all is thine."

Here, gentlemen, is a plan of reconstruction ordained of God, and transmitted to us from heaven. Give to your eldest, your first-born, your loyal and faithful sons the control of your possessions for all time to come by laws as unchangeable as the everlasting hills; as unalterable as those of the Medes and Persians. Let Tennessee or any other State assume that attitude, and she is welcome to these Halls. Let this be known as the policy of the Government, to be observed in all time to come, and you may rely upon it "treason will be odious," and our land will never again be drenched with fraternal blood.

Mr. PERHAM obtained the floor.

QUARTERMASTER GENERAL'S EMPLOYÉS, ETC.

The SPEAKER laid before the House a communication from the Secretary of War, in regard to officers employed in the Quarter-

master General's office in Washington, and information respecting Corcoran's Art Building; which was laid upon the table, and ordered to be printed.

And then, on motion of Mr. GRINNELL, (at four o'clock and thirty-five minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to the appropriate committees:

By Mr. BOUTWELL: The petition of William Clayton, and others, citizens of South Adams, Massachusetts, in reference to the tariff.

By Mr. DELANO: The petition of Sylvester Best, and 62 others, citizens and wool-growers of Knox county, Ohio, and John Hayne, and 50 others, citizens and wool-growers of Licking county, Ohio, praying an increased tariff on foreign wools.

By Mr. GARFIELD: The petition of Singleton King, and 48 others, citizens of Youngstown, Ohio, praying for the passage of a law by Congress to regulate insurance companies.

By Mr. SCHENCK: The petition of citizens of Ohio, for an increased tariff on wool.

IN SENATE.

MONDAY, *April* 9, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY.

The Journal of Friday last was read and approved.

COMMITTEE SERVICE.

The PRESIDENT *pro tempore* appointed Messrs. GRIMES, MORGAN, and HENDRICKS the committee of conference, on the part of the Senate, on the bill (H. R. No. 122) making appropriations for the naval service for the year ending 30th June, 1867.

The PRESIDENT *pro tempore* appointed the following members to constitute the select committee to consider the bill (S. No. 249) to incorporate the National Telegraph Company, agreeably to the order of the Senate of the 5th instant: Mr. SHERMAN, (chairman,) Mr. CLARK, Mr. HARRIS, Mr. BROWN, and Mr. NESMITH.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War transmitting, in answer to a resolution of the Senate of March 12, 1866, a report of the chief Engineer furnishing information in relation to the amount of money required for the improvement of the harbor at the mouth of Fox river, Wisconsin; which, on motion of Mr. HOWE, was referred to the Committee on Commerce, and ordered to be printed.

The PRESIDENT *pro tempore* also laid before the Senate the following message from the President of the United States:

To the Senate of the United States:

I transmit a communication from the Secretary of the Interior, with the accompanying papers, in reference to grants of lands made by acts of Congress passed in the years 1850, 1853, and 1856, to the States of Misssisippi, Alabama, Arkansas, Florida, and Louisiana to aid in the construction of certain railroads. As these grants will expire by limitation on the 11th day of August, 1866, leaving the roads for whose benefit they were conferred in an unfinished condition, it is recommended that the time within which they may be completed be extended for a period of five years.

ANDREW JOHNSON.

WASHINGTON, D. C., *April* 7, 1866.

PETITIONS AND MEMORIALS.

Mr. HOWE presented the petition of N. Daniels, late captain third Wisconsin infantry, praying for compensation for horses lost by him while in the service of the United States; which was referred to the Committee on Military Affairs and the Militia.

Mr. WILLIAMS presented a petition of the citizens of the State of Oregon and Washington Territory, praying for the payment of claims that accrued to those citizens in the Indian war of 1855 and 1856, in accordance with the order of a commission authorized by act of Congress to audit such claims; which was referred to the Committee on Military Affairs and the Militia.

He also presented a petition of citizens of Oregon, praying for the establishment of a weekly mail route from Oregon City to Lebanon, in that State; which was referred to the Committee on Post Offices and Post Roads.

Mr. WILSON presented a petition of citizens of Albemarle county, Virginia, praying for the passage of an act exempting Dr. Charles Brown from the limitation of the patent laws and that he may receive a patent for his invention; which was referred to the Committee on Patents and the Patent Office.

Mr. SUMNER presented a petition of citizens of Massachusetts, praying for increased duties on exports wherever the same are needed for the full protection of home labor; which was referred to the Committee on Finance.

Mr. SHERMAN presented resolutions of the Legislature of Ohio, in favor of an increase of the duty on imported wool, so as to secure to the American wool-grower the same protection against foreign competition that is now insured to the manufacturer of either pure or mixed woolen goods; which were referred to the Committee on Finance.

Mr. TRUMBULL. I present the petition of the judges of the supreme court of the District of Columbia and other citizens of the District, stating that there is no provision for the payment of counsel assigned to defend persons charged with offenses in this District who are unable to procure counsel, and asking that a provision be made authorizing the assignment of counsel to defend such persons and for the payment of counsel so assigned. I move the reference of the petition to the Committee on the Judiciary.

The motion was agreed to.

Mr. MORGAN presented the petition of John H. Boynton, praying for the passage of an act authorizing the Secretary of the Treasury to issue an American register to the British bark Azelia; which was referred to the Committee on Commerce.

He also presented a petition of N. C. Winslow, of Buffalo, New York, praying for the passage of an act to change the name of the schooner Lucinda Van Valkenberg, to that of Camden; which was referred to the Committee on Commerce.

Mr. ANTHONY. I offer the memorial of Samuel S. Greene, president of the National Teachers' Association; Thomas Hill, president of Harvard University; James P. Wickersham, principal of the Pennsylvania State Normal School; Andrew J. Rickoff, president of the Board of Education of Cincinnati; and E. O. Haven, president of the Michigan University, asking for the establishment of a national Bureau of Education. The memorialists, who are among the first educators in this country and in the world, set forth that they have adopted this memorial after long and careful consideration and discussion in the National Teachers' Association, and give at some length and with much force the reasons why their memorial should be granted. I move its reference to the Committee on the Judiciary.

The motion was agreed to.

Mr. HARRIS presented a petition of brewers of Albany, New York, praying that Congress may so adjust the duty on barley imported from Canada that it may not exceed five cents per bushel; which was referred to the Committee on Finance.

Mr. MORRILL presented the memorial of Richard Wallach, mayor of the city of Washington, praying for the passage of an act imposing a special tax on the property of the city for the improvement of the Washington city canal; which was referred to the Committee on the District of Columbia.

He also presented the petition of Fiske & Dale, Josiah Towle, and Morse & Co., merchants of Bangor, Maine, praying to be relieved from the payment of the additional duty of fifty per cent. imposed by joint resolution of April 29, 1864; which was referred to the Committee on Finance.

Mr. CONNESS presented the memorial of Phineas Banning, praying for the establishment of a port of entry at Wilmington, California; which was referred to the Committee on Commerce.

Mr. JOHNSON. I present the petition of the Numismatic and Antiquarian Society of Philadelphia, a corporation created by the State of Pennsylvania, in which they represent that the coinage of the United States might be made of interest and of permanent value by becoming the repository of events of note, whether civil or military, in the history of the country; that a long and unmeaning series of coins whose chief variety is a mere difference in date is almost an anomaly and a retrograde step in civilization, and praying that the mode of coinage may be changed in that particular in the way stated in the memorial. I move its reference to the Committee on Finance.

It was so referred.

REPRESENTATION OF SOUTHERN STATES.

Mr. MORGAN. I present concurrent resolutions of the Legislature of New York relative to the terms and conditions on which States in rebellion should be admitted to representation in Congress. I move that they be printed and referred to the joint committee on reconstruction.

The motion was agreed to.

Mr. MORGAN. I ask for the reading of the resolutions.

The Secretary read them, as follows:

Concurrent resolutions relative to the terms and conditions upon which the States in rebellion should be admitted to representation in Congress.

Resolved, That it is our mature and deliberate conviction that no State within which there has been insubordination or rebellion should be admitted to share in the national legislation until it presents itself, not only in an attitude of actual loyalty and harmony, but in the persons of representatives whose loyalty cannot be questioned, and that each House of Congress is the sole judge of the qualifications and election of its members, and has full power to determine for itself when the constituency or the representatives meet the conditions above set forth.

Resolved, That it is also our conviction, that as the country was pledged in the beginning and throughout the war against the rebellion, to a vigorous prosecution thereof, to the great and paramount end of the vindication of the national integrity, and the reëstablishment of the national Government; that as it accepted, during its progress, as a measure of war, just and constitutional at the time of its utterance, the President's proclamation of emancipation; that as it adopted at its close, as a measure of high national policy and justice, the constitutional amendment, which not only by the organic law theoretically made freedom universal, but, quite as important, conferred upon Congress all the constitutional powers needful to establish and enforce universal freedom in practice and in fact; so the nation is pledged to the world, to humanity, and most of all, to the freedmen, that in all lawful ways the liberty and civil rights of every human being, subject to the Government of the United States, shall be protected and enforced, regardless of race, color, or condition, against every wrongful, opposing law, ordinance, regulation, custom, or prejudice, and that the spirit which formed and organized, and developed to the present strength that policy, has not fulfilled its allotted work until every subject of that Government stands free not only, but equal, before the law.

Resolved, That we are in favor of the extension of equal suffrage in the District of Columbia to all male citizens of suitable age.

Resolved, That whatever difference as to details may exist among the representatives of the people, whether executive or legislative, in the measures necessary to attain the great ends which peace after so great a war should yield, we also, in some mode, its representatives, are not of the opinion that there should subsist such diversity of intention as to general results, or as to the method of attaining the same, as should produce hostility of attitude or the severance of political relations, but that mutual reconsideration of positions and adjustment of differing views, will leave in firm and productive alliance the identical great purposes of all, to wit, the real peace and constitutional unity of all the States and the assured liberty of all the people.

PAPERS WITHDRAWN.

Mr. KIRKWOOD. I desire to have referred to the Committee on Claims the petition and papers of James P. Johnson, now on the files of the Senate. The papers were referred to that committee at the first session of the Thirty-Eighth Congress, and, I have been informed, were reported upon favorably, but no bill for his relief was ever passed by Congress. I now wish to have the papers again referred to the same committee.

The motion was agreed to.

On motion of Mr. CLARK, it was

Ordered, That the memorial of Edmund F. Brown, a notary public of the United States and commis-

sioner of Washington city, praying for the payment of money which he alleges to be due him for services rendered in taking certain depositions, be taken from the files of the Senate, and referred to the Committee on Claims.

On motion of Mr. SUMNER, it was

Ordered, That the message from the President of the United States, transmitting a report from the Secretary of State, with accompanying papers, in relation to the claim on this Government of the owners of the British vessel Magicienne, and recommending an appropriation for the satisfaction of the claim pursuant to the award of the arbitrators, received on the 5th instant, be referred to the Committee on Foreign Relations.

CHANGE OF REFERENCE.

Mr. SHERMAN. A House joint resolution (H. R. No. 67) providing for the reappraisement of the lands prescribed in an act for the relief of William Sawyer, and others, of Ohio, came here the other day, and by inadvertence was referred to the Committee on Indian Affairs. It ought to have gone to the Committee on Private Land Claims; and I move that the Committee on Indian Affairs be discharged from the further consideration of that resolution, and that it be referred to the Committee on Private Land Claims.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. WILSON. I am directed by the Committee on Military Affairs and the Militia, to whom was referred the bill (H. R. No. 360) to reimburse the State of Pennsylvania for moneys advanced Government for war purposes, to report it back without amendment; and I desire to give notice that I shall endeavor to call it up to-morrow morning.

Mr. DOOLITTLE, from the Committee on Military Affairs and the Militia, to whom were referred resolutions of the Legislature of Kansas, in favor of an appropriation to that State to reimburse the citizens thereof for money expended by them under the call for volunteers of December 19, 1864, and the draft resulting therefrom, and in favor of the allowance of the same bounty to persons held to service under that draft as was paid to volunteers under the call, in pursuance of which the draft was made, asked to be discharged from their further consideration; which was agreed to.

He also, from the same committee, to whom the subject was referred, reported a bill (S. No. 259) to authorize the Secretary of War to settle the claims of the State of Kansas for services of the militia called out by the Governor of that State, upon the requisition of Major General Curtis, the commander of the United States forces in that State; which was read and passed to a second reading, and the papers accompanying it were ordered to be printed.

EMMA J. HALL.

Mr. LANE, of Indiana. The Committee on Pensions, to whom was referred the amendment of the House of Representatives to the bill (S. No. 181) for the relief of Emma J. Hall, have instructed me to move the concurrence of the Senate in the amendment, which is simply to make the bill comply in its form with the existing law. I ask for action upon it now.

The Secretary read the amendment of the House of Representatives, which was to strike out all after the enacting clause of the bill and insert in lieu of the words stricken out the following:

That the Secretary of the Interior be, and hereby is, authorized and directed to place the name of Emma Jane Hall, widow of Perry Hall, deceased, late a chaplain in the seventy-ninth regiment Indiana volunteers, upon the pension rolls at the rate now prescribed by law for officers of his rank, and to be continued during her widowhood.

Mr. LANE, of Indiana. By inadvertence in the Senate bill, the Commissioner of Pensions was directed to place her name on the roll. The law requires that the business of pensions shall be in charge of the Secretary of the Interior. The amendment simply changes the Senate bill in that particular.

The amendment was concurred in.

BOUNTIES TO WOUNDED SOLDIERS.

Mr. WILSON. The Committee on Military Affairs and the Militia, to whom was referred the joint resolution (H. R. No. 105) giving construction to the law in relation to bounties payable to soldiers discharged for wounds, have directed me to report it back to the Senate without amendment; and if there be no objection I ask that it may be put on its passage now.

The PRESIDENT *pro tempore*. It requires unanimous consent to consider the joint resolution on the day it is reported. Is there any objection?

Mr. SHERMAN. What is it? Let it be read for information.

The Secretary read the joint resolution; which declares that the true intent and meaning of the words "or in the line of duty" used in the fourth section of the act approved March 3, 1865, entitled "An act to amend the several acts heretofore passed to provide for the enrolling and calling out the national forces, and for other purposes," requires that the benefit of the provision of that section shall be extended to any enlisted man or other person entitled by law to bounty who has been or may be discharged by reason of a wound received while actually in service under military orders, not at the time on furlough or leave of absence, nor engaged in any unlawful or unauthorized act or pursuit.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

Mr. FESSENDEN. I should like to have some explanation of the resolution.

Mr. WILSON. It is simply to give a construction to the act of last year in regard to bounties. By the practice of the Department if a person is wounded while not strictly in what is called the "line of duty" he cannot receive any part of the bounty. I understand that in one case where a man was practicing in loading pieces and was thereby injured, no bounty could be obtained. If a soldier is wounded in practicing with a cannon at a fort, or if in building a bridge in front of the enemy he falls off the bridge and is harmed in that way, or if he is run over by a team while on duty, the construction is that he cannot be allowed the bounty. This joint resolution allows the bounty to those persons who have been wounded while engaged in any way in the service, provided they were not on leave of absence or engaged in any unlawful act when injured. I think it is but fair and just.

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

BILLS INTRODUCED.

Mr. SHERMAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 255) to remit and refund certain duties; which was read twice by its title, and referred to the Committee on Commerce.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 256) to equalize the distribution of the national currency; which was read twice by its title, referred to the Committee on Finance, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 257) to regulate the occupation of mineral lands, and to extend the right of preëmption thereto; which was read twice by its title.

Mr. SHERMAN. This bill was framed with a view to carry into effect the recommendation of the Secretary of the Treasury, and I suppose the better reference would be to the Committee on Mines and Mining. I move that it be referred to that committee and printed.

The motion was agreed to.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 258) to provide for the erection of warehouses in the port of New York for the reception of goods and merchandise arriving in vessels subject to the quarantine by the laws of the State of New York; which was read twice by its title, referred to the Committee on Commerce, and ordered to be printed.

REPRESENTATION OF SOUTHERN STATES.

Mr. LANE, of Kansas. I ask the consent of the Senate to take from the table Senate joint resolution No. 59, for the purpose of reference.

The PRESIDENT *pro tempore*. Will the Senator indicate the committee to which he desires it to be referred?

Mr. LANE, of Kansas. I suppose under the rule it will go to the committee on reconstruction.

The PRESIDENT *pro tempore*. It is moved that the joint resolution (S. R. No. 59) providing for admitting Senators and Representatives from the States lately in insurrection into the Congress of the United States, be taken from the table and referred to the committee on reconstruction.

The motion was agreed to.

E. W. EDDY.

Mr. NESMITH. If the morning business is through, I move to take up House bill No. 394.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 394) for the relief of the estate of E. W. Eddy. By its provisions, the proper accounting officers of the Treasury are to allow to the estate of E. W. Eddy, late paymaster in the United States Army, a credit of $200,000, the amount of public funds in his hands as paymaster on board the steamer Brother Jonathan, lost by the wreck of that steamer, on the 30th day of July, 1865, off the coast of California. The final order for the allowance of the credit is not to be made until the whole subject connected with the alleged loss shall be fully investigated by the Paymaster General and he shall certify to the proper department of the Government that the loss of the vessel has been fully proved.

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

REVISION OF THE STATUTES.

Mr. POLAND. I move to take up Senate bill No. 59, providing for a revision of the statutes of the United States.

Mr. FESSENDEN. I hope my friend will not push that this morning. I am very desirous to take up the loan bill, which has been before us for some time. I think it will not take long, and the bill of the Senator from Vermont may occasion debate.

Mr. POLAND. I think it will take but a few moments.

Mr. FESSENDEN. Very well.

The motion was agreed to; and the bill (S. No. 59) to provide for the revision and consolidation of the statutes of the United States was considered as in Committee of the Whole.

It proposes to authorize the President of the United States, by and with the advice and consent of the Senate, to appoint three persons, learned in the law, as commissioners to revise, simplify, arrange, and consolidate all statutes of the United States, general and permanent in their nature, which shall be in force at the time the commissioners may make the final report of their doings. In performing this duty, the commissioners are to bring together all statutes and parts of statutes which, from similarity of subject, ought to be brought together, omitting redundant or obsolete enactments, and making such alterations as may be necessary to reconcile the contradictions, supply the omissions, and amend the imperfections of the original text; and to arrange the same under titles, chapters, and sections, or other suitable divisions and subdivisions, with head-notes briefly expressive of the matter contained in such divisions; also with side-notes so drawn as to point to the contents of the text, and with references to the original text from which each section is compiled, and to the decisions of the Federal courts, explaining or expounding the same, and also to such decisions of the State courts as they may deem expedient; and they shall provide by a temporary index, or other

expedient means, for an easy reference to every portion of their report.

When the commissioners have completed the revision and consolidation of the statutes they are to cause a copy of the same, in print, to be submitted to Congress, that the statutes so revised and consolidated may be reënacted if Congress shall so determine; and at the same time they shall also suggest to Congress such contradictions, omissions, and imperfections as may appear in the original text, with the mode in which they have reconciled, supplied, and amended the same; and they may also designate such statutes or parts of statutes as in their judgment ought to be repealed, with their reasons for such repeal.

The commissioners are to cause their work to be printed in parts so fast as it may be ready for the press, and to distribute copies to members of Congress, and to such other persons, in limited numbers, as they may see fit, for the purpose of obtaining their suggestions; and they shall, from time to time, report to Congress their progress and doings. The statutes so revised and consolidated shall be reported to Congress as soon as practicable, and the whole work closed without unnecessary delay. The commissioners are each to receive as a compensation for his services at the rate of $4,000 a year for two years, with the reasonable expenses of clerical service and other incidental matters, not to exceed $2,000 in the whole for such expenses.

The first amendment reported by the Committee on the Judiciary was in section six, line three, to strike out the word "four" and insert "five;" and after the word "for" strike out "two" and insert "three;" so that the clause will read:

That the commissioners shall each receive as compensation for his service at the rate of $5,000 a year for three years.

The amendment was agreed to.

The next amendment was in section six, line six, after the word "dollars" to strike out "in the whole" and insert "annually;" so that the clause will read:

With the reasonable expenses of clerical service and other incidental matters, not to exceed $2,000 annually for such expenses.

The amendment was agreed to.

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

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

WAYS AND MEANS.

Mr. FESSENDEN. I move that the Senate proceed to the consideration of the bill (H. R. No. 207) to amend an act entitled "An act to provide ways and means to support the Government," approved March 3, 1865.

The motion was agreed to; and the bill was considered as in Committee of the Whole. It is proposed by this measure to enact that the act entitled "An act to provide ways and means to support the Government," approved March 3, 1865, shall be extended and construed to authorize the Secretary of the Treasury, at his discretion, to receive any Treasury notes or other obligations issued under any act of Congress, whether bearing interest or not, in exchange for any description of bonds authorized by the act to which this is an amendment; and also to dispose of any description of bonds authorized by that act, either in the United States or elsewhere, to such an amount, in such manner, and at such rates as he may think advisable, for lawful money of the United States, or for any Treasury notes, certificates of indebtedness, or certificates of deposit, or other representatives of value, which have been, or which may be, issued under any act of Congress, the proceeds thereof to be used only for retiring Treasury notes or other obligations issued under any act of Congress; but it is not to be construed to authorize any increase of the public debt. Of United States notes not more than $10,000,000 may be retired and canceled within six months, and thereafter not more than $4,000,000 in any one month. The act to which this is an amendment is to continue in force in all its provisions, except as thus modified. The Secretary of the Treasury is to report to Congress at the commencement of the next session the amount of exchanges made or money borrowed under this act, and of whom and on what terms; and also the amount and character of indebtedness retired, with a detailed statement of the expense of making such loans and exchanges.

Mr. FESSENDEN. I have simply to say that this bill is reported by the Committee on Finance without amendment as it came from the House of Representatives. The Committee on Finance, on careful examination of it, came to the conclusion that the bill was well enough as it stood, and did not deem it advisable to make any amendment. It has been before the Senate a considerable time, and I presume every Senator understands it. I ask, therefore, for the question.

Mr. SHERMAN. I regret very much that I differ from the Committee on Finance in regard to this bill. This is the only bill on the subject of the public debt on which I have not been able to concur with that committee. I do not perceive the necessity for conferring on the Secretary of the Treasury, in the present condition of our finances, the vast powers which are conferred by this bill. It is true that the bill, as it now comes before us, is very different from the one first reported in the House of Representatives. That bill contained a clause which authorized the Secretary of the Treasury, not only to sell the bonds of the United States abroad, but to make them payable in the currency of foreign countries. Under it the Secretary could make our bonds payable in pounds, shillings, and pence, guilders, francs, or any of the various forms of currency known in any European country. That provision was stricken out by the House of Representatives. After the bill was defeated in the House a clause was added, on reconsideration, intended to limit the power of the Secretary of the Treasury over the legal tenders; but this clause, although wise in itself, will not accomplish the purpose designed by the House. It is on this ground, chiefly, that I object to the bill as it now stands.

If Senators will read this bill they will find that it confers on the Secretary of the Treasury greater powers than have ever been conferred since the foundation of this Government upon any Secretary of the Treasury. Our loan laws heretofore have generally been confined to the negotiation of a single loan, limited in amount. As the war progressed the difficulties of the country became greater, and we were more in the habit of removing the limitations on the power of the Secretary of the Treasury; but generally the power conferred was confined to a particular loan then in the market. This bill, however, is more general in its terms. This bill authorizes the Secretary of the Treasury to sell any character of bonds without limit, except as to the rate of interest. The authority conferred does not limit him to any form of security. It may run for any period of time within forty years. He may sell the securities at less than par, without limitation as to rate. He may sell them in any form he chooses. He may put them in the form of Treasury notes or bonds, the interest payable in gold or in paper money. He may undertake, under the provisions of this bill, to fund the whole debt of the United States. The only limit as to amount is the public debt, now $2,700,000,000. The power conferred on the Secretary of the Treasury is absolute. It is not only for this year, or during the current fiscal year, or for the next year, but it is for all time, until the act shall be repealed. It gives him absolute power to negotiate bonds of the United States to the amount of $2,700,000,000, without limiting the rate at which they shall be sold, and only limiting the rate of interest inferentially. The description of the bonds in the act of March 3, 1865, referred to here, would probably limit the rate of interest to six per cent. in coin and seven and three tenths per cent. in currency; but with this exception there is no limitation.

It seems to me that in the present condition of our finances there is no necessity for conferring these large powers on the Secretary of the Treasury. The people are not generally aware of the favorable condition of our finances. The statement of the public debt laid on our tables the other day does not show fully the condition of the finances. It is accurate in amounts, but does not give dates of the maturity of our debts. But a small portion of the debt of the United States will be due prior to August, 1867, that will give the Secretary any trouble. But little of the debt which he will be required to fund under the provisions of this bill matures before August, 1867. The temporary or call loan, now over one hundred millions, may readily be kept at this sum even at a reduced rate of interest. The certificates of indebtedness, amounting to sixty-two millions, may easily be paid from accruing receipts, or, if necessary, may be renewed or funded at the pleasure of the Secretary. None of the compound-interest notes or the seven-thirty notes mature until August, 1867.

It is idle, therefore, to say that there is now at this moment or will be within a year a pressing necessity to confer on the Secretary of the Treasury this enormous power. It is only in view of a change of policy, either by a reduction of the currency or some other measure in the mind of the Secretary, that he can claim that this power is necessary. Nor is there necessity to contract debt to pay current expenditure, because the present income exceeds our expenditures. In his annual report he estimated that there would be a deficit of $112,000,000 at the close of the present fiscal year. It is now admitted that there will be no deficit and that the amount on hand together with the current receipts will be amply sufficient to pay all the expenses of the Government up to the 1st of July next. During the next year the estimated expenditures of the Government are stated by him at $280,000,000. Those estimates have been reduced somewhat by the bills sent to us by the House of Representatives, and it is scarcely possible that the expenditures during the next year can reach $275,000,000 on the present basis. We have a current revenue now of nearly $500,000,000 during this year. The amount of the gold receipts during the first three quarters of the year were $140,000,000, and for this quarter will not fall below $20,000,000. It is supposed that the internal revenue will yield during the current year not less than $320,000,000, so that including the profits realized on the sale of surplus gold we have an income of not less than $500,000,000 this year, and some authorities place it higher. Thus it is evident that we have $200,000,000 more income this year than we will have expenditures next year.

No man can tell the future, and it is possible, perhaps probable, that during the next year there will be a considerable falling off in revenue. I do not think the internal revenue will fall off materially, because there are many sources of revenue that will come in next year which we have not yet felt. No one doubts that the tax on spirits will yield two or three times as much next year as it has during the current year. No doubt, however, other taxes will be diminished. I hope that the duties received from imported goods will be diminished by a diminution of importations. But neither the Secretary of the Treasury nor the head of the Internal Revenue Bureau contemplates any very material reduction, and on the basis of the present law as it now stands we shall next year probably have a revenue of $400,000,000, or at least $100,000,000 more than the expenditure of the next year.

There is therefore no immediate necessity for these vast powers. The question then naturally occurs, why grant them? I have carefully considered this question, and I do not think there is now any immediate necessity for granting these powers. No debt is maturing that is likely to give the Government any

trouble; and yet we are now about to confer upon the Secretary of the Treasury powers that we cannot in the nature of things recall. It is true we may repeal this law next year, but we know very well that when these large powers are granted they are very seldom recalled; they are made the precedents of further grants of power and are very rarely recalled. It seems to me that the whole object of the passage of this bill is to place it within the power of the Secretary of the Treasury to contract the currency of the country, and thus, as I think, to produce an unnecessary strain upon the people. This power I do not think ought to be given to him. The House of Representatives did not intend to give him this power. They debated the bill a long time, and it was defeated on the ground that they would not confer on the Secretary this power to reduce the currency, and finally it was only passed with a proviso contained in the bill which I will now read:

Provided, That of United States notes not more than $10,000,000 may be retired and canceled within six months from the passage of this act, and thereafter not more than $4,000,000 in any one month.

The purpose of the House of Representatives was, while giving the Secretary power to fund the debt as it matured or even before maturity, giving him the most ample power over the debt of the United States, to limit his power over the currency, lest he might carry to an extreme the view presented by him in his annual report. If this proviso would accomplish the purpose designed by the House of Representatives, I would cease all opposition to this bill; but I know it will not, and for this very obvious reason: that there is no restraint upon the power of the Secretary of the Treasury to accumulate legal-tender notes in the Treasury. He may retire $200,000,000 of legal-tender notes by retaining them in his possession without cancellation, and thus accomplish the very purpose the House of Representatives did not intend to allow him to accomplish. He may sell the bonds of the United States at any rate he chooses for legal tenders, and he may hold those legal tenders in his vaults, thus retiring them from the business of the country, and thus produce the very contraction which the House of Representatives meant to deny him power to do. Therefore, this proviso, which only limits the power of canceling securities or notes, does not limit his power over the currency, and he may, without violating this bill, in pursuance of the very terms of the bill, contract the currency according to his own good will and pleasure.

My own impression is, that the Secretary of the Treasury, in carrying out his known policy, will do so. He says he will not contract it unreasonably or too rapidly, but I believe he will contract the currency in this way. He has now in the vaults of the Treasury $60,000,000 in currency and $62,000,000 in gold—a larger balance, I believe, than was ever before kept in the Treasury until within the last two or three months; a larger balance than was ever found in the Treasury during the war. What is the object of accumulating these vast balances in the Treasury? Simply to carry out his policy of contraction. With this power of retaining in the Treasury the money that comes in, what does he care for the limitation put upon this bill by the House of Representatives? That says that he shall not retire and cancel more than $10,000,000 of United States notes within six months, and not more than $4,000,000 in any one month thereafter; but why need he retire and cancel them when he can retain them in the vaults of the Treasury, and thus contract the currency?

That brings me to the only material objection that I have to this bill. I do not think it wise now to place in the power of the Secretary of the Treasury or any mortal man this absolute and extreme control over the currency of the country. We have never done it before. In the bills that were passed when my honorable friend from Maine [Mr. FESSENDEN] was Secretary of the Treasury and when Mr. Chase was Secretary of the Treasury, we authorized them to retire legal-tender notes, but only by issuing other notes of the same character. That was the provision of the law of 1864. Here we authorize the Secretary of the Treasury to retire $10,000,000 within six months and $4,000,000 a month thereafter. That is all that the House of Representatives was willing to do after debate and after an extreme effort to pass this bill; but, sir, under the general operations of the Treasury Department, without the power given him by this bill, he may contract the currency without limit at his pleasure. If the Senate are willing to give him that power, I have nothing further to say. They should do it with their eyes open. I do not think the Secretary of the Treasury ought to have that power.

I do not doubt in the least either the integrity or the capacity of the present incumbent of the Treasury Department. I have as much confidence in him as any one; but this question of the currency is one that affects so intimately all the business relations of life, the property of every man in this country, his ability to pay taxes, his ability to earn food and acquire a living, that no man ought to have the power to vary the volume of currency. It ought to be regulated by law, and the law ought to be so fixed and so defined that every business man may transact his business with full knowledge of the amount of the currency, with all its limits and qualifications. I ask you, sir, how any prudent or judicious man can now engage in any important business in which he is compelled to go in debt with this large power hanging over him. It would be unsafe for him to do so. The amount of the currency ought to be fixed by law, whether much or little. There ought to be a limit, and no man ought to have the power at pleasure to enlarge or contract that limit.

With the powers conferred by this bill the Secretary of the Treasury may at any moment put into the market a bond that will at once absorb all the legal tenders. It may be said that he will not do it; that it will not be his interest to do it. Then why give him the power to do it when it is not necessary? If there was now an impending necessity resting upon him to raise a large sum of money within a short period of time I would be willing to give him this power as cheerfully as any one; but there is no such necessity. Why, then, place it in his power to contract or expand the currency at his pleasure, and thus make fluctuations in all the business transactions of life? That this is not an idle fear I know from correspondence with some of the best business men of the country. They are alarmed and refuse to go on and contract new obligations; they refuse to go on with their business in the manner in which it has gone on; the effect of the pendency of this bill has been to limit and contract the transactions in various operations of enterprise and business. I presume there are few Senators here but have had complaints of this kind made from business men in different parts of the country, that the uncertainty of the amount of currency on hand, and the uncertainty as to the policy to be adopted by the Government and the Secretary of the Treasury, takes away from them all means of judging as to what amount of business they can transact.

With this power, the will or whim of the Secretary of the Treasury might destroy all the men of the country who are compelled to go into debt to carry on their business. A sudden contraction or a sudden expansion might build up or tear down fortunes. I think every citizen of the United States has the right to know how much currency, which is the blood of the whole system, shall be in existence for the time being. There should be some limit over this power. The House of Representatives intended that there should be a limit. They proposed such a limit; but as I said before, that limit, from the very nature of things, without further amendment is of no account whatever. The passage of that limitation leaves the bill, in that particular, precisely as it was before; because all the Secretary has got to do is to receive these legal tenders, put them in the hands of the Treasurer of the United States, Mr. Spinner, where they will be safely kept, and they will be retired from the business operations of the country, and produce the very results which the House of Representatives intended to prevent.

I do not think that this is the time or the occasion to enter into an elaborate discussion as to the amount of currency needed in this country, or as to the various financial subjects that may be brought before the Senate at different periods. There are only two propositions in this bill. One is to give the Secretary of the Treasury, without limit, the power to sell bonds of the United States, to retire any portion of the present debt of the United States at pleasure. He may, with these bonds, as he is doing, retire notes that are not due for two or three years. He may, with this power, at his discretion retire the five-twenties and ten-forties or any portion of the debt of the United States. He may sell bonds without limit as to amount, without limit as to rate. There is no limit upon him. That power you may choose to give him, although I see no necessity for it.

Then there is the further power to reduce the currency, a power that has not heretofore been granted to any Secretary of the Treasury. The amount heretofore has been fixed and limited by law. By the first clause of this bill the Secretary is authorized to receive Treasury notes, or United States notes of any form or description, and there is no limitation to this power except the clause which I have read to you. That limits his power to retire and cancel the United States notes, but not to accumulate the enormous balances on hand. My own impression has been, and when this bill was before the Committee on Finance I believed it would be better for that committee to report to the Senate a financial project to fund the debt of the United States. I believe that now is the favorable time to do it. If a five per cent. bond, a long bond of proper description and proper guarantee, was now placed upon the market, with such ample powers to negotiate it as ought to be given to the Secretary of the Treasury, such a loan as was authorized two years ago, at a reduced rate of interest, to be exempt from taxation, I have no doubt whatever the Secretary of the Treasury could fund every portion of the debt of the United States as it matured.

The real difficulty of our financial position in the future grows out of the peculiar character of the seven-thirty notes. By those notes the holder, when they mature, has the option to demand the money or a five-twenty bond. It is manifest that as this option is out it cannot be recalled. To recall that option would be a violation of the faith of the United States, that the holder of these notes may demand either the money or a bond. It is therefore the interest of the United States so to preserve its credit that the five-twenties will be above par, and thus the seven-thirty notes when due will be converted into five-twenties, which will run for five years at six per cent.; then I think the whole debt of the United States might be funded and reduced to five per cent. I do not believe it would limit or cripple the power of the Secretary if we would grant him authority to put upon the market such a bond as I have mentioned and limit his power over the nationnl currency by requiring him to pay out all over a reasonable balance in the Treasury toward the liquidation of the public debt, and thus prevent the very thing the House of Representatives intended to prevent by this proviso to the bill.

I do not like to embarrass a bill of this kind with amendments, because I know it is difficult to consider amendments of this sort requiring an examination of figures and tables. I have prepared a bill very carefully, with a view to meet my idea, but I will not present it now in antagonism to this bill passed by the House of Representatives and the view taken by the Finance Committee, because I know, in the present condition of the Senate, it would not

probably be fully considered. My only purpose now is to point out the fact that is perfectly clear to the mind of every sensible man who has examined this bill, that the bill as it stands does not carry out the manifest intention of the House of Representatives when they passed it, and that the proviso limiting the power of the Secretary over the legal-tender currency does not accomplish the purpose which they designed, and without which I know the bill never could have passed the House of Representatives.

Mr. FESSENDEN. If the House of Representatives did not understand what they were doing when they passed this bill, it arises from the fact that they did not give the rein to their imagination, as the honorable Senator from Ohio seems to have done to his, and take it for granted that the Secretary of the Treasury had a purpose to accomplish, and that he would not hesitate to take any means in his power to accomplish it, improperly, against the manifest will of Congress, against the interests of the country, and against his own interests as Secretary of the Treasury.

Mr. SHERMAN. I appeal to the Senator whether that is a fair statement of my argument?

Mr. FESSENDEN. That is the way precisely that I understand it.

Mr. SHERMAN. That is precisely as no gentleman could have understood me. I never said that the Secretary improperly would do so and so by any means. It is one of the honorable Senator's modes of stating propositions.

Mr. FESSENDEN. I certainly did not mean to say that the honorable Senator supposed he designed to do so, but such seems to be the result of his argument—that the Secretary of the Treasury having the power, as he says, there is danger that he might abuse it in that precise way; else his argument amounts to nothing at all as against the bill. I certainly acquit my friend of any sort of desire or intention to throw any imputation on the Secretary of the Treasury. That he did not mean to do.

I have been requested by a Senator to state precisely what this bill does. By the bill that was passed at the last session permission was given to the Secretary to issue a certain description of bonds, and to dispose of those bonds in the market, for the purpose of raising a revenue for the support of the Government. The bonds were to run for a certain length of time, not to exceed forty years in duration, and they might be made redeemable after five years, &c. It is unnecessary for me to read the description of the bonds. The clause at the end of the bill provides:

"And any Treasury notes or other obligations bearing interest, issued under any act of Congress, may, at the discretion of the Secretary of the Treasury, and with the consent of the holder, be converted into any description of bonds authorized by this act," &c.

"Or other obligations bearing interest." That bill was confined, the Senate will remark, to obligations bearing interest. He might take up any of them, no matter what they were, provided they bore interest, and convert them into any description of bonds authorized by that act, and there was no limitation upon the mode or the terms upon which he might dispose of the bonds in the market. After peace came, the idea of the Secretary of the Treasury was, and is, and I take it that it is the idea of everybody, pretty much, who has thought much on the subject—it certainly was mine, with my limited information on the subject; it certainly was that of the former Secretary of the Treasury, Mr. Chase, and has been that of all other men who thought they knew something about financial matters—that the sooner we could return to the original condition of things in the country, that is, to a specie basis, safely, the better it would be. The present Secretary of the Treasury, upon taking possession of the Department, stated that view. He took occasion afterward to restate it in a more formal manner. He alluded to it in his annual report; and he asked Congress to give him power to exchange these bonds, not only for obligations bearing interest, but for what are called the greenbacks or obligations of the country that do not bear interest. It was received with very great favor, almost universal favor, in the first instance; but after awhile it occasioned an emotion. Certain people took very great pains to get up the idea that because the Secretary of the Treasury had developed such views, therefore, necessarily, his intention was to push that matter directly in the face of all that might be considered beneficial, and to devote himself exclusively to that idea, whatever might be the condition of business in the country; and men calling themselves business men, who desired to have a very expanded currency, busied themselves, according to my observation, to create as much excitement as possible with a view to keep the currency expanded and to prevent the Secretary even from having the power to operate in relation to that subject. That occasioned the very great contest that was carried on for so long a time in the House of Representatives; and after a very considerable discussion and a recommittal of the bill once or twice it eventuated in the bill which is now before us, my objection to which is, not its strength, but its weakness. It is as little of a bill, it strikes me, with reference to conveying the proper powers to the Secretary as could well be devised.

Mr. CLARK. Homœopathic.

Mr. FESSENDEN. "Homœopathic," my friend says. It is rather a small dose. Now, what does it do? It says simply that he may convert any of the existing obligations of the Government, not only those bearing interest, but those not bearing interest, into any description of bonds authorized by the act of last year—not Treasury notes, not seven-thirties, but bonds, and the bonds are specifically described. They are not to run beyond a certain time; they may be anywhere within that limit; and they are to bear not more than six per cent. interest. This proposition, as I said before, includes not only the conversion into bonds of the obligations bearing interest, but those not bearing interest. But for fear that that power would be abused; that the Secretary under it would proceed at once, like a man who had no sense and no discretion, to take up those which did not bear interest before he took up those which did, for the sake of creating a panic, and with the purpose of paralyzing his own action, tying his own hand, disorganizing the business of the country and preventing people from being able to pay taxes—that was about the argument—for fear that he might do all this, and in order to limit him a proviso was inserted in the bill that for six months to come after the passage of this act, carrying it to about the time that we shall meet again, he shall not retire more than $10,000,000 of United States notes, and after that not more than $4,000,000 a month. With that limitation, which is not of the slightest consequence by way of limitation, because he cannot retire a dollar of it, in my judgment, before that time arrives, the bill was satisfactory, and the House at last agreed to pass it.

Now, the bill is of consequence in this particular, and it is about the only consequence I attach to it: it recognizes the principle distinctly, as admitted and avowed, that soon, as soon as it can be done with safety to the interests of the country and the business transactions of the country as they may develop themselves—and every financier must look upon matters as they develop themselves from day to day to guide his action—as this proceeds Congress means that we shall get back at some time or other, and as speedily as the good of the country will admit, to the old system, to specie payments, the sound basis of our currency. That is about all there is of it, so far as its practical effect is concerned. It recognizes the principle as a correct one, and begins to carry it out. What will be the effect of rejecting this bill? The effect of rejecting it is to say to everybody "that our idea is to keep an expanded currency, to keep paper in the market, to abandon the old system, to stretch out, and leave everybody who deals in money the advantage of trading upon such an uncertain and unfixed state of things;" an idea which, according to my judgment, would be a calamitous one, and which we ought at once to discard.

That is all there is in the bill in reality except the idea which is advanced by the honorable Senator from Ohio as to what the Secretary can do. The Senator says that we have got nothing to pay just now. True, we have not. We have got our certificates of indebtedness out, but the Senator says, we can renew them if necessary. Would you renew them? Would you have this floating paper in the market bearing six per cent. interest payable in a year, coming due every month? Would you have the Government which is now in a state of peace embarrassed in its operations and embarrassing all other money operations by renewing that which we can well put into a definite shape, taking floating paper out of the market?

Mr. HOWE. What is the amount of them now?

Mr. FESSENDEN. I do not know; it is not very large; about sixty millions, I believe.

Mr. SHERMAN. Sixty-two millions. He has power under the present law to convert them into bonds bearing interest.

Mr. FESSENDEN. Undoubtedly; but I am talking now about that part of the Senator's argument that the Secretary has nothing to pay or nothing that need embarrass him, because with regard to these certificates of indebtedness which are coming due every month he can renew them if he has not the money. So he can; but is it advisable that he should renew them? Is it not very much better, if he cannot pay them in cash, to convert them into standing obligations which do not go into the market in the way in which those certificates of indebtedness do, and which are not used as a species of currency?

It is true we have none of those seven-thirty notes coming due immediately; but a large portion of them come due before many months, and a very considerable portion of them in the course of the next two years. Nobody supposes they will all be paid in money as they mature. No very large portion of this debt is to be extinguished for a considerable period of years. Nobody thinks of it. The question is, will the interest be promptly paid upon it, and can we have it reduced regularly, in reasonable amounts? Nobody thinks of laying so heavy a load on the country at once, burdened as it is now. Therefore it will become necessary to substitute for it some other kind of security on longer time, and to be prepared to meet the interest which we may well be. I know with regard to other loans the Secretaries have been obliged to begin beforehand to make their calculations, put out their advertisements, and begin to redeem; and that must be done with reference to these interest-bearing obligations; the compound-interest notes, seven and three-tenths notes, and others; and we must begin a regular system of funding our debt. The question is, what are we to lose by it? The Senator believes we may borrow money at five per cent. interest. It would be a very dangerous experiment to rely upon that belief. You tie the Secretary down to long bonds at five per cent. interest, and the experiment we have tried heretofore does not demonstrate that it is very likely that it would be successful.

It is very much better in my judgment to leave something to the discretion of the Secretary (if you can trust him) as to the mode of doing it. That he ought to have this power to exchange these different obligations in this way, I think no man on looking at the thing can doubt for a single instant, because it will not do to put off the time until the very day approaches. It is a thing necessarily to be anticipated, necessarily to be provided for beforehand, to a very considerable extent.

Then, after you have disposed of that, comes the objection which my honorable friend states to the bill in the question, how can the Secretary act under this bill? In the first place he can put the bonds in the market and sell them for what he can get. So he could before. It

would not be very much for his interest, as the financial officer of the Treasury, or for the interest of the country, to run down his own securities by flooding the country with them unwisely and at low prices. It is not to be presumed that he would do that. In the next place the argument of the Senator supposes (because it is the only way he can accomplish it) that he will force into the market immense amounts of these bonds, thus diminishing the value of the securities that are already out, running our securities down for the sake of accumulating a large amount of greenbacks, and holding those greenbacks against the will of Congress and against the interests of the country in the Treasury, and directly in the face of this act as to what he is to retire.

Is that supposable? It is the only way he can do it; here the act of Congress says you may exchange for anything you please, but so far as these greenbacks are concerned you shall not retire over ten millions of them in the next six months and only four millions a month afterward for a given length of time; but the Senator points to what he can do, and argues that he will use the power he possesses in that way. It would be contrary to all common sense and the ordinary dealing of men; and it is not to be supposed that he would so act. The argument supposes the Secretary is so bent on getting non-interest-bearing obligations out of the market before he gets interest-bearing obligations out of the market, that he will dispose of large amounts of our bonds below par, lessen the market value of them as they stand, reduce their credit and the credit of the Government, for the sake of piling up in the Treasury millions and hundreds of millions of greenbacks against the will of Congress, over and above the amount which he is authorized to retire, for he cannot cancel them, as the Senator says he has no authority to cancel them.

Now, sir, it is to be supposed that the Secretary of the Treasury is a tolerably honest man, and it is to be supposed that he is a tolerably sensible man. My own opinion is that he is a very honest man and a very sensible man, and understands what he is about. What would be accomplished by overthrowing the business of the country and destroying it, if such would be the effect? In the first place by destroying business he would cut off all the resources of internal revenue, because people cannot afford to do business that breaks them up. In the next place he takes out of the hands of the tax payers a currency by which alone they are able to meet the obligation upon them to pay taxes. And thus, in order to carry out the favorite idea, according to the Senator, he may, and if the argument means anything he probably will, forget all that, and do precisely the thing which it is not intended he should do, and which it is against the interest of the country, and his own interest as the manager of the Treasury, to do.

I suppose no such thing, and I do deem it wise to trust him with this power, in the first place because he would not exercise it in the manner supposed if he could, and in the next place because between this time and the meeting of Congress at the next session he can do at best but very little. I do not believe he will retire a dollar. He must have a certain amount of money on hand. There is very much yet to be settled up. He does not know, you do not know, nobody can tell what the business of this country is to require. A short time ago an attempt was made to frighten us very much by the immense importations that were going on, which were to destroy the country unless we did something immediately. Now, the importations are down, so much so that the revenue is falling off largely. We cannot tell what the changes of business may produce, and even at this time, notwithstanding it is a time of peace, and notwithstanding the fair appearance of everything with regard to our revenue, a revulsion in trade, which is to be avoided if possible, may occasion to us most severe embarassments with the large pressure which is upon us. The Secretary of the Treasury, in this transition state, when it is necessary to make provision for the future, and especially with regard to these matters of currency, must necessarily have a pretty wide and broad discretion over it. He should be limited if you think he has incorrect ideas, but I should be very sorry to base an argument upon the supposition that he will unnecessarily do that which the act intended he should not do, and which it is contrary to his manifest duty in the management of the Treasury and in the management of the affairs of the country, so far as depends on him.

I would give this power, more than all else, for the simple reason that while it can do no harm, I should regard it as a severe calamity to recognize the idea that the present state of things with regard to the currency is to become permanent, and that must be the result unless his policy—I begin to hate the word "policy" in any shape or form; it is a very odious word—but unless his policy is to be recognized as a general principle as the true policy of the Government in this respect. There is really so little in the bill itself, that it is really impossible to talk about it to any length. It shows itself to every man's mind. I consider that the evils that my friend alludes to are purely imaginary, rather the result of an excited feeling occasioned by the flame that has been kindled in the country by this talk about the danger of destroying business, and creating pecuniary embarrassment, than anything else. I hope the bill will pass.

Mr. CHANDLER. Mr. President, during the continuance of the rebellion, when we had a million men in the field, and were spending seven or eight hundred million dollars a year, it was necessary to confer extraordinary powers upon the Secretary of the Treasury. Money we must have; without money we must give up our Government; and we did confer extraordinary powers upon the Secretary of the Treasury. We did right because the life of the nation was at stake. But, sir, now that the rebellion is ended, I am unwilling to renew those extraordinary powers that we were compelled to grant to him during its continuance.

Under the act of March 3, 1865, which is continued by this bill, the Secretary has power to issue any class of bonds he sees fit, the interest not to exceed six per cent. in coin, and the time not to exceed forty years. From the breaking out of the rebellion it was the policy of Congress not to issue long interest-bearing high-rate bonds. I believe the Senator from Maine himself advocated the five-twenty bonds. Those five-twenty bonds proved a success. We have ascertained that we can run the Government on five-twenty bonds. They have never failed us. Now, why at this late day will you put it in the power of any man or set of men to issue long high-rate interest-paying bonds, forty-year bonds? English three per cents are to-day worth 88, and assuming that the credit of this Government is as good as that of Great Britain—and no man doubts it—that would make our forty-year six per cent. bonds to-day worth 176.

Mr. FESSENDEN. There has never been a forty-year bond bearing six per cent. issued.

Mr. CHANDLER. But you give the power. Why give the power? I admit that the Secretary of the Treasury is able and honest; but you have no assurance that he will live three years or one year. You have no assurance who his successor will be, either. You presume that he will be a good man. But allowing that he is honest; all financiers are not honest. You take a New York "ring" of brokers, and they have generally been smart enough to accomplish their purpose, and they would even convince a Secretary of the Treasury that it was for his interest honestly to do what would be greatly against the real interests of the Government. I want to limit him to the issuing of six per cent. bonds for not over five years. In no event would I permit him to issue a bond bearing six per cent. interest at over five years; in other words, I am for five-twenties.

We have of five per cent. bonds, ten-forties, $198,000,000. Those are out of the way, bearing five per cent. interest for forty years. That cannot be changed except at the will of the Government. True, if we can borrow money at the end of ten years at four per cent., you at your own option can pay them off; but except at your option they stand for forty years. You have of six per cent. bonds of 1881 $283,715,000. Those are certainly out of the way for fifteen years. Why grant the Secretary the power to take those up? He cannot take them up of his own will without paying the market price. Why authorize him to go in and pay a premium for those bonds that are fixed, located for fifteen years? Then you have of six per cent. five-twenty bonds $679,000,000. These are placed for twenty years except at the option of the Government. If we can borrow money at less than six per cent., we shall of course go into the market, negotiate a loan, and pay off the five-twenties at the end of five years; but if we cannot, they are fixed for twenty years. Why grant authority to change that loan?

Mr. President, I should like a little further time to examine this bill; but it strikes me as being evil, and only evil; as containing powers, dangerous powers, that no man would be willing to accept. Certainly, if I were Secretary of the Treasury, I should not be willing to accept the powers contained in this bill. You absolutely authorize him to do what he pleases with the $2,700,000,000 of the public debt. He can step into the market to-morrow, under this bill, and say, "I want to borrow $1,000,000,000 on forty-year six per cent. bonds," and a "ring" in New York may say to him, "We will give you 110 or 120 for forty year six per cent. bonds, with the assurance that no more of that kind of bonds will be issued." They might afford to pay any amount if they had that assurance, for in comparison with any other Government securities on earth such bonds are worth more than 150, provided the credit of the Government of the United States is as good as the credit of Great Britain, or any other European Government. There is no limit to the amount of speculation that may be inaugurated and carried out under the powers contained in the bill.

Mr. FESSENDEN. It is only to exchange one species of security for another.

Mr. CHANDLER. Certainly, to exchange one piece of paper for another; in other words, the Secretary can take up your five-twenty bonds and issue forty-year six per cent. bonds in their place if he sees fit. You give him that power. Why give it to him? You say he will not exercise it. I do not know that he will; I hope he will not; but the Senator, who was once Secretary of the Treasury, knows that all men who engage in monetary affairs are not to be trusted to the fullest extent when their interests are at stake. If he does not exercise these powers, why give them to him? If he does, they are dangerous.

Mr. FESSENDEN. The Senator is arguing the bill on a supposition; he evidently has not read it. It authorizes the Secretary of the Treasury to dispose of any species of bonds authorized by the act of March 5, 1865, how?

In such manner and at such rates as he may think advisable.

For what?

For lawful money of the United States, or for any Treasury notes, certificates of indebtedness, or certificates of deposit, or other representatives of value which have been or which may be issued under any act of Congress, the proceeds thereof to be used only for retiring Treasury notes or other obligations issued under any act of Congress; but nothing herein contained shall be construed to authorize any increase of the public debt.

I presume that under that authority nobody would dream of exchanging bonds or securities of one kind for another unless the latter bonds were coming due and must be met in some way or other.

Mr. CHANDLER. Why give him the power?

Mr. FESSENDEN. Because it is necessary in order to meet those very things when they become due; he must have the power.

Mr. SHERMAN. My friend from Michigan

will allow me to state that the second clause of this bill unquestionably gives the Secretary power to dispose of any class of securities described there, and the Secretary not only expects to pay them before they are due but he is now doing it every day. He has the power under this bill to do it.

Mr. FESSENDEN. He has as much as he can do to retire those absolutely due.

Mr. SHERMAN. Under the present law he has the power to make an exchange.

Mr. FESSENDEN. He has power to do that, but he cannot dispose of the bonds. That is what he wants.

Mr. CHANDLER. While I admit his honesty, fidelity, and integrity, I must say that in my judgment a man possessing these powers who was not honest could make more money than any one individual in these United States is worth. We have no assurance that he will live forever, or that he will live one year, and another man may take his place who will not be as honest and as capable as he is.

Mr. FESSENDEN. We must take it for granted that we must have honest men now, in that office especially.

Mr. CHANDLER. I should like to have this bill lie over until to-morrow.

Mr. FESSENDEN. I do not see why. It has been on the table a fortnight.

Mr. CHANDLER. I have never looked at it until this morning, and I should like to have it lie over until to-morrow.

Mr. FESSENDEN. We shall have other matters for to-morrow.

Mr. ANTHONY. It seems to me—if I am mistaken, those gentleman who have examined the matter more, and are better qualified to examine it, can correct me—that we make a mistake when we assume a prosperous condition of our finances from the redundant internal revenue. A large portion of that revenue is derived from production, from manufactures of cotton, wool, leather, iron, rubber, &c., the excise duty on which is six per cent. All those articles have within a few weeks fallen in price, an average, I suppose, of forty per cent. The falling off of the revenue will be much more than forty per cent. The falling off in the excise alone will be forty per cent.; but then where large incomes were returned from manufacturing districts last year, there will be no such incomes this year, and probably none at all. I do not believe that this falling off in the price is to be made up by increased production, because the business of almost all the industrial pursuits is now very far from prosperous, and many of the mills will stop unless there is a change in prices. It seems to me we cannot calculate upon anything like the internal revenue from these sources this year that we had last year. How far that will be made up from the increased returns from the duty on spirits, I cannot pretend to say; but I think the argument drawn from the present internal revenue is not a safe one to rely upon as to the future of our finances.

Mr. FESSENDEN. We cannot calculate on the duty on spirits, because a great many distillers are shutting up their distilleries, saying they cannot compete with cheating.

Mr. ANTHONY. I do not think it is safe to rely on such large receipts as we have had, especially if the taxes are to be reduced.

Mr. SHERMAN. I shall detain the Senate but for a few moments in reply to one or two observations of the chairman of the Committee on Finance, and I shall confine myself mainly to the question of the necessity for this bill. I think he substantially admitted in his argument that there was no necessity for it except to indorse the policy or theory of the Secretary of the Treasury. In the present condition of our finances I do not think it wise to advance theories or to indorse them. Perhaps it was not wise in the Secretary of the Treasury to be so open in the announcement beforehand of what he intended to do, and perhaps it would be just as unwise for Congress now to indorse that policy until we see the events that will come before us.

That this bill is not necessary for maintaining the public credit I think is clearly demonstrated. It certainly is not necessary to meet current expenditures. On all hands it is admitted that our receipts are in advance of our expenditures, and no possible or probable deduction will make our receipts fall below our expenses, so that the bill is not necessary as a loan bill to enable the Secretary to get money to carry on the expenses of the Government. The honorable Senator from Maine admits substantially that it is not necessary for other purposes. The only debt that is maturing during the coming year is $62,000,000 of certificates of indebtedness. The balance now on hand, as reported and shown by the Treasury books, is $120,000,000; but the actual balance on hand is some twenty or thirty millions more than the reported balance, growing out of the manner in which the books of the Treasury are kept.

A draft is drawn here on the Treasurer at New York, and it is immediately put to his credit though the money may not be drawn for some time, so that there is always more money in the Treasury than the books show, and that simple fact led to the controversy about which a good deal has been said in the newspapers, between the Comptroller of the Currency and the Secretary of the Treasury. Deposits are made in the national banks all over the country, and it may be some time before they are so reported at Washington as to be entered on the books of the Treasury here, while if drafts are drawn here on New Orleans or anywhere else they are at once entered on the books of the Treasury to the credit of the proper Treasurer while the money may not be actually drawn out for a month or two months. There is always that discrepancy; there is always more money in the Treasury than is reported by the Treasury Department, not because they intend to deceive anybody, but simply from the nature of the transaction and the manner in which the accounts are kept.

I say there is no necessity for this bill to enable the Secretary of the Treasury to pay the current expenses or to meet accruing indebtedness. The sixty-two millions of certificates of indebtedness can be paid out of the current receipts, or if they are not sufficient, as the Senator knows very well, the Secretary has now power to exchange for those certificates any of the bonds of the United States. He may issue five-twenties in payment of those certificates under the existing law. There is no necessity for the bill therefore for that purpose.

Mr. FESSENDEN. Those people will not take them.

Mr. SHERMAN. Then he can sell the five-twenties under the present law. There is no necessity to pass a bill to meet that difficulty. He can put them upon the market.

Mr. FESSENDEN. He can only exchange.

Mr. SHERMAN. He can sell substantially. There is no trouble in regard to that. I think the power given last year is ample for that purpose. The truth is he has had more money than he has used for such purposes, as I shall show before I get through.

In regard to the seven-thirties, the honorable Senator agrees with me that it is not expected that they will be paid in money; the holders undoubtedly will avail themselves of their privilege to convert them into five-twenties, so that they are not to burden the Treasury. They will be converted into five-twenties, and that will postpone the payment of the principal of all of them five years more, and give the Government the option of paying them after any time within twenty years. There is, therefore, no object in this bill to provide for the credit of the Government, because the credit of the Government is already provided for, and the Secretary of the Treasury has ample power for that purpose.

What, then, is the purpose of the bill? I think the Senator frankly stated it; it is to declare the policy of the reduction of the non-interest-bearing legal tenders. Under the present law, he has power to retire every dollar of the interest-bearing legal tenders by exchange; he may redeem them when they become due, and no portion of them will be due until August, 1867, and then they mature gradually, and not in bulk. He has power under the existing law to retire them by exchange of any securities for them, and with the present ease in the money market there is no difficulty in retiring them whenever he can get hold of them. Whenever he can get hold of them he is now retiring them. The trouble is that they are sought for and held by brokers and banks and bankers, and therefore he cannot reach them until they become due, when they will fall into the body of the national debt. There is no object in passing this bill except to contract the currency, and the honorable Senator says the Secretary will not do that to an unreasonable extent.

Mr. FESSENDEN. Cannot do it.

Mr. SHERMAN. He says he will in his annual report.

Mr. FESSENDEN. He says that is a matter that should be done as soon as it can be done safely and properly.

Mr. SHERMAN. He says he will do it. That is the whole theory of his proposition, and he is doing it. He is doing it in the very way I have mentioned. The Secretary of the Treasury accumulates large balances on hand. Our friend here on my right [Mr. FESSENDEN] had no such balance in his hands when he was Secretary there; he was very glad to have a much less balance; and for the ordinary purpose of the Treasury Department, is there any occasion for the enormous balance now held there? What is that balance held there for? The balance has been so great that he actually has retired notes that are not due for two and a half years.

Mr. FESSENDEN. That was merely to save interest. How long will that continue? He cannot tell what demands there will be.

Mr. SHERMAN. I say there is no necessity for this bill for funding the debt. The limit that is put upon the use of his power over the currency is ample if it was only effective. I would have no objection conferring on him the power to dispose of bonds to meet bills as they mature. Indeed, I may say that was one of the amendments I proposed, but I do not intend to propose them to a Senate so thin as this is, that the power to sell bonds should be only to meet accruing indebtedness. Give him one year if you choose to do it in, but no more. I do not think it is wise to confer on the Secretary of the Treasury the power to meet the indebtedness not accruing for a year or two or three years. I do not think it is necessary in our present financial condition to authorize him to go into market now and sell bonds at current market rates with a view to pay debts that do not mature in a year or two. I have no doubt before the five-twenty loans are due we shall retire every dollar of them at four or five per cent. interest. No one who heeds the rapid developments of new sources of wealth in this country, the enormous yield of gold now, the renewal of industry in the South, the enormous yield of cotton, the growing wealth of this country, and all the favorable prospects that are before us, doubts the ability of this Government before this debt matures to reduce it to four or five per cent. interest. I therefore do not think it wise to place it in the power of the Secretary of the Treasury to sell six per cent. long bonds or any class of bonds, even five per cent. bonds, except to meet accruing indebtedness. This I am perfectly willing to do—the Secretary of the Treasury may sell bonds at any rate to meet debts as they accrue, but that is not the purpose of this bill.

Mr. FESSENDEN. That is all the purpose there is in it.

Mr. SHERMAN. Then there is no necessity for it.

Mr. FESSENDEN. Yes, there is. I differ from you.

Mr. SHERMAN. We have here the tables before us. The honorable Senator and I know when this debt matures.

Mr. FESSENDEN. The Secretary has not power to sell bonds as the law now stands.

Mr. SHERMAN. The power is clearly given in this section to dispose of any description of bonds for any certificates of indebtedness or for any Treasury notes due.

Mr. FESSENDEN. Very well; can he go and sell them and appropriate them to taking up legal tenders?

Mr. SHERMAN. Certainly. I will state here that I have in my hands a table showing that the Secretary of the Treasury used a portion of the surplus reveuue for the purpose of retiring the seven-thirties not due for two years and a half to come. He has retired of the third issue of seven-thirties, $7,769,000; and of the second issue, not due until June and July, 1868, $4,402,000; making an aggregate of $12,000,000 which he has retired in the very mode provided in this bill.

Mr. FESSENDEN. But a question was raised as to the power to do that, and, on consideration, he had strong doubts about it. That is the very power which he wants now conferred on him.

Mr. SHERMAN. That is the power now given, and he will use the power. He may think it to his interest to retire the whole of the seven-thirties or the ten-forties; but is it wise for us to give him that power now, at the heel of the war and before things have settled down? I do not think it is.

I repeat, I do not wish to call in question the integrity of the Secretary of the Treasury. The Senator interjects by saying we must look ahead. There is just the difference between him and me. I say the future for this country is hopeful, buoyant, joyous. We shall not have to beg of foreign nations, or even of our own people, money within two or three years. Our national debt will be eagerly sought for, I have no doubt. I take a hopeful view of the future. I do not wish now to cripple the industry of the country by adopting the policy of the Secretary of the Treasury, as he calls it, by reducing the currency, by crippling the operations of the Government, when I think that under any probability of affairs in the future, all this debt will take care of itself. I believe that if the Secretary of the Treasury would do nothing in the world except simply sit in his chair, meet the accruing indebtedness, and issue his Treasury warrants, this debt will take care of itself, and will fund itself at four or five per cent. before very long. All that I object to in this bill is the power it gives the Secretary of the Treasury over the currency, to affect the currency of the country now, and to anticipate debts that are not yet due.

In my judgment, the amount of legal tenders now outstanding is not too much for the present condition of the country. I expect to come back to specie payments, and I expect to see gold approach the level and standard of our paper money, without any material reduction of our currency. Our currency now is less than the currency of England or France, according to the statistical tables we have. Our whole currency now is $704,000,000, excluding the interest-bearing legal tenders, which do not enter at all into the currency, and which cannot be found. Including bank circulation of every kind, and excluding interest-bearing legal tenders, our currency is $704,000,000. Four hundred and fifty millions of it consist of United States notes and fractional currency. Then, there are over $250,000,000 of bank currency, including the notes of outstanding State banks which are being rapidly retired. The limit of the national bank currency is $300,000,000; so that the whole currency cannot exceed $750,000,000.

Mr. FESSENDEN. You do not consider the compound-interest notes as anything.

Mr. SHERMAN. I do not, because they are not in circulation, and the Senator could not get them if he should try.

Mr. ANTHONY. What was the circulation before the war?

Mr. SHERMAN. Two hundred and seven million dollars in paper, and perhaps $100,000,000 in gold. It is difficult to tell how much gold there was in the country. In the present condition of affairs I do not think it is necessary to retire any portion of the currency in order to get back to specie payments. I do not think our currency is superabundant. The reasons are obvious. We are now developing the mining regions. The gold is increasing with great rapidity. The amount of gold in the country I believe in five years will approach the amount of our legal-tender currency, so that the one will be convertible into the other. The proportion of gold to our legal-tender currency at this day is greater than it was at the beginning of the war. Exchange with all countries is in our favor. Bills on England can now be had for 106. We have vast uses for the currency. It is being absorbed in the southern States and held there. They are glad to sell anything they have got for it. Cotton, which was hardly counted, indeed, when the war ended, has yielded enormously.

Mr. McDOUGALL. Allow me to ask the Senator a question. Is the rate of exchange on England of which he speaks, 106, the rate in gold or in currency?

Mr. SHERMAN. In gold. That is two or three per cent. in our favor.

Mr. McDOUGALL. In gold?

Mr. SHERMAN. Certainly. In regard to going back to specie payments, when did ever a nation travel toward specie payment as rapidly as this country has done without a reduction of the currency? Here is a significant fact, that when gold was 280 our currency was $550,000,000, and now, when our currency is over $700,000,000, gold is 130, and going down and down, and no power in this world can prevent it going down. This fact shows that the mere amount of legal tender outstanding does not fix the rate of gold. That is the result of the restored confidence of the people of this country and of all nations in the credit of the United States. I believe that if the Secretary of the Treasury will keep out of the stock market, will just remain in his seat in the Treasury Department, and pay the debts as they become due, the people of the United States will take care of the currency of the country and of the credit of the Government, and it will not be necessary to buy bonds before they mature or do anything else except simply to meet the current indebtedness in order to bring us back to specie payments within twelve or eighteen months, and I do not believe any power can prevent it.

I do not wish the Senate to suppose that in these remarks I intend to criticise the conduct of the Secretary of the Treasury. He takes a different view from what I do. I am more hopeful than he is. He probably, like a good banker, as he is, wants a very large balance on hand. I have more confidence in the future, and am willing to trust the future. I do not now see any imperative necessity for this bill, but at the same time I would make no opposition to the bill, no opposition to the vast power to sell bonds, because I think the power would not be abused, if the Secretary would not in this way undertake to carry out what he calls his policy, a contraction of the currency without any specific law. That is what I am afraid of, his interference to contract the currency. The honorable Senator from Maine, however, would seem to think that I impute to him a wrong motive, and therefore I corrected him when he made the remark that I seemed to suppose the Secretary was doing this improperly. I think not. The Secretary of the Treasury informed us that he desired to reduce the currency, and he has been doing it as far as he could. He has been accumulating large balances. He was opposed to the proviso which has been inserted in this bill, and yielded to it only with reluctance. That is admitted on all hands, and he is not precluded either in honor or propriety from carrying out his policy if you gave him the power to do it.

This is all I desire to say upon the bill. The only reason why I spoke is because I cannot vote for it under the circumstances; I felt bound to state thus briefly the reasons that actuated me in coming to this conclusion.

Mr. CHANDLER. I move to strike out in the eleventh line of section one, after the word "act" the word "either," and in the twelfth line, after "United States" to strike out "or elsewhere." I am opposed to contracting a foreign loan under any circumstances. We have gone through the war without borrowing one dollar from abroad. If our bonds have gone abroad it is because the money was sent here to buy them and take them; but I am opposed, now that the war is over, to applying to the English stock exchange or any foreign stock exchange, hat in hand, begging that they will, now that we do not need it, loan us a little money. We have shown our capacity, our ability, to carry this debt, and I am opposed to contracting a loan anywhere out of the United States or in any currency but the dollars of the United States.

During the wars of Napoleon, while the English debt was rolling up to its enormous proportion, the people of Great Britain accumulated vast fortunes; and it was that English debt, that enormous debt, more than perhaps any other agency, that made London the financial center of the world. That center will change within your life, sir, and mine, if we live to old age; the moneyed center of the world is to be the city of New York at no distant day. London will be, as she is now, great and powerful, but not the center. We are already extending our railroads to the Pacific; the trade of China and the Indies is to pass through New York, and New York is to be the center at no distant day.

Now, sir, why should a great nation like this, that has shown its capacity to carry this enormous debt, and has carried it successfully and cheerfully, now negotiate a bond in francs, or pounds, shillings, and pence?

Mr. FESSENDEN. There is no power in this bill to do that.

Mr. CHANDLER. What does "elsewhere" mean?

Mr. FESSENDEN. That is the question where you shall dispose of the bonds.

Mr. CHANDLER. To make a foreign loan, it means.

Mr. FESSENDEN. No; it is a bond of the description authorized by this act, no other description. It may be disposed of "elsewhere" than in the United States.

Mr. CHANDLER. I am opposed to that, and therefore I propose to take away the power to negotiate "elsewhere" than in the United States. I move to strike out "either" and "elsewhere;" so as to read, "in the United States."

Mr. FESSENDEN. This is the first time I have heard any objection to that phrase; it has been in all the bills. We have not had occasion to resort to it, and I trust we shall not. It was first proposed to authorize a different description of bonds, one payable in a foreign currency, but that has been stricken out. This phrase is simply that if he finds it necessary or advisable to go abroad (which I do not think he will) he may go there and dispose of them. The object is simply that there shall not be a combination in this country, in Wall street or anywhere, to tie his hands, and if there is he may be able to control it by going into another market. It has been in all the bills.

Mr. GUTHRIE. Mr. President, I have examined this matter as carefully and as considerately as opportunity has allowed me to do. We owe a pretty large debt, $2,700,000,000, with additons yet to be provided for. A large portion of it will mature in the course of a few years. More than eight hundred millions of seven-thirty notes are to be provided for within three years. There is a large amount of bonds due in a short time. We have the interest on all to provide for as it becomes due; we have to provide for the principal as it matures. I suppose there is no gentleman on this floor that has greater confidence than myself in the ability of this Government to meet this debt, and, indeed, if necessity required it, to meet a larger

debt than this; but then I think prudence requires that we should timely provide, not only for the interest, but for the future payment or funding of the principal as it becomes due.

The Secretary of the Treasury, as the financial minister of this Government, is charged with the payment of the interest of this debt, charged also under our laws and the expectation of our people with the payment of the principal as it matures, and under the legislation of Congress we expect him to pay that debt as it becomes due. It is due to this Government that it should be done, that a failure to pay fifty or one hundred millions of this debt when it matures shall not take place—a failure that would affect the credit of the Government and throw discredit on the intelligence of Congress all over the world.

I am not so sure as the Senator from Ohio is that this is not the proper time for providing for the payment of the maturing debt. The eight hundred and odd millions he does not set down; but it supplies the place of currency, and should be so regarded. It ought to be provided for, and thus we come to the aid of that pressure in the money market which all men of experience and men of historical knowledge expected to follow the close of this war. There has never been a great struggle in England that has not produced a monetary stricture between the high money prices of war and the reduced prices of peace. I do not think it would be very wise hastily, suddenly, without the preparation of the country, to bring up the notes that we have paid out at a discount in the payment of our debts contracted during the war to a specie standard, and give their holders specie for them. If I was managing the finances of the Government I do not think I would take in any of the ordinary legal-tender notes, particularly while I could get interest-bearing notes.

The Government has been almost the sole purchaser of the productions of this country for the last five years, and of a large portion of the labor. By the use of legal-tender notes and other issues we paid the persons from whom we obtained our supplies of men, money, and means for carrying on the war. Now, we are distributing it no longer, except to the extent of the interest and the maintenance of the civil Government and the reduced Army and Navy that we keep. In the transition of the industry of the country and the sources of supply from the Government to individuals, the history of all nations and all times has shown where there is stricture in the money market. The Government that has paid the laborers, the Government that has paid for the productions of the looms, the Government that has paid for the wheat and the corn and the oats and the productions of the forest and the production of the mines, ceases to buy them; others must be found to purchase, and to make a new distribution of the relation of purchaser and seller is a slow process.

The Senator from Ohio says the amount of the currency ought to be fixed. There would be some advantage in a fixed currency if there was no credit beyond that; but in all the catastrophes that have happened to the currency of the country and in monetary strictures it has not been the amount of money, but the amount of available credit, that swelled prices and led to commercial fatalities. At the period of our last commercial revulsion we had probably a paper currency in this country not exceeding $500,000,000, and yet $5,000,000,000 would not cover the mercantile and individual credits that swelled prices, increased debts, and aggravated the calamities of the commercial crisis. We are now in a transition state; the Government has been sole purchaser and sole distributor of money; we are getting back to the slow process by which it falls into other hands and labor is paid and production is paid by others. Such a state of things has always led to a commercial crisis; and if we have one we shall have it within the two years which are coming, and during that time a wise financial policy, in my judgment, would provide for as much of our debt as it is possible to provide for. If I were in the place of the Secretary of the Treasury I would do just exactly as he has been doing. I would use the surplus money to take up the issues of interest-bearing notes and put them out of the way, if I had a surplus not necessary for the other demands of the Government. I would put him in a situation to continue this, and I hope that he will be able to accomplish it, so that at no one period of time would so much of the public debt fall due as to create trouble and apprehension or combinations between moneyed men and the Government of the United States.

I have made up my mind that there is nothing in this bill that a wise man may not fairly confide to an officer of high character, and certainly of considerable financial ability, who has his reputation and his character before the nation and the world at stake on the manner in which he administers his duty. If I were in that place I would prefer that you should lay down exactly what I should do, so that I should incur no risks, so that I should be able to say, "Here is the law; I cannot sell your bonds and pay your debts in the way you pointed out; it was impossible to do it; you have taken the responsibility, and the credit of the nation has lost its prestige; you have failed in the high obligation which every great people must show of meeting its debts punctually and properly and providing for them fairly; it rests with you, gentlemen." I would not like the responsibility of action. Still, if I intended that the debt should be paid, I would allow this great officer intrusted with the payment of it some latitude and some discretion.

Some may say the liberties of the people, the prosperity of the nation, will be endangered if we delegate such vast powers to the Secretary of the Treasury. When we call a man to the Presidency, when we put a general at the head of our armies, we intrust him with vast powers, vastly greater powers than we confide to the Secretary of the Treasury, and we have no choice. We are obliged to confide in them; these powers are necessary for great times and occasions. I happen to know the Secretary of the Treasury individually, and have known him for some years. He lived in the neighboring State of Indiana, and had character and reputation as a banker; I met him in bank conventions between Indiana and Kentucky when we were consulting upon very interesting subjects, and I always found him to be an intelligent, honest, straight-forward, high-minded, and upright man, and I bear that testimony to him now. I suppose it is not improper to mention Mr. Secretary Chase in this connection; and I thought he was imbued with Mr. Secretary Chase's grand notion of putting down the rebellion and being able to resume specie payments within sixty or ninety days. I thought that he was a little imbued with that notion, and I took occasion to remark to him in the course of conversation, "Mr. Secretary, we have got first to put down this rebellion before we think of resuming specie payments; that is an afterwork;" and he turned to me very kindly and said, "I do not think of doing it before we put down the rebellion;" and then I felt that I had done injustice to him in supposing that he had not looked at the whole ground.

Now, I have no doubt he is anxious to satisfy that portion of the country who are impatient about specie payments and the effect of a depreciated currency. I think it is right that we should all steadily look forward to the propriety at the earliest practicable period, without any hazard to any great interest, and without making grand fortunes for individuals by the operation, of bringing up the paper money to the standard of specie.

When I was in the Treasury Department I had a surplus of money, and the difficulty was to know what to do with it. I was running a race with Congress to see whether I could pay more of the public money than they would appropriate for private expenses as the law left it open to me to do. I had no difficulty about money, but I could not keep my mind from running upon the thought, what will this Government do in the event of an internal struggle or a contest with foreign nations in an arduous war? And I came to the conclusion that it would have to resort to exchequer notes, just as was done during the war. My judgment is that you could not have lived through the war without them. My judgment is that the confederates failed when their currency failed. When it went down, and they could no longer pay their troops, there was no hope for them. I considered then the rebellion substantially at an end; it was but a question of a campaign after that.

Our people have borne taxation well—admirably well. Many of them have large incomes, and I would not advise that the income tax should be taken off. They are the men who have money, and in appealing to the people for money I know of no better way of getting it than to call on those who have it. But in the commercial relations of the United States, particularly in our foreign commerce, debts are created. I have no objection to paying those debts with gold from the mines. I have felt that the productions of the mines were a part of the national wealth just as much as the productions of the field or the forest, and that we had a right to look to them and use them in paying our balances with foreign nations. In the transition state which generally follows a long and protracted war we may expect a diminution of commerce. There may be a diminution in the production of our provision States, so that they will not be able to supply our manufacturers, and enable them to compete with the other manufacturing nations. Our trade hitherto has been pretty well kept up, but there may be a diminution of commerce, and then our people will be less able to pay. We shall then have fewer large incomes to call upon. There will be fewer products from the manufacturing districts, fewer from the agricultural districts; there will be diminished ability to pay taxes. Now is the time to do what this bill provides for, before that takes place, as, in my judgment, it must and will take place sooner or later; for in the history of no country that has passed through the excitements of war and war prices, and come back to peace prices, is there a solitary instance where it has not occurred.

Sir, I believe we are able to pay our national debt. I believe a repudiation of it would do more injury to this nation before the nations of the world than even the success of the rebellion. We have now established our warlike character before the nations of the world; let us take care that in winding up this war and restoring peace we leave no stain on the honesty and credit of the nation. I do not believe there is a man within the sound of my voice, and there is no class of people in any portion of the country with whom I have spoken, that do not want to pay the debt, and that do not think we ought to pay it. Occasionally you will hear men say, "When you restore specie payments, are you going to pay those men who only gave fifty or sixty cents to the dollar for their bonds the full specie face value of the bonds?" That was the great outcry in England when they resumed specie payments, and there was a strong party made against those who brought it about; but still England resumed specie payments, and England has become the money center of the world and has engrossed a great portion of its commerce. I am not one of those who believe that England's moneyed superiority is to keep always as it is now or as it has been for the last fifty years. If we are true to ourselves, true to the bequest made us by the framers of our Constitution, true to the large country that we govern, we shall bring the commercial center to New York and vie with England in commerce; and I believe we shall make another great city on the west, competing with her for the trade of the eastern world, and throwing into this country all its rich benefits and advantages, and that San Francisco will rise up a competitor of New

York in the commercial business of the country; and we shall all rejoice more and more with a restored Government, with maintained credit, and with commercial prosperity, and shall all be proud of our portion and interest in this Government.

In this connection I cannot but in all honesty and candor express the regret which I feel that we have failed to bring back all the States to their places in the Union. I have no doubt that many who have not been as anxious, and who perhaps would not have gone as far as I was prepared to go to accomplish that result, desire the achievement of it as I do; but they have been here fighting these battles while I have been a looker on in another State. I thought at the beginning of this war what I have since expressed—I expressed it so early as in the Peace Convention—that we were in danger of having two military despotisms. There was one in the South, and I hope we shall take care, that having been put down, that there shall not be one erected here.

Now, I am sorry to differ from the Senator from Ohio. I am not for increasing the paper money; I think it ought to be reduced. The paper of this country now is actually fifteen or sixteen hundred million dollars, because I think the compound-interest notes and the seven-thirties are substantially money, and take and occupy the place of money, and when we provide for paying them we increase the money capital of the country and its capacity for business.

I have made up my mind deliberately, after examining all the phases in which I could view this bill, that it is necessary and proper to intrust this power to the Secretary of the Treasury. I think we ought to do it now. The allegation that a power may be abused is not always a good argument with me, because there is much in the surroundings of the men who are to execute your law to prevent an abuse of granted powers. Indeed, I think that rarely occurs among high officers of standing and character.

Mr. HOWE. Mr. President, I have looked at this bill this morning for the first time. I do not know that I entirely comprehend it. I agree with the chairman of the Committee on Finance and with others upon the propriety of getting back to what is called a specie basis as early as possible. I agree with the Senator from Kentucky who has just taken his seat, that it will be a very glad day for this Republic when there will not be found a dollar of public, of corporate, or of personal credit that is not on demand convertible into a specie dollar. How soon that time will come, I take it we are none of us prepared now to say. I presume the first object to be aimed at by the Legislature should be to bring about that day when there shall not be a dollar of national credit which is not convertible into a specie dollar. The great obstacle in the way of this conversion at the present time, I suppose to be the existence of this large amount of credit in the shape of Treasury notes which are made by our law a legal tender. Until that paper is retired, I suppose we cannot look for the resumption of specie payments on the part of others. No bank and no individual will redeem their notes in specie as long as they can be redeemed in this paper; and they can be redeemed in this paper as long as this paper is extant. How to get the paper out of the way, then, seems to be the question. My idea was in the beginning that the only excuse for issuing this paper was the fact that the Government had an urgent necessity for the use of money which could not be borrowed.

Admitting the credit of the Government to be perfectly good—and I never did vote for a law, and I never could vote for a law, which tolerated the idea that the credit of the Government was below par—the fact was that we had occasion to disburse an amount of money which could not be collected in coin if the Government could demand every dollar there was in the nation. The Government was driven, then, either to make paper of its own or to borrow paper from somebody else. I always thought that the Government should place itself in the attitude of saying to the country; "A certain amount of interest is fair to be paid; we are willing to pay that; whenever, therefore, individuals or corporations will loan us money at this fair rate of interest we will borrow it; when we cannot borrow money at this rate of interest we will make it." We never could say that we will not purchase wheat or meat, or hire soldiers or laborers because we have not the coin to pay them; provisions and labor we must have, and we demanded of the country to supply them, and they did. We were bound to pay them. When we could not command the coin with which to pay them, we had to make them work for us on our credit. If we made them take our credit in any form as an equivalent for their labor, for their meat, for their supplies, it was only fair to say that their creditors should take the same form of credit from them. That necessitated the making of these notes a legal tender. I always thought, having settled what was a fair rate of interest to be paid, the Government should just say, "When you loan us this money at that rate of interest, we will borrow it; when you will not, we will issue our own notes." We adopted first six per cent. as a fair rate of interest. I thought it was a fair rate of interest, because by the legislation of nearly all the commercial States of the country that is the highest rate of interest individuals or banks are allowed to take, and having adopted six per cent. as a fair rate of interest, I always regretted that we should have issued any form of obligation which bore a different rate of interest. There are several different kinds of these obligations out.

In 1865 it seems that an act was passed authorizing the Secretary of the Treasury to borrow a certain amount of money, I believe $600,000,000, and to issue among other things any kind of bond not less than fifty dollars in amount, and running any length of time, I believe not more than forty years, and varying in the rate of interest up to six per cent. in coin or seven and three tenths per cent. in currency. Those are the kinds of bonds which the Secretary of the Treasury is authorized to issue by the act referred to in the first section of this bill. The first clause of this bill now, as I understand it, authorizes the Secretary of the Treasury to issue any bond that comes within this description in exchange for any other form of indebtedness outstanding against the Government, whether it bears interest or whether it does not. Any form of indebtedness outstanding against the Government he may take up and issue in lieu of it any kind of a bond authorized by the act of 1865.

Now, I suppose we would rather either have bonds out bearing six per cent. interest in coin or bonds bearing seven and three tenths per cent. interest in currency. One of the two is preferable in the judgment of Congress to-day. My own opinion is that it would be better for the Government if it had no seven and three-tenths bonds out, and if all its bonds were reduced to six per cent. interest and that payable in coin. I think that would be the judgment of Congress to-day; but this bill, while it proposes to authorize the Secretary of the Treasury to take up seven and three-tenths bonds and issue five-twenties for them, also authorizes him to issue five-twenty bonds in exchange for the seven-thirties; and it also authorizes him, if I understand it, to take up the ten-forty bonds, the five per cent. bonds, and issue in their place either five-twenty six per cent. bonds or any other kind of bonds bearing not more than six per cent. interest in coin or seven and three tenths interest in currency.

Now, is it possible that the Secretary will want to do this thing? Is it possible that the interests of the country will demand the doing of this thing, making this kind of exchange? If not, why authorize it? If you deem it better to get these seven-thirty bonds all out of the way, why not authorize him to receive the seven-thirty bonds and issue in exchange for them bonds bearing six per cent. interest in coin, and let that be the extent of the authority you vest in him in the way of exchange?

But coming to the next clause of the bill, which seems to be much more important, it is on that clause that I want some advice. As I first read it, I thought it vested in the Secretary of the Treasury authority to make any amount of bonds coming within the description of the act of 1865, and to sell them anywhere upon just such terms as he pleased; that he could sell them for ninety per cent., eighty per cent., fifty per cent. if he saw fit, but the last part of that clause provides that "nothing herein contained shall be construed to authorize any increase of the public debt." Is that designed (I put the question for information) to deprive the Secretary of the authority to sell any of these bonds below par?

Mr. FESSENDEN. I do not suppose that was the intention of the clause.

Mr. HOWE. Would it not have that effect necessarily? If the Secretary issues one hundred millions of bonds and gets in but ninety millions of Treasury notes or certificates of indebtedness, does he not increase the public debt to the extent of $10,000,000. Either he must disregard that last clause or he must sell not below par. If this bill be designed to authorize the Secretary to sell bonds such as are described in the act of 1865 below par, I am utterly opposed to it. I conceive there is no sort of necessity for investing him with such authority, and I cannot conceive that any policy can justify it, but I do think we should always allow any public creditor holding any of these notes which do not bear interest to exchange those notes for the obligations of the Government which do bear interest, and when we do so enable him, (I believe the laws now authorize that,) I do not see what other authority the Secretary wants for retiring those notes. Then the holder of the notes who is the owner of them can determine for himself whether he would rather use them as money or turn them into the Treasury and take interest-paying bonds for them.

The proviso to this section, as I understand it, instead of making the bill less objectionable makes it more objectionable. The proviso says to the Secretary that, although the holders of this money which does not bear interest may come forward and pay in one hundred or two hundred millions of it and take interest-paying bonds, he shall not retire those notes from circulation for a year. It says to him, "You shall not retire more than thirty-four millions in the aggregate of these notes." I conceive that in the regular course of business the country will seek and will want to retire a good deal more than thirty-four millions within a year. The necessity for this very large and swollen circulation was abundantly explained by the Senator from Kentucky [Mr. GUTHRIE] just now. Previous to this war all the use you had for circulation was, so to speak, to aid the exchanges of the agricultural products for the manufactured and imported products of the country. When, as the Senator from Kentucky remarked, the Government became almost the sole purchaser of all those products there was nothing to do but just pay out money for them, and if they had paid gold for all these things the circulation would have been increased just about as much as it has been. The Government has done nothing but pay its debts; that is all it has done, to increase the circulation. The Government is done making those purchases; its army is disbanded in the main; it has done making the purchases which it was compelled to make throughout the whole course of the war. Henceforth the old system of doing business is to be resumed; but the arrearages are not yet quite paid up. The Government is, therefore, disbursing largely to pay up those arrearages, and so this plethora is not so acutely felt at the present time as I take it it would be if those arrearages were paid up. When those arrearages are paid and business assumes its old forms and shapes and courses, I do not understand why we should

need a vast deal more money to do the business of the country hereafter than we did before the war. At all events, I should be very unwilling to say to the Secretary of the Treasury, as this proviso does say, that no matter if one hundred or two hundred millions of this non-interest-paying paper be taken into the Treasury in exchange for bonds you must still keep it there in the form of circulation and disburse it in the regular disbursements of the Treasury. I think when one hundred more millions of bonds are issued in exchange for one hundred millions of Treasury notes, we ought to cancel those Treasury notes and thenceforth they ought to cease to do the work of money.

But, as I said before—and that is pretty much all I want to say—certainly if it is the purpose of this bill to enable the Secretary of the Treasury to sell a bond of the United States now, in a time of peace, bearing any rate of interest that he puts upon it under the bill, at less than its face, I am opposed to it. I agree, also, entirely with the Senator from Michigan, [Mr. CHANDLER,] that although we cannot very well exclude the people of any country from coming here and buying our bonds, yet I am opposed utterly to putting any word into this bill which will seem like clothing the Secretary of the Treasury with authority to go to England, or to go anywhere outside of the limits of the United States, to peddle the credit of the United States. If there ever was any necessity for that, that necessity has passed. I am one of those who believe there never was a particle of necessity for it, and the result has verified this statement.

Mr. MORGAN. Mr. President, the main object of this bill is to enable the Secretary of the Treasury to provide for the maturing obligations of the Government, with a view to a return to specie payments at an early day. We all agree that it is a duty of the Government to make provision for its debts as they mature. The only question is one of time, whether the present is the proper time to make provision for these maturing obligations. Three hundred millions, in round numbers, will become due next year, in August. It has been said here this morning that the Secretary of the Treasury should remain in his seat, do nothing until that debt matures, and then sell his bonds. It seems to me that in order to maintain the credit of the Government those negotiations should be made a long way in advance; and it seems to me, also, that the present is a very favorable time to commence those negotiations. The money markets of the world are now easy, and the Secretary of the Treasury will have no difficulty in commencing to provide for those obligations at this time. There may come a period before these debts mature when it may be extremely difficult for him to sell bonds at prices that would be satisfactory to the Government.

Our debt is unprecedentedly large; we had never anything like it before; we are experimenting to a certain degree; and while these loans will be effected, as they have been effected before, in the principal cities of the United States, and the money will be loaned by our own people, probably all of it, yet I see no impropriety in leaving it optional to get it elsewhere if it can be obtained elsewhere on better terms.

A word as to the question of power. Large discretionary power must be lodged with somebody; and why not with the Secretary of the Treasury? He is the proper officer, the financial officer of the Government. It is not a new thing to give large powers to the Secretary of the Treasury. On the 3d of March, 1863, Congress passed a law by which it was provided:

"That the Secretary of the Treasury be, and he is hereby, authorized to borrow, from time to time, on the credit of the United States a sum not exceeding $300,000,000 for the current fiscal year, and $600,000,000 for the next fiscal year, and to issue therefor coupon or registered bonds, payable at the pleasure of the Government after such periods as may be fixed by the Secretary, not less than ten nor more than forty years from date, in coin, and of such denominations, not less than fifty dollars, as he may deem expedient, bearing interest at a rate not exceeding six per cent. per annum, payable on bonds not exceeding $100 annually, and on all other bonds semi-annually, in coin; and he may, in his discretion, dispose of such bonds at any time, upon such terms as he may deem most advisable, for lawful money of the United States, or for any of the certificates of indebtedness or deposit that may at any time be unpaid, or for any of the Treasury notes heretofore issued or which may be issued under the provision of this act."

The power given under that law resulted in great good to the country; I do not know that it is too much to say that it saved the credit of the Government at that time. That was a very dark period in the history of the war; and but for this authority, this large discretion, it is not at all certain but that we should have experienced embarrassment that we could not have overcome.

I am in favor of this bill just as it is. I am in favor of it because I think the power must be given to some officer of the Government, and of course it must be given to the Secretary of the Treasury. I am in favor of his exercising that power now before the debts mature. I am in favor of his keeping a very large amount of money on hand. I am sure that the result of the revenues of the present year will be a serious disappointment to the expectations formed by some. I see no harm at all in this bill. I happened to be on the committee to which it was referred; I favored it there, and I hope it will be passed by the Senate.

Mr. COWAN. I am also in favor of this bill. I really can see no possible objection to it. It is exceedingly simple and obvious as a remedy. We have a large number of debts falling due along at various times during the next eighteen months. This bill simply proposes to exchange the securities now outstanding for those debts for others running a longer time. That is the whole of it. The debt is not to be increased by the operation. The only thing that perhaps might be liable to some objection is the fact that the Secretary is authorized to take up securities payable on demand not bearing interest; but the proviso limits him so that he cannot retire more than ten millions of that kind of currency until within six months of the passage of the act and not more than $4,000,000 in any month after that time. No possible objection can be made to the exchange of our short securities for long ones where the interest is the same. However, it might be said it would be improper to take up notes not bearing interest and give bonds in exchange for them which the bill does; but that mischief, if it be a mischief at all, can only be to the extent limited in the proviso; it cannot go any further.

Mr. HOWE. Will the Senator allow me to interrupt him? If he understands the bill aright, I do not. Under this bill, has not the Secretary of the Treasury the right to dispose of three, four, or five hundred millions of bonds in exchange for Treasury notes and certificates of indebtedness?

Mr. COWAN. Unquestionably, and they are to be retired; but if he receives in exchange for these bonds United States notes, that is, demand notes not bearing interest, he can only retire to the amount of $34,000,000 in the year, and those are to be retired and canceled and put out of existence.

Mr. HOWE. Now, suppose that he sells $200,000,000 of new bonds in exchange for $200,000,000 of Treasury notes, $34,000,000 of the $200,000,000 will be retired.

Mr. COWAN. They will all be retired if he receives Treasury notes.

Mr. HOWE. Is that so?

Mr. COWAN. They will all be retired if he receives nothing but Treasury notes. If he should receive $34,000,000 of demand notes he may retire $34,000,000. If he receives $50,000,000 of demand notes he cannot retire more than $34,000,000; he will still retain on hand the other $16,000,000.

Mr. HOWE. Then the Government would owe that $16,000,000. That would be an outstanding obligation.

Mr. COWAN. The Government will have that in possession as cash on hand.

Mr. HOWE. But if it pays it out, the Government will still owe it.

Mr. COWAN. Certainly, it will still remain in circulation.

Mr. HOWE. And the Government will owe the fifty millions of bonds. Then will not the debt be increased? That is the question.

Mr. COWAN. It cannot possibly be increased, because the $16,000,000 will be cash on hand, and with that $16,000,000 you may buy Treasury notes or anything you please and retire them to the same extent. It does not increase the debt a copper; it is simply an exchange of securities. It is to authorize the Secretary of the Treasury to exchange before they become due short-running securities for long ones; that is the whole of it.

Mr. CHANDLER. The Senator from Maine says that there is very little in this bill, not much, not quite enough. Sir, I say there is everything in it. It is a surrender of the Treasury and all its safeguards into the hands of one man. You say to the Secretary of the Treasury, "Do just what you will, when you please, and as you please, with all the indebtedness of this Government"—a power which no one single man ever yet possessed on earth or ever will again if this bill does not pass, I presume. If there was a present pressing necessity for giving this power or any other I would grant it; but there is no necessity whatever. Every one of your seven-thirty Treasury notes is redeemable at the option of the holder at the end of three years in five-twenty bonds. That is a part of the contract you made with every man who has taken one of your seven-thirty bonds, that at his option he can demand and receive a five-twenty bond for it.

Now, the Senator from New York says that there are $300,000,000 that will mature in the next year. If the Secretary of the Treasury will step into the market to-day and say, "I will give you three hundred millions of five-twenty bonds," he will have nothing maturing next year, for the bonds would all be taken within thirty days. He has that power now; it is all the power he needs, and all he ought to have. Then why, at this late day, step out of your own beaten track to give him an absolute control over all the indebtedness of the Government? The Senator says he will not use it; it will not be his interest to use it. I hope he will not; I hope that the dangers which I fear are groundless; but why give the powers contained in this bill to any one man? You authorize him to take up your 1881 bonds; you authorize him to take up your five-twenty bonds; you place the whole $2,700,000,000 in his hands to do just as he pleases—a power which was never given to any one man, and never will be again.

What is our present condition? Our receipts are lessening our debt monthly; the credit of the Government is appreciating daily. To-day your bonds are more valuable than they were thirty days ago; and they were thirty days ago more valuable than they were sixty days ago. I agree perfectly with the Senator from Ohio, that if the Secretary of the Treasury should sit behind his desk and pay his interest, and let the credit of the Government take care of itself, it is the best thing he can do at this time. If he is afraid that next year he cannot negotiate three hundred millions of seven-thirties, let him to-day step in the market and say, "I will exchange five-twenties for three hundred millions of seven-thirties," and in one week there will not be a dollar of them on hand. We have carefully guarded against long loans during the whole war; we have carefully guarded against high interest for a long period. We have paid seven and three tenths per cent. interest because the necessities of the Government required it; and that was the lowest rate at which we could borrow our money for currency. We have used five-twenties, used them successfully, and used them throughout. Why not now to-day say to the Secretary of the Treasury, "You may issue five-twenties; if you are afraid they will not be taken next year, issue them this year; negotiate two or three hundred millions, and be a year in advance?" I do not object

to that, but I do object to the monstrous powers contained in this bill.

I hope that the bill will not pass. I am sorry that the Senator from Maine is so anxious to press it to a vote to-day. I desire that there shall be a full Senate when the vote is taken, for I consider it is the most dangerous bill that was ever passed by the Congress of the United States. If the present Secretary should remain in office, and if he should withstand, not the temptations, but the designing and intriguing management of what are called "rings," he will be fortunate. The powers contained in this bill no judicious financial man, in my judgment, would accept of if he could help it. I think we should define—the country ought to know precisely—what we are going to do, and we should announce our policy, and not take his. I move that this bill be recommitted to the Committee on Finance; and I hope Senators will vote to recommit it.

Mr. McDOUGALL. I do not rise in my place, Mr. President, for the purpose of discussing this bill. It is a measure that has been considered, I suppose, by all Senators for some considerable time past. It belongs to the policy inaugurated by our present Secretary of the Treasury. There seems to be great alarm at the idea of trusting the Secretary of the Treasury, the moneyed officer of the Government. Perhaps it would be well to consider that in other classes of Governments, particularly in monarchical ones, men obey; in all free Governments men must trust. The Senator from Ohio is trusted here with a high commission; and so the Senator from Michigan is trusted by the people of his State. We have reposed confidence in men who under our system of government are selected for high offices. We have needed a system of finance, particularly since the commencement of this war. No system was inaugurated under the late Secretary of the Treasury, now Chief Justice. He never had any established policy. The present Secretary came in with financial skill and financial experience. He has exhibited his information on these great subjects so as to satisfy the country and Congress. I think confidence can be placed in his sound judgment. What is sought here is to give him the privilege to inaugurate a policy. We have had no financial policy except so far as it has been arranged *sub modo* without any special license. We propose now to trust him, not with any large power, to handle our present indebtedness and to change its form so that it may be systematized. I think the legislation is wise. Again, I repeat, it is the feature of free Governments to trust, as it is the feature of monarchical Governments to compel obedience. We must trust our public officers.

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) The question is on the motion of the Senator from Michigan to recommit the bill to the Committee on Finance.

The motion was not agreed to.

The PRESIDING OFFICER. The question now is on the amendment moved by the Senator from Michigan, in section one, line eleven, to strike out the word "either," and in line twelve after the words "United States" to strike out the words "or elsewhere;" so that the clause will read:

And also to dispose of any description of bonds authorized by said act, in the United States, to such an amount, in such manner, and at such rates as he may think advisable, &c.

Mr. CHANDLER. I should like to have the yeas and nays on that amendment.

The yeas and nays were ordered.

Mr. COWAN. I do not see any conceivable reason why that amendment should be adopted. If we have short securities anywhere, no matter where it is, whether in the United States, China, Great Britain, or anywhere else, what difference can it make that the Secretary has the right to exchange them for long bonds?

Mr. JOHNSON. That is not the amendment.

Mr. COWAN. It is that he can only exchange in the United States.

Mr. JOHNSON. To prevent him from exchanging except in the United States.

Mr. COWAN. The effect of the amendment will be to confine the exchange to this country.

Mr. CHANDLER. Certainly, that is the intention.

Mr. COWAN. Then a foreigner who may happen to have our short paper, and may be willing to exchange it for long bonds, will not have the opportunity of doing so.

Mr. CHANDLER. I suppose he will have to do it here, not there.

Mr. COWAN. I suppose the paper will have to come here of course, but if the paper can come here and an exchange can be made with the foreigner, then the amendment can have no effect. It is mere idle words.

Mr. CHANDLER. The object of the amendment is perfectly well understood. It is to prohibit the Secretary of the Treasury from going abroad to borrow money. We have not permitted him to do it during the rebellion, and I object to his doing it now. If Senators desire to send the Secretary of the Treasury all over the world begging somebody to take his evidences of debt, then they will vote against this amendment; if they do not desire to have him do that they will vote for it.

Mr. FESSENDEN. The Senator is very much mistaken as to the facts. In the bill passed last winter, and in the bill passed the winter before that, he had authority to negotiate a foreign loan if he saw fit. He always had that power. The only question is whether, by being confined to a particular place, he shall be placed in the hands of people who might combine to render his operations nugatory.

Mr. CHANDLER. If the Government of the United States proposes to place itself on a par with Turkey and the little German and South American States that send their loans into the English market and make them payable there, it is all right. I object to it *in toto*. I consider that we are now taking our place among the great Powers, and that it is humiliating for us to make the evidences of our indebtedness payable anywhere outside of the territory of the United States. It never shall be done by my vote.

Mr. FESSENDEN. The Senator does not understand what he has been talking so much about to this moment. There is no proposition here to make it payable abroad.

Mr. CHANDLER. You authorize him to do it.

Mr. FESSENDEN. No, sir; there is no such authority.

Mr. CHANDLER. Then what are these words in here for?

Mr. FESSENDEN. They are in there to enable him, if he sees fit, to dispose of our obligations abroad.

Mr. CHANDLER. Precisely, that is what I said.

Mr. FESSENDEN. But that does not make them payable abroad. There was such a proposition in the original bill, but it was stricken out in the House of Representatives. There is no such thing in the bill now. All that he has power to dispose of is "the bonds authorized by the act to which this is an amendment," and that refers to the act of last year, and they are all payable in this country.

The question being taken by yeas and nays, resulted—yeas 6, nays 35; as follows:

YEAS—Messrs. Chandler, Howard, Howe, Norton, Sherman, and Wade—6.

NAYS—Messrs. Anthony, Brown, Buckalew, Clark, Conness, Cowan, Cragin, Davis, Doolittle, Edmunds, Fessenden, Foster, Grimes, Guthrie, Harris, Hendricks, Johnson, Kirkwood, Lane of Indiana, McDougall, Morgan, Morrill, Nesmith, Nye, Poland, Pomeroy, Riddle, Saulsbury, Stewart, Sumner, Trumbull, Van Winkle, Willey, Williams, and Wilson—35.

ABSENT—Messrs. Creswell, Dixon, Henderson, Lane of Kansas, Ramsey, Sprague, Wright, and Yates—8.

So the amendment was rejected.

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

Mr. CHANDLER. I desire to have an opportunity to record my vote against the bill, and I therefore ask for the yeas and nays on its passage.

The yeas and nays were ordered; and being taken, resulted—yeas 32, nays 7; as follows:

YEAS—Messrs. Anthony, Brown, Buckalew, Clark, Conness, Cowan, Cragin, Davis, Doolittle, Edmunds, Fessenden, Foster, Grimes, Guthrie, Harris, Johnson, Kirkwood, Lane of Indiana, McDougall, Morgan, Morrill, Nesmith, Nye, Poland, Pomeroy, Riddle, Sumner, Trumbull, Van Winkle, Willey, Williams, and Wilson—32.

NAYS—Messrs. Chandler, Howard, Howe, Norton, Ramsey, Sherman, and Wade—7.

ABSENT—Messrs. Creswell, Dixon, Henderson, Hendricks, Lane of Kansas, Saulsbury, Sprague, Stewart, Wright, and Yates—10.

So the bill was passed.

PERSONAL EXPLANATION.

Mr. WADE. In the remarks that I made on Friday last I stated, in relation to Mr. Voorhees, of Indiana, that he had been one of the Knights of the Golden Circle, and that upon a judicial investigation it came out that he was the keeper of the records, &c. The Senator from Indiana [Mr. HENDRICKS] immediately rose and stated that that was not so, and I intended, of course, to take back what I had stated, on his representation. My authority for the statement was a newspaper that stated it as a fact, and I had never heard it contradicted, and believed it was so; but Mr. Voorhees says I was entirely mistaken; the Senator from Indiana says the same thing, and I have no doubt I was wrong in making the charge, and I take great pleasure in taking it back.

Mr. GRIMES. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *April* 9, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of Saturday last was read and approved.

The SPEAKER stated as the first business in order the call of the States and Territories for bills and joint resolutions on leave for reference, not to be brought back into the House on a motion to reconsider, commencing with the State of Maine.

No bills or resolutions were offered.

APPROVAL OF THE PRESIDENT.

The SPEAKER stated, as the next business in order, the following resolution submitted by Mr. DAVIS on the 10th of January last, on which the gentleman from New York [Mr. RAYMOND] was entitled to the floor for fifty minutes:

Resolved, That this House cherish the most entire confidence in the patriotism and ability of the President of the United States, and in his desire to restore the Union on a basis of permanent prosperity and peace; and that the coöperation of this House is pledged to him in support of the general policy of reconstruction inaugurated by him in all modes authorized by the Constitution and consistent with the security of republican institutions.

Mr. RAYMOND. Mr. Speaker, I suppose it will meet the consent of the House as it will mine to postpone the further consideration of the resolution for the present. I move that it be postponed for two weeks from to-day.

The motion was agreed to.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the motion was agreed to; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

ASSASSINATION OF PRESIDENT LINCOLN, ETC.

Mr. BOUTWELL submitted the following preamble and resolutions, and demanded the previous question:

Whereas the President of the United States did, on the 3d day of May, in the year 1865, by proclamation declare and make known that it did then appear from evidence in the Bureau of Military Justice that the atrocious murder of the late President, Abraham Lincoln, and the attempted assassination of Hon. William H. Seward, Secretary of State, were incited, concerted, and procured by and between Jefferson Davis, late of Richmond, Virginia, and Jacob Thompson, Clement C. Clay, Beverly Tucker, George N. Sanders, William C. Cleary, and other rebels and

traitors against the Government of the United States; and whereas the said Jefferson Davis, in the same month of May, was arrested by the military forces of the United States, and has since been held in the custody thereof under the authority of the President of the United States: Therefore,

Be it resolved, That the Committee on the Judiciary be instructed to inquire whether there is probable cause to believe that any of the persons named in said proclamation are guilty, as is in said proclamation alleged, and if so, whether any legislation is necessary in order to bring such person to a speedy and impartial trial; and that said committee have power to send for persons and papers.

And be it further resolved, That said committee be in like manner empowered to inquire whether there is probable cause to believe that said persons, or any of them, are guilty of treason against the United States, and whether any legislation is necessary in order to bring such persons to a speedy and impartial trial in the district where such crime may have been committed.

The previous question was seconded and the main question ordered; and under the operation thereof the preamble and resolutions were adopted.

Mr. BOUTWELL moved to reconsider the vote by which the preamble and resolutions were adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

WOOL.

Mr. RICE, of Maine, presented resolves of the Sheep-Keeper's Association of Penobscot county and valley, for increase of duty on foreign wool; which were referred to the Committee of Ways and Means.

TRIAL OF JEFFERSON DAVIS.

Mr. RAYMOND submitted the following preamble and resolution:

Whereas the President of the United States has, by proclamation, declared the insurrection in the State of Virginia to be at an end; and whereas the reasons which have hitherto prevented the holding of a court of the United States in said State for the trial of persons charged with treason against the United States have been thereby obviated and removed: Therefore,

Resolved, That the President of the United States be requested to take steps for the speedy trial of Jefferson Davis, who has been duly indicted in said State for said crime of treason, unless he shall be, with reasonable dispatch, indicted for said crime, and put on trial in some other district in which he may be legally liable for trial.

Mr. STEVENS. I suggest that the resolution be referred to the Committee on the Judiciary. The same subject has just been referred to it.

Mr. RAYMOND. That relates to the assassination of President Lincoln.

Mr. WILSON, of Iowa. The resolution also covers this matter of trial.

Mr. RAYMOND. I have no objection to the reference. My wish for offering it now, is because there is a rumor of process being commenced to release Jeff. Davis from confinement without trial.

Mr. ROGERS. I object to debate.

Mr. STEVENS moved that the preamble and resolution be referred to the Committee on the Judiciary, and on that motion demanded the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the preamble and resolution were referred to the Committee on the Judiciary.

Mr. STEVENS moved to reconsider the vote by which the preamble and resolution were referred; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the President having returned to that body Senate bill No. 61, to protect all persons in the United States in their civil rights and furnish the means of their vindication, with his objections to the same, and that body having proceeded to reconsider the bill and resolved that it pass, two thirds agreeing thereto, he was directed to communicate the said bill, and the message of the President returning the same with his objections, and the proceedings of the Senate thereon, to the House of Representatives.

NAVY-YARD ON THE HUDSON RIVER.

Mr. KETCHAM submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Naval Affairs be instructed to inquire into the propriety of locating a navy-yard on the Hudson river, near Carthage Landing, and that they report by bill or otherwise.

OFFICE RENT OF ASSESSORS.

Mr. DARLING submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of reporting an amendment to section twenty-two of the act approved March 3, 1865, in such manner and form as shall permit commissioners of internal revenue to allow to assessors such sum for office rent as shall be actually and necessarily expended by them.

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

The latter motion was agreed to.

NATURALIZATION OF PERSONS IN THE NAVY

Mr. J. M. HUMPHREY submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Judiciary Committee be instructed to inquire into the expediency of amending section twenty-one, chapter two hundred, of an act approved July 17, 1862, so as to extend the rights of naturalization to persons enlisted in the Navy the same as those enlisted in the Army, and report by bill or otherwise.

CANADIAN BARLEY.

Mr. STROUSE submitted the following resolution; which was read, considered and agreed to:

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of admitting barley used for malting free of duty from Canada and the other British Provinces.

INCOME TAX.

Mr. ANCONA offered the following resolutions, and demanded the previous question thereon:

Resolved, That a direct tax upon income should only be resorted to in a great emergency, and its continuance justified only so long as that necessity exists.

Resolved, That there should be a distinction between income arising from capital of every description, and income arising from labor merely.

Resolved, That it is expedient to distinguish between incomes for a year or for less, and incomes possessed by persons who have an interest in the capital from whence the income arises.

Resolved, That increased economy should be exercised, and all tax on income removed as soon as it shall appear that the ordinary branches of revenue are sufficient.

Mr. BOUTWELL. Is that offered for reference?

The SPEAKER. It is not; it is an expression of opinion of the House.

Mr. DELANO. Is it in order to move to refer it?

The SPEAKER. It is not unless the previous question is not seconded.

Mr. GRINNELL. Is it in order to ask for a division?

The SPEAKER. It is.

Mr. GRINNELL. I ask for a division.

Several MEMBERS. Oh, no.

Mr. STEVENS. I move to lay them all on the table for the present.

Mr. ANCONA. I demand the yeas and nays on the motion to lay on the table.

The yeas and nays were not ordered.

Mr. ELDRIDGE. I demand tellers on ordering the yeas and nays.

Tellers were refused.

The resolutions were laid on the table.

TEMPORARY INCREASE OF DUTIES.

Mr. MOORHEAD introduced a joint resolution to increase temporarily the duties on imports, and moved that the same be referred to the Committee on Manufactures.

The joint resolution was read twice.

Mr. MOORHEAD. I demand the previous question.

Mr. RANDALL, of Pennsylvania. I call for the reporting of the joint resolution.

The joint resolution was read, as follows:

Resolved by the Senate and House of Representatives, &c., That until the end of sixty days from the passage of this resolution fifty per cent. of the rates of duties and imposts now imposed by law on all goods, wares, merchandise, and articles imported shall be added to the present duties and imposts now charged on the importation of such articles: *Provided*, That printing paper, unsized, used for books and newspapers exclusively, shall be exempt from the operation of this resolution.

Mr. CONKLING. I rise to a question of order. The Committee of Ways and Means having once reported against this resolution, I wish to inquire whether, if the previous question is not seconded, it will be in order to move to refer it to that committee.

The SPEAKER. It will.

Mr. CONKLING. I will move to refer it if the previous question is not seconded.

Mr. HOOPER, of Massachusetts. Would it be in order to move to lay the joint resolution on the table?

The SPEAKER. It would.

Mr. HOOPER, of Massachusetts. Then I move to lay the joint resolution on the table.

The SPEAKER. That motion takes priority of the demand for the previous question.

Mr. MOORHEAD. If other gentlemen can debate the joint resolution under the call for the previous question, I suppose the same courtesy will be extended to me.

The SPEAKER. It would be in order if there were no objection.

Mr. MOORHEAD. I have not withdrawn the demand for the previous question.

Mr. MORRILL. I appeal to the gentleman from Pennsylvania, [Mr. MOORHEAD,] as he happens to be on both committees, to withdraw his motion to refer this joint resolution to the Committee on Manufactures. It would seem as if he had some distrust of the Committee of Ways and Means, which I hope is not the fact. I hope he will let the joint resolution go to the Committee of Ways and Means.

Mr. MOORHEAD. Let me reply to my friend, the chairman of the Committee of Ways and Means.

Mr. ANCONA. I rise to a question of order. I desire to inquire whether, under this call, it is in order to offer a joint resolution?

The SPEAKER. It is. When the States are called for resolutions, bills and joint resolutions may be introduced if they do not give rise to debate.

Mr. ANCONA. I make another point of order. I submit that a motion to lay upon the table being pending, debate is not in order.

The SPEAKER. The Chair sustains that point of order. Two undebatable questions being pending, the motion to lay on the table and the demand for the previous question, debate is not in order.

Mr. MOORHEAD. I should have been glad if the Speaker had applied that rule to other gentlemen. The question has been debated, and as I introduced the joint resolution, I want an opportunity to say a word.

Mr. ELDRIDGE. I object to debate.

The SPEAKER. If the gentleman from Pennsylvania had objected to debate the Chair would have sustained the point of order.

Mr. MOORHEAD. I ask the unanimous consent of the House to say a few words.

Mr. ELDRIDGE. I object, and demand the yeas and nays on the motion to lay the joint resolution on the table.

The yeas and nays were ordered.

Mr. MORRILL. I hope the gentleman from Massachusetts [Mr. HOOPER] will withdraw his motion.

Mr. MOORHEAD. I think I can save time to the House, if the House will hear me for a moment.

Mr. LE BLOND. I object.

Mr. MOORHEAD. I want to say a word to the chairman of the Committee of Ways and Means.

Mr. LE BLOND. I insist on the enforcement of the rule.

The SPEAKER. No debate is in order.

Mr. GRINNELL. I wish to make an inquiry.

Mr. MOORHEAD. That is just what I have been trying to do.

Mr. GRINNELL. I would inquire whether this is not simply a resolution of reference.

The SPEAKER. That question is not in

order pending the motion to lay the joint resolution on the table. The gentleman from Pennsylvania [Mr. MOORHEAD] can withdraw the resolution, if he pleases.

Mr. MOORHEAD. The gentleman from Pennsylvania is not disposed to withdraw it. He wants an opportunity to say a word upon it.

Mr. LE BLOND. I object.

Mr. ELDRIDGE. When a gentleman offers a resolution and demands the previous question on it, he has no right to ask to be heard.

The question was taken; and it was decided in the affirmative—yeas 106, nays 50, not voting 27; as follows:

YEAS—Messrs. Alley, Allison, Ancona, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Barker, Benjamin, Bergen, Bingham, Boutwell, Boyer, Brandegee, Bromwell, Reader W. Clarke, Coffroth, Conkling, Cook, Cullom, Darling, Davis, Dawes, Dawson, Defrees, Delano, Deming, Denison, Dixon, Donnelly, Eckley, Eggleston, Eldridge, Eliot, Farnsworth, Ferry, Finck, Garfield, Glossbrenner, Aaron Harding, Harris, Hayes, Henderson, Hill, Hogan, Hooper, Asahel W. Hubbard, Chester D. Hubbard, James R. Hubbell, Hulburd, James Humphrey, James M. Humphrey, Ingersoll, Jenckes, Kasson, Laflin, Latham, Le Blond, Marshall, Marston, McCullough, McIndoe, McRuer, Morrill, Morris, Moulton, Niblack, Orth, Paine, Patterson, Phelps, Pike, Pomeroy, Radford, Samuel J. Randall, William H. Randall, Raymond, Alexander H. Rice, Ritter, Rogers, Rollins, Ross, Rousseau, Schenck, Scofield, Shanklin, Sitgreaves, Stilwell, Strouse, Taber, Taylor, Francis Thomas, John L. Thomas, Thornton, Trimble, Elihu B. Washburne, Henry D. Washburn, Wentworth, Whaley, James F. Wilson, Windom, Winfield, and Woodbridge—106.

NAYS—Messrs. Baxter, Beaman, Bidwell, Broomall, Bundy, Cobb, Driggs, Grinnell, Griswold, Hale, Abner C. Harding, Hart, Higby, Holmes, Hotchkiss, John H. Hubbard, Edwin N. Hubbell, Kelley, Kelso, Ketcham, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, McClurg, McKee, Mercur, Miller, Moorhead, Myers, Newell, O'Neill, Perham, Plants, Price, John H. Rice, Sawyer, Shellabarger, Spalding, Starr, Stevens, Thayer, Trowbridge, Upson, Van Aernam, Burt Van Horn, Ward, William B. Washburn, and Stephen F. Wilson—50.

NOT VOTING—Messrs. Ames, Anderson, Blaine, Blow, Buckland, Chanler, Sidney Clarke, Culver, Dodge, Dumont, Farquhar, Goodyear, Grider, Domas Hubbard, Johnson, Jones, Julian, Kerr, Kuykendall, Marvin, Nicholson, Noell, Sloan, Smith, Robert T. Van Horn, Warner, Welker, Williams, and Wright—27.

So the motion to lay on the table was agreed to.

DISPOSITION OF CAPTURED PROPERTY.

Mr. STEVENS submitted the following preamble and resolution, upon which he demanded the previous question:

Whereas by the several acts of Congress of the 13th of July and the 6th of August, 1861, it is enacted that all property of citizens of the insurrectionary States, found in said States or in transit between said States or any section of the same, and the loyal States or any section of the same, either by land or by water, and all vessels found at sea belonging either in whole or in part to citizens of the insurrectionary States, and all property wherever situated which may have been used or in any way disposed of in aid of the rebellion, should when captured be forfeited, and the proceeds thereof paid into the Treasury of the United States; and whereas the President, by his proclamation of the 16th of August, 1861, enjoined upon all military and naval officers of the United States to be diligent in the capture of such property for the use of the United States; and whereas large captures of such property, the proceeds whereof amount to several million dollars, have been made by naval and military officers, and are claimed by them for their own benefit, and not for the benefit of the general Treasury of the United States; and whereas such officers have been and are taking measures through the admiralty courts of the United States to have such property condemned and adjudged to their own use and that of the naval pension fund, and not to the use of the general Treasury of the United States; so that said fund already amounts to more than ten million dollars, a like amount having been distributed to the captors, the interest of which is more than double the sum required for the naval pension fund; and whereas the question is now pending before the Supreme Court, whether such property so captured should be forfeited to the United States, or for the benefit of the captors; which question cannot, because of the press of business in said court, be heard and determined until the term thereof to be held in December next; and whereas before such determination in the Supreme Court there is danger that the major part of said property may be distributed to the captors to the detriment of the general Treasury of the United States: Be it therefore

Resolved, That in the opinion of this House the Secretary of the Treasury should be, and hereby is, requested to withhold from distribution all the proceeds of the captured property above described to any of the captors or claimants under said captures until such question may be settled by the Supreme Court; and that the Secretary of the Treasury be further requested to take such means as in his judgment may seem proper to have the claims of the United States in such cases fully heard in the adjudication of the questions arising under such captures.

Mr. BOUTWELL. I would inquire if this resolution is offered for reference or for action at the present time.

Mr. STEVENS. I offer it for present action, as an expression of the opinion of the House. It does not determine anything at all, except in reference to the opinion of the House. I call for the previous question.

Mr. BOUTWELL. I think this resolution should be more maturely considered and deliberated upon than it can be in this way.

Mr. STEVENS. I may say——

Mr. ANCONA. I object to debate.

Mr. STEVENS. Then I insist upon the call for the previous question.

Mr. SHELLABARGER. I would inquire of the Chair if this is a joint resolution.

The SPEAKER. It is not a joint resolution.

Mr. STEVENS. The resolution in its present form is all that is desired elsewhere.

Mr. ELDRIDGE. I object to any debate upon this resolution.

Mr. BANKS. I ask the consent of the House to request the gentleman from Pennsylvania to modify his resolution so as to request a return of the property claimed by officers of the Army and Navy.

Mr. STEVENS. I make that modification.

Mr. RANDALL, of Pennsylvania. I suggest to my colleague that this should be a joint resolution in order to be effective.

Mr. STEVENS. I am informed that this will be satisfactory, and will accomplish all the purposes desired.

The previous question was seconded, there being—ayes ninety-two, noes not counted.

The main question was ordered; and under the operation thereof the resolution and preamble were agreed to.

Mr. STEVENS moved to reconsider the vote by which the resolution and preamble were agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had concurred in the amendment of the House to the bill (S. No. 181) for the relief of Emma J. Hall.

The message also announced that the Senate had insisted on its amendments, disagreed to by the House, to the bill (H. R. No. 122) making appropriations for the naval service for the year ending June 30, 1867, disagreed to the amendments of the House to others of the Senate amendments, agreed to the conference asked by the House on the disagreeing votes of the two Houses, and appointed Messrs. GRIMES, MORGAN, and HENDRICKS the committee on the part of the Senate.

HIBERNIA FIRE ENGINE COMPANY.

Mr. RANDALL, of Pennsylvania, offered the following resolution:

Whereas the Hibernia Fire Engine Company, No. 1, of Philadelphia, on the application of the War Department of the United States, and under the order of David M. Lyle, Esq., chief engineer of the fire department of that city, with the consent and approval of its proper authorities, did send to Fortress Monroe, Virginia, and to Washington, District of Columbia, and place at the disposal of the War Department, their steam-engine, horses, hose-carriage, hose, and other apparatus, for the purpose of being used for the safety and protection of the public stores and property, both at Fortress Monroe, Virginia, and in the capital of the nation, and the same have so been actively and efficiently employed since the 15th day of April, 1862, under the control and direction of the Quartermaster General of the United States Army: Therefore,

Be it resolved, That the thanks of Congress be, and they are hereby, tendered to the authorities of the city of Philadelphia, and the Hibernia Fire Engine Company No. 1, of that city, for the gratuitous use of said apparatus, which has been in the service of the Government nearly four years, and has been the means of saving and protecting an immense amount of public stores and other property generally, both public and private, of great value, from destruction by fire during the period aforesaid.

Mr. FARNSWORTH. I move that this resolution be referred to the Committee on Military Affairs.

Mr. RANDALL, of Pennsylvania. I have no objection to that.

The motion of Mr. FARNSWORTH was agreed to, and the resolution was referred to the Committee on Military Affairs.

PAPER CIRCULATING MEDIUM.

Mr. F. THOMAS submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of proposing an amendment to the Constitution restricting the power of Congress to issue a paper circulating medium.

ILLINOIS CENTRAL RAILROAD.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, stating, in reply to a resolution of the House, the amount paid to the Illinois Central Railroad Company for transportation, &c., by the United States, and the amount claimed by the company as still due; which was referred to the Committee on Appropriations, and ordered to be printed.

ORGANIZATION OF POST OFFICE DEPARTMENT.

The SPEAKER, by unanimous consent, also laid before the House a communication from the Postmaster General, transmitting a report in regard to the violation of the act to change the organization of the Post Office Department, approved July 2, 1836; which was referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

SHIP-CHANNEL FROM FORT M'HENRY.

The SPEAKER, by unanimous consent, also laid before the House a communication from the Secretary of War, in answer to a resolution of the House respecting an appropriation to complete the ship-channel from Fort McHenry to the mouth of the Patapsco river; which was referred to the Committee on Commerce, and ordered to be printed.

CIVIL RIGHTS BILL.

The SPEAKER, by unanimous consent, also laid before the House resolutions of the State of New York, in regard to the civil rights bill; which were laid on the table, and ordered to be printed.

COMMITTEE SERVICE.

The SPEAKER announced the following appointments to fill vacancies on committees:

On the Committee of Ways and Means, Mr. CHARLES H. WINFIELD, of New York.

On the Committee on the Pacific Railroad, Mr. WILLIAM RADFORD, of New York.

On the Committee on Invalid Pensions, Mr. ALEXANDER H. COFFROTH, of Pennsylvania.

Mr. WINFIELD. Mr. Speaker, having been appointed on the Committee of Ways and Means, I am constrained to ask the House to excuse me from further service on the Committee on Foreign Affairs.

It was ordered accordingly.

The SPEAKER appointed Mr. DODGE to fill the vacancy on the Committee of Foreign Affairs occasioned by Mr. WINFIELD's resignation.

Mr. RADFORD. I ask to be excused from further service on the Committee of Elections and on the special committee on a military and postal railroad to New York.

It was ordered accordingly.

TREASURER OF THE UNITED STATES.

Mr. MORRILL moved that Senate bill No. 158, to facilitate the settlement of the accounts of the Treasurer of the United States and secure certain moneys to the people of the United States or to the persons to whom they are due and who are entitled to receive the same, be ordered to be printed.

The motion was agreed to.

PAY OF THE ARMY.

Mr. SCHENCK, by unanimous consent, from the Committee on Military Affairs, reported back House bill No. 450, to reduce and establish the pay of officers, and to regulate the pay of soldiers of the Army of the United States, with a substitute, and moved that they be ordered to be printed, and recommitted.

The motion was agreed to.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill and substitute were recommitted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

CONSOLIDATION OF LAND OFFICES.

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

Resolved, That the Committee on Public Lands inquire and report to this House whether in their judgment the public interest requires the consolidation of the several land offices in the late insurrectionary States and the location thereof in the respective capitals of said States.

NATIONAL RAILROADS.

Mr. GARFIELD, by unanimous consent, introduced a bill to authorize the construction of national railroads, and to establish the same as military, postal, and commercial roads; which was read a first and second time, ordered to be printed, and its further consideration postponed till the second Tuesday of December next after the morning hour.

MONTANA TERRITORY.

Mr. McLEAN, by unanimous consent, introduced a bill erecting the Territory of Montana into a separate surveying district, and for other purposes; which was read a first and second time, and referred to the Committee on Territories.

IMMIGRATION.

Mr. DARLING, by unanimous consent, introduced a bill to amend an act to establish a Bureau of Immigration, and other offices subordinate thereto; which was read a first and second time, and referred to the Committee on Commerce.

PROVISIONAL COURT FOR LOUISIANA.

Mr. BOUTWELL, by unanimous consent, introduced a bill to provide for the suits, judgments, and business of the United States provisional court for the State of Louisiana; which was read a first and second time, and referred to the Committee on the Judiciary.

CIVIL RIGHTS BILL—VETO MESSAGE.

The SPEAKER. The morning hour has expired.

Mr. ANCONA. I demand the regular order.

Mr. WILSON, of Iowa. I move to proceed to business on the Speaker's table.

The SPEAKER. The motion of the gentleman from Iowa has priority of all other business.

The motion was agreed to.

The SPEAKER accordingly laid before the House the following message from the Senate:

IN THE SENATE OF THE UNITED STATES,
April 6, 1866.

Ordered, That the Secretary communicate the bill "to protect all persons in the United States in their civil rights and furnish the means of their vindication," with the message of the President returning the same to the Senate with his objections, and the proceedings of the Senate thereon, to the House of Representatives.

Attest: J. W. FORNEY, *Secretary*.

IN THE SENATE OF THE UNITED STATES,
April 6, 1866.

The President of the United States having returned to the Senate, in which it originated, the bill entitled "An act to protect all persons in the United States in their civil rights and furnish the means of their vindication," with his objections thereto, the Senate proceeded, in pursuance of the Constitution, to reconsider the same; and,

Resolved, That the said bill do pass, two thirds of the Senate agreeing to pass the same.

Attest: J. W. FORNEY,
Secretary of the Senate.

The Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all persons born in the United States and not subject to any foreign Power, excluding Indians not taxed, are hereby declared to be citizens of the United States; and such citizens of every race and color, without regard to any previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall have the same right in every State and Territory in the United States to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of person and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, and penalties, and to none other, any law, statute, ordinance, regulation, or custom to the contrary notwithstanding.

SEC. 2. *And be it further enacted*, That any person who, under color of any law, statute, ordinance, regulation, or custom, shall subject, or cause to be subjected, any inhabitant of any State or Territory to the deprivation of any right secured or protected by this act, or to different punishment, pains, or penalties on account of such person having at any time been held in a condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, or by reason of his color or race, than is prescribed for the punishment of white persons, shall be deemed guilty of a misdemeanor, and, on conviction, shall be punished by a fine not exceeding $1,000, or imprisonment not exceeding one year, or both, in the discretion of the court.

SEC. 3. *And be it further enacted*, That the district courts of the United States, within their respective districts, shall have, exclusively of the courts of the several States, cognizance of all crimes and offenses committed against the provisions of this act, and also, concurrently with the circuit courts of the United States, of all causes, civil and criminal, affecting persons who are denied or cannot enforce in the courts or judicial tribunals of the State or locality where they may be, any of the rights secured to them by the first section of this act; and if any suit or prosecution, civil or criminal, has been or shall be commenced in any State court against any such person, for any cause whatsoever, or against any officer, civil or military, or other person, for any arrest or imprisonment, trespasses, or wrongs done or committed by virtue or under color of authority derived from this act or the act establishing a Bureau for the Relief of Freedmen and Refugees, and all acts amendatory thereof, or for refusing to do any act upon the ground that it would be inconsistent with this act, such defendant shall have the right to remove such cause for trial to the proper district or circuit court in the manner prescribed by the "Act relating to *habeas corpus* and regulating judicial proceedings in certain cases," approved March 3, 1863, and all acts amendatory thereof. The jurisdiction in civil and criminal matters hereby conferred on the district and circuit courts of the United States shall be exercised and enforced in conformity with the laws of the United States, so far as such laws are suitable to carry the same into effect; but in all cases where such laws are not adapted to the object, or are deficient in the provisions necessary to furnish suitable remedies and punish offenses against law, the common law, as modified and changed by the constitution and statutes of the State wherein the court having jurisdiction of the cause, civil or criminal, is held, so far as the same is not inconsistent with the Constitution and laws of the United States, shall be extended to and govern said courts in the trial and disposition of such cause, and, if of a criminal nature, in the infliction of punishment on the party found guilty.

SEC. 4. *And be it further enacted*, That the district attorneys, marshals, and deputy marshals of the United States, the commissioners appointed by the circuit and territorial courts of the United States, with powers of arresting, imprisoning, or bailing offenders against the laws of the United States, the officers and agents of the Freedmen's Bureau, and every other officer who may be specially empowered by the President of the United States, shall be, and they are hereby, specially authorized and required, at the expense of the United States, to institute proceedings against all and every person who shall violate the provisions of this act, and cause him or them to be arrested and imprisoned, or bailed, as the case may be, for trial before such court of the United States or territorial court as by this act has cognizance of the offense. And with a view to affording reasonable protection to all persons in their constitutional rights of equality before the law, without distinction of race or color, or previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, and to the prompt discharge of the duties of this act, it shall be the duty of the circuit courts of the United States and the superior courts of the Territories of the United States, from time to time to increase the number of commissioners, so as to afford a speedy and convenient means for the arrest and examination of persons charged with a violation of this act. And such commissioners are hereby authorized and required to exercise and discharge all the powers and duties conferred on them by this act, and the same duties with regard to offenses created by this act, as they are authorized by law to exercise with regard to other offenses against the laws of the United States.

SEC. 5. *And be it further enacted*, That it shall be the duty of all marshals and deputy marshals to obey and execute all warrants and precepts issued under the provisions of this act, when to them directed; and should any marshal or deputy marshal refuse to receive such warrant or other process when tendered, or to use all proper means diligently to execute the same, he shall, on conviction thereof, be fined in the sum of $1,000, to the use of the person upon whom the accused is alleged to have committed the offense. And the better to enable the said commissioners to execute their duties faithfully and efficiently, in conformity with the Constitution of the United States and the requirements of this act, they are hereby authorized and empowered, within their counties respectively, to appoint, in writing, under their hands, any one or more suitable persons, from time to time, to execute all such warrants and other process as may be issued by them in the lawful performance of their respective duties; and the persons so appointed to execute any warrant or process as aforesaid shall have authority to summon and call to their aid the bystanders or the *posse comitatus* of the proper county, or such portion of the land and naval forces of the United States, or the militia, as may be necessary to the performance of the duty with which they are charged, and to insure a faithful observance of the clause of the Constitution which prohibits slavery, in conformity with the provisions of this act; and said warrants shall run and be executed by said officers anywhere in the State or Territory within which they are issued.

SEC. 6. *And be it further enacted*, That any person who shall knowingly and willfully obstruct, hinder, or prevent any officer, or other person charged with the execution of any warrant or process issued under the provisions of this act, or any person or persons lawfully assisting him or them, from arresting any person for whose apprehension such warrant or process may have been issued, or shall rescue or attempt to rescue such person from the custody of the officer, other person or persons, or those lawfully assisting as aforesaid, when so arrested pursuant to the authority herein given and declared, or shall aid, abet, or assist any person so arrested as aforesaid, directly or indirectly, to escape from the custody of the officer or other person legally authorized as aforesaid, or shall harbor or conceal any person for whose arrest a warrant or process shall have been issued as aforesaid, so as to prevent his discovery and arrest after notice or knowledge of the fact that a warrant has been issued for the apprehension of such person, shall for either of said offenses, be subject to a fine not exceeding $1,000, and imprisonment not exceeding six months, by indictment and conviction before the district court of the United States for the district in which said offense may have been committed, or before the proper court of criminal jurisdiction, if committed within any one of the organized Territories of the United States.

SEC. 7. *And be it further enacted*, That the district attorneys, the marshals, the deputies, and the clerks of the said district and territorial courts shall be paid for their services the like fees as may be allowed to them for similar services in other cases; and in all cases where the proceedings are before a commissioner he shall be entitled to a fee of ten dollars in full for his services in each case, inclusive of all services incident to such arrest and examination. The person or persons authorized to execute the process to be issued by such commissioners for the arrest of offenders against the provisions of this act shall be entitled to a fee of five dollars for each person he or they may arrest and take before any such commissioner as aforesaid, with such other fees as may be deemed reasonable by such commissioner for such other additional services as may be necessarily performed by him or them, such as attending at the examination, keeping the prisoner in custody, and providing him with food and lodging during his detention, and until the final determination of such commissioner, and in general for performing such other duties as may be required in the premises; such fees to be made up in conformity with the fees usually charged by the officers of the courts of justice within the proper district or county, as near as may be practicable, and paid out of the Treasury of the United States on the certificate of the judge of the district within which the arrest is made, and to be recoverable from the defendant as part of the judgment in case of conviction.

SEC. 8. *And be it further enacted*, That whenever the President of the United States shall have reason to believe that offenses have been or are likely to be committed against the provisions of this act within any judicial district, it shall be lawful for him, in his discretion, to direct the judge, marshal, and district attorney of such district to attend at such place within the district, and for such time as he may designate, for the purpose of the more speedy arrest and trial of persons charged with a violation of this act; and it shall be the duty of every judge or other officer, when any such requisition shall be received by him, to attend at the place and for the time therein designated.

SEC. 9. *And be it further enacted*, That it shall be lawful for the President of the United States, or such person as he may empower for that purpose, to employ such part of the land or naval forces of the United States, or of the militia, as shall be necessary to prevent the violation and enforce the due execution of this act.

SEC. 10. *And be it further enacted*, That upon all questions of law arising in any cause under the provisions of this act a final appeal may be taken to the Supreme Court of the United States.

The Clerk read the message of the President, as follows:

To the Senate of the United States:

I regret that the bill which has passed both Houses of Congress, entitled "An act to protect all persons in the United States in their civil rights, and furnish the means for their vindication," contains provisions which I cannot approve, consistently with my sense of duty to the whole people and my obligations to the Constitution of the United States. I am therefore constrained to return it to the Senate, the House in which it originated, with my objections to its becoming a law.

By the first section of the bill, all persons born in the United States, and not subject to any foreign Power, excluding Indians not taxed, are declared to be citizens of the United States. This provision comprehends the Chinese of the

Pacific States, Indians subject to taxation, the people called Gypsies, as well as the entire race designated as blacks, people of color, negroes, mulattoes, and persons of African blood. Every individual of those races, born in the United States, is by the bill made a citizen of the United States. It does not purport to declare or confer any other right of citizenship than Federal citizenship. It does not purport to give these classes of persons any *status* as citizens of States, except that which may result from their *status* as citizens of the United States. The power to confer the right of State citizenship is just as exclusively with the several States as the power to confer the right of Federal citizenship is with Congress.

The right of Federal citizenship thus to be conferred on the several excepted races before mentioned is now, for the first time, proposed to be given by law. If, as is claimed by many, all persons who are native-born, already are, by virtue of the Constitution, citizens of the United States, the passage of the pending bill cannot be necessary to make them such. If, on the other hand, such persons are not citizens, as may be assumed from the proposed legislation to make them such, the grave question presents itself, whether, when eleven of the thirty-six States are unrepresented in Congress, at this time it is sound policy to make our entire colored population and all other excepted classes citizens of the United States? Four millions of them have just emerged from slavery into freedom. Can it be reasonably supposed that they possess the requisite qualifications to entitle them to all the privileges and immunities of citizens of the United States? Have the people of the several States expressed such a conviction? It may also be asked whether it is necessary that they should be declared citizens in order that they may be secured in the enjoyment of civil rights? Those rights proposed to be conferred by the bill are by Federal as well as State laws secured to all domiciled aliens and foreigners even before the completion of the process of naturalization, and it may safely be assumed that the same enactments are sufficient to give like protection and benefits to those for whom this bill provides special legislation. Besides, the policy of the Government, from its origin to the present time, seems to have been that persons who are strangers to and unfamiliar with our institutions and our laws should pass through a certain probation, at the end of which, before attaining the coveted prize, they must give evidence of their fitness to receive and to exercise the rights of citizens as contemplated by the Constitution of the United States.

The bill, in effect, proposes a discrimination against large numbers of intelligent, worthy, and patriotic foreigners, and in favor of the negro, to whom, after long years of bondage, the avenues to freedom and intelligence have now been suddenly opened. He must, of necessity, from his previous unfortunate condition of servitude, be less informed as to the nature and character of our institutions than he who, coming from abroad, has to some extent at least, familiarized himself with the principles of a Government to which he voluntarily intrusts "life, liberty, and the pursuit of happiness." Yet it is now proposed by a single legislative enactment to confer the rights of citizens upon all persons of African descent, born within the extended limits of the United States, while persons of foreign birth, who make our land their home, must undergo a probation of five years, and can only then become citizens upon proof that they are of "good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the same."

The first section of the bill also contains an enumeration of the rights to be enjoyed by these classes, so made citizens, "in every State and Territory in the United States." These rights are, "To make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property," and to have "full and equal benefit of all laws and proceedings for the security of person and property as is enjoyed by white citizens." So, too, they are made subject to the same punishment, pains, and penalties in common with white citizens, and to none others. Thus a perfect equality of the white and black races is attempted to be fixed by Federal law, in every State of the Union, over the vast field of State jurisdiction covered by these enumerated rights. In no one of these can any State ever exercise any power of discrimination between the different races.

In the exercise of State policy over matters exclusively affecting the people of each State, it has frequently been thought expedient to discriminate between the two races. By the statutes of some of the States, northern as well as southern, it is enacted, for instance, that no white person shall intermarry with a negro or mulatto. Chancellor Kent says, speaking of the blacks, that "marriages between them and the whites are forbidden in some of the States where slavery does not exist, and they are prohibited in all the slaveholding States, and when not absolutely contrary to law, they are revolting, and regarded as an offense against public decorum."

I do not say this bill repeals State laws on the subject of marriage between the two races, for as the whites are forbidden to intermarry with the blacks, the blacks can only make such contracts as the whites themselves are allowed to make, and therefore cannot, under this bill, enter into the marriage contract with the whites. I cite this discrimination, however, as an instance of the State policy as to discrimination, and to inquire whether, if Congress can abrogate all State laws of discrimination between the two races in the matter of real estate, of suits, and of contracts generally, Congress may not also repeal the State laws as to the contract of marriage between the two races? Hitherto every subject embraced in the enumeration of rights contained in this bill has been considered as exclusively belonging to the States. They all relate to the internal policy and economy of the respective States. They are matters which in each State concern the domestic condition of its people, varying in each according to its own peculiar circumstances, and the safety and well-being of its own citizens. I do not mean to say that upon all these subjects there are not Federal restraints, as for instance, in the State power of legislation over contracts, there is a Federal limitation that no State shall pass a law impairing the obligations of contracts; and as to crimes, that no State shall pass an *ex post facto* law; and as to money, that no State shall make anything but gold and silver a legal tender. But where can we find a Federal prohibition against the power of any State to discriminate, as do most of them, between aliens and citizens, between artificial persons called corporations and natural persons, in the right to hold real estate?

If it be granted that Congress can repeal all State laws discriminating between whites and blacks in the subjects covered by this bill, why, it may be asked, may not Congress repeal in the same way all State laws discriminating between the two races on the subjects of suffrage and office? If Congress can declare by law who shall hold lands, who shall testify, who shall have capacity to make a contract in a State, then Congress can by law also declare who, without regard to color or race, shall have the right to sit as a juror or as a judge, to hold any office, and, finally, to vote "in every State and Territory of the United States." As respects the Territories, they come within the power of Congress, for as to them, the law-making power is the Federal power; but as to the States no similar provisions exist, vesting in Congress the power "to make rules and regulations" for them.

The object of the second section of the bill is to afford discriminating protection to colored persons in the full enjoyment of all the rights secured to them by the preceding section. It declares "that any person who, under color of any law, statute, ordinance, regulation, or custom, shall subject, or cause to be subjected, any inhabitant of any State or Territory to the deprivation of any right secured or protected by this act, or to different punishment, pains, or penalties on account of such person having at one time been held in a condition of slavery or involuntary servitude, except as a punishment of crime whereof the party shall have been duly convicted, or by reason of his color or race, than is prescribed for the punishment of white persons, shall be deemed guilty of a misdemeanor, and, on conviction, shall be punished by fine not exceeding $1,000, or imprisonment not exceeding one year, or both, in the discretion of the court." This section seems to be designed to apply to some existing or future law of a State or Territory which may conflict with the provisions of the bill now under consideration. It provides for counteracting such forbidden legislation by imposing fine and imprisonment upon the legislators who may pass such conflicting laws, or upon the officers or agents who shall put, or attempt to put, them into execution. It means an official offense, not a common crime committed against law upon the persons or property of the black race. Such an act may deprive the black man of his property, but not of the right to hold property. It means a deprivation of the right itself, either by the State judiciary or the State Legislature. It is therefore assumed that under this section members of State Legislatures who should vote for laws conflicting with the provisions of the bill; that judges of the State courts who should render judgments in antagonism with its terms; and that marshals and sheriffs who should, as ministerial officers, execute processes, sanctioned by State laws and issued by State judges, in execution of their judgments, could be brought before other tribunals and there subjected to fine and imprisonment for the performance of the duties which such State laws might impose.

The legislation thus proposed invades the judicial power of the State. It says to every State court or judge, if you decide that this act is unconstitutional, if you refuse, under the prohibition of a State law, to allow a negro to testify, if you hold that over such a subject-matter the State law is paramount, and "under color" of a State law refuse the exercise of the right to the negro, your error of judgment, however conscientious, shall subject you to fine and imprisonment. I do not apprehend that the conflicting legislation which the bill seems to contemplate is so likely to occur as to render it necessary at this time to adopt a measure of such doubtful constitutionality.

In the next place, this provision of the bill seems to be unnecessary, as adequate judicial remedies could be adopted to secure the desired end without invading the immunities of legislators, always important to be preserved in the interest of public liberty; without assailing the independence of the judiciary, always essential to the preservation of individual rights; and without impairing the efficiency of ministerial officers, always necessary for the maintenance of public peace and order. The remedy proposed by this section seems to be, in this respect, not only anomalous, but unconstitutional; for the Constitution guaranties nothing with certainty, if it does not insure to the several States the right of making and executing laws in regard to all matters arising within their jurisdiction, subject only to the restriction that in cases of conflict with the Constitution and constitutional laws of the United States the latter should be held to be the supreme law of the land.

The third section gives the district courts of the United States exclusive "cognizance of all crimes and offenses committed against the provisions of this act," and concurrent jurisdiction with the circuit courts of the United States of all civil and criminal cases "affecting persons who are denied or cannot enforce in the courts or judicial tribunals of the State or locality where they may be any of the rights secured to them by the first section." The con-

struction which I have given to the second section is strengthened by this third section, for it makes clear what kind of denial or deprivation of the rights secured by the first section was in contemplation. It is a denial or deprivation of such rights "in the courts or judicial tribunals of the State." It stands, therefore, clear of doubt that the offense and the penalties provided in the second section are intended for the State judge, who, in the clear exercise of his functions as a judge, not acting ministerially, but judicially, shall decide contrary to this Federal law. In other words, when a State judge, acting upon a question involving a conflict between a State law and a Federal law, and bound, according to his own judgment and responsibility, to give an impartial decision between the two, comes to the conclusion that the State law is valid and the Federal law is invalid, he must not follow the dictates of his own judgment at the peril of fine and imprisonment. The legislative department of the Government of the United States thus takes from the judicial department of the States the sacred and exclusive duty of judicial decision, and converts the State judge into a mere ministerial officer, bound to decide according to the will of Congress.

It is clear that in States which deny to persons whose rights are secured by the first section of the bill any one of those rights, all criminal and civil cases affecting them, will, by the provisions of the third section, come under the exclusive cognizance of the Federal tribunals. It follows that if, in any State which denies to a colored person any one of all those rights, that person should commit a crime against the laws of the State, murder, arson, rape, or any other crime, all protection and punishment through the courts of the State are taken away, and he can only be tried and punished in the Federal courts. How is the criminal to be tried? If the offense is provided for and punished by Federal law, that law, and not the State law, is to govern.

It is only when the offense does not happen to be within the purview of the Federal law that the Federal courts are to try and punish him under any other law. Then resort is to be had to "the common law, as modified and changed" by State legislation, "so far as the same is not inconsistent with the Constitution and laws of the United States." So that over this vast domain of criminal jurisprudence, provided by each State for the protection of its own citizens, and for the punishment of all persons who violate its criminal laws, Federal law, wherever it can be made to apply, displaces State law.

The question here naturally arises, from what source Congress derives the power to transfer to Federal tribunals certain classes of cases embraced in this section? The Constitution expressly declares that the judicial power of the United States "shall extend to all cases in law and equity arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting embassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States, between a State and citizens of another State, between citizens of different States, between citizens of the same State claiming land under grants of different States, and between a State, or the citizens thereof, and foreign States, citizens, or subjects."

Here the judicial power of the United States is expressly set forth and defined; and the act of September 24, 1789, establishing the judicial courts of the United States, in conferring upon the Federal courts jurisdiction over cases originating in State tribunals, is careful to confine them to the classes enumerated in the above recited clause of the Constitution. This section of the bill undoubtedly comprehends case and authorizes the exercise of powers that are not, by the Constitution, within the jurisdiction of the courts of the United States. To transfer them to those courts would be an exercise of authority well calculated to excite distrust and alarm on the part of all the States; for the bill applies alike to all of them—as well to those that have as to those that have not been engaged in rebellion.

It may be assumed that this authority is incident to the power granted to Congress by the Constitution, as recently amended, to enforce, by appropriate legislation, the article declaring that "neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction." It cannot, however, be justly claimed that, with a view to the enforcement of this article of the Constitution, there is at present any necessity for the exercise of all the powers which this bill confers.

Slavery has been abolished, and at present nowhere exists within the jurisdiction of the United States; nor has there been, nor is it likely there will be any attempt to revive it, by the people of the States. If, however, any such attempt shall be made, it will then become the duty of the General Government to exercise any and all incidental powers necessary and proper to maintain inviolate this great constitutional law of freedom.

The fourth section of the bill provides that officers and agents of the Freedmen's Bureau shall be empowered to make arrests, and also that other officers may be specially commissioned for that purpose by the President of the United States. It also authorizes circuit courts of the United States and the superior courts of the Territories to appoint, without limitation, commissioners, who are to be charged with the performance of *quasi* judicial duties. The fifth section empowers the commissioners so to be selected by the courts to appoint in writing, under their hands, one or more suitable persons, from time to time, to execute warrants and other processes described by the bill. These numerous official agents are made to constitute a sort of police, in addition to the military, and are authorized to summon a *posse comitatus*, and even to call to their aid such portion of the land and naval forces of the United States, or of the militia, "as may be necessary to the performance of the duty with which they are charged."

This extraordinary power is to be conferred upon agents irresponsible to the Government and to the people, to whose number the discretion of the commissioners is the only limit, and in whose hands such authority might be made a terrible engine of wrong, oppression, and fraud. The general statutes regulating the land and naval forces of the United States, the militia, and the execution of the laws, are believed to be adequate for every emergency which can occur in time of peace. If it should prove otherwise, Congress can at any time amend those laws in such manner as, while subserving the public welfare, not to jeopard the rights, interests, and liberties of the people.

The seventh section provides that a fee of ten dollars shall be paid to each commissioner in every case brought before him, and a fee of five dollars to his deputy, or deputies, "for each person he or they may arrest and take before any such commissioner," "with such other fees as may be deemed reasonable by such commissioner," "in general for performing such other duties as may be required in the premises." All these fees are to be "paid out of the Treasury of the United States," whether there is a conviction or not; but in case of conviction they are to be recoverable from the defendant. It seems to me that under the influence of such temptations bad men might convert any law, however beneficent, into an instrument of persecution and fraud.

By the eighth section of the bill, the United States courts, which sit only in one place for white citizens, must migrate, with the marshal and district attorney, (and necessarily with the clerk, although he is not mentioned,) to any part of the district, upon the order of the President, and there hold a court "for the purpose of the more speedy arrest and trial of persons charged with a violation of this act;" and there the judge and the officers of the court must remain, upon the order of the President, "for the time therein designated."

The ninth section authorizes the President, or such person as he may empower for that purpose, "to employ such part of the land and naval forces of the United States, or of the militia, as shall be necessary to prevent the violation and enforce the due execution of this act." This language seems to imply a permanent military force, that is to be always at hand, and whose only business is to be the enforcement of this measure over the vast region where it is intended to operate.

I do not propose to consider the policy of this bill. To me the details of the bill seem fraught with evil. The white race and the black race of the South have hitherto lived together under the relation of master and slave—capital owning labor. Now, suddenly, that relation is changed, and as to the ownership, capital and labor are divorced. They stand now each master of itself. In this new relation, one being necessary to the other, there will be a new adjustment, which both are deeply interested in making harmonious. Each has equal power in settling the terms, and if left to the laws that regulate capital and labor, it is confidently believed that they will satisfactorily work out the problem. Capital, it is true, has more intelligence; but labor is never so ignorant as not to understand its own interests, not to know its own value, and not to see that capital must pay that value. This bill frustrates this adjustment. It intervenes between capital and labor, and attempts to settle questions of political economy through the agency of numerous officials, whose interest it will be to foment discord between the two races: for as the breach widens their employment will continue, and when it is closed their occupation will terminate.

In all our history, in all our experience as a people living under Federal and State law, no such system as that contemplated by the details of this bill has ever before been proposed or adopted. They establish, for the security of the colored race, safeguards which go infinitely beyond any that the General Government has ever provided for the white race. In fact, the distinction of race and color is, by the bill, made to operate in favor of the colored and against the white race. They interfere with the municipal legislation of the States, with the relations existing exclusively between a State and its citizens, or between inhabitants of the same State—an absorption and assumption of power by the General Government which, if acquiesced in, must sap and destroy our federative system of limited powers, and break down the barriers which preserve the rights of the States. It is another step, or rather stride, toward centralization and the concentration of all legislative power in the national Government. The tendency of the bill must be to resuscitate the spirit of rebellion, and to arrest the progress of those influences which are more closely drawing around the States the bonds of union and peace.

My lamented predecessor, in his proclamation of the 1st of January, 1863, ordered and declared that all persons held as slaves within certain States and parts of States therein designated, were and thenceforward should be free, and, further, that the Executive Government of the United States, including the military and naval authorities thereof, would recognize and maintain the freedom of such persons. This guarantee has been rendered especially obligatory and sacred by the amendment of the Constitution abolishing slavery throughout the United States. I therefore fully recognize the obligation to protect and defend that class of our people whenever and wherever it shall become necessary, and to the full extent compatible with the Constitution of the United States.

Entertaining these sentiments, it only remains for me to say, that I will cheerfully cooperate with Congress in any measure that may

be necessary for the protection of the civil rights of the freedmen, as well as those of all other classes of persons throughout the United States, by judicial process under equal and impartial laws, in conformity with the provisions of the Federal Constitution.

I now return the bill to the Senate, and regret that in considering the bills and joint resolutions—forty-two in number—which have been thus far submitted for my approval, I am compelled to withhold my assent from a second measure that has received the sanction of both Houses of Congress.

ANDREW JOHNSON.

WASHINGTON, D. C., *March* 27, 1866.

Mr. WILSON, of Iowa. Mr. Speaker——

Mr. ELDRIDGE. I desire to ask the gentleman a question.

Mr. WILSON, of Iowa. I decline to yield.

Mr. Speaker, the debate which occurred on this bill occupied two weeks of the time of this House. Some forty speeches were made, and the debate was not brought to a close until all had been heard who expressed a desire to speak upon the bill. At the close of that debate the bill was passed by more than two thirds of this House. It has been returned to us with the objections of the President to its becoming a law. I do not propose to reopen the discussion of this measure. I am disposed to leave the close of this debate to the President by the message which has just been read. I ask the friends of this great measure to answer the argument and statements of that message by their votes. I appeal to them to sustain me in the motion which I am now about to make.

I now demand the previous question on the passage of this bill, the objections of the President to the contrary notwithstanding.

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

Mr. WILSON, of Iowa. No, sir.

Mr. ROGERS. I want to correct a statement. Not one fourth of the speeches had any application to the bill.

[Cries of "Order!" "Order!"]

The SPEAKER. The question is, Shall the bill pass notwithstanding the objections of the President?

Mr. NIBLACK. I rise to a question of order. I ask whether a motion to lay on the table is in order pending the demand for the previous question.

The SPEAKER. This question has never yet been raised so far as the Chair at this moment remembers, and the opinion of the Chair is that it would scarcely be in order, as the House is acting under the Constitution of the United States, which requires, after considering the objections of the President, that the House shall then proceed to vote by yeas and nays on the passage of the bill, and if two thirds agree to pass it it becomes a law.

Mr. NIBLACK. The only vote, then, I understand, that is in order is simply upon the question of the passage of the bill. No other motion is in order?

The SPEAKER. The Chair thinks not.

Mr. ELDRIDGE. Since the gentleman from Iowa [Mr. WILSON] refuses to allow any debate, I move that there be a call of the House.

The question being taken on the motion for a call of the House, the Speaker announced that the noes appeared to have it.

Mr. ELDRIDGE. I demand the yeas and nays.

The question being taken on seconding the demand for the yeas and nays, there were—ayes 30, noes 122; not one fifth voting in the affirmative.

Mr. ELDRIDGE. I demand tellers on seconding the call for the yeas and nays.

Tellers were ordered; and the Speaker appointed Messrs. ELDRIDGE, and WILSON of Iowa.

The House divided; and the tellers reported —ayes thirty-three.

So the yeas and nays were ordered.

The SPEAKER. The Chair will now state, in regard to the question put by the gentleman from Indiana [Mr. NIBLACK] in reference to a motion to lay on the table, that the language of the Constitution is:

"If after such reconsideration two thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, and if approved by two thirds of that House it shall become a law. But in all cases the votes of both Houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the Journal of each House respectively."

That language seems to exclude every other question except the passage of the bill.

But, on examining authorities, the Chair finds that in the Twenty-Seventh Congress a bill vetoed by the President was laid on the table, it having been decided, on appeal, that the motion was in order. Therefore, after the vote on the present question is taken, the Chair feels that he must, following this precedent, recognize that motion if made.

Mr. NIBLACK. I desire to make that motion at the proper time.

The SPEAKER. The Chair has already expressed the opinion that the language of the Constitution seems to require a vote on the passage of the bill.

Mr. SCHENCK. I wish to be understood as appealing from the decision of the Chair when it is made.

The Clerk proceeded to call the roll.

Mr. LE BLOND. I move that when the House adjourns it adjourn till next Tuesday.

The SPEAKER. The gentleman did not rise in time.

Mr. ELDRIDGE. The gentleman rose before the roll-call had commenced and addressed the Chair.

[Cries of "Order!" "Order!"]

The SPEAKER. The Chair will state that the gentleman is not debarred of any of his rights by the ruling of the Chair that the roll-call having been commenced it shall proceed. He can make his motion hereafter.

The question was taken; and it was decided in the negative—yeas 32, nays 130, not voting 21; as follows:

YEAS—Messrs. Ancona, Bergen, Boyer, Denison, Eldridge, Finck, Glossbrenner, Aaron Harding, Hogan, Edwin N. Hubbell, James M. Humphrey, Le Blond, Marshall, McCullough, Niblack, Nicholson, Radford, Samuel J. Randall, Ritter, Rogers, Ross, Rousseau, Shanklin, Sitgreaves, Strouse, Taber, Taylor, Thornton, Trimble, Winfield, and Wright—32.

NAYS—Messrs. Alley, Allison, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Barker, Baxter, Beaman, Benjamin, Bidwell, Boutwell, Brandegee, Bromwell, Broomall, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Darling, Davis, Dawes, Dawson, Defrees, Delano, Deming, Dixon, Dodge, Donnelly, Driggs, Eckley, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Griswold, Hale, Abner C. Harding, Hart, Hayes, Henderson, Higby, Hill, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, John H. Hubbard, James R. Hubbell, Halburd, James Humphrey, Ingersoll, Jenckes, Kasson, Kelley, Kelso, Ketcham, Laflin, Latham, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, Marvin, McClurg, McIndoe, McKee, McRuer, Mercur, Miller, Moorhead, Morrill, Morris, Moulton, Myers, Newell, Noell, O'Neill, Orth, Paine, Patterson, Perham, Phelps, Pike, Plants, Pomeroy, Price, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Smith, Spalding, Starr, Stevens, Stilwell, Thayer, John L. Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Wentworth, Whaley, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—130.

NOT VOTING—Messrs. Ames, Anderson, Bingham, Blaine, Blow, Chanler, Coffroth, Culver, Dumont, Goodyear, Grider, Harris, Demas Hubbard, Johnson, Jones, Julian, Kerr, Kuykendall, Sloan, Francis Thomas, Warner, and Williams—21.

So the House refused to order a call.

Mr. LE BLOND. I now move to lay the bill upon the table; and upon that motion I demand the yeas and nays.

Mr. SCHENCK. I raise the question of order that that motion is not in order.

The SPEAKER. The Chair overrules the point of order and will state the grounds for overruling it. As the Chair first stated to the House, the Constitution seems to indicate that the House shall immediately vote upon the passage or rejection of the bill, but upon an examination of the precedents, he finds that the Congress has acted so as to enlarge this construction very considerably. In the Twenty-First Congress the vote upon a vetoed bill was postponed for a long time. In another Congress a motion was made and entertained to recommit a bill that had been vetoed to the committee from which it originated. But, perhaps, the decision most applicable to this case is to be found on page 190 of Barclay's Digest, which has been adopted as the parliamentary law of this House, which binds both the members and the Speaker. It is as follows:

"A veto message and bill may be referred, or the message alone, or the bill may be laid on the table."

The Chair finds in the Journal of the Twenty-Seventh Congress, second session, page 1256, when Hon. John White, of Kentucky, occupied this chair, the following precedent:

"The question was then propounded that the House, on reconsideration, do agree to pass the said bill to provide revenue from imports, and for other purposes; when—

"A motion was made by Mr. JAMES COOPER that the bill do lie on the table.

"Mr. WILLIAM COST JOHNSON objected to this motion as not in order, for that, according to the Constitution, the House must proceed to the reconsideration of said bill.

"The SPEAKER decided that the motion to lay on the table was in order.

"From this decision Mr. WILLIAM COST JOHNSON appealed to the House; which appeal was, on motion of Mr. FILLMORE, ordered to lie on the table; and the decision of the Speaker stands."

The bill was then laid on the table by a vote of 97 to 73; and among those who voted to lay it on the table were two gentlemen who have taken the oath under the Constitution as President of the United States, John Quincy Adams and Millard Fillmore. Mr. William Pitt Fessenden, Mr. Joshua R. Giddings, and other gentlemen of distinction at that day, whose names the Chair need not repeat, also voted to lay the bill on the table.

The Chair is now bound by this decision of a Speaker of the House which was sustained by the House on an appeal. That decision enters into the parliamentary law of the House and has been incorporated into the Digest which we have adopted as our parliamentary law. As the House on various occasions has enlarged what the Speaker would deem to be the strict construction of this provision of the Constitution by a variety of motions apart from the question of passing or rejecting the bill, the Chair thinks the motion to lay this bill on the table is in order.

There is still an additional reason. If two thirds of the House desire to pass the bill over the presidential veto, it is evident that they will reject the motion to lay the bill on the table. If they desire to have the bill laid upon the table, the Chair cannot, upon reflection, see why they should not have that privilege. If they wish to refer it to a committee, as was done with a veto in the last Congress, they should have the right to do it. This is a matter coming back to the House with the objections of the President, and by the precedents quoted, the House can do as they see fit with it. And if two thirds of the House are in favor of passing the bill it is certainly evident that a majority will vote against laying the bill on the table.

Mr. SCHENCK. Is this question debatable?

The SPEAKER. If the previous question was not pending it would be debatable.

Mr. SCHENCK. If I cannot assign my reasons I will withdraw my appeal.

The SPEAKER. As the Chair has stated his opinions very fully, it would be agreeable to the Chair that the member making the appeal should have an opportunity to state fully his reasons for it.

Mr. LE BLOND. Would the previous question cut off debate upon an appeal from the decision of the Chair?

The SPEAKER. The pendency of the previous question would.

Mr. LE BLOND. This is an entirely new subject-matter, and one not covered by the previous question.

The SPEAKER. The pendency of the previous question relates to all questions incident to the principal question.

Mr. SCOFIELD. Would it require a two-thirds vote to lay this motion on the table?

The SPEAKER. It would not. A major-

ity can lay the bill on the table, or postpone its consideration, or recommit it to the Committee on the Judiciary.

The appeal from the decision of the Chair having been withdrawn, the question was upon the motion to lay the bill upon the table.

The yeas and nays were ordered.

The question was then taken; and it was decided in the negative—yeas 37, nays 122, not voting 24; as follows:

YEAS—Messrs. Ancona, Bergen, Boyer, Coffroth, Dawson, Denison, Eldridge, Finck, Glossbrenner, Aaron Harding, Harris, Hogan, Edwin N. Hubbell, James M. Humphrey, Le Blond, Marshall, McCullough, Niblack, Nicholson, Phelps, Samuel J. Randall, William H. Randall, Ritter, Rogers, Ross, Rousseau, Shanklin, Sitgreaves, Smith, Strouse, Taber, Taylor, Thornton, Trimble, Whaley, Winfield, and Wright—37.

NAYS—Messrs. Alley, Allison, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Barker, Baxter, Beaman, Benjamin, Bidwell, Boutwell, Brandegee, Bromwell, Broomall, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Darling, Davis, Dawes, Defrees, Delano, Deming, Dixon, Dodge, Donnelly, Driggs, Eckley, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Griswold, Hale, Abner C. Harding, Hart, Hayes, Henderson, Higby, Hill, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, John H. Hubbard, James R. Hubbell, Hulburd, James Humphrey, Ingersoll, Jenckes, Kasson, Kelley, Kelso, Ketcham, Laflin, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, Marvin, McClurg, McIndoe, McKee, McRuer, Mercur, Miller, Moorhead, Morrill, Morris, Moulton, Myers, Newell, Noell, O'Neill, Orth, Paine, Patterson, Perham, Pike, Plants, Pomeroy, Price, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Spalding, Starr, Stevens, Stilwell, Thayer, Francis Thomas, John L. Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Ward, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—122.

NOT VOTING—Messrs. Ames, Anderson, Bingham, Blaine, Blow, Chanler, Culver, Dumont, Goodyear, Grider, Demas Hubbard, Johnson, Jones, Julian, Kerr, Kuykendall, Latham, Radford, Raymond, Sloan, Robert T. Van Horn, Warner, Henry D. Washburn, and Williams—24.

So the motion to lay the bill on the table was not agreed to.

During the roll-call,

Mr. BINGHAM said: I am paired off on all questions touching the passage of this bill, with Mr. WILLIAMS, and Mr. HUBBARD of New York, both of whom would vote for the bill if they were present. On all preliminary questions I reserve my right to vote.

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

Mr. FINCK. I move that when the House adjourns to-day it adjourn to meet on Thursday next.

Mr. ELDRIDGE. I call for the yeas and nays on that motion, and I ask for tellers on ordering the yeas and nays.

Tellers were refused.

The yeas and nays were refused.

The motion of Mr. FINCK was not agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate by Mr. FORNEY, its Secretary, informed the House that the Senate had passed without amendment the following bill and joint resolution of the House:

A bill (H. R. No. 394) for the relief of the estate of E. W. Eddy; and

A joint resolution (H. R. No. 105) giving construction to the law in relation to bounties payable to soldiers discharged for wounds.

The message further informed the House that the Senate had passed a bill (S. No. 59) to provide for the revision and consolidation of the statutes of the United States; in which he was directed to request the concurrence of the House.

ENROLLED BILL SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled Senate bill No. 181, for the relief of Emma J. Hall; whereupon the Speaker signed the same.

CIVIL RIGHTS BILL—AGAIN.

The question was upon the demand for the previous question.

Mr. ELDRIDGE. I move that the House now adjourn.

Mr. FINCK. I call the yeas and nays on that motion.

Mr. ELDRIDGE. I call for tellers on ordering the yeas and nays.

Tellers were ordered; and Mr. WASHBURNE, of Illinois, and Mr. ELDRIDGE, were appointed.

The House divided; and the tellers reported—ayes thirty-one, noes not counted.

So the yeas and nays were ordered.

The question was upon the motion of Mr. ELDRIDGE, that the House adjourn.

Mr. ELDRIDGE. I withdraw my motion. The intention on the other side is to gag the House. Let them do so.

The SPEAKER. The gentleman from Wisconsin withdraws the motion to adjourn.

Mr. ROGERS. I object.

The SPEAKER. The call of the roll not having begun, the gentleman from Wisconsin, in the opinion of the Chair, has the right to withdraw the motion.

The question recurring on seconding the demand for the previous question, it was seconded; there being—ayes 102, noes 31.

The main question was then ordered.

The SPEAKER. The question is, "Shall this bill pass, notwithstanding the objections of the President?" On this question, the vote, according to the requirement of the Constitution, must be taken by yeas and nays.

The question was taken; and there were—yeas 122, nays 41, not voting 21; as follows:

YEAS—Messrs. Alley, Allison, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Barker, Baxter, Beaman, Benjamin, Bidwell, Boutwell, Brandegee, Bromwell, Broomall, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Colfax, Conkling, Cook, Cullom, Darling, Davis, Dawes, Defrees, Delano, Deming, Dixon, Dodge, Donnelly, Eckley, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Griswold, Hale, Abner C. Harding, Hart, Hayes, Henderson, Higby, Hill, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, John H. Hubbard, James R. Hubbell, Hulburd, James Humphrey, Ingersoll, Jenckes, Kasson, Kelley, Kelso, Ketcham, Laflin, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, Marvin, McClurg, McIndoe, McKee, McRuer, Mercur, Miller, Moorhead, Morrill, Morris, Moulton, Myers, Newell, O'Neill, Orth, Paine, Patterson, Perham, Pike, Plants, Pomeroy, Price, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Spalding, Starr, Stevens, Thayer, Francis Thomas, John L. Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Wentworth, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—122.

NAYS—Messrs. Ancona, Bergen, Boyer, Coffroth, Dawson, Denison, Eldridge, Finck, Glossbrenner, Aaron Harding, Harris, Hogan, Edwin N. Hubbell, James M. Humphrey, Latham, Le Blond, Marshall, McCullough, Niblack, Nicholson, Noell, Phelps, Radford, Samuel J. Randall, William H. Randall, Raymond, Ritter, Rogers, Ross, Rousseau, Shanklin, Sitgreaves, Smith, Strouse, Taber, Taylor, Thornton, Trimble, Whaley, Winfield, and Wright—41.

NOT VOTING—Messrs. Ames, Anderson, Bingham, Blaine, Blow, Chanler, Culver, Driggs, Dumont, Goodyear, Grider, Demas Hubbard, Johnson, Jones, Julian, Kerr, Kuykendall, Sloan, Stilwell, Warner, and Williams—21.

During the call of the roll the following announcements were made:

Mr. CONKLING. My colleague, Mr. HUBBARD, is detained from the House in consequence of sickness in his family. On this vote he is paired with the gentleman from Ohio, Mr. BINGHAM.

Mr. ANCONA. My colleague, Mr. JOHNSON, is still detained at his room by sickness. If here, he would undoubtedly vote to sustain the veto.

Mr. ASHLEY, of Ohio. I understood that Mr. JULIAN was paired with Mr. JOHNSON.

Mr. HILL. That matter will be explained at the proper time.

Mr. MCINDOE. My colleague, Mr. SLOAN, is absent from the House on leave. If here he would vote for the passage of the bill.

Mr. STILWELL. My colleagues, Messrs. JULIAN and KERR are absent, and Mr. JULIAN and myself have paired with Mr. KERR.

Mr. MOORHEAD. I have a telegram from my colleague, Mr. WILLIAMS, who is on his way here, but has been detained in consequence of the train missing a connection. If he were here he would vote for the bill; but I understand that he has paired with the gentleman from Ohio, Mr. BINGHAM.

Mr. BINGHAM. Yes, sir.

Mr. MOORHEAD. I believe the gentleman from Ohio has paired with two gentlemen as a two-thirds vote is required to decide this question in the affirmative.

Mr. BINGHAM. Yes, sir.

Mr. BALDWIN. I wish to say in behalf of my colleague, Mr. AMES, that he is paired with Mr. GRIDER. Were he here he would vote for the bill.

Mr. TRIMBLE. My colleague, Mr. GRIDER, who is absent, is paired with Mr. AMES. If here he would vote against the passage of the bill.

Mr. WENTWORTH. My colleague, Mr. KUYKENDALL, voted for this bill when it was heretofore passed by the House, and he extremely regrets his inability to record his vote in its favor now.

Mr. ROSS. I regret that my colleague, Mr. KUYKENDALL, is not here. I understand that, if here, he would have voted against this bill. [Laughter.]

When the call of the roll had been concluded,

The SPEAKER said: The Clerk will call my name as a member of the House.

The Clerk called the name of SCHUYLER COLFAX, of Indiana, and Mr. COLFAX voted "ay." [Applause.]

The SPEAKER. On the question, "Shall this bill pass notwithstanding the objections of the President?" the yeas are 122 and the nays 41. Two thirds of the House having, upon this reconsideration, agreed to the passage of the bill, and it being certified officially that a similar majority of the Senate, in which the bill originated, also agreed to its passage, I do therefore, by the authority of the Constitution of the United States, declare that this bill, entitled "An act to protect all persons in the United States in their civil rights and furnish the means of their vindication," has become a law.

[This announcement was received with an outburst of applause, in which members of the House, as well as the throng of spectators, heartily joined, and which did not subside for some moments.]

Mr. SCHENCK. I move that the House adjourn.

The motion was agreed to; and thereupon, (at three o'clock and twenty minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to the appropriate committees:

By the SPEAKER: The petition of Hon. John A. Gilmer, and 140 others, citizens of North Carolina, asking for a new mail route from Gibsonsville, on the North Carolina railroad, via Inglis Mills, Brick Church, David Coble's, and P. C. Smith's, to Lang's Mills, in Randolph county, North Carolina.

Also, the petition of James A. Fennell, of Rich Square, North Carolina, of the Society of Friends, and a volunteer in the Union Army, asking compensation for a horse taken in 1865 by the United States.

Also, resolutions of a mass meeting of soldiers at Evansville, Indiana, in favor of an increase of pensions and equalization of bounties.

By Mr. ALLEY: The petition of William P. Phillips, and others, in aid of the recommendation of the Secretary of the Navy, for the payment of prize money to the officers and crew of the Kearsarge.

By Mr. BEAMAN: The petition of Henry Huff, and 47 others, inhabitants of Hillsdale county, Michigan, praying for increased duty on all unwashed foreign wools.

Also, the petition of H. N. Rawley, and 77 others, inhabitants of the same county, to the same effect.

Also, the petition of W. W. Upham, and 59 others, inhabitants of the same county, to the same effect.

Also, the petition of Alfred Wilkerson and 251 others, inhabitants of Dundee, Monroe county, Michigan, praying for increased duty on all unwashed foreign wools.

Also, the petition of George W. Moore, and 49 others, citizens of Medina, Lenawee county, Michigan, praying for an increased duty on foreign wool.

Also, the petition of Alexander Hewitt, and 53 others, citizens of the township of Allen, Hillsdale county, Michigan, praying for an increased duty on foreign wool.

By Mr. BUNDY: The petition of S. D. Eggleston, and 46 others, citizens and laborers of and at Hope Furnace, Vinton county, Ohio, for an increase of the tariff.

By Mr. CONKLING: The remonstrance of citizens of Utica, New York, against the bill pending in Congress to reorganize the Federal judiciary.

By Mr. DAVIS: The petition of A. F. Wilcox, John Ecker, and 29 others, citizens of Onondaga county, New York, praying for additional protection to American wool.

Also, the petition of H. Edwards, Hiram Eaton, and 181 others, citizens of Onondaga county, New York, asking increased protection to American wool.

By Mr. DAWSON: The petition of the Numismatic and Antiquarian Society, of Philadelphia, for the promotion of numismatic science and antiquarian research.

By Mr. DELANO: The petition of Millard Graham, and 100 others, citizens and wool-growers of Ohio, praying for an increased duty on foreign wools and for the protection of wool-growers of Ohio.

By Mr. DRIGGS: The petition of F. W. Anthony, D. P. Waite, and 24 others, citizens of Ontonagon county, Lake Superior, Michigan, praying for an increased duty on foreign copper.

Also, the petition of G. Townsend, Thomas Dayton, and 107 others, citizens of Genesee county, Michigan, praying for an increased duty on wool.

By Mr. FARNSWORTH: The petition of a large number of citizens of McHenry county, Illinois, for an increased tariff on wool.

Also, the petition of Sylvanus Town, and others, citizens of Aurora, Illinois, for uniform insurance laws.

By Mr. FERRY: The memorial of citizens of Emmet county, Michigan, praying for a restoration to market of reserved railroad lands, and proceeds applied to railroad purposes.

By Mr. HOTCHKISS: The memorial of brewers of Binghamton, New York, asking that the duty on barley may not exceed five cents.

Also, the petition of 340 late soldiers in the Union Army, from Tompkins county, New York, for an equalization of bounties.

By Mr. KETCHAM: The petition of citizens of Columbia county, New York, for further protection on American wool.

By Mr. LONGYEAR: The petition of J. Densmore, and 76 others, citizens of Ingham county, Michigan, asking for an increased duty on wool.

Also, the petition of A. Parker, and 160 others, citizens of Ingham county, Michigan, asking for an extension of the Amboy, Lansing, and Traverse Bay land grant to the company of that name.

By Mr. MARVIN: Three several petitions of citizens of Saratoga county, New York, for the passage of a law regulating inter-State insurance.

Also, of 40 citizens of Saratoga county, New York, for an increased duty on foreign wool.

By Mr. McCLURG: The petition of citizens of Missouri, for the enactment of laws for the regulation of insurances of all kinds.

By Mr. PAINE: The petition of George Hulbert and others, citizens of Waterford, Wisconsin, for imposition of specific duties on foreign wools.

Also, the petition of Rev. W. P. Stone, late chaplain of the twenty-seventh Wisconsin regiment, for payment for services.

Also, the petition of Z. G. Simmons, and others, citizens of Kenosha, Wisconsin, for enactment of a law regulating insurance in the several States.

By Mr. PIKE: The petition of James L. Farmer, and 35 others, of Maine, for appropriation to pay the officers and crew of the Kearsarge the value of the Alabama.

By Mr. PLANTS: The petition of 131 citizens and wool-growers of Morgan county, Ohio, asking such additional duties upon foreign wool as will give efficient protection to that important interest.

By Mr. POMEROY: Three several petitions of citizens of Cayuga county, New York, for an increased duty on foreign wool.

Also, of citizens of Wayne county, New York, for a law of Congress regulating inter-State insurances.

Also, of citizens of Seneca, New York, for extension of patent for corn-sheller to Thomas D. Burrell, of Geneva, New York.

By Mr. PRICE: The memorial and joint resolution of the Legislature of the State of Iowa, asking for a grant of land to aid in the construction of a railroad from the North Missouri railroad, on the southern line of Iowa, to Cedar Rapids, Iowa.

By Mr. RANDALL, of Pennsylvania: The petition of Louis V. Bourcb, of Philadelphia, late second lieutenant, company B, nineteenth Pennsylvania volunteer cavalry, nine months' difference pay and allowances between private's and lieutenant's pay, from January 26, 1865, to October 1865, barred by clause in Adjutant General's order, &c.

By Mr. ROSS: The petition of C. T. Heald, and 62 others, of Fulton county, Illinois, asking for the passage of uniform laws for the regulation of inter-State insurances of all kinds.

By Mr. SCHENCK: The petition of 67 citizens of Kentucky, for an equalization of bounties.

Also, the petition of 168 citizens of Illinois, for an equalization of bounties.

By Mr. SPALDING: The petition of I. Park Alexander, and 885 others, citizens of Summit county, Ohio, mostly farmers, asking for further protection to wool-growers, in the shape of an increased tariff on imported wool and a tax on dogs.

By Mr. UPSON: The petition of L. F. Hale, D. B. Dennis, J. B. Crippen, and 45 others, citizens of Coldwater, Michigan, praying Congress to pass laws to regulate inter-State insurances.

By Mr. VAN HORN, of New York: Two petitions from Wyoming county, and one from Genesee county, New York, containing 213 names, asking an increased duty on wool.

By Mr. WOODBRIDGE: The petition of Hon. Pitt W. Hyde, and 170 others, citizens of Castleton, Rutland county, Vermont, praying for an increased duty on foreign wool.

Also, the petition of Harmon Myers, and 41 others, citizens of Pownal, Bennington county, Vermont, praying for an increased duty on foreign wool.

Also, the petition of Hannibal Woodruff, and 40 others, citizens of Tinmouth, Rutland county, Vermont, praying for an increased duty on foreign wool.

Also, the petition of Hon. William C. Kitteridge, and 49 others, citizens of Fairhaven, Rutland county, Vermont, praying for an increased duty on foreign wool.

Also, the petition of Lewis Hurlburt, and 41 others, citizens of the town of Finisburg, Addison county, Vermont, praying for an increased duty on foreign wool.

Also, the petition of Samuel S. Kelton, and 43 others, citizens of East Montpelier, Washington county, Vermont, asking for an increased duty on foreign wool.

Also, the petition of James K. Hyde, and 24 others, citizens of Sudbury, Rutland county, Vermont, praying for an increased duty on wool.

By Mr. WENTWORTH: Resolutions from the Chicago Board of Trade, in favor of a ship-canal around the falls of Niagara.

Also, the petition of invalid soldiers, praying for an increase of their pensions.

IN SENATE.

TUESDAY, *April* 10, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. SUMNER. I offer a petition which is headed by William Gilmore Simms, of South Carolina, who gives his occupation as author, and which has also the signatures of several other citizens of South Carolina, asking Congress to enact an international copyright law. I ask the reference of the petition to the Committee on Foreign Relations.

It was so referred.

Mr. BROWN presented a petition of four hundred and forty-three citizens of Pittsburg and vicinity, and also the petition of eighty-one citizens of Alleghany county, Pennsylvania, praying that eight hours may be considered a legal day's work; which were referred to the Committee on Public Buildings and Grounds.

REPORTS OF COMMITTEES.

Mr. LANE, of Indiana, from the Committee on Pensions, to whom was referred the petition of Mrs. Emerance Gouler, praying for a pension, submitted a report accompanied by a bill (S. No. 260) granting a pension to Mrs. Emerance Gouler. The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. ANTHONY, from the Committee on Pensions, to whom was referred a bill (H. R. No. 214) for the benefit of Colonel R. E. Bryant, reported it without amendment, and submitted a report in writing, which was ordered to be printed.

Mr. HENDRICKS. The Committee on Public Lands, to whom was referred the bill (S. No. 243) to extend the time for the reversion to the United States of the lands granted by Congress to aid in the construction of a railroad from Amboy by Hillsdale and Lansing to some point on or near Traverse bay in the State of Michigan, and for the completion of said road, have instructed me to report it back with a substitute, and to move that the bill and substitute be printed and recommitted.

The motion was agreed to.

Mr. VAN WINKLE, from the Committee on Post Offices and Post Roads, to whom was referred the bill (H. R. No. 281) to amend the postal laws, reported it with amendments.

He also, from the same committee, to whom was referred a bill (S. No. 70) to amend the postal laws, asked to be discharged from its further consideration; which was agreed to.

COAST SURVEY REPORT.

Mr. ANTHONY. I am instructed by the Committee on Printing, to whom was referred a resolution to print forty-two hundred copies of the report of the Superintendent of the Coast Survey, to report it back with an amendment; and I am also instructed to ask for its present consideration.

There being no objection, the Senate proceeded to consider the following resolution:

Resolved, That there be printed of the report of the Superintendent of the United States Coast Survey, for the year 1865, twelve hundred copies extra for the use of the Senate, and three thousand copies for distribution by the Superintendent of the Coast Survey.

The amendment reported by the committee was, in the fourth line to strike out "twelve hundred" and insert "one thousand," and in the fifth line to strike out "three" and insert "one;" so that the resolution will read:

Resolved, That there be printed of the report of the Superintendent of the United States Coast Survey, for the year 1865, one thousand copies extra for the use of the Senate, and one thousand copies for distribution by the Superintendent of the Coast Survey.

Mr. ANTHONY. This amendment reduces the number something more than one half. It does not of course reduce the expense in the same proportion, because the engraving and the type-setting constitute the large part of the expense. The work is of exceedingly great value to the security of navigation, property, and life. The committee were somewhat reluctant to reduce the number; but in pursuance of the general system of economy which they have adopted and which seems to meet the approbation of the Senate, they concluded to report less than one half the usual number.

The amendment was agreed to.

The resolution as amended was adopted.

PENSION BUSINESS.

Mr. LANE, of Indiana, from the Committee on Pensions, reported the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That Friday next, the 13th instant, after the morning hour, be assigned and set apart for the consideration of bills and reports from the Committee on Pensions.

COMMITTEE SERVICE.

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

Resolved, That the vacancy in the Committee on Commerce, occasioned by the decease of Hon. Solomon Foot, be filled by the President of the Senate.

AUGUSTIN AMIOT.

Mr. HARRIS. I am instructed by the Committee on Private Land Claims, to whom was referred the bill (H. R. No. 364) to confirm unto Augustin Amiot, his legal assigns and representatives, a certain lot of ground in the city of St. Louis, in the State of Missouri, to report it back and recommend its passage.

It will take but a moment to dispose of the bill, and I ask for action on it now.

By unanimous consent the bill (H. R. No. 364) to confirm unto Augustin Amiot, his legal assigns and representatives, a certain lot of ground in the city of St. Louis, in the State of Missouri, was considered as in Committee of the Whole. It recites that under the act of Congress approved June 22, 1860, entitled "An act for the final adjustment of private land claims in the States of Florida, Louisiana, and Missouri, and for other purposes," the recorder of land titles for the city of St. Louis has reported to the Commissioner of the General Land Office that there ought to be confirmed to Augustin Amiot, or to his legal representatives, under class one, under the third section of that act, the lot of ground in the town of St. Louis, Missouri, described as follows: commencing at the northwest corner of the lot in block number forty-six, being the northwest corner of the block at the intersection of Sycamore and Second streets; thence south fifty-one degrees forty-one minutes east, along the south edge of Sycamore street to the northern boundary of the lot one hundred and sixty feet five inches, the northeast corner of the lot at the south edge of Sycamore street; thence south thirty degrees thirty minutes west, along the eastern boundary of the lot, one hundred and twenty-eight feet four inches, the southeast corner of the lot; thence north fifty-eight degrees forty-one minutes west, along the southern boundary of the lot, one hundred and sixty feet five inches, the southwest corner of the lot at the east edge of Second street; thence north thirty degrees thirty minutes east, along the east edge of Second street to the western boundary of the lot, one hundred and twenty-eight feet four inches, the beginning northwest corner of the lot, the lot being one hundred and twenty by one hundred and fifty French feet; and that the Commissioner of the General Land

Office has approved the report of the recorder of land titles, and has reported the same to Congress for its action. The bill therefore proposes to confirm the lot described unto Augustin Amiot, his legal assigns and representatives, and to grant all the right, title, and interest of the United States.

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

A. M. JESS.

Mr. HARRIS. The Committee on Private Land Claims, to whom was referred the bill (H. R. No. 145) granting land to A. M. Jess, of Josephine county, Oregon, have instructed me to report it back without amendment and recommend its passage. I ask for its present consideration.

By unanimous consent, the bill was considered as in Committee of the Whole.

The land claimed and settled upon by A. M. Jess, on Applegate river, in Josephine county, Oregon, under the provisions of the homestead law of May 20, 1862, having since, without his fault, become of no value to him, and been, in great part, destroyed by a change in the channel of the river; his title being still inchoate, and justice requiring that he should be permitted to locate and settle upon an equal quantity of other public land in lieu thereof, the bill proposes to authorize him to locate and settle upon three hundred and twenty acres of the public lands of the United States, in accordance with the provisions and requirements of the homestead law, and at the expiration of the period therein prescribed to receive a patent therefor on the terms and conditions therein prescribed; but the title acquired by him to the land heretofore located and settled upon by him shall revest in the United States; and the new location and settlement shall not be made upon mineral lands of the United States.

Mr. HARRIS. I move to amend the bill by striking out in line eleven, after the word "shall," the words "revest in" and insert "revert to." The words "revest in" are evidently a misprint. I suppose it requires an amendment.

The amendment was agreed to.

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

Mr. POMEROY. I do not understand why you give the man three hundred and twenty acres as a settler under the homestead law.

Mr. HARRIS. Did not that allow three hundred and twenty acres?

Mr. POMEROY. Only one hundred and sixty.

Mr. CONNESS. They are allowed three hundred and twenty acres in Oregon.

Mr. POMEROY. That is an old law in Oregon which was limited to a certain number of years. It was not a law of perpetual duration.

Mr. HARRIS. This bill was drawn by the chairman of the Committee on Private Land Claims in the House of Representatives, and I understood from him that he had drawn it in conformity with the law.

Mr. POMEROY. Our general homestead bill only allows one hundred and sixty acres. We have no exception of Oregon. That is my opinion.

Mr. HARRIS. I think that the Senator from Kansas will find that the bill is right. It is drawn in conformity with the law by a very careful lawyer.

Mr. LANE, of Kansas. It will be better to let it lie over.

Mr. HARRIS. I will let it lie over if there is any question about it.

The PRESIDENT *pro tempore*. The bill will be postponed.

CIVIL RIGHTS—VETO MESSAGE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House of Representatives had concured with the Senate in the passage of the bill (S. No. 61) to protect all persons in the United States in their civil rights and furnish the means of their vindication, notwithstanding the objections of the President, two thirds of the House of Representatives having agreed to pass the same.

Mr. TRUMBULL submitted the following resolution:

Resolved, That the Secretary of the Senate be directed to present to the Secretary of State the act entitled "An act to protect all persons in the United States in their civil rights and furnish the means of their vindication," together with the certificates of the Secretary of the Senate and Clerk of the House of Representatives, showing that the said act was passed by a vote of two thirds of both Houses of Congress after the same had been returned to the Senate by the President with his objections, and after the reconsideration of said act by both Houses of Congress, in accordance with the Constitution.

Mr. McDOUGALL. I desire now to make a remark simply on this resolution. I differ with the chairman of the Committee on the Judiciary and with the Senator from Ohio, [Mr. SHERMAN,] who originated the proposition formerly in the Senate as to what was a quorum of the body, and I say that the vote on this bill was not a vote of two thirds of the Senate, because the Senate is not fully represented. I desire to make the remark because I am a protestant against the doctrine advanced by the Senator from Ohio when the rule was adopted in the Senate to which I have referred.

The resolution was agreed to.

PRESERVATION OF THE UNION.

Mr. SAULSBURY presented the following resolutions:

Whereas the Senate of the United States, on the 25th day of July, 1861, adopted a resolution in the words following, to wit:

"*Resolved*, That the present deplorable civil war has been forced upon the country by the disunionists of the southern States now in revolt against the Government and in arms around the capital; that in this national emergency Congress, banishing all feelings of mere passion or resentment, will recollect only its duty to the whole country; that this war is not prosecuted upon our part in any spirit of oppression nor any purpose of conquest or subjugation, nor purpose of overthrowing or interfering with the rights or established institutions of those States, but to defend and maintain the supremacy of the Constitution and all laws made in pursuance thereof, and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired, and that as soon as these objects are accomplished the war ought to cease."

And whereas the said civil war has ceased: Therefore,

Resolved, That the Senate, in redemption of the pledge given by the adoption of said resolution, will defend and maintain the supremacy of the Constitution, and all laws made in pursuance thereof, and will preserve the Union with all the dignity, equality, and rights of the several States, the said southern States included, unimpaired.

Resolved, That Andrew Johnson, President of the United States, merits the gratitude of all the people of the United States on account of his patriotic efforts to preserve the Union, with all the dignity, equality, and rights of the several States, the said southern States included, unimpaired, and that we pledge him our cordial coöperation in his said efforts.

Mr. SUMNER. Let those resolutions lie over.

The PRESIDENT *pro tempore*. They will lie over, under the rule.

Mr. SAULSBURY. I give notice that I shall call up the resolutions on Friday next.

APPROVAL OF BILLS.

A message from the President of the United States, by Mr. MOORE, his Secretary, announced that the President had this day approved and signed the following acts:

An act (S. No. 80) for the relief of J. B. Rittenhouse, fleet paymaster of the Pacific squadron;

An act (S. No. 82) granting a pension to Sarah Fitzgibbon; and

An act (S. No. 85) granting to the State of Wisconsin a donation of public lands to aid in the construction of a breakwater and harbor and ship-canal at the head of Sturgeon bay, in the county of Door, in said State, to connect the waters of Green bay with Lake Michigan, in said State.

PENNSYLVANIA WAR EXPENSES.

Mr. WILSON. I gave notice yesterday that I should call up this morning a House bill reported by the Military Committee to pay the State of Pennsylvania for troops called out in 1863. I move now to take up the bill.

The motion was agreed to; and the bill (H. R. No. 360) to reimburse the State of Pennsylvania for moneys advanced Government for war purposes was considered as in Committee of the Whole. It provides that to supply a deficiency in paying the Army, under the act of ———, and to reimburse the State of Pennsylvania for money expended for payment of militia in the service of the United States, the sum of $800,000, or so much thereof as may be necessary, is appropriated, but before it is paid, the claim of the State shall be again examined and settled by the Secretary of War.

The Committee on Military Affairs and the Militia proposed to fill the blank in the fourth line of the bill by inserting, "March 14, 1864;" so that the clause will read:

That to supply a deficiency in paying the Army, under the act of March 14, 1864, and to reimburse the State of Pennsylvania for money expended for payment of militia in the service of the United States, the sum of $800,000, or so much thereof as may be necessary, is hereby appropriated.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to a third reading, was read the third time, and passed.

LAC LA BELLE SHIP-CANAL.

Mr. POMEROY. I move to postpone all prior orders, and take up for consideration Senate bill No. 219.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 219) granting certain lands to the State of Michigan to aid in the construction of a ship-canal to connect the waters of Lake Superior with the lake known as Lac La Belle, in said State.

The bill proposes to grant to the State of Michigan, for the use and benefit of "Lac La Belle Harbor Improvement Company," a company organized under and by virtue of the laws of that State, for the purpose of aiding in the construction of a ship-canal to connect the waters of Lake Superior with the lake known as Lac La Belle, in said State, one hundred thousand acres of the public lands of the United States in the upper peninsula of Michigan, to be selected from the odd-numbered sections of land nearest the location of the canal, not otherwise reserved or appropriated, nor designated by the United States as "mineral lands" prior to the passage of the act, nor to which the rights of preëmption or homestead have attached. The canal is to be at least one hundred feet wide at the top, seventy-five feet wide at the bottom, and to have, when completed, a depth of water through its entire length of at least twelve feet, running from sixteen feet of water in Lake Superior to fourteen feet of water in Lac La Belle. The canal is to be and remain a public highway for the use of the Government of the United States, free from toll or charge upon the vessels of the Government or upon vessels employed by the Government in the transportation of any property or troops of the United States.

The lands granted are to be subject to the disposal of the Legislature of the State of Michigan for the purposes stated and no other. As soon as the Governor of the State shall file, or cause to be filed, with the Secretary of the Interior, a map or plan showing the location of the canal, the Secretary is to withdraw from market the lands applicable and subject to the provisions of the act; and whenever the Governor shall certify to the Secretary of the Interior that the ship-canal has been completed, in a good, substantial, and workmanlike manner, in all respects in conformity with the provisions of the act, and to his satisfaction, it shall be the duty of the Secretary to issue patents to the State for the lands granted. If the ship-canal shall not be completed within two years from and after the passage of the act, the lands granted are to revert to the United States.

An amendment was reported by the Committee on Public Lands, in line nine of section one to strike out "one hundred" and insert "fifty;" so that the clause will read:

That there be, and is hereby, granted to the State

of Michigan, for the use and benefit of the "Lac La Belle Harbor Improvement Company," a company organized under and by virtue of the laws of the State of Michigan, for the purpose of aiding in the construction of a ship-canal to connect the waters of Lake Superior with the lake known as Lac La Belle, in said State, fifty thousand acres of the public lands of the United States in the upper peninsula of Michigan.

Mr. CHANDLER. I hope that amendment will not prevail. I think the committee are satisfied by this time that fifty thousand acres are not enough.

Mr. POMEROY. There was some difference of opinion in the committee. The bill called for one hundred thousand acres and the committee reported fifty thousand acres. I know the work is one of great importance, and the quantity of land asked for, one hundred thousand acres, is not very large; still, I agreed with the committee that fifty thousand acres would approximate, perhaps, toward the amount necessary, and that was the report of the committee. If the Senate desire to make the grant one hundred thousand acres the committee will not resist it. I thought fifty thousand was enough.

Mr. CHANDLER. I will state that the lands granted by the bill are of poor quality, and to make the grant of any value for the purpose it should be at least one hundred thousand acres. The Legislature of Wisconsin and the Boards of Trade of various cities from Chicago to Philadelphia have petitioned in favor of a grant for this purpose. It is a matter of more importance to other States than to the State of Michigan. I am satisfied that the amount originally asked for is the smallest amount that will effect the object.

Mr. HENDRICKS. I could not concur with the majority of the committee in reporting in favor of this bill. I think the work is entirely a local one, a neighborhood work, not general in its character. This is a proposition to take the public lands and use them for the purpose of making a harbor where God has made none. There is a little lake inside from the coast about a mile and a half; and the proposition is to make a canal from Lake Superior across to that little lake, and that lake is to form a harbor for the accommodation of some miners in that neighborhood. It is purely a local interest. I think we might just as well undertake to make a road across to a man's farm in some obscure neighborhood. The probability is that copper mines will eventually be developed in that region so as to be of value and importance; but at this time the evidence before the committee does not establish that this is a work of general national importance.

If, however, it is the pleasure of the Senate to pass the bill at all, I should doubt whether less than one hundred thousand acres would do much good. If we agree that this is a work of sufficient importance to appropriate public lands to it, I think we might just as well appropriate enough to make the work and to do it in good style. If it is to be constructed, it ought to be well constructed, and not go along with a deficient fund all the while. The committee had no very reliable information as to the cost of the work. We were substantially without information on that subject. Nor had we much information about the value of the land in that neighborhood; but my opinion is that the land is not very valuable, rather a pine barren, sandy soil, and will not probably realize much to the company when they come to sell. My judgment is that if we appropriate any lands we might as well appropriate one hundred thousand acres; but with my view of this work I cannot vote for the bill. I do not think it is right for the General Government to make harbors for purely local interests.

Mr. HOWARD. Mr. President, the Senator from Indiana is quite right in saying that one object of this bill is to secure a harbor at the point where the appropriation is expected to be applied. This Lac La Belle is a small lake near the eastern extremity of what is known as Point Keweenaw, a long promontory that stretches into Lake Superior from the west. In passing that promontory a vessel is unable to find any harbor for a distance of from one hundred and fifty to two hundred miles, according to my best recollection. At all events, the distance is very considerable, and the exposure of vessels to danger upon the lake, especially during the early and later part of the season of navigation, is very great.

Now, sir, this little Lac La Belle is a small lake about three miles long and a mile and a half or two miles broad, with a very great depth of pure clear water and is situated from Lake Superior a distance of only about a mile, according to the best information which I can obtain, so that the canal which is proposed to be cut to unite the waters of the lake with those of Lac La Belle will not probably be more than one mile in length; and the object of the bill is to enable the State of Michigan to construct that little canal so as to admit vessels that sail the lake into this harbor, which will be the only secure harbor for a great distance on the lake shore. Indeed it will thus constitute the best harbor upon Lake Superior. The length of that lake, as gentlemen will recollect, is about four hundred miles. It is not blessed with very excellent harbors, and there are very few even of the quality which exist.

Mr. HENDRICKS. Will the Senator allow me to ask him one question, which I do for information?

Mr. HOWARD. Certainly.

Mr. HENDRICKS. As a work of general importance I cannot see the utility of this, except for the purpose suggested by the Senator of making a harbor of refuge. Now, I ask the Senator whether vessels could enter a canal which is cut out from the lake from a straight coast; whether, in the midst of a storm, vessels could enter a canal of that sort so as to find a harbor of refuge. I admit this little lake would be a good harbor when a vessel could once get there.

Mr. HOWARD. Undoubtedly they could enter the canal, but for that purpose it would be necessary in this case, as in all other similar cases, that piers should be constructed out into the lake in order to protect the vessels and enable them to get into the canal. That is the case with the canal at the Sault Ste. Marie, and it is too familiar a principle to be enlarged upon here. It will be necessary to construct piers for that purpose, and that will also increase to some degree the expense of the work. Sundry private individuals have already commenced this work, and have expended a considerable sum of money; I am not able to state how much; but they have been at work in good faith for the purpose of connecting the waters of Lake Superior with the waters of this little lake. I hold in my hand an estimate which a very intelligent gentleman resident in the upper peninsula of Michigan has placed in my hands—a gentleman who is as well acquainted, perhaps, with the nature of this work and its probable cost as any one who could be selected. Here is his estimate:

Estimate of cost of construction of the ship-canal connecting Lake Superior with Lac La Belle.

For dredging canal and making part of the north pier, as per contract, six hundred feet	$65,000
For making six hundred feet of south pier and four hundred feet of cribs, to protect banks of canal inside, as per contract	25,000
Estimated cost of extending both piers, and for making protection to entrance of canal, including materials, &c	60,000
Total cost	$150,000

I have no doubt that it will exhaust the whole of that sum in the end. The lands, as has been very properly remarked by my colleague, which will be donated to the State for this purpose are not very valuable lands; they will not bring probably any of them more than the minimum price of $1 25 an acre, and perhaps not even that; but I do not know how that may be. I am satisfied that the fifty thousand acres reported by the committee will not be sufficient to construct the work, and that ultimately we shall be under the necessity of making a further grant. I think we may as well make a liberal grant now as to be obliged to review the subject hereafter and act upon it again.

Mr. STEWART. Allow me to make a suggestion. I understand that these lands are not very valuable now, and they will be principally valuable for their timber, but the timber cannot very well be brought into use without a harbor at that point. Consequently the harbor will make the timber valuable, and that is about the only way any use can be made of that part of the country.

Mr. HOWARD. Yes, sir; but the great value of the canal will be as a place of refuge for vessels sailing Lake Superior, which at certain periods of the year is a very stormy and dangerous lake, so far as navigation is concerned, and very deficient in harbors. Every year, as we know, the interest of the mining companies in that region is becoming greater and greater; the commerce of the lake is increasing every year, and it is becoming a very important theater of navigation and trade. Certainly if the Government of the United States have power to make any description of internal improvement, and if it be a rule, which I do not exactly admit, that in every case the work must be of national importance, I know of no case that would come more completely within the rule than that now under consideration. If it is necessary to have good harbors upon the ocean for the protection of our commerce; if it be necessary to protect that commerce by means of light-houses and other appliances of that description, it is equally necessary in this case to protect the commerce of that lake by giving the owners of vessels a place of refuge to secure their vessels and property in storms and in the midst of the dangers of the lake. I look upon it as decidedly a national work as can be selected, so far as commerce and navigation are concerned. I hope the amendment of the committee will not be adopted, and I hope the bill will pass giving one hundred thousand acres of land.

Mr. DOOLITTLE. Mr. President, I wish, if I can arrest the attention of the Senate for a moment, to call their attention to the map and to Lake Superior. The Keweenaw point is just about in the middle of Lake Superior from east to west. From this Keweenaw point to Bayfield there is no harbor into which vessels can enter with safety in storms, a distance probably of nearly three hundred miles. Then from Keweenaw point going southward to Keweenaw bay, which is an important point in the upper peninsula of Michigan, it is from one hundred to one hundred and fifty miles, without a harbor also. The severe storms which prevail on this lake are from the northeast, and come driving down against Keweenaw point; and if, as is assumed by the committee, and as I have no doubt is true, the opening of this canal into this little lake, Lac La Belle, would produce a good harbor of refuge, as near as that is to the north end of Keweenaw point, it is a thing which certainly ought to be done. If, by giving one hundred thousand acres of the lands on the upper peninsula, we can secure that purpose, we shall certainly secure a good purpose and a valuable one to the commerce of that lake. We have already given grants of land to build a railroad across the continent whose termination is to be at the west end of Lake Superior. This place on Lake Superior is, some day, undoubtedly to be a place of large commerce and business. This point is the place where a harbor is essential on this coast. There is no harbor of refuge all along here; and, as I understand, this is a very severe and very dangerous coast. The purpose is to open out a point into that little lake—it is about half a mile across—and build piers into Lake Superior and also into this lake. The water in the lake is twenty-seven feet deep, I am informed by Mr. DRIGGS, of the House of Representatives. Nearly forty thousand dollars, I understand, has been expended by individuals in the effort to open a connection with this lake. Although not a large lake, it will extend some few miles, at all events, nearer the mining districts. The mining districts are along on the mountain range. I think we had better take

the bill as it was originally introduced and grant one hundred thousand acres, and if that will build a harbor there, it will be a very valuable investment, I think.

Mr. HARRIS. The facts in this case, as they appeared before the committee, are in a short space. There are thirteen companies engaged in copper mining in the vicinity of this small lake. It requires, in order to connect this small lake with Lake Superior, a canal of about half a mile in length. Those mining companies have combined together to open that communication. They have expended about forty thousand dollars, and have contracts now running which will make the cost of the canal about ninety thousand dollars. So far it is a private enterprise; it is a canal to be made for the benefit of those mining companies, and to that extent they would have no claim upon the Government. But it appeared before the committee, as has been stated by the Senator from Wisconsin, that the opening of a communication through this canal into this lake would make a convenient harbor along that coast, and that it was needed. Under these circumstances the committee thought it would be proper enough to allow the gentlemen engaged in this private enterprise, and who are going to make an improvement which will result in public advantage, a small amount of land, fifty thousand acres. That was the judgment of the committee. It was inquired why they wanted more money than the amount they were now expending. They said the party wished to build some wharves and piers, which would make the entire cost $150,000. Under these circumstances the committee decided to report in favor of allowing them fifty thousand acres of land. The question is whether it shall be fifty thousand or one hundred thousand acres. The whole expenditure for wharves, piers, and everything for the convenience of these thirteen mining companies will be about one hundred and fifty thousand dollars according to their own estimates. It seems to me that fifty thousand acres is enough.

Mr. HENDRICKS. I am sorry not to be able to agree with either side exactly. I do not think the company when they get these lands will realize very much from them. There is no town there; there is no agricultural settlement there; but back about fifteen miles there are some copper mining companies, one or two operating successfully, and the others rather experimentally. The lands are not of themselves of very much value. They are not very desirable farming lands, as I believe, and I do not think the company will realize out of the one hundred thousand acres $100,000. That is my opinion about it. I shall vote against the amendment, although it came from the committee of which I am a member. I feel free to do so, because I did not concur in the judgment of the committee about this bill. The only importance of this bill in a public point of view is that it sets a precedent. It proposes to make harbors of local importance, in my judgment. Whether this will be a harbor of refuge or not ought to be decided by some Government engineer. We have none of that satisfactory sort of evidence upon that subject, which Congress generally requires. But if we pass the bill, I think the grant ought to be one hundred thousand acres.

Mr. CHANDLER. There is not at this time a single safe harbor of refuge on Lake Superior, and this would make a perfectly safe and reliable harbor. The lands, as the Senator from Indiana remarked, are of a very poor quality indeed; they are not taken up for farming purposes at all. I do not believe that the lands could to-day be sold for half the Government price—$1 25 per acre—if they were thrown into the market in order to realize money from them. I hope the amendment proposed by the committee will not prevail, and that one hundred thousand acres will be granted; for with that they will build this harbor of refuge, with good and sufficient piers, and make it a national work. As I remarked a short time ago, this is petitioned for by every Board of Trade from Chicago to Philadelphia, and by two or three State Legislatures. It is really a national work, in my judgment.

The PRESIDENT *pro tempore*. The question is on the amendment reported by the committee to strike out "one hundred" and insert "fifty."

The amendment was not agreed to.

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

PRINTING OF A BILL.

Mr. CONNESS. I desire to have an order of the Senate to print one hundred additional copies of Senate bill No. 267, introduced yesterday by the Senator from Ohio, [Mr. SHERMAN,] to regulate the occupation of mineral lands and to extend the right of preëmption thereto. As it is an important bill to my State, I ask for an order of the Senate for the printing of one hundred additional copies.

The PRESIDENT *pro tempore*. Under the rule of the Senate a motion to print any additional number of copies goes to the Committee on Printing. The Chair can consider it only by unanimous consent.

Mr. CONNESS. This is so small a number that it is hardly worth while to refer it.

The PRESIDENT *pro tempore*. No objection being interposed, the order will be entered.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. LLOYD, Chief Clerk, announced that the Speaker of the House had signed the following enrolled bills; which were thereupon signed by the President *pro tempore*:

A bill (S. No. 105) to grant the right of way to the Cascade Railroad Company through a military reserve in Washington Territory;

A bill (S. No. 115) for the relief of Jane W. Nethaway;

A bill (S. No. 117) for the relief of F. A. Patterson, late captain of the third Virginia cavalry; and

A bill (S. No. 181) for the relief of Emma J. Hall.

JAMES G. CLARKE.

On motion of Mr. SUMNER, the bill (S. No. 248) for the relief of James G. Clarke was read the second time and considered as in Committee of the Whole. It directs the Secretary of the Treasury to pay to James G. Clarke the sum of $6,483 96 in full for services as acting chargé d'affaires of the United States at Brussels from June 11, 1857, to September 27, 1858.

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

JAMES CRUTCHETT.

On motion of Mr. CLARK, the joint resolution (S. R. No. 60) referring the petition and papers in the case of James Crutchett to the Court of Claims was read a second time and considered as in Committee of the Whole.

The joint resolution was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

SOUTHERN MINNESOTA RAILROAD.

On motion of Mr. NORTON, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 156) making an additional grant of lands to the State of Minnesota, in alternate sections, to aid in the construction of a railroad in said State. It proposes to make a land grant of ten sections in width on each side to the State of Minnesota for the use and benefit of the Southern Minnesota Railroad Company, for the purpose of aiding in the construction of their branch railroad from some point on their present located line of railroad east of range ten, westerly through the counties of Fillmore, Mower, Freeborn, and Faribault, to the western boundary of the State.

The Committee on Public Lands reported the bill with various amendments. The first amendment was in section one, line thirty-seven, to strike out the words "subject to the approval of the President of the United States" and to insert "provided the United States has yet in possession the title thereto;" so that the proviso will read:

Provided further, That any and all lands heretofore reserved to the United States by any act of Congress, or in any other manner by competent authority, for the purpose of aiding in any object of internal improvement, or other purpose whatever, be, and the same are hereby, reserved and excepted from the operations of this act, except so far as it may be found necessary to locate the route of said road through such reserved lands, in which case the right of way shall be granted, provided the United States has yet in possession the title thereto.

The amendment was agreed to.

The next amendment was in section two, line thirteen, after the word "law" to insert "who shall make entries after the passage of this act, upon the sections numbered by even numbers, and;" so that the proviso will read:

And provided also, That settlers under the provisions of the homestead law who shall make entries after the passage of this act, upon the sections numbered by even numbers, and who comply with the terms and requirements of said act shall be entitled to patents for an amount not exceeding eighty acres each, anything in this act to the contrary notwithstanding.

The amendment was agreed to.

The next amendment was in section four, line eleven, after the word "completed" to insert "and lying conterminous to said completed section of ten miles;" so that the section will read:

SEC. 4. *And be it further enacted*, That the lands hereby granted shall be disposed of by said State for the purposes aforesaid only, and in manner following, namely: when the Governor of said State shall certify to the Secretary of the Interior that any section of ten consecutive miles of said road is completed in a good, substantial, and workmanlike manner, as a first-class railroad, then the Secretary of the Interior shall issue to the State patents for all the lands, in alternate sections, or parts of sections, designated by odd numbers, situated within twenty miles of the road so completed and lying conterminous to said completed section of ten miles, and not exceeding one hundred sections, for the benefit of the road having completed the ten consecutive miles as aforesaid, &c.

The amendment was agreed to.

The next amendment was to strike out the seventh section of the bill, in the following words:

SEC. 7. *And be it further enacted*, That the time fixed and limited for the completion of the railroad from La Crescent, via Target Lake, up the valley of Root river, to a point of junction with (the now) Winona and Saint Peter railroad, east of range seventeen, said railroad being one named in the act of Congress approved March 3, A. D. 1857, entitled "An act making a grant of land to the Territory of Minnesota, in alternate sections, to aid in the construction of certain railroads in said Territory, and granting public lands in alternate sections to the State of Alabama to aid in the construction of a certain railroad in said State," be, and the same is hereby, extended to a period of five years from and after the expiration of said act.

The amendment was agreed to.

Mr. GRIMES. I move to amend the bill by inserting in the twenty-ninth line of the first section after the word "road" the following:

And provided further, That no land shall be granted or transferred by the provisions of this act not included within the jurisdiction of the State of Minnesota.

I suppose there will be no objection to that.

Mr. NORTON. No, sir, there is no objection to that amendment.

Mr. HENDRICKS. I have no objection in the world to the amendment proposed by the Senator from Iowa, but I think it is unnecessary. I shall vote for it if he thinks it important; but when I had a connection with the General Land Office the decision was that it was not the intention of Congress to grant to one State lands lying within another jurisdiction, and therefore the words should be so construed as to limit the grant to the State line. I am not aware that the Land Office has departed from that construction since. If it has, of course the amendment is a very proper one.

Mr. NORTON. That is the construction that has been applied to one road—the road from St. Paul to Lake Superior, that they are not permitted to go out of the State.

Mr. POMEROY. The Committee on Public Lands supposed that it was entirely unnecessary to insert such a provision as this; but if it be necessary I have no objection to the amendment.

Mr. HENDRICKS. I cannot see any objection to the amendment. I think it accomplishes what the decisions already accomplish.

Mr. POMEROY. There is no objection to it.

Mr. GRIMES. I am sorry to say that I learn the decision of my friend has been overruled. No doubt he was right about it. It seems to me the phraseology of this bill would extend it into the State of Iowa. So far as we are concerned in legislating about the public lands we do not know any limits or divisions of States; and when this bill says that this road shall begin at a certain section which is within five miles of the north line of the State of Iowa, and that the State of Minnesota shall have alternate sections of land on either side of that line, for twenty miles in extent, without the use of any words limiting them, I think the inference would be that they would go just exactly as far as the jurisdiction of Congress went over these public lands, whether there was an imaginary line there which separated Minnesota from Iowa or not. At any rate, out of abundance of caution, I should like to have the amendment made.

Mr. NORTON and Mr. HENDRICKS. There is no objection to it.

The amendment was agreed to.

The bill was reported to the Senate as amended; the amendments were concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

USE OF HALL FOR LECTURES.

Mr. WILSON. I submit the following resolution and ask for its present consideration:

Resolved, That the use of the Senate Chamber be granted to Mrs. M. C. Walling for the purpose of delivering therein an address, on Tuesday evening the 17th instant, the floor of the Chamber to be for the exclusive accommodation of members of the Senate and House of Representatives and their families.

By unanimous consent, the Senate proceeded to consider the resolution.

Mr. GRIMES. I call for the yeas and nays on the passage of the resolution.

The yeas and nays were ordered.

Mr. FESSENDEN. I really hope this resolution will prevail. I am opposed as a general rule to letting anybody have the use of the Senate Chamber, but I think there are peculiar circumstances in this case which should induce us to grant its use, and I will state what they are. In the first place, this lady presented a paper to several members of the Senate, and it was signed I should think by twenty, recommending to the President of the Senate to grant her the use of the Hall. The President did not see fit to do so; he did not regard it as coming within his authority. A resolution of this kind was introduced into the Senate a few weeks ago; and she has been waiting here on expense, on the strength of that paper which was signed by so many Senators, she deeming it of great importance to her to be allowed to deliver her lecture in the Senate Chamber. She has been waiting for action on the subject; she attaches great importance to it; and this delay has caused her great expense.

Mr. CONNESS. What does she want to say?

Mr. FESSENDEN. She wants to deliver a lecture. She lived at the South; she is a refugee from Texas, where she suffered a great deal. She appears to be, and I have no doubt she is, a very respectable woman. I hope that we shall allow her the use of the Hall, and then pass a resolution that in no other instance will we allow the Senate Chamber to be used for any such purpose. I really think that under the circumstances it would be unjust and severe on this lady to refuse her this privilege.

Mr. TRUMBULL. I should like to inquire of the Senator from Maine if this has ever been done before.

Mr. FESSENDEN. I do not know; but it can be done, if we choose.

Mr. ANTHONY. I think the twenty Senators who signed the paper referred to ought to pay the expenses of this lady while she has been waiting. [Laughter.] I know it is rather ungracious to object to a resolution of this kind; but I suppose that all that will be gained will be the rent of a room, and I had certainly much rather pay my proportion of it than have my papers disarranged.

Mr. FESSENDEN. That is not it. She has a family and intends to lecture in different parts of the country, and she wants the prestige of having delivered a lecture in one of the Halls of Congress. I hope the Senate will grant the use of the Hall for this purpose.

The question being taken by yeas and nays, resulted—yeas 17, nays 16; as follows:

YEAS—Messrs. Chandler, Clark, Fessenden, Howard, Howe, Lane of Indiana, Lane of Kansas, Morrill, Nye, Poland, Pomeroy, Ramsey, Stewart, Sumner, Wade, Williams, and Wilson—17.

NAYS—Messrs. Buckalew, Conness, Davis, Doolittle, Edmunds, Foster, Grimes, Guthrie, Hendricks, Johnson, Morgan, Norton, Sherman, Trumbull, Van Winkle, and Willey—16.

ABSENT—Messrs. Anthony, Brown, Cowan, Cragin, Creswell, Dixon, Harris, Henderson, Kirkwood, McDougall, Nesmith, Riddle, Saulsbury, Sprague, Wright, and Yates—16.

So the resolution was agreed to.

EXECUTIVE BUSINESS.

Several executive messages were received from the President of the United States, by Mr. MOORE, his Secretary.

Mr. LANE, of Kansas. I move to take up for consideration the bill (S. No. 259) to authorize the Secretary of War to settle the claims of the State of Kansas for services of militia called out by the Governor of that State on the requisition of Major General Curtis, the commander of the United States forces in that State.

Mr. TRUMBULL. I believe the Senate has been very liberal this morning with the public lands and public money; and as we have a good deal of executive business that ought to be attended to, I move that the Senate proceed to the consideration of executive business.

Mr. LANE, of Kansas. I desire to say to the Senator from Illinois that it will take but a few minutes to pass the bill which I have called up. It is to reimburse the State of Kansas for money paid out for militia during Price's raid. I hope the Senator from Illinois will withdraw his motion and let us pass the bill.

Mr. TRUMBULL. How much does it appropriate?

Mr. LANE, of Kansas. Two hundred and fifty-nine thousand dollars.

Mr. TRUMBULL. I presume it will give rise to discussion and debate.

Mr. LANE, of Kansas. I presume not. The same course has been pursued in regard to Missouri and other States.

Mr. TRUMBULL. There was some doubt in regard to the Missouri claim. I insist on my motion.

The motion was agreed to; and after an hour and a half spent in executive session the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *April* 10, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

CIVIL RIGHTS BILL.

Mr. CHANLER. I wish to say, Mr. Speaker, that I was unavoidably absent yesterday, and that, if present, I would have recorded my vote in support of the veto message of the President on the civil rights bill. I would ask to have my vote recorded now, but I understand under the new rule it cannot be done.

Mr. DRIGGS. Mr. Speaker, I rise to a privileged question; and I want, in the first place, to know whether, under the new rule, there is any way by which an absent member may be permitted to record his vote.

The SPEAKER. It is impossible for the gentleman, under the rules, to have his vote now recorded.

Mr. DRIGGS. Then I wish to say that just before the vote was taken yesterday on the veto, I was compelled to go out upon a matter that could not be put off. I thought, from all appearances, that it would be at least an hour before a vote would be taken, and I went. Before doing so, however, I requested to be called in the event the vote was taken before my return. I was gone just twenty-seven minutes, and when I returned the vote had been taken, and I found myself left out in the cold.

While I regret this misfortune, it is gratifying to know that no one who knows me, either here or at home, will for a moment suppose that I dodged the question. That is something I never do where a principle is involved, especially in reference to freedom and justice.

If present, I should have voted "ay."

SALARIES IN POST OFFICE DEPARTMENT.

Mr. ALLEY, from the Committee on the Post Office and Post Roads, reported back Senate joint resolution No. 29, for the transfer of the funds appropriated for the payment of salaries in the Post Office Department to the general salary account of that Department; and the same was then referred to the Committee on Appropriations.

NEW RULE PROPOSED.

Mr. PAINE. I ask unanimous consent to submit the following resolution:

Resolved, That the Committee on the Rules be instructed to inquire into and report upon the expediency of providing, by amendment of the rules, that when the House shall have under consideration a bill or resolution which shall have been returned by the President, with his objections, to the House in which it originated, neither the motion to lay on the table nor the motion to postpone indefinitely shall be in order.

Mr. HARDING, of Kentucky. I object.

BEALS AND DIXON.

On motion of Mr. TROWBRIDGE, Senate joint resolution No. 56, authorizing the Secretary of the Treasury to adjust the claim of Beals & Dixon against the United States was taken from the Speaker's table, read a first and second time, and referred to the Committee on Appropriations.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the joint resolution was referred; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

CAPTURE OF THE PRESIDENT'S ASSASSINS.

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

Resolved, That the Secretary of War be directed to furnish to this House the findings of the commission in the case of the awards for the capture of J. W. Booth and George H. Harold.

J. E. MARTIN.

Mr. CULLOM, by unanimous consent, from the Committee on Foreign Affairs, reported adversely on a bill for the legal representatives of J. E. Martin; which was laid upon the table, and the report ordered to be printed.

REAR ADMIRAL PAULDING.

Mr. CULLOM, by unanimous consent, from the same committee, reported back Senate joint resolution, No. 53, authorizing Rear Admiral H. Paulding to accept a decoration from the King of Italy, with the recommendation that it do pass.

The joint resolution was ordered to a third reading; and it was accordingly read the third time and passed.

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

The latter motion was agreed to.

COMMODORE WILLIAM RADFORD.

Mr. CULLOM, by unanimous consent, from the same committee, reported back Senate joint resolution No. 44, authorizing Commodore William Radford to accept the decoration of the Equestrian Order of Saint Maurizes and Lazzaro from the King of Italy, with the recommendation that it do pass.

The joint resolution was ordered to a third reading; and it was accordingly read the third time and passed.

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

The latter motion was agreed to.

BRANCH MINT AT CHARLOTTE.

On motion of Mr. HIGBY, by unanimous consent, the Committee on Mines and Mining was discharged from the further consideration of a resolution recommending the removal of the United States branch mint at Charlotte, North Carolina, to Boise City, Idaho Territory, and the same was referred to the Committee of Ways and Means.

REBECCA BOWER.

Mr. ANCONA, by unanimous consent, introduced a bill for the relief of Rebecca Bower; which was read a first and second time, and referred to the Committee on Invalid Pensions.

NORTHEASTERN FRONTIER.

Mr. PATTERSON, by unanimous consent, from the Committee on Foreign Affairs, reported back a bill to provide for the defense of the northeastern frontier; which was ordered to be printed, and recommitted to the Committee on Foreign Affairs.

LEAVE OF ABSENCE.

Mr. DARLING asked and obtained leave of absence for his colleague, Mr. DODGE, for one week.

DUTY ON WOOL.

Mr. ECKLEY, by unanimous consent, submitted joint resolutions of the General Assembly of Ohio, asking an additional duty on wool; which were referred to the Committee of Ways and Means, and ordered to be printed.

COAST SURVEY.

Mr. ALLEY, from the Committee on the Post Office and Post Roads, obtained the floor to make a report, but yielded to

Mr. LATHAM, who submitted the following resolution from the Committee on Printing:

Resolved, That there be printed two thousand five hundred copies extra of the report of the Superintendent of the United States Coast Survey for the year 1865, of which one thousand shall be for distribution by the Superintendent of the Coast Survey, and fifteen hundred for the use of the members of this House.

Mr. HARDING, of Illinois. I object.

The SPEAKER. The committee has a right to make a report.

Mr. HARDING, of Illinois. I raise the question of order whether they can make a report while the gentleman from Massachusetts [Mr. ALLEY] has the floor.

The SPEAKER. The gentleman from Massachusetts [Mr. ALLEY] having yielded the floor, the Committee on Printing has a right to make the report.

The resolution was agreed to.

Mr. LATHAM moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

GEORGETOWN AQUEDUCT.

Mr. INGERSOLL, by unanimous consent, introduced a bill to authorize the construction of a drawbridge in the aqueduct across the Potomac at Georgetown, in the District of Columbia, and for other purposes; which was read a first and second time, and referred to the Committee for the District of Columbia.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

MORGAN'S RAID.

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

Resolved, That the Committee on Military Affairs be requested to inquire into the expediency of authorizing the quartermaster's department to audit and pay the just claims of loyal citizens for horses, mules, and other personal property seized and appropriated by the rebels under Morgan in the States of Indiana and Ohio in July, 1863.

Mr. HARDING, of Illinois. I demand the regular order of business.

SOLDIERS' INDIVIDUAL MEMORIALS.

Mr. ALLEY, from the Committee on the Post Office and Post Roads, to whom the subject had been referred with leave to report at any time, reported a bill to provide that "soldiers' individual memorials" shall be carried through the mails at the usual rate of printed matter; which was read a first and second time.

The bill was read. It provides that the ornamental record of the personal services of Federal officers and soldiers, composed partly of written and partly of printed matter, but containing no private communication, and known as "soldiers' individual memorials," shall be allowed to pass through the mails upon payment of the usual postage on printed matter.

Mr. ALLEY. This bill is asked for by Lieutenant General Grant and many others in a memorial referred to the Committee on the Post Office and Post Roads, in which they state that certain ornamental records of the personal services of Federal officers and soldiers now extensively published, such records being composed partly of printed and partly of written matter, are known as the "Soldiers' Individual Memorial." Under existing laws, these soldiers or their friends are compelled to pay letter postage on all such memorials sent through the mails, although they contain no private communication, but simply a record to perpetuate the memory of those who have periled if not yielded their lives for our common country; and they ask that these records shall be allowed to pass through the mails at the usual rates of printed matter, a request that I know every member of this House, as well as every loyal citizen of America, will only be too glad to grant to the brave defenders of the country.

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

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

The latter motion was agreed to.

THE FISHERIES.

Mr. RAYMOND. I rise to make a report from the Committee on Foreign Affairs, upon a resolution which was referred to that committee some days since, calling upon the Secretary of the Navy to send armed vessels to the fishing grounds adjacent to the British Provinces, for the protection of American fishermen.

The committee have instructed me to make a preliminary report, submitting to the House a resolution asking for information. Perhaps it may have some interest to the House if I state the circumstances which have called attention to this subject just now. These circumstances grow out of the repeal or abrogation of the reciprocity treaty negotiated in 1854. The colonies which constituted the United States enjoyed, previous to their independence, an equal right with the other colonies to partake of the fisheries on the coast of Newfoundland, and that was recognized as an existing, absolute right by the treaty of 1783; not conceded, not a privilege granted, but a right claimed, and admitted and recognized as a right by that treaty.

The Americans continued their fishing until the war of 1812, which, of course, suspended it. In the treaty of 1814 no provision whatever was made upon the subject, because the American commissioners authorized to negotiate at Ghent were expressly instructed by their Government not to allow the right of fishing on the coast to be drawn into question at all. The matter was, therefore, left precisely as it had stood before under the treaty of 1783, which admitted our absolute right to fish. But disturbances occurred between the rival fishermen of the colonies and the States which led to a convention in 1818, Messrs. Gallatin and Rush acting on the part of the American Government, and by that convention the Americans renounced or waived the right to fish within three miles from the shore of the British Provinces. This was not a restriction by Great Britain of any right or privilege which she had granted. It was a renunciation by the United States of a portion of the absolute right to participate in those fisheries which the United States had enjoyed from the beginning, and which had been expressly recognized and admitted by the treaty of 1783.

That was in October, 1818. The United States, as I have said, then renounced the right of fishing within the distance of one marine league from the coast, that being the distance to which the jurisdiction of the adjacent Governments is held by international law to extend in all cases of a similar kind. Under the treaty of 1818, the Americans still continued to fish until disturbances arose in 1841 with the provincial governments, and they presented new pretensions, claiming to exclude Americans from the fisheries to a greater extent than three miles from the coast, and putting upon that clause of the treaty an entirely new interpretation, namely, that the line from which the three miles was to be measured was to be drawn from the headlands of all the bays along the coast, including the great bay of Fundy, the bay of Chaleurs, and the straits of Canso. That would have excluded our fishermen, if we had admitted the claim, from some of the most valuable fishing grounds on the coast. Our Government never for a moment admitted the justice of that interpretation, but it led to many cases of seizure by the provincial authorities of American fishing vessels; and in 1845, on the remonstrance of our minister to England, the matter was brought to the attention of the English Government. A case was made up by the provincial authorities and submitted to the law officers of the Crown, and upon that case, thus submitted, the law officers decided two points: first, that the treaty of 1783 was annulled by the war of 1812 and the treaty of 1814; and second, that the line from which the marine league was to be measured was to be drawn from headland to headland of these great bays. The American Government refused to recognize that decision, and the British Government consented to waive it in 1845; so that the enjoyment of the fisheries still went on, the Americans occupying them in common with the British, under the convention of 1818, until the conclusion of the reciprocity treaty of 1854.

By that treaty the Americans were again admitted to the exercise of the right which we had waived in 1818, and were allowed to fish all along the coast without reference to the three miles of riparian jurisdiction. And that continued to be the state of the case until the treaty of 1854 was abrogated and annulled on the 17th day of last month.

Now the American fishermen are thrown back upon the rights they enjoyed previous to the conclusion of the treaty of 1854. The House will perceive that some important questions of construction will arise under this state of things. It will become a question under what treaty we are now to enjoy the right of fishing on those coasts. The British claim that by the treaty of 1814 the preceding treaty of 1783 was annulled. I do not think that claim can be maintained. But if it should be maintained, it seems to me equally clear that the treaty of 1818 must have been annulled by the treaty of 1854. We are therefore thrown back either upon the original admission of the treaty of 1783, or if that was annulled by the treaty of 1814, then we are thrown back upon the rights which we enjoyed previous to that time. Probably, however, the construction which both Governments will consent to place upon this matter will be that by the abrogation of the treaty of 1854 both parties will be thrown back upon the treaty of

1818; and the American fishermen will again be permitted to enjoy their share of the fisheries on the open sea up to the line of three miles from the coast.

But I have no idea that the American Government will ever consent to have that three miles measured from a line drawn from headland to headland of these great bays. The claim is entirely preposterous; the law officers of the Crown, moreover, based the decision they gave upon an error in point of fact. The language they used is, that "the term 'headland,' used in the treaty of 1818, was evidently intended to mean the headlands of these great bays." But it so happens that the word "headland" was not used in that treaty at all; it is not to be found in it from beginning to end. And it indicates a great laxity and carelessness in the examination of the case for the law officers of the Crown to introduce so capital an error as this into their case, and base their decision upon it.

Mr. STEVENS. If all these previous treaties have been abrogated, would not the law of nations authorize our fishermen to go everywhere within a marine league of the shore?

Mr. RAYMOND. Does the gentleman ask my opinion or the construction given by the Government authorities?

Mr. STEVENS. I ask the opinion of the Committee on Foreign Affairs, who have examined this subject.

Mr. RAYMOND. I will state that my own opinion is that if all the treaties are abrogated, we fall back on the rights which we enjoyed before any treaty stipulations were made; and that those rights, under the law of nations, unquestionably give us the right to fish anywhere along the coast on the great highway of nations. I do not know that the law of nations would give us the right to land on the coast to dry and cure the fish caught. But I am quite sure that under the rights we had originally, our fishermen could fish clear up to the coast.

I take it the reason for limiting the right to fish to a point beyond a line three miles from the coast grows out of the presumption—I do not know that it is a presumption of international law, but I think it is—that the jurisdiction of every nation over the waters along their coasts extends to the distance to which that nation may be supposed capable of defending it, that is, the distance to which a cannon-ball can be thrown from the shore.

Mr. PIKE. I call the attention of the gentleman from New York to the fact that the language of the treaty of 1783 is, that the high contracting parties "recognize" the rights of our fishermen "to fish where they have heretofore been accustomed to fish." Thus the whole matter was placed upon the basis of an established practice of very long standing. Even after the great expeditions fitted out in New England to wrest those fishing grounds from the French, our fishermen had been accustomed to use the grounds now in dispute. I call his attention also to the fact that the reciprocity treaty makes no mention of the condition of affairs after it shall have expired. It is silent upon that important subject.

Having introduced the resolution which forms the basis of this preliminary report, I desire to say that I had no belligerent purpose in doing so, although I have been accused of it in some quarters. I wished simply to set on foot some measures for the protection of a valuable interest.

The House is aware that these fishing grounds are thronged by perhaps a thousand vessels from our States, manned by very active, energetic, and quick-witted men, and are also sought by a still larger number of vessels from the Provinces, each jealous of their rights. If these parties, having no responsibility upon them except to get what they can, are allowed to adjudicate this great question of right, it can be easily seen that trouble will be very likely to arise; particularly if the Provinces take the matter into their hands, as I see by the discussions of the provincial Legislatures, they already show some disposition to do.

They propose to have what they call an armed police force, to be under orders to enforce the absurd rules of interpretation which the provincial authorities always adopted in regard to the convention of 1818, and thus they would practically exclude us from some of the most valuable grounds along the provincial coasts.

Now, the House is well aware that this branch of business consists mainly of labor. These fishing vessels are manned by three, four, and five times as many men as are required for vessels of the same size in the ordinary mercantile service; and so long as there remains any doubt in regard to their rights, or any doubt whether they can be protected, this labor cannot sustain itself in a pursuit thus rendered triply uncertain. It is but poorly remunerated when left to contend with the rivalries of those engaged in it, and with the inherent difficulties it encounters, both with regard to the catch and the markets. In introducing the resolution I was desirous, in the first place, to establish clearly what rights our fishermen have on those grounds, and in the second place, to make known as clearly that those rights, being once established, shall be amply protected. I hope the resolution will pass as a preliminary movement.

Mr. RAYMOND. In the statement which I made of the provisions of the several treaties on this subject I simply desired to put the House in possession of the leading facts, the principal being that, by the abrogation of the treaty of 1854, we are thrown back upon previous treaties, and I think upon the treaty of 1818. The necessity for taking some action in this matter has been very well stated by the gentleman from Maine, [Mr. PIKE.]

Mr. MOULTON. Has any information been received recently from the British Government of the steps they have taken or propose to take in regard to the present condition of the fisheries?

Mr. RAYMOND. I am not aware that the British Government has given to this Government any official information of the steps it has taken in connection with this matter. But I find in the London Times of March 17 an editorial article embracing a statement in relation to the termination of the reciprocity treaty. As it may have some interest to the House, I will read it:

"It is fair, however, to remind the Americans that the termination of the treaty is their work, not ours, and that if any differences arise we have done our best to prevent them. Now, one of the rights which the Americans possess under the treaty is that of fishing in British waters. The coast of British North America is one of the finest fishing grounds in the world, and it will be in the memory of most of our readers how long and bitter were the dissensions between the adventurous New Englanders, who were continually trespassing, and the jealous Nova Scotians and Newfoundlanders, who were as constantly driving them off. The reciprocity treaty put an end to those disputes by giving the American fishermen the right to come into our waters in return for a much less valuable concession on their part; and for twelve years they have followed their calling in peace. But now their rights come to an end. Those people who have been accustomed for so many years to a certain fishing ground, and who probably have come to look upon it as their own, must now be content to retire, or come into collision with the Canadian authorities.

"We believe a vessel-of-war will be placed on the coast for the purpose of seeing that the rights which revert to the British Crown are not infringed, and also to prevent collisions between the fishermen of the Provinces and of the United States. The American fishermen will be duly warned, and after a fixed time the exclusion of their boats will be enforced. We trust they will understand that the restriction is caused by the act of their own Government, and that if they suffer, their grievances can only be removed at Washington. Whenever the States think fit to conclude another treaty, American fishermen will recover their former rights."

Now, in that article there is perhaps no unfair or improper statement, except what is conveyed in the omission to state that the only ground from which they have any shadow of right to warn our fishermen is that small strip embraced within three miles of the coast. I think it quite proper that the British should send an armed vessel to act as a police, and prevent collisions. I think it equally proper, and equally necessary, that our Government should do the same. Upon that point there is no difference of opinion in the Committee on Foreign Affairs. I have no doubt at all the Government has taken such steps. I do not anticipate any collision of interest there, although I can well understand that if the claims of each party were pushed to their extreme limit, there might be danger of conflict likely to result in war.

Certainly, the American interest in those fisheries is one worth preserving at any cost; one which we cannot abandon, but must protect at all hazards. And it is important that a sufficient force should be sent by our Government to afford this protection, and to prevent conflicts, so far as possible, by all just and proper means, while negotiations are pending, should our Government see fit to invite or institute negotiations for the permanent security of our rights with regard to those fisheries.

I am instructed by the committee to submit a resolution calling for information, which I will read:

Resolved, That the President of the United States be respectfully requested to inform this House what steps have been taken to protect the rights and interests of American citizens on the fishing grounds adjacent to the British Provinces, and whether any legislation or other action on the part of Congress is, in his judgment, necessary to secure those rights and interests in consequence of the abrogation of the reciprocity treaty of 1854.

I may add, Mr. Speaker, that if that resolution passes, the House will receive a prompt response, and will receive such information as will serve as the basis for whatever action this House may deem proper to take. And I think I can say further, though without any official authority to say it, that steps have been taken to secure our rights up to the present time, and that information of what those steps are will be readily given to the House.

The resolution was adopted.

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

The latter motion was agreed to.

ENROLLED BILL AND JOINT RESOLUTION SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled the following bill and joint resolution; when the Speaker signed the same:

Joint resolution (H. R. No. 105) giving construction to the law in relation to bounties payable to soldiers discharged for wounds; and

An act (H. R. No. 394) for the relief of the estate of E. W. Eddy.

UNITED STATES REVENUE COMMISSION.

Mr. LAFLIN, from the Committee on Printing, reported back the following resolution, with several amendments:

Resolved, That there be printed for the use of the House twenty thousand extra copies, and for the use of the Treasury Department two thousand copies of the following special reports of the United States revenue commission: report on distilled spirits; petroleum; proprietary medicines, &c.; on the influence of the duplication of taxation on industry; on the relations of foreign trade to domestic industry; on iron and steel; on wool; on copper and zinc; selections from the testimony relative to the development of the cotton trade and industry; and the report to the commission on the taxation and manufacture of malt liquors in Europe; and that the Public Printer be instructed to reserve from the extra copies ordered for the House ten thousand copies, and from the copies ordered for the Treasury Department one thousand copies, and to bind the same in connection with the other general and special reports of the commission, in such a manner as to present all the reports of the commission complete in one volume; and the Printer is authorized to print any additional copies of the reports heretofore ordered if necessary to make ten thousand complete sets.

First amendment:

Strike out "twenty" and insert "seven," so that it will read "seven thousand."

The amendment was concurred in.

Second amendment:

Strike out "two" and in lieu thereof insert "one," so that it will read "one thousand."

The amendment was concurred in.

Third amendment:

Strike out "ten" and insert "five," so that it will read "five thousand."

The amendment was concurred in.

Mr. GARFIELD. I move to add these words:

And that the Public Printer be required to furnish with the same a complete index of the contents.

It is utterly useless for us to have bulky documents printed without indexes, and I shall object to any being printed hereafter without a complete index.

The amendment was agreed to.

The resolution as amended was then adopted.

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

The latter motion was agreed to.

COMMITTEE SERVICE.

The SPEAKER announced the following appointments to fill vacancies on committees:

On the Committee of Elections, Mr. JOHN A. NICHOLSON, of Delaware.

On the Committee on the Pacific Railroad, Mr. EDWIN N. HUBBELL, of New York.

GRANTS OF LAND TO SOUTHERN RAILROADS.

The SPEAKER laid before the House the following message from the President of the United States:

To the House of Representatives of the United States:

I transmit a communication from the Secretary of the Interior, with the accompanying papers, in reference to grants of lands made by acts of Congress passed in the years 1850, 1853, and 1856, to the States of Mississippi, Alabama, Arkansas, Florida, and Louisiana to aid in the construction of certain railroads. As these grants will expire by limitation on the 11th day of August, 1866, leaving the roads for whose benefit they were conferred in an unfinished condition, it is recommended that the time within which they may be completed be extended for a period of five years.

ANDREW JOHNSON.

WASHINGTON, D. C., *April* 7, 1866.

The message was referred to the Committee on Public Lands, and ordered to be printed.

The SPEAKER. The morning hour now commences, and the Committee on Military Affairs are entitled to make their reports.

GRADE OF GENERAL.

Mr. DEMING. I am instructed by the Committee on Military Affairs to report a bill to revive the grade of General in the United States Army, and to move that it be printed with the amendments.

I also move that it be made the special order on Tuesday next after the morning hour. I have been detained at home longer than I anticipated by reason of serious illness in my family, and am not prepared to proceed with the bill to-day. I shall therefore regard it as a special favor and indulgence on the part of the House if it will consent to make it the special order on Tuesday next.

No objection being made it was so ordered, and the bill and amendments were ordered to be printed.

Mr. GARFIELD. I call for the reading of the bill.

The bill was accordingly read. It provides for the appointment by the President, with the advice and consent of the Senate, of a General of the United States Army, to be selected from among officers most distinguished for courage, skill, and ability.

The amendment reported as a substitute for the second section provides that the pay proper of the General shall be $400 per month, and his allowances in all other respects shall be the same as allowed heretofore to the Lieutenant General.

COMMISSARIES OF SUBSISTENCE.

Mr. DEMING. I am also instructed by the Committee on Military Affairs to report back House resolution No. 21, for the relief of certain commissaries of subsistence of the United States Army. The committee find, on consulting with the appropriate department, that there is no need of any legislation on the subject. I therefore move that the committee be discharged from the further consideration of the resolution and that it be laid on the table.

The motion was agreed to.

REV. HARRISON HEERMANCE.

Mr. KETCHAM, from the Committee on Military Affairs, reported a joint resolution for the relief of Rev. Harrison Heermance, late chaplain of the one hundred and twenty-eighth regiment of New York volunteers.

The joint resolution authorizes an adjustment of the account of the chaplain for such period as he was actually in service, for which he received no pay by reason of defective mustering and otherwise, through no fault of his own.

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

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

The latter motion was agreed to.

GEORGE R. FRANK.

Mr. KETCHAM, from the Committee on Military Affairs, reported a bill for the relief of George R. Frank, late captain of the thirty-third regiment of Wisconsin volunteer infantry; which was read a first and second time, and ordered to be engrossed and read a third time.

The bill was read. It authorizes payment for services as captain from the date of his last payment to the time of the muster-out of the regiment, the same as if he had not been mustered out as captain for the purpose of being mustered in as major or otherwise.

The bill was passed.

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

The latter motion was agreed to.

GENERAL W. S. HANCOCK.

Mr. ANCONA, from the Committee on Military Affairs, reported back joint resolution of the House No. 88, expressive of the thanks of Congress to Major General W. S. Hancock, with a substitute, recommending its passage.

The substitute for the joint resolution was read, as follows:

Be it resolved by the Senate and House of Representatives, &c., That in addition to the thanks heretofore voted by joint resolution, approved January 28, 1864, to Major General George H. Meade, Major General Oliver O. Howard, and to the officers and soldiers of the army of the Potomac, for the skill and heroic valor which at Gettysburg repulsed, defeated, and drove back, broken and dispirited, the veteran army of the rebellion, the gratitude of the American people and the thanks of their representatives in Congress are likewise due and are hereby tendered to Major General Winfield S. Hancock for his gallant, meritorious, and conspicuous share in that great and decisive victory.

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

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

The latter motion was agreed to.

COURT OF CLAIMS.

Mr. ANCONA, from the Committee on Military Affairs, reported a bill to extend the jurisdiction of the Court of Claims; which was read a first and second time.

The bill provides that the Court of Claims shall have jurisdiction to hear and determine all claims of paymasters, quartermasters, commissaries of subsistence, and other disbursing officers of the United States, or of their administrators or executors, for relief from responsibility on account of losses by capture or otherwise in the line of their duty, during the late war.

The bill further provides that whenever the Court of Claims shall have ascertained the fact of any such loss to have been without fault or neglect on the part of any such officer, it shall make a decree setting forth the amount thereof, upon which the proper accounting officers of the Treasury shall allow to such officer the amount so decreed as credit in the settlement of his accounts.

Mr. CONKLING. Has that bill been printed?

The SPEAKER. The Chair thinks not.

Mr. ANCONA. It has not been printed.

Mr. CONKLING. I think it ought to be.

Mr. ANCONA. I have no objection to its being recommitted and printed if it is deemed necessary. I make that motion.

The motion was agreed to.

So the bill was recommitted to the Committee on Military Affairs, and ordered to be printed.

Mr. SCHENCK. I hope leave will be given to the committee to report back the bill at any time.

The SPEAKER. A motion to reconsider the vote by which the bill was recommitted can be entered.

Mr. ANCONA. I enter a motion to reconsider the vote by which the bill was recommitted.

MILITARY ROAD IN OREGON.

Mr. ROUSSEAU, from the Committee on Military Affairs, reported back, with the recommendation that it do pass, bill of the House No. 21, granting lands to the State of Oregon to build a military road.

The bill was read.

The Committee on Military Affairs reported an amendment to strike out from the last section of the bill the following words:

And the sum of $15,000 is hereby appropriated to meet the expenses of said survey; and the Secretary of the Treasury is directed to pay over the same to the proper person as soon as said survey is completed.

The amendment was agreed to.

Mr. BOUTWELL. I would like to know how much land is granted by this bill.

Mr. ROUSSEAU. Three tiers of alternate sections on each side of the road.

Mr. BOUTWELL. What is the length of the road?

Mr. ROUSSEAU. I do not know what is the length of the road. I wish to say that I have examined precedents for this bill in several Congresses, and it is in the same terms as kindred bills which have been passed.

Mr. HENDERSON. I will say that the length of the road cannot be stated precisely, but it is somewhere near two hundred and fifty miles.

While I am up, let me say that this road leads through a country that is infested by Indians. It passes by a military camp, Camp Watson, and Cañon City, and also by a mining camp at a place called Humboldt Basin, and so on to Snake river. The object of the road is to provide facilities by which arms and munitions of war can be transported from point to point for the defense of that section of country. A map has been furnished by the military authorities of that section of the country, by whom the road has been located. That country has suffered very much within the last twelve months, and is at this time suffering very much in consequence of the inroads of the savages.

This bill is in accordance with one that was passed at the first session of the Thirty-Eighth Congress. It gives the same amount of lands under the same restrictions. I hope for the interests of that section of country that the bill will be passed as soon as possible.

Mr. CONKLING. I move that this bill be referred to the Committee on Public Lands.

The SPEAKER. The gentleman from Kentucky [Mr. ROUSSEAU] is entitled to the floor, having yielded to the gentleman from Oregon [Mr. HENDERSON] for explanation of the bill.

Mr. ROUSSEAU. I would ask, what is the purpose of referring this bill to the Committee on Public Lands?

Mr. CONKLING. My personal reason is that, like the gentleman from Massachusetts, [Mr. BOUTWELL,] I am not at all satisfied that this bill ought to pass; but I am quite satis-

fied that whatever be its merits, it would be well to have this bill, and all bills of this character, go to the Committee on Public Lands, to the end that they may be treated upon some principle uniform and applicable to them all. I do not mean now to say anything against this particular bill, although I am not satisfied with it; but I think that all these bills should undergo examination by the Committee on Public Lands. It is fair and safe that they should do so; and I accordingly make the motion to refer.

Mr. HENDERSON. With the permission of the gentleman from Kentucky, [Mr. ROUSSEAU,] I will add that a very large portion of the country through which it is proposed this road shall pass is a broken and mountainous country, and the land is of very little value. I may say that the land is of no value at present; and without the road it never will be of any value. Without the road, the few pieces of agricultural lands that lie adjacent to the proposed route will be without protection; and the country cannot have protection without a road for the transportation of troops and munitions of war. So the gentleman need have no fears in reference to the large amount of land to be donated, because that large amount of land, in its present condition, is perfectly valueless, and only a harbor for Indians and wild beasts, and will remain so as long as there is no road through that country.

I would state one other point, and that is, that this bill is drawn in perfect accordance with a bill passed at the session before the last, I think.

Mr. WILSON, of Iowa. I desire to ask the gentleman from Oregon, [Mr. HENDERSON,] as he says this land is almost valueless for agricultural purposes, whether this bill will confer upon this railroad company any of the valuable mineral lands in that region of country.

Mr. HENDERSON. I will answer the gentleman from Iowa [Mr. WILSON] by saying that mineral lands are excluded from these grants by former action of Congress, and are not included in the lands granted by this bill.

Mr. WILSON, of Iowa. I think that is not very well settled, for this reason: that this bill, as it contains no limitation in relation to mineral lands, would by implication change the existing law so far as relates to this grant. And the State of Oregon would claim under this bill, unless some such limitation is put in the bill, that it includes all lands, agricultural, mineral, and otherwise.

And I would further suggest that if this bill is not intended to include mineral lands, and if the amount of land which may be used for agricultural purposes is so small, and the other land which may be included is entirely worthless, then this grant will not go far toward the construction of this road. Now, all the benefit the State can derive from this grant will be from the mineral lands embraced in the grant.

Mr. HENDERSON. I understand that mineral lands are excluded from all these grants by former acts of Congress. This bill provides for granting lands "not otherwise appropriated or reserved by Congress." Mineral lands are reserved by former acts of Congress, and therefore this bill will not include them.

It is true, as the gentleman from Iowa [Mr. WILSON] has said, that the land will not go a great ways toward building this road; but it will assist very materially in doing so. But I presume it will not be sufficient to make such a road as the interests of the country demand.

Mr. CONKLING. Will the gentleman allow me to inquire whether this bill has been recommended by any Department of the Government?

Mr. HENDERSON. I will answer the gentleman by saying that this bill was requested by the commander of the department of the Columbia, who furnished me a map of the department and a draft of the bill.

And I will again add that this bill is in strict conformity with the bill passed by Congress two years ago.

Mr. CONKLING. My question was not whether the commander of some military department had recommended this measure, but whether any Department of this Government, the War Department, or any other, has ever recommended such legislation as this in this case.

Mr. HENDERSON. I presume not; but the commander of that military department is better acquainted with the necessities of that country than the head of any Department here at Washington.

Mr. FARNSWORTH. I desire to ask the gentleman from New York whether the opinion of the Senators and Representatives of a State in favor of the propriety of an appropriation of this kind is not worthy of as much consideration as the recommendation of a Department remote from that State. I believe that Congress, in making all these various land grants, has not acted upon the recommendation of any Department. I am not aware that any of these land grants were ever recommended by any Department of the Government. Those grants have been made because Senators and members from the States concerned, understanding the interests of the State, asked for the grant.

While I am on the floor I wish to say that I am in favor of making liberal grants of lands to these new States for the purpose of aiding in their development. We hold these lands for the purpose of settlement. If we grant alternate sections to one of these new States the State desires settlers, and will of course use the land in such a manner as to promote the settlement of the country.

Mr. WASHBURNE, of Illinois. I hope the bill will be printed.

Mr. ROUSSEAU. As this matter has elicited some debate, and as there appears to be some doubt in the minds of some members in regard to it, I move that the bill be printed and referred to the Committee on Public Lands.

The motion was agreed to.

JOHN C. M'FERRAN.

Mr. ANCONA reported back, from the Committee on Military Affairs, a bill for the relief of John C. McFerran, of the United States Army.

The bill, which was read *in extenso*, provides that the proper accounting officers of the Treasury be directed to credit John C. McFerran, of the United States Army, with the sum of $1,256, being the amount for which, as assistant commissary of subsistence, he erroneously receipted to Francis F. Thomas, also an assistant commissary, in excess of the amount of money actually paid over to him by said Thomas at Santa Fé, in the Territory of New Mexico, in November, 1850.

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

The question being on the final passage of the bill,

Mr. WASHBURNE, of Illinois, called for the reading of the report.

The Clerk read the report. It states that McFerran, being an assistant commissary in the United States Army, stationed at Santa Fé, in New Mexico, was, on or about the 1st day of November, 1850, required to receive of Lieutenant Francis J. Thomas, also an assistant commissary in said Army, a large amount of money belonging to the United States, and to pass to said Thomas his official receipts for the same; that before the counting of said money was completed, there being several sealed boxes of specie with the amounts purporting to be contained in each marked thereon, the said Thomas, by representing that it was necessary for him to return without delay to the Atlantic States; that if compelled to remain until the whole counting was completed he should be subjected to great delay and inconvenience; and that the contents of said remaining boxes had been counted by himself or under his immediate supervision and the boxes correctly marked, induced the said petitioner to take the said boxes by the marks thereon, and to receipt to the said Thomas for the entire amount thus indicated; that said boxes of specie were placed in a Government vault at Sante Fé, and were taken out and the contents counted from time to time, as the funds were required for the use of the Army. Save one box, which contained an excess of two dollars over the amount marked thereon, all the boxes were found to be correctly marked, except a box numbered 21, which was the last one opened, and the contents of which we found to fall short of the amount marked thereon by the sum of $1,267. This box was opened and its contents counted by the petitioner in the presence and with the assistance of William J. Gourlay, chief clerk of the subsistence department at Santa Fé in June, 1851, some seven months after it had been received from Lieutenant Thomas. The committee has no doubt, however, from the evidence, that it had in the mean time remained unopened and its contents undisturbed.

The testimony further shows that immediately after the discovery of said deficiency the petitioner transmitted to the chief of the bureau at Washington having charge and control of the subsistence department of the Army notice of the said deficiency, with all the attending circumstances, with a request that no settlement should be concluded between the accounting officers of the Government and the said Thomas until the matter should be fully investigated by the proper authorities. Yet the said Thomas was permitted to settle his accounts and to resign without any such investigation being had, and receive credit for the whole amount for which the petitioner had receipted as aforesaid, and which entire amount was charged to the petitioner on the books of the Treasury.

It further appears that the said Thomas being the owner of valuable property in the Territory of New Mexico, the petitioner commenced a suit against him in the United States district court of said Territory, for the recovery of the amount of said deficiency, and sued out a writ of attachment which was levied on the lands and tenements of the said Thomas within the jurisdiction of said court; but on the hearing of said cause, the court dismissed the attachment on the ground that the money which the plaintiff was seeking to recover was the property of the United States, and not the property of the said petitioner, and that said Thomas was bound to account to the United States for the same, and not to the petitioner.

It is shown by a certificate of the Third Auditor of the Treasury that at the time of the resignation of Lieutenant Thomas he was in default to the United States in the sum of $9,161 48, in addition to the amount for which he improperly got credit as aforesaid.

The committee is entirely satisfied of the integrity and good faith of the petitioner in the premises, and entertains no doubt that there was in fact the deficiency which he alleges in the contents of said boxes at the time he received them from the said Thomas.

From the above statement of facts it will be seen that Thomas stands credited on the books of the Treasury Department with the sum of $1,265, as having been paid over to McFerran, which he never did in fact pay over to him, and that McFerran stands debited with the same amount, which he never in fact received.

Admitting that Mr. McFerran was guilty of some degree of negligence in not counting all the money for which he receipted to Thomas, that fact alone is not sufficient to charge him with the amount of said deficit. From the mere facts that an agent has been negligent, and his principal has suffered loss, it does not necessarily follow that the agent is bound to make the loss good. The further fact should be shown, that the loss was a consequence of the negligence.

The mere fact that McFerran erroneously gave a receipt to Thomas for money of the United States which he never received of him, changed none of the rights or remedies of the Government as against Thomas. The error in the receipt was explainable by parole testimony

in an action at law, and when explained, the receipt could not operate as any bar to a suit by the United States against Thomas for the recovery of said money.

If the United States lost any of its remedies against Thomas, it was not because McFerran gave the erroneous receipt, but because the error was not discovered for several months after the receipt was given. If Thomas was solvent at the time the receipt was given, and became insolvent before the error was detected, it may be that the United States lost the money in consequence of the failure of McFerran to count the funds for which he receipted to Thomas. But there is no evidence before the committee to show that the United States could have enforced the payment of said deficit from Thomas, at any time between the giving of the receipt and the discovery of the error, by any means that were not equally available after the error was detected.

It appears from evidence before the committee that it has been the practice of many collecting and disbursing officers, in both the civil and military departments of the Government, to receive from other public officers large amounts of specie in bags and boxes, and receipt for the same according to the labels thereon without actually counting the contents, in cases of emergency, under circumstances similar to those which influenced the conduct of the petitioner in this case. Bankers and other business men, reputed to be prudent, often receive and account for large sums of money in like manner, without actually counting the same, where they have reason to repose confidence in the person from whom the same is received.

There is nothing in the evidence before the committee to show that McFerran had any reason to suspect the integrity of Thomas at the time he received said boxes of specie from him. If he exercised the same degree of care and diligence that public officers reputed to be prudent and faithful are accustomed to exercise under similar circumstances in respect to the public funds passing through their hands, and that bankers and business men are accustomed to exercise in the conduct of their own private affairs, it may be questioned whether he should be required to make good a loss incurred by the Government in consequence of his omission to count the money. But admitting that McFerran was guilty of *laches* that would justly render him responsible to the Government for any losses clearly resulting therefrom, the committee are of opinion that there is not sufficient evidence that the Government in fact lost anything in consequence of his failure to count said money to justify the Government in requiring him to pay into the Treasury said sum of $1,265, which he never received.

Entertaining this view of the case, the committee are of opinion that said petitioner is entitled to be credited on the books of the Treasury Department with said sum of $1,265.

Mr. WASHBURNE, of Illinois. The report which has just been read discloses, it seems to me, a state of facts upon which this House will not consent to pass this bill. It appears that Lieutenant Thomas took some money to Santa Fé to deliver to McFerran, who without counting the money gave his receipt. He now alleges that it turned out there was not as much money as he receipted for. Then, having neglected his plain duty to count the money, as he was bound to do, he comes in here and asks the House to make good the deficit. That is the whole case in a nutshell.

Mr. ANCONA. The gentleman does not make a fair statement of the case. He has called for the reading of the report, and I ask that the reading of the report be concluded.

The report was then read through.

Mr. TAYLOR. I suppose it is within the recollection of the House that in case of such losses it has heretofore been the practice to order a board of survey to examine into the matter, and it has been held that the report of that board of survey exonerates the party and acts as a sufficient voucher for the different departments to which he may be responsible. Is there such a report in this case?

Mr. ANCONA. It does not appear by the papers that any such survey was ordered. There is no question about the facts, and that the loss or error was reported in good time to the Department here. I do not think that an officer should be held accountable for the negligence of his superior.

Mr. TAYLOR. It was the duty of the officer himself, suffering the loss, to ask for a board of survey.

Mr. PRICE. Mr. Speaker, in listening to the reading of the report of the committee, I noticed one startling fact, if it be true, and I have no doubt it is true; and it is simply this: that it has been the custom of Government officers, both in the civil and military service, to receipt for money without counting it. And that is the reason given why this officer should not be held responsible for this money for which he receipted. I deny that it is the custom of men in business life to receipt for large sums of money without counting them.

The report says that it is proved that this officer receipted for more than he received. If that be proved, it does not exonerate the party receipting, if there should be any discrepancy in the count. If a man gives a receipt for more money than he receives, it is clear that the remedy lies from him to the party to whom he has given the receipt. In case he fails there he must lose the money. If McFerran had not given Thomas a receipt the Government would have had recourse to Thomas for the money, but McFerran having given Thomas a receipt he asks to be allowed in the settlement of his accounts for so much money as he receipted for more than he received. McFerran says that he gave a receipt, but that he did not receive the money, and he asks to be credited for the money for which he gave a receipt, and then he did not count what he received. If that course is to be pursued there will be no safety for the Government.

Now, when a man gives a receipt for an amount of money it is his business to see that he receives it. If this precedent has been established heretofore, it is about time that we corrected that course of proceeding and made a man who gives a receipt suffer if he has not received the amount of money he has receipted for, and not the Government.

Mr. DAVIS. Mr. Speaker, there is another point to which I desire to call the attention of the House. It appears from the reading of the report that seven months elapsed from the time of his making the receipt before the money was ever counted. I apprehend no business man would receive a large sum of money and receipt for it without counting it for seven months. After that period any man would be estopped in law from saying there was an error in the count. The presumption is there is no error in such a count. A presumption might arise that during these seven months some one had opened this box, but there is not one word of proof in the report of any fact which would militate against such a presumption. It is true the report says they believe it has not been opened, but the circumstances in which that box was kept have not been disclosed, and we have no reason to infer somebody did not open that box and take the money.

It seems to me to establish a precedent so dangerous to the Government as this would be inviting carelessness and negligence on the part of our officers.

The only relief, it seems to me, to which this party could be entitled, and that certainly would be right and just, is this: if the officer shall make good the money which the Government lost, the Government will assign and transfer to him all right or claim which the Government might have against the party originally delivering the money. Then he could prosecute his rights, and if he could show that this money was lost without his negligence, and that Thomas had never delivered it to him, he could recover the claim, and not otherwise.

Mr. ROUSSEAU. If this party could sue the United States and set up the facts, there would be no difficulty in his recovering his claim. I hold that the Government could lose nothing, let it go as it may. The party who was guilty of the fraud upon this man is responsible to the Government. His settlement with the Department amounts to nothing. The Government has of this money about eight hundred dollars.

Mr. DAVIS. Pardon me a question. I ask the gentleman as a matter of law, after the General Government has received this money, given its receipt for it, and it remains uncounted by the General Government, does not the presumption arise that the receipt was right, and that the Government is estopped by the act of its own officer?

Mr. ROUSSEAU. The receipt itself is presumption that it is right, but the evidence here uncontroverted shows that it is all wrong, and I hold that the Government of the United States cannot honorably do what an honest man would not do.

Mr. ANCONA. I see no use pressing this matter now, and I move that it be recommitted to the Committee on Military Affairs.

Mr. UPSON. I object. I move that it lie on the table.

The question being taken on the motion to lay the bill on the table, no quorum voted.

Mr. WASHBURNE, of Illinois. I demand the yeas and nays.

The yeas and nays were not ordered.

The SPEAKER ordered tellers on the motion to lay the bill on the table, and appointed Mr. UPSON and Mr. ANCONA.

The House divided; and the tellers reported—ayes 43, noes 54.

So the bill was not laid on the table.

The question then recurred on the motion to recommit; and it was agreed to.

Mr. HARDING, of Illinois, moved to reconsider the vote by which the bill was recommitted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

NATIONAL ASYLUM FOR DISABLED SOLDIERS.

Mr. SCHENCK, from the Committee on Military Affairs, reported a joint resolution appointing managers for the National Asylum for Disabled Volunteer Soldiers; which was read a first and second time, and ordered to be engrossed and read a third time.

The joint resolution was read, as follows:

Be it resolved by the Senate and House of Representatives, &c., That the following persons be, and they are hereby appointed managers of the National Asylum for Disabled Volunteer Soldiers under the provisions and conditions of the third section of the act approved March 3, 1866: Richard Oglesby of Illinois; Benjamin F. Butler of Massachusetts, and Frederick Smyth of New Hampshire, of the first class, to serve six years; Lewis B. Gunckel of Ohio, Jay Cooke of Pennsylvania, and P. Joseph Osterhaus of Missouri, of the second class, to serve four years; John H. Martindale of New York, Horatio G. Stebbins of California, and H. Walker of Wisconsin, of the third class, to serve two years.

The joint resolution was read a third time and passed.

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

The latter motion was agreed to.

ARTIFICIAL LIMBS.

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

Resolved, That the Secretary of War be directed to communicate to this House a list of all persons or firms, manufacturers of artificial limbs, who have been employed or authorized to furnish arms, legs, hands, or feet, of their invention or construction, to soldiers at the expense of the Government; and also a list of the names and residences of all soldiers who have been thus furnished, indicating, also, in the case of each man what artificial limb or member has been provided for him, at what date, at what cost, and of what manufacture.

PAYMASTERS OF THE ARMY.

Mr. SCHENCK, from the Committee on Military Affairs, to which was referred House bill No. 369, relating to the accounts of pay-

masters, reported back a bill for the relief of paymasters of the Army.

The bill was read a first and second time, and ordered to be engrossed and read a third time.

The bill allows an additional compensation to paymasters of the Army, employed, during the rebellion, of one fourth of one per cent. on all sums disbursed, provided that the commissions to any one paymaster shall not exceed $1,000 per annum.

The morning hour having expired, on motion of Mr. SCHENCK, the bill was ordered to be printed.

BANKRUPT BILL.

The SPEAKER. The morning hour having expired, the first business in order is the motion to reconsider the vote by which the bankrupt bill was rejected, upon which the gentleman from Michigan [Mr. BEAMAN] is entitled to the floor.

Mr. CONKLING. I wish to ask a question, the answer to which will enable me to govern my vote somewhat on the motion to reconsider. It is whether, if the bill is reconsidered, those having it in charge will consent to its reconsideration to a stage early enough to admit amendments; or whether they will consent that it be recommitted to the committee to be reported again, to the end that it may be amended? I would like to know whether it is the intention, should it be reconsidered, to press the bill to a vote precisely as it now stands.

Mr. BEAMAN. Not having had charge of the bill, I should not feel at liberty to make any arrangement of the kind suggested by the gentleman from New York.

Mr. JENCKES. I will answer the question, with the permission of the gentleman from Michigan, [Mr. BEAMAN.] The Senate has passed a bill reorganizing the judiciary of the United States. If that bill becomes a law, it will be necessary to modify this bill, and it can only be done after the bill which has passed the Senate shall have passed this House.

I will agree, so far as I have any interest in the matter, to meet the gentleman from New York [Mr. CONKLING] in any modification that may improve the machinery—if I may use the phrase—by which the operation of this bill can be carried into effect. It can only be done by the friends of the bill meeting, considering, and maturing the propositions that are required for that purpose. If the bill passes this House and goes before the committee of the Senate, that committee having reported the bill amending the judiciary system of the country, the gentleman's propositions or the propositions of any other gentlemen may be then and there considered.

Mr. CONKLING. Shall we understand, then, that the reconsideration of the vote by which the bill was lost implies that the House is to be brought to a vote upon the bill as it stands now, and that we are to trust merely to the golden promise of some shadowy by and by in the Senate?

Mr. JENCKES. When the gentleman has answered the question fairly, if he has an amendment which he thinks will improve the bill, the gentleman from Rhode Island will meet him, if he has not done so already.

Mr. CONKLING. Then may we understand from that, that if we vote to reconsider this bill the reconsideration will be carried back behind the third reading, and the bill will then be subject to amendment; or in the other event, that the gentleman from Rhode Island [Mr. JENCKES] will consent to have the bill recommitted, so that in that way we may have the bill amended?

The SPEAKER. The third reading of the bill could not now be reconsidered; the motion to reconsider should have been submitted on the day or the day following when it was read the third time. The bill may be recommitted, if the motion to reconsider shall prevail, to the committee, with or without instructions, and thus be again open to amendment.

Mr. JENCKES. The gentleman from New York [Mr. CONKLING] understands that a recommittal of this bill at this time is equivalent to its rejection. If the gentleman has any amendment to propose which he thinks will improve the bill I will agree to a reconsideration of all the votes necessary to enable him to offer his amendment.

Mr. CONKLING. Would it be acceptable to the gentleman to have the bill recommitted with leave to report it again at any time?

Mr. JENCKES. That is not for me to say; it is for the House to determine that question. If the House will agree to that of course I will agree to it. But in the pressure of business now I cannot ask this of the House.

The SPEAKER. If the bill be recommitted the motion to reconsider may be entered, and if it is not laid upon the table, the bill may be brought back into the House at any time, or it may be reported when the committee on bankruptcy is called again this session, though that may not be for three or four weeks.

Mr. JENCKES. The committee may never be called again.

The SPEAKER. It would undoubtedly delay the bill to recommit it.

Mr. JENCKES. The objection of the gentleman from New York, [Mr. CONKLING,] as I understand, is simply to the machinery by which this bill, if it shall become a law, is to be carried into effect. Now, I am willing to meet him, and to improve that machinery, if I can do so in any way known to him or to me. I understand he has no objection to the principle of the law; and if he has not, then I appeal to him to meet me as I will meet him. Let this bill pass this House here and now, so that it may go into the statute-books of this country, and if there are any defects in it, it may be improved hereafter.

Mr. CONKLING. By permission of the gentleman from Michigan, [Mr. BEAMAN,] I will say a word in answer to the remark of the gentleman from Rhode Island, [Mr. JENCKES.]

I have no doubt the House is much indebted to him for the labor, and it must have been very great, which he has bestowed upon this bill. And I beg him to understand that any objection which I have made to it is not designed at all to diminish the credit due to him and to his committee for preparing a bill which contains many very valuable principles and provisions. Nor do I mean to be understood as criticising this bill at large; far from it. On the contrary, I beg to say to the gentleman, in the first place, that I am quite willing for one to vote for a bankrupt bill. I am quite willing to admit, because I believe it, that this bill contains very much of merit, and comparatively very little that is objectionable.

But at the same time, with great respect to the committee, having given this subject heretofore a great deal of attention, and knowing as I do the opinions of a great many persons not members of this House whose views are entitled to weight, I cannot convince myself that this bill, as it now stands, ought to pass finally, or that it ought to pass this House trusting to the Senate to improve it. On the contrary, I think it ought to be recommitted and brought back here the next time without certain features which I for one consider very objectionable.

Therefore I shall be glad to vote to reconsider the vote by which this bill was rejected. I think there is a fair chance that it may be reconsidered by the House, if we only can have an understanding that after it shall be reconsidered it shall be recommitted to the committee. A motion to reconsider the recommitment can be entered, which will enable the gentleman to call the bill up at any time. Or leave can be given by the House, if unanimous consent can be obtained, that the gentleman have leave to report the bill back again at any time. Or, in the third place, what I think would be equally acceptable to him, the bill can be recommitted with the understanding that when the committee is again called it can be then reported. The Speaker informs us that that will be in two, or three, or four weeks, more or less. And then the session will be at that stage, in reference to other business, which I think will give the gentleman as good an opportunity as the present for having this bill considered.

I am unwilling, for one, to vote for this bill as it now stands. I do not mean to condemn it in its main features; and I am quite willing to vote for it if some objections to it which seem to me to be quite unanswerable are removed.

Mr. JENCKES. With the permission of the gentleman from Michigan, [Mr. BEAMAN,] who has the floor, I will say a few words in reply to the gentleman from New York, [Mr. CONKLING.] I do not hear from him, and I have not heard from him in the course of the debate upon this bill, any proposition of amendment, which, if accepted, he would agree to. I do not know of any proposition of amendment with regard to carrying this bill into effect which he could make that I would not agree to.

Mr. CONKLING. I am not sure whether the gentleman would like me to interrupt him at this point or not.

Mr. JENCKES. I have no objection.

Mr. CONKLING. I understood the gentleman to say that he had heard no proposition from me to amend in such wise that if adopted it would be acceptable to me.

Mr. JENCKES. That is just what I said, and just what I meant to say.

Mr. CONKLING. Then I beg to correct the gentleman, if he will allow me. As to what the gentleman calls the machinery of the bill, as to the provision, for example, placing it at the option of the marshal to make his district swarm with deputies, I will agree to the provision of the bill in that respect as it stands, if he will simply consent to emasculate it in the particular I have mentioned; if he will take out of it what I believe to be an unnecessary and pernicious provision.

In regard to other matters, I can suggest to him as rapidly as I can use a pencil what I think will improve the bill, and which if adopted would be acceptable to me.

Mr. JENCKES. Yes, Mr. Speaker; but the gentleman has not proposed any amendment to meet that particular difficulty. And it is a difficulty arising out of what I have called, and the gentleman has retorted upon me the phrase, "the machinery of the law." I must confess that I do not know of any better mode of having the law executed, if this bill is to become a law, than the one reported from the committee. If the gentleman can think of any, then let him offer or propose his amendment, and we will accept it.

Mr. CONKLING. I do think of a better mode. My colleague from the Madison district [Mr. HOLMES] presented an amendment which I think is better.

Mr. JENCKES. I offered to accept that amendment.

Mr. CONKLING. Then why was it not accepted?

Mr. SPALDING. I do not think this discussion is likely to be productive of any practical advantage.

Mr. JENCKES. The gentleman from Ohio [Mr. SPALDING] is right in that. But I wish to say, if the gentleman from Michigan [Mr. BEAMAN] will allow me, that this discussion has now been brought down to this simple proposition, members oppose the passage of this bill because of some defects in the machinery by which it is to be carried into execution, and not because of any principle involved in the bill. Now, if the gentleman from New York [Mr. CONKLING] chooses to take that position the responsibility is upon him and not upon me.

Mr. BEAMAN. I now yield to the gentleman from Illinois [Mr. COOK] for a few moments.

Mr. COOK. I have but a single remark to make in connection with this bill. As it is now framed this bill seems to me to do away with our State homestead exemption laws, such as prevail in the State of Illinois, for instance. I have watched the working of those laws, and believe that they are more beneficent in their operations, that they afford more real protection to the people than would this bill if it

becomes a law; and I am unwilling to exchange the one for the other.

But, in order that the bill may be perfected, if possible, by its friends, to meet this objection, I am willing to vote for the reconsideration.

Mr. SPALDING. Mr. Speaker, I have uniformly supported the bill which was lost on its final passage in this House some days ago, and which vote it is now moved to reconsider. I am in favor of the reconsideration, but I wish to say to the House that if the vote be reconsidered I am resolved to vote, as I have hitherto done, for the bill on its passage.

I believe, even with the defects suggested by my friends on the other side, that the bill as it now stands is the best insolvent act, the best bankrupt law, to be found in the English language, and I support it because I believe it will supply a vacancy in the statute-book of the United States which has for years been required to be filled.

I rise for the purpose of saying that I do not trust in this matter simply my own judgment, but I have called to my aid the experience and the wisdom of some of the most practical business men in the United States. I have submitted this bill to the examination of those men, and they have reported it back to me with their judgment expressed that it ought to be considered an act in favor of creditors rather than of debtors.

And here I may remark that it appears to be an objection with some gentlemen on this floor that this bill offers involuntary provision in bankruptcy; that is, that it brings into bankruptcy and bankrupt measures men who have fraudulently abstracted property from their fellow-citizens, and become insolvent for the purpose of committing frauds on others. This class of men may be reached by this bill, and if they have secreted their ill-gotten gains they may be compelled to disgorge for the benefit of the creditors. It was not so with the act of 1842, about which many people now feel so sorely. That was called a bill of frauds, a bill of abominations. This bill is not like that. This bill provides for all the deficiencies, for all the defects of that bill.

I say, then, and I give credit exclusively to the gentleman from Rhode Island, [Mr. JENCKES,] though I have been on the same committee with him in the last as well as in this Congress on the subject of a bankrupt law, still I give entire credit to the gentleman from Rhode Island, to his untiring industry, for bringing forward the best bankrupt law ever put into the English language. And I say this House of Representatives does not know what it rejects when it rejects a measure compiled with so much care, so much wisdom, and so much legal acumen. I therefore ask the House, before they vote against the reconsideration of this measure, to weigh well the step they are about to take.

Mr. BEAMAN demanded the previous question.

The previous question was seconded and the main question ordered.

Mr. STEVENS demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 83, nays 45, not voting 55; as follows:

YEAS—Messrs. Alley, Allison, James M. Ashley, Baldwin, Barker, Baxter, Beaman, Bergen, Bidwell, Boutwell, Boyer, Brandegee, Broomall, Bundy, Chanler, Coffroth, Conkling, Cook, Darling, Davis, Dawes, Deming, Denison, Dixon, Donnelly, Eliot, Farnsworth, Ferry, Hale, Harris, Hart, Hogan, Holmes, Hooper, Asahel W. Hubbard, John H. Hubbard, Hulburd, James Humphrey, James M. Humphrey, Jenckes, Kasson, Kelley, Ketcham, Laflin, Latham, Le Bond, Longyear, Marvin, McCullough, Moorhead, Morris, Moulton, Newell, Nicholson, Plants, Raymond, Alexander H. Rice, John H. Rice, Rogers, Rousseau, Scofield, Shellabarger, Sitgreaves, Smith, Spalding, Starr, Strouse, Taber, Taylor, Thayer, Francis Thomas, John L. Thomas, Trimble, Trowbridge, Upson, Van Aernam, Robert T. Van Horn, Ward, Henry D. Washburn, Williams, Stephen F. Wilson, Windom, and Wright—83.

NAYS—Messrs. Ancona, Delos R. Ashley, Baker, Benjamin, Bingham, Buckland, Cobb, Cullom, Dawson, Eldridge, Finck, Garfield, Glossbrenner, Goodyear, Aaron Harding, Abner C. Harding, Henderson, Hill, James R. Hubbell, Kelso, George V. Lawrence, William Lawrence, Loan, McClurg, Mercur, Miller, Myers, O'Neill, Orth, Paine, Perham, Price, Samuel J. Randall, William H. Randall, Ritter, Rollins, Sawyer, Schenck, Stevens, Stilwell, Thornton, Elihu B. Washburne, William B. Washburn, Welker, and James F. Wilson—45.

NOT VOTING—Messrs. Ames, Anderson, Banks, Blaine, Blow, Bromwell, Reader W. Clarke, Sidney Clarke, Culver, Defrees, Delano, Dodge, Driggs, Dumont, Eckley, Eggleston, Farquhar, Grider, Grinnell, Griswold, Hayes, Higby, Hotchkiss, Chester D. Hubbard, Demas Hubbard, Edwin N. Hubbell, Ingersoll, Johnson, Jones, Julian, Kerr, Kuykendall, Lynch, Marshall, Marston, McIndoe, McKee, McRuer, Morrill, Niblack, Noell, Patterson, Phelps, Pike, Pomeroy, Radford, Ross, Shanklin, Sloan, Burt Van Horn, Warner, Wentworth, Whaley, Winfield, and Woodbridge—55.

So the motion to reconsider was agreed to.

During the roll-call,

Mr. INGERSOLL said: I am paired on all questions connected with the bankrupt bill with Mr. POMEROY, of New York. If he were here he would vote for the reconsideration, while I should vote against it.

I wish to state further that Mr. POMEROY has been a friend of this measure both in this Congress and the last. A few days previous to the vote on the passage of the bill he came to me and requested me to pair with him as he desired to go home. I agreed to do so, but when my name was called on the passage of the bill I had forgotten all about my pair and voted. I owe it to him as well as to myself to state that I was paired at that time and ought not to have voted. I make this statement in justice to him as showing to his constituents his interest in this measure.

Mr. McKEE said: Mr. PHELPS, of Maryland, has been called out to a meeting of a committee of conference, and I have paired with him. He would have voted "ay" on this proposition and I would have voted "no."

Mr. PIKE said: Upon this question I am paired with my colleague, Mr. BLAINE. If he were here he would vote against the reconsideration and I would vote for it.

Mr. THAYER said: Mr. ECKLEY was called out of the House about an hour ago on very important business, and desired me to state so in case a vote was taken.

The result of the vote having been announced as above recorded, the question recurred on the passage of the bill.

Mr. BEAMAN. Is the previous question still pending?

The SPEAKER. It is not.

Mr. BEAMAN. Then I move the previous question on the passage of the bill.

Mr. CONKLING. I ask the gentleman from Michigan to allow me now to make a motion to recommit the bill to the committee, and I will ask that they have leave to report at any time, or a motion can be entered to reconsider.

Mr. BEAMAN. I have myself personally no objection to the recommittal of the bill if it is satisfactory to the gentleman who has the bill in charge. If he desires me to withdraw the previous question, I will do so, but otherwise I shall insist upon it.

Mr. CONKLING. Do I understand the gentleman to refuse to allow that motion to be made?

The SPEAKER. The Chair does not understand him to consent to it.

Mr. JENCKES. Will the gentleman from Michigan allow me a moment?

Mr. BEAMAN. I yield to the gentleman from Rhode Island.

Mr. JENCKES. As to these propositions of amendment, if the bill passes the House, it will be necessary to amend it if the House agrees with the vote of the Senate on the amendments to the judiciary bill. All the propositions that have been made in the way of amendments are simply to aid in the execution of the act itself, and I suggest to gentlemen who are in favor of this measure that all such amendments can be agreed upon, perfected, and made part of the bill in its passage, if it passes at all, through the Senate.

Mr. CONKLING. I understand the gentleman from Rhode Island to say that in the event this House concurs with the Senate in the judiciary bill, numerous amendments to this bill will be rendered necessary.

Mr. JENCKES. No; I do not say that.

Mr. CONKLING. Well, that some amendments will be rendered necessary. Now, I submit to the gentleman from Rhode Island, upon his own statement, whether a stronger case could be put showing the propriety of a recommittal of this bill. Supposing that those of us who think the bill needs amendment are wrong, still there is a very strong probability that if we pass this bill now it will have to be amended. Now, had we better pass it knowing that, and send it to the Senate, where there is no special committee on this subject, when by retaining it here and recommitting it to the committee we can accomplish the very thing which the gentleman says will be absolutely necessary, and which some of us think is necessary in any event?

Mr. JENCKES. There is one thing that I would ask the gentleman from New York. Here is a measure that the commercial interests of the country have been struggling to obtain ever since we had a Government, and now, for the first time, the debtor and creditor interests of the whole of the United States of America have agreed that this measure ought to become a law, not because it is perfect, but because it may be the basis of a future and better system.

The objections now made are simply to the details of the measure, to the deputy marshals and messengers and all that trivial machinery by which the law can be carried into effect. I agree with the gentleman from Michigan that we may as well meet the question now, and leave the details to be settled hereafter by amendments elsewhere.

Mr. BEAMAN. I now move the previous question.

Mr. LAWRENCE, of Ohio. I call for tellers on the second.

Mr. CONKLING. Before tellers are ordered I wish to make an inquiry. If the call for the previous question is not sustained, will a motion to recommit be then in order?

The SPEAKER. It will, and the Chair will recognize the gentleman from New York, as he has opposed the seconding of the previous question for the purpose of making that motion.

Mr. CONKLING. I hope the previous question will not be seconded.

Tellers were ordered; and Messrs. JENCKES and CONKLING were appointed.

The House divided; and the tellers reported—ayes 67, noes 55.

So the previous question was seconded.

The question recurred upon ordering the main question.

Mr. GARFIELD demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 68, nays 67, not voting 48; as follows:

YEAS—Messrs. Alley, Allison, James M. Ashley, Baldwin, Baxter, Beaman, Boutwell, Boyer, Brandegee, Bundy, Chanler, Darling, Davis, Dawes, Dixon, Donnelly, Driggs, Eliot, Ferry, Griswold, Hale, Aaron Harding, Hart, Hogan, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, James M. Humphrey, Jenckes, Kasson, Kelley, Ketcham, Laflin, Latham, Longyear, Marvin, McCullough, McRuer, Morris, Nicholson, Raymond, Alexander H. Rice, John H. Rice, Ritter, Rogers, Rousseau, Scofield, Smith, Spalding, Starr, Taber, Taylor, Thayer, Francis Thomas, John L. Thomas, Trimble, Trowbridge, Upson, Van Aernam, Robert T. Van Horn, Ward, Henry D. Washburn, William B. Washburn, Williams, Stephen F. Wilson, and Wright—68.

NAYS—Messrs. Ancona, Delos R. Ashley, Baker, Barker, Benjamin, Bergen, Bidwell, Bingham, Buckland, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Dawson, Defrees, Delano, Deming, Denison, Eggleston, Eldridge, Farquhar, Finck, Garfield, Glossbrenner, Goodyear, Abner C. Harding, Hayes, Henderson, Higby, Hill, Holmes, Chester D. Hubbard, Edwin N. Hubbell, James R. Hubbell, Kelso, William Lawrence, Loan, Marshall, McClurg, Mercur, Miller, Morrill, Moulton, Myers, Newell, Niblack, Noell, O'Neill, Orth, Paine, Perham, Price, Samuel J. Randall, William H. Randall, Rollins, Sawyer, Schenck, Shellabarger, Stevens, Stilwell, Strouse, Thornton, Elihu B. Washburne, Welker, James F. Wilson, and Windom—67.

NOT VOTING—Messrs. Ames, Anderson, Banks, Blaine, Blow, Bromwell, Broomall, Reader W. Clarke, Coffroth, Culver, Dodge, Dumont, Eckley, Farnsworth,

Grider, Grinnell, Harris, Demas Hubbard, James Humphrey, Ingersoll, Johnson, Jones, Julian, Kerr, Kuykendall, George V. Lawrence, Le Blond, Lynch, Marston, McIndoe, McKee, Moorhead, Patterson, Phelps, Pike, Plants, Pomeroy, Radford, Ross, Shanklin, Sitgreaves, Sloan, Burt Van Horn, Warner, Wentworth, Whaley, Winfield, and Woodbridge—48.

So the main question was ordered.

During the call of the roll,

Mr. WINFIELD stated that he had paired with Mr. RADFORD.

The result was announced as above stated.

The question recurred on the passage of the bill.

Mr. ROLLINS. I move a call of the House.

The SPEAKER. The House is acting under the previous question; and a motion for a call of the House is not in order, unless it appears by a count that there is no quorum present.

Mr. JENCKES. It has not been my desire to press this bill to a vote unless the House should be full. If by unanimous consent a future time can be fixed for taking the vote, I have no objection.

Mr. WASHBURNE, of Illinois. I object.

The SPEAKER. It cannot be done without unanimous consent.

Mr. STEVENS. I call for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 70, nays 73, not voting 40; as follows:

YEAS—Messrs. Alley, Allison, James M. Ashley, Baldwin, Banks, Baxter, Beaman, Boutwell, Brandegee, Broomall, Bundy, Chanler, Darling, Davis, Dawes, Dixon, Donnelly, Driggs, Eliot, Farnsworth, Ferry, Grinnell, Griswold, Hale, Hart, Hogan, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, James Humphrey, James M. Humphrey, Jenckes, Kasson, Kelley, Ketcham, Laflin, Longyear, Marvin, McCullough, McRuer, Moorhead, Morris, Nicholson, Plants, Raymond, Alexander H. Rice, John H. Rice, Rogers, Scofield, Smith, Spalding, Starr, Taber, Taylor, Thayer, Francis Thomas, John L. Thomas, Trimble, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Henry D. Washburn, Williams, Windom, and Wright—70.

NAYS—Messrs. Ancona, Delos R. Ashley, Baker, Barker, Benjamin, Bergen, Bidwell, Bingham, Boyer, Buckland, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Dawson, Defrees, Delano, Deming, Denison, Eldridge, Farquhar, Finck, Garfield, Glossbrenner, Goodyear, Aaron Harding, Abner C. Harding, Hayes, Henderson, Higby, Hill, Holmes, Chester D. Hubbard, Edwin N. Hubbell, James R. Hubbell, Kelso, Latham, George V. Lawrence, William Lawrence, Le Blond, Loan, Marshall, McClurg, Mercur, Miller, Morrill, Moulton, Myers, Newell, Niblack, Noell, O'Neill, Orth, Paine, Perham, Price, Samuel J. Randall, William H. Randall, Ritter, Rollins, Sawyer, Schenck, Shellabarger, Sitgreaves, Stevens, Stilwell, Strouse, Thornton, Elihu B. Washburne, William B. Washburn, Welker, and James F. Wilson—73.

NOT VOTING—Messrs. Ames, Anderson, Blaine, Blow, Bromwell, Reader W. Clarke, Coffroth, Culver, Dodge, Dumont, Eckley, Eggleston, Grider, Harris, Demas Hubbard, Ingersoll, Johnson, Jones, Julian, Kerr, Kuykendall, Lynch, Marston, McIndoe, McKee, Patterson, Phelps, Pike, Pomeroy, Radford, Ross, Rousseau, Shanklin, Sloan, Warner, Wentworth, Whaley, Stephen F. Wilson, Winfield, and Woodbridge—40.

So the bill was rejected.

During the call of the roll the following announcements were made:

Mr. DAVIS. I desire to state that Mr. AMES is paired on this and other questions with Mr. GRIDER.

Mr. INGERSOLL. On this question I have paired, as I have already stated, with Mr. POMEROY.

Mr. MARSHALL. My colleague, Mr. Ross, is unavoidably absent. He understood himself to be paired with Mr. RADFORD.

Mr. ANCONA. My colleague, Mr. JOHNSON, is still detained from the House by sickness.

The result of the vote was announced as above stated.

Mr. CONKLING. I desire to inquire of the Chair whether, as the vote on the passage of this bill has once been reconsidered, it is in order now to move a reconsideration.

The SPEAKER. It is not.

Mr. CONKLING. So I supposed; but other gentlemen thought otherwise, hence I made the inquiry.

The SPEAKER. The Chair will state, however, if the gentleman desires an explanation on this point, that the reference of new matter to a committee which has once been raised, revives the committee and authorizes it to report again.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed a joint resolution and bills of the following titles, in which the concurrence of the House was requested:

Joint resolution (S. R. No. 60) referring the petition and papers in the case of James Crutchett to the Court of Claims;

An act (S. No. 219) granting certain lands to the State of Michigan to aid in the construction of a ship-canal to connect the waters of Lake Superior with the lake known as Lac La Belle in said State; and

An act (S. No. 248) for the relief of James G. Clarke.

The message also announced that the Senate had passed without amendment House bills of the following titles:

An act (H. R. No. 207) to amend an act entitled "An act to provide ways and means to support the Government," approved March 3, 1865; and

An act (H. R. No. 364) to confirm unto Augustin Amiot, his legal assigns and representatives, a certain lot of ground in the city of St. Louis, in the State of Missouri.

The message also announced that the Senate had passed a bill (H. R. No. 360) entitled "An act to reimburse the State of Pennsylvania for moneys advanced Government for war purposes," with an amendment, in which the concurrence of the House was requested.

ENROLLED BILL SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill (H. R. No. 207) entitled "An act to amend an act to provide ways and means to support the Government, approved March 3, 1865;" whereupon the Speaker signed the same.

Mr. MYERS. I move that the House proceed to the consideration of business on the Speaker's table.

The motion was agreed to.

MUTUAL FIRE INSURANCE COMPANY.

The first business on the Speaker's table was Senate amendment to the bill (H. R. No. 223) entitled "An act to amend an act to incorporate the Mutual Fire Insurance Company of the District of Columbia."

The amendment of the Senate was read, as follows:

Strike out the words, "the said act," and insert in lieu thereof the following:

An act entitled "An act to incorporate the Mutual Fire Insurance Company in the District of Columbia," approved the 10th day of January, 1855.

The amendment was concurred in.

Mr. INGERSOLL moved to reconsider the vote by which the amendment of the Senate was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REIMBURSEMENT OF PENNSYLVANIA WAR DEBT.

The next business on the Speaker's table was Senate amendment to the bill (H. R. No. 360) entitled "An act to reimburse the State of Pennsylvania for moneys advanced Government for war purposes."

The amendment of the Senate was read, as follows:

Fill the blank in said bill by inserting "March 14, 1864."

Mr. MYERS. I move that the House concur in the amendment of the Senate.

The amendment was concurred in.

Mr. MYERS. I move to reconsider the vote by which the Senate amendment has been concurred in, and also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DISPOSAL OF LANDS.

The next business on the Speaker's table was Senate bill No. 168, entitled "An act to provide for the disposal of certain lands therein named;" which was read a first and second time, and referred to the Committee on Public Lands.

WELLINGTON AND DORSEY.

The next business on the Speaker's table was Senate bill No. 210, entitled "An act for the relief of Wellington & Dorsey;" which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

LAND GRANT TO OREGON.

The next business on the Speaker's table was Senate bill No. 62, entitled "An act to amend an act entitled 'An act granting lands to the State of Oregon to aid in the construction of a military road from Eugene City to the eastern boundary of said State;'" which was read a first and second time, and referred to the Committee on Public Lands.

BURIAL OF UNITED STATES SOLDIERS.

The next business on the Speaker's table was Senate joint resolution No. 58, respecting the burial of soldiers who died in the military service of the United States during the rebellion; which was read a first and second time.

The joint resolution, which was read *in extenso*, proposes to authorize and require the Secretary of War to take immediate measures to preserve from desecration the graves of the soldiers of the United States who fell in battle or died of disease in the field and in hospital during the war of the rebellion, to secure suitable burial places in which they may be properly interred, and to have the graves inclosed, so that the resting-places of the honored dead may be kept sacred forever.

The joint resolution was ordered to a third reading, was read the third time, and passed.

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

The latter motion was agreed to.

BOUNTIES TO COLORED SOLDIERS, ETC.

The next business on the Speaker's table was Senate resolution No. 51, respecting the bounties to colored soldiers, and the pensions, bounties, and allowances to their heirs; which was read a first and second time, and referred to the Committee on Military Affairs.

REVISION OF UNITED STATES STATUTES.

The next business on the Speaker's table was Senate bill No. 59, entitled "An act to provide for the revision and consolidation of the statutes of the United States;" which was read a first and second time, and referred to the Committee on the Judiciary.

JAMES CRUTCHETT.

The next business on the Speaker's table was Senate resolution No. 60, referring the petition and papers in the case of James Crutchett to the Court of Claims; which was read a first and second time, and referred to the Committee of Claims.

JAMES G. CLARKE.

The next business on the Speaker's table was Senate bill No. 248, for the relief of James G. Clarke; which was taken up, read a first and second time, and referred to the Committee on Foreign Affairs.

MICHIGAN SHIP-CANAL.

The next business on the Speaker's table was Senate bill No. 219, granting certain lands to the State of Michigan to aid in the construction of a ship-canal to connect the waters of Lake Superior with the lake known as Lac La Belle, in said State; which was taken up, read a first and second time, and referred to the Committee on Public Lands.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the several bills and joint resolutions had been referred; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

AGRICULTURAL COLLEGES.

Mr. BIDWELL. Mr. Speaker, I am instructed by the Committee on Agriculture to report back House bill No. 50, to amend the fifth section of an act entitled "An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts," approved July 2, 1862, so as to extend the time within which the provisions of said act shall be accepted and such colleges established, with a substitute, which I am sure will cure all the objections heretofore made. I ask that it shall be put at once upon its passage, because the time provided in the law to which this is an amendment will soon expire. I ask the Clerk to read the substitute.

The substitute was then read.

Mr. BIDWELL. I propose to call the previous question, as I am sure, from the reading of the bill, it has commended itself to all the members of the House.

I have an amendment to offer which I do not report from the committee, but offer as an individual member of the House. There was objection in the Committee on Agriculture to extending the benefits of the act to the several Territories. While I differed with the committee, still I did not insist on making a minority report. I have an amendment making an exception in favor of Washington Territory, and to show the necessity for it I shall merely ask the Clerk to read a memorial from the Legislative Assembly of that Territory.

Mr. DELANO. I desire to ask the gentleman a question. I cannot understand what length of time the bill allows.

Mr. BIDWELL. Five years from the date of acceptance, and in the case of those States which have not accepted, five years from the time they do accept.

Mr. DELANO. How in regard to the States which have already accepted?

Mr. BIDWELL. It extends the time in regard to them.

Mr. DELANO. I should like to be certain there is no danger about the construction of the bill in that respect. Does it extend the time to the States which have already accepted the grant?

Mr. BIDWELL. Of course it does.

Mr. DELANO. In what section?

Mr. BIDWELL. In the first section. I think it covers the entire ground.

I now offer the following amendment:

Provided further, That the Territory of Washington be, and the same hereby is, authorized to take and claim the benefits of the said act of July 2, 1862, and of this act, to the extent of thirty thousand acres, while the same remains under a territorial government, and sixty thousand acres additional thereto when said Territory shall be admitted into the Union as a State, and the said Territory shall be governed by and conform to all the provisions and requirements applicable to States.

Now, in support of that amendment I ask the Clerk to read the memorial of the Legislative Assembly of Washington Territory.

The Clerk read, as follows:

Memorial in relation to the establishment of an Agricultural College in Washington Territory.

To the honorable Senate and House of Representatives of the United States of America in Congress assembled:

Your memorialists, the Legislative Assembly of the Territory of Washington, would respectfully represent: that the Legislative Assembly, in the year A. D. 1864, passed an act accepting the propositions offered to the different States and Territories by virtue of the provisions of an act passed by the Congress of the United States entitled "An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts;" that by subsequent legislation this Legislative Assembly established and located an agricultural college, and appointed commissioners to select a site for said college and to contract for the purchase thereof, and further provided for the government and management of said college by a board of trustees for the location, entry, and sale of lands selected as provided for in said act of Congress, and the proper investment of the proceeds of said sales; that in consequence of the legislation of this Legislative Assembly a site for said college was selected and the purchase thereof contracted for by the commissioners appointed for that purpose; that the board of trustees fully organized and caused the selection of thirty thousand acres of land appropriated by Congress, and made application to enter the same in the proper land office of the United States; that afterward the Commissioner of the General Land Office decided that the said act did only apply to the States, and not to the different Territories of the United States; wherefore, in view of the premises aforesaid, your memorialists respectfully petition your honorable bodies to extend the benefits of the said act of Congress to the Territory of Washington, to the end that the legislation had in this Territory on the subject-matter may be carried into practical effect, and thereby material aid be extended for the development of the agricultural resource and the advancement of the mechanic arts in this Territory.

Passed the House of Representatives December 21, 1865. EDWARD ELDRIDGE,
Speaker of the House of Representatives.

Passed Council January 3, 1866. HARVEY K. HINES,
President of the Council.

A true copy from the original memorial of the Legislative Assembly of Washington Territory, as filed in this office.

Witness my hand and seal of office, at Olympia, this [L. S.] 29th day of January, 1866.
ELWOOD EVANS,
Secretary of Washington Territory.

Mr. GRINNELL. I desire to ask my friend, the chairman of the Committee on Agriculture, [Mr. BIDWELL,] whether he will not accept an amendment including Nebraska Territory also. Nebraska has about sixty thousand inhabitants, and I do not see any reason why we should extend this to Washington Territory and not to Nebraska.

Mr. WILSON, of Iowa. I ask my colleague [Mr. GRINNELL] to include also Dakota.

Mr. GRINNELL. I could not accept it. I understand there are only twenty-five thousand people there now.

The SPEAKER. There is already an amendment to an amendment pending as a substitute.

Mr. BIDWELL. I withdraw my amendment if it is going to bring in all the Territories. I do not want the bill loaded down so that it shall not pass. If other Territories are to be added it may kill the bill, and it is absolutely necessary that it should pass now.

Mr. GRINNELL. I do not desire to offer the amendment with a view to embarrass the bill. I therefore withdraw my proposition.

Mr. ALLISON. I propose to renew it, and to embrace all the Territories.

The SPEAKER. The gentleman from California [Mr. BIDWELL] withdraws his substitute, and demands the previous question.

Mr. DELANO. I hope the gentleman will withdraw it for a moment.

Mr. BIDWELL. I will do so.

Mr. DELANO. I am satisfied that the bill in its present form does not extend the time to the States that have not accepted the grants. My own State, among others, needs more time in order to complete the first college, which it is required to do within five years after the acceptance of the grant. The bill, I am satisfied, does not reach that view of the case. I am a friend to this measure.

Mr. BIDWELL. In order to have this bill put in a proper shape, if it be the understanding of the House, I am willing to have it postponed till to-morrow, and have it printed.

Mr. DELANO. Then I move to have it recommitted, with leave to report at any time.

No objection being made, it was so ordered.

FIVE-CENT COIN.

Mr. KASSON. The Committee on Coinage, Weights, and Measures have instructed me to report House bill No. 397, to authorize the coinage of five-cent pieces.

No objection being made, the bill was considered, and was ordered to be engrossed and read a third time.

The bill provides that as soon as practicable there shall be coined at the United States Mint a five cent-piece, composed of copper and nickel, the proportion of the latter not exceeding twenty-five per cent., and the weight of the coin not to exceed sixty grains. The bill further provides that from and after the passage of this act no further issues shall be made of the five-cent fractional currency, and all such outstanding currency shall be redeemed and withdrawn from circulation, leaving no fractional currency of a less denomination than ten cents.

Mr. KASSON. This bill is prepared at the Mint, and the committee very cordially unite with the governor of the Mint in recommending its adoption. It follows the precedent of the bills passed at the last session of Congress for the coinage of smaller pieces. It contains the usual legal provisions, and no other, except that it provides for the withdrawal of the smallest fractional notes now issued, namely, the five-cent notes.

Mr. WILSON, of Iowa. I think there should be some change in the provision in regard to the gross amount to be presented for redemption. It is now in sums of $100 and over.

Mr. KASSON. The objection to the reduction is that any smaller sum subjects the employés of the Mint to very great annoyance and trouble, owing to the small denomination of the currency. This limit is deemed as small as will be expedient for the administration of the law. It is designed to prevent these notes coming back in small sums.

Mr. KELLEY. I wish to ask a question. Can the gentleman from Iowa [Mr. KASSON] give us any idea what will be the size and weight of the coin?

Mr. KASSON. The Director of the Mint has prepared a suggestive model, if I may call it such, the only suggestion that I have seen. It is somewhat larger in diameter than the three-cent piece. The matter is left, as usual in these bills in relation to minor coins, to the discretion of the governor of the Mint and the Secretary of the Treasury, and the committee have no desire to take that discretion from them.

Mr. KELLEY. To what three-cent piece does the gentleman refer?

Mr. KASSON. The one authorized by the last Congress.

Mr. GRINNELL. I would ask my colleague if he can tell us what device is to appear on the coin.

Mr. KASSON. I am afraid my colleague is encroaching a little on the province of the gentleman from Pennsylvania, [Mr. THAYER.] All I can say in regard to that is, that it is not to be adorned with the head of any living person. [Laughter.]

Mr. CONKLING. Does not the bill provide that the weight of the coin shall be sixty grains?

Mr. KASSON. Not exceeding sixty grains.

Mr. CONKLING. I am told that the old cent weighs sixty-one grains. If so, and it is designed to make this new coin weigh sixty grains, it must be several times as large as the model which the gentleman from Iowa, [Mr. KASSON,] has in his mind, so that if he means to restrict the size to anything like that of the new three-cent pieces, I would suggest that the weight had better be diminished.

Mr. KASSON. My reply to that is, that the officers of the Mint, as the committee know, are against the issue of any of those large coins of small value. I think, therefore, my friend's information is incorrect as to the weight of the old cent; and inasmuch as this weight was fixed under the influence of this well-known desire on the part of the officers of the Mint, I should be unwilling to change the provision without further information.

Mr. THAYER. I will suggest to the gentleman from New York that if he will remember that by the bill twenty-five per cent. of the coin is to be made of nickel, he will easily perceive that it is impossible it should be of the size he indicates.

Mr. CONKLING. The gentleman from Pennsylvania has hit upon the very thing that arrested my attention. Nickel is a lighter metal than copper.

Mr. THAYER. But far more valuable.

Mr. CONKLING. If the coin is to be made of two metals, twenty-five per cent. being of a metal lighter than copper, and if it is to weigh sixty grains, while the old cent weighs sixty-one, of course it will be larger than that ancient coin. For one I hope we will not authorize such a thing.

Mr. THAYER. There is no danger of any such result. Any one can easily see, if this coin is to be twenty-five per cent. of nickel, that it cannot be of the size the gentleman indicates.

Mr. CONKLING. Why not?

Mr. THAYER. Because the metal is too valuable; that is a reason which everybody will understand who knows anything of the value of nickel.

Mr. CONKLING. Then why put in a provision that it is not to weigh more than sixty grains?

Mr. THAYER. I did not make the bill.

Mr. KASSON. I think the gentleman from New York [Mr. CONKLING] is mistaken in the weight of the coin with which he institutes a comparison, and therefore I repeat what I said: it is better to follow the recommendation of the officers of the Mint, who I know are opposed to the creation of large coin of small value, than to take a doubtful suggestion as to the weight of the old cent.

Mr. GARFIELD. I would inquire whether the new coin is to be of the same intrinsic value as the old five-cent coin.

Mr. KASSON. Of silver? Certainly not. This is intended as a temporary coin, better than paper, and to be subsequently redeemed in the paper that is the legal currency of the country.

Mr. GARFIELD. I hope we shall not have another standard in addition to what we have already.

Mr. KASSON. I demand the previous question.

The previous question was seconded and the main question ordered.

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

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

The latter motion was agreed to.

COURTS OF WASHINGTON TERRITORY.

Mr. WILSON, of Iowa. A few days ago the Delegate from Washington Territory [Mr. DENNY] introduced a bill in relation to the courts of that Territory, and moved that it be referred to the Committee on the Judiciary. By some mistake the bill was sent to the Committee on Territories. I now ask that the Committee on Territories be discharged from the further consideration of that bill, and that it be referred to the Committee on the Judiciary; and I also move, at the request of the Delegate from Washington Territory, that the bill be printed.

The motion was agreed to.

BANKRUPT LAW.

Mr. CONKLING, by unanimous consent, introduced a bill to establish a uniform system of bankruptcy throughout the United States; which was read a first and second time, and referred to the select committee on the bankrupt law.

SAFETY OF STEAMBOAT TRAVEL.

Mr. EGGLESTON. I am instructed by the Committee on Commerce, to which was referred House bill No. 343, further to provide for the safety of the lives of passengers on board of vessels propelled in whole or in part by steam, to regulate the salaries of steamboat inspectors, and for other purposes, to report the same back with sundry amendments. I am also instructed to move that the bill and amendments be printed and recommitted to the committee; and also that the report from the supervisor of inspectors be printed.

The motion was agreed to.

ROUSE'S POINT RAILROAD BRIDGE.

Mr. HULBURD, by unanimous consent, introduced a bill to make the railroad bridge across Lake Champlain, at Rouse's Point, a post route; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

RECONSTRUCTION.

Mr. DAVIS, by unanimous consent, presented the joint resolutions of the Legislature of the State of New York in regard to the States lately in rebellion; which were referred to the joint committee on reconstruction, and ordered to be printed.

LAND DISTRICT IN MINNESOTA.

Mr. DONNELLY, by unanimous consent, introduced a bill to create an additional land district in the State of Minnesota; which was read a first and second time, and referred to the Committee on Public Lands.

WEIGHING OF EXPORTS, ETC.

Mr. J. HUMPHREY, by unanimous consent, introduced a bill to provide for and to regulate the weighing of exports, and for other purposes; which was read a first and second time.

Mr. WASHBURNE, of Illinois. I ask that the bill may be read.

The bill was read at length. It provides that upon all weighable articles hereafter exported, upon which a drawback or return duty is allowed, and upon all weighable goods withdrawn from bonded warehouses for export, there shall be levied and collected by the collectors of the several ports, three cents per one hundred pounds, to be determined by the returns of the weighers. The bill further provides that the office of measurer at the port of New York shall be abolished, and the duties heretofore performed by the measurers shall be performed by the weighers; and that the weighers at the port of New York shall receive, from and after the passage of this act, an annual salary of $2,500 each; provided that the increase of compensation over and above the present salary of such officers shall not in any fiscal year exceed the amount of fees earned by them.

Mr. J. HUMPHREY. I move that the bill be referred to the Committee on Commerce.

The motion was agreed to.

POST ROUTES IN ILLINOIS.

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

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the necessity and expediency of establishing a post route from Carthage, Illinois, to Burlington, Iowa; and also a post route from Pilot Grove to Durham, in Hancock county, Illinois.

AMENDMENT OF PENSION LAWS.

Mr. FARQUHAR. I ask unanimous consent to submit the following resolution for consideration at this time:

Resolved, That the Committee on Invalid Pensions be requested to inquire into the expediency of amending the existing pension laws, as follows, namely:

1. All provisions hereafter granted to be in amount due to the rank held by the person at the time of his death, discharge, or muster out of service.

2. In addition to the pension now granted or that may be hereafter authorized, each pensioned soldier shall be entitled to draw annually one uniform suit of clothing, the description of which to be determined by the War Department.

3. Pensions to be paid quarterly, in lieu of semi-annually.

Mr. HARDING, of Kentucky. I object.

And then, on motion of Mr. ALLISON, (at four o'clock and ten minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to the appropriate committees:

By Mr. BEAMAN: The petition of E. B. Ward, and 120 others, citizens of Michigan, praying that a tariff may be levied sufficient to give adequate protection to American labor.

By Mr. COBB: The petition of William Blake, of Fox Lake, Wisconsin, for back pension.

Also, the petition of citizens of Reedsburg, Sauk county, Wisconsin, for a general law regulating the business of insurance.

Also, the petition of M. C. Waite, and others, citizens of Baraboo, Sauk county, Wisconsin, on the same subject.

By Mr. CONKLING: The petition of citizens of Washington, asking the passage of an act to incorporate the American Life Insurance Company.

By Mr. CULLOM: Two separate petitions signed by a large number of citizens of Woodford county, Illinois, praying that Congress shall increase the tariff upon imported wool.

By Mr. DARLING: The petition of William H. Allen, late colonel of the first and one hundred and forty-fifth regiments New York volunteers, for relief.

By Mr. DAVIS: The petition of Marshall Parks, president of the Albemarle and Chesapeake Canal Company, of North Carolina and Virginia, praying for aid in improving the natural channels connecting different portions of said canal.

By Mr. DAWES: The petition of William Goldthwait, and 437 others, citizens of Massachusetts, praying for legislation making eight hours a legal day for labor in the public works.

By Mr. DEFREES: The petition of citizens of Allen county, Indiana, asking for an increase of the tariff on wool.

By Mr. ECKLEY: The petition of 315 wool-growers of Carroll county, Ohio, asking an additional duty on wool.

By Mr. EGGLESTON: The petition of J. W. Donohew, and 40 others, merchants of Cincinnati, praying that steamboats may be permitted to transport gunpowder in iron kegs, and that a license shall not be required for such purposes.

By Mr. HALE: The petition of Jason Braman, and others, citizens of Essex county, New York, for protection to American industry.

Also, the petition of Joseph Haviland, jr., and others, citizens of Warren county, New York, for increased duties on foreign wool.

Also, the petition of Hermon O. Matthews, and others, citizens of Clinton and Essex counties, New York, for protection to American wool-growers.

Also, the petition of Winslow C. Watson, and others, citizens of Chesterfield, Essex county, New York, for same purpose.

Also, the petition of Foster Breed, and others, and petition of J. C. Brevoot, and others, citizens of Crown Point, Essex county, New York, for same purpose.

Also, the petition of Charles N. Williams, and others, citizens of Elizabethtown, Essex county, New York, for same purpose.

Also, the petition of Rosman Fenton, and others, and petition of Charles H. Walker, and others, citizens of North Hudson, Essex county, New York, for same purpose.

Also, the petition of William H. George, and others, citizens of St. Armand, Essex county, New York, for same purpose.

By Mr. HENDERSON: The petition of citizens of Washington county, Pennsylvania, asking an increase of duty on imported wool.

By Mr. HOLMES: The petition of George McChesny, and others, for American register for the schooner Jessie Conger, of Belleville.

By Mr. HUBBELL, of Ohio: The petition of George W. Stevens, jr., and 105 others, citizens and wool-growers of Union county, Ohio, praying for increased duties on imported wool.

By Mr. J. HUMPHREY: The petition of G. F. Sherman, and others, for the regulation of the weighing of exports, and other purposes.

By Mr. HUBBARD, of West Virginia: The petition of G. A. Parkinson, and 32 other persons, citizens of Brooke county, West Virginia, asking an increase of the rate of duty on wool of foreign growth.

By Mr. LAWRENCE, of Ohio: The petition of A. B. C. Hitchcock, and others, of Shelby county, Ohio, in favor of a duty on foreign wools of ten cents per pound and ten per cent. *ad valorem*.

By Mr. LAWRENCE, of Pennsylvania: Several petitions from citizens of Lawrence and Washington counties, Pennsylvania, for an increase of duties on foreign wools.

By Mr. MORRILL: The petition of 3,000 citizens of Windsor county, Vermont, praying that the tariff laws be changed so as to give the wool-grower equal protection with the manufacturer.

By Mr. McRUER: The petition of F. F. Low, and others, citizens of California, for additional duty on foreign salt.

By Mr. MOULTON: The petition from citizens of Bond county, Illinois, praying for increased tariff on the importation of foreign wool.

Also, the petition of citizens of Greene county, Illinois, praying for a national tax of two dollars per head on dogs.

By Mr. McKEE: The petition of Johnson A. Davidson, for additional compensation for carrying the mail.

By Mr. MORRIS: Concurrent resolutions of the Legislature of the State of New York, declaring that none of the rebellious States should share in the legislation of the nation until they are actually in loyal harmony with the national Government, and that then their Representatives must be and have been at all times loyal to said Government.

Also, the petition of Farley Holmes, Esq., of Penn Yan, New York, and many others, asking for some law in relation to inter-State insurances.

Also, two petitions, numerously signed by citizens of the twenty-fifth congressional district in the State of New York, asking for an increase of duty on foreign wool.

By Mr. PAINE: The petition of Littel & Smith, and others, citizens of Milwaukee, for the enactment of a law regulating insurance in the several States.

Also, the petition of L. C. Smith, and others, citizens of Walworth county, Wisconsin, for tariff upon foreign wools.

By Mr. PRICE: The petition of assistant assessors of the second congressional district of Iowa, asking for additional compensation.

By Mr. STEVENS: Resolutions of citizens of North Hempstead, New York, relative to the civil rights bill, &c.

By Mr. UPSON: The petition of George W. Van Akin, and 73 others, citizens of Girard, Branch county, Michigan, praying for an increase of duties on foreign wool.

By Mr. WARD: The petition of Hon. John J. Nix, mayor of the city of Elmira, New York, and others, in favor of an increase of the tariff on cigars.

Also, the petition of 64 wool-growers, of the county of Steuben, in favor of an increase of the duties on wool,

By Mr. WELKER: The petitions of J. W. Worcester, and 62 others, wool-growers of Pittsfield township; of Thomas King, and 33 others, wool-growers of Eaton township; and J. L. Fisher, and 47 others, wool-growers of Grafton township, Lorain county, Ohio, asking for protection on wool.

IN SENATE.

WEDNESDAY, *April* 11, 1866.

Prayer by Rev. EDWARD E. HALE, D. D., of Boston, Massachusetts.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. HARRIS presented the petition of Samuel N. Salomon, executor and sole legatee of his late father, Haym M. Salomon, deceased, praying for payment of the amount of moneys advanced to the Government by his grandfather, Haym Salomon, during the revolutionary war; which was referred to the Committee on Revolutionary Claims.

Mr. SUMNER. I offer a petition of citizens of Massachusetts asking Congress to extend aid to the European and North American railway. This is a line of railway which, when completed, will connect Halifax, Nova Scotia, with all the railways of the United States. It has already received important assistance from the State of Maine and the State of Massachusetts, and the city of Bangor has voted a loan of its credit to the amount of $500,000 to aid in the construction of the road. On a former occasion a memorial was presented to Congress setting forth at length the character of this road, and asking for assistance. There is also another measure bearing on this road, which is now pending before the Committee on Foreign Relations of the Senate. I therefore, in presenting this petition, ask its reference to the Committee on Foreign Relations.

The PRESIDENT *pro tempore*. That reference will be ordered.

Mr. MORGAN. I present the petition of George L. Elder, who was an officer on board the frigate Congress at the time she was destroyed. He prays that the officers of the ninety-ninth New York State volunteer infantry, who served on the frigate Congress on the eighth day of March, 1862, and thereby lost their personal effects, may be awarded such relief as has been granted to the officers of the Navy and Marine corps under such circumstances, or such other relief as Congress may determine. I am not certain whether this petition should go to the Committee on Military Affairs or the Committee on Naval Affairs. I will move its reference to the Committee on Naval Affairs, as they made a report on this subject the other day.

The motion was agreed to.

Mr. SHERMAN presented a petition of mechanics and laborers in American manufacturing establishments, praying for such an amendment of the tariff as will protect their labor to the extent of the difference of the cost of capital and labor here and abroad; which was referred to the Committee on Finance.

He also presented a petition of citizens of Ohio, praying for an increase of the duty on foreign wools; which was referred to the Committee on Finance.

REPORTS OF COMMITTEES.

Mr. LANE, of Indiana, from the Committee on Pensions, to whom was referred a bill (S. No. 76) to grant pensions to Walter H. Tinker and John P. McElroy, of Missouri, have instructed me to report it adversely upon the ground that the general pension laws now provide for their cases; and the committee therefore ask to be discharged from the further consideration of the bill.

The report was agreed to.

Mr. VAN WINKLE, from the Committee on Pensions, to whom was referred the petition of Mrs. Anna G. Gaston, of the city of Washington, District of Columbia, widow of Albert G. Gaston, late a lieutenant of the sixteenth regiment of Virginia volunteers, praying for a pension, reported a bill (S. No. 261) for the relief of Mrs. Anna G. Gaston. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom were referred the following bills, reported them severally without amendment:

A bill (H. R. No. 25) for the relief of Thomas Hurly;

A bill (H. R. No. 267) granting a pension to Virginia K. V. Moore;

A bill (H. R. No. 443) granting a pension to Mrs. Elizabeth York, widow of Shubal York, late a surgeon in the fifty-fourth regiment Illinois infantry volunteers;

A bill (H. R. No. 444) granting pension to Lewis W. Dietrich;

A bill (H. R. No. 445) for the relief of the legal representatives of Betsey Nash; and

A bill (H. R. No. 461) granting a pension to Ann Sheehey.

He also, from the same committee, to whom was referred a bill (H. R. No. 258) granting a pension to Sarah E. Pickell, reported it adversely.

He also, from the same committee, to whom was referred the bill (H. R. No. 446) for the relief of Nicholas Hibner, late a private in the sixth regiment Missouri State militia, reported it without any recommendation.

Mr. CLARK. The Committee on the Judiciary, to whom were referred two resolutions inquiring what legislation, if any, is necessary to protect officers of the Army from arrest or prosecution for acts done during the rebellion, have had that matter under consideration, and have directed me to report the resolutions back to the Senate, and to ask to be discharged from their further consideration, the same matter having been provided for in a bill which has heretofore been reported by the committee.

The report was agreed to.

BILLS INTRODUCED.

Mr. CONNESS asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 61) to extend the time for the construction of the first section of the Western Pacific railroad; which was read twice by its title, and referred to the Committee on the Pacific Railroad.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 262) to provide for the national defense by establishing a uniform militia and organizing an active volunteer militia force throughout the United States; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

EDUCATION OF SOLDIERS.

Mr. SUMNER. I send a resolution to the Chair, and ask for its adoption now:

Resolved, That the Committee on Military Affairs and the Militia be instructed to consider the expediency of providing a system of education for soldiers in the Army of the United States, so that the time not occupied in post or garrison duties may be employed in moral and intellectual improvement, to the end that the Army may be a nursery of officers, and also of citizens.

There being no objection, the Senate proceeded to consider the resolution.

Mr. SUMNER. Before the vote is taken I wish to say that my attention has been called to this question by a letter which I saw in the papers this morning, from General Lew. Wallace addressed to Hon. JOHN A. BINGHAM, of the other House. It seems to me that this letter contains some important and practical suggestions, if they can be carried out. I think they must elevate the character of our Army and give to it truly the character of citizen soldiers. I was so much struck with them as I read the letter this morning that I have drawn up this resolution that I might bring the subject in the most formal way before the Committee on Military Affairs of this body.

The resolution was agreed to.

LIQUOR IN THE CAPITOL.

Mr. WILSON. I offer the following concurrent resolution, and ask for its present consideration; I do not suppose there can be any objection to it:

A resolution prohibiting the sale of spirituous and other liquors in the Capitol building and grounds.

Resolved by the Senate, (the House of Representatives concurring,) That the sale of spirituous liquors, wines, and intoxicating drinks of any description whatever, is hereby prohibited in the Capitol building and grounds; and it shall be the duty of the Commissioner of Public Buildings and Grounds immediately to cause to be removed therefrom and to prevent the sale hereafter of such articles in the Capitol building or grounds.

There being no objection, the Senate proceeded to consider the resolution.

Mr. JOHNSON. Does that only relate to the sale? I did not hear it distinctly.

The Secretary read the resolution.

Mr. JOHNSON. Suppose the articles are not sold, but are to be found in the different rooms of the Capitol, what is to be done?

Mr. WILSON. I do not know that we have power over that, but if we have, I should like to exercise that power. I think the articles should not be brought here or be about the building; but certainly I think the Capitol of the United States should not be turned into a liquor shop.

Mr. JOHNSON. The power you are about to exert to prevent the sale in the Capitol is a police power; and under that power you certainly can say that there shall be no spirituous liquors in the Capitol.

Mr. CONNESS. Or authorize them to be seized if here.

Mr. JOHNSON. Whether it is expedient to do it is another matter; that is a point on which the Senate will decide.

Mr. McDOUGALL. Mr. President, it was once said that there are as many minds as men, and there is no end of wrangling. I had occasion some years since to discourse with a reverend doctor of divinity from the State which has the honor to be the birth-place, I think, of the present President of this body. While I was discoursing with him, a lot of vile rapscallions invited me to join them at the bar. I declined, out of respect to the reverend gentleman in whose presence I then was. As soon as the occasion had passed, I remarked to the reverend doctor, "Do not understand that I declined to go and join those young men at the bar because I have any objection to that thing, for it is my habit to drink always in the front and not behind the door." He looked at me with a certain degree of interrogation. I then asked him, "Doctor, what was the first miracle worked by our great Master?" He hesitated, and I said to him, "Was it not at Cana in Galilee where he converted the water into wine, at a marriage feast?" He assented. I asked him then, "After the ark had floated on the tempestuous seas for forty days and nights, and as it descended upon the dry land, what was the first thing done by father Noah?" He did not know that exactly. "Well," said I, "did he not plant a vine?" Yes, he remembered it then.

I asked him, "Do you remember any great poet that ever illustrated the higher fields of humanity that did not dignify the use of wine, from old Homer down?" He did not. I asked, "Do you know any great philosopher that did not use it for the exaltation of his intelligence? Do you think, doctor, that a man who lived upon pork and beef and corn bread could get up into the superior regions—into the ethereal?" No, he must

> "Take nectar on high Olympus
> And mighty mead in Valhalla."

I said to him again, "Doctor you are a scholarly man, of course—a doctor of divinity—a graduate of Yale; do you remember Plato's Symposium?" Yes, he remembered that. I referred him to the occasion when Agatho, having won the prize of Tragedy at the Olympic Games at Corinth, on coming back to Athens was fêted by the nobility and aristocracy of that city, for it was a proud triumph to Athens to win the prize of Tragedy. They got together, at the house of Phædrus, and they said, "Now, we have been every night for these last six

nights drunk; let us be sober to-night, and we will start a theme;" which they passed around the table as the sun goes round, or as they drank their wine, or as men tell a story. They started a theme, and the theme was love—not love in the vulgar sense, but in its high sense—love of all that is beautiful. After they had gone through, and after Socrates had pronounced his judgment about the true and beautiful, in came Alcibiades with a drunken body of Athenian boys with garlands around their heads to crown Agatho and crown old Socrates, and they said to those assembled, "This will not do; we have been drinking and you have not;" and after Alcibiades had made his talk in pursuance of the argument in which he undertook to dignify Socrates, as I remember it, they required (after the party had agreed to drink, it being quite late in the evening, and they had finished their business in the way of discussion) that Socrates should drink two measures for every other man's one, because he was better able to stand it. And so one after another they were laid down on the lounges in the Athenian style, all except an old physician named Aristodemus, and Plato makes him the hardest-headed fellow except Socrates. He and Socrates stuck at it until the grey of the morning, and then Socrates took his bath and went down to the groves and talked Academic knowledge.

After citing this incident I said to this divine, "Do you remember that Lord Bacon said that a man should get drunk at least once a month, and that Montaigne, the French philosopher, indorsed the proposition?"

These exaltants that bring us up above the common measure of the brute, wine and oil, elevate us, enable us to seize great facts, inspirations, which, once possessed, are ours forever; and those who never go beyond the mere beastly means of animal support never live in the high planes of life, and cannot achieve them. I believe in women, wine, whisky, and war.

Mr. WILSON. Mr. President, I am content to pass the resolution in the form in which it has been introduced. We had here last year, I believe, a shop for the sale of whisky; and I understand that there are two in the Capitol now, but not at this end of it. I think it is bad enough to bring liquor here in any form, whether it comes into the committee-rooms or comes in the form suggested some time ago by the Senator from Oregon, [Mr. NESMITH,] when he spoke of some persons who had great capacity to throw themselves on the outside of a quart of whisky.

Mr. McDOUGALL. Will the Senator from Massachusetts allow me to make one remark? I forgot to add that the reverend doctor said to me, "Well, General, you are right; but I cannot afford to say it."

Mr. WILSON. We all know, Mr. President, that in our day old Bourbon has about as much inspiration as gin had in the days of Byron. I think the Legislatures of this country can discharge their duties quite respectably without worshiping at that shrine, especially in the Capitol of the country. If they desire to do it, I think they had better do it away from the Capitol and the public grounds. I hope that the resolution, in the form in which it is introduced, will be passed, and that the Commissioner who has charge of this building will see to it that the Capitol is no longer disgraced by the sale of these articles; and if they are brought here, as I understand they have been in times past, by officers of the Senate, and by men connected with the Senate and House of Representatives, and kept in the committee-rooms and given away—and I understand that within the last three years boys employed in the public service here have been taxed to pay for liquors that members of Congress have drunk—I think it is time to put an end to such things. I am content for one that we should not have the mighty inspiration of old Bourbon or gin or wine or any of those things that take mortals to the skies. Let us be content to legislate as plain, practical, public men, and leave the inspiration to others.

Mr. McDOUGALL called for the yeas and nays on the passage of the resolution; and they were ordered.

Mr. GRIMES. It seems to me that this resolution had better be referred to the Committee on Public Buildings and Grounds. As I understand it, the control of this wing of the Capitol hitherto has been in charge of the President of the Senate, and the other wing has been in charge of the Speaker of the House of Representatives. I do not know that it is wise for us, without the slightest consideration, to take the control of this building from the charge of these two custodians and transfer it to the Commissioner of Public Buildings. I would rather have the opinion of my friend from Missouri, [Mr. BROWN,] who stands as chairman of the Committee on Public Buildings and Grounds, on that subject; at any rate, I should then be better prepared to vote for it. I sympathize fully with the Senator from Massachusetts in the object he seeks to accomplish, and would like to drive all the whisky out of the Capitol; but I think we had better give the subject a little more consideration.

Mr. HENDRICKS. I do not wish it to be understood, from the fact that the Senator from Massachusetts has so much information on this subject, that every other Senator has the same information. I did not know that there was any liquor of any sort sold about the Capitol. I have been here for two or three years, and was entirely ignorant of it; but if the case is as he states I shall not object to the resolution. I shall vote either to refer the resolution, or for the resolution itself; I do not care which. I merely desire it to be understood that it is not such a general thing as to have attracted the attention of others. I did not know there was any such evil as the Senator speaks of. I have not heard any other Senator speak of it in this locality.

Mr. CLARK. I have not had occasion to know so much about it at this session as at a former session, but it is apparent to everybody that there is too much liquor of some kind too near the Capitol; and I can state what is a fact, not at this session, but at a former session, that the very pages, the little boys whose mothers have put them here for their support, have been made drunk in this Capitol by liquor furnished here, and it ought to be prohibited. It is an inspiration beginning too low down a great deal with the rising generation to be tolerated anywhere. I do not know that this resolution is quite right; I do not wish to remove the jurisdiction of the building from the President of the Senate and the Speaker of the House of Representatives; but I presume this resolution will not do it. But something should be done, sir—not confined entirely to this Senate or to the House; for I fear that the Commissioner of Public Buildings himself should look after some of those in his employ and see that they do not come into this building in a state in which they ought not to be here. Sir, the evil has come to be too injurious; and the Senate cannot go on much longer in the direction in which it has been going without becoming disgraced in the eyes of the nation. We should remove far away from us such a cause of offense and stumbling; and, Mr. President, if we are not as we ought to be ourselves, God forbid that we should educate these little boys to become what they ought not to be.

Mr. VAN WINKLE. I wish to remind the Senate, if it has not already been adverted to, that at the close of the last session a resolution similar to the one now pending, but confined in its operation to this end of the Capitol, was passed.

Mr. WILSON. At the special session of the Senate, after the 4th of March, 1865, we passed a resolution on this subject applying to this end of the Capitol. I do not know that there is any particular complaint here, but these articles are kept for sale in the Capitol. I am willing to change the resolution, if it is thought best not to leave the matter entirely to the Commissioner of Public Buildings, so as to make it the duty of the President of the Senate and the Speaker of the House of Representatives immediately to take measures for that purpose.

Mr. TRUMBULL. I think it is best as it is. I think it ought to be left with the Commissioner of Public Buildings.

Mr. SHERMAN. I will ask the Senator from Massachusetts, who has charge of the Capitol police? Under whose directions are they placed?

Mr. WILSON. I suppose under the Commissioner of Public Buildings.

Mr. SHERMAN. Then, as a matter of course, the resolution will have to be carried out through these agents employed by us for the protection of the Capitol, and I think whoever has command of these policemen ought to have charge of this duty.

Mr. ANTHONY. I suggest that it be the Commissioner of Public Buildings under the direction of the President *pro tempore* of the Senate and the Speaker of the House of Representatives.

Mr. CLARK. That is a good suggestion.

Mr. TRUMBULL. I think the resolution is precisely right the way the Senator from Massachusetts has it. If the amendment suggested should be adopted the Presiding Officers of the two Houses would simply give the direction to the Commissioner of Public Buildings, and it would involve the necessity of their meeting together. Some one suggested to me that it was a reflection on the Presiding Officers to clothe the Commissioner of Public Buildings with this authority; but it is not so. The Presiding Officers of the two bodies, according to my experience, have never pretended to take charge generally of the building. They merely take charge of the Chambers, and the building is under the control of the Commissioner of Public Buildings, who is a permanent officer nominated to the Senate by the President and employed during the whole year. He sees to the building as well during the recess as during the session of Congress. I think he is the proper officer to be charged with this duty. It seems to me the resolution is precisely right, and that we should see that no liquors are sold in this building or on these grounds, as well in the recess as during the session of Congress. No portion of the building or grounds should be made a whisky shop of at any time. I think the resolution is in proper form, leaving it to the Commissioner of Public Buildings to see that this duty is performed, and if it is not we can hold him responsible for it.

Mr. ANTHONY. I do not think the resolution is any reflection on the Presiding Officers of the two Houses; but still I think, as the Capitol has always been heretofore under the direction of the Presiding Officers of the two Houses, that it had better not be changed in that respect. I move, therefore, to amend the resolution by inserting after the words "Commissioner of Public Buildings and Grounds" the words "under the direction of the President *pro tempore* of the Senate and Speaker of the House of Representatives."

Mr. GRIMES. That is right.

Mr. CONNESS. It is dividing the authority; that is the difficulty.

Mr. ANTHONY. We want to divide the authority. We want the President of the Senate to have direction of this end of the Capitol and the Speaker of the House direction of the other end. I do not wish the authority to be given to one body alone. I wish it to be divided, each having charge of its own jurisdiction.

Mr. CONNESS. The Senator does not understand what I mean. My objection to his amendment is that it is dividing the authority as to the exercise of that authority over this subject. It makes it necessary that these two officers, the President of the Senate and Speaker of the House of Representatives, shall agree to give orders to the Commissioner of Public Buildings. Why not order him at once to suppress this abuse? It is a question that the President of this body does not want to deal with; it is strictly a question of police.

It need not be said that it is a disgrace that

the means of drunkenness are furnished here to whosoever see fit to avail themselves of them. Of course the passage of this resolution will not suppress drunkenness in the Capitol, because whoever is inclined to drink will furnish the means of becoming drunk; but it will be a condemnation of the practice, and so far as the Capitol is concerned it will be a purging of the building and grounds of the article that leads to such disgraceful results here. I hope the amendment will not be adopted, but that the Commissioner of Public Buildings will be ordered to direct the suppression of this practice at once, and that the officers named in the amendment will not be incumbered by giving them a part of his duty to perform. If it should become necessary it would still further be the duty of the Senate to order that no liquor or intoxicating drinks should be brought upon the premises by any person whatever, and even making it penal to do it. There can be no greater disgrace before God and man than persons sent here to make laws for a nation boasting high civilization appearing in a state of intoxication. I hope that this short step toward the end of such disgrace will be taken, and that the authority will not be divided, but that the Commissioner will be ordered at once to suppress the abuse.

Mr. GRIMES. I do not concur in the opinion entertained by the Senator from California. On the contrary, I trust the Senate will adopt the amendment proposed by the Senator from Rhode Island. It is not dividing authority. The proposition does not look to any such thing as that. It looks to the direction being given by the Presiding Officers of the two bodies, but that direction is to be executed by the Commissioner of Public Buildings. I am wholly unwilling, as a Senator, to surrender any authority that we have hitherto exercised, and that has been exercised ever since the foundation of the Government, over our own wing of the Capitol. Is there any reason why we should take it away from our President? Is it not admitted on all hands that no liquor has been sold in this wing of the Capitol since he has been Presiding Officer? Why then should we change the rule that has hitherto existed on this subject, and say that another officer appointed by the President of the United States, over whom we have no control whatever, shall have the police management in this wing of the Capitol? I see no occasion for any change on this subject. We are told that in some other portions of the Capitol liquor is sold. Very well; make it imperative upon your President and the Speaker of the House of Representatives to direct the executive officer to see that no liquor shall be sold, but do not take away from yourselves and from your Presiding Officer the power that has hitherto always been exercised. I see no occasion for it.

Mr. McDOUGALL. I do not know but that it would be well for the sober Senator from California to indulge himself somewhat more in generous wine; and I do not know but that it would be of service to the Senator from New Hampshire, [Mr. CLARK;] and I am sure it would have a kindly influence upon the Senator from Massachusetts, [Mr. WILSON.] I think all these propositions, all these regulations, all this style of determining liberties that ought to be common to all men, by virtue of ismatical influences, is wrong, and I utterly protest against it. I think it was well when we had our lunch room in the Senate Chamber, where we quietly sat down and drank our wines at our pleasure. The times have come to be so false that men dare not say what they honestly think to be the truth and the right. That sin of cowardice shall never come to my door. I say the whole proposition is wrong. Let the Senator from Massachusetts, if he chooses, drink his wine, as his fathers did before they cut down all the apple trees in Massachusetts. Because apple trees raised apples, and apples made cider, and cider made brandy, they cut them down all through New England; but in his grandfather's time every gentleman of Massachusetts, or every man who was able to afford it, had on his side-board a bottle of good apple brandy and he offered it to his guests the moment he received them. Those were the good old times when gentlemen were abounding in the land. This kind of regulation tends to degrade humanity and to degrade the dignity of the Senate.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Rhode Island, which will be read.

The Secretary read the amendment, which was, in the eighth line of the resolution, after the words "Commissioner of Public Buildings and Grounds," to insert the words "under the direction of the President of the Senate and the Speaker of the House of Representatives;" so that the resolution will read:

Resolved by the Senate, (the House of Representatives concurring,) That the sale of spirituous liquors, wines, and intoxicating drinks of any description whatever, is hereby prohibited in the Capitol building and grounds; and it shall be the duty of the Commissioner of Public Buildings and Grounds, under the direction of the President of the Senate and Speaker of the House of Representatives, immediately to cause to be moved therefrom, and to prevent the sale hereafter of, those articles in the Capitol building or grounds.

The amendment was agreed to.

The PRESIDENT *pro tempore*. The question now is on the resolution as amended, upon which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 33, nays 2; as follows:

YEAS—Messrs. Anthony, Brown, Chandler, Clark, Conness, Doolittle, Edmunds, Fessenden, Foster, Grimes, Guthrie, Harris, Hendricks, Johnson, Kirkwood, Lane of Indiana, Morgan, Morrill, Nesmith, Nye, Poland, Pomeroy, Ramsey, Riddle, Sherman, Stewart, Sumner, Trumbull, Van Winkle, Wade, Willey, Williams, and Wilson—33.

NAYS—Messrs. Davis and McDougall—2.

ABSENT—Messrs. Buckalew, Cowan, Cragin, Creswell, Dixon, Henderson, Howard, Howe, Lane of Kansas, Norton, Saulsbury, Sprague, Wright, and Yates—14.

So the resolution was adopted.

KANSAS MILITIA CLAIMS.

Mr. POMEROY. I should like the Senate to proceed to the consideration of the unfinished business of yesterday. We were about taking a vote upon it when the Senate went into executive session, and I should like to have the vote taken at once.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 259) to authorize the Secretary of War to settle the claims of the State of Kansas for services of the militia called out by the Governor of that State upon the request of Major General Curtis, the commander of the United States forces in that State. It authorizes the Secretary of War to ascertain the amounts due for services actually rendered and material, supplies, and transportation actually furnished by the militia of the State of Kansas while in the service of the United States in the year 1864, and to cause them to be paid in like manner as if the militia had been regularly mustered into the service of the United States for a period not exceeding thirty days; and the sum of $259,000, or so much thereof as may be necessary, is appropriated to carry the act into effect.

Mr. FESSENDEN. I should like to hear some explanation of the bill, where it comes from, and what it is.

Mr. POMEROY. It is reported from the Committee on Military Affairs.

Mr. FESSENDEN. Then I should like some one of the Committee on Military Affairs to tell us what it means.

Mr. DOOLITTLE. This bill was reported from the Committee on Military Affairs, and accompanying the bill were also reported certain papers connected with it stating the facts. I can state very briefly what the facts are.

In 1864 Major General Curtis, then in command of Kansas, urged upon the Governor of the State of Kansas to call at once to the field every able-bodied man of the militia. It was when Price, the head of the rebel army in that region, was in Missouri, and was making his retreat toward Kansas, and it was believed that the State of Kansas was going to be invaded by General Price. Pursuant to this request of General Curtis, the Governor of Kansas did call out the militia, to the number, I think, of thirteen or fourteen thousand men; and a portion of them took part in some of the battles and skirmishes with Price and his army in the State of Missouri.

As they were not regularly mustered into the service of the United States, the State of Kansas passed a law, and appointed their adjutant general, secretary of state, and another officer, as commissioners to examine and ascertain the amount of service which had been rendered by this militia, and the amount of material furnished by them; for, under the direction of the Governor as well as of Major General Curtis, these men were required to bring their rations, to employ their own teams, not to stop for a change of clothing, but to hurry at once to the field; and in fact it appeared that directly after the proclamation, within two days, some of the regiments were out marching toward the place of anticipated danger.

These commissioners appointed by the State went into an examination, receiving vouchers and proofs. The companies were regularly organized and had muster-rolls of their own, under the laws of Kansas, as part of the militia of Kansas. They examined those muster-rolls, took proofs, and they report an amount due to the militia for services rendered, I think, of about one hundred and sixty-five thousand dollars. They also report an amount due to them for transportation, supplies, and material furnished by them—forage, blankets, &c.

The committee were unwilling to take this finding of the commissioners on the part of Kansas as binding upon the Government, and therefore they have drawn the bill in this shape to authorize the Secretary of War to settle these accounts upon the same basis as if these men had actually been in the service of the United States; and the accounts can be overhauled and examined under this direction by the bureaus of the War Department, the quartermaster's department, the commissary department, and the pay department, and examined with the same care that others are; and I suppose vouchers will be required by the Department to satisfy them of what is provided for in the bill, the actual service rendered, and the actual material and supplies furnished. That is the purport of the bill. The sum fixed in it—$259,000—is the sum which was found by the commissioners of Kansas to be due for services rendered and supplies furnished. The commissioners went on and found certain other damages, damages for property lost in battle, and damages of various kinds, amounting to some two hundred and fifty thousand dollars more, which the committee thought it was not proper for us to allow, and we rejected it, confining the sum—$259,000—to what the commissioners found to be the amount of actual service rendered and supplies furnished. That is the whole of the case, as I understand it.

Mr. POMEROY. The case, I believe, has been very fairly stated by the Senator from Wisconsin, excepting that the number of militia was very much larger than what he has stated. I was with them, and know of their being in the service, the same as the volunteer force of the State was in service. They were commanded by General Curtis, and went through all the discipline and did all the service that regular volunteers did. The same was true of the Missouri militia, for we were all together, and the Senate have already passed a bill to reimburse the State of Missouri. This amount, of course, is much smaller than the State anticipated. It includes nothing but the actual transportation and actual supplies furnished. The question of damage, and all those other questions are left out of the bill entirely. I shall of course be gratified to have the bill passed as it is, although I still feel that there is a large sum due the State; but I do not wish to dispute with the committee on that question, and I hope the bill will pass as it is.

The bill was reported to the Senate without

amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House of Representatives had passed the following joint resolutions of the Senate without amendment:

A joint resolution (S. R. No. 44) authorizing Commodore William Radford to accept a decoration from the King of Italy;

A joint resolution (S. R. No. 53) authorizing Rear Admiral H. Paulding to accept a decoration from the King of Italy; and

A joint resolution (S. R. No. 58) respecting the burial of soldiers who died in the military service of the United States during the rebellion.

The message further announced that the House of Representatives had concurred in the amendments of the Senate to the bill (H. R. No. 223) to amend an act to incorporate the Mutual Fire Insurance Company of the District of Columbia, and to the bill (H. R. No. 360) to reimburse the State of Pennsylvania for moneys advanced Government for war purposes.

The message further announced that the House of Representatives had passed the bill (S. No. 89) to issue American registers to the steam vessels Michigan and Dispatch, with amendments, in which it requested the concurrence of the Senate.

The message further announced that the House of Representatives had passed the following bills and joint resolutions, in which it requested the concurrence of the Senate:

A bill (H. R. No. 397) to authorize the coinage of five-cent pieces;

A bill (H. R. No. 471) to provide that the "Soldiers' Individual Memorial" shall be carried through the mails at the usual rate of printed matter;

A bill (H. R. No. 249) to establish a land office in the Territory of Idaho;

A bill (H. R. No. 472) for the relief of George R. Frank, late captain thirty-third regiment Wisconsin volunteer infantry;

A joint resolution (H. R. No. 88) expressive of the thanks of Congress to Major General Winfield S. Hancock;

A joint resolution (H. R. No. 107) for the relief of Rev. Harrison Heermance, late chaplain of the one hundred and twenty-eighth regiment New York volunteers; and

A joint resolution (H. R. No. 108) appointing managers for the National Asylum for Disabled Volunteer Soldiers.

PROTECTION OF UNITED STATES OFFICERS.

Mr. CLARK. I move to proceed to the consideration of House bill No. 238, to amend an act entitled "An act relating to *habeas corpus*, and regulating judicial proceedings in certain cases," approved March 3, 1863.

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

It provides that any search, seizure, arrest, or imprisonment made, or other trespasses or wrongs done or committed, or any acts done or omitted to be done during the rebellion, by any officer or person, under and by virtue of any order, written or verbal, general or special, issued by the President or Secretary of War, or by any military officer of the United States holding the command of the department, district, or place within which such seizure, search, arrest, or imprisonment was made, done, or committed, or any acts were so omitted to be done, either by the person or officer to whom the order is addressed, or by any person aiding or assisting him therein, shall be held to come within the purview of the act to which this is amendatory, and within the purview of the fourth, fifth, and sixth sections of that act, for all the purposes of defense, transfer, appeal, error, or limitation provided therein.

The second section provides that when the order is in writing, it shall be sufficient to produce in evidence the original, with proof of its authenticity, or a certified copy; or if sent by telegraph, the production of the telegram purporting to emanate from the military officer shall be *prima facie* evidence of its authenticity; or if the original of such order or telegram is lost or cannot be produced, secondary evidence shall be admissible, as in the other cases.

By the second section it is provided that the right of removal from the State court into the circuit court of the United States, provided in the fifth section of the act of March 3, 1863, may be exercised as well after the appearance of the defendant and the filing of his plea or other defense in the State court, or at any term of that court subsequent to the term when the appearance is entered, and before a jury is impanneled to try the issue; but nothing in the bill is to be held to abridge the right of such removal after final judgment in the State court, nor shall it be necessary in the State court to offer or give surety for the filing of copies in the circuit court of the United States; but on the filing of the petition, verified as provided in the fifth section of the act of March 3, 1863, the further proceedings in the State court shall cease, and not be resumed until a certificate under the seal of the circuit court of the United States, stating that the petitioner has failed to file copies in the circuit court, at the next term, is produced.

According to the fourth section, if the State court shall, notwithstanding the performance of all things required for the removal of the case to the circuit court, proceed further in the cause or prosecution before the certificate mentioned is produced, then all such further proceedings shall be void and of none effect; and all parties, judges, officers, and other persons, thenceforth proceeding thereunder, or by color thereof, shall be liable in damages therefor to the party aggrieved, to be recovered by action in a court of the State having proper jurisdiction, or in a circuit court of the United States for the district in which such further proceedings may have been had, or where the party, officer, or other person so offending shall be found; and upon a recovery of damages in either court the party plaintiff shall be entitled to double costs.

The fifth section makes it the duty of the clerk of the State court to furnish copies of the papers and files in the case to the party so petitioning for the removal; and upon the refusal or neglect of the clerk to furnish such copies, the party may docket the case in the circuit court of the United States; and thereupon the circuit court shall have jurisdiction, and may, upon proof of such refusal or neglect of the clerk of the State court, and upon reasonable notice being given to the plaintiff, require him to file a declaration or petition therein; and upon his default may order a non-suit, and dismiss the case at the costs of the plaintiff, which dismissal shall be a bar to any further suit touching the matter in controversy.

An amendment was reported by the Committee on the Judiciary, to add to the first section this clause:

But no such order shall be a defense to any suit or action for any act done or omitted to be done after the passage of this act.

Mr. CLARK. This bill provides for the transfer of certain causes which have been brought in the State courts to the Federal courts; and it provides also, following the act of March 3, 1863, that where certain acts have been done by any order of the President, or under his authority, made at any time during the existence of the present rebellion, that order shall be a defense in all courts "to any action or prosecution, civil or criminal, pending, or to be commenced, for any search, seizure, arrest, or imprisonment, made, done, or committed, or acts omitted to be done, under and by virtue of such order, and under color of any law of Congress."

There has been a difficulty sometimes in showing the order of the President, and the act of 1863 was not thought by the committee to extend so far as it should extend; and this bill is for the purpose of extending the act to certain persons who have done acts under orders of the President or officers commanding a department under whose authority they were. It is much like the act of 1863, but carrying the authority of that act further, which the committee think should be done at this time, for the reason that since the rebellion many suits have been instituted in the States which have been in rebellion against Federal officers, which they cannot defend in the State courts by reason of the construction given to the law in the State courts. The committee thought it would be well to extend the act to those officers, and they have concluded to report an amendment to the bill, which is the only substantial amendment, that such a defense shall not be made to any act committed or done after this time. The committee think there is no necessity now for any acts which require a defense of that kind, the rebellion being substantially terminated; they therefore propose this amendment in order to terminate the act of 1863 as well as this.

Mr. SAULSBURY. It is presumed that the members of the Senate, many of whom are lawyers, would like to consider well questions of this kind. I have felt like retiring to my room and giving up the contest, but there is no lawyer who can read this bill that does not know there are very grave and serious objections to it. I should like an opportunity to present those objections, and I shall be prepared to-morrow to present them. I therefore move that the further consideration of this subject be postponed until to-morrow.

Mr. CLARK. I hope the consideration of the bill will not be postponed. The bill has been deemed of pressing importance; and after sufficient time has elapsed for its mature consideration, I should hope that it might be passed. A great many vexatious suits have been brought, and they are still pending, and instances have been known—they exist now—where Federal officers have been pushed very hard and put to great hardships and expense, and sometimes convicted of crime, for doing things which were right in the line of duty, and which they were ordered to do and which they could not refuse to do. It is but just and right that we should afford to those officers, at the earliest possible time, ample protection.

Mr. SAULSBURY. I know that my suggestion will not be met with any approval; I have seen enough of that at the present session; but I think there is no great danger to transpire in the next twenty-four hours, and the Senator from New Hampshire need not be alarmed that any great wrongs can be perpetrated or that any great injury is going to be suffered or endured from that delay. I have not seen this bill until this moment when I heard it read. I believe, if I know anything of what the law is, that there are great and grave questions of law involved in the measure. I know that my utterance is powerless to prevent the passage of any bill here; but surely twenty-four hours' delay will do no harm. Let us look into the bill. I just want twenty-four hours, until we meet to-morrow, to look into it, to examine it; and if I cannot demonstrate that it is violative of the Constitution of the United States, that its provisions are flagrantly inconsistent with our system of government, I shall rise in my place and frankly confess that I am mistaken.

Mr. President, where is this need, where is this necessity of going at railroad speed to the destruction of all the landmarks of your Government? You have done a great deal; I ask you now to pause simply for twenty-four hours and let us look into the provisions of this bill. It does not answer my purpose to say that the Committee on the Judiciary have considered it, that they have reflected on it. We all know that these committees have their peculiar business; they examine their questions, they present them to us; but we do not see them until they are presented to us. This is the first time we have known what this bill was. Now, sir,

I only ask for a delay until to-morrow morning that we may look into the provisions of the bill. If I cannot then satisfy the Senate that in its provisions it is repugnant to the Constitution of the United States, and that it is impolitic in character, I shall not say one word.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Delaware to postpone the further consideration of the bill until to-morrow.

M. HENDRICKS. I should think it but reasonable that the consideration of the bill should be postponed until to-morrow. It is a very important bill indeed, and I presume, like most bills, has been printed, laid upon our tables, and gone among our files, without attracting very particularly the attention of Senators; but no bill can go much further than this proposes to go. It not only takes away the right of action in cases not brought, but I presume will have the effect to take away the right of action in cases already pending in the courts. I cannot think it is the intention of Congress to go so far as this bill does go. I presume it is the intention of Congress to indemnify the officers of the Government who have done acts with a proper motive and for a proper purpose under the exigencies of particular cases; but this bill proposes to indemnify against all acts, provided they were authorized by any officer of the Government higher in command than the party who executed the order. The bill scarcely requires discussion, for it is so plain in its provisions that the very reading of it is a full argument upon it. It covers cases of search, seizure, arrest, and imprisonment, and as if it were not sufficient, more general words are then used, "or other trespasses or wrongs done or committed." It is intended to cover everything that any military officer may have done, or any person not a military officer, under the command or authority of any military officer, for the language is, "or any acts done or omitted to be done during the said rebellion." It not only protects against wrongful acts done, but against cases of neglect to do duty, cases of omission. Is it the intention of Congress to indemnify any officer of the Government for a neglect of duty? Where the law commands the thing to be done, and the officer refuses to obey the law, and thus is guilty of an act of omission, is it the intention of Congress to indemnify him in a cause between him and the citizen that is injured by his refusal on his part to obey the law? Not only this, but—

> Any acts done or omitted to be done during the said rebellion by any officer or person, under and by virtue of any order, written or verbal, general or special, issued by the President or Secretary of War, or by any military officer of the United States holding the command of the department, district, or place within which such seizure, search, arrest, or imprisonment was made, done, or committed, or any acts were so omitted to be done, either by the person or officer to whom the order is addressed, or by any other person aiding or assisting him therein, shall be held, and are hereby declared, to come within the purview of the act to which this is amendatory, and within the purview of the fourth, fifth, and sixth sections of said act, for all the purposes of defense, transfer, appeal, error, or limitation provided therein.

I have read this section with a view to call the attention of the Senate to the magnitude of the proposition, and then that the Senate may say whether it is an unreasonable thing that on the motion of the Senator from Delaware the further consideration of the bill be postponed until to-morrow.

This bill proposes to take away from the citizen an action in the courts for a violation of his most important rights, those rights that are protected in express terms by the Constitution of the United States. It applies first to any search. Is it competent for the Congress of the United States to interpose a defense when the injured citizen brings his action in the courts for a search of his domicile made in violation of the provisions of the Constitution of the United States? Our fathers thought, and all the men of distinction that have been connected with public affairs since their day have thought, that it was an important and wise provision that a man's house shall be sacred to him and his family, unless the search be authorized by some process of the law, and that that process shall be based upon complaint made under oath, that no man's residence shall be invaded unless there be reason for that invasion presented to some officer of the law under the responsibility of the oath of the party making the charge, and that then no officer shall make invasion of the domicile except by authority of a writ. Now, Mr. President, if the Constitution of the United States in express terms prohibits a search except upon sufficient authority, and a search has been made without that authority and against the provision of the Constitution, can Congress interpose a defense when the injured citizen brings his action for damages in the courts? And yet this is proposed.

Next, it applies to all seizures. Seizure of the person is also protected against in the Constitution so that a man's person shall be sacred and free from arrest except upon proper writ to be issued upon proper complaint under oath; and yet it is proposed that where a seizure has been made without this authority the order of some superior military officer shall be a sufficient defense. I submit to Senators whether this can be. Does the provision of the Constitution of the United States indeed protect us? If the Constitution be violated in the cases mentioned in this bill, is it possible for Congress to say that that violation of the Constitution of the United States against the person or the domicile of the citizen shall be justified in a proceeding in court by the mere fact that some superior military authority has authorized it?

This bill goes much further than the act of March 3, 1863. That act, if I recollect it correctly, only allowed the order to be a defense when the wrong was by virtue of the authority of the President of the United States. The authority had to come from the President or perhaps one of his Cabinet. Now it is proposed that where a man's house has been invaded, where his person or property has been seized, where he has been arrested, where he has been imprisoned without the process which the Constitution requires before this shall be done, not only that it shall be a defense if the President of the United States commanded it, but it shall be a defense if these wrongs were done by the commander of the department, or of the district, or of the particular locality where the outrage was committed.

Mr. President, I would desire to vote with Senators in favor of a bill protecting military officers and other officers in their acts that were done in good faith for the public good and without any bad motive; but if this bill passes, the motive of the officer will be unimportant. He may have been governed by ever so bad a motive, and yet the mere fact that he commanded an inferior officer to do the act is to be a defense in the courts. Without reference to the motive that governed the party in making the command, it is to be a defense. I presume so, because the words are general. The Senator from New Hampshire smiles at this suggestion. This is my reading of the bill, because there are no exceptions in this section. It is a defense if the acts were done or omitted "by virtue of any order, written or verbal, general or special, issued by the President or Secretary of War, or by any military officer of the United States holding the command of the department, district, or place within which such seizure, search, arrest, or imprisonment was made, done, or committed."

Mr. President, let me state one case that occurred in the State of Indiana, by way of illustration. The commanding officer issued a written order to a sergeant or lieutenant directing him to go down to the county of Martin and arrest and bring to Indianapolis under arrest such person or persons as a detective, naming him—I forget his name—might point out. With that order in his pocket the lieutenant or sergeant, accompanied by the detective, went down to Martin county and there made arrests. The detective pointed out the parties to be arrested. Among others they arrested a gentleman of very high position, unquestionable integrity and honor, recently before that a member of the Indiana Legislature, and but a short time returned from the war, having commanded a company in one of the Indiana regiments. The returned soldier and captain was brought to Indianapolis and confined in one of the military prisons, and for a number of days was not allowed to address any friend that he had, and none of us that knew him and esteemed him knew that he was in the city. There was an arrest made by virtue of an order from the head of the department or district of Indiana. The lieutenant or sergeant would justify under that order, if sued. I do not know that any suit is based upon that proceeding. There ought to be. Against that military commander there are suits pending. If he did right, I want him to be justified in the courts. If he did wrong, he ought not to have a defense in the courts. Men are appointed to high military commands, as is supposed, because of their intelligence and their qualifications for the position. It certainly ought not to be a defense that they have wantonly disregarded the provisions of the Constitution or the laws of the land.

Again, sir, I wish to submit to the gentleman having this bill in charge, whether, if an act such as is described in this section be committed with rudeness, cruelty, and outrage, he intends that in such a case as that there shall be a defense in court. If the citizen be arrested without the authority of law and against the provisions of the Constitution, and instead of being treated kindly and carefully he be placed in irons and be brought through the country in irons when it is unnecessary, merely for the purpose of cruelty toward him, is it intended that this outraged citizen shall not have a remedy in the courts for the abuse of the authority that it is supposed the command of the superior officer conferred? If a sheriff have in his hands a writ to be executed, and he executes that writ with a degree of harshness not required under the circumstances of the case for the purpose of gratifying personal malignity, although he be authorized to execute the writ, still, for the outrage which he does in its execution he shall be held responsible in the courts. Will you say, then, that a man who does an act without the authority of law shall be held to a greater indemnity and protection for this outrage and excess of abuse and wrong than the man who executes a writ? And yet, sir, I take it that would be the effect of this bill. Whatever is done by virtue of the command of a superior officer may be justified under this bill.

It was not my purpose to argue the bill at this time, because I did not know that it was to come up. I understood from the Senator from New Hampshire that he expected to call up a bill regulating the selection of jurors in the United States courts. So I was not looking for this bill to come up at this time; and I should be very glad indeed if the bill were postponed until to-morrow. I do not want to delay its passage if it is the pleasure of the majority to pass it, but I think the motion of the Senator from Delaware is a reasonable motion. There are other important provisions in this bill as to the character of the evidence that shall be produced in court, how it shall be established that the act was done under the command of a superior officer, and all that which ought to be considered; and it seems to me that the Senator from New Hampshire himself will concede that there ought to be some provision taking away the defense from men who have committed wanton and cruel outrages even in the execution of orders from superior military officers.

I could illustrate my views by a number of cases that have come under my own observation. I will mention one that I recollect just now. A very excellent citizen who formerly resided in the same town with myself moved out to the State of Illinois, and for some reason or other it was supposed that he was giving

information to some deserting soldiers in the neighborhood. A company of soldiers arrested him, brought him from Illinois to Indianapolis, and brought him in irons. He was placed in a dungeon in that city for ten days within three quarters of a mile of my law office, and that man was denied the right to send me word or to drop me a line. I never dreamed that he was in one of those dungeons, or I certainly should have done everything for his relief, because I knew him to be an honest and worthy man. After he had been kept in the dungeon for ten days he was put in irons again and taken through the village in which he formerly lived in irons, for no purpose (inasmuch as he was surrounded by a sufficient guard of soldiers) except to degrade him in the eyes of the people among whom he had once lived.

Now, sir, suppose that there were an order from a superior officer to arrest him, is this cruelty that was practiced upon him—and I give it as but one instance of a thousand—this cruelty in excess of obedience to the authority and mandate of a superior officer, to go unpunished, when the sufferer brings his suit in court? Why, sir, men have been put to the torture to make them confess their own guilt, and it was under the command of the commanding officer, tied by their thumbs and held in that position until compelled to confess. It is said that this is to be justified because it was done under the command of the commanding officer. The officer in command at Indianapolis, I dare say, never did himself tie any poor creature up by the thumbs, and make him stand upon his toes until the agony became so horrible that the innocent had to confess to the guilt of bounty jumping; but these cruelties that cast a dark shade upon our records as a people were executed by inferior officers or by soldiers under the command of superiors.

Now, sir, is it intended that there shall be a justification in court for such horrible outrages as that? I was very slow myself to believe that such things were being done until one day an attorney who has his office across the hall from mine came into my office in great excitement, and said that he had witnessed what he hoped never to see again; he had been called by professional duties to what is known as the "Soldier's Home," under which there is a dungeon, in that city. He told me that he saw two alleged bounty jumpers, and there was not evidence against them, and they were tied with cords by their thumbs and made to stand in that position in the most horrible agony.

I know it cannot be the purpose of Senators to justify such cruelty as this. These things are recorded in history as having been indulged in former times, and stand in history but to be condemned by the civilization of this age. When they are repeated among us shall an act of Congress be read in the courts as a defense for such conduct?

Mr. President, I only intend to urge the appeal made by the Senator from Delaware, that some further time should be given for the consideration of this bill, that its immediate passage to-day is certainly not called for, and that it be deliberately considered by the Senate. I cannot believe that it is the purpose of the Senate to enact a bill so general and so sweeping in its provisions as this, and without any of the limitations usually found in acts intended to indemnify public officers.

Mr. CLARK. Mr. President, I would not urge the passage of this bill at the present time did I suppose that any Senator needed time for its consideration, or that any Senator would say that he did and designed to consider it. The Senator from Indiana opposes its present consideration, but he does not say that he wants further time to consider it; and his correct analysis of the bill, and his statement of the purview and powers of the bill, and his objections to it, show clearly that he does not want any further time for that purpose. He has discussed it so thoroughly and so ably on that side of the question, that he has clearly shown that his time and attention have been given to it, and that he does not need further time. I think the arguments he has made against the bill are a strong argument against the postponement on that ground.

Mr. CONNESS. I beg the Senator's pardon. Those are old arguments; I have heard them many times.

Mr. CLARK. They are old arguments. I did not say when the Senator from Indiana had given his attention to the bill; I was only arguing that he had, at some time, done so, and therefore did not require any more time for that purpose. It is very true they are old arguments; they are arguments which were urged against the passage of the act to which this bill is an amendment, more than three years ago. This bill does not confer any new powers upon certain officers of the Government; but it confers the powers which were granted to the President, and other officers who show an order from him, three years ago, upon certain other officers, thus enlarging the sphere and operation of the act.

The Senator from Indiana objects to the scope because he says that any search which may be made by any Federal officer under the command of another officer, by his order, either in writing or verbal, special or general, may be defended against by virtue of that order. That was exactly the provision of the act of 1863. Section four of that act provided:

"That any order of the President, or under his authority, made at any time during the existence of the present rebellion, shall be a defense in all courts to any action or prosecution, civil or criminal, pending, or to be commenced, for any search"—

Precisely the same word used here—

"seizure"—

Precisely the same—

"arrest"—

Just the same—

"or imprisonment, made, done, or committed, or acts omitted to be done, under or by virtue of such order."

The same things were provided for three years ago, and it not only provided for search, seizure, arrest, or imprisonment done or committed, but acts omitted to be done, and it provided also, in the same language with this bill, for other trespasses or wrongs done or committed. The Senator has only revived, I presume, the consideration which he gave to that old bill when it was passed three years ago, and alleged his objections to that against this bill. It certainly cannot be that he wants further time now for the consideration of this bill, and I do not understand that any other Senator desires time for its consideration.

The Senator from Indiana says that he understood I was to call up another bill; but he will remember precisely how that understanding came. It was not to-day, but yesterday, when he asked me to take up another bill. I told him I proposed to take up a bill in regard to jurors. It is entirely true that I did say that yesterday; but on the suggestion of some Senator that this bill was needed, that persons affected by it were anxious it should be passed, I concluded to ask the Senate to take up this bill as one of more pressing importance than that fixing the right of jurors. I think I was right in that regard. It is a bill of more pressing importance, and the attention of the Senate should be first given to it.

Now, Mr. President, upon this motion to postpone, if the Senate will pardon me, I will follow the course of the Senator from Indiana a little. I know that it is not in order to debate the provisions of the bill on a motion to postpone, and if anybody objects I shall not do so.

Mr. GRIMES. Why not take a vote on the motion to postpone, and then go on?

Mr. CLARK. I will adopt the suggestion of the Senator from Iowa. Let the vote be taken on the motion to postpone. If the bill is postponed I shall not trouble the Senate; and if it is not, I shall say a few words further.

Mr. EDMUNDS. I hope the Senator from New Hampshire will allow this bill to lie over. Of course I am as desirous as he is that the end which the bill has in view should be reached, but there is some danger possibly that in regions of the country where martial law has never prevailed, injustice may be done under this bill; and I desire to look into it with a view, perhaps, to offer some amendments.

Mr. CLARK. I will cheerfully accede to the request of the Senator from Vermont, as I would to that of any other Senator who had not considered the bill as I knew the Senator from Indiana had abundantly, and let the bill go over until to-morrow; and I shall ask the Senate now to go on with the other bill to which I have alluded.

The motion to postpone was agreed to.

HOUSE BILLS REFERRED.

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

A bill (H. R. No. 397) to authorize the coinage of five-cent pieces—to the Committee on Finance.

A bill (H. R. No. 471) to provide that the "Soldier's Individual Memorial" shall be carried through the mails at the usual rate of printed matter—to the Committee on Post Offices and Post Roads.

A bill (H. R. No. 472) for the relief of George R. Frank, late captain thirty-third regiment Wisconsin volunteer infantry—to the Committee on Military Affairs and the Militia.

A joint resolution (H. R. No. 88) expressive of the thanks of Congress to Major General Winfield S. Hancock—to the Committee on Military Affairs and the Militia.

A joint resolution (H. R. No. 107) for the relief of Rev. Harrison Heermance, late chaplain one hundred and twenty-eighth regiment New York volunteers—to the Committee on Military Affairs and the Militia.

A joint resolution (H. R. No. 108) appointing managers for the National Asylum for Disabled Volunteer Soldiers—to the Committee on Military Affairs and the Militia.

A bill (H. R. No. 249) to establish a land office in the Territory of Idaho—to the Committee on Public Lands.

QUALIFICATION OF JURORS.

On motion of Mr. CLARK, the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 34) in relation to the qualification of jurors and to writs of error in certain cases, the pending question being on the amendment reported by the Committee on the Judiciary to strike out all after the enacting clause of the bill, and in lieu of the words stricken out to insert the following:

That no person shall be disqualified to act upon any grand or petit jury by reason of having formed or expressed an opinion upon the matter or cause to be submitted to such jury, founded upon public rumor, statements in public journals, or common notoriety, provided he be otherwise competent, and it shall appear to the satisfaction of the court, upon his declaration under oath, or otherwise, that he can and will, notwithstanding such an opinion, act impartially and fairly upon the matters to be submitted to him.

SEC. 2. *And be it further enacted*, That any question of law arising upon the trial of any person in any district or circuit court of the United States, or in the supreme court of the District of Columbia, for any offense, the punishment whereof may be death, may be removed to the Supreme Court of the United States by writ of error, to be sued out within sixty days after the entry of the final judgment in such case in the courts below; and thereupon proceedings shall be stayed in said courts, and the questions of law heard and determined in said Supreme Court of the United States, and such order sent to the court below, affirming or reversing the judgment, as the determination of such questions of law may require.

Mr. SAULSBURY. Mr. President, this is a very important bill. Perhaps it may be a proper bill; I am not prepared now to discuss its merits. I have simply heard it read, and it strikes me that it requires thought, and it requires consideration. I do not think that a bill of such importance ought to be pressed to a vote now. It is true, I suppose, that it has been upon our files; but everybody knows that bills are under the consideration of certain committees to be examined and reported upon, and Senators not upon those committees are

not presumed to examine them very closely, and the first time they look into them is when they are read in the Senate. I see very clearly what is intended by this bill. It opens up a vast field of discussion by members of the bar of this country. You are changing the rules of law and the rules of evidence as applicable to your courts, and that change is grounded upon the change of circumstances in which we are placed.

I have found in my brief experience at the bar that almost every change made in the old English system has been for the worse. Your modern American improvements in my judgment have added nothing to the system of legal jurisprudence. Now, sir, in the words of this bill as I heard it read there, is couched a meaning capable of perversion which may destroy the old landmarks of the law, and in my judgment it requires more deliberation than has been given to it.

But, sir, I do not suppose anything that I can say in this body will have any effect. We are in revolutionary times; we are revolutionizing the law. I see that my friends on the other side smile at this. It rather brings thoughts of sadness to my heart than anything which should cause a smile. I ask you to pause, and if you will not leave anything else, leave the principles of the law to stand unimpaired.

Mr. HENDRICKS. I wish to ask the Senator from New Hampshire whether the second section is not rendered unnecessary by the passage of the judiciary bill. I think that in the judiciary bill which has passed the Senate we sufficiently provide for appeals and writs of error in criminal cases.

Mr. CLARK. That has not become a law yet.

Mr. HENDRICKS. But if it should, it would be unfortunate that at the same session of Congress we should have made different provisions on that subject; but if the Senator thinks it desirable to pass the section I have no objection.

Mr. CLARK. I do not know whether the Senator from Delaware made a motion to postpone; I did not understand him to do so.

Mr. HENDRICKS. He did not.

Mr. CLARK. The bill was before the Senate some month ago or more, and at the request of the Senator from Kentucky, was postponed to give time for further consideration.

Mr. HARRIS. I should like to have a little further time to look into this bill.

Mr. JOHNSON. If the honorable member from New York desires a postponement, I should for one be for granting it; but I thought he was in the committee at the time the bill was decided upon.

Mr. HARRIS. I believe I was.

Mr. JOHNSON. But you wish time now to consider it further.

Mr. HARRIS. I have entirely lost sight of it, and should like to look into it again.

Mr. CLARK. Then I move that the bill be postponed until to-morrow, and I give notice that I shall call it up at the earliest occasion after the Senator from New York shall have had time to look into it.

The motion to postpone was agreed to.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the Speaker of the House of Representatives had signed the followed enrolled bills and joint resolution; which thereupon received the signature of the President *pro tempore* of the Senate:

A bill (H. R. No. 394) for the relief of the estate of E. W. Eddy;

A bill (H. R. No. 207) to amend an act entitled "An act to provide ways and means to support the Government," approved March 3, 1865;

A joint resolution (H. R. No. 105) giving construction to the law in relation to the bounties payable to soldiers discharged for wounds;

A bill (H. R. No. 223) to amend "An act to incorporate the Mutual Fire Insurance Company of the District of Columbia;"

A bill (H. R. No. 360) to reimburse the State of Pennsylvania for moneys advanced Government for war purposes; and

A bill (H. R. No. 364) to confirm unto Augustin Amiot, his legal assigns and representatives, a certain lot of ground in the city of St. Louis, in the State of Missouri.

HEALTH CONGRESS AT CONSTANTINOPLE.

Mr. WILSON. I move to take up Senate joint resolution No. 55, to provide for the representation of the United States at the International Health Congress at Constantinople.

Mr. SUMNER. I hope the Senate will not proceed with that at present. I would remind the Senate that some weeks ago the President sent a message to Congress on that very subject, covering a considerable correspondence; among others, letters between the French minister and the Secretary of State, and the Secretary of State and the Surgeon General of the United States. The message and all the accompanying documents were referred to the Committee on Foreign Relations. That committee has had the subject under consideration twice and has not yet reached any conclusion. There are some reasons why the United States should be represented; but there are reasons why we should not take the responsibility and undergo the expense of such representation. But, sir, while the subject on the reference of the message of the President was under consideration by the Committee on Foreign Relations, it comes before the Military Committee. The Military Committee has only an indirect connection with the subject. It is in the very title of the resolution international in its character, and as I have already said, the President, when he introduced the subject to our attention, treated it as a question in our international relations. I think, therefore, that I do not go too far if I ask that the Senate shall wait at least a little longer for the report of the committee to which the message of the President was referred.

Mr. WILSON. I have no objection to waiting; but I will state to the Senate that this resolution is reported on the written recommendation of the Surgeon General of the Army in a letter sent to the Committee on Military Affairs proposing to detail two Army surgeons to go to Europe to examine into this subject, and suggesting that it would cost $2,000 and should be paid out of the appropriation for medical and hospital supplies for the Army. The Secretary of War approves the proposition. I sent my clerk to him and he suggested a simple change; he thought $2,000 would hardly be enough to do it. I do not know when the proposed Health Congress meets. I have the letter of the Surgeon General making the suggestion that authority be given to detail two surgeons of the Army of the United States; and several eminent surgeons of the Army have made the same recommendation. I am willing to withdraw my motion, however.

Mr. SUMNER. There was one question which came up in the Committee on Foreign Relations; it was whether, if it was deemed advisable that the United States should be represented there, it should be exclusively by Army surgeons. On that the committee reached no conclusion; but there was a disposition in the committee, I think, to have a mixed commission, if I may so express myself, that is, that there should be one or two Army surgeons and perhaps one or two from civil life; but on that the committee reached no conclusion, nor did the committee reach any conclusion on the general question whether upon the whole it was expedient that the United States should be represented there. I had conversation myself with some of the gentlemen of our Administration most interested in this question from their position, and I found great diversity of opinion. I shall not undertake now to quote names, but I may say that those of the most authority, if I could quote their names, in personal conversation with me have expressed different opinions on this subject.

The Senator from Iowa [Mr. GRIMES] asks me if this congress is in session. The last news from Europe is that it has adjourned, and whether it will meet again I do not know. General Barnes told me the night before last that his latest intelligence from Constantinople was that the commission had adjourned, he thought *sine die*. I am inclined to think, however, that it is not *sine die*, but that its meetings will be renewed. I am led to that conclusion from the fact that the conference is under the auspices of the French Government; I believe that the Emperor takes a very great interest in it, and he does not easily abandon his plans. I am therefore disposed to think that we shall hear of it again very soon or in some other form, but that will properly enter into the consideration of the question when the committee take it up again.

Mr. WILSON. I withdraw the motion to take up the joint resolution after what has been stated.

The PRESIDENT *pro tempore*. The motion is withdrawn.

RECOMMITMENT OF A BILL.

Mr. WILSON. I move to recommit Senate bill No. 111, to provide for the national defense by establishing a uniform militia and organizing an active volunteer militia force throughout the United States.

The motion was agreed to.

USE OF HALL FOR LECTURES.

Mr. CLARK. I move to reconsider the vote by which the Senate yesterday adopted a resolution granting the use of the Hall on the 17th instant to Mrs. Walling for the purpose of delivering a lecture.

The PRESIDENT *pro tempore*. The motion will be entered.

CONTRACTORS FOR VESSELS AND MACHINERY.

Mr. NYE. I move to take up for consideration Senate bill No. 220.

The motion was agreed to; and the bill (S. No. 220) for the relief of certain contractors for the construction of vessels-of-war and steam machinery was read the second time, and considered as in Committee of the Whole. It provides for paying for losses sustained in the construction of vessels-of-war and steam machinery the following sums: To Larrabee & Allen, upon the Iosco, $11,708 97; to G. W. Lawrence, upon the Agawam and the Pontoosuc, $17,221 54; to Curtis & Tilden, upon the Massasoit and Osceola, $8,256 78; to Paul Curtis, upon the Chicopee, $4,128 30; to A. & G. S. Sampson, upon the Mattabesett, $4,015 38; to Thomas Stack & Co., upon the Metacomet, $16,351 36; to J. Simonson, upon the Chenango, $16,441 81; to E. Lupton, upon the Lenapee, $18,576 52; to F. Z. Tucker, upon the Mendota, $14,473 84; to D. S. Mershon, upon the Mingoe, $11,500; to C. H. & W. M. Cramp, upon the Wyalusing, $3,831 93; to J. J. Abrahams, upon the Eutaw, $12,576; to Hillman & Streaker, on the Pontiac, $5,041 22; to the Globe Works, of South Boston, Massachusetts, upon the machinery of the Iosco and Massasoit, $59,577 99; to the Portland Locomotive Works, upon the Agawam and Pontoosuc machinery, $80,867 46; to the Allaire Works, upon the Mattabesett and Shamrock machinery, $50,280 13; to the Neptune Iron Works, upon the Chicopee and Tallapoosa machinery, $40,663 61; to George W. Quintard, proprietor of the Morgan Iron Works of New York, upon the machinery of the Ascutney and Chenango, $51,662 67; to James Murphy & Co., proprietors of the Fulton Iron Works, on the machinery of the Otsego, $22,386 61; to the South Brooklyn Steam Engine Works, upon the machinery of the Metacomet and Mendota, $61,235 50; to the Washington Works, upon the machinery of the Lenapee, $29,161 24; to Pusey, Jones & Co., upon the machinery of the Mingoe and Wyalusing, $11,624 75; to Neafie & Levy, upon the machinery of the Pontiac, $22,434 50; to Poole & Hunt,

upon the machinery of the Mackinaw, $44,015 84; to the Atlantic Works of East Boston, Massachusetts, upon the machinery of the Osceola and Sassacus, $41,027 46; to John Roach, proprietor of the Ætna Iron Works, upon the machinery of the Peoria, $61,752 51; to Gardner & Lake, upon the machinery of the Pawtuxet, $38,324 74; to Reaney, Son & Archbold, upon the Suwanee, Wateree, and Shamokin, and their machinery, $95,305 11; to T. F. Rowland, upon the Muscoota and machinery, $82,460 90; to Harrison Loring, upon the Winnipec and her machinery, $63,715 41; to Zeno Secor & Co., upon the Mohongo and machinery, $113,543 78; to the Novelty Iron Works, upon the machinery of the Miantonomoh, $35,832 04; to Pusey, Jones & Co., upon the Pilgrim and her machinery, $4,793 38; to William Perine, upon the Triana and Maria, with their machinery, $96,059 79; to James B. Eads, upon the Milwaukee and Winnebago, with their machinery, $59,613 04; to George W. Quintard, upon the Onondaga and machinery, $85,203 91; to Z. & F. Secor, upon the Tecumseh and Mahopac, with their machinery, $238,041 14; to W. Perine & Z. F. Secor, upon the Manhattan, $119,020 57; to Alexander Swift & Co., upon the Catawba and Oneoto, with their machinery, $228,019 88; to Snowden & Mason, upon the Manayunk and machinery, $71,569 42; to William Perine, upon the Naubuc and machinery, $36,533 44; to Donohue, Ryan & Secor, upon the Camanche, with her machinery, $179,993 80.

Mr. NYE. It will be recollected by some of the Senators present that on the 9th day of March, 1865, I had the honor to present the following resolution, which was adopted by the Senate:

"*Resolved*, That the Secretary of the Navy be requested to organize a board, of not less than three competent persons, whose duty it shall be to inquire into and determine how much the vessels-of-war and steam machinery contracted for by the Department in the years 1862 and 1863 cost the contractors over and above the contract price and allowance for extra work, and report the same to the Senate at its next session. None but those that have given satisfaction to the Department to be considered."

As this is a very important bill and appropriates considerable money, and as the report made by the board is embodied in the report which the Committee on Naval Affairs had the honor to submit in connection with this bill, I ask that the report of the committee be read for the information of the Senate.

The Secretary read the following report, submitted by Mr. NYE on the 22d of March:

The Committee on Naval Affairs, to whom was referred the communication of the Secretary of the Navy, of the date of January 30, 1866, inclosing a copy of the record of the board of naval officers, organized pursuant to the resolution of the Senate of March 9, 1865, report:

That on the 9th day of March, 1865, the Senate adopted the following resolution:

"*Resolved*, That the Secretary of the Navy be requested to organize a board, of not less than three competent persons, whose duty it shall be to inquire into and determine how much the vessels-of-war and steam machinery contracted for by the Department in the years 1862 and 1863 cost the contractors over and above the contract price and allowance for extra work, and report the same to the Senate at its next session. None but those that have given satisfaction to the Department to be considered."

That pursuant thereto the Secretary of the Navy organized the board of naval officers, composed of Commodore Thomas O. Selfridge, Chief Engineer Montgomery Fletcher, and Paymaster C. H. Eldredge, and that the board was convened by order of the Navy Department at the navy-yard in the city of New York, June 5, 1865, and continued their investigations until December 23, 1865, when they made their award or finding, and reported the same, with their proceedings, to the Secretary of the Navy. The investigations of the board related to fifteen double-enders, wooden hulls; machinery for twenty-two wooden double-enders; six iron double-enders; machinery for one iron-clad; three iron tug-boats; two iron-clad propellers; one iron-clad; six harbor and river monitors; one light-draft monitor; and one monitor; and the following is the award:

DECEMBER 23, 1865—10 o'clock a. m.

The board met pursuant to adjournment: all the members present.

The proceedings of yesterday were read over.

The board, after a critical examination of the bills of cost presented by the several contractors for vessels and steam machinery contracted for in the years 1862 and 1863, who have appeared and made sworn statements, has determined to award the excess of cost in the several cases, over and above the contract price and allowance for extra work, to be as follows:

Double-Enders, Wooden Hulls.

Name of vessel.	*Contractor.*	*Excess of cost determined by board.*
Iosco	Larrabee & Allen	$11,708 97
Agawam	G. W. Lawrence	8,610 77
Pontoosuc	do	8,610 77
Massasoit	Curtis & Tilden	4,128 39
Osceola	do	4,128 39
Chicopee	Paul Curtis	4,128 39
Mattabesett	A. & G. S. Sampson	4,015 38
Metacomet	Thomas Stack & Co	16,351 36
Chenango	J. Simonson	16,441 81
Lenapee	Ed. Lupton	18,576 52
Mendota	F. Z. Tucker	14,473 84
Mingoe	D. S. Mershon	11,500 00
Wyalusing	C. H. & W. M. Cramp	3,831 93
Eutaw	J. J. Abrahams	12,576 10
Pontiac	Hillman & Streaker	5,041 22
Total		$144,123 84

Wooden Double-Enders--Machinery.

Iosco	Globe Works	$29,789 00
Massasoit	do	28,788 99
Agawam	Portland Locomotive Co.	40,433 73
Pontoosuc	do	40,433 73
Matabesett	Allaire Works	25,119 07
Shamrock	do	25,119 06
Chicopee	Neptune Works	20,331 81
Tallapoosa	do	20,331 80
Ascutney	Morgan Works	25,826 34
Chenango	do	25,826 33
Otsego	Fulton Works	22,386 61
Metacomet	South Brooklyn Works	30,617 75
Mendota	do	30,617 75
Lenapee	Washington Works	29,161 24
Mingoe	Pusey, Jones, & Co	5,817 38
Wyalusing	do	5,817 37
Pontiac	Neafie & Levy	22,434 50
Mackinaw	Poole & Hunt	44,015 84
Osceola	Atlantic Works	20,513 73
Sassacus	do	20,513 73
Peoria	Etna Works	61,752 51
Pawtuxet	Gardner & Lake	38,325 74
Total		$614,974 01

Iron Double-Enders—Hull and Machinery.

Suwanee	Reaney, Son & Archbold	$28,974 18
Wateree	do	34,161 63
Shamokin	do	33,992 97
Muscoota	T. F. Rowland	82,460 95
Winnipec	Harrison Loring	63,715 41
Mohongo	Zeno Secor & Co	113,543 78
Total		$356,848 92

Iron-Clad Machinery.

Miantonomoh	Novelty Works	$35,832 04

Iron Tug-Boats—Hull and Machinery.

Pilgrim	Pusey, Jones & Co	$4,793 38
Triana	William Perine	52,472 81
Maria	do	43,586 98
Total		$100,853 17

Iron-Clad Propellers—Hull and Machinery.

Milwaukee	James B. Eads	$30,438 84
Winnebago	do	29,174 20
Total		$59,613 04

Iron-Clad—Hull and Machinery.

Onondaga	G. W. Quintard	$85,203 91

Harbor and River Monitors—Hull and Machinery.

Tecumseh	Z. & F. Secor	$119,020 57
Mahopac	do	119,020 57
Manhattan	W. Perine, Z. & F. Secor	119,020 57
Catawba	Alexander Swift & Co	114,009 94
Oneoto	do	114,009 94
Manayunk	Snowden & Mason	71,569 42
Total		$656,651 01

Light-Draft Monitor—Hull and Machinery.

Naubec	William Perine	$36,533 44

Monitor—Hull and Machinery.

Camanche	Donahue, Ryan & Secor	$179,993 80

In the case of the Camanche there is an additional sum of $96,550 now in the courts, which the contractors consider as a part of the cost of that vessel, but which the board have not embraced in their award.

All of which is respectfully submitted:

THOMAS O. SELFRIDGE,
Commodore and President of Board.
MONTGOMERY FLETCHER,
Chief Engineer.
CHARLES H. ELDREDGE,
Paymaster.

Hon. GIDEON WELLES,
Secretary of the Navy, Washington, D. C.

The annexed table (No. 1*) shows the contract prices, the cost of each work to the contractor as shown to the board, the amounts paid to the contractors for extra work, the amount of loss claimed to have been sustained by each contractor, and the amounts awarded by the board.

It will be observed that the contract price of the wooden double-enders was each $75,000 and $75,500; that the cost of twelve of them, including additional work, ranged from $83,239 08 to $97,674 61; that the losses claimed to have been sustained thereon ranged from $4,015 38 to $18,870 41; and that the amounts awarded thereon by the board ranged from $3,831 93 to $18,576 52. It will also be observed that the cost of the Lenapee, including extra work, was claimed to be $152,691 37, and the loss $77,191 37; but that the board allowed only $18,576 52, which included $5,923 48 allowed by the Department for extra work, but not yet paid, (see page 13 of report of board,) and which leaves but $12,653 04 awarded for loss upon the contract. The loss upon the Massasoit and the Osceola was but $8,256 78, there having been paid the contractors for additional work $7,340 57. The loss claimed and awarded upon the Mattabesett was but $4,015 38; but it will be observed that no claim was made for the personal services of the contractor, for use of tools, or interest paid on account of delay of payment of bills approved. (See report of board, page 9.) The loss claimed on the Wyalusing was but $4,484 95, but that vessel was built at Philadelphia, where labor was cheaper than at points further East, and there was no charge made for increased cost occasioned by change in

*TABLE No. 1.

Names of contractors and vessels.	Contract price.	Total cost of ship.	Amount received on account of alterations and improvements.	Amount of loss to contractors.	Amount awarded by the naval board.
Wooden double-enders.					
Larrabee & Allen:					
Gunboat Iosco	$75,500 00	$91,845 91	$4,535 84	$11,810 07	$11,708 97
G. W. Lawrence:					
Agawam	75,000 00	92,214 70	6,603 93	8,610 77	8,610 77
Pontoosuc	75,000 00	90,214 70	6,603 93	8,610 77	8,610 77
Curtis & Tilden:					
Massasoit	75,000 00	82,798 67	3,670 28	4,128 39	4,128 39
Osceola	75,000 00	82,798 67	3,670 28	4,128 39	4,128 39
Paul Curtis:					
Chicopee	75,500 00	97,674 61	3,304 20	18,870 41	4,128 39
A. & G. T. Sampson:					
Mattabesett	75,500 00	83,239 08	3,723 70	4,015 38	4,015 38
Thomas Stack & Co.:					
Metacomet	75,000 00	96,405 45	3,048 64	18,356 41	16,351 36
J. Simonson:					
Chenango	75,000 00	91,441 81	3,528 17	16,441 81	16,441 81
Edward Lupton:					
Lenapee	75,500 00	152,691 37	5,923 48	77,191 37	18,576 52
F. Z. Tucker:					
Mendota	75,000 00	92,475 70	-	17,475 70	18,473 84
D. S. Mershon, jr.:					
Mingoe	75,500 00	89,781 04	-	14,281 04	11,500 00
C. H. & W. M. Cramp:					
Wyalusing	75,500 00	85,426 79	5,441 84	4,484 95	3,831 93
J. J. Abrahams:					
Eutaw	75,000 00	87,776 10	200 00	12,576 10	12,576 10
Hillman & Streaker:					
Pontiac	75,000 00	86,843 30	6,561 10	5,282 21	5,041 22
Total	$1,128,000 00	$1,401,627 90	$56,513 32	$226,276 77	$144,123 84

the design or plan of the vessel. (See page 8 of report.) With these exceptions, the claims for losses do not vary to a greater extent than must occur where vessels are constructed at shops possessing different facilities, and located at points where the cost of labor and material is not the same. The contract for one of these vessels was signed on the 10th, for another on the 15th, for another on the 18th, and for the residue on the 9th September, 1862, and required them to be launched in one hundred and twenty-six days. A part were ready to be launched at the time limited, a part in March, one in June, and two in July, 1863, and their completion was delayed by the fact that the machinery was not ready until the latter part of 1863 and the first part of 1864.

The contracts for the machinery for the wooden double-enders were at $82,000 each; the cost of construction, as shown to the board, excluding the Wyalusing and Mingoe, ranged from $102,513 73 to $146,777 89, and excluding the two vessels above mentioned, the awards ranged from $19,162 87 to $61,752 51.

The cost of the machinery for the Wyalusing and Mingoe was below the average, so that the award for both was but $11,634 75; but it will be observed that the contractors sustained no loss by the rise in material, they having purchased the same at the time of the contract. (See record of board, page 24.) The cost of the Peoria machinery is much above the average, and is only accounted for by the fact stated by the contractor, (record of board, page 26,) that he was unfortunate in the first selection and purchase of iron, which proved to be defective, and which was not discovered until he came to work it, and thereby he was delayed. This contractor seems to have been relieved by an act of Congress from the requirement of his contract for the completion of the work at a specified time; but the constantly advancing cost of labor and material could not be avoided. Excepting the Wyalusing, the Mingoe, and the Peoria, the cost of the machinery for the twenty-two vessels, and the losses thereon, do not vary to a greater extent than must occur where work so difficult and expensive is constructed at shops possessing different facilities, and located at points where the cost of labor and material is not the same.

The contracts for the machinery were made in August, September, and October, 1862—seventeen being in August, two in September, and three in October—and required the machinery to be ready in seven months, or within two months after the hulls should be ready to receive the same; but it was not placed in the vessels in complete condition until the latter part of 1863 and first of 1864, and in the case of the Peoria not until May, 1865. The delay in the case of the machinery for that vessel was in part caused by the iron first used proving defective, requiring an abandonment of part of the work. (See page 26 of record of board.)

The iron double-enders Suwanee, Wateree, and Shamokin were constructed at Chester, Pennsylvania, under contracts made September 9, 1862, June 24, 1863, and July 27, 1863; and the Wateree was to be completed in one hundred and eighty days, and the other two in eleven months, from the contracts, respectively. The completion of the Wateree was delayed until December, 1863, by the difficulty in getting material and labor and by the invasion of Pennsylvania, and the completion of the Suwanee was delayed until December, 1864, and the Shamokin until July, 1865, by the scarcity of labor and material and the call for men at the time of the raids into Pennsylvania. (See record of board, pages 11 and 29.) The contract price of the Suwanee was $203,170; cost of her construction, $237,331 63; and the award, $28,974 18. The contract price of the Wateree, $275,000; the cost of her construction, $307,636 96; and the award made, $34,161 63, which the committee think ought to have been $32,636 96. And the contract price of the Shamokin was $275,000; the cost of her construction, $319,337 95; and the award made, $33,992 97.

The contract for the Muscoota was made August 5, 1863, for the completion in eleven months; but she was not completed till December 1, 1864, because the contractor had so much other work to do for the Government, and the time was waived. The contract price was $275,000; the cost, including $16,130 75 extra work, was $366,257 74; and the loss claimed, $84,880 56; and the award, $82,460 95.

The contract for the Winnipec was made August 21, 1863, to be completed in eleven months; but the vessel was not completed and accepted till March 20, 1865. The contract price was $275,000; cost of construction, $338,715 41; and the award was $63,715 41.

The following statement of the causes of the delay in the construction is found on page 52 of the report of the board:

"The specifications for the engine were not received until September 7, 1863, seventeen days after the date of contract. The work on the boilers was delayed for the want of information written for November 30, 1863, and not received until December 27; also written for February 2, 1864, and not received until April 19. Other work was delayed because information applied for February 2, 1864, was not received until September 30. Men and tools were furnished to aid in the construction and completion of the iron-clad Chimo, as proposed May 4, 1864, accepted May 12, and authorized by telegram from the Bureau of Construction of that date, on which account a month's extension of time was agreed upon, but which really consumed a much greater amount of time. Alterations were made from time to time as the work progressed, some of which were as follows: the plating of the pilot-houses was ordered to be changed from iron to brass November 21, 1864; an alteration of the capstan to fit a larger chain was ordered August 28, 1864; a yeoman's store-room, not shown on any plan, was ordered March 4, 1865; two bulkheads and three coal-ports were shifted; alterations were made in the arrangement of the deck beams of a section of the vessel, in the position of the magazine hatches, and in the steering apparatus. Various other parts of both the hull and machinery were altered from the original specifications and drawing, all of which were doubtless the result of the great pressure of business upon those having the direction, but which, nevertheless, caused the delay in the completion of the vessel, and enhanced the cost, as per annexed statement, over and above the contract price."

The contract for the Mohongo was made August 2, 1863, to be completed in eleven months, but was not completed and delivered until March 28, 1865, and the "cause of the delay was owing to the non-receipt of plans, drawings, and specifications from the Department, and also from the alterations and extra work required." (See record, page 32.) The contract price was $275,000, the cost of work, including extra work, $394,836 43, and the award $113,543 78.

The contract for the machinery of the iron-clad Miantonomoh was made September 15, 1862, at $167,000, and the cost of the construction was $202,845 84, and the award was $35,832 04. The award on the tug-boat Pilgrim is $4,793 38.

The contracts for the iron tug-boats Triana and Maria were made December 20, 1863, at $128,000 for the Triana; the cost of her construction was $181,842 45, leaving a claim for loss of $53,842 45, and the award was $52,472 81. The contract price of the Maria was $80,000, her cost of construction $124,745 98, the loss claimed $44,745 98, and the award was $43,586 98. These vessels were not completed until August and November, 1865, and the delays were occasioned by the orders to press the work upon another vessel, taking the men from these vessels for that purpose, the great difficulty in obtaining men, and, in the case of the Triana, by the use of a vacuum engine ordered by the engineer.

TABLE No. 1—Continued.

Names of contractors and vessels.	Contract price.	Total cost of ship.	Amount received on account of alterations and impr've ments.	Amount of loss to contractors.	Amount awarded by the naval board.
Machinery for wooden double-enders.		Machinery.			
Globe Works:					
Iosco	$82,000 00	-	-	-	$29,789 00
Massasoit	82,000 00	$223,577 97	-	$59,577 97	29,788 99
Portland Locomotive Company:					
Agawam	82,000 00	-	-	-	40,433 73
Pontoosuc	82,000 00	223,826 16	-	86,538 97	40,433 73
Allaire Works:					
Mattabesett	82,000 00	-	-	-	25,119 07
Shamrock	82,000 00	217,044 08	2,766 45	50,277 63	25,119 06
Neptune Works:					
Chicopee	82,000 00	206,004 35	-	42,004 35	20,331 81
Tallapoosa	82,000 00	-	-	-	20,331 80
Morgan Works:					
Ascutney	82,000 00	-	-	-	25,826 34
Chenango	82,000 00	215,652 67	-	51,652 67	25,826 33
Fulton Works:					
Otsego	82,000 00	104,386 61	-	22,386 61	22,386 61
South Brooklyn Works:					
Metacomet	80,000 00	-	-	-	30,617 75
Mendota	80,000 00	221,235 51	-	61,235 50	30,617 75
Washington Works:					
Lenapee	82,000 00	111,161 24	4,227 15	29,161 24	29,161 24
Pusey, Jones & Co.:					
Mingoe	82,000 00	-	-	-	5,817 38
Wyalusing	82,000 00	175,634 76	-	11,634 76	5,817 37
Neafie & Levy:					
Pontiac	82,000 00	105,876 40	1,441 90	22,434 50	22,434 50
Pool & Hunt:					
Mackinaw	82,000 00	126,013 84	943 89	44,015 84	44,015 84
Atlantic Works:					
Osceola	82,000 00	-	-	-	20,513 73
Sassacus	82,000 00	205,027 46	-	41,027 46	20,513 73
Ætna Works:					
Peoria	82,000 00	146,777 89	2,239 45	62,538 44	61,752 51
Gardiner & Lake:					
Pawtuxet	82,000 00	120,315 75	-	38,315 75	38,325 74
Total	$1,800,000 00	$2,402,534 69	$11,618 84	$592,801 69	$614,974 01
Iron-clad vessels and machinery.					
Reaney, Son & Archbold:					
Wateree	$203,170 00	$237,331 63	-	$34,161 63	$34,161 63
Suwanee	275,000 00	307,636 96	$3,662 78	28,974 18	28,974 18
Shamokin	275,000 00	312,013 78	3,020 81	33,992 97	33,992 97
T. F. Rowland:					
Muscoota	275,000 00	366,904 76	9,443 81	82,460 95	82,460 95
Harrison Loring:					
Winnipec	275,000 00	338,715 41	-	63,715 41	63,715 41
Zeno Secor & Co.:					
Mohongo	275,000 00	394,836 43	5,162 62	114,673 81	113,543 78
Novelty Works:					
Miantonomoh	167,000 00	202,845 84	-	35,845 84	35,832 01
Pusey, Jones & Co.:					
Pilgrim	74,000 00	78,793 38	-	4,793 38	4,793 38
William Perine:					
Triana	128,000 00	181,842 45	499 00	53,343 45	52,472 81
Maria	80,000 00	124,745 98	399 00	44,346 98	43,586 98
James B. Eads:					
Milwaukee	313,000 00	414,653 74	71,214 90	30,438 84	30,438 84
Winnebago	313,000 00	410,867 01	68,692 84	29,174 20	29,174 20
George W. Quintard:					
Onondaga	625,000 00	710,156 51	-	85,156 51	85,203 91
Z. & F. Secor:					
Tecumseh	460,000 00	-	-	127,464 22	119,020 57
Mahopac	460,000 00	2,270,447 63	516,218 41	127,464 22	119,020 57
W. Perine and Z. & F. Secor:					
Manhattan	460,000 00	-	-	127,464 23	119,020 57
Alexander Swift & Co.:					
Catawba	460,000 00	-	-	-	114,009 94
Oneota	460,000 00	1,470,868 08	322,849 00	228,019 83	114,009 94
Snowden & Mason:					
Manayunk	460,000 00	700,896 05	166,582 24	74,313 81	71,569 42
William Perine:					
Naubee	361,055 67	559,872 72	142,973 05	54,843 08	36,533 44
Donohue, Ryon & Secor:					
Camanche	565,000 00	796,791 33	48,164 98	183,826 35	179,993 80
Total	$6,965,225 67	$9,780,419 72	$1,359,883 44	$1,564,464 84	$1,508,529 33
Recapitulation.					
Wooden double-enders	$1,128,000 00	$1,401,627 90	$56,513 32	$226,253 77	$144,123 84
Machinery for wooden double-enders	1,800,000 00	2,402,534 69	11,618 84	592,801 69	614,974 01
Iron-clad vessels and machinery	6,965,225 67	9,780,419 72	1,359,883 44	1,564,464 84	1,508,529 33
Total	$9,893,225 67	$13,584,582 31	$1,427,015 60	$2,383,520 30	$2,267,627 18

The contracts for the double-turreted iron-clad gunboats Winnebago and Milwaukee were made May 27, 1862, at $313,000 each. The Winnebago cost $357,822 56; the loss claimed, after payment of extras and sale of old iron, was $29,174 20, and the same was awarded. The Milwaukee cost, as claimed, $352,861 42, making the loss, as claimed, $30,438 84, and the award was that sum. These vessels were not completed and delivered until the months of May and August, 1864, and the contractor says the delay was occasioned as follows, (page 61 record of board:)

"He further states that the Winnebago was delivered to the United States during the month of May, 1864, and the Milwaukee in the month of August, 1864, and that the delay in completing said vessels was from circumstances entirely beyond his control. That the work on them was prosecuted with all the energy which was in his power from the time of the signing of the contract until their completion; and that for the first six or seven months his entire force, numbering about nine hundred workmen, were employed at the work every day, including Sundays, and about two hundred every night, during each entire night, at an extra expense of fifty per cent. for their wages each night and each Sunday over the usual wages paid them; and this extra expense, he states, was incurred without expectation or hope of reimbursement from the Government, but solely to enable him faithfully to perform his obligations to the Government, although no clause existed in his contract requiring this incessant labor."

The contract for the iron-clad Onondaga was made May 26, 1862, and was completed February, 1864; the contract price was $625,000, the cost claimed was $710,156 51, and the award $85,203 91. The delay in the completion of the vessel was occasioned by "scarcity of labor, difficulty of obtaining materials, strikes, and having to close his shop for two months on account of mobs in the summer of 1863." (See pages 18 and 19 of record of board.)

The contracts for the iron-clad monitors Mahopac, Tecumseh, and Manhattan were made September 1, 1862: the entire cost of the three vessels was $2,270,447 63; the loss claimed to have been sustained was $382,392 67, and the award made was $119,020 57 upon each. These vessels were not completed or delivered until the months of March, May, and August, 1864, and it was claimed that the delay "was owing to alterations and additions to original specifications required by the Department."

The contracts for the iron-clad monitors Catawba and Oneoto were made in September and October, 1862, at $620,000 for both vessels; the work required by additions and alterations $322,849; the entire cost was $1,470,868 88, and the loss claimed $228,019 88, and the award was $114,009 94 upon each. These vessels were not completed and delivered until June, 1865, and the contractors claim that "this delay was caused by alterations being made by order of the Department and the scarcity of labor. The excess of cost is accounted for in being obliged to raise the vessels eighteen inches, extensive alterations in turrets, and increased size of boilers over stipulations of contract."

The contract for the monitor Manayunk was made September 15, 1862, but was not completed till September, 1865; the contract price was $460,000, additional work required by change in specifications, $166,582 24, and the entire cost of the vessel $700,896 06, and the loss claimed $74,313 81, and the award $71,569 42. The delay and costs are thus explained, (see record of board, page 56:)

"That the causes of delay in the completion of the vessel arose from the fact of extensive alterations from time to time ordered by the Government; and also that, owing to the distance of our establishments from New York, we were unable to procure the necessary drawings and plans with the promptness and dispatch that similar works in that city were able to do; and also, owing to the very low state of water in the Ohio river, it was not in our power to launch our vessels in April, 1864, and we were compelled on that account to defer launching the vessel until December of the same year. That the reasons for the excess of cost over the contract price were owing to the great advance in material and labor, and the alterations ordered from time to time, and to the great difficulty in procuring labor, our mechanics and others employed by us having gone into the Army and Navy, and we were compelled at great expense to obtain a portion of the desired labor from Europe. It was also at the time a new thing to the mechanics of that section of the country, which was a potent difficulty we had to contend with; and further, we were compelled, owing to our isolated position, to do our work, as it were, within ourselves, there being no similar establishments in that part of the country to which we could apply for any aid or help. That there are no charges in the bill (annexed to the record and marked No. 46) for any condemned material or faulty workmanship, and that it shows the actual cost of labor and material."

The contract for the light-draft monitor Naubue was made April 2, 1863, but she was not completed and delivered until February, 1865. The contract price was $361,055 67; the additional work required by changes made during her construction, $143,973 05; the cost of the entire work, $559,872 72. The loss claimed was $54,843 98, and the award was $36,533 44. The delay in the completion of the work seems to have been occasioned by repeated alterations in the work by the different inspectors, and a part of the loss caused by pressing the work on Sundays and nights.

The contract for the monitor Camanche was made June 20, 1862, and the vessel was not completed and delivered until January, 1865.

"The causes of delay were that the contractors were obliged to give portions of the material of the Camanche to aid in the construction of other iron-clads then building in New York, and required by the Government for immediate use, as the rolling-mills of the country were not of sufficient capacity to roll the kinds of iron required for that class of vessels as fast as it was wanted. When the Camanche was ready for shipment to San Francisco, the Government took the principal parts of her engine to replace similar parts of the engine of the Weehawken, which had broken down at Port Royal. The delay in replacing these parts of the machinery caused the Camanche to arrive in San Francisco in the winter instead of in the spring of the year. The ship Aquilla, with the materials for constructing the Camanche on board, was sunk during a violent gale in the harbor of San Francisco, causing a further delay in completing the vessel."—*Record of Board*, p. 34.

The contract price of the vessel was $565,000; additional work required by alterations as the work progressed was $48,164 98; the entire payments made by the Government were $613,164 98; and the entire cost of the vessel was $802,314 79; the loss claimed was $189,149 81, and the award was $179,993 80.

The aggregate of contract prices was $9,893,225 67; of the cost of the vessels and machinery, $13,584,582 31; of the losses claimed before the board, $2,835,520 20, and of the awards, $2,267,627 78.

It will be observed that the Department made contracts for the fifteen double-enders, the machinery for twenty-two double-enders, for the six harbor and river monitors, with their machinery, for one iron double-ender, and for the iron-clad Miantonomoh, in the months of August, September, and October, 1862; for five iron double-enders in June, July, and August, 1863; for three iron tug-boats in December, 1863; for the iron-clad Onondaga, the iron-clad propellers Milwaukee and Winnebago, in May, and the monitor Camanche, in June, 1862, and for the monitor Naubue, in April, 1863. During the period appointed for the construction of this work, the Department had many other heavy jobs in its own yards, in the shops of some of these contractors, and of other parties, so that the machinery, material, and skilled labor of the country were taxed beyond their capacity; and the committee are satisfied that, with the means at their command, it was not possible for these contractors to complete these vessels and this machinery within the periods fixed in the contracts, even had there been no delay occasioned by experiments and modifications of the plans and specifications. The committee are also of opinion that, could the work have been completed within the times fixed in the contracts, and had there been no advance in the price of labor and material, the contractors would have sustained but little if any loss, though they would not probably have realized any profit; but that a delay in the completion of the work made losses inevitable. The vigorous prosecution of the war rendered it necessary for the Government to increase to a very large extent, the currency, and, as a consequence, the prices of material and labor rapidly advanced. Table No. 2,* annexed, furnished the committee by George L. Quintard, of the Morgan Iron Works, in the city

* TABLE No. 2.

Articles.	1862. January.	February.	March.	April.	May.	June.	July.	August.	September.	October.	November.	December.
Best flange	4½	4½	4½	4½	4¾	5	5½	5¾	6	6½	7½	8
Common, No. 1	3½	3½	4	4	4½	4½	4¾	4¾	5¼	5¼	6¼	6½
Bar iron, American—refined	60	70	70	70	70	70	72½	72½	72½	75	80	90
common	55	55	55	55	57½	57½	62½	66	65	70	75	75
Pig iron—American	23¼	24½	24½	24½	24	25	25½	26	26½	31	31	31
Scotch	25	25½	25½	25½	24	26	27½	27	27	34	33	33
Metals—ingot copper	27½c.	26	24	22½	21	22	23½	24	25½	29½	31½	31
sheet copper	30½c.	30½	30½	30½	28½	28½	28½	30½	30¾	33½	38	38
tin	35c.	33½	33½	30½	29	28	32	35	35	35½	39	41
spelter	6c.	6	6	6	5½	5½	6¼	6½	6¼	7	7½	6½
Labor, per hour—finishers	15	15	15	16	16	17	17	18	18	19	19	19
boilermen	13	13	15	15	15	15	16	18	18	18	18	18
coppersmiths	16	16	16	17	17	18	18	19	19	19	19	19
laborers	9	10	10	10	10	10	11	11	11	11	11	11
smiths	14	15	16	16	17	17	17	19	19	19	19	19
molders	12	15	15	15	16	16	16	17	17	19	19	19
brass finishers	11	11	12	13	13	13	14	14	14	14	14	14
pattern-makers	17	18	18	18	19	19	20	20	20	20	20	20
turners	16	16	17	17	18	18	19	19	20	20	20	20
draughtsmen	17	17	18	18	18	18	20	20	20	20	23	24
carpenters	15	15	15	15	17	17	17	18	18	19	19	19

Articles.	1863.											
Best flange	8	8	8¼	8½	8½	8½	8½	8½	8¾	9	9½	10
Common, No. 1	6½	6½	6¾	7	7⅛	7½	7½	7¾	7¾	7⅞	8	8¼
Bar iron, American—refined	92½	95	100	100	100	100	100	95	95	100	105	110
common	80	87½	87½	90	90	90	92½	80	82½	82½	87½	95
Pig iron—American	34	34	35½	35	35	34	35	34	35	38	41	41
Scotch	35	36	38	37	36	34½	37	35	36	42½	45	44
Metals—ingot copper	33c.	35½	33	30½	30½	30	31	30	31½	33	37	38
sheet copper	38c.	42½	42½	42½	42½	40	38	38	38	38	40	44½
tin	42c.	46½	53½	52	55½	49½	49½	43	42½	46	46½	46
spelter	8½c.	9	9¾	9	8¾	8¾	8	7¼	7⅞	8½	8¾	9
Labor, per hour—finishers	20	20	21	21	22	22	23	23	23	24	24	24
boilermen	19	19	20	20	22	23	23	23	24	24	26	27½
coppersmiths	19	20	20	20	21	21	22	23	24	24	25	25
laborers	11	11	12	12	13	14	14	14	14	14	14	15½
smiths	19	20	20	20	21	22	22	23	24	25	26	26
molders	19	21	21	23	24	25	25	25	25	25	25	25
brass finishers	15	15	17	17	19	19	19	20	20	22	22	22
pattern-makers	20	20	21	21	22	22	23	24	24	25	25	25
turners	20	21	21	21	21	22	22	23	24	24	24	24
draughtsmen	24	24	25	25	26	26	27	28	30	33	33	34
carpenters	20	20	21	21	22	22	23	24	25	25	25	25

Articles.	1864.											
Best flange	10	11	10	10	10	10	10½	11	10½	10½	10½	10½
Common No. 1	7½	7½	8	8	8	8	9	9	8½	8	8½	
Bar iron, American—refined	130	140	140	145	160	165	220	220	210	190	190	180
common	115	125	125	130	145	150	205	205	190	175	175	165
Pig iron, American	45	50	50	55	60	65	75	72½	70	63	63	62½
Scotch	50	50	51	53	61	61	80	75	65	60	60	60
Metals—ingot copper	41c.	41	40	42	43½	45½	51½	51½	52½	47½	50	51
sheet copper	44c.	48	52½	52½	70	70	70	70	70	65	65	65
tin	46½c.	50	50	52	53½	55½	66	64	65	58	62	62
spelter	9¼c.	10½	12½	12½	12⅜	14	17	17½	16	14⅜	15	14
Labor, per hour—finishers	24	25	26	27	28	29	30	30	30	30	30	30
boilermen	28	28	29	29	30	31	32	32	32	32	32	32
coppersmiths	26	26	27	27	28	28	29	29	30	30	30	30
laborers	16	17	19	20	21	21	22	22	22	22	22	22
smiths	26	27	28	29	30	31	31	32	32	32	32	32
molders	25	26	28	29	29	30	31	31	32	32	32	32
brass finishers	23	23	24	25	26	27	27	27	27	27	27	27
pattern-makers	26	26	27	28	29	30	30	30	30	30	30	30
turners	25	26	27	29	29	30	30	30	30	30	30	30
draughtsmen	34	34	35	35	35	35	35	35	35	35	35	25
carpenters	25	26	26	27	27	27	27	27	27	27	27	17

GEORGE A. QUINTARD,
Morgan Iron Works, New York.

of New York, shows the rate of prices during each month, from January, 1862, to December, 1864, of labor, and of the materials used by these contractors in their work, from which it appears that the average of increase during that period was over one hundred per cent.

The effect upon the contractors is seen by considering a few cases. The contracts for fifteen double-enders, wooden hulls, were made about the 10th of September 1862, and they were completed during the latter part of 1863 and first part of 1864.

In September, 1862, best flange iron was 6 cents per pound; in May, 1863, it was 8½, and in January, 1864, it was 10. At the same periods common iron was $65, $90, and $115 per ton. Finishers were 18, 22, and 24 cents per hour. Laborers were 11, 13, and 16 cents per hour. Molders 17, 24, and 25 cents per hour. The facts have like force in regard to the machinery for the twenty-two wooden double-enders, the work being commenced about September, 1862, and completed the latter part of 1863, and first of 1864. The loss claimed to have been sustained, and the award made, in the case of the iron double-ender Mohongo, built by Zeno Secor & Co., appear as high as in any other case. That vessel, with her machinery, was contracted for August 5, 1863, and was to have been completed in eleven months, but was not completed and delivered till about March, 1865, owing, as claimed, to the non-receipt of plans, drawings, and specifications from the Department, and to the alterations and additional work; and, as the committee is informed, owing also to the fact that other heavy work for the Government was pressing upon the shop, beyond the capacity of its machinery and force. But during the eleven months allowed by the contract for the completion of the vessel, table No. 2 shows the following facts: from August 1863, till July, 1864, a period of eleven months, best flange iron rose from 8½ to 10½ per pound; common iron from $80 to $205 per ton; American iron from $34 to $75 per ton; copper, in sheet, from 38 to 70; laborers from 14 to 22 cents per hour; smiths from 23 to 31 per hour; molders from 25 to 31 per hour; turners from 23 to 30 per hour; carpenters from 24 to 27; and boiler men from 23 to 32 cents per hour.

The contract for the harbor and river monitors Tecumseh, Mahopac, and Manhattan, with their machinery, constructed by Messrs. Z. & F. Secor and Perine Secor & Co., was made September 1, 1862, and the vessels were finished in March, May, and August, 1864, the delay being caused, as is claimed, by alterations and additions to the original specifications, which the committee believe was the case, as the Department allowed and paid for additional work on the vessels, amounting to $516,218 41. (See page 32 of record of board.) From the commencement of the work in September, 1862, till the completion of the second vessel in May, 1864, best flange iron advanced from 6 to 10; common iron from $65 to $145 per ton; American iron from $26 to $60; copper in sheet from 30½ to 70; laborers from 11 to 21 cents per hour; smiths from 19 to 30; molders from 19 to 29; turners from 20 to 29; carpenters from 18 to 27; boilermen from 18 to 30; and finishers from 18 to 28.

The contractors for the monitor Camanche were perhaps the most unfortunate in the prosecution of their work. Their contract was made June 20, 1862, but the vessel was not completed until January, 1865. As has been stated, the delay was caused by the fact that a portion of the material was taken for other Government vessels which were required for immediate use, by the fact that a portion of her machinery was required to supply the broken machinery of the Weehawken at Port Royal, and by the fact that these delays caused the ship Aquilla, with the parts of the vessel and her armament on board, to arrive at San Francisco in a boisterous season, and on the night after she was moored a violent gale caused her to sink at the wharf. It was a tedious and difficult work to raise her, but she was finally delivered to the Government authorities, a very complete and superior vessel, on the 19th of January, 1865. From the date of the contract till the time of her delivery, materials and labor advanced as follows: common iron from $57½ to $165 per ton; American from $24 to $62½; copper in sheet from 28½ to 65; laborers from 10 to 22 cents per hour; smiths from 17 to 32; carpenters from 17 to 27; and finishers from 17 to 30 cents per hour.

The committee believe that in many other cases the completion of the work was delayed by the action of the Department, because it is the concurrent testimony of many of the contractors that such was the case, and also because it could not be otherwise, inasmuch as "the art of building iron-clad ships-of-war was not then perfect; it was yet in experiment, so much so that constant modifications of the plans became necessary as the use of completed vessels discovered defects or suggested improvements." And it would have been a failure of duty on the part of the Department had it failed to introduce any improvement at any time during the progress of the work; and to the fact that diligence and care were observed in that regard is in part to be attributed the production of a navy so perfect and so formidable.

In reporting upon this subject, the committee at the last session of Congress said:

"At the time the contracts for these vessels were made, and the general plans and specifications prepared, the art of building iron-clad ships-of-war was not perfected—it was yet in experiment; so much so that constant modifications of the plans became necessary as the use of completed vessels discovered defects or suggested improvements. So late as the 31st of August, 1863, General Inspector Stimers wrote to Messrs. Secor & Co. that "the building of iron-clad steamers is a novelty in this country, as in any other; it is, therefore, impossible to make a complete general plan, and write complete specifications at one date, which will satisfy all the requirements subsequent experience and study point out, the more especially as the fleet already in service is actually engaged with the enemy and rapidly developing all the weak points of the original structures." During the progress of the work many and material modifications of the plans were adopted, in some cases requiring greater depth in the vessels, and the contractors were required to suspend work until the new plans and specifications could be prepared. As an instance, the following letters from the general inspector to Messrs. Secor & Co. are given:

GENERAL INSPECTOR'S OFFICE,
IRON-CLAD STEAMERS,
413 BROADWAY, NEW YORK, *December* 22, 1862.

GENTLEMEN: You are probably aware that the iron clad steamers Mahopac, Tecumseh, and Manhattan, now in process of construction by you, are, in their general plan, simply a modification of the Passaic class: that the original design emanated from Captain Ericsson, the inventor of this system, and that this office was established by the Government for the purpose of making and issuing to the various builders of the vessels the detailed working drawings. The design of Captain Ericsson contemplated the deck covered with one inch thickness of iron; the deck planking and much of the side armor of pine wood, and all armor plates to be of fifteen sixteenths inch thick each.

After this plan left the hand of the designer, there was added another inch to the thickness of the deck plating; the pine wood in the deck planks and side armor was changed to oak; the full thickness of one inch each was demanded for all armor plates; the weight of the boilers was increased fifteen per cent., and in some minor respects weight was added to what was originally intended, until, after having in vain protested against these additions, Captain Ericsson gave notice that he would no longer be responsible for the flotative power of these vessels. I have, therefore, caused the displacement and the weights to be carefully calculated, and to avoid the necessity of carrying any ballast to balance the vessels, the calculations extended to balancing the weights equally with the displacement. As the result of these investigations, it has been determined to make the following alterations:

1. The depth of the vessel will be increased 18 inches. This will be done by adding a strake of plating between strakes K and L, forward of the after overhang, and between strakes H and N around the stern body. Inclosed I send you a schedule of this plating; at the upper edge of the plating upon the outside there will be an angle iron 6×3½×⅝ inches in lieu of the one of 4×4×⅝ inches specified originally. In lieu of the short shelves ordered for the ends of the beams to rest upon, there will now be a continuous angle iron 6×3½×⅝ inches running completely around the vessel upon the inside. The frames will not extend any higher than the original intention, except in cases where they are not yet cut; it would be advisable to permit them to come up to the lower edge of the beam, shelf angle iron, and lower frames of stern body, which are to be lengthened in accordance with the schedule of framing herein inclosed. The armor-shelf and all the armature will be raised 18 inches, so that the same structure is retained in all this part except in the peculiar manner in which the shear strake is fastened, for which see drawing soon to be sent you. The same knee-plates or gusset-pieces will be retained as originally specified, but they will require to be cut out at their upper outboard corner, as per drawing.

2. The 4-feet floors will be increased to 5 feet 6 inches in depth. These will now occur upon frames Nos. 76, 80, 85, 103, 107, 111, 115, 119.

3. The turret bulkheads will now occur upon frames Nos. 89 and 99.

4. There will now be two coal-bunker bulkheads; these will occur upon frames Nos. 62 and 74.

5. The top of boiler shells will be raised 18 inches.

6. The upper end of stem and stern-posts will be lengthened 18 inches.

7. There will be a modification of the lengths of vertical shafts under the turret, on account of the increased depth. The dome over the propeller will not be required. The foregoing are the important changes, of all of which correct drawings will be sent as soon as they can be made.

You will please make out a statement in detail, showing the expense to yourselves, which will be added to the cost of the vessel, and the length of time which must be added on account of the foregoing enumerated changes.

You will please give the local inspector an opportunity to judge of the correctness of your estimate, that you may both estimate from the same basis. You will understand, of course, that the Government will pay you all expenses incurred on account of these changes, in addition to the price agreed upon in the contract, and to allow you the extra time required on account of them to complete the vessels.

I am, very respectfully,

ALBAN C. STIMERS,
General Inspector.

Messrs. SECOR & Co., 68 *West street, New York city.*

Approved: F. H. GREGORY,
Rear Admiral, Superintending.

[No. 3.]

GENERAL INSPECTOR'S OFFICE,
IRON-CLAD STEAMERS,
256 CANAL STREET, NEW YORK, *June* 18, 1863.

GENTLEMEN: In consequence of defects developed in the monitor vessels now afloat in actual service at sea and in battle, it has been decided to make the following changes in the iron-clad steamers Mahopac, Tecumseh, and Manhattan, now building by you, namely:

The system of bolting together the plates forming the turret, pilot-house, and smoke-pipe, will be changed to a system of riveting with the rivets put through from the inside and riveted on the outside, as shown by the drawing sent you this day by Adams's Express.

An examination of these drawings will show you that the six inner courses are riveted through and through, instead of the two inner courses as before, and that where rivets pass entirely through all the thicknesses of the third course from the outside, the holes are punched one and a half inch diameter, instead of one and a quarter inch, so that when the riveting is performed the rivet will expand into this larger hole, and thus render it impossible for it to fly either outward or inward when struck by shot.

There will be a band of wrought iron, fifteen inches wide by five inches thick, secured to the base of the turret, with forty-two inch bolts, as shown.

This band will be composed of four pieces, butt-jointed. The iron must be of the very best quality, especial pains being taken to make it soft, so that when a shot strikes it it may imbed itself into it without breaking it up.

The inspector will, at his discretion, order any piece of this iron to be tested by bending it under a heavy steam hammer three feet in twelve of length; that is, if the supports are twelve feet apart it must be bent down three feet in the middle.

The gun-slides will have one inch clearance between their ends and the inside of the turret; the band supporting them will be made 3¾ inches thick, as shown where the slides rest upon it. There will be one half inch clearance on each side of the gun-slide in the notch cut in the band, as shown; but this clearance will be filled in solid with the sliver pieces shown, that they may be readjusted if thrown out of gauge by shot. The plates for lifting the turret, placed over the gun slides, will be changed to forged pieces, as shown by the drawing.

The gutter around the turret will now be made 7½ inches wide. It will be filled with platted hemp gaskets, on the top of which will be a plate ring ¾ inch thick by 6 inches wide, butt-jointed, with straps on lower side spiked down to the deck, with ¾ inch round spikes, 7 inches long, placed about 2 feet apart. In the gutter within the turret there will be several scuppers of at least 3 inches diameter each, from which pipes will lead to the bilge in such a manner that the water which may come through under the bottom of the turret will be freely carried off without wetting blower belts or other parts which it is desirable should be kept dry.

The roof of the turret will now have, instead of the railway bars, forged rectangular bars, 3 inches deep vertically, by 4 inches wide, spaced one bar every 6 inches the same as the railway bars were.

The bars will be kept at the proper distance apart by rectangular blocks of cast iron placed at the ends of the bars and over the rafters, and kept in their places by flush-headed tap-bolts, ¾ inch in diameter, screwed into them through the plating, as shown in the drawing.

These bars must be of the best quality of iron, and from the bars intended for each turret roof there must be tested at least two in the presence of the local inspector, the bars to be tested to be pointed out by him. The test to consist in bending down the bar laid flatwise under a heavy hammer a distance of two feet when the supports are six feet apart. If there are any cracks in the bar, the lot to which it belongs must be condemned.

The pilot-house will be ten instead of eight inches thick, as before required, and in addition to this there will be a cylinder one half inch thick—not shown on the drawing—slipped into the inside from the top. This will have vertical joints only; there will be butt and strap with straps on the inside 4½ inches wide, single riveted with three fourth rivets spaced four inches apart, countersunk on both sides. This thin cylinder will be cut out where the two inch thick plates occur over the ends of the cross beam which carries the pilot-house, and the lower corners will be secured with four ¾-inch tap-bolts screwed into the plating. The peep-holes will be carefully made, as shown in the drawing.

It is found that this is a point of great importance, and many plans have recently been experimented with before the exact form and character was decided upon.

The cover will now be three instead of two inches thick, and it will be riveted down around the periphery, as indicated by the drawing.

It will be observed this cover now rests upon the two inner courses of the plating, which are made shorter than the other for that purpose, thus dispensing with the ring formerly designed for it to rest upon.

Around the base of the pilot-house upon the turret roof there will be a ring of composition, or of wrought iron, if you can make it of the latter metal with less cost. This ring forms a glacis for the protection of the composition ring which confines the pilot-house.

You will observe that, according to the drawing sent you, the composition ring, already ordered and perhaps completed, must be put in place before the last two courses are added.

If you have not yet made this ring I would prefer you to make it and the glacis ring enough larger in diameter to enable it to be passed over the increased thickness of pilot-house.

The grating in the smoke-pipe will now be placed below the line of the deck, as shown in the drawing.

Then to retain the same area as before through the bars the pipe must be made larger. To accomplish this another breadth of plating is added, as shown in the drawing. It will be observed that all the armor plates are now of one height, namely, six feet above the deck. The thickness is to be increased from six to eight inches, as shown by the drawing.

There will be placed on deck in the center of the vessel, between frames seventy-five and seventy-seven, a pipe of twenty-four inches diameter at the base, eighteen inches diameter at ten feet from the

base and upward, and twenty-five feet high; pipe to be one half inch thick to ten feet high; from ten to twenty feet high, one fourth inch thick; above that, one eighth inch thick. Vertical seams to be butt-joined, with single riveted straps inside, rivets countersunk on the outside. Horizontal seams butt-jointed, with bands on the outside, as shown in the drawing.

From the band fifteen feet from the deck will extend three braces of one-inch round iron to an eye-bolt in the deck placed fifteen feet from the pipe. In each brace will be a turn-buckle for tightening them up. Into this pipe will enter the galley pipe, and a pipe from the upper part of the men's water closets; these pipes will rise five feet above the deck. The space around them is to be left open for the free egress of air from the berth deck, to assist in the ventilation. A plate, however, of two inches thickness is to be fitted, as shown in the drawing; so that in case a shot perforates the pipe near the deck the two small pipes may be taken down, and this fitted in to prevent the ingress of water when the vessel is in a sea-way under the enemy's fire, before the pipe could be repaired.

There will be placed over the iron plating of the deck a planking of white pine wood, 1¼ inch thick, in strips of 4 inches wide each. This wooden deck will be secured to the iron with a marine glue which will be furnished you by the Government. The glue is to be heated to a temperature of 400° Fahrenheit when applied, and to be coated on the deck plating and the edges of the planks to a thickness of 1/16 of an inch, and the planks pressed firmly into it. Around all ventilating and coal-shute holes in the deck there will be a ring of wood 1¼ inch thick, 3 inches wide, neatly turned, having the inner diameter the same as that of the hole in the deck-plating.

The top surface of the coal-shute plates to be covered with wood in the same manner as the deck, so that when they are in place the surface of the deck will be plain and smooth.

The total thickness of deck plating will now be made 1¼ inch, instead of 1½ inch, as ordered in a letter from this office April 11, 1863.

To accomplish this you may make the upper course one inch thick, and the lower one half inch, or you may make them each three quarters of an inch thick. The latter is the preferable mode if the state of your iron on hand is such that it can be done without increasing the expense of the change.

You will greatly oblige me if you will examine at once into the expense of making the changes directed in this letter, and send me the bill with each item in detail. Please confine it to the changes herein ordered, and if you are not prepared to send the accounts of former changes, it will not be necessary for you to keep this until you send them. I am particularly desirous of getting this as soon as possible.

After having calculated the difference in cost between the original and amended plans, as directed in the foregoing, you will please return sheets Nos. 3, 4, 5, and 21, first sent you.

It is proper to inform you that my authority for issuing these orders is a letter from the chief of the Bureau of Construction to the general superintendent, Rear Admiral Gregory, dated June 11, 1863, which letter has been referred to me for action.

I am, very respectfully,

ALBAN C. STIMERS,
General Inspector.

Messrs. Secor & Co., 78 *West street, New York city.*

"The delays occasioned in the work by the changes of the plans caused large losses to the contractors; first, by leaving their labor unemployed for the time upon their hands; second, by requiring them to carry insurance and interest; third, by the constant and rapid increase of the cost of labor and materials, and the depreciation of the currency, for which the Department could not give adequate and complete relief. The delays worked a special hardship upon the builders of the nine vessels first mentioned, as it was provided in their contracts that they should each receive $500 per day for every day their vessels were completed before the time limited for their completion. From Mr. Wood, the present general inspector, the committee learned that this class of contractors, to overcome the delay occasioned by the changes in the plans, and waiting for the specifications, and to meet the earnest requirement of the Department for an early completion of the vessels, prosecuted the work at night and on Sundays, and that for such work they were compelled to pay double prices, for which the Department did not, and could not, make them any compensation.

"From Messrs. Lenthall and Isherwood, of the Navy Department, and Mr. Wood, the general inspector, the committee learned that the petitioners entered into their contracts upon public competition, after general notice; that the lowest bid in a class was taken as a standard, which those bidding higher had to adopt, and that prices were 'barely fair at the then current rates;' that the petitioners dealt fairly and honestly by the Government in procuring the very best material which they could command, and doing the best quality of work, and that they were diligent in adopting all measures in their power to complete the work within the stipulated time. From the same gentlemen the committee learned that after the making of the contracts in the fall of 1862, the prices of labor and such materials as the contractors were compelled to obtain, constantly advanced until within the last two or three months, and that the advance in the price of labor skilled in iron, and of the materials required by the petitioners, was, to a large extent, owing to the great demand of the Government for the same in her shops, navy-yards, and shops for repair established at many points in the neighborhood of the operations of the Navy, as well as to the depreciation of the currency.

"The committee are satisfied that the petitioners have sustained, and are sustaining, heavy losses, which it was not in their power to avoid after making their contracts. Their contracts were generally for large amounts, and required a long time for their completion. It was impossible for them to make provision for all the material required, or to foresee and provide against the great advance in the price of labor. The demand for iron of peculiar and large sizes and fine quality was great, the supply small, and the means of producing it in the country limited. New machinery for preparing and rolling it was necessary; under such circumstances, builders of iron ships and heavy machinery could not contract in advance for such quantities as would be required, even could they advance the money, so that they were compelled to abide the fortunes of the market. During the progress of the work, by many of the petitioners, labor and materials have advanced, perhaps, one hundred per cent. This was not foreseen either by the reckless or the most prudent. The increased cost of labor and materials outran the calculations of every one. Ought the losses resulting from such a state of facts to fall entirely upon the petitioners? The committee think not. First, for the reason that the Government, by her own competition for skilled labor and material, contributed materially to the losses. Second, the Government, by the mode and manner in which she imposed her taxes, contributed to the result. Third, for the reason (in the cases to which it applies) that the Department delayed the work that improvements might be adopted, or the drawings and specifications prepared, and the delays involved not only the cost of the alterations themselves, but, by increasing the time required to complete the vessels, threw much of the material and labor upon the periods of enhanced prices, and thus materially increased the cost. And fourth, if the Government had contributed to it in no way whatever, under the circumstances, she ought not to allow the petitioners to bear the whole loss.

"During the first period of the war, almost without a navy, she undertook the work of blockading thousands of miles of coast. To meet the exigencies of the times she taxed to their utmost the talent, skill, and energies of the country. Not only were ships to be produced that could lie at the mouths of and blockade the harbors, but the experiment was undertaken of building ships and boats that could safely pass forts and batteries and ascend the rivers and coöperate with the Army. Iron-clads became a necessity, but their production was an experiment. The navy-yards and their machinery were wholly inadequate to the work. The ship-builders of the country were appealed to. They responded, and the result of their efforts in the great experiment has been the production of a navy most formidable in attack and unequaled in defense. The ships and their engines, being of great size and power, required for their production new machinery of extraordinary weight and power. In advance it could not be told what time would be required for building the vessels or the engines, especially as the Department must constantly modify the plans. If, then, enterprising citizens came forward to aid the Government in her experiment by the use of their shops, machinery, and money, in a work the cost of which they could not closely estimate, nor know the time that would be required for its completion, and then the currency is depreciated by its great increase, and prices go up beyond calculation, is it just, is it consistent with the people's conscience, to allow the whole loss to fall upon them?"

The committee suppose that it was in this spirit that the joint resolution of June 25, 1864, in relation to the contract with Ericsson for the construction of the Dictator and the Puritan, was adopted.

It will be observed that the letter of General Inspector Stimers to Messrs. Secor & Co., making very material modifications of the plan of the Mahopac, Tecumseh, and Manhattan, was written more than three months after the work was under way; and his letter to the same parties, making further changes, was written more than two months after the vessels should have been completed. The additional work required by these two letters amounted to $516,218 41. (See page 32 of record of board.)

A portion of the contractors for the machinery for the double-enders seem to have been misled in regard to the weight, supposing that it was to be of the size of the Paul Jones class; but when they received the working plans and specifications it appeared that it was much heavier.

From June till December last the board organized by the Secretary of the Navy, under the Senate resolution, composed of eminent officers of the Navy, was engaged in hearing evidence and investigating the claims of these parties. That investigation seems to have been fairly, carefully, and thoroughly made. It was by officers of the Department selected by the Department, and the award, which the committee believe to be substantially right, should be adopted as the basis of relief to the parties; and therefore the committee report the accompanying bill.

Mr. GRIMES. As I was unable to concur with the majority of the Committee on Naval Affairs in recommending the Senate to pass this bill, I desire to ask the indulgence of the Senate while I very briefly explain the reasons which impel me to vote against it.

On the 9th of March, 1865, at the executive session of the Senate, this resolution was adopted:

Resolved, That the Secretary of the Navy be requested to organize a board of not less than three competent persons, whose duty it shall be to inquire into and determine how much the vessels-of-war and steam machinery contracted for by the Department in the years 1862 and 1863 cost the contractors over and above the contract price and allowance for extra work, and report the same to the Senate at its next session. None but those that have given satisfaction to the Department to be considered."

It will be observed, in the first place, that this is a resolution adopted solely by the Senate, and not by the House of Representatives, is no act of the legislative authority of the Government, and that no board that could be organized under it had any authority to bind, either legally or morally, the action of Congress. It will also be observed that this resolution only instructs any board that may be created by the Secretary of the Navy under it to examine as to the contracts that were entered into in 1862 and 1863. Let it not be supposed by any Senator that after we shall have passed this bill, which includes about two and a quarter millions of money, we are therefore absolved from making any future appropriations for contracts entered into between private individuals and the Government, under precisely similar circumstances; for I have upon my desk an abstract of contracts between the Government and contractors, made under similar circumstances, upon which there would be claims as much entitled to consideration as almost any that are embraced within the bill now under consideration, amounting to nearly sixty million dollars. If there be a loss upon that property equal to the amount which it is claimed has been lost by the contractors provided for in this bill, then the amount that will hereafter be claimed from the Government by those contractors will exceed the sum of $12,000,000.

Under the resolution which I have read, the Secretary of the Navy appointed a board of three officers. One of them was a sea-officer, a commodore nearly at the head of the list; another was a paymaster, and another an engineer. I suppose, as the report of the proceedings of that board has been published for some months, that the members of this body have probably examined it, and if they have, they will observe that substantially all the testimony taken before that board consisted of the mere declarations of the contractors themselves. So far as my recollection goes, the contracts, even, were not submitted, and there was nobody examined on the part of the Government, except that Commodore Gregory, I think, appeared before them once or twice, and wrote them one or two letters.

Mr. President, I do not wish it to be understood that I am constrained to vote against the passage of this bill because I believe there are no just claims embraced in it. I believe there are some very strong cases in it that appeal to the justice of the Senate and of Congress, and if they stood by themselves, as ordinary claims do stand when they appear before us, and not in an omnibus bill coupled with other claims that I regard as worthless, I would vote for them. I remember the celebrated case of the Camanche, a vessel that was sunk in the harbor of San Francisco. I believe there is justice in that claim, and it would afford me great pleasure to vote to remunerate the contractors in that instance; but I cannot consent, in order to do justice to those contractors, to vote money out of the Treasury to other contractors who I am just as thoroughly convinced are not entitled to anything from the Government.

If the members of the Senate will refer to the report of the committee that is in their hands, on the second page, in the list of "wooden double-enders machinery," they will find that the Mingoe and the Wyalusing were made by Pusey, Jones & Co., a firm doing business at Wilmington, in the State of Delaware, and that the amount allowed to them, and it was all they claimed, for extra work was $5,817 38 for the Mingoe, and for the Wyalusing it was only one cent less, $5,817 37. Now, by reference to the table which I hold in my hand furnished from the Navy Department it will be observed that these gentlemen entered into their contract with the Government to construct those two vessels, one of them on the 15th of August, and the other on the 30th day of August, 1862, for $82,000. On the 29th of

October, in the same year, the Government entered into a contract with the Ætna Works to construct an engine upon the same model, with the same drawings, to be delivered at the same time, and for the same sum of money, $82,000. This commission have allowed to Pusey, Jones & Co. for their engines $5,817 38, and they have allowed to the Ætna Works for the building of the engines of the Peoria $61,752 51.

Mr. JOHNSON. Do they state what was the cause of the difference in the statements?

Mr. GRIMES. Every man made out his own statement. One man would put into it ten per cent. as a claim for the use of his tools; another would charge us with the tools. Before I get through I will read an analysis made by the chief of one of the bureaus of the Navy Department in order that the Senate may see how these claims are gotten up.

Fourteen days before the contract was made with the Ætna Works for the building of the engines of the Peoria, for the building of which the contractors are to be allowed $61,752 51, a contract was made with the Atlantic Works at Boston for building the engines of the Sassacus and the Osceola. It will be observed by a reference to the table that this board, while they have allowed to the Ætna Works for building their engines $61,752 51, and have allowed to the Portland Locomotive Company $40,433 73 for building engines precisely similar, the Atlantic Works of Boston have only claimed and been allowed the sum of $20,513 73.

Mr. JOHNSON. Was the contract price the same?

Mr. GRIMES. The contract price in each case was $82,000. I hold in my hand a table showing the contract price of each engine built by the Navy Department within the last five years, and the contract price for each one of the hulls, and I have also a statement showing the extras that have already been paid to the various contractors for hulls and engines; and I suspect the Senate will be somewhat astonished when I tell them that the extras that have already been paid under the authority of Congress amount to $6,606,772 39.

Mr. JOHNSON. To these claimants?

Mr. GRIMES. To various claimants. Some of them have been allowed on these contracts, and these are claims they demand in excess of the extras that have already been allowed. I beg leave to read the following statement and analysis of these cases furnished to me at my instance from the Navy Department:

MEMORANDA.

Some of the contractors appear to have embraced in their accounts all the materials they collected, giving a credit for what remained in their hands, (pages 8, 60, 61;) others present what they call "cost prices," and others, again, what they should have as "profit prices."

The enormous disparity in these claims is surprising, when it is considered that the various classes of the vessels and the machinery are exactly the same, and contracted for at about the same time. In the wooden double-enders, the claims of the builders of the hulls vary from $4,015 to $74,124; for the machinery for these vessels, the claims vary from $5,817 to $61,752. On the iron double-enders, from $28,974 to $113,543; on the machinery for the iron-clads, three of the parties make no claim, and the fourth makes a claim of $35,832; on the iron tugs some parties make no claim, and others vary from $4,793 to $52,472. On the harbor and river monitors the claims on each vessel vary from $71,569 to $276,543. Taking up the classes of vessels and machinery in the order of the report, (pages 62, 63, 64,) the first to be considered are the

DOUBLE-ENDERS—WOOD HULLS.

The contracts for these vessels were made under a public advertisement, as will be seen on pages 789 and 793 of the documents accompanying the President's message of the third session of the Thirty-Seventh Congress. They were awarded to all at the same price, which was that of the offer of the lowest bidder: some of the parties took two vessels, and several applications were made for contracts on the same terms after the Department had decided not to increase the number.

These vessels were all commenced and finished under the superintendence of the same officers, and are substantially alike in all respects: and all the bills for additional or extra work were examined and certified by the same superintendent, Rear Admiral Gregory.

The claim of the builders of this class of vessels (the hulls) is based upon the fact that the engines were not placed in them within the stipulated time, and that consequently the parties were unable to complete their work and receive "the several payments as agreed upon in the contract."

The contracts provide that the vessels shall be launched and delivered to the parties who are to erect the machinery on board, within a specified time, and that within fifty days thereafter they are to be fully completed.

The contract further states that "in the event of the steam machinery not being erected and completed on board the vessel within the time specified for the completion of the vessel, she being in all other respects fully completed, the final payment shall then be made, withholding only as much as may be necessary to execute the work remaining to be done."

The payments were to be made in six equal parts, as the work progressed, with a reservation of twenty per cent. from each payment; and as the amount of work specified by the contract was executed, the bills for each portion were at once passed by the superintendent; the bills for the extra or additional work were passed as rapidly as they could be examined and prepared.

It was estimated by the superintendent that the amount necessary to secure the Government, as to the work to be done after the steam machinery was completed in the vessel, should be $5,000; and that sum only was withheld, the other payments of the contract being made on all the vessels as they reached the stage authorizing the contractors to receive them.

The only valid claim which can be made by them is for the rise in the price of labor during the time they were prevented from completing the work, the value of which, including materials, did not exceed $5,000. They could not have laid out of the money for they had not expended it. The amount of delay appears to have been about a year. To fairly balance the matter, should anything be allowed the builders of the hulls, an equal amount should be deducted from the builders of the engines, as the delay arose wholly with them; and yet they present claims for losses growing out of this delay.

The claim advanced by some for towing their vessels from their work-yards to those of the builders of the machinery, is without much foundation. The Department could, in fact, have had all the vessels constructed in the ports where the steam machinery was manufactured; but with a view to encouraging the ship-building interest of other portions of the country an additional sum of $500 was offered to such as chose to accept the contract with that condition.

If any increase is to be made on account of this transportation it should be extended only to Messrs. Sampson, Larrabee & Allen, and Paul Curtis, as the vessels built by these parties only had to be towed at sea.

With regard to the actual losses of all kinds sustained in the construction of these vessels, it will be observed that the contractor for the Otsego, Mr. Westervelt, of New York, makes no claim whatever, and is understood to be satisfied that he has suffered no loss; and it will be further noticed that six respectable builders can only make a claim of from $4,000 to $5,000, doubtless after liberally estimating every cause that could have swelled the cost, and that, too, on a contract which amounted to $75,000.

The vessels were all built on the same plans, from the same specifications, under the same superintendent, and reductions were only made from the extra bills when the parties had charged as extra work that which was rightly due under the contract, or at higher prices than the average market rates. When these bills were properly prepared they were not reduced, a fact shown by Mr. Cramp's statement at the foot of page 7.

MACHINERY FOR THE WOODEN DOUBLE-ENDERS.

The statement of the contracts for the machinery of these vessels will be found on page 971 of the Report of the Navy Department accompanying the President's message for the first session of the Thirty-Eighth Congress.

It will be perceived that one ground on which these extra claims are made to rest by some of the parties, is that the actual weight exceeded the estimated weight. One party (page 34) makes the excess to be thirty-three and one third per cent., and another party (page 17) states it to have been seventy-five per cent.; and yet both these parties built exactly the same machinery.

The machinery for these vessels was identical in all, and on the general plan of that of the Paul Jones, as the parties state. It was not possible to have the large number of drawings that were necessary made at once; but the specifications were printed, and in the hands of all the interested parties. These specifications gave the dimensions of every part, and described the kind of material and manner in which the work was to be done; they were attached to every contract, so that the contractors before executing them knew precisely what they had to perform.

The dimensions of the machinery were somewhat larger than those of the machinery of the Paul Jones class, and the price was $82,000 instead of $50,000 paid per vessel of that class.

One of the contracts of the party who claims an error of seventy-five per cent. was dated more than a month after, and his second contract two months after the Department had awarded them to several other parties, all known to him, and from whom he could have ascertained what he was undertaking to do. The contractor for the machinery of the Losco and Massasoit, who, on page 15, leads off the claims on this machinery, omitted to mention this extra weight in his first statement, but subsequently introduced it, (page 42.)

Taking another example, that of the machinery of the Peoria, (page 26,) it will be seen that this contract was taken two and a half months after the others were awarded. This party, in addition to the claim for extra weight, states that the poor iron he used caused the condemnation of much work, and the workmanship was required to be superior to what he had intended to give, causing him much delay. To what extent this has been entered in his books may be surmised from his extra charge being $62,538 46 on a contract of $82,000.

Some of these parties charge interest and the cost of collecting these bills, (page 21,) and others charge ten per cent. for general expenses of shop, (page 25.)

It is perceived on page 15, that Messrs. Hazlehurst & Co., who constructed the machinery for the Eutaw, have no claim to make; and on page 44, Messrs. Morris & Co., who built the machinery for the Tacony, state that the amount received from the Government was more than the actual cost; and they make no allusion whatever to loss of time, or extra weight.

The contractors for the machinery of the Wyalusing and Mingoe, Messrs. Pusey, Jones & Co., only claim a loss of $5,817 30 on each vessel, though their facilities for executing this work are much less than those of all the other parties; and they distinctly state, on page 24, that this excess did not arise from any increase in the price of material, as they purchased that when they made the contract.

We have here two respectable parties stating that they have suffered no loss, and another that their loss only amounts to $5,817. After them the claims run from $20,331, to $22,386, to $25,119, to $29,789, to $30,617 to $33,325, to $40,433, to $44,015, and to $61,752, each on a contract of only $82,000.

This machinery was to have been completed in from five and a half to eight months from date of contract. Had the contractors performed this guarantee, it is deemed that they would have lost but little, if anything, from increase of prices either in labor or materials.

IRON DOUBLE-ENDERS—HULLS AND MACHINERY.

The next class of vessels is the iron double-enders, embracing the hull and machinery.

The contracts for the vessels of this class will be found on pages 969 and 972 of the Report of the Navy Department accompanying the President's message for the first session of the Thirty-Eighth Congress.

They are first named on page 11 of the report. The Wateree is a similar vessel to the Suwanee and Shamokin, but about sixty tons less in tonnage. The extra charge on the smallest vessel is $34,161 63; that on the Shamokin is given as $33,992 97, and on the Suwanee at $28,974 18.

These vessels appear to have all been in construction at the same time, and from seven to eight tenths of the extra cost is charged to steam machinery. This machinery is the same as in the wooden double-enders, and the claim is similar in the one case as in the other. The work additional to the contract was paid for when the bills were presented to the superintendent and certified by him.

The extra claims vary from $28,974, to $33,992, to $63,715, to $82,460, to $113,543. The reports from the commander of the Mohongo represent her woodwork as being very inferior.

WOODEN IRON-CLADS—STEAM MACHINERY.

The statement of these contracts will be found on page 972 of the documents accompanying the President's message for the first session of the Thirty-Eighth Congress.

It will be noticed that the contract price for the machinery of the Miantonomoh, on which alone a claim is made, is from $28,000 to $30,000 more than for the other vessels of this class. On page 20 Messrs. Merrick state that they make no claim for additional compensation for identically similar machinery in the Tonawanda; nor do Messrs. Morris & Co. make any claim for the machinery of the Monadnock and Agamenticus, the same class of vessels and machinery of the same power. On page 51 will be found a statement by the inspecting engineer that the work on the Miantonomoh was not prosecuted with all the ability and zeal in the power of the contractor.

IRON TUG-BOATS—HULLS AND MACHINERY.

The statement of the contracts for these vessels will be found on page 1092 of the Report of the Navy Department accompanying the President's message for the second session of the Thirty-Eighth Congress.

It will be seen from that statement that W. Perine, who claims $43,536 98 on the Maria received on his contract $6,000 more than Pusey, Jones & Co., who, on page 24, claim only an additional allowance of $4,793 38.

The Triana, on which Mr. Perine claims $52,472 81, is an identical vessel with the Pinta and Nina, and at the same contract price; on which vessels Messrs. Reaney & Co., on page 12, state that they have no additional claim to make. The statement that one party has no claim to make, while another prefers a claim of $52,472, on a contract of $128,000 for an identical vessel, requires no additional comment.

IRON-CLAD PROPELLERS MILWAUKEE AND WINNEBAGO—HULL AND MACHINERY.

That statement of the contract for these vessels is found on page 793 of the Report of the Navy Department accompany the President's message for the third session of the Thirty-Seventh Congress.

The contract price for these vessels was $313,000 each, being $626,000 for the two vessels. The contractors, on pages 60 and 61, state that they had received from the Government the sum of $751,946 84, but there has been a further payment of $24,000 on these vessels which does not appear to have been noted, making in all $775,946 84, from which it appears that the sum of $149,946 84 has been paid for additional work, and the claim is thus reduced to $35,613 01, for the two vessels. This claim is solely on the ground of the "depreciation of the national currency," which, if allowed, applies equally to all the contracts made by all the Departments of the Government.

THE IRON (IRON-CLAD TURRET) VESSEL ONONDAGA.

The statement of the contract for this vessel will be found on page 794 of the Report of the Navy

Department accompanying the President's message for the third session of the Thirty-Seventh Congress.

The contractor on page 19 states that in the cost of this vessel he has added ten per cent. "for the use of shop, tools, &c., in building engines and boilers." By reference to the detailed bill presented to the board this amount is found to be $19,918 87, which, if deducted, reduces the actual claim for contract work to $690,237 64, and "the excess of cost to him over and above the contract price" to $65,237 64, instead of $85,156 51.

The sum in excess of the contract that has been paid to the contractor for this vessel is $134,637 08; and of this amount the usual proportion is undoubtedly profit. If the profit on this extra work be applied to the losses which the contractor states he experienced on the regular contract work, the loss cannot be large, if indeed there is not a profit on the vessel as a whole.

HARBOR AND RIVER MONITORS—HULL AND MACHINERY.

The statement of the contract for these vessels will be found on pages 788, 793, and 794 of the Report from the Navy Department accompanying the President's message for the third session of the Thirty-Seventh Congress.

In the case of the Catawba and Oneota, mentioned on page 25, it will be noticed that large sums have been paid for extra work. Those bills covered the alterations mentioned, and included the usual proportion of profit; but on page 57 it will be perceived that Chief Engineer King gives it as his opinion that there has been great overcharge on some parts of the work.

In the case of the Mahopac, Tecumseh, and Manhattan, (on page 32,) large amounts were paid for alterations and additions, and the bills undoubtedly included the usual proportion of profit. In the case of the Manayunk, referred to on page 56, the parties state their inability to do work advantageously in comparison with the parties in New York, and yet their bill is $34,451 15 less than the bills of the New York contractors; and on page 57 it is stated that their claims for labor are far in excess of those paid in the neighborhood.

The Saugus was an identical vessel, yet when the contractors for her, Messrs. Harlan & Co., were called on to make their claims, it will be seen on page 16 that they had none to make. The copy of the books of the contractor for the Tippecanoe, an identical vessel with the above, embracing her cost, shows that he charged in it the full price of the tools he purchased, giving no credit for their value after the completion of the work, freights on these purchases, expenses of himself and clerk to Washington and New York, a buggy for his superintendent, the horse for which, though not mentioned, may be in some other part of the bill. This is merely cited to show the character of the charges that occur in these accounts.

LIGHT-DRAFT MONITORS.

There is only one claim made in this class, embracing twenty vessels. On page 16, Mr. Harlan; on page 20, Messrs. Merrick; on page 38, Messrs. Curtis & Tilden; and on page 41, the Globe Works, state that they have no claims to make on these vessels. All the contractors for this class of vessels were treated alike.

MONITOR CAMANCHE.

The statement of this contract will be found on page 794 of the third volume of the documents accompanying the President's message for the third session of the Thirty-Seventh Congress.

This vessel is similar to the Tecumseh, and others, named on page 63; but there was no increase made in the depth of the vessel, and the additional work ordered was paid for, including the usual proportion of profit.

The contract was for the construction and delivery of the vessel in California, but the contractor built the vessel in New York, and transported her, in pieces, to California, where she was put together. The claim seems to be based on the "premium on gold in California." The statement of one of the contractors, given on page 59, shows the manner in which the accounts of that vessel were kept, and the description of expenses the Government was expected to pay.

With regard to the $96,500 in suit, the Navy Department can have no connection with it, as it is a matter pending between private parties.

As the claim for this vessel seems to be made wholly on the premium on gold, (page 34,) which is only another expression for depreciation of the national currency, it obviously cannot be entertained without applying it to all other contracts.

The Camanche is the vessel to which I alluded as being the one that was sunk in the harbor of San Francisco in the transport ship in which she was carried around in pieces from New York, where she was constructed, I think the night after she reached San Francisco, occasioning great loss to the owner in salvage, &c., and for which I would be disposed to make a proper remuneration.

Mr. President, let me repeat that I oppose this bill because it is an omnibus bill. I know there are just claims in it. There are some of these men who ought to have some compensation. I am not prepared to say but that there may be some persons embraced in it who ought to have all that it is proposed to allow them. But it will be observed by the analysis I have read that here are at least six or seven different classes of vessels, the contracts for the building of which were made up at twenty different times; they were to be built in different manners and under different circumstances, and here some thirty or forty of them are huddled together in one bill, and the attempt made to pass them through.

I have said that this bill embraces only a portion of what will probably be presented to the Senate for their adoption if we shall establish this principle. I am ready to take up and examine these cases *seriatim*, or I am willing to create a tribunal before whom they may be sent; but I am well satisfied, from our experience of the kind of tribunal created by the resolution of the Senate last spring, that however valuable these officers may be on the decks of their vessels fighting the enemies of their country, they are not exactly the kind of men I would select to enter upon judicial investigations in regard to contracts between the Government and individuals, or between individuals themselves. That is beyond their sphere, I judge; and I think nobody would be more disposed to recognize that fact than the naval officers themselves, all of whom I believe attempt to avoid the necessity of being compelled to perform any such duty.

Mr. President, it is with great reluctance that I have been constrained to differ with the majority of the Committee on Naval Affairs on this subject; but ever since I have been a member of this body I have had only one rule on these matters; that is, never to vote for putting private bills upon appropriation bills or agreeing to make any kind of an omnibus bill by which a bad claim shall be carried through Congress upon the back of a good one. Satisfied as I am that that principle is right as a general principle, and that it is certainly right in this instance, there is no alternative left me but to vote against the bill, and, differing with the committee, I thought it my duty to state the reasons why I did so.

Mr. CONNESS. I desire simply to add a word to what the honorable Senator has said in regard to the steamer Camanche. It will be remembered, as stated by the chairman of the Committee on Naval Affairs, that the Camanche was a monitor iron-clad contracted for, for use in California. She was built at New York. In addition to what the Senator has said with regard to the losses of the contractors by reason of her sinking at the wharf at San Francisco, the first loss which the contractors claim, and their claim is a perfect one, is, that after they had constructed the engines for the vessel complete, the need of the Government for engines was so great that they took them from the contractors, and put them into another ship, and they were the engines of the ship that destroyed the Atlanta. The contractors were thus prevented from building the ship when the legal tenders paid by the Government were worth more in the market than they were subsequently, and the builders of the ship were driven into such weather when she reached the Pacific as led to the disaster there.

I wish to make this statement in addition to what the honorable chairman has said in regard to this particular case. I cannot in justice to myself close without affirming the correctness of the position taken by him. I call attention to the case of the Wateree, that is named among the ships for which a claim is made. By listening to the reading of the report I find, I think, some thirty-five thousand dollars proposed to be paid by the committee's report in that case. I think the award was $20,000 or $25,000, but the committee have finally allowed $35,000. I know something about that ship. She is one of what are known as the "double-enders," an iron hull double-ender ship. She was the first ship sent out to the Pacific coast as a part of the Pacific squadron when the blockade made less demand upon us than it had previously. That ship, an entirely new one, was eight months in finding her way to San Francisco. Indeed there were doubts entertained as to whether she would ever arrive there. She went out, I think, under the command of Commander Murray, of the United States Navy. When she was sent from here, and long before she was dispatched by the Navy Department, there were apprehensions of depredations by piratical ships of the confederates on the Pacific coast. The underwriters, and others interested in commerce there, were very anxious to get an addition to the naval force on that station, but the Wateree was so long in reaching there that it did nothing to allay the fears that were entertained, and when she got there she was utterly and entirely useless. She had to be taken to the Mare Island navy-yard, and at very large—I cannot now name the figures—public expenditure repaired and put in order. Now, as to the difficulty in the case going directly to the contractors, feeling a great interest in the case, I made several visits to the Navy Department in regard to the long trip of this ship, and felt inclined to blame the commander who took her out, but I found his reputation was A No. 1 as a naval officer.

Mr. JOHNSON. Who was it?

Mr. CONNESS. Commander Murray.

Mr. JOHNSON. He is A No. 1.

Mr. CONNESS. My information from the Department was, that the ship had been built in many respects, particularly her boilers, of iron not fit to be put into boilers, material not fit to be used; and the Department defended itself by stating that it had again and again requested Congress to give it authority to enlarge and extend its works, so that it might construct such machinery in a substantial manner and as it should be done, but Congress had utterly failed and refused to do that, and they were compelled from time to time to make the best contracts they could, and that it was impossible, in the hands of contractors, to exercise such an inspection over the material to be used as to avoid cases like that of the Wateree. The contractors in that case having used material which was not fit to be used, are not only not entitled, as I think, on the face of the case, to any additional compensation, but it ought properly to subject them to damages to the Government.

Mr. JOHNSON. What are they allowed in this bill?

Mr. CONNESS. Thirty-five thousand dollars, I think, for the building of that ship.

Mr. GRIMES. Thirty-four thousand one hundred dollars.

Mr. CONNESS. The Senator from Iowa says $34,100. I call attention to that case particularly, and am unwilling that the case of the Camanche, which furnishes an instance of absolute debt by the Government to the contractors, shall be damaged by putting it in connection with a case like that of the Wateree. Besides, I think it is apparent that there is such a combination of claims here as will make it quite impossible for Congress ever to accept the bill in this form, and therefore it is an absolute injury to the contractors, who ought to be paid, and whom the Government should remunerate. I hope the course will be taken of putting each case upon its merits, and paying those who ought to be paid and who are entitled to additional compensation.

Mr. HENDRICKS. When this subject was before the Committee on Naval Affairs, it was referred by the chairman to the Senator from Nevada, [Mr. NYE,] the Senator from West Virginia, [Mr. WILLEY,] and myself, as a subcommittee to investigate it, inasmuch as the amount of detail could not be understood properly by the whole committee considering it together. We gave it a great deal of attention at different periods for more than two weeks, investigating the subject as thoroughly as it was possible for us to do; and we came to the conclusion that the bill which we have reported was right. I believe that the Committee on Naval Affairs concurred in that view, with the exception of the distinguished chairman. I am of the opinion that these sums ought to be paid, as a matter of justice and right, by the Government to these contractors. Each case, of course, has its special merits or demerits. But, sir, I believe in the doctrine that where a man contracts to do a great and very important

work for the Government he ought not to be allowed to be a large loser, and in some cases, as will be the result here, to be broken up by the contract that he may have made, and especially in the case of contracts made at such a time as these were made, and for such a work as they were made; I mean, of course, where he acts in good faith.

These contracts, it will be observed, were made pending the war. I submit to all Senators whether it was possible for a party making a contract with the Government in the months of August and September, 1862, to anticipate the enormous rise in labor and materials? For work that must of necessity run through a number of months, was it possible for the contractor to anticipate in the making of his contract with the Government the enormous advance in materials? Senators may say that the contractor takes his chances. Ordinarily, that is so. If a man contracts to furnish one thousand head of beef cattle or a thousand mules to the Government, he goes at once and fills his contract. He has no difficulty in doing it. He knows what the contract price is, and what the cost in the country will be to him, and he goes at once within one or two months and fills his contract, and it is all over. But this is a very different case. Here are men contracting with the Government for the most important work possible; a work that could not in the nature of things be completed within a short period, a work which of necessity must cover from six months to two years.

What was the history of those six months or two years? Senators know very well that there was a great difference of opinion in the country at that time about the probable effect of the increase of the currency and the progress of the war. Many thought that prices would depreciate instead of advance. Many very good traders in the country believed that; and it is reasonable to suppose that these contractors, in making their contracts and fixing their prices with the Government, believed that prices would not materially advance. But it is known that the prices did advance. We had to have these ships; the Government could not progress in the war without them; and great numbers had to be manufactured or contracted for at about the same time. What was the effect of that? The Government made a contract with one man, then with another, then with another, and started her own ship-yards with all the force that it was possible to command. What was the effect of that? Of course, to increase the price of labor; of course, to increase the price of material required in the construction of the ships. These are some general views about the equity of these claims, without reference to the particular merit of each case.

I have a little to say in reply to the Senator from Iowa. In the first place he says, and that is his main objection, that this is an omnibus bill. He thinks that some of these claims are clearly right, and for the sums, perhaps, that are mentioned in the bill, but that it is an omnibus bill, and a meritorious claim may carry through a claim that is not meritorious. Mr. President, how is it possible to have this otherwise than an omnibus bill? Is it contemplated that Congress shall take the accounts, from each shop, and examine the accounts of each particular claim, and pass a bill for each case? We cannot do that. The Government never undertakes to investigate cases in that way where they are all of a class. These parties were before Congress, and the Committee on Naval Affairs at the last session reported a general bill to refer the whole subject to the Navy Department to take evidence, to hear the case of each one, to adjudicate each case, and to pay what should be found just and right in the judgment of the Secretary. But that bill did not pass; it was reported near the close of the session, and then this resolution was adopted by the Senate. I admit, as is suggested by the Senator from Iowa, that this is not a joint resolution; it is a resolution of the Senate. It is in these words:

"*Resolved*, That the Secretary of the Navy be requested to organize a board, of not less than three competent persons, whose duty it shall be to inquire into and determine how much the vessels-of-war and steam machinery contracted for by the Department in the years 1862 and 1863 cost the contractors over and above the contract price and allowance for extra work, and report the same to the Senate at its next session. None but those that have given satisfaction to the Department to be considered."

That is the resolution that was adopted. That resolution of necessity connected these cases together. All the cases that were before Congress at the last session, under that resolution of the Senate, went to the Department; and although it was not a joint resolution, although perhaps in law the Department was not bound to obey it, yet, out of courtesy to the Senate, out of respect to the judgment and will of the Senate, the Navy Department did organize a board. The Senator from Iowa objects to that board. He says they were very competent and skillful men on board ship, but he doubts whether they were very competent to investigate questions of this sort. Is it not enough, in reply to the Senator, to say that this subject was to some extent committed to the discretion of the Secretary of the Navy? Congress wished a fair adjudication, and the Secretary was expected to organize such a board as would make a thorough and satisfactory investigation of the claims; and the Secretary, to carry out that purpose of the Senate, appointed this board, and the presumption is that he selected men fit for the position. I believe the Secretary would do that. I have a very considerable respect for the Secretary of the Navy, and I do not think he would select men not qualified to make the investigation that the Senate requested. The first member of the board is Commodore Thomas O. Selfridge. He is a commodere in the Navy. I do not know what his past history has been. I suppose the Secretary did know, and selected him on account of his qualifications for the place. The next is Chief Engineer Montgomery Fletcher. I do not know anything about his qualifications; I am not acquainted with him; but the fact that he is a chief engineer is very considerable evidence that he is a qualified man. The last is Paymaster C. H. Eldredge, of whom I know nothing personally, but presume he was qualified for the work. This board went to work. It met in June and continued its sessions in the city of New York until the month of December. Half a year was occupied by the board in making these investigations.

The Senator from Iowa says that they made the investigations and their awards upon *ex parte* testimony, and that there was no testimony substantially except the statements of the parties themselves. I understand the fact to be that the parties came before that board with exact and accurate copies of their books, showing the expenses for everthing, the least and the greatest. I have no doubt about that; because we have before the committee now a claim that was prepared to go before this board, but was not finally submitted because the board had then adjourned, and I saw from that case, as it was prepared, that everything that went into a ship, from the least to the greatest matter, was stated.

But the Senator is mistaken in supposing that there was not important testimony in addition to the claimants themselves, as will appear by reference to page 29 of the report of the board. There it will be found that S. M. Pook, naval constructor, an officer of the Government, is called upon and testifies quite fully. His testimony runs over to page 30 and page 31. On page 54 the Senate will find the testimony of naval constructor B. F. Delano. I will not undertake to read his testimony, but he is asked:

"Be pleased to state the relative value and workmanship of the several wooden double-end vessels contracted for in 1862 and 1863, which were equipped from this yard.

"*Answer*. There was no material difference perceptible to a ship-builder," &c.

And he goes on and gives rather elaborate testimony. He says he was the inspector of the work. Other parties, in no way connected with the claims, were examined before that board.

Mr. JOHNSON. Were they summoned by the board?

Mr. HENDRICKS. I believe the board summoned some. I do not know that the report shows how they were summoned. They came before the board. I do not think the report shows who summoned them.

The Senator from Iowa says that there are other claims that will be presented if these are allowed, and that, taking the entire cost of the Navy as we now have it, the whole claim at the same per cent. will be about twelve million dollars. That is plausible, but yet there is no force in the statement of the Senator. This report is upon the work that was contracted for in the years 1862 and 1863. The builders of ships prior to 1862 cannot claim anything, because there was no rise up to 1862.

Mr. GRIMES. The Senator will allow me to make a statement, which I think he will concur in. A very large proportion of the contractors who made contracts with the Government in 1862 and 1863 did not appear before this board, and they are now constantly importuning to be permitted to come in; and I think the Senator has in his pocket, or in his desk, the claims of one or two of those persons not included in this bill, and there are still more behind.

Mr. HENDRICKS. Yes, sir; here is a claim from a Cincinnati house that built some vessels on the Ohio river. It is the only one that I have. That was not presented for the reason that the building of the ships was not completed in time to enable the parties to present it to the board. The same is true, as I understand, of the claim from Boston of McKay & Co.—I do not recollect the name of the house—for some other work that was done.

Now, there are two claims before the Senate that are not included in this bill and this report; and only two claims so far as I know; one for work done in Cincinnati, the other for work done at Boston. They are not included in this bill for the reason that they have not been adjudicated by the board. The bill rests on the adjudication of the board. The committee have not undertaken to investigate claims outside of those which were before the board.

But, Mr. President, I was going on to say that the statement of the Senator was plausible, but it has no foundation in fact. Work that was done before 1862 cost no more than the parties expected; because up to that time there was no material advance in the price of labor or in the cost of materials. Work that was contracted for after 1863 will not cost the Government any more than the contract price, for the reason that at the close of 1863 and the commencement of 1864 labor and materials had gone up to about the maximum, so that parties who made contracts in 1864 were not deceived by any increase of price after that time.

Mr. GRIMES. Will the Senator permit me to interrupt him? On the last page of the report in this case there is a statement of Mr. George W. Quintard, of the Morgan Iron Works, New York, relative to the cost of iron and metals and labor. In the table which he furnishes it is stated that in February, 1863, bar iron, American iron, refined, was worth ninety-five cents; and from that to July, $1; in August and September, ninety-five cents; in October, $1; in November, $1 05; and in December, $1 10. Then in 1864, in January, it was worth $1 30; in February, $1 40; in March, $1 40; in April, $1 45; in May, $1 60; in June, $1 65; in July, $2 20; in August, $2 20; in September $2 10; in October, $1 90; in November, $1 90, and in December, $1 80. I believe that there is about a corresponding increase all the way through that table.

Mr. HENDRICKS. That is for the year 1864. Iron went up very considerably in the year 1864.

Mr. GRIMES. Metals of all kinds.

Mr. HENDRICKS. But my point is that the contracts that were made during the year 1864 were made with a view to the high prices

that the articles required in the construction of ships had then attained.

Mr. GRIMES. So far from that being the case with a contract made according to the Senator's own statement in the spring of 1864, the prices of labor and materials advanced more during that year than they did at any time in 1862 or 1863. Look at the price paid for labor; take the finishers. You find that in January 1864, finishers got 24 cents an hour, in February 25 cents, in March 26 cents, in April 27 cents, in May 28 cents, and so on until from July to the end of the year they got 30 cents an hour. There was an increase of a very considerable percentage. The Senate will observe that the case is the same throughout that year in all the articles in the table, so that I think it follows pretty conclusively that those gentlemen, if they present claims, will have quite as strong a ground to base them upon as those who present claims for 1863.

Mr. HENDRICKS. The point I make is just this, in reply to the position of the Senator: that the contracts that were made in 1862 and 1863 were made before the very great increase in prices, and therefore the parties were placed very differently from parties who made contracts in 1864 when the prices were then advancing or had attained to the maximum. The Senate will observe that the wages of finishers advanced from January, 1862, to January, 1864, from fifteen cents to twenty-four cents per hour, and during the year 1864 they advanced six more cents. I suppose that is the average of increase. The point is that these contracts being made in 1862 and 1863, the prices continued to advance during all the time that these parties were building the vessels and constructing the machinery for them, so that they were overtaken by this enormously high rate of prices and destroyed. But as a matter of fact, in addition to the matter we have before the Senate now, there are just two other cases, those of McKay at Boston and the Greenwood establishment in the city of Cincinnati. What the merits of those two cases may prove to be, I do not know; the committee has not yet examined them. I presume they have some claim, but to what extent I am unable to say to the Senate; but the Senator from Iowa I think is not authorized in saying that there will be claims beyond those that have been presented to the Senate. I do not know of any others than these two.

Mr. GRIMES. I simply say that I was so informed by the Navy Department, who furnished me this table that I have here, showing the number of claims that would probably come in.

Mr. NYE. Is that in the report itself?

Mr. GRIMES. No, sir. I have several tables here, showing all the contracts that were made during 1864 and 1865.

Mr. NYE. Is there any other to be presented that you know of?

Mr. GRIMES. None actually here, but I have been talked to by a great many persons.

Mr. HENDRICKS. The next objection made by the Senator from Iowa, the chairman of the committee, is that there is great inequality in the claims that are presented, and he cites two cases, the cases of the Wyalusing and the Peoria, as specimens. I call the attention of the Senate to the facts in these two cases. The Peoria will be found on page 26 of the report of the board, and we shall see how it came that the machinery for the Peoria cost the contractors so much.

"Appeared before the board John Roach, proprietor of the Ætna Iron Works and contractor for the engines and boilers of the double-end gunboat Peoria. Under oath states that the contract for this vessel was dated by the Navy Department October 29, 1862, in which he was allowed seven months to complete the machinery and boilers, and deliver the vessel to the Government; but she was not so completed and delivered until on or about May 7, 1865. The principal causes of this delay in delivery were in procuring material, labor, and tools necessary to carry on the work, the poor quality of the iron to be used in boilers and other parts of the ship, he being unable, until working said iron, to discover the defects; then following the delay of condemning the same, &c.; that he was relieved from the terms of the contract, so far as regards time of completion, by an act of Congress; that the total cost, including bill of $2,239 45 for extra work paid in full by the Government, was $146,777 80; contract price paid him was $84,239 45, leaving a balance, excess of cost to him over and above contract price, of $62,538 44; that this excess of cost is mainly due to the greater weight of the engines than was anticipated by him when the contract was entered into, the great advance in price of material and labor, and the work being of a better class than is generally understood to be required for these engines; that there is no change in the bill (annexed to this record, marked No. 28) for any extra work unpaid, condemned material, or faulty workmanship, and it shows the actual cost of labor and material."

This house, in building this machinery, unfortunately used defective iron.

Mr. GRIMES. Whose fault was that?

Mr. HENDRICKS. They say, and that is the report of the board, that it was not discovered until the machinery was constructed, or in part constructed; then it was found to be defective and was condemned, and they were compelled to build the machinery again, so that they were not only the losers of the iron, but losers also by the delay.

Now, turn to the case of the Wyalusing, where the loss is claimed to be but about five thousand dollars; it is on page 24:

"The main cause of delay in completing these vessels"—

The Wyalusing, the Pilgrim, and the Mingoe—

"within the time specified was owing to the great scarcity of labor required for the manufacture of the important parts of the machinery, and the conscription, for a time, of the men employed by us. That there was no reservation of the sum to be paid them on these contracts on account of the delay in completing their work; that the cause of this excess of cost was not owing to the rise in material, we having purchased the same at the time of making the contracts, but was due to an error in judgment on our part."

The two cases that the Senator selects among the machinery for the wooden double-enders are the Peoria and the Wyalusing. In the case of the Wyalusing the loss was very small because of the fact that the parties were able to buy their material when there was no increase in the cost; they did not suffer by that. But the Peoria was the very opposite; unfortunately selecting defective iron, they had to rebuild a portion of their machinery, and did that at a time when iron cost double what it did when the contract was made.

Mr. GRIMES. If we take the statement that comes from the Navy Department as true, so far from that being the fact, it appears that Pusey, Jones & Co., who built the two small vessels, the Wyalusing and the Mingoe, were poor contractors, had less facilities for transacting business than any others, and less means for buying the iron than almost any other concern, while the Peoria's machinery was built by the Ætna Works, a rich corporation in Boston. The Ætna Works bought poor iron. That is the whole sum and substance of it according to their own showing. Knowing that the Department never used any other except the very best quality of iron, and would accept nothing except the very best quality of workmanship, their workmanship and iron were not accepted, and now, because in the mean time they were compelled to get new iron and to do the work over again, they want us to pay the damage.

Mr. HENDRICKS. Mr. President, I am answering the point made by the Senator that here are two vessels, the Mingoe and the Wyalusing, the contractors for which claim but about $5,000 damages while the Peoria contractors claim $61,000 damages. I am accounting for that upon the facts stated in this report. I do not know what information the Senator has from the Navy Department.

Mr. GRIMES. I have read it. The Senator from Indiana has an opportunity to see it.

Mr. HENDRICKS. That document does not establish, as I recollect it, the proposition that the one company was able to buy iron and the other was not. Pusey, Jones & Co. had their iron on hand, or bought it immediately after the contract was made, and therefore in the building of the machinery for their two vessels there was no increase in the cost of the material. But in the other case there was a very large increase in the cost of material.

Now, sir, it is due to the Senate to state this fact: here are twenty-two claims made by respectable business men for building machinery very similar in character. The average claim for damages and losses is from about $20,000 to $40,000, one case going up to $61,000 on account of the peculiar circumstances which I have stated. None of these claims is less than $20,000.

Mr. GRIMES. Some do not make any claim.

Mr. HENDRICKS. None of these are less than $20,000 except the two that I have mentioned, the Mingoe and Wyalusing; this is because of the increased cost of material. That is all I have got to say upon that subject.

The Senator says that extra work has been paid for already to the amount of six millions. I want to know if the Senator says there has been extra work paid for to these contractors that are provided for in this bill amounting to six millions.

Mr. GRIMES. No.

Mr. HENDRICKS. Then what do you refer to?

Mr. GRIMES. I mean to say that there have been paid upon contracts, to the contractors upon some of these vessels and upon other contracts, $6,000,000.

Mr. HENDRICKS. Outside of this bill. During what period?

Mr. GRIMES. During the war. I mean to say this: that the Navy Department have paid to every one of these contractors extra compensation for what they supposed to be extra work and changes made in consequence of the directions of the Department.

Mr. HENDRICKS. Now, we will come right to that. The Navy Department directed changes in the style of the work, increased the size, or increased the material. The Navy Department has paid just for that additional work.

Mr. GRIMES. Yes.

Mr. HENDRICKS. But the Navy Department has not allowed them for the delay which that increased work has caused. There is no pretense that the Navy Department has allowed to these contractors anything because of the loss occasioned by the delay in the completion of the work. I will come to that subject again directly, and show what has been the effect of this delay and how it was caused.

I have very little to say about that *ex parte* statement made by one of the bureaus in the Navy Department. As I heard it read, and as I compared it with the proceedings of the board, I did not think it a fair statement of the case. The Secretary of the Navy has not himself signed that document. He sends it to the Committee on Naval Affairs with a letter stating that it is a statement made up in two of the bureaus of the Department. He does not indorse it himself by his own signature to it, as I recollect, and I am free to say that I do not think it a fair statement of the case. For instance, in that report reference is made to the vessel Tippecanoe, and a claim that is presented to the Department for losses sustained in the construction of the Tippecanoe, and reference is made to the buying of a buggy, to a drive to Washington, and a trip to New York. I hear these items brought into that statement from the Navy Department. The Tippecanoe vessel has nothing to do with this bill. The Tippecanoe was not presented to the board at all. The board never adjudicated upon the Tippecanoe.

Mr. GRIMES. The Senator a few minutes ago contradicted the statement I made as to the capacity of Pusey, Jones & Co., of Wilmington.

Mr. HENDRICKS. I did not contradict it; I do not recollect.

Mr. GRIMES. This statement from the Department says:

"The contractors for the machinery of the Wyalusing and Mingoe, Messrs. Pusey, Jones & Co., only claim a loss of $5,817 38 on each vessel, though their facilities for executing this work are much less than those of all the other parties; and they distinctly state, on page 24, that this excess did not arise from any increase in the price of material, as they purchased that when they made the contract."

Mr. HENDRICKS. When I questioned what the Senator said I understood him to say that the report from the Navy Department stated the fact that this firm at Wilmington was less able to buy material than the other firm.

Mr. GRIMES. Does it not say it?

Mr. HENDRICKS. It says they had less facilities for the execution of the work.

Mr. GRIMES. I suppose the ability to execute their contract embraces the facility to get money with which to buy materials in order to execute it.

Mr. HENDRICKS. But when the Senator interrupted me on that point I was speaking of the unfairness, as I thought, of the statement from one of the bureaus of the Navy Department in bringing into the case for the sake of prejudicing it, as I can conceive of no other purpose, a statement in regard to a vessel that was not before the board at all, the vessel Tippecanoe. If the board had allowed all the claims to the Tippecanoe for buggy hire and for trips to Washington and trips to New York, then it would be very proper for the Department to refer to that in commenting upon the proceedings of the board, but as that particular claim was not before the board at all I cannot see any propriety in bringing it into the case.

There were extras allowed for extra work. What has been the effect of this upon the contractors? I will call the attention of the Senate to the case of the Tecumseh, the Mahopac, and the Manhattan, which were commented upon by the Senator from Iowa, found on page 32 of the report:

"Appeared before the board Zeno Secor, one of the firm of Secor & Company, and Perine, Secor & Company, contractors for the iron-clads Mahopac, Tecumseh, and Manhattan; and also appeared James F. Secor, employé of said firms. Under oath they state that the contracts for these vessels were dated by the Navy Department September 1, 1862, in which they were allowed six months, or until March 1, 1863, to complete and deliver them to the Government, but the Tecumseh was not so completed and delivered until March 28, 1864, the Manhattan until May 23, 1864, and the Mahopac until August 20, 1864. The cause of this delay was owing to alterations and additions to original specifications required by the Department. That the total cost of hull and machinery, including bills of extra work, was $2,270,447 63; received from the Department on contract price $1,371,836 55; reserved by Government on contract for patent fees $8,163 45; received for extra work $516,218 41; total amount received, $1,888,054 96; leaving a balance, excess of cost to them over and above contract price, of $381,392 67."

Mr. President, as it is suggested that some Senators desire to move an adjournment I have no objection to give way now.

Mr. GRIMES. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *April* 11, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

CIVIL RIGHTS BILL.

Mr. HOLMES, by unanimous consent, presented a communication transmitting a resolution of the Assembly of the State of New York, which was read, as follows:

STATE OF NEW YORK, IN ASSEMBLY,
ALBANY, *April* 9, 1866.

The following preamble and resolution were this day duly passed:

Whereas, in the judgment of this House, the "civil rights bill" should become a law: Therefore,

Resolved, That the action thereon by our Senators in Congress, on the 6th instant, is approved, and our Representatives in Congress are respectfully but earnestly requested to vote for said bill, notwithstanding the veto of the President.

By order of the Assembly:

J. B. CUSHMAN, *Clerk*.

The resolution was laid on the table, and ordered to be printed.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed bills of the following titles, in which the concurrence of the House was requested:

An act (S. No. 259) to authorize the Secretary of War to settle the claims of the State of Kansas for services of the militia called out by the Governor of that State upon the requisition of Major General Curtis, the commander of the United States forces in that State; and

An act (S. No. 156) making an additional grant of lands to the State of Minnesota, in alternate sections, to aid in the construction of a railroad in said State.

PERSONAL EXPLANATION.

Mr. WARNER. I ask unanimous consent to make a personal explanation.

The SPEAKER. Is there objection to the gentleman from Connecticut making a personal explanation?

There was no objection.

Mr. WARNER. In reference to my absence on the vote upon the civil rights bill, I desire to say that it was my understanding that I was paired with Mr. JOHNSON. I see, however, that he was announced as being absent on account of sickness. Had I been present, and had I understood that I was not regarded as being paired, I should most cheerfully have voted for the passage of that bill.

ENROLLED BILLS SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; which were thereupon signed by the Speaker:

An act (H. R. No. 360) to reimburse the State of Pennsylvania for moneys advanced Government for war purposes;

An act (H. R. No. 223) to amend an act to incorporate the Mutual Fire Insurance Company of the District of Columbia; and

An act (H. R. No. 364) to confirm unto Augustin Amiot, his legal assigns and representatives, a certain lot of ground in the city of St. Louis, in the State of Missouri.

REGISTRY OF VESSELS.

Mr. ELIOT. I ask unanimous consent to report from the Committee on Commerce a bill (S. No. 89) entitled "An act to issue American registers to the steam vessels Michigan, Dispatch, and William K. Muir."

Mr. CHANLER. I desire to ask whether these vessels are exceptions to the class excluded——

Mr. ELIOT. They are lake steamers, the present owners of which cannot use them since the repeal of the reciprocity treaty without American registers. They are exceptional cases.

Mr. CHANLER. What I wish to inquire is, whether they were at any time excluded under the law excluding vessels which sheltered themselves under the British flag.

Mr. ELIOT. No, sir.

There being no objection,

Mr. ELIOT reported from the Committee on Commerce a bill (S. No. 81) entitled "An act to issue American registers to the steam vessels Michigan, Dispatch, and William K. Muir."

The bill, which was read, provides that the Secretary of the Treasury be directed to issue American registers to the Canadian-built steamers Michigan and Dispatch, and the American-built steamer William K. Muir of the collection district of Detroit.

The Clerk read the amendment of the committee, as follows:

Add to the bill:

And American registers or enrollment and license to the following-named vessels, that is to say, to the sloop Jenny Lind of Wolf Island, of Oswego, New York; the schooners Coquette, of Oakville, Trenton, of Trenton; Forest Queen, Two Brothers, of Wallaceburg, Minnetta of Gananoque, and Elizabeth, of Oswego, New York; the barque St. Elizabeth of Provincetown, Massachusetts; the barques Advance and Acorn, and schooner Asia, of Chicago, Illinois; the barges Harvest, Ajax, and Matilda, of Chicago, Illinois; the steamer Prince Albert, of Georgetown, District of Columbia; the brig Maitland, propeller Niagara, and steamboat Canadian, of Buffalo, New York; the schooner E. P. Ryerse, of Cleveland, Ohio; the schooner Eureka, of Margaretta, Ohio; the brigantine City of Toronto, of Erie, Pennsylvania; and the schooner Wavertree, of Cleveland, Ohio.

The bill, as amended, was ordered to a third reading; and it was accordingly read the third time and passed.

Mr. ELIOT moved to amend the title of the bill by adding the words "and for other purposes."

The amendment was agreed to.

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

The latter motion was agreed to.

ADVERSE REPORTS.

Mr. WASHBURN, of Indiana, from the Committee of Claims, made adverse reports in the following cases; which were laid upon the table:

The petition of James S. Purdy, for indemnity for losses of property in Virginia by United States troops.

Petition of C. and C. C. Gerhard, of Henrico county, Virginia, for indemnity for property destroyed by Federal troops.

Petition of George S. Cox, of Alexandria, Virginia, for indemnity for losses by the war.

IMMIGRATION.

Mr. WASHBURNE, of Illinois, by unanimous consent, from the Committee on Commerce, reported a bill to amend an act entitled "An act to encourage immigration," approved July 4, 1864, and an act entitled "An act to regulate the carriage of passengers in steamships, and other vessels," approved March 3, 1865; which were read a first and second time, and with the accompanying report ordered to be printed and recommitted, with the understanding that they should not be brought back by a motion to reconsider.

BALTIMORE AND POTOMAC RAILROAD.

Mr. McCULLOUGH, from the Committee for the District of Columbia, reported back House bill No. 388, to authorize the extension, construction, and use of a lateral branch of the Baltimore and Potomac railroad into and within the District of Columbia; and moved that it be printed and recommitted.

The motion was agreed to.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill was recommitted; and also moved that the motion to reconsider be laid upon the table.

Mr. McCULLOUGH. I hope that motion will not be agreed to.

Mr. WASHBURNE, of Illinois. I withdraw the motion to lay upon the table in order to state my reason for making the motion to reconsider and lay upon the table in all of those cases. It is in order that the regular order of business may not be interfered with at any time by bringing up bills referred to committees. I do not think this bill has any right to be left in a position where the gentleman can bring it up at any time to the exclusion of other business. I renew the motion to lay upon the table.

Mr. McCULLOUGH, by unanimous consent, withdrew the bill for the present.

LIEUTENANT EDWARD KUNCKEL.

Mr. SCHENCK. I move that the Committee on Military Affairs be discharged from the further consideration of the papers of Lieutenant Edward Kunckel, as the case has been provided for in the general law; and that leave be granted for their withdrawal from the files of the House.

It was ordered accordingly.

DEFENSE OF MONTANA.

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

Resolved, That the Committee on the Militia be, and are hereby, instructed to inquire into the propriety of furnishing citizens of Montana with fire-arms and ammunition for immediate defense against the hostile Indians of said Territory, and report by bill or otherwise.

ADVERSE REPORTS.

Mr. WASHBURN, of Massachusetts, from the Committee of Claims, submitted adverse

reports on the following cases; which were laid upon the table:

Petition of Dr. E. W. Lewis and others.

Petition of citizens of Cass county, Missouri, for relief.

Petition of Colonel H. W. Cleveland.

Petition of Captain D. H. Buell.

Petition of William B. Merrill.

Petition of J. H. Tompkins.

Petition of representatives of Edward King.

Claim of David Elliott for property destroyed by military authority.

Petition of Susan E. Perry, widow of Charles M. Perry, deceased.

Petition of citizens of Paducah county for compensation to Dr. J. Milton Best for property destroyed by the United States officers commanding at that place.

Petition of Edward Naret, of West Virginia, for relief.

Memorial of Joseph B. Eaton for settlement of claim for materials furnished for mounted volunteers under General Frémont in California.

Petition of Rev. R. Fuller for return of taxes.

Mr. DELANO, from the Committee of Claims, by unanimous consent, made adverse reports in the following cases; which were laid on the table:

Petition of Peter Acker.

Petition of Franklin Ball.

Petition of Anne C. Carroll.

Petition of Maria P. Fitzhugh.

Petition of county commissioners of Frederick county, Maryland.

Petition of House V. Conover.

Petition of Captain D. E. Haynes.

Petition of Henry Krug.

Petition of John P. Hax.

Petition of Columbus S. Lancaster.

Petition of Mary P. Mullen.

Petition of George T. Rider.

Petition of Major F. A. Savoyier.

Petition of George Reynolds.

Petition of Pardon Worsley.

Petition of Colonel William Gates.

Petition of James F. Johnson.

Petition of Mrs. Mary Ann Shoemaker.

Petition of mayor and city council of Baltimore.

Petition of E. A. Dayton.

Petition of Richard M. Robinson.

Petition of James M. Cassity.

LAND OFFICE IN IDAHO.

Mr. DRIGGS, from the Committee on Public Lands, by unanimous consent, reported a bill (H. R. No. 249) to establish a land office in the Territory of Idaho.

The bill was read; also the recommendation of the Commissioner of the General Land Office.

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

Mr. CHANLER. I do not understand this very clearly. Is this an appropriation bill?

Mr. DRIGGS. It is not. It simply establishes a land office in the usual way, in accordance with the recommendation of the Commissioner.

The SPEAKER. There is no appropriation in the bill.

The bill was read the third time and passed.

PAY OF THE ARMY.

Mr. SCHENCK, from the Committee on Military Affairs, reported an amendment in the nature of a substitute to House bill No. 450, to regulate the pay of the Army, and asked that a day be assigned for its consideration, say to-morrow week.

Mr. WASHBURNE, of Illinois. I hope the gentleman will postpone it to a later day. It is one of the most important subjects that can come before the House, and it requires much examination. It is changing the whole system of payment, and I hope it will not be assigned to so early a day.

Mr. SCHENCK. Say to-day two weeks, after the morning hour, and from day to day until disposed of.

No objection being made, it was so ordered.

ADVERSE REPORTS.

Mr. THORNTON from the Committee of Claims, by unanimous consent, made adverse reports on the following cases; which were laid on the table:

Petition of Harrison Gill.

Petition of W. E. Bolls, administrator of John A. Stevens.

Petition of James Nokes.

Petition of communicants of Payne chapel, African Methodist Episcopal church, at Atlanta, Georgia,

Petition of Elias J. Penduck.

Petition of John E. Williamson.

Petition of William Mercer.

Petition of Major James S. Simpson.

Petition of Robert Granger.

Petition of Mrs. Charlotte E. Read.

WILLIAM MERCER.

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

Whereas William Mercer, of the county of Ross, and State of Ohio, did furnish the following sons and grandson for the Army of the United States during the rebellion, to wit: James M. Mercer, John P. Mercer, Thomas J. Mercer, William R. Mercer, Joseph T. Mercer, Henry T. Mercer, and George W. Mercer, sons; and Bentley Mercer, grandson of the said William Mercer, some of whom were minors and were killed or died in the service, and upon such deceased minor sons the said William Mercer and wife depended for a living; and whereas the said William Mercer and his wife are aged and infirm and without the necessary means to support them in their old age and want: Therefore,

Be it resolved, That the Committee on Invalid Pensions be requested to inquire into the propriety of placing the name of the said William Mercer on the list of invalid pensioners; and that they report by bill or otherwise.

NATIONAL BANKS.

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

Resolved, That the Committee on the Judiciary be directed to inquire whether any legislation be necessary to make shares in national banks liable to attachment and levy and execution under State laws for the payment of the debts of the owner, and to report by bill or otherwise.

PAY TO RETURNED PRISONERS.

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

Resolved, That the Committee on Military Affairs inquire into the expediency of allowing three months' extra pay to the returned prisoners who survived the fate of the steamer Sultana, the same as other returned prisoners are allowed.

DINNER TO AN EX-CONGRESSMAN.

Mr. RICE, of Maine. I ask the unanimous consent of the House to offer the following resolution:

Whereas the following item has appeared in a morning paper:

"A DINNER TO AN EX-CONGRESSMAN.

"NEW YORK, *April* 10.—The Manhattan Club of this city propose to give Mr. James Brooks a public dinner next Monday. Messrs. Stockton and D. W. Voorhees are expected to be present."

Therefore,

Resolved, That the chairman of the Committee of Elections of this House, and such others of that committee as may be invited, be granted leave of absence to attend said meeting and dinner.

[Laughter.]

Mr. HARDING, of Kentucky. I desire to offer an amendment to that resolution.

Mr. RICE, of Maine. I withdraw the resolution.

PERSONAL EXPLANATION.

Mr. INGERSOLL. I ask the unanimous consent of the House to make a personal explanation.

No objection was made.

Mr. INGERSOLL. In an editorial article in the Baltimore American on the day following the day on which the last vote was taken on the civil rights bill in the House, I am reported as being among the number of those who made dilatory motions for the purpose of delay and of defeating the bill. It is well known in the House that I was very anxious to arrive at a vote on that bill, and, of course, I made no motions for delay. Whatever credit there may be to any person for any delaying motions perhaps belongs to the gentleman from Wisconsin, [Mr. ELDRIDGE,] and a mistake has been made, probably honestly, by inserting my name instead of his. If any credit be due, it is due to the gentleman from Wisconsin, who, I remember, made several dilatory motions on that occasion.

I hope the correspondent of the Baltimore American will do me the justice to have the mistake corrected, and set me right.

The SPEAKER. The Chair will state to the gentleman from Illinois that he has seen a correction in the American of to-day.

Mr. INGERSOLL. I am much obliged for the correction.

PAYMASTERS OF THE ARMY.

Mr. UPSON, and Mr. HARDING of Illinois, called for the regular order of business.

The SPEAKER. The first business in order is the consideration of House bill No. 475, for the relief of paymasters of the Army, which was pending when the morning hour closed on yesterday.

Mr. SCHENCK. I ask that the bill be read.

The bill was read at length. It provides that there shall be allowed and paid to the paymasters and additional paymasters of the Army, who shall have been employed in the payment of troops during the war of the rebellion, a commission of one quarter of one per cent. upon all sums actually disbursed by them, as a compensation for the risks and labors attending such service; and the amount which may become due to any paymaster or additional paymaster under this act shall be paid to him by any paymaster of the Army, out of moneys which have been or may be appropriated for the pay of the Army, upon a certificate to be issued to him by the Second Auditor of the Treasury so soon as the accounts of such paymaster or additional paymaster shall have been examined and adjusted; provided the commission to any one paymaster shall not exceed at the rate of $1,000 per annum for the time that he was actually in service and employed as a disbursing officer during the war, from the commencement thereof until the cessation of active hostilities on the 13th day of April, 1865.

Mr. SCHENCK. I move to amend the bill by inserting before the words "paymasters and additional paymasters," the words "all persons who have served as," so that it will read, "there shall be allowed and paid to all persons who have served as paymasters and additional paymasters," &c. I propose this amendment, as otherwise there might be some ambiguity which would lead to a misconstruction of the bill.

The amendment was agreed to.

Mr. SPALDING. I move to amend the bill by adding the following:

Provided further, That the proper accounting officers of the Treasury Department be, and they are hereby, authorized and directed, in the settlement of the accounts of the paymasters of the Army for disbursements made by them during the recent rebellion, to allow and credit to such paymasters all charges in their said accounts for the payments actually made by them to the troops in good faith and without fraudulent practice or intent.

The amendment was agreed to.

Mr. SPALDING. I also offer the following amendment:

Provided further, That no such allowance shall be made until the Paymaster General shall be satisfied by full and complete proof that such payments have been actually paid in good faith, and without fraudulent practice and intent.

The amendment was agreed to.

Mr. DAVIS. Mr. Speaker, I desire to learn, before I vote for this bill, why this principle is now presented in this House of increasing the compensation of paymasters. So far as I have any knowledge upon this subject, there has been great anxiety through the country to obtain positions as paymasters, even at the salary or pay which those officers receive under the law. Now, although it may be very agreeable to any gentleman who has performed the duty of paymaster to receive this additional compensation,

still I do not see it in the line of my duty, while this country is burdened with indebtedness, to vote increased compensation without, so far as appears, even a solicitation on the part of the persons for whose benefit this bill is introduced, and without any explanations of the reasons for it.

I suppose, considering the number of paymasters in the Army, that this bill will take at least $1,000,000, perhaps more, from the Treasury. It has been intimated to me that there is a propriety in passing this bill for the reason that in the settlement of accounts of paymasters small errors may have occurred in many instances, and that this would be an equitable mode of adjusting these errors between the officers and the Government. Sir, if there be any justice in that, let us treat it as a matter of justice; let us say that errors made in good faith without any design of fraud, shall be corrected for the benefit of the officers. But do not let us establish the principle that increased compensation shall be given to every person who has performed services under the Government during this war, when we hardly know now in what way to meet the obligations already existing against the Government. It may be right, but so far as I now see, I must object to the principle involved in this bill.

Mr. HOTCHKISS. I rise merely to enter my protest against the passage of a measure like this. The office of a paymaster was a volunteer office; men entered into the service knowing what their compensation would be. If incompetent men have sought and obtained these offices, and have lost money by it, they are not worse off than are gentlemen who have sought seats in this House. Paymasters who were competent and who had a right to seek this office made small fortunes out of the office. If we are to guaranty every incompetent officer against the errors and mistakes he may make we shall have a large business on hand.

This bill not only gives to the incompetent men indemnity against losses to the extent of $1,000 a year, but in order to make it just and equitable, it gives to competent men who made small fortunes out of their office additional pay for their competency. I concede that, if the incompetent men are to be rewarded, certainly those who are competent and honest should be rewarded.

But if all the paymasters and all the quartermasters and every other officer and every contractor who has lost money or been unfortunate during the war is to be indemnified against such losses by taxing the people, all I can say is, that the next Congress will have to provide for us. We certainly shall not be here. The people will not sanction any such legislation as this. They are willing to relieve the soldier, to equalize his bounty, to furnish him bread for the time being till he can secure other employment. The proposition to enrich these officers by adding to the taxation that is already grinding the people so that we hear their outcries from every quarter is a perfect outrage upon the common sense of this House, and the patriotism and endurance of the people. I shall record my vote against the bill.

Mr. SCHENCK. It is usual to hear in advance from a committee, through its proper organ, a statement of the reasons which have induced the reporting of a bill of a public character; but I find that on this occasion I am met at the threshold by gentlemen who desire me to give way for opposition to the bill before any explanation of its provisions.

I have but to say in reply to the gentleman from New York, [Mr. HOTCHKISS,] that he is mistaken if he supposes that there exists any disposition on the part of the Committee on Military Affairs, or perhaps any member of this House, to give to the claims of officers or any other classes of individuals a preference over any general claim that may be urged in behalf of the great body of the soldiers of the country. I trust that before this session of Congress shall terminate, the gentleman will be satisfied that, so far as concerns the committee I represent, they are disposed even to strain a point to do all that may be needful, not only to extend justice to the soldier, but to treat him with liberality.

If, however, the committee find in the course of their investigations and in the consideration of subjects referred to them, as this was, that there seems to be propriety and justice in a measure for the relief of any particular class of officers, I trust he will also discover that the committee are not to be deterred from proposing the proper remedy by any outcry that we may in this way bring down upon ourselves popular clamor.

Now, sir, what is this bill? The gentleman on my left [Mr. DAVIS] speaks of it as an unprecedented measure, a proposition which seeks to give relief to a particular class of officers and for which there is no example in any previous legislation of the country.

Mr. DAVIS. I beg leave to say to the gentleman that my criticism was particularly directed against the allowance of a commission.

Mr. SCHENCK. So I understand. And I reply that just such an act has been passed after every war that we have ever had. One such act was passed on the 12th of August, 1848, at the close of the Mexican war. It is so brief that, for the benefit of the gentleman from New York, who has these doubts, I will read the whole of it. It is entitled "An act concerning the pay department of the Army."

Mr. HOTCHKISS. What party was in power when that act was passed?

Mr. SCHENCK. The Congress of the United States was in power—a party that I trust may continue to be in power until all proper and rightful legislation for the peace of the country shall be concluded.

Mr. DEMING. I ask the Speaker to call the House to order, as it is impossible for us to hear what is going on.

The House was called to order, and the members were requested to leave the aisles where they were conversing and resume their seats.

Mr. HOTCHKISS. Was not that law passed by the same Congress that passed the Galphin claim?

Mr. SCHENCK. I know there were a great many respectable men in that Congress, and very likely I voted for the law which I am about to read.

Mr. STEVENS. Let me say that in my judgment there was never an honester claim than that Galphin claim.

Mr. SCHENCK. I trust the gentleman from New York is answered.

Mr. Speaker, when the gentleman interrupted me I was about to quote the precedents for which the lawyers in this House clamor. This was an act entitled "An act concerning the pay department of the Army," approved August 12, 1848. It is very short, and I will read it. It is in these terms:

"That the Paymaster General be, and he is hereby, authorized to allow any of the paymasters of the Army, who shall have been employed in the payment of volunteers, during the late war with Mexico, such a commission not exceeding one half of one per cent. on all sums disbursed by them as aforesaid, as he shall deem a reasonable compensation for the risk and labor attending such service: *Provided*, That the said commission to any one paymaster shall not exceed $1,000 per annum from the commencement to the close of the war."

I give the gentleman a precedent directly in point. It shows, in the first place, that not only there is a precedent for the bill, but in the next place, that the precedent happens "to run upon all fours." It provides for this additional compensation in the shape of commissions, with a difference in which the House will, I think, agree. The committee, considering the subject carefully, doubting whether anything should be done, finally came to the conclusion a rule of this sort and shape was proper. The Committee on Military Affairs was unwilling to go beyond one quarter of one per cent., and it has accordingly reported one quarter of one per cent. instead of one half of one per cent., considering the greater sums of money that were disbursed during the whole of this war.

Mr. DAVIS. Of course I see that the precedent is with the gentleman. But I ask whether we had not better err rather in omission than in commission, and refuse to follow that precedent?

Mr. SCHENCK. I understand the gentleman surrenders his first position, that there was no precedent.

Mr. DAVIS. I do, most certainly.

Mr. LE BLOND. I ask my colleague whether he has made a calculation of how much money this bill will draw from the Treasury. How much will the amount provided for in this bill amount to in the aggregate?

Mr. SCHENCK. I have a calculation somewhere, but I cannot now give the precise figures.

Now, sir, in regard to the character of the services performed by the paymasters entitling them to this relief. The gentleman from New York [Mr. HOTCHKISS] speaks of this office of paymaster having been much sought after. God help the people of this country. I am afraid there is very little in the shape of an office that is not sought after; but at the time these gentlemen asked to be made paymasters, many of them did not know what burdens they were taking upon themselves, and I think that urgent solicitations for offices of this kind toward the close of the war were nothing like as frequent as at the beginning. I recollect the instance of one gentleman who was appointed a paymaster at my request and on my recommendation. He held the office precisely till eight days after he was ordered to duty. Seeing what it would probably involve him in he promptly resigned the office and never paid a dollar.

At first a few officers undertook to do that of which in its general character we had no very great experience. There was confusion, there was difficulty, there was want of form, there was want of exactness——

Mr. BEAMAN. Let me ask a question. What is the compensation of paymasters now under the law?

Mr. SCHENCK. The same as that of a major in the Army. I can give the gentleman the exact figures. It is between two and three thousand dollars. It depends in this, as in every other case, whether the paymaster remained here in one of the Departments instead of going into the field. If he went into the field it would not amount by some seven or eight hundred dollars to what it would if he remained here without these risks, paying in one of the Departments.

This, however, only reaches those who went into active service, who were engaged as disbursing officers, handled and paid out the money. It does not reach or extend its benefits in any way to those who were not thus actively engaged in the proper and actual business of payment in the Army. Therefore there is no inequity in it.

Payments were made in the field, and on the march, to troops everywhere, in the front and throughout almost the whole broad extent of the pay districts of the country. They were made in most instances under the exigencies as they arose and without forms sufficient to instruct the paymasters and lead them to an exact performance of their duties so as to avoid risks. The consequence was that, so far from making their fortunes, they have been left with stoppages against their accounts because of informalities, to an average of $25,000 during the first half of the war in each case. What it will be when the accounts to be settled during the last half shall have been audited or adjusted, it is difficult to tell, but probably it will be quite as much as for the first half, so that the amount of stoppages and suspensions on the average will reach $50,000, not made on account of fraud or default, but because soldiers have been permitted to sign the pay rolls with their cross, for instance, without a witness, in the hurry of camp duties and of the march. These stoppages and suspensions were made on account of irregularities or errors, arising out of difficulties under which these paymasters

labored, and they reach the extent I speak of, without any imputation of fraud or wrong on the part of the paymasters themselves.

Mr. SMITH. I wish to inquire of the chairman of the committee if this bill makes any discrimination in regard to paymasters. If it does not I propose to amend it by inserting in line seven, after the word "them," the words "to troops actually serving in the field;" so that the provision will read as follows:

That there shall be allowed and paid to the paymasters and additional paymasters of the Army, who shall have been employed in the payment of troops during the war of the rebellion, a commission of one quarter of one per cent. upon all sums actually disbursed by them to troops actually serving in the field, as a compensation for the risks and labors attending such service.

I think only those paymasters who performed their duties faithfully in the field, amid discomfort and danger, should receive the benefit of this provision.

Mr. SCHENCK. I think I shall have no objection to the amendment if it is offered at the proper time. So far as I can judge from hearing it, it strikes me as unobjectionable.

But, sir, when I am attempting to give an idea of a bill, it is very inconvenient to be interrupted with an amendment and remarks upon it, which a gentleman proposes to offer hereafter, because it disjoints everything like a connected presentation of the subject.

Mr. SMITH. This is a part of the discussion.

Mr. SCHENCK. The gentleman shall have an opportunity to offer it. I am inclined to think it may be well to insert the words the gentleman proposes.

Mr. DARLING. Will the gentleman yield a moment?

Mr. SCHENCK. These gentlemen are always imposing upon my amiability. [Laughter.]

Mr. DARLING. How many paymasters are there in the Army?

Mr. SCHENCK. Five or six hundred of these additional paymasters.

Mr. DARLING. What would be the largest amount in the aggregate that any one of them would receive?

Mr. SCHENCK. We have taken care of that in the bill; it is not to exceed $1,000 per annum.

Mr. DARLING. How many years have they served?

Mr. SCHENCK. How long has the war lasted? It commenced, I believe, with the firing on Fort Sumter, and ended the 13th of April, 1865.

Mr. DARLING. Then, sir, they would receive $4,000 each, which would make a sum total of about two million five hundred thousand dollars. Now, I would like to know whether the gentleman would not be perfectly willing to include in his bill paymasters of the Navy. The Paymasters of the Army rank as majors, and receive about three thousand dollars per annum. They have been enabled to keep fast horses, and I do not know but fast other things. I have seen them in the city of New York sporting around, and I know that a large amount of Government money held by them has been used in Wall street for speculating purposes. There are many cases of this kind, and the paymasters of the Navy have been through all the perils of the war, and received only $1,400 per annum; their responsibilities have been equally great and their personal risk a great deal more.

Now, I am in favor of doing justice to all these officers, both of the Army and of the Navy. I am disposed to be liberal in all these matters. But I do not want to see any class legislation. I do not want to see this class of men benefited by the provisions of a bill of this kind, while another class equally deserving, and who have suffered equally as much and received a great deal less, are entirely ignored.

Now, it is well known that paymasters of the Army have had in their possession large amounts of Government funds, and have been able to loan that money out at interest.

Mr. SCHENCK. I think the gentleman must have finished his question, which has become so expansive, by this time. [Laughter.] It seems that instead of explaining anything connected with this bill, I must answer speech after speech interjected into mine as I endeavor to proceed. The gentleman from New York [Mr. DARLING] has discovered a new objection, that this bill does not include the paymasters of the Navy. Well, as to that, I have only to reply that nothing connected with the Navy has been referred to the Committee on Military Affairs. That matter belongs to the Naval Committee, and surely we are not to be held responsible for not having proposed legislation about matters in no way or manner coming within the jurisdiction of the committee which I represent.

Since the gentleman, however, has "sailed in," and wants us to turn our attention to the Navy, I have but to make this remark, that the payments made by paymasters of the Navy are made to crews afloat, within the limits of shipboard, where they have their clients before them and with them; where they can proceed at leisure; where they are not interrupted by the exigencies of the battle or the march, the bivouac or the camp, or by the storms which sometimes interrupt men out in the open air, but from which the naval paymaster can take refuge at the pay table, which may be between deck. There may be reasons for the relief of paymasters on land service which do not apply to paymasters of the Navy.

I do not want to be understood, however, as making any speech in advance against any proper bill reported at a proper time from the proper committee for the relief of naval paymasters, if that relief be thought proper and just.

I am only led to these remarks by the suggestion made by the gentleman from New York, who thinks this bill defective because in does not embrace the Navy.

To show something of the character of the difficulties under which officers of the Army of the United States labored during the late war, I will have one of the many, many letters and communications made to the Committee on Military Affairs, and to members of this House, upon this subject, read in the hearing of the House. I send to the Clerk's desk, and ask to have read, a portion of a letter from an intelligent paymaster in the Army, in reference to his own particular case.

I will say, before it is read, that I can vouch for it as a generally accurate picture of the troubles and difficulties under which these officers labored in their attempts to perform their duties during the late war.

The Clerk read, as follows:

"I remained in the service as paymaster as long as my services were needed and then asked to be relieved from further duty, which was honorably granted. I entered the service from pure patriotic motives, at a sacrifice in my business and the comforts of home and my family, and performed my duties to the best of my ability, securing the approval of all with whom duty called me in contact, and the special confidence and approval of my superior officer; and whatever others may have done, I have the proud consciousness of having served my country faithfully. But owing to our situation in the department of the Cumberland, while our officers were in Louisville, Kentucky, our duties were in the field, in front; in Tennessee, Alabama, and Georgia, where we had to collect our rolls, calculate the pay, and extend the rolls, and pay them, in the crowded tents of the officers in the greatest haste, as they were often under marching orders, sometimes under the fire of the enemy, and often in severe storms of rain and wind; sometimes in the night and all night long. At Bridgeport, Alabama, in December, 1863, I figured the rolls and paid a regiment a day (besides paying corps, division, and brigade staffs) for over two weeks. In November, 1864, I paid troops at Chattanooga and Ringgold, Tennessee, and commenced paying General Sherman's army at Rome, Georgia, in a severe storm, until rain and darkness closed our work; continuing it at Kingston, sometimes all night, and closing at Atlanta just in time to take the last train at the evacuation of that place. Under these circumstances, with our best efforts it is impossible to prevent errors; the most experienced and correct cannot avoid it. Every faithful paymaster knows and feels that he has received no adequate compensation for the responsibility assumed and the labor performed during this war, and that the unavoidable errors made by him are all charged on the books of the Second Auditor. We come, therefore, and ask Congress for relief and that justice may be done. We ask that a percentage may be allowed us on disbursements, as was done for those who paid the militia in 1842, see United States militia laws, or at least what was allowed at the close of the Mexican war; see United States Military Laws, page 390. Under no circumstances that I can hear of have difficulties been greater in making payments, or changes of pay, bounty, &c., been equal to the last, and bear no comparison to the duties of a paymaster to the regulars in time of peace. I have mentioned my services only to show you its difficulties."

Mr. SCHENCK. Now, Mr. Speaker, I do not pretend to say that paymasters in the Army receiving the pay of majors are not well enough paid for their duties under ordinary circumstances. I do not pretend to say that in time of peace and when there is no derangement leading to such difficulties as were developed in connection with the performance of the duties of this office during the war, any relief ought to be accorded to these officers.

We are legislating now as we have always found it necessary to legislate at the close of every war we have had, with the reasons for it increased ten thousand fold on account of the nature and character of the contest, and the manner in which these officers were necessarily employed in this war.

It is said these payments, if they amount in the shape of a commission to $1,000 per annum, in each case will amount to some four or five thousand dollars to each paymaster who has been employed as such all through the war. Now, gentlemen need not be disturbed about that. Let them amount to whatever they will, I repeat the remark in the presence of the House, that an examination and adjustment of the accounts of these paymasters show an average of stoppages and suspensions against each one of them, amounting, for the first half of the war, to $25,000; and it is likely to be doubled when the whole accounts to the end of the war shall be examined and adjusted. If there are, then, on an average, $50,000 of stoppages and suspensions against these officers, arising out of irregularities and errors occasioned by these difficulties during the war, no man who gets even the largest amount which may be given him under this bill will get a sum equal to the demands against him. It will go so far to extinguish the technical claims of the United States against him. The money is not to be paid to them; this commission, this increase of compensation, is only to be passed to the credit of these officers as a set-off in some degree of these very stoppages by which they are now embarrassed.

I repeat, these stoppages and suspensions arise out of errors and irregularities in payments owing to the circumstances under which these payments were made. No crime, no fraud, and no implication of criminal default are imputed against these officers.

And to remove all difficulty upon this subject, I will state to the House that I have conferred with one of my colleagues upon the Committee on Military Affairs [Mr. BINGHAM] who has prepared with my assent, and will propose as an amendment to this bill, a provision that this allowance of extra compensation shall be applied to the payment of the stoppages and suspensions against their accounts; so that the money will not come out of the Treasury at all, but will be used in this way. I apprehend such an amendment will be only a piece of supererogation: it is not demanded by the terms of the bill. I think there is nothing ambiguous in the bill; nothing from which a construction could be drawn other than that this money is to be applied to the credit of the officer when his accounts come to be adjusted.

But in order to remove all such possible misconstruction, I am willing to have a provision inserted of the character I have indicated, requiring this extra compensation to be applied by each officer to meet the suspensions and stoppages against his accounts.

Mr. BINGHAM. With the permission of my colleague [Mr. SCHENCK] I will propose as an amendment the following:

Provided further, That the additional pay by this act allowed shall only be applied to the satisfaction of stoppages and suspensions on the respective accounts of the paymasters.

Mr. HARDING, of Illinois. By that you give a premium to default.

Mr. MILLER. Suppose there are no stoppages and suspensions.

Mr. BINGHAM. Then the money will not be paid. The word "only" in the amendment covers that. If there is any doubt I will modify my amendment to meet that.

Mr. SCHENCK. While my colleague is modifying his amendment so as to make it satisfactory to members I will proceed to close, if there be any close to that which seems to me to have neither beginning nor end.

Mr. WASHBURN, of Indiana. I wish, Mr. Speaker——

Mr. SCHENCK. I have not closed yet. Sir, there must be a very continuous thread in my explanations, with all these interruptions.

Mr. BINGHAM. Will my colleague allow me a moment?

Mr. SCHENCK. Oh, yes.

Mr. BINGHAM. I believe that the word "only," in the amendment which I proposed, was amply sufficient to accomplish the desired object. But in order that the objections of gentlemen may be fully met, I add to my amendment the following:

But in no case shall any additional pay be allowed unless there is such stoppage or suspension.

And I will make this further remark: if I am wrong in my opinion, I trust my colleague will correct me. As I understand the law and regulations now existing, unless the paymaster, against whom stoppages and suspensions are made, can show that they arise by no fault or fraudulent device of his own, he gets no pay of any kind. It not simply goes to the stoppages and suspensions, but it prevents his receiving any pay of any kind.

Mr. WASHBURN, of Indiana. The gentleman will allow me to ask whether stoppages and suspensions are ever made except where there appears to have been some fault or neglect on the part of the paymaster.

Mr. BINGHAM. I will answer the gentleman. There arise in the Department cases like one of which I now have knowledge, in which gentlemen against whom I undertake to say there cannot be justly a breath of suspicion, finds himself unable to obtain a settlement of his accounts by reason of a difficulty arising with regard to a payment of money made in perfect good faith to an Iowa regiment. At present, under the rules and regulations and the law, no relief can be extended to him. Unless this bill passes, his securities or himself must be responsible for that money which was paid in good faith to the soldiers of the Union.

Mr. GRINNELL. The gentleman will permit me to say, as he has spoken of an Iowa regiment, that the plainest principles of long-delayed justice, as well as the provisions of law, require that the "Greybeard regiment" of Iowa, noble, sacrificing patriots, consisting of men above forty-five years of age, who have done as much service as any other regiment of the Army in the line of duty, should be paid the bounty, paid to a portion, which they have so well earned. I hope to see a settlement on no other basis. Congress must understand the facts and do justice.

Mr. BINGHAM. I had no intention to reflect discredit upon the regiment which the gentleman has mentioned, or any other regiment. God forbid that I should reflect discredit upon any regiment of our country's defenders.

Mr. SCHENCK. One word, Mr. Speaker, in reference to the point which has just been raised. The difficulty is not that an enactment of this kind would now protect or ever has protected those who have been guilty of frauds. Whenever there is anything amounting to a criminal default, any misconduct of a culpable character on the part of an officer, his whole pay of every kind is stopped; and during the war an officer in default in that way would have been fortunate if he had escaped summary arrest and confinement in the Old Capitol prison or elsewhere, without any very close inquiry as to how he came to be in default.

This bill, however, is intended, as has been already stated, to cover cases of stoppages and suspensions where the money has actually been paid out, but paid out under such circumstances that vouchers entirely satisfactory to the close and scrutinizing inquiry of the officers here whose duty it is to audit and adjust these accounts have not been obtained.

When this bill was introduced this morning, it provided that there should be paid to paymasters and additional paymasters of the Army who had been engaged in paying troops during the war a certain commission as a further compensation. But it was suggested to me that such is the precision, the closeness, the hypercriticism which prevails at the Department here—and perhaps for this they ought not to be much blamed—that they would confine the benefits of the act to those remaining in office as paymasters or additional paymasters, though nearly all these officers were mustered out some time since, and are only waiting now to have their accounts adjusted, so that they may know whether their liabilities have ceased. Therefore I thought it proper that the bill should be amended so as to extend to all persons who have served during this war as paymasters and additional paymasters.

As the law stands at present, unless each voucher is in such a shape as to remove effectually every shadow of objection made at the the Departments, these officers, after having served through a series of months or years, acting in good faith and paying only such as they thought they ought to pay, find that a large amount, sufficient to crush and ruin them, is set down against them on account of certain informalities which make it necessary, in the view of the accounting officer, to stop or suspend for the time being the account.

If, therefore, we take care that this relief shall not extend beyond relieving them from such stoppages and such suspensions no money will come out of the Treasury in fact.

The gentleman from New York is afraid this is a precedent to be extended to all other officers. The precedent which I have satisfied my friend did exist has not been extended to all other officers. He says it may be extended to members of Congress, who, he further says, are inadequately paid. Now, if there be stoppages and suspensions against my friend from New York, and I shall be here, I will vote for a special law to relieve him. But, sir, it is time enough to provide for all these cases when they arise.

Mr. HOTCHKISS. Every paymaster who has committed any error, through no fault of his own, but through some accident over which he has no control, can now present his individual case to Congress; and if there are any merits in it I guaranty the Committee of Claims will give it a fair hearing. They have been liberal during the present Congress, and I presume will be hereafter. My objection is that it includes the whole class of officers.

Mr. SCHENCK. And that is the reason why I prefer the bill. I like general legislation to cover all the cases equally, instead of having special legislation in every case, according to one principle in one case, and a different one in another. I have always, in attempting to discharge my duty as a legislator, preferred such general laws instead of any special legislation; and the gentleman commends my bill to me all the more by that objection.

Mr. HOTCHKISS. Another word.

Mr. SCHENCK. I do not wish this to go over the morning hour. I yield to the gentleman from Indiana for a few minutes.

Mr. WASHBURN, of Indiana. Mr. Speaker, the amendment proposed by the gentleman from Ohio, in my opinion, simply offers a premium for a man's ignorance. It is the fault of the paymasters themselves if any stoppages are made against them. The amendment provides that the money to be paid shall be paid only to those who are in default. The paymaster who, after entering the Army, discharged without default all the duties imposed upon him, and who has no stoppages against him, gets nothing, while the officer who has been negligent in the discharge of his duties, and has stoppages and suspensions against him, gets a premium for his carelessness and inefficiency.

This bill, standing without the amendment, in my opinion, is simply a proposition to increase the pay of paymasters—not in the future, but to go back over the whole war, and give additional pay. What reason is there for it? Is it because they did not get enough in the first place? Was the salary of $3,000 a year insufficient? If that be so, the same argument can be made for every officer and soldier in the Army, for their pay was entirely inadequate. If, then, these paymasters, who stayed back in the rear, who never came up to the front unless in exceptional cases, are entitled to additional salary, why should we not give it to the officers and soldiers who suffered the hardships of the field, and marched through the storm of a hundred battles?

We are asked to reward these men who held the very best positions in the Army because they have not attended to their duties. Because a man paid $25,000 to a regiment which did not belong to the service; because he made a mistake, not knowing his duty, and paid out $25,000 to men to whom it ought not to have been paid, to men whom the Department decided never were in the service, we are asked to refund that money which is charged up against this paymaster. I do not say that the paymaster paid the money fraudulently, but I do say that it was a mistake arising from gross negligence or gross ignorance of duty. There is not a business man who would not be held responsible for committing such an error; and I do not know why these men should not be held responsible.

The amendment says that it shall only be paid to those who have not neglected their duty. The bill says that every one shall have an increase. My friend, General SMITH, from Kentucky, on the other side, will tell you how much money officers lost by reason of mistakes which they have no means of having refunded. I do not see why these officers, who had comfortable positions in the pay department, should be provided for to the exclusion of all others.

Mr. SCHENCK. The objections made to the bill are provided for by the amendments of my colleague and others. Gentlemen do not take into account the vast responsibility of men who handle millions of money.

Mr. SMITH. Will the gentleman from Ohio allow me to offer my amendment, to insert in line seven the words "to troops actually serving in the field?"

Mr. SCHENCK. I have no objection to those words being inserted; and I now demand the previous question.

The question was put upon seconding the demand for the previous question; and there were—ayes 34, noes 39.

The SPEAKER. The morning hour having now expired, the bill goes over until to-morrow morning, during the morning hour.

AGRICULTURAL COLLEGES.

Mr. BIDWELL. I rise to make a privileged report. I am instructed by the Committee on Agriculture to report back House bill No. 50, to amend the fifth section of an act entitled "An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts," approved July 2, 1862, so as to extend the time within which the provisions of said act shall be accepted and such colleges established, with an amendment in the nature of a substitute.

The substitute was read, and is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the time in which the several States may comply with the provisions of the act of July 2, 1862, entitled "An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts" is hereby extended so that the acceptance of the benefits of the said act may be expressed within three years from the passage of this act, and the colleges required by the said act may be provided within

five years from the date of the filing of such acceptance with the Commissioner of the General Land Office: *Provided*, That the States now represented in Congress, which have not availed themselves of the grant of lands contained in the said act of July 2, 1862, he, and they are hereby, entitled to so avail themselves of the benefits thereof by complying with the provisions of the said act and of this act, according to their present representation in Congress: *Provided further*, That when any Territory shall become a State and be admitted into the Union, such new State shall be entitled to the benefits of the said act of July 2, 1862, by expressing the acceptance therein required within three years from the date of its admission into the Union, and providing the college or colleges within five years after such acceptance, as prescribed in this act.

Mr. BIDWELL. The objections to this bill raised yesterday by the gentleman from Ohio [Mr. DELANO] have been considered by the Committee on Agriculture, and I have no objection to the amendment he suggested.

Mr. DELANO. I move to add the following proviso to the substitute:

Provided further, That any State which has heretofore expressed its acceptance of the act herein referred to shall have a period of five years within which to provide at least one college, as described in the fourth section of said act, after the time for providing the said college according to the act of July 2, 1862, shall have expired.

I merely wish to call the attention of gentlemen to the object of this amendment. The substitute, as it is offered, gives three years' additional time within which the grant may be accepted by States not having accepted it, and five years after the acceptance is made in which to erect the first college. But there is no provision made for extending the time to those States that have already accepted the grant; they must complete the first college within five years from the date of the original bill.

Now, many of the States have accepted the grant, and my own State among the number, but various circumstances have prevented us from being able to have the first college erected within the time limited by the original bill.

Now, while we extend to States that have not accepted the grant what amounts to eight years, that is, three years in which to accept the grant and five years to erect the first college, I ask that the States which have already accepted the grant shall be allowed five years in which to erect a college.

I believe that my proposition is now understood, and I will say that, as I understand, it meets the entire approbation of the chairman of the committee having the bill in charge.

Mr. BIDWELL. I have no objection to the amendment of the gentleman from Ohio.

Mr. DELANO'S amendment was agreed to.

The question recurred on the substitute.

Mr. RITTER. I move to amend the substitute by striking out in the thirteenth line the words "now represented in Congress."

Mr. BIDWELL. I hope that amendment will not be adopted. I feel satisfied that this bill as proposed by the Committee on Agriculture, and as amended by the gentleman from Ohio, [Mr. DELANO,] will cover all the ground which it is desirable to cover at this time. I have no objection to any States having the benefit of this act when they shall be represented in Congress, and when that time arrives the Representatives from such States can ask that the benefits of this act be extended to them. All that we undertake at this time to provide is, that the benefits of this act shall extend to the States which have not been in rebellion. Otherwise, I feel satisfied that it would require at least a week to discuss the merits of the bill, and perhaps it would be defeated altogether. I hope, therefore, that the amendment of the gentleman from Kentucky will not be adopted, and I call the previous question.

The previous question was seconded and the main question ordered.

Mr. BIDWELL. I yield the floor for a moment to the gentleman from Ohio, [Mr. SPALDING.]

BANKRUPT BILL.

Mr. SPALDING. I desire to enter a motion to reconsider the vote by which the bankrupt bill was referred to the select committee.

The motion was entered.

AGRICULTURAL COLLEGES—AGAIN.

Mr. BIDWELL. I am entitled to one hour to close the debate, and I will now yield five minutes to the gentleman from New York, [Mr. BERGEN.]

Mr. BERGEN. I only desire the attention of the House for a moment. I hope that the amendment offered by the gentleman from Kentucky [Mr. RITTER] will prevail. It is admitted on all hands that the original law is defective. We are about amending that law, and the chairman of the Committee on Agriculture admits that unless the amendment offered by the gentleman from Kentucky shall be incorporated in the bill at the next session of Congress it will be again necessary to amend the law so as to allow those States which are not now represented upon this floor to enjoy the benefits of this law.

Why not do it at the present time when it will become necessary to have it done at some future time? Why not, while we are now amending the law, make it perfect, so that hereafter no amendments shall be necessary? It certainly appears to me to be the part of wisdom to make the law perfect now and leave it in such condition that it will meet the wants of the country for the future. I hope the amendment of the gentleman from Kentucky will prevail.

Mr. BIDWELL. I now yield to the gentleman from Iowa [Mr. GRINNELL] for a few moments.

Mr. GRINNELL. I wish to say, in reply to my colleague of the Committee on Agriculture, that I think we are already offering very fine inducements to the people down South to come back without giving them lands; and when they come back we will go in for educating them, and will grant them lands for that purpose. For the present we will bid them welcome back, and we will even grant them universal amnesty, with a few exceptions, if they will only give us universal suffrage; and when they get that, they will need universal education. I am opposed now to granting lands to anybody that is for the present outside of the family circle.

Mr. RITTER. Will the gentleman from California yield to me for a moment?

Mr. BIDWELL. I will do so, with pleasure.

Mr. RITTER. I do not see any reason why we should adopt a system of legislation that is so partial in its character. What is the object of cutting off from the benefit of this law those States which are not now represented in Congress? What good can result from it? Surely gentlemen do not wish to cut off those States unless some good can arise from it.

Mr. GRINNELL. They have cut themselves off.

Mr. HILL. I would like to know whether the reason why the States lately in rebellion are not included in this bill may not be to avoid the probabilities of an executive veto. The principle of two vetoes has been that we have been legislating for States which are not represented here, and I would be glad to inquire of the gentleman from Kentucky, if he has any assurance that if we undertake by this bill to legislate for those States, by giving them lands, it will not subject the bill to a similar veto?

Mr. RITTER. I have no assurances in regard to it. I only know that partial legislation is apt to beget division and strife.

Mr. HALE. I desire to ask whether the bill now before the House does deprive any States in the Union of any right heretofore enjoyed by such States.

Mr. RITTER. The object of my amendment is that it may not do so.

Mr. HALE. I ask for information if this bill does cut off any State from any right it now enjoys.

Mr. RITTER. It does cut off every State in the Union that is not now represented in Congress from the benefits of the law to which this is an amendment.

Mr. GRINNELL. Every State that was in rebellion.

Mr. RITTER. Every one that is not now represented in Congress is cut off by this bill from the benefits of the land grants for this purpose. Is the State of Tennessee now in rebellion? Is any State in rebellion now? Not one. Every State is subject to the laws and Constitution of the country.

Mr. ASHLEY, of Ohio. The President excepts Texas.

Mr. RITTER. We want to make these people who have been in rebellion patriots. Surely, then, that is a reason why we should help to educate them. It does seem to me that we cannot expect by this partial legislation to win back to loyalty and allegiance an alienated people; on the contrary, its tendency is to drive them further and further from us. And instead of that Union for which our people have fought and have died, we are begetting divisions that will permanently widen the breach.

I hope the amendment I have moved will be adopted. The idea seems to be, I am sorry to say, that these States are to be kept out of Congress, not permitted to have their Representatives occupy seats here; and then, because they have no representation here, they are to be debarred from the benefits of this bill.

Mr. BIDWELL. It is very important that this bill should be passed to-day. I would be very glad to give every gentleman an opportunity to express his opinions, or to move such amendments as he desires. But I am satisfied that if we admit all these amendments this bill will be defeated.

Mr. HALE. I would ask the gentleman to yield to me for a moment.

Mr. BIDWELL. Certainly.

Mr. HALE. If I understand the scope and effect of the bill before this House, it does not deprive any State of this Union of any right which it now possesses.

Mr. BIDWELL. Certainly not.

Mr. HALE. As I understand the language of the former act, the States of this Union were each entitled to certain public lands for the endowment of agricultural colleges. Those States which have complied with the provisions of that former bill, are now by this bill granted certain extensions of time, that is, those that are represented on this floor. In other words, it is an extension of time to the States now represented here, within which to do acts provided by the bill. This bill does not, therefore, deprive even the States lately in rebellion of any right whatever. It simply omits to give them the same additional favors that are given to the States which have not been in rebellion. In that view I see nothing objectionable in this bill. At the proper time I certainly shall be in favor of treating the southern States as we do the northern States. But I do not think it wise now to embarrass this bill by any amendment to provide the same extension of time for the States lately in rebellion that it is proposed to grant to the States that have not been in rebellion.

Mr. RITTER. Will the gentleman from New York [Mr. HALE] allow me to make a word of explanation?

Mr. HALE. Certainly.

Mr. RITTER. There are several States in this Union besides those that have been in rebellion which have failed to accept the offer of these public lands within the time prescribed by the law. They are thus cut off from the benefit of the former act, and therefore it is necessary that further provision should be made extending the time for accepting the donation. But this bill proposes to extend the time only to those States now represented in Congress.

Mr. HALE. That is precisely as I understand the bill. We do propose to grant certain favors to the loyal States; I do not see that it is an objection to the bill that we omit to grant the same favors to States that have been in rebellion. In regard to those States I shall be guided by the circumstances of the case when any bill is proposed for them. But I am not willing to embarrass this bill now by any amendment to put them on an equality in this respect with the loyal States.

Mr. BIDWELL. I wish to say one word.

Mr. HARDING, of Illinois. Before the gentleman proceeds, I would ask him if he will consent to this amendment of the bill, to add the following:

Provided further, That the lands hereby granted shall be subject to preëmption, settlement, and improvement the same as the Government lands now are, and the money derived from such sale shall be applied to the State entitled to the same.

Mr. WASHBURNE, of Illinois. I hope that amendment will be made.

Mr. BIDWELL. The original bill provided that scrip should be issued for this land to the several States, and the States were then required to sell the scrip, not to locate it themselves, but to sell it. And if they sold it, of course it would be to those who wished to purchase the land for the purpose of settling upon it. They had the right, and it was but proper that they should have it, to dispose of this land scrip to the best advantage.

Now, if you apply the principle suggested by the gentleman from Illinois, [Mr. HARDING,] that these States shall sell only to actual settlers, it may be that they will be unable to dispose of this land scrip in time to provide schools within the time required by the law. And besides, it would be treating those States which have not been able to avail themselves of the benefits of this act in a different manner from that in which the other States have been treated. While some were permitted to dispose of their land-scrip to the best advantage, the States to have the benefit of this act will be required, upon that principle, to see when they dispose of their scrip that it shall be actually settled upon. I hope no such discrimination will be made. I have no doubt that the amendment is offered in good faith; but it strikes me that it would be a discrimination against those States that have not yet been able to take advantage of the act.

Mr. WASHBURNE, of Illinois. I hope that the gentleman from California will give his consent to this amendment. It is eminently just, and is calculated to promote the settlement of these agricultural lands. The great evil at present, which it is desirable to avoid hereafter, is that large bodies of land in the new States and Territories coming into the possession of other States are kept out of the market and remain unsettled.

Mr. BIDWELL. I do not believe, Mr. Speaker, that the amendment will have the effect which the gentleman anticipates.

Mr. DELANO. The gentleman from Illinois misapprehends, I think, the facts of this case. The States to which this scrip is issued are expressly forbidden to make a location of the scrip; they are required to sell it to individuals who must locate it. If there is a preemption taken upon any lands before a location is made, that preëmption, as a matter of course, is not affected. It would be monstrous for the United States, or the States to which the United States may make grants, to go on and locate a large quantity of lands, thus making an *imperium in imperio;* and the act forbids that. There is no necessity, therefore, for this amendment; for no such difficulty as that which is apprehended can arise.

Mr. KASSON. I was not present when the debate on this matter arose, and I desire to ask the gentleman from California a question, which perhaps he has already answered. I wish to inquire the reason of the proviso at the end of the section with regard to Territories that shall become States.

Mr. BIDWELL. The object is to save the necessity of enacting a law to apply to such special cases when Territories come into the Union as States.

Mr. KASSON. It seems to me that it would be better to follow our old practice, according to which, on the admission of these Territories, Congress declares the terms upon which they are to be received, giving them certain grants of land in order to place them on an equality with States previously admitted.

Mr. BIDWELL. At any rate this will do no harm.

Mr. KASSON. It appears to me that it will operate as a species of mortgage on the public lands of the United States. I think it would be better that the grant should be made in the usual way. This bill proposes to allow three years for the acceptance of the grant after the State shall have been admitted, while, according to our practice heretofore, the acceptance is made at the time of the admission of the State. I very much prefer to adhere to this practice, under which the proposition is made and accepted at the time when the State is admitted, instead of our making this exceptional provision, entirely new to our legislation, pledging ourselves to all the Territories and giving them three years after their admission in which to accept the provisions of the grant. I trust the gentleman will see the propriety of our adhering to the custom and making these grants of lands to the new States when they are admitted.

Mr. BIDWELL. I trust the gentleman will excuse me if I say that I fail to see the force of his suggestion. If his view is correct, this proviso can at any rate do no harm. It provides that when Territories are admitted into the Union as States, they shall be entitled to the benefits of this act, and they are to be allowed three years in which to make the acceptance required by law. Now, three years at a time when the institutions of the community are in an embryo state is but a short period. Even some of the older States, organized with all the institutions of States, have failed to make the acceptance within about three years, the period which has elapsed since the passage of the original law.

Mr. KASSON. I think I have not been fully understood by the gentleman from California, who, as a western man, should comprehend what I desire to accomplish. I took the position that it was unsafe to make pledges respecting the future disposition of the public lands and Territories changing their wants and conditions as rapidly as do the Territories of the United States. By the proviso the United States are mortgaged for an indefinite future. Now, by postponing action on this subject to the period which has been customary for bestowing grants of public lands on new States, which is at the time of their admission, we would adapt our conditions connected with the grants to the actual condition existing at the time.

Some Territories may be admitted as States with a very small population, which would be unable, without very burdensome taxes, to build a college for many years, and I should be unwilling to tie up in such cases the lands from the use and occupation of actual settlers. I would be glad if I had the opportunity to strike out that proviso.

Mr. BIDWELL. We have had Congresses, I believe, ever since the adoption of the Constitution, and I have no doubt we will have a Congress every year through the coming centuries of the future, which will provide for all defects in existing laws or supply omissions which may be made evident from the existing condition of affairs. Should this law require amendment by what may occur hereafter, Congress will amend it. Should it appear that the provision extending it to new States requires amendment, I believe the representatives of the people of the several States will be informed of the amendment needed and will provide the proper remedy therefor.

Mr. BURLEIGH. Will this not permit the holders of this scrip to go into all of the Territories and take up the public lands to the exclusion of actual settlers? It strikes me that its tendency will be to absorb the public lands and prevent settlement of the Territories, and consequently delay their admission as States into the Union. I cannot look at it in any other light.

Mr. BIDWELL. I do not think that objection can apply to this bill.

Mr. RICE, of Maine. We are selling scrip now.

Mr. BIDWELL. I do not want to detain the House with further discussion. Objections which could apply to this bill have been corrected by the amendments which have been proposed.

Mr. TROWBRIDGE. I desire to state to the gentlemen who are making these objections now that they are objections which applied when the bill was first introduced in 1862, and might have been very properly urged at that time; but that bill has become a law, and all the States have availed themselves of it, with one exception. When this was first reported from the Committee on Agriculture, there were two exceptions; but since then one of the States has availed itself of the benefits of the law.

It seems to me, I repeat, that these objections only apply to the original law, and are not pertinent at this time. This is an amendment by which the State which has not accepted may avail itself of the law, and by which an extension of time for building may be allowed.

Mr. BIDWELL. I demand the previous question.

The previous question was seconded and the main question ordered.

The question recurred on the amendment of Mr. RITTER to strike out the words "now represented in Congress."

Mr. RITTER demanded the yeas and nays.

The yeas and nays were not ordered.

Mr. FINCK demanded tellers.

Tellers were not ordered.

The amendment was disagreed to.

The substitute was then adopted.

The bill, as amended, was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

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

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 96, nays 33, not voting 54; as follows:

YEAS—Messrs. Alley, James M. Ashley, Baker, Baldwin, Banks, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Boutwell, Brandegee, Broomall, Buckland, Bundy, Sidney Clarke, Cobb, Conkling, Cook, Darling, Dawes, Delano, Deming, Dixon, Donnelly, Eckley, Eggleston, Eliot, Ferry, Garfield, Grinnell, Griswold, Hale, Hayes, Higby, Hill, Holmes, Asahel W. Hubbard, Chester D. Hubbard, John H. Hubbard, Hulburd, James Humphrey, Ingersoll, Jenckes, Kelso, Ketcham, Laflin, Latham, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marvin, McClurg, McKee, Mercur, Miller, Moorhead, Myers, Newell, Niblack, O'Neill, Paine, Perham, Phelps, Plants, Price, Raymond, John H. Rice, Rollins, Sawyer, Scofield, Shellabarger, Smith, Starr, Stevens, Stilwell, Thayer, John L. Thomas, Thornton, Trowbridge, Upson, Van Aernam, Robert T. Van Horn, Warner, Henry D. Washburn, William B. Washburn, Welker, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, and Windom,—96.

NAYS—Messrs. Allison, Ancona, Bergen, Boyer, Chanler, Coffroth, Davis, Dawson, Denison, Driggs, Eldridge, Finck, Glossbrenner, Goodyear, Aaron Harding, Abner C. Harding, Harris, Edwin N. Hubbell, Le Blond, Nicholson, Noell, Pike, Samuel J. Randall, Ritter, Rogers, Rousseau, Shanklin, Sitgreaves, Strouse, Taber, Trimble, Elihu B. Washburne, and Wright—33.

NOT VOTING—Messrs. Ames, Anderson, Delos R. Ashley, Blaine, Blow, Bromwell, Reader W. Clarke, Cullom, Culver, Defrees, Dodge, Dumont, Farnsworth, Farquhar, Grider, Hart, Henderson, Hogan, Hooper, Hotchkiss, Demas Hubbard, James R. Hubbell, James M. Humphrey, Johnson, Jones, Julian, Kasson, Kelley, Kerr, Kuykendall, Marshall, Marston, McCullough, McIndoe, McRuer, Morrill, Morris, Moulton, Orth, Patterson, Pomeroy, Radford, William H. Randall, Alexander H. Rice, Ross, Schenck, Sloan, Spalding, Taylor, Francis Thomas, Burt Van Horn, Ward, Winfield, and Woodbridge—54.

So the bill was passed.

During the vote,

Mr. ECKLEY stated that his colleague, Mr. SPALDING, had been called from the House by important business.

The vote was then announced as above recorded.

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

The latter motion was agreed to.

NATIONAL BUREAU OF EDUCATION.

Mr. LATHAM, from the Committee on

Printing, submitted the following report; which was read, considered, and agreed to:

Resolved, That there be printed two thousand copies extra of House bill No. 276, to establish a national Bureau of Education.

ENROLLED JOINT RESOLUTIONS SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled the following joint resolutions; when the Speaker signed the same:

Joint resolution (S. R. No. 53) authorizing Rear Admiral H. Paulding to accept a decoration from the King of Italy;

Joint resolution (S. R. No. 58) respecting the burial of soldiers who died in the military service of the United States during the rebellion; and

Joint resolution (S. R. No. 44) authorizing Commodore William Radford to accept a decoration from the King of Italy.

HOWARD INSTITUTE.

Mr. INGERSOLL, by unanimous consent, introduced a bill to incorporate the Howard Institute and Home of the District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

MISSOURI MILITIA.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, to take up the bill to reimburse the State of Missouri for her militia.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. THAYER in the chair,) and proceeded to the consideration of the special order, being Senate bill No. 31, to reimburse the State of Missouri for moneys expended for the United States in enrolling, equipping, and provisioning militia forces to aid in suppressing the rebellion.

The bill was read; and the Clerk proceeded to report it by sections.

Mr. WENTWORTH. I rise, Mr. Chairman, not to say anything about the particular merits of this bill, but to call the attention of the committee to the question of the propriety of bringing in these bills, which are after all nothing but private claims on a large scale, as appropriation bills. Nine tenths of the members of this House have in good faith referred their claims to the Committee of Claims. Senate bills embracing provisions of this character have also in good faith been referred by members of this House to the Committee of Claims.

Now, I would like to call the attention of the committee to the propriety of making a dividing line, so that when anything comes into this House for the benefit of my State, or of individuals in my State, I can move to refer it to the Committee on Appropriations, and then when I have an opportunity to call up the claim I shall have the sanction of my friend from Pennsylvania, and he will bring it forth as an appropriation bill.

I am not speaking in censure of my friend, because I know he is obliged to take cognizance of what comes to the committee, but what I want is, that the attention of the House shall be called to the question of a dividing line between bills referred to the Committee of Claims and bills referred to the Committtee on Appropriations. I do not know that there is any rule on this subject, but I do think there ought to be fair play, and that there ought to be a dividing line on this subject somewhere.

Mr. LOAN obtained the floor.

Mr. STEVENS. Will the gentleman indulge me a moment?

Mr. LOAN. Certainly.

Mr. STEVENS. This bill passed the Senate after full examination. The accounts in this bill were all settled by the authorities, and there is provision made in this bill for resettlement. This bill was sent to the committee, and was examined by them, as was their duty, and they have reported it back to the House. They have done nothing more. From the examination of it they came to the conclusion that the State of Missouri had suffered, perhaps, more severely than any other State in this terrible rebellion, and that she had manfully stood up against the rebellion. What she suffered in life and property has scarcely a parallel in any State of the Union. Under these circumstances, having examined the account, amounting to some seven or eight million dollars, the committee authorized the chairman to report this bill, and he has done so in obedience to that order, but with the perfect sanction of his own judgment.

I do not understand the gentleman from Illinois [Mr. WENTWORTH] to censure the committee for taking cognizance of what was sent to them by the House.

Mr. WENTWORTH. I wish to ask the gentleman a question. Suppose I have a petition for the relief a soldier who has lost a leg or an arm, have I a right to refer it to the Committee on Appropriations?

Mr. STEVENS. If the House refers it to that committee, the committee is bound to act upon it. They may ask to be discharged from it, but unless they see some reason why it should not be sent to them by the House, it is their duty to act upon it.

Mr. WENTWORTH. Does the gentleman consider this in the line of a claim?

Mr. STEVENS. I consider this in the line of a debt due from the Government to the State of Missouri for moneys which that State has paid out, which have been settled according to the authority given by that State, and under the different orders under the General Government. I consider that the amount has been expended. It is a large amount; I wish it were less; but when I look at Missouri, and find that not only this large amount has been expended, but that her whole country has been ravaged from year to year, and her citizens plundered, at a time when this Government was unable to protect them, it seems to me but just that we should now be ready to reimburse her people for protecting themselves.

I beg the pardon of the gentleman from Missouri [Mr. LOAN] for occupying his time to make this statement.

Mr. WENTWORTH. I believe I had the floor when my friend from Pennsylvania rose to make his explanation.

The CHAIRMAN. The gentleman from Missouri [Mr. LOAN] yielded, and then the Chair recognized the gentleman from Pennsylvania, [Mr. STEVENS.]

Mr. LOAN. Mr. Chairman, owing to the peculiar condition of the State of Missouri at the outbreak of the rebellion, there has been great difficulty in understanding how the troops were brought into the service in that State, and if the committee will indulge me for a few moments I will undertake to make a statement in regard to that matter that I trust will enable every gentleman who gives me his attention to fully understand and comprehend this subject.

At the outbreak of the rebellion the government of the State of Missouri was disloyal and endeavored to draw the State into the rebellion. A convention of the people was held which appointed a provisional government and authorized it to administer the laws in the State.

Prior to this time, however, it is proper to state that while the disloyal government was at Jefferson City, the capital of the State, they called out the militia and established a camp near St. Louis, known as Camp Jackson. The purpose of this movement was to seize the city and arsenal and appropriate the public arms that were there.

General Lyon, then captain, had but one company of regulars for the protection of the public property. Francis P. Blair, afterwards general, was enabled by his personal influence to bring to the Federal standard ten thousand men, and place them in that arsenal for its defense. They were armed, not under the sanction of any law, but from the necessity of the case. The State government being disloyal these men could not be organized or mustered into the Federal service. But notwithstanding that they came to the relief of the United States flag when called by a Federal officer.

As soon as they were armed they marched and captured Camp Jackson and the rebel soldiers there. Afterward additional forces were organized in the same manner, until about thirty-five regiments were formed, some of whom served for more than three years. These troops were known as the home guards of Missouri. They were not organized under any Federal authority that was known to the law, but they were organized at the instance of the Federal officers from the necessity of the case to defend the flag.

General Frémont and others furnished them with commissions, and continued them in the service. They fought at Wilson's Creek where General Lyon fell. They fought in Arkansas, and many of the regiments were continued in the service until 1863.

On the 25th of March, 1862, there was an act of Congress passed authorizing payment to these men. On the 14th of May the sum of $100,000 was appropriated for that purpose. At the first session of the Thirty-Eighth Congress an additional sum of seven hundred and odd thousand dollars was appropriated. This money was all for the home guards, an organization entirely independent of the militia of Missouri, for whom we are now asking pay.

After this disastrous battle of Wilson's Creek, under authority derived from the State convention, the provisional governor called into active service in the State, forty-two regiments of militia, known as six months' troops.

Mr. WASHBURNE, of Illinois. Will the gentleman from Missouri [Mr. LOAN] inform the committee of the total amount which Congress has already appropriated to the State of Missouri for these objects?

Mr. LOAN. The total amount appropriated is about eight hundred thousand dollars to pay these home guards. But they were not connected with the State of Missouri except as General Frémont, General Lyon, and others, took the responsibility of calling them into the service. They saved the United States arsenal; they saved the city of St. Louis; they fought at the battle of Wilson's Creek, and they fought in Arkansas; they were an independent organization.

But these six months' troops were called into the service on the 23d of August, 1861, I believe, by the provisional governor; and they were organized just after the battle of Wilson's Creek. Now, six thousand of them served for five months. In the mean time they were enlisted in the Missouri State militia and in the volunteer service of the State.

In 1862, about the 25th day of July, when four fifths of the territory of the State of Missouri was in the hands of the rebels, General Schofield, commanding at St. Louis, by permission of Governor Gamble, issued Order No. 19, by which every able-bodied man in the State was required to be organized in the military service, and but six days were allowed them within which to report at the various rendezvous ready for service.

Under that order about eighty regiments were organized, and reported for duty as many of them as were required, and they remained on continuous duty to a greater or less extent until some time in July, 1865. It was compulsory upon every able-bodied man within the State to come into this organization within six days; the exigencies of the case being so great that it was considered necessary to issue such an order. So much for the history of the six months' militia, and those who were organized under Order No. 19, dated July 25, 1862.

Now, I propose to call the attention of the committee for a few moments to the character and importance of the service rendered by these troops. The committee will remember that they were called into service by Federal officers; that they were all the time commanded by Federal officers, and that they took the place of Federal volunteer soldiers. I hold

in my hand Miscellaneous Document No. 63, of this session; I do not propose to take up the time of the committee by going through the whole of it, but I will refer to one or two items in it to show the character of the service which these troops rendered.

Our position is this: we ask only to be reimbursed the money that we have actually saved to the Federal Treasury. Our State filled its quota, as other States did, with United States volunteers. And in addition we furnished from seventy to eighty regiments of the militia of the State to aid and assist the Federal commanders in the discharge of their duties in that State.

I call the attention of the committee to page 11 of Miscellaneous Document No. 63, which contains a statement of the period of service of these regiments. I will cite a few of the regiments, without giving them all. The fourth regiment, of ten companies, served fourteen months, from April, 1863, to June, 1864; the tenth regiment, of ten companies, served sixteen months, from June, 1863, to October, 1864; the eleventh regiment, of ten companies, served eighteen months, from April, 1863, to October, 1864; the twenty-fifth regiment, of ten companies, served nine months, from August, 1862, to April, 1863; the twenty-sixth regiment, of ten companies, served twenty-seven months, from August, 1862, to November, 1864; the twenty-seventh and twenty-eighth regiments, of eleven and twelve companies respectively, served twenty-eight months, from August, 1862, to December, 1864; and many of the other regiments served from nine months to over two years. These regiments were organized, clothed, armed, subsisted, transported, and paid by the State of Missouri, and rendered service that was due from United States volunteers.

As to the character of this service, and how it was esteemed by the military authorities in Missouri, I refer to the following extract from the report of the Senate committee, No. 107, of the second session of the Thirty-Eighth Congress:

"The enrolled militia were first called out in a most pressing emergency, by the commander of the department to supply deficiencies in the Federal forces. They have been kept in service after the emergency passed to enable the commander of the department to send Federal troops to other points, as in the case of reënforcements to General Grant at Vicksburg, and to General Steele in Arkansas."

The Federal troops that were necessary for the defense of the State of Missouri were sent out of the State to aid General Grant in the capture of Vicksburg and to assist General Steele in Arkansas, and their places were supplied by the militia of the State, who were compelled to render service as United States troops in lieu of United States troops.

"The importance of the service rendered by the enrolled militia is strongly attested by General Schofield in a communication to the President, under date of October 20, 1863. He says: 'The services of the enrolled militia have been of great value, not only during the summer of 1862, when they were first organized, but also during the present year. The ten provisional regiments which the Governor organized for continuous service, and placed under my command, enabled me to relieve an equal force of United States troops and send them to General Grant. On several occasions I have called out from one to four additional regiments for temporary service, to meet emergencies as they have arisen. With a few exceptions they have responded with promptness and alacrity, and have done good service.'

"To the same effect is a letter from General Curtis to Governor Gamble, dated January 4, 1863. General Curtis says: 'The demand for troops below has induced me to send out almost everything, so there is only Merrill's regiment of United States troops remaining north of the river. This is only partially armed. We must rely, therefore, mainly on the enrolled militia.'

"From this statement it will be perceived that the duties of the enrolled militia have been precisely those of the United States soldiers in Missouri. In all cases they took the place and answered the purpose of Federal troops. In many cases they relieved Federal troops, and in some cases they were engaged in actual battle. They especially distinguished themselves at Springfield, in January, 1863, and received the warmest commendation of General Brown, then in command in southwest Missouri.

"They contributed to the capture of Vicksburg and the great victories in that quarter, by enabling timely reënforcements to be sent to General Grant from Missouri, and they materially assisted General Rosecrans to repel the late rebel invasion of this State.

"It should be borne in mind that the enrolled militia were under the command of General Schofield while he remained in Missouri. General Rosecrans had the same command over them that General Schofield had, and though, owing to some misunderstanding between Governor Gamble and General Curtis, the latter did not, during all of his stay in Missouri, have that command, it is believed the militia rendered him every assistance he required, except in the single case of furnishing guards for provost marshals.

"The payment of the large militia force which has been kept in service in this State at the instance of United States officers, and under their command, is a drain upon our resources that we are but poorly able to bear. Appreciating this fact, I endeavored, while acting Governor, in August, 1863, to reduce the militia force in service, and accordingly issued an order relieving the eighth provisional regiment from duty. This led to a correspondence between General Schofield, General Fisk, and the State authorities, and finally, on General Schofield's application, the order was rescinded. After the rescission of the order I called on General Schofield, and urged upon him the necessity of relieving the militia from active service. He promised to relieve them as soon as he could, but when he left the department there were three thousand militia on duty.

"On the 2d of February last I addressed a letter to General Rosecrans requesting him to relieve the militia. He replied that he could not then, but that he would do so as soon as the condition of the department would permit. A large number of the militia are still on duty.

"The President of the United States and the Secretary of War have done all in their power to place the enrolled militia on the same footing with Federal soldiers."

These troops occupied the position of Federal troops, performed the duties of Federal troops, and were to all intents and purposes Federal troops, except so far as their pay was concerned. General Schofield, in response to a call of President Lincoln, made this statement in regard to them:

"As an example illustrating the value of this organization, on the 18th instant I called out the seventh regiment of St. Louis to relieve troops in the city, which I wished to send after Shelby. Within six hours after the order was made the whole city was under the guard of this regiment and a few colored recruits, and the old troops were on their way to Jefferson City. The regiment was just as valuable to me, during the short time that its services were required, as a regiment of regular troops would have been."

Let me read again, from the statement of Governor Hall:

"As soon as Price's invasion became a certainty, I authorized the various district commanders to call into service such portions of the militia of the State as, in their opinion, the emergency demanded. A large number of the militia were so called into the service; a portion of them fought at Pilot Knob, others participated in the defense of the city, others fought and were captured at Glasgow with Colonel Harding; others fought under General Blunt in resisting the enemy's march from Lexington to the western border, and generally they acquitted themselves well. It was the enrolled militia who killed the outlaw, Bill Anderson, who for months had been the scourge of northern Missouri, and who had defied or evaded all troops that had been previously sent against him."

As late as January 23, 1865, General Dodge, in command at St. Louis, made the following demand upon the Governor of the State:

HEADQUARTERS, DEPARTMENT OF THE MISSOURI,
ST. LOUIS, *January* 23, 1865.

GOVERNOR: I respectfully request that companies of militia be raised by volunteers from such classes as you deem best for service in each of the following counties:

Mounted.—One company for Warren and Montgomery, one company for Calloway and Audrain, one company for Boone, one company for Ralls, Monroe, and Marion, (to be raised at Hannibal;) one company for Howard, one company for Randolph, one company for Chariton, one company for Carroll and Livingston, (to be stationed in Carroll;) one company for Ray and Caldwell, (to be stationed in Ray;) one company for Clay and Caldwell, (to be stationed in Clay;) one company for Platte, one company for Jackson, one company for Lafayette, one company for Saline, one company for Cooper and Moniteau, one company for Osage and Marics, one company for Stoddard, one company for Johnson, one company for Pettis, one company for Morgan, one company for Mississippi, one company for Scott, one company for Perry, one company for New Madrid, one company for Cape Girardeau, one company for St. Genevieve.

Infantry.—One company for bridges on the Pacific railroad, one company for bridges on the Southwest Branch railroad, one company for bridges on the Iron Mountain railroad, one company for bridges on the North Missouri railroad. As soon as raised to be turned over to the sub-district commander for the respective counties.

I will order them subsisted as soon as they rendezvous. I most earnestly request that none but experienced officers, and also old soldiers, be placed at the head of these organizations, men who will enforce orders and maintain strict discipline.

The Government will issue clothing, forage, arms and equipments, (when the State has not sufficient arms and equipments to supply them, already issued to the E. M. M.,) upon proper requisitions.

I deem it important that this force be put in the field within the next thirty days.

I am, Governor, very respectfully, your obedient servant,

G. M. DODGE, *Major General.*

His Excellency THOMAS C. FLETCHER,
Governor of Missouri.

The report continues:

"In accordance with the above request, the Governor issued his order directing the organization of the required number of companies immediately, (January 30,) and, as shown by the accompanying statement of the adjutant general of the State, there were raised and put into active service a force of fifty-seven companies, containing four thousand three hundred and fifty-three men, whose average term of service was three months, dating between the 25th of February and 6th of July."

From these statements the committee will understand that the State of Missouri is simply asking to be reimbursed for money which that State has saved to the Treasury of the United States. When we had furnished our quota of men under the call, as required of the other States, we had discharged our duty as a loyal State of the Union. But, unfortunately, our soil was a part of the theater of the war. The Federal soldiers that could be spared for that locality were insufficient to meet the exigencies of the case. We organized some seventy or eighty additional regiments, of whom the Federal officers in command there took charge, and who were compelled to render continuous service for periods varying from twelve to twenty-four and twenty-eight months. The State of Missouri was required to pay these men, and in many cases to clothe and subsist them.

All that we ask is that when we have furnished troops who were called into service by Federal officers, who were under their control, and who acted in the place of Federal soldiers, we shall, to that extent, be indemnified for the money that we have saved to the Treasury of the United States. We ask no compensation for what our State has suffered in consequence of being embraced in the theater of war. We are willing to submit to the consequences of that misfortune. But where you have required us not only to stand between you and the enemy, but to advance money that ought to have been paid by the United States, we ask, as a matter of justice, that such expenditure shall be reimbursed to our State. We ask that the United States shall pay now the amount of this expenditure—the amount which the Government should have paid originally to Federal volunteers. That is all there is in this bill. We ask no especial favors. It is because the exigencies of the case required us to do this thing that we did it. We have done that for the Government which we were under no legal obligation to do. We did it in behalf of the Government and for the success of the cause of the Government. The record is that we did our duty well, that we were efficient, that we answered the same purpose as volunteers. These men fought time and again in battle after battle; and it is to their arms frequently victory was due. We have paid the expenses, and we ask to be reimbursed for those expenses; and that is all there is of it.

Mr. WASHBURNE, of Illinois. Mr. Chairman, I am not prepared to discuss this bill at length, for I confess I am utterly surprised that the bill should be brought up in this way. I did not think a bill of this character was in such shape that it could be called up for consideration at this time. And I agree with my colleague [Mr. WENTWORTH] that the Committee on Appropriations had no jurisdiction whatever of this bill—no jurisdiction whatever of the subject-matter. If it were sent to them it was their duty to have reported it back so that it might be referred to the Committee of Claims where it legitimately belongs. It is nothing but a claim. It is the claim of Missouri against the Government for the payment of her troops.

The bill now pending before the committee appropriates some seven million dollars, and I call the attention of the committee to the fact so that members may give it full and attentive consideration before they pass upon it. As I

have already stated, I am not prepared to discuss the bill fully. I have not examined it as carefully as I would like. I have, however, my impressions derived from an examination of the face of the bill. It is not for troops called out by the United States, but it is for the pay of troops called out, as appears by the documents, by the State of Missouri for the purpose of suppressing and ridding that State of the guerrillas with which it was then infested.

Mr. LOAN. Will the gentleman permit me to correct him?

Mr. WASHBURNE, of Illinois. Certainly, if I am in error.

Mr. LOAN. These troops, under Orders No. 19, were called out by General Schofield at a few days' notice, and the Federal commanders held them in the service of the United States against the protest of the Governor of the State.

Mr. WASHBURNE, of Illinois. It is true they were called out by General Schofield, but for the purpose, as was expressly stated, of suppressing the guerrillas in the State of Missouri. If these troops were United States troops, if they were called out by the Government of the United States and mustered into the service of the United States, then they would be entitled to their pay, and Missouri would not be required to come here and ask for the passage of this bill.

Mr. LOAN. Let me interrupt the gentleman for one moment. He says they were called out for the suppression of guerrillas. If the rebel army from Arkansas, from twenty-five thousand to fifty thousand strong, were guerrillas, then the gentleman is correct. If they were not guerrillas then the gentleman is most certainly mistaken.

Mr. WASHBURNE, of Illinois. I will read that part of the order of General Schofield.

Mr. LOAN. Very, well.

Mr. WASHBURNE, of Illinois. It will show that it refers entirely to the State of Missouri. It is headed as follows:

[General Orders, No. 19.]
HEADQUARTERS MISSOURI STATE MILITIA,
ADJUTANT GENERAL'S OFFICE,
ST. LOUIS, *July* 25, 1862.

It then goes on to say, as follows:

"An immediate organization of all the militia in Missouri is hereby ordered for the purpose of exterminating the guerillas that infest the State. Every able-bodied man, capable of bearing arms and subject to military duty, is hereby ordered to repair, without delay, to the nearest military post, and report for duty to the commanding officer. Every man will bring with him whatever arms he may have or can procure, and a good horse, if he has one.
"All arms," &c.

That is what these troops were called out for. They were called out to exterminate the guerrillas that infested that State.

Mr. VAN HORN, of Missouri. Who was General Schofield?

Mr. WASHBURNE, of Illinois. He was an officer of the United States. But General Schofield had no authority to bind the United States in a matter of this kind.

Mr. VAN HORN, of Missouri. I hold that these troops were ordered out by the authority of the United States.

Mr. BENJAMIN. The order of General Schofield, dated July 25, 1862, was an order for the organization of the militia of the State of Missouri, if the gentleman will allow me, for which nothing in the world is asked.

Mr. WASHBURNE, of Illinois. The gentleman will pardon me. It is that very order upon which the gentleman's colleague bases this whole matter. He claims that General Schofield called out these troops for which pay is now asked.

Mr. BENJAMIN. The militia of Missouri was not organized, guerrillas infested the State from one end to the other. Federal troops there for the protection of property of the Government were called to other fields—as I have said, guerrillas sprung up and General Schofield provided for the organization of the State militia.

After the militia was organized, General Schofield called upon the Governor of the State, in another order, for certain troops to be called into the field. They were called into the field by virtue of that order and several subsequent orders, serving some of them as long as a year and a half, and I believe in every instance transported and fed by order of the General Government. It is for those troops thus called out that this claim is made.

Mr. WASHBURNE, of Illinois. I would like to inquire where the evidence of the facts which the gentleman alleges is to be found. Here is a bill involving an appropriation of over seven million dollars, and there is no written report that I have seen accompanying it, giving us all the facts necessary to enable us to act fairly, justly, and understandingly in the matter.

Mr. WILSON, of Iowa. I have no desire to oppose this bill, but I should like to make an inquiry in relation to the amount of the appropriation contained it it. I find in the last section that the sum of $6,715,089 65 is appropriated. I find in another section of the bill that there is to be deducted from the amount found due to the State of Missouri the amount of the direct tax, levied in pursuance of the act of 1861. What I wish to know is, whether the amount of that tax is to be added to the amount appropriated in the bill, or whether the amount appropriated is to be the entire expenditure under the provision of the bill. It occurs to me, from reading the bill, that there may be some doubt upon that point. I do not now remember the amount of the direct tax levied on the State of Missouri, but suppose it was $1,000,000. If the commissioner should find that the amount expended by Missouri exceeded the amount appropriated in the seventh section of this bill, he could still pay the entire amount, because the deduction would not be from this appropriation but from the aggregate amount of the expenses. It seems to me, therefore, that this section containing the appropriation is uncertain in its terms.

Mr. LOAN. I have the figures here. The whole amount of the indebtedness, as set forth in the report of the Senate, is $7,476,216 98; from that is deducted $761,127 33, leaving a balance of $6,715,089 65.

Mr. WILSON, of Iowa. Then I understand from the statement of the gentleman from Missouri that it is intended by this bill to make an appropriation of something over seven million dollars.

Mr. WASHBURNE, of Illinois. That is precisely in the line of remark which I was making when interrupted. Here is a bill involving this vast sum of money brought before the House, and we are called upon to act in relation to it without a report and without any of the facts being placed before us. Why, sir, only the other day another committee reported a bill giving a little pension of eight dollars a month to some man, and because there was no written report accompanying it, the gentleman who offered it was obliged to withdraw it in order that a written report might accompany it. And yet this bill is brought in here from a committee which had no jurisdiction of the subject, and we are asked to pass upon it when we have nothing before us which can enable us to act understandingly.

Now, sir, I do not want to do injustice to the State of Missouri. I know how much that State suffered, and how much her gallant Union men suffered during the war. I desire to see full and ample justice done to them by the Congress of the United States. But this bill, as it comes to us from the committee, I say it unhesitatingly, ought not to be passed by the House without further examination; and I trust that this committee, instead of passing upon it now, will rise and report it to the House, and that it will be committed to the Committee of Claims, so that it may be fully and fairly examined. I shall be willing to invest the Committee of Claims with authority to report the bill back at any time and to have it made a special order. All I want is to get at the facts, so that we may act understandingly. As the bill now stands you could drive a coach and six through every section of it.

In the first place, it permits the President, not requiring the consent and advice of the Senate, to appoint one commissioner who is to pass upon all these stupendous claims. The President is to appoint a man who is to have the vast power of examining and determining what amount of this sum shall be paid. There is no provision that testimony shall be taken and transmitted to the Treasury Department to be there examined. There are no limitations upon this commissioner whatever. He can, by a mere stroke of his pen, cause $7,000,000 to be taken from the public Treasury.

These are some of my objections to this bill. If the committee determines to go on with its consideration, I shall move, when it is read section by section for amendment, several amendments in order to remove palpable objections to it which must be apparent to every gentleman here.

Mr. LOAN. Before the gentleman takes his seat let me read a sentence or two from the report of the Senate in regard to the order calling out these militia.

I read as follows:

"General Schofield issued an order prohibiting the enrolled militia in active service from assisting in the execution of the laws of Missouri concerning slaves.

"The enrolled militia were, in fact, called out in a most pressing emergency by the commander of the department to supply deficiencies in the Federal forces there, and have at all times been used for such purposes. They have been kept in service, after the present emergency passed, to enable the commander of the department to send Federal troops to other points, as in the case of reënforcements to General Grant at Vicksburg, and to General Steele in Arkansas.

"The importance of the service rendered by the enrolled Missouri militia is strongly attested by General Schofield, in a communication to the President under date of October 20, 1863, a copy of which is herewith filed, marked A. He says: 'The services of the enrolled militia have been of great value, not only during the summer of 1862, when they were first organized, but also during the present year.'

"'The ten provisional regiments which the Governor organized for continuous service and placed under my command, enabled me to relieve an equal force of United States troops, and send them to General Grant. On several occasions I have called out from one to four additional regiments for temporary service, to meet emergencies as they have arisen. With a few exceptions they have responded with promptness and alacrity, and have done good service.'

"To the same effect is a letter from General Curtis to Governor Gamble, herewith filed, marked B, dated January 4, 1863. General Curtis says: 'The demand for troops below has induced me to send out almost everything; so there is only Merrill's regiment of United States troops remaining north of the river. This is only partially armed. We must rely, therefore, mainly on the enrolled militia.'"

One word more in regard to there being no report in this case, and the reference of the bill to the Committee on Appropriations. When the bill came in from the Senate I moved to refer it to the select committee on the war debts of the loyal States, but the House ordered that it should be referred to the Committee on Appropriations. There is, however, a report of the Senate committee, and there is also a report on the same subject made during the last Congress. This same measure has passed the Senate on two occasions, as I understand, by a unanimous vote.

Mr. KASSON. I desire some information from the gentleman who has charge of this bill. I find in lines ten and eleven of section two these words, "or which may have been employed in suppressing rebellion in said State." I want him to inform me and the committee why those words are necessary there. The clause relating to that subject reads as follows:

And paying such troops as were called into service by the Governor, at the request of the United States department commander commanding the department in which Missouri may at the time have been included, or by the express order, consent, or concurrence of such commander—

And then come the words to which I object—

or which may have been employed in suppressing rebellion in said State.

I apprehend that these words enlarge the scope of the inquiry too far, and ought to be stricken out of the bill. I wish also to inquire why it would not be proper to amend the bill so as to provide for three commissioners instead of one,

and have them nominated by the President and confirmed by the Senate.

Mr. LOAN. I know of no objection to that amendment.

Mr. KASSON. Then, again, I suggest that the second section should provide that the commissioner shall proceed, subject to regulations to be approved by the Secretary of War, and that the fifth section should provide that the report of the commissioner shall be subject to the approval of the Secretary of the Treasury. Those guards thrown around the bill would certainly greatly improve it, and I should much more willingly vote for it.

Mr. LOAN. The friends of the bill have no objection to the amendments suggested by the gentleman from Iowa excepting the one to strike out those words in the tenth and eleventh lines, and I think I can give sufficient reasons why they should be retained. The preceding part of the sentence refers to troops called out under authority of the Governor by the department commander; but the exigencies of the case were occasionally such that Federal officers called out troops without coming to the Governor at all, there being no time to do it; and such being the case we think the commissioner ought to take such instances into consideration.

Mr. KASSON. I will say to the gentleman that this clause to which I have objected does not imply that they should have been called out by anybody. Any dozen men who may have armed themselves and proceeded for a few days to put down guerrillas would be included.

Mr. LOAN. I have no objection to having the clause so modified as to apply only to those who were called out by Federal authority.

Mr. KASSON. All I desire is something to make it definite, and to provide for the troops who were engaged in any way in directly suppressing the rebellion.

Mr. WILSON, of Iowa. Will the gentleman from Missouri [Mr. LOAN] have any objection to amending that clause by striking out the word "or," and inserting the word "and?"

Mr. LOAN. If the gentleman will examine that clause he will see that it provides for the troops called out under the authority of the Governor; and we desire to have pay for those that were called out by Federal authority without consulting the Governor.

Mr. WRIGHT. I am loath to occupy the attention of the committee in regard to this bill; but there is a principle involved in it which I think we ought not to overlook. We may have committed one or two errors already; but by examining into this case we may be prevented from a continuance of injustice.

This is a special bill, as I understand it, to reimburse the State of Missouri for forces that were called out to protect that State during the rebellion. I remember well that troops were called out from the State of New Jersey to go into the State of Pennsylvania; and they have not yet been paid except in part. The State of New Jersey expended, in order to sustain the Government in its efforts to suppress the rebellion, the sum of $26,000,000; and she furnished fifty-three thousand three years' men. She was at all times ready and willing to do her duty. But instead of coming here and asking a special act to reimburse her, I find her embraced within a general bill now upon our tables, which provides that for the $26,000,000 which she has expended, and for all her sacrifices and payments, she shall receive the sum of $4,000,000.

Mr. VAN HORN, of Missouri. If the gentleman will allow me, I will say that if New Jersey has expended her $26,000,000, the State of Missouri has expended her proportion. She asks nothing for the bounties she gave; nothing for the expenses she incurred in raising her regular quotas. In addition to the troops referred to in this bill she furnished eighty-three thousand three years' men. This is a claim for troops furnished by Missouri at the call of the United States, and fed and clothed by the United States, so far as the War Department had authority to go, but paid out of the State treasury. These troops were in service in the field in addition to the eighty-three thousand men.

Mr. WRIGHT. Did they serve beyond the limits of the State of Missouri?

Mr. VAN HORN, of Missouri. Yes, sir; some of them served under Federal commanders in the State of Arkansas for fifteen months.

Mr. WRIGHT. I do not desire to abate one jot or tittle of the amount justly due to the patriotism or services of the men of Missouri, in suppressing the rebellion. I did not rise for the purpose of making unjust or illiberal comparisons. I rose simply to try, if my feeble voice could do it, to stay this description of legislation, special and as I think unjust, and to call attention to the general bill which is yet to come up for consideration. When that bill is under consideration, if any State has any right to claim more than is there set down to it, it can submit its claim to the judgment of this House.

That Missouri happened to be infested with guerrillas to a great extent, I will admit. And I will admit that it was necessary on the part of the officers of the Federal Government to ask the militia of that State to organize. But I repeat that the militia of the State of New Jersey did the same thing, and went off in great haste to the assistance of the State of Pennsylvania. What I say is this: the State of New Jersey has expended $26,000,000, for which, according to the report of the select committee on the war debt of the loyal States, she is to receive $4,000,000. In that same report Missouri is allowed $4,000,000; and yet she is here with a special bill asking for $7,000,000 more.

Mr. VAN HORN, of Missouri. It seems to me it can hardly be in order to discuss a bill that is not before the House for consideration.

Mr. WRIGHT. I refer to it because I consider it germane to the bill under consideration. That bill provides that "the said bonds are accepted by said State in full payment of all claims for expenses incurred or losses sustained in the war for the Union, either by the State or by any municipal corporation within the State." Now, if we are to be "cabined, cribbed, confined" within the limits of that $4,000,000, why is Missouri to come in here in advance, and by special legislation obtain all that has been expended by her State or municipal corporations? We are to be controlled by the general law if it should pass, and are remediless in the premises if we do not accept the terms proposed by that general bill.

Mr. VAN HORN, of Missouri. Mr. Chairman, we are not discussing, as I understand, a supposititious case. The report to which the gentleman from New Jersey refers is not law, and I do not know that it will ever become such. The gentleman imagines a case that is not before the House, and taking that as a basis he argues against the present claim. I object to such a method of proceeding. The State of Missouri is claiming nothing for bounty, nothing for expenses. We have spent several million dollars for which we do not ask to be reimbursed. All those of our troops that were called out by State authority have been paid by the State; but these were troops called out by the United States, and serving in its Army.

Mr. WRIGHT. I am very happy to have heard the remarks of my friend from Missouri; but when he undertakes to define the class of men for whose services the State of Missouri has been obliged to pay, for which payment it now asks reimbursement at the hands of the Federal Government, I remind him of the action of this House a short time ago, when the Committee of Claims was, by resolution, instructed not to consider claims for damages to which loyal citizens of the insurrectionary States have been subjected during the progress of the war. If such claims are not to be paid, then, *pari ratione*, this claim of the State of Missouri should not be paid. If this claim should be referred to the Committee of Claims, the resolution of the House would estop that committee from taking any action in the premises.

Mr. VAN HORN, of Missouri. I want to know whether the gentleman considers Missouri a disloyal State. His remarks may apply to the State of New Jersey; but they do not apply to Missouri.

Mr. WRIGHT. The gentleman suggests, as I understand, that Missouri is more loyal than New Jersey. It is honorable to the gentleman to make such a claim. It is noble that there should exist between the States of Missouri and New Jersey such an honorable and patriotic rivalry. If the State of Missouri has furnished more men and more money than the State of New Jersey, it was because Missouri had more men and more money than my own State. But I cannot concede that the State of Missouri is more patriotic than the State of New Jersey.

Mr. BENJAMIN. I desire to ask the gentleman from New Jersey whether he understands that this bill is designed to reimburse Missouri for any losses sustained during the war. The report of the Committee of Claims to which he refers related to the subject of the payment of losses incurred during the war.

Mr. WRIGHT. I do not understand that this bill is for the purpose of reimbursing Missouri for losses sustained during the war; but it is to indemnify a loyal State for expenses incurred; and I believe lawyers understand that expenses are sometimes considered very damaging. It is to indemnify Missouri for the expenses which she incurred in calling out her citizens in a loyal cause.

Mr. BENJAMIN. The gentleman is not correct. This bill is not, properly speaking, to indemnify the State of Missouri; but it is to reimburse the State of Missouri for money that she has paid for the General Government. It is precisely like the case of Pennsylvania which was before the House the other day.

Mr. WRIGHT. Exactly.

Mr. BENJAMIN. The claim of Pennsylvania was passed upon here since the report to which the gentleman has referred; yet the gentleman did not make any objection to that bill. Let me say to the gentleman that if the State of New Jersey or any other State is similarly situated; if the United States officers have called the militia into the field, used them in the service of the Government, and the State has been obliged to pay those troops, I am ready to support a bill to reimburse that State; and I have no doubt that this House, desirous as it is to do justice to all the people and to every State, will pass such a bill without a dissenting voice.

Mr. WRIGHT. How much money has Missouri already received in this way from the General Government during the last Congress?

Mr. BENJAMIN. She did not receive a single dollar that I am aware of.

Mr. WRIGHT. I am told that she received $800,000.

But on the principle of the learned gentleman who just addressed us, Missouri is now to be paid the expenses which she incurred in calling out these troops, and then, when we come to the general bill to refund to the several States which appropriated large sums of money to sustain and uphold the cause of the Federal Government, Missouri is again to come in for a share. She is to have the benefit of a double division. It reminds me, sir, of the case of a profligate man who went to a respectable judge and said, "The laws of society are not properly constructed." "What is the matter with them?" said the judge. "Why you are rich and I am poor, and I think we ought to divide." "If I did divide with you," said the judge, "at the end of six months you will have spent all your money; what will you do then?" "Why, divide again, of course." [Great laughter.]

And that is the case with the State of Missouri. She wants to get all she can now and to have likewise her division under the general law. I say this without disrespect to that noble Commonwealth, whose gallant sons did their full duty during the war.

New Jersey, although she expended some

twenty-six million dollars, asks for no special legislation in her behalf.

Mr. BENJAMIN. The gentleman, I am sure, does not wish to do Missouri any injustice.

Mr. WRIGHT. The gentleman has had his opportunity to speak in favor of the bill. I am playing a lone hand, and I do not want to be interrupted. [Laughter.]

Mr. Speaker, I second with great pleasure the honorable gentleman from Illinois who called the attention of this House to the peculiarity of this bill, that it does not permit any supervision on the part of the Senate of the United States. It proposes to appropriate $7,000,000 to be put into one man's hand for disbursement, and he is not to be called to account for the manner in which it is disbursed. The President may select any man he pleases. There is no power of examination. No matter what his report may be, it is decisive and final.

I have no doubt, as the gentleman has said, whoever may be appointed commissioner in case this bill passes must be a gentleman of unexceptionable character. He will have to go to Missouri to take testimony according to the best of his ability. We know all men are fallible. Now, who can tell what inducements may be held out to warp his clear judgment? If he had the firmness and fidelity of the celebrated Ronald MacDonald, I would very gladly consent to give him this unusual power. You will recollect there was a time in English history when it was found necessary to make some efforts to seduce the Scottish Highlanders from their allegiance to the Scottish cause. It was attempted to draw them away by proffers of high stations. Now, there happened to be a Highland chief, called Ronald MacDonald, of Castle Ronald. When the courier came to him and offered him his title of nobility, the honest Highlander said, "Gae back, mon, to your master, and tell him that Ronald MacDonald asks nae ither title than Ronald MacDonald, of Castle Ronald." If you could find a man like him, or a man like Cæsar's wife, above suspicion, I would agree to it.

But, sir, to permit one single individual to take millions of dollars out of the Treasury of the United States in reference to a matter the propriety of which I seriously doubt, is more than I, as a Representative of the State of New Jersey, am willing to consent to. I protest against it. The character of the legislation is wrong, because it is special and invidious. We ought to have a general bill to accomplish the same purpose.

There are no obligations here in this law to compel the commissioner to be honest, or any reason in the proposition that would cause it. Whither, then, are we tending? I believe gentlemen desire to pursue a system of reasonable economy. Let us hesitate, therefore, before measures of this importance are passed. Let us not plunge the nation deeper into debt than it now is, unless there is urgent and just cause for so doing. I have not yet been compelled to look around before I cast my vote. I cast it with a clear and honest object. While I am willing to make every sacrifice demanded by patriotism to meet every exigency and to provide for every public expenditure that may be needed, yet I am not willing to go to this excess and to squander away the public money when every dollar is needed to pay the public debt. I am, however, always willing to accede everything for the payment of those noble and gallant men who fought so successfully to save the Union and keep our flag flying over every acre of ground within the limits of the United States.

Mr. STEVENS. I move that the committee rise for the purpose of closing general debate.

Mr. KASSON. I hope the gentleman from Pennsylvania, [Mr. STEVENS,] who was absent at the time I exchanged some inquiries with the gentleman from Missouri, [Mr. LOAN,] will allow me to offer some amendments which that gentleman and myself have agreed upon.

Mr. STEVENS. I think we had better close general debate, and then amendments can be made under the five-minute rule.

Mr. WASHBURNE, of Illinois. I think we can close general debate by unanimous consent.

No objection being made, it was so ordered; and general debate was closed.

Mr. KASSON. I move to amend the first section by inserting in line one, after the word "President," the words "with the advice of the Senate," and to change the words "a commissioner" to "three commissioners;" so that the section will read:

That immediately after the passage of this act the President, with the advice of the Senate, shall appoint three commissioners, whose duty it shall be to ascertain the amount of moneys expended by the State of Missouri in enrolling, equipping, subsisting, and paying such State forces as have been called into service in said State since the 24th day of August, 1861, to act in concert with the United States forces in the suppression of the rebellion against the United States.

The amendment was agreed to.

Mr. WASHBURNE, of Illinois. I move further to amend section one by adding at the end thereof the following:

And the said commissioners shall be authorized and required to sit as a board at St. Louis, Missouri, and shall be authorized to call witnesses before them and examine them under oath; and said commissioners shall be authorized to employ a clerk at a rate of compensation not exceeding $1,500 per annum.

The reason of my offering this amendment is, that in a bill of this magnitude, where accounts to the amount of $7,000,000 are to be examined, we ought to have a board sitting as a commission and authorized to take testimony.

Mr. VAN HORN, of Missouri. Say at Jefferson City, instead of St. Louis.

Mr. STEVENS. I can see no objection to this amendment.

Mr. WASHBURNE, of Illinois. I will make it at any point that the gentlemen from Missouri may designate.

Mr. LOAN. Allow the commissioners to select their own place in the State of Missouri.

Mr. WASHBURNE, of Illinois. I will accede to that suggestion, and leave it that they be authorized to sit as a board in the State of Missouri.

The amendment as modified was read, as follows:

And the said commissioners shall be authorized and required to sit as a board in the State of Missouri, and shall be authorized to call witnesses before them and examine them under oath, and said commissioners shall be authorized to employ a clerk at a rate of compensation not exceeding $1,500 per annum.

The amendment was agreed to.

Mr. STEVENS. Before proceeding any further with this bill I will move that the committee rise for the purpose of moving to dispense with the evening session for to-night.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. THAYER reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the State of the Union generally, and particularly bill of the Senate No. 31, to reimburse the State of Missouri for moneys expended for the United States in enrolling, equipping, and provisioning militia forces to aid in suppressing the rebellion, and had come to no conclusion thereon.

EVENING SESSION.

Mr. STEVENS. I now move that the evening session for to-night be dispensed with.

The motion was agreed to.

MISSOURI MILITIA—AGAIN.

Mr. STEVENS. I move that the House go into Committee of the Whole again.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union (Mr. THAYER in the chair) and resumed the consideration of Senate bill No. 31, to reimburse the State of Missouri for moneys expended for the United States in enrolling, equipping, and provisioning militia forces to aid in suppressing the rebellion.

The Clerk read section two.

Mr. KASSON. In order that this section may conform to the previous one, it will be necessary to change the word "commissioner" to "commissioners."

The amendment was agreed to.

Mr. KASSON. I move to insert in line two, after the word "proceed," the words "subject to regulations to be prescribed by the Secretary of War."

Mr. BENJAMIN. I do not think that is necessary. There is another provision that these expenditures shall be allowed in conformity to the laws of the United States.

Mr. KASSON. This is in harmony with that clause, to have it accord with the rules that govern the Army of the United States.

The amendment was agreed to.

Mr. KASSON. I move to insert in the same section, line eleven, after the word "State" the words "under the authority and command of Federal officers." I believe that is the phraseology that the gentleman from Missouri [Mr. LOAN] says will accomplish the purpose, limiting it to those who were in the Federal service. The section will then read:

SEC. 2. *And be it further enacted*, That the commissioners so appointed shall proceed, subject to regulations to be prescribed by the Secretary of War, at once to examine all the items of expenditure made by said State for the purposes herein named, allowing only for disbursements made and amounts assumed by the State for enrolling, equipping, subsisting, and paying such troops as were called into service by the Governor, at the request of the United States department commander commanding the district in which Missouri may at the time have been included, or by the express order, consent, or concurrence of such commander, or which may have been employed in suppressing rebellion in said State under the authority and command of Federal officers. And no allowance shall be made for any troops which did not perform actual military service in full concert and coöperation with the authorities of the United States and subject to their orders.

Mr. STEVENS. I would inquire of the gentleman from Missouri whether they were all under command of Federal officers.

Mr. LOAN. Yes, sir; all that we desire any compensation for.

The amendment was agreed to.

Mr. STEVENS. I move to strike out of section three the portion in brackets, as follows:

Or the act entitled "An act to allow and pay to the State of Missouri the amount of money expended by said State in the arming and paying of troops employed in the suppression of insurrection against the laws of the United States," approved July 17, 1862.

The section will then read:

SEC. 3. *And be it further enacted*, That in making up said account, for the convenience of the accounting officers of the Government, the commissioner shall state separately the amounts expended, respectively, for enrolling, equipping, arming, subsisting, and paying said troops, and from the aggregate amount he shall deduct the amount of direct tax due by the said State to the United States under the act entitled "An act to provide increased revenue from imports, pay interest on the public debt, and for other purposes," approved August 5, 1861.

The amendment was agreed to.

Mr. WILSON, of Iowa. I move to amend section four by inserting after the words "United States," in line five, the words "and the regulations prescribed by the War Department;" so that it will read:

SEC. 4. *And be it further enacted*, That in the adjustment of accounts under this act the commissioners shall not allow for any expenditure or compensation for service at a rate greater than was at the time authorized by the laws of the United States in similar cases and the regulations prescribed by the War Department.

Mr. LOAN. I have no objection to that.

The amendment was agreed to.

Mr. WASHBURNE, of Illinois. I move to amend section five by striking out all after the word "Treasury" in line five, and inserting as follows:

And shall transmit all the testimony taken by said commissioners to the Secretary of the Treasury, and if upon examination by the proper accounting officers of the Treasury, the account shall be found to be just and correct the same shall be paid.

The section will then read:

SEC. 5. *And be it further enacted*, That so soon as said commissioner shall have made up said account and ascertained the balance, as herein directed, he shall make written report thereof, showing the different items of expenditure as hereinbefore stated, to the Secretary of the Treasury, and shall transmit all the testimony taken by said committees to the Secretary of the Treasury, and if upon examination by the proper accounting officers of the Treasury the account shall be found to be just and correct the same shall be paid.

The amendment was agreed to.

Mr. KASSON. I move to amend section six by changing the word "commissioner" to the plural, and making the corresponding change in the pronouns "he" and "his," and by inserting the word "severally" after the word "sworn."

The amendments were agreed to.

Mr. KASSON. I move further to amend by adding at the end of the section these words, "not exceeding ten dollars per day for each day of actual service;" so that the section will read:

SEC. 6. *And be it further enacted*, That the commissioner to be appointed as aforesaid shall, before proceeding to the discharge of his duties, be sworn that he will carefully examine the accounts existing between the United States and the State of Missouri, and that he will, to the best of his ability, make a just, true, and impartial statement thereof, as required by this act. He shall receive such compensation for his services as may be determined by the Secretary of the Treasury, not exceeding ten dollars per day for each day of actual service.

Mr. STEVENS. I move to strike out "$75,000" in section seven, and insert "$15,089 65;" so that the section will read:

SEC. 7. *And be it further enacted*, That the sum of $6,715,089 65 be, and the same is hereby, appropriated to carry this act into effect.

The amendment was agreed to.

Mr. KASSON. I move further to amend the last section by adding at the end thereof the words "or so much thereof as shall be necessary." It is the customary clause.

The amendment was agreed to.

Mr. WRIGHT. I have an amendment to propose which I think will get rid of a good deal of difficulty about this bill:

Provided, That no part of the money mentioned in this act shall be paid by the Secretary of the Treasury until the report of said commissioners shall have been examined and approved by the Secretary of War, which commissioners shall lay before the Secretary of War the evidence upon which said award was made.

Mr. STEVENS. The gentleman perhaps has overlooked an amendment made by the gentleman from Illinois, [Mr. WASHBURNE,] providing that the same thing precisely shall be done by the Secretary of the Treasury. That is already a part of the bill.

Mr. WRIGHT. If the gentleman from Illinois says that the proviso he inserted is the same, I withdraw it.

Mr. WASHBURNE, of Illinois. The committee on my motion inserted an amendment that the testimony shall be transmitted to the Secretary of the Treasury to be examined by him, and if the account shall be found to be correct he shall pay the same.

Mr. WRIGHT. I withdraw the amendment.

Mr. STEVENS. I move that the committee rise, and report the bill and amendments.

The motion was agreed to; and the Speaker having resumed the chair, Mr. THAYER reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and especially Senate bill No. 31, to reimburse the State of Missouri for moneys expended for the United States in enrolling, equipping, and provisioning militia forces to aid in suppressing the rebellion, and had directed him to report the same back to the House with sundry amendments.

Mr. STEVENS. I call the previous question on the bill and amendments.

The previous question was seconded, and the main question ordered; and under the operation thereof the amendments reported from the Committee of the Whole were severally agreed to.

The bill as amended was then read a third time.

The question was upon the passage of the bill; and upon a division there were—ayes 67, noes 25.

The SPEAKER voted in the affirmative, making a quorum.

Before the result of the vote was announced,

Mr. LE BLOND called for the yeas and nays on the passage of the bill.

Upon ordering the yeas and nays there were—ayes seventeen; not one fifth of the members present.

Mr. LE BLOND called for tellers upon ordering the yeas and nays.

Upon ordering tellers there were—ayes fourteen; not a sufficient number.

So tellers were refused, and the yeas and nays were refused.

The bill was accordingly passed.

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

The latter motion was agreed to.

LEAVE OF ABSENCE.

Mr. FINCK asked and obtained leave of absence for his colleague, Mr. LE BLOND, for two weeks.

NORMAN J. HALL.

Mr. ASHLEY, of Ohio, by unanimous consent, introduced a bill for the relief of Norman J. Hall; which was read a first and second time, and referred to the Committee of Claims.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

And then, on motion of Mr. SPALDING, (at four o'clock and forty minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to the appropriate committees:

By the SPEAKER: The petition of John W. Zigler, W. A. Place, W. A. Banks, H. P. Lans, and many others, of Laporte county, Indiana, asking an increase of duty on foreign unwashed wool competing with American wools, and doubling of duty on washed wools and tripling on scoured wools.

By Mr. BAXTER: The petition of Marion M. Buxton, widow of James H. Buxton, United States Navy, asking to be placed on the pension rolls.

By Mr. CLARKE, of Kansas: The memorial of J. N. Bourassa, A. F. Novarres, and B. H. Bertrand, delegates of the Pottawatomie Indians, praying for an appropriation of the sum of $164,584 75, arising from stipulations contained in the various treaties between the Pottawatomie Indians and the United States.

By Mr. DAVIS: The petition of Charles B. Stuart, of the State of New York, asking for relief.

By Mr. ECKLEY: The petition of 58 citizens of Stark county, Ohio, asking additional duty on wool.

By Mr. FARNSWORTH: The petition of E. S. Smith, and a large number of others, citizens of Batavia, Illinois, in favor of a uniform system of insurance.

Also, the petition of S. E. Hyde, and numerous others, citizens of De Kalb county, Illinois, for an increased tariff upon wool.

Also, the petition of N. H. Powers, and others, citizens of De Kalb county, Illinois, for a tax of two dollars a year upon dogs.

By Mr. FERRY: The memorial of citizens of Emmet county, Michigan, praying for the restoration to market of railroad grant lands and the proceeds thereof be applied to railroad purposes.

Also, the petition of many citizens of Ionia, Michigan, praying for the passage of a law regulating inter-State insurances of all kinds.

Also, a like memorial of many citizens of Greenville, Michigan.

By Mr. GARFIELD: The petition of L. B. Goldsmith, and 62 others, citizens of Ashtabula county, Ohio, praying for an increased protection of American wool.

Also, the petition of N. L. Wann, and 122 others, citizens of Portage county, Ohio, on the same subject.

Also, the petition of E. O. Lyman, and 33 others, citizens of Geauga county, Ohio, on the same subject.

Also, the petition of Thomas Hawkins, and 119 others, citizens of Mahoning county, Ohio, on the same subject.

Also, the petition of Charles M. Warren, and 448 others, citizens of Mineral Ridge, Mahoning county, Ohio, praying for an increased protection to American manufacturing and mining interests.

Also, the petition of Charles H. Andrews, and 50 others, citizens of Youngstown, Ohio, on the same subject.

Also, the petition of Charles Benedict, and 20 others, citizens of Bruceville, Trumbull county, Ohio, praying for the equalization of soldiers' bounties.

Also, the petition of Almon D. Webb, and 32 others, citizens of Trumbull county, Ohio, asking the passage of a law by Congress to regulate and protect insurance companies.

By Mr. HUBBARD, of Iowa: The petition of J. L. A. Crosby, and others, asking Congress to enact just and equal laws for the regulation of inter-State insurances of all kinds, &c.

By Mr. HUBBELL, of Ohio: The petition of J. E. Cahil, and 36 others, citizens and wool-growers of Union county, Ohio, praying for increased duties upon foreign wools.

By Mr. LONGYEAR: The petition of James Gould, and 48 others, of Jackson, Michigan, asking for just and equal laws regulating inter-State insurance.

Also, the remonstrance of A. E. Steele, and 116 others, citizens of Ingham county, Michigan, against an extension of the Amboy, Lansing, and Traverse Bay railroad land grant to the company of that name.

By Mr. MOORHEAD: The memorial from the Board of Trade, Pittsburg, Pennsylvania, praying for congressional action to authorize the construction or completion of the Pittsburg and Connellsville railroad to Cumberland, Maryland.

By Mr. MOULTON: The petition of Miss Susan Y. Amoneth, praying for indemnity for losses, &c.

By Mr. MYERS: The petition of Lewis Ladamus and William P. Ellison, of Philadelphia, representing the estate of John Moore, deceased, owners of square No. 760 East Capitol street, between Second and Third streets, Washington, District of Columbia, occupied by the Government since 1861, asking Congress for the passage of an act to pay them rent for the same.

Also, the petition of tanners and manufacturers of American calf-skins, to relieve them from the revenue tax and increase the tariff on said articles.

Also, the memorial of Dr. Wilson Jewell, for a change in the present quarantine laws; praying, also, for a strict code of internal hygienic regulations, as the quarantine system of itself has always failed to prevent the spread of great epidemic diseases.

By Mr. PAINE: The petition of E. A. Hubbard, and 62 others, citizens of Troy, Walworth county, Wisconsin, for tariff on foreign wools.

Also, the petition of George V. Weeks, and 90 others, citizens of Lyons, Walworth county, Wisconsin, for imposition of specific duties on foreign wool.

Also, the petition of S. F. Feeld, and 176 others, citizens of East Troy, Walworth county, Wisconsin, for specific duties on foreign wools.

By Mr. PERHAM: The petition of Mrs. Charlotte E. Reed, for a pension.

By Mr. RICE, of Massachusetts: The petition of Pratt & Wentworth, and others, praying for a reduction of the internal revenue tax on stoves.

By Mr. WILLIAMS: The petition of wool-growers of Butler county, Pennsylvania, praying for an increase of duties on foreign wools,

Also, the memorial of manufacturers of leather and shoes in Butler county, Pennsylvania, asking for removal of internal duties on the former article.

Also, the memorial (being the second to-day) of wool-growers of Butler county, Pennsylvania, praying for an increase of duties on wool.

IN SENATE.

THURSDAY, *April* 12, 1866.

The Chaplain, Rev. E. H. GRAY, D. D., offered the following prayer:

O, Lord God, we come to-day to commemorate the virtues and rehearse the deeds of an honest man, a wise statesman, an eloquent orator, and the father of the Senate. We thank Thee that Thou hast given the country such a man, that his life has been spared so long, and his influence has been felt for so many years in this body and in the nation. We thank Thee that when the storm of war and death swept down upon us and over the land, whoever else may have wavered and faltered, he stood firm as the hills of his mountain State, and whoever may have stained his record, his remained unsullied and pure to the last. We thank Thee that when he came to die he fell with the armor on and laid him down quietly to depart, amid surrounding angels and a vision of the glories of heaven, as his released spirit was borne to the skies.

O Lord, in calling away Thy servant the nation is bereaved; the Senate mourns: a State has been widowed; and a family crushed with a great burden of sorrow and of grief. Let the assurances of Thy Word and the promises of the Gospel sustain and support all these mourners; and we ask that Thy blessing also may be upon Thy servant who has been called to take the vacant chair and assume the responsibilities of the departed. O, Lord, let the mantle of his illustrious predecessor fall on him.

We ask that Thy blessing may be upon us to-day, and upon the solemn services that may transpire in this House. May we all be taught so to number our days that we may apply our hearts unto wisdom, and may we be girded for the great responsibilities of life and be prepared for all the dispensations of Thy providence; and when we ourselves are called to depart, may we lay us down to die in the midst of surrounding angels and in full view of the glories of heaven, and amid the benedictions of our Father, saying, "Well done, well done; come up higher." Amen.

The Journal of yesterday was read and approved.

COMMITTEE SERVICE.

The PRESIDENT *pro tempore* appointed

Mr. EDMUNDS to fill the vacancy in the Committee on Pensions, occasioned by the decease of Hon. Solomon Foot, agreeably to the order of the Senate of the 10th instant.

PETITIONS AND MEMORIALS.

Mr. CLARK presented the petition of Jane Newell, in which she alleges that she was the lawful owner of the steamboat H. R. W. Hill, which was taken possession of by the Government and used by it; which was referred to the Committee on Claims.

He also presented the petition of James Pool, praying that he may be allowed interest on his accounts for moneys expended for supplies for the Shawnee Indians from the time when certified by the Second Auditor to be due him to the time of their payment; which was referred to the Committee on Claims.

Mr. CLARK. I also present the petition of Michael Blessing, a citizen of Memphis, Shelby county, Tennessee, in which he alleges that he was the owner of the steamboat Jeff. Davis, which was taken and used by the Government, and he prays compensation therefor. I think the Committee on Claims a good place for Jeff. Davis; I move its reference there.

The motion was agreed to.

Mr. MORRILL presented a petition of manufacturers of mineral waters, &c., in the District of Columbia, praying for an alteration of the laws regulating the bottling of mineral water, &c., in the District so as to protect them in their business; which was referred to the Committee on the District of Columbia.

BILLS INTRODUCED.

Mr. NORTON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 263) to authorize the Winona and St. Peter Railroad Company to construct a bridge across the Mississippi river and to establish a post route; which was read twice by its title.

Mr. NORTON. I move that it be referred to the Committee on Commerce.

Mr. BROWN. I move that the bill be referred to the Committee on Post Offices and Post Roads. They have the same subject under their consideration already in regard to bridges across the Mississippi, and it would be proper that it should go there.

Mr. NORTON. I have no objection.

The bill was referred to the Committee on Post Offices and Post Roads.

Mr. STEWART. I ask leave to introduce a joint resolution as a substitute for the joint resolution (S. R. No. 48) setting forth certain conditions upon which the States, the people of which have been lately in rebellion against the United States, shall be restored to their representation in Congress, for the purpose of having it printed and referred to the joint committee on reconstruction. It is short and I should like to have it read.

There being no objection, leave was granted to introduce a joint resolution (S. R. No. 62) proposing an amendment to the Constitution of the United States; also setting forth certain conditions upon which the States, the people of which have been lately in insurrection against the United States, shall be restored to their representation in Congress.

The joint resolution was read twice by its title, and was read at length, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two thirds of both Houses concurring,) That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three fourths of said Legislatures, shall be valid to all intents and purposes as a part of the said Constitution, namely:

ARTICLE —.

SEC. 1. All discriminations among the people because of race, color, or previous condition of servitude, either in civil rights or the right of suffrage, are prohibited; but the States may exempt persons now voters from restrictions on suffrage hereafter imposed.

SEC. 2. Obligations incurred in aid of insurrection or of war against the Union, and claims for compensation for slaves emancipated, are void, and shall not be assumed or paid by any State or the United States.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever any one of the eleven States whose inhabitants were lately in insurrection, through a Legislature elected by a constituency restricted in the right of suffrage only by such laws as existed in such State in 1860, shall have ratified the foregoing amendments to the Constitution of the United States, and shall have modified its constitution and laws in conformity therewith, then, and in that case, such State shall be recognized as having fully and validly resumed its former relations with this Government, and its chosen representatives shall be admitted into the two Houses of the national Legislature, and a general amnesty shall exist in regard to all persons in such State who were in any way connected with armed opposition to the Government of the United States, wholly relieving them from all pains, penalties, or disabilities to which they may have become liable by reason of their connection with said insurrection.

The joint resolution was referred to the joint committee of fifteen, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House of Representatives had passed a bill (H. R. No. 50) to amend the fifth section of an act entitled "An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts," approved July 2, 1862, so as to extend the time within which the provisions of said act shall be accepted and such colleges established, in which it requested the concurrence of the Senate.

The message further announced that the House of Representatives had passed the bill (S. No. 31) to reimburse the State of Missouri for moneys expended for the United States in enrolling, equipping, and provisioning militia forces to aid in suppressing the rebellion, with amendments, in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message also announced that the House of Representatives had signed the following enrolled joint resolutions; which were thereupon signed by the President *pro tempore:*

A joint resolution (S. R. No. 44) authorizing Commodore William Radford to accept a decoration from the King of Italy;

A joint resolution (S. R. No. 53) authorizing Rear Admiral H. Paulding to accept a decoration from the King of Italy; and

A joint resolution (S. R. No. 58) respecting the burial of soldiers who died in the military service of the United States during the rebellion.

SOLDIER'S INDIVIDUAL MEMORIAL.

Mr. VAN WINKLE. I am directed by the Committee on Post Offices and Post Roads, to whom was referred a bill (H. R. No. 471) to provide that the "Soldier's Individual Memorial" shall be carried through the mails at the usual rate of printed matter, to report it back without amendment and with a recommendation that it pass, and I also ask for its present consideration. It is but six lines and will lead to no debate.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which provides that the ornamental records of the personal services of Federal officers and soldiers, composed partly of written and partly of printed matter, but containing no private communications, and known as the "Soldier's Individual Memorial," shall be allowed to pass through the mails upon the payment of the usual postage on printed matter.

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

AMBOY AND TRAVERSE BAY RAILROAD.

Mr. HENDRICKS. The Committee on Public Lands, to whom was recommitted the bill (S. No. 243) to extend the time for the reversion to the United States of the lands granted by Congress to aid in the construction of a railroad from Amboy, by Hillsdale and Lansing, to some point on or near Traverse bay, in the State of Michigan, and for the completion of said road, have directed me to report the same back with an amendment; and as it is but a short bill of two sections, as amended, extending the time of the completion of a railroad, it might as well be passed now as at any other time. I think there will be no objection to it.

By unanimous consent, the bill was considered as in Committee of the Whole.

The PRESIDENT *pro tempore.* The Committee on Public Lands have reported the bill with an amendment in the nature of a substitute. The amendment only will be read, unless some Senator calls for the reading of the original bill.

The Secretary read the amendment, which was, to strike out all of the bill after the enacting clause, and to insert in lieu thereof the following:

That the time limited by the fourth section of an act entitled "An act making a grant of alternate sections of the public lands to the State of Michigan, to aid in the construction of certain railroads in said State, and for other purposes," approved June 3, 1856, for the completion of the railroad from Amboy, by the way of Hillsdale and Lansing, to some point on or near Traverse bay, shall be, and hereby is, extended for the period of seven years from and after the 3d day of June, 1866; and that any and all grants of land to said road shall continue and remain in full force and effect for and during that period, as if it had been so provided in said fourth section of said act of June 3, 1856, for the use and benefit of the Amboy, Lansing, and Traverse Bay Railroad Company: *Provided,* That that portion of the said road which is between Owasso and Saginaw City shall be fully completed and in readiness for the running of trains thereon by the 1st day of November, 1867, and that twenty miles of the road be so completed during each and every year thereafter; and none of the lands shall be patented, as hereinafter provided, to the State of Michigan upon any portion of the road that may be so completed south of Lansing until an equal extent of road is completed north of Saginaw City: *And provided further,* That if default be made in the construction of the road as above provided at the times above specified, the said company shall forfeit all further right to the land grant as hereby extended.

SEC. 2. *And be it further enacted,* That whenever the Governor of the State of Michigan shall certify to the Secretary of the Interior that any ten or more consecutive miles of said road is completed in conformity with the provisions of this act and the act of June 3, 1856, stating definitely the commencement and termination of such completed portion of said road, the Secretary of the Interior shall cause patents of such lands as said railroad company shall be entitled to, to be issued to the State of Michigan for the use and benefit of said railroad company.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

HOUSE BILL REFERRED.

The bill (H. R. No. 50) to amend the fifth section of an act entitled "An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts," approved July 2, 1862, so as to extend the time within which the provisions of said act shall be accepted, and such colleges established, was read twice by its title, and referred to the Committee on Public Lands.

MISSOURI MILITIA CLAIMS.

Mr. BROWN. The bill for the reimbursement of Missouri, which passed the Senate some time ago, has been returned from the House with some minor corrections and amendments. I wish to ask the Senate to concur in them, and I therefore move to proceed to their consideration.

The motion was agreed to; and the Senate proceeded to consider the amendments of the House of Representatives to the bill (S. No. 31) to reimburse the State of Missouri for moneys expended for the United States in enrolling, equipping, and provisioning militia forces to aid in suppressing the rebellion.

The first amendment was after the word "shall" in the fourth line of the first section to insert the words "by and with the advice and consent of the Senate;" and after the word "appoint" in the same line to strike out the words "a commissioner," and insert "three commissioners;" so as to make the clause read:

The President shall, by and with the advice and consent of the Senate, appoint three commissioners, whose duty it shall be to ascertain the amount of moneys expended by the State of Missouri, &c.

Mr. BROWN. That amendment is simply to require the concurrence of the Senate in the appointment of these commissioners, and to

substitute three commissioners for one. I presume there will be no objection to it. I move that the Senate concur in the amendment.

The amendment was concurred in.

The next amendment was to insert at the end of the first section the following words:

And the said commissioners shall be authorized and required to sit as a board at some place in the State of Missouri, and shall be authorized to call witnesses before them, and to examine them under oath; and said commissioners shall be authorized to employ a clerk at a rate of compensation not to exceed $1,500 per annum.

Mr. BROWN. I move that the Senate concur in that amendment.

The motion was agreed to.

The next amendment was in line one of section two, to strike out "commissioner" and insert "commissioners," and after the word "proceed" in line two to insert "subject to regulations to be prescribed by the Secretary of War;" so as to make the clause read:

That the commissioners so appointed shall proceed, subject to the regulations to be prescribed by the Secretary of War, at once to examine all the items of expenditure made by said State for the purposes herein named.

Mr. BROWN. I move that the Senate concur in that amendment.

The motion was agreed to.

The amendment was in section two, after the word "State," in line eleven, to insert "under the authority and command of Federal officers;" so as to make the clause read:

Such troops as were called into service by the Governor at the request of the United States department commander commanding the district in which Missouri may at the time have been included, or by the express order, consent, or concurrence of said commander, or which may be employed in suppressing rebellion in said State under the authority and command of Federal officers.

Mr. BROWN. I move that the Senate concur in that amendment.

The motion was agreed to.

The next amendment was in section three, line three, to strike out "commissioner" and insert "commissioners," and in line six to strike out "he" and insert "they."

The amendment was concurred in.

The next amendment was to strike out the following words at the close of section three:

Or the act entitled "An act to allow and pay to the State of Missouri the amount of money expended by said State in the arming and paying of troops employed in the suppression of insurrection against the laws of the United States," approved July 17, 1862.

Mr. BROWN. That recital is mere surplusage and has been stricken out accordingly. I move that the Senate concur in that amendment.

The motion was agreed to.

The next amendment was in section four, line two, to strike out "commissioner" and insert "commissioners;" and in line five, after the words "United States," to insert "and the regulations prescribed by the Secretary of War;" so that the section will read:

That in the adjustment of accounts under this act the commissioners shall not allow for any expenditure or compensation for service at a rate greater than was at the time authorized by the laws of the United States and the regulations prescribed by the Secretary of War in similar cases.

The amendment was concurred in.

The next amendment was in section five, line two, to strike out "commissioner" and insert "commissioners;" and in line three to strike out "he" and insert "they."

The amendment was concurred in.

The next amendment was to strike out all of section five after the word "Treasury" in line five, as follows:

And if from said report it shall appear that any sum remains due to the said State, he shall draw his warrant for the same, payable to the Governor of said State, and deliver it to him.

And in lieu thereof to insert:

Shall transmit all the testimony taken by said commissioners to the Secretary of the Treasury, and if upon examination by the proper accounting officers of the Treasury the account shall be found to be just and correct, the same shall be paid.

Mr. BROWN. I move that the Senate concur in that amendment.

The motion was agreed to.

The next amendment was in section six, line one, to strike out "commissioner" and insert "commissioners;" in line three to strike out "his" and insert "their;" and after "be" and before "sworn" in the same line to insert "severally;" in line five to strike out "he" and insert "they," and to strike out "his" and insert "their;" in line seven to strike out "he" and insert "they;" and in line eight to strike out "his" and insert "their;" so that the section will read:

That the commissioners to be appointed as aforesaid shall, before proceeding to the discharge of their duties, be severally sworn that they will carefully examine the accounts existing between the United States and the State of Missouri, and that they will, to the best of their ability, make a just, true, and impartial statement thereof, as required by this act. They shall receive such compensation for their services as may be determined by the Secretary of the Treasury.

The amendment was concurred in.

The next amendment was to add to the end of section six "not exceeding ten dollars per day for each day of actual service."

Mr. BROWN. I move that the Senate concur in that amendment.

The motion was agreed to.

The next amendment was in section seven, line two, to strike out "$6,775,000," and insert "$6,715,089 65."

Mr. BROWN. That is a clerical mistake which has been corrected in the House, reducing the amount that much. I move the concurrence of the Senate.

The amendment was concurred in.

The PRESIDENT *pro tempore*. That completes the amendments of the House of Representatives.

COLLECTION DISTRICTS.

Mr. CHANDLER. The Committee on Commerce, to whom were referred the amendments of the House of Representatives to the bill (S. No. 199) to establish the collection district of Port Huron, and the collection district of Michigan, and to extend the district of Puget Sound, have directed me to report them back with a recommendation that the Senate concur in the amendments. As they are very short, I ask for immediate action upon them.

The Senate proceeded to consider the amendments of the House of Representatives. The first amendment was to strike out all after the enacting clause of the second section and in lieu thereof to insert the following:

That the Territories of Montana and Idaho be, and the same are hereby, made a new collection district, to be called the district of Montana and Idaho, and that a collector, with the same salary as is above provided for each of the collectors of Port Huron and Michigan, shall be appointed to reside at the port of entry in said district, which shall be designated by the Secretary of the Treasury.

The amendment was concurred in.

The next amendment was to add the following as an additional section:

SEC. 3. *And be it further enacted*, That the collection district of Penobscot, in the State of Maine, shall hereafter be called the district of Castine.

The amendment was concurred in.

The next amendment was to amend the title of the bill so as to read:

An act to establish the collection district of Port Huron, the collection district of Michigan, the collection district of Montana and Idaho, and to change the name of the collection district of Penobscot.

The amendment was concurred in.

REMISSION OF DUTIES.

Mr. CHANDLER. The Committee on Commerce, to whom was referred the bill (S. No. 255) to remit and refund certain duties, have directed me to report it back without amendment and with a recommendation that it pass.

Mr. SHERMAN. As that bill is very short and I think will not be objected to by any Senator when he hears it read, I ask for its present consideration. It ought to be acted upon at once.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which authorizes the Secretary of the Treasury to remit, or, if paid, to refund, any duties levied on produce shipped from any part of the United States to a port of the United States via Canada, if the produce was actually *in transitu* and detained by ice when the recent reciprocity treaty with Canada expired.

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

USE OF HALL FOR LECTURES.

Mr. CLARK. Last evening I made a motion to reconsider the vote adopting the resolution granting to Mrs. Walling the use of this Hall on Tuesday next. I now ask for action on that motion.

The PRESIDENT *pro tempore*. It is moved that the Senate reconsider its vote granting the use of this Chamber to Mrs. Walling on Tuesday evening next. The question is on the motion to reconsider.

The motion was agreed to.

JOHN T. JONES.

Mr. DOOLITTLE. I am instructed by the Committee on Indian Affairs, to whom was referred a bill (S. No. 122) for the relief of John T. Jones, an Ottawa Indian, for depredations committed by white persons on his property in Kansas Territory, to report it back with a recommendation that it pass. If there be no objection, I should like to have the bill considered at the present time. A similar bill has been heretofore considered by the Senate, and has once passed the Senate.

Mr. POMEROY. It passed the Senate twice.

Mr. DOOLITTLE. I am corrected by the Senator from Kansas; it passed the Senate twice. I ask that that bill be taken up for consideration.

By unanimous consent the Senate, as in Committee of the Whole, proceeded to consider the bill, which directs payment to John T. Jones of $6,700, in full for depredations committed upon his property by white persons, that being the amount adjudged by the Commissioner of Indian Affairs to be the value of the property destroyed.

Mr. DOOLITTLE. I will explain the bill in a single moment. As the Senator from Kansas has stated, it has twice passed the Senate. This John T. Jones was a member of an Indian tribe in Kansas, and as long ago as the troubles in Kansas, in 1856, his house was burned and its contents consumed. Under the non-intercourse law, as it then stood, the Government of the United States was liable to pay damages committed upon Indians at peace with the United States; but the law technically required, before the damages could be paid, that he should make proof that he had endeavored to pursue the party who was guilty of the crime and to prove the identity of the person who committed the offense. Technically, therefore, the claim could not be paid by the Indian department, and it was so decided by the Secretary of the Interior. But on investigation into the affair, under the direction of the Secretary of the Interior, it was found that the transactions in Kansas were in the nature of a civil commotion or civil war, during the difficulties there in 1856, and that it was unjust to insist that he should strictly comply with the terms of the law in order to prove the damage done by the particular individual. It has therefore been recommended from that time to the present by the Department that this relief should be granted. The petitioner, in setting up his claim for damages, sets up not only the actual damage but a claim for large consequential damages—loss of business, and things of that sort; but that has been rejected both by the Department and by the committee. The amount proposed to be appropriated is the amount of the actual damages sustained by him by the burning of his house and his furniture. The amount is $6,700.

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

ALMON W. BABBITT.

Mr. DOOLITTLE. The Committee on Indian Affairs, to whom was referred the bill (H.

R. No. 150) for the relief of the administrators and securities of Almon W. Babbitt, late secretary of Utah, have instructed me to report it back without amendment, and with a recommendation that it pass. If there be no matter pressing, I should like to have it disposed of now.

There being no objection, the bill (H. R. No. 150) for the relief of the administrators and securities of Almon W. Babbitt, late secretary of Utah, was considered as in Committee of the Whole. It recites that Almon W. Babbitt, as secretary of the Territory of Utah, in the summer of 1856, had advanced to him by the Treasury Department, at the city of Washington, $26,500; that a portion of this sum was properly expended by him in the purchase of stationery, carpeting, and other property for the offices of the Territory, and in the purchase of oxen and wagons to transport the property, together with a quantity of books, belonging to the Territory, from Council Bluffs to Salt Lake City; and while upon the route, not far from Fort Kearney, Babbitt and most of the men with him were murdered, the teams taken, and property destroyed by Indians; and there is now standing against Babbitt upon the books of the Treasury Department a balance of $12,-972; and it is satisfactorily proven that the property destroyed by the Indians amounted in value to a sum larger than said balance. It is therefore proposed to release and discharge the administrators, heirs, and securities of Babbitt from the payment of the balance, and from all liability on account of the same and of the moneys received from the Treasury Department by him.

Mr. DOOLITTLE. The bill has passed the House, and there is a brief report made by the House committee. I have looked into the papers and can state very briefly to the Senate the facts. This man Babbitt was the secretary of the Territory of Utah. The sum stated, $26,500, was paid to him. He at Council Bluffs started a train to go across to Utah, and purchased some oxen and teams, and furniture, &c., for the offices in the Territory. About a week after, he started himself with a buggy and mules, and in his trunk was placed about twenty thousand dollars in gold. He had also along with him some drafts of the United States. His train was attacked by the Cheyenne Indians and destroyed, and all the persons were destroyed but one, and the oxen and property were taken away by the Indians. He followed on. He himself was attacked and killed and his buggy and trunk rifled. Papers were subsequently found scattered about upon the route, among which were found some drafts which came back to the Treasury, and those drafts being allowed have left the balance stated in the bill upon the books of the Treasury due from him. He was killed, and his sureties and administrators have petitioned that under the circumstances they should be released. That is the substance of the bill. I think the amount is about thirteen thousand dollars. It is not asking for any appropriation, but that the sureties should be released. I think it is just.

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

DEATH OF SENATOR FOOT.

Mr. POLAND. Mr. President, I offer the following resolution:

Resolved, That the Secretary of the Senate be directed to inform the House of Representatives that the Senate, having listened to eulogies upon the character and public services of Hon. SOLOMON FOOT, a Senator from the State of Vermont, lately deceased, out of respect to his memory have voted to adjourn.

Mr. President, two weeks ago this day it was my painful duty to announce to the Senate the death of my distinguished and beloved colleague, Hon. SOLOMON FOOT. The little time that elapsed between his decease and the funeral ceremonies here, and the absence of one of my colleagues of the House, who was Mr. FOOT's immediate Representative, were deemed sufficient reasons for postponing the customary obituary tributes to some future day. In accordance with the notice then given, I now ask that the Senate for a short time lay aside its ordinary business and allow me and others the melancholy satisfaction of expressing our appreciation of the character, services, and virtues of our departed associate and friend. The last occasion of this kind, in this Chamber, was early in the present session, in memory of my lamented predecessor, Judge Collamer. No one of us will ever forget the eloquent and loving words of Mr. FOOT on that occasion in dwelling upon the memory of his long-time friend and colleague. As we looked at his robust and majestic form, and listened to his deep, rich voice, and solemn, weighty words, how little we thought that in so short a time he, too, would have become only an object of memory, and a subject of eulogy. Who next in this body of representatives of States shall be called from this high place to the unseen world? No one of us can tell. How solemnly are we reminded that death comes as a thief in the night; and how wisely are we cautioned, "Be ye also ready."

Mr. FOOT was born in Cornwall, Addison county, Vermont, on the 19th day of November, 1802. I have not been able to learn anything in relation to his early life, but I infer that his family condition was such as to make all attainment and advancement in life depend upon his own efforts and labors. I infer this from the fact that he graduated from Middlebury College about 1826 or 1827, and somewhat later in life than is usual with young men where the means of education are provided by others. After his graduation he spent some time in teaching, and at the same time studying law. After his admission to the bar he commenced practice in the town of Rutland, Vermont, and that continued to be his place of residence up to the time of his death.

He was elected a Representative from the town of Rutland to the Vermont House of Representatives in 1833, 1836, 1837, and 1838, and again in the year 1847, and during the last three of those years was Speaker of the House. He was a member of the State constitutional convention, in 1836, which made the important alteration in our State constitution of exchanging the old Legislative Council for a State Senate. He also held the office of prosecuting attorney for Rutland county from 1836 to 1842. In 1842 Mr. FOOT was elected to the lower House of Congress, and reëlected in 1844, but declined further election. In 1850 he was elected to the Senate of the United States, reëlected in 1856, and again in 1862, and at the time of his death was the oldest member in continuous service in this body.

Mr. FOOT very soon attained a highly respectable position as a lawyer. He was careful and attentive to the interests of his clients, and always made full and elaborate preparation for the trial of his causes. If his life had been devoted to his profession he would doubtless have attained high rank as a lawyer. But his attention was early turned to political life, and his professional career was too broken and desultory to enable him to attain the highest distinction in it. His ability and character were far better suited to a public and popular rather than a mere professional life. He had been but a very few years at the bar, and a resident of the town of Rutland, when he was chosen to represent that town in the State Legislature. It was quite rare at that day that so young a man was chosen to represent one of the oldest and most important towns in the State, and which contained many leading public men. But he had already attained a high position as an able and popular speaker upon public and political questions, and his career in the State Legislature added to this a reputation as a wise and careful legislator.

It was as Speaker of the Vermont House of Representatives that he first displayed that almost wonderful aptitude and capacity as the presiding officer of a deliberative assembly, which afterward made him so celebrated throughout the nation, when he became the Presiding Officer of the Senate of the United States, as perhaps the best presiding officer in the whole country. He seemed almost to have been made for the position. His fine, majestic person, his dignified deportment, his full and rich voice, his easy and graceful manner, all conspired to make him a most useful and acceptable president over any assembly. His knowledge of parliamentary law and usage was very thorough, but not more so, probably, than many others. His superiority in this respect appeared born in him. His look preserved order; the slightest word allayed confusion. The same grace of person and dignity of manner attended him always and everywhere, and was equally pleasing and agreeable in private society or on the Senate floor; it had nothing of haughtiness or arrogance, but was kindly and benignant. It had doubtless much to do with the almost universal personal love and reverence felt for him by all who knew him.

Mr. FOOT was not a man of great originality. I am not aware of any great public measure that he originated. He did not take much part in the general debates in the Senate upon general subjects, but he was always in his seat, careful and watchful of all measures, with excellent judgment of what was for the public interest. A member of the present Cabinet, who served ten years with him in the Senate, said to me, during Mr. FOOT's sickness, that he never knew a man whose votes were always more consistently right than his. When he did speak in the Senate, it was generally with careful preparation, and then he spoke wisely and well, and was listened to with great attention and respect. He was always faithful and prompt in his attendance on his committees, in making his reports, and in the performance of every public duty. But it was especially in his duty to his State, and the people of his State, that his watchfulness, energy, and untiring efforts were mainly directed. No interest of Vermont was allowed to suffer, or remain unguarded, either in Congress, or in any Department of the General Government. And so with every citizen of the State having right or claim or proper request upon any Department of the Government Mr. FOOT made it his own special duty to see it righted.

He loved and honored Vermont; he was proud that it was the place of his birth. More than once since I became his colleague he has mentioned the fact to me, that never before was Vermont represented in the Senate by two of her sons, born on her own soil; and he seemed to dwell on the idea with great satisfaction. During his illness, and after he became satisfied he should not recover, he loved to speak of being carried back to his native State; of being buried under the shadow of her grand mountains and green hills and within sound of her waterfalls, and that his grave would be among his own people, whom he loved, and who loved him so well.

Mr. FOOT's real greatness and the cause of his universal popularity I have not yet named. Some men are called great from a single great action, others by a few great deeds. Mr. FOOT was a great man by reason of his great heart; not a single act, or several acts of great statesmanship, but a lifetime of good and generous and unselfish deeds was what made him great and gave him such a hold upon the hearts of the people of his own State and others who knew him.

His mental faculties were of a high order; his acquirements were very respectable indeed; his judgment was excellent; he had extraordinary gifts of person and manners; but many men possessing all these in equal degree would never have attained a tithe of the honor and respect he did. It was his generous, warm-hearted love and sympathy for his fellows and his exhibition of it to them and for them at all times that induced their love and respect for him. You saw with me the general exhibition of sorrow for his death here where he had been so long and was so well known and so highly respected; but it was my fortune to be one of your committee to attend his remains to his

old home and among the neighbors and associates of his daily home life. Had you witnessed the deep gloom and sadness that hung over that whole community, the tears that filled so many eyes as we fulfilled our melancholy duty, you might well have exclaimed, "Behold how they loved him!" Living in another part of the State from Mr. FOOT, and our pursuits for many years having been so different, I had never much personal intimacy with him until the commencement of the present session, when I became his colleague. From that time till his death we lived in the same house and, till his sickness, at the same table. I soon saw why all loved and respected him, and shared their sentiments in the fullest manner.

The infinite pains he took to make my position agreeable; to make me acquainted with the course and details of business in the Senate; the proper offices and Departments for everthing; in short, the whole routine of congressional drudgery, which it is so important for every man to know, and still every man is expected to find out for himself, was what I did not expect from him and probably should have received from no other man. But with his nature he could hardly have avoided doing it.

The circumstances of his sickness and death were such that general publicity has been given to various interviews and partings between him and valued friends, solemn and affecting in their character and interest. I took my last leave of him on that same afternoon before his death. I could not now attempt to describe it, but I shall never forget his affectionate language or his solemn benediction at our parting.

I mourn his loss in common with all who knew him; but with all who believe in the heaven hereafter, I doubt not that our loss is his infinite gain. His triumphant Christian death was a fitting end for so loving and useful a life.

Well may we all pray that our lives and our deaths may be like his. Sorely, indeed, has my native State been stricken; her two most distinguished sons, long her joint representatives in this body, where they represented her with so much ability, usefulness, and credit, both taken away by death, and so near each other that the stunning effect of the first blow had hardly passed when the other came. God grant that those who have survived and succeeded them may be enabled in some degree to emulate their virtues and usefulness to the State and people thus bereaved!

Mr. JOHNSON. Mr. President, I rise briefly to participate in paying honor to the memory of our departed friend and associate. Such tributes to virtues public and private, as he possessed, cannot fail to benefit the living as well as honor the dead. They show those who are commencing life how it is, and what it is, to earn a name that will live after death, and be to family and friends a priceless heritage. They show the value of honest fame, a fame which survives death and becomes brighter as time rolls on. They show how immeasurably superior in the estimation of the good is such fame to that sickly and evanescent one which is occasionally achieved by artful and dishonorable contrivances.

The life, too, of a Christian man as SOLOMON FOOT was, if no other evidence existed of the truth of the Christian dispensation, would be sufficient to demonstrate it. Its influence upon him in this world, its comfort, its joy to him in death, is sufficient to establish its divine origin. He who with evident sincerity, and while his mind was as perfect as ever, nearly at the moment of dissolution, could say that he felt "borne up as on angels' wings," and in the very moment preceding it, with hands and eyes uplifted could exclaim, "I see it! I see it! The gates are wide open! Beautiful! Beautiful!" and then die, is a witness to our faith that the sophistries of skepticism can never counteract.

The memory of such a man should not be lost. It is not enough that it may survive in the recollection of his family and friends; it should live in the records of the body to which he was so long attached and which he so faithfully served and honored. The Senate of the United States should perpetuate the evidence that SOLOMON FOOT was for years one of its most honored members, respected, admired, loved by every associate for his faithfulness, his patriotism, his endearing social qualities, and revered for his Christian death. This will be done by the proceedings of this day.

Mr. FOOT's public career is now so well known that it would be idle in me to attempt its detail. This has been done by his colleague. Seldom engaging in debate, we yet knew, in advance, the result to which his sound judgment, ever unswayed by passion or prejudice, would lead him. Though in a large and comprehensive sense a party man, his principles were adopted because they, in his estimation, led to general and not partial good. No sectional feeling ever consciously influenced him. His mind and his heart embraced his whole country, and he loved even his native Vermont, to which he was so strongly attached, the more because it was a part of that great whole. His reading, his familiarity with the history of his country, his experience had convinced him that national prosperity and renown, as well as the happiness of the several States, could only be attained through the Union established by our fathers, and he could never, therefore, tolerate those who threatened its dissolution or foolishly attempted, with a view to depreciate it, to calculate its value. In heart and in mind a Unionist, he entered zealously into all the measures calculated to terminate our recent civil strife; and although in some respects, I believe, not a very sanguine man, he never doubted a successful result. It was encouraging to hear him speak on the subject. He had studied our institutions, had become extensively acquainted with our people, and knew how deep was their attachment to the General Government; and with this knowledge he was satisfied that the first were adequate to meet the emergency if their powers were exerted, and that the latter would peril all to have them exerted. He lived, thank God, to see his prediction verified. When he left us he knew that the strife was over, the Union everywhere reinstated in all its rightful authority, and nothing remained to be done but by proper efforts to calm the agitation inseparable from such a contest and win us all back into our ancient brotherhood.

Mr. President, although we shall no more see our late brother in this Chamber, which of us will ever forget his manly presence, his uniform dignity, his ever constant watchfulness over the proper decorum of the body, his unbending firmness, his uniform courtesy as its frequent Presiding Officer? And, above all, which of us who listened to the touching story of his last days on earth, as recently told us by the reverend clergyman who was his pastor in this city, but will have cause to rejoice if he can live and die as lived and died SOLOMON FOOT—dying, to use his own truthful words in his eulogy on his former colleague, Jacob Collamer, so affectingly delivered in this Chamber on the 14th of December last, and so strikingly applicable to himself, "in the full exercise of his intellectual faculties, with an abiding and unshaken faith in the Christian religion, and in the cherished hope of a blissful immortality?"

Mr. FESSENDEN. Mr. President, in attempting to speak of one so long associated with us, and endeared to us by so many rare and excellent qualities as the late Senator FOOT, I cannot but feel impressed with the difficulty of doing perfect justice either to the man or the occasion—a difficulty increased by the long, uninterrupted, almost brotherly friendship which existed between him and myself. But, difficult as the task may be, I cannot, if I would, withhold my tribute to the character and memory of one so much beloved, and who is held by all his associates in most affectionate remembrance.

The death of our friend was so unlooked for, his promise of prolonged life and continued usefulness seemed so secure, it is hard to realize that his place is vacant and that we shall see him no more upon earth. But yesterday he stood among us, imposing in the beauty and stateliness of perfect manhood, his face beaming with kindliness, his whole aspect dignified and serene, glowing with health and vigor. To-day all that was mortal of our friend and brother reposes in a distant grave, among those by whom he was loved and trusted and honored, a grave watered by many tears and venerated for its sacred dust, while the true and noble spirit which once animated that clay has ascended to give an account of its mission upon earth, and to enjoy, as we may well believe, the reward of a well-spent life.

An event like this, touching in its significance, becomes the more startling when following closely upon another scarcely less impressive. In a single session of the Senate, within a few short months, we hear the announcement that death has laid his icy fingers upon both Senators from one of the States of this Union, each a man of eminent mark in this body, and at a period when the loss of their wisdom, their experience, their patriotism, their unswerving integrity, and unselfish devotion to their country's good is most severely felt. That State has many noble and most worthy sons among whom it may choose for places of trust and honor, but no State can give at once to the public councils the assurance, which time only can bestow, of that fitness which experience and trial alone can prove and secure.

When, Mr. President, a man, however eminent in other pursuits, and whatever claims he may have to public confidence, becomes a member of this body, he has much to learn and much to endure. Little does he know of what he will have to encounter. He may be well read in public affairs, but he is unaware of the difficulties which must attend and embarrass every effort to render what he may know available and useful. He may be upright in purpose and strong in the belief in his own integrity, but he cannot even dream of the ordeal to which he cannot fail to be exposed, of how much courage he must possess to resist the temptations which daily beset him; of that sensitive shrinking from undeserved censure which he must learn to control; of the ever-recurring contest between a natural desire for public approbation and a sense of public duty; of the load of injustice he must be content to bear, even from those who should be his friends; the imputations on his motives, the sneers and sarcasms of ignorance and malice, all the manifold injuries which partisan or private malignity, disappointed of its object, may shower upon his unprotected head. All this, if he would retain his integrity, he must learn to bear unmoved, and walk steadily onward in the path of public duty, sustained only by the reflection that time may do him justice, or, if not, that his individual hopes and aspirations, and even his name among men, should be of little account to him when weighed in the balance against the welfare of a people, of whose destiny he is a constituted guardian and defender.

To such an ordeal, Mr. President, our lamented friend was subjected for fourteen years at a most trying period, and admirably did he bear the trial. Coming to the Senate when two antagonist forces had proclaimed what soon proved to be a hollow truce, he was a witness to the outbreak which marked its termination, and was a party to the struggle which, after several years, eventuated in civil war. From the first moment his course was clearly defined. Representing a people of strong convictions, and himself a child of free institutions, he could not but become their champion. Assuming no leadership, content to follow so long as the measures proposed commended

themselves to his judgment and his conscience, his firm and vigorous support was always to be relied on as a certainty. He was not one to make capital for himself at the expense of his country or of those with whom he acted. If work was to be done he was ready to do it. If a trying moment came it found him prepared. Whatever of dire portents might shoot across the political sky, with unshrinking heart he stood erect to meet, and if possible to avert, the threatened calamity. Deeply lamenting the terrible issue, sad and sometimes almost despairing as he witnessed its sanguinary results, there was no moment of doubt, not even of hesitation, with him. Let us rejoice and be thankful that he lived to see the dawn of a brighter day.

Through all this long period of fourteen years, checkered as they were with great events, the course of ordinary legislation has required a high degree of intellectual power. In a country like ours, where progress is so rapid, change so instantaneous, the human mind so active, new fields of effort so broad and diversified, legislation must accommodate itself to the necessities and often to the impulse of the hour. It is impossible here to travel steadily in ancient ways. The legislator who stands still will not meet the requirements of our day.

Of such our friend was not one. With an intellect broad and powerful in its grasp, and enlarged by study and reflection, limited by no narrow or sectional views, just and liberal in spirit, looking upon his country as a whole, and loving it in all its parts, nothing that could aid in its development or advance its best interests failed to receive his sympathy and support. And seldom was his deliberate judgment at fault. To say that he might not sometimes have erred would be to proclaim him more than human. To assert that he was never willfully wrong, or erred but where wise and good men might well differ, is doing him no more than justice. The crowning beauty of his public life, more than all else, was that whatever he did, however he might act, no spot was left upon the perfect enamel of his character as a legislator. Malice could not stain its whiteness. In all that he did there was that transparent truthfulness which attracts and secures the confidence of friends, and compels the respect, and even the admiration, of adversaries—enemies, he had none.

A stranger, Mr. President, upon entering this Chamber, and casting his eyes around upon the Senate, could not but be struck with the imposing presence of our departed friend and associate and attracted by the rare union of mildness and dignity in his expressive features. If he rose to speak, the commanding yet pleasing tones of his voice, the noble grace of his demeanor, the elegance of his language, and his clear and forcible statement would deepen the first favorable impression. If called to the chair, as he was more often than any other, that seemed to be the place he was made to fill. There was exhibited his remarkable love of order, his impartiality, his sense of senatorial propriety, his entire fitness to preside over and control the deliberations of what should be a grave, decorous, and dignified body of thoughtful men charged with great trusts and alive to their importance. Whatever was in the least degree unbecoming was offensive to his feelings and his taste, but however these might be offended he never for a moment forgot what was due to the Senate, and to himself as its officer. Would that his precepts and his example in these particulars may not be forgotten. Often, sir, when we look upon the chair you occupy, however ably and faithfully it may be filled, must we think of him whose admonitions we well remember, and to whose unshaken firmness and unwearied patience we were so often indebted for the preservation of that respect which we owed to ourselves.

Averse to much speaking, Mr. FOOT did not often address the Senate, and never but after careful thought; and yet he possessed every advantage for distinguished success. His mental powers, as I have before remarked, were carefully trained and cultivated, his command of language was excellent, his taste correct, his voice sonorous, and his action at once graceful and dignified. That with such advantages he should have taken so small a share in debate, especially in later years when he had become familiar with public affairs, must seem not a little singular to those not acquainted with his habits of thought and his peculiar temperament. The explanation, however, is simple, and may be found in his remarkable want of self-appreciation. Modest to a fault, he never did anything like justice to his own powers. To others, and especially to those who possessed his confidence and affection, he did more than justice—being too ready always to receive and defer to the opinions of others in no respect superior to himself. Thence it followed that he seldom addressed the Senate upon subjects which occasioned general debate. Upon those rare occasions when his voice was heard the questions were such for the most part as in his opinion had not received the attention their importance deserved. We all know the respect with which he was invariably listened to, and the light shed by his intellect and his industry upon whatever subject he chose to touch.

His political friends are well aware how this want of self-assertion in merely personal matters was exhibited in all his relations to and intercourse with them. Though long the oldest member of the Senate in consecutive service, he invariably avoided conspicuous place. While others might seek for and claim desirable positions upon leading committees as due to their States, if not to themselves, he was satisfied with any that was assigned to him, however derogatory it might seem to his age and standing—preferring and urging the claims of others, and desiring only that all should be satisfied. Often have I known him to insist that his name should be struck from an important committee, in order to replace it with the name of a friend or associate to whom he thought the distinction would be grateful. To him more than any other was assigned the unenviable task of arranging these committees, not only because all confided in his sense of justice, but because of his disinterested magnanimity. I have often thought that such generous abnegation of self should not have been permitted. I know that on several occasions it was peremptorily overruled.

That such a Senator, so useful, so modest, so unassuming, so courteous, so kind, of a deportment so unexceptionable, should have won the good-will of all his associates and the love of many, and that his loss should occasion universal sorrow, may well be supposed. Those, however, who saw and marked the crowds assembled to witness the last sad ceremonies, and who noted the many weeping eyes which looked upon his coffin, would naturally be led to consider that nothing in the routine of his public career could account for a grief so deep and so general. Men are not apt to be mourned with tears for public services, or even on account of public or private virtue. Great intellectual preëminence may excite admiration, but when the light goes out its absence occasions but a weak and transient emotion. Gifts and qualities like these "come not near the heart." The secret of all that genuine and unaffected sorrow for the friend we have lost lies in the feeling of all who came within his sphere, that his was a true and noble and loving nature. Impulsive and ardent in temperament, he was kind, generous, and forgiving. If injury excited him to anger, it was a generous anger which could hardly outlive the occasion, and perished of itself if let alone. Enthusiastic in his friendship, no labor was too severe, no sacrifice too great, for those to whom he gave his affection. He was proud of his country, of his State, of his friends. For himself he was humble. Of an open hand, his charity was instantaneous and unsuspecting. If

"He prayeth best, who loveth best
All things, both great and small,"

then was he a man of prayer. And if "the chamber where a good man meets his fate" is holy, then may we rejoice who were permitted to feel the loveliness of his dying hour.

Admirable Senator! patriotic citizen! good and true man! dear and cherished friend! this scene of your many labors will know you no more, but long will your memory dwell in these Halls! This marble pile, bearing the impress of your watchful care, is one of your monuments. Its massive pillars will stand erect, giving their testimony to our country's grandeur long, long after we and generations yet to come shall have passed like shadows upon the water; yet he who, like yourself, shall have performed his duty in life and died with a Christian's hope will survive when all these columns shall be lost to sight in the accumulated dust of ages.

Mr. BROWN. Mr. President, when it was signified that a subsequent day would be set apart for appropriate commemoration in honor of the lately deceased Senator from Vermont, I had designed preparing some extended tribute to attest my warm regard for his virtues and my great appreciation of his talents. An indisposition, however, that has prostrated me almost to the present moment will prevent my doing as I would have wished. Still I am not willing to let this occasion pass without any memorial word from my lips.

Long years ago, sir, I learned to admire the steadfast devotion to free principles, amid the thick conflict of impending revolution, manifested in the public life of Senator FOOT. There was a moral force, an undemonstrative heroism, in his quiet methods of persistence, impressive far beyond any pronounced mannerism. But it was only when I came to know him personally in the relations of private intercourse that I realized the force and beauty of his full-orbed manhood.

The reciprocal action of thought and feeling so often dissociated by the wear of political avocation was with him a perfect accord. Among the first who extended to me the hand of welcome upon my entrance into this body, he emphasized that welcome by a cordial manner, a refined courtesy, an unselfish guidance, and from that hour until the hour of his departure I can truly say that I relied upon his friendship with a confidence as absolute as if it had been the growth of years. It seemed as though the animation of his noble nature shone out radiant from his person, that a countenance in which was blended boldness and sweetness gave true index of the spirit within. And such as he seemed I ever found him to be—a man free from guile, pure in patriotism, clear of faith, upright, punctual, deliberate, and wise with the wisdom that comes of observation, which develops in action rather than argument, and which is serene because it is ever charitable.

Of a large type of intellect, capable of most moving speech, graceful beyond most in elocution, he was seldom heard in the debates of this Chamber; and yet it will be said of him that few, if any, better fulfilled the proper duties of a Senator or did more thoroughly the work assigned him, either by constituents or compeers. Often chosen to preside here, eminently worthy of such dignity, possessed with a voice rich in melody, quick of apprehension amid diverse questioning, rapid in judgments, yet modest in affirmation, he became at last the oracle of the Senate, to whom all referred in disputed matters of parliamentary ruling. Observant, scrupulously observant, of the forms and ceremonies that usage has grown, like mosses, around the procedure of this the most august deliberative body of the world, he was yet even more deferential to duty than to form or ceremony. Indeed, I think if he had one dominant element that ruled all else in his evenly balanced mind, it was a rigid, unswerving sense of duty that would suffer no consideration to set aside its claim; a sense of duty to which, in the prime of a vigorous physical development, he, by too assiduous devotion, sacrificed his life.

But why do I say sacrificed his life? Has he not gone rather to the eternal life beyond those "beautiful gates" which shone upon his fading vision with unearthly splendor, into the everlasting tabernacles of light and love, to dwell forever with his God? Standing by the side of that dying statesman, witnessing with what composure he consciously drew near his dissolution; hearing him pronounce the vanity and emptiness of titled honors when present with death, and yet kindle into exultation and triumph as he spoke of his infinite hope in a redeemed resurrection; humbly partaking with him of that last sacrament that sealed him to the church and bidding him a farewell full of sympathy to me, full of joy to him, I cannot think we have any right to mourn here to-day.

Let us, then, Mr. President, cherish the example of that life which he led as worthy to be our guide in performing those high trusts committed to our charge, and let us deal with the memory of him who has passed from our midst, not as a memory draped with the signs of mourning, but bright and beautiful and glorious, fit to be crowned with music and with flowers, not with elegiac responses.

Mr. SUMNER. Mr. President, there is a truce in this Chamber. The antagonism of debate is hushed. The echoes of conflict have died away. The white flag is flying. From opposite camps we come together to bury the dead. It is a Senator that we bury, not a soldier.

This is the second time during the present session that we have been called to mourn a distinguished Senator from Vermont. It was much to bear such a loss once. Its renewal now after so brief a period is a calamity without precedent in the history of the Senate. No State before has ever lost two Senators so near together.

Mr. FOOT at his death was the oldest Senator in continuous service. He entered the Senate in the same Congress with the Senator from Ohio [Mr. WADE] and myself; but he was sworn in at the called session in March, while the two others were not sworn in till the succeeding December. During this considerable space of time I have been the constant witness to his life and conversation. It is with a sentiment of gratitude that I look back upon our relations, never from the beginning impaired or darkened by any difference. For one brief moment he seemed disturbed by something that fell from me in the unconscious intensity of my convictions, but it was for a brief moment only, and he took my hand with a genial grasp. I make haste also to declare my sense of his personal purity and his incorruptible nature. Such elements of character, exhibited and proved throughout a long service, render him an example for all. He is gone, but these virtues "smell sweet and blossom in the dust."

He was excellent in judgment. He was excellent also in speech, so that whenever he spoke the wonder was that he who spoke so well should speak so rarely. He was full, clear, direct, emphatic, and never was diverted from the thread of his argument. Had he been moved to mingle actively in debate, he must have exerted a commanding influence over opinion in the Senate and in the country. How often we have watched him tranquil in his seat while others without his experience or weight occupied attention. The reticence which was a part of his nature formed a contrast to that prevailing effusion where sometimes the facility of speech is less remarkable than the inability to keep silent; and again, it formed a contrast to that controversial spirit which too often, like an unwelcome wind, puts out the lights while it fans a flame. And yet in his treatment of questions he was never incomplete or perfunctory. If he did not say with the orator and parliamentarian of France, the famous founder of the *Doctrinaire* school of politics, M. Royer Collard, that he had too much respect for his audience ever to ask attention to anything which he had not first reduced to writing, it was evident that he never spoke in the Senate without careful preparation. You do not forget his commemoration of his late colleague, only a few short weeks ago, when he delivered a Funeral Oration not unworthy of the French school from which this form of eloquence is derived. Alas! as we listened to that most elaborate eulogy, shaped by study and penetrated by feeling, how little did we think that it was so soon to be echoed back from his own tomb.

It was not in our debates only that this self-abnegation showed itself. He quietly withdrew from places of importance on committees to which he was entitled, and which he would have filled with honor. More than once I have known him to insist that another should take the position assigned to himself. He was far from that nature which Lord Bacon exposes in pungent humor, when he speaks of "extreme self-lovers, who would burn a house in order to roast their eggs." And yet, it must not be disguised that he was happy in the office of Senator. It was to him as much as his "dukedom" to Prospero. He felt its honors and confessed its duties. But he was content. He desired nothing more. Perhaps no person appreciated so thoroughly what it was to bear the commission of a State in this Chamber. Surely no person appreciated so thoroughly all the dignities which belong to the Senate. Of its ceremonial he was the admitted arbiter.

There was no jealousy, envy, or uncharitableness in him. He enjoyed what others did and praised generously. He knew that his own just position could not be disturbed by the success of another. Whatever another may be, whether more or less, a man must always be himself. A true man is a positive, and not a relative quantity. Properly inspired, he will know that in a just sense nobody can stand in the way of another. And here let me add that, in proportion as this truth enters into practical life, we shall all become associates and coadjutors rather than rivals. How plain that, in the infinite diversity of character and talent, there is a place for every one. This world is wide enough for all its inhabitants; this Republic is grand enough for all its people. Let every one serve in his place according to the faculties that have been given to him.

In the long warfare with slavery Mr. FOOT was from the beginning firmly and constantly on the side of Freedom. He was against the deadly compromises of 1850. He linked his shield in the small but solid phalanx of the Senate which opposed the Nebraska Bill. He was faithful in the defense of Kansas, menaced by slavery. And when at last this barbarous rebel took up arms he accepted the issue and did all that he could for his country. But even the cause which for years he had so much at heart did not lead him into debate, except very rarely. His opinions appeared in votes rather than in speeches. But his sympathies were easily known. I do not forget that when I first came into the Senate, and was not yet personally familiar with him, I was assured by Mr. Giddings, who knew him well, that he belonged to the small circle who would stand by Freedom, and the anti-slavery patriarch added pleasantly that Mr. FOOT, on his earliest visit to the House of Representatives after he became Senator, drew attention by coming directly to his seat and sitting by his side in friendly conversation. Mr. FOOT by the side of Joshua R. Giddings, in those days when slavery still tyrannized, is a picture not to be forgotten. If our departed friend is not to be named among those who have borne the burden of this great controversy, he must not be forgotten among those whose sympathies with Liberty never failed. Would that he had done more. Let us be thankful that he did so much.

There is a part on the stage known as the "walking gentleman," who has very little to say but who always appears well. Mr. FOOT might seem, at times, to have adopted this part, if we were not constantly reminded of his watchfulness in everything concerning the course of business and the administration of Parliamentary Law. Here he excelled and was the master of us all. The division of labor, which is the lesson of political economy, is also the lesson of public life. All cannot do all things. Some do one thing, others do another thing; each according to his gifts. This diversity produces harmony.

The office of President *pro tempore* among us grows out of the anomalous relations of the Vice President to the Senate. There is no such officer in the other House, nor was there in the House of Commons until very recently, when we read of a "Deputy Speaker," which is the term by which he is addressed when in the chair. No ordinary talent can guide and control a legislative assembly, especially if it be numerous or if it be excited by party differences. A good presiding officer is like Alexander mounting Bucephalus. The assembly knows its master "as a horse knows its rider." This was preëminently the case of Mr. FOOT, who was often in the chair, and was for a considerable period our President *pro tempore*. Here he showed a special adaptation and power. He was in person "every inch" a President; so also was he in every sound of the voice. He carried into the chair the most marked individuality that has been seen there during this generation. He was unlike any other presiding officer. None but himself could be his parallel. His presence was felt instantly. It filled this Chamber from floor to gallery. It attached itself to everything that was done. Vigor and dispatch prevailed. Questions were stated so as to challenge attention. Impartial justice was manifest at once. Business in every form was handled with equal ease. Order was enforced with no timorous authority. If disturbance came from the gallery how promptly he launched his fulmination. If it came from the floor you have often seen him throw himself back, and then with voice of lordship, as if all the Senate was in him, insist that debate should be suspended until order was restored. "The Senate must come to order," he exclaimed; and meanwhile, like the god Thor, he beat with his ivoy hammer in unison with his voice, until the reverberations rattled like thunder in the mountains.

The late Duke de Morny, who was the accomplished President of the Legislative Assembly of France, in a sitting shortly before his death, after sounding his crier's bell, which is the substitute for the hammer among us, exclaimed from the chair, "I shall be obliged to mention by name the members whom I find conversing. I declare to you that I shall do so, and I shall have it put in the *Moniteur*. You are here to discuss and to listen, not to converse. I promise you that I will do what I say to the very first I catch talking." Possibly our President might have found occasion for a similar speech, but his energy in the enforcement of order stopped short of this menace. Certainly he did everything consistent with the temper of the Senate, and he showed always what Sir William Scott, on one occasion in the House of Commons, placed among the essential qualities of a Speaker, when he said that "to a jealous affection for the privileges of the House must be added an awful sense of its duties."

Accustomed as we have become to the rules which govern legislative proceedings, we are hardly aware of their importance in the development of liberal institutions. They were unknown in antiquity, and they were unknown also on the European continent until latterly introduced from England, which was their original home. They are among the precious contributions which England has made to modern civilization. And yet they did not assume at once their present perfect form. Mr. Hallam tells us that even as late as Queen Elizabeth members called confusedly for the business they wished brought forward. But now, at last, these rules have become a beautiful machine by which business is conducted, legislation is molded, and debate is secured in all possible freedom. From the presentation of a petition or the introduction of a bill all proceeds by fixed processes until without disorder the final result is reached and a new law takes its place in the statute-book. Hoe's printing-press, or Alden's

type-setter is not more perfect in its operations. But the rules are more even than a beautiful machine; they are the very temple of constitutional liberty. In this temple our departed friend served to the end with pious care. His associates, as they recall his stately form, silvered by time but beaming with goodness, will not cease to cherish the memory of this service. His image will rise before them as the faithful presiding officer by whom the dignity of the Senate was maintained, its business was advanced, and Parliamentary Law was upheld.

He had always looked with delight upon this Capitol—one of the most remarkable edifices of the world—beautiful in itself, but more beautiful still as the emblem of that national unity which he loved so well. He enjoyed its enlargement and improvement. He watched with pride its marble columns as they moved into place, and its dome as it ascended to the skies. Even the trials of the war did not make him forget it. His care secured those appropriations by which the work was carried to its close, and the statue of Liberty was installed on its sublime pedestal. It was natural that, in his last moments, as life was failing fast, he should long to rest his eyes upon an object which was to him so dear. The early light of morning had come, and he was lifted in his bed that he might once more behold this Capitol with mortal sight; but there was another capitol which already began to fill his vision, fairer than your marble columns, sublimer than your dome, where Liberty without any statue is glorified in that service which is perfect Freedom.

Mr. POMEROY. Mr. President, I bring to the offerings of this occasion a grateful memory of the services rendered a struggling people in a distant Territory by the late Senator FOOT, of Vermont.

Generous efforts made at a crisis in one's history can never be forgotten; and when such offerings are unsought and unrewarded they deserve honorable mention.

I remember to have looked in upon the Senate of the United States when the affairs of the Territory of which I was a resident engaged the attention of Congress and the country.

The period to which I refer was the 9th day of August, 1856. A few only of the distinguished members of the present session were then in this body. It was in the old Senate Chamber, and the leaders in the debate on that day are now and have been for some years away from us. On the day previous the present Presiding Officer of this body had made for Kansas a most earnest, faithful, and eloquent speech. And I shall never forget the hour which the late Senator from Vermont devoted to pleading the cause of our struggling people.

I am sorry that speech has not been preserved. The Congressional Globe of that date says, "The speech will appear in the Appendix." I have searched the Appendix in vain, and I think it is not there. The only record of that memorable speech that I can find is contained in the National Intelligencer of the 11th of August, 1856, as follows:

[EDITORIAL.]

"Mr. FOOT rose to address the Senate, for the first time, we believe, upon the Kansas troubles, which, sifted and discussed as that subject has been for months—and exhausted, were it possible—derived fresh interest from the ability, eloquence, and impressiveness with which it was treated by the honorable Senator from Vermont.

"This luminous effort we hope to lay before our readers at an early day."—*Intelligencer, August* 11, 1856.

This is most invaluable testimony, as it comes from a source which did not then or now sympathize with the cause which was so ably vindicated.

I remember well the eloquent and stirring appeal he made in our behalf. He demanded for us the rights of freemen under the Constitution, of free homesteads, free ballots, and a free State. Noble words! and "fitly spoken." They made an impression upon my own mind as indelible as the teaching of my boyhood, and I shall forget them only when I cease to remember any of the events of this life; and not to recognize services rendered at such a crisis would be ingratitude which could not be pardoned; and far away beyond the valleys of the Mississippi and the Missouri, there are quiet cabin homes where the name of SOLOMON FOOT is a household word. In the name of that people who cherish the memories of their benefactors with undying gratitude, I bring to-day this humble tribute of grateful acknowledgments. While others lay costlier and more imposing offerings upon his burial place, I will content myself by planting but a single shrub. It shall be an evergreen, for it is the unfading tribute of gratitude. "He opened his mouth for the dumb," and did not shut his ear to the cry of the poor; "and the cause that he knew not, he searched out."

Such efforts, nobly rendered, shall not be forgotten, for the people whom he vindicated were not his people. They were separated from him by the breadth of half the continent. But the cause which he plead was the cause of freedom, the cause of his countrymen; ay, the cause of mankind. For when one member suffers all suffer; when one is degraded all are dishonored.

"Whatever link you strike"

in the great chain which binds the human family to each other and to God,

"Tenth, or ten thousandth,
You break the chain alike."

Mr. President, the departed Senator is not dead. No man who has nobly lived can ever wholly die. The deeds of good men live after them. Their memory is undying, and their influence is reflected by those who live after them. And it lives on in endless circles, widening and deepening forever and forever more. Good men are reproduced in each generation, and their lives are as immortal as truth, virtue, and God.

Sir, amidst the green hills and budding forests of the early spring-time the Senator sleeps, beloved and honored, and embalmed ever in the affections of his devoted home circle of friends. But, sir, far away, across the wide continent even, there are those who will hold him in perpetual and grateful remembrance; and year by year, as the seasons come and go, will a generous people, with offerings of gratitude, consecrate their little children by giving them at the altar of their baptism the honored name of the Senator who vindicated their rights and secured them their liberties.

But from this burial scene we must tear ourselves away, for life has its duties as well as death its lessons. We should not yield to sorrow, for life, and death, even, have their hopes. "For if a man die, he shall live again." "When the heavens are no more he shall awake and be raised out of his sleep."

"Life is struggle, combat, victory;
Wherefore have I slumbered on
With our forces all unmarshaled,
With my weapons all undrawn?

"Oh what a glorious record
Had the angels of me kept,
If I'd done instead of doubted,
Had I warred instead of wept.

"Build thy great acts high and higher,
Build them on the conquered sod
Where thy weakness first fell bleeding,
Where thy first prayer rose to God."

Mr. CRAGIN. Mr. President, love for my native State, sympathy with her people in their double affliction, and great respect for the character of her departed Senators, prompt me to utter a few words on this solemn occasion. Few members of the Senate have known SOLOMON FOOT longer than I have. Running back into the years of my boyhood is the memory of this able, pure, and accomplished man. More than thirty years ago I looked with pride and admiration upon his noble and manly form and eagerly listened to his eloquent words. It was my fortune to have been born and reared within thirty miles of where both the late Senators of Vermont long resided, and I can truly say that my political faith was in part derived from their teachings. Judge Collamer resided in my native county, and my first vote for member of Congress was given for him. Only a few weeks ago the death of that great and good man was fittingly announced in this Chamber by his distinguished colleague whose departure we now deplore. What we do for the dead must soon be done for us. In his concluding remarks on that occasion he seems to have had a presentiment that his own remaining days upon the earth would be few. He said:

"Mr. President, he whose death we now lament is gone, to be with us no more. His work on earth is done; he strikes a golden harp among the seraphim on high. His precepts and his example are left to us for our instruction and our profit. Happy, indeed, will it be if we shall so profit by them that we shall be ready, as he was ready, for the final summons in that hour which is coming to us all, and to some of us not far off, when this world and its worthlessness shall fade from our sinking vision."

These solemn words may now be spoken of him who first uttered them, and again to us. Surely, this life is short, very short. Man is here to-day and gone to-morrow! He is as the transient grass; "in the morning it springeth up and flourisheth; in the evening it is cut down and withereth." The great highway of life is thronged; some are constantly falling in the race, and others are coming to take their places; and the world moves on as before, passing, generation after generation, into the awful shadow which no eye except that of faith can penetrate.

It is not my purpose to speak of the public career of our lamented friend, but simply to draw attention to his general character, and the example of his life. His social, moral, and mental qualifications were well adapted for use, and also for show. Of fine, commanding personal appearance, he always bore himself with great urbanity and dignity of manner. He was one of nature's noblemen. His features, his proportions, his manners, his mind, all indicated a man. God set the seal of greatness upon his brow, and planted within the elements of goodness and loving kindness. His was a heart of honor, and a tongue of truth. He was strong in his convictions, and bold in their utterance. He was a firm advocate for freedom and human rights, and a most devoted lover of the Republic. He was one of the most perfect models of integrity and propriety that I ever knew. Honor, with him, was a cardinal virtue, and he had a most perfect taste for forms and ceremonies. He abhorred meanness, scorned duplicity, and despised trickery.

In his case there was no poverty of soul. He always looked and acted the perfect man. The mantle of truth, which is the garment of beauty and exalted manhood, he always wore.

He was a sound, practical, and learned man. Twenty-five years ago he was a fluent and captivating speaker; but even then his candor, truthfulness, and facts, were the great elements which carried convictions. He was never to my knowledge a great talker. He spoke only when he had something to say, and he never failed to have listeners. Like his colleague, Judge Collamer, he had great contempt for wordy pretenders; and he did not think it the highest attainment of a statesman or a scholar to be able to marshal words into high-sounding sentences, with the superlatives in front.

His example to the aspiring young men of his State and country was of inestimable value. He taught them lessons of temperance, truthfulness, honor, and all the social and moral virtues of noble manhood. He carried his morality and honor into politics, and by his teachings and example convinced the young men that honesty and straightforward manliness is the best policy in every relation in life. He did not believe in that miserable heresy, that everything is fair in politics, and that the scramble for office is a game that justifies unfair means and falsehood. In this he and Judge Collamer were much alike. The result of such examples and such teachings is that Vermont has the purest political atmosphere of any State in the Union. I consider this no small compliment to my native State; and I claim it as a great honor to her public men.

Men in public life are greatly responsible for the morals of the people.

Men in high positions exert a vast influence upon ambitious young men, and their examples are powerful for good or evil. If they would all sternly and religiously imitate the example of the two lamented Senators of Vermont, bribery, corruption, and political trickery and baseness would be unknown, and we might all have greater hopes of the Republic. Two more pure, just, and upright statesmen never graced and dignified the Senate Chamber. Both, in an eminent degree, combined the qualities that make the perfect man and Christian statesman. The lives of both of them have illustrated, what we should all regard, that character is the one thing valuable; that reputation, which is the mere shadow of the man, is, in the long run, of infinitely less importance.

Vermont has great cause for mourning. Twice has she been stricken within a few months, and her two most eminent and respected citizens have been taken away and are now buried in the shadow of her green mountains. High position could not shield them, great ability and moral worth could not save them from the arrows of death. They have gone the way of all the earth; but they have left bright and honorable records as a legacy for their own State and as examples for those who may occupy like positions. These noble men have conferred great honor upon their State; and the people thereof will long hold them in proud and grateful remembrance. The loss of Vermont is the nation's loss, and we do well to express a nation's sorrow.

By this sad event, we who occupy these seats are called to contemplate the summons which will soon come to each one of us. Senators, behold the point toward which all human things converge—the grave!

It is appointed unto all men once to die. A few brief years will bring each one of us to the end of life's journey and finish our earthly record. When we shall have arrived at the last moment of our existence here below, and the sight of the natural eye becomes dim, God grant that, looking heavenward, we may be able to exclaim, with our departed friend, "I see it! I see it! The gates are wide open! Beautiful! Beautiful!"

Mr. EDMUNDS. Mr. President, were the aphorism of the great dramatist true, that—

> "The evil that men do lives after them;
> The good is oft interred with their bones,"

there would be little, indeed, left to remind us of him who has now so lately vanished from the Council Chamber of the nation and from the vast and majestic edifice which has grown into stature and beauty under the enchantment of his labors; he would stand with those described in the sad but beautiful passage in the Divine Comedy:

> "On earth they left no record in their day;
> Mercy and justice hold them in disdain;
> Speak not of them, but look and pass away."

And his memory would pass with his mortal body from the knowledge of men.

But a higher philosophy and a better religion teach us that however it be with evil, the good that men do is not buried with their bones, but lives after them, ever growing, widening, elevating, never lost, and casting its beneficent fruits even into the lap of the remotest future.

Whatever, then, may be the sphere of usefulness and good to which a man is called or in which he moves, whether it be in the loftiest regions of politics or ethics, or in the cold and severe solitudes of abstract science, or in the practical administration of affairs, or in the humblest callings of humble life, be his work well and faithfully done, be his mission filled to completion, he has earned an equal recompense, and has equally won the victor's crown.

Thus it has seemed to me that on this sad and sorrowful occasion I may leave to other and more familiar tongues the praise of Mr. FOOT in his character of Senator and legislator, and may fitly be excused from any philosophical analysis or estimate or panegyric of him as compared with other eminent men, and leave to the future the task of fixing with impartial exactness his place in the high temple of fame, among the heroes and worthies who have gone before him to their rest, and the rather, as my heart prompts me, and as the wishes of the people whom he has so long and so worthily represented, would I am sure direct, as his home friend and fellow-citizen, dwell for a little space, as we mourn at his departure, upon his personal relations to his people and upon his long life of unblemished purity and of cordial and earnest love for and pride in his native State, and upon his constant and untiring and successful efforts to promote their welfare and to realize their wishes—upon his love of his country and of man.

Born to no ancestral honors, and reaching forward to usefulness and influence only by the merit of his own vigorous but unaided endeavor, he entered upon life in perfect sympathy with the universal aspirations of the people, and so as step by step he advanced from pupil to teacher, from teacher to leader, and from leader to ruler, he was to them the type and example of republican social progress, the representative man, and all the people looked upon his successes as their own, and felt in his advancement a triumph personal to themselves.

This affectionate sympathy of sentiment was fully reciprocated by Mr. FOOT. He took up, as if by instinct, the feelings of the people and never failed to assert them against all antagonism. And these qualities of his mind and heart were not limited to geographical boundaries. He believed in the exhortation:

> "Save thy country and every other,
> And wherever man dwells find a brother
> Whom God hath related to thee."

So he was admired and followed and trusted by the masses of the people.

Whenever he was called upon for assistance he individualized the case of each applicant and made it his own; his heart warmed and his face lighted up with joy at the opportunity of assisting any, however humble, of his fellow-citizens, and hundreds and thousands will carry through their lives the pleasant remembrance of his grasp and smile as he would dismiss them with encouragement and counsel. Thus he endeared himself to men individually. His sense of truth and justice was quick and vivid, although his respect for sincere opposition was perfect; and so he was not easily misled; thus he obtained the confidence and respect of those who could not gain his aid as well as of those who were the recipients of his favor.

His life was pure, generous, and blameless; free from all shadow of suspicion or reproach, and all who knew him had faith in his fidelity to his principles and to his State against all pressure and all temptation.

And therefore on all sides there gathered around this earnest, fervent, hearty, patriotic man, the pride, the confidence, and the affections of his whole people, who now mourn his loss as an individual bereavement, as does he who now addresses you, whose relations with that noble man were of such affectionate intimacy and good will as would make him fitly turn away and weep rather than speak the language of deserved eulogy.

In a busy, useful life he has filled his allotted sphere and discharged his trust. "With enmity toward none, with charity toward all," he has lived and died.

Mr. President, as we gather hope and wisdom even out of these sorrowful duties, let us remember that it is good deeds, and not the lingering years, that make up the full, true life of man, and that crown him with his best rewards.

Mr. McDOUGALL. Mr. President, I feel that I should not slumber well to-night without the utterance of one word to dignify the late Senator from Vermont. Myrrh and frankincense were the symbols of praise in the old Hebraic, and that praise it was supposed went up above. There is another lesson in another school, perhaps as ancient but not as anciently recorded, that the dead rested in their caves until their praises were hymned by the songs of bards, and then they were freed from their caves and went to the heavens.

It is my impression that the late Senator from Vermont was one of the noble men who adorned this Senate, adorned our Government, and distinguished his State as Vermont has been distinguished. There is something in her pine-clad hills and tall mountains that makes great men. I do not know the man with whom I have met in the tide of my own times who was better fitted for public service than the late Senator from Vermont. Every one in the Senate Chamber felt, when he came here to present himself, whether in the President's chair or in his own seat on the other side of the Chamber, that he was an ornament to the Senate, both intellectually and morally.

It would be difficult to convey in formal words the due compliment that all of us owe him, to give him the fullness of his merit. I feel it due to myself, out of respect for him, his high office, and the manner in which he conducted himself in his high office, to say this much in his praise; and if I had a harp like David I would sing to him as David sang to Saul.

The resolution was unanimously adopted.

Mr. POLAND. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *April* 12, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

LEAVE OF ABSENCE.

Mr. COOK asked and obtained leave of absence for two weeks for his colleague, Mr. CULLOM.

EQUALIZATION OF BOUNTIES.

Mr. NEWELL. I ask unanimous consent to present a memorial, signed by eight thousand soldiers of the States of New Jersey and New York, in relation to the equalization of bounties.

Mr. WENTWORTH. Cannot this petition be presented under the rule? I have always handed in those I am charged with in that way.

The SPEAKER. The petition will be presented under the rule, objection being made to its presentation in the House.

PAYMASTERS' ACCOUNTS.

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

Resolved, That the Paymaster General of the Army be requested to furnish this House with the names of the paymasters and additional paymasters against whom stoppages are now standing, and the nature and cause of the same.

Mr. FARNSWORTH subsequently said: I move to reconsider the vote by which the House adopted a resolution a few moments ago in relation to the accounts of paymasters of the Army. I do it because I think great injustice will be done those officers throughout the country by dragging their names before the public as having stoppages against them in their accounts. Now, we all know that these stoppages are caused by the confusion of the orders which have been issued, and in consequence of which they have in many cases honestly disbursed money, and stoppages are now charged against them on that account.

Mr. STEVENS. I desire to say, in addition to what has been said by the gentleman from Illinois, [Mr. FARNSWORTH,] that gentlemen must be aware that the accounts of these paymasters are settled up to only about three years of this time; and in the mean time all the balances they hold in their hands stand charged against them.

Mr. SCHENCK. I desire to say that there

are a vast number of persons who are the securities and bondsmen of these paymasters, who will be alarmed and a general panic created if these accounts are made public while yet unsettled and in an inchoate condition.

Mr. WASHBURN, of Indiana. There is a bill now pending for the relief of paymasters who have stoppages against them; and it is urged upon the ground that those stoppages ought never to have been charged against them. Now, I want the House to be able to act knowingly upon this bill, to be put in possession of the facts in the case. If these paymasters have a great load upon their shoulders, I want the House to know what the extent of that load is. I am not afraid of any panic. But before we pay out this half a million of dollars, I want the House to know the facts in the case; and this is the only way in which we can get them.

In the memorial which has been laid upon my desk, they claim that they have no access to the records, and that they cannot find out what is charged against them; and for this reason they ask that a bill for their relief shall be passed. Now, I ask that we, having authority, shall endeavor to obtain that information which they in their memorial express a desire to have.

Mr. GARFIELD. It seems to me an unprecedented proposition that we should drag up a large list of unsettled and unadjudicated accounts, and publish them to the world in their present condition, when many of them have not been brought down to a later period than two years ago. Such a proceeding would be calculated to disturb unnecessarily all the bondsmen of the paymasters, to alarm without sufficient cause almost every person concerned, and to do injustice, in my judgment, to all parties.

Moreover, I think it would be impossible for the Paymaster General, at the present time, to make any intelligible statement of these accounts without the very greatest trouble and labor. This resolution proposes an unprecedented and very improper proceeding. I hope that the motion to reconsider will be adopted.

Mr. SCHENCK. The gentleman from Indiana, [Mr. WASHBURN] if I correctly understand him, stated that the Committee on Military Affairs had been unable to get any information in regard to the amount of stoppages to guide legislation on this subject. Sir, there has been no complaint of that kind on the part of the committee. The committee have been able to ascertain as a general fact about the average of stoppages; and I stated it yesterday to the House as a reason for legislation. But we have not, it is true, gone prying into the accounts of individuals; nor, if we had obtained such information, would we have undertaken to spread it before the House or the country in debate, for the very reason which has been urged against this resolution, that these accounts are in an unadjusted condition, having been settled for only the first year or two of the war, and also because a panic would be created among bondsmen if this very unsatisfactory and in many respects unfair information should be spread before the country. A general knowledge as to the stoppages which have been made—and this general knowledge is all that is needed for the purpose of legislation—we can obtain and have obtained by inquiry at the pay department, without going into an inquiry in reference to the account of each individual who may have served as a paymaster, and whose accounts may be under consideration by the proper accounting officers of the Government.

I hope that the motion to reconsider will prevail, and that the resolution will be rejected.

Mr. FARNSWORTH. As there will be an opportunity for discussion of this general subject when the bill comes up, I call for the previous question.

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

The question then recurred on agreeing to the resolution.

Mr. WENTWORTH. I am disposed to favor this call for information; but if its effect will be to delay the action of the House, I do not know that I would insist that the resolution should be passed. But, as I understand, these paymasters want us to rush through legislation in the dark. I know that there are a great many of these paymasters who want to be relieved; and I wish to know the circumstances of the case. If there should not, among some hundreds of paymasters, be one or two dishonest men, it would be very strange. Consequently, I wish to understand all the circumstances before I vote on the question. If I were asked this morning, "Who constitute the population of this capital?" I would answer, "Paymasters."

And here upon my desk I find a pamphlet asking prompt and immediate action—that if we do not get it through right away we will not get it through at all.

I hope honest paymasters will trust themselves in our hands, as we have trusted them. Cannot they trust this House? I hope the chairman of the Committee on Military Affairs will not crowd this on the House to-day or to-morrow or the next day. Let us legislate with our eyes wide open. I ask the chairman whether he will press this to-day.

Mr. SCHENCK. I have no disposition "to crowd" the House. This bill was brought up by the Committee on Military Affairs, and I do not believe a single paymaster knew when it was to be brought in. I do not believe there were any in the House. It is the easiest thing in the world for men to get up and make charges.

Mr. WENTWORTH. What is this pamphlet put upon our desks for?

Mr. SCHENCK. Their attention was attracted by the fact that the matter was debated here yesterday, and they very properly desired to submit a statement in reference to their interests. They have a right to do so. If the gentleman from Illinois will read the pamphlet attentively he will know more about the subject perhaps than he does now. I have no objection to its being placed here. I have not had time to read it. The little I have seen of it commends it to my approbation. I know the facts there are true. This legislation is proposed for the public benefit, and has been drawn from the best lights before the committee. It is not true——

Mr. CONKLING. I rise to a point of order.

Mr. SCHENCK. It is not true——

The SPEAKER. The gentleman from New York has risen to a question of order, and that arrests all proceedings.

Mr. CONKLING. I wish to know whether the bill is now before the House. If it is not, I object to this debate.

The SPEAKER. The resolution is before the House, and debate of that resolution is in order.

Mr. CONKLING. The bill is not before the House.

The SPEAKER. That is true; but——

Mr. CHANLER. I rise for information.

Mr. WENTWORTH. I have only yielded to the gentleman from Ohio, the chairman of the Committee on Military Affairs. He is the only man capable of giving information on the subject. [Laughter.]

Mr. CHANLER. I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. CHANLER. Application to the Chair for information is always in order.

The SPEAKER. The gentleman cannot take the floor from another gentleman to do so.

Mr. CHANLER. No one seems to have the floor.

The SPEAKER. The gentleman from Ohio has the floor.

Mr. SCHENCK. With the permission of the gentleman from Illinois, I will finish the sentence I had begun when interrupted by the gentleman from New York by a point of order.

I say that it is not true, that it is an entire mistake to suppose this bill has been brought forward at the urgent solicitation of paymasters any further than by petitions referred to the Committee on Military Affairs by this House, involving the necessity of an inquiry into this whole subject. And I will remark that the first impressions of the committee were rather averse to affording relief in any bill which might be proposed, but the more they looked into the matter the more they became satisfied there was a meritorious case which ought to be brought to the attention of the House and some measure of relief provided. If these paymasters have come here and volunteered information to the committee and to the House, I am glad they have done so. No doubt their attention was attracted by the debate of yesterday. They have the right to address this House. It is the poor privilege of every applicant for justice to see that his case is properly brought before Congress.

Now, sir, I shall have no objection when the bill comes up to its being recommitted, but the subject we are now on is not the bill. It is whether you shall attempt, not only to enlighten the committee and the House, but the world, by dragging before the public, in the shape of a public document, all the outstanding balances which appear ostensibly against parties when their accounts have not been settled at all. I believe none of them have been settled later than June, 1863, thus giving an appearance of being defaulters to a great number of persons who are not in any respect defaulters or behind in their accounts at all, alarming them and alarming the country and giving a false impression to the country.

I hope this resolution will be referred to the committee. I am perfectly willing that the bill itself shall be recommitted, and that we shall endeavor to get all the information proper to be obtained in relation to particular cases, and as there is a general disposition manifested in the House to grant some sort of relief, I hope we may put it in a form that will be acceptable.

Mr. WENTWORTH. Mr. Speaker, if I can be excused from answering any more questions for a moment or two I will explain my views.

No information is fit for me, as a legislator, as one of the guardians of the Treasury of the United States, that is not in itself official. No man can legislate without official information. I suppose the chairman of the Committee on Military Affairs is official authority. He has stated to this House, or some one has done so with his sanction, that these accounts are not settled up within three years; and some say more than that. We are asked to legislate in the dark. We are asked to pay gentlemen their accounts without knowing how much we give them or under what circumstances we do it.

I would like to hear the chairman of the Committee of Claims on this subject, and I will yield to him ten minutes for that purpose.

Mr. DELANO. I understand this resolution is for the purpose of obtaining information touching a measure that was before the House on yesterday, and which proposes to allow to paymasters a commission on all moneys that they have disbursed. That measure will take out of the Treasury, if it is adopted, two and a half million dollars or more. There has been paid out by the paymasters, as I understand, over $1,028,000. The chairman of the committee will correct me if I am wrong.

Mr. SCHENCK. I will state that there is an amendment proposed and concurred in which will prevent the payment of a single cent out of the Treasury.

Mr. DELANO. There is an amendment, I know, that limits the amount, so that no paymaster shall receive in the aggregate more than $1,000 per annum.

Mr. SCHENCK. And a further amendment that there shall be no payment except to cover stoppages on account of irregularities, so that no margin beyond that will be paid, and nothing will be paid out.

Mr. DELANO. That of course, if it be adopted, takes away some serious objections

that lie to this bill as originally presented. As first presented it seems to me the measure was a monstrous one. I do not say this by way of any disrespect to that class of officers in the Army denominated paymasters. But if you duly consider the relative importance of the service of this class of officers as compared with that of others, their pay and their hazards, the measure, it seems to me, as originally introduced would be unjust and inequitable, to say the least.

I have been asked to refer directly to the subject that comes before my committee every day. The Committee of Claims have had under consideration claims of men who have lost almost everything that they had in consequence of the war, and in such a way that the losses may be said to have been by the ravages of war, and by the order of this House such claims have been rejected.

Now, sir, while the Government is staggering, as it is now, under a load of debt as heavy as it can carry, while the nation is taxed to its utmost capacity, it seems to me we should introduce no measure which looks to so large an expenditure of money for any class of officers in the Army. But if we are to resort to measures for the relief of any class we certainly could not select a class that I consider as meritorious as these paymasters.

We have many measures involving large sums before the House. Yesterday we passed a bill for the reimbursement of the State of Missouri involving an amount of nearly seven million dollars. A little while ago we voted to pay the State of Pennsylvania $800,000. And there is hanging over us still the debts of the States, amounting to five or six hundred millions, to which must be added the claims for bounties, looking, perhaps, to the expenditure of an equal amount. In view of all this, I think the House should pause before it adopts any measure which looks to further and unnecessary expense.

I do not know that my time is out, but I have simply a word more to say. I desire to say that as this relief of these paymasters can be reached by legitimate legislation, let a report be made to the next session of this Congress by the proper accounting officer showing the condition of the accounts of these paymasters who have dealt fairly, but whose claims cannot be settled in strict conformity to the laws and regulations, and then with these cases before them, this committee can examine the claims and report to Congress proper and legitimate action, and thus we can pay to honest paymasters all that is legitimately due them without imposing upon the people the taxation which this bill proposes.

Mr. WENTWORTH. I expect to be compelled to vote a great deal of money out of the Treasury during this session, but I would at the same time like to know how much money I am voting out of the Treasury. I desire, therefore, that the bill shall go to the Committee of Claims; I have confidence in the chairman of that committee, [Mr. DELANO,] and, as I understand, the President has confidence in him. [Laughter.]

Mr. DELANO. I would like to know the gentleman's authority for making that statement.

Mr. WENTWORTH. I cannot reveal private conversations. [Laughter.]

I understand that my colleague from Illinois, [Mr. FARNSWORTH,] wants the floor for about five minutes; I yield the floor to him for five minutes.

Mr. FARNSWORTH. Mr. Speaker, some time ago—I do not remember how long—I introduced a bill into this House, which was referred to the Committee on Military Affairs, for the relief of paymasters. It was not done upon the request or at the solicitation of any paymasters at all, but from my general knowledge of the fact that all paymasters who have disbursed money to the troops in the field during this war, probably without exception, have stoppages against them for moneys paid from errors in the construction of the law by the paymasters. There are stoppages against them for disbursements which the War Department says were contrary to law; and any gentleman acquainted with the orders which have emanated from the War Department—the multiplicity and confusion of orders construing acts of Congress—must know that the paymaster must be a very wise man indeed who could steer through them all without being charged with stoppages.

Now, the bill that I introduced provided that the proper accounting officers of the Treasury should credit to paymasters in the settlement of their accounts moneys actually disbursed to troops in good faith. The House will understand that the troops have got the money and not the paymasters; the soldiers have got it. In some instance, perhaps, they have got money where they ought not to have done so. But in my opinion, in most instances where these stoppages are charged against paymasters, they did pay the money in pursuance of law. But there is a difference of opinion among the officers of the Paymaster General's department as to the law. The paymasters are now in this predicament: there are stoppages against them, not for money they have swindled the Government out of, but for money disbursed in good faith. I think a bill of that kind ought to be passed. A bill of that kind must be passed some time or other.

Mr. WASHBURN, of Indiana. I rise to a question of order. The gentleman's bill is not here for discussion, and a discussion of his bill is not in order.

The SPEAKER. The Chair overrules the point of order. The resolution certainly opens up a very wide scope of debate.

Mr. FARNSWORTH. Now, I have but a word more to say in conclusion, and that is this: I hope the resolution of the gentleman from Indiana [Mr. WASHBURN] and the bill for the relief of paymasters will be referred to the Committee on Military Affairs, and that they may, either with or without instructions to that effect, report some such bill as the one to which I have alluded. That bill will operate equally upon all the paymasters of the Army, while the quarter per cent. bill does not. As I said before, some paymasters have disbursed more money than others, and some have been placed in positions of more responsibility than others; and under the quarter per cent. bill some would receive a much larger compensation than others. But a bill intended to apply to money actually disbursed in good faith will operate equally upon all paymasters, and, in my opinion, is but a simple act of justice.

Mr. WENTWORTH. I have accomplished my object in calling the attention of the House to this subject. Perhaps it will be in order at this point for me to say that we cannot be too slow in passing bills of a general character. It is unfair that one dishonest paymaster, or one dishonest man, or one dishonest claim should ride ninety-nine honest ones through this House.

Now, I am perfectly willing that this whole matter should be recommitted to the Committee on Military Affairs, but I would much rather that all these things should go where I am obliged to send my claims for the poor one-armed and one-legged soldiers, to the Committee of Claims; but if the House shall decide otherwise I shall not object.

I now yield the remainder of my time to the gentleman from Indiana, [Mr. WASHBURN.]

Mr. WASHBURN, of Indiana. I introduced this resolution in good faith, as I supposed the paymasters and those who represented them upon this floor wished for the information it calls for.

I find laid upon my table this morning a printed paper addressed "to the honorable Committee on Military Affairs, House of Representatives," and entitled "Application of Army paymasters for relief," and signed by persons claiming to be "late additional paymasters United States Army." In that paper I find this statement:

"Paymasters' accounts have been settled only to April, May, and June, 1863. Not having access to the official papers of the accounting officers, we are enabled to exhibit to the committee only such disallowed balances as have been officially reported to us in our own cases. These are as follows:

Major Anthony Ten Eyck, settlement to May 31, 1863	$25,022 89
Major John Coon, settlement to April 30, 1863	20,965 89

My resolution is simply that the Paymaster General be requested to furnish to us the names of such paymasters as have stoppages charged against them and the cause for those stoppages. Now, the chairman of the Military Committee [Mr. SCHENCK] evidently misunderstands my resolution. Being a military man he understands the technical meaning of the word "stoppages," and that no stoppages can be made to any paymaster's account until that account has been settled. If there are unsettled balances standing against these paymasters they do not come under this resolution at all.

Mr. SCHENCK. The gentleman is entirely mistaken; these stoppages are not made in the Paymaster General's office, but in the office of the Second Auditor.

Mr. WASHBURN, of Indiana. I do not care where they are made. They do not go to the Second Auditor's office until the stoppages are made; and the stoppages are not made unless the Department has some good reason to believe that wrong and improper payments have been made, or the money has been fraudulently disposed of.

Now, the only point involved in my resolution is this: are we to have the names of the paymasters that have stoppages charged against them, and the amounts and causes of those stoppages; or shall we say simply that every paymaster has been making mistakes and needs the payment of this quarter of one per cent.? This is simply asking for information, and information only in regard to these claims that have been examined by the proper accounting officers, and which the proper accounting officers have decided should not be allowed.

I now call the previous question on this resolution.

Mr. SCHENCK. I hope this resolution will be referred to the Committee on Military Affairs.

Mr. WASHBURNE, of Illinois. I hope the gentleman from Indiana [Mr. WASHBURN] will consent to have this resolution referred to the Committee on Military Affairs.

Mr. DAVIS. Will the gentleman from Indiana withdraw his call for the previous question, and yield the floor to me for a few moments?

Mr. WASHBURN, of Indiana. Certainly.

Mr. DAVIS. I desire to say merely that if it is important now to have this action in regard to the paymasters of the Army, there are just as good and important reasons why there should be similar action in regard to quartermasters——

Mr. SCHENCK. Not the slightest.

Mr. DAVIS. Commissaries of subsistence, and all disbursing officers in the field. And I can show how that should be done. I understand, from persons connected with those departments, that the same difficulties exist in those cases as in this case.

Mr. SCHENCK. The gentleman will permit me to say that the quartermaster and commissary are in each case protected by the order of the commanding officer in the field; and the accounting officer does not go behind that. The paymasters have no such protection. They are required to make their payments under the existing laws and regulations whatever they may be, without being protected by any direction or order of any of the officers commanding in the field. This is the reason why interference has always been found necessary in behalf of paymasters, while it has not been needed in other cases.

Mr. DAVIS. I have made my statement upon the authority of a quartermaster in the Army. I may have been misled. Doubtless the chairman of the Committee on Military Affairs is well informed on this subject.

But I say that, if this Government is to

afford relief, it should afford such relief as justice demands, which is to the full extent that parties may be deficient in their accounts, provided there has been no neglect or fraud. I submit that justice requires, not that every claim of paymasters should be sent to Congress for adjudication, but that we should by law establish a board of officers for the purpose of examining all these accounts; a board of intelligent and competent men, who should be authorized to make an allowance to the credit of the officer wherever equity and justice demand it. I desire to submit to the consideration of the Committee on Military Affairs the propriety of such a measure.

Mr. WASHBURN, of Indiana. I call the previous question.

The previous question was not seconded, there being—ayes 22, noes 74.

Mr. FARNSWORTH. I move that the resolution be referred to the Committee on Military Affairs; and on that motion I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the motion to refer the resolution to the Committee on Military Affairs was agreed to.

PAYMASTERS OF THE ARMY.

Mr. CONKLING called for the regular order of business.

The SPEAKER. The first business in order is the consideration of House bill No. 475, for the relief of paymasters of the Army, which was pending when the morning hour closed yesterday, the House having refused to second the demand for the previous question. The gentleman from New York [Mr. CONKLING] is entitled to the floor.

Mr. SCHENCK. If the gentleman from New York will yield to me a moment I desire to propose——

Mr. CONKLING. I desire to make a proposition myself. Yesterday I unsuccessfully sought to obtain from the chairman of the Committee on Military Affairs an opportunity to make a suggestion, and by his leave I will avail myself of the opportunity which I now have.

Mr. SCHENCK. I have no objection to the gentleman talking any length of time he may desire; but will he not hear me for a moment?

Mr. CONKLING. I prefer to make a suggestion of my own, and I have a motion to make with reference to this bill. I ask that the bill be read.

The Clerk read the bill.

Mr. CONKLING. Mr. Speaker, in common, no doubt, with many other members of this House, I have received from some of the gentlemen who have acted as additional paymasters statements of the hardship which I infer this bill is intended to remedy. From the letters of these gentlemen, as well as from the memorial laid upon our desks this morning, I infer that the difficulty is that mispayments and over-payments have been unavoidably made by paymasters amid the vicissitudes and disturbances of war, and the object of the Military Committee was doubtless to relieve these officers from the difficulties and responsibilities thus entailed upon them. But, Mr. Speaker, if I can get the attention of the members of the Committee on Military Affairs, I desire to submit to them that this bill as it has now been amended fails in the first place to accomplish the object I have suggested, and in the second place it provides twice over for what in truth it does accomplish.

It provides, in the first place, that one quarter of one per cent. shall be paid to these paymasters upon all sums which they have disbursed, the maximum not to exceed $1,000 in any one year; and then, in addition to this, it is provided by an amendment proposed by the gentleman from Ohio, [Mr. SPALDING,] that the accounting officers of the Treasury Department shall allow all payments which have been made in good faith, whether warranted or not. Then the proviso is offered by the gentleman from Ohio, [Mr. BINGHAM,] by which the doctrine of offset is to be applied between the allowance of one per cent. and the stoppages and discrepancies which appear upon the books.

Now, I think every gentleman will see these provisions are duplex and unnecessary. I think they will see the object demanded by justice of the House is simply one which will indemnify honest officers for mistakes which they have made.

At this point I ask to have read a substitute which I have for all of this bill after the enacting clause.

The Clerk read, as follows:

That the proper accounting officers of the Treasury be, and are hereby, authorized and directed, in the settlement of the accounts of paymasters and additional paymasters of the Army for disbursements made by them during the recent war for the suppression of the rebellion, to allow a credit to said paymasters and additional paymasters of all sums which they may have paid on erroneous muster-rolls which they had no means or opportunity to verify previous to the payment thereon, evidence of which lack of means or opportunity shall be furnished according to such rules and regulations as shall be prescribed by such accounting officers.

Mr. CONKLING. Mr. Speaker, the House will feel that such an amendment as that has two merits. In the first place, it avoids the doctrine of having a graduation of this by a percentage, which I think the House will see is most unjust and erroneous itself; for this reason among others: the paymasters who disbursed the largest sums of money in many instances have been located in the cities, who, while they paid troops in the field, or destined for the field, yet have paid them under such circumstances that absolute certainty could be reached. These men do not need relief; the disbursements they made are so large that the one per centage would give them more than those for whom the bill was designed.

The amendment would avoid that.

In the next place, it would give the accounting officers a discretion guarded by suitable provisions to indemnify—not to compensate, not to pay, not to favor in any way, but to indemnify—every paymaster against mistakes which he has made inadvertently and in good faith, owing to defects in the muster-rolls, the confusion and obscurity of orders, or to any of the causes set forth in the memorial laid upon our desks and in the letters we have received. All would fall within the purview of the amendment I have offered. And as there seemed to be no objection to it on the part of the Committee on Military Affairs, I propose to move before I take my seat that the bill and substitute be referred to that committee.

Mr. SCHENCK. That was the motion I was going to make.

Mr. CONKLING. I have no doubt, but I thought it would not be amiss for other gentlemen to make suggestions.

Mr. FARNSWORTH. Let it be agreed that the Committee on Military Affairs shall have authority to report at any time.

Mr. CONKLING. That can be done afterward, as it requires unanimous consent. I yield to the gentleman from Indiana.

Mr. FARQUHAR. I move to amend by providing for quartermasters, commissaries, and other disbursing officers.

Mr. CONKLING. There are provisions of law applicable to those which are not applicable to paymasters.

Mr. FARQUHAR. I ask leave only to offer the amendment. I do not understand that any similar law has been passed for the officers I have mentioned. I do not know how the line of distinction is to be drawn between them and paymasters

I remember a suggestion of the chairman of the committee, [Mr. SCHENCK,] that the quartermaster and the commissary are protected by the order of their superior officers. That may be the fact in some cases; but I put it to the distinguished gentleman to know whether a quartermaster or a commissary on duty is protected in the disbursements he makes by any superior officer. And I ask if that large class of officers of the regular Army, who disbursed milions of money during the war, are not entitled to the same protection that paymasters are to receive by this bill.

A large amount of advance bounties, all of the expenditures of the Army in the several States in the organization of all the troops, have been disbursed, not by paymasters, but by disbursing officers of the regular Army. A large proportion of these men were taken from civil life, just as were the paymasters of the volunteer army. They were unacquainted with the duties of disbursing officers, just as the paymasters of the volunteer army were unacquainted with the duties of the pay department. They have gone into the performance of their duties without that experience of the paymasters of the regular Army. They have gone into the performance of that duty, and notwithstanding some men of ability and general business qualifications have taken these positions, difficulties have arisen in their disbursements precisely like those which have arisen among the paymasters, only greater.

Mr. CONKLING. I ask the gentleman whether the officers of whom he is speaking are not staff officers, and whether their responsibilities and obligations do not rest on something entirely different in point of machinery from that of officers of whom we are speaking.

Mr. FARQUHAR. I admit that in one sense these disbursing officers may be staff officers, but they are so simply by being at a post where there is a commandant, and very often it happened during the war that the disbursing officer has been the officer in command himself, and he was not a staff officer. In the early stages of the war, at a time when there were no commanders of departments in the States that were not in rebellion, the officer in charge of disbursements at the several posts was himself a commandant, and therefore he was not, in the sense in which the gentleman from New York [Mr. CONKLING] suggests, a staff officer.

Mr. GARFIELD. Does not the gentleman recognize this difference in the two, that while the paymaster is never bound to obey the commander at the post, the quartermaster or commissary is? Therefore, when the order comes for payment, the quartermaster is bound to pay, but the paymaster is responsible only to the law.

Mr. FARQUHAR. I want to call the attention of the gentleman to the fact that all of the advance payments of bounty were paid by the disbursing officers and not by the paymasters; and that all the expenditures in the several States, in the organization of troops or in the encampments, were paid by the disbursing officers from the Army and other officers detailed from the regular Army. They are officers, it is true, not under form; no sureties are responsible for them, but they are responsible individually. The only difference between them and paymasters is, that the disbursing officer is individually responsible for his acts while the paymaster is liable to his surety. I cannot, therefore, see where the line of distinction comes in by which the paymaster should be protected and the disbursing officer should not. It is not my purpose to interpose objection to the pending bill. I concede the claims of that meritorious class of officers for proper relief, but cannot discriminate between them and those named in my proposed amendment. I hope that some measure may be adopted affording relief to all.

Mr. CONKLING. I will now yield to my colleague, [Mr. HOTCHKISS,] who desires to say a few words.

Mr. HOTCHKISS. As the law now stands, under the act of the Thirty-Eighth Congress, the accounting officers can settle all accounts with the quartermaster and commissary, except for moneys paid out by them; and it happens in frequent instances that the commissaries and quartermasters have been robbed of their vouchers and papers by the enemy. In such cases they have to come to Congress for relief. The accounting officers have to be authorized to accept other proof than the ordinary vouchers. This bill contains a general

provision authorizing the accounting officers to accept other proof of the payment of money.

Mr. SCHENCK. I will state to the gentlemen that the other day we passed a bill covering all these cases of loss of vouchers. It seems to me that the gentleman from New York is mixing up two things which have no relation to each other. This bill relates entirely to paymasters.

Mr. WRIGHT. Will the gentleman from Ohio allow me to say a word?

Mr. CONKLING. I must object to further conversation on this subject. I will yield now to my colleague, [Mr. MORRIS.]

Mr. MORRIS. I wish to introduce a bill.

The SPEAKER. That cannot be done during the morning hour. The House has ordered that the morning hour shall not be interfered with.

Mr. CONKLING. I now move the previous question on my motion to recommit.

The previous question was seconded and the main question ordered; and under the operation thereof the bill with the pending amendments was recommitted to the Committee on Military Affairs.

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

The latter motion was agreed to.

Mr. FARNSWORTH. I now ask unanimous consent that the Committee on Military Affairs have leave to report the bill back at any time.

Mr. RANDALL, of Pennsylvania. I object.

CONFERENCE REPORT.

Mr. WASHBURNE, of Illinois. I rise to a privileged question. I desire to make a report from a committee of conference. That is a highly privileged question.

The SPEAKER. A report from a conference committee is very highly privileged, as the gentleman states; but the House has ordered unanimously that the morning hour shall not be interfered with by any business whatever. The object was to enable the committees to be called without interruption, and thus present their business to the House. The Chair, therefore, has ruled that election cases and other questions of privilege cannot interfere with the morning hour. In the expiring days of the session, when the exigency of the public business justifies it, the Chair would be disposed to relax this strict ruling.

The SPEAKER then proceeded to call the Committee on Foreign Affairs for reports.

GUNBOAT FOR LIBERIA.

Mr. BANKS, from the Committee on Foreign Affairs, reported back, with the recommendation that it do pass, bill of the Senate No. 229, to authorize the President of the United States to transfer a gunboat to the Government of the republic of Liberia.

The bill authorizes the President to transfer to the Government of the republic of Liberia any one of the gunboats now or hereafter included in the Navy of the United States, her armament, &c., which may be acceptable to that Government, and which can, in the judgment of the Secretary of the Navy, be conveniently spared for that purpose; and upon a valuation to be fixed by him, the Secretary of the Navy is authorized and directed to enter into a contract with any person duly empowered by the Government of that republic, by which that Government shall engage to pay to the United States the value of the gunboat to be so transferred, provided that the contract shall stipulate for full reimbursement to the United States of the value of such gunboat in annual installments not exceeding ten in number, with interest on each at six per cent. per annum.

Mr. BANKS. I demand the previous question on the bill.

The previous question was seconded and the main question ordered.

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

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

The latter motion was agreed to.

JAMES G. CLARKE.

Mr. PATTERSON, from the Committee on Foreign Affairs, reported back, with the recommendation that it do pass, the bill of the Senate No. 248, for the relief of James G. Clarke.

The bill directs the Secretary of the Treasury to pay to James G. Clarke the sum of $6,483 96, in full for his services as chargé d'affaires of the United States at Brussels, from June 11, 1857, to September 27, 1858.

Mr. WASHBURNE, of Illinois. I rise to a question of order. I submit that as that bill makes an appropriation, it must have its first consideration in Committee of the Whole House.

The SPEAKER. The Chair sustains the point of order; and the bill is referred to a Committee of the Whole House.

IMMIGRATION OF CRIMINALS.

Mr. ORTH, from the Committee on Foreign Affairs, reported back, with the recommendation that it do pass, joint resolution of the Senate No. 45, protesting against the pardon by foreign Governments of persons convicted of infamous offenses on condition of emigration to the United States.

The joint resolution was read at length, and then read the third time, and passed.

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

The latter motion was agreed to.

ARTESIAN WELLS IN THE TERRITORIES.

Mr. RICE, of Maine, from the Committee on Territories, reported back House joint resolution No. 32, to facilitate communication with the Territories of New Mexico, Arizona, and Colorado.

The joint resolution was read at length. It provides that whenever any loyal citizen of the United States shall make and establish an artesian well on the line of any mail route in New Mexico, Arizona, Colorado, or in the Colorado desert of California, distant at least ten miles from any spring or stream of living water on such route, and a like distance from any other artesian well, he shall be entitled to one section of public land embracing such well, the same to be marked out and designated in a compact form by such citizen; and upon filing with the surveyor general a sworn notice of the fact that such well has been established, with a particular description of the premises so marked out and designated, the same shall be treated as reserved land; and after the lapse of three years from the date of such establishment and upon satisfactory proof made to the surveyor general in conformity to the foregoing stipulations that pure water from such wells has been constantly furnished without charge to the public traveling upon such route, the inceptive right of the claimant shall be confirmed; and upon the extension of the lines of the public survey the boundaries of such sections shall be adjusted according to the lines thereof.

The joint resolution further provides that effect shall be given to the foregoing by the Commissioner of the General Land Office, who shall have power to revise and finally determine the rights of claimants arising under this joint resolution, and to furnish evidence of title of such reservation, by patent or otherwise, with such conditions incorporated therein as may be necessary to secure and perpetuate the purposes of the grant.

Mr. WASHBURNE, of Illinois. I would like to have the gentleman from Maine [Mr. RICE] give some explanation of this joint resolution.

Mr. RICE, of Maine. This joint resolution provides simply that any person making an artesian well and providing pure water ten miles distant from any living spring or stream or from any other artesian well shall have the amount of land specified in the resolution. It also provides that these persons shall always keep these wells in repair and furnish at all times pure water to travelers on these mail routes. This resolution is recommended by the Commissioner of the General Land Office; it was drafted at his office, and is imperatively demanded by those people who seek access to these Territories over this vast desert of Colorado.

Mr. WASHBURNE, of Illinois. I do not know but this joint resolution may have come from the office of the Commissioner of the General Land Office; but I hardly think that officer could have examined it very closely when he made this recommendation. It seems to me very much as if there was a pretty good sized cat in this meal-tub. It is a provision by Congress whereby parties may go anywhere upon lands that are not surveyed, and by boring an artesian well get a full title to a section of land of six hundred and forty acres.

Now, I undertake to say that if my friend from Maine [Mr. RICE] will trace this proposition out, he will find that it had its inception with some speculator who wanted to secure a valuable town site. I am aware how important it is to people in these Territories to have a good title to their lands, and also how important it is for speculators who desire to build up towns to have a good title to their property. And I confess this is a most ingenious way of taking sections of six hundred and forty acres of land each out of the mass of public lands and have titles granted to particular parties there upon doing what they would do any way if it was for their interest.

Now, sir, so far as I have read this resolution, and so far as I can conceive its objects, I am entirely opposed to it. I do not believe it is right for us here, under the provisions of this resolution, to grant away the title to a section of land wherever these parties may choose to sink an artesian well. There are no proper limitations, no proper guards, in this joint resolution; and I trust the House will not pass it.

Mr. RICE, of Maine. I will state briefly the history of this whole matter. It originated with the Commissioner of the General Land Office, who recommended this measure very strongly, for the reason that those vast deserts are now almost impassable by reason of the scarcity of water, and that there must be held out some inducement to provide water for the people traveling upon these routes. A joint resolution similar to this passed this House in the last Congress after full consideration, and failed in the Senate only because of the late day on which it was sent to that body.

Mr. WASHBURNE, of Illinois. It ought not to have passed.

Mr. RICE, of Maine. Mr. Speaker, this bill is carefully guarded in every particular. The whole matter is under the control of the Commissioner of the General Land Office. If the gentleman from Illinois means to cast any reflection upon that officer in the discharge of his duty, or to impugn the purity of his motives in any recommendation which he sends to this House, I must remind him that he is making charges against a gentleman who is above——

Mr. WASHBURNE, of Illinois. There was nothing in my remarks which could by any possibility bear such a construction.

Mr. RICE, of Maine. The gentleman said that in this bill there was a "cat under the meal." Very properly he considers it his duty to look after all the interests of this broad land, and particularly every measure that does not originate with him or his committee. I find no fault with him for that. I know the value of his services in this House; I know their great value in protecting the interests of this country. No man respects his devotion in that respect more than I do, but he is certainly acting under a misapprehension when he opposes this measure, which has received the approval of the Committee on Territories at two succes-

sive Congresses, which is now reported unanimously by that committee, and which an intelligent and able officer of this Government, well qualified to decide upon the question wisely, regards as of great importance for the development of these Territories and for the welfare of those traversing them.

The bill simply provides for a donation of public land to any who will at great expense make one of these artesian wells; and it is provided that the wells shall not be within ten miles of each other nor within ten miles of any living water, and that they shall be on some mail route of the United States.

Mr. CONKLING. What is a man to receive for making a well?

Mr. RICE, of Maine. Six hundred and forty acres of land, surrounding the place where the well is made.

Mr. CONKLING. Six hundred and forty acres for each well?

Mr. RICE, of Maine. Yes, sir; but they must be ten miles apart.

Mr. WASHBURNE, of Illinois. If the gentleman from Maine will yield to me a moment I desire to say that I cannot permit him to make, without disavowal on my part, any intimation that I am disposed to do injustice to the Commissioner of the General Land Office. Nothing which I said could justly be construed into a censure upon that officer. When I said that there was something behind this measure which did not appear on its face, I did not intend to impute anything improper to that gentleman. On the contrary, I am glad to bear testimony to the ability and integrity of Judge Edmunds, the Commissioner of the General Land Office. I have known many heads of bureaus in the Department, but I know no man whom I more respect for his ability and integrity.

Mr. RICE, of Maine. I am glad to hear from the gentleman this disavowal, and I am glad that I gave him the opportunity to make it. But the gentleman said that this measure had emanated from parties who had some interest which was not revealed. I say to the House that the measure emanated from Judge Edmunds alone; and it now comes before the House with the unanimous recommendation of the Committee on Territories, by which committee it was unanimously recommended at the last session, the House at that time passing the measure.

It has been suggested that the bill should be amended by excepting from its operation mineral lands. I shall offer no objection whatever to that amendment, if any gentleman chooses to offer it.

The SPEAKER. The gentleman can move the amendment himself.

Mr. RICE, of Maine. I move the amendment.

Mr. STEVENS. I ask what there is to prevent a man who goes there to dig an artesian well from taking up land under the homestead law.

Mr. RICE, of Maine. The homestead law gives him only a quarter section and this gives him a full section.

Mr. WRIGHT. Is not this one of the gift concerns by which the public land is recklessly given away?

Mr. RICE, of Maine. We receive ample benefits for the lands we donate. The donation of these public lands at these long distances is to insure the possibility of travel over these deserts in order to reach the valuable Territories of Arizona and New Mexico. We provide for furnishing travelers what they must have, pure water.

Mr. CONKLING. If the bill becomes a law, in addition to six hundred and forty acres may not the party take one hundred and sixty acres under the homestead law?

Mr. RICE, of Maine. I judge not, because under the homestead law he must live upon the land.

Mr. CONKLING. I cannot see why the party cannot take up in addition lands under the homestead law. There is no provision here to prevent it.

Mr. RICE, of Maine. Those who take under the homestead law must also certify that they have no other homestead. I do not think these parties could take lands under the homestead law, and at the same time hold under these resolutions.

Mr. CONKLING. I had not looked at the resolution carefully. I ask whether it will not permit these lands to pass by title to associations and partnerships who shall undertake to dig these artesian wells. If so, I ask whether any one of the individuals may not take lands under the homestead law, alleging that, without perjury or false assertion, they do not individually own any real estate.

Mr. RICE, of Maine. The resolution has been carefully drawn and guarded. These lands are to be given to those who put down artesian wells, and provide pure water for travelers at all times. It is also provided that no pay shall be asked of travelers for the water provided to travelers. It would be difficult to guard a bill more thoroughly. If the gentleman wants to provide by amendment that these parties shall not take lands under the homestead law, I shall not object. My only desire is to make provision for travel over these deserts.

Mr. WRIGHT. I think this joint resolution for artesian wells is a great *bore*. [Laughter.] They had the whisky question under consideration in the Senate yesterday, and to-day we have the water question. [Laughter.]

Mr. CHANLER. Let me make a suggestion.

Mr. RICE, of Maine. After awhile. Yes, sir, the object is to furnish pure water to travelers across the deserts.

Mr. HARDING, of Illinois. How much water?

Mr. CHANLER. I ask my friend from Maine whether he has taken into consideration the effect this will have, if it becomes a law, upon our internal revenue. It will diminish our receipts from tax on whisky, [Laughter.] I can understand why a gentleman from a State where the Maine liquor law took its rise should be glad to have such a measure passed. But how will it affect the revenue?

As I understand, the development of virtue as expected in a Maine liquor law is not needed in that section. I hope, therefore, the resolution will allow distilleries in the same section of the country. [Laughter.] Let them both go together.

The gentleman from Massachusetts on my left [Mr. BALDWIN] suggests that the community should be supplied with other luxuries, and that the tax on sugar and lemons should be included in the resolution. It strikes me it is not wise nor expedient to be dwelling so much upon the necessity of cold water, which everybody knows is an article of necessity. Why dwell with such pertinacity upon the virtues of pure cold water? The gentleman from Maine [Mr. RICE] carries with him a whole State, but he should remember that we are now legislating for the people of the West, who are not accustomed to water. [Laughter.] It is a well-known fact that on the question between water and whisky the West is a unit to-day against water. [Laughter.] I have not myself traveled over the whole country; I am speaking from information.

But as I am not able to add much information on this subject I appeal to the stately gentleman from Illinois [Mr. WENTWORTH] whether he is for water as against whisky, or for whisky as against water.

Mr. WENTWORTH. I am for cold water all the time. [Laughter.]

Mr. CHANLER. Very well, I hope he will keep to the water. I now appeal to the gentleman from Maine [Mr. RICE] if I am right as to his position, that he is for water as against whisky.

Mr. RICE, of Maine. The gentleman seems to be more interested in whisky than in water; therefore I yield to my friend from Wisconsin, [Mr. PAINE.]

Mr. PAINE. It is undoubtedly the intention of this joint resolution that this water should be furnished free of expense; but it is not true that it does furnish water to travelers free. There is a provision that the land shall not be granted unless evidence shall be furnished that water has been furnished to them free of charge; but there is no provision which will secure it to the traveler free of expense after the title to the land shall have vested in the men who do the work. I think the resolution should be so amended that travelers shall not be subjected to excessive charges, if indeed to any charges at all, for the accommodations which these parties agree to provide for them after they shall have received the lands.

Mr. WASHBURNE, of Illinois. I think the gentleman ought to confine it to a quarter section instead of a whole section.

Mr. RICE, of Maine. This matter is under the control of the Commissioner of the Land Office, and the bill provides that the patent shall only be issued with such conditions incorporated therein as may be necessary to secure and perpetuate the purposes of the grant.

The question being taken on the amendment excepting mineral lands, it was agreed to.

Mr. CONKLING. I suggest this amendment to the gentleman from Maine:

Provided, That no more than six hundred and forty acres shall be granted in the case of any one well: *And provided further*, That no grantee or beneficiary under this act shall be allowed to enter lands under any homestead act of the United States.

Mr. RICE, of Maine. I will accept that amendment. I now move the previous question.

Mr. STEVENS. Does this come from the committee?

Mr. RICE, of Maine. Yes, sir, from the Committee on Territories.

Mr. STEVENS. Have they made up their minds to encourage smelling for water by appropriating public lands for that purpose?

Mr. RICE, of Maine. These wells will be a thousand feet deep.

On the question of seconding the demand for the previous question, no quorum voted.

The SPEAKER ordered tellers; and appointed Messrs. RICE, of Maine, and SITGREAVES.

Mr. WASHBURNE, of Illinois. I suggest that the gentleman from Maine consent to have this recommitted with the pending amendments and printed.

No objection being made, it was so ordered.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the joint resolution was recommitted; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

ARIZONA.

On motion of Mr. RICE, of Maine, the Committee on Territories were discharged from the further consideration of the memorial of the Legislative Assembly of Arizona, asking that the tract of land in the bend of the Colorado be attached to Arizona; and the same was laid on the table.

ROADS IN UTAH.

Mr. MARVIN, from the Committee on Territories, reported adversely on the memorial of the Governor and Legislature of the Territory of Utah, praying for an appropriation of money for the construction of roads in said Territory; which was laid upon the table.

BOUNDARY BETWEEN IDAHO AND OREGON.

Mr. MOULTON, from the Committee on Territories, reported back, with the recommendation that it do pass, bill of the House No. 251, for a survey of the boundary between the Territory of Idaho and the State of Oregon.

The bill containing an appropriation was referred, under the rules, to the Committee of the Whole on the state of the Union.

LIBRARY IN SALT LAKE CITY.

Mr. STARR, from the Committee on Territories, reported adversely on the memorial of the Territory of Utah for an appropriation for a library at Salt Lake City; which was laid upon the table.

CODIFICATION OF THE LAWS OF DAKOTA.

Mr. HILL, from the Committee on Territories, reported adversely on the memorial of the Legislature of Dakota asking an appropriation for the codification of the laws of the Territory of Dakota; which was laid upon the table.

Mr. MOULTON. The chairman of the Committee on Territories is absent to-day, not expecting his committee to be called, and I know he has several important bills to report. I hope, therefore, that the morning hour will be considered to be at an end, and that the committee may have another morning hour to-morrow.

The SPEAKER. The morning hour has expired.

MARINE HOSPITALS AND REVENUE CUTTERS.

Mr. WASHBURNE, of Illinois. I rise to a privileged question. I am directed to make a report from the committee of conference on the disagreeing votes of the two Houses on the bill of the House, No. 184, to authorize the sale of marine hospitals and of revenue cutters. The Senate amended the House bill by a provision limiting the number of hospitals to which its provisions should be applied. The Senate have receded from that amendment, with an amendment to which the conferees on the part of the House agree, which merely provides that the hospitals at Cleveland, Ohio, and Portland, Maine, shall not be sold. I ask the adoption of the report.

Mr. TRIMBLE. I would ask the gentleman if the bill as it now stands proposes to sell all the marine hospitals on the Ohio river.

Mr. WASHBURNE, of Illinois. Not all. The bill which the House passed, and in which the Senate concurred in, provided for the sale of certain hospitals. There is a limitation which applies to certain hospitals. It does not apply to the hospital at Paducah, Kentucky, or to the hospital at Galena, Illinois, where I live, and both will be sold under this act.

Mr. NIBLACK. How about the hospital at Evansville, Indiana?

Mr. WASHBURNE, of Illinois. I think the hospital at Evansville can be sold if the Secretary of the Treasury shall deem it best for the public interest. I ask that the report of the committee of conference be read.

The Clerk read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 184) to authorize the sale of marine hospitals and of revenue cutters, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from their first, second, and third amendments.

That the House of Representatives recede from their disagreement to the fourth amendment of the Senate, and agree to the same with an amendment, as follows:

Strike out all after the word "provided," in line twelve of said bill down to the word "where," in line seventeen, and insert the following:

That the hospitals at Cleveland, Ohio, and Portland, Maine, shall not be sold or leased, nor shall any hospital be sold or leased.

Z. CHANDLER,
JOHN SHERMAN,
Managers on the part of the Senate.

E. B. WASHBURNE,
B. EGGLESTON,
J. M. HUMPHREY,
Managers on the part of the House.

Mr. WASHBURNE, of Illinois. I now move the previous question.

The previous question was seconded and the main question ordered, being upon agreeing to the report of the committee of conference.

Mr. NIBLACK demanded the yeas and nays.

The yeas and nays were not ordered.

The report of the committee of conference was agreed to.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the report of the committee of conference was agreed to; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

LIQUOR IN THE CAPITOL.

Mr. WENTWORTH. I renew my motion to proceed to the consideration of business on the Speaker's table.

The motion was agreed to.

The first business on the Speaker's table was a concurrent resolution of the Senate prohibiting the sale of spirituous and other liquors in the Capitol building and grounds.

The resolution, which was read, provides that the sale of spirituous liquors, wines, and intoxicating drinks of any description whatever be prohibited in the Capitol building and grounds; and that it shall be the duty of the Commissioner of Public Buildings and Grounds immediately to cause to be removed therefrom and to prevent the sale hereafter of such articles in the Capitol building or grounds.

Mr. STEVENS. I do not know whether I understand this resolution; and I desire to inquire whether it is in such a form as to require the signature of the President. [Laughter.]

Mr. WENTWORTH. I desire the Clerk to read the 19th joint rule of the two Houses, for I wish to call the attention of members to that rule.

The Clerk read, as follows:

"No spirituous liquors shall be offered for sale or exhibited within the Capitol or on the public grounds adjacent thereto."

Mr. WENTWORTH. Mr. Speaker, I wish to call the attention of the House to the fact that this joint rule has been in existence nearly thirty years, and during all that time it has, I believe, been rigidly enforced by the officers of this House. The resolution which now comes to us from the Senate is simply a reënactment of that joint rule. Sir, I have yet to learn that the enactment of a resolution a second time gives it any additional validity. I may remark, however, that sometimes when I have been in the Senate I have wondered that their Presiding Officer did not enforce this old rule; and it has seemed to me that it would be better if that body had our Presiding Officer, and if some of the members of this House were transferred to that body. [Laughter.]

It will be observed that the resolution now under consideration corresponds in its language almost precisely with the joint rule which was adopted as long ago as September 18, 1837. It appears, however, that the Senate desires that this joint rule shall be reënacted. I see by the Globe that yesterday a distinguished Senator, in advocating this resolution, made this statement:

"I understand that within the last three years, boys employed in the public service have been taxed to pay for liquors that members of Congress have drunk."

If this be true, it results from the fact that the Senate does not enforce its own rules. If, however, additional legislation on this subject is deemed necessary, I am ready to give it my cheerful support.

I desire to offer one amendment to this resolution. It will be observed that the enforcement of the prohibition is intrusted to the Commissioner of Public Buildings. Now, as this officer has under his charge all the public buildings, I see no reason why he should not be directed to enforce this regulation in all of them. I think, for instance, that liquor is more dangerous in the arsenal, where the powder magazine is, than in this Capitol. I move, therefore, to amend the resolution by striking out after the word "Capitol," wherever it occurs, the word "building," and inserting in lieu thereof the words "and other public buildings;" so that the clause will read: "in the Capitol and other public buildings and grounds." This will include every building in the city over which the jurisdiction of the Commissioner of Public Buildings extends. I see no reason why we should not thus cover the whole ground.

I wish to say further, Mr. Speaker, that if the statement made yesterday in the Senate is to be understood as implying the charge that this House has ever directly or indirectly taxed the boys or anybody else connected with the House for the benefit of members, the fact has never come to my knowledge; nor have I ever heard of any such thing. Members of the Senate can speak as to their own employés; but when they make so serious a charge they must not implicate this body unjustly.

Mr. SCHENCK. The word "exhibition" is used in the resolution. It is not, perhaps, very clear whether it is intended to apply to the exhibition of liquors for the purpose of observing their kind, quality, or color, or whether it is used in the sense in which that word is used by physicians, meaning to administer.

Mr. STEVENS. It means the exhibition of members.

Mr. WENTWORTH. I so understand it. There are several gentlemen, I understand, who wish to speak upon the question. If that were not so I would call the previous question.

Mr. RANDALL, of Pennsylvania. I ask the gentleman to yield to me.

Mr. WENTWORTH. I yield to the gentleman for five minutes.

Mr. RANDALL, of Pennsylvania. I do not want more than two minutes. I only wish to suggest that action on the part of this House restricting the sale of liquor on this side of the Capitol is entirely unnecessary, as the Speaker of his own volition, in an early part of the session, did away with "the hole-in-the-wall" and other places where liquors were procured, and the House subsequently approved and indorsed that action of the Speaker. I think, therefore, that the resolution had better be returned to the Senate so that they may adopt it for themselves, as the necessity for the adoption of such a resolution seems to be with them and not with this House.

Mr. WENTWORTH. I now yield to my colleague.

Mr. WASHBURNE, of Illinois. The suggestion I wish to make is this: that the resolution be amended so that instead of concurrent resolution it shall be a joint resolution, and require the consent of the President.

Mr. STEVENS. The gentleman wants it amended so as to require the signature of the President. He wants to kill it, I see what he is after. [Laughter.]

Mr. WRIGHT. I hope the gentleman will let me move an amendment so that it shall have as a title "A bill for the relief of the Senate." We do not need it here.

Mr. WENTWORTH. I do not know just now where to turn to the rule, but the Speaker will call the attention of my colleague to the fact that we cannot amend a concurrent resolution so as to make it a joint resolution.

Mr. WASHBURNE, of Illinois. I suppose this is, like every other legislation which comes from the Senate, susceptible of amendment by the House. I wish to amend this so that it shall be a joint resolution instead of a concurrent resolution.

Mr. WENTWORTH. Before calling for the previous question I wish to say one word. I drew a substitute for the resolution making it a law instead of a resolution, but on consulting the authorities I found we had no right to do so.

The SPEAKER. A concurrent resolution from the Senate cannot be amended by the House into a joint resolution. That is so for various reasons. One is, that a concurrent resolution comes upon an ordinary sheet of paper, while a joint resolution comes engrossed and is regularly examined. The only way to reach the object sought by the gentleman is to move that this be laid upon the table, and to send to the Senate a joint resolution.

Mr. RANDALL, of Pennsylvania. I think it ought to be referred to the Committee on Public Buildings and Grounds.

Mr. NIBLACK. The Senate, in passing this concurrent resolution yesterday, gave us some facts in the course of the debate which showed the necessity for this legislation so far as that portion of the Capitol was concerned. Now, before we extend the scope of the resolution by adopting an amendment extending it to all the public buildings, I desire to know what

information the gentleman possesses in reference to the sale of liquor elsewhere than this building which makes it necessary.

Mr. WENTWORTH. Now, it is a well settled principle that each House shall be the judge of the qualification of its own members. [Laughter.] This has come from the other branch of Congress, and they give the reasons in their speeches why they have passed it. I hope, therefore, the House will pass it with the amendment I have proposed.

ENROLLED BILL SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled Senate bill No. 199, to establish the collection district of Port Huron, the collection district of Michigan, the collection district of Montana and Idaho, and to change the name of the collection district of Penobscot; when the Speaker signed the same.

LIQUOR IN THE CAPITOL—AGAIN.

Mr. WENTWORTH. I think the better way would be to pass this resolution with the amendment. If we passed a bill or joint resolution instead of this concurrent resolution it would seem as though we wanted to embarrass the matter. I think the motives of the House would be misunderstood if we did not pass the resolution. It would look as if we took an indirect way to defeat it. I think as amended it would apply to all the public buildings and grounds in this city. I am told there are several institutions upon the public grounds for the sale of intoxicating liquors. I now call the previous question.

Mr. CHANLER. I think the gentleman has overlooked one fact, that in some of the public buildings spirits are necessary for the preservation of *reptilia*, which are kept for scientific purposes in Government musenms.

I also suggest to the gentleman that there is danger, from the too frequent provocation of what are called "copperheads," that certain members over the way are in danger of getting bitten by those reptiles, and in that case whisky is one of the most certain remedies. [Laughter.]

It seems to me that it is not exactly fair for those gentlemen who have had a long experience in these Halls, who have been here many years, to bring in resolutions which bear hard upon us who have been here but a little while, and do not know so well where to get whisky. I think, at all events, they should let us know, who have not as large a stock on hand as the gentlemen who advocate this measure, where we may get a supply. Some gentlemen consume more than others. With some a gallon goes but a very little ways, and I insist that regard should be had for moderate men.

Public houses, Mr. Speaker, are not the only places where intemperance and intoxication take place, and I protest against this imputation against the inhabitants of this city and against all those who live in public houses or public buildings, as not leading virtuous lives. We know very well that the charge has been brought not only of intemperance in liquor but intemperance in lust, and the gentleman might amend the resolution so as to carry the inquiry into the habits of the dwellers in public buildings.

But I think this pharisaical effort at purification should not come from those who have the largest phylactaries. I consider it an unfair thing to resort to this method of inaugurating a crusade against a genial custom and good fellowship which I know the gentleman from Illinois [Mr. WENTWORTH] never intended.

Mr. WENTWORTH. I yield to the gentleman from Pennsylvania. [Mr. THAYER.]

Mr. THAYER. I desire to say that an erroneous impression has gone abroad on this subject. During my experience here I have not observed any indication which suggests to the House the necessity of the concurrent resolution which has been sent here from the Senate. I have however read the debate upon this concurrent resolution which took place in the Senate yesterday, and I will allude to that. From the sentiments which were expressed by some who participated in that debate it may well be that the passage of such a resolution was necessary for the preservation of the decorum and dignity which characterize so venerable a body as that.

I observe, for example, that one member of that distinguished body concluded a lengthy oration in defense of drunkenness with this sentiment: "I believe in women, wine, whisky, and war." Now, I do not believe that either of those articles should be unnecessarily thrown in the way of a gentleman holding such sentiments. And with that view I hope the concurrent resolution will pass this body.

Mr. WENTWORTH. I yield to the gentleman from Massachusetts, [Mr. BALDWIN.]

Mr. BALDWIN. I merely wished to suggest whether the amendment proposed by the gentleman from Illinois [Mr. WENTWORTH] may not be inoperative in a concurrent resolution, which cannot go any further than the Senate and House of Representatives. Anything farther, I suppose, would require a general law.

Mr. STEVENS. If I were at liberty, I would strike out "within this building" and insert "to any member of Congress;" so that they should not stop at these corners where I go past.

Mr. WENTWORTH. That belongs to the corporation of this city. If they see fit to allow the sale of liquor to members of Congress you cannot help it; but we have no jurisdiction except over our own grounds.

I move the previous question.

The previous question was seconded and the main question ordered.

Mr. SMITH. By what right can the Speaker of the House and President of the Senate enforce this law upon any Department?

The SPEAKER. Debate is not in order.

Mr. RANDALL, of Pennsylvania. Will it be in order to move to refer the resolution?

The SPEAKER. It will not.

The amendment to add the words "and other public buildings" was agreed to.

Mr. RANDALL, of Pennsylvania. Is it in order now to refer it?

The SPEAKER. It is not.

Mr. RANDALL, of Pennsylvania. Is it in order to move to lay it on the table?

The SPEAKER. It is.

Mr. RANDALL, of Pennsylvania. I would like to send it to the committee for modification, but I move to lay it on the table.

The motion was disagreed to.

Mr. McKEE. Is it in order to make any amendment?

The SPEAKER. It is not.

Mr. RANDALL, of Pennsylvania. I move to reconsider the vote by which the main question was ordered, with a view to refer the resolution to the Committee on Public Buildings and Grounds.

The SPEAKER. That motion cannot now be made, because the order of the House for the previous question has been partially executed by agreeing to the amendment, and the rule says that the previous question shall not be reconsidered after it has been partially executed. The only way in which the gentleman can now accomplish his object is, after the resolution is agreed to, to vote against the motion to lay the motion to reconsider upon the table, and then reconsider and refer it.

Mr. RANDALL, of Pennsylvania. I will follow the suggestion of the Speaker.

The resolution, as amended, was agreed to.

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

The question was put, and there were—ayes 50, noes 25; no quorum voting.

The SPEAKER ordered tellers, and appointed Messrs. WENTWORTH, and RANDALL of Pennsylvania.

The House divided; and the tellers reported—ayes sixty-seven, noes not counted.

So the motion to reconsider was laid upon the table.

SALARIES IN POST OFFICE DEPARTMENT.

Mr. STEVENS, from the Committee on Appropriations, reported back, with an amendment, joint resolution of the Senate No. 29, for the transfer of funds appropriated for the payment of salaries in the Post Office Department to the general salary account of that Department.

The amendment was read, and agreed to, as follows:

Add to the resolution the following proviso:
Provided, That this resolution shall not be construed to increase the appropriations already made for the service of the Post Office Department.

The joint resolution, as amended, was ordered to a third reading; and it was accordingly read the third time and passed.

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

The latter motion was agreed to.

BEALS AND DIXON.

Mr. STEVENS, from the same committee, reported back, with the recommendation that it do pass, joint resolution of the Senate No. 56, authorizing the Secretary of the Treasury to adjust the claim of Beals & Dixon against the United States.

The joint resolution authorizes the Secretary of the Treasury to cause the accounts of Beals & Dixon, for the delivery of materials after May 1, 1861, under their contract with the United States, to be adjusted and paid, allowing to said Beals & Dixon such additional prices for materials delivered after May 1, 1861, as, in his opinion, they may be justly entitled to under the provisions of their supplementary contract dated January 1, 1857; provided that in the opinion of the Attorney General said Beals & Dixon have a legal claim upon the United States for an increase of prices under said contract.

Mr. WASHBURNE, of Illinois. I desire to make a motion to refer this joint resolution to the Committee of Claims. It is a private bill to all intents and purposes, and it certainly should go to the Committee of Claims to be examined.

Let me say that this is one of a class of claims the most dangerous that can come before Congress, investing the Department with power to add to the prices to be paid these contractors. I hope the gentleman from Pennsylvania will consent to let this matter go to the Committee of Claims so that we may have a thorough examination and report upon it. Let us know something in regard to the facts in the case, what the original contract prices were, and what these men now claim, before vesting this authority in the Secretary of the Treasury.

Mr. STEVENS. The House sent this resolution to the Committee on Appropriations, and of course it was the duty of the committee to report it. I will first state what it is. It does not profess to decide any of the questions involved in the contract, although I have seen the contract, by which there is an agreement to make an additional allowance; but the Committee on Appropriations were not willing to say whether it was valid or how much should be paid under it.

Hence it was that the Committee on Appropriations thought it was better, instead of undertaking to investigate this claim themselves, or, I will add, instead of requiring the Committee of Claims to investigate it, to send it in the first place to the power that originally made the contract, the Secretary of the Treasury; and in the second place to send it to the Attorney General. And if the Attorney General deemed, upon a full examination of the case, that the Government was bound to make this allowance, then only was the allowance to be made. There is no intimation as to whether anything should be allowed, or if anything how much should be allowed. The whole matter is referred to the law officer of the Government to decide the question which the Committee on Appropriations did not deem themselves com-